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Congressional Record

PROCEEDINGS AND DEBATES OF THE 99th CONGRESS, SECOND SESSION

HOUSE OF REPRESENTATIVES—*Tuesday, January 21, 1986*

The House met at 12 o'clock noon.

The SPEAKER. This being the day fixed by Public Law 99-233, 99th Congress, enacted pursuant to the 20th amendment of the Constitution for the meeting of the 2d session of the 99th Congress, the House will be in order.

The prayer will be offered by the Chaplain.

PRAYER

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

Gracious God, as You have given strength to Your people, through the ages, so bless the people of our day with Your peace and wisdom that passes all human understanding. May Your spirit grant our spirits that perspective that lifts our vision to the needs of all people and Your entire created world. May we see in our tasks opportunities for service not only to those under our special care, but to use all our talents, our minds, our hearts, our treasure, to promote justice and peace and so do Your will on Earth as it is in Heaven. Amen.

CALL OF THE HOUSE

The SPEAKER. The Clerk will utilize the electronic system to ascertain the presence of a quorum.

Members will record their presence by electronic device.

The call was taken by electronic device, and the following Members responded to their names:

[Roll No. 1]

Ackerman	Bentley	Broyhill
Addabbo	Bereuter	Bruce
Alexander	Berman	Bryant
Anderson	Bevill	Bustamante
Andrews	Bliley	Callahan
Annunzio	Boehlert	Carney
Anthony	Boggs	Carper
Armey	Boner (TN)	Carr
Bartlett	Borski	Chandler
Barton	Bosco	Clinger
Bateman	Boulter	Coats
Bates	Boxer	Cobey
Bedell	Brooks	Coble
Beilenson	Brown (CA)	Coelho
Bennett	Brown (CO)	Coleman (MO)
Coleman (TX)	Hoyer	Nielson
Collins	Huckaby	Oakar
Combest	Hunter	Oberstar
Conte	Hutto	Olin
Cooper	Hyde	Ortiz
Coughlin	Ireland	Oxley
Craig	Jacobs	Panetta
Crockett	Jeffords	Parris
Dannemeyer	Johnson	Pease
Darden	Jones (NC)	Penny
Daschle	Jones (OK)	Perkins
Daub	Jones (TN)	Petri
Davis	Kanjorski	Porter
DeLay	Kasich	Price
Derrick	Kastenmeier	Pursell
DeWine	Kemp	Quillen
Dickinson	Kildee	Rahall
Dingell	Kindness	Rangel
DioGuardi	Kleczka	Ray
Dornan (CA)	Kolbe	Regula
Downey	Kostmayer	Reid
Dreier	Kramer	Richardson
Duncan	LaFalce	Roberts
Durbin	Lagomarsino	Robinson
Eckart (OH)	Latta	Roemer
Edwards (CA)	Leach (IA)	Rogers
Edwards (OK)	Leath (TX)	Roth
Emerson	Lehman (FL)	Rowland (CT)
English	Leland	Roybal
Erdreich	Lent	Sabo
Evans (IA)	Levin (MI)	Saxton
Evans (IL)	Lightfoot	Schaefer
Fascell	Lipinski	Schroeder
Fawell	Livingston	Schuette
Fish	Lloyd	Schumer
Flippo	Lott	Seiberling
Florio	Lowery (CA)	Sensenbrenner
Ford (MI)	Lowry (WA)	Shaw
Ford (TN)	Lujan	Shumway
Frank	Luken	Sikorski
Fuqua	Lungren	Sisisky
Garcia	Mack	Skeen
Gekas	Martin (IL)	Skelton
Gephardt	Martin (NY)	Slattery
Gibbons	Martinez	Slaughter
Gilman	Mavroules	Smith (FL)
Gingrich	Mazzoli	Smith (IA)
Gonzalez	McCain	Smith (NE)
Goodling	McCollum	Smith, Denny (OR)
Gordon	McCurdy	Smith, Robert (NH)
Gradison	McHugh	Smith, Robert (OR)
Gray (PA)	McKernan	Snowe
Green	McKinney	Solarz
Gregg	McMillan	Solomon
Gunderson	Meyers	Spence
Hall, Ralph	Mica	St Germain
Hamilton	Michel	Staggers
Hammerschmidt	Miller (WA)	Stallings
Hansen	Mineta	Stangeland
Hartnett	Mitchell	Stark
Hefner	Moakley	Stenholm
Hendon	Molinari	Stokes
Henry	Montgomery	Strang
Hertel	Moorhead	Stratton
Hiler	Morrison (WA)	Stump
Hillis	Murphy	Sundquist
Holt	Myers	Swift
Hopkins	Natcher	Swindall
Horton	Neal	Tauke
Howard	Nichols	Tauzin
		Taylor
		Thomas (CA)
		Thomas (GA)
		Torricelli
		Towns
		Traficant
		Udall
		Vento
		Visclosky
		Volkmer
		Walgren
		Walker
		Watkins
		Waxman
		Weaver
		Weber
		Weiss
		Wheat
		Whitehurst
		Whitten
		Williams
		Wilson
		Wirth
		Wise
		Wolf
		Wortley
		Wright
		Wyden
		Wylie
		Yates
		Yatron
		Young (AK)
		Young (MO)
		Zschau

□ 1225

The SPEAKER. On this rollcall, 289 Members have recorded their presence by electronic device, a quorum.

Under the rule, further proceedings under the call are dispensed with.

COMMITTEE TO NOTIFY THE PRESIDENT

Mr. WRIGHT. Mr. Speaker, I offer a privileged resolution (H. Res. 353) and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 353

Resolved, That a committee of two Members be appointed by the Speaker on the part of the House of Representatives to join with a committee on the part of the Senate to notify the President of the United States that a quorum of each House has assembled and Congress is ready to receive any communication that he may be pleased to make.

The resolution was agreed to.

A motion to reconsider was laid on the table.

APPOINTMENT AS MEMBERS OF COMMITTEE TO NOTIFY THE PRESIDENT, PURSUANT TO HOUSE RESOLUTION 353

The SPEAKER. The Chair appoints as members of the committee on the part of the House to join a committee on the part of the Senate to notify the President of the United States that a quorum of each House has been assembled, and that Congress is ready to receive any communication that he may be pleased to make, the gentleman from Texas [Mr. WRIGHT] and

the gentleman from Illinois [Mr. MICHEL].

NOTIFICATION TO THE SENATE

Mr. WHITTEN. Mr. Speaker, I offer a privileged resolution (H. Res. 354) and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 354

Resolved, That the Clerk of the House inform the Senate that a quorum of the House is present and that the House is ready to proceed with business.

The resolution was agreed to.

A motion to reconsider was laid on the table.

DAILY HOUR OF MEETING

Mr. WHITTEN. Mr. Speaker, I offer a privileged resolution (H. Res. 355) and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 355

Resolved, That until otherwise ordered, the hour of meeting of the House shall be 12 o'clock meridian on Mondays and Tuesdays; 3 o'clock post meridiem on Wednesdays; 11 o'clock ante meridiem on all other days of the week up to and including May 14, 1986; and that from May 15, 1986, until the end of the second session, the hour of daily meeting of the House shall be 12 o'clock meridian on Mondays and Tuesdays and 10 o'clock ante meridiem on all other days of the week.

The resolution was agreed to.

A motion to reconsider was laid on the table.

COMMUNICATION FROM THE CLERK OF THE HOUSE

The SPEAKER laid before the House the following communication from the Clerk of the House of Representatives:

JANUARY 21, 1986.

Hon. THOMAS P. O'NEILL, Jr.,
The Speaker, House of Representatives, Washington, DC.

DEAR MR. SPEAKER: Pursuant to the permission granted in Clause 5, Rule III of the Rules of the U.S. House of Representatives, I have the honor to transmit sealed envelopes received from the White House as follows:

(1) At 3:45 p.m. on Tuesday, January 14, 1986, and said to contain H.R. 1404, an Act to establish the Eastern Shore of Virginia National Wildlife Refuge and the National Fish and Wildlife Service Training Center at Cape Charles in Northampton County, Virginia, and a veto message thereon; and

(2) At 3:15 p.m. on Friday, January 17, 1986 and said to contain a message from the President whereby he transmits H.R. 3384, an Act to amend title 5, United States Code, to expand the class of individuals eligible for refunds or other returns of contributions from contingency reserves in the Employees Health Benefits Fund; to make miscellaneous amendments relating to the Civil Service Retirement System and the Federal Employees Health Benefits Program; and for other purposes," and a veto message thereon.

With kind regards, I am,

Sincerely,

BENJAMIN J. GUTHRIE,
Clerk, House of Representatives.

ESTABLISHING THE EASTERN SHORE OF VIRGINIA NATIONAL WILDLIFE REFUGE AND THE NATIONAL FISH AND WILDLIFE SERVICE TRAINING CENTER AT CAPE CHARLES—VETO MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 99-146)

The SPEAKER laid before the House the following veto message from the President of the United States:

To the House of Representatives:

Since the adjournment of the Congress has prevented my return of H.R. 1404 within the meaning of Article I, section 7, clause 2 of the Constitution, my withholding of approval from the bill precludes its becoming law. Notwithstanding what I believe to be my constitutional power regarding the use of the "pocket veto" during an adjournment of Congress, however, I am sending H.R. 1404 to the House of Representatives with my objections, consistent with the Court of Appeals decision in *Barnes* v. *Kline,* 759 F.2d 21, (D.C. Cir. 1985), *cert. pending sub. nom. Burke* v. *Barnes,* No. 85-781.

I have no objection to statutory recognition of the refuge at Cape Charles. This is a significant resting and wintering area for migratory birds along the Atlantic Flyway and an important habitat for the bald eagle and peregrine falcon, two endangered species. I am pleased to note that, in recognition of the area's importance, the U.S. Fish and Wildlife Service has already administratively acquired land at this site and established the Eastern Shore of Virginia National Wildlife Refuge. The Service will continue to operate and maintain the existing refuge and intends to expand it as fiscal conditions permit.

Unfortunately, H.R. 1404 does not simply provide protection for this valuable habitat. It would also require the Secretary of the Interior to develop a training center at the refuge for use by the Service, other Federal and State agencies, educational institutions, and private organizations and individuals.

In this time of fiscal constraint, the Federal Government must limit its expenditures to matters of significant national concern. The provisions of H.R. 1404 requiring establishment of a training facility do not meet this test. The Service has fully adequate training facilities already in place, including a facility at Leetown, West Virginia, as well as the use of various private sector facilities. In addition, the Service is actively supporting the effort to clean up the Chesapeake Bay by designating an existing Service field station in Annapolis, Maryland, as its primary center for work on this important program. I believe that it would be more appropriate for State or private entities to fund and develop a training center if they consider it essential.

For these reasons, I must return H.R. 1404 without my approval.

RONALD REAGAN.
THE WHITE HOUSE, *January 14, 1986.*

□ 1235

The SPEAKER. The objections of the President will be spread at large upon the Journal, and the message and bill will be printed as a House document.

Mr. JONES of North Carolina. Mr. Speaker, I ask unanimous consent that the veto message of the President, together with the accompanying bill, H.R. 1404, be referred to the Committee on Merchant Marine and Fisheries.

The SPEAKER. Is there objection to the request of the gentleman from North Carolina?

There was no objection.

FEDERAL EMPLOYEES BENEFITS IMPROVEMENT ACT OF 1985—VETO MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 99-145)

The SPEAKER laid before the House the following veto message from the President of the United States:

To the House of Representatives:

Since the adjournment of the Congress has prevented my return of H.R. 3384 within the meaning of Article I, section 7, clause 2 of the Constitution, my withholding of approval from the bill precludes its becoming law. Notwithstanding what I believe to be my constitutional power regarding the use of the "pocket veto" during an adjournment of Congress, however, I am sending H.R. 3384 to the House of Representatives with my objections, consistent with the Court of Appeals decision in *Barnes v. Kline,* 759 F.2d 21 (D.C. Cir. 1985), *cert. pending sub nom. Burke v. Barnes,* No. 85-781.

H.R. 3384 contains some desirable features, particularly a change in the Federal employees health benefits law recommended by my Administration that would allow anticipated rebates of health insurance premiums to be paid by insurance carriers to Federal annuitants, as is already allowed for active employees. I fully support the proposed rebates, but I could not approve the bill, especially because of one seriously objectionable feature. That feature would eliminate the current 75 percent ceiling on the Government's share of the premiums of any

individual health insurance plan of employees and annuitants.

Elimination of the ceiling would add to Government costs and increase the Federal budget deficit at the very time that there is a critical need for fiscal restraints. In order to comply with the deficit reduction mandated by the Gramm-Rudman-Hollings Act, spending for most Government programs will have to be cut. Under those circumstances, this is not the time to raise the Government's personnel costs.

Lifting the 75 percent "cap" by itself would directly increase Government costs for many Federal Employees Health Benefits (FEHB) premiums, since the Government would now pay for costs previously paid by employees. OPM has estimated that this will result in adding almost $90 million to the Federal deficit in fiscal year 1986 and another $173 million in 1987. Over the six-year period 1986 through 1991, the Federal deficit would increase by an estimated $1.2 billion. Some proponents of this provision will claim that it would save money because it will induce employees to shift to low-cost plans. However, any such savings must be weighed against the substantial Federal cost increases projected over the next six years.

Health benefits reform legislation proposed by the administration included lifting the cap as one of its elements. In our proposal, however, that provision was linked with structural improvements in the Federal employees health insurance program, including a change in the way the Government's contribution is established, that would reduce the cost of the program for both employees and the Government. H.R. 3384 ignores that essential linkage by simply lifting the cap without program reform, resulting in an unacceptable shift in costs from employees to the Government. I look forward to working with the Congress early in the session to develop a suitable package of structural reforms that would include lifting the cap.

In addition, the provision requiring direct access to and permitting direct payment for the services of nurses and nurse-midwives, without supervision or referral by another health practitioner, deserves full evaluation, including hearings by the Congress. In its present form, it is a major departure from established health care practice and may be counter to many State laws.

In the meantime, I urge the Congress to act as soon as possible to enact acceptable legislation that will permit Federal annuitants to receive rebates of health insurance premiums without undue further delay.

RONALD REAGAN.

THE WHITE HOUSE, *January 17, 1986.*

The SPEAKER. The objections of the President will be spread at large upon the Journal, and the message and bill will be printed as a House document.

Ms. OAKAR. Mr. Speaker, I ask unanimous consent that further consideration of the veto message of the President on the bill, H.R. 3384, be postponed until February 20, 1986.

The SPEAKER. Is there objection to the request of the gentlewoman from Ohio?

Mr. WALKER. Reserving the right to object, Mr. Speaker, it seems to me that the normal procedure for a message of this type would be to vote on the bill today. The President, I think, has made very clear that this is a matter which involves a good deal of additional Federal spending that he does not think we can afford at the present time. He has indicated that the cost may be as much as a billion dollars additional to the taxpayers in personnel costs.

I, personally, would like an explanation as to why we have to postpone a vote of that kind of magnitude until February 20, and I will be glad to yield to the gentlewoman.

Ms. OAKAR. Mr. Speaker, I appreciate the gentleman yielding.

In our discussion with the other side of the aisle, the minority members of our committee, we would like to have a chance to take a look at the full impact of the veto message so that we can decide whether or not to accept it or to possibly have an opportunity to amend the bill, and so forth.

We really cannot do it in the time restraint that we have at this time, so that is why we are asking for this delay.

Mr. WALKER. Further reserving the right to object, Mr. Speaker, on the previous veto message that particular matter was taken care of with a unanimous-consent request to refer to the committee. That would seem to me to be a far more reasonable action, given the gentlewoman's explanation for this particular bill. Why can we not refer it to the committee?

I am glad to yield to the gentlewoman.

Ms. OAKAR. I appreciate the gentleman yielding.

The reason for that is that we would like to deal with this bill as expeditiously as possible. The majority of the content of the bill deals with reimbursing employees who are Federal employees who are being either overcharged or having an abundance of reserves in various hospital plans. We want to do it as expeditiously as possible and not go through the proceedings of the numerous hearings which we have already had.

The Senate is going to try to do the same thing. That is why if we have a little time to study the veto message, we might be able to work up a bill that hopefully can get some agreement with those who do not agree with it.

Mr. WALKER. Further reserving the right to object, Mr. Speaker, the provision to which the gentlewoman refers I understand is not a problem with the President. In fact, in his veto message it sounded to me as though he has in fact endorsed that particular provision of the bill to which the gentlewoman refers. There probably would be no problem getting that kind of a measure passed on the Suspension Calendar here and bring it to the floor and act very expeditiously.

There are major problems with removing the cap on Federal contributions to health plans. It seems to me that given that circumstance, it is the more logical procedure to either vote on the veto message today or to have a reference to the committee where the study can take place on that provision which the President objects to, rather than delaying further the provisions on which there is wide agreement.

Ms. OAKAR. Mr. Speaker, will the gentleman yield further?

Mr. WALKER. I am glad to yield to the gentlewoman.

Ms. OAKAR. If that were so, if that were the only part of the veto message, the gentleman would certainly be making what I consider a very accurate point, but if the gentleman will notice in the veto message, and he may not have it in front of him, the second last paragraph refers to a provision that Senator STEVENS of Alaska was very supportive of along with other people from the gentleman's party and that is the direct payment for services of nurses without supervision or referral. The veto message does, in fact, indicate that this may be a problem with State law.

We want to research this so that we can decide whether or not that is accurate or not. I think the White House is in agreement that they were not sure about that.

We made a commitment to Senator STEVENS that we would do that. That is why if the only objection of the White House is the cap issue, we might be able to resolve the situation very simply; but there are other areas of the bill that they had some problems with that the White House is not even sure are accurate, so we wanted to have a chance to study that.

I worked this out with the minority side and I hope that the gentleman does not object.

Mr. WALKER. Well, further reserving the right to object, Mr. Speaker, I have now had a chance to study that particular provision.

I agree with the gentlewoman that there evidently are some White House questions about that, but once again, that could certainly be resolved with a reference to the committee, rather than a postponement.

I think that the preferable action of the House at this point would be to

either go ahead and vote on the veto message and then resolve these problems with new legislation in the session, or to refer the matter back to the committee, rather than dealing with this matter with a postponement; so I would feel constrained to object to the present motion.

I would not object if the gentlewoman wishes to change her request to a reference to the committee.

I am glad to yield to the gentlewoman.

Ms. OAKAR. Well, at this point, I really feel that the more conservative approach in this area, in terms of reconciling the differences, is just to give us a little time to study it, which is what Members on both sides of the aisle, in the committee and on the Senate side, would like to do.

You know, the Federal employees, I might say to the gentleman from Pennsylvania, have been waiting for months and months to get their reimbursement from their health insurance back. At the same time, there are some progressive provisions in here that we thought OPM, in fact, was very supportive of.

We want to have an opportunity to take a look at it and see how we might amend the bill to make it acceptable not only to Members of the House who voted unanimously for the bill, I might add, under suspension, but also reconcile the problems that apparently several people in the White House have with the bill.

Honestly, we think the most expeditious way to do this, to reach an agreement, is just to postpone the matter, let us take a look at it, work with the White House, work with OPM, which we have been doing, and deal with the issue and bring back a new bill.

I hope that the gentleman does not object, because if we have to go through the whole committee process when we think the Senate is going to postpone it just as we are requesting, the Federal employees might have to wait another year to get back their payments from the health insurance that has this enormous reserve that every major health plan agrees is not really to their benefit to have.

Mr. WALKER. Further reserving the right to object, Mr. Speaker, once again the gentlewoman has come back to that point and I assure the gentlewoman from everything I know that no one has any objection to that provision. There should be no problem moving that particular provision.

What this gentleman is concerned about and what the White House evidently is concerned about is a billion-dollar item of lifting the cap on health insurance premiums. What that literally means to the taxpayers of this country, who have also been waiting for this Congress to act responsibly, is that we are going to pay 100 percent of Members of Congress health benefits from now on in, rather than the 70 percent that we now pay.

It seems to me that they are expecting more of us, given the constraints in which we have to operate now in fiscal affairs.

Ms. OAKAR. Mr. Speaker, will the gentleman yield on that point?

Mr. WALKER. I am glad to yield to the gentlewoman.

□ 1250

Ms. OAKAR. First of all, we are trying to work out the differences, and frankly, that is not the provision that, in my judgment, is the major problem with the bill.

But I would say as long as the gentleman raises that, that the White House is absolutely inaccurate about that information. In the long term, this bill saves money because they are making assumptions that, frankly, are just not true.

I think that OPM would love to have more of an opportunity to discuss that. But the major concern I have is that the Federal employees get reimbursed as expeditiously as possible. If the gentleman objects, he is really hindering that possibility, and I think he will have to bear the responsibility for that.

Mr. WALKER. Reserving the right to object, if the gentlewoman wants to assign responsibilities, if we move forward with her motion, I will assign the responsibility to her in the same vein that she has just cost the taxpayers an extra billion dollars.

Mr. Speaker, I object.

The SPEAKER. Objection is heard.

Ms. OAKAR. Mr. Speaker, I move that further consideration of the veto message on the bill, H.R. 3384, be postponed until February 20, 1986.

The SPEAKER. Will the gentlewoman withhold for a moment. The Chair would advise the gentlewoman to refer to committee. It is my understanding there was an agreement on both sides, but there is an objection. Why does the gentlewoman not go to committee and possibly report it out of the committee rather than taking an hour of debate and a further rollcall?

Ms. OAKAR. Mr. Speaker, if I might respond to the Speaker, we were trying to deal very expeditiously with the situation.

The SPEAKER. The gentlewoman may report it out of committee and bring it up on the date that you had agreed upon.

Ms. OAKAR. Mr. Speaker, I agree with that from the standpoint of the House, but we do not have the same kind of assurances from the other body's standpoint, and if we thought in conjunction with our colleagues in the other body we could just get a quick postponement, we could deal expeditiously with this difficulty.

The SPEAKER. In view of the fact that this is the first day back, and under the announced schedule there are no rollcalls anticipated, and there are over 100 Members out, the Chair would ask the gentlewoman to take the suggested course of action.

Ms. OAKAR. I agree, Mr. Speaker.

Mr. Speaker, I move that the veto message on the bill, H.R. 3384, be referred to the Committee on Post Office and Civil Service.

The SPEAKER. The question is on the motion offered by the gentlewoman from Ohio [Ms. OAKAR].

The motion was agreed to.

Ms. OAKAR. Mr. Speaker, last Friday was a dark day for Federal workers and retirees. On January 17, 1986, President Reagan vetoed legislation, H.R. 3384, which would have made many needed improvements in the Federal Health Insurance and Retirement Programs.

H.R. 3384 was carefully crafted in a spirit of bipartisan cooperation. Members of both parties in the House and the Senate worked closely with the Office of Personnel Management [OPM] to fashion legislation to assist Federal workers and retirees and to save the Government money. Unfortunately, powerful interests found objections with H.R. 3384 at the last minute and lobbied intensely and successfully for the President's veto. That veto was a slap in the face to Federal workers and annuitants who were depending on the improvements in the bill and to Members of the House and Senate who worked hard to achieve those improvements.

H.R. 3384 set forth many reforms to assist Federal employees, including provisions to:

Enable retired enrollees in the Federal Employees Health Benefits Program (FEHBP) to receive refunds from their health plans;

Expand access to qualified health care providers, including nurses and clinical social workers;

Allow participation in the FEHBP by new types of health maintenance organizations [HMO's];

Eliminate the 75-percent cap on Federal contributions to FEHBP premiums;

Reinstate a program to serve FEHBP enrollees living in medically underserved areas;

Encourage comprehensive insurance coverage for mental health care and substance abuse treatment; and

Require an annual open season.

In addition, H.R. 3384 would have made other improvements in the health insurance and retirement programs to assist retirees, former spouses, and current Federal employees. It was a good bill, a fair bill, and a cost-effective bill. It should be law.

In his veto message, the President cited two reasons for vetoing H.R. 3384. The first was a provision to eliminate the cap on the Government's contribution to FEHBP premiums. The President's objection to this provision is especially curious. Removing the 75-percent cap is a proposal the administration has advocated consistently in legislative submissions and in testimony before my Subcommittee on Compensation and Employee Benefits. Last Friday, however, the President ex-

pressed concern over the initial expense this provision would cause and cited this provision as a reason for his veto.

Contrary to the President's assertions, the cap provision is cost effective. While removal of the cap would have cost the Government $89 million this year, it would have saved money over the long run by encouraging enrollees to move into efficient health plans. Furthermore, other provisions in H.R. 3384 would result in overall savings for the Federal Government. For example, the act allowed the Office of Personnel Management [OPM] to use any refunds it receives from FEHBP plans to offset its premium contribution for retirees. Overall, the reforms in H.R. 3384 would have saved money for both the Government and its employees. It deserved the President's support.

The President's second objection concerned a provision to expand access to nonphysician health providers for FEHBP enrollees. This reason is equally questionable. The administration has consistently advocated promoting competition in the health sector to bring costs down. H.R. 3384 would have reimbursed qualified, licensed, nonphysician health providers for the care they render to FEHBP enrollees. In many cases, nurse practitioners, nurse-midwives, and other professionals can offer the same quality health care for a lower fee than that charged by physicians. By enabling them to serve our Federal workers, we could expand freedom of choice and hold down costs in the FEHBP.

The American Medical Association [AMA] vehemently opposed extending FEHBP reimbursement to their competitors. Their lobbying was the key factor in the Presidential veto. It is unfortunate that the AMA's pressure carried more weight than the bipartisan recommendations of the Congress and the OPM, as well as the needs of Federal workers and retirees.

Mr. Speaker, this fight is not over. Federal workers have endured 5 years of benefit cuts and other abuses, and are subject to another 5 years of hardship under Gramm-Rudman. They desperately need the improvements that H.R. 3384 would provide. All Federal employees, retirees, and their dependents can be assured that I will continue to work for the enactment of reforms that they need. I look forward to the continuing support of my colleagues in this regard.

REPORT OF COMMITTEE TO NOTIFY THE PRESIDENT

Mr. WRIGHT. Mr. Speaker, your committee on the part of the House to join a like committee on the part of the Senate to notify the President of the United States that a quorum of each House has been assembled and is ready to receive any communication that he may be pleased to make has performed that duty.

Mr. MICHEL. Mr. Speaker, the President asked us to report that he will be pleased to deliver his message at 9 p.m. on Tuesday, January 28, 1986, to a joint session of the two Houses.

The SPEAKER. That is fine. Is there anything else he had to say?

Mr. MICHEL. He wished us all well, and he was willing to cooperate and hoped that we would have nothing but good things to show for it at the end of the session.

The SPEAKER. Did he mention Gramm-Rudman?

Mr. MICHEL. He did not mention that by name, sir.

Mr. WRIGHT. Mr. Speaker, he did not seem to be much surprised that we were back in town.

The SPEAKER. The Chair thanks the committee for doing their job so expeditously.

JOINT SESSION OF CONGRESS—STATE OF THE UNION ADDRESS

Mr. WRIGHT. Mr. Speaker, I offer a privilege concurrent resolution (H. Con. Res. 268) and ask for its immediate consideration.

The Clerk read the concurrent resolution, as follows:

H. CON. RES. 268

Resolved by the House of Representatives (the Senate concurring), That the two Houses of Congress assemble in the Hall of the House of Representatives on Tuesday, January 28, 1986, at 9 o'clock post meridiam, for the purpose of receiving such communication as the President of the United States shall be pleased to make to them.

The concurrent resolution was agreed to.

A motion to reconsider was laid on the table.

AUTHORIZING THE SPEAKER TO DECLARE RECESSES ON TUESDAY, JANUARY 28, 1986

Mr. WRIGHT. Mr. Speaker, I ask unanimous consent that on Tuesday, January 28, 1986, it may be in order for the Speaker to declare recesses at any time subject to the call of the Chair.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

DISPENSING WITH CALENDAR WEDNESDAY BUSINESS ON WEDNESDAY NEXT

Mr. WRIGHT. Mr. Speaker, I ask unanimous consent that the business in order under the Calendar Wednesday rule shall be dispensed with on Wednesday next.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

ANNOUNCEMENT BY THE SPEAKER

The SPEAKER. The Chair desires to make the following announcement concerning privileges of the floor for House staff during the 2d session of the 99th Congress.

Rule XXXII strictly limits those persons to whom the privileges of the floor during sessions of the House are extended, and that rule prohibits the Chair from entertaining requests for suspension or waiver of that rule. As reiterated by the Chair on January 25, 1983, and January 3, 1985, and as stated in chapter 4, section 3.4 of Procedure in the House of Representatives, the rule strictly limits the number of committee staff on the floor at one time during the consideration of measures reported from their committees. This permission does not extend to Members' personal staff except when a Member's amendment is actually pending during the 5-minute rule. It also does not extend to personal staff of Members who are sponsors of pending bills or who are engaging in special orders. The Chair requests the cooperation of all Members and committee staff to assure that only the proper number of staff are on the floor, and then only during the consideration of measures reported from their committees.

The Chair is making this statement and reiterating this policy because of concerns expressed by many Members about the number of committee staff on the floor during the last weeks of the first session.

The Chair will institute the following procedure for the remainder of the 99th Congress. The Chair requests each chairman, and each ranking minority member, to submit to the Doorkeeper a list of staff who are to be allowed on the floor during the consideration of a measure reported by their committee. Each staff person should exchange his or her ID for a "committee staff" badge which is to be worn while on the floor. The Chair has consulted with the minority leader and will continue to consult with him. The Chair has furthermore directed the Doorkeeper and the Sergeant at Arms to assure proper enforcement of rule XXXII.

GENERAL LEAVE

Ms. OAKAR. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the President's veto message accompanying the bill, H.R. 3384.

The SPEAKER. Is there objection to the request of the gentlewoman from Ohio?

There was no objection.

REPEAL GRAMM-RUDMAN

(Mr. WEISS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WEISS. Mr. Speaker, Congress was inviting disaster when it passed

Gramm-Rudman, and disaster is now imminent.

The $12 billion in cuts announced last week are nothing more than a ripple compared to the tidal wave that will soon follow; $50 to $60 billion or more must be cut to meet next year's deficit target alone—far more than was ever anticipated. Budget cuts of this size will devastate America and its people.

There is substantial evidence that our huge deficits were purposefully and deliberately created by the President to convince us that we can no longer afford programs that serve human needs. Gramm-Rudman is consistent with this strategy. It will force us to dismantle the Federal Government, step by step, until there is little left.

Now is the time to acknowledge that a serious mistake has been made. The deficit can and must be reduced. But it must be done by a Congress and a President who are willing to do their jobs, not by a mindless system that will destroy the hard-won gains of the past 50 years. This is why I am introducing legislation today to repeal Gramm-Rudman.

Repealing Gramm-Rudman will take courage. But we must be willing to accept our budget responsibilities.

Gramm-Rudman, not the people of America, should be the first casualty of 1986.

□ 1300

IT'S GREAT TO BE BACK

(Mr. McKINNEY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. McKINNEY. Mr. Speaker, the medical community of the United States reminds me a little bit of this body looking for a solution to the budget problem. But they seem to have achieved success with me. One of the main reasons was that all of you, or many of you, wrote and wished me good will and good luck and good health, all of which I am now in, and all of which I thank you for.

Now I know why I love this body, that it is better to watch than to be a part of, but it is more fun to be a part of. And really, I want to thank you all. That is the simplest way to put it: Thank you.

SPEAKER ESTABLISHES A NEW MILESTONE

(Mr. WILLIAMS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WILLIAMS. Mr. Speaker, today as your gavel fell to open this, the 2d session of the 99th Congress, you established a new milestone. You, sir, set a record for continuous service as Speaker of this House. Your 9 years and 17 days of continuous service as Speaker of the U.S. House of Representatives surpasses that of each of your 46 predecessors.

None of your predecessors served during more momentous times, and none have served with more grace, more color, or more concern for the good of the Nation than have you.

Congratulations, Mr. Speaker.

IS GRAMM-RUDMAN THE NEXT BEST THING TO SLICED BREAD?

(Mr. DAUB asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DAUB. Mr. Speaker, my congratulations as well.

Mr. Speaker, the spirit of Gramm-Rudman, the spirit of Gramm-Rudman, is it the next best thing to sliced bread? We are not going to have the twilight zone, the never-never land of inflation and bracket creep, we are not going to be able to hide behind the rhetoric of saying, "Ain't it awful? Gee whiz, deficits are terrible," and going home without a record to prove that we acted responsibly by making those tough decisions to either cut spending and vote to do it or raise taxes and vote to do it.

Many argued in the last session that Gramm-Rudman would not work. They lost that argument because they had no realistic alternative. The time to debate Gramm-Rudman-Hollings-Mack has passed. Gramm-Rudman-Hollings-Mack can be the staff with which this Congress parts the sea of red ink.

Can we do it? Will we do it? Let us have another look at the Grace Commission report. Within it discipline exists, discipline to better manage Government and avoid all the cuts in those social programs, those human condition programs contained in that portion of one-half of the cuts that will come out of one-half of the budget not counting defense.

I think if we take the proper perspective and roll up our sleeves and do the work we are supposed to do, Gramm-Rudman will not come to pass. I think that that would be the responsible thing to do.

Let us take a look at the savings that have been proposed in the Grace Commission report. The GAO just came out and said that three-fourths of those commission reports were very accurate, very fiscally responsible, and could be done by a Congress if it chose to do it. That way, we could afford not to cut those popular programs that Member after Member, I predict, will come to this well to try to save.

And if it is a tax increase you have in mind, then tell the American public right up front whose taxes you will raise, how much you will raise them, and what kind of an amendment you are willing to submit to this body to vote on to, in fact, cause inflation again and the high unemployment that raising taxes will bring with it.

MY CONSTITUENTS AND WHAT THEY SAID DURING THE RECESS

(Mr. RICHARDSON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. RICHARDSON. Mr. Speaker, during the recess my constituents talked my head off about Gramm-Rudman and Libya. On Gramm-Rudman there was anger from those social service groups who were hit hard, which is practically everybody, especially civil service retirees. From conservatives there were cries that we had decimated our defenses and the Russians were laughing all the way to Geneva. Many others expressed both confusion and amusement, confusion at the mess we have created and amusement at my efforts to explain it. Not one constituent said, "Good job."

Mr. Speaker, all of these reactions suggest to me that maybe we have done the right thing for a change, since once again everyone is mad at us.

On Libya, I was surprised by the restraint shown by my constituents and their reluctance to escalate tensions there. While many, including myself, will back the President if additional economic sanctions are imposed, there is widespread apprehension about getting militarily involved.

Mr. Speaker, we should pay heed to the wisdom of our constituents.

WHO IS AFRAID OF BIG GRAMM-RUDMAN?

(Mr. GEKAS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GEKAS. Mr. Speaker, who is afraid of the big Gramm-Rudman? Apparently many Members of Congress are. Many Members are afraid that Gramm-Rudman will huff and puff and blow away our prerogatives to fashion a budget. But Gramm-Rudman should be viewed as an opportunity for the Congress to shore up its own brick house, its own budgetary responsibility, and deal with the deficit directly. Then the irony of Gramm-Rudman will be that the huffing and puffing and blowing away that it wants to do will cause us to do our own job and the only wolf we will be able to keep from the door will be the deficit itself.

Let us not let the deficit eat us up. Let us do our job so that Gramm-Rudman will not have to go into effect.

But if it does, we ought to bless it as one way to force us to do our job.

WE HAVE THE RESPONSIBILITY TO CARRY FORTH THE DREAM OF MARTIN LUTHER KING, JR.

(Mr. FORD of Tennessee asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. FORD of Tennessee. Mr. Speaker, the air on yesterday was filled with jubilation and praise as we commemorated the birthday of the Reverend Dr. Martin Luther King.

There were outpourings of tributes to King from coast to coast, north to south and from around the world.

Mr. Speaker, I want to thank the Nation and the world for commemorating Dr. King in such a fine manner.

Our remembrance of Dr. King should not however be just in the month of January, but should continue on a daily basis. We must remember the principles he espoused and the examples he set for all to follow.

Dr. King possessed many noble virtues, which he consistently intertwined with courage and service to his fellow man. He showed all people that social and political change can be brought about through the use of nonviolence.

To go about our daily lives without trying to make a difference in our community, would be to inflict the greatest possible injustice to Dr. King's memory.

You and I have the responsibility to carry forward the dream.

TRIBUTE TO THE LATE JOHN E. MOORE

(Mr. HORTON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HORTON. Mr. Speaker, the work of the Congress is ably assisted by an excellent staff which works tirelessly, and for the most part anonymously, on our behalf.

During the past month, we lost one of the finest of this group. John E. Moore, the staff administrator of the Government Operations Committee for 11 years, passed away on December 29.

As ranking minority member of the committee, I knew John to be a thoroughly competent and fair administrator. Under his stewardship, the committee was always run efficiently and effectively. It was run humanely, too. John was unfailingly generous, both in offering good counsel and in going out of his way to accommodate Members' needs, and he always maintained a keen sense of humor.

John Moore was not only a devoted public servant, but also a real friend. Those of us who were privileged to know him will miss him very much.

TRIBUTE TO THE LATE JOHN E. MOORE

(Mr. BROOKS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.

Mr. BROOKS. Mr. Speaker, during the recess between the 1st and 2d sessions of the 99th Congress, the Committee on Government Operations had the misfortune of losing one of our most loyal and valuable staff members. On December 29, John E. Moore, the staff administrator of the Government Operations Committee, succumbed to cancer. The holder of two Purple Hearts for wounds received in action in Korea, John was buried with full military honors at Arlington National Cemetery on New Year's Eve.

Those of us who worked with him closely knew John to be a man who loved his work. His entire adult life was spent in public service. John left his native Huntsville, TX, at the age of 17 to join the Marine Corps where he served in both the Atlantic and Pacific theaters near the end of World War II. After graduating from Sam Houston State College, he worked for the Texas Department of Public Welfare until he was recalled to active duty with the Marines in Korea in 1950. Following his release from active duty in 1952, he served as an administrator in the Texas Department of Agriculture for several years and, in 1956, came to Washington at my request to join the professional staff of the Government Activities Subcommittee, which I chaired at that time.

John was one of those rare people who truly want to spend their lives helping others and who are willing to accept the inconveniences and burdens that service often entails. In 1961, John began a career with AID which took him to Quito, Ecuador; Mexico City, the Dominican Republic, Saigon, Bangkok, and finally to Vientiane, Laos. He was in Laos in 1975 when I asked him to return to Washington to become the staff administrator of the Government Operations Committee.

John's service with the committee proved his skill as an astute administrator. He was trusted and admired by the members and the staff, majority and minority. His mix of administrative capability, political sensitivity, and good judgment made him an ideal committee administrator.

Seventeen months ago, John was diagnosed as having a rare form of cancer. As was typical of him, he made this an opportunity to serve, by volunteering to participate in a research program at the National Institutes of Health. Even when it was obvious that he had lost that fight for himself, he took the time and energy to write a letter to the Director of NIH expressing his appreciation for their work and his hope that they would find his contribution useful as they continue their work for the benefit of the rest of us.

John's wife of 35 years, Joyce, accompanied him to his many posts in service to his country. His daughter, Michelle, attended schools in Latin America, South America, and Southeast Asia so she could be closer to him as she grew up. All of us—his family, the members and staff of the Government Operations Committee, and the House of Representatives—will miss John Moore. But the work of the committee and the House has been better for his having been with us for the past 11 years.

INSTALLATION OF EDMOND BROWNING AS PRESIDING BISHOP OF THE EPISCOPAL CHURCH OF THE UNITED STATES

(Mr. ALEXANDER asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. ALEXANDER. Mr. Speaker, on January 11 I was honored to represent the Congress at the installation of Edmond Browning as presiding bishop of the Episcopal Church of the United States. The new presiding bishop is a former bishop of Hawaii; he succeeds John Allin, a friend of many of us and a native of my home State of Arkansas.

At his installation Bishop Browning warned that the world today is frightening; superpowers posture over arms agreements, while the lives of our children hang in the balance. Unjust governments deny basic human rights while inflicting torture and suffering upon millions of their citizens. He said that we live in an age where we have the technology to feed the world and instead millions are hungry and thousands die needlessly every day. Our rivers, he pointed out, our lakes and oceans, and the air are poisoned; and racism runs rampant.

Bishop Browning specifically reached out to faithful politicians urging us to speak out against injustice such as the evils of apartheid and to stand up for the principles that we value as a Nation.

Mr. Speaker, I submit a copy of the text of the new bishop's installation sermon for the RECORD.

INSTALLATION ADDRESS OF THE PRESIDING BISHOP, EDMOND LEE BROWNING, JANUARY 11, 1985, AT THE WASHINGTON CATHEDRAL

Propers: Ezekiel 36:24-28; Romans 6:3-11; Mark 10:35-45.

I greet you on the eve of the Baptism of the Risen Christ, who invites us into his death and Resurrection through our own Baptisms, so that we too, in the words of St. Paul, might live a new life. Baptism calls

the Christian family into a common ministry and mission. I want this to be our day, not just my day, a time for the whole Church, for all the baptised, to again reaffirm its mission for these times. As we begin this new journey together. I invite each of you to hear afresh the words of God as written in Ezekiel, "I am going to gather you together from all the foreign nations. You shall be my people and I shall be your God."

As we reflect on the meaning of our common bond in baptism, I am moved to lift up one of the great marks of Christ which we are called to model as the baptised, the mark of compassion that descended upon him from the Spirit in his own baptism.

Compassion is at the root of Christian spirituality and mission and, I would propose, is the hope of our future. If we embrace it, we may yet celebrate the victory of a world healed and made whole. If we fail it, there may be no one left to write our epitaph.

Compassion is at the root of Christian spirituality because it was the way that Jesus lived. It was out of compassion, not out of a desire to be in control, that he healed the blind, cleansed the leper, raised the dead and fed the hungry. His spirituality was not one that isolated him, but one that found expression in the service of others.

Compassion is the hope of our future because we live on the edge of the abyss where our very survival is uncertain. Never before has the human family faced such a dilemma. The fragile earth on which we live is threatened by the very being that God created to be its steward. This is so and yet there are those in the Church who want us only to be a port in the storm, a haven from the troubles of our time. But God is the Creator, not just of the Church, but of the world. Simone Weil put it best, "How can Christianity call itself catholic if the universe iteself is left out?" Our heritage tells us that we are to be the earth's stewards. And I fear God's judgment upon us if we fail to care for this fragile home of ours over which we have been given charge.

There is pain beyond these Cathedral walls which most of us can barely comprehend. There are tears of despair which we refuse to see. There are cries for help which we do not hear. There are those reaching out to be embraced whom we will not touch. But a compassionate Jesus saw, he heard and he embraced them. Our spiritual lives are bankrupt if our prayers do not call us to see, to hear and to heal. So I say again that compassion is the basis of our spiritual lives that gives hope to a suffering world.

Compassion is not a matter of sitting apart and from a distance lavishing our blessings on another. It is a matter of entering the pain and sufferings of others, and identifying in the brokenness of the world. To know and acknowledge our own brokenness is to be able to understand and share in the brokenness of the world. To understand our own need for One who will heal, and restore, and give wholeness is to know the need of the world in its manifestation of brokenness and its need for healing, restoration and wholeness.

Each of us lives out our own faith experiences. For me, it was the discovery of Christ's compassion in my own life that has been the foundation of my own spirituality which draws me inevitably to my present witness. Remembering our common bond in Baptism, I invite you to join me in this spiritual journey of compassion, a journey where faith and mission are inseparable.

Sentimental spirituality of the Post-reformation Churches today can isolate us from our mission in the world. Jose Miranda has written, "One of the most disastrous errors in the history of Christianity is to have tried—under the influence of Greek definitions—to separate love and justice."

Love and justice. Matthew Fox, in his book entitled "Compassion", makes this connection for our present day spirituality. Compassion doesn't make some pastors and others prophets. It makes us both. Being one and not the other should make us uncomfortable. Jesus didn't choose one over the other. Compassion is the bridge between love and justice, between pastoral and prophetic ministry.

Our spiritual lives have often been wanting because we have forgotten Jesus' command that we be compassionate as God is compassionate. I want today to call this Church back to its compassionate spirituality. When we pray with compassion for those in need, we take those persons into our beings. They no longer become the people over there. They now live in our hearts. And once in our hearts, compassion demands that we minister with them.

Compassion calls us to serve the world, not to rule it. I believe that I am called to exercise a servanthood ministry in this office to which I am installed today. Not a servanthood that bows down to the powers and principalities of this world, but a servanthood to the lowest in our midst, to those in the greatest need, to those whom Jesus served, a service to the cause of healing and reconciliation through justice and peacemaking.

It is my most fervent prayer today that we claim the compassion of Christ for these troubled times, a compassion that will lead us to a servanthood ministry to the world. What we see in the world today is frightening. Super powers posture over arms agreements while the lives of our children hang in the balance. Unjust governments deny basic human rights while inflicting torture and suffering upon millions of its citizens. We live in an age where we have the technology to feed the world, and, instead, millions are hungry and thousands die every day. Our rivers, lakes, oceans, air and land are being poisoned. Racism runs rampant. It is hard to overstate the horror that we face.

Bishop Browning specifically reached out to "faithful politicans," urging us to speak out against injustice such as the evil of apartheid and to stand up for the principles they value as a people.

We see a broken world, but our hope lies in a faith that finds God in the midst of the brokenness. Today, we hear Christ speak. "The cup that I must drink, you shall drink. The baptism with which I must be baptised you must be baptised." Our baptismal vows call upon us to seek Christ in all persons, loving our neighbor as ourselves, striving for justice and respecting the dignity of every human being. That is is the motivation for our mission. When we seek Christ in others we find that humanity is a mosaic showing us the face of God. We are moved beyond race, beyond economic judgments against the poor, beyond national ideologies, beyond political ideologies. It is because we seek the face of Christ in all humanity that I am called to challenge anything that desecrates the Creation and denigrates personhood. The concept of a nuclear holocaust is a sacrilege that destroys the very image of God.

It is urgent that we be about our mission and remember who we are called to be, the compassionate sons and daughters of a living God, baptised into the mission to which Christ calls us. Our mission may not be what we would always choose, but arises from the demands of the Gospel in the context of the world as it is. We discover it in the God of exodus and exile, of passion and resurrection, of God speaking through the faithful in the brokenness and fragmentation of Creation.

In seeking our mission, I offer this reflection on my own role. My friends, I have said to this Church that there will be no outcasts. The hopes and convictions of all will be honored. Do not ask me to honor one set of views and disregard the other. I may agree with one, but I will respect both. I say this because I believe Baptism is the sacrament of inclusion. The unity of this Church will be maintained, not because we agree on everything, but because we will leave judgment to God. I may fail some of you as a prophetic voice, but I pray never to fail you as a pastor. I am reminded of this quotation by Dom Helda Camara, "The Bishop belongs to all. Let no one be scandalized if I frequent those who are considered unworthy or sinful. Who is not a sinner? Let no one be alarmed if I am seen with compromised and dangerous people, on the left or the right. Let no one bind me to a group. My door, my heart, must be open to everyone, absolutely everyone."

And, so, dear friends, I reach out to you today to join hands with me in rebuilding the earth, given to us by a loving God, not only to enjoy, but to protect and preserve. In Hawaii, we refer to aloha aina, love of the land and it is a sacred duty of Hawaiians to honor the land. Our mission, too, must be from a sense of sacred duty on behalf of the earth, a world broken and divided and in pain.

I reach out to my brothers, Desmond Tutu and James Kauluma, pledging my compassion, solidarity and witness with you and on behalf of your courageous witness against the evil of Apartheid.

I reach out to all my brother bishops to seek your guidance and wisdom so that we help shape the mission to which God calls us. I reach out to the presbyters and deacons of this church who are called to lead our congregations toward our mission. I reach out to our staff at the National Church center and the Executive Council to serve with urgency our mission and to set aside business as usual. I reach out to ecumenical bodies and other faiths pledging cooperation so that we might build bridges of hope for all humanity. I reach out to the other communions of this body ready to fulfill the agenda before us. I reach out to the faithful politicians in our midst and remind you that John Kennedy called us to a vision 25 years ago, a vision where the "strong are just, the weak secure and the peace preserved."

Most of all, I reach out to the faithful, the laity of this Church. I want to reach out and feel your hands in mine. For it is only with you that our mission can be authentically lived out.

The mission to which we are called may be disturbing and threatening to some, but if we seek God's compassionate will in it, it will be for the world our greatest gift. Let us live out a mission that rescues the world from its present peril, to save those drowning in a raging river of dispair, to rescue those caught in a wasteland of hopelessness. Let us commit ourselves to give the waters of Baptism to those who thirst for justice. Today, in this Eucharist, let us make visible

to a shattered and hungry world a foretaste of the heavenly banquet. In Christ, we have the promise of a New Humanity and a New Creation. In Baptism, we are called to become the New Humanity and to build that New Creation.

PLEDGE OF PEACE OF THE DAN-ANN-JIM SCHOOL IN SAN ANTONIO, TX

(Mr. GONZALEZ asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. GONZALEZ. Mr. Speaker, last week I was honored to have been invited to go to the Dan-Ann-Jim School. Now this is a 53-year-old school in southeast San Antonio which was started by a teacher as a private school. It is named after the first three enrolled students. It consists of a preschool and kindergarten level, and it was a most inspiring visit.

They asked me to deliver to the Congress or the President, if I could, a pledge of peace. And it was done by their spokesmen, a little group known as the Daisies, which is a pre-Brownie, Girl Scout troop. It consists of Jeanette Colunga, Kelley Ann Carraway, Jessica Esparza, Nicole Williams, and Tommi Rincon.

Mr. Speaker, it is a pledge of peace which I ask unanimous consent to put in the RECORD today because if my colleagues could have been with me and could have seen in these beautiful faces, in those limpid, pure eyes, a sincere desire for peace, asking us, whom they consider the leaders of their day, to be sure to do everything, particularly in our hearts and minds, to ensure that we bring about a peaceful world and, in their words, leave a legacy and a gift to the children who will be born and who will live on this planet of Earth, in peace.

PLEDGE OF PEACE

As a legacy and gift to the children who will be born and live on this Planet Earth, I hereby commit myself to fostering peace. I promise to do everything I can to help create a common future of peace for all human beings.

ACHIEVING JUSTICE AND HUMAN RIGHTS THROUGH NONVIOLENCE

(Ms. OAKAR asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. OAKAR. Mr. Speaker, I, like many Americans, have been very inspired by the last few days of festivities honoring Dr. Martin Luther King, Jr's birthday. I hope that does not just last for 24 hours, but I would hope that we remember his gospel of civil rights and human rights for all people. I hope we remember one caveat that I think distinguished Dr. King and people like Gandhi and others from other leaders throughout the world, and that is that he was the preacher of gaining these rights through nonviolence.

□ 1315

I have been struck by some of the attacks on innocent people in an attempt to bring attention to various causes throughout the world, and I would only tell these individuals not only in our own country but throughout the world, who practice that kind of an approach, that they are doing a great disservice to their people's causes by using violence to justify their cause.

Dr. King, in preaching nonviolence, in demonstrating peacefully, taught us all a great lesson; and I think we need to renew that lesson today.

COMMUNICATION FROM THE HONORABLE CHARLES PASHAYAN, JR., MEMBER OF CONGRESS

The SPEAKER pro tempore. [Mr. WEISS] laid before the House the following communication from the Honorable CHARLES PASHAYAN, Jr., Member of Congress:

HOUSE OF REPRESENTATIVES,
January 17, 1986.

Hon. THOMAS P. O'NEILL, Jr.
Speaker, House of Representatives, Washington, DC.

DEAR MR. SPEAKER: This is to notify you, pursuant to Rule L(50) of the Rules of the House of Representatives, that I have been served with a subpoena by the Municipal Court, Consolidated Fresno Judicial District, State of California. After consultation with the General Counsel to the Clerk, I will inform you of the determinations as required by the House Rule.

Sincerely yours,
CHARLES PASHAYAN, Jr.,
Member of Congress.

ORDER OF BUSINESS

Mr. JONES of Oklahoma. Mr. Speaker, I ask unanimous consent that I be allowed to proceed first in order with my special order, followed by the gentleman from Ohio [Mr. REGULA].

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Oklahoma?

Mr. WALKER. Mr. Speaker, reserving the right to object, is the gentleman's special order for 5 minutes?

The SPEAKER pro tempore. A 5-minute special order, yes.

Mr. JONES of Oklahoma. As is the special order of the gentleman from Ohio [Mr. REGULA].

Mr. WALKER. I thank the Chair, and I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Oklahoma?

There was no objection.

BIPARTISAN ECONOMIC SUMMIT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Oklahoma [Mr. JONES] is recognized for 5 minutes.

Mr. JONES of Oklahoma. Mr. Speaker, as we begin this second session of Congress, it is obvious that the Gramm-Rudman balanced budget amendment is going to take center place in this session of Congress. How we implement this will determine the success or failure of this Congress but, more importantly, the success or failure of the economy of the United States and the free world.

Since 1981, when the whole economic theory first burst onto the scene, I have been predicting and warning against high Federal deficits of $200 billion a year every year, as far as the eye can see.

It is obvious, after having dealt with this problem for 4 years as chairman of the Budget Committee, that the conventional means of the legislative process, the normal process of setting priorities and dealing with those priorities to reach a deficit target, has broken down, that is not working. That was obvious last year and one of the reasons why I supported a modified Gramm-Rudman balanced budget program.

Clearly, it is not the best way to manage fiscal policy. The best way to manage fiscal policy is for the President to send us a balanced budget, something he has not done. The best way to manage fiscal policy is for Congress to respond to that Presidential budget and to pass a balanced budget, something which has not been done.

Therefore, out of frustration that the conventional process broke down, this Congress passed Gramm-Rudman balanced budget amendment.

The main thing about Gramm-Rudman that I think we have to preserve are the annual targets of reducing the projected deficits by 20 percent a year until we reach a balanced budget by 1991. It is absolutely imperative that we set this country on a course and implement that course to reach a balanced budget and to get our fiscal policy back in line. Without that, I think we are just telling the next generation of Americans, the youth of this country, that we are going to condemn them to a lower standard of living and that the harder the children of today work when they become adults, less of what they earn and less of what they produce will end up in their pockets; more of what they produce will end up paying interest and principal on the debts that are being created today.

Therefore, we must make a balanced budget process work.

The Gramm-Rudman proposal has at least a couple of obstacles to surpass this year. One of those is an ob-

stacle in the courts, where the constitutionality of this process is being challenged; and the second and perhaps bigger obstacle is the response of public opinion when we start dealing with next year's budget and have to cut $50 or $60 billion out of that budget from projected spending.

It will be interesting to see how the President and how Congress respond when military programs have to take a very deep cut and when domestic programs have to take a deep cut.

The principal fallacy of Gramm-Rudman is that it treats all programs alike, the good with the bad, and that clearly is not very good fiscal management or management of any kind.

So as we deal with the implementation of Gramm-Rudman this year, I hope that the most important thing we keep in mind is to reach the targets of deficit reduction. Obviously, the process, the mechanism, will have to be altered in order to create some fairness that may not exist.

What I really think we should have, though, is to resurrect something that I introduced, along with bipartisan cosponsors, in 1984, which this Congress passed and which the President signed into law, and that is a bipartisan domestic economic summit conference. The President signed that in 1984, and that bipartisan domestic economic summit was a casualty of the 1984 Presidential election because it was ignored.

The need for a bipartisan economic summit is greater today than it was even in 1984.

This resolution which I am going to introduce in just a few minutes, along with the original cosponsors, the gentleman from Ohio [Mr. REGULA], and the gentleman from Minnesota [Mr. FRENZEL], will direct the President, if it should pass, to convene within 45 days of enactment a bipartisan economic summit, with the Speaker of the House, the President of the United States, the minority and the majority leaders of the House and the Senate and the Republican and Democratic leaders of economic policy in both Houses of Congress.

I urge my colleagues to join in this and to push for a bipartisan economic summit to establish an American budget, not just a partisan budget.

PRIVILEGED REPORT IN THE MATTER OF PROCEEDINGS AGAINST RALPH BERNSTEIN AND JOSEPH BERNSTEIN

Mr. FASCELL, from the Committee on Foreign Affairs, submitted a privileged report, together with separate additional and dissenting views, in the matter of proceedings against Ralph Bernstein and Joseph Bernstein, which was referred to the House Calendar and ordered to be printed.

FISCAL RESPONSIBILITY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Ohio [Mr. REGULA], is recognized for 5 minutes.

Mr. REGULA. Mr. Speaker and my colleagues, a window of opportunity has opened to Congress in controlling the spiralling Federal budget deficit. With the passage of the Gramm-Rudman balanced budget amendment we are forced to bring fiscal responsibility into Government expenditures.

Now the question is whether we permit the blunt across-the-board cuts of the amendment to be initiated or enact legislation that can selectively reduce the deficit based on recognized priorities.

The recent CBO-OMB estimate of a fiscal year 1986 budget deficit of $220.5 billion far exceeds the $171.9 billion permitted under law. Yet, the $11.7 billion in spending cuts, to be automatically implemented in March, are only the beginning in the drastic decreases to be split evenly between defense and nonexempt domestic programs.

It is debated whether the sequestered cuts can achieve the needed reductions by themselves without active congressional action. Current figures reveal a 5½-percent gap exists between the amount of GNP spent by the Federal Government as compared to 19 percent taken in as tax revenues. A recent publication of the Committee for a Responsible Budget observed that Government spending required for defense, entitlements, and interest alone exceeds total Federal revenues.

Other experts speculate that the threat of sequester will compel us to agree on an economic package that is capable of meeting the required reductions in a more balanced manner. I agree that Congress must act, where possible, to legislate the necessary cuts.

In the highly competitive free world environment of 1986, our industrial economy is striving mightily to become highly efficient. Labor and management share in this effort.

We in Government must meet the same challenge. The alternative is an erosion of capital for Government expenditures that should remain in the private sector for investment in industrial modernization, new technology and the acquisition of the tools needed to compete in the industrial world of the future.

The international summit in Geneva was a beginning for arms control. A domestic summit is vital for spending control.

In the past, I have supported the convening of an economic summit to consider specific outlay reductions. Along with, the distinguished gentleman from Oklahoma [Mr. JONES] who was a leader in this effort, I have cosponsored legislation to accomplish such a meeting between congressional leaders and key administrative officials. The measure was enacted into law in April of 1984. Unfortunately, the conference has never been convened.

Once again, I am joining my colleague from Oklahoma [Mr. JONES] in offering a proposal which would establish a summit and require its specific recommendations to be reported back to Congress within 45 days of its meeting. Gramm-Rudman provides two procedural opportunities, each fiscal year, to agree on legislation that will meet the target deficit goals. I believe this measure will provide a mechanism through which to develop specific budget cuts and avoid sequestration with that schedule.

I urge my colleagues to join with the gentleman from Oklahoma [Mr. JONES], myself and the gentleman from Minnesota [Mr. FRENZEL] in support of this measure.

GRAMM-RUDMAN

The SPEAKER pro tempore (Mr. MAZZOLI). Under a previous order of the House, the gentleman from Pennsylvania [Mr. WALKER] is recognized for 5 minutes.

Mr. WALKER. Mr. Speaker, we are obviously going to have a good deal of discussion here today about Gramm-Rudman because I think that most of us have come to the conclusion, looking at what took place at the end of the last session of Congress, that this session of Congress will certainly be dominated by the decision we have to make relative to that bill.

I think it is important, though, to begin to talk about Gramm-Rudman for being precisely what it is. Gramm-Rudman is a balanced-budget requirement. It has made the balanced budget a law of the land as of 1991. It has provided us with a schedule for achieving that balanced budget by 1991.

Therefore, when you hear people come to the floor, as we have had people come to the floor today, suggesting the repeal of Gramm-Rudman, they are really suggesting repealing the balanced budget requirement.

During this session of Congress, when people come to the floor suggesting that "we ought to do this, despite Gramm-Rudman," what they are saying is that there is a priority in their minds greater than balancing the Federal budget.

□ 1330

When we hear people talk about the need to raise taxes, what they are saying is, "We cannot control our spending in order to balance the budget; therefore, you ought to raise taxes in order to meet this requirement."

In all those cases, I think the American people need to assess where they are in that particular issue. I submit that there are very few priorities of Government that the American people feel exceed the need to balance the budget, if any. But Congress has mandated a number of those priorities to be set aside as we approach the mandates of Gramm-Rudman, such as Social Security and some programs of that type. We have already set those aside.

So now when we have people coming to the floor suggesting that there is some spending that they think is more important than Gramm-Rudman, I think the American people are going to assess whether or not that really is more important to them than balancing the budget.

The issue of raising taxes is a total nonsense issue. The American people do not want their taxes increased in order to have Congress get off the hook on the spending that they have been increasing. The fact is that tax revenues to the Federal Government have been increasing markedly. Last year, as a result of growth, we brought in $66 billion more to the Federal Government. Had we just taken one-half of that additional revenue that we got as a result of growth and applied it to the deficit, we would meet most of the mandate that Gramm-Rudman is imposing upon on us on a yearly basis. In other words, $36 billion a year. So that in fact if we would just stop our spending habits, we could use the growth revenues being derived from a growing economy to meet Gramm-Rudman. But that is not what Congress wants to do. Many in this place want to raise taxes. I submit that is not a responsible course of action and that many of us are going to force those who want to have that policy advanced to do it themselves without any votes from a lot of us who think that what we ought to be doing is cutting spending, not raising taxes.

The same matter rests with the defense area. We have already mandated, under Gramm-Rudman, that defense is going to take more than its fair share of the spending reductions. I am not convinced that that was a proper course to take, but that is what we have mandated under the bill. There will be some that will come to the floor that will attempt to protect their pet programs, suggesting we ought to take even more out of defense. That would be irresponsible in the first order, and I think that we need to hold those people responsible for trying to emasculate the Defense Establishment of this country.

Gramm-Rudman really does translate to balanced budget. It is a question of whether or not we want to meet the mandate of the American people to balance the budget of the Federal Government. What we have done in the past has been to talk a lot about doing something about deficits but doing nothing. A lot of people have talked about the fact that Gramm-Rudman is irresponsible because what we ought to have is Congress acting independently and sending it down to the President; we ought not have these kinds of disciplines imposed upon us. Well, that is exactly what we have been doing for the last 10 years—and over the last 5 years, we have overspent our own budgets in this Congress by $150 billion. That which we disciplined ourselves on we could not meet the discipline. We need the Gramm-Rudman discipline.

The President is going to submit, from everything I understand, a budget that meets the restrictions of Gramm-Rudman. I think we ought to go about trying to make certain that the American people get, as the product of this Congress, something that does as good a job as the President in terms of meeting the requirements that Gramm-Rudman has imposed.

One other thing that I think we ought to be aware of, and that is that we are going to have to look bill-by-bill, program-by-program, as things come on this floor as to whether or not they fit with the law that we have now imposed upon ourselves. I think that we should have an enforcement policy. I think that the Members will find that there will be an enforcement policy in effect on the House floor, that as we get an authorization bill out here, as we get appropriation bills out here, that we are going to examine each one of them and find out whether or not they comply with the goal of meeting a balanced budget.

Should we be enacting a new spending programs at a time when we are trying to balance the budget? Should we be raising the levels of spending in programs when we are trying to balance the budget? Those are questions that need to be asked on this floor day-after-day, on bill-after-bill, on program-after-program. I think that the Members ought to be required to vote along the way on some of that when what they are proposing is a change.

We need to balance the budget; we need to start doing it with everything we do in the House.

TRIBUTE TO ED POLEN

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois [Mr. ANNUNZIO] is recognized for 5 minutes.

Mr. ANNUNZIO. Mr. Speaker, I take this opportunity to pay tribute to Mr. Edward P. "Penn" Polen, of Ashburn, VA, who passed away on December 21, 1985. This came as a shock to me, and to Mr. Polen's many friends among both Members and staff of the House. Since his death occurred during the recess period, I know that not everyone in the Hill community is aware of his sudden passing.

Ed, as he was known to his friends and associates, was a longtime employee of the Office of the Clerk—42 years and 1 month, to be exact. He was a tireless worker and one of the most loyal staff members in the House of Representatives. He was highly respected by many in this Chamber whom he has assisted over the years. At 60 years of age, Ed Polen was assistant chief of the property supply and repair service when he died suddenly of a heart attack last month at Loudoun Memorial Hospital.

Ed's tenure in the House and in the Office of the Clerk began on November 15, 1943, when he was hired by then Clerk, the Honorable South Trimble, to work as a helper in the Property Supply Office. Since that date, Ed Polen served in the same office in a number of positions ranging from helper to assistant finisher, to assistant upholsterer, to upholsterer, to assistant chief. He had been that office's assistant chief since September 1967. In every position throughout Ed's long career, he was consistently one of the most dedicated of all our employees, constantly devoting all of his energy to further the mission of the Clerk's Office and the interests of the House.

Ed was an organizer of the Congressional Federal Credit Union and received a Distinguished Service Award from the Doorman's Society of the House of Representatives in 1977. In 1980, he received an award for "Distinguished Service to the Congress of the United States, Its Members and Their Staffs." In addition, he received many letters of thanks and commendation from Members of Congress.

Working as he had under five different Clerks: Messrs. South Trimble, Ralph Roberts, W. Pat Jennings, Ted Henshaw, and Benjamin J. Guthrie, the Office of the Clerk and the House had grown to depend on Ed's wealth of knowledge and expertise. His familiarity with property management, his historical perspective, and his downright good judgment were invaluable assets to this institution.

Ed was a lifelong Ashburn resident, a dairy farmer, and active in Loudoun County civic, community, and church work. A devoted father and husband, Ed is survived by his wife, Barbara C. Polen; daughters, Debra P. Campbell and Dale P. Myers; brothers, Clayton and Robert Polen, and three grandchildren, Frances Campbell and John and Sarah Myers. Our prayers, sympathy, and love go out to this family and friends at this time of sorrow.

LEGISLATION INTRODUCED TO CORRECT SERIOUS FLAW IN GRAMM - RUDMAN - HOLLINGS BALANCED BUDGET AND EMERGENCY DEFICIT CONTROL ACT OF 1985

The SPEAKER pro tempore (Mr. MAZZOLI). Under a previous order of the House, the gentleman from Florida [Mr. HUTTO] is recognized for 5 minutes.

Mr. HUTTO. Mr. Speaker, I am introducing today on behalf of Mr. PARRIS and myself a bill that will help correct a serious flaw in the Gramm-

Rudman-Hollings Balanced Budget and Emergency Deficit Control Act of 1985. My bill will amend the act to except from the definition of automatic spending increase those portions of certain Federal retirement and disability programs relating to lower pay categories.

Basically, my amendment would provide a cost-of-living adjustment [COLA] for the first $12,000 of a recipient's retirement and pension pay. This would eliminate an inequity against our military and civil service retirees and Survivor Benefit Program recipients by exempting from the Gramm-Rudman cuts the first $12,000 of each participant's benefits. This would effectively restore COLA's for those in low-paying categories meaning those receiving less than $12,000 a year in retirement pay/pensions. The $12,000 would also be increased by the percent change in the Consumer Price Index for each succeeding year.

While I was 1 of 271 House Members that voted for the Gramm-Rudman bill, I did so not because I thought it was the best way, but only because: First, our national debt is over $2 trillion and this debt is costing us $137.4 billion a year just in interest—that's 17.4 cents out of every dollar of revenue Americans contribute to the Federal Government—second, my constituents continually ask me to do something about this deficit; and third, because it is our Nation's most pressing problem and one of my greatest concerns.

However, the conferees, in drafting the Gramm-Rudman bill for our consideration, must have reasoned that Social Security recipients and veterans should be exempted from the automatic cuts because they are on a small fixed income. Well, we have a lot of Federal and military retirees and SBP recipients in the same boat—and they shouldn't be discriminated against. I contend that it is unfair to exempt Social Security recipients and veterans compensation and benefits from the Gramm-Rudman measure when Federal military and civilan retirees and SBP recipients must face reductions. Military retirees are veterans, too, and deserve the same COLA other veterans receive.

I believe most retirees would have accepted the COLA cut, if everybody got cut. While I would prefer a total restoration of the promised 3.1 percent COLA for fiscal year 1986, and plan to support any legislation that would do so, I believe my bill is a realistic alternative, both politically and fiscally.

The $12,000 exemption point would provide equitable protection for military and civil service retirees and the Survivor Benefit Program recipients. This would include 68 percent of the military retirees, 52 percent of the civil service retirees, and 100 percent of the SBP recipients.

To help put this in better perspective, let me share some cogent facts. Of the nearly 20 million units—couples and singles—receiving Social Security, 99 percent in ages 62 to 64 and 94 percent over age 65 receive less than $12,000 a year. A couple receives an average annual income of $9,500 and a single person, $5,200. The veteran averages about $3,600 with about 90 percent receiving less than $12,000.

I urge my colleagues to support this bill.

MARTIN LUTHER KING, JR.

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas [Mr. LELAND] is recognized for 60 minutes.

Mr. LELAND. Mr. Speaker, today we can be proud. Today, as we stand in the afterglow of one of the most gratifying experiences in the history of this great democratic society, I do genuinely feel that we have walked in the footsteps of freedom.

Across this Nation—in cities and sprawling urban centers—people of conscience paused to remember our fallen hero, Martin Luther King, Jr. This gentle person—this champion of justice and patron of nonviolence—taught us as no other had, that the ultimate measure of a man is not where he stands in moments of comfort and convenience, but where he stands at times of challenge and controversy.

Martin Luther King, Jr., was a warrior for peace. And on yesterday, January 20 we took a giant step toward the preservation of one of the greatest legacies that will grace the history of our Nation.

It was my great pleasure to serve on the Martin Luther King, Jr., Federal Holiday Commission and to take part in celebrations thoughout our country in paying tribute to the life and dream of this great statesman who raised his enormous eloquence in a tireless quest for love and peace. He was a man for all seasons who asked that we put aside our differences and join in a spirit of brotherhood and sisterhood, recognizing our mutual bonds and common humanity.

He was a man ahead of his time, and as we reconvene this 99th session of Congress in the shadow of Geneva—we are reminded today of the words he spoke in 1964 as he received the Nobel Prize for Peace. The Nobel Laureate on that day in Oslo, Norway said:

> I refuse to accept the cynical notion that nation after nation must spiral down a militaristic stairway into the hell of thermonuclear destruction. I believe that unarmed truth and unconditional love will have the final word in reality. This is why right, temporarily defeated, is stronger than evil triumphant.

He accepted that award on behalf of all men and women who love peace, brotherhood and sisterhood, and viewed himself as a trustee of a new vision for tomorrow. Let us hope that those who face one another across the great void which divides America from the Soviet Union—can muster within themselves a dream for a noble peace.

Martin Luther King, Jr., gave to the world a new understanding of equality and justice for all. He taught us that our democratic principles are seriously impaired when they are not applied equally. And it is in that spirit today—that my colleagues and I—stand in this monument to democracy that is the U.S. Capitol—representing the diverse politics and peoples of America.

We have traveled a tortuous road—we who are black and white and people of color in America. In the memory of Martin Luther King, Jr., we start a new journey today as partners in a new era of progress—revived by a new sense of dignity, Dr. King, as the drum major for peace, through his life and by his death has widened the road we travel into a superhighway of justice.

We thank you, America for your efforts on behalf of freedom as evidenced by the extraordinary outpouring of love that we have witnessed during the King holiday celebration. A special tribute must go to the King family and the millions who participated in the moving production on last evening hosted by the musical genius Stevie Wonder.

It is a privilege and honor that we join in this special tribute to Dr. Martin Luther King, Jr.

□ 1340

Mr. KEMP. Mr. Speaker, will the gentleman yield?

Mr. LELAND. I yield to the gentleman from New York.

Mr. KEMP. Mr. Speaker, I appreciate my colleague's yielding.

My wife and I had the opportunity last night to join you in that audience in tribute to Martin Luther King and the King holiday which we celebrated for the first time.

The gentleman from Texas is a liberal Democrat from the State of Texas, and I am a conservative Republican from the suburbs of Buffalo, NY, and I think that celebration of the holiday last night symbolized that it was not a black holiday or a white holiday, it was a holiday that we celebrated together with all people of all colors and of all political stripes who believe that this country cannot reach the fulfullment of the American dream until all men and women are free until all have full civil rights, until all people are judged not on the color of their skin but on the content of their character, as Martin Luther King pointed out.

I was one of those who stood in opposition to the King holiday previously and decided in 1983 to vote for it be-

cause of the arguments and the persuasive words, not only of the gentleman from Texas but of our colleague from Philadelphia, the gentleman from Pennsylvania [Mr. GRAY], of Katie Hall, who is no longer with us, and of Mrs. King herself and our colleague from California [Mr. LUNGREN] on the premise that the civil rights revolution was really an extension of the American Revolution, which was predicated upon the idea of equality, of opportunity for all people based on the Declaration of Independence.

If I may say so, as a Republican and as a member of the minority party in these Chambers, my party was founded upon that rock of civil rights and freedom from all as Mr. Lincoln worked and died for.

This country went through a great struggle over the issue of slavery, and it seems to me that out of that struggle has come a recognition that our country cannot reach its potential as a great nation until the rights of all its citizens are respected and upheld.

The gentleman's words are quite eloquent today as he stands in the well of the House asking his colleagues to help commemorate that holiday, and I just want to say as one who, as I said earlier, opposed and then supported it, that I consider it one of the great satisfactions of my 15 years and now starting my 16th year in the House to have watched so many men and women of good will come together on behalf of the idea, not just of a holiday in commemoration of the birthday of Martin Luther King but in the recognition of some of those thoughts that were expressed by our friend, the gentleman from Texas.

There is something deeply satisfying knowing that all Americans will now celebrate Reverend King's birthday as a national holiday—something deeper perhaps than we can completely express.

Reverend King, of course, is the first black American to be honored as an American hero, not simply a great leader of black Americans. But as important as that is, it's not the most important point.

It was one of the great satisfactions of my political career to have worked with BILL GRAY and Katie Hall, the King Foundation and others to recognize Reverend King's birthday, and then to have stood beside Mrs. King as the bill was signed into law. I helped fight for that legislation because I think the American Revolution is a promise that won't be totally complete until we guarantee and extend the basic human right of equal opportunity to all Americans and eliminate those legal and economic barriers that prevent people from being what God meant them to be. Barriers to opportunity are entirely unjust, and as Reverend King wrote, "Injustice anywhere is a threat to justice everywhere."

Reverend King seemed to wake us up to something true in ourselves, the thought that justice, to be right must be colorblind. He said that between white and black Americans, "Their destiny is tied up with our destiny, and their freedom is inextricably bound to our freedom; we cannot walk alone." Surely he modeled his teaching on the example of the Good Shepherd.

He often talked and preached his "dream." But his dream was our dream, the American dream, a vision of that day when every man and woman is judged, not by what's "outside" but what's "inside." There is much in his teaching that reminds me of my former profession, football. For he taught us that rewards should be proportioned to effort and work and merit, not to birth or privilege or color. All his efforts aimed at this ideal of equal opportunity for all, and he planted his words like seeds in the political soil.

And now we begin to see the harvest. I believe a new coalition is taking shape, symbolized by the warm support given the King national holiday bill by many "progressive conservatives" in the Congress who deeply believe in "bridge building." Americans are uniting around one idea, his idea that the greatest resource this country has is our people with their enormous spiritual, intellectual, and physical potential. You can't build barriers to opportunity for some people without holding everyone back. To deny a single individual the opportunity to work and earn and keep the rewards of his labor is to reduce the dignity of all. Or, to put it positively, if you want to help anyone get ahead, you have to lower the barriers to opportunity for everyone to get ahead.

We must work toward a budget process that emphasizes people's needs and human investment instead of green eyeshades and red ink. We need a jobs creation budget that commits this country to moving to full employment without inflation and that dramatically reduces the unemployment rate for all, including minorities. And we need a strategy combining budget, tax, and monetary reforms, and enterprise zones for the inner cities. Congressman CHARLIE RANGEL and I have discussed a new enterprise zone proposal providing for first year investment writeoffs so that startup capital will become available. I look forward to working with Members on both sides of the aisle to create that strategy and realize these goals.

When it comes to Reverend King's goal of equal opportunity and lowering the barriers to prosperity for all, there can't be such a thing as Republican or Democrat, liberal or conservative, white or black. Rev. Leon Sullivan, founder of the Opportunities Industrialization Centers of America, another mentor of BILL GRAY's, talks in terms of jobs being the ladder out of poverty; John Jacob of the National Urban League and Ben Hooks of the NAACP have suggested the same idea. Not only must we have a safety net below which people can't fall. We also need a ladder of opportunity for the poor to climb. As the philosopher Moses Maimonides taught, the highest form of charity makes it possible for the poor to progress so they can live without needing charity; the only way out of poverty is employment. We might not all agree on the policies but we've got to agree on the goal, on the standard, on the dream Reverend King preached.

Reverend King loved America, the way all real patriots do—not because it has reached perfection, but because in a free society we can work together peacefully and nonviolently to improve it.

Ladies and gentlemen, there are reasons to be optimistic about our future. The barriers to equal opportunity are being broken down, slowly, even too slowly, but the direction is right. Reverend King's dream was that we could all sit down at the same table. Not only can we do that now, but the table is beginning to abound with the material and spiritual benefits of freedom, jobs, and opportunity for all of us to share and enjoy.

We need great leadership to move us toward genuine social reform and real progress. We need great heroes because their actions show us how much potential people have. Reverend King's life of leadership and sacrifice opened the way for all Americans to expand their potential, and beyond that there is no more we can ask of an American hero.

In my view, as we begin the new year and begin this "superhighway" alluded to by the gentleman from Texas, we might also give some thought to the idea that the civil rights revolution will never be over until there is an opportunity for every single man and woman in this country to have the dignity and the justice that goes along with economic opportunity and a job. Martin Luther King talked many times about the war on poverty. He had his ideas about fighting poverty, the gentleman from Texas has his, and I have mine, but I think the one thing upon which we would both agree and he would agree with us today if he were here—is the fact that we really cannot achieve economic opportunity in this country until there is a job for every person who seeks and desires and wants one.

There has been a lot of talk today about Gramm-Rudman and cutting spending. As one who voted against Gramm-Rudman, I did so not on the basis of opposing the idea of getting

deficits down. I do not think there is anybody, liberal, center, or right, who does not think we have an obligation to the future and to our children to get the deficit down, but I want to remind my colleagues that the cloud hanging over the economy is not the deficit as much as it is the fact that this country is still underemployed, underemployed in terms of its physical and mental and human potential.

We have 8½ million Americans unemployed. We have pockets of poverty and underemployment and high minority unemployment. We have lots of folks who really have no hope of ever achieving the change to get even a leg or a foot on that ladder of opportunity that we talk so much about. It seems to me if one would give thought to what would happen to the Federal budget if we were at the full utilization of the potential of the American economy in terms of full employment for our people, as well as full utilization of the physical capacity in this country, or at least closer to it, say at 90 percent of our plant capacity, I think you would find frankly that the budget would be near balance. Unemployment and underutilization increases spending and decreases the tax base of our country, thus full employment and higher production reduces social and welfare costs and broadens our national tax base.

This is the compassionate way to bring our budget to balance—put America back to work.

□ 1350

I am not going to give a speech on economics, as I often am accused of doing, but I only bring it up to my friend to see if as we are building bridges in the country between races and classes, if you will, on the spirit of the occasion, I think we might also consider in this new session of Congress some—I am going to use the word radical in a dictionary sense; radical, of course, in the dictionary sense responds or alludes to the idea of making significant change, but in getting back to roots, getting back to fundamental causes.

I hope that as we move forward in this Congress that we begin to look at the fundamental problem underlying our economy. It is not the deficit per se. That is a symptom of the problem. The real problem is that we still need to take some radical approaches to encourage labor and capital and economic growth. Tax reform can lower rates and create incentives for labor and capital.

I hope tax reform will remove 6 or 7 million low-income working folks from the income tax rolls so they do not face the terrible burden they face when they get on the first rung of the ladder. We need to help families with a full $2,000 exemption for each dependent.

I hope we consider some political compromise on enterprise zones so that we can put zones of opportunity in our inner cities and bring down those unemployment rates among minorities and teenagers. I hope some day America is one big enterprise zone from sea to shining sea.

I hope we consider how we can give people a better stake in private property by privatizing some of our public housing.

I think there are a number of innovative things that we can do to fight poverty. The gentleman represents the Black Caucus. I represent the thinking of a group of progressive conservatives who are looking for solutions in the private sector.

I just want to close my remarks on this holiday celebration by suggesting that the civil rights revolution has one more phase. We have broken down, it seems to me, many of the legal barriers to opportunity but as the doors of the economy were closed, it seems to me the next step in the civil rights revolution must be to open those doors to economic hope and opportunity. We need to make a national commitment to moving this country to full employment, without inflation. We should encourage affirmative efforts to get all people into the mainstream of the American dream. There is a big debate over affirmative action; but I think everybody would agree we need affirmative efforts and compensatory programs and policies in education, enterprise zones for the economy, job training, in vocational education, in housing, to move this country toward that America that Martin Luther King envisioned in his great "I have a dream" speech.

I just want to say that it was a thrill to sit with the gentleman last night in the Kennedy Center as someone from a different part of the country and perhaps from a different party than the gentleman, but to share in that dream, because of mayor of Atlanta, the Mayor of Washington, DC, and all of the white and black entertainers all closed their remarks by saying, "We all share in this dream."

I just want the gentleman to know that that is not any one person's dream. This is the dream of all of us and for all time, and I congratulate the gentleman for his leadership and join with him in this special tribute to Dr. King and thank the gentleman for his friendship.

Mr. LELAND. Mr. Speaker, let me just thank the gentleman for his participation. I thank him, too, for broadening the spectrum of our interests as we start this new year in our session of this Congress. I thank the gentleman for his perspectives. I think they are interesting and worthy of pursuit. I know that the gentleman and I do, indeed, have the same goals. Many times we differ about how we should get there, but all we want to do is make America an America for all of its people.

Mr. KEMP. Mr. Speaker, I appreciate that as well and I thank the gentleman.

Mr. LELAND. Mr. Speaker, let me yield to the gentleman from Ohio [Mr. REGULA].

Mr. REGULA. Mr. Speaker, I thank the gentleman for yielding. Mr. Speaker, it is my sincere honor and pleasure to join my colleagues in tribute to Dr. Martin Luther King, Jr. As a member of the King Federal Holiday Commission, I had the opportunity to learn more about the man, his vision, and the valuable lessons that he taught. Throughout the previous year, the Commission emphasized the importance of viewing the holiday as a time of reflection and recommitment. We chose the theme of "Living the Dream" to state very clearly that there is work yet undone.

The legacy of Dr. Martin Luther King, Jr., will live on forever. As was evidenced by the myriad of celebrations across the Nation, Americans from all walks of life united in a spirit of reconciliation to commemorate the accomplishments of one of America's great heroes. Certainly, Dr. King's place in history has been secured in volumes of books, miles of film, and now through a new national holiday. However, the importance of Dr. King's life will be lost unless we continue to live his dream.

Central to the dream is the thought that individuals must open up their hearts and minds in order to see and understand the challenges that yet await. This credo must be manifest not only in specific times of national reflection or political opportunity, but should be an intrinsic part of our lives and dwell within our hearts. Dr. King understood that his words were without substance if they fell upon insincere hearts and minds. That is why we must understand the enormity of the man and his message.

We must live the dream here at home. As a world leader, the precedents established in the United States have implications that extend well beyond our borders. Each year, an estimated 30,000 individuals from other nations visit the Martin Luther King, Jr., Center for Nonviolent Social Change.

These pilgrims from countries as far away as Sweden and Pakistan flock to the center in search of understanding and to appreciate the meaning of the man. They immerse themselves in the doctrines of King and Gandhi which emphasize brotherly love and the beloved community. We should be striving to ensure that the ideals espoused by Dr. King and his comtemporaries become a reality in American society and not merely empty visions.

Whenever there is racial strife or religious intolerance, we must act. Wherever there is poverty or other barriers to economic independence, we must act. Wherever there is inequality or an absence of justice, we must act. These are the challenges that we must face. Let us take for inspiration the words of the man and the continuing struggle of his courageous widow.

Let us continue to live the dream.

Mr. LELAND. Mr. Speaker, I thank the gentleman for his participation and also for his personal reflections on Dr. King and his participation in the celebrations over the weekend.

I yield to the gentleman from Illinois [Mr. DURBIN].

Mr. DURBIN. Mr. Speaker, I thank the gentleman for yielding.

I would like to commend my colleague, the gentleman from Texas, for calling this special order, even though today we are 1 day after the fact; it is the first opportunity we have had to meet on the floor of the House of Representatives and to speak to our first national holiday honoring Dr. Martin Luther King.

Yesterday morning in Springfield, IL, a local club, called the Frontiers Club, held its 11th annual Martin Luther King breakfast. They have not only established a standard for the State, but for their club and for the Nation in having these breakfasts on an annual basis. More than 1,000 people in Springfield, IL—Abraham Lincoln's hometown—came out for what has become a major annual event in that town.

I went from there to Decatur, IL. They had their very first Martin Luther King observance. I am sure we had over 500 people, close to 1,000, marching and gathering in the Civic Center to pay honor to Dr. King. It was truly an historic occasion and brought together many people who otherwise would not meet or speak to these issues.

There were several things said during the course of the day that struck me. Some of them were pretty harsh and they caused me to reflect on what we were doing with Dr. Martin Luther King's observance. One speaker said, and I am afraid there is some truth to his statement, that every hypocrite in America loves Dr Martin Luther King today. It struck me that during his lifetime, he was far from a universally loved figure. Although we meet to extol his virtues and all of us point to the truth that he spoke of, the fact is that when Dr. Martin Luther King was alive, he was very controversial. He was the subject of ridicule and attack and many people who yesterday took the day off and enjoyed it with their families or for whatever other purpose, maybe 18 or 19 years ago had a little different perspective on Dr. King.

I think it is important for us to reflect on the fact that perhaps Dr. Martin Luther King's contribution to America was just how uncomfortable he made us feel. When we would get up and speak about the struggle for civil rights, there were a lot of people unhappy about that, North and South.

Mr. LELAND. Black and white.

Mr. DURBIN. Black and white.

When he spoke about the Vietnam war, believe me, and I am sure the Congressman from Texas can recall, those were not popular statements. Many people questioned the patriotism of the man for raising any doubts about our foreign policy in Southeast Asia.

Then, toward the end of his career before his assassination, he began addressing more specifically issues of economic opportunity, issues that have gone unresolved two decades later after his death, but issues that still confront us and bring into real question our commitment as a nation to peace and justice.

So I hope that as we reflect on Dr. Martin Luther King, that we will recall that if we start feeling comfortable about the memory of Martin Luther King, we have probably forgotten what he is all about. As long as his memory makes us feel uncomfortable about the status quo, then we will recall the real contribution of the man.

The other point I would like to make is that in my hometown of Springfield, Ill, every year on February 12, there are major observances of the birth of Abraham Lincoln. Of course, we are quite proud to be Abraham Lincoln's hometown. Again, many people come forward to speak of the great contribution he made to America, much as did Dr. King.

I have always tried to state in my speeches that it is important for those of us who honor those memories to look for the opportunity in today's issues to apply the principles that those men stood for, and the same is true, of course, of Dr. King.

Is there doubt in anyone's mind where Dr. King would be on the issue of apartheid or constructive engagement? We know exactly where he would be and what he would be speaking to.

The efforts by Bishop Tutu and others would be joined by Dr. King and make us feel uncomfortable again about the foreign policy position of the United States.

I hope, as we honor and revere his memory, that we will be reminded of those types of issues.

The final point I would like to make in joining in this special order is to echo the words made by a speaker yesterday in Springfield who said. "You know, Congress didn't create the Martin Luther King Day, the law didn't create it. The man created it."

With his times and with his contribution, he became such a compelling force in American culture that we would take an ordinary step in recognizing his contributions in the scant 18 years after his death. It speaks to his great contribution. The bipartisan effort in creating that observance, the compelling force that brought many who were reticent or reluctant to get involved in establishing that national holiday, has been reestablished I think in our commitment. Let us hope that we maintain that commitment.

I want to commend the gentleman from Texas for bringing us together for a brief time today in observance of Dr. Martin Luther King's anniversary of his birth.

Mr. LELAND. Mr. Speaker, I thank the gentleman.

The gentleman from New York [Mr. GILMAN] has been very patient. He was the first in the Chamber when we started this special order and I must yield to the gentleman from New York.

Mr. GILMAN. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, on January 20, 1986, the Nation paused for a moment in song and prayer to commemorate Martin Luther King, Jr.'s birthday. As Congress begins today a new session, I would like to thank the gentleman from Texas [Mr. LELAND] for having arranged this special order which gives us all another moment to ponder the message behind Martin Luther King, Jr.'s words that serve as an inspiration to all of those, in every country of the world, who seek to end racial inequality.

It would be a very large task, indeed, to cite all the instances in which Martin Luther King, Jr.'s words were at the heart of a civil rights struggle. But it is not very difficult to see how Martin Luther King, Jr.'s dream presents an unbelievable source of hope for all those who are presently engaged in the struggle for equal treatment throughout the world. The South African crisis comes to mind when one thinks of social unrest and blatant segregation. Do not Dr. King's words ring true in this instance, as do his principles and values, time and time again?

In addition, I must express my delight with the attention which this national holiday has received. In addition to the parades and speeches, a more permanent aspect of the holiday remains. We are now unbelievably more aware of the effectiveness of nonviolent social change and the need for continued support of equal opportunity programs. Children will be provided a more comprehensive understanding of the impact which Dr. King

has had on the civil rights movement. Most importantly, the values which Martin Luther King, Jr., preached are undying; even with the passage of time, there is no doubt in my mind that Martin Luther King's dream will live on in the hearts and minds of our children who will be our future civil rights trailblazers.

These young trailblazers of whom I speak will have a full agenda. Racial discrimination, poverty, and inadequate housing has not disappeared even though we may now revel in the accomplishments of our past leaders. Martin Luther King and his predecessors laid the groundwork for our future civil rights leaders who must now tackle persistent problems and those which may plague us in the years to come.

The enthusiasm behind the important national observance is inspiring. Americans of all nationalities demonstrated their support for a holiday addressing every man's struggle for equal treatment. I am grateful to see that Dr. King's words were not misinterpreted as being applicable solely to a select group of people, at one isolated point in time. Dr. King's vision saw us all as spiritual brothers, not eyeing one another as potential rivals and enemies because of racial tension, but as equals, willing to help one another in improving the economic and moral fabric of this Nation.

I was pleased to have joined as a cosponsor of this important legislation establishing a Federal holiday to commemorate Dr. King's birthday and would like to commend all those who have contributed so much to the success of this national holiday. Without such dedication, the words of Dr. King would remain only as an unrealized dream; a testimony of the apathy which may overcome those who are not constantly searching for innovative ways to allow the King dream to materialize. But in light of the success of this national holiday and the energetic quality of the present civil rights movement, I am confident that the desire to continue the struggle for equal rights is alive and well throughout our Nation.

Mr. LELAND. Mr. Speaker, I thank the gentleman, too, for his helping to usher in the Martin Luther King legislation, the national holiday legislation, through the Committee on Post Office and Civil Service, as well as for helping to pass the legislation in the House. The gentleman has made a great contribution, not only here today, but also in memory of Dr. Martin Luther King.

Mr. Speaker, I yield to the gentleman from Michigan [Mr. LEVIN].

Mr. LEVIN of Michigan. Mr. Speaker, I thank the gentleman for yielding and for this opportunity in helping to make it possible.

As I have these few moments, a couple memories especially flood back. One is older, but very much lingering. The second is more recent and vivid.

The first is the day of Martin Luther King's funeral. I had with thousands and thousands of others from all over this country the sad privilege of being there.

The second is the recent appearance in Detroit of Bishop Tutu. He sometimes has been compared with Dr. King. He is modest and I think realistic enough to say that the comparisons are not quite apt. He is a different kind of speaker. He is a different kind of preacher and also in a different predicament, and therefore perhaps has a somewhat different attitude toward nonviolence.

□ 1405

But those memories, older and more recent, poignantly and piercingly say to me that the struggle for the end of injustice, the struggle for equality is unstoppable, unstoppable. That is what everybody was saying when they came to pay tributes to Dr. King about 18 years ago, and that is what over 2,000 people were saying when they came last Thursday to hear, I think one could say, one of the disciples of Dr. King, though from a different country and in somewhat different garments. Unstoppable.

So the real issue is not whether it will be stopped, but how fast it will move. There is a lot of territory to cover, and we regret so deeply that Dr. King is not here today to help us cover that ground.

Recent statistics tell the story so vividly. I was looking at health statistics, for example, and the gap between white and black infant mortality, greater in 1983, as the gentleman from Texas so well knows in view of his leadership on these issues in the House, greater than in 1940 is the gap between white and black infant mortality. Black infants in America were twice as likely as white infants in 1983 to die in the first year of life.

Then I think about unemployment figures. I was reading a clip from a Detroit newspaper just a couple of weeks ago to somebody who knows the data quite well. But even for that person, the information was startling. Unemployment in Michigan has gone down. But for young people, it is quite high overall. It varies from about 13 to 20 percent. For black teenagers, the unemployment rate varies from 45 to 50 percent in numerous States, close to 50 percent in the State of Michigan.

So I join others today standing here remembering. But also, and I think Dr. King would like this most of all from us, rededicating ourselves. There is much ground to cover, and each of us has a responsibility for one or more steps.

I thank the gentleman for giving us this opportunity.

Mr. LELAND. I thank the gentleman from Michigan.

I yield to the gentlewoman from Louisiana [Mrs. BOGGS].

Mrs. BOGGS. Mr. Speaker, I thank the gentleman for yielding. I am very grateful to the gentleman from Texas for taking this time to give us the opportunity of participating with him in this tribute to Dr. Martin Luther King. As has been said here today, the Lord did not make the holiday, the Congress did not make it, but the man himself made it.

I might also add that it was the persistence of a beautiful, intelligent, devoted woman, Coretta Scott King, who helped to make the day possible through the Congress.

Mr. Speaker, yesterday I had the privilege of participating in the New Orleans observance of the Rev. Martin Luther King's birthday at the Superdome Stadium. The day's events commemorating a man who did more than most Americans to change our Nation to make it a better place for all of us to live were most moving.

Recently I reread one of Dr. King's most moving works, the "Letter from Birmingham Jail" a handwritten response to a group of Alabama clergymen who had urged Dr. King to call off his peaceful demonstrations on behalf of racial justice. Instead, they had proposed that the civil rights movement resort to the courts rather than attempting to use civil disobedience. Dr. King wrote from a jail cell because he believed his tactics were just.

In his moving and powerful letter from his jail cell, he predicted that a day such as yesterday would come to pass. He wrote:

> One day the South will know that when these disinherited children of God sat down at lunch counters they were in reality standing up for the best in the American dream and the most sacred values in our Judeo-Christian heritage, and thus were carrying our whole nation back to great wells of democracy which were dug deep by the founding fathers in the formulation of the Constitution and the Declaration of Independence.

As we prepare to embark on the celebration of the bicentennial of this Nation's Constitution in 1987, we do well to remember that it was Dr. King who worked and prayed and died to make the promise of that document a reality for all of our people.

On yesterday, the New Orleans Times-Picayune/States-Item editorialized, Tuesday:

[From New Orleans Times-Picayune/States-Item, Jan. 20, 1986]

MARTIN LUTHER KING'S LEGACY

Few people ever change the history of a nation. Martin Luther King Jr., whose birthday last Wednesday we honor today with a national holiday, was one of the few. Before his murder in 1968, Dr. King awak-

ened the conscience of the nation and advanced the cause of black civil rights—and by extension the rights of all Americans—as few Americans ever did.

The son of a Baptist minister and himself a minister, Dr. King chose India's Mohandas Gandhi as a role model. Like Mr. Gandhi, whose quiet but determined resistance led to India's independence from Britain, Dr. King adopted passive resistance as the most effective means of achieving full civil rights for blacks.

In the process, he and his legions of followers, blacks and whites, reaffirmed for a new generation of Americans the nation's long and honorable tradition of peaceful civil disobedience as an acceptable means of changing our society and our nation's laws.

Dr. King defined the meaning of racial oppression with a rare eloquence. His "I have a dream" speech at the base of the Lincoln Memorial retains the power to stir a nation and summon latter-day champions of civil rights, human dignity and justice before the law.

Before he was martyred in Memphis, Dr. King saw many of his immediate goals accomplished. The Civil Rights Act of 1964, the Voting Rights Act of 1965 and landmark court decisions laid the foundation for a fuller participation by blacks in their nation's political and social life.

Where race-baiting had dominated Southern politics for decades, the Voting Rights Act pried open the process and ensured blacks participation in elective politics. Nowhere has the change wrought by the act been more evident than in the South. Because of it, today black elected and appointed officials are increasing in number throughout the Southern states.

The stultifying, debasing politics of race that robbed both black and white Southerns of the capacity to realize their full potential is increasingly hard to find. That is one of Dr. King's most important legacies. He helped us to see that hatred and bigotry make victims of us all. The oppressor is oppressed, too.

We would not do full honor to Dr. King if we simply recited what has been achieved through his efforts. All who understand the importance of civil rights to what our nation stands for know that Dr. King's cause must go on.

The South is particularly indebted to Dr. King and other courageous civil rights leaders because they helped to show it the error of its ways and opened the way for racial cooperation, harmony and brotherhood. Those are the ideals upon which we must continue to build. They are Dr. King's greatest legacy.

Mr. Speaker, at this point I would like to include with my remarks the program from yesterday's ceremonies at the Louisiana Superdome.

DR. MARTIN LUTHER KING, JR., FEDERAL HOLIDAY CEREMONIES, MONDAY, JANUARY 20, 1986, 12:00 NOON, LOUISIANA SUPERDOME

Prelude: Trumpet Fanfare, High School All Star Band.

Introduction of Master of Ceremonies: Helen S. Stanwood, Executive Assistant to the Mayor.

Master of Ceremonies: Honorable Ernest N. Morial, Mayor, City of New Orleans.

National Anthem: High School All Star Band.

Lift Every Voice and Sing: Marla Gibbs, Star of "227", Former Star of "The Jeffersons."

Invocation: Honorable Avery C. Alexander, General Co-Chairman, MLK Committee, State Representative, District 91.

Scripture Readings Old Testament: Rabbi David Goldstein, Jewish Federation of New Orleans.

New Testament: Father Curtis Guillory, Archdiocese of New Orleans.

Spiritual: Dr. Anita Crump, "Soon Will Be Done."

Greetings: Honorable Edwin Edwards, Governor, State of Louisiana; Honorable Lindy Boggs, United States Representative; Archbishop Philip Hannan, Archdiocese of New Orleans; Honorable Sidney Barthelemy, Councilman-at-Large; Honorable William Jefferson, President, New Orleans Black Legislative Caucus; Dr. Everett Williams, Superintendent, New Orleans Public Schools; Dr. A. Prince Fortner, Interdenominational Ministerial Alliance; Mr. Donald Mintz, Jewish Federation of New Orleans; Dr. David Mason, New Orleans Federation of Churches; Mr. Nathaniel LaCour, United Teachers of New Orleans; Mr. Martin Bahr, President, Communication Workers of America.

Musical Selection: Up With People.

Introduction of Keynote Speaker: Honorable Ernest N. Morial, Speaker; Mayor, City of New Orleans.

Keynote Speaker: Reverend Jesse Louis Jackson, Executive Director, Rainbow Coalition, Former Democratic Presidential Candidate.

Spiritual: Lelia Antonio, Xavier University, "Precious Lord."

Master of Ceremonies, Dr. Durell H. Williams, Part II: General Co-Chairman, MLK Committee.

Speech Contest Winner: Junior Division, Senior Division.

Emphasis: Honorable Israel Augustine.

Musical Selection: Community Choir.

Tributes: Reverend Simmie Lee Harvey, Honorary Chairman MLK Committee President, S.C.L.C.; Ms. Shirely Porter, President, N.A.A.C.P.; Reverend Jerome Owens, A. Philip Randolph Institute; C. Maxine Holtry Daniels, Community Leader; Mr. Clarence L. Barney, President, Urban League of New Orleans; Reverend Sampson "Skip" Alexander, Blacks United Lasting for Leadership.

Musical Selection: Community Choir, Dillard University.

Spiritual: "We Shall Overcome" (Led by Deacon John B. Williams).

Benediction: Reverend Kenneth Thompson, New Orleans Federation of Churches.

I should note that the Reverend Jesse Jackson, the principal speaker at our event, recalled that it was in New Orleans that the Southern Christian Leadership Conference was formed as a result of a meeting convened by the late Reverend A.L. Davis, pastor of our city's New Zion Baptist Church. Reverend Jackson felt that the people of New Orleans deserved special recognition, and also should bear even more responsibility than those of other cities to continue Dr. King's legacy.

Despite all of the joy of yesterday's ceremonies throughout the Nation, for all of our people the promise of 1986 is not as bright as it should be. We do well to recall another of Dr. King's thoughts from that Birmingham jail that is as true in 1986 as it was when written in 1963.

We must come to see that human progress never rolls in on wheels of inevitability. It comes through the tireless efforts and persistent work of men (and women) willing to be co-workers with God, and without this hard work time itself becomes an ally of the forces of social stagnation. We must use time creatively, and forever realize that the time is always ripe to do right.

As the archbishop of Washington, James A. Hickey, wrote to his people this week:

This year our nation honors the memory of Dr. Martin Luther King, Jr., by observing his birthday as a national holiday. This long overdue tribute is an opportunity for each of us to renew our commitment to Dr. King's dream of equality, freedom and peace. We have much work to do. Racism, hunger, homelessness and violence continue to haunt our nation and world. This holiday is an important opportunity to recall and act on the Church's teaching concerning racial justice, concern for the poor and the pursuit of peace.

Human life and dignity are undermined when so many of our sisters and brothers are denied their God-given rights and lack a decent life for themselves and their families.

Let us say clearly in word and action that every human life is sacred—no matter how new or how old, no matter what race, color, age, sex, nationality or handicap. Let us begin this new year by reaffirming our commitment to human life and human dignity in every situation and circumstance. Let us together build a more just, compassionate and caring community.

Mr. Speaker, we must all continue to work together, men and women, black and white, old and young, to meet Dr. King's challenge to redeem America's promise of a better world for all. Let each of us rededicate ourselves to that promise. Let each of us work to make that living dream a reality.

Mr. LELAND. I thank the gentlewoman from Louisiana for her contribution.

I yield to the gentleman from Ohio, Mr. LUKEN.

Mr. LUKEN. Mr. Speaker, I join in congratulating the gentleman in the well. In departing a little from the lofty principles and other statements that have been made, I think we might personalize this, if the gentleman in the well does not mind. The gentleman, as is often the case, is acting today as the conscience of the House. But the gentleman in the well acts in another role as a leader here in the House, a recognized leader.

□ 1415

And yet as a black person from the State of Texas, the gentleman, I think, would be one of the first to give credit to Martin Luther King because of his fight for registration and other civil rights. Because of those efforts of Dr. King they have enabled the gentleman in the well to take his rightful place here with the rest of the Members of the House. So I think the gentleman is an embodiment of Dr. King's legacy.

We can say today that we have come a long way, and, as has been said, we have got a longer way to go.

A previous speaker today said today is the day when so many hyprocrites are celebrating Martin Luther King's holiday, and perhaps we should call them converts and welcome them into the fold. I think it is tremendous that so many people have accepted and warmly endorsed and enthusiastically participated in Dr. Martin Luther King's birthday celebration. Personally, I do have one recollection of Martin Luther King, and sometimes I am reminded of it, I might tell the gentleman in the well, at election time during campaigns.

My opponents used to say "he marched in Selma with contempt." At least after today this will become a badge of honor, and we will not have that kind of contempt, I hope. But I did march briefly the first day with Dr. King. As such, I felt the dread, the ridicule, the contemptuous situation of having to be protected from other American citizens by the Army, by Federal troops, who ringed the group who where actually marching. It was a lonely situation when we flew into that Selma airport, and we were in fear, briefly. But I mention this not because we were in fear, which was a very passing thing, not a serious one. But these are conditions under which Dr. King and his followers lived for months and years. So I hope that the civil rights revolution is not dead, that this outpouring of emotion, approbation about Dr. King's holiday, will signal the fact that it is alive and that we will have full employment and affirmative action and that the people who embraced the symbols today will not shrink from the reality of Dr. King's message.

Mr. LELAND. I thank the gentleman for his personal comments.

I yield to the gentleman from Ohio.

Mr. TRAFICANT. I thank the gentleman from Texas. I want to commend the gentleman, particularly for the job he has done not only in having this special order today but for being an advocate of justice, civil rights, and a Member duly elected here in the Congress and having a "say" in the policies of America. One thing that the great American Dr. King did not ever have, he never had the firm control of being a part of such a body to be able to manifest a program of justice. But he worked hard to set the groundwork for people like Mr. LELAND and many other black Members who serve in our Congress and serve the country today.

I would like to make a few comments about the hypocrisy that exists. I think we had last year 3.3 million more poor children in America. We have now embarked upon policies that start to question the great struggle and the progress made from that struggle. You know, if Dr. King was associated with one thing, there were a lot of people who were afraid of Dr. King because they did not know him. With ignorance comes fear.

Now as America looks back and takes a look at that tremendous American, they found a man not afraid of this Government, and this Government targeted him. Very few people want to mention that, but it took a giant of a man to stand up in the face of some of the most powerful Federal agencies that literally were out and had him targeted. He stood out there, he showed courage, and with the passage of Dr. King I cannot say in all honesty that all white people rallied to Dr. King and his memory, but they respected him. And with that respect, that is the foundation for a future good relationship and for possible love.

I see that happening. So we all have a great task before us. He was not a black man, he was an American. He was fighting for justice for all Americans, all of us. I think that is where this Congress should go and not let this administration turn back the clock, take us back to those days which were so much a part of Dr. King's existence.

So I am just proud to be here, proud to be a part of and to be recognized by the gentleman from Texas, and I hope to God that Congress remembers that because he gave everyone a shot to get elected, and he encouraged them to get elected. So that men like Mr. LELAND and myself even and others, regardless of our color or origin, will take care of that job.

I thank the gentleman.

Mr. LELAND. I thank the gentleman for his participation.

Mr. Speaker, I yield to the gentlewoman from Colorado.

Mrs. SCHROEDER. I join with everyone else in thanking the gentleman from Texas for having this special order and really reminding the House how very important yesterday's holiday was. First of all, it has been very historic. It has been a long time since we created a national holiday. And it took a long time for this House to see its wisdom, because the first bill was introduced 4 days after Dr. King's death in 1968. So it was a long, long time in coming.

I also know, having grown up in Texas, that the gentleman in the well certainly did not have equal opportunities when he first started out, because one of my memories of being in grade school in Texas was the fact that I could not go to the park with my black friends except 1 day a year and that was in June.

Other than that, we were shut out. It never made a lot of sense to me. Thank goodness it did not make any sense to Dr. King and he got America to turn around on that.

I represent Denver, CO, which is 1 mile high, so that we always think we do things a little better. Maybe we have higher standards. But I wanted people to know that really Denver, CO, started celebrting Dr. King's birthday on his real birthday, January 15, and it went right up to yesterday with thousands of people marching many, many blocks. It was a phenomenal celebration. And Denver, CO, with a Hispanic mayor, a Congresswoman, a black district attorney, the Governor, everybody participated; it was truly the rainbow coalition. We had Native Americans, we had everybody. It really was what America is about.

I have said so many times over and over in Denver that Dr. King's holiday is an American holiday; it is not a black holiday.

The gentleman in the well knows this because he worked so hard to make it a national holiday. People would say, "If we give you that holiday, then the women will want one, the Hispanics will want one, and the Asians will want one." And I and many others would go up and testify over and over again that that was not true, that we understood Dr. King was an American and that was what it was about. It brought us back and put us on the right course.

As a college student, I participated in many of those marches, and I would say that I went to those marches, and everyone else went to those marches, not as Protestants, Catholics, Jewish, black, female, Asian, white, anything else. We went to those marches as Americans, believing in those principles that we had been taught, the principles that all men are created equal, liberty and justice for all, with never a notation saying, "except for those of color or except those of the other sex or except those of certain religions." It never said that, and yet that is how it was being implemented. So he put us back on course.

So I think it is so important to remember that this is an American holiday. He said the three evils that were lurking were poverty, racism, and war; that they are still lurking. Let us adjust to the holiday, let us go out and finish the agenda; that is what he would want, not just rhetoric but fact. I think it is terrific that people who in Denver, CO, under the Webb family and many others all over the country have had these phenomenal celebrations rededicating themselves, I hope we can now get on to the very major issue which the gentleman in the well is trying to get this body focused on and I have been trying to get this body focused on so that we finally move so that there is equality for all.

I think Dr. King had hoped that once you had desegregation there would be equality. We got desegregation, and we are delighted that that is

behind us, but we did not get equality yet and we have got to do that. He was outraged that if you are a black child or a Hispanic child you have got a much higher chance of being poor; you have a much lower chance of getting a job, you have a much, much more difficult job of going to school. That is wrong. So the dream has not been reached yet. There is a lot to do. Let us hope that everybody remembers that in the days to come.

I thank, again, the gentleman from Texas.

Mr. LELAND. I thank the gentlewoman from Colorado.

Mr. Speaker, let me yield at this time to the gentleman from Arkansas, the chief deputy whip, who I know has to go to a meeting.

Mr. ALEXANDER. I thank the gentleman for yielding. I will not be very long. I applaud the gentleman for his leadership.

I stand here today to applaud the leadership of that great and fallen leader, Dr. Martin Luther King, Jr. There have been several references today to hypocrisy, and I, too, would make reference to the kind of hypocrisy that Dr. Martin Luther King freed America from, the kind of hypocrisy which found many of our citizens paying lip service to the principles of equality and opportunity, but taking actions which were opposite and separate from these principles.

Dr. King reminded us that our Nation is built upon a foundation of equality, and for that I applaud him.

I thank the gentleman for yielding.

Mr. LELAND. I thank the gentleman from Arkansas for his participation.

Mr. Speaker, I yield to the gentleman from Ohio.

Mr. SEIBERLING. I thank the gentleman for yielding to me and for taking this time. He has been a champion of the ideals that Dr. King stood for, and I think we are all very grateful to him for that fact. The great thing about Martin Luther King, in my experience, was that he inspired us and challenged us at the same time. He still is inspiring us, he is still challenging us. His words and his life are an inspiration and a challenge to all of us to see that the dream which he spoke of, which was the American dream, is fulfilled.

About 1½ years after Dr. King's death, I was inspired in part by him to run for Congress. I picked his birthday, January 16, 1970, to announce my candidacy for Congress. I put out a press release at that time. Nobody paid much attention to it. But I think it might be very interesting to read at this point, 16 years later. I am now quoting:

> This day is the birthdate of Dr. Martin Luther King, Jr. It is fitting that on this day each of us rededicate ourselves to the causes of world peace and justice for all men, for which Dr. King lived and died. In the situation in which we all find ourselves, it will help to recall the following words of Dr. King:
>
> "Somewhere along the way as a nation we have allowed the means by which we live to outdistance the ends for which we live, and consequently we suffer from a spiritual and moral lag that must be redeemed if we are going to survive and maintain a moral stance. . . . Nothing convinces me more that we suffer this moral and spiritual lag than our participation as a nation in the war in Vietnam.
>
> "It has made the Great Society a myth and replaced it with the troubled and confused society. The war has strengthened domestic reaction."

And now mark these words because they are very relevant to our situation today: "It has given the extreme right, the antilabor, the anti-Negro, and antihumanist forces a weapon of spurious patriotism to galvanize its supporters into reaching for power right up to the White House." Under President Reagan they finally made it, using the postwar syndrome.

□ 1430

And going on with Dr. King's quote:

> It hopes to use national frustration to take control and restore the America of social insecurity and power for the privileged * * *.

The Kemp-Roth tax cut for the wealthy, the social program cuts that the Reagan program has brought about and which its inevitable consequences, Gramm-Rudman, will make even worse, were foreseen by Dr. King as the inevitable consequence of the policy which our country was drifting in.

And now let us read one more paragraph of Dr. King's statement:

> The war has produced a shameful order of priorities in which the decay, squalor and pollution of the cities are neglected even though seventy percent of our population now live in them. The war has smothered and nearly extinguished the beginnings of progress toward racial justice.

After Dr. King died, of course, the Nation went through a period in which we responded to his warnings and his criticisms and challenges, and during the period of the 1970's considerable progress was made in redressing some of this order of priorities. But that has all changed.

And today we are back in the very same kind of situation that Dr. King described: 8.4 million people were added to the poverty rolls since 1980. Twenty-nine million Americans are living in poverty today, millions of them being children. Many are black, but 61 percent are white. Dr. King's vision is not being fulfilled, and we are all suffering, for we are all brothers as long as any of our brethren are not receiving their fair and just fruits of our society.

I will not go on to read some of the additional comments that I made in the press release, because I do not want to monopolize the time. But I will include some of those additional statements that are relevant, I think, to this very, very fine occasion that the gentleman from Texas has inspired:

> Like Dr. King, many of us have come to realize that America stands at a crossroads in its destiny. Over the past 20 years, the military-industrial complex which President Eisenhower warned us against have become the dominant force in our national policy. In this period the United States has spent over one trillion dollars on military programs. Yet at no time has the Congress ever seriously challenged the military budget until the ABM debate last year. Then the challenge came only in the Senate.
>
> It no longer requires much imagination to see the kind of country America will become if this continues. However, the fault lies not with the military but with the civilian branch of the Government, especially the Congress, which has abdicated its responsibilities for setting national goals and priorities and has turned to the military for solutions to problems that are essentially political.

Mr. LELAND. I thank the gentleman for his participation and particularly for his personal reflections.

Mr. Speaker, I yield to the gentleman from the District of Columbia [Mr. FAUNTROY], a gentleman who was very close to Dr. King and was marching there with him many, many times Dr. King was on the road and who has carried forth that struggle with his participation now in the human rights struggle, the universal human rights struggle, for all of humanity in this world.

Mr. FAUNTROY. I thank the distinguished gentleman from Texas and my colleague as chairman of the Congressional Black Caucus for his kind remarks and also for his wisdom in providing the Members of the Congress an opportunity to do today what millions of Americans did on yesterday.

In tendering my thanks, I want to thank my colleagues in the Congress of the United States for having given the people of our great Nation the opportunity to celebrate as they did yesterday the life and work of the singularly most important man, the most important message, for this, the most violent century, in the history of mankind. That man, of course, was Dr. Martin Luther King, Jr. And his message was simply this: Either we learn to live together as brothers on this planet or we will perish together as fools.

I am so pleased that, from now on, etched in the fabric of our history will be the memory and the work of this man whom many believed simply dreamed impossible dreams.

I cannot help but open the floodgates of memory now and travel back through the years to that day in August, a hot afternoon, when, before the likeness of Lincoln, Dr. King intoned those now immortal words:

I have a dream that one day this nation will rise up and live out the true meaning of its creed, "We hold these truths to be self-evident: that all men are created equal, that they are endowed by their Creator with certain inalienable rights, and among these are the right to life, liberty and the pursuit of happiness."

And millions of people, when they heard it, said, "You are dreaming, Dr. King, if you think that is going to become a reality."

He said, "I have a dream that one day on the red clay hills of Georgia the sons of former slaves and the sons of former slave owners will sit down together at the table of brotherhood."

And there were those who said, "You are dreaming."

But Martin Luther King, Jr., will go down in history as a prophet of the 20th century, because he was content not simply to dream impossible dreams, he did not rest until he made those impossible dreams living realities.

I say to my colleague that I cannot ever forget that moment when I sat in the East Room of the White House, on July 2, 1964, with Martin Luther King, Jr., as we watched President Lyndon Johnson sign a piece of paper that said, in effect, "Traffic a man's impossible dream into a living reality."

I have been so pleased with the comments of my colleagues in this special order which punctuated the relevance of Dr. King's dream not just for the decade of the 1960's and the 1970's but for today, because I can tell you that Dr. King died dreaming yet another impossible dream. He dreamed of a world free of the barbarism of war and the decadence of racism and the scourge of poverty. And there were those who told him then, "You are dreaming." Quite frankly, Dr. King did not live long enough to see that Vietnam war come to a much belated end, at much cost to our economy. He did not live long enough to see the truth of his statement as the bombs dropped in Vietnam would explode in the economy of our Nation and bring great misery and despair here. He did not live long enough to see the white backlash that has come to pass today that is causing retreat on the civil rights gains that he led us in achieving. He did not live long enough to be able to support H.R. 700, the Civil Rights Restoration Act.

There are those today who say, "You are dreaming if you think we will ever get nuclear disarmament. You are dreaming if you think we will ever create jobs for the jobless and homes for the homeless and health care for the sick. You are dreaming."

But I am inspired by what my ears have heard here this afternoon and by what my heart felt yesterday as I touched heart with millions of Americans who are determined they are not just going to talk that talk about our great democracy, but they are going to walk the walk, in the spirit of Martin Luther King, Jr.

For that, I want to thank you, Mr. Chairman, I want to thank our colleagues in the Congress, and I want to thank the American people for revering again the singularly most important man with the most important message for this most violent century in the history of mankind, the prince of peace, the 20th-century prophet, Martin Luther King, Jr.

Mr. LELAND. I thank the gentleman, particularly since he probably knew Dr. King better than anybody in this body. His participation here today is of special meaning.

I yield to the gentleman from Texas [Mr. CHAPMAN].

Mr. CHAPMAN. Mr. Speaker, I thank the gentleman for this recognition.

Mr. Speaker, I am proud to join in the commemoration of the 57th anniversary of the birth of Dr. Martin Luther King, Jr., and in observing the first Martin Luther King Federal holiday. We should not only honor the legacy he has come to symbolize, but we should also make use of the opportunity to stress the importance of how far we have yet to go.

Our Nation's Capital is very much a city of symbols. Here are the Declaration of Independence, the Constitution, the monuments to Washington, the father of our country, Jefferson, who gave it purpose, and Lincoln who saved the Union. It pleases me that in this building is now a monument to Martin Luther King, who fought to assure the benefits of their legacy to all of our Nation's citizens.

The symbolism of Martin Luther King's life would be diminished if he were recalled only as the speaker of the ringing words on the steps of the Lincoln Memorial, when he told the Nation of his dream of justice and compassion for all Americans. Through difficult and dangerous struggle, Martin Luther King did much more than have a dream: He helped force America out of the hobbles of State-enforced segregation, and set our society on the road of true freedom.

Dr. King's legacy in this body is much more than symbolic, its substance and sweep speak volumes of Martin Luther King's influence on our society. The Civil Rights Act of 1964 and the Voting Rights Act of 1965 were important steps along the road that Dr. King helped lead the Nation. His eloquence and ability to express truth in its most basic form enlightened the people of the United States and emboldened the Nation to fulfill the promise of freedom, liberty, and the equal protection of law. At the Supreme Court, Dr. King's legacy includes some of the most stirring decisions that our Government has known, which have made justice a promise to which every American could lay claim.

Dr. Martin Luther King's birthday is a very appropriate time to take measure of America, and I believe we all must agree that the past 25 years have been a time of massive change, and change for the improvement of our land. At the same time, it should be obvious that we have very far to go before justice is truly equal in this Nation. We should take careful note of the creation of a poverty-stricken underclass, of families headed by those whose economic future is questionable at best.

Martin Luther King helped make it possible for all Americans to sit together, to ride together, and to break bread together. It is incumbent on us now, as legislators, to do all we can to build upon the strong foundation of hope, pride, and constructive change that is Dr. King's legacy to create greater social and economic justice in America, to break the cycle of poverty and to put real opportunities within the grasp of all our citizens.

As we reflect today on his memory, let us recall Dr. King as the leader who showed our Nation the road to the mountaintop, and although we have not yet reached its peak, we have climbed high up its path. Rather than look back, let us look forward to all that we can accomplish, working together for a more just, a more fair society that offers opportunity for success to each of America's citizens.

Mr. EDWARDS of California. Mr. Speaker, yesterday, this Nation honored, for the first time in its history, a man who is responsible for much improvement in our American society—Martin Luther King, Jr.

I saw Dr. King twice, the first time at the mammoth rally at the Lincoln Memorial in August 1963. John F. Kennedy was President, to be assassinated in 90 days, and we didn't have enough votes in the Judiciary Committee to approve the omnibus civil rights bill. So those of us in favor of the bill attended the rally.

I remember as we walked from the bus to the platform, through the huge crowd, some sitting on the grass, some standing. They knew who we were and they chanted quietly in unison, "Pass the bill. Pass the bill."

Later that day Dr. King gave his greatest speech, the immortal oration "I have a dream." It had an electrifying effect on us all, and the speech had much to do with our success in enacting the bill early the following year.

The second and last time I saw Dr. King was in 1964, in his cell at the Birmingham jail. I was with two friends from Congress, Phil Burton and GUS HAWKINS. We asked Dr. King if we couldn't help raise the money for bail to get him released.

He thanked us warmly and said no. His being there in that awful city jail was part of the message he had to deliver to the white men in charge of Alabama. It was a part of his

war against the evil system of American apartheid.

Martin Luther King was one of America's greatest teachers. Like Gandhi, Buddha, and Jesus, he spent his life teaching his fellow human beings to be better men and women—kinder, more generous, tolerant, and loving.

He refused to hate any person. He would only hate the system of segregation and exploitation. He stressed the fact that his nonviolence was not passive—it was active resistance, directed against the unjust system, not against the persons who are involved in administering the system.

King taught us that no human being is so bad as to be beyond redemption. He saw in every person an amazing potential for goodness. He said we should work for the enlightenment and conversion of our opponents through education and moral example.

In 1985, he was choked and kicked by Montgomery police. His response was to express compassion for them as brothers, as victims of their environment. The system was the enemy, not the individual who had been taught wrong.

If he had been spared the assassin's bullets, what would Martin Luther King be teaching us today, in this era of violence, of terrorism, and of an American Government that spends $1 billion each day preparing for war but will spend only pennies for the homeless, the sick, and the illiterate?

We know how he hated unnecessary wars, and early in 1965 he declared his active opposition to the Vietnam war, describing it as an immoral assault on a small, Third World country by the world's most powerful nation. He was severely criticized by almost everybody, including some civil rights leaders. But he was serene with his conviction that regardless of who won the war, our country would be the loser.

He thought it tragic and immoral that the Government was willing to spend $322,000 for each enemy killed but in the war on poverty only $53 went for each person classified as poor.

If he were here today, I am confident that Dr. King would point out that our national obsession with Russia and communism absorbs the skills and funds desperately needed for education, housing, the poor, and a decent America.

As he demanded negotiations with the Vietnamese, I am sure that he would point out that the Russians and our other adversaries are our brothers, and instead of calling names and arming to the teeth, we must sit down together at the table of brotherhood.

Dr. King is not here, but his words and ideas are as alive and relevant as they were in his lifetime. It is good that we have at least 1 day each year when we can ponder his teachings, tell our young people about the life of this remarkable man and try to move our leaders toward the goals of which Dr. King dreamed.

If we can do this, and let us not say it cannot be done, we can emerge from the bleak and desolate midnight of man's inhumanity to man into the bright and glittering daybreak of freedom and justice.

This will be a great day, not only for America, but for the whole human family.

Mrs. COLLINS. Mr. Speaker, I rise to express great joy in the success of yesterday's national celebration of the birthday of Dr. Martin Luther King, Jr. I also rise to express my hope that, in beginning this 2d session of the 99th Congress, my colleagues will try to keep alive the powerful spirit that moved us yesterday as we marched, prayed, and sang in joyous celebration of a great national hero.

We must keep in mind that yesterday we came together to honor more than the birth of a great American. We came together also to reflect on the birth of a great dream; we came together to celebrate the partial fulfillment of that dream; we came together to renew our national commitment to making the dream come true.

After all, it is impossible to celebrate the birth of Dr. Martin Luther King, Jr., without reflecting on all that he represented—and all that he continues to represent.

As one of the original cosponsors of the King holiday legislation, I believe we should continue to be guided by the impressive example we set yesterday as we prepare for future King Day celebrations. This should not just be another day off—reserved simply for shopping and picnics.

We always must celebrate the true meaning of this glorious day—the life, the courage, the contributions of a great national hero; his life's work; the work that still must be done.

The struggle continues.

The struggle continues because there is so much unfinished business of the great civil rights movement which Dr. King led so courageously a generation ago.

America at that time had a split personality. It was the land of freedom, justice, and equality for some and the land of oppression, injustice, and despair for too many others.

Dr. King gave us hope. He led us forward to great victories. And he moved an entire nation in the process. A nation long blind to its own injustice finally began to see. A nation long deaf to the pleas of the dispossessed finally began to hear. A nation long mute on the issue of guaranteeing liberty and justice for all of its citizens finally began to speak. And it began to speak in decisive tones.

We breathed life into the principles of equality. The principles became the law of the land. The Civil Rights Act of 1964 and the Voting Rights Act of 1965 stand as the most impressive examples of success.

Certainly, we live those successes—not just 1 day out of the year, but each and every day throughout the year. It is my hope that we will continue to do so. For, even as we recall great triumphs, even as we commemorate a great life, we must be mindful of the tremendous task before us.

The struggle continues.

When the great victories of the civil rights movement were won we really did live in two Americas—one black, one white.

Today, even though we have removed many of the visible signs of racial discrimination, we still live with the continuing effects of our history of discrimination. Blacks are still disproportionately represented among the Nation's poor, unemployed, and underemployed.

Due, in part to white flight, many of our children still attend segregated public schools in cities around the country.

Black families—even today—face the horrible prospect of being harassed and intimidated when they dare to move into all-white neighborhoods.

The struggle continues.

As a result, this day must serve as a reminder that, even with all our past accomplishments, there is so much more to be accomplished.

Unquestionably, these are difficult challenges, but the spirit of Dr. King's leadership can continue to guide us as we tackle these challenges head on—just as this great body did a generation ago, when it made an impressive forward move.

This historic occasion has provided us with a great opportunity. Let us take this opportunity, here in the afterglow of our great celebration, to renew our commitment to making Dr. King's dream come true.

In so doing we truly will honor Dr. King for all time.

Mr. WHEAT. Mr. Speaker, as we are all aware, yesterday marked the historic, national Federal holiday in honor of Dr. Martin Luther King, Jr. I want to commend my colleague from Texas, Mr. LELAND, the chairman of the Congressional Black Caucus, for taking this special order to honor Dr. King.

In America, in the fifties and sixties, the most important crisis our country faced was racial discrimination. It was Dr. Martin Luther King, Jr., who stirred our Nation's conscience during that crisis. It was his words and deeds that forced Americans to see that true justice must be colorblind. It was his relentless struggle that demonstrated to the Nation that all Americans, regardless of race, creed, or color, must join together in the pursuit of equality.

Through organized boycotts and nonviolent demonstrations across the country, Dr. King sought to change America and show Americans the injustice of a segregated society. Often he was beaten and imprisoned. In fact, it was from a Birmingham jail that he wrote one of his most often-quoted statements: "Injustice anywhere is a threat to justice everywhere." The principle expressed in that sentence capsulizes the message of this courageous man.

Despite pressures from both supporters and opponents, Dr. King never stopped teaching nonviolence. He often told his followers, "Work with the faith that unearned suffering is redemptive." For his adherence to the principles of nonviolence and for setting an example for others who sought to peacefully change the world, Dr. Martin Luther King, Jr., became the youngest recipient of the Nobel Peace Prize in 1964.

Four year later, Dr. King was gunned down by a brutal assassin, his life cut short at the age of 39. In his tragically short life, Dr. King had made America a better Nation and he had changed our country forever. His famous "I Have a Dream" speech delivered during the March on Washington in 1963 galvanized support for passage of the historic Civil Rights Act of 1964. It was that law that guaranteed all Americans equal use of public accommodations, equal access to programs financed by Federal funds, and the right to compete for employment on the sole basis of individual merit.

But more important, there was not just a change of law; there was a change of heart. Dr. King's actions had heralded a new spirit in our Nation. Across our Nation, people had begun to treat each other not as blacks and whites, but as fellow Americans.

Today, we are a more democratic Nation, a more just Nation, because Dr. King relentlessly pursued his dream of equality for all. He challenged us to work toward equality and his legacy continues to challenge us. As we celebrate this holiday in the future, we must renew and rededicate ourselves to carrying on his dream of freedom, justice, and opportunity for all.

Mr. TOWNS. Mr. Speaker, in the prophetic tradition of all great statesmen, Dr. Martin Luther King, Jr., reminded us that "the goal of America is freedom." His words, some 20 years later, still ring with an insight which has not been equaled by any other American. For he alone understood that America could not fulfill her creed of "justice and liberty for all" as long as one group of Americans suffered under the unjust laws of racial segregation.

Dr. King had a profound understanding that "freedom is never voluntarily given by the oppressor, it must be demanded by the oppressed." Today, many Americans still yearn for that promise of freedom. While the "for whites only" signs of legal segregation have been removed; while Birmingham is no longer ruled by a segregationist sheriff, but a duly elected black mayor; while the "Heart of the Confederacy," Virginia, now has a black Lieutenant Governor, many minority Americans still face that threat of racially-motivated violence. Whether it is the lynching of a young black man in Mobile, AL; the beating death of an Asian youth in Detroit; or the harassment of blacks in the white neighborhoods of southwest Philadelphia, racism still remains an ugly blot on our society. While public discussions of racism often make us uncomfortable, we cannot hope to realize Dr. King's dream: That all men are indeed created equal, unless we acknowledge that inequality is still a major issue in American society today.

The current attitude of our national Government is directed toward reducing deficits rather than improving the lives of disenfranchised Americans. The Gramm-Rudman budget proposals, enacted in December, will seriously undermine the remaining Federal social programs which serve the poor and disadvantaged. Can we hope for a truly integrated society with a permanent underclass which seems to grow by the thousands each year? The streets of our major cities have become dumping grounds for the mentally ill, the jobless and the generally forgotten American. While expanding constitutional protections to minority Americans was Dr. King's main focus, he also recognized the necessity for economic justice as evidenced by his call for the poor people's campaign in 1968.

At that time he said, "We will place the problems of the poor at the seat of Government of the wealthiest Nation in the history of mankind." He announced that "if that power refuses to acknowledge its debt to the poor, it will have failed to live up to its promise to insure 'life, liberty and the pursuit of happiness' to its citizens."

Dr. King's vision for a unified America was also not limited to resolving the social problems of America. He saw a need for us to be concerned for "the misery of the poor" in Africa, Asia, Latin America, and the Caribbean. America must cast its lot with the people of these countries rather than blindly supporting "friendly" governments regardless of their repressive human rights policies.

Our survival, said King, "is dependent upon man's ability to solve the problems of racial injustice, poverty, and war." The problems are still major concerns for America and the world. Unless we act to ameliorate them we will be guility of abandoning the King legacy. As we commemorate his achievements today, let us work for his dream "that in some not too distant tomorrow the radiant stars of love and brotherhood will shine over our great Nation with all of their scintillating beauty."

Mr. BRYANT. Mr. Speaker, this year, we for the first time celebrated as a national holiday the birthday of one of America's greatest citizens, the Reverend Martin Luther King, Jr.

And yesterday, January 20—the first observance of this time set aside by the Congress for all Americans to reflect upon the principles of racial equality and nonviolent social change espoused by Martin Luther King, Jr.—was the occasion for a joyous celebration.

Across the Nation and throughout the world—for Martin Luther King's contributions to peace, justice, and equality extend beyond geographic borders—this was a day in which people did put aside all that separates us to focus on all that binds us as a community and as human beings. As Dr. King taught, "We cannot walk alone."

This was a day—a day that will be repeated in the years that follow—on which we committed ourselves to keeping alive Martin Luther King's dream of peace, justice, and freedom for all people.

This was a day in which people of all colors, all religions, all backgrounds, took to the streets of our Nation not in protest, but in loving thanksgiving—not in anger, but in hope.

This was a day shaped in the image of the life Martin Luther King, Jr., dedicated to his fellow human beings and our common struggle for dignity, liberty, and peace.

This was a day most eloquently described by some of its participants:

The little pigtailed girl who said, "He led us free."

The youngster who said, "I feel I could some day be President of the United States because of what Martin Luther King did."

The elderly lady who said, "He made us free to hope."

Now—finally—America lives the dream of Martin Luther King, Jr., and we strive to share it with the world.

Mr. DYSON. Mr. Speaker, for the past several days, the people of our Nation have joined together to honor the memory of an American hero and patriot—Dr. Martin Luther King, Jr. From across the land, people of all races and religions have taken the time to reflect upon the enduring legacy of this compassionate, committed, and courageous man.

And while words alone are inadequate to impart a sense of what Dr. King's life has meant, I believe it is altogether fitting that we come here today to rededicate ourselves to the principles he held so dear, and struggled so selflessly to nurture. Dr. King had faith in the basic goodness of the American people. He challenged us all to square our conduct with our conscience; to practice the principles that we preach; to be true to the abiding values that distinguish our democracy.

This was Martin Luther King's dream. An America generous in spirit. An America that championed the cause of justice and equality. An America that fought against bigotry in the name of brotherhood. He would accept no less from a people whose experiment in representative government was a beacon of light and hope for so much of the world. He demanded that we do what was right.

Dr. King was a man of peace, who taught us that the power of conviction and the force of righteousness are more persuasive, and more productive, than the threat or act of violence. Yet he held no illusions. He knew that freedom was never free. He knew that before the dawn of day would come the darkness of despair. And he knew only too well his own destiny, yet he accepted it without fear.

Dr. King was wont to say that anything truly worth living for is worth dying for. He stood his ground. But he would not stand idly by in the face of injustice. He saw the scourge of segregation, so he struggled for our common humanity. He saw the bane of prejudice, so he preached love and understanding. Whether it concerned access to a chair in a classroom or the lever in a voting booth or a drink from a water fountain—his was a larger purpose.

While we have come a long way, much remains to be done. We are a prosperous people, yet there are those among us who live in poverty. We are a freedom loving people, yet there are those who dare not go outside. Ours is a land of opportunity, yet there are those who know no hope.

So on this occasion each year, let us and the generations to follow remember this man who did so much to open our hearts and our minds. Let us do justice to the cause of Dr. Martin Luther King, Jr.—a man whose vision of a better tomorrow stirred the conscience of a Nation.

Mr. KASTENMEIER. Mr. Speaker, January 20, 1986, marked the first official observance of the birthday of Dr. Martin Luther King, Jr. Dr. King would have been 57 years old on January 15, still a relatively young man. Instead, a vital life, the life of a peacemaker and messenger of nonviolence, was snuffed out 18 years ago, depriving not just the United States, but the world of a voice of love and hope. I recall attending his funeral in Atlanta and not only reflecting on the enormous tragedy, but also feeling a great sense of loss.

The act of Congress which established the holiday states: "The holiday should serve as a time for Americans to reflect on the principles of racial equality and nonviolent social change espoused by Martin Luther King, Jr." Dr. King was the most important instrument for raising the conscience of America to the gross inequities that existed in this country in the 1950's and 1960's. Through his unflagging efforts, his personal sacrifice, and his total commitment to the principles of justice and nonviolence, Dr. King forced on this country an

awareness that change must come if we are to be true to those things that lie at the heart of the democracy we herald around the world.

Although we have moved closer to Dr. King's ideal, the journey is far from complete, and in some ways we seem to be retreating. As we see an administration attempting to weaken affirmative action efforts, granting tax exemptions to schools with racist admissions policies, opposing legislation designed to affirm the intent of the key civil rights laws of the land, and issuing statements proclaiming that the need for Federal initiatives in civil rights enforcement is no longer necessary, we understand the need to remain vigilant and aggressive in our continuing pursuit of justice and equality.

During the later years of Dr. King's efforts he began to realize that a deep relationship exists between economics and poverty and justice. He came to understand that racism was also function of national fiscal priorities. This is the point at which he sought to bring about what he called "a revolution of values."

He became involved in the effort to get this country out of the war in Vietnam. He accurately noted that "the Great Society has been shot down on the battlefields of Vietnam." He sought to create a national movement—a coalition of poverty and pacifism—dedicated to stopping a war that was draining our economic and moral strength. His voice was silenced before that movement got fully off the ground.

Today we are seeing in stark terms the meaning of the relationship between economics and poverty, between economics and justice. As social programs designed to meet the needs of the most disadvantaged of our citizens are starved to reduce a deficit caused by a bloated military budget and an ill-advised tax cut, we must wonder whether our Nation would have fallen into this abyss had we had Dr. King's voice of conscience to remind us of our obligations to humanity.

Dr. King wanted justice and peace for the United States and for the world. He said that "True peace is not merely the absence of tension; it is the presence of justice."

Today, this means we must continue our efforts to eradicate poverty in this country and hunger in the world. We must persist in doing whatever we can to work for freedom for the oppressed people of South Africa. We must be ever vigilant in working for civil rights here at home and for human rights throughout the world. And, finally, we must work for world peace. For, in these ways, we truly honor Martin Luther King, Jr.

Mr. YATRON. Mr. Speaker, opposition to racial segregation in this century was raised to new levels with the arrest of Rosa Parks on December 1, 1955. The Montgomery bus boycott which followed marked the beginning of the Reverend Martin Luther King, Jr.'s, courageous pursuit of social change and justice.

Martin Luther King's father and grandfather, also Baptist ministers, had in their own lives been involved in the struggle for social equality. Indeed, King was the scion of a family whose idealism and sense of justice had made a lasting imprint on the social fabric of at least one Southern city. The commitment he made and the dedication he promised the civil rights movement were thus in keeping with a firmly rooted family tradition.

After completing his college education and theological training, Reverend King earned a Ph.D. from Boston University. Along with Christian doctrine, the focus of his intellectual study was the social theories and works of Thoreau, Rauschenbush, Gandhi, Niebuhr, and Buber. Dr. King's spiritual and intellectual development led to the formulation of a personal philosophy ascribing to nonviolent social change. He maintained an abiding commitment to peaceful, but unremitting, confrontation with social injustice and racial discrimination.

By 1968, America had progressed. Dr. King's years of work helped bring about the abolition of segregation and other kinds of systemic discrimination. Yet, for some time, King's life was in danger and the fact that he died by an assassin's hand was a tragic, horrible reflection of how wide the chasm of injustice really was in America society. With Dr. King's death, the civil rights movement lost a leader of profound insight and we all lost one of the most powerful human forces for equality and social justice.

The Nation mourned and to this day feels the loss of Dr. King's moral leadership. Seeing so clearly what greater strides he could have made for America is a recurring image and a grief that will always be known.

Official national recognition of Dr. King's achievement is beginning at long last. Eighteen years after his assassination, we are finally giving the honor due his memory and the inspiration he gave to the social and moral goals of a nation. Our appreciation and our abiding respect will be seen in the celebration of a national holiday and in the permanent placement in the U.S. Capitol of a statue in his image. From this day forth, in the month of January, America will officially remember the accomplishments of the Reverend Martin Luther King, Jr. who led a movement for peace, justice, and human understanding and who, in so doing, helped our Nation, and civilization itself, grow a measure closer to the just society of all our dreams.

Mr. LEVINE of California. Mr. Speaker, yesterday we recognized for the first time Dr. Martin Luther King, Jr.'s, birthday as a national holiday. In addition to commemorating Dr. King's remarkable life and career, let us dedicate ourselves to his dream—a world in which tolerance, charity, and brotherhood may prevail.

Although Dr. King's life was cut short, his struggle for defending the basic rights and liberties of man altered the course of this Nation forever. It was only two decades ago that America denied millions of blacks the equal use of public accommodations, equal access to federally supported programs, and the right to vote. Dr. King understood that black Americans had waited far too long to enjoy civil rights which had been promised to them more than a century ago.

From a Birmingham jail he wrote "We know through painful experience that freedom in never voluntarily given by the oppressor; it must be demanded by the oppressed." And from the Lincoln Memorial Dr. King proclaimed: "I have a dream that my four little children will one day live in a nation where they will not be judged by the color of their skin but by the content of their character."

Rather than let impatience give way to violence, Dr. King became the leader of the nonviolent civil rights movement. His work in the Montgomery bus boycott led to the elimination of segregated bus seating in that city. His guidance of the Freedom Rider campaign led to unprecedented enforcement of desegregation on our Nation's buses. Under King's direction, the Southern Christian Leadership Council coordinated a massively successful sit in movement that resulted in the desegregation of lunch counters in 27 Southern cities. His many years of nonviolent protest helped make possible passage of both the 1964 Civil Rights Act and the Voting Rights Act of the following years.

I think that those of us in my generation believe that we have a special tie and perhaps an even more persuasive link to Martin Luther King, Jr., because he so profoundly influenced so many of our own lives and the life of our Nation when we were young. We were part of the famous "sixties generation" and much of our inspiration came from Dr. King. He gave his life in an effort to realize a dream that all men—and all women—are, in fact, created equal.

Many of us have often wondered how different and better our world would be today if Martin Luther King, Jr., were still alive. But it is a better world and we are a better nation because he lived.

He represented the best in man. His eloquence, his courage, his dignity, and his personal example reminded us of the finest American ideals. I am proud to have cosponsored the legislation to make his birthday the national holiday it is.

Last week, on the anniversary of Dr. King's actual birth date, I witnessed in a very simple but eloquent fashion how some of this translates in today's new generation, a generation that he was deprived of seeing. When my son's teacher asked his class why America was celebrating Martin Luther King's birthday, a young black girl raised her hand and said that her mother had told her that because Martin Luther King had lived, she could grow up to do anything she wanted.

The legacy he left for our children is one of a world with less prejudice and less discrimination and less hate, even with all the work that remains to be done.

Dr. King's civil rights crusade demonstrated that even the most humiliating and oppressive forms of discrimination could not rob a man of his pride and dignity. King himself personified the moral credo to which he subscribed: "One has not only a legal but a moral responsibility to obey just laws. Conversely, one has a moral responsibility to disobey unjust laws."

Moreover, Dr. King was a shining example of a man who used moral means to attain moral ends. His profound eloquence and his peaceful protests were his most powerful weapons. His all-encompassing moral vision enabled him to focus on a number of pressing issues. His decision to denounce the war in Vietnam and call instead for a war on poverty at home drew much harsh criticism. For Dr. King, however, the pursuit of justice knew neither geographical nor political bounds. He taught us that not acting in the face of injus-

tice is as contemptible as perpetrating injustice itself.

We celebrate Dr. King's life to remind ourselves that his fight, our fight, is not over. We have much to do to alleviate the fact that there are more people living in poverty today than ever before. We cannot ignore the fact that ongoing forms of job discrimination have contributed to the disproportionately high unemployment rate among blacks and inequitable salaries for women. We must not sit idle while the South African system of apartheid denies the black majority in that country its fundamental economic, social, and political rights.

In the memory of Martin Luther King let us not forget that if freedom and equality should ring for any of us, it must ring for all of us. He dreamed and worked for no less.

Mr. TRAFICANT. Mr. Speaker, I am honored today to join in this special order in honor of Dr. Martin Luther King, Jr. Yesterday, the Nation celebrated the first national holiday honoring Dr. King and his invaluable contributions to the growth and development of this great Nation. His immense accomplishments will stand throughout history, and he will always be remembered as a man of peace, love, and great faith.

Dr. King dedicated his life to the principles of freedom, justice, and equality for all Americans. He had the courage to face unbearable hardships and stand up to the challenge that lesser men would not have taken. Dr. King had a dream and as we stand here today in Congress and see the enormous progress that has been made in civil rights since his tragic death over 17 years ago, it is evident that Dr. King's dream has inspired us to throw away the shackles of prejudice and hate, and march on to make a better and more just future.

At a time when America was experiencing great troubles and it would have been easy to advocate a path of violence, Dr. King stood fast and preached peace and love over hatred and violence. He established a legacy of peaceful change that laid the groundwork and made possible all of the progress the civil rights movement has made since 1968. Dr. King never shirked his responsibilities and he maintained a fervent commitment to achieve freedom, respect, and equality for his people. His efforts and the enormous challenges he faced made our Nation stronger and it enhanced all of our lives. Dr. King uncovered to all Americans the ugly face of prejudice and inequality and he challenged all Americans to respect and adhere to the tenets laid down by our Founding Fathers.

Change does not happen overnight, but through the efforts and sacrifices of Dr. King, our children can live in a better world, and they can build upon the groundwork laid by Dr. King and fulfill his dream.

Mr. Speaker, as we gather here today to honor Dr. King and the truly great accomplishments of the Nobel Peace Laureate, let us also remember his message and that we must constantly respect the vital importance of civil rights for all Americans and not take for granted the freedoms we now enjoy. We must reaffirm our commitment to the ideals preached by Dr. King and work to ensure that those ideals are upheld and built upon. Nowhere is that task more important than here in this body.

Let us also remember the circumstances that brought Dr. King to Memphis, TN, that fateful month of April 1968. Dr. King went to Memphis to help settle a sanitation workers' strike that had dragged on for months and had undertaken serious racial overtones. The ugly specter of violence threatened to rear its head. Dr. King, despite a busy schedule and against the advice of many of his advisers, went to Memphis to try and settle the strike. His efforts brought an end to the affair, but before Dr. King could leave Memphis and continue on in the struggle for civil rights, he was struck down by an assassin's bullet.

Seventeen years later, we still mourn our loss. America needs leaders like Dr. King and we were fortunate that Dr. King was there to guide this Nation during difficult and trying times. Dr. King, perhaps more than any American, contributed to pushing this Nation to live up to the ideals under which it was formed. Dr. King's life and his work embodied the very soul of America: Freedom, justice, peace, love, and equality. A national holiday honoring Dr. King is a beautiful way to celebrate his message and his many accomplishments. Let us take this day to reflect upon where our country has been, where it is today, and where we can take it in the future. Let us use the awesome message of Dr. King to spur us on to a better future and fulfill our potential as a nation.

Mr. WEISS. Mr. Speaker, I want to commend our distinguished colleague from Texas [Mr. LELAND] for requesting this special order. I am honored to be participating in this special order to commemorate the 57th anniversary of Dr. Martin Luther King, Jr.'s birth. By any account, Reverend King was one of the most remarkable men of our era, and the story of his brilliant life known to many of us. Born in Atlanta, GA, King's father, grandfather, and great-grandfather were all pastors who had used the pulpit and the church to fight for the rights of blacks in Atlanta. When he was 19, the age at which most young people are just beginning college, Martin Luther King, Jr., had already received a bachelor's degree in sociology from Morehouse College, and was a fully ordained minister. By the time he was 26, he had received his Ph.D. from Boston University's School of Theology, and had turned down several offers to teach in order to accept the pastorship of the Dexter Avenue Baptist Church in Montgomery, AL.

Dr. King was catapulted into the national spotlight in 1956, during the now-historic Montgomery bus protest, the action that marked the beginning of the modern civil rights movement. In 1964, at the age of 35, Martin Luther King, Jr., became the youngest person to ever win the Nobel Peace Prize. In 1968, not even 40 years old but recognized as a world leader, Dr. King was assassinated.

Today is a day to remember the many victorious battles that Dr. King led and inspired: The Montgomery bus boycotts and the freedom riders; the desegregation of schools and public accommodations; the battle for voting rights; and the fight for equal employment opportunities. Yet Dr. King did more than lead one of the greatest social movements in American history. He also taught a whole generation of people, in the United States and around the globe, that hope could spring from despair, that anger need not lead to violence, and that with dignity and determination, the powerless could challenge the powerful, and win. He taught how important morality can be in politics, and how love can sometimes overcome hatred.

In our battles today against apartheid in South Africa, we draw inspiration from his words, when he said, "Injustice anywhere is a threat to justice everywhere." In our struggle to maintain and expand affirmative action and programs to help the poor, we gather strength from his vision that, "we are caught in an inescapable network of mutuality tied in a single garment of destiny."

It is altogether fitting that beginning this year, America has a national holiday to contemplate the many lessons of Martin Luther King, Jr.'s life. Yet we must not forget the determination of Dr. King's adversaries, some of whom today try to cloak themselves in his legacy, while rejecting everything he stood for. Martin Luther King, Jr. faced enormous opposition during his own lifetime. He and his family constantly received death threats. He was physically beaten, and several times thrown in jail. For 6 years, the FBI harassed and tried to discredit him, in spite of the fact that they had no legal authority to do so. During a congressional investigation in 1975, the FBI admitted to having sent Dr. King an anonymous threatening letter in an effort to induce him to commit suicide. The FBI also revealed that it had tried to prevent Dr. King from receiving honorary degrees from colleges, and that it had tried to prevent him from accepting the Nobel Peace Prize and from meeting the Pope. Efforts were also made to shut off financial support for his organization.

Just as we draw lessons from Dr. King's many victories, so we must draw lessons from the ferocious opposition he faced. His opponents had many advantages: They were well-financed and well-organized; they were defending the status quo, which is always easier than fighting for change; and they controlled the State and local governments, and in some cases, the Federal Government. Yet they faced a man and a movement with an unshakable commitment to justice, equality, and freedom, and they were defeated.

The civil rights movement today faces challenges undreamt of 20 years ago. In some areas, progress has been made in chipping away against the walls of injustice and inequality. In other areas, we find these are dark, difficult times, as we confront an administration bent on reversing the progress of the last two decades. Let us draw strength today from Martin Luther King's strength, from his compassion, from his relentless dedication to justice for all people of this world. As he said on that August afternoon in 1963 from the steps of the Lincoln Memorial in Washington, DC, before a crowd of 250,000:

We cannot turn back. There are those who are asking the devotees of civil rights, 'When will you be satisfied?' We can never be satisfied as long as the Negro is the victim of the unspeakable horrors of police brutality. . . . We cannot be satisfied as long as the Negro's basic mobility is from a

smaller ghetto to a larger one. We can never be satisfied as long as a Negro in Mississippi cannot vote and a Negro in New York believes he has nothing for which to vote. No, no, we are not satisfied, and we will not be satisfied until justice rolls down like waters and righteousness like a mighty stream.

Mr. COYNE. Mr. Speaker, yesterday marked another historic step in the continuing struggle for civil rights. It was the first national holiday commemorating the birthday of America's premiere civil rights activist, Dr. Martin Luther King, Jr.

Born January 15, 1929, in Atlanta, GA, King became the leading spokesman for the movement after supporting Rosa Parks in her refusal to give up her bus seat to a white passanger in Montgomery, AL. Reverend King, along with his father, established an effective boycott of the Montgomery bus system which succeeded in eliminating not only the division of black and white passengers on public transportation but also made the first crack in an overwhelming, prevailing barrier of discrimination which existed in this country up until the early 1960's.

It took years to mark this day as a national holiday just as it took years to bring this Nation to the present state of imperfect equality it has achieved. The job is far from over! At best a tainted justice exists. A long road of commitment lies ahead of us if we are ever to reach "the dream" of which Dr. King spoke so eloquently. It is the spirit of Martin Luther King's message, a message of justice and equality through peaceful and nonviolent means, which we must nurture if we are to redress the continued injustice which exists in this Nation and throughout the world.

It is to the credit of this man that he appealed to his Nation's conscience and it is to the credit of this Nation that it responded to his call. America must continue to set an example of what can be accomplished when a country's conscience is awakened to a spirit of change. As our country continues to respond to this call for change we must challenge other nations to join us in shattering once and for all the remaining walls of intolerance and bigotry. It is not enough to reap the benefits of the King legacy. We must remain firm in our call for an end to apartheid in South Africa; we must remain firm in our commitment to affirmative action; we must remain firm in our support of vital job training and educational programs which help the poor and ethnic minorities of our Nation.

Above all this new national holiday should serve as an annual reminder and time for reassessment as to where we are and how much more there is to achieve in our journey toward a truly free and equal world.

Mr. MARTINEZ. Mr. Speaker, I am pleased to join my colleagues today in honoring Dr. Martin Luther King, Jr. Dr. King dedicated his life to the causes of civil rights and economic justice for all Americans and peace for all the world's peoples. The new national holiday that we celebrated for the first time yesterday is a fitting tribute to this great American.

Martin Luther King, Jr. was a man whose eloquence was legendary, whose courage was unquestioned, and whose impact on our Nation was profound and enduring. Without the efforts and sacrifices of the civil rights movement that Dr. King led so ably in the 1950's and 1960's, it is doubtful that this Congress would have passed the landmark Voting Rights and Civil Rights Acts that have done so much to promote political and social equality and economic opportunity in America.

These steps toward equality and opportunity have not, of course, achieved all of Dr. King's noble aspirations. Discrimination still exists in America, as do social and economic injustices. But we have made great progress since Dr. King delivered his unforgettable "I have a dream" speech in 1963. And, it is also important to remember that the civil rights movement that Martin Luther King, Jr. led helped inspire other movements for equality as well. The movements for Hispanic civil rights and for women's rights certainly did not merely mimic the black civil rights movement. But many of those who have played a vital role in these efforts also fought alongside Dr. King or were inspired by him.

Dr. Martin Luther King, Jr. was a great American. The example of his life must continue to guide us in the years ahead.

Mr. MAZZOLI. Mr. Speaker, as a long-time cosponsor of legislation establishing a national holiday to honor Dr. Martin Luther King, I am particularly proud to join in this special order to commemorate him.

The celebration of the birth of Dr. Martin Luther King, Jr., as a Federal holiday, marks an important point in the evolution of our country. As a nation founded on the principles of freedom and equality, we now pay tribute to one of our great leaders, who not only altered the fate of American blacks, but America in general, and the world as a whole.

We as a nation continue to grow and develop, having removed many of the barriers that once hindered us. However, we must accept the individual responsibility of assuring the continuance of social justice and fraternity, as Dr. King said: "We must learn to live together as brothers or we shall all perish together as fools."

At this time we should look back, we should look forward, and we should look all around us. We must never forget. Ever reminded that "injustice anywhere is a threat to justice everywhere." In our "fast-paced" society we often overlook important human concerns. They become overshadowed by the more dramatic and immediate issues. Regrettably, we forget those who have gone before, and sacrificed so much for our country and its people.

Dr. King is a man we must not forget, whose indomitable spirit and insight helped shape and mold this country into a nation that lived up to its basic tenets, that all persons are created equal, that they are endowed by their Creator with certain inalienable rights, that among these are life, liberty, and the pursuit of happiness.

Yes, we still have a way to go, but just look how far we have come. Martin Luther King once said, "If you can't fly, run, if you can't run, walk. If you can't walk, crawl. But by all means, keep on moving."

So let's keep moving America. This long-awaited recognition of Dr. King's birthday is not an end, but a means to an end—toward a society in which all men are treated equally and measured solely "by the content of their character."

Mr. CROCKETT. Mr. Speaker and my colleagues, I am honored today to join with my colleagues in marking the first national celebration of the birthday of Dr. Martin Luther King, Jr., one of America's most courageous fighters for civil rights for all Americans.

I want to also publicly thank my colleague JOHN CONYERS, whose leadership and inspiration kept this legislation alive before Congress until the majority of our colleagues finally saw the light and ratified it 2 years ago. Although he is receiving far less than his share of credit for this observance, JOHN CONYERS deserves our thanks and praise for his efforts to make the King birthday a national event.

It is altogether fitting that this body honors Dr. Martin Luther King, Jr., since his cause was our cause—the protection and strengthening of national commitment to justice and equality for all our citizens.

If we in this body are to add meaning to the national tribute to Dr. King, however, we must reflect in our legislative actions his full range of concerns, his caring and his love for his fellowman. We must continue his effort to bring out the best in America, and to eliminate the hunger, poverty, violence, and racism here at home and throughout the world community.

The best in America fights for the well-being of all its citizens, assuring food for the hungry, shelter for the homeless, and employment for the willing and able; the best in America upholds those human and civil rights for which Dr. King fought, and strongly defends against any encroachment or return to the assorted bigotries of the past.

The best in America calls upon us to lead the effort to end the madness of the nuclear arms race; to be an agent for peace and stability in Central America; to speak out unequivocally for a meaningful dialog among all sides in the search for peace in the Middle East, and to make clear that no one is really free in this world so long as 23 million black South Africans are denied the right to govern their lives.

The many honors marking the first Federal holiday for Dr. Martin Luther King, Jr. have rightly emphasized the urgency of continuing to make his dream a reality. To achieve this we can, and indeed we must, be the catalyst for continuing to achieve the very best in ourselves and our society.

Mr. HUGHES. Mr. Speaker, today we are gathered to honor Dr. Martin Luther King, Jr., a man who has stirred the soul of our country with a dream of peace, justice, and the recognition that all people are created equal. I am pleased to have the opportunity to participate in this special order honoring Dr. King for both his achievements and the courage he showed in moving us closer to the fulfillment of his dream of a better world for all.

As you know, Dr. King spent the early part of his life studying theology and religion. During his long years as a leader of the civil rights movement, he never lost sight of the religious values which inspired him so deeply. Dr. King was a man who understood the value of patience, hard work, perseverance, and faith. There are few among us who are willing to make these sacrifices today, as we seek to change society overnight.

Faith is simple when times are easy, but Dr. King chose the hard route during difficult times. Beginning in 1954, Dr. King's life took a new path when he joined the NAACP and put his faith and commitment to the test. By 1955, he had become a leader in the civil rights struggle. Urging blacks to organize and participate in peaceful, nonviolent demonstrations, Dr. King placed himself at the forefront of the movement, while at the same time making himself vulnerable to those who resisted the changes he sought to bring to society.

Through boycotts, sit-ins, marches, and scores of nonviolent demonstrations which formed the heart of the civil rights movement, Dr. King's faith remained strong, never giving sway to the forces trying to bend it. Dr. King's faith and commitment resulted in a fundamental change in society and the laws which govern it. Among other things, his efforts led to the enactment of the 1964 civil rights bill.

Until his death in 1968, Dr. King continued to work to organize people and to instill in them the values that were the inspiration for his dream of creating a better world. Although Dr. King is no longer with us, his dream lives on in all of us.

Mr. Speaker, I know that I do not stand alone when I speak of the greatness of this man and of his contributions. We, as individuals and as a nation, will always feel a place in our hearts for Dr. King and take great joy in celebrating his birthday.

Mr. TALLON. Mr. Speaker, I rise today to honor the life of Dr. Martin Luther King, Jr., and the dream for which he died. At certain brief and isolated moments, history is seized by the energy and vision of a single man. The life of Martin Luther King was such a moment. Dr. King infused us with the dream of freedom, equality, justice and peace for our Nation and the world. He touched each of us with this dream and then showed us how to bring that dream alive. This legacy remains a constant source of inspiration and responsibility.

In honoring Martin Luther King, let us reflect on our place in his march for freedom and justice. We have a moral obligation to realistically examine how faithfully and how far we have carried "the dream." This reassessment is the first step in what Dr. King called his nonviolent campaign for justice. King noted four basic steps in his campaign: First, collection of the facts to determine whether injustices are alive; second, negotiation; third, self-purification; and fourth, direct action.

I believe we have a responsibility to continue Dr. King's campaign for nonviolent social change. A collection of the facts clearly indicates that domestic and foreign policy violations of civil rights, equality, justice remain prevalent in our domestic and our foreign policy. Certainly, blacks have made significant political, economic, and educational gains. Yet still, minorities in this country are still not given the educational and economic opportunities that are available to their white counterparts. There are heartwrenching examples of inequality and injustice all around us. Unemployment for blacks stands at 15 percent. Nearly half our black children are born into poverty. The median family income for black families is $15,432 compared with $27,686 for white families. Vestiges of prejudice are still prevalent in some of our social, political, and economic institutions.

Injustice and inequality remain a part of our foreign policy as well. In South Africa today there are millions of blacks who struggle and long for freedom and equality. This struggle parallels that of black Americans just 30 years ago. We have a responsibility to support and assist them in this struggle.

Negotiation is the second stage. Negotiation is different from concession or regression. Rather, it requires careful consideration and compromise as we work to promote freedom and equality for the disenfranchised. This is perhaps the most difficult stage, demanding tenacity, foresight and cooperation. As Dr. King observed, the negotiator is often confronted with "blasted hopes, and the dark shadow of deep disappointment."

A time of reflection and recommitment is important in this long difficult struggle for freedom. The Martin Luther King holiday provided us such time. The stage that Dr. King termed self-purification is a period for introspection and self-examination. This stage allows us to regain courage to confront the reality of injustice and the will to work for peaceful change. Dr. King provides us with the inspiration to recommit. We can gain strength from his unflinching determination to overcome racism and promote equality.

The final stage is that of direct action. "Nonviolent direct action seeks to create such creative tension that a community that has constantly refused to negotiate is forced to confront the issue," said Dr. King. Neglect of civil rights in America is something that we had to confront during King's lifetime and it is something that we must confront now. The issue and threat is as real now as it was then. For, as Dr. King observed, "injustice anywhere is a threat to justice everywhere." I am frightened by a complacency and a dullness that seems to have settled across America. Now, more than ever, we must heed Dr. King's advice that "we must use time creatively, and forever realize that the time is always ripe to do right. Now is the time to make real the promise of democracy, and transform our pending national elegy into a creative psalm of brotherhood."

In conclusion, I would like to share with you a few remarks from the Reverend Boesak. "I am convinced that there is another America. An America that remembers its own struggle, that cherishes its freedom and dignity, that therefore understands the aspirations of an unfree people. An America that lives up to the ideals of injustice and equality so jealously guarded by your constitution and so preciously held in the hearts of your people." It is this America that Dr. Martin Luther King, Jr. envisioned. Let us gather the courage, integrity and commitment to make his dream a reality for all Americans.

Mr. RODINO. Mr. Speaker, I take this opportunity to commend Representative MICKEY LELAND, chairman of the Congressional Black Caucus, for taking the special order to honor a great American, Dr. Martin Luther King, Jr.

Dr. King's vision of America at its best—a land of equality, fairness, and compassion for all of its citizens—and his unyielding devotion to nonviolent protest (while facing death threats, jail, and ugly verbal abuse and physical brutality) helped lead our Nation through a turbulent, but necessary, period of growth.

This past Monday, our country of rich and diverse cultures came together to honor Dr. King's memory and rekindle its commitment to making his dream a reality. This national tribute was long overdue. In 1968, shortly after Dr. King's death, I sponsored a bill to designate a national holiday in his honor; 18 years passed before a day was set aside to honor his birth.

I am also pleased to note that I am cosponsoring legislation with Senator FRANK LAUTENBERG to name the planned Federal courthouse in Newark after Dr. King.

However, our celebration of Dr. King's legacy is tempered by the sobering fact that for many Americans, his dream has not yet become a reality: The gap between rich and poor grows dangerously wider each day; blacks continue to suffer disproportionately high unemployment and infant mortality rates; the future of essential social services is threatened by Gramm-Rudman and other budget-slashing schemes; the Department of Justice is working to turn the clock back on civil rights gains of the last three decades.

Let us join together to honor the memory of this great man by carrying on his work.

Dr. King's dream was a dream of social, political, and economic justice for all. He dedicated his life to securing a society that will judge its citizens not by the color of their skin, but by the quality of their character and the contents of their minds. The civil rights laws guaranteeing equal opportunity and equal rights would be legacy enough for most great men. But not for Dr. King. For his is also a legacy of hope and promise that bigotry will be erased, justice will be served, and human rights will be respected in this country and throughout the world. In 1975, I told the Southern Christian Leadership Conference:

They shot down the man—and they snuffed out his life—but they could not shoot down his dream. For his dream was stronger than life and more powerful than death. And the dream lives on.

Let us join together to honor the memory of this great American by working for the realization of his dream.

Mr. STOKES. Mr. Speaker, I would like to thank my distinguished colleague, the gentleman from Texas [Mr. LELAND] for reserving this special order so that Members can participate in the observance of the first Federal holiday enacted in honor of a black American. That black American was Dr. Martin Luther King, Jr., whose young life was snuffed out by an assassin's bullet almost 18 years ago.

Mr. Speaker, much has been written; much has been said; and many events have been conducted in the last month relative to Dr. King and this new Federal holiday. Each event has focused on the monumental contributions and achievements of Dr. King on behalf of not just black Americans but for all Americans.

This historic occasion is a time for America to pause and memorialize, to perpetuate, and pay tribute to a man whose greatness was established through his leadership of a movement which pricked the conscience of a nation and changed the course of history. But more than that, the holiday is a time for all

Americans to come together, to think, reason, and act if we indeed believe as Martin did in our Nation. Not only did Dr. King love his Nation—not only did he die for it—but more than that—he had a dream for it. His dream was a simple dream, uncomplicated and unencumbered. In essence, he believed in—worked in behalf of—and demanded that America live up to its creed that we hold these truths to be self-evident that all men are created equal. That they are endowed by their Creator with certain inalienable rights. That among these are life, liberty, and the pursuit of happiness.

This is basis for the King Federal holiday. The holiday observance has been an opportunity for all of us to remember and be thankful for the victories of Dr. King and the civil rights movement on so many battlefields: The Montgomery bus boycott, public accommodations, voting rights, housing, equal employment opportunity, and the abolition of our own brand of apartheid laws all over the South. It also has been a golden opportunity for all Americans to rededicate themselves to the proposition that Martin Luther King's dream cannot and must not be deferred.

Therein lies the challenge for those of us here in the Congress. In 1983, when the House finally passed legislation making the third Monday in January each year, the holiday in honor of Dr. King, I felt proud of this body and proud of America.

That was a good start. But, as the individuals who are directly responsible for the legislation affecting the lives of not only black Americans and the poor, but all Americans, we more than others, must realize that a great deal of work remains to be done in order to make Dr. King's dream a reality.

Our role in that effort can and must be to place laws on the books, to ensure the equitable administration of programs; and to provide opportunities so that all Americans—regardless of their race or economic status, can have a fair chance in our society.

This is the essence of Dr. King's dream and the American dream. The effort to reach this goal will not be easy, but I remember Dr. King saying, "The ultimate measure of a man is not where he stands in moments of comfort and convenience, but where he stands at times of challenge and controversy."

The struggle to make the dream a reality for all Americans must continue—here in Congress and around the Nation. If we in the Congress commit ourselves to relentlessly pursuing this goal today, we will help to make Dr. King's dream a reality.

Again, Mr. Speaker, I would like to thank my distinguished colleague, Mr. LELAND, for reserving this time.

Mr. COUGHLIN. Mr. Speaker, as we commemorate the birthday of Dr. Martin Luther King, Jr., it is my pleasure to pay tribute to a man for whom the struggle against bigotry, injustice, and immorality was the commitment of his life.

This is a symbolic occasion to reaffirm our own commitment to the brotherhood of man and to rededicate ourselves to his dream—not only for black Americans—but indeed for all Americans and all people.

The dark stain of discrimination is not some myth of the distant past. I remember as if it were yesterday my first trip south of Pennsylvania, as a raw Marine recruit, stopping at a gas station. It had two water fountains; one marked "colored."

In my ignorant innocence, I went to see what the colored water looked like and was strongly rebuked. That experience, among others, led to my involvement as a student in the early civil rights movement on the campus of Yale.

As we set aside a day each year to remember the just cause for which Dr. King stood, we, as Americans, can take pride in the knowledge that we recognized a serious injustice amongst our people and took action to change it. With the Civil Rights Act of 1964 and the Voting Rights Act of 1965, his work brought to us a change in law. But more importantly, his inspiration and leadership stirred the conscience of our people toward a higher standard of morality.

Dr. King's legacy challenges each of us to use the power of politics to confront those problems which cause racial friction and unrest, and to carry on the search for social justice and equality for which he lived and died. He sought not special privilege but equal privilege.

As we seek to confront the problems of apartheid in South Africa, the importance of Dr. Martin Luther King, Jr.'s message remains stronger than ever. He would have been in the forefront today. It is with sadness we accept that he is not with us to witness the historic strides we have made toward his goal both in our Nation and elsewhere in the world.

Certainly, the civil rights movement is not ended. As we honor Dr. Martin Luther King, Jr., we must pledge to strive together, as a democratic people, to persevere and fulfill his ultimate dream.

Mr. DYMALLY. Mr. Speaker, there are wretched souls around the world who believe that the life of a great human being can be snuffed out by a bullet. And in their delusion they steal life from the bodies of these great individuals, these Martin Luther Kings, these Mahatma Gandhis. Their blindness hides the truth from them: that greatness is an essence of soul, not of the body. It cannot be killed by a bullet but only by a loss of hope among those whose lives have been touched by the soul of greatness.

Martin Luther King's body rests in death in Atlanta. But his soul, his spirit, was not killed when his body was struck down that April night in Memphis. It lives in each of us who does truly believe that there will be a day when all God's children will be free. It lives in Martin's close friends. It lives in Coretta Scott King and the King children who built the Center for Nonviolent Social Change. It lives in Walter Fauntroy who struggles daily to lift the burden of apartheid from the black people of South Africa. It lives in Jesse Jackson who inspires young black people to free themselves of drugs and to achieve excellence. It lives in Andrew Young, who demonstrated the compassion and humanity of this Nation to the world as our Ambassador to the United Nations. Martin Luther King, Jr., kindled his spirit in each of these people. They are fruits of his hope.

But they are no more than crests in a sea of hope that touches every shore. This week and in all Januaries to come that sea will swell as thousands who had not before heard Martin's words will stop for a few moments transfixed by the magnificence of his dream, transfixed as were those who heard it first on that sweltering day in August on the steps of the Lincoln Memorial. And his dream will become their dream as well. And Martin Luther King, Jr., will live so long as his words swell the sea of hope, so long as the wave of freedom washes the shores of God's good Earth.

Mr. RANGEL. Mr. Speaker, I would like to commend the chairman of the Congressional Black Caucus, Congressman LELAND for his leadership in calling for this special order to honor Dr. Martin Luther King, Jr.

Twenty years ago, black people finally succeeded in eliminating the last vestiges of Jim Crow from the legal codes and regulations of the States. The Civil Rights Acts and Voting Rights Act of 1966 brought an end to centuries of officially sanctioned apartheid and disenfranchisement. No longer could a restaurant owner legally refuse to serve black customers. No longer could a local ordinance set aside segregated entrances to theaters and businesses. And no longer would black people have to qualify to vote under racist grandfather clauses.

All black people can take pride at how far we have come in such a short period of time. We all participated in the struggles of the past, and we can all take pride in our victories.

However, one man stands out as the moving force behind the civil rights movement. This man was Dr. Martin Luther King, Jr. Martin Luther King was a man completely committed to the cause of racial equality. His vision transcended political and religious boundaries, and looked to the day when all Americans would be provided with the same tools to build the American dream.

Mr. Speaker, Dr. King was a great humanitarian and, I would say, a true American patriot. He was not patriotic in the Ronald Reagan mold, glorifying arms buildups, conservatism, and social callousness. Rather, Dr. King questioned whether we as a people were living according to the mandates of our Constitution and our God. He questioned the way men in power had turned their backs on prejudice and poverty for so long. And he questioned the moral superiority with which we conducted our affairs internationally, while so many suffered here at home.

Martin Luther King was indeed a great man. He stands as a symbol of fairness and justice, and inspiration for achieving our best ideals. I would encourage my colleagues to reflect upon the great contributions of Dr. King. This is a moment for close reflection. The following articles are submitted for inclusion in the CONGRESSIONAL RECORD.

[From the Washington Post, January 19, 1986]

THE GREAT REFORMER

(By Eleanor Holmes Norton)

We have just passed through the most fruitful period of progress for black Americans since Emancipation. Beginning with the 1954 school desegregation decision, it lasted a quarter of a century. It produced

many memorable figures. The verdict of history is still out on all but one.

Hereafter Martin Luther King Jr. will be judged a great man by many who will know little of him except that a national holiday commemorates his achievements. But the judgment of history is not so easily summarized. For some time to come we must wrestle with the content and the meaning of King's legacy. The struggle is already apparent.

As the King celebration began, the attorney general justified his attempt to eliminate hiring goals for minorities and women as "very consistent with what Dr. King had in mind," on the same day that the Rev. Jesse Jackson, speaking from King's home pulpit in Atlanta, excoriated the proposed policy for betraying King's goals.

Thus King is not likely to recede easily into the historical distance and become an icon like the only other American honored with a holiday, George Washington. Washington was the paradigm unifying figure, the first American of the new republic. King was a profoundly unsettling figure who challenged the republic from the time he emerged amidst the racial placidity of the 1950s.

Yet King and Washington are not odd fellows thrown together by the fickle if democratic process that produces national holidays. Different as the two men were, they have been honored for the same reason. They managed to draw out the best in the American character. We honor them as an act of national conceit that is fully justified because the honor bestowed symbolizes our own striving to be as good as we sought to become when they lived. In today's racial climate, we need all that can be brought to bear through the symbolism provided by the King holiday.

Thus we honor King as the most appropriate way to signify that we are overcoming our own history. Race has been the single most tragic and insistent scar on an otherwise noble national undertaking. If the country has often met its baseline ideals, race has stood out for the way it has betrayed them. Inevitably the man most associated with racial accord would become a national hero.

If King's part in relieving the burden of race were all he had done, he would deserve a holiday. But his achievements go deeper. King was the most influential reformer in one of the most fertile periods of reform in American history. King was as significant to his period as John Kennedy and Lyndon Johnson were and, with the advent of the holiday, is likely to be a more lasting figure than either. King shaped the entire period of reform to which both of these presidents directly responded. Race was the anchor issue for King. But he moved to poverty and to war, teaching and leading in path-breaking ways, when many counseled him to stay within race boundaries. Nor did his early death end his influence on this period of restless reform. Every important movement of the 1960s and 1970s, from women to the environment, draws directly upon his philosophy or the social energy he inspired.

There has been much overwrought criticism of the unprecedented period of reform that characterized the last two decades. A time that produced less than it sought, it has been an easy target for those who sought—and brought—no change at all. But Americans North and South, right and left, have now closed in around King, the self-proclaimed drum major for justice of this period. The '60s and '70s were King's decades. In spite of ourselves, in honoring the great reformer, we have begun to accept the legitimacy of one of the most significant eras of American reform.

(The writer, a professor of law at the Georgetown University Law Center, formerly chaired the Equal Employment Opportunity Commission.)

[From the Washington Post, January 19, 1986]

THE MAN CONSERVATIVES HATED

(By Richard Cohen)

The one and only time I met Dr. Martin Luther King Jr. was after he had called a press conference to announce that he would lead a massive march in New York to protest the Vietnam war. Another time, I sort of met him. I interviewed a former Mississippi deputy sheriff who had been convicted of conspiracy in the killing of three civil rights workers and, before that, had jailed the future Nobel Prize winner. He pronounced him a great man. "That Dr. King, he had something," said Cecil Ray Price.

I raise these two instances because, as Jesse Jackson has pointed out, the reality of Martin Luther King is being altered and his memory expropriated by people who were, when it counted, his critics and enemy. The truth of the matter is that King went to jail. The truth is that King was a dissenter. The truth is that King was, in some ways, a revolutionary—a dreamer, yes, but a brawler too. He fought like hell for justice.

This all has to be said because the King praised by Ronald Reagan and Edwin Meese III could take a place on the dais of a Chamber of Commerce lunch and get nothing but pats on the back. They have made him a flag bearer in the giant patriotic parade now marching down the middle of America. The real King, with sadness but with firmness, would have said that this parade is not for him. He would, if you don't mind, have dropped off in the ghetto where things are not going so well.

It is wonderful that Reagan and company have finally gotten around to recognizing King's greatness. More power to them. But if they are to recognize King, then recognize the man he was—not the man they wish he had been. He was the guy conservatives hated—the one they called a communist. He was suspected of being in the pay of the North Vietnamese or, variously, the Russians. He was a firebrand and troublemaker—the supposed catalyst of riots and crime. He was the civil rights leader whom the FBI bugged; they put listening devices in the motel rooms where he stayed, and his most intimate conversations were passed around Washington for the cheap thrills of creeps and racists.

Now, of course, Martin Luther King is being praised as a patriot who would have cheered "Rocky IV," but that, alas, is because he is dead and his cause—civil rights—is no longer controversial. If he were alive today, he would be called all sorts of names. At the very least, Jeane Kirkpatrick would call him a "San Francisco Democrat"—one of the Blame America First crowd who has no place either in American politics or, for sure, at the White House table. Certainly, he would not be called a patriot.

The patriot of today is not someone who questions authority or institutions. The new patriotism, so celebrated by magazines, beer commercials and professional football teams, is always linked to conformity in action—in particular, the military. Just say that word and you see someone in uniform, maybe saluting, maybe rushing across some rough terrain in an army-recruiting commercial in which war is indistinguishable from a boyhood game of guns—bang, bang, you're dead. They are milk-and-cookies patriots.

But Martin Luther King was a true patriot. He loved his country enough to challenge it to be better. He broke laws—bad laws, but laws nonetheless—and he went to jail for it. He agitated and condemned, exhorted and lambasted. He prayed for his enemies but never shirked from confronting them. He represented an institution—the church—but he challenged institutions he thought were doing wrong. He was an authority figure—a minister—who did not hesitate to take on the authorities when he thought they were wrong. He started in the South but was turning his attention to the North and, over the war in Vietnam, he was about to battle the very administration that had been his ally.

The real Martin Luther King was a critic, not a cheerleader. The real Martin Luther King appreciated America's ability to do better—to improvise, improve, make the country work better for everyone. The real Martin Luther King would never celebrate the status quo, and if someone proclaimed that America was standing tall, he would say, yes, but it can stand taller.

Like Albert Camus, Martin Luther King knew that the real subversion is conformity and that the true patriotism is criticism and action. Martin Luther King had a dream, but Martin Luther King, as his achievements attest, was no dreamer.

Mr. BROWN of California. Mr. Speaker, yesterday, for the first time, we as a nation celebrated the birthday of a black man. Special ceremonies were held all over the country, as people of all races and backgrounds paid tribute to slain civil rights leader Dr. Martin Luther King, Jr. When we celebrate his birthday, we do so as a symbolic occasion to reaffirm our own commitment to the brotherhood of man and to rededicate ourselves to his dream for America.

Dr. King shared his dream with us on the steps of the Lincoln Memorial on August 22, 1963. I especially remember his "I Had A Dream" speech because, I along with 200,000 other people, gathered with him to show that we too shared his dream that one day "sons of former slaves and sons of former slaveowners will be able to sit down together at the table of brotherhood."

Although our Nation has not yet made it to the "promised land" which Dr. King envisioned, it is on the horizon. Although it is on the horizon and can be seen in the distance, sometimes I feel like our Nation may never get there. At present, officials in the Reagan administration are trying to undermine the civil rights legislation Dr. King and so many others have fought and died for. Currently under attack are the Civil Rights Act of 1964, the Voting Rights Act of 1965 and the Executive Order No. 11246. If Dr. King's dream is to remain alive, we will have to roll up our sleeves and work harder to make sure that these laws are strengthened, not weakened.

The current administrations actions are not the only reasons why we might not see Dr. King's dream come to fruition. Recently, I read an article featured in my home town's newspaper, the San Bernardino Sun, which disturbed me deeply. The American Council on

Education predicted that the next decade could be ripe for civil unrest if more minority students don't start enrolling in colleges and universities. Ms. Sarah Melendez, associate director of the Education Council's Office of Minority Concerns said, blacks and Hispanics already comprise about half of California's population, and they'll make up about a third of the Nation's work force in the next 10 years. While their numbers are growing, fewer than 10 percent of college age minority students are going on to college, setting the stage for a decade when "you're going to have all the white people doing the good jobs, and the blacks and Hispanics will be relegated to janitorial and menial work. If that doesn't lead to civil unrest, I don't know what will. Now is the time to start doing something about it!" I agree.

The heyday of the civil rights movement and the decade following it created a boost in minority enrollments, but those numbers are failing, and in some cases are gradually declining. In 1976, blacks made up 9.4 percent of enrollments at all colleges in the Nation, but dropped to 8.9 percent by 1982. Blacks comprise about 12 percent of the population nationwide. Hispanics showed a slight increase, from 3.5 percent in 1976 to 4.2 percent in 1982. Hispanics represent 7 percent of the Nation's population. Studies show that over half of the minorities—56 percent—choose 2-year community colleges. The only problem is, most, however, never finish the community colleges and they never make it to the 4-year colleges.

If the American dream is to work for everyone then we must continue to work toward economic and educational parity. Allowing declines in minority representation to continue unchecked will return our society to an elitist system of a highly educated upper and middle class, mostly white, and a seriously undereducated working and poor class, mostly nonwhite—in other words, "educational and economic apartheid." Sooner or later, taxpayers will pay and, if not for better schools, then for more prisons, for welfare and for drug addiction programs that those locked out of the system will need.

It is essential that we continue to educate all those with the potential to make this country strong. Higher education is an investment, not an expense. Fulfillment of the American dream is based on upward mobility through education. So as we recommit ourselves to fulfilling the dream, let us continue to struggle for justice in education. Only if we work together, for change, will we achieve the day he dreamed of, the day when in Martin's words: "All of God's children, black men and white men, Jews and Gentiles, Protestants and Catholics, will be able to join hands and sing: Free at last! Free at last! Thank God almighty, we are free at last."

Mr. FASCELL. Mr. Speaker, I am pleased to join our colleagues in this tribute to one of the truly great leaders of our Nation, the Reverend Dr. Martin Luther King, Jr. It is with great pride and sincere gratitude that we remember Dr. King on the celebration of what was to be his 57th birthday.

Born on January 15, 1929, in Atlanta, GA, Dr. Martin Luther King, Jr., is, perhaps, best known for his advocacy of the philosophy of nonviolent resistance in the civil rights movement. In 1955, he gained international recognition and achieved a position of leadership in the American black community when he led the Montgomery bus boycott following the arrest of Rosa Parks. Dr. King was awarded the Nobel Peace Prize in 1963 for his adherence to the principles of nonviolence and for setting an example for others who were to follow in his footsteps. At that point, he had touched the Nation and the world with his philosophy.

An advocate of justice and freedom for all individuals, Dr. King taught the people of this Nation about themselves—about their past, about their present and about their future. The inspiration which he ignited in the hearts of millions was felt worldwide among people of all colors. Dr. King's unwavering devotion to justice, his commitment to peace and freedom, and his concern with the future of this Nation was an inspiration for us all, and it continues to be, particularly on this important day.

Martin Luther King, Jr., had a dream—he dreamed of the day when all men would, in fact, be equal, that blacks would meet with whites in peace, and that freedom and justice would reign supreme. Perhaps his most important hope was for children:

I have a dream that my four little children will one day live in a nation where they will not be judged by the color of their skin but by the content of their character.

He had a dream for all of our children. Dr. King long awaited the day when all children would walk together in peace and equality. He tragically never lived to see that happen. We can learn from the lessons which Dr. Martin Luther King, Jr., taught us—we can learn from his dreams, his bravery, his hopes, and his prayers. I am grateful to Dr. King for his Dream, and, today, we can be proud of the progress which this Nation has made since his death. We must now look to the future and recognize the steps which remain to be taken.

Mr. Speaker, on this day I am pleased to honor a great man, a dedicated leader, and an inspiration to all of us, the Reverend Dr. Martin Luther King, Jr.

Mr. DELLUMS. Mr. Speaker, on a bright April day almost 19 years ago Dr. Martin Luther King, Jr., came to the Berkeley campus of the University of California to speak against America's role in the Indochina war. I was one of many thousands in the audience that day—a Berkeley graduate and a newly elected member of the Berkeley City Council.

The memory of that moment in time is as vivid now as it was then, because I felt Dr. King was personally challenging us as individuals to respond to this national crisis of conscience by making a lifetime commitment to change society through constructive alternatives to the madness surrounding us.

He put the challenge in succinct but profound terms: "We have flown the air like birds and swum the sea like fishes, but we have not learned the simple act of walking the Earth like brothers." He then analyzed the dichotomy of leadership in contemporary America—those who lead by following the popular prejudices of the moment—and those who, like he did himself, sought to mold a new consensus by offering new visions and new alternatives.

Those verbal visions and constructive alternatives he proposed have been the twin foundations for your own growth and commitment on the global issues of war and peace, personal freedom and social justice—goals and aspirations for which he lived, struggled and died.

Eighteen years after his assassination, following a sustained legislative struggle, all Americans now have a national holiday to honor this true citizen of humanity who was the embodiment of the ideals professed in our Declaration of Independence and Bill of Rights. It ought to be a day of renewed commitment to conscience rather than commerce, one in which we recall that his words were more than matched by the deeds of his struggle to promote peace and broaden the boundaries of justice.

Martin Luther King, Jr. challenged the conscience of both church and state on the spiritual and political immorality of racism and segregation in our own society. In his stirring letter from the jail in Birmingham, AL, in April 1963, he wrote:

We know through painful experience that Freedom is never voluntarily given by the oppressor; it must be demanded by the oppressed * * *. We have waited for more than 340 years for our Constitutional and God-given rights. The nations of Asia and Africa are moving with jet-like speed toward gaining political independence, but we still creep at horse-and-buggy pace toward gaining a cup of coffee at a lunch counter * * *."

It was Martin Luther King, Jr., standing in the shadow of the Lincoln Memorial on August 28, 1963, who spoke for all citizens of conscience in challenging the foundations on which this Nation was built, saying:

When the architects of our Republic wrote the magnificent words of the Constitution and the Declaration of Independence, they were signing a promissory note to which every American was to fall heir * * *. It is obvious today that America has defaulted on this promissory note, insofar as her citizens of color are concerned. Instead of honoring this sacred obligation, America has given the Negro people a bad check; a check which has come back marked "insufficient funds". We refuse to believe that there are insufficient funds in the great vaults of opportunity of this Nation. And so we've come to cash this check, a check that will give us upon demand the riches of freedom and the security of justice.

Martin Luther King, Jr. was also a leader in the effort to make human rights and real reductions in the nuclear and conventional arms race major priorities on the global agenda. In his 1964 Nobel Peace Prize acceptance speech he spoke of "the need to overcome oppression and violence without resorting to violence and oppression." He went on to say: "I refuse to accept the cynical notion that nation after nation must spiral down a militaristic stairway into the Hell of thermonuclear destruction. I believe that unarmed truth and unconditional love will have the final word in reality. That is why right temporarily defeated is stronger than evil triumphant."

Dr. King then used his eminence as a Nobel Peace Laureate to speak out on the insanity and immorality of the Indochina war. He understood that the bombs being dropped in

Vietnam would explode in the ghettoes of America. In a Los Angeles speech he challenged Lyndon B. Johnson's false claim that America could have both guns and butter, saying:

The promises of the Great Society have been shot down on the battlefields of Vietnam. The pursuit of this widened war has narrowed domestic welfare programs, making the poor, White and Negro, bear the heaviest burdens * * *. It is estimated that we spend $322,000 for each "enemy" we kill, while we spend in the so-called war on poverty in America only about $53 for each person classified as poor.

Finally, who can ever forget the moral rigor and the searing sadness of his brilliant speech at the Riverside Church in New York on April 4, 1967, when he unburdened his soul on the agony of that war's destructive impact on every segment of American society? The frustration was manifest as he admitted.

Over the past two years * * * many persons have questioned me about the wisdom of my path * * *. Peace and civil rights don't mix, they say. Aren't you hurting the cause of your own people they say * * *. Indeed, their questions suggest that they do not know the world in which they live * * *.

He then went on to make one of the more cogent critiques of contemporary American foreign and military policy ever uttered in a public forum. His peroration was a cri de coeur that is even more poignant when read in the context of the contemporary nuclear and space weapons race:

Somehow this madness must cease. We must stop now. I speak as a child of God and brother to the suffering poor of Vietnam * * *. I speak for the poor in America who are paying the double price of smashed hopes at home and death and corruption in Vietnam. I speak as a citizen of the world, for the world as it stands aghast at the path we have taken. I speak as an American to the leaders of my own nation. The great initiative of the war is ours. The initiative to stop must be ours.

A year to the day after making that speech Dr. Martin Luther King, Jr. was the victim of an assassin's bullet. America and the world are still suffering his loss.

Tragically, as we enter the new year of 1986, many of his dreams are still unrealized. The world spends trillions on even more fearsome weapons of destruction, but a virtual pittance on food, clothing, shelter, health care and education for the billions on this planet who are still mired in poverty. Human dignity is stifled in South Africa, and personal freedom is at risk around the globe because of oppressive regimes, both right and left. Here at home, the ravages of Reaganomics and the impending disaster of Gramm-Rudman-Hollings are sad testimony that economic democracy in this society is more rhetoric than reality.

However, on this day of national commemoration, let us remember that Dr. King's greatest legacy to us is one of hope, based on the commitment to persevere with integrity and compassion in the struggle for equality and justice, peace and personal freedom. It is for us, the living, to pick up his fallen torch and to go forward, as he said, to "make of this old world a new world." We have that moral obligation to his memory—and to our children and our children's children.

Mr. DAUB. Mr. Speaker, on January 16, 1986, I was pleased to participate in the first Martin Luther King, Jr. Luncheon sponsored by Metro Tech Community College, of my home district.

I would like to submit for the RECORD my remarks in honor of Dr. King's achievements:

MARTIN LUTHER KING, JR.—JANUARY 1986

Two decades ago—on August 28, 1963—the centennial year of the Emancipation Proclamation—in Washington, DC—on the steps of the Lincoln Memorial—the nation and the world listened to the dream of a man.

His dream was one of equality and of freedom—of peace and of justice. And as we listened, we realized that this man spoke not just of his dream—but of the American dream.

This man—and his dream—is why we gather today—to honor the man and to rekindle the dream, for while peace and justice seem a simple proposal, we know that they prove to be not simple but elusive, and that they demand our constant attention and nurturing care.

Why do we honor Dr. Martin Luther King today? If you answer—"Because he was a great Black American"—you have missed the message. If you answer—"because he was a great American" you understand and live the legacy of Dr. King. You understand his dream—our dream—that one day we will live in a nation and a world where people are judged not by the color of their skin but by the content of their character.

I have had the opportunity to travel to many countries throughout the world. In every case—in every part of the world—I am reminded that the people of these nations look to America not only for economic aid, for defense assistance, for education and for technology. They look to America for something more important than any of these. They look to America for a standard of justice—of fairness and freedom.

In that knowledge, I voted for the sanctions against South Africa where justice is reserved for people of only one color. In that knowledge, I have joined with my colleagues in Congress in pressing for human rights in the Soviet Union—especially for the rights of the Jewish minority to emigrate to freedom. In that knowledge, I voted for the national holiday to recognize the achievements and the dream of Dr. King—a dream that awakened in us the best qualities of the American spirit.

The world recognized Dr. King's contributions to these qualities and to this higher standard when—in 1964—he was awarded the Nobel Peace Prize. This Award recognized the truth and substance of his message that "injustice anywhere is a threat to justice everywhere."

This week—in cities across the nation—we recommit ourselves—in the spirit of Dr. King—to fighting injustice everywhere. He is with us today in spirit—watching from the mountaintop and asking us to live the dream not just today, but every day, and not to honor him, but to honor the dignity of all God's children.

If we do this in our daily lives, we can someday embrace him on that mountaintop and know that we have lived the legacy of Dr. King and bequeathed it to our children and our grandchildren.

And that will be the greatest honor we can give to a man who is not with us today because he had the courage to do what was right.

Mr. TORRICELLI. Mr. Speaker, I am honored to be able to help celebrate the memory of Dr. Martin Luther King, Jr., on this first national observance commemorating his birthday. As a result of his efforts minorities and women have finally begun to become part of mainstream America.

There is perhaps no better way in which to preserve the memory of Dr. King than by striving to protect those civil rights victories obtained as a direct result of Dr. King's vision.

This is especially true today when the Justice Department seeks to undercut efforts against employment discrimination in the workplace under the guise of civil rights reform. Although not as blatant as the discrimination practiced in the 1960's, such subtle means of eroding civil rights gains are just as harmful.

Dr. King sought social justice for all men and women. We have the obligation today to continue with this goal. And not only in the United States.

Apartheid in South Africa represents the worst form of oppression of civil rights. The Government of South Africa, in its attempt to perpetuate apartheid, has sought to overcome its opposition and avoid any meaningful negotiations leading to elimination of race discrimination. And violence in South Africa continues daily.

Nelson and Winnie Mandela represent the difficulties faced for all South Africans who seek freedom and justice. Yet, despite jail and banishment their ideas and the force of their beliefs have broken through the obstacles which surround them towards a peaceful transition to the end of apartheid.

To honor Dr. Martin Luther King, Jr., we should support those who seek to continue his work for social justice and continue such work ourselves.

GENERAL LEAVE

Mr. LELAND. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the subject of my special order today.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

MESSAGE FROM THE SENATE

A message from the Senate, by Mr. Sparrow, one of clerks, announced that the Senate had passed the following resolutions:

Senate Resolution 295, that a committee consisting of two Senators be appointed to join such committee as may be appointed by the House to wait upon the President of the United States and inform him that a quorum of each House is assembled and that the Congress is ready to recieve any communication he may be pleased to make.

Senate Resolution 296, that the Secretary informs the House that a quorum of the Senate is assembled

and that the Senate is ready to proceed to business.

The message also announced that pursuant to the provisions of Public Law 99-93, as amended by Public Law 99-51, the President pro tempore appointed Mr. BIDEN, (cochairman), Mr. DECONCINI, and Mr. DIXON as members, on the part of the Senate, of the U.S. Senate Caucus on International Narcotics Control.

The message also announced that pursuant to the provisions of Public Law 99-83, the President pro tempore appoints Rabbi Chaskel Besser from private life, as a member of the Commission for the Preservation of America's Heritage Abroad.

The message also announced that pursuant to the provisions of Public Law 94-118, the President pro tempore appoints Mr. INOUYE as a member, on the part of the Senate, of the Japan-United States Friendship Commission.

The message also announced that pursuant to the provisions of Executive Order 12131, signed by the President on May 4, 1979, as extended, the Vice President appoints Mr. BENTSEN as a member, on the part of the Senate, of the President's Export Council.

DR. ANDREI SAKHAROV

The Speaker pro tempore. Under a previous order of the House, the gentleman from Massachusetts [Mr. FRANK], is recognized for 60 minutes.

GENERAL LEAVE

Mr. FRANK. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the subject of this special order.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

Mr. FRANK. Mr. Speaker, let me say to my colleagues who are here that I intend to say some things about Dr. Andrei Sakharov, and I will than have some time available for those who want to join in and continue particularly on Dr. Martin Luther King.

I would like to begin, because there are some other Members who came here on this special order, and I would like to begin, Mr. Speaker, by saying that sometimes when you have an important special order, you feel slight chargin when it has to share the bill with another important special order. But today I feel very much reassured by this coincidence. And it is a coincidence that yesterday was the first time this country celebrated the holiday, well deserved, to commemorate the enormous contribution to humanity made by Dr. Martin Luther King.

Tomorrow is a much more tragic anniversary, the sixth anniversay of the inhumane and illegal and unjustified decision of the Soviet Union to banish Dr. Andrei Sakharov to internal exile in Gorki.

We have two Nobel Prize winners, two men of enormous moral courage, who confronted flaws in their own societies. It is, I think, very important to note the very great differences in the ways in which the two societies responded.

With Martin Luther King, there was, as people have said, opposition, there was anger, there was hatred, and, ultimately, there was recognition that he was right. And there has been not fast enough and not far enough but a consistent effort since he began to raise these issues 30 years ago to try to abolish that terrible scar of racism, which is less than it was although still more than it ought to be in this country.

How different it has been in the Soviet Union, where a society lacking the commitment to openness in democracy that we have had and that we are striving continuously to improve in this country, treated its great hero, Andrei Sakharov, not simply with an initial skepticism and anger, but with a brutal and systematic effort to break his spirit. Fortunately, for humanity, Andrei Sakharov's spirit has not been breakable. His wife, Yelena Bonner, happens as we speak to be here in the United States. And I think those of us here who have participated in this effort to draw attention to the inhumane treatment of Dr. Sakharov are entitled to feel that our efforts were helpful in alleviating that tyrannical state of oppression enough so that Mrs. Bonner was able to come here for medical treatment.

I had the very great honor of being able to bring my own mother in Newton, MA, to meet Mrs. Bonner, to be there as she spent time with a grandchild she had never seen before and her children.

□ 1445

But the poignancy was overwhelming as you realize that this woman will voluntarily in the next couple of months go back to the bleak and terrible and inhuman oppression of internal exile at Gorky because she chooses to stay side-by-side with her husband in their joint effort to bring the Soviet Union's leadership to some recognition of the importance of freedom and humanity.

By the Soviet Union's own legal system, this has become more and more outrageous. There was, of course, never any reason to punish Andrei Sakharov. What Andrei Sakharov tried to do in the Soviet Union that has made him a prisoner is what Martin Luther King did in this country and it made him, sadly, too late, and after he was murdered, but it made him officially a hero. The Soviet Union has reacted in the opposite way.

Andrei Sakharov has tried to bring the Soviet Union to some recognition of humanity in its society. But even if it had been a crime, and of course, by no standard of imagination should it have been, internal exile by Soviet law is limited to 5 years. He begins tomorrow his sixth year in that terrible state of deprivation and oppression.

He is an older man now; he is a sick man. He is a man who has contributed enormously through his spirit, through his technical knowledge. Mrs. Bonner reminded me, by the way, that he was one of the first to advocate a test ban on nuclear testing. He has a very distinguished record in trying to bring about peace between the superpowers. His reward from the Soviet Union has been this terrible oppression.

So as we today celebrate Martin Luther King, and I am delighted that our colleagues from Texas gave us this opportunity to do that, I have to join with those who said that there is an element of hypocrisy around us today. I do not remember which French wit it was who said,

"Hypocrisy is the homage that vice pays to virtue." Martin Luther King is getting a lot of homage today. People who disagreed with everything he stood for when he was alive and do not agree with much of it now that he is no longer with us are paying tribute to him. We will take that. We will take that because it is at least a recognition that the terrible problems of racism and injustice and poverty that he confronted head-on 30 years ago, while we have diminished them, we have not removed them by any means, and we ought to be as dedicated to removing them today as he was when he started 30 years ago.

We also now want to turn our attention to Andrei Sakharov and say to the Soviet Union: In the name of humanity, must you continue to torture this decent human being? Because that is what we are talking about. No one is here insisting that the Soviet Union tomorrow become the kind of democratic society that we have here, that I would like to see. That is very desirable. But we have a somewhat lesser goal today.

Do not inflict on Andrei Sakharov and Yelena Bonner and many, many others in the Soviet Union, religious people, Baptists and Jews and others, thinkers, independent individuals who simply want even to be allowed to live in freedom in the Soviet Union, or falling that, let them go. Let them, if the Soviet Union cannot tolerate the presence of independent and honest and free-thinking individuals, let them go to those many places in the world where they will be welcome.

It is unbecoming of a nation of the power of the Soviet Union to act as if it is so terrified of the moral force of

71-059 O-87-2 (Pt. 1)

even as distinguished an individual as Andrei Sakharov. So again today, we plead, as we have pled before, for them to recognize the demands, the minimal demand of humanity and to allow Andrei Sakharov and Yelena Bonner this freedom.

Mr. Speaker, I now yield to the gentleman from New York [Mr. GILMAN] a gentleman who has worked with me on a number of cases involving efforts to bring freedom to people in the Soviet Union.

Mr. GILMAN. I thank the gentleman for yielding to me.

Mr. Speaker, I am pleased to rise to join the gentleman from Massachusetts, Mr. FRANK, in commemorating the sixth anniversary in exile of the renowned Soviet scientist and Nobel Peace Prize winner, Dr. Andrei Sakharov. I commend the gentleman for making this time available to us today to discuss this critical issue. It is the first opportunity for many of us to speak out following the completion of the first session of the 99th Congress.

Over the past 3 months, many developments have taken place on the human rights front in the Soviet Union—some good, while others are extremely distressing. We are not yet able to decide whether these positive changes are indicative of any significant change in Soviet human rights policy, or whether the most recent negative events are the dominant course in Soviet attitudes. Andrei Sakharov and his wife, Dr, Yelena Bonner, suffered in exile in the closed Soviet city of Gorky for these many years. It was a fortuitous event that Dr. Bonner was finally given a temporary visa to the West in order to consult with medical experts about her eye and heart problems. While Dr. Bonner's health problems are now being treated, Dr. Sakharov continues to suffer through the harsh winter without his wife, and when he returns to the Soviet Union, her own exile will once again be imposed.

The Soviet Union is signatory to a number of bilaterial and multilateral documents, among them the Universal Declaration on Human Rights and the Helsinki Final Act. Yet it continues to flout both the letter and the spirit of the these agreements time and again. In fact, the Soviet Union does not comply most of the time. This deplorable state of affairs must be rectified if, in fact, the Soviet Union is seriously supportive of preserving the spirit of the recent Geneva summit.

Just prior to the Geneva summit meeting between President Reagan and Soviet leader Mikhail Gorbachev, a 15-year Soviet Jewish refusenik and a former Prisioner of Conscience was finally allowed to emigrate to Israel. Dr. Mark Nashpitz, whom I adopted when I first was elected to Congress, was one of the fortunate few to be reunited with his family in Israel. That 1,139 individuals were allowed to emigrate in 1985, a slight increase over the previous year, was, however, miniscule, in advance in the plight for Soviet Jews.

Over the past few weeks several, Soviet spouses, after many years of separation, were reunited with their families in the West.

Lydia Staskevich, a prominent member of the Soviet Pentacostal community, was also allowed to leave—again signalling a possible thaw in Soviet human rights policy. But, despite these positive developments, the new year has heralded some new, and very negative developments of which my colleagues should be aware.

Anatoly Shcharansky remains in prison, and yesterday had to celebrate his 38th birthday in solitary confinement. This courageous young man carries on his shoulders burdens and deprivations that we cannot even imagine. Recently, Anatoly conducted a hunger strike to protest the Soviet's prohibition of his receiving mail. For this demonstration he received an additional 5-month sentence in solitary confinement. Our thoughts and prayers go out to him and to his wife, Avital, who continues her vigil on his behalf with such noble fervor and passion that all corners of the Western world sit up and take notice.

Iosef Begun, a three-time Prisoner of Conscience, currently serving a 12-year sentence in the Chistopol prison system, continues to languish alone silently. His wife, Inna, has relayed from Moscow her desire that we use these next few days to express our solidarity with Iosef, and with all Soviet Jewish Prisoners of Conscience. She can be assured that the Congress of the United States cares, and that the American people are dedicated to pursuing her husband's case with the highest authorities.

And the case of Iosef Berenshtein stands on its own merits—a family man arrested while arranging the purchase of a gravestone—and who was deliberately attacked by brutal inmates in prison, egged on by prison guards. Iosef's eyes were severely gouged with broken glass, to the point that he is almost blind. Yet, to date, he has not received comprehensive medical treatment, nor do we know in which prison he is being kept.

And, most recently, an individual on whose behalf Congressman FRANK has been working for a long time, was arrested on January 8. Vladimir Lifshitz, a young man and an activist in the Leningrad community, was arrested on charges of violating articles 191 of the Soviet criminal code, specifying that he "circulated information known to be false which defames the Soviet state and social system." This alleged infraction consists of nothing more than writing letters, which the Soviet authorities have admitted opening. Vladimir's wife is not immune either, as she has been informed that her own situation is "delicate."

Mr. Speaker, the individuals whom I have just described are not guilty of the charges hurled against them. Each one only desires that measure of freedom to speak out which we in the United States take for granted. Soviet Jews and others, under the previously mentioned arragements, have a right to family reunification. This is most certainly not taking place—instead, it appears that the new year has brought a redoubling of the harassment and arrests against human rights activists, regardless of their religious affiliation, cultural heritage, or political leanings. But I urge the Soviet Government to take heed to what is said today, because their actions will strongly influence our reaction in the Congress.

□ 1455

Mr. Speaker, I thank the gentleman from Massachusetts again for providing us this opportunity.

Mr. FRANK. Mr. Speaker, I thank the gentleman from New York [Mr. GILMAN]. The specifics he gave are very important ones. The lists of people who were the victims of this oppression are unfortunately very long, and I want to echo what he said.

There are many of us who believe that despite our very strong differences with the Soviet Union about how to govern, we have mutual interests in reaching agreements that will help preserve peace and allow us both to save money on armaments. Inevitably, their actions in this regard become obstacles in the way. With the best will in the world of people on all sides, those things are obstacles. So if humanity along is not enough reason for them to behave decently toward these people, their self-interest ought to be.

I want to yield now to a gentleman who, in his role with the Helsinki Commission, has been a leader for this House in trying to see that people across the world, whether they are the victims of oppression from the right or from the left, are given the basic human rights they ought to have. I yield to the gentleman from Maryland [Mr. HOYER].

Mr. HOYER. Mr. Speaker, I rise to join my colleagues on the floor to speak out against the persecution of Dr. Andrei Sakharov and Dr. Elena Bonner. I would like to associate myself with the eloquent remarks of my distinguished colleague, Representative BARNEY FRANK, who has been a leader in this House on the issue of human rights. I also thank my good friend for taking this time so that other Members could speak out on the human rights policies of the Soviet Union. Representative FRANK's

involvement has been not just today but throughout his career. It is a tribute to our Nation and to our democracy that so many come on the floor today in a spirit of unity and solidarity to focus upon the desire to help in any way we can to change the plight of so many individuals in the Soviet Union.

Mr. Speaker, in focusing on the plight of Dr. Andrei Sakharov and Dr. Elena Bonner, we hope to impress upon the Soviet Union's leaders, indeed the world community, that we are deeply concerned and that we have an obligation to raise our voices. We shall not cease to be concerned or to raise our voices until that day when the human rights and fundamental freedoms of all individuals are upheld by all governments whether that nation be the Soviet Union, Romania, or South Africa.

Clearly, Dr. Sakharov and Dr. Elena Bonner have been deprived of their human rights. They have been denied freedom of expression and have been isolated because of their political beliefs. As individuals committed to the human rights cause throughout their lives, Dr. Sakharov, and Dr. Elena Bonner deserve our support. Indeed, the support of the global community. In his book, "Progress, Coexistence and Intellectual Freedom," Dr. Sakharov explains that:

> Intellectual freedom is essential to human society—freedom to obtain and distribute information, freedom for open-minded and unfearing debate and freedom from pressure by officialdom and prejudices. Such a trinity of freedom of thought is the only guarantee against the infection of people by mass myths, which, in the hands of treacherous hyprocrites and demagogues, can be transformed into bloody dictatorship.

The freedoms Dr. Sakharov extols are those which are guaranteed by the Helsinki Final Act, to which the Soviet Union is a signatory. Article VII of the accords specifically ensures freedom of thought, opinion, and expression. Today, the Soviet Union continues to disregard the standards set forth in the Helsinki Final Act and to trample upon the political and civil freedoms of its citizens. Over the past few years, hundreds of prisoners of conscience have been silenced and isolated in the gulag and elsewhere. Emigration has been brought to a halt. Helsinki monitors are repressed within the Soviet Union and denied fundamental freedoms.

Mr. Speaker, I am pleased to join my good friend and respected colleague. Representative BARNEY FRANK, in cosponsoring the concurrent resolution which calls upon the President to protest the blatant and repeated violations of the Sakharovs' rights by the Soviet authorities and to call upon all other signatory nations of the Final Act to join in such protests.

Again, Mr. Speaker, I want to thank my learned colleague for bringing this important issue to the floor today. As the United States and Soviet Union search for areas of mutual concern in which agreement and cooperation are sought, let the Soviets know that the issue of human rights is inextricably intertwined with United States foreign policy.

□ 1505

Mr. FRANK. Mr. Speaker, I thank the gentleman from Maryland for his leadership. The gentleman's leadership on the Helsinki Commission has been important, and as I said, the gentleman is one of those who understands that our ability to fight for the human rights of people being mistreated in the Soviet Union depends on our sensitivity to racism at home and to oppression anywhere else, whether it is a rightwing regime or a Communist regime. We have got to be absolutely evenhanded in our insistence on human rights if we are to have the moral force that we need.

Mr. Speaker, I am about to conclude. I want to thank those who participated by sending in remarks and orally here today.

I want to conclude again by noting what seems to me to be the important fact, that we deal today with the memory of Martin Luther King and with the legacy that he left this Nation of insisting that we continue to confront racism and economic injustice and inhumanity.

As I said, thanks in part to him substantially, we are a lot better than we used to be, but we have a considerable way to go. Many of us feel that we have been slipping backward rather than forward these past few years, so it is an important day to rededicate ourselves, not just to some vague concept of Martin Luther King, the great man, but to the very specific concept of Martin Luther King, the opponent of racism, the fighter for economic justice, the opponent of excessive militarism, the individual who fought for making human rights very real here as well as elsewhere in the world, and simultaneously we hope that before too much longer Andrei Sakharov and Yelena Bonner will be released by the Soviet Union from the inhumane and oppressive imprisonment that has been so unjustly visited upon them. These people deserve to be honored.

I guess I would hope we would see a day not too far off, perhaps it is dream time, when a Martin Luther King is not only honored in this country after his death, but people who advocate the kind of bold assault on injustice that he advocated are fully appreciated during their lives and simultaneously that we may see a day when the Soviet Union would emulate us by celebrating their Nobel Prize winner and celebrating an individual who did them the great service that Martin Luther King did, pointing out exactly where we had gone wrong.

Mr. Speaker, I am very delighted now as I prepare to step aside, to yield to the gentleman from Michigan [Mr. CONYERS].

Mr. CONYERS. Mr. Speaker, I could not resist before the gentleman leaves the well to add my word of commendation not only the appropriateness of the conjunction of the two special orders today, but to the gentleman personally for his services in the House and on the Judiciary Committee which the gentleman and I are privileged to serve where we work on civil rights activities, many of which were areas that out of Dr. King's work came the legislation that was so historic in 1964 and 1965.

I may say, as we all know and appreciate, the gentleman from Massachusetts is eloquent, throughful, and right on the mark as always. I thank the gentleman for his excellent work here today in leading this discussion.

Mr. FRANK. Mr. Speaker, I thank the gentleman from Michigan. It means a great deal to me, given his own record of commitment on some of these very tough issues, to have him say that and I am confident that he is going to give others of our colleagues, the gentleman from Virginia who has been waiting very patiently, a chance to pay his tribute to the principles of Dr. Martin Luther King and others a chance to continue his work.

Mr. COYNE. Mr. Speaker, today I rise to express my strong support for this resolution introduced by Congressman FRANK. This bill expresses the sense of the Congress that while the Soviet authorities are to be commended for allowing Elena Bonner to visit the United State for medical treatment, the Soviet Union is obligated under several international agreements to extend the rights of freedom of expression, of movement, of association, and of communication, to her, and to her husband, Andrei Sakharov.

We all know that the Soviet Government is a signatory to many international treaties relating to human rights. One of these agreements to which the Soviets are committed is the International Covenant on Civil and Political Rights, which states that "everyone should be free to leave any country, including his own" (article 12(2)). The final act of the Conference on Security and Cooperation in Europe provides that each of the "participating states will respect human rights and fundamental freedoms, including the freedom of thought and conscience." The Universal Declaration of Human Rights also guarantees to all the rights of freedom of thought, expression, religion, opinion, and conscience.

So why are we here today? Partly, to express our appreciation to the Soviets for having the decency to allow Elena Bonner to leave, temporarily, the Soviet Union so that she may receive much needed medical treatment. The Soviet Government was kind enough to grant this exit visa to Ms. Bonner. Aside from this, and other recent actions, the Soviet Union's track record on human rights is deplorable.

Last year, Soviet President Gorbachev wished to establish a new image for the Soviet Union: an image that was different from that held by its critics in the West. Mr. Gorbachev captured the attention of the world with his ideas on improving East-West relations. We heard of his plans for arms reduction, of a renewed interest in cultural exchanges with the West, and of the upcoming summit meeting with French President Mitterand and President Reagan.

The Soviet image would have to be improved before these meetings took place. Suddenly, the world witnessed events which had become rare in recent times: Soviet disidents were being allowed to leave the country, finally gaining the freedom that they desired for so long. Many of these victims were reunited with spouses from whom they had been separated for many years.

Then came news from the Soviet Union that Elena Bonner, one of the most famous dissidents, would be granted a temporary exit visa, so that she might receive medical treatment.

By these actions, should we conclude that the Soviet Government has had a change of heart regarding human rights? I think not. The Soviet's recent actions served the purpose of lessening the hard-line, critical image that the West held of them. And these recent actions are probably temporary, at best.

Although the Soviet Constitution formally provides for all internationally recognized human rights, including civil and political rights, these actions must be carried out with the "interests of the people and the strengthening and development of the socialist system." Outside of this, there is little tolerance of actions and practices incompatible with continued Communist Party control. The suppression of these constitutionally guaranteed rights are accomplished under the auspices of a number of broadly worded provisions stating that constitutional rights may not be exercised in a manner contrary to the "interests of the society" as defined by the party. In practice, the government does not tolerate deviant behavior and does not hesitate to imprison persons for exercising basic human rights.

Elena Bonner is one of these dissidents. So is her husband, Andrei Sakharov. According to the Soviet Government, both individuals went against what was in the interest of the Soviet system.

At one time, Sakharov was one of the most notable Soviet citizens. Sakharov was instrumental in his work and assistance in developing the first atomic weapon for the Soviet Union. For this, he was elected to the Soviet Academy of Sciences.

His work in the field of developing nuclear weapons was done with a hope that it would ultimately rid the world of these weapons. When Sakharov's vision did not come to fruition, he began to speak out against the Soviets and called for an end of the development of nuclear arms. But his call went unheard.

Sakharov then openly criticized the Soviets for other acts, and began to work for human rights by assisting the many Soviet Jews detained in the U.S.S.R. For this work, he was awarded the Nobel Peace Prize in 1975—an award which stunned and outraged the Soviet Government. But when Sakharov condemned the Soviet invasion of Afghanistan, in 1979, as an outright violation of international law, the Soviet Government responded by arresting Sakharov for his deviant behavior.

Today, Andrei Sakharov lives in exile, confined to a state-controlled apartment in Gorki. He has absolutely no private life: Sakharov is not allowed to travel, he is refused contact with the outside world. Andrei Sakharov is not permitted visitors, and has not seen his family for years. Only through Elena Bonner, does the free world know of his condition, and, only through her does he remain in touch with the outside.

For the Soviets, Sakharov's confinement is a solution to their problem. If Sakharov is quarantined the Soviets do not have to deal with his actions against the Communist system.

But we in the United States shall not forget Andrei Sakharov, Elena Bonner, and the thousands of other victims of the Soviet Government for which they fight for and represent. As long as repression continues, as long as basic human rights are ignored and violated, as long as one dissident remains in the Soviet Union, Sakharov will still exist. The United States must continue, with the help of all civilized nations in the world, to fight for the human rights of people everywhere.

Mr. FASCELL. I am honored to join our colleagues today in observing the sixth anniversary of the forced exile of a true champion for human rights, Dr. Andrei Sakharov. I commend our colleague, BARNEY FRANK, for organizing this special order to once again draw public attention to the plight of Dr. Sakharov and his family.

It is fitting that we discuss the fate of Dr. Sakharov today, 1 day after our Nation officially commemorated for the first time the birthday of Dr. Martin Luther King, Jr., for Dr. King and Dr. Sakharov have much in common. Both men received the Nobel Prize for Peace, both became eloquent advocates for freedom and against oppression, and both believed firmly in the inherent linkage between respect for human rights and the achievement of genuine and lasting peace. Dr. King and Dr. Sakharov also shared a deep compassion for their fellow man. Dr. King once said that "injustice anywhere is a threat to justice everywhere." I have no doubt that, if this great man were alive today, he would join us in protesting the continued mistreatment of Dr. Sakharov by Soviet authorities.

Mr. Speaker, the decision by Soviet authorities to allow Dr. Sakharov's wife, Elena Bonner, to travel to the United States to visit her children and to receive much-needed medical treatment was most welcome and encouraging. I urge the Soviet leadership to follow this step by restoring to Dr. Sakharov his full rights including the right to freedom of movement both within the Soviet Union and abroad. By allowing Dr. Sakharov to return to his home in Moscow, to maintain contact with his family and friends, to pursue his scientific work and, if he wishes, to visit with his relatives in the United States or accept one of the many invitations he has received to teach abroad, the Soviet Union will be fulfilling its international commitments.

Such actions would demonstrate to the world Soviet fidelity to the Helsinki Final Act, the Universal Declaration of Human Rights, and the International Covenant on Civil and Political Rights. Without such steps, the Soviet authorities will continue to earn the mistrust and contempt of men and women of good will everywhere.

As we move toward expanding ties between the United States and the Soviet Union, it must not be forgotten that we in the Congress consider improvements in the Soviet human rights record to be an essential element of progress in our bilateral relationship. The Soviet Government now has before it an excellent opportunity to address our concerns. I urge the Soviet leadership to end the 6-year-long ordeal of Dr. Sakharov and his family.

Mr. SMITH of Florida. Mr. Speaker, tomorrow is the sixth anniversary of Andrei Sakharov's arrest and exile to the closed city of Gorki, U.S.S.R. Dr. Sakharov, a human rights activist and Nobel Peace Prize recipient has showed the world tremendous courage and tenacity in his personal struggle for world peace. As a dissident he has protested Soviet policies, wrote extensively for publications critical of the Soviet state, and attended political trials on behalf of all Soviet political prisoners.

Soviet officials ignored him hoping he would concentrate on science and not politics. When he condemned the Soviet state in late December 1979 for the invasion of Afghanistan as a violation of international law, he was exiled to Gorki without officially being charged and without the pretense of a trial. His case has received international attention, and his name is synonymous with the basic denial of human rights.

The Soviet Union signed the Helsinki Final Act 10 years ago. Instead of complying to the provisions, the Soviet officials violate it constantly. Today, we rise to pay special tribute to this man and hundreds and thousands of men like him. These men live in a society where persecution, exile, surveillance, and imprisonment is a known way of Soviet life.

Dr. Sakharov's wife Dr. Yelena Bonner has also suffered hardship. Only recently did Soviet officials allow her to leave the Soviet Union to receive proper medical treatment. The time has come to end this inhumane treatment of people like Dr. Andrei Sakharov and Dr. Yelena Bonner who have committed no crimes, except expressing the freedom of speech.

Mr. LANTOS. Mr. Speaker, I am proud to join our colleague, BARNEY FRANK, and other Members of the House in today's special order calling attention to Dr. Andrei Sakharov's continued exile.

Tomorrow marks the sixth anniversary of Dr. Sakharov's exile. This virtual imprisonment of Dr. Sakharov strikes a tragic blow to the cause of human rights in the Soviet Union and silences one of the world's strongest advocates for human rights and peace. As one of the founders of the Moscow Helsinki Monitor Group, Dr. Sakharov spoke out courageously on behalf of individuals who were persecuted because of their religion, their desire to emigrate in accordance with the Helsinki Final Act, or their expression of viewpoints counter to the official government line.

In preparing for this special order, I reviewed an interview which Dr. Sakharov gave

to the Washington Post in 1980, in which he answered a question on international terrorism. His answer is still as valid today as it was then:

Among the problems which trouble me is the irrationality of international terrorism. No matter how high the aims predicated by terrorists (and often there are no such justifications), their activities are always criminal, always destructive, throwing humankind back to a time of lawlessness and chaos, provoking internal and international complications, contradicting the goals of peace and progress . . . I hope that people all over the world will understand the deadly nature of terrorism whatever its goals and will deprive them of any kind of support, even the most passive, and surround them with a wall of condemnation.

It is an unspeakable tragedy that Dr. Sakharov fell victim to another sort of terrorism: internal suppression. One of the great men of our generation—a man with a remarkable combination of intellectual curiosity, moral vision, and outspoken leadership—has been stifled by the country which should herald him for his scientific accomplishments, because he dared to question the Soviet Union's treatment of its dissidents and minorities, and because he was bold enough to criticize the Soviet invasion of Afghanistan.

We live in a dangerous age, made more dangerous by the nuclear missiles pointed at each of our countries, and by the barbaric acts of international terrorists. It is because of this dangerous climate that I call on the Soviet Union to release Andrei Sakharov from internal exile, and allow him to join the ranks of those of us who are searching for a peaceful and just solution to the major problems facing this world.

Mr. Speaker, I would like to join my colleagues in wishing Dr. Sakharov's extraordinarily courageous wife, Yelena Bonner, a swift return to good health following her operation in Boston. She complemented Dr. Sakharov's devotion to human rights and freedom with a corresponding personal commitment and has been an inspiration to all of us here in Congress.

Mr. SWIFT. Mr. Speaker, Dr. Andrei Sakharov and his wife Dr. Yelena Bonner reside in exile in the town of Gorki, which is a drab town 250 miles east of Moscow. It is closed to Westerners. Their apartment is bugged. Dr. Sakharov, who has a weak heart, has to carry his papers around with him in a 30 pound bag since the KGB periodically ransacks their house. But even with these hardships, he hasn't suffered the fate of less well-known dissidents who are now dead or serving long terms in Soviet labor camps. Dr. Sakharov's efforts have succeeded in granting his wife a visit to the West for medical reasons. The fact is that he and his wife live by their reputation. As he himself has said, "It is impossible to foresee what awaits us. Our only protection is the spotlight of public attention on our fate by friends around the world."

Dr. Sakharov's writings on achieving peace and his scientific accomplishments are a contradiction to many. He is one of the primary contributors to the Soviet's H-bomb and the winner of the Nobel Peace Prize in 1975. He is critical of both the zealous pacificist and the over-militarized military. He asks scientists to assess the harmful risks inherent in their work. He is an intellectual who criticizes the leftist thinking in the West. He eloquently cries out for human rights while being forced to live in the middle of a totalitarian country. He stresses the "absolute inadmissibility of nuclear war," yet calls for the West to maintain its military strength in the path toward nuclear disarmament.

The United States and U.S.S.R. are similarly caught in contradictory situations. Both have more weapon power than anyone could imagine they would need for a military victory, yet victory for either would result in mutual suicide. The leaders of both the United States and U.S.S.R. have recently made overtures for eliminating nuclear weapons and proposals for decreasing them. Their approaches almost begin to sound like the cautious and realistic plans set forth by Dr. Sakharov. As stated by Edward Lozansky in a recent book he edited, "Andrei Sakharov and Peace": "In addition to our respect and admiration for Sakharov, we also intuitively understand that we need him perhaps even more than he needs us."

Mr. BERMAN. Mr. Speaker, it is now 6 years since the U.S.S.R. officially silenced Dr. Andrei Sakharov. The Nobel Peace Prize recipient, and perhaps the Soviet Union's most brilliant scientist, became the international symbol of the human rights struggle when he was arrested and exiled to the closed city of Gorki. No formal charge was ever issued.

Until 1984, Yelena Bonner, Sakharov's wife, was his only link to the outside world. She too was then confined to Gorki. For the past several years we have heard only reports of Dr. Sakharov's hunger strikes, the subsequent forced feedings, and the deteriorating health of he and his wife. Occasionally, forged messages are sent from Gorki futilely attempting to convince the world that the Sakharov's are not being brutalized.

After years of pressure from the West and Dr. Sakharov's recent 6-month hunger strike, Mrs. Bonner was allowed to leave the U.S.S.R. to travel to the West for medical treatment. That Mrs. Bonner has finally received medical care she has desperately needed for several years is a welcome victory. Although we are grateful that Mrs. Bonner will benefit, we cannot ignore that the "privilege" she has been granted after years of struggle is in reality one of the elemental rights guaranteed by the Helsinki accords.

I am pleased to join my colleague, Mr. Frank, in today's special order calling for freedom for Dr. Andrei Sakharov and Yelena Bonner. I strongly support Congressman FRANK's resolution expressing the sense of the Congress that the Sakharov's be allowed to exercise the rights guaranteed them by the Helsinki accords.

Mr. PORTER. Mr. Speaker, I would like to commend the gentleman from Massachusetts [Mr. FRANK] for calling this special order today and join with him in strong support of the resolution expressing the sense of Congress that Andrei Sakharov and his wife, Yelena Bonner should be allowed to exercise their freedoms of expression and movement guaranteed them by the Helsinki Final Act.

Mr. Speaker, Andrei Sakharov, a world renowned physicist and "father of the Soviet H-bomb" once viewed the United States and the West as implacable adversaries. Nikita Khruschev once described Sakharov as a "crystal of morality." But in 1968, Sakharov broke with the Moscow leadership over questions of oppression, censorship, economic planning, and arms control. He was awarded the 1975 Nobel Peace Prize for his leadership in the fight for Soviet observance of its human rights commitments.

Although, once praised by Soviet leaders for his contributions to Russian society, 6 years ago Andrei Sakharov was arrested without formal charge and today, still remains in internal exile in the Soviet city of Gorki.

The struggle of the Sakharov family is not easy to understand. It has been only recently that Soviet authorities gave Yelena Bonner permission to travel to the West to seek medical treatment. However, for years the Sakharovs, both suffering from poor health, were continuously denied medical attention and the Sakharov children have had frequent difficulty communicating directly with their parents. Although the Soviets may be attempting to appease many of its critics by allowing Yelena Bonner to come to the West on a temporary visa, we cannot or will not be satisfied until Yelena Bonner and her husband are living together in freedom permanently.

Yet, Andrei Sakharov, isolated seriously ill, harassed by authorities, and without the companionship of those who love him, continues to advocate freedom of emigration, amnesty for all prisoners of conscience, and other rights set forth in the 1975 Helsinki Final Act and other human rights documents. Dr. Sakharov commands the admiration for his courage and he will never be abandoned by those who cherish freedom.

For years Yelena Bonner suffered from a campaign of slander and from intense pressure exerted on her, as well as her children and her grandchildren. When her children and their families left the Soviet Union, the separation and distance of the family added to her pain, while the whole responsibility of her husband's actions, as well as the distance between Moscow and Gorki, contributed to her struggle. Hunger strikes by Sakharov and Bonner demonstrating their commitment to human rights were thorns in the sides of the Soviet authorities and added to the pressure of Yelena Bonner's deteriorating health. In 1983, Bonner, too was confined to Gorki and placed under investigation for "defaming the Soviet state."

The Sakharovs have become a symbol to all the brave individuals known and unknown, who dare to assert the calls of conscience against the whims of Soviet power. Yelena Bonner's presence in the West cannot be fully celebrated until she can remain here permanently or until her husband is allowed to join her.

People throughout the world cannot understand why the Soviets continue to punish independently minded people by cruelly persecuting their own citizens who dare to speak out. If a system of government cannot tolerate criticism, it is obviously a system that will ultimately fail.

We all must join together and continue to call for freedom until the persecution of Andrei Sakharov, Yelena Bonner, and the thousands

of other individuals whose rights are being violated by the Soviet Government is ended.

Mr. BOLAND. Mr. Speaker, I want to commend my colleague from Massachusetts, Mr. FRANK, for reserving this time to allow Members of this body to voice their indignation over the treatment the Government of the Soviet Union accords to certain of its citizens. I also want to express my support for Mr. FRANK's resolution expressing the sense of Congress that Andrei Sakharov and his wife Yelena Bonner should be allowed to exercise the rights guaranteed them by the Helsinki accord.

Tomorrow marks the sixth anniversary of Dr. Sakharov's arrest and subsequent exile to the city of Gorki. Four different leaders have served in the Soviet Union since Dr. Sakharov has been imprisoned, and each leader has refused to release him. For 6 long years Dr. Sakharov has had to deal with improper medical care, little communication with his family, and inhumane treatment.

This resolution is also on behalf of the thousands of Soviet Jews who have been denied emigration from a country which punishes them for their religious beliefs and belittles their values. This is a chance to recognize and remember those who are imprisoned, their families, and so many others who suffer from separation and anxiety for their loved ones who have sought permission to emigrate.

Day in and day out the Government of the Soviet Union denies the rights of Jews and others to practice their faith, and subjects them to physical and psychological harassment, beatings, imprisonment, and confinement. This treatment flagrantly violates international obligations set forth in the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights, and the Helsinki Final Act. This behavior must not go unchalleged by those governments and societies which do honor their obligations to respect human rights under those documents.

People all over the world must be reminded of the plight of the Soviet Jews. The conditions under which they must live are totally unacceptable. The efforts of those in this Chamber, and the efforts of all concerned Americans, to call attention to those conditions are essential means of assisting the courageous Jewish men, women, and children of the Soviet Union. It is our vocal concern that provides them with the encouragement, and the confirmation of the justness of their cause, which allows them to go on. I am pleased to renew that call today and in so doing to serve notice that our voices will not be stilled until our protests succeed.

Mr. FLORIO. Mr. Speaker, I am pleased to join my colleague, Congressman BARNEY FRANK of Massachusetts, in his special order on behalf of Yelena Bonner, the courageous wife of Nobel Laureate Dr. Andrei Sakharov. January not only marks the sixth anniversary of Dr. Sakharov's exile in Gorky, but also signals several fortunate developments in the Sakharov's long battle for human rights and freedom in the Soviet Union.

For a number of years, Yelena Bonner and Andrei Sakharov have become a symbol of the unending struggle for the right to live, speak, and think freely in a country where these fundamental rights are routinely stifled. Both suffering from illness, they have nevertheless continued the fight for the right to live where they choose and exercise their religious and political beliefs.

Yelena Bonner has spent years requesting permission to leave the Soviet Union to seek medical care for her illness. For years, the Soviet authorities denied her this humanitarian right, despite numerous hunger strikes by Dr. Sakharov, and constant pressure from nations and individuals concerned with this unwarranted repression of human rights.

After years of pressure, the dreams of the Sakharovs were partially realized on October 23, 1985, when Soviet authorities indicated to Dr. Sakharov that they would grant Yelena Bonner the long-sought permission to exit the Soviet Union. On that day, Dr. Sakharov ended his latest hunger strike which had lasted for 6 months. On December 2, 1985, Yelena Bonner left the Soviet Union and is currently being treated for her heart disease in a Boston hospital.

Dr. Sakharov, however, remains in exile, under strict surveillance. Calls from Yelena Bonner to her husband have been interrupted and Dr. Sakharov's true condition remains a mystery. I would like to join my colleagues in offering my support to Yelena Bonner for her efforts and in wishing her a speedy recovery. I hope that she and Dr. Sakharov will be reunited once again and will realize their dream—and the dream of the nations committed to the preservation of human rights—to live in peace and freedom. The very fact that Yelena Bonner was finally permitted to leave the Soviet Union and seek medical care in our Nation is a product of years of perserverance and pressure. It is only through constantly speaking out in defense of human rights that we will be able to achieve change.

Mr. FRANK. Mr. Speaker, I yield back the balance of my time.

THE 1986 ELECTION YEAR MAILING RESTRICTIONS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Arizona [Mr. UDALL] is recognized for 10 minutes.

Mr. UDALL. Mr. Speaker, with the 1986 election year upon us, the House Commission on Congressional Mailing Standards wishes to remind Members of the House about the franking statutes, rules, and regulations governing mass mailings by candidates prior to elections.

Generally, Members of the House seeking reelection are prohibited from sending franked mass mailings during the 60-day period immediately before the date of any public election—whether primary, general, special, or runoff—in which the Member's name appears on the ballot.

Further, any Member who is a candidate for other public office may not frank mass mailings outside of the congressional district from which the Member was elected, beginning at the time the Member is certified for candidacy.

Members should ensure that staff persons responsible for mass mailings are knowledgeable concerning State election laws as they affect mailing privileges during the period prior to primary and general election periods. Members' staff seeking advisory opinions from the Commission must certify that, to the best of their knowledge, the frankability of the proposed mailing is not adversely affected by applicable State election laws.

Mr. Speaker, I cannot emphasize strongly enough the importance of compliance with these regulations. I urge my colleagues to unsure that their staffs are familiar with the statutes, Rules of the House, and pertinent regulations and guildelines governing the proper use of the franking privilege.

The Commission staff is ready to assist in every possible way.

A detailed explanation of the mass mailing provisions, along with a listing of cutoff dates for the congressional primaries in the various States, follows:

LIMITATIONS ON THE USE OF THE FRANK BY CANDIDATES FOR PUBLIC OFFICE

39 U.S.C. 3210(a)(6)(A) provides that, "It is the intent of Congress that a Member of, or Member-elect to, Congress may not mail any mass mailing as franked mail—

(i) if the mass mailing is mailed fewer than 60 days immediately before the date of any primary election or general election (whether regular, special or runoff) in which the Member is a candidate for reelection; or

(ii) in the case of a Member of, or Member-elect to, the House who is a candidate for any other public office, if the mass mailing—

(I) is prepared for delivery within any portion of the jurisdiction of or the area covered by the public office which is outside the area constituting the congressional district from which the Member or Member-elect was elected to; or

(II) is mailed fewer than 60 days immediately before the date of any primary election or general election (whether regular, special or runoff) in which the Member-elect is a candidate for any other public office.

Mailings made through the facilities of the Publications Distribution Service of the House of Representatives (House folding room) shall be deemed in compliance with this statute if such mailings are delivered to the House folding room not less than 62 days before the date of such election, with instructions for immediate dispatch.

DEFINITIONS

Mass mailings

Mass mailings are defined by law (39 U.S.C. 3210(a)(5)(D)) as newsletters and other similar mailings (including town meeting notices) of more than 500 pieces in which the content of the matter mailed is substantially identical. Mail matter is deemed to be a mass mailing when the total number of pieces exceeds 500, whether in a single mailing or in cumulative mailings during the 60-day period.

Candidate for election or reelection to the House of Representatives

For purposes of the subject statutes and regulations, a Member of or a Member-elect to the House of Representatives is deemed to be a candidate for public office at any election if his or her name appears anywhere on any official ballot to be used in a public election.

Candidate for "any other public office"

For the purpose of 39 U.S.C. 3210(a)(6)(A)(ii), "any other public office"

means any local, State, or Federal office. (Examples: President, Governor, U.S. Senator, State Supreme Court Justice, State Senator, Assemblyman, etc.) "Candidate" means a Member who has qualified under State or local law for the official ballot in a primary, runoff, special, or general election, or who has been certified for candidacy by an appropriate State or local election official.

EXCEPTIONS

The subject statutes, rules, and regulations provide three exceptions to the mass mail prohibition prior to elections, as follows:

(i) mailings which are in direct response to inquiries or requests from the persons to whom the matter is mailed;

(ii) mailings to colleagues in Congress or to government officials (whether Federal, State, or local); and

(iii) mailings of news releases to the communications media.

The Commission believes the latter two exceptions are self-explanatory.

In application of the first exception, the Commission stresses the phrase "direct response to inquiries or requests." Therefore, response to a signed petition with a form or identical letter individually addressed to each of the signers of the petition is frankable. However, a follow-up letter to the same list of petitioners is not frankable under this section in that it would not be in direct response to an inquiry.

Similarly, follow-up letters to persons who had previously written and had been answered on a particular subject, if such letters by their form and volume constitute a mass mailing, are not frankable during the 60-day period prior to elections. Also, requests for questionnaire results or other material, when solicited by Members on questionnaire forms or newsletters, are not deemed to be in direct response to any inquiry or request.

The above restrictions on mass mailings by candidates do not apply to mass mailings by the chairman of any standing, select, joint or other official committees of the Congress, or subcommittee thereof, and which relate to the normal business of the committee. [39 U.S.C. 3210 (a)(6)(B)]

TIME OF MAILING

Processing by a postal facility

Mass mailings as defined under 39 U.S.C. 3210 (a)(5)(D) may not be mailed as franked mail by a Member of or a Member-elect to the House of Representatives when the same is mailed at or delivered to any postal facility other than the Publications Distribution Service of the House of Representatives, hereinafter referred to as the House folding room, less than 60 days immediately before the date of any primary or general election (whether regular, special, or runoff) in which such Member or Member-elect is a candidate for any public office.

Processing by the House folding room

Such mass mailings, if processed through the House folding room, shall be deemed to be in compliance with the subject rule and these regulations, if delivered to the House folding room, with instructions for immediate dispatch, not less than 62 days immediately before the date of any such election. In the case of mass mailings delivered to the House folding room prior to the 62 day cutoff period, the requirement of instructions for "immediate dispatch" may be modified to the extent that instructions are given for delivery of the mailing to the addressee not later than the 60th day immediately before the date of such election.

The House folding room shall issue a receipt, which shall specify the date and time of delivery and a brief description of the matter to be processed, to the Member at the time he or she delivers such mass mailings to the House folding room.

1986 CONGRESSIONAL PRIMARY DATES ALPHABETICAL LIST BY STATE

State	Primary date	60-day cutoff [1]	62-day cutoff [2]
Alabama	June 3	Apr. 4	Apr. 2.
(Runoff)	June 24	Apr. 25	Apr. 23.
Alaska	Aug. 26	June 27	June 25.
Arizona	Sept. 9	July 11	July 9.
Arkansas	May 27	Mar. 28	Mar. 26.
(Runoff)	June 10	Apr. 11	Apr. 9.
California	June 3	Apr. 4	Apr. 2.
Colorado	Aug. 12	June 13	June 11.
Connecticut	Sept. 9	July 11	July 9.
Delaware	Sept. 6	July 8	July 6.
Florida	Sept. 2	July 4	July 2.
(Runoff)	Sept. 30	Aug. 1	July 30.
Georgia	Aug. 12	June 13	June 11.
(Runoff)	Sept. 2	July 4	July 2.
Hawaii	Sept. 20	July 22	July 20.
Idaho	May 27	Mar. 28	Mar. 26.
Illinois	Mar. 18	Jan. 17	Jan. 15.
Indiana	May 6	Mar. 7	Mar. 5.
Iowa	June 3	Apr. 4	Apr. 2.
Kansas	Aug. 5	June 6	June 4.
Kentucky	May 27	Mar. 28	Mar. 26.
Louisiana	Sept. 27	July 29	July 27.
Maine	June 10	Apr. 11	Apr. 9.
Maryland	Sept. 9	July 11	July 9.
Massachusetts	Sept. 16	July 18	July 16.
Michigan	Aug. 5	June 6	June 4.
Minnesota	Sept. 9	July 11	July 9.
Mississippi	June 3	Apr. 4	Apr. 2.
(Runoff)	June 24	Apr. 25	Apr. 23.
Missouri	Aug. 5	June 6	June 4.
Montana	June 3	Apr. 4	Apr. 2.
Nebraska	May 13	Mar. 14	Mar. 12.
Nevada	Sept. 2	July 4	July 2.
New Hampshire	Sept. 9	July 11	July 9.
New Jersey	June 3	Apr. 4	Apr. 2.
New Mexico	do	do	Do.
New York	Sept. 9	July 11	July 9.
North Carolina	May 6	Mar. 7	Mar. 5.
(Runoff)	June 3	Apr. 4	Apr. 2.
North Dakota	June 10	Apr. 11	Apr. 9.
Ohio	May 6	Mar. 7	Mar. 5.
Oklahoma	Aug. 26	June 27	June 25.
(Runoff)	Sept. 16	July 18	July 16.
Oregon	May 20	Mar. 21	Mar. 19.
Pennsylvania	do	do	Do.
Rhode Island	Sept. 9	July 11	July 9.
South Carolina	June 10	Apr. 11	Apr. 9.
(Runoff)	June 24	Apr. 25	Apr. 23.
South Dakota	June 3	Apr. 4	Apr. 2.
(Runoff)	June 17	Apr. 18	Apr. 16.
Tennessee	Aug. 7	June 8	June 6.
Texas	May 3	Mar. 4	Mar. 2.
(Runoff)	June 7	Apr. 8	Apr. 6.
Utah	Aug. 19	June 20	June 18.
Vermont	Sept. 9	July 11	July 9.
Virginia	June 10	Apr. 11	Apr. 9.
Washington	Sept. 16	July 18	July 16.
West Virginia	May 13	Mar. 14	Mar. 12.
Wisconsin	Sept. 9	July 11	July 9.
Wyoming	Aug. 19	June 20	June 18.
District of Columbia	Sept. 9	July 11	July 9.
Guam	Sept. 2	July 4	July 2.
Virgin Islands	Sept. 9	July 11	July 9.
1986 General Election	Nov. 4	Sept. 5	Sept. 3.

[1] Postal facility.
[2] Folding room.

Note.—The 60-day and 62-day cutoff regulations also apply to runoff elections in which the Member is a candidate.

1986 CONGRESSIONAL PRIMARY DATES CHRONOLOGICAL LIST BY ELECTION DATES

State	Primary date	60-day cutoff [1]	62-day cutoff [2]
Illinois	Mar. 18	Jan. 17	Jan. 15.
Texas	May 3	Mar. 4	Mar. 2.
Indiana	May 6	Mar. 7	Mar. 5.
North Carolina	do	do	Do.
Ohio	do	do	Do.
Nebraska	May 13	Mar. 14	Mar. 12.
West Virginia	do	do	Do.
Oregon	May 20	Mar. 21	Mar. 19.
Pennsylvania	do	do	Do.
Arkansas	May 27	Mar. 28	Mar. 26.
Idaho	do	do	Do.
Kentucky	do	do	Do.
Alabama	June 3	Apr. 4	Apr. 2.
California	do	do	Do.
Iowa	do	do	Do.
Mississippi	do	do	Do.
Montana	do	do	Do.
New Jersey	do	do	Do.
New Mexico	do	do	Do.
North Carolina runoff	do	do	Do.
South Dakota	do	do	Do.
Texas runoff	June 7	Apr. 8	Apr. 6.
Arkansas runoff	June 10	Apr. 11	Apr. 9.
Maine	do	do	Do.
North Dakota	do	do	Do.
South Carolina	do	do	Do.
Virginia	do	do	Do.
South Dakota runoff	June 17	Apr. 18	Apr. 16.
Alabama runoff	June 24	Apr. 25	Apr. 23.
Mississippi runoff	do	do	Do.
South Carolina runoff	do	do	Do.
Kansas	Aug. 5	June 6	June 4.
Michigan	do	do	Do.
Missouri	do	do	Do.
Tennessee	Aug. 7	June 8	June 6.
Colorado	Aug. 12	June 13	June 11.
Georgia	do	do	Do.
Utah	Aug. 19	June 20	June 18.
Wyoming	do	do	Do.
Alaska	Aug. 26	June 27	June 25.
Oklahoma	do	do	Do.
Florida	Sept. 2	July 4	July 2.
Georgia runoff	do	do	Do.
Guam	do	do	Do.
Nevada	do	do	Do.
Delaware	Sept. 6	July 8	July 6.
Arizona	Sept. 9	July 11	July 9.
Connecticut	do	do	Do.
Maryland	do	do	Do.
Minnesota	do	do	Do.
New Hampshire	do	do	Do.
New York	do	do	Do.
Rhode Island	do	do	Do.
Vermont	do	do	Do.
Wisconsin	do	do	Do.
District of Columbia	do	do	Do.
Virgin Islands	do	do	Do.
Massachusetts	Sept. 16	July 18	July 16.
Oklahoma runoff	do	do	Do.
Washington	do	do	Do.
Hawaii	Sept. 20	July 22	July 20.
Louisiana	Sept. 27	July 29	July 27.
Florida runoff	Sept. 30	Aug. 1	July 30.
1986 General Election	Nov. 4	Sept. 5	Sept. 3.

[1] Postal facility.
[2] Folding room.

Note.—The 60-day and 62-day cutoff regulations also apply to runoff elections in which the Member is a candidate.

ORDER OF BUSINESS

Mr. CONYERS. Mr. Speaker, I ask unanimous consent under special orders to address the House for 60 minutes at this time.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Michigan?

There was no objection.

TRIBUTE TO DR. MARTIN LUTHER KING, JR.

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Michigan [Mr. CONYERS], is recognized for 60 minutes.

Mr. CONYERS. Mr. Speaker, I yield to my colleague, the gentleman from Virginia [Mr. SISISKY].

Mr. SISISKY. Mr. Speaker, I thank the gentleman from Michigan. I do have a statement in honor of the holiday of Martin Luther King which I will insert into the RECORD after these remarks.

Mr. Speaker, in one sentence in my statement, it says that above all, Dr. King taught us to live a dream.

I am from Virginia, an original part of the South. I remember and I was going to tell the gentleman from Texas who stood in the well that some 7 months ago when I approached him as chairman of the Black Caucus and told him that a friend of mine, a gentleman with broad experience, a Senator in the Senate of Virginia that chaired some three committees in the Senate, major committees, and a lot of commissions, was going to run for statewide office in Virginia.

Dare we dream that this gentleman would ever get elected to a statewide office in my State? He did get elected and yesterday in a comment to a school group he gave full credit to Rev. Martin Luther King. Only because of his work would he be standing and presiding as President of the Senate of Virginia, only through this dream.

I would like to just leave with that and put my other comments in as part of the RECORD.

The dream is fulfilled and with that hopefully our democracy will be better served.

Mr. Speaker, yesterday America celebrated the first national holiday commemorating the birthday of the late Dr. Martin Luther King, Jr. At the time of his death, Dr. King was just 39 years old. In those short 39 years, Dr. King stirred the conscience of a nation and changed America forever.

As a nation, we have traveled a great distance since that day in 1955 when Rosa Parks courageously refused to move to the back of the bus. The road has been long, it sometimes has been painful, but together, as a nation, we have made major strides toward equality for all peoples.

This celebration of the birthday of Dr. King recognizes not only the strength of his leadership and the courage of his commitment to human rights, but also his unique contribution to the fundamental principle that all people are created equal.

This day of remembrance will heighten the Nation's awareness that legal, economic, and social justice for all people must always be the cornerstone of our democracy.

The American Revolution would not be complete without the commemoration of the civil rights resolution.

Dr. King became the voice of a nonviolent civil rights movement and through his own life's example, symbolized what is right about America, what is most noble and what is the finest in our American heritage. He led marches and rallies, he challenged us and he inspired us through his commitment to his faith and by his commitment to the brotherhood of mankind.

But above all, Dr. King taught us to live the dream, the dream of freedom and justice, with a new pride in America and a determination to make her an even greater nation.

As a nation choose its heroes and its heroines, it interprets its history and shapes its destiny. The commemoration of the life and work of Dr. King will help this Nation realize its true destiny as the global model for democracy and social and economic justice for all.

Mr. CONYERS. Mr. Speaker, could I say to my colleague, the gentleman from Virginia [Mr. SISISKY], that his remarks are deeply appreciated. We in this body know too well the difficulties with transition from the past to the present in the gentleman's State, its leaders and some of its citizens have undergone in this movement.

I cannot help but feel that the gentleman himself is in the vanguard of change, because he stands here in the well with many of us today as we reflect and celebrate the life and work and finally the legal holiday of the late Dr. Martin Luther King.

I know that the gentleman himself has a story to tell, and that he could reflect on all of the things that have come his way and happened to him as a result.

I am deeply appreciative and I know all of my colleagues are as I know all the men and women who supported the King holiday bill in this body are.

We think that Virginia now symbolizes the direction in which all America must go. It seems to me there may be a lesson there, because for a while, with all respect to the gentleman's great State, it was not thought of as a State that would go forward any time soon in terms of this movement toward total justice, and yet you now have a black man as Lieutenant Governor.

What happened to strike me is that it occurred so rapidly. It did not take a long time. There were no howls of pain or anguish imanating from Virginia. As a matter of fact, it happened so smoothly that some of us were not sure that it was happening. I know that the gentleman's role in that instance and many others, not recorded nor ever referred to in the House, places us all much closer together than any of us heretofore would have imagined.

So I thank the gentleman for his comments.

Mr. SISISKY. Mr. Speaker, I thank the gentleman. I just would add, if the gentleman would yield for a moment, that I was at the inauguration. Of course, we had a black Lieutenant Governor, and I want you to know, a female Attorney General.

I have got to tell you that when they talked about the New Dominion, not the Old Dominion, I think most Virginians felt good about this. In fact, I know that they did. There was an upsurge of feelings and it did come across fast, but it did one thing more, an important thing I believe nationally, that a person was elected on the basis of his skill and experience and not the color of his skin or sex. To me that is the important lesson in Virginia and the dream of Martin Luther King I believe, as our Lieutenant Governor said, made it all possible.

I thank the gentleman from Michigan.

Mr. CONYERS. Well, there were those nay-sayers who, many times during the 17 years between 1968 when I first introduced the Martin Luther King, Jr. holiday bill up to 1983, they rhetorically asked:

But this is a symbol. This doesn't represent any actual progress. This is not substantive. There is no appropriation connected. There are not programs. What difference does it make?

The gentleman has answered that question in at least one very thorough way and I thank him again.

Mr. Speaker, I yield to my friend and colleague and an original cosponsor of the Martin Luther King legislation, the gentleman from Maryland [Mr. HOYER].

Mr. HOYER. Mr. Speaker, I thank the gentleman for yielding. Again I reiterate how proud I was to join him as an original sponsor in 1982 and 1983 and to follow the gentleman's leadership to make a reality of the national observance of the birthday of Martin Luther King, Jr., that this Nation first undertook yesterday.

I think it also is very appropriate that the gentleman has taken this special order because of the fact that shortly following the tragic death on April 4, 1968, of Martin Luther King, Jr., it was the gentleman in the well, JOHN CONYERS, a Member of Congress from Michigan, relatively new to the Congress, who took the leadership on the King holiday proposal, along with a Member of the Senate from Massachusetts, Edward Brooke.

They said that the contributions made by Dr. Martin Luther King in the approximately 12½ years of his public ministry warranted that recognition. That period began December 1, 1955, when Rosa Parks said, "I am a human being and deserve to be accorded the dignity of every other human being." She said to herself and to the world, really, "This seat was mine because I first got here. I am tired. I have worked all day and I am going to stay in this seat."

As a result, that incident brought forth the leadership of Dr. Martin Luther King, Jr. It could have been just another one of hundreds, and indeed thousands of individual attempts to stand up for individual dignity and say:

I am a child of God, too, and deserving of the respect and the equal protection of the laws that this nation promises, supposedly, to all its citizens.

We know that following that event, within 5 days—4 days, really, by December 5, the Montgomery Improvement Association had been formed and had unanimously selected Martin Luther King, Jr. to be its president. In the 12½ years between that date and April 4, 1968, when he was taken from us, he became the greatest civil rights leader. Shortly after his death, Robert

F. Kennedy would be assassinated, before that John Fitzgerald Kennedy had been assassinated, Medgar Evers had been assassinated, Malcolm X had been assassinated. It was a violent era taking from us men of conscience and commitment.

JOHN CONYERS of Michigan, the gentleman in the well, my friend, began the King holiday effort and, John, I believe there were some who said that was just ceremonial, that it was not substantive, that it would not mean anything.

The gentleman's efforts, of course, were successful. He kept the faith over those many, many years, some 14 years that the gentleman fought that battle.

I can say, and I think probably thousands of others have told the gentleman or will tell him, that yesterday was a very special day in my community in Prince Georges County, MD, because of the work that he did to honor Martin Luther King, Jr.

Also, a bust of Dr. King was dedicated last week and now sits in the Rotunda, the first black man to be so honored by this country, late but never too late. I suggest that it is the direct result of the gentleman's effort, that we recognize the effort and the magnitude of the impact Dr. King had on this Nation and all the world.

□ 1520

In Prince Georges County yesterday, I am proud to tell my friend that we dedicated one of our major roadways to Dr. Martin Luther King, Jr.

The SCLC, which was the organization, of course, that he helped found, and was president of during the course of his lifetime, and which was really the focal point for most of the activity of the movement during his lifetime, held a number of events, where I was proud to speak. It was a time in Prince Georges County, it was a time in Maryland, it was a time in America, and indeed, a time throughout the world when as a result of this effort of yours, we focused not only on the dream, but as Jesse Jackson has so well pointed out, on the action that Martin Luther King instituted to carry out that dream. We focused on the committment to the continuing realization of that dream, the continuing need for reconciliation of our peoples in America.

We must remember also our continuing commitment to ensure adherence to human rights among our friends and foes. We talked about the Soviet Union in the past special order, and in the course of that special order, I talked about South Africa, our allies, who are nevertheless not according the majority of their citizens, 80 percent of their citizens, the dignity that they deserve as human beings. The holiday focused yesterday, and it is going to lead to a recommitment to the efforts that Dr. Martin Luther King, Jr. led so well.

So I want to revise and extend my remarks specifically as they related to Dr. King, and also to again congratulate the gentleman in the well, JOHN CONYERS of the State of Michigan, who had the dream with Dr. Martin Luther King, and who kept the faith over some long and discouraging years where there were many naysayers indicating that the King holiday bill was not worth the effort. I want to say to you today as one Member of this body that what you and so many others accomplished, your spark of leadership, had a great effect in Prince Georges County, in our State, and throughout the world.

So I congratulate you as I rise to recognize one of the greatest leaders of this Nation and of the world. We have one other holiday accorded to an individual, our founder, Father of our Nation, George Washington, and then Martin Luther King, Jr. It is appropriate, a white man from Virginia and a black man from Atlanta, GA, both of whom gave so freely of themselves, of their character and of their intellect to make sure that this Nation did as our colleague from Washington, DC, WALTER FAUNTROY, observed, that this Nation would rise up and indeed make a reality of the creed of which it speaks, that all men are created equal and will in this Nation be treated that way.

So I am pleased that this gentleman from Michigan, one of the leaders of this effort, took this special order so that I could not only congratulate him, but with many recognize the immeasurable contribution made to this country and to this world by Martin Luther King, Jr.

Mr. Speaker, yesterday our Nation marked the first observation of the Federal holiday in honor of Dr. Martin Luther King, Jr.

There are only two Americans who are so honored. George Washington and Dr. King.

Why did we choose to honor Dr. King in this way when so many other great Americans do not have a special day set aside to remember their contributions to our country? Was our decision based on politics? No. It was based on principle. Dr. King led us closer to the fulfillment of the promise of America.

His was a voice of hope, of love, of peace and of justice, economic equity and reconciliation.

His message was based on his faith in God, in the morality of mankind and in the ultimate triumph of justice.

Our Nation's founders had a dream for America. For nearly 200 years, however, that dream which promised equality for all did not apply to every American.

It took the civil rights movement and its leader, Martin Luther King, Jr. to remind us of the dream. Dr. King called us, confronted us, and passionately pleaded for its realization. He led us to a better understanding of the dream.

His legacy in part lies in the Civil Rights Acts of the 1960's, which opened up new vistas to black Americans by requiring voting rights, access to public accommodations, fair housing and equal opportunity in employment and education.

Now, we are being asked to retreat from that legacy. But I feel confident that the Martin Luther King, Jr. holiday and the renewed commitment to the dream that this celebration has instilled in millions of Americans will halt that retreat.

The holiday served to remind us of the greatness of Dr. King, of the odds he faced, and of his successes. Surely we can meet the challenges of our day, if we take his leadership as our guide.

We have the opportunity to preach and practice reconciliation, openess and inclusion. This is not an easy process nor an unbending path, but it is the only moral course for our Nation.

The day before Martin Luther King, Jr. was killed, he told an audience in Memphis that he had been to the mountaintop, he had seen the promised land. Yes, he knew that he might not get there, but he assured his audience that the brotherhood of man would become a reality.

Our national holiday in honor of this great man has reminded us of his dream and his promise. It has renewed our determination and our spirit to march toward that goal.

Mr. CONYERS. I thank my colleague from Maryland [Mr. HOYER] whose eloquence humbles me, and who is very generous in his praise for me.

I happen to know that your participation in this measure across the years was not inconsiderable, and that he led in many of the activities in the House and in the other body which ultimately led to its passage when so many of our colleagues to that overwhelming vote that occurred on that day in 1983.

I am also impressed by your sense of history not simply civil rights history, but our history. Every year when I begin to think I have just about taken in all that I can, and that I have a fair knowledge of our historical underpinnings, each year reveals other rich information, sparkling jewels of history, incidents, facts that were not known to me all of these years before. So this education and reeducation of mine my colleagues and of America continues because this celebration is very important for this reason.

I do not know what forces lent their way upon you to help form the feelings that led to the energies that you contributed to the bill, sir, that I can tell you that in addition to Martin himself, there were two that were very close to me. First, there was Rosa Parks, whom you mentioned. Rosa Parks has been with me every step of my congressional career. Can you imagine what an enormous, incredible force to have a saintly person like this impacting upon an unpredictable and

mercurial force like myself. It is the most important single thing that has ever happened to me, because her conduct, as she conducted herself before the world on that fateful day in Montgomery, AL, is precisely the way she acts and lives every day of her life. And for all who know her and have come in contact with her in the State of Michigan, she exudes that wonderful sense of respect and humbleness and love that only can come from a person as genuine as she.

The other force from Saginaw and Flint, MI, and Detroit is the incredible Stevie Wonder. Here on the Hill today, here at Kennedy Center yesterday, and by satellite all over the world. He who eschews politics, do not let him begin to tell you what little faith he has in the political force, but in the King era, in the King dynamism, once you understand, it reaches out and gets you, and something reached out and got Stevie Wonder. It not only led him to get us the critical support of many artists and entertainers, but it also hooked us into a new dimension of American, the young people, black and white, North and South, rich and poor, all who Stevie brought to these activities.

Then he began to join us in, as you recall, the marches and tributes every day in Washington, on January 15, without fail, and the gentleman was there he would come and join us with his presence, his family, his staff, his friends from the far West of our country. And I do not know how he did it. I wish I could remember. He thought it appropriate to strike off this tune that really turned the observance into a celebration. If anybody did that, it was Stevie Wonder when he wrote the words, and the lyrics to "Happy Birthday, Happy Birthday, Dr. Martin Luther King."

How can you make the celebration of a great man, violently taken from us at the bloom of his life, a cause for celebration? In Stevie Wonder lies the genius of that phenomenon.

□ 1530

Stevie Wonder did that. And as I used to come before these thousands of people with Stevie, everybody knew the words of the song, perhaps save the one Member who introduced the original legislation. I could not help but be thunderstruck by the importance and the significance of his contribution.

Between these forces, one from our State and one who migrated to our State, I was a man working under the forces, as it were. There was nothing but for me to elevate this to the highest of my legislative priorities. Many others have come forward. The contributions were bipartisan. The leadership in the House, the Republican leadership came forward. I want to say to you I am one who frequently disagrees with our Chief Executive, but I do not take away any credit from him on this celebration. He signed the bill, it was all we wanted him to do. He did not stand in the way of it. It was more than what I could expect from him.

So I am very pleased that we all stand here today having introduced the bill, having worked on the bill for many years and seen it come into law and seen the remarkable celebrations that have taken place across the United States.

We now see that there is a great outpouring of understanding and sympathy for the struggle for peace and justice in this country. In that regard, it seems to me that this holiday becomes one of our most important.

Who celebrates Martin Luther King's birthday? Well, first of all, those who understand Martin, those who loved Martin, those who struggled for peace and justice celebrate it.

But there are others who are now coming forward, some who are learning about Martin, some who are not sure if they yet agree with him, some who are not sure about propriety and significance of the civil rights struggle, which is understandable. Hopefully we are here, and the holiday stands to teach, to show, to demonstrate, to argue, and even debate this great, important movement in American history.

This question has been asked of me: But what about those white citizens who do not celebrate Martin Luther King's birthday? Are you not disturbed that there are not more of them there?

I would like my colleagues in the House to know that I am not disturbed because if there were no problem, there would have been no King. If there were no struggle, there would not be a need to observe his holiday.

We are here not by our word but by our deeds to teach those, to instruct those, not from some superior point of view but hopefully to impart to them the fact that the very blood and dynamism of our democracy are deeply tied into the premises and policies on which Dr. King worked, lived, and died.

So I am not afraid, disturbed, or troubled by the lack of those who chose not to observe this holiday. Instead, I am overjoyed by the millions of new people from all of our many States who have come forward to join with us in this celebration.

By our example in the Congress, by the citizens' examples who gave us the support that persuaded many Members to join with us in this remarkable activity, I am not in any doubt that as the years roll on, this celebration, the glitter, the glamor, the music, the television spectaculars will all recede away to the important work of the man who helped save America from a self-defeating path and who has received the highest honor that the American people can confer upon one of their own, a national holiday in his honor.

At this point in the RECORD I wish to insert the following:

[An advertisement from the Washington Post, Jan. 21, 1986]

A GOAL SET—A GOAL MET

I feel terribly blessed to know that the people of this country believe that peace and unity are important enough to celebrate in the manifestation of a national holiday for Dr. Martin Luther King, Jr.'s, birthday. I am also in debt to the Creator for allowing me to express my feelings of love for this man through the gift of a song, "Happy Birthday". It was then that I knew we were not alone in our desire for a celebration of these principles.

In reflecting on our experiences with a goal set and a goal met, the very process of achieving this national holiday has strengthened as well as challenged our commitment to peace, unity, and love. Many people, with many colors, ideals, histories, hopes, and aspirations, came together for a common goal.

To each person who withstood the elements of cold marches, I salute you. We shared that together.

To each signature on the millions of petitions, I applaud you. It was a monumental collective effort.

To each of the many unsolicited volunteers who contributed in every state and every city, I embrace you. It was your initiative and follow-through that made our efforts successful.

To all of my friends, my colleagues in the arts, my family, my staff, and well-wishers, I thank you for your support and patience. You know that's what friends are for.

It was our faith in this cause that sealed our solidarity, and it was our commitment to victory that allowed us to honor the principles of Dr. King, even when we were most challenged by those who were blind to our vision.

Now that we officially celebrate the birth of a man who has changed this country, never let anyone or anything steer us away from promoting unity, peace, and love in the name of Dr. King.

Our celebration of his birth is the acknowledgement of one of the Creator's most precious gifts to humanity. We must treasure it in our hearts and protect it in our deeds.

As a humble soldier in the army of love, I want to personally thank some of the legislative leadership who guided us through this process unscathed: The Honorable John Conyers, Jr., The Honorable Edward M. Kennedy, The Honorable Charles McC. Mathias, and The Honorable Katie Hall.

If I could name every name, hold every hand, touch every spirit that has ever helped in any way, I would. Please believe that my spirit embraces all of you, and that you are the sunshine of my life.

STEVLAND MORRIS,
(aka) Stevie Wonder.

"HAPPY BIRTHDAY 1986"

REVISED LYRICS FOR THE VICTORY

We knew it
Didn't make much sense
For anyone to be against
Or try to take offense
At a day
In your celebration
'Cause we

All knew in our minds
That there soon would be a time
That we would set aside

To show
Just how much we love you

So together we agreed
What could fit more perfectly
Than to have a world party
On the day you came to be

Happy birthday to ya
Happy birthday to ya
Happy birthday
Happy birthday to ya
Happy birthday to ya
Happy birthday

We just never understood
How a man who died for good
Could not have a day that would
Be set aside
For his recognition

Because it should never be
Just because some cannot see
The Dream as clear as we
That they should make it
Become an illusion

And we all know everything
That he stood for time will bring
For today our hearts can sing
Thanks to Martin Luther King

Happy birthday to ya
Happy birthday to ya
Happy birthday
Happy birthday to ya
Happy birthday to ya
Happy birthday

America now has a holiday
Let's spread his dream of unity
Throughout the world
Throughout the world

The time is overdue
For People like me and you
Who know the way to truth
Is love and unity
To ALL GOD'S CHILDREN
Let us share this great event
Where the whole day can be spent
In full remembrance
Of those who lived and died
For the oneness of all people

So let us all begin
We know that love can win
Let it out, don't hold it in
Sing as loud as you can

We know the key to unity of all people. It was the dream that we had so long ago, that lives in all the hearts of people that believe in unity. We will make the dream become a reality. I know we will, because our hearts tell us so.

Happy birthday to ya
Happy birthday to ya
Happy birthday
Happy birthday to ya
Happy birthday to ya
Happy birthday
Happy birthday to ya
Happy birthday to ya
Happy birthday
Happy birthday to ya
Happy birthday to ya
Happy birthday

Special thanks for all your help in these historic marches: Ofield Dukes, and Guy Draper.

Extra special thanks to Theresa D. Cropper whose legal talents and sensitive leadership not only helped to coordinate local and national human and economic resources in the organization of our marches, but also gave substantial input to the development of our legislative strategies and efforts.

I also extend my deep appreciation to Donna Brazile, who has steadfastly served as an advocate and preceptive liaison between our staff and the various community organizations ensuring our understanding of their concerns and interests in this successful realization of my dreams.

I now want to yield to my colleague from Missouri whose contribution and leadership in the successful passage of the bill was important, and in many other activities of which Dr. King would have readily identified himself.

The gentleman from Missouri [Mr. GEPHARDT].

Mr. GEPHARDT. I thank the gentleman for yielding some time and for taking this hour to spend in recognition and in refreshing all of our memories about the importance of what happened yesterday and, obviously, the importance of the great life of Dr. King.

I am very pleased that the House Democratic Caucus took a position last year in recommending that we finally move forward with the passage of this day as a national holiday in recognition of the contribution and the life of Dr. King. Then that action was followed by aggressive actions by the House of Representatives as a whole, both Republicans and Democrats, joining together and saying, "We want this to be a national holiday."

That followed by action in the Senate and then passage and signing of that bill by the President.

There was a controversy, I guess, for some time about whether or not this should be a national holiday. That is behind us. That decision has been made. We have decided, as a country, that this should be a national holiday. My belief is that what happened yesterday is the most eloquent testimony of all, of the wisdom of making this a national holiday. The reason I say that is not because of any one event but because of the overall education that went on yesterday for all of our people and the refreshing of our memories as to the significance and importance of the life of this great man. I think that this first day was simply a precursor of the importance that this national holiday will take on as it goes on year after year.

A few weeks ago, I had the chance to visit with Coretta King on a visit to the Martin Luther King Center for Nonviolent and Social Change in Atlanta. Mrs. King led us on a tour of the facility built to ensure the continuation of the people's dream, a martyr's philosophy, and a Nation's struggle.

Up until we had a national holiday yesterday, one could not have their memory refreshed without going to Atlanta. I hope many of our citizens will now go to Atlanta to visit the center. But if citizens are not able to do that, we now feel sure that they will, through the activities of this national holiday, be refreshed on an annual basis.

From my experience in being there and from what I learned yesterday, I think the overwhelming significance of this great man's life is the recognition that I think we all have from his life that one man can make a difference and that this Nation, as great as it is and as good as it is, can continually grow and be better and right our wrongs.

A quote from Dr. King that I think, among many great quotes, that I liked best was in his speech accepting the Nobel Peace Prize on December 11, 1964, when he said:

I refuse to accept the idea that the "isness" of man's present nature makes him morally incapable of reaching up for the "oughtness" that forever confronts him.

His entire life was about growing, and becoming, and reaching for goals.

Through his life, he inspired a whole nation to not be satisfied with "isness" but to be reaching for "oughtness" and because of his life, we were able to move away from "isness" and we were able to realize our goals and our dreams and his dreams. So I am thrilled at what happened yesterday because I think it gives us the opportunity every year to understand that we still have to fight "isness" and that we have to look for "oughtness." I commend the gentleman not only for taking this hour today but for his longtime leadership as a Member of Congress and American citizen in reminding all of us, urging all of us, to make this national holiday so that the significance of this man's life could be forever remembered.

Mr. CONYERS. I thank the gentleman from Missouri.

As head of the SCLC, he led peaceful demonstrations in Southern cities which were met with hostility and brutality. He was jailed several times. He was the object of an intense FBI investigation. But throughout all this, Dr. King continued to strictly observe and urge nonviolence as the best tool to win full civil rights for black Americans.

From Montgomery, AL, where, in 1955, he first captured the Nation's attention by leading a 381-day boycott of the bus system which brought an end to the policy of segregated seating, to Memphis, TN, 13 years later where he died fighting to improve the wages of black sanitation workers, Dr. King built a record of social and legal reforms that have improved the lives of millions of Americans.

I went South during 1964 to represent civil rights workers who were being arrested in nonviolent protests. When I arrived, I was confronted with a raging war between blacks and whites. Dr. King wanted it to be a nonviolent war, but the segregationists would not let it be one.

Shortly after his death in 1968, I introduced a bill in the U.S. House of Representatives seeking to honor Dr. King by designating his birthday, January 15, as a national holiday. I continued to introduce such a bill in each subsequent session of Congress until H.R. 3706 was signed into law by President Reagan on November 2, 1983 (P.L. 98-144). Beginning in 1986, the third Monday of January will be celebrated as a Federal holiday in honor of Dr. King.

No American more fully deserves such commemoration than Dr. King. No person ever dedicated his life so fully and tirelessly to the pursuit of equal rights for all Amerians. Dr. King gave his life for this struggle, and it remains for us to complete his work.

By celebrating Dr. King's birthday, we do more than pay tribute to a man—we honor the spirit of love and hope which guided his life and which should inspire our efforts on behalf of those who still do not enjoy full civil rights.

This holiday will enable us to preserve Dr. King's vision so that it may continue to serve as a guide for us today and as a measure of just how far we still have to go.

SOUTH AFRICA AND THE LEGACY OF DR. KING

During the last years of his life, Dr. King's dream had evolved into a vision of empowering all the powerless peoples of the world.

Martin Luther King spoke out against apartheid during his December 1965 speech on International Human Rights Day. On that occasion, he called for an international boycott against South Africa stating that:

To list the extensive economic relations of the great powers with South Africa is to suggest a potent nonviolent path. The international potential of nonviolence has never been employed * * *. The time has come to utilize nonviolence fully through a massive international boycott * * *. The time has come for an international alliance of peoples of all nations against racism.

Dr. King opened this speech with the following powerful statement:

Africa has been depicted for more than a century as the home of black cannibals and ignorant primitives. Despite volumes of facts contraverting this picture, the stereotype persists in books, motion pictures, and other media of communication.

Africa does have spectacular savages and brutes today, but they are not black. They are the sophisticated white rulers of South Africa who profess to be cultured, religious, and civilized, but whose conduct and philosophy stamp them unmistakably as modern-day barbarians.

In a December 1967 lecture for the Canadian Broadcasting Corp., he stated that the plight of the dispossessed in the United States was "inseparable from an international emergency which involves the poor, the dispossessed, and the exploited of the whole world."

In 1967, Dr. King spoke out against the American war in Vietnam. In his view, the war was draining the country of the resources that could have been used to eliminate some of the misery of poverty at home. His move to unite the antiwar and civil rights causes gained him harsh criticism, but Dr. King continued to speak out against the violence abroad as an ineffective way to solve human problems.

Now, almost 20 years later, the Free South Africa Movement, a broad-based coalition of conscience, was formed to protest the perpetration of violence by the apartheid regime in South Africa. The goal is to end the oppression of that country's black majority, which has been aided and abetted by the Reagan administration's policy of "constructive engagement."

The people of our country are marching in solidarity with our brothers and sisters in South Africa who live in constant fear and under daily violations of their human rights. Each day, more and more Americans are finding it difficult to reconcile these conditions with their own sense of morality.

The right to liberty, equality, and a representative government is as inalienable for the black majority population of South Africa as it is for black Americans here at home.

Mr. Speaker, I would like to close by sincerely thanking all of my colleagues in the House whose efforts, whose thoughtfulness, whose cosponsorship, whose contributions in ways that of course will never all be recorded, fed into what I think is a very important moment in American history. This may just have been that turning point that we were looking for. This may just be that little light through which many people can begin to re-review their perception of what our country and our people are all about. The potentials are thrilling; hopes ring and reverberate with the very being and memory of the man we honor. In his holiday now reposes the opportunity to teach, to show, to demonstrate to our people and to each other and to our Government itself what it can and ought to be.

So I thank all my colleagues who, from the day, April 8, 1968, forward, had a hand in this final, marvelous culmination. Some of the Members are not here any longer; some have fallen by the wayside; others have gone to other vocations and professions. But the story of the bill that we here all know better than anybody else is a wonderful, personal remembrance for me that I shall treasure throughout my entire career in this great body.

Mr. Speaker, I yield back the balance of my time.

ENROLLED BILLS AND JOINT RESOLUTIONS SIGNED AFTER SINE DIE ADJOURNMENT

Mr. ANNUNZIO, from the Committee on House Administration, reported that the committee had examined and found truly enrolled bills and joint resolutions of the House of the following titles, which were thereupon signed by the Speaker pro tempore, Mr. WRIGHT, on the following dates:

On December 23, 1985:

H.R. 1404. An act to establish the eastern shore of Virginia National Wildlife Refuge and the National Fish and Wildlife Service Training Center at Cape Charles in Northampton County, VA;

H.R. 1538. An act to amend title 38, United States Code, to provide a 3.1-percent increase in the rate of disability compensation and of dependency and indemnity compensation paid by the Veterans' Administration; to make improvement in veterans' job training programs; and for other purposes;

H.R. 2651. An act to amend section 504 of the Alaska National Interest Lands Conservation Act to promote the development of mineral wealth in Alaska;

H.R. 3718. An act to waive the period of congressional review for certain District of Columbia acts authorizing the issuance of revenue bonds;

H.R. 3931. An act to designate the General Services Administration building known as the United States Appraiser's Stores Building in Boston, MA, as the Captain John Foster Williams Coast Guard Building; and

H.J. Res. 495. Joint resolution to provide for the temporary extension of certain programs relating to housing and community development, and for other purposes.

On December 27, 1985:

H.R. 3384. An act to amend title 5, United States Code, to expand the class of individuals eligible for refunds or other returns of contributions from contingency reserves in the employees health benefits fund; to make miscellaneous amendments relating to the civil service retirement system and the Federal Employees Health Benefits Program; and for other purposes; and

H.J. Res. 187. Joint resolution to approve the "Compact of Free Association," and for other purposes;

ENROLLED BILL AND JOINT RESOLUTION SIGNED AFTER SINE DIE ADJOURNMENT

Mr. ANNUNZIO, from the Committee on House Administration, reported that the committee had examined and found truly enrolled a bill and joint resolution of the House of the following titles, which were thereupon signed by the Speaker on the following date:

On January 2, 1986:

H.R. 1063. An act to amend the Low-Level Radioactive Waste Policy Act to improve procedures for the implementation of compacts providing for the establishment and operation of regional disposal facilities for low-level radioactive waste; to grant the consent of the Congress to certain interstate compacts on low-level radioactive waste; and for other purposes, and

H.J. Res. 440. Joint resolution to designate the week of December 1, 1985, through December 7, 1985, as "National Autism Week."

BILLS AND JOINT RESOLUTIONS PRESENTED TO THE PRESIDENT AFTER SINE DIE ADJOURNMENT

Mr. ANNUNZIO, from the Committee on House Administration, reported that that committee did on the following days present to the President, for his approval, bills and joint resolutions of the House of the following titles:

On January 3, 1986:

H.R. 1404. An act to establish the Eastern Shore of Virginia National Wildlife Refuge and the National Fish and Wildlife Service Training Center at Cape Charles in Northampton County, VA;

H.R. 1538. An act to amend title 38, United States Code, to provide a 3.1-percent increase in the rates of disability compensation and of dependency and indemnity compensation paid by the Veterans' Administration; to make improvements in veterans' job training programs; and for other purposes;

H.R. 2651. An act to amend section 504 of the Alaska National Interest Lands Conservation Act to promote the development of mineral wealth in Alaska; and

H.R. 3931. An act to designate the General Services Administration building known as the "U.S. Appraiser's Stores Building" in Boston, MA, as the "Capt. John Foster Williams Coast Gurd Building.

On January 8, 1986:

H.R. 1083. An act to amend the Low-Level Radioactive Waste Policy Act to improve procedures for the implementation of compacts providing for the establishment and operation of regional disposal facilities for low-level radioactive waste; to grant the consent of the Congress to certain interstate compacts on low-level radioactive waste; and for other purposes;

H.R. 3384. An act to amend title 5, United States Code, to expand the class of individuals eligible for refunds or other returns of contributions from contingency reserves in the Employees Health Benefits Fund; to make miscellaneous amendments relating to the Civil Service Retirement System and the Federal Employees Health Benefits Program; and for other purposes;

H.J. Res. 187. Joint resolution to approve the "Compact of Free Association," and for other purposes; and

H.J. Res. 440. Joint resolution to designate the week of December 1, 1985, through December 7, 1985, as "National Autism Week."

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. MCDADE (at the request of Mr. MICHEL), for today, on account of official business.

Mr. BILIRAKIS (at the request of Mr. MICHEL), for today, on account of official business.

Mr. MILLER of Ohio (at the request of Mr. MICHEL), for today, on account of illness in the family.

Mr. TORRES (at the request of Mr. WRIGHT), for today, on account of illness.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

Mr. BROWN of Colorado, for 60 minutes, on January 22.

(The following Members (at the request of Mr. WALKER) to revise and extend their remarks and include extraneous material:)

Mr. SHUSTER, for 60 minutes, on January 22.

Mr. REGULA, for 5 minutes, today.

Mr. WALKER, for 5 minutes, today.

Mr. COUGHLIN, for 5 minutes, today.

(The following Members (at the request of Mr. LELAND) to revise and extend their remarks and include extraneous material:)

Mr. GONZALEZ, for 5 minutes, today.

Mr. MICA, for 5 minutes, today.

Mr. JONES of Oklahoma, for 5 minutes, today.

Mr. HUTTO, for 5 minutes, today.

Mr. GAYDOS, for 60 minutes, today.

Mr. LELAND, for 60 minutes, today.

Mr. TOWNS, for 60 minutes, today.

Mr. FRANK, for 60 minutes, today.

Mr. LAFALCE, for 30 minutes, today.

Mr. UDALL, for 10 minutes, today.

Mr. GAYDOS, for 60 minutes, on January 22.

Mr. LAFALCE, for 30 minutes, on January 22.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. BRYANT, on the subject of the special order by Mr. FRANK, in the House, today.

(The following Members (at the request of Mr. WALKER) and to include extraneous matter:)

Mr. FRENZEL.

Mr. PURSELL.

Mr. HYDE.

Mr. ECKERT of New York.

Mr. DAUB in two instances.

Mr. GILMAN in four instances.

Mr. FIELDS.

Mr. BEREUTER.

(The following Members (at the request of Mr. LELAND) and to include extraneous matter:)

Mr. ANDERSON in 10 instances.

Mr. GONZALEZ in 10 instances.

Mrs. LLOYD in five instances.

Mr. HAMILTON in 10 instances.

Mr. BROWN of California in 10 instances.

Mr. ANNUNZIO in six instances.

Mr. JONES of Tennessee in 10 instances.

Mr. BONER of Tennessee in five instances.

Mr. DE LA GARZA in 10 instances.

Mr. FAZIO.

Mr. DYSON.

Mr. LEVINE of California.

Mr. BARNES.

Mr. EDWARDS of California.

Mr. CLAY.

Mr. STOKES in two instances.

Mr. BIAGGI.

Mr. MAVROULES in two instances.

Mr. HALL of Ohio.

Mr. JACOBS.

Mr. HUBBARD.

Mr. LAFALCE.

Mr. DYMALLY.

Mr. COELHO.

Mr. WEISS.

Mr. WILLIAMS.

Mr. DOWNEY of New York.

ADJOURNMENT

Mr. HOYER. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 3 o'clock and 44 minutes p.m.), the House adjourned until tomorrow, Wednesday, January 22, 1986, at 3 p.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

2425. A letter from the Chairman, Commodity Futures Trading Commission, transmitting the results of the study of the regulatory experiences of the National Futures Association from January 1, 1983 to September 30, 1985, pursuant to Public Law 95-405, section 326(b) (96 Stat. 2325); to the Committee on Agriculture.

2426. A communication from the President of the United States, transmitting a request for supplemental appropriations for fiscal year 1986 for the Department of Agriculture, pursuant to 31 U.S.C. 1107 (H. Doc. No. 99-152); to the Committee on Appropriations and ordered to be printed.

2427. A letter from the Executive Associate Director, Office of Management and Budget, transmitting notification that the appropriation to the Veterans' Administration for Readjustment benefits for the fiscal year 1986 has been reapportioned on a basis that indicates the necessity for a supplemental estimate of appropriations, pursuant to 31 U.S.C. 1515(b)(2); to the Committee on Appropriations.

2428. A communication from the Comptroller General of the United States, transmitting a report on the review of the President's second special message for fiscal year 1986 (November 25, 1985) proposing eight new deferrals, pursuant to 2 U.S.C. 685 (H. Doc. No. 99-151); to the Committee on Appropriations and ordered to be printed.

2429. A communication from Director, Office of Management and Budget, transmitting a report on exemptions of the Balanced Budget and Emergency Deficit Control Act of 1985, pursuant to section 252 (a)(2)(B) of the Balanced Budget and Emergency Deficit Control Act of 1985 (H. Doc. No. 99-149); to the Committee on Appropriations and ordered to be printed.

2430. A communication from the President of the United States, transmitting a cumulative report on rescissions and deferrals of budget authority, pursuant to section 1014(e) of the Congressional Budget and Impoundment Control Act of 1974 (H. Doc.

No. 99-147); to the Committee on Appropriations and ordered to be printed.

2431. A letter from the Acting Deputy Assistant Secretary of the Air Force (Logistics and Communications), transmitting notification of the proposed decision to convert to contractor performance the custodial services function at Cheyenne Mountain Complex, Colorado Springs, CO, pursuant to 10 U.S.C. 2304 nt.; to the Committee on Armed Services.

2432. A letter from the Deputy Assistant Secretary of the Air Force (Logistics and Communications), transmitting notification that the Air Force plans to study conversion of various functions at different installations from in-house operation to commercial contract, pursuant to 10 U.S.C. 2304 nt.; to the Committee on Armed Services.

2433. A letter from the Deputy Assistant Secretary of the Air Force (Logistics and Communications), transmitting notification of the proposed decision to convert various functions at different installations from in-house operation to commercial contract, pursuant to 10 U.S.C. 2304 nt.; to the Committee on Armed Services.

2434. A letter from the Secretary of the Army, transmitting the annual report of the U.S. Soldiers' and Airmen's Home for fiscal year 1983, pursuant to 24 U.S.C. 59, 60; to the Committee on Armed Services.

2435. A letter from the Secretary of the Army, transmitting a follow-up report on his determination that one of the Army's major acquisition programs has exceeded the baseline unit cost by more than 25 percent (Single Channel Ground and Airborne Radio System), pursuant to 10 U.S.C. 139b(e)(2)(A); to the Committee on Armed Services.

2436. A letter from the Secretary of Defense, transmitting a readiness assessment of the reserve components for fiscal year 1984 and the annual report of the Reserve Forces Policy Board, pursuant to 10 U.S.C. 133(c); to the Committee on Armed Services.

2437. A letter from the Deputy Assistant Secretary of Defense (Comptroller—Administration), transmitting notification that the Department of the Navy intends to exclude the clause concerning examination of records by the Comptroller General from the contract with the Ministry of Defence of the United Kingdom for a jointly funded and managed Pegasus Engine Product Support Program, pursuant to 10 U.S.C. 2313(c); to the Committee on Armed Services.

2438. A letter from the Deputy Assistant Secretary of Defense (Comptroller—Administration), transmitting notification that the Department of the Navy intends to exclude the clause concerning examination of records by the Comptroller General from a proposed contract with the Golcuk Naval Shipyard, a repair facility under the jurisdiction of the Ministry of Defense, Government of the Republic of Turkey, pursuant to 10 U.S.C. 2313(c); to the Committee on Armed Services.

2439. A letter from the Secretary of Housing and Urban Development, transmitting the 1985 interim annual progress report on the Neighborhood Development Demonstration Program, pursuant to Public Law 98-181, sections 123(f) (1) and (2); to the Committee on Banking, Finance and Urban Affairs.

2440. A letter from the Auditor, District of Columbia, transmitting a report entitled, "D.C. Auditor's Review of the University of the District of Columbia's Postsecondary Education Fund," pursuant to Public Law 93-198, section 455(d); to the Committee on the District of Columbia.

2441. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 6-122, "Fort Davis Community Center Designation Act of 1985," and report, pursuant to Public Law 93-198, section 602(c); to the Committee on the District of Columbia.

2442. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 6-121, "Noise Control Amendment Regulation Act of 1985," and report, pursuant to Public Law 93-198, section 602(c); to the Committee on the District of Columbia.

2443. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 6-115, "D.C. Uniform Transfers to Minors Act," and report, pursuant to Public Law 93-198, section 602(c); to the Committee on the District of Columbia.

2444. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 6-116, "Closing of a Portion of C Street, N.W., S.O. 85-151, Act of 1985," and report, pursuant to Public Law 93-198, section 602(c); to the Committee on the District of Columbia.

2445. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 6-117, "Blind Vendors Tax Relief Amendment Act of 1985," and report, pursuant to Public Law 93-198, section 602(c); to the Committee on the District of Columbia.

2446. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 6-118, "Child Abuse Amendments Act of 1985", and report, pursuant to Public Law 93-198, section 602(c); to the Committee on the District of Columbia.

2447. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 6-119, "D.C. Trust, Loan, Mortgage, Safe Deposit and Title Corporations Act Amendment Act of 1985," and report pursuant to Public Law 93-198, section 602(c); to the Committee on the District of Columbia.

2448. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 6-120, "Closing of a Public Alley in Square 252, S.O. 78-201, Act of 1985," and report, pursuant to Public Law 93-198, section 602(c); to the Committee on the District of Columbia.

2449. A letter from the Secretary of Health and Human Services, transmitting the Department's twelfth annual report on the status of handicapped children in Head Start programs, pursuant to 42 U.S.C. 9835(d); to the Committee on Education and Labor.

2450. A letter from the Secretary of Health and Human Services, transmitting the thirteenth annual report of the National Heart, Lung, and Blood Advisory Council, pursuant to 42 U.S.C. 287g(b)(2); to the Committee on Energy and Commerce.

2451. A letter from the Secretary of Health and Human Services, transmitting a report on prevention activities in the areas of alcoholism and drug abuse, pursuant to 42 U.S.C. 290a(e)(2); to the Committee on energy and Commerce.

2452. A letter from the Acting Chairman, Federal Trade Commission, transmitting the sixteenth report of the Federal Trade Commission on U.S. oil company participation in the International Energy Program, pursuant to 42 U.S.C. 6272(i); to the Committee on Energy and Commerce.

2453. A letter from the Administrator, Environmental Protection Agency, transmitting a report on wastes from the extraction and beneficiation of metallic ores, phosphate rock, asbestos, overburden from uranium mining, and oil shale, pursuant to SWDA, section 8002(f) and (p); to the Committee on Energy and Commerce.

2454. A letter from the Secretary, Interstate Commerce Commission, transmitting notification of the necessity to again extend the time deadline on Formal docket No. 39668, "Arkansas Power and Light Company versus Burlington Northern Railroad Company." pursuant to 49 U.S.C. 10327(k)(2); to the Committee on Energy and Commerce.

2455. A letter from the Assistant Secretary for Legislative and Intergovernmental Affairs, Department of State, transmitting notification of the Department's intention to add Malta to the list of approved participants in the Anti-Terrorism Assistance Program, pursuant to FAA, section 574(a)(1) (97 Stat. 972); to the Committee on Foreign Affairs.

2456. A communication from the President of the United States, transmitting an Executive order under the International Emergency Economic Powers Act prohibiting trade and certain transactions involving Libya, pursuant to 50 U.S.C. 1703 (H. Doc. No. 99-153); to the Committee on Foreign Affairs and ordered to be printed.

2457. A communication from the President of the United States, transmitting a report on the exercise of authorities under their International Emergency Economic Powers Act, pursuant to 50 U.S.C. 1703 (H. Doc. No. 99-148); to the Committee on Foreign Affairs and ordered to be printed.

2458. A letter from the Secretary of Commerce, transmitting a report on the imposition expansion, or extension of export controls, pursuant to 50 U.S.C. app. 2405(f); to the Committee on Foreign Affairs.

2459. A letter from the Acting Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting copies of international agreements other than treaties, entered into by the United States, pursuant to 1 U.S.C. 112b(a); to the Committee on Foreign Affairs.

2460. A letter from the Acting Assistant Secretary of State for Legislative and Intergovernmental Affairs, transmitting information on reports that 10 U.S.-built M-41 tanks, originally sold to Belgium in the 1950s under the Foreign Military Sales Program, were transferred to Guatemala in early 1981 without U.S. Government concurrence, pursuant to 22 U.S.C. 2753(e); to the Committee on Foreign Affairs.

2461. A letter from the Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting copies of international agreements, other than treaties, entered into by the United States, pursuant to 1 U.S.C. 112b(a); to the Committee on Foreign Affairs.

2462. A letter from the Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting copies of international agreements, other than treaties, entered into by the United States, pursuant to 1 U.S.C. 112b(a); to the Committee on Foreign Affairs.

2463. A letter from the Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting the text of an agreement in which the American Institute in Taiwan is a party, pursuant to 22 U.S.C. 3311(a); to the Committee on Foreign Affairs.

2464. A letter from the Assistant Secretary of State for legislative and Intergovernmental Affairs, transmitting a report on the

foreign debt of Latin America, pursuant to Public Law 99-83, section 719(b) (99 Stat. 248); to the Committee on Foreign Affairs.

2465. A letter from the Inspector General, Department of Agriculture, transmitting a report on the activities of the Inspector General, pursuant to 5 U.S.C. app. (Inspector General Act of 1978) 5(b); to the Committee on Government Operations.

2466. A letter from the Secretary of Commerce, transmitting the semiannual report on the activities of the Inspector General, for the period April 1, 1985, through September 30, 1985, pursuant to 5 U.S.C. app. (Inspector General Act of 1978) 5(b); to the Committee on Government Operations.

2467. A letter from the Secretary of Education, transmitting a report on the donation of real or personal property to educational institutions, pursuant to 40 U.S.C. 484(o); to the Committee on Government Operations.

2468. A letter from the Director, National Park Service, Department of the Interior, transmitting a report on the acquisition cost of all real property disposed of during fiscal year 1985, pursuant to 40 U.S.C. 484(o); to the Committee on Government Operations.

2469. A letter from the Secretary of the Treasury, transmitting the annual report of the U.S. Government for the fiscal year ended September 30, 1985, pursuant to 31 U.S.C. 331(c); to the Committee on Government Operations.

2470. A letter from the Comptroller General, General Accounting Office, transmitting a list of all reports issued by GAO during November 1985, pursuant to 31 U.S.C. 719(h); to the Committee on Government Operations.

2471. A letter from the Acting Administrator, National Aeronautics and Space Administration, transmitting a report on the evaluation of the system of internal accounting and administrative control in effect during the fiscal year ended September 30, 1985, pursuant to 31 U.S.C. 3512(c)(3); to the Committee on Government Operations.

2472. A letter from the Acting Assistant Secretary for Health, Department of Health and Human Services, transmitting notification of a proposed new computer matching program, pursuant to 5 U.S.C. 552a(o); to the Committee on Government Operations.

2473. A letter from the Acting Chairman, Federal Trade Commission, transmitting and evaluation of compliance with the requirements of the internal accounting and administrative control system, pursuant to 31 U.S.C. 3512(c)(3); to the Committee on Government Operations.

2474. A letter from the Acting Chairman, Federal Trade Commission, transmitting an evaluation of compliance with the requirements of the internal accounting and administrative control system, pursuant to 31 U.S.C. 3512(c)(3); to the Committee on Government Operations.

2475. A letter from the Acting Chairman, National Endowment for the Humanities, transmitting a report on the evaluation of the system of internal accounting and administrative control in effect during fiscal year 1985, pursuant to 31 U.S.C. 3512(c)(3); to the Committee on Government Operations.

2476. A letter from the Acting Chairman, National Endowment for the Humanities, transmitting a report on a limited review of the accounting system in use during fiscal year 1985, pursuant to 31 U.S.C. 3512(c)(3); to the Committee on Government Operations.

2477. A letter from the Acting Secretary of State, Department of State, transmitting a report on the evaluation of the system of internal accounting and administrative control in effect during the year ending September 30, 1985, pursuant to 31 U.S.C. 3512(c)(3); to the Committee on Government Operations.

2478. A letter from the Acting Secretary of State, Department of State, transmitting a report on the progress made in the departmental accounting systems (supplement to report of same date on review of the internal accounting and administrative control in effect during fiscal year 1985), pursuant to 31 U.S.C. 3512(c)(3); to the Committee on Government Operations.

2479. A letter from the Acting Secretary, Department of Transportation, transmitting a report on the evaluation of the system of internal accounting and administrative control in effect during the year ending December 31, 1985, pursuant to 31 U.S.C. 3512(c)(3); to the Committee on Government Operations.

2480. A letter from the Administrator, General Services Administration, transmitting a report on the review of the accounting system and interfacing financial systems operating in the General Services Administration during fiscal year 1985, pursuant to 31 U.S.C. 3512(c)(3); to the Committee on Government Operations.

2481. A letter from the Administrator, General Services Administration, transmitting a report on the annual review of the system of internal controls in effect during the fiscal year ending September 30, 1985, pursuant to 31 U.S.C. 3512(c)(3); to the Committee on Government Operations.

2482. A letter from the Administrator, Panama Canal Commission, transmitting a report on the evaluation of the system of internal accounting and administrative control in effect during the year ending September 30, 1985, pursuant to 31 U.S.C. 3512(c)(3); to the Committee on Government Operations.

2483. A letter from the Administrator, Small Business Administration, transmitting a report on the evaluation of the system of internal accounting and administrative control in effect during the year ended September 30, 1985, pursuant to 31 U.S.C. 3512(c)(3); to the Committee on Government Operations.

2484. A letter from the Administrator, U.S. Environmental Protection Agency, transmitting a report on the evaluation of the system of internal accounting and administrative control in effect during the year ended September 30, 1985, pursuant to 31 U.S.C. 3512(c)(3); to the Committee on Government Operations.

2485. A letter from the Assistant Attorney General for Administration, Department of Justice, transmitting notice of a proposed modification of a Federal records system in the Office of Legal Policy, pursuant to 5 U.S.C. 552a(o); to the Committee on Government Operations.

2486. A letter from the Associate Director for Management, United States Information Agency, transmitting a report on the evaluation of the internal accounting and administrative controls in effect during the fiscal year ending September 30, 1985, pursuant of 31 U.S.C. 3512(c)(3); to the Committee on Government Operations.

2487. A letter from the Attorney General of the United States, transmitting a report on the Department of Justice's evaluation of its system of internal accounting and administrative control for the year ending December 31, 1985, pursuant to 31 U.S.C. 3512(c)(3); to the Committee on Government Operations.

2488. A letter from the Board members, U.S. Railroad Retirement Board, transmitting a report on the evaluation of the internal accounting and administrative control system for the fiscal year ended September 30, 1985, pursuant to 31 U.S.C. 3512(c)(3); to the Committee on Government Operations.

2489. A letter from the Chairman of the Board, U.S. Synthetic Fuels Corporation, transmitting the annual report on the activities of the inspector general's office for the fiscal year ending September 30, 1985, pursuant to Public Law 96-294, section 122(d); to the Committee on Government Operations.

2490. A letter from the Chairman, Board of Governors, U.S. Postal Service, transmitting an evaluation of compliance with the laws relating to open meeting of agencies of the Government (Government in the Sunshine Act), pursuant to 5 U.S.C. 552b(j); to the Committee on Government Operations.

2491. A letter from the Chairman, Federal Maritime Commission, transmitting the activities of the Commission under the Government in the Sunshine Act during calendar year 1984 pursuant to 5 U.S.C. 552b(j); to the Committee on Government Operations.

2492. A letter from the Chairman, Interstate Commerce Commission, transmitting a report on compliance with the requirements of the internal accounting and administrative control system, pursuant to 31 U.S.C. 3512(c)(3); to the Committee on Government Operations.

2493. A letter from the Chairman, Merit Systems Protection Board, transmitting a report on the evaluation of the system of internal accounting and control in effect during the fiscal year ended September 30, 1985, pursuant to 31 U.S.C. 3512(c)(3); to the Committee on Government Operations.

2494. A letter from the Chairman, Merit Systems Protection Board, transmitting a report on a review of the internal accounting system in use during fiscal year 1985, pursuant to 31 U.S.C. 3512(c)(3); to the Committee on Government Operations.

2495. A letter from the Chairman, Nuclear Regulatory Commission, transmitting a report on the evaluation of the system of internal accounting and administrative control in effect during the year ended December 31, 1985, pursuant to 31 U.S.C. 3512(c)(3); to the Committee on Government Operations.

2496. A letter from the Chairman, Securities and Exchange Commission, transmitting a report on the evaluation of the system of internal accounting and administrative control in effect during the year ended September 30, 1985, pursuant to 31 U.S.C. 3512(c)(3); to the Committee on Government Operations.

2497. A letter from the Chairman, U.S. Consumer Product Safety Commission, transmitting a report on the evaluation of the system of internal accounting and adminsitrative control in effect during the fiscal year ended September 30, 1985, pursuant to 31 U.S.C. 3512(c)(3); to the Committee on Government Operations.

2498. A letter from the Chairman, U.S. Equal Employment Opportunity Commission, transmitting a report on compliance with the requirements of the internal accounting and administrative control system, pursuant to 31 U.S.C. 3512(c)(3); to the Committee on Government Operations.

2499. A letter from the Chairman, U.S. Federal Labor Relations Authority, transmitting a report on the evaluation of the system of internal accounting and adminis-

trative control in effect during the year ended December 31, 1985, pursuant to 31 U.S.C. 3512(c)(3); to the Committee on Government Operations.

2500. A letter from the Chairwoman, International Trade Commission, transmitting an evaluation of compliance with the requirements of the internal accounting and administrative control system, pursuant to 31 U.S.C. 3512(c)(3); to the Committee on Government Operations.

2501. A letter from the Comptroller General of the United States, transmitting a report on the Financial Integrity Act entitled, "The Government Faces Serious Internal Control and Accounting Systems Problems" (GAO/AFMD-86-14); to the Committee on Government Operations.

2502. A letter from the Deputy Administrator of Veterans Affairs, Veterans Administration, transmitting a report on the evaluation of the system of internal accounting and administrative control in effect during the year ended September 30, 1985, pursuant to 31 U.S.C. 3512(c)(3); to the Committee on Government Operations.

2503. A letter from the Deputy Assistant to the President for Administration, the White House, transmitting a report on the review of the accounting system for the Executive Office of the President during fiscal year 1985, pursuant to 31 U.S.C. 3512(c)(3); to the Committee on Government Operations.

2504. A letter from the Deputy Assistant to the President for Administration, the White House, transmitting a report on the evaluation of the systems of internal administrative control in the agencies of the Executive Office of the President covering the fiscal year ended September 30, 1985, pursuant to 31 U.S.C. 3512(c)(3); to the Committee on Government Operations.

2505. A letter from the Deputy Assistant Secretary of Defense (Comptroller-Administration), transmitting notification of a proposed new record system submitted by the Department of the Air Force, pursuant to 5 U.S.C. 552a(o); to the Committee on Government Operations.

2506. A letter from the Director, Arms Control and Disarmament Agency, transmitting an evaluation of compliance with the requirements of the internal accounting and administrative control system, pursuant to 31 U.S.C. 3512(c)(3); to the Committee on Government Operations.

2507. A letter from the Director, ACTION, transmitting a report on the evaluation of the system of internal accounting and administrative control in effect during the year ended September 30, 1985, pursuant to 31 U.S.C. 3512(c)(3); to the Committee on Government Operations.

2508. A letter from the Director, Congressional Budget Office, transmitting a report on unauthorized appropriations and expiring legislation, pursuant to Public Law 99-177; to the Committee on Government Operations.

2509. A letter from the Director, Federal Emergency Management Agency, transmitting a report on the evaluation of the system of internal accounting and administrative control in effect during the fiscal year ending September 30, 1985, pursuant to 31 U.S.C. 3512(c)(3); to the Committee on Government Operations.

2510. A letter from the Director, Federal Mediation and Conciliation Service, transmitting a report on the annual review of the accounting system in use during fiscal year 1984, pursuant to 31 U.S.C. 3512(c)(3); to the Committee on Government Operations.

2511. A letter from the Director, Federal Mediation and Conciliation Service, transmitting a supplemental evaluation of compliance with the requirements of the internal accounting and administrative control system, pursuant to 31 U.S.C. 3512(c)(3); to the Committee on Government Operations.

2512. A letter from the Director, National Oceanic and Atmospheric Administration Corps, Department of Commerce, transmitting a copy of the 1984 annual NOAA Corps pension plan, pursuant to 31 U.S.C. 9503(a)(1)(B); to the Committee on Government Operations.

2513. A letter from the Director, the Peace Corps, transmitting a report on the evaluation of the system of internal accounting and administrative control in effect during the year ended September, 1985, pursuant to 31 U.S.C. 3512(c)(3); to the Committee on Government Operations.

2514. A letter from the Secretary of the Interior, transmitting an evaluation of compliance with the requirements of the internal accounting and administrative control system, pursuant to 31 U.S.C. 3512(c)(3); to the Committee on Government Operations.

2515. A letter from the Secretary of Agriculture, transmitting notification of his determination that it is necessary in the public interest to use procedures other than competitive procedures to negotiate extensions of 15 contracts, pursuant to 41 U.S.C. 253(c)(7); to the Committee on Government Operations.

2516. A letter from the Secretary of Education, transmitting the Department's letter of assurance and annual statement on internal controls, pursuant to 31 U.S.C. 3512(c)(3); to the Committee on Government Operations.

2517. A letter from the Secretary of Energy, transmitting a report on the evaluation of the system of internal accounting and administrative control in effect during the year ended September 30, 1985, pursuant to 31 U.S.C. 3512(c)(3); to the Committee on Government Operations.

2518. A letter from the Secretary, Department of Commerce, transmitting a report on the review of the system of internal accounting and administrative control for fiscal year 1985, pursuant to 31 U.S.C. 3512(c)(3); to the Committee on Government Operations.

2519. A letter from the Secretary, Department of Defense, transmitting a report on the review of the internal accounting and administrative control system during fiscal year 1985, pursuant to 31 U.S.C. 3512(c)(3); to the Committee on Government Operations.

2520. A letter from the Secretary, Department of Education, transmitting a report on the review of the system of internal accounting and administrative control in effect during fiscal year 1985, pursuant to 31 U.S.C. 3512(c)(3); to the Committee on Government Operations.

2521. A letter from the Secretary, Department of Labor, transmitting a report on the evaluation of the system of internal accounting and administrative control in effect in the Department during the fiscal year ended September 30, 1985, pursuant to 31 U.S.C. 3512(c)(3); to the Committee on Government Operations.

2522. A letter from the Special Counsel, Merit Systems Protection Board, transmitting an evaluation of compliance with the requirements of the internal accounting and administrative control system pursuant to 31 U.S.C. 3512(c)(3); to the Committee on Government Operations.

2523. A letter from the Special Counsel, U.S. Merit Systems Protection Board, transmitting a report on the Board's compliance with the requirements of the internal accounting and administrative control system, pursuant to 31 U.S.C. 3512(c)(3); to the Committee on Government Operations.

2524. A letter from the Special Counsel, U.S. Merit Systems Protection Board, transmitting a report on the accounting systems in use by the Board during fiscal year 1985, pursuant to 31 U.S.C. 3512(c)(3); to the Committee on Government Operations.

2525. A letter from the Sergeant-at-Arms, transmitting a report by the Sergeant-at-Arms of funds drawn, the application and disbursement of same, and the balance remaining, pursuant to 2 U.S.C. 84; to the Committee on House Administration.

2526. A letter from the Clerk, U.S. House of Representatives, transmitting a list of reports which it is the duty of any officer or department to make to Congress, pursuant to rule III, clause 2, of the Rules of the House of Representatives (H. Doc. No. 99-150); to the Committee on House Administration and ordered to be printed.

2527. A letter from the Acting Deputy Assistant Secretary for Water and Science, Department of the Interior, transmitting a project proposal for the Hidalgo County Irrigational District No. 1, TX, pursuant to 43 U.S.C. 422j; to the Committee on Interior and Insular Affairs.

2528. A letter from the Secretary of the Interior, transmitting a report on the acceptance of gifts for the benefit of Indians, pursuant to 25 U.S.C. 451; to the Committee on Interior and Insular Affairs.

2529. A letter from the Chairman, Copyright Royalty Tribunal, transmitting a report on activities and fiscal statement of account pursuant to 17 U.S.C. 808; to the Committee on the Judiciary.

2530. A letter from the Chief Justice of the Supreme Court, transmitting a draft of proposed legislation to preserve the authority of the Supreme Court Police to provide protective services for Justices and Court personnel; to the Committee on the Judiciary.

2531. A letter from the Clerk, U.S. Claims Court, transmitting the court's report for the year ended September 30, 1985, pursuant to 28 U.S.C. 791(c); to the Committee on the Judiciary.

2532. A letter from the Director, Federal Judicial Center, transmitting the 1985 annual report of the Federal Judicial Center, pursuant to 28 U.S.C. 623(b); to the Committee on the Judiciary.

2533. A letter from the Assistant Secretary for Fish and Wildlife and Parks, Department of the Interior, transmitting a report on the status of all marine mammal species and population stocks subject to the provisions of the Marine Mammal Protection Act of 1972, pursuant to 16 U.S.C. 1373(f); to the Committee on Merchant Marine and Fisheries.

2534. A letter from the Secretary of the Interior, transmitting the 1985 annual report on the Migratory Bird Conservation Commission, pursuant to 16 U.S.C. 715b; to the Committee on Merchant Marine and Fisheries.

2535. A letter from the Librarian of Congress, transmitting a report on professional and scientific positions established under 5 U.S.C. 3104 and 5 U.S.C. 5371, pursuant to 5 U.S.C. 3104(b); to the Committee on Post Office and Civil Service.

2536. A letter from the Special Council, U.S. Merit Systems Protection Board, trans-

mitting a report setting forth the findings and conclusions of the Secretary of Agriculture's investigation of allegations of a violation of law at the Food Safety and Inspection Service, pursuant to 5 U.S.C. 1206(b)(5)(A) (92 Stat. 1125); to the Committee on Post Office and Civil Service.

2537. A letter from the Executive Secretary, Office of the Secretary, Department of Defense, transmitting a report on procurement from small and other business firms for fiscal year 1985, pursuant to 15 U.S.C. 639(d); to the Committee on Small Business.

2538. A letter from the Acting Administrator, National Aeronautics and Space Administration, transmitting a report on the performance of industrial application centers, pursuant to SBA, section 21(f) (94 Stat. 843); to the Committee on Small Business.

2539. A letter from the Assistant Secretary of Labor, transmitting notification that additional information will be transmitted to Congress in the near future with respect to the Department's recently submitted report entitled "An Evaluation of Short-Time Compensation Programs," pursuant to Public Law 97-248, section 194(g)(2); to the Committee on Ways and Means.

2540. A letter from the Secretary of Labor, transmitting a summary report entitled "An Evaluation of Short-Time Compensation Programs," pursuant to Public Law 97-248, section 194(g)(2); to the Committee on Ways and Means.

2541. A letter from the Acting Fiscal Assistant Secretary, Department of the Treasury, transmitting a report on contingent and unfunded liabilities of the Federal Government as of September 30, 1985, pursuant to 31 U.S.C. 331(b)(1)(a); to the Committee on Ways and Means.

2542. A letter from the Secretary of the Treasury, transmitting a report on net receipts from the windfall profit tax and their disposition for fiscal year 1984, pursuant to 26 U.S.C. 4986 nt.; to the Committee on Ways and Means.

2543. A letter from the Chairwoman, U.S. International Trade Commission, transmitting the 44th quarterly report on trade between the United States and the nonmarket economy countries, pursuant to 19 U.S.C. 2440; to the Committee on Ways and Means.

2544. A letter from the Under Secretary of Agriculture for International Affairs and Commodity Programs, transmitting a global assessment of food production and needs, and planned programming of food assistance for fiscal year 1986, pursuant to 7 U.S.C. 1736b(a); jointly, to the Committees on Agriculture and Foreign Affairs.

2545. A letter from the President of the United States, transmitting the administration's report to the Congress on Soviet Noncompliance with Arms Control Agreements, pursuant to Public Law 99-145; jointly, to the Committees on Armed Services and Foreign Affairs.

2546. A letter from the Director, Office of Civilian Radioactive Waste Management, Department of Energy, transmitting the third annual report for the deployment of Federal Interim Storage entitled "Implementation Plan for Deployment of Federal Interim Storage Facilities for Commercial Spent Fuel," pursuant to Public Law 97-425, section 135(f); jointly, to the Committees on Energy and Commerce and Interior and Insular Affairs.

2547. A letter from the Chairman, Nuclear Regulatory Commission, transmitting the Commission's quarterly report on hiring and promotions of minorities and women in grades GS-11 and above, pursuant to Public Law 93-438 section 201(h) (91 Stat. 1482); jointly, to the Committees on Energy and Commerce and Interior and Insular Affairs.

2548. A letter from the Comptroller General of the United States transmitting a report entitled, "Saint Lawrence Seaway Financial Statements for 1984 and 1983" (GAO/AFMD-86-5), pursuant to 31 U.S.C. 9106(a); jointly, to the Committees on Government Operations and Public Works and Transportation.

2549. A letter from the Comptroller General of the United States, transmitting a report entitled, "VA Hospitals, Surgical Residents Need Closer Supervision" (GAO/HRD-86-15); jointly, to the Committees on Government Operations and Veterans' Affairs.

2550. A letter from the Secretary of the Interior, transmitting a study of Federal lands on Alaska's North Slope, pursuant to Public Law 96-487, section 1001; jointly, to the Committee on Interior and Insular Affairs and Merchant Marine and Fisheries.

2551. A letter from the Attorney General, Department of Justice; transmitting notification of litigation initiated by several Members of Congress to challenge the constitutionality of portions of the Balanced Budget and Emergency Deficit Control Act of 1985, pursuant to Public Law 96-132, section 21 (93 Stat. 1049); Public law 98-411, section 203(a) (99 Stat. 1558); jointly, to the Committee on the Judiciary and Government Operations.

2552. A letter from the Secretary of Transportation; transmitting the annual report on the status of the public ports of the United States for fiscal year 1984, pursuant to 49 U.S.C. 308(c); jointly, to the Committee on Public Works and Transportation and Merchant Marine and Fisheries.

2553. A letter from the Secretary of Energy; transmitting a report on the biomass energy and alcohol fuels program for the period of July 1 through September 30, 1985, pursuant to Public Law 96-294, section 218(a); jointly, to the Committee on Agriculture Energy and Commerce and Science and Technology.

2554. A letter from the Comptroller General of the United States, transmitting the eighth report on the status of the Great Plains Coal Gasification Project, August 1, 1985 (December 1985; GAO/RCED-86-36); jointly, to the Committees on Banking, Finance and Urban Affairs, Energy and Commerce and Science and Technology.

2555. A letter from the Comptroller General of the United States, transmitting a report on the process used by the Nuclear Regulatory Commission to require modifications at operating nuclear power plants (December 1985; GAO/RCED-86-27); jointly, to the Committee on Government Operations, Energy and Commerce and Interior and Insular Affairs.

2556. A letter from the Director, Office of Management and Budget, transmitting a draft of proposed legislation entitled the "Health Insurance and Payment Verification Act of 1985;" jointly, to the Committee on Energy and Commerce, Ways and Means, Veterans' Affairs, Post Office and Civil Service, Armed Services and Education and Labor.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

(Pursuant to the order of the House on Dec. 19, 1985, the following reports were filed on Dec. 31, 1985)

Mr. BROOKS: Committee on Government Operations. Report on opportunities for self-sufficiency for women in poverty (Rept. 99-459). Referred to the Committee of the Whole House on the State of the Union.

Mr. BROOKS: Committee on Government Operations. Report on Federal and State roles in economic stabilization (Rept. 99-460). Referred to the Committee of the Whole House on the State of the Union.

Mr. BROOKS: Committee on Government Operations. Report on human food safety and the regulation of animal drugs (Rept. 99-461). Referred to the Committee of the Whole House on the State of the Union.

[Submitted Jan. 21, 1986]

Mr. FASCELL: Committee on Foreign Affairs. Report on proceedings against Ralph Bernstein and Joseph Bernstein (Rept. 99-462). Referred to the House Calendar.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII public bills and resolutions were introduced and severally referred as follows:

By Mr. BIAGGI (for himself and Mr. TRAFICANT):

H.R. 4012. A bill to repeal the Balanced Budget and Emergency Deficit Control Act of 1985; jointly, to the Committees on Government Operations and Rules.

By Mr. DAUB:

H.R. 4013. A bill to expand the working conditions fringe exception of the Internal Revenue Code of 1954 with respect to employee use of vehicles; to the Committee on Ways and Means.

By Mr. BENNETT:

H.R. 4014. A bill to amend title 10, United States Code, to establish certain safety requirements relating to transportation of members of the Armed Forces on chartered aircraft; to the Committee on Armed Services.

By Mr. BEREUTER:

H.R. 4015. A bill to amend the Clean Air Act to prohibit the introduction of certain additives in gasoline; to the Committee on Energy and Commerce.

By Mr. FIELDS:

H.R. 4016. A bill to amend the Panama Canal Act of 1979 to increase the investment of the United States by the amount of interest deposited in the Panama Canal Commission Fund and to transfer that amount to the miscellaneous receipts of the Treasury; to the Committee on Merchant Marine and Fisheries.

By Mr. HUTTO (for himself and Mr. PARRIS):

H.R. 4017. A bill to amend the Balanced Budget and Emergency Deficit Control Act of 1985 to except from the definition of automatic spending increase those portions of certain Federal retirement and disability programs relating to lower pay categories; to the Committee on Government Operations.

By Mr. PETRI:

H.R. 4018. A bill to amend part A of title IV of the Social Security Act to prohibit

AFDC payments to unmarried minor parents who are living away from home; to the Committee on Ways and Means.

By Mr. ROTH:

H.R. 4019. A bill to amend the Truth in Lending Act to require that solicitations for new credit card accounts shall include more complete disclosure of conditions and costs for the extension of credit, and for other purposes; to the Committee on Banking, Finance and Urban Affairs.

By Mr. WEISS:

H.R. 4020. A bill to repeal the Balanced Budget and Emergency Deficit Control Act of 1985; jointly, to the Committees on Government Operations and Rules.

By Mr. WILLIAMS (for himself, Mr. HAWKINS, Mr. HAYES, and Mr. MARTINEZ):

H.R. 4021. A bill to extend and improve the Rehabilitation Act of 1973; to the Committee on Education and Labor.

By Mr. JONES of Oklahoma (for himself, Mr. FRENZEL, and Mr. REGULA):

H.J. Res. 497. Joint resolution providing for a domestic economic summit conference to develop a comprehensive plan for reducing the projected Federal budget deficits; to the Committee on Government Operations.

By Mr. ROBERT F. SMITH:

H.J. Res. 498. Joint resolution proposing an amendment to the Constitution of the United States to deal with compensation for services of Members of the House of Representatives and the Senate; to the Committee on the Judiciary.

By Mr. WRIGHT:

H. Con. Res. 268. Concurrent resolution providing for a joint session of Congress to receive a message from the President on the State of the Union; considered and agreed to.

By Mr. FRANK (for himself, Mr. STARK, Mr. FEIGHAN, Mr. HOYER, Mr. MOAKLEY, and Mr. COYNE):

H. Con. Res. 269. Concurrent resolution expressing the sense of Congress that while the Soviet authorities are to be commended for allowing Elena Bonner to visit the United States for medical treatment, the Soviet Union is obligated under several international agreements to extend the rights of freedom of expression, of movement, of association, and of communication, to her and to her husband, Andrei Sakharov; to the Committee on Foreign Affairs.

By Mr. LEVINE of California (for himself and Mr. LEWIS of California):

H. Con. Res. 270. Concurrent resolution expressing the sense of the Congress that the Secretary of State should issue a travel advisory with respect to any country in which Libyan-supported terrorists attack U.S. citizens if that country's government fails to act immediately to require the closing of any Libyan diplomatic or trade missions in that country; to the Committee on Foreign Affairs.

By Mr. WRIGHT:

H. Res. 353. Resolution providing for a committee to notify the President of the assembly of the Congress; considered and agreed to.

By Mr. WHITTEN:

H. Res. 354. Resolution to notify the Senate of the organization of the House; considered and agreed to.

H. Res. 355. Resolution providing for the hour of meeting of the House; considered and agreed to.

By Mr. SHAW:

H. Res. 356. Resolution to amend the Rules of the House of Representatives to revise the procedures for requesting rollcall votes on the passage of bills and resolutions to assure the ability of Members to obtain such rollcall votes; to the Committee on Rules.

MEMORIALS

Under clause 4 of rule XXII,

287. The SPEAKER presented a memorial of the Senate of the Commonwealth of Pennsylvania, relative to the issuance of a W.T. Piper and "Cub" memorial stamp; to the Committee on Post Office and Civil Service.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. BREAUX:

H.R. 4022. A bill to direct release of restrictions, conditions, and limitations on the use or conveyance of certain real property located in Calcasieu Parish, LA; to the Committee on Interior and Insular Affairs.

By Mr. UDALL:

H.R. 4023. A bill for the relief of Hilda Tovar-Pinon; to the Committee on the Judiciary.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 669: Mr. DOWNEY of New York, Mrs. LLOYD, Mr. SISISKY, and Mr. LAFALCE.

H.R. 1017: Mr. NEAL.

H.R. 1145: Mr. MCKINNEY.

H.R. 1279: Mr. HAMILTON and Mr. CLINGER.

H.R. 1436: Mr. COOPER, Mr. WILSON, Mr. COBEY, Mr. HARTNETT, Mr. JEFFORDS, Mr. SWEENEY, and Mr. LOTT.

H.R. 1769: Mr. PORTER.

H.R. 1809: Mr. DIXON and Mr. LENT.

H.R. 2116: Mrs. HOLT, Mr. MCCAIN, Mr. WOLPE, Ms. KAPTUR, and Mr. MADIGAN.

H.R. 2226: Mr. CLINGER.

H.R. 2320: Mr. RANGEL.

H.R. 2440: Mr. BENNETT, Mr. BILIRAKIS, Mr. BURTON of Indiana, Mr. DERRICK, Mr. KEMP, Mr. LOEFFLER, Mr. LOTT, Mr. MOAKLEY, Mr. OBERSTAR, and Mr. STALLINGS.

H.R. 2463: Mr. CLINGER and Mr. MARTINEZ.

H.R. 2578: Mr. BRYANT, Mr. DELAY, Mr. RICHARDSON, Mr. STALLINGS, and Mr. WIRTH.

H.R. 2676: Mr. SMITH of Florida, Mr. VALENTINE, and Mr. TAUKE.

H.R. 2782: Mr. WEISS.

H.R. 2793: Mr. BERMAN and Mr. WEISS.

H.R. 2798: Mr. DASCHLE.

H.R. 3006: Mrs. BENTLEY and Mr. LIVINGSTON.

H.R. 3024: Mrs. SMITH of Nebraska, Mr. YOUNG of Alaska, Mr. ST GERMAIN, Mr. CALLAHAN, and Mr. DANIEL.

H.R. 3149: Mr. CLINGER.

H.R. 3357: Mr. GIBBONS and Mr. SILJANDER.

H.R. 3420: Mr. COMBEST.

H.R. 3436: Mr. BARNES, Mr. WYLIE, Mr. BROWN of Colorado, and Mr. DIOGUARDI.

H.R. 3465: Mr. WOLF, Mr. CONYERS, Mr. FAUNTROY, Mr. BRUCE, Mr. HOYER, Mr. ADDABBO, Mr. EDWARDS of California, Mr. CARR, Mr. FOGLIETTA, Mr. PETRI, and Mr. BROYHILL.

H.R. 3660: Mr. WOLPE, Mr. ASPIN, and Mr. SMITH of Florida.

H.R. 3683: Mrs. LLOYD and Mr. VISCLOSKY.

H.R. 3689: Mr. LEHMAN of California, Mr. CLINGER, Mr. CROCKETT, Mr. DIXON, Mr. TRAFICANT, Mr. SMITH of Florida, Mr. COELHO, Mr. VENTO, Mrs. BURTON of California, Mr. WEISS, and Mr. HAYES.

H.R. 3769: Mr. EDWARDS of Oklahoma and Mr. RANGEL.

H.R. 3798: Mr. SAXTON.

H.R. 3830: Mr. BOEHLERT, Mr. MONSON, Mr. WHEAT, Mr. CROCKETT, Mr. MRAZEK, Mr. PURSELL, and Mr. LEHMAN of Florida.

H.R. 3865: Mr. BROOMFIELD, Mr. PACKARD, Mr. BROWN of Colorado, Mr. FUQUA, Mr. TALLON, Mr. BOSCO, Mr. LAGOMARSINO, Mr. ROBERTS, Mr. BOEHLERT, Mr. HENRY, and Mr. LEATH of Texas.

H.R. 3866: Mr. DWYER of New Jersey, Mr. CONYERS, Mr. HOWARD, Mr. BERMAN, and Mr. WORTLEY.

H.R. 3889: Mr. WEAVER.

H.J. Res. 94: Mr. HOPKINS and Mr. KEMP.

H.J. Res. 266: Mr. MANTON, Mr. SHELBY, Mr. MOODY, and Mr. KLECZKA.

H.J. Res. 297: Mr. SUNDQUIST, Mr. BARTLETT, Mr. SILJANDER, Mr. KLECZKA, Mr. DIXON, and Mr. DYMALLY.

H.J. Res. 359: Mr. OWENS, Mr. BONER of Tennessee, Mr. LAFALCE, Mr. BARTLETT, Mr. ANTHONY, Mr. FISH, and Mr. STUDDS.

H.J. Res. 381: Mr. YATES.

H.J. Res. 429: Mr. GOODLING, Mr. HOYER, Mr. CROCKETT, Mr. NEAL, Mr. RICHARDSON, Mr. SMITH of Florida, Mrs. LLOYD, and Mr. WIRTH.

H.J. Res. 439: Mr. COELHO, Mr. FROST, Mr. AKAKA, Mr. REID, Mr. TRAXLER, Mr. MONTGOMERY, Mr. FORD of Michigan, Mr. KEMP, Mr. BROWN of California, Mr. MADIGAN, Mr. BROOKS, Mrs. BOGGS, Mr. MINETA, Mr. VANDER JAGT, Mr. FISH, Mr. RUSSO, and Mr. PARRIS.

H.J. Res. 462: Mr. COURTER, Mr. EDGAR, Mr. RICHARDSON, Mr. SHARP, Mr. TORRICELLI, Mr. FUQUA, Mrs. LLOYD, Mr. OBERSTAR, Mr. IRELAND, Mr. BARNES, and Mr. NEAL.

H.J. Res. 463: Mr. FAZIO and Mr. WEISS.

H. Con. Res. 15: Mr. AKAKA.

H. Con. Res. 26: Mr. MOAKLEY and Mr. WEBER.

H. Con. Res. 41: Mr. RITTER and Mr. SCHUETTE.

H. Con. Res. 233: Mr. TAUZIN.

H. Con. Res. 243: Mr. FISH.

H. Res. 311: Mr. DIOGUARDI, Mr. FISH, Mr. DASCHLE, and Mr. DELLUMS.

H. Res. 346: Mr. PORTER, Mr. MITCHELL, Mr. DWYER of New Jersey, Mr. BERMAN, Mr. SAXTON, Mr. REID, Mr. LELAND, and Mr. SCHEUER.

PETITIONS, ETC.

Under clause 1 of rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

264. By the SPEAKER: Petition of the Congress of the Federated States of Micronesia, relative to Pell grants; to the Committee on Education and Labor.

265. Also, petition of the Township Council, Township of Aberdeen, NJ, relative to nuclear war; to the Committee on Foreign Affairs.

266. Also, petition of the National Foreign Trade Council, relative to United States Canada trade negotiations; to the Committee on Ways and Means.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 2443

By Mr. SHUMWAY:

—On page 17, line 20, add a new subsection (h) to section 5 as follows:

"(h) Section 3(b), 4(c) and 4(d) shall not apply to a check if the receiving depository institution reasonably believes that the drawer or drawee of the check has become, or is about to become, subject to bankruptcy, receivership or similar proceeding, or when the receiving depository institution reasonably believes that a situation involving fraud or kiting exists."

SENATE—*Tuesday, January 21, 1986*

The 21st day of January being the day prescribed by Senate Joint Resolution 255 for the meeting of the 2d session of the 99th Congress, the Senate assembled in its Chamber at the Capitol, at 12 noon.

The PRESIDENT pro tempore. The Senate will come to order. The Chaplain will now deliver the opening prayer.

PRAYER

The Chaplain, the Reverend Richard C. Halverson, D.D., offered the following prayer:

Let us pray.

Trust in the Lord with all thine heart; and lean not unto thine own understanding. In all thy ways acknowledge Him, and He shall direct thy paths.—Proverbs 3:5-6.

Gracious God, our Father, thank You for the safe return of the Senators and their families, for the rest, relaxation and family togetherness, for the work accomplished and the opportunity to be refreshed for the months ahead.

And we thank You for the recovery of Senator CHILES and his renewal of strength. You know, Lord, that Congress confronts a monumental task these next 8 months which will test the wisest and best of human capacity. Infuse Your servants, the Senators, with the will to meet the challenge head-on, to give leadership which they alone can give, the wisdom to process complicated and conflicting data and the courage to do whatever must be done at whatever cost to themselves. Enable the Senators to make these next 8 months a period of unprecedented and significant legislation which will prove false the prognostication of the cynics and the pessimism of self-appointed detractors. In the name of the Lord for Whom nothing is impossible. Amen.

CALL OF THE ROLL

Mr. DOLE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. GORTON). The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll and the following Senators entered the Chamber and answered to their names:

[Quorum No. 1]

Byrd	Gorton	Simpson
Cochran	Leahy	Stevens
Danforth	Mattingly	Thurmond
Dole	Moynihan	

The PRESIDING OFFICER. A quorum is not present. The clerk will call the names of the absent Senators.

The assistant legislative clerk resumed the call of the roll and the following Senators entered the Chamber and answered to their names:

Andrews	Grassley	Packwood
Armstrong	Harkin	Pressler
Bentsen	Hatfield	Proxmire
Bingaman	Heflin	Pryor
Bradley	Heinz	Quayle
Chafee	Helms	Riegle
Cranston	Hollings	Rockefeller
Dixon	Johnston	Rudman
Domenici	Kasten	Sarbanes
Durenberger	Kerry	Sasser
East	Lautenberg	Specter
Exon	Lugar	Stafford
Ford	Matsunaga	Stennis
Garn	McClure	Trible
Glenn	Melcher	Wallop
Goldwater	Metzenbaum	Warner
Gore	Mitchell	Weicker
Gramm	Nickles	Wilson

Mr. SIMPSON. I announce that the Senator from South Dakota [Mr. ABDNOR], the Senator from Minnesota [Mr. BOSCHWITZ], the Senator from Maine [Mr. COHEN], the Senator from New York [Mr. D'AMATO], the Senator from Alabama [Mr. DENTON], the Senator from Washington [Mr. EVANS], the Senator from Utah [Mr. HATCH], the Senator from Florida [Mrs. HAWKINS], the Senator from Nevada [Mr. HECHT], the Senator from New Hampshire [Mr. HUMPHREY], the Senator from Kansas [Mrs. KASSEBAUM], the Senator from Nevada [Mr. LAXALT], the Senator from Maryland [Mr. MATHIAS], the Senator from Kentucky [Mr. MCCONNELL], the Senator from Alaska [Mr. MURKOWSKI], the Senator from Delaware [Mr. ROTH], and the Senator from Idaho [Mr. SYMMS] are necessarily absent.

Mr. CRANSTON. I announce that the Senator from Montana [Mr. BAUCUS], the Senator from Delaware [Mr. BIDEN], the Senator from Oklahoma [Mr. BOREN], the Senator from Arkansas [Mr. BUMPERS], the Senator from North Dakota [Mr. BURDICK], the Senator from Florida [Mr. CHILES], the Senator from Arizona [Mr. DECONCINI], the Senator from Connecticut [Mr. DODD], the Senator from Missouri [Mr. EAGLETON], the Senator from Colorado [Mr. HART], the Senator from Hawaii [Mr. INOUYE], the Senator from Massachusetts [Mr. KENNEDY], the Senator from Michigan [Mr. LEVIN], the Senator from Louisiana [Mr. LONG], the Senator from Georgia [Mr. NUNN], the Senator from Rhode Island [Mr. PELL], the Senator from Illinois [Mr. SIMON], and the Senator from Nebraska [Mr. ZORINSKY] are necessarily absent.

The PRESIDING OFFICER. A quorum is present.

The majority leader is recognized.

NOTIFICATION TO THE PRESIDENT

Mr. DOLE. Mr. President, I send a resolution to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The resolution will be stated by title.

The assistant legislative clerk read as follows:

A resolution (S. Res. 295) informing the President of the United States that a quorum of each House is assembled.

The PRESIDING OFFICER. Is there objection to the present consideration of the resolution?

There being no objection, the resolution (S. Res. 295) was considered and agreed to, as follows:

S. RES. 295

Resolved, That a committee consisting of two Senators be appointed to join such committee as may be appointed by the House of Representatives to wait upon the President of the United States and inform him that a quorum of each House is assembled and that the Congress is ready to receive any communication he may be pleased to make.

The PRESIDING OFFICER. Pursuant to the resolution, the majority leader and the minority leader are appointed as members of the committee.

Mr. DOLE. Mr. President, I move to reconsider the vote by which the resolution was adopted.

Mr. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

NOTIFICATION TO THE HOUSE

Mr. BYRD. Mr. President, I send a resolution to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The resolution will be stated by title.

The assistant legislative clerk read as follows:

A resolution (S. Res. 296) informing the House of Representatives that a quorum of the Senate is assembled.

The PRESIDING OFFICER. Is there objection to the present consideration of the resolution?

There being no objection, the resolution (S. Res. 296) was considered and agreed to, as follows:

S. RES. 296

Resolved, That the Secretary inform the House of Representatives that a quorum of the Senate is assembled and that the Senate is ready to proceed to business.

Mr. DOLE. Mr. President, I move to reconsider the vote by which the resolution was agreed to.

Mr. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

SCHEDULE

Mr. DOLE. Mr. President, I know there are a number of Senators who wish to make statements. Our side is having a policy luncheon. I have suggested to the distinguished minority leader that perhaps we might stand in recess until 2 p.m.

At that time, the two leaders will have 10 minutes each. Then there will be a special order, and there may be other statements. I know that the distinguished Senator from New York [Mr. MOYNIHAN] wants to make a brief statement.

Then we will attempt to proceed to the consideration of Conrail this afternoon. Failing that, we will file a cloture motion on the motion to proceed, with the vote to occur on Thursday.

RECESS UNTIL 2 P.M.

Mr. DOLE. Mr. President, I move that the Senate stand in recess until 2 p.m.

The motion was agreed to, and at 12:55 p.m. The Senate recessed until 2 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer [Mr. NICKLES].

Mr. MITCHELL. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. MOYNIHAN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

Mr. PRESIDING OFFICER. Without objection, it is so ordered.

ORDER OF PROCEDURE

Mr. DOLE. Mr. President, let me indicate to my colleagues that the distinguished minority leader and I shall call the President and advise the President that we have a quorum present and we are prepared to do business. That call will not take over 5 or 10 minutes, then I hope that we might obtain unanimous consent to go to Conrail. There is no reason we should not get such consent. If there is objection, we shall try some other way.

FRESH START—OLD DREAMS

Mr. DOLE. Mr. President, I welcome my colleagues back to the Senate. I remind them that just about a month ago, we completed our work in the first session. We did not accomplish everything we sought, but there were a number of major achievements. I guess you could start from near the end of the session and go backward or forward. Passage of the 1985 farm bill, which not only makes major reforms in Federal farm policy, but gives farmers across the Nation a sense of certainty and continuity essential to their lives and livelihoods, is chief among them. Once again, the Senate passed landmark immigration legislation overhauling our antiquated and inadequate laws governing immigration policy. The Senate grappled with other large issues of the day—the nuclear arms race through the MX and SALT debate, aid to the Nicaraguan rebels, Mideast policy in the Jordanian arms sale, and apartheid in the South Africa economic sanctions bill. The Senate passed gun control legislation and important environmental measures—clean water, Superfund. And I hope that with the help of the House we can complete work on these bills this year.

At the end of the session we adopted the Gramm-Rudman-Hollings balanced budget amendment—a mechanism to force what we were seemingly unwilling to do of our own volition; reduce the Federal deficit. Whether Gramm-Rudman-Hollings was a brilliant stroke, or something else is a question still unanswered.

There are a lot of premature obituaries about this legislation. I suggest that we let it take its course and find out if it has the desired effect on the Congress. It may change the voting habits and patterns of many of us.

NO. 1 PRIORITY STILL DEFICIT REDUCTION

Even with the passage of Gramm-Rudman-Hollings, we left the basic issue—the No. 1 domestic issue—our Nation's fiscal policy—largely unresolved. So, once again, the Federal deficit will top our list of priorities. I may sound like a broken record—certainly my list of top 10 hits has not changed much. But no concern—whether foreign or domestic—is left untouched by what fiscal policy course this Government—this administration in concert with Congress—sets for the country.

Whether it is building or paring our nuclear arsenal, granting aid to our allies—in the Middle East, in Africa, in Central America—whether it is providing adequate health care to the elderly and the needy, economic support to the farmers who feed millions at home and abroad, what we do this year to dam the flow of Federal spending will shape our todays and echo through ours and our children's tomorrows.

Gramm-Rudman-Hollings is there to put our feet to the fire. But I for one do not see it as a substitute for the backbone and determination that will be necessary when the time comes to face up to the cold hard numbers of this year's budget and next year's.

Last spring 50 Members of the Senate—all but 1 of them Republican—stood up and were counted on the vote for the budget resolution. They showed that were willing to make decisions most politicians are reluctant, at best to make. This year, we'd like a little company, from every direction—across the aisle, up Pennsylvania Avenue. We want it to assure the continued peace and prosperity of this Nation.

I think it is fair to say we cannot have it both ways. We cannot decry Federal spending and talk about balancing the budget and all the other things that go with many great speeches made on the floor without making many difficult choices. It was not even too difficult to vote for Gramm-Rudman. The difficult part may come when those who voted for it and, hopefully, some who voted against it, will have to face up to specific alternative suggestions or whatever may come in the next few months.

Mr. President, the bottom line is, we have a lot of unfinished economic business on our platter for 1986. We must complete budget reconciliation for fiscal 1986, we must decide whether Congress will offer an alternative to the first round of Gramm-Rudman-Hollings cuts—and we must adopt a fiscal 1987 budget plan. Two related budget issues—the constitutional amendment to balance the budget and the line item veto, are also ripe for action.

I hope the constitutional amendment to balance the budget will be a bipartisan priority. I believe it is. I think there are Members on both sides who support that. To me that would correct a major flaw in Gramm-Rudman-Hollings. It cannot be changed by the will of Congress. A constitutional amendment is one thing, a statute.

I hope we would give the line item veto another shot this year. We had 58 votes for that bill last year. Hopefully, with the pressure on the fiscal side, some of our colleagues who voted no will changes their votes.

OTHER DOMESTIC ISSUES

Before adjourning last year the House passed a massive tax reform measure—now it is up to the Senate to work its will on tax reform. And I hope that we will be able to do that quickly, completing Senate action early this summer.

Tax reform is obviously a matter of the utmost importance to many of us and the President. The President indicated this morning it is still his No. 1 domestic priority. I think we have to and will address that very quickly starting this weekend. The distinguished chairman of the Finance Committee [Mr. PACKWOOD] and other Members will go off and think about the tax bill and see if they can reach some consensus.

The trade deficit, in my view, is one that needs attention. Hopefully again this will be bipartisan. There are a number of Senators on each side who cosponsored trade legislation. I expect before the year is out there will be at

least one major trade bill on the floor, maybe more.

The U.S. trade deficit continues to widen. And so, we must decide this year what, if any legislative remedies should be prescribed for trade. As we start this session the Senate has two trade measures already on the calendar—one, S. 1404, is the Japanese unfair trade practices bill; the other, S. 942, the telecommunications bill. Both could be debated soon. And we need to move ahead on S. 1860, the bipartisan trade initiative that was introduced on November 20, 1985. This measure addresses a broad range of trade issues and attempts to strengthen our ability to eliminate barriers to U.S. exports by enhancing retaliatory authority and setting time limits for action on the part of the U.S. Government.

The first issue before the Senate this year will be the sale of Conrail. We also must decide whether or not to televise Senate floor actions. Hopefully, we can work out some agreement where we do not spend an inordinate amount of time debating whether we should have TV in the Senate. We have nominations, of course, a number of Federal judgeships and other nominees that we now believe we can move along on a regularly scheduled basis.

FOREIGN AND DOMESTIC AFFAIRS

Mr. President, as always, maintaining and strengthening our national security will be at the top of our agenda. There are some critical issues which we will be addressing within the first weeks of this new session.

At the end of the last session, I wrote to the chairmen of the Rules and Administration, Governmental Affairs and Intelligence Committees, asking that they take the lead in a comprehensive review of security procedures in the Senate.

I am reminded of the 20/20 show last week which demonstrated how easy it was to gain access to not only the Capitol but the Hart Building, for example. I missed that program. But apparently it would not be any great feat to get by the guards who are supposed to be protecting Members of the Senate. So I have asked the Sergeant at Arms to be a little more diligent in that area and he has given me a report on the steps that have been taken. We will also have other reports from the committee chairmen to ensure that we not have a repetition of the serious compromises of national security information which have occurred in the executive branch and in the House. The distinguished chairmen of those committees will be meeting this week to lay out their plans for the review. They will be coordinating their activities with the other interested committees and offices of the Senate, some of which are already working on this matter—especially the Foreign Relations and Armed Services Committees and the Offices of the Secretary of the Senate and the Sergeant at Arms. A report of the review, with recommendations, will be forthcoming within 60 days.

We also have some immediate challenges on the legislative calendar. Carrying over from the last session, we have an important package of counterterrorism aid to several Central American countries on which we must act soon. The authority for assistance to the democratic resistance forces in Nicaragua, the so-called Contras, expires at the end of March.

I believe there is more than enough sentiment to renew that authority in some form, perhaps some different form. The administration will probably have a proposal as indicated this morning by Secretary of State Shultz. My own resolution on Angola which I had hoped we could pass last session is also still pending. I may choose to revise and extend its provisions in light of developments in Angola during the recess.

I also hoped we would have voted on the Genocide Treaty last year. I raised that this morning in the presence of the President. The President, of course, wants action on the Genocide Convention. It is my hope that in the very near future we can bring that matter before the Senate.

The administration must decide on whether to go ahead, at this time, on its arms sale package for Jordan. Candidly, there is still great sentiment in this body to delay that sale, until such time as it can be shown clearly that it would encourage the Middle East peace process. The administration reportedly is also contemplating an arms sale to Saudi Arabia, although the scope and contents of the proposed sale are still unclear. Again, any such sale will be critically examined, to insure that it serves to enhance, not undermine, the prospects for peace in the Middle East.

The arms control talks in Geneva have resumed, with some new hope that, after last year's summit, the Soviets may be willing to put aside the propagandizing and rhetoric and engage in serious talks aimed at a balanced, verifiable arms control agreement. The arms control observer group will again be monitoring the Geneva talks for the Senate and will report to us periodically on developments.

Again, as I overheard the distinguished minority leader, we do have a bipartisan observers group initially suggested by the distinguished minority leader, and I too hope to have an opportunity to visit and participate in one of the observation sessions in Geneva sometime this year.

There is also a critical election in the Philippines scheduled for February 7, which will have an enormous impact on the future of that key ally. The Foreign Relations Committee, which will hold a hearing on the Philippines this week, will be recommending to us shortly whether it is in our interest to send Senate observers to that election.

On defense issues, our major challenge will be reconciling budgetary concerns with the needs of our national security. The distinguished chairman of the Armed Services Committee has set an ambitious schedule for developing an authorization bill by the early spring. Many of us will be involved in the difficult issues which will emerge: SDI, Asat, chemical weapons and readiness issues.

The question is how the budget process will affect defense spending. It is my view, if you look at the rather substantial cuts made in defense spending, that we are getting fairly close to a danger area if we continue to single out defense for 50 percent of any reductions that we may have. I guess what I am suggesting is that the budget process will work and hopefully even beyond that there may be a renewal of the bipartisan group working with the administration to see if we can resolve some of the budget conflicts long before the second round of automatic Gramm-Rudman reductions would trigger.

Simultaneously, the Armed Services Committee will also be working on a priority basis on a supplemental authorization bill to cover money appropriated in the continuing appropriations resolution, but not authorized; the matter of Defense Department reorganization; and the military retirement system. It is also, of course, impossible to ignore that this is 1986. It is an even-numbered year. In even-numbered years we have elections and there will be elections this year and the stakes are high, including who will control the Senate in the 100th Congress. But we are all adults, we understand the need at vote time for reelection and controlling the Senate, but it is my view that we can do our work and still do our best on this side—and they will do their best on that side—to retain and strengthen our control in the Senate. I assume Democrats will do the opposite. We understand that. But I would hope, notwithstanding the fact that 1986 is an election year, we can come to grips with a number of issues that were pending when we left, are pending on our return and hopefully will be concluded when we adjourn this October.

Mr. President, I will now accompany the minority leader to telephone—I will see if he has a dime—the President and tell him we have a quorum and are prepared to do business. In the meantime I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. DOLE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE UPCOMING SESSION

Mr. BYRD. Mr. President, the Senate of course, begins the 2d session of the 99th Congress today. As it does so, a formidable number of complex issues confront our Nation. I hope Congress and the White House will be better able this year, than last year, to propose appropriate and creative solutions to the many problems that face the Nation, certainly the major ones.

Senate Democrats will continue to propose responsible, compassionate solutions to our national economic problems, to our budget crisis, and to our national security requirements.

I believe that there is no more pressing issue for the Congress and the President this year than finding a way to achieve a balanced budget in a way that protects the future of this country, protects the national security, provides for a strong defense, and requires every person who can possibly do so to shoulder his or her share of the burden. Many of the supporters of Gramm-Rudman are only now beginning to realize the consequences of the process they set in motion last year.

Our military capabilities, for instance, are to receive a cut of $13.1 billion in budget authority in this fiscal year because of the automatic sequestration process initiated by the Gramm-Rudman amendment predictably, the majority of those cuts are concentrated in the budget accounts most important to the daily combat readiness of our Armed Forces.

What is more, if Congress and the President cannot agree on an acceptable budget for the coming year, then we also face the prospect of even further reductions in defense before the year is out, perhaps as much as $50 to $70 billion in budget authority. A staggering reduction of that magnitude would force a fundamental reevaluation of our national security and our strategic position in the world. We simply will not have the money to fulfill our commitments in regard to treaties, commitments to our allies while maintaining our current level of preparedness.

Whatever the faults with that process—and I believe they are many—they do not relieve us of the obligation to continue to work toward a budget that represents our best judgment of the priorities this great country should have—not just the lowest common political denominator.

Last year, Democrats were in the forefront of offering responsible budget proposals that not only would achieve significant deficit reduction—more in fact than the proposals advanced by the administration and others—but which also would have encouraged investment in our future, promoted economic growth and competitiveness, kept our defenses second to none, and asked those corporations that pay no Federal income taxes to join the crusade to balance the budget and pay their fair share.

This year, with the sword of Gramm-Rudman hanging perilously over our heads, Democrats will continue to advance budget proposals that adhere to those basic principles. The working group that I have appointed under the leadership of Senators CHILES and HART is already hard at work.

They are preparing for the fundamental debate we will soon have on the fiscal priorities of this Government. I expect their proposals to embody the Democratic vision of the future, not only reducing budget deficits, but also creating the kind of nation that will be stronger tomorrow than it is today and one we will be proud to pass on to our children.

Perhaps the single most important component of the reordering of the Government's fiscal priorities must be reform of the Tax Code. In recent years, that Tax Code has treated the wealthy and major corporations far more generously than middle and lower income Americans. A proliferation of "tax preferences"—or loopholes—has provided favorable tax advantages to powerful individuals and some business interests.

And what of the average American? Well, he or she is left believing the system is unfair and unjust.

Democrats have always been in the forefront of tax reform. That leading position is typified by the work of Senator BRADLEY who, in addition to being one of the original proponents of tax reform, is also chairman of the working group that I have established on tax reform.

It is my hope that tax reform can be considered early in this session. The American people have labored for too long under a tax system that places a heavy burden on the middle-income family while allowing wealthy individuals and some profitable corporations to escape from paying their fair share.

We Democrats want to see a tax bill that will ease the burden on middle-income Americans, that will restore the competitiveness of the American economy, and will ensure that all Americans pay their fair share. And we will work for such a tax reform measure.

Mr. President, the Senate's agenda is not confined to the affairs within the 50 States. Relations with the Soviet Union again will be at the top of the Nation's international agenda. No one can reasonably doubt that the Soviets will remain anything other than our principal adversary. Nevertheless, we should make every effort to develop and deepen that relationship on more constructive tracks—particularly in the field of arms control in critical regions of the Third World.

Democrats in the Senate will do their part to further the cause of peace, international stability, education, and basic living conditions for all peoples, for these are goals and issues that go beyond party politics. In this vein, we fully support the President's efforts to establish a sound arms control agreement with the Soviets.

Senator DOLE and I have encouraged the arms control observer group to continue its work and to prepare for a visit to the negotiations early in the fourth round of the talks. I personally plan to accompany the group to one of the negotiating rounds later this year.

The recent Soviet offer of another comprehensive proposal at the outset of this current round is an encouraging sign, as is the welcome it received from the President. It will take serious and continued discussions on the whole complex of issues on the table at Geneva if the negotiators are to achieve a mutually acceptable treaty capable of Senate support ratification.

In addition, Mr. President, the second Reagan-Gorbachev summit meeting will take place in the United States sometime this year. I hope this will represent another opportunity to bring the American view of our relations with the Soviet Union directly to the Soviet people. The mutual exchange of views, by both President Reagan and General Secretary Gorbachev, beamed directly to both populations on New Year's Day this year, was a welcome event, unprecedented in our relationship.

I understand President Reagan's brief address was broadcast in its entirety to a vast segment of the Soviet population. President Reagan has great strengths as a public communicator and is highly effective in expressing his views on television. As well, we certainly welcome Mr. Gorbachev's interest in expressing his views to the American people. Additional initiatives of this type to keep this dialog going will certainly be in order over the course of this year.

The defense budget crunch will also affect other international relationships at it highlights the need of our allies, both in Europe and Japan, to shoulder a greater burden of our mutual defense requirements. The great reluctance of our allies to do so over the last few years portends difficult decisions for the Senate on this regard.

At the close of the first session, the majority leader indicated that we would deal with several important pieces of trade legislation in the

second session. I am pleased that Senate Republicans are willing to join with Democrats in a call for action on trade. This administration presided over yet another record increase in our trade deficit in 1985, possibly reaching $140 to $150 billion.

In the face of this alarming trend, the administration continues to do nothing to define a realistic trade policy. The only action to date—an inconclusive effort to talk down the over valued dollar—came in response to Democratic initiatives.

But the administration offers no comprehensive plan of the kind Senate Democrats have demanded in the preliminary report of the trade policy working group chaired by Senator BENTSEN. We know what the administration is against. The President has denied the International Trade Commission's recommendations for import relief for the footwear and steel industries, and he has vetoed trade legislation relating to textiles—the legislation that has been so skillfully enacted on the part of the Senate by Senators HOLLINGS and THURMOND—that had broad bipartisan support. That is what the administration is against, but we still do not know what it is for when it comes to trade policy.

Senate Democrats are prepared to work hard to continue to urge the administration towards a comprehensive, realistic approach to trade policy. The Trade Policy Act (S. 1837), offered by Senator BENTSEN on behalf of all Senate Democrats, is but one example. There are others, and there will be others.

The time for waiting and hoping for administration leadership on the trade front is long past. We are prepared to move forward, and we are pleased to know we will have the opportunity to do so.

Important as the work on the budget and tax reform will be, it must not divert the Senate from its legislative responsibilities in other areas. For instance, much of the attention to the Medicare Program in recent years has been dictated by the need to control spending. However, we have reached the point where further cuts must be examined closely. In the haste to control spending, we must not jeopardize the health care of our elderly citizens.

Attaining the deficit goals established by the Gramm-Rudman legislation also must not force us into making penny-wise but pound-foolish savings. When it comes to investments in the Nation's future, especially education, as well as health care and infrastructure development, we must not be shortsighted. As in the past, Democrats this session will continue to stand behind proposals that advance the notion that even amidst the budget crisis, we must build for the future. Otherwise, our children and their children, will inherit a standard of living below that which we enjoy today. That is not a legacy that I, nor any Democrat, want to leave to future generations.

Other serious issues in foreign policy will confront us during this second session. The administration's instinctive reaction to most foreign policy situations has been caution, indecisiveness, rhetoric without credible action, or ill-considered militarism. This has been true particularly in the Middle East.

We will be faced with a series of decisions in the Third World and on choices for the best policy for the United States in situations on every continent, such as Angola, Nicaragua, Afghanistan, Cambodia, and the Philippines. We will be faced with military, economic, humanitarian, and other aid questions. We have some hard work and difficult debates ahead of us if we are to make wise judgments.

We must address the overall question of terrorism. I have been disappointed in the lack of support that our allies in Europe have given us in the policy of sanctions with regard to terrorism. Bullies only understand resolute action. We should give thorough examination to the so-called Holloway report to be released next month. Strenuous efforts to bring our allies along with us will be needed, and the Senate should be playing a role in this.

I also will be encouraging the majority leader to get the genocide Convention before the Senate early in the session. That matter is overdue and I think it clearly commands enough support for Senate approval for ratification. The Soviets are, by some standards, committing genocide in Afghanistan. In ratifying that treaty, we can more forcefully bring the case against Soviet behavior in Afghanistan before the bar of world opinion.

This session will deal with some of the most important public policy issues this Nation has ever confronted. It will not be an easy session, for the issues are not easy ones to resolve. It is my hope, however, that during this session, we could begin a test period of televising certain Senate proceedings. It is important for the American people to see how the Senate debates and resolves the issues which the country faces.

Last session, I introduced Senate Resolution 28 providing for televising Senate proceedings. That resolution was reported from the Rules Committee on November 19. It is my sincere desire that the majority leader will schedule that resolution within the next week or two so that the Senate can decide the issue and that the necessary technical preparations can be made.

In summary, Democrats remain committed to advancing proposals that will build a bright future for this Nation. Action on reducing budget deficits, achieving a good tax reform bill, and enhancing our international competitiveness rank high on our list of items that must be accomplished. In addition, efforts to establish greater stability in the world—through arms control, improvements in United States-Soviet relations, and control of terrorism—will be important Democratic priorities for Democrats, as well as for the American people. I hope the Senate can work together to achieve each of these goals for the benefit of the entire Nation and the world.

REDUCTION IN DEFENSE SPENDING

Mr. MOYNIHAN. Mr. President, over the past several days there has been a measure of press comment about an exchange between me and my friend, the junior Senator from Texas [Mr. GRAMM], on the television program "Meet the Press," which appeared Sunday as it has for many years. My appearance represented, in fact, the New York Times noted, a certain coming of age. This was the 21st year on which I appeared on "Meet the Press" in various capacities.

There were three persons who appeared this Sunday past: myself; my distinguished colleague, the junior Senator from Texas; and the Honorable James C. Miller III, who is the Director of the Office of Management and Budget. We were interviewed by Marvin Kalb, the now moderator in a distinguished succession of moderators; Mr. Albert Hunt of the Wall Street Journal; and Miss Elizabeth Drew of the New Yorker; all three New York institutions, I can observe.

At one point, I was discussing a matter of concern to me, which I had also expressed on this floor during the rather unstructured debate on the legislation known as Gramm-Rudman-Hollings. I discussed my concerns about the effects of the legislation when we first learned there was to be such a bill, we had no bill before us. We had no printed bill, and we could not be very clear what we were discussing. I came to the floor again on the one day in which we had a printed bill, as it returned from the conference committee. On both occasions—once in October and once in November—if you recall, there were 24 votes in opposition to the legislation, and on both occasions I was one of those who voted in opposition, which accounted, I think, for my being on this program.

A concern I have had, do have, have expressed, and will continue to express, has been the effect of the prospect of a sharp reduction in defense spending on our arms control negotiations with the Soviet Union in Geneva, and my fear that there will be such reductions in the absence of any increase in revenue. On Sunday I noted

that, the day after Gramm-Rudman was adopted, my distinguished friend from New Jersey, Senator BRADLEY—and I joined him—offered an 18-cent-a-gallon gasoline tax and we got nine votes, which suggested to me we are going to have to go through the process of automatic spending cuts that is anticipated in the absence of revenue increases.

It has always seemed to me that the basic judgment the Soviets will make about Geneva is that they will determine whether or not to enter an arms control agreement with us in accordance with a judgment of what we will do in the absence of an arms control agreement. That is a reasonable thing. And I think we see their patterns of negotiation well enough over the last 30 years to follow this.

And I have thought, although this is not the administration's position at the moment, but it seems to me there was a chance of a very large and extraordinary understanding, if not actual agreement, coming between our two countries. The Soviets are clearly anxious, and more—they are alarmed about the prospect that the United States might produce a successful nuclear shield as envisioned by the strategic defense initiative.

And it is clear from some of their offers about reduction in warheads by 50 percent, and such, that one can see the prospect of an agreement. In the debate I mentioned this, and said, this is not the administration position. I am well aware of that. But still, if we were agreeing not to build a strategic defense initiative, the Soviets would take down their heavy missiles—in particular, their 300 SS-18's with their 10-warhead MIRV'ed capacity, which is the great first strike capacity in the world today—that they would move to mobile, one-warhead or lightly MIRV'ed missiles as indeed they are doing in their SS-23 and SS-24, and we would move to the Midgetman that was proposed by the Scowcroft Commission, a one-warhead mobile missile. By the end of the century we might see our nuclear arsenals both reduced and deployed in a deterrent mode so that moment of launch on warning with 10-minute decisions in times of panic, and perhaps vastly consequently misunderstanding, would recede; and, we would enter the next century with a much greater expectation than perhaps we would have otherwise deserved.

Yet, I said in this Chamber during that debate, if the Soviets find we passed a law that prevents the trillion dollar outlay on the strategic defense initiative, they will give up attempting to reach an agreement, and that I feared that is what this law would be. And I quoted an official in the State Department, Mr. Sims, I believe, who said this vote would give comfort to the Soviets. I said Sunday, day before yesterday, on "Meet the Press," that the President—this President—had wanted an arms control agreement with the Soviet Union as no other thing. He wanted to see the number of nuclear warheads go down.

Now the Soviets are willing to make an agreement if we will take out that star wars. They now see that we have passed a law that makes star wars illegal.

Let me grant a certain hyperbole. But this is television. On the front page of Al Hunt's Wall Street Journal on Friday, a Soviet analyst—I have here in the text, as "They said"—said just what we said in the debate. A Soviet analyst said, "We are watching Gramm-Rudman very closely." That was the front page of the Wall Street Journal last Friday quoting the Soviet analyst—I gather the one here in Washington. I said, "Listen, Amtrak is one thing, and the Agricultural Extension Program is one thing. But nuclear agreement to bring down those heavy missiles on both sides, that is everything and we are going to lose it."

Mr. President, those are arguable propositions. I have made them before. They have never been answered. I can see someone arguing and saying that is not so. I can see an argument in refutation. That is what "Meet the Press" has been since Larry Spivak began it many decades past. But this was the response from my learned friend. He said, "To show you what miracles there are in Gramm-Rudman, we have on one side"—here gesturing to himself—"one of the strongest supporters of national defense in the country, and"—looking at me—"one of the weakest."

Mr. President, that, I believe, is called an argument ad hominem. My Latin is not much more extensive than that. But an argument ad hominem speaks to the character in person rather than the quality of the argument made.

So I replied, "Wait my friend. Name a bill." It seems to me perfectly legitimate to say, "Name a bill." I repeated it. "Name a bill." My friend said, "Yet, now suddenly, we are having all of the Democrats who have not supported the President on defense who are saying, my God, Gramm-Rudman is going to decimate defense. Well, it's not going to decimate defense. We are not going to have the across-the-board cuts. We are going to make hard choices because we are not going to have any alternative."

Mr. Kalb asked about the 3-percent real increase in defense spending reported to be in the President's budget. I said, "Marvin, I am not going to allow my voting record to be misrepresented. You're 1 year in the Senate, fella"—and I apologize for that term "fella," but it was a difficult moment. I should have said "Senator." I would like to extend, and amend the RECORD to say "You're 1 year in the Senate, Senator. You do not do that to another Senator. I have voted, with one exception, for every defense appropriation bill since I have come to the Senate, and this year with Gramm-Rudman, for the first time in 15 years, the dollar amount for defense spending is going down—the first time in 15 years—under your bill. I would not misrepresent you. Don't you misrepresent me."

Later, my friend said—referring not to me any longer, but to the National Democratic Party—"Let me state it that way since I think that is the clear point as not traditionally supporting the President on defense."

First of all, Mr. President, my voting record is nothing notable, but it should be recorded. I have voted on nine defense appropriation bills since coming to the Senate. I have voted aye on seven in a recorded vote. In a voice vote, I have voted aye on an eighth. I have one time voted nay. That was on November 8, 1983, for fiscal year 1984, and I appended a short statement, saying that I was doing this because of my opposition to the administration proposal to procure and deploy MX missiles in Minuteman silos.

That was a view I had expressed on the floor with some conviction, and yet it could be wrong. But I think, in the main, it was the judgment of this body that this was not a good idea. It is not like the deployment President Carter proposed of 200 in a mobile manner, or this President of 100 in a fixed manner.

May I say, Mr. President, I have served in the Cabinet of the two preceding Republican Presidents. I recall the days when Melvin Laird, a distinguished, honorable, patriotic man, and Secretary of Defense began coming in, reporting to the Cabinet that the Soviets were producing MIRV'ed, long-ranged ICBM's that could reach our Minuteman silos, they could no longer be considered part of a deterrent triad, and we had to get out of those silos. It was so long ago that we ended up after 15 years wandering in the desert going right back into the places we had to get out. But we will not get into that argument.

I once voted nay on that one subject—eight votes aye, one nay. That is my record.

GRAMM-RUDMAN-HOLLINGS

Mr. President, on another subject which is not necessarily relevant, but those of us who have had the experience would know it and recognize it as such. I came of age during the Second World War by which I mean I reached age 17 which was the age of enlistment in the armed services.

As I recall, it was 2 days after I turned 17 that I applied for the Navy for enlistment in a program that they had. And I was sworn in. I enlisted on

May 2, 1944. That comes to about 5 weeks after I turned 17. I reported for active duty on the first of July, served in active duty for 3 years, and went into the Active Reserve. I stayed in the Active Reserve for 20 years. I was not especially active after a point, I grant, but I have been in the Mediterranean, I have been in the North Sea, I have been in the Atlantic on cruises, and I was aware that I was told to go when I was told to.

I was honorably—somewhat unceremoniously—released from active duty by a form letter I received dated April 1, 1966—23-plus years in the Naval Reserve. I care about the Navy.

I care about our defenses.

I do not care to be called one of the weakest supporters of national defense. I served for 8 years with Chairman Scoop Jackson, and I was chosen to give the defense speech in the 1968 Democratic Convention. I pointed to an item in the Republican platform that was struck after all, though defense had increased in every year of President Carter's administration. In my campaign of 1976, I said whoever is next President will have to increase defense. He has to.

The Republican platform characterized our platform as the equivalent of unilateral disarmament. I said, admittedly not to a wholly attentive audience in Madison Square Garden, something I would like to repeat. I said, "Can people this careless with words be trusted with power?

I wondered.

I must say, Mr. President, that it has been a source of great gratification that at least a half dozen Members from the opposite side of the aisle have expressed to me their personal regret today that the exchange took place as it did on Sunday. That is characteristic of the quality of so many of our friends on that side.

I take the opportunity to draw this to the attention of the Senate because it was brought to my attention. At least 15 Senators spoke to me about it this morning. As I said, from that side of the aisle, I heard expressions of regret which were genuine and receptive and which certainly were a source of gratification to me.

I hope this is not the way we are going to commence this last session of the 99th Congress. We are going to have bitterly painful decisions to make. We have set them in motion. They are already in motion. The Comptroller General issued his sequestering provisions this morning. They will take $3 billion out of operation and maintenance in the armed services, exactly what Senator HART and I said would happen when you are cutting defense. The first thing that goes is readiness and back you move toward that situation of ever-greater reliance on strategic weapons because strategic weapons are not very expensive. You do not feed missiles, you do not give them furloughs, and you do not retire them. They do not have retirement.

I asked my friend Mr. Miller—I cannot call him a good friend, but I am sure he will become one—later, how did we get a program in the Navy for prescribing the number of showers? He said, "Well, I do not know either." All the poor man could say was that it came out of the computer and there will be fewer of them.

Let us not take this most difficult and trying and testing of sessions and turn it into name-calling, accusation, and innuendo. We lived through that in the period of Joe McCarthy. We have had enough of it around here already.

In the course of this last debate on Gramm-Rudman-Hollings, I saw other Members on the floor and I said, I did not want to keep other Members from speaking. From the other side of the aisle, they said, "Good." I said, "If it is good, perhaps I should continue speaking a bit. Maybe I am impressing someone."

"No," they said. "It is good that you finally said something good about the Pentagon."

I said, "We have had just about enough of that."

I repeated a statement that Senator GARY HART made in the convention in San Francisco who said, "The American flag does not belong to the Republican Party. We are Americans on both sides of the aisle. We will not have our patriotism impugned, and we will not have our records misrepresented," because of what in my view has been a huge mistake made at the behest of the majority. Half of my party voted for it, too, and I might have been wrong. There are ways of saying one is wrong. There are ways of being in opposition. I do not think we saw them in their most attractive form this week on "Meet the Press." I hope we will not see them repeated in this coming session for all the trials and difficulties it will bring about. If it is, we will do our best to maintain our standards even though others lose theirs. This body is more important to me as a Member.

I will close simply by expressing once again my appreciation to those Members on the other side of the aisle for their graciousness in expressing to me their distress at what occurred on Sunday which, so far as I am concerned, is over now, but which I very much hope is not repeated. But should it be, remember there are arguments that can be offered, in fact can be submitted, and that I hope will have some persuasive effect on this body.

● Mr. GRAMM. Mr. President, my distinguished colleague, the senior Senator from New York, has risen to speak today on the issue of our comparative records in support of defense. This past weekend, we appeared as guests on a television news show, "Meet the Press." During that broadcast, the Senator from New York criticized the Gramm-Rudman legislation as being destructive in defense. I responded by noting the paradox of being lectured on defense by one who had not supported defense as I had.

More specifically, I continued the discussion by commenting that it is a strange thing when members of the National Democratic Party—which has not traditionally supported the President on defense—cry alligator tears about what Gramm-Rudman will do to defense.

Mr. President, my intent was clear, correct and appropriate.

Yet to my surprise, I find that our exchange of remarks on a weekend television news show has been raised today as an issue before the U.S. Senate.

I would respond only briefly by noting that according to the American Security Council, the most respected pronational defense organization in our Nation, my comparison of records is supported by the facts.

The American Security Council rates my lifetime record of defense support at 100 percent. It rates the record of the senior Senator from New York at 28 percent. Our records speak for themselves.

Perhaps the Senator from New York was right and I was wrong, but that is not the issue. The issue is accurate representation of our records on the subject.

If Senator GOLDWATER wants to lecture me about defense, I will be eager to listen. If liberal Democrats have a lecture to deliver on defense, I have other things to do. If I lectured my liberal colleagues on my concerns about social welfare spending, I would expect them to raise my voting record. That would not impugn my character, only my standing as a lecturer on that subject. ●

SEVERAL SENATORS addressed the Chair.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. BYRD. Mr. President, the distinguished Senator from New York does not yield to any Member of this body when it comes to his patriotism and his support for national defense, his service to his country, his votes on appropriations or other matters here that affect the national defense of the country.

I did not witness the television program to which he alluded. I wish I had seen it. I have read certain transcripts of it. I regret that the situation there at that time, the words that were used and so on, were such as to cause the distinguished Senator from New York, rightly so, I think, to speak in the terms he has today and that he did on that occasion, as I understand it.

Mr. MOYNIHAN has, time after time, supported defense funding in the Senate. He has also done so in the Democratic conferences that have been held in the months and years during his membership in this body.

I do not like to see the Senator impugned as to his patriotism and his support for appropriations for the national defense. I do not want to see any Senator in this body on either side of the aisle have his or her patriotism questioned or support for the national defense questioned.

As I recall it, 20 Senators on this side of the aisle, to be exact, voted against the amendment which is commonly referred to as the Gramm-Rudman-Hollings amendment. I was one of those who voted against that amendment.

I said then, and I say now, that it was the wrong approach, that it was a mistake and, like Banquo's ghost, it would come back to haunt many of its supporters. I never thought for a moment, however, that a vote for or against that amendment depended upon one's patriotism or one's support for national security. I do not know of anyone on either side of the aisle whose patriotism is greater than that of the distinguished Senator from New York.

With respect to our national defense, I have been a supporter of this President and all other Presidents before him since I first began service in the House of Representatives under President Truman. Incidentally, one of the things I have always been very proud of is that I served for 17 days under President Truman. But I still voted against the Gramm-Rudman amendment.

I can remember when Mr. Reagan's predecessor, Mr. Carter, went to Europe and exhorted our allies there to bear the burden of defense and to come forward with a higher percentage of their share. I think the understanding was that nations would contribute to an increase in defense spending in real terms of 3 percent annually.

The debate on the issue of Gramm-Rudman should not get into matters affecting personal feelings, the personal values, the rollcalls in support of national defense. We ought to try to avoid casting aspersions or saying things that can be inferred as questioning the patriotism of any Member in this body.

I am concerned about this session if it is going to be one in which Senators cast aspersions upon each other. It could become very personal about such matters, and it should not. I do not question the patriotism of Democrats or Republicans who voted for Gramm-Rudman or against Gramm-Rudman or for appropriations bills, this one or that one or some other one. I think that is the wrong thing to do. If there is anything we want to avoid doing in this body, it is just that. This is a body which depends greatly and has, over the decades, on the camaraderie—perhaps not that so much as on patience, courtesy, and comity toward one another.

That is the only way this body can operate. If it becomes a body in which personalities are attacked and things are said that impugn another Senator's good faith or patriotism—Mr. President, this Senate is going to continue going downhill if that is what is going to happen here. The record will speak for itself as to how each Senator votes, and I would not want to distort that record.

One of the reasons for the rule that a Senator must address another Senator through the Chair and not in the first person is to avoid casting aspersions, and causing acridness in debate and hurt feelings. The Senate is not going to progress in its work if that is the way it is going to operate. This is why the Senate has that rule. We do not have to get into a discussion of the rules at this time, but that is the purpose behind the rule requiring us to speak in the third person at all times.

I can only say that, as far as I am concerned, I have been around here a long time and I am the only Senator in this body who has served both as majority leader and minority leader. I know we all, in certain moments, let our tempers, perhaps, flare in debate, and regret, after having said something in debate, that it was said. We usually go to the other Senator and tell him that we regret it. But to be on national television, it is quite something else there to impugn the patriotism of another Senator. I am in no position to say whether it was intentional in this particular instance, but it was unfortunate.

Mr. President, I applaud the distinguished Senator from New York and say the same thing on behalf of the Democratic Party. I understand there was some allusion to Democrats being weak on defense and that the Senators who are opposed to Gramm-Rudman are weak on defense. Mr. President, there is not much substance for that kind of statement.

I am not weak on defense; I am strong on defense. I certainly do not want anyone impugning my motives or implying that because I was against the Gramm-Rudman amendment I am weak on defense. I am sure there are those on both sides of the aisle who feel as I do. That should not be the standard.

Mr. President, there are a good many people at the other end of the avenue as well as at this end of the avenue who wish that Gramm-Rudman would somehow go away, and they are going to move heaven and earth to find some way to avoid such draconian cuts as will be required not only in domestic spending but also in defense spending.

Perhaps they have at last come around to the view that the Senator from New York and this Senator and others expressed in this body at the time we voted against the amendment.

But as to whether or not one is patriotic, whether or not he loves his country, whether or not he is strong on defense or weak on defense, let us not go that far.

If a Senator thinks differently today from what he thought yesterday, he is only a wise man; he is willing to say he was wrong. So some who supported Gramm-Rudman not many weeks ago may have now changed their minds about it. But it is not to be said that they are now less patriotic than they were then.

Mr. MOYNIHAN. Mr. President, I thank my beloved minority leader for his characteristically generous and personal remarks and his abiding concern for the matters and procedures of this body. I thank him.

Mr. BYRD. I thank the Senator.

Mr. EXON addressed the Chair.

The PRESIDING OFFICER. The Senator from New York.

Mr. BYRD. Mr. President, if the distinguished Senator will allow me, will he just yield for a moment?

Mr. EXON. I am glad to yield, Mr. President.

Mr. BYRD. Mr. President, what is the situation? Are we talking on a point of personal privilege or are we in morning business or are we using the leaders' time?

The PRESIDING OFFICER. The regular order is the recognition of the Senator from Wisconsin for a 15-minute order.

Mr. BYRD. Has the time of the two leaders expired?

The PRESIDING OFFICER. It has not been used as yet.

Mr. BYRD. Mr. President, if the distinguished Senator from Wisconsin will allow me, I yield to the distinguished Senator from Nebraska 5 minutes of my time, and I yield the other 5 minutes to the able Senator from Wisconsin.

Mr. EXON. Mr. President, I thank the minority leader and I thank my friend from Wisconsin. I know he has been waiting. I wish to make a few remarks about the matter that my colleague from New York has been addressing.

I have the privilege of serving with the Senator from New York on the Budget Committee, and I serve on the Armed Services Committee. While I did not see the television program that was referred to, I did read about it in the newspaper, I listened to the remarks by my friend from New York and I am very pleased to hear his statement. I am also very pleased by

the remarks that have been made by the minority leader.

As a junior colleague, I am very much interested in defense, where I spend more than half my time in the U.S. Senate. I know of no greater patriot than the Senator from New York.

I remember well a few years ago before I came to this body when my good friend and colleague, and certainly one of the great defense leaders of our Nation, the late Senator Scoop Jackson was running for President of the United States, the only colleague that I knew at that time who stood right at his side through the early days of that successful campaign for the Presidency was my now friend and colleague from New York. Certainly this is another Senator who thinks not only is he a great American and a great patriot but a tremendously influential and important Member of this body of which I am glad to be a part. So I certainly say that I, for one, speaking for I think most of the Members of this body, never questioned one iota the drive, the intent or the intellect of the Senator from New York, but above all his patriotism has never been questioned and never shall in my opinion.

Mr. MOYNIHAN. Mr. President, I could not ask for finer words from a finer colleague.

Mr. EXON. Mr. President, I hope that we have laid aside the matter at hand where we are accusing one of being more patriotic than another. I was one of those who opposed Gramm-Rudman from the very beginning for a whole series of reasons that I cited on the floor of this body, not the least of which I am very fearful—and it is already coming to pass—that basic readiness is what will be sacrificed. That is a major factor with which we are going to be wrestling.

As far as saying who is the greatest flagbearer in the United States today, I do not think it is either Democrats or Republicans. I have equal respect for my friends on the other side of the aisle, many of whom have been very firm leaders, and will continue to be, for defense. I do hope, though, as we try to untangle the jungle of Gramm-Rudman, we will not be lost in the swamp. However, I urge some caution and concern before we put the matter that happened Sunday behind us.

On the way downtown this morning, listening to the radio, I was informed—in fact, a leading member of the Republican leadership was on the radio indicating that a meeting was held this morning at the White House with the Republican leadership and the President scolded them, or words to that effect, that if they did not follow the President's mark on defense they would not be good Americans. They went on to explain that the President said he did not think that Gramm-Rudman should have any effect on the defense buildup, which is totally different than what we have heard for a long, long time.

They went on to say—this came out of the White House. I do not know whether it was the President. The President did meet, as I understand it, with the Republican leadership this morning—that the President warned them, in the words of the Press Secretary of the White House, the Russians would be watching the votes—those were the words—the Russians would be watching the votes of the U.S. Senate with regard to the defense budget and if—I believe these were the President's words and I will stand corrected if they are not, but that was the way it was reported on the radio—and if any Member of the U.S. Senate voted for a mark less than what the President said was necessary for defense, then he was not faithfully attuned to the needs of our defense structure.

I am very fearful, Mr. President, that we are going to have, as the minority leader has indicated, a tremendously stressful session. I, for one, do not believe that the 72 to 75 Members of this body who supported Gramm-Rudman are any more or any less concerned about defense than is this Senator. I think that our approach to it may be considerably different, but I simply say you cannot have your wants of cutting expenditures and have your wants of significantly increasing defense expenditures further without tax increases. And, of course, I have just said the forever no, no, we must not talk about, for shame that we would think about it. Raising taxes if necessary to support national defense is something that should not be spoken, I guess, on the floor of the U.S. Senate—hear no evil, see no evil, speak no evil.

I am very pleased that we are having this little discussion today. It might ferret out some better understanding of both sides. There are going to be some sharp differences of opinion. My colleague from New York and I will be in the early part of that because I suspect that the cuts will come before the Budget Committee where we will be at swords' point on several issues. I hope that we can keep this in the proper vein, the proper spirit, recognizing that we are all very much concerned about not only the budget deficit but the trade deficit as well, and that as we work our way through the morass that I think Gramm-Rudman-Hollings has caused, we approach it as people of mutual understanding, as patriots all, and that none of us will be held up as for or against national defense if we do not agree with everything that the President of the United States wants. Let us remember that we did not elect a king; we elected a President of the United States, and there will be sharp differences.

I think that Ronald Reagan is no more nor no less a patriot than the junior Senator from Nebraska. We are going to have our differences, but I suggest and hope that we can put it at the best possible level, that whatever decision is finally made will be in the best interests of the United States.

In any event I want to salute a great patriot, my friend and colleague from New York.

Mr. President, I yield the floor to the Chair and hope that my friend from Wisconsin will be recognized.

RECOGNITION OF SENATOR PROXMIRE

The PRESIDING OFFICER. The Senator from Wisconsin is recognized.

VOTING FOR OR AGAINST DEFENSE APPROPRIATIONS

Mr. PROXMIRE. Mr. President, I was going to speak on another subject. I am going to speak very briefly on this because I want to express my admiration and regard for my good friend from New York and my pride in the fine job he did on television and the excellent statement he has made today.

But I do want to say I disagree with the Senator from New York on defense policy. I did vote against defense approriation bill after defense appropriation bill. I am going to continue to do it because they are wasteful. They are wasteful. There is no question about it. How in the world can anybody vote for the defense bill if he takes the view I do that the B-1 bomber is a mistake, the MX missile is a mistake, that star wars is an extraordinary folly, and aircraft carriers of course are another example in recent year of enormous misallocation of our very limited resources. So I voted against the defense bill in the past.

I believe in a strong military force. That is why I voted against it, because the defense appropriation bill was wrong. It did not strengthen our military force; it weakened it. It put the emphasis in the wrong place. I intend to continue to vote against the defense appropriation bills when they are wrong.

Mr. MOYNIHAN. Mr. President, will the Senator yield?

Mr. PROXMIRE. I yield.

Mr. MOYNIHAN. With respect to the voting record of the senior Senator from Wisconsin, it is exactly what it is. He would not in the least mind my disagreeing with his view, but he would expect me to express his view accurately, would he not?

Mr. PROXMIRE. Absolutely.

Mr. MOYNIHAN. Just as he impeccably describes my views.

Mr. PROXMIRE. I also voted against State justice, the Agriculture appropriation bill, and many other measures, and I intend to continue to do so. I think they are wrong and wasteful, and I am not going to be intimidated by somebody saying, "He is weak on defense."

All Americans want a strong defense. We do not live in a Sunday-school world. The Soviet Union is not run by Mother Teresa or by Mahatma Gandhi. They are tough and mean and they believe in aggression, and we have to answer them with strength; but if the strength is in the wrong area, I will vote "No."

Mr. MOYNIHAN. And in this body, we answer argument with argument.

Mr. PROXMIRE. Exactly.

Mr. MOYNIHAN. I thank the Senator for his very kind remarks.

DO WE HAVE THE COURAGE TO LIVE WITH NUCLEAR WEAPONS?

Mr. PROXMIRE. Mr. President, the two most powerful people on Earth agree that the superpowers that now possess more than 90 percent of all nuclear weapons should lead the world in the total destruction of nuclear weapons. President Reagan has, for some time, called for ending nuclear weapons for alltime, everywhere. He has expressed this as a goal, a dream. He has justified his advocacy of a missile defense program, or star wars as a critical step toward the abolition of all nuclear weapons on earth some day. Many, including this Senator, viewed the President's proposal as pie-in-the-sky rhetoric—an impossible dream to justify the trillion dollar star wars extravaganza.

Now Secretary Grobachev comes back with a proposal so farout that it makes President Reagan's flight of fancy seem like ho-hum, pedestrian realism. Consider what Gorbachev packed into a single proposal: First, Gorbachev would agree to a mutual reduction of nuclear weapons by stages with the United States and other nuclear powers over the next 15 years. By the end of 1999, there would be no nuclear weapons left anywhere on Earth. But even that was just a starter. Gorbachev went further.

Second, the Nations of the world would destroy all non-nuclear weapons "whose destructive capacity is close to that of nuclear arms or other weapons of mass destruction." That would end the block-buster bombs or huge fire bombs of World War II. It gets even better.

Third, Mr. Gorbachev proposed the dismantling or destruction of delivery vehicles for those weapons. There go the submarines, the bombers, the aircraft carriers as well as the missile launchers.

Is that it? No, indeed.

Fourth, the Soviet Secretary calls for the complete elimination of all chemical weapons.

Fifth, Gorbachev asks that all the heavily armed nations of the world agree to a reduction of conventional weapons—fighter planes, tanks, artillery, et cetera.

Sixth, the top Communist asks for a reduction in the armed forces, the personnel—the soldiers, sailors, airmen, marines in all nations.

Secretary Gorbachev bases this beautiful dream of peace on earth on two specific immediate U.S concessions. No. 1, and first, he wants both sides to negotiate a total comprehensive ban by the two superpowers on nuclear weapons testing. The United States and the Soviet Union have promised such negotiations in treaties agreed to by both sides. The Reagan administration has opposed such negotiations. Second, Gorbachev calls for an end to the United States development of the Strategic Defense Initiative or Star Wars Program. President Reagan has welcomed the general tone of the Gorbachev proposal, although he obviously opposes the immediate specifics on shutting down weapons testing and star wars.

What real prospect is there that this sudden proposal to end the arms race on every front, everywhere, destroy nuclear and major conventional weapons and reduce armed forces, can succeed in the next 15 years? Mr. President, I am sure that almost everyone, everywhere on Earth would enthusiastically, joyfully welcome such a marvelous development. If there were any possible way we could make this happy mission become reality, we would be all for it. If we can push it along even a little, just get it started in the next 15 years, we should be all means to do it. But we should not let our fervent hopes and prayers for peace and for an end to the terrifying, haunting nightmare of nuclear war blind us to the long, hard uphill fight, we will have to make to achieve even a little progress toward that goal so many have dreamed of and striven for throughout long centuries.

We are not going to destroy all nuclear weapons on Earth. We are not going to end the threat of nuclear weapons, not by the year 2000, not ever. They are here. We have to learn to live with them for years and centuries to come. What, then, can we do about the terrible dangers they pose? We can begin to make slow, painful progress.

Indeed, we have started to do that. The limited test ban treaty, the strategic arms limitation treaties—I and II—the antiballistic missile treaty, the recent negotiations to limit the size of the Armed Forces in Europe by NATO and Warsaw Pact, the steady progress in the technology of verifying compliance with weapons limitation agreements, have all gradually, slowly but surely, pushed the nuclear powers along the road toward a more peaceful world. The fact that there has been no armed conflict between the superpowers in the 40 years of the nuclear age should give us confidence that we are moving in the direction of peace.

We should continue by agreeing to an end to nuclear testing and a gradual reduction of superpower nuclear arsenals. That would be a superb achievement. But let us not be diverted from this slow, steady progress. We should recognize what we cannot do. Even an agreement by the two most powerful persons on Earth, Gorbachev and Reagan, cannot and will not destroy nuclear weapons. Mankind has discovered this awful military power of nuclear explosions. It is, unfortunately, like all the significant developments of mankind, good and bad, a part of our legacy as human beings. It is a principle of life expressed in those undying words:

The Moving Finger writes; and, having writ,
Moves on; nor all your Piety nor Wit
Shall lure it back to cancel half a Line
Nor all your Tears wash out a Word of it.

That is the way it is with nuclear weapons. We have to find the courage and the wisdom to find a way to live with them in peace.

ADMINISTRATION ECONOMIC POLICIES—FORMULA FOR DISASTER

Mr. PROXMIRE. Mr. President, President Reagan's January 11, 1986, radio broadcast clearly stated the economic issue of the 1986 congressional election from a Republican viewpoint. The President laid down a challenge to the Democratic Party. He said, in effect, that after 5 years of a Republican administration and a Republican Senate, the country is in great economic shape. Unemployment dropped in December 1985 to less than 7 percent lower than it had been for 5 years. That is less than the level of unemployment when President Reagan took office. True, it is only a tiny one-tenth of 1 percent less, but it is less.

Unemployment would be far lower if there had not been an extraordinary increase in the work force since 1980. The President rightly pointed out that there has been a veritable explosion of jobs. The number of people employed in this country has expanded by a massive 9 million in 5 years. That is certainly one of the most rapid expansions in jobs in the Nation's history. In December 1985 there were a higher proportion of America's population employed than ever before in the history of our country. So can there be any dispute that the past 5 years have brought a huge increase in the number of Americans who have been able to find jobs? No, indeed.

But that is not all. Over the years, when the economy has expanded swiftly and provided a big increase in jobs, prices have started to rise more rapidly. Interest rates have climbed. But not this time. Inflation has moderated spectacularly, falling from 12 percent to less than 4 percent. Interest rates have fallen far below their level of 5 years ago, although still high by historic and world standards. True, the farm economy is in very serious trouble. Export industries are suffering. Producers of autos, textiles, shoes, steel and many other products suffer so seriously from a flood of cheap imports that they have lost much of their American market. But, by and large, profits are up. The stock market is booming as it has not boomed since the days of the great bull market of 1929.

So, doesn't the President truly have something to brag about? The answer, Mr. President, is no, emphatically no. If ever there were a time when statistics—economic statistics, that is—could be used to paint a false picture, it is now. Yes, indeed, the President's statistics are right. Then, what is wrong? What is wrong is that the President in his radio broadcast said absolutely nothing about the reason for these rosey economic figures. When we consider why the economy has expanded as it has and what the terrible long-term consequences of the causes of the expansion will be, we will see quite a different picture.

Why have we had this record explosion of employment in this country? Answer: We have been going through the biggest series of Federal deficits this country or any country has ever seen, by far. Economic knowledge is exceedingly limited. Economic forecasts are notoriously fallible. But on one point almost every economist agrees. If a nation like the United States increases spending and slashes taxes so that it runs big deficits, the effect will be to stimulate economic activity. And the bigger the deficits, the more stimulative the economic activity.

So should anyone wonder how it is that after successive, back-to-back deficits of $109 billion, $195 billion, $175 billion, and $202 billion, and after the first quarter of fiscal 1986 when the deficit was boiling along at a record $220 billion, the economy is surging, employment is up and jobs are increasing? Of course they are. And why has the economy expanded? Because it has been driven by enormous deficits that, by the end of this year, will aggregate more than a trillion dollars, a doubling of the national debt in 5 short years. But how do we explain the moderation of inflation?

Answer: First, unemployment is still high by all historical standards, so there is little or no pressure on prices; second, energy resources are in abundant supply because of the collapse of the OPEC oil cartel and the development of oil resources throughout the world in response to the big run-up of oil prices in the seventies; third, an American and world surplus of food has kept food prices down; and fourth, the deficit has sparked an initial flight of foreign capital out of foreign currencies and into dollars to take advantage of relatively higher interest rates and greater security offered by American securities. So, yes, indeed interest and inflation rates have both fallen sharply. And how sweet all this is. But that is for now. Can it last? No, sir. No way. In the short run, Reaganomics with its high deficit centerpiece is nirvana—economic heaven on Earth. In the long run, it is a reckless and dangerous policy.

Consider our economic status at the moment. We have far and away the most extravagant and irresponsible peacetime fiscal policy this country has ever endured, and we have it continuing right through a 4-year recovery. How grossly irresponsible can you get? At the same time, the Federal Reserve Board for many months now has pursued a highly expansive monetary policy. Yes, indeed, that policy helps keep interest rates down. It also encourages borrowing not only by the Federal Government but also by America's corporations which have broken all records in their debt run-up in the past couple of years. American individuals have also pushed themselves further into debt than ever, while savings have hit new lows. At the same time, the abundance of Federal Reserve created credit has helped hold interest rates down, reducing the prime incentive for saving—high interest rates. This is a great policy for today. It may last several months, possibly through this year or even next year. But it is a foolish, reckless, totally irresponsible policy in the long run. We are saddling future generations with an immense burden of debt. In fact, the most rapidly rising cost of Government is interest on the national debt. An increasing amount of that debt is owed to foreigners.

No one has repealed the business cycle. No one has even theorized that we have seen the last recession. So what happens to the deficit come the next recession? Will it go to $400 billion a year, or $500 billion? And how do we work our way out of that fiscal pit without slipping back to worse recessions? Mr. President, our economic policy today is an absolute, unmitigated catastrophe. Most informed Americans must know this. Almost no one wants to admit it. Well we had better admit and take those very painful steps to bring it under control, and now.

THE MYTH OF THE DAY: THE POOR ARE ELIGIBLE FOR MEDICAID

Mr. PROXMIRE. Mr. President, the myth of the day is that if you are poor, you are eligible for Medicaid health care coverage.

The sad reality is that it just isn't so. While most of those who qualify for Medicaid coverage have incomes below the Federal poverty level, a large number of the poor are simply ineligible for Medicaid. And it is not unusual at all, for those who qualify, to have higher incomes than those who do not—a perverse result of the way we have structured eligibility for Medicaid.

As the Center for Social Policy noted in a recent report on Medicaid:

> In 1982, in any given month, 49.3 percent of those with incomes below the Federal poverty standard had no public or private insurance, 37.5 percent were covered by Medicaid and 13.2 percent by employer-provided health insurance.

Think about that. In any given month only four out of every 10 Americans who are poor qualify for Medicaid coverage. Over the course of a year, the number is closer to 5 out of 10 because the 13.2 percent of the poor receiving employer-provided insurance are often not employed for a full 12 months. But that still leaves half of the poor with absolutely no health care coverage.

While a number of States have broadened Medicaid coverage since these numbers were compiled, particularly for pregnant women and newborns, the percentage of the poor for whom Medicaid coverage is unavailable has not changed very much.

How can that be? After all, wasn't Medicaid designed to meet the needs of the poorest of our citizens?

Actually, Medicaid was never targeted to the poorest of our citizens. When Medicaid was first created, eligibility was tied to eligibility for the major welfare program, aid to families with dependent children [AFDC]. But as the name implies eligibility was closed to families or individuals without a dependent child present. In the early seventies, the poor aged, the blind and the disabled were given automatic Medicaid coverage in most, but not all, States when the supplemental security income [SSI] program was created.

The original hope of the drafters of the Medicaid statute was that the States would begin with AFDC-eligible Americans in poverty and gradually expand coverage until all of the poor were covered. In fact, they even set a date for full coverge of the poor—1975. But the long delay in States bringing the medicaid program on line, and rapidly rising health care costs, soon led to a 2-year delay of the goal being adopted in 1969. And, by the time the Congress adopted the 1972 Social Se-

curity Act amendments, the goal of full coverage of the poor was officially abandoned.

While Medicaid coverage of the poor has undergone periods of contraction and expansion, the inadequate targeting of Medicaid's limited resources has never received the attention it deserves. This is actually not too surprising. First, under cost-based reimbursement, hospitals found it easier to cross subsidize the care they provided to those without insurance by creative accounting and increasing charges to those insurers who paid full charges. Second, the community and migrant health center network provided a backstop for those who fell through the Medicaid safety net for nonhospital care. And, third, with health care costs skyrocketing throughout the seventies, there was little opportunity for States or the Federal Government to reassess the program while everyone was running fast simply to meet the bill for the program.

But now the limitations of Medicaid need to be reviewed. Price competition among hospitals, and fixed Prospective DRG payment by Medicare, has made cross-subsidization nearly impossible. And those hospitals in economically depressed areas, and in particular, the Nation's public hospitals which bear a disproportionate share of the uncompensated care burden, are facing a precarious financial future. And many have started to restrict their prior open-door policy for nonemergency admissions. The ability of the community health centers to meet the nonhospital needs of the uninsured poor will similarly be constrained as we struggle to reduce the deficit under Gramm-Rudman.

While uncompensated care legislation tops the agenda in nearly every State across the Nation, there has been too much attention to band-aid measures built around the crazy-quilt pattern of Medicaid coverage and, too little attention given to rationalizing Medicaid coverage. And better targeting of Medicaid's resources for acute care will not be easy. While Medicaid is exempt from any sequester order under the provisions of Gramm-Rudman, as well it should be, there is absolutely no possibility of a major infusion of Federal funding to fill in the gaps for the poorest of the poor who are not now covered but deserve our help. Restructuring Medicaid will simply be a zero-sum game. And it will be painful.

In addition to better targeting, we need to recycle the savings that can be obtained from increased use of capitation through health maintenance organizations [HMO's] and contracting with hospitals, which are being pursued successfully in many States.

But as long as the myth that Medicaid meets the needs of the poor persists, the mindless budget-cutters of the Reagan administration will only succeed in making a necessary but inadequate part of the Nation's social safety net even more inadequate.

INTERNATIONAL HUMAN RIGHTS: THE NEED FOR THE GENOCIDE CONVENTION

Mr. PROXMIRE. Mr. President, last October when General Secretary Gorbachev was questioned by a French reporter about human rights abuses against Soviet Jews, he replied, "Let us run things in the Soviet Union and you run things in France." Soon thereafter, the Senate made it clear to President Reagan that we do not consider human rights abuses to be merely a local concern.

We sent a strong, unanimous message urging the President to make human rights—and the rights of Soviet Jews in particular—"an important focus of the summit," and we warned that "concerns about Soviet human rights abuses will be a factor in Senate consideration of future agreements affecting relations with the Soviet Union." As the leading free nation we felt it our proper and necessary duty to firmly support the rights of Soviet Jews.

However, we sent the President to Geneva with one hand tied behind his back. We voiced unanimous concern about human rights abuses, but we had not yet officially condemned genocide—that most heinous abuse. This is clearly inconsistent and noticeably undermined our pleas on behalf of human rights. By failing to ratify the Genocide Convention, we left our Nation open to the charge of moral hypocrisy.

When, after World War II, the full extent of the atrocities perpetrated against Jews became known, the cry "Never again!" rose up around the world. The Genocide Convention was drafted to insure that such a tragedy never occurs again, and we cannot claim the moral high ground until we have ratified it. We must denounce firmly and loudly any actions designed to deny the rights of a particular national, ethnical, racial, or religious group. That is what the Genocide Convention does. Therefore, in preparation for the second summit meeting, let us strengthen our case for human rights by ratifying the Genocide Convention.

Mr. DANFORTH. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. DOLE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

CONRAIL SALE AMENDMENTS ACT OF 1985

Mr. DOLE. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 215, S. 638, the Conrail legislation.

The PRESIDING OFFICER [Mr. ARMSTRONG]. Is there objection?

Mr. HEINZ. Mr. President, reserving the right to object.

Mr. METZENBAUM. I object.

The PRESIDING OFFICER. Objection is heard.

Mr. DOLE. Mr. President, I move that the Senate proceed to the consideration of S. 638, the Conrail bill.

Mr. METZENBAUM and Mr. DOLE addressed the Chair.

The PRESIDING OFFICER. The majority leader.

CLOTURE MOTION

Mr. DOLE. Mr. President, I send a cloture motion to the desk.

The PRESIDING OFFICER. The cloture motion will be stated.

The assistant legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, hereby move to bring to a close debate on the Dole motion to proceed to the consideration of S. 638.

Bob Dole, Jack Danforth, Mack Mattingly, John H. Chafee, Ted Stevens, Don Nickles, Strom Thurmond, Al Simpson, Jake Garn, Bob Packwood, Phil Gramm, Warren B. Rudman, Malcolm Wallop, Pete V. Domenici, Pete Wilson, Dan Quayle, and Dave Durenburger.

Mr. DOLE. Mr. President, I withdraw the motion to proceed to Conrail.

The PRESIDING OFFICER (Mr. ANDREWS). The motion is withdrawn.

Mr. SPECTER. Mr. President, I, along with a number of my colleagues, have voiced an objection for unanimous-consent to proceed with the proposal sale of Conrail to Norfolk Southern.

Mr. BYRD. Will the distinguished Senator yield?

Mr. SPECTER. I yield for a question, without losing my right to the floor.

Mr. BYRD. Mr. President, there is nothing before the Senate at this time. There has to be something before the Senate or else Senators cannot debate. I hope the distinguished majority leader would allow Senators to speak on Conrail.

Mr. DOLE. As in morning business, until about 5:30?

Mr. BYRD. Without a limitation on time?

DOLE. Yes.

The PRESIDING OFFICER. Without objection, the Senate is in morning business. The Senator from Pennsylvania is recognized.

Mr. SPECTER. Mr. President, as I started to say, the effort to move to the proposed sale of Conrail to Norfolk Southern is premature at this time. There are very material, unresolved antitrust issues, there are very substantial unanswered tax considerations, and there are unfinished hearings before the Senate Judiciary Committee.

There is a body of evidence which is very powerful in support of the proposition that the proposed sale of Conrail to Norfolk Southern would be violative of the antitrust laws. It is my purpose this afternoon to outline briefly the issues which have been raised and to put into the CONGRESSIONAL RECORD the summaries showing the antitrust violations. Our colleagues should have the benefit of these documents in consideration of this matter, in the course of the next several days while deciding whether to vote cloture on a motion to proceed, or whether it might be in the best interests of the Senate, the best interests of the Congress, and the best interests of the country to consider at length whether it is now timely to proceed on this subject.

The parameters of the antitrust issue were set forth, Mr. President, in a letter dated January 29, 1985, from the then Assistant Attorney General in charge of the Antitrust Division, Mr. J. Paul McGrath, to Secretary of Transportation Elizabeth Dole. The critical part is set forth on page 1 to this effect:

> The merger would have a significant adverse effect on competition for the transport of commodities to and from a number of locations in several states, with the greatest adverse effect occurring at locations along an east-west rail corridor running between Buffalo and Pittsburgh in the east and St. Louis and Chicago in the west. The merger would likely enable the merged entity to achieve certain efficiencies. These efficiencies do not appear, however, to be sufficiently great to offset all of the competitive effects in all of the affected markets.
>
> The Department of Justice therefore would oppose the proposed merger unless its competitive problems are remedied through a prior or concurrent divestiture of assets that is approved by the Attorney General. Appropriate divestiture must include divestiture of Conrail and/or Norfolk Southern rail assets along the designated corridor to one or more independent acquirers, other than CSX or any entity owned or controlled by CSX, that would provide long-term, viable, and competitive rail service to locations along the corridor.

Mr. President, I ask unanimous consent that the full text of the letter be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

U.S. DEPARTMENT OF JUSTICE,
ANTITRUST DIVISION
Washington, DC, January 29, 1985.

Hon. ELIZABETH H. DOLE,
Secretary, Department of Transportation, Washington, DC.

DEAR SECRETARY DOLE: This letter sets forth the Department of Justice's analysis of the competitive implications of a proposed sale of Consolidated Rail Corporation ("Conrail") to Norfolk Southern Corporation ("Norfolk Southern"), as you requested on September 11, 1984. As explained below, on the basis of our independent investigation, we have concluded that, without appropriate divestitures, the proposed merger would violate both Clayton Act and Interstate Commerce Act merger review standards. The merger would have a significant adverse effect on competition for the transport of commodities to and from a number of locations in several states, with the greatest adverse effect occurring at locations along an east-west rail corridor running between Buffalo and Pittsburgh in the east and St. Louis and Chicago in the West. The merger would likely enable the merged entity to achieve certain efficiencies. These efficiencies do not appear, however, to be sufficiently great to offset all of the competitive effects in all of the affected markets.

The Department of Justice therefore would oppose the proposed merger unless its competitive problems are remedied through a prior or concurrent divestiture of assets[1] that is approved by the Attorney General. Appropriate divestiture must include divestiture of Conrail and/or Norfolk Southern rail assets along the designated corridor to one or more independent acquirers, other than CSX or any entity owned or controlled by CSX, that would provide long-term, viable, and competitive rail service to locations along the corridor. Such divestiture would preserve the vast bulk of the competition that would have been eliminated by the merger. While there may be some possible anticompetitive consequences remaining in some isolated markets after the divestiture, these anticompetitive consequences are likely to be insignificant relative to the merger's expected efficiencies. This precondition to approval of the merger has been set forth in language agreed to by the Departments of Justice and Transportation (attached to this letter as Appendix A) which is to be included in the Agreement of Sale between Norfolk Southern and the Department of Transportation.

Our analysis is explained in detail below.

I. COMPETITIVE ANALYSIS

A. Analytical approach

Although mergers play a beneficial role in our economy, they sometimes may harm competition by creating, enhancing, or facilitating the exercise of "market power." "Market power" is the power of a firm or firms to raise the price of a product or service in a specific market above a competitive level for a significant period of time without fear that existing competitors or new entrants will make such a price increase unprofitable by expanding their output or charging a lower price. When only a few firms in a market into which entry is difficult account for most of the sales of a product, they may either explicitly or implicitly coordinate their actions to eliminate rivalry on price and non-price variables. When firms exercise market power in this way, the result is a transfer of wealth from buyers to sellers and a misallocation of resources that harms the economy. Therefore, a merger that would eliminate a significant competitor in an already highly concentrated market into which entry is difficult may enhance the ability of the remaining firms to exercise market power. Such a merger normally would be challenged by the Department under Section 7 of the Clayton Act unless other economic factors or some appropriate divestiture indicate that the merger should be permitted.[2]

We analyzed this proposed merger according to the same standards and principles that we apply to mergers generally. As with any merger, our first step was to identify economically relevent markets—product-location combinations which could be subject to the exercise of market power—in which both Conrail and Norfolk Southern operate. Our next step was to identify "problem" markets (*i.e.*, product-location combinations) with respect to which the merger would result in significantly high post-merger concentration and where entry by new firms (for example, trucking companies) would be difficult or unlikely in response to the exercise of market power following the merger. Once we identified the markets in which the merger would likely have a significant anticompetitive effect, we then considered whether these anticompetitive effects might be offset by efficiencies resulting from the merger. Finally, we considered what would be required to resolve any competitive problems that might be raised by the merger—that is, to prevent a reduction in the number of competing rail alternatives in highly concentrated markets where considerable revenues are involved and where the merger would otherwise be likely significantly to diminish competition.

B. Methodology

We defined two types of economically relevant markets for the purpose of analyzing this proposed merger—(1) transportation of a commodity to a location ("destination markets") and (2) transportation of a commodity from a location ("origin markets").[3] In addition to railroads, non-rail transportation modes, such as truck and barge, were

[1] "Divestiture" means the conveyance or other transfer by sale, lease, or otherwise of rail tracks and facilities or the right to use rail tracks and facilities.

[2] *See*, U.S. Department of Justice, "Merger Guidelines," June 14, 1984. The standards used by the Department to analyze mergers under the Clayton Act are substantially the same as those used by the Interstate Commerce Commission, which is directed by statute to approve only transactions that are "consistent with the public interest." 49 U.S.C. § 11344. In applying this standard, the Commission disapproves transactions that would "substantially reduce the transport alternatives available to shippers unless there are substantial and demonstrable benefits to the transaction that cannot be achieved in a less anticompetitive fashion." General Policy Statement for Merger on Control of at Least Two Class I Railroads, 49 C.F.R. § 11801(a).

[3] We identified commodity and location combinations using the five-digit Standard Transportation Commodity Codes ("STCCs") and four-digit Standard Point Location Codes ("SPLCs"), respectively, designated in the 1983 ICC 1% Waybill Sample. Five-digit STCCs were used because, for the most part, the products in a single five-digit group are close substitutes for one another and have similar transportation characteristics. A four-digit SPLC is in most cases a county, although, in a significant number of cases, a single county may contain two or more four-digit SPLCs.

considered to be in the market to the extent they appeared to be close substitutes for rail transportation.

To identify those markets in which the merger might have a significant adverse effect (*i.e.*, would result in high post-merger concentration and would significantly increase pre-merger concentration), we first identified markets (product-location combinations) where in 1983 Conrail and Norfolk Southern each participated (independently of one another) in at least 10 percent of the rail movements and where together the two railroads accounted for at least 50 percent of all rail movements in the market.[4] Using 1977 Census of Transportation data, supplemented by surveys and interviews with over 200 shippers concerning approximately 700 facilities, we then eliminated those markets where non-rail competition appeared to be significant. Finally, we employed a number of other screens designed to eliminate from further consideration those markets in which over a significant portion of the route into the destination or out of the origin market in question, a single carrier other than Conrail or Norfolk Southern provides rail service, in which the total revenues affected were small, or in which the major shipper in the market supported the merger.

Usually, the relevant geographic market will be as small as a county. However, even if in some cases the market may be broader, the competitive analysis would be the same because in markets located along the east-west corridor toward which our proposed remedy is directed, there are at most four competing railroads before the merger. In addition, where we knew with some certainty that the market was broader than a county, we incorporated this into our analysis. For example, we analyzed separately outbound shipments of corn, wheat, and soybeans, as well as the movement by rail of coal to utility plants. Producers of these commodities tend to be able to select among transportation alternatives that extend beyond county lines through the use of a combination of rail and nonrail movements.

Using this screening procedure, we identified more than one hundred markets located in 39 counties in 21 states in which it appeared that a merger between Conrail and Norfolk Southern could have a significant anticompetitive effect. With respect to these markets, Conrail and Norfolk Southern participated in movements involving $516.1 million in rail revenues in 1983. Of the 39 counties, 15 held "problem" markets in which Conrail or Norfolk Southern participated in movements involving less than $5 million of revenues. If these 15 counties had been the only locations potentially affected by the merger, we would not oppose the merger, given the likely efficiencies that would result from the merger and given the fact that the commerce affected as to these 15 counties is so small compared to the actual overall volume of commerce involved in the merger. Even after eliminating these counties, however, a number of others remain and the potentially affected revenues in these counties are substantial enough to be of significant concern. The remaining counties include, among others, Wayne and Washtenaw counties in Michigan; Allen and Marion counties in Indiana; Erie county in New York; and Cuyahoga, Jefferson, Lucas, Stark, and Lorain counties in Ohio, as well as several counties in the southern United States that originate shipments of pulp, paper, and fiberboard products destined for locations served by Norfolk Southern and/or Conrail in the Midwest and Northeast.[5] In two of these counties, Jefferson county in Ohio and Allen county in Indiana, our concern is particularly acute because the number of competing railroads would be reduced from two to one. In the other counties, the competitive situation would not be much better, because the number of rail alternatives would be reduced either from three to two or from four to three. We have determined that, although they are used by shippers to some limited extent, non-rail transport alternatives are inadequate substitutes for rail transport in these markets.

We also considered the argument that following the merger, the combined entity would divert so much interchange traffic from regional railroads in the northeast and midwest that some of these railroads would be unable to compete effectively in the markets they currently serve and that the resulting loss of competition would reduce consumer welfare. We find, however, that, as a general matter, it is extremely difficult to estimate the size of future diversions.[6] It may be even more difficult to determine whether such diversions would be so substantial as to render otherwise viable regional railroads incapable of providing competition in markets where they currently operate and where their exit would reduce competition significantly. Because diversions often result from lower costs to railroads of providing single-line, rather than interline, service and because single-line service is often attractive to shippers, any potential harm in markets currently served by regional carriers must be weighed against possibly substantial benefits. Hence, even if we knew with certainty that such diversions would significantly impair the operations, or even the viability, of regional railroads, this would not demonstrate that the diversions are, on balance, harmful to the economy. To the extent that they may be harmful, however, the divestiture that we have proposed in Section II of this letter would address that problem by ensuring that there will be an opportunity for regional carriers to continue receiving interline traffic from independent carriers other than Norfolk Southern or Conrail.

C. Efficiencies

The primary benefit of mergers to the economy is their efficiency-enhancing potential, *e.g.*, their ability to lower overall production costs to the benefit of society. Some mergers that would significantly increase concentration in a market nevertheless result in significant real efficiencies. Therefore, if the parties to a merger establish by clear and convincing evidence that a merger will achieve such efficiencies, the Department considers those efficiencies in evaluating the merger.

As stated in the Department's Merger Guidelines,[7] cognizable efficiencies include, but are not limited to, economies of scale, better integration of operating facilities, and similar efficiencies relating to specific operations of the merging firms. The Department also considers claimed efficiencies resulting from reductions in general administrative and overhead expenses, and other efficiencies that otherwise do not relate to specific operations of the merging firms, although, as a practical matter, those types of efficiencies are more difficult to demonstrate and to quantify. The Department does not give weight to claimed efficiencies if comparable savings reasonably could be achieved by the parties through means short of a merger likely to reduce competition.

We have reviewed efficiency claims made by Norfolk Southern. We believe that some of these claims are overstated,[8] while others, such as abandonment of unprofitable track, would probably occur even in the absence of a merger. Nevertheless, we believe, based in part on interviews with affected shippers, that substantial benefits are likely to result from increased single-line service, an option that is in many cases both less costly to railroads and more desirable to shippers.

On balance, we have concluded that the possible benefits of the proposed merger are not sufficiently great to outweigh the very serious anticompetitive effect the merger would have, particularly in the designated east-west corridor. The potential efficiency gains—particularly relating to the offering of single-line service—are, however, likely to be sufficiently great to offset the less significant adverse competitive effects that would remain after the divestiture outlined in Section II of this letter is effected.

II. PROPOSED REMEDY

As discussed above, although the proposed merger would have an anticompetitive effect in a number of markets, the markets of primary concern are located along a rail corridor bounded on the east by Buffalo and Pittsburgh and on the west by Chicago and St. Louis. Accordingly, we believe that a sale of Conrail to Norfolk Southern must be expressly conditioned on the prior or concurrent divestiture[9] of rail assets to an independent entity or entities capable of providing long-term, viable, and competitive rail service along this corridor. For these purposes, "divestiture" means the conveyance or other transfer by sale, lease, or otherwise, of rail tracks and facilities or the right to use rail tracks and facilities.

[4] Although in some of the markets shippers can now be served only via the tracks of either Conrail or Norfolk Southern, but not both, many of these shippers nevertheless consider other carriers identified on the Waybill to be competitive alternatives because of "reasonable" reciprocal switching arrangements currently in place. One factor that probably keeps the switching rates of Norfolk Southern and Conrail low enough to allow competition in these markets is the fact that the two carriers rely on each other for switches into different markets and each might feel constrained from unilaterally exercising its full market power (by raising the switching rates at locations it alone controls) for fear that the other railroad would retaliate in other locations. Thus, even where shippers can be reached only by the tracks of Conrail or Norfolk Southern, the merger may eliminate competition that resulted from reciprocal switching.

[5] A complete listing of the product-location combinations identified through our screening methodology is attached to this letter as Appendix B. This listing is limited to counties in which in 1983 the potential problems identified involved Norfolk Southern's and Conrail's participation in rail revenues exceeding $2 million.

[6] While we have received diversion estimates from a number of sources, including the Department of Transportation, Norfolk Southern, Conrail, and some regional carriers, these estimates vary considerably and it is very difficult to draw firm conclusions from them.

[7] U.S. Department of Justice, Merger Guidelines, June 14, 1984, at Section 3.5.

[8] For example, Norfolk Southern's estimated annual savings of $139 million due to the elimination of redundant personnel and facilities is highly speculative given the unpredictable results of union labor negotiations.

[9] Concurrent divestiture may involve a transaction such as a contract between Norfolk Southern and a purchaser to transfer assets acquired from Conrail. Such a contract could become effective as at the closing of the sale of Conrail to Norfolk Southern.

To ensure competitive service, the divestiture must satisfy three conditions. First, the acquirer or acquirers (hereinafter "acquirer") must demonstrate to the satisfaction of the Attorney General that it possesses the managerial, operational, and financial capability necessary to compete effectively, and to remain a viable entity providing long-term rail service along the designated corridor.

Second, the divestiture should provide the acquirer direct connections in Buffalo, Chicago, Toledo, and East St. Louis to one or more railroads other than the merged carrier or CSX Corporation or any railroad controlled by either of them. This condition is essential to the competitive viability of an alternative rail line because traffic to and from the affected markets moves not only on Conrail and Norfolk Southern lines, but also, to a significant extent, off those lines to or from connections with other railroads in Buffalo, Chicago, Toledo, and East St. Louis. Therefore, an independent connection to other railroads at each of these gateways would have to be available so as to remove the acquirer's need to rely upon the merged carrier or CSX to make these connections.[10]

Third, following the divestiture, in each of the designated counties in the east-west corridor, the merged Norfolk Southern/Conrail entity must switch cars between its tracks and facilities and the tracks and facilities of any shipper served by Norfolk Southern, Conrail, or Norfolk Southern/Conrail on customary terms and conditions whenever switching is practicable and necessary in order to provide a shipper with effective competitive access to the track and facilities of the acquirer.

The specific rail tracks and facilities to be divested and the consideration to be paid should be determined by agreement between the parties to the divestiture so that the market, rather than the Department of Justice, can determine the most suitable divestiture alternative. Because the divestiture would be subject to the Attorney General's approval, however, to assist him in evaluating the divestiture the Department of Justice should be supplied with complete information concerning all offers and inquiries received in connection with the divestiture, including those that are rejected by either the Department of Transportation or Norfolk Southern.[11]

This proposed divestiture addresses the vast majority of the larger "problem" markets we identified. While several markets are not affected by the proposal, these markets are either located in areas where a divestiture would be impractical or are locations where the amount of commerce shared by Conrail and Norfolk Southern was less than $5 million. When an independent rail alternative able to maintain competition within the designated corridor is found, such divestiture would resolve at least $371.4 million of potential problems out of a total of $516.1 million in the markets we have identified. In addition, this remedy would benefit some shippers, such as pulp, paper, and fiberboard producers' located in 11 "problem" counties in the South, whose goods pass through or terminate in this corridor. Finally, as discussed above, we have determined that the efficiencies that are likely to result from the proposed merger would be substantial enough to offset the potential anticompetitive effect in markets that are not directly addressed by the proposed divestiture.

[10] The Toledo gateway would give shippers in Wayne and Washtenaw counties in Michigan access to a railroad other than Norfolk Southern/Conrail and CSX that provides a direct link to eastern and western destinations via Buffalo, Chicago, and East St. Louis.

[11] These terms and conditions are set forth in Appendix A and, we understand, will be included in the Agreement of Sale between the Department of Transportation and Norfolk Southern.

III. CONCLUSION

I trust that this letter is responsive to your request for the Department's advice concerning the competitive impact of a sale of Conrail to Norfolk Southern. I would like to thank you and your staff for the competent and willing assistance that has been provided to us throughout our review process.

Sincerely,

J. PAUL MCGRATH,
Assistant Attorney General,
Antitrust Division.

ATTACHMENT A

"Divestiture" means the conveyance or other transfer by sale, lease, or otherwise of rail tracks and facilities owned or operated by CR or NS or the right to use such rail tracks and facilities.

"NS" means Norfolk Southern Corporation, its subsidiaries, affiliates, successors and assigns.

"CR" means Consolidated Rail Corporation, its subsidiaries, and affiliates.

"CSX" means CSX Corporation, its subsidiaries, affiliates, successors and assigns.

1. This Agreement of Sale is contingent upon prior or concurrent Divestiture sufficient to enable an acquirer or acquirers ("acquirer(s)"), not controlled as control is defined in 49 U.S.C. § 10102 by NS/CR or CSX, to provide rail service along a rail corridor bounded on the West by Chicago and E. St. Louis and on the East by Buffalo and Pittsburgh, with service to, from, and between the following counties in that rail corridor: Erie, New York; Cuyahoga, Lorain, Jefferson, Lucas, and Stark, Ohio; and Allen and Marion, Indiana. Subject to the requirements of paragraph (5) with respect to Marion County, Indiana, such rail service may be limited to service along those sold or leased rail lines where prior divestiture shippers had service by both NS and CR. Such rail service shall include direct connections in Buffalo, E. St. Louis, Toledo and Chicago to a railroad or railroads not controlled by NS/CR or CSX as control is defined in 49 U.S.C. § 10102.

2. The rail tracks, rights and facilities divested pursuant to paragraph (1) and the consideration paid therefor shall be determined by agreement between NS and the acquirer(s).

3. The Divestiture required by paragraph (1) shall be made to acquirer(s) who shall have demonstrated to the Department of Justice that they will be able to provide long-term, viable, competitive rail service along the rail corridor(s) and to, from and between the counties enumerated in paragraph (1), as indicated by their having managerial, operational, and financial capability necessary to compete effectively in the provision of such rail service. The Divestiture required by paragraph (1) may not be accomplished without the prior approval by the Attorney General of its terms and conditions and of the acquirer(s).

4. Following the execution of this Agreement of Sale, NS shall promptly solicit offers to purchase, lease, or operate upon property to be divested in accordance with paragraph (1). NS shall keep records of its efforts to accomplish the Divestiture required by paragraph (1), including the identification of any person or persons expressing an interest to any officer or official of NS, and the terms and conditions of each offer, and shall allow the Department of Justice access to such records. NS shall immediately notify the Department of Justice of the details of any offer related to the Divestiture required by paragraph (1). If NS rejects any such offer, it shall promptly notify the Department of Justice and fully describe the reasons for such rejection.

5. It is further agreed that following divestiture NS, CR, or NS/CR shall switch cars, on terms and conditions customary at other locations within the region of the Divestiture, between the tracks and facilities of the acquirer(s) and the tracks and facilities of any shipper physically served by NS, CR, or NS/CR and open to service by both as of the date hereof, at each of the counties specified in paragraph (1) whenever such switching is practicable and necessary in order to provide a shipper with effective competitive access to the tracks and facilities of the acquirer(s). Following Divestiture, in Marion County, Indiana, NS, CR, or NS/CR shall establish switching charges at levels no higher than those customarily charged at other locations within the region of the Divestiture for switching cars between the tracks and facilities of the acquirer(s) and the tracks and facilities of any shipper served by NS, CR, or NS/CR as of the date hereof. If there is a dispute as to whether such switching is practicable and necessary, or as to such customary conditions and compensation for such switching, such dispute shall be resolved within six months by an arbitration procedure governed by the rules of the American Arbitration Association. In respect of such requirements for practicable and necessary switching of cars, the acquirer(s) and the directly affected shipper(s) shall be entitled to enforce this paragraph, in each such instance, for their sole benefit.

Mr. HEINZ. Will the Senator yield?

The PRESIDING OFFICER. Does the Senator yield the floor?

Mr. SPECTER. No, I do not yield the floor.

The PRESIDING OFFICER. Does the Senator yield to the Senator from Pennsylvania for a question?

Mr. SPECTER. I do yield to my distinguished colleague for a question.

Mr. HEINZ. Mr. President, I just want to commend my colleague, the distinguished Senator from Pennsylvania, for what he said. Likewise, I join him in opposing the motion to proceed.

First among the reasons for opposing the motion to proceed is the fact that there are three Federal bodies charged with the oversight and regulatory responsibilities over railroad mergers—the Justice Department, the Interstate Commerce Commission, and the U.S. Railway Association. None of these has delivered a final word on S. 638.

Mr. SPECTER. Mr. President, I thank my distinguished colleague, Senator HEINZ, for those comments. I concur with what he has said.

The fact is that, to the extent that other agencies have considered this issue, they have found that there would be a likely antitrust violation.

Mr. President, at this time, I wish to turn to a study prepared by the staff of the Interstate Commerce Commission entitled "Study of the Viability of Guilford Transportation Industries, Inc., and Pittsburgh and Lake Erie Railroad Co. Before and After the Line Divestitures Suggested by the Department of Justice as a Condition to the Acquisition of the Consolidated Rail Corporation by Norfolk Southern Corp."

This was prepared by the staff of the Interstate Commerce Commission that was detailed to the House Subcommittee on Commerce, Transportation, and Tourism.

Mr. President, without taking the time now to put into the RECORD this very extensive finding, I will quote from it very briefly. First, from page 7, referring to the Guilford proposal:

Because these assumptions generally are without merit, Guilford's proposal will not result in a viable post-divestiture operation.

Guilford has underestimated its rehabilitation by only about 10 percent; however, even with the necessary rehabilitation, the carrier's operating facilities will be inferior to its chief competitor, NS-Conrail, in terms of both structure and circuity. Its operating plan does not take into account numerous operating difficulties, such as the lack of double-track line, poorly spaced sidings, and inefficient connections. Guilford also fails to consider how the movement of its trains to and from NS-Conrail lines will be affected by the large volume of NS-Conrail traffic on those lines.

Further, continuing on page 8:

Without the full amount of revenue it projects, Guilford will be perilously close to being unable to meet all of its annual fixed charges.

Then, Mr. President, proceeding to page 9, the ICC staff report goes on with respect to Guilford, stating:

In fact, after a very marginal first year, Guilford will be unable to service its debt, and this deficiency will grow in each of the succeeding years.

In the long run it does not appear that Guilford will be a financially viable carrier.

The ICC staff report then proceeds to the Pittsburgh & Lake Erie proposal. In the summary set forth at page 9, there is this comment:

However, PLE's financial forecasts are far more open to question. It must be noted that, even if all of PLE's projections are accepted, PLE admits that it cannot service all of its substantial debt using revenues from rail operations. Substantial income from the sale of, and use of, nonrail assets is needed to cover debt payments.

Even this finding is based on accepting two highly questionable PLE assumptions. First, PLE provides for no economic downturn in the regional economy over the next five years. Lower cash flows arising from any economic downturn could further impair PLE's solvency. Second, and of more importance, PLE's proposed operating ratios are highly optimistic. It is reasonable to assume that PLE will become more efficient with time and the integration of the new lines. However, it is not reasonable to assume, as did PLE, that it will change from a very inefficient carrier to one of the most efficient carriers in the Eastern District over the next five years.

Accordingly, an alternative analysis was performed assuming more realistic, yet still favorable, operating ratios for PLE. The result was that PLE would be marginally profitable on an operating basis but that it would not be able to meet its substantial obligations under its debt restructuring agreement.

In conclusion, PLE is not now a financially viable carrier and its acquisition of the new lines will not enable it to reverse its already precarious financial position.

Mr. President, at the outset I said I would not go extensively into this ICC staff report, but I do believe that the materials contained herein require very extensive consideration, and analysis by this Senate. I do not believe that this kind of analysis can be obtained in a hurried context, nor in the context of cloture being ordered.

In order that these materials will be available in full to our colleagues, I ask unanimous consent—and I do this realizing the burdens it places on the printing of the CONGRESSIONAL RECORD, but these matters are of great importance—that this ICC staff report be printed in the CONGRESSIONAL RECORD as if read in full.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

STUDY OF THE VIABILITY OF GUILFORD TRANSPORTATION INDUSTRIES, INC. AND PITTSBURGH AND LAKE ERIE RAILROAD COMPANY BEFORE AND AFTER THE LINE DIVESTITURES SUGGESTED BY THE DEPARTMENT OF JUSTICE AS A CONDITION TO THE ACQUISITION OF THE CONSOLIDATED RAIL CORPORATION BY NORFOLK SOUTHERN CORPORATION

(Prepared by Staff of the Interstate Commerce Commission That Was Detailed to the Subcommittee on Commerce, Transportation and Tourism, August 30, 1985)

I. INTRODUCTION

A. Background

On March 27, 1985, the Honorable James J. Florio, Chairman of the Subcommittee on Commerce, Transportation, and Tourism of the Committee on Energy and Commerce of the United States House of Representatives (Subcommittee), requested that the Interstate Commerce Commission (Commission) assist the Subcommittee in analyzing certain aspects of the recommendation by the United States Department of Transportation (DOT) that Consolidated Rail Corporation (Conrail) be sold to Norfolk Southern Corporation (NS).[1] Specifically, the Commission was asked to analyze: (1) the impact consolidation would have on other carriers in terms of traffic diversion; and (2) the viability of two eastern carriers, Guilford Transportation Industries, Inc., Rail Division (Guilford) and the Pittsburgh and Lake Erie Railroad Company (PLE), which had entered into divestiture agreements with NS as a result of certain competitive concerns raised by the United States Department of Justice (DOJ) to the NS-Conrail consolidation.

Based on Chairman Florio's request, a notice was published in the FEDERAL REGISTER on May 10, 1985, indicating that the Commission would prepare an analysis of the issues raised and setting a procedural schedule for receipt of evidence.[2] On May 29, 1985, Chairman Florio requested a modification in the manner in which the study was to be conducted.[3] Under Chairman Florio's modified request, the Commission's role in the study was to be terminated once the information gathering process was completed. At that time, appropriate Commission staff were to be detailed to the Subcommittee to assist in analyzing the evidence presented. A notice was published in the FEDERAL REGISTER on June 18, 1985, indicating the modification of the study procedures.[4]

Opening statements, replies, and final arguments were submitted by a number of States, railroads, and other interested parties.[5] The official filing period closed on June 19, 1985, and the Commission's participation in the study was terminated at that time. The staff completed and submitted to the Subcommittee that portion of the study concerning traffic diversion on August 2, 1985.[6]

However, by letter dated July 26, 1985, the staff had informed Chairman Florio that, because of delays in receiving certain information, the viability portion of the study would not be completed by August 2nd.[7] That analysis, which was to be completed on or before August 30, 1985, is the subject of this report.

In preparing this report the staff found it necessary to request additional data from many of the parties. This information was not served on the other parties and was made available solely to the Commission staff detailed to the Subcommittee.

Empirical data such as track charts, traffic density charts, and time tables were submitted by NS and Conrail. Two other carrier participants, CSX Corporation (CSX) and Grand Truck Western Railroad Company (GTW), also submitted traffic density charts.

More significantly, Guilford and PLE were asked to submit substantial data supporting their earlier statements. In the case of Guilford, the staff requested specific underlying data supporting the generalized statements in its unverified submission dated June 30, 1985, and filed July 10, 1985. The data dealt with Guilford's traffic analysis, rehabilitation plan, cost and revenue projections, and overall financial assumptions. The underlying data generally reflected the statements in the record. No party has an opportunity to review or respond to this data.

Although PLE had submitted more detailed information than Guilford before the June 19th deadline, much of the additional data PLE submitted showed revised projections. PLE submitted numerous revisions of its financial statements and also revised its traffic analysis to financial statements and also revised its traffic analysis to reflect additional revenues. PLE also supplied data supporting its rehabilitation analysis. No party had an opportunity to review or respond to this data.

In analyzing the viability of Guilford and PLE, the staff relied heavily on this new data, since the staff's role was that of an expert consultant, not a decision-maker in an adversary proceeding. The staff expertise, gained from years of analyzing various

Footnotes at end of article.

railroad consolidation proposals, enabled it to consider this data without the benefit of rebuttal from other interested parties.

Accordingly, the discussion that follows is based primarily on staff analysis of the supplemental supporting data. Thus, many of the points raised by carriers objecting to the proposal are no longer relevant and they are not discussed.

B. Purpose of the study

Chairman Florio requested an analysis of two specific aspects of the proposed sale of Conrail to NS. The first purpose, addressed in the study completed August 2nd, was to estimate the likely traffic diversion from other rail carriers as a result of the proposed combination. That study analyzed diversion to the new NS-Conrail system and to Guilford and PLE and a result of their acquisition of certain Conrail and NS lines. To the extent possible, the diversion estimates were analyzed by carrier, origin-destination corridor, commodity, and pre-diversion and post-diversion routing.[8]

The second purpose of the study, addressed in this report, was to analyze the viability of Guilford and PLE today and after they acquired certain lines that DOJ found must be divested by Conrail and NS in order to avoid certain anticompetitive ramifications of the sale. In this report, the staff analyzes the current financial viability of Guilford and PLE, their ability to finance the proposed acquisitions, and their projected viability under the divestiture proposal.

The question of whether Guilford and PLE will be able to provide shippers with a long-term, viable, competitive alternative to NS-Conrail that will act as a restraint on any possible abuse of market power by NS-Conrail, is beyond the scope of this report and will not be addressed. The issue of competition is only relevant to the discussion of whether Guilford and/or PLE can compete with NS-Conrail for traffic moving between areas served by both Guilford and NS-Conrail and PLE and NS-Conrail. In conclusion, this report analyzes the ability of Guilford and PLE to acquire the lines, undertake any necessary rehabilitation or construction, physically operate trains over the divested lines, offer sufficiently competitive service to attract some level of traffic to the newly acquired lines, and remain financially viable while operating their newly expanded systems.

In keeping with this narrow focus, general allegations about the ultimate advisability of the sale of Conrail to NS were not considered. In addition, alternative plans, i.e. those raised by parties that called for divestiture of additional lines, granting of further trackage rights, additional conditions on the sale, etc., were not considered.

C. Identity of participants

A number of comments were received both supporting and opposing the proposed divestiture plan. Statements and data in support of divestiture were filed by NS, Guilford, and PLE, all parties to the involved transactions.

Conrail, which NS seeks to purchase, opposes the divestiture plan. Two other eastern rail carriers, GTW and CSX, filed verified statements in opposition. In addition, comments expressing concern about the proposal were submitted by Consolidated Coal Company, Eastern Coal Transportation Conference, The Richmond, Fredericksburg and Potomac Railroad Company, the New York State Electric & Gas Corporation, The Attorney Generals of Ohio and Pennsylvania, and the Departments of Transportation of Iowa, Minnesota, New York, and Ohio.

II. SUMMARY OF CONCLUSIONS

A. The Guilford proposal

The Guilford post-divestiture proposal assumes that it will become a key competitor for traffic in the northeast and midwest. (Maps of the current and enlarged Guilford systems are attached as Appendixes R and S, respectively.) Guilford alleges that most of the acquired lines (the Western Extension) are in adequate condition for its proposed operations but that $63 million in rehabiltation is needed. Further, it contends that its operating plan will permit it to provide time-competitive service on trailer-on-flat-car (TOFC) traffic between Chicago, on the one hand, and the New York area and New England, on the other.

Guilford estimates that it will receive additional gross revenue of $161.3 million, less $11.7 million in revenue lost to the NS-Conrail operation. Guilford anticipates that TOFC traffic will account for $61.4 million. In addition to the increased revenue, Guilford foresees continually improving operating efficiencies, resulting in rapidly decreasing operating ratios.

Because these assumptions generally are without merit, Guilford's proposal will not result in a viable post-divestiture operation.

Guilford has underestimated its rehabilitation by only about 10 percent; however, even with the necessary rehabilitation, the carrier's operating facilities will be inferior to its chief competitor, NS-Conrail, in terms of both structure and circuity. Its operating plan does not take into account numerous operating difficulties, such as the lack of double-track line, poorly spaced sidings, and inefficient connections. Guilford also fails to consider how the movement of its trains to and from NS-Conrail lines will be affected by the large volume of NS-Conrail traffic on those lines.

Because of the lack of comparable facilities, Guilford will not be able to maintain competitive schedules on the TOFC traffic at Chicago and, thus will find it difficult to attract such traffic. Guilford also has failed to consider that, although it might benefit initially from some diversion of TOFC traffic, it will not be able to retain all of this traffic against the retaliatory efforts of its competitors. Thus, Guilford will not achieve the large traffic gain it projects, and its revenue gain is overstated by approximately $25 million.

Although the more realistic revenue gain will not prevent Guilford from operating at a profit, the defect in Guilford's proposal goes beyond revenue and expense. Guilford is a highly leveraged company and must generate sufficient cash flow to service its debt. Currently, Guilford is marginally viable, in that it is able to pay its annual fixed charges and, thus, service its debt. Guilford, however, will finance a portion of the acquisition, which will increase the debt to be serviced. Without the full amount of revenue it projects, Guilford will be perilously close to being unable to meet all of its annual fixed charges.

Further, Guilford has overestimated the operating efficiencies it will achieve, in view of the prior history of its component carriers and the nature of the operating efficiencies of other Eastern carriers. Consequently, its net revenue from operations will be substantially less than it projects, and the cash it has available to meet its debt servicing requirements will decrease. In fact, after a very marginal first year, Guilford will be unable to service its debt, and this deficiency will grow in each of the succeeding years.

In the long run it does not appear that Guilford will be a financially viable carrier.

B. The PLE proposal

PLE has submitted a reasonable plan for incorporating the lines to be acquired into its existing system. (Maps of the current and expanded PLE systems are attached as Appendixes T and U, respectively.) It appears likely that PLE can meet its proposed operating plan without spending substantially more than it estimated to upgrade the system. Similarly, it appears likely that PLE will be able to attract the local and regional traffic that it has projected.

However, PLE's financial forecasts are far more open to question. It must be noted that, even if all of PLE's projections are accepted, PLE admits that it cannot service all of its substantial debt using revenues from rail operations. Substantial income from the sale of, and use of, non-rail assets is needed to cover debt payments.

Even this finding is based on accepting two highly questionable PLE assumptions. First, PLE provides for no economic downturn in the regional economy over the next five years. Lower cash flows arising from any economic downturn could further impair PLE's solvency. Second, and of more importance, PLE's proposed operating ratios are highly optimistic. It is reasonable to assume that PLE will become more efficient with time and the integration of the new lines. However, it is not reasonable to assume, as did PLE, that it will change from a very inefficient carrier to one of the most efficient carriers in the Eastern District over the next five years.

Accordingly, an alternate analysis was performed assuming more realistic, yet still favorable, operating ratios for PLE. The result was that PLE would be marginally profitable on an operating basis but that it would not be able to meet its substantial obligations under its debt restructuring agreement.

In conclusion, PLE is not now a financially viable carrier and its acquisition of the new lines will not enable it to reverse its already precarious financial position.

III. GUILFORD ANALYSIS

A. Overview of Guilford Plan.

1. The Current System

Guilford is a non-carrier holding company that was created in 1981. In June 1981, it acquired the stock of Maine Central Railroad Company (MEC) for $18.5 million; in June 1983, it acquired the stock of Boston and Maine Corporation (B&M) for $24.25 million; and in January 1984, it acquired the stock of Delaware and Hudson Railway Company (D&H) for $500,000 in cash and the repayment of a $7.0 million note. Although the three carriers are separate entities, Guilford has integrated their operations into a 4,000 mile rail system with 4,000 employees. It extends in an east-west direction from the Northeast corner of Maine to Buffalo, NY and serves all of New England, except Rhode Island. North to south, the system extends from Montreal, Canada to New York, Pennsylvania, and Washington, D.C.

More specifically, its MEC routes extend from Vanceboro and Woodland, ME to Bangor, ME and from there to Portland, ME. From Portland, a line extends west to St. Johnsbury, VT. Additional lines permit service to several southern Maine points such as Augusta and Rockland.

Service over the B&M lines extends from Portland to Boston, MA and from Concord, NH to Boston. A line runs from Boston west to Mechanicville and Rotterdam Jct., NY. There is also north-south service from Berlin, NH through Wells River, VT, Springfield, MA, and Hartford, CT, to New Haven, CT, with a branch running to Waterbury, CT.

Service over the D&H lines runs from Montreal, through Mechanicville to Binghamton, NY. From Binghamton, westbound service extends to Buffalo, and southbound service extends through Wilkes-Barre, PA, to the Newark/New York City area, Philadelphia, and Washington, D.C.

In 1984, the operations of Guilford's existing lines (Rail Division) realized revenues of $307.0 million and net income of $5.2 million, notwithstanding a net loss by D&H of almost $7.0 million. Through the first six months of 1985, Guilford's net income from the rail operations was approximately $3.0 million.

2. The Divestiture Proposals

Guilford will purchase or assume leases on 955.5 miles of line, and it will be granted trackage rights over 399 miles of line.[9] The purchase price for these lines is $50 million.

The principal lines to be acquired by Guilford are those extending between Buffalo, on the east, and Chicago and E. St. Louis, IL on the west. Acquisition of the line between Buffalo and Chicago will involve the purchase of NS's line from Buffalo to Cleveland, OH; receipt of trackage rights over Conrail's line from Cleveland to Crestline, OH; purchase of Conrail's line from Crestline to Gary, IN, via Ft. Wayne, IN; and receipt of trackage rights over Conrail's line from Gary into Chicago. Guilford also will purchase NS's 55th Street Yard in Cleveland and Conrail's Bison Yard in Buffalo, its Colehour Yard in Chicago, and its yard in Ft. Wayne. Guilford will also obtain the use of a portion of Conrail's Croxton Yard in Jersey City, NJ, which is near New York City.

Guilford's Buffalo to E. St. Louis route will involve the above-described route up to the point of Delphos, OH. Guilford will purchase NS's route from Delphos to E. St. Louis, including NS's Madison Yard at E. St. Louis. In addition, NS has offered Guilford trackage rights as an alternate route to bypass the low-speed Delphos-Frankfort, IN line while Guilford rehabilitates that line.

Guilford also will purchase NS's 56-mile line in Indiana between Indianapolis and Kokomo, a point on the Delphos-E. St. Louis line. Further, at Bucyrus, OH, a point on Conrail's Crestline-Chicago line, Guilford will receive trackage rights over NS to Carrothers, OH and will purchase the Conrail line from Carrothers to Toledo.

Further, Guilford will be granted trackage rights over 182.2 miles of Conrail lines between Binghamton and Suffern, NY (Southern Tier). Guilford then will seek trackage rights over 30.0 miles of New Jersey Transit lines between Suffern and Jersey City, via Ridgewood Junction, NJ. Finally, Guilford will receive trackage rights over 47.9 miles of Conrail line between Lurgan and Rockville, PA.

In addition, the agreement provides for reciprocal switching arrangements between Guilford and NS-Conrail at industries, stations, or within switching districts where NS and Conrail currently have such arrangements or jointly serve the industry, station, or switching district. At certain of these points NS-Conrail traffic will be handled by Guilford under a car haulage agreement. Further, NS-Conrail will be granted trackage rights over certain Guildford lines.

The agreement also provides that Guilford will purchase certain listed rail cars for $3.0 million, and will have the option to purchase up to 45 GP9 locomotives from NS at a price of $50,000 each and up to 25 SD35 locomotives from NS at a price of $90,000 each. Also Guilford has the option to purchase up to 45 GP38, GP39, or GP40 locomotives from Conrail, to the extent that they become surplus. The price will be equal to the locomotive's fair market value, but will not exceed $120,000 each.

Finally, under the terms of the NS-Guilford agreement, Guilford will acquire certain lines described in the NS-PLE agreement, if PLE elects not to do so.

3. The Post-Divestiture Guilford System

Acquisition of the divested lines will increase the Guilford system to over 5,300 miles and its employment to approximately 5,000, making it the ninth largest carrier in the country. Its service area will be extended westward from Buffalo to the important midwestern gateways of Chicago and St. Louis. Guilford anticipates that it will be able to compete for the Chicago and St. Louis intermodal traffic moving to and from Boston and the New York area. In addition, it expects to provide a competitive service at new markets such as Toledo, Cleveland, Indianapolis, and Ft. Wayne, where it will have access to shippers through reciprocal switching or other terminal arrangements. Finally, Guilford will receive new revenue from the extended haul on traffic it presently transports but must interchange at its western terminus.

Accordingly, it projects ever increasing revenues and profits throughout the first years after acquisition. This assertion is based on a number of assumptions dealing with the physical condition of the lines to be acquired, the operating plan over these lines, the ability to market the new services, and the revenues that will result from the new services.

According to Guilford, the lines being acquired through purchase or trackage rights are generally in good physical condition. It allocates a total of $63 million for capital expenditures on the new lines over five years. The bulk of the money, approximately $39 million, is set aside to upgrade the Delphos to St. Louis line. Other major expenditures are for two lines that are already among the best on the system; $6.38 million for the Buffalo to Cleveland segment, and $7.18 million for the Crestline to Chicago line. An additional $5 million is set aside for new connections, certain yard work, and start-up costs for other capital projects. Guilford is keeping $4.8 million in reserve to be used as needed on the system. Finally, it claims no need to improve, at its expense, the very important TOFC yards at Croxton or Colehour. According to Guilford, these facilities will be operated by contract yard operators who will be responsible for supplying the lifts and other equipment necessary for a successful operation. The operators will be paid through a lift service charge applied to each car. Guilford notes that its Boston facility is currently operated in a similar fashion.

With its new facilities Guilford states that it will be able to offer service competitive with existing service in the region. Its operating plan calls for the following: daily Croxton-Chicago and Boston-Chicago piggyback trains in each direction; daily Portland-St. Louis and E. Deerfield/Mechanicville-Chicago manifest trains in each direction; six days per week service between Toledo-Crestline and Indianapolis-Kokomo with connections east and west; and local service on all lines.

Guilford claims that its manifest train service times to and from the midwest will generally be comparable with Conrail. It claims that it will be service competitive with Conrail for TOFC traffic between New York and Chicago, and that it will operate at only a slight time disadvantage compared to Contrail in the Boston-Chicago market. It does acknowledge that its intermodal service to and from St. Louis will be one day slower.

Based on its operating plan, and its ability to price competitively with Conrail, Guilford claims that it will be able to attract substantial new business, especially intermodal business that it claims Conrail has had to itself for the last few years. Guilford also believes that it will pick up additional general freight business new to both its system and the lines being acquired. In addition, Guilford states that it will get additional traffic and revenues by virtue of: (1) an extended haul on much of its existing traffic; (2) the startup of a friendly connection with the enlarged PLE; (3) the ability to keep much of the traffic on the lines it is acquiring despite the retention by NS-Contrail of reciprocal switching rights at many key points; and (4) car haulage payments when it moves traffic on behalf of NS-Conrail at these reciprocal switching points.

As a result, Guilford claims that it will have additional gross revenue of $161.3 million because of these new lines. That revenue figure is broken down as follows:

	Million
New TOFC traffic	$61.4
New general freight traffic	18.1
Extended hauls	40.7
Traffic on divested lines	34.2
Car haulage revenues	3.9
PLE interchange traffic	3.0

However, Guilford also claims that it will lose $11.7 million in diversions as a result of the NS-Conrail consolidation. The result is that the western extension will provide Guilford with a total of $149.6 million in additional gross revenue.

With this additional gross revenue, Guilford projects that it will be a viable railroad. It projects its net income will rise from an actual 1984 figure of $5.157 milllion to in excess of $19 million by the second year after acquisition and in excess of $36 million by the end of the fourth year after acquisition. At the same time Guilford projects, that it will become more efficient as it integrates the new lines with its existing system, and that it will have an operating ratio of 90.13 percent by the end of the fourth year after acquisition, compared to its 1984 operating ratio of 98.58 percent. According to Guilford, its integration of the new lines with its existing system will enable it to be an efficient, competitive force in the region, and a viable railroad.

B. Criticisms of Guilford proposal

Conrail, GTW, and CSX have raised a number of objections to Guilford's proposal. These objections fall generally into five categories. They relate to Guilford's: (1) statements on current and future financial viability; (2) estimate of the current condition of the lines to be acquired and need for rehabilitation; (3) proposed operating plan; (4) proposed marketing plan; and (5) estimate

of traffic diversion. The major criticisms raised in each category are outlined below.

The opponents of the plan contend that Guilford's financial condition is very weak now and cannot support any further financial obligations such as those required by the purchase of the Western Extension. They note that, of the three railroads in the Guilford system, only MEC has shown a profit consistently and that Guilford lost $29.8 million between 1982-1984. They question whether a railroad that is deeply in debt, consistently late in paying its bills, and has operating ratios considerably higher than other Eastern District railroads, can successfully operate a costly expanded system. The opponents further contend that most of the improvement shown in Guilford's financial condition over the past year has been due to changes in accounting methods and not to any actual improvement in its financial condition. Finally, they argue that, even accepting Guilford's statement of its current financial status, its condition is so precarious that any miscalculation as to the amount of new revenues it will attain will place Guilford in a losing, rather than profitable, position.

The opponents assert that the lines to be acquired are in poor physical condition, particularly if compared to the competing NS-Conrail lines. They estimate that necessary rehabilitation of these lines will cost between $137.3 and $184.7 million plus an additional $5-$5.6 million for rehabilitation of rail yards and construction of new connections. They also argue that annual maintenance will cost $10.1-$19.0 million. The opponents doubt Guilford's ability to obtain the necessary funds to accomplish this level of rehabilitation.

According to the opponents, Guilford's operating plan is totally unrealistic. They argue that Guilford will suffer a severe time disadvantage compared to NS-Conrail, with trains often two days slower than on the comparable NS-Conrail lines. They contend that Guilford's train schedules do not: (1) take into account speed restrictions on much of the track to be acquired; (2) acknowledge the existence of single-track areas with few passing-sidings which result in delays; and (3) consider Guilford's limited switching access at Chicago, St. Louis, and Toledo. The opponents assert that, when all of these problems are correctly figured into train schedules, Guilford will not be able to meet its operating plan and, thus, will not be able to compete with NS-Conrail.

The opponents assert that Guilford's one-to-two day late, one-train per day, circuitous service will not attract significant amounts of traffic to Guilford. Thus, they contend its marketing plan is unlikely to succeed. They note that most intermodal traffic is time-sensitive and, therefore, Guilford's slow service will not be able to compete with NS-Conrail, CSX, or GTW. They argue that shippers currently using NS or Conrail will have no incentive to use Guilford, particularly since NS-Conrail will have superior tracks paralleling those to be acquired by Guilford and overlaying most of Guilford's territory. The opponents contend that western carriers will not be "neutral" in their connections with Guilford since they will not want to alienate the more powerful eastern carriers such as NS-Conrail or CSX. They note that these large eastern carriers could route more traffic away from western carriers that favor Guilford, than Guilford can route to them. They question Guilford's assumption that there is a large volume of traffic on the lines to be acquired that is currently being ignored by Conrail and thus is available as "new" traffic for Guilford.

Finally, the opponents contend that Guilford's traffic diversion figures are too high. As discussed above, they doubt that Guilford can attract a significant amount of traffic due to its circuitous routes, slow times, and poor switching arrangement. They contend that it is more likely that the powerful NS-Conrail system will be able to divert, or hold on to, traffic from Guilford, than Guilford will divert traffic from NS-Conrail. Essentially, they argue that Guilford cannot expect to gain the additional $161.3 million in revenues it projects. Therefore, returning to their arguments on financial viability, they argue that, without the huge influx of new revenues assumed by Guilford, Guilford cannot be a financially viable carrier.

C. Discussion of Guilford proposal

1. Description and condition of lines

Guilford is gaining access to about 1,354 route-miles of line from both Conrail and NS. It intends to purchase 955.5 route-miles and obtain trackage rights over 399.0 route-miles. A description of each line, including its current condition as determined by track charts and timetables, is set forth below.

a. Ft. Wayne Line.—This line is owned by Conrail and runs from Crestline, OH (MP 188.17) to Chicago (MP 446.7), containing 258.0 route-miles and 299.0 track-miles. Included as part of this line are Colehour Yard, located just southeast of Chicago, and connections at Crestline and Delphos. According to track charts, the rail is mostly 131 to 140-lb. and the speed limits are 70/70 or 60/50 except through towns and yards.[10] The line is listed as Class 4, which indicates that the ties and track alignment are also good.

Colehour Yard, located on the south side of Chicago, contains 32.7 miles of track distributed over 43 separate tracks. Conrail presently has six tracks in local service. These are in fair condition. Two tracks are leased for storage. One track is used for maintenance of way and camp car storage. Two tracks are used for engine and care storage. The remainder of the yard is in poor condition.[11]

b. The Carrothers Branch.—This line is owned by Conrail and runs from Carrothers, OH (MP 27.1) to Toledo (MP 82.7), containing 55.6 route-miles and 87.3 track-miles. Also included is Yard "E" in the Toledo area, and a connection at Oakdale. The line is generally at FRA Class 3, with a 30 m.p.h. speed limit for 31 miles and a 40 m.p.h. speed limit for approximately 10 miles. However, the track charts and timetables for this line indicate that the speed limit is generally 25 m.p.h. even though there is a substantial amount of double track and the rail is mostly 131-lb. and 132-lb. Since FRA Class 3 track generally has a maximum speed of 40 m.p.h. for freight service, it is unclear why this line has operated at a 25 m.p.h. speed limit. To resolve this apparent discrepancy, the past and present traffic over the line was investigated.

Historically, this line carried a large amount of limestone to steel mills located at opposite ends of the line from quarries located on-line. The existing traffic is primarily limestone trains and this may account for the line being listed as FRA Class 3, but the timetable and track charts listing a lower-than-expected speed of 25 m.p.h. for virtually the entire line. Limestone traffic frequently falls in the category of heavy wheel loading and slower speeds are not unusual. In addition, a history of heavy traffic may have caused considerable rail wear which would not necessarily be reflected in the FRA classification but would affect the speed limit.

There is no specific information regarding the present condition of Yard "E".

c. The Ft. Wayne Secondary.—This line is owned by Conrail and runs from Adams, IN (MP 86.8) to Decatur, IN (MP 70.4), containing 16.2 route-miles. The line is single track and is presently FRA Class 1. According to the track charts, the speed limit is 10 m.p.h. and the 100-lb. rail installed on the line is 1914 to 1929 vintage.

d. Clark Branch.—Guilford is seeking trackage rights over Conrail's Clark Branch from Clark, near Cleveland (MP 12.9) to Berea, OH (MP 21.9). The line contains 9.0 route-miles and 18.0 track-miles. There is also a connection near Cleveland north of Cloggville Yard. According to track charts the line is double track, has a speed limit of 30 m.p.h., and consists largely of 127-lb. rail, vintage 1929 and 1956.

e. Cleveland-Indianapolis Main.—Guilford is seeking trackage rights over Conrail's Cleveland-Indianapolis Main line from Berea (MP 12.5) to Crestline (MP 74.7). The line contains 62.2 route-miles and 81.3 track-miles. MP 12.5 at Berea is the same as MP 21.9 on the Clark Branch. According to track charts the main track is mostly 140-lb. rail, the passing tracks are mostly 127-lb. rail, and the speed limits are 70 m.p.h. for passenger and 50 m.p.h. for freight.

f. Buffalo-Chicago Main.—Guilford is seeking trackage rights over Conrail's Buffalo-Chicago Main Line from Berea (MP 193.9) to Elyria Yard (MP 204.6). The line contains 10.7 route-miles and 21.4 track-miles. According to track charts, the main tracks are 140-lb. rail and passing tracks are 127-lb. rail. The speed limits are 79/70/50 or 70/70/50 [12].

g. South Lorain Branch.—Guilford is seeking trackage rights over Conrail's South Lorain Branch from Elyria Yard (MP 0.0) to South Lorain (MP 6.8). The line contains 6.8 route-miles and is single track. There was a problem with the mileposts. The track charts submitted only showed the line from MP 0.0 to MP 3.1. The Guilford agreement listed mileposts 0.0 to 6.8. Since the discrepancy was not otherwise resolved, it is assumed that the line continues on to MP 6.8 at South Lorain. The line is FRA Class 1 and carries heavy traffic to and from steel mills in the area. According to track charts, the line consists mostly of 110-lb. and 130-lb. rail, and the speed limit is 10 m.p.h. This information was only available from MP 0.0 to MP 3.1; it is assumed that the remainder of the line is similar.

h. Buffalo-Chicago Main.—Guilford is seeking trackage rights over Conrail's Buffalo-Chicago main line from CP 446 to CP 455 in the southeast Chicago area near Colehour Yard. The line contains approximately 9 route-miles and 23.8 track-miles. The agreement with Guilford lists the mileposts at 501.0 to 509.5. There is some problem with the end point definition near MP 509.5. Therefore, the control points will be accepted as limiting designations only. The line is presently at FRA Class 4. No track charts were furnished for this line, but since it is a portion of Conrail's New York to Chicago main line, it is reasonable to conclude that it is in good condition.

i. Buffalo and Cleveland Districts.—These districts encompass NS's main line from Buffalo (MP 1.5) to Cleveland (MP 189.2), and contain 187.7 route-miles and 264.7 track-miles. The line is mostly FRA Class 4

with some sections at FRA Class 3. The line contains mostly 131-lb. and 132-lb. rail installed in 1978-1981. The speed limit is 60 m.p.h. with CTC and ABS signals.[13] The only deviations are restrictions for turnouts, junctions or interlockings, yards, curves, and towns. Restrictions in areas such as these are normally based on operational considerations and are not usually reflective of track conditions. Some of these areas have been slow ordered to 20 m.p.h.

j. Cloggville Yard.—This yard is owned by Conrail and is located at the east end of the Clark Branch in the Cleveland area. The track involved here runs from MP 11.8 to MP 14.0, containing 2.2 route-miles. According to track charts, the speed limit is 10 m.p.h. and the track is adjacent to a yard. Lower speed limits are expected in congested areas such as this and are not necessarily indicative of poor track.

k. The Marion District.—This line is owned by NS and runs from Douglas, OH (MP 65.5) and Frankfort, IN (MP 206.5), containing 141.0 route-miles. The line is single track with passing sidings. The section of the line from Delphos to Marion is in poor condition at FRA Class 1. The speed limit for the line is 25 m.p.h., but 28 miles has been slow-ordered to 10 m.p.h. The rail is 90-lb. to 100-lb. relay, jointed and non-control cooled. The section of the line from Marion to Frankfort is in slightly better condition at FRA Class 2. There are two large bridges that prohibit the operation of 6-axle diesels. The timetable speed is 25 m.p.h. except for yards and some curves. The rail was installed from 1926 to 1952, and there are large amounts of 1928 vintage 90-lb. and 1937 vintage 100-lb. The weight range of the rail for this line is 90-lb. to 112-lb. Recent photos of the section of the line near Marion confirm that the line is in fair to good condition for a branch, but unsuitable in its present state for main line service.

l. The Charleston District.—This line is owned by NS and runs from Frankfort (MP 208.0) to Charleston, IL (MP 318.2), containing 110.2 route-miles. The line is single track with some passing sidings. The line is mostly FRA Class 3, with a speed limit of 35 m.p.h. The rail is 112-lb. to 115-lb. with some 110-lb. and 132-lb. rail. The 112-lb. rail is 1941 to 1949 vintage. The 115-lb. rail is 1953 to 1956 vintage. There are no signals on the line.

m. The Madison District.—This line is owned by NS and runs from Charleston (MP 318.2) to East St. Louis (MP 447.0), containing 128.8 route-miles. The line is single track with passing sidings. There is also a yard at Madison. The line is FRA Class 3 with speed limits ranging from 30 m.p.h. to 40 m.p.h. The rail is mostly 112-lb. to 115-lb., mixed 1940's vintage. There is some 110-lb. rail, 1932 vintage, from MP 414 to MP 422. The are no signals on the line.

n. The Indianapolis District.—This line is owned by NS and runs from Indianapolis (MP 2.1) to Kokomo (MP 58.0). The line contains 55.9 route-miles and is single track. The line is generally FRA Class 2, with a speed limit of 15 m.p.h. for seven miles, and 25 m.p.h. for 49 miles. There are additional 15 m.p.h. speed restrictions due to city ordinances. The first seven miles of 15 m.p.h. is largely within yard limits at Indianapolis. The rail is mostly 90-lb., 1929 to 1945 vintage, with some 100-lb. to 110-lb. rail.

o. Kokomo Secondary.—Guilford is seeking trackage rights over NS's Kokomo Secondary from MP 159.1 to MP 159.4 in the Kokomo area. No information was presented concerning this line. It is assumed that its present condition is adequate.

p. Sandusky District.—Guilford is seeking trackage rights over NS's Sandusky District from Bucyrus, OH (MP 62.9) to Carrothers (MP 76.6). The line contains 13.7 route-miles and 17.2 track-miles. The line is presently FRA Class 4. According to track charts, the speed limit on the line is 50 m.p.h. from MP 62.9 to MP 73.8 and 60 m.p.h. on the westbound main and 50 m.p.h. on the eastbound main from MP 73.8 to MP 76.6. The rail is 132-lb. CWR[14] with 130-lb. on sidings.

q. Frankfort District.—Guilford is seeking trackage rights over NS' Frankfort District from MP 206.5 to MP 208.0 in the Frankfort, IN area. This line connects the Charleston and Madison Districts mentioned earlier. According to track charts, the speed limit for this line is 20 m.p.h. and it is all located in or near a yard. The low speed limit is not reflective of track condition but has probably been set based on operating parameters.

r. New Jersey Transit.—Guilford is seeking trackage rights over New Jersey Transit from Croxton Yard (approximately MP 1.0) to Suffern, NY (MP 31.0). No information was presented for this line but it appears that the speed limits on this section are in the 40 to 50 m.p.h. range, indicating that the line is in very good condition.

s. Southern Tier.—The Southern Tier is a term used to describe lines of the former Erie Railroad, now owned by Conrail, running across the extreme southern part of New York. The part of this line under consideration is the section running from Suffern (MP 31.0) to Binghamton (MP 213.2). According to timetables, the speed limit is between 35 m.p.h. and 40 m.p.h. except for 1.1 miles of 30 m.p.h. at CP Sparrow, and 13.8 miles of 25 m.p.h. to 30 m.p.h. from CP Deposit over Gulf Summit to Lanesboro, and 2.0 miles of 30 m.p.h. at Binghamton yards. The line is FRA Class 3, with the possible exception of the second track from Gulf Summit to Lanesboro.

t. Rockville-Harrisburg.—Guilford is seeking trackage rights over Conrail from Rockville, PA (MP 109.9) to Harrisburg (MP 105.2). Since this is Conrail's main line through Pennsylvania, and also handles Amtrak trains, it is concluded that this line is in good condition.

u. Harrisburg.—Guilford is seeking trackage rights over Amtrak through the Harrisburg Station (MP 105.2 to MP 104.8). Since this line is contiguous with the Rockville to Harrisburg line, it is again concluded that the line is in good condition.

v. Harris-Capital.—Guilford is seeking trackage rights over Conrail's wye south of the Harrisburg station between Harris (MP 112.2) and Capital (MP 112.6). This is the connector from Amtrak's Philadelphia line and Conrail's Lurgan Branch. The condition of the wye is adequate.

w. Lurgan Branch.—Guilford is seeking trackage rights over Conrail's Lurgan Branch from Harrisburg (MP 0.0) to Lurgan, PA (MP 42.4). The line contains 42.4 route-miles and 53.4 track-miles. According to timetables, the speed limit for the line is 40 m.p.h. The line is FRA Class 3.

x. Huntington-New Castle.—Guilford is seeking trackage rights over NS's Huntington-New Castle line from Ft. Wayne (MP 146.0) through Hugo (MP 149.2-MP 184.1) to Bluffton (MP 162.6). The line contains 24.7 route-miles and is single track. The line is in adequate condition.

2. Operating Plan

a. Introduction.—In the following pages, Guilford's proposed train operations and the schedules for those trains are set forth. The service and schedule will be analyzed by examining the service and schedule with which these trains must compete and certain operational factors which affect Guilford's ability to meet its schedules. As is true with any operating plan, Guilford depends on assumptions made about the condition of the line. Where relevant, the line condition and Guilford's plans for rehabiliating the line to meet its operating plan timetable will be examined. Guilford's plans to acquire additional equipment in order to fully use its new routes will also briefly be discussed.

b. The Train Operations.—Guilford proposes to operate the following trains over the acquired lines and trackage rights:

A daily Croxton (New York area)-Chicago piggyback train in each direction;

A daily Boston-Chicago piggyback train in each direction, with connections to/from Maine;

A daily Portland-St. Louis manifest train, in each direction, also carrying connecting piggyback traffic to/from New York and Boston;

A daily E. Deerfield/Mechanicville-Chicago manifest train in each direction;

Six days per week service between Toledo and Crestline with connections east and west;

Six days per week service between Indianapolis and Kokomo connections east and west; and

Local service on all lines of the Western Extension designed to meet the needs of shippers at the various stations and, in general, at the same or higher levels of service that is now provided.

c. The Train Schedules.—In discussing the various schedules, Guilford's plans have been broken down into two categories: piggyback traffic and manifest traffic. This is necessary since much of Guilford's financial assumptions rest on its belief that it will provide competitive TOFC service on Conrail's and, thus, attract substantial revenues. For this reason, Conrail's existing schedules for much of this TOFC traffic will also be set forth. The discussion will also analyze the distinct traffic flows separately since Guilford's marketing and traffic assumptions also focus on market pairs. Finally, in many instances Conrail's arguments will be relied on, since its witness submitted especially detailed data concerning the operating plan.

There are two exhibits to assist in the understanding of this section. Table 1 sets forth Guilford's proposed schedules for TOFC traffic. Table 2 sets forth the Guilford and Conrail transit times between specific markets for TOFC traffic.

(Table 1 is not reproducible in the RECORD.)

TABLE 2.—COMPARISON OF TOFC TRANSIT TIMES

	Guilford		Conrail	
	Hours	Minutes	Hours	Minutes
New York (Croxton)-Chicago	29	49	29	30
Chicago-New York (Croxton)	29	37	29	10
Boston-Chicago	[1] 47		33	30
Boston-St. Louis	59	13	40	
St. Louis-Boston	63	40	40	55
New York (Croxton)-St. Louis	54	43	35	
St. Louis-New York (Croxton)	55	27	32	20

[1] Source Conrail.

d. TOFC Traffic:

i. *NY-Chicago.*—According to Guilford, its TOFC service between New York and Chicago (both directions) is time competitive with Conrail's. However, Conrail claims that Guilford has substantially underestimated the operating difficulties it will encounter in trying to provide this service. It contends that the proposed Guilford schedules are false or misleading. In calculating the best possible schedule for Guilford, Conrail considered train density and the number of segments of single track line with few passing-sidings. It developed a transit time of 33 hours and 15 minutes for Guilford's Croxton-Chicago TOFC train and 35 hours and 30 minutes for the eastbound train, based on a maximum speed of 60 m.p.h. Conrail, in computing the best possible transit times on an authorized speed of 40 m.p.h., developed transit times of 38 hours from Croxton to Chicago and 39 hours and 15 minutes Chicago to Croxton.

Further, Conrail contends that dock-to-dock time (the time necessary for yard terminal work and for delivering or drayage to or from industries at either end of the trip, in addition to the rail transit time) of its intermodal service would be significantly faster than Guilford's. It suggests that Guilford's dock-to-dock service in either direction (at 40 m.p.h.) would be approximately 44-45 hours as compared to Conrail's dock-to-dock time of 35-36 hours. Conrail states that these times would allow Guilford, at best, to provide third morning service on this very competitive traffic.

The lines over which Guilford will operate have been analyzed, and it is found that there will be numerous points of congestion. Certain points have heavy traffic densities with long segments of single track and limited passing-sidings.

Of specific concern is the movement of Guilford's trains to and from the NS-Conrail Cleveland-Indianapolis line at Crestline. The connection proposed by Guilford at this location will be constructed under a highway bridge and would go between bridge piers. Guilford has indicated that the connection will contain a sharp curve. Operations over this curve will be at slow speeds. The reduced speed of Guilford's trains during movement to and from the NS-Conrail line will be taken into consideration as to when a Guilford train will be accepted for movement. The density of Conrail's traffic through Crestline indicates that NS-Conrail traffic will constantly be in conflict with any Guilford movement at this location.

Also of concern is the movement of Guilford's trains to and from NS-Conrail lines at Cloggville in the Cleveland terminal area. The related movement of trains between Cloggville and Berea for the account of Guilford is within an area of heavy terminal traffic and two important yards for this provision of service to and from industry. The potential of delay to Guilford's trains in this area is significant.

Under the circumstances, it is unlikely that Guilford could on a regular basis make its suggested transit time. In fact, Guilford's transit times will be in the range of the Conrail estimate, approximately four hours slower than Guilford estimated.

ii. *Boston-Chicago.*—Conrail estimates a Guilford transit time (at 40 m.p.h.) of 47 hours, for this traffic compared to 33 hours and 30 minutes transit time of Conrail's latest published schedule. Dock-to-dock service will require 47 hours and 45 minutes at 50 m.p.h. and 53 hours at 40 m.p.h. compared to dock-to-dock service Conrail offers in 39½ hours.[15]

For the reasons given for the New York-Chicago service, this service, which is provided over the same tracks as the New York-Chicago service, will be substantially slower than estimated by Guilford. Conrail's estimate is accepted.

iii. *Boston-St. Louis and New York-St. Louis.*—An examination of Table 2 makes it clear that Guilford is not even suggesting that it will be able to compete with Conrail vis-a-vis transit times in this market. This, in large part, is due to Guilford's acknowledgment of the relatively poor condition of the Delphos to St. Louis line. Nevertheless, as will be discussed in more detail in the section on traffic diversion, Guilford claims that it will be able to attract less time sensitive traffic to this line because of its ability to price this service competitively.

iv. *Other.*—In addition, Guilford is proposing through TOFC service between Portland, ME and Chicago and between Portland and St. Louis. Such service is not provided by Conrail since it does not serve Portland. Guilford's service provides transit time of 47 hours and 16 minutes between Portland and Chicago and 46 hours and 6 minutes between Chicago and Portland. As a general comment concerning this service, as well as the service between Croxton-St. Louis, and Boston-St. Louis, it must be noted that Guilford's schedules each use a combination of two through trains, including manifest trains. These combinations of through trains indicate that traffic in one train will be passed to another train at some location. Guilford's operating plan does not specify which intermediate terminal would be used for this purpose.

e. Manifest Traffic.—Guilford proposes one train per day in each direction between Portland-Chicago, with connections for Boston and Albany. The western terminal for this train is on The Belt Railway Company of Chicago, providing connections to and from western carriers in Chicago.

A comparison of service between Conrail and Guilford for Portland-Chicago traffic cannot be made as Conrail does not serve Portland. However, a comparison can be made for service between Chicago and Albany and Chicago and Boston. See Table 3.

TABLE 3.—COMPARISON OF MANIFEST TRAIN TIMES

	Guilford		Conrail	
	Hours	Minutes	Hours	Minutes
Chicago–Albany	58	48	[1] 75	
Albany–Chicago	87	33	[2] 62	
Chicago–Boston	66	35	[3] 65	30
Boston–Chicago	64	48	71	

[1] Source Guilford.
[2] Source Guilford.
[3] Guilford's analysis of Conrail's service apparently was miscalculated in Guilford's June 30, 1985 submission.

Guilford proposes to operate only one train six days per week in each direction between Crestline and Toledo. Train TOCR, departing from Toledo at 0600 hours, is scheduled to arrive in Crestline at 1210 hours, but traffic for St. Louis would not depart in train POSL until 0823 hours the following day, or 20 hours and 13 minutes later. The overall schedule between Toledo and St. Louis and would be from 0600 hours ET on Day 1 until 0723 hours CT on Day 3 or 50 hours and 23 minutes. In the opposite direction, traffic from St. Louis to and via Toledo is scheduled to arrive in Crestline at 1830 hours in train SLPO and depart for Toledo at 1500 hours the following day in train CRTO, or 20 hours and 30 minutes later. The overall schedule between St. Louis and Toledo would be from 1700 hours CT on Day 1 until 2055 hours ET on Day 3, or 50 hours and 55 minutes. Some traffic, to, from, and via Toledo, would be delayed an additional 24 hours one day per week.

Conrail's service from St. Louis to Toledo includes train BNTO six days per week having a schedule of 19 hours. Additional service is provided by daily trains ASIN and TRIN from St. Louis which connect with train INTO daily at Indianapolis and the overall schedules from St. Louis to Toledo are 27 hours and 30 minutes and 37 hours and 30 minutes, respectively. Train MPIN received from the Missouri Pacific Railroad Company (MoPac) at St. Elmo, IL also connects with train INTO and the schedule from St. Elmo to Toledo is 26 hours and 30 minutes.

In the opposite direction, Conrail train STBN operates five days per week on a schedule of 16 hours and 30 minutes from Toledo to St. Louis.[16] Daily service is provided by train ELCO from Toledo and its St. Louis traffic is handled from Indianapolis in trains INAS, INCB and INTR. Overall schedules from Toledo to E. St. Louis range from 37 hours and 30 minutes to 39 hours and 15 minutes. ELCO traffic is also moved from Indianapolis to the MoPac at St. Elmo in daily trains INMP-A and INMP-B. The overall schedules from Toledo to St. Elmo are 30 hours and 30 minutes and 35 hours and 59 minutes, respectively. Conrail train DNIN operates daily from Detroit to Indianapolis and connects with all five trains previously mentioned. This train does not pick up at Toledo, and the longest schedule time from Detroit to E. St. Louis is 36 hours and 15 minutes.

NS through freight service between Decatur and St. Louis is provided by three trains southbound and two trains northbound. However, unlike Conrail, NS has through freight service between Detroit and St. Louis which operates via Montpelier, Ft. Wayne, and Decatur, and not via Toledo. Train DS-11 operates from Detroit (Oakwood Yard) to St. Louis (Luther Yard) and its schedule is 18 hours and 30 minutes. Certain St. Louis traffic from train DS-11 is handled from Decatur to E. St. Louis in train MP-77 and the overall schedule from Detroit is 33 hours. Traffic from St. Louis to Detroit moves in trains SC-18 and SD-78 to Decatur and then in train KD-12 to Detroit. Overall schedules are 29 hours and 30 minutes from St. Louis and E. St. Louis (Alton & Southern Railway Company's Davis Yard), respectively.

Trains SC-18 and SD-78 also connect at Decatur with train TC-4 to Bellevue and then train WJ-1 to Toledo. Overall schedules from St. Louis and E. St. Louis to Toledo are 38 hours and 30 minutes and 39 hours.

Under the NS proposed service, all Detroit-St. Louis corridor traffic would move via Toledo and that location would have better service than either NS or Conrail has at present.

The NS-Conrail combination route from Toledo to E. St. Louis via Butler, Ft. Wayne and Indianapolis would be 459 miles and would have authorized maximum speeds of 50 and 60 m.p.h. By contrast, Guilford's route, after an expenditure of more than $39 million for upgrading plus an undisclosed amount for a new connection at Delphos, would be 533 miles including a backhaul of at least 9 miles in each direction between Bucyrus and the yard at Crestline. Prior to completion of the upgrading, which

could take as long as five years, the temporary detour route between Delphos and Bluffton via Ft. Wayne would add 20 miles.

Guilford's circuity of 74 miles, coupled with longer transit times between Toledo and E. St. Louis, would result in higher unit transportation and maintenance of equipment costs.

In summary, on St. Louis corridor traffic to, from, and via Toldeo, including a large segment of shipments to and from Michigan, Guilford could not offer effective competition to NS-Conrail on the basis of frequency of service or transit time. Consequently, other carriers could not rely on Guilford to provide effective interline competition in the St. Louis corridor via the Toledo gateway. Interchange delays at Toledo would further restrict effective regional carrier interline competition to NS-Conrail.

f. Line Condition. In analyzing an operating plan, attention must be paid to the condition of the line, the configuration of connections, and the adequacy of the communications system. Although Guilford's rehabilitation proposal is discussed in detail below, it is necessary to focus on certain aspects of the line's condition in this discussion. Specifically, there is concern about the ability of Guilford to operate over the Delphos-St. Louis line, its plans for a connection at Crestline, its use of Yard E in Toledo, and the lack of a communications system on segments of the line.

Guilford proposes to operate, in each direction, one through train per day over the Delphos-St. Louis segment. By Guilford's admission, this line is in poor condition. Guilford anticipates spending in excess of $39 million over five years to upgrade this line. During the first three years of the project, Guilford has made arrangements with NS for a trackage rights detour from Ft. Wayne to Bluffton so that it will have immediate access to St. Louis at track speeds and densities conforming to the operating plan.

However, in addition to the track structure deficiencies, which Guilford intends to remedy, the signal and communications system on this line is not sufficient to provide an adequate measure of safety at the level of through train and local service that Guilford proposes. The entire line is manual block territory and is operated pursuant to manual block system rules. Current NS operations over this line are controlled by timetable authority, train order, or bulletin. Train order stations are located at Bluffton, Frankfort Yard. Frankfort, and at Charleston Yard, Charleston. Bulletin books and train register books are located at Bluffton, Kokomo, and Frankfort, and at Charleston.

At points (sidings), intermediate to the train order stations, where one train would be able to clear the main track so that another train could move through that specific block (track segment), currently there are inadequate communication facilities. (Between Delphos and Frankfort, there are no telephones at the points where trains could clear the main track). This matter is of extreme importance since NS has been granted trackage rights over Guilford's tracks to serve industries between Marion and Van Buren, IN. The lack of an effective method for the control of train movements with minimum delays to both through and local service trains reduces the efficiency of Guilford proposed operations and increases unit costs.

In addition, there are four unattended interlockings between Frankfort and Madison. Timetable rule 155 applies to the operations over railroad crossings at these locations:

"155. Derails are in service on main track on each side of railroad crossings at Oakland, Neago, Mode, and Cowden. Interlocking signals at these locations will display Stop only. All movements will stop and comply with posted instructions."

This rule indicates that, when a train approaches each of these locations, it must stop, the crew then gets authority to move across the foreign rail line, and, after closing the derails, will move the train over the crossing. After the train clears the crossing, the train must stop and the crew restore the derails to an open position. While the time involved for such stops is reflected in Guilford's proposed schedules, such operations and delays will reduce Guilford's ability to attract additional traffic from other modes and carriers.

In addition to upgrading the Delphos-St. Louis line, it will be necessary to construct connections between lines being acquired at Delphos and Crestline. The Crestline connection is of most importance to efficient train operations. The least expensive and most efficient place to build such a connection is the northwest quadrant of the intersection; however, a highway bridge has been constructed in that location. Guilford proposes a connection that goes between the piers of this bridge. Such a connection would have a severe curve to traverse the area under the bridge. An alternative is to construct a balloon track, a wide circular structure, which will permit trains to go through a circle similar to one quarter of a highway clover leaf to move from one track to the other. Such a balloon track can be located in the southwest quadrant of the intersection which could be angled gradually to allow for the movement of trains from one line to the other. The balloon track would necessarily be longer than a connection in the northwest quadrant to compensate for the loop movement a train must make in moving over it. This in turn entails a higher cost of construction and maintenance because more track materials are involved. Furthermore, a balloon connection requires slower movement by the train.

The existing connection at Delphos between Conrail and NS lines is not the position for the efficient movement of trains between St. Louis and Cleveland. Without the construction of a new connection at this location, Guilford would have to back its trains through the present connection over numerous city street crossings and around a very sharp curve.

In addition, Guilford proposes the use of Yard E in Toledo. This yard is not adjacent to the Carrothers Branch of Conrail that is to be acquired by Guilford. Conrail states that Guilford will have to back its trains into and out of Yard E to complete its road trip, creating a slower, dangerous and inefficient operation. Conrail further states that Yard E abuts an interlocking (a complex network of signals at a rail crossing) on either end. An interlocking is like a street intersection with traffic going in several directions and some trains have to stop and wait while others move through the interlocking. This means that the switching leads are very short. The length of a train being put together, or blocked, by a train performing switching maneuvers will either have to be inefficiently short or trains of normal length will have to extend beyond the yard into one or both interlockings while being blocked, because the yard tracks are not long enough to accommodate a normal length train in this maneuver. Both interlockings are very busy facilities and waiting for other trains to go through before blocking trains will reduce the time available to switch cars. The interlocking cannot be blocked when other trains need to move through the crossing. This, too, results in delays and increased costs.

g. Equipment.—Guilford has estimated that it will need 1,400 freight cars to augment its present fleet of approximately 10,000 cars. Guilford will acquire the cars, consisting of covered hoppers, gondolas, and open-top hoppers, from NS. The cost for the equipment in "as is" condition is $3,000,000. In addition, Guilford has the right to acquire up to 70 locomotives from NS. The acquisition agreement provides for 45 GP-9 (this series was last manufactured in United States in 1959) locomotives and 25 SD-35 locomotives, at costs of $50,000 and $90,000 each, respectively.

The additional equipment is essential for meeting the needs of Guilford's proposed extended operations.

h. Conclusions.—Guilford's operating plan appears designed to compete with existing rail carriers in various markets. However, Guilford's properties are not in as good a condition as those of its competitors. Not only does Guilford have serious problems with its Delphos-St. Louis line, problems which will remain even after its proposed rehabilitation, it is also plagued with poor connections and presently inadequate yard facilities. While these problems can be alleviated in large part by the expenditure of funds, Guilford's more fundamental problems cannot be so corrected. Guilford has made it clear that the crux of this transaction is its ability to compete for TOFC traffic. Although its schedule indicates it would be competitive for movements to and from Chicago, the analysis of the line conditions and traffic densities is convincing that Guilford cannot meet its schedules.

The fact is that NS-Conrail has, and after divesture will retain, better maintained, higher-speed, and less circuitous lines. Because of these lines and more efficiency, NS-Conrail can consolidate large volumes of traffic in pre-blocked, run-through trains, for delivery direct to western carriers. Accordingly, in every market in which the carriers compete directly, NS-Conrail can and will offer a superior transportation service.

3. Rehabilitation Cost

In analyzing the rehabilitation costs, the evidence submitted by Guilford and Conrail was closely examined, as well as empirical data such as track charts and time tables. This data allowed an analysis of the parties' estimates, and where necessary, restatement of costs. It became necessary to restate the costs often since the parties' estimates were so divergent.

By letter dated August 21, 1985, Guilford submitted a final estimate for *all* capital projects of approximately $63 million. Conrail, the principal party that submitted detailed opposition evidence on rehabilitation matters, estimated total costs of almost $210 million. It is concluded that the total costs will be approximately $69.2 million.

Guilford basically allocated $39.1 million for its Delphos-St. Louis line, $7.2 million for the Ft. Wayne main line, $6.4 million for the Buffalo-Cleveland District, $5 million for yards and connections, and $4.8 million for other projects on an as-needed basis.

Guilford specifically allocated no funds for lines over which it will acquire trackage rights and TOFC facilities in New York

(Croxton Yard), and Chicago, (Colehour Yard). It notes that the Divestiture Agreement only requires it to upgrade trackage rights lines to the point needed to meet its service needs. It claims that all these lines are in adequate condition presently. As to the TOFC Yards, Guilford explains that any capital improvements will be at the expense of contract operators who will be reimbursed through payment of lift charges. Conrail assigned substantial funds to rehabilitate these two TOFC yards (approximately $19 million, $17.1 million for Croxton alone), and to upgrade numerous trackage rights segments (approximately $17.3 million). Guilford's explanations for not including these items are reasonable. Thus, Conrail's position that $36 million must be spent on these facilities will not be further considered.

This deletion allows an easier comparison of the position of the parties. First, the remaining difference as to yards and connections is not very large. It is concluded that total yard and connection costs would be $5,502,130. With the amount of variability inherent in all such estimates at this point, Guilford's $5,000,000 is sufficiently accurate to accept as reasonable.

The remaining differences are shown in Table 4.

TABLE 4.—COMPARISON OF REHABILITATION ESTIMATES

Line segment	Guilford estimate	Conrail estimate
Ft. Wayne Main	$7,180,000	$29,015,520
Carrothers Branch	(1)	14,578,320
Ft. Wayne Secondary	(1)	5,418,440
Buffalo-Cleveland District	6,380,000	6,967,390
Delphos-St. Louis	39,131,000	109,724,790
Indianapolis District	(1)	1,761,400
Nonspecified reserve	4,800,000	0
Total	57,491,000	167,465,860

[1] Not specified.

It is apparent that there are six segments still disputed. Each of these segments is discussed below.

a. Delphos-St. Louis.—This line is where most of Guilford's rehabilitation funds will be needed. As described previously, about 80 miles of this line are now FRA Class 1 and, in the opinion of all parties, unsuitable for mainline service. The next 52 miles of the line are FRA Class 2. The next 110 miles of the line are marginal FRA Class 3. The remainder of the line is FRA Class 3.

Conrail recommended that the entire line from Delphos to East St. Louis be upgraded to FRA Class 4. It stated that all rail should be replaced along with most ties. Its estimate for this work was $109,724,790 using new rail, and $78,241,930 using fit rail, with the caveat that finding this quantity of 112-lb. to 115-lb. used rail would be difficult.

Guilford's original estimate for the line was $35,000,000 to raise it to FRA Class 3 and an additional $20,000,000 to raise the line to FRA Class 4 standards at a later date if traffic volume warranted.[17] Conrail stated that this plan made no sense and that the duplication of work be very inefficient. Both Conrail and Guilford proposed similar quantities for ties, between 331,500 and 336,950. However, Conrail replaced all rail and Guilford is replacing only 120 miles of the 366 total miles. Conrail recommended two surfacing passes over the entire line, whereas Guilford used two passes only between Delphos and Frankfort.

A key difference between the parties appears to be Conrail's estimate of installation and surfacing costs which seem to be considerably higher than Guilford's $6,000 and $7,000 per pass-mile. Because there is no detailed information to determine Conrail's actual surfacing unit cost, an attempt to isolate it was made by removing known material quantities, such as rail, ties, turnouts, etc., and assigning estimated unit costs. The intent was to back out more readily estimated costs leaving some residual amount. This residual amount was a block of labor and material that would contain installation costs such as surfacing material and labor. While this is admittedly an imprecise exercise, it is an improvement over a line total amount which is all there was to start with.

Prior to receiving information on the quantities that Guilford used for its most recent rehabilitation estimate, a restatement was developed. This represents the *minimum* amount of work that must be done on the line to meet Guilford's operating plan. Most of the rail from Delphos to Marion was replaced. From Marion to Frankfort half of the existing 90-lb. rail would be replaced. From Frankfort to East St. Louis it is estimated that about 10 percent of the rail should be replaced to get rid of the oldest vintages of 110-lb. rail. The tie quantity estimates were the same for FRA Class 2 and 3. The differences between these two classes are principally in the track geometry specifications. FRA Class 3 is considerably more critical in areas of cross-level, and in tolerance of rail end mismatch and end batter. This is usually reflected in increased surfacing costs between FRA Class 2 and 3. The final estimate of rehabilitating the line from its present condition to FRA Class 2 from Delphos to Marion, and to FRA Class 3 from Marion to East St. Louis was $45,826,000.

After reviewing Guilford's latest estimate of $39,131,000 submitted on August 21, 1985, it is believed that the principal difference between these costs and Guilford's is contained in the surfacing cost. This was the most difficult item to evaluate with the information furnished and equally difficult to find any independent information about. As a probable ceiling value, an independent construction cost estimating source, R. S. Means Construction Cost Data, 1984 was selected. This publication is generally accepted throughout the construction industry. The estimated cost of surfacing and realigning existing track, with additional crushed stone ballast, was $14.15 per linear foot, or $74,712 per mile. This cost was developed using a 4-man crew with foreman, a backhoe and one equipment operator. This is considered as a maximum cost, with the idea that production surfacing used by railroads over long sections of track would be much more efficient than this largely manual method and, therefore, cost considerably less, perhaps somewhere around half. However, since Guilford's estimate was only about 10 percent of this ceiling, it is clear that they did not set aside enough money for this task. Guilford's unit cost of $7,000 per mile for surfacing contains labor, ballast, other material, and equipment costs. Based on information from Guilford, ballast takes between $1,500 and $2,000 of this. The remaining amount is not adequate for labor and equipment costs plus any overhead expenses. In addition, no line item for work on the bridges that may restrict locomotive use on the Delphos to Marion section has been found. For these reasons the estimate of $45,826,000 is more indicative of the actual amount necessary to rehabilitate this line. A contingency item should also be set aside for some sort of signalling and communications system, especially if this equipment must be purchased instead of leased. However, no money is assigned for this purpose.

b. Ft. Wayne Main.—Conrail has recommended $29,015,520 to rehabilitate this line. This included replacement of 13 percent of the rail and 14 percent of the ties. Guilford has estimated the cost to be $7,180,000. The line is FRA Class 4 at present and only a small amount of rehabilitation work is necessary. Conrail's tie quantities seem sufficient to raise the line to FRA Class 5, which is believed to be excessive based on Guilford's operating requirements. There is no way of directly assessing the condition of the rail but it is doubted that the line could be operated at its present speed with 27 percent of the rail worn to the point of needing immediate replacement. However, both the present owner and prospective buyer agree that some rehabilitation is necessary. If it is considered that this will be used for raising the line from marginal FRA Class 4 to full FRA Class 4, Guilford's estimate is probably the more reasonable amount to rehabilitate some 264 miles of track.

c. Buffalo and Cleveland Districts.—Conrail has recommended $6,967,390 to rehabilitate this line. Guilford has estimated the cost to be $6,380,000. The line is FRA Class 4 at present and only a small amount of rehabilitation work is necessary. Both the present owner and prospective buyer agree that rehabilitation is necessary and the amounts are very close. If it is considered that this will be used for raising portions of the line from marginal FRA Class 4 to full FRA Class 4, Guilford's estimate is probably a reasonable amount to rehabilitate 265 miles of track.

d. Carrothers Branch.—Conrail's rehabilitation estimate for the line was $14,587,320, using new material. Using the work quantities furnished, it was found that Conrail was recommending replacement of 54 percent of the rail and was surfacing the entire line. It was also recommending rehabilitation to FRA Class 4. Guilford's operating plan did not seem to call for any more than FRA Class 3. This is the present condition of the line as far as could be determined. No reason could be found to replace the amount of rail suggested by Conrail, which would be sufficient to replace all the remaining 130-lb. and 133-lb. jointed rail on the main track plus a small amount in passing tracks. Most of the rail is 1941 to 1950 vintage and some could be worn down near condemning limits, depending on past years' traffic. From the information available, this line was a Toledo to Pittsburgh secondary main with heavy traffic related to steel mills, all of which would have probably been relatively heavy wheel loading. This could have been especially true during the period from 1941 through 1952. This line is marginal FRA Class 3 and the most rehabilitation that could be recommended is to full FRA Class 3. In that case, at a minimum, all 1931 vintage rail should be replaced. This rail is located in two stretches of 3.2 miles and 4.5 miles each. Tie and surfacing work would be limited to these segments. Any crossings and turnouts within these areas would also need rehabilitation as part of the surfacing. The estimate for this amount of rehabilitation is $1,794,000.

e. Ft. Wayne Secondary.—This line contains a large amount of the oldest rail on any of the secondary lines that Guilford is acquiring. Most of the rail is 1914 to 1929 vintage 100-lb. Conrail estimated the rehabilitation costs at $5,418,400 using new rail and $4,033,530 using fit rail. This estimate included replacing all rail and many of the

ties, with two surfacing passes over the entire line. Contrail states that this would be sufficient to bring the line up to FRA Class 3 standards. It does not appear that the proposed traffic on the line warrants rehabilitation to more than FRA Class 2. It would be sufficient to replace the rail with used rail, ties sufficient to raise the line from its present FRA Class 1 condition to FRA Class 2, and one surfacing pass. Turnouts and grade crossings would also need rehabilitation work. The estimate to bring the line up to FRA Class 2 is $2,614,000.

f. Indianapolis District.—Conrail claims that $1,761,000 should be spent to upgrade this line. However, in light of the current condition of this line and the manner in which Guilford intends to operate it, there appears to be no need for rehabilitation at this time.

g. Conclusion.—It is found that Guilford must spend the following to rehabilitate the line to a condition to meet its operating plan requirement:

Delphos-St. Louis	$45,826,000
Ft. Wayne main	7,180,000
Buffalo-Cleveland district	6,380,000
Carrothers branch	1,794,000
Ft. Wayne secondary	2,614,000
Yards and connections	5,000,000
Total	68,794,000

Funds from Guilford's non-specified reserve account have been allocated to cover the costs of the Ft. Wayne Secondary and Carrothers branch. After that allocation, approximately $400,000 remain in that account, bringing Guilford's total capital expenditures to $69.2 million.

4. Traffic diversion.—a. Guilford's study.—Guilford prepared a traffic diversion study to determine the number of carloads and the gross revenue that would be gained as a result of acquiring the Western Extension lines west of Buffalo and trackage rights to Croxton Yard in New Jersey. For purposes of the study, the traffic to be handled and the markets to be served were divided into three general categories: (1) traffic originating or terminating on the acquired lines; (2) existing Guilford traffic that could be handled for an extended haul over the acquired lines; and (3) "new" traffic that presently moves over neither the existing Guilford system nor over the lines to be acquired. Potential traffic falling in the three general categories was analyzed on the basis of the more specific categories set forth below.

Diversions.—Traffic presently carried by the Guilford System that might be diverted through new western gateways on the Western Extension, resulting in a longer haul for Guilford, was analyzed. As part of this analysis, unfavorable diversions caused by the impact of the NS-Conrail affiliation were also examined. These unfavorable diversions would result in a shorter haul for Guilford or, in some cases, loss of traffic altogether.

Reroutes.—It is expected that traffic presently interchanged between D&H and NS at Potomac Yard would be rerouted to the combined NS-Conrail system at Harrisburg, PA with appropriate revenue adjustments.

Traffic on acquired lines.—Traffic originating or terminating at stations on the NS and Conrail lines to be acquired would be handled by Guilford in whole or in part, depending on whether the station would be exclusively served by Guilford or would also be served by NS-Conrail. As part of this analysis, traffic on the acquired lines at points to be served by NS-Conrail under a car-haulage agreement with Guilford was also examined.

PLE connection.—PLE will acquire certain NS lines in Pennsylvania and Ohio, and it was assumed that PLE will be a friendly connection for Guilford. It was assumed that traffic would be interchanged between PLE and Guilford at Wellington, Cleveland or Ashtabula, OH.

New intermodal business.—The new routes to Chicago and St. Louis will put Guilford in a position to compete in the intermodal markets now dominated by Conrail between Boston/New England and the New York area in the East and the Chicago and St. Louis gateways in the West.

New general freight business.—The new routes to the Chicago and St. Louis gateways will make it possible for Guilford to compete on certain traffic (grain, paper, autos and chemicals) currently moving between New England and the West or Midwest via truck or other railroads and not presently handled by Guilford.

A number of different traffic data bases were used in the traffic study and, according to Guilford, were selected based on their availability, ease of access, and suitability for the purposes required. These data bases included the following:

1. Existing Guilford traffic—full year 1983.

2. Traffic on acquired NS lines—full year 1983 (supplied by NS).

3. Traffic on acquired Conrail lines—two or three percent sample for the period from November, 1982 to October, 1983 (made available by Conrail), supplemented by full year 1980 data (adjusted) in certain areas. The reasonableness of this data was confirmed to Guilford's satisfaction by observations of shipper facilities along the lines involved.

4. New business—estimates developed by the Guilford marketing staff.

The traffic diversion study was conducted in three steps. The first step was the creation of a diversion data base produced by merging full year 1983 traffic data supplied by each of the three Guilford railroads. The data in all files were corrected to the extent possible, and all junction, station, and railroad names were standardized. The carload records in each file were then separated into three categories—traffic local to each carrier, interline traffic wholly within the Guilford system and traffic interchanged with other carriers. The records of traffic interchanged both within the Guilford system and with other carriers were then consolidated to provide a single record of each flow with duplication eliminated. The resulting records contained origin, destination, routing, commodity, tonnage, and, where available, revenue data.

A diversion file subset, viz, traffic considered potentially subject to diversion, was extracted from the merged data base and contained all traffic interchanged with connecting railroads. The diversion file was sorted and condensed into records of flows from origin railroad and State to destination carrier and State moving via a particular junction.

The second step in the study was to determine the percentage of each flow that was deemed likely to be diverted from its current routing. The percentages were determined by taking into consideration the following:

a. Available routes and circuity,

b. Number of railroads in each route,

c. Long-haul routes, and

d. "Presence" of carriers in markets.

The percentages assigned reflected the following specific assumptions:

(1) An origin carrier has more control over traffic than the destination carrier.

(2) The most direct route will usually have a lower cost and provide faster service than more circuitous routes.

(3) A single-line route generally allows a carrier to capture a larger market share than multiple carrier routes.

(4) Each carrier will strive to obtain its longest possible haul (origin carriers were assumed to be more successful than the intermediate or destination carriers).

(5) If a carrier has major facilities in a particular area of a major, high volume line, that carrier will be more secure in its market share.

(6) If connecting carriers have a motive to use one route over another, such as revenue division differences, coordinated schedules, or corporate relationships, the diversion potential will be affected.

According to Guilford, "The largest diversion potentials affect traffic now interchanged between Delaware and Hudson and NS at Potomac Yard, between D&H and CSX at Potomac Yard and Buffalo, between both NS and Conrail, on the one hand, and D&H, on the other, at Buffalo, and between Guilford and Conrail in the Albany area. Another significant potential diversion involves traffic currently moving over Canadian routes between New England and points in the U.S. Midwest. With lines to Chicago and St. Louis from New England and with access to points in between, Guilford can offer single-line service to destination or to western connections on much of this traffic."

The percentages of diversion applied by Guilford to each class of traffic are shown in Table 5 on the following page.

TABLE 5.—GUILFORD WESTERN EXTENSION TRAFFIC DIVERSION AND PENETRATION ASSUMPTIONS [1]

Originates	Intermediate	Terminates	Diversion percentage	
			Unfavorable	Favorable
NS		GTI East-West	20	30
		North-South	60	
GTI		NS East-West	20	50
		North South	50	
Western Connection.	NS, CSX, CR	GTI	20	40
GTI	NS, CSX, CR	Western Connection.	20	60
NS	GTI	PW	50	
		Other than PW	50	
PW	GTI	NS	50	
Other than PW			50	
Connection (other than Western).	GTI + CR, NS, CSX	Connection (other than Western).	20	40
GTI	CN/CP	US carrier		80
US Carrier	CN/CP	GTI		60
Reciprocal Point		Western Connection.		40
Western Connection.		Reciprocal point		40

[1] The following abbreviations are used in the table: GTI—Guilford; CR—Conrail; PW—Providence and Worcester Railroad Co.; US—American carriers; and CN/CP—Canadian National Railways/Canadian Pacific Ld.

The third step in the study was the estimation of incremental revenue for the diverted traffic. For traffic diverted from interchanges at Buffalo, the Albany area, Potomac Yard, and similar junctions where Guilford could extend its haul over routes presently served only by NS, Conrail, or CSX, revenue was based on estimated revenue for the same or similar moves over the affected routes. For instance, traffic currently originating on B&M in New Hampshire, interchanged with NS at Buffalo, and destined for the BN in Minnesota would be

rerouted Guilford-Chicago-BN. For such a diversion, it was assumed that Guilford would receive the revenue now going to NS. Lacking full NS revenue data, available data on similar moves were used to estimate the percentage of gross revenue which would accrue to Guilford on the Buffalo to Chicago portion of the move. This percentage was then applied to the gross freight revenue in the diversion data file. For traffic diverted from Canadian to Guilford routes, total eastern road divisions were estimated by the Guilford staff for representative traffic samples. These divisions were applied to gross freight revenue information in the data base, and current Guilford revenue was deducted to yield incremental revenue.

For traffic diverted from Guilford routes to NS-Conrail routes, the same method as the one described above was applied. Once the carload and revenue diversions were calculated, the results were applied to the total traffic data base.

To determine the traffic potential at stations on the Western Extension lines to be acquired by Guilford, origin/destination traffic flow records for traffic originating or terminating at NS or Conrail stations on the acquired lines were examined. As a first step, data involving non-relevant stations (stations not involved in the transaction) were excluded from the data base, and traffic flows were grouped according to whether Guilford would have the exclusive right to handle traffic at a station, would have reciprocal rights (stations to be commonly served by Guilford and NS-Conrail), or would be served by Guilford both for its own account and for the account of NS-Conrail under a car haulage agreement.

All traffic originating or terminating at exclusive stations was assumed to be handled by Guilford and was routed to destination or to connecting carriers at appropriate junctions. For traffic originating or terminating at reciprocally served stations, a geographic subsort of origin/destination flows was performed to determine those flows for which Guilford would be able to compete. It was assumed that Guilford's market penetration would be 40 percent when it could compete. At those stations where a car haulage agreement would be in effect, the NS-Conrail share of traffic (the remaining 60 percent) was added to the Guilford data base, but was routed to NS-Conrail via the nearest junction.

In addition, a "Marketing Plan" was prepared in which (1) estimates were made of traffic that might be routed via Guilford to and from stations on PLE, and (2) projections were made of new intermodal and general freight business which is expected to be handled by the expanded system. This information was added to the data base. The traffic covered in the Marketing Plan, according to Guilford, constitutes new traffic that did not previously move by rail, brought to the enlarged Guilford system by its own competitive efforts.

Guilford argues that the recent combination of its component railroads into a unified system has provided valuable experience in pooling resources, unifying operations, and developing a marketing strategy, which together attracted new traffic through service and pricing packages tailored to customer needs. Guilford states that the Marketing Plan is an outgrowth of the policies developed in integrating its existing system, and the resulting rates and services will be comparable and competitive in all respects with those of NS-Conrail.

Guilford claims that it is developing a list of all customers located on the lines of the Western Extension. Guilford believes that NS and Conrail have ignored development of business on the lines included in the Western Extension, and as a result, there may be business opportunities with customers on these lines that are not presently being tapped by NS or Conrail. Guilford expects to contact as many of these potential customers as possible in order to tailor services to their needs. The operations proposed by Guilford to attract business under the Marketing Plan are detailed elsewhere in this report.

As revealed in Table 6, nearly 90 percent of the "new business" is comprised of TOFC carloads. As a result of its traffic study, Guilford believes that the acquisition of the Western Extension will produce approximately $150 million in gross revenue after deduction of about $11 million in revenue diverted to the proposed NS-Conrail system. Of the $150 million, about $115 million is attributable to the Western Extension itself, and the balance represents incremental revenue attributable to hauls over the existing Guilford system.

Guilford, by letter dated August 8, 1985, indicated that the "Total Diversion and Reroutes" figure of 75,789 carloads shown in Table 6 includes 645 carloads totally diverted from Guilford, and 1,825 carloads of Springfield TOFC that were not rerouted to Chicago. Thus, the "Base Traffic-Post Diversion" consists of 343,889 carloads, shown in the sixth line from the bottom of the table.

TABLE 6

Source	Annual loads	Annual (thousands)	Heat	DH	DM	MEC
Diversion from GTI—OF	10,621	($10,551)		($10,772)	($21)	
Diversion from GTI—TOFC	995	(242)				
Diversion to GTI—OF	33,954	36,000	$25,074	10,159	1,762	($1,225)
Diversion to GTI—TOFC	5,007	2,762				
Net diversions	50,577	27,977	25,074	(613)	4,741	(1,225)
Enola reroutes	8,311	(939)		(939)		
Springfield TOFC reroutes	8,901	1,937	3,715	1,610	(3,388)	
Total, diversion and reroutes	75,789	28,975	28,789	50	1,353	(1,225)
NS exclusive points	7,032	4,473	4,473			
Reciprocal points	7,647	6,629	6,629			
Total, NS	14,679	11,102	11,102			
CR exclusive points	9,932	8,721	8,721			
Reciprocal points	12,419	11,128	11,128			
Total, CR	22,351	19,849	19,849			
PLE connection	4,000	3,036	3,036			
Car haul	28,459	7,067	7,067			
Total, existing business	69,489	70,029	69,843	58	1,353	(1,225)
New Business:						
TOFC	73,770	61,458	37,368	15,349	6,899	1,042
GF	9,400	18,100	7,240	5,508	2,950	2,402
Total, new business	83,170	79,558	44,608	20,857	9,849	4,244
Incremental total	152,659	149,587	114,451	20,915	11,202	3,019
Base traffic—Post diversion	343,889	NA	NA	NA	NA	NA
Grand total	496,548					
Class:						
Forwarded	115,046					
Local	133,501					
Overhead	57,541					
Received	109,500					

Tables 7 and 8, which follow, show Guilford's traffic diversion estimates broken down by gateway, number of carloads (general freight and TOFC), and the revenue attributable to each carload figure. Table 7 shows Guilford's estimate of traffic losses to NS-Conrail, and Table 8 shows the traffic gains to Guilford as a result of the acquisition of the Western Extension. These tables and the preceding table were extracted from Guilford's submission dated June 30, 1985.

TABLE 7.—GUILFORD WESTERN EXTENSION SUMMARY OF DIVERSION FROM GUILFORD

	Carloads			Incremental revenue				
	Gen. frt. carloads	TOFC carloads	Total carloads	Gen. frt. (thousands)	TOFC revenue (thousands)	Total revenue (thousands)	Incremental revenue/car	
							Gen. frt.	TOFC
PRESENT GATEWAY								
Buffalo	6,451	463	6,914	$3,251	$121	$3,372	$504	$261
Potomac Yard	11,069	532	11,601	6,616	121	6,737	598	227
Other	1,101		1,101	684		684	621	0
Total	18,621	995	19,616	10,551	242	10,793	567	243
NEW GATEWAY								
Albany area	17,976	995	18,971	10,218	242	10,460	568	243
Lost	645		645	333		333	516	0
Total	18,621	995	19,616	10,551	242	10,793	567	243

TABLE 8.—GUILFORD WESTERN EXTENSION SUMMARY OF DIVERSION TO GUILFORD

[Dollar amounts in thousands]

	Carloads			Incremental Revenue				
	Gen. Frt.	TOFC	Total	Gen. Frt.	TOFC	Total	Car	
							Gen. Frt.	TOFC
Present gateway:								
Buffalo	13,130	927	14,057	$13,984	$496	$14,480	$1,065	$535
Albany area	7,128	4,080	11,208	7,765	2,266	10,031	1,089	555
Danville	3,172		3,172	3,325		3,325	1,048	
Yarmouth	1,676		1,676	1,352		1,352	807	
Wells River	4,740		4,740	5,343		5,343	1,127	
St. Johnsbury/Matawamkeag	2,742		2,742	3,493		3,493	1,274	
Other	1,366		1,366	746		746	546	
Total	33,954	5,007	38,961	36,008	2,762	38,770	1,060	552
New gateway:								
Chicago	17,183	4,172	21,355	18,810	2,345	21,155	1,095	562
E. St. Louis	8,258	661	8,919	10,532	333	10,865	1,275	503
Cleveland	1,331	164	1,495	1,545	77	1,622	1,161	472
Toledo	1,769		1,769	1,619		1,619	915	
Ft. Wayne	673		673	729		729	1,083	
Potomac Yard	2,113	10	2,123	1,384	7	1,391	655	655
Other	2,627		2,627	1,389		1,389	529	
Total	33,954	5,007	38,961	36,008	2,762	38,770	1,060	552

b. The Replies to Guilford's Traffic and Marketing Studies.—Replies were submitted by Conrail, CSX, and GTW. The basic criticisms of the Guilford studies advanced by these carriers are substantially similar and may be summarized as follows:

1. The traffic study was not adequately supported in terms of underlying data and explanation of the facts relied on by Guilford to determine the percentages of divertibility applied to study movements.

2. The marketing study was not supported with any facts.

3. The traffic study was based on data from three separate time periods with no explanation of how the data were supplemented or adjusted. No statistical tests were submitted showing the amount of data that could not be corrected when errors occurred, nor were sufficient data produced to show how revenue per car was estimated in instances where actual figures could not be obtained.

4. The assumptions in the Marketing Plan made by Guilford with respect to "new" TOFC traffic are totally unrealistic in view of the intense competition for this traffic, not only between railroads, but more importantly, between railroads and motor carriers. This traffic is largely time-sensitive and profit margins are slim.

5. Guilford has projected "new" business from shippers located on the Western Extension lines, but is only now beginning to compile a list of such shippers.

6. Guilford has grossly overestimated its ability to attract traffic away from NS-Conrail at locations on the Western Extension where reciprocal switching arrangements will be in place. Further, Guilford did not identify the kind of traffic originating or terminating at these locations, yet assigned a flat 40-percent divertibility (to itself) for the traffic.

7. Guilford's assumed reliance on friendly connections with western railroads at Chicago, St. Louis, and Toledo is not realistic because of physical difficulties that Guilford will have in interchanging traffic at those gateways, plus the fact that Guilford will not provide adequate service levels for time-sensitive traffic.

8. Guilford has underestimated the diversion of traffic by a combined NS-Conrail notwithstanding acquisition of the Western Extension by Guilford.

9. Guilford has overestimated its ability to compete with NS-Conrail for traffic between New England and the Mississippi River.

c. Supplementary Information from Guilford.—By letter dated August 22, 1985, Guilford supplied a more complete description of the traffic data base and methodologies used in the traffic studies. The description follows:

Extended haul and unfavorable diversions were based on a full year 1983 Guilford merged traffic data base which was prepared from separate B&M, D&H and MEC data bases. This data base was a 100 percent sample, but only flows of ten cars or more (as sorted by state and road for the diversion analysis) were considered for diversion. These flows constituted 93 percent of the total carloads, and an adjustment factor was used to inflate diversions to account for the difference between 93 percent and 100 percent of the carloads.

Estimates of traffic on NS acquired lines was based on full year 1983 Norfolk Southern traffic data, also a 100 percent sample. Only origin-destination flows of 20 cars or more were considered in the analysis. These flows represented 89 percent of the total carloads, and once again an adjustment factor was used to calibrate results to reflect 100 percent of the traffic.

Estimates of traffic on Conrail acquired lines were based on a 1980 100 percent sample (aggregated to nodes). These data were adjusted to approximate 1983 data by applying an expansion factor of 1.39 to TOFC data and a deflation factor of .76 to general freight data. These expansion and deflation factors were based on Conrail's reported overall traffic volume changes in each category 1980–1983. A supplementary data base was obtained from Norfolk Southern's consultants which was represented to be based on a 2 or 3 percent sample of November 1982–October 1983 Conrail traffic, and was used to adjust the original Conrail data at certain stations. This supplementary data base was supplied to us as a uniform 3 percent sample, and we were advised to use a 33.33 percent expansion factor to adjust it to annual volumes.

New business estimates were prepared on an annual basis, and no adjustments were necessary.

The various parts of the traffic data were simply added together to produce the simulation input traffic data base used in our analysis of the Western Extensions.

It should be noted that in order to eliminate potential doublecounting, records of traffic originating or terminating at stations

on the acquired lines on one end of the move and originating or terminating on B&M, D&H or MEC on the other end of the move were not included in counts of traffic on lines to be acquired. These flows already had been considered in the diversion analysis, since they were included in the Guilford merged traffic data base, and thus it would not have been appropriate to consider them a second time.

With respect to the "new business" traffic study, Guilford developed an estimated data base also using the Conrail data base described above, plus known paper industry production data at mills in Guilford's existing service territory and motor carrier traffic levels known to Guilford's marketing personnel. Based on rate levels for rail TOFC and all-motor carrier service, Guilford believes that its proposed service will be competitive on a cost and service basis between the New York and Chicago areas. Guilford does not assert service competitiveness between the New York and St. Louis areas, but, in that market, as well as the New York-Chicago markets, Guilford believes that the mere presence of a new low-cost TOFC carrier will convince at least some shippers to route over the new system in order to establish new rate competition between railroads and between railroads and motor carriers.

New business in the form of paper products moving in boxcars and TOFC is expected by Guilford from New England and New York points to the Midwest. Guilford also anticipates a much smaller volume of eastbound miscellaneous freight will move in boxcars to points in existing Guilford territory. Specifically, Guilford estimates the following volumes of new business:

1. TOFC traffic, New England to the Midwest—18,000 carloads, $15.3 million revenue (15,000 carloads and $12.7 million from paper products traffic).

2. Other TOFC traffic:

a. Between Croxton Yard and Chicago—36,000 carloads, $27.9 million.

b. From Chicago to New England—8,970 carloads, $8.1 million.

c. Between Croxton Yard and St. Louis—2,700 carloads, $2.6 million.

d. Between New England and St. Louis—8,100 carloads, $7.6 million.

3. Carload (Paper) traffic:

a. New England—New York to Chicago—4,350 carloads, $8.7 million.

b. New England—New York to St. Louis—4,350 carloads, $8.7 million.

4. Carload (Misc.) traffic:

a. Chicago to New England—New York—350 carloads, $350,000.

b. St. Louis to New England—New York—350 carloads, $350,000.

Guilford assumed the following rates of growth of the above traffic in the first three years after acquiring the Western Extension:

[In percent]

	Year 1	Year 2	Year 3
TOFC	50	25	25
Carload	20	30	50

d. Analysis.—The Guilford study of traffic diversions on existing traffic is basically acceptable notwithstanding the problems involved with the Conrail data base. It is clear that Guilford had great difficulty in obtaining Conrail data necessary to evaluate traffic originating or terminating on the Conrail lines to be acquired as part of the Western Extension. Under the circumstances, Guilford's treatment of available Conrail data was done as well as possible. Overall, the total data base lacked shipper and receiver identities, car ownership, and other facts pertinent to particular movements, all of which would have been useful in the evaluation of diversion potential. The diversion study results were produced mechanically based on a limited number of assumptions covering large blocks of traffic, as opposed to a detailed examination of movements to ascertain the totality of the characteristics potentially governing the routing of study movements. Therefore, the study must be regarded as one resulting in broad estimates of revenue gains.

In general, Guilford's estimates of revenue gains on extended hauls and existing traffic on the divested lines is reasonable. Criticism directed to Guilford's application of a 40 percent gain on Western Extension traffic at reciprocal points was based on Guilford's original statement, which is unclear on the matter. The 40 percent factor was actually applied to traffic for which Guilford believes it can compete, not 40 percent of all traffic at the reciprocal points. In total then, the estimated diversion of traffic at such points is less than 40 percent. Considering the fact that Guilford is the carrier physically serving these stations, it is reasonable to conclude that the estimates are realistic.

Overall, Guilford's study of diversion on existing traffic is reasonable and reflective of its proposed operations.

Guilford's "study" of "new" traffic is of more concern than the diversion study. The obvious problem is assessing what size and shape a new transportation market will take is the lack of detailed data available to the railroad doing the study. Guilford's effort here can best be termed a marketing study designed to quantify broad categories of potential traffic. Of necesssity, the experience of marketing personnel must be drawn on to arrive at estimates of motor carrier traffic that might be solicited for rail TOFC service. Further, the cost and service characteristics of Guilford's proposed operation were deciding factors in determining if, and how much, traffic moving by motor carriers and other railroads could be attracted.

Guilford correctly assumes that the mere presence of a new rail TOFC service will attract shippers eager to have a new element of rate competition. The basic question in this context, however, is how long will it take NS-Conrail, CSX, and/or motor carriers to retaliate? Given the dynamics of the intermodal business under a deregulated environment, such retaliation (lowered rates/improved service innovations) will take place as quickly as one year after commencement of Guilford's operations. Conrail, NS, and the CSX railroads have enormous resources available and in place for the intermodal business. Guilford, particularly between Chicago and the New York and Boston areas, would be in head-to-head competition with NS-Conrail, and to a lesser extent, with CSX and its motor subsidiary, CMX, between Chicago and the New Jersey-New York area.

In specific terms, Guilford's estimate of 15,000 carloads of TOFC paper products traffic ($12.7 million in revenue) being attracted away from motor carriers is reasonable. This estimate covers motor carrier traffic coming from existing sources that also ship by rail over Guilford. The balance of the TOFC "new" traffic estimate, however, represents a more nebulous estimate based on good intentions from a marketing and operating point of view.

It is clear that new TOFC traffic would be gained primarily on the basis of rate competition, since it has been concluded that Guilford's service would not be time competitive. Guilford supplied rate level comparisons on a confidential basis, and the data indicated that Guilford would be price-competitive for TOFC traffic which, in Guilford's estimation, would not be "time-sensitive."

Accepting Guilford's contention that a "new" carrier will initially attract TOFC business on the basis of rates, the question is whether such traffic will be retained over the long run. In 1984, Conrail originated over 376,000 carloads of TOFC systemwide, and The Baltimore and Ohio Railroad Company (B&O) systemwide originated about 92,000 carloads. (See: Association of American Railroads' Statement CS-54A for the Year 1984). While these figures are systemwide for both Conrail and B&O, they provide some perspective for Guilford's claim that over 77,000 TOFC carloads can be obtained exclusively over its routes between Boston and New York on the one hand, and, Chicago and St. Louis on the other. It is inconceivable that an NS-Conrail and/or a CSX could not retaliate on both service and price bases against Guilford's TOFC service.

In conclusion, 69,489 carloads and $70,029,000 is revenue estimated in the diversion study covering existing traffic is accepted in total. With respect to the new traffic, Guilford's estimate of 9,400 carloads and $18.1 million for new boxcar traffic is reasonable. The 15,000 carloads of TOFC paper products traffic from New England to the Midwest, which account for another $12.7 million, is also accepted. These traffic elements total 93,889 carloads producing $100,879,000 in revenue. Because of all of the factors discussed that work against Guilford's ability to retain TOFC traffic, only about half of such traffic (other than the New England paper products traffic) can be handled by Guilford with any degree of certainty in the long run. This traffic amounts to 29,385 carloads and $24.4 million in revenue, which, added to the other accepted estimates, yields totals of approximately 123,000 carloads and $125 million in revenues.

D. Financial Viability:

1. Introduction.—This section focuses on: (1) the recent and current financial situation of Guilford and its three railroad subsidiaries; (2) the costs of the divestiture proposal as well as the method of payment; and (3) the future financial viability of the enlarged Guilford system. In examining the future viability, the Guilford proposal and an independent analysis of the key elements of that proposal will be considered. Although the comments filed in opposition to Guilford's financial presentation have been considered, they do not have to be discussed in detail. All tables are rounded. This may account for differences in addition.

2. Current Viability.—Guilford's Rail Division is comprised of MEC, which it acquired in 1981, B&M, which it acquired in 1983, and D&H, which it acquired in January 1984. In its annual report for 1984, the first year all three carriers were under Guilford's control, Guilford reported their operating results on a combined basis, eliminating all significant intercompany transactions. Table 9 contains a summary of the income statement, balance sheet, and selected ratios, which are based on the numbers as presented.

TABLE 9.—*Summarized 1984 financial results*

Revenues, expenses, and income items:	*Millions*
Total railway operating revenues	$307.0
Total railway operating expenses	302.3
Net revenue from railway operations	4.7
Other income (net)	4.9
Income available for fixed charges	9.6
Fixed charges	4.4
Income taxes	
Net income	5.2
Condensed financial position:	
Cash and temporary cash investments	6.7
Other current assets	85.2
Total current assets	91.9
Other assets	8.9
Transportation property-net	152.0
Total assets	252.8
Total current liabilities	107.0
Long-term debt due after 1 year	29.0
Other liabilities	34.1
Redeemable preference shares	11.6
Minority interest	4.5
Total shareholders equity	66.6
Total liabilities and equity	252.8
Selected financial ratios (percent):	
Operating ratio [1]	98.5
Working capital ratio [2]	0.86
Debt to total capital [3, 4]	29.0
Fixed charge coverage [5]	2.18
Return on equity [6]	7.3

[1] Railway operating expenses divided by railway operating revenues.
[2] Current assets divided by current liabilities.
[3] Long term debt divided by (long term debt plus shareholders equity).
[4] Includes long term debt and capitalized lease obligations.
[5] Income available for fixed charges divided by fixed and contingent charges.
[6] Net income divided by shareholders equity.

As of December 31, 1984, Guilford had cash and temporary cash investments of $6.7 million and a working capital deficit of $15.1 million. Total assets were $252.8 million and total stockholders equity was $66.6 million, not including redeemable preference shares with a stated book value of $11.6 million.

The redeemable preference shares represent an obligation to the U.S. Government totalling $30.6 million, which, when discounted to present value, are carried on the balance sheet at $11.6 million. Redemption is to begin in 1987, with dividends to accrue at about 15 percent per annum beginning the tenth year after issuance or 1991. Thus, although the redeemable preference shares do not strain Guilford in the early years, they are an ongoing obligation and should be treated as debt.

Another obligation that should be carried as a debt is $6.3 million owed to Conrail. The obligation, incurred by D&H, matures in quarterly installments of $250,000 from March 1984 through December 1985 and in slowly growing amounts thereafter. The interest rate on this obligation is 6 percent through 1987, and at prime thereafter, with a minimum of 7 percent and a maximum of 13 percent. Guilford has included this obligation in other liabilities rather than long-term debt and has discounted it at 13 percent, assuming the maximum rate for each year. This discount rate is much too high, and, thus, the resulting carrying value of $4.4 million is too low.

Guilford also has an outstanding obligation of $39 million in long-term notes owed to its principal stockbroker. Of this amount, $25 million is due in 1988, and $14 million is due in 1998. Guilford states that these notes are not a legal obligation of its railroad subsidiaries, although interest is payable annually and is funded principally by the Rail Division through payment of dividends. This $39 million will have no impact on Guilford's carriers, except through the dividend payments, and it is not treated as a long-term debt.

Table 10, shows the year-end 1984 balance sheet as adjusted to add the debt to Conrail at face value of $6.3 million ($1 million is included in current liabilities) and the redeemable preference shares as debt at their discounted value of $11.6 million.

TABLE 10.—*Summarized 1984 balance sheet adjusted*

[In millions of dollars]

1984 assets:	
Current assets	$91.9
Other assets	160.9
Total assets	252.8
Liabilities and equity:	
Total current liabilities	107.0
Long-term debt	32.8
Capital lease obligations	13.9
Other	30.0
Total liabilities	$183.7
Minority interests	4.5
Rail Division Equity	64.7
Total	252.8
Selected financial ratios:	
Working capital ratio	0.86
Debt to total capital (percent)	39.9

One other item that may have no effect on this proposed transaction, but should be noted, is the issuance by D&H of Contingency Notes in the aggregate amount of $75.7 million to the United States Railway Association and the U.S. Government. These notes replace D&H indebtedness and are secured by a General Mortgage on all property. The notes become payable and accrue interest only in the event of a D&H bankruptcy or in the event of sale of substantially all of the assets. Therefore, they are not reflected in the Guilford balance sheet, since they are only a contingency obligation, which would not affect a viable rail operation.

In 1984, Guilford's financial picture suffered as a result of its acquisition of D&H, which lost money that year. The Guilford net railway operating income declined to $4.7 million from 1983 income of $8.4 million. Overall net income was down from $8.7 million in 1983 to $5.2 million in 1984. Its operating ratio rose from 93.2 percent in 1983 to 98.5 percent in 1984.

Further, Guilford's fixed charge coverage also declined. Guilford claims that the decrease was from 4.78x [18] to 2.18x; however, the decrease was greater and Guilford has overstated its fixed charge coverage for 1984. The $0.4 million interest due on the Conrail debt should be considered as a fixed charge, as should the $1.5 million due on the $39 million debt to Guilford's principal stockholder. This would increase the fixed charges to $6.3 million in 1984 and reduce the coverage to 1.5x.

For the first half of 1985, Guilford realized net operating revenue of $2.7 million and total net income of $3.0 million. These figures were the result of a good second quarter, which erased first quarter losses in both income categories. Its first half 1985 operating ratio of 98.1 percent was a slight improvement over the 1984 ratio. Again, the ratio was attributable to the second quarter ratio of 95.7 percent.

Guilford contends that its ability to operate the lines to be acquired is evident from the manner in which it has improved the operations of D&H and has merged the operations of three separate carriers into one system. This premise warrants examination of the recent financial results of the three subsidiary carriers.

a. D&H.—D&H's summary income and balance sheets are set forth in Table 11, together with selected ratios based on the Annual Report Form R-1.

TABLE 11.—SUMMARIZED D&H FINANCIAL RESULTS

[Dollar amounts in millions]

	1984	1983
Revenues, expenses, and income items:		
Total railway operating revenues	$123.2	$108.4
Total railway operating expenses	128.3	114.3
Net revenue from railway operations	(5.1)	(5.9)
Other income (net)	1.1	.8
Income available for fixed charges	(4.0)	(5.1)
Fixed charges	2.5	11.2
Income taxes		
Net income	(6.5)	(16.3)
Condensed financial position:		
Cash and temporary cash investments	3.2	1.2
Other current assets	35.1	26.7
Total current assets	38.3	27.9
Other assets	5.8	13.2
Transportation property—net	50.2	72.8
Total assets	94.4	113.9
Total current liabilities	59.0	51.4
Long-term debt due after 1 year [4]	12.5	94.3
Other liabilities	24.7	14.6
Total shareholders equity	(1.8)	(46.4)
Total liabilities and equity	94.4	113.9
Selected financial rates (percent):		
Operating ratio (2) [1]	104.1	105.4
Working capital ratio [2]	.65	.54
Debt to total capital [3, 4]	116.4	196.7
Fixed charge coverage [5]		
Return on equity [6]		

Notes to table—See notes to table 9.

As of December 31, 1984, D&H had cash and temporary cash investments of $3.2 million and a working capital deficit of $20.7 million. Total assets were $94.4 million and stockholders equity was a negative $1.8 million. This reflects a reduction in the noncurrent assets of about $26 million on acquisition of D&H by Guilford.

In 1984, D&H reported a net operating loss of $5.1 million as compared to $5.9 million in 1983. It also reported an overall loss of $6.5 million in 1984, as compared to $16.3 million in 1983. In addition, it reported an improvement in its operating ratio from 105.4 percent in 1983 to 104.1 percent in 1984. These apparent improvements resulted, in part, from an increase of $2.1 million in operating subsidies from the States of New York and Pennsylvania. Also, the carrier benefited from a $2.8 million decrease in depreciation expense, which resulted from the accounting reduction of its assets when it was acquired by Guilford. Without the increased subsidies and asset reduction, D&H's net operating loss would have been

$10.0 million in 1984. Its operating ratio would also have increased to 109.9 percent.

In addition, the issuance of the Contingency Notes eliminated substantial interest charges of approximately $8.7 million. Thus, on a comparative basis, D&H's 1984 overall loss of $6.5 million should be $18.7 million.

For the first six months of 1985, D&H had a net operating loss of $2.4 million and an overall net loss of $2.6 million, compared to a net operating loss of $1.1 million and net loss of $2.1 million for the same period in 1984. The operating ratio for the first half of 1985 was 104.4 percent, while it was 101.8 percent for the first half of 1984.

Guilford claims that much of D&H's 1984 loss was due to rehabilitation on its lines, which interfered with efficient operations. There may be some merit to its contention, in view of the results for the second quarter of 1985. During that period D&H had an operating income of $0.6 million and realized a net income of almost $0.9 million, something that had not occurred for several years.

b. B&M. Table 12 is a summary of the B&M income and balance sheets together with some selected ratios based on the Annual Report Form R-1.

TABLE 12.—SUMMARIZED B&M FINANCIAL RESULTS

[Dollar amounts in millions]

	1984	1983
Revenues, expenses, and income items:		
Total railway operating revenues	$125.05	$118.3
Total railway operating expenses	118.95	118.0
Net revenue from railway operations	6.1	.3
Other income (net)	2.5	3.3
Income available for fixed charges	8.6	3.6
Fixed charges	.8	2.0
Income taxes		
Net income	7.9	1.6
Condensed financial position:		
Cash and temporary cash investments	8.2	12.2
Other current assets	30.5	35.1
Total current assets	38.8	47.3
Other assets	26.4	13.2
Transportation property—net	53.2	47.6
Total assets	118.4	108.1
Total current liabilities	39.1	37.5
Long-term debt due after 1 year [4]	9.4	10.1
Other liabilities	23.7	22.3
Total shareholders equity	46.1	38.3
Total liabilities and equity	118.4	108.1
Selected financial ratios (percent):		
Operating ratio [1]	95.1	99.8
Working capital ratio [2]	.99	1.26
Debt to total capital [3] [4]	17.0	20.9
Fixed charge coverage (times) [5]	11.3	1.8
Return on equity [6]	17.0	4.1

Notes to table—See notes to table 9.

As of December 31, 1984, B&M had $8.2 million in cash and temporary cash investments compared to $12.2 million in 1983. It reported a working capital deficit of $0.3 million in 1984, compared to positive working capital of $9.8 million in 1983. Total assets were $118.4 million in 1984, and stockholders equity was $46.1 million. Because of the reorganization which left B&M without any funded debt, the ratio of debt to total capital was a very satisfactory 17 percent. This ratio reflects capital leases and equipment debt. Fixed charge coverage was excellent at 11.3x, a significant improvement over 1983.

For the year 1984, B&M reported a net operating income of $6.1 million compared to $0.2 million in the previous year. Net income was $7.9 million compared to $1.6 million in 1983. The operating ratio showed an improvement to 95.1 percent from 99.8 percent.

In the case of B&M, there do not seem to have been any government operating subsidies except from the Massachusetts Bay Transportation Authority, which was a cost-plus contract for commuter service.

There was, however, a difference in depreciation resulting from the reduced property accounts, which occurred when Guilford acquired B&M. The asset reduction decreased depreciation by $1.3 million. In 1982, the depreciation figure was $2.9 million, but the 1983 figure was $2.2 million. This was only a partial decrease in depreciation, since Guilford acquired B&M in mid-1983 and the property account reduction was effective for only one-half of that year. In 1984, the full decrease was effective, and the depreciation amount was $1.6 million. Even with this, however, it appears that B&M made good progress in railroad operations.

The results for the first six months of 1985 did not continue this trend, with operating income of $1.7 million, compared to $3.5 million for the first six months of 1984, and net income of $2.4 million, compared to $4.2 million for the same period in 1984.

Both B&M and D&H experienced declines in the first half of 1985, as compared to the first half of 1984. This was chiefly the result of the decline in revenues, particularly in the case of B&M. According to Moody's Transportation Daily News, B&M carloadings were down 5.4 percent for the first 28 weeks of 1985, while D&H was up 4.6 percent.

c. MEC.—Table 13 is a summary of the MEC income statement and balance sheet for 1983 and 1984, together with some selected ratios, as taken from its annual report.

TABLE 13.—SUMMERIZED MEC FINANCIAL RESULTS

[Dollar amounts in millions]

	1984	1983
Revenues, expenses, and income items:		
Total railway operating revenues	$61.4	$59.4
Total railway operating expenses	57.8	53.8
Net revenue from railway operations	3.6	5.7
Other income (net)	1.8	1.4
Income available for fixed charges	5.4	7.1
Fixed charges	1.3	1.7
Income before taxes	4.1	5.4
Income taxes	.1	.7
Net income	4.0	4.6
Condensed financial position:		
Cash and temporary cash investments	1.9	7.0
Other current assets	19.2	18.3
Total current assets	21.1	25.3
Other assets	5.5	1.0
Transportation property—net	48.5	45.8
Total assets	75.1	72.1
Total current liabilities	24.4	23.8
Long-term debt due after 1 year	10.6	11.1
Other liabilities	5.3	4.8
Total shareholders equity	34.8	32.4
Total liabilities and equity	75.1	72.1
Selected financial ratios (percent):		
Operating Ratios [1]	94.1	90.6
Working Capital Ratio [2]	.86	1.06
Debt to Total Capital [3]	23.3	35.5
Fixed Charge Coverage (times) [5]	4.2	4.2
Return on Equity [6]	11.5	14.2

Notes to table—See notes to table 9.

As of December 31, 1984, MEC had $1.9 million in cash and short term investments, down from $7 million for 1983. Part of the reason for the cash decline were advances made to D&H during 1984. MEC reported a working capital deficit of $3.3 million in 1984 compared to positive working capital of $1.5 million in 1983. Total assets were $75.1 million in 1984, and stockholders equity was $34.8 million. The ratio of debt to total capital was 23.3 percent in 1984, a slight improvement over the 25.5 percent in 1983. Fixed charge coverage was 4.2x in both 1984 and 1983.

For 1984, MEC reported a net operating income of $3.6 million, down from $5.7 million in 1983. It also had a net income of $4.0 million in 1984, down from $4.6 million. The operating ratio rose in 1984 to 94.3 percent from 90.4 percent the previous year.

For the first six months of 1985, MEC reported net operating income of $3.4 million with an operating ratio of 88.6 percent. Net income was almost $2.9 million. The year appears to show good progress over 1984, but it is noted that, between 1982 and 1984, net operating income and net income both declined from each preceding year.

d. Summary.—Although Guilford's accounting methods are not fully agreed with, there is no major disagreement with Guilford's presentation of its 1984 financial condition. While there was no remarkable improvement in the financial picture of the operations of D&H or B&M, the Guilford system was conducting a marginally profitable operation. Further, it appeared capable of meeting its fixed charges. Therefore, as of the end of 1984, the Guilford system was marginally viable.

The results of operations for the first half of 1985 showed noticeable improvement in the second quarter, chiefly on improved D&H results. It cannot be concluded, however, that one favorable quarter of operations indicates a significant trend to more than only marginal operations.

2. Cash Requirements and Proposed Financing

Guilford's immediate cash needs will include the $50.0 million purchase price for the divested lines, the $3.0 million for additional rail cars, the $5.0 million for construction of connections, $7.3 million for working capital, and $22.7 million for start-up costs, which includes $17.6 million for initial rehabilitation costs. This $88.0 million will be raised, in part, through a cash contribution of $20.0 million by Guilford's parent company. The remainder will be financed through borrowing at an interest rate of 12½ percent, with the principal to be amortized over a seven-year period, beginning the fourth year after consummation.

The required future rehabilitation costs will be paid for out of annual cash flow, except for the $17.6 million to be financed initially.

In accordance with the agreement, Guilford must furnish evidence of its ability to pay the purchase price (a commitment letter of some kind from potential lenders and investors) to NS by the earlier of: (1) 90 days after the date of this Agreement i.e., September 5, 1985 or (2) 30 days after enactment of the legislation permitting the sale of stock to be consummated. While no indication has been received that commitments have been made, for this analysis, it is assumed that they will be.

3. Future Viability

a. Introduction.—In analyzing Guilford's viability after acquisition of the divested lines, Guilford's projections of its income and expenses and its ability to service its debt were considered. Next, those figures were adjusted, based on the estimates from the analysis of the revenues to be gained

from the divested lines and the conclusion as to the cost of planned rehabilitation of these lines.

Finally, a sensitivity analysis was performed and Guilford's projected expense ratios, and thereby its projected operating ratio, were adjusted. This adjusted figure was applied to the projected figures and to Guilford's original projections.

b. Projections.—Guilford submitted its projected balance sheets, income statements, and cash flow statements, through 1989 for its present Rail Division and the combined system. It also provided a projected income statement for the Western Extension. The summarized pro forma income statements of all three are set forth below in Tables 14, 15, and 16, respectively.

TABLE 14.—RAIL DIVISION INCOME STATEMENT

[Dollars in millions]

	Actual 1984	1985	1986	1987	1988	1989
Operating revenues	$304.0	$280.2	$280.1	$285.8	$290.7	$294.2
Operating expenses	299.7	273.3	271.2	270.8	271.8	273.9
Net railway operating income	4.3	7.0	8.9	15.0	18.8	20.3
Other income—Net	4.8	4.2	5.3	5.3	4.6	4.6
Available for fixed charges	9.1	11.2	14.2	20.3	23.4	24.9
Fixed charges	4.0	4.1	5.5	5.0	4.5	4.0
Net income	$5.1	$7.1	$8.7	$15.3	$18.9	$20.9
Operating ratio (percent)	98.6	97.5	96.8	94.8	93.5	93.1
Fixed charge coverage (times)	2.3	2.7	2.6	4.1	5.2	6.2
Revenue/car	$631	$619	$621	$623	$625	$627

TABLE 15.—WESTERN EXTENSION INCOME STATEMENT

[Dollars in millions]

	1986	1987	1988	1989
Operating revenues	$86.2	$102.2	$150.7	$150.7
Operating expenses	84.4	108.5	126.8	127.1
Net railway operating income	(.2)	11.7	24.0	23.6
Other income—Net				
Available for fixed charges	(.2)	11.7	24.0	23.6
Fixed charges	6.1	8.0	8.5	8.5
Net income	(6.3)	3.7	25.5	15.1
Operating ratio (percent)	100.2	90.3	84.1	84.3
Fixed charge coverage (times)		1.5	2.8	2.8
Revenue/car	980	980	980	980

TABLE 16.—RAIL DIVISION AND WESTERN EXTENSION INCOME STATEMENT

[Dollar amounts in millions]

	Actual 1984	1985 [1]	1986	1987	1988	1989
Operating revenues	$304.0	$280.2	$366.4	$406.1	$441.4	$444.9
Operating expenses	299.7	273.3	357.7	379.7	398.6	401.0
Net railway operating income	$4.3	$7.0	$8.7	$26.7	$43.8	$43.9
Other income—Net	4.8	4.2	5.3	5.3	4.6	4.6
Available for fixed charges	$9.1	$11.2	$14.0	$32.0	$47.4	$48.5
Fixed charges	4.0	4.1	11.6	13.0	13.0	12.5
Net income	$5.1	$7.0	$2.4	$19.0	$34.3	$36.0
Operating ratio (percent)	98.6	97.5	96.6	93.4	90.3	90.1
Fixed charge coverage	2.3x	2.7x	1.2x	2.5x	3.6x	3.9x
Revenue/car	$631	$619	$680	$699	$715	$716

[1] Does not include western extension.

c. Comments and Adjustments.—The study of this proposal has looked at Guilford's estimates for rehabilitating the Western Extension lines to bring them up to competitive levels, for rehabilitating the various yards being acquired, and for constructing the necessary connections it will need to utilize the acquired lines.

Guilford has indicated that it plans to spend about $63 million rehabilitating the Westen Extension. By comparing the pro forma cash flow statement for the combined system, which shows for years 1986-1989 rehabilitation expense of the entire Guilford system, to the pro forma income statement for the Rail Division, which shows the same numbers for just the existing lines, it can be determined that Guilford plans to spend $52.8 million in the first four years to rehabilitate the Western Extension. Guilford has confirmed that approximately $10 million more will be spent in year 5, 1990.

However, as noted above, Guilford will have to spend approximately $69 million over the five-year period to rehabilitate these lines. Accordingly, this additional $6 million expenditure must be reflected in Guilford's cash flow statement. Although the bulk of the rehabilitation is to be done in years 1 to 3, since the system is to be fully operational by year 3, this additional $6 million cost will be spread over the full five years. Accordingly, the cash flow statement reflects additional expenditures of $1.2 million for years 1986 through 1989.

Further, Guilford has overestimated the additional revenues to be realized from the divested lines. Guilford projects that, by the third year after consummation, it will have increased gross revenues by $149.6 million as a result of the Western Extension. Of this amount, it claims that $79.6 million will be new traffic developed by its marketing team, and, of this new business, $61.5 million will be TOFC traffic.

It is projected that Guilford will develop no more than $125 million additional gross revenues from the divested lines, which is $24.6 million less than it estimated. This "non-attained" revenue has been adjusted in accordance with the schedule presented by Guilford as to the expected timing of the acquired new traffic. A similar adjustment has been made with respect to the expenses associated with this traffic, using Guilford's operating ratios. The resulting revenue and expense figures were combined with the similar figures for the Rail Division, Table 14, to arrive at adjusted figures for the combined system. Tables 17 and 18 show the affect of the revenue and rehabilitation adjustments on Guilford's projected operating results and cash flow.

TABLE 17.—REVISED INCOME STATEMENT FOR THE ENTIRE SYSTEM

[In millions of dollars]

	1986	1987	1988	1989
Operating revenues	354.0	387.5	416.8	420.3
Operating expenses	345.2	362.6	378.0	380.2
Net revenue from railway operations	8.8	24.9	38.8	40.1
Other income—Net	5.3	5.3	4.6	4.6
Available for fixed charges	14.1	30.2	43.4	44.7
Fixed charges	11.6	13.0	13.0	12.5
Net income	2.5	17.2	30.4	32.2
Operating ratio (percent)	97.5	93.6	90.7	90.5
Fixed charge coverage	1.2x	2.3x	3.3x	3.6x

TABLE 18.—REVISED CASH FLOW STATEMENT FOR ENTIRE SYSTEM

[In millions of dollars]

	1986	1987	1988	1989
Cash from operations:				
Net income	2.5	17.2	30.4	32.2
Other	(3.1)	3.0	6.7	8.6
Total	(.6)	20.2	37.1	40.8
Cash provided by investment	(83.8)	(28.9)	(29.9)	(28.3)
Cash before financing	(84.4)	(8.7)	7.2	12.5
Cash provided by financing	71.8	4.1	(4.9)	(15.4)
Cash at beginning of year	17.5	4.9	.3	2.6
Cash at end of year	4.9	.3	2.6	(.3)

As the tables show, the projected revenues are only 5.5 percent lower than those estimated by Guilford. The additional annual rehabilitation costs also are only minimal. Further, the resulting operating ratios and fixed charge coverage vary only slightly from Guilford's figures, shown in Table 16.

Notwithstanding the relatively minor adjustments, Guilford has a small negative cash position of $0.3 million in 1989. This is because Guilford is much more highly leveraged than appears on its balance sheet, and the obligations not appearing as debt on the balance sheet, such as redeemable preference shares, the debt to Conrail, and dividends due the principal shareholder, are reflected in the cash flow statement. Also, in 1989, the first principal payment due on the debt incurred for the purchase of the Western Lines is reflected.

d. Sensitivity Analysis.—The Guilford projections for traffic in its Rail Division appear reasonable. It projects 1985 carloads will be 4.9 percent less than in 1984 and that they will decrease 0.4 percent in 1986. Then, Guilford projects a 4.0 percent increase in carloads from 1986 to 1989, but the 1989 total is still 1.3 percent below the actual 1984 traffic level. Also, revenue per car in 1989 is slightly less than the 1984 figure.

In the operating expense category, Table 19 reflects Guilford's projections of ratios of those expenses to revenues.

TABLE 19.—EXPENSE RATIOS FOR RAIL DIVISION

(Percent)

	Actual 1984	1985	1986	1987	1988	1989	Industry average,[1] 1983
Roadway maintenance	14.1	13.5	13.8	13.7	13.9	14.1	15.4
Equipment maintenance	28.9	28.9	29.4	28.9	28.5	28.4	23.5
Transportation	42.4	42.1	41.3	40.4	39.9	39.6	42.6
General and administrative	13.2	13.0	12.3	11.7	11.3	11.0	9.5
Operating ratio	98.6	97.5	96.8	94.8	93.6	93.1	91.5

[1] Source: AAR Handbook of Railroad Facts 1984 edition.

As can be seen, Guilford's projections generally are not unreasonable when compared to the 1983 industry average.

Guilford's ratios of maintenance of way and maintenance of equipment remain stable throughout the projected period. In 1984, the actual figures were 14.1 percent and 28.9 percent, respectively, and the projected 1989 figures are 14.1 percent and 28.4 percent, respectively. The similar 1983 industry averages were 15.4 percent and 23.5 percent, respectively.

Guilford projects a decline in its general and administrative expense ratio from 13.2 percent in 1984 to 11.0 percent in 1989, which compares to the 1983 industry average of 9.5 percent.

The transportation ratio, however, raises some questions. Guilford's pro forma shows

it dropping from 42.4 percent in 1984 to 39.6 percent in 1989, while the industry average in 1983 was 42.6 percent. At this point, it is appropriate to discuss an apparent discrepancy in Guilford's figures. In its 1984 annual report, the company reported a transportation ratio of 46.1 percent rather than the 42.4 percent shown in its pro forma. Guilford's explanation of the discrepancy is that the lower ratio resulted from the elimination of certain railway subsidiary operations and also that its method of accounting tends to decrease transportation expenses as compared to the Commission's method of accounting.

The pro forma statement for the Western extension portrays the difference in the Guilford system results due to the acquisition of the divested lines, including the effect on the present Rail Division. The expense ratios are shown below in Table 20. For information purposes, the projected percentages of year-to-year revenue growth are also shown.

TABLE 20.—EXPENSE RATIOS AND REVENUE GROWTH FOR WESTERN EXTENSION

[Percent]

	1986	1987	1988	1989
Road maintenance	21.1	15.5	12.6	12.8
Equipment maintenance	28.9	26.7	25.3	25.3
Transportation	43.1	42.4	41.7	41.7
General and administrative	7.3	5.7	4.5	4.5
Operating ratio	100.3	90.3	84.1	84.3
Revenue growth		+39.4	+25.4	

The road maintenance and general administrative ratios drop quite sharply, and the revenue growth in the first two years is also very substantial.

Guilford's pro forma statements for the combined Western Extension and Rail Division are a total of the separate pro forma for each. The resulting expense ratios, which are reflective of the Guilford system after acquisition, are set forth in Table 21.

TABLE 21.—COMBINED EXPENSE RATIOS

[In percent]

	1984 [1]	1985 [1]	1986	1987	1988	1989
Road maintenance	14.1	13.5	15.5	14.2	13.4	13.6
Equipment maintenance	28.9	28.9	29.2	28.2	27.4	27.4
Transportation	42.4	42.1	41.7	41.0	40.5	40.3
General and administrative	13.2	13.0	11.1	9.9	9.0	8.8
Operating ratio	98.6	97.5	[2] 97.5	[2] 93.3	90.3	90.1

[1] Western Lines ratios not reflected here.
[2] A minor difference between these figures and those on Guilford's pro forma statement is the result of rounding off each individual ratio prior to adding the components to arrive at the operating ratio.

The progress indicated by some of the improvements in the ratios, which together comprise the operating ratio, would indicate a remarkably fast turn-around for Guilford's component railroads emerging from a very troubled history. Therefore, some need for sensitivity analysis is indicated.

For instance, despite the various capital projects ($106 million for the Rail Division and $63 million for the Western Extension over five years), it may not be possible that the amount proposed to be spent on maintenance could be substantially less than the 15.4 percent average for all Class I railroads in 1983. Therefore, the 1983 industry average was applied in 1986 and reduced each succeeding year by 0.2 percent, instead of the more rapid decline projected by Guilford.

The equipment maintenance is higher than the industry average, but this may be due to the condition of some of the equipment Guilford will acquire from NS-Conrail. There is little description of the locomotives, except that some will be surplus to the seller; however, the 1,400 rail cars will cost $3.0 million, or $2,143 per car, indicating that they are older and may require additional maintenance.

As discussed above, Guilford has explained the difference between its 1984 transportation ratio for the Rail Division as reported in its annual report and as reflected in its Rail Division pro forma statement. For 1985 Guilford projects a reduction in its transportation ratio from its 42.4 percent ratio in 1984 to 42.1 percent. However, the actual ratio for the first half of 1985, 46.8 percent, is higher than the actual 1984 ratio of 46.1 percent. Further, it projects a decrease in the system's ratio to 40.3 percent by 1989, even though it projects that the Western Extension would have a higher ratio of 41.7 percent in 1989.

In view of the substantial projected decrease in Guilford's post-divestiture transportation ratio and considering the actual increase recently experienced by the Rail Division, some adjustment should be made for a sensitivity analysis.

Accordingly, the projected decrease in the ratio will be reduced slightly resulting in a 1989 figure of 41 percent instead of Guilford's 40.3 percent ratio. Since the projected transportation ratio reflects the sharp declines in labor costs on the Western Extension, when these declines are not yet assured, the small adjustment appears reasonable.

Guilford does not project a large amount of general and administrative expenses associated with the operation of the Western Extension. It only estimates a ratio of 4.5 percent for that expense category. Although the Rail Division is projected to have a ratio of 11 percent, the low figure for the acquired lines reduces the post-divestiture system ratio to 8.8 percent, which is well below the 1983 industry average of 9.5 percent.

Guilford has stated that it will centralize much of its support services in one headquarters at N. Billerica, MA. Although this centralization will reduce overhead expenses to some degree, Guilford has indicated its intention to undertake a major marketing effort on the Western Extension. It intends to contact every possible shipper and to develop as much additional business as possible, which suggests a considerable increase in marketing and sales expenses. This increase does not seem to be reflected in the sharp decline in this ratio; therefore, moderate adjustments have been made.

The sensitized expense ratios appear in Table 22.

TABLE 22.—ADJUSTED PRO-FORMA EXPENSE RATIOS

[In percent]

	Actual 1984	1985	1986	1987	1988	1989
Road maintenance	14.1	14.3	15.4	15.2	15.0	14.8
Equipment maintenance	28.9	28.9	29.2	28.2	27.4	27.4
Transportation	42.4	42.1	41.8	41.5	41.2	41.0
General Administrative	13.2	12.5	11.8	11.1	10.3	9.5
Sensitized operating ratio	98.6	98.3	98.2	97.0	93.9	92.7
Operating ratio projected for rail division alone	98.6	97.5	96.8	94.8	93.5	93.1
Operating ratio projected for combined system	98.6	97.5	97.6	93.4	90.3	90.1

These ratios have been applied to the income and cash flow statements of Tables 17 and 18 which reflect revenue and rehabilitation adjustments.

Table 23 shows the effect of these adjustments on the income statement for the post-divestiture Guilford system. It indicates a few years of rather marginal operations, although the income figure improves in later years.

TABLE 23.—ADJUSTED PRO-FORMA INCOME STATEMENTS

[In millions]

	1986	1987	1988	1989
Operating revenues	$354.0	$387.5	$416.8	$420.3
Operating expenses	347.6	375.9	391.4	389.6
Net railway operating income	6.4	11.6	25.4	30.7
Other income—Net	5.3	5.3	4.6	4.6
Available for fixed charges	11.7	16.9	30.0	35.3
Fixed charges	11.6	13.0	13.0	12.5
Net income	0.1	3.9	17.0	22.8
Fixed charges coverage	0.1x	1.3x	2.3x	2.8x

Table 24 shows the result on the cash flow, which is severely affected. This is particularly important since Guilford's system is not an extremely strong operation, as yet, and is highly leveraged.

TABLE 24.—ADJUSTED CASH FLOW

[Dollars in millions]

	1986	1987	1988	1989
Cash from operations-Net income	$0.1	$3.9	$17.0	$22.8
Other	(3.1)	3.0	6.7	8.6
Total	(3.0)	6.9	23.7	31.4
Cash provided by investment	(83.8)	(28.9)	(29.9)	(28.3)
Cash available before financing	(86.8)	(22.0)	(6.2)	3.1
Cash provided by financing	71.8	4.1	(4.9)	(15.4)
Net increase in cash	(15.4)	(17.9)	(11.1)	(12.3)
Cash at beginning of year	16.9	1.5	(16.4)	(27.5)
At end of year	1.5	(16.4)	(27.5)	(39.8)

It is apparent, then, that a relatively small change in the operating ratio could have a serious affect on Guilford's cash flow. It should be noted that the operating ratios used to sensitize the results are not significantly different than those projected for the Rail Division alone and represent a reasonable sensitivity adjustment.

The adjusted expense ratios have also been applied against the projections presented by Guilford. Table 25 shows the adjusted income statement, and Table 26 reflects the adjusted cash flow. No adjustments have been made for any revenue loss or added rehabilitation expense.

TABLE 25.—GUILFORD PRO FORMA INCOME STATEMENT ADJUSTED FOR SENSITIZED OPERATING RATIOS

[Dollars in millions]

	1986	1987	1988	1989
Operating revenues	$366.4	$406.1	$441.4	$444.9
Operating expenses	360.2	294.3	414.9	412.9
Net revenues from railroad operations	6.2	11.8	26.5	32.0
Other income—net	5.3	5.3	4.6	4.6
Available for fixed charges	11.5	17.1	31.1	36.6
Fixed charges	11.6	13.0	13.0	12.5
Net income	(0.1)	4.1	18.1	24.1
Fixed charge coverage (times)		1.3	2.4	2.9

TABLE 26.—GUILFORD'S PRO FORMA CASH FLOW ADJUSTED FOR SENSITIZED OPERATING RATIOS

[Ratios in millions]

	1986	1987	1988	1989
Cash from operations				
Net income	(0.1)	4.1	18.1	24.1
Other	(3.1)	3.0	6.7	8.6
Total	(3.2)	7.1	24.8	32.7
Cash from investment	(82.6)	(27.7)	(28.7)	(27.1)
Cash before financing	(85.8)	(20.6)	(3.9)	5.6
Cash from financing	71.8	4.1	(4.9)	(15.4)
Net increase in cash	(14.0)	(16.5)	(8.8)	(9.8)
Cash at beginning of year	16.9	2.9	(13.6)	(22.4)
Cash at end of year	2.9	(13.6)	(22.4)	(32.2)

These tables show that, although Guilford will operate at a profit, the cash position of the post-divestiture system will be negative in 1987, and will worsen each succeeding year.

4. Conclusion

Guilford is a highly leveraged company. Therefore, cash flow is a most significant factor in determining its viability. Despite good earnings, the carrier must be able to service all of its obligations, including those that are not shown as debt on its balance sheet. In addition, cash flow is important insofar as it affects Guilford's ability to perform needed rehabilitation.

Guilford's pro forma statements show that, despite gross revenues of almost $445 million in 1989, the carrier will have a positive cash position of only $2.1 million. Therefore, there is very little margin for deviation from Guilford's revenue and expense projections.

Guilford has overestimated the revenues it would gain from the divested lines and has underestimated slightly the cost of planned rehabilitation. Although these adjustments did not have a serious affect on the income statement, they did place the extended Guilford system in a negative cash position in 1989. This, alone, would lead to the conclusion that a post-divestiture Guilford system would not be a viable operation.

In addition, there are some reservations in accepting Guilford's projected sharp decline in the expense ratios that comprise the operating ratio. They were somewhat optimistic and may not be achievable. Therefore, these ratios were adjusted to a reasonable extent, in light of the past history of Guilford's component railroads and the 1983 industry average.

Those adjusted ratios were applied to the revenue and expense figures that were projected for Guilford and lead to the conclusion that Guilford's cash position would progressively deteriorate to a completely unacceptable negative figure.

As a final step, the adjusted ratios were applied to Guilford's projections and it was found that Guilford's 1989 negative cash position would be almost as bad as with the adjusted revenues and costs.

Therefore, it is concluded that, unless Guilford is able to realize all of the additional revenues it projects, hold its rehabilitation cost to the level it estimates, and improve its operating efficiency in the optimum manner it predicts, it will be unable to conduct a viable operation after acquisition of the divested lines.

IV PLE ANALYSIS

A. Overview of PLE Proposal:

1. The Current System

PLE operates approximately 500 miles of track. It has its own lines from Brownsville Junction and Connellsville, PA to Youngstown, OH, via Pittsburgh, and it operates over trackage rights on Conrail's lines from Youngstown to Shenango, PA and to Ashtabula, OH, and over NS lines from Ashtabula to Buffalo.

PLE was a corporate subsidiary of the New York Central System, which became part of Penn Central in 1968. In 1976, most of the rail properties of the bankrupt Penn Central were acquired by the federal government to form Conrail. PLE was not one of those properties and remained a Penn Central subsidiary until 1979, when it was sold to its present private owners.

Although, prior to 1982, PLE had been a profitable company, it has suffered losses in the past three years. From 1982 through 1984, the company lost $24.0 million from rail operations and had a total loss of almost $47.7 million. During this period, its total revenues were $140.7 million.

Although PLE's financial picture is not very bright at present, it has reached an agreement with its creditors to restructure its debt, thereby improving its financial status. Because of improved efficiencies in operations and cost reduction measures, and now the debt restructuring, PLE states that it will be in a position to conduct long-term operations. Also, it should be in a better position to attract investment capital for its expansion.

2. The Divestiture Proposal

PLE will assume leases of 502.3 miles of lines and will be granted a maximum of 119 miles of trackage rights.[19] The purchase price for these lines is $18.0 million, and will be financed through a third party that will lease the facilities to PLE for $4.0 million per year.

The principal line to be transferred to PLE is the NS main line from Connellsville to Toledo. The line is almost 300 miles long and is made up of two segments. The eastern segment, from Connellsville to Pittsburgh Junction, OH, is operated by NS under a lease from the Pittsburgh and West Virginia Railroad Company (P&WV), and PLE will assume NS's interest in the lease. The western segment of the line is owned by NS. In addition, PLE will acquire NS's Brewster, OH yard and may lease certain tracks in NS's Homestead Yard in Toledo.

PLE will acquire NS's 73-mile long line from Cleveland to Harmon, OH. Harmon is a point on the line between Pittsburgh Junction and Toledo. PLE will also acquire NS's Gambrinus Yard in Canton, OH and the Campbell Road Yard in Cleveland.

Further, the PLE proposal contains reciprocal switching arrangements and car haul-age agreements that are similar to those between Guilford and NS-Conrail. Also, NS-Conrail will be granted trackage rights over certain PLE lines.

3. The Post-Divestiture PLE System

PLE states that the acquisition of trackage will enable it to establish itself as a strong regional carrier. It will be able to extend the line haul for a portion of its traffic which is currently interchanged at Youngstown or Ashtabula and, thus, its system will be enlarged to include new markets in Ohio, such as Toledo and Cleveland. Also, it will be to expand its operation in Pennsylvania and will have an opening to the Southeast via Connellsville. The new lines also will allow it access to additional connections, which will permit it to compete more effectively for traffic in the heavy industrial, agricultural, and manufacturing areas of the Midwest. Similar opportunities are presented for increasing revenues on important segments of its coal traffic to utilities in Ohio and the Michigan peninsula by relying on its coal origins at Colona Dock on the Ohio River, at Glassport on the Monongahela River, and at mines accessible via subsidiary railroads. Finally, PLE points out that the expanded Guilford system will restore PLE's friendly connection to eastern markets and western gateways.

Operations on the newly acquired lines will be centered around the yard facility at Brewster. That yard will be the main classification point for traffic generated on the new lines, and it also will provide engine service and light car repair services. PLE intends to operate daily through-train service between Pittsburgh and Toledo, via Brewster. There will be daily service between Brewster and Cleveland, with a connection at Kent, OH for traffic to and from PLE's Gateway Yard at Youngstown. Further, there will be daily service between Brewster, and Zanesville, Massillon, and Canton, OH. Also, there will be local service originating at McKees Rocks, PA and Yorkville, Norwalk, and Cleveland, OH to serve local industries. These operations will require minimal changes on the PLE system, except for the coordination of local switching service and classification work between NS's Rook Yard and PLE's McKees Rocks Yard and the initiation of connecting service between Youngstown and Kent.

The lines are generally in adequate condition for PLE's proposed operations; however, the carrier anticipates an expenditure of $9.7 million for necessary rehabilitation, upgrading of certain lines, and the construction of new connections.

Acquisition of the new lines will not place a strain on PLE's equipment supply. It has almost 14,000 freight cars, of which over 6,000 are idle and can be committed to the new lines. It will, however, need 190 covered hopper cars, 53 automotive flat cars, 27 road locomotives, and 12 automotive shop cars, which will be acquired through operating leases. It will also need to acquire, through purchase or lease, some maintenance of way equipment.

As a result of its new operations, PLE estimates that it will obtain additional gross revenues of $53.0 million. That revenue figure is broken down as follows:

On "New" Lines, $28.6 million;
PLE Extended Haul, 6.8 million;
Competitive Points, 15.4 million; and
Bridge Traffic, 2.2 million.

PLE contends that it will realize an immediate benefit from the acquired lines. In the first year after acquisition, it anticipates net operating income of $12.15 million and total net income of $1.1 million. By the fifth year, PLE foresees an operating income of $31.27 million and a total net income of $22.56 million. Further, its improved efficiency is reflected in its operating ratio, which was in excess of 100 percent in 1984, but will improve to less than 80 percent by the fifth year after acquisition.

B. Criticisms of PLE proposal.—CSX, GTW, and Conrail have raised a variety of objections to PLE's proposal. The objections relate to: (1) PLE's current financial status; (2) its operating plan; and (3) its marketing plan. These objections are discussed below.

The opponents contend that PLE's current financial condition is so weak that it is functionally insolvent. They note that PLE lost money in each of the past three years and has been in default on certain debt payments since July, 1983. The opponents assert that even with a restructured debt

agreement, PLE's creditors will probably have a secured interest in its assets, leaving little or no margin for additional financing if necessary. They state that PLE's operating efficiency ratio is very high compared to other Eastern District carriers, its profit margin is negative, and its historic return on assets has been very small or negative. Essentially, the opponents argue that PLE is in such poor financial condition that it can barely remain solvent and, therefore, cannot survive if it takes on any additional burden such as the acquisition of new lines.

The opponents argue that PLE's operating plan will not allow it to compete with NS-Conrail. First, they assert that the lines to be acquired are in poor condition and will need substantial rehabilitation before PLE can operate them. They estimate that this rehabilitation will cost between $23.8 and $31.7 million plus an additional $1.4 to $2.2 million for new yards and connections. They question how PLE will finance these sums given its poor financial condition. Second, they argue that, even with this rehabilitation, PLE's service will be inferior to that available from NS-Conrail. PLE plans to offer one train per day service at 40 to 50 m.p.h. between major cities on its lines. Conrail currently runs between 35 and 70 trains per day at 60 m.p.h. between many of the same points. Thus, the opponents contend that PLE cannot hope to compete with NS-Conrail.

Finally, the opponents assert that PLE's marketing plan and revenue projections are unrealistic. They argue that PLE's projection of a nearly 100 percent increase in revenues with no loss of traffic to NS-Conrail is implausible. They contend that a consolidated NS-Conrail will have an excellent opportunity and reason to divert much of the existing NS-PLE interline traffic to NS-Conrail, since 90 percent of PLE's territory is in direct competition with NS-Conrail. They note that PLE will be forced to rely on connections with other carriers since it has no direct access to western carriers. They find no support for PLE's contention that GW and Guilford will provide sufficent traffic to offset that lost to NS-Conrail. The opponents argue that Guilford and PLE are competitors at major gateways such as Buffalo and Toledo and, therefore, Guilford would have no incentive to be a "friendly" connector with PLE. Generally, the opponents argue that PLE will be relegated to running costly, inefficient, short-haul, branch-line service with few long-hauls to support the costs of its basic service. Under these circumstances, they argue that PLE cannot obtain sufficient revenues to support its expanded system, compete with NS-Conrail, and remain even marginally financially viable.

C. Discussion of PLE proposal.

1. Description and Condition of Lines

PLE is obtaining access to between 610.58 and 621.23 route-miles, depending on whether it elects Aternative A or Alternative B near Youngstown, from both Conrail and NS. It intends to purchase 502.31 route-miles and obtain trackage rights over 108.27 route-miles (Alternative A), or 118.92 route-miles (Alternative B). A description of each line, including its current condition as determined by track charts and timetables, is set forth below.

a. The 105 Secondary.—This line is owned by Conrail and runs from Carnegie (MP 1.92) to Glenn, PA (MP 2.5). The line contains 0.58 route-miles and is single track. According to track charts, the speed limit on the line is 15 m.p.h. No rail weight is specified. From the operating plan, it seems that this segment will be involved in connecting traffic to the former P&WV line of NS at Bridgeville, PA. In addition, there is a high probability that some of the traffic over this line will involve special purpose cars, such as depressed center flats, multiple-truck flats, and Schnabel cars, used to transport heavy, excess-dimension shipments of electrical equipment. This line is not in adequate condition to operate these types of equipment.

b. The Washington Secondary.—This line is owned by Conrail and runs from Glenn (MP 0.1) to Bridgeville (MP 3.9), containing 3.8 route-miles. According to track charts and timetables, the speed limit is 10 m.p.h. for the entire line. Approximately 60 percent of the rail is 100-lb. and the remainder is 130-lb. This line is contiguous to the 105 Secondary and will be subjected to the same excess-dimension traffic. This line is currently in FRA Class 1 condition, but needs to be in FRA Class 2 condition in order to handle the traffic described above.

c. The Bridgeville-McDonald Industrial.—This track runs from Bridgeville (MP 0.0) to a point about one mile west (MP 1.5). According to Conrail, this line was approved for abandonment in November 1984. This line is contiguous to the Washington Secondary and will be subjected to the same excess-dimension traffic. The line is probably at or below FRA Class 1 condition, but should be rehabilitated to FRA Class 2 condition to handle the proposed traffic.

d. Cleveland-Pymatuning Line.—PLE is seeking trackage rights over Conrail's Cleveland-Pymatuning line from Brier Hill (MP 61.9) to Leavittsburg, OH (MP 49.2). The line contains 12.7 route-miles and is double track. Alternative A uses the entire line; Alternative B uses the western portion of the line from Warren, OH (MP 53.8) to Leavittsburg (MP 49.2), 4.6 route-miles. Also included in each alternative is a connection at Girard, OH. According to track charts, the line consists almost entirely of double track and the timetable speed is 25 m.p.h. Virtually all rail is 115-lb. B&O's crossing at Deforest, OH has been isolated or removed and the interlocking deactivated. The line is in FRA Class 2 condition, but is inoperable for Alternative A without the B&O crossing at Deforest. For Alternative B, the portion of the line from Warren to Leavittsburg is operable.

e. Freedom Secondary.—PLE is seeking trackage rights over Conrail's Freedom Secondary from Leavittsburg (MP 164.8) to Kent (MP 192.5). The line contains 27.7 route-miles. According to the track charts, the line consists almost entirely of double track and the timetable speed is 25 m.p.h. The former westbound main line is approximately 50 percent 115-lb. and 50 percent 132-lb. rail. The former eastbound main line is 131-lb. and 132-lb.

f. E&A Branch.—PLE is seeking trackage rights over Conrail's E&A Branch from Graham (MP 60.7) to Detour, OH (MP 75.6). The line contains 14.9 route-miles and 15.3 track-miles. According to track charts, the line's timetable speed is 25 m.p.h., with some 20 m.p.h. restrictions in towns and yards. The rail is predominately 131-lb. with some 130-lb. The 130-lb. rail is 1929 vintage and should be considered for replacement.

g. PY&A Secondary.—PLE is seeking trackage rights over Conrail's PY&A Secondary from Detour (MP 75.6) to Warren (MP 79.45). The line contains 3.85 route-miles. There is also a connection at Warren. According to track charts, the line is double track, and the speed limit on the main track is 30 m.p.h. for 0.4 mile, 20 m.p.h. for 3.0 miles, and 15 m.p.h. for 0.45 mile. The second main is all 15 m.p.h. All rail is 131-lb.

h. Weirton Secondary (Gould).—PLE is seeking trackage rights over Conrail's Weirton Secondary from Mingo Jct. (MP 49.4) to Gould, OH (MP 46.7). The line contains 2.7 route-miles. According to track charts, the area under consideration has three tracks, probably two mains and a center passing track. The speed limit on the mains is 25 m.p.h., and 15 m.p.h. on the siding. The rail is mostly 140-lb., with some 131-lb.

i. Powhatan Secondary.—PLE is seeking trackage rights over Conrail's Powhatan Secondary from Mingo Jct. (MP 20.6) to Brilliant, OH (MP 23.0). The line contains 2.4 route-miles. PLE has stated that this is an industrial access line. According to track charts, the line is double track and timetable speed is 10 m.p.h. The main track consists of 131-lb., 130-lb., and 100-lb. rail. Part of this line appears to be yard area, with 6 miles of track immediately outside being 131-lb. CWR. Accordingly, either the tie and surfacing condition is poor or operating and traffic conditions on the line must be the controlling factor, since the speed limit indicates FRA Class 1 condition outside the yard area.

j. Weirton Secondary (Pittsburgh).—PLE is seeking trackage rights over Conrail's Weirton Secondary from Duff Jct. (MP 3.0) to Rosslyn, PA (MP 6.3). The line contains 3.3 route-miles. This line appears to parallel the PC&Y route through this area. According to track charts, the line is all double track with an additional passing-siding. Approximately 80 percent of the line is 152-lb. and 155-lb. rail with the remainder 131-lb. These are the heaviest known rail sections in service. The speed limit is 25 m.p.h. on the main and 20 m.p.h. on sidings. The line passes through a large yard at Scully, PA. Operating considerations in the area may govern the speed limit rather than track condition. This line is part of the connection with NS's Connellsville line at Bridgeville.

k. 105 Secondary.—PLE is seeking trackage rights over Conrail's 105 Secondary from Lewis Run, PA (MP 0.1) to Carnegie (MP 1.92). The line contains 2.02 route miles. According to track charts, the speed limit on the line is 15 m.p.h. No rail weight is specified. From the operating plan, it seems that this segment will be involved in connecting traffic to the former P&WV line of NS at Bridgeville. This line will be subjected to the same excess dimension traffic as the other segment of the 105 Secondary.

l. Pittsburgh, Charters and Youghiogheny Railroad (PC&Y).—PLE is seeking trackage rights over trackage jointly-owned with Conrail from McKees Rocks (MP 0.5) to Carnegie (MP 7.0). The line contains 6.5 route-miles. This line appears to parallel Conrail's Weirton Secondary from Duff Jct. to Rosslyn. According to PLE, this line will need some selective upgrading as part of the route from the connection to NS's Connellsville line at Bridgeville.

m. The Canton District.—This line is owned by NS and runs from Cleveland (MP 0.8) to Harmon (MP 73.6). The line contains 72.8 route-miles and is single track. According to track charts, the section from Cleveland (MP 0.8) to Falls Jct., OH (MP 16.1) has a timetable speed of 20 m.p.h., the section from Falls Jct. to Canton (MP 58.5) is 35 m.p.h. with some speed restrictions, the section from Canton to Gambrinus (MP 64.8) is 15 m.p.h., and the section from Gambrinus to Harmon is 30 m.p.h. with

some speed restrictions. The line is mostly 1939 to 1946 vintage 110-lb. rail with some 110-lb and 112-lb. CWR on the south end. PLE has stated that about 33 miles of the line has been out of service and another 10 miles is in use but will require upgrading to FRA Class 3. PLE is addressing the Canton to Falls Jct. segment. NS has stated that it will restore this part of the line to FRA Class 2 condition prior to divestiture.

n. The Toledo-Wheeling District.—This line is owned by NS and runs from Yeoman, OH (MP 54.6) to Pitt Jct. (MP 183.4). The line contains 128.8 route miles and 134.9 track-miles. The line is presently in FRA Class 4 condition with a speed limit of 50 m.p.h. Most of the line is 112-lb., 115-lb., 131-lb., and 133-lb. rail. The signalling system is CTC. Also included is a section of the Lorain & West Virginia Railway Company (L&WV) from Lake Junction (MP 0.0) to MP 1.5. This line contains 1.5 route-miles and is single track. This section also includes Brewster Yard. The section of L&WV considered here has a speed limit of 10 m.p.h. with 90-lb. rail. It appears to be a yard area and it is in adequate condition for yard work.

o. The Connellsville District.—This line is leased by NS from the P&WV, and runs from Connellsville (MP 0.0) to Pitt Jct. (MP 111.2). The line contains 111.2 route-miles and is basically single track. Also included are three branches: the West End Branch, 2.3 route-miles; the Clairton Branch, 5.6 route-miles; and Mifflin Branch, 3.5 route miles. The line is presently FRA Class 4 and most of the line is 112-lb. and 115-lb. rail with some 132-lb. The signalling system is CTC. From MP 0.0 to MP 47.0 the speed limit is 30 m.p.h. with two speed restrictions for a 9-degree and 10-degree reverse curve at MP 41.0. From MP 47.0 to MP 55.4 the speed limit is 25 m.p.h. There is a short stretch of 20 m.p.h. line through Rood Yard. The remainder of the line is 40 m.p.h. The three branches are mostly 105-lb. rail with 10 m.p.h. speed limits. This line traverses extremely irregular terrain south of Pittsburgh and it is difficult to determine if the speed limits are imposed because of track conditions or because of the many sharp curves through the area from MP 41.0 to MP 5.0, especially from MP 49.0 to MP 54.0.

p. The Steubenville Branch.—This line is owned by NS and runs from Warrenton (MP 0.0) to Steubenville, OH (MP 13.2). The line contains 13.2 route-miles and is single track. The line is presently in FRA Class 1 or 2 condition. There is heavy steel mill traffic on the line. The speed limit from MP 0.0 to MP 8.0 is 20 m.p.h. and from MP 8.0 to MP 13.2 is 10 m.p.h. The rail is 132-lb. CWR from MP 0.0 to MP 9.0. The 10 m.p.h. limit is within the yard limits at Mingo and is probably not due to track condition. Operating parameters usually control in these areas.

q. The Wheeling District.—This line is owned by NS and runs from Warrenton (MP 205.4) to Martins Ferry, OH (MP 213.2). The line contains 7.8 route-miles and is single track. The timetable speed is 10 m.p.h. Most of the rail is 1926 vintage 90-lb., with some 1900 and 1919 vintage 90-lb. relay.

r. The Chagrin Falls Branch.—This line is owned by NS and runs from Falls Jct. (MP 0.0) to Chagrin Falls, OH (MP 8.15). The line contains 8.15 route-miles and is single track. According to track charts, the timetable speed is 10 m.p.h., and the rail is all 1942 to 1945 vintage 90-lb.

s. The Carrollton Branch.—This line is owned by NS and runs from Canton (MP 0.0) to Carrollton, OH (MP 27.72). The line contains 27.72 route-miles and is single track. According to track charts, the timetable speed is 10 m.p.h., and the rail is mostly 1926 and 1929 vintage 90-lb. There is also some 1941 vintage 110-lb. rail.

t. The Minerva Branch.—This line is owned by NS and runs from Minerva Jct. (MP 0.0) to Minerva, OH (MP 3.0). The line contains 3.0 route-miles and is single track. According to track charts, the timetable speed is 10 m.p.h., and the rail is mostly 1929 vintage 90-lb. There is also a small amount of heavier rail.

u. The Massillon Branch.—This line is owned by NS. There are two segments of this line under consideration: Orrville Jct. (MP 0.0) to Orrville, OH (MP 1.4); and Dalton (MP 7.0) to Run Jct., OH (MP 22.1). The two sections are not connected; the section from MP 1.4 to MP 7.0 was abandoned in 1954. These two segments contain 16.5 route-miles and are single track. According to track charts, the timetable speed is 10 m.p.h. The rail is mostly 80-lb. and 90-lb., with a small amount of heavier rail.

v. The Zanesville District.—The line is owned by NS and runs from Harmon (MP 73.6) to Zanesville (MP 144.4). The line contains 70.8 route-miles and is single track. There are also two other segments in this area: the Zanesville Belt Line, MP 0.0 to MP 3.1 in the Zanesville area and the Peabody Spur, MP 0.8 to MP 7.2. These two lines contain an additional 9.5 route-miles and are single track. PLE has stated that this line is more than adequate to provide competitive service in its present condition. According to track charts, the timetable speed for the main line is 30 m.p.h. Most of the rail is 1937 to 1941 vintage 90-lb., with some 1945 vintage 110-lb. rail. There are some speed restrictions on curves. The Zanesville Belt has a timetable speed of 15 m.p.h. and is all 90-lb. rail. The Peabody Spur is mostly 112-lb. rail with no listed speed limit.

w. The Cleveland Belt.—This line is owned by NS and runs from Belt Line Jct. (MP 0.0) to Knob, OH (MP 5.42). The line contains 5.42 route-miles and is single track. According to track charts, the timetable speed is 15 m.p.h. and rail is mostly 100-lb. The line appears to be an industrial switching area with numerous sidings and several very sharp curves, five of which are nine degrees or more. The speed limit suggests that the line is at the low end of FRA Class 2 condition and it is suspected that operations over this line are not impacted by the speed limit.

x. The Canton Belt.—This line is owned by NS and runs from MP 0.0 to MP 3.74 in the Canton area. The line contains 3.74 route-miles and is single track. There is heavy steel mill traffic on the line. PLE has stated that the line is in adequate conditions. According to track charts, the timetable is 10 m.p.h., and the line consists mostly of 110-lb. rail.

y. Cherry Street Line.—PLE is seeking trackage rights over NS's Cherry Street line from Cherry Street (MP 2.0) to Ironville (MP 3.7) in the Toledo area. The line contains 1.7 route-miles and is single track. According to track charts, the speed limit is 10 m.p.h. Since the line appears to run through a very congested switching and yard district, it is concluded that the track condition is acceptable because of the timetable speed.

z. Toledo District.—PLE is seeking trackage rights over NS's Toledo District from Toledo (MP 5.35) to Yeomans (MP 54.6). The lines contains 49.25 route-miles and is essentially single track with passing-sidings. The line is presently FRA Class 4 with a speed limit of 50 m.p.h. Most of the line is 112-lb., 115-lb., 131-lb., and 133-lb. rail. The signaling system is CTC.

aa. The Huron Branch.—This line is owned by NS and runs from Huron Jct. (MP 0.3) to Milan, OH (MP 5.5). The line contains 5.2 route-miles and is single track. According to track charts, the speed limit is 10 m.p.h. from MP 0.3 to MP 1.0 and 20 m.p.h. from MP 1.0 to MP 5.5.

2. Operating Plan.

PLE proposes to operate over the lines acquired and leased and via their trackage rights, the following daily through trains:

Brewster to Toledo, OH; Toledo to Brewster, OH; Brewster, OH to McKees Rocks, PA; McKees Rocks, PA to Brewster, OH; Brewster to Cleveland, OH Cleveland to Brewster, OH; Youngstown to Kent, OH (and return).

As required, ore trains will operate between Ashtabula and Mingo Junction; and coal trains will operate between Lewell, PA and Toledo.

Local service of two trains per day will be provided between the following points:

Yorkville and Steubenville/Terminal Junction, OH; and Brewster and Canton, OH (Gambrinus) (including Carrollton Branch).

Daily local service will be provided between the following points:

Cleveland and Chagrin Falls, OH; and Brewster and Massillon/Dalton OH.

Local service will be provided three times per week between the following points:

Brewster and Coshocton/Zanesville, OH; and Zanesville/Coshocton and Brewster, OH.

Local service will be provided at the following locations and points five days per week:

Norwalk, OH; and McKees Rocks and Connellsville, PA.

For the most part, the level of service is equal to that which is provided by current operations.

Major track rehabilitation items consist of two track segments: (1) Falls Junction to North Canton and (2) the PC&Y trackage in the Pittsburg area. Also, the construction of three new connections are needed to connect the acquired lines to PLE's present system. The combination of the track rehabilitation and new connections will provide PLE with a track network which will provide adequate service to its present shippers and to shippers located on the acquired lines.

One important segment is the proposed operation from PLE's Gateway Yard in Youngstown over a combination of Conrail branch lines to Kent including a new connection between Conrail's and PLE acquired tracks in Kent. With this segment, PLE will be able to handle traffic between Cleveland and Pittsburgh over a shorter route than would be otherwise available by the extended PLE system.

The PLE operating plan is viable and capable of providing equal or better service than that which is provided by Conrail at the present time.

3. Rehabilitation

In analyzing the rehabilitation costs, the evidence submitted by PLE and Conrail, as well as empirical data such as track charts and time tables, was used.

Preliminarily, it must be noted that the rehabilitation estimates depend on which of two possible routes PLE uses to go from the Youngstown area to Leavittsburg. Alterna-

tive A uses the Cleveland-Pymatuning Main from Brier Hill (MP 61.9) to Kent (MP 192.5). Alternative B uses the E&A Branch from Graham (MP 60.8) to Detour (MP 75.5), the PY&A Secondary from Detour to Warren (MP 79.45), the Cleveland-Pymatuning Main from Warren (MP 79.45=MP 53.8) to Leavittsburg (MP 49.2), then the Freedom Secondary over the same route as Alternative A. The choice of alternative affects both rehabilitation and connection costs.

Conrail presented the most comprehensive rehabilitation cost information. It was also the highest in total cost proposing line rehabilitation costs of $25,226,236 for Alternative A and $30,700,901 for Alternative B and connection costs of $2,522,200 for Alternative A and $2,385,540 for Alternative B. PLE presented information on lines it felt needed rehabilitation based on its operating plan. Since it was PLE's opinion that all but two of the lines were in adequate condition for the service it planned to run, its total estimate was considerably less than Conrail's estimates. PLE's total was $5,915,512 for line rehabilitation and $3,783,210 for connections for Alternative A; no estimates were given for Alternative B.

Relying on work quantities submitted by Conrail, an estimate was developed and the rehabilitation costs were restated where necessary. PLE will need to spend a total of $7,047,512 on line rehabilitation for Alternatives A and B. An additional $3,783,000 will be required for connections in Alternative A and $3,018,510 for Alternative B. Since PLE has indicated that it prefers Alternative A, and has in fact assumed this Alternative when setting forth its trackage rights costs, PLE's total rehabilitation cost is $10,830,512.

Below is a discussion of each of the line segments for which rehabilitation is necessary.

a. Canton District.—Conrail submitted an estimated rehabilitation cost of $2,033,107. PLE has estimated the rehabilitation at $3,683,807. No work quantities have been submitted by either Conrail or PLE. PLE has described its estimate as addressing deferred maintenance on the line from N. Canton to Falls Jct. A portion of this track has been out of service and represents more of a deferred use problem. Approximately 10 miles of the line is in use but will require some upgrading to bring it up to FRA Class 3 standards. Conrail's estimate was for the entire 73-mile line. At this point, PLE's estimate is the most reasonable estimate of rehabilitation cost for this line.

b. Pittsburgh, Chartiers and Youghiogheny Railroad.—PLE states that its estimate of $2,231,705 is more of an upgrading effort than rehabilitation. There was no contrasting estimate and insufficient detail to make an independent estimate. PLE's estimate is accepted as a reasonable indication of the rehabilitation costs for this line.

c. 105 Secondary (both segments).—Due to the operation of special equipment and heavy, excess-dimension shipments over this line, both sections of the 105 Secondary should be rehabilitated to FRA Class 2 condition. This is recommended not to raise the operating speed, but to provide a more stable track structure over which to operate this equipment. This requires replacement of all rail with used rail, sufficient ties to go from marginal FRA Class 2 condition to full FRA Class 2 condition, and one surfacing pass. The estimate for this amount of rehabilitation is $348,000.

d. Washington Secondary.—This line is contiguous with the 105 Secondary and will be subjected to the same traffic. Operation of the above referenced equipment requires better than FRA Class 1 condition track. The replacement of the 100-lb. rail with used rail, sufficient ties to go from FRA Class 1 to 2, and one surfacing pass is recommended. The estimate for this amount of rehabilitation is $556,500.

e. Bridgeville-McDonald Industrial.—This line is contiguous with the above two sections and will be subjected to the same traffic. It will also be the site of the connection with the Connellsville District. Replacement of all rail, a sufficient number of ties to go from FRA Class 1 to 2, and one pass surfacing have been included in the rehabilitation estimate, which is $228,000.

f. Yards and Connections.—PLE has not specified any rehabilitation cost for the yards that it plans to acquire. Therefore, it is assumed that all yards are in adequate condition.

Both PLE and Conrail have submitted estimates on connection costs. There are connections at Bridgeville, McKees Rocks, Girard (Alternative A), and Warren (Alternative B).[20] PLE's estimates are generally higher than Conrail's, although given the probable level of precision of the estimates, the costs are remarkably close, all factors considered. The best estimate of the total connection cost for Alternative B is $3,018,510. For Alternative A, the best estimate of the total connection costs is PLE's estimate of $3,783,210.

4. Traffic Diversion

a. PLE's proposal.—PLE developed a marketing plan to integrate the lines acquired from NS into its existing system. PLE asserts that the expanded system will enable it to extend the line haul for a portion of its traffic that is currently interchanged to connections at Youngstown or Ashtabula. This traffic will be carried to Toledo with a resulting increase in line haul revenues. Working in conjunction with friendly connections, PLE believes that it will also be able to use new routes to compete more effectively for traffic to the heavy industrial, agricultural, and manufacturing areas of Michigan, northwestern Indiana, and northeastern Illinois. According to PLE, similar opportunities are presented for increasing revenues on important segments of its coal traffic to utilities in Ohio and the Michigan peninsula. These opportunities will interface with PLE's coal origins at Colona Dock on the Ohio River, at Glassport on the Monongahela River, and at mines accessible to PLE via subsidiary railroads.

PLE performed a traffic study based on three data sources. These included proprietary NS traffic data for the NS routes involved, proprietary PLE traffic data for its existing system, and aggregated one percent waybill data for certain areas in the expanded PLE service area. In conducting the study, PLE used the following assumptions: (1) PLE will be able to maintain existing market share with customers on its present system; (2) all NS business on acquired lines will be available to PLE; and (3) PLE will attain a competitive market position in the expanded PLE service area. The results of the study indicated that PLE would gain an additional $53 million gross freight revenues in 1986. This figure is based on four categories of traffic that are summarized as follows:

	Carloads	Revenue 1985 dollars
On "new" lines	67,819	28,595,000
PLE extended haul	24,005	6,781,000
Competitive points	28,116	15,421,000
Bridge traffic	4,000	2,200,000
Total	123,940	52,997,000

PLE notes that its estimate of its share of traffic from competitive points, 28,116 carloads, is only 15.7 percent of the 179,273 carloads available at those points.

b. Opposition.—Conrail, GTW, and CSX allege that there are numerous fallacies inherent in PLE's assumptions. In addition, GTW performed its own traffic analysis, concluding that PLE would only gain additional revenues of $15.7 million. The principal points raised by the opponents are discussed below.

All of the opponents assert that PLE has taken an unreasonably optimistic view of the future and that its chances for success in providing effective competition for a combined NS-Conrail are slight. PLE's traffic and revenue projections are based on assumptions that cannot be defended, and certainly not presumed, in their view. They find that PLE's assumption that the NS-Conrail combination will divert no existing traffic from it to be wholly unrealistic, especially since PLE admits that it now relies heavily on NS as a connection on east-west routed traffic. Twenty-seven percent of PLE's interline revenues are derived from NS hauls to and from Conrail competitive points. In the event of consolidation, NS would encompass the Conrail system which would parallel 90 percent of PLE's track. This will give NS the opportunity to expand its share in markets that are served by PLE. They note that PLE is aware of this problem since it originally told DOJ that it would lose $12.6 million in traffic to NS-Conrail. They find no support for PLE's conclusion that the divestiture agreement ameliorates the conditions that caused PLE to claim this heavy loss.

Even after the divestiture, these carriers note that PLE will be forced to rely on regular connections with other carriers, since it will still have no direct access to western gateways. They claim that there is no support for PLE's assumption that GTW and Guilford will take on this role, filling the void left by NS. For example, GTW states, in its opening statement, that the amount of traffic it plans to interchange with PLE is "miniscule." Guilford also presents problems as an interchange partner. First, PLE and Guilford will be competitors over certain major gateways, such as Buffalo and Toledo. Second, there is no existing interchange between the two carriers at Wellington, OH. Guilford is to receive only overhead traffic rights on the line through Wellington, and under the terms of the divestiture proposals, cannot interchange traffic there with PLE. Thus, for traffic from Pittsburgh moving to Chicago or St. Louis, the interchange between PLE and Guilford must occur either at Cleveland, which affords PLE only a limited haul over 30 m.p.h. branch line track, or at Toledo, which, because of its undue circuity, would not be a competitive route.

The opponents take issue with PLE's assumption that it will attain a competitive market position in its expanded service area. They claim that the lines to be divested to PLE are second-rate when measured against the competing NS and Conrail lines.

The primary line to be acquired by PLE is the former NS line from Connellsville on the East to Toledo on the West. The parties maintain that the segment from Pittsburgh to Connellsville is redundant in that PLE already serves Connellsville. As for the area between Pittsburgh and Toledo, they cite several factors supporting PLE's inability to offer competitive service. First, this line will be competing with the Conrail route via Alliance and Cleveland. Conrail's track is double-main-line, with remote-controlled signaling, FRA Class 5 condition, 60 to 80 m.p.h. speed. Conrail handles about 70 trains per day between Toledo and Cleveland and 35 trains between Cleveland and Conway Yard, at Pittsburgh. In contrast, PLE will handle only one train in each direction and will experience delays coming west out of Rook Yard at Pittsburgh where PLE will face serious operating problems. The track is between FRA Class 3 and FRA Class 4 condition (40 to 50 m.p.h., respectively) single track. Thus, the opponents believe that PLE will not be any more successful in attracting traffic to this line than NS was, and NS had steadily reduced its service on this line to one train per day. They also point out that PLE is being granted only overhead trackage rights on the portion of this line from Yeomans to Toledo, a length of some 50 miles. The divestiture agreement thereby prevents PLE from providing local service to the many industries in this area, thus reserving this traffic for NS-Conrail.

As to the trackage rights over Conrail's line from Kent to Youngstown, also known as the Pymatuning line, the opponents note that there are few active industries in Youngstown from which PLE could gain additional traffic and few industries along the Pymatuning line itself. The Republic Steel facility, which is still operating there, will not be served by PLE under the terms of the divestiture agreement. Moreover, PLE's one train per-day service over this low-speed branch line will have to compete with Conrail's established service moving through Youngstown and Alliance which offers more frequent trains and faster service.

The NS line from Cleveland to Harmon is also a branch line operated at relatively low speeds (20-30 m.p.h.). A portion of this line is out of service as NS has chosen not to offer the north-south service that PLE envisions it will provide after the line is restored. The main commodity moving along this route is steel between a Cleveland manufacturing plant and a Canton rolling plant. The opponents point out that this short-haul traffic is extremely sensitive to truck competition. Conrail has been able to carry some of this traffic by offering next-day delivery between the facilities and pricing on a truck-competitive basis. The opponents claim that PLE's branch line service will be hard-pressed to compete with Conrail's schedule or to meet the intense truck competition, since this steel traffic must support the total cost of PLE's line.

The opponents take umbrage with PLE's traffic study methodology, which appears to indicate that it will retain all traffic currently handled by NS on the divested lines. They note that NS retains access through reciprocal switching to almost every important traffic generating point on PLE's new lines. Because much of the traffic generated on PLE's new lines traditionally moves to NS or Conrail stations, the opponents believe that NS will be able to retain much of it on its new system.

Finally, the opponents stress that one must consider the reality of PLE's current position in the market. They assert that the addition of new lines to Cleveland and Toledo will not fundamentally change PLE's ability to compete with CSX or NS-Conrail. They note that throughout PLE's opening statement is the admission that PLE is not now a "vigorous, competitive regional railroad." There are many reasons for PLE's present difficulties according to the opponents: overabundance of rail equipment; collapse of rail-using industries in Western Pennsylvania and Eastern Ohio; and brutal competitive tactics by Conrail. The opponents aver that the acquisition of the new lines by PLE will not alter these present problems.

Only one party, GTW, submitted a traffic analysis in contrast to PLE's. GTW's diversion model was a modification of the PRORAIL traffic model used to estimate the real value of the PRORAIL divestiture alternative proposed by PLE and GTW. Thus, according to GTW, its analysis of PLE's new lines employed the same approach and assumptions used in the PRORAIL study that were endorsed by PLE.

Traffic data were drawn from the 1983 ICC waybill sample and were sorted into fifteen relevant groupings. Traffic records were coded by origin and destination carrier or station. Open and closed stations for PLE and NS-Conrail were identified using open switching district counties that were developed from a review of the divestiture agreement. Diversion probabilities were calculated by review of the relative market power of PLE at origin and destination. If PLE would have substantial influence at both origin and destination, a high diversion percentage was used. If NS-Conrail will serve both origin and destination, the probabilities of diversion to PLE would be small. According to GTW, the percentages used in the PLE new lines study closely paralleled the percentages used in the PRORAIL case.

There were several important assumptions that influenced GTW's study results: (1) Guilford and PLE will be unable to coordinate their service to any significant extent; (2) poor track conditions and line circuitry foreclose PLE from participating in intermodal traffic; (3) PLE would not lose any traffic to the new NS-Conrail system; (4) current PLE traffic moving to NS-Conrail stations not served by PLE's new lines is non-divertible; and (5) GTW and PLE would work closely together at Toledo for Western traffic.

GTW's traffic diversion model predicted that PLE would add 46,201 cars in new and extended haul traffic from its new lines. To estimate the new revenues that these movements would produce, PLE's average 1983 revenues per ton-mile were used with the ton-mile results from the diversion model. These produced average revenues of $340 per car. Using this figure, GTW estimated that PLE would gain only $15.7 million in gross annual revenues.

c. Rebuttal.—PLE argues that Conrail, GTW, and CSX have misconstrued the marketing assumptions used in its traffic study. PLE asserts that it did not assume that it will retain its existing traffic base, it only assumed that it will maintain its proportionate share of traffic on current PLE lines. PLE asserts that it did not assume capture of all traffic on acquired lines; it only assumed that PLE would have the opportunity to compete for that traffic via its new lines. Given these conservative assumptions, PLE believes that it is reasonable to expect that it will be able to establish a competitive presence in its expanded service area. Moreover, PLE argues that these assumptions have been comfirmed by the detailed traffic data that it has analyzed.

As to the failure to account for $12.6 million in diversions to the NS-Conrail system, PLE asserts that these opposing carriers did not recognize that the diversion estimate was provided to DOJ before the development of the following measures designed specifically to preserve effective rail competition in PLE markets: (1) divestitures to PLE establishing friendly connections with Guilford and GTW; (2) line divestitures to PLE permitting single line service between Pittsburgh, Ashtabula, Cleveland, Toledo, Weirton/Steubenville, Canton, Youngstown/Sharon, and Massillion; (3) NS assurances to restore competitive rate and efficient route relationships with PLE on present and divested lines after it acquires Conrail; (4) the potential Commission promulgation of effective regulations on competitive access; and (5) new or expanded PLE-served river/rail facilities for coal and other commodities. According to PLE, when these factors are taken into account, the net effect of the NS-Conrail diversion on PLE's current traffic levels is de minimis.

PLE notes that opponents to the divestiture proposals have made much of the speed and frequency of service that it will provide over its expanded system as compared to that of NS-Conrail. But it notes that the efficiency of any railroad is based on two factors—plant design and traffic volumes. If a line is designed and built to carry 25 trains per day, it is highly inefficient and unprofitable to maintain the line at FRA Class 5 (80 m.p.h.) and operate only one train per day. However, if a line is designed, operated, and maintained to handle two or three trains per day, then efficiencies can be obtained at that lesser level of operations. Although the lines to be acquired will enable it to extend its line haul by several hundred miles, PLE notes that this is a relatively short distance. It also notes the time difference between FRA Class 3 track (40 m.p.h.) and FRA Class 5 track (80 m.p.h.) for a 300-mile haul is only 3¾ hours (assuming both trains could travel at maximum speed over the entire distance). Although these time differences might be critical if it were competing with NS-Conrail for TOFC or J.I.T. (just in time) traffic, PLE notes that this is not the case. PLE states that it has examined 100 percent of the 1983 and 1984 traffic on these lines. The principal commodities currently moving by rail are not sufficiently time sensitive to make these service differentials competitively significant. Moreover, PLE asserts that its operating plan calls for the main line between Pittsburgh and Toledo to be maintained at its present operating level, which is more than adequate to compete with NS-Conrail main lines for this type of traffic.

d. Conclusions.—The marketing plan of PLE, as revised, is feasible. The ability of PLE to compete for "new line" traffic in the Toledo-Pittsburgh and the Cleveland-Pittsburgh markets is important to its viability. Opponents have noted that the lines of PLE are not equal in FRA track classification to Conrail lines and argue, therefore, that PLE cannot provide competitive service in these corridors.

The record indicates slower transit times for PLE traffic and the potential for motor carrier competition. However, overlooked by the parties, is the location of the terminal yards and facilities the PLE proposes to use to originate and terminate trains in Toledo and Cleveland.

The use of NS's Cherry Street line and related yards in Toledo to effect interchange by PLE and to assemble trains should provide a more expeditious departure of PLE's trains than that of the other carriers in this market. It is reasonable to assume an earlier departure would offset a slower (if any) road speed.

In Cleveland, PLE will be originating its Pittsburgh train from Campbell Road Yard. This yard is situated within the steel production area of the city. PLE should realize less terminal delay by the shipper to the trains' departure from the terminal than with NS-Conrail.

Of equal importance to PLE's "new line" traffic is that which originates or terminates in the Steubenville/Terminal Junction area. This is an area of heavy steel production with the bulk of traffic on this line related to the steel industry. Two major steel mills will be served by PLE along the line. Of the traffic available to PLE, a very significant portion is local to PLE. In addition, some of this traffic is associated with steel operations at other plants served by PLE. PLE estimates revenues in excess of $12 million from shippers located on these lines. This estimate is realistic.

In conclusion, PLE's estimate of $53 million in additional revenues as a result of acquisition of the divested lines is reasonable.

D. *Financial Viability:*

1. Introduction

This section focuses on: (1) the recent and current financial position of PLE; (2) PLE's recent debt-restructuring agreement; and (3) the future financial viability of the enlarged PLE system. This examination of PLE's future viability considers PLE's proposal and an analysis of the key elements of that proposal. An alternate case reflecting modifications to PLE's projected operating ratios is also set forth. It should be noted that all of the comments filed with respect to PLE's financial position were considered, even though they are not specifically discussed.

Funds flow analysis was used as the principal determinant in forecasting the near-term viability of PLE. The analysis (i) projects the needed capitial outlays and other fund requirements of the carrier such as debt installments, (ii) determines the amount of funds available from rail and non-rail operations, and (iii) ascertains whether the amount of funds available would meet or fall short of projected requirements. The discussion of viability includes the concept of profitability and stability, which are influenced by such variables as operating margin, investment, and solvency. Consequently, for further insight into the adequacy of PLE's financial health, a variety of financial and operating ratios are included. These ratios readily complement the funds flow test and have a high predicative ability.

2. Current Viability

PLE is a wholly-owned subsidiary of PLECO, Inc., a holding company established in 1979 to acquire all of PLE's outstanding common stock. PLECO paid $66.4 million for the PLE shares through a leveraged buyout, where PLE's assets were used to finance the major portion of the cost of its acquisition.

Prior to 1982, PLE's railroad's operations were consistently profitable, However, since 1982, PLE's revenue tons-miles have steadily declined, and it has sustained significant losses. The railroad blamed deep drops in steel and coal traffic for the business decline. The fosllowing schedule summarizes the unfavorable financial and traffic data for the three years ending in 1984 (000's omitted).

Year	Railway operating revenues	Net railway operating income (loss)	Net income	Revenue ton miles
1984	$50,316	$(3,848)	$(11,598)	1,009,087
1983	43,201	(12,598)	(23,462)	1,085,819
1982	47,216	(7,556)	(12,615)	1,076,450

As a result of these losses, PLE's working capital position deteriorated substantially over the 3 years ended 1984. As shown below, it reported a record high working capital deficit of $65.3 million for the 1984 year (000's omitted).

Year	Current assets	Current liabilities	Working capital deficit	Current ratio
1984	$25,865	$91,151	$(65,286)	0.28
1983	18,683	70,042	(51,359)	.27
1982	23,633	49,782	(26,149)	.47

Table 27 contains further information covering PLE's income statement, balance sheet, and selected key financial ratios for 1984 and 1983. Each of PLE's 1984 financial ratios compares unfavorably to both the industry average and the Eastern District average for the same period.

TABLE 27.—PLE HISTORICAL FINANCIAL DATA

[In thousands]

	1984	1983
INCOME STATEMENT DATA		
Rw operating revenues	$50,316	$43,201
Rw operating expenses	54,490	57,841
Net rev. Rw operations	−4,174	−14,640
Rel. prem. fund debt	0	0
Equity in affil. earnings	76	−550
Income avail. fixed charges	1,333	−12,854
Fixed and cont. charges	13,230	12,613
Income taxes paid	1	−2,005
Deferred taxes	−300	0
Increased inv. tax cred	0	0
Net rents	27	37
Net income	−11,598	−23,462
Cash dividends paid	0	0
Net railway op. income	−3,848	−12,598
Depreciation, road	1,248	962
Depreciation, equipment	1,431	7,851
Cash flow	−9,295	−14,099
BALANCE SHEET DATA		
Current assets	25,865	18,683
Current liabilities	91,151	70,042
Accum. deferred taxes	2,887	3,188
LT debt due w/in. 1 year	4,425	4,857
LT debt due after 1 year	59,936	72,174
Shareholders equity	8,428	20,026
Total capitalization	68,364	92,200

[In percent]

Financial ratios	1983	1984	1984 industry average	1984 eastern district average [1]
Return on shareholders' equity	−73.88	−81.52	10.1	10.9
Return on total capitalization	−10.53	2.03	9.9	10.0
Operating ratio	133.89	108.30	87.7	87.3
Current ratio	0.27	0.28	1.2	1.5
Throw off to debt ratio	−2.90	−2.10	5.4	5.5
Fixed and contingent charges coverage	−1.02	0.10	4.9	6.9
Capital structure ratio	78.28	87.67	27.1	23.8
Dividend payout ratio	0	0	40.2	25.4

[1] Includes the PLE.

As a result of its weak financial condition, since July 1983, PLE generally made (i) no payments of either principal or interest on its borrowings and (ii) no payments that were required under its operating leases.

PLE's ability to continue as an operating entity was due to the successful restructuring of its obligations in May 1985. The liquidity and solvency status of PLE was particularly affected by this restructuring. Liquidity is the ability to meet maturing obligations and solvency is the ability to service long-term debt, both interest payments and payments of maturing debt.

PLE has signed an agreement with its creditors to restructure "nearly $159 million in secured debt and equipment lease obligations". Certificates of Interest and Cumulative Preferred Stock represent certain defined payments. Interest on the Certificates will be at 10 percent; no interest payments will be made until after June 30, 1985. If the 1989 maturity date is extended until 1992, the interest rate will be adjusted upward according to a set formula. The Cumulative Preferred Stock will bear interest at a rate of 10 percent; redemption payments will begin on December 31, 1996, with the final payment being made on September 30, 2006.

Under the restructuring agreement, there will be 4 basic types of payments until at least 1989, and aggregate cumulative payments from 1986 to 1989. The 4 basic types of payments are:

1. Minimum Required Payments:

The annual payments, an absolute requirement, vary from about $7.3 million in 1985 to about $8.3 million in 1989.

2. Adjusted Cash Flow Levels:

These payments are equal to a certain percentage of PLE's adjusted cash flow.

3. Sale of Assets:

When any assets are sold, the proceeds are credited to an escrow account and may be used by PLE for authorized purposes. Based on a formula, payments may be made to the creditors beginning on January 31, 1986.

4. If at the end of any fiscal quarter, the cash and short term investments exceed $5 million, PLE must pay the excess to the creditors' trustee. If it succeeds in acquiring the additional lines, PLE intends to seek authority to increase this amount to $8 million; its financial exhibits reflect this higher amount.

Although the amounts of three of the four basic types of payments are variable, PLE is required to pay certain aggregate cumulative sums by the end of each fiscal year. These payments, which include principal and interest, are as follows:

Year ended Sept. 30:	*Aggregate cumulative payments*
1986	$30,000,000
1987	55,000,000
1988	80,000,000
1989	110,000,000

With its debt restructured, PLE states that it is presently a viable railroad, "but further declines in heavy industry within its existing service area pose a serious threat to future viability unless it can reach new markets." PLE further indicates that the NS line divestitures "will enable it to become a stronger railroad."

3. Future Viability:

PLE's plan proposes that a third party acquire the divested lines and related maintenance of way equipment. Also, the total cost of rehabilitation of the divested lines will be funded by this third party. These expenditures are expected to approximate $30 mil-

lion. PLE, in turn, will lease the improved assets from the third party over a ten or fifteen year period with annual lease payments beginning at $3.5 million in 1986, and rising to $4.0 million in the balance of the four outlook years. These estimates are reflected in the projected Income Statement, Table 28, *infra*, under the operating expense category "Lease of Facilities."

As shown in Table 28 [21] PLE expects a turnaround in 1986, projecting a net income of $2.2 million as compared to a net loss of $11.6 in 1984, the latest full year available. For the remainder of the four outlook years, net income is expected to show a continual gain, jumping from about $8.5 million in 1987 to $23.7 in 1990. To accomplish this total revenue is projected to climb to about $111 million in 1986 under the total expanded system and to about $144 million in 1990. Equipment rental revenue and freight revenue are both expected to show steady growth.

TABLE 28.—PLE PRO FORMA PROJECTED 5-YEAR INCOME STATEMENT AUGUST 1, 1985 REVISION

[In thousands of constant dollars]

	1986	1987	1988	1989	1990
Revenues:					
Freight	$86,719	$94,520	$102,725	$106,972	$112,074
Eqt. rent revenue	22,004	23,310	24,726	28,041	28,075
DMS, SWT, PAS and OT	2,610	2,685	2,760	1,760	2,760
Total Revenue	111,333	120,515	130,211	137,773	143,909
Expenses:					
Engineering	11,907	11,920	11,789	12,535	12,024
Lease of facilities	3,500	4,000	4,000	4,000	4,000
Mechanical	22,572	23,950	25,153	25,538	25,621
Transportation	35,845	36,839	38,792	41,187	42,735
General and administrative	12,681	12,685	12,682	12,684	12,686
Eqt. rent expense	11,611	12,453	13,340	13,957	14,666
Total Operating expenses	98,116	101,844	105,756	109,901	111,732
Operating income	13,217	18,671	24,455	27,872	32,177
Miscellaneous expense:					
Interest expense	(14,829)	(13,850)	(12,656)	(11,336)	(10,089)
G/L sale of eqt	379	1178	873	632	0
Other miscellaneous—net	3,440	2,500	2,057	1,646	1,646
Total miscellaneous inc and expense	(11,010)	(10,172)	(9,726)	(9,058)	(8,443)
Income before taxes	2,207	8,499	14,729	18,814	23,734
Income taxes:					
Current	0	0	0	0	0
Deferred	0	0	0	0	0
Total income taxes	0	0	0	0	0
Net income	2,207	8,499	14,729	18,814	23,734
Carloadings	210,267	227,688	246,115	255,560	268,552
Freight revenue per class	412	415	417	419	417
Operating ratio (percent)	85.2	88.8	76.8	74.6	72.0

[1] Total operating expenses as a percent of operating revenues. Equipment rental revenues was offset against operating expenses in accordance with industry practice.

In contrast to the 1984 operating ratio of about 108 percent, PLE asserts that it will achieve an 85 percent operating ratio in 1986. The remainder of the four outlook years is expected to show a decline to about 81 percent in 1987 and about 72 percent in 1990.

In 1986, a cash flow of about $4.2 million is projected. For the remainder of the four years in the outlook, the cash outlays are expected to match the cash sources as shown in Table 29.

TABLE 29.—PLE PRO FORMA PROJECTED 5-YEAR FUNDS FLOW STATEMENT AUGUST 1, 1985 REVISION

[Constant thousands of dollars]

	1986	1987	1988	1989	1990
Net income	2,207	8,499	14,729	18,814	23,734
Add:					
Depreciation	5,525	5,525	5,525	5,525	5,525
Int/Accruals	14,829	13,850	12,656	11,336	10,089
Less:					
G/C sale assets	379	1,178	873	632	
N/I Prtly-own Subs	1,157	1,255	1,435	1,529	1,565
Cash flow Fr Oper	21,025	25,441	30,602	33,514	37,783
Add:					
Sources Non-Opr Sale of Assets	6,780	4,893	5,113	4,579	1,328
Div-Prtly own Subs	1,000	1,000	1,000	1,000	1,000
Less:					
Uses Cap Exp—N/W	5,675	6,397	7,280	7,822	7,030
Cap Exp—M/E	964	840	964	839	839
Debt Service [1]	17,192	24,097	28,471	31,432	31,342
Net cash flow	4,974				
Cash balance	8,000	8,000	8,000	8,000	8,000

[1] The debt service figure includes payments due under the debt restructuring agreement as well as payments due to PLECO and the Beloit Corp., PLECO's largest shareholder. However, by letter filed Agust 23, 1985, PLE indicated that its $16 million indebtedness to PLECO and Beloit has been reclassified as equity pursuant to an agreement dated July 31, 1985. The impact of this change is discussed later.

The cash flow from rail operations is insufficient to meet capital expenditures and debt service. This shortfall, which PLE intends to make up through non-rail activity (sale of assets and dividends from subsidiaries), is a significant weakness in PLE's projections. Long-term performance, therefore, can be jeopordized. Table 30, shows the negative impact on cash flow if non-rail activity was excluded.

TABLE 30.—ANALYSIS OF PLE'S FUNDS FLOW PROJECTIONS BASED ON ASSUMPTION THAT NONRAIL CASH SOURCES ARE ELIMINATED

	1986	1987	1988	1989	1990
Total sources of Cash	$28,805	$31,334	$36,714	$38,093	$40,111
Less: Nonrail sources:					
Sale of Assets	6,780	4,893	5,113	4,519	1,328
Dividends	1,000	1,000	1,000	1,000	1,000
Total	7,780	5,893	6,113	5,579	2,328
Total	21,025	25,441	30,602	33,514	37,783
Less: Total uses of cash	23,831	31,334	36,715	39,093	40,111
Positive (negative) cash flow from rail operations	(2,806)	(5,893)	(6,113)	(5,579)	(2,328)

PLE's cash deficits from rail operations would be $2.8 million in 1986. In 1987 it would increase to about $5.9 million, and it would remain at approximately this level until 1990, at which time the deficit would drop to $2.3 million.

PLE's outstanding debt at the end of December 1990 is expected to total $64.6 million, an obligation that would have to be extended until at least 1992 at higher interest rates.

The format of the funds flow statement appears to indicate that, due to the addback of the total interest expense to net income in each year, there is no plan to make these expense payments to the creditors. Under the debt restructuring agreement, if any interest payments are deferred, additional preferred stock is issued. However, further information obtained from PLE disclosed that the amounts in debt service apply to both principal and interest expense on the debt. Since net cash flow in each year would remain unchanged, this statement was not adjusted for the proper classifications. Table 31 identifies the amounts in the debt service payments that apply to principal and to interest expense.

TABLE 31.—ANALYSIS OF DEBT SERVICE PAYMENTS IN FUNDS FLOW STATEMENT AS OF AUGUST 1, 1985 REVISION

	1986	1987	1988	1989	1990
Analysis:					
Principal	$8,786	$10,795	$13,091	$13,305	$11,635

TABLE 31.—ANALYSIS OF DEBT SERVICE PAYMENTS IN FUNDS FLOW STATEMENT AS OF AUGUST 1, 1985 REVISION—Continued

	1986	1987	1988	1989	1990
Interest	8,406	13,302	15,378	18,126	19,707
Total	17,192	24,097	28,469	31,431	31,342

In reviewing this Table, it must be noted that PLE shows total debt service payments in 1986 of approximately $17 million, yet as noted above, its restructuring agreement calls for an aggregate cumulative payment of $30 million by the end of FY 1986. This apparent discrepancy is explained by PLE's projected payments of approximately $21 million by the close of FY 1985.

Based on the financial and operating projections by PLE, ratios were developed that appear to be most critical to PLE's particular circumstances. As shown in Table 32, the financial ratios were compared to two "benchmarks", namely (a) the Commission's or Industry's guidelines, and (b) the average ratio on returns for the railroads in the Eastern District for 1984 (the 1984 Eastern District average is considered acceptable to compare to the outlook years because the ratios do not undergo significant annual changes).

TABLE 32.—FINANCIAL RATIOS BASED ON FINANCIAL PROJECTIONS BY PLE

[In percent]

						"Bench marks"	
	1986	1987	1988	1989	1990	Commission or industry guideline	Eastern district average for 1984
Return on shareholders' equity	6.4	21.7	28.7	27.6	26.6	16.8	10.9
Return on total capitalization	7.8	10.3	12.6	14.0	6.4	15.3	10.0
Operating ratio	85.2	80.8	76.8	74.6	72.0	85.0	87.3
Throw off to debt ratio	1.0	1.5	1.7	2.0	2.3	3.5	5.5
Fixed and contingent charges coverage	1.2	1.6	2.2	2.7	(1)	2.5	6.9
Capital structure ratio [2]	84.0	79.7	72.8	64.0	62.9	40.0	23.8
Current ratio	1.0	.98	1.0	1.1	1.1	1.0	1.5

[1] 3.4 to 3.5.

[2] PLE's Preferred Stock was treated as equity. However, preferred stock bearing a redemption schedule such as PLE's can be classified as debt rather than equity. If this was done here, PLE's capital structure ratio would be even more unfavorable.

The capital structure ratio projected for PLE clearly shows that its debt financing is unusually high in relation to equity, leaving no capacity to incure additional debt in the event of unexpected cash needs due to such events as a downturn in the economy. As another example, PLE shows no ability to pay for the additional $1.1 million in rehabilitation costs to make the new system operational.[22] Also, two other measures underscore the weaknesses in the debt-related areas. The projected fixed charge coverage discloses that initially PLE would have limited ability to make interest payments on its outstanding debt. The projected throw off to debt ratio shows that the carrier can expect to have marginal ability to generate cash flow (net income plus depreciation minus dividend income from affiliated companies) to repay principal on long-term debt that matures during a given year.

On the other hand, the operating ratios projected by PLE would be more favorable than the average ratio for the Eastern District in 1984. However, under the alternate case, which is discussed below, the Eastern's District's average were substituted for the ones forcasted by PLE.

The evaluations of PLE's projections covered the following areas:

1. A review of the findings from PLE operating and traffic data, and the comments from the other railroads such as Conrail, CSX, and GTW;

2. Cost trends and efficiency trends for PLE were developed to evaluate PLE's operating expense projection;

3. Cost comparisons were made between PLE and other carriers;

4. Cost relationships were made to PLE's production measures; and

5. A critical evaluation of PLE's assumptions regarding its projected sources and uses of funds, particularly its cash flow projections, its capital improvement needs, and its debt installments.

The results of the analysis follow.

PLE acknowledges that its operations are labor intensive and subject to short hauls. Labor expense may account for about 50 percent of the average railroad's total operating expenses. Table 33 shows that the ratio of PLE's labor costs (exclusive of fringe benefits), as a percent of operating revenues, ranged from 85 percent in 1982 to a lower 65 percent in 1984.

TABLE 33.—PLE EFFICIENCY RATIOS

	1982	1983	1984
Gross ton-miles per freight train hour [1]	110,937	137,023	122,428
Gross ton-mile per man-hours of employment [2]	585	810	799
Gross ton-miles per Transportation Department man-hour [3]	2,326	3,107	2,515
Gross ton-miles per track mile [4]	7,201	4,901	4,612
Labor ratio (excludes fringe benefits) [5] (percent)	85.1	75.1	64.9

[1] Gross ton-miles/freight train hour—This efficiency ratio is an excellent measure of overall transportation productivity as the ratio reflects train volume and speed, that is, the productivity of the train for every hour of service.

[2] Gross ton-miles/man-hours of employment—This efficiency ratio is a key statistic for measuring the productivity of railroad labor.

[3] Gross ton-miles/Transportation Department man-hours—This efficiency ratio measures the labor productivity within the Transportation Department.

[4] Gross ton-miles/track mile—One of the measures of operating density, the utilization a railroad makes of plant.

[5] Labor ratio—This ratio, expressed as a percentage of revenues, represents the wages charged to operating expenses. The ratio does not include fringe benefits.

Partly as a result, the railroad's operating ratio showed the same trend during this period, ranging from about 126 percent in 1982 to about 108 percent in 1984. By way of contrast, (a) in 1984, Conrail's comparable 35 percent labor ratio produced a favorable operating ratio of 86.5 percent and (b) in 1983, the industry averaged a labor ratio of about 39 percent. Notwithstanding its higher labor ratio, PLE still contends that, in all five outlook years, its operating ratio will fall below the 1984 industry average of 87.7 percent.

To further assess the impact of PLE's labor expense levels, transportation expenses, a category that contains the highest dollar amount (about 45 percent) of the total operating expenses, and contains mostly labor and fuel charges, was examined. As shown in Table 34 during the three years ending 1984, the transportation ratio (expenses as a percent of operating revenue) declined from 59 percent to about 52 percent.

TABLE 34.—ANALYSIS OF TRANSPORTATION EXPENSES HISTORICAL AND PROJECTED BY PLE

Historical			1982	1983	1984
Transportation expenses			$27,845	$22,546	$26,108
Percent of operating revenues			59.0	52.2	51.9
Projection by PLE	**1986**	**1987**	**1988**	**1989**	**1990**
Transportation expenses	$35,845	$36,839	$38,792	$41,187	$42,735
Percent of operating revenues	40.1	37.9	36.8	37.5	37.2

Notwithstanding this favorable trend, the ratios compare unfavorably to other railroads. In 1984, two efficient railroads in the Eastern District, Norfolk and Western Railway Company (N&W) and Conrail, reported more favorable ratios of 43.9 percent and 40.9 percent, respectively. In its projection, PLE expects to achieve a transportation ratio of about 40 percent in 1986, further dropping to about 37 percent in the balance of the four outlook years. In comparison to its recent past performance, its labor expense levels, and the ratios of other efficient railroads, PLE's projected transportation ratio appears overly optimistic.

Also, while PLE may be able to achieve some productivity improvements on the somewhat longer hauls under its newly acquired lines, these savings may be offset by the low operating density, and the lower rated traffic on the new lines. As shown in Table 33, supra, key efficiency measures for 1984 disclosed that PLE experienced a decline in productivity relative to 1983.[23] This does not necessarily denote a clearly unfavorable trend since the 1983 efficiency measures showed a gain over 1982.[24]

On the basis of the foregoing rationale, an alternate case was developed. The latest 1984 operating ratio (87.3 percent) experienced by the Eastern District railroads was applied to the gross revenue projection estimated for 1986 by PLE. The Eastern District's ratio is principally shaped by the two largest carriers, the N&W and Conrail; and it is significant to note that both carriers achieved highly efficient operations in 1984. For the balance of the four outlook years, a drop of one percent annually was assumed, a trend not as favorable as that forecasted by PLE. Therefore, the operating ratio would drop from about 87 percent in 1986 to about 83 percent in 1990.

Under this case, Table 35, PLE may achieve slightly more than a break even status in 1986 and realize profits ranging from $3.1 million to $10.7 million in the four other outlook years.

TABLE 35.—ALTERNATIVE CASE PROJECTED INCOME STATEMENT FOR 5 YEARS ENDED DEC. 31, 1990

	1986	1987	1988	1989	1990
Operating revenues:					
Freight	$86,719	$94,521	$102,725	$106,972	$112,074
Demurrage Switching	26,610	2,685	2,760	2,760	2,760
Total	89,329	97,206	105,485	109,732	114,834

TABLE 35.—ALTERNATIVE CASE PROJECTED INCOME STATEMENT FOR 5 YEARS ENDED DEC. 31, 1990—Continued

	1986	1987	1988	1989	1990
Operating expenses	77,984	83,889	89,979	95,504	95,656
Net revenue from operations	11,345	13,317	15,506	17,228	19,178
Other income (expense)	(11,010)	(10,172)	(9,726)	(9,058)	(8,443)
Net income	335	3,145	5,780	8,170	10,735
Operating ratio (percent)	87.3	86.3	85.3	84.3	83.3

However, as shown in Table 36, PLE would fail the critical funds flow test, as a negative cash flow would be sustained in each of the last four years ranging from $5.3 million in 1987 to $14 million in 1990.

TABLE 36.—ALTERNATE CASE PROJECTED FUNDS FLOW STATEMENT FOR 5 YEARS ENDING DEC. 31, 1990

[Dollars in millions]

	1986	1987	1988	1989	1990
Net income	$335	$3,145	$5,780	$8,170	$10,725
Add:					
Noncash items (Net)	18,818	16,942	15,873	14,700	13,049
Nonrail activity	7,780	5,893	6,113	5,579	2,328
Total sources	26,933	25,980	27,766	28,449	26,102
Less:					
Capital expenditures:					
Maintenance of way	5,675	6,397	7,280	6,822	7,930
Maintenance of equipment	964	840	964	839	839
Debt installments	17,192	24,097	28,471	31,432	31,342
Total uses	23,831	31,334	36,715	39,093	40,111
Cash flow positive (negative)	3,102	(5,354)	(8,949)	(10,644)	(13,999)

It must also be noted that all of these analyses accept PLE's projections of system wide traffic growth throughout the five year period. PLE failed to support its assumption of economic growth in its service area, and it is difficult to accept such an assumption in light of a recent history of recessions and business declines. Consideration of such economic realities would further undermine PLE's shaky financial position.

4. PLE's August 23, 1985 Revision

On August 23, 1985 PLE submitted additional revisions modifying the projections relied on in this analysis. As discussed below, the revisions are relatively minor and do not affect the findings and conclusions contained in this analysis.

The revisions do indicate, in certain instances, some improvement in the relevant debt-related measures. As an example, PLE's capital structure ratio improves as follows:

[In percent]

Year	Table 32	Revised figure
1986	84.0	76.0
1987	79.7	71.5
1988	72.8	64.3

Even this improvement, however, compares highly unfavorably with the "bench marks" which reflect a 40 percent ratio for the Commission or Industry Guidelines and a 24 percent ratio for the Eastern District. Accordingly, it is proper to conclude that PLE still faces unusually high debt levels and a continued weakness in its ability to make principal and interest payments.

PLE's revised net income projections are only slightly higher, on an overall basis, than the projections in Table 28, *supra.* Below is a comparison of the differences in net income figures (000's omitted).

[In thousands]

Year	Table 28	August 23, 1985 revision	Variable
1986	$2,207	$2,434	$227
1987	8,499	8,877	378
1988	14,729	15,007	278
1989	18,814	19,006	192
1990	23,734	23,902	168

The latest revision reflects slightly lower revenues that are more than offset by lower operating and miscellaneous (interest) expenses.

In Table 35, PLE's operating expenses were adjusted on the basis of Eastern District operating ratios. The resulting net income projections were referred to as the alternate case. Using PLE's revised data, but also the Eastern District operating ratio, the net income projections for each year except 1986 would increase by about $1 million. The 1986 net income, which was very low to begin with, would increase by about $1.4 million.

PLE also presented data which changes its balance sheet and funds flow projections. As of July 31, 1985, PLE entered into an agreement with PLECO which capitalized PLE's indebtedness to PLECO and Beloit. Under this agreement, over $16 million of long-term debt is moved to the equity portion of the balance sheet. As a result, interest expense estimates were lowered resulting in the higher net income on the income statement discussed above. PLE reported no change to its cash flow in the funds flow statement.

4. Conclusions

PLE has been in poor financial condition since 1982. Recent improvements in operating efficiency and a massive debt restructuring agreement will undoubtedly help PLE to continue in business.

However, PLE is not, and will not for the near future, be able to operate its expanded system and service its debt. PLE admits that it is dependent on the sale of non-rail assets and the income from non-rail properties to stay in business. PLE would have a substantial negative cash flow at least through 1990 without the income from its non-rail assets. Its unusually high debt levels leave no capacity to incur additional debt for cash emergency needs. PLE's financial weakness is further underscored by examining both its projected fixed charge coverage and projected throw off to debt ratio. These ratios indicate PLE's limited ability to make principle and interest payments.

Moreover, PLE's situation is even bleaker because it makes assumptions about the near-term economy and its operating efficiencies that are without support. PLE has not allowed for any economic downturns during the next five years. Thus, the marginal position revealed by its projections is subject to significant change if a recession occurs.

Similarly, if PLE is unable to meet its highly optimistic operating ratio and instead improves substantially but only to the Eastern District railroad average, its ability to finance debt is even weaker. Without substantial income from non-rail assets, PLE could not remail in business.

In conclusion, PLE is not now, and will not in the future, be a viable railroad. Only with substantial reliance on non-rail assets can PLE remain in business.

PLE will acquire overhead trackage rights over the following lines:

1. NS's Cherry Street Line at Toledo, OH from connections with: (1) the GTW at Lang Yard; (2) the Toledo Terminal Railroad's North Yard at Manhattan Blvd.; (3) the Ann Arbor Railroad (the Michigan Interstate Ry.) at Ottawa Yard, all in the vicinity of MP 2.0, then from the vicinity of MP 2.0 across the W&LE Maumee River Bridge to the vicinity of Ironville, OH (MP 3.7) and over NS's Toledo District from Ironville (MP 5.35) to Yeomans, OH (MP 54.6).

2. Conrail's E&A Branch through and from Graham (MP 60.7) to and through a connection with Conrail's PY&A Secondary Track at Detour (MP 75.6) [including the right to reactivate and/or construct a connection from the west end of the former Lake Erie & Eastern Line at Girard, OH (MP 8.4) to Conrail's E&A Branch at Girard Junction, OH (MP 69.8)], over Conrail's PY&A Secondary Track from Detour to MP 79.45 to construct a connection to Conrail's Pymatuning Main Line (also known as Conrail's Cleveland-Pymatuning Main Line), and Conrail's Pymatuning Main Line from Warren, OH (MP 53.8) to Levittsburg, OH (MP 49.2) and through SN Junction to Conrail's Freedom Secondary Track (also known as Conrail's Meadville Main Line from MP 168.4 as far as MP 170), and Conrail's Freedom Secondary Track from Levittsburg (SN Junction) (MP 164.8) to Kent, OH (MP 192.5) to use and/or construct connection(s) at Kent, OH for access to NS's Canton District Cleveland-Canton Line.

3. Conrail Weirton Secondary (also known as Conrail's Pittsburgh-Columbus Main Line) Track from MP 49.4 to and including a connection with Conrail's Powhatan Secondary track via the west leg of the Y at or in the vicinity of MP 20.6 at Mingo Junction (Weirton Secondary MP 46.7) and the right to create a connection hear MP 48 on Conrail's Weirton Secondary Track between that track and NS's Connellsville District Line at or near MP 92.2, and NS's Powhatan Secondary from MP 20.6 to MP 23.

4. Conrail's Weirton Secondary Track (also known as Scully Branch and/or Pittsburgh-Columbus Main Line) from Duff Junction (Scully Branch MP 3.0) to Char (also known as Lewis Run Junction) (Scully Branch MP 6.3) and over a connection with Conrail's 105 Secondary Track from Char (Lewis Run Junction) (MP-0.1) to Carnegie, PA at or near Broadway (MP 1.92), and PC&Y from its junction with the PLE and McKees Rocks (PC&Y MP 0.5) to Carnegie, PA (MP 7.0) (Broadway) and a connection with Conrail's 105 Secondary Track. In connection with operation over PC&Y properties, the agreement shall provide that PLE road trains have priority over yard movements consistent with customary trackage rights provisions.

FOOTNOTES

[1] The letter is attached as Appendix C.
[2] The notice is attached as Appendix J.
[3] The letter is attached as Appendix L.
[4] The notice is attached as Appendix M.
[5] See Appendix A for complete list of parties.
[6] A table summarizing the traffic diversion conclusions is attached as Appendix O.
[7] The letter is attached as Appendix N.
[8] A discussion of possible port impacts was included in response to a letter from the Honorable Barbara A. Mikulski, a member of the Subcommittee, dated April 11, 1985, (attached as Appendix D).
[9] NS, Guilford, and Conrail each submitted different mileage estimates. The estimate used in this study is based on the contract terms, and to resolve doubt, the track charts and applicable portions of the verified statements were referred to. The specific description of the lines is set forth in Appendix P.
[10] The designation 70/70 indicates that both passenger and freight trains have 70 m.p.h. speed limits. The designation 60/50 means that passenger trains can travel at 60 m.p.h. but freight trains have a maximum permissible speed of 50 m.p.h.
[11] Guilford has stated that it intends to pay an outside contractor to operate the yard and does not intend to do any rehabilitation work to the yard on its own.
[12] The designation 79/70/50 indicates that the speed limit is 79 m.p.h. for passenger trains, 70 m.p.h. for TOFC trains, and 50 m.p.h. for freight trains.
[13] CTC means centralized traffic control and ABS mean automatic block signal.
[14] CWR means continuous welded rail.
[15] Conrail's statement of July 26, 1985, appears to be in error, showing 32-½ hours of transit time as dock-to-dock time.
[16] This train is delivered directly to the Burlington Northern Railroad Company (BN) at 23rd Street Yard on arrival. The use of terminal services of switching and delivery to connecting lines by Terminal Railroad Association of St. Louis (TRRA) is avoided by the direct connection.
[17] There is some confusion in the record as to what is the current and projected FRA Class for this line. Although Guilford states it wants the line to be at FRA Class 3, its operating plan and maintenance schedules call for maximum speed of 25 m.p.h. This speed is the maximum for FRA Class 2, FRA Class 3 permits 40 m.p.h. It is not clear as to why Guilford would upgrade a line to FRA Class 3, and then restrict the speed to 25 m.p.h. Accordingly, the analysis reflects the level of rehabilitation thought necessary to meet the Guilford operating plan.
[18] This should be read as 4.78 times.
[19] NS, PLE, and Conrail each submitted differing estimates; however the PLE mileage was computed in the same manner as in the case of Guilford. The specific descriptions of the lines are set forth in Appendix Q.
[20] There is also the possibility of an optional connection near Mingo Junction. Only Conrail presented costs for this possible connection. This future connection at Mingo Junction has not been considered in this analysis.
[21] It must be noted that PLE submitted numerous revisions of all of its financial statements, the most recent being filed August 23, 1985. In order to complete this study in a timely fashion, the third set of revisions, which were dated August 1, 1985, and filed on August 5, 1985, were relied on. The later revisions were basically de minimis, thus the conclusions are not affected by the inability to analyze this late-filed data.
[22] The additional rehabilitation cost was not considered in any of the financial exhibits. Since this additional cost would further burden PLE's cash flow, the failure to consider it is to PLE's benefit.
[23] The following ratios showed declines between 1983 and 1984: gross ton-miles per freight train hour; gross ton-miles per man-hours of employment; gross ton-miles per transportation, department man-hours; and gross ton-miles per track mile.
[24] Estimated production and operating measures, such as revenue ton-miles, train hours, and employment levels, were not submitted by PLE. An analysis of the causal relationship of operating expenses to production measures would have allowed for another approach to evaluate PLE's contention of sharp improvements in its operating ratios over the outlook years.

Study of the Viability of Guilford Transportation Industries, Inc. and Pittsburgh and Lake Erie Railroad Co., Before and After the Line Divestitures Suggested by the Department of Justice as a Condition to the Acquistion of the Consolidated Rail Corp. by Norfolk Southern Corp.

(Prepared by staff of the Interstate Commerce Commission that was detailed to the Subcommittee on Commerce, Transportation and Tourism, August 30, 1985)

I. INTRODUCTION

A. Background.—On March 27, 1985, the Honorable James J. Florio, Chairman of the Subcommittee on Commerce, Transportation, and Tourism of the Committee on Energy and Commerce of the United States House of Representatives (Subcommittee), requested that the Interstate Commerce Commission (Commission) assist the Subcommittee in analyzing certain aspects of the recommendation by the United States Department of Transportation (DOT) that Consolidated Rail Corporation (Conrail) be sold to Norfolk Southern Corporation (NS).[1] Specifically, the Commission was asked to analyze: (1) the impact consolidation would have on other carriers in terms of traffic diversion; and (2) the viability of two eastern carriers, Guilford Transportation Industries, Inc., Rail Division (Guilford) and the Pittsburgh and Lake Erie Railroad Company (PLE), which had entered into divestiture agreements with NS as a result of certain competitive concerns raised by the United States Department of Justice (DOJ) to the NS-Conrail consolidation.

Based on Chairman Florio's request, a notice was published in the Federal Register on May 10, 1985, indicating that the Commission would prepare an analysis of the issues raised and setting a procedural schedule for receipt of evidence.[2] On May 29, 1985, Chairman Florio requested a modification in the manner in which the study was to be conducted.[3] Under Chairman Florio's modified request, the Commission's role in the study was to be terminated once the information gathering process was completed. At that time, appropriate Commission staff were to be detailed to the Subcommittee to assist in analyzing the evidence presented. A notice was published in the Federal Register on June 18, 1985, indicating the modification of the study procedures.[4]

Opening statements, replies, and final arguments were submitted by a number of States, railroads, and other interested parties.[5] The official filing period closed on June 19, 1985, and the Commission's participation in the study was terminated at that time. The staff completed and submitted to the Subcommittee that portion of the study concerning traffic diversion on August 2, 1985.[6]

However, by letter dated July 26, 1985, the staff had informed Chairman Florio that, because of delays in receiving certain information, the viability portion of the study would not be completed by August 2nd.[7] That analysis, which was to be completed on or before August 30, 1985, is the subject of this report.

In preparing this report the staff found it necessary to request additional data from many of the parties. This information was not served on other parties and was made available solely to the Commission staff detailed to the Subcommittee.

Empirical data such as track charts, traffic density charts, and time tables were submitted by NS and Conrail. Two other carrier participants, CSX Corporation (CSX) and Grand Trunk Western Railroad Company (GTW), also submitted traffic density charts.

More significantly, Guilford and PLE were asked to submit substantial data supporting their earlier statements. In the case of Guilford, the staff requested specific underlying data supporting the generalized statements in its unverified submission dated June 30, 1985, and filed July 10, 1985. The data dealth with Guilford's traffic analysis, rehabilitation plan, cost and revenue projections, and overall financial assumptions. The underlying data generally reflected the statements in the record. No party had an opportunity to review or respond to this data.

Although PLE had submitted more detailed information than Guilford before the June 19th deadline, much of the additional data PLE submitted showed revised projections. PLE submitted numerous revisions of its financial statements and also revised its traffic analysis to reflect additional revenues. PLE also supplied data supporting its rehabilitation analysis. No party had an opportunity to review or respond to this data.

In analyzing the viability of Guilford and PLE, the staff relied heavily on this new data, since the staff's role was that of an expert consultant, not a decision-maker in an adversary proceeding. The staff expertise, gained from years of analyzing various railroad consolidation proposals, enabled it to consider this data without the benefit of rebuttal from other interested parties.

Accordingly, the discussion that follows is based primarily on staff analysis of the supplemental supporting data. Thus, many of the points raised by carriers objecting to the proposal are no longer relevant and they are not discussed.

B. Purpose of The Study.—Chairman Florio requested an analysis of two specific aspects of the proposed sale of Conrail to NS. The first purpose, addressed in the study completed August 2nd, was to estimate the likely traffic diversion from other rail carriers as a result of the proposed combination. That study analyzed diversion to

[1] The letter is attached as Appendix C.
[2] The notice is attached as Appendix J.
[3] The letter is attached as Appendix L.
[4] The notice is attached as Appendix M.
[5] See Appendix A for complete list of parties.
[6] A table summarizing the traffic diversion conclusions is attached as Appendix O.
[7] The letter is attached as Appendix N.

the new CS-Conrail system and to Guilford and PLE as a result of their acquisition of certain Conrail and NS lines. To the extent possible, the diversion estimates were analyzed by carrier, origin-destination corridor, commodity, and pre-diversion and post-diversion routing.[8]

The second purpose of the study, addressed in this report, was to analyze the viability of Guilford and PLE today and after they acquired certain lines that DOJ found must be divested by Conrail and NS in order to avoid certain anticompetitive ramifications of the sale. In this report, the staff analyzes the current financial viability of Guilford and PLE, their ability to finance the proposed acquisitions, and their projected viability under the divestiture proposal.

The question of whether Guilford and PLE will be able to provide shippers with a long-term, viable, competitive alternative to NS-Conrail that will act as a restraint on any possible abuse of market power by NS-Conrail, is beyond the scope of this report and will not be addressed. The issue of competition is only relevant to the discussion of whether Guilford and/or PLE can compete with NS-Conrail for traffic moving between areas served by both Guilford and NS-Conrail and PLE and NS-Conrail. In conclusion, this report analyzes the ability of Guilford and PLE to acquire the lines, undertake any necessary rehabilitation or construction, physically operate trains over the divested lines, offer sufficiently competitive service to attract some level of traffic to the newly acquired lines, and remain financially viable while operating their newly expanded systems.

In keeping with this narrow focus, general allegations about the ultimate advisability of the sale of Conrail to NS were not considered. In addition, alternative plans, i.e. those raised by parties that called for divestiture of additional lines, granting of further trackage rights, additional conditions on the sale, etc., were not considered.

C. Identity of Participants—A number of comments were received both supporting and opposing the proposed divestitute plan. Statements and data in support of divestiture were filed by NS, Guilford, and PLE, all parties to the involved transactions.

Conrail, which NS seeks to purchase, opposes the divestiture plan. Two other eastern rail carriers, GTW and CSX, filed verified statements in opposition. In addition, comments expressing concern about the proposal were submitted by Consolidated Coal Company, Eastern Coal Transportation Conference, The Richmond, Fredericksburg and Potomac Railroad Company, the New York State Electric & Gas Corporation, The Attorney Generals of Ohio and Pennsylvania, and the Departments of Transportation of Iowa, Minnesota, New York, and Ohio.

II. SUMMARY OF CONCLUSIONS

A. The Guilford Proposal.—The Guilford post-divestiture proposal assumes that it will become a key competitor for traffic in the northeast and midwest. (Maps of the current and enlarged Guilford systems are attached as Appendixes R and S, respectively.) Guilford alleges that most of the acquired lines (the Western Extension) are in adequate condition for its proposed operations but that $63 million in rehabilitation is needed. Further, it contends that its operating plan will permit it to provide time-competitive service on trailer-on-flat-car (TOFC) traffic between Chicago, on the one hand, and the New York area and New England, on the other.

Guilford estimates that it will receive additional gross revenue of $161.3 million, less $11.7 million in revenue lost to the NS-Conrail operation. Guilford anticipates that TOFC traffic will account for $61.4 million. In addition to the increased revenue, Guilford foresees continually improving operating efficiencies, resulting in rapidly decreasing operating ratios.

Because these assumptions generally are without merit, Guilford's proposal will not result in a viable post-divestiture operation.

Guilford has underestimated its rehabilitation by only about 10 percent; however, even with the necessary rehabilitation, the carrier's operating facilities will be inferior to its chief competitor, NS-Conrail, in terms of both structure and circuity. Its operating plan does not take into account numerous operating difficulties, such as the lack of double-track line, poorly spaced sidings, and inefficient connections. Guilford also fails to consider how the movement of its trains to and from NS-Conrail lines will be afforded by the large volume of NS-Conrail traffic on those lines.

Because of the lack of comparable facilities, Guilford will not be able to maintain competitive schedules on the TOFC traffic at Chicago and, thus, will find it difficult to attract such traffic. Guilford also has failed to consider that, although it might benefit initially from some diversion of TOFC traffic, it will not be able to retain all of this traffic against the retaliatory efforts of its competitors. Thus, Guilford will not achieve the large traffic gain it projects, and its revenue gain is overstated by approximately $25 million.

Although the more realistic revenue gain will not prevent Guilford from operating at a profit, the defect in Guilford's proposal goes beyond revenue and expense. Guilford is a highly leveraged company and must generate sufficient cash flow to service its debt. Currently, Guilford is marginally viable, in that it is able to pay its annual fixed charges and, thus, service its debt. Guilford, however, will finance a portion of the acquisition, which will increase the debt to be serviced. Without the full amount of revenue it projects, Guilford will be perilously close to being able to meet all its annual fixed charges.

Further, Guilford has overestimated the operating efficiencies it will achieve, in view of the prior history of its component carriers and the nature of the operating efficiencies of other Eastern carriers. Consequently, its net revenue from operations will be substantially less then it projects, and the cash it has available to meet its debt servicing requirements will decrease. In fact, after a very marginal first year, Guilford will be unable to service its debt, and this deficiency will grow in each of the succeeding years.

In the long run it does not appear that Guilford will be a financially viable carrier.

B. The PLE Proposal.—PLE has submitted a reasonable plan for incorporating the lines to be acquired into its existing system. (Maps of the current and expanded PLE systems are attached as Appendixes T and U, respectively.) It appears likely that PLE can meet its proposed operating plan without spending substantially more than it estimated to upgrade the system. Similarly, it appears likely that PLE will be able to attract the local and regional traffic that it has projected.

However, PLE's financial forecasts are far more open to question. It must be noted that, even if all of PLE's projections are accepted, PLE admits that it cannot service all of its substantial debt using revenues from rail operations. Substantial income from the sale of, and use of, non-rail assets is needed to cover debt payments.

Even this finding is based on accepting two highly questionable PLE assumptions. First, PLE provides for no economic downturn in the regional economy over the next five years. Lower cash flows arising from any economic downturn could further impair PLE's solvency. Second, and of more importance, PLE's proposed operating ratios are highly optimistic. It is reasonable to assume that PLE will become more efficient with time and the integration of the new lines. However, it is not reasonable to assume, as did PLE, that it will change from a very inefficient carrier to one of the most efficient carriers in the Eastern District over the next five years.

Accordingly, an alternate analysis was performed assuming more realistic, yet still favorable, operating ratios for PLE. The result was that PLE would be marginally profitable on an operating basis but that it would not be able to meet its substantial obligations under its debt restructuring agreement.

In conclusion, PLE is not now a financially viable carrier and its acquisition of the new lines will not enable it to reverse its already precarious financial postion.

APPENDIX A

LIST OF PARTIES

Carriers

Atchison, Topeka and Santa Fe Railway Company.
Bessemer and Lake Erie Railroad Company.
Chicago and North Western Transportation Company.
Chicago South Shore and South Bend Railroad.
Consolidated Rail Corporation.
CSX Corporation.
Elgin, Joliet and Eastern Railway Company.
Grand Trunk Western Railroad Company.
Guilford Transportation Industries, Inc.
Illinois Central Gulf Railroad Company.
Michigan Interstate Railway Company.
Norfolk Southern Corporation.
Pittsburgh and Lake Erie Railroad Co.
Richmond, Fredericksburg and Potomac Railroad Co.
Soo Line Railroad Company and the Milwaukee Road, Inc.
Southern Pacific Transportation Company.

State officials

Iowa Department of Transportation.
Maryland Department of Transportation.
Minnesota Department of Transportation.
New York State Department of Transportation.
Ohio Attorney General.
Ohio Department of Transportation.
Pennsylvania Attorney General.
Wisconsin Department of Transportation.

Companies

Consolidated Coal Company.
New York State Electric & Gas Corporation.

Other

Eastern Coal Transportation Conference.
Railway Labor Executives' Association.

[8] A discussion of possible port impacts was included in response to a letter from the Honorable Barbara A. Mikulski, a member of the Subcommittee, dated April 11, 1985, (attached as Appendix D).

APPENDIX B

LIST OF ABBREVIATIONS

B&O—Baltimore and Ohio Railroad Company.
B&M—Boston and Maine Corporation.
BN—Burlington Northern Railroad Company.
Conrail—Consolidated Rail Corporation.
CSX—CSX Corporation.
D&H—Delaware and Hudson Railway Company.
DOJ—Department of Justice.
DOT—Department of Transportation.
GTW—Grand Trunk Western Railroad Company.
Guilford—Guilford Transportation Industries, Inc., Rail Division.
L&EE—Lake Erie and Eastern Railroad.
L&WV—Lorain and West Virginia Railway Company.
MEC—Maine Central Railroad Company.
MoPac—Missouri Pacific Railroad Company.
N&W—Norfolk and Western Railway Company.
NS—Norfolk Southern Corporation.
PC&Y—Pittsburgh, Chartiers & Youghiogheny Railway Company.
PLE—Pittsburgh and Lake Erie Railroad Company.
P&WV—Pittsburgh and West Virginia Railroad Company.

APPENDIX C

U.S. HOUSE OF REPRESENTATIVES,
COMMITTEE ON ENERGY AND COMMERCE,
Washington, DC, March 27, 1985.

Hon. REESE TAYLOR,
Chairman, Interstate Commerce Commission, Twelfth and Constitution Avenue, NW, Washington, DC.

DEAR CHAIRMAN TAYLOR: The recommendation by the Department of Transportation that Conrail should be sold to the Norfolk Southern has raised serious competitive and rail service issues. As a part of its analysis of the Secretary's recommendation, the Subcommittee will review with care the competitive and rail service issues. I would like the assistance of the ICC in analyzing certain aspects of the Secretary's recommendation.

Specifically I would like the ICC to provide the Subcommittee with its analysis of two aspects of the proposal. First, I would like estimates of traffic diversion from other rail carriers as a result of the proposed merger. To the extent possible, this information should be provided by carrier, origin-destination corridor, commodity, and pre-diversion and post-diversion routing.

Second, I would like an evaluation of the viability of the divestiture proposal. As you know, Norfolk Southern has agreed to divest certain lines to Guilford Transportation and the Pittsburgh and Lake Erie. I would like an analysis of the current financial viability of these carriers, their ability to finance the proposed acquisitions, their projected viability under the divestiture proposal, and their ability and resources to compete with a merged Conrail-Norfolk Southern.

Because the analyses will obviously rely on transportation and competition data, it is important that these analyses be conducted as part of an open process, inviting comments and information from interested parties and allowing parties to comment on information submitted by other parties. It is only through this type of process that a sound factual record can be developed.

I appreciate your cooperation with the Subcommittee and your assistance in evaluating this major transportation policy issue. I look forward to your report. Please let me know if I can be of assistance in helping you respond to this request.

Sincerely,

JAMES J. FLORIO,
Chairman, Subcommittee on Commerce, Transportation and Tourism.

APPENDIX D

HOUSE OF REPRESENTATIVES,
Washington, DC, April 11, 1985.

Mr. REESE H. TAYLOR, Jr.,
Chairman, Interstate Commerce Commission, Washington, DC.

DEAR CHAIRMAN TAYLOR: Recently, Chairman James Florio of the Congressional Subcommittee on Commerce, Transportation and Tourism requested that the Interstate Commerce Commission (I.C.C.) conduct a study on the Conrail sale. I write in strong support of his request.

It is important that any analysis of the Conrail sale include a study of the impact that sale would have on affected ports. In particular, I would like to request that a Port Impact Study on the Port of Baltimore be made part of the overall study conducted by the Interstate Commerce Commission. Any sale of Conrail will have a significant impact on the Port of Baltimore. I believe that such a Port Impact Study would provide valuable information that would be very useful as we consider the sale of Conrail.

I appreciate your consideration of this request and I look forward to your response. Thanks again.

Sincerely,

BARBARA A. MIKULSKI,
Member of Congress.

HOUSE OF REPRESENTATIVES,
Washington, DC, April 30, 1985.

Mr. REESE H. TAYLOR, Jr.,
Chairman, Interstate Commerce Commission, Washington, DC.

DEAR CHAIRMAN TAYLOR: It is our understanding that a request has been made of the Interstate Commerce Commission to conduct an exhaustive analysis of the Secretary of Transportation's recommendation to sell the government's interest in Conrail to Norfolk Southern Corporation. This recommendation for sale, mandated by Congress in the Northeast Rail Service Act of 1981 (NERSA), is the product of an extensive selection process of a suitable purchaser for Conrail.

The request to the Commission asks for the commencement of a proceeding, which would entail the solicitation of information from "interested parties" and the opportunity for rebuttal submissions, on the traffic diversions that could result from the sale and on the financial and competitive viability of the carriers which will acquire lines to be divested as a condition of the sale imposed by the Department of Justice. It appears that this request is attempting to encourage the initiation of a proceeding similar to those rail merger proceedings undertaken by the Commission under 49 USC 11343 et seq., which provides for a time frame of over two years.

What is most troubling, however, is that this request totally ignores Congressional intent and the explicit legislative language of the Northeast Rail Service Act of 1981. Section 1142 of NERSA, codified as Section 408 of the Regional Rail Reorganization Act (3R Act), states in unequivocal terms:

(c) Review—No transfer of the Corporation's stock or rail properties and freight service responsibilities under this title shall be subject to judicial review or to review by the Commission.

Without doubt, the clear meaning of the statute as contemplated by Congress was that the Commission would not, and could not, play a role in reviewing or analyzing the Secretary's recommendation. This was a role to be played by Congress, as evidenced by the inclusion of legislative veto mechanisms, by which the recommendation was to be scrutinized whether Conrail was sold as an entity or in pieces. (See, Sections 401(a)(3) and 407(d) of the 3R Act.) In light of the Supreme Court's decision holding legislative veto unconstitutional and the need for substantive legislation to effectuate the sale. Congress will review the Secretary's recommendation and enact enabling legislation.

Moreover, the Secretary of Transportation, as part of her thorough negotiation process, asked the Department of Justice to review the competitive implications of a potential sale to Norfolk Southern Corporation. That extensive review led to divestiture requirements as a condition to such sale. Accordingly, the Department of Justice, as indicated in their January 29, 1985, letter to the Secretary, must review and approve any divestitures before the sale can be consummated. In fact, the Department of Justice specifically requires any carrier, which is to acquire the lines to be divested, to "demonstrate to the satisfaction of the Attorney General that it preserves the managerial, operational, and financial capability necessary to compete effectively and to remain a viable entity providing long-term rail service."

Review of this issue by the Interstate Commerce Commission would obviously be duplicative.

The Department of Justice also, as part of its analysis, examined the effect of the combined Norfolk Southern and Conrail entity on the regional carrier's ability to continue to compete effectively in the markets they currently serve. While definitive assessments of diversions were not calculated by the Department, given the general uncertainty and unreliability of such numbers, it did seek to identify and remedy the potential anticompetitive consequences of the merger through the divestiture requirements. Specifically, the divestitures are designed to provide regional carriers "friendly connections" that will enable them to continue to compete effectively in markets they now serve and to ensure competitive access to those markets.

Again, it appears that an independent Commission proceeding on this issue would be redundant and unnecessary.

For the above articulated reasons, we believe that the Commission does not have the legal authority, by virtue of the explicit statutory exclusion of Commission review incorporated in NERSA, to review the Conrail transaction. Moreover, it appears that such a review would be duplicative, unnecessary and an ill-advised expenditure of scarce resources.

Sincerely,

JAMES T. BROYHILL,
Ranking Minority Member, Committee on Energy and Commerce,
NORMAN F. LENT,
Ranking Minority Member, Subcommittee on Com-

merce, Transportation, and Tourism.
EDWARD R. MADIGAN,
Member, Committee on Energy and Commerce.

APPENDIX F

INTERSTATE COMMERCE COMMISSION,
Washington, DC, May 7, 1985.

Hon. JAMES J. FLORIO,
Chairman, Subcommittee on Commerce, Transportation and Tourism, House Office Building, Washington, DC.

DEAR CHAIRMAN FLORIO: Thank you for your letter of March 27, 1985, requesting the Commission's analysis of certain aspects of the recommendation made by Secretary of Transportation Elizabeth H. Dole that the Consolidated Rail Corporation be sold to Norfolk Southern Corporation. You have asked that we provide your Subcommittee with our analysis of two aspects of the proposal.

First, you have asked us to estimate the traffic diversion from other carriers as a result of the proposed acquisition. More specifically, you have asked us to study the diversions by carrier, origin-destination corridor, commodity, and pre-diversion and post-diversion routing.

Second, you have asked us to evaluate the viability of the divestitures proposed by the Department of Justice, made part of the Secretary's proposal, and accepted by NS. The divestitures involve the transfer of certain lines to Guilford Transportation Industries, Inc. and the Pittsburgh and Lake Erie Railroad Company. You have asked the Commission to analyze the current financial viability of these carriers, their ability to finance the proposed acquisitions, their projected viability under the divestiture proposal, and their ability and resources to compete with a combined Conrail-NS.

In conducting these analyses, you have asked that they be part of an open process, inviting comments and information from interested parties, and allowing parties to comment on information submitted by other parties.

As you are aware, there is some controversy over whether the ICC has the authority to perform such an analysis. While it is clear that under the Northeast Rail Services Act the Conrail sale is not subject to the Commission's normal merger review, the limited technical assistance you have requested is advisory in nature, and therefore, responding to your request is not inconsistent with that Act. Further, the Commission has always endeavored, within the limits of its expertise and resources, to provide assistance to members of Congress when requested. Accordingly, we are undertaking the analysis as described in the enclosed Federal Register notice.

I understand that you are concerned that the analysis be conducted as expeditiously as possible so as to be useful to you in considering the Conrail sale proposal. Also, in view of the Commission's workload, limited resources, and unresolved budget crisis, the Commission cannot devote the amount of time and resources to the analysis that would approach the quality and degree of effort expended in major rail merger cases. However, the staff will make every effort to produce the best analysis possible by August 2, 1985.

Hopefully, our study will provide your Subcommittee with the information you are seeking, and if you have any questions about the project, please don't hesitate to let me know.

Sincerely,

REESE H. TAYLOR, Jr.,
Chairman.

APPENDIX G

OFFICE OF CHAIRMAN TAYLOR

STUDY OF ESTIMATED TRAFFIC DIVERSION AND VIABILITY OF THE DIVESTITURE PROPOSALS RESULTING FROM THE ACQUISITION OF THE CONSOLIDATED RAIL CORPORATION BY NORFOLK SOUTHERN CORPORATION

MAY 8, 1985.

Memorandum to Deputy Director Gitomer:

On May 7, 1985, in response to the requests for information and assistance received from Congressman Florio and Congresswoman Mikulski, the Commission voted to conduct a staff analysis of:

(1) the traffic that would be diverted from other railroads as a result of the sale of the Consolidated Rail Corporation (Conrail) to Norfolk Southern Corporation (NS);

(2) the viability of Guilford Transportation Industries, Inc. (GTI) and the Pittsburgh and Lake Erie Railroad Company (PLE) after they receive the track which the Department of Justice has said must be divested by Conrail and NS in order to avoid anticompetitive ramifications; and

(3) the impact upon ports of the sale of Conrail to NS.

This memorandum directs you to conduct the above-described analysis and to see that it is finished and transmitted to Congressman Florio by no later than August 2, 1985. You are authorized to use the resources that are necessary to complete the study, but in view of our still unresolved budget crisis, other important work of the agency that is statutorily required must be given priority.

As you know, the study is for the purpose of providing information to Congressman Florio in order to assist his Subcommittee in evaluating the Conrail sale. Accordingly, it is important that you confine your analysis to just the specific questions that have been asked by Congressman Florio and Congresswoman Mikulski. Given the present strain on our resources and the need to complete the study by August 2, 1985, all requests for additional information or assistance, beyond the two already received, will have to be respectfully declined.

Moreover, it is essential that the study not contain any "bottom-line" conclusions about any aspect of the sale. Those kinds of determinations are ones Congress will make itself in due course. The purpose of the analysis is simply to assist Congress in making the ultimate evaluation of the proposed transaction.

Finally, I cannot overemphasize the importance of making sure the study is completed on time. To meet the August 2nd deadline, no extensions can be allowed of the dates specified in the schedule adopted by the Commission.

Please keep me advised of the progress of the study.

REESE H. TAYLOR, Jr.,
Chairman.

APPENDIX H

INTERSTATE COMMERCE COMMISSION,
Washington, DC, May 9, 1985.

Hon. BARBARA A. MIKULSKI,
U.S. House of Representatives,
Washington, DC.

DEAR CONGRESSWOMAN MIKULSKI: Many thanks for your letter of April 11, 1985, expressing your strong support for Chairman Florio's request that the Commission analyze certain aspects of the proposed sale of Consolidated Rail Corporation to Norfolk Southern Corporation. You also asked that in responding to Chairman Florio's request, we analyze the impact of the sale on affected ports.

Yesterday, the Commission decided to conduct an expedited study designed to comply with the informational requests received from you and Chairman Florio. A copy of my letter advising Chairman Florio of our decision is enclosed herewith.

In order to make sure our analysis is conducted in the most expeditious manner possible, we have adopted a schedule that requires completion of the study by no later than August 2, 1985. The schedule itself is set forth in the enclosed Notice, which will be published in the Federal Register tomorrow.

Hopefully, our analysis will provide the information you are seeking, and if you have any questions about the project, please don't hesitate to let me know.

Enclosures.

Sincerely,

REESE H. TAYLOR, Jr.,
Chairman.

APPENDIX I

U.S. HOUSE OF REPRESENTATIVES,
COMMITTEE ON ENERGY AND COMMERCE,
Washington, DC, May 10, 1985.

Hon. REESE H. TAYLOR, Jr.,
Chairman, Interstate Commerce Commission,
Washington, DC.

DEAR MR. CHAIRMAN: We are writing to express our concern about review of the sale of Conrail by the Commission.

It is imperative that the Congress be provided with timely information and analysis to determine whether the Secretary of Transportation's proposal and other alternatives for the sale of Conrail are in the public interest. At this stage of the process, however, we believe it is highly inappropriate for the Commission to commence a formal proceeding, however characterized, on this matter.

It is clear that opponents of a sale of Conrail will attempt to use the Commission as a forum for confusion and delay. Recognizing that any proposal for the sale of Conrail was likely to generate bitter controversy, the Congress expressly exempted the transfer of Conrail from Commission and judicial review in NERSA to avoid protracted consideration in multiple forums. Commencement of a proceeding by the Commission would frustrate this clearly expressed Congressional intent.

The Committee on Energy and Commerce will hold full hearings on the many complex issues associated with the sale of Conrail. All affected parties will be given fair opportunity to present their case in the course of the normal legislative process. Likewise, we would expect the Commission to furnish staff analysis and assistance to the Committee upon request.

The Congress will reach an informed decision after careful consideration of the merits of the various options. Commencement of a formal proceeding by the Commission would be unnecessary and counterproductive.

Sincerely,

JOHN D. DINGELL,
Chairman.

JAMES T. BROYHILL,
Ranking Minority Member.

APPENDIX J

INTERSTATE COMMERCE COMMISSION,
Washington, DC, May 14, 1985.

Hon. JOHN D. DINGELL,
Chairman, Committee on Energy and Commerce, U.S. House of Representatives, Washington, DC.

DEAR CHAIRMAN DINGELL: In response to your letter of May 10, 1985 about the staff analysis the Commission voted to undertake with regard to the Conrail-Norfolk Southern transaction, please be advised as follows:

1. The analysis will not constitute a review by the Commission nor will it entail the initiation of a formal proceeding. As pointed out in my May 7th letter to Chairman Florio, the analysis will be confined to the specific questions raised by him and Congresswoman Mikulski, and the information developed will be provided to Chairman Florio's Subcommittee in order to assist that body in evaluating certain specific aspects of the Conrail-Norfolk Southern transaction. A copy of my May 7th letter to Chairman Florio is enclosed herewith.

2. The analysis will be performed in accordance with an extemely tight procedural schedule, which calls for completion of the project and transmittal of the results by no later than August 2, 1985. The schedule and completion date adopted by the Commission are set out in the published Notice, a copy of which is also enclosed herewith.

3. To make certain that the staff analysis is conducted in the most expeditious manner possible, without subsequent broadening or postponed deadlines that might delay completion of the project past August 2nd, I have already transmitted an implementing memorandum to our staff. This memorandum, a copy of which is also enclosed, is designed to maintain the narrow scope of the analysis and make sure the project is finished on schedule, so that the information sought by Chairman Florio can be of timely assistance to his Subcommittee during that body's deliberations on the Conrail-Norfolk Southern proposal.

4. Although some have questioned the Commission's authority to conduct the staff study because of the language contained in Section 1142 of the Northeast Rail Service Act (NERSA), 45 U.S.C. 768(c), our General Counsel's Office has explicitly advised us that the staff study is *not* precluded by the foregoing statutory provision, and that as an arm of Congress, we are actually obliged to honor the request for assistance made by Chairman Florio. Copies of memoranda from our General Counsel's Office, dated May 3, 1985 and May 10, 1985, are also enclosed for your perusal.

Hopefully, the foregoing is fully responsive to your May 10th letter, but if you have any additional questions about the analysis our staff is going to undertake, please don't hesitate to let me know.

Sincerely,

REESE H. TAYLOR, Jr.,
Chairman.

APPENDIX K

SUBCOMMITTEE ON COMMERCE,
TRANSPORTATION, AND TOURISM,
Washington, DC, May 29, 1985.

Hon. REESE TAYLOR,
Chairman, Interstate Commerce Commission,
Washington, DC.

DEAR CHAIRMAN TAYLOR: I appreciate the Commission agreeing to undertake the study I requested on March 27, 1985 regarding the diversions that will result from the sale of Conrail to Norfolk Southern and the viability of the carriers acquiring the divested lines.

I am aware of some concern that has been expressed regarding the Commission's role in this study. While I believe the Commission's role is appropriate and proper under the Northeast Rail Service Act and other laws, I would propose a slight change in the Commission's study schedule. This change would respond to the concerns that have been expressed while fully meeting the needs of the Subcommittee.

I would suggest the Commission maintain its current schedule for information gathering, through June 19, 1985. At that point, I would suggest that the appropriate Commission staff be detailed to the Subcommittee for the analysis phase of the study.

The detailed ICC staff will complete the study for the Subcommittee using the information gathered prior to June 19, 1985. I believe this arrangement will meet the needs of the Subcommittee for information on diversions and financial viability.

Please let me know if this modification is acceptable to the Commission.

Sincerely,

JAMES J. FLORIO,
Chairman.

APPENDIX L

INTERSTATE COMMERCE COMMISSION

NOTICE—STUDY OF ESTIMATED TRAFFIC DIVERSION AND VIABILITY OF THE DIVESTITURE PROPOSALS RESULTING FROM THE ACQUISITION OF THE CONSOLIDATED RAIL CORPORATION BY NORFOLK SOUTHERN CORPORATION

Agency: Interstate Commerce Commission.

Action: Modification of notice of a study.

Summary: On May 29, 1985, the Honorable James J. Florio, Chairman of the Subcommittee on Commerce, Transportation, and Tourism of the Committee on Energy and Commerce of the United States House of Representatives, requested the Commission to change the manner in which the study is to be conducted. Under Chairman Florio's modified request, the Commission will continue to gather information through June 19, 1985, pursuant to the schedule published in the *Federal Register* on May 10, 1985. However, after submittal of the evidentiary presentations, the Commission's role with respect to this study will be complete. At that time, appropriate Commission staff will be detailed to the Subcommittee to assist that body in its analysis of the information gathered at the Commission. Accordingly, Item 6 of the prior *Federal Register* notice is modified to read as follows:

"6. At the conclusion of the evidentiary presentation on June 19, 1985, the Commission's role with respect to this study will be complete. At that time, appropriate Commission staff will be detailed to the Subcommittee to assist that body in its analysis of the record."

For further information contact: Louis E. Gitomer (202) 275-7245.

Dated: June 11, 1985.

By the Commission, Chairman Taylor, Vice Chairman Gradison, Commissioners Sterrett, Andre, Simmons, Lamboley and Strenio. Commissioner Lamboley concurred. Vice Chairman Gradison and Commissioner Strenio were present and did not participate. Commissioner Andre did not participate.

JAMES J. BAYNE,
Secretary.

APPENDIX M

INTERSTATE COMMERCE COMMISSION,
Washington, DC, July 26, 1985.

Hon. JAMES J. FLORIO,
Chairman, Subcommittee on Commerce, Transportation, and Tourism, House of Representatives, Washington, DC.

DEAR CONGRESSMAN FLORIO: This letter will bring you up-to-date on the status of the study being prepared by Commission personnel detailed to your Subcommittee concerning the Norfolk Southern Corporation's (NS) proposed acquisition of Consolidated Rail Corporation (Conrail).

At this time, ten analysts and attorneys have been detailed on an as needed basis to respond to the issues raised in your March 27, 1985 letter. Basically, the study will analyze (1) traffic that would be diverted from other carriers if NS acquires Conrail; and (2) the viability of Guilford Transportation Industries, Inc. (Guilford) and the Pittsburgh & Lake Erie Railroad Company (P&LE) after they receive certain lines from Conrail and NS.

The analysis of the evidence of traffic diversion will be completed by the August 2, 1985 target date. The portion of the report on this aspect of the study will be submitted by that date. However, this analysis may not include an analysis of diversion to, or from, Guilford or P&LE because of the late filings by these parties.

The viability analysis of Guilford and P&LE has been hampered because certain carriers did not submit the data requested in the Commission's May 10, 1985 notice in a timely fashion. Guilford submitted its first substantive information on July 10, 1985, and Guilford and P&LE will be submitting additional information soon. In light of these late filings and a two-week period for replies to Guilford's presentation, the staff will be unable to complete the viability analysis by August 2, 1985. However, it is our intention to submit this analysis to you before Congress returns from its August recess.

Sincerely,

LOUIS E. GITOMER,
Deputy Director, Rail Section.

APPENDIX

TRAFFIC DIVERSION ESTIMATES: SUMMARY TABLE*

[In thousands of dollars]

Carrier	NS estimate	Carrier estimate	Study conclusions	Carriers 1984 gross revenue
ATSF	14,500	31,200	20,600	2,305,444
BLE	294	3,800	294	80,487
CNW	45,400	59,700	45,400	882,060
CSS[1]	[2]	1,200	1,200	20,045
CSX	71,400	235,200	[3]	4,848,172
EJE	0	307.8	307.8	90,245
GTW[4]	15,800	31,400	28,900	341,121
ICG	16,100	32,300	32,300	954,688
MIR[5]	112.3	3,000	112.3	3,000
RF&P	[2]	9,000	[2]	57,459
SOO	12,400	46,410	16,930	732,591
SPT	0	30,000–40,000	0	2,624,774

*This chart does not reflect diversions to other carriers or NS's arguments regarding possible retaliation by affected carriers.

[1] CSS's gross revenue figure is based on 1983 gross revenues.

[2] Included in CSX.

[3] Range of $143,000 to $174,000.

[4] This table, originally presented at page 6 of the "Report of Estimated Traffic Diversion Resulting from the Acquisition of the Consolidated Rail Corporation by Norfolk Southern Corporation," mistakenly listed GTW's 1984 gross revenue as $1,295,412. The correct figure is noted above. Chairman FLorio was informed of this error and the correct figure by letter dated Aug. 23, 1985.

[5] MIR's gross revenue figure is an approximate figure based on MIR's representations in its submission that it would lose all of its traffic.

APPENDIX

The following rail lines will be acquired by Guilford:

1. The line of NS's Pittsburgh Division, Buffalo and Cleveland Districts, from the end of NS's ownership in the vicinity of MP 1.5 in Buffalo, NY, to Beach Avenue in the vicinity of MP 189.2 in Lakewood, OH (not including the line of the former Fairport, Painesville, and Eastern Railway Company). Also NS's and Conrail's interests in Bison Yard, Buffalo, NY, with the exception of the automobile unloading facility, which will remain the property of NS.

2. The line of NS's Fort Wayne Division, Marion District, from the end of ownership at Douglas, OH, in the vicinity of MP 65.5, to the junction of its Marion and Frankfort Districts in Frankfort, IN, in the vicinity of MP 206.5, including NS's 50% interests in the West Marion Belt in Marion, IN.

3. The line of NS's Decatur Division, Charleston and Madison Districts, from the vicinity of MP 208.0 in Frankfort, IN, to a connection with the Terminal Railroad Association of St. Louis at Madison Yard, in Madison, IL, in the vicinity of MP 447.0. In addition, NS's Madison Yard in Madison, IL.

4. The line of NS's Indianapolis District, from a point north of Kokomo, IN in the vicinity of MP 58.0, to the end of NS ownership in Indianapolis, IN, in the vicinity of MP 2.1, including NS's Kokomo Belt in Kokomo, IN.

5. The line of Conrail's Youngstown and Chicago Divisions, from CP Crest at Crestline, OH to the junction with Conrail's Buffalo-Chicago mainline at CP 446 in Gary, IN. In addition, Conrail's Colehour Yard, in the vicinity of the Illinois-Indiana state line, (not to include Conrail's adjacent Buffalo-Chicago main lines, associated rights of way and facilities).

6. The line of Conrail's Toledo Division, Carrothers Branch, from the junction with NS's Scioto Division at Carrothers, OH (MP 27.1) to the vicinity of Andrus Road in Toledo, OH (MP 82.5). In addition, Conrail's "E" Yard in Toledo, OH less the Conrail main line(s) through "E" Yard.

7. The line of Conrail's Fort Wayne secondary track, from Adams, IN (MP 86.6) to Decatur, IN (MP 70.4).

8. The line of NS from a point opposite Conrail MP 14.1 (Knob) to a point opposite Conrail MP 11.8 (Cloggville) at a connection with NS's Cleveland District line in Cleveland, OH.

Guilford will acquire overhead trackage rights over the following lines:

1. The lines of the Conrail Clark Branch, Cleveland Division, and Cleveland-Indianapolis mainline, Columbus Division, from Clark Avenue in Cleveland, OH (MP 12.9) via Knob, Short and Berea, to a connection with the Crestline-Chicago line (MP 75.7) at CP Crest.

2. The Conrail Buffalo-Chicago mainline of the Toledo Division, from Berea, OH (MP 193.9) to Elyria Yard, OH (MP 204.6) and the line of the Conrail South Lorain Branch from Elyria Yard (MP 0.0) to South Lorain, OH (MP 6.8) to a connection with the Lake Terminal Railroad.

3. In the vicinity of Toledo, OH, over Conrail from the north end of the Conrail line described in Schedule A, Item 6, in the vicinity of Andrus Road (MP 82.5), to a connection to be constructed with NS's line known as the "Wheeling Belt" in the vicinity of Oak Street (MP 0.9), thence over the Wheeling Belt to a connection with NS's Cherry Street line west of Ironville Tower (near MP 5.0), thence over the Cherry Street line, over the Maumee River Bridge, to a connection with GTW south of Lang Yard (near MP 2.0). Also, over Conrail from the vicinity of Andrus Road (MP 82.1) to the vicinity of Conrail's "E" Yard (MP 3.5) in order to reach Guilford's tracks in "E" Yard.

4. The Conrail Pittsburgh-Chicago mainline of the Chicago Division, from CP 446 to a connection with Belt Railway of Chicago, in the vicinity of CP 445, South Chicago, IL.

5. The NS Scioto Division mainline from a connection with Conrail's Crestline, OH-Gary, IN line at MP 62.9 in Bucyrus, OH to a connection with Conrail's Toledo Division, Carrothers Branch at MP 76.6 in Carrothers, OH.

6. The NS Frankfort District line from the junction of its Marion and Frankfort Districts at MP 206.5 to MP 208.0, in Frankfort, IN.

7. NS's Huntington and New Castle Districts between Mike (Fort Wayne), IN (MP 146.0), via Hugo, IN (MP 149.2-184.1), and a connection with the present NS Marion District in Bluffton, IN (MP 162.6).

8. Conrail's Kokomo Secondary Track at Kokomo, IN from a connection with NS's Marion District (MP 159.1) to a connection with NS's Indianapolis District (MP 159.4).

9. Conrail's Susquehanna (Southern Tier) Main Line from Binghamton, NY at a connection with Guilford's existing trackage rights on Conrail's Susquehanna Main Line in the vicinity of "BD" Tower (MP 213.2) to the end of Conrail's ownership at Hillburn (Suffern), NY (MP 31.0), thence over The New Jersey Transit (NJT) Line to Ridgewood Junction, NJ, and over NJT's Bergen County Line to Conrail's Croxton Yard in Jersey City, NJ. NS's or an affiliate's obligations with respect to NJT trackage will be to exercise its best efforts to obtain the necessary trackage rights over NJT.

10. From a connection with Guilford's existing trackage rights on Conrail's Rockville-Buffalo Main Line at Rockville, PA (MP 109.9) via Conrail's Philadelphia-Pittsburgh Main Line to the end of Conrail ownership west of "Harris" (MP 105.2), thence via trackage rights to be obtained over Amtrak to a connection with Conrail's (former Reading) Philadelphia-Harrisburg Main Line at "Harris" (MP 104.8 on Philadelphia-Pittsburgh Main Line-MP 112.6 on Philadelphia-Harrisburg Main Line), thence over Conrail's Philadelphia-Harrisburg Main Line and west leg of the wye track to "Capital" (MP 0.0 of Conrail's Lurgan Branch), thence over the Lurgan Branch to connection with the B&O at Lurgan (Shippensburg); PA (MP 42.4). NS's or an affiliate's obligation with respect to Amtrak trackage will be to exercise its best efforts to obtain the necessary trackage rights over Amtrak.

APPENDIX P

The following rail lines will be aquired by PLE:

1. The line of NS's Canton District, from Cleveland, OH (MP 0.8) to Harmon, OH (MP 73.6).

2. The line of NS's Toledo and Wheeling Districts, from the west switch of the siding at Yeomans, OH (MP 54.6) to Pittsburgh Junction, OH (MP 183.4), including the former L&WV from its connection at Lake Junction (MP 0.0) to MP 1.5.

3. The line of NS's Wheeling District, Steubenville Branch, from Steubenville, OH (MP 13.2) via Mingo Junction, to Warrenton, OH (MP 0.0) and NS's Wheeling District, Main Line from Warrenton (MP 205.4) to Martins Ferry, OH (MP 213.2), including, to extent assignable, any NS rights to operate over Wheeling-Pittsburgh properties to Follansbee, WV.

4. The Chagrin Falls Branch of NS's Canton District (MP 0.0 to MP 8.15).

5. The Carrollton Branch of NS's Canton District (MP 0.0 to MP 27.72).

6. The Minerva Branch of NS's Canton District (MP 0.0 to MP 3.0).

7. The Massillon Branch of NS's Toledo District from Orrville Junction (MP 0.0) to (MP 1.4) and from Dalton, OH (MP 7.024) to Run Jct., OH (MP 22.1).

8. The line of NS's Canton District, Cleveland Belt Line, from MP 0.0 (Belt Line Junction) to MP 5.42 (Knob) in Cleveland, (OH).

9. The Canton Belt Line of NS's Canton District from MP 0.0 to MP 3.74 in Canton, OH including all of NS's rights to serve the LTV facility located at Canton, OH as well as any rights NS may have to use Conrail's Canton Yard.

10. The line of NS's Zanesville District from a connection with the Wheeling District at Harmon, OH (MP 73.6) to Zanesville, OH (MP 144.1), including NS's 50% share in the branch to Peabody Coal at Arnold (Trinway) (MP 0.8 to MP 7.2), as well as, the Zanesville Belt Line from MP 0.0 to MP 3.1 in Zanesville, OH if the Zanesville Belt is not abandoned as of the Closing Date.

11. Conrail's 105 Secondary Track from a connection with the PC&Y at Carnegie, PA (MP 1.92) to a connection with Conrail's Washington Secondary Line (MP 2.5), Conrail's Washington Secondary Line from Carnegie, PA (MP 0.1) to Bridgeville, PA (MP 3.9), and Conrail's Bridgeville-McDonald Industrial Track from its point of connection with Conrail's Washington Secondary Track at Bridgeville, PA for a distance of 1.5 miles and permit a new connection with the line of NS's Connellsville District in the vicinity of Bridgeville, PA (MP 61.3).

12. The line of NS's Huron Branch of NS's Toledo District from Huron Jct. OH (MP 0.3) to Milan, OH (MP 5.5).

Mr. SPECTER. Thank you, Mr. President.

I now wish to turn again very briefly to a very substantial study which has been conducted by R.L. Banks & Associates, Inc., at the request of the U.S. Department of Justice.

At this juncture, Mr. President, it is important to note that there have been three divestiture plans submitted in efforts made by Norfolk Southern to have sufficient divestiture to satisfy the Department of Justice. The first two were rejected by the Department of Justice. Subsequently, there has been what is called a preliminary approval given by the Department of Justice on November 21, which I shall come to, which the Senator believes was very hasty, ill advised, and unfounded on any basis of the record.

The important point in referring to the R.L. Banks & Associates, Inc., report is that the consultants selected by the Department of Justice found the divestiture totally insufficient. That consultant has been discharged by the Department of Justice. The Department of Justice has made the concession that it does not have the expertise to deal with this subject inhouse, but notwithstanding the De-

partment of Justice's concession to that effect, and after having discharged the R.L. Banks & Associates, Inc., consultants, the Department of Justice has given what is called preliminary approval to the third effort at divestiture.

The Department of Justice made this concession, Mr. President, and in these terms: It "* * * does not have in-house expertise to evaluate technical and operational aspects of any proposed divestitures."

It was for that reason that the Department of Justice retained R.L. Banks & Associates, which filed an expansive report on September 13, 1985, detailing its analysis of the proposed divestitures to Guilford and Pittsburgh & Lake Erie.

At page 13 of the summary, these are the conclusions of the Banks consultants' report as to Guilford:

The analysis suggested that GTI's—

referring to Guilford—

viability would be dependent heavily upon the realization of several optimistic assumptions, and that even under the most favorable circumstances GTI's continued existence would be parlous—

which is a synonym for perilous.

The Banks' report goes on, page 14 to say:

Coupled with projected poor liquidity, GTI would be hard pressed to maintain the quality of service and competitive thrust projected by its marketing and operating plans.

The long term success of the carrier is contingent upon the accuracy of the marketing and operating plans. Substantial revenues from new business (particularly highly-rated, non-time sensitive TOFC traffic) would have to be realized, operational efficiency, as reflected in per-carload expenses would have to improve significantly and rehabilitation costs would have to be constrained to very low levels. Doubts about the realism of the marketing and operating plans apply equally to the financial statements; the very real possibility that GTI would fail to realize projected gains in revenues and efficiency leads to the conclusion that the survival of an expanded GTI system is yet to be proven.

The Banks' report continues at page 15 summarizing other reasons why the GTI proposal simply stated could not succeed.

The Banks' evaluation then proceeded to the proposed divestiture to Pittsburgh & Lake Erie. At page 20, in very summary form, it states as follows:

This review of NS's proposed divestiture to P&LE has been severely hampered by the absence of detailed information concerning P&LE's business plan for the acquisition. The information defects are documented in Appendix A. Once that information (including a sound Business Plan for the P&LE) is made available, detailed engineering, operating, marketing and financial analyses are required to establish a basis for evaluating the plan. This review of available information identified numerous problem areas which are detailed in the text. Significant among these is a three-fold difference between P&LE's diversion estimates and those of NS's. Most significant, however, is the review of available financial data for the P&LE which raises serious concern as to whether a Business Plan and financing agreement can be developed that would allow an affirmative finding with respect to the likely long-term viability of the P&LE.

Mr. President, at this point I ask unanimous consent that the full text of Banks' study be printed in the RECORD as if presented in full.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

CONRAIL SALE DIVESTITURE STUDY

(A PRELIMINARY REPORT TO ANTITRUST DIVISION, U.S. DEPARTMENT OF JUSTICE)

GLOSSARY OF TERMS AND ACRONYMS

ABS: Automatic Block Signal System, a series of consecutive blocks actuated by a train or engine or by certain conditions affecting the use of a block.

Acquired Lines: Lines of railroad and related facilities to which P&LE and GTI, as divestees, would take title pursuant to the Memorandum of Intent.

Additional Reply Verified Statement(s): Verified Statement(s) filed by an indicated party in the ICC Staff Study on July 26, or August 1, 1985.

BAH: Booz, Allen & Hamilton.

BARNS: Booz, Allen Railway Network Simulation Model.

BM: Boston & Marine Corporation (a subsidiary of GTI).

BRC: Belt Railway of Chicago.

Cr Haulage Agreements: An agreement by which one rail carrier holds itself out to transport in its own trains the traffic of another rail carrier for an agreed charge which covers the operating and maintenance expenses of the hauling rail carrier.

CN/GT: Canadian National/Grand Trunk Railway Systems.

COFC: Container on flat car.

CP: Control Point.

CR or Conrail: Consolidated Rail Corporation.

CSX: CSX Corporation, owner of the Chessie System and Seaboard System railroads.

CTC: Centralized Traffic Control, defined as a system in ABS territory under which train or engine movements are authorized by block signals whose indications supercede the superiority of trains for both opposing and following movements on the same track.

Divestee(s): Rail carrier(s) selected by NS to acquire certain lines of railroad as a result of the NS acquisition of Conrail; divestees are GTI and P&LE.

DH: Delaware & Hudson Railroad Company (a subsidiary of GTI).

DOJ: United States Department of Justice.

E&A: CR Erie & Ashtabula Branch.

FRA: Federal Railroad Administration.

GTC: Grand Trunk Corporation, owner of the Grand Trunk Western and Central of Vermont railroads.

GTI: Guilford Transportation Industries, Inc., owner of the Maine Central, Boston and Maine and Delaware and Hudson railroads.

GTI Business Plan: June 30, 1985 submission of GTI entitled *Acquisition of Rail Properties in Connection with Purchase by Norfolk Southern Corporation of Common Stock of Consolidated Rail Corporation.*

GTM: Gross Ton-Mile.

GTW: Grand Trunk Western Railroad.

ICC: Interstate Commerce Commission.

ICC Staff Study: *ICC Study of the Estimated Traffic Diversion and Viability of the Divestiture Proposals Resulting From the Acquisition of Consolidated Rail Corporation by Norfolk Southern Corporation,* undertaken at the request of Congressman Florio, *et al.*

Intermodal transportation: Transportation involving more then one mode, e.g., rail/barge, rail/truck, truck/barge.

LE&E: Lake Erie & Eastern Railroad Co. (P&LE subsidiary).

LTD: Long-term debt.

MEC: Maine Central Railroad Company (a subsidiary of GTI).

Memorandum of Intent: February 8, 1985 agreement between US DOT and Norfolk Southern Corporation respecting the sale of Conrail as conditioned by DOJ.

MOE: Maintenance of Equipment.

MP: Milepost.

NJT: New Jersey Transit.

NS: Norfolk Southern Corporation.

NSCR: Combined properties and operations of Norfolk Southern Corporation and Consolidated Rail Corporation.

Opening Verified Statement(s): Verified Statement(s) filed by an indicated party in the ICC Staff Study on May 24, 1985.

OR: Operating Ratio.

P&LE: The Pittsburgh & Lake Erie Railroad Co.

Preliminary Review: The effort of RLBA pursuant to DOJ Purchase Order Number 5P-U-ATR-3968.

PWV: The Pittsburgh & West Virginia Railroad, Norfolk & Western Railway, lessee, to be assigned to the Pittsburgh & Lake Erie Railroad, and to GTI in the event that P&LE does not assume the lease obligations.

Reciprocal Switching: A means by which a rail carrier can obtain access to shippers and receivers not served by its lines within a terminal area, forwarding or receiving the traffic to/from the serving carrier at a prearranged charge.

Reply Verified Statement(s): Verified Statement(s) filed by an indicated party in the ICC Staff Study on June 7, 1985.

RLBA: R.L. Banks & Associates, Inc.

Summary Verified Statement(s): Verified Statement(s) filed by an indicated party in the ICC Staff Study on June 19, 1985.

STCC: Standard Transportation Commodity Classification as defined by the ICC.

TOFC: Trailer on flat car.

Trackage Rights: The practice of permitting a rail carrier to use the tracks and related facilities of another rail carrier under a prearranged fee which covers the owning carrier's operating and maintenance expenses and a rental to provide for the return of and on the owning carrier's fixed plant and related facilities investment.

USRA: United States Railway Association.

WBS: Annual sample of railroad freight waybill data compiled by the U.S. Department of Transportation.

RDG: Reading Railroad.

TRRA: Terminal Railroad Association of St. Louis.

In January 1985, the Department of Justice (DOJ) concluded its analysis of the proposed sale of the Consolidated Rail Corporation (CR) by the U.S. Department of Transportation (DOT) to Norfolk Southern Corporation (NS) and on January 29, 1985 advised DOT of its finding that on balance "the possible benefits of the proposed merger are not sufficiently great to outweigh the very serious anticompetitive

effect the merger would have, particularly in the designated east-west corridor" [1] which runs between Buffalo and Pittsburgh in the east and St. Louis and Chicago in the west. DOJ had identified markets in corridor for which the "merger would have a significant adverse effect on competition for the transport of commodities" in those markets.[2] In March, DOJ advised Mrs. Dole that additonal markets within the corridor would likely suffer from reduced competition as a result of the proposed sale.[3] DOJ indicated that the defects of the merger would be remedied were NS to divest itself "of rail assets to an independent entity or entities capable of providing long-term, viable, and competitive rail service along this corridor" following DOJ guidelines. DOJ's rationale was that the "potential efficiency gains—particularly relating to the offering of single-line service—are, however, likely to be sufficiently great to offset the less significant adverse competitive effects that would remain after the divestiture . . . is effected." [4]

DOJ established three conditions, which in its view would "ensure competitive service:"

"First, the acquirer or acquirers (hereinafter "acquirer") must demonstrate to the satisfaction of the Attorney General that it possesses the managerial, operational, and financial capability necessary to compete effectively, and to remain a viable entity providing long-term rail service along the designated corridor.[5]

"Second, the divestiture should provide the acquirer direct connections in Buffalo, Chicago, Toledo, and East St. Louis to one or more railroads other than the merged carrier or CSX Corporation or any railroad controlled by either of them.

"Third, following the divestiture, in each of the designated counties [see Attachment A to the DOJ letter] in the east-west corridor, the merged Norfolk Southern/Conrail entity must switch cars between its tracks and facilities and the tracks and facilities of any shipper served by Norfolk Southern, Conrail, or Norfork Southern/Conrail [and open to service by both NS and CR] on customary terms and conditions whenever switching is practicable and necessary in order to provide a shipper with effective competitive access to the track and facilities of the acquirer.[6]

DOJ further clarified those conditions in Attachment A to its January 29, 1985 letter to Secretary Dole by specifying that rail services provided by acquirers "may be limited to service along those sold or leased rail lines where prior to divestiture shippers had service by both NS and CR." [7]

On February 8, 1985, DOT and NS entered into a Memorandum of Intent (Memorandum) under the terms of which NS would purchase Conrail for $1.2 billion. The DOJ letter of January 29, 1985, including Attachment A, is incorporated as Exhibit E to the Memorandum. To comply with DOJ's conditions set forth as Exhibit E to the Memorandum, NS entered into a Divestiture and Acquisition Agreement with Guilford Transportation Industries, Inc. (GTI) on May 10, 1985 which was revised on June 5, 1985.[8] NS also entered into a Divestiture and Acquisition Agreement with The Pittsburgh and Lake Erie Railroad Company (P&LE) on April 19, 1985. On their face, the Agreements satisfy the DOJ conditions except the first one which requires a demonstration by each acquirer that it will be capable of providing "long-term, viable and competitive rail services" along the corridor defined by DOJ in its letter to Secretary Dole. In particular, the associated divestiture sales (in combination with lease transfers, car haul agreements and trackage rights grants) by NS to GTI and P&LE are contingent upon the Attorney General finding that each acquirer will satisfy that condition along the rail corridors running between Buffalo and Pittsburgh in the east and St. Louis and Chicago in the west.

To assist the Attorney General, the Antitrust Division of DOJ now must determine whether the acquirers will satisfy the divestiture standards. To assist the Division in evaluating whether GTI and P&LE each meet DOJ's standard or whether, to the contrary, NS's proposed divestiture is either materially or irremediably defective, DOJ engaged R.L. Banks & Associates, Inc. (RLBA). This report has been prepared with respect to the four Technical Analyses required by DOJ's Statement of Work:

"(1) an engineering assessment of estimates prepared by interested parties of expenditures needed to complete any necessary rehabilitation to the divested properties in light of the amount of traffic that each acquirer anticipates will move over those properties;

"(2) a preliminary analysis of the costs which flow from and the feasibility of the operating plans submitted to DOJ, as well as the assumptions which underlie each operating plan;

"(3) a preliminary order of magnitude assessment of the consistency with each other of the market plans submitted by each of the acquirers, the assumptions underlying each plan and the extent to which those plans and marketing projections incorporate the effects on marketing projections of trackage rights and reciprocal switching arrangements which each acquirer has entered into with NS; and

"(4) a review of the *pro forma* financial statements prepared by the acquirers to determine whether the data are adequate and the financial plans are realistic and consistent both with the operating and marketing plans and with accepted accounting methods.

These Technical Analyses, first addressing the GTI plan and then the P&LE plan, are presented following the Summary of Findings, in the next section of this report. The Summary presents the conclusions reached in each Technical Analysis, as well as a preliminary evaluation with respect to the ultimate findings DOJ must make with respect to (i) whether each proposed divestiture is materially defective with respect to satisfying DOJ's service and viability standards; and (ii) whether each proposed divestiture is irremediably defective with respect to satisfying those standards. The preliminary nature of these analyses (with the necessary limitations on their scope and depth as described below) does not permit definitive findings on the abilities of either GTI or P&LE to meet the DOJ standards. Appendix A to this report identifies areas in which further information is needed.

The preliminary analysis was limited in its scope as the following excerpt from the July 3, 1984 Statement of Work states: "the Contractor shall utilize only (1) documentation provided to DOJ by GTI, P&LE, NS and Conrail and in the possession of DOJ on August 1, 1985, or such earlier date as may be mutually agreed upon; (2) information presently in the Contractor's possession; and (3) information which is otherwise publicly available and accessible to the Contractor. If materials are provided to DOJ after the date contract performance commences, DOJ will permit, but not require the Contractor to analyze them. The Contractor shall not interview nor secure date from officers or employees of affected railroads, of users of such railroads, of carriers of other modes, or of governmental entities except DOJ."

Significant sources of information relied upon in preparation of this report include many documents received from DOJ, as well as verified statements submitted to the Interstate Commerce Commission (ICC) on May 9, June 7, June 19, July 26, and August 1, by various railroads, including GTI, P&LE, NS, CR, CSX and Grand Trunk Western (GTW) for consideration in its information investigation entitled Study of the Estimated Traffic Diversion and Viability of the Diverstiture Proposal Resulting from the Acquisition of Consolidated Rail Corporation by Norfolk Southern Corporation (hereinafter referred to as the ICC Staff Study). Included among those documents are GTI's statement of June 30, 1985, Acquisition of Rail Properties in Connection with Purchase by Norfolk Southern Corporation of Common Stock of Consolidated Rail Corporation (hereinafter referred to as the "GTI Business Plan") and the Opening, Reply and Summary statements submitted by CR, NS, GTW and P&LE.

A further significant source of documentation was material provided to DOJ by each of the four parties involved in the transaction in response to detailed questions posed by DOJ. For example, on May 9 and July 25, DOJ sent letters of request for information to Kirkpatrick & Lockhart (outside counsel for GTI). On July 29, July 31 and August 8, 1985, GTI responded. Similarly, on May 28, DOJ requested information from Norfolk Southern Corporation and NS responded in letters dated July 2, July 15, July 25, and August 13, 1985. On May 15, DOJ requested information from P&LE. P&LE responded in letters dated June 27, July 16, July 31, August 2, and August 9, 1985. Finally, on May 31, 1985, DOJ requested additional divestiture information from Conrail. Responses from Conrail to DOJ were contained in letters dated July 8 and August 1, 1985.

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[1] Letter from J. Paul McGrath (Assistant Attorney General, Antitrust Division) to the Honorable Elizabeth Dole (Secretary of Transportation), January 29, 1985, at 7.

[2] Ibid, at 1. The analysis also identified markets involving unspecified locations in the corridor but defined by counties in sixteen states outside the corridor.

[3] Letter from McGrath to Dole, March 26, 1985, at 1.

[4] Letter from McGrath to Dole, January 29, 1985, at 7.

[5] The DOJ analysis does not indicate the standards by which DOJ would determine whether an acquirer would be able to "compete effectively."

[6] Op. cit., at 7-8; Attachment A, provisions 1 and 5.

[7] Op. cit., Attachment A, provision 1.

[8] Article I of the GTI/NS Agreement requires that GTI acquire certain rail properties (described in Schedule A, Part II) in the event that P&LE fails to acquire those properties pursuant to the P&LE/NS Agreement. Approximately 255 additional route miles are involved. GTI also would be required to assume the PWV lease, involving approximately 120 route miles, if P&LE does not. These contingent obligations were not addressed by GTI.

It should be noted that the anlaysis upon which this report is based was not limited to documents received by DOJ by August 1, 1985. Many documents received by DOJ subsequent to that date, as well as public documents disseminated as recently as early September 1985, were reviewed and considered in the preparation of this report.

SUMMARY OF FINDINGS WITH RESPECT TO THE PROPOSED DIVESTITURE TO GTI

ENGINEERING ASSESSMENT OF PROPERTIES TO BE ACQUIRED BY GTI

GTI has identified (albeit in a very generic fashion) various capital and rehabilitation projects associated with properties it would acquire. It appears that GTI would need to rehabilitate two of three major line segments acquired: the Delphos to E. St. Louis segment with approximately 373 route-miles and the Crestline to Chicago line with aproximately 260 route-miles. In addition, GTI would need to construct connections at several locations and make improvements at various yards among other start-up capital projects.

Estimates of the costs for capital and rehabilitation cover a wide range, with CR's estimate being about double GTI's. One significant difference between the estimates is that Conrail assumed GTI would rehabilitate the E. St. Louis line for higher operating speeds than GTI did. Nevertheless, it appears that GTI would be more likely to require expenditures closer to CR's estimate of almost $160 million than its own current estimate which is approximately half that amount.

REVIEW OF GTI'S OPERATING PLAN

Although GTI provided a wealth of documentation regarding its consultant's computer studies of operations, significant questions remain regarding cost and operating assumptions relied upon in GTI's operating analysis. A significant general issue is whether the historical cost data relied upon by GTI is appropriate for analysis of operations on the divested lines. For example, GTI's estimated maintenance of way costs appear to exceed industry averages, but an assessment of the specific elements of these costs is precluded by the insufficiency of supporting documentation.

In addition, there are significant differences in the rates of variability for equipment costs used by GTI and standard ICC rates, and equipment depreciation and lease costs seem not to have been treated adequately. There are also numerical errors in GTI's equipment cost analysis both of omission and commission. Finally, GTI's rates of equipment utilization seem unreasonably high compared to past experience and consequently its equipment costs are probably understated.

Significant issues concerning GTI's development of transportation operating expenses include lack of documentation as to crew costs and reconciliation of train mile and yard service statistics used in the cost analysis. Similar problems also apply to non-operating, fuel, loss and damage, joint facility, piggyback lift charges and general and administrative costs. Until the validity of unit costs and costing assumptions can be established, the reasonableness of GTI's operating cost estimates must remain open to question. In addition, there are significant unexplained discrepancies concerning service units between available ICC statistics on GTI's operations in 1983 and comparable operating statistics for the base case simulation of GTI's 1983 operations.

The results of GTI's operations simulation with the divested lines included in the system indicate that some rather heroic assumptions about efficiency improvements may have been built into the GTI Business Plan. Noteworthy is the result that empty car-miles relative to loaded car-miles will be reduced by 30 percent for the GTI system. When incremental TOFC traffic is excluded from the analysis, the system makes less efficient use of freight cars.

The feasibility of GTI's operating plan has been challenged by competing railroads in the ICC Staff Study. As the following observations indicate, evaluation of those challenges has identified significant concerns:

1. GTI's transit and connecting time assumptions, though not unreasonable, seem not to have allowed sufficiently for normal operating delays;

2. GTI may not have fully explored the need for, and cost of, yard and terminal crews;

3. Slow speeds and traffic sufficient for only one train a day will leave GTI at a substantial competitive disadvantage versus NSCR between Buffalo and E. St. Louis;

4. GTI may have underestimated annual labor protection costs by several million dollars;

5. GTI may be unable to achieve the labor cost savings inherent in its assumption of three man crews; and

6. It is not clear that GTI has done the necessary engineering and cost analyses regarding the feasibility of its plans for intermodal facilities in Chicago and E. St. Louis.

Analysis of the circuitry of GTI's routes between Buffalo and Chicago and E. St. Louis indicates that they are comparable to Conrail's and that the differences are inconsequential in terms of operating viability and mileage-related costs. Circuity, however, will be a factor disadvantaging GTI in competing from the exterior of the corridor to and from Toledo and Indianapolis. That disadvantage will be compounded by significantly inferior service levels being offered by GTI on those routes.

Documents necessary to evaluate the GTI-NS trackage rights agreement were not available; if these agreements follow standard formats and charges, they are not likely to have significant adverse effect.

REVIEW OF GTI'S MARKETING PLAN

The competitiveness of GTI's proposed service (as opposed to the feasibility of the proposed schedules, discussed above) varies by corridor and class of service and, indeed, GTI's Business Plan acknowledges that GTI expects to be competitive only in certain markets. GTI's scheduled TOFC services appear to be competitive between Chicago and New York, less competitive between Chicago and Boston, and non-competitive between St. Louis and both Boston and New York. Thus, GTI's expectations regarding diverting significant levels of TOFC traffic from Conrail in the Boston/New York and St. Louis corridors appear to be overstated. For general freight, GTI's schedule it will offer service superior to Conrail's between Chicago and Boston.

Despite apparent inconsistencies in GTI's diversion assumptions, GTI's analysis of its ability to attract new interline traffic is comparable to an independent analysis performed by NS with regard to such traffic. However, because GTI has not considered the impact of competition from carriers other than NS or CR at stations on the lines GTI will acquire, it appears that GTI's estimate of the traffic and revenue which it will gain from the expansion of the GTI system is somewhat overstated.

With respect to new business (TOFC and general freight traffic which presently moves via other, non-GTI system routes) which GTI will attract through its system expansion, the largest component is TOFC traffic which GTI expects to divert from other rail carriers (or motor carriers). While GTI's estimated TOFC traffic in the New York/Boston and Chicago corridors which it can attract may be reasonable under GTI's service assumptions, the TOFC traffic in the St. Louis and New York/Boston corridors which GTI estimates it will attract appears to be overly optimistic given the non-competitive schedules GTI proposes.

GTI has addressed potential diversions of both its current and new traffic to NSCR. GTI anticipates both outright loss of traffic to NSCR as a result of trackage and reciprocal switching rights which GTI has granted NSCR, and losses of traffic through GTI being shorthauled by NSCR on traffic currently moving via Buffalo, Park Junction and Potomac Yard which GTI assumes will be rerouted by NSCR via Enola and Albany. GTI has adjusted its estimates of traffic and revenue resulting from its system expansion to reflect the impact of losses to NSCR.

REVIEW OF GTI'S PRO FORMA FINANCIAL STATEMENTS

GTI's *pro forma* financial statements, encompassing a five year forecast period, were examined for adequacy of data provided, conformity with accepted accounting principles, consistency with marketing and operating plans, and reasonableness of financial results. The analyses suggested that GTI's viability would be dependent heavily upon the realization of several optimistic assumptions, and that even under the most favorable circumstances GTI's continued existence would be parlous.

The *pro forma* statements as provided indicate expected rapid improvement in GTI's financial health, with net income exceeding $30 million in later years.[1] However, even by the fifth year the operating ratio, or ratio of operating expenses to operating income was slightly above 90 percent. Thus, the contribution that freight traffic could make towards fixed costs would be only about ten percent of revenues. Small adverse errors in anticipated revenue levels or operating expenses could easily reduce operating income below levels needed to cover interest expense. Coupled with projected poor liquidity, GTI would be hard pressed to maintain the quality of service and competitive thrust projected by its marketing and operating plans.

The long term success of the carrier is contingent upon the accuracy of the marketing and operating plans. Substantial revenues from new business (particularly highly-rated, *non*-time sensitive TOFC traffic) would have to be realized, operational efficiency, as reflected in per-carload expenses would have to improve significantly and rehabilitation costs would have to be constrained to very low levels. Doubts about the realism of the marketing and operating plans apply equally to the financial statements; the very real possibility that GTI would fail to realize projected gains in revenues and efficiency leads to the conclusion that the survival of an expanded GTI system is yet to be proven.

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[1] The Financial Review of GTI indicates that income taxes have not been provided for, therefore net income may be overstated.

EVALUATION OF THE PROPOSED DIVESTITURE TO GTI

This review of NS's proposed divestiture to GTI has been, by necessity, preliminary in nature, limited in scope and constrained by inadequate information in certain areas to the point that a definitive judgement cannot be made with respect to whether the proposed divestiture is defective.[2] The review has indicated that in each area of investigation additional information and analysis is required before a definitive judgement could be offered on the existence of material defects in the GTI proposal and before alternative potential remedies (within the parameters of DOJ's January 29 and March 26, 1985 letters to Secretary Dole) could be identified.

The details of the GTI proposal in each of the four areas of investigation are discussed at length in the body of this report. The principal areas for further research are as follows:

1. A *sound* capital projects and rehabilitation plan for GTI must be developed before conclusions can be reached on the competitiveness of GTI's service. The costs associated with that plan must be developed before the full financial impacts can be properly ascertained.

2. The details of GTI's operations planning (and simulation model) must be reviewed in depth with respect to its sensitivity to critical assumptions. More realistic transit times, yard times and through-put rates need to be developed. The likelihood of GTI achieving its negotiating goals with regard to labor agreements must be more firmly established. The cost significance of likely improvements in the efficiency of the GTI system's constituent railroads needs to be established.

3. The competitiveness of GTI at stations jointly served with NSCR (and other rail carriers) as well as in terminals open to GTI through reciprocal switching must be explored in depth with substantive shipper input. GTI's ability to compete for TOFC and motor carrier business must be similarly explored. The impact of competition with CSX and other carriers not yet considered by GTI needs to be reviewed.

4. The sensitivity of GTI's *pro forma* financial statements to the engineering, operating and marketing factors discussed above needs to be established.

Additional specific areas for further research are identified in the text. In addition, Appendix A documents numerous information inadequacies which have been identified and which would need to be remedied.

SUMMARY OF FINDINGS WITH RESPECT TO THE PROPOSED DIVESTITURE TO P&LE

ENGINEERING ASSESSMENT OF PROPERTIES TO BE ACQUIRED BY P&LE

P&LE has not provided any estimate of rehabilitation of the lines which it will acquire; P&LE provides no estimate of the cost of constructing or upgrading connections. In the absence of P&LE estimates, it is necessary to rely upon those submitted by CR in the ICC Staff Study. CR's estimate of the cost of rehabilitating lines to be acquired by the P&LE and constructing or rehabilitating connections is approximately $30 million; this is the only comprehensive estimate available at this time.

[2] "Defective" means that GTI would be unlikely to be able to "compete effectively" and "remain a viable entity providing long-term rail service along the designated corridor."

REVIEW OF P&LE'S OPERATING PLAN

Available information regarding P&LE's operating plan was insufficient to permit an evaluation of the costs associated with the rail services P&LE would operate over the divested lines. The available description of the plan was also insufficient to estimate such costs. The feasibility of P&LE's operations could not be determined due to the absence of sufficient information respecting the plan and its underlying assumptions.

With regard to circuity, P&LE is now a north-south carrier between Pittsburgh and Youngstown with trackage rights north to Lake Erie at Ashtabula over CR, as well as limited trackage rights between Ashtabula and Buffalo over NW. P&LE does not now offer general freight service to and from Buffalo nor do they propose to do so after acquisition. In terms of route mileage, P&LE would have a slightly shorter route to Toledo than CR would but its route to Cleveland would be appreciably longer than CR's.

Lack of information on operations on tracking rights segments do not permit any firm conclusions as to whether administration of trackage rights arrangements would create operating difficulties and increase costs. However, the NS/P&LE trackage rights agreements appear to follow conventional railroad industry practices and fall within the normal range of charges found in the industry.

REVIEW OF THE P&LE MARKETING PLAN

Analyses of P&LE's marketing plan could not be performed because of lack of P&LE data. However, certain assumptions set forth in P&LE's verified statements in the ICC Staff Study have been reviewed:

(1) With regard to competitive service, P&LE would limit itself to competing for selected commodities and would not compete for time sensitive traffic including automotive industry and TOFC shipments;

(2) P&LE would depend on its new interchange partners GTI and GTW to enhance its ability to attract interline traffic;

(3) P&LE's projected traffic which it would gain from its expansion is based on the assumption that all NS business on acquired lines will be "available" to P&LE. That assumption was clarified by P&LE in subsequent statement in the ICC Staff Study which stated that some traffic on the lines to be acquired by P&LE would not be diverted from NSCR. P&LE only clarified its previous statement, it did not revise its estimate of traffic and revenue which P&LE would attract by its expansion.

It should be noted that P&LE's projection of traffic which the expanded P&LE system would attract is three to four times the volume which NS estimated P&LE would gain in its analysis of traffic on the lines to be acquired by P&LE. This review of P&LE's marketing plan, also noted a potential inconsistency between the P&LE and GTI plans with respect to the interchange of traffic which GTI contemplates with P&LE. It cannot be determined from materials supplied by either P&LE or GTI whether this traffic has been claimed by both acquirers.

REVIEW OF P&LE'S PRO FORMA FINANCIAL STATEMENTS

Although the data provided by P&LE are incomplete and inadequate to support a positive assessment of P&LE long-term viability, there is adequate evidence to support the view that seriously unrealistic assumptions have been factored into P&LE's planning. In addition, it is questionable whether there is a reasonable expectation that P&LE is likely to be financially capable of providing a long-term viable rail service over the divestiture properties even given the fact that a third party would acquire the lines and lease them back to P&LE.

P&LE's *pro forma* balance sheet shows that even after financial restructuring, its debt/equity ratio is extremely unfavorable reaching a level usually considered above financially sound levels.

P&LE's *pro forma* income statement indicates it is projecting 30 percent real growth in revenue over five years. Such a substantial and consistent increase in business volume would be difficult to obtain in P&LE's service territory in the near term at least without significant rate reduction, which would impair profitability. The income statement also indicates that continuing increases in efficiency have been assumed but the supporting documentation has not been provided. The *pro forma* also suffers from accounting methods that are at times deficient.

EVALUATION OF THE PROPOSED DIVESTITURE TO P&LE

This review of NS's proposed divestiture to P&LE has been severely hampered by the absence of detailed information concerning P&LE's business plan for the acquisition. The information defects are documented in Appendix A. Once that information (including a sound Business Plan for the P&LE) is made available, detailed engineering, operating, marketing and financial analyses are required to establish a basis for evaluating the plan. This review of available information identified numerous problem areas which are detailed in the text. Significant among these is a *three-fold* difference between P&LE's diversion estimates and those of NS's. Most significant, however, is the review of available financial data for the P&LE which raises serious concern as to whether a Business Plan and financing agreement can be developed that would allow an affirmative finding with respect to the likely long-term viability of the P&LE.

GUILFORD TRANSPORTATION INDUSTRIES ENGINEERING ASSESSMENT

FACILITIES TO BE DIVESTED

The engineering assessment begins with a tabulation of physical facilities to be acquired, rehabilitated and maintained. Pursuant to the Divestiture Agreement between it and NS of June 5, 1985, GTI will acquire certain lines and associated yards, will acquire still others if the P&LE divestiture is not consumated, and will be granted certain overhead trackage rights on lines now owned by NS or CR. These prospective divestitures and rights are set forth in Tables 1, 2 and 3, respectively.

To determine engineering (capital and maintenance) costs associated with the acquisitions and trackage rights described in the divestiture agreement, certain information must be analyzed. A description of the specific element of this information, and the cost of implications of each, follows.

NATURE OF PROPOSED OPERATION

Two factors, operating speed and tonnage to be carried, will determine the infrastructure required of the line segment being analyzed. Sometimes, the initial operating scenario must be adjusted in order to keep engineering costs within reasonable limits.

TABLE 1.—LINES TO BE ACQUIRED BY GTI

Line No. and divesting railroad	Division	District(s)	State(s)	End point		End point		Length [1]	Notes
				Name	MP [1]	Name	MP [1]		
1. NW	Pittsburgh	Buffalo, Cleveland	New York, Pennsylvania, Ohio	Buffalo	1.5	Lakewood	189.2	187.7	[2]
2. NW	Fort Wayne	Marion	Ohio, Indiana	Douglas	65.5	Frankfort	206.5	141.0	[3]
3. NW	Decatur	Charleston, Madison	Indiana, Illinois	Frankfort	208.0	Madison	447.0	239.0	[4]
4. NW	NA	Indianapolis	Indiana	North of Kokomo	58.0	Indianapolis	2.1	55.9	[5]
5. CR	Youngstown, Chicago	NA	Ohio, Indiana	Crestline	188.7	Gary	466.7	258.0	[6]
6. CR	Toledo	NA	Ohio	Carrothers	27.1	Toledo (Andrus Rd.)	82.5	55.4	[7]
7. CR	NA	NA	Indiana	Adams	86.6	Decatur	70.4	16.2	[8]
8. NW	NA	NA	Ohio	Knob	NA	Cloggsville	NA	2.3	[9]

[1] May be approximate.
[2] Excludes line of former Fairport, Painesville and Eastern Railroad Company. Includes NW's and CR's interests (except NW's auto unloading facility) in Bison Yard in Buffalo, NY.
[3] Includes NW's 50% interest in West Marion Belt in Marion, OH.
[4] Includes NW's Madison Yard (at TRRA).
[5] Includes NW's Kokomo Belt in Kokomo, IN.
[6] Includes CR's Colehour Yard. Excludes CR's adjacent Buffalo-Chicago main lines. Mileposts from CR documents.
[7] Carrothers Branch. Includes CR's "E" Yard in Toledo, OH except CR main lines through "E" yard.
[8] Fort Wayne Secondary Track.
[9] Cleveland.

Note.—NA—Not available.

Source: NS and GTI, Divestiture and Acquisition Agreement, June 5, 1985.

TABLE 2.—LINES TO BE ACQUIRED BY GTI IF NOT ACQUIRED BY PLE

Line letter	Divesting railroad	District(s)	Line	State	End point		End point		Miles [1]
					Name	MP [1]	Name	MP [1]	
A	NW	Canton	NA	Ohio	Cleveland	0.9	Harmon	73.6	72.7
B	NW	Toledo, Wheeling	NA	Ohio	Wellington	85.6	Pittsburgh Junction	183.4	97.8
C	NW	Wheeling	Steubenville Branch	Ohio	Steubenville	13.2	Warrenton	0	[2] 13.2
	NW	Wheeling	Main Line	Ohio	Warrenton	205.5	Martins Ferry	213.2	7.7
D	NW	Canton	Chagrin Falls Branch	Ohio	Falls Junction	0	Chagrin Falls	8.2	8.2
E	NW	Canton	Carrollton Branch	Ohio	Canton Yard	0	Carrollton	27.7	27.7
F	NW	Canton	Minerva Branch	Ohio	Minerva Junction	0	Minerva	3.0	3.0
G	NW	Canton	Massillon Branch	Ohio	Orrville Junction	0	Orrville	1.4	1.4
	NW	Canton	Massillon Branch	Ohio	Dalton	7.0	Run Junction	22.1	15.1
H	NW	Canton	Cleveland Belt	Ohio	Belt Line Junction	0	Knob	5.4	5.4
I	NW	Canton	Canton Belt	Ohio	Canton	0	Canton	3.7	3.7

[1] May be approximate.
[2] Via Mingo Junction.

Source: NS and GTI, Divestiture and Acquisition Agreement, June 5, 1985; PL 000066.

TABLE 3.—OVERHEAD TRACKAGE RIGHTS GRANTS TO GTI

	Line No.	Owning railroad	Division(s) (CR) or district(s) (NS)	Line	State(s)	End point	End point		Miles [1]	Notes
						Name	Name	MP [1]		
1	CR	Cleveland, Columbus	[2]	Ohio	Cleveland	12.9	CP Crest	75.7	62.8	[3]
2	CR	Toledo	Buffalo-Chicago Main	Ohio	Berea	193.9	Elyria Yard	204.6	10.7	
	CR	NA	South Lorain Branch	Ohio	Elyria Yard	0	South Lorain	6.8	6.8	[4]
3	CR	Toledo	Carrothers Branch	Ohio	Andrus Road	82.5	Oak Street [5]	.9	[6]	
	NW	NA	Wheeling Belt	Ohio	Oak Street	.9	Ironville Tower	5.0	[6]	[7]
	NW	NA	Cherry Street	Ohio	Ironville Tower	5.0	South of Lang Yard	2.0	[6]	[8]
	CR	Toledo	NA	Ohio	Andrus Road	82.1	"E" Yard	3.5	[6]	[9]
4	CR	Chicago	Pittsburgh-Chicago Main	Indiana, Illinois	Bluffington (CP446)	NA	South Chicago	NA	9.0	[10]
5	NW	Scioto	Main	Ohio	Bucyrus	62.9	Carrothers	76.6	13.7	[11]
6	NW	Frankfort	NA	Indiana	Frankfort	206.5	Frankfort	208.0	1.5	
7	NW	Huntington, New Castle	NA	Indiana	Mike (Fort Wayne)	146.0	Bluffton	162.6	24.7	[12]
8	CR	NA	Kokomo Secondary	Indiana	Kokomo	159.1	Kokomo	159.4	.3	[13]
9	CR	NA	Susquehanna Main	New York	Binghamton	213.2	Hillburn	31.0	182.2	[14]
	NJT	NA	NA	New York, New Jersey	Hillburn	31.0	Ridgewood Junction	NA	NA	[15]
	NJT	NA	Bergen County	New Jersey	Ridgewood Junction	NA	Croxton Yard	NA	NA	[15]
10	CR	NA	Philadelphia-Pittsburgh Main.	Pennsylvania	Rockville	109.9	West of Harris	105.2	4.7	[16]
	Amtrak	NA	NA	Pennsylvania	West of Harris	CR 105.2	Harris	CR 104.8	.4	[17]
	CR	NA	Philadelphia-Harrisburg Main.	Pennsylvania	Harris	112.6	Capitol	NA	NA	
	CR	NA	Lurgan Branch	Pennsylvania	Capitol	0	Lurgan	42.4	42.4	[18]

[1] May be approximate.
[2] Clark Branch and Cleveland-Indianapolis Main Line.
[3] Via Knob, Short and Berea. Connects with Crestline-Chicago line at CP Crest.
[4] Connects with Lake Terminal Railroad at South Lorain.
[5] Connection with NW's Wheeling Belt to be constructed.
[6] Short mileage in vicinty of Toledo, OH.
[7] Connects with NW's Cherry Street Line west of Ironville Tower.
[8] Connects with Grand Trunk Western Railroad south of Lang Yard.
[9] Connects with GTI in "E" Yard.
[10] Connects with Belt Railway of Chicago in vicinty of CP 455, South Chicago, IL.
[11] Connects CR's Crestline, OH-Gary, IN line (MP 62.9 in Bucyrus) with CR's Carrothers Branch of Toledo Division (MP 76.6 in Carrothers).
[12] Via Hugo, IN. Connects with NW's Marion District in Bluffton. These rights have a duration of 3 years.
[13] Connection between NW's Marion and Indianapolis Districts.
[14] Connects with GTI's existing trackage rights on CR's Susquehanna Main Line in the vicinity of "BD Tower."
[15] NS or an affiliate's obligations with respect to NJT trackage rights will be to exercise its best efforts to obtain the necessary trackage rights over NJT.
[16] Connects with GTI's existing trackage rights on CR's Rockville-Buffalo Main Line at Rockville.
[17] NS or affiliate's obligations with respect to Amtrak trackage rights will be to exercise its best efforts to obtain the necessary trackage rights over Amtrak.
[18] Connects with Baltimore and Ohio Railroad at Lurgan.

Note.—NA—Not available.

Source: NS and GTI, Divestiture and Acquisition Agreement, June 5, 1985.

Alignment. This factor is a major determinant of train speeds. If proposed speeds are within present timetable limits, it is safe to assume that present alignment is satisfactory. If speeds are to exceed these limits, perhaps to achieve former timetable speeds, it must be determined whether the present alignment is adequate to support such an increase and, if not, what remedial measures and associated costs are required to achieve the new speeds.

Track Configuration. Depending on the operation, it will have to be ascertained whether track configuration, which can range from a single track with passing sidings to multiple tracks, is suitable for the proposed operation. If additional tracks are required, construction cost estimates have to be prepared. Track configuration, in combination with the type of signal system (if any) in place, has a major effect on rail line operating capacity.

Signals. Signal system condition must be determined as must its adequacy to meet the needs of the proposed operation. The system must be analyzed concurrently with track configuration for capacity determinations.

Track. This is the single greatest engineering cost component; track inventory and condition is critical. Are the existing track structure components (rail, joint bars, tie plates, fastenings and ballast) of the correct size, in good condition and what is their remaining useful life? Ties and rail are the major components. Tie counts (number of defective ties per mile) will tell how much rehabilitation work might be needed and what ongoing maintenance costs will be. Also, if a line is to carry additional traffic (for example, if it is to be upgraded from branch to main line status) a determination must be made as to the adequacy of tie spacing (number of ties per mile). Rail for today's rail lines are usually either in the medium weight (112, 115, 119 pounds per yard) or heavy weight (131, 132, 133, 136, 140 pounds per yard) range. It is important to know whether or not the rail is control cooled (a manufacturing process fully adopted by steel mills after the early 1950's rendering rail far less prone to certain defects), the amount of wear sustained and other problems associated with use. As might be expected, heavy rail sections would be used for higher tonnages, say over 10 million gross ton miles annually (MGTM) while light sections, down to 90 pounds per yard would be adequate for slow-speed, lightly-trafficked lines. Having optimum track structure reduces annual track maintenance costs; less than optimum, of course, increases maintenance costs. Knowing existing track conditions and the proposed operations, it is possible to determine what rehabilitation work is needed. There is some flexibility in that a less than optimum track structure can be used at the expense of higher annual maintenance, but this reduction in standards can be carried only to certain limits, beyond which the operation ceases to be viable.

Structures. Bridge conditions and load limits must be known to estimate major repairs or special high maintenance costs. Where load and speed limits exist they must be examined in light of the proposed operation to determine if any remedial measures are required and a cost determination made. A similar investigation must be made for tunnels. Also, clearance limitations must be accounted for if they are substandard.

New Connections. The feasibility and cost of a new connection is primarily determined by land availability, topography, existing rail line conditions and the use to which it will be put. The acquisition of land can be the most contentious item with time and cost implications. Topography is important where lines to be connected are at different elevations (e.g., one bridges over the other), buildings to be demolished, water courses to be crossed, etc. Existing rail line arrangements might necessitate expensive modifications to signal systems and installation of additional turnouts (beyond those of the connection).

Other Factors. Items of a less sensitive nature such as interlockers, grade crossings, culverts, ditching, etc., that can affect costs can be handled as they surface in the course of analyzing the above-mentioned items.

Analysis. Fortunately, most railroads keep fairly complete records as to alignment, track configuration, signals, track and structure. Using these records, interviews with key railroad personnel, selective field inspections (usually made by high-rail), employee timetables and current slow orders, a comprehensive and accurate assessment can be made of existing facilities eliminating the need for detailed field inspections. Topographic maps and site visits are required to estimate new connection costs.

In the documentation made available by GTI, CR, NS, and GTW (either publicly or through DOJ), information in varying degrees of completeness and detail was provided as to: (1) the condition of the lines to be acquired or over which trackage rights are to be granted; (2) route mileage and track mileage; (3) locations of new connections required to implement GRI's plan; (4) cost to construct required new connections; (5) signal systems; (6) locations and condition of yards to be acquired by GTI; (7) cost to rehabilitate lines and existing connections; and (8) annual normalized track maintenance costs. No cost data were supplied as to the PWV. Absent from these sources is any significant discussion of the condition of structures, buildings, shops, communications facilities, and signal systems.

The most comprehensive description of these facilities to be divested to GTI and the associated costs of maintenance, upgrading and construction is provided by CR Witness W.F. Wulfhorst in a series of tabulations in his testimony in the ICC Staff Study.[1] The cost information in these tabulations is purported to have been developed by skilled engineering personnel after undertaking field inspections.[2] Submissions of GTI, NS, and GTW, although far less comprehensive than the CR data, provide some useful comparative information. A summary of Mr. Wulfhorst's maintenance, rehabilitation and construction cost estimates is presented in Table 4.

NORMALIZED MAINTENANCE ESTIMATES

The annual cost of normalized maintenance is largely a function of operating speeds and tonnage over the lines in question. The FRA Track Safety Standards, partially summarized below, represent a widely-used system of distinguishing among various types of track according to their maximum authorized speeds:

FRA class	Maximum allowable freight train speed (mph)	Maximum allowable passenger train speed (mph)
1	10	15
2	25	30
3	40	60
4	60	80

TABLE 4.—CONRAIL ESTIMATES OF REHABILITATION AND ANNUAL MAINTENANCE COSTS ON LINES TO BE ACQUIRED BY GTI

	Mileage	Estimated cost
To Be Acquired From Conrail		
Route miles	329.8	
Main line track-miles	402.5	
Annual maintenance:		
Level A [1]		$5,241,116
Level B [2]		2,938,918
Line rehabilitation:		
New		49,012,280
Fit		39,537,600
Other rehabilitation or connections:		
New		5,329,402
Fit		4,666,180
To be Acquired From Norfolk Southern		
Route miles	636.3	
Main line track-miles	701.6	
Annual maintenance:		
Level A [1]		9,405,948
Level B [2]		5,397,532
Line rehabilitation:		
New		118,453,580
Fit		86,626,640
Route miles	966.1	
Main line track-miles	1,104.1	
Annual maintenance:		
Level A		14,647,064
Level B		8,336,450
Line rehabilitation:		
New		167,465,860
Fit		126,164,240
Other rehabilitation or connections:		
New		5,329,402
Fit		4,666,180

[1] 11.0 to 15.0 million gross tons per mile annually.
[2] 0.0 to 5.0 million gross tons per mile annually.

Source: W.F. Wulfhorst, "Reply Verified Statement," Appendices I through VIII.

Passenger trains operate only between Crestline, OH and Gary, IN,[3] approximately 255 miles (Amtrak's daily New York-Chicago Broadway Limited). Because of Amtrak's requirements, this segment of line must be maintained to FRA 4 (i.e., 80 mph passenger or 60 mph freight) regardless of the level of freight operations.

GTI estimated track maintenance and rehabilitation costs based on an unexplained sampling of eastern railroads' practices and materials lifetimes. The results of this undisclosed analysis are arrayed in a matrix of track maintenance costs by speed and tonnage.[4]

CR has estimated annual maintenance costs for freight traffic at two levels: Level A, 11 to 15 million gross ton miles per mile annually (MGTM) and Level B, 0 to 5 MGTM.[5] These categories appear to be adequate for the purpose of establishing a potential range of annual maintenance expense, representing as they do approximately three to five trains in each direction daily (Level A) and one train (or less) in each direction daily (Level B).

CR does not explain nor provide work papers to indicate how it arrived at its maintenance estimates; however, those estimates are consistent with industry averages based

[1] Reply Verified Statement of W.F. Wulfhorst, Appendices I through IV.
[2] *Ibid,* at 3.
[3] See GTI/NS Divestiture Agreement dated June 5, 1985, Item 5, Schedule A.
[4] GT 001275–8.
[5] Reply Verified Statement of W.F. Wulfhorst, at 3.

on the relevant FRA track class. Annualized unit costs of all *acquired* lines are:

	Dollars per route-mile	Dollars per main track-mile
Level A	15,161	13,266
Level B	8,629	7,550

Only GTI has provided information similar to that provided by CR which compares, in a limited fashion, normalized maintenance data in GTI's printout labeled "Track Maintenance Costs." [6]

The GTI normalized track maintenance cost was developed by adding the administrative, bridge, building, signal, fringe benefits casualty and other expenses [7] developed by GTI to the trackwork expenses also developed by GTI for the acquired lines [8] after deducting the capitalized portion of the estimates (which—over five years—constitute GTI's projection of rehabilitation expenses).

The GTI maintenance cost estimates are greater than are CR's, even though GTI in some cases assumed a lower FRA track clsss. Because GTI's estimates are based on a formula approach, they inspire less confidence than do CR's numbers which are said to be based on field observation.

REQUIRED REHABILITATION ESTIMATES

In its ICC submission, CR specifies two levels of rehabilitation cost, designated "new" and "fit", "new" means the use of only new materials and "fit" comprehends the use, to the extent possible, of suitable used rather than new materials. CR states, however, that "It is highly unlikely the vast amount of fit material required would be available".[9] This statement is generally true for rail, given the limited amounts of fit or suitable used rail currently available in the market. While neither CR nor any other party gives any breakout of the rail component of total rehabilitation costs, it must be concluded that at this level of analysis an average of the cost of "fit" and "new" rail appears appropriate. This average cost (which provides for a mix of new and relayable rail) will be applied in assessing CR's estimates of all of the two rehabilitation costs.

GTI's work papers that estimates of rehabilitation cost are limited to track elements; no rehabilitation cost estimates are indicated for bridges, signals and other structures. No detail of the work elements proposed as rehabilitation (ties, rail, bridges, signals, etc.) was found in the documents supplied by CR. Some evidence with respect to the condition of those lines which require rehabilitation was supplied, but the detail is insufficient to support a definitive estimate.[10] Yard rehabilitation is addressed below.

There is a considerable amount of rehabilitation to be accomplished on GTI. It is estimated that this work can reasonably be accomplished in five years. Though more costly, an accelerated program could be completed in three years. The schedule limitations are availability of materials (particularly ties and rail), labor (skilled foremen) and track machinery. Over a five year period there would be better opportunity to purchase "fit" (acceptable second-hand) rail at less than half the price of new.

NEW INVESTMENT REQUIREMENTS

GTI's work papers contain no estimates of new investment identified with specific facilities. It can only be assumed that they are contained within the amounts for the segments identified on such work papers.[11] The source of the following connection and yard rehabilitation cost estimates is the CR statements in the ICC Staff Study.[12] Where both "Fit" and "New" estimates were supplied, the average of the two is used.

Connection at Crestline, OH: $1,450,000.

Connection at Delphos, OH: $373,015.[13]

Connection at Oakdale, OH: $498,205.

Connection at Clark, OH: $320,820.

Rehabilitation of Colehour Yard (IN): $1,681,505.

Rehabilitation of Yard "E" (Maple Grove, OH): $995,066.

ENGINEERING JUDGMENTS

Normalized maintenance: There are differences between GTI and CR estimates of normalized maintenance expense, which appear to be attributable to variations in the following: Definitions of line subsegments; Track miles ascribed to identical segments; Assumed level of operations; and Unit costs (per mile) for maintenance.

However, GTI and CR estimates can be readily compared if short subsegments are combined to yield estimates with respect to major line segments. Table 5 displays the differences between the GTI and CR estimates of annual maintenance expense with respect to each major segment.

TABLE 5.—COMPARISON OF NORMALIZED ANNUAL TRACK MAINTENANCE COST ESTIMATES GUILFORD TRANSPORTATION INDUSTRIES AND CONRAIL

Segment	FRA Class		Miles				MGT GTI	Cost		Cost per route mile	
			First main		Second main						
	GTI	CR	GTI	GC	GTI	GC		GTI	CR	GTI	CR
Buffalo-Cleveland	4	4	182.7	198.9	77.0	65.3	13.33	$4,999,872	$2,949,214	$27,367	$14,828
Carrothers-Toledo	3	4	55.0	55.6	18.3	31.7	2.26	479,283	499,406	8,714	8,982
Crestline-Chicago	4	4	264.9	258.0	151.9	41.0	12.29	5,754,421	4,189,187	21,723	16,237
Douglas or Delphos-St. Louis	3/2	4	372.5	381.5	45.4	0	4.45	3,451,572	3,281,556	9,266	8,602
Kokomo-Indianapolis	2	3	52.3	55.9	8.7	0	1.20	421,993	493,130	8,069	8,822
Total			927.4	949.9	301.3	138.0		15,107,141	11,412,493	16,290	12,014

Source: W.F. Wulfhorst, "Reply Verified Statement," Appendices I and III; GT 000123 and GT 000124.

The GTI estimates vary widely, while CR's unit costs are fairly consistent among individual segments and overall, thereby leading to questions with respect to GTI's unit cost estimates. When similar segments are compared (Table 5) the GTI unit cost per route mile averages $16,290, while the CR unit cost averages $12,014 per route mile. GTI data can only be compared with CR data on a per route mile or segment basis.[14]

GTI maintenance estimates with respect to bridges, buildings and signals have been provided on an aggregate basis without reference to specific facilities.[15] It is assumed that those items have been included in the line maintenance costs furnished by CR. CR erroneously has included in its estimates the expense of normalized maintenance for the lines over which GTI will have trackage rights.[16] The GTI/NS Divestiture Agreement relegates such matters to the trackage rights agreements which GTI has yet to supply. In the absence of those GTI/NS agreements, the P&LE/NS agreements supplied to DOJ were examined. Those agreements clearly state that the owner will be responsible for track maintenance, with the car-mile charge of $0.17 covering this and other expenses.[17] NS indicates that the trackage rights agreements between NS and GTI will be similar to P&LE's.[18] Therefore, track maintenance charges on the trackage rights lines will not be considered in this analysis in order to avoid double counting of maintenance of way costs which are addressed separately.

The total GTI annual normalized maintenance expense is $15,107,141; CR's estimate of GTI's total normalized maintenance expense for comparable segments is $11,412,493. It appears that GTI has overstated normalized maintenance expense. Therefore, because CR's estimate approximates industry experience for annualized maintenance in similar operating situations, the CR estimate will be used.

REHABILITATION AND NEW CONSTRUCTION

The GTI Business Plan is vague as to the precise track work included in rehabilitation costs on its acquired lines. At page 37, an expenditure of "approximately $58 million" is mentioned.[19-24]

* * * * *

CR estimates (using average of new and fit material) $93,983,360 as the cost to rehabili-

[6] GT 000124.
[7] GT 000123.
[8] GT 000124.
[9] Reply Verified Statement of W.F. Wulfhorst, at 20.
[10] NS 000454-9.
[11] GT 000123-4.
[12] Reply Verified Statement of W.F. Wulhorst, Appendices I through IV.
[13] At page 12 of his Opening Verified Statement, GTW witness C.J. Meyer provides an estimate of $2,400,000 for this connection plus unspecified communication facilities, highway crossing protection, and interlockings.
[14] GT 000124.
[15] GT 000123.
[16] ICC Staff Study, Reply Verified Statement of W. F. Wulfhorst, June 7, 1985, Appendices II and IV.
[17] NS 000095-171; NS 001322.
[18] NS 000095-171.
[19-24] * * *
[25] ICC Staff Study, Reply Verified Statement of W.F. Wulfhorst, June 7, 1985, Appendix III.

tate the Delphos-St. Louis segment to FRA Class 4.[25]

They estimate $1,823,015 for connections at Delphos and Crestline (no yard improvements shown).[26] These are the only figures CR has prepared that can be compared to those submitted by GTI. The difference should be explored in any future analysis.

Using an average of new and fit material costs, estimated by CR (and displayed in Table 4), rehabilitation costs can be estimated as follows:

	Line rehabilitation costs	Other rehabilitation and connection costs
Acquired Lines	$146,815,050	$4,997,791
Trackage Rights Lines [27]	6,949,625	320,820
Total	153,764,675	5,318,611
Total line and other costs		159,083,286

[27] *Op. cit.*, app. II.

Previously CR's estimate of $159,083,286 and GTI's maximum of $78,000,000 are far apart.

The only two segments of line of which some detail is known are the Celphos to East St. Louis and Crestline to Chicago (CP501) sections.

Between Delphos and East St. Louis comparative rehabilitation estimates are:

GTI—$10,452,860 (FRA Class 3) or $30,452,860 (FRA Class 4)

CR—$93,983,360 (avg. new and fit)[28]

GTW—$37,159,000 [29]

Between Crestline and Chicago (CP501) it is known that Amtrak's Broadway Limited will require FRA Class 4 track. It is also known that the line has approximately 100 track-miles of jointed rail over 35 years old which has carried considerable tonnage over that period.[30] With this knowledge CR's estimate of $25,591,960 appears reasonable.[31] To determine the money required to rehabilitate these rail lines with any degree of confidence, detailed information would be needed as to their proposed level of service (train speeds and projected tonnages) and existing track conditions (particularly ties and rails).

At this juncture it is reasonable to assume that to rehabilitate and construct connections would cost somewhere between GTI's $78,000,000 and CR's $159,083,286. Considering differences in the level of effort exhibited in the documents available, it would be prudent to conclude that an estimate closer to CR's could be more accurate.

Operating Plan Review

In assessing the operating plan of an existing rail system, there are several fundamental question to be addressed:

(1) Is the plan consistent with the physical capabilities of the network over which operations would be conducted?

(2) Has sufficient attention been given to the ability of yard and terminal facilities to support the proposed operation? (This is a common failing of proposed operating plans, concentrating as they sometimes do on over-the-road train operations, despite the fact that freight cars typically spend a greater proportion of their time in terminals than they do moving in trains.)

(3) Are the routes involved competitive with those of other rail carriers, in terms of both distance and speed? If not, can these disadvantages be overcome through minimization of car detention at terminals?

(4) Are the plan's labor assumptions reasonable? Are significant changes in existing labor arrangements (e.g., crew manning levels, crew districts, and other matters covered by collective bargaining agreements) required by the plan?

These and related questions have been considered in the course of reviewing GTI's operating plan with regard to the divestiture properties. This review has, of course, encompassed not simply the materials available in the public record with regard to the proposed transactions but also those documents furnished DOJ on a confidential basis.

Proposed operating plan

The centerpiece of GTI's proposed operating plan would be the operation of four new through trains in each direction daily over various portions of the acquired lines. Three of these trains would originate/terminate in Chicago, the fourth in St. Louis. In addition, GTI would operate unit coal and grain trains on certain of its newly acquired lines, as well as local train service on all lines west of Buffalo. Table 6 lists the new train services contemplated by GTI.

GTI's consultants, BAH, appear to have undertaken a comprehensive and detailed modeling exercise (using the firm's BARNS model) to develop the proposed operating plan. The data generated by this exercise includes detailed traffic flows, schedules of each train to be operated, assignment of traffic (both loads and empties) to specific blocks, assignment of blocks to trains, and statistics as to train-miles, car-miles and ton-miles. These statistical data apparently were used as the basis for the development of the expanded system's operating expenses, a matter discussed in more detail below. Notwithstanding this wealth of documentation, questions remain as to whether the assumptions underlying the statistical data are complete and credible and, even if so, whether the resulting operating plan will be commercially viable.

TABLE 6.—NEW TRAIN SERVICE PROPOSED BY GTI

Service and route	Frequency: Days per week	Frequency: Other
Intermodel:		
Boston-Chicago	7	
Croxton-Chicago	7	
Manifest		
E. Deerfield/Mechanicville-Chicago	7	
Portland-St. Louis	7	
Unit coal:		
Edwardsville-Coffeen		Every other day.
Unit grain:		
Decatur-Philadelphia (B&O))		25 trips per year.
Hamlet-Philadelphia (B&O)		12 trips per year.
Chicago-Albany		25 trips per year.
Local:		
Kokomo-Indianapolis	6	
Fort Wayne-Chicago	6	
Crestline-Toledo	6	
Frankfort-Marion	5	
Fort Wayne-Decatur	5	
Crestline-Fort Wayne	3	
Buffalo-Conneaut	3	
Conneaut-Lorain	3	
Decatur-Lima	3	
Charleston-Frankfort	2	
Decatur-Marion	2	
E. St. Louis-Charleston	1	

Source: GT 000646–859, 865.

It is important to note that, while GTI's consultants, BAH, have furnished copious documentation of the quantitative data of the BARNS model, there is an almost complete absence of descriptive material that would facilitate understanding the interrelationships of the assumptions and the model's results. The only document provided that describes the model, GT 000401–14, is not specific to the GTI simulation; rather it appears to be a sales tool, describing as it does the model's past and potential applications, rather than how it works. It appears, in fact, to have been prepared for distribution outside the U.S., as in certain places it uses the British term "wagon" where the North American equivalent would be "car", and "marshalling" rather than "classification" yards (see, e.g., GT 000406). Analysis of the BARNS data therefore has depended on experience both in railroad management and analysis and in the development and use of other rail network simulation models.

The BAH operations modeling effort is a principal underpinning to the operating assertions made in GTI's Business Plan for the divestiture properties. As part of the ICC Staff Study, certain parties opposed to the NSCR transaction filed Additional Reply Statements on July 26, 1985, in which they addressed, *inter alia*, the perceived failings of GTI's operating plan. These opponents included CSX Corporation and CR itself, whose witnesses on operating issues were F.W. Yocum, Jr., and W.F. Wulfhorst, respectively. While these witnesses lacked access to the underlying BAH documentation, questions they raised are significant even in the face of that documentation, and may be summarized as follows:

Yocum

(1) The circuitry of the routes to be acquired by GTI versus those of competing carriers principally NSCR;

(2) The physical condition of routes to be acquired, and attendant speed restrictions;

(3) GTI's alleged failure to address the condition (and rehabilitation and maintenance expense) of the yards it would acquire;

(4) The disparity between forecast equipment productivity levels (revenues per locomotive and car) on GTI's acquired lines and those on its existing lines;

(5) Whether GTI's transit times on intermodal traffic would be competitive with CR's; and

(6) The seeming conflict between GTI's assumption that it would employ 3-man train crews and its offer of employment to all current NS or CR employees on the lines to be divested.

Wulfhorst

(1) The alleged overoptimism of GTI's intermodel train schedules;

(2) The need to construct new intermodal terminals at Croxton, NJ (New York area), Colehour, IL (Chicago), and Madison, IL (St. Louis);

[25] ICC Staff Study, Reply Verified Statement of W.F. Wulfhorst, June 7, 1985, Appendix III.

[26] *Op. cit.*, Appendix I.

[28] ICC Staff Study, Reply Verified Statement of W.F. Wulfhorst, June 7, 1985, Appendices II and III; GT 000123-124; GTI Business Plan, at 37.

[29] ICC Staff Study, Verified Statement of C.J. Meyer, May 23, 1985, page 12.

[30] CR 001766–80, CR 001783–97.

[31] ICC Staff Study, Verified Statement of W.F. Wulfhorst, June 7, 1985, Appendix I.

(3) The fact that GTI's assumption of an interchange with P&LE at Wellington, OH does not appear to be supported by the NS/GTI Divestiture and Acquisition (D&A) agreement;

(4) The allegedly poor condition of some of the yards that GTI proposes to acquire;

(5) The alleged overoptimism of GTI's assumptions as to yard efficiency; and

(6) The need for (and cost and construction schedules of) new connections needed between the acquired lines.

One of these questions may be disposed of rather quickly, or at least categorized as being of somewhat lesser significance than others. Mr. Yocum notes that revenues per locomotive and car will be far higher on GTI's western extension than on its existing lines, suggesting either that revenues have been overestimated, equipment needs underestimated, or both. However, without necessarily concluding that either of these items has been estimated accurately by GTI, it is conceivable that revenue per unit of equipment may indeed be relatively high on the divested lines. These lines are to be used primarily for through freight services, whereas much of GTI's existing network is yard and branch-line intensive, both of which imply low levels of equipment utilization per revenue dollar. However, the BARNS data do raise other questions concerning car utilization, discussed below.

The question of the present condition of the divestiture properties, and the potential cost of rehabilitating them to levels adequate to meet GTI's needs, as well the cost of new connections required, has been discussed in the section of this report devoted to engineering issues. Other major issues raised by opponents of the divestiture are discussed below.

Underlying operating assumptions and feasibility

In order to assess the feasibility of a proposed operating plan, one must first look to the assumptions that underlie it. If the transit times assumed over key segments are unrealistic, for example, then the service may not be as competitive as described by the plan's proponents, and anticipated operating costs may be understated. In the section that immediately follows GTI's principal operating assumptions are reviewed and their feasibility or reasonableness assessed.

A second test of an operating plan's feasibility relates to the statistical and financial results that would flow from implementation of the plan. The forecast results of GTI's expanded operation are therefore treated in the subsequent section, "Imputed Operating Costs." Taken together, the underlying assumptions employed by GTI and its consultants and the forecast results of GTI's expanded operation raise a number of significant questions as to the plan's feasibility.

Transit times and operating speeds

The development of train schedules and related operating statistics by the BARNS model relies in part on the user's specification of traversal (i.e., movement) times over each segment, or link, in the rail network being analyzed. Three distinct traversal times may be specified for each link: "slow", "regular" and "expedited." The first would apply to local, manifest and unit trains, the second to higher priority trains and the third to passenger trains and those carrying intermodal traffic.[1] In the case of the GTI analysis, the slow and regular times have been set equal, and selected links between Croxton and Chicago have been assigned faster times for intermodal trains. The cumulative traversal time over the Croxton-Chicago route (exclusive of intermediate stops) is 32 hours 3 minutes for intermodal trains and 34 hours 30 minutes for other trains.[2]

In order to test the reasonableness of GTI's assumed transit times over the segments which comprise its Western Extension (including the new trackage rights between Croxton and Binghamton, and the existing DH trackage rights over the Conrail line between Binghamton and Buffalo), two methods have been used. On the route between Croxton and Chicago, via Binghamton, Buffalo, Cleveland, Crestline and Fort Wayne, GTI's schedules haave been compared with those of CR. Because detailed CR freight schedules were available, while similar NS data were not, GTI service on the segment between Buffalo and Cleveland has been compared with CR service while GTI would operate on trackage today owned and operated by NS. The two routes between these cities are closely parallel and are both high-density, well-maintained lines, presumably with similar service capabilities. Document NS 001491 shows that the NS line, 184 miles in length, has 45 miles of double track, and that the maximum speed on the line is 60 mph except for 32 miles of 40-mph operation, 23 miles of which is in the westward direction only in double-track territory.

On the route between Delphos and St. Louis such a comparison was not feasible (even if historical NS freight schedules were available); no through train service has been operated over the line for several years and the condition of the line apparently has been allowed to deteriorate in recent years. GTC witness Meyer in his Opening Verified Statement in the ICC Staff Study displays (at page 10) an enumeration of maximum authorized operating speeds over this route, which he says was developed in the course of a recent inspection of the line. On this route, therefore, GTI's assumed speeds have been compared with the maximum authorized speeds presented by Mr. Meyer.

Table 7 displays a comparison of GTI forecast and CR actual schedules over various segments of the Croxton-Chicago route. The most recent available CR schedule data have been employed; with respect to the Crestline-Fort Wayne-Chicago portion of the route, where CR no longer operates through freight service, these data are from the period 1977-80. However, despite the removal of through freight service, it is believed that schedules over this route would be similar to those operated today because the line has continued to be maintained at relatively high levels to accommodate Amtrak's New York-Chicago Broadway Limited passenger service. The downgrading of this route is understood to have involved primarily the removal of double track segments as well as signal modification, neither of which would be likely to affect the ability of GTI to operate service at its forecast levels.[3]

As Table 7 indicates, GTI's forecast schedules are somewhat more optimistic on most segments than are CR's. However, there is substantial variation even among CR's own train schedules, and it must be realized that development of freight train schedules is an inexact science at best. They are often structured to accommodate a certain amount of day-to-day variation attributable to operating, mechanical and other delays. It is apparent that while GTI's assumed schedules may fall within the range of reasonableness, they cannot properly be described as conservative. Inevitably, delays will occur whose location, duration and frequency cannot be predicted, and GTI's transit time assumptions appear to have given insufficient weight to such factors, particularly on the line segments west of Cleveland (Berea).

A similar conclusion is suggested by Table 8, which displays average speeds over various segments of the Delphos-St. Louis route, both as currently in force (based on the Meyer evidence) and as assumed by GTI. The weighted average maximum authorized speed over this line, including 28 miles of 10-MPH slow orders between Delphos and Frankfort, is 26.5 MPH; GTI's assumed average speed is 22.8 MPH. While once again this is within the range of reasonableness, it does not appear to reflect a sufficient allowance for typical delay. In addition, it must be remembered that freight trains do not spend 100 percent of their time operating at maximum authorized speed; they must accelerate as they depart each stopping point and decelerate when approaching such points, and recovery from intermediate slowdowns also erodes the average speed of a train.

TABLE 7.—COMPARISON OF PROPOSED GTI WITH CONRAIL SCHEDULES—CROXTON-BINGHAMTON-BUFFALO-CLEVELAND-CRESTLINE-FORT WAYNE-CHICAGO

Segment	GTI Schedule					Conrail schedule						GTI time as percent of CR time
	Train	Depart origin	Arrive destination	Intermediary stops (minutes)	Net transit time (minutes)	Train	Date	Depart origin	Arrive destination	Intermediary stops (minutes)	Net transit time (minutes)	
Croxton-Binghamton	CXCH	2330 ET	0725 ET		475	TV-401	6/85	0900 ET	1825 ET	5	560	85
Binghamton-Croxton	CHCX	1942 ET	0337 ET		475	TV-400	6/85	0810 ET	1805 ET	5	590	81
Binghamton-Buffalo	CXCH	0730 ET	1537 ET		487	TV-401	6/85	1825 ET	0100 ET	5	390	125
Buffalo-Binghamton	CHCX	1130 ET	1937 ET		487	TV-400	6/85	0025 ET	0810 ET	5	460	106
Croxton-Buffalo	CXCH	2330 ET	1537 ET	5	962	TV-401	6/85	0900 ET	0100 ET	10	950	101
Buffalo-Croxton	CHCX	1130 ET	0337 ET	5	962	TV-400	6/85	0025 ET	1805 ET	10	1,050	92
Croxton-Cleveland	CXCH	2330 ET	2136 ET	103	1,223	TV-401	6/85	0900 ET	0520 ET	15	1,205	101
Cleveland-Croxton	CHCX	0540 ET	0337 ET	94	1,223	TV-400	6/85	1935 ET	1805 ET	15	1,335	92

[1] GT 000647.

[2] GT 000415-432, especially 429.

[3] NS 001494.

TABLE 7.—COMPARISON OF PROPOSED GTI WITH CONRAIL SCHEDULES—CROXTON-BINGHAMTON-BUFFALO-CLEVELAND-CRESTLINE-FORT WAYNE-CHICAGO—Continued

Segment	GTI Schedule					Conrail schedule						GTI time as percent of CR time
	Train	Depart origin	Arrive destination	Intermediary stops (minutes)	Net transit time (minutes)	Train	Date	Depart origin	Arrive destination	Intermediary stops (minutes)	Net transit time (minutes)	
Buffalo-Erie	EDCH	1900 ET	2125 ET		145	BUCO	6/85	2155 ET	0015 ET		140	104
Erie-Buffalo	CHME	0153 ET	0418 ET		145	COBU	4/85	1140 ET	1355 ET		135	107
Buffalo-Cleveland	CXCH	1630 ET	2136 ET	45	261	TV-401	6/85	0105 ET	0520 ET		255	102
Cleveland-Buffalo	CHCX	0540 ET	1046 ET	45	261	TV-400	6/85	1935 ET	0020 ET		285	92
Buffalo-Cleveland	EDCH	1900 ET	0018 ET	30	288	BUCO	6/85	2155 ET	0345 ET	15	335	86
Cleveland-Buffalo	CHME	2300 ET	0418 ET	30	288	COBU	4/85	0700 ET	1355 ET	15	400	72
Berea-Crestline	EDCH	0213 ET	0338 ET		85	BUIN	5/85	1900 ET	2130 ET		150	57
Crestline-Berea	CHME	1940 ET	2105 ET		85	SLSE	4/85	0115 ET	0320 ET		125	68
Crestline-Lima	EDCH	0423 ET	0603 ET		100	PIIH	11/80	1715 ET	1930 ET		135	74
Lima-Crestline	CHME	1800 ET	1940 ET		100	IHCR	10/80	1300 ET	1450 ET		110	91
Lima-Fort Wayne	EDCH	0648 ET	0813 ET		85	PIIH	11/80	2015 ET	2315 ET		180	47
Fort Wayne-Lima	CHME	1605 ET	1730 ET		85	IHCR	10/80	1020 ET	1230 ET		130	65
Crestline-Fort Wayne	CXCH	2356 ET	0226 ET		150	MAIL-9	10/80	2355 ET	0245 ET		170	88
Fort Wayne-Crestline	CHCX	0050 ET	0320 ET		150	MAIL-8	10/80	1025 ET	1330 ET		185	81
Crestline-Fort Wayne	EDCH	0423 ET	0813 ET	45	185	MEBR	5/80	0630 ET	1100 ET		270	69
Fort Wayne-Crestline	CHME	1605 ET	1940 ET	30	185	IHEN	9/80	0800 ET	1230 ET		270	69
Fort Wayne-Hobart	EDCH	0858 ET	1043 CT		165	PR-7	4/78	0120 CT	0430 CT		190	87
Hobart-Fort Wayne	CHME	1135 CT	1520 ET		165	BN-4	5/77	0930 CT	1220 CT		170	97
Fort Wayne-Colehour	EDCH	0858 ET	1118 CT		200	BRC-75	6/77	1310 CT	1740 CT		270	74
Colehour-Fort Wayne	CHME	1100 CT	1520 ET		200	PR-4	2/78	1500 CT	1850 CT		230	87

Source: GTI Timetable Generator, GT 000924-37; Conrail Freight schedules, various editions.

TABLE 8.—CURRENT MAXIMUM AUTHORIZED NS SPEEDS COMPARED WITH PROPOSED GTI AVERAGE SPEEDS—DELPHOS-EAST ST. LOUIS

NS segment	Miles	Maximum authorized speed (mi/h)	Traversal time (minutes)	GTI segment	Miles	Average speed (mi/h)	Traversal time (minutes)
Delphos-Frankfort	105	25	252	Delphos-Decatur	34	20.4	100
	28	10	168	Decatur-Bluffton	15	20.0	45
				Bluffton-Marion	30	20.0	90
				Marion-Kokomo	28	19.8	85
				Kokomo-Frankfort	26	19.5	80
Frankfort-Charleston	112	35	192	Frankfort-Linden	22	26.4	50
				Linden-Mellott	13	26.0	30
				Mellott-Oakland	62	24.8	150
				Oakland-Charleston	15	22.5	40
Charleston-Bayle	67	35	115	Charleston-Cowden	44	25.1	105
				Cowden-Gillmore	13	26.0	30
Bayle-Coffeen	9	40	14	Gillmore-Coffeen	21	25.2	50
Coffeen-East St. Louis	52	30	104	Coffeen-Edwardsville	36	24.0	90
				Edwardsville-A&S Tower	13	23.0	35
Total	373		845		372		980
Weighted average (mi/h)		26.5				22.8	

Source: C.J. Meyer, Opening Verfied Statement, p. 10; GTI Network Description Report. GT 000423-4.

Yards and terminals

Like many rail operating plans, GTI's appears to give less attention to the role of yard and terminal operations than to line-haul train service. The BARNS model generates a report quantifying the number of cars switched daily at each principal station, or node, but no document has been identified that uses those figures as a basis for determining the number of yard crews needed on the acquired lines has been found in the materials provided to DOJ. Table 9 sets forth a list of those points west of Buffalo where intermediate switching (i.e., reclassification of cars at a point other than origin or destination, labelled in the BARNS model as "transit" switching) would occur. At two of these points (E. St. Louis TRRA and Chicago BRC), such work would presumably be performed by crews of the respective terminal railroads. At others, it is unclear whether the work would be done by GTI yards crews or by local trains serving these stations. There is a BAH document that provides for 2,340 annual yard crews (45 weekly) on the acquired lines, but the locations of these crews cannot be determined from the available data.[4] The absence of explicit, detailed treatment of yard crews suggests that GTI may not have fully explored the need for, and cost of, this type of activity.

TABLE 9.—GTI WESTERN EXTENSION POINTS PERFORMING INTERMEDIATE SWITCHING

Node number	Location	Cars switched per design day		Minimum connection times (transit) (minutes)	
		Intermediate (transit)	Total	Regular	Expedited
63	Chicago BRC	221	249	300	120
195	Cleveland	168	181	300	120
5	E. St. Louis TRRA	111	132	300	120
110	Toledo	85	107	200	120
126	Lima	73	91	200	120
122	Fort Wayne	38	99	300	120
20	Frankfort	27	32	300	120
61	Colehour	9	22	300	120
178	Crestline	5	5	200	120
128	Decatur	4	55	200	120
1	E. St. Louis	2	15	300	120

Source: GT 000418-22, 000548-9.

It also appears that GTI's consultants, BAH, have made fairly optimistic assumptions with respect to car throughput times at yards at which such intermediate switching would be performed. Table 9 lists, in addition to projected numbers of design day transit switches, the minimum connecting times on such traffic at each yard. Four of the eleven yards listed have minimum times on "regular" traffic of 200 minutes; the other seven have minimum times of 300 minutes. On expedited traffic, the minimum time is a uniform 120 minutes.

A switching time of 3 to 5 hours on non-expedited traffic is somewhat optimistic. Calculation of such times for an existing or prospective rail operation must take into account such factors as yard congestion at peak hours, yard crew schedules, and relative priorities afforded various inbound movements. It is not clear that BAH took such considerations into account in its connecting time assumptions as to regular traffic.

Table 10 lists the connecting times between CR trains at Elkhart, IN, and Selkirk, NY, two of CR's principal classification yards. The minimum connecting time shown at both Elkhart and Selkirk is 4 hours 30 minutes. However, in both cases, these times apply to inbound trains carrying time-sensitive traffic: DNEL arriving at Elkhart consists largely of automotive traffic from Michigan points, while PXSE arriving at Selkirk is a perishables train. The next-shortest connecting times at both terminals exceed 5 hours.

TABLE 10.—CR CONNECTING TIMES, ELKHART, IN AND SELKIRK, NY

Yard	Inbound		Connects to		Connecting time (hours/minutes)
	Train	Arrives	Train	Departs	
Elkhart	COEL	0030	ELBN	0930	9'00"
	FWEL	0115	ELBN	0930	8'15"
	SYEL	0225	ELBN	0930	7'05"
	JAEL	0345	ELBN	0930	5'45"
	BHEL	0430	ELDW	2000	15'30"
	DNEL	0500	ELBN	0930	4'30"
	IHEL	0500	ELIN-B	1600	11'00"
	BNEL	0700	ELSE	2100	14'00"

[4] GTI T&E Cost Work Sheet, GT 000149.

TABLE 10.—CR CONNECTING TIMES, ELKHART, IN AND SELKIRK, NY—Continued

Yard	Inbound Train	Inbound Arrives	Connects to Train	Connects to Departs	Connecting time (hours/minutes)
	SFEL–B	0830	ELSE	2100	12'30"
	GREL	0915	ELIH	2030	11'15"
	INGT	0915	ELDW	2000	10'45"
	OIEL	0945	ELGR	0540	19'55"
	KAEL	1100	ELSE	2100	10'00"
	BREL	1130	ELSE	2100	9'30"
	CJEL	1230	ELSE	2100	8'30"
	CHEL	1245	ELSE	2100	8'15"
	PIEL	2000	ELBN	0930	13'30"
	SFEL–A	2000	INGT	1145	15'45"
	BOEL	2045	ELBN	0930	12'45"
	INEL	2100	ELBN	0930	12'30"
	TOEL	2100	ELBN	0930	12'30"
	BUEL	2350	ELBN	0930	9'40"
Selkirk	MCSE	0030	SEOI	0730	7'00"
	COSE	0100	SEBO–B	1300	12'00"
	PWSE	0100	SEEN	1800	17'00"
	ELSE	0300	SEBO–B	1300	10'00"
	BMSE	0400	SEEN	1800	14'00"
	TOSE	0715	SEEN	1800	10'45"
	OPSE	0800	SENF	2000	12'00"
	BUSE	0930	SENH	1600	6'30"
	LISE	1100	SENF	2000	9'00"
	ENSE	1201	SENF	2000	7'59"
	SBSE	1410	SECO	0400	13'50"
	BOEL	1430	BOEL	2230	8'00"
	OISE	1430	BOEL	2230	8'00"
	NHSE	1600	SEIN	0210	10'10"
	NFSE	1645	SEOP	2200	5'15"
	PXSE	1730	SEOP	2200	4'30"
	PYSE	1730	SEBO–A	0200	8'30"
	POSE	1900	SEOI	0730	12'30"
	TV–24	1900	SEMC	0500	10'00"
	SLSE	2330	SEBO–B	1300	13'30"

Source: CR Freight Schedules, July 1, 1985.

An expedited (intermodal) traffic, BAH's assumption of a 120-minute minimum connecting time also may be considered optimistic. CR's July 1, 1985, freight schedules show the following connecting times from arrival of intermodal trains reclassified at intermediate points to their first connecting trains:

Yard	Inbound Train	Inbound Arrives	Connects to Train	Connects to Departs	Connecting time (hours/minutes)
Harrisburg	TV–4M	0200	TV–26	0830	6'30"
Harrisburg	TV–4M	0200	TV–62H	0430	2'30"
Selkirk	TV–6	0400	TV–6	0630	2'30"
Conway	TV–26	1255	TV–26	1745	4'50"

Thus, CR's minimum connecting time on such traffic is 150 minutes versus GTI's 120 minutes. It is understood that GTI's assumed connecting times (both regular and expedited) are minimums, not averages. However, it appears that they do not take into account the actual capabilities of the yards in the GTI network, but have instead been applied based solely on a conceptual stratification of the BARNS nodes' various functions.[5]

Operating labor requirements

Section 15.01 of the GTI/NS Agreement states that: "Employees of NS and its affiliates (including CR) who fill the positions designated in Schedule J will, upon the effectiveness of the applicable implementing agreements, thereafter be considered employees of GTI or its affiliates for all purposes . . ."

This section further provides that NS shall indemnify GTI for labor protection costs in excess of those "payable under *New York Dock*" with respect to the employees filling the positions listed in Schedule J.[6] Schedule J lists 837.5 positions to which those provisions apply (530 NS and 307.5 CR). Of these, 114 represent engine service employees (enginemen and firemen) and 194 represent conductors and brakemen in freight service. An additional 135.5 positions are identified as clerical, supervisory and related assignments in the carriers' operating departments; such positions are commonly described as "non-operating" to distinguish them from train and engine service employees. Documentation furnished DOJ by BAH[7] indicates that GTI's western extensions will have the following numbers of weekly crew starts in various types of service:

Weekly crew starts	Service	Employees per crew
196.0	Thru trains	3
7.4	Unit trains	3
63.0	Local trains	3
23.0	Local trains	4
45.0	Yard	3

Taken together, these numbers indicate 334.4 weekly engineers' crew starts and 691.8 weekly trainmen's crew starts. If each employee is assumed to have five starts weekly, the resulting manpower needs are 67 with respect to enginemen and 138 with respect to trainmen. The same set of documents lists projected "non-operating" labor requirements that total 106.7 positions.[8]

As can be seen from the table below, GTI's operating labor requirements are below the numbers of personnel that the company would be required to employ under its agreement with NS, assuming that all current employees on the acquired lines accept employment with GTI.

Category	GTI projected requirements	Current employees	Difference Number	Difference Percent
Enginemen	67	114	47	70
Trainmen	138	194	56	41
Nonoperating	106.7	135.5	28.8	27
Total	311.7	443.5	131.8	42

Since the agreement requires GTI to offer *New York Dock* protection to its employees acquired from NS and Conrail, GTI is likely to incur costs for labor protection not accounted for in its pro forma financial statements. If the average annual compensation level per employee (including fringe benefits) were $35,000, this cost would approximate $4.6 million annually with respect to operating department employees alone. This could be reduced by attrition, by absorption of some new employees on present GTI lines (with attendant relocation costs) and by the fact that extra train and engine service employees would be needed to fill irregular vacancies. However, the magnitude of the differences noted above makes this issue worthy of exploration with GTI.

GTI has not detailed, however, how it will achieve the 3-man crew levels that it has assumed; doing so will require negotiations with the operating craft unions, the outcome of which is by no means assured. There is a growing number of precedents for the use of 3-man crews (particularly on Conrail), but Norfolk & Western (the present operator of much of GTI's to-be-acquired trackage) has not been in the forefront of carriers seeking this concession from its labor organizations, and so the GTI assumption on manning levels must remain an open question.

Intermodal facilities

The GTI marketing and operating plans contemplate the movement of intermodal traffic between Chicago and St. Louis in the West and Croxton and New England points in the East. To do so, GTI will require new intermodal terminals at Chicago, St. Louis and Croxton. The last of these is specifically referenced in Schedule B of the June 5, 1985, NS-GTI Divestiture and Acquisition Agreement, which states that NS will lease to GTI three tracks at Croxton capable of holding at least 60 intermodal flatcars per track. However, the only references made to the specific location or configuration of the terminals at Chicago and St. Louis in any of the materials reviewed, other than in the BARNS printouts,[9] are in correspondence of August 7, 1985,[10] from GTI's consultant, BAH, to GTI's outside counsel describing briefly the anticipated functions of newly-acquired GTI yard facilities.

Absent any explicit detailed treatment of the Chicago and St. Louis TOFC terminals, the following questions remain unanswered:

(1) What will the physical configuration and capacity of these terminals be, and is capacity consistent with traffic levels assumed in the marketing plan?

(2) Is sufficient land available at Colehour and Madison, and would intermodal operations be compatible with other switching activities conducted there?

(3) Will there be easy rail and highway access to these terminals?

(4) What are the capital costs of these new facilities? These cannot be dismissed as mere details to be resolved at some future date. GTI's Chicago operation in particular is heavily dependent on intermodal traffic, and if the physical facilities to support this operation are not readily available, GTI's marketing and operating plans could both require substantial adjustment.

Equipment utilization

Analysis of car utilization data produced by the BARNS model discloses that the operating plan proposed by GTI would result in less efficient freight car use upon inclusion of the Western Extension. The table below shows car-miles and car-days for the GTI system both with and without the inclusion of the Western Extension. The percentages in parentheses represent the respective changes from the base case (excluding the Western Extension).

	GTI without Western extension	GTI with Western extension	GTI with Western extension TOFC excluded
Loaded car—miles (000)	114,499	202,250 (77%)	126,679 (11%)
Empty car—miles (000)	105,264	155,908 (48%)	142,150 (35%)
Loaded car—days	1,099,801	1,553,699 (41%)	1,361,997 (24%)

[5] GT 000417.

[6] The so-called *New York Dock* conditions are labor protective provisions traditionally imposed by the ICC in rail merger and consolidation cases. They provide, in brief, for maintenance of pre-merger compensation levels for employees adversely affected by a transaction, up to a maximum of 6 years. *See* 360 ICC 60.

[7] GT 000145–146, 149.

[8] GT 000151.

[9] These printouts show a "CHGO TOFC" node one mile east of Colehour Yard (to be acquired by GTI) and a "STLOUIS TOFC" node at the same geographic location as GTI's connection with the TRRA, in the vicinity of Madison yard (also to be acquired by GTI). See, e.g., GTI network Description Report, GT 00415–432, esp. 000429, and 000432.

[10] GT 001281–83.

	GTI without Western extension	GTI with Western extension	GTI with Western extension TOFC excluded
Empty car—days	1,016,699	1,348,200 (33%)	1,332,085 (31%)

The data indicate that expansion through the addition of the Western Extension would result in an increase in loaded car-miles of 77 percent while empty car miles would be increased by only 48 percent. Similarly, car-days show a greater change in loaded days (41 percent) vis-a-vis empty days (33 percent). Based on these relative changes, it would appear that the Western Extension contributes to improved productivity of the fleet. However, if incremental TOFC traffic (traffic currently not handled by GTI) is removed from the GTI/Western Extension case, the opposite effect is observed; productivity of the on-line car fleet, in fact, deteriorates significantly. While loaded car-miles increase 11 percent, empty car-miles increase by 35 percent. The gain in empty car-miles is so significant when the additional TOFC traffic is excluded from the Western Extension scenario, that the empty return ratio increases from 0.92 in the Base Case to 1.12 indicating that empty car-miles exceed loaded car-miles. With respect to car time, a similar deterioration holds. The percent increase in empty car-days (31 percent), is greater than the increase in loaded car-days (24 percent).

Examining each existing operating entity, a similar deterioration of fleet productivity is visible:

	Without Western extension	With Western extension	With Western extension TOFC excluded
Boston and Maine:			
Loaded car—miles (000)	43,261	51,086 (18%)	43,198 (—)
Empty car—miles (000)	39,249	43,402 (11%)	42,131 (7%)
Delaware and Hudson:			
Loaded car—miles (000)	59,205	79,874 (35%)	52,100 (—12%)
Empty car—miles (000)	54,650	62,156 (14%)	57,646 (5%)
Maine Central:			
Loaded car—miles (000)	12,034	12,763 (6%)	11,709 (—3%)
Empty car—miles (000)	11,368	12,066 (6%)	11,635 (2%)

Note.—Car-day data are not available on an operating entity basis.

When incremental TOFC traffic is removed from the traffic base of each operating unit, empty car-miles increase at a faster rate than loaded car-miles. On the D&H, empty car-miles exceed loaded car-miles.

Wellington interchange with P&LE

At page 21 of the GTI Business Plan, and throughout the BARNS documentation, there are references to a junction between GTI and P&LE at Wellington, OH. This point is 24 miles west of Berea (Cleveland) on the Cleveland-Crestline route over which GTI would be granted overhead trackage rights. As noted by Mr. Wulfhorst of CR, it is questionable whether GTI could in fact interchange with P&LE at this location given the restrictive nature of the GTI trackage rights.

Although provision is made for the Wellington interchange in the BARNS model, it appears that BAH did not assume the movement of any traffic over this junction. The GTI Timetable Generator (GT 000924-37), for example, shows no trains stopping there to pick up or set out traffic. In addition, the Link Loading Report (GT 000814) shows the same number (13.91 million) of gross tons moving over the segments east and west of Wellington. If there were in fact any traffic routed via this junction, the tonnage figures would differ east and west of Wellington. Thus, the reason for the various references to this junction cannot be ascertained from the available documentation.

Circuity

The GTI routes between Buffalo and Chicago and between Buffalo and St. Louis will be approximately equal in distance to those utilized by Conrail today, and available for use by NSCR subsequent to the acquisition of CR by NS. The mileages between these points are as follows:

	GTI	CR	GTI miles as percent of CR miles
Buffalo-Chicago (Colehour)	523	504	104
Buffalo-E. St. Louis	716	693	103

The circuity that GTI would face on these routes is inconsequential in terms of operating viability and cost, in and of itself. Competing carriers seldom are so closely parallel between major traffic hubs that their routes are precisely equal in length. There are, of course, certain operating expenses that vary more or less directly with distance, such as the mileage component of car hire payments, and roadway maintenance expense, but these will have relatively little impact on total operating expense given the small difference involved in these routes.

Service capability is likewise little affected by small differences in relative distance. Two factors can work to offset the apparent disadvantage of a longer route as related to overall transit times: average operating speed and percentage of total time spent by cars in intermediate yards and terminals. The projected transit time of GTI's expedited trains between Buffalo and Chicago would be 12 hours 46 minutes, inclusive of intermediate stops, versus 15 hours 40 minutes for Conrail's premier intermodal train service. Even if, as indicated previously, GTI's projected schedules are somewhat optimistic, GTI should at least be able to equal CR's transit times on this route. Moreover, on manifest traffic, Conrail routes virtually all traffic between its Chicago connections and New England points through at least one (and in many instances both) of its intermediate classification yards at Elkhart, IN, and Selkirk, NY. GTI, by contrast, is proposing a blocking strategy that would involve creation of Chicago blocks as far east as Portland, ME, and vice versa. Since freight cars typically spend a high percentage of their time in yards rather than being moved in trains, a blocking strategy that keeps cars out of yards can go a long way towards offsetting minor disadvantages in the relative circuity of routes.

Between Buffalo and St. Louis, however, GTI will face a substantial disadvantage versus NSCR because of the slow speeds associated with its Delphos-St. Louis trackage. This disadvantage will be compounded by the fact that GTI projects sufficient traffic along this line to fill only one train daily. Thus, unlike the Chicago route, where intermodal traffic would move on expedited trains while manifest traffic moves on somewhat slower trains, all GTI traffic to and from the St. Louis gateway as well as intermediate points between St. Louis and Delphos would be carried on a single train with numerous intermediate stops.

While circuity alone will not pose a significant disadvantage to GTI on its primary western routes, this will not be the case with respect to Toledo and Indianapolis. A comparison of GTI and present CR mileages between these two points and other major terminals on GTI's new routes reveals the following:

	Toledo (miles)		GTI miles as percent of CR miles	Indianapolis (miles)		GTI miles as percent of CR miles
	GTI	CR		GTI	CR	
Chicago	324	220	147	332	243	137
Cleveland	160	115	139	316	291	109
Buffalo	341	283	120	497	460	108
East St. Louis	517	471	110	311	234	133

Even circuity as great as shown above could be overcome if GTI possessed the high-density, service-intensive routes to Toledo and Indianapolis while CR had the reverse. This is not the case, however. Indianapolis is an intermediate point on CR's main line between St. Louis and eastern points, while Toledo occupies a similar position with respect to CR's high-density route between Chicago and the East. GTI proposes to operate only one six-day-per-week train on each of its branches between Bucyrus and Toledo and between Kokomo and Indianapolis. Thus, the circuity disadvantage will be compounded by the wide disparity in service frequencies between GTI's routes and NSCR's.

Trackage rights issues

Schedule B of the NS-GTI Divestiture and Acquisition Agreement of June 5, 1985, calls for NSCR to grant overhead trackage rights to GTI as follows:

(1) between Cleveland and Crestline, OH (approximately 63 miles);

(2) between Berea and South Lorain, OH (18 miles);

(3) in the vicinity of Toledo, OH, in order to facilitate GTI access to connecting lines;

(4) in the vicinity of Chicago, so as to provide GTI with a connection to the Belt Railway of Chicago;

(5) between Bucyrus and Carrothers, OH (14 miles);

(6) at Frankfort, IN;

(7) betweeen Fort Wayne and Bluffton, IN, for a period of 3 years;

(8) at Kokomo, IN;

(9) between Binghamton and Suffern, NY (182 miles), with NSCR to attempt to secure for GTI trackage rights via NJ Transit between Suffern and Croxton, NY (27 miles); and

(10) between Harrisburg (Rockville) and Lurgan (Shippensburg), PA (55 miles), including a short segment on Amtrak, over which NSCR would attempt to secure trackage rights for GTI.

Schedule D of the same agreement provides that GTI will grant to NSCR trackage rights:

(1) in the vicinity of Bison Yard, Buffalo, NY, in order to provide NSCR with access to an automobile unloading facility;

(2) in the vicinity of Wallace Jct., PA, so as to provide NSCR with access to the Bessemer and Lake Erie Railroad;

(3) between Marion and Van Buren, IN (9 miles), to afford NSCR industry access on this line; and

(4) between Indianapolis and Fishers, IN (13 miles), also for industry access by NSCR.

However, the agreements that would apply to the trackage rights segments listed above had not been furnished to DOJ as of July 25, 1985 (see NS 001322); these would be Appendix A to Schedule B (GTI trackage

rights on NSCR) and Appendix A to Schedule D (NSCR trackage rights on GTI) of the NS-GTI June 5, 1985, agreement. Although NS has said that it "expects the agreements to follow the standard format for such agreements" (000289 and 001322), absent the documents themselves, no firm conclusion can be reached as to the reasonableness of their terms.

The inherent risk of any trackage arrangement to the tenant is, of course, that it lacks the same degree of control over the operation of the line that it has over proprietary trackage. Train movements and track maintenance are controlled by the owner, as there is a risk that the tenant's trains will be given low priority or that the owner may not maintain the line to an acceptable standard.

Imputed operating costs

The GTI Business Plan employs BARNS to simulate GTI's operations in the base year 1983 on the existing system and the proposed operation in the pro forma year over the GTI system, including the acquired lines, in order to calculate operating statistics associated with each year. The difference between the statistics yields the incremental change in service units associated with the transaction, which are combined with 1983 unit cost data of GTI and CR or estimates developed by GTI to impute the incremental expenses incurred by GTI in implementing the proposed transaction. The specific unit costs developed by GTI include operating (crew) costs, fuel, per diem, freight car and locomotive maintenance, track maintenance, accessorial charges, transporation (non-operating) and general and administrative expenses. The unit costs are extended and reflected in the GTI financial pro formas to demonstrate the divestiture's positive outcome.

Consistency of presentation

The operating expense components presented in the GTI Business Plan for the acquired lines (Exhibit 14) were reviewed. The review traced the applied incremental expenses as calculated on detailed work papers (GT 000121-52) and presented in the pro forma financial statement contained in the GTI Business Plan. However, this review does not stand in place of the need to examine, verify and test the reasonableness of the calculations which underline GTI's presentation. The underlying values and their applicability to the instant application are not explained in GTI's work papers. Whether the use of such cost data is pertinent to the proposed operation is highly speculative given GTI's short history and the long history of weak financial performance by two of the GTI railroads, D&H and B&M. Of particular concern is GTI's apparent failure to present financial results on a uniform basis based on inconsistent cost and financial presentations made by GTI. At page 43 of the GTI Business Plan, it is stated that:

[T]he analysis utilized unit costs developed from costing data and results reported by The Guilford railroads or Conrail for 1983. . .

At page 49, the Business Plan describes GTI's results without the extension (Exhibits 11, 12 and 13), saying that "[a]ll results are expressed in 1985 dollars." GTI does not state whether the results for the acquired lines (Exhibit 14) ad GTI including the Western lines (Exhibits 15, 16, 17) employ 1983 or 1985 costs.

Determining that the financial results are consistently presented and properly take into account and reflect revenues and costs for a common period is vital to prudent analysis.

Maintenance of way

In response to DOJ's question concerning cost development, GTI provided documents GT 000123-28 and a description of the process in GT 001275 and 001276. These costs (categorized as Engineering Expenses in the Income Statement) are based upon a matrix used to develop maintenance of way expenses and average unit costs based upon practices and materials lifetimes of "eastern railroads".

GTI's array of track maintenance costs by segment (GT 000124), when analyzed on a per-mile basis, is wide-ranging but averages $16,290 per route mile, considerably higher than industry averages. Additional details are discussed in the Engineering Assessment section of this report. Except for casualty expense (discussed below) GTI's underlying maintenance of way expense elements (GT 000123) are unsupported.

GTI calculates casualty expense for BM and DH based upon their respective 1983 R-1 reports to the ICC (GT 000123). GTI included road property damage and casualty insurance expenses in the calculation of casualty expense for BM and DH. GTI employs a casualty expense of 55 cents per train mile for the lines to be acquired and MEC which approximates an average of the 50.6 cents and 61.74 cents per train mile reported by BM and DH, respectively. However, GTI has supplied no documentation with respect to use of this amount.

Maintenance of equipment

The percentages by which BAH predicts various GTI expenses of maintaining equipment (locomotives, cars and other equipment) will vary with traffic volume differ significantly for some accounts from percentages developed by the ICC for some accounts, as shown below:

Account	Percent variable			
	Locomotives		Freight cars	
	BAH	ICC	BAH	ICC
Administration (percent)	100	84	100	44
Repair and maintenance	70	84	70	63
Machinery repair	[1] 100	84	[1] 100	44
Damage and casualty	100	84	100	44
Fringes	[2] 100	84	[2] 100	44
Lease	50	100	25	100
Rents	50	100	([3])	([3])
Joint facility debit	0	84	0	44
Repairs to others	100	84	100	63
Other	0	84	0	44

[1] As related to repair and maintenace expenses.
[2] As related to labor costs.
[3] Same.

Source: ICC, 1980 Railroad Cost Study, December 1982, and Rail Carload Cost Scales—1980, April 1983; BAH, Equipment Costing Worksheets, July 30, 1985.

With increasing service units (measures of output), a variability percentage higher than the BAH percentage would produce higher total cost, while use of a lower variability percentage would result in lower total cost. Since the BAH percentages are higher than the ICC percentages for most accounts (especially the higher value accounts), the BAH percentages could be expected to produce higher total MOE cost as compared with total MOE cost developed through use of the ICC percentages.

BAH employed BM variable unit costs in projecting MEC equipment maintenance expenses. Variable unit costs differ significantly from one railroad to another, as evidenced by BM variable cost of locomotive repair and maintenance of $0.855 per locomotive unit-mile as compared with DH cost of $0.37 per locomotive unit-mile. A preferable method would be to develop MEC variable unit costs from MEC records of expenses and service units.

BAH based its estimated locomotive depreciation on unit age and car depreciation on fleet size (the details of which are excluded from Equipment Costing Worksheets). BAH projected no increase in these costs to BM, DH and MEC, and excluded depreciation of owned locomotives and cars from the Projected Mechanical Expenses of Western Lines (lines to be acquired by GTI). BM, DH and MEC locomotive and car depreciation would vary more appropriately with locomotive unit-hours and car-days, respectively, and these depreciation expenses on additional owned locomotives and cars should be included in the analysis of MOE expenses. If additional locomotives and cars are to be leased, lease unit costs of locomotives and cars should reflect unit-hours and car-days, respectively, of leased equipment only (not total unit-hours and car-days).

Some errors were noted in the BAH Equipment Costing Worksheets. For instance, higher levels of DH expenses were projected for locomotive and car leases and rents but the additional expenses are not shown in the difference (DIFF) column. In developing MEC costs, which are bottomed on BM variable unit costs, fixed costs are erroneously shown at the BM dollar level. MEC fixed costs should, of course, be developed from appropriate MEC unit costs, service units and variability percentages.

Car-days projected by BAH appear unrealistically low as compared with car-miles. As shown below, the car-miles per car-day projected by BAH for BM, DH, MEC and GTI Acquired Lines are 2.0 to 2.8 times the 1980 average for U.S. Class I railroads:

Railroad(s):	*Car-miles per car-day*
BM	124.6
DH	138.7
MEC	117.3
GTI acquired lines	168.8
U.S. class I railroads—1980	60.2

Source: BAH, "Guilford Western Extensions—Annual Statistics," July 30, 1985; Association of American Railroads, "Yearbook of Railroad Facts," 1981 edition.

Car hire

The estimate of net incremental car hire, $10,680,000, attributable to the inclusion of the lines which GTI will acquire (the so-called Western Extension) appears to be understated based on examination of car-day and car-mile estimates produced by BARNS. According to the BARNS results, the average car-mile per car-day ratio for the Base Case System is 104 miles per day; inclusion of the lines to be acquired by GTI increases the ratio to 143 car-miles per car-day.[11] By comparison, the 1983 combined BM and DH car-mile to car-day ratio (estimated using R-1 car hire data and average car-hire rates used in BARNS) is 69.6 miles per day. Furthermore, the difference in car-miles per car-day between the Base Case and the inclusion of the lines to be acquired by GTI reflects a car-mile per car-day ratio of 255 for the incremental traffic related to the GTI system expansion. Assuming that the

[11] Time at shipper sidings is excluded from ratios; insufficient data was available to allow a car-mile per car-day ratio which incorporated shipper time to be developed. From the data in hand it is estimated that inclusion of shipper time would decrease the ratios by not more than 5 percent.

estimate of car-miles is reasonably accurate, in all likelihood a sound assumption since car-miles are more reliably projected than car-days, then there appears to be an overstatement of the on-line, foreign car-days and therefore and underestimate of car-hire expense.

Transportation expenses

GTI's transportation expenses consist of direct crews, non-operating fuel, loss and damage, joint facilities (terminals and trackage rights) and TOFC trailer terminal handling expenses.

Direct crew expense (GT 000144) is subdivided into through and unit trains (GT 000148), local trains (GT 000148-9); other trains (GT 000149) and yard crew (GT 000149). GTI states at page 44 of its Business Plan that crew costs are based on 1983 average pay rates and take into account base mileage pay, crew size and other pertinent factors. However, the rates per train mile employed on the backup documentation, calculated separately between base, additional and guaranteed miles, do not explain how the aforementioned unit costs were developed. Also unexplained is the basis for calculating the cost of constructive allowances, vacations and holidays.

Mileages corresponding to unit costs are separated between base, additional and guaranteed miles (GT 000145-7). Although the methodology of the calculation is readily apparent, the basis for its use is unexplained. Of concern is that the mileages shown therein (see GT line labelled as TRN miles costed from TRN STATS, File MITVT7AR, are greater than the mileages shown GT 000371-5 which are the statistics associated with the GTI Business Plan. In the cost calculation, for example, the train miles are 56, 30 and 0.2 percent greater than the incremental service units for the DH, BM and west, respectively. Although these differences are adjusted by an unexplained methodology on GT 000149, the fact that GTI advances two different statistics for train miles brings into question the validity of statistics employed in the GTI Business Plan.

The calculation of yard crews is displayed on GT 000149. However, there is no explanation as to the underlying cost development and service units and thus no basis for testing the validity of this cost.

GTI computes total crew costs by adding fringe benefits, materials and supplies and productivity fund expenses to total direct costs (GT 000144). Fringes and materials/supplies are calculated as 30 and 14 percent of total direct costs while the productivity fund calculation is shown on GT 000149. The 30 percent additive for fringe benefits appears reasonable based upon the 1983 experience of BM and DH. However, the 14 percent additive for materials and supplies cannot be supported without a more detailed explanation of its derivation. The expense associated with the productivity fund is unsubstantiated in the work papers although the GTI Business Plan at page 44 describes it as being similar to the existing Conrail plan.

Non-operating costs are detailed on GT 000151, which as noted elsewhere, fails to take into account the costs associated with New York Dock protection. Additionally, GTI offers no basis upon which to assess the validity of the annual salary and associated fringe benefits and materials supplies cost, as well as the reduction by one-half for joint facilities billed to others for towermen/operators which constitute transportation non-operating costs (GT 000151).

Fuel cost assumptions are set forth beginning at page 44 of the GTI Business Plan with the corresponding calculations provided on GT 000150. The GTI Business Plan at page 45 provides several fuel consumption figures, one of which is expressed as being per gross ton mile (GTM) while others are shown as being consumption per thousand GTM. The correct basis for consumption figures of the magnitude discussed by GTI is per GTM. Fuel consumption would, of course, be affected unfavorably and costs increased accordingly if GTI should operate less efficiently than planned.

Loss and damage expense is shown on GT 000143 and is equal to 0.569 percent of freight revenues. The reasonableness of the charges cannot be verified since the use of the relationship is unexplained.

Costs associated with trackage rights, terminal charges and TOFC trailer terminal handling charges are presented on GT 000143 and at page 47 of the GTI Business Plan are said to be based on existing contract rates or estimates. Trackage rights are based upon car-miles without explanation as to the derivation of the unit cost. Terminal and TOFC trailer terminal handling charges are undocumented, and thus open to question.

General and administrative

General and Administrative costs are developed on work paper GT 000152. The costs displayed are at the aggregate level by subcategory but GTI has not provided supporting documentation which verify reasonableness of its cost estimates.

Summary of GTI imputed incremental costs

Table 11 summarizes the incremental unit cost for each GTI rail division component based upon GTI's functional components of operating expense. In each cost component there is a wide discrepancy in the incremental unit cost among the individual GTI railroads. Since these are incremental costs, these differences may well be justifiable. However, it also may be that underlying assumptions and costs, which were not provided, do not reflect accurately the GTI operating expenses associated with its Business Plan. In order to be viable over the long term, GTI must achieve the goals stated in its Business Plan. The supporting documentation provided to date does support such a conclusion.

TABLE 11.—INCREMENTAL COST PER UNIT FOR ACQUIRED LINES

Cost elment	Service unit	Boston & Maine Corp.		Delaware & Hudson		Maine Central Railroad Co.		Western Extension	
		Unit cost	Incremental units	Unit cost	Incremental units	Unit cost	Incremental units	Unit costs	Incremental units
Engineering: (Maintenance of way and structures)	Gross ton miles (millions)	$0.00031	1,144	$0.00019	3,007	$0.00011	180	$0.00213	8,447
Mechnical: (Maintenance of equipment):									
Locomotives	Locomotive unit-mile	1.27914	887,315	0.50900	1,807,480	1.24533	56,210	1.54829	5,848,395
Freight cars	Car-miles (thousands)	0.13120	17,149	0.09263	47,208	0.12192	2,879	0.16203	123,529
Transportation	Car-miles (thousands)	0.23896	17,149	0.32293	47,208	0.60646	2,879	0.33773	123,529
General and administrative	Car handlings							15.20986	450,300

Source: GT Workpapers 000121-52; 000371-5; RLBA calculations.

Comparison of annual operating statistics

The BARNS documentation reviewed contains statistical summaries of GTI's operating results with respect to a "Base Case" and a "Case 8A." The base Case appears to represent a simulation of operations and expenses of the three GTI railroads (BM, DH and MEC) as they existed in 1983. Case 8A represents the forecast results of these three carriers, respectively, as they would be modified by addition of the acquired lines to the GTI network, as well as a separate report with respect to the lines which GTI will acquire which treats those lines as if they comprised another GTI rail operating subsidiary. The only significant structural difference between the three existing GTI carriers in the Base Case and as described in Case 8A is that the new trackage rights between Binghamton and Croxton and between Harrisburg and Lurgan are shown in Case 8A as being part of the DH rather than the so-called Western Extension.

Table 12 displays key operating statistics, by GTI component (BM, DH, MEC, and Western Extension) and with respect to the system as a whole, derived from the 1983 Annual Reports (Form R-1) of BM and DH to the ICC and from the BARNS Base Case and Case 8A documentation. Form R-1 data with respect to MEC are not available because MEC, a Class II rail carrier, is exempt from filing Form R-1 under ICC regulations. BM and DH Form R-1 data can be expected to serve as a useful benchmark of Base Case reasonableness; in fact, many of the statistics shown compare very closely. Others, however, vary by significant percentages as the following array demonstrates:

TABLE 12.—COMPARISON OF ANNUAL OPERATING STATISTICS

Statistic	1983 schedule 755	Base case	Case 8A
BOSTON AND MAINE CORP.[1]			
Train-miles	1,707,167	1,706,740	1,968,445
Locomotive unit-miles	4,901,819	4,032,520	4,919,835
Average locomotives per train	2.87	2.36	2.50
Loaded car-miles (thousands)	37,268	43,580	55,958
Empty car-miles (thousands)	33,195	39,567	44,337
Empty return ratio	.891	.908	.792
Total car-miles (thousands)	70,463	83,147	100,295
Average cars per train	41.3	48.7	51.0
Gross ton-miles (millions)	5,404	5,921	7,065
Average gross tons per train	3,165	3,469	3,589
Train hours	100,312	100,740	110,960
Average speed (mi/h)	17.0	16.9	17.7
Locomotive unit hours	287,895	297,110	343,830
Car-days on line:			
Load	(2)	419,700	446,400
Empty	(2)	388,200	358,200

TABLE 12.—COMPARISON OF ANNUAL OPERATING STATISTICS—Continued

Statistic	1983 schedule 755	Base case	Case 8A
Total	(2)	807,900	804,600
Car handlings	(2)	539,100	537,600
Carloads	(2)		
Car-miles on trackage rights (thousands):			
CR East (class 3)	(2)	0	0
Amtrak (class 4)	(2)	639	647
CR/NS West (class 7)	(2)	0	0
DELAWARE AND HUDSON RAILWAY CO.[3]			
Train-miles	2,230,961	2,226,500	2,822,910
Locomotive unit-miles	7,643,566	7,621,565	9,429,045
Average locomotives per train	3.43	3.42	3.34
Loaded car-miles (thousands)	50,934	59,324	97,742
Empty car-miles (thousands)	46,221	54,769	63,560
Empty return ratio	.907	.923	.650
Total car-miles (thousands)	97,155	114,093	161,310
Average cars per train	43.5	51.2	57.1
Gross ton-miles (millions)	7,349	8,562	11,570
Average gross tons per train	3,294	3,846	4,098
Train hours	136,609	126,655	144,905
Average speed (mi/h)	16.3	17.6	19.5
Locomotive unit hours	468,569	494,575	542,390
Car-days on line:			
Load	(2)	555,600	645,300
Empty	(2)	513,300	517,800
Total	(2)	1,068,900	1,163,100
Car handlings	(2)	680,700	645,600
Carloads	(2)		
Car-miles on trackage rights (thousands):			
CR East (class 3)	(2)	40,917	79,949
Amtrak (class 4)	(2)	6,216	3,576
CR/NS West (class 7)	(2)	0	0
MAINE CENTRAL RAILROAD CO.[4]			
Train-miles	(5)	699,340	699,340
Locomotive unit-miles	(5)	2,055,680	2,111,890
Average locomotives per train	(5)	2.94	3.02
Loaded car-miles (thousands)	(5)	12,377	14,213
Empty car-miles (thousands)	(5)	11,711	12,754
Empty return ratio	(5)	.946	.897
Total car-miles (thousands)	(5)	24,088	26,967
Average cars per train	(5)	34.4	38.6
Gross ton-miles (millions)	(5)	1,799	1,980
Average gross tons per train	(5)	2,573	2,831
Train hours	(5)	41,975	41,610
Average speed (mi/h)	(5)	16.7	16.8
Locomotive unit hours	(5)	166,075	168,265
Car-days on line:			
Load	(5)	124,500	127,500
Empty	(5)	115,200	102,300
Total	(5)	239,700	229,800
Car handlings	(5)	481,200	561,000
Carloads	(5)		
Car-miles on trackage rights (thousands):			
CR East (class 3)	(5)	0	0
Amtrak (class 4)	(5)	0	0
CR/NS West (class 7)	(5)	0	0
WESTERN EXTENSION [6]			
Train-miles	(7)	0	2,140,725
Locomotive unit-miles	(7)	0	5,848,395
Average locomotives per train	(7)	0	2.73
Loaded car-miles (thousands)	(7)	0	82,796
Empty car-miles (thousands)	(7)	0	40,733
Empty return ratio	(7)	0	492
Total car-miles (thousands)	(7)	0	123,529
Average cars per train	(7)	0	57.7
Gross ton-miles (millions)	(7)	0	8,447
Average gross tons per train	(7)	0	3,946
Train hours	(7)	0	85,410
Average speed (mi/h)	(7)	0	25.1
Locomotive unit hours	(7)	0	243,090
Car-days on line:			
Load	(7)	0	405,900
Empty	(7)	0	326,100
Total	(7)	0	732,000
Car handlings	(7)	0	450,300
Carloads	(7)		
Car-miles on trackage rights (thousands):			
CR East (class 3)	(7)	0	0
Amtrak (class 4)	(7)	0	0
CR/NS West (class 7)	(7)	0	17,059
GTI SYSTEM [8]			
Train-miles	(9)	4,632,580	7,631,420
Locomotive unit-miles	(9)	13,709,400	22,309,165
Average locomotives per train	(9)	2.96	2.92
Loaded car-miles (thousands)	(9)	115,280	250,709
Empty car-miles (thousands)	(9)	106,048	161,384
Empty return ratio	(9)	.920	.644
Total car-miles (thousands)	(9)	221,328	412,093
Average cars per train	(9)	47.8	54.0
Gross ton-miles (millions)	(9)	16,283	29,062
Average gross tons per train	(9)	3,515	3,808
Train hours	(9)	269,735	383,250
Average speed (mi/h)	(9)	17.2	19.9
Locomotive unit hours	(9)	958,125	1,297,940
Car-days on line:			
Load	(9)	1,099,800	1,625,100
Empty	(9)	1,016,700	1,304,400
Total	(9)	2,116,500	2,929,500
Car handlings	(9)	1,701,000	2,194,500
Carloads	(9)	346,359	496,548
Car-miles on trackage rights (thousands):			
CR East (class 3)	(9)	40,917	79,949
Amtrak (class 4)	(9)	6,855	4,412
CR/NS West (class 7)	(9)	0	17,059

[1] GT000374; 1983 R–1, schedule 755, RLBA calculations.
[2] Data not reported on R–1, schedule 755.
[3] GT000373; 1983 R–1, schedule 755, RLBA calculations.
[4] GT000375.
[5] Data not reported since Maine Central Railroad Co. is a class II rail carrier and therefore exempt from filing annual report form R–1.
[6] GT000372.
[7] Annual report data not available since the Western Extension is yet to be acquired.
[8] GT000371.
[9] Not calculable since Maine Central as a class II railroad does not file annual reports to the Interstate Commerce Commission.

Railroad	Statistic	1983 R–1	Base Case	Difference (percent)
BM	Loco. unit miles	4,901,819	4,032,520	(17.7)
	Loaded car-miles (000)	37,268	43,580	16.9
	Empty car-miles (000)	33,195	39,567	19.2
	Avg. cars per train	41.3	48.7	17.9
	Gross ton-miles (000)	5,404,000	5,921,000	9.6
	Loco. unit hours	287,895	297,110	3.2
DH	Loaded Car-miles (000)	50,934	59,324	16.5
	Empty car-miles (000)	46,221	54,769	18.5
	Avg. cars per train	43.5	51.2	17.7
	Gross ton-miles (000)	7,349,000	8,562,000	16.5
	Train hours	136,609	126,655	(7.3)
	Loco. unit hours	468,569	494,575	5.6

Source: Table 12

More significant is the fact that Case 8A indicates a significant improvement in the productivity of resources (i.e., efficiency) flowing from addition of the Western Extension to the GTI system. For example, the GTI system empty return ratio improves by 30 percent, declining from 92.0 percent to 64.4 percent. On DH and BM, the corresponding improvement is 22 and 13 percent, respectively. While, as noted elsewhere, the Western Extension should be more efficient than GTI's present rail carriers, given the relative absence of branch lines and yards, improvements of this magnitude in the performance of the existing GTI railroads imply the existence of significant excess capacity (or inefficiency) in 1983 GTI operations.

Conclusions

Taken together, the assessments of the GTI operating plan's underlying assumptions and anticipated results described above leave open, at least until such time as more detailed and credible documentation is furnished, the question of whether the plan is, in fact, feasible. Both assumptions made and results forecast have an aura of optimism about them that appears inappropriate given the marginal character of GTI's present rail operations and the scale of the incremental routes sought by GTI in comparison with its existing regional network.

The operating plan does not exist in a vacuum, however; the reliability of its forecast results is only as good as that of the marketing plan on which its traffic projections rest. Any major variance between those projections and the business actually generated once operations have been implemented could alter the operating pattern and attendant expenses to a significant degree. This is of particular importance where, as in the present case, an acquiring carrier has offered employment to all current employees on the routes in question, and therefore has assumed a certain minimum level of labor expense regardless of traffic levels. While there is nothing about the GTI operating plan that is totally outside the realm of possibility, the probability of GTI's various assumptions being fulfilled remains a proper subject of further scrutiny.

MARKET REVIEW

The objective of the review of the marketing plan submitted by GTI is to allow a determination of whether the anticipated traffic flows will operate sufficient revenue to cover capital and operating cost which GTI will incur on a long-term basis. In reviewing that marketing plan, a preliminary order of magnitude assessment must be made of:

(i) whether the marketing plans [of GTI and P&LE] are consistent, i.e., are they complementary or do they contest for some or all of the same traffic;

(ii) whether the assumptions upon which each marketing plan relies are clearly defined and consistent with each plan; and

(iii) to what extent each divestee's marketing plan incorporates the effects of trackage rights and reciprocal switching agreements between itself and NS?

As a basis for the assessment of that plan, it is required that the analysis include:

(i) comparisons to services to be offered by each acquirer with those likely to be provided by competing railroads;

(ii) evaluation of each acquirer's ability to attract interline traffic; and

(iii) evaluation of potential diversions from divested properties to NSCR.

Proposed marketing plan

On June 30, 1985, in the ICC Staff Study, GTI submitted a document which can best be characterized as the GTI Business Plan. The facts which the GTI Business Plan and supporting exhibits purport to convey are not immediately discernible. Further, the documents supplied to DOJ by GTI in response to DOJ's May 9 and July 25, 1985 requests for information are cryptic and sometimes fail to support the Business Plan data. Those documents supplied to DOJ relating to the traffic flows employed by GTI in its marketing plan are summaries of various work of GTI's consultant, Booz, Allen & Hamilton Inc. (BAH). The documents were supplied by GTI's outside attorneys to DOJ in response to DOJ's requests for detailed information regarding the GTI marketing size.

Marketing assumptions

General Assumptions

GTI prefaces its discussion of the Marketing Plan with a summary of GTI's marketing strategy related to its existing rail system. GTI states that its present marketing strategy has resulted in a number of improvements which benefit both GTI and its shippers. Among the improvements cited by GTI are the establishment of dependable and efficient run-through trains (from Maine to Buffalo and Maine to Washington, DC) through implementation of single-system service by the GTI Rail Division which is comprised of the three GTI railroads, i.e., BM, DH and MEC. GTI also states that it has concentrated on the development of rate and service packages that are responsive to the transportation needs of its customers and that it will extend its present marketing strategy to new business

which GTI expects to gain from expansion of its existing rail system.

GTI describes the addition of the lines which it will acquire as being analogous to its previous acquisition of the BM and DH railroads. Given the historically weak financial condition and relatively light traffic density of both BM and DH, they may provide an appropriate basis for comparison with the proposed acquisition of discrete rail lines by GTI. There is, however, a critical difference between the acquisition of operating companies, irrespective of their relative financial and traffic-generating strength or weakness, and the transaction now proposed.

In the present situation, GTI will purchase only certain discrete rail lines. Therefore, GTI will not acquire a functioning management team with experience in operating and managing the lines to be acquired and in dealing with shippers on the lines. Such management expertise will have to be developed, and developed very quickly, by the existing GTI management before GTI can implement its present marketing strategy on the lines it will acquire.

That present marketing strategy is described at page 30 of the GTI Business Plan as follows:

"Reduced to its essence, Guilford will meet the individual needs of each customer by tailoring rates and services."

In order to determine the needs of individual shippers served by the lines which GTI will acquire, GTI states that it will meet with as many potential customers on the lines to be acquired as possible prior to the start-up of operations, a process that GTI indicates it has already begun. In the meantime, GTI must depend upon NS and a reluctant Conrail to supply all of the operating and commercial data necessary to develop the GTI operating and marketing plans.

Specific Marketing Initiatives

(1) *Solicitation of Shipper Input.* It is difficult to assess the results of a traffic study which does not incorporate shipper data with respect to present shipping patterns and the combination of rates and services which GTI must offer to secure the traffic of individual shippers served by the lines which GTI will acquire. GTI recognizes that such shipper data can best be obtained by interviews and so states at page 31 of the Business Plan. The absence of such significant data in the development of the diversion and penetration assumptions which GTI employed in its traffic study suggests strongly that the GTI marketing plan is at present largely conjecture, long on goals and short on essential statistics such as quantifiable commodity, traffic flow and revenue data.

(2) *Loaded Back Haul Traffic and Use of GTI Motor Carrier Subsidiary.* In the Business Plan, GTI has identified two marketing initiatives which may produce traffic and revenue gains not yet included in its traffic study results. Those marketing initiatives include the possibility of using loaded back haul rate incentives to provide eastbound traffic and revenue in GTI freight cars which would otherwise be returned empty to the GTI system and aggressive use of the newly formed GTI motor carrier subsidiary, Guilford Motor Express, Inc. (GMX) in providing the trucking portion of GTI door-to-door TOFC services. GTI indicates that its motor carrier subsidiary will assume responsibility for "various activities and maintenance" at GTI intermodal facilities to assist in controlling costs at those installations.

(3) *Presently Untapped Traffic and Revenue on Lines To Be Acquired.* With respect to the lines to be acquired by GTI, the marketing plan states GTI's belief that those lines have been ignored in terms of business development by their present owners. No estimate of the amount of value of such traffic is offered by GTI in its Business Plan. However, GTI states that it will add additional marketing and sales personnel to provide timely service to customers located on the lines to be acquired and the additional expenses associated with an expanded GTI sales and marketing staff have been addressed in the GTI operating plan.

(4) *Competitive Access to Certain Problem Markets.* In certain markets of concern to DOJ such as Toledo, Indianapolis, Cleveland and Ft. Wayne, GTI states that its services will be competitive in terms of frequency, transit times and rates with those presently provided by NS or Conrail, citing GTI's access to the shippers at those locations via reciprocal switching or the use of other terminal arrangements. As discussed in the service analysis below, GTI's claims have yet to be substantiated.

(5) *Competition in Certain Intermodal Markets.* GTI states that it intends to compete directly with Conrail in the intermodal corridors between New England/Boston and Chicago/St. Louis and between New York and Chicago/St. Louis with schedules which will be comparable to those presently offered by Conrail in those corridors. GTI proposed to operate one daily train in each direction in each of those corridors. GTI states that it will offer rates which are competitive with the Conrail rates in those corridors and that the combination of GTI rates and services will enable GTI to capture a significant share of the intermodal business in these corridor markets.

(6) *Extended Haul Traffic.* GTI states that the lines to be acquired will give GTI "the benefit of single-system service and rate-making to its new western gateways at Chicago and St. Louis." [1] In addition to the traffic presently moving over the GTI system which could be routed over the new western gateways, GTI asserts that it will endeavor to attract other business by working with its new friendly interline rail connections at those gateways.

Trackage Rights and Reciprocal Switching

GTI's diversion and traffic penetration assumptions are set forth in Exhibit 2 of the Business Plan (reproduced here as Table 13) which contains two sets of diversion percentages defined as "unfavorable" and "favorable." (Only the "favorable" percentages appear to have been used by GTI in its traffic studies.) In its Exhibit 2, GTI has applied a diversion rate of 40 percent to interline traffic either originated or terminated at stations open to NSCR (or other carriers) through reciprocal switching or car haulage agreements. GTI also assigns a 60 percent diversion rate to interline traffic originated by GTI at exclusively served stations and interchanged to GTI's western connections and a 40 percent diversion rate to interline traffic which GTI will receive from such western connections for termination at exclusively served stations. The work papers supplied to DOJ with respect to such traffic employ a uniform diversion rate of 100 percent. GTI has supplied no explanation with respect to this apparent inconsistency between the work papers and its Exhibit 2.

Thus it appears that GTI may have overstated the traffic and revenue which it expects to gain at exclusively served stations on the lines to be acquired. Further, at certain stations open to NSCR through reciprocal switching on the lines which GTI will acquire, GTI will provide service for NSCR pursuant to car haulage agreements. The agreements provide that GTI will handle NSCR traffic which originates or terminates at those stations in GTI trains between those stations and the nearest interchange with NSCR. With respect to traffic at those stations, GTI's share is assumed to be 40 percent, irrespective of whether the traffic is originated by GTI or terminated by GTI; the NSCR share is assumed to be 60 percent uniformly.[2] GTI's use of uniform diversion percentage rates is inconsistent with Exhibit 2 of the GTI Business Plan and related text and ignores GTI's awareness of the fact that a rail carrier will have greater influence over traffic which the carrier originates than over traffic which it terminates. As GTI notes at page 23 of the Business Plan;

[i]n general, the origin carrier has more control over traffic than the destination carrier. This concept is reflected in the diversion percentages [displayed in Exhibit 2 of the Business Plan].

It is apparent that GTI has failed to consider the relatively lesser influence it will have with respect to traffic terminated at stations open to NSCR through reciprocal switching or car haulage. As a result it would appear that GTI may have overstated the traffic and revenue of this type which it is likely to realize from traffic on the lines to be acquired.

In addition to the apparent inconsistencies in GTI's analysis of the traffic which it expects to gain at stations on the lines which GTI will acquire from NSCR, GTI has ignored the fact that some of the so-called "exclusive" stations are served by railroads other than NSCR. The reason supplied for ignoring the presence of other potential rail competitors in the GTI traffic study is specious.[3] Tables 14 and 15 display (for CR and NS lines respectively) the list of 136 stations which GTI has classified as "exclusive" and identifies all other rail carriers which are listed in the Official Railway Guide as serving those stations. At 37 of those "exclusive" stations, there is another rail carrier listed; at 14 of the 37 stations, Conrail is listed as serving the station and at three of the 37 stations, NS is listed. Tables 16 and 17 list (for CR and NS respectively) 44 stations not included in Tables 14 and 15 on lines GTI will acquire which are open to NSCR and other railroads through reciprocal switching. Failure to consider the fact that other railroads have access to a large number of GTI's so-called exclusive stations may result in overstating traffic and revenues which GTI claims it will gain.

[1] This is a misuse of the "single-system service" concept which generally applies to the complete haul being handled by a single system as opposed to interline movements involving two or more systems.

[2] Within the scope of this preliminary analysis, a complete comparison of the GTI and NS diversion studies could not be accomplished.

[3] See document GT 000389 which contains the following statement with respect to the so-called "exclusive" stations. "Other railroads serve many of these same stations, but their rights are not affected by the transaction between GTI and NS, and thus were of no concern in our analysis." The issue is not whether another rail carrier's rights would be affected, but whether the presence of that carrier should have been considered in the application of GTI's diversion rules to the traffic potentially available at such stations.

Service Comparisons

Exhibit 8 of the GTI Business Plan (reproduced in Table 18) displays a comparison of through freight schedules which GTI will offer in nine origin-destination corridors with the services which Conrail presently offers in six of those corridors. Three of the corridors involve Portland, ME, Conrail does not publish through freight schedules which involve Portland, ME, because Conrail comes only as far east as Boston and does not serve that city.

In each of the nine corridors, through freight schedules are provided in each direction, i.e., westbound from an eastern origin to a western destination (or interchange) and eastbound from that same western location to the eastern destination.

TABLE 13.—GUILFORD WESTERN EXTENSION TRAFFIC DIVERSION AND PENETRATION ASSUMPTIONS

Originates	Intermediate	Terminates	Unfavorable (percent)	Favorable (percent)
NS		GTI East-West	20	30
		North-South	60	
GTI		NS East-West	20	50
		North-South	50	
Western connection.	NS, CSX, CR	GTI	20	40
GTI	NS, CSX, CR	Western connection.	20	60
NS	GTI	PW	50	
		other than PW	50	
PW	GTI	NS	50	
Other than PW	GTI	NS	50	
Connection (other than Western).	GTI + CR, NS, CSX	Connection (other than Western).	20	40
GTI	CN/CP	U.S. carrier		80
U.S. carrier	CN/CP	GTI		60
Reciprocal point		Western connection.		40
Western connection.		Reciprocal point		40

Source: GTI Business Plan, Exhibit 2.

TABLE 14.—OTHER RAIL CARRIERS WITH POTENTIAL ACCESS TO STATIONS ON CONRAIL LINES TO BE ACQUIRED BY GTI

Station name	State	Divesting railroad	Acquiring railroad	Other railroad(s) serving station
Ada	OH	CR	GTI	None.
Arcola	IN	CR	GTI	None.
Atwood	IN	CR	GTI	None.
Bloomville	OH	CR	GTI	None.
Bourbon	IN	CR	GTI	None.
Burgoon	OH	CR	GTI	None.
Columbia City	IN	CR	GTI	None.
Convoy	OH	CR	GTI	None.
Dola	OH	CR	GTI	None.
Elida	OH	CR	GTI	None.
Forest	OH	CR	GTI	None.
Grovertown	IN	CR	GTI	None.
Hamlet	IN	CR	GTI	None.
Hanna	IN	CR	GTI	CO.
Hoagland	IN	CR	GTI	None.
Hobart	IN	CR	GTI	EJE, NW.
Kirby	OH	CR	GTI	None.
Lafayette	OH	CR	GTI	None.
Larwill	IN	CR	GTI	None.
Maple Grove	OH	CR	GTI	NW.
Maples	IN	CR	GTI	None.
Middlepoint	OH	CR	GTI	None.
Millersville	OH	CR	GTI	None.
Monroeville	IN	CR	GTI	None.
Nevada	OH	CR	GTI	None.
Pierceton	IN	CR	GTI	None.
Plymouth	IN	CR	GTI	None.
Robinson	OH	CR	GTI	None.
Tiffin	OH	CR	GTI	BO.
Upper Sandusky	OH	CR	GTI	CO.
Vaparaiso	IN	CR	GTI	GTW, NW.
Van Wert	OH	CR	GTI	None.
Wanatah	IN	CR	GTI	SBD.
Wheeler	IN	CR	GTI	None.

TABLE 14.—OTHER RAIL CARRIERS WITH POTENTIAL ACCESS TO STATIONS ON CONRAIL LINES TO BE ACQUIRED BY GTI—Continued

Station name	State	Divesting railroad	Acquiring railroad	Other railroad(s) serving station
Williams	IN	CR	GTI	MILW.

Source: GT 000397–8; The Official Railway Guide, September/October 1984.

TABLE 15.—OTHER RAIL CARRIERS WITH POTENTIAL ACCESS TO STATIONS ON NS LINES TO BE ACQUIRED BY GTI

Station name	State	Divesting railroad	Acquiring railroad	Other railroad(s) serving station
Alhambra Tower	IL	NS	GTI	None.
Angola	NY	NS	GTI	None.
Arcadia	IN	NS	GTI	None.
Ashtabula	OH	NS	GTI	CR, PLE.
Atlanta	IN	NS	GTI	None.
Bayle	IL	NS	GTI	None.
Brocton	NY	NS	GTI	None.
Brocton	IL	NS	GTI	None.
Buckeye	IN	NS	GTI	None.
Buffalo Junction	NY	NS	GTI	None.
Bushton	IL	NS	GTI	None.
Cates	IN	NS	GTI	None.
Cayuga	IN	NS	GTI	NW, CBD.
Charleston	IL	NS	GTI	None.
Cicero	IN	NS	GTI	None.
Clarks Hill	IN	NS	GTI	None.
Coffeen	IL	NS	GTI	None.
Cowden	IL	NS	GTI	NW, PARY.
Craigville	IN	NS	GTI	None.
Crayton	PA	NS	GTI	None.
Davin	IN	NS	GTI	None.
Delphos	OH	NS	GTI	CR, GTW, NW.
Donnellson	IL	NS	GTI	None.
Douglas	OH	NS	GTI	None.
East Springfield	PA	NS	GTI	None.
Elk Creek	PA	NS	GTI	NW.
Fair Grange	IL	NS	GTI	None.
Fairview	PA	NS	GTI	NW, SRC.
Fillmore	IL	NS	GTI	None.
Forest	IN	NS	GTI	None.
Ft. Jennings	OH	NS	GTI	None.
Geneva	OH	NS	GTI	CR, NW.
Gillmore	IL	NS	GTI	BO.
Girard	PA	NS	GTI	BLE, NW.
Glen Carbon	IL	NS	GTI	CNW, NW.
Greentown	IN	NS	GTI	None.
Harbor Creek	PA	NS	GTI	CR, NW.
Herbst	IN	NS	GTI	None.
Herrick	IL	NS	GTI	None.
Humrick	IL	NS	GTI	None.
Irving	NY	NS	GTI	None.
Jefferson	IN	NS	GTI	CR, NW.
Jonestown	OH	NS	GTI	None.
Kingsville	OH	NS	GTI	None.
Kirkpatrick	IN	NS	GTI	None.
Lake View	NY	NS	GTI	CR.
Landeck	OH	NS	GTI	None.
Lenna	IL	NS	GTI	ICG.
Liberty Center	IN	NS	GTI	None.
Mabel	IL	NS	GTI	None.
Madison	OH	NS	GTI	CR, FPE, NW.
Mellott	IN	NS	GTI	None.
Melwood	IL	NS	GTI	None.
Mentor	OH	NS	GTI	None.
Metcalf	IL	NS	GTI	BO, NW.
Michigantown	IN	NS	GTI	None.
Middleton	IN	NS	GTI	None.
Mode	IL	NS	GTI	MP, NW.
Mortimer	IL	NS	GTI	None
Neoga	IL	NS	GTI	ICG, NW.
New Douglas	IL	NS	GTI	None.
New Richmond	IN	NS	GTI	None.
Noblesville	IN	NS	GTI	NW.
Northeast	PA	NS	GTI	CR, NW.
Oakland	IL	NS	GTI	NW, PACY.
Ohio City	OH	NS	GTI	NW, SPEG.
Painesville	OH	NS	GTI	CR, FPE, NW.
Perry	OH	NS	GTI	CR, FPE, NW.
Peterson	IN	NS	GTI	None.
Pleasent Mills	IN	NS	GTI	NW, SBD.
Portland	NY	NS	GTI	CR, NW.
Ramsey	IL	NS	GTI	None.
Rardin	IL	NS	GTI	None.
Ridge Farm	IL	NS	GTI	None.
Ripley	NY	NS	GTI	None.
Roseburgh	IN	NS	GTI	None.
Russiaville	IN	NS	GTI	None.

TABLE 15.—OTHER RAIL CARRIERS WITH POTENTIAL ACCESS TO STATIONS ON NS LINES TO BE ACQUIRED BY GTI—Continued

Station name	State	Divesting railroad	Acquiring railroad	Other railroad(s) serving station
Saybrook	OH	NS	GTI	CR, NW.
Schumm	OH	NS	GTI	None.
Sharpsville	IN	NS	GTI	None.
Silver Creek	NY	NS	GTI	None.
Sims	IN	NS	GTI	None.
Sorento	IL	NS	GTI	BN, NW.
Stewardson	IL	NS	GTI	None.
Swannville	PA	NS	GTI	CR, NW.
Swayzee	IN	NS	GTI	None.
Sycamore	IN	NS	GTI	None.
Thornton Junction	PA	NS	GTI	BLE, NW.
Trilla	IL	NS	GTI	None.
Trowbridge	IL	NS	GTI	None.
Unionville	OH	NS	GTI	None.
Van Buren	IN	NS	GTI	None.
Veedersburg	IN	NS	GTI	None.
Venedocia	OH	NS	GTI	None.
Vermont	IN	NS	GTI	None.
Wallace Junction	PA	NS	GTI	BLE, NW.
Warren	IN	NS	GTI	None.
Wesleyville	PA	NS	GTI	None.
Westfield	NY	NS	GTI	CR, NW.
Wilshire	OH	NS	GTI	None.
Wingate	IN	NS	GTI	None.

Source: GT 000390–3; "The Official Railway Guide," September/October 1984.

TABLE 16.—STATIONS OPEN TO OTHER RAIL CARRIERS THROUGH RECIPROCAL SWITCHING ON CONRAIL LINES TO BE ACQUIRED BY GTI

Station and State	Remarks
Bucyrus, OH	Reciprocal NS.
Clarke, IN	Reciprocal CR.
Colehour, IL	Reciprocal CR.
Crestline, OH	Reciprocal CR.
Decatur, IN	Retained Reciprocal.
Delphos, OH	Retained Reciprocal.
Dunkirk, OH	Reciprocal CR.
Ft. Wayne, IN	Reciprocal CR, NS.
Gary, IN	Reciprocal CR.
Gibsonburg, OH	Reciprocal CR Retain.
Indiana Harbor, IN	Reciprocal CR, IHB.
Lima, OH	Reciprocal NS.
Roby, IN	Reciprocal CR.
Toledo, OH	Reciprocal CR, NS.
Warsaw, IN	Reciprocal CR.
Whiting, IN	Reciprocal CR, IHB.
Woodville, OH	Reciprocal CR Retain.

Source: GT 000390, GT 000397–8.

TABLE 17.—STATIONS OPEN TO OTHER RAIL CARRIERS THROUGH RECIPROCAL SWITCHING ON NS LINES TO BE ACQUIRED BY GTI

Station and State	Remarks
Bluffton, IN	Reciprocal NS.
Buffalo, NY	Reciprocal CR.
Castleton, IN	Retained Reciprocal.
Cleveland, OH	Reciprocal CR, NS.
Conneaut, OH	Reciprocal CR.
Decatur, IN	Reciprocal CR.
Dunkirk, NY	Reciprocal CR.
E St Louis, IL	Reciprocal TRRA.
Edwardsville, IL	NW served via Wab.
Erie, PA	Reciprocal CR.
Euclid, OH	Retained Reciprocal.
Fair Grounds, IN	Retained Reciprocal.
Fisher's, IN	Retained Reciprocal.
Frankfort, IN	Reciprocal CR, NS.
Granite City, IL	Reciprocal TRRA
Indianapolis, IN	Reciprocal CR, NS.
Kokomo, IN	Reciprocal NS.
Linden, IN	SBD Interchange.
Lorain, OH	Reciprocal NS&LT.
Madison, IL	Reciprocal TRRA.
Malott Park, IN	Retained Reciprocal.
Marion, IN	Reciprocal CR.
South Lorain, OH	Reciprocal CR/LT, NST.
Tipton, IN	Reciprocal NS.
Wickliffe, OH	Retained Reciprocal.
Willoughby, OH	Retained Reciprocal.

Source: GT 000391–4.

TABLE 18.—GTI BUSINESS PLAN (EXHIBIT 8)

Traffic lane	Guilford Western Extensions—comparison of train service															
	Guilford proposal service								Conrail service published schedules February/85							
	Train	Departure		Arrival		Elapsed time		Delivery	Train	Departure		Arrival		Elapsed time		Delivery
		Day	Time	Day	Time	Days	Hrs/Min			Day	Time	Day	Time	Days	Hrs/Min	
Piggyback:																
New York/Chicago	CXCH	Mo	23:30	We	4:16	1	5:46	2d AM	TV 50C	Tu	4:30	We	9:00	1	5:30	2d AM
Chicago/New York	CHCX	Mo	21:00	We	3:37	1	5:37	2d AM	TV 10	Tu	1:30	We	7:40	1	5:10	2d AM
Boston/Chicago	BOCH	Mo	19:00	We	9:16	1	15:16	2d AM	TV 9	Tu	0:30	We	9:00	1	10:30	2d AM
Chicago-Boston	CHBO	Mo	19:20	We	11:50	1	15:30	2d Day	TV 14	Mo	21:30	We	06:35	1	8:05	2d AM
New York/St. Louis	CXCH/POSL	Mo	23:30	Th	5:13	2	6:43	3d AM	TV 3H	Mo	19:00	We	05:00	1	11:00	2d AM
St. Louis/New York	SLPO/CHCX	Mo	19:10	Th	3:37	2	7:27	3d AM	M-10	Mo	20:00	We	05:20	1	8:20	2d AM
Boston/St. Louis	BOCH/POSL	Mo	19:00	Th	5:13	2	11:13	3d AM	TV5/TV55	Mo	20:30	We	11:30	1	16:00	2d Day
St. Louis/Boston	SLPO/CHBO	Mo	19:10	Th	11:50	2	15:40	3d Day	TV4M/TV6	Mo	21:00	We	14:55	1	16:55	2d Day
Portland/Chicago	POED/BOCH	Mo	11:00	We	9:16	1	20:16	2d Day	[1]							
Chicago/Portland	CHBO/MERU	Mo	19:20	We	18:26	1	22:06	3d AM	[1]							
Portland/St. Louis	POSL	Mo	19:00	Th	5:13	2	11:13	3d Am	[1]							
St. Louis-Portland	SLPO	Mo	19:10	Th	9:41	2	13:31	3d AM	[1]							
Manifest:																
Portland/Chicago (Belt Ry Yard)	BAED/EDCH	Mo	17:30	Th	13:31	2	21:03		[1]							
Chicago (Belt Ry Yard)/Portland	CHME/MERU	Mo	8:45	We	18:26	2	8:41		[1]							
Albany-Chicago (Belt RY Yard)	ABED/EDDU/EDCH	Mo	23:00	Fr	13:33	3	15:33		WVWA-10.DOEL/ELDR	Mo	13:00	Th	2:00	2	14:00	
Chicago (Belt Ry Yard)/Albany	CHME/Local	Mo	8:45	We	20:33	2	10:48		DREL/ELSE/WVWA-10	Mo	5:00	Th	9:00	3	3:00	
Boston/Chicago (Belt Ry Yard)	SAED/EDCH	Mo	21:45	Th	13:33	2	16:48		DOEL/CLDR	Mo	4:00	Th	2:00	2	23:00	
Chicago (Belt Ry Yard)/Boston	CHME/MELA/EDSA	Mo	8:45	Th	4:20	2	18:05		DREL/ELSE/SEBO	Mo	5:00	Th	23:30	3	17:30	

[1] Service not offered by Conrail.

New York/Chicago and Chicago/New York Corridor, TOFC Service

In this corridor, GTI services appear to be competitive with those presently offered by Conrail, both with respect to departure time and elapsed time between origin and destination.

Boston/Chicago and Chicago/Boston Corridor

In this corridor pair, GTI TOFC services appear to be less competitive, while GTI's manifest train schedule is superior to Conrail's present service (64 hours 48 minutes versus 71 hours westbound and 66 hours 35 minutes versus 89 hours 30 minutes eastbound). GTI TOFC services include 6-8 hours additional elapsed time and will require the movement of loaded TOFC trailers during evening rush hour periods at both origins. In addition, in the Chicago/Boston corridor, loaded TOFC trailers will not be available to consignees until the second afternoon, whereas a consignee using the Conrail service can pick up his TOFC trailer by mid-morning of the second day.

New York/St. Louis and St. Louis/New York Corridor, TOFC Service

In this corridor, GTI TOFC services appear to be non-competitive with respect to elapsed time (54 hours 43 minutes versus 35 hours westbound and 55 hours 27 minutes versus 32 hours 20 minutes eastbound), although GTI's later departure time will avoid the problem of rush hour traffic congestion for TOFC traffic originating in the New York market.

Boston/St. Louis and St. Louis/Boston Corridor, TOFC Service

In this corridor, it appears that Boston and New York traffic will be handled in the same train, and thus Boston service is susceptible to the non-competitive features with respect to elapsed time (59 hours 13 minutes versus 40 hours westbound and 63 hours 40 minutes versus 40 hours 55 minutes eastbound).

Portland/Chicago and Portland/St. Louis Corridors

In these corridors Conrail offers no through freight service, either TOFC or manifest trains and no comparison is possible.

Albany/Chicago and Chicago/Albany Corridor, Manifest Train Service

In this corridor, Conrail's westbound service is superior with respect elapsed time (62 hours versus 87 hours 33 minutes), while GTI's eastbound service is superior using the same criterion (58 hours 48 minutes versus 75 hours).

From the schedule comparison set forth above, it would appear that GTI's schedules (if they can, in fact, be met) will be competitive for TOFC traffic in the New York/Chicago corridor and for other general freight traffic in the Boston/Chicago corridor (both directions) and the Albany/Chicago corridor (eastbound only). GTI's through freight services appear to be non-competitive in the other corridors where comparisons are provided in Exhibit 8 of its Business Plan.

Capability of GTI System to Attract Interline Traffic

In its analysis of the traffic which the expanded GTI system will be able to attract, GTI separated the traffic which the expanded system will transport into three mutually exclusive categories:

(i) traffic on the lines to be acquired;

(ii) traffic currently moving via the existing GTI system which could move over the lines which GTI will acquire; and

(iii) traffic which GTI does not presently handle and which does not presently, but could, move over the lines to be acquired.

GTI's analysis of the traffic and revenues which the expanded GTI system is expected to realize from traffic in each of these categories is discussed below.

(1) GTI traffic gains from lines to be acquired

GTI states that it expects to gain $38.0 million in annual revenues from traffic originating or terminating on the western extension lines "immediately upon acquisition." [4] As shown in Table 19, the $38.0 million revenue gain is to be comprised of three elements, i.e., $11.1 million from lines to be acquired from NS; $19.8 million from lines to be acquired from Conrail; and $7.1 million from car haulage services which GTI will perform for NSCR. Complete traffic flow data have not been provided and all elements of their $38.0 million cannot be replicated from the GTI work papers.[5]

TABLE 19.—GTI REVENUE TALLY FOR TRAFFIC GAINS FROM LINES TO BE ACQUIRED

	Annual loads	Annual gross revenue (thousands)
NS Exclusive rights	7,032	4,473
NS Reciprocal points	7,647	6,629
Total NS	14,679	11,102
CR Exclusive points	9,932	8,721
CR Reciprocal points	12,419	11,128
Total CR	22,351	19,849
Car haul	28,459	7,067
Total on lines acquired	65,489	38,018

Source: GTI business plan, exhibit 3.

[Pages 117-120 have been deleted. These pages may contain confidential business information.]

(3) GTI traffic gains from new business

The largest single component of GTI's total net gain from the expansion of its present system is the $79.6 million which GTI claims it will gain from traffic which will be entirely new to the expanded GTI system. Such traffic presently moves via other rail carriers or motor carriers. In this instance, Exhibit 3 supports the text of the Business Plan. Exhibit 3 displays a revenue gain of $79.558 million, distributed as follows:

	Millions
GTI Western extension gain	$44.608
DH gain	20.857
BM gain	9.849
MEC gain	4.244
Total	79.558

The sources of this major component of the total revenue which GTI estimates it will gain from the expansion of its present system through the acquisition of lines to be acquired from NSCR are described at page 21 of the GTI Business Plan, as follows:

[4] GTI Business Plan, at 17.

[5] See GT 000153-66.

New Intermodal Business.—The new routes to Chicago and St. Louis will put Guilford in a position to compete in the intermodal markets now dominated by Conrail between Boston-New England and the New York area in the East and Chicago and St. Louis gateways in the West.

New General Freight Business.—The new routes to the Chicago and St. Louis gateways will make it possible for Guilford to compete on certain traffic (grain, paper, autos and chemicals) currently moving between New England and the West or Midwest via truck or other railroads and not presently handled by Guilford.

New intermodal business

The largest component of the New Business which GTI states that it will gain is New Intermodal Business amounting to 73,770 carloads with GTI revenues of $61.458 million. The largest component of that traffic is comprised of 66,488 carloads of TOFC presently transported by other rail carriers which are not identified by GTI, while the balance of New Intermodal Business is expected to be diverted from motor carriers. The composition of the TOFC traffic to be diverted from present rail carriers is identifed in GTI's work papers at GT 000377 as follows:

GTI NEW INTERMODAL BUSINESS

Traffic lane	GTI carloads	GTI revenue (thousands)
Boston Area and Maine/Chicago	19,688	$17,077
Oak Island, NJ/Chicago	36,000	27,900
Maine/St. Louis, MO	1,800	1,651
Boston Area/St. Louis, MO	6,300	5,947
Oak Island, NJ/St. Louis, MO	2,700	2,567
Total GTI new TOFC business diverted from rail carriers	66,488	55,512

As indicated in the description of new Intermodal Business which appears at page 21 of the GTI Business Plan, the TOFC traffic which GTI estimates it can divert from other rail carriers will be diverted from Conrail. While there is no confirmation of this assumption in the GTI Business Plan or the supporting consultant work papers, Conrail is the only rail carrier which provides single-line service in this corridor.

The balance of TOFC traffic which GTI estimates it can divert is comprised of 7,282 carloads of predominantly westbound traffic with $6.316 million in GTI revenue which presently is transported by motor carriers in the traffic lane between Maine and the Boston area in the east and Chicago in the west.

NS's February diversion analysis estimated that GTI would capture five percent of CR's New Jersey TOFC traffic. In the July supplement to that analysis, NS observed that GTI trackage rights between Binghamton and Croxton would heighten [GTI's] ability to compete with Conrail . . . in particular, [for] intermodal traffic.

The TOFC traffic claimed by GTI amounts to over one quarter of Conrail's 1983 New Jersey TOFC traffic. Despite NS's observation about Southern Tier trackage rights, GTI's expectations seem overly optimistic.

It is problematic whether GTI will be able to attract such highly competitive TOFC traffic unless the service which GTI will perform in the indicated corridors will be consistently equivalent to the services which the combined NSCR system will offer. It is also unlikely that GTI will be able to offer reduced rates in order to attract such highly competitive TOFC traffic.

TOFC rates and services under the Staggers Act have been granted total exemption from ICC regulation, thereby giving rail carriers nearly total discretion in pricing such services. Rail carriers have already reduced rates on TOFC to levels which are only marginally profitable. Further, irrespective of any rate reductions which GTI may contemplate to attract such traffic, retaining significant volumes of TOFC business which GTI initially might secure through rate reductions will be problematic if the competitive service standard cannot be met consistently by GTI. Accordingly, little weight should be given to GTI's claimed revenues from diversion of this traffic either from other rail carriers or from motor carriers.

New general freight business

Of the 9,400 carloads of New General Freight Business estimated by GTI, only the Chicago and St. Louis gateways are identified as points at which the expanded GTI system would interchange such traffic with its new interchange partners. GTI work papers indicate that the composition of this new traffic is 8,700 carloads of paper westbound from origins served by GTI or the Bangor and Aroostok Railroad (BAR) in Maine and 700 carloads of eastbound miscellaneous traffic received from connections at Chicago and St. Louis and destined to stations served by GTI in New England and New York.

With respect to paper shipments, no destinations are identified; with respect to the miscellaneous traffic, neither origin nor destination are supplied. The only origin or destination identification provided by GTI is found in a BAH computer printout which does not agree with the summary work paper respecting these New General Freight traffic gains. No reconciliation has been provided by the consultant or GTI.

GTI apparently has not identified any new business which it might obtain at new interchanges located along lines it will acquire from NS or Conrail. Conspicuously absent is evidence of potential traffic which GTI might handle in joint service with NSCR, CSX, or Bessemer and Lake Erie (BLE) at such intermediate interchange locations.[11]

Such traffic would fall within the New General Freight category since it would be comprised entirely of traffic which did not move over those lines in the historical traffic records of NS or Conrail and thus would not have been analyzed by GTI as either extended haul traffic or traffic to be acquired through the GTI system expansion.

At page 21 of its Business Plan, GTI indicates that automobiles are among the New General Freight Business which GTI will divert from other rail carriers. Manufactured automobiles are transported on specially equipped flat cars from a variety or origins in southern Michigan, none of which will be served directly by the expanded GTI system. The GTI work papers supplied with respect to that segment of GTI New Business identify only box car shipments of paper and miscellaneous freight; shipment of finished automobiles which are transported on automotive flat cars equipped with damage-inhibiting shrouded racks are not mentioned.

[11] As previously noted, NS's February analysis estimated diversions of about 14,500 cars with loss of $12.6 million associated with NSCR traffic interchanged with GTW and P&LE/MGA.

Connection with Pittsburgh and Lake Erie

At pages 20 and 21 of its Business Plan, GTI states that P&LE will acquire certain NS lines in Pennsylvania and Ohio and that GTI assumes that P&LE will be a friendly connection at interchanges which GTI has identified at Wellington, Cleveland and Ashtabula, OH. In Exhibit 3 of the GTI Business Plan, GTI indicates that traffic which it will gain from its interchange with P&LE amounts to 4,000 cars with GTI revenues of $3.036 million. The source, routing and revenue associated with the joint GTI/P&LE traffic are not identified in the work papers supplied to DOJ in support of Exhibit 3. As has been noted elsewhere, the Divertiture Agreement would not seem to grant GTI the right to interchange at Wellington which is on a trackage rights segment.

Potential diversion of traffic from GTI by NSCR

GTI has identified the amount of traffic and revenue it expects to lose through diversion by the combined NSCR system. The results of such diversion by NSCR are set forth in Exhibit 3 of the GTI Business Plan for traffic diverted from the expanded GTI system, as well as traffic which will be rerouted by NSCR. Traffic which will be diverted from the expanded GTI system is displayed separately with respect to "General Freight" ($10.551 million) and "TOFC" ($0.242 million). Traffic moving via the present GTI system which will be rerouted by the combined NSCR system so as to shorthaul the GTI system is reported under the heading "Enola Reroutes" ($0.939 million). Thus, GTI losses to the combined NSCR system associated with "Total Diversions and Reroutes" in Exhibit 3 amount to $11.732 million.

FINANCIAL REVIEW

The *pro forma* financial statements of GTI have been examined for the following:

1. The adequacy of data presented,
2. Their consistency with accepted accounting principles,
3. Their consistency with marketing and operating plans, and
4. The realism of the results, also in light of marketing and operating plans.

These analyses are intended to assist DOJ in determining whether GTI is financially capable of operating rail service over the divestiture properties. It is apparent that the *pro formas* are insufficiently supported to affirm GTI's financial viability. On their face, they indicate that operations would be viable, however, the genesis of the underlying data is frequently too obscure to properly validate them. The projected income levels are also insubstantial and profitability is highly sensitive to any abrupt changes in the economy. Further, the *pro formas* are based upon optimistic traffic projections and cost ascertainment reflecting expectations of substantial improvements in efficiency. Failure to realize these gains would imperil GTI's financial viability.

Description of pro formas

The GTI Business Plan contains three sets of *pro forma* financial statements which were the focus of our review. Specifically they are:

1. GTI's Rail Division *pro formas* covering the consolidated results of the MEC, BM and DH. The Business Plan displays the consolidated *pro formas* showing actual results for 1984 and planned results by year for 1985 through 1989 in Exhibits 11 (Balance Sheet), Exhibit 12 (Operating Plan),

and Exhibit 13 (Statement of Changes in Financial Position which covers only 1985-1989). All results are expressed in 1985 dollars.

2. A financial statement covering the projected results for Western Lines (Extension), displayed in Exhibit 14, which shows the Operating Plan results of *only* the effect of Western Lines acquisition on the GTI Rail Division for four years 1986 through 1989. Although not explicitly stated, it has been assumed that this exhibit reflects results in 1985 dollars.

3. Combined financial statements for the current GTI Rail Division and the Western Lines displaying actual results for 1984 and planned results for 1985 through 1989. Exhibits 15, 16 and 17 provide the Balance Sheets, Operating Plan and Pro forma Statement of Changes in financial position respectively for the combined GTI and Western Lines. These are assumed to be stated in 1985 dollars.

4. Other Underlying Data Relied Upon: The analysis of the *pro forma* financial results presented in Exhibits 11 through 17 of the GTI Business Plan is based upon the description of the proposed transaction contained in the GTI Business Plan, as well as supplementary materials supplied to DOJ in support of the GTI Business Plan:

(i) Assumptions related to GTI's projected five year plan;[1]

(ii) Details and assumptions of operating costs;[2]

(iii) Annual statistics for the base case and the base case with western extensions;[3]

(iv) Description of methodology for maintenance of way, mechanical and per diem costs;[4] and

(v) Description of basis for reduced labor costs.[5]

In addition, BM and DH 1983 Form R-1 Annual Reports to the ICC were analyzed in the review of GTI financial results.

Consistency with accepted accounting methods

The *pro forma* financial statements prepared by GTI are presented in an ordered, rational and coherent manner and appear to be internally consistent with the assumptions of the engineering, operating, and marketing plans. Additionally, the underlying work papers[6] can be traced to the *pro forma* results for the western lines[7] and the effects of these incremental revenues expenses and balance sheet items can be traced from the pro forma results for the existing lines[8] to the *pro forma* results for GTI including the acquired lines.[9] In this respect the GTI *pro formas* conform with accepted accounting principles.[10]

Determined that the financial results are adequately and consistently presented and properly reflect revenues and costs for the same period of time, is important in meeting a standard of consistency. If GTI has failed to present revenue and cost data on a consistent basis (i.e. comparing revenues, costs, and capital expenditures for the same year) as the review indicates, then its *pro formas* are inadequate. Accordingly, the financial results may be deficient to the extent that inflation assumptions or changes in year to year cost levels are not consistently accounted for in the calculation. Since the work papers supplied to DOJ do not detail the actual calculation and indexing of unit cost it is possible to verify whether all unit cost have been consistently calculated at 1985 levels.

A review of GTI financial statements disclosed that no provision for state and federal income taxes (current and deferred) was included in the determination of net income.[11] No explanation is given by GTI concerning the lack of any provision for taxes. This is a particularly troublesome omission since the combined Western Line and Rail Division Income Statement (Exhibit 16) estimates a total net income (exclusive of taxes) for the period 1985 through 1989 of $98.8 million. GTI's 1983 audited Financial Statements indicate net operating loss carryforwards and investment tax credit carryforwards of $21.0 million and $2.3, respectively for financial reporting purposes are available for 1985 and subsequent years.[12] Based on this information alone, we estimate approximately $25.3 million of forecasted profits would be offset by tax credits. The remaining $73.5 million of estimated net income, assuming no subsequent tax credits, would require a computation for financial statements of a provision for income taxes and adjustment downward of GTI's forecasted net income. Accordingly, based on our review of available information we conclude:

(1) GTI's financial statements do not adequately reflect income taxes and may be at variance with GAAP and

(2) New income as reported may be overstated, although the magnitude is unknown,

(3) The financial profitability ratios set forth in this section may be overstated because of (2) above, and

(4) The effect on cash flow generated from operations cannot be estimated but probably would not be substantial because of timing differences existing between depreciation for tax versus financial accounting. That is, estimated net income would be reduced, however cash flow from operations (the sum of net income plus the provision for deferred taxes) would probably be the same as GTI has estimated for 1985-1989.

Adequancy of pro formas

The *pro forma* balance sheet and income statement, excluding the acquired lines, which appear in Exhibits 11 and 12 of the GTI Business Plan present actual results for 1984, and projected results for 1985 through 1989. The *pro forma* statement of changes in financial position, excluding the acquired lines (Exhibit 13), presents projected results for 1985 through 1989.

Despite a thorough review of each of these statements, it cannot be determined whether they are adequate since GTI has provided no data in support of them. Since they are based upon projections, one must understand the critical assumptions which affect the bottom line (profitability) in order to judge their adequacy in predicting whether their goals can be met.[13]

The GTI Business Plan also presents (in Exhibit 14) the *pro forma* operating results projected for the acquired lines for 1985 through 1989. The incremental operating expense components presented in Exhibit 14 were reviewed; it was then possible to trace the incremental expenses associated with the acquired lines as calculated on the detailed work papers and reflected in the exhibit. In reviewing incremental expenses, GTI's calculation of incremental annual statistics associated with the acquired lines in the supporting backup work papers[14] was first replicated; it was then verified that these annual statistics were those actually employed in GTI's calculation of incremental costs for the acquired lines.[15]

At the next step it was verified, when sufficient detail was available from public sources, that unit costs were properly calculated by GTI as explained in detail elsewhere in this report. The next step was to replicate GTI's calculation of total incremental costs by multiplying the incremental annual statistics and corresponding unit costs. Finally, the total incremental costs were replicated and traced to the pro forma operating results for the acquired lines.[16] The underlying unit costs and operating statistics and their applicability to the Business Plan are not explained thoroughly in GTI's work papers. The review performed does not replace the need to examine, verify and test in detail the reasonableness of the underlying GTI assumptions on unit costs and operating statistics.

The GTI Business Plan presents *pro forma* results (balance sheet, income statement and statement of changes in financial position) for GTI including the acquired lines. These *pro forma* results were developed by adding the incremental revenues, expenses and balance sheet items associated with the acquired lines to the existing five year plan for GTI excluding the acquisition.

It was possible to replicate these *pro forma* results by combining the incremental revenues, costs and balance sheet items associated with the line with the *pro forma* results excluding the acquired lines. However, since the information as provided to support the existing five revenue and expense projections is inadequate, it must be concluded that these *pro forma* results suffer a similar deficiency—that these statements rest upon undisclosed and (with the available data) unverifiable GTI assumptions.

Realism and reasonableness of pro formas

Beyond the sufficiency of underlying documentation and the method by which the *pro formas* have been prepared, two major issues with respect to the financial statements are whether the results, as shown, are (1) indicative of financial viability and (2) realistic. To a large extent, these issues are intertwined; the *pro formas* do not, and would not be expected to indicate impending insolvency. The margin of error in financial assumptions which would permit continued operations is, however, susceptible to analysis, which may shed light on the question of whether there should be reasonable expectations of viability.

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[1] GT 00099-116.
[2] GT 000120-52.
[3] GT 000370-5.
[4] GT 001275-8.
[5] GT 001279-80.

[11] GAAP requires an income tax provision when currently payable or an interperiod tax allocation exists. See APB Opinion No. 11. *Accounting for Income Taxes* (December 1967).

[12] GTI Business Plan, audited 1983 financial statements for 511-Rail Division, Note 12-Income Taxes page 11.

[13] For example, approximately $14.2 million of capital grants remain available for 1985 and 1986 pursuant to an agreement between GTI and New York State. (See GTI's 1983 Annual Report to Stockholders, note 9 to the Financial Statements.) The remaining balance of the capital projects of $26.6 million, as incorporated in the *pro formas*, could not be validated or tested for reasonableness because of insufficient supporting information. If such a capital fund shortfall of this magnitude does occur during the 1985-1989 forecast period, the financial implications would raise serious questions on GTI's ability to raise funds given its projected liquidity problems discussed below.

[14] GT 000370-5.
[15] GT 000120-52.
[16] GTI Business Plan Exhibit 14

Ratio analyses can illuminate the strength of the projected financial results as presented; the solidity of the results may be weighed by reference to both the ratio analyses and the discussion of consistency with operating and marketing plans.

Table 21 displays financial ratios and measures utilized to test the viability of GTI's acquisition. It is important to note that these ratios and measures are subject to any limitations which also pertain to the underlying data supplied by GTI. Specifically, the basis of GTI's proposed plan is the existing five year plan. The GTI Business Plan and supporting work papers provide little documentation as to the assumptions and estimates provided therein. To the extent that the existing five-year plan is overly optimistic, GTI will be unable to achieve the goals in its Business Plan. Secondly, BM and DH, as they have existed historically, are not the railroads they are today. GTI has effected a financial reorganization of each of those carriers and the effects of those reorganizations need to be compared with historical results. GTI needs to provide explanations which would properly reflect the historical results. Finally, GTI fails to provide sufficient justification with respect to both anticipated revenues and expenses flowing from its acquisition.

The current ratio, or ratio of current assets to current liabilities, reflects GTI's projections of negative working capital (an excess of current liabilities over current assets), in each year, both with and without the acquired lines. This ratio is at a low level, 0.86, in 1984. Although it improves to 0.96 by 1989 according to the pro forma balance sheets with the acquired lines, it remains weak. While such a situation is not unusual in the rail industry, particularly among smaller and weaker carriers, it does cause concern since GTI may be unable to withstand the impaired financial results should it fail to achieve its revenue and expense projections. Inability to meet current obligations and expenses would probably force GTI to seek additional debt financing beyond that planned, probably at higher interest rates.

The quick ratio, which is the current ratio excluding less liquid current assets, is also less than might be desired. It too shows that GTI has insufficient liquid assets to meet current obligations and expenses. A commonly used rule of thumb is that current assets minus inventories should at least equal current liabilities, producing a quick ratio of 1; GTI's quick ratio averages approximately .70.

An analysis of GTI's financial statements disclosed a possible debt repayment problem beginning in 1988. Generally, lenders and investors prefer that depreciation expenses generate sufficient charges to cover the current portion of long-term debt. However, in the case of the acquired liens, GTI will have $14,991,000 in payments due in 1989 and only $10,636,000 in depreciation charges available. Thus, current debt payments will exceed cash flow made available from depreciation by 41 percent, which will have to be made up from net operating income.

TABLE 21.—GUILFORD TRANSPORTATION—RAIL DIVISION FINANCIAL RATIOS AND PERCENTAGES, 1984–89

	Actual 1984	Projected 1985	1986	1987	1988	1989
Excluding the Western extension:						
Current ratio	0.86	0.95	0.88	0.87	0.89	0.94

TABLE 21.—GUILFORD TRANSPORTATION—RAIL DIVISION FINANCIAL RATIOS AND PERCENTAGES, 1984–89—Continued

	Actual 1984	Projected 1985	1986	1987	1988	1989
Quick ratio	0.64	0.73	0.65	0.64	0.66	0.70
Debt/Equity (percent)	43.25	43.89	40.35	36.00	31.43	27.53
Times fixed charges	2.29	2.71	2.60	4.09	5.20	6.26
Return on equity (percent)	6.23	8.06	9.32	14.55	15.77	15.40
Operating ratio (percent)	98.58	97.51	96.83	94.76	93.53	93.10
Including the Western extension:						
Current ratio	0.86	0.95	0.94	0.95	0.93	0.96
Quick ratio	0.64	0.73	0.68	0.69	0.70	0.72
Debt/Equity (percent)	43.25	43.89	53.47	50.88	42.53	35.15
Times fixed charges	2.29	2.71	1.21	2.47	3.64	3.89
Return on equity (percent)	6.23	8.06	2.26	15.49	22.51	19.61
Operating ratio (percent)	98.58	97.51	97.62	93.43	90.31	90.13

Source: GTI Business Plan.

Examining the balance sheet for the acquired lines, one finds that the debt/equity ratio of GTI reaches its peak in 1986 with a ratio of 53.47 percent.[17] By the end of 1989, GTI's balance sheet indicates that this ratio would be 35.15 percent or an impressive improvement of 34 percent in three years. Given GTI's negative working capital, inability to meet current debt obligations from depreciation charges, and need to achieve the goals stated in its Business Plan to generate cash, the GTI results may be unobtainable. Even though its debt/equity ratio is projected to be respectable, GTI may be unable to use debt financing to meet cash shortfalls due to encumbrances on the property.

Times Fixed Charges Earned is a ratio that divides income plus interest expense by fixed charges. This ratio indicates a firm's ability to handle its interest expense and long-term leases by showing how much excess income is earned after these expenses are paid. A ratio of 1 means that the company earns just enough to pay off fixed charges and has no profits left. GTI starts at a relatively respectable 2.29 in 1984, but falls to the dangerous level of 1.21 in 1986. At this point, very small deviations in actual from projected results could result in either default or the necessity of obtaining new, high-risk debt.

GTI does claim that this ratio would rise to 3.89 by 1989 with the Extension. Without the Extension, and the consequent new debt requirements in 1986, times fixed charges is projected to increase to 6.26 by 1989.

Return on Equity stands at a low, but not unacceptable, level of 6.23 percent in 1984 and with the acquired properties this is projected to improve to a strong 19.61 percent by 1989. Without the Extension, the improvement is only to 15.40 percent. This increase is predicated on optimistic claims for future revenue, containment of expenses, and zero income taxes.

The operating ratio, or ratio of operating expense to operating revenue is derived from the income statements of Exhibits 12 and 16. By 1989 GTI expects its operating ratio to be 90.13 percent in the case of the acquired lines, which would be a significant improvement from an operating ratio of 98.58 percent in 1984. Such an improvement would allow $70.67 of each carload's revenue (based upon GTI's estimate of $716 per car) to be available for fixed charge coverage. Even a 90 percent operating ratio is high by industry historical standards, although not particularly out of line with industry financial results of the past five years. How precarious such a ratio is, however, depends largely on the level of fixed expenses (principally interest payments) and the volatility of a given carrier's traffic and revenue base.

A 90 percent operating ratio indicates that maintenance of a positive net income would be very sensitive to traffic levels. Because of the relative invariability of several expense categories, a shortfall in projected revenues would not result in a corresponding decline in expenses. The operating ratio would be expected to increase markedly with revenue reduction, eviscerating operating income, and threatening the carrier's ability to cover fixed charges.

While a carrier enjoying a lower operating ratio is not immune from this effect, it indicates that, all else being equal, the margin of protection for creditors is greater. Also, a low operating ratio is an indication of intrinsic viability of railroad operations. Even were such a carrier to become insolvent, as might result from an excessive debt burden, the operations themselves would in all likelihood continue through and after reorganization. The same cannot be said of rail operations which lack the ability to consistently produce strong operating results.

Consistency with marketing plan

The financial pro formas provided by GTI accurately track its assumptions with respect to traffic; thus, internal inconsistency between portions of its Business Plan is not at issue here. However, defects, generally characterizable as over-optimism in the marketing plan, cause serious concern that GTI's financial results may be more sanguine than reality would warrant.

No attempt is here made either to specify what the effect on the financial pro formas may be of questionable traffic assumptions as embodied in the marketing plan or to recast the financial statements based on substituting independent judgment for GTI's. Nevertheless, a recitation of two of the marketing plan's major components (discussed in greater detail above) may illuminate potential overstatements of revenues and income.

1. GTI claims immediate revenue gains of $38 million from traffic originating or terminating on the western extension lines.[18] These gains are predicated on an analysis which employs a uniform 40 percent diversion rate for traffic at stations open to NSCR through reciprocal switching, irrespective of whether the traffic originates or terminates at stations on the lines which GTI would acquire. Further inadequacies have been noted with respect to GTI's treatment of reciprocal switching rights granted to NSCR. Thus it appears that the $38 million claimed by GTI is overstated by an amount not quantifiable from the documents provided. The credibility of this diversion rate is questioned at greater length in our analysis of the marketing plan.

2. GTI asserts that it will gain $79.6 million in revenues from traffic which will be entirely new to the expanded GTI system. $61.4 million of this figure would be from new intermodal business, diverted principally from other rail carriers. As discussed above in the analysis of the marketing plan, the actual capture of this business is problematic, and the contribution to net income of the traffic that is captured may be negli-

[17] As previously discussed, GTI does not appear to have accounted properly for income taxes; its 1984–1989 financials make no provision for such taxes. Any change in this assumption would have a negative impact on GTI's debt/equity ratio, times fixed charges earned ratio, and return on equity.

[18] GTI Business Plan, pp. 17–18.

gible. This is because intermodal traffic is highly sensitive to service quality as well as price; GTI will have great difficulty matching competitors' service levels and rates on intermodal traffic (which is generally already poorly remunerative due to heavy competition from motor carriers). Given the precariousness of GTI's financial position even as projected, the heavy reliance on potential intermodal revenues as evidence of financial viability of itself creates cause for concern.

In sum, the financial statements are accurate representations of the marketing plan, but the assumptions underlying the marketing plan are questionable in several respects. Thus, the reasonableness of the financial projections cannot be supported from the aggregate of the materials provided by GTI.

Consistency with operating plan

As is the case with its marketing plan, GTI's financial statements do not disagree with its operating plan. Similarly, important assumptions underlying the operating plan, which could not be tested for reasonableness, are incorporated in the pro formas. Set forth below are the areas found questionable in the analysis of the GTI operating plan and which could have a substantive effect on the pro forma statements:

1. Labor protection costs (payments) appear to be substantially understated given the planned level of manning and the number of people currently employed.

2. Maintenance of equipment expense is a "mixed" situation. Unit costs employed appear to be conservative and could result in an overstatement of total expenses. However, certain operating statistics (car-days and car-miles) appear unrealistically low which would result in understatement of expenses.

3. Car hire payable—(Per diem payments) appear to be understated because on line foreign car-days are understated.

4. Costs of rehabilitation and construction of connections is estimated by GTI to be approximately $58 million with a possible addition of $20 million to a total of $78 million, and by CR, $159 million. That latter figure, while perhaps overstated, appears to be more accurate. The possible understatement by GTI of these capital costs by several tens of millions of dollars would necessitate the raising of much, now unanticipated, capital, the cost of which would severely reduce net income. Alternatively, curtailment of rehabilitation or a "quick fix" would probably have significant implications for the GTI Marketing Plan and revenue forecasts.

5. The ability of GTI to meet its proposed train schedules is doubtful. If GTI's ability to compete on a service basis for much of its projected new traffic is diminished, its traffic volume and hence revenue is likely to be reduced as well.

6. The absence of any provision for income tax liability for the years 1985 through 1989 seriously undermines the credibility of the GTI estimated net income for each of those years.

Pittsburgh & Lake Erie Railroad Engineering Assessment

Facilities to be divested

Line segments and associated yards to be acquired by P&LE are listed in Table 22. The trackage rights which P&LE would receive are arrayed in Table 23. Both tables are derived from the P&LE/NS Divestiture and Acquisition Agreement of April 19, 1985. P&LE is also to be assigned the lease of the PWV from Connellsville, PA to Pittsburgh Jct., OH (111.2 miles of main line plus 11.4 miles of associated branch lines), thereby replacing NS subsidiary Norfolk and Western Railway Co., as the lessor of this property.

In the documentation made available by P&LE, CR, and NS (either publicly or through DOJ), information in varying degrees of completeness and detail was provided as to: (i) the condition of the lines to be acquired or over which trackage rights are to be granted; (ii) route mileage and track mileage; (iii) locations of new connections required to implement P&LE's plan; (iv) cost to construct required new connections; (v) signal systems; (vi) locations and conditions of yards to be acquired by P&LE; (vii) cost to rehabilitate lines and existing connections; and (viii) annual normalized track maintenance cost. No cost data were supplied as to the PWV. There is no significant discussion of structures, buildings, shops, communications facilities, condition of signal systems and any costs (rehabilitation or maintenance) associated with them.

TABLE 22.—LINES TO BE ACQUIRED BY PLE

Line No.	Divesting railroad	District(s)	Line	State(s)	End point		End point		Miles [1]	Notes
					Name	MP [1]	Name	MP [1]		
1	NW	Canton	NA	OH	Cleveland	0.8	Harmon	73.6	72.8	
2	NW	Toledo, Wheeling	NA	OH	Yoemans	54.6	Pittsburgh Junction	183.4	130.3	[2]
3	NW	Wheeling	Steubenville Branch	OH	Steubenville	13.2	Warrenton	0	13.2	[3]
	NW	Wheeling	Mail line	OH	Warrenton	205.4	Martins Ferry	213.2	7.8	[4]
4	NW	Canton	Chagrin Falls Branch	OH	Falls Junction	0	Chagrin Falls	8.2	8.2	
5	NW	Canton	Carrollton Branch	OH	Canton Yard	0	Carrollton	27.7	27.7	
6	NW	Canton	Minerva Branch	OH	Minerva Junction	0	Minerva	3.0	3.0	
7	NW	Toledo	Massillon Branch	OH	Orrville Junction	0	Orrville	1.4	1.4	
	NW	Toledo	Massillon Branch	OH	Dalton	7.0	Run Junction	22.1	15.1	
8	NW	Canton	Cleveland Belt	OH	Belt Line Junction	0	Knob	5.4	5.4	[5]
9	NW	Canton	Canton Belt	OH	Canton	0	Canton	3.7	3.7	[6]
10	NW	Zanesville	NA	OH	Harmon	73.6	Zanesville	144.1	70.5	
	NW	Zanesville	Peabody Coal Branch	OH	Arnold	.8	NA	7.2	6.4	[7]
	NW	Zanesville	Zanesville Belt	OH	Zanesville	0	Zanesville	3.1	3.1	[8]
11	CR	NA	105 Secondary Track	PA	Carnegie	1.9	Carnegie	2.5	1.6	[9]
	CR	NA	Washington Secondary	PA	Carnegie	.1	Bridgeville	3.9	3.8	
	CR	NA	Bridgeville-McDonald Industrial Trach	PA	NA	NA	NA	NA	1.5	[10]
12	NW	Toledo	Huron Branch	OH	Huron Junction	.3	Milan	5.5	5.2	

[1] May be approximate.
[2] Includes former Lorain and West Virginia Railway from Lake Junction (MP 0.0) to MP 1.5.
[3] Via Mingo Junction.
[4] Includes any assignable NW rights over Wheeling-Pittsburgh properties to Follansbee, WV.
[5] In Cleveland, OH.
[6] In Canton, OH. Includes NW rights to serve LTV and use of CR's Canton Yard.
[7] PLE to acquire NW's 50 percent share of this line.
[8] If this line is not abandoned as of closing date.
[9] Connects Pittsburgh, Charters, and Youghiogheny Railway to CR's Washington Secondary Line.
[10] Connection with Washington Secondary Track. Permits new connection with NW's Connellsville District in vicinity of MP 61.3 (Bridgeville, PA).

Source: Divestiture Agreement between NS and PLE, Apr. 19, 1985.

TABLE 23.—OVERHEAD TRACKAGE RIGHTS GRANTS TO PLE

Line No.	Owning railroad	District(s)	Line	State(s)	End point		End point		Miles [1]	Notes
					Name	MP [1]	Name	MP [1]		
1	NW	NA	Cherry Street	011	Toledo	2.0	Ironville	3.7	1.7	[2]
	NW	Toledo	NA	OH	Ironville	3.7	Yeomans	54.6	50.9	
					Alternative A					
2	CR	NA	Pymatuning Main	OH	Brier Hill Yard	61.9	Pymatuning Main	NA	NA	[3]
	CR	NA	Pymatuning Main	OH	Brier Hill Yard	61.9	Levittsburg	49.2	12.7	[4]
	CR	NA	Freedom Secondary	OH	Levittsburg	164.8	Kent	192.5	27.7	[5]
					Alternative B					
	CR	NA	E&A Branch	OH	Graham	60.7	Detour	75.6	14.9	[6]
	CR	NA	PY&A Secondary	OH	Detour	75.6	NA	79.5	3.9	[7]

TABLE 23.—OVERHEAD TRACKAGE RIGHTS GRANTS TO PLE—Continued

Line No.	Owning railroad	District(s)	Line	State(s)	End point: Name	End point: MP [1]	End point: Name	End point: MP [1]	Miles [1]	Notes
	CR	NA	Pymatuning Main	OH	Warren	53.8	Levittsburg	49.2	4.6	
	CR	NA	Freedom Secondary	OH	SN Junction	168.4	Freedom Secondary	170.0	1.6	
	CR	NA	Freedom Secondary	OH	Levittsburg	164.8	Kent	192.5	27.7	[5]
3	CR	NA	Weirton Secondary	OH	NA	49.4	Mingo Junction	46.7	2.7	[6]
	CR, NW	NA	New Connection	OH	CR Weirton Secondary	48.0	NW Connellsville District	92.2	NA	[7]
	CR	NA	New Connection	OH	Weirton Secondary	48.0	Powhatan Secondary	[9] 21.8	NA	[7]
4	CR	NA	Weirton Secondary	PA	Duff Junction	3.0	Char	6.3	3.3	
	CR	NA	Connection	PA	Char	.1	Carnegie	1.9	2.0	[10]
	PCY	NA	Connection	PA	McKees Rocks	.5	Carnegie	7.0	6.5	[11]

NA = Not available.
[1] May be approximate.
[2] Connects with Grand Trunk Western Railroad at Lang Yard, Toledo Terminal Railroad at North Yard (Manhattan Boulevard) and Ann Arbor Railroad at Ottawa Yard in the vicinity of MP 2.0 in Toledo. Via Maumee River Bridge.
[3] Construct new connection.
[4] Over or through SN Junction to Freedom Secondary Track.
[5] Use and/or construct connection(s) at Kent for access to NW's Canton District Cleveland-Canton Line.
[6] Connects with CR's Pittsburg, Youngstown and Ashtabula (PY&A) Secondary Track at Detour. Includes right to reactivate and/or construct a connection from the West end of former Lake Erie & Eastern Line at Girard Junction (MP 8.4) to CR's Erie and Ashtabula (E&A) Branch at Girard Junction (MP 69.8).
[7] New connection to CR's Pymatuning Main Line to be constructed.
[8] Including connection with CR's Powhatan Secondary Track via west leg of Wye in vicinity of MP 20.6 at Mingo Junction.
[9] Assumed point to be midway between MP 20.6 and MP 23.0.
[10] Connects CR's Weirton Secondary Track with CR's 105 Secondary Track.
[11] Connects PLE with CR's 105 Secondary Track at Carnegie. PLE road trains to have priority over yard movements consistent with customary trackage rights provisions.

Source: Divestiture Agreement between NS and PLE, Apr. 19, 1985.

The most comprehensive description of these facilities to be acquired by P&LE and the associated costs of maintenance, upgrading and construction is provided by CR Witness W.F. Wulfhorst in a series of tabulations in his testimony in the ICC Staff Study.[1] The cost information in these tabulations is said to have been developed by skilled engineering personnel after undertaking field inspections.[2] The more limited data supplied by P&LE and NS provide some useful comparative information. Because CR data are so comprehensive compared to data submitted by P&LE or NS, they are the basis for much of the present analysis. A summary of Mr. Wulfhorst's maintenance, rehabilitation and construction cost estimates is presented in Table 24.

Normalized Maintenance Estimates

CR estimated annual maintenance costs of the P&LE expansion lines at two levels: Level A, 11 to 15 million gross ton miles per mile annually (MGTM) and Level B, 0 to 5 MGTM.[3]

TABLE 24.—CONRAIL ESTIMATES OF REHABILITATION AND ANNUAL MAINTENANCE COSTS ON LINES TO BE ACQUIRED BY PLE

	Mileage	Estimated cost
To be acquired from Conrail:		
Route miles	5.0	
Main line track-miles	5.0	
Annual maintenance:		
Level A [1]		$53,617
Level B [2]		
Line rehabilitation:		
New		2,327,330
Fit		1,232,350
Other rehabilitation or connections:		
New		1,055,490
1 Fit		1,022,220
To be acquired from Norfolk Southern:		
Route miles	468.3	
Main line track-miles	474.4	
Annual maintenance:		
Level A [1]		4,567,035
Level B [2]		4,093,537
Line rehabilitation:		
New		17,136,297
Fit		14,332,083
Total:		
Route miles	473.3	

[1] Reply verified statement of W.F. Wulfhorst, app. V through VIII.
[2] Ibid., at 3.
[3] Op. cit.

TABLE 24.—CONRAIL ESTIMATES OF REHABILITATION AND ANNUAL MAINTENANCE COSTS ON LINES TO BE ACQUIRED BY PLE—Continued

	Mileage	Estimated cost
Main line track-miles	479.4	
Annual maintenance:		
Level A		4,567,035
Level B		4,093,537
Line rehabilitation:		
New		19,463,627
Fit		15,564,433
Other rehabilitation or connections:		
New		1,055,490
Fit		1,022,220

[1] 0.0 to 5.0 million gross tons per mile annually.
[2] 11.0 to 15.0 million gross tons per mile annually.

Source: Reply verified statement of W.F. Wulfhorst, app. V through VIII.

These categories appear to be adequate for the purpose of establishing a range of potential annual maintenance expense levels, representative of operating approximately three to five trains daily in each direction (Level A) or one train (or less) daily in each direction (Level B).

Conrail provided no work papers which indicate the method used to develop its maintenance estimates; the CR estimates appear to be consistent with industry average based on the relevant FRA track class. Annualized CR unit costs for all lines which P&LE will acquire are displayed below:

Level A:
Dollars per route mile $9,649
Dollars per main track mile 9,527
Level B:
Dollars per route mile 8,649
Dollars per main track mile 8,539

P&LA has not supplied any data which could be used as a basis of comparison.

Required Rehabilitation Estimates

CR specifies two levels of rehabilitation cost in its testimony in the ICC Staff Study. Those levels are defined as "new", meaning that all new materials would be utilized, and "fit", meaning that, to the extent possible, second-hand materials would be used. CR states, however, that "[i]t is highly unlikely the vast amount of fit material required would be available".[4] This CR statement appears to be generally true for rail, given the limited amounts of fit rail currently available in the second-hand market. While CR (nor any other party) provides any data with respect to the rail component of total rehabilitation costs, it appears that an average of the "fit" and "new" costs would be appropriate in this analysis. Use of an average comprehends a mix of new and suitable used rail at an average cost in assessing the propriety of using CR's estimates as a surrogate for P&LE rail rehabilitation costs.

[4] Reply verified statement of W.F. Wulfhorst, at 20.

The documents examined contain no details with respect to such proposed work elements as rehabilitation work (ties, rail, bridges, signals, etc.). Some information has been provided regarding the condition of rail lines which indicates necessary rehabilitation. However, the data are not sufficiently detailed to yield a definitive estimate.

As shown in Table 24, line rehabilitation costs total $31,743,556 for new material or $23,051,146 for fit materials; the average rehabilitation cost is $27,397,351. Yard rehabilitation is treated below.

Investment Requirements

The following estimates of connection and yard rehabilitation cost estimates are from both CR and P&LE sources. Where CR supplies both "fit" and "new" estimates, the average is shown:

	Estimated cost: CR	Estimated cost: PLE
Connection to NW Connellsville line, Bridgeville, PA	$1,038,855	$1,481,000
Connellsville connection, Weirton secondary track	324,740	
Alternative A: E&A Girard Connection	1,133,070	500,000
Alternative B:		
LE&E Girard Connection	381,680	500,000
Warren Connection	609,225	
Total	990,905	
McKees Rocks, PA	(1)	537,000
Kent, OH	(1)	1,765,210
Mingo Junction & Adams Tunnel, OH	(1)	[2] 1,500,000

[1] No estimate.
[2] Optional less than.

Source: Reply verified statement of W.F. Wulfhorst; document PL 000135–6.

Engineering judgments

Normalized maintenance

P&LE did not supply any estimates of normalized maintenance cost. In their absence, CR estimates (which reasonably compare with industry averages) were em-

ployed. The lines which P&LE will acquire will carry relatively light traffic density and infrequent train service; therefore, CR "Level B" estimates were used. For the lines which P&LE will acquire, the estimate reported in Table 24 is $4,093,537.

CR also supplied estimates of the annualized maintenance cost on the NSCR lines over which P&LE will operate under trackage rights. The P&LE/NS trackage right agreements supplied by NS to DOJ provide that NSCR will be responsible for track maintenance; P&LE's share of maintenance expense is an implicit part of its 17 cents per car-mile payment to NSCR.[5] Therefore CR's estimate is inappropriate.

Maintenance expense estimates related to facilities other than track (e.g., signals or structures) have not been provided by P&LE (or CR). It can only be assumed that these items have been included in the line maintenance cost estimates supplied to DOJ by CR and P&LE.

Rehabilitation and new construction

P&LE submitted an estimate of $3,683,807 for upgrading the line between Falls Junction and North Canton a portion of the segment between Cleveland and Harmon.[6] CR's estimate for the entire Cleveland-Harmon segment was $2,007,305.[7] P&LE also supplied an estimate of $2,231,705 to upgrade the PC&Y; CR does ot indicate whether any upgrading is required. The CR estimates for line rehabilitation are $31,743,556 for new material and $23,051,146 for "fit" material (Table 24). As noted above, the average of $27,397,351 is appropriate. In view of the absence of substantiation and the incompleteness of the P&LE estimates, it appears prudent to employ the CR total estimate amount of $27,397,351 for line rehabilitation.

P&LE provided estimates of the cost of new and rehabilitated connections; CR also provided its estimate of those costs. For a somewhat different group of connections, P&LE total estimate is approximately $4,280,000, exclusive of two optional connections costing less than $1,500,000. Conrail's total estimate (for a different group of connections) is either $2,496,665 for Alternative A or $2,354,500 for Alternative B. In view of the uncertainty with respect to which connections P&LE will construct, none of these estimates are regarded as firm.

Operating Plan Review

In examining P&LE's operating plan, the same fundamental questions referred to in the discussion of GTI's operating plan have been considered, i.e., consistency of the plan with the physical capabilities of the routes involved, treatment of yard and terminal issues, service capabilities of the routes, and labor-related issues.

PROPOSED OPERATING PLAN

The P&LE operating plan is extremely sketchy in terms of both its publicly-disclosed level of detail and the supporting documentation furnished DOJ. The primary public source of information on this plan is the Opening Verified Statement of Dr. D.E. Matzzie submitted May 24, 1985, in the ICC Staff Study. This document lists the endpoints between which P&LE would operate train service train service on acquired lines, points at which yard service would be provided, and the locations at which employees in various crafts would be retained to support transportation operations (but not the numbers of employees required). Exhibits 2, 3 and 4 of Dr. Matzzie's statment, which may fairly be said to represent the sum and substance of P&LE's operating plan as now available, are reproduced herein as pp. 1, 2 and 3 of Appendix B, respectively.

Assumptions underlying operating plan

The available data are insufficient to understand or assess the P&LE operating plan's underlying assumptions. The textual description of the plan consists of less than 2 pages in Dr. Matzzie's Opening Verified Statement. This test recapitulates the information contained in his Exhibits 2, 3 and 4. Information furnished DOJ and reviewed subsequent to that date does not cure this deficiency. P&LE provided a functional description of the various lines to be acquired (PL 000039-42), a description of the anticipated changes in its current operations (PL 000044), a service comparison (current N&W versus proposed P&LE, PL 000050-1) and related materials (PL 000052-6 and 000060), but these data are so general as to preclude an understanding of the operating plan itself or its key assumptions. P&LE states the speed limits are on these lines to be acquired (PL 000052-3), but does not state P&LE's transit time assumptions with respect to trains that it would operate over these lines. Similarly, the capacities of various yards to be acquired are provided by P&LE's (PL 000060); the numbers of cars which P&LE assumes would be or could be switched at these facilities are not supplied. In short, the P&LE's operating assumptions have not been spelled out in sufficient detail to render an assessment of their validity.

Imputed operating costs

In order to evaluate costs associated with a carrier's operating plan, the following data would be required at a minimum:

(1) frequency of train service on each route in the system;

(2) projected numbers of empty and loaded cars to be carried by each train;

(3) projected numbers of locomotive units required on each train, including helper locomotives where needed;

(4) numbers of cars to be switched at each yard;

(5) number of yard crews to be employed at each yard;

(6) numbers of cars to be originated, terminated or interchanged at each station;

(7) a blocking strategy specifying classifications of cars to be made at each yard;

(8) numbers of train and engine (T&E) service personnel required on each train and yard crew;

(9) numbers of supervisory, clerical and other support personnel required; and

(10) the unit cost of each resource required to carry out the proposed operation.

Data submitted to DOJ by P&LE do not satisfy these requirements. While there is reference in Exhibit 2 of Dr. Matzzie's Opening Verified Statement to daily train service on certain of the lines P&LE will acquire, this is insufficient by itself to render an estimate of the cost of providing service. Other train services are described as being provided "as required"; this could mean multiple trips daily or just a few trips each year. In short, P&LE itself presented no information as to the cost associated with its operating plan, nor has it furnished sufficient data from which such costs might be constructed.

Feasibility of operating plan

Since P&LE's operating assumptions and anticipated operating costs have not been disclosed, a judgment as to the plan's feasibility cannot be made. For example, train schedules have not been furnished; therefore, it is not known whether they reflect the physical capabilities of the lines to be acquired or whether they will be competitive with other carriers. Because only lists of yard facilities are available, with qualitative references to their proposed utilization, it cannot be determined whether they will be adequate to support the proposed operation. Further, because the labor requirements of the expanded system have not been provided, no conclusion is possible as to the feasibility of prospective changes in labor arrangements. This lack of information simply precludes an assessment of the P&LE operating plan's feasibility.

Circuitry

Given the paucity of available materials, the principal analysis that can be made of the P&LE operating plan relates to the relative circuitry of its routes between major traffic generators and interchange points and those of its competing carriers. While the character of P&LE's proposed traffic and operations apparently would be different from GTI's in that the P&LE will not participate in the movement of time-sensitive automotive or intermodal traffic,[1] the fact remains that P&LE would be in competition with NSCR throughout its expanded service territory, as it is with CR today on its existing lines.

Table 25 compares the relative mileage of P&LE's acquired lines with those operated by CR today, which would be the principal routes retained by NSCR in P&LE's expanded service area, between: (1) Toledo and Cleveland; and (2) Youngstown, Pittsburgh, Canton and Steubenville. As can be seen, in six of these eight cases, P&LE would have the shorter route; only in the Youngstown-Toledo and Cleveland-Pittsburgh rail corridors would NSCR have the advantage. However, this is not to say that P&LE's service would likely be superior to NSCR's. If NSCR has sufficient traffic to justify more than one train daily on these routes, and if its blocking strategy keeps cars out of intermediate yards, it could offer faster service than P&LE despite the relative circuitry of its routes. Absent P&LE's train schedules and blocking plan (which have not been provided) such a comparison cannot be made.

Trackage rights issues

Under its agreement with NS, P&LE would be granted overhead trackage rights on NSCR lines:

(1) Toledo and Yeomans (Bellevue), OH (approximately 51 miles);

(2) Youngstown and Kent, OH (40 miles);

(3) in the vicinity of Mingo Jct, OH (5 miles); and

TABLE 25.—RELATIVE ROUTE MILES OF P&LE ACQUIRED LINES VERSUS NSCR RETAINED LINES

	Toledo		P&LE miles [1] (percent)	Cleveland		P&LE miles [1] (percent)
	P&LE	CR		P&LE	CR	
Youngstown	218	183	119	76	85	89
Pittsburgh	237	245	97	173	147	118
Canton	149	181	82	59	84	70
Steubenville	205	262	78	142	164	87

[1] P&LE miles as percent of CR miles.

Source: Map of P&LE and lines to be acquired, PL 000066; The Official Railway Guide, North American Freight Service Edition, March-April 1983.

[5] NS 000095-171.

[6] PL 000133-6.

[7] *Reply Verified Statement* of W.F. Wulfhorst, Appendix VII.

[1] See NS 001711-2.

(4) between McKees Rocks and Carnegie, PA (10 miles), over a route owned in part by the Pittsburgh, Chartiers and Youghiogheny Railway Company (PC&Y), a joint subsidiary of P&LE and CR.[2]

These trackage rights would: (1) provide P&LE with access to connecting lines to Toledo; (2) provide a connection between P&LE's current Youngstown facilities and its newly acquired Cleveland-Brewster line at Kent; (3) facilitate P&LE's access to industries in the Steubenville area; and (4) link P&LE's current yard at McKees Rocks with the line which it will acquire between Carnegie to Bridgeville, PA, which will in turn provide a link to its newly acquired Connellsville-Pittsburgh Jct. route.[3]

In addition, P&LE will grant NSCR trackage rights over P&LE lines (either existing or newly acquired) between:

(1) Warrenton and Brilliant, OH (7 miles);

(2) Knob and Belt Line Jct. (Cleveland), OH (5 miles);

(3) Pittsburgh Jct. and Bowerston, OH (15 miles);

(4) Either Brownsville or Homestead and Monessen, PA; and

(5) Carnegie and Bridgeville, PA (4 miles).[4] The first, fourth and fifth sets of trackage rights in this list are described as providing NSCR with access to on-line industry (with the limitation that Brownsville- or Homestead-Monessen rights would be solely for access by NSCR to Monessen itself). The second represents a reservation by NSCR of existing CR trackage rights on an NS line. The third is designed to link otherwise-isolated NSCR lines.[5]

Absent a description (not provided in the available documentation) of precisely how these various trackage rights segments would be used by the owner and tenant, respectively, no firm conclusions can be reached with respect to the operating difficulties or costs that may be associated with them. However, the various agreements supplied by NS with respect to these trackage rights (Appendices A-1 and A-2 to Schedules B and D of the NS-P&LE Agreement, NS 000095-171) have been reviewed. These documents appear to follow the conventional format of such interrailroad agreements in terms of their description of the rights and responsibilities of owner and tenant, respectively. They provide for a payment to the owner by the user of 17 cents per car-mile for each car moved over the segments covered by the agreements. This figure is within the range specified by other known trackage rights agreements.

The inherent risk of any trackage rights arrangement to the tenant is, of course, that it lacks the same degree of control over the operation of the line that it has over proprietary trackage. Train movements and track maintenance are controlled by the owner, and there is a risk that the tenant's trains may be given low priority or that the owner may not maintain the line to an acceptable standard. While the NS-P&LE agreements do not contain ironclad guarantees on these issues, neither do most other such intercarrier agreements. In the event of a dispute over such a matter, settlement would be by arbitration, as is typical of trackage rights agreements. The only concern with respect to the NS-P&LE agreements is the possibility of dispute over assignment or transfer of the trackage rights in the event of a partial sale of the "underlying rail properties" referred to in the "Exclusive Benefit" section of each agreement (see, e.g., NS 000108-9). This is the most common subject of controversy involving such agreements.

While trackage rights arrangements thus do pose some risk, the fact is that they are an efficient and widely-used mechanism of providing access by two or more rail carriers to a single location. Every major railroad in the United States is involved in a trackage rights arrangement of one sort or another, and with rare exceptions they have proven workable.

MARKET REVIEW

The preceding discussion of the GTI Marketing Plan sets out the criteria to which the Market Review must adhere. That review is, of course, contingent upon each divestee submitting a marketing plan which contains sufficient detail to permit a review of the assumptions supporting the traffic and revenue claimed in the marketing plan. As of September 13, 1985, DOJ has not requested and P&LE has not submitted a marketing plan; the only marketing information which P&LE has supplied appears in that carrier's evidence submitted for the ICC Staff Study. Those data do not provide the level of detail necessary for any meaningful analysis of P&LE's marketing assumptions which underlie the traffic and revenue claimed from the divestiture.

Proposed marketing plan

Since P&LE has not supplied a formal marketing plan for the expanded P&LE system giving effect to (i) current financial restructuring and (ii) inclusion of the lines which P&LE will acquire from NS, review has been limited to the testimony of P&LE witnesses who filed verified statements for the ICC Staff Study. That plan is best summarized in the Opening Verified Statement of P&LE witness G.E. Neuenschwander, P&LE's Executive Vice President and Chief Financial Officer. According to Mr. Neuenschwander, the lines which P&LE will acquire will permit the P&LE to reclaim its former position as a strong regional carrier and will provide its shippers with a viable, competitive alternative to an enlarged NS system.*

The purpose of P&LE's line acquisitions is summarized by Mr. Neuenschwander as follows:

"Although the properties to be divested by NS and acquired by the P&LE will not provide a perfect competitive solution, they will provide the basis for a viable profitable and competitive regional railroad to serve the shippers in this expanded market."

* * *

"The lines over which the P&LE will operate under the terms of the agreement with NS will allow P&LE to serve shippers directly as far west as Toledo, Ohio, where it will gain a vital link with the Grand Trunk Western Railway for traffic to and from Michigan and lower Canadian markets, as well as Chicago.

"The lines to be acquired by the P&LE also will provide a possible opening to the Southeast via Connellsville, Pennsylvania [duplicating P&LE's present access at that interchange], as well as Cleveland, Ohio, on the north. The expanded GTI system will restore P&LE's friendly connection to eastern markets and western gateways [eliminated by previous Conrail through route/rate cancellations which P&LE is presently litigating]." [1]

As Mr. Neuenschwander observes, the purpose of the divestitures which P&LE has negotiated with NS is to "provide the P&LE with the expanded market access on a competitive opportunity which it has long sought." [2] The end result of the P&LE acquisition of lines from NSCR will be to increase P&LE traffic and revenue, permit P&LE to realize economies of scale and increase efficiency from its operations, which together "will once again make [P&LE] a vigorous, competitive regional railroad." [3]

It should be noted that Mr. Neuenschwander's observations stress the restoration of the P&LE as a vigorous, competitive regional railroad through expansion of its present system which has suffered severe traffic and revenue losses with the decline of its traditional traffic base, products of the steel industry facilities served by P&LE in the Pittsburgh area at Aliquippa, PA and Youngstown, OH. Expansion has been a goal aggressively prosecuted by P&LE beginning with the eastern railroad restructuring in the formation of Conrail in 1976; the present NSCR consolidation has presented P&LE with another opportunity to pursue its goal by extending its system. The new business which P&LE hopes to gain will be concentrated in the steel and related industry markets. As Mr. Neuenschwander testified:

"Many of P&LE's current customers have plants and facilities on the lines [P&LE] will acquire. P&LE's marketing expertise and equipment fleet [are] ideally matched to the needs of shippers on the new lines." [4]

Underlying marketing assumption

Supporting assumptions appear in the testimony of Mr. S.N. Wendelin, F&LE's Director-Strategic Planning. At page 2 of his Opening Verified Statement, Mr. Wendelin briefly describes the P&LE marketing plan as follows:

"The marketing plan is part of the overall business plan which P&LE is developing to integrate the lines [to be] acquired from NS into our existing system . . . [T]he new system will build on the existing P&LE and expand its operations in Ohio and Pennsylvania. This expansion will allow P&LE to provide service to Canton, Cleveland, Wheeling, Steubenville, Zanesville and Toledo, as well as to shippers at intermediate points. *The acquisition will enable P&LE to increase its traffic levels and promote a more competitive railroad market in its service area. The expanded markets and increased traffic levels resulting from this acquisition will also allow P&LE to increase the utilization of its large car fleet.*

The lines which comprise the divestitures from NS were carefully analyzed and selected by P&LE to accomplish specific market objectives." (emphasis supplied) [5]

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[2] NS-P&LE Agreement, Article IV and Schedule D.

[3] See NS 001712-7.

[4] P&LE Opening Statement in ICC Staff Study of Sale of Conrail to Norfolk Southern Corporation (P&LE Opening Statement) at 1.

[5] Ibid.

* P&LE Opening Statement in ICC Staff Study of Sale (P&LE Opening Statement) at 1.

[1] Ibid.

[2] Ibid. at 10.

[3] Ibid.

[4] Ibid.

[5] Opening Verified Statement at 2.

Four of the locations cited by Mr. Wendelin where P&LE would provide service are located in Ohio counties which DOJ identified in its January 29, and March 26, 1985 letters to Secretary Dole, i.e., Cuyahoga County (Cleveland); Jefferson County (Steubenville); Lucas County (Toledo) and Stark County (Canton). The other two locations, Wheeling (Ohio County), WV and Zanesville (Muskingum County), OH, were *not* identified by DOJ as requiring divestiture to provide for maintenance of rail competition. Zanesville is a logical addition, however, because it on the NS Coshocton Branch which serves Coshocton County, OH and Maresville. Coshocton was one of the counties identified in the DOJ March 26, 1985 letter to Secretary Dole.

Mr. Wendelin states the purpose upon which P&LE selection of the lines to be acquired was based at pages 3 and 4 of his Opening Verified Statement:

"P&LE must have access to new markets and friendly connections if it is to offer competitive rates and routes which are not controlled by its direct competitors. The access provided by connections with the new GTI lines to Chicago and St. Louis, as well as the connection with the GTW at Toledo will improve P&LE's competitive market position as an originating and terminating carrier.

"The increased market access provided by the expanded system will also reestablish P&LE as a major rail competitor in the steel industry which has shifted much of its remaining production capacity closer to the Great Lakes. P&LE's large fleet of gondolas, coil cars, open top hoppers and other specialized equipment is especially suited to serve the steel and other industrial facilities in Cleveland, Massillon, Toledo [OH] and Mingo Junction [WV], as well as those in the Pittsburgh and Youngstown area."

P&LE's goal of extending its system reach in order to obtain additional line haul revenue from traffic it has traditionally transported is evident in the material quoted above. Testimony filed June 7, 1985 by Mr. Neuenschwander in his Reply Verified Statement in the ICC Staff Study confirms this goal. At page 2 of his Reply Verified Statement, Mr. Neuenschwander states:

"P&LE simply seels to improve its competitive market posture by expanding its service into new markets that will enhance its economic viability. At the same time, this expansion will enable P&LE to provide these new markets with competitive rail service which would otherwise be reduced or eliminated as a result of the NSCR acquisition."

Mr. Wendelin identified other P&LE marketing plan assumptions in his Opening Verified Statement. At page 4, he states:

"P&LE's expanded system will enable P&LE to extend [its] line haul for a portion of its traffic . . . currently interchanged to connections at Youngstown or Ashtabula. This traffic will be carried by P&LE to Toledo with resulting increase in line haul revenues . . . [W]ith friendly connections, P&LE will also be able to utilize new routes to compete more effectively for traffic to the heavy industrial, agricultural and manufacturing areas of Michigan, northwestern Indiana and northeastern Illinois.

"Similar opportunities are presented for increasing revenues on important segments of P&LE coal traffic to utilities in Ohio and the Michigan [lower?] peninsula. These opportunities will interface with the P&LE coal origins at Colona Dock on the Ohio River, at Glassport on the Monongahela River and at mines accessible to P&LE via subsidiary railroads."

Mr. Wendelin concludes his description of the P&LE marketing plan by supplying an exhibit of the total traffic and revenue gains which P&LE projects as a result of its acquisition of lines to be divested by NSCR. That exhibit which appears at page 7 of Mr. Wendelin's Opening Verified Statement, is reproduced below:

PROJECTED P&LE ANNUAL TRAFFIC AND REVENUE ESTIMATES FOR 1986

	Cars	Gross freight revenues [1]
Current P&LE	117,826	44,445
Added Traffic	98,351	[2] 48,938
Total expanded system	216,177	93,383

[1] Net of absorbed switching expense.
[2] Includes revenue from traffic on newly acquired lines and incremental revenues from extended hauls on current P&LE traffic.

It is assumed that the gross freight revenues reported in Mr. Wendelin's exhibit are expressed in thousands of dollars.

In order to develop estimates at the level of precision reported in this exhibit, P&LE must have conducted an extensive traffic study or market analysis. No detailed exhibits in support of these aggregate numbers, the methodology or the sources used to develop these data are supplied by Mr. Wendelin.

In his Opening Verified Statement at page 5, P&LE witness Wendelin identified three "conservative" assumptions which P&LE relied upon in its traffic studies. Those assumptions appear to be optimistic, rather than conservative.[6]

In addition to listing the assumptions upon which P&LE's traffic and revenue projections were based, Mr. Wendelin identified three sources of data which P&LE and its consultant used in P&LE's marketing analysis; i.e.,

(i) proprietary NS traffic data for the NS routes involved;

(ii) proprietary P&LE traffic data for its existing system; and

(iii) aggregated one percent way bill data for certain areas which were analyzed and the results provided to P&LE by its consultant.

Wendelin stresses the fact "actual traffic and revenue" data were examined and "subjected to a conservative market probability analysis" to predict results for the expanded P&LE system.[7] Note that the period which the data cover is not identified. No supporting documentation has been provided by P&LE in either of Mr. Wendelin's three verified statements filed with the ICC.[8]

Criticism by other parties to the ICC Staff Study of Mr. Wendelin's somewhat ambiguous language in his Opening Verified Statement resulted in clarification of P&LE's marketing plan assumptions in Mr. Wendelin's subsequent testimony. For example, at page 1 of his Reply Verified Statement, Mr. Wendelin states that: P&LE [marketing] projections are based on 1984 100% waybill information for P&LE traffic and NS traffic on the divested lines . . . P&LE's diversion [new business?] analysis was developed from intentionally conservative assumptions provided to [P&LE's consultant] Dr. Matzzie by P&LE marketing officials based upon P&LE's experience with its existing traffic, car fleet, customer relationships and operational plans.

Further, at page 1 of his Summary Verified Statement, Mr. Wendelin offers the following "clarification" of the three "conservative" assumptions:

P&LE did not assume it would retain its existing traffic base, it only assumes that it will maintain its proportionate share of traffic on current P&LE lines.

P&LE did not assume capture of all traffic on the acquired lines, it only assumed that P&LE would have an opportunity to compete for that traffic via its new lines.

Finally, P&LE's third assumption reflects a determination that given assumptions 1 and 2, P&LE will be able to establish a competitive presence in P&LE's expanded service area . . . [T]hese assumptions have been confirmed by the detailed traffic data which P&LE has analyzed. (emphasis in original)

In addition, at page 4 of his Summary Verified Statement, commenting on the FRA Class and maximum authorized train speed on the lines which P&LE will acquire, Mr. Wendelin states that P&LE will not compete with NSCR for TOFC or "just in time" traffic. Mr. Wendelin also states that P&LE's projections do not include any traffic which is not presently moving by rail.

No documentation in support of P&LE's conclusions or the consistency and accuracy of its traffic and marketing analyses have been supplied.

Trackage rights and reciprocal switching

Use of trackage rights. In the Divestiture and Acquisition Agreement (Agreement) between NS and P&LE dated April 19, 1985, Article II grants P&LE trackage rights (and car haulage rights) over certain lines of the NSCR system which are described in detail in Schedules B and E of the Agreement, respectively. Article IV grants NSCR trackage rights (and car haulage rights) over certain of the lines to be acquired by P&LE which are described in detail in Schedules D and E of the Agreement.

The testimony of Messrs. Neuenschwander and Wendelin does not disclose whether any consideration was given to the impact (both positive and negative) on P&LE's traffic and revenue projections of the grants the trackage rights (or car haulage rights) of P&LE and NS, respectively, in the development of P&LE's marketing and traffic projections.

Use of reciprocal switching. Article V of the Agreement provides that both P&LE and NSCR will have access to certain industries through reciprocal switching agreements which were in effect on January 29, 1985. From the P&LE's perspective, this provides access to industries at Toledo, OH, as provided by Article V, Section 5.02. All other industries on the lines which P&LE will acquire will be served by P&LE and some will be served by NSCR through reciprocal switching as provided in Section 5.01 of the Agreement. The testimony of Messrs. Neuenschwander and Wendelin does not refer to the impact of Article V on P&LE's traffic and revenue projections.

[6] Mr. Wendelin's "conservative" assumptions are that:
(i) P&LE will be able to maintain existing market share with customers on its present system;
(ii) All NS business on acquired lines will be available to P&LE; and
(iii) P&LE will attain a competitive market position in the expanded P&LE service area.

[7] *Loc. cit.*, at 6.

[8] Opening Verified Statement filed May 24, 1985; Reply Verified Statement filed June 7, 1985; Summary Verified Statement filed June 19, 1985.

Service comparisons

As noted above, Mr. Wendelin states that P&LE will not compete for TOFC and "just in time" traffic. With respect to the traffic for which P&LE will compete, the level of service which P&LE will perform is described in the testimony of P&LE witness D.E. Matzzie.[9] At page 1 of his Summary Verified Statement, filed June 19, 1985, in the ICC Staff Study proceeding, Dr. Matzzie states that "train speeds, service times and the maintenance levels they reflect depend upon specific transportation requirements for particular commodity movements between various origins and destinations."

At page 3 of that testimony, Dr. Matzzie states that his operating plan "was the product of detailed and continuing analysis" which he is "coordinating." However, Dr. Matzzie has provided none of those detailed analyses. Therefore it is not possible to compare P&LE services with either the type or quality of services which P&LE's railroad competitors will offer.

Capability of P&LE to attract interline traffic

Absent data on the type or level of service which P&LE will perform on its extended system, no assessment of P&LE's ability to attract new business, both in terms of extending P&LE's haul on interchange traffic and through diversion of interline traffic from its railroad competitors is possible. P&LE must make available its traffic and marketing studies in order for such an assessment to be undertaken.

Potential diversion of traffic from P&LE by NSCR

At page 3 of his Summary of Verified Statement filed June 19, 1985 in ICC Staff Study proceeding, Mr. Wendelin states that the effect of NSCR diversion of "P&LE's current traffic levels is *de minimus.*" The original estimate of traffic which P&LE would lose to the combined NSCR system was $12.6 million. Mr. Wendelin states that such diversions "have been largely negated by the Justice Department's conditions."[10] In the absence of the detailed traffic and marketing studies and the P&LE assumptions upon which those studies are based, the amount of traffic and revenue which the combined NSCR system could divert from the expanded P&LE system cannot be determined.

Comparison of P&LE and GTI marketing plans

With the exception of the GTI estimate of traffic and revenue attributable to connections with the P&LE, reported in Exhibit 3 of the GTI Business Plan as 4,000 cars with GTI revenues of $3.036 million, there appears to be no traffic which is claimed by both of the proposed divestees. The only inconsistency between the two marketing plans is GTI's assertion that it will interchange traffic with P&LE at Wellington, Cleveland or Ashtabula, OH, while P&LE asserts that it will interchange traffic with GTI at Toledo, OH. Further, documents PL 000047-49 provide schematic diagrams of traffic density on the lines which P&LE will acquire for each of the years 1986 through 1988. Those diagrams show Wellington as a traffic generating node which indicates that traffic will be originated and terminated at that location, a station which P&LE (not GTI) will serve on a line which P&LE will acquire. The Wellington interchange is not provided for in either the P&LE/NS Agreement or the STI/NS Agreement and no schedules or services described in either divestee's operating plan provide for the use of Wellington as an interchange point.

FINANCIAL REVIEW

The *pro forma* financial statements of P&LE were examined for the following:

1. The adequacy of data presented,
2. Their consistency with accepted accounting methods,
3. Their consistency with marketing and operating plans, and
4. The realism of the results, also in light of marketing and operating plans.

The purpose of the analyses is to assist DOJ in determining whether P&LE is financially capable of operating rail service over the divestiture properties. The conclusion reached is, in short, that inadequate data has been provided with which to make a positive assessment of the carrier's long term viability, and that the data provided has not been shown to be indicative of reasonable expectations or internally consistent. Therefore, substantial additional analyses based on more complete information would have to be performed in Phase II of DOJ's examination in order to remedy, if possible, the defects described below.

DESCRIPTION OF PRO FORMAS

Financial statements provided by P&LE include the following:

a. Historical and projected financial data entitled "Summary Financial Results" and "Projected Income and Operating Results for Current Pittsburgh and Lake Erie Railroad Company FY's 1985-89" contained in a document entitled "Background Information" and with an apparent date of April 26, 1985.[1]

This document provides actual financial results and projected results for P&LE from 1979 through fiscal year 1989, with projections based upon the current system. The six line items reported are operating revenue, operating expenses, operating income, pre-tax income, net income and operating ratio.

b. Exhibits 2 and 3 to G.E. Nuenschwander's Verified Statement included in the opening statement of P&LE in the Conrail Study, dated May 24, 1985.

Exhibit 2, dated May 22, 1985, is a balance sheet, displaying actual April 30, 1985 and a post-debt restructuring *pro forma* as of the same date.[3] The left-handed stub titles are identical to those of the "constant dollar" *pro forma* balance sheets described below, although redeemable preference shares are treated explicitly as shareholder's equity in Exhibit 2 but not in the "constant dollar" balance sheet. Given the redemption schedule on these shares, either a debt or an equity classification may be appropriate. Of course, classifying it as an equity improves the appearance if not the substance of the balance sheet.

Exhibit 3, dated May 23, 1985, is an income statement showing revenue, expense and income, projected for 1986. An apparent reassessment of likely traffic after the preparation of this Exhibit resulted in a decrease in anticipated freight revenues in the *pro formas* discussed below. One of the manifestations of this change is that net income on this earlier statement is somewhat greater than that shown for year 1 on later statements.

c. Projected five year income statement and cash flow statement, dated July 13, 1985.[4]

The income statement contains revenues, expenses, and income estimates for five projected years. No documentation of accounting procedures is included other than what is indicated on the first page of the document. That page includes five assumptions underlying the projections, most involving the level of inflation for revenues and expenses. There is no consistency evident between the use of inflated, or nominal dollars, for certain line items and constant dollars for others. No indication is provided as to the source of the dollar figures, although presumably they are derived from a combination of undisclosed operating and marketing plans, and the debt restructuring plan.

Revenue is subdivided into freight, equipment rent, and a category encompassing miscellaneous sources of revenues. Operating expenses are found in six categories, including engineering, lease of facilities, mechanical, transportation, general and administrative, and equipment rent expense. These expenses subtracted from total revenue yields "total operating income." Income before tax, which is identical to net income because no tax liability is assumed, is derived by subtracting interest expense from operating income, and adding miscellaneous income and gain from sale of equipment. The cash flow statement continues from the bottom line, "net income," of the income statement. To obtain cash flow from operations, depreciation and a line apparently meant to be equal to interest expense is added back,[5] and the proceeds from the sale of assets and net income from partially owned subsidiaries deducted. Sources of non-operating income, including proceeds from the sale of assets and dividends from partially owned subsidiaries are added back, and capital expenses associated with equipment and rights of way and debt service is then deducted to produce net cash flow. Cash flow is calculated as $4.2 million in year 1, and zero thereafter.

Following the cash flow statement, data on projected carloadings, freight revenue per carload, and operating ratio are provided.

d. Projected five year income and cash flow statement, and balance sheet, dated August 1 and 2, 1985.[6]

These constant dollars financial statements, are the subject of most of this analysis. The income and cash flow statements are apparently updated versions of the July 13 pro formas, although they are inconsistent in several material respects, presumably

[9] *Opening Verified Statement*, at 2 and 3, Exhibit 2 (Road operations) and Exhibit 3 (Yard and Local Services).

[10] *Loc. cit.*

[1] PL 000103.

[3] The Master Agreement restructuring P&LE's debt is found at PL 000309-510. An executive summary has also been provided, PL 000297-305. The agreement includes the restructuring of secured debt and equipment lease obligations into "Certificates of Interest" and cumulative preferred stock. Payments averaging $27.5 million per year from 1986 to 1989 are required, and any excess of cash short term investments above $5 million at the end of each quarter must be paid to the creditor's trustee. The divested lines would be acquired by a third party and leased back to P&LE for an expected ten to fifteen years at an estimated $3.5 million in 1985 and $4 million for each of the next four forecast years.

[4] PL 000061-3.

[5] This interpretation is based on an examination of the constant dollar version of the cash flow statement, described below. No dollar for dollar correlation in the inflated dollar statements can be determined.

[6] PL 000288-90.

reflecting changed assumptions generated in the intervening fortnight. Given the more recent origin of these statements, it is assumed that they reflect more current thinking at P&LE, and therefore are more appropriate subjects of detailed examination.

In addition to the income and cash flow statements, a balance sheet is appended to this sequence of pro formas. The balance sheet shows assets as the cumulation of current assets (cash, receivables, materials and supplies, and others) net total properties, and "other assets." Liabilities are disaggregated into four categories of current liabilities (current maturities of long-term debt and lease obligations, accounts payable and accrued expenses, accrued interest and other current liabilities), and four categories of non-current liabilities (long term debt and lease obligations, deferred taxes, notes payable to affiliates, and other liabilities.) Lines for redeemable preferred stock, capital stock, additional paid in capital and retained earnings complete the "right hand side" of the balance sheet.

Adequacy and realism of pro formas

Materials submitted from P&LE are sparse; an initial judgement can be made that the supporting information made available is inadequate to determine the quality or accuracy of the projections. Underlying documentation is absent; due to their unavailability, correlation with marketing and business plans is impossible to determine. Therefore, this analysis is based principally on observations as to the internal consistency of the financial statements and the reasonableness of results virtually *in vacuo.*

a. Historical and projectioned financial data entitled "Summary Financial Results" and "Projected Income and Operating Results for Current Pittsburgh and Lake Erie Railroad Company fiscal year's 1985-89" contained in a document entitled "Background Information" with an apparent date of April 26, 1985.

The financial results displayed in this document are not comparable with the five-year projections discussed below, for one set of projections involves an expanded system whereas the other does not. Both sets indicate increasing profitability for P&LE over time, whether or not expansion takes place. However, higher net income is projected for the expanded system. Noteworthy is that the April 26 document projects $7.9 million in net income for the second half of 1985; the trade press reports that P&LE expects to have a net loss of $7.82 million over the same period.[7] The explanation for this discrepancy is not readily apparent from available materials.

b. Exhibits 2 and 3 to G.E. Nuenschwander's Verified Statement included in the opening statement of P&LE in the Conrail Study, dated May 24, 1985.

Results shown on these financial statements have been modified in several respects in the later *pro formas,* so detailed examination of their contents does not appear warranted. Under any circumstance, the Exhibit 2 balance sheet indicates that even after financial restructuring, the P&LE's debt/equity ratio is extremely unfavorable, despite increasing equity from $1.035 million to $33.4 million (mostly new redeemable preferred). Total liabilities of the current system restructured (without provision for additional debt required to finance expansion) equal $124.885 million according to this document, resulting in a debt/equity ratio of 0.79, a figure usually considered above financially sound levels.

c. Projected five year income statement and cash flow statement, dated July 13, 1985.

These projections indicate a sixfold increase in net income from year 1 to year 5, and approximately a 45 percent increase in revenue. Discounted for assumed inflation at three percent, (which is itself open to question) this represents about 30 percent real growth. Carloadings would increase by almost 28 percent. This substantial and consistent increase in business volume has not been experienced by rail carriers for several decades, except in isolated circumstances. The conditions under which such expansion has occurred, moreover, have been either rapid economic growth in the service territory or a surge in demand for a major rail transported commodity, such as coal. It does not appear that these conditions would be found in P&LE's service territory over the forecast period.

The projected growth in carloadings and real gross revenues therefore would have to be contingent upon the diversion of significant traffic from NSCR. These diversions, moreover, could not be the product of rate reductions, for the indicated revenue per carload increases both in nominal terms, as shown in the "inflated dollar" statements and in real terms, as displayed in the "constant dollar" statements. Further, any implementation of rate reductions would have a strong adverse effect on net income, which is shown in the *pro formas* to rise dramatically.

A not unreasonable assumption is that carloadings may be expected to increase as a result of reopening joint routes previously closed by CR. If so, P&LE has failed to document how much traffic would be regained from the reopenings or why the recapture of business would occur over several years on a continuing basis. This long-term aspect of traffic growth suggests an assumption of consistently improving competitive advantage over NSCR. The likelihood of this occurring is questionable; NS would not be expected to acquire CR if it believed that its increased size would lead to its becoming relatively inefficient when compared with other carriers.

Projected increases in net income, as opposed to growth in gross revenues, is largely traceable to expectations of greater efficiency, i.e., cost reduction. A number of expenses decline in either nominal or real terms. Interest expense would be reduced by half, lease payments are flat in nominal terms, and other expenses increase at only the assumed rate of inflation, despite projected real business growth. No support is provided for this assumed continuing increase in efficiency, although expectations related to economies of scale are an obvious partial explanation.

The ability to interpret these statements is hampered by wholesale mixing of constant and nominal dollars. For example, in the income statement, the figures for Equipment Rent Revenue, Lease of Facilities Expense, Gain/Loss on Sale of Equipment and Other Miscellaneous—Net are listed on the "inflated dollars" statement in apparent constant dollar terms. In the cash flow statement, Gain/Loss Sale of Assets, Net Income—Partly Owned Subsidiary, Sale of Assets and Dividends-Partly Owned Subsidiary are treated similarly. This results in cumulations which are meaningless, when dollars of different value are summed. As this mishandled accounting flows through the statements, the magnitude of the discrepancy between stated results and those that would be achieved with consistent usage of either constant or nominal dollars increases.

d. Projected five year income and cash flow statement, and balance sheet, dated August 1 and 2, 1985.

These *pro forma* statements comprehend the most complete and most recent financial projections provided by P&LE. While they indicate reasonable financial health by the end of the forecast period, the data shown are not supported, apparent assumptions appear unrealistic, and accounting methods are at times deficient.

Greater consistency in accounting technique is to be found in the "constant" dollar as opposed to "inflated" dollar *pro formas.* A number of questions regarding accounting treatment still pertain, and some dollar figures (e.g., depreciation, which remains uniform instead of increasing with inflation) likely are stated in nominal dollars. Other figures, such as zero cash flow for years 2 through 5 in conjunction with an unchanging cash balance in constant dollar terms contributes to further confusion as to what dollar levels are being used for any given line item.[8] If cash flow is zero, the one number which would be identical whether nominal or constant dollars are being used, cash balance in constant dollar terms would be expected to decline, which it does not.

In an effort to determine the underlying expectations of P&LE in developing its projections, Tables 26 through 29 have been developed to highlight annual changes in income statement line items both on a gross and per carload basis. Table 26 is, for all intents and purposes, a reproduction of the *pro forma* constant dollar income statements. (Some totals may vary because of rounding; extraneous lines have been omitted, since no income taxes are contemplated to be paid, income before tax and net income have been consolidated in the line "Income.") Table 27 displays the year to year and year 1 to year 5 percentage changes in each line item. Table 28, in identical format to Table 26, shows income statement data on a per carload basis. Table 29 depicts the percentage changes in Table 28.

As indicated in Table 27, freight revenues are projected to increase, in real terms, 29.24 percent from years 1 to 5. This revenue increase parallels the 27.72 percent increase expected in carloadings, as seen in Table 29. Total revenue rises slightly more rapidly, by 29.26 percent, despite the stagnancy of the line item "demurrage, switching, passenger and other revenue." This is because equipment rent revenues are projected to increase 32.14 percent, an even greater improvement than expected for freight revenues. A bulge is apparent in the data, with almost half of the equipment rent revenue increase expected to come between years 3 and 4 (13.41 percent), despite the fact that this same period is expected to yield the smallest increase in carloadings

[7] *Traffic World,* August 26, 1985, p. 16.

[8] Projected zero cash flow is a consequence of the restructuring agreement provision which requires that any cumulations of cash and short term investments in excess of $5 million be paid to the creditor's trustee (PL 000352). The cash balance of $8 million displayed in the cash flow statement reflects P&LF's expectations of raising the allowable cash balance after acquisition of the divested lines. Evidently, therefore, the "cash balance" line is intended to be in nominal dollars despite the statement heading indicating constant dollars.

(3.84 percent). This anomaly cannot be explained by the data provided.

TABLE 26.—P&LE 5-YEAR INCOME STATEMENT

[Constant dollars in thousands]

	Year—				
	1	2	3	4	5
Revenues:					
Freight	$86,719	$94,521	$102,725	$106,972	$112,074
Eqt rent revenue	22,004	23,310	24,726	28,041	29,075
DMG, SWT, PAS and OT	2,610	2,685	2,760	2,760	2,760
Total revenue	111,333	120,516	130,211	137,773	143,909
Expenses:					
Engineering	11,907	11,917	11,789	12,535	12,024
Lease of facil	3,500	4,000	4,000	4,000	4,000
Mechanical	22,572	23,950	25,153	25,538	25,621
Transportation	35,845	36,839	38,792	41,187	42,735
General and Admin	12,681	12,685	12,682	12,684	12,686
Eqt rent exp	11,611	12,453	13,340	13,957	14,666
Total op exp	98,116	101,844	105,756	109,901	111,732
Operating income	13,217	18,672	24,455	27,872	32,177
Misc. Inc. and (Exp):					
Interest exp	(14,829)	(13,850)	(12,656)	(11,336)	(10,089)
G/L Sale of Eqt	379	1,178	873	632	0
Other misc—net	3,440	2,500	2,057	1,646	1,646
Tot misc inc and exp	(11,010)	(10,172)	(9,726)	(9,058)	(8,443)
Income	2,207	8,500	14,729	18,814	23,734

Source: PL 000288.

TABLE 27.—ANNUAL PERCENTAGE CHANGES IN P&LE 5-YEAR INCOME STATEMENT

[Constant dollars]

	Years—				
	1 to 2	2 to 3	3 to 4	4 to 5	1 to 5
Revenues:					
Freight	$9.00	$8.68	$4.13	$4.77	$29.24
Eqt rent revenue	5.94	6.07	13.41	3.69	32.14
DMG, SWT, PAS and OT	2.87	2.79	0.00	0.00	5.75
Total revenue	8.25	8.04	5.81	4.45	29.26
Expenses:					
Engineering	0.08	(1.07)	6.33	(4.08)	0.98
Lease of facil	14.29	0.00	0.00	0.00	14.29
Mechanical	6.10	5.02	1.53	0.33	13.51
Transportation	2.77	5.30	6.17	3.76	19.22
Gen'l and Admin	0.03	(0.02)	0.02	0.02	0.04
Eqt Rent Exp	7.25	7.12	4.63	5.08	26.31
Total Op Exp	3.80	3.84	3.92	1.67	13.88
Operating income	41.27	30.97	13.97	15.45	143.45
Misc. inc and (exp):					
Interest exp	(6.60)	(8.62)	(10.43)	(11.00)	(31.96)
G/L sale of eqt	210.82	(25.89)	(27.61)	(100.00)	(100.00)
Other misc—net	(27.33)	(17.72)	(19.98)	0.00	(52.15)
Tot misc inc and exp	(7.61)	(4.38)	(6.87)	(6.79)	(23.32)
Income (percent)	285.14	73.28	27.73	26.15	975.40

Source: Table 26.

TABLE 28.—P&LE FORECAST REVENUE AND EXPENSE PER CARLOAD

[Constant dollars]

	Year—				
	1	2	3	4	5
Carloadings	210,267	227,688	246,115	255,560	268,552
Revenues:					
Freight	$412	$415	$417	$419	$417
Eqt rent revenue	105	102	100	110	108
DMB, SWT, PAS and OT	12	12	11	11	10
Total revenue	529	529	529	539	536

TABLE 28.—P&LE FORECAST REVENUE AND EXPENSE PER CARLOAD—Continued

[Constant dollars]

	Year—				
	1	2	3	4	5
Expenses:					
Engineering	57	52	48	49	45
Lease of facil	17	18	16	1.6	15
Mechanical	107	105	102	100	95
Transportation	170	162	158	161	159
Gen'l and admin	60	56	52	50	47
Eqt rent exp	55	55	54	55	55
Total op. expenses	467	447	430	430	416
Operating income	63	82	99	109	120
Misc. inc. and (exp):					
Interest exp	(71)	(61)	(51)	(44)	(38)
G/L sale of eqt	2	5	4	2	0
Other misc (net)	16	11	8	6	6
Total misc. inc. and exp	(52)	(45)	(40)	(35)	(31)
Income	10	37	60	74	88

Source: Table 26; PL 000289.

TABLE 29.—ANNUAL PERCENTAGE CHANGES IN P&LE FORECAST REVENUE AND EXPENSE PER CARLOAD

[Constant dollars]

	Years—				
	1 to 2	2 to 3	3 to 4	4 to 5	1 to 5
Carloadings (percent)	8.29	8.09	3.84	5.08	27.72
Revenues:					
Freight	$0.66	$0.54	$0.29	$(0.30)	$1.19
Eqt rent revenue	(2.17)	(1.87)	9.22	(1.33)	3.46
DMB, SWT, PAS and OT	(5.00)	(4.90)	(3.70)	(4.84)	(17.20)
Total revenue	(0.03)	(0.04)	1.90	(0.60)	1.21
Expenses:					
Engineering	(7.57)	(8.48)	2.40	(8.72)	(20.93)
Lease of facil	5.54	(7.49)	(3.70)	(4.84)	(10.52)
Mechanical	(2.01)	(2.84)	(2.22)	(4.53)	(11.13)
Transportation	(5.09)	(2.58)	(2.25)	(1.26)	(6.65)
Gen'l and admin	(7.62)	(7.51)	(3.68)	(4.82)	(21.67)
Eqt rent exp	(0.95)	(0.90)	0.76	0.00	(1.10)
Total op. expenses	(4.14)	(3.93)	0.08	(3.25)	(10.84)
Operating income	30.46	21.17	9.76	9.86	90.61
Misc. inc., and (exp):					
Interest exp	(13.75)	(15.46)	(13.74)	(15.31)	(46.73)
G/L sale of eqt	187.04	(31.44)	(30.28)	(100.00)	(100.00)
Other misc (net)	(32.89)	(23.88)	(22.94)	(4.84)	(62.54)
Total misc. inc. and exp	(14.68)	(11.54)	(10.31)	(11.30)	(39.96)
Income (percent)	255.67	60.31	23.01	20.05	742.00

Source: Table 28.

The increase in equipment rent revenues is suspect, for even if projected traffic growth were to materialize, the opportunity to earn proportionate revenue from car hire is likely to be small. The ICC currently is reviewing car hire rules and is likely to provide new rules which may substantially reduce per diem rates.[9] The AAR and virtually all major railroads are pressuring the ICC to lower equipment hire charges in an effort to eliminate excessive equipment acquisitions and empty car-miles. In this environment, expectations of rapidly rising equipment rent receipts is unrealistic.

Equipment rent expense also is expected to rise sharply, although at a lower rate than car hire receipts. While this partially offsets probable overoptimism with respect to revenues, car hire expense is projected to be only about half car hire revenues. The magnitude of this particular item is significant; by year 5, car hire revenue is expected to be approximately $15 million more than expense. If, for example, this figure is 50 percent too high, income would be $5 million lower than forecast.

Table 27, showing percentage changes in gross revenue and expense categories, raises further questions about P&LE's assumptions. Engineering expenses are expected to dip 1.07 percent from years 2 to 3, rise 6.33 percent the following year, and then drop again, by 4.08 percent between years 4 and 5. Without any further documentation, this level of detail in a projection (as opposed to merely increasing or decreasing items at a specified rate for a number of years) raises the question of whether projections were arrived at with the bottom line determined first, or whether the bottom line was the end product of individual and independent revenue and cost analyses. Other individual line items display similar gyrations, including some of which appear to be internally inconsistent. The rate of increase in equipment rent revenues shows tendencies opposing freight revenues and carloadings (as shown in Table 29), gross transportation expense shows its greatest percentage increase from years 3 to 4, the same period which has the smallest increase in freight revenues and carloadings, and the reverse is also true: transportation cost rises most slowly from years 1 to 2, when freight gains are greatest in percentage terms. Chart One graphically depicts the anomalously inversely-related trends of freight and equipment rent revenues, and of freight revenues with transportation expense. (Chart not reproducible in the RECORD.)

Table 29 examines financial data on a per carload basis revealing other suspect assumptions inherent in the P&LE *pro formas*. In particular, decreases in per carload expense categories are evident for all expense items, with some decreases being quite substantial. Engineering, for example, shows an overall 20.93 percent per carload decrease, with the greatest decrease occurring in the final forecast year. The greatest decrease for mechanical expense also is in the last period, well after most efficiencies to be derived from the new lines would have been expected to be experienced. Revenue per carload increases slightly in real terms, which would appear inconsistent with the large traffic growth upon which per carload expense reductions are presumably contingent.

These questionable assumptions drive the overall 143.45 percent increase in real operating income and 975.40 percent increase in real net income as shown in Table 27. These amounts appear to be unrealistic. Without significant supporting data, little credence should be given to these *pro forma* financial statements.

Consistency of pro formas with operating and marketing plans and with accounting methods

Consistency with Marketing and operating plans: A major difficulty in establishing the reasonableness of the P&LE *pro forma* financial projections is the unavailability of marketing and operating plans which could provide insight into the rationales underlying the financial assumptions. Without meaningful information as to expected levels of business and descriptions of operations necessary to serve prospective shippers, the financial statements cannot be rigorously examined.

[9] *Review of Car Hire Regulations*, Ex Parte No. 334 (Sub. No.-6).

Detail must be supplied on many levels; the operating plan should reveal why transportation expense per carload is anticipated to decline in real terms; general and administrative expense cannot be verified as reasonable without some indication of the number of personnel required, and explanations as to how, as projected, expanding business can be accommodated with no growth in this expense. A thorough examination of equipment rent expense and revenue should be based on indications of cars required on-line, off-line destinations of system cars, and reasonable assumptions as to the per diem levels that system cars may be expected to earn. In the absence of this and similar information, bottom line results are not credible.

Consistency with accepted accounting methods

Materials have not been made available which would allow determination of whether transaction amounts have been applied in proper accounting categories. Despite this defect, the financial statements are organized in a rational, coherent manner which could, but do not entirely, conform with accepted accounting principles.[10]

Three major problems are evident which lead to the conclusion that the statements *as presented* do not follow internal rules of consistency. It appears, however, that remedying these problems would not be a major task. First, the mixing of constant and nominal dollars, discussed above, leads to the juxtaposition of incomparable values. Second, there is an apparent difficulty in reconciling balance sheets with income statements. For example, the treatment of interest and principal payments is elusive; in the constant dollar *pro formas*, the cash flow statement adds back to cash flow the interest expense as shown in the income statement ($13.850 million year 1). It then deducts from cash $24.097 million (again, year 2) as debt service. Presumably, principal reduction would be the $10.247 million excess of debt service over interest expense. However, the balance sheet indicates a reduction in long-term debt and lease obligations of $13.417 million ($124.840 million year 1 minus $111.423 year 2). Even adding in the surplus of debt service over interest expense for year 1 would not account for the full reduction in long-term debt and lease obligations. The destination of the missing $3 million in expense is obscure; it cannot be traced through the *pro forma* statements. (No rectification is possible through resort to "inflated dollars" statements.) Finally, P&LE's financial statements in all cases make no provision for income taxes. That is, P&LE assumes Net Income Before Taxes is the same as Net Income After Taxes. P&LE does not provide data explaining this assumption which is questionable, based on its projected total Net Income of $68.0 million over the next five years. A possible explanation for zero taxes is that tax credits (unused tax loss carryforwards and investment tax) from past years have not been used up by P&LE's parent corporation in filing a consolidated income tax return. Because of the significance of this item further explanation is warranted.

[10] Accepted accounting methods is understood to comprehend a rational, consistent, non-obfuscating reporting technique. This is not necessarily equivalent to the term "Generally Accepted Accounting Principles" (GAAP) which relates to a substantive body of accounting rules promulgated by the Financial and Accounting Standards Board; the consistency of P&LE reports with GAAP is unverifiable without more extensive documentation. Under any circumstance, the sequence and interrelationship of line items in the various statements do not appear to contain meaningful financial information in accordance with GAAP.

APPENDIX A.—INFORMATION INADEQUACIES AND SPECIFIC DOCUMENTATION NEEDED

Issue	Document(s) required
ENGINEERING ASSESSMENT	
Track Conditions	MW Track Charts. These charts should be current and show rail weight and year installed, conventional rail or CWR, year of last tie renewal and surfacing, timetable speed, structure locations, horizontal and vertical alignments, superelevation, crossings and track diagrams. Stations reports on deferred maintenance.
Structures	Tabulation of structure crossings indicating location type, length, description, year built and/or rebuilt, number of tracks, rating. Available at the engineer's Office: Drawings, inspection records, ratings.
Right of Way	Available at Engineer's Office: Valuation maps, yard plans, topographic maps, all engineering plans and maps of proposed new construction (interchanges).
Signals	Available at Engineer's Office: Plans, inspection records, reports on deferred maintenance.
Operations	Employee Timetables.
Capital plan	The "capital plan" identified at page 37 of The GTI Business Plan which details how funds will be expended with respect to each segment and facility on acquired lines.
Track Conditions	MW Track Charts. These charts should be current and show rail weight and year installed, conventional rail or CWR, year of last tie renewal and surfacing, timetable speed, structure locations, horizontal and vertical alignments, superelevation, crossings and track diagrams. Stations reports on deferred maintenance.
Structures	Tabulation of structure crossings indicating location type, length, description, year built and/or rebuilt, number of tracks, rating. Available at the Engineer's Office: Drawings, inspection records, ratings.
Right of Way	Available at Engineer's Office: Valuation maps, yard plans, topographic maps, all engineering plans and maps of proposed new construction (interchanges).
Signals	Available at Engineer's Office: Plans, inspection records, reports on deferred maintenance.
Operations	Employee Timetables.
Capital plan	The capital plan associated with the divestiture properties which details how funds will be expanded with respect to each segment and facility on acquired lines.
	OPERATING PLAN REVIEW
Interrelations of BARNS assumptions and results.	Detailed textual description of how BARNS was used to simulate GTI networks (both base case and with extensions), including: 1. model components and sequence of analysis; 2. list of inputs and assumptions; and 3. description of each printout furnished.
Basis for unit costs applied in BARNS model, including: train and engine crew labor; materials and supplies; T&E productivity payments; non-operating transportation salaries; loss and damage; terminal and piggyback lift charges; general and administrative expenses.	Documents or information relied upon in BARNS model.
Explanation of differences between operating ratios derived from (1) 1983 Annual Reports of BM and DH and (2) BARNS Base Case [e.g., change in B&M locomotive units per train, 1983 Annual Report to ICC (R-1) (2.87 units/trains) versus BARNS Base Case (2.36)].	Rationale for various inconsistencies described in text of report.
Basis for BARNS "traversal time" assumptions.	Documents or information relied upon in BARNS model.
* * *	Detailed GTI labor plan including numbers, locations, categories and compensation of personnel to be employed on acquired lines.
* * *	Existing agreements (if any) permitting such crew size, and rationale for assuming that such agreements (where not in place) can be negotiated.

APPENDIX A.—INFORMATION INADEQUACIES AND SPECIFIC DOCUMENTATION NEEDED—Continued

Issue	Document(s) required
* * *	Plans showing current and proposed configuration of Colehour and Madison yards. Street maps showing highway access routes. Documentation of anticipated drayage charges to/from other carriers' intermodal terminals. Cost estimates of needed terminal improvements (including cranes and tractors) and anticipated operating expenses.
* * *	Copies of proposed trackage rights agreements between GTI and NS. Documentation of proposed usage of each segment by owner and tenant.
Yard crew needs	List of numbers, locations and functions of yard crews to be employed on acquired lines.
Terminal switching times	Documentation of how BARNS switching times assumptions were developed. Description of switching activity projected to occur at each terminal, by crew.
Validation of estimated car hire payables and receivables.	5 year historical data describing: 1. Annual car-days payable by car type, 2. Annual car-miles payable by car type, 3. Annual car-days receivable by car type, and 4. Annual car-miles receivables by car type.
Verification of equipment utilization assumptions.	Data describing historical equipment utilization (5 year annual) including: 1. On-line loaded car-miles by car type, 2. On-line empty car-miles by car type, 3. On-line loaded car-days by car type, 4. On-line empty car-days by car type, and 5. Car-days per load.
Use of BM unit costs in MEC costing of maintenance of equipment.	MEC records of maintenance of equipment expenses and related service units (locomotive unit-miles, locomotive unit-hours, car-miles and car-days).
Car-depreciation	Worksheet illustrating method of computing car-depreciation and explanation of why depreciation was excluded from analysis of freight car cost under the "owned-equipment" scenario.
Car-days	Documentation supporting projections of car-days.
Detailed description of operating plan.	1.Frequency of all train service on each route in the system; 2. Projected number of empty and loaded cars to be carried by each train; 3. Projected number of locomotive units required on each train, including helper locomotives where needed; 4. Numbers of cars to be switched at each yard; 5. Numbers of yard crews to be employed at each yard; 6. Numbers of cars to be originated, terminated or interchanged at each station; 7. Numbers of train and engine (T&E) service personnel required on each train and yard crew; 8. Numbers of supervisory, clerical and other support personnel required; and 9. The unit cost of each resource required to carry out the proposed operation.
Calculation of car-hire payables and receivables.	All documentation supporting the estimation of car-hire expense and revenue including assumptions/data describing projected: 1. Car-days payable by car type, 2. Car-miles payable by car type, 3. Car-days receivable by car type, 4. Car-miles receivable by car type, 5. Average P&LE payable rate by car type, 6. Average P&LE receivable rate by car type, 7. On-line equipment utilization assumptions, 8. Off-line equipment utilization assumption, and 9. Annual data describing numbers 1–6 above for most recent historical 5 year period.
Effect of operating plan on equipment utilization and productivity of freight car fleet.	Any documentation or data describing equipment utilization including assumptions/data describing projected: 1. On-line loaded car-miles by car type, 2. On-line empty car-miles by car type, 3. On-line loaded car-days by car type, 4. On-line empty car-days by car type, 5. Car-days per load, and 6. Annual data describing numbers 1–5 above for most recent historical 5 year period.
	MARKETING PLAN REVIEW

APPENDIX A.—INFORMATION INADEQUACIES AND SPECIFIC DOCUMENTATION NEEDED—Continued

Issue	Document(s) required
Data underlying GTI's Marketing Plan as set for in GTI's June 30, 1985 Business Plan filed with the ICC in the Staff Study of the Sale of Conrail to Norfolk Southern Corporation at a level of detail sufficient to permit DOJ's consultant to (i) test, (ii) audit, (iii) replicate and (iv) verify the accuracy and consistency of GTI's traffic, revenue, cost and net operating income projections and estimates derived in or from its marketing plan.	Commodities individually identified at the STCC level employed by GTI (or its consultant). Identity for each shipper and consignee in traffic data used by GTI (or its consultant) in constructing its marketing plan and the results summarized in Exhibit 3 of the GTI June 30, 1985 Business Plan. FSAC and SPLC with respect to each origin and destination of traffic which GTI relied upon in developing its marketing plan and Exhibit 3. The governing tariff(s) and specific item(s) which govern the application of shipper access to reciprocal switching service with respect to each commodity/traffic flow movement which GTI and NSCR (or other rail carrier) will transport as a result of the divestiture agreement. The charge to be assessed against GTI by NSCR for such reciprocal switching performed for GTI by NSCR and the location at which GTI will receive (or deliver) such traffic from (to) NSCR under reciprocal switching services. The same information with respect to reciprocal switching services which GTI will perform for NSCR (or other rail carriers). The origin (or destination) of traffic, as well as the method by which and the charges to be assessed against NSCR, for car haulage services which GTI will perform for NSCR. The same information with respect to car haulage services which NSCR will perform for GTI. With respect, separately, to traffic which GTI expects to gain through reciprocal switching and car haulage services performed by NSCR (or other rail carriers), as well as the traffic which GTI expects to lose through such services which it will perform for NSCR (or other rail carriers) provided reconciliation of the inconsistency between the diversion percentages stated in Exhibit 2 of the GTI Business Plan and the consultant work papers supplied to DOJ. Information which is supportive of assignment of a uniform diversion rate to traffic either originated or terminated at (i) "exclusively" served stations and (ii) stations open to other rail carriers through reciprocal switching on the lines which GTI will acquire from NSCR. An explanation with respect to GTI's failure to consider the fact that other rail carrier(s) will have access to certain stations on the lines to be acquired and an estimate of the traffic (specify station and shipper or consignee) which such other rail carriers will be able to divert from both GTI and NSCR. Note that the explanation offered in document GT 000389 is incorrect and irrelevant to the traffic in issue. Data which indicate the (i) size of each relevant market identified by GTI with respect to "New Business-TOFC" and "New Business-General Freight" and (ii) the percentage share of each relevant market which GTI would possess if its diversion estimate is correct. Any sensitivity criteria applied by GTI (or its consultant) with respect to timing of estimated traffic and revenue gains, as well as any impact which forecast changes in economic activity would have on GTI's traffic and revenue estimates. The extent to which NS's contractual obligation to reopen or reestablish joint rates which have been canceled by Conrail is represented in GTI's traffic and revenue estimates. All relevant documents requested by DOJ in its July 25, 1985 letter to Kirkpatrick & Lockhart with respect to Attachment 1, Question 4. Market Analysis which have not yet been provided and which are not duplicated by the request in Question 1 supra. Further, all relevant documents in response to Attachment 2 to the July 25, 1985 DOJ letter which are not duplicated by the request in Question 1 supra.

APPENDIX A.—INFORMATION INADEQUACIES AND SPECIFIC DOCUMENTATION NEEDED—Continued

Issue	Document(s) required
P&LE's Marketing Plan referenced in the testimony of Messrs. Neuenschwander, Wendelin and Matzzie, including, but not limited to, the supporting documentation identified below at a level of detail sufficient to permit DOJ's consultant to (i) test, (ii) audit, (iii) replicate and (iv) verify the accuracy and consistency of P&LE's traffic, revenue, cost and net operating income projections and estimates derived in or from its marketing plan.	Commodities individually identified at the STCC level used by P&LE. Identity of each shipper and consignee in the traffic data used by P&LE in constructing its marketing plan and pro forma financials. FSAC and SPLC with respect to each origin and designation of traffic (i) originating, (ii) terminating or (iii) moving overhead on each of the line segments to be acquired by P&LE (including segments over which P&LE will obtain only through trackage rights). The governing tariff(s) and specific item(s) which govern the application of shipper access to reciprocal switching service with respect to each commodity/traffic flow movement which P&LE and NSCR will transport as a result of the divestiture agreement. The charge to be assessed against P&LE by NSCR for such reciprocal switching performed for P&LE by NSCR and the location at which P&LE will receive (or deliver) such traffic from (to) NSCR under reciprocal switching services. The same information with respect to reciprocal switching services which P&LE will perform for NSCR. The origin (or destination) of traffic, as well as the method by which and the charges to be assessed against NSCR for car haulage services which P&LE will perform for NSCR. The same information with respect to car haulage services which NSCR perform for P&LE. The diversion assumption(s) used by P&LE in determining whether and to what extent individual traffic which (i) originates, (ii) terminates or (iii) moves overhead on the current P&LE system will be transported over the lines to be acquired by P&LE. The same with respect to traffic which (i) originates, (ii) terminates or (iii) moves overhead on the lines to be acquired by P&LE will be transported over the present P&LE system. The FSAC and shipper/consignee identity for each element of traffic which presently is not handled by P&LE (and which neither originates nor terminates on the lines which P&LE will acquire) which was identified by Dr. Matzzie in his analysis of ICC Waybill data. With respect to the traffic analyzed by Dr. Matzzie, the method and basis for his diversion of such traffic to the expanded (or current) P&LE system(s) including origin, destination, commodity detail, gross freight revenue, the derivation of the P&LE share of that revenue, the railroad(s) with which P&LE must compete for such traffic and the extent to which any of that traffic presently moves under contract rail rate(s) and/or service agreements. Any sensitivity criteria applied by P&LE or its consultants in their assessment of the potential divertibility of each traffic flow which P&LE has included in its marketing plan and financial pro formas. With respect to each station on the lines which P&LE will acquire, the identity and level of participation of any rail carrier other than NS or Conrail in traffic which originates or terminates at each station during the study year. The extent to which NS's contractual obligation to reopen or reestablish joint rates which have been canceled by Conrail is represented in P&LE's traffic and revenue estimates in its marketing plan and financial pro formas. The actual train schedules which P&LE relies upon in order to provide services competitive with those which the NSCR, CSX, GTI and GTW (or any other rail carrier with which P&LE must compete) will offer, showing departure time, arrival time, elapsed time between terminals, connecting service schedules and anticipated train speed over each of the lines (or segements of lines between terminals) and which P&LE will acquire.

APPENDIX A.—INFORMATION INADEQUACIES AND SPECIFIC DOCUMENTATION NEEDED—Continued

Issue	Document(s) required
	Forecasts of changes in traffic which reflect the impact of economic changes on the traffic which P&LE expects to attract on (i) its present system and (ii) the lines which P&LE will acquire from NSCR.
All relevant documents requested by DOJ in its May 15, 1985 request to SX.E. Neuenschwander, Appendix A, question 4. Marketing Analysis which have not yet been supplied by P&LE, especially documents relevant to subquestions 4B, 4C, 4D, and 4E, as well as subquestion 5F, at a level of detail sufficient for DOJ's consultant to (i) test, (ii) audit, (iii) replicate and (iv) verify the accuracy and consistence of P&LE's responses.	Copies of the traffic and revenue data upon which P&LE relied in developing its marketing plan identified by Mr. Wendelin in his Verified Statements filed with the ICC in the Conrail Staff Study.
Pro forma Financial Statements are insufficiently documented.	Pro formas to be restated to be consistent with the use of 1983 cost data and presentation of Financial Statements in 1985 dollars. The treatment of deferred taxes and the extent of remaining net operating losses and investment tax credits should be specified. The underlying data and assumptions which form the basis for GTI's 5 year plan excluding the acquired lines. Details as to changes that GTI is making in the BM MEC and DH vis-a-vis their historical operations that would have an effect on historical financial results.
Pro forma Financial Statements are insufficiently documented and are prepared with defective accounting techniques.	Restated pro formas in consistent nominal dollars. All pro forma statements should be reconcilable between themselves. That is, the effect of changes in income statements and cash flow statements should be clearly reflected in the balance sheets. Documentation of rationale for assumptions with respect to labor costs. The treatment of deferred taxes and the extent of remaining net operating losses and investment tax credits should be specified. The basis for determining revenue and expense levels should be documented. Specific items which require amplification are the relationship between per carload revenue levels and carloads, equipment rent revenues, the means by which reduced costs per carload are to be obtained (by expense category). Assumptions with respect to the levels of economic activity in the service territory should be identified. A separate table with explanatory test indicating anticipated payment schedules of both interest and principal for all long term debt obligations. Verification of the permissibility of an $8 million cash reserve following implementation of the restructuring agreements (which indicates that only $5 million is allowable). Itemization of miscellaneous income items and specification of how gain on sale of equipment is to be realized.

VERIFIED STATEMENT OF DONALD E. MATZZIE

EXHIBIT 2

Operating plan for lines to be acquired

Road Operations

McKees Rocks-Brewster: 1 train per day in each direction.

Brewster-Toledo: 1 train per day in each direction.

Brewster-Cleveland: 1 train per day in each direction.

Youngstown-Kent: 1 round trip per day, daily train service in each direction.

Ore Trains: Ashtabula-McKees Rocks-Mingo Jct. (as required).

Coal Trains: Newell-Brewster-Toledo (as required).

EXHIBIT 3

OPERATING PLAN

Yard and local service

Yard.—Mingo Junction, Brewster, and Toledo.

Local Service.—Rook (McKees Rocks), Yorkville, Brewster-Zanesville, Brewster-Massillon, Brewster-Gambrinus, Norwalk, Cleveland, and McKees Rocks-West End-Connellsville.

EXHIBIT 4

DIRECT SUPPORT AND LOCATION

Yard Masters.—Cleveland, Canton, Gabrinus, Brewster, Mingo Jct., and Toledo.

Yard Clerks.—Cleveland, Rook (McKees Rocks), Mingo Jct., Brewster, Gambrinus and Toledo.

Agents.—Rook (McKees Rocks), Mingo Jct., Brewster, Canton, and Norwalk.

Dispatchers.—Brewster.

Crew Dispatchers.—Brewster.

Car Inspectors.—Mingo Jct., Brewster, Toledo, and Cleveland.

Mr. SPECTER. Mr. President, I submit that this document will show in some detail the underlying conclusion that the divestiture to Guilford and Pittsburgh & Lake Erie could in no way provide the kind of adequate competition as required by the Department of Justice letter of January 25, which I referred to at the outset of my comments.

Mr. President, there is a similar proposed merger involving the Santa Fe and the Southern Pacific Railroads which is now pending before the Interstate Commerce Commission. In that merger, the Department of Justice has filed objections stating that the proposed merger would violate the antitrust laws.

Mr. President, the proposed merger between the Santa Fe and the Southern Pacific Railroads is much less deleterious, much less harmful, much less violative of the antitrust laws than is the proposed combination of Norfolk Southern and Conrail. But the Department of Justice has inexplicably given preliminary approval to the Norfolk Southern transaction, while it has opposed the proposed merger of the Santa Fe and the Southern Pacific.

Mr. President, at this time I refer to a summary of an analysis of the Santa Fe-Southern Pacific merger, an analysis which was made by the law firm of Arnold and Porter, as attorneys for the CSX Corp. Albeit CSX is heartily opposed to the acquisition of Conrail by Norfolk Southern, but I reviewed this analysis with care and find it excellent—and staff has reviewed it and found it to be factually accurate. I believe this analysis is of great importance in evaluating antitrust questions on Norfolk's efforts to acquire Conrail because of the similarities in the positions.

At this point, I will refer briefly to the executive summary by Arnold & Porter which states that in a brief filed on October 21, 1985:

The United States Department of Justice has stated its opposition on antitrust grounds to the proposal pending before the Interstate Commerce Commission to merge the Santa Fe and Southern Pacific Railroads. The antitrust analysis used by the Department of Justice in the Santa Fe-Southern Pacific proceeding is directly relevant to the important competitive issues raised by the proposal to allow the Norfolk Southern Corporation to acquire the Federal Government's controlling interest in Conrail. If consistently applied in the two cases, the analysis would require DOJ to disapprove the Norfolk Southern-Conrail combination just as it has opposed the Southern Pacific-Santa Fe transaction.

By the Department of Justice's own analysis, the immediate anticompetitive impact of a Norfolk Southern-Conrail combination will be several times that of the proposed Santa Fe-Southern Pacific merger. The Department of Justice's analysis of the Santa Fe-Southern Pacific proceeding concludes that:

At a minimum 6.2 billion tons of freight, which translates roughly into $240 million of revenues, would be adversely affected. By contrast, even though DOJ's analysis of the Norfolk-Conrail proposal included a zealous screening process that eliminated from consideration some $500 million in effective revenues and corresponding tonnage, the Department of Justice nevertheless concluded that the transaction would adversely affect about 19 million tons of freight and $527 million in revenue."

Mr. President, what the Department of Justice has done in approving, even preliminarily, the Norfolk-Conrail transaction is really astounding in light of the Department of Justice's position on the Santa Fe-Southern Pacific Railroad. Even these figures, which understate the full anticompetitive impact of the Norfolk-Conrail combination do not show the true relative effects of the two proposals. The potential long-term impacts of the Norfolk-Conrail combination are far more ominous than those of the Santa Fe-Southern Pacific transaction. Norfolk-Conrail, unlike Santa Fe-Southern Pacific, will have enormous adverse effects on coal transportation, which is particularly vulnerable to the loss of rail competition.

Moreover, although the Santa Fe-Southern Pacific merger will still leave three major trunk-line railroads operating in the West, a Norfolk-Conrail combination would leave only two major railroads, Norfolk-Conrail and the CSX, with the Norfolk-Conrail in the dominant position, operating in the East. A Norfolk-Conrail combination will irreversibly destroy the present competitive balance between Norfolk-Southern and CSX.

Mr. President, at this time I ask unanimous consent that the full memorandum prepared by Arnold and Porter entitled "Memorandum Concerning Inconsistencies in the Position of the U.S. Department of Justice With Respect to the Proposed Merger of the Southern Pacific and Santa Fe Railroads and the Proposal To Allow Norfolk Southern To Acquire Conrail," be included in the RECORD as if presented in full.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

MEMORANDUM CONCERNING INCONSISTENCIES IN THE POSITIONS OF THE U.S. DEPARTMENT OF JUSTICE WITH RESPECT TO THE PROPOSED MERGER OF THE SOUTHERN PACIFIC AND SANTA FE RAILROADS AND THE PROPOSAL TO ALLOW NORFOLK SOUTHERN TO ACQUIRE CONRAIL

Attorneys for CSX Corporation:

Dennis G. Lyons, Leonard H. Becker, Charles H. Cochran, David P. Gersch, Kevin S. Marks, Rebecca E. Swenson.

Arnold & Porter, 1200 New Hampshire Avenue, N.W., Washington, D.C. 20036. (202) 872-6700.

Dated: November 19, 1985.

I. INTRODUCTION

In a brief filed on October 21, 1985, the U.S. Department of Justice ("DOJ") has stated its opposition, on antitrust grounds, to the proposal pending before the Interstate Commerce Commission to merge the Santa Fe ("SF") and Southern Pacific ("SP") railroads. The DOJ's brief explains that the proposed SF/SP merger would have significant anticompetitive effects, which would not be outweighed by efficiencies and for which no adequate remedy has been proposed or is even identifiable. Further, DOJ rejects the theory, which was pressed by the merger applicants, that SP is a "failing company" which should be allowed to merge with SF as a matter of survival.

The purpose of this memorandum is to explain the direct relevance of the antitrust doctrines and analysis applied by DOJ in the SF/SP proceeding to the pending proposal to allow the Norfolk Southern Corporation ("NS") to acquire the federal government's controlling interest in the Consolidated Rail Corporation ("Conrail" or "CR"). The memorandum discusses relevant differences between the SF/SP and the NS/CR proposals and shows that, in each instance, the NS/CR proposal fails antitrust standards far more obviously than the SF/SP proposal. In particular, the memorandum explains that:

Even by DOJ's own analysis, which understates the anticompetitive impact of the NS/CR proposal, the basic adverse effects of an NS/CR combination will be several times those of an SF/SP combination;

Whereas the SF/SP proposal creates some possibilities for offsetting public benefits, or efficiencies, to counterbalance in part the loss of competition, the combination of NS and CR offers little or nothing in efficiency benefits to offset its far greater adverse effects on competition;

DOJ rejected as inadequate the remedies proposed in the SF/SP proceeding, but those remedies involved the Union Pacific and several other healthy railroads and were far more plausible than the remedy being considered for the NS/CR combination, which involves one failing railroad (the Pittsburgh & Lake Erie) and one financially marginal railroad system (the Guilford Transportation System); and

DOJ rejected the SF/SP applicants' claim that a merger is necessary because SP is a "failing company." Yet SP's financial performance and its trends are weak. Conrail's financial strength, by contrast, belies any

claim that it needs NS's "deep pockets" to survive.

In light of these considerations, a DOJ decision to allow an NS/CR combination is fundamentally inconsistent with the decision to oppose the SF/SP merger.

These points are explained in greater detail below:

II. THE ANTICOMPETITIVE IMPACTS OF AN NS/CR COMBINATION WILL BE FAR GREATER THAN THOSE OF THE PROPOSED SF/SP MERGER

DOJ's opposition to the SF/SP merger should not be construed as implying that the anticompetitive impact of that proposal is somehow greater than the anticompetitive impact of the proposed NS/CR combination. It is not. By DOJ's own analysis, the adverse impact of an NS/CR combination will be much greater.

DOJ's analysis in the SF/SP proceeding concluded that "[a]t a minimum, 6.2 million tons of freight, which translate roughly to 240 million dollars in revenues, would be adversely affected." (Post-Hearing Brief of the United States Department of Justice, Santa Fe Southern Pacific Corporation-Control-Southern Pacific Transportation Company, ICC F.D. No. 30400 at 4) ("DOJ SF/SP brief"). By contract, the Department's analysis of the NS/CR proposal—which was notable for a zealous "screening" process that eliminated from consideration roughly $500 million in affected revenues and corresponding tonnage—concluded that that transaction would adversely affect as much as 19.9 million tons of freight and $527.4 million in revenues. (Letter of April 17, 1985 from Charles F. Rule to Honorable John Dingell; Letter of January 29, 1985 from J. Paul McGrath to Honorable Elizabeth H. Dole at 4; Letter of March 26, 1985 from J. Paul McGrath to Honorable Elizabeth H. Dole at 1.)

In other words, by the Department's own analysis, the immediate anticompetitive impact of an NS/CR combination will be several times that of the proposed SF/SP merger.

A. Dr. Pittman's SF/SP analysis

The Department's competitive study of the SF/SP proposal was performed by its economist, Dr. Russell Pittman, who tendered his analysis to the ICC in the form of a verified statement, and who was subjected to cross-examination for three days on his work. (See Verified Statement of Dr. Russell W. Pittman, filed March 21, 1985 in ICC F.D. No. 30400, and transcript of proceedings of April 29-May 1, 1985 in the same docket.)

Dr. Pittman began his consideration of the impact of the SF/SP proposal by identifying movements of particular commodities by rail from particular origins to particular destinations. In other words, Dr. Pittman determined that a "market"—the unit as to which anticompetitive impact would be measured—would consist of the transportation of a given commodity from one point to another. This is a traditional form of analysis in rail merger cases, known as "O/D pair" analysis. See, e.g., *Union Pacific-Control-Missouri Pacific, Western Pacific*, 366 I.C.C. 459 (1982). Dr. Pittman decided that he would use the five-digit level of Standard Transportation Commodity Code ("STCC") to identify commodities, and Business Economic Areas ("BEA") to identify origins and destinations.

Dr. Pittman then applied the department's so-called "50/10" test. In his universe of commodity-O/D pairs markets, he identified those in which SF and SP together carry at least 50 percent of the rail tonnage, and in which each railroad carries at least 10 percent of the tonnage. (Verified Statement of Dr. Russell W. Pittman at 16.) These are the markets as to which a combination of the two carriers, absent countervailing considerations, would create significant anticompetitive risks.

After applying the 50/10 test, Dr. Pittman considered whether markets identified by the test might, nonetheless, be protected from anticompetitive consequences. To do this, he applied two screens: an intermodal competitive screen and a source competition screen. Thus, if his evidence—in particular, modal share and shipper information—indicated that truck transportation (or any other form of transportation) was a viable alternative to rail transportation in a particular market, he concluded that the merger would not create competitive problems in that market. (Id. at 16-18.) Also, he considered whether a shipper's ability to purchase a commodity from different origins, or send it to alternate destinations—so-called "source competition"—might be an effective counterbalance, in particular cases, for the elimination of rail competition. (Id. at 19.) The source competition screen included consideration of whether international market forces could effectively restrain rates for rail traffic at Gulf and ocean ports. (Id. at 20.)

Dr. Pittman summarized his analysis as one that involved only three basic steps:

"In this testimony I have attempted to examine in some detail the most important of the likely competitive implications of the proposed ATSF-SP merger. I have used essentially a three-step methodology. First, I have identified those rail movements where the merger would, in my opinion, have the worst consequences in terms of curtailing the rail options enjoyed by shippers and customers [the 50/10 test]. Second, for the more prominent of these movements, I have examined whether intermodal competition for the same haul is likely to act as a competitive constraint on the market power of a more concentrated group of railroads [the intermodal screen]. Third, I have examined whether the customers' opinions of purchasing the same product from different sources or the shippers' option of shipping the same product to different constraint on the railroads [the source competition screen]." (Id. at 70.)

Based on Dr. Pittman's analysis, DOJ reached the following conclusion concerning the scope of the anticompetitive consequences of an SF/SP merger:

"The competitive problems identified by the Department are real, direct, and nonspeculative. In all of the O/D pair problem markets, the number of rail competitors (including potential rail competitors) would be reduced by the merger from three to two or from two to one. Motor and water carriers are not viable alternatives for rail shippers in these markets, nor are other sources or outlets for their commodities. Accordingly, these are markets in which the merged carrier would either be the only firm providing viable service—a monopolist—or one of two firms providing service—a duopolist. Since entry by another railroad that would constrain the merged carrier's ability to raise rates is virtually impossible, the merger would give the merged carrier the ability to engage in monopoly pricing or enhance substantially its ability to collude. The merged carrier would possess this power in markets throughout its geographic network. These markets, at a minimum, involve transportation of about 6.2 million tons of freight, representing approximately 240 million dollars in commerce." (DOJ SF/SP Brief at 25 (footnotes omitted).) [1]

B. DOJ's NS/CR Screening Process

DOJ's analysis of the proposed NS/CR combination differs considerably from its SF/SP analysis. The NS/CR analysis has not been presented in the form of a verified statement, or even in any single, comprehensive document. Instead, following DOJ's initial statement of its conclusions in January 1985, the specifics of the analysis have been exposed, bit by bit, over time, principally in response to inquiries from legislators.[2] There is no single economist at DOJ, like Dr. Pittman in the SF/SP case, who has come forward to vouch for the integrity of the NS/CR analysis or withstand crossexamination on the subject.

Although many questions remain, DOJ's revelations to date provide the following basic information about its approach to the NS/CR proposal.

Instead of beginning with the "O/D pair" approach, as Dr. Pittman did, DOJ in NS/CR decided to analyze origin markets and destination markets separately. This approach appears to ignore the economic reality that a shipper or receiver will want to move its traffic not merely from one location or to one location, but from one location to another. Nonetheless, although it has declined to perfrom an O/D pair analysis of the NS/CR merger, DOJ asserts that the results of such an analysis would not differ significantly from the results obtained by the origin and destination market approach.[3]

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[1] The Department computed the figure of $240 million by multiplying the 6.2 million tons of affected traffic identified by Dr. Pittman by $38 per ton, a per ton revenue estimate used by the applicants' expert witness, Dr. Paul MacAvoy. (See DOJ SF/SP Brief at 25 n.23.)

[2] See, e.g., Letter of January 29, 1985 from J. Paul McGrath to Honorable Elizabeth H. Dole; Letter of March 26, 1985 from J. Paul McGrath to Honorable Elizabeth H. Dole; Letter of April 15, 1985 from Charles F. Rule to Honorable John D. Dingell; Letter of April 17, 1985 from Charles F. Rule to Honorable John D. Dingell; Letter of April 26, 1985 from Charles F. Rule to Honorable James J. Florio; Letter of July 24, 1985 from Charles F. Rule to Honorable Richard G. Lugar; Letter of August 30, 1985 from Charles F. Rule to Honorable Larry Pressler; Letter of September 25, 1985 from Douglas H. Ginsburg to Honorable Elizabeth H. Dole; Letter of October 22, 1985 from Douglas H. Ginsburg to Honorable John D. Dingell.

These documents are referred to in subsequent parts of this memorandum by recipient and date, e.g., Dole January 29 Letter; Pressler August 30 Letter.

[3] In response to a request from Senator Larry Pressler for an analysis of the NS/CR combination using the SF/SP methodology, DOJ proffered a description of the two methodologies but said:

"We have not, however, replicated the NS/Conrail analysis along precisely the lines employed in Santa Fe/SP as you have requested, because to do so would requie an undertaking of several months' work by the same Department staff members who are now heavily engaged in evaluating the viability of the proposed divestiture by NS to Guilford Transportation Industries and the Pittsburgh & Lake Erie Railroad. Given the insignificant differences in methodology and the overwhelming likelihood that the same conclusions and recommendations would result under either appraoch, there is no reason to believe that redoing our analysis of the NS/Conrail merger would yield useful results." (Pressler August 30 Letter at 2.)

Like Dr. Pittman, DOJ, in its NS/CR analysis, used the 5-digit STCC as the commodity unit but, unlike Dr. Pittman, it chose the smaller county (or sub county), rather than the larger BEA, as the geographical unit.

In January 1985, when DOJ first announced its conclusions concerning the anticompetitive impact of an NS/CR combination, it said that it had identified "more than one hundred markets located in 39 counties in 21 states in which it appeared that a merger between Conrail and Norfolk Southern could have a significant anticompetitive impact" and that, in these markets, NS and CR "participated in movements involving $516.1 million in rail revenues in 1983." (Dole January 29 Letter at 4.) Subsequent letters explained that an additional $11.3 million in problem revenues had been identified—for a revenue total of $527.4 million—and that the corresponding impacted tonnage amount for 1983 was 19.9 million tons. (Dole March 26 Letter at 1; Dingell April 17 Letter.)[4]

The Department also stated in January that, in arriving at its impact conclusions, it had employed the 50/10 test as well as "a number of" different screens. The full extent of the screening process that had occurred did not come to public light until much later.

In August 1985, in a letter to Senator Larry Pressler, DOJ revealed the genuinely massive amount of screening performed to bring the identified impact down to the level of as much as 19.9 million tons, 100 or so markets and $527.4 million in revenue. In an attempt to defend its origin and destination market approach, the Department explained to Senator Pressler that:

"The origin and destination market analysis that we used in our initial NS/Conrail analysis identified—based solely on a 50/10 screen (i.e., prior to any further analysis of competition in these markets)—nearly 700 separate markets in hundreds of countries with potential post-merger competitive problems. These markets involved total annual revenues on NS or Conrail movements of more than $1 billion." (Pressler August 30 Letter at 6.)

Precisely how the Department was able to screen the number of impacted markets down from nearly 700 to about 100, the impacted counties from "hundreds" to 39 and the revenues at issue from "more than $1 billion" to $527.4 million, remains unclear. Many of the screens used, however, have now been acknowledged, and are discussed briefly below.

1. The Department employed what it termed the "monopoly leg" screen to eliminate $104.9 million in revenues. The Department has explained the theory of this screen as follows:

"For each movement between any given origin and destination, there is a single monopoly price that will maximize the profits of the carrier or carriers that participate in the move. Competition among railroads along one leg of a given move will not reduce the total cost to shippers below this monopoly price if, along another leg essential to the move, there is a monopoly carrier that is free to charge as much as it pleases. Thus, maintaining competition along one leg provides no material benefit to shippers if they still must rely on a monopolist along some other significant leg to deliver or originate their products." (Pressler August 30 Letter at 2-3.)

The monopoly leg screen is subject to considerable question both practically and analytically. From a practical standpoint, numerous shippers have repudiated the theory in testimony relating to the Conrail sale. These consumers of rail service—who are obviously in the best position to evaluate the real world implications of such economic propositions—provide persuasive evidence of the benefits derived from competition regardless of a monopoly position that may exist for some portion of a rail movement.[5] Beyond this, Dr. Pittman himself took exception to the monopoly leg concept on analytical grounds:

"Q. [Counsel] With respect to the screen we have just been discussing, that is, the monopoly railroad leg, if you want to call it that, I think Mr. McGrath indicated in his discussion of methodology that that had been employed, and the department expands upon it in the answers provided to Congressman Dingell.

Since we now agree that that kind of an analysis was conducted there and not in your testimony, let me ask you very simply, do you find that screen to be wrong or incorrect for employment in a rail merger analysis?

A. [Dr. Pittman] Yes, I think it is incorrect to assume that a monopoly screen would always mean that a merger would not cause competitive problems." (Tr. 12, 738-39.)

Moreover, specifically confronted with the Department's explanation of why it employed the monopoly leg screen in NS/CR, Dr. Pittman unequivocally stated that he disagreed with the rationale:

"I am not using a screen which was used here [in NS/CR] because I don't believe that screen is correct. I am doing my own analysis." (Tr. 12, 740.)

Taken as a whole, the Department's dismissal in NS/CR of nearly $105 million in problem revenues is premised on a dubious economic theory—one which it clearly rejected in its contemporaneous analysis of SF/SP.

2. DOJ employed a "small revenue" screen to eliminate $97 million in revenues. The Department's explanation of this screen, in effect, is that there is no need to be concerned about commodity movements to or from particular counties in which the rail revenues are small (less than $2 million each)—even though, cumulatively, the sums involved may be enormous. Once again, it is significant to note that in his analysis of the SF/SP merger, Dr. Pittman did not employ a small revenue screen.

3. DOJ employed an "automobile and truck destination" screen to eliminate $42.3 million in revenues. The theory of this screen, DOJ has said, was that the presence of foreign-built automobiles and trucks imported by ship somehow will hold down transportation costs for American vehicles. (Pressler August 30 Letter at 8.) This would be so, DOJ evidently believes, no matter where the American vehicles are being shipped (Los Angeles or Wichita) and no matter what kind of American vehicles are involved (Chevettes, Cadillacs or even Corvettes); and also without regard to the "umbrella" effect that inflated domestic transportation costs can have on prices charged for imported vehicles. Again, as DOJ concedes: "Dr. Pittman did not specifically focus on automobile and truck destinations as important distinct markets and therefore did not consider the effects of imported autos and trucks on the markets involved in the SF/SP merger." (Pressler August 30 Letter at 8.)

4. DOJ employed a case-by-case "export screen" to eliminate an amount of revenues which it has not revealed. The theory of this screen was that "if the price of a commodity is determined by competition from foreign producers of a commodity, a railroad ordinarily cannot successfully charge monopoly rates for transporting the commodity to a particular port for export." (Pressler August 30 Letter at 5.) The precise application and scope of this screen, and the commodity movements deleted from the analysis because of it, in the NS/CR analysis remain unclear. DOJ has said only that "shipments of export commodities were not systematically excluded on this ground, but commodities such as coal and grain were excluded based on the facts of specific cases." (Pressler August 30 Letter at 5.)

5. DOJ employed a so-called "major shipper" screen to eliminate another amount of revenues which it has not publicly quantified. Again, although the precise technique employed by DOJ for implementing this screen remains unclear, the Department has indicated that it eliminated from consideration all counties "in which the major shipper in the market supported the merger." (Dole January 29 Letter at 4.) There is, quite simply, no basis in law or policy for a

[4] The figure of 19.9 million tons may be too low. According to DOJ, this is tonnage for the markets listed in DOJ's January 29 letter. Evidently, the figure does not include tonnage for the additional markets identified in DOJ's March 26 letter. DOJ's letter releasing the tonnage information does not explain whether the tonnage is only NS and CR tonnage or whether tonnage on other lines may be included as well. No breakdown of tonnage by railroad is provided. (See Dingell April 15 letter.)

[5] "The Department's analysis does not comport with economic realities. For example, the Department did not discuss the effects of monopoly extension and foreclosure of alternative, interline service . . . . Monopoly extension occurs when a shipper is served by one railroad but ships to destinations outside the area of monopoly through interconnection with other railroads. If the merger of Norfolk Southern and Conrail is approved, CSX would be effectively cut out of business it now competes for with Norfolk Southern for shipments outside of the monopoly area. The merger would also eliminate source competition which could create or extend a monopoly on rail service." (Statement of Earl W. Mallick, Vice President-Public Affairs, United States Steel Corporation and Chairman, Shippers for an Independent Conrail, Before the Committee on the Judiciary, Subcommittee on Monopolies and Commercial Law, U.S. House of Representatives, September 18, 1985.)

"Another specific commodity example may be illustrative of one aspect of the market impact—both direct and indirect—of a sale to Norfolk Southern. Currently, the trend in the Northeastern utility coal market is toward the use of low-sulfur coal, which is not available from most Conrail origins but is mined from locations served by CSX and Norfolk Southern (one of the areas where these two systems still compete). As delivering carrier, Conrail today will connect with and serve shippers originating traffic on either, with delivered prices determined on the basis of market demand and competition. Should Conrail be acquired by Norfolk Southern, however, the situation can be expected to change dramatically. CSX doubtless would lose its 'friendly' delivery connection to the Northeast utilities, precluding producers on its lines from competing with Norfolk Southern coal for sales. At the same time, the utility consumers would lose their choice of sources; coal effectively would be available exclusively from sources served by Norfolk Southern. Both the supply and the consuming markets would suffer a serious reduction in competition, with attendant economic consequences." (Testimony of Kelvin J. Dowd, on Behalf of the Eastern Coal Transportation Conference, Before the Subcommittee on Monopolies and Commercial Law, United States House of Representatives, September 18, 1985.)

major shipper screen. Dr. Pittman did not employ a major shipper screen in his SF/SP analysis (Tr. 12, 745), nor has DOJ identified any other instance in which such a screen has been used. The fact is that even if a "major shipper"—however such a shipper might be defined or identified—might have countervailing economic bargaining power in dealing with railroad rates and services, this provides no comfort or protection to the hundreds of smaller shippers who lack such leverage. To give a major shipper, as DOJ did, the effective power to immunize a rail merger from antitrust scrutiny by supporting it, is to turn traditional antitrust, and public interest, analysis on its head.

6. DOJ employed an intermodal competition screen to eliminate an amount of revenues which it has not identified. According to the Department: "Using 1977 Census of Transportation data, supplemented by surveys and interviews with over 200 shippers concerning approximately 700 facilities, we then eliminated those markets where non-rail competition appeared to be significant." (Dole January 29 Letter at 4.) Although this screen may be assumed to be one of the most significant, its application was apparently subjective in the extreme, based as it was upon an assessment of whether non-rail competition "appeared to be significant."

* * * * *

The following Table 1 summarizes the publicly available information concerning the screening process employed by DOJ in its NS/CR analysis. While the full details remain unknown, it is apparent from these data that—at a minimum—nearly half of the problem traffic initially identified by DOJ has been dismissed through the use of its various screening devices.

Table 1.—NS/CR revenue screens—DOJ analysis

[In millions of dollars]	*Revenues*
50/10 test—problem revenues (over)..	1,000.0
Monopoly leg screen	104.9
Small revenue screen	97.0
Automobile and truck destination screen	42.3
Case-by-case export screen	(1)
Major shipper screen	(1)
Intermodal competition screen	(1)
Problem revenues identified Jan. 29, 1985	516.1
Problem revenues identified Mar. 26, 1985	11.3
Total problem revenues identified	527.4
Total revenues screened away (at least)	472.6

[1] Unknown.

C. SF/SP v. NS/CR—Short- and long-term competitive impacts

In sum, there is ample reason to believe that DOJ has understated the full anticompetitive impact of the proposed NS/CR combination. But even on DOJ's own figures, it is clear that that immediate adverse impact, by any calculation, will be far greater than the adverse impact of the proposed SF/SP merger, which DOJ has opposed. DOJ's own estimate of $527.4 million of problem revenues in the NS/CR case is more than double the $240 million impact identified in the SF/SP case, and the 19.9 million tons identified in NS/CR is more than triple the 6.2 million tons identified in SF/SP.

These relative impacts are shown in bar chart form on Tables 2 and 3 below.

[NOTE.—Tables 2 and 3 not reproducible in the RECORD.]

As subsequent parts of this memorandum will indicate, these immediate impact numbers do not begin to tell the full story. The potential long-term impacts of an NS/CR combination are far more ominous than those of the SF/SP transaction. Unlike SF and SP, CR and NS derive huge amounts of their revenue from the transportation of coal. They are the second and fourth largest transporters of coal in the nation. (NS advertises that $42 out of every $100 of its revenue comes from coal transportation.) Coal is one of the commodities that is most vulnerable to the loss of rail competition. As many witnesses have testified, the potential long-term impacts of the foreclosure of competition on coal traffic are enormous.[6]

Moreover, DOJ's position in SF/SP looks to the continuation of rail service for California and much of the West Coast by three major railroads—SF, SP and Union Pacific—while also preserving competitive options created in the West by the Burlington Northern and other healthy western carriers. In the eastern part of the country, however, an NS/CR combination would leave only two major railroads—NS/CR and CSX, with NS/CR in a dominant position—and a fringe of small and, in some cases, failing railroads. An NS/CR combination would irreversibly destroy any possibility of preserving, in the East, the healthy competitive balance that now characterizes the operations of NS, CR and CSX.

III. IN CONTRAST TO THE SF/SP MERGER, AN NS/CR COMBINATION HAS NOTHING TO OFFER BY WAY OF OFFSETTING BENEFITS

In analyzing the overall impact of a merger that will foreclose competition, the courts, in some cases, have allowed consideration of offsetting procompetitive benefits or efficiencies from the merger. See, e.g., *United States* v. *United States Gypsum Co.*, 438 U.S. 422, 441 n.16 (1978); *FTC* v. *Procter & Gamble Co.*, 386 U.S. 568, 597-98 (1967) (Harlan, J., concurring). The ICC considers claims of offsetting benefits in railroad merger cases. See, e.g., Union Pacific—Control—Missouri Pacific, Western Pacific, above.

It is said, however, that to override anticompetitive impacts, benefits or efficiencies must be clearly established; they must be ones that cannot be achieved by any means other than a merger; and they must be of a magnitude to compensate for the harm from loss of competition. As stressed by DOJ in its SF/SP brief, "where, as here, the elimination of competition by a merger would be very significant, the merger should be disapproved unless there is clear and convincing evidence of significant efficiencies that cannot be achieved in the absence of the merger and that offset its competitive harm." (DOJ SF/SP Brief at 46 (citing DOJ Merger Guidelines).)

This offsetting benefits doctrine was relevant in the SF/SP proceeding and it is relevant to a correct competitive analysis of the NS/CR proposal. Again, however, the case for antitrust approval of the SF/SP merger—which the Department refused to extend—is much stronger than the case for approval of an NS/CR combination. Here, as elsewhere, there is no plausible case for the proposed NS/CR combination.

A. A colorable case for benefits in SF/SP

In justifying their merger application, SF and SP stated that their consolidation would produce significant benefits. According to SF/SP, the merger would produce annual benefits of $287.4 million from, among other things, internal rerouting; improved yard and local switching; engineering and mechanical coordinations; better equipment utilization; and new informations systems. (Appendix B, Exhibit SFSP-50.) In addition, it was estimated that SF and SP could save an additional $126.8 million in avoided net capital expenditures in the first three years following the consummation of their merger. On an annual basis, therefore, the total near-term benefits claimed by SF/SP amount to almost $330 million. DOJ even acknowledged, based on the evidence, that ". . . it is true that the merger would result in significant efficiencies and, in some cases, would be the least costly way to achieve them." (DOJ SF/SP Brief at 56.)

DOJ nonetheless rejected a public benefit, or efficiency, justification for the merger. It said that the claimed benefits had not been demonstrated with sufficient clarity, and that many of the claimed efficiencies were spurious and might ignore corresponding increased costs or loss of service to shippers. (DOJ SF/SP Brief at 48-50.) In addition, the Department stressed, many of the efficiencies could be achieved without a merger, as by operating on trackage rights agreements. Moreover, if factors precluded realizing certain efficiencies without a merger, the applicants had not presented clear and convincing evidence to that effect. (Id. at 50-56.)

B. No case for benefits in NS/CR

In contrast to SF/SP, there are hardly any plausible public benefits, or efficiencies, to be obtained by an NS/CR combination. Indeed, in the many months that NS's proposal has been under consideration, NS has never even attempted to make any significant quantified public case for the efficiencies of an NS/CR combination.

This is not surprising. The Department of Justice has revealed that NS's total estimate of efficiency gains—presumably the highest figure that NS could come up with, and details of which have been asserted to be confidential—was only $139.9.

Norfolk Southern claimed that, as a result of its merger with Conrail, there will be a total average annual savings of $139.9 million. This estimate is composed of the following factors: $30.8 million in engineering department savings; $26.6 million in mechanical department savings, $7 million in train savings, $25.7 million in yard savings, $25 million in other transportation savings, and $24.8 million in administrative savings. (Dingell April 15 Letter at 34.)

DOJ already has rejected the preponderance of NS's claimed efficiencies. Former Assistant Attorney General McGrath indicated in his January 29 letter to Secretary Dole that DOJ had reviewed NS's efficiency claims and had found that "some of these claims are overstated, while others, such as abandonment of unprofitable track, would probably occur even in the absence of a merger." (Dole January 29 Letter at 6.)

[6] See, e.g., Testimony of James V. Scahill, Pennsylvania Coal Mining Association, Before the Senate Committee on the Judiciary, April 2, 1985; Statement of Dr. Mark N. Cooper, Director of Energy, Consumer Federation of America, Before the Subcommittee on Commerce, Transportation and Tourism of the Energy and Commerce Committee, U.S. House of Representatives, July 10, 1985; Testimony of Kelvin J. Dowd, on Behalf of the Eastern Coal Transportation Conference, Before the Subcommittee on Monopolies and Commercial Law, United States House of Representatives, September 18, 1985.

Moreover, even if NS's claims had not been substantially rejected, they still would represent benefits of much smaller magnitude than those in SF/SP, even though the anticompetitive impact of the NS/CR combination would be much greater. Table 4 below compares the claimed benefits with DOJ's anticompetitive impact assessment for both cases.

[NOTE.—Table 4 not reproducible in the RECORD.]

Nor is there any possible basis for arguing that an NS/CR merger is needed to improve CR's or NS's operating efficiency (a theory that was, again, plausible in the case of SF and SP). On their own, CR and NS today are two of the more efficient railroads in the nation. Measured by their respective operating ratios (operating expenses divided by operating revenues) a standard index of carrier efficiency (see Part V, below) the performance of both of these roads is superior to the industry norm. As shown in Table 5 below, compared to an overall national average in 1984 of 87.50, CR's operating ratio of 86.47 was more than one point lower, while NS's was eight points lower at 79.57. CR's present efficiency represents a substantial improvment—in both relative and absolute terms—upon that of only four years ago. Between 1980 and 1984, as Table 5 also indicates, all Class I railroads as a group recorded efficiency gains of more then five and a half points. Over the same timeframe, CR slashed its operating ratio by almost 23 points—four times as much.

TABLE 5.—OPERATING RATIOS OF CR AND NS COMPARED TO ALL CLASS I RAILROADS, 1980–84

Year	All class I railroads	CR	NS[1]
1984	87.60	86.47	79.57
1983	90.19	90.59	83.60
1982	996.32	103.63	83.89
1981	92.52	102.16	78.09
1980	93.27	109.24	80.08
Change, 1980–84	−5.67	−22.77	−0.51

[1] Norfolk and Western and Southern Railways combined.

Source: Association of American Railroads, Analysis of Class I Railroads (various years).

The only efficiency claim of NS to which DOJ has given any substantial credence is the claim that shippers would benefit from increased NS/CR single-line service. Increased singled-line service is properly considered as a benefit, or efficency, in many rail merger cases. But the rationale hardly can apply in Conrail's case. By force of circumstance, when Conrail was created it was given a government-sanctioned rail transportation monopoly in large segments of the Northeast. Because of Conrail's position in many important Northeast markets, a merged NS/CR system will be able to force shippers routing rail traffic to or from that territory to ship via the combined NS/CR system wherever service by that system is available. NS/CR can accomplish this in various ways. But the result, however accomplished, will be that, although single-line service will be provided, it will not be provided on a competitive basis.

This kind of single-line service does not produce a public benefit. To the contrary, under these circumstances, single-line service merely becomes a means for NS to extend CR's existing monopoly and to dominate whatever may be left of rail competition.

IV. THE REMEDIES PROPOSED IN THE SF/SP PROCEEDING WERE PLAUSIBLE, BUT THE REMEDIES PROPOSED FOR AN NS/CR COMBINATION ARE NOT

Assuming that a merger is anticompetitive, DOJ nonetheless can support it if the adverse consequences can be remedied, whether by restructuring the transaction or by other means that will preserve competition. The question of appropriate remedies was considered by DOJ in the SF/SP proceeding, and it is currently under consideration by DOJ in the case of NS/CR. The difference is that whereas the remedies proposed—but rejected by DOJ—in the SF/SP proceeding were, at least on their face, plausible, the remedies under consideration in NS/CR are hopelessly inadequate to counterbalance the massive, and long-term, foreclosure of competition that would occur.

A. Plausible Remedies in SF/SP

The parties in the SF/SP proceeding proposed a wide range of remedies for the problems that that merger would create. The Union Pacific proposed that it be given trackage rights over hundreds of miles of SF/SP lines through the so-called "southern corridor," [7] as well as in the San Joaquin Valley and in northern California. The Kansas City Southern proposed trackage rights arrangements on four SF/Sp line segments in Texas and the Gulf area. The Denver and Rio Grande Western proposed line purchases, as well as trackage rights, in Utah, Oregon and California. The Missouri-Kansas-Texas Railroad and the Texas-Mexican Railway also proposed trackage rights in Texas to allow them to compete with the combined SF/SP. (*See* DOJ SF/SP Brief at 69.)

At the same time, KCS also proposed what it called "independent rate-making authority"—an authority that would allow it to solicit traffic and quote rates for traffic that would be handled by SF/SP as KCS' agent. (*Id.*) SF and SP proposed a "pricing constraint condition" under which the merged SF/SP would be obligated not to increase any rate applicable to a "protected flow" by more than 5 percent a year plus an adjustment for inflation; and a "rail service condition" whereby SF/SP would commit itself to continue to provide an appropriate level and quantity of rail service for (1) all traffic identified as potential competitive problem traffic, and (2) all traffic moving via interline rail routes. (*Id.* at 72.)

These were potentially far-reaching remedies, involving healthy, or relatively healthy, carriers. Union Pacific, in particular, is a carrier with the apparent ability to compete with SF/SP over time. As UP explained in its brief:

"Union Pacific has the necessary commitment, financial strength and familiarity with the affected markets to provide effective competition. Following the merger, SFSP will be an extremely large and powerful carrier. However, as the following data indicate, Union Pacific, though smaller, will be of sufficient size to mount a meaningful competitive challenge to SFSP in the affected markets:

[7] The southern corridor consists of portions of southern California, Arizona, New Mexico and Texas. SF and SP provide the only rail competition throughout the corridor.

[Dollars in billions]

	Union Pacific	SF/SP
Route miles	23,130	25,590
Operating revenues	$3.7	$4.8

"Union Pacific is committed to providing fully competitive service to all points that it will be entitled to serve on the trackage rights lines, and the Union Pacific operating plan . . . provides for regular local or through train service to such points." (Opening Brief of Union Pacific Railroad Company and Missouri Pacific Railroad Company, ICC F.D. No. 30400 at 123–24.) (Footnote omitted.)

Although there was disagreement by the railroad parties to the SF/SP proceeding over exactly which proposed remedies were most appropriate, there was a seeming consensus that some sort of remedial scheme could be feasible. And there was certainly no obvious lack of credibility in ideas such as the one explained by UP.

Nonetheless, DOJ rejected all the proposed remedies in SF/SP. It concluded that, even in the aggregate, these proposals would not be adequate to compensate for the loss of competition. As DOJ explained: "this merger presents pervasive competitive problems throughout the networks of the two railroads, and the conditions that have been proposed, either independently or in combination, are insufficient to remedy the problems." (DOJ SF/SP Brief at 70.) DOJ rejected the "independent rate making," "pricing constraint" and "rail service" conditions as unworkable, and it observed, in more general terms:

"Only if the Commission were to (1) grant KCS (as well as UP) trackage rights over the entire southern corridor, (2) grant DRGW purchase and trackage rights over the central corridor, and (3) grant MKT's proposals to remedy origin and destination problems in the Midwest, would conditions have even a remote possibility of remedying the competitive problems created by this merger. Such conditions, however, would by no means eliminate all of the competitive problems." (DOJ SF/SP Brief at 71.)

Thus, in SF/SP, DOJ set forth a strict standard for determining whether the remedies proposed could comprehensively address the problems identified.

B. Implausible Remedies in NS/CR

Even though it almost certainly underestimated the impact of an NS-Conrail combination, DOJ nonetheless found that without "appropriate divestitures" the combination would violate both the antitrust laws and related Interstate Commerce Act merger review standards. As a condition to approval, the Department required "appropriate divestitures" in the Buffalo-Pittsburgh, Chicago-St. Louis corridor, which it had identified as adversely affected. It said that the divestitures should provide "long-term, viable, and competitive rail service to locations along the corridor." (Dole January 29 Letter at 1.)

But even as compared with the proposed remedies in SF/SP, which DOJ rejected, the remedy under consideration in NS/CR is hopelessly weak. It involves carriers that hold out no genuine prospect of long-term, competitive viability as against the combined NS/CR.

Rejection of the Initial Divestiture Plan.—What is proposed as the remedy in NS/CR

is the conveyance by NS/CR of certain lines and line fragments (with associated agreements for trackage, switching and other arrangements) to Guilford Transportation Industries ("GTI") and Pittsburgh & Lake Erie Railroad ("P&LE").

The precise terms of the GTI/P&LE proposals have changed over time. Initially, NS proposed to provide P&LE with track or trackage rights from Pittsburgh to Cleveland and Toledo; to provide GTI with track and trackage rights from Bufflao to points in Ohio, including Toledo; and to sell GTI the CR line to Chicago and the old "Nickel Plate" line to St. Louis.

Over a period of several months, beginning in May 1985, the ICC staff conducted a study and received voluminous evidence on the question of the viability of GTI and P&LE under NS's initial proposal.[8] Evidence was received from numerous participants including Conrail, Grand Trunk Western, NS, CSX—and, most importantly, from GTI and P&LE themselves. The materials submitted for review ran to thousands of pages, and covered every aspect of the potential post-divestiture operations of Guilford and P&LE—including track condition and rehabilitation, equipment needs, operating schedules, marketing, cash flow, and financing.

The results of the ICC staff study were issued on August 30, 1985. The conclusions were unequivocal. As to Guilford, the ICC staff found:

"Because [Guilford's] assumptions generally are without merit, Guilford's proposal will not result in a viable post-divestiture operation . . . . In the long run it does not appear that Guilford will be a financially viable carrier." (Study of the Viability of Guilford Transportation Industries, Inc. and Pittsburgh and Lake Erie Railroad Company Before and After the Line Divestitures Suggested by the Department of Justice as a Condition to the Acquisition of the Consolidated Rail Corporation by Norfolk Southern Corporation at 7 & 9) ("ICC Staff Study").

The conclusion as to P&LE was essentially the same:

"In conclusion, PLE is not now a financially viable carrier and its acquisition of the new lines will not enable it to reverse its already precarious financial position." (*Id.* at 10.)

During roughly the same time period, a separate and independent study of Guilford and P&LE was conducted by R.L. Banks & Associates, a railroad consulting firm retained for the purpose by DOJ. The bottom line conclusions of the Banks organization, not surprisingly, paralleled those of the ICC staff. As to Guilford, the Banks organization noted that "heroic assumptions" had been made in GTI's proposed business plan; and also that "the analyses suggested that GTI's viability would be dependent heavily upon the realization of several optimistic assumptions, and that even under the most favorable circumstances GTI's continued existence would be parlous." (R.L. Banks & Associates, Inc., Conrail Sale Divestiture Study, A Preliminary Report to Antitrust Division, U.S. Department of Justice, September 13, 1985 at 13.) As to P&LE, Banks said:

"This review of available information identified numerous problem areas which are detailed in the text. Significant among these is a *three-fold* difference between P&LE's diversion estimates and those of NS's. Most significant, however, is the review of available financial data for the P&LE which raises serious concern as to whether a Business Plan and financing agreement can be developed that would allow an affirmative finding with respect to the likely long-term viability of the P&LE." (*Id.* at 20.)

On September 25, 1985, Assistant Attorney General Douglas Ginsburg reported to Secretary Dole on the Status of DOJ's review of the GTI and P&LE divestiture plan. Mr. Ginsburg advised Secretary Dole that—

"Based on the information we have obtained to date, including but not limited to the recent Preliminary Report of the Department's independent consultant, R.L. Banks & Associates, it does not appear that the proposed divestiture will establish a rail carrier in the designated corridor capable of providing long-term, viable competitive service." (Dole September 25 Letter at 2.)

On the next day, NS changed its proposal. Although there was no change as to P&LE, NS announced that, instead of selling GTI the old Nickel Plate line to St. Louis, it would provide GTI with trackage rights over the CR main line to St. Louis and would make certain other relatively minor "refinements" in the prior proposal. (Letter of September 26, 1985 from Robert B. Claytor to Honorable Elizabeth H. Dole.)

The refined NS proposal has not yet been the subject of any publicly disclosed viability, or other, analysis by any government agency, although interested parties have noted its very fundamental flaws.

Weakness of GTI and P&LE.—But the basic problem with the divestiture idea in NS/CR is not solely in the terms, or the particular structuring, of the divestiture plan. While it is noteworthy that GTI and P&LE are not to be provided meaningful competitive access to all markets identified by DOJ and other parties, the fatal flaw involves GTI and P&LE themselves and their obvious inability—individually or jointly—to provide a long-term remedy for the loss of competition that would occur. In contrast to SE/SP, where several of the railroads proposing remedies have the physical and financial resources to provide shippers with a competitive alternative to the huge merged entity, in the case of NS/CR there is no reasonable prospect that either GTI or P&LE can offer rail users such long-run competitive options.

GTI and P&LE are both tiny, weak carriers. To illustrate, of the 21 Class I railroad systems ranked in terms of the key financial measure of net income, GTI and P&LE in 1984 placed nineteenth and twentieth, respectively (only the bankrupt Milwaukee reported lower earnings). By contrast, NS ranked second in this compilation, immediately ahead of third place CR. Combined, NS/CR would be number one, outpacing the current front-runner, Burlington Northern, by more than $400 million. The divestiture plan thus falsely envisions that the marginal GTI and P&LE can successfully compete head-to-head with what would be the largest railroad in the United States.

Comprised of three lines—the Boston & Maine, the Maine Central, and the Delaware & Hudson—the Guilford system clearly does not have the economic muscle to compete with a consolidated NS/CR. Only recently reorganized, the Boston & Maine and the Delaware & Hudson have been financially distressed for years, and the Maine Central, which is now a smaller Class II railroad, has been only modestly profitable. Consolidated data for Guilford's Rail Division, reported in Table 6 below, reveal that in 1984 net income amounted to about $5.2 million, or only one-half of one percent of the combined net income of $957 million received by NS and CR. Meager as this is, the $5.2 million earned by GTI in 1984 represents a 40-percent decline from the comparable $8.6 million in net income reported by GTI for 1983.

TABLE 6.—GTI RAIL DIVISION [1] FINANCIAL STATISTICS

[In thousands of dollars]

	1983	1984
Operating revenues	121,224	307,041
Operating expenses	112,861	302,327
Railway operating income	8,363	4,714
Net income	8,642	5,157

[1] Guilford Transportation Industries, Inc., "Acquisition of Rail Properties in Connection With Purchase by Norfolk Southern Corporation of Common Stock of Consolidated Rail Corporation" (June 30, 1985) Exhibit 10.

GTI, in short, will be overwhelmed by the proposed NS/CR combination, both physically and financially. NS and CR have more than 10 times as much track as GTI, and a fleet of freight cars on the order of 40 times the size of the GTI fleet. In 1984, the combined operating revenues of NS and CR were 27 times those of the GTI system, and the combined NS/CR revenue ton-mile figure was 25 times larger than that reported for GTI's Class I rail operations.

The relationship between a combined NS/CR and P&LE is even more disproportionate. The P&LE is one of the smallest Class I railroads, with a single main line of track running from Connellsville, Pennsylvania through Pittsburgh to Youngstown, and existing trackage rights over a Conrail line into Ashtabula, Ohio. From 1982 to 1984, P&LE has net losses of over $50 million, representing close to 36 percent of its operating revenues for those years. It is all but insolvent.

Table 7 below sets forth basic P&LE financial data for the years 1983 and 1984.

TABLE 7.—PITTSBURGH AND LAKE ERIE RAILROAD [a] FINANCIAL STATISTICS

[Dollars in thousands]

	1983	1984
Railway operating revenues	$43,201	$50,316
Railway operating expenses	57,841	54,490
Net revenue (loss) from railway operations	(14,640)	(4,174)
Net income (loss)	(23,462)	(11,598)

[a] ICC Staff Study, Table 27 at 145.

Like GTI, P&LE will be overwhelmed by NS/CR. In 1984, for example, NS and CR—which operate nearly 61 times as much track as P&LE—had combined operating revenues 136 times larger than those of P&LE and combined revenue ton-miles 168 times larger than P&LE's.

Moreover, even if they had the wherewithal, GTI's and P&LE's ability to survive over time, and to compete, will be limited by the fact that it is not proposed to allow them to purchase, and own, the lines for all of their proposed new operations. Instead, significant portions of their new operations will only be trackage rights operations; and their ability to compete will be subject as

[8] The ICC staff did not consider the question whether GTI and P&LE, even if viable, could provide an adequate remedy for the competitive problems that would be created by an NS/CR combination.

well to reciprocal switching, car haul, lease and other sharing arrangements with NS/CR. The long-term viability of such arrangements depends, at a minimum, on there being some element of balance, or equality, between the parties involved. As between GTI and P&LE, and NS/CR, there will be no element of balance or equality.

In sum, given the scope of the competitive problems that would be created by an NS/CR combination, the remedy, if any remedy is possible, would have to be massive and drastic in character. No such remedy is readily identifiable. Certainly the modest GTI/P&LE divestiture proposals—involving not only weak railroads but a hard to operate "patchwork" of partial line transfers; trackage rights; and switching, car haul, lease and other arrangements—do not constitute such a remedy. As every study of the matter has concluded, GTI and P&LE will be unlikely to survive in the face of a combined NS/CR; much less will they provide the kind of strong, long-term competitive antidote that would be required if NS and CR were to be allowed to combine.

V. THE "FAILING COMPANY" DOCTRINE WAS REJECTED FOR SOUTHERN PACIFIC—YET CONRAIL'S HEALTH, AND TRENDS, ARE FAR BETTER THAN THOSE OF SOUTHERN PACIFIC

Proponents of the sale of Conrail to NS have argued that the sale is necessary because Conrail's future health is uncertain and only NS's "deep pockets" can insure that Conrail will not again fail and become a property of the federal government. The argument is flawed not only because NS has not made, and could not make, a commitment to support a failing Conrail over time but also, and even more importantly, because there is no evidence whatever that Conrail is failing. To the contrary, Conrail's health is excellent.

In the SF/SP proceeding, the DOJ confronted a similar argument, cast not in terms of "deep pockets" but in terms of the "failing company" doctrine—a judicially fashioned doctrine that provides that an otherwise anticompetitive merger may be lawful if one of the merging firms is failing. The theory underlying the doctrine is that it is a "'lesser of two evils' approach, in which the possible threat to competition resulting from an acquisition is deemed preferable to the adverse impact on competition and other losses if the company goes out of business." *United States* v. *General Dynamics Corp.*, 415 U.S. 486, 507 (1974).[9] As summarized in DOJ's 1984 Merger Guidelines:

In SF/SP, it was argued by the applicants that the merger should be approved because SP is a "failing company." DOJ rejected the argument, finding that SP, in fact, was not failing. Significantly, a comparison of the financial indicators analyzed by DOJ with respect to SP with the same indicators for CR shows that CR's financial health is not only substantially better than that of SP but also, in objective terms, is very good indeed.

A. SP's Financial Trends Have Not Elicited DOJ's Support for a "Failing Company" Theory

The applicants in the SF/SP proceeding argued that despite the possible anticompetitive nature of the transaction, the merger should be approved because of the poor financial condition of SP and, to a lesser extent, of SF as well.

The evidence presented to support this argument was extensive. The applicants noted that "*not a single party or witness* argued that SPT [Southern Pacific Transportation Company] is in satisfactory financial condition." (Initial Brief of Primary Applicants (Part Two), Santa Fe Southern Pacific Corporation-Central-Southern Pacific Transportation Company, ICC F.D. No. 30400 at 104.) The applicants introduced evidence that SP's indices of performance in almost every important category have declined dramatically for the past decade (*Id.* at 99.) SP's operating ratio "soared from a respectable 90 percent in 1973 to a deplorable 106 percent in 1984," and is now one of the highest operating ratios in the industry. (*Id.*) SP's fixed-charge coverage "plunged from 3.64 times in 1973 to .88 times in 1983 and 1984; and SPT's margin of safety [*i.e.*, the percentage of net income, before federal income taxes, to gross revenue] shrank from 8.13 percent in 1973 to a *negative* 3.44 percent in 1984." (*Id.* at 101.) SP's income from operations declined from $137 million in 1973 to a $160 million loss in 1984. (*Id.* at 99.) During the period from 1981 through the first quarter of 1985, SP's rail operations suffered a total loss of $381.6 million. (*Id.* at 102.) Finally, SP's total debt outstanding increased from $916.5 million in 1983 to $936.4 million in 1985. (*Id.*)

Nonetheless, DOJ rejected the failing company argument. DOJ based its conclusion that SP could not be deemed to be a "failing firm" on various financial indicators it grouped into four categories: debt structure, activity, profitability and liquidity.

To evaluate SP's debt structure DOJ used the fixed charge coverage measure or, as denominated by DOJ, the "times interest earned" ratio. (DOJ SF/SP Brief at 60.) This ratio measures the coverage of fixed charges by income available for that purpose and is equal to income before deducting fixed charges, divided by fixed charges plus contingent interest. The higher the ratio, the greater the company's ability to pay its fixed charges due that year. The ICC has "looked for a fixed charge coverage of at least 2.00 and preferably 3.00 or higher" as evidence of an adequate railroad revenue level. Ex Parte No. 353, *Adequacy of Railroad Revenue (1978 Determination)*, 362 I.C.C. 199, 296 (1979). DOJ found that SP's fixed charge coverage ratio was adequate because SP had greatly increased the ratio over the past three years. (DOJ SF/SP Brief at 60.)

Activity ratios, according to DOJ, "generally show the ability of a company to generate earnings from company resources." (*Id.*) The indicator used by DOJ for this evaluation is the ratio of operating revenues[10] to total assets, or turnover ratio. This ratio measures "a company's sales volume relative to total company assets or resources. Too low a turnover might indicate a company's need to eliminate non-productive assets or increase sales." (*Id.* at 61.) Again, DOJ noted that this ratio for SP had improved from 1983 to 1984.

DOJ used four indicators to measure profitability: operating ratio, net margin, return on equity and return on assets. The operating ratio compares a company's operating expenses to its operating revenues. A higher ratio is evidence of a less profitable company, and a ratio greater than 1.0 indicates an operating loss. The net margin ratio compares net income to total sales. The return on equity ratio compares net income to net year-end stockholders' equity. The return on assets ratio compares net income to total assets. In contrast to the operating ratio, higher ratios in these three areas indicate better profitability. DOJ found that "SPT's profitability ratios, which measure a company's ability to generate profits, have also shown recent improvement." (DOJ SF/SP Brief at 61.)

Finally, DOJ considered liquidity and, as to this, it noted that "[a]lthough SPT's liquidity has not improved and SPT has in the past sold real estate assets to meet ongoing obligations, there is reason to believe that this solution could change." (*Id.* at 59-60.)

In sum, on the "failing company" issue, DOJ concluded: "There is virtually no support . . . for the contention that ATSF may in the foreseeable future become a 'failing firm.' Further, from the evidence in the record, SPT does not satisfy the criteria of the failing firm defense. The evidence suggests that SPT could either improve its performance, successfully reorganize or find an alternative purchaser or purchasers for at least parts of its system." (DOJ SF/SP Brief at 56.)

B. Conrail's Trends Are Strong and Its Financial Health Is Excellent

A comparison of the financial condition of SP with that of Conrail—using the same indicators employed by DOJ—confirms not only that Conrail is in far better health than SP but, even more importantly, that Conrail, through efforts in recent years, has become a financially strong railroad that does not need a protective "deep pockets" takeover, even if that were what NS was really proposing.

The following Table 8 compares CR and SP debt structure. CR's coverage ratio has shown significant improvement and is now substantially higher than that of SP. As of 1984, it was three times as great as SP's ratio, a margin that has grown even more during the first nine months of 1985.

[9] The doctrine was first announced by the Supreme Court in *International Shoe Co.* v. *FTC*, 280 U.S. 291 (1930), where the Court upheld a merger on the ground, *inter alia*, that one of the merging firms was a "corporation in failing circumstances." *Id.* at 301. The Court concluded:

"In the light of the case thus disclosed of a corporation with resources so depleted and the prospect of rehabilitation so remote that it faced the grave probability of a business failure with resulting loss to its stockholders and injury to the communities where its plants were operated, we hold that the purchase of its capital stock by a competitor (there being no other prospective purchaser), not with a purpose to lessen competition, but to facilitate the accumulated business of the purchaser and with the effect of mitigating seriously injurious consequences otherwise probable, is not in contemplation of law prejudicial to the public and does not substantially lessen competition or restrain commerce within the intent of the Clayton Act." *Id.* at 302-03.

"The Department is unlikely to challenge an anticompetitive merger in which one of the merging firms is allegedly failing when: (1) The allegedly failing firm probably would be unable to meet its financial obligations in the near future; (2) it probably would not be able to reorganize successfully under Chapter 11 of the Bankruptcy Act; and (3) it has made unsuccessful good faith efforts to elicit reasonable alternative offers of acquisition of the failing firm that would both keep it in the market and pose a less severe danger to competition than does the proposed merger." (Footnote omitted.) Merger Guidelines § 5.1, 49 Fed. Reg. 26,824 (1984), reprinted in 2 Trade Reg. Rep. (CCH) § 4490 (1984) ("Merger Guidelines").

[10] DOJ's brief mistakenly characterizes these as net revenues.

TABLE 8.—CR AND SP: DEBT STRUCTURE STATISTICS

		CR	SP
Fixed-charge coverage (income before fixed charges/fixed charges plus contingent interest) (times)	[1] 1985	5.96	1.83
	1984	6.6	2.2
	1983	4.3	1.0
	1982	(0.3)	1.0
	1981	0.0	1.6
	1980	(2.4)	1.6

[1] 9 months.

Source: Association of American Railroads, Analysis of Class I Railroads and the quarterly revenues, expenses and income reports filed by the carriers with the ICC.

The following Table 9 compares CR and SP as to activity. As the table shows, notwithstanding its greater volatility (which may be attributable to accounting practices and/or Conrail's historic circumstances), the turnover ratio for CR has consistently been higher than that for SP.

TABLE 9.—CR AND SP: ACTIVITY STATISTICS

		CR	SP
Turnover ratio (operating revenues/assets)	1984	53.43	52.34
	1983	53.36	48.55
	1982	86.99	54.91
	1981	92.52	59.71
	1980	86.89	53.51

Source: Association of American Railroads, Analysis of Class I Railroads. 1985 data based on quarterly reports of revenues, expenses and income as filed with the ICC.

The following Table 10 compares SP and CR profitability measures. As the table indicates, CR's operating ratio, which compares a company's operating expenses to operating revenues, consistently has been lower than that of SP. Further, CR's figures for net margin, return on equity, and return on assets are now clearly superior to those of SP.

TABLE 10.—CR AND SP: PROFITABILITY STATISTICS

		CR	SP
Operating ratio (operating expenses/operating revenue)	[1] 1985	87.83	100.46
	1984	86.47	99.29
	1983	90.59	101.43
	1982	103.63	104.68
	1981	102.16	99.26
	1980	109.24	97.71
Net Margin (net income/operating revenues)	1984	15.06	6.27
	1983	10.35	1.50
	1982	0.07	0.41
	1981	(2.67)	2.11
	1980	(10.67)	3.55

[1] 9 months.

		CR	SP
Return on equity (net income/net year-end stockholders' equity)	1984	14.55	6.38
	1983	10.54	1.46
	1982	0.21	0.48
	1981	(9.42)	2.84
	1980	(41.10)	4.42
Return on assets (net income/total assets)	1984	8.05	3.28
	1983	5.52	0.73
	1982	0.06	0.22
	1981	(2.47)	1.26
	1980	(9.28)	1.90

Source: Association of American Railroads, Analysis of Class I Railroads. 1985 data based on quarterly reports of revenues, expenses and income as filed with the ICC.

The following Table 11 compares CR and SP liquidity measures. Again, by any measure, CR's liquidity is superior to that of SP. CR's current ratio, which measures a company's ability to pay its bills as they become due and which is equal to the ratio of current assets to current liabilities, is more than double that of SP. Further, for the last five years CR's net working capital has been positive and steadily improving, whereas SP's net working capital has been increasingly negative.

TABLE 11.—CR AND SP: LIQUIDITY STATISTICS

	CR	SP
Current ratio (current assets/current liabilities):		
1984	1.6	0.7
1983	1.4	0.8
1982	1.2	0.7
1981	1.2	0.8
1980	1.1	0.8
Net working capital (current assets less current liabilities) (dollars in thousands):		
1984	$585,698	($179,485)
1983	$307,669	($127,623)
1982	$175,320	($175,985)
1981	$189,752	($133,353)
1980	$130,512	($142,044)
Cash-flow/debt due within 1 year:		
1984	6.0	3.7
1983	4.7	2.7
1982	1.5	1.4
1981	0.4	2.4
1980	(1.9)	1.4
Cash-flow/total long-term debt:		
1984	0.4	0.3
1983	0.3	0.3
1982	0.1	0.2
1981	0.0	0.2
1980	(0.1)	0.1

Source: Association of American Railroads, "Analysis of Class I Railroads."

In addition to the foregoing measures, other current ICC data continue to show that CF is far better off financially than SP. For the full year 1984, for example, CR's net revenue from operations amounted to $449.5 million, compared to only $15.6 million for SP. Moreover, through the first nine months of 1985, CR's net revenue from operations was equal to just under $290 million, while for the same period SP reported a loss of $7.2 million.

Comparisons with SP do not provide the only evidence of CR's health and future prospects.

In its July 29, 1985 staff report, the United States Railway Associations found that "all available evidence supports a finding that Conrail can generate positive cash flow for the foreseeable future. Traffic shortfalls compared to the forecast should not threaten Conrail's survival as long as the rail regulatory framework allows service to be shaped to meet the demands of the marketplace." (Conrail Sale Studies, Part I, A Staff Report of the United States Railway Association, July 29, 1985 at pp. 1-6.)

A leading railroad analyst takes an even more "bullish" view. In a recent article published in Forbes Magazine, Isabel Benham, President of New York's Paintor, Kane research consulting firm, explained Conrail's new competitive strength:

"For the first six months of 1985 Conrail's revenues were off 6%, but net income, adjusted for the payment of state taxes and the reinstatement of wages at the national level, was up from $205 million to $209.5 million, or about 2%. And that isn't all. In 1984 they were one of the strongest railroads in the industry. Their cash flow was equal to 77% of the total debt outstanding, their fixed-charge coverage as 5.4%, nearly twice that of CSX, and even more important, their debt-to-equity ratio was only 16%, the most conservative of any major railroad. This suggests that Conrail paper would qualify for AA rating, and that would assure Conrail access to the capital markets" (Who Gets Conrail? interview by James Cook, Forbes, August 20, 1985 at 55.)

Ms. Benham also responded to the "deep pockets" arguments:

"The government's main argument for selling Conrail to Norfolk Southern is that NS has deep pockets, that it will be protective and protect Conrail in times of adversity. But when you're hard pressed, you don't necessarily help the weaker sister. In any case, Conrail has already demonstrated it has the ability to survive recession. Despite the recession in the 1981-83 period, Conrails' earnings improved every year between 1980 and 1984, rising from a $240 million loss to a $500 million profit last year." (Id.)

As summarized by Conrail's Chief Executive:

"The critical issue in the current debate over Conrail's future is whether Conrail can be financially viable as an independent railroad. The answer is undeniable: Conrail is one of three large, profitable railroads in the eastern half of the nation today and can continue to be profitable, independently, for the long-term." (Leave Conrail Alone, by L. Stanley Crane in the Boston Globe, August 20, 1985).

VI. CONCLUSION

In its brief in SF/SP, DOJ states that differences between its analyses in SF/SP and NS/CR are attributable to availability of data and to "differences in the two mergers (*e.g.*, ATSF/SPT in the West, NS/Conrail in the East." (DOJ SF/SP Brief at 20 n.15.) Consideration of the facts shows, however, that the differences in the mergers are that NS/CR is far more anticompetitive than SF/SP while, at the same time, NS/CR is not even plausibly supportable on the basis of public benefits or the "failing company" doctrine, and the remedies proposed in NS/CR are hopelessly inadequate to address the problems that would be created. If antitrust standards are consistently applied, as they obviously should be, the conclusion that SF/SP, even with remedies, should not be approved necessarily requires the same conclusion as to NS/CR.

One of the considerations that influenced DOJ to oppose the SF/SP merger was its recognition that there were other, less anticompetitive alternatives. In NS/CR, there are also other alternatives. The most obvious, and fully developed, of these is the pending proposal for a public offering of Conrail's stock. This alternative, moreover, is not merely less anticompetitive at all. If implemented, a public offering would obviate all of the competitive issues that an NS/CR combination raises.

Mr. HEINZ. Mr. President, I rise today in opposition to the motion to proceed to Calendar Order 215, S. 638, legislation which would allow the sale of Conrail to the Norfolk-Southern Railroad Corp. The sale of Conrail is an issue that has been under discussion and scrutiny for many months by various congressional committees, by executive departments, and by numerous independent Government agencies and private firms. This attention is well deserved, I believe, because at stake in the sale of Conrail is the economic security of the Northeast and the transportation system of the entire United States. The selection of a purchaser will have profound consequences for our Nation's freight transportation system and the hundreds of thousands of people whose livelihoods

depend on it. The sale is of particular importance to the Northeastern region of the country, which is Conrail's primary service area.

Before I discuss the serious reservations I have about S. 638, I will outline the reasons why we should not consider the bill at this time. First, there are three Federal bodies charged with oversight and regulatory responsibilities over railroad mergers—the Justice Department, the Interstate Commerce Commission [ICC], and the United States Railway Association [USRA]. None of these has delivered a final word on S. 638. Let's take a look at why they have not.

The Justice Department has long expressed serious reservations about the antitrust implications of a sale to Norfolk-Southern. Nearly a year ago it ruled that Norfolk-Southern must divest a significant portion of rail lines to other railroads in order to resolve these concerns. Since then, the Department has on two occasions rejected Norfolk-Southern proposals to divest lines on the grounds that they were insufficient to resolve antitrust problems.

The USRA, in a letter to Congressman JAMES FLORIO, indicated that it could not analyze Norfolk-Southern's third divestiture plan as neither of the acquiring railroads—Guilford Transportation Industries and the Pittsburgh & Lake Erie Railroad—had submitted operating plans or financial statements regarding their acquisitions.

The Justice Department, meanwhile, has not even selected an independent consultant to review the antitrust implications of Norfolk-Southern's third divestiture plan. Perhaps this is because they were unhappy with the negative but objective judgments of the consulting firm they retained for the first two divestiture plans.

With respect to the ICC, a still murkier picture exists. Although the agency has heretofore always been accorded an oversight role in rail industry mergers, S. 638 provides no such statutory authority. The ICC has thus far only commented on the Norfolk-Southern proposal at the request of the House Energy and Commerce Committee, which asked that the ICC produce a report on an earlier divestiture plan. This report was highly critical of the feasibility of the divestitures, noting that the acquiring railroads might well not be able to finance, much less operate profitably, the rail lines they would acquire.

It is clear to me that this absence of evidence is sufficient grounds to delay Senate consideration. But because the reservations expressed by the Department of Justice, Interstate Commerce Commission, and United States Railway Association seem not to have deterred the plan's proponents from moving ahead with this legislation, I feel compelled to outline my reservations to such a sale.

A Conrail/Norfolk-Southern merger would result in a dramatic reduction of rail competition in the Northeast. The merger would create a duopoly in the East between Norfolk-Southern and the CSX rail network. Together, Norfolk-Southern and CSX would control nearly all of the rail originations and terminations in eastern cities. This duopoly could breed tacit or direct collusion between these giant rail systems, resulting in the creation of a de facto monopoly. It is this concern which has prompted the Department of Justice to raise antitrust questions about the sale, despite proposals by Norfolk-Southern to divest some of its lines to other rail companies.

Although I could go on, I will focus my opening remarks on the ways in which this proposal differs from the stated objectives of the Department of Transportation in its efforts to return Conrail to the private sector. First, let me say that I wholeheartedly agree that the U.S. Government should return Conrail to private ownership and get out of the railroad business once and for all. I also share Secretary DOLE's concern that we sell Conrail in a manner which insures its long-term financial viability, preserves existing freight service patterns, and achieves the maximum possible return to the taxpayers of this country.

Let us take a look at how a sale to Norfolk-Southern measures up to these criteria. First, with regard to Conrail's financial viability, it should be noted that by the end of 1985, Conrail had a net cash balance of $910 million, capping a 5-year period in which its income has improved steadily. A study by the United States Railway Association has indicated that Conrail is fully capable of remaining profitable as an independent entity. Just last week, Conrail announced yearend profits for 1985 of $440 million—not bad during a year widely judged to have been recessionary for the railroad industry. This evidence indicates to me that a sale to Norfolk-Southern is hardly essential to ensure Conrail's financial viability.

The Department of Transportation's second criteria is that Conrail should be sold to a purchaser which would best retain current service patterns. A sale to Norfolk-Southern would deprive numerous communities, both in the Northeast and across the Nation, of competitive rail service. Consequently, Norfolk-Southern has had to spend many months negotiating with other railroads and with the Departments of Transportation and Justice in an effort to ensure sufficient competition for shippers under the merger. Its latest proposal, however, does not even address competitive problems in 15 of the 30 counties that the Justice Department deemed most serious in response to earlier proposals.

Secretary DOLE's third criteria is to return Conrail to the private sector in a manner which maximizes the financial return to the taxpayers. This laudable objective is met least of all by the proposal to sell Conrail to Norfolk-Southern. Selling Conrail to Norfolk-Southern clears the way for a raid on the Treasury. The sale of Conrail will confer on Norfolk-Southern tax advantages which have been amply documented by the Congressional Budget Office and the Joint Committee on Taxation, costing the United States approximately $400 million in lost revenues—out of a total purchase price of $1.2 billion. Moreover, based in large part on Conrail's 1985 performance, the Morgan-Stanley Corp. has recently increased their offer to purchase Conrail to $1.4 billion, fully $200 million more than Norfolk-Southern's offer.

In addition to not meeting the three objectives sought by Secretary DOLE, a sale to Norfolk-Southern would have a negative impact on employment and on the economy of the Northeast. It is vital to ensure the long-term competitiveness of rail service which shippers need to make business decisions. If we sell Conrail to Norfolk-Southern, we are clearly lessening competition in the long term, by reducing the number of large rail systems in the Northeast from three to two. I am concerned that we would also hurt the business climate in the Northeast, by increasing significantly the number of communities not served by competitive rail service, thereby removing an important incentive for businesses to remain or locate in these areas. We cannot afford to weaken the economy of the industrial Northeast, which is already under siege by foreign competition and outmigration of manufacturing industries to other areas of the United States.

A Conrail/Norfolk-Southern merger would also result in major employment reductions. Although Norfolk-Southern chairman Robert B. Claytor has predicted that job eliminations on the combined system are not likely to exceed 2,300, independent industry analysts have estimated job losses to be as high as 10,000 over the next 5 years. Given these statistics, it is no wonder that nearly all major transportation unions oppose the sale of Norfolk-Southern. Furthermore, direct reductions represent only part of the employment losses. For every person employed by the railroad, six people are employed by companies who depend on the railroads to ship their goods to market. Vast numbers of people employed by adversely affected shippers could lose their jobs as a result of a Conrail/Norfolk-Southern merger.

For these reasons, I believe that the merger is not necessary to ensure Conrail's future viability, and, moreover, threatens to endanger the rail network and economic future of the Northeast.

Mr. President, my other great concern is that selling Conrail to Norfolk-Southern would devastate the economy of Pennsylvania. Many of the job losses resulting from this merger would occur in Pennsylvania, where approximately 15,000 Conrail employees live—the most of any State. There are major repair plants in Altoona, Hollidaysburg, and Juniata, and Conrail's corporate headquarters is in Philadelphia. The merger would reduce rail competition for numerous shippers in Pennsylvania and increase their costs, and would result in the loss of thousands of tons of cargo currently shipped through the Port of Philadelphia. This traffic diversion is of particular concern as Conrail and the Commonwealth of Pennsylvania have invested millions of dollars in a major coal export terminal at the Philadelphia Port and in other facilities to increase the economic efficiency of traffic movements through the port.

Mr. President, I am hard pressed to find any positive aspects of a Conrail/Norfolk-Southern merger. It would severely reduce competition in the railroad industry. It would eliminate thousands of jobs in an area of the country where unemployment is still a serious problem. It would produce a negligible return to the U.S. taxpayers, and it would not enhance the viability of an already viable railroad. I have joined with eight of my colleagues in introducing legislation, S. 1361, a bill to provide for a public sale of Conrail. I would encourage my colleagues to study this proposal and its clear advantages over a sale to Norfolk-Southern.

Finally, I would remind my colleagues of our intentions when we passed the Northeast Rail Services Act of 1981, which provides the means by which to return Conrail to the private sector. The law stipulates that we should sell Conrail as a separate entity if it is viable, and that we should break it up and sell off its assets to other companies if it is not viable. The intent of this law as I perceive it is to reap the competitive benefits of a viable Conrail by selling it off whole. Creating the largest rail merger in our history is clearly not the purpose of the law.

In closing, I would like to point out that we will have ample time to discuss the Norfolk-Southern proposal in its various aspects. I will just say at this point that S. 638 is fundamentally flawed because it would not accomplish the important objectives sought by the Department of Transportation to preserve competition, to ensure Conrail's future viability, and to provide maximum return to the taxpayers.

Furthermore, there are as yet significant unanswered questions regarding the public policy implications of a sale of Conrail to Norfolk-Southern. I would certainly feel more comfortable about considering this bill if the three principal Federal agencies which have jurisdiction over railroad matters—the ICC, the Justice Department, and the USRA—had indicated their support for this sale or were even finished analyzing Norfolk-Southern's latest divestiture plan. Until that happens it is irresponsible for the Senate to consider S. 638. If we are forced to consider this bill now despite the incomplete of the record, then I would urge my colleagues to oppose this legislation.

Mr. METZENBAUM. Will the Senator yield to the Senator from Ohio without losing his right to the floor?

Mr. SPECTER. I am willing to yield to the Senator from Ohio with the understanding, for which I ask unanimous consent, that whatever the Senator from Ohio proposes to do the Senator from Pennsylvania will not lose his right to the floor but may continue when the Senator from Ohio has completed.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. METZENBAUM. Mr. President, I move that the Senate move to the consideration of S. 638, the Conrail bill, and I ask for the yeas and nays.

Mr. DANFORTH. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. Is there a sufficient second? There is not a sufficient second.

Mr. DANFORTH. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The Senator from Pennsylvania has the floor. The Senator from Pennsylvania yielded to the Senator from Ohio.

The Senator from Pennsylvania has the floor.

Mr. SPECTER. Mr. President, proceeding with the reasons as to why I believe that these matters on outstanding questions are of such tremendous importance, and require extensive consideration by this body, and authoritative answers before this body is called upon to make a judgment on S. 638, I would like to refer at this time to an analysis of the antitrust considerations, again made by Arnold and Porter, which summarizes the history and the factual circumstances of the matters at issue.

The point is made very cogently, at page 5, that the Department of Justice and its Antitrust Division have been acting really as legal counsel to the Department of Transportation since the January 1985 letter. As Arnold and Porter notes, the Division's role as advocate may be found in the Division's widespread assertion of the "work product" privilege in resisting disclosure of documents in a Freedom of Information lawsuit brought by CSX against the Department of Justice, and currently pending in the U.S. District Court for the District of Columbia.

Mr. President, I ask unanimous consent at this time that the full text of this letter of January 8, 1986, from Arnold and Porter to Senator THURMOND and Senator BIDEN be included in the RECORD at this point.

There being no objection, the memorandum was ordered to be printed in the RECORD, as follows:

ARNOLD & PORTER,
Washington, DC, January 8, 1986.

Re Norfolk Southern-Conrail.

Hon. STROM THURMOND,
Chairman, Senate Committee on the Judiciary, Dirksen Office Building, U.S. Senate, Washington, DC.

Hon. JOSEPH R. BIDEN, Jr.,
Senate Committee on the Judiciary, Dirksen Office Building, U.S. Senate, Washington, DC.

DEAR SENATORS: We are writing on behalf of CSX Corporation ("CSX") to set forth our views concerning the inadequacy of the process that has culminated in the Antitrust Division's preliminary approval of the latest divestiture plan put forward by Norfolk Southern Corporation ("Norfolk Southern"). That plan, advanced in aid of Norfolk Southern's proposed acquisition of the government's stock interest in Consolidated Rail Corporation ("Conrail"), would involve divestitures of line segments and other rail assets to Guilford Transportation Industries, Inc. ("Guilford" or "GTI") and Pittsburgh & Lake Erie Railroad ("P&LE").

SUMMARY OF CSX'S POSITION

The Antitrust Division's preliminary approval of the latest Norfolk Southern divestiture plan is fundamentally flawed for the following reasons, among others:

The Division refused to consider the views of interested and affected parties, and instead permitted Norfolk Southern to withhold from the public any information about its latest divestiture proposal until after the Division gave its preliminary approval;

The Division lacked both the information and the in-house expertise necessary to make an informed, meaningful judgment concerning the latest divestiture proposal;

On its face, the latest divestiture plan is as inadequate as the earlier versions, because of the manifest incapacity of Guilford and P&LE to provide viable, long-term competitive rail transportation in the Conrail service area.

INADEQUATE DISCLOSURE OF MEANINGFUL INFORMATION

From late September 1985, when Norfolk Southern earlier proposed and the Antitrust Division speedily rejected a previous Norfolk Southern divestiture plan, to and including November 19 and 21, 1985, when the Antitrust Division gave its preliminary assent to the latest version, Norfolk Southern and the Division conducted their business behind a veil of secrecy. By the admission of Assistant Attorney General Ginsburg before members of the Senate Judiciary Committee on November 21, 1985, representatives of Norfolk Southern and the Division engaged in nearly continuous negotiations commencing in late September.

On or about November 11, 1985, Norfolk Southern, together with Guilford and P&LE, submitted to the Division a "Joint Memorandum" that recited certain particulars of a further revised divestiture package. The Joint Memorandum was unaccompanied by meaningful evidentiary support, or by evidence of revised or amended contracts between Norfolk Southern on the one hand and Guilford and P&LE on the other. Thereafter, according to Mr. Ginsburg, the Division and Norforlk Southern engaged in further negotiations, again of an unspecified character.

During those negotiations, according to later reports, Mr. Ginsburg wrung additional concessions from Norfolk Southern. The particulars of those concessions have not yet been made public.

On November 19, 1985, the Antitrust Division stated in a press release that it "appeared" Norfolk Southern now had advanced a satisfactory divestiture package. Again, only the sketchiest of information was announced.

Throughout this "process" of developing Norfolk Southern's third divestiture plan, the many interested parties who are vitally concerned about the preservation of competition in rail transportation in the eastern United States vainly sought to be heard before the Division. In conversations with the Staff and in letters to Mr. Ginsburg, they pointed out that past Norfolk Southern divestiture proposals had proved inadequate upon public examination; that the Staff had benefitted from the ventilation of those proposals, and their subjection to public scrutiny as proposals, before the Division gave any indication, however preliminary, of its approval or disapproval. Those arguments were made without avail.

On November 21, 1985, two days after the Division's press release, the proponents of the Norfolk Southern transaction appeared before members of the Senate Judiciary Committee. Secretary Dole and Mr. Ginsburg were heard at length. Again, critics of the transaction sought but were denied an opportunity to be heard before the Committee. The Committee's session was called at such an inappropriate time under the Senate's rules that the Committee Chairman was obliged to declare the session not a hearing, but only a "meeting," of which no official transcript was even maintained.

To this day, the particulars of the latest Norfolk Southern divestiture program are unknown to the public. Perhaps they are unknown to Guilford and P&LE; presumably they are unknown as well to the Antitrust Division. So far as is publicly known, the agreements have yet to be reduced to writing. Nobody has publicly specified what industries will be served by Guilford along substantial segments of the rail lines at issue in the latest plan. The candidates for divestiture have not made public updated financial projections or pro formas. Updated operating plans have not been forthcoming from either Norfolk Southern or from Guilford or P&LE.

THE ANTITRUST DIVISION NECESSARILY LACKS THE DATA NEEDED TO MAKE AN INFORMED FINAL JUDGMENT

The Antitrust Division says it has exacted meaningful concessions from Norfolk Southern and has obtained every element needed to establish viable, long-term, effective competition in rail transportation in the geographic area to be dominated by the combined Norfolk Southern-Conrail. That position is insupportable. Proof of this may be found in a partial listing of the indispensable information that the Antitrust Division admittedly did not have when it signaled its preliminary approval of the Norfolk Southern divestiture plan and that, so far as can be ascertained, the Division still does not have:

The written agreements between Norfolk Southern on the one hand, and Guilford and P&LE on the other, setting forth the terms and conditions of the latest divestiture plan (including such fundamental matters as the total price to be paid by P&LE for the lines to be acquired by it);

Marketing and operating plans for Guilford and P&LE, including projected train schedules and supporting data for revenue and cost projections;

Financial projections for Guilford and P&LE, including sources of funding for the payments to be made to Norfolk Southern in respect of line acquisitions, equipment purchases, leasehold arrangements, and track and yard rehabilitation; pro forma financials showing anticipated revenues and expenditures in the first full year of operations following divestiture; and balance sheets for the pro forma year;

Density projections showing the likely volume of traffic to be handled over the rail lines and trackage rights to be acquired by Guilford and P&LE, together with projections of commodity "mix" sufficient to form a reasonable basis for projections of anticipated revenues.

The Antitrust Division's failure to have even the most rudimentary information available to it before intimating its preliminary acceptance of the latest Norfolk Southern plan demonstrates that the Division cannot have analyzed the Norfolk Southern proposal with the care warranted by a matter of such importance. If this were a proceeding before the Interstate Commerce Commission (the "ICC"), the materials released to date by the proponents of the Norfolk Southern-Conrail combination and ancillary divestiture would fail to satisfy the basic requirements of the administrative agency for an opening filing. Instead, Norfolk Southern has accomplished a de facto reversal of the burden of coming forward with evidence to support its proposals—it, and its proposed candidates for divestiture, keep their information close to the vest, while commentators and critics are obliged to scramble for relevant data and to speculate concerning the details of the contemplated transaction.

In one sense, the Antitrust Division's latest response to Norfolk Southern comes as no surprise. The Division does not function in this matter as the neutral arbiter of a merger proposed by two private parties. Rather, the Division is acting as legal counsel to the Department of Transportation, which since January 1985 has been pressing for the sale of the government's stock interest in Conrail to Norfolk Southern. Proof of the Division's role as advocate, rather than as disinterested administrator, may be found in the Division's widespread assertion of the "work product" privilege in resisting disclosure of documents in a Freedom of Information Act lawsuit brought by CSX against the Department of Justice and currently pending before Judge Jackson in the United States District Court for the District of Columbia. As advocate for the cause of its client, rather than an impartial administrator passing upon the merger plans of two unaffiliated parties, the Division has put the best face it can on its client's determined course of action—without meaningful review of the facts before the Division undertook to express a preliminary opinion of approval. In effect, the Antitrust Division by its actions of November 19 and 21 has disqualified itself as the watchdog of the public interest so far as the Conrail issue is concerned.

THE PRESENT DIVESTITURE PLAN REMAINS WOEFULLY DEFICIENT

It merits emphasis that this is the latest in a series of occasions on which Norfolk Southern, together with Guilford and P&LE, has announced a "definitive" plan of divestiture, which supposedly provides a complete answer to the Antitrust Division's requirements for approval of the Norfolk Southern-Conrail combination. The first such plan featured as its centerpiece the sale to Guilford of the old Nickel Plate line from Crestline, Ohio to East St. Louis, Illinois—a line of track in such disrepair that it is now generally known as the "Streak of Rust." When the proposal initially advanced by Norfolk Southern was universally condemned, Norfolk, after having previously tacked on some inconsequential trackage-rights arrangements for Guilford in the East (to Croxton Yard, New Jersey, and Lurgan, Pennsylvania), substituted for the Nickel Plate a "trackage rights" arrangement over Conrail's parallel line from Ridgeway, Ohio to East St. Louis. That arrangement may have improved the quality of track involved in the transaction, but it lessened the number and volume of shippers to be served directly by Guilford, because the "trackage rights" arrangement was "overhead" only—it carried no right to serve customers en route.

Now that its second proposal has been rejected, Norfolk Southern has come up with a third plan, and a fourth public declaration that at last it has resolved all outstanding anticompetitive issues. There is no reason to suppose that Norfolk Southern's latest proposal is any more acceptable than the earlier versions. Each of these proposals in turn has been discredited in the public eye after interested (and disinterested) parties have had an opportunity to examine the details and to comment upon them.

On its face, the latest plan fails to accomplish more than marginal adjustments to the earlier variations. P&LE is accorded the right to purchase an additional line of track, from Toledo to Fort Wayne—which is said to be akin to the old Nickel Plate in terms of its parlous condition, and which may well be nicknamed "Son of Streak of Rust." Guilford obtains the nominal opportunity to provide rail transportation service to Detroit (but not to Ann Arbor), but only on an arrangement that, according to Conrail, will enable Guilford to serve fewer than one-quarter of the shippers and receivers in the Detroit metropolitan area. Also, Guilford obtains the theoretical right to provide outbound rail transportation service for some (but not all) of the automotive plants in Wayne County, but only if Guilford can obtain the highly specialized, expensive automotive transportation equipment that the auto manufacturers insist their rail carriers furnish—equipment that currently is in short supply in the marketplace, and that Norfolk Southern has given no indication it will make available to Guilford.

Guilford's own sketchy figures, released as part of the November 11, 1985 Joint Memorandum, disclose that under the now-pending plan of divestiture, Guilford's basic plan of business is essentially unaltered. Guilford will not provide comprehensive rail transportation service in the area deemed by the

Antitrust Division to be adversely affected by the Norfolk Southern-Conrail combination. Rather, Guilford stands by its original intention to concentrate on providing TOFC service from Boston and New York in the East to Chicago and St. Louis in the West—through the impacted area as defined by the Division, but not in it. That service will be confined for the most part to one through train in each direction each day. If the congressional testimony of Guilford's principal shareholder is to be believed, GTI's service on this time-sensitive traffic is to be provided on trains that will operate at 40 or 50 miles per hour, in contrast to Norfolk Southern-Conrail's 60 to 70 mile per hour service.

THE NORFOLK SOUTHERN-CONRAIL COMBINATION PORTENDS A MASSIVE VIOLATION OF THE ANTITRUST LAWS

No observer of the situation seriously disputes that a combination of Norfolk Southern and Conrail, standing alone, would violate the federal antitrust laws. The Antitrust Division has said so. In his letter of January 29, 1985 to Secretary Dole, then Assistant Attorney General McGrath wrote: "[W]e have concluded that, without appropriate divestitures, the proposed merger would violate both Clayton Act and Interstate Commerce Act merger review standards. The merger would have a significant adverse effect on competition for the transport of commodities to and from a number of locations in several states, with the greatest adverse effect occurring at locations along an east-west rail corridor running between Buffalo and Pittsburgh in the east and St. Louis and Chicago in the west" (McGrath Jan. 29, 1985 letter, p. 1).

To be sure, many observers, including two former heads of the Antitrust Division, have questioned the thoroughness of the Division's analysis leading even to the foregoing conclusion. First, the Division neglected the "monopoly extension" aspects of the Norfolk Southern-Conrail combination, arising from Conrail's rail transportation monopoly throughout the vital tri-State region encompassed by eastern Pennsylvania, New York, and New Jersey. Second, the Division employed a series of "screens"—many of them unprecedented—to narrow its projection of the adverse effects of the transaction. Third, the Division ignored the issue of "resourcing" basic commodity movements, such as coal and grain, that will arise once a dominant Norfolk Southern-Conrail combination alters transportation patterns throughout the present Conrail service territory and beyond. Finally, the Division departed from methodologies customarily used by it in rail merger cases (including most prominently in the Santa Fe-Southern Pacific proceeding, currently before the ICC).

In effect, the Antitrust Division treated the antitrust issues presented by the proposed Norfolk Southern-Conrail combination as a static picture, taken at the hypothesized instant of combination, while disregarding the dynamic consequences that would flow from the transaction after it is consummated. As a result of these idiosyncracies in its antitrust analysis, the Division cast in doubt both the process and the conclusion of its study of the proposed Norfolk Southern-Conrail combination.

But even on its own terms, the Division's assessment of the anticompetitive impact of the propose combination should have revealed the inadequacies of the divestiture plan put forward by Norfolk Southern and now provisionally accepted by Assistant Attorney General Ginsburg.

THE DIVESTITURE REQUIRED TO SATISFY THE CONCERNS OF THE ANTITRUST DIVISION MUST BE MEANINGFUL

From its first expression of views, the Antitrust Division has insisted that on the basis of its own investigation, the only remedy for the massive antitrust violation inherent in the Norfolk Southern-Conrail combination, even as narrowly defined by the Division, would be a significant divestiture of rail lines and assets: "to one or more independent acquirers, other than CSX or any entity owned or controlled by CSX, that would provide *long-term, viable, and competitive rail service* to locations along the corridor [described above]" (Jan. 29, 1985 letter, p. 1) (emphasis supplied).

Underscoring the foregoing views, then Assistant Attorney General McGrath advised Secretary Dole: "To ensure competitive service, the divestiture must satisfy [a number of] conditions. . . . [T]he acquirer or acquirers . . . must demonstrate to the satisfaction of the Attorney General that it possesses the managerial, operational, and financial capability necessary to compete effectively, and to remain a viable entity providing long-term rail service along the designated corridor" (*id.*, p. 7).

Again, in an April 15, 1985 letter to Congressman Dingell, then Acting Assistant Attorney General Rule said: "Our divestiture plan requires a divestiture to one or more long-term viable competitors. To meet these criteria, the ultimate operator(s) of the divested lines *will have to be more than a marginal competitor or one capable of being made so by its purchaser*" (Rule Apr. 15, 1985 letter, p. 43) (emphasis supplied).

GUILFORD AND P&LE ARE INHERENTLY INADEQUATE AS CANDIDATES FOR THE REQUIRED DIVESTITURE

From the outset, analysis of Norfolk Southern's divestiture proposals has focused on the question posed by the Antitrust Division since last spring—whether Norfolk Southern's favored candidates for divestiture, Guilford and P&LE, either singly or in combination, possess "the managerial, operational, and financial capability necessary to compete effectively, and to remain a viable entity providing long-term rail service . . ." The answer to that question, from all objective sources, has been a resounding "No."

On August 30, 1985, in a report submitted to a subcommittee of the House Commerce Committee chaired by Congressman Florio, the Staff of the ICC concluded unambiguously that neither Guilford nor P&LE could survive as long-term, viable entities in a rail transportation market dominated by a combined Norfolk Southern-Conrail. Said the ICC Staff concerning Guilford: "*Because (Guilford's) assumptions* [concerning the condition of lines to be acquired, its ability to provide time-competitive service on TOFC traffic, its likely additional gross revenues, and the unlikelihood of substantial diversions from its lines to those of the combined Norfolk Southern-Conrail] *generally are without merit, Guilford's proposal will not result in a viable post-divestiture operation*" (ICC Staff Study, p. 7) (emphasis supplied).

As for P&LE, the ICC Staff said: "P&LE's financial forecasts are far more open to question. It must be noted that, even if all of P&LE's [operating and marketing] projections are accepted, P&LE admits that it cannot service all of its substantial debt using revenues from rail operations. Substantial income from the sale of, and use of, non-rail assets is needed to cover debt payments.

"P&LE is not now a financially viable carrier and its acquisition of the new lines will not enable it to reverse its already precarious financial position" (*id.*, pp. 9, 10) (emphasis supplied).

The Antitrust Division candidly advised Congress in April 1985 that it "does not have in-house expertise to evaluate technical and operational aspects of any proposed divestitures" (Rule April 15, 1985 letter to Congressman Dingell, p. 45). Accordingly, after publishing a solicitation for bids, the Division retained R.L. Banks & Associates, a consulting firm, to assist it in evaluating Norfolk Southern's then-pending divestiture plan. Less than a month after publication of the ICC Staff report, discussed above, the Banks organization came to the same conclusion as had the ICC Staff. With respect to Guilford's financials, the Banks organization said, in pertinent part:

"GTI's viability would be dependent heavily upon the realization of several optimistic assumptions, and . . . *even under the most favorable circumstances GTI's continued existence would be parlous.*

* * * * *

"Doubts about the realism of the marketing and operating plans apply equally to the financial statements; the very real possibility that GTI would fail to realize projected gains in revenues and efficiency leads to the conclusion that *survival of an expanded GTI system is yet to be proven"* (Banks Report, pp. 13, 14) (emphasis supplied).

As for P&LE, Banks' assessment was even gloomier:

"Although the data provided by P&LE are incomplete and inadequate to support a positive assessment of P&LE's longterm viability, there is adequate evidence to support the view that *seriously unrealistic assumptions have been factored into P&LE's planning. . . .*

"P&LE's *pro forma* balance sheet shows that even after financial restructuring, its *debt/equity ratio is extremely unfavorable* reaching a level usually considered above financially sound levels.

* * * * *

"[T]he review of available financial data for the P&LE . . . raises serious concern as to whether a Business Plan and financing agreement can be developed that would allow an affirmative finding with respect to the likely long-term viability of the P&LE" (*id.*, pp. 19, 20) (emphasis supplied).

In a 16-page appendix, the Banks study listed numerous issues and documents requiring further study before a favorable opinion concerning the viability of Guilford and P&LE could be expressed. To date, so far as we are aware, *none* of those issues has been determined; *none* of the documents produced. So far as appears, the Antitrust Division has not begun, let alone completed, the process by which the resolution of the issues identified by Banks could be accomplished.

* * * * *

From the day that Norfolk Southern first proposed Guilford and P&LE as its candidates for divestiture to the present, no spokesman for any point of view, other than Norfolk Southern itself and Guilford and P&LE as the beneficiaries of the proposed divestitures, has intimated that Guilford and P&LE could qualify as satisfactory candidates for divestiture under the standards announced by the Antitrust Division.

THE ANTITRUST DIVISION'S OWN PRIOR CRITICISM SHOWS THAT GUILFORD AND P&LE ARE UNACCEPTABLE AS DIVESTITURE CANDIDATES

Until last November, no commentator had been more forthright in his criticism of Guilford and P&LE as proposed candidates for divestiture than the present Assistant Attorney General himself. In a letter to Secretary Dole dated September 25, 1985, Mr. Ginsburg condemned the Norfolk Southern divestiture plan then pending before the Antitrust Division on a number of grounds, including the following:

First, Mr. Ginsburg deplored the absence of a financial commitment to Guilford or P&LE sufficient to support either carrier's burden of acquiring rail lines and assets from Norfolk Southern, providing for necessary rehabilitation of lines and terminal facilities, and acquiring necessary locomotives and rolling stock. Said Mr. Ginsburg:

"[O]ur review indicates that GTI has underestimated the amount of capital required to rehabilitate the lines it would acquire and that GTI has not yet obtained a firm commitment for the financing necessary in order to acquire and rehabilitate the divested lines. This raises serious questions as to GTI's financial viability" (Sept. 25, 1985, letter, p. 2).

In contrast to the firm commitment required by Mr. Ginsburg, GTI at the time had "obtained only a letter from an investment bank stating its opinion that GTI could obtain certain financing, conditioned upon unspecified covenants yet to be negotiated" (*id.* n. 2).

The same was true as to P&LE. Said Mr. Ginsburg: "It appears even less likely that P&LE could obtain the financing necessary to acquire and operate the assets necessary in order to provide truly competitive service" (*id.* n. 3).

We ask: What has changed with respect to either Guilford or P&LE's financing since Mr. Ginsburg's letter of September 25?

The answer is: Nothing. Guilford still projects that it needs to raise $55 million in order to complete the acquisition and to make related rehabilitation and other investments. Some $35 million of those funds must come from sources other than Guilford's principal shareholder. To date, there is no indication that Guilford has obtained any firm commitment for the advance of such sums.

The situation for P&LE is even worse. Under the latest divestiture plan, that carrier is required to undertake the purchase of even more track than was the case at the time of Mr. Ginsburg's September 25 letter. As in the case of Guilford, there is no indication that P&LE has obtained the financing necessary to make the required acquisitions.

Second, Mr. Ginsburg in his September 25, 1985 letter said: "Also of great concern is the fact that GTI's operating plan provides no assurance that GTI will provide the sort of competition with the merged NS/Conrail that would be necessary in order to eliminate the problems created by the sale of Conrail to NS" (Sept. 25, 1985 letter, p. 2).

Again, we ask: What has changed in this respect since September 25?

Again, the answer is: For all practical purposes, nothing. Under the latest divestiture plan, Guilford will have the nominal opportunity to reach various points in the Midwest. That does not mean that Guilford actually will provide service to those points, or that it is capable of doing so. It does not even mean that Guilford will be legally obliged, or contractually committed, to provide service to and from these points. Aside from Guilford's own unsubstantiated numbers, there is no evidence to support the notion that Guilford can provide meaningful, competitive rail transportation service to *any* point in its system as expanded under the latest Norfolk Southern plan of divestiture. That the commodity-location markets identified by the Antitrust Division as in need of competitive relief will become theoretically accessible to Guilford after divestitures does not mean that those markets will become "contestable" in fact. They will not be contestable if Guilford lacks the wherewithal to contest them.

As for P&LE, that hapless carrier's situation is even worse. So far as the public record discloses, P&LE has not yet submitted *any* numbers to the Antitrust Division to support the theory that it somehow will provide meaningful, competitive rail transportation service in the territories it now will reach under the latest plan of divestiture. Absent P&LE's own numbers, how can the Antitrust Division have concluded, even preliminarily, that that carrier will be in position to provide the meaningful competitive service that the Division previously has insisted upon as a prerequisite to approval of the Norfolk Southern acquisition?

Third, Mr. Ginsburg in his September 25, 1985 letter complained that: "GTI's current operating plan shows that GTI has no intention of providing a competitive alternative to shippers in Wayne and Washtenaw Counties in Michigan [respectively, Detroit and Ann Arbor]. Yet those two counties were identified in the January 29 letter as counties (a) that must be served by an independent carrier and (b) that generate a very large portion of the problem revenues identified in that letter" (Sept. 25, 1985 letter, p. 3).

Again, we ask: What has changed since September 25?

The answer is: Not much. To be sure, under the latest plan of divestiture, Norfolk Southern will allow Guilford to reach Detroit from Toledo and Fort Wayne. In and out of Detroit, Guilford's own sketchy "operating plan" apparently proposes to offer *not more than one train per day* in each direction to and from East St. Louis, Chicago, and New York/Boston. That one train apparently will be expected to handle both TOFC traffic (which by definition is time-sensitive) and so-called manifest or "general freight" traffic, which, again by definition, is local in nature. It is impossible to have a rail transport service that indiscriminately handles both TOFC and general freight traffic on the same train and to provide meaningful competition to the combined NS-CR. The TOFC traffic will be so seriously delayed by the local movements of the train that the carrier will cease to provide competitive TOFC service. Loss of TOFC traffic, in turn, will jeopardize Guilford's ability, even on its own figures, to attain the level of financial performance, with cash flow from operations, that is indispensable to competitive survival in the rail transportation industry.

Guilford's projected one-train-per-day service between Detroit and other points on its system contrasts dramatically with the numerous trains per day currently operated in and out of Detroit by Conrail—a number that hardly can be expected to decline once Conrail is absorbed in the Norfolk Southern system.

THE DIVESTITURE PLAN FAILS TO PROVIDE COMPETITIVE SERVICE TO ANN ARBOR

As recently as October 22, 1985, Mr. Ginsburg assured Congressman Dingell that "we will not recommend that the Attorney General approve a divestiture unless it provides a competitive rail alternative for the major motor vehicle facilities located in Wayne and Washtenaw Counties." (Oct. 22, 1985 letter, p. 9) (emphasis supplied). Yet, it is apparent on the face of the latest divestiture proposal that Washtenaw County, Michigan (Ann Arbor) is left without divestiture relief. Neither Guilford nor P&LE will acquire any right of access to that county, whether by conveyance of rail lines in fee or lease, or by the grant of trackage rights of whatever character.

Instead, under the latest Norfolk Southern plan, Guilford will provide so-called "indirect" service to and from Ann Arbor via a connection with the Ann Arbor Railroad at Milan, Michigan. The first problem with this proposal is that it lacks the concurrence of the Ann Arbor. That railroad currently reaches Toledo on its own lines. There is no reason that it will do Norfolk Southern the favor of agreeing to interchange traffic with Guilford at Milan, which lies just outside Ann Arbor on the way to Toledo. Interchange at Milan would short-haul the Ann Arbor, thereby depriving that regional railroad of its present long-haul and associated revenue.

Earlier, the Antitrust Division tacitly conceded that "indirect" service, such as that now envisioned for Washtenaw County, would be unacceptable. In late September, the Antitrust Division condemned the arrangement whereby Guilford theoretically would have provided "indirect" service to Detroit and Ann Arbor via a connection with the Grand Trunk Western at Toledo. Grand Trunk had protested that it would refuse to shorthaul itself over Toledo for the benefit of Guilford. The situation is parallel in all respects with Ann Arbor at Milan. Just as the earlier proposed "solution" to the Detroit-Ann Arbor problem at Toledo proved unworkable, so is the present proposed arrangement to "solve" the Washtenaw County problem at Milan.

Even the long-haul connection of the Ann Arbor with Guilford at Toledo is no answer to the Washtenaw County problem. Even before Norfolk Southern's latest divestiture plan, the arrangement whereby Guilford would reach Toledo provided a theoretical long-haul connection for the carrier with the Ann Arbor. The Antitrust Division's earlier rejection of the Toledo "solution" necessarily reflected its dissatisfaction with the notion that Guilford's interchange of traffic with the Ann Arbor at that city somehow could alleviate the anticompetitive problems in Washtenaw County presented by a Norfolk Southern-Conrail combination.

NORFOLK SOUTHERN HAS NOT SHOWN THAT ITS CANDIDATES FOR DIVESTITURE WILL ATTRACT SUFFICIENT TRAFFIC TO BE VIABLE

A key component of rail carrier viability is the volume, along with the "mix," of traffic to be handled by the proposed candidates for divestiture. The Antitrust Division recognized this principle at least as early as April of this year, when, in a letter to Congressman Dingell, then Acting Assistant Attorney General Rule advised:

"The Department's major concern regarding the divestiture is that the entity or entities purchasing the divested assets be, to the maximum extent possible, strong, independent competitors in the affected markets.

This means that the purchaser or purchasers must be financially sound, well-managed, and that, following the divestiture, the new entity or entities operating in the region *must have access to a volume of traffic sufficient to enable it (or them) to achieve the economies required to be a long term, viable, competitive force in the markets affected by Norfolk Southern's acquisition of Conrail"* (Apr. 15, 1985 letter p. 47) (emphasis supplied).

As noted above, both the ICC Staff and the Banks organization have shown that neither GTI nor P&LE qualifies as a "financially sound" rail carrier. Noteworthy here is the Division's insistence upon the divestiture candidates' access to traffic in volumes sufficient to sustain operations in the long run. The ICC Staff and the Banks organization have expressed negative views on this point as well.

So far as the public record discloses, P&LE has offered nothing to support the notion that it will attain the requisite volume of traffic to achieve viable competitive status. To the contrary, now that Guilford and P&LE will compete with one another to a certain extent, based upon their parallel trackage between Detroit and Fort Wayne, P&LE may well *lose* traffic as a result of the latest divestiture plan.

Guilford has made self-serving, unsubstantiated claims that it will attract higher volumes of traffic to its lines, but has yet to submit credible proof to that effect. Its prior projections of this type, after study, invariably have been rejected as unrealistic. Notwithstanding those earlier rejections, coming from expert, disinterested observers such as the ICC Staff and the Banks organization, Guilford has done nothing to meet their criticisms. Rather, it has tacked on new unsubstantiated numbers (reflecting the claimed adjustments from the modifications in the divestiture scheme) to its old unsubstantiated numbers. It has proceeded as though not one word of adverse commentary had been sounded in respect of its prior projections.

Moreover, Guilford has nowhere addressed the point that it will operate under a special handicap wherever it reaches customers only by means of the reciprocal switching service to be afforded it by Norfolk Southern—which, so far as can be determined, appears to encompass the greater part of the volume of the new traffic that Guilford anticipates it will handle on its expanded lines following divestiture. For each such switch, Guilford will have to pay Norfolk Southern up to $250—a payment that must come "off the top" of the gross revenues received by Guilford for the long-haul movement. Where Guilford is dependent upon Norfolk Southern for reciprocal switching service at both ends of a given movement (which is likely to occur throughout the expanded territory to be reached by Guilford after divestiture), GTI will be required to pay Norfolk Southern up to $500, again "off the top." Saddled with such operating expenses, Guilford will find it difficult, if not impossible, to provide competitive pricing for its transportation service and simultaneously to carry a significant share of revenues to the bottom line.

Under such circumstances, it strains credulity to say that it "appears" the Norfolk Southern solution can satisfy the Division's requirements.

THE DIVESTEES' SERVICE OPPORTUNITIES WILL BE SEVERELY CIRCUMSCRIBED UNDER THEIR AGREEMENTS WITH NORFOLK SOUTHERN

A major component of the Norfolk Southern divestiture package is the grant of "trackage rights," primarily to Guilford. A hefty majority of the line "access" to be accorded Guilford by Norfolk Southern will consist of trackage rights—some 1,080 miles in trackage rights, according to the November 11, 1985 Joint Memorandum, in contrast to a mere 460 miles to be conveyed to Guilford in fee.

A commercially significant portion of the trackage rights to be accorded Guilford, as well as those to be accorded P&LE, will consist of "overhead" rights only—that is, solely the right to haul traffic along the length of the line in question, from one terminus to the other, without providing local service to customers *en route*, and without interchanging traffic with connecting rail carriers at junctions along the way. Yet, on March 28, 1985, in a letter to Norfolk Southern, a senior Staff member of the Division said:

"[U]nder paragraph 3 of the Attachment [to the February 8, 1985 Memorandum of Intent between Norfolk Southern and the Department of Transportation], it is anticipated that the new entity [to be formed by divestiture] will provide rail service 'along the rail corridor(s) and to, from and between the counties enumerated.' . . . It would be clearly inconsistent with this language to deny the new firm the opportunity to serve the shippers *along the corridors where the divestiture will occur*" (Weiss March 28, 1985 letter, p. 2) (emphasis in last lines supplied).

By contrast, Mr. Ginsburg's preliminary approval of Norfolk Southern's latest divestiture plan does not give recognition to the patent inconsistency between the continued "overhead" trackage arrangement accorded Guilford and P&LE, on the one hand, and the requirements imposed by the Division in its January 29 and March 28 letters, on the other.

Even where Norfolk Southern recently has expanded its grant of trackage rights to embrace the opportunity for direct local service (which continues not to include Detroit), as well as interchange with connecting carriers, none of the proponents of the transaction has quantified the extent to which those grants are meaningful. An assessment must be made concerning the specific industries to be served by Guilford and P&LE along the lines over which they will operate on trackage rights. Until that assessment is offered by the proponents of the plan, it is hardly incumbent on the commentators to seek to evaluate the latest divestiture plan, much less to determine whether it accomplishes the objectives previously expressed by the Division.

THE DIVISION HAS ACCEPTED NORFOLK SOUTHERN'S PROPOSAL WITHOUT THE BENEFIT OF EXPERT ANALYSIS AND ADVICE

Last spring, the Antitrust Division told Congress that it would have to look to outside experts to evaluate the significance of any given divestiture proposal. Said then Acting Assistant Attorney General Rule to Congressman Dingell:

"The Department of Justice does not have in-house expertise to evaluate technical and operational aspects of any proposed divestitures. Accordingly, when such proposals are advanced, we intend to rely on information we receive from the departments of transportation in the various states affected by the merger, the U.S. Department of Transportation, local shippers and such experts as we may retain to advise us with respect to these matters" (Rule Apr. 15, 1985 letter, p. 45).

Thereafter, in evaluating Norfolk Southern's initial divestiture plan, the Antitrust Division turned to persons outside the Department to assist in its evaluation. It consulted with representatives of the departments of transportation in affected States; and, as noted, it retained R.L. Banks & Associates, a transportation consultant, as an expert to advise with respect to the Norfolk Southern proposal. As we have pointed out above, the Banks organization reported its conclusion in September 1985—that the Norfolk Southern divestiture proposal was inadequate on its face, and that the evidence failed to show that either Guilford or P&LE could provide the meaningful competitive alternative demanded by the Division.

In his September 25, 1985 letter to Secretary Dole, adverted to above, Mr. Ginsburg plainly relied upon the Banks report in advising the Secretary of his conclusion that Norfolk Southern's initial divestiture plan failed to satisfy the requirements imposed by the Division in its January 29, 1985 letter.

Immediately upon disclosure of the Banks report, Norfolk Southern modified its divestiture proposal in certain respects. As noted above, it deleted the requirement that Guilford purchase the former Nickel Plate line from Crestline, Ohio to East St. Louis, Illinois (the so-called "Streak of Rust"); and it substituted a grant of trackage rights—"overhead" only—along the Conrail main line from Ridgeway, Ohio to East St. Louis. That proposal, which would have decreased the volume of traffic handled by Guilford to and from affected localities, promptly was rejected by Mr. Ginsburg, who pronounced it no more satisfactory than its predecessor.

Now, without benefit of any consultation either with the Banks organization or, so far as we can determine, with any other outside consultant, with any State transportation department, or with any expert of independent standing, the Antitrust Division has declared that the third Norfolk Southern proposal "appears" to satisfy the Division's divestiture requirements. There is not the slightest factual basis to suppose that the Division, in the limited time since Mr. Rule's April 15, 1985 letter to Congressman Dingell, has acquired the in-house know-how sufficient to enable it to perform the evaluation that only a few short months ago it confessed it could not do. Nor is there any factual basis to suppose that the Division, either internally or by recourse to outside experts, has assessed the significance of the Norfolk Southern divestiture proposal in the limited time that elapsed between November 11, 1985, when Norfolk Southern submitted its plan, and November 19, 1985, when the Division provisionally accepted it.

To be sure, Mr. Ginsburg told members of the Senate Judiciary Committee in his appearance on November 21, 1985 that the Division will look to the views of an outside expert in this matter. But that look, and those views, may be meager. Said Mr. Ginsburg:

"The expert who is hired will be asked to look at all aspects of the plan, both operational and financial, in detail *in order to confirm the accuracy of the representations upon which we have based our conclusion"* (Statement of Douglas H. Ginsburg, dated November 21, 1985, p. 7) (emphasis supplied).

In other words, the expert to be retained by the Division will be asked to "verify" the "facts" advanced by Norfolk Southern in its November 11, 1985 Joint Memorandum and follow-up submissions to the Division. We wonder whether this means that the expert will be asked to confirm, among other things:

That P&LE has no financing to acquire the lines to be sold to it, and has developed no marketing, operating, financial, or other plans in respect to the latest divestiture proposal;

That Guilford has submitted a so-called marketing and operating plan that consists exclusively of self-serving, unsubstantiated figures that make no allowance for criticisms of its earlier projections, while confessing that between virtually all major points to be served in Norfolk Southern-Conrail territory, Guilford will operate no more than one train per day in each direction;

That Norfolk Southern, Guilford, and P&LE have yet to negotiate contracts reflecting the latest proposed arrangements, and (so far as is known) have reduced none of those arrangements to writing;

That neither Guilford nor P&LE has submitted financials, *pro forma* statements, balance sheets, or any other materials sufficient to enable the Justice Department to opine whether the two proposed candidates for divestiture can function in a viable, long-term manner from a financial standpoint.

Confirmation of the foregoing "facts" would be easy; but it scarcely would demonstrate that the divestitures would meet the important public interest goals that the Division's January 29, 1985 letter set out for them.

It was, of course, on the basis of highly detailed presentations in the foregoing subject areas that the Banks organization previously was able to conclude that the initial Norfolk Southern plan of divestiture was inadequate. That conclusion was corroborated by the Staff of the ICC and, as we have noted, by every other commentator on the proposed plan of divestiture other than the parties most keenly interested in its approval.

Now, it appears that the Antitrust Division's outside expert may be unencumbered with the need to undertake such detailed presentations. He may be called upon only to "verify" such information as that there is, indeed, a line of rail track belonging to Conrail that extends from Toledo to Detroit; a line of rail tracking belonging to Norfolk & Western extending from Detroit to Fort Wayne; and the like. As the Secretary of Transportation put it, perhaps seriously, at the November 21 session of the Senate Judiciary Committee, the task of the outside expert is to determine "if the tracks are where they [Norfolk Southern] say they are . . ."

It must be remembered that Guilford and P&LE earnestly represented to the Antitrust Division (albeit before they learned they were to be the beneficiaries of Norfolk Southern's divestiture program and determined to make common cause with Norfolk Southern) that a combination of Norfolk Southern and Conrail would drive them to the wall and might well put the finish to their corporate existence. P&LE told the Justice Department that the Norfolk Southern-Conrail combination would cost it approximately $12.6 million in lost gross freight revenues per year, at a time that P&LE already was operating heavily in the red (Rule Apr. 15, 1985 letter to Congressman Dingell, p. 30). Guilford told the Justice Department in writing that "the acquisition of Conrail by NS and the resulting loss of revenue by D&H [the Delaware & Hudson, a railroad subsidiary of Guilford] could . . . prove to be fatal for D&H and threatening for the entire Guilford system"; also, that the Norfok Southern-Conrail combination would cost Guilford up to $22 million in lost gross freight revenues annually (Guilford Submission to Antitrust Division, undated, at pp. 7, 10, annexed to Rule Apr. 15, 1985 letter to Congressman Dingell).

At stake in this battle are economic matters of transcendent importance to thousands of shippers and receivers throughout the eastern half of the United States, and to the rail carriers that connect and compete with Norfok Southern and Conrail. The combined Norfolk Southern-Conrail would dominate rail transportation in the East. It would destroy competition in rail transportation service throughout Conrail's present territory, and beyond; it would distort competition in rail transportation service elsewhere in the eastern half of the United States; it might well obliterate rail competition among the regional carriers of the Midwest by destroying them; it undoubtedly would affect rail competition throughout the rest of the country.

Guilford and P&LE will no more be able to provide effective rail competition against the combined Norfolk Southern-Conrail than could a mom-and-pop two-seater airline against a combined United and American. Guilford and P&LE are a joke, and a bad one at that—the one is on the brink of failure and the other already is well over the edge. Guilford and P&LE will survive in a post-divestiture environment, if at all, only at the sufferance of the gigantic NS-CR.

For political reasons, Norfolk Southern may choose to keep its tiny "competitors" afloat through a regime of "administered pricing." NS-CR easily could establish an "umbrella" pricing policy that would ensure a temporary margin of profit to Guilford and P&LE while amassing a monopoly return to NS-CR. Such a regime would impose bloated rail transportation costs and degraded service upon shippers and receivers dependent on rail transportation throughout Conrail's present service territory and beyond. Perhaps Norfolk Southern would continue such an arrangement for five years—when its vaunted "convenants" with the Department of Transportation, and many of its key contractual commitments to Guilford and P&LE, all expire.

Thereafter, Norfolk could pull the plug. A concerted program of selective price-slashing, route closings, and other such tactics would put a speedy end to the nominal "competition" afforded by Guilford and P&LE (as well as by connecting Midwest regional rail carriers). The rail transportation markets for which Mr. Ginsburg now thinks he has obtained "contestability" will be at Norfolk Southern's mercy. The competitive "contest" will be at an end.

Nor will any party be able to mount a legal challenge to the Norfolk Southern-Conrail collossus—ever. The legislation urged by the Administration would provide complete antitrust immunity not only to the NS-CR merger itself, but to its "implementation" under the Secretary's plan. Neither the ICC, nor any other independent administrative agency, nor any court will ever have a say in the NS-CR operations as they relate to the combination.

Why all the secrecy? Why the rush to judgment? Why the extraordinary exemptions from the antitrust and commerce laws (to name just two of the many) that have served the Nation so well in the past? The reason, we are told, is to "rescue" Conrail. But Conrail does not need to be rescued. It is healthy, and viable; it is earning solid profits. Its indices of performance, as measured by traditional ICC standards, are strong. We ask: If Conrail is so sick as to require salvation through these extraordinary means, in what condition are Guilford and P&LE? When the time comes, who will rescue them?

Respectfully submitted.

ARNOLD & PORTER.

(By Leonard H. Becker, Dennis G. Lyons, Charles H. Cochran, Rebecca E. Swenson.)

Mr. SPECTER. Mr. President, the text of that letter sets forth in eloquent sequence the real absurdity of having the Department of Justice and its Antitrust Division grant a preliminary antitrust approval in the context of the factual record of this case. The reason becomes apparent when it is viewed in terms of the Department of Justice being counsel to the Department of Transportation. The U.S. Senate ought not to be asked to give authorization now, conditioned upon whatever it is that the Department of Justice may find at some time in the future. The Department of Justice does not have the status of a disinterested arbiter to sort out the pleading claims and the immediate factual assertions. Rather, the Department of Justice has really taken sides in this matter. That is apparent from a reading of the analysis by Arnold and Porter, which I propose to get into at great length when the time is ripe for consideration.

Full consideration by this body, I would submit, Mr. President, requires that we not be foreclosed by cloture. This matter is of great importance to this Nation, and the Senate ought to be able to consider this issue at length without having our deliberations abbreviated by cloture.

Mr. President, there is pending at the present time a request for a hearing before the Committee on the Judiciary of the U.S. Senate. The Judiciary Committee held two prior hearings on the antitrust implications, but was to have been convened again for the purpose of hearing from Secretary of Transportation Dole and Assistant Attorney General Ginsburg. That session was set before the Judiciary Committee on November 21. However, that hearing could not proceed because it was scheduled in the afternoon and there was the absence of appropriate notice. In sum total, Senator THURMOND announced that there would simply be an inquiry, but it would not be an official Judiciary Committee proceeding.

Mr. President, it is my view that the Judiciary Committee must hold that hearing and must conclude its findings on these very vital antitrust issues

before this matter is ripe for consideration by the full U.S. Senate.

Following the November proceeding before the Judiciary Committee, which was not, as I say, an official proceeding and which was not made a matter of record, I wrote to Attorney General Ginsburg on December 19, raising questions about where the Department of Justice stood. At that time, I said:

I remain extremely concerned about the unanswered questions surrounding the "preliminary approval" which the Department of Justice's Antitrust Division has given to the latest divestiture plan proposed by Norfolk Southern, Guilford Transportation Industries, and the Pittsburgh & Lake Erie Railroad.

I previously expressed this concern to you when you appeared before an "informal gathering" of the Senate Committee on the Judiciary regarding the sale of Conrail last month. At that time, you stated that the latest divestiture plan "appeared" to resolve Justice's concerns of anticompetitive effects resulting from the proposed merger of the Conrail and Norfolk Southern systems. You admitted during that meeting, however, that extensive documentation, including financial plans, revenue estimates, balance sheets, and operating schedules, would have to be submitted by the parties, and evaluated and verified by the Antitrust Division, as well as by an outside consultant, before any final approval could be given.

I would like to know whether the outside consultant has been chosen and whether any of the necessary documentation has been provided to you or your staff. Specifically what, if any, further action has been taken thus far by Justice with regard to analysis of this divestiture proposal? I would also appreciate it if you would provide me with a list of any remaining documents which must be supplied to you, when such documents are expected, and when you would reasonably expect review of the documents to be completed by both Justice and its outside consultant.

Thank you for your prompt attention to this very important matter.

When I received no reply to that letter after we adjourned on December 20, and after the majority leader announced that Conrail would be the first item of business on the Senate Calendar when we returned on January 21—that is, today—I was compelled to write to the Attorney General on January 9, I referred to my letter of December 19 to Assistant Attorney General Ginsburg, advised that I had received no reply, and stated that in order to be prepared on the subject when the Senate returned on January 21, 1986, it was indispensable in my view that we have a prompt response to the questions raised in the letter to Mr. Ginsburg. I asked the Attorney General for his assistance.

Mr. President, while I was seated on the floor of the U.S. Senate less than an hour ago, a messenger brought to me finally a letter from Mr. Ginsburg responding to the questions which I had raised on December 19—questions which had been outstanding for 1 full year, questions which were the subject of extensive discussion at the proceeding before the Judiciary Committee on November 21 of 1985. Mr. Ginsburg replies as follows:

DEPARTMENT OF JUSTICE,
ANTITRUST DIVISION,
Washington, DC, January 21, 1986.

Hon. ARLEN SPECTER,
U.S. Senate,
Washington, DC.

DEAR SENATOR SPECTER: This letter responds to your letters of December 19, 1985 and January 9, 1986, concerning the proposed sale of Consolidated Rail Corporation ("Conrail") to Norfolk Southern Corporation ("NS"). You have asked what further action the Department of Justice has taken, since the informal meeting that Secretary Dole and I had with you and several other Senators on November 21, 1985, to analyze the divestiture proposal made in NS. Guilford Transportation Industries, Inc. ("GTI"), and the Pittsburgh & Lake Erie Railroad ("P&LE") in mid-November 1985. In particular, you have requested information concerning both the outside consultant that we will retain to assist us in our analysis and the documentation that we will receive from the parties to the proposed divestiture.

The Department has made significant progress in our preparations to review the divestiture proposal. First, we have given copies of the new divestiture proposal to transportation officials from all the States in the divestiture corridor, including Pennsylvania, and to several railroads and other interested parties, in order that we might obtain their views on the proposal at an early date. Second, the Department has nearly completed the process of selecting an outside consultant; we expect that the consultant will be selected, retained, and ready to begin work by January 31.

Third, the Department recently sent detailed information requests to GTI and P&LE; copies of the requests are enclosed. Similar requests will be sent next week to NS and Conrail. As the GTI and P&LE information requests state, we may find it necessary to seek additional information at a later date, as our analysis of the divestiture proposal progresses. In order to facilitate meaningful public comment about the divestiture proposal, we have advised GTI and P&LE that they should "disclose publicly all information that you provide to us about your plans and ability to operate the divested rail properties, except when the information is particularly sensitive. . . ."

If the parties meet the various deadlines contained in our information request letters, we should begin to receive specific information concerning the proposed divestiture from GTI and P&LE within the next two weeks and from NS and Conrail soon thereafter. We and our consultant will review that information and conduct a field investigation as quickly as possible. We hope to complete the process and make a recommendation to the Attorney General by late March or early April about whether the new divestiture proposal will do in fact what it appears to do on its face—provide long-term, viable, and competitive rail service to the areas identified in our January 29 and March 26, 1985, letters to Secretary Dole.

I trust that this letter has been responsive to your concerns about our analysis of the new divestiture proposal. I would be happy to discuss this issue with you in person if you wish.

Sincerely,

DOUGLAS H. GINSBURG,
Assistant Attorney General.

DEPARTMENT OF JUSTICE,
Washington, DC, January 8, 1986.

JOE SIMS, ESQ.,
Jones, Day, Reavis & Pogue, Metropolitan Square, 655 Fifteenth Street, N.W., Washington, DC.

DEAR JOE: As you know, the Department of Justice has announced that it will proceed with the second phase of its analysis of the divestitures proposed in connection with the planned sale of Conrail to the Norfolk Southern Corporation. In this regard, we have reviewed the November 11 and November 19, 1985 joint documents of Norfolk Southern Corporation, Guilford Transportation Industries, Inc. and the Pittsburgh and Lake Erie Railroad Company. Although those documents have provided some information to help us determine whether the new divestiture plan will achieve long-term, viable, competitive rail service that will resolve the competitive problems we have identified, a substantial amount of additional information will be needed before we can make a final determination about the divestiture. Accordingly, I am enclosing an initial list of the types of additional information that we will need to receive from GTI to complete our analysis.

I wish to emphasize strongly that time is of the essence in complying with these information requests. The consulting firm that the Department selects to assist in our analysis must have information on all of the basic details of GTI's proposed post-divestiture plans before it can begin conducting its analysis. If there are delays in receiving that information, there will be delays in completing the analysis and corresponding delays in the final decision of the Attorney General. Accordingly, I have marked with an asterisk those requests for which we need complete responses as soon as possible and no later than January 24, 1986. We ask that you supply us with complete responses to those requests not marked by February 10, 1986. In order to facilitate this process, I would like to meet with you or any other GTI representative as soon as possible in order to answer any questions you may have about the scope of the requests.

As you may know, it is possible under the Freedom of Information Act for the Justice Department to refuse to disclose publicly confidential commercial or financial information. Much of the information we are requesting in this letter could therefore be held in confidence by the Department, if you were to request that it be treated confidentially. However, the nature and viability of the rail service your client intends to provide on the divested properties is of major interest to Congress and the public. We believe, therefore, that it is appropriate to disclose publicly all information that you provide to us about your plans and ability to operate the divested rail properties. Except when the information is particularly sensitive. Accordingly, we are asking that you designate information as confidential only if its public disclosure would be clearly unwarranted. In particular, we believe that the details of both your final agreement with Norfolk Southern and your operating plan should be available for public analysis, and that at least a general description of your financial structure and market analysis should be disclosed. In addition, you should

realize that it will be necessary for us to disclose some or all of the information that you designate as confidential to the outside consultant who will be retained by the Department to assist in our analysis of the divestiture. Please let us know if you would like to have the consultant enter into a confidentiality agreement with GTI. In addition, we plan to request that Donaldson, Lufkin and Jenrette furnish us their firm's internal documents concerning GTI's proposed acquisition of the divestiture properties, and we are asking that you waive any claim of confidentiality that GTI may have concerning such documents.

Finally, I note that the attached request is preliminary and that in the future it will be necessary for us or our consultant to request additional material about the proposed purchase. Please note that whenever the term "GTI" is used in the attached information requests, we intend that the term include GTI's Rail Division and its corporate parent and subsidiaries, unless otherwise specified.

If you have any questions about this matter, please call me at (202) 724-6478.

Sincerely,

PAUL A. MAPES,
Attorney, Antitrust Division.

APPENDIX A

I. DIVESTITURE AGREEMENT

1. A detailed description and a copy of the divestiture agreement reached between GTI and NS.

2. All documents in GTI's possession used in calculating the final purchase price.

3. A list of all locomotives, rail cars and maintenance-of-way equipment GTI intends to purchase or lease from NS, and the amount GTI will pay for such equipment.

4. A detailed description of all the terminal and yard arrangements between GTI and NS.

5. The specific number and type of employment positions that GTI will offer to NS/Conrail employees.

6. An estimate of the labor protection costs that GTI is likely to incur as a result of operating the divestiture properties.

7. To the extent not supplied in response to item 1, above:

a. A detailed description and a copy of all trackage rights agreements between GTI and NS and between P&LE and GTI;

b. A detailed description and a copy of all switching and haulage arrangements between GTI and NS and between P&LE and GTI;

c. A detailed description and a copy of any agreement between GTI and NS concerning the rescission or transfer of transportation contracts and a list of all NS or Conrail transportation contracts to be assumed by GTI;

d. A list and description of all rail properties to be purchased by GTI; and

e. A statement outlining in detail any interest GTI will acquire or will have the option of acquiring in any railroads or terminal carriers and the anticipated costs of such acquisition.

8. A statement of GTI's rationale for selecting each rail property in the sales agreement.

9. A description of the current operational capabilities of the tracks, yards and rights-of-way that GTI will be acquiring, together with a description of the effects on these properties of any deferred maintenance or delayed capital improvements, a time schedule and estimated costs of any planned rehabilitation or upgrading of the acquired properties, and any other plans for improving the operational capability of the acquired properties.

10. A description of the modifications and rehabilitation that will have to be done for any properties purchased or leased by GTI including estimates of the cost of such modifications and rehabilitation, and a copy of any agreement whereby NS will assist GTI with the modifications or rehabilitation work.

11. A description in detail of all interchange connections with all carriers, including the condition of the track, switches and signals and any anticipated modifications or rehabilitations of such connections.

II. OPERATIONS

An operating plan that shows the following for the next three years or until the operating plan goes fully into effect, whichever is longer:

1. A map indicating clearly, in separate colors, the acquired properties to be operated by GTI, interline connections, other rail lines in the territory, and the counties and the principal geographic points in the region traversed;

2. The pattern of service intended for the acquired properties, including proposed principal routes, proposed coordination of these routes with the services of other railroads and GTI's current operations, anticipated traffic density and general categories of traffic, service frequency and train schedules;

3. Anticipated equipment requirements for providing rail service on the acquired properties, plans for acquiring equipment not conveyed under the sales agreement, and plans for retiring equipment; and

4. A comparison between the services currently provided on the acquired properties by NS/Conrail and the services to be provided under GTI's operating plan.

III. FINANCIAL INFORMATION

1. A description of the source, amount, and all material conditions relating to any funds to be expended by GTI or any related entity to acquire, or rehabilitate or operate the acquired properties for the first three years of operation or until the operating plan is anticipated to go fully into effect, whichever is longer.

2. A pro forma balance sheet for GTI and any other related entitites that will operate the acquired properties for the first three years of operation or until the operating plan is anticipated to go fully into effect, whichever is longer.

3. A pro forma income statement showing estimated revenues, expenses, net income and dividends for GTI and any related entities that will operate on the acquired properties for the first three years of operation or until the operating plan is anticipated to go fully into effect, whichever is longer.

4. A forecast of the source and application of funds for GTI and any other related entities that will operate the acquired properties for the first three years of operation or until the operating plan is anticipated to go fully into effect, whichever is longer.

5. A list and description of all of the acquired properties subject to new or assumed encumberances, with a full description of each encumberance including maturity date, interest rate and other material terms and conditions, and a schedule of proposed asset dispositions for 1986.

6. Monthly balance sheets and income statements from January, 1985, through December, 1985, for the GTI Rail Division and 1985 quarterly balance sheets and income statements for GTI, and the 1985 consolidated financial statements for both GTI and the GTI Rail Division.

7. The 1985 Budget and all existing Lines of Credit Agreements for GTI's parent corporation and GTI's Rail Division.

8. All loan agreements between the GTI Rail Division and GTI's parent corporation, and all loan agreements between GTI's parent corporation and Timothy Mellon, and/or between the GTI's Rail Division and Timothy Mellon.

9. All documents that contain plans or proposals for GTI to participate in third party lease arrangements.

10. A schedule of federal, state and/or local subsidies (grants) expected to be received by GTI for 1985-1987.

11. Documents detailing the status of renegotiations for Boston commuter train service, including net fees/bonuses for GTI or its Rail Division.

12. A statement describing and quantifying any expenses that are not reflected in GTI's financial statements, past or future, including but not limited to, pension contributions.

13. Cost estimates of overhead expenses expected to be incurred by GTI to coordinate its operations with the operations of NS/CR on lines where GTI will be granted trackage rights and/or car haulage arrangements.

14. Data used by GTI to estimate an additional 173,000 carloads of traffic annually and incremental annual revenues of $189 million.

15. A schedule estimating reciprocal switching, trackage rights and car haulage fees to be paid by GTI during the next three years or until the operating plan goes fully into effect, whichever is longer.

16. All documents concerning GTI's financial condition that GTI has provided since January, 1985, to any person or financial institution for the purpose of obtaining a loan.

17. Any document that revises the August 20, 1985 comfort letter to GTI from Donaldson, Lufkin & Jenrette (DLJ or the firm).

18. All documents supplied by GTI to DLJ since GTI retained the firm to arrange financing.

19. All documents received from DLJ since GTI retained the firm to arrange financing.

20. All documents reflecting meetings concerning proposed financing of GTI's acquisition of the divestiture properties where representatives of DLJ were present.

21. A list of all potential investors and/or institutions who have been contacted by or who have contacted DLJ/GTI about financially participating in the divestiture to GTI, as well as materials provided by GTI and/or DLJ to the potential investors.

22. All documents prepared by GTI concerning future financing requirements for the entire GTI rail system, including:

a. amount of funds to be raised

b. equity/debt position

c. use of funds: (1) working capital; (2) acquistion; (3) paydown of debt; (4) rehabilitation; and (5) other.

IV. MARKET ANALYSIS

An economic analysis of the transportation markets to be served by GTI showing the following:

1. Maps and charts estimating for the next three years or until the operating plan is anticipated to go fully into effect whichever is longer. GTI's gross ton miles of freight moving in each direction on those segments of the acquired properties con-

necting major freight yards and terminals, including major intermodal and intramodal exchange points.

2. Revenue car load interchange data estimating for GTI for the next three years or until the operating plan is anticipated to go fully into effect whichever is longer: (1) all traffic received or delivered at any gateway located on the acquired lines, (2) the number of these car loans originating and terminating on the acquired properties, (3) the volume of overhead traffic moving on the acquired lines, and (4) the number of revenue carloads handled in local service on the acquired properties.

3. A narrative discussion identifying the transportation markets to be served or that could be served by GTI's operations on the acquired properties, the types of traffic expected to be generated or that could be generated, and levels of business anticipated on these properties.

4. A copy of all agreements and understandings between GTI or its Rail Division and other railroads (including NS) concerning traffic that could be moved over the acquired properties, including but not limited to agreements and understandings relating to:

a. joint-line rates, single-line rates, or divisions of revenues,

b. solicitation of shippers,

c. coordination of train schedules,

d. run-through trains, and

e. routing traffic through particular gateways.

5. A study estimating the volume of revenue freight cars that, as a result of NS's acquisition of Conrail, may be diverted to or from railroads currently operated by GTI and to or from any entity that GTI may use to provide rail service over the acquired properties.

V. MISCELLANEOUS

1. All information that was requested but not provided to the Department of Justice in response to previous requests for information *and that would still be relevant to the new divestiture proposal,* including but not limited to Appendix A of September 13, 1985 report of R. L. Banks & Associates, which is attached to this letter.

2. All studies, analyses, and reports within the possession of GTI not otherwise requested that relate to the agreement to purchase or lease the acquired properties; development or implementation of an operating plan for the acquired properties; financing the purchase and operation of the acquired properties; estimating current or future revenues and expenses for operating the acquired properties; and estimating the current or future flow and volume of rail traffic on the acquired properties.

3. Traffic tapes showing 100 percent of traffic moved on each GTI railroad for calendar year 1984.

DEPARTMENT OF JUSTICE,
Washington, DC, January 8, 1986.

Mr. G.E. Neuenschwander,
Executive Vice President, Pittsburgh & Lake Erie Railroad Co., Pittsburgh, PA.

DEAR GORDON: As you know, the Department of Justice has announced that it will proceed with the second phase of its analysis of the divestitures proposed in connection with the planned sale of Conrail to the Norfolk Southern Corporation. In this regard, we have reviewed the November 11 and November 19, 1985 joint documents of Norfolk Southern Corporation, Guilford Transportation Industries, Inc. and the Pittsburgh and Lake Erie Railroad Company. Although those documents and P&LE's preliminary business plan of November 13 have provided some information to help us determine whether the new divestiture plan will achieve long-term, viable, competitive rail service that will resolve the competitive problems we have identified, a substantial amount of additional information will be needed before we can make a final determination about the divestiture. Accordingly, I am enclosing an initial list of the types of additional information that we will need to receive from P&LE to complete our analysis.

I wish to emphasize strongly that time is of the essence in complying with these information requests. The consulting firm that the Department selects to assist in our analysis must have information on all of the basic details of P&LE's proposed post-divestiture plans before it can begin conducting its analysis. If there are delays in receiving that information, there will be delays in completing the analysis and corresponding delays in the final decision of the Attorney General. Accordingly, I have marked with an asterisk those requests for which we need complete responses as soon as possible and no later than January 24, 1986. We ask that you supply us with complete responses to those requests not marked by February 10, 1986. In order to facilitate this process, I would like to meet with you or any other GTI representative as soon as possible to answer any questions you may have about the scope of the requests.

As you know, it is possible under the Freedom of Information Act for the Justice Department to refuse to disclose publicly confidential commercial or financial information. Much of the information we are requesting in this letter could therefore be held in confidence by the Department, if you were to request that it be treated confidentially. However, the nature and viability of the rail service P&LE intends to provide on the divested properties is of major interest to Congress and the public. We believe, therefore, that it is appropriate to disclose publicly all information that you provide to us about your plans and ability to operate the divested rail properties, except when the information is particularly sensitive. Accordingly, we are asking that you designate information as confidential only if its public disclosure would be clearly unwarranted. In particular, we believe that the details of both final agreement with Norfolk Southern and your operating plan should be available for public analysis, and that at least a general description of your financial structure and market analysis should be disclosed. In addition, you should realize that it will be necessary for us to disclose some or all of the information that you designate as confidential to the outside consultant who will be retained by the Department to assist in our analysis of the divestiture. Please let us know if you would like to have the consultant enter into a confidentiality agreement with P&LE. In addition, we plan to request that Dillion, Read & Co. Inc. furnish us that firm's internal documents concerning P&LE's financial condition and proposed acquisition of the divestiture properties and we are asking that you waive any claim of confidentiality that P&LE may have concerning such documents.

Finally, I note that the attached request is preliminary and that in the future it will be necessary for us or our consultant to request additional material about the proposed purchase.

If you have any questions about this matter, please call me at (202) 724-6478.

Sincerely,

PAUL A. MAPES,
Attorney, Antitrust Division.

APPENDIX A

I. DIVESTITURE AGREEMENT

1. A detailed description and a copy of the divestiture agreement reached between P&LE and NS.

2. All documents in P&LE's possession used in calculating the final purchase price.

3. A list of all locomotives, rail cars and maintenance-of-way equipment P&LE intends to purchase or lease from NS, and the amount P&LE will pay for such equipment.

4. A detailed description of all the terminal and yard arrangements between P&LE and NS.

5. The specific number and type of employment positions that P&LE will offer to NS/Conrail employees.

6. An estimate of the labor protection costs that P&LE is likely to incur as a result of operating divestiture properties.

7. To the exent not supplied in response to item 1, above: a. A detailed description and a copy of all trackage rights agreements between P&LE and NS; b. A detailed description and a copy of all switching and haulage arrangements between P&LE and NS and between P&LE and GTI; c. A detailed description and a copy of any agreement between P&LE and NS concerning the rescission or transfer of transportation contracts and a list of all NS or Conrail transportation contracts to be assumed by P&LE; d. A list of descriptions of all rail properties to be purchased by P&LE; and e. A statement outlining in detail any interest P&LE will acquire, or will have the option of acquiring, in any railroads or terminal carriers and the anticipated costs of such acquisition.

8. A statement of P&LE's rationale for selecting each rail property in the sales agreement.

9. A description of the current operational capabilities of the tracks, yards and rights of way that P&LE will be acquiring together with a description of the effects on these properties of any deferred maintenance or delayed capital improvements, a time schedule and estimated costs of any planned rehabilitation or upgrading of the acquired properties, and any other plans for improving the operational capability of the acquired properties.

10. A description of the modifications and rehabilitation that will have to be done for any properties purchased or leased by P&LE including estimates of the cost of such modifications and rehabilitation, and a copy of any agreement whereby NS will assist P&LE with the modifications or rehabilitation work.

11. A description in detail of all interchange connections with all carriers, including the condition of the track, switches and signals and any anticipated modifications or rehabilitations of such connections.

II. OPERATIONS

An operating plan that shows the following for the next three years or until the operating plan goes fully into effect, whichever is longer:

1. A map indicating clearly, in separate colors, the acquired properties to be operated by P&LE, interline connections, other rail lines in the territory, and the counties and the principal geographic points in the region traversed;

2. The pattern of service intended for the acquired properties, including proposed principal routes, proposed coordination of these routes with the services of other railroads and P&LE's current operations, anticipated traffic density and general categories of traffic, service frequency and train schedules;

3. Anticipated equipment requirements for providing rail service on the acquired properties, plans for acquiring equipment not conveyed under the sales agreement, and plans for retiring equipment; and

4. A comparison between the services currently provided on the acquired properties by NS/Conrail and the services to be provided under P&LE's operating plan.

III. FINANCIAL INFORMATION

1. A description of the sources, amount, and all material conditions relating to any funds to be expended by P&LE or any related entity to acquire, rehabilitate or operate the acquired properties for the first three years of operation or until the operating plan is anticipated to go fully into effect, whichever is longer.

2. A pro forma balance sheet for P&LE and any other related entities that will operate the acquired properties for the first three years of operation or until the operating plan is anticipated to go fully into effect, whichever is longer.

3. A pro forma income statement showing estimated revenues, expenses, and net income for P&LE and any related entities that will operate on the acquired properties for the first three years of operation or until the operating plan is anticipated to go fully into effect, whichever is longer.

4. A forecast of the source and application of funds for P&LE and any other related entities that will operate the acquired properties for the first three years of operation or until the operating plan is anticipated to go fully into effect, whichever is longer.

5. A list and description of all of the acquired properties subject to new or assumed encumbrances, with a full description of each encumbrance including maturity date, interest rate and other material terms and conditions.

6. A fiscal year 1985 consolidated financial statement.

7. Monthly income statements, balance sheets and Statements of Changes in Financial Position from October of 1984 through December of 1985.

8. A schedule of asset dispositions from FY 1983 through FY 1985, and a schedule of proposed asset dispositions for FY 1986.

9. A schedule of federal, state and/or local subsidies (grants) from FY 1983 through FY 1985, and a schedule of anticipated subsidies for FY 1986–FY 1987.

10. A statement describing and quantifying any expenses that are not reflected on the income statement, past or future, including but not limited to, pension contributions.

11. Data used by P&LE to estimate its additional post-divestiture traffic of 108,000 carloads and revenues of $51 million.

12. Cost estimates of new offices in Toledo, Chicago, and in eastern Ohio.

13. Cost estimates of overhead expenses expected to be incurred by P&LE to coordinate its operations with the operations of NS/CR and the operations of GTI on lines where P&LE will be granted trackage rights.

14. A schedule estimating reciprocal switching, lease, trackage rights, and car haulage fees to be paid by P&LE or a P&LE affiliate during the next three years.

15. All documents prepared to date on the incorporation of a P&LE affiliate that would acquire/lease the P&LE portion of the NS divestiture lines, including but not limited to the affiliate's capitalization, management, and anticipated inter-company transactions.

16. Any letters or other documents that revise the September 3, 1985 comfort letter to P&LE from Dillon, Read & Co. Inc.

17. All documents prepared by P&LE concerning future financing requirements for the entire P&LE rail system including: a. amount of funds to be raised; b. equity/debt position; c. use of funds; (1) working capital, (2) acquisition of the divestiture properties, (3) pay down of debt, (4) rehabilitation and maintenance, (5) other.

18. All documents given to, or received from, Dillon, Read & Co. Inc. including but not limited to: a. letters permitting Dillon, Read to contact possible capital sources; b. letters permitting Dillon, Read to contact P&LE's current lenders; c. studies that evaluate P&LE's financing needs; and d. studies that evaluate P&LE's ability to raise either debt or equity funds.

19. Documents that describe the structure of the financing proposal by which P&LE is attempting to obtain financing for acquiring the divestiture properties, including but not limited to documents describing: a. equity/debt percentages; b. covenants; (1) financial restrictions, (2) security agreements, (3) ability to obtain additional equity/debt partners; c. management input, i.e. whether the financing individual(s) or firm(s) may/may not have a position on the board of directors/management team; and d. change in ownership.

20. All correspondence between P&LE and its banks since October 1, 1985, relating to requests by P&LE to obtain additional financing.

21. A list of all potential investors who have been contacted by, or who have contacted, Dillion, Read/P&LE, concerning financial participation in the acquisition of the divestiture properties. Please indicate the transaction proposed, and provide all the materials supplied by P&LE and/or Dillion, Read to the potential investors.

IV. MARKET ANALYSIS

An economic analysis of the transportation markets to be served by P&LE showing the following for the next three years or until the operating plan is anticipated to go fully into effect, whichever is longer:

1. Maps and charts estimating for the next three years P&LE's gross ton-miles of freight moving in each direction on those segments of the acquired properties connecting major freight yards and terminals, including major intermodal and intramodal exchange points.

2. Revenue car load interchange data estimating for P&LE for the next three years or until the operating plan is anticipated to go fully into effect, whichever is longer: (1) all traffic received or delivered at any gateway located on the acquired lines, (2) the number of these carloads originating and terminating on the acquired properties, (3) the volume of overhead traffic moving on the acquired lines, and (4) the number of revenue carloads handled in local service on the acquired properties.

3. A narrative discussion identifying the transportation markets to be served or that could be served by P&LE's operations on the acquired properties, the types of traffic expected to be generated or that could be generated, and levels of business anticipated on these properties.

4. A copy of all agreements and understandings between P&LE and other railroads (including NS) concerning traffic that could be moved over the acquired properties, including but not limited to agreements and understandings relating to: a. joint-line rates, single-line rates, or divisions of revenues, b. solicitation of shippers, c. coordination of train schedules, d. run-through trains, and e. routing traffic through particular gateways.

5. A study estimating the volume of revenue freight cars that, as a result of NS's acquisition of Conrail, may be diverted to or from P&LE and to or from any entity that P&LE may use to provide rail service over the acquired properties.

V. MISCELLANEOUS

1. All information that was requested but not provided to the Department of Justice in response to previous requests for information and that would still be relevant to the new divestiture proposal, including but not limited to Appendix A of September 13, 1985 report of R.L. Banks & Associates, which is attached to this letter.

2. All studies, analyses, and reports within the possession of P&LE not otherwise requested that relate to: the agreement to purchase or lease the acquired properties; development or implementation of an operating plan for the acquired properties; financing the purchase and operation of the acquired properties; estimating current or future revenues and expenses for operating the acquired properties; and estimating the current or future flow and volume of rail traffic on the acquired properties.

3. Traffic tapes showing 100 percent of traffic moved on P&LE for calendar year 1984.

Assistant Attorney General Ginsburg makes the assertion that the Department has made significant progress. It seems to me that that assertion is absolutely ludicrous, considering the length of time these divestiture proposals have been before the Department of Justice—they received them on November 11. Why does it take until January 8, 1986, which is the date of transmittal to Pittsburgh and Lake Erie and Guilford, for these questions to be propounded?

Why does it take a protracted period of time to ask for comments from the transportation officials of the various States in the divestiture corridor?

Why has the Department of Justice not yet selected an expert in this field? What is taking so long?

The obvious answer is that the Department of Justice is hopeful that sufficient time will pass so that this matter will come to the floor of the U.S. Senate, and cloture will be invoked, and the matter will be acted upon by the U.S. Senate before we see what these proposals are.

Mr. President, considering the amount of time which has passed, I consider that absolutely outrageous. Why has the Department of Justice not gone back to the Banks consultants, whom they hired initially, to consider Guilford and Pittsburgh and Lake Erie? Banks was obviously paid a handsome fee for the extensive con-

sulting report they filed. Was Banks not retained because Banks found Pittsburgh and Lake Erie and Guilford insufficient to provide the necessary competition, and unsubstantial as disclosed by their financial statements?

May we have order, Mr. President?

The PRESIDING OFFICER. The Senate will be in order.

Mr. METZENBAUM. Mr. President, we just learned Howard and Elizabeth were married last week.

Mr. SPECTER. Mr. President, permit me on a pleasant note to extend my congratulations as well to Howard and Elizabeth Greene on the event of their nuptuals. Certainly, it is a matter which has been completed in a timely fashion, unlike the Department of Justice's activity on the consideration of the Norfolk Southern proposal.

Mr. President, the questions on Pittsburgh and Lake Erie have been outstanding for a very long period of time. It seems to me that the Department of Justice has not proceeded in a timely fashion to get to that information.

When my letter of December 9 to Mr. Ginsburg went unanswered, on January 9, 1986, I wrote to Mr. Timothy Mellon, chairman of Guilford, and asked for the relevant information. I ask unanimous consent that the full text of my letter to Mr. Mellon be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
Washington, DC, January 9, 1986.

Mr. TIMOTHY MELLON,
Chairman and Chief Executive Officer, Guilford Transportation Industries Inc., Exchange Place, Boston, MA.

DEAR MR. MELLON: On November 11, 1985, Guilford Transportation Industries entered into an agreement with the Norfolk Southern Corporation and the Pittsburgh & Lake Erie Railroad regarding the divestiture of certain rail lines involved in the proposed merger of Conrail/Norfolk Southern.

The November 11 agreement is devoid of certain critical documents which are necessary for the evaluation of Guilford's role in this proposal. This extensive documentation includes financial plans, revenue estimates, balance sheets and operating schedules.

Assistant Attorney General Douglas H. Ginsburg, appearing before an "informal gathering" of the Senate Committee on the Judiciary last November, stated that these documents would be submitted to the Department of Justice, and evaluated and verified by the Antitrust Division, as well as by an outside consultant, before any final approval of the plan could be given.

I would like to know if the necessary documentation has been provided to Mr. Ginsburg's staff and, if so, I request that I be provided copies of these documents forthwith as the Senate is expected to consider the Conrail sale legislation when it reconvenes on January 21. If the materials have not yet been provided, I would like to know when they will be, and I would appreciate a list of the anticipated documents.

Thank you for your prompt attention to this extremely important matter.

Sincerely,

ARLEN SPECTER.

Mr. SPECTER. Mr. President, on the same date, January 9, 1986, I wrote to Mr. Gordon Neuenschwander, executive vice president of the Pittsburgh and Lake Erie, and asked that information be provided since the Department of Justice had not responded to my letter. I ask unanimous consent that the full text of this letter be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
Washington, DC, January 9, 1986.

Mr. GORDON NEUENSCHWANDER,
Executive Vice President, Pittsburgh & Lake Erie Railroad, Pittsburgh, PA.

DEAR MR. NEUENSCHWANDER: On November 11, 1985, the Pittsburgh & Lake Erie Railroad entered into an agreement with the Norfolk Southern Corporation and Guilford Transportation Industries regarding the divestiture of certain rail lines involved in the proposed merger of Conrail/Norfolk Southern.

The November 11 agreement is devoid of certain critical documents which are necessary for the evaluation of Pittsburgh & Lake Erie Railroad's role in this proposal. This extensive documentation includes financial plans, revenue estimates, balance sheets and operating schedules.

Assistant Attorney General Douglas H. Ginsburg, appearing before an "informal gathering" of the Senate Committee on the Judiciary last November, stated that these documents would be submitted to the Department of Justice, and evaluated and verified by the Antitrust Division, as well as by an outside consultant, before any final approval of the plan could be given.

I would like to know if the necessary documentation has been provided to Mr. Ginsburg's staff and, if so, I request that I be provided copies of these documents forthwith as the Senate is expected to consider the Conrail sale legislation when it reconvenes on January 21. If the materials have not yet been provided, I would like to know when they will be, and I would appreciate a list of the anticipated documents.

Thank you for your prompt attention to this extremely important matter.

Sincerely,

ARLEN SPECTER.

Mr. SPECTER. Mr. President, there is one other matter to which I shall briefly allude this afternoon. May I emphasize the point that in taking the floor and in introducing these various studies which have been made and these various analyses, I am skimming the surface. I am presenting just the conclusory material on extraordinarily complex issues—issues which customarily would be undertaken by the Interstate Commerce Commission, which has the statutory duty to pass on rail mergers like Conrail and Norfolk Southern.

But the legislation enacted by the Congress in 1981 excluded consideration by the ICC. Were the ICC to consider this matter, I think it beyond any doubt that they would find a violation of the antitrust laws and would prohibit the merger. But in the context where the ICC has been discharged of its statutory responsibility to consider the proposed acquisition of Conrail by Norfolk Southern, it is all the more important that there be an objective, disinterested evaluation by the Department of Justice, which, simply stated, cannot be done. The Department of Justice has disqualified itself from rendering that kind of an impartial evaluation by its conduct in this matter.

There were very serious questions raised, Mr. President, that I think ought to be noted at this point by Congressman JOHN DINGELL, chairman of the Subcommittee on Oversight and Investigations of the House Committee on Energy and Commerce which has taken up the Conrail issue.

I ask unanimous consent that the full text of Congressman DINGELL's letter of December 9, 1985, to Attorney General Meese be included in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

U.S. HOUSE OF REPRESENTATIVES,
Washington, DC, December 9, 1985.

Hon. EDWIN MEESE III,
Attorney General of the United States, Department of Justice, Washington, DC.

DEAR MR. ATTORNEY GENERAL: I invite your attention to my letter of March 11, 1985 to former Assistant Attorney General J. Paul McGrath, my letters of June 4, July 18, August 21 and August 22, 1985 to then-Acting Assistant Attorney General Charles F. Rule, and my letter of November 19, 1985 to Assistant Attorney General Douglas H. Ginsburg, requesting documents and information relating to the proposed sale of Conrail to Norfolk Southern Corporation. Copies of the referenced correspondence are enclosed.

These requests were made pursuant to the authority of Rules X and XI of the Rules of the U.S. House of Representatives. I regret to say that the Department's consistent response has been one of frustration and delay. This has continued to the present time with the Department's failure to respond in a timely fashion to our most recent letter. I will recount briefly the history of this delay before raising a related and more serious concern.

In my letter of March 11 to former Assistant Attorney General McGrath, I asked for copies of certain documents pertaining to Norfolk Southern's efficiency claims in connection with its proposed purchase of Conrail. This was followed at the Conrail hearing on April, 30, 1985, by several additional requests for information and materials to be supplied for the record. None of this information was provided to the Committee until July 29, despite two interim follow-up letters and numerous staff telephone calls. Moreover, even by July 29, compliance with the Committee's request was not complete. Rather than furnishing the documents pertaining to Norfolk Southern's efficiency claims as had been requested in March, the Antitrust Division instead suggested that

the Committee seek the documents from Norfolk Southern.

After a review of the submitted documents, it became clear that additional information and materials relating to the proposed sale of Conrail were necessary if the Committee was to discharge its responsibility under the law. Thus, a further request by the Committee was made in letters of August 21 and August 22, with production of the following documents sought in the August 21 letter:

1. All internal analyses, memoranda, and letters to third parties, including drafts, and including, but not limited to, all such materials prepared between the two drafts of January 18, 1985 of an opinion letter from Mr. McGrath to Secretary Dole (previously provided) and the Department's formal opinion letter of January 29, 1985;

2. All documents, memoranda and notes reflecting or involving meetings or conversations (including telephone conversations), either within the Department of Justice or between representatives of the Department of Justice and representatives of the Department of Transportation and/or Norfolk Southern Corporation; and

3. All Congressional testimony, speeches, press releases, and other public relations material, and all drafts thereof, prepared or proposed for delivery or release by the Department of Justice or any Department representative.

Despite our earlier complaints, the cooperation of the Department in timely fulfilling the Committee's requests did not improve at that point either. It was not until two months later that the Department responded, and when it did, several of the Committee's questions were not answered at all. New questions were raised. These were addressed in the Committee's most recent letter of November 19. Although a response to that letter was requested by Friday, December 6, the Committee received nothing more than a two-paragraph letter from Mr. Ginsburg on that day promising answers "as soon as possible."

It is in this context that an even more troubling issue has surfaced. The Subcommittee has learned that within the recent past an official in the Antitrust Division instructed Departmental staff, with respect to the Conrail case, to: (1) destroy personal files, including notes and all drafts of documents; and (2) not to make notes or create work papers in the future. This instruction was allegedly given for the purpose of preventing access to such materials by the Energy and Commerce Committee.

The Subcommittee has also learned that Deputy Assistant Attorney General Mark P. Leddy and Evaluation Section Chief Neil E. Roberts began an investigation on November 25, 1985, into the facts and circumstances leading to this instruction. According to our information, the instruction was given prior to the confirmation of Mr. Ginsburg as Assistant Attorney General and that Mr. Ginsburg, upon learning of the situation, directed that this inquiry be made.

I am sure you appreciate the gravity of this matter. The Committee's jurisdiction in this area is unassailable and its requests of August 22 and November 19, made pursuant to the authority of Rules X and XI of the Rules of the House of Representatives, specifically called for all drafts and notes. These requests continue to be outstanding. Clearly, a Departmental instruction to destroy such materials would be a patent obstruction of a lawful Congressional request. Moreover, in view of the Committee's ongoing inquiry into the competitive aspects of the proposed sale of Conrail to Norfolk Southern, an instruction to refrain from keeping notes or creating work papers would represent an obvious effort to deny to Committee members the benefit of learning the candid views of all Departmental staff and officials with respect to this important issue.

Documents already provided to the Committee raise questions about both the extent to which the Department has been forthcoming and the desire of Antitrust Division officials to hide from the Committee the views of the Division's staff on this matter. As an example, I call attention to certain documents produced on September 27, numbered III(2) and described in the index accompanying the Department's cover letter as "draft press releases prepared in mid-December 1984." These documents, standing alone, suggest that in December 1984, the Department was considering a position in opposition to the sale of Conrail to Norfolk Southern. Indeed, one of these drafts states that a two-month staff study "indicated that the competitive problems with the merger are so pervasive that it may be impossible to devise conditions on the sale of Conrail that would preserve competition." From the appearance of these "drafts"—which do not bear a single mark or correction on them—it is reasonable to suspect that other iterations of these documents would have existed. Yet, they have not been provided to the Committee despite a specific request covering them. I am particularly concerned that such other iterations may not have been produced as a consequence of the order to destroy documents discussed above.

In view of the foregoing, I request that you provide the Subcommittee with the following: (1) the date the Leddy-Roberts inquiry is expected to be completed; (2) a copy of the report made by Messrs. Leddy and Roberts on their inquiry, or if no report is prepared, their complete findings and conclusions; and (3) the identities and positions of all persons interviewed in connection with the Leddy-Roberts inquiry if such persons are not otherwise identified in the report.

Please respond to item (1) above by the close of business on Friday, December 20. Please forward the Leddy-Roberts report and the information requested in items (2) and (3) above immediately upon the completion of the current Departmental investigation. I will appreciate your cooperation. If you have any questions concerning this matter, please contact Michael F. Barrett of the Subcommittee staff at 225-4441.

Sincerely,

JOHN D. DINGELL, CHAIRMAN,
Subcommittee on Oversight and Investigations.

Mr. SPECTER. At this point, Mr. President, I shall refer only to a portion of Chairman DINGELL's complaints. After referring to the failure of the Department of Justice to respond to requests, Chairman DINGELL says at the bottom of page 2:

It is in this context that an even more troubling issue has surfaced. The subcommittee has learned that within the recent past an official in the Antitrust Division instructed departmental staff with respect to the Conrail case to: First, destroy personal files, including notes and all drafts of documents; and second, not to make notes or create work papers in the future. This instruction was allegedly given for the purpose of preventing access to such materials by the Energy and Commerce Committee.

Mr. President, Mr. DINGELL's letter to Attorney General Meese was responded to by Assistant Attorney General Ginsburg by letter dated December 20, 1985. At this point I ask unanimous consent that the full text of the response by Assistant Attorney General Ginsburg be included in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

U.S. DEPARTMENT OF JUSTICE,
ANTITRUST DIVISION,
Washington, DC, December 20, 1985.

Congressman JOHN D. DINGELL,
Chairman, Committee on Energy and Commerce, U.S. House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: This letter responds to your letter, dated December 9, 1985, to the Attorney General, which was delivered to the Department of Justice on December 16. That letter contains accusations concerning alleged obstruction by the Department's Antitrust Division of the consideration by the House Committee on Energy and Commerce of the proposed sale of Consolidated Rail Corporation (Conrail) to Norfolk Southern Corporation (NS). In your letter, you allege that "within the recent past an official in the Antitrust Division instructed Departmental staff, with respect to the Conrail case, to: (1) destroy personal files, including notes and all drafts of documents; and (2) not to make notes or create work papers in the future. This instruction was allegedly given for the purpose of preventing access to such materials by the Energy and Commerce Committee." Your letter expresses concern that if true, the allegations indicate documents requested by the Committee have been destroyed. Your letter goes on to state your understanding that the Division is conducting an investigation of such an instruction. You have asked when that investigation will be complete and requested that the Department supply you with the findings of that investigation.

As detailed below, the allegations are untrue. All documents requested by Congress have been provided. In fact, the Department has gone to unprecedented lengths to facilitate Congressional consideration of the sale of Conrail.

I

First, it is important to note at the outset that the Department's disclosure to your Committee of documents relating to the Antitrust Division's evaluation of the sale of Conrail is unprecedented in my experience. The Department has attempted to cooperate fully with Congress in this matter, virtually opening our files to members of the Committee and their staff. We have spent hundreds of man-hours explaining our analysis and answering the multitude of questions posed by various members of Congress. In short, we have done everything to facilitate the Congress's efforts to consider the sale of Conrail to NS.

Second, then Acting Assistant Attorney General Charles F. Rule made the decision not to withhold from the Committee any documents or notes under claims of privilege. Despite concerns about the potential effect in chilling the candor and fullness of communications by and among the Division staff. Mr. Rule recognized the concerns of

Congress and the need to provide it with all the materials deemed necessary. Every document requested by the Committee has been turned over. After the staff expressed its concern about the disclosure of personal notes and other materials that under any other circumstances would have remained confidential. Mr. Rule informed the staff that in connection with the Conrail matter the Department would, then and in the future, comply fully with reasonable requests for documents by the Congress regardless of possible claims of privilege. When I became Assistant Attorney General, I concurred in that decision.

Third, prior to my becoming Assistant Attorney General, Mr. Rule never intended to change the staff's existing document retention practice. When I arrived in September, I considered making such a change; however, Mr. Rule strongly argued against any change, and we agreed that we should not attempt to change the staff's practice.

Fourth, although Mr. Rule and I never intended to change the staff's document retention practice, we learned that for a short time in the late summer and early fall of this year the staff thought that superseded drafts of documents and personal notes should not be retained. When this came to our attention, the staff was instructed to return to their normal retention practice. I have subsequently learned that two notes that otherwise would have been retained were discarded as a result of that misunderstanding. From the information available, it is clear that both notes were innocuous. The only other document destroyed by the staff was their draft of my September 25 letter to Secretary Dole that would have been destroyed in any event.

Fifth, in response to a December 5, 1985 request from Chairman Florio, I have now instructed the staff to go beyond their normal retention policy and to retain all notes and other written materials, including superseded drafts, even if they normally would discard those documents. This policy represents a further unprecedented step to cooperate with Congress in this very unusual case.

II

There is no standard document creation and retention practice in the Antitrust Division. Rather, the extent to which documents are created and retained varies from one individual to another among our professional staff of attorneys and economists. Some attorneys and economists take few notes and discard superseded drafts of documents, others take detailed and copious notes and save everything they have written. Some may write and edit on word processors, without generating paper copies of every iteration of their work. Because of the number of Division personnel involved in the Conrail matter, it is not surprising that the practice varied among those individuals. At least until the late summer of 1985, such "normal" but varied document retention and creation practices prevailed among the Conrail staff.

At a hearing on April 30, 1985, before the Subcommittee on Commerce, Transportation, and Tourism of the House Committee on Energy and Commerce, you asked then-Acting Assistant Attorney General Rule whether the Department would "submit [the] work papers and notes [of Dr. Kenneth Heyer, the Department staff economist assigned to the Conrail matter] together with any analysis that was performed by [Division] lawyers in connection with the questions" you had discussed with Mr. Rule. Mr. Rule responded that the Department "would be happy to work with . . . your staff in trying to work out some way to turn over these documents. As you know, the Department has a policy in terms of internal memoranda, but we will be happy to work with you and talk to the various folks in the Department who are responsible for that." (Transcript at pp. 156-157). The Department had no further contact with you or your staff concerning these materials until after June 4, when you wrote a letter to Mr. Rule referencing the April 30 colloquy and requesting: (1) "all work papers and notes of . . . Kenneth Heyer in connection with his economic analysis of the proposed sale of Conrail to Norfolk Southern"; (2) "all internal analyses and memoranda prepared by Department . . . attorneys in connection with the proposed review of the proposed sale"; and (3) "copies of Norfolk Southern's efficiency claims, together with any data submitted in support of those claims . . ." through the date of the hearing. On July 26, 1985, after resolving confidentiality concerns with your staff, we provided both the Committee and the Subcommittee with copies of all documents responsive to your request that were in our possession on April 30, with the exception of a small number of documents later discovered and forwarded to the subcommittee in early October.

The Division did not hear further from the Committee concerning the documents until it learned from an article in the Washington Post that Chairman Florio and Representative Mikulski of your Committee had sent the Department a letter based on those documents criticizing the staff's analysis of the sale of Conrail to NS. Some members of the Conrail staff were surprised and disturbed because of the extent to which the letter quoted the documents out of context and because of the failure of the Committee to seek clarifications and explanations from the Division before publicly criticizing the work of the professional staff.

On August 21, you sent a follow-up request for additional documents in the possession of the Department on or before April 30, 1985. This request included working papers, drafts and notes—classes of documents that under normal circumstances would clearly be privileged and never made public. In reviewing the material requested, it became clear that there were potentially misleading or personally embarassing statements in some notes and draft documents. These statements reflected no more than the informality appropriate to notes made only for the author's use, and to the imprecision in writing that makes a draft document just that—a draft not yet in final form. In addition, there were extraneous comments in a staff member's notes that, while irrelevant to Congress' consideration of Conrail, could be read as disparaging of an individual. The staff was understandably concerned about disclosing such documents.

Nevertheless, because of the unusual nature of this matter and the importance the Division attached to facilitating Congress' consideration of the sale of Conrail, Mr. Rule concluded that all requested documents should be turned over to your Committee. Mr. Rule so informed the career attorneys supervising the Divsion's Conrail analysis. Mr. Rule also notes thereafter created and retained would likewise be disclosed if requested by Congress and that the staff should of documents. This simple cautionary note was apparently misinterpreted by senior career staff who instructed the rest of the staff that in the future they should discard at least some superceded drafts of documents. Recollections of the scope of this instruction differ as to whether all drafts were implicated, whether there was a difference between substantive and non-substantive draft changes, or whether only "unnecessary" drafts should be discarded. Mr. Rule, however, was unware that his cautionary note had been misunderstood.

In September, I became the Assistant Attorney General and was called upon to make a final decision as to the materials to be disclosed pursuant to your August 21 request. I agreed with Mr. Rule, who had become my deputy, that all documents should be turned over but was surprised to learn that some members of the staff routinely retain superceded drafts and that there was no standard practice concerning the taking of notes at meetings. Unaware of the staff misunderstanding discussed above, Mr. Rule and I determined that the staff should not be directed to change its document retention policy during the pendency of the Conrail matter. A senior Conrail staff member was directed, however, to designate a single staff member to take notes at future meetings.

On one occasion, I did instruct the staff specifically to discard all superceded drafts of my September 25 letter to Secretary Dole. As you are aware, in that letter I informed the Secretary that NS' originally proposed divestiture of rail assets to Guilford Transportation Industries, Inc., and the Pittsburgh & Lake Erie Railroad Co. did not satisfy the conditions laid out in the Department's January 29, 1985 letter to the Secretary. The September 25 letter was extremely sensitive and its tone and nuance had to be precisely drawn. The staff was asked to provide draft language that I revised extensively. I ordered the superceded drafts to be destroyed in order to avoid speculation about views or language that the staff had attributed to me but that I did not ultimately adopt as my own. Under similar circumstances in the future, I would give the same instruction.

The staff's understanding that they were under instructions to discard any drafts of other documents did not come to Mr. Rule's or my attention until early November. As soon as we did learn of it, however, Mr. Rule informed the career supervisors that the staff should be told that they were under no such instructions. Rather, the staff was directed to follow their normal retention practices and not to discard anything that they felt should be retained. When a member of the minority staff on the Senate Judiciary Committee inquired about a rumor that the staff had been told to destroy documents, Mr. Rule decided to ask two senior career attorneys, who were not involved in the Conrail matter, to inquire into the staff's understanding of their instructions with regard to document retention, the basis for that understanding, and the effect of that understanding. The two attorneys interviewed all relevant career staff involved in the Conrail matter, as well as Mr. Rule and me. They completed their inquiry more than a week ago and prepared a summary of their conclusions, which I am attaching to this letter. On Friday, December 13, Mr. Rule informed the Judiciary Committee staff member of the conclusions of the inquiry.

That inquiry disclosed that, while the staff for a time in the late summer and early fall believed that they were to discard superseded drafts created during that

period, no drafts that otherwise would have been retained were actually discarded. The only drafts discarded related to my September 25 letter to Secretary Dole, and, as I have explained, those drafts would have been discarded regardless of the misunderstanding relating to staff retention practices. One staff member did discard a page of notes relating to an internal meeting and described by its author as innocuous. In addition, a staff member discarded notes describing a confidential report of the United States Railway Association, which we understand has been requested by your Committee. The circumstances surrounding the discarding of those documents are described in the attached summary. Neither of the notes involved any relevant information that is not available from other sources.

The Division has been extremely careful to preserve all documents that were requested by Congress. The Division now and throughout its involvement in this matter has recognized the Committee's authority to examine the proposed sale of Conrail, and nothing has been done even indirectly to impede the Committee's consideration of the sale of Conrail. Indeed, as a result of a request by Chairman Florio in his letter to me of December 5, and because of the unique circumstances of this case, the career staff has now been instructed to retain all written materials generated by them in this matter, regardless of their normal policy. Mr. Rule and I are continuing our policy of discarding our own superseded drafts, inasmuch as we are available to explain our analysis and conclusions to Members of Congress and staff.

III

Before closing, it is necessary to address a specific allegation that the Division has destroyed drafts of a mid-December 1984 press release, copies of which were specifically requested by the Committee. First, let me reiterate that there is absolutely no indication that preexisting documents subject to Congressional requests were ever destroyed; the Committee has obtained all requested "materials in the Department's possession prior to the hearing on April 30, 1985, relating to the Department's review and consideration of the proposed sale of Conrail." This includes all iterations of the mid-December press release to which the allegation refers. Second, there is a rather simple explanation for the absence of other iterations. The draft press releases that exist were created by the staff without consultation with the Division's policy officials and prior to completion of the analysis of the sale of Conrail. The staff then presented the staff release to then-Assistant Attorney General Paul McGrath. Mr. McGrath concluded that a press release would be inappropriate, and so no further revisions of the draft release were made. As you are aware, the Department never issued such a press release and its first public statement on the merger took the form of the January 29 letter to Secretary Dole, which reflected more than a month of additional consideration of the sale.

IV

In closing, I want to stress that the Department wishes to cooperate fully with your Committee's consideration of the sale of Conrail to NS. The Antitrust Division has disclosed more internal documents and spent more time explaining its competitive analysis in this matter than in any other in which the Division has ever been involved. Although there was, for a short time, a misunderstanding as to instructions to the staff concerning the retention of subsequently produced documents, that misunderstanding was corrected as soon as it came to the attention of Mr. Rule and me. No documents and only two notes of no particular significance were discarded as a result of that misunderstanding.

To sum up: No action was taken at any time to destroy or discard any documents requested by Congress; all documents requested by the Congress have been and will be supplied; the misunderstanding about document retention was inadvertent, short-lived, and caused no harm.

Sincerely,

DOUGLAS H. GINSBURG,
Assistant Attorney General.

Mr. SPECTER. The essential conclusion as Mr. Ginsburg states, "As detailed below, the allegations are untrue."

Mr. President, at this juncture all there is on the record are the assertions made by Chairman DINGELL and the response made by Mr. Ginsburg. It seems to this Senator that those matters ought to be inquired into by the Judiciary Committee of the U.S. Senate so that we can proceed to question the appropriate officials of the Department of Justice as to what went on.

Now, I have great respect for what Mr. Ginsburg has said, but any inquiry worth its salt would do more than take the generalizations that the Assistant Attorney General has rendered. Obviously, he is relying upon information which has been provided to him, and I do not for 1 minute question his veracity. But I do believe that any inquiry ought to look behind those assertions and behind those conclusions as to what has happened to the people within the Department of Justice.

I think that is especially important in the context of this proceeding where the Department of Justice has taken an advocacy role really in support of the Department of Transportation. Those questions raised by Chairman DINGELL ought to be the subject of a thorough inquiry before the U.S. Senate is called upon to pass upon the proposed sale of Conrail to Norfolk-Southern.

Mr. President, there is one other question of tremendous importance that has to be answered with authority before the Senate can pass upon this proposed sale, and that is what the tax consequences will be to the U.S. Treasury.

Mr. President, there has always been a gray issue as to whether $1.2 billion was in any consideration adequate for a sale of 85 percent of the stock of Conrail, given the fact that the taxpayers of the United States have put some $7 billion into Conrail, given the fact that the depreciable assets of Conrail are worth in excess of $3 billion, and given the fact that the replacement value of Conrail has never even been evaluated, notwithstanding my continuing requests to the Secretary of Transportation, Elizabeth Dole, for that figure for more than a year.

The alternative offer made by Morgan Stanley is pending at $1.4 billion—$200 million in excess of the amount of money which has been offered by Norfolk-Southern. The Morgan Stanley offer, Mr. President, I think is infinitely superior to the Norfolk-Southern offer because the Morgan Stanley offer enables the current Conrail management to stay in place, management which has achieved very substantial profits over the course of the past 5 years.

The Morgan Stanley offer eliminates the antitrust problems of the acquisition by Norfolk-Southern and the Morgan Stanley offer would retain the current Conrail operations which have been so successful. When Norfolk Southern made its offer, which is approximately 2 years old, the Conrail picture financially was very different than it is today, and the only real argument advanced by the administration against the Morgan Stanley offer is the context that Conrail is not viable. But the viability of Conrail has been established in a variety of contexts and that is a subject which certainly will be a matter to be considered at some very extensive length if, as, and when we come to that issue.

I shall not dwell on that point today because I have sought to limit my remarks to outstanding questions which make it untimely to proceed with S. 638 at this time. One of those issues is the question of what will the tax loss be to the U.S. Treasury. The Congressional Budget Office made an evaluation of this issue on June 6, 1985, and estimated as set forth on page 1 that the Treasury would lose about .4 billion in tax revenues or about $400 million. Estimates made by others have placed that loss as high as $800 million.

There has been pending for some time an analysis by the Department of the Treasury on this subject which we have sought to secure and on January 9, 1984, I wrote to Treasury Secretary Baker as follows:

DEAR SECRETARY BAKER: As you know, the Senate is expected to address the Conrail sale legislation when we reconvene on January 21 and we have not yet heard from the Treasury regarding the revenue implications of the Conrail sale.

I have been informed that Treasury has prepared (or is in the process of preparing) a revenue analysis of the sale of the United States' interests in Conrail which shows, in economic terms, the net revenue difference between a sale of such interests to the Norfolk Southern Corporation, and a sale to the public, as contemplated by Morgan Stanley's proposal.

I would very much appreciate it if you could make this analysis available forthwith since Senator Dole, the Majority Leader, has announced that the Conrail issue will be

the first order of business when the Senate reconvenes.

We need the information promptly in order to be prepared to proceed with the consideration of the Conrail issue on January 21.

If the analysis is not yet completed, I would very much appreciate your seeing to it that Treasury's analysis will:

1. Make realistic assumptions concerning Norfolk Southern's taxable income during the periods in question (e.g., at least $450 million in 1986 and growing at a rate of 5% or more per year thereafter);

2. Recognize that Conrail will be allowed post-sale deductions for payments in settlement of past wage claims and for accelerated ESOP contributions; and

3. Not limit the revenue projections to the five-year budget period in question.

The financial experts advise that these factors must be taken into account if the analysis is to be realistic.

As yet, Treasury Secretary Baker has not responded to this inquiry.

However, Mr. President, it is obvious that the revenue issue, the revenue impact on loss of taxes in terms of depreciation, or loss of revenue carryover, or whatever it is that Norfolk-Southern may be able to take advantage of, bears very materially and very heavily on the underlying merits.

At a point where the Morgan Stanley offer is $200 million more than the Norfolk-Southern offer, if the tax loss to the Treasury is to be $400 million, then in cold cash the Morgan Stanley offer is worth $600 million more.

If the estimates for $800 million in tax loss are accurate, and that is added to the $200 million that the Morgan Stanley offer exceeds the Norfolk offer, then it would be $1 billion more, and that is a very material consideration.

When Secretary of Transportation Dole appeared before the informal proceedings—since the Judiciary Committee was not formally in session on November 21—this Senator asked Secretary Dole what the tax loss would be, and she was unable to supply that figure.

Mr. President, I think it is indispensable that we know this figure in order to be able to make an evaluation on comparing the Norfolk-Southern offer with the Morgan Stanley offer.

Mr. President, it is for these reasons that it is my strongly held view that the U.S. Senate is not ready to proceed to consider this bill, which would call for the acquisition of Conrail by Norfolk-Southern. It seems to this Senator that, in good conscience, the U.S. Senate cannot be asked to pass upon this very vital combination of railway systems in this country without knowing what the antitrust consequences are.

That is especially true in the context where the ICC staff has come to the conclusion that there is a violation of the antitrust laws because the proposed divestiture to Guilford and Pittsburgh & Lake Erie is inadequate. That is especially true in the context where the Government consultant, Banks, has filed a voluminous report finding that the proposed divestiture to Guilford and Pittsburgh & Lake Erie is insufficient. That is especially true in the context where the third divestiture effort is finally given preliminary approval on the thinnest of reasons by the Department of Justice in a context where they are sitting back and not doing even the fundamental effort to find out what the facts are. It is outlandish that they announced their preliminary approval on November 11, 1985, and then seek to justify it in the informal proceedings before the Judiciary Committee on November 21. It is also outlandish that they failed to respond to my letter of December 19, when it is obvious that we have to have the information in order to proceed to find out what the facts are when the Senate takes up the matter today, January 21. It is outrageous that it is only on January 8 that the Department of Justice gets around to asking questions of Pittsburgh & Lake Erie and Guilford, and has not yet gotten around to asking questions of Norfolk-Southern and Conrail. It is absurd that they have not yet retained a consultant, when it is obvious that the consultant has already been paid handsomely by the Department of Justice, and Banks is familiar with the underlying factors, and it would be only updating or evaluating the changes that have been made. That has not been done, obviously, because the Department of Justice must know that if it submitted the matter to Banks, it would receive the same conclusion—that the divestiture to the likes of Pittsburgh & Lake Erie cannot possibly provide the kind of competition to compete with a giant of 18,000 miles of trackage like Norfolk Southern and 15,000 miles of trackage like Conrail.

Especially in the context of an analogous proposed merger of Santa Fe and Southern Pacific, we certainly should not rush to judgment and give our approval to buy this pig in a poke, and have the U.S. Senate approve this acquisition, depending on what the Department of Justice may or may not do, given that Department's track record in this case.

For these reasons, and what has occurred during the course of the past hour or so, this, as I say, only summarizes and puts in very condensed form, very expensive analyses of very complex issues which I believe this body must take up because the Department of Justice has not taken them up. This body has to come to grips with the antitrust consequences before we can be asked to pass on this pending legislation.

Mr. President, I yield the floor.

Mr. DANFORTH addressed the Chair.

The PRESIDING OFFICER. The Senator from Missouri.

Mr. DANFORTH. Mr. President, I had not intended to speak on the motion to proceed, and I will not take long. I do regret that the debate on the question of the Conrail sale has begun on a couple of very sour notes.

One sour note was the fact that the distinguished Senator from Ohio has apparently decided to attempt to take for himself the responsibility of managing the time and the business of the Senate by making a motion to proceed to a bill. I had thought—when I was in the majority and in the minority in the Senate—that motions to proceed were to be made by the majority leader, that this was a privilege accorded by the traditions of the Senate to the majority leader, that he had that responsibility for determining what business would be before the Senate. But the Senator from Ohio has attempted to take out that management for himself.

Second, during the very extensive debate, with many, many documents put in the RECORD by the Senator from Pennsylvania, I have to say that I believed that it was a sour note that he dwelled at such length on what he thought were irregularities on the part of the Department of Justice, to the point of putting into question the reliability and the impartiality of the Attorney General and the Assistant Attorney General.

Mr. President, I hope that during this debate the merits will be discussed. I hope that we will get to the point. I have been led to believe by Senators who are opposed to the Conrail sale that they intend to debate it to the fullest, and they are certainly privileged to do that. But "to the fullest" in their minds means everything, from debating a motion to proceed to the at least clear threat of a postcloture filibuster. It is going to be a tough year.

I think when most of us left for the recess, we were a little bit disgruntled about the state of the Senate. We had a meeting about the quality of life in the Senate, and immediately after that, we went into that wrenching filibuster on the farm bill. And we looked forward to the year ahead with a difficult tax bill before us, not to mention the agonizing decisions that will have to be made in respect to compliance with GRAMM-RUDMAN-HOLLINGS.

But now on the very first day, nay, in the very first hours of this session of the Congress, we find ourselves engaged in a debate which deals less with debating the facts and debating the future of Conrail than with attacking the veracity and integrity of the Justice Department and with attempting to allocate to the Senator from Ohio the powers that the traditions of the Senate accord to the majority leader.

Mr. President, the question before us should be very simple: What future holds the soundest and brightest prospects for rail transportation in the Northeast quadrant of our country? That is the issue that is going to be before the Senate or should be before the Senate; not broadsides against the personalities in the Justice Department, not power struggles on the floor of the Senate, but what is the future of rail transportation. That is the issue and it is an issue that has been before us now for some 5 years.

The allegation is made that we are rushing this to decision. That has been an allegation that has been made repeatedly over the years. As a matter of fact, the sale of Conrail is something that the Congress decided on in 1981. Since 1981, when we passed the Northeast Rail Services Act, we have had the decision before us to sell Conrail. Pursuant to that legislation, the Department of Transportation went through a very prolonged proceeding to attempt to find the very best purchaser for Conrail. And what was the No. 1 criterion for the Department of Transportation? It was not tax revenues. It was not sales price.

When we are running $200 billion deficits, are we going to be here determining the future of rail transportation on the basis of $200 million? It is ridiculous. The question was not how much cash could we realize for Uncle Sam, but how could we provide the best future for the shippers, for those who are dependent on rail transportation in the Northeast quadrant of our country.

So the Department of Transportation hired a consultant, Goldman, Sachs. And Goldman, Sachs canvassed over 100 potential buyers and received 15 different proposals. Goldman, Sachs and the Department of Transportation analyzed those proposals at extraordinary length. The Department of the Treasury analyzed the proposals and the Justice Department analyzed the proposals. The House of Representatives held hearings and the Commerce Committee in the Senate held hearings and the Judiciary Committee held hearings ad nauseam. And now, finally, at long last, we get to the question on the floor of the Senate.

Mr. President, I in no way dispute the desire of Senators who are opposed to this bill to air the facts and air the arguments. But let us get to the facts and get to the arguments. The fact of the matter is that Conrail cannot exist for long as a stand-alone railroad. A sale to Morgan Stanley is the road to a stand-alone Conrail.

The idea of the Morgan Stanley sale is that Morgan Stanley operates as the manager of an underwriting group consisting of some 40-odd members, colleges, universities, businesses, competing railroads—you talk about competition, CSX is one of the underwriting groups—and then they are to sell it. They are to sell it. They are just to put it out to the public for sale. Who is going to buy it? Anybody; everybody; Carl Icahn; some raider? Who is going to buy it, the stand-alone Conrail?

The chief executive officer of the CSX, back in the days when he was apparently less fearful of Norfolk-Southern, said very clearly that in his view, a stand-alone Conrail could not prevail. That is the result of the Morgan Stanley possibility and that is the alternative that is going to be before the Senate: the Morgan Stanley stand-alone sale of Conrail.

Or, on the other hand, we can follow the advice of the Department of Transportation, we can follow the analysis that it and Goldman, Sachs have given to this, and we can say that the future of Conrail and the future of freight rail transportation in the Northeast quadrant of this country is best fostered by a linkage of Conrail with Norfolk-Southern.

Mr. President, if the criterion is the future of rail transportation, there is not the slightest doubt in my mind that the sound status of rail transportation in the Northeast part of our country is best furthered by proceeding with the bill that is before us.

Several Senators addressed the Chair.

The PRESIDING OFFICER (Mr. WARNER). The Senator from Ohio.

Mr. METZENBAUM. Mr. President, I would like to respond to my colleague, respected colleague, about the sour note. The sour note with respect to this issue occurred when a motion was made to proceed to the consideration of Conrail, a cloture petition was laid down without one word of debate, without one word of debate, and immediately thereafter the Conrail bill was taken down.

That was sour. That was very sour. Because what it said was that you, who are Members of the Senate, elected by your respective States, do not have the right to debate the issue until we get to the question on cloture 2 days from now. What kind of logic is that? What kind of absurdity is that?

The Senator from Pennsylvania could not have spoken this afternoon except for the fact that there was unanimous consent. If the Senate has nothing before it, then debate is not in order on that issue or any other issue except by unanimous consent.

Talk about a sour note. I think it is very sour when, on the first day of the new year, we come back here and we bring up a measure and immediately take it down and say the U.S. Senate may not debate the issue.

You may have merit on your side, I say to the Senator, and I may have merit on my side. I do not happen to support the Morgan Stanley proposal. My colleague from Pennsylvania does. I believe that the railroad is doing fine. It is a very viable railroad. It was one of the best-respected railroads, best-operated railroads, and made between $400 million and $500 million last year. And the Senate is called upon, without one word of debate, to sell it for $1.2 billion, and included in the purchase you get $800 million in cash.

You get $250 million surplus in the pension fund. You get the right to depreciate $3.5 billion of assets. You get something like the use of $2 billion in loss carry forward for your tax purposes. And we do not have a right to debate it.

The Senator from Pennsylvania very appropriately points out that the matter is not right for the U.S. Senate to debate, or to vote on. It may be right to debate, but not to vote on certainly. The Justice Department is supposed to report back to the Senate on phase II. We do not have a report on phase II. We will not have it for some months. We all would like to see it.

But the Justice Department tells us to go ahead, and act before they advise us as to their view with respect to the antitrust aspects of this matter.

Then we are asked to act on this matter. Well, $200 million is left sitting on the table. I do not know if the Morgan Stanley deal is any better than the Norfolk Southern deal. I am not prepared to argue that. I know there is $200 million out there that we could use very well in trying to balance the budget. I am also a realist enough to understand that if they offered $200 million at this point my guess is there is more in the kitty, and they are ready to come up with some more. But, no, we cannot debate the issue.

Absent my motion which the Senator considers to be a usurping of the leadership prerogative, I never worried much about those issues. I have been more worried about the issues that we have to vote on rather than the questions such as the Senator suggests. But absent my motion, I would not be in a position to debate this issue, the distinguished Senator from South Dakota, who is waiting to debate the issue, would not be in a position to do so, and the Senator from Pennsylvania would not have been able to be heard this afternoon except by reason of unanimous consent request.

There is no filibuster going. What we are trying to do is debate the issue on its merits. If my motion were not pending, we could not debate the issue on the merits. The Senator says he would hope that the merits of the issue would be discussed. So would I because the more they are discussed, the less of a case you can make out for giving away this railroad to the Norfolk & Southern for $1.2 billion.

I respect the leadership of the Senate. And I respect the prerogatives of the leadership. I do not intend to usurp any of those rights at all. But I do believe that the U.S. Senate—all 100 Members—has a right to participate in the debate with respect to this issue. And the first issue is: Should we be taking it up at all?

Absent my motion, we would not be in a position to be debating it today and tomorrow. I want to debate it today and tomorrow. I am prepared to debate it at length tomorrow and explain all of the reasons I am opposed to this sale. I do not expect to do that this evening. I do intend to do it tomorrow. I know there are other colleagues in the U.S. Senate who also wish to be heard on this issue as to why we should not be moving to take up this measure at this moment. But without my motion, such debate would not be in order.

So, I want to say to my friend that I do not see anything sour about the note that has been injected on the floor of the U.S. Senate in saying that we want to debate the very issue that we are being called upon to vote with respect to cloture 2 days from now. We will debate this issue between now and that vote on Thursday.

I am glad that we have had an opportunity to clarify the picture, and I think when my colleague from Missouri understands that without this motion no debate would be in order perhaps he might be more inclined to reflect further as to whether or not it is a sour note to move that we proceed to consider the Conrail bill.

Mr. DANFORTH addressed the Chair.

The PRESIDING OFFICER. The Senator from Missouri is recognized.

Mr. DANFORTH. Mr. President, I would like to restate that it is a sour note. It is an insult to the majority leader to make a motion to proceed.

Mr. President, in the time that I have been in the Senate I can never remember a time when a Senator other than the leader just made a motion to proceed. Maybe it has been done. But it is certainly contrary to the traditions of the Senate.

Mr. METZENBAUM. Mr. President, will the Senator yield for a question?

Mr. DANFORTH. No; I will not.

Mr. METZENBAUM. For a question?

Mr. DANFORTH. No; I will not.

The fact of the matter is this: The Senator from Ohio says we would not be able to debate the issue but for his motion. Mr. President, we were debating the issue but for his motion. The Senator from Pennsylvania was debating the issue.

Mr. METZENBAUM. With unanimous consent.

Mr. DANFORTH. Mr. President, I have the floor.

Mr. President, the Senator from Pennsylvania—not with unanimous consent—in morning business provided by the majority leader, was debating the issue of the Conrail sale. He was debating it at great length. He debated it, I believe, for over an hour. He asked to have printed in the RECORD many documents on the issue. He was talking about the Conrail sale on the floor of the Senate when the Senator from Ohio went up to the Senator from Pennsylvania and whispered in his ear. Then the Senator from Ohio asked if he could have the right to the floor without the Senator from Pennsylvania yielding his right to the floor.

Mr. President, I was sitting here minding my own business, believing that it was common courtesy to permit a Senator to break into a debate, and say what he wanted to. I was not going to raise any question about how many times the Senator from Pennsylvania might be speaking on an issue during one day; did not intend to do that. Common courtesy allowed this unanimous consent request to be made.

What happened? Not a debate, not a comment, not a question by the Senator from Ohio—instead the Senator from Ohio stood at the desk and said, "Mr. President, I move that we proceed." That is, Mr. President, a taking upon himself of the power, the right, and the tradition of the majority leader. It is a power that only the majority leader under the traditions of the Senate has. And the Senator from Ohio, in my opinion, Mr. President, attempted to insult the majority leader. We were debating the issue.

I am confident that if the Senator from Ohio wanted to debate it further, the majority leader would say fine, unless there is other pressing business that should be brought before the Senate. I do not know. I cannot speak for the leader. But I do know this: This is unprecedented. This is wrong. This is a further breach in the kind of basic comity which we hope would be furthered on the floor of the U.S. Senate.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from South Dakota is recognized.

Mr. PRESSLER. Mr. President, let me speak, if I may, to the merits of the issue before us.

This is not just an east coast, Pennsylvania, Ohio, eastern Mississippi issue. There are regional railroads throughout the West, the South, and the Midwest that would be very much affected by the sale of Conrail. If there is one monopoly railroad east of the Mississippi, it means that truckers, railroads, and others who feed into that railroad will be at the mercy of that monopoly railroad. I know that much of the debate on Conrail has centered around the amount of the sale, the amount of the tax writeoff, and so forth. But across the country, there are shippers, railroads, and truckers who are very concerned about what the impact would be of a monopoly railroad east of the Mississippi.

At the appropriate time I shall offer a regional railroad amendment which will deal with the diversion of traffic, and with other issues. But this is a national transportation problem, a problem that cuts to the heart of what kind of transportation system we will have in all parts of the United States.

Let me also say that there are many strong arguments that my colleagues have made about the price, the alternative offers about the antitrust issues, and about many other matters that surround us. As a member of the Commerce Committee, I have raised those questions and have asked for answers, especially regarding antitrust.

I join with my colleague from Pennsylvania in recounting how difficult it has been to get answers from the Justice Department or from the Transportation Department on the specifics of antitrust.

We discovered that the so-called Pittman analysis was used for the antitrust analysis of the railroad merger in the western part of the United States while a different analysis was used for the Conrail issue.

We have asked a number of pointed questions which to this day have not been answered by the Justice Department. We are in a situation where a different standard was used by the Justice Department and the ICC regarding the Santa Fe merger than was used regarding the proposed Conrail-Norfolk Southern merger.

We also have difficulty with some of the diversions that will occur.

But I speak, I think, for the shippers and the regional railroads in the West, the Midwest and the South when I say that there is almost unanimous concern among major shippers, be they on trunk lines that feed into railroads or be they on regional railroads or short line railroads, as to what the gateway costs will be.

Let me explain how this would work.

If the regional railroad comes into Chicago with grain and wants to go on to New York City, it will be totally at the mercy of a monopoly railroad, if there is no competition. It will be totally at the mercy of the railroad before it can go forward to get rolling stock. It will be totally at the mercy of that railroad for rates, for transfer rates, rentals of track or cars, or whatever. There will be no one else to turn to.

The same is true of a railroad or a trucking institution that is moving machinery west. There will be no alternative but to use this monopoly railroad.

For many weeks and months we have tried to get the Conrail-Norfolk

Southern people to enter into agreements. They have entered into some agreements with some railroads but not the midwestern ones, certainly not the Chicago and Northwestern and others that operate in my State and other Western and Midwestern States.

The shippers throughout the western part of the country have almost unanimously spoken out against the proposed sale.

There is a strong feeling that the alternative plan, the Morgan Stanley plan, would provide more competition and more alternatives. I think that is something that we need to consider very carefully.

I do want to say that I compliment the chairman of the Commerce Committee for his work on this bill. Earlier this year, I did say to him that I would be prepared to go to a vote as soon as we heard back from the Justice Department; that if the Justice Department were to respond on the antitrust issues, especially the Pittman analysis, I would have no trouble taking my lumps and going to a vote.

But the Justice Department and the Department of Transportation have been very evasive on this antitrust issue. They have been very evasive and slow in responding, to put it mildly, to questions I asked them in hearings before the Commerce Committee, as well as letters we have sent them, as to why the Pittman antitrust analysis was used in one railroad merger case but a different antitrust standard was used in another railroad merger case.

They have been very slow—and in fact have not responded at all—regarding the impact on many lines.

There has been almost no analysis provided by the Government in terms of what would happen to regional railroads that would have to feed into this monopoly. And if they had a grievance, who would they turn to for relief.

I certainly do not advocate reinstituting the Staggers Act and I certainly do not advocate a return to the days before 1980. The fact of the matter is that we need some sort of gateway agreements or we need an agreement that if a certain amount of traffic is diverted there would be some steps taken by the appropriate Government agency.

Tomorrow, I and several of my colleagues will send a letter to all Members of the Senate regarding my amendment on regional railroads. I think we will find that this amendment will bring into action many shippers west of the Mississippi. It will bring comments from many railroads, truckers, and others interested in transportation not only in the East but in the West. If the Conrail sale goes forward as planned, it will mean that the shippers west of the Mississippi are facing a monopoly when they arrive at the gateway, and they will be at the mercy of that monopoly with no competition.

So, Mr. President, I ask unanimous consent at this point to insert a copy of the letter I will send to all of my colleagues tomorrow regarding the problems of Western, Midwestern, and Southern regional railroads and shippers in that part of the world.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
Washington, DC, January 21, 1985.

Re: Conrail Sale Amendments Act (S. 638).

DEAR COLLEAGUE: When the Senate considers the Conrail Sale Amendments Act (S. 638) this week, we will offer an amendment which is designed to protect small and regional railroads from unfair market dominance and other anticompetitive pressures which could be exerted by a combined Norfolk Southern-Conrail (NS/CR). The amendment would apply only to the extent that the ICC finds anticompetitive or unfair market control has been exercised by NS/CR.

Although the amendment is designed to protect smaller railroads in the Midwest and the West, it also applies to small railroads within the immediate NS/CR region. It does not apply to the larger railroads such as CSX, Burlington Northern, Union Pacific, etc.

In effect, the amendment simply gives the affected railroads a cause of action before the Interstate Commerce Commission if within ten years of the consummation of the sale the ICC finds that these small or regional railroads have experienced traffic diversions of three and one-half percent or greater, due to the anticompetitive impact of the sale. If the diversions are caused by fair competition or some other nonmonopolistic force, no remedy will be available. The remedy under the plan would be to allow the affected railroad, following an ICC investigation and determination, to purchase at fair market value enough track or trackage rights from NS/CR to allow for adequate competition in the affected region.

The philosophy behind this amendment is quite simple: the rail system of the Midwest or the Western part of the country should not be sacrificed for the sole benefit of the Northeast—or, in particular, for the benefit of a single railroad.

We do not believe this transaction should be made at the expense of other railroads. But, if Department of Transportation figures are accurate, this amendment should never have to be used. The DOT estimates that "[t]he diversion figures for the Midwestern carriers are all below the two percent figure, both in the base case and the liberal case estimates," and that the "[i]mpact on the Western carriers is *de minimus*, both in absolute and percentage terms." So this amendment should not pose a problem assuming these estimates are accurate. Indeed, we have made the numbers extremely conservative. The amendment would require diversions in excess of 200 percent of the DOT's "most liberal case" estimates before it could be used by railroads outside the immediate NS/CR region!

We have used the three and one-half percent diversion figure because it represents the point at which the actual existence of some of the smaller railroads is threatened. Additionally, we have made it very clear that the diversions must be caused by anticompetitive factors arising from the NS/CR merger. Diversions for other reasons simply will not be considered by the ICC.

This amendment is the result of a sincere desire on our part to avoid a potentially catastrophic situation with railroads in other parts of the country. Conrail originally became the ward of the federal government because of the large number of railroad failures in the Northeast. It would indeed be ironic if, by finally turning this system over to the private sector and getting the federal government out of the railroad business, we set the wheels in motion for larger railroad failures in other parts of the country, thereby starting the process all over again.

Our amendment will provide for protection against that happening. It would not require any re-regulation of the industry. (Indeed, it may never have to go into effect.) Regardless of how you ultimately decide to vote on the merits of S. 638, we hope you will be able to support this amendment as a reasonable means of protecting railroads outside the NS/CR region from the potentially anticompetitive impacts of this transaction.

We ask for your support for this extremely important amendment, and invite you to join us as a cosponsor.

If you have any questions regarding this amendment or if you would like to cosponsor, please contact us or have your staff contact Kevin Schieffer of Senator Pressler's office at Ext. 45842 or Bill Mattea of Senator Dixon's office at Ext. 48814.

Sincerely,

LARRY PRESSLER.

Mr. PRESSLER. Let me say that if the Department of Transportation had been willing to reach an agreement on this, and if the Department of Transportation and the Justice Department had been forthcoming in responding to questions on antitrust, I may well not have been in the position that I am in today. But I believe that every Senator from the South, from the West and from the Midwest should oppose this, not on the grounds of what it will do to competition on the east coasts, but on the grounds of what it will do to transportation throughout this Nation. It is a nationwide decision. It will have great impact. Anything moving east and west will be at the mercy of one monopoly force east of the Mississippi.

For that reason, I hope we can turn to the Morgan Stanley proposal. I hope we can defeat the Norfolk Southern proposal entirely.

Mr. President, I yield back the remainder of my time.

Mr. METZENBAUM addressed the Chair.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. METZENBAUM. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. METZENBAUM. When the Senator from Pennsylvania was speaking earlier, it was suggested that he was speaking in morning business. Is it not a fact that the unanimous-consent request was that the Senator from Penn-

sylvania may be permitted to address the body as if in morning business but that we were not actually in morning business?

The PRESIDING OFFICER. The Parliamentarian will advise the Chair.

The Chair is informed that earlier today the Senate was conducting morning business without any limitation placed on the length of remarks by individual Senators. That was done by direction from the Chair.

Mr. METZENBAUM. Was the Senator from Pennsylvania speaking as if in morning business or was he in morning business? We had moved at that point to the legislative calendar and the majority leader had ruled with respect to the Conrail bill that he had taken down the Conrail bill. The Senator from Pennsylvania was on the floor speaking.

The Senator from West Virginia then raised the point that there was nothing pending before the Senate at that moment and that without unanimous consent, the Senator from Pennsylvania was not in a position to continue speaking and a unanimous-consent request was made at that point that he might be permitted to do so.

The PRESIDING OFFICER. The Chair is informed by the Parliamentarian that the Senator from Ohio was speaking as if in morning business.

Mr. METZENBAUM. As if in morning business?

The PRESIDING OFFICER. The Chair wishes to correct the record. The Senator from Pennsylvania was speaking as if the Senate were in morning business.

Mr. METZENBAUM. I thank the Chair.

A further parliamentary inquiry: Is it not the fact that if there were not presently pending the motion of the Senator from Ohio or some other motion, any Senator who rose on the floor to debate the Conrail issue or any other issue would need unanimous consent to do so?

The PRESIDING OFFICER. I am informed by the Parliamentarian that the practice of the Senate for many years has been that a Senator seeking recognition and speaking when the Senate is conducting morning business may address any issue he or she desires.

Mr. METZENBAUM. My inquiry did not have to do with the subject of being in morning business. We are now on the Legislative Calendar so my question is addressed to the fact that when we are in the Legislative Calendar, is it not a fact that no Senator may speak except under the Pastore rule without there being unanimous consent?

The PRESIDING OFFICER. The Chair asks the indulgence of the Members present. He is now consulting with the Parliamentarian.

The Parliamentarian requests of the Chair that the Senator from Ohio restate the question.

Mr. METZENBAUM. Mr. President, is it not the fact that when we are on the Legislative Calendar and not in morning business, no Senator may debate an issue or legislative matter except by unanimous consent unless there is something pending before the body?

The PRESIDING OFFICER. The Parliamentarian advises the Chair that the Senator from Ohio is right.

Mr. METZENBAUM. Is correct?

The PRESIDING OFFICER. Is correct.

Mr. METZENBAUM. I thank the Chair.

Mr. President, I yield the floor.

Mr. DANFORTH and Mr. SPECTER addressed the Chair.

The PRESIDING OFFICER. The Senator from Pennsylvania is recognized.

Mr. SPECTER. Mr. President, I shall now reply somewhat briefly to the comments of the distinguished chairman of the Committee on Commerce, the Senator from Missouri [Mr. DANFORTH].

I regretted his response to, as he put it, the sour note when this Senator made reference to what Chairman DINGELL had commented upon. I do not know that it serves any purpose to say that it is a sour note that Chairman DINGELL raises this kind of issue, but it seemed to this Senator that this issue is a very substantial one.

In the context of the floor statement which I made in excess of 1 hour, not more than a minute or two—2 or 3 minutes at the most—were spent upon the assertions by Chairman DINGELL. But since the Senator from Missouri has raised it, I do feel compelled to amplify a little bit, because it is a very important matter, and one that I believe Chairman DINGELL will pursue in the House of Representatives before that body is called upon to make a judgment on this issue and one which I believe the U.S. Senate ought to pursue.

I did not read into the RECORD the full text of Chairman DINGELL's letter to Attorney General Meese dated December 9, 1985, but I did put it in the RECORD. Chairman DINGELL objected strenuously to what he asserted was the failure of the Department of Justice to supply documents and respond to requests concerning, first, issues about the alleged destruction of personal files, including notes and all drafts of documents; and second, allegations concerning instructions not to make notes or create work papers in the future.

I referred to the response by Assistant Attorney General Ginsburg very briefly in which those allegations had been denied because I spent my time on the substance of the matter. But the Assistant Attorney General said this on page 2:

> Fourth, although Mr. Rule and I never intended to change the staff's document retention practice, we learned that for a short time in the late summer and early fall of this year the staff thought that superceded drafts of documents and personal notes should not be retained. When this came to our attention, the staff was instructed to return to their normal retention practice. I have subsequently learned that two notes that otherwise would have been retained were discarded as a result of that misunderstanding. From the information available, it is clear that both document destroyed by the staff was their draft of my September 25 letter to Secretary Dole that would have been destroyed in any event."

Mr. President, when notes are destroyed and when drafts are destroyed, and when that is a deviation from the existing practice of the Department of Justice, it seems to this Senator that it is worth an inquiry to find out precisely what was done. An inquiry of this sort can be made in proper form without impugning anyone's integrity or without making any charge or without making any accusations, but simply by finding out what had happened. When the conclusory information is given that notes were innocuous, it seems to this Senator that there ought to be more information about what are the underlying facts which led to that conclusion.

When Assistant Attorney General Ginsburg refers to the destruction of drafts of his letter of September 25 to Secretary Dole, at least again speaking for this Senator, I am interested in what that draft would have to say.

The letter that Assistant Attorney General Ginsburg ultimately sent to Secretary of Transportation Dole, dated September 25, 1985—which I ask unanimous consent to have made part of the RECORD—raises some very fundamental concerns about the adequacy of Pittsburgh and Lake Erie and Guilford.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

U.S. DEPARTMENT OF JUSTICE,
ANTITRUST DIVISION,
Washington, DC, September 25, 1985.

Hon. ELIZABETH HANFORD DOLE,
Secretary of Transportation,
Washington, DC.

DEAR SECRETARY DOLE: This letter is to inform you of the status of the Department of Justice's review of the proposed divestiture of rail assets to Guilford Transportation Industries ("GTI") and Pittsburgh and Lake Erie Railroad ("P&LE"), in connection with the proposed sale of Consolidated Rail Corporation ("Conrail") to Norfolk Southern Corporation ("NS"). As you know, the Department has been reviewing those proposed divestitures in order to determine whether they meet the conditions that are described in former Assistant Attorney General J. Paul McGrath's letter to you dated January 29, 1985. As that letter indicates, those conditions must be met before we can conclude that a proposed divestiture elimi-

nates the competitive problems that would otherwise be created by NS' acquisition of Conrail.

In his January 29 letter, Assistant Attorney General McGrath indicated that given the magnitude of the competitive problems created by the sale of Conrail to NS, the Department could not approve the sale unless "its competitive problems are remedied through a prior or concurrent divestiture of assets that is approved by the Attorney General. Appropriate divestiture must include divestiture of Conrail and/or Norfolk Southern rail assets along the designated corridor to one or more independent acquirers, other than CSX or any entity owned or controlled by CSX, that would provide long-term, viable, and competitive rail service to locations along the corridor."

Based on the information we have obtained to date, including but not limited to the recent Preliminary Report of the Department's independent consultant, R.L. Banks and Associates, it does not appear that the proposed divestiture will establish a rail carrier in the designated corridor capable of providing long-term, viable competitive service.[1] In many locations the facilities that GTI proposes to acquire seem to be inadequate to provide rail service that could effectively compete with that provided by NS/Conrail. For example, it appears that it will take longer to provide service over GTI's proposed routes than over the routes available to CSX and NS/Conrail, thus making it difficult for GTI to compete for much of the intra-corridor traffic. In addition, our review indicates that GTI has understimated the amount of capital required to rehabilitate the lines it would acquire and that GTI has not yet obtained a firm commitment for the financing necessary in order to acquire and rehabilitate the divested lines.[2] This raises serious questions as to GTI's financial viability.[3]

Also of great concern is the fact that GTI's operating plan provides no assurance that GTI will provide the sort of competition with the merged NS/Conrail that would be necessary in order to eliminate the problems created by the sale of Conrail to NS. Indeed, no more than $31 million of the annual revenues that GTI forecasts it will generate from operating over the divested lines would be derived from markets identified as "problems" in our January 29 and March 26 letters to you. That is less than ten percent of the more than $370 million in "problem" revenues in which NS/Conrail participated in 1983 and that our earlier letter requires to be resolved. Instead, GTI apparently contemplates generating a great deal of its revenue in other markets, particularly TOFC (trailer on flat car) traffic and traffic that originates or terminates in New England. While GTI's participation in that traffic might allow GTI to remain financially viable and even to earn a profit, it would not address the competitive problems created by the sale of Conrail to NS. From our standpoint, we must be satisfied that divestiture will create not just a railroad that will be viable in the long term but one that will be an effective competitor in the problem markets.

Second, there is nothing to suggest that the proposed divestitures would provide adequate connections either within the corridor or to independent carriers at the gateways, as required by the January 29 letter. As to intra-corridor connections, for example, there appears to have been little provision made for a good connection between P&LE and GTI; without such a connection, P&LE will not be able to provide service that is competitive with that provided by NS/Conrail. Similarly, the proposed arrangements at Toledo are totally inadequate to allow GTI to connect with independent railroads there. Indeed, the connections are so poor that GTI's current operating plan shows that GTI has no intention of providing a competitive alternative to shippers in Wayne and Washtenaw Counties in Michigan. Yet those two counties were identified in the January 29 letter as counties (a) that must be served by an independent carrier and (b) that generate a very large portion of the problem revenues identified in that letter.

In addition, our earlier letters also require that if the Attorney General approves a divestiture and Conrail is sold to NS, NS/Conrail must perform switching services for the acquirer(s) of the divested assets and shippers under certain terms and conditions. As of this time, we are aware of only one instance in which the parties have come close to finalizing a switching arrangement. While our earlier letters do not require the parties to enter into comprehensive switching agreements in every location prior to divestiture, we are seriously concerned by the fact that such agreements have been negotiated in only one market.

In closing, let me assure you that the Department of Justice agrees wholeheartedly with your desire to place Conrail in the private sector. I am sharing this assessment with you at this time to enable the Department of Transportation (DOT) to address the serious reservations that this Department now has with the current divestiture proposal. If the parties are able, either through a restructuring of the current divestitures or the development of a new divestiture, to cure the defects of the present proposals, my staff and I stand ready to analyze fairly and thoroughly any and all new information we are furnished in order to determine whether they meet the requirements of our earlier letters.

Sincerely,

DOUGLAS H. GINSBURG,
Assistant Attorney General.

Attachment.

[Attachment A, Sept. 25, 1985]

LIST OF CURRENTLY IDENTIFIED MAJOR PROBLEMS WITH THE DIVESTITURE PROPOSAL

A. "[T]he acquirer or acquirers must demonstrate . . . that it possesses the managerial, operational, and financial capability necessary to compete effectively, and to remain a viable entity providing long-term rail service along the designated corridor."

(1) The GTI operating plan provides for little or no service to many of the "problem" markets (i.e., STCC/SPLC pairs) identified in the Department's January 29 and March 26, 1985 letters to Secretary Dole. For example:

(a) No significant service will be provided to Wayne or Washtenaw Counties, Michigan or to Blackford or Wabash Counties, Indiana.

(b) GTI's operating plan projects no more than $31 million in annual revenues for movements of all commodities in the "problem" markets; our letters identified over $370 million in problem revenues in which NS and Conrail participated in 1983 and that must be resolved by a divestiture or divestitures.

(2) In many locations, GTI will be acquiring facilities that are inferior to those retained by NS/Conrail, and will have to rely on NS/Conrail for access to many potential customers. Accordinly, GTI will be at a substantial disadvantage in marketing its services, and its operating plan indicates that it does not expect to obtain a significant share of the identified problem markets. For example:

(a) GTI's proposed Delphos–St. Louis line is far inferior in quality to the two rival NS/Conrail lines to St. Louis, and incapable, in its current condition, of being used to provide service that is competitive with that provided by NS/Conrail.

(b) The Madison yard in East St. Louis, which GTI intends to acquire in order to serve St. Louis, is far inferior in quality to the NS/Conrail yards that serve St. Louis.

(3) Even assuming adequate rehabilitation of the tracks to be divested, GTI's operating plan proposes service that would be substantially slower and less frequent than that likely to be offered by NS/Conrail.

(4) While there are disputes concerning the amount of GTI's rehabilitation costs, our review indicates that GTI has underestimated those costs. Substantial questions also have been raised concerning the accuracy of GTI's estimates of its operating costs, as well as GTI's ability to obtain the revenues projected in its operating plan. To the extent that GTI does not realize its projections, there would be a serious adverse effect on GTI's ability to compete with NS/Conrail.

(5) While we need more information on this Point, GTI appears to be so highly leveraged that it is questionable whether it can obtain the additional debt financing necessary to acquire, rehabilitate, and operate the divested assets in a competitive manner. In addition to being highly leveraged, GTI is unable to cover current debt with current assets. Although GTI did obtain an investment bank's opinion that financing for the purchase is obtainable, firm commitments and a number of other aspects of that financing (e.g., restrictive convenants) are yet to be negotiated.

(6) P&LE's financial situation seems to be extremely serious in every respect. P&LE appears even less likely than GTI to be able to obtain the financing necessary to acquire and operate the assets necessary in order to provide truly competitive service.

B. "[T]he divestiture should provide the acquirer direct connections in Buffalo, Chicago, Toledo, and East St. Louis to one or more railroads other than the merged carrier or CSX Corporation or any railroad controlled by either of them."

(1) GTI and P&LE's Toledo gateway, as currently proposed, cannot be used for time-sensitive movements to or from Wayne and Washtenaw Counties, Michigan. For example:

(a) GTI's proposed line from Toledo to Chicago goes east from Toledo before going west to Chicago; the route appears to be too circuitous to provide competitive service for time-sensitive movements.

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[1] Our analysis to date has identified a number of deficiencies in the proposed divestitures, some examples of which are discussed in this letter. The major problems that we have identified to date are listed in greater detail in Attachment A. Correction of these problems will be necessary for any divestiture proposal to meet the conditions set out in our letters of January 29 and March 26.

[2] Instead, GTI has obtained only a letter from an investment bank stating its opinion that GTI could obtain certain financing, conditioned upon unspecified covenants yet to be negotiated.

[3] It appears even less likely that P&LE could obtain the financing necessary to acquire and operate the assets necessary in order to provide truly competitive service.

(b) We have been advised by P&LE that GTI cannot provide competitive service on auto-related movements from Wayne and Washtenaw Counties to Chicago because GTI's proposed Toledo-Chicago line passes under a Conrail bridge at Toledo that does not allow sufficient clearance for automobile-related traffic.

"[I]n each of the designated counties in the east-west corridor, the merged Norfolk Southern/Conrail entity must switch cars between its tracks and facilities and the tracks and facilities of any shipper served by Norfolk Southern, Conrail, or Norfolk Southern/Conrail on customary terms and conditions whenever switching is practicable and necessary in order to provide a shipper with effective competitive access to the track and facilities of the acquirer."

Because the divestiture proposal contemplates that NS/Conrail would in most major markets retain the tracks providing direct access to shippers, it appears that GTI and P&LE will have to rely on their competitors for switching in almost every location. As of this time, however, we are aware of only one instance in which the parties have come close to finalizing a switching arrangement for service to any of the "problem" markets identified in our January 29 and March 26 letters.

Mr. SPECTER. Reading at the top of page 2, the Assistant Attorney General says:

Based on the information we have obtained to date, including but not limited to the recent Preliminary Report of the Department's independent consultant, R.L. Banks and Associates, it does not appear that the proposed divestiture will establish a rail carrier in the designated carrier capable of providing long-term viable competitive service.

The Assistant Attorney General goes on to raise questions about the adequacy of the divestiture proposal. Mr. President, I for one would be very interested to see an earlier draft of that letter if that is in accordance with the Department of Justice practices. I would like to see how strong the language was. We are now finding in January of 1986 that a month ago the Department of Justice said these very serious problems may have been corrected. Well, how could they have been corrected? What did the Assistant Attorney General say in his draft letter of September 25? The Judiciary Committee has not concluded its hearings—we just had the informal inquiry—and these would be questions that this Senator would raise. Why should we sweep this under the rug? Why should we be asked to pass upon this issue about an antitrust problem when these questions have been raised by the chairman of this very important subcommittee of the House of Representatives? If the Senator from Missouri believes that this is raising a sour note, then I have to disagree categorically with him. I think this is an issue of utmost materiality and utmost importance, and it is our job in the United States Senate to find those facts before we are asked to make a conclusion and/or to reach a judgment. I think perhaps it is most significant to consider what the distinguished chairman of the Senate Commerce Committee did not say, as opposed to what he did say. He picked an alleged sour note by Senator METZENBAUM, an alleged sour note on this inquiry, but he did not deal with the substance of the ICC staff report which found a violation of the antitrust laws.

The chairman of the Commerce Committee, the Senator from Missouri, did not deal with the conclusions of the Banks study which found insufficient stature by Guilford, Pittsburgh, and Lake Erie to provide competition. The Senator from Missouri did not deal with the parallel of the Southern Pacific-Santa Fe merger. If that proposal violates the antitrust laws, then certainly the Conrail-Norfolk joinder violates the antitrust laws.

The Senator from Missouri dealt very briefly with the question of the viability of Conrail, and I would refer to the USRA finding:

The agency established by Congress to oversee Conrail's operation concluded in a staff report reviewing the financial outlook for an independent Conrail back on July 29, 1985, that "All available evidence supports a finding that Conrail can generate positive cash flow for the foreseeable future. Traffic shortfalls compared to the forecasts should not threaten Conrail's survival as long as the rail regulatory fare work is unchanged allowing service to be shaped to meet the demands of the market. By the end of this year Conrail will have been profitable for 5 years. It has been reasonably and credibly forecast to be profitable through the remainder of this decade. While there can be no absolute certainty it might have a forecast, to require more evidence from Conrail of its likely reliability will impose an unreasonable burden of proof on that opposition."

Mr. President, it must be noted that Conrail has sustained extraordinary profits: In 1981, $39 million; in 1982, $174 million; in 1983, $313 million; in 1984, $500 million; in 1985, $440 million. The 1985 figure came at a time when traffic was down somewhat, and I believe there were extra payments made to labor. But I think the viability of Conrail has been established.

Mr. President, I know the hour grows late and there is an inclination to adjourn the Senate at this moment. But I conclude by expressing the hope that the important issues projected in Senate bill 638 will receive adequate consideration by this body.

Senator METZENBAUM wants to know if he can go home. Yes, we can. But these issues require analysis. The Department of Justice has not made that analysis. The Interstate Commerce Commission has not made that analysis. The Senate Judiciary Committee has not made that analysis. It is up to the Senate to do so, and we ought not to shorten the time. We ought not to impose cloture.

I thank the Chair and I yield the floor.

The PRESIDING OFFICER. Who seeks recognition?

The majority leader is recognized.

Mr. METZENBAUM addressed the Chair.

The PRESIDING OFFICER. The majority leader has been recognized.

Mr. METZENBAUM. I ask the majority leader if he will yield for a question?

Mr. DOLE. I will be happy to yield.

Mr. METZENBAUM. Mr. President, for those of us concerned about Conrail, may we go home at this point?

Mr. DOLE. If the Senator leaves me his proxy.

There will be no votes today. There has been some great debate. I am not sure I understood it all. However, that is not a requirement. Unless there are other Members who wish to speak on Conrail, I intend to recess shortly until 11 a.m. tomorrow.

Mr. METZENBAUM. I thank the Senator.

MESSAGE FROM THE SUPREME SOVIET

Mr. THURMOND. Mr. President, on January 17, 1986, Ambassador Dobrynin of the Soviet Union formally presented to me, in my capacity as President pro tempore of the U.S. Senate, a message addressed to the Congress from the U.S.S.R. Supreme Soviet. This document urges Congress to accept the nuclear weapons proposal which was previously submitted by Soviet General Secretary Gorbachev on January 15, 1986.

Ambassador Dobrynin and I had a constructive meeting. We discussed our hopes of improved communications between our nations based on the recent Geneva summit. As a member of the bipartisan Senate delegation which traveled to the Soviet Union last September, I told Ambassador Dobrynin that General Secretary Gorbachev and I had discussed the need for cooperation between our nations. I told Gorbachev last September, and reemphasized to Ambassador Dobrynin, that just as our nations stood together to defeat the Nazis in World War II, we should work together today for the cause of world peace. We both agreed that annual summit meetings would greatly assist in normalizing the relations between our countries.

We also discussed President Reagan's Strategic Defense Initiative. I told Ambassador Dobrynin that I would urge President Reagan to stand firm on this important defense plan.

It is my belief that the path for constructive dialog and proposals for peace should always remain open. I told Ambassador Dobrynin that I looked forward to studying this latest Soviet arms reduction proposal and making the U.S.S.R. Supreme Soviet

document available to my fellow Senators for their review.

Accordingly, Mr. President, I ask unanimous consent that the full text of the message from the Supreme Soviet be printed in the RECORD.

There being no objection, the text of the message was ordered to be printed in the RECORD, as follows:

APPEAL OF THE U.S.S.R. SUPREME SOVIET TO THE U.S. CONGRESS

Dear Members of the United States Congress:

On behalf of the U.S.S.R. Supreme Soviet, its Presidium—guided by the objective to reduce international tensions which have risen to a dangerous level and seeking to ward off the threat of nuclear annihilation from humankind—appeals to you on an issue, the resolution of which brooks no delay.

The nuclear arms race, devouring colossal material resources and leading to unproductive waste of scientific and technological potentials of our countries, is going on. The competition in military field is the primary source of instability, of the growing threat to peace.

One can no longer tolerate a situation when the danger of nuclear catastrophe is looming over people's heads like the sword of Damocles. Conscience of humankind and the natural feeling of self-preservation demand that an end must be put to it.

It is for this reason that the U.S.S.R. Supreme Soviet, the supreme body of legislative authority of the Soviet State, resolutely comes out in support of reaching substantial and effective solutions at the current negotiations, which would erect a firm barrier to the arms race both in space and on earth, would make it possible to free financial resources in the range of billions for accomplishing creative objectives, for helping the peoples seeking to do away with their economic backwardness. Actions on the basis of mutual example, parallel steps capable of preventing the deterioration of the situation, of providing an impulse for coming over from decades of accumulation of nuclear weapons to joint consecutive steps to eliminate them would be a major significance to this end.

The USSR Supreme Soviet welcomed the results of the Soviet-American summit meeting in Geneva, regarding the talks between General Secretary of the CPSU Central Committee M.S. Gorbachev and President R. Reagan as creating opportunities for initiating a constructive search for ways to normalize Soviet-American relations, to revitalize the international situation as a whole.

The Soviet Union and the United States share the goal of eliminating nuclear weapons completely and everywhere. Now, in our opinion, we have to start moving jointly toward this goal. The question arises: Which path should be taken?

We are aware of a concept, according to which the elimination of nuclear weapons could allegedly be achieved through the development of qualitatively new weapons and their deployment in outer space. We are convinced, however, that to base one's policy on such calculations is to make an irretrievable mistake. The history of the arms race convincingly proved that no new weapon reduces the danger to humankind, on the contrary, it increases that danger. Should weapons appear in space, the nuclear arms race, far from being stopped, will accelerate with a force yet unseen and will follow the most dangerous directions.

For the first time in the history of the nuclear era, the Soviet Union has put forward an extensive, concrete and precisely timed program of complete liquidation of nuclear weapons everywhere. We propose that in the next 15 years, that is already by the year 2000, the process be carried out and completed of freeing Earth from nuclear armaments, accompanied by a ban on attack space weapons. Humankind must enter the third millennium free of the burden of the most destructive weaponry threatening the lives of all people.

Specific proposals to that effect are contained in the statement of the General Secretary of the CPSU Central Committee on January 15, 1986.

Under this program 50 per cent reductions of the corresponding nuclear weapons of the USSR and the USA would be only the first stage to be followed by further reductions of Soviet and American arsenals as well as by other nuclear powers joining the process. Reliable verification would be established, including on-site inspections.

The Soviet Union, as is known, has long been proposing that Europe be freed from medium range and tactical nuclear weapons. Within the framework of the first stage of the program we find it possible to agree on a complete elimination of medium-range missiles of the USSR and the USA in the European zone-ballistic as well as cruise missiles. The implementation of such an agreement would be the first step towards freeing the European continent from nuclear armaments. In this context the United States should, naturally, assume the obligation not to supply other countries with strategic missiles and medium-range missiles, and Britain and France, not to build up their corresponding nuclear armaments.

The complete elimination of the American and Soviet medium-range nuclear systems would be achieved in the course of the further implementation of the program.

The USSR Supreme Soviet calls upon the U.S. Congress to choose this—the only reasonable, practically feasible alternative to nuclear weapons—which is set forth in our program. It is our conviction that at present there exist all the necessary prerequisites for it.

In a similarly radical way, the USSR proposes to resolve the issue of chemical weapons, to liquidate these weapons completely together with their industrial base under strict verification including international on-site inspections.

In order to take a practical step in curtailing the arms race on its most dangerous, nuclear track, first of all any nuclear tests should be discontinued. For it is obvious that if there are no nuclear explosions, the basis for the improvement of nuclear weapons, the development of new, ever more destructive types of such weapons will disappear. An objective process of aging and, ultimately, of the demise of the nuclear arsenals would start in the absence of tests.

Seeking to set a good example, the Soviet Union has halted all nuclear explosions within its territory since last August 6 and has been strictly observing this unilateral obligation. Simultaneously the USSR called upon the U.S. Government to also exercise restraint and in turn to renounce the carrying out of nuclear explosions.

Unfortunately, one has to note that up till now the American side has not responded with reciprocity to this peaceful action of the Soviet Union. The United States is conducting time and again nuclear weapon explosions.

The movement for halting nuclear tests is gaining momentum in the world. We know that demands to put an end to these dangerous experiments are growing in your country, too. Responding to the appeals of the public, of prominent state and public figures of all continents and guided by the desire to ensure the resolution of the issue on a mutual basis, the Soviet Union has announced the extension of our unilateral moratorium for three more months.

Thus the Soviet Union, by deeds, demonstrates restraint in the military field, the necessity to exercise which our two countries agreed upon in Geneva. The USSR has undertaken this step intending to give the American side additional time for making a decision that is being expected from Washington by the peoples throughout the world. We urge the United States to follow the example of the Soviet Union and not to block further the accomplishment of a paramount task of universal significance.

The arguments of those who favor the continuation of nuclear tests are at odds with the interests of strengthening strategic stability and of averting the threat of war. The arms race—and it is precisely to whip it up that the incessant nuclear experiments are intended for—cannot serve as a foundation for durable peace.

On the contrary, the continued perfection and deployment of new types of nuclear weapons increase tensions, nurture mistrust and mutual suspicion, and, instead of lessening, they bring closer the danger of a fateful collision which must be avoided.

If the moratorium on nuclear explosions were to become mutual, it would, undoubtedly, give strong impetus to reaching agreements on the limitation and reduction of nuclear weapons, to enhancing and broadening mutual trust. The moratorium is a necessary and important element in the general context of efforts to terminate the arms race, to implement the agreements of principle reached in Geneva.

And the questions of verification are not at all an obstacle for establishing the moratorium. The Soviet side is prepared to go as far as mutual on-site inspections for verification of the non-conducting of nuclear explosions.

Here the road to mutually acceptable agreement is open. Political will is all that is needed to walk that road. The Soviet side has this will.

Making this appeal on behalf of the USSR Supreme Soviet, its Presidium expresses the hope that the U.S. Congress, its members will raise their voices in support of complete and general liquidation of nuclear weapons and in favor of establishing a bilateral Soviet-American moratorium on all nuclear explosions as the first step leading to this goal. There is no doubt that such a position on the part of the U.S. Congress would be received everywhere as a manifestation of the sense of high responsibility for the strengthening of the security of peoples, for the destiny of world peace.

The time has come to put an end to the madness of the nuclear race. Nuclear explosions should cease to maim the beautiful face of our common home, the planet Earth. The nuclear threat must be eliminated forever.

THE PRESIDIUM
OF THE U.S.S.R. SUPREME SOVIET.

THE SESQUICENTENNIAL CELEBRATION OF LIVINGSTON UNIVERSITY

Mr. HEFLIN. Mr. President, the 1985-86 collegiate academic year signals the sesquicentennial anniversary of one of the many fine institutions of higher learning in my home State of Alabama, Livingston University. During the 150 years of this school's existence, it has been a cornerstone of educational progress and activity in Alabama.

With a current enrollment of almost 1,500 students, of whom some 200 are pursuing graduate degrees, Livingston has grown a great deal since it was chartered in 1835 as a church-related female academy. This growth, however, has not been a steady progression, since the school experienced the expected difficulties of the Civil War and Reconstruction. Overcoming these problems, the school reopened several years after the war, and even admitted a few male students. This policy was reversed by the board of trustees, which, in 1876, adopted a resolution excluding male students. The student body would remain all female until the 20th century.

In 1881, a noted educator in that period of Alabama history, Julia Strudwick Tutwiler, took charge of the school, which was still supported by private funds. Two years later, Miss Tutwiler succeeded in convincing the Alabama State Legislature to provide a small State appropriation, believed to be the first financial provisions made by the Alabama government exclusively for the education of women.

Under Julia Tutwiler's leadership, the school, then known as Livingston Female Academy and State Normal College, would continue as a private school partially funded by the State until 1907, when Alabama assumed full control. Three years later, in 1910, Miss Tutwiler's long tenure as president would end, but she had set an example of continuity in leadership which has continued to this day.

In fact, in the 150 years of Livingston University, there have only been eight presidents, and one of those Dr. Ralph Lyon, was an acting president who served only 1 year. After Miss Tutwiler, Dr. G.W. Brock would serve as president from 1910 to 1936. He was followed by Dr. N.F. Greenhill (1936-44), Dr. W.W. Hill (1944-54), Dr. D.P. Culp (1954-63), Dr. John Deloney (1963-72), Dr. Lyon (1972-73), and Dr. Asa Green (1973-present). Clearly, this stability and continuity in the president's office has contributed to the consistent progress Livingston has shown.

In 1929, the institution was renamed State Teachers College at Livingston, and was given the authority to grant the bachelor of science degree. In 1947, further authorization was given for the bachelor of arts degree. Although the school's name has changed more than once since, the training of teachers has remained a major facet of Livingston's educational agenda.

The next name change for the school came in 1957, when the school became Livingston State College. It was during this phase of the college's development that the graduate division was established, and the first master's degrees were awarded. Only 10 years later, the school's name was again changed, to Livingston University. This latest, most current name reflects what has become a broad educational purpose for the school, as a regional university, serving the higher education needs of west Alabama.

I feel a personal closeness to this fine institution for my mother was a graduate, Miss Julia Tutwiler was my cousin, and I have been honored with a honorary Doctor of Laws degree.

Under the current leadership of Dr. Asa Green and a fine board of trustees, Livingston University has dedicated itself to helping foster improvement in the educational, economic and cultural life of its community and region. By providing an environment conducive to excellence in education, and encouraging students to learn by their own initiative in addition to learning under the tutelage of instructors, Livingston is developing not only college graduates, but responsible citizens and leaders.

Now organized into four instructional units—the College of General Studies, the College of Business and Commerce, the College of Education, and the School of Graduate Studies—Livingston is accredited by the Southern Associates of Colleges and Schools, the National Council for the Accreditation of Teacher Education, and the National League for Nursing.

Mr. President, one of the few constants in our ever-changing society is the value of an education. Education is the key to employment, to economic progress. Education is the key to the preservation of individual liberties. Education is the key to understanding the vast world around us.

As education maintains this importance, and even increase in value as we approach the 21st century—a time period that just a few years ago was a science fiction writer's shorthand for the far distant future—I congratulate Livingston University for 150 years of contributions to improvements in education, and wish it many more years of progress.

LIABILITY INSURANCE RATES SKYROCKET: NGA SURVEY

Mr. PRESSLER. Mr. President, the problems associated with the high cost and scarcity of liability insurance affect all facets of our society. For the past several months we have heard countless examples of governments, businesses, and professionals being forced to reduce or eliminate services, or go out of business, because they could not find or afford adequate insurance coverage.

It has come to my attention that yet another sector of our economy—the grocery industry—has been hit with insurance problems.

I ask unanimous consent to insert in the RECORD an article from Supermarket News titled "Liability Insurance Rates Skyrocket: NGA Survey," which documents the spread of the insurance availability and affordability crisis to this vital American industry.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Supermarket News, Dec. 16, 1985]

LIABILITY INSURANCE RATES SKYROCKET: NGA SURVEY

(By Jan Greene)

WASHINGTON (FNS).—Liability insurance rates for independents, wholesalers and small chains has been skyrocketing, according to the National Grocers Association. NGA has found a majority of respondents to a member survey have had recent increases in liability insurance rates running 25-500 percent.

The increases are part of a national trend—a crisis, some say—of rapidly increasing insurance rates and canceled policies affecting a range of businesses and even local governments.

NGA is one of 13 industry groups that have formed the Coalition for Insurance Availability, which sponsored a national liability insurance crisis symposium here last week, and which is seeking a Presidential task force to look into the problem.

Supermarket retailers in particular could be hurt by liquor liability problems, according to Richard Bolger, NGA government relations director. He said there reportedly are some cases pending where food retailers may be held liable in court for accidents caused by people who have bought alcohol in their stores. Other lines of insurance with sharp rises in the industry include casualty and property, as well as officers' and directors' insurance for warehouses.

NGA conducted separate surveys of retailers and wholesalers. Of the 161 retailers that responded, 110 said their insurance premiums had gone up 25-500% recently. Of those, 32 said their rates rose 100-300%, with four having hikes of 500% or more. A large number of the latter said their insurance companies attributed the increases to losses in the insurance industry.

Also, almost half the retailers said they had changed insurance companies recently to get a better price.

Of the 20 responding wholesalers, 18 said their premiums had increased substantially, most rising between 25 and 300%. While the insurance crisis has generated a great deal of discussion, few concrete proposals have been developed for either short- or long-term solutions. Some general ideas include tort law reform to reduce huge losses in court and Federal Government monitoring of the insurance industry.

NGA has not decided whether action in Congress is the right way to solve the problem.

"We are looking at a number of things," Bolger said. "It's a big, complex problem that cannot immediately be resolved."

NGA will be working within the coalition and with other groups to propose Congressional hearings and White House-sponsored discussions of the insurance crisis. "Concern will increase more in January and February when peoples' rates really go up," he said.

Explanations for the insurance crisis vary with each different interest group.

Ralph Nader's National Insurance Consumer Organization has charged that the insurance industry is "going on strike to extort excessive rates from the public." And in a recent Senate hearing, a group of state insurance regulators pointed to "ineffective underwriting by a number of insurers," adding that some companies have "ignored sound underwriting practices and opted for cash flow operations."

According to Charles H. Fritzel, assistant vice president for government relations, National Association of Independent Insurers, however, there are other issues. The insurance industry says, "No, something else is at work and the numbers show it. This year, after six months of rate increases, a stable securities market and substantial investment gains, we still chalked up a disturbing operations loss of $2.25 billion."

The culprit, according to insurers, is the legal system in general and trial lawyers in particular.

The Chamber of Commerce cites statistics that the average product liability award has increased from $345,000 to more than $1 million in the last 10 years. In asbestos litigation, of the average $101,000 award or settlement, lawyers received $62,000.

From the legal side, however, it is the insurance industry that needs to do "some house cleaning," said Barry J. Nace, of the Association of Trial Lawyers, during a recent Chamber of Commerce discussion. "The crisis that's being formed, if any, is because of the insurance industry's bad investments. Why penalize the individual who has been hurt?"

1987 U.S. TRAVEL AND TOURISM ADMINISTRATION BUDGET

Mr. PRESSLER. Mr. President, the administration soon will be sending us its fiscal year 1987 budget request. In the past, it has fairly consistently proposed eliminating or disproportionately reducing the budget for the U.S. Travel and Tourism Administration, a small agency within the Department of Commerce. And every year Congress puts the money back. This is another of the annual games of "cat and mouse" we play as part of every budget process.

As chairman of the Senate Business, Trade, and Tourism Subcommittee, I truly hope this year can be different. Tourism is an extremely important segment of our economy and deserves to be recognized as such. It is our second largest retail industry in terms of employment and third largest in terms of gross sales. The $210 billion generated by the industry in 1983 supported 4.6 million jobs. Travel and tourism is one of the three largest employers in 41 States. In 1983, travel and tourism generated $13.8 billion in Federal tax revenues, and $11.5 billion in State and local tax revenues. In that same year, international travel services ranked as the United States' largest services export. We cannot afford to play "cat and mouse" with this kind of industry.

As I have done every year since becoming chairman of the subcommittee, I will be introducing a USTTA authorization bill later this year, after the administration has made its recommendation and after the Senate Travel and Tourism Industry Advisory Council has reviewed the administration's proposal and made its own recommendations by my subcommittee. The Travel and Tourism Industry Advisory Council is comprised of the top 20 men and women from across the Nation involved in the tourism industry. They meet every quarter to discuss issues of concern to the industry and make recommendations to our committee.

The USTTA budget issue is on their agenda for their February 20 meeting, and I will be introducing the USTTA authorization bill shortly after I have had a chance to hear their recommendations and discuss the issue with them. The council has been an important source of information and ideas in the subcommittee's work, and we are indebted to these men and women who dedicate their time to assist us in setting national tourism policy.

I am hopeful we can work with the administration toward a reasonable compromise in this year's USTTA budget. It is extremely important to our economy. USTTA and the tourism industry are an important ingredient in the effort to reduce our international trade deficit. As the President recently acknowledged in a public speech, the tourism industry is one of the few industries with an international trade surplus, and holds great promise in further reducing the trade deficit if we adequately promote this important industry.

In USTTA, under the able leadership of Under Secretary Donna Tuttle, we have the potential to realize that goal. I hope the administration will translate word into actual policy initiatives and budget numbers by providing adequate funding for this small agency in its fiscal year 1987 budget request. I look forward to working with the administration toward an effective tourism trade policy, and toward establishing an effective tourism agency to continue its important task of promoting international travel to the United States.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Saunders, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session, the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations and withdrawals which were referred to the appropriate committees.

(The nominations and withdrawals received today are printed at the end of the Senate proceedings.)

MESSAGES FROM THE HOUSE RECEIVED SUBSEQUENT TO SINE DIE ADJOURNMENT

Under the authority of the order of the Senate of January 3, 1986, the Secretary of the Senate on January 6, 1986, during the sine die adjournment of the Congress received a message from the House of Representatives announcing that pursuant to section 149 of Public Law 99-190, the Speaker designates the following Members of the House to resolve the outstanding conflicts with respect to the future leasing and protection of lands on the California Outer Continental Shelf for oil and gas exploration and development with the Secretary of the Interior: Mr. YATES, Mr. UDALL, Mr. LOWRY of Washington, Mr. PANETTA, Mr. BOSCO, Mrs. BOXER, Mr. LEVINE of California, Mr. REGULA, Mr. LUJAN, Mr. FIELDS, Mr. DANNEMEYER, Mr. LUNGREN, and Mr. LOWERY of California.

ENROLLED BILLS AND JOINT RESOLUTIONS SIGNED

Under the authority of the order of the Senate of January 3, 1985, the Secretary of the Senate, on January 8, 1986, during the sine die adjournment of the Congress, received a message from the House of Representatives announcing that the Speaker had signed the following enrolled bills and joint resolutions:

H.R. 1083. An act to amend the Low-Level Radioactive Waste Policy Act to improve procedures for the implementation of compacts providing for the establishment and operation of regional disposal facilities for low-level radioactive waste; to grant the consent of the Congress to certain interstate compacts on low-level radioactive waste; and for other purposes;

H.R. 3384. An act to amend title 5, United States Code, to expand the class of individuals eligible for refunds or other returns of contributions from contingency reserves in the Employees Health Benefits Fund; to make miscellaneous amendments relating to the Civil Service Retirement System and the Federal Employees Health Benefits Program; and for other purposes;

H.J. Res. 187. Joint resolution to approve the "Compact of Free Association", and for other purposes; and

H.J. Res. 440. Joint resolution to designate the week of December 1, 1985, through December 7, 1985, as "National Autism Week".

Under the authority of the order of the Senate of January 3, 1985, the enrolled bills and joint resolutions were signed on January 8, 1986, during the

sine die adjournment of the Congress by the President pro tempore [Mr. THURMOND].

MESSAGES FROM THE HOUSE

At 4:07 p.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the House had passed the following bill, in which it requests the concurrence of the Senate:

H.R. 3700. An act to amend and extend the Higher Education Act of 1965.

The message also announced that the House has agreed to the following resolutions:

H. Res. 353. Resolution appointing a committee of the House to join with a committee of the Senate to notify the President that a quorum of each House is assembled and ready to receive any communication that he may be pleased to make; and

H. Res. 354. Resolution notifying the Senate that a quorum of the House is present and that the House is ready to proceed with business.

MEASURES REFERRED

The following bill was read the first and second times by unanimous consent, and referred as indicated:

H.R. 3700: An act to amend and extend the Higher Education Act of 1965; to the Committee on Labor and Human Resources.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC-2148. A communication from the President of the United States, transmitting, pursuant to law, a report on his exercise of statutory authority to declare a national emergency with respect to relations with Libya, and the imposition by executive order of certain sanctions and prohibitions; to the Committee on Banking, Housing, and Urban Affairs.

EC-2149. A communication from the Secretary of Agriculture transmitting, pursuant to law, a report on a determination that procedures other than competitive bidding be used to negotiate extensions of fifteen contracts; to the Committee on Agriculture, Nutrition, and Forestry.

EC-2150. A communication from the Comptroller General of the U.S. transmitting, pursuant to law, a report on 8 new deferrals of budget authority totalling $2,023,327,275; jointly, pursuant to the order of January 30, 1975, to the Committees on Appropriations, the Budget, Commerce, Science, and Transportation, Finance, and Foreign Relations.

EC-2151. A communication from the Executive Associate Director of the Office of Management and Budget transmitting, pursuant to law, a report on the reapportionment of the appropriation for VA Readjustment benefits and the necessity for a supplemental appropriation; to the Committee on Appropriations.

EC-2152. A communication from the Director of the Defense Security Assistance Agency transmitting, pursuant to law, a report on a foreign military assistance sale to Turkey; to the Committee on Armed Services.

EC-2153. A communication from the Acting Deputy Assistant Secretary of the Air Force transmitting, pursuant to law, a report on a decision to convert the custodial services function at Cheyenne Mountain Complex, Colorado Springs, Colorado to performance under contract; to the Committee on Armed Services.

EC-2154. A communication from the Deputy Assistant Secretary of the Air Force, transmitting, pursuant to law, a report on the study of certain functions at 22 bases for conversion to performance under contract; to the Committee on Armed Services.

EC-2155. A communication from the Deputy Assistant Secretary of the Air Force, transmitting, pursuant to law, a report on a decision to convert certain functions at 41 bases to performance under contract; to the Committee on Armed Forces.

EC-2156. A communication from the Secretary of the Army, transmitting, pursuant to law, a report that a major Army acquisition program has exceeded its baseline unit cost by more than 25 percent; to the Committee on Armed Services.

EC-2157. A communication from the Deputy Assistant Secretary of Defense transmitting, pursuant to law, a report that the Navy intends to exclude from examination by the Comptroller General records of a contract with the United Kingdom for a jointly funded and managed PEGASUS Engine Product Support Program; to the Committee on Armed Services.

EC-2158. A communication from the Principal Deputy Assistant Secretary of Defense transmitting, pursuant to law, a report on the value of property, supplies, and commodities provided by the Berlin Magistrate July 1 through September 30, 1985; to the Committee on Armed Services.

EC-2159. A communication from the Secretary of the Army, transmitting, pursuant to law, the annual report of the U.S. Soldiers' and Airmen's Home; to the Committee on Armed Services.

EC-2160. A communication from the Secretary of Housing and Urban Development, transmitting, pursuant to law, a report on the Neighborhood Development Demonstration Program; to the Committee on Banking, Housing, and Urban Development.

EC-2161. A communication from the Chairman of the National Transportation Safety Board, transmitting, pursuant to law, a copy of the Board's letter appealing the OMB's proposed budget allowance for fiscal year 1987; to the Committee on Commerce, Science, and Transportation.

EC-2162. A communication from the Secretary of the Interstate Commerce Commission transmitting, pursuant to law, a report on an extension of the time deadline for a decision in Arkansas Power and Light Company v. Burlington Northern Railroad Company; to the Committee on Commerce, Science, and Transportation.

EC-2163. A communication from the Secretary of Transportation transmitting, pursuant to law, the annual report on the status of the public ports of the U.S. for 1984; to the Committee on Commerce, Science, and Transportation.

EC-2164. A communication from the Deputy Associate Director for Royalty Management transmitting, pursuant to law, a report on the refund of excess royalties of offshore lease revenues to 25 companies; to the Committee on Energy and Natural Resources.

EC-2165. A communication from the Secretary of the Interior transmitting, pursuant to law, a study of Federal lands in the Central Arctic Area of Alaska to assess oil and gas potential; to the Committee on Energy and Natural Resources.

EC-2166. A communication from the Secretary of Energy transmitting, pursuant to law, a report on the biomass energy and alcohol fuels program for July 1 through September 30, 1985; to the Committee on Energy and Natural Resources.

EC-2167. A communication from the Acting Deputy Assistant Secretary of the Interior transmitting, pursuant to law, a report on a loan application by the Hidalgo County Irrigation District No. 1, Texas; to the Committee on Energy and Natural Resources.

EC-2168. A communication from the Chairman of the Nuclear Regulatory Commission transmitting, pursuant to law, the quarterly report on fulltime permanent employees hired and promoted for the quarter ended September 30, 1985; to the Committee on Environment and Public Works.

EC-2169. A communication from the Director of the Office of Civilian Radioactive Waste Management transmitting, pursuant to law, a report on the deployment of Federal interim storage facilities for commercial spent fuel; to the Committee on Environment and Public Works.

EC-2170. A communication from the Chairman of the Migratory Bird Conservation Commission transmitting, pursuant to law, the 1985 annual report of the Commission; to the Committee on Environment and Public Works.

EC-2171. A communication from the Administrator of the Environmental Protection Agency transmitting, pursuant to law, a report entitled "Wastes from the Extraction and Beneficiation of Metallic Ores, Phosphate Rock, Asbestos, Overburden from Uranium Mining, and Oil Shale"; to the Committee on Environment and Public Works.

EC-2172. A communication from the Director of the Office of Management and Budget transmitting a draft of proposed legislation to prevent, through computer matching, payment of Federal dollars in cases where they are, by law, not supposed to be paid; to the Committee on Finance.

EC-2173. A communication from the Secretary of Labor transmitting, pursuant to law, an evaluation of short-time compensation programs; to the Committee on Finance.

EC-2174. A communication from the Assistant Secretary of Labor transmitting, pursuant to law, additional information regarding the report on short-time compensation programs; to the Committee on Finance.

EC-2175. A communication from the Secretary of the Treasury transmitting a draft of proposed legislation to prohibit States from imposing corporate income tax on a worldwide unitary basis, limit the ability of States to tax dividends received by U.S. corporations from foreign corporations, and provide Federal assistance to States in administering their tax laws relating to multinational businesses; to the Committee on Finance.

EC-2176. A communication from the Chairwoman of the U.S. International Trade Commission transmitting, pursuant to law, the fourth quarterly report on U.S. trade with nonmarket economy countries; to the Committee on Finance.

EC-2177. A communication from the President of the United States transmitting, pursuant to law, a report on his intention to add Aruba to the list of beneficiary developing countries under the Generalized System of Preferences Program; to the Committee on Finance.

EC-2178. A communication from the Director of the Office of Technology Assessment, U.S. Congress, transmitting, pursuant to law, notice of the completion of its examination of methods of paying for physician services under the Medicare program; to the Committee on Finance.

EC-2179. A communication from the Secretary of the Treasury transmitting, pursuant to law, a report on net receipts from the crude oil windfall profits tax, and their disposition for fiscal year 1984; to the Committee on Finance.

EC-2180. A communication from the Under Secretary of State for Management transmitting a draft of proposed legislation to provide for the security of U.S. diplomatic personnel, facilities, and operations; to the Committee on Foreign Relations.

EC-2181. A communication from the Director of the Defense Security Assistance Agency transmitting, pursuant to law, a secret report on the operation of the Special Defense Acquisition Fund; to the Committee on Foreign Relations.

EC-2182. A communication from the Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting, pursuant to law, international agreements, other than treaties, entered into by the U.S. within the 60 days previous to December 27, 1985; to the Committee on Foreign Relations.

EC-2183. A communication from the Assistant Secretary of State transmitting, pursuant to law, a report on the foreign debt of Latin America; to the Committee on Foreign Relations.

EC-2184. A communication from the Chairman of the Board of Foreign Scholarships transmitting, pursuant to law, the annual report on Fulbright Program Exchanges; to the Committee on Foreign Relations.

EC-2185. A communication from the Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting, pursuant to law, international agreements, other than treaties, entered into by the U.S. within the 60 days previous to December 20, 1985; to the Committee on Foreign Relations.

EC-2186. A communication from the Deputy Assistant to the President of the U.S. transmitting, pursuant to law, an evaluation of the systems of internal administrative control in the agencies of the Executive Office of the President; to the Committee on Governmental Affairs.

EC-2187. A communication from the Deputy Assistant to the President of the U.S. transmitting, pursuant to law, a review of the accounting system for the Executive Office of the President; to the Committee on Governmental Affairs.

EC-2188. A communication from the Acting Secretary of State transmitting, pursuant to law, a report on the conformance of the Department's accounting systems to standards and requirements prescribed by the Comptroller General; to the Committee on Governmental Affairs.

EC-2189. A communication from the Acting Secretary of State transmitting, pursuant to law, an evaluation of the Department's system of internal accounting and administrative control; to the Committee on Governmental Affairs.

EC-2190. A communication from the Associate Director of the USIA transmitting, pursuant to law, a report on internal controls at the USIA; to the Committee on Governmental Affairs.

EC-2191. A communication from the Secretary of Commerce transmitting, pursuant to law, a report on the operation of internal controls within the Department; to the Committee on Governmental Affairs.

EC-2192. A communication from the Comptroller General of the United States transmitting, pursuant to law, a report on reports issued during November 1985; to the Committee on Governmental Affairs.

EC-2193. A communication from the Administrator of the General Services Administration transmitting, pursuant to law, a report on GSA's internal controls; to the Committee on Governmental Affairs.

EC-2194. A communication from the Secretary of Transportation transmitting, pursuant to law, a report on the Department's system of internal accounting and administrative control for 1985; to the Committee on Governmental Affairs.

EC-2195. A communication from the Director of the U.S. Arms Control and Disarmament Agency transmitting, pursuant to law, a report on the Agency's system of internal accounting and administrative control; to the Committee on Governmental Affairs.

EC-2196. A communication from the Director of ACTION transmitting, pursuant to law; a report on the Agency's system of internal accounting and administrative control; to the Committee on Governmental Affairs.

EC-2197. A communication from the Secretary of Energy transmitting, pursuant to law, a report on the Department's internal control systems; to the Committee on Governmental Affairs.

EC-2198. A communication from the Assistant Attorney General transmitting, pursuant to law, a report on a modified Privacy Act system of records; to the Committee on Governmental Affairs.

EC-2199. A communication from the Secretary of Education transmitting, pursuant to law, a report on the Department's system of internal controls; to the Committee on Governmental Affairs.

EC-2200. A communication from the Special Counsel, U.S. Merit Systems Protection Board, transmitting, pursuant to law, a report on findings and conclusions into allegations of a violation of law and regulations at the Food Safety and Inspection Service; to the Committee on Governmental Affairs.

EC-2201. A communication from the Chairman of the National Credit Union Administration transmitting, pursuant to law, a report on NCUA's financial management and accounting systems; to the Committee on Governmental Affairs.

EC-2202. A communication from the Secretary of Commerce transmitting, pursuant to law, the semiannual report of the Department's Inspector General for April-September 1985; to the Committee on Governmental Affairs.

EC-2203. A communication from the Chairman of the Nuclear Regulatory Commission, transmitting, pursuant to law, a report on the Commission's system of internal accounting and administrative control; to the Committee on Governmental Affairs.

EC-2204. A communication from the Secretary of the Interior transmitting, pursuant to law, a report on the Department's system of internal accounting and administrative control; to the Committee on Governmental Affairs.

EC-2205. A communication from the Secretary of Education transmitting, pursuant to law, a report on the Department's financial management and accounting systems; to the Committee on Governmental Affairs.

EC-2206. A communication from the Secretary of Education transmitting, pursuant to law, a report on surplus real property disposed of to educational institutions in fiscal year 1985; to the Committee on Governmental Affairs.

EC-2207. A communication from the Deputy Administrator of the Veterans Administration transmitting, pursuant to law, a report on the administration's system of internal accounting and administrative control; to the Committee on Governmental Affairs.

EC-2208. A communication from the Acting Chairman of the National Endowment for the Humanities transmitting, pursuant to law, a report on the Endowment's system of internal accounting and administrative control; to the Committee on Governmental Affairs.

EC-2209. A communication from the Deputy Assistant Secretary of Defense transmitting, pursuant to law, a report on a new Privacy Act system of records; to the Committee on Governmental Affairs.

EC-2210. A communication from the Acting Assistant Secretary of Health and Human Services transmitting, pursuant to law, a report on a computer matching program relative to licenses of health professionals; to the Committee on Governmental Affairs.

REPORTS OF COMMITTEES RECEIVED DURING SINE DIE ADJOURNMENT

Under the authority of the order of the Senate of December 20, 1985, the following reports of committees were submitted on January 8, 1986, during the sine die adjournment of the Congress:

By Mr. PACKWOOD, from the Committee on Finance, with an amendment:

S. 1567. A bill to authorize the Secretary of the Army to construct various projects for improvements to rivers and harbors of the United States, and for other purposes (Rept. No. 99-228).

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. PROXMIRE (for himself and Mr. INOUYE):

S. 2001. A bill to amend title XVIII of the Social Security Act to provide for research with respect to the outcomes of specific medical treatments and surgical procedures; to the Committee on Finance.

By Mr. THURMOND (for himself and Mr. HOLLINGS):

S. 2002. A bill to specify that appropriations for the Cooper River seismic modification project in South Carolina be used for such purposes; to the Committee on Environment and Public Works.

By Mr. MOYNIHAN:

S. 2003. A bill to control the precursors of acid rain through the establishment of a program to demonstrate new control technologies and through a program requiring reductions in emissions, and for other pur-

poses; to the Committee on Environment and Public Works.

SUBISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. DOLE:

S. Res. 295. Resolution informing the President of the United States that a quorum of each House is assembled; considered and agreed to.

By Mr. BYRD:

S. Res. 296. Resolution informing the House of Representatives that a quorum of the Senate is assembled; considered and agreed to.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. PROXMIRE (for himself and Mr. INOUYE):

S. 2001. A bill to amend title XVIII of the Social Security Act to provide for research with respect to the outcomes of specific medical treatments and surgical procedures; to the Committee on Finance.

HEALTH OUTCOMES RESEARCH FUND

Mr. PROXMIRE. Mr. President, today I am introducing, on behalf of myself and the senior Senator from Hawaii, Mr. INOUYE, legislation to dedicate a very small proportion of the Medicare trust fund—one-fifth of 1 percent—to research into the outcomes of various medical and surgical procedures. In essence, my bill is based on the proposition that we know far too little about the quality of what we are purchasing with our Medicare dollars. I strongly believe that an investment of a small amount of money from the trust fund will produce impressive benefits in the form of improved treatment for our senior citizens at a substantially reduced cost.

Let me give you some idea of what I mean. In the fall of 1984 the Labor-HHS-Education Appropriations Subcommittee held a morning hearing on a little known but immensely important subject called variations in medical practice patterns. Our primary witness at that hearing was Dr. Jack Wennberg, a leader in the study of these variations, who testified that if low-cost patterns of practice were the norm, we would not be facing a Medicare funding crisis nor would we be concerned with the question of rationing medical health care.

Just what are these so-called low-cost patterns of practice? Dr. Wennberg's studies have shown that from county to county within a single State there are huge swings in the use of most surgical procedures. For example, in one area of Maine, by the time a woman reaches the age of 70, the likelihood that she will have undergone a hysterectomy is 70 percent, while in another area that likelihood is only 25 percent. In Iowa, the chances of a man who reaches the age of 85 having undergone a prostatectomy range from a low of 15 percent to a high of more than 50 percent, depending on the hospital market he lives in. Of course, the high surgery areas cost both the Federal Government and the patients who live in those areas a great deal of money. In fact, over the long haul all Medicare patients receiving medical insurance benefits under the program have to pay part of the costs of high surgery rates through increased part B premiums. Finally more surgery exposes more patients to the increased risks that come with hospitalization.

But what is the proper way to practice medicine when it comes to diseases of the uterus, prostate, and many other organs? Should the standard be "when in doubt, cut it out," or is there a better, more sophisticated way of dealing with these diseases? The truth of the matter is we simply do not have enough information to either praise the doctor who tends to recommend against certain kinds of surgery, or applaud the doctor who favors operating in most circumstances. And that is precisely why the legislation I am introducing today is badly needed. Without understanding how patients who have undergone surgery fare as compared with others treated more conservatively, the medical profession is in no position to make the best choice. My bill would fund research into the efficacy of various types of medical practice patterns—the outcome studies I mentioned at the beginning of this statement.

Let me quickly add that the money made available by my legislation would not be targeted only at studies that compare a surgical approach with a nonsurgical method of treatment. Far from it. The words "outcome studies" cover a multitude of medical practices. For example, this might be the time to look into the value of periodic examinations of the kind the President underwent prior to his surgery for intestinal cancer. Does it make sense to suggest that everyone over 50 should have a thorough sigmoidoscopy every year, or every 3 years, or every 5 years? Should an attending physician be suggesting more frequent examinations after the age of 55 or 60? We do not have the answers but a thorough outcome study that would tell us how many intestinal cancers would be caught in their early stages by various examination protocols would give us those answers and save a great deal of money in the treatment of this particularly common form of cancer in the bargain.

Another area that could profit from the investment of some outcome study dollars is the question of optimum hospital stay times. With the advent of the prospective payment system a premium has been placed on discharging patients from hospitals as soon as possible. This has apparently led to some abuses and we are going to be faced with an increasing number of complaints that hospitals are unfeelingly kicking patients out the door before they are on the mend in order to maximize hospital income. Well designed studies on the effect hospital discharge policies have on the outcome of various illnesses could shed helpful light on this issue and dissipate some of the heat generated by the absence of hard data.

Outcome research also should help us to move some medical and surgical procedures from the hospital to outpatient settings such as surgicenters and doctors' offices. Solid outcome research could tell us whether patients do as well, or possibly even better, if they are spared a stay in the hospital. We know their pocketbooks and the Federal Treasury will be a little healthier, but we should also know that patients are being properly counseled when they are advised to have surgery on an ambulatory basis.

It might be argued that ample authority to do the kind of research I have mentioned today already exists. Certainly the National Institutes of Health have a broad mandate to conduct biomedical research and a few exemplary outcome studies, such as the Heart, Lung and Blood Institute's study on coronary bypass surgery, have been done. But the Institutes are primarily concerned with basic biomedical research and rightly so. They have very little interest in looking into procedures that have been common medical practice for 20, 30 or 40 years to determine the conditions under which those procedures are indicated. The Health Care Financing Administration conducts research into service delivery questions having to do with beneficiary access, new reimbursement schemes and program management approaches, but this kind of research has relatively little to do with outcome studies.

The National Center for Health Services Research and Health Care Technology Assessment has a role to play in this area, which is why the funding provided by my bill is funneled into the Center, but their current budget allows them to fund, at most, one modest outcome based quality of care study each year and is devoted in large part to such topics as health promotion and disease prevention, the role of market forces in the health care delivery system the organization of health services, and the assessment of new technology.

Some might question the use of Medicare trust funds to deal with medical conditions that are not unique to our senior citizens. However, the legislation I am introducing today makes it

clear that in selecting medical and surgical procedures for study, priority would be given to those that are significant for the Medicare population in terms of cost, risk, frequency, and length of hospitalization. There are many surgical procedures that could qualify including cataract surgery, prostatectomies, carotid endarterectomies, and a host of major genito-urinary tract operations. Of course, there are also many medical questions that are ripe for study such as hosptial stay times and the use of certain diagnostic procedures. Furthermore, I am convinced that this investment will save the Medicare trust fund far more than it will cost by reducing unnecessary hospitalizations and establishing the appropriateness of conservative methods of treatment for any number of conditions.

The bill I am introducing today would provide start up funds of $3 million in 1987 and then would earmark approximately $160 million a year—one-fifth of 1 percent of Medicare's hospital insurance trust fund—for the next 3 years of the program, increasing the percentage payment to two-fifths of the 1 percent after this initial start-up period. As I indicated earlier, the funds would be used to study the outcomes of procedures that have a significant impact on Medicare beneficiaries. At least 90 percent of the funds would be available for grants and cooperative agreements with non-Federal organizations. The legislation makes it clear that grant applications would be reviewed by technically competent peer review panels. The bill would establish a National Advisory Commission to provide advice on the conduct of the program, which would be administered by the National Center for Health Services Research and Health Care Technology Assessment. Finally, data derived from the Medicare Program as well as other federally gathered health data would be made available to approved research projects under my proposed program.

Mr. President, I'm convinced that this legislation will save both money and lives by sharpening the Nation's focus on the most efficacious methods of delivering medical care to our senior citizens. For the first time, we will be able to understand just what we are purchasing with our Medicare dollars and save a substantial number of those dollars in the process. I hope many of my colleagues will join me in sponsoring this legislation so we can work together to make a vigorous program of outcome research a reality.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the text of the bill was ordered to be printed in the RECORD, as follows:

S. 2001

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) section 1875 of the Social Security Act is amended by adding at the end thereof the following new subsection:

"(c)(1) The Secretary shall establish a program to provide for research with respect to patient outcomes of selected medical treatments and surgical procedures for the purpose of assessing their quality and effectiveness. In selecting treatments and procedures to be studied, the Secretary shall give priority to those medical and surgical treatments and procedures—

"(A) for which data indicates a highly variable pattern of utilization among beneficiaries under this title in different geographic areas; and

"(B) which are significant for purposes of this title in terms of utilization by beneficiaries, length of hospitalization, costs to the program, and risk involved to the beneficiary.

"(2)(A) For purposes of carrying out the research program under this subsection, there shall be available from the Federal Hospital Insurance Trust Fund—

"(i) for fiscal year 1987, $3,000,000;

"(ii) for each of the fiscal years 1988, 1989, and 1990, amounts equal to one-fifth of 1 percent of the receipts of such Trust Fund for such fiscal year; and

"(iii) for each of the fiscal years 1991, 1992, and 1993, amounts equal to two-fifths of 1 percent of the receipts of such Trust Fund for such fiscal year.

"(B) There are authorized to be appropriated such sums as may be necessary to fund the entitlement established under subparagraph (A).

"(3) Not less than 90 percent of the amount available for any fiscal year shall be used to fund grants to, and cooperative agreements with, non-Federal entities to conduct research described in paragraph (1). The remainder may be used by the Secretary to provide for such research by Federal entities and for administrative costs.

"(4) The research program shall be administered by the National Center for Health Services Research and Health Care Technology established under section 305 of the Public Health Service Act (hereafter in this subsection referred to as the 'Center'). The Center shall establish application procedures for grants and cooperative agreements, and shall establish peer review panels to review all such applications and all research findings.

"(5) The Secretary shall make available data derived from the programs under this title and other programs administered by the Secretary for use in the research program.

"(6)(A) The Secretary shall appoint a National Advisory Council (hereafter in this subsection referred to as the 'Council') to advise the Secretary and the Center with respect to the research program.

"(B) The Council shall consist of—

"(i) the Director of the National Institutes of Health, the Chief Medical Director of the Veterans' Administration, the Assistant Secretary for Health and Environment of the Department of Defense, the head of the Centers for Disease Control, the head of the Health Care Financing Administration, the director of the Office of Personnel Management, and such other Federal officials as the Secretary may specify, who shall be ex officio members; and

"(ii) 12 voting members appointed by the Secretary.

"(C) The Secretary shall make appointments to the Council as follows:

"(i) The Secretary shall appoint 9 members of the Council from individuals who are distinguished in the fields of medicine, epidemiology, biostatistics, clinical decisions analysis, and the behavioral sciences. Of the members appointed under this clause—

"(I) at least 3 shall be physicians;

"(II) 1 shall be selected from individuals who represent organizations involved in medical peer review;

"(III) 1 shall be selected from individuals who represent hospital administrators; and

"(IV) 1 shall be selected from individuals who represent health insurance companies or self-insured employers.

"(ii) The Secretary shall appoint 3 members of the Council from members of the general public, at least one of whom represents beneficiaries under this title.

"(D)(i) Each appointed member of the Council shall be appointed for a term of 3 years, except that—

"(I) any member appointed to fill a vacancy occuring prior to the expiration of the term for which his predecessor was appointed shall be appointed for the remainder of such term; and

"(II) of the members first appointed, 4 shall be appointed for a term of 3 years, 4 shall be appointed for a term of 2 years, and 4 shall be appointed for a term of 1 year, as designated by the Secretary at the time of appointment.

Appointed members may be appointed for additional terms and may serve after the expiration of their terms until their successors have taken office.

"(ii) Members of the Council who are not officers or employees of the United States shall receive for each day they are engaged in the performance of the functions of the Council compensation at rates not to exceed the daily equivalent of the annual rate in effect for grade GS-18 of the General Schedule, including traveltime. All members, while so serving away from their homes or regular places of business, may be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as such expenses are authorized by section 5703 of title 5, United States Code, for persons in the Government service employed intermittently.

"(E) The Council shall annually elect one of its appointed members to serve as Chairman until the next election.

"(F) The Council shall meet at the call of the Chairman, but not less often than 3 times a year.

"(G) The Director of the Center shall designate a member of the staff of the Center to act as Executive Secretary of the Council, and make available to the Council such staff, information, and other assistance as the Council may require.".

(b) Section 1862(a)(1) of such Act is amended—

(1) by striking out "and" at the end of subparagraph (C);

(2) by striking out the semicolon at the end of subparagraph (D) and inserting in lieu thereof ", and"; and

(3) by adding at the end thereof the following new subparagraph:

"(E) in the case of research conducted pursuant to section 1875(c), which is not reasonable and necessary to carry out the purposes of such section;".

● Mr. INOUYE. Mr. President, I am pleased to cosponsor legislation being offered today by my colleague, Senator WILLIAM PROXMIRE, who has been serving admirably as the ranking member of the Senate Labor-HHS-Education Appropriations Subcommittee for the past several years.

The proposal which we are introducing would direct that a small, but significant, proportion of the Medicare Trust Fund be specifically allocated for outcome-related research activities. This proposal grew out of the special hearings held by the subcommittee in November 1984. At that time, we received testimony describing the extent to which various health care practitioners apparently treat very similar, if not identical, illnesses in quite different manners, depending upon their theoretical orientation and their geographical location.

In the mental health area this difference in orientation is especially significant. Dr. Charles Kiesler of the American Psychological Association pointed out during the hearings that "Traditional inpatient care for mental disorders is neither the most effective nor the most cost-effective method of treatment." He went on to state that, after a review of various studies, "In no case has mental hospitalization produced better treatment outcomes than any alternative care. In every study, differences favored the alternative care rather than mental hospitalization, in terms of psychiatric symptomatology, rating by family, probability of being able to locate or maintain a job, subsequent hospitalization, and the like. In every case where there has been systematic calculation, the alternative care was less expensive".

Mr. President, the most recent statistics I have received from the Department of Defense CHAMPUS Program indicate that approximately 72.7 percent of its total mental health expenditures are for inpatient care. Dr. Kiesler pointed out that presently 25 percent of all hospital inpatient days in our Nation are for mental disorders. I think all of us can readily see the very significant cost-savings potential of ensuring that the most effective and cost-efficient treatment is given priority.

Mr. President, during the 96th Congress a number of us attempted to have a proposal enacted into public law which, at that time, was commonly known within the mental health field as the "Efficacy Amendment". Essentially, under that proposal, Medicare and Medicaid would only provide reimbursement for those mental health services which were deemed to be safe, effective, and appropriate. At that time, we proposed to allocate $20 million of trust fund moneys so that the experts in the mental health field could conduct appropriate studies to determine what types of therapies, and under what conditions, would meet this very straightforward test of accountability.

It is my hope that the proposal which we are introducing today will represent the next step in our effort to ensure that the citizens of our Nation can be assured that they are receiving appropriate and quality mental health care.●

By Mr. THURMOND (for himself and Mr. HOLLINGS):

S. 2002. A bill to specify that appropriations for the Cooper River seismic modification project in South Carolina be used for such purpose; to the Committee on Environment and Public Works.

COOPER RIVER SEISMIC MODIFICATION PROJECT

Mr. THURMOND. Mr. President, together with my distinguished colleague, Senator HOLLINGS, I am today introducing legislation which would require the Army Corps of Engineers to allocate money previously appropriated by Congress for the Cooper River seismic modification project in South Carolina. Mr. President, it is unfortunate that introduction of this legislation is necessary. However, recent Office of Management and Budget [OMB] actions have made it necessary.

Under the fiscal year 1986 energy and water development appropriations bill (Public Law 99-141), funds for general construction projects of the Civil Division of the Army Corps of Engineers were specifically appropriated for the Cooper River seismic modification project in South Carolina. This is a project authorized by Public Law 98-63. It is intended to minimize downstream damage likely to result from an earthquake-induced failure of the Pinopolis West Dam.

It has now come to our attention that OMB has ordered the corps not to allocate the funds as directed by Congress in the conference report accompanying the energy and water resource appropriations bill.

Mr. President, the action of the OMB in directing that the corps not allocate these funds for the Cooper River seismic modification project can only be considered an effort to frustrate and circumvent the express will and intention of Congress in appropriating these moneys. This action raises serious public policy and constitutional concerns.

Mr. President, Congress has decided to appropriate these funds. It is not the function of OMB to second guess the will of Congress. Therefore, I urge my colleagues to support the swift adoption of this measure.

By Mr. MOYNIHAN:

S. 2003. A bill to control the precursors of acid rain through the establishment of a program to demonstrate new control technologies and through a program requiring reductions in emissions, and for other purposes; to the Committee on Environment and Public Works.

ACID RAIN CONTROL ACT

● Mr. MOYNIHAN. Mr. President, I rise today, the first day of the second session of this Congress, to introduce legislation to address a matter of importance to my State of New York and the entire Nation; acid rain.

Much has changed since I introduced the first—the only—acid rain legislation to become law, the Acid Precipitation Act of 1980.

I have said many times since we passed that law that I do not believe it would have been approved at all, had we known then what we now do about the dimensions of the problem.

We did pass it, the President signed it, and we now know a great deal. We know that man, not nature is the primary source of sulfur emissions in the United States. We know that sulfur emissions from utility stacks and smelters can travel thousands of miles and change the chemistry of rainfall at great distances. We know that some lakes are particularly sensitive to such emissions, and that the changes these emissions bring can kill fish. We have a great deal of information suggesting that the economic cost of damage to paint, buildings, and public monuments can be substantial—and we are very, very worried about the trees; with cause.

This administration has steadfastly maintained that it would consider controls on the emissions that cause acid rain, once we learned enough to be confident that such controls were necessary.

Mr. President, last March—St. Patrick's Day—President Reagan met with Prime Minister Brian Mulroney of Canada, at what has become known as the shamrock summit. Now, acid rain is a highly sensitive matter to the Canadians, because they are well aware that we produce most of the emissions that fall as acid rain in Canada. Many here urged President Reagan to produce substantive action on acid rain at that time; indeed I wrote him at the time with several suggestions.

Little action was taken, but the President did appoint a well-regarded envoy, Mr. Drew Lewis, to research this issue. And here are the findings of the President's envoy:

> Acid rain is a serious environmental problem in both the United States and Canada.
>
> Acid rain is a serious transboundary problem.
>
> At the present time, there are only a limited number of potential avenues for achieving major reductions in acidic air emissions.

Mr. President, Mr. Lewis is quite right, and President Reagan would do well to be guided by him; as should we all.

Mr. President, the bill I introduce today incorporates his findings and recommendations. It would establish a joint program with industry to develop new technologies for controlling acid rain and to reduce the costs of implementing existing control technologies. The President's envoy was quite specific about how this should be done—$500 million a year for 5 years from the Federal Government, and a like amount from industry, to fund demonstrations that would help us achieve the greatest reductions, as rapidly as possible, with technologies that permit the clean use of high-sulfur coal.

Mr. Lewis also called for greater bilateral communication between the United States and Canada; this bill includes such. And he called for a Cabinet-level panel to oversee the new Technology Demonstration Program. My bill includes this, too, a "Panel on Acid Rain Technology." I have named it so to make absolutely clear—and Mr. Lewis' findings leave no doubt—that improving technology is only part of the answer for acid rain.

The rest of the answer is a firm, comprehensive program for specific reductions in emissions of sulfur and nitrogen oxides. My bill includes this as well, by incorporating the substance of the Environment and Public Works Committee's acid rain bill, S. 52. I have been proud to be a cosponsor of Senator STAFFORD's bill in the past; I offer it again here in the context of the recommendations to President Reagan from his own envoy that he do something now to reduce acid rain.

Mr. President, the report of President Reagan's envoy has changed the terms of the acid rain debate. No longer need we debate whether the time has come to do something about acid rain. Now we must turn to crafting the best program we can to address the problem.

I ask unanimous consent that the text of the legislation be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2003

Be it enacted by the Senate and House of Representatives of the Uinted States of America in Congress assembled, That this Act may be cited as the "Acid Rain Control Act of 1986".

TITLE I—CONTROL TECHNOLOGY DEVELOPMENT PROGRAM

SEC. 101. This title may be cited as the "Acid Precipitation Act Amendments of 1986".

SEC. 102. The Acid Precipitation Act of 1980 (Title VII of Public Law 96-294) is amended by adding after section 706 the following new section:

"RESEARCH AND DEMONSTRATION PROGRAM

"SEC. 707. (a)(1) The Congress finds that—

"(A) acid rain is a serious environmental problem in both the United States and Canada;

"(B) acid rain is a serious transboundary problem;

"(C) at the present time, there are only a limited number of potential avenues for achieving major reductions in acidic air emissions; and

"(D) there is a need both to broaden the range of options currently available for control of acidic air emissions and to reduce their costs as mandatory emission reductions are imposed.

"(2) The purposes of this section are to—

"(A) expand the scale of research activities designed to develop new technologies for commercial application in the near term for the reduction of acidic air emissions and to reduce the costs and improve the effectiveness of existing technologies;

"(B) augment existing bilateral research and consultative arrangements with the Government of Canada on acid rain; and

"(C) establish a commercial technology demonstration program to be funded jointly by industry and the Federal Government, to be targeted toward demonstration that both advance current knowledge and make maximal reductions in U.S. acidic air emissions.

"(b)(1) The President shall appoint the head of a department of cabinet rank to head an oversight panel for the research demonstration program under this section and to select the projects to be co-funded by the Federal Government. The panel shall be known as the "Panel on Acid Rain Technology". The Environmental Protection Agency, the Department of Energy, and the members and staff of the Acid Precipitation Task Force shall provide the panel with technical assistance necessary to select demonstration projects. The President shall include as members of the Panel officials from the Department of State and from State governments, and shall invite the Government of Canada to send a representative to sit on the panel.

"(2) The Panel shall make annual reports to the Congress detailing projects receiving support, knowledge gained, efficiencies obtained, and emissions removed or avoided.

"(c) Control technologies eligible for partial Federal funding under this section include those that may be expected to eliminate substantial portions of sulfur dioxide or nitrogen oxide emissions from either new or existing sources in applications of commercial scale. Projects with projected sulfur dioxide reductions of less than 55 percentum are not considered to offer substantial reductions for the purposes of this section.

"(d) Proposals for projects to be funded under this section must include a technical description of the nature of the project, the size or anticipated emission reductions, and a financial plan detailing the source or sources and amount of industry support.

"(e) The Federal share of project costs may be established on a project-by-project basis by the Panel. In no case shall the Federal Government assume more than 65 percent of the costs of any individual project.

"(f) The Panel shall report to the Congress 60 days prior to approving any project if the Federal share for such a project is $100,000,000 or greater.

"(g) The Panel shall evaluate proposals for the use of Federal funds under this section on the basis of the following criteria:

"(1) Projects should be chosen that have the potential for largest emissions reductions, measured as a percentage of sulfur dioxide or oxides of nitrogen removed.

"(2) Among projects with similar potential, Federal funding should go to those that reduce emissions at the smallest cost per ton.

"(3) More consideration should be given to projects that demonstrate retrofit technologies applicable to the largest number of existing sources, especially existing sources that, because of their size and location, contribute to transboundary air pollution.

"(4) Special consideration should be given to technologies that can be applied to facilities currently dependent on the use of high-sulfur coal.

"(h) The Joint Chairmen of the Acid Precipitation Task Force shall establish a bilateral advisory and consultative group on transboundary air pollution together with appropriate officials of the Canadian government to provide a forum for ongoing discussion, and to provide advice to the members of the Task Force, the Secretary of State, the President, and the Congress.

"(i) There are authorized to be appropriated, in addition to sums appropriated to the Department of Energy for clean coal technology under Public Law 99-190, $500,000,000 for the purpose of meeting the Federal share of project costs for demonstration control projects described in this section in each of the fiscal years 1987 through 1991, to remain available until expended." Sec. 103(a) Section 704(c)(4) of the Acid Precipitation Act of 1980 is amended by inserting "primary" before "basis."

(b) Section 704 of such Act is amended by inserting the following subsection after (c), and redesignating subsections (d) through (f) as subsections (e) through (g):

"(d) The following shall be considered a secondary basis on which requests for authorizations and appropriations may be made for the fiscal years 1987 through 1991, in addition to the requests made on the basis of the comprehensive plan, and represent research areas that the Congress believes are deserving of additional attention:

"(1) Developing improved methods for monitoring the dry deposition of acidic particles, and implementation of a dry deposition monitoring network sufficient to serve the entire North American continent.

"(2) Acquiring additional process-level data from differing watershed types to aid in determining current and potential effects of acid deposition on surface waters in the future; developing and empirically testing models for predicting watershed response to acid deposition; and developing an adequate acid deposition data base on watershed characteristics to exercise the models for selected North American sensitive areas.

"(3) Pursuing further research on surface water acidification, emphasizing quantification of the relationships between changes in surface water chemistry and both rates and types of changes in aquatic biota.

"(4) Accelerating ongoing research into the potential links between forest decline and acid rain as a causal or contributing factor.

"(5) Devoting increased attention to the effects of acid rain on materials, and improving the quantification of current damage, resources at risk, and the prognosis for future damage.

"(6) Investigating further the mobilization, transport and flux of heavy metals, including but not limited to lead, mercury, cadmium and arsenic, in acidified surface waters, with additional attention to the role of these metals in aquatic and forest damage and special emphasis on possible effects on human health and possible mitigation strategies.

TITLE II—EMISSION REDUCTION PROGRAM

INTERSTATE TRANSPORT AND ACID PRECURSOR REDUCTION

SEC. 201. Title I of the Clean Air Act is amended by adding the following new part:

"PART E—INTERSTATE TRANSPORT AND ACID PRECURSOR REDUCTION

"FINDINGS AND PURPOSES

"SEC. 180. (a) The Congress finds that—

"(1) the long-range transport of pollutants and their transformation products is an interstate and international problem;

"(2) current levels of emissions of air pollutants from existing sources as well as increased emissions from new and existing sources threaten public health and welfare and the environment in States and countries other than those in which emitted;

"(3) reduction of total regional atmospheric loading of pollutants such as sulfur oxides and nitrogen oxides will enhance protection of public health and welfare and the environment;

"(4) more effective regulation of the interstate transport of air pollutants is needed in order to protect the health and welfare of the citizens of downwind States and the economic growth opportunities of downwind States; and

"(5) in particular,

"(A) the deposition of acid compounds from the atmosphere is causing and contributing to widespread long-term ecosystem degradation;

"(B) the principal source of the acid compounds in the atmosphere, and their precursors, is the combustion of fossil fuels;

"(C) the problem of acid deposition is of national and international significance and cannot be addressed adequately without Federal intervention;

"(D) control strategies and technology for precursors to acid deposition exist now that are economically feasible; and

"(E) current and future generations of Americans will be more adversely affected by delayed action, so that efforts to remedy the problem should commence now.

"(b) The purposes of this part are to—

"(1) protect public health and welfare and the environment from any actual or potential adverse effect caused by ambient concentrations or deposition of air pollutants, including the products of atmospheric transformation of pollutants; and

"(2) preserve the rights and responsibilities of States to protect the public health and welfare and the environment of their citizens from air pollution originating in other States.

"ESTABLISHMENT OF REGION

"SEC. 181. There is hereby established a long-range transport corridor, hereafter referred to as the 'acid deposition impact region,' consisting of the States of Alabama, Arkansas, Connecticut, Delaware, Florida, Georgia, Illinois, Indiana, Iowa, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, New Hampshire, New Jersey, New York, North Carolina, Ohio, Pennsylvania, Rhode Island, South Carolina, Tennessee, Vermont, Virginia, West Virginia, Wisconsin, and the District of Columbia.

"RESEARCH AND SPECIAL STUDIES

"SEC. 182. (a) The Administrator shall conduct a study of air pollution problems associated with the long-range transport of pollutants in the portions of the continental United States not included in section 181. Not later than two years after the enactment of this section, the Administrator shall report to the Congress the results of such study.

"(b)(1) The Acid Precipitation Task Force established under title VII of the Energy Security Act (Public Law 96-294) shall submit to the Committee on Environment and Public Works of the United States Senate and the Committee on Energy and Commerce of the United States House of Representatives, two comprehensive reports, one by December 31, 1985, and one by December 31, 1987, which shall present the findings of the research conducted under section 704(b) of such Act, including recommendations, based upon existing scientific knowledge, for reducing acid deposition and its effects.

"(2) In addition to any other funds authorized to be appropriated for the Acid Precipitation Task Force for the purposes of carrying out the activities required by section 704 of title VII of the Energy Security Act, there are authorized to be appropriated $10,000,000 in each of the fiscal years 1985, 1986, 1987, 1988, and 1989.

"(c) The Task Force established by title VII of the Energy Security Act shall also conduct and support research on advanced flue-gas cleaning and precombustion fuel treatment technologies and inherently low-emission combustion processes (including atmospheric and pressurized fluidized bed combustion).

"(d)(1) Not later than six months after enactment of this section there shall be established an Acid Precipitation Scientific Review Board with not more than 15 members who shall be appointed by the National Academy of Sciences.

"(2) The Board shall examine and consider all available information regarding the causes, extent and potential environmental impacts of acid deposition, including a review of all the activities being performed by the Acid Precipitation Task Force under section 704(b) of the Energy Security Act.

"(3) The Board shall submit to the Committee on Environment and Public Works of the United States Senate and the Committee on Energy and Commerce of the United States House of Representatives at least two comprehensive reports, one not later than June 30, 1986, and one not later than June 30, 1988, on the results of its examination undertaken in accordance with paragraph (2), including a review of the report(s) submitted to the Committees of Congress by the Task Force as required by subsection (b)(1) of this section, together with the Board's own recommendations for reducing acid deposition and its effects.

"(4) There are authorized to be appropriated $1,000,000 for each of fiscal years 1985 through 1988, for the purposes of carrying out the activities required by this subsection.

"(e)(1) Promptly after the date established by section 185, the Administrator shall submit to the Committee on Environment and Public Works of the United States Senate and the Committee on Energy and Commerce of the United States House of Representatives a report describing the emission limitation and other enforceable measures adopted by the States and approved by the Administrator under section 184(b) or in effect under section 185, for all States in the acid deposition impact region established by section 181.

"(2) The Office of Technology Assessment shall analyze the environmental benefits to be gained through the implementation of the control requirements described by the Administrator in accordance with paragraph (1) of this subsection, the costs of implementing such control requirements, and any potential effects on coal production or markets of implementing such control requirements, on both an aggregate regional and a State-by-State basis. The Office of Technology Assessment shall report its findings to the Committee on Environment and Public Works of the United States Senate and the Committee on Energy and Commerce of the United States House of Representatives no later than six months after the submission of the report required in paragraph (1).

"(f) Upon receipt of the reports required by subsections (b)(1), (d), (e)(1), and (e)(2), the Committee on Environment and Public Works of the United States Senate and the Committee on Energy and Commerce of the United States House of Representatives shall conduct hearings on the matters contained in such reports and take such other action as each such committee deems appropriate.

"(g) The Administrator shall develop an inventory of sources of oxides of nitrogen in the acid deposition impact region established by section 181 and in each State thereof. Not later than four years after enactment of this part the Administrator shall report to the Committee on Environment and Public Works of the United States Senate and the Committee on Energy and Commerce of the United States House of Representatives on (1) the inventory of sources of oxides of nitrogen developed under this subsection, (2) control technology and methods for new and existing sources for oxides of nitrogen, and (3) any recommendations for requirements to reduce existing emissions or control new emissions of oxides of nitrogen to reduce acid deposition.

"(h) The Administrator and the Secretary of the Treasury shall jointly conduct a study of the potential for a system of fees on the generation of electrical energy in the acid deposition impact region established by section 181, to be used to finance the reductions in emissions required by this part, including the equitable distribution of the funds resulting from such fees. A report of such study shall be submitted to the Congress not later than six months after submittal of the report required by subsection (e)(1) of this section.

"(i)(1) The Administrator is authorized to conduct or make grants to any State or interstate agency for the purposes of conducting the development, refinement and practical demonstration of new, improved, or innovative methods of neutralizing or restoring the buffering capacity of acid altered bodies of water that no longer can support game fish species; and methods of removing from bodies of water toxic metals or other toxic substances mobilized by acid deposition, and to include in such grants such amounts as necessary for the purpose of reports, plans and specifications in connection therewith.

"(2) Grants under this subsection shall not be made for any project in an amount exceeding 75 per centum of the costs thereof as determined by the Administrator.

"(3) Grants under this subsection shall not be made for any project that involves bodies of water that did not contain game fish as established by State law prior to 1970.

"(4) For the purposes of this subsection there are hereby authorized to be appropri-

ated $5,000,000 for each of the fiscal years 1985, 1986, and 1987.

"ACID PRECURSOR CONTROLS

"SEC. 183. (a) There shall be achieved a reduction in annual emissions of sulfur dioxide in the acid deposition impact region established under section 181 of this Act of ten million tons from the total actual annual level of such emissions between January 1, 1980, and December 31, 1980. Such reduction shall be achieved pursuant to a phased reduction and completed no later than January 1, 1994.

"(b)(1) Emissions of sulfur dioxide from major stationary sources which did not begin operation before January 1, 1981, or which have increased emissions since January 1, 1981 (to the extent of such increase), calculated on an annual basis, shall be added to the amount of sulfur dioxide which the State in which such sources are located is required to reduce not later than January 1, 1994, under 184(a).

"(2)(A) Such emissions shall not be so added in any State which during 1980 had no major stationary source which was a utility boiler which had an actual annual average emission rate greater than 1.2 pounds of sulfur dioxide per million British thermal units of heat input.

"(B) Increases in emissions of sulfur dioxide from utility boilers which are coal capable as defined under section 301(a) of the Fuel Use Act and which convert to the use of coal as a primary fuel shall be so added only to the extent such emissions from a particular source exceed 1.5 pounds of sulfur dioxide per million British thermal units of heat input on an annual average.

"(c) Other than as provided in subsection (b)(2)(B), no major stationary source in such region which began operation before January 1, 1981, shall increase its actual rate of emissions of sulfur dioxide over that experienced by such source during calendar year 1980, unless there has been identified for such source a simultaneous net reduction in emissions of sulfur dioxide at one or more points in such region—

"(1) in excess of the emissions which potentially would result from the proposed increase in emission rate, and

"(2) not otherwise required by a State implementation plan under section 110 of this Act or under section 184 or 185 of this part.

This subsection shall not apply to increases in actual rates of emissions of sulfur dioxide from sources in any State in which for each major stationary source of sulfur dioxide which was a utility boiler the emission limitation in effect under an applicable implementation plan at the time of such increases is less than or equal to 1.2 pounds of sulfur dioxide per million British thermal units of heat input on an annual average.

"(d) No major stationary source of sulfur dioxide shall commence operation after January 1, 1994, in such region unless there has been identified for such source a simultaneous net reduction in emissions of sulfur dioxide at one or more points in such region—

"(1) in excess of the emissions which potentially would result from the proposed new source, and

"(2) not otherwise required by a State implementation plan under section 110 of this Act or under section 184 or 185 of this part.

This subsection shall not apply to any major stationary source which adopts the best available control technology, as defined in section 169(3) or 171(3) as appropriate for the location of the proposed new source, and which attains at least the most stringent emission limitation shown by an adequate operating history to have been achieved in practice by a major stationary source of the same size, type, and class within the region established under section 181 of this Act.

"(e) No major stationary source of oxides of nitrogen in such region which began operation before January 1, 1981, shall increase its actual rate of emissions of oxides of nitrogen as measured in pounds of oxides of nitrogen per million British thermal units of heat input over the greater of that experienced by such source during calendar year 1980, or during the thirty-day period (excluding days on which such source did not operate) immediately preceeding the date of enactment of this subsection, unless there has been identified for such source a simultaneous net reduction in emissions of oxides of nitrogen at one or more points in such region—

"(1) in excess of the emissions which potentially would result from the proposed increase in emission rate, and

"(2) not otherwise required by a State implementation plan under section 110 of this Act.

The preceding sentence shall not apply to emissions of oxides of nitrogen from utility boilers which are coal capable as defined under section 301(a) of the Fuel Use Act and which convert to the use of coal as a primary fuel.

"STATE SULFUR DIOXIDE REDUCTION REQUIREMENTS

"SEC. 184. (a)(1) Each State shall be required to achieve within its borders a reduction in annual sulfur dioxide emissions equal to that fraction of ten million tons which is the ratio of all the actual utility emissions in such State in excess of 1.2 pounds of sulfur dioxide per million British thermal units of heat input averaged over the period January 1, 1980, to December 31, 1980, to the total in all States in the region of all the actual utility emissions in excess of 1.2 pounds of sulfur dioxide per million British thermal units of heat input averaged over such period.

"(2) The Governors of any two or more States within the region may by agreement reallot among agreeing States the reductions required under subsection (a)(1): *Provided*, That the total reductions equal the total required under subsection (a)(1).

"(b)(1) Not later than twenty-four months after the enactment of this part, each State shall adopt enforceable measures to achieve the reduction in sulfur dioxide emissions required by subsection (a) of this section, including emission limitations and schedules for compliance for sources within such State and other means of emission reduction in accordance with section 186 of this Act. The Governor of such State shall submit such measures to the Administrator for review in accordance with paragraph (2) of this subsection and section 110(a)(3), and to the Governors of all other States in the acid deposition impact region for comment.

"(2) Review and approval of measures submitted under this subsection shall be as provided in section 110(a)(3). The Administrator shall approve such measures submitted under paragraph (1) of this subsection if, taking into consideration the comments of Governors of other States in such region, the Administrator finds that such measures—

"(A) contain enforceable requirements for continuous emission reduction,

"(B) contain requirements for monitoring by the source and enforcement agencies to assure that the emission limitations are being met, and

"(C) are adequate to achieve the reduction in sulfur dioxide emissions for such State required pursuant to subsection (a) of this section within the time specified in section 183(a) of this Act.

"(3) Not later than thirty-six months after the enactment of this part, each major stationary source subject to an emission limitation established under this subsection shall notify the Governor of the State in which it is located of its intended method of compliance. The Governor shall submit such notifications to the Administrator.

"(4)(A) Not later than sixty months after the enactment of this part, each major stationary source which pursuant to the requirements of this subsection states that it will comply with an emission limitation through the use of fuel substitution shall be in compliance with such emission limitation.

"(B) Not later than sixty months after the date of enactment of this part, each major stationary source which pursuant to this subsection states that it will comply with an emission limitation established under this subsection through the installation of a technological system of continuous emission reduction or the replacement of existing facilities with new facilities with substantially lower emissions, or any other means except fuel switching, shall enter into binding contractual commitments to acquire, install, or construct such system or facilities.

"(5) Each emission limitation, schedule for compliance or other measure adopted and approved under this subsection shall be deemed a requirement of the State implementation plan approved or promulgated for such State under section 110 of this Act.

"(6) In the case of any major stationary source in a State listed in section 181, which is not by December 31, 1985, in full compliance with the applicable implementation plan for sulfur dioxide in effect on January 1, 1981, the owner or operator of such source shall be subject to:

"(A) the emission limitation established by section 185 for all facilities in such State owned or operated by such owner or operator, and

"(B) a noncompliance penalty established under section 120 for each such source or facility, including each electric generating facility, for the period from the original date for compliance under the applicable implementation plan until actual compliance with the emission limitation established under this paragraph.

"MAJOR STATIONARY SOURCE SULFUR DIOXIDE REDUCTION REQUIREMENTS

"SEC. 185. In any State in the acid deposition impact region established by section 181 of the Act which has not in accordance with section 184(b)(1) of this Act adopted measures to achieve the reduction required by section 184(a) of this Act within twenty-four months after enactment of this part, or which has not had such measures approved by the Administrator under section 184(b)(2) of this Act within six months after the submission of such measures, the owner or operator of each fossil-fuel-burning electric generating facility which is a major stationary source which is not subject to section 111(a) shall comply with an emission limitation or limitations for all such facilities owned or operated by the same entity in such region equivalent to an average among such facilities of 1.2 pounds of sulfur dioxide per million British thermal units of heat input on a thirty-day average. The owner or

operator of each such facility shall submit to the Administrator a plan and schedule of compliance for achieving such emission limitation or equivalent emission reduction in accordance with section 186 of this Act, not later than three years after the enactment of this part or six months after the date on which such owner or operator becomes subject to such emission limitation, whichever is later. The Administrator shall approve such plan and schedule for compliance if it—

"(A) contains enforceable requirements for continuous emission reduction;

"(B) contains requirements for monitoring by the source and enforcement agencies to assure that the emission limitations are being met; and

"(C)(i) in the case of a source that proposes to comply with the emission limitation through use of fuel substitution, will achieve the emission reduction required by this section no later than twenty-four months after such plan is submitted, or

"(ii) in the case of a source that proposes to comply with the emission limitation through installation of a technological system of continuous emission reduction or replacement of existing facilities with new facilities with substantially lower emissions, or any other means except fuel switching, contains enforceable requirements that such source, within twenty-four months after such plan is submitted, enter into binding contactural commitments to acquire, install or construct such system or facilities.

Failure of such owner or operator to submit such approvable plan and schedule within the time provided in this section, failure to comply with the plan and schedule of compliance, and failure to achieve the emission reduction required by the dates required by this section, shall be violations of emission limitations for the purposes of sections 113, 120, and 304 of this Act.

"ENFORCEABLE EMISSION REDUCTION PROGRAMS

"SEC. 186. (a) For the purposes of maintaining the limitation on emissions required by section 183(c) of this Act or attaining emission reductions required by section 183(a), 184, or 185 of this Act, the following methods or programs for net emission reduction may be used, in addition to enforceable continuous emission reduction measures, by a State or the owner or operator of a source, if emission limitations under such methods or programs are enforceable by the Federal Government, States other than those in which the emissions occur, and citizens under section 304 of this Act:

"(1) least emissions dispatch to meet electric generating demand at existing generating capacity;

"(2) retirement of major stationary sources at an earlier date than provided in schedules on file with the Federal Energy Regulatory Commission, the Internal Revenue Service, or State utility regulatory agencies;

"(3) investments in energy conservation where reductions in emissions can be identified with such investments;

"(4) trading of emission reduction requirements and actual reductions on a State or regional basis, for which States and the Administrator are authorized to establish emission reduction banks or brokerage institutions to facilitate such trading; and

"(5) precombustion cleaning of fuels.".

INTERSTATE POLLUTION

SEC. 202. (a) Section 110(a)(2)(E) of the Clean Air Act is amended—

(1) by inserting "or sources" after "source";

(2) by striking "prevent" and inserting in lieu thereof "interfere with"; and

(3) by inserting after "visibility," the following: "or (III) contribute to atmospheric loadings of pollutants or their transformation products which may reasonably be anticipated to cause or contribute to an adverse effect on public health or welfare or the environment in any other State or foreign country,".

(b) Section 123 of the Clean Air Act is amended as follows:

(1) in the second sentence of subsection (c), by striking "immediate vicinity" and inserting in lieu thereof "impact area";

(2) in the fourth sentence of subsection (c), by striking all that language preceding "prohibit" and inserting in lieu thereof "The Administrator may";

(3) adding a new subsection (d) as follows:

"(d) The Administrator shall within one year of enactment of the Clean Air Act Amendments of 1984 complete a review of the emission limits for all existing major sources which have come into existence since 1970 or which have raised the stack height since 1970, in order to determine whether emission limits for such sources are inappropriately based upon modeling credit for stack height above good engineering practice. If emission limits are determined to be inappropriately based, the Administrator shall require the State, within six months, to correct the emission limit to conform with requirements of this section. It shall be the burden of the operator of each such source to demonstrate the correct stack height credit to be used in determining proper emission limits.".

(c) Section 126 of the Clean Air Act is amended as follows:

(1) by adding a new subsection as follows:

"(d) Emission of an air pollutant which, by itself or in combination, reaction, or transformation, adversely affects the public health or welfare of another State, is in violation of this section.".

(2) in subparagraph (B) of subsection (a)(1), by striking "in excess of the national ambient air quality standards";

(3) in subsection (b)—

(A) in the first sentence, following "major source", by inserting "or group of sources";

(B) by striking "110(a)(2)(E)(i)" and inserting in lieu thereof "110(a)(2)(E) or this section";

(4) in subsection (c)—

(A) in the first sentence, following the words "violation of", inserting "this section and";

(B) striking "110(a)(2)(E)(i)" wherever it appears and inserting in lieu thereof "110(a)(2)(E) or this section";

(C) in paragraph (2) insert before the period the phrase, "or to continue operation in violation of subsection (d) more than two years after the date of such finding without the installation of reasonably available control technology".

(d) Section 302(h) of the Clean Air Act is amended by inserting "precipitation," following "effects on" the second time it appears and by inserting before the period a comma and "whether caused by transformation, conversion, or combination with other air pollutants."

(e) Section 304(a)(1) of the Clean Air Act is amended by inserting—

(i) inserting a comma after "Act";

(ii) striking "or"; and

(iii) inserting at the end thereof the following: "or (C) section 126,".●

ADDITIONAL COSPONSORS

S. 524

At the request of Mr. ARMSTRONG, the names of the Senator from Illinois [Mr. SIMON], and the Senator from Oklahoma [Mr. NICKLES] were added as cosponsors of S. 524, a bill to recognize the organization known as The Retired Enlisted Association, Inc.

S. 929

At the request of Mr. HEINZ, the name of the Senator from Pennsylvania [Mr. SPECTER] was added as a cosponsor of S. 929, a bill to amend the Railroad Retirement Act of 1974 to eliminate the COLA offset provisions, and restore amounts offset under those provisions after January 1984.

S. 945

At the request of Mr. THURMOND, the name of the Senator from Rhode Island [Mr. PELL] was added as a cosponsor of S. 945, a bill to recognize the organization known as the National Association of State Directors of Veterans' Affairs, Inc.

S. 1018

At the request of Mr. GORTON, the name of the Senator from Pennsylvania [Mr. SPECTER] was added as a cosponsor of S. 1018, a bill to amend the National Labor Relations Act to clarify the meaning of the term "guard" for the purpose of permitting certain labor organizations to be certified by the National Labor Relations Board as representatives of employees other than plant guards.

S. 1107

At the request of Mr. NUNN, the names of the Senator from South Carolina [Mr. THURMOND], and the Senator from Georgia [Mr. MATTINGLY] were added as cosponsors of S. 1107, a bill to authorize the Society of the Third Infantry Division to erect a memorial in the District of Columbia or its environs.

S. 1446

At the request of Mr. ANDREWS, the name of the Senator from Illinois [Mr. SIMON] was added as a cosponsor of S. 1446, a bill to amend title 38, United States Code, to improve veterans' benefits for former prisoners of war.

S. 1456

At the request of Mr. LAUTENBERG, the names of the Senator from Massachusetts [Mr. KERRY] and the Senator from Tennessee [Mr. GORE] were added as cosponsors of S. 1456, a bill to recognize the Army and Navy Union of the United States of America.

S. 1640

At the request of Mr. GRASSLEY, the names of the Senator from Michigan [Mr. LEVIN], the Senator from Vermont [Mr. LEAHY], the Senator from Maryland [Mr. SARBANES], the Senator from South Carolina [Mr. THURMOND] and the Senator from West Virginia

[Mr. ROCKEFELLER] were added as cosponsors of S. 1640, a bill to amend title XVIII of the Social Security Act to provide for coverage under the Medicare Program of services performed by a physician assistant.

S. 1688

At the request of Mr. DURENBERGER, the name of the Senator from New York [Mr. MOYNIHAN] was added as a cosponsor of S. 1688, a bill to amend the Internal Revenue Code of 1954 to include obligations issued with respect to certain State student loan programs within the definition of qualified student loan bonds.

S. 1889

At the request of Mr. DENTON, the names of the Senator from Rhode Island [Mr. CHAFEE], the Senator from Vermont [Mr. LEAHY], and the Senator from Florida [Mrs. HAWKINS] were added as cosponsors of S. 1889, a bill to amend title 11 of the United States Code, relating to bankruptcy, to prevent discharge of administratively ordered support obligations.

S. 1919

At the request of Mr. ANDREWS, the names of the Senator from Massachusetts [Mr. KENNEDY] and the Senator from Illinois [Mr. SIMON] were added as cosponsors of S. 1919, a bill to establish a task force to examine the issues associated with abuse of the elderly.

S. 1920

At the request of Mr. LAUTENBERG, the name of the Senator from California [Mr. CRANSTON] was added as a cosponsor of S. 1920, a bill to extend the Superfund taxes.

S.1931

At the request of Mr. D'AMATO, the name of the Senator from Rhode Island [Mr. CHAFEE] was added as a cosponsor of S. 1931, a bill to amend the Urban Mass Transportation Act of 1964 to require construction management oversight on major capital projects.

S. 1948

At the request of Mr. WEICKER, the name of the Senator from Florida [Mrs. HAWKINS] was added as a cosponsor of S. 1948, a bill to assure that high quality services are furnished to developmentally disabled individuals and mentally ill individuals in residential facilities and by providers of home and community-based services which receive funds under the Medicare or Medicaid Programs, and to amend the Developmental Disabilities Assistance and Bill of Rights Act to require that residential programs meet Medicaid standards.

SENATE JOINT RESOLUTION 178

At the request of Mr. D'AMATO, the names of the Senator from Idaho [Mr. SYMMS], and the Senator from Idaho [Mr. MCCLURE] were added as cosponsors of Senate Joint Resolution 178, a joint resolution to designate the week of April 13, 1986, through April 19, 1986, as "Hemochromatosis Awareness Week."

SENATE JOINT RESOLUTION 249

At the request of Mr. DENTON, the names of the Senator from South Dakota [Mr. ABDNOR], the Senator from Oklahoma [Mr. BOREN], the Senator from North Dakota [Mr. BURDICK], the Senator from Mississippi [Mr. COCHRAN], the Senator from California [Mr. CRANSTON], the Senator from Illinois [Mr. DIXON], the Senator from Minnesota [Mr. DURENBERGER], the Senator from North Carolina [Mr. EAST], the Senator from Utah [Mr. HATCH], the Senator from Florida [Mrs. HAWKINS], the Senator from Alabama [Mr. HEFLIN], the Senator from North Carolina [Mr. HELMS], the Senator from New Hampshire [Mr. HUMPHREY], the Senator from Louisiana [Mr. JOHNSTON], the Senator from Massachusetts [Mr. KENNEDY], the Senator from Nevada [Mr. LAXALT], the Senator from Indiana [Mr. LUGAR], the Senator from Hawaii [Mr. MATSUNAGA], the Senator from Georgia [Mr. MATTINGLY], the Senator from Kentucky [Mr. MCCONNELL], the Senator from South Dakota [Mr. PRESSLER], the Senator from Michigan [Mr. RIEGLE], the Senator from Illinois [Mr. SIMON], the Senator from Pennsylvania [Mr. SPECTER], and the Senator from Mississippi [Mr. STENNIS] were added as cosponsors of Senate Joint Resolution 249, a joint resolution to proclaim October 23, 1986, as "A Time of Remembrance" for all victims of terrorism throughout the world.

SENATE CONCURRENT RESOLUTION 90

At the request of Mr. LAUTENBERG, the names of the Senator from Hawaii [Mr. INOUYE], the Senator from Arkansas [Mr. BUMPERS], and the Senator from Pennsylvania [Mr. HEINZ] were added as cosponsors of Senate Concurrent Resolution 90, a concurrent resolution urging the President to convene a conference to develop an International Seaport Security Agreement relating to seaport and passenger vessel security among the United States, its allies, other interested nations, and the private sector.

SENATE RESOLUTION 276

At the request of Mr. LAUTENBERG, the names of the Senator from Maryland [Mr. SARBANES], and the Senator from Maryland [Mr. MATHIAS] were added as cosponsors of Senate Resolution 276, a resolution expressing the sense of the Senate regarding the Federal Air Traffic Control System.

SENATE RESOLUTION 295—INFORMING THE PRESIDENT THAT A QUORUM OF THE SENATE AND THE HOUSE OF REPRESENTATIVES IS PRESENT

Mr. DOLE submitted the following resolution; which was considered and agreed to:

S. RES. 295

Resolved, That a committee consisting of two Senators be appointed to join such committee as may be appointed by the House of Representatives to wait upon the President of the United States and inform him that a quorum of each House is assembled and that the Congress is ready to receive any communication he may be pleased to make.

SENATE RESOLUTION 296—INFORMING THE HOUSE OF REPRESENTATIVES THAT A QUORUM OF THE SENATE IS PRESENT

Mr. BYRD submitted the following resolution; which was considered and agreed to:

S. RES. 296

Resolved, That the Secretary inform the House of Representatives that a quorum of the Senate is assembled and that the Senate is ready to proceed to business.

NOTICES OF HEARINGS

COMMITTEE ON THE BUDGET

Mr. DOMENICI. Mr. President, the Senate Committee on the Budget will hold a hearing on the Gramm-Rudman-Hollings Law-fiscal year 1986 sequester and review of procedures—on Wednesday, January 22, 1986, at 2 p.m. The hearing will be held in room 608 of the Dirksen Senate Office Building. Alternate sound will be available in the Dirksen Auditorium.

The Honorable James C. Miller, Director, Office of Management and Budget; the Honorable Rudolph C. Penner, Director, Congressional Budget Office; and the Honorable Charles A. Bowsher, Comptroller General, GAO, will testify.

SUBCOMMITTEE ON PUBLIC LANDS, RESERVED WATER AND RESOURCE CONSERVATION

Mr. WALLOP. Mr. President, I would like to announce for the information of the Senate and the public, the scheduling of five public hearings before the U.S. Senate Subcommittee on Public Lands, Reserved Water and Resource Conservation, on Monday, February 10, 1986, in Ely, NV; on Tuesday, February 11, 1986, in Elko, NV; on Wednesday, February 12, 1986, in Winnemucca, NV; on Thursday, February 13, 1986, in Reno, NV; and on Friday, February 14, 1986, in Las Vegas, NV.

The subcommittee will hear testimony on S. 722, to designate certain National Forest System lands in the State of Nevada for inclusion in the National Wilderness Preservation

System, and for other purposes, and on other legislative proposals for wilderness and park designations in Nevada.

The February 10 hearing will be held at the Bristlecone Pine Convention Center at 150 6th Street, Ely, NV, from 9 a.m. to 12 noon. Those wishing to testify in Ely should contact the office of Senator HECHT, 300 Las Vegas Boulevard, South, Suite 426, Las Vegas, NV 89101, phone: (702) 388-6605. Those wishing to testify must sign up in advance of the hearing no later than close of business February 5, 1986.

The February 11 hearing will be held at the Elko Convention Center at 700 Festival Way, Elko, NV, from 9 a.m. to 12 noon. Those wishing to testify in Elko should contact the office of Senator HECHT, 300 Booth Street, Reno, NV 89509, phone: (702) 784-5007. Those wishing to testify in Elko must sign up in advance of the hearing no later than close of business February 5, 1986.

The February 12 hearing will be held at the Winnemucca Convention Center at 50 Winnemucca Boulevard, Winnemucca, NV, from 9 a.m. to 12 noon. Those wishing to testify in Winnemucca should contact the office of Senator HECHT, 300 Booth Street, Reno, NV 89509, phone: (702) 784-5007. Those wishing to testify in Winnemucca must sign up in advance of the hearing no later than close of business February 5, 1986.

The February 13 hearing will be held at the Reno/Sparks Convention Center in Reno, NV, from 9 a.m. to 12 noon. Those wishing to testify in Reno should contact the office of Senator HECHT, 300 Booth Street, Reno, NV 89509, phone: (702) 784-5007. Those wishing to testify in Reno must sign up in advance of the hearing no later than close of business February 5, 1986.

The February 14 hearing will be held at the Las Vegas City Hall in the Commissioners Room at 400 Stewart Avenue, Las Vegas, NV, from 9 a.m. to 12 noon. Those wishing to testify in Las Vegas should contact the office of Senator HECHT, 300 Las Vegas Boulevard, South, Suite 426, Las Vegas, NV 89101, phone: (702) 388-6605. Those wishing to testify in Las Vegas must sign up in advance of the hearing no later than close of business February 5, 1986.

Oral statements will be limited to no more than 3 minutes per witness, and possibly less, depending on the number of witnesses who wish to testify. Witnesses will be placed in panels. A witness may testify at one hearing only. Because of the large expected attendance, individuals are requested to select the one city where they wish to testify and testify on the appropriate day. Witnesses are requested to bring 15 copies of their testimony with them to the hearing.

For further information, please contact Senator HECHT's offices in Reno or Las Vegas or Tony Bevinetto, Patty Kennedy, or Ann Femia of the subcommittee staff in Washington, DC at (202) 224-0613.

ADDITIONAL STATEMENTS

THE SAIDS OF DELPHI HIGH

● Mr. QUAYLE. Mr. President, since 1968, one category of Government spending has grown at a faster rate than any other in the Federal budget. Is that category defense spending? No, defense outlays have actually decreased from 46 percent of the Federal budget in 1968 to just over 26 percent in fiscal year 1985. Has it been spending on domestic health, education, and income security programs? No, these programs accounted for one-third of the Government's spending in 1968 and just under one-half in 1985, a growth rate of 48.9 percent. In fact, the fastest growing category of spending over the past 17 years has been interest payments on the national debt. Net interest payments accounted for $11 billion, or 6.2 percent, of the 1968 budget, yet by fiscal year 1985, they had more than doubled to 13.6 percent of the total budget, or a whopping $130.4 billion.

Our national debt of over $2 trillion is the legacy of past budget deficits. If record $200 billion-plus deficits are allowed to continue, it obviously follows that interest payments will consume still a larger portion of each year's tax dollar. Through runaway Federal spending, we have mortgaged our future for the sake of temporary convenience.

The reason I compare figures for 1968 to data from our most recently completed fiscal year is that most of today's high school seniors were born in 1968. These students represent our Nation's future, and it is they who will bear the burden of today's deficits. These costs are exacted not only through increasing interest payments, but also in real terms, through inflation, the cruelest tax of all, and through the overvaluation of the dollar, which allows foreign businesses to produce goods at a relative advantage over our domestic manufacturers—at the cost of U.S. jobs. Today's youth are entering the job market just as the staggering effects of our accumulated deficits are beginning to be realized.

Mr. President, the aptly named "Oracles" of Delphi Community High School in Delphi, IN, have provided us with valuable insight into the perils of a continued flow of red ink in our Federal budgets. In early December, the students of Norman Miller's government class there began to discuss the Federal budget deficit. As his students focused their attention on the impact today's deficits will have on their generation, Norm Miller was both surprised and impressed by the genuine concern and sense of urgency they expressed about Federal deficit spending. After studying these alarming numbers, one student told him, "We realized that we wouldn't have anything left for the future." All the students in the class asked Miller what could be done to cure our Nation's fiscal woes. "In order to have an impact on the political process," he told them, "you must organize yourselves." And organize they did.

About 30 Delphi High students, mostly seniors, attended an after-school meeting to form a club, "Students Against Inflated Deficit Spending," or SAIDS. The members of SAIDS circulated a petition among their 500 fellow students calling for a balanced Federal budget, and they gained 313 signatures. In addition, after school, SAIDS members braved the frigid weather of an Indiana December to canvass their school district with another balanced-budget petition, and garnered an additional 356 signatories among the residents of the Delphi school district, which includes the towns of Delphi, Battleground, Brookston, Burrows, Camden, Monticello, Rockfield, and West Lafayette. But the members of SAIDS still weren't satisfied that their point was sufficiently emphatic and unquestionably clear. Through a raffle, SAIDS raised $100 to be applied toward Federal deficit reduction.

I should add that the SAIDS members undertook their petition drive and fundraising campaign at a frenetic pace over the course of 2 weeks to complete their commendable initiative before the start of the school's holiday vacation schedule, and so that the petitions and their $100 check could be sent promptly to me and my colleagues, Senator DICK LUGAR and Fifth District Congressman BUD HILLIS, who represents Delphi and its surrounding communities.

Mr. President, this afternoon, I was proud to inform Secretary of the Treasury James A. Baker III of the grassroots support that the members of Delphi High's SAIDS club have generated for a balanced Federal budget, and I was privileged to present to Secretary Baker on behalf of SAIDS their check to the Treasury for $100. We should never forget the old proverb that a journey of 1,000 miles begins with one step. Thus, while $100 may not go far toward erasing the 1985 fiscal year deficit of $211.9 billion, nor a $2 trillion debt, the energy, spirit, dedication and sense of civic responsibility displayed by these young Hoosiers will do much to secure the

future of our Nation. In working so hard to promote public awareness of the critical need for a balanced Federal budget, the members of Indiana's Delphi High SAIDS club have set a stellar example worthy of emulation by their peers across the country.

Mr. President, at the conclusion of my remarks, I ask to have printed in the RECORD the text of the two petitions circulated by the Delphi High SAIDS members, as well as articles about the student's efforts that appeared in the Lafayette Journal and Courier on December 12, 1985 and January 8, 1986.

The material follows:

PETITION

We, the students of the Delphi School District, petition Representative Bud Hillis, Senator Dan Quayle, and Senator Richard Lugar for a balanced budget. We feel that the deficit spending of our government adversely affects the youth of our community. We, as well as our children, will eventually be faced with the burden of paying these bills. We demand that a balanced budget be enacted as soon as possible.

We, the residents of the Delphi School District, petition Representative Bud Hillis, Senator Dan Quayle, and Senator Richard. Lugar for a balanced budget. We feel that the deficit spending of our government adversely affects the future of all American citizens. Our children will eventually be faced with the burden of paying these bills. We demand that a balanced budget be enacted as soon as possible.

[From the Journal (Lafayette, IN) Courier, Dec. 12, 1985]

DELPHI TEENS WILL MAKE PLEA FOR END TO DEFICIT

(By Dean Olsen)

DELPHI.—Teen-agers in this Carroll County city plan to tell federal lawmakers that they and hundreds of other county residents want the almost $2 trillion national debt eliminated.

"I really don't want to be paying for the national debt the government's gotten us into," Chris Flora, 17, said.

Flora and about 30 other students at Delphi Community High School have formed a club called Students Against Inflated Deficit Spending. They have begun a petition drive in the 500-student school and throughout the school district, demanding a balanced budget.

The students even hope to raise $300 and send it to the federal government to help reduce the national debt.

The petition drive, designed to get students interested in current events, was the idea of Norman Miller, Delphi High's government teacher. He said he didn't expect students to become so interested.

[From the Journal (Lafayette, IN) Courier, Jan. 8, 1986]

[Hope This Helps]

DELPHI STUDENTS GIVE TO REDUCE U.S. DEFICIT

(By Valerie Butler)

Can you imagine making a penny down payment on a $20 billion loan? Students at Delphi Community High School can.

About 40 students in this Carroll County city have sent $100 to the U.S. Treasury to help reduce the federal deficit.

Paying $100 toward a $2 trillion national debt is equivalent to making a one cent payment on $20 billion. Sen. Dan Quayle, R-Ind., plans to present the check to Treasury Secretary James A. Baker later this month.

The high school club, Students Against Inflated Deficit Spending, was formed last year in response to teen-age concern about the largest-ever national debt. Delphi teacher Norman Miller, organizer of the group, said he discussed the problems of deficit spending with his three government classes.

"They got all excited and asked, 'What can we do about it?' ", he said: "We called a meeting and about 40 kids showed up." One of the kids was Georgia Goodner, a high school senior, who eventually took charge of raising money.

Goodner said Miller's classes increased her awareness of the nation's spending problems.

"It really hit home. We realized that we wouldn't have anything left for the future," she said. Miller warned the students that the interest on $2 trillion would mean higher taxes and the possible elimination of Social Security.●

JEFFREY T. BERGNER

● Mr. LUGAR. Mr. President, as the Senate begins this second session of the 99th Congress, I am losing one of my closest associates who has been an important part of my life here since 1978. Jeffrey T. Bergner has served me and his country with distinction first as my legislative assistant for foreign policy, then my legislative director, my administrative assistant, and in the past year, staff director of the Foreign Relations Committee. He is leaving us today for the world of consulting, as part of the new firm of Berman, Bergner & Boyette.

It is with sadness and satisfaction that I see Jeff leave the Hill. His achievements during the past 7 years are legion. At the Foreign Relations Committee, he has done his greatest work. When I became chairman of the Foreign Relations Committee at the beginning of this Congress, my goal was to reinvigorate our activities with a new sense of direction and purpose. Any success that we have witnessed in this effort has been largely stimulated by Jeff Bergner.

We counseled that the committee hold a series of hearings attempting to build a new consensus in American foreign policy. His work led to the first foreign aid bill the Senate had passed in 4 years. Jeff's hand was also prominent in the Senate's action to support the Contras in Nicaragua, to provide emergency economic aid to Israel and Jordan, and to change the direction of our policies toward South Africa.

In addition, Jeff has built an excellent staff at the Foreign Relations Committee. He leaves the Senate and the committee in able hands. The new staff director is M. Graeme Bannerman, who has served as deputy staff director. The new deputy staff director is Kenneth Myers.

Although he is a native of Wisconsin, we have given Jeff honorary status as a Hoosier because of his long service in my office, and because of his wonderful wife, Susan, who is from Indiana. A graduate of Carleton College, where he attained Phi Beta Kappa, Jeff received both his master's degree and a Ph.D. from Princeton University. He was an assistant professor of political science at the University of Pennsylvania before joining my staff.

Jeff has earned the admiration and respect of committee members as well as his colleagues on the committee staff. The Committee on Foreign Relations passed the following resolution in honoring Jeff Bergner for his service to the committee:

Whereas Jeffrey T. Bergner joined the Senate in August 1978 and has served as Staff Director of the Committee on Foreign Relations since January 1985;

Whereas he served six of his years in the Senate as Legislative Director and subsequently Administrative Assistant to Senator Richard G. Lugar of Indiana;

Whereas, in his capacity as Staff Director, he made incalculable contributions to the Committee on a broad range of foreign policy issues, including passage by the Senate of the first foreign aid bill in four years, emergency economic aid to Israel and Jordan, and a major change in direction of our policies toward South Africa;

Whereas the reinvigoration of Committee activities with a sense of direction and purpose over the past year has been stimulated in large part by his efforts;

Whereas, as Staff Director, he supervised Committee consideration of innumerable items of legislation, treaties, and nominations, demonstrating great understanding of the legislative process;

Whereas, during his tenure as Staff Director, he has given the Committee the benefit of his perceptive insights into the role of Congress in foreign policy and sought to establish a more balanced relationship between the Legislative and Executive branches in the field of foreign policy;

Whereas he has provided indispensable leadership in developing and maintaining the professional traditions of the staff of the Committee on Foreign Relations;

Now, therefore, be it

Resolved, That the Committee on Foreign Relations expresses to Jeff Bergner its deepest appreciation for his outstanding service to the Committee, to the United States Senate, and to the United States of America.●

TRIBUTE TO DR. JEFFREY T. BERGNER

● Mr. PELL. Mr. President, I wish to join the chairman of the Foreign Relations Committee, Senator LUGAR, in commending Dr. Jeffrey T. Bergner for his service to the Senate and in particular his service to the Foreign Relations Committee. Jeff has served for the past year as the committee's staff director. Prior to that, he spent 7 years in Senator LUGAR's personal office, first as his foreign policy adviser and then as his administrative assistant.

I came to know Jeff well during his tenure as the committee's staff director. We were in frequent contact, and I valued the fine relationship that he and I established and that Jeff established with the minority staff.

Sadly, Jeff is leaving the committee staff to enter the private sector, but he will take with him the friendship, respect and good wishes of people on both sides of the aisle. Jeff has served the chairman well; but he has also been attentive to the need and wishes of all members of the committee, and I commend him for that. We have not agreed on all issues, but we were always able to talk out our differences in a civilized manner and in the spirit of comity that has long prevailed in our committee.

Jeff will take a wealth of experience and ability with him into the private sector. In reflecting on his decision to enter the private sector, Jeff has said that he has talked so much for so many years about the importance and vitality of the free enterprise system that it is probably time to show that he meant it. Having spent some time in the business community myself, I can understand the sentiments that have led Jeff to leave the world of appropriations for the world of the bottom line. I wish him every success and thank him for the many courtesies he has extended to me.●

452D AIR REFUELING WING

● Mr. WILSON. Mr. President, I would like to offer my congratulations today to the personnel of the 452d Air Refueling Wing at March Air Force Base, CA.

This Air Force Reserve Wing compiled an outstanding record during 1985.

Taking part in the Strategic Air Command Bombing and Navigation Competition, an event which matches skills of bomber and air refueling tanker crews from the Active Air Force, the Air Force Reserve, the Air National Guard and the Royal Air Force, the 452d won the Saunders Trophy and the Navigation Trophy.

To win the Saunders Trophy, which is given for most points for all activity during four long and grueling missions, the 336th Air Refueling Squadron, headquarters flying unit, scored 3,743 points out of a possible 4,000.

The crews were just 10 points less than a perfect 1,600 in celestial navigation.

A total of 58 crews from the active Air Force, Air Force Reserve, and the Air National Guard took part in the competition for the two trophies.

The 78th Air Refueling Squadron, a 452d KC-10 associate unit at Barksdale Air Force Base, LA, shared the McDonnell-Douglas Best KC-10 Unit Trophy with its Active Air Force counterpart at that base.

The 78th was the first Air Force Reserve KC-10 associate unit formed.

In September, the 452d was named "Outstanding Flying Wing of the Year" by the Air Force Association. The award marked the fourth time since its inception in 1976 that the 452d had been singled out for this prestigious honor and was the third time the wing had been selected in the past 5 years.

During the period covered by the award, April 1, 1984, to March 31, 1985, 452d unit flew a combined total of 17,340 hours, refueled 9,248 receivers from all major U.S. Air Force commands as well as the Air Force Reserve, Air National Guard, U.S. Navy, U.S. Marine Corps and the German Air Force both in the continental United States and overseas. Reservists deploy annually to Royal Air Force in Mildenhall in England as well.

A total of 70,920,924 pounds of fuel or 11 million gallons was offloaded, 452d KC-10 crews have flown to Antarctica and they regularly travel to the Mideast and Spain for temporary duty there.

A fuel conservation program initiated by the 336th Air Refueling Squadron saved more than $655,000 during the first 9 months of 1984—a sum exceeding the squadron's entire payroll for that period. On an annual basis, the savings would come close to $900,000 and the Fuel Savings Program was instituted in 1978.

The California Air Force Reserve Wing was activated at Long Beach International Airport in 1949 and has compiled an exemplary record since then in bombardment, tactical reconnaissance, tactical airlift, military airlift and air refueling missions.

In January 1976, the 452d moved from Hamilton to March Air Force Base to begin conversion from a military airlift mission with C-130 turboprops to air refueling with KC-235's—the first Air Force Reserve organization chosen for such an assignment.

The conversion was so successful—all commitments and deadlines met either early or on time—the 452d was awarded the Air Force Outstanding Unit Award.

During the Korean conflict, the 452d, then a light bombardment wing, was the first Air Force Reserve unit to fly combat missions in that theater.

I am proud to have this honored air refueling wing in the State of California. I am sure my colleagues join me in commending Brig. Gen. William B. McDaniel and the outstanding members of the 452d Air Refueling Wing for their exemplary contribution to commitment.●

DOMESTIC ENERGY INDUSTRY

● Mr. BOREN. Mr. President, a little over a month ago I stood before this body and reminded my colleagues of the importance of considering the long-term impact of our actions. Specifically, I raised the question of the long-term stability of our domestic energy industry.

I introduced legislation last summer that proposed placing a fee on imported crude oil and petroleum products. At the time the price of oil on the spot market was approximately $30 per barrel. In December I asked the chairman of the Finance Committee, Senator ROBERT PACKWOOD, for hearings on this issue as soon as possible this year. At that time the price of oil had fallen to approximately $26 per barrel.

Today, I am renewing the call for consideration of an import fee on foreign crude oil. I ask that there be printed in the RECORD, at this point, a letter that I wrote to President Reagan concerning import fees; also an article from today's Washington Post which recounts the further dramatic fall in the futures market for oil prices. In London, futures contracts traded as low as $19.50 per barrel. On the New York Mercantile Exchange oil was trading as low as $21.27 per barrel. Mr. President, these are the lowest levels since the late 1970's.

Now is the time for an oil import fee. We must not delay any further. We must not allow this growing problem to reach full strength.

CRUDE OIL PRICES HIT 6-YEAR LOW

(By Kathleen Day)

Crude oil prices dropped below $20 a barrel in London yesterday, triggering speculation that prices could fall as low as $14 a barrel by the end of the year.

In the United States, futures prices for heating oil, gasoline and crude oil continued a 10-day drop that has left prices at their lowest level since the late 1970s, with crude closing at $21.27 on the New York Mercantile Exchange. It was the lowest price recorded by the exchange since crude began trading in 1982.

An analyst at Paine Webber Inc. said that several trades took place in London yesterday on April contracts for a key type of crude oil from Britain's North Sea in the range of $19.25 to $19.50 a barrel.

The sharp drop in oil prices could boost economic growth of industrial nations and have an almost immediate impact on consumer costs for home heating oil and gasoline. Energy experts predicted those prices could drop within the next several weeks.

At the same time, the decline could mean more problems for nations like Mexico and Nigeria that count on oil revenue to pay off their large foreign debts, as well as large oil producers like Britain and the OPEC countries. Lower oil prices also would hurt domestic energy companies and the banks that have many energy loans on their books.

The plunge in the price of oil—the result of a continuing worldwide glut in both crude and petroleum products—could bring consumers lower heating bills and gasoline prices within several weeks, said Bryan Jacoboski, international oil analyst at Paine Webber in New York.

Crude and heating oil were expected to fall this spring as winter demand ended. But while few analysts had ruled out the possi-

bility that prices would fall below $20 a barrel, few were confident before yesterday that they actually would.

"Many people for some reason have latched on to $20 a barrel as a magic carpet floor to oil prices," Jacoboski said. Even though the purchases below $20 a barrel yesterday involved only a few trades, he said, "it's still significant."

He said that breaking that barrier could trigger a flurry of trading by investors focused on that mark, helping to push prices even lower.

Analysts said that because futures prices were lower than daily market—or spot—prices, further price drops are likely. When oil prices are stable, spot prices usually are lower than prices promised on future trades.

Both heating oil and crude oil are at their lowest prices since 1979. Energy prices began their latest decline around Thanksgiving after Saudi Arabia announced it would boost production of crude oil significantly this winter. In November, increased shipments of imported oil began arriving in the United States as a result of the Saudi production increase, swelling an already oversupplied market.

A major price war is likely if the Saudis or other producers do not decrease output, analysts say.

According to Steve Hanke, chief economist at Friedberg Commodity Management Inc. in Toronto, the Saudis also hope that by increasing production and further depressing prices, members of the Organization of Petroleum Exporting Countries might be persuaded to adhere to production ceilings to prop up prices.

Assuming oil-producing nations outside OPEC continue to pump at current levels, OPEC members would have to limit output to 15.5 million barrels a day to match demand and keep prices from sliding, according to an analysis by a major U.S. energy company. But OPEC members have insisted their "fair share" of the market requires they produce more than 17 million barrels a day.

The demand for oil in the United States is expected to be flat despite continued growth in the economy because of the effects of continued energy conservation.

The futures price of crude oil has dropped more than $3 a barrel from early last week. A barrel is the equivalent of 42 gallons.

On the New York Mercantile Exchange, contracts for February delivery of West Texas Intermediate crude oil, the benchmark U.S. grade, slid $2.26 a barrel to close at $21.27. That contract traded at $25.15 a barrel last Friday, before the latest price drop began.

Oil traded on the spot market, which brought $32 a barrel in November, fell $2.25 a barrel to $21.70 yesterday.

Heating oil fell to 59 cents a gallon from Friday's close of 63.89 cents for February delivery. February contracts for unleaded gasoline dropped to 59.79 cents a gallon from 64 cents, and regular gasoline fell to 58.90 cents from 63.28 cents.

Exxon Corp., meanwhile, said yesterday it lowered the price it pays for West Texas intermediate crude by 50 cents a barrel, to $27.50. It said it reduced other crude prices by an average of 75 cents a barrel.

U.S. SENATE,
Washington, DC, January 8, 1986.

Hon. RONALD REAGAN,
The White House,
Washington, DC.

DEAR MR. PRESIDENT: Last summer as we in Congress struggled to develop a plan to reduce the budget deficits, I suggested an import fee on foreign crude oil and refined products. At that time you expressed reservations about the proposal. I urge you to weigh the very significant changes in the economic situation which have occurred since then. They easily justify reconsideration of the issue by you as the guardian of our Nation's economic and military security. Under today's conditions, we face possible instability in the oil markets that are very dangerous to our economy and pressures for spending cuts on national security programs that could be mitigated in part through an appropriate oil import fee.

Since the recent weakening of OPEC, analysts have predicted that there could be sudden sharp drops in the price of oil. On December 11, 1985, the New York Times in an editorial repeated the possibility that oil could fall $10 per barrel, to $18 per barrel or below. If the price of oil were to fall to $18 per barrel or lower, the domestic oil industry in this country would be devastated, and domestic production would be severely curtailed.

The value of oil reserves in the ground is used as security for billions of dollars in loans held by American banks. If the value of these reserves were to drop so drastically, not only would the domestic industry suffer, but the effect of this deflation of assets would have a domino effect on the financial system, sending major shock waves through even the big money centers such as New York and Chicago.

I would again suggest that we can avoid such an event. An import fee such as the one I introduced last summer, which would not raise oil prices from current levels, would generate as much as $15 billion per year for the U.S. Treasury. It would phase in only as the price of oil declined and would provide a buffer against the shocks caused by unstable oil prices. It is becoming clear that soon we will face dramatic cuts in social and defense spending under the provisions of the Gramm-Rudman deficit reduction mechanism. The revenue from an import fee would sharply reduce the need for tax increases on average Americans while protecting the stability of our economy and financial system at the same time.

I have also enclosed a copy of my most recent statements on the floor of the Senate concerning the need for an oil import fee. I again urge you to consider the many benefits of an import fee on foreign crude oil and refined products.

Sincerely,

DAVID L. BOREN,
U.S. Senate.●

BUDGET SCOREKEEPING REPORT

● Mr. DOMENICI. Mr. President, I hereby submit to the Senate the final report on congressional budgetary action in the first session of the 99th Congress, prepared by the Congressional Budget Office. This report also serves as the scorekeeping report for the purposes of section 311 of the Congressional Budget Act, as amended.

Since the last report, the President has signed the further continuing appropriations for 1986 [Public Law 99-190], further temporary extensions [Public Law 99-189 and Public Law 99-201], and the Veterans Compensation Amendments of 1985 [Public Law 99-238].

I ask that the report be printed in the RECORD.

The report follows:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, January 21, 1986.

Hon. PETE V. DOMENICI,
Chairman, Committee on the Budget, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: The attached report shows the effects of Congressional action on the budget for fiscal year 1986. The estimated totals of budget authority, outlays, and revenues are compared to the appropriate or recommended levels contained in the most recent budget resolution, S. Con. Res. 32. This report meets the requirements for Senate scorekeeping of Section 5 of S. Con. Res. 32 and is current through January 20, 1986. The report is submitted under Section 308(b) and in aid of Section 311 of the Congressional Budget Act, as amended.

Since my last report the President has signed the Further Continuing Appropriations for 1986 (P.L. 99-190), Further Temporary Extensions (P.L. 99-189 and P.L. 99-201), and the Veterans Compensation Amendments of 1985 (P.L. 99-238), changing budget authority, outlay, and revenue estimates.

This letter is my final report on Congressional budgetary action in the first session of the Ninety-ninth Congress.

With best wishes,

Sincerely,

RUDOLPH G. PENNER.

CBO WEEKLY SCOREKEEPING REPORT FOR THE U.S. SENATE, 99th CONGRESS, 1st SESSION AS OF JAN. 20, 1986

[In billions of dollars]

	Budget authority	Outlays	Revenues	Debt subject to limit
Fiscal year 1986				
Current level [1]	1,073.0	986.8	793.6	1,949.3
Budget Resolution, S. Con. Res. 32	1,069.7	967.6	795.7	[2] 2,078.7
Current level is:				
Over resolution by	3.3	19.2		
Under resolution by			2.1	129.4

[1] The current level represents the estimated revenue and direct spending effects (budget authority and outlays) of all legislation that Congress has enacted in this or previous sessions or sent to the President for his approval. In addition, estimates are included of the direct spending effects for all entitlement or other programs requiring annual appropriations under current law even though the appropriations have not been made. The current level excludes the revenue and direct spending effects of legislation that is in earlier stages of completion, such as reported from a Senate Committee or passed by the Senate. Thus, savings from reconciliation action assumed in S. Con. Res. 32 will not be included until Congress sends the legislation to the President for his approval. The current level of debt subject to limit reflects the latest U.S. Treasury information on public debt transactions.

[2] The current statutory debt limit is $2,078.7 billion.

FISCAL YEAR 1986, SUPPORTING DETAILS FOR CBO WEEKLY SCOREKEEPING REPORT, U.S. SENATE, 99TH CONGRESS, 1ST SESSION AS OF JAN. 20, 1986.

[In millions of dollars]

	Budget authority	Outlays	Revenues
I. Enacted in previous session:			
Revenues			792,800
Permanent appropriations and trust funds	706,558	631,009	
Other appropriations		185,348	
Offsetting receipts	−162,006	−162,006	
Total enacted in previous sessions	544,551	654,351	792,800
II. Enacted this session:			
Famine Relief and Recovery in Africa (P.L. 99-10)		421	

FISCAL YEAR 1986, SUPPORTING DETAILS FOR CBO WEEKLY SCOREKEEPING REPORT, U.S. SENATE, 99TH CONGRESS, 1ST SESSION AS OF JAN. 20, 1986.—Continued

[In millions of dollars]

	Budget authority	Outlays	Revenues
Federal Supplemental Compensation Phaseout (P.L. 99-15)			10
Appropriations for the MX Missile (P.L. 99-18)		368	
Contemporaneous Recordkeeping Repeal Bill (P.L. 99-44)			13
U.S.-Israel Free Trade Act (P.L. 99-47)			-8
Statue of Liberty-Ellis Island Coin Act (P.L. 99-61)	-15	31	
International Security and Development Cooperation Act (P.L. 99-83)	-25	-25	
Supplemental Appropriations Bill (P.L. 99-88)	36	3,138	
State Department Authorization (P.L. 99-93)			2
Emergency Extension Act of 1985 (P.L. 99-107)	-49	-230	210
Simplification of Imputed Interest Rules (P.L. 99-121)			-31
Health Professions Educational Assistance (P.L. 99-129)		-8	
Amendments-Special Defense Acquisition Fund (P.L. 99-139)	100		
Energy and Water Appropriations, 1986 (P.L. 99-141)	15,252	8,245	
Department of Defense Authorization Act, 1986 (P.L. 99-145)	280	-5	
Legislative Branch Appropriations, 1986 (P.L. 99-151)	1,599	1,385	
Temporary Debt Limit Increase (P.L. 99-155)	-34	-156	140
Agricultural Extension, Tobacco Provision, (P.L. 99-157)	-20	-20	
HUD-Independent Agencies Appropriations, 1986 (P.L. 99-160)	56,909	36,247	
Offsetting receipts	-4,185	-4,185	
Military Construction Appropriations, 1986 (P.L. 99-173)	8,498	2,151	
NASA Authorization Act of 1986 (P.L. 99-170)		107	
Labor, HHS, Education Appropriations, 1986 (P.L. 99-178)	95,497	82,042	
Offsetting receipts	-19,816	-19,816	
Commerce, State, Justice Appropriations, 1986 (P.L. 99-180)	11,926	9,711	
Offsetting receipts	-118	-118	
Further Temporary Extension (Medicare) (P.L. 99-181)		-20	
Extension of Tobacco Excise Tax (P.L. 99-181)			12
Further Temporary Extension (Medicare) (P.L. 99-189)		-6	4
Food Security Act of 1985 (P.L. 99-198)	1,835	1,870	
Further Temporary Extension (Medicare) (P.L. 99-201)	-93	-467	403
Compact of Free Association (P.L. 99-239)	87	71	-3
Total enacted this session	167,663	120,730	751
III. Continuing resolution authority:			
Continuing Appropriations, 1986 (P.L. 99-190)	364,560	214,942	
Offsetting receipts	-4,450	-4,450	
Total continuing resolution authority	360,110	210,492	
IV. Conference agreements ratified by both Houses	11		
V. Entitlement authority and other mandatory items requiring further appropriation action:			
Payment to air carriers, DOT	26	24	
Maritime, operating-differential subsidies		3	
Retirement pay for PHS officers	3		
Medical facilities loan guarantee	2		
Payment to health care trust funds [1]	(907)	(907)	
Advances to unemployment trust fund [1]	(51)	(51)	
Federal unemployment benefits and allowances	65	64	
Black lung disability trust fund	46	46	
Veterans compensation	286	235	
Veterans readjustment benefits	180	137	
Veterans pensions	10		
Defense pay raise—military		675	
Compact of free association	92	92	
Total entitlements	710	1,276	

FISCAL YEAR 1986, SUPPORTING DETAILS FOR CBO WEEKLY SCOREKEEPING REPORT, U.S. SENATE, 99TH CONGRESS, 1ST SESSION AS OF JAN. 20, 1986.—Continued

[In millions of dollars]

	Budget authority	Outlays	Revenues
Total current level as of January 20, 1986	1,073,035	986,849	793,551
1986 budget resolution (S. Con. Res. 32)	1,069,700	967,600	795,700
Amount remaining:			
Over budget resolution	3,335	19,249	
Under budget resolution			2,149

[1] Interfund transactions do not add to budget totals.

Note.—Numbers may not add due to rounding.●

BILL FRENCH: CITIZEN OF THE YEAR

● Mr. CHAFEE. Mr. President, I want to pay special tribute today to William J. French, town clerk of Tiverton, RI, who was recently honored as the Tiverton Lions Club "Citizen of the Year."

"It is an honor which is richly deserved and a long time coming," the Lions Club announced in making the selection. "Bill joins an illustrious group of dedicated, community-minded individuals who have received this honor," the announcement added, "and he has exemplified what is best in civil servants."

Mr. President, if I were going to compile a list of attributes that public servants should try to exemplify, dedication and a sense of caring would be near the top. In his tireless service to the citizens of Tiverton, Bill French has embodied both these qualities.

For Bill, "dedication" is defined as a routine 12-to-14-hour workday. In the office as early as 6:30 a.m. to start the day's work, he enthusiastically sees a task through to the end, whether it be responding to citizen complaints or unearthing an ancient town archive.

Bill's participation in numerous civic and social activities underscores his sense of caring. He is a member of the Civil Preparedness Administration Team, coordinator for the Title 504 Program for the Handicapped, a past commander of the Woodrow L. Silva Post 5392 VFW of Tiverton, a member of Kerins Hogan Post 7, Disabled American Veterans, cochairman of the VFW blood program, and a member of the Rhode Island, New England, and International Clerks Associations, to name just a few.

Bill French is a man of outstanding integrity and commitment, and I ask my Senate colleagues to join me and Bill's many other friends in congratulating him on this well-deserved award. I hope that the citizens of Tiverton will continue to reap the rewards of Bill French's selfless service to them for many years to come.●

STUDENT CHEMICAL SUBSTANCE ABUSE PREVENTION ACT

● Mr. D'AMATO. Mr. President, on December 17, 1985, I cosponsored S. 1820, the Student Chemical Substance Abuse Prevention Act, introduced by my close friend and ally from Arizona. This bill authorizes $5 million in each of fiscal years 1987 through 1989 for grants to State educational agencies to assist them in developing and expanding demonstration substance abuse prevention programs in elementary and secondary schools.

I urge my colleagues to support this bill and to work for an increased commitment by the Federal Government to drug law enforcement, prevention, and treatment. The explosive increase in the availability and use of drugs in this country has resulted in intolerable increases in drug-related crime, health care costs, and numerous other social problems.

Local law enforcement, education, and social service agencies have been overwhelmed by the increased levels of drug and alcohol abuse in this country. The funding authorized by S. 1820 represents a modest, but very welcome, increase in the Federal Government's assistance to local drug prevention and education programs.

We are in a battle for our very survival. With $51 billion in lost productivity each year due to alcoholism, with $47 billion lost due to drug abuse, with countless lives lost because of drug and alcohol abuse and addiction, we are not yet winning this battle.

We need a coordinated and comprehensive war on drugs at all levels. We need to educate our children much more effectively about the dangers of drug and alcohol abuse. As Senator DECONCINI pointed out in his statement upon the introduction of S. 1820, this effort must begin at the earliest grade levels.

We must demand international cooperation to eradicate drugs at their source and to cripple the drug trafficking groups. We need an interdiction effort that makes fuller use of the military to disrupt the drug smuggling networks and deter drug trafficking. We must seize the profits and proceeds of the illicit drug industry and more effectively combat drug money laundering. The revolving door criminal justice system that favors the criminal must be overhauled.

Above all, we need the active involvement of an enlightened and aroused public that demands action from all levels of government and every segment of society. I commend Senator DECONCINI for introducing S. 1820, and I urge my colleagues to give this bill their full support.●

THE 57th ANNIVERSARY OF THE BIRTH OF DR. MARTIN LUTHER KING, JR.

● Mr. HART. Mr. President, as you know, yesterday marked the first observance of the birth of Dr. Martin Luther King, Jr., as a national holiday. I am proud to join with all Americans in celebrating the 57th anniversary of Dr. King's birth. As we commemorate his life, my sincerest hope is that we resist the temptation to elevate Dr. King to sainthood in death. Instead Mr. President, I hope we to view him as an ordinary man—called by a God in whom he had a deep and abiding faith—to perform extraordinary deeds. Far from being passive and dreaming as popular culture too often portrays him, Dr. King was militant and bold. This is the legacy which we must address if we are to truly honor the contributions of this friend of mankind.

This day carries with it a dual significance. The symbolism and importance of a nation designating a day in honor of the grandson of former slaves cannot be underestimated. Yet, the greater significance of this day is that it gives us a chance to reflect on the lessons Dr. King taught us through his words and deeds.

And what magnificent words and deeds they were. This son of the middle class, this Ph.D. educated Baptist minister went to jail 39 times challenging unjust and immoral laws.

He adopted nonviolent direct confrontation as a strategy, not because he enjoyed jail, but because he understood that eloquence and analysis by themselves do not bring change.

He challenged us to be men and women of conviction and not conformity. He challenged us to make choices. He said that each of us had to decide whether we would be thermometers or thermostats in life. Thermometers merely register temperature. "Thermostats," he said, "transform the temperature of society."

He was thrust onto the world stage demanding that black Alabamians be free to use public transportation on an equal basis with their white counterparts. Thirteen years later, he was taken from that stage after concluding that economic justice for poor black men in Memphis was a cause to die for. In between, he became the conscience of this Nation as it confronted internal revolution and external change.

His mentor Dr. Benjamin E. Mays said it best: Martin Luther King spoke to America "about war and peace; about social justice and racial discrimination; about its obligation to the poor; and about nonviolence as a way of perfecting social change in a world of brutality and war."

Mr. President, Dr. King was, as he said of himself, "a drum major for justice—a drum major for peace" for he realized that "where creative statesmanship wanes, irrational militarism increases."

To truly appreciate Dr. King's leadership we have to look—not so much at where he had been—as at where he was going. He called himself a transformed nonconformist, willing to stand up and be criticized.

He was about change. He was about a revolution in values. He was about the reordering of this society.

Dr. King said the crusade he led was much more than a struggle for the rights of blacks. He said that it forced America "to face all of its interrelated flaws—racism, poverty, militarism, and materialism," and that it revealed "systematic rather than superficial flaws." What was at issue he said, was "radical reconstruction of society itself."

This is the meaning of Dr. King's life. The commitment with which he pursued this calling is his gift to us. That we each have within us, the capacity to undergo a personal revolution of values in pursuit of peace and justice in our "world house" is the reason that we celebrate this day.

Mr. President, in order to share with my colleagues several examples of the breadth and depth of Dr. King's analysis and thinking, I respectfully submit the following items to the CONGRESSIONAL RECORD. As you can see, Mr. President, they are: The speech Dr. King delivered at the end of the voting rights march from Selma to Montgomery in 1965; his transformed nonconformist sermon, delivered on January 16, 1966, in Ebenezer Baptist Church; and several addresses he made between April 1967 and February 1968 in which he cogently set forth the basis of his opposition to the Vietnam war.

The material follows:

ADDRESS BY: DR. MARTIN LUTHER KING, JR., DELIVERED MARCH 25, 1965, DURING CEREMONIES AT THE CONCLUSION OF THE SELMA TO MONTGOMERY MARCH AT THE STEPS OF THE STATE CAPITOL IN MONTGOMERY, AL

Last Sunday, more than 8,000 of us started on a mighty walk from Selma, Alabama. We had walked through desolate valleys and across tiring hills. We have walked on meandering highways and rested our bodies on rocky byways. Some of our faces are burning from the outpourings of the sweltering sun. Some have literally slept in the mud. We have been drenched by the rain. Our bodies are tired, our feet are sore.

It is not an accident that one of the great marches of American history should terminate in Montgomery, Alabama. Just ten years ago in this very city almost at this very spot, a new philosophy was born of the Negro struggle. Nonviolent resistence came into being expressing the will and determination of the Negro people to be free in the second half of the 20th century.

Montgomery was the first city in the South in which the entire Negro community united and squarely faced its age old oppressors. Out of its struggle more than bus integration was won. A new idea more powerful than guns or clubs was born. Negroes took it and carried it across the South in epic battles that electrified the nation and the world. Yet, strangely the climactic conflicts always were fought and won on Alabama soil.

After Montgomery, heroic confrontations loomed up in Mississippi, Arkansas, Georgia and elsewhere. But not until the colossus of segregation was challenged in Birmingham did the conscience of America begin to bleed. White America was profoundly aroused by Birmingham because it witnessed a whole community of Negroes facing terror and brutality with majestic scorn and heroic courage. From the walls of its democratic spirit the nation finally forced Congress to write legislation in the hope that it would eradicate the strain of Birmingham. The Civil Rights Act of 1964 gave Negroes some part of their rightful dignity but without the vote it was dignity without strength.

Once more the method of nonviolent resistance was unsheathed from its scabbard and once again an entire community was mobilized to confront the adversary. And again, the brutality of a dying order shrieked across the land. Yet Selma, Alabama, became a shining moment in the conscience of man. If the worst in American life lurked in its dark streets the best of American instincts arose passionately from across the nation to overcome it. There never was a moment in American history more honorable and more inspiring than the pilgrimage of clergy and laity of every race and faith pouring into Selma to face danger at the side of its embattled Negroes.

The confrontation of good and evil compressed in the tiny community of Selma, generated the massive power to turn the whole nation to a new course. A president born in the South had the sensitivity to feel the will of the country and in the address that will live in history as one of the most passionate pleas for human rights pledged the might of the Federal Government to cast off the centuries-old blight.

President Johnson rightly praised the courage of the Negro for awakening the conscience of the nation. On our part we must pay our profound respect to the white Americans who cherished their democratic traditions over the ugly customs and privileges of generations and came forth boldly to join hands with us.

From Montgomery to Birmingham, from Birmingham to Selma, from Selma back to Montgomery, the trail wound in a circle long and often bloody, yet it has become a highway up from darkness. Alabama has tried to nurture and defend evil, but evil is choking to death in the dusty roads and streets of this state. So I stand before you today with the conviction that segregation is on its death bed, and the only thing uncertain about it is how costly the segregationists will make the funeral.

In focusing the attention of the nation and the world today on the flagrant denial of the right to vote we are exposing the very origin, the root cause, of racial segregation in our Southland. Racial segregation as a way of life did not come about as a result of natural emnity between the races immediately after the Civil War. There were no laws segregating the races then. But as the noted historian, C. Vann Woodard, in this book "The Strange Career of Jim Crow" clearly points out that the segregation of the races was really a political stratagem employed by the emerging bourbon interests in the South to keep the Southern

masses divided and Southern labor the cheapest in the land.

You see, it was a simple thing to keep the poor white masses working for near starvation wages in the years that followed the Civil War. Why, if the poor white plantation or mill worker became dissatisfied with his low wage, the plantation or mill owner would merely threaten to fire him and hire a former Negro slave and pay him even less. Thus, the Southern wage level was kept almost unbearably low.

But toward the end of the Reconstruction Era, something very significant happened. There developed what was known as "The Populist Movement." The leaders of this movement began awakening the poor white masses and the former Negro slaves to the fact that they were being fleeced by the emerging bourbon interests. Not only that, but they began uniting the Negro and white masses into a voting block that threatened to drive the bourbon interests from the command posts of political power in the South. To meet this threat, the southern aristocracy began immediately to engineer the development of a segregated society. Through their control of mass media, they revived the doctrine of white supremacy. They saturated the thinking of the poor white masses with it; thus, clouding their minds to the real issue involved in the Populist Movement. They then directed the placement on the books of the South of laws that made it a crime for Negroes and whites to come together as equals at any level.

And that did it. That crippled and eventually destroyed The Populist Movement of the 19th Century.

If it may be said of the slavery era that the white man took the world and gave the Negro Jesus; then it may be said of the Reconstruction Era that the Southern Aristocracy took the world and gave the poor white man JIM CROW. He gave him Jim Crow—and when his wrinkled stomach cried out for the food that his empty pockets could not provide, he ate Jim Crow, a psychological bird that told him that no matter how bad off he was, at least he was a white man—better than black men. He ate Jim Crow, and when his undernourished children cried out for the necessities that his low wages could not provide he showed them the Jim Crow signs on the busses and in the stores, on the streets and in the public buildings—and his children too, learned to feed upon Jim Crow, their last outpost to psychological oblivion.

Thus, the threat of the free exercise of the ballot by the Negro and white masses alike resulted in the establishment of a segregated society. They segregated southern money from the poor whites, they segregated southern poor from the rich whites, they segregated southern churches from Christianity, they segregated southern minds from honest thinking, and they segregated the Negro from everything.

That's what happened when the Negro and white masses of the South threatened to unite and build a "Great Society"; a society of justice where none would prey upon the weakness of others, a society of plenty where greed and poverty would be done away, a society of brotherhood where every man will respect the dignity and worth of human personality.

We've come a long way since that travesty of justice was perpetrated upon the American mind and the American dream. James Weldon Johnson put it eloquently when he said. "We have come over a way that with tears has been watered. We have come treading our path through the blood of the slaughter. Out of the gloomy past, til now, we stand at last, where the white gleam of our bright star is cast."

And today I want to tell the city of Selma and the state of Alabama and the people of America and to the nations of the world, that we are not about to turn around now. We are on the move now . . . We are on the move now and no wave of racism can stop us. We are on the move and the burning of our churches will not deter us; the bombing of our homes will not dissuade us; the beating and killing of our young people will not divert us; the wanton release of their known murderers will not discourage us. We are on the move now and like an idea whose time has come, not even the marching of mighty armies can halt us.

Let us therefore, continue our triumphant march to the realization of the American dream. Let us march on segregated housing until every ghetto of social and economic oppression is disabled and Negroes and whites live side by side in decent, safe and sanitary housing. Let us march on segregated schools until every vestige of segregated and inferior education becomes a thing of the past and Negroes and whites study side by side in the socially healing context of the classroom. Let us march on poverty until no American parent has to skip a meal so that their children may eat. March on poverty until no starved man walks the streets of our cities and towns in search of jobs that do not exist. Let us march on poverty until wrinkled stomachs in Mississippi are filled and the idled industries of Appalachia are revitalized and broken lines of sweltering ghettos are mended and remolded. Let us march on ballot boxes until the salient misdeeds of the blood thirsty are transformed into the honest good deeds of orderly citizens. March on ballot boxes until race baiters disappear from the political arena; March on ballot boxes until the Wallaces of our nation tremble away in silence. March on ballot boxes until we send to our city councils, state legislatures and U.S. Congress, men who will not fear to do justly, love mercy and walk humbly with their God. Let us march on ballot boxes until brotherhood becomes more than a meaningless word in an opening prayer, but the order of the day on every legislative agenda.

Now there is nothing wrong with marching in this sense. The Bible tells us that the mightly men of Joshua merely walked about the walled city of Jericho and the barriers to freedom came tumbling down. I like that old Negro spiritual, "Joshua fit de battle of Jericho." In its simple yet colorful depiction of that great moment in Biblical history it tells us that:

"Joshua fit de battle roun' Jericho
Joshua fit de battle roun' Jericho
And de walls came tumbling down
Up to the walls of Jericho, dey marched wid spear in hand. Go blow dem ram horns, Joshua cried
Course de battle am in my hand."

These words I have given you just as they were given us, by their unknown, long dead, dark skinned originator. Some now long gone black bard bequeathed to posterity these words in ungrammatical form, yet with emphatic pertinence for all of us today. The battle is in our hands. We can answer with creative nonviolence the call to higher ground to which the new directions of our struggle summon us.

The road ahead is not altogether a smooth one. There are no broad highways that lead easily and inevitably to quick solutions. And it would be irresponsible of us if we were to indicate that there were. Instead, the course we must follow lies through a maze of inter-related demands and counter-demands . . . hopes and aspiratons . . . fears and hatreds. But difficult and painful as it is, such a course must be charted and the civil rights movement must walk it with courage and dignity of our past achievements.

In the glow of lamplight on my desk a few nights ago, I gazed again upon the wondrous signs of our time, full of hope and promise for the future and I smiled to see in the newspaper photographs of nearly a decade ago, the faces so bright, so solemn of our valiant heroes, the people of Montgomery. To this list may be added the names of all those who have fought and yes, died in the nonviolent army of our day. The patter of their feet as they walked through Jim Crow barriers in the great stride toward freedom, is the thunder of the marching men of Joshua, and the world rocks beneath their tread.

My people, my people . . . listen . . . listen . . . the battle is in our hands. All over Alabama there is a cry for marching.

As I close, let us reaffirm our commitment to nonviolence. Mine eyes have seen the glory of the coming of the Lord. He is trampling out the vintage where the grapes of wrath are sworn. He has loosed the fateful lightning of his terrible swift sword. His truth is marching on.

He has sounded forth the trumpet
That shall never call retreat. He
Is sifting out the hearts of men
Before his judgement seat.
O be swift my soul to answer him
Be jubilant my feet
Our God is marching on.

SERMON BY DR. MARTIN LUTHER KING, JR., EBENEZER BAPTIST CHURCH, ATLANTA, GA, JANUARY 16, 1966

Just a few days ago, the young representative-elect of the 136th District, Julian Bond, made a statement that placed him on record as taking a stand against war. He further made a statement agreeing with a statement that had been made by an organization criticizing the policy of our government in Vietnam. Immediately after this statement was made, there was a great uproar all over the State of Georgia. Screaming editorials in the newspapers, on television and on the radios were heard. Vituperative words were uttered by legislators from all over the State of Georgia. They talked about him as if he had committed some grave crime. And even some Negroes jumped into the fray to convince America of their respectability and patriotism, something America does not need to be convinced about concerning the Negro. And instead of statements saying we disagree with this position, we find it difficult to accept every aspect of this situation, some went so far to call him unreasonable, misguided, a traitor, failing to realize that when democracy fails to have healthy debate, it loses its soul. And so, a few days after, that legislature of the State of Georgia, in an unprecedented act, in an unjust and illegal and immoral act, voted almost unanimously to unseat Mr. Julian Bond. This was a young man who dared to speak his mind. This is a young man who dared to be different. This is a young man who dared to dissent. This is a young man who did not fear to take a view against majority opinion. Emotions are still high, but this morning I

want to meditate with you on something that I've been thinking about ever since this crisis developed. I always go back to Scripture to find my consolation. Occasionally I find it in secular literature, and I think Ralph Waldo Emerson in his essay on self reliance was eminently correct when he said, "A man cannot truly be a man unless he can be a non-conformist." Long before Emerson wrote these words, the apostle Paul, in his letter to the Roman Christians said, "Do not conform to this world, but be ye transformed by the renewing of your mind." Paul was saying, in substance, don't fear to dissent, for if you're going to be a Christian, take the gospel of Jesus Christ seriously, you must be a dissenter, you must be a nonconformist. Now I know the advice, "Be not conformed," is difficult advice. When the pressure of the crowd is always unconsciously upon us, conditioning our minds and our feet to march to the rhythmic drumbeat of the status quo. There are always those voices and forces seeming to say to us, "never become identified with an unpopular cause, never be found in that pathetic area of being in the minority of two or three. And even our intellectual disciplines have somehow given us the impression that conformity is the way of life. Many philosophical sociologists would say in substance that morality is little more than group consensus, and that the folkways are the right ways. There are some psychologists who would say to us that the most ready and accessible path to personality and emotional adjustment is through acting like other people. So everybody seeks to walk like everybody else. Everybody seeks to think like everybody else. Everybody seeks to act like everybody else. Everybody seeks to wear a hair-do like everybody else. Everybody seeks to do just what everybody else is doing. Success, recognition, conformity are what we often find ourselves seeking, and we feel that the best path to success is the path of conformity. But in spite of this, in spite of this prevalent attitude, the words of the apostle Paul ring across the centuries: "Be not conformed to this world." In other words, we, as Christians, are called to be men of conviction and not of conformity. We are called upon to be men of moral nobility and not men of social respectability. As Christians, we are called upon to live differently, to be loyal ultimately and only to Jesus Christ, and to His ethical insights. Paul said it in another letter. He wrote to the Church of Philippi, "Ye are the colony of heaven". He was saying in substance that we have a dual citizenry. We live both in time and eternity, both in heaven and earth, and although we live in the colony of time, our ultimate allegiance is to the empire of eternity. Our ultimate allegiance is not to the State. Our ultimate allegiance is not to the government. Our ultimate allegiance is not to our nation. Our ultimate allegiance is to the Almighty God, and this is where we get our authority, this is where we get our mandate. Nietzsche said, . . . once the philosopher Nietzsche said, "Every man is a hammer or an anvil". I want you to decide this morning what you're going to be. Are you going to be an anvil, molded by the patterns of society? Are you going to be a hammer, molding the patterns of society? To put it another way, what are you going to be this morning, a thermometer or a thermostat? Go to your thermometer in the house, look at it hard, Pretty soon you discover that it does nothing but record and register the temperature. If it's 70 degrees, it says 70. If it's 80 degrees, it says 80. It merely registers the temperature. There's another instrument. When you push it a bit, if it's 70 degrees and you want it to be 80, you push it up a little. That's called a thermostat. It not only records and registers the temperature, but it regulates the temperature. If you want it a little cooler, you turn it down. Now, this morning, we as Christians must decide whether we will be thermometers, merely registering the temperature of society, or whether we will be thermostats, transforming the temperature of society. "Be not conformed to this world. Be ye transformed by the renewing of your mind." Now, many people fear nothing more terribly than to take a position which stands out sharply and clearly from the prevailing opinion. You know most people are cowards at this point, and they just follow the crowd, and they follow what the majority of people happen to be doing. They live by some such ethic that says, "Everybody's doin' it", "Everybody's sayin' it, so it must be allright". And some people are little more than grassshoppers in their lives. They don't have any convictions. They don't have any stable positions, they just jump around. You've seen people like that, and they try to be all things to all men, afraid to stand up. You know a grasshopper, if he's on green grass, he's green. If he gets on brown leaves, he's brown. If he gets on a red leaf, he's red. A grasshopper is any color of the situation he's in, and there are some people who are little more than grasshoppers in their thinking. They never stand up on a great world position, they never stand up on a great issue. Then, another tragedy of the modern world is that we have ended up in an age of jumboism. We worship that which is big—big buildings, big cars, big houses, big corporations. We find our great security in bigness, big cities, and all of this, this has all but led us to believe to live by the views that we are safer when we take a position that is in line with the majority, in line with the big opinion, so to speak. And so we end up astronomically intimidated. And so, this morning, there is a message, "Be not conformed", there are many of our white brothers all across the South who really feel deep down in their hearts that the struggle for racial justice is right, feel deep down in their hearts that the Negro should have a place in the sun of justice in America, yet they remain silent because they are afraid that the majority around them will criticize them and that they will suffer social ostracism. I remember I was speaking at Duke University not long ago, in North Carolina, most of the people in the audience were white. I talked about the mandates of the Gospel, and at the end of my speech, a young white theological student came up to me and said, "You know, Dr. King, I agree with everything you said. I believe in it, and I've come to believe in it even more since I've come into theological school and studied the meaning of the Gospel. On all of these issues", he said, "I just wish I could do something about it. But you know, I'm the pastor of a little church about 80 miles away from here, and if I said anything like this, if I even talked about brotherhood from my pulpit, they would kick me out". I thought about him, I thought about his dilemma, and I said to myself, this is it. Here is a man who forces himself to take abuse that he really doesn't agree with because the majority opinion is against him. Look at it over our nation. Whether people like to hear it or not, some voices must cry out. There's something wrong with this world, and I want the record straight, I'm against war. I want the record straight, I hear the words of prophecy this morning. I hear the words of prophecy saying that there must be a day when men will beat their swords into plowshares, their spears into pruning hooks, nation will not rise up against nation, and neither will they study war any more. I want it known this morning, however much people write editorials about our policy, we aren't doing enough to end the war in Vietnam. If one studied the history of that war, it isn't like the war fighting Hitler in Germany. Our hands are dirty in the war in Vietnam. Vietnam declared itself independent from the French back in 1945. And the United States of America did not even recognize the Republic of Vietnam at that time. That was before Communist China had come into being, so they couldn't use the argument that China was on the scene and this was a containment domino kind of theory war. Then, France decided to recapture her former colony. For eight years, she fought and murdered and killed the Vietnamese people. She was supported in that to the tune of three billion dollars by the United States of America. Then in 1954, France surrendered. Then came the Geneva Accord, which agreed to remove all foreign troops, which agreed that there would be free elections in 1966 to reunite the country. It was at that very same time that a young man, a relatively young man, stood on the floor of the Senate. He was at that time the Senate Majority Leader. He said, "I will not condone an act, even if it is advocated by Mr. Dulles, to send American boys to Asian soil to perpetuate a war that is at bottom perpetuating white colonialism." That man's name was Lyndon Baines Johnson. The years unfolded. 1956 came, but a puppet government had been set up in South Vietnam by the Eisenhower and Dulles regime. They got a man named Diem. He was a Catholic, and it exacerbated relations between Catholic and Buddhist because he was not elected by the people, and then in 1956, when the day for the election came, it never took place. Why? Mr. Eisenhower admits it in his book. The United States did not let those people have elections because he knew that Ho Chi Minh would get 80 per cent of the vote. And there is a time when prophecy must speak out. "Your hands are full of blood", says Isaiah, get out of my face, don't pray your long prayers to me, don't come to me with your eloquent speeches, don't talk to me about your patriotism, "Your hands are full of blood". Somebody must tell the nation this. We don't need to deal with the past so much. I only cited this this morning because I think most people really aren't educated about what is happening in Vietnam. There are many pacifists who stand against war, but there are many non-pacifists who are against this particular war. There has never been a war in the history of our nation that has had as much opposition as this war, and I'm tired of the press and others trying to brainwash people and let us feel that there are no issues to be discussed in this war. America doesn't need to prove to one of the smallest countries in the world that it has the military power. We have the greatest military power in the world. What we must show the world now is our moral power. Be assured that we will not stop communism with bombs and guns and bullets and napalm. We will stop communism by letting the world know that democracy is a better government than any other government, and by making justice a reality for all of

God's children. Somebody must stand up and say this. "Be not conformed to this world; but be ye transformed by the renewing of your mind."

I didn't mean to get off on this. But every now and then, people must hear the truth. America must hear the truth, if we are going to survive as a nation, somebody has got to have vision, somebody must be willing to stand up and be criticized and called every bad name, out of love for this country. Nobody should be considered disloyal because they dissent, because it is done out of love. Many people get into other situations because they are afraid not to conform. Many young people develop bad habits that begin to ruin and destroy their lives, because they don't have the ability to say "no", when everybody else is saying "yes". But you know, the strange thing and one of the tragic things is that this tragic tendency to conform is probably more evident in the church than any other institution. Did you know slavery lasted in this country 244 years? With the exception of a few courageous Christians, the church took a stand for it and even went to the pulpit and started preaching that the Negro is inferior by nature because of Noah's curse upon the children of Ham. Segregation would end today in all of its dimensions, if the church really took a stand against it. Thank God that Pope Paul is now standing up against war and calling for peace. But we must admit this morning that the church has been all too slow at this point. Thank God the National Council of Churches has spoken out in a beautiful way, criticizing our foreign policy, and the present war, and criticizing war in general. This is marvelous. But we have to admit that war is a reality in this world today because the church has often sanctioned war and many, many wars, holy wars, sent our sons to the battlefields of the world singing, "Praise the Lord and pass the ammunition." The church does not have clean hands. It is too giving in to the world, and we preachers can't be totally excused. We too often conform, and we too often judge the success of our ministry by the size of the wheelbase on our automobile, the bigness of our houses and the bigness of our salaries. And so often we play with the Gospel in order to conform. I was talking to a young man not long ago, and he was . . . after the sermon I was talking with him, and he was just jumping all over the pulpit and jumping out and spitting all over everything and screaming with his tune, and moaning and groaning, and I said, now I just can't understand you, young man, you're getting an education. I can understand that there were certain cultural patterns in the past that caused many of the older ministers to do this, but I don't understand why you feel you have to do this. And he said, "well, you know, I got to get Aunt Jane", and he has reduced the Gospel to showmanship, reduced the Gospel to playing in order to get Aunt Jane. I say to you this morning, the Gospel isn't to be played with. "Be not conformed to this world". God is saying, don't play with my Gospel. And then, preachers will often preach nice little comforting, soothing sermons because some deacon out there or deaconness or head of some auxiliary or other members are . . . may be hurt in the process. He knows they are doing something they shouldn't be doing and he doesn't want to hurt them, so he preaches a nice little comforting sermon that says everything in general and nothing in particular, trying to conform. There was a time when the church was powerful. Never forget the early church. It was a great church. They told Caesar they would not fight war. They told Caesar that they would not follow the patterns of the Roman world that gave to them no power or capacity to worship the God of their salvation. They were persecuted. They were thrown into prison. They were taken to the chopping block and they were thrown into the dens of lions. They always went there with a hymn on their lips, singing about the Glory of God, saying we must stick to what we believe is right. And one historian said that Christianity won out over all the other religions of the Greco-Roman world, because the early Christians were able to outlive, outthink and outdie overybody else. "Be not conformed to this world". Now let me bring out another point quickly. Nonconformity in and of itself is not life's greatest virtue. Non-conformity per se contains no saving values. It may represent, in some circumstances, little more than a form of exhibitionism. You know there are some people who see everybody saying yes on an issue and they merely say no to get attention. They want to be seen, they want to get a headline, they want to get some kind of recognition. They've been ignored so often, so they are non-conformists in order to get attention. This isn't the kind of non-conformity I'm talking about this morning. We must get the other part of the text. "Be ye transformed by the renewing of your mind". In other words, non-conformity is creative when it is controlled and directed by a transformed life and by a new mental outlook. And by opening our lives to God through Jesus Christ, we become new creatures. You see, non-conformity without this leads to self-righteousness, leads to a kind of hard-headedness that becomes cold, and this is why you often read the statement, "I love reforms, but I hate reformers". These kind of reformers are not transformed nonconformists. A reformer may be an untransformed non-conformist whose rebellion against the evils of society will cause him to become annoyingly rigid and unreasonably impatient, and I've seen this so often in many struggles. I've seen it so often in the civil rights struggle, working as we must work to bring about a better and a new day. We don't need to curse anybody, we don't need to call them crackers, because they may call us niggers. We don't need to use vituperative language. We don't have to be bitter, we don't have to be mean. And so often, these non-conformists that I know are untransformed non-conformists. When you become a transformed non-conformist, you somehow rise to a higher level, and this very transformation saves you from irresponsible words that estrange rather than reconcile, making hasty judgments which are blind to the necessity of social process. Transformed non-conformists recognize that social change will not come overnight, and yet they work as though there is an imminent possibility at this very moment. So let us be transformed non-conformists. Let us not fear dissent. Let us stand up for that which conscience tells us is right. Now, I must confess my friends that if you are going to be a non-conformist, it won't always be easy. I don't want to disillusion you this morning. There are some rocky roads ahead. There are some meandering curves ahead. And there will be moments the buoyancy of fulfillment will be transformed into the fatigue of despair. There will be moments, if you're going to be a nonconformist and take a stand on controversial issues, that you'll go to bed at night and begin to roll and roll and you can't go to sleep. Somehow your mind is too filled up with many things—the frustrations of the world, the disappointments of the day. If you're going to be a non-conformist, I must confess to you, that often you may have to stand amid the chilly winds of adversity. If you're going to be a transformed non-conformist, sometimes you'll have to face crowded and agonizing jail cells. If you're going to be a transformed non-conformist, there will be days when you will not know what will happen next. Morning after morning, you will get up and look into the faces of your children and your wife, not knowing whether you will get back to them because you know that you are living every day under the threat of death. If you want to be a transformed non-conformist, over and over again, you will have your little seven or eight year old child saying, "Daddy, why do you have to go to jail so much?" If you're going to be a transformed non-conformist, sometimes your home will get bombed, sometimes you may be stabbed, sometimes people will misunderstand you. If you're going to be a transformed non-conformist, people are going to lie on you, spread false rumors on you, write bad and ugly editorials about you. If you're going to be a transformed non-conformist, these things will happen to you. But don't worry about them. Jesus said a long time ago, "If you believe in me, and if you stand up for what I tell you to stand up for, go on through life and know that I will be with you, even until the end of the world." This is the meaning of the cross. This is its power, and it can transform things. This morning, get in tune with the infinite. Don't conform to the world. Hear the beat of another drum. One day, a great general was to go to one of the outstanding army camps, and the soldiers had rehearsed for many days, and they marched and got in their ranks and moved together, getting ready for an impressive sight for the general who would review and who would behold them. And then that day came, and they got together and moved out. The sergeants and the lieutenants were calling signals, and the drums were beating. And one soldier in the situation got out of step, and he never did get right again, and at the end of the day, the general had left and the lieutenant called this man in, and said "why did you embarrass us today? We were preparing for the greatest day that we've ever had. Why did you get out of step and stay out of step in front of the general of all people?" He looked at the lieutenant and said, "I'm sorry. I apologize. I can almost cry about it. But something happened to me. You may not know it, Lieutenant, but while we were marching down on the lower level, there was another battalion way up on the hill, and they were marching, and unfortunately, somehow my ears couldn't quite get attuned to the drums down here, and I was listening to the beat of another drum up on the hill." This morning, our world is in dire need. Men who will listen and hear the beat of another drum. Shadrach, Meshach and Abednego heard the beat of another drum. They stood before Nebuchadnezzar, the king of that day, and said, "The Lord that we serve we believe will deliver us, but if not, we will not bow to your king." Amos heard the beat of another drum. He cried out in the midst of the injustices of his day, "Let justice roll down like waters and righteousness like a mighty stream." Micah heard the beat of another drum, and he cried out in the midst of the conditions of infidelity and idolatry, "What does the Lord require of thee, but to

do justly, to love mercy and walk humbly with thy God." Paul heard the beat of another drum, and he cried out on Mars Hill, "Out of one blood, God made all men to dwell upon the face of the earth". We don't need to start back in biblical times. Come here, Abraham Lincoln, what's wrong with you? It seems that I can hear him saying, I hear the beat of another drum, which tells me that "this nation cannot survive half-slave and half-free". Thomas Jefferson, let us talk with you a minute. What's wrong with you? I hear the beat of another drum, which tells me in the midst of a day amazingly adjusted to slavery, that somehow "we hold these truths to be self-evident, that all men are created equal. That they are endowed by their Creator with certain inalienable rights, and among these are life, liberty and the pursuit of happiness." Come here, brother Kennedy. We know you got assassinated not long ago, but what happened to you? I heard the beat of another drum. I heard marching feet in Birmingham, Alabama. I looked at God's children facing water hoses, I saw them facing dogs, and I saw Bull Conner calling them everything but human beings, and I had to look back and say that "this is a moral issue, as old as the Bible, and as modern as the Constitution." Something ought to happen to you this morning. "Be not conformed to this world, but be ye transformed by the renewing of your mind." And whenever a transformed non-conformist comes into history, things begin to happen. Even the angels are struck silent, and the eternity stands still. Whenever a transformed non-conformist comes along, things begin to shake up, because God is working in history. And don't let anybody turn you around. We have a song we sing in the movement—"Ain't gonna let nobody turn me around." Ain't gonna let criticism turn me around. Ain't gonna let misunderstanding turn me around. Ain't gonna let bombs turn me around. Ain't gonna let threats turn me around. I'm gonna stand right here until the change has come, until all history knows that this is God's day. "Be not conformed to this world, but be ye transformed by the renewing of your mind."

SPEECHES BY THE REVEREND DR. MARTIN LUTHER KING, JR., ABOUT THE WAR IN VIETNAM

Martin Luther King was a peacemaker. For him peace was no static concept signifying the absence of conflict. Rather did he seek peace that is a wholeness constructed by justice, penetrated by love and forever pursued in hope. He could not separate peace in Harlem from peace in the Mekong Delta. Hailed as a civil rights leader, he was criticized by some for "confusing the issues" by his protest against America's bloodied course in Vietnam. But for Martin Luther King peace was indivisible.

What follow are three speeches which Dr. King gave during the past fourteen months concerning the Vietnamese war and the interrelatedness of our present domestic crisis. As a Co-Chairman of Clergy And Laymen Concerned About Vietnam, Dr. King's first address, "Vietnam and the Struggle for Human Rights," was delivered at historic Riverside Church on Tuesday evening, April 4, 1967. The second speech, "The Domestic Impact of the War in Vietnam," was delivered at the National Labor Leadership Conference, the University of Chicago, on November 11, 1967. Dr. King delivered the final address included in this pamphlet, "Vietnam Is Upon Us," at the New York Avenue Presbyterian Church in Washington, D.C., on February 6, 1968, to members of Clergy and Laymen Concerned About Vietnam.

VIETNAM AND THE STRUGGLE FOR HUMAN RIGHTS—APRIL 4, 1967

I come to this magnificent house of worship tonight because my conscience leaves me no other choice. I join you in this meeting because I am in deepest agreement with the aims and work of the organization which has brought us together: Clergy and Laymen Concerned About Vietnam. The recent statement of your executive committee are the sentiments of my own heart and I found myself in full accord when I read its opening lines: "A time comes when silence is betrayal." That time has come for us in relation to Vietnam.

The truth of these words is beyond doubt, but the mission to which they call us is a most difficult one. Even when pressed by the demands of inner truth, men do not easily assume the task of opposing their government's policy, especially in time of war. Nor does the human spirit move without great difficulty against all the apathy of conformist thought within one's own bosom and in the surrounding world. Moreover when the issues at hand seem as perplexing as they often do in the case of this dreadful conflict we are always on the verge of being mesmerized by uncertainty: but we must move on.

Some of us who have already begun to break the silence of the night have found that the calling to speak is often a vocation of agony, but we must speak. We must speak with all the humility that is appropriate to our limited vision, but we must speak. And we must rejoice as well, for surely this is the first time in our nation's history that a significant number of its religious leaders have chosen to move beyond the prophesying of smooth patriotism to the high grounds of a firm dissent based upon the mandates of conscience and the reading of history. Perhaps a new spirit is rising among us. If it is, let us trace its movements well and pray that our own inner being may be sensitive to its guidance, for we are deeply in need of a new way beyond the darkness that seems so close around us.

Over the past two years, as I have moved to break the betrayal of my own silences and to speak from the burnings of my own heart, as I have called for radical departures from the destruction of Vietnam, many persons have questioned me about the wisdom of my path. At the heart of their concerns this query has often loomed large and loud: Why are you speaking about the war, Dr. King? Why are you joining the voices of dissent? Peace and civil rights don't mix, they say. Aren't you hurting the cause of your people, they ask? And when I hear them, though I often understand the sources of their concern I am nevertheless greatly saddened, for such questions mean that the inquirers have not really known me, my commitment or my calling. Indeed; their questions suggest that they do not know the world in which they live.

In the light of such tragic misunderstanding, I deem it of signal importance to try to state clearly, and I trust concisely, why I believe that the path from Dexter Avenue Baptist Church—the church in Montgomery, Alabama where I began my pastorate—leads clearly to this sanctuary tonight.

I come to this platform tonight to make a passionate plea to my beloved nation. This speech is not addressed to Hanoi or to the National Liberation Front. It is not addressed to China or to Russia.

Nor is it an attempt to overlook the ambiguity of the total situation and the need for a collective solution to the tragedy of Vietnam. Neither is it an attempt to make North Vietnam or the National Liberation Front paragons of virtue, nor to overlook the role they can play in a successful resolution of the problem. While they both may have justifiable reason to be suspicious of the good faith of the United States, life and history give eloquent testimony to the fact that conflicts are never resolved without trustful give and take on both sides.

Tonight, however, I wish not to speak with Hanoi and the NLF, but rather to my fellow Americans who, with me, bear the greatest responsibility in ending a conflict that has exacted a heavy price on both continents.

Since I am a preacher by trade, I suppose it is not surprising that I have several reasons for bringing Vietnam into the field of my moral vision. There is at the outset a very obvious and almost facile connection between the war in Vietnam and the struggle I, and others, have been waging in America. A few years ago there was a shining moment in that struggle. It seemed as if there was a real promise of hope for the poor—both black and white—through the Poverty Program. There were experiments, hopes, new beginnings. Then came the build-up in Vietnam and I watched the program broken and eviscerated as if it was some idle political plaything of a society gone mad on war, and I knew that America would never invest the necessary funds or energies in rehabilitation of its poor so long as adventures like Vietnam continued to draw men and skills and money like some demoniacal destructive suction tube. So I was increasingly compelled to see the war as an enemy of the poor and to attack it as such.

Perhaps the more tragic recognition of reality took place when it became clear to me that the war was doing far more than devastating the hopes of the poor at home. It was sending their sons and their brothers and their husbands to fight and to die in extraordinarily high proportions relative to the rest of the population. We were taking the black young men who had been crippled by our society and sending them 8,000 miles away to guarantee liberties in Southeast Asia which they had not found in Southwest Georgia and East Harlem. So we have been repeatedly faced with the cruel irony of watching Negro and white boys on TV screens as they kill and die together for a nation that has been unable to seat them together in the same schools. So we watch them in brutal solidarity burning the huts of a poor village but we realize that they would never live on the same block in Detroit. I could not be silent in the face of such cruel manipulation of the poor.

My third reason moves to an even deeper level of awareness, for it grows out of my experience in the ghettos of the north over the last three years—especially the last three summers. As I have walked among the desperate, rejected and angry young men I have told them that Molotov cocktails and rifles would not solve their problems. I have tried to offer them my deepest compassion while maintaining my conviction that social change comes most meaningfully through non-violent action. But they asked—and rightly so—what about Vietnam? They asked if our own nation wasn't using massive doses of violence to solve its problems,

to bring about the changes it wanted. Their questions hit home, and I knew that I could never again raise my voice against the violence of the oppressed in the ghettos without having first spoken clearly to the greatest purveyor of violence in the world today—my own government. For the sake of those boys, for the sake of this government, for the sake of the hundreds of thousands trembling under our violence, I cannot be silent.

For those who ask the question, "Aren't you a Civil Rights leader?" and thereby mean to exclude me from the movement for peace, I have this further answer. In 1957 when a group of us formed the Southern Christian Leadership Conference, we chose as our motto: "To save the soul of America." We were convinced that we could not limit our vision to certain rights for black people, but instead affirmed the conviction that America would never be free or saved from itself unless the descedants of its slaves were loosed completely from the shackles they still wear. In a way we were agreeing with Langston Hughes, that black bard of Harlem, who had written earlier:

O yes,
I say it plain,
America never was America to me,
And yet I swear this oath—
America will be!

Now, it should be incandescently clear that no one who has any concern for the integrity and life of America today can ignore the present war. If America's soul becomes totally poisoned, part of the autopsy must read Vietnam. It can never be saved so long as it destroys the deepest hopes of men the world over. So it is that those of us who are yet determined that America will be are led down the path of protest and dissent, working for the health of our land.

As if the weight of such a commitment to the life and health of America were not enough, another burden of responsibility was placed upon me in 1964; and I cannot forget that the Nobel Prize for Peace was also a commission—a commission to work harder than I had ever worked before for "the brotherhood of man." This is a calling that takes me beyond national allegiances, but even if it were not present I would yet have to live with the meaning of my commitment to the ministry of Jesus Christ. To me the relationship of this ministry to the making of peace is so obvious that I sometimes marvel at those who ask me why I am speaking against the war. Could it be that they do not know that the good news was meant for all men—for communist and capitalist, for their children and ours, for black and for white, for revolutionary and conservative? Have they forgotten that my ministry is to obedience to the one who loved his enemies so fully that he died for them? What then can I say to the Vietcong or to Castro or to Mao as a faithful minister of this one? Can I threaten them with death or must I not share with them my life?

Finally, as I try to delineate for you and for myself the road that leads from Montgomery to this place I would have offered all that was most valid if I simply said that I must be true to my conviction that I share with all men the calling to be a son of the Living God. Beyond the calling of race or nation or creed is this vocation of sonship and brotherhood, and because I believe that the Father is deeply concerned especially for his suffering and helpless and outcast children, I come tonight to speak for them.

This I believe to be the privilege and the burden of all of us who deem ourselves bound by allegiances and loyalties which are broader and deeper than nationalism and which go beyond our nation's self-defined goals and positions. We are called to speak for the weak, for the voiceless, for victims of our nation and for those it calls enemy, for no document from human hands can make these humans any less our brothers.

And as I ponder the madness of Vietnam and search within myself for ways to understand and respond in compassion my mind goes constantly to the people of that peninsula. I speak now not of the soldiers of each side not of the junta in Saigon, but simply of the people who have been living the curse of war for almost three continuous decades now. I think of them too because it is clear to me that there will be no meaningful solution there until some attempt is made to know them and hear their broken cries.

They must see Americans as strange liberators. The Vietnamese people proclaimed their own independence in 1945 after a combined French and Japanese occupation, and before the communist revolution in China. They were led by Ho Chi Minh. Even though they quoted the American Declaration of Independence in their own document of freedom, we refused to recognize them. Instead, we decided to support France in its re-conquest of her former colony.

Our government felt then that the Vietnamese people were not "ready" for independence, and we again fell victim to the deadly western arrogance that has poisoned the international atmosphere for so long. With the tragic decision we rejected a revolutionary government seeking self-determination, and a government that had been established not by China (for whom the Vietnamese have no great love) but clearly indigenous forces that included some communists. For the peasants this new government meant real land reform, one of the most important needs in their lives.

For nine years following 1945 we denied the people of Vietnam the right of independence. For nine years we vigorously supported the French in their abortive effort to re-colonize Vietnam.

Before the end of the war we were meeting 80% of the French war costs. Even before the French were defeated at Dien Bien Phu, they began to despair of the reckless action, but we did not. We encouraged them with our huge financial and military supplies to continue the war even after they had lost the will. Soon we would be paying almost the full costs of this tragic attempt at recolonization.

After the French were defeated it looked as if independence and land reform would come again through the Geneva agreements. But instead there came the United States, determined that Ho should not unify the temporarily divided nation, and the peasants watched again as we supported one of the most vicious modern dictators—our chosen man, Premier Diem. The peasants watched and cringed as Diem ruthlessly routed out all opposition, supported their extortionist landlords and refused even to discuss re-unification with the North. The peasants watched as all this was presided over by the U.S. influence and then by increasing numbers of U.S. troops who came to help quell the insurgency that Diem's methods had aroused. When Diem was overthrown they may have been happy, but the long line of military dictatorships seemed to offer no real change—especially in terms of their need for land and peace.

The only change came from America as we increased our troop commitments in support of governments which were singularly corrupt, inept and without popular support. All the while the people read our leaflets and received regular promises of peace and democracy—and land reform. Now they languish under our bombs and consider us—not their fellow Vietnamese—the real enemy. They move sadly and apathetically as we herd them off the land of their fathers into concentration camps where minimal social needs are rarely met. They know they must move or be destroyed by our bombs. So they go—primarily women and children and the aged.

They watch as we poison their water, as we kill a million acres of their crops. They must weep as the bulldozers roar through their areas preparing to destroy the precious trees. They wander into the hospitals, with at least 20 casualties from American firepower for one Vietcong-inflicted injury. They wander into the towns and see thousands of the children, homeless, without clothes, running in packs on the streets like animals. They see the children degraded by our soldiers as they beg for food. They see the children selling their sisters to our soldiers, soliciting for their mothers.

What do the peasants think as we ally ourselves with the landlords and as we refuse to put any action into our many words concerning land reform? What do they think as we test out our latest weapons on them, just as the Germans tested out new medicine and new tortures in the concentration camps of Europe? Where are the roots of the independent Vietnam we claim to be building? Is it among these voiceless ones?

We have destroyed their two most cherished institutions: the family and the village. We have destroyed their land and their crops. We have cooperated in the crushing of the nation's only non-communist revolutionary political force—the Unified Buddhist Church. We have supported the enemies of the peasants of Saigon. We have corrupted their women and children and killed their men. What liberators!

Now there is little left to build on—save bitterness. Soon the only solid physical foundations remaining will be found at our military bases and in the concrete of the concentration camps we call fortified hamlets. The peasants may well wonder if we plan to build our new Vietnam on such grounds as these? Could we blame them for such thoughts? We must speak for them and raise the questions they cannot raise. These too are our brothers.

Perhaps the more difficult but no less necessary task is to speak for those who have been designated as our enemies. What of the National Liberation Front—that strangely anonymous group we call VC or Communists? What must they think of us in America when they realize that we permitted the repression and cruelty of Diem which helped to bring them into being as a resistance group in the south? What do they think of our condoning the violence which led to their own taking up of arms? How can they believe in our integrity when now we speak of "aggression from the North" as if there were nothing more essential to the war? How can they trust us when now we charge them with violence after the murderous reign of Diem, and charge them with violence while we pour every new weapon of death into their land? Surely we must understand their feelings even if we do not condone their actions. Surely we must see that the men we supported pressed them to their violence. Surely we must see that our

own computerized plans of destruction simply dwarf their greatest acts.

How do they judge us when our officials know that their membership is less than 25 per cent communist and yet insist on giving them the blanket name? What must they be thinking when they know that we are aware of their control of major sections of Vietnam and yet we appear ready to allow national elections in which this highly organized political parallel government will have no part? They ask how we can speak of free elections when the Saigon press is censored and controlled by the military junta. And they are surely right to wonder what kind of new government we plan to help form without them—the only party in real touch with the peasants. They question our political goals and they deny the reality of a peace settlement from which they will be excluded. Their questions are frighteningly relevant. Is our nation planning to build on political myth again and then shore it up with the power of new violence?

Here is the true meaning and value of compassion and non-violence when it helps us to see the enemy's point of view, to hear his questions, to know his assessment of ourselves. For from his view we may indeed see the basic weaknesses of our own condition, and if we are mature, we may learn and grow and profit from the wisdom of the brothers who are called the opposition.

So, too, with Hanoi. In the North, where our bombs now pummel the land, and our mines endanger the waterways, we are met by a deep but understandable mistrust. To speak for them is to explain this lack of confidence in western words, and especially their distrust of American intentions now. In Hanoi are the men who led the nation to independence against the Japanese and the French, the men who sought membership in the French commonwealth and were betrayed by the weakness of Paris and the willfulness of the colonial armies. It was they who led a second struggle against French domination at tremendous costs, and then were persuaded to give up the land they controlled between the 13th and 17th parallel as a temporary measure at Geneva. After 1954 they watched us conspire with Diem to prevent elections which would have surely brought Ho Chi Minh to power over a united Vietnam, and they realized they had been betrayed again.

When we ask why they do not leap to negotiate, these things must be remembered. Also it must be clear that the leaders of Hanoi considered the presence of American troops in support of the Diem regime to have been the initial military breach of the Geneva Agreements concerning foreign troops, and they remind us that they did not begin to send in any large number of supplies or men until American forces had moved into the tens of thousands.

Hanoi remembers how our leaders refused to tell us the truth about the earlier North Vietnamese overtures for peace, how we claimed that none existed when they had clearly been made. Ho Chi Minh has watched as America has spoken of peace and built up its forces, and now he has surely heard the increasing international rumors of Americans plans for an invasion of the North. Perhaps only his sense of humor and irony can save him when he hears the most powerful nation of the world speaking of his aggression as it drops thousands of bombs on a poor weak nation more than 8,000 miles away from its shores.

At this point I should make it clear that while I have tried in these last few minutes to give a voice to the voiceless on Vietnam and to understand the arguments of those who are called enemy, I am as deeply concerned about our own troops there as anything else. For it occurs to me that what we are submitting them to in Vietnam is not simply the brualizing process that goes on in any war where armies face each other and seek to destroy. We are adding cynicism to the process of death, for they must know after a short period there that none of the things we claim to be fighting for are really involved. Before long they must know that their government has sent them into a struggle among Vietnamese, and the more sophisticated surely realize that we are on the side of the wealthy and the secure while we create a hell for the poor.

Somehow this madness must cease. We must stop now. I speak as a child of God and brother to the suffering poor of Vietnam. I speak for those whose land is being laid waste, whose homes are being destroyed, whose culture is being subverted. I speak for the poor of America who are paying the double price of smashed hopes at home and death and corruption in Vietnam. I speak as a citizen of the world, for the world as it stands aghast at the path we have taken, I speak as an American to the leaders of my own nation. The great initiative in this war is ours. The initiative to stop it must be ours.

This is the message of the great Buddhist leaders of Vietnam. Recently one of them wrote these words: "Each day the war goes on, the hatred increases in the heart of the Vietnamese and in the hearts of those of humanitarian instinct. The Americans are forcing even their friends into becoming their enemies. It is curious that the Americans who calculate so carefully on the possibilities of military victory, do not realize that in the process they are incurring deep psychological and political defeat. The image of America will never again be the image of revolution, freedom and democracy, but the image of violence and militarism."

If we continue there will be no doubt in my mind and in the mind of the world that we have no honorable intentions in Vietnam. It will become clear that our minimal expectation is to occupy it as an American colony and men will not refrain from thinking that our maximum hope is to goad China into a war so that we may bomb her nuclear installations. If we do not stop our war against the people of Vietnam immediately the world will be left with no other alternative than to see this as some horribly clumsy and deadly game we have decided to play.

The world now demands a maturity of America that we may not be able to achieve. It demands that we admit that we have been wrong from the beginning of our adventure in Vietnam, that we have been detrimental to the life of the Vietnamese people.

In order to atone for our sins and errors in Vietnam, we should take the initiative in bringing a halt to this tragic war. I would like to suggest five concrete things that our government should do immediately to begin the long and difficult process of extricating ourselves from this nightmarish conflict:

1. End all bombing in North and South Vietnam.

2. Declare a unilaterial cease-fire in the hope that such action will create the atmosphere for negotiation.

3. Take immediate steps to prevent other battlegrounds in Southeast Asia by curtailing our military build-up in Thailand and our interference in Laos.

4. Realistically accept the fact that the National Liberation Front has substantial support in South Vietnam and must thereby play a role in any meaningful negotiations and in any future Vietnam government.

5. Set a date that we will remove all foreign troops from Vietnam in accordance with the 1954 Geneva Agreement.

Part of our ongoing commitment might well express itself in an offer to grant asylum to any Vietnamese who fears for his life under a new regime which included the Liberation Front. Then we must make what reparations we can for the damage we have done. We must provide the medical aid that is badly needed, making it available in this country if necessary.

Meanwhile we in the churches and synagogues have a continuing task while we urge our government to disengage itself from a disgraceful commitment. We must continue to raise our voices if our nation persists in its perverse ways in Vietnam. We must be prepared to match actions with words by seeking out every creative means of protest possible.

As we counsel young men concerning military service we must clarify for them our nation's role in Vietnam and challenge them with the alternative of conscientious objection. I am pleased to say that this is the path now being chosen by more than seventy students at my own Alma Mater, Morehouse College, and I recommend it to all who find the American course in Vietnam a dishonorable and unjust one. Moreover I would encourage all ministers of draft age to give up their ministerial exemptions and seek status as conscientious objectors. These are the times for real choices and not false ones. We are at the moment when our lives must be placed on the line if our nation is to survive its own folly. Every man of humane convictions must decide on the protest that best suits his convictions, but we must all protest.

There is something seductively tempting about stopping there and sending us all off on what in some circles has become a popular crusade against the war in Vietnam. I say we must enter that struggle, but I wish to go on now to say something even more disturbing. The war in Vietnam is but a symptom of a far deeper malady within the American spirit, and if we ignore this sobering reality we will find ourselves organizing clergy and laymen-concerned committees for the next generation. They will be concerned abut Guatemala and Peru. They will be concerned about Thailand and Cambodia. They will be concerned about Mozambique and South Africa. We will be marching for these and a dozen other names and attending rallies without end unless there is a significant and profound change in American life and policy. Such thoughts take us beyond Vietnam, but not beyond our calling as sons of the living God.

In 1957 a sensitive American official overseas said that it seemed to him that our nation was on the wrong side of a world revolution. During the past 10 years we have seen emerge a pattern of suppression which now has justified the presence of U.S. military "advisors" in Venezuela. This need to maintain social stability for our investments accounts for the counter-revolutionary action of American forces in Guatemala. It tells why American helicopters are being used against guerrillas in Colombia and why American napalm and green beret forces have already been active against rebels in

Peru. It is with such activity in mind that the words of the late John F. Kennedy come back to haunt us. Five years ago he said, "Those who make peaceful revolution impossible will make violent revolution inevitable."

Increasingly, by choice or by accident, this is the role our nation has taken—the role of those who make peaceful revolution impossible by refusing to give up the privileges and the pleasures that come from the immense profits of overseas investment.

I am convinced that if we are to get on the right side of the world revolution, we as a nation must undergo a radical revolution of values. We must rapidly begin the shift from a "thing-oriented" society to a "person-oriented" society. When machines and computers, profit motives and property rights are considered more important than people, the giant triplets of racism, materialism, and militarism are incapable of being conquered.

A true revolution of value will soon cause us to question the fairness and justice of many of our past and present policies. On the one hand we are called to play the Good Samaritan on life's roadside; but that will be only an initial act. One day we must come to see that the whole Jericho Road must be transformed so that men and women will not be constantly beaten and robbed as they make their journey on Life's highway. True compassion is more than flinging a coin to a beggar; it is not haphazard and superficial. It comes to see that an edifice which produces beggars needs re-structuring. A true revolution of values will soon look uneasily on the glaring contrast of poverty and wealth. With righteous indignation, it will look across the seas and see individual capitalists of the West investing huge sums of money in Asia, Africa and South America, only to take the profits out with no concern for the social betterment of the countries, and say: "This is not just." It will look at our alliance with the landed gentry of feeling that it has everything to teach others and nothing to learn from them is not just. A true revolution of values will lay hands on the world of order and say of war: "This way of settling differences is not just." This business of burning human beings with napalm, of filling our nation's homes with orphans and widows, of injecting poisonus drugs of hate into the veins of peoples normally humane, of sending men home from dark and bloody battlefields physically handicapped and psychologically deranged, cannot be reconciled with wisdom, justice, and love. A nation that continues year after year to spend more money on military defense than on programs of social uplift is approaching spiritual death.

America, the richest and most powerful nation in the world, can well lead the way in this revolution of values. There is nothing, except a tragic death wish, to prevent us from re-ordering our priorities, so that the pursuit of peace will take precedence over the pursuit of war. There is nothing to keep us from molding a recalcitrant status quo with bruised hands until we have fashioned it into a brotherhood.

This kind of positive revolution of values is our best defense against Communism. War is not the answer. Communism will never be defeated by the use of atomic bombs or nuclear weapons. Let us not join those who shout war and through their misguided passions urge the United States to relinquish its participation in the United Nations. These are days which demand wise restraint and calm reasonableness. We must not call everyone a Communist or an appeaser who advocates the seating of Red China in the United Nations and who recognizes that hate and hysteria are not the final answers to the problem of these turbulent days. We must not engage in a negative anti-Communism, but rather in a positive thrust for democracy, realizing that our greatest defense against Communism is to take offensive action in behalf of justice. We must with positive action seek to remove those conditions of poverty, insecurity and injustice which are the fertile soil in which the seed of Communism grows and develops.

These are revolutionary times. All over the globe men are revolting against old systems of exploitation and oppression and out of the wombs of a frail world new systems of justice and equality are being born. The shirtless and barefoot people of the land are rising up as never before. "The people who sat in darkness have seen a great light." We in the West must support these revolutions. It is a sad fact that, because of comfort, complacency, a morbid fear of Communism, and our proneness to adjust to injustice, the Western nations that initiated so much of the revolutionary spirit of the modern world have now become the arch anti-revolutionaries. This has driven many to feel that only Marxism has the revolutionary spirit. Therefore, Communism is a judgment against our failure to make democracy real and follow through on the revolutions that we initiated. Our only hope today lies in our ability to recapture the revolutionary spirit and go out into a sometimes hostile world declaring eternal hostility to poverty, racism, and militarism. With this powerful commitment we shall boldly challenge the status-quo and unjust mores and thereby speed the day when "every valley shall be exalted, and every mountain and hill shall be made low, and the crooked shall be made straight and the rough places plain."

A genuine revolution of values means in the final analysis that our loyalties must become ecumenical rather than sectional. Every nation must now develop an overriding loyalty to mankind as a whole in order to preserve the best in their individual societies.

This call for a world-wide fellowship that lifts neighborly concern beyond one's tribe, race, class and nation is in reality a call for an all-embracing and unconditional love for all men. This oft misunderstood and misinterpreted concept so readily dismissed by the Nietzsches of the world as a weak and cowardly force—has now become an absolute necessity for the survival of man. When I speak of love I am not speaking of some sentimental and weak response. I am speaking of that force which all of the great religions have seen as the supreme or living principle of life. Love is somehow the key that unlocks the door which leads to ultimate reality. This Hindu-Moslem-Christian-Jewish-Buddhist belief about ultimate reality is beautifully summed up in the first epistle of Saint John:

Let us love one another; for love is God and everyone that loveth is born of God and knoweth God. He that loveth not knoweth not God; for God is love. If we love one another, God dwelleth in us, and his love is perfected in us.

Let us hope that this spirit will become the order of the day. We can no longer afford to worship the God of Hate or bow before the altar of retaliation. The oceans of history are made turbulent by the ever-rising tides of hate. History is cluttered with the wreckage of nations and individuals that pursued this self-defeating path of hate. As Arnold Toynbee says: "Love is the ultimate force that makes for the saving choice of life and good against the damning choice of death and evil. Therefore the first hope in our inventory must be the hope that love is going to have the last word."

We are not faced with the fact that tomorrow is today. We are confronted with the fierce urgency of now. In this unfolding conundrum of life and history there is such a thing as being too late. Procrastination is still the thief of time. Life often leaves us standing bare, naked and dejected with a lost opportunity. The "tide in the affairs of men" does not remain at the flood; it ebbs. We may cry out desperately for time to pause in her passage, but time is deaf to every plea and rushes on. Over the bleached bones and jumbled residue of numerous civilizations are written the pathetic words: "Too late." There is an invisible book of life that faithfully records our vigilance or our neglect. "The moving finger writes and having written moves on. . . ." We shall have a choice today: non-violent co-existence or violent co-annihilation.

We must move past indecision to action. We must find new ways to speak for peace in Vietnam and justice throughout the developing world—a world that borders on our doors. If we do not act we shall surely be dragged down the long dark and shameful corridors of time reserved for those who possess power without compassion, might without morality, and strength without sight.

Now let us begin. Now let us re-dedicate ourselves to the long and bitter—but beautiful—struggle for a new world. This is the calling of the sons of God, and our brothers wait eagerly for our response. Shall we say the odds are too great? Shall we tell them the struggle is too hard? Will our message be that the forces of American life militate against their arrival as full men, and we send our deepest regrets? Or will there be another message of longing, of hope, of solidarity with their yearnings, of commitment to their cause, whatever the cost? The choice is ours, and though we might prefer it otherwise we must choose in this crucial moment of human history.

THE DOMESTIC IMPACT OF THE WAR IN VIETNAM—NOVEMBER 11, 1967

What are some of the domestic consequences of the war in Vietnam? It has made the Great Society a myth and replaced it with the troubled and confused society. The war has strengthened domestic reaction. It has given the extreme right, the anti-labor, anti-Negro and anti-humanist forces a weapon of spurious patriotism to galvanize its supporters into reaching for power right up to the White House. It hopes to use national frustration to take control and restore the America of social insecurity and power for the privileged. When a Hollywood performer, lacking distinction even as an actor, can become a leading war hawk candidate for the presidency only the irrationalities induced by a war psychosis can explain such a melancholy turn of events. The war has produced a shameful order of priorities in which the decay, squalor and pollution of the cities are neglected even though seventy percent of our population now live in them. The war has smothered and nearly extinguished the beginnings of progress toward racial justice. The war has created the bizarre spectacle of armed forces of the United States fighting in ghetto streets of

America while they are fighting in jungles in Asia. The war has so increased Negro frustration and despair that urban outbreaks are now an ugly feature of the American Scene. How can the administration with quivering anger denounce the violence of ghetto Negroes when it has given an example of violence in Asia that shocks the world? The users of naval guns, millions of tons of bombs, and revolting napalm cannot speak to Negroes about violence. Only those who are fighting for peace have the moral authority to lecture on nonviolence. I do not want to be misunderstood, I am not equating the so-called Negro violence with the war. The acts of Negroes are infinitely less dangerous and immoral than the deliberate acts of escalation of the war. In fact, the Negroes in the ghetto, goaded and infuriated by discrimination and neglect, have for the most part deliberately avoided harming people. They have destroyed property, but even in the grip of rage the vast majority have vented their anger on inanimate things, not people. If destruction of property is deplorable, what is the word for the use of napalm on people? What would happen to Negroes if they not only set fires but killed people in the vicinity and explained blandly that some known combatants had to die as a matter of course? Negroes would be called savages if we were so callous, but for generals it is military tactics.

The priorities of the administration and Congress are dramatically illustrated in the ease with which 70 billions are appropriated for war while 2 billion can scarcely be wrung from the unwilling hands of Congress for anti-poverty programs. In the past two months unemployment has increased approximately 15%. At this moment tens of thousands of people in anti-poverty programs are being abruptly thrown out of jobs and training programs to search in a diminishing job market for work and survival. The inflation of the war cuts the pay of the employed, the pension check of the retired, and the savings of almost everyone. Inflation has stopped creeping and has begun running. Working people feel the double impact of inflation and unemployment immediately. But Negroes feel its impact with crushing severity because they live on the margin in all respects and have no reserve to cushion shocks.

There is a great deal of debate about the nation's ability to maintain war and commit the billions required to attack poverty—the poverty of tens of millions that will not vanish even in an 800 billion dollar economy.

Theoretically, the United States has resources for both but an iron logic dictates that we shall never voluntarily do both for two reasons:

First, the majority of the present Congress and the Administration, as distinguished from the majority of the people, is singlemindedly devoted to the pursuit of the war. It has been estimated that we spend approximately $500,000 to kill a single enemy soldier in Vietnam, and yet we spend about $53.00 for each impoverished American in anti-poverty programs. Congress appropriates military funds with alacrity and generosity. It appropriates poverty funds with miserliness and grudging reluctance. The government is emotionally committed to the war; it is emotionally hostile to the needs of the poor.

Second, the government will resist committing adequate resources for domestic reform because these are reserves indispensable for military adventure. The logic of war requires that a nation deploy its wealth for immediate combat and simultaneously that it maintain substantial reserve. It will resist any diminishing of its military power through draining off of resources for the social good.

This is the inescapable contradiction between war and social progress at home. Military adventures must stultify domestic progess to insure the certainty of military success. This is the reason the poor and particularly Negroes have a double stake in peace and international harmony.

This is not to say it is useless to fight for domestic reform. On the contrary as people discover in the struggle what is impeding their progress they comprehend the full and real cost of the war to them in their daily lives.

Another tragic consequence of the war domestically is its destructive effect on the young generation. There cannot be enough sympathy for those who are sent into battle. More and more it is revealed how many of our soldiers cannot understand the purpose of their sacrifice. It is harrowing under any circumstances to kill, but it is psychologically devastating to be forced to kill when one doubts that it is right.

Beyond the tragedy at the front, at home the young people are torn with confusions which tend to explain most of the extremes of their conduct. This generation has never known a severe economic crisis but it has known something far worse. It is the first generation in American History to experience four wars in twenty-five years: World War II, The Cold War, The Korean War and the War in Vietnam. It is the generation of wars and it shows the scars in widespread drug consumption, alienation, and the feverish pursuit of sensual pleasures. Yet, we cannot call this generation of the young the lost generation. We are the lost generation, because it is we who fail to give them the peaceful society they were promised as the American Heritage.

Finally, the whole nation is living in a triple-ring of isolation and alienation. The government is isolated from the majority of the people who want either withdrawal, deescalation or honest negotiations, not what they are now given—steady intensification of the conflict. When a major city, San Francisco, in a referendum votes 37% for immediate withdrawal this is a stunning rebuke to the government. If young people between 18 and 21 could have voted they alone might have been a majority. But even more significantly, if the question had not offered only an extreme choice of immediate withdrawal, but included some of the many alternatives the government has rejected, no one could doubt that a substantial majority would have repudiated Washington's Policy. This is the position stated by the new Mayor of San Francisco. In addition to the isolation of the government from its people there is our national isolation in the world. We are without a single significant international ally. Every major nation has avoided active involvement on our side. We are more alone than we have been since the founding of the Republic. Lastly and more ironically, we are isolated from the very people whom we profess to support, the South Vietnamese. In their elections the prowar forces received less than one-third of the votes. In the countryside most of the area of South Vietnam is in the hands of the Vietcong and the army of South Vietnam has so reduced its role in the fighting it may shortly become the first pacifist army on a war front. The war that began with a few thousand Americans as advisors has become almost totally an American war without the consent of the American people. This is an historic isolation that cannot be rationalized by self-righteousness or the revival of unproved dangers of imminent aggression from China. China's incredible internal turmoil suggests it presently threatens only itself.

The war domestically has stimulated a profound discussion of the nature of our government. Important members of Congress and distinguished political scientists are questioning the trend toward excessive executive powers. Senator George McGovern has summed up these views in the following words: "Congress must never again surrender its power under our constitutional system by permitting an ill-advised undeclared war of this kind. Our involvement in South Vietnam came about through a series of moves by the executive branch—each one seemingly restrained and yet each one setting the stage for a deeper commitment. The complex of administration moves involving the State Department, the C.I.A., the Pentagon, A.I.D. and various private interests—all of these have played a greater role than has Congress. Congress cannot be proud of its function in the dreary history of this steadily widening war. That function has been one largely of acquiescence in little understood administrative efforts. The surveillance, the debate and the dissent since 1965, while courageous and admirable, came too late in the day to head off the foolish course charted by our policy-makers. For the future," the Senator concludes, "members of Congress and the Administration will do well to heed the admonition of Edmund Burke, a distinguished legislator of an earlier day: 'A conscientious man would be cautious how he dealt in blood.' "

The nature of our government is also under scrutiny by the young generation. I have spoken in recent years before hundreds of thousands of young people in their colleges, in the slums, and in churches and synagogues. Their comments and questions reflect a sharply rising body of opinion that the inability to influence government to adopt urgent reforms is not a consequence of any superficial ignorance, lethargy, or prejudice but is systemic. There is more serious discussion today about basic structural change in our society than I can recall over a decade.

We have thus far avoided a recrudescence of McCarthyism. It is constantly threatening but it has not yet been able to gain a secure foothold. It is not for lack of trying by the ubiquitous congressional committees. They are trying to bring down a blanket of intimidation, but a healthy resistance holds them in check. We must constantly be alert to this danger because if its evil is added to all the others we will have opened the door to other national disasters.

It is worth remembering that there is a strong strain of dissent in the American tradition even in time of war.

During the Mexican War the intellectual elite of the nation, Emerson, Thoreau, and many others were withering critics of National Policy. In the Congress a relatively unknown first term Congressman made a scathing address on the floor denouncing the war. The young Congressman was Abraham Lincoln of Illinois. At the same time a young army Lieutenant almost decided to resign his commission to protest the war. His name was Ulysses Grant.

To close my remarks and to illustrate basic optimism, I would like to repeat these most appropriate words of a great labor leader, Eugene Debs, when he stood before the court to be sentenced for opposing World War I:

"I can see the dawn of a better day for humanity. The people awakening in due course of time, will come to their own. When the mariner sailing over tropic seas, looks for release from his weary watch, he turns his eye towards the Southern Cross bearing luridly above the tempest tossed ocean. As the midnight approaches, the Southern Cross begins to bend, then the whirling worlds choose their places, and with starry fingerpoints, the almighty marks the page of time upon the dial of the universe and though no bell may beat the glad tiding, the lookout knows the midnight is passing—that relief and rest are close at hand. Let the people take heart and hope everywhere for the cross is bending, the midnight is passing and joy cometh with the morning."

VIETNAM IS UPON US—FEBRUARY 6, 1968

Fellow clergymen and laymen concerned about the war in Vietnam, my brothers and sisters, I need not pause to say how delighted I am to be here and how delighted I am to be in the midst of this fellowship of concern. It is a magnificent experience to see so many of you taking time out of what I am sure are busy schedules and coming to Washington to make a witness. I need not remind you that these are difficult days in which we live, and in these days of emotional tension when the problems of the world are gigantic in extent and chaotic in detail, the challenge which faces us more than ever before in the church and the synagogue is to take a stand for justice and for peace. From a scientific and technological point of view there can be no gainsaying of the fact that our nation has brought the whole world to an awe-inspiring threshold of the future. We have built machines that think and instruments that peer into the unfathomable regions of interstellar space. We have built Gargantuan bridges to span the seas and gigantic buildings to kiss the sky. Through our spaceships we have penetrated oceanic depths and through our airplanes we have dwarfed distance and placed time in chains. This is really a dazzling picture of American technological and scientific progress.

But in spite of this, something basic is missing and I just want to say a few words about that this afternoon. In spite of all of our scientific and technological progress we suffer from a kind of poverty of the spirit that stands in glaring contrast to all of our material abundance. This is the dilemma facing our nation and this is the dilemma to which we as clergymen and laymen must address ourselves. Each of us lives in two realms in life—the within and the without. The within of our lives is that realm of spiritual ends expressed in our literature, morals and religion. The without of our lives is that complex of devices, techniques, mechanisms and instrumentalities by means of which we live. The problem we face today is that we have allowed the within of our lives to become absorbed in the without. Henry David Thoreau said once something that still applies. In a very arresting dictum he talked about improved means for an unimproved end. And this is a tragedy that somewhere along the way as a nation we have allowed the means by which we live to outdistance the ends for which we live, and consequently we suffer from a spiritual and moral lag that must be redeemed if we are going to survive and maintain a moral stance.

Nothing convinces me more that we suffer this moral and spiritual lag than our participation as a nation in the war in Vietnam. Our involvement in this cruel, senseless, unjust war is a tragic expression of the spiritual lag of Americans. This is why we must be concerned about the war and its damaging effects—that we all know. We all know the war in Vietnam has strengthened the military and industrial complex of this nation. We know that the war in Vietnam has strengthened the forces of reaction in our nation. We know that the war in Vietnam has exasperated the tensions between the continents and between the races. And it does not help America nor its so-called image to be the most powerful and the richest nation in the world at war with one of the smallest and poorest nations in the world which happens to be a colored nation. And this is something that must be said over and over again, for a predominantly white nation to be at war with one of the poorest and smallest nations that happens to be a colored nation. This only leads a nation, leads America to a point of losing its own soul if something is not done. But not only that. The war in Vietnam has played havoc with our domestic destiny. We would think about the fact today that our government spends about $500,000 to kill every Vietcong soldier while we spend at the same time about $53 a year per person for everybody that is characterized as poverty stricken in the so-called war against poverty that is not even a good skirmish against poverty.

And we can look around and see how we find ourselves with mixed up priorities. President Johnson raised the question the other day, the other night rather, when he gave his State of the Union address. He talked about the 70,000,000 televisions in our country. He talked about all the beautiful new highways and the beautiful new cars—about eight million a year that are flowing down these highways; he talked about our material abundance. And then he said something that needs an answer when he went on to say that yet, there is a restlessness in the land. He said that there is so much questioning. And I would like to say that there is a restlessness in the land because the land doesn't seem to have a sense of purpose, a proper sense of policy, and a proper sense of priority. This is the basis for this restlessness. The words of Jesus are still applicable, "What does it profit a generation, what does it profit a nation" to own the whole world of means, television, automobiles, electric lights, and in the end lose the soul. And the words of Jesus are still true in another sense. Man cannot live by the bread of color television alone, but by every word, the word of love, the word of justice, the word of truth, every word that proceedeth out of the mouth of God. And the problem is that all too many people in power are trying to get America to live on the wrong things.

This is why we are moving in the wrong direction. And this war is playing havoc with our domestic destiny. For all of these reasons we are fighting two wars today—one is the unjust war in Vietnam. We are not winning that war there because it is clearly an unwinnable war. And certainly we are not winning the other war we are supposed to be fighting, namely, the war against poverty. We are not winning that war because we are attempting to win a war 8,000 miles away from home, and because there are all too many people not willing to grapple with the problems of the poor. There are some wars in which the people ought to be conscientious objectors and if I had to make the decision, I would be a conscientious objector in the war in Vietnam. But there are other wars in which we cannot be conscientious objectors and all too many people are trying to be conscientious objectors in the war against poverty. Everybody ought to be involved in that.

Not only has the war played havoc with our domestic destinies, but it has played havoc with the destiny of the whole world. And somehow, somewhere, we must come to see this. I said sometime ago, and the press jumped on me about it, but I want to say it today one more time and I am very sad to say it: we live in a nation that is the greatest purveyor of violence in the world today. Any nation that spends almost $80 billion of its annual budget for defense channeled through the Pentagon and hands out a pittance here and there for social uplift is moving toward its own spiritual doom. I say it over and over again, that something must be changed. We have played havoc with the destiny of the world and we have brought the whole world closer to a nuclear confrontation. Somewhere we must make it clear that we are concerned about the survival of the world in the days when sputniks and gemini are dashing through outer space and guided ballistic missiles are causing highways of death through the stratosphere, when no nation can ultimately win a war. It is no longer a choice between violence and non-violenece. It is either non-violence or non-existence, and the alternative to disarmament, the alternative to a great suspension of nuclear tests, the alternative to strengthening the United Nations and thereby disarming the whole world will be a civilization plunged into the abyss of annihilation, and our earthly habitat will be transformed into an inferno that even the mind of Dante could not envision. We have to see that and work diligently and passionately for peace. You know that in the freedom movement we have a song that we sing based on the Negro spiritual and I hope that we will continue to sing that song and sing it in the peace movement. Somehow we have got to sing that "I ain't gonna' let nobody turn me round." And we must make it clear to America and make it clear to the Government and to the courts that we as clergymen and laymen support Bill Coffin absolutely and those others who face these blunderbuss conspiracy charges and these indictments. We must make that clear to the nation.

Yes, we aren't going to let anybody or anything turn us around. And in this just cause and this just struggle for peace we are not going to let any indictments turn us around; we are not going to let this attempt to crush dissent turn us around; we are not going to let those who say they are trying to identify dissent with disloyalty, we are not going to let them turn us around. And I have come to the point of saying that we are not going to let jailhouses turn us around if it is necessary. If this war in Vietnam is not ended, we are going to be in the position of a nation having some of its finest young men in this nation in jail. A poll was taken a few weeks ago at Harvard, one of the great universities of the world, where 24% of the students polled said that they would rather go to jail or leave the country before they would serve in the war in Vietnam. Then 96% of those polled said that they opposed the administration's policy in

Vietnam and this is happening all over. Young men finding this war objectionable and abominable are rising up and saying that we in good conscience cannot serve in it. And we as clergymen, we as ministers, rabbis and priests must forever stand with these young men in their moments of conscience. We were ordained to do that.

I am still convinced that the struggle for peace and the struggle for civil rights as we call it in America happen to be tied together. These two issues are tied together in many, many ways. It is a wonderful thing to work to integrate lunch counters, public accommodations and schools. But it would be rather absurd to work to get schools and lunch counters integrated and not be concerned with the survival of a world in which to integrate. And I am convinced that these two issues are tied inextricably together and I feel that the people who are working for civil rights are working for peace; I feel that the people working for peace are working for civil rights and justice.

We have a grave problem in our country—that an economic depression is alive right now. It happens to be poor people and therefore it is not called a depression. When poor people and Negroes are way down in a depressing situation economically we call it a social ill but when white people get massively unemployed, we call it a depression. The Negro is facing a depression. The statistics would reveal that the unemployment rate in the Negro community is about 8.4%. What they do not reveal is the fact that their statistics are complied on the basis of people who go to employment offices to find a job or those who were formerly in the labor market. They do not deal with what we call the discouraged people who have given up, people who have had so many doors closed in their faces, people who have lost all motivation, and come to feel that life is a long and desolate corridor with no exit signs. So they don't go out to look for a job and so for these people the unemployment rate in the adult black community is probably 16% to 17%. And when you get to the Negro youth the unemployment is probably between 30% and sometimes goes up as high as 40%. Now this is a depression more staggering than the depression of the thirties. Not only is the problem unemployment. There is even a greater problem, underemployment. Most of the people who are poor in this country are working every day and that is not said enough. They are working here in Washington and in all of our cities. Working in our hotels they clean up our rooms when we go to our hotels across the country for our meetings. They work in our hospitals, they work in our homes. Most of them are domestic workers. Most of them are working every day, working sometimes sixty hours a week, working full-time jobs and getting part-time incomes. These are problems that are very real.

We have developed an underclass in this nation and unless this underclass is made a working class we are going to continue to have problems. Now the bitterness is very deep as a result of these problems. We of the Southern Leadership Conference feel that we cannot stand idly by while these problems continue to grow and not take a stand against them. We feel that it is time now to take a Selma-type or Birmingham-type movement to bear on the economic problems confronting the poor people of our nation. When I say poor people I am not only talking about black people. I am aware of the fact that there are poor people on a large scale in the Puerto Rican community. I am talking about the Mexican community, the Indian community; I am talking about the Appalachian white community; I am talking about poor people's power.●

ORDERS FOR TOMORROW

RECESS UNTIL 11 A.M.

Mr. DOLE. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in recess until 11 a.m. on Wednesday, January 22, 1986.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECOGNITION OF CERTAIN SENATORS

Mr. DOLE. Mr. President, following the two leaders under the standing order, I ask unanimous consent there be a special orders in favor of the Senator from Wisconsin [Mr. PROXMIRE] and the Senator from Mississippi [Mr. COCHRAN] for not to exceed 15 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

ROUTINE MORNING BUSINESS

Mr. DOLE. Mr. President, following the special orders, I further ask unanimous consent there be a period for the transaction of routine morning business not to extend beyond 12 noon, with Senators permitted to speak therein for not more than 5 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. DOLE. Mr. President, following routine morning business, the Senate will resume consideration of the motion by the distinguished Senator from Ohio to proceed to Conrail. Also, the Senate could turn to any legislative or executive calendar items that could be cleared. I say that in hopes we might be able to dispose of some other business tomorrow.

There are a number of possibilities, but not strong possibilities: a drug export bill, a sports franchise bill. But unless we can reach some agreement, they are unlikely to be considered tomorrow.

If so, I assume that we could have rollcall votes. If not, I assume that the first rollcall vote will come about 1 o'clock on Thursday, which would be a cloture vote.

Mr. BYRD. Mr. President, will the distinguished majority leader yield?

Mr. DOLE. I yield.

Mr. BYRD. Mr. President, the distinguished majority leader indicated near the end of the last session, in response to a question from me, that legislation to provide television in the Senate would be called up very early in this session. That is Senate Resolution 28 on the Calendar, reported by the Rules Committee. It is a resolution that I introduced on behalf of myself, Mr. GORE, and others.

Can the distinguished majority leader tell me at this point whether or not we may be able to proceed to S. 28 in the Senate this week?

Mr. DOLE. I could not tell the distinguished minority leader at this point, but I doubt that it would be this week. Unless we can reach some agreement, I do not think that is possible. I understand that the distinguished Senator from Louisiana and others on this side may wish to discuss that bill for a considerable length of time. But I do hope to take it up very early, maybe after disposition of Conrail.

Mr. BYRD. I hope that the majority leader can do that.

Mr. DOLE. It seems to me, in line with the thinking of the distinguished minority leader, that if we do not do it early, it may not be of any value this year. If we are going to have a test period, we should do it as early as we can.

Mr. BYRD. Yes; I thank the distinguished majority leader.

I know that once we get into the next month or 6 weeks, we are going to have budget matters and other things rolling in on us. So, I hope that the Senate can proceed to the consideration of Senate Resolution 28 at a very early date.

I am very satisfied with the promise and assurance of the distinguished majority leader that Senate Resolution 28 will be called up very soon, and I hope that occurs immediately following whatever action is finally taken on Conrail, if not before.

Mr. DOLE. Just one caveat: In the event this should be delayed for some time, we would be back into something else; but if we are able to dispose of this within a reasonable time, I should think we would have a window for TV in the Senate.

The PRESIDING OFFICER. The Chair believes there may be one pending unanimous-consent request by the majority leader, and hearing no objection, it is granted.

Mr. DOLE. I indicate for the RECORD that the unanimous-consent request was with reference to the transaction of routine morning business not to extend beyond noon. We will then proceed with the motion.

Again, I do not know of any votes on the Conrail matter. But if we are able to reach some agreement on some other piece of legislation, there could be votes on Wednesday. If not, the vote on cloture will occur on Thursday, in any event.

RECESS UNTIL 11 A.M. TOMORROW

Mr. DOLE. Mr. President, there being no further business to come before the Senate, I move that the Senate stand in recess until 11 a.m. on Wednesday, January 22.

The motion was agreed to, and at 5:53 p.m., the Senate recessed until tomorrow, Wednesday, January 22, 1986, at 11 a.m.

NOMINATIONS

Executive nominations received by the Senate January 21, 1986:

DEPARTMENT OF STATE

Otto J. Reich, of Virginia, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Venezuela.

THE JUDICIARY

Eric G. Bruggink, of Virginia, to be a judge of the U.S. Claims Court for a term of 15 years, vice Harry E. Wood, term expired.

Marian Blank Horn, of Maryland, to be a judge of the U.S. Claims Court for a term of 15 years, vice Alex Kozinski, elevated.

Frank J. Magill, of North Dakota, to be U.S. circuit judge for the eighth circuit, vice Myron H. Bright, retired.

Lawrence P. Zatkoff, of Michigan, to be U.S. district judge for the eastern district of Michigan, vice Ralph B. Guy, Jr., elevated.

Ronald R. Lagueux, of Rhode Island, to be U.S. district judge for the district of Rhode Island, vice a new position created by Public Law 98-353, approved July 10, 1984.

DEPARTMENT OF JUSTICE

Richard S. Cohen, of Maine, to be U.S. attorney for the district of Maine for the term of 4 years, reappointment.

P.A. Mangini, of Connecticut, to be U.S. Marshal for the district of Connecticut for the term of 4 years, reappointment.

Ralph D. Morgan, of Indiana, to be U.S. Marshal for the southern district of Indiana for the term of 4 years, reappointment.

J. Jerome Perkins, of Indiana, to be U.S. Marshal for the northern district of Indiana for the term of 4 years, reappointment.

John R. Kendall, of Michigan, to be U.S. Marshal for the western district of Michigan for the term of 4 years, reappointment.

Lee Koury, of Missouri, to be U.S. Marshal for the western district of Missouri for the term of 4 years, reappointment.

William S. Vaughn, of Missouri, to be U.S. Marshal for the eastern district of Missouri for the term of 4 years, reappointment.

Bohdan A. Futey, of Ohio, to be chairman of the Foreign Claims Settlement Commission of the United States for the term expiring September 30, 1988, reappointment.

DEPARTMENT OF LABOR

Paula V. Smith, of Missouri, to be Administrator of the Wage and Hour Division, Department of Labor, vice William M. Otter, resigned.

DEPARTMENT OF TRANSPORTATION

Janet Hale, of Massachusetts, to be an Assistant Secretary of Transportation, vice Donald Allan Derman.

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

Marilyn Logsdon Mennello, of Florida, to be a member of the National Museum Services Board for a term expiring December 6, 1989, vice Elizabeth Helms Adams, resigned.

U.S. INFORMATION AGENCY

Mark N. Blitz, of Virginia, to be an Associate Director of the U.S. Information Agency, vice Ronald L. Trowbridge.

U.S. ADVISORY COMMISSION ON PUBLIC DIPLOMACY

Richard M. Scaife, of Pennsylvania, to be a member of the U.S. Advisory Commission on Public Diplomacy for a term expiring July 1, 1988, reappointment.

U.S. INTERNATIONAL TRADE COMMISSION

David B. Rohr, of Maryland, to be a member of the U.S. International Trade Commission for the term expiring December 6, 1994, reappointment.

IN THE AIR FORCE

The following officers for appointment in the Reserve of the Air Force to the grade indicated, under the provisions of sections 593, 8218, and 8373, title 10, United States Code:

To be major general

Brig. Gen. Charles R. Cargill, xxx-xx-xxxx xxx-...FV, Air Force Reserve.
Brig. Gen. Leonard W. Hegland, xxx-xx-x... xxx-...FV, Air Force Reserve.
Brig. Gen. Arthur H. Hutton, xxx-xx-xxxx xxx-...FV, Air Force Reserve.
Brig. Gen. Byron E. Mills, Jr., xxx-xx-xxxx xxx-...FV, Air Force Reserve.
Brig. Gen. Roger P. Scheer, xxx-xx-xxxx xxx-...FV, Air Force Reserve.

To be brigadier general

Col. Joseph R. Albi, xxx-xx-xxxx FV, Air Force Reserve.
Col. William L. Carpenter, xxx-xx-xxxx FV, Air Force Reserve.
Col. Roger G. Knight, xxx-xx-xxxx FV, Air Force Reserve.
Col. Michel Levant, xxx-xx-xxxx FV, Air Force Reserve.
Col. Edmund X. Loughran, xxx-xx-xxxx xxx-...FV, Air Force Reserve.
Col. Allen S. Mason, xxx-xx-xxxx FV, Air Force Reserve.
Col. Harvey J. McCarter, xxx-xx-xxxx FV, Air Force Reserve.
Col. Clark O. Olander, xxx-xx-xxxx FV, Air Force Reserve.
Col. Angelo J. Perciballi, xxx-xx-xxxx FV, Air Force Reserve.
Col. Glenn W. Redmond, xxx-xx-xxxx FV, Air Force Reserve.
Col. Donald C. Roth, xxx-xx-xxxx FV, Air Force Reserve.
Col. James E. Simon, xxx-xx-xxxx FV, Air Force Reserve.
Col. George T. Wier, xxx-xx-xxxx FV, Air Force Reserve.

IN THE ARMY

The following-named officer under the provisions of title 10, United States Code, section 601, to be assigned to a position of importance and responsibility designated by the President under title 10, United States Code, section 601:

To be lieutenant general

Maj. Gen. William G.T. Tuttle, Jr., xxx-... xxx-xx-x... U.S. Army.

The following-named officer to be placed on the retired list in grade indicated under the provisions of title 10, United States Code, section 1370:

To be lieutenant general

Lt. Gen. Robert Arter, xxx-xx-xxxx age 56, U.S. Army.

The following-named officer under the provisions of title 10, United States Code, section 601, to be assigned to a position of importance and responsibility designated by the President under title 10, United States Code, section 601:

To be lieutenant general

Maj. Gen. Frederick F. Woerner, Jr., xxx-... xxx-xx-x... U.S. Army.

The U.S. Army Reserve officer named herein for appointment as a Reseve Commissioned Officer of the Army, under the provisions of title 10, United States Code, section 593(a), 3371 and 3384:

To be major general

Brig. Gen. Rudolph E. Hammond, xxx-xx-x... xxx...
Brig. Gen. Alfred W. Porter, Jr., xxx-xx-xxxx xxx...
Brig. Gen. Robert PL Sy, xxx-xx-xxxx

To be brigadier general

Col. David M. Adamson, xxx-xx-xxxx
Col. Michael M. Berzowski, xxx-xx-xxxx
Col. Robert J. Bopp, xxx-xx-xxxx
Col. Joseph H. Brooks, xxx-xx-xxxx
Col. James W. Holsinger, Jr., xxx-xx-xxxx
Col. James R. Land, xxx-xx-xxxx
Col. John R. McWaters, xxx-xx-xxxx
Col. Thomas E. Potter, xxx-xx-xxxx
Col. Thomas C. Stones, xxx-xx-xxxx
Col. William W. Wells, xxx-xx-xxxx
Col. Eugene J. Yonno, xxx-xx-xxxx

The Army National Guard of the U.S. officers named herein for appointment as Reserve Commissioned Officers of the Army, under the provisions of title 10, United States Code, sections 593(a), 3385, and 3392:

To be major general

Brig. Gen. Willard K. Carey, xxx-xx-xxxx
Brig. Gen. James D. Delk, xxx-xx-xxxx
Brig. Gen. Lawrence P. Flynn, xxx-xx-xxxx

To be brigadier general

Col. Neal R. Christensen, xxx-xx-xxxx
Col. John H. Cox, xxx-xx-xxxx
Col. Arnaldo J. DeJesus, xxx-xx-xxxx
Col. John M. L. Dempsey, xxx-xx-xxxx
Col. Richard Evans, xxx-xx-xxxx
Col. Robert L. Gooderl, xxx-xx-xxxx
Col. Richard E. Haynes, xxx-xx-xxxx
Col. Robert L. Lawson, xxx-xx-xxxx
Col. Chris R. Mechling, xxx-xx-xxxx
Col. Robert L. Sentman, xxx-xx-xxxx
Col. Jan P. Wepster, xxx-xx-xxxx
Col. Barry W. Young, xxx-xx-xxxx

IN THE AIR FORCE

The following-named officers for permanent promotion in the U.S. Air Force, under the provisions of section 628, title 10, United States Code, as amended, with dates of rank to be determined by the Secretary of the Air Force.

LINE OF THE AIR FORCE

To be major

Mumford, Paul R., xxx-xx-xxxx

JUDGE ADVOCATE

To be colonel

Canellos, Ernest C., xxx-xx-xxxx

To be lieutenant colonel

Engebretsen, David H., xxx-xx-xxxx

CHAPLAIN

To be major

Robertson, Garland L., xxx-xx-xxxx
Sessions, David C., xxx-xx-xxxx

NURSE CORPS

To be major

Borgford, Norma J., xxx-xx-xxxx

IN THE AIR FORCE

The following cadets, U.S. Air Force Academy, for appointment as second lieutenants in the Regular Air Force, under the provisions of sections 9353(b) and 531, title 10 United States Code, with dates of rank to be determined by the Secretary of the Air Force.

Abbott, Michael A., xxx-xx-xxxx
Ackerson, Christopher F., xxx-xx-xxxx
Adams, Brian D., xxx-xx-xxxx
Adams, Timothy L., xxx-xx-xxxx
Adamson, Douglas K., xxx-xx-xxxx

Adelmann, William C., xxx-xx-xxxx
Akiona, Michael J. Kal, xxx-xx-xxxx
Alexander, Ty G., xxx-xx-xxxx
Allen, Randy S., xxx-xx-xxxx
Allen, Steven S., xxx-xx-xxxx
Allgood, Wiley V., xxx-xx-xxxx
Allvin, David W., xxx-xx-xxxx
Almeida, Elizabeth O., xxx-xx-xxxx
Amadeo, Anthony L., xxx-xx-xxxx
Amdahl, David J., xxx-xx-xxxx
Andersen, James L., xxx-xx-xxxx
Anderson, Joel, D., xxx-xx-xxxx
Angelillo, Lori A., xxx-xx-xxxx
Anschuetz, Sally L., xxx-xx-xxxx
Antholzner, Martin J., xxx-xx-xxxx
Armiak, Thomas R., xxx-xx-xxxx
Armstrong, Merrill F., xxx-xx-xxxx
Arnold, Kenneth A., xxx-xx-xxxx
Arrington, Edward A., xxx-xx-xxxx
Ashe, Jesse B. III, xxx-xx-xxxx
Aubrey, Stephen L., xxx-xx-xxxx
Augustine, John M., xxx-xx-xxxx
Austin, Christopher S., xxx-xx-xxxx
Auten, Benjamin L., xxx-xx-xxxx
Bacon, Frederick C., xxx-xx-xxxx
Baggerly, Mark L., xxx-xx-xxxx
Bailey, Thomas M., xxx-xx-xxxx
Baldwin, Jeffrey, J., xxx-xx-xxxx
Balfany, Michael D., xxx-xx-xxxx
Balkan, Sanford H., xxx-xx-xxxx
Ballard, Lloyd A., xxx-xx-xxxx
Bampton, Peter M. Pla, xxx-xx-xxxx
Baranack, Patrick J., xxx-xx-xxxx
Barkocy, Robert A., xxx-xx-xxxx
Barlean, Kelly J., xxx-xx-xxxx
Bartczak, Kenneth J., xxx-xx-xxxx
Barth, Jerry L. Jr., xxx-xx-xxxx
Barth, Thomas A., xxx-xx-xxxx
Bartley, Leigh A., xxx-xx-xxxx
Basak, Richard M., xxx-xx-xxxx
Batts, Alan L., xxx-xx-xxxx
Baumann, Kimberly A., xxx-xx-xxxx
Beagle, T. W. Jr., xxx-xx-xxxx
Bear, Patricia E., xxx-xx-xxxx
Beaubien, Seth, xxx-xx-xxxx
Beaufils, Igor F., xxx-xx-xxxx
Beecham, Brent A., xxx-xx-xxxx
Beene, Eric A., xxx-xx-xxxx
Beer, Todd P., xxx-xx-xxxx
Behne, Michael C., xxx-xx-xxxx
Beierle, Mark T., xxx-xx-xxxx
Belinne, Adrian G., xxx-xx-xxxx
Bell, James R., xxx-xx-xxxx
Bell, Richard L., xxx-xx-xxxx
Belton, Kevin C., xxx-xx-xxxx
Benavides, Ernesto V., xxx-xx-xxxx
Benka, Kathryn A., xxx-xx-xxxx
Benoit, Louis J., xxx-xx-xxxx
Benson, Paul M., xxx-xx-xxxx
Bente, William G., xxx-xx-xxxx
Benton, Douglas W., xxx-xx-xxxx
Bents, Robert T., xxx-xx-xxxx
Berggren, Kirk J., xxx-xx-xxxx
Bianchi, Paul E., xxx-xx-xxxx
Bier, Susan E., xxx-xx-xxxx
Birsic, George W. IV, xxx-xx-xxxx
Bishop, Scott C., xxx-xx-xxxx
Blank, Jeffrey A., xxx-xx-xxxx
Blewitt, Joseph P., xxx-xx-xxxx
Blum, Scott, C., xxx-xx-xxxx
Bode, John V. II, xxx-xx-xxxx
Boegman, James R., xxx-xx-xxxx
Boland, Raymond E., xxx-xx-xxxx
Bonn, James M., xxx-xx-xxxx
Bordner, John C., xxx-xx-xxxx
Bosking, William H. III, xxx-xx-xxxx
Boyd, James C. III, xxx-xx-xxxx
Brawley, Randy S., xxx-xx-xxxx
Breidenthal, Brent F., xxx-xx-xxxx
Brennan, Hugh P., xxx-xx-xxxx
Brewer, Edward J., xxx-xx-xxxx
Bridger, Gordon D., xxx-xx-xxxx
Briggs, Jack L. II, xxx-xx-xxxx
Brockington, Lex, xxx-xx-xxxx
Brogan, William K., Jr., xxx-xx-xxxx
Brooks, Christopher L., Jr., xxx-xx-xxxx
Brook, Gregory L., xxx-xx-xxxx
Brooks, Kevin D., xxx-xx-xxxx
Brooks, Todd A., xxx-xx-xxxx
Brown, Derek C., xxx-xx-xxxx
Brown, Eugene A., Jr., xxx-xx-xxxx
Brown, Keith D., xxx-xx-xxxx
Brown, Loretta A., xxx-xx-xxxx
Brown, Michael L., xxx-xx-xxxx
Brown, Robert B., xxx-xx-xxxx
Browne, James S., xxx-xx-xxxx
Browning, Peter J., xxx-xx-xxxx
Bryant, David M., xxx-xx-xxxx
Bryant, Ronald M., Jr., xxx-xx-xxxx
Bucki, Mark A., xxx-xx-xxxx
Buckman, David T., xxx-xx-xxxx
Bumiller, George R., xxx-xx-xxxx
Bumpus, William M., xxx-xx-xxxx
Buratowski, John A., xxx-xx-xxxx
Burfict, Samuel, xxx-xx-xxxx
Burg, Gary L., xxx-xx-xxxx
Burger, Brian T., xxx-xx-xxxx
Burgess, Barbara L., xxx-xx-xxxx
Burkard, Michael, J., xxx-xx-xxxx
Burklund, Michael A., xxx-xx-xxxx
Burnett, Charles R., xxx-xx-xxxx
Burton, Bridget B., xxx-xx-xxxx
Burton, James A., xxx-xx-xxxx
Butcher, Robert P., xxx-xx-xxxx
Byerly, James D., xxx-xx-xxxx
Cady, Craig D., xxx-xx-xxxx
Caixeiro, Americo M., xxx-xx-xxxx
Caldwell, David A., xxx-xx-xxxx
Calhoun, Paul R., Jr., xxx-xx-xxxx
Campbell, Craig P., xxx-xx-xxxx
Campbell, Gordon S., xxx-xx-xxxx
Cantrell, Mark W., xxx-xx-xxxx
Capone, Michael J., xxx-xx-xxxx
Cappello, John T., xxx-xx-xxxx
Cardinal, James C., xxx-xx-xxxx
Carey, David L., xxx-xx-xxxx
Carlson, Andrew R., xxx-xx-xxxx
Carpenter, David S., xxx-xx-xxxx
Carpenter, Kenneth S., xxx-xx-xxxx
Carpenter, Robert T., Jr., xxx-xx-xxxx
Carter, Andrew D., xxx-xx-xxxx
Carter, Don D., xxx-xx-xxxx
Caskey, Terrence A., xxx-xx-xxxx
Cayon, Greg M., xxx-xx-xxxx
Celestini, Philip A., xxx-xx-xxxx
Chambers, Stephen G., xxx-xx-xxxx
Chambers, Victor B., xxx-xx-xxxx
Champlin, Darren T., xxx-xx-xxxx
Chancellor, Richard W., xxx-xx-xxxx
Chandler, George E., II, xxx-xx-xxxx
Chandler, Michael J., xxx-xx-xxxx
Chavez, Edward C., xxx-xx-xxxx
Cho, Sung J., xxx-xx-xxxx
Christie, Richard W., xxx-xx-xxxx
Cienski, David P., xxx-xx-xxxx
Ciernia, Scott W., xxx-xx-xxxx
Cilley, Scott A., xxx-xx-xxxx
Clark, Joseph M., xxx-xx-xxxx
Clark, Karen S., xxx-xx-xxxx
Clark, Richard M., xxx-xx-xxxx
Clawson, Scott M., xxx-xx-xxxx
Clay, Byron K., xxx-xx-xxxx
Clay, James J., xxx-xx-xxxx
Clemmons, Thomas G., xxx-xx-xxxx
Cmar, John A., xxx-xx-xxxx
Colella, Robert A., xxx-xx-xxxx
Coley, Betsy C., xxx-xx-xxxx
Comstock, Michael A., xxx-xx-xxxx
Conrey, Scott P., xxx-xx-xxxx
Cook, Raynard J., xxx-xx-xxxx
Cook, Sean H., xxx-xx-xxxx
Cook, Steven C., xxx-xx-xxxx
Cooksey, Richard H., Jr., xxx-xx-xxxx
Cooper, Lawrence A., xxx-xx-xxxx
Corley, Charles P., xxx-xx-xxxx
Costin, Dondi E., xxx-xx-xxxx
Courchene, David A., xxx-xx-xxxx
Cox, Michael R., xxx-xx-xxxx
Crosby, Mark A., xxx-xx-xxxx
Crowder, Mark J., xxx-xx-xxxx
Curl, Lori A., xxx-xx-xxxx
Curtis, Robert S., xxx-xx-xxxx
Dahnke, Juli A., xxx-xx-xxxx
Daldine, Frank R., xxx-xx-xxxx
Davey, Peter F., xxx-xx-xxxx
Davila, Jeffrey N., xxx-xx-xxxx
Davila, Martinez Kellie, xxx-xx-xxxx
Davis, James C., xxx-xx-xxxx
Davis, Kevin L., xxx-xx-xxxx
Davis, Michael E., xxx-xx-xxxx
Dawes, Clinton J., xxx-xx-xxxx
Dean, Thomas A., III, xxx-xx-xxxx
Demandante, Marie A., xxx-xx-xxxx
Demetriades, Ernest T., xxx-xx-xxxx
Dempsey, Vincent M., xxx-xx-xxxx
Denholm, Edward B., xxx-xx-xxxx
Dennis, Warren D., xxx-xx-xxxx
Depalo, Lee K., xxx-xx-xxxx
Dewey, Mark T., xxx-xx-xxxx
Dewine, John P., xxx-xx-xxxx
Diaz, Victor J., Jr., xxx-xx-xxxx
Dickerson, Christina G., xxx-xx-xxxx
Dietz, Joseph M., xxx-xx-xxxx
Dimaggio, Danny R., xxx-xx-xxxx
Dimento, Patrick M., xxx-xx-xxxx
Dolan, Peter J., xxx-xx-xxxx
Domenick, Kenneth B., xxx-xx-xxxx
Dominguez, Juan A., Jr., xxx-xx-xxxx
Donehower, Robert B., xxx-xx-xxxx
Donohue, Mary E., xxx-xx-xxxx
Dornak, Henry E., III., xxx-xx-xxxx
Downs, Mark A., xxx-xx-xxxx
Draughn, Teresa L., xxx-xx-xxxx
Dubose, Darrell A., xxx-xx-xxxx
Ducharme, John A., Jr., xxx-xx-xxxx
Dunlevy, John K., xxx-xx-xxxx
Durham, Cynthia A. Ree, xxx-xx-xxxx
Dye, James S., xxx-xx-xxxx
Early, Timothy G., xxx-xx-xxxx
Eddins, Timothy L., xxx-xx-xxxx
Edwards, Michael D., xxx-xx-xxxx
Edwards, Sean D., xxx-xx-xxxx
Edwards, Stephen G., xxx-xx-xxxx
Egan, Michael J., III, xxx-xx-xxxx
Eggert, Matthew E., xxx-xx-xxxx
Eklund, Korina L., xxx-xx-xxxx
Elliott, Joseph B., xxx-xx-xxxx
Ellis, Bruce A., Jr., xxx-xx-xxxx
Ellis, William A., xxx-xx-xxxx
Ely, Glenn C., xxx-xx-xxxx
Erwin, Troy M., xxx-xx-xxxx
Espey, Mark D., xxx-xx-xxxx
Esslinger, Craig S., xxx-xx-xxxx
Estavillo, Arthur D., xxx-xx-xxxx
Evenson, Kraig A., xxx-xx-xxxx
Faciszewski, Edward J., xxx-xx-xxxx
Fahy, Lawrence, xxx-xx-xxxx
Fair, Dean R., xxx-xx-xxxx
Fakult, Nancy J., xxx-xx-xxxx
Feck, Vincent J., xxx-xx-xxxx
Fenton, Matthew R., II, xxx-xx-xxxx
Ferraro, Robert J. Jr., xxx-xx-xxxx
Fidler, James E., xxx-xx-xxxx
Figie, Brian D., xxx-xx-xxxx
Fingal Tod R., xxx-xx-xxxx
Finn, Patrick H., xxx-xx-xxxx
Finnicum, Michael T., xxx-xx-xxxx
Fisher, Michael S., xxx-xx-xxxx
Fitzgerald, Timothy F., xxx-xx-xxxx
Flanagan, John F., xxx-xx-xxxx
Flannery, Michael S., xxx-xx-xxxx
Fleming, Shawn R., xxx-xx-xxxx
Flournory, Martin L., xxx-xx-xxxx
Fogle, James C., xxx-xx-xxxx
Foreman, Christopher E., xxx-xx-xxxx
Formolo, Kevin L., xxx-xx-xxxx
Forsyth, Michael T., xxx-xx-xxxx
Foster, Gary G., xxx-xx-xxxx
Francois, Bruce E., xxx-xx-xxxx
Frandsen, Matthew J., xxx-xx-xxxx
Franger, Edward D., xxx-xx-xxxx
Frankhouser, Jeffrey E., xxx-xx-xxxx

Franklin, Robert E., xxx-xx-xxxx
Frawley, Patrick J., xxx-xx-xxxx
Freese, Thomas A. Fra, xxx-xx-xxxx
Frerichs, Brent A., xxx-xx-xxxx
Fuller, George P. IV, xxx-xx-xxxx
Fullerton, Roy J. Jr., xxx-xx-xxxx
Fuss, John S., xxx-xx-xxxx
Gable, Barbara L., xxx-xx-xxxx
Gage, Reginald P. III, xxx-xx-xxxx
Galley, Nancy G., xxx-xx-xxxx
Garboden, Andrew T., xxx-xx-xxxx
Gardiner, Von A., xxx-xx-xxxx
Garvin, Jean M., xxx-xx-xxxx
Gaudlip, Fred W., xxx-xx-xxxx
Gee, Matthew R., xxx-xx-xxxx
Gencay, Lloyd L., xxx-xx-xxxx
Gerstenecker, Charles S., xxx-xx-xxxx
Geyer, Randall J., xxx-xx-xxxx
Gibb, Randall W., xxx-xx-xxxx
Gibson, Rex O., xxx-xx-xxxx
Giese, Jon F., xxx-xx-xxxx
Giletti, Gregory P., xxx-xx-xxxx
Givens, Edward G. III, xxx-xx-xxxx
Givens, Robert P., xxx-xx-xxxx
Godwin, Gary K., xxx-xx-xxxx
Golden, Northan F., xxx-xx-xxxx
Goldsmith, Stafford R. Jr., xxx-xx-xxxx
Gonzales, Robert J. Jr., xxx-xx-xxxx
Gonzalez, Angel D., xxx-xx-xxxx
Good, James E., Jr., xxx-xx-xxxx
Gooding, Ross V., xxx-xx-xxxx
Goodman, Patrick A., xxx-xx-xxxx
Gorman, Gerald S., xxx-xx-xxxx
Goss, Stacey R., xxx-xx-xxxx
Gotski, Kenneth A., xxx-xx-xxxx
Gourdie, Brennan G., xxx-xx-xxxx
Graham, Jennifer L., xxx-xx-xxxx
Graves, Johnnie J., xxx-xx-xxxx
Gray, Bart A., xxx-xx-xxxx
Grazioli, Dominic P., xxx-xx-xxxx
Green, Curtis L., xxx-xx-xxxx
Greene, Steven A., xxx-xx-xxxx
Greenlea, Willie Y., xxx-xx-xxxx
Gregory, Douglas E., Jr., xxx-xx-xxxx
Griffin, Wendy M., xxx-xx-xxxx
Griffith, James L., xxx-xx-xxxx
Grogan, Patrick M., xxx-xx-xxxx
Groom, Stella R., xxx-xx-xxxx
Gulsvig, James M., xxx-xx-xxxx
Gustafson, Jeffrey H., xxx-xx-xxxx
Gustafson, Stephen V., xxx-xx-xxxx
Gwillim, Shelly A., xxx-xx-xxxx
Haan, William F., xxx-xx-xxxx
Hack, William D., xxx-xx-xxxx
Haddad, Theodore S., Jr., xxx-xx-xxxx
Hady, Michael J., xxx-xx-xxxx
Haggerty, Sean S., xxx-xx-xxxx
Hale, Kenneth P., xxx-xx-xxxx
Hale, Michael M., xxx-xx-xxxx
Hall, Jack R., xxx-xx-xxxx
Halow, Kevin D., xxx-xx-xxxx
Hammargren, Scott M., xxx-xx-xxxx
Hampel, Robert J., xxx-xx-xxxx
Haney, Elizabeth A., xxx-xx-xxxx
Hanford, Thomas O., xxx-xx-xxxx
Hanlin, Marc H., xxx-xx-xxxx
Hanna, William C., xxx-xx-xxxx
Hannus, Timothy S., xxx-xx-xxxx
Hanscom, James M., xxx-xx-xxxx
Hansen, Ross J., xxx-xx-xxxx
Hardin, Craig A., xxx-xx-xxxx
Harding, Trevor L., xxx-xx-xxxx
Hardman, Melissa J., xxx-xx-xxxx
Haring, Jeffrey W., xxx-xx-xxxx
Harmer, Todd P., xxx-xx-xxxx
Harmon, Bradley D., xxx-xx-xxxx
Harmon, David M., xxx-xx-xxxx
Harris, Timothy J., xxx-xx-xxxx
Harrison, Arcolar R., xxx-xx-xxxx
Harsh, Shelley D., xxx-xx-xxxx
Hart, Andrew E., xxx-xx-xxxx
Hart, Mark W., xxx-xx-xxxx
Hartje, Tim D., xxx-xx-xxxx
Hartley, Jeffrey W., xxx-xx-xxxx
Hartung, Thomas A., xxx-xx-xxxx
Harvey, Susan D., xxx-xx-xxxx
Hauck, Daryl J., xxx-xx-xxxx
Hawkens, David A., xxx-xx-xxxx
Hawkins, Bruce W., Jr., xxx-xx-xxxx
Hawkins, James J., xxx-xx-xxxx
Hawthorne, Kim D., xxx-xx-xxxx
Hay, Marcus E., xxx-xx-xxxx
Heikkinen, Gerrold G.J., xxx-xx-xxxx
Heli, Gregory J., xxx-xx-xxxx
Hellen, Bruce T., xxx-xx-xxxx
Henry, Jeffrey S., xxx-xx-xxxx
Henson, Janet M., xxx-xx-xxxx
Herman, Steven W., xxx-xx-xxxx
Hernandez, Villarrubia xxx-xx-xxxx
Herron, James W., xxx-xx-xxxx
Hill, Robert E., xxx-xx-xxxx
Hilliard, Martin A., xxx-xx-xxxx
Hills, Geoffrey H., xxx-xx-xxxx
Hindes, William R., xxx-xx-xxxx
Hiscox, Kimberly A., xxx-xx-xxxx
Hoadley, Daniel J., xxx-xx-xxxx
Hoeft, Kathleen A., xxx-xx-xxxx
Hogan, Anthony J., xxx-xx-xxxx
Hogge, James M., xxx-xx-xxxx
Holba, Robert S., xxx-xx-xxxx
Holley, James O., xxx-xx-xxxx
Hollingsworth, Teresa K., xxx-xx-xxxx
Holmes, Elizabeth J., xxx-xx-xxxx
Holt, Stephanie R., xxx-xx-xxxx
Horn, Jonathon D., xxx-xx-xxxx
Horner, John P., xxx-xx-xxxx
Horton, Andrew M., xxx-xx-xxxx
Houdek, Kevin R., xxx-xx-xxxx
Houston, Michael S., xxx-xx-xxxx
Hower, Scott J., xxx-xx-xxxx
Hoy, Trevor D., xxx-xx-xxxx
Hubbard, Kenneth R., xxx-xx-xxxx
Hudson, Derrick K., xxx-xx-xxxx
Hudson, Donald L., xxx-xx-xxxx
Huffman, Paul E., xxx-xx-xxxx
Hughes, Steve D., xxx-xx-xxxx
Huguley, Harold I., xxx-xx-xxxx
Huisentruit, Andrew J., xxx-xx-xxxx
Humelbaugh, Jay P., xxx-xx-xxxx
Hunt, John D., xxx-xx-xxxx
Hupp, Judith M., xxx-xx-xxxx
Hupy, Jeffrey L., xxx-xx-xxxx
Hutchins, Edward L., xxx-xx-xxxx
Ibinson, William M., xxx-xx-xxxx
Idle, Winthrop C., xxx-xx-xxxx
Im, Gary K., xxx-xx-xxxx
Ingerson, David P., xxx-xx-xxxx
Ingle, Timothy M., xxx-xx-xxxx
Ingram, Andrew D., xxx-xx-xxxx
Ingram, Henry O., Jr., xxx-xx-xxxx
Inman, Jefferson D., xxx-xx-xxxx
Irvin, David M., xxx-xx-xxxx
James, Douglas E., xxx-xx-xxxx
Jameson, Austin D., xxx-xx-xxxx
Jameson, Patric D., xxx-xx-xxxx
Jansen, George A., Jr., xxx-xx-xxxx
Jansen, Jody L., xxx-xx-xxxx
Jaszai, Stephen C., xxx-xx-xxxx
Jella, Christopher B., xxx-xx-xxxx
Jentoft, Karl E., xxx-xx-xxxx
Jeronimus, John H., xxx-xx-xxxx
Johnson, Deborah L., xxx-xx-xxxx
Johnson, Lloyd B. III, xxx-xx-xxxx
Johnson, Stuart P. II, xxx-xx-xxxx
Johnson, Theron E., xxx-xx-xxxx
Johnston, Anne L., xxx-xx-xxxx
Jolly, Wesley R., xxx-xx-xxxx
Jones, Andrew H., xxx-xx-xxxx
Jones, Charles M., xxx-xx-xxxx
Jones, Charles D., xxx-xx-xxxx
Jones, Randall T., xxx-xx-xxxx
Jose, Joseph M., xxx-xx-xxxx
Joslin, Edward L., xxx-xx-xxxx
Junio, Dimasalang F., xxx-xx-xxxx
Kannarr, Blake E., xxx-xx-xxxx
Kauffman, Phillip J., xxx-xx-xxxx
Kaufman, Robert H. Sta, xxx-xx-xxxx
Kelly, James M., xxx-xx-xxxx
Kendall, Brian S., xxx-xx-xxxx
Kennel, Frederick M., xxx-xx-xxxx
Kenney, Sheilagh M., xxx-xx-xxxx
Kerenyi, Andre I., xxx-xx-xxxx
Kim, Ambrose N Hoo, xxx-xx-xxxx
Kinamon, Charles P., xxx-xx-xxxx
Kingsford, Kyle S., xxx-xx-xxxx
Kinsey, Joan M., xxx-xx-xxxx
Kirk, Kenneth M., xxx-xx-xxxx
Kisner, Janet C., xxx-xx-xxxx
Kitchens, David M., xxx-xx-xxxx
Klinkmann, Michael K., xxx-xx-xxxx
Knapp, Richard F., xxx-xx-xxxx
Knehans, Christopher G., xxx-xx-xxxx
Knight, David A., xxx-xx-xxxx
Knight, Kenneth K., xxx-xx-xxxx
Knoll, William P., xxx-xx-xxxx
Knorr, Brian K., xxx-xx-xxxx
Kobylarz, Thomas J., xxx-xx-xxxx
Kopinski, Scott M., xxx-xx-xxxx
Kopko, Kenneth, K., xxx-xx-xxxx
Korpak, Kenneth L., xxx-xx-xxxx
Kozak, Frank E., xxx-xx-xxxx
Kraft, John W., Jr., xxx-xx-xxxx
Krause, John O., xxx-xx-xxxx
Krawciw, Andrew B., xxx-xx-xxxx
Kreeger, Keith R., xxx-xx-xxxx
Kress, John C., xxx-xx-xxxx
Kudla, Keith A., xxx-xx-xxxx
Kudym, Donald L., Jr., xxx-xx-xxxx
Kuennen, Steven T., xxx-xx-xxxx
Kuhn, Kyle W., xxx-xx-xxxx
Kutyna, Douglas J., xxx-xx-xxxx
Kwast, Steven L., xxx-xx-xxxx
Labedz, Ronald F., xxx-xx-xxxx
Lackovic, Michael J., xxx-xx-xxxx
Ladner, John S., xxx-xx-xxxx
Lancaster, Robert D., xxx-xx-xxxx
Langley, Angelique M., xxx-xx-xxxx
Laraia, Kevin M., xxx-xx-xxxx
Larson, Bennett K., xxx-xx-xxxx
Larson, David N., xxx-xx-xxxx
Lawlor, Steven B., xxx-xx-xxxx
Le Phung D., xxx-xx-xxxx
Leake, William A., xxx-xx-xxxx
Lear, Kirk A., xxx-xx-xxxx
Leary, Terrence A., xxx-xx-xxxx
Leclaire, Richard P., xxx-xx-xxxx
Leddy, John R., xxx-xx-xxxx
Lee, Peter A., xxx-xx-xxxx
Lefavor, James M., xxx-xx-xxxx
Legg, Alec B., xxx-xx-xxxx
Leidheiser, Eric R., xxx-xx-xxxx
Lerch, John J., xxx-xx-xxxx
Levasseur, John G., xxx-xx-xxxx
Lewis, Kimberly, xxx-xx-xxxx
Ley, Anne M., xxx-xx-xxxx
Liegl, Jeffrey, T., xxx-xx-xxxx
Lindh, Jerry C., xxx-xx-xxxx
Linskens, Jeffery R., xxx-xx-xxxx
Littrell, Larry L., xxx-xx-xxxx
Lloyd, Brian J., xxx-xx-xxxx
Logan, Lisa M., xxx-xx-xxxx
Logrande, Michael F., xxx-xx-xxxx
Lombardo, Tammy L., xxx-xx-xxxx
Lopes, John A., xxx-xx-xxxx
Love, Ricky A., xxx-xx-xxxx
Lowman, Leon J., xxx-xx-xxxx
Luce, Timothy R., xxx-xx-xxxx
Lucka, Robert W., xxx-xx-xxxx
Luke, Lawrence D., xxx-xx-xxxx
Lynch, Michael S., xxx-xx-xxxx
Lyons, William A., xxx-xx-xxxx
MacArthur, David J., II, xxx-xx-xxxx
MacDougal, Damon L., II, xxx-xx-xxxx
MacFarlane, Steele R., II, xxx-xx-xxxx
MacIntyre, Jean, xxx-xx-xxxx
MacKeen, Richard P., xxx-xx-xxxx
MacNabb, Martin L., xxx-xx-xxxx
Macrina, John R., xxx-xx-xxxx
Madere, Steven J., xxx-xx-xxxx
Maharrey, David H., Jr., xxx-xx-xxxx
Malackowski, Patrick C., xxx-xx-xxxx
Malfer, Dennis J., Jr., xxx-xx-xxxx

Manges, Victor J., xxx-xx-xxxx
Mangner, Thomas J., xxx-xx-xxxx
Mann, Roderick, C., xxx-xx-xxxx
Manocchia, Christopher M., xxx-xx-xxxx
Mansfield, Robert W., xxx-xx-xxxx
Mares, Michael J., xxx-xx-xxxx
Marshall, Michael T., xxx-xx-xxxx
Martel, Michael P., xxx-xx-xxxx
Martin, Barbara J., xxx-xx-xxxx
Martin, Carl R., xxx-xx-xxxx
Martin, Joseph P., xxx-xx-xxxx
Martin, Julie P., xxx-xx-xxxx
Martin, Robbie D., xxx-xx-xxxx
Martin, Scott D., xxx-xx-xxxx
Martinez, Jerry P., xxx-xx-xxxx
Massee, John T., xxx-xx-xxxx
Matchan, Jeffery D., xxx-xx-xxxx
Matthews, Robert J., xxx-xx-xxxx
Mauch, Lawrence J., xxx-xx-xxxx
Mavrakis, Emmanuel M., xxx-xx-xxxx
Maxfield, Randall T., xxx-xx-xxxx
Maxwell, Christopher D., xxx-xx-xxxx
Mayfield, Leon C., xxx-xx-xxxx
Mazzarella, Gregory P., xxx-xx-xxxx
McAndrews, Gregory J., xxx-xx-xxxx
McBee, Richard D., xxx-xx-xxxx
McClain, James E., xxx-xx-xxxx
McClean, Scott D., xxx-xx-xxxx
McCloy, Robert P., xxx-xx-xxxx
McCoy, Keith E., xxx-xx-xxxx
McCullough, Vanessa, xxx-xx-xxxx
McDevitt, Dennis P., Jr., xxx-xx-xxxx
McDevitt, John F., Jr., xxx-xx-xxxx
McDonald, John B., Jr., xxx-xx-xxxx
McDonald, Maurice D., xxx-xx-xxxx
McDonald, Timothy S., xxx-xx-xxxx
McDonough, Michael J., IV, xxx-xx-xxxx
McGarrity, John P., xxx-xx-xxxx
McLain, Dean P., xxx-xx-xxxx
McLaughlin, John P., II, xxx-xx-xxxx
McLaughlin, Terrie A., xxx-xx-xxxx
McLuen, Kevin W., xxx-xx-xxxx
McNeice, Kara M., xxx-xx-xxxx
McTier, Steven E., xxx-xx-xxxx
Meader, Michael S., xxx-xx-xxxx
Medina, Cecil A., xxx-xx-xxxx
Medvec, Mark S., xxx-xx-xxxx
Meier, Michael R., xxx-xx-xxxx
Meier, Richard E., xxx-xx-xxxx
Menchaca, Jose J., xxx-xx-xxxx
Menker, George T., Jr., xxx-xx-xxxx
Mercado, Richard T., xxx-xx-xxxx
Mercier, Michael G., xxx-xx-xxxx
Metcalf, Richard A., xxx-xx-xxxx
Metzger, Richard D., xxx-xx-xxxx
Meyers, David A., xxx-xx-xxxx
Migdal, Walter, xxx-xx-xxxx
Mihalik, Stephen J., xxx-xx-xxxx
Miller, Daniel J., Jr., xxx-xx-xxxx
Miller, Daniel R., xxx-xx-xxxx
Miller, John G., xxx-xx-xxxx
Miller, Scott W., xxx-xx-xxxx
Miller, Stuart W., xxx-xx-xxxx
Miller, Walton E., xxx-xx-xxxx
Mills, Timothy J., xxx-xx-xxxx
Minahan, Edward M., xxx-xx-xxxx
Miranda, Robert, xxx-xx-xxxx
Mitchell, Matthew E., xxx-xx-xxxx
Mock, Terry L., II, xxx-xx-xxxx
Monroe, Robert E., xxx-xx-xxxx
Montero, Anthony, xxx-xx-xxxx
Montgomery, Cary W., xxx-xx-xxxx
Montgomery, John P., xxx-xx-xxxx
Montgomery, Ronald E., xxx-xx-xxxx
Moody, Todd R., xxx-xx-xxxx
Mooney, Latishie L., xxx-xx-xxxx
Moore, Glen S., xxx-xx-xxxx
Moore, Gregory H., xxx-xx-xxxx
Moreland, Christopher J., xxx-xx-xxxx
Morey, Gary L., xxx-xx-xxxx
Morgan, David A., xxx-xx-xxxx
Morgan, John A., Jr., xxx-xx-xxxx
Morrison, Gary G., xxx-xx-xxxx
Morse, Douglas E., xxx-xx-xxxx
Moscovic, Sandra A., xxx-xx-xxxx
Mosley, Jay M., xxx-xx-xxxx
Mourafetis, William L., xxx-xx-xxxx
Muench, Kathleen M., xxx-xx-xxxx
Mulder, David D., xxx-xx-xxxx
Mumford, Donald A., xxx-xx-xxxx
Myers, Carlin D., xxx-xx-xxxx
Myers, Douglas B., xxx-xx-xxxx
Naboni, Sonny, xxx-xx-xxxx
Naugle, Richard A., xxx-xx-xxxx
Neal, Darren I., xxx-xx-xxxx
Needham, James E., xxx-xx-xxxx
Nelson, Lisa J., xxx-xx-xxxx
Nelson, Reed M., xxx-xx-xxxx
Nelson, William J., xxx-xx-xxxx
Neumann, Timothy P., xxx-xx-xxxx
Newberry, Robert D., xxx-xx-xxxx
Newbrough, Gary E., xxx-xx-xxxx
Newton, Hiawatha K., xxx-xx-xxxx
Niemann, George A., xxx-xx-xxxx
Nieuwsma, David J., xxx-xx-xxxx
Nifakos, Constantine G., xxx-xx-xxxx
Nigl, Michael G., xxx-xx-xxxx
Nolan, Louis J., xxx-xx-xxxx
Norman, Jon A., xxx-xx-xxxx
Norris, Kenneth J., xxx-xx-xxxx
Norton, Daniel E., xxx-xx-xxxx
Nowotny, Paul, xxx-xx-xxxx
Nyberg, Kristina Y., xxx-xx-xxxx
Oates, John S., xxx-xx-xxxx
Oberly, Mark D., xxx-xx-xxxx
Oberter, Roger E., xxx-xx-xxxx
Older, David J., xxx-xx-xxxx
Olson, Jeffry J., xxx-xx-xxxx
Oms, Pedro R., xxx-xx-xxxx
Orner, Terry M., xxx-xx-xxxx
Ortega, Jonathan L., xxx-xx-xxxx
Ortiz, Christopher, xxx-xx-xxxx
Ortiz, Juan C., xxx-xx-xxxx
Orvedahl, Dale E., xxx-xx-xxxx
Osarczuk, John C., Jr., xxx-xx-xxxx
O'Shaughnessy, Terrence J., xxx-xx-xxxx
Otis, Michael P., xxx-xx-xxxx
Ottinger, Jeanne L., xxx-xx-xxxx
Outlaw, David M., xxx-xx-xxxx
Padden, Pollyanna A., xxx-xx-xxxx
Paffenroth, Scott A., xxx-xx-xxxx
Palko, Kevin D., xxx-xx-xxxx
Panarisi, Michael T., xxx-xx-xxxx
Parish, Joseph E., xxx-xx-xxxx
Parker, Robert E., xxx-xx-xxxx
Parker, Steven B., xxx-xx-xxxx
Parmater, Alan T., xxx-xx-xxxx
Passaro, James R., xxx-xx-xxxx
Patterson, John K., xxx-xx-xxxx
Patti, Marc E., xxx-xx-xxxx
Patton, Catherine M., xxx-xx-xxxx
Payne, Manuel A., xxx-xx-xxxx
Peloquin, Perry J., xxx-xx-xxxx
Pera, Lee J., xxx-xx-xxxx
Perkins, Gerald M., xxx-xx-xxxx
Peterson, John E., xxx-xx-xxxx
Petrishen, Timothy P., xxx-xx-xxxx
Pettyjohn, Jamie E., xxx-xx-xxxx
Pharris, Eric M., xxx-xx-xxxx
Pickens, Brian K., xxx-xx-xxxx
Pickett, Marqujis D., xxx-xx-xxxx
Pietryga, Michael D., xxx-xx-xxxx
Pingry, Julie D., xxx-xx-xxxx
Pipan, Michael A., xxx-xx-xxxx
Pittman, Kelly M., xxx-xx-xxxx
Place, Gene A., xxx-xx-xxxx
Pletcher, Brian S., xxx-xx-xxxx
Pokorny, Mark A., xxx-xx-xxxx
Poppert, Patrick E., xxx-xx-xxxx
Porterfield, Thomas J., xxx-xx-xxxx
Potter, Stephen M., xxx-xx-xxxx
Prather, David S., xxx-xx-xxxx
Price, Bradley W., xxx-xx-xxxx
Prior, Richard P., Jr., xxx-xx-xxxx
Pshsnychniak, Gregory J., xxx-xx-xxxx
Ptasznik, Carol A., xxx-xx-xxxx
Pustay, John S., Jr., xxx-xx-xxxx
Putney, Jonathan R., xxx-xx-xxxx
Quint, Marcus J., xxx-xx-xxxx
Quintana, Carlos B., xxx-xx-xxxx
Quirk, George G., IV, xxx-xx-xxxx
Quiterio, Carlos W.W., xxx-xx-xxxx
Rademacher, Bruce N.W., xxx-xx-xxxx
Raimer, Kevin J., xxx-xx-xxxx
Raines, Donald J., xxx-xx-xxxx
Rarick, Michael J., xxx-xx-xxxx
Rathsack, Matthew D., xxx-xx-xxxx
Rau, Gregory S., xxx-xx-xxxx
Rau, Robert O., Jr., xxx-xx-xxxx
Ravenelle, Anita M., xxx-xx-xxxx
Reddick, Pamela A., xxx-xx-xxxx
Reed, Carolyn M., xxx-xx-xxxx
Reiling, Russell N., Jr., xxx-xx-xxxx
Reimers, Craig A., xxx-xx-xxxx
Reyes, George J., xxx-xx-xxxx
Reynolds, James H., Jr., xxx-xx-xxxx
Rhiddlehoover, Sarah B., xxx-xx-xxxx
Rhinehart, Roch H., xxx-xx-xxxx
Rich, Cosmo A., Jr., xxx-xx-xxxx
Rickert, Robert A., xxx-xx-xxxx
Ridolfi, Donald H., Jr., xxx-xx-xxxx
Rinke, Edward J., xxx-xx-xxxx
Ritter, Lori J., xxx-xx-xxxx
Roberts, Sanford E., II, xxx-xx-xxxx
Robertson, Blake W., xxx-xx-xxxx
Robertson, Dwight E., xxx-xx-xxxx
Robinson, Bobby L., II, xxx-xx-xxxx
Robinson, Timothy H., xxx-xx-xxxx
Rodgers, Rickey S., xxx-xx-xxxx
Rodriguez, Ernest H., xxx-xx-xxxx
Roeder, Christopher L., xxx-xx-xxxx
Rogers, Bert W., xxx-xx-xxxx
Rogers, Michael K., xxx-xx-xxxx
Ronsman, Harry M., xxx-xx-xxxx
Rooney, Sean M., xxx-xx-xxxx
Roop, Jon A., xxx-xx-xxxx
Rose, Samuel L., xxx-xx-xxxx
Rosenthal, Robert A., xxx-xx-xxxx
Ross, Keith P., xxx-xx-xxxx
Rossi, Frank J., xxx-xx-xxxx
Ruby, Tomislav Z., xxx-xx-xxxx
Ruder, Craig R., xxx-xx-xxxx
Rudolph, Jason M., xxx-xx-xxxx
Rued, John F., xxx-xx-xxxx
Russ, John A., xxx-xx-xxxx
Russo, Gregory J., xxx-xx-xxxx
Ryan, Dennis B., xxx-xx-xxxx
Ryan, James P., xxx-xx-xxxx
Ryniak, Nancy M., xxx-xx-xxxx
Sacks, John T., xxx-xx-xxxx
Saint, Hugh K., xxx-xx-xxxx
Salcedo, Claude E., xxx-xx-xxxx
Sanning, Matthew G., xxx-xx-xxxx
Saulny, Stanley M., Jr., xxx-xx-xxxx
Sauve, Neil T., xxx-xx-xxxx
Savino, Vincent, xxx-xx-xxxx
Schaab, Robert S., xxx-xx-xxxx
Schaeflern, Kathleen, xxx-xx-xxxx
Schamante, Salvatore P., xxx-xx-xxxx
Scharfenberg, Peter W., xxx-xx-xxxx
Schieve, Mark E., xxx-xx-xxxx
Schloss, John R., xxx-xx-xxxx
Schlumpberger, Steven J., xxx-xx-xxxx
Schmick, Joel B., xxx-xx-xxxx
Schrink, Robert H., xxx-xx-xxxx
Schrupp, Ronald W., xxx-xx-xxxx
Schubbe, Joel J., xxx-xx-xxxx
Schueler, James T., Jr., xxx-xx-xxxx
Schuk, Laurie J., xxx-xx-xxxx
Schuman, Jimmie D., Jr., xxx-xx-xxxx
Schwartz, Terese M., xxx-xx-xxxx
Scifers, Leland G., xxx-xx-xxxx
Scobee, Richard W., xxx-xx-xxxx
Scoggin, Coert C., xxx-xx-xxxx
Scott, Summer E., xxx-xx-xxxx
Scott, Todd J., xxx-xx-xxxx
Seaholm, Lane A., xxx-xx-xxxx
Seaman, Stephen L., xxx-xx-xxxx
Sechler, Wesley W., xxx-xx-xxxx
Secor, Linda E., xxx-xx-xxxx
Seglins, Andrew C., xxx-xx-xxxx
Seiler, Gretchen L., xxx-xx-xxxx

Semmel, Greg A., xxx-xx-xxxx
Senef, Bradley G., xxx-xx-xxxx
Sepanski, John M., xxx-xx-xxxx
Serres, Todd J., xxx-xx-xxxx
Shannon, David B., xxx-xx-xxxx
Sharp, Tamaron G., xxx-xx-xxxx
Shea, Daniel C., xxx-xx-xxxx
Sheley, Stan A., xxx-xx-xxxx
Shepardson, Matthew J., xxx-xx-xxxx
Shin, Kent U. Mar., xxx-xx-xxxx
Shkor, John S., xxx-xx-xxxx
Shoff, Charles J., xxx-xx-xxxx
Silver, Steven B., xxx-xx-xxxx
Simmons, Bradley J., xxx-xx-xxxx
Simmons, Ronald W., xxx-xx-xxxx
Simon, Daryl R., xxx-xx-xxxx
Simpson, Naaman M., xxx-xx-xxxx
Sims, Gregory R., xxx-xx-xxxx
Siu, Ruthann K. Mui., xxx-xx-xxxx
Skinner, Reid G., xxx-xx-xxxx
Skotte, Stephen, J., xxx-xx-xxxx
Sloan, Peter, xxx-xx-xxxx
Sloan, Robert S., xxx-xx-xxxx
Smith, Alison L., xxx-xx-xxxx
Smith, Barbara J., xxx-xx-xxxx
Smith, Courtney L., xxx-xx-xxxx
Smith, Fred H., xxx-xx-xxxx
Smith, Jeffrey J., xxx-xx-xxxx
Smith, Karen L., xxx-xx-xxxx
Smith, Sharon A., xxx-xx-xxxx
Smith, Thomas K, Jr., xxx-xx-xxxx
Smith, Tommy H., xxx-xx-xxxx
Snider, Darleene E., xxx-xx-xxxx
Sny, Daniel R., xxx-xx-xxxx
Soloria, Michel A., xxx-xx-xxxx
Soong, Bonita L., xxx-xx-xxxx
Sorrells, Richard D., xxx-xx-xxxx
Specht, John W., xxx-xx-xxxx
Speight, Joel S., xxx-xx-xxxx
Spencer, Barbara J., xxx-xx-xxxx
Spofford, Jason J., xxx-xx-xxxx
Stafford, Craig L., xxx-xx-xxxx
Steadman, Steven H., xxx-xx-xxxx
Stecklein, Gregory O., xxx-xx-xxxx
Stewart, Eric J., xxx-xx-xxxx
Stiglich, Jill E., xxx-xx-xxxx
Stillings, Harold R., xxx-xx-xxxx
Stillman, George W., xxx-xx-xxxx
Stinson, Daphne E., xxx-xx-xxxx
Stockton, Patrick D., II, xxx-xx-xxxx
Stockton, Richard C., II, xxx-xx-xxxx
Strandberg, Darrell A., II, xxx-xx-xxxx
Streitmater, Kirk J., xxx-xx-xxxx
Struck, Steven E., xxx-xx-xxxx
Stukes Joaquin D., xxx-xx-xxxx
Suarez, Pedro F., xxx-xx-xxxx
Sullivan, Kenneth N., xxx-xx-xxxx
Sullivan, Warren J., xxx-xx-xxxx
Sumner, David L., xxx-xx-xxxx
Sumrall, Richard W., xxx-xx-xxxx
Sutherland, Stephen A., xxx-xx-xxxx
Sutton, David A., xxx-xx-xxxx
Sweeney, John D., xxx-xx-xxxx
Swegel, Jeffrey R., xxx-xx-xxxx
Swift, Michael D., xxx-xx-xxxx
Symons, Steven R., xxx-xx-xxxx
Szvetecz, Thomas S., xxx-xx-xxxx
Tambos, Michael J., xxx-xx-xxxx
Tanner, Steven C., xxx-xx-xxxx
Tavrytzky, Jan A., xxx-xx-xxxx
Taylor, John B., xxx-xx-xxxx
Taylor, Russell E., xxx-xx-xxxx
Taylor, William W., xxx-xx-xxxx
Teague, Roger W., xxx-xx-xxxx
Tew, William G., xxx-xx-xxxx
Therianos, Michael L., xxx-xx-xxxx
Thomas, Evan C., xxx-xx-xxxx
Thomas, Gaylord Z., xxx-xx-xxxx
Thomas, Scott A., xxx-xx-xxxx
Thomas, William L., Jr., xxx-xx-xxxx
Thompson, Ivan G., xxx-xx-xxxx
Thrasher, Roger D., xxx-xx-xxxx
Tibbs, Kevin B., xxx-xx-xxxx
Tillie, James S., xxx-xx-xxxx
Tillman, Antonio W., xxx-xx-xxxx
Tipmongkol, Mark T., xxx-xx-xxxx
Tirrell, Mark J., xxx-xx-xxxx
Toliver, Renea L., xxx-xx-xxxx
Toms, Jerry L., xxx-xx-xxxx
Torres, Jose L., Jr., xxx-xx-xxxx
Towe, Jaye L., xxx-xx-xxxx
Tran, Khanh C., xxx-xx-xxxx
Travis, Carol A., xxx-xx-xxxx
Tremain, Stephen F., xxx-xx-xxxx
Trigo, Anacleto F., xxx-xx-xxxx
Trippe, Octavio L., III, xxx-xx-xxxx
Trotter, Scott D., xxx-xx-xxxx
Trudeau, Mark A., xxx-xx-xxxx
Tu, Vera A., xxx-xx-xxxx
Tuason, Christopher M.T., xxx-xx-xxxx
Tubb, David J., xxx-xx-xxxx
Tuck, Charles D., xxx-xx-xxxx
Turner, Manson S., xxx-xx-xxxx
Turner, Scott M., xxx-xx-xxxx
Tveter, Wade A., xxx-xx-xxxx
Underhill, Sterling D., xxx-xx-xxxx
Updegraff, David B., xxx-xx-xxxx
Usry, Donald W., xxx-xx-xxxx
Valdez, Christopher M., xxx-xx-xxxx
Van Horn, F., Laz., xxx-xx-xxxx
Vasta, Joseph A., xxx-xx-xxxx
Veazie, Christopher M., xxx-xx-xxxx
Velazquez, Angel L., xxx-xx-xxxx
Vellanti, Christopher G., xxx-xx-xxxx
Vernon, Rodney G., xxx-xx-xxxx
Veroski, William J., Jr., xxx-xx-xxxx
Vest, Hugh S., xxx-xx-xxxx
Vickers, John F., xxx-xx-xxxx
Vidmar, Mark K., xxx-xx-xxxx
Vijums, Mark D., xxx-xx-xxxx
Viland, Michael F., xxx-xx-xxxx
Vincent, Roger M., xxx-xx-xxxx
Vosper, Todd W., xxx-xx-xxxx
Wagner, Jeffrey P., xxx-xx-xxxx
Wainner, Warren S., xxx-xx-xxxx
Wait, Todd D., xxx-xx-xxxx
Walker, Larry J., Jr., xxx-xx-xxxx
Walker, Reginald H., xxx-xx-xxxx
Walker, Stuart H., xxx-xx-xxxx
Wall, Jose R., xxx-xx-xxxx
Wallace, Charles L.J., xxx-xx-xxxx
Waller, Stephen M., xxx-xx-xxxx
Wanebo, Charles P., xxx-xx-xxxx
Ward, Michael R., xxx-xx-xxxx
Ward, Timothy D., xxx-xx-xxxx
Warren, Lonnie A., xxx-xx-xxxx
Wasserzieher, Bruce A., xxx-xx-xxxx
Waters, Denise Y., xxx-xx-xxxx
Watsek, Darrel R., xxx-xx-xxxx
Way, Bruce K., xxx-xx-xxxx
Weintraub, David, xxx-xx-xxxx
Weisman, Wade H., Jr., xxx-xx-xxxx
Weiss, Bartholomew W., Jr., xxx-xx-xxxx
Wertz, James L. Roy, xxx-xx-xxxx
Westhauser, Todd C., xxx-xx-xxxx
White, Andrew B., III, xxx-xx-xxxx
White, Chandler D., xxx-xx-xxxx
White, David T., xxx-xx-xxxx
White, Patricia I., xxx-xx-xxxx
Whitt, David R., xxx-xx-xxxx
Wickson, Eric A., xxx-xx-xxxx
Wiegand, David P., xxx-xx-xxxx
Wieland, Susan M., xxx-xx-xxxx
Wilburn, Joe N., xxx-xx-xxxx
Wile, Shelly J., xxx-xx-xxxx
Willard, Thomas J., xxx-xx-xxxx
Willers, Tina M., xxx-xx-xxxx
Williams, Albert C., II, xxx-xx-xxxx
Williams, Calvin B., xxx-xx-xxxx
Williams, John R., xxx-xx-xxxx
Williams, John A., xxx-xx-xxxx
Wilson, Darren E., xxx-xx-xxxx
Wilson, Dwawn E., xxx-xx-xxxx
Wilson, Nathaniel J., Jr., xxx-xx-xxxx
Wilson, Peter L., xxx-xx-xxxx
Wilson, Russell A., xxx-xx-xxxx
Wittenberg, Laurel M., xxx-xx-xxxx
Wohlfiel, Terrance J., xxx-xx-xxxx
Wojtysiak, Scott A., xxx-xx-xxxx
Wolfe, Gary M., xxx-xx-xxxx
Wood, Jeffrey N., xxx-xx-xxxx
Wood, Lawrence T., xxx-xx-xxxx
Wood, Yolandea M., xxx-xx-xxxx
Woodard, Ronald B., xxx-xx-xxxx
Worthington, Kara B., xxx-xx-xxxx
Wright, David A., xxx-xx-xxxx
Wright, Michael W., xxx-xx-xxxx
Wright, Paul W., xxx-xx-xxxx
Wright, Sean R., xxx-xx-xxxx
Yallourakis Dimitri M., xxx-xx-xxxx
Yoemans, Kevin D., xxx-xx-xxxx
Yingling, David P., xxx-xx-xxxx
Yong, Edward G., xxx-xx-xxxx
York, George W. Pol, xxx-xx-xxxx
York, Peter L., xxx-xx-xxxx
Youngstrom, Edwin C., xxx-xx-xxxx
Zabalaoui, David L., xxx-xx-xxxx
Zaniewski, George A., xxx-xx-xxxx
Zarnik, Christopher D., xxx-xx-xxxx
Zawada, Pamela A., xxx-xx-xxxx
Zeile, Arthur H., xxx-xx-xxxx
Ziegler, John J., III, xxx-xx-xxxx
Zimmerman, Thomas F., xxx-xx-xxxx
Zucco, Anthony J. Fra., xxx-xx-xxxx
Zwick, Alan W., xxx-xx-xxxx
Zwolinski, Darren L., xxx-xx-xxxx

IN THE MARINE CORPS

The following-named officers of the Marine Corps for permanent appointment to the grade of lieutenant colonel, under title 10, United States Code, section 624:
Charles F. Laughinghouse
James Keane
Raymond M. Kruse

The following-named officers of the Marine Corps for permanent appointment to the grade of major, under title 10, United States Code, section 624:
William D. York

IN THE NAVY

Keith J. Allred, lieutenant, Judge Advocate General's Corps, U.S. Naval Reserve, to be appointed permanent lieutenant in the Judge Advocate General's Corps of the U.S. Navy, pursuant to title 10, United States Code, section 531.

The following-named U.S. Navy officers to be appointed permanent chief warrant officer, W-3, in the U.S. Navy, pursuant to title 10, United States Code, section 555:
Clink, Robert E.
Coleman, Arthur D.
Delgado, Anibal L.
Grissom, James M.
Ingram, Charles E.
Syrovatka, Vladimir

The following-named Naval Reserve officers to be appointed permanent ensign in the line or staff corps of the U.S. Navy, pursuant to title 10, United States Code, section 531:
Babos, Jeffrey C.
Budka, Michael G.
Crouse, James D.
Deprizio, Robert M.
Dorff, Stephen J.
Fitzgerald, Dennis P.
Groth, Bruce D.
Harrison, Carter B., III
Hartmann, Thomas K.
Haydock, John S.
Hermann, Michael J.
Imhof, Christopher G.
Jenne, David L.
Jones, Christopher P.
Kepka, Valerie R.
Kingg, Jesse B.
Kirby, Christopher M.
Kraemer, Thomas D.
Leist, James M.
Lineberger, Jeffrey G.

Martek, Craig M.
McKenna, Stephen C.
O'Dell, Jeffrey D.
Peters, William P., Jr.
Reifsnyder, Scot N.
Reilly, Daniel C.
Rodgers, Max D.
Schremmer, Mark
Schuerger, Peter L.
Schultz, Thomas L.
Sena, Peter P., III
Shirer, Richard H., Jr.
Simeone, Robert J.
Simmons, Mason S.
Sinclare, Ben J.
Skarpness, Paul
Smith, Paul F.
Smith, Sarah G.
Speicher, James
Taylor, William B.
Thurston, Barry M.
Wayland, Daniel J.
Wofford, William T., III

IN THE NAVY

The following-named chief warrant officer, W-4 to be appointed permanent chief warrant officer, W-2, in the U.S. Navy, pursuant to title 10, United States Code, section 555:

Aguinaldo, Jerry Mata

The following-named Navy enlisted candidates to be appointed permanent chief warrant officer, W-3, in the U.S. Navy, pursuant to title 10, United States Code, section 555:

Bennett, Paul Allan
Carswell, Willie Doyle, Jr.
Delaet, Jimmy Charles
Elmore, Patrick William
Fitzsimmons, Leo Richard
Geiger, Fred William, Jr.
Lynch, Thomas Wayne
Wade, Dennis
Welsh, John Franklin

The following-named Navy enlisted candidates to be appointed permanent chief warrant officer, W-2, in the U.S. Navy, pursuant to title 10, United States Code, section 555:

Abando, Sonny James
Acord, Richard Lee
Adams, Robert Bertram
Adler, Donald Douglas
Alexander, James Albert
Alter, Lawrence August
Andreoli, Raymond Joseph
Andresen, John Martin
Aquino, Carlos Ab
Bain, Susan Margaret
Balao, Edgardo Verzosa
Ballard, Allen Cecil
Barker, Jimmy Mac, Jr.
Barricklow, Troy Edwin
Bartges, Danny Neal
Bartlett, Lewis Hubbard, Jr.
Bautista, Armando B.
Beauge, Raymond Francis
Beeman, Thomas Michael
Bell, Patrick John
Bennight, Kenneth Mack
Bergbauer, William John
Bergener, Randall Deloy
Beylor, Larry Colin
Bibbins, Reginald Burkele
Bishop, Ronald Bradford
Blalock, Michael Edward
Blasche, Arne Ottomarr, III
Boggs, William Scott
Bonds, Oscar Monroe
Boothe, John W.
Borja, Vicente Topasna
Bouchard, David Eugene
Bowie, John Carlos
Box, Thomas Edward
Boynton, William David
Brewer, Therese Ann
Broadnax, Larry Darnell
Broady, Robert Paul
Brooks, Jonathan Charles
Brown, Charles Melvin
Brown, Dennis Payne
Brown, Kennerly Guy, Jr.
Brown, Kenneth Dewayne
Brown, Lawrence Thomas
Brownson, Mark Karl
Buddenhagen, John Roger
Bulger, Timothy Hugh
Burdick, Loring Robert, Jr.
Burks, Steven Clyde
Bussey, Clifford Alfonzo
Callahan, Ronnie Marion
Campbell, William Davis
Capps, Charles Wayne
Capuano, John Francis
Carlile, Steven William
Carter, William Joseph
Chilson, Jan Clinton
Clayton, Michael W.
Clement, David Charles
Cline, Richard Michael
Clough, Daniel Lee
Cockerham, Michael Dea
Colbaugh Terry Jack
Collins, Terry Lee
Conner, Curtis H.
Conway, Wayne Douglas
Cooke, Dennis Michael
Corlies, Bobby Lee
Corriveau, Gregory Kirk
Cosgrove, James William, Jr.
Cowan, Richard, Jr.
Craighead, Clifton Lee
Crawford, Harold Douglas, J.
Creasy, Forrest Daryl
Dalisay, Marcelo Mangalind
Damico, Thomas James
Danielson, Craig John
Davis, Darrell Allen
Davis, Paul Thomas
Davis, Robert Wayne
Dayton, Paul Marqua
Dearman, Jon Stuart
Dehler, Duane Anthony
Desilets, Daniel G.
Dodson, Barry Michael
Dominguez, Steve Jesse
Drumm, Glenn Wilbur
Dubeau, Gordon Donald
Durden, Patrick Glenn
Earl Kenneth Dewayne
Edwards, Ronald Eugene
England, Dennis James
Esguerra, Remigio Sison
Esqueda, Robert
Fannon, David Joel
Fennewald, Michael Joseph
Ferguson, John Fred
Ferguson, Robert Charles
Fernandez, Sal
Fink, Thomas Bruce
Fisher, Robert Louis
Foley, Barry Parks
Fortney, Dennis Ervin
Francisco, Ernesto Ramirez
Freely, Ralph Emil
Fulbright, Charles Gene
Gador, Oscar Heramil
Galvan, Arthur Ursua
Garceau, Roland Rudolph
Gee, Roy Phillip, Jr.
Gentle, David Ray
Gilman, Dennis George
Glissman, Stephen Alan
Goda, Manuel Fungo
Gomez, Alex S
Gonzalez, Carlos
Gossett, William Earl
Gouge, Calvin B
Gravesmill, Michael Freder
Greer, Michael Thomas
Gwyn, Ronald Wayne
Hammerle, Charlie Sams
Hammond, Leonard Greer
Hampton, Thomas Fred Jr.
Haney, John Earl
Hansen, Donna Maria
Harmon, Michael Jay
Harper, Patrick Ross
Harris, Kathleen Cecelia
Harris, Thomas Edward
Harrison, Richard Dean
Haught, Paul James
Hayes, Timothy Allen
Hendricks, Archie Richard
Henninger, Randy Lynn
Henry, Clifford Lewis
Henry, Richard Allan
Henry, Ronald Edward
Herron, Delmer
Hidecker, Kenneth Lynn
Higgins, James LeRoy
Hilbert, Daniel Rene
Hobbs, Kris Allison
Hodgins, Thomas James
Hohlstein, Paul John
Holloway, William Calvin
Hoover, John Craig
Hopkins, Arthur Lee Jr.
Horton, Wayne Edward
Hosking, Clifford James
Hovatter, Clyde Franklin
Hudson, John Wesley, Jr.
Huff, Gerald Eugene
Hughes, Daniel James
Humphrey, Gary Lee
Hunt, James Dudley, III
Hunt, Joseph Wilson, Jr.
Hurlen, Gene Severin
Ibarra, Jose Urdanza, Jr.
Jackson, Dana K
Jasper, William Edmonson J
Johnson, David Allen
Johnson, Edward Gerard
Johnson, Larry Wayne
Johnson, Robert Michael
Johnson, Steve
Jones, Charles Edward
Jones, Donald Wayne
Jones, Louie Theodore, II
Jones, Richard Barryll
Jones, Wilson Edward
Joye, Clarence Edward
Kadel, Charles Allen, Jr.
Kalal, Paul Anthony, Jr.
Keller, David Alan
Kempffer, David Allen
Kimbrell, Russell Kevin
Kirk, Robert Edward
Knab, Joseph Jr.
Kovar, Thomas Dean
Kowalski, Stephen John
Lady, Wanda Rae
Laird, James Russell
Lakin, Elliott Andrew
Lance, Edward Bradley
Lane, William Norris
Lawhorn, George Wayne
Lazaga, Federico Jimeno J
Lee, Darrell George
Lemon, Charles Ray
Leonard, Michael John
Lepsey, George Orville
Lezon, John Louis
Lomibao, Camilo Dichoso
Long, Aaron Cornelius
Lopez, Anita
Loviolette, Richard Lawren
Lynch, Michael Russell
Malmquist, Alan Clyde
Manley, Jeffery Thomas
Martin, Gary Lee
Martin, Henry Ellis

71-059 O-87-7 (Pt. 1)

Martin, James Eugene
McBane, John Philip
McClave, James Joseph
McDaniel, Phillip Wayne
McDermott, Bruce Albert
McKittrick, John Makoto
Meinhardt, Richard Lee
Molina, Santos L.
Moore, Michael Edward
Moorehead, Cornelius Lee J.
Moran, Gil Clarino, Jr.
Morgan, William Eddie
Morrison, Jerome Steven
Moyer, William Joseph
Mrazik, Robert Joseph, Jr.
Mugler, John Lawrence
Murphy, Kenneth Ray
Myers, Frank Earl
Nale, Terry Francis
Nelson, Ronald Lester
Nesbitt, William Gene
Newell, Paul Armstrong
Norris, Byon K.
Norris, Scott Randolph
Northrop, Albert Kenneth
Nurmi, Kenneth John
Oakes, Ronald Alan
O'connell, George Stephen
Odum, David Edward
Oglesby, Charles Jennings
Oleary, Patrick Tobin
Oliver, Steven Edwin
Olsen, Robert Allan
Olson, Stephen William
Ouellette, Gerard Wilfrid
Owens, Eddie Don
Owens, Gary Eugene
Owens, Jerry Brian
Paige, Matthew Offutt, Jr.
Passen, Steven Edward
Penzien, Clayton Robert
Perez, Arnold Frank
Pfarr, George Kenneth
Pickering, George Edward
Pickett, James Arthur
Popadak, Michael Jerome
Posadas, Berbabe Abalos
Posadas, Willie Garcia
Powe, John Edward
Powell, James Ray
Price, Brent Hunter
Profeta, Ernesto Ledesma
Pryor, Michael Wilson
Quartararo, Alan Joseph
Rabago, Ed Thomas
Ragsdale, Ralph L.
Raines, Gary Edward
Reagan, John Charles
Rean, Daniel Timothy
Reeder, John William, Jr.
Rhea, Robert Emmett
Riggs, Wanda Jenell
Richards, Donald Edward
Richardson, Emery, Jr.
Ritchey, John William
Rivas, Frank James
Roach, Charles Corbett
Roberts, John Edward, Jr.
Roberts, Neil Ronald
Roberts, Richard Earl
Robson, Bruce Larry
Rogers, Donald Gene
Rogers, Joseph Henry
Rose, Robert Melvin, Jr.
Roulstone, John Keith
Ruch, Donald Leroy
Ryberg, David Carl
Ryder, Michael Robert
Saiz, Francisco Daniel
Sandoval, Johnny Morales
Schmoll, Richard Lenis
Schools, Fred Neale, Sr.
Schultz, Garrett Anthony
Schwille, Karl Frederick
Sellers, Billy Wayne
Severson, Linda Lou
Sickinger, Kenneth Paul
Siegrist, Bobby Harrison
Sigler, David Richard
Skipper, Robert Terrell
Slater, Samuel B.
Sluka, Steven Foster
Smith, Gary Lee
Smith, Gordon Dean
Smith, John Martin
Smith, Michael Allen
Smith Stephen Estil
Smitherman, John Leslie
Solis, Paul Henry
Spears, Charles Henry
Speck, David Martin
Speights, Joshua W., Jr.
Stahl, Daniel William
Stebbins, Dennis Robert
Stevens, Peter Robert
Stoner, Roy Robert
Stuckey, Paul Rhett
Succo, John Albert
Swaney, Robert Eugen
Taft, Roderick Alan
Talaga, Jacob Michael
Taylor, Ronald Clinton
Thomas, John Edward
Thomas, Richard Eugene
Torino, Vernon Stephen
Trachsler, Robert Walter
Trader, Robert A.
Traywick, Eric Leland
Treece, Michael John Clare
Tucker, Calvin, Jr.
Tuemler, David Jean
Turner, Michael Patrick
Vandersnick, Vincent Earl
Vanhof, Gregory
Vanvliet, Richard Leroy
Vaughn, Harvey Daniel
Veasley, Randy
Voelkel, Thomas Eckert, Jr.
Voris, Harvey Ray
Vullo, Richard S.
Wade, William Lamont
Walker, Leroy Duvall
Wallace, Richard Leon
Walter, Robert James
Walters, Patrick Anthony
Watkins, Gerald Wayne
Webb, Carroll Eugene
Webber, Allan Lee
Welch, Ernest Ferrin
Whitley, John Tate
Whitney, Gary Robert
Wilds, George James
Wilkerson, Patrick Clinton
Williams, Horace Lee
Williams, Jack Lawrence, Jr.
Williams, Michael Thomas
Williams, Richard Wayland
Wilson, Larry Paul
Wilson, Raymond Lee
Wonsey, David Allen
Wood, Franklin Louis
Woods, Daniel Andrew
Wooldridge, Charles Randal
Wright, Eulice James
Wright, Patrick Michael
Youngblood, Nelson, Jr.
Yurkouic, Victor G.

WITHDRAWALS

Executive nominations withdrawn by the President on January 21, 1986:

NATIONAL ENDOWMENT FOR THE HUMANITIES

Edward A. Curran, of Maryland, to be chairman of the National Endowment for the Humanities for a term of 4 years, vice William J. Bennett, which was sent to the Senate on April 5, 1985.

NATIONAL TRANSPORTATION SAFETY BOARD

Vernon L. Grose, of California, to be a member of the National Transportation Safety Board for the term expiring December 31, 1987, vice Francis H. McAdams, term expired, which was sent to the Senate on January 3, 1985.

EXTENSIONS OF REMARKS

THE CONSUMER FRAUD ACT OF 1985

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 21, 1986

Mr. GILMAN. Mr. Speaker, I recently introduced legislation to protect the consumer from unfair or deceptive commercial practices. H.R. 3913, the Consumer Fraud Act of 1985, has the following four main provisions designed to identify consumer fraud and punish those responsible:

First, it would define consumer fraud.

Second, consumer fraud would constitute grounds for cancellation of a contract between an individual consumer or a small businessman and a seller. If a consumer suffered a loss as the result of fraud, treble damages could be recovered from the responsible party.

Third, State attorneys general could sue, as parent patriae for the citizens of their State, to enjoin the continuation of any consumer fraud and to recover damages, which may be distributed to damaged parties under direction of the court. The Attorney General of the United States could also bring such suits.

Fourth, consumer fraud would be a Federal crime, which either the U.S. Justice Department or State attorneys general could prosecute in State or Federal court.

Mr. Speaker, I ask my colleagues to please bear in mind that this bill will neither establish new Federal agencies nor authorize appropriations. H.R. 3913 simply provides the proper law enforcement bodies, at both the State and Federal level, with the ability to institute legal proceedings.

I have introduced the Consumer Fraud Act of 1985 in response to the incredible volume of consumer fraud being perpetrated upon the American public. The bill will assist consumers in protecting themselves against unfair or deceptive trade practices, allowing a defrauded consumer to void a contract, and to sue for treble damages with legal fees. Should the seller or his agent use either communication or transportation, including the mails, for distribution or collection of the product, they may then be subject to either a $10,000 fine for an individual, a $500,000 fine for an organization, or a 3-year prison term, or both, These stringent penalties should serve to stop those who willfully attempt to defraud customers.

Mr. Speaker, I insert the text of H.R. 3913 in the RECORD and I invite my colleagues to study it carefully and to follow with their strong support:

H.R. 3913

A bill to regulate commerce and to prohibit unfair or deceptive acts or practices in commerce, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

SECTION 1. This Act may be cited as the "Consumer Fraud Act of 1985".

DEFINITIONS

SEC. 2. For purposes of this Act:

(1) The term "commerce" means trade, traffic, commerce, or transportation—

(A) between a place in a State and any place outside such State;

(B) which affects trade, traffic, commerce, or transportation described in subparagraph (A); and

(C) within the District of Columbia or within any territory or possession of the United States.

(2) The term "consumer" means any individual who is offered or supplied any goods or services for personal, family, or household purposes, and any small business concern which is offered or supplied any goods or services for use in connection with the business of such concern.

(3) The term "goods" means personal and real property, but such term does not include securities or interests in securities.

(4) The term "organization" means an entity, other than a government, established or organized for any purpose, and includes a corporation, company, association, firm, partnership, joint stock company, foundation, institution, trust, estate, society, union, club, church, and any other association of persons.

(5) The term "sale" means any transfer of goods or services in exchange for anything of value.

(6) The term "services" means any benefit resulting from the labor, skill, or time of another person or from the use of property, including labor, professional service, transportation, telephone, mail, other public service, electricity, gas, other public utility service, banking, accommodations in hotels, restaurants, or other places, admission to exhibitions, performances, or other places, and the use of property owned by another person.

(7) The term "small business concern" shall have the meaning given it in section 3 of the Small Business Act (15 U.S.C. 632).

(8) The term "State" means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, the Virgin Islands, American Samoa, the Trust Territory of the Pacific Islands, the Northern Mariana Islands, and any other territory or possession of the United States.

(9) The term "State attorney general" means the chief legal officer of a State, or any other person authorized by State law to bring actions under section 4 or section 5. Such term includes the Corporation Counsel of the District of Columbia. Such term does not include any person employed or retained—

(A) for a contingency fee based on a percentage of the monetary relief awarded in the action involved; or

(B) on any other contingency fee basis, unless, in the case of actions brought under section 4(a)(1), the amount of the award of a reasonable attorney fee to a prevailing plaintiff is determined by the court under section 4(d)(1).

(10) The term "statement" means any representation in any form of advertising, any oral or visual presentation, or any other representation, presentation, or conduct which is communicated to consumers.

(11) The term "supplier" means any person who is in the business of making goods or services available to consumers.

(12) The term "unfair consumer practice" means any of the following:

(A) offering or advertising goods or services for sale to a consumer and not selling such goods or services as so offered or advertised, or without ability to supply reasonably expectable public demands, unless the offer or advertisement clearly and conspicuously discloses the limitation;

(B) making false or misleading statements with respect to goods or services which are offered for sale or sold to a consumer with respect to—

(i) the need for such goods or services;

(ii) the need for repair or replacement of such goods or services;

(iii) rights, privileges, or remedies, in connection with the purchase of such goods or services;

(iv) prior ownership of such goods or services;

(v) the grade, age, quality, style, standard, or model of such goods or services; or

(vi) price or quality comparisons with similar goods or services offered for sale to consumers by the same or another supplier;

(C) making a statement that goods or services offered for sale, or sold to consumers, have sponsorship, approval, origin, safety or performance characteristics, ingredients or components, uses, features, benefits, or qualities which the goods or services do not have;

(D) accepting consideration for goods or services and failing to deliver such goods or perform such services as promised or failing to return or refund deposits or advance payments for goods or services which are not rendered in absence of any default or breach of obligation on the part of the consumer making such deposits or advance payments;

(E) using physical force, threat of physical force, tortious threats or harassment, or misrepresentation of law in the course of a sale or attempted sale to a consumer of goods or services or in the course of collection of the purchase price or any portion of the purchase price of goods and services from a consumer;

(F) making a statement that goods are original or new if such goods are deteriorated, altered, reconditioned, reclaimed, or otherwise used; or

(G) making any false or misleading statement with respect to the reasons for, existence of, or amount of, any price reduction in

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

connection with the sale of any goods or services.

SANCTIONS RELATING TO UNFAIR CONSUMER PRACTICES

SEC. 3. (a) Any contract or agreement in commerce which provides for the purchase of goods or services and which results from a transaction involving an unfair consumer practice by a supplier may be voided by the affected consumer.

(b) Any person who induces a consumer to enter into a contract or agreement pursuant to or in furtherance of an unfair consumer practice shall be liable to such consumer in an amount equal to 300 percent of the damage or loss sustained, together with an amount equal to the cost of any legal action required (including a reasonable attorney fee). Such amount may be recovered in a civil action in an appropriate district court of the United States or in any State court of competent jurisdiction.

(c) The district courts of the United States may have jurisdiction of any action brought under this section without regard to the citizenship of the parties or the amount in controversy. An action under this section may be brought not later than three years after the date on which the unfair consumer practice was discovered or reasonably should have been discovered.

ACTIONS BY STATE ATTORNEYS GENERAL

SEC. 4. (a)(1) Any State attorney general may bring a civil action in the name of the State, as parents patriae on behalf of consumers residing in the State, in any district court of the United States having jurisdiction over the defendant or in any State court of competent jurisdiction, to secure monetary relief as provided for in this section for any damage or loss—

(A) which is sustained by such consumers by reason of an unfair consumer practice; and

(B) with respect to which an action may be brought by any injured party under section 3.

(2) An action under this section may be brought not later than three years after the date on which the unfair consumer practice was discovered or reasonably should have been discovered.

(3) The court shall exclude from the amount of monetary relief awarded in any action brought under paragraph (1) any amount of monetary relief which—

(A) duplicates amounts which have been awarded for the same damage or loss; or

(B) is properly allocable to consumers who have excluded their claims in accordance with subsection (b)(2).

(4) The court shall award to the State as monetary relief an amount equal to 300 percent of the total damage or loss sustained, together with an amount equal to the cost of the action (including a reasonable attorney fee).

(b)(1) In any action brought under subsection (a)(1), the State attorney general shall, at such times, in such manner, and with such content, as the court may direct, cause notice of such action to be given by publication. If the court finds that notice by publication would deny due process of law to any person, the court may direct further notice to any such person according to the circumstances of the case.

(2) Any person on whose behalf an action is brought under subsection (a)(1) may elect to exclude from adjudication the portion of the State claim for monetary relief attributable to such person by filing notice of such election with the court not later than the end of the period specified in the notice given under paragraph (1).

(3) The final judgment in any action brought under subsection (a)(1) shall be res judicata as to any claim based upon an unfair consumer practice under this Act by any person on behalf of whom such action was brought and who fails to give the notice specified in paragraph (2) before the end of the period specified in the notice given under paragraph (1).

(c) Any action brought under subsection (a)(1) may not be dismissed or compromised without the approval of the court. Notice of any proposed dismissal or compromise shall be given in such manner as the court directs.

(d) In any action brought under subsection (a)(1)—

(1) the amount of any attorney fee to the prevailing plaintiff shall be determined by the court; and

(2) the court may, in its discretion, award a reasonable attorney fee to a dependent upon a finding that the State attorney general has acted in bad faith, vexatiously, wantonly, or for oppressive reasons.

(e) Any monetary relief recovered in any action brought under subsection (a)(1) shall—

(1) be distributed in such manner as the district court in its discretion may authorize; or

(2) be deemed a civil penalty by the court and deposited with the State as general revenues;

subject to the requirement that any distribution procedure adopted by the court shall afford each person involved a reasonable opportunity to secure his appropriate portion of the net monetary relief.

INJUNCTIVE RELIEF

SEC. 5. The Attorney General of the United States, the appropriate United States attorney, the Postal Service, or the State attorney general of any State in which a prohibited act or practice occurred (as parens patriae of the people of such State, after notifying the Attorney General of the United States) may, upon a finding that any person is engaged or is about to engage in any act or practice which constitutes an unfair consumer practice, may issue subpenas, and bring an action in the appropriate district court of the United States, or in any State court of competent jurisdiction, to enjoin such act or practice. Such courts shall have jurisdiction over such actions and shall provide appropriate relief. Such courts may grant a temporary restraining order, or a preliminary or permanent injunction without bond.

AMENDMENTS TO TITLE 18, UNITED STATES CODE

SEC. 6. (a) Chapter 63 of title 18, United States Code, is amended by adding at the end thereof the following new section:

"§ 1346. Unfair consumer practices

"(a)(1) Whoever, in connection with the sale, attempted sale, or distribution of goods or services to a consumer, or in connection with the collection or attempted collection of the purchase price or any portion of the purchase price of goods or services by the use of any means or instrumentality of transportation or communication in commerce including the use of the mails, willfully or negligently engages in an unfair consumer practice, shall be fined not more than $100,000 if an individual, or not more than $500,000 if an organization, or imprisoned for not more than three years, or both.

"(2) For purposes of this subsection, the terms 'commerce,' 'consumer', 'goods', 'organization', 'sale', 'services', and 'unfair consumer practice' have the meanings given them in section 2 of the Consumer Fraud Act of 1985.

"(b)(1) Each State attorney general shall have authority to bring an action, in the name of the United States, in an appropriate district court of the United States or in any State court of competent jurisdiction to enforce the provisions of this section.

"(2) In any case in which a State attorney general brings an action under paragraph (1), the State attorney general shall give notice of the commencement of such action to the United States by—

"(A) submitting a copy of the complaint involved to the Attorney General of the United States (by registered mail or certified mail) and to the United States attorney for the district in which such action is commenced; and

"(B) submitting a written disclosure of any evidence or information in his possession which is material to the effective prosecution of such action, to such United States attorney or by registered mail or certified mail to the Attorney General.

"(3)(A) The Attorney General may enter an appearance in any action brought under paragraph (1) during the 45-day period following the receipt of notice under paragraph (2). The State attorney general involved may prosecute such action if the Attorney General fails to enter such an appearance before the end of such period, or notifies the court in writing during such period that the Attorney General will not enter such an appearance.

"(B) If the Attorney General enters an appearance in an action in accordance with subparagraph (A), then the action shall be prosecuted by or under the direction of the Attorney General. The Attorney General shall not be bound by any action taken by the State attorney general involved, and may proceed in such action as if such action had been commenced by the Attorney General.

"(C) If the Attorney General fails to prosecute an action with due diligence during the six-month period following the entry of an appearance by the Attorney General in accordance with subparagraph (A), or during such additional period as the court after notice may allow, then such action may be prosecuted by the State attorney general involved in accordance with paragraph (1).

"(4) For purposes of this subsection, the term 'State attorney general' means the chief legal officer of a State, or any other person authorized by State law to bring actions under this subsection.".

(b) The table of sections for chapter 63 of title 18, United States Code, is amended by adding at the end thereof the following new item:

"1346. Unfair consumer practices.".

SPECIAL EDUCATION PROGRAMS

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 21, 1986

Mr. HAMILTON. Mr. Speaker, I would like to insert my Washington Report for Wednesday, January 1, 1986, into the CONGRESSIONAL RECORD:

SPECIAL EDUCATION PROGRAMS

During the mid-1960s, I was struck by the number of parents in every part of the district asking for better public school programs for their handicapped children. Few schools had adequate special education programs, and many had none at all. The handicapped were often overlooked and not provided basic training. Today the situation has changed dramatically. Handicapped children have been integrated into the public schools, giving them a new sense of self-esteem while giving others increased levels of understanding. The catalyst was passage by Congress in 1975 of the Education for All Handicapped Children Act, Public Law 94-142. Looking back over the past ten years, I can see remarkable progress. But looking ahead, I see several challenges remaining.

Public Law 94-142 requires states to provide a free and appropriate public education to every handicapped child aged 5-17. To receive federal aid, states must ensure that handicapped children are educated in the least restrictive environment possible, with the goal of "mainstreaming" them into regular classes. Today 68 percent of all handicapped students are in regular school classes and get only support services; 25 percent are in separate classes in the school. The law requires schools to evaluate students for handicapping conditions, and to develop with parents a plan describing the program and objectives for the student as well as any support services that might be required. A system of hearings and appeals is provided for dissatisfied parents.

Before Public Law 94-142, the federal government was spending less than $50 million each year on special education. It now spends more than $1.3 billion annually. Almost 4.3 million handicapped children, 100,000 in Indiana, receive some form of special education. Both figures represent 10 percent of the, public school population. The largest category in the program is the learning disabled, followed by the speech impaired, mentally retarded, emotionally disturbed, hearing impaired, and other physically handicapped. Over the past ten years, the number of special education teachers and support personnel nationwide has almost doubled to more than 500,000. Although the federal government proposed paying by 1982, 40 percent of the national average per-pupil expenditure to schools for educating the handicapped, their actual contribution has recently been closer to 10 percent. In 1982, the Reagan Administration proposed weakening the program through various regulatory changes, though it has since dropped the proposal.

Contrary to fears expressed when Public Law 94-142 was first proposed, it has not led to a major federal intrusion into education—an area traditionally left to state and local governments. The courts have reaffirmed that decisions on specific school programs for the handicapped will be basically left to state and local education officials. The federal role has been primarily one of trying to ensure the access of the handicapped to public education, without imposing upon the states major new education standards.

A major problem facing the special education program is its high cost. Overall, it costs twice as much to educate a handicapped student than a traditional student. The potential for high costs arises especially with private placements when local education services are inappropriate and with "related services"—the transportation, corrective, and other support services that help a child benefit from the special education programs. In one state, for example, 25 percent of its school transportation budget is spent on handicapped children, though they make up only 3 percent of its school population. Schools facing major problems among their traditional students—including low achievement test scores and high drop-out rates—are faced with increasingly difficult funding decisions about programs for the handicapped.

Recent Supreme Court decisions have stated that there are limits to the amounts schools must spend on the handicapped, recognizing that an exorbitant amount on one child at the expense of all others. However, the Court has also held that schools can be required to provide supportive services that are not a major burden on school officials. The task for schools has been made more difficult by the federal government picking up only about a quarter of its proposed share. A new concern is the possible impact of the recently-passed Gramm-Rudman balanced budget amendment, which mandates sharp cuts in overall federal spending over the next 5 years to achieve a balanced federal budget by 1991. Although many programs (such as social security) are exempt from the required cuts, Public Law 94-142 is not one of them.

The program faces other challenges as well. Many students who are only slow learners are put into programs for the learning disabled, and heavy paperwork requirements tend to bog down school systems. Some school officials are also concerned that pending legislation in Congress to provide attorney fees for successful suits by parents against school programs for the handicapped could erode incentives to settle disagreements through the existing administrative procedures and could divert school resources to legal expenses. There is also the problem of a shortage of qualified special education personnel—currently estimated at 60,000 teachers and staff—that has at times lowered personnel standards. Many believe that the requirements of Public Law 94-142 are inadequate, urging that the program be extended to handicapped children younger than 5 years old because of the major benefits of early instruction. Perhaps the greatest challenge facing the program is the transition of the handicapped students from school to society after graduation, as many students are still ill-prepared for entering the workforce.

Despite these problems, my sense is that the 10-year-old program has worked remarkably well. We have made major strides, and the question has shifted from whether we should educate the handicapped to how we can best do it. Improving the program will take a concerted effort by all involved, especially parents, teachers, and state and local school officials. The federal government should ensure adequate funding levels, and local businesses can help by improving training experiences for the handicapped. Although the tasks remaining are formidable ones, visiting any of the school programs, as I have assures you that the effort is worthwhile.

DAUGHTER OF SAN SEBASTIAN

HON. BILL FRENZEL

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 21, 1986

Mr. FRENZEL. Mr. Speaker, Laurie Brown, of Coon Rapids, MN, a Minneapolis suburb, completed a 2-year Peace Corps assignment in the Philippines in 1985.

Her experience, in the town of Matag-ob, in Leyte Province, was typical of the Peace Corps. The work was hard, the privations were many, the pay was poor.

Often she found that when she could help to make life better for the people with whom she worked, it was in ways which had little relationship to her skills and education. Other assets, like adaptability, patience, courtesy, judgment, and love were often more important than training.

When her time was up, the people with whom she worked drew a resolution of thanks to Laurie Brown. It calls her an "Ambassador of Goodwill," cites her good work, and designates her as a "true daughter of our Barangay of San Sebastian."

Laurie's unique experience has left her with more than a flowery resolution. She also has a heart full of memories, lots of friends, new self-reliance, and a sense of real accomplishment.

Laurie Brown and her friends in San Sebastian Barangay are not the only ones to profit from the past 2 years, however. The really big winners are the people of the United States who sent her, and who annually send hundreds of Americans all over the world to prove that the United States is not only a great country, but a good one as well.

Laurie Brown's resolution follows:

REPUBLIC OF THE PHILIPPINES, PROVINCE OF LEYTE, MUNICIPALITY OF MATAG-OB, BGY. SAN SEBASTIAN

To all to whom these presents shall come:

We, the undersigned signatories, all citizens of the Republic of the Philippines and all residents particularly of Barangay San Sebastian, of the Municipality of Matag-ob, Province of Leyte, Philippines, by virtue of this simple document do hereby by these presents express our heartfelt feelings of gratitude and warmest regards to the Good People of America (the United States of America) through its Peace Corps Volunteer Program for the show of genuine, deep and sincere concern over our welfare, we who are otherwise known and classified, as the "poor, impoverished, ignorant, suffering or miserable", segments on our Philippine Society, by way of having made available in our midst for almost two (2) years, one of their truest Ambassadors of Goodwill in the person of Miss Lorie Brown, who despite our shortcomings and ways of life have steadfastly withstood the rigors of our economic conditions (depressed, distressed and underserved), in the process of letting us awaken once more to the realities that regardless of how little we are in life, the Good People of the United States of America do wholeheartedly consider us, as a true brother and sister.

Witnesseth: Miss Lorie Brown throughout her sojourn with us, taught us not only to be proud of what we are, of the rudiments of upland farming, of love towards our

neighbors, of health and care to ourselves and family, of genuine love towards manual labor, of preserving, conserving and protecting our natural resources but above all of our attitude towards life in general.

The exemplary acts of Miss Lorie Brown, on her personal concern even to the care of the sick and needy members of our society, more particularly on our impoverished Barangay of San Sebastian maybe paralleled by someone, yet the warmness of her heart, her closeness and tenderness as shown to us the aged and of the young ones in life, even as she goes around one of her daily chores as in carrying over her frail but lovely shoulder a plastic container full of water and of the moments she goes home to us from her official trips to other places, will forever outlast our memory and continue to live on the hearts of our children.

Wherefore: By virtue of these show of filial love of Miss Lorie Brown to us, we the undersigned signatories, do hereby by these presents bestow and acknowledge our deepest feelings of gratitude and thanks to her and as we cannot repay her or recompense her, of her boundless love and devotion and of her sincerity towards us, we in complete unison unanimously would want to show to the whole world that beginning this date, we do hereby acknowledge and adopt Miss Lorie Brown as a true daughter of our Barangay of San Sebastian.

ANTI-TERRORIST TRAVEL ADVISORY RESOLUTION INTRODUCED

HON. MEL LEVINE

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 21, 1986

Mr. LEVINE of California. Mr. Speaker, I am today introducing a sense of Congress resolution, along with my colleague, Mr. LEWIS of California, stating that the U.S. Secretary of State should issue a travel advisory warning U.S. citizens of the dangers of traveling in any country in which U.S. citizens are attacked by terrorists supported by Libya, if the Government of that country does not act immediately to close any Libyan diplomatic and trade missions there.

Mr. Speaker, as we all know, on December 27, 1985, 12 U.S. citizens were wounded and five murdered in cold-blooded attacks at the Rome and Vienna airports. The individuals who carried out these attacks were members of the Libyan-backed Palestinian terrorist gang, headed by Abu Nidal. Libyan leader Mu'ammar Qadhafi applauded and praised these attacks.

In response to these heinous attacks, President Reagan severed virtually all trade links with Libya, froze its assets in the United States and ordered the more than 1,000 Americans working there to leave immediately. He also said that the United States would "not understand" if other countries moved into Libya "to take commercial advantage of our departure." In addition, he called on our NATO allies to join us in isolating Libya and its outlaw leader, Colonel Qadhafi.

However, no European country has fully endorsed President Reagan's call for total economic sanctions against Libya. In fact, our allies have been cool to leveling sanctions against Colonel Qadhafi and his country. Deputy Secretary of State John Whitehead was dispatched last week to visit nine of our NATO allies in the hope of persuading them to reduce their ties with Libya. Unfortunately, reports of his efforts are not very encouraging.

Mr. Speaker, on January 8, 1986, the U.S. Department of State issued a report called "Libyan Sanctions." It documents in detail what one columnist meant when he wrote that next to oil, terror appears to be Libya's main export. There are sections such as "Libyan Involvement in Terrorism," "Libyan Links to Middle East Radicals," and "Libyan Terrorism Against the United States." There are sections that document Libyan terrorist aid and activities in Egypt, Sudan, Tunisia, Sub-Saharan Africa, Latin America, and the Caribbean, and South and Southeast Asia. It includes a chronology of Libyan-supported terrorism between 1980 and 1985. I urge my colleagues to read it.

What this report makes clear is that Libyan leader Mu'ammar Qadhafi has used terrorism as one of the primary instruments of his foreign policy and that he supports radical groups which use terrorist tactics. Qadhafi's activities include threats, material support for terrorism, cooperation, economic incentives and intimidation, and military aggression. He provides logistical support for terrorist operations, such as supplying passports to the Abu Nidal members responsible for the December attack on the El Al ticket counter in Vienna.

Training for radical Palestinians and other radical elements frequently takes place in Libya. During Qadhafi's reign there have been numerous instances of Libyan-sponsored attacks against U.S. interests, and during the past 18 months Qadhafi has made public references to expanding his terrorism campaign to include U.S. targets.

Mr. Speaker, the responsible international community suffers from Qadhafi's disrespect for international norms of behavior and accepted diplomatic practices. Qadhafi blatantly uses terrorist violence against political opponents and has abused diplomatic privilege for terrorist purposes, such as using Libyan embassies and diplomatic pouches for transferring and storing weapons and explosives.

Colonel Qadhafi's support for terrorist acts has clearly jeopardized the safety of U.S. citizens. It is clearly the responsibility of the U.S. Government to protect the safety of all our citizens, at all times and in all places. In addition, it is in the interest of the responsible world community to isolate Libya economically, politically, and militarily to the greatest extent possible.

Yet we have not been able to get our NATO allies to join us in isolating the outlaw Qadhafi.

That is why Congressman LEWIS and I are introducing this resolution today. We simply must find a way to encourage our allies to take sanctions against the Qadhafis of the world. One way to do that is through economic sanctions. U.S. tourists spend millions of U.S. dollars in foreign countries. Issuance of a travel advisory results in the loss of millions of dollars in revenues in that country for which that advisory is issued. If countries where U.S. citizens are attacked do not reduce their ties with Libya, and do not make their country safe for U.S. citizens, then it is entirely appropriate for the U.S. Government to take action to protect our own people.

Mr. Speaker, this is a responsible resolution. If the U.S. Secretary of State issues travel advisories for such countries, I believe we would see a far different response to terrorism by our allies. The United States issued a travel advisory for Greece last June after the TWA hijacking out of Athens. Greece lost enough U.S. revenue to encourage it to quickly overhaul the security at Athens airport. If the Secretary had issued travel advisories for Italy and Austria after the attacks on U.S. citizens last June, perhaps they would feel compelled to take actions to make their countries safer.

In short, Mr. Speaker, we must find a way to encourage our allies to overcome what columnist Charles Krauthammer calls "Eurocrowardice" in dealing with terrorists and terrorism. We must find a way to isolate the outlaw Qadhafi from the responsible world community. This resolution will help do that, and I urge my colleagues to support it.

A complete text of the resolution follows.

Thank you.

H. CON. RES. 270

Concurrent resolution expressing the sense of the Congress that the Secretary of State should issue a travel advisory with respect to any country in which Libyan-supported terrorists attack United States citizens if that country's government fails to act immediately to require the closing of any Libyan diplomatic or trade missions in that country

Resolved by the House of Representatives (the Senate concurring),

Whereas the increase in international terrorism is of deep concern to the United States and to the responsible world community;

Whereas Libyan leader Mu'ammar Qadhafi has used terrorism as one of the primary instruments of this foreign policy and supports radical groups which use terrorist tactics;

Whereas Qadhafi's tactics include a mixture of threats, material support for terrorism, offers of cooperation, economic incentives and intimidation, and outright military aggression;

Whereas Qadhafi provides logistical support for terrorist operations, such as supplying passports to the Abu Nidal members responsible for the attack on the El Al ticket counter in Vienna;

Whereas training for radical Palestinians and other radical elements frequently takes place in Libya;

Whereas during Qadhafi's reign there have been numerous instances of Libyan-sponsored attacks against United States interests;

Whereas during the past 18 months Qadhafi has made several public references to expanding his terrorism campaign to include United States targets;

Whereas Qadhafi has applauded and praised the recent terrorist attacks in Vienna and Rome, which resulted in the death of 5 Americans and the injury of 12 Americans;

Whereas the responsible international community suffers from Qadhafi's disrespect for international norms of behavior and accepted diplomatic practices;

Whereas Qadhafi blatantly uses terrorist violence against political opponents and has abused diplomatic privilege for terrorist purposes, such as using Libyan embassies and diplomatic pouches for transferring and storing weapons and explosives;

Whereas Qadhafi's support for terrorist acts has clearly jeopardized the safety of United States citizens;

Whereas it is clearly the responsibility of the United States Government to protect the safety of all its citizens, at all times and in all places; and

Whereas it is in the interest of the responsible world community to isolate Libya economically, politically, and militarily, to the greatest extent possible: Now, therefore, be it

Resolved by the House of Representatives (the Senate concurring), That it is the sense of the Congress that the Secretary of State should issue a travel advisory warning United States citizens of the dangers of traveling in any country in which United States citizens are attacked by terrorists supported by Libya if the government of that country fails to act immediately to require the closing of any Libyan diplomatic or trade missions in that country.

A SALUTE TO BLACK EDUCATORS

HON. GEORGE E. BROWN, JR.

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 21, 1986

Mr. BROWN of California. Mr. Speaker, I appreciate this opportunity to join in honoring four outstanding black educators from my district. The Black Voice News is celebrating its 14th anniversary by pointing out the accomplishments of all black educators, and is specifically honoring Jean Grier, Dorothy Inghram, Juanita Jones, and Dr. Hazel Russell. Together, they have taught a combined total of 19 years, but their accomplishments go far beyond simple years served.

Jean Grier was the first black teacher integrated into the Riverside School District. She served in later years in a variety of positions in that district. Although now retired, she remains very active in community work and has received many honors for that work, including, along with her husband, the 1985 NAACPer of the Year Award. Dorothy Inghram, first a student in local schools, rose through the ranks to be the first black superintendent of schools in the State of California. For her work as a teacher, principal and superintendent, a library in the district now bears her name. Like her colleagues, Ms. Inghram remains committed to improving her community by active involvement in a variety of organizations.

Juanita Jones has had a long association with the San Bernardino School District, first serving as one of the district's first bilingual teachers. Her work with the district has not prevented an active involvement with the Urban League, however. She is also the author of a book of original poetry and the recipient of many local and national awards.

Dr. Hazel Russell's career in the Riverside City School Department began in 1947. She worked as an elementary and secondary school teacher until 1970 when she became a coordinator for the federally funded Emergency School Aid Act Program. Today, Dr. Russell continues to be active in educational issues, serving as an assistant professor in the Afro-Ethnic Studies Department at California State University, Fullerton, and is a member of many organizations, including the Attorney General's Commission on Racial, Religious, and Minority Violence.

I know that my colleagues join me in recognizing the valuable work done by these women over the years and the contributions that they will continue to make. Today's children could have no better models than Jean Grier, Dorothy Inghram, Juanita Jones, and Hazel Russell.

THE SANDINISTA LOBBY

HON. HENRY J. HYDE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 21, 1986

Mr. HYDE. Mr. Speaker, as the debate heats up on the issue of renewed aid to the democratic resistance within Nicaragua, it might be useful to evaluate the Sandinista lobby. The January 20 issue of the New Republic does just that, and I urge my colleagues to carefully study this article by Fred Barnes which exposes the double standard too often employed by certain human rights groups:

The article follows:

THE SANDINISTA LOBBY—HUMAN RIGHTS GROUPS WITH A DOUBLE STANDARD

(By Fred Barnes)

Last July 1 a man named Alvaro Jose Baldizon Aviles slipped across the border from Nicaragua into Honduras. He was no ordinary refugee. Baldizon was chief of the special investigations commission of Nicaragua's Ministry of Interior. He worked for Tomas Borge, the interior minister and a powerful figure in the Sandinista government. Baldizon had an eye-popping story to tell of massive human rights abuses by the Sandinistas. In September and October, under the guidance of the U.S. State Department, he told it all over Washington.

Citing specific names, dates, and locations, Baldizon disclosed hundreds of murders of peasants, prisoners, Indians, businessmen, and opponents of the Sandinista regime, all of them carried out by Nicaraguan government soldiers or police. Borge personally ordered some killings and whitewashed others, Baldizon said. In 1981 Borge allegedly standardized the practice of murdering political foes by issuing a secret order allowing "special measures," the euphemism of assassinations. He institutionalized the deception of visiting foreigners, appearing before Christian groups in an office with a crucifix, a statue of Jesus Christ, and a bible. His real office is adorned with pictures of Marx, Engels, and Lenin, and copies of The Communist Manifesto and Das Kapital. Moreover, Borge was involved in cocaine trafficking, put former criminals in police jobs, and installed Cuban advisers in operational posts. Baldizon also said the Sandinistas were training Costa Rican guerrillas and using mobs of young Sandinistas to break up gatherings of political opponents.

Even by Latin American standards, this was quite an indictment, exactly the kind of firsthand account likely to trigger outrage by groups monitoring human rights in Central America. And maybe even spark an aggressive investigation or two. But not by the Washington Office on Latin America, which says it "monitors human rights practices and political developments in Central and South America * * * [and promotes] a foreign policy that advances human rights, peace, and democracy in the hemisphere." Joseph T. Eldridge, the Methodist minister and former missionary in Chile who is WOLA's director, was invited along with other human rights activists to a session with Baldizon at the State Department on October 3. Eldridge didn't show. He did call to ask about a private session with Baldizon, and State Department officials agreed so long as one of their staff aides was present. Later, Eldridge canceled the meeting because of a schedule conflict. He insists he's still trying to meet with Baldizon. But Janice Barbieri of the State Department's office of public diplomacy says Eldridge isn't trying very hard; he hasn't even called back to set up a new time. Whatever the case, it's been months, and Eldridge has yet to meet with Baldizon.

This indifference to Baldizon and his evidence of systematic abuses of human rights was not a lapse. On the contrary, it reflects the selective moral indignation of a phalanx of organizations in Washington that regularly criticizes the Reagan administration's policy toward Central America and, in particular, Nicaragua. The ostensible aims of these groups are high-minded: peace, protection of human rights, free elections, an end to domination of politics by oligarchies, etc. And they tirelessly point out how Guatemala, El Salvador, Honduras, and Panama—all allies of the United States—come up short. But Nicaragua, with its increasingly repressive Sandinista regime, is another story. What criticism these organizations have of Nicaragua is soft-hitting in the extreme. Mostly they explain away or ignore abuses by the Sandinistas.

These organizations and their leaders refer to themselves as "the community." But they've been accused of being something quite different. A Heritage Foundation paper labeled them "The Left's Latin American Lobby." A book by the Council for Inter-American Security attacks them as "The Revolution Lobby." Bruce Cameron, a former lobbyist for Americans for Democratic Action, says WOLA at least is a "shill for the Sandinistas." Naturally, WOLA and other groups disagree. "There is an attitude in [Washington] that equates opposition to the administration's Central American policy with support for the Sandinista government," says Eldridge. "This is an unfortunate and lamentable conclusion."

Maybe so, but WOLA and other organizations haven't exactly gone out of their way to show that they don't apply a double standard—tough on right-wing governments and U.S. allies, soft on left-wing regimes. A good place to start would have been with Baldizon. Juan Mendez of America's Watch, a human rights monitoring group, went to the trouble of taking Baldizon to lunch, where they could confer without State Department interference. But America's Watch seems more interested in countering Reagan's attacks on Nicaragua than checking out Baldizon's evidence. Last July it put out a report evaluating Nicaragua's human rights record. The logical yardstick was the Sandinista promise of political pluralism and a mixed economy. Had the Sandinistas delivered on these? But that wasn't the question asked. Rather, America's Watch found the one human right standard that

the Sandinistas can meet: Is their human rights record as bad as Reagan says? Nope, America's Watch concluded.

WOLA doesn't pretend to be anything but an advocacy organization. It advocates friendly, tolerant relations with Nicaragua. But similar questions arise in the case of legal groups, whose nominal concern is not policy but the rule of law. Susan Benda of the American Civil Liberties Union says her only concern is blocking U.S. involvement in the covert war waged by the contras. "We're opposed to this covert war regardless of what the Sandinistas do," she says. "We don't care if they close down the press. What the Sandinistas do doesn't affect our opinion on the war."

But at least one legal group is now taking care to avoid the appearance of a double standard. Amy Young, the director of the International Human Rights Law Group, now admits that her organization's study of contra abuses last year should also have looked at Sandinista conduct. In a new investigation early in 1986—another vote on contra aid comes in March—both sides will be examined, she says. Larry Garber, IHRLG's project director, characterizes the soft-on-the-Sandinistas approach of some groups as "avoidance tactics." Although they recognize there are human rights problems in Nicaragua, "they don't go down and investigate," he says. Why not? "It's no secret some organizations in town were excited about what happened in Nicaragua and are still hopeful it will be a revolution that brings lasting peace and stability. They've been willing to forgive things that have gone on during a time of transition. That time is over."

Practically no one is more forgiving than the Coalition for a New Foreign and Military Policy, the umbrella group of "the community." Its 50-odd members include WOLA, the Council on Hemispheric Affairs, the Washington office of the Presbyterian Church (USA), the American Friends Service Committee, and the YWCA. The coalition, along with the Commission on U.S.-Central America Relations, published what it called a "basic information" book on Central America. According to the book, the Sandinistas have done little wrong, and when they have, it was only because the United States forced them to.

Take the massive Sandinista arms buildup. It began in 1979, at a time when the U.S. government was reasonably friendly, and has gone on unabated. Nicaragua now has by far the largest military force in Central America. Yet the "basic information" book attributes the Sandinista buildup to fear of a U.S. invasion. "In short, the Nicaraguans want to raise the military, and thereby the political, cost of a U.S.-sponsored invasion," it says. Nor do the Nicaraguans threaten their neighbors. "Despite the difficulty in distinguishing between offensive and defensive weapons, it is clear that the military strengthening that Nicaragua has undergone in the last few years is primarily defensive, not offensive." Even MIGs from the Soviets, the book says, wouldn't give Nicaragua "a credible offensive force capable of invading any country in the region."

The book is vague about the political leanings of the Sandinista directorate, vague in a way that misleads. Borge, the interior minister, is described as "a poet and a writer [who] has studied law at the National University." This is the fellow who confided to *Playboy* magazine in 1983: "I told [my mother] that I would not be blackmailed by her gentleness and her naivete and that I was a Communist." Humberto Ortega, the defense minister and brother of Nicaraguan president Daniel Ortega, is described simply as an author. Yet Ortega doesn't mince words about his ideology. "Marxism-Leninism is the scientific doctrine that guides our revolution," he said in 1981. "Our moral strength is Sandinismo and our doctrine is that of Marxism-Leninism."

As the Sandinistas are legitimized by "the community," the *contras* are demonized. Dissenting opinions are not tolerated on this point. When Bruce Cameron decided that support for the *contras* would promote human rights in Nicaragua, he was no longer welcome in "the community."

The acceptable line on the *contras* is that they are old Somoza hands who have generated no popular support for their insurgency. "Nicaraguans," wrote Reggie Norton of WOLA in the coalition's book, "are justifiably concerned that far from representing a promise to improve their lives, the contras represent a return to the type of repression that characterized the Somoza regime." This may have been true five years ago, but since then the *contras* have been transformed from a small band of ex-National Guardsmen to a 15,000-man force that has won the support of such anti-Somoza leaders as Alfonso Robelo and Arturo Cruz. Mass defections to the *contras*, plus their ability to operate in large areas of Nicaragua, are palpable signs of a surge in popularity, and evidence of growing disenchantment with the Sandinistas.

On the subject of elections, Eldridge of WOLA talks scornfully about the recent election in Guatemala, which saw a once-exiled dissident win the presidency. After all, Eldridge says, "elections are one note in the symphony of democracy. * * * The gist is it [the Guatemalan election] was technically flawless. Hats off. The question is whether this will wean the military away from its monoply of power. A lot of people are skeptical." But the Nicaraguan election in 1984 was "a political opening," concluded a report by WOLA and IHRLG. Serious impediments to free choice by the voters were minimized in the report. There was censorship, but the parties were permitted "to communicate to the Nicaraguan people" their "vision for the future" and "to criticize freely the performance of the government." Repeated "incidents of harassment and intimidation" occurred—Sandinista mobs broke up opposition rallies—but they didn't affect much. The chief opposition party, the Coordinator, which dropped out charging that the election wasn't free or fair, acted for "political reasons."

Eldridge says that half the leaders of the Coordinator would rather have an invasion by U.S. Marines than participate in an election. If so, then why did the Coordinator accept the Sandinista condition that the *contras* be asked to lay down their arms for the election? In fact, the Coordinator's candidate, Arturo Cruz, negotiated feverishly for a postponed election in which the opposition would take part. At the key moment, though, the Sandinistas backed out.

The Sandinista sympathizers continue to insist that political pluralism is the general rule in Nicaragua. America's Watch proclaimed in July 1985 that "while prior censorship has been imposed by emergency legislation, debate on major social and political questions is robust, outspoken, even often strident" in Nicaragua. In fact, just as under Somoza's regime, debate is allowed only so long as it doesn't threaten the authorities.

The America's Watch report claims that the group does "not take a position on the U.S. geopolitical strategy in Central America," then goes on to do exactly that. There have been abuses of human rights by the Sandinistas, it says, but "some notable reductions in abuses have occurred in Nicaragua since 1982, despite the pressure caused by escalating external attacks." This is exactly what the Sandinistas say. Baldizon, who was in a position to know, tells a strikingly different story. So do Protestant preachers who have been arrested recently in Nicaragua. And last October the Sandinistas suspended what few civil liberties had been allowed.

One organization that has gone to great lengths to explain away this new state of emergency is the Central American Historical Institute at Georgetown University. Tossing out civil liberties "does not violate the U.N. International Civil and Political Rights Amendment," the institute said in 1984. And the state of emergency doesn't take away the right to life or justify torture or slavery, or block "freedom of thought, conscience, or religion," the institute said. "Nor is it applied in a discriminatory fashion," it added, suggesting that political repression is less troubling if it is evenhanded.

The institute points out the impressive turnout of 75 percent for the election, despite efforts by the Coordinator to discourage voting. "This, and the fact that opposition parties won one-third of the valid votes, contradicts the accusation that the election was merely a rubber stamp for the [Sandinistas]." Last May, in its publication Update, the institute went to great lengths to knock down an article in La Prensa, the frequently censored opposition paper in Nicaragua. Jaime Chamorro, the paper's co-director, charged that the Sandinistas added 400,000 votes to their tally. The same month the institute said in another Update that opposition parties are alive and "kicking" in Nicaragua's National Assembly. The Sandinistas like "a give and take dynamic to prevail so as to not alienate what amounts to a 'loyal' opposition."

The institute frequently attacks the contras, but is squeamish about Sandinista abuses. In a rundown of contra leaders, it lists Lucia Cardenal de Salazar as "widow of Jorge Salazar, wealthy coffee grower killed in a November 1980 dispute with Nicaraguan police." Shirley Christian of the New York Times reports in her book Nicaragua that Jorge Salazar was assassinated by Sandinista security forces. Baldizon confirmed that Sandinista leaders were involved in plotting and carrying out Salazar's death.

The biggest splash made by "the community" has been with its well-timed reports of contra abuses. The most famous of these was written by Reed Brody, a New York lawyer. He charged that the contras attack purely civilian targets, and he cited instances of killings of unarmed women and children, rapes, beatings, kidnappings, forced recruitment of new troops, disruption of harvests, and intimidation of people joining government programs. With a congressional vote on aid to the contras a few weeks away last spring, the Brody report got big play in the press. But it was, at best, open to question. A Reagan administration examination of the report found that six incidents cited by Brody had been carried out by a contra officer later executed for murdering civilians and that four incidents occurred before the contras were constituted as an organized force. Brody blames the contras for killing a French doctor with mortar fire, but the contras say they had no mortars in that incident and that Sandinista fire killed

him. Moreover, the administration says 48 rifles and 11,500 rounds of ammunition were seized from what Brody describes as merely a farm, and that a "deeply religious" couple killed by contras were actually agents of Sandinista state security. Brody was candid enough to disclose that the idea for the report came from Reichler & Applebaum, the Washington law firm that represents the Nicaraguan government. And he also revealed that in Nicaragua he was housed and given office space by the Sandinistas. The government even directed him to witnesses. Still, Brody said, his investigation was "independent." He made no attempt to probe Sandinista abuses.

A recent Sandinista defector has described Brody's close relationship with the Nicaraguan government. Mario Jose Guerrero was director of the National Commission for the Promotion and Protection of Human Rights. The commission, Guerrero said, was ordered to give full support to Brody. Besides office and lodging, it paid all his bills and arranged interviews. Another defector, Bayardo de Jesus Payan, was the chief budget officer of the commission. He described Brody in action to a House subcommittee:

I noticed that many times he showed a photograph in which he was hugging Commander Daniel Ortega and also that he was constantly calling on the telephone to the foreign ministry and visiting it. He also made propaganda for the [Sandinistas] and urged the employees of the institution to vote for Daniel Ortega, since he was a great supporter of the Sandinistas. Also, he always spoke badly about the policy of the government of the United States and of President Ronald Reagan.

WOLA and the International Human Rights Law Group found Brody's evidence compelling, but they were worried that his connection with the Sandinistas would deprive the report of credibility. They dispatched two lawyers, one an outspoken critic of administration policy, to Nicaragua to check on contra abuses. These representatives also neglected to examine abuses by the Nicaraguan government. But they managed to corroborate some of the Brody report, and they declared their support for it. America's Watch supplied a report of its own, which dealt with both sides. It concluded that Sandinista abuses were mainly in 1981 and 1982, and directed against the Miskito Indians. Since then, there had been a "sharp decline" in Sandinista abuses, America's Watch said. Baldizon, for one, would quarrel with that.

"The community" does make some efforts to demonstrate evenhandedness. WOLA, Eldridge says, has been "steadfastly encouraging dialogue in Nicaragua, as in El Salvador." Indeed, WOLA sponsored a visit to the United States by leaders of El Salvador's guerrilla forces. But the contra leaders in Nicaragua are out of bounds. Eldridge is for a dialogue between Duarte and his Communist opposition, but not for one between the Sandinistas and the contras. The dialogue he wants would pit only the erratic Eden Pastora, once a Sandinista commander, and perhaps Arturo Cruz against the Sandinistas. Cruz could be there only as an individual, not as a leader of the contras, says Eldridge. Which means that the main political and military opposition to the Sandinistas would be excluded, and the Sandinistas be under little pressure in the talks to make concessions to democracy. Some dialog.

CONGRESSMAN GILMAN SEEKS AFFORDABLE AND AVAILABLE CHILD CARE

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 21, 1986

Mr. GILMAN. Mr. Speaker, I rise today to urge my colleagues to join my efforts to make child care more widely available to families of all incomes. My legislation, H.R. 3928, makes the current dependent care tax credit refundable and provides incentives to businesses to provide on-site dependent care facilities for their employees.

As more and more women continue to pursue their careers and to raise a family, it is vital that affordable, accessible alternatives for dependent child care be made available. While our current Tax Code provides for a tax credit for costs associated with dependent care, only those individuals or families who can apply that credit against an existing tax liability can benefit. For the working poor and for low-income families, those who most need our support, day care becomes an enormous financial burden. By making the dependent care tax credit refundable, families of all income levels will be able to take equal advantage of the credit.

A second feature of H.R. 3928 addresses the day care supply problem by providing incentives to businesses to provide dependent care facilities as a business or, to provide day care for their employees. My bill grants a 10-percent tax credit for any investment now eligible for the normal investment tax credit which is used for a dependent care facility. H.R. 3928 also creates a new 5-percent investment tax credit for any structural expenses associated with building a dependent care facility not now eligible for credit of any type.

Accordingly, I urge my colleagues to join me in supporting H.R. 3928 and insert the text at this point in the RECORD:

H.R. 3928

A bill to amend the Internal Revenue Code of 1954 to make the credit for dependent care services necessary for gainful employment a refundable credit and to allow an additional investment tax credit for dependent care center property

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. REFUNDABLE CREDIT FOR EXPENSES FOR HOUSEHOLD AND DEPENDENT CARE SERVICES NECESSARY FOR GAINFUL EMPLOYMENT.

(a) SECTION MOVED TO APPROPRIATE PLACE IN SUBPART C OF PART III OF SUBCHAPTER A OF CHAPTER 1 OF THE INTERNAL REVENUE CODE OF 1954.—

(1) DESIGNATION.—Section 21 of the Internal Revenue Code of 1954 is henceforth to be designated as section 36 of such Code.

(2) PLACED IN SUBPART C.—The section for which paragraph (1) provides a new section number is hereby moved to the appropriate place in subpart C of part III of subchapter A of chapter 1 of such Code.

(b) CONFORMING AMENDMENTS.—

(1) Paragraph (1) of section 129(e) of such Code (relating to definition of dependent care assistance) is amended by striking out "section 21(b)(2)" and inserting in lieu thereof "section 36(b)(2)".

(2) Subsection (e) of section 213 of such Code (relating to exclusion of amounts allowed for care of certain dependents) is amended by striking out "21" and inserting in lieu thereof "36".

(c) CLERICAL AMENDMENTS.—

(1) Tne table of sections for subpart A of part III of subchapter A of chapter 1 of such Code is amended by striking out the first item.

(2) The table of sections for subpart C of part III of subchapter A of chapter 1 of such Code is amended by adding at the end thereof the following new item:

"Sec. 36. Expenses for household and dependent care services necessary for gainful employment."

(d) EFFECTIVE DATE.—The amendments made by subsections (a), (b), and (c) shall apply to taxable years beginning after December 31, 1985.

SEC. 2. ADDITIONAL INVESTMENT TAX CREDIT FOR DEPENDENT CARE CENTER PROPERTY.

(a) IN GENERAL.—Subsection (a) of section 46 of the Internal Revenue Code of 1954 (relating to amount of credit for investment in certain depreciable property) is amended—

(1) by adding at the end thereof the following new paragraph:

"(4) in the case of dependent care center property, the dependent care percentage.",

(2) by striking out "and" at the end of paragraph (2), and

(3) by striking out the period at the end of paragraph (3) and inserting in lieu thereof ", and".

(b) DEPENDENT CARE PERCENTAGE.—Subsection (b) of section 46 of such Code (relating to determination of percentages) is amended by adding at the end thereof the following new paragraph:

"(5) DEPENDENT CARE PERCENTAGE.—

"(A) IN GENERAL.—The dependent care percentage is—

"(i) 10 percent, in the case of dependent care center property not described in clause (ii), or

"(ii) 5 percent, in the case of dependent care center property which (but for section 48(s)(1)) would not be section 38 property.

"(B) REGULAR PERCENTAGE NOT TO APPLY TO PROPERTY NOT OTHERWISE SECTION 38 PROPERTY.—The regular percentage shall not apply to any dependent care center property to which subparagraph (A)(ii) applies."

(c) DEPENDENT CARE CENTER PROPERTY DEFINED.—Section 48 of such Code (relating to definitions; special rules) is amended by redesignating subsection (s) as subsection (t) and by inserting after subsection (r) the following new subsection:

"(s) DEPENDENT CARE CENTER PROPERTY.—For purposes of this subpart—

"(1) TREATMENT AS SECTION 38 PROPERTY.—For the period beginning after December 31, 1985, dependent care center property shall be treated as meeting the requirements of paragraph (1) of subsection (a) (other than the penultimate sentence of such paragraph).

"(2) DEPENDENT CARE CENTER PROPERTY DEFINED.—The term 'dependent care center property' means property for use by a dependent care center if—

"(A) such center meets the requirements of subparagraphs (C) and (D) of section 21(b)(2), and

"(B) more than 90 percent of the gross revenue of such center is from 1 or more of the following sources:

"(i) Payments which are employment-related expenses (within the meaning of section 21(b)(2)) for the care of a qualifying individual (within the meaning of section 21(b)(1)) outside the taxpayer's household.

"(ii) Amounts paid or incurred by an employer which are excludable from the gross income of an employee under section 129 (relating to dependent care assistance programs).

"(iii) Grants received from a State or political subdivision thereof, the District of Columbia, or an organization described in section 501(c) which is exempt from tax under section 501(a)."

(d) EFFECTIVE DATE.—The amendments made by subsections (a), (b), and (c) shall apply to the period after December 31, 1985 (under rules similar to the rules of section 48(m) of the Internal Revenue Code of 1954) in taxable years ending after such date.

THE RETIREMENT OF DR. CHARLES F. MARTIN

HON. WILLIAM (BILL) CLAY

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 21, 1986

Mr. CLAY. Mr. Speaker, there comes a time in every generation when the inner qualities and outward accomplishments of a few special individuals allow them to rise above the normal aspects of everyday achievement and cause special attention to be focused upon them. One of these individuals is Charles F. Martin from the First Congressional District of Missouri.

Charles F. Martin, was born in Carrollton, MO, on August 19, 1927. He completed his elementary and secondary education in the State of Missouri and upon graduation from high school was accepted at Lincoln University—Jefferson City, MO—from which he graduated in 1949 with a bachelor of arts degree with a mathematical engineer major and later received his masters and doctoral degrees from Yale University.

His first employment after graduation was in a supervisory position for a major life insurance company for several years in the city of St. Louis. But, due to his love for math and science and a keen desire to use the tools that he had acquired at Lincoln University, he applied for and was accepted for a position as a cartographic photogrammetric aid by the Department of the Air Force.

I include at this point the positions that he has held with the Department of the Air Force and other Federal agencies and the various awards, achievements and publications he has written, and other vital information.

DR. CHARLES F. MARTIN

PREVIOUS POSITIONS

Supervisor—Mammoth Life Ins. Co.: June 1948-Jan 1951.

1st Lt, U.S. Army, Jan 1951—Sept 1953.

GS-4/5, Cartographic Photogrammetric Aid, Department of Air Force, Jan 1954 to Nov 1955.

GS-7/9, Cartographer, Department of Air Force, from Nov 1955 to Jan 1958.

GS-11, Geodesist, Department of Air Force, from Jan 1958 to Mar 1960.

GS-12, Supervisory Geodesist, Department of Air Force, from Mar 1960 to Mar 1962.

GS-13, Physical Scientist, Department of Air Force, from Mar 1962 to Aug 1964.

GS-14, Research Physical Scientist, Department of Air Force, from Aug 1964 to Aug 1967.

GS-14, Supervisory Research Physical Scientist, Department of Air Force, from Aug 1967 to Aug 1970.

GS-15, Research Physical Scientist, Department of Air Force, from Aug 1970 to 30 June 1972.

GS-15, Physical Scientist, Defense Mapping Agency Headquarters, from Aug 1972 to 20 June 1974.

GS-16, Chief Scientist, Defense Mapping Agency, June 1974 to Mar 1980.

AWARDS

Outstanding—April 1973.

Quality Step Increase—July 1973.

Quality Step Increase—January 1969.

Meritorious Civilian Service Award and QSE—November 1968.

Nominated for DoD Distinguished Civilian Service Award—1970.

Outstanding—July 1976, 1977, 1978, 1979, 1980, 1981, 1982.

PUBLICATIONS

Author: "Available Gravity Data," ACIC Symposium *Effects of Anomalous Gravity on Missile Trajectories, 1960.*

Co-Author: "*Harmonic Analysis of the Selenodetic Control System of the Department of Defense, 1967.*" "*A Study of the Rate of Rotation of the Earth from Occultations of stars by the moon, 1627-1860,*" Doctoral Dissertation, 1969. "*Uncertainties in the Lunar Ephemeris,*" Published in Science, 1970.

Papers: "A Study of the Rate of Rotation of the Earth from Occultations of Stars by the Moon 1621-1850)," Commission 17 of the International Astronomical Union, 1964.

"Determinations of the Earth's Gravitational Field from Satellite Orbits" presented at the International Union of Geodesy and Geophysics, September 1967.

"Model Error Compensation in Orbit Determination" presented at the American Astronautical Society Seminar, December 1969.

"Impact on Navigation and Geodesy Compatibility on Geodetic Measurements." Presented at the International Symposium on Geodetic Measurements and Computations. Ahmadu Bello University (ABU), Zaria, Nigeria, 28 March-1 April 1978.

"GPS: Current and Future Applications." Presented at ASP/ACSM Convention, Denver, Colorado, 10 Jan. 1980.

"Technological Developments in Surveys and Mapping over the next 20 years," presented at the "Futures" Conference, Surveys and Mapping; Energy, Mines and Resources; Ottawa, Canada, 12-13 November 1981.

INTERNATIONAL SCIENTIFIC ACTIVITIES

A. Represented the Yale University Astronomy Department:

1. Greenwich, England, Astronomical Observatory, July 1964.

2. Paris, France, Astronomical Observatory, August 1964.

3. West Berlin, Astronomical Observatory, September 1964.

4. Copenhagen, Denmark, Astronomical Observatory, September 1964.

B. International Astronomical Society, August 1964: Panel—Occultations of Moon by Stars.

C. International Astronomical Union, May 1970: Commission 48—Earth Rotation Rate—Morita, Japan.

D. International Astronautical Association, June 1970: Panel—Lunar Ephemeris—U.S. Representative.

SCIENTIFIC AND PROFESSIONAL ACHIEVEMENTS

In 1971 he received the alumni award from Lincoln University, Missouri, for exemplary accomplishment in the field of science.

In 1972 he received fraternal achievement award from Kappa Alpha Psi.

He is listed in "Who's Who in the Mid West."

PROFESSIONAL SOCIETIES AND COMMITTEES

Member, American Astronomical Society.

Member, Royal Astronomical Society.

Member, Astronomical Society of the Pacific.

Member, American Geophysical Union.

Member, American Congress on Surveying and Mapping.

Member of Air Force Office of Scientific Research Mathematics Committee.

Chairman, DoD Lunar Control Committee (1966-1970).

Member, Exploitation Research & Development (EXRAND) (1972 to current).

Dr. Martin's activities in the open national and international scientific areas has been curtailed with his spearhead activities in the classified programs. His works in this area have resulted in a series of highly classified reports which one day, when released, will be recognized for their scientific and technical achievements.

CIVIC AND COMMUNITY ACTIVITIES

April 1971, elected in a non-partisan race for City Council of Rock Hill, Missouri—7,200 population.

1970 to 1972 was member of Mayor's Committee on Parks and Recreation in Rock Hill, Missouri.

Member of the Municipal Task Force of Rock Hill, MO.

President of the Interested Citizens of the Rock Hill, MO, Improvement Association.

Vice President and President for the Schall School PTA.

Assistant Cub Master of the Boy Scout Pack 318.

In 1971, received the alumni award for exemplary accomplishment in the field of science.

In 1972, received a fraternal achievement award from Kappa Alpha Psi.

1976-77, Member, Area 5 Planning Committee for Montgomery County School System.

1973-74, Assistant Scoutmaster, Troop 480, Burtonsville, MD.

1975-76, Burtonsville E.S. PTA President.

1975-77, Scoutmaster, Troop 480, Burtonsville, MD.

1977-78, Banneker JHS PTA President, Burtonsville, MD.

1980-1984, President, St. Louis Club of Washington, DC.

As you can tell by the above, Charles Martin has been a very active and busy individual who has dedicated himself to his job and country. Yet, in doing so he has still managed to be a loving and devoted husband to his wife Margell and a caring father to his three children, and still somehow managed to devote a portion of his leisure time to involve himself in community and civic activities.

Mr. Speaker, I ask that my colleagues join me in paying tribute to Charles F. Martin, who

retired on December 31, 1985 after more than 30 years of dedicated and devoted service to his country and in wishing him and his lovely family many more years of success and happiness.

He will be honored by coworkers and friends at a retirement luncheon on Thursday, January 23, 1986, at the Fort Myer's Officers Club.

THE PANAMA CANAL INTEREST ACT OF 1986

HON. JACK FIELDS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 21, 1986

Mr. FIELDS. Mr. Speaker, I am today introducing a bill to further resolve a problem in Public Law 96-70 dealing with the payment of interest on the U.S. investment in the Panama Canal.

Due to an ambiguity in section 1302 of the Panama Canal Act of 1979, the portion of tolls and other revenues collected by the Panama Canal Commission that was attributable to the interest on our investment in the canal was deposited in the Panama Canal Commission Fund and not into the general fund of the U.S. Treasury.

The effect of this action was to erode our investment base by decreasing the level of our investment in the Panama Canal. As a result, some $60 million was diverted from the general fund between October 1, 1979, and December 31, 1985.

These funds could only be used for those expenditures authorized by the Panama Canal Commission and were not available to finance other Federal programs nor to reduce our staggering national deficit.

In an effort to correct this serious problem, I introduced H.R. 664, a bill which authorized that the interest payment on our investment in the canal be paid directly into the general fund of the U.S. Treasury.

H.R. 664 was the subject of several congressional hearings, passed both Houses of Congress, and on December 23, 1985, was signed into law—Public Law 99-195—by the President. With its enactment, we have now ensured that our annual interest payment, of about $10 million a year, will be properly deposited and utilized for other Federal programs.

With the problem of all future interest payments now resolved, the remaining issue is the level of the U.S. investment upon which the interest payment is calculated. Currently that level has been reduced by the $60 million that is deposited in the Panama Canal Commission Fund.

The bill I am introducing today would raise the principal on our investment in the canal to the level where it should have been had no interest funds been diverted for the past 6 years.

With the passage of this legislation, the Department of the Treasury would be authorized to add the $60 million that is deposited in the Panama Canal Commission Fund to the level of our principal, which is $76.9 million, and to calculate our annual interest payment by multiplying that figure by the prevailing interest rate which is currently 10.72 percent. This legislation would affect all interest payments made after January 1, 1986.

While this bill does not transfer the $60 million to the general fund of the U.S. Treasury, it will restore the proper level of our principal in the Panama Canal.

I have decided not to seek an immediate transfer of these funds because such an action would have a highly adverse and negative impact on the cash flow requirements of the Panama Canal Commission.

Mr. Speaker, because this is a somewhat complex issue, I ask unanimous consent to have printed in the RECORD the committee report on H.R. 664 which includes a narrative history of the interest problem.

I would urge my colleagues to join with me in supporting this effort to ensure that the taxpayers of this Nation enjoy the benefits of a full and accurate Panama Canal interest payment.

AMENDING THE PANAMA CANAL ACT OF 1979 REGARDING THE PAYMENT OF INTEREST ON THE U.S. INVESTMENT IN THE PANAMA CANAL

April 22, 1985.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed.

Mr. JONES, of North Carolina, from the Committee on Merchant Marine and Fisheries, submitted the following Report, to accompany H.R. 664; Including cost estimate of the Congressional Budget Office.

The Committee on Merchant Marine and Fisheries, to whom was referred the bill (H.R. 664) to amend the Panama Canal Act of 1979 regarding the payment of interest on the United States investment in the Panama Canal, having considered the same, report favorably thereon without amendment and recommend that the bill do pass.

PURPOSE

The purpose of H.R. 664 is to stop the erosion of the United States investment in the Panama Canal that is occurring as a result of ambiguity in the Panama Canal Act of 1979, Public Law 96-70, (the Act). The bill accomplishes this purpose by requiring that the portion of tolls and other revenues collected by the Panama Canal Commission (PCC) and attributable to interest on the U.S. Investment be deposited into the General Treasury as miscellaneous receipts. Under current law, these revenues are deposited into Panama Canal Commission (PCC) Fund, resulting in a reduction of the U.S. investment in the canal.

BACKGROUND

Section 1602(b) of the Act requires the PCC to take in revenues sufficient to cover all costs of operating the canal, including interest on the U.S. investment in the canal. The interest rate is set annually by the Secretary of the Treasury pursuant to section 1603 of the Act, which also specifies that the U.S. investment in the canal shall be increased by PCC expenditures and decreased by PCC revenues. Since revenues and expenditures are usually almost equal, they offset each other in adjusting the U.S. investment.

PCC revenues attributable to interest on the U.S. investment are the exception to this rule. Because the Act does not specify what is to be done with these revenues, the PCC simply deposits them in the PCC Fund, in accordance with section 1302 of the Act. Thus, the revenues collected for interest serve to decrease the U.S. investment in the canal, but there is no corresponding expenditure to offset the decrease. The result is the anomaly of having amounts set aside for interest actually reducing the principal. Each year, the revenues attributable to interest erode the U.S. investment in the canal by that amount.

H.R. 664 is designed to stop this erosion by two relatively minor amendments to the Act. The first requires that PCC interest revenues be deposited into the miscellaneous receipts of the General Treasury, rather than into the PCC Fund. The second makes clear that the interest revenues deposited into the miscellaneous receipts account do not decrease the U.S. investment. Only deposits into the PCC Fund do so. The bill will not only halt further erosion of the U.S. investment in the canal, but will also ensure that future interest revenues will be available as General Treasury funds.

The Committee intends that the enactment of H.R. 664 will have no effect on the calculation of the so-called "contingent payment" to Panama under paragraph 4(c) of Article XIII of the 1977 Panama Canal Treaty. That Treaty provision requires the PCC to pay Panama the excess, if any, of canal operating revenues over operating costs, up to a maximum of $10 million annually. Both the PCC and the General Accounting Office (GAO) testified in the 98th Congress that H.R. 5655 (last year's bill, passed by the House in a form identical to H.R. 664) would not affect the way the contingent payment is calculated. The Committee agrees with the PCC and GAO analysis on this point.

LEGISLATIVE HISTORY

In the 98th Congress, on May 15, 1984, the Honorable Jack Fields, Ranking Minority Member of the Subcommittee on Panama Canal/Outer Continental Shelf introduced H.R. 5655, a bill essentially the same as H.R. 664. On May 16, 1984, the Subcommittee conducted a hearing on various aspects of the payment of interest on the investment of the United States in the Panama Canal. At that hearing, the GAO testified that the PCC should pay or transfer its interest collections from the PCC Fund into the General Treasury as miscellaneous receipts. GAO believes that the legislative history of the Act indicated that Congress intended that the interest collections be transferred into the Treasury for the taxpayers' benefit. GAO feels that this can best be done by transferring the collections into the Treasury as miscellaneous receipts. The GAO position on this matter is discussed at length in a GAO paper entitled "Return on U.S. Investment in the Panama Canal" (GAO/ID-83-36 dated March 22, 1983).

The PCC, also citing the Act's legislative history, deposits the interest collections into the PCC Fund as it believes the Act requires. The PCC does not believe that it has the authority to make transfers from the Fund on its own volition. Nor does it have authority to make deposits in any fund other than the PCC Fund. The PCC indicates that congressional action is necessary to state clearly that the Commission has authority to transfer its collections of interest from the PCC Fund to the General Treasury.

The Subcommittee marked up H.R. 5655 on June 12, 1984, adopting one amendment offered by Mr. Fields. The amendment struck the word "directly" from the language requiring interest to be "deposited directly into the Treasury as miscellaneous receipts." The purpose of the amendment was to eliminate any possibility that use of the

word "directly" could be construed as directing the PCC to deposit the interest on the U.S. investment into the General Treasury on a daily basis. The PCC currently accounts for its deposits into the PCC Fund on a monthly basis. The Fields amendment would allow the PCC to account for the interest deposits into the General Treasury at the same time that it accounts for deposits into the PCC Fund.

On June 19, 1984, by unanimous voice vote, the Full Merchant Marine and Fisheries Committee ordered H.R. 5655 reported to the House as amended by the Subcommittee. See House Report 98-858.

On June 25, 1984, the House passed the bill under suspension, sent it to the Senate, where it was never acted upon.

On January 24, 1985, the Honorable Jack Fields introduced H.R. 664, a bill identical to the version of H.R. 5655 which passed in the House on June 25, 1984. On March 7, 1985, the Subcommittee on Panama Canal/Outer Continental Shelf held a hearing on the 1986 Panama Canal Commission budget, including a discussion of the $10 million interest payment to the United States. The two witnesses the Honorable William R. Gianelli, Chairman of the Board of the Panama Canal Commission, and Dennis P. McAuliffe, Administrator of the Panama Canal Commission, testified that H.R. 664 will have no negative impact on the Commission's budget or financial procedures. On April 3, 1985, the Subcommittee unanimously approved H.R. 664. On April 16, 1985, the Merchant Marine and Fisheries Committee also unanimously approved H.R. 664, reporting it to the House.

SECTION-BY-SECTION ANALYSIS

Section 1(a).—Section 1302(b) of the Panama Canal Act of 1979 requires that all tolls and other receipts of the Panama Canal Commission be deposited in the Panama Canal Commission Fund in the U.S. Treasury. Section 1(a) of the bill amends section 1302(b) of the Act to direct that the portion of PCC tolls and revenues that represent the interest on the U.S. investment in the Panama Canal be deposited into the General Treasury as miscellaneous receipts. The Committee intends to make clear that this new language not be construed as directing the PCC to deposit the interest on the U.S. investment into the General Treasury on a daily basis. The PCC currently accounts for its deposits into the PCC Fund on a monthly basis. This section would allow the PCC to account for the interest deposits into the General Treasury at the same time that it accounts for deposits into the PCC Fund. The procedure to be followed by the PCC in depositing interest revenues into the General Treasury and accounting for them is detailed in a June 8, 1984, letter to Chairman Walter B. Jones, a copy of which is appended to this report.

Section 1(b).—Section 1603(b)(2)(A) of the Act states that monies deposited into the "Treasury" (which according to section 1302 is the "Panama Canal Commission Fund") will decrease the U.S. investment in the Panama Canal. When that money is withdrawn from the Panama Canal Commission Fund and deposited into the General Treasury, the U.S. investment would be increased by that amount, thereby offsetting the decrease required in section 1603(b)(2)(A). (See section 1603(b)(1)). This section of the bill strikes the word "Treasury" and inserts in lieu thereof "the Panama Canal Commission Fund." This ensures that the deposit in the General Treasury required by section 1(a) of the bill will have no impact on the level of the U.S. investment.

Section 2.—Section 2 of the bill simply states that the provisions in the bill will become effective when the bill is signed into law. In other words, the changes made by the bill are prospective only.

Inflationary impact statement

Pursuant to clause 2(a)(A) of Rule XI of the Rules of the House of Representatives, the Committee estimates that the enactment of H.R. 664 will have no significant effect on prices and costs in the operation of the national economy.

COMPLIANCE WITH CLAUSE 2(1)(3) OF RULE XI

(A) In the consideration of H.R. 664, the Committee made no new oversight findings and recommendations within the meaning of clause 2(b)(1) of rule X.

(B) The requirements of H.R. 664 contain no new budget authority or increased tax expenditure reportable under section 308(a) of the Congressional Budget Act of 1974.

(C) The Committee on Government Operations has sent no report to the Committee on Merchant Marine and Fisheries pursuant to clause 4(c)(2) of rule X.

(D) The estimate and comparison prepared by the Director of the Congressional Budget Office under section 403 of the Congressional Budget Act of 1974 is set out below.

CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

1. Bill number: H.R. 664.

2. Bill title: A bill to amend the Panama Canal Act of 1979 with respect to the payment of interest on the investment of the United States.

3. Bill status: As ordered reported by the House Committee on Merchant Marine and Fisheries, April 16, 1985.

4. Bill purpose: The bill requires the portion of tolls collected from the Panama Canal to cover the interest on the United States' investment in the Canal to be deposited into the general fund of the Treasury. Under current law, the Panama Canal Commission computes interest on the federal investment based on a rate established by the Secretary of the Treasury, and recognizes this as an operating cost. The Commission then collects tolls based on this and other estimated operating costs and deposits the revenue in the Panama Canal Commission Fund in the Treasury. However, because there is no mechanism to transfer the amount of the interest payment from the Commission Fund to the general fund of the Treasury, the funds collected for the interest payment remain in the unappropriated balance of the Panama Canal Commission Fund.

Furthermore, because of the methodology used to calculate the U.S. investment, the amount of interest accumulating in the unappropriated balance is reducing the amount of the U.S. investment. The Panama Canal Act of 1979 states that the U.S. investment in the Canal will be increased by appropriations to the Panama Canal Commission and decreased by funds deposited into the Panama Canal Commission Fund. H.R. 664 halts this erosion of the U.S. investment.

5. Estimated cost to the Federal Government: By maintaining the value of the U.S. investment in the Panama Canal, H.R. 664 would increase the amount of interest payable on that investment. Consequently, Panama Canal tolls would have to be higher in order to generate sufficient receipts to cover the interest costs. Such tolls are shown as offsetting receipts on the spending side of the budget. Therefore, the budget impact of the bill would appear as an increase in receipts, as shown in the following table.

[By fiscal years, in millions of dollars]

	1986	1987	1988	1989	1990
Estimated budget authority	−0.4	−1.2	−1.8	−2.4	−2.8
Estimated outlays	−0.4	−1.2	−1.8	−2.4	−2.8

The impact of this bill falls within budget function 400.

Basis of estimate: The bill is assumed to take effect at the beginning of fiscal year 1986. In the absence of this bill, the investment will continue to decrease each year by the amount of the interest credited to the unappropriated balance of the Commission Fund; this will, in turn, diminish the amount of the annual interest obligation in the future. H.R. 664 prevents further decreases in the investment and, therefore, results in an increase in receipts on the federal budget.

The deposit of interest income into the general fund of the Treasury instead of the Panama Canal Commission Fund would not affect the budget totals.

6. Estimated cost to State and local governments: None.

7. Estimate comparison: None.

8. Previous CBO estimate: None.

9. Estimate prepared by: Heidi E. Zukoski.

10. Estimate approved by: James L. Blum, Assistant Director for Budget Analysis.

DEPARTMENTAL REPORTS

No reports were received on H.R. 664 at the time this report was filed.

CHANGES IN EXISTING LAW

In compliance with clause 3 of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown below. Existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, and existing law in which no change is proposed is printed in roman.

PANAMA CANAL ACT OF 1979, PUBLIC LAW 96-70, 93 STAT. 452

TITLE I.—ADMINISTRATION AND REGULATIONS

* * * * *

CHAPTER 3.—FUNDS AND ACCOUNTS

Subchapter I—Funds

* * * * *

PANAMA CANAL COMPANY FUNDS; COMMISSION FUNDS

SEC. 1302. (a) * * *

(b) On or after the effective date of this Act, tolls for the use of the Panama Canal and all other receipts of the Commission that, before such effective date, would have been credited to the account appearing on the books of the Government as the "Panama Canal Company Fund (38-4060-0-403)" shall be deposited in the Treasury in the Panama Canal Commission Fund; *except that the part of the tolls and other receipts that covers interest on the investment of the United States in the Panama Canal pursuant to sections 1602 and 1603 of this Act shall be deposited into the Treasury as miscellaneous receipts.*

* * * * *

CHAPTER 6.—TOLLS FOR USE OF THE PANAMA CANAL

* * * * *

CALCULATION OF INTEREST

SEC. 1603. (a) * * *

(b) The investment of the United States described in subsection (a) of this section—

(1) shall be increased by—

(A) the amount of expenditures from appropriations to the Commission made on or after the effective date of this Act, and

(B) the value of property transferred to the Commission by any other department or agency of the United States, as determined in accordance with subsection (c) of this section; and

(2) shall be decreased by—

(A) the amount of the fund covered into the [Treasury] *Panama Canal Commission Fund* pursuant to section 1302 of this Act,

(B) the value of property transferred to the Republic of Panama pursuant to this or any other Act on or after the date on which the Panama Canal Treaty of 1977 enters into force, and

(C) the value of property transferred by the Commission to any other department or agency of the United States.

BOARD OF DIRECTORS,
PANAMA CANAL COMMISSION,
June 8, 1984.

Hon. WALTER B. JONES,
Chairman, Committee on Merchant Marine and Fisheries, House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN. This is in reference to your letter of May 30, 1984 concerning H.R. 5655, a bill that would amend the Panama Canal Act of 1979 with respect to the payment of interest on the investment of the United States in the Panama Canal. In your letter, you invite comments on how the Panama Canal Commission reads the requirements of H.R. 5655 and how it would go about implementing the legislation, if enacted in its present form. We appreciate the opportunity to provide the Committee with this information.

As we read it, H.R. 5655 would impose two new requirements on the Canal Commission. First, the measure would make necessary the deposit into the General Fund of the Treasury of the part of Canal tolls and other receipts of the Commission which represent interest on the investment of the United States in the waterway. Presently, all Commission receipts are deposited into a special account known as the Panama Canal Commission Fund. The change would have the result of excluding interest collections from the funding authority balance otherwise available to the Canal for financing appropriations.

With respect to the manner in which this requirement would be put into effect, the Canal agency intends to establish a procedure whereby the minority report [1] used by the Treasury to account for funds of Federal agencies will be utilized to effect the deposit of interest collections into the General Fund as miscellaneous receipts. This procedure will fully meet the requirements of the new law while, at the same time, take into account the fact that interest cannot be calculated more frequently than monthly therefore, cannot be segregated from other receipts on a daily-deposit basis.

The second change to the existing law would insure that monies collected by the Commission as interest would no longer serve to reduce the United States' investment in the Panama Canal. This revision will be implemented in the following two ways:

a. The Treasury, on the basis of the aforementioned monthly report, will no longer credit interest receipts to the account of the Commission's special fund.

b. The Commission will account for the change in a manner which will cause no further alteration in the investment base.

Both of these amendments would affect deposits of monies made on or after enactment of the legislation and thus would not present the Commission with the problem of having to implement their terms retroactively.

Please be advised that an identical letter has been sent to Congressman Hubbard.

Sincerely,

WILLIAM R. GIANELLI,
Chairman.

[1] Standard Form 1220, "Statement of Transactions According to Appropriations, Funds and Receipt Accounts."

AFTER GENEVA

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 21, 1986

Mr. HAMILTON. Mr. Speaker, I would like to insert my Foreign Affairs Newsletter for December 1985 into the CONGRESSIONAL RECORD:

AFTER GENEVA

President Reagan deserves the praise of Americans for his "fresh start" at Geneva. Although the November summit produced nothing concrete on the central issues of arms control and arms reduction, it improved the mood in U.S.-Soviet relations, reducing tension and signaling a return to diplomacy. The summit's significance depends on what happens next. It is up to the U.S. and the Soviets to try to build on its momentum.

The second summit, likely to be held next June or July, will be much tougher. It was easy this time for the leaders to meet, shake hands, exchange smiles and pledge to accelerate arms control talks. Next time the summit will be called a failure if it does not produce real movement on arms control. A summit can spur bureaucracies into action, but it can also obscure inaction. Painstaking diplomacy is not always advanced by highly visible public meetings. A second or third summit, if unproductive, could unsettle Europe and increase East-West tension.

The President has his work cut out for him. Preparation for the next meeting needs to begin now. The President must quickly assemble an arms control consensus within his own Administration, something he has so far been unable to do. He must give his negotiators guidance if progress is to occur before the next summit. He must resist pressure to compromise, which our allies will apply in coming months. He must choose whether to observe existing treaties while he accuses the Soviets of violating them. Most importantly, he will have to decide whether to accept limits on his Strategic Defense Initiative (SDI) to achieve deep cuts in Soviet nuclear weapons.

Mr. Gorbachev has his own set of problems. He must consolidate his power at the Party meetings in Moscow in February, 1986. He must decide if NATO or the Congress will induce President Reagan to make concessions, or whether Soviet compromises will be needed.

Under the domestic limits each leader faces, neither side can credibly threaten sharp increases in military spending. The outlook here is for more cuts in the President's defense budget. Mr. Gorbachev does not hide his preoccupation with the stagnating Soviet economy, or his reluctance to see military spending go up to keep pace with U.S. technological efforts.

Observers are alert for early signs of movement in superpower relations. U.S. allies have already put forward a proposal at the Vienna talks on Mutual and Balanced Force Reductions. It calls for a small reduction in U.S. and Soviet forces to precede an agreement on verification measures. U.N.-sponsored talks on Afghanistan will resume soon and could provide a post-summit test of Soviet intentions. At the Stockholm Conference on Disarmament in Europe, each side has pledged to work on "confidence building" measures and the principle of non-use of force. Bilateral talks are also planned on preventing the spread of nuclear weapons and establishing centers to reduce the risk of nuclear war.

In Geneva, nuclear and space arms talks will resume in mid-January. Both sides agreed at the summit to seek progress in areas of common agreement, including cutting strategic arms by 50% and working out an interim agreement on intermediate range weapons in Europe. Neither side budged on the central issue of space-based defense, but there is some room in U.S. and Soviet positions to discuss the acceptability of SDI research.

There are major differences, however, in the terms defining the reduction of U.S. and Soviet arsenals. The Soviet proposal would include U.S. weapons in Europe, and apparently allows the development of Soviet SS-24 and SS-25 missiles while prohibiting our MX, Trident II and the future Midgetman missile. The U.S. proposal would ban all Soviet mobile missiles including SS-24s and SS-25s and the proposed U.S. Midgetman, but permit other U.S. systems. These terms of definition alone will be difficult to negotiate.

A further difference is compliance with past arms control agreements. In June, President Reagan announced a "no undercut" policy of adhering to SALT I and II to the extent that the Soviets did. He contends, however, that the Soviets have violated SALT II by deploying two new types of land-based missiles—SALT II allows only one new type—and by encoding data from missile tests. Some cite these as reasons for U.S. abrogation of the SALT II Treaty. Others argue that without U.S. compliance the Soviets could "break out" rapidly from SALT II, which would complicate arms talks and undermine the effectiveness of defense systems contemplated under SDI.

Another critical compliance issue concerns the Anti-Ballistic Missile (ABM) Treaty of 1972. The U.S. charges that Soviet construction of a large new radar system at Krasnoyarsk in Siberia violates the ABM Treaty. The Administration also decided this October that the testing and development of SDI technologies is not a legal violation of the ABM Treaty, reversing the U.S. position of the previous 13 years. This change led to an outcry here and in Europe, and the U.S. decided for policy reasons to return to the original Treaty interpretation. How compliance disputes such as these are resolved will greatly affect the future of arms control.

The summit's outcome on arms control has yet to be written. Will we be able to reach agreements that for the first time really cut arsenals, or will we begin an accelerated arms race? Can we keep both nations on the track started at Geneva or will the next international incident derail us? Can we translate the momentum of Geneva and what the President calls America's new strength into specific agreements which will manage the arms competition?

The summit did not give us a breakthrough on arms control or the difficult relationship between the United States and the Soviet Union. But in an improved climate it does give us a chance to keep trying.

DISABLED VETERAN HELPS OTHERS

HON. GEORGE E. BROWN, JR.

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 21, 1986

Mr. BROWN of California. Mr. Speaker, I would like to commend and recognize Mr. Fritz Kasa of Ontario, CA, in my congressional district. Mr. Kasa is a collector extraordinaire—a collector of crutches, walkers, canes, and wheelchairs.

After searching through neighborhood garage sales, Mr. Kasa repairs and cleans the crutches and other medical aids he has gathered and then donates them to local Veterans' Administration hospitals, children's centers, and schools. In light of recent administration cutbacks and the fact that Mr. Kasa is a disabled veteran himself, his fellow disabled veterans especially appreciate his efforts.

As commendable as his actions are, Mr. Kasa is not satisfied that he cannot do more. His next project is to charter a bus so that he may transport handicapped children and veterans on outings to museums and sporting events.

Mr. Kasa receives no remuneration for his efforts. No one told him to devote his spare time and energy to helping those around him. He does it simply because he cares. He is not alone in this endeavor. Unable to drive himself, Mr. Kasa's former wife and Veterans of Foreign Wars brethren help him to collect his valuable gifts.

These unselfish acts deserve to be applauded and appreciated. Mr. Kasa is not a talker, but a doer. If this spirit of generosity and thoughtfulness were to spread across our country, all Americans would benefit greatly. Mr. Kasa, I salute you.

GRAMM-RUDMAN MUST BE REPEALED

HON. TED WEISS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 21, 1986

Mr. WEISS. Mr. Speaker, I today introduced legislation to repeal the Gramm-Rudman Balanced Budget Act. This legislation is urgently needed to protect American citizens from the devastation of massive budget cuts in this and the coming years. A copy of this legislation is printed below.

H.R. 4020

A bill to repeal the Balanced Budget and Emergency Deficit Control Act of 1985

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. REPEAL.

Subject to section 2, the Balanced Budget and Emergency Deficit Control Act of 1985 (title II of Public Law 99-177) is repealed, effective as of the date of its enactment.

SEC. 2. EXCEPTION.

Sections 261 and 272 of the Balanced Budget and Emergency Deficit Control Act of 1985 (and section 275 of such Act to the extent that it relates to those sections) shall not be included in or affected by the repeal of such Act under section 1, and shall be effective as though this Act had not been enacted.

WALTER J. ROBERTS LEADS ROCKAWAY CHAMBER

HON. JOSEPH P. ADDABBO

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 21, 1986

Mr. ADDABBO. Mr. Speaker, I am proud to call to the attention of my colleagues a very special man in my community of Queens.

Since his election to president of the Rockaway Chamber of Commerce last year, Mr. Walter J. Roberts has earned the respect and praise of many. Mr. Roberts has proven his dedication and devotion toward improving the quality of life within the Rockaway community through his hard work in forming the Rockaway Industrial Task Force. By making local entrepeneurs aware of the vast opportunities that exist in the Rockaways and by establishing an extensive Job and Motivational Training Program, the task force will help ignite a surge in industrial activity that will create a positive change for all Rockawayites. I feel that both Mr. Roberts and the members of the Rockaway Chamber of Commerce should be commended for their great effort.

I would like to share with you Mr. Robert's comments, which illustrate his excitement in the chamber's role on the task force. I insert into the RECORD the text of his message:

PRESIDENT'S MESSAGE

(By Walter J. Roberts)

When I accepted the Presidency last year, I promised you that the Chamber would be in the forefront in attracting industrial development to our community, to provide much needed employment for our unemployed and underemployed neighbors. I can report to you now that we are on our way. Together with the Far Rockaway Revitalization Corp., Catholic Charities, Community Board 14, and the Rockaway Local Development Corp., we have formed The Rockaway Industrial Task Force. Our purpose is to encourage, and assist local entrepreneurs to expand their businesses, to provide many goods and service needed in the Rockaways. We will take advantage of our proximity to JFK to entice industry that is being forced out of Manhattan, to relocate here where we are able to offer attractive costs and a ready labor force.

Our program includes job training, and most important, motivational training that will assure these businesses a highly motivated employee. At present, more than $31,700,000 in tax dollars is spent on subsistence benefits in the Rockaways, with virtually no visible improvement in the quality of life, either to the recipient, or the community as a whole. This is a very expensive band aid.

Our program will greatly reduce the tax drain, and at a fraction of the cost, go a long way toward improving the quality of life for all Rockawayites. By joining the groups together, and forming this Task Force, we agree on an agenda, then use each others strength and resources, in a united effort to attain our goals. In the past, our beautiful peninsula has fallen prey to outside sources, where decisions were made that have darned near ruined us. Our Task Force is one giant step in returning the destiny of Rockaway to Rockawayites.

In closing, we at The Chamber are excited about the current interest in the Arverne Urban Renewal Area. Be assured that your Chamber of Commerce will take a strong role in any decisions involving the use of this valuable land.

AMENDING THE AGE RESTRICTIONS FOR EMPLOYMENT IN THE FEDERAL PRISONS

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 21, 1986

Mr. GILMAN. Mr. Speaker, I rise today to share with the House legislation I have recently introduced to correct a discriminatory practice utilized in the hiring and retirement policies of the Federal prison system.

In accordance with Public Law 93-350, the Attorney General is charged with the authority to promulgate regulations which prohibit the hiring of anyone over the age of 35 and mandate the retirement of any one over the age of 55 in our Federal prison system. This restriction encompasses all employees, regardless of their physical condition, experience, special training, or other qualifications.

Mr. Speaker, these regulations are a serious breech of our Nation's progress in ending, not perpetuating discrimination—whether it be based on race, religion, gender or age—wherever it may exist. I have introduced, H.R. 3911, to correct this injustice.

Currently all prison employees are classified as law enforcement officers. This includes cooks, janitors, secretaries, and prison guards alike. As such they are eligible for early retirement and augmented pensions. However, to extend the 35 age limit on hiring, and the 55 age limit on mandatory retirement, across the board, to all of these individuals in these very different jobs, is not only grossly unfair, but it is also bad management policy.

H.R. 3911 provides that no one age 45 or under can be refused employment based on his or her age. My bill also raises the mandatory retirement age from 55 to 65. My legislation reflects the need when making these decisions, to approach each employee on the basis of his or her abilities and experience, not on the birthdate placed on an employment application. The recent spate of disturbances in our Federal prisons indicate to me that we

need qualified, experienced men and women to police our Federal prisons and that that criteria, in and of itself, should be our primary concern.

Mr. Speaker, I encourage my colleagues to join me in holding to establish fair, sensible, age limits for the hiring and retirement of our Federal prisons employees. I am inserting the full text of H.R. 3911 at this point in the RECORD, and commend it to my colleagues for their attention:

H.R. 3911

A bill to amend sections 3307(d) and 8335(b) of title 5, United States Code, with respect to the age limits for appointment and mandatory retirement of law enforcement officers engaged in detention activities

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. APPOINTMENT.

Section 3307(d) of title 5, United States Code, is amended—

(1) by striking out "The" and inserting in lieu thereof "(1) Except as provided in paragraph (2), the"; and

(2) by adding at the end the following:

"(2) The maximum limit of age for original appointments to a position as a law enforcement officer whose duties primarily involve detention as defined by section 8331(20) may not be fixed under paragraph (1) at an age lower than 45 years.".

SEC. 2. RETIREMENT.

The first sentence of section 8335(b) of title 5, United States Code, is amended—

(1) by inserting ", or 65 years of age in the case of a law enforcement officer whose duties primarily involve detention as defined by section 8331(20)," after "55 years of age"; and

(2) by striking out "that age" and inserting in lieu thereof "the applicable age".

CIVIL RIGHTS POLICY SHOULD BE PUT BACK ON TRACK

HON. DON EDWARDS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 21, 1986

Mr. EDWARDS of California. Mr. Speaker, one of the major disappointments of the first session of the 99th Congress was the failure of the Congress to enact the Civil Rights Restoration Act to overturn the Supreme Court's Grove City decision. Despite the bill's cosponsorship by over 200 Members of the House and a majority of the Senate, efforts by some to bog the bill down with other issues that miss the very point of the bill have prevented us from enacting this crucial legislation into law.

A January 3, 1986 editorial in the Los Angeles Times addresses this dilemma, and points out the reasons why enactment of the bill is so important. I share the editorial's conclusion that in the months ahead we must "put civil-rights policy back on a track that it should never have left."

I commend the article to the attention of my colleagues. The article follows:

SIDETRACKED CIVIL RIGHTS

Congress went home for the holidays without having passed a single piece of civil-rights legislation in 1985. Yet a critically important bill awaits action. It restates a policy that should be obvious: No federal money should support institutions that discriminate on the grounds of race, sex, age or physical handicap.

For 20 years that had been a clearly articulated national policy, starting with the passage of the Civil Rights Act of 1964. That policy was seriously eroded in a 1984 U.S. Supreme Court decision involving Grove City College in Pennsylvania. The court held that while federal aid to students was indeed aid to the college, it triggered restrictions against discrimination only in the program directly invloved. The student-aid office thus was covered, but not the rest of the school.

Many members of Congress said that this was too narrow an interpretation. Still, the Justice Department indicated that the decision, which involved sex discrimination, would be applied to similarly worded statutes barring federal subsidies to institutions that discriminate against minorities, the elderly or the handicapped.

Since the Grove City decision, the Department of Education has indeed dropped several key cases. One involved charges that the University of Maryland's intercollegiate athletic program did not provide the same travel allowances and support services to female athletes that it did to males. Such sex discrimination had clearly been prohibited under Title IX of the Education Amendments of 1972, which helped expand opportunities for women and girls in sports. The number of high school girls in sports has increased from 7% to 35%, and the number on college athletic scholarships has grown from virtually none when Title IX was passed to more than 10,000 today. Many more women now attend medical, law, veterinary and graduate schools as well, thanks to federal efforts to end sex discrimination.

To overturn the Supreme Court ruling and correct any misapprehension that the Justice Department has about legislative intent, Congress has been considering the Civil Rights Restoration Act of 1985. The bill would make it clear that if an institution received federal money for any program or activity, the entire institution would be covered by anti-discrimination laws. The measure has wide bipartisan support, which is appropriate because three of the four laws involved were signed by Republican Presidents. Fourteen high officials from the Johnson, Nixon, Ford and Carter Administrations have testified in favor of the legislation, saying that they never had any problem with what Congress meant.

What should be obvious is not, however. Some House members seek to entangle the measure in the abortion debate, where it does not belong. Others want to exempt institutions with religious affiliations. Institutions controlled by religious groups are already legitimately exempt; this amendment would broaden the loophole through which 800 to 900 institutions might escape coverage.

The bill has never come to the House floor, because the civil-rights forces lack the votes to beat back amendments that have little to do with the substance of the measure. When Congress returns to work, it should resolve to clarify the law and put civil-rights policy back on a track that it should never have left.

THE THIRD ANNUAL MAYORAL CONFERENCE ON ALZHEIMER'S DISEASE, A COMMITMENT TO CARE

HON. MARIO BIAGGI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 21, 1986

Mr. BIAGGI. Mr. Speaker, on November 1, 1985, I was privileged to participate in the Third Annual Mayoral Conference on Alzheimer's Disease and Related Disorders which took place at Columbia University in New York City. The theme for this conference was "A Commitment to Care: Present Problems, Future Focus" and it provided a vast and enlightening outlook on what victims, family members, and care providers can expect from their local, State and Federal governments in the treating of researching this degenerative disease that has ravaged the lives of 2.5 million people in our country who have Alzheimer's disease. We also heard personal testimonials from family members of victims who suffer from this disease, as we learned from experts and professionals who have spent many years of their careers studying this devastating disease and its effects in the hopes of finding both the cause and the cure.

I was honored to represent the Federal Government's role in the research and treatment of Alzheimers when I appeared as a respondent along with staff representatives of my distinguished colleagues Representatives EDWARD ROYBAL and THOMAS MANTON. It is important to note that I am an original cosponsor of a bill authored by Chairman ROYBAL of the House Select Committee on Aging, H.R. 2280, the Comprehensive Alzheimer's Assistance and Research and Education Act, which is the main bill pending before Congress on this subject.

It is my pleasure to share some testimony that was presented that day, but before I do that, I would like to commend the mayor of the greatest city in the world, Edward Koch of New York, for his initiative in calling for this timely conference for the third time. His leadership and commitment in this important area has been outstanding from the outset, and provides needed encouragement to the New York City community. I would also like to commend and praise my friend, Janet Sainer, commissioner of the New York City Department for the Aging, whose opening remarks provided great hope and impetus for the obvious successful outcome of the conference. Commissioner Sainer's role has been vital to the 1.3 million citizens in New York City who are 60 years of age and older. I would also like to take a moment to extend my personal thanks to Randi Goldstein, director of the Alzheimer's Resource Center, without whose competent assistance and ability this conference would not have been a success.

At this time, I would like to share with you testimony from four key participants:

TESTIMONY OF MARION ROACH, AUTHOR AND CAREGIVER

My name is Marion Roach. I am the author of a book, "Another Name for Madness."

Seven years ago my mother's doctor told me that he thought that my mother was senile. I thought she was going mad. We both were wrong.

My mother is one of the more than two million victims of Alzheimer's disease in this country—according to recent statistics, she is one of the seventy thousand victims living in New York City.

My mother in her life has been a newspaper reporter, a wife, a mother, a girl scout leader and a visiting nurse volunteer.

In the progression of her disease she became frightened, angry, paranoid, hostile and imcompetent.

Then she became completely dependent on the aid of others. She could not be left alone. She became repetitive and confused. She became agitated. She stopped reading. She could not complete sentences. Then, for a while, she spoke rapid gibberish.

She could not bathe properly and she had no memory. She had to be bathed, fed and dressed.

At last year's conference I spoke about how she had just been admitted to a nursing home. I spoke about when she went in, that she did not speak and barely walked, that she was incontinent and seemed dead and that within two months she had recovered her speech and was walking—that she recognized me, but had not for the six months prior to entering the home. I talked about how the home saved what there was of her . . . how it took the shreds of her intellect and used them to their maximum potential.

Before my mother went into the nursing home she was living in an apartment with twenty four hour a day seven day a week care. She was protected from the world, and it, was protected from her. She was, as I said, almost dead.

In two days living in the nursing home, my mother, for the first time in six months initiated a conversation. She recognized me for the first time in six months. She is happy, cared for, stimulated, safe and clean.

They cut her sedation in half and they work with her every day to keep her stimulated . . . art therapy, music therapy, dance, current events. Don't tell me it's not important. It's a right. She has every right to whatever life she can have.

My mother's at-home care bankrupt my family. It demolished my father's life savings. It demolished my mother's considerable life savings. My sister and I were left to care for her. As a middle income family, we were left to fend for ourselves. And we did not do very well. We were paying $360.00 per week for a home attendant. Private insurance does not cover these costs for long term custodial care. Nor does Medicare. Medicaid will—if you are virtually destitute. So, we set out to make my mother destitute. It was easy. We paid for her care and in five years the life saving of two working and educated adults was gone and she was left, depending on two daughters both in their twenties to support her. We had a lawyer. We did what we could and at the time she was severe enough to qualify for a nursing home we were also broke. The financial and emotional ruin came together.

Apparently, next year, the payment program for nursing homes in this state is going to change. Payment made by the type of illness is being rescaled and you know who is going to suffer—you know who is being put so low on the scale of payment that nursing homes will be acting in their best interest by refusing these patients—that's right, the demented. Those patients who have never been paid for, who have suffered and been confused and caused financial ruin to their families and who have no where to go but to the nursing homes because we cannot afford to keep them at home, are going to be shut out based on reimbursment. And, you know what? I don't blame the nursing homes. They cannot afford to take these patients if what they will be reimbursed is what is being proposed.

"It's like this. According to the New Resource Utilization Groups, called "RUGS", the reimbursement system for long term care will be remodeled, making a system which everyone agrees is already unfair to the dementia patient, even more so.

We, professionals and family members, are against a system which is being put into effect whereby the types of care needed by Alzheimer's patient is given such a low rating as to be last on the list of what the government will pay for.

For some inexplicable reason in this country, we value intrusive medical procedures over non-intrusive care—we would rather pay for a limb to be replaced, a chest to be opened, a machine to be attached, than we would care which does not intrude on the body. I don't know why. We don't seem to take seriously the hands-off care that some illnesses require.

Here's my metaphor. The Alzheimer's victim needs medical care. Medical care comes in the form of another person. The person, is in the beginning of the illness a cane, then a walker and then later a wheelchair. The other person is the victim's kidney machine if you must, the person's seeing eye dog, the person's very link to any type of proper care. Without it, they would die. They would die early into the disease.

So, when the New York State people sat down and wrote out this new rating, they figured numbers of hours of attention per patient—and, here's the rub—the salary of the person required to give that attention. An AD patient doesn't need a RUN or LPN. They need an attendant, someone to bathe them, someone to watch them in arts and crafts, someone to get them to do whatever it is they can do with what is left of their intellect, someone to watch them, to feed them. They don't need transfusions for the AD, they need aid.

So, of course they don't cost much. But they need as much. They cannot exist unaided. Based on the scales going into effect next year, the reimbursement for the AD patient will be about one third that daily rate for the highest rated group in the nursing home. So, nursing homes given the choice will choose the other patients, the non-demented. It's not secret they prefer the non-demented, and frequently turn down the AD patient, saying they are too hard to handle.

So, at the last stages of the family's battle, you are going to throw this at us. Not if we can help it.

The way I look at all policy makers, you are either with us, or you're going to have to change. Because we're not going to. We're not going to because the demands of this disease won't let us.

It doesn't go away.

I believe that there are no truths to be learned without a challenge to one's courage and to one's intellect. This requires that we think beyond the usual bounds of medical care. But I believe that every truth, every success, comes after pushing courage another distance.

We are asking you to do the same. We have looked at our lives and we have seen parts of them demolished. We are not even asking this help for the victims now in nursing homes. I am asking you so that next year, the victims can get the financial help they need. We've given the families a lot of help.

Only you can do this for us.

TESTIMONY OF ROBERTA GOODMAN, ESQ.

Good morning, my name is Roberta Goodman and I represent ADRDA—NY. I am also the daughter of an Alzheimer's disease victim and for the past 7 years, I have witnessed the devasting effects of this disease on my mother, my father and myself. When one family member suffers from Alzheimer's, all family members suffer.

We thank the legislators for their efforts in proposing legislation designed to help, but we need enacted legislation, not just proposals.

ADRDA is an organization dedicated to: (1) Educating the public to medical, social, psychological and financial impication; (2) encouraging and supporting research into causes, improved diagnosis, therapy, cures for and prevention of AD; and (3) Providing a network of support groups.

The City of NY is helping to achieve some of ADRDA's goals. We thank Mayor Koch and Commissioner Sainer for their commitment to the elderly of our City. The Alzheimer's Resource Center, established by the NYC Department for the Aging is one of a kind in providing a vital public service. In 18 months, greater than 10,000 people have been helped. Most recently, much needed legal advice has become available to help individuals wade through the myriad of information to determine medical eligibility.

But we need more. This is a disease that has reached epidemic proportions. Over 2 million people diagnosed with AD and an untold number of victims.

We need you to propose and enact legislation which will allow people to remain independent and live with dignity. As the laws are presently formulated a spouse must spend down to near poverty levels before becoming eligible for assistance.

Recently, a NY Court recognized the inequities of the provisions of the medicaid laws and remedied this unfairness by allowing an elderly healthy spouse of an institutionalized medicaid recipient to receive the proceeds of her husband's pension despite the demands of the medicaid program for reimbursement. We applaud the Koch Administration's decision not to challenge the Court's opinion. But we cannot rely on the beneficence of a single judge.

We need legislation to redefine eligibility under the medicaid laws. Medicare is insufficient and does not cover custodial care. We need tax credits or deductions for home care. We need funding for establishment and operation of respite services. We need funding for research programs to conquer this disease.

We urge you to propose and support a tax credit or deduction to those who are able to keep a family member at home and provide long term care. The savings in real dollars is enormous.

We urge you to provide respite services for those unable to hire outside help or get out of the house. They too have become prisoners of this disease. They desperately need relief. We urge funding local model projects in each borough.

Last and certainly not least, we urge you to establish funding for research programs. The cause and cure for AD remains a mys-

tery. Research grants are desperately needed for developing treatments.

You can make the changes to help put an end to the daily agony suffered by our families. We urge you to propose and enact effective legislation.

We do not know when AD will strike, or who it will strike, but we do know it will strike. It may happen next year, or next month, or next week or tomorrow. But it will happen. To put an end to the dread of tomorrow, we must do something today.

TESTIMONY OF JACK M. POLLOCK, PH.D.

I begin with the simple proposition that living with a victim of AD is impossible to describe. By various knowledgeable people, Alzhemier's has been termed "the disease of the century," "a funeral that never ends", "a sickness that robs the mind of the victim and breaks the hearts of the family," "a 36-hour day," "the plague of the unburied dead."

I have lived with AD for over seven years. The victim is my wife. She was only 53 when her brain began to crumble.

In this country, there are 2½ million people like my wife. Some are younger; most are older. All are without hope.

Are these people and their families doomed to suffer alone? Does society owe them nothing for a lifetime of toil? For all they have given the community, is there no return? I speak not only of medical care and financial assistance. Though these are important, I think that uppermost in the mind of everyone who has a family member afflicted with AD is the fervent prayer that a cure be found.

Those who now have AD may be beyond redemption. But we worry about our children. And the chindren, the brothers and sisters, live with the sword of Damocles hanging over their heads. "Will it happen to me?" they ask. "If it does, I don't want to live."

What we of this nation must do is to declare war on AD. The Disease threatens to overwhelm us, both in terms of human misery and financial loss. By the year 1990, 78 billion dollars will be spent to institutionalize AD patients. Yet the federal government has allotted only 50 million for research on AD, only a third of the amount budgeted for research into AIDS.

How much longer do we have to wait? Like Macbeth to the physician, we cry out in pain to the medical profession:

"Canst thou not minister to a mind diseased
Pluch from the memory a rooted sorrow
Raze out the written troubles of the brain?"

My purpose in coming before you this morning is simply to emphasize the terrifying urgency of the problem. If we mobilize our resources of money and talent, I am convinced we shall find a treatment, a cure, or a prevention. We are spending countless billions in outer space. I submit that the few cubic centimeters of space encompassed by the human skull are far more complex, significant, and vital than a million light years of outer space. Whatever it may cost to eradicate AD, the price will be cheap, the investment wise. Unless we act now, and act decisively, the number of AD cases will double. If we succeed, the dividends will be not only a saving of millions in the cost of health and nursing home care, but an alleviation of human suffering that could well be unparalleled in medical history.

TESTIMONY OF GLADYS HARBURGER, CAREGIVER

My name is Gladys Harburger. My husband of forty five years is the AD patient. My parents were immigrants sent to these shores because in America people respected that an individual was "endowed with certain inalienable rights"! To them that meant each of us was entitled to personal dignity and respect.

Here I am—where I didn't expect to be—needing help from others and to my amazement there is little or no help for me.

I doubt that there is anyone who doesn't recognize the need for homecare for AD patients and even more unfortunately for the caretakers: This is a relentless thirty six hour a day experience.

If we are agreed that homecare is imperative—then why don't all of us avail ourselves of this service. Some of us feel that we must assume this responsibility. It is our loved one and who can take care of our patient with greater dedication than us? Then we start worrying about our survival. What would happen to our patient then. It is rare that there is another family member to take over.

So now we have acknowledged the fact that we must have help. If we are on Medicaid with a great deal of effort, humiliation and aggressiveness we can get a health aide.

If we are not eligible for Medicaid we are offered no assistance. We must then pay between six and twelve dollars an hour—or about $75.00 a day for full time care. We are being asked to pauperize ourselves before we can get help. Once again the middle class is being victimized.

There is an alternative to pauperization. We are being advised to divest ourselves of our resources so that we may qualify for Medicaid.

Over two million Americans are estimated to suffer from this disease and with hospital and institutional care costs escalating daily—how much more economical would it be to provide home care. If a well thought out plan of home care were developed—a progressive plan responding to the needs of the patient and caretaker at least 25% of the overhead costs of the many billions needed for institutionalized care—would be saved. Both the patient and the caretaker would fare better in their home surroundings.

Please let this not be a pleasant exchange of concerns. Let it move us to action and we promise to support your actions in whatever way seems desirable.

The Third Annual Mayoral Conference on Alzheimer's Disease and Related Disorders was made possible by the dedication and commitment of the following individuals whose names I would also like to note:

Carolyn Bottum, Public Affairs, New York City Department for the Aging.

Leane Cheek, Associate Director, Public Affairs, New York City Department for the Aging.

Mildred Evans, Administrative Assistant, Alzheimer's Resource Center.

Susan Goldfein, Conference Coordinator, Alzheimer's Resource Center.

Michael Helmers, Administrator, Alzheimer's Disease and Related Disorders Association, Greater New York Chapter.

Pamela Jaffe, Family Counselor, Alzheimer's Resource Center.

Jean Marks, Educational Director. Alzheimer's Disease and Related Disorders Association, Greater New York Chapter.

Diana Walcott, Information & Referral Specialist, Alzheimer's Resource Center.

Helene Wolff, Director, Public Affairs, New York City Department for the Aging.

TRIBUTE TO JOSEPH SYLVESTER CLAY

HON. LOUIS STOKES

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 21, 1986

Mr. STOKES. Mr. Speaker, family, friends and the St. Louis community will pay tribute and give recognition to one of its influential and solid citizens on Sunday, February 2, 1986, with a Joseph Sylvester Clay, Sr., Day celebration in the city of St. Louis.

Mayor Vincent C. Schoemehl, Jr., has issued a proclamation declaring February 2, 1986, as Joe Clay Day in the city of St. Louis. Joseph Sylvester Clay, Sr., was born in the city of St. Louis and is the son of the late Irving Charles Clay, Sr., and Luella Hyatt. His brothers and sisters include Congressman WILLIAM L. CLAY, Sr., Irving C. Clay, Jr., executive assistant to the mayor of St. Louis, Mary E. Lloyd, retired from the Missouri State Department of Health, Flora M. Everett, entrepreneur and Hazel Brown and Norman Cain, both of whom are deceased.

Joe just recently retired after many years of successful employment as a skilled technician with the pipefitters of the city of St. Louis. He was known by his peers during his many years of employment as a sincere, considerate person who trained many young men in the development of their skills as pipefitter technicians. It has been stated by his coworkers that he has left a positive imprint on those with whom he has been involved.

He is married to Delores Carey and is devoted to his family and children, Wanda and Joseph, Jr. Joe Clay was educated in the St. Louis Catholic parochial and public school systems. Joe Clay, in addition to being a dedicated civic and community leader, is well known for his accomplishments in the area of athletics. He excelled as a participant in many areas of athletic endeavors that include baseball, softball, basketball, football, swimming and was lauded by all for his exceptional athletic abilities and his keen sense and knowledge of the technical aspects of the various games.

After a long and successful career as an outstanding participant, he has continued his involvement in athletics as a developer and general manager of an athletic organzation. Over the last several years, the Judy's softball team of St. Louis, under his guidance and leadership, has emerged as a power in St. Louis softball and has many championships to their credit.

The citizens of the St. Louis area have had a longstanding and deep love for Joe Clay and will come together on February 2, 1986, to show their appreciation to him for the commitment he has made to enhance the quality of life for his fellow man.

Mr. Speaker, I rise today to also pay tribute to Joe Clay and I call now on my colleagues in the U.S. House of Representatives to join

me in congratulating Mr. Joseph Sylvester Clay, Sr., for his contribution to the St. Louis community.

A TRIBUTE TO THE 101ST AIRBORNE DIVISION AND SP4C MICHAEL L. WHITEMAN

HON. ROY DYSON

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 21, 1986

Mr. DYSON. Mr. Speaker, I rise today to honor the memory of the members of the 101st Airborne who lost their lives on December 12, 1985 in the service of their country.

When loved ones answer the call to duty in the face of danger, we are wont to know both pride and fear. Whether they be soldiers serving in distant lands, or police patrolling neighborhood streets, we are all too aware of their vulnerability. We are heartened by their courage, but we are also anxious for their return.

Knowing what we may, when tragedy is visited, the grief is no less. And so it is for the families of the 248 fine young soldiers whose mission of peace ended abruptly in a quiet, snow covered field in Gander, Newfoundland.

Our hearts go out to the loved ones who grieve the untimely loss of these brave soldiers. Though it does little to lessen the sorrow of their loss, I know I join with the entire country in expressing my deep sympathy to each family. While we will never know what accomplishments they might have achieved had they lived, we will always remember the cause for which they served so proudly.

TRIBUTE TO ELLIE GRAHAM

HON. CARL D. PURSELL

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 21, 1986

Mr. PURSELL. Mr. Speaker, I would like to take this opportunity to pause and comment on the career of a woman from my hometown of Plymouth—Ellie Graham.

Mrs. Graham is retiring from her work at the Observer & Eccentric Newspapers this month and I believe it fitting to comment on her outstanding work and dedication as a community journalist.

Mrs. Graham went to work at the Observer Newspapers in May of 1967. Then headquartered in Plymouth, she was no stranger to the community—having raised her family there and having been active in Plymouth events.

Ellie spent most of her time working on the central copy desk until 1976, when she became the suburban life editor of the Plymouth edition. This was a natural role for a woman who already was involved with the Plymouth Symphony, the Plymouth Historical Society, Plymouth Fall Festival, and other organizations.

The distinguishing part of Mrs. Graham's work is her dedication to the community and the people who live there. It is rare to find a community journalist who, beyond writing about a town's people and their events, takes the time to truly care about them. And because of that, Mrs. Graham has had a positive impact on the Plymouth community.

But beyond that, I believe it bears mentioning that this appreciation for an American town and American people comes from one who was born and raised in a different country. Mrs. Graham is a proud citizen of our neighbor to the north, Canada.

I would like to join with the people from my hometown in congratulating Ellie on her retirement. It truly is to our benefit that years ago a schoolteacher from Essex County decided to cross the Detroit River and make her residence in Michigan.

BTX'S: A THREAT TO HEALTH AND THE ETHANOL INDUSTRY

HON. DOUG BEREUTER

OF NEBRASKA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 21, 1986

Mr. BEREUTER. Mr. Speaker, today I am introducing legislation that will prohibit oil refiners from introducing benzene, toluene, and xylene, commonly known in the industry as BTX's, into commercial gasoline. I introduce this legislation for two primary reasons: One, is environmental; the other is economic.

From an environmental standpoint, all of us are aware that the Environmental Protection Agency has mandated that oil companies phase out the use of lead as an octane enhancer in gasoline. The EPA mandated this phaseout because it has been determined that lead is a toxin and that its use in gasoline is detrimental to both air quality and individual health.

The EPA lead phaseout has left oil companies with two basic alternatives for increasing the octane level in the production of gasoline. One is the use of ethanol manufactured from agricultural products such as grain or sugar cane. The other is the use of one or more BTX's—benzene, toluene, or xylene. The first is a clean and efficient method for increasing the octane ratings in gasoline. The other raises potentially serious health consequences for Americans because benzene is a proven carcinogen and toluene and xylene are suspected carcinogens.

Because BTX's are naturally present in gasoline and a by product of petroleum refining, the major oil companies during the past year have tended to invest in the development of BTX facilities rather than turn to ethanol as an octane enhancer for gasoline. The increased use of BTX's, however, raises several potential health concerns. The carcinogenic consequences of BTX's are currently being investigated by EPA, OSHA, and other Federal and State agencies. Recent cancer biopsies from animal studies show that benzene causes leukemia, and a variety of other cancers including lymphoid cancers, cancers of the skin, ovary, oral cavity lip, tongue, lung, and mammary gland.

While it appears that the regulation of BTX's would have positive health benefits, it is also apparent that their limitation, or even complete phaseout, would have positive economic consequences for our depressed agricultural economy. A recent report by the Congressional Research Service shows that the United States uses nearly 110 billion gallons of gasoline annually. Assuming a 10-percent alcohol mixture, CRS estimates that 11 billion gallons of alcohol would then be required. At 2.55 gallons per bushel, 4.3 billion bushels of grain would be needed to manufacture this amount of alcohol. Thus, 40 percent of the grain harvest of the United States could potentially be utilized to supplement our Nation's automotive fuel supply.

While it may be many years before this amount of grain is put to use in the production of alcohol, there is already a proven market for ethanol in the United States with a tremendous potential for future growth. Increased ethanol usage in recent years has already proven to be an important market for corn producers. Between 1980 and 1985, corn used in production of ethanol rose from 16 million to nearly 200 million bushels annually. With the phaseout of lead as an octane enhancer in gasoline, the potential exists for the amount of corn used in ethanol refining to double, or even possible triple, over the next few years.

In light of our current huge surpluses of grain, ethanol production is a safe, efficient and economical means of utilizing excess agricultural products. The use of corn in ethanol production also helps to increase farm income and reduce the cost of Federal farm programs. However, if oil refiners are allowed to manufacture and use BTX's on an economically large scale, then ethanol will cease to be a viable alternative to lead as an octane enhancer and a market for surplus grain production.

The legislation which I am introducing today is a simple, straightforward means to both protect public health and insure a future for our developing ethanol refining industry. My bill would prohibit any petroleum refiner from introducing benzene, tolulene, or xylene into gasoline for the purpose of increasing its octane ratings. Naturally occuring BTX's already present in gasoline would be limited to the following amounts: benzine—1 percent tolulene—3 percent and xylene—3 percent by weight.

I urge all my colleagues who are concerned about the environmental health consequences of BTX's and the future of the ethanol industry to support this legislation.

HONORING BERTRAND E. STEWART, JR.

HON. VIC FAZIO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 21, 1986

Mr. FAZIO. Mr. Speaker, I would like to pay tribute to a good friend and outstanding civil servant, Mr. Bert Stewart, Jr. After nearly four decades of distinguished service in the Federal work force, Bert retired on December 31, 1985.

Bert enjoyed an exemplary career as a civil servant. His 38 years of service featured numerous honors that highlight the outstanding contributions he has made to our Nation. In-

cluded in this list of accomplishments is his selection as the California Air Force Association's USAF Civilian of the Year in 1982, the Air Force Award for Meritorious Service in 1984, and the Commander-in-Chief's Installation Excellence Award in 1985. Simply put, these awards recognize Bert's willingness to tackle a variety of demanding leadership positions and the challenges that accompany them.

Furthermore, as Deputy Director of Maintenance since 1976, Bert played a key role in revitalizing McClellan Air Force Base. In fact, his efforts were instrumental in turning McClellan into the most progressive center in the logistics command system. While these leadership skills will be sorely missed, I am confident that his efforts have helped build a solid framework for the continued growth and success of McClellan.

Mr. Speaker, it has been a great pleasure to work with Bert over the years. He has been a tremendous asset to the Federal Government, McClellan Air Force Base, and the Sacramento community. On this special occasion, I would like to extend my personal thanks and appreciation to Bert, his wife, Willodean, his son, Fendley, and his daughter, Marcia. I wish them all the very best of luck!

GRAMMBO

HON. THOMAS J. DOWNEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 21, 1986

Mr. DOWNEY of New York. Mr. Speaker, now that OMB has informed us of the cuts which are necessary to meet the requirements of the Gramm-Rudman budget balancing act—or "Grammbo" for short—we can examine what exactly wasteful Government spending is.

What is wasteful spending? Spending on wasted youth is a waste. The cuts in the alcohol, drug abuse and mental health administration and juvenile justice and delinquency prevention programs clearly demonstrate this. Is the First Lady aware of these planned cuts in her pet project? Let's not kid ourselves: photo ops and press events that highlight the perils of drugs are welcome. But refining an image at the expense of America's wasted youth is an outrage.

After the year of the crash we are informed that air safety must be cut. I humbly submit that draconian cuts in the FAA budget, including the elimination of air traffic controllers, is not the way to promote the general welfare.

The American dream, a good job and a home, is wasteful. The Federal Housing Administration will be sold—merger mania has hit the Feds—and the Job Corps will be gutted. Perhaps we don't need a trained work force to compete with nations like Japan and West Germany for jobs.

Education spending is a waste. Guaranteed student loans, aid to the handicapped, block grants, bilingual education, and vocational and adult education will all be severely hit. A mind, it seems, is not such a terrible thing to waste.

What does the President consider not to be a waste? Weapons, of course. The President will ask Congress once again for a major increase in defense. Star wars is sacrosanct, leaving an innovative and stable deterrent—the Midgetman—open to slashes. Readiness and spare parts and manpower will suffer. This will leave us in the uneviable position of having a 600-ship Navy without the personnel to staff it.

Our national debt is a gun pointed at the heart of our economy, of that there is no doubt. But we are heartless if we continue to waste human potential. And what does the administration do? It hides behind Gramm-Rudmann. We should all remember: you can run, but you can't hide.

There has got to be a better way to deal with our economic and fiscal difficulties. That is the challenge both the executive and legislative branches of Government face in the next few months.

THE BINGHAM FAMILY EMPIRE SELF-DESTRUCTS

HON. CARROLL HUBBARD, JR.

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 21, 1986

Mr. HUBBARD. Mr. Speaker, on January 10, 1986, the headline of the Courier-Journal, a Louisville, KY daily newspaper read: "Bingham family to sell newspapers, other holdings."

Thus it was officially announced that the family of Barry Bingham, Sr., would be selling the media empire the Bingham family had accumulated during the past three generations.

The decision to sell was received by many Kentuckians with mixed emotions and reactions.

Another lead story in the January 10 edition of the Courier-Journal on the the top-half of the front page read: "State's leaders are saddened by decision." Typical of the long-standing one-sided news coverage by the giant Bingham media, the reporters for the Bingham morning newspaper quoted a few Kentucky leaders expressing their dismay at the decision by Barry Bingham, Sr., to sell the Courier-Journal, the Louisville Times, WHAS radio, WHAS-TV, and Standard Gravure, the printing company.

Indeed, there are tens of thousands of Kentuckians who are overjoyed with the news that the Bingham family will no longer control the news in Kentucky.

In fact there are tens of thousands of constituents in my 24-county western Kentucky district who look forward to the time when the Louisville newspapers are owned by a corporation or individuals who will give our portion of the State fair news coverage.

For several days I shall share with my colleagues in the 99th Congress and later with my constituents the news coverage about the Bingham empire which has so boldly been printed by newspapers that do not fear the Bingham empire of Kentucky, including such outstanding daily newspapers as the New York Times and the Washington Post.

First from the New York Times of last Sunday, January 19, a lengthy news article written by Alex S. Jones and headlined "The Fall of the House of Bingham":

[From The New York Times, Jan. 19, 1986]

"THE FALL OF THE HOUSE OF BINGHAM"

[By Alex S. Jones]

LOUISVILLE, KY.—"It's a sad day for all of us," said Paul Janensch, executive editor of The Courier-Journal and The Louisville Times, hoarsely addressing several hundred somber co-workers who had jammed the company cafeteria to consider their uncertain future. It was 3 P.M. on Friday, Jan. 10, the day after the abrupt announcement that the Bingham family, the glamorous and tortured clan that had owned the newspapers for almost 70 years, was selling out.

The decision to sell was a shock, but not a surprise. For two years the staff had watched as the Binghams warred with each other over the family holdings. Finally, in desperation, Barry Bingham Sr., the 79-year-old patriarch, decided to sell, hoping that his decision would somehow bring a semblance of peace to the family. What it brought initially was a blistering accusation of betrayal from Barry Bingham Jr., the son who has run the family companies since the early 1970's.

Barry Jr. resigned in anger and was in the cafeteria to speak. "In my proprietorship here," he said, "I've tried to operate these companies so that none of you would be ashamed of the man you work for."

When he had finished, the employees rose as one in a standing ovation. Many wept. But the applause was not entirely for Barry Jr., it was also for his stand against selling. And the tears were for themselves, for the uncertain future of the newspapers, for the tragedy of the Binghams and for the passing of an era.

News of the sale prompted a flood of expressions of grief, mostly from Kentuckians, mourning the end of the Bingham stewardship. Under the Binghams, the Courier-Journal won eight Pulitzer Prizes, establishing the newspaper as one of the finest in America.

For large families struggling with the problems of multi-generational ownership of a business, the saga of the Binghams and their failure to hold together was particularly poignant. And for the dwindling number of families still operating their own newspapers, the news from Lousiville was chilling.

For the proud Binghams—a clan of southern patricians who are often compared to the Kennedys because they share a history of tragic death and enormous wealth—the pain of selling was redoubled because it may have been avoidable. It is not financial duress forcing the sale, but implacable family strife, as ancient as the struggle between Cain and Abel.

A week of interviews with the key family members, with many of their employees and with their friends has revealed the details of the Bingham family feud. From the interviews comes a portrait of a family both hugely blessed and critically flawed, a family caught in a dispute that it was unable to resolve.

"It became increasingly clear that there was just no way out of the emotional tangle we'd fallen into," Barry Sr. said. "In bringing up my children, I somehow did not get across to them that people have to make compromises."

In the drama, there is no single villain, nor a hero or healer who might have bridged the gulf of distrust and anger. In the end, a powerful gridlock developed among the three Bingham children—Barry Jr., Sallie and Eleanor. Their parents, con-

vinced that no amicable way could be found to keep the business in the family, elected to sell all the holdings. It was a decision that Barry Sr. said he made now so that he and his 81-year-old wife could face the trauma together.

In part, the roots of the crisis may lie in the family's enormous wealth that allowed the Bingham children to grow up in what Sallie calls a "golden dream," creating a generation of Binghams used to their own way. The parents' insistence on unruffled family relations and their distaste for overt emotion left Barry Jr. and his sisters without the need to forge deep relationships with each other as children—relationships they might have called upon to resolve their impasse as adults.

Running through the Binghams' story are the devastating deaths of two sons. The death of Worth Bingham, the first-born, haunted Barry Jr., who eventually took over stewardship of the newspapers, the role intended for his older brother. In recent years, Barry Jr.'s devastating sense that he was losing the family's confidence seemed to make him dig in his heels so rigidly that he invited the decision to sell—perhaps, as Sallie says, in an unconscious wish to be delivered of his burden.

THE FIRST SESSION IN REVIEW

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 21, 1986

Mr. HAMILTON. Mr. Speaker, I would like to insert my Washington Report for Wednesday, January 15, 1986 into the CONGRESSIONAL RECORD:

THE FIRST SESSION IN REVIEW

The first session of the 99th Congress was one of the least productive and most frustrating in recent years. Congress enacted only a few major laws, repeatedly missed deadlines, and often deadlocked to the point of crisis. It began the year in a fierce partisan fight over Indiana's 8th Congressional District and ended it with all night sessions and last minute solutions. It left for next year the biggest problem on its agenda: $200 billion annual deficits.

The absence of a clear agenda, antiquated congressional procedures, sharp disagreements on the substance of the major issues, and the tough choices those issues pose contributed to the poor record. The year was also a potent reminder of the way fiscal constraints remove easy alternatives. Passing out benefits is easier than distributing sacrifices.

The Congress and the President have tried to cut taxes, increase military spending, retain the safety net to protect the poor, and balance the budget. But they are realizing that these goals cannot be reconciled. The Senate wanted to cut domestic programs, including social security benefits; the House ruled out cutting social security benefits and wanted to cut military spending; the President agreed with the House on not cutting social security benefits, but he insisted on more military spending without an increase in taxes. The result has been a political gridlock, nearly bringing the legislative process to a halt, with not one of the top political leaders able or willing to break it.

The session's major accomplishments were the enactment of the Gramm-Rudman amendment requiring a balanced budget by 1991, a House-passed bill to reform the tax code by reducing the top individual tax rates while repealing many deductions, and farm bills to continue the present farm programs for five years and to aid financially the troubled Farm Credit System. The biggest policy change this session was the slowdown in the military buildup after defense spending had nearly doubled in the President's first term. Defense still fared better than domestic programs, which were frozen or cut, but military spending grew barely enough to cover inflation.

My major disappointment this session was the way Congress did—or failed to do—its work. Congress and the President often leave work to the final days, but this year it seemed everything had to be resolved in the last week of the session. Five major bills, summing up the entire year's work, were on the agenda for the final five days: a bill to raise the debt ceiling with the Gramm-Rudman deficit reduction amendment; a "continuing resolution" to fund half of the government not funded by appropriations bills already enacted; a "reconciliation bill" restructuring a range of domestic programs to meet new budget targets; an omnibus farm bill; and a tax reform bill.

Crowding everything into the last few days is a terrible way to govern. These five bills are enormously important, containing thousands of provisions that affect every American. In the closing hours of the session, I asked myself repeatedly why the Congress is unable to act except in the rush to adjourn. The unwillingness of the Congress to make a decision until seized by a deadline, the cumbersome inefficiency of the process, and the physical exhaustion that apparently must set in before adjournment can be reached impressed me more than ever in 1985.

For example, the budget emerges from a complex, almost incoherent, and unending process. Deadlines are set, then not met; debt ceilings are extended for a few days at a time, then raised at one minute to midnight. Last minute, catch-all continuing resolutions, financial much of the government and containing thousands of important provisions, are made available only hours, sometimes minutes, before members vote. Such procedures are not the best way to govern.

Few ironies are greater than Congress mandating future deficit cuts, while failing to make immediate cuts because it cannot agree on steps to be taken in the reconciliation bill. The reconciliation bill was Congress's best opportunity to do something about the red ink, but in the end Congress did not do it. From the standpoint of actual deficit reduction, the Congress failed in 1985. Yet the promise of the Gramm-Rudman amendment is that it will force the President and the Congress to finance the government without huge deficits.

The President did not have a good year in the Congress in 1985. He was unable to translate his personal popularity into enactment of his legislative programs. Repeatedly, on trade, taxes, foreign policy, the budget, and defense, he was on the defensive, fending off political attacks, and struggling to regain momentum. He certainly did not control the legislative agenda as he did in the first years of his presidency. With his budget for 1986 dead on arrival on Capitol Hill, he was forced to accept a defense budget that allowed an increase only for inflation. In foreign policy, the President requested 100 MX missiles, but Congress limited deployment to 50. The President wanted military aid for Nicaraguan rebels, but settled for only non-military aid. He was refused permission to sell advanced arms to Jordan. He was also forced to change his policy toward South Africa, and imposed limited economic sanctions to head off more drastic action by Congress. Congress rejected his campaign stand that deficits would solve themselves. My impression is that he made a major mistake by making tax reform (instead of deficit reduction) his highest, and almost only, domestic priority.

Congress left plenty to do in 1986, including immigration reform, higher education, a new federal retirement system, tax reform, a Superfund toxic waste bill, and a civil rights bill revising the Supreme Court's Grove City decision. Congress passed, but the President vetoed, legislation restricting imports of textiles and other items. More action on trade is expected in 1986. My guess is that 1986 will be a year of increasingly hard choices for Members of Congress.

FRINGE BENEFIT EXCEPTIONS REQUIRED FOR CERTAIN EMPLOYEE USES OF VEHICLES

HON. HAL DAUB

OF NEBRASKA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 21, 1986

Mr. DAUB. Mr. Speaker, last year, this Congress passed and sent to the President, H.R. 1869, legislation to repeal the contemporaneous recordkeeping requirements added by the Tax Reform Act of 1984. The repeal of these recordkeeping requirements was a significant step toward eliminating the complexity of tax reporting for the business use of automobiles. On the other hand, this bill also reaffirmed our intent to require some minimal evidence of business expenditures to substantiate business deductions.

Last year's bill, however, was only directed at one portion of the taxpayer uncertainty related to the use of employer-provided vehicles—recordkeeping. The other portion of the issue which the Ways and Means Committee and Congress chose not to address was that of when does an employee's use of a vehicle constitute fringe benefit income?

While commentators and subsequent Treasury regulations have generally tended to combine recordkeeping and fringe benefit issues in a singular approach, these areas represent two distinct tax policy questions. The question of whether a taxpayer should document a business deduction and the question of whether an employee has taxable income from the use of a vehicle should in fact bear no relationship to each other.

Recently, the Department of Treasury released proposed regulations in the fringe benefit area. While these regulations manifest a good faith effort to resolve many of the fringe benefit concerns which have been raised, more can be done. It is my hope that improvements can be made through constructive discussions with the Department of Treasury and through legislation, if necessary.

In this regard, I am today introducing legislation H.R. 4013 which would provide a few

specific nontaxable fringe benefit uses of vehicles, as follows:

Certain uses of public law enforcement and emergency vehicles, Vehicles used by employees who are off duty but on call, Use of certain "special use" vehicles, and Use of farm use vehicles.

These exceptions are only a beginning in this area. During the coming weeks, I intend to work closely with my colleagues who are interested in this issue and are seeking constructive changes. I hope each of my colleagues will be able to support this effort.

DEMOCRATIC RESPONSE TO THE PRESIDENT'S DECEMBER 21 RADIO ADDRESS

HON. CHARLES E. BENNETT

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 21, 1986

Mr. BENNETT. Mr. Speaker, for the purpose of the RECORD, I submit herewith, the Democratic Party's response which I was honored to make on December 21 to the President's radio message of that same date:

The President is certainly to be congratulated on his political leadership in moving the tax reform bill this year. So too, is Congressman Dan Rostenkowski. Together these two men, Democrat and Republican, have moved us forward.

Some further amendments to the bill are needed, however. Democrats would like to have a real minimum tax in the bill, so that corporations could not evade their tax duty. Also, dollar-wise, lower-income families did not fare that well in the bill and we would hope that this could be improved in the conference with the Senate.

In any event, tax reform, now a real probability, should help us get rid of the unconscionable loopholes that have existed for many years.

On the Gramm-Rudman bill, as the President said, he and the Congress deserve credit for coming to grips with the very serious budgetary problems our country now has. These resulted from excessive spending over many years—but mostly from the President's 1981 tax cut which slashed Government revenues but not Government spending.

The Gramm-Rudman bill can help—but the solutions are not in some quick gimmick but in thoughtful legislation against excessive Government.

The President also spoke of the emergence of a new foreign policy to help freedom fighters around the globe. Democrats can buy that policy if it is done consistent with international law. We can hardly criticize the Soviets for intervention against established governments if we do the same thing ourselves. It is important for our own security to support our international commitments in our treaties and under international law.

Now there is yet time to talk about the Christmas season, now with us. The Christmas season was heralded 2000 years ago by the words: "Glory to God in the highest, and on earth peace, goodwill toward men." The central goal of the season being peace, this is even more meaningful this year, so soon after the Geneva summit and the promise of future summits to seek peace.

This year, to fulfill the spiritual aims of America and of this season, we must surely put the quest of peace at the forefront. If we give glory to God and earnestly seek goodwill among men, we will assuredly meet with success.

Christmas has many meanings to people. In the minds of most of us it is a time of giving—not of having or of getting. We are indeed more blessed with happiness in giving than we are in receiving.

Christmas is a time of spirituality. In this season we look at our religion—whatever religion that may be. While acknowledging spiritual life to be a fact, we recognize that spiritual attainments may be judged differently by various religions. At this season, we forget about differences and accentuate our enthusiasms. Christians celebrate the birth of Christ, but we in no way detract from other religions. We Americans are glad that we live in a nation which is not only supportive of religion and spiritual attainments, but which is also at the same time supportive of religious freedom.

Christmas is a time of faith. It is a time when we emphasize what our spirituality tells us rather than what we reason out by intellect.

Sometimes we worry about our lack of faith and feel insufficient in our failures. But at Christmas, all of us as brothers and sisters renew our faith and are grateful for our spiritual roots.

Christmas is a time of hope—a time for optimism. Those of us who have experienced failure (and who has not?) need a particular time of hope. Christmas is such a time. Hope is of the best of our blessings; for without it we have nothing.

Tennyson speaks of "The mighty hopes that make us men!"

Great hopes do not tarry in small souls. Hope is a part of the spirit of Christmas for it is a time of birth—a time of new beginnings. We all need new beginnings.

Christmas is above all a celebration of love. We celebrate a birth described in the scriptures in terms of love: "For God so loved the world that he gave his only begotten son." Love is the dominant theme throughout all our scriptures. In the 19th Chapter of Leviticus, the Lord spoke to Moses saying: "Thou shalt love thy neighbor as thyself. While faith may vanish with sight and hope with fruition, love will always endure, at the heart of the spirit of Christmas.

So, at this Christmas season, we Democrats, and our Republican colleagues, pledge ourselves to join together not only to meet our challenges here at home, but also to lay the foundations for lasting peace world wide.

This is Congressman Charles Bennett wishing for you, the full blessings of this happy season and the joys of faith, hope, and love; knowing full well that the greatest of these is love. Merry Christmas!

EXPRESSION OF THANKS TO REX GRIGGS FOR A DISTINGUISHED CAREER AS REGIONAL CHIEF FORESTER

HON. GEORGE E. BROWN, JR.

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 21, 1986

Mr. BROWN of California. Mr. Speaker, today, I would like to take a moment to say thank you for a constituent who retires today after serving the State of California for 36 years. Mr. Rex N. Griggs is retiring as the California Department of Forestry's regional chief for southern California after starting his career at the age of 17 as a seasonal firefighter.

Rex Griggs fought fires and drove forestry trucks and took on other seasonal work while attending college until 1955. His career took him from forestry firefighter foreman and on to the Conservation Camp Program. In just 2 years, he was promoted to assistant forestry superintendent at Oak Glen. Through the years, he moved to Los Banos and Riverside while he started his work as a fire prevention specialist. It's been 20 years since he developed fire prevention displays, programs, and procedures that remain in active use today.

In 1971, Rex Griggs moved to northern California to continue his career advancement before coming to San Bernardino County as ranger-in-charge and county fire warden for the largest county in the United States.

In just a little over 1 year from the time he was named assistant deputy State forester for the southern California region, he was promoted to regional chief. His responsibility for the Department of Forestry covered the counties of Inyo, Mono, Ventura, Los Angeles, Orange, San Bernardino, Riverside, San Diego, and Imperial. He was actively involved in the development and implementation of the Firescope Program, an innovative fire-fighting control system. Chief Griggs is widely acknowledged for his expertise in fire protection and other emergency services.

He was one of three experts sent to Portugal to advise the Government on methods to improve their wildland fire protection. Acting with the Agency for International Development, Chief Griggs not only helped improve Portugal's fire protection, but put into place an exchange program that was educational and beneficial to the firefighters of both nations.

Rex Griggs has served the State of California with a long and distinguished career. I wish Rex and his wife, Shirley, good health and good luck.

AN EXPLANATION OF VETERANS' COMPENSATION AND PENSION INCREASES AND HEALTH CARE IMPROVEMENTS

HON. FRED J. ECKERT

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 21, 1986

Mr. ECKERT of New York. Mr. Speaker, in the recent session Congress approved the Veterans' Compensation Rate Increase and Job Training Improvements Act of 1985, and the Veterans' Health Care Admendments of 1985. The President has signed these into law. I supported those measures and am pleased they are now in effect for the benefit of our veterans.

The Veterans' Compensation Rate Increase and Job Training Act will provide a needed 3.1 percent cost-of-living adjustment [COLA] for compensation to over 2.2 million service-connected disabled veterans and over 300,000 widows and children of veterans who lost their

lives in service. A similar increase will apply to pension benefits for certain other veteran dependents and non-service-connected disabled veterans. The 3.1-percent COLA included in this legislation is equal to the COLA for Social Security recipients, based on the increase in the cost-of-living between October 1984 and September 1985. The payment of the compensation COLA under this legislation is retroactive to December 1, 1985.

The extension of the Job Training Act permits cash incentives to employers who hire and train certain long-term unemployed Vietnam-era and Korean conflict veterans. Over 400,000 veterans have applied for participation and training under the Emergency Veterans' Job Training Act since its inception.

The Veterans' Health Care Admendments of 1985 will make it easier for veterans to get medical care in non-VA facilities and will improve the quality of care in VA medical facilities. These are the chief provisions:

Requires the VA to monitor and evaluate the quality of its health care and requires the inspector general to monitor the quality assurance program.

Expands the number of geriatric research, education and clinical centers from 15 to 25.

Permits veterans receiving nursing home care to be eligible for VA outpatient care for up to 12 months following discharge from a hospital.

Extends eligibility for health care for veterans exposed to the herbicide agent orange through fiscal year 1989.

Increases from $35,000 to $50,000 the maximum coverage of the serviceman's group life insurance programs and make the insurance available to the Reserves and inactive National Guard.

Directs the VA to set up a pilot program of chiropractic services to veterans who received treatment in a VA hospital in the previous 12 months for neuromusculoskeletal condition of the spine.

Mr. Speaker, I am committed to supporting legislation such as these measures that provide adequate benefits in health care for the veterans of our wars, particularly those with service-connected disabilities and those in need. Medical services and compensation to veterans are obligations and debts which the U.S. Government must maintain at adequate levels during these trying years of necessary budgetary readjustment.

GILMAN LEGISLATION EXTENDING THE CAPITAL GAINS EXCLUSION FOR ALL HOMEOWNERS

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 21, 1986

Mr. GILMAN. Mr. Speaker, I have recently introduced legislation to allow all homeowners the option to keep, tax free, up to $125,000 from the profit from the sale of a principal residence. My bill, H.R. 3912, extends the current eligibility for the one-time capital gains tax exclusion from those 55 years of age and older, to homeowners of all ages.

While the economic recovery has seen the overall pace of inflation slow, housing costs have continued to remain exorbitant. Indeed Americans are forced to pay taxes on the price increases of their homes and other properties which are the direct result of inflation. No homeowner should receive less for their home than they paid for it due to unfair taxes which have been leveled on it. Until Congress can act decisively on legislation to establish a system of indexing capital gains so as to avoid these deleterious effects, we should protect homeowners from being unfairly penalized when they do choose to sell their single most valuable investment—their home.

Adoption of this bill would allow Americans the freedom to decide at which point in their lives they could best utilize the one-time exclusion. For a young family making the move from their starter home to a larger residence, extension of the one-time exclusion could help them realize their dreams. The bill is equally advantageous to single, recently divorced, or recently widowed homeowners who need access to the capital and/or cannot afford to maintain a multiperson residence.

H.R. 3912 would also have the direct effect of freeing up the housing market in cases where homeowners a few years under 55 are holding onto their residences so as to be able to take advantage of the one-time exclusion. This increased availability would in turn foster lower cost housing and enable those who could not previously afford to own their own home an opportunity to do so.

Mr. Speaker, I urge the Ways and Means Committee to consider this legislation in a timely manner. I commend H.R. 3912 to my colleagues' attention for their support and insert the text in full at this point in the RECORD.

H.R. 3912

A bill to amend the Internal Revenue Code of 1954 to eliminate the age requirement for eligibility for the one-time exclusion of gain from the sale of a principal residence

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) the section heading and subsection (a) of section 121 of the Internal Revenue Code of 1954 (relating to one-time exclusion of gain from sale of principal residence by individual who has attained age 55) are amended to read as follows:

"SEC. 121. ONE-TIME EXCLUSION OF GAIN FROM SALE OF PRINCIPAL RESIDENCE.

"(a) GENERAL RULE.—At the election of the taxpayer, gross income does not include gain from the sale or exchange of property if, during the 5-year period ending on the date of the sale or exchange, such property has been owned and used by the taxpayer as his principal residence for periods aggregating 3 years or more."

(b)(1) Paragraph (1) of section 121(d) of such Code (relating to special rules) is amended by striking out "age, holding, and use" each place it appears and inserting in lieu thereof "holding and use".

(2) Paragraphs (2) and (3) of section 121(d) of such Code are each amended by striking out "subsection (a)(2)" each place it appears and inserting in lieu thereof "subsection (a)".

(3) The table of sections for Part III of subchapter B of chapter 1 of such Code is amended by striking out the item relating to section 121 and inserting in lieu thereof the following:

"Sec. 121. One-time exclusion of gain from sale of principal residence."

(4) Sections 1033(h)(3), 1034(1), 1038(e)(1)(A), 1250(d)(7)(B), and 6012(c) of such Code are each amended by striking out "by individual who has attained age 55".

(c) The amendments made by this Act shall apply to sales or exchanges after December 30, 1984 in taxable years ending after such date.

EVAN BAYH

HON. ANDREW JACOBS, JR.

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 21, 1986

Mr. JACOBS. Mr. Speaker, the following Indianapolis News article about our friend, Evan Bayh, is a nostalgic tonic to all of us who enjoyed the fellowship of our former colleague Birch E. Bayh of Indiana.

The story of this outstanding Hoosier family is a story of excellence and the warmth of human concern.

The article follows:

[From the Indianapolis News, Jan. 9, 1986]

EVAN BAYH—HIS PARENTS SET THE STANDARDS HIGH

(By Nelson Price)

The style.

That is what hit you first about the father—an aw-shucks campaigner with a flair for flesh pressin', winkin' his blue eyes and slippin' in stories about the Hoosier hogs at his Shirkieville farm.

The style.

That is what hit you about the mother—a poised, polished perfectionist who charged through public appearances with chin up, a polite smile and, as her husband used to say, "a 100-mile-per-hour engine in a 30-mile-per-hour chassis."

The style.

That is what hits you about their son, a young man described by lifelong acquaintances as respectful, well-groomed and courteous almost from the day he could form his first word.

"He is very much his mother's son, far more like Marvella than Birch," observed Larry Conrad, former Democratic secretary of state whose friendship with the Bayh family stretches back to Birch's first U.S. Senate campaign in 1962. "Evan has always been unfailingly polite, kind of the perfect child, the kid you always hoped your own children would behave like."

Birch Evan Bayh III, known as Evan, lives in an immaculate downtown condominium with furnishings that include a framed print of the signing of the Declaration of Independence and a sign on his desk that insists "Something Good is Going to Happen to You."

None of this, however, is what you notice first.

Second only to his startling good looks (one local Republican gripes that Evan and his blonde bride "remind me of Ken and Barbie dolls") you notice the framed photographs.

There is Marvella Bayh with Birch, Marvella with Lyndon Johnson, Marvella by herself, Marvella in profile.

Marvella.

With mention of her name, young Bayh's voice softens. He talks extensively about his trip to Scandinavia and the Soviet Union, a jaunt shared just by the two of them.

"It is a special journey between two compatible friends," his mother, a second-generation Norwegian, wrote in an autobiography published posthumously in 1979.

Evan points out that relatives of his wife Susan, a Pasadena, Calif., native, met his mother at the 1968 Democratic national convention.

He volunteers that, to acquaint his wife Susan (they were married in April) with Marvella roots, they traveled over the Thanksgiving holiday to the Enid, Okla., farmlands where she was raised.

He notes that, because so much of his mother's adult life was spent in the glare of press conferences and talk shows, he owns an array of videotapes with her answering questions, greeting the public or crusading against the disease—cancer—that ultimately overtook her.

Momentarily surprised, a visitor blurts out. "Can you bear to watch those tapes?"

Evan's lower lip trembles and, for only a moment or two, the formality falters.

"I can't look at them without getting all choked up," he confides, and his eyes mist. "It's been more than five years, and I still can't do it.

"You know what really hurts? It's when you hear the voice. The voice can really get to you . . ."

He stops and struggles for control.

"Evan is a gentle person," said Sally Kirkpatrick, former aide to ex-Rep. Dave Evans, D-Ind., and press secretary to John Livengood, chairman of the Indiana Democratic Party.

"But I don't think gentleness or compassion should be confused with weakness. He is firm in knowing what he wants."

What Evan Bayh wants, at age 30, is to be secretary of state. An attorney with the Indianapolis firm of Bingham, Summers, Welsh & Spilman, he has been spending many of his evenings and weekends on what politicos call the rubber-chicken circuit.

Indiana politicians say Evan Bayh could be the only bright spot on a Democratic ticket that still has no announced challenger to U.S. Sen. Dan Quayle.

Gordon Durnil, chairman of the Indiana Republican Party, professes not to be worried about young Bayh:

"His father never won an election by any large margin, and, in fact, was defeated the last time he ran (by Quayle in 1980). Plus, the liberal perception of his father might be more of a negative.

"Indiana voters are more Republican and more conservative now than they were. I want to add that we're not like the South, where there are political dynasties based on name. You don't just get Indiana votes based on a last name."

On that final point—and that point alone—Evan Bayh concurs.

"You can't be propped up by someone else," he insists. "I intend to work for this, and I intend it earn it.

"My father has not made one phone call or one contact on my behalf—at my request."

But what if he were Evan Smith? Wouldn't his odds—and his starting base of campaigning for a top state office—be different?

"He is Evan Bayh," Conrad counters. "You can't change who you are. That argument is petty. Anybody who meets Evan can tell he has the talent and the mind to handle public office."

"The public is intelligent" Evan says. "People are not going to vote for you because of who your parents are.

"I'm very proud of my father, but the issues he confronted—and the world he served as a public official—were much different than the ones today. My father and I share many values, but we differ somewhat on the way to achieve them."

Is that a way of saying he is more conservative than Birch Bayh?

"More moderate, I guess," he responds, pointing to his college major (he graduated from Indiana University in 1978 with a degree in business) as a possible explanation. "On the whole, though, I think ideological labels are meaningless. If anything, call me more of a pragmatist.

"Even though I tend not to be partisan, I think having different points of view in the Statehouse is crucial. We have had just one point of view (Republican) in almost all state offices for too long."

Born in Terre Haute, Evan Bayh moved to Washington at age 7 when his father stunned Indiana politicians by narrowly defeating Republican Sen. Homer Capehart.

Educated at St. Albans, a private prep school near the nation's capital, Evan's classmates included Marvin Bush, son of Vice President George Bush.

Young, energetic and handsome, Birch and Marvella were linked closely with the Kennedys (particularly after a 1964 airplane accident in which Birch pulled Ted Kennedy from the wreckage and was credited with saving the senator's life) and the Lyndon Johnsons.

Intertwined with the glamor, however, were bouts with tragedy. In Oklahoma, Evan's maternal grandfather slid into alcoholism, married a second wife younger than daughter Marvella, attempted suicide and eventually succeeded, shooting his bride and himself in a scandal that became front-page news in Indiana.

In her autobiography, Marvella Bayh recounts her father's first suicide attempt, when he gulped down the contents of a jumbo-sized aspirin bottle—while she and 6-year-old Evan were visiting.

"My mind was a tug of war, torn between loves and responsibilities a thousand miles apart," she wrote, referring to her father's demands and the duties of a politican's wife. "Evan, at 6, standing behind me in that car, proved to be of enormous comfort.

"When he discovered I had left our suitcase at Mother's house, when we couldn't find a place to spend the night, when my double vision (caused by an earlier car crash) came back as it got dark and I began to panic. Evan said, "Now, it's going to be all right, Mother. Don't worry. And he kept patting me on the shoulder, like my father would have done."

Asked about his grandfather, Evan says simply, "His life was a tragedy in the truest sense of the word."

As the son of a controversial politican. Evan also learned to cope with—although he says he never accepted—vituperative attacks on his father. Here is Marvella's account of one such incident, which occurred while she and Evan were home alone watching TV commentator Eric Sevareid laud Birch as a "Midwestern John Kennedy":

"The phone rang, and Evan answered it. A man's voice said. 'You tell your father that if he is going to be a Midwestern JFK, I am going to be another Lee Harvey Oswald,' and hung up."

Although Mrs. Bayh, wrote that Evan begged his father not to run for president in 1972 [Birch bowed out after the diagnosis of Marvella's breast cancer), young Bayh stresses that he enthusiastically supported the 1976 attempt—and even left I.U. for a semester to campaign.

Noting that Birch finished second only to an unknown named Jimmy Carter in Iowa. Evan says he still believes if Bayh had entered the race a few weeks earlier—and pushed a smidgen harder—the outcome (and, perhaps, national history) would have changed.

Stung by the loss, Evan signed up as a deck hand on an American freighter bound for Germany.

"People don't realize this, but I am no stranger to hard physical labor," he said, noting he worked heavy construction jobs during summers as a teen-ager.

A tackle on the St. Albans football team, Evan considered suiting up in the mid-1970s for Lee Corso, then I.U.'s football coach.

"I have a lot of interests, and we both enjoy meeting people," Evan says, referring to his father. "Maybe it is true, that I am more reserved than he is. He is easy-going, and I tend to be a perfectionist, to pay attention to the details."

Observing Evan on the campaign stump last May, Ed Ziegner of The News wrote, "There was no 'raw meat' in the speech, something which the elder Bayh almost always got in . . . (Evan) needs more rapport with his audience, some jokes to toss in here and there. He is a bit too sober-sided."

"I think I've livened up since then," Evan responds. "For someone to expect me, at age 30, to be the same finished product as my father, well, that's a bit rough on me. If I came across as a jokester, people would say, "Who does this young guy think he is?' "

Asked about political aspirations, Evan says, "I have no agenda beyond secretary of state. I have seen too many people in the public eye become captives of their ambition."

He also rules out further attempts at public office by his father. Now married to a former ABC News official and the father of 4-year-old Christopher, Birch Bayh is an attorney in private practice in Washington.

Birch Bayh was best man at his son's wedding. Although Marvella wrote extensively about her husband's absences from family activities because of his rigorous agenda, Evan shares different memories:

"I remember when there would be only two parents at a Little League game—and he would be one of them. I never felt neglected.

"We talk on the phone all the time. Mostly about fundamental values, about how all-consuming public life can be, about how nothing is worth neglecting your family."

Susan Bayh, an associate with the Indianapolis law firm of Barnes & Thornburg, says she enthusiastically supports Evan's candidacy.

"When you marry someone, you marry the whole person," she explained. "Part of that person is his aspirations and dreams."

"People sometimes say to me, "No one can be polite all the time,' " Evan concedes. "I do have moments where I fall short.

"But growing up in the public eye, you always know that you are a reflection of your parents. I never wanted to let them down."

There is silence for a moment, and you suspect his thoughts have strayed.

Evan Bayh is staring at the pictures on the wall, the photographs of a delicate but driven woman. A woman who won honors for courage, whipped her husband in college speaking contests, coped with car wrecks, a plane crash and cancer—and shaped a son.

CONGRESSIONAL SALUTE TO THE UNITED STROKE FOUNDATION OF LONG BEACH, CA

HON. GLENN M. ANDERSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 21, 1986

Mr. ANDERSON. Mr. Speaker, I rise to pay tribute to the United Stroke Foundation's branch in Long Beach, CA, which will be celebrating its sixth anniversary at an installation dinner on January 30.

Six years ago, 32 residents of Long Beach joined together to form the first branch of the United Stroke Foundation. With the parent organization located in Los Angeles, the Long Beach branch was asked to serve as a model for future branches and established themselves as an autonomously functioning branch of the United Stroke Foundation.

Because a stroke can have a dramatic impact on the emotional well-being of the affected person and his family, the Long Beach branch of the United Stroke Foundation has endeavored to help patients and their families cope with these feelings and has provided hope, support, understanding, and encouragement. All these services are provided at no cost to the patient or his family.

The program in Long Beach began with a number of stroke patients from the veterans hospital, and has grown to serve over 200 patients in its 6 years. The group helps patients find their way back into the mainstream of society after they suffer a stroke. Following completion of the United Stroke Foundation program, the patients are encouraged to join a stroke activity center which focuses on activities and events for stroke patients.

In its 6 years, the Long Beach branch of the United Stroke Foundation has helped many patients and their families recover from the emotionally stressful stroke experience. My wife, Lee, joins me in saluting the fine work of the officers and members of the United Stroke Foundation's Long Beach branch and in wishing them continued success and all the best in the years ahead.

H. ROGER GILBERT RETIRES

HON. ROBERT G. TORRICELLI

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 21, 1986

Mr. TORRICELLI. Mr. Speaker, I rise today to recognize a distinguished individual who has been deemed a friend of progress and of the people. Mr. H. Roger Gilbert is retiring after eight consecutive 2-year terms as councilman of the second ward in Secaucus, NJ. On January 25, 1986, a retirement dinner will be held in his honor.

It is with great pleasure that I bring to the attention of my colleagues the highlights of Mr. Gilbert's long and distinguished career.

A veteran of 2½ years in the 99th Infantry Division in Europe and an alumnus of Stevens Institute of Technology, Mr. Gilbert has lived an eventful life. He has tirelessly devoted his energies to countless civic, charitable, and political organizations.

In addition to his tenure on the Secaucus Council, Mr. Gilbert has served as secretary to the board of adjustment, former chairman of the town's Green Acres Program, chairman of the local Red Cross campaign, regional chairman of the Red Cross, vice chairman of the Cancer Fund, and Heart Fund chairman. He has been a devoted member of the American Legion memorial post 118 and former national vice commander of the Catholic War Veterans, U.S.A.

He is married to the former Vera Klink and a member of the accounting staff of Scholastic Magazine, Inc.

Mr. Gilbert has been a dedicated public servant for these many years. He richly deserves the recognition being bestowed upon him and I am pleased to join in the tribute to him.

TRIBUTE TO GARDNER L. HUTCHINS

HON. TONY COELHO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 21, 1986

Mr. COELHO. Mr. Speaker, next month, Mr. Gardner L. Hutchins will retire from his position as chief administrative officer for the County of Stanislaus, CA, after 20 years of service to the county.

During World War II Gardner served in the U.S. Air Force with valor. He continued to serve in the Air Force until 1963, when he accepted a position as senior safety representative for the State compensation insurance fund in Stockton. In 1966 Gardner began his career of service to the County of Stanislaus as the county's safety and civil defense coordinator. Over the years he has held such positions as county librarian, principal administrative analyst, acting mental health director, and acting hospital administrator. In 1975 Gardner was appointed to the position of deputy administrative officer for the county, and in 1979 he accepted the position he now holds, chief administrative officer.

Gardner has also been active in several local community service organizations. He is a member of the Modesto Rotary Club, the American Legion, and the Elks Club. He is also a member of the California County Administrative Officers Association and the National Association of County Administrators.

On behalf of the citizens of Stanislaus County, I would like to extend my deepest appreciation to Gardner Hutchins for the dedicated service he has given to our county over the last two decades. I wish him continued health and happiness in his retirement.

CHRISTMAS GIFTS ARE STILL BEING PASSED OUT

HON. FORTNEY H. (PETE) STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 21, 1986

Mr. STARK. Mr. Speaker, last week the National Highway and Traffic Safety Administration [NHTSA] proposed an extension of the corporate average fuel economy standard [CAFE] at the demand of General Motors and Ford Motor Co. As you know the initial rollback came last fall upon their earlier cry, that for financial reasons they couldn't meet the law. And, once again General Motors and Ford used this excuse to get NHTSA's most recent proposal.

NHTSA announced the proposal last week. This was the same week in which many began to feel the real effects of the Gramm-Rudman-Hollings Deficit Act. It is no wonder then that the administration failed to report that these car manufacturers—which showed their most profitable years ever last year—would owe the Federal Government over half a billion in fines were the rollback not granted.

At the same time that most of the Federal Government is being asked to make drastic cuts in their budgets as a result of Gramm-Rudman, the administration is considering over a half a billion dollar gift to General Motors and Ford.

The CAFE standards were established in response to the Arab oil embargoes and the resulting energy crisis in the United States in the mid-seventies. They were primarily created for a better national energy conservation policy and to ease our dependence on foreign oil.

Not only has the Transportation Department thrown this energy conservation policy by the wayside, it's right hand obviously doesn't know what the left hand is doing. On one hand, air traffic safety will have millions cut from their budget, as will the Coast Guard and many others under the DOT. Yet DOT has found it in their hearts to seriously consider granting these profitable car manufacturers a half a billion dollars relief in fines.

STILL NEED FOR TAX REFORM

HON. HOWARD COBLE

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 21, 1986

Mr. COBLE. Mr. Speaker, the consideration of tax legislation consumed the House of Representatives during the last 2 weeks of this last session of Congress, and I fear that we, as Members, permitted the tail of "reform" to wag the dog.

The well-intentioned advocates of tax reform, including the President, Members of Congress, leaders of business and industry and taxpayers throughout the country, often plead the case for reform using words such as "historic" and "revolutionary." Although we struggle with issues that inevitably divide our people, I'm sure all Americans might agree that our system of taxation should be fair and

simple. To achieve these goals would truly be historic and revolutionary.

In the closing days of this session, we were lured by the appeal and attraction of the ideals of fairness and simplicity when, actually, those qualities were absent. In the dark of night, pressed by the clock, we yielded to the temptation of a bill presented to us in haste by the House Ways and Means Committee which was said to be fair and simple; it was neither.

A bill containing more than 1,300 pages, offered to supplement hundreds and hundreds of other pages of statutes and regulations, layer upon layer since 1954, cannot be said to offer simplicity. If it contains elements of fairness, then Members should be given a fair opportunity to examine every page. Instead of the necessary deliberation, Members were exhorted to "just pass something" before adjournment and "get it over to the Senate" where problematic portions of the bill could be addressed.

Further, while the committee dropped plans to change the tax treatment of such items as insurance inside interest buildup, State and local tax deductions, and employee benefits, these positive measures do not outweigh the bill's weaknesses. H.R. 3838 is not a profamily, progrowth tax bill. It denies a $2,000 personal exemption for those who do not itemize. New dollar limitations are imposed on investment retirement accounts [IRA's] and 401(k) savings plans. The bill repeals the investment tax credit and radically revises depreciation rules, which will make America less productive. The U.S. Chamber of Commerce and the National Association of Manufacturers point out that implementation of H.R. 3838 will significantly lower economic growth. Because the Senate has yet to consider the bill, it will probably not be sent to the President until the fall of 1986. This will create a planning nightmare for all businesses, increasing the possibility of a recession.

On two occasions, I was given the opportunity to vote on the rule for the consideration of the Ways and Means Committee bill. I voted "no" each time because we were not providing this House with ample time to study the alternatives before us.

Now that the Ways and Means Committee bill, H.R. 3838, has passed the House, I do hope that the Senate will improve this legislation. However, I was not sent to Congress to vote half-heartedly for legislation which cannot stand on its own merits with the mere hope that it will be improved somewhere else in the legislative process.

I hope that the Senate will provide a means to promote free enterprise, encourage savings and planning, and stimulate the creation of jobs. More specifically, I hope that the Senate will restore full contributions to 401(k) plans. Our timber and real estate industries should not bear an undue share of the tax burden as the committee bill would require.

The Senate should borrow liberally from the Republican alternative. This bill was concise, pro-family, and pro-growth. It would remove 6.5 million poor Americans from the tax rolls, delivering an 86 percent rate-reduction to the working poor. It implemented a $2,000 personal exemption for everyone, including nonitemizers. The highest marginal rate was 35 percent, compared to the 38 percent bracket in H.R. 3838. While shifting $110 billion in taxes from individuals to corporations, it would not have placed an additional $30 billion on the back of our expanding economy as the committee bill did. Moreover, unlike the committee bill, the Republican alternative contained a "super minimum tax," thereby ensuring that all individuals and corporations pay some tax. In a study comparing the two bills, taxpayers who earned less than $75,000 a year received better treatment from the Republican alternative. While the House voted it down, this was the better bill.

The complicated process of passing tax legislation was itself taxing. Arguments on every side were mixed with personalities, personal loyalties, and any number of conflicting signals from our constituents. As the process continues, I counsel more deliberation so that we can come closer to those elusive and sometimes illusory goals of fairness and simplicity.

TEYON McCOY WELCOMED TO THE UNIVERSITY OF MARYLAND BASKETBALL PROGRAM

HON. ROY DYSON

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 21, 1986

Mr. DYSON. Mr. Speaker, I would like to bring to the attention of my colleagues the upcoming addition of Teyon McCoy to the University of Maryland basketball program.

While some of us in Maryland may not be familiar with Teyon's sharp shooting and dominating defense, his heroics are well known by high school basketball players and coaches throughout the State of Indiana.

At 6 feet 1 inch, Teyon plays point guard, a position well suited to his extraordinary quickness and superb ball-handling skills.

Hailing from Bishop Noll High School in Hammond, IN, Teyon is the proud recipient of the BC All-Star Camp outstanding player award and the leading candidate for "Mr. Basketball" in Indiana.

As Teyon prepares to tackle both books and basketball at the University of Maryland, I wish him, as well as his future teammates, great success.

Congratulations, Teyon. And congratulations, Coach Driesell, for providing the people of Maryland with so many years of exciting basketball. The University of Maryland basketball program has been, and will continue to be, a source of great pride for all of us in Maryland and the Washington, DC, area.

THE TAX BILL

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 21, 1986

Mr. HAMILTON. Mr. Speaker, I would like to insert my Washington Report for Wednesday, January 8, 1986, into the CONGRESSIONAL RECORD:

THE TAX BILL

The House recently approved the most sweeping tax-overhaul bill in four decades. A few months ago many were declaring the package dead, and even in the final few days before passage its outcome was very uncertain. Its passage by the House ranks as a major legislative achievement.

Overall, the package would cut back tax preferences enjoyed by some, in order to reduce tax rates for all. The primary beneficiaries are individuals, as the number of tax brackets would be cut from 14 to 4, and the maximum rate reduced from 50% to 38%, the lowest since 1931. For business, the maximum tax rate would drop from 46% to 36%, the lowest since 1941. Graduated rates would be provided to small businesses, as well as a simplified accounting method. In exchange for the lower rates, various tax preferences would be reduced, primarily on the business side. The largest are accelerated depreciation, saving $25 billion over 5 years, the second-earner deduction ($27 billion), the completed-contract method of accounting ($50 billion), and the investment tax credit ($120 billion). The bill preserves the major deductions of individuals, including those for home mortgage interest, state and local taxes, and employer-provided health benefits.

Although I was not happy with every provision in the 1379-page House bill, and was concerned about its restrictive floor procedure that did not allow separate votes on the major policy issues, I supported it on final passage. The proper basis for comparison is between the bill and present law, not between the bill and other tax reform proposals. In my judgement, the House package is an improvement in fairness and simplicity over current law, in several ways.

First, it helps the beleaguered middle class, whose tax burden has grown sharply in recent years. The bill shifts $141 billion in taxes from individuals to corporations over the next 5 years. More than half of the bill's tax relief goes to taxpayers earnings between $20,000 and $75,000. Families making between $20,000 and $30,000, for example, would on the average get a 10% tax cut.

Second, more than 6 million families below the poverty line will no longer pay income taxes. They generally did not pay taxes in the 1970s, but have begun to since. This will take pressure off welfare programs, plus give needed relief to those benefitting the least from the 1981 tax cut.

Third, it makes all pay a fairer share of taxes. Reports of millionaires and profitable corporations avoiding all taxes have fueled cynicism about the persent tax code. The bill contains a tougher minimum tax on higher-income individuals and corporations that will pull in $25 billion over the next 5 years.

Fourth, it reduces the attractiveness of tax shelters. It does so by lowering the tax rates, which dilutes the value of tax deductions, and by strengthening the minimum tax. It also revises specific provisions that encourage tax shelters, such as by limiting the interest deductions they provide. The bill means that money will be put more into the most productive investment, rather than the largest tax shelter.

Fifth, it makes corporations pay a larger share of taxes. Income taxes paid by corporations have dropped from about 25% of federal revenue in the 1950s and 1960s to below 10% currently. The bill would reverse this trend, raising their share to 13% over

the next 5 years, largely by increasing taxes paid by profitable corporations that have avoided paying taxes in the past.

Sixth, it evens out the tax burdens among different industries. In the past, some sectors, such as banking, real estate, and defense, had low, and at times even negative, tax rates, while others, such as high technology and service businesses, paid heavy taxes. The bill "levels the playing field" and reduces unfair tax advantages given some over others.

Finally, the bill trims various provisions, that, while not the biggest revenue losers, foster the impression that the code gives unfair breaks to a special few. For example, it trims tax breaks for business entertainment, such as season sports tickets, or for cruise ship conventions.

I do not want to suggest that the bill makes all these changes as well as it should. In some cases, it does not go far enough: Tax shelters could be cut back more and an even stronger minimum tax could be adopted. In other cases, such as its trimming business incentives for investments, especially for heavy industries, the bill may go too far. Moreover, the final package simplifies the rate structure a lot, but the tax code only a little. But overall, it follows closely the basic outline of the President's tax reform proposal. It is an important step toward lowering tax rates and closing loopholes.

The outlook for the tax bill in the Senate is uncertain. The Senate has generally been cooler to tax reform than the House, and a need to raise revenues may loom over the debate; yet several factors are working in the bill's favor. These include the surprising margins on the final House votes in favor of the package, the difficulty Senators would have in voting against major tax cuts for individuals, the concern that the Republican-controlled Senate would be blamed for killing tax overhaul, and especially the willingness the President showed at the end to fight hard for his chief domestic initiative. To a large extent, the bill is moving forward because of concern about negative political consequences rather than a positive interest in tackling the tax code.

Yet it would be a mistake to think that the package faces smooth sailing in the Senate. Tax reform will be neither quick, easy, nor perfect. The main factor remains how hard the President will fight for his plan. If he continues to push for it, we could by the end of this year have a new tax system—a fairer system with lower rates, more equal tax burdens, and fewer distortions of investment decisions. Its passage would be a giant step towards restoring public confidence in the tax code as well as in government's ability to resist special interests.

PRESIDENT REAGAN AND THE MARTIN LUTHER KING FEDERAL HOLIDAY

HON. LOUIS STOKES

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 21, 1986

Mr. STOKES. Mr. Speaker, yesterday marked the first observance of the Federal holiday in honor of Dr. Martin Luther King, Jr. Across America and around the world, people of good will used this historic occasion to not only commemorate the monumental achievements of Dr. King but also to rededicate themselves to the continued pursuit of his philosophy and his dream.

President Ronald Reagan, at first reluctant to support the entire notion of a holiday in honor of the slain civil rights leader, participated in a few events calling Dr. King, "a great man". Perhaps he really meant that.

However, his actions suggest something entirely different. As we review the track record of the Reagan administration in the areas that Dr. King lived and died for, we have to question the sincerity of his remark. Are we to believe that the President finally shares the beliefs and principles of Dr. King? Or is the American public to assume that President Reagan called Dr. King a great man because the significance of the historic holiday and his public relations staff mandated it?

In today's Washington Post, columnist Mary McGrory writes a particularly insightful column which underscores the drastic differences between the record of the President and the efforts of Dr. King.

Mr. Speaker, at this time, I would like to insert the aforementioned column for the RECORD.

[From the Washington Post, Jan. 21, 1986]

A GIFT FOR SHAMELESSNESS

(By Mary McGrory)

It was entirely appropriate that the First Citizen of the country should participate in events surrounding the first observance of Martin Luther King Jr.'s birthday as a national holiday. It also was fitting that he should have told students at the King Elementary School here that the slain civil rights leader was "a great man."

The decent thing would have been to add, "I didn't always think so."

The Rev. Jesse L. Jackson was the only public figure to comment on the "hypocrisy" of the president's remarks last week. He observed that Ronald Reagan "never supported a movement Dr. King stood for in life."

Other blacks let it go. Maybe they were content to revel in the fact that in the last week Americans could not turn on their television sets or radios without hearing King's compelling voice telling of his "dream" or someone reading the noble "Letter from Birmingham Jail." White politicians have long since given up on pointing out the president's imprecisions, contradictions and misstatements, for which other public men, Sen. Gary Hart (D-Colo.) noted ruefully, "would get their heads taken off." A 70 percent public approval rating has effectively silenced what the public regards as "petty criticism" of a nice man.

King, of course, never troubled to answer detractors in high places. He carried his philosophy of nonviolence over into his rhetoric, which was singularly free of self-pity. He was a dreamer, but he was without illusions, especially about presidents.

The Kennedys were opposed to the great march on Washington in August 1963. King went ahead with it. When he criticized the Vietnam war, he incurred the enmity of President Lyndon B. Johnson, who had done as much for civil rights as any of his predecessors. King persisted in pointing out the injustice and only much later complained that Johnson had jammed his lines with all the other black ministers in the country.

But Jackson's point about "hypocrisy" is well-taken.

When King was being beaten and jailed for his views—and his effectiveness—he got not a single encouraging word from Reagan, who told California voters that he would not have voted for the Civil Rights Act of 1964. Nor was Reagan a champion of the Voting Rights Act of 1965, the single most transforming piece of civil rights legislation that King marched onto the books.

In fact, as president, when the renewal of the Voting Rights Act came due, Reagan tried to weaken it, declaring that examples of its violation required proof of the "intent" of the authorities to deprive citizens of their right to vote.

Reagan's antipathy toward King did not end in 1968 with King's assassination. The president was vehemently opposed to the King national holiday. And in one of the most reprehensible uses of the "bully pulpit" of the White House, he cast aspersions on King's loyalty and patriotism.

On Oct. 19, 1983, at one of his infrequent news conferences, Reagan was asked about North Carolina Republican Sen. Jesse Helms' charges that King was at least a fellow-traveler.

Reagan's reply was snide and airy: "We'll know in about 35 years, won't we?"

He defended Helms as someone zealously guarding the national calendar from intrusion by someone whose FBI records cannot yet be opened because of an agreement between the family and the government.

Reagan made a single, unadorned reference to King's "accomplishments" and "what he meant in a stormy period in our history."

One of Reagan's earliest acts as president was to seek tax-exempt status for a segregated southern school. He quit in his efforts to subvert the Voting Rights Act only after Senate GOP leader Robert J. Dole (R-Kan.) swamped him in Republican votes.

Today, of course, his attorney general, Edwin Meese III, is attempting to roll back affirmative action. Meese puts his claims on the "original intent" of the founders. The founders' intent, at the time of the writing of the Constitution, was to preserve slavery, so it is blindingly irrelevant. Reagan babbles happily about a "colorblind society."

Reagan apologized to Coretta Scott King for smearing her husband. But he never apologized to the rest of us. He has joined the King festivities as if he had been cheering from the sidelines all along.

He has many gifts as a politician, not the least of which is shamelessness. It is good to hear him say, at last, that King was "a great man." He would be a bigger man himself if he admitted he was late in reaching that universal judgment.

TRIBUTE TO SANFORD M. SHAPERO

HON. TONY P. HALL

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 21, 1986

Mr. HALL of Ohio. Mr. Speaker, at the beginning of this year, Dr. Sanford M. Shapero began serving as executive director of the City of Hope, an institution which provides free medical care and sponsors medical research. Dr. Shapero grew up in Dayton, OH, the principal city in my district.

Dr. Shapero brings to his new position a unique combination of talents demonstrating a breadth of medical knowledge and spiritual

commitment. He has held high level management positions in the health care field. As a world renowned specialist on gerontology, he has written and lectured widely on the health problems of the elderly. He is an ordained rabbi, and has held leadership positions with the Union of American Hebrew Congregations.

Dr. Shapero holds a doctorate in education, and he is the author of books and articles on religious law, health, sociology, and music. He is a public speaker of rare quality, and has spoken in more than 200 cities before college groups, service clubs, and gerontology organizations.

In his new position, Dr. Shapero will be able to use his many talents to direct the work of the 72-year-old City of Hope, which is headquartered in Duarte, CA, and has an annual operating budget of $100 million. Dr. Shapero has been a member of the senior staff of the City of Hope since 1979, serving as director of community affairs and subsequently as associate executive director.

I join his many friends and relatives in Dayton in offering congratulations to Dr. Shapero on this new opportunity for him to continue his long record of service to his fellow man.

OUTSTANDING WORK OF THE OAKLAND TRIBUNE IN EXPOSING AND DOCUMENTING PROBLEM OF HOSPITAL DUMPING OF INDIGENT PATIENTS

HON. FORTNEY H. (PETE) STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 21, 1986

Mr. STARK. Mr. Speaker, during 1985, the Oakland Tribune, and its reporter, Peter Alshire, ran an outstanding series of articles documenting the deaths and injuries and pain caused to people in the Eastbay part of California because of improper hospital dumping and transfers.

Mr. Alshire's work is one of the reasons that we have been able to include in the reconciliation bill (H.R. 3129) "antidumping" language designed to stop hospitals from dumping poor patients on other public and charity hospitals.

For anyone who doubts that dumping constitutes an enormous problem or believes that we should delay in moving the antidumping provisions of H.R. 3128 forward, I would like to include at this point in the record the December 29, 1985, summary of the horror stories uncovered by Mr. Alshire and the Oakland Tribune:

[From the Oakland (CA) Tribune, Dec. 29, 1985]

INDIGENT HEALTH CARE ISSUE TAKES SPOTLIGHT

(By Peter Alshire)

It's either been a horrible year, or a promising year for health care in the Eastbay, depending on how you want to look at it.

On the one hand, The Tribune this year has reported a succession of medical tragedies as people have been caught in the throes of a transformation of the medical system.

On the other hand, the reports have spurred a strong movement toward reform on several fronts.

The underlying theme has been the increasingly critical problem of paying for the medical care of the poor and the uninsured—about 15 to 27 percent of the nation's population.

Cuts in state and federal government programs have forced people off the welfare rolls and substantially reduced payments to hospitals.

Those cuts plus changes in the way insurance companies pay hospitals have also forced private hospitals to be much more competitive and to try to find ways to reduce the amount of free care they provide to the poor.

That underlying financial reality has colored the major medical stories of the year: trauma care, the plight of Alameda County's Highland Hospital, and the rising number of cases in which private hospitals "dump" uninsured, critically injured patients on public hospitals.

Following is a recap of the problem and the progress towards a solution in each of these areas.

TRAUMA CARE

The problem has been evident since at least 1982 when a study by the American College of Surgeons found that 42 percent of the people who died in Eastbay emergency rooms could have been saved if they'd been taken directly to a trauma center hospital with surgeons and specialists always on hand. The local findings mirrored those in studies of emergency room deaths in other communities.

But, despite that spotlight on the extent of the problem in the Bay Area, very little was done.

Contra Costa and Alameda counties set up committees to study the problem. But their work was hampered by bureaucratic inertia and the resistance of hospital administrators who feared they would lose paying patients to the trauma center. Another obstacle has been a turf battle between surgeons and emergency physicians, since the emergency room doctors fear that they would lose money and authority if surgeons are continually on hand.

Then, last January, Eugene Barnes died.

Barnes was stabbed in the head in a seedy building in Richmond. He staggered for several blocks before he collapsed.

Barnes was rushed to Brookside Hospital, where emergency room doctors tried in vain for more than four hours to get a neurosurgeon to come in to operate. Neither of the two neurosurgeons with staff privileges was available and no area hospitals would initially accept the transfer.

Barnes was eventually transferred to San Francisco General Hospital, where he died two days after undergoing brain surgery. In the initial news report, Barnes' death seemed like a fluke tragedy, at most, an example of how the system sometimes fails.

But a closer look revealed a very different picture.

That became obvious when The Tribune reported the case of Tom Homan, a Richmond man who in January was shot in the head and was shuttled from Brookside Hospital to Contra Costa County's Merithew Memorial Hospital in Martinez and then to San Francisco General in a frantic search for a neurosurgeon who would treat his wound.

Similar delays were found at other hospitals, including Providence Hospital in Oakland and Oakland Naval Hospital.

The essential problem is that neurosurgeons generally are reluctant to practice at hospitals in low income areas. Such hospitals have a large number of uninsured patients and the neurosurgeons are likely to be paid nothing at all for getting up in the middle of the night and performing an arduous operation for which they would normally receive $5,000.

In addition, the surgeon must render weeks of intensive, follow-up care. Hospitals like Brookside have so few neurosurgeons on staff that the surgeons they do have eventually "burn out" when it comes to indigent care.

As a result of the stories, the state Division of Hospital Licensing and Certification cited Brookside and Merithew Memorial hospitals.

The state intervention and The Tribune coverage produced results.

Merithew signed a new contract with a group of neurosurgeons.

Providence initially stopped handling head injuries and then signed a contract with its neurosurgeons guaranteeing them payment for treating uninsured patients. The agreement makes Providence, Merithew and Alameda County's Highland hospitals the only Eastbay hospitals with such payment guarantees.

Brookside tried for several months to arrange a helicopter transfer agreement with trauma center hospitals in other counties. But, The Tribune found, the transfer agreements still involved one- to three-hour delays in treatment.

Brookside was cited again by the state after The Tribune reported that the agreement had broken down altogether and a brain-injured patient had waited four hours before being transferred to Highland. That prompted the 240-bed community hospital to close its emergency room to people in need of emergency chest or brain surgery.

That left Doctor's Hospital in Pinole as the only full-service emergency room in the region of 200,000. That's about half as many emergency room beds as recommended in state guidelines, making West Contra Costa County the only underserved area in the state.

The continuing attention had much impact on the plans for a trauma center.

Contra Costa County formed a committee of county officials, doctors and private hospital administrators, and the panel rapidly cut through issues. On Oct. 20, it recommended that the county establish a single trauma center, probably in Central County.

Both Mt. Diablo in Concord and John Muir Hospital in Walnut Creek have shown interest in becoming that center, which is expected to be in operation this summer.

The issue of trauma centers also became a high priority in Alameda County.

On June 21, the Board of Supervisors agreed to designate two trauma centers by this spring.

Washington Hospital in Fremont, Eden Hospital in Castro Valley, St. Rose Hospital in Hayward, Valley Memorial Hospital in Livermore and possibly Kaiser Hospital in Hayward are all vying to be designated the South County's trauma center.

Highland Hospital and Providence Hospital in Oakland have both expressed interest in the North County designation.

If all goes as scheduled, the Eastbay will have three trauma centers operating by the summer of 1986.

HOSPITAL DUMPING

The final, and perhaps most sensational, medical issue to break into the headlines was the growing problem of hospital dumping—the medically hazardous transfer of

critically ill or injured patients from private hospitals to public hospitals solely because they have no medical insurance.

The pattern here was distressingly familiar—a report documented the problem but no changes were triggered until tragic cases were reported in The Tribune.

In this case, the report was published in the New England Journal of Medicine in 1983. A survey of medical records during a six-month period found that 7 percent of the indigent patients transferred from private hospitals to Highland Hospital were endangered by the transfer. The report was filled with shocking, but anonymous, case studies. It detailed people with heart attacks, head wounds, collapsed wounds and stomachs full of blood transferred near death to the county hospital.

And once again, nothing happened.

None of the cases were investigated by hospital licensing officials or the district attorney's office.

In fact, the potential for problems got worse in 1983 when the state transferred responsibility for indigent patients on the counties along with only 70 percent of the money it used to spend on those patients. The state saved $100 million a year, but the number of transfers from private hospitals to Highland doubled.

Part of the reason for the increase was Alameda County's decision not to pay private hospitals for emergency room care of the indigent. Contra Costa County will pay for the emergency room care of the indigent, but only if the uninsured people are already enrolled in the county's health plan. The situation varies from county to county, but few counties pay much for the emergency room care of the indigent.

When the state was paying for the care of the so-called Medically Indigent Adults, private hospitals and doctors generally were reimbursed by MediCal for treating indigents.

The county and private hospital officials did set up a task force to talk about the problem. But the task force accomplished little.

Then in November The Tribune began reporting cases in which uninsured patients were transferred under questionable circumstances to Highland. The transfers included:

A nine-month-pregnant woman who lost her baby after a three-hour ordeal in which she was turned away from two private hospitals because she couldn't prove she had medical insurance.

A man who was shot in the chest and spent three hours at a private hospital before being transferred near death with a collapsed lung, in shock, and with about two-thirds of the blood in his veins filling his chest cavity.

A man who lost whatever chance he had of getting three mangled fingers reattached because he spent nearly three hours in the emergency room of a private hospital before being transferred to Highland where it was discovered there was no hand surgeon available anyway.

A man who lay in a private hospital for 17 hours with a shotgun wound in the back who was finally transferred to Highland when a bed in the intensive care ward became available. At Highland, doctors discovered dirt, pieces of clothing and shotgun pellets in the infected wound and spinal fluid leaking from his spinal cord.

A man who had been kicked in the stomach was examined in a private hospital and told to go home. He came back a week later in severe pain, and was told to go to Highland where it was discovered that the initial kick had ruptured his intestine. When he arrived he was within hours of death with a massive amount of infection in his stomach.

These and other cases resulted in state licensing citations against St. Rose Hospital in Hayward, Providence, Merritt, Herrick in Oakland, Alta Bates in Berkeley, and Brookside in San Pablo.

Partly as a result of these revelations:

Representative Fortney Stark, D-Oakland, lobbied through a bill that would impose new $25,000 penalties on both hospitals and doctors who engage in patient dumping and provided the grounds for revocation of the ability to take Medicare patients. The bill got caught in a last-minute confrontation between the House and the Senate about toxic waste taxes, but it is expected to be reintroduced in January and adopted in February.

Two new state measures that would set aside extra state funds to offset emergency room indigent care are also now being considered.

The Alameda County District Attorney has undertaken an investigation to find out whether criminal charges can be brought in any of the incidents reported by The Tribune.

The task force on transfers has been rejuvenated and is expected to make a report soon on joint county-private hospital transfer guidelines.

Highland Hospital has clarified transfer guidelines and directed nurses not to accept transfers without the specific authorization of a doctor.

Each of the cited hospitals has filed a plan of correction with the state. The measures in those plans include meetings with the county about transfer guidelines, giving the emergency room doctor more responsibility for approving a transfer and the authority to call in the president of the medical staff if there's any question, and a host of other specific changes.

HOUSE OF REPRESENTATIVES—*Wednesday, January 22, 1986*

The House met at 3 p.m.

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

Grant to all who labor in this place, O God, the fullness of Your grace. Give to each person wisdom needed for judgment, courage needed for action, understanding needed for unity, and the dedication and commitment needed for justice. Bless us this day and every day. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

SECRETARY OF AGRICULTURE URGED TO IMPLEMENT INCOME PROTECTION PROVISIONS OF FARM BILL

(Mr. McCLOSKEY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. McCLOSKEY. Mr. Speaker, early next month notices may go out to 2,200 farmers in the State of Indiana giving them one last chance to rearrange loan repayment schedules to avoid foreclosures or other adverse legal actions. Many will go to Eighth District family farmers. However, the tragedy of farm foreclosure will not be confined to one farmer or one farm family. If this Nation foresakes its farmers we abandon entire communities and our future. I have urged the Secretary of Agriculture to implement fully the income protection provisions of the farm bill approved last year. We eagerly await his reply. Unfortunately, his initial decisions have been to implement the lowest possible loan rates for feed grains. This makes it especially important for him to announce implementation as soon as possible of the advanced deficiency payment program provided in the farm bill for producers for the 1986 crop year. Many farmers simply cannot make it without showing creditors additional cash flow. And they will not make it in the long term unless we can help reduce operating loan interest rates. If the banks of this country can loan other countries money at interest rates of less than 10 percent, surely we can treat our farmers no worse. Mr. Speaker, if we make progress toward a balanced Federal budget, interest rates can be lowered further and the value of the dollar can decline to the point where U.S. commodity exports regain a measure of competitiveness. But time is a commodity that many farmers have run out of. Only through full implementation of the income protection provisions of the 1985 farm bill can we provide our farmers with the time they need to recover.

WHISTLEBLOWER PROTECTION ACT OF 1986

(Mrs. SCHROEDER asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. SCHROEDER. Mr. Speaker, American taxpayers want Government whistleblowers protected. They want the plug pulled on cost overruns in defense contracts; they want to put a stop to misspent tax dollars. Whistleblowing conjures up images of heroes and villains, of Davids and Goliaths, of lonely but loyal civil servants acting at personal risk to protect the taxpayer.

Congress voted in 1978 to protect whistleblowers. We established the Office of Special Counsel to receive their allegations and to protect their rights.

These efforts have failed. Whistleblowers are today no better protected than they were before the passage of the Civil Service Reform Act of 1978.

We still speak to the glory of whistleblowers, we hail them as the salvation of our budget traumas, and we promise them their place in Heaven. But in fact, we have let them be eaten alive.

Last spring, the House Subcommittee on Civil Service held a series of hearings on the Office of Special Counsel and its protection of whistleblowers. All witnesses agreed: there is no protection for whistleblowers. The litany of troubles that befall those who dare—as Ernie Fitzgerald says—to commit the truth is appalling.

So, despite our best intentions, Federal employees risk it all when they choose to expose the truth.

In its study of the Office of Special Counsel [OSC], the General Accounting Office [GAO] determined that only 8 percent of allegations made to the OSC survive the initial screening process to receive an indepth investigation, and only a tiny fraction of these cases have been actively pursued. The special counsel closes more than 99 percent of whistleblower cases without initiating disciplinary or corrective action.

As a result, Federal workers are increasingly unwilling to report wrongdoing. They are fearful that they will be subject to reprisal, and all too often they are right. A Merit System Protection Board study in 1983 found a sharp increase from 1980 in the number of Federal employees who said that reporting official wrongdoing posed too great a personal risk.

Today, I, along with a bipartisan group of Senators and Representatives, am introducing the Whistleblower Protection Act of 1986. This legislation reaffirms congressional support for whistleblowers and provides increased protection for the rights of Federal employees who disclose Government waste, fraud, and mismanagement.

The bill emphasizes that the primary duty of the special counsel is to represent employees who claim to be victims of prohibited personnel practices.

It provides Federal employees with a private right of action, allowing an individual to bypass the special counsel and seek stays or corrective action from the Merit Systems Protection Board [MSPB] and, if necessary, from court. In addition, the bill broadens the power of the MSPB to sanction Presidential appointees, military officers, and contractor officials for committing prohibited personnel practices, including taking reprisals against whistleblowers.

These changes should provide increased protections to Federal employees and should encourage other witnesses of wrongdoing to step forward. It is legislation that is made all the more pressing by the intolerably large Federal deficit. Federal whistleblowers can help us reach the deficit reduction goals of Gramm-Rudman, if only we let them.

CRAZY?

(Mr. MICHEL asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MICHEL. Mr. Speaker, I understand the Speaker referred to President Reagan's budget as—and I quote—"crazy, nonsensical."

He also said: "The time for taking the hard knocks has come for Mr. Reagan."

The Washington Post said the strategy of the Democratic leadership is—and I again quote—"to exploit the President's call for massive domestic

spending cuts for maximum political advantage."

Yes, the President's budget is fair game for disagreement—from either side of the aisle.

But when criticism is clearly motivated by a desire to gain partisan political advantage, then we're wasting our time and the exercise is a hoax.

I've called for the creation of a Joint Budget Committee because we need to work together—House and Senate, Democrat and Republican.

The only thing crazy and nonsensical at this point would be to turn this issue into a bitter, partisan affair.

Instead of playing the role of the spoiler, it would better serve the Democratic leadership and the country, if they joined with us to work together for the people instead of trying to "exploit" anyone or anything.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 2443, EXPEDITED FUNDS AVAILABILITY ACT

Mr. PEPPER, from the Committee on Rules, submitted a privileged report (Rept. No. 99-463) on the resolution (H. Res. 357) providing for the consideration of the bill (H.R. 2443) to limit the number of days a depository institution may restrict the availability of funds which are deposited in any account, which was referred to the House Calendar and ordered to be printed.

RULE PROVIDING FOR THE CONSIDERATION OF H.R. 2443

(Mr. PEPPER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PEPPER. Mr. Speaker, the privileged report I just sent to the desk concerned a rule providing for the consideration of H.R. 2443, the Expedited Funds Availability Act. The House will consider the rule tomorrow.

I want to bring to the attention of my colleagues one element of the rule. The rule makes in order only those amendments printed in the CONGRESSIONAL RECORD at least 1 legislative day before H.R. 2443 is considered. Since H.R. 2443 is scheduled for consideration tomorrow, Members are advised to print their amendments in today's CONGRESSIONAL RECORD.

In a moment, I will ask unanimous consent that Members may have until 6 o'clock tonight to submit amendments to be printed in today's RECORD.

PERMISSION FOR MEMBERS TO SUBMIT AMENDMENTS TO H.R. 2443 TO BE PRINTED IN TODAY'S RECORD

Mr. PEPPER. Mr. Speaker, I ask unanimous consent that Members may have until 6 o'clock tonight to submit amendments to H.R. 2443 to be printed in today's CONGRESSIONAL RECORD.

The SPEAKER. Is there objection to the request of the gentleman from Florida?

Mr. WALKER. Mr. Speaker, reserving the right to object, I want to ask a question here about that particular procedure, because it strikes me that Members are being given very, very insufficient notice in this case. With the rule being filed just now, we are being told that amendments have to be in the RECORD by the end of today for a bill to come up tomorrow. I would hope that under this procedure that we are not setting a precedent that that is how we are going to bring such rules to the floor in the future, because Members do need sufficient time in order to prepare amendments. This is certainly not giving anybody close to sufficient time to deal with the crucial issues such as the one which we are going to be taking up tomorow.

Can I receive some assurance from the gentleman that we are not going to use this as a precedent of what we are going to do in the future?

I will be glad to yield to the gentleman.

Mr. PEPPER. Mr. Speaker, in reply to my friend, I can assure him, without any question, that that is the policy of the Rules Committee, to be very sparing with a holding of this kind; that is, requiring the amendments to be printed in the RECORD. There is always a reason, in the opinion of the committee, where we do it; and we do it reluctantly and infrequently.

Mr. WALKER. Mr. Speaker, further reserving the right to object, I understand, then, that the chairman is telling me that the policy of the Rules Committee will be to assure that there is sufficient time and that we will not have other rules coming out here on a frequent basis in which the Members are being told to file amendments basically on the same day that the rule is being presented.

Mr. PEPPER. I thank the gentleman.

Mr. WALKER. Mr. Speaker, I thank the gentleman, and I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from Florida?

There was no objection.

THE ELECTION IN THE PHILIPPINES

(Mr. RICHARDSON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. RICHARDSON. Mr. Speaker, from every conceivable report, it appears that the election in the Philippines will not be fair.

The last report from the Marcos-controlled election commission contains an edict that says that no foreign observers will be allowed near the polls.

Why should the United States care? A question was asked: Is it any of our business? The answer is "Yes." The United States has substantial strategic interests in the Philippines. The United States cares about free elections and respect for human rights. The U.S. taxpayer has poured billions of dollars into the Philippines.

Mr. Speaker, if there is going to be genuine reform in the Philippines, there must be military reform, there must be an end to the corruption of the Marcos regime.

Mr. Speaker, as a Member of this body, I support the efforts of Mr. SOLARZ, the chairman of the House Asian and Pacific Affairs Subcommittee, who is probing into allegations of corruption in the Marcos family and who is trying to ensure that efforts are made for the elections to be fair.

Mr. Speaker, if the election is judged to be unfair by the nonobservers that will not be there, this country and this body should still evaluate our policy toward the Marcos regime.

Billions of dollars go there, and it is incumbent upon us to assess whether it is in our interest to support a dictator who appears headed into the path of oblivion and nonsupport and many other things that are not in the best interest of the United States.

EXPEDITED FUNDS AVAILABILITY ACT

(Mr. VENTO asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. VENTO. Mr. Speaker, this week the House will consider an important consumer measure, the funds availability proposed law. This is one of the most important proconsumer measures before Congress and affects all the people we represent.

When you deposit a check in a financial institution, you have a right to expect that it is credited to your account promptly. To the dismay of consumers today, they are discovering often to their embarrassment, that financial institutions have established arbitrary and unreasonable time delays before crediting consumers' checking accounts.

Holding check credit has become a lucrative practice for banks that earn millions of dollars in interest on the money. But for consumers, checks holds can mean not just embarrassment but hardship. Some financial institutions are even holding veterans and Social Security checks for inordinate time periods. Most veterans and Social Security recipients receive small

enough benefits, without making retired workers wait days to pay their bills and purchase their groceries.

The funds availability rapid check credit measure responds to the problems mentioned and is a clear victory for consumers. It sets precise and reasonable time limits on how long a financial institution can hold a check. I am pleased to be a sponsor of this measure, and I urge my colleagues to support a good strong rapid check credit bill. It is needed and it is right.

WILL CONGRESS TOTALLY ABDICATE?

(Mr. SEIBERLING asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SEIBERLING. Mr. Speaker, Members are still reeling from the revelations as to what they are going to have to go through with the Gramm-Rudman law particularly the cuts in important programs for our cities, for people in need, and for the environment. Nevertheless, today's New York Times says President Reagan will seek $100 million in aid for the Contras who are seeking the overthrow of the Nicaraguan Government.

As if that were not chutzpah enough, an article last week in the Washington Times says: "Reagan to ask Hill for broad war powers." And I am now quoting:

> President Reagan will ask Congress for a resolution, similar to that passed in 1964 following the Gulf of Tonkin incident, to empower the executive branch to use "whatever military force is required" to deal swiftly and effectively with the terrorist threat, a senior administration official said.

I suppose the theory is that Congress, having abdicated its fiscal powers, might now be prepared to abdicate its war powers. If so, then we might as well go home, just turn everything over to the geniuses of the Pentagon and the OMB, and declare that we are no longer a democratic Republic but a nation ruled by one man and his hand-picked bureaucrats.

□ 1515

WE OUGHT TO BE WORKING TOGETHER IN A BIPARTISAN SPIRIT TO DO WHAT THE AMERICAN PEOPLE WANT: BALANCE THE BUDGET

(Mr. WALKER asked and was given permission to address the House for 1 minute.)

Mr. WALKER. Mr. Speaker, every bit of data that we have makes clear that the American people want the budget balanced. Many would have you believe that there is no difference between the two great political parties on this issue. Oh, really? Let us look at the record.

When the law was passed requiring a balanced budget, a majority of Democrats, mostly liberals, voted against the balanced budget law. A majority of Republicans voted for it. The first call in this House to repeal the balanced budget law came from a Democrat. When the court suit was filed trying to gut the balanced budget law, it was filed by mostly Democrats. It is the Democrats in this House who are suggesting stonewalling the budget process in order to undermine the balanced budget law. It sounds like some pretty wide differences between the two parties on this crucial issue, and my guess is that as the year unfolds, the differences will become even wider.

We ought to be working together in a bipartisan spirit to do what the American people want: Balance the budget. But that is not what is shaping up in this House.

OUR HUGE DEFICIT REQUIRES CUTS IN SPENDING AND INCREASES IN TAXES

(Mr. TRAFICANT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TRAFICANT. Mr. Speaker, during the last Presidential election, Walter Mondale said, "I will have to raise taxes and I am telling you the truth." Reagan will too, only he will not tell you.

Although the President still declares that there will be no taxes, even he now recognizes that this huge deficit will require both cuts in spending and increases in revenue that should be fair and should target those who pay little or no taxes.

Gramm-Rudman, our current plan, is flawed from a constitutional, an economic standpoint, and a human standpoint. If we allow it to continue, depressed areas like mine will literally collapse. We have suffered from this administration while they continue to boast of a growing economy. An economy that I term now "supply-side suffer." It is time for Congress, mandated by constitutional law, to make the tough decisions that we were elected to make, to take that bold action. We cannot avoid our responsibility any longer; we must raise revenue and we must cut spending.

Finally, I remember in an election 6 years ago where one candidate called the other as having policies of voodoo economics. If we fail now to do what is mandated by the Constitution, we will put another $500 billion of debt on the backs of the people of this country.

WAS IT THE CONGRESS' FAULT? ABSOLUTELY YES

(Mr. MACK asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MACK. Mr. Speaker, to speak about flaws, I think the question that is going through many Members' minds today or yesterday is how did we get from the $171.9 billion deficit that we claimed was going to occur as a result of the budget resolution that was passed just last August? $171.9 billion, and the projection today is $220 billion. How did we get there? Was it the President's fault? I do not think so. Was it the Congress' fault? Absolutely yes.

When you look at what occurred, there is an increase in the size of that deficit of roughly $45 to $49 billion. Where did it come from? Yes. Part of it came from the fact that we grew at a level slightly lower than what we had projected in the budget resolution; about $13 billion.

But the balance of it, $32.7 billion, came because the Congress failed to carry out its own budget resolution. Flaws? You better believe there are flaws. Flaws in our ability to live with the practices that we have established in saying that we are going to live with our own budget resolutions.

I mentioned lower economic growth, but how about failure to enact the revenue increases called for in the budget resolution itself? How about the allocation of $6.3 billion in unobligated funds for pay raises for the military? Failure to enact military retirement reform called for in the budget resolution of $2.8 billion. Faster payout in the defense budget. Enacting the farm legislation which actually increases outlays in 1986 of $4 to $5 billion over the budget resolution. Lower prices required higher payouts under the bill.

The end result is that we failed to pass a reconciliation bill; about another $8 billion. The point that I am making is that Congress failed to carry out its responsibility last year, and if there is one major argument that says that the Gramm-Rudman bill should have been passed, it is this data that I have now placed into the RECORD.

FIRST-TIME ECONOMIC AID TO NORTHERN IRELAND

(Mr. BIAGGI asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BIAGGI. Mr. Speaker, according to press accounts, Congress may have a unique St. Patrick's Day initiative before it very soon. Specifically, a supplemental appropriations of $40 million to provide first time United States aid to Northern Ireland.

As the author of the only pending bill to provide such aid, I have a considerable interest in this new proposal. It seems to be motivated by optimism based on the new Anglo-Irish agree-

ment on Northern Ireland. However we must be extremely careful in how we draft any bill which provides aid.

I support economic aid controlled and distributed only by the United States.

I support economic aid provided in accordance with our Foreign Assistance Act, especially with regard to human rights protections.

I support aid that is not used for military or security purposes; and

I support only that aid which goes to benefit both communities in Northern Ireland. Otherwise, we are simply voting to underwrite continued discrimination in Ulster.

I urge that immediate hearings be held on economic aid to Northern Ireland. I know there is a desperate need for the aid. However, I also know that unless we insist on certain conditions and protections, our aid may only add fuel to certain problems in the north instead of being the catalyst for their solution.

A COMPLETE ECONOMIC EMBARGO OF LIBYA

(Mr. DREIER of California asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DREIER of California. Mr. Speaker, I rise to introduce a resolution in support of the President's decision to impose a complete economic embargo on Libya. I believe this embargo is necessary to eliminate one of international terrorism's main bases of operation. At the same time I also feel these economic steps should be considered Mr. Qadhafi's last chance. We can ignore the colonel's childish statements in defiance of the international community, but we cannot tolerate his persistence in sponsoring international terrorism and its acts of aggression. In this vein, this resolution also supports the President's pledge to take "further steps," if necessary, to fulfill his promise that terrorists "can run but they can't hide."

THE TRAGEDY OF BACK-ALLEY ABORTIONS

(Mr. WEISS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WEISS. Mr. Speaker, 13 years ago today, the right of women to choose abortion in appropriate circumstances was affirmed by the highest court in the land.

Abortion is legal, and the overwhelming majority of Americans want to keep it that way.

Nevertheless, a vocal minority continues to threaten this fundamental right with a constant barrage of attacks on abortion rights. We must remain ever vigilant against these misguided efforts

As a young prosecutor in New York City charged with investigating and prosecuting illegal abortionists, I witnessed firsthand the tragedy of back alley abortions. No one should want to force anyone's loved ones back to the hands of the kind of butchers who performed abortions in those days before Roe versus Wade.

Millions of women risked permanent disability as a consequence of procedures used in the home or in the underground network of back alley abortionists.

Hundreds of women died annually as a result of botched abortions.

On this day of remembrance, we must recommit ourselves to maintaining the right to choose. We must support the Supreme Court's refusal to weaken Roe versus Wade. And we must restore full abortion rights to those who suffer unfairly under legislated restrictions. Making abortions illegal didn't prevent abortion. It just made them dangerous and often lethal.

A woman's right to choose a safe and legal abortion must remain as sacred as any right American citizens enjoy.

MOST RECENT REPORT OF THE PHYSICIANS TASK FORCE ON HUNGER

(Mr. FORD of Tennessee asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. FORD of Tennessee. Mr. Speaker I want to bring to the attention of my colleagues an alarming study released by the Physicians Task Force on Hunger in America.

The study reveals that the hunger crisis in this country is becoming worse and that the safety net we have promised the needy is coming unraveled. The study shows that about 20 million Americans regularly go hungry. It identifies 150 "hunger counties" in which more than 20 percent of the population is poor, but where food stamps reach only 33 percent of the eligible population.

An earlier study of the task force cited low AFDC benefits and inadequate unemployment benefits as major reasons for the increase in hunger. Combined with the failure of the Food Stamp Program to reach the poor, the failure of AFDC and the unemployment insurance programs is helping to create a population suffering from chronic hunger.

As chairman of the Subcommittee of Public Assistance and Unemployment Compensation, I intend to carefully investigate the reasons for this increase in hunger. I hope that in this year's budget debate we will not lose sight of the issues of poverty and hunger. While Gramm-Rudman may be the major topic of conversation in Washington, in too many communities the issue of the day is the same as it was yesterday, and the same issue that it will be tomorrow, the issue of survival.

□ 1525

"SICKER AND QUICKER" UNDER THE NEW MEDICARE PROSPECTIVE PAYMENT SYSTEM

(Mr. MANTON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MANTON. Mr. Speaker, on January 7, President Reagan gave his maiden news conference for 1986. The first question the President was asked concerned the Medicare prospective payment system. I was delighted to hear the President say that his administration was looking into some of the problems with the payment system and working on solutions.

Both the Senate and House Select Committees on Aging have been examining the problem of Medicare beneficiaries being discharged from hospitals "sicker and quicker" under the new prospective payment system. Under the prospective payment system, Medicare pays the hospitals a fixed rate for each diagnosis. The fee does not vary with the length of stay and hospitals seem to have an incentive to discharge patients quickly.

One of my constituents recently told me that she was in the hospital after suffering from her third heart attack. She was sent home from the hospital 7 days later even though she was unable to walk across a room. Hospital officials told her she was being discharged because Medicare would not pay for additional health care.

Unfortunately, this woman's experience is not unique. The Select Committee on Aging has heard testimony from Medicare beneficiaries regarding incidences of discharges by hospital authorities before patients were healthy enough to return home. According to the Senate Aging Committee, over 4,000 similar cases of such early dismissals have been marked for further investigation by the Health Care Financing Administration.

Mr. Speaker, I known many of my colleagues share my concern regarding these premature dismissals. The problems with the prospective payment system have been clearly identified. The President said they were being examined and a solution is being worked on. I urge the President to give this matter his highest attention and forward his proposed remedies to the Congress at the earliest possible date.

GRAMM-RUDMAN AND THE BRIAR PATCH

(Mr. DAUB asked and was given permission to address the House for 1 minute, and to revise and extend his remarks.)

Mr. DAUB. Mr. Speaker, "Please, please," Brer Rabbit said to Brer Bear, "don't throw me in the briar patch. Please don't throw me in the briar patch."

Now, I wondered about this as I examined the Congressional Quarterly's report of the votes for Gramm-Rudman—vote No. 415, House Joint Resolution 372—and I noticed that only 153 Republicans voted for it—certainly not a majority in this Chamber. I then quickly noted that 118 Democrats, Mr. Speaker, voted for Gramm-Rudman, 1 of them being the chairman of the Ways and Means Committee, another the chairman of the Democratic caucus, and then, oh, goodness, the majority leader himself.

"Oh, no," cried Brer Rabbit, "please don't throw me in the briar patch."

I think that the House is at its best when it acts in a truly bipartisan spirit. That is what Gramm-Rudman was, that is what the spending cuts that we decided to make ought to be, and the American public deserves no less from the leadership of this House.

ATTEMPTS TO BALANCE THE BUDGET AND GRAMM-RUDMAN SEEN AS SYNONYMOUS

(Mr. GEKAS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GEKAS. Mr. Speaker, let me say to the Members of the House that it is appropriate that so many Members of Congress who are taking the well today are expressing their opinions on Gramm-Rudman. And we ought to do that.

One thing that ought to be made perfectly clear, to rephrase an old phrase, is that when we speak about Gramm-Rudman-Hollings on the Senate side or Mack on this side of the Congress, we are talking about an expression of will of the American people to effect a balanced budget. So let us not take account of Gramm-Rudman as simply another bill coming through the process of the Congress of the United States. It is calling for a balanced budget. Gramm-Rudman-Hollings and Mack are synonymous with a balanced budget. Those who then supported Gramm-Rudman supported a balanced budget.

As Congressman DAUB has just said, that is an important distinction to make. It is not that the Congress of the United States has adopted some isolated concept that was strung up overnight; Gramm-Rudman-Hollings is the personification, the manifestation of the desire of the American people to reach a balanced budget quickly, as quickly as possible, for the sake of the people of our country.

GENERAL LEAVE

Mr. STENHOLM. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks and to include therein extraneous material on the subject of the special order today by the gentleman from Illinois [Mr. ANNUNZIO].

The SPEAKER pro tempore (Mr. ROWLAND of Georgia). Is there objection to the request of the gentleman from Texas?

There was no objection.

SIXTY-EIGHTH ANNIVERSARY OF UKRAINIAN INDEPENDENCE DAY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois [Mr. ANNUNZIO] is recognized for 5 minutes.

Mr. ANNUNZIO. Mr. Speaker, on January 22, 1918, the Ukrainian Central Rada, the Parliament of the Ukrainian people, declared the independence of Ukraine, realizing the country's fondest hopes of securing self-determination and freedom.

The Parliament for the Ukrainian people, consisting of representatives of various Ukrainian political parties, as well as other societies and groups, and proudly proclaimed:

People of Ukrainian! By your own power your will and your word a free Ukrainian republic now exists in your land. The ancient dream of our forefathers, who were fighters for the freedom and rights of the working people has come true * * * From this day forward, the Ukrainian National Republic is the independent, free and sovereign state of the Ukrainian people * * *

These words still constitute the cornerstone of political thought of Ukrainian throughout the world, as they continue in their efforts to return Ukraine once again to its rightful place among the community of free nations.

When the Ukrainian people founded the Ukrainian National Republic, they had great expectations for a new era of national renewal dedicated to the principles of justice and human dignity. Sadly, however, the reality of freedom was shortlived, because by 1922, the Bolsheviks forced their way into power, and resumed persecutions, relocations of whole villages, exiles of Ukrainian leaders, brutal starvations, and wholesale executions. Millions of brave Ukrainians perished during the terrible years of Stalin's rule, and yet through it all, the Ukrainians remained steadfast in their resolve to regain their freedom and national sovereignty.

During the past 68 years, thousands of innocent people in Ukraine have been persecuted and imprisoned by agencies of the Soviet Government. In recent years, Soviet authorities have stepped up their arrests for alleged "anti-Soviet agitation and propaganda" by Ukrainian intellectuals, writers, literary critics, professors, students, and scientists, as well as other individuals from all walks of life, who merely attempt to preserve the culture, religion, heritage, and langage of their people. Despite the most severe repression by the Communists, Ukrainian tradition has survived.

On January 12, Ukrainian observed a Day of Solidarity with Ukrainian Political Prisoners. This day, observed since 1974, is a time for Ukrainians to express their support for the objectives of the courageous men and women who daily stand up against the brutality of the Communists, as well as a time to reaffirm their commitment to freedom and self-determination.

At this point in the RECORD, I would like to include an article which appeared in the January 12 edition of the Ukrainian Weekly that outlines the tragic fate of some of the individuals in the human rights movement in Ukraine.

The article follows:

[From the Ukrainian Weekly, Jan. 12, 1986]

JANUARY 12—DAY OF SOLIDARITY WITH UKRAINIAN POLITICAL PRISONERS

January 12 has been observed as a Day of Solidarity with Ukrainian Political Prisoners annually since 1974, when imprisoned Ukrainian journalist Vyacheslav Chornovil, now age 48, declared a hunger strike that day in commemoration of the 1972 mass arrests of Ukrainian intellectuals.

Mr. Chornovil, author of "Lykho z Rozumu" (Misfortune of Intellect, published in English as "The Chornovil Papers"), an expose of the 1965-66 trials of some 20 intellectuals in Ukraine, was among those caught up in the wave of arrests on that fateful day.

January 12 has evolved into a symbol of Ukrainians' universal yearning for freedom. It serves as a reminder that the struggle of Ukrainian human, national and religious rights activists continues, and as a reminder of the sad plight of participants in that struggle.

Ukrainians in the West have set aside this day to express their solidarity with these courageous men and women who are serving terms in prisons, labor camps, internal exile or psychiatric hospitals—some of them imprisoned on political charges like "anti-Soviet agitation and propaganda" or anti-Soviet slander," others on trumped-on criminal charges.

Among the political prisoners we recall on the Day of Solidarity are:

The eternal prisoner, Yuriy Shukhevych, 52, who has been in and out of Soviet prisons and camps since the age of 15. He has spent 33 years of his life without freedom simply because he is the son of Roman Shukhevych, leader of the Ukrainian Insurgent Army and a nationalist hero. Mr. Shukhevych is now in internal exile.

Yosyp Terelia, 42, an activist in the outlawed Ukrainian Catholic Church and leader of the Initiative Group for the Defense of Believers and the Church, who was sentenced last year to serve seven years in prison camps and five years in exile. He has already spent some 20 years in camps, prisons and psychiatric hospitals.

Yuriy Badzio, 49, a teacher and literature specialist who documented the Russification of Ukrainian culture by the Soviet authorities in a major paper about 1,400 pages long, titled "The Right to Live". Mr. Badzio is reported to be ailing in a labor camp to which he was sentenced for seven years. This term will be followed by five years' internal exile.

There are literally, countless other Ukrainian political prisoners—some better

known than others, some unknown to us in the West. But we recall these persons, too, on the Day of Solidarity. And we hope for a day when such a Day of Solidarity will no longer be needed when there will be no political prisoners.

Mr. ANNUNZIO. Mr. Speaker, it is with pride that I join with Americans of Ukrainian descent in the 11th Congressional District of Illinois which I am honored to represent, and Ukrainians all over this Nation, who are continuing their struggle for self-determination in their own homeland. Let us reaffirm our belief in freedom for all peoples and our hope that the valiant Ukrainians shall one day triumph over their oppressors and again enjoy the blessings of liberty for which they have courageously struggled for so long.

Mr. HOYER. Mr. Speaker, today, Ukrainian-Americans commemorate the 68th anniversary of the reestablishment of a free Ukrainian state. On January 22, 1918, the Ukrainian Central Rada proclaimed Ukraine's independence. A year later, on January 22, 1919, an Act of Union unified, albeit briefly, all Ukrainian lands in one state. Although the fledgling Ukrainian Republic was brutally overrun by the Red army in 1920. This period of independence stands as a testament to the Ukrainian people's quest for freedom and self-determination.

Since that brief period of independence, the Ukrainian nation has suffered greatly. Under Soviet rule, the Ukrainian population has incurred unimaginable losses. In the early 1930's, over 6 million Ukrainians lost their lives in Stalin's artificially induced famine. Millions more perished in slave labor camps in Siberia.

In the last few decades, the legitimate efforts of Ukrainians to promote respect for human rights and fundamental freedoms have been met with cynical contempt by the Soviet Government. Ukrainian intellectuals in the 1960's, the Ukrainian Helsinki Monitoring Group in the 1970's and the Group for the Defense of the Rights of the Ukrainian Catholic Church in the 1980's have been suppressed and most of their members severely punished.

In the past year alone we have witnessed a continued crackdown on the Ukrainian Helsinki Group with the arrests and rearrests of Mykola Horbal, Petro Sichko, and Yosyf Zisels. We have seen a crackdown on religious activists, particularly defenders of the Ukrainian Catholic Church, with the imprisonment of Yosyf Terelya and Vasyl Kobryn. Perhaps most tragically, our consciences were stirred with the death of one of the greatest contemporary Ukrainian poets, 47-year-old Vasyl Stus, who died in the harsh conditions of a Soviet labor camp after a prolonged illness. Despite these persecutions, Ukrainians persist in pressing for their rights and in protesting against the Kremlin's callous designs to destroy Ukraine's national identity.

Mr. Speaker, as cochairman of the Helsinki Commission, I am greatly disturbed by all too frequent reports about Soviet violations of the Helsinki Final Act in Ukraine. However, I am also encouraged by the valiant struggle of Ukrainians who manifest an abiding faith in the final act's noble principles. It is our obligation as Americans to heed the calls of the Ukrainian people and to assist those who risk their well-being, and sometimes their lives, in the promotion of values which we all cherish and share.

Mr. MANTON. Mr. Speaker, I am honored to join in today's celebration of the 68th anniversary of the proclamation of independence in Ukraine. Sixty-eight years ago today, in the city of Kiev, a dream of freedom and democracy was realized when the sovereign nation of Ukraine was established.

While this is a joyous occasion, it is also one of remorse and determination. That cherished dream was a short lived reality. Within 3 short years after their sovereignty was established, the Ukrainian National Republic was overpowered by the Bolsheviks and more than 40 million Ukrainians lost their freedom. Today we not only remember a once free Ukraine, but we also reaffirm out hope and determination that soon Ukraine will be free again.

For the past 68 years, the leaders of the Soviet Union have sought to eradicate the Ukrainian national identity. Under Soviet occupation, the Ukrainian people have suffered persecution and repression. The leaders of the Soviet Union have tried to force russification on the people of Ukraine. Ukrainian culture and heritage have been endangered. The Ukrainian language is not allowed in schools and the Ukrainian Catholic and Eastern Orthodox religions are outlawed. Ukrainians who dare to speak for freedom and against the practices of the Soviet regime, are harassed and arrested. Often, those Ukrainians who fight for human rights are usually harshly sentenced.

However, it is not only Ukrainians in the Soviet Union who work for freedom. Ukrainian-Americans who have contributed so much to our own country, have not forgotten the dream of a free Ukraine. They have not allowed their spirit, or their determination and optimism that the Ukraine will one day again be free, to diminish. Their dedication is an inspiration to people around the world who are struggling for freedom.

Mr. Speaker, the struggle of the Ukrainians is our struggle as well. Liberty is becoming a precious commodity in today's world and we must always remember to cherish and protect it. And, the best way to protect this precious commodity is by supporting the struggles of those who have been denied their basic human rights.

Mr. Speaker, today I gladly pledge my support to the Ukrainian people. I share the hope of many that we will again see a free Ukraine.

Mr. MICA. Mr. Speaker, January 22 is observed by persons of Ukrainian origin in this country and throughout the free world as the date when their ancestral homeland knew freedom and independence.

On January 22, 1918, Ukrainians in what had hitherto been the Russian empire declared their independence. On January 22, 1919, Ukrainians in what had been the Austrian empire unified their part of the country with the Ukrainian National Republic, creating a unified independent Ukrainian state.

The freedom for which they struggled was brief. After 3 short years, their state was crushed between its more powerful neighbors.

But the memory of their independent democracy continues to hold a special place in the hearts of Ukrainians everywhere. In free countries, they can observe this anniversary. In their homeland, they cannot. Such is the way of tyranny.

The Ukrainian Republic was but a brief episode in modern history. By 1921, the bulk of the country had come under Soviet rule and, at the time of the Hitler-Stalin Pact of 1939, the rest of the country was annexed by the USSR.

As citizens of the U.S.S.R., Ukrainians have suffered one of the most devastating tragedies of all time, the great manmade famine of 1933. This atrocity, perpetrated by Soviet authorities who decreed the seizure of crops from those who grew them, claimed some 7 million Ukrainians.

As Chairman of the newly created Commission on the Ukrainian Famine, I believe it is incumbent on all us to never forget this tragedy, and also to note the pride with which Ukrainians continue to cherish their national culture and identity. Further, we must demonstrate our solidarity with their continuing struggle for freedom, human rights, and the national independence of this oppressed land.

Those Ukrainians who have come to this Nation, initially to seek a better life and later to escape the tyranny of their homeland, have made a tremendous contribution to American life. Their example in becoming loyal and productive Americans while continuing to maintain their unique identity, has enriched this country for all of us.

They demonstrate, as do other ethnic Americans, that becoming citizens of this land does not mean losing their affection and attachment for their ancestral homeland. Mr. Speaker, I urge my colleagues to join me in noting with pride this Ukrainian Independence Day.

Mr. MOAKLEY. Mr. Speaker, I rise today to commemorate the 68th anniversary of the proclamation of independence in Ukraine. On January 22, 1918, the people of Ukraine achieved their freedom and independence from their powerful neighbors. Unfortunately, this freedom was short lived. In 1921, the Ukrainian independent state was crushed by the Soviet Union.

Mr. Speaker, I consider myself very fortunate to live in a country that entitles me to freedom and independence. I cherish these rights more than anything. I volunteered for service in World War II because I believed strongly that these essential values should and must be protected. And I would volunteer for service again if the freedom of our country was threatened.

I certainly can understand the burning desire of the people of Ukraine who want so desperately to be free. Those of us in America have an obligation to not only condemn the Soviet oppression that still plagues the people of Ukraine—but to also support and encourage their struggle to regain their independence. I am proud to stand with my colleagues in honoring this important date and also in our commitment to the people of Ukraine.

Mr. MORRISON of Connecticut. Mr. Speaker, today marks the 68th anniversary of the proclamation of the Ukrainian Central Rada which reestablished Ukraine as a full-fledged sovereign and independent state. I know that my colleagues join me in commemorating with Ukrainians world-wide this important event in

the long struggle of the Ukrainian people for freedom.

The Ukrainian state born on January 22, 1918, was strongly supported by the Ukrainian people. Ukrainians of all ages rallied to the fledgling state's defense when it was attacked late in 1918 by the Polish Army from the West and the Red and White Russian Armies from the East. After a heroic struggle lasting 3 years, the Ukrainian National Republic succumbed to the numerically superior military forces of Communist Russia.

Ever since the Soviet conquest, the Ukrainian people have suffered political, cultural, and religious repression, economic exploitation and all-encompassing Russification. In an enforced collectivization of Ukraine's agriculture in 1932–33 some 7 million Ukrainians were starved to death by the government-sponsored famine. During and after World War II, hundreds of thousands of Ukrainians were deported, exiled, or killed for their support of the many resistance movements which fought first against the Nazis and then against the Soviets after the Soviet Union reoccupied Ukraine.

The struggle for Ukrainian rights continues. Scores of intellectual and cultural activists bravely criticize the Soviet regime despite the great personal risks they take in doing so. Almost half of all political prisoners in the U.S.S.R. are Ukrainians.

As we commemorate Ukrainian Independence Day, we remember the cost the Ukrainian people have paid in their struggle for freedom. The celebrations honoring Ukrainian independence that are taking place in Ukrainian communities around the world today are not only a salute to those who have kept the dream of an independent Ukraine alive, but also celebrate the ideal of freedom, the right of all people to self-determination.

I know that my colleagues share my appreciation for the efforts made by so many Ukrainians and Ukrainian descendants to keep the cause of freedom before the world's eyes and conscience.

Mr. KINDNESS. Mr. Speaker, today marks the 68th anniversary of the proclamation of independence for the people of the once independent Republic of Ukraine. As many are painfully aware, this independence was short-lived due to the Communist takeover and domination of Ukraine beginning in 1921.

On this day of celebration, we cannot and should not forget the brutal treatment inflicted upon so many Ukrainian citizens by the Soviet Union. Reports of imprisonment and violence against Ukrainians continue to mount as the Soviets persist in attempts to break the independent Ukrainian spirit, and to eliminate the culture and religious traditions of the Ukrainian people. Every such cruel attempt results in the clearer identification of the Ukrainian people as a separate, distinguishable and oppressed people.

I am proud to join Ukrainians throughout the world in recognition and remembrance of the celebration of Ukrainian independence. The efforts of the Ukrainian people to stand against repression and the denial of basic individual rights are truly commendable and inspiring.

Indeed, our Ukrainian friends are not alone in their struggle for a lasting peace and independence for their homeland.

I encourage all Ukrainians to continue their valiant efforts on behalf of all who struggle in the fight for freedom and human dignity. Without these efforts the struggle against tyranny will be blanketed with darkness; but with such efforts the lamp of liberty is fueled.

Mr. YATRON. Mr. Speaker, today, January 22, 1986, marks the 68th anniversary of the independence for the Ukraine. I am proud to join with my House colleagues and with the people of Ukrainian origin in commemorating this special and noteworthy occasion.

Unfortunately, as we know all too well, the freedom of the Ukrainian nation lasted only 3 years before the Bolshevik armies invaded the newly independent state and reestablished Russian control. Since that time the Ukrainian people have endured unspeakable forms of repression, persecution, and human rights abuses at the hands of the Soviet oppressors. However, this brave and valiant people have refused to succumb to such acts of inhumanity and have maintained their vibrant culture and unquenchable thirst for freedom. It is most fitting that we pay tribute to their courage which should serve as an inspiration to all of us. This occasion should also serve to remind us how precious the freedoms we enjoy as Americans truly are and the degree to which they are cherished by many of the world's oppressed.

As chairman of the House Subcommittee on Human Rights and International Organizations, I have actively worked to reduce the suffering of the Ukrainian people. The subcommittee has conducted extensive hearings on the countless human rights abuses committed by the Soviet Union, and I have initiated legislation on this subject.

I am also proud to have played an active role in the passage of legislation to establish a Congressional Commission to study the causes and effects of the Great Famine in the Ukraine. This legislation was signed into law on October 12, 1984. The famine-holocaust was one of the most tragic events in recent history and it is an example of the cruelty of the Soviet system and what the Ukrainian people had to endure. It was an attempt by the Soviet Government to erase an entire culture and race with the famine of 1932–33. During this man-made famine, 7 to 10 million Ukrainian people starved to death as a result of Stalin's brutal collectivization program. The Commission will provide the details of what actually occurred during the famine and enhance public awareness of this atrocity.

The Soviet Government continues to wage its campaign of oppression and terror against the Ukrainian people, ruthlessly suppressing the activities of the Helsinki Monitoring Group in Ukraine. Many of these bold defenders of freedom languish in jail, subject to terrible forms of ill-treatment.

I am hopeful that we will remember these people, not only today, but whenever we take the time to reflect upon our own cherished freedoms.

Mr. RUDD. Mr. Speaker, today marks the 68th anniversary of the proclamation of Ukraine's independence from the Russian Empire on January 22, 1918.

For 3½ years—from March 1917 to the end of 1920—the Ukrainian people struggled valiantly to preserve their hardwon independence. But surrounded by predatory and imperialist-minded neighbors, alone and unaided, they succumbed to the superior physical forces of their enemies.

Under Soviet Communist Russia, Ukrainians have suffered inhuman treatment and persecution:

Since the incorporation of the Ukraine into the Soviet Union in 1922, Ukrainians have been made victims of genocide through man-made famines, executions, arrests and deportations;

They have suffered systematic Russification of their language and educational system, and obliteration of the Ukrainian national identity;

Their culture has been suppressed and their history and literature have been distorted; and

Ukrainians have suffered religious persecution, economic exploitation and destruction of their political structure.

Observing the 68th anniversary of the proclamation of the Ukrainian National Republic is a special event for all Ukrainians, but it should also be a reminder to all Americans and other freedom-loving peoples of the world, that communism is an unacceptable tyranny that threatens to engulf any nation with ideals based upon sovereignty, national pride, and peace.

Let us all hope that independence and freedom—especially freedom from Soviet enslavement—will be restored to the people of the Ukraine.

DOD'S RESPONSE TO INQUIRIES ON PASSENGER AIRLIFT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Mississippi [Mr. MONTGOMERY] is recognized for 5 minutes.

Mr. MONTGOMERY. Mr. Speaker, in the wake of the tragic crash of our military charter flight in Newfoundland, the Defense Department is conducting a review of all policies concerning military personnel air travel. With this in mind, I recently wrote a letter to Secretary of Defense Caspar Weinberger, recommending that the Defense Department consider using military aircraft or Air National Guard and Reserve planes to move our personnel. I also suggested that we utilize the services of private charter companies to handle the movement of military cargo. This would be a reversal of the current policy.

I wanted to share with my colleagues the response I received from Secretary Weinberger:

THE SECRETARY OF DEFENSE,
Washington, January 17, 1986.

Hon. GILLESPIE V. MONTGOMERY,
House of Representatives, Washington, DC.

DEAR CONGRESSMAN: Thank you for your letter of January 2, 1986, concerning the Department of Defense (DoD) use of charter airlift to transport our military personnel and their families. Let me assure you that we all share in the tragic loss of our peacekeeping force as it returned from the Sinai last month.

A high priority review of DoD policies and procedures which govern passenger airlift is in progress. It will include an assessment of military and civil air passenger operations, standards of service and related safety concerns. Our review will address your sugges-

tion to shift passenger and cargo movement between military and civil airlift. After his telephone conversation with you, Dr. James P. Wade, Jr., Assistant Secretary of Defense for Acquisition and Logistics, met with the military commanders responsible for arranging charter airlift and with respresentatives of the Department of Transportation (DoT) and Federal Aviation Agency (FAA).

While we are reviewing airlift operations, we have taken prudent interim steps to increase our surveillance of charter operations. We are assigning more evaluators to charter flights, increasing the frequency of carrier surveys and plan to review carrier maintenance facilities. Secretary Dole has announced an intensive near-term FAA review of air carriers operating charters for the DoD. We expect further initiatives through close liaison with DoT and the FAA.

We carefully considered suspension of Arrow Airways after the Gander accident. However, in their investigation of Arrow, the FAA has not uncovered safety or operational deficiencies that would justify removal of Arrow's certification. Arrow continues to operate scheduled and non-scheduled service in the private sector.

We appreciate your concern for the safety and welfare of our military forces.

Sincerely,

CASPAR WEINBERGER.

ORDER OF BUSINESS

Mr. GAYDOS. Mr. Speaker, I ask unanimous consent that in the priority of the special orders, the gentleman from Pennsylvania [Mr. SHUSTER] be allowed to proceed before me.

The SPEAKER pro tempore (Mr. STENHOLM). Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

A TRIBUTE TO THE LATE HONORABLE JAMES E. VAN ZANDT OF PENNSYLVANIA

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Pennsylvania [Mr. SHUSTER] is recognized for 60 minutes.

Mr. SHUSTER. Mr. Speaker, I thank the Chair, and I certainly thank my distinguished friend and colleague, the gentleman from Pennsylvania [Mr. GAYDOS], the distinguished dean of our delegation.

Mr. Speaker, I come before this distinguished body today to mourn the loss of a dear friend and colleague, but most importantly to celebrate a life that was lived with vigor, commitment, and dignity. I speak of former Congressman James E. Van Zandt, more often known as "Jimmy," who passed away on January 6, 1986, at the age of 87. Jimmy was the very essence of what is known as a "good man." His life should serve as an inspiration to those who choose to truly participate in life and it is for this reason that I wish to share with you some of the highlights of Jimmy's remarkable journey on this Earth.

History was hard on those in Jimmy's era. Born at the turn of the century in Altoona, PA, he was to serve in both world wars and the Korean conflict. He enlisted as an apprentice seaman in the U.S. Navy while still in high school, and was discharged as chief quartermaster at the war's end. Subsequently, he enlisted in the Naval Reserve and organized the Naval Reserve unit at Altoona.

In 1938, he successfully ran for Congress from what was then the 23d Congressional District of Pennsylvania. He held this seat until 1943 when he resigned to report for active duty in the Naval Reserve for the remainder of World War II. Never a sunshine patriot, when the Japanese attacked Pearl Harbor, Jimmy returned to the Japanese Ambassador a medal he had been given in 1936 from the Imperial Reservists Association of Japan. To describe Jimmy's military service, I believe the following commendation from Capt. Richard Scruggs [USN] says it all: "You have been bombed, shelled, and torpedoed, but the fires were extinguished, the holes plugged, and not a ship has been lost."

As a legislator, Jimmy served over 20 years in Congress. During his tenure, he was an outspoken stalwart for American veterans. He served as senior member of the House Armed Services Committee, and was ranking Republican member of the Joint Committee on Atomic Energy. As a member of the House Committee on Veterans' Affairs, he introduced a series of bills providing benefits for veterans of World War II, which later provided the basis for drafting of the G.I. bill of rights. In addition to his legislative contributions, Jimmy's bravery was displayed during an attack by four Puerto Ricans who were firing on the House Chamber from the Gallery. Under fire, Jimmy dropped to the floor, crawled through a cloakroom to the gallery steps, and seized one of the terrorists. Jimmy never turned his back on a fight worth fighting.

One cannot speak of Jimmy Van Zandt without mentioning his zealous dedication to the Veterans of Foreign Wars. During his 3 years as commander-in-chief, he traveled over 1 million miles to every department in the organization. It has been written that his unanimous reelections were an acknowledgment to his strong leadership in VFW's battle on behalf of disabled veterans and their dependents, and for a "Program of Americanism" which focused on the welfare and security of the United States and its people as a whole. As a tribute to his efforts on behalf of veterans, the VA Medical Center in Altoona is known as "The James E. Van Zandt Veterans' Administration Medical Center."

Jimmy Van Zandt fell into many categories: He was an American, a husband and father, a Christian, a Pennsylvanian, and a distinguished veteran. Each of these roles he played masterfully. He met all obstacles face-to-face, and there were many in his time.

It is a great honor and privilege to represent part of the district once represented by Jimmy Van Zandt. He left a legacy, and that is to provide the best possible government for Pennsylvanians, about whom he cared deeply.

In memory of Jimmy Van Zandt, I wish to close by calling to mind the words of Daniel Webster: "Thank God! I—I also—am an American!"

□ 1535

Mr. Speaker, I am happy to yield to the distinguished dean of our delegation, Congressman GAYDOS.

Mr. GAYDOS. Mr. Speaker, just about 2 years ago, the members of the Pennsylvania congressional delegation came to the floor to heap praises on Jimmie Van Zandt, a former colleague of ours who, after long and distinguished careers in the U.S. Navy and the Congress, was retiring from his third career, secretary to the Pennsylvania congressional delegation.

Today, our task is somewhat more difficult because James E. Van Zandt, retired rear admiral in the U.S. Naval Reserve, former Congressman from Altoona, PA, and, for 20 years, the unpaid adviser to his home State's Members of Congress, passed away on January 6 at age 87.

I, for one, am glad that on January 31, 1984, we took the opportunity to say the things we did about Jimmie while he was alive and could be here with us to hear how we really felt about him and his dedication to his country.

Jimmie served with distinction in each of his careers. As a young man, he joined the Navy in 1917 as an apprentice seaman and served in both world wars and the Korean conflict before retiring as a rear admiral in 1959, winning various military decorations as a testament to his illustrious service.

He was first elected to Congress in 1938, resigned in 1943 because his country needed him in the Navy, and then came back to the Congress in 1946 to continue an illustrious service over two decades, leaving in 1962 after an unsuccessful run for the U.S. Senate from Pennsylvania. But, instead of retiring from public service, he began a new career, of service without pay to the Pennsylvania congressional delegation and to the people of his home State.

Mr. Van Zandt also found time during those years to serve as the Washington representative for two Governors of Pennsylvania. He was a mainstay of the Veterans of Foreign Wars: Twice he commanded the Department of Pennsylvania and three times he was the VFW's national com-

mander and received that organization's Distinguished Service Medal. Further, he was a member of the Veterans' Administration Cemetery System Advisory Board.

To merely recite Jimmie's accomplishments, however, does not really provide an accurate picture of this man we called friend, associate, and colleague.

It is said that bad men will prevail if good men remain silent. Well, there was never any danger that the good would lose as long James Van Zandt was around. His service to his country in time of war—actually three different times—is a sure sign that the bad would not be allowed to take what they wanted without a stiff fight.

His service to his country in times of peace—more than 20 years in the U.S. House of Representatives, where, in his first term, he spoke 63 times and introduced 32 bills—was some indication of his willingness to speak out on behalf of those who had no voice.

His service to his State—another 20 years as the unpaid secretary to the congressional delegation during which period he never showed any political partiality—was evidence of his dedication to the service of man.

I think that the last, his willingness to submerge his own political preferences in order to see that the job got done right, was one of his most important characteristics. To paraphrase another American who had more than one successful career, Thomas Jefferson, a strong heart is the first blessing and a knowing head the second. Jimmie Van Zandt was twice blessed and we and our friends in Pennsylvania are far the better for it.

When he retired nearly 2 years ago, Jimmie, then 85, told us he needed to work on his memoirs, put his congressional papers in order, and prepare for the dedication of the James E. Van Zandt Veterans' Administration Center in Altoona, PA, his hometown.

We of the Pennsylvania congressional delegation, have missed Jimmie these past 2 years and, now, we will miss him even more. No longer will we be able to draw on that vast store of knowledge, that clear thinking, that understanding that marked James Van Zandt's career.

Mr. Speaker, my remarks as prepared are a part of the RECORD, and I would like to proceed extemporaneously to talk about a man who was close to the delegation, close to every individual Member of the delegation personally.

Jim Van Zandt had served the Pennsylvania delegation, as my colleague well knows, because we both served on the Steering Committee. Way at the beginning when we had our good friend, Doc Morgan from Pennsylvania as dean of the delegation, that is when it started. At that time I remember when I first came to Congress, I had asked Doc Morgan, I said, "Doc, how is it that Jim Van Zandt, an admiral in the Reserve, former Congressman, former head of the VFW, a great legionnaire, how is it that he serves our Pennsylvania delegation so efficiently and yet he is not paid?"

Doc Morgan responded to me, he said, "That man is dedicated," and that is how I found him.

After Doc Morgan, I think the leadership then passed over to the gentleman from Pennsylvania [Mr. MCDADE], because we have that type of an arrangement in Pennsylvania.

Mr. SHUSTER. Mr. Speaker, will the gentleman yield for just one very minor correction?

Mr. GAYDOS. Yes, I yield.

Mr. SHUSTER. Congressman Van Zandt was paid for his work by the delegation. He was paid $1 a year, I understand.

Mr. GAYDOS. Well, I stand corrected and I think that is tantamount to showing the sincerity and the dedication of this man.

I have to say this. We went through Democratic and Republican leadership in our delegation and we try to keep nonpartisan, but when it came to Jimmie Van Zandt, there was no partisan politics played at all. He served the Democrats as efficiently and as sincerely as he did the Republicans. He was well-connected. He helped us. I think we were somewhat ahead of the other delegations because Jim Van Zandt was there to serve us with the Republican leadership when it was in the White House and then when it changed and the Democrats came in, Jim Van Zandt was just as effective. He seemed to have connections on both sides.

I could say this, that there was many a sensitive problem that was first brought to our attention by our secretary, Mr. Van Zandt, and then the solution advocated and suggested by Mr. Van Zandt and the problem ultimately solved by Mr. Van Zandt. That is my remembrance of a man who was so sensitive to Pennsylvania's needs that both the Republicans and the Democrats felt they were obligated to him. They never even considered, remotely considered having to change the secretary of the delegation for any purpose whatsoever.

He was a gentleman and a dedicated politician to what he thought was right in the Pennsylvania delegation and he was reliable, reliable to the extent that probably spoiled us, because after he left there was an obvious void. We had to hire a person and then another person and then we have these what we call impromptu committees working, doing the work that Jimmie Van Zandt used to do by himself alone and did so effectively.

So it is without reservation that I get up and say, No. 1, the delegation has lost a very close friend.

No. 2, Pennsylvania has lost a very dedicated soldier and the whole country has lost a patriot. That is the Jimmie Van Zandt that I remember. That is the one that I want to remember and I think that I speak on behalf of all members of the delegation when I say that is the Jimmie Van Zandt we had experience with.

That is the extent of my comments at this time.

I would ask after my colleague does recognize other Members of the delegation if he would be so kind as to recognize me again to insert another matter into the RECORD.

Mr. SHUSTER. I would be very happy to and I certainly thank the distinguished dean of our delegation, a gentleman with whom it is a privilege and an honor to serve.

Mr. Speaker, I am happy to yield to my good friend, the gentleman from Pennsylvania [Mr. GEKAS].

Mr. GEKAS. Mr. Speaker, I greatly appreciate the gentleman yielding for this purpose.

It is a sad and happy purpose that we are engaging in pursuing at this moment; sadness because we know that Jimmie has gone to his final reward and happy because it gives us an opportunity to recount what he has meant to us personally, what he has meant to the Commonwealth of Pennsylvania and, most eloquently, what he has meant to the Nation.

I am so happy that the gentleman from Pennsylvania [Mr. SHUSTER] took it upon himself to recount those moments of valor in the life of Jimmie Van Zandt, stemming from his service to the country of which he gave unflinchingly, as was indicated by Congressman SHUSTER; but if we eliminated all of that and never once mentioned that total heroism in this man, I believe that every citizen in the country would have to make a special place for Jimmie Van Zandt in their own personal views of the American citizen when we recall what Congressman SHUSTER said about what he did on the very floor of the House here where we stand at that tragic moment when shots were fired into this body. I can just picture Jimmie, as Congressman SHUSTER was describing, crawling up the aisle and through the cloakroom and up the steps, right in the face of fire, so to speak, to grab one of the terrorists that we had even in that day who would have dared to come in and did successfully engage in that tragic act of terrorism.

I will always think of Jimmie Van Zandt as the courageous hero that every American recognizes as the embodiment of being an American in the first place.

At lunch today, for the edification of the membership, which I shared with Congressman BOB MICHEL, our respected leader on the Republican side, I

mentioned to him that we were going to have this special order for Jimmie Van Zandt, which he then recalled and said that he wished he could join with us because his recollections parallel those that were already expressed by my colleagues from Pennsylvania. That is a nice thing. It is easy for us Pennsylvanians to remember him because we criss-crossed his path a thousand times in our lives, but when we hear the Republican leader, or the remarks of Congressman MONTGOMERY as they have been transferred now into the RECORD by Congressman GAYDOS, that makes us Pennsylvanians just a little more proud of what Jimmie Van Zandt has meant to this body and the country.

My first recollection of Jimmie was on the political warpath. He had announced that he was running for the Senate of the United States. I believe it was the year 1962, the same year that Bill Scranton successfully became the Governor of Pennsylvania through a very dynamic campaign. It was Scranton-Van Zandt. I went to a small political meeting in Middletown, PA, which happens to be now in my district, and sat in the first row. Jimmie Van Zandt was introduced. There was no microphone. I tell you, none was needed. Jimmie got up and the first blast from his mouth just acknowledging the introduction was so loud and so clear that I was taken aback in the first row, an instance I will revere forever as a politician, as one who captured the imagination and the attention of his audience from the very first words spoken. From that first word spoken, in my engagement with the life of Jimmie Van Zandt down to the last engagement that we had here in the Pennsylvania delegation meetings, I have always admired and felt close to Jimmie Van Zandt.

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His family, who accompanied him on all his political endeavors and all the endeavors on behalf of veterans, became a part of the Van Zandt mystique. It was very natural for us who were with Jimmy Van Zandt or who worked with him or in any way crossed his path, also included in his life and his doings those of the family because he was always with them and they were always with him. That is a nice thing to remember as well.

So as we take leave of our association with James Van Zandt, we do so as American citizens, as those interested in the welfare of our country, and who know that at least one of our fellow Pennsylvanians, who distinguished himself as a Member of the Congress of the United States, as a hero of World War II and other military engagements, who distinguished himself as a politican in the best sense, and who distinguished himself as a personal friend to everyone who met him, we say farewell, Jimmy, and I thank the gentleman from Pennsylvania [MR. SHUSTER] for giving us the time to express our feelings.

Mr. SHUSTER. My colleague's comments bring to mind one other story about Jimmy. He was a great athlete and, in fact, in his eighties he could often be found in the House gym dribbling a basketball around the court staying in shape. He told me, if I recall correctly, that he was a runner, a real runner, running in first-class races, including Madison Square Garden. He told me that the last race he ever ran was in Madison Square Garden the night before he was sworn in as a U.S. Congressman back in the 1930's, and he did not stop running from that point until his sad death just a few weeks ago.

Mr. GAYDOS. Mr. Speaker, would my colleague yield for just one more observation?

Mr. SHUSTER. Surely. I would be glad to yield to the gentleman from Pennsylvania.

Mr. GAYDOS. I think it is basically essential that I not let this opportunity pass without reminding our delegation, our colleagues in the House, and yes, the whole Nation, of Jim Van Zandt's dedication to Pennsylvania when he put together—and I want to emphasize he put together; we worked with him, as my good friend, the gentleman in the well, Mr. SHUSTER knows—when he put together Pennsylvania Day. That is the time that we got all the industry together in Pennsylvania, and we had to improvise at the time, an awful lot of participation from banks, businesses and things of that nature. I think we put together, along with Fred Waring, who was at the affair and who was there because Jim Van Zandt had made the arrangements, and when we put all this together, I think we did ourselves proud here in Washington because we had a very, very well received and, I think, a delightful time on the Pennsylvania Day. That is when we brought up the flute players and the band from down in Pittsburgh, and also the band members from up in Philadelphia, along with, of course, an outstanding performance at that time by Fred Waring, who is now deceased and who, as a result of that Pennsylvania Day, I believe received a gold medal authorized by this very House.

So Jimmy Van Zandt, with all the attributes, and all the things he had accomplished in his life, to me that is one of the most sensitive and very personal areas that he operated in because he showed us how to make Pennsylvania Day a success. We had never had it in the past, and I think it is going to be the prototype of what we are going to do in the future.

So in closing, Mr. Speaker, I think that the record should show this man's dedication in that area also, along with the other areas that we already have spoken of.

Mr. SHUSTER. I thank my friend.

Mr. WALKER. Mr. Speaker, will the gentleman yield?

Mr. SHUSTER. I yield to my friend and colleague, the gentleman from Pennsylvania.

Mr. WALKER. I thank the gentleman for yielding. I thank him also for taking this special order to give us a chance to say a few words about a great patriot, one of the greatest that our State has ever produced, Jimmy Van Zandt.

When I first came to the Hill it was about 20 years ago, and I came here as a staff aide at that point to former Congressman Ed Eschleman. I remember at that time that Jimmy had already assumed his role as secretary of the delegation. He had been Governor Scranton's chief man in Washington and was performing distinguished service to the entire Commonwealth at that time.

But at that point he had had several careers, as admiral, as Congressman, as a railroad man. He had gone through a whole series of careers and people at that time would say, "Gee, how old is Jimmy Van Zandt?" and somebody would point out all these careers that he had had, and his age, and they would say, "Oh, that cannot be. He cannot be that old." Twenty years later we were still depending upon Jimmy Van Zandt and those questions were still being raised by young staffers as they came to the Hill.

The man was just absolutely remarkable. He had a great talent and genius for bringing together political factions, philosophical factions and doing the right thing on behalf of the State of Pennsylvania. I do not know that we have had anybody serve us for that long a time that well as did Jimmy Van Zandt.

It is entirely fitting that this tribute be paid on this floor because he loved this House. He loved serving Pennsylvania in this House. We will all miss him as we go about building the future of our Commonwealth and the contributions that he has made to that.

Mr. SHUSTER. I thank my friend.

Mr. Speaker, in closing, I think it is entirely proper to note that as we pay tribute to Jimmy Van Zandt here today, we certainly should include in that tribute recognition of his wife, Meisie, and his son, Jamie, a commander in the U.S. Navy, a wife and a son who, throughout Jimmy's illustrious life, were helpmates and substantial contributors who helped make possible the outstanding life of this distinguished American.

Mr. COUGHLIN. Mr. Speaker, I pay tribute today to our former colleague, James E. Van Zandt, whose battle against cancer ended

January 6 when he died at the Hospice of Northern Virginia.

Those of us who were privileged to know Jimmy Van Zandt always will remember him as a warm and unpretentious person whose industry and plain ways marked him as a truly honorable man.

Almost 2 years ago a special order was held honoring Jimmy who was—at the age of 85—retiring. At that time, he had served 11 terms in the House of Representatives, 3 terms as national commander of the Veterans of Foreign Wars, and as secretary of the Pennsylvania congressional delegation for 20 years.

During the four decades of his public service, Jimmy was consistently a positive force in Pennsylvania governmental and political affairs. He was a gentleman in the truest sense of the word who enjoyed the confidence and trust of Republicans and Democrats alike. No matter which party controlled the State government in Harrisburg or the Pennsylvania congressional delegation in Washington, Jimmy served all with equal dedication, energy, and zeal.

A strong and steadying influence, Jimmy was a catalyst upon whom each of us in the Pennsylvania delegation could rely upon for advice and guidance during his service as the delegation's secretary. But most of all, Jimmy was a worker. His former titles and positions never stopped him from doing the everyday work and details that helped our delegation and all those from Pennsylvania who came to consult us in Washington.

His devotion to serving the needs of the commonwealth and this Chamber were in evidence each day. Despite Jimmy's long work days, I think it commendable to note that he served for 20 years as our delegation's secretary without pay.

A Navy veteran who saw active duty in World War I, World War II, and the Korean conflict, he was honored by Congress in 1983 when a Veterans Administration center was dedicated as the "James E. Van Zandt Medical Center." It was an honor well-merited for a gentleman whose contributions to our Nation's veterans were many. Yet as great that tribute was, somehow it cannot do justice to Jimmy Van Zandt and his life.

When he retired in 1984, he had planned to write his memoirs. Unfortunately his memoir, which would have been among the most inspiring and interesting ever written by a former congressman, was unfinished when he died.

That he will be missed by his friends and colleagues is undistputed. He served his Pennsylvania constituency and the U.S. House of Representatives with honor and distinction. His contributions at the national, State and local levels in serving the public are undeniable.

I hope that his wife and son are comforted by the knowledge that Jimmy left a legacy of devoted and effective public service, and of respect and warmth by those who knew and worked with him.

Mr. GRAY of Pennsylvania. Mr. Speaker, I rise today to pay special tribute to our late colleague, James Van Zandt, who served in this Chamber and set an example for all of us.

"Jimmie," as we knew him, was Mr. Pennsylvania. He represented our State for 11 years in Congress, and then went on to serve the Commonwealth as its representative in Washington until 1971. He was a man of unselfish commitment. He resigned from this body to serve his country in the U.S. Navy during World War II. He had already served during World War I, and he went on to serve again during the Korean conflict. He retired as a rear admiral from the Naval Reserve in 1959.

Mr. Van Zandt's commitment to veterans took him from commander of the Altoona Post of the Veterans of Foreign Wars to State commander for Pennsylvania and national commander of the VFW for three terms, from 1933–36.

His decorations included the Legion of Merit and the Bronze Star.

During his House career, he was senior member of the House Armed Services Committee and ranking Republican of the House on the Joint Committee on Atomic Energy.

We can all be proud of this man who served us and his constituency with commitment and caring. For so many years his name has been synonymous with our great State. I ask you all to join me in paying tribute to this fine American and in sending our deepest sympathies to his family.

Mr. McDADE. Mr. Speaker, the Commonwealth of Pennsylvania and the country will miss our dear friend and trusted colleague, Jimmie Van Zandt, who passed away January 6.

Jimmie was a fighter for freedom and life till the day he died. He served Pennsylvania as a responsible, honest, hard-working Congressman for 20 years and 9 months before, during and after World War II.

When the country needed Jimmie he was always there. At the age of 18 he enlisted as an apprentice seaman. In 1919 he was discharged as a chief quartermaster. And in the early 1940's when our European allies were fighting Hitler, Jimmie, as a Congressman, was in the center of this country's greatest debate over U.S. aid and support for those allies. The dabate waged, with the entire Nation watching, until the Japanese attacked Pearl Harbor on December 7, 1941.

On that date, which we should never forget, Congressman Jimmie Van Zandt was already on active duty with the U.S. Navy as a reservist. He heard the call of his country, and shipped out in September 1941 after Congress had recessed. The Navy needed his expertise and experience during World War II, so he left his family and interrupted his congressional career to serve the country—Jimmie was not a selfish man.

Jimmie loved his country. Not only did he serve his country in World War I, World War II, and the Korean conflict; he also served all those men and women, who were veterans of those wars, as commander of the Altoona Post of the Veterans of Foreign Wars, State commander for Pennsylvania and national commander of the VFW.

As a national leader in veterans matters, he fought for the bonuses for World War I veterans—a struggle that continued for years—but, finally the Congress conceded and World War I veterans received their just bonus in 1936. In 1936, Jimmie was VFW national commander—Jimmie always fought for the little guy.

I know that one of Jimmie's greatest days was when the James E. Van Zandt Veterans' Medical Center was dedicated to him in his hometown, Altoona, PA.—he was proud of his hometown and the people that lived there.

Jimmie cared deeply for Pennsylvania and its people. In 1964, he volunteered to assist the Pennsylvania congressional delegation so the people of his beloved State would be served. He also served the Commonwealth of Pennsylvania as the official representative of the Governor of Pennsylvania in the Nation's Capital twice during his work with the delegation. He counseled both Republican and Democrat Members. He brought members from different political parties together so the people of Pennsylvania would benefit.

Jimmie was a true American hero. He is the epitome of a public servant; he served his country freely for over six decades. His wit, wisdom, and guidance will be missed by his family and his friends. It is difficult to think that Jimmie is gone, but his love for his country, Pennsylvania and his family will go on.

Mr. SCHULZE. Mr. Speaker, I am pleased to join in this tribute to Jimmy Van Zandt who dedicated his life to his country and to this body.

For his entire adult life, Jimmy either served in the Armed Forces, in the U.S. House of Representatives or for the benefit of the House. He volunteered to serve in World War I, entering the Navy as an apprentice seaman and concluded his military service in 1959 as a rear admiral in the U.S. Naval Reserve. During his 42 years of service in the military, Jimmy saw action in both World Wars as well as in the Korean conflict.

He gave the same devotion to his duties in the House. Elected in 1939, Jimmy gave all he had to representing the 22d District of Pennsylvania, until he was recalled to active duty to serve with the Pacific Fleet in 1941. Undaunted by interruptions in his legislative career, Jimmy ran again when his active duty assignments were concluded, winning election to the House for eight more succeeding terms. And he didn't stop there. Following his years as a Member of Congress, Jimmy served voluntarily as the secretary of the Pennsylvania congressional delegation.

I am honored that I had the opportunity to work with Jimmy Van Zandt. His zest for life and love of work were inspirational. He had a smile and kind words for everyone. But he also had an intelligence and savvy that came from years of hard-won experiences. Those who would seek him out and listen to his advice, were always the better for it—and he certainly has a wealth of friends and colleagues here today who can testify to being richer for having known and worked with him.

Jimmy cared about mankind and he put every ounce of his almost limitless energies into helping his fellow man. He rarely asked for help for himself; instead he just gave and gave and gave. I am pleased that we are paying tribute to Jimmy today so that a small measure of what he gave to us can be given to remembering this brave and honorable man.

I know that his wife, Esther, and son, James II, are proud of him and loved him very much. I hope they can take consolation in knowing

that many of us share in that pride and affection.

Mr. GOODLING. Mr. Speaker, Recently, the State of Pennsylvania and our entire Nation lost a truly devoted public servant, Congressman James Van Zandt. Jimmy Van Zandt not only loved this Nation, but served it dutifully.

His entire life was devoted to service. Not only in Congress, but in World Wars I, II and the Korean war. After his retirement, he worked for Pennsylvania Governor Scranton and also served as secretary to the Pennsylvania delegation for a mere salary of $1 a year.

One story typifies his service. In 1954, Van Zandt was on the floor of Congress when several terrorists fired gunshots into the House Chamber. The Congressman crawled off the floor, ran up the steps to the gallery, and apprehended one of the gunmen.

This shows the type of devotion Jimmy Van Zandt gave to helping others. Throughout his career, and his entire life, he thought more of those he served than of himself. He will be dearly missed.

Mr. CLINGER. Every once in a while, a special kind of person comes along and touches our lives in a way that few others could ever hope to. Jimmie Van Zandt was one of those people.

His achievements and his service to his State, and to his Nation, are unique and will be mentioned many times today. I would simply like to say that if there were just a few more Jim Van Zandt's around today, this country would be an even more special place in which to live. Thank you Jimmie. We're going to miss you.

Mr. YATRON. Mr. Speaker, it is with great sadness that I join today in paying tribute to James E. Van Zandt, my friend and former colleague who served in the House of Representatives for 11 terms.

Jimmie's distinguished career in both the military and the House of Representatives serves as a model for all of us to emulate. He joined the Navy during his senior year at Altoona, PA, High School and served as a signalman aboard merchant convoys during World War I. Between the Wars, he remained in the Naval Reserve and became active in the Veterans of Foreign Wars—serving two terms as the Pennsylvania department commander and three terms as national commander. He returned to active duty in World War II and also served during the Korean conflict. Jimmie's military decorations included the Legion of Merit and the Bronze Star. After many years of tireless and dedicated service, he retired from the Naval Reserve as a rear admiral in 1959.

Jimmie's career in the House of Representatives was equally distinguished. He was first elected to the House in 1938 and served for 11 terms. In keeping with his strong commitment to our national security, he resigned from his position in 1943 to concentrate on his duties with the Navy. He returned to the House in 1946 and served until 1963. During his House career, Jimmie served as senior member of the House Armed Services Committee and as ranking Republican on the joint Committee on Atomic Energy. He was known as a forceful advocate for the VFW and other veterans' groups as well as a strong supporter of efforts to strengthen our national security.

I came to know Jimmie very well during his twenty years of service as Secretary of the Pennsylvania congressional delegation. From our work together, I learned that he was not only a dedicated public servant but also a warm, engaging and personable man whom I am honored to have called my friend. Jimmie's commitment to the interests of both Pennsylvania and our Nation was admirable and I know he was a source of inspiration to all of my colleagues. He will be sadly missed, but the goals and ideals which he stressed and his contributions to this institution and the further development of our Nation will always stand as his lasting achievement.

Mr. MONTGOMERY. Mr. Speaker, on January 6 we lost a former colleague and great American hero to cancer—Jimmie Van Zandt.

As many Members of this body know, Jimmie Van Zandt carved a nationally recognized reputation as a loyal champion of veterans' rights. Though I did not have the pleasure of serving with Jimmie during his tenure as a Member of Congress, I did have the privilege of witnessing his abilities, his knowledge, and his resolve as a spokesman for veterans.

November 30, 1983, marked the enactment of an appropriate and lasting tribute to Jimmie—legislation initiated by members of the Pennsylvania congressional delegation to name the VA hospital in Jimmie's hometown of Altoona, PA, the "James E. Van Zandt Veterans' Administration Medical Center" and which had received the unanimous nod of this Chamber was signed into law.

On July 21, 1984, the intent of Public Law 98-190 was carried out in a special ceremony on the hospital grounds at Altoona. It was said of Jimmie on that day: "Just as this structure—the hospital—* * * is supported by mortar and steel, this Nation is supported by a strong foundation comprised of courageous and proud individuals like Jimmie Van Zandt."

When you consider his valorous service in three wars, his able leadership of one of the Nation's most outstanding service organizations, Veterans of Foreign Wars, and his 22 years in the U.S. Congress, there is no more apt description of Jimmie Van Zandt's life than "inspiring."

Jimmie's life and works serve as beacons for all others who seek excellence in life's endeavors. His greatest characteristics—spirit, determination, loyalty, amiability—enabled him to achieve enviable success in all he did. It was the good fortune of those of us who knew him and worked with him to have crossed paths with such a good man. He will be greatly missed.

Mr. EDGAR. Mr. Speaker, the House was recently saddened with the news of the passing of our former great friend and colleague, Jimmie Van Zandt. Jimmie's life represented the best that America has to offer in service to country and dedication to the principles which have always kept our Nation strong and free.

Born on December 18, 1898, in Altoona, PA, Jimmie enlisted as an apprentice seaman in the U.S. Navy in April 1917. He retired, January 1, 1959 as a rear admiral in the U.S. Naval Reserve. He saw active duty in both world wars and the Korean conflict.

Jimmie was elected to the U.S. House of Representatives in 1938. He resigned his seat in 1943 to enter the U.S. Navy during World War II. After the war he was reelected to Congress in 1946 and served until 1963.

During his congressional career he served as a senior member of the House Armed Services Committee and was the ranking Republican member of the Joint Committee on Atomic Energy, the Veterans' Affairs Committee and Naval Affairs. He was also a member of the Corregidor Bataan Memorial Commission.

Following his retirement from the House, Jimmie continued to serve the people of the Commonwealth of Pennsylvania as a forceful and committed secretary to the Pennsylvania congressional delegation.

Mr. Speaker, Jimmie Van Zandt's career in service to the veterans of this Nation was remarkable and certainly unique. As a member of the House Veterans' Affairs Committee myself for the past 11 years, I remember well that he was an active and frequent visitor to our committee even following his retirement from the House. His love and concern for those who had served with him in three armed conflicts during this century knew no bounds. He was elected three times as National Commander-in-Chief of the Veterans of Foreign Wars of the United States and twice as Pennsylvania Department Commander of the VFW. He served as a member of the National Advisory Council on Veterans' Affairs of the U.S. Senate and as a member of the National Cemetery System Advisory Board of the Veterans' Administration. He was a member of the American Legion, the Veterans of World War I and Forty and Eight.

In 1983, it was my high honor as chairman of the House Veterans Affairs Subcommittee on Hospitals and Health Care to receive the request from Jimmie's beloved Department of Pennsylvania VFW to introduce legislation, H.R. 4294, to rename the VA Medical Center in Altoona, PA, Jimmie's home town, the "James E. Van Zandt Veterans' Administration Medical Center." The bill was unanimously endorsed by all federally chartered veterans organizations in Pennsylvania and the Pennsylvania congressional delegation. H.R. 4294 was approved by my subcommittee on November 3, 1983, passed by the House on November 8, the Senate on November 18 and was signed by the President of the United States on November 30, 1983.

Perhaps no greater lasting tribute could be made to Jimmie's lifetime of achievement and concern for the American veterans than to have his name perpetually associated in his home town and his congressional district with an institution dedicated to provide healing and comfort to those who have served and sacrificed so much in defense of this nation. Even though Jimmie has left us, the Van Zandt VA Medical Center will continue to promote the ideals and achievements of his outstanding life through love of country, recognition of service and the principles which have always kept America strong and free. He will be sorely missed. But his legacy will continue in Abraham Lincoln's words: "To care for him who shall have borne the battle and for his widow, and his orphan."

Mr. MURTHA. Mr. Speaker, when he died on January 6, we lost a friend, and we lost a man who had served in the highest traditions of Congress and the Nation.

Jimmy Van Zandt entered World War I in 1917. He served as a signalman aboard merchant convoys sailing between the United States and Europe. Later he would serve in World War II, in the North Atlantic during 1941 and 1942 while still serving in Congress. After resigning, he spent 3 years on active duty in the Pacific where he commanded landing craft. He also served in Korea during the conflict there, and retired from the Naval Reserve as a rear admiral in 1959.

His military decorations included the Legion of Merit and the Bronze Star.

Jimmy Van Zandt served 11 terms in the House of Representatives, beginning in 1938 and surrounding his military duty until 1962 when he resigned to run for the Senate. He also served three terms as commander of the Veterans of Foreign Wars.

My memories of Jimmy Van Zandt include his volunteer service as secretary of the Pennsylvania congressional delegation where he attended to the details of congressional delegation decisions. Moreover, he was a friend with whom I could exchange information about the military and the history of the House of Representatives. He brought a clear eye to present debates coupled with the experience of history and the continuing study and insight into present problems.

Jimmy Van Zandt's service to his country was in the highest tradition of what has made America the greatest country in the world.

Truly the citizen-soldier, truly the citizen-legislator, Jimmy Van Zandt left his mark on this world, and we can truly say our Nation is better for his presence.

Mr. MURPHY. Mr. Speaker, the residents of the Commonwealth of Pennsylvania and, indeed, the entire United States, suffered a great loss with the recent death of former Congressman James E. (Jimmie) Van Zandt.

Few Americans have acheived so much in just 87 short years on this Earth. His accomplishments are of legendary proportion. Three times the national commander of the Veterans' of Foreign Wars, 11 terms as A U.S. Congressman, service in both world wars and Korea, for which he was awarded the Legion of Merit and the Bronze Star. A dedicated husband, father, and public servant, Jimmie never stopped fighting for those less fortunate, less blessed, less able to help themselves.

My earliest memories of Jimmie take place, when as a boy growing up in the 1930's, my parents often took me to parades and public gathering where Jimmie was frequently called upon to be the speaker. A man possessed of limitless drive and energy, Jimmie would remain a lifelong champion of veterans' causes and an outspoken proponent of a strong national defense.

For more years than I care to recount, I considered Jimmie to be a friend and advisor. That friendship was cemented when, in 1976, I came to Congress as a freshman Member from Pennsylvania. Jimmie was already here serving our delegation and his advice and assistance to me proved invaluable. I will miss his wit, his wisdom, his energy, and his leadership.

So rare is a man who can and will dedicate his entire life to the betterment and service of his country and his God. Too few people are left to fill the void that Jimmie's passing has created.

Mr. KOSTMAYER. Mr. Speaker, I join my colleagues in the Pennsylvania delegation today to pay tribute to Jimmy Van Zandt.

Jimmy had such an extraordinary record of public service, Mr. Speaker.

He served in three wars, seeing active duty in World War I, World War II, and in Korea.

He interrupted his House career in 1943 to voluntarily go into active duty in the Navy.

After his active military career he became the senior member of the Armed Services Committee, and then national commander of the Veterans of Foreign Wars.

On a personal basis, Mr. Speaker, when I first came to Congress in 1977, Jimmy had been retired for 14 years, but he was still a leader in the Pennsylvania delegation. He had boundless energy, and was a real factor in getting the delegation together, and keeping us aware of important State issues. He was a help to new Members, and particularly in that year, 1977, when nine new Members from Pennsylvania arrived in Washington.

I will always remember Jimmy for his selfless contribution to the delegation and his infectious enthusiasm. I am grateful to have known Jimmy, and I join the many here today praising Jimmy Van Zandt for his tremendous service to his constituents and his country.

Mr. COYNE. Mr. Speaker, today, I would like to pay a special tribute to a former member of the Pennsylvania delegation, James Van Zandt. Jimmy Van Zandt died at the age of 87, on January 6, 1986, at his home in Alexandria, VA.

Although I never had the opportunity to serve in this body with Mr. Van Zandt, I first met Jimmy when I became a Member of the Pennsylvania delegation. Jimmy, at that time, was the secretary of the Pennsylvania delegation, a job which he held for years.

Not many of us will have such an illustrious career as Mr. Van Zandt. He was first elected to the House of Representatives in 1938, representing the city of Altoona, PA.

While he was a Member of the House, Jimmy Van Zandt enlisted in the Navy during World War II. He served 4 months in the Pacific and North Atlantic before he resigned his House seat in 1943. He then went on to serve 3 years of active duty in the Pacific. After World War II, he returned to the House in 1946 where he served until he retired in 1962.

The period from 1943–46 was only a brief part of Mr. Van Zandt's military life. He quit school during his senior year of high school and joined the Navy during World War I. Jimmy served as a signalman aboard a merchant cargo vessel traveling between the United States and Europe. He remained in the Naval Reserves after his time of duty and retired in 1959 with the rank of rear admiral. He was awarded the Legion of Merit and the Bronze Star.

During his tenure in the House, Jimmy Van Zandt sat on the Joint Atomic Energy Committee and was the ranking Republican on the House Armed Services Committee.

Jimmy Van Zandt also was credited with capturing one of four Puerto Rican gunmen who fired onto the House floor on March 1, 1954. During the incident, Jimmy was on the floor of the House. When the gunfire occurred, he crawled to the cloakroom, ran up the steps to the gallery and seized the terrorist.

I would like to thank my colleagues Mr. GAYDOS and Mr. SHUSTER for taking this time today to honor this man who unselfishly served his district, his State, and his Nation. I know that Jimmy Van Zandt will be dearly missed.

Mr. SHUSTER. Mr. Speaker, that concludes my special order eulogizing Congressman James Van Zandt.

GENERAL LEAVE

Mr. SHUSTER. Mr. Speaker, I ask unanimous consent that all Members may have permission to insert their remarks on the subject of this special order in tribute to our former colleague, Jimmie Van Zandt.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

FARMWORKERS ARE ENTITLED TO THE BASICS AS MUCH AS OTHER AMERICAN WORKERS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Pennsylvania [Mr. GAYDOS] is recognized for 60 minutes.

Mr. GAYDOS. Mr. Speaker, when the Occupational Safety and Health Act of 1970 was signed into law, those of us who were involved in its passage believed we had set a series of standards that would cover all workers in this country, regardless of the industry in which they were employed.

Unfortunately, through time, it hasn't worked exactly as we planned. One segment of industry, agriculture, but more specifically those persons engaging in the hand harvesting of fruits and vegetables, which is usually called stoop labor, appears to have been left out.

For more than 13 years, and through several administrations, America's farmworkers who do that hand harvesting have been left out of OSHA's coverage, suffering indignity, inconvenience, and higher incidences of disease due to a lack of basic sanitation facilities.

No other segment of the American work force has been forced to do without toilets, hand-washing provisions and drinking water on the job, regardless of whether they are working in the fields or in a factory.

America's construction workers work out of doors and they are afforded those basic sanitation necessities. Well, why aren't our farmworkers? Through those 13 years, even with the

support of the Federal court system, farmworkers have been unable to win support for those simple basics even though testimony by experts at OSHA hearings have shown that farmworkers face health risks many times greater than the general population.

Finally, the courts insisted that OSHA determine whether or not a field sanitation standard was necessary. In one of OSHA's darker moments, even in this administration, former Assistant Secretary of Labor for OSHA, Robert Rowland, told the court that the experts, even those hired by OSHA itself, were wrong and there was no need for a Federal field sanitation standard.

But Rowland even went a step further. He said that even if there were such a standard, OSHA neither could nor would enforce it.

Newly sworn Secretary of Labor Bill Brock said he was going to review the decision, but time ran out for the farmworkers when one court ruled that the lower court did not have jurisdiction in the case, thereby voiding years of effort and struggle.

Given that escape from the courts, Brock announced last September that a Federal field sanitation standard was not warranted, but should really be the responsibility of the individual States.

Brock did indicate that if those States in which hand harvesting took place did not develop acceptable standards within 18 months, he would take action on a Federal standard.

At this point in time, some 13 States have field sanitation standards of sorts. It is also evident that some of those State agencies assigned the responsibility of enforcing the State standards are either unable or unwilling to do so.

Because it is criminal for us not to act, to wait for another year or more while farmworkers' health is endangered because of a lack of basic sanitation facilities, I am introducing a bill to establish an occupational health and safety standard on field sanitation with respect to agricultural employees engaged in hand-labor operations.

The standard proposed in this bill closely parallels the standard proposed by OSHA to the Secretary of Labor in terms of the toilet facilities, hand washing and drinking water provisions.

This bill, however, does require the Secretary of Labor to submit to the Congress within 90 days after enactment of this measure a plan for the inspection of farms where the standard would apply. It also requires a report from the Secretary within 2 years of enactment on how the plan is working.

After more than 13 years of suffering untold indignities and disease, our farmworkers deserve the same rights that all other working Americans receive under the OSHA Act. They deserve no less if the integrity of the act is to be preserved.

□ 1600

With that, I urge my colleagues to examine the act very closely and hopefully, after they search their conscience, to join as a cosponsor so that we may conclude the hearings hopefully and bring this measure before the House for final determination and action. It is so small of an accommodation to so many people, and it is so fundamental that to me I feel chagrined that nothing has been done up until this time in this very sensitive and warranted area.

Mr. Speaker, I yield back the balance of my time.

SUNDRY MESSAGES FROM THE PRESIDENT

Sundry messages in writing from the President of the United States were communicated to the House by Mr. Saunders, one of his secretaries.

ABORTION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Georgia [Mr. SWINDALL] is recognized for 30 minutes.

Mr. SWINDALL. Mr. Speaker, it is significant that on Monday of this week, our Nation chose to pay tribute to a man who has come to symbolize this Nation's commitment to basic human and civil rights.

I think, however, Mr. Speaker, it is tragic that today, 2 days after that historic holiday, we find ourselves as a Nation ignoring the very declaration that Dr. King claimed in this same city in his now famous speech in 1963, that declaration being the declaration of our Founding Fathers that all men are created equal and that they are endowed by their Creator with certain unalienable rights, that among these are life, liberty, and the pursuit of happiness.

As we all know, on this same date in 1973, the Supreme Court, in the Roe versus Wade decision, held that the unborn were no longer entitled the basic civil and human rights because, according to that Supreme Court, they were not persons as defined by the Constitution. In the wake of that decision, I have an entirely new understanding of the frustration that Dr. King must have felt, and along with him, many of our black brothers and sisters back in the early 1960's when individual restaurateurs and owners of businesses contended that it was their choice as to whether or not they would honor the basic civil rights of our black brothers and sisters. I have a new understanding, Mr. Speaker, of the frustration that blacks prior to the Emancipation Proclamation must have felt when slaveowners in this country contended that it was their choice as to whether or not those blacks would be entitled to the basic freedoms that we all take for granted.

Yet, that is precisely the same argument that we hear throughout this land today, and that is that women in this country ought to have the choice with respect to the basic right to life of our unborn. I think that it is significant that by definition the word "unalienable," the word to which Dr. King referred, means that which cannot be given or taken away. It is alarming the similarity between the Dred Scott decision decided in 1857 and the Roe versus Wade decision decided in 1973, because at the crux of both of those decisions was first and foremost the fact that the Supreme Court was yielding to the economic and social pressures of the times.

For example, it is a well-documented fact of history that in 1857 when the Supreme Court reached the now notorious Dred Scott decision, concluded that blacks were not entitled to constitutional protection because they were not persons or citizens under their definition in their interpretation, or I might say rewriting of the Constitution, that there was tremendous social and economic pressure to keep that system in place. I think that it is equally ironic that the Chief Justice that wrote the majority opinion of the Court was an individual who claimed to be personally opposed to slavery.

How many times have I heard individuals say I am personally opposed to abortion, but it is certainly not the place of our Government to impose choice on us. Thank God that there were individuals back in 1857 that had the courage to read the rest of that declaration that states that the purpose of Government is to make absolutely certain that those unalienable rights are protected, and that if a government fails in its obligation, it is the obligation of the governed to alter or abolish that government, because I am confident that soon-to-be President Abraham Lincoln was mindful of that when in 1858, he ran for the U.S. Senate in Illinois and he argued against the spread of slavery. We all know that he lost that election, but 2 years later, he defeated the same individual in the race for the Presidency of the United States, and 3 years subsequent to that election, he signed the Emancipation Proclamation which led to the 13th amendment that reversed that tragic era of American history.

I am confident that President Lincoln understood that we in this Nation, fortunately, are not a democracy. We are rather a constitutional republic, which means that the majority never has the right simply because they majoritively so state to take any rights that are guaranteed by our Dec-

laration of Independence and our U.S. Constitution.

We recognized that with the passage of the 13th amendment. Yet, if we look today at the Roe versus Wade decision, we see that the same exact flawed logic that characterized the Dred Scott decision characterizes the Roe versus Wade decision.

Many have told me that the Roe versus Wade decision turned on the issue of the right of privacy of the mother. Yet a careful reading of that decision leads to the inescapable conclusion that the Court could not even reach the issue of the privacy until they first resolved the issue of the right to life, because that is a right that is protected far beyond privacy. We know that the way that they went through that issue was they said that our unborn are not persons as defined by the Constitution. In essence, they rewrote the Constitution in much the same fashion that the Dred Scott Court rewrote the Constitution.

I would submit that irrespective of how you feel on the issue of abortion, if you hold our Constitution to be a document that ought to escape the social and economic pressures of any given era, we cannot afford for the Roe versus Wade decision to stand.

I have heard many individuals say how do we know that the unborn are persons. I would say to those individuals that our Constitution says that we are all innocent until proven guilty. The fifth amendment says you may not deprive someone of their life until due process of law.

My question would be: Where is the due process for the 18 million who are not with us today because of the Roe versus Wade decision and the numerous decisions that have followed that have legalized abortion on demand in this country?

I have heard a number of individuals argue that these children are unwanted. Yet I would say to those individuals that they ask the wrong question. The more appropriate question would be unwanted by whom, because we now know that there are 10-year wait lists for infant children. People pay $40,000 to $50,000 on the black market for infant children.

It may well be true that the natural mother may not want that child, but it is certainly not true that that child is unwanted.

The recently deceased Francis Schaeffer, a theologian whom I had the privilege of hearing speak in 1972, the year before the Roe versus Wade decision, argued that if this Nation, the United States of America, were to legalize abortion on demand, that that would be followed necessarily by infanticide and euthanasia. Why? Because abortion is a statement that we no longer consider human life to be sacred.

As we devalue human life, necessarily a utilitarian perspective will dictate that infanticide and euthanasia will follow.

We now know that this very Congress debated a couple of years ago an issue as to whether or not parents acting in consultation with a physician would have the right during the child's first three days of life outside the womb to unilaterally terminate that life; that is, murder the child, if it did not fit within their definitional framework of life that is worth living.

□ 1615

Fortunately, that legislation fell. But we do know that infanticide exists in this country today. In Atlanta, the city that I have the privilege of representing, in 1983 we learned there were 14 certificates of live births signed at an abortion clinic in Atlanta, GA. You say, "Why would there be live births in an abortion clinic?" The reason was something went wrong in the abortion. These third-trimester abortions yielded forth live children.

Because those parents did not want that child and because the purpose of the operation, the cesarean, was to end not save the life, each of these children were allowed to die by suffocating in their own fluids.

I became personally sensitized to that issue last year, almost exactly a year ago, on January 4 of that year. I then had the privilege of seeing my wife give birth to my first daughter. Because my daughter was breech, it was necessary to have a cesarean.

During that cesarean I recognized that the procedure for that cesarean where we wanted the child was precisely the same procedure as a third-trimester abortion with one notable exception: In the third-trimester abortion, before the cesarean, there is an injection of saline designed to burn the baby to death. If it works, the child is delivered dead. If it fails, then the child is delivered mutilated, burned but not yet dead, until nature takes its course and the child suffocates.

I must confess to you that when you look at the personal side of abortion it is not a pretty picture. It is not an issue with which we want to deal, but it is a very human issue.

I also have grown to recognize the direct correlation, as we devalue human life, between infanticide abortion, and euthanasia, because in the utilitarian society that devaluates human life and places it captive to the relative subjective opinions of the majority, we find that regrettably those that are least fit are least likely to survive.

So naturally our elderly become potential victims. In fact, recently a western Governor actually made the statement that our elderly have an obligation to step aside because they have nothing to contribute to society.

Last Friday in USA Today, the founder of the Hemlock Society, Derek Humphry, was quoted in an interview as responding in the following manner to the question: "How do doctors feel about the proposal to legalize euthanasia in this country?" His response was, "It is going to be a very controversial piece of legislation, but as long as one-fourth or one-third of doctors agree with us, that is all that will be necessary."

It is like abortion, it will be a matter of conscience. This will give sanction to active, voluntary euthanasia of a dying person to request it. It is death by request; it is not murder, and it is not killing.

You see, the problem is we in this Nation have deteriorated to the point where we believe just because we make something legal it makes it right. But again I return to the definition of unalienable rights. Unalienable are those which the majority under our constitutional Government ought not to be able to take or to give. As long as the motto that is inscribed just above the Speaker's platform is inscribed there, I think we need to pause and ask precisely what we mean when we say, "In God we trust." I know this, that but for the affirmative act of abortion there would be 18 million young people alive in this country today.

As we reflect on the incredible and positive accomplishments of the last several decades in the area of civil and human rights for our black brothers and sisters, I would simply ask that we reflect further on the consequences of the Roe versus Wade decision and pay particular attention to the quote of our Founding Fathers where they said, "All men are created equal." Notice they did not say, "All are born equal;" a significant choice of words, because it was their intent that that basic right to life began from the moment of creation, not from the moment of birth.

Even our own Supreme Court in the Three Sisters decision concluded that the Founding Fathers, in writing the Declaration of Independence, knew precisely the words that they chose and chose them intentionally.

In this Nation it is imperative to recognize that there is one very fundamental and inescapable difference between the plight of our black brothers and sisters during the era of slavery and during the era of segregation, and the plight of our unborn who are being aborted at the rate of 1.5 million per year; and that is this: Our unborn do not have the ability to picket, to march, to protest, to write their Congressmen, to vote, and, most regrettably under the state of law in this country today, they do not have the right to life.

I thank the Speaker.

SIXTH SCIENCE AND TECHNOLOGY REPORT—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES

The SPEAKER pro tempore laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, without objection, referred to the Committee on Science and Technology:

(For message, see proceedings of the Senate of today, Wednesday, January 22, 1986.)

REPORT OF THE NATION'S PROGRESS IN AERONAUTICS AND SPACE DURING 1984—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES

The SPEAKER pro tempore laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, without objection, referred to the Committee on Science and Technology:

(For message, see proceedings of the Senate of today, Wednesday, January 22, 1986.)

REPORT OF THE NATIONAL SCIENCE BOARD ENTITLED "SCIENCE INDICATORS/THE 1985 REPORT"—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES

The SPEAKER pro tempore laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, without objection, referred to the Committee on Science and Technology:

(For message, see proceedings of the Senate of today, Wednesday, January 22, 1986.)

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. GEKAS) to revise and extend their remarks and include extraneous material:)

Mr. STRANG, for 30 minutes, January 28.

Mr. CONTE, for 30 minutes, January 23.

(The following Members (at the request of Mr. STENHOLM) to revise and extend their remarks and include extraneous material:)

Mr. ANNUNZIO, for 5 minutes, today.

Mr. MONTGOMERY, for 5 minutes, today.

Mr. VISCLOSKY, for 5 minutes, January 23.

Mr. RANGEL, for 60 minutes, January 28.

(The following Member (at the request of Mr. SHUSTER) to revise and extend his remarks and include extraneous material:)

Mr. SWINDALL, for 30 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mr. GEKAS) and to include extraneous matter:)

Mr. RUDD.
Mr. FISH.
Mr. BADHAM in two instances.
Mr. SHUMWAY.
Mr. SILJANDER in two instances.
Mr. KINDNESS.
Mr. GEKAS.

(The following Members (at the request of Mr. STENHOLM) and to include extraneous matter:)

Mr. GUARINI.
Mr. MURTHA.
Mr. ADDABBO.
Mr. COELHO.
Mr. MURPHY.
Mr. GEPHARDT.
Mr. WALGREN.
Mr. EDWARDS of California.
Mr. FASCELL in two instances.
Mr. MARKEY in two instances.
Mr. YATRON.
Mr. MICA.
Mr. STARK.
Mr. HUBBARD.
Mr. GARCIA.
Mr. STOKES.
Mr. COLEMAN of Texas.
Mr. MINETA.

ADJOURNMENT

Mr. GEKAS. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 4 o'clock and 25 minutes p.m.), the House adjourned until tomorrow, Thursday, January 23, 1986, at 11 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

2557. A letter from the Secretary of State, transmitting the President's determination that the Government of Jamaica is sufficiently responsive to U.S. Government concerns on drug control for continuation of assistance, pursuant to Public Law 99-190, section 537; to the Committee on Appropriations.

2558. A letter from the Director, Defense Security Assistance Agency, transmitting notification of the Department of the Air Force's proposed letters of offer to Korea for defense articles and services, pursuant to 10 U.S.C. 133b (96 Stat. 1288); to the Committee on Armed Services.

2559. A letter from the Director, Defense Security Assistance Agency, transmitting notification of the Department of the Air Force's proposed letters of offer to Turkey for defense articles and services, pursuant to 10 U.S.C. 133b (96 Stat. 1288); to the Committee on Armed Services.

2560. A letter from the National Security Advisor, Executive Office of the President, transmitting a report on the implication of Soviet treaty violations, pursuant to title X, section 1001, 1986 Defense Department Authorization Act; to the Committee on Armed Services.

2561. A letter from the Treasurer of the United States, transmitting the final report relating to the minting of 1984 Los Angeles Olympic games' coins, pursuant to Public Law 97-220, section 11; to the Committee on Banking, Finance and Urban Affairs.

2562. A letter from the Chairman, Export-Import Bank of the United States, transmitting a report on loan, guarantee, and insurance transactions supported by Eximbank during November 1985 to Communist countries, pursuant to section 620(f) of the Foreign Assistance Act of 1961; to the Committee on Banking, Finance and Urban Affairs.

2563. A letter from the Chairman, Council of the District of Columbia, transmitting D.C. Act 6-124, "Wastewater System Regulation Amendment Act of 1985," and report, pursuant to Public Law 93-198, section 602(c); to the Committee on the District of Columbia.

2564. A letter from the Secretary of Education, transmitting a report on final regulations in connection with the administration of the Handicapped Special Studies Programs, pursuant to GEPA, section 431(d)(1) (88 Stat. 567; 90 Stat. 2231; 95 Stat. 453); to the Committee on Education and Labor.

2565. A letter from the Secretary of Education, transmitting a report on the activities of centers on educational media and materials for the handicapped, pursuant to Public Law 91-230, section 653(c) (89 Stat. 759); Public Law 96-88, section 207; to the Committee on Education and Labor.

2566. A letter from the Administrator, Office of Juvenile Justice and Delinquency Prevention, Department of Justice, transmitting the first annual missing children's summary; to the Committee on Education and Labor.

2567. A letter from the Administrator, National Aeronautics and Space Administration, transmitting a report on research, technology, and monitoring of the stratosphere, pursuant to CAA, section 154(b) (91 Stat. 728); to the Committee on Energy and Commerce.

2568. A letter from the Director, Defense Security Assistance Agency, transmitting notification of the Department of the Air Force's intent to issue letters of offer to sell certain defense articles and services to Turkey, pursuant to 22 U.S.C. 2776(b); to the Committee on Foreign Affairs.

2569. A letter from the Director, Defense Security Assistance Agency, transmitting notification of the Department of the Air Force's intent to issue letters of offer to sell certain defense articles and services to Korea, pursuant to 22 U.S.C. 2776(b); to the Committee on Foreign Affairs.

2570. A letter from the Director, Defense Security Assistance Agency, transmitting notification of the Department of the Navy's proposed letters of offer to Korea to sell certain defense articles and services,

pursuant to 22 U.S.C. 2776(b); to the Committee on Foreign Affairs.

2571. A letter from the Assistant Secretary for Legislative and Intergovernmental Affairs, Department of State, transmitting a report on gifts by the U.S. Government to foreign individuals, pursuant to 22 U.S.C. 2694(2); to the Committee on Foreign Affairs.

2572. A letter from the Secretary of State, transmitting an interim report concerning the status of discussions with Mexico aimed at reducing impediments to intransit truck trade, pursuant to Public Law 99-83, section 717(c) (99 Stat. 247); to the Committee on Foreign Affairs.

2573. A letter from the Chairman, Agency for International Development, transmitting a report on the southern Africa regional programs, pursuant to Public Law 99-83, section 802(b)(3) (99 Stat. 261); to the Committee on Foreign Affairs.

2574. A letter from the Comptroller General, General Accounting Office, transmitting a list of all GAO reports issued during the month of December 1985, pursuant to 31 U.S.C. 719(h); to the Committee on Government Operations.

2575. A letter from the Acting Assistant Secretary for Health, Department of Health and Human Services, transmitting a report on a new system of records entitled, "National Medical Expenditure Survey, HHS/OASH/NCHSR," pursuant to 5 U.S.C. 552a(o); to the Committee on Government Operations.

2576. A letter from the Acting Assistant Secretary for Health, Department of Health and Human Services, transmitting a report on a new system of records in Lexington, KY, for patient records of the mentally ill, pursuant to 5 U.S.C. 552a(o); to the Committee on Government Operations.

2577. A letter from the Administrator, Agency for International Development, transmitting an evaluation of compliance with the requirements of the internal accounting and administrative control system, pursuant to 31 U.S.C. 3512(c)(3); to the Committee on Government Operations.

2578. A letter from the Executive Director, Neighborhood Reinvestment Corporation, transmitting a report on activities under the Freedom of Information Act, pursuant to 5 U.S.C. 552(d) to the Committee on Government Operations.

2579. A letter from the Clerk, U.S. Claims Court, transmitting a certified copy of the court's judgment order in *The Navajo Tribe of Indians* v. *The United States;* to the committee on Interior and Insular Affairs.

2580. A letter from the Administrator, Panama Canal Commission, transmitting the financial statements on maintenance and operation of the canal, pursuant to Public Law 96-70, section 1312; to the Committee on Merchant Marine and Fisheries.

2581. A letter from the Chairman, Merit Systems Protection Board, transmitting the sixth annual report of the Merit systems Protection Board, pursuant to 5 U.S.C. 1209(b); to the Committee on Post Office and Civil Service.

2582. A letter from the Secretary of Transportation, transmitting a report on the enforcement of vehicle weight limitations, pursuant to 23 U.S.C. 141 nt.; to the Committee on Public Works and Transportation.

2583. A letter from the Acting Administrator, National Aeronautics and Space Administration, transmitting a waiver of minimum funding and staffing requirements for a technology transfer from Federal laboratories, pursuant to Public Law 96-480, section 11(b); to the Committee on Science and Technology.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. PEPPER. Committee on Rules. House Resolution 357. Resolution providing for the consideration of H.R. 2443, a bill to limit the number of days a depository institution may restrict the availability of funds which are deposited in any account (Rept. No. 99-463). Referred to the House Calendar.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. BIAGGI:

H.R. 4024. A bill to amend the Merchant Marine Act, 1936; to the Committee on Merchant Marine and Fisheries.

By Mr. COLEMAN of Texas (for himself, Mr. HOYER, and Mr. BOUCHER):

H.R. 4025. A bill to amend part C of the Balanced Budget and Emergency Deficit Control Act of 1985 to provide that cost-of-living increases in benefits under the civil service, military, and Postal Service retirement and disability programs shall be exempt from reduction pursuant to sequestration orders thereunder; to the Committee on Government Operations.

By Mr. FAUNTROY:

H.R. 4026. A bill to amend the U.S. Housing Act of 1937 to encourage resident management of public housing; to the Committee on Banking, Finance and Urban Affairs.

By Mr. FAUNTROY (for himself, Mr. DELLUMS, Mr. MCKINNEY, Mr. BARNES, and Mr. BLILEY):

H.R. 4027. A bill extending the waiver authority of the District of Columbia Revenue Bond Act of 1985 to certain revenue bond acts of the District of Columbia, and for other purposes; to the Committee on the District of Columbia.

By Mr. FAUNTROY (for himself and Mr. DELLUMS):

H.R. 4028. A bill to eliminate Federal coverage concerning the political activities of District of Columbia Government employees and to authorize the District of Columbia Council to enact legislation regarding the political activities of such individuals; jointly, to the Committees on Post Office and Civil Service and the District of Columbia.

By Mr. GAYDOS:

H.R. 4029. A bill to establish an occupational health and safety standard on field sanitation with respect to agricultural employees engaged in hand-labor operations; to the Committee on Education and Labor.

By Mr. GEJDENSON:

H.R. 4030. A bill to provide financial assistance to State and local educational agencies for the development and expansion of demonstration chemical substance abuse prevention programs in the public elementary and secondary schools of such agencies, and for other purposes; to the Committee on Education and Labor.

By Ms. MIKULSKI:

H.R. 4031. A bill to amend the Internal Revenue Code of 1954 to delay the inclusion in gross income of interest on certain deposits which are subject to withdrawal restrictions by reason of the bankruptcy or insolvency of the financial institution or of a State requirement related to such a bankruptcy or insolvency; to the Committee on Ways and Means.

By Mr. MONTGOMERY (by request):

H.R. 4032. A bill to amend title 38, United States Code, to extend the required period for submission of a report on special pay for Veterans' Administration physicians and dentists; to the Committee on Veterans' Affairs.

By Mrs. SCHROEDER (for herself, Mr. HORTON, Mr. DYMALLY, Mr. ACKERMAN, Mr. FRANK, Mr. MCKERNAN, Mr. HOWARD, Mr. AKAKA, Mr. BARNES, Mr. FAZIO, Mr. GRAY of Pennsylvania, Mr. MATSUI, Mr. FOGLIETTA, Mr. GEJDENSON, Mr. HOYER, Mrs. BOXER, Mr. WHEAT, Mr. EVANS of Illinois, Mrs. BURTON of California, Mr. MCCLOSKEY, Mr. SIKORSKI, Mr. RICHARDSON, and Mr. VENTO):

H.R. 4033. A bill to amend title 5, United States Code, to strengthen the protections available to Federal employees against prohibited personnel practices, and for other purposes; to the Committee on Post Office and Civil Service.

By Ms. SNOWE (for herself, Mr. BOEHLERT, Mr. WORTLEY, Mr. GALLO, Mrs. JOHNSON, Mr. CONTE, Mr. MARTIN of New York, Mr. MCKERNAN, Mr. CLINGER, and Mr. MCKINNEY):

H.R. 4034. A bill to extend the trade adjustment assistance programs until September 30, 1989; to the Committee on Ways and Means.

By Mrs. BOXER (for herself, Ms. SNOWE, Ms. MIKULSKI, Ms. OAKAR, Mrs. LONG, Mrs. BURTON of California, Mrs. COLLINS, Mrs. JOHNSON, Mrs. SCHROEDER, Mrs. MEYERS of Kansas, Mrs. KENNELLY, Ms. KAPTUR, Mr. WAXMAN, Mr. EVANS of Illinois, Mr. HOYER, Mr. MATSUI, Mr. HAYES, Mr. WEAVER, Mr. YATES, Mr. WEISS, Mr. KASTENMEIER, Mr. HORTON, Mr. UDALL, Mr. RAHALL, Mr. LANTOS, Mr. OWENS, Mr. COOPER, Mr. RODINO, Mr. FAZIO, Mr. CROCKETT, Mr. SAVAGE, Mr. BARNES, Mr. ANDREWS, Mr. CARR, Mr. SCHEUER, Mr. FASCELL, Mr. BOUCHER, Mr. HOWARD, Mr. MANTON, Mr. GEPHARDT, Mr. LELAND, Mr. DIXON, Mr. ALEXANDER, Mr. JACOBS, Mr. CHANDLER, Mr. ROE, Mr. FUSTER, Mr. LEVINE of California, Mr. MORRISON of Connecticut, Mrs. HOLT, Mr. HEFTEL of Hawaii, Mr. VENTO, Mr. BOSCO, Mr. DYMALLY, Mr. REID, Mr. DAUB, Mr. MCHUGH, Mr. ADDABBO, Mr. MCKERNAN, Mr. GEJDENSON, Mr. WOLPE, Mr. BRYANT, Mr. DORGAN of North Dakota, Mr. BEDELL, Mr. MRAZEK, Mr. GUNDERSON, Mr. VOLKMER, Mr. SMITH of Florida, Mr. MITCHELL, Mr. WILSON, Mr. PURSELL, Mr. MINETA, Mr. BOEHLERT, Mr. MILLER of Washington, Mr. MCEWEN, Mr. HUGHES, Mr. DWYER of New Jersey, Mr. LAGOMARSINO, Mr. FISH, Mr. EDGAR, Mr. LAFALCE, Mrs. MARTIN of Illinois, Mr. LUNGREN, Mr. GRAY of Illinois, Mr. DASCHLE, Mr. MOODY, Mr. LEWIS of California, Mr. SYNAR, Mr. PASHAYAN, Mr. DOWDY of Mississippi, Mr. AUCOIN, Mr. MARTI-

NEZ, Mr. MCKINNEY, Mr. EMERSON, Mr. HARTNETT, Mr. KASICH, Mr. RINALDO, Mrs. SMITH of Nebraska, Mr. DANNEMEYER, Mr. FOGLIETTA, Mr. MOORE, Mr. DELLUMS, Mr. REGULA, Mr. FRANK, Mr. CONYERS, Mr. WHEAT, Mr. FRENZEL, Mr. SIKORSKI, Mrs. BENTLEY, Mr. RICHARDSON, and Mr. NIELSON of Utah):

H.J. Res. 499. Joint resolution designating the week beginning March 2, 1986, as "Women's History Week"; to the Committee on Post Office and Civil Service.

By Mr. DREIER of California:

H. Res. 358. Resolution commending the President for the measures taken by him to discourage terrorism from Libya and supporting the pledge of the President to take further steps if Qadhafi continues to support terrorism; to the Committee on Foreign Affairs.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 471: Mr. COMBEST.

H.R. 598: Mr. SAXTON and Mr. PURSELL.

H.R. 604: Mr. MRAZEK.

H.R. 679: Mr. DELAY and Mr. MOODY.

H.R. 796: Mr. HOWARD and Mr. JEFFORDS.

H.R. 864: Mr. BATEMAN and Mr. WEBER.

H.R. 1309: Mr. GUARINI, Mr. PENNY, and Mr. CROCKETT.

H.R. 1398: Mr. GRAY of Pennsylvania and Mr. GAYDOS.

H.R. 2157: Mr. COATS, Mr. RITTER, Mr. SILJANDER, and Mr. PURSELL.

H.R. 2571: Mr. ARCHER.

H.R. 3006: Mr. SYNAR.

H.R. 3024: Mrs. SCHNEIDER, Mr. LOWRY of Washington, Mr. COMBEST, Mr. DERRICK, and Mr. NICHOLS.

H.R. 3041: Mr. ANTHONY, Mr. DE LA GARZA, Mr. DOWDY of Mississippi, Mr. DURBIN, Mr. EDGAR, Mr. ENGLISH, Mr. FLIPPO, Mr. HEFNER, Mr. JENKINS, Ms. KAPTUR, Mr. LEATH of Texas, Mr. LOWRY of Washington, Mr. MCCURDY, Mr. MAVROULES, Mr. MOLLOHAN, Mr. ROSE, Mrs. SCHROEDER, Mr. SHAW, Mr. SEIBERLING, Mr. SMITH of Iowa, Mr. SPENCE, Mr. STUDDS, Mr. TRAXLER, Mr. WATKINS, Mr. WHITLEY, and Mr. WISE.

H.R. 3180: Mr. MCKINNEY and Mr. LOEFFLER.

H.R. 3201: Mr. MCCAIN, Mr. DASCHLE, Mr. MILLER of Washington, and Ms. SNOWE.

H.R. 3297: Mr. KRAMER.

H.R. 3645: Mr. DASCHLE.

H.R. 3690: Mr. BARNES.

H.R. 3730: Mr. HOYER, Mr. RANGEL, Mr. EDWARDS of California, Mr. MARTINEZ, and Mr. CROCKETT.

H.J. Res. 244: Mr. SOLARZ, Mrs. LONG, Mr. DOWNEY of New York, Mr. ROBINSON, Mr. MOLLOHAN, Mr. MARTIN of New York, and Mr. FISH.

H.J. Res. 254: Mr. JONES of North Carolina, Mr. GEKAS, Mr. PANETTA, Mr. FUSTER, Mr. VENTO, Mr. FOGLIETTA, Mrs. LLOYD, Mr. COOPER, Mr. LIVINGSTON, Mr. LELAND, Mr. BIAGGI, Mrs. JOHNSON, Mr. MOORE, Mr. DENNY SMITH, Mr. SAVAGE, Mr. ROBERT F. SMITH, Mr. ROYBAL, Mr. VANDER JAGT, Mr. LEWIS of California, Mr. KANJORSKI, Mr. GILMAN, Mr. CONYERS, Mr. TAUKE, Mr. AUCOIN, Mr. LOTT, Mr. ROEMER, Mr. HEFNER, Mr. TAUZIN, Mr. BOEHLERT, Mr. HOPKINS, Mr. STUMP, Mr. QUILLEN, Mr. MCCOLLUM, Mr. BREAUX, Mr. TALLON, Mr. SISISKY, Mr. MILLER of Washington, Mrs. BOGGS, Mr. PASHAYAN, Mr. BOUCHER, and Mr. WILSON.

H.J. Res. 356: Mr. OWENS, Ms. KAPTUR, and Mr. HENDON.

H.J. Res. 410: Mr. BONER of Tennessee, Mr. YOUNG of Alaska, Mr. SCHAEFER, Mr. ROWLAND of Georgia, Mr. YATES, Mr. HAYES, Mr. HORTON, Mr. DAUB, Mr. FAZIO, Mr. AKAKA, Mr. DORNAN of California, Mr. YOUNG of Missouri, Mr. ACKERMAN, Mr. DE LUGO, Mr. LEVIN of Michigan, Mr. RAHALL, Mr. STRANG, Mr. WEISS, Mr. CROCKETT, Mr. FUQUA, Mr. RANGEL, Mrs. COLLINS, Mr. MORRISON of Washington, Mr. REID, Mr. HUGHES, Mr. WIRTH, Mr. DASCHLE, and Mr. MCKINNEY.

H. Con. Res. 209: Mr. GILMAN.

H. Con. Res. 217: Mr. NIELSON of Utah.

PETITIONS, ETC.

Under clause 1 of rule XXII,

267. The SPEAKER presented a petition of the Working Circle Hopi, Austria and Germany, relative to the Navajo and Hopi Indians; which was referred to the Committee on Interior and Insular Affairs.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 2443

By Mr. MCCOLLUM:

—Page 6, line 24, after "with respect to" insert "all".

By Mr. SHUMWAY:

—Strike all after the enacting clause and insert in lieu thereof the following:

SHORT TITLE

SEC. 1. This Act may be cited as the "Fair Deposit Availability Act of 1986".

DEFINITIONS

SEC. 2. As used in this Act—

(1) the term "depository institution" means—

(A) Any insured bank or domestic branch as defined in section 3 of the Federal Deposit Insurance Act or any bank which is eligible to make application to become an insured bank under section 5 of such Act, other than a foreign bank having an insured or uninsured branch;

(B) any mutual savings bank as defined in section 3 of the Federal Deposit Insurance Act or any bank which is eligible to make application to become an insured bank under section 5 of such Act;

(C) any savings bank as defined in section 3 of the Federal Deposit Insurance Act or any bank which is eligible to make application to become an insured bank under section 5 of such Act;

(D) any insured credit union as defined in section 101 of the Federal Credit Union Act or any credit union which is eligible to make application to become an insured credit union pursuant to section 201 of such Act;

(E) any member as defined in section 2 of the Federal Home Loan Bank Act; and

(F) any insured institution as defined in section 401 of the National Housing Act or any institution which is eligible to make application to become an insured institution under section 403 of such Act;

(2) the term "deposit account" means an account in a depository institution on which the account holder is permitted to make withdrawals by negotiable or transferable instruments, payment orders of withdrawal, telephone transfers, or other similar items for the purpose of making payments or transfers to third persons or others. Such term includes demand deposit accounts, negotiable order of withdrawal accounts, share draft accounts, savings, deposits, and share accounts. Such term does not include time deposits;

(3) the term "Board" means the Board of Governors of the Federal Reserve System; and

(4) the term "check or similar instrument" means a check, negotiable order of withdrawal, share draft, money order, or similar instrument, but does not include noncash items.

DISCLOSURE OF FUND AVAILABILITY POLICIES

SEC. 3. (a) Before opening a deposit account, a depository institution shall provide a written disclosure to the potential customer of its general policy with respect to when a customer may withdraw funds deposited by check or similar instrument into the customer's deposit account. A depository institution also shall provide a written disclosure to the potential customer of all fees and charges that can be assessed against deposit accounts. In the case of a deposit account which was opened prior to the effective date of this section, the depository institution shall include such disclosure with the first regularly scheduled mailing pertaining to the account which occurs after such effective date (but not later than 90 days after such effective date) unless the depository institution has provided a disclosure which meets the requirements of this section prior to such effective date.

(b) Each depository institution shall—

(1) post at each location where its employees receive deposits a clear and conspicuous notice setting forth its general policy with respect to when a customer may withdraw funds deposited by check or similar instrument; and

(2) mail at least annually a brief reminder with respect to an account that deposits by check or similar instrument may not be available for immediate withdrawal.

(c) Each owner of an automatic or electronic terminal shall provide at each terminal location where deposits may be made a brief reminder that deposits by check or similar instrument may not be available for immediate withdrawal.

(d) Any change to a depository institution's general policy with respect to when a customer may withdraw funds deposited by check or similar instrument into the customer's deposit account, or any change in the fees and charges to be assessed against a deposit account other than a change which expedites the availability of such funds, may take effect only after the depository institution has provided notice of such changes to the customer.

(e) Each depository institution shall provide disclosure, consistent with the disclosures required under subsection (a), by telephone of its general policy with respect to when a customer may withdraw funds deposited by check or similar instrument into a customer's account upon the telephone request of any person.

(f) The Board shall prescribe regulations to carry out this section. These regulations may contain such definitions, classifications, differentiations, or other provisions, and may provide for such adjustments and exceptions for any class of transactions, as the Board determines are necessary to effectuate the purposes of this section, to prevent circumvention or evasion of this section, or to facilitate compliance with this section. The regulations of the Board shall require all disclosures, statements, and notices pro-

vided to be clear and conspicuous and in language that can be readily understood.

(g) A depository institution that does not begin to compute interest or dividends on funds deposited by check or similar instrument to an interest bearing deposit account or a time deposit on or before the date on which the depository institution receives provisional credit for the deposit (or if provisional credit is given on a nonbusiness day, the next business day) shall provide a written disclosure, within the time periods required under subsection (a), with respect to when the institution begins to compute interest on such funds.

(h) The Board shall publish model disclosure forms and clauses for common transactions to facilitate compliance with the disclosure requirements of this section and to aid customers by utilizing readily understandable language. Nothing in this Act requires the use of any such model form or clause prescribed by the Board under this section. A depository institution shall be deemed to be in compliance with the provisions of this section if it (1) uses any appropriate model form or clause as published by the Board, or (2) uses any such model form or clause and changes it by (A) deleting any information which is not required by this Act, or (B) rearranging the format.

(i) Model disclosure forms and clauses shall be adopted by the Board after notice duly given in the Federal Register and an opportunity for public comment in accordance with section 553 of title 5, United States Code.

INTEREST ON DEPOSITS

SEC. 4. For the purpose of computing the amount of interest or dividends payable with respect to an interest bearing deposit account or a time deposit, a depository institution may not delay beginning to compute interest on funds deposited by check or similar instrument to such an account beyond the date on which that depository institution receives provisional credit for the check or similar instrument (or if provisional credit is given on a nonbusiness day, on the next business day) unless the computation of interest begins at a later date for all deposits, including cash deposits, made to the account or deposit. Nothing in this section requires the payment of interest with respect to funds deposited by check or similar instrument which is returned unpaid.

IMPROVED CLEARING PROCEDURES

SEC. 5. (a) Not later than 18 months after the date of enactment of this Act, the Board shall publish for comment a regulation for the purpose of improving the check clearing system used by depository institutions by expediting the process for returning checks or other means in order to achieve the goal of—

(1) making deposits of funds by check or similar instrument drawn on local depository institutions available for withdrawal upon the expiration of one business day after deposit, and

(2) making deposits of funds by check or similar instrument drawn on other depository institutions available for withdrawal upon the expiration of three business days after deposit. This subsection does not apply to any check or similar instrument which poses a serious risk of loss to a depository institution.

(b) In prescribing the regulation under subsection (a), the Board shall consider—

(1) adopting a uniform endorsement standard;

(2) providing for direct notification of returning checks and similar instruments to the depository institution of first deposit;

(3) providing for direct return of checks and similar instruments to the depository institution of first deposit;

(4) providing for return of all checks and similar instruments through the Federal Reserve System's clearinghouse;

(5) extending limits for returns;

(6) establishing schedules for the availability of funds deposited by checks and similar instruments;

(7) prescribing the availability of funds deposited by checks and similar instruments based on the nature of the account to which the deposit was made or the nature of the account holder;

(8) the use of electronic means of collecting and returning checks;

(9) providing for check truncation;

(10) the establishment of an automated return system;

(11) charging a depository institution based upon notification that a check or similar instrument will be presented for payment;

(12) creating incentives for depository institutions to return unpaid items promptly to the depository institution of first deposit; and

(13) keeping the costs of any improvements to be implemented to a minimum.

(c) The regulation prescribed under subsection (a) shall become effective not later than 36 months after the date of enactment of this section. Each depository institution shall comply with the provisions of such regulation.

(d) The Board shall establish an Expedited Funds Availability Council (hereinafter referred to as the "Council") to advise and consult with the Board in the exercise of its functions under this section. The Council shall consist of—

(1) the Comptroller of the Currency or his delegate;

(2) the Chairman of the Federal Deposit Insurance Corporation or his delegate;

(3) the Chairman of the Federal Home Loan Bank Board or his delegate;

(4) the Chairman of the National Credit Union Administration Board or his delegate;

(5) two members of the Consumer Advisory Council designated by the Board;

(6) one representative from the users of payment systems services; and

(7) one representative from the providers of payment systems services in competition with the services offered by the Federal Reserve System.

The Council shall meet from time to time at the call of the Board.

AVAILABILITY OF CERTAIN FUNDS

SEC. 6. The Secretary of the Treasury shall by regulation require that funds deposited by a check drawn on the Treasury of the United States, which is first endorsed for deposit by a customer who has an established relationship, as defined by the Board, with the depository institution shall be available for withdrawal by that customer not later than the date when the depository institution is given provisional credit for that check or, if provisional credit is given on a nonbusiness day, on the next business day.

ADMINISTRATIVE ENFORCEMENT

SEC. 7. (a) Compliance with the requirements imposed under this Act shall be enforced under—

(1) section 8 of the Federal Deposit Insurance Act in the case of—

(A) national banks, by the Comptroller of the Currency;

(B) member banks of the Federal Reserve System (other than national banks), by the Board; and

(C) banks insured by the Federal Deposit Insurance Corporation (other than members of the Federal Reserve System and Federal savings banks), by the Board of Directors of the Federal Deposit Insurance Corporation;

(2) section 5(d) of the Home Owner's Loan Act of 1933, section 407 of the National Housing Act, and section 17 of the Federal Home Loan Bank Act, by the Federal Home Loan Bank Board (acting directly or through the Federal Savings and Loan Insurance Corporation), in the case of any institution subject to any of those provisions; and

(3) the Federal Credit Union Act, by the Administrator of the National Credit Union Administration with respect to any Federal credit union or insured credit union.

(b) For the purpose of the exercise by any agency referred to in subsection (a) of this section of its powers under any Act referred to in that subsection, a violation of any requirement imposed under this Act shall be deemed to be a violation of a requirement imposed under that Act. In addition to its powers under any provision of law specifically referred to in subsection (a) of this section, each of the agencies referred to in that subsection may exercise, for the purpose of enforcing compliance with any requirement imposed under this Act, any other authority conferred on it by law.

(c) Except to the extent that enforcement of the requirements imposed under this Act is specifically committed to some other Government agency under subsection (a) of this section, the appropriate State regulatory authority shall enforce such requirements.

(d) The authority of the Board to issue regulations under this Act does not impair the authority of any other authority designated in this section to make rules respecting its own procedures in enforcing compliance with requirements imposed under this Act.

CIVIL LIABILITY

SEC. 8. (a) Except as otherwise provided in this section, any depository institution which fails to comply with any requirement imposed under section 3 (other than subsection (e)), 4, or 6 with respect to any person is liable to such person in an amount equal to the sum of—

(1) any actual damage sustained by such person as a result of the failure;

(2)(A) in the case of an individual action such additional amount as the court may allow, except that the liability under this subparagraph shall not be less than $50 nor greater than $500; or

(B) in the case of a class action, such amount as the court may allow, except that as to each member of the class no minimum recovery shall be applicable, and the total recovery under this subparagraph in any class action or series of class actions arising out of the same failure to comply by the same depository institution shall not be more than the lesser of $500,000 or 1 per centum of the net worth of the depository institution; and

(3) in the case of any successful action to enforce the foregoing liability, the costs of the action, together with a reasonable attorney's fee as determined by the court.

In determining the amount of award in any class action, the court shall consider, among

other relevant factors, the amount of any actual damages awarded, the frequency and persistence of failures of compliance, the resources of the depository institution, the number of persons adversely affected, and the extent to which the failure of compliance was intentional.

(b) A depository institution may not be held liable in any action brought under this section for a violation of section 3, 4, or 6 if the violation was not intentional and resulted from a bona fide error notwithstanding the maintenance of procedures reasonably adapted to avoid any such error. Examples of a bona fide error include, but are not limited to, clerical, calculation, computer malfunction and programming, and printing errors, except that an error of legal judgment with respect to a person's obligations under this Act is not a bona fide error.

(c) Any action under this section may be brought in any United States district court, or in any other court of competent jurisdiction, within one year from the date of the occurrence of the violation.

(d) No provision of this section imposing any liability shall apply to any act done or omitted in good faith in conformity with any rule, regulation, or interpretation thereof by the Board or in conformity with any interpretation or approval by an official or employee of the Federal Reserve System duly authorized by the Board to issue such interpretations or approvals under such procedures as the Board may prescribe therefor, notwithstanding that after such act or omission has occurred, such rule, regulation, interpretation, or approval is amended, rescinded, or determined by judicial or other authority to be invalid for any reason.

EFFECT ON CHECK ACCEPTANCE POLICIES AND OTHER LAWS

SEC. 9. (a) Nothing in this Act—

(1) prevents a depository institution, in accordance with the policy of such depository institution, from making funds available for withdrawal in a shorter period of time than is provided in this Act or in regulations adopted by the Board; and

(2) affects a depository institution's right—

(A) to accept or reject a check for deposit; or

(B) if a check for deposit and the depository institution has made provisional settlement with the depositor, pursuant to law to—

(i) revoke the provisional settlement given by the depository institution;

(ii) charge back the depositor's account; or

(iii) claim a refund of such provisional credit.

(b) Except as provided in subsection (a), the provisions of this Act or the regulations of the Board prescribed under this Act shall supersede the provisions of any State law which the Board determines to be inconsistent with the provisions of this Act or such regulation, but only to the extent of the inconsistency.

IMPROVING PAYMENT MECHANISMS

SEC. 10. Not later than one year after the implementation of any regulations under section 5 of this Act, the Board shall prepare a study and submit its findings to the Congress on the effect of improvements and changes in the payment system, including—

(1) the effect of the changes made by section 5 of this Act, and the advisability and feasibility of further changes;

(2) an assessment of improvements that can be made in the check collection system, including improved procedures for the return of unpaid items, reduction of costs, reduction in the number of returned checks, greater speed and efficiency in the check collection and return system, utilization of more efficient technology, and parity of treatment of depository institutions; and

(3) an assessment of the use of electronics in payments and of the need for improvements in the way the payments system provides services so as to insure efficient and affordable services, including the possible development of additional electronic services.

EFFECTIVE DATE

SEC. 11. Except as provided in section 5, this Act takes effect upon the expiration of twelve months following its enactment.

—On Page 18, line 15, add a new subsection (h) to section 5 as follows:

"(h) Sections 3(b), 4(c) and 4(d) shall not apply to a check if the receiving depository institution reasonably believes that the drawer or drawee of the check has become, or is about to become, subject to bankruptcy, receivership or similar proceeding, or when the receiving depository institution reasonably believes that a situation involving fraud or kiting exists."

By Mr. WYLIE:

—Strike all after the enacting clause and insert in lieu thereof the following:

SECTION 1. This Act may be cited as the "Expedited Funds Availability Act".

SEC. 2. The Board of Governors of the Federal Reserve System (Board) shall immediately begin to develop a program with the goal of providing that with regard to deposits—

(1) funds deposited in depository institutions by items drawn on a local depository institution shall be available for withdrawal by depositors upon the expiration of one business day following the day on which such item was deposited; and

(2) for all other items, funds deposited in depository institutions shall be available for withdrawal by depositors upon the expiration of three business days after deposit. The Board may provide that such program does not apply to any item which poses a serious risk of loss to a depository institution.

(b) In order to achieve the goals specified in subsection (a), the Board shall consider (among other proposals) requiring, by regulation, that—

(1) each depository institution shall follow a uniform standard for placing its endorsement on items;

(2) each depository institution itself or through a third party shall provide wire notification directly to the institution which originally accepted for deposit an item in an amount of $100 or more, that the institution is returning the item unpaid to the institution of first deposit;

(3) each depository institution shall establish schedules for the availability of items deposited; and

(4) each depository institution shall provide for the direct return of unpaid items to the depository institution which originally accepted the item for deposit.

(c) Before a deposit account is opened, a depository institution shall provide a written disclosure to the potential customer of the policy of such depository institution with respect to the availability of deposited funds in accordance with regulations adopted by the Board. Such disclosure shall include the actual time periods before deposits made through different types of items will be available for withdrawal. Each depository institution shall also provide this information in writing to existing customers within thirty days of the effective date of this section, and at least annually thereafter. Any change in deposit availability policies or schedules, other than a change which expedites the availability of such funds, shall be communicated in writing to all customers before it may be put into effect.

(d) Each depository institution shall post in a conspicuous place in each office in which deposits are accepted, and at each automatic or electronic terminal where deposits are accepted, a notice which sets forth the information required to be disclosed in subsection (c) in accordance with regulations adopted by the Board.

(e) For the purpose of computing the amount of interest or dividends payable with respect to an interest bearing deposit account or a time deposit, a depository institution may not delay beginning to compute interest on funds deposited through an item beyond the date on which that institution receives provisional credit for that item, or if the provisional credit is given on a nonbusiness day, on the next business day, unless the computation of interest begins at a later date for all deposits, including cash deposits. Nothing in this section requires the payment of interest with respect to funds deposited through an item which is returned unpaid.

(f)(1) The Board may prescribe regulations to carry out this section. These regulations may contain such definitions, classifications, differentiations, or other provisions, and may provide for such adjustments and exceptions for any class of transactions, as the Board determines are necessary to effectuate the purposes of this section, to prevent circumvention or evasion of this section, or to faciliate compliance with this section.

(2) The regulations of the Board may require all disclosures, statements, and notices provided to be clear and conspicuous and in language that can be readily understood. The Board may publish model disclosure forms and clauses for common transactions to facilitate compliance with the disclosure requirements of this section and to aid customers by utilizing readily understandable language. Nothing in this section requires the use of any such model form or clause prescribed by the Board under this section. A depository institution shall be deemed to be in compliance with the provisions of this section if it uses any appropriate model form or clause as published by the Board, or uses any such model form or clause and changes it by deleting any information which is not required by this title, or rearranging the format.

(g) Each depository institution shall comply with the provisions of any regulations adopted by the Board under this section. Compliance with the requirements imposed under this section including regulations promulgated by the Board of Governors of the Federal Reserve System, shall be enforced under—

(1) section 8 of the Federal Deposit Insurance Act in the case of—

(A) national banks, by the Comptroller of the Currency;

(B) member banks of the Federal Reserve System (other than national banks), by the Board of Governors of the Federal Reserve System; and

(C) banks insured by the Federal Deposit Insurance Corporation (other than members of the Federal Reserve System), by the Board of Directors of the Federal Deposit Insurance Corporation;

(2) section 5(d) of the Home Owners' Loan Act of 1933, section 407 of the National Housing Act, and section 17 of the Federal Home Loan Bank Act, by the Federal Home Loan Bank Board (acting directly or through the Federal Savings and Loan Insurance Corporation), in the case of any institution subject to any of those provisions; and

(3) the Federal Credit Union Act, by the National Credit Union Administration Board with respect to any Federal credit union or insured credit union. Except to the extent that enforcement of the requirements of this section is specifically committed to another agency under this subsection (g), the appropriate state regulatory authority shall enforce such requirements.

(h) For purposes of this section—

(1) the term "depository institution" means a bank, as defined in section 2(c) of the Bank Holding Company Act of 1956 as amended, an insured bank, as defined in section 3(h) of the Federal Deposit Insurance Act, an insured institution, as defined in section 401(a) of the National Housing Act, or an insured credit union, as defined in section 101 of the Federal Credit Union Act, or any other institution which accepts deposits and utilizes Federal Reserve System payment system services, as that term is defined in section 2(j) of the Bank Holding Company Act as amended.

(2) the term "wire" shall include telephonic communication; and

(3) the term "item" means, check, draft, negotiable order of withdrawal, share draft, money order or similar instrument.

(4) the term "deposit account" means an account in a depository institution on which the account holder is permitted to make withdrawals by draft or other item. Such item includes demand deposits, negotiable order of withdrawal accounts, share draft accounts, savings accounts, share accounts and money market deposit accounts, but does not include time deposits.

—Page 4, line 15 delete section 3(a) and substitute in lieu thereof the following new section 3(a):

"SEC. 3. DEVELOPMENT OF ENHANCED AVAILABILITY SYSTEM.

"(a) ENHANCED AVAILABILITY SYSTEM.—The Board of Governors of the Federal Reserve System shall immediately begin to develop enhancements to the funds availability system as a means of reducing the risk to receiving depository institutions from meeting the funds availability requirements of section 3(b) within three years."

—Page 8, lines 18 through 20 are amended to read as follows:

"(2) a depository institution knows or is advised of final payment for a wire transfer for deposit in an account at such institution,".

—On page 13, delete the dash in line 5 and delege lines 6 through 12 and substitute therefore the following: "shorten or lengthen any time period in sections 3(b), 4(a), (b), (c) and (d) based on its assessment of the potential impact in terms of risks and losses to depository institutions and costs and benefits to depositors of such time periods as they may be shortened or lengthened from time to time hereunder."

—On page 18, after line 14, insert the following new subsection (h) to section 5:

"(h) RESTRICTIONS ON UNREGULATED DEPOSITORY INSTITUTION HOLDING COMPANIES.—

(1) PROHIBITION REGARDING AFFILIATED DEPOSITORY INSTITUTIONS.—In the case of any depository institution which is an affiliate of an unregulated holding company—

(A) no account may be established in such depository institution by or for such holding company or any other affiliate of such holding company; and

(B) no check or other negotiable instrument which is drawn, made, or endorsed by such holding company or any other affiliate of such holding company may be accepted or otherwise handled by such depository institution for the receipt, payment, collection, or clearing of such check or instrument or for any other purpose related to any function of the payment system with respect to checks.

(2) DEFINITIONS.—For purposes of this subsection—

(A) UNREGULATED HOLDING COMPANY.—The term "unregulated holding company" means any company which has control over any other company in the manner described in subparagraph (A), (B), or (C) of section 2(a)(2) of the Bank Holding Company Act of 1956 other than—

(i) a bank holding company (within the meaning given to such term by section 2(a)(1) of such Act), or

(ii) a savings and loan holding company (within the meaning given to such term by section 408(a)(1)(E) of the National Housing Act).

(B) AFFILIATE.—The term "affiliate" has the meaning given to such term by section 23A(b)(1) of the Federal Reserve Act. For purposes of the preceding sentence, such section 23A(b)(1) shall be applied by substituting the term "depository institution" (as defined by section 14(11) of this Act) for the terms "bank" and "member bank" each place such terms appear in such section 23A(b)(1).

—On page 18, line 15 add a new section 5(h) as follows:

"(h) DOUBTFUL COLLECTABILITY.—In accordance with regulations of the Board, sections 3(b), 4(c) and 4(d) shall not apply in instances where the receiving depository institution has reason to doubt the collectability of funds for a check (e.g. suspicion of bankruptcy of the drawer of a check, suspicion of fraud);".

—On page 19, line 11, insert after "Act" the following: "and to preserve the soundness of and prevent abuses of the payments system".

—Page 19, line 24 is amended by inserting after the first appearance of the word business the following phrase ", as determined in accordance with regulations of the Board,".

—On page 21, line 1, delete section 7 and redesignate all other sections accordingly.

—Page 24, lines 14 through page 25, line 6 are deleted, and the remaining sections of the bill are renumbered accordingly.

Page 33, lines 1 and 2 are deleted, and the rest of paragraphs of section 14 are renumbered accordingly.

—On page 25, delete lines 10 through 13, and insert in lieu thereof the following: "to carry out the purposes of this Act. These regulations may contain but are not limited to such classifications, differentiation, or other provision, and may provide for such adjustments and exceptions for any class of transactions, and in the judgment of the Board are necessary or proper to effectuate the purposes of this Act, to prevent circumvention or evasion thereof, or to facilitate or substantiate compliance therewith. In particular, such regulations may exempt from one or more of the provisions of this Act any class of accounts not primarily for personal, family, or household purposes, and not held by small business, if the Board makes an express finding that the application of such provision or provisions would not contribute substantially to carrying out the purposes of this Act and reports such finding to the House Committee on Banking, Finance and Urban Affairs and the Senate Committee on Banking, Housing and Urban Affairs."

SENATE—*Wednesday, January 22, 1986*

(Legislative day of Tuesday, January 21, 1986)

The Senate met at 11 a.m., on the expiration of the recess, and was called to order by the President pro tempore [Mr. THURMOND].

PRAYER

The Chaplain, the Reverend Richard C. Halverson, D.D., offered the following prayer:

Let us pray.

In cooperation with the Andrei Sakharov Institute, we join with parliaments of a number of nations in observing the sixth anniversary of Dr. Andrei Sakharov's forced exile in a minute of silence.

(A minute of silence.)

Almighty God, as this final session of the 99th Congress begins we express our gratitude to You for the strong, wise leadership of Senator DOLE and Senator SIMPSON, Senator BYRD, and Senator CRANSTON. Thank You for the deep bond of respect, admiration and cooperation which they have built. Guide them in the heavy responsibilities of party leadership through these days when the impending national elections will require partisan loyalty and commitment.

We are grateful, Father in Heaven, for a political system designed to accommodate pluralism and diversity with the inevitable conflict and compromise such a process generates. In a national election year, when polarization is inescapable, grant to them special sensitivity as they walk the fine line between party politics and national welfare. Grant to them daily the resources of Your love, wisdom, and power and, as pressures grow, protect their families against discouragement.

We pray, Heavenly Father, for their faithful, hardworking staffs, so often under great tension, and their families who cannot escape such strain. Grant that they also may enjoy daily divine enablement and blessing. Strengthen all who are involved in the life of the Senate against the enervating forces which provoke alienation and fragmentation. In His name Whose love transcends all human division. Amen.

RECOGNITION OF THE MAJORITY LEADER

The PRESIDENT pro tempore. The distinguished majority leader is recognized.

A MINUTE OF SILENCE ON BEHALF OF DR. ANDREI SAKHAROV

Mr. DOLE. Mr. President, it is appropriate that the Senate, joined by other parliaments throughout the world, pause for 1 minute of silence to mark the sixth anniversary of Dr. Andrei Sakharov's forced exile to the closed city of Gorky. This is one anniversary no one should be proud of celebrating. For close to 2 years, the Soviets have kept this Nobel Peace Prize winner isolated from direct contact with his family or independent Western observers.

We are very pleased that Yelena Bonner is receiving the best of medical care in this country and, of course, we wish her a speedy recovery from heart surgery. Unfortunately, we cannot necessarily say the same for her husband, Dr. Sakharov. The Soviets have turned a deaf ear to the outpouring of international concern and outrage about his treatment.

No government's behavior has been as shameful as that of the Soviet Union in their attempt to persecute Mr. Sakharov. I find it inconceivable that a country that signed the Helsinki Final Act could treat the Nobel Peace Prize winner in such a violent manner. The Soviets must understand that Andrei Sakharov is not only a citizen of the Soviet Union, but a citizen of the world community.

The Sakharovs have become the symbol of the continuing struggle for freedom in the Soviet Union—and to the Kremlin, that is unpalatable. Yet, how long do the Soviets expect they can keep the world community waiting for news of Andrei Sakharov's well-being. The Soviets may be able to silence his voice temporarily, but they will never be able to silence the expressions of condemnation by the world community.

I cannot think of a better way to build on the spirit of Geneva than for the Soviets to end the isolation of Dr. Sakharov and permit family members and independent observers to meet with him. Freedom for Andrei Sakharov, I am afraid, will not come automatically simply because we in this body desire it. It must be pursued by those in this Chamber, by other parliaments, and the world community at large—by every means at our command. To that end, this minute of silence is a symbolic display of our concern about this courageous man.

I thank the Chaplain.

SCHEDULE

Mr. DOLE. Mr. President, under the standing order, the leaders have 10 minutes each. I have used part of my 10 minutes and I will reserve the remainder of my time. We then have special orders in favor of Senators PROXMIRE and COCHRAN, and then routine morning business not to extend beyond the hour of 12 noon, with statements therein limited to 5 minutes each.

Following the conclusion of morning business, the Senate will resume the Metzenbaum motion to proceed to S. 638, the Conrail bill. There could probably be an outside chance that we might find something we could take up later on this afternoon. I am not certain what may develop there, so I am not in a position to indicate that there would not be votes today. But I will try to alert Members at the earliest possible time.

As I understand it, we were looking at a drug export bill and maybe a sports franchise bill. But I doubt that we may reach those today.

I reserve the remainder of my time.

RECOGNITION OF THE MINORITY LEADER

The PRESIDENT pro tempore. The distinguished Democratic leader is recognized.

Mr. BYRD. Mr. President, I thank the distinguished occupant of the chair, the President pro tempore of the U.S. Senate.

DR. ANDREI SAKHAROV

Mr. BYRD. Mr. President, today is a sad day for all those throughout the world who cherish human freedom and religious liberty. It marks the sixth anniversary of when the noted Soviet physicist and human rights activist, Dr. Andrei Sakharov, was exiled internally to the city of Gorky by Soviet authorities.

One of the original leaders of the Soviet human rights movement, Dr. Sakharov was exiled in 1980 and kept under virtual house arrest due to his human rights activity, and perhaps, according to the Congressional Helsinki Commission, because of his criticism of the brutal Soviet invasion of Afghanistan.

The entire free world has been inspired by the courageous struggle Dr. Sakharov and his wife, Yelena Bonner, have continued to wage, since his

exile, in defense of human rights in the Soviet Union.

We all know that the Soviets, after loud international outcry and the Sakharovs's own protests, recently issued a temporary exit visa to Mrs. Bonner to permit her to receive medical treatment in the United States. We wish her speedy recovery from her serious surgery.

Despite this temporary visa, and other decisions by the Soviets just before the Reagan-Gorbachev summit meeting to permit several Soviet citizens to join spouses in the West, repressive human rights conditions in the U.S.S.R. continue. Dr. Sakharov's continued internal exile amply demonstrates this fact.

Mr. President, when I led a bipartisan delegation of Senators to meet with General Secretary Gorbachev last September, I told the new Soviet leader—on behalf of myself and my colleagues, my colleagues having joined with me in the preparation of the statement which I made at that meeting—that human rights is a matter of critical concern to the people of the United States. I told him it was important to understand that Soviet human rights policies are serious obstacles to good United States-Soviet relations, because the American people know about, and care about, Soviet actions.

By observing this sad anniversary today of Dr. Andrey Sakharov's internal exile, the Senate will reinforce that important message to the Soviet leadership and underscore its solidarity with the cause of human rights.

AFGHANISTAN UPDATE

Mr. BYRD. Mr. President, December 27, 1985, marked the sixth anniversary of the Soviet invasion of Afghanistan. The 6 years of brutality have not brought the Soviets any closer to their goal of securing their southern border. Indeed, more Soviet troops are in Afghanistan today than immediately following the invasion. We are told that Soviet casualties are higher today, because more of those Soviet troops are directly involved in the fighting. More Soviet resources are being expended to subdue the Afghan people today. But none of the increased money, materiel, or manpower is achieving the Soviet objectives.

Dramatic evidence of the Soviet failure in Afghanistan comes to us in an excellent series recently published in the Washington Post. These articles describe the current situation in Afghanistan after 6 years of unparalleled warfare against Afghan civilians.

I have shared with my colleagues the fact that I had a very direct exchange of views on this subject with General Secretary Gorbachev. We can all remain hopeful that recent signs point toward a possible solution to the Afghan war. The Afghan war is not yet Mr. Gorbachev's war. But I would temper that optimism with the understanding that any fair and lasting solution must return Afghanistan to the Afghan people in peace and dignity.

Lenin said that it was a dangerous thing to go into Afghanistan, and a difficult thing to come out of Afghanistan. So any lasting solution must write an end to the Soviet brutality that these articles describe.

I ask unanimous consent that this series of articles from the Washington Post of January 12 through January 16, 1986, appear in its entirety in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Washington Post, Jan. 12, 1986]

WAR RENDS FABRIC OF AFGHAN SOCIETY

(By James Rupert)

JERAGHTU-YE-WARDAK, AFGHANISTAN.—"It's shameful," said Abdurrahman, "That we cannot offer you, as our guest, any better food than this, but times are very difficult."

Gesturing, as he spoke, toward a dinner of bread, rice and a little meat spread on a cloth on the floor, Abdurrahman smiled sadly. A spry, bearded man of about 65, Abdurrahman is a leading elder of a tiny hamlet of 10 families near here.

With most of the village's older men, we sat in the best room of Abdurrahman's house, on cushions ranged along the four white-washed walls of mud and straw. Abdurrahman had guided me carefully to the best seat and had tucked the house's best pillow behind my back.

Traveling through southern Wardak Province, I had appeared in the village unannounced, with a small escort of mujaheddin (Afghan resistance fighters), and Abdurrahman immediately had asked us to spend the night at his house.

Before dinner, two boys from the family had brought the inevitable steaming kettles, asking, "Tor chai ya chin chai (black tea or green tea)?".

After six years of brutal, desperate warfare against the high technology and massed firepower of the Soviet Army and Air Force, Afghans such as the hospitable men of Abdurrahman's village can give a visitor the impression that, at its core, Afghanistan remains unchanged.

Despite the inescapable evidence of physical destruction—the gaping bomb and missile craters in orchards, houses and irrigation canals—Afghanistan's villagers, joking and talking softly at night in the dim glow of kerosene lanterns in their homes, suggest that the old and finely woven fabric of their society has survived untorn.

It is not so.

For all the Afghans' impressive resilience as individuals, and for all the binding power of their traditions, their social fabric is being rewoven by this war. It is happening in ways that are difficult for outsiders to see, and that leave even Afghans uncertain about the future of their society.

A month's travel in several southeastern provinces of Afghanistan, and several weeks of interviews in Pakistan with Afghans and others, indicate clearly that two important changes among Afghans since the Soviet invasion are a growing sense of nationalism and a new concern for politics.

Surrounded by deserts and the rugged peaks of the Hindu Kush, Afghanistan entered the 1980s as an isolated country of villagers and nomads, separated from each other by their mountains and by ethnic, linguistic and tribal differences.

As with many rural populations in the Third World, Afghans were largely unconcerned with the political activities of their country's elite in the distant capital and traditionally had rebelled against the government's efforts to extend its influence into the countryside.

Now, war has uprooted as many as one-third of Afghanistan's people, forcing them to abandon their homes and flee to other parts of the country, or to Pakistan or Iran, as refugees. Large sections of this insular population have been "instantly urbanized" in crowded refugee camps in Pakistan that hold between 2 and 3 million Afghans.

A NEW CLASS OF LEADERS

Six years after the Soviet invasion that linked the lives of common Afghans to the forces of world politics, even the uneducated and illiterate (the vast majority) appear newly attentive to political questions, both among themselves and internationally.

During my month of travel, Afghans frequently were eager to discuss politics at length—although usually all discussion stopped for the nightly BBC broadcasts in Persian and Pashtu, Afghanistan's main languages.

"Even if they're not used to thinking about politics, people who have suffered such terrible things start to ask why these things happen to them—and so they start to talk about politics," a young Afghan Moslem fundamentalist said.

And whether men like the hospitable Abdurrahman concede it or not—and many do not—their own authority as the traditional chiefs of this rural society is slowly slipping away into the grasp of men who represent an anomaly in Afghan history: young leaders.

In a country where, for centuries, men have wielded authority because of their age, religious training, wealth or lineage, a new class of leaders is emerging. Largely in their twenties and thirties, these men—the field commanders of the resistance—gather followers because they can successfully organize and lead a 20th-century guerrilla *jihad* (holy war) against the occupying Soviet Army.

Since early in the war, the young commanders have taken over battlefield authority from the traditional leaders. Now, such commanders are taking on civil authority as well, overseeing rural schools and hospitals and arbitrating local disputes once handled by traditional tribal leaders or landlords.

EVOLUTION OF A WAR

The weight and pressures of war—now longer and fiercer than anyone had expected—against a 20th-century superpower have bent and buckled the social traditions built by generations of Moslem farmers and shepherds in these harsh Central Asian steppes and mountains. As it has changed Afghanistan, the war itself has evolved also.

When the Soviets invaded in December 1979 to supplant Afghanistan's indigenous Communist government, there were widespread predictions that they would quickly crush the disorganized mujaheddin. But more than six years later, the military combat is more intense and more sophisticated. Soviet strategy has evolved to carry the conflict to new battlefields, aiming to destroy the resistance at its roots in the

countryside and to capture the cultural identity and loyalties of the rising generation of Afghans.

Last winter, hospitals in Pakistan for Afghan war casualties remained full, as fighting continued through months that in previous years had provided lulls in combat. Since then, the two sides have fought some of their largest and longest battles of the war. Each has conceded higher casualities in the past year—an unusual admission for the Soviets.

In interviews, many mujahed commanders admitted difficulties in coping with new Soviet tactics, such as their dropping anti-guerrilla forces by helicopter onto high ground from which they can ambush mujahed caravans and attack bases.

The Soviets also have increased their subversion. They promote conflict among the many Afghan resistance groups and use Afhan agents to help them find and kill effective resistance commanders.

The evolution of the combat, and especially the loss of mujahed commanders, leads some analysts to worry that the Soviets may be gaining a battlefield advantage, which, while it does not give them hope of an outright military victory, may yet weaken the resistance and permit Moscow to reduce its costs in the war.

The Soviets attribute their higher casualties through most of 1985 to the mujaheddin's use of heavier weapons.

New weapons—many reportedly supplied by a covert CIA program—are arriving in Afghanistan, although many are lost through corruption along the pipeline.

Despite its changes, the military battle in Afghanistan remains much as it has been reported in the past few years by the few western journalists who have traveled inside. The mujaheddin, fighting with impressive courage and inferior weapons, are deadlocked with the technologically superior Soviets.

Although they control as much as 90 percent of Afghanistan, the guerrillas cannot dislodge the Soviet and Afghan government bases in the country's major towns. With their relatively light weapons, the mujaheddin can only try to harass such bases and their supply convoys, hoping to raise the Soviets' human and economic costs from the occupation.

The mujaheddin continue to lack not only heavy weapons, but also effective air defenses. More importantly, in the view of many mujaheddin and others, the guerrillas still need even basic training and do not really know how to use some of the weapons being supplied to them.

The concerns of resistance leaders and Afghan intellectuals now reflect the expansion of the war to its new battlefields, and the implications of these new fronts for Afghan society.

CHOKING OFF SUPPORT

Increasingly, over the past 2 years, the Soviets have tried to choke off civilian support for the guerrillas simply by emptying the villages of their inhabitants. This has been one of their most brutal campaigns, including killings of unarmed villagers, the destruction of farms and irrigation canals, and the mining of villages and homes.

In the small part of Afghanistan toured recently, both the breadth and the success of this strategy were clear. Local residents in 20 of 32 villages visited said they had been bombed, shelled or attacked by Soviet or Afghan government ground forces. Many pointed out unexploded bombs and destroyed homes.

The other 12 villages, in the Zermat region of Paktia Province, were eerily abandoned, with cratered paths, crumbling walls and doors open wide into silent houses. An independent human rights report covering much of the same territory said that half of 8,000 village households surveyed had been abandoned.

In this new battle for the survival of the villages, the mujaheddin are fighting back, but they are hampered by their lack of money and trained professionals.

"The jihad depends on the villagers, so we must keep them on the land," explained Amin Wardak, a guerrilla commander in Wardak Province. "So we try to provide medical care, we run schools, we try to help the farmers," he said.

Despite efforts like Wardak's much of Afghanistan's society of villagers has been transformed into a society of refugees, suddenly thrown into sprawling camps of tents and mud buildings in Pakistan and Iran. Other Afghans have fled their homes for safer parts of the country, notably the Soviet-controlled capital, Kabul.

It is largely among these suddenly urbanized populations that still another battlefield has opened, in classrooms and mosques, for Afghanistan's very culture.

In an apparent attempt to mold a loyal pro-Soviet elite to help run the country, the Soviets have remodeled the Afghan education system and have taken children to be brought up in the Soviet Union.

The Soviets also are reinterpreting Afghanistan's Islamic faith, and in the past year they have installed government-trained mullahs in many of the mosques under their control.

The Soviets govern only a small part of the population, a fact that limits their ability to redesign the country's culture.

But in the cultural battle, the resistance, too, is severely handicapped. Even before the Soviet invasion, Afghanistan was, like so many Third World and Islamic countries, struggling to establish its own national identity—and the resistance remains divided on what it means to be Afghan.

It was, in part, the cultural divide between Afghanistan's tradition-bound countryside and its modernizing elite in Kabul that led to the Soviet invasion.

During the 1960's and '70s, segments of the educated elite, including the tiny Afghan Communist Party, found their ambitions frustrated by the monopoly on power of the traditional monarchy and grew impatient at its slow pace toward western-style modernization.

From 1973 to 1978, successive coups by members of this elite, backed by the Army, led to the takeover by a group of homegrown Communists in April 1978 in the "Saur Revolution," named for the month in which it occurred.

The takeover surprised Moscow, which had been getting along well with the nonaligned government of Mohammed Daud. Both promonarchy traditionalists and Moslem fundamentalists began leading a jihad against Kabul.

The rebellion spread nationwide when the first Communist regime tried to force radical changes—such as mandatory classes in Communist doctrine, compulsory schooling for girls and an end to the bride price—on the nation's villagers. By Christmas 1979, with the first Afghan Communist ruler assassinated and the resistance growing in strength, the Soviets intervened with 100,000 troops and installed Babrak Karmal as president.

"Afghanistan can never go back to the way it was," said Mohammed es'Haq, a political officer of the Jamiat-i-Islami (Islamic Society) party. "The war has broken the two pillars—the bureaucrats and the landlords—which used to run the country" under the monarchy, he said.

NEW POLITICAL AWARENESS

Es'Haq and others believe that several of the social changes wrought by the war are helping to forge a new sense of nationalism and a new politicization. The resistance is now gathered into seven "major" political parties (those recognized by the Pakistani government) and numerous other factions.

Es'Haq regards the simple existence of large political parties as a revolutionary change. Although for many people in Afghanistan and in the refugee camps the parties are little more than meaningless labels, Es'Haq argues that they represent an unprecedented effort to appeal across traditional ethnic and tribal divides.

Virtually all Afghans interviewed agreed that nationalism is growing. "It's natural, with the war," said Najib, a French-trained agronomist who returned to organize agricultural development projects in Wardak Province.

Asking not to be identified further to protect family in Soviet-held Kabul, Najib said, "The Soviets have created the same problems for everyone, and people can't explain it by reference to old-fashioned tribalism. Instead, we see this war and our suffering through the lens of Islam."

As numerous scholars point out, Afghans traditionally have identified—and defended—themselves and their country in terms of Islam.

The Soviets are not the first outside power to spawn a jihad with an invasion of Afghanistan. Starting in 1838, Britain fought three wars in an effort to dominate Afghanistan and protect its Indian colony to the south.

"This war is completely different," according to Es'Haq. "The British weren't . . . trying to Britishize or Christianize our country, but the Soviets are trying to completely erase our identity—especially our Islamic identity," he said.

"Also, war itself has changed," he said. "The Anglo-Afghan wars did not affect the whole country at the same time. . . . No place in Afghanistan is escaping this war."

A broad range of Afghans agreed that, as a people, they had become more interested in politics—especially their own national politics—and that this was one of the most important changes in their country since the Soviet invasion.

"Before the Communists, people didn't care about the government in Kabul," explained Abdul Haq, a prominent mujahed commander in Kabul for the Younis Khales faction of the Hezb-i-Islami (Islamic Party). "The Afghan people used to accept any regime, as long as it did not make problems for them. But it's not like that now," he said.

IS THAT GOOD FOR US?

Shortly after a frosty sunrise on Nov. 22, in a village near here, several mujaheddin and I breakfasted with a small group of local men, while the voice of President Reagan, broadcast by the Voice of America, filled the room. Reagan was addressing a joint session of Congress following his summit meeting with Soviet leader Mikhail Gorbachev.

My Afghan hosts listened to Reagan's speech and asked what he had said. Told

that the two leaders planned to exchange visits, one man asked, "Is that good for us?"

The question seemed to symbolize a new realization among Afghans after years of war: that their own lives are tied to distant political events and to the world's opinion about their country and its plight.

Afghans also often asked about outside impressions of their country. Often, the answers disappointed them—as though, having taken a new interest in world affairs, they felt ignored in return.

As one young mujahed conducted a tour of his village north of here, he asked what Americans thought of the various Afghan guerrilla leaders. When told that most Americans would not recognize names such as Gulbuddin Hekmatyar or Nabi Mohammadi, he seemed surprised.

"But why not?" he asked. "We know who Reagan is."

[From the Washington Post, Jan. 13, 1986]

SOVIETS TRY TO RESHAPE AFGHAN CULTURE

(By James Rupert)

BABRA KHEL, AFGHANISTAN.—Last month Omar brought his 8-year-old son from Kabul to leave him with relatives in a village near here; the little boy will not go back to the city.

"In Kabul the Soviets are taking the children," Omar explained.

Omar is now a city man. He moved from the village years ago to set up a business in Kabul. Even though life is better there than here in the countryside, he said, his son will stay here. In Kabul, the Soviets are taking children out of the schools and sending them to be brought up in the Soviet Union, he said.

"They are teaching the children to be Soviets, like them," he said. The Soviet authorities had started the practice, he said, soon after they invaded the country in 1979 to prop up Afghanistan's communist government.

Afghans and western specialists say the education of Afghan children in the Soviet Union is only one of many tools the Soviets are using to try to remold Afghanistan's culture along their own lines. Afghans say the Soviets are also manipulating Afghanistan's Islamic faith in their effort to "Sovietize" the country.

The Sovietization program takes on added significance with the apparent intensification of the peace process because it could allow the Soviets to leave behind a dedicated cadre of Moscow-trained communists when they pull out. It also complicates the return of the 3 million refugees in Pakistan—one of the requirements for a settlement—as they may not want to go back to a country that is under such tight control.

Seated on the floor at his brother's house, Omar's western-style trousers and overcoat contrasted with the loose-fitting clothes and blankets worn by his relatives and former neighbors gathered to hear him. Surprised to meet a foreign journalist, Omar spoke impatiently and urgently, asking me repeatedly if I understood his story.

But he was also afraid. "Please," he urged, "you must not write my name or the village's name in the newspaper—or we will be in danger."

Omar said that many children who had gone to the Soviet Union were those of Afghan communist party officials who he thought might have sent them willingly.

But, he said, "I know many families who did not know their children would be taken. The government sent people into the schools, and they took children away. The children's fathers only heard when someone came from school to tell them."

The teachers in the schools help the Soviets, and if people go to ask where the children were taken, the teachers will not talk to them, he said, adding that the parents afterward received letters from their children mailed from the Soviet Union.

At one point, leaning forward, he asked, "Do American people know about this?"

Western diplomats and officials of the Afghan Resistance Movement based in Pakistan also have reported similar stories.

A NEW SOVIETIZED ELITE

A 1984 State Department report said the Soviets began near the end of that year a mass program to bring up thousands of Afghan children in the Soviet Union. The children, ages 7 to 10, reportedly are to be trained there for 10 years in an effort to mold a new Sovietized elite.

Resistance commander Abdul Haq from Kabul said in an interview in Peshawar, Pakistan, that his resistance units have seen the first results of Soviet training of Afghan children. During the past 2½ years, he said, his guerrillas have captured about 15 boys who he said had been trained in the Soviet Union for missions against the resistance.

He described one incident last year in which resistance forces found a 12-year-old boy in a rebel-controlled village carrying a pistol and a photograph of a local guerrilla commander. He said the boy would not give any information until they staged his recapture by other resistance forces posing as Afghan government soldiers.

His name was Zalmai; he was the son of an Afghan brigadier," Abdul Haq said. "He told us he had been trained [in the Soviet Union] for almost 5 years, and now they had sent him to kill the resistance commander."

"He told us he liked his teacher more than his mother and father," Abdul Haq said. "What can we do with these children? We cannot kill them, but they are dangerous; so we can only try to keep them with us, and they mostly escape."

Since Soviet and Afghan authorities have closed Afghanistan to most foreign reporters, accounts such as Abdul Haq's cannot be investigated directly. But a broad range of diplomatic and Afghan sources say they are convinced that Soviet training is aimed at producing young Afghans with unquestioning Soviet loyalty.

REMAKING A COUNTRY

Afghanistan's war, which most observers initially thought would end in a quick victory for the technologically superior Soviet Army and Air Force, is now 6 years old—and both sides appear to recognize the growing importance of a new battlefield: the loyalties and cultural identity of the next generation of Afghans.

"The Soviets are using every tool they can find to remake this country in their image," said Prof. Sayd Majrooh, a former dean of Kabul University now based in Peshawar.

Various observers said the Soviets are using education—from kindergarten to the university level-cultural exchanges, religious institutions and the mass media to accomplish three main goals in Afghanistan:

Prevent the growth of nationalist sentiment by sharpening the splits among the country's many ethnic and linguistic groups and strengthening ties between northern Afghans and their Soviet ethnic counterparts.

Popularize a reinterpreted Islam more amenable to communist doctrine.

Build a new elite of pro-Soviet Afghans that would be free of the internal rifts that have paralyzed the current ruling communist party.

The ruling People's Democratic Party of Afghanistan has long been bitterly divided between two factions: the Khalq (Masses), predominantly urban, Persian-speaking and seen as more politically pragmatic, and the Parcham (Banner), dominated by Afghans of rural origin who speak Pashtu and are thought more ideological. The vendetta resembles a civil war, including assassinations and bombings, and hampers government efforts to establish full control, even over the capital.

Various Afghan academics and politicians in Peshawar said the Soviets' most important weapon in the cultural battle is education—notably education programs in the Soviet Union. Estimates of the numbers of Afghans who go there for study varied widely, although most suggested it might number about 6,000 a year.

Abdulbaqi Mehraban questions how well the Soviet education campaign is working. He studied veterinary medicine for nearly six years in the Soviet Union before returning to Kabul in 1981 and fleeing to Pakistan in 1984.

Mehraban said he believes most Afghan university students continue to go to the Soviet Union for the same reasons he did: the better technical education and living standards. "Many students also like it because you can get vodka and meet girls, unlike in Afghanistan, [and] you can stay out of the Army," he said. "When we had been there a short time, I was impressed, "People had jobs and weren't hungry."

"But after a year, I could speak good Russian and talk to people and found out that you can't talk about your ideas," he said. "Studying a long time in Russia doesn't make everyone into a communist."

REINTERPRETING HISTORY

Afghan exiles in Peshawar say the Soviets have been unable to consistently mold loyal functionaries for the Afghan regime with their university courses or training programs for adult Afghans. Not only do some Afghans—such as Mehraban—defect, but resistance groups say they place their supporters in various programs in both Afghanistan and the Soviet Union for technical training.

According to Majrooh and other Afghan academics, the Soviets have retooled the Afghan education system—installing Soviet teachers, a Marxist-Leninist curriculum and a reinterpretation of Afghan history that describes Russia as the historic friend of Afghanistan. Last March authorities replaced the French-style program for primary and secondary education with the Soviet system, including compulsory Russian-language study from the fifth grade onward.

Last year at a conference on education at Kabul's teachers college, most of the papers were by Russian professors, according to a program smuggled from the country. Abstracts of the papers stressed the need for a Marxist-Leninist orientation in Afghan education, largely to help overcome the influence of Islam on Afghan students.

Resistance leaders and Afghan intellectuals say Soviet radio broadcasts and publications aim particularly at Afghanistan's northern ethnic groups.

"We have seen increasing numbers of Soviet journals aimed at the Tajiks, Turkmens, and Uzbeks, and designed to show them how life is better for people of the

same groups in the [neighboring] Soviet republics," said Prof. Rasul Amin, formerly of Kabul University's social sciences faculty.

Amin said he is especially worried that new programs to teach regional languages—Baluchi, Turkmeni and Uzbek—will lead to a deemphasis on Pashtu and Persian (called Dari in Afghanistan), which serve as the common languages among ethnic groups.

But for most Afghans encountered during a seven-week assignment in Afghanistan and Pakistan, the most angering and worrisome part of the Sovietization campaign is the taking of children to the Soviet Union.

"What will happen to these children?" asked Mehraban, the former veterinary student. "When I was in Kiev I had Islam and my own mind to help me understand what I was seeing—but these children will have nothing."

"They will be robots," he said. "And when they come back, the Russians will just use them, and the Afghan people will hate them."

HARNESSING ISLAM

"Islam is the key to Afghanistan's culture," said Akhtar Mohammed, a young university graduate, "so to change Afghanistan, they want to change our Islam."

"They" are the Soviets. Like many other Afghan intellectuals, Mohammed worries about the Soviets' efforts to harness Afghanistan's Moslem faith as a means of controlling the country.

In their campaign to reshape Afghanistan's culture, Soviet authorities have taken control of official religious institutions and are reinterpreting Islamic doctrine.

"The Soviets were very sophisticated about using religion," said Fazle Akbar, an Afghan journalist here. When the Soviets invaded Afghanistan in December 1979, Akbar was director of Radio Afghanistan.

The Afghan communists who took power in 1978 "were very anti-Islamic," Akbar said. "They walked into the mosques with their boots on and smoked cigarettes inside."

"The Russians had to teach them how to use Islam as part of their propaganda," Akbar said.

Rasul Amin, a former Kabul University professor who now coordinates an organization of exiled Afghan intellectuals, said the Soviets have stepped up efforts to control religious life in Afghanistan. Last year, the Soviet-dominated regime of Babrak Karmal established a Religious Affairs Ministry, which, Amin said, has two roles.

"The Soviets know they will never change the ideas of the older generation" of Afghans," Amin said. "So for them, the government just wants to appear benign." Amin and others said the new ministry had made a great show of painting and cleaning mosques, to demonstrate its commitment to the religion.

"For young people," however, Amin said, "they want to change the very idea of Islam." During the past year, he said, the authorities had removed many independent mullahs from their mosques, after having tolerated them since the invasion.

It has taken the government several years to train its own mullahs, Amin said, and only now are they emerging to take over mosques in the cities controlled by the Soviets and the government. "The independent mullahs had never opposed the government in six years," Amin said, "but the official mullahs are more reliable for the authorities."

According to Afghan intellectuals and political leaders here, the Soviets and the Kabul government rely on the new mullahs to help spread a "Sovietized" Islam that emphasizes the obligations of a believer to the Islamic community, but that omits references to belief in God.

Amin said the Soviets would prefer to limit the distribution of the Koran, as they have done in their own Moslem republics, leaving the state freer to offer its own interpretation of the Koran's teachings.

"They could not change the Koran because too many Moslems, even in the Soviet Union, can recite it from memory," he said.

Soviet and Afghan broadcasts argue that Islam as a religion is under attack from the corrupting values of western imperialist powers, from the "medievalism" of Iran's Islamic revolution and from Israeli expansionism. Adopting a theme of Moslem fundamentalists, Soviet propaganda for years has portrayed western aid workers in Afghanistan—especially women—as anti-Islamic and corrupting influences.

Last fall, when the Jamiat-i-Islami Party turned back a French medical team that included women, western aid workers feared the Afghans had succumbed to Soviet propaganda.

Jamiat-i-Islami leader Burhanuddin Rabbani denied that his party had stopped accepting women but he acknowledged that "we do have problems with the Soviet propaganda about the women."

But western aid workers from various regions of Afghanistan agreed that Soviet propaganda is combining with the influence of conservative Iranians and Arabs who play supporting roles in the jihad, and making the westerners' presence in Afghanistan more difficult.

One British nurse said she met Arabs from the Persian Gulf states and Syria while working last summer near Mazar-i-Sharif, in northern Afghanistan.

"They were very negative about westerners," she said in an interview here. "They said non-Moslems didn't belong in a jihad."

[From the Washington Post, Jan. 14, 1986]

RAID ON A SOVIET STRONGHOLD

(By James Rupert)

GHAZNI, AFGHANISTAN.—"Watch!" whispered Mohammed Amin, pointing back at a Soviet Army post that we had crept by only moments before.

Amin's unit of Afghan guerrillas had just led me, slipping and stumbling, on a serpentine path through muddy streets, irrigation ditches and empty fields on the outskirts of this provincial capital. A cold wind was blowing away the clouds and rain that had blackened the night while we filtered cautiously through a double ring of guard positions defending the town.

We had passed less than 100 yards from one post and had clearly heard Soviet soldiers shouting orders to halt. Now, as the growing moonlight gave shape to the darkened neighborhoods of Ghazni that spread downhill from us, we heard the first few rifle shots as other guerrillas attacked the post Amin had indicated.

Then the night exploded.

The deep staccato of Soviet heavy machine guns and the concussive whump of mortar rounds drowned out the guerrillas' Kalashnikov rifles. Streams of glowing tracer bullets etched across the silhouettes of abandoned homes, and flares burst into harsh white light overhead.

"If we shoot one bullet at them," Amin said later, "they shoot 10 back at us, plus mortars—and if the helicopters can fly, they shoot rockets too. If we attack one post, they shoot from four or five posts . . . but they aim very badly."

The spectacle of Soviet firepower had punctuated a reconnaissance mission by Amin and about a dozen local *mujaheddin* (holy warriors, or resistance fighters) from the Mahaz-i-Milli, the National Islamic Front of Afghanistan, one of the smaller of Afghanistan's main resistance groups. They were choosing sites from which two nights later they would attack Ghazni's airport and the Soviet and Afghan Army garrison in the town's center.

I had asked to accompany the mujaheddin into Ghazni to try to understand something of what seemed an oddity: that outgunned and ill-trained men—mostly illiterate farmers and shepherds—have battled the powerful Soviet Army to a six-year standoff in Afghanistan.

Since their invasion, the Soviets have held Afghanistan's cities and provincial centers, with the support of the smaller and unreliable Democratic Republic of Afghanistan Army. The mujaheddin control the countryside and mountains, and each side remains unable to dislodge the other.

Ghazni, 78 miles southwest of Kabul, the capital, is an important center along the Soviets' main supply route to Afghanistan's south and west. The mujaheddin, who frequently exaggerate the size of enemy forces, said about 12,000 Soviets and not more than 4,000 Afghan Army troops are based there, with support from artillery and the garrison's helicopter base.

The mujaheddin, many of them former residents of Ghazni, live at guerrilla bases in nearby mountains and receive food and information from villages. During the last year, the Soviets have tightened defenses around Ghazni, as they have around all the towns and cities they hold.

Before, "we conducted our operations from within the town and went in both day and night," said Jalat Khan, 35, former shopkeeper who now commands a guerrilla unit of the Harakat Islamic Revolutionary Movement, another of the seven main Afghan parties. "But this year, they triped the number of guard posts around the city, so now we fight only at night."

Jalat Khan said that according to duty rosters smuggled out to him by sympathetic Afghan officers, two-thirds of the soldiers in each post are Soviet and one-third Afghan. "Even if the [Afghan soldiers] do not fight well, the Soviets need them because they know the local people," he said.

Agha Mohammed, 40, a former colonel in the Afghan Army, passed information to the mujaheddin until his activities were suspected and he was imprisoned in 1980. After a year in Pol-i-Charki Prison, near Kabul, he was released and immediately joined Mahaz-i-Milli resistence force. "Many officers who are still helping us want to come out to fight," he said. "Working from inside is very dangerous, but we ask them to stay as long as they can."

As with most resistence attacks on a Soviet stronghold, the assault I witnessed could not have altered the Soviets' fundamental control over the town. Only in a few cases during the war have mujaheddin threatened to capture a major town outright, an event that has led the Soviets to use large offensives to regain control.

The mujaheddin attack to inflict casualties and capture weapons. Weeks after the attack I watched, the mujaheddin, after receiving reports from their informers inside Ghazni, claimed to have killed 36 Soviet and Afghan Army soldiers and injured 29 and to

have damaged government offices, the airport and the town's main military garrison.

THE ATTACK

Late one afternoon, we descended the ravine from the Mahaz-i-Milli guerrilla base to an abandoned village at the edge of Ghazni's plain. About 45 mujaheddin gathered to hear their commanders explain their plan: Three different groups would attack at once, firing missiles, mortars and recoilless rifles at targets in the town's center and the airport.

I was told to accompany Sanaye, a short, thin commander in his 30s, whose dozen mujaheddin included an English speaker.

As always during my month inside Afghanistan, I wore the same traditional Afghan clothes as did the mujaheddin: a long shirt hanging loose outside baggy trousers, a wool cap and a blanket. It had seemed an intelligent concession to wear my good American running shoes.

We crammed ourselves into a pair of Russian-made trucks, which had been driven out from the city, and spotters climbed on top to watch for the Soviets' much-feared helicopters. As we rode across the rolling plain toward Ghazni, the mujaheddin—most in their teens and early 20s, sang and clapped, like a high school band on its way to a football game.

On a dirt road near Ghazni, the setting sun cast a yellow light on the guerrillas as they climbed out of the trucks and prostrated themselves on their blankets in prayer. As the daylight faded, we crept toward the first guard post.

It was here two nights earlier that I had asked my translator, Mohammed Amin, what it was that the Soviet soldiers had been shouting. "They are calling 'Halt or we will shoot you' " Amin had replied.

Sensing my shock, he had added quickly, "Don't worry. . . . They cannot see us. They always shout this at night whenever they hear some noise."

I was not always calmed by such reassurances from my host. Although the mujaheddin fear and respect the powerful and sophisticated Soviet weapons, they have a low opinion of Soviet soldiers. That and their confidence in their own superior knowledge of the terrain often gave them a relaxed air that I, in my own nervous state, sometimes found alarming.

The mujaheddin were fascinated by my habit of whispering notes into a small tape recorder as we walked through the town. Often during moments of heavy firing, they would motion excitedly for me to turn it on to record the noise.

One young resistance fighter, perhaps 15 years old, particularly irritated me by periodically looking at me and gleefully shouting "Gherraaam!" in imitation of guerrilla shells hitting their targets.

At one point, in a section distant from guard posts, about a dozen of us walked together through an open area. I wondered aloud to one guerrilla whether we were safe in such a large group. What if the Soviets should be patrolling?

"There are no patrols," he answered confidently. "The Soviets are afraid to come out of their posts at night." If such assurances never quieted my fears, I did not, happily, see them proven wrong.

A RUINED MARKET TOWN

As towns go, Ghazni was always poor. Now it is a ruin.

A market town, Ghazni drew its life from its position on one of Afghanistan's few paved roads. Even now, its shattered neighborhoods betray its roots in the dry and difficult farm land that surrounds it.

Ghazni's dirt streets and mud-and-straw houses give it the air of an overgrown rural village rather than an urban center. But as in other towns and cities of Afghanistan where the mujaheddin and Soviets have fought with increasingly heavier weapons, most of Ghazni's people have fled their shell-torn and bomb-cratered homes, seeking safety in the villages of relatives or in Pakistan.

Still, amid the rubble of neighboring buildings and nightly firefights, people have stayed. At one point as we hurried away from a burst of nearby gunfire, we rounded a corner and almost fell over a toddler—wearing only a shirt, playing in front of his house while his brother watched, unconcerned, from the doorway.

During most of our time in Ghazni, though, we walked through what seemed an urban moonscape: empty shells of buildings, streets littered with an occasional skeleton of an armored vehicle, and oddly, an old Buick Electra, mounted on blocks, its windows shattered.

As we neared our first destination, the site from which Sanaye would launch his four Chinese missiles, we crossed a small field. To reduce the chances of getting lost, I usually tried to stay near the middle of our file of six, but now I had carelessly let myself fall to the rear.

When red tracer bullets flashed silently across our path, we dropped to the dirt. The sound of the machine gun that had fired them came seconds later, a reminder that bullets travel faster than sound, shattering my illogical, but comforting, assumption that I could rely on a quick reaction to the sound of gunfire to help keep me safe.

The tracers stopped. I crawled forward on belly and elbows to ask my escorting mujaheddin what we should do. When I had gone about 15 yards, I realized that there was no one to ask.

My panic at the idea of being lost was perhaps the only thing that would have convinced me to stand up into the now more dreadful world of silent bullets. I sprinted across the field into a narrow street, where, heart thumping, I found my escorts preparing to dash back out to search for me.

Minutes later, we joined the rest of Sanaye's group, which, carrying the heavy four-foot-long missiles, had taken a different route. In a still-inhabited pocket of the town, we stopped at a mosque where two days earlier we had calmly eaten dinner amid the thunder of gunfire and mortars outside.

Now, in the mosque's sanctuary, lit by a kerosene lantern, the guerrillas quickly screwed detonators into the missiles' noses and attached wires for the battery that would ignite their fuel. As they carried the armed missiles down an adjacent street, I climbed a roof to watch their flight.

The missiles, with a reputed range of four to six miles, are a recent addition to the guerrillas' arsenal—and apparently one of the products of increased U.S. spending on covert arms supplies to the mujaheddin. They are especially convenient in guerrilla warfare: they can be launched from the ground, their trajectory adjusted by stacking stones under their small wooden launching blocks.

With an odd ripping sound, the missiles leaped in pairs from the street. Two incendiary missiles hit in the darkened center of the airport, setting fires, while the two explosive rockets flew over their target entirely, each exploding with a muffled roar and a dull red glow in the hills beyond.

As guns from nearby guard posts began firing into the neighborhood, we hurried away toward Sanaye's next target. After a few minutes' walk, I could hear the rumble of generators powering the lights of the Soviet stronghold, now nearby.

Our pace slowed. We crept more stealthily now, through a maze of streets and buildings, to flatten ourselves against a long wall of packed mud. Sanaye climbed over and, after a few minutes, beckoned us to follow him.

As I threw a leg over the top and slid down the other side, it was clear that we were now in a darkened corner of the lighted Soviet-Afghan government compound. A few moments later, in a shattered mosque nearby, I whispered my question with a calm I did not feel: "Where are we?"

"*Khad*," a young guerrilla answered, pointing at one of several buildings in the brightly lit and deserted street in front of us.

Khad, a Persian-language acronym for State Information Services, is the Afghan secret police agency, operated under the direct control of the KGB. As the Afghan Army, ridden by desertion and full of mujaheddin informers, proved to be unreliable, the Soviet military has built up Khad as its most dangerous weapon against the resistance.

ATTACK ON THE SECRET POLICE

If the displays of Soviet firepower in Ghazni suggested their technological advantage in this war, it was Sanaye's attack on the provincial office of Khad that seemed to symbolize the mujaheddin's determined courage, which has prevented the easy Soviet victory predicted by many following their December 1979 invasion.

Pulling two Chinese-made land mines out of a sack, Sanaye smiled at me and asked, "You are not cold, are you?"

"The temperature has not occupied my mind," I answered.

Lacking the Soviets' ability to strike from a safe, long range with artillery or aircraft, Sanaye carried the mines out of the mosque's gate. It seemed like hours later when two explosions roared, apparently from the back of the Khad office.

From somewhere farther inside the compound, we could hear excited shouting in Persian. Mentally I begged the group to leave, certain that we would soon be discovered.

When Sanaye slipped back through the gate, I gratefully shouldered my pack to go, and almost cried out in anguish when he stopped to fire two rounds from a recoilless rifle at the Khad bureau. In immediate response to the bright flash, machine gun fire rattled back in our direction.

We sprinted with the others for the wall of the compound and heaved ourselves over. After a few minutes of bewildering twists and turns, we slowed to a walk in a street some distance from the garrison.

Wondering how it was that the Soviets had not seen us escape, I paid no attention to the soft whistle of the first falling mortar round. The explosion knocked me down and left my ears ringing.

We ran again, and needing no second lessons, I threw myself to the dirt like the others with the warning sound of each new shell. We followed a small teen-aged guerrilla who had lived in Ghazni until a few years ago and who seemed to know every street.

Leaving the mortar attacks behind, we gradually slowed our pace, back toward the edge of the city. Hours later, at about 1 a.m., we reached the trucks that would take us back across the plains.

Ashir, 23, a guerrilla from Kabul, was pleased: among the three groups of mujaheddin, no one had been killed.

"God was with us," he said.

[From the Washington Post, Jan. 15, 1986]

DEPOPULATION CAMPAIGN BRUTALLY CHANGES VILLAGES

(By James Rupert)

BARAKAT, AFGHANISTAN.—Surrounded by rocky, snow-covered hills, this village is a man-made oasis.

Like all villages here in the harsh, dry lands of Ghazni Province, Barakat was founded around a reliable water source, and generations of villagers have slowly carved its sun-hardened hillsides into green fields and orchards. A villager insists that no one wants to leave Barakat. In Persian its very name means "Blessing."

But of about 1,500 residents before the war, villagers say between 150 and 200 have been killed. And with the fighting here getting worse, about a quarter of the families have fled to Pakistan, Kabul or to the villages of relatives.

During a month-long tour through southeastern Afghanistan, I found that the story varied in each village, but the general pattern was clear. Direct attacks on villages by the Soviet Army and Air Force, often assisted by Afghan government troops, are expelling farmers and shepherds who support the mujaheddin—the Afghan resistance fighters.

"The Soviets know the mujaheddin need the villages," one Afghan told me. "They want to kill the fish by emptying the water."

This remains a hidden war. With journalists legally barred from entering Afghanistan, it is impossible to be certain about most of what is happening here. But everyone—the Soviet authorities, the Afghan resistance leaders and the villagers of Barakat—agrees that the war and the suffering are growing. In large areas of Afghanistan, the Soviets and the mujaheddin are fighting a new kind of battle in the countryside. It is not a battle for physical control of villages, but a battle over whether villages shall continue to exist.

"This is genocide," said Michael Barry, an American scholar and human rights researcher who visits Afghanistan regularly. Barry and others worry that the widespread destruction of farms—plus three years of poor rainfall im much of Afghanistan—not only have forced out much of the population, but now threaten famine for those who remain.

Those who have left—nearly a third of Afghanistan's 16 million people—now live in teeming refugee camps in Pakistan and Iran. There, Afghan specialists say, their new environment already is changing Afghan society as a whole in ways that could lead to further instability in the region.

Whatever its ultimate effects on Afghan society, it was clear in the villages that the depopulation campaign has brutally changed the lives of individual Afghans.

In Barakat, "the Soviets bring jets, because they know we help the mujaheddin." Bismullah Kheir Mohammed, a resident, said. In October, the Soviets and Afghan Army troops staged a four-day sweep through Barakat and nearby villages, killing 20 people and taking 12 young men to serve in the Afghan Army, villagers said.

The villagers said the Soviets had entered the nearby hamlet of Gabrubr and killed Abdul Gul, 55, and Niaz Gul, 70. "They were just farmers," Bismullah said, "and they took their money from the house to keep the Soviets from stealing it."

"When the Soviets searched them and found the money, they stole it and strangled them. We found their bodies two days later, when the Soviets left," he said.

A young man from nearby Bedmoshk told a horrifying tale of Soviets who held a 14-year-old boy and slowly killed him when his parents would not pay a ransom. They tied him to a tree and beat him and stabbed him with a bayonet," the man said. "Finally they shot him."

Four members of the International Humanitarian Inquiry Commission visted Bedmoshk two days later and said they confirmed the torture and killing of the boy, among other atrocities in the area.

"Even one bomb is a disaster," said a young guerrilla, himself a farmer in Barakat. "It takes more than a month just to repair a bomb crater in a field. But these killings, for no reason, are the actions of animals. Who can know why they do such things?"

For the people of Pirangai, in Paktia Province, the horror of the war has come from bombings. In early November, they said, a Soviet jet thundered overhead and dropped two big canisters that exploded in midair.

The canisters scattered hundreds of small "butterfly" antipersonnel mines over the village, some of which were still there when I visited.

"We have heard about Soviet bombs that look like watches or toys," Sahab Gul, a shopkeeper, said. "So we always tell the children not to pick up strange objects."

Three children had hands or feet blown off by the butterfly mines, which are designed to maim rather than kill. A young boy, Wali Khan, said his grandfather had taken his 11-year-old cousin to doctors in Pakistan after the boy lost a hand and part of his face while examining one of the mines.

"We are ready to fight them if they come to us," said Gul, his voice quivering with anger. "But they want to make us leave by injuring our children." Few in the village have left, he said.

Invoking an Islamic conviction, he said: "It is better to be tortured in the jihad [holy war] and go to paradise than to live with our bodies ruined like this."

LEAVING FOR PAKISTAN

Of 32 villages I saw during my trip, none was untouched by the war. But even where villagers have recovered from such attacks, their lives remain difficult, and abandoning their homes for the relative safety of Pakistan remains a much discussed option.

Three years of meager rain and snowfall have dried up the weaker water sources in this and other regions of Afghanistan, leaving downstream villages in a virtual state of drought. Swedish doctor Johan Langerfelt, a member of the Humanitarian Inquiry Commission mission, said the group's four-week study last fall showed that irrigated farming production in Wardak, Ghazni and Logar provinces had dropped by as much as 80 percent. He suggested that only heavy snowfall this winter would avert famine in 1986.

An Afghan agronomist who surveyed much of southern Wardak Province last fall said he had found 70 percent of families living on bread and tea. "They are not even consuming sugar, which is a sign of extreme distress," he said.

In what many specialists regard as a "pre-famine" development, families have sold or slaughtered much of their livestock, which they could no longer afford to feed.

Even in the villages that have not been abandoned, most young men have left, making farming even more difficult. "It is dangerous for young men to stay," a village elder in southern Wardak said. "The Soviets may come and kill them or take them for the Army."

Many families have sent some of their sons to fight from nearby guerrilla bases and sent others to Pakistan or Iran to find jobs that will bring the family needed cash. Old men once retired from farming have gone back to work, tending as much of the land as they can.

The Soviet campaign to empty the villages has been uneven, but most intensive in Afghanistan's eastern half, according to Barry, who has researched the issue for human rights organizations and led the fall Humanitarian Inquiry Commission mission.

Barry said the Soviets systematically have created broad free-fire zones along the country's most strategic road, which arcs from Mazar-i-Sharif in the north through Kabul, to Kandahar in the south.

The Soviets have also depopulated areas along important resistance supply routes.

Following a resistance supply trail from Pakistan, my guerrilla escort and I crossed one such region, the plain of Zermat, south of Gardez.

Hiking all night to avoid helicopter attack on the exposed plain, we walked through the abandoned ruins of a dozen villages. Moonlight shone through the shellshattered walls of homes and mosques, and we had to watch our step to avoid falling into craters left where bombs had collapsed the underground irrigation system on which the region's fragile farm economy depends.

Amid the devastation, a few families stubbornly had refused to leave. Mohammed, a farmer and a resistance fighter, described how he and a few others farmed under cover of night to keep food and shelter available for guerrilla caravans passing through.

"The Soviets have done everything they could" to force the villagers out, he said. "Their helicopters shoot anything that moves—even a farmer hoeing his field or an animal grazing."

"If I could, I would go tomorrow to Pakistan like the others," Mohammed said, "but we must stay for the jihad."

Barry stresses the drastic scale of the depopulation of Afghanistan. His census last fall of 23 villages in southeastern Afghanistan showed, that 56 percent of the households had been abandoned.

The Pakistani and Iranian governments estimate that about 4.5 million Afghans have sought refuge in their countries, a figure Barry compares to the U.N. High Commissioner for Refugees' estimate for 10 million refugees worldwide. His voice rising, he asked, "Why don't people in North America pay more attention to this?"

THE LASTING SCAR

In the single room of a trailside teahouse crowded with mujaheddin, a French medical team of three women examined Hakam Khan. In the yellow glow of a kerosene lamp, a surgical scar, improperly healed, snaked across his stomach like a shallow trench.

Answering the doctor's questions, Hakam Khan explained that he had no idea what surgery had been performed on him when he went to a Kabul hospital last year with stomach pain. Now he was having trouble with the scar, and the French doctors, he said, were the only people around to ask for help.

The women had hiked 12 hours that day, crossing a mountain range. As soon as they had collapsed on the floor of the teahouse, mujahaddin had begun presenting their medical problems.

"It's always like this," Dr. Louise-Marie de la Mata said with a sigh.

In Wardak, as elsewhere in Afghanistan, it is only small groups of overworked French doctors who provide medical care for local residents. For resistance commander Amin Wardak, the volunteer doctors and their tiny hospital—sent by the Paris-based Doctors of the World organization—are a critical part of the battle to prevent the depopulation of the province.

Wardak's fledgling civil administration also runs schools and aids farmers.

"It is especially important to keep prices down," he emphasized. "We have arrested many government agents who came to the countryside to buy up animals and foodstocks at high prices—all to empty the country side of food."

Wardak and other commanders established rules to prevent speculation in limited food supplies and are looking for ways to improve production. A beginning agricultural development program involves an experimental farm testing new strains of wheat.

But the most significant factor keeping people in the villages in southern Wardak is that the Soviets have not applied the same degree of pressure as elsewhere. Without effective antiaircraft weapons, Wardak—like and commander—is unable to protect even remote villages from Soviet attack.

According to Barry, the "lack of air defenses places Afghanistan's resistance commanders in a dilemma: "Either they can fight and eventually lose their populations, or they can keep their populations, but by not fighting in that area."

'FORGING SENSE OF NATIONALITY

To the casual observer driving on the back roads of Pakistan near the Afghan border, it can be difficult to tell the better-established refugee camps from Pakistani villages. Both are built of mud bricks, using precious timber only as roof beams, and the people look much alike: turbaned men, and women draped in sheet-like *burkas*, with lace-covered "windows" for vision.

The difference is that the refugee camps are larger, often holding an many as 20,000 to 30,000 people. Many observers believe that this unprecedented concentration of Afghans, often including different ethnic groups—Pashtuns, Tajiks, Uzbeks, Hazaras and others—is helping to spawn a sense of national identity.

"When these camps first began springing up, even before the Soviet invasion, Afghans from different tribes and regions began to get acquainted," Prof. Rasul Amin, formerly of Kabul University's social sciences faculty, said. "Now we've even begun to see some of them intermarry."

The mixing of ethnic groups remains limited, according to Amin, because many camps are homogeneous, often with the populations of entire villages having moved intact to a single refugee camp.

At Kacha Gari, a large camp near Peshawar, refugees spoke about how their lives have changed.

"Here, there are so many children in school," one man said. How many, he was asked—75, 80 percent? He frowned. "No, not like that. Maybe one in four," he said.

Stephen Keller, an American professor who runs an education program for Afghans in Peshawar, said most of the new refugee children in school study for only about three years. He and many educated Afghans said that most average Afghans retain a long-standing indifference toward education—a sentiment that hardened into antipathy during 1978 and 1979, when Afghanistan's first communist ruler, Noor Mohammed Taraki, tried to enforce literacy classes and lessons in Marxism on the population.

Keller insisted, though, that even the limited spread of education among Afghan refugees represents an important change.

"To get an idea of where these people started, you just have to see that before the war, only 7 percent of rural Afghan men could read, and only 2 percent of women," he said, "and most of them were government functionaries."

The Afghan guerrilla war against Communist rule began in 1978, and the first refugees began gathering in Pakistan within months. Such long-term refugees, living in older camps such as Kacha Gari, chafe at their dependence and idleness over the years.

"This is not life; this is only passing the time," said Muhammed Yussuf, a middle-aged former farmer, of his seven years as a refugee. "Before, when I owned my land, I was independent. Now I can only find a little work as a butcher. We get rations from the camp, but no one wants to live that way."

For Keller and other observers, the frustrations of this growing refugee population—the world's largest—represent a potential threat to stability in the border area of Pakistan. "Whether they are educated or not, there is no future for the rising generation, either within the camps or in Pakistan, "Keller said.

Barry said he believes the camps favor the growth of Islamic fundamentalism among Afghans. "Fundamentalism is the wave of the future in Pakistan, and the choices made by the Pakistani establishment weigh heavily on the options available to the resistance parties," he said.

Barry warned that a sense of despair within the camps could embitter young Afghans, leading them to turn to terrorism. "I think we're going to see a Palestinization of the Afghans," he said.

[From the Washington Post, Jan. 16, 1986]

ARMS FOR REBELS SIPHONED OFF—SOME PROFIT FROM HOLY WAR

(By James Rupert)

DARA ADAM KHEL, PAKISTAN.—"We can't show you the missiles here in the shop," said Gul, a Pakistani arms dealer, "but I could take you to where we keep them. Do you have money with you?"

Gul does not run an ordinary gun shop. His dimly lit single room opening onto Dara's only street was crammed with automatic assault rifles, machine guns and grenade launchers. The heavy barrels from disassembled artillery pieces lay jumbled up with boxes of ammunition and old bolt-action rifles.

But to see the best items, the Chinese-built 107-mm, surface-to-surface missiles, the customer must have money to show Gul (not his real name) that he is serious.

Gul would not say exactly where he and Dara's dozens of other arms merchants get the heavy weapons they sell, most of them Chinese-made. Instead, his suspicions aroused by the questions of my Afghan translator, he asked us to leave.

While the Pakistan frontier region is notorious for its indigenous arms-manufacturing, there is clear evidence that many of the weapons being sold in Dara—and other arms markets nearby—come from CIA-funded arms shipments meant for the Afghan mujaheddin or resistance fighters, opposing the six-year-old Soviet occupation of their country. Observers also believe China is supplying some weaponry to the guerrillas.

Last spring, U.S. congressional intelligence committees reportedly approved $470 million for covert military aid to the Afghan resistance for this fiscal year, and there were reports that Congress later approved a supplemental $300 million in assistance for two years, according to congressional and other sources in Washington.

But at best, resistance sources and military specialists say, the covert aid operation, administered by the CIA, lacks accountability and often delivers inappropriate arms. At worst, it may be losing substantial percentages of its shipments to corruption and contributing to a militarization of the volatile Pakistani-Afghan border area, which could ultimately help destabilize the United States' ally in the region, Pakistan.

THE ARMS PIPELINE

It is here, among the parched hills of Pakistan's tribal territories, that the pipeline ends. Dust-covered trucks roll into guerrilla bases along the Afghan border and unload arms to be cleaned and repacked on donkeys and horses for the trip into Afganistan.

Accounts pieced together from Afghans, Pakistanis and westerners said that the CIA secretly buys weapons—in China, Egypt and elsewhere—and ships them to the Pakistani port of Karachi and isolated points along the coast of Baluchistan, to the west. One source said shipments in recent months included 40 tons of Soviet equipment captured by South Africa.

Once the shipments have landed, Pakistan's joint military intelligence agency takes over, transporting them to the Pakistani military installations for distribution to the mujaheddin. Pakistani military personnel advise each Afghan resistance group when to go to a particular depot to collect arms and then notify police of the truck's route to the group's base to avoid searches along the way.

According to two westerners who visited different bases in recent months, up to 70 percent of the weapons were Chinese, along with some Soviet and Egyptian made arms. They included Kalashnikov assault rifles, rocket-propelled grenades, mortars, land mines and missiles—many of them the same models as those on sale in Dara.

Mujaheddin and western observers in Pakistan say Pakistanis and Afghans are stealing weapons along the arms pipeline.

Independent western observers believe the Pakistani military is diverting entire batches of weapons for Pakistan's own use. They say Pakistani police officers have been issued new weapons in recent years—such as Lee-Enfield Mark Five and Chinese-made SKS rifles—which had come through the pipeline.

A source close to the Pakistani Army denied the allegations, saying the rifles had come from old Pakistani military stocks.

Many mujaheddin alleged that Pakistani officers who run the pipeline are often cor-

rupt, demanding bribes or a portion of the arms shipments, which they later sell.

"The worst thing is that some who are stealing are Afghans," said Ezim Wardak, a resistance official in Peshawar, Pakistan. "They call themselves mujaheddin but they are really businessmen, trying to make a profit from the jihad," or holy war. A guerrilla leader from northern Jozjan Province said he and other commanders regularly sold some of the weapons they received in Pakistan as the only way of paying the increasing costs of transporting the arms into Afghanistan—especially to its north west.

PAKISTANI CONTROL

A Pakistani military analyst insisted that Pakistan's Army was not diverting weapons. "Those chaps [the majaheddin] are a bit sore at us because we have certain controls over the weapons," he said.

Without giving details, the analyst explained that the Pakistani military often stores the arms, waiting for "the right time and the right groups" to distribute them.

Mohammed Es'Haq, a political officer of the Jamiat-i-Islami, conceded that some Afghan resistance officials are selling donated arms. Although his own party has an accounting system for the weapons, he said, "We don't have all the control we would like because we are guests here in Pakistan; we cannot run our own police force."

Es Haq and other resistance officials were reluctant to discuss the loss of arms from the pipeline, for fear publicity about the problem might prompt Congress to stop funding the operation. "It is better for us to get half of the weapons than to get none at all," said a guerrilla commander who asked not to be identified.

Despite the nearly universal allegations of corruption, it is unclear exactly how many of the CIA-supplied arms are being diverted. Different persons interviewed varied widely in their estimates and seemed to have little hard information.

Guerrilla commanders in Afghanistan, angry at having received few or no arms, argued that as much as 85 percent of the weapons are diverted, while Pakistani sources insisted that only a negligible amount is stolen—and only by Afghans, never by Pakistanis. In fact, the secrecy of the pipeline, and the fact that the weapons pass through so many hands, may prevent anyone—including the CIA—from knowing what percentage of the weapons is lost.

Noting reports that Congress authorized $250-$280 million to run the secret arms operation in 1985, a western military specialist who has traveled regularly in Afghanistan with the mujaheddin said, "These figures are completely out of line with what the mujaheddin are seeing."

Formally, Pakistan denies the very existence of the arms-supply operation. But Pakistani officials admit openly that they are worried about the heavy flow of arms into the tribal territories where the pipeline ends.

In the latest episode of a historical tussle between Afghanistan and Pakistan for the loyalties of the Pushtun (or Pathan) tribes that straddle their border, the Afghan government has armed dissident tribesmen from the Pakistani side and encouraged them to oppose the mujaheddin and the Pakistani government.

In early December, Pakistan sent thousands of troops into the Khyber district to crack down on the Kabul-supported dissident tribesmen and seize what it claimed were more than a thousand Kalashnikov rifles and other weapons.

Western diplomats and others contend Pakistan's claim that the arms that flood markets such as Dara—and the homes of Pushtun tribesmen—are all sent by Kabul. "Why would the Afghans be sending Chinese arms, and where would they get them?" a western analyst in Islamabad asked.

So many weapons have poured into the area since 1980, when the CIA operation began, that the market price of a Chinese-made Kalashnikov has fallen by more than a third. The flow of arms has seeped into other areas; tribesmen in Baluchistan, bandits in southern Sind Province and even Sikh extremists in the Indian city of Amritsar have been reported using guns from the CIA pipeline.

"The Americans and Parkistanis could tighten the accountability of their operation. They could mark the arms when they ship them in, and then seize them when they turned up in the bazaars," said a western military specialist on Afghanistan. "They would be able to trace the diversion to its sources."

Many rebel commanders and others agreed with Shah Mohammed, a guerrilla chief from Logar Province who argued that outside arms donors should bypass the Afghan political parties and deliver the aid directly to proven commanders inside Afghanistan, as do many European organizations offering humanitarian aid. Afghan political leaders traditionally have distributed largesse to their clients and supporters as a way of gaining influence—a habit that party leaders have continued during the war.

"The parties—some more than others—distribute the weapons to get political influence rather than according to the military needs of the jihad," Mustafa Wardak, a commander in Ghazni Province said.

The concerns about Pakistani and Afghan corruption are not limited to military aid. Officials of private aid organizations in Peshawar express misgivings about a new U.S. Agency for international Development humanitarian aid program preparing to spend $15 million this fiscal year on projects inside Afghanistan.

Like the military pipeline, the humanitarian aid operation will channel its funds exclusively through the Pakistani authorities and the Afghan political parties—a structure that aid workers say invites corruption and inefficiency. The aid official questioned whether the necessary infrastructure exists inside Afghanistan to spend the AID money efficiently, which dwarfs their private efforts.

AID has not yet released details on how it plans to spend the money, but one western source in Islamabad, Pakistan, dismissed the aid workers' fears, saying AID was planning "some creative new ways" to use the money in helping the mujaheddin.

CAN YOU READ THIS?

In the narrow ravine of their guerrilla base, the mujaheddin pried open wooden crates containing the Chinese missiles they would fire that night at Soviet positions in Ghazni. Inside one of the crates they found a sheet printed in Chinese and covered with tables of figures.

As he examined it, a guerrilla said, "I think it is information on how to launch the missiles." Suddenly, his face brightened, and smiling, he handed the paper to a Japanese photographer who had come to cover the war.

"Can you read this?" he asked.

The incident symbolized what many mujaheddin regard as one of their most basic problems in this war: their lack of technical information and training in how to use their weapons.

Whatever its problems with corruption on the Pakistani side of the border, the CIA's arms pipeline has succeeded in delivering the heaviest and most sophisticated weapons the resistence has had during its six year battle against the Soviets.

"Unfortunately, these weapons are coming to men who are illiterate peasants . . . and they are not being taught how to use them," said an American military specialist who has traveled with the mujaheddin.

At the few drab restaurants and hotels in Peshawar favored by foreign visitors, western journalists and others who have accompanied the mujaheddin inside Afghanistan recount stories about guerrillas firing missiles without detonators, planting land mines upside down and—one of the most consistent observations—wasting ammunition in small and ineffectual attacks on Soviet posts.

"Most of the mujaheddin . . . find the range [with a mortar] by setting it up, firing off a few rounds and tinkering with it," said Peter Jouvenal, a British documentary film maker who has covered the war since it began. "By the time they're ready to hit the target, they've run out of ammunition."

"If the CIA or anyone else were serious about helping the Afghans, they would be training them," one military analyst said, "westerners have this idea that the Pathans [the largest Afghan ethnic group] are natural fighters, and to an extent that's true," he said, "but you cannot expect a farmer to aim a modern missile with his instincts."

Several sources said the Pakistani Army had run—and apparently stopped—a small-scale training program for the mujaheddin, in addition to rudimentary training by the parties based in Peshawar.

Several military observers said the delivery of even simple forms of aid to the mujaheddin could be dangerous to the guerrillas in the absence of training. One described mujaheddin who received radios but who knew nothing about codes and broadcast their movements to each other in plain language.

Military specialists who have traveled with the mujaheddin argued that training would not only improve how the guerrillas handle their weapons but would help overcome divisions among guerrillas of different parties and regions, and improve their cooperation in the field.

Many, but not all, commanders agreed on the need for training. Several commanders from the fundamentalist Hezb-i-Islami faction of Gulbuddin Hekmatyar argued that military training, like secular education, was of relatively minor importance, next to the religious faith of the mujaheddin.

"It is the man and his faith which fights," said Shamsuddin, a former medical student now commanding a Hezb-i-Islami guerrilla group in Kunduz Province, in the north. "If training were most important, the Soviets would have beaten us long ago, because they have training and we do not," he said.

AIR DEFENSES CRITICAL

"We heard you are an American," the middle-aged guerrilla said. For 40 minutes, he and a companion had sat silently, on the floor of the teahouse, watching closely as I scribbled notes from the day's long hike.

That now finished, the men explained their request:

"When you go back to America," one asked politely, "could you send us some air defense?"

Although the question sounded odd to an American reporter, for the two Afghans it was both serious and urgent. Indeed, during a month inside Afghanistan, numerous guerrillas stressed that their greatest need in military aid is a defense against the Soviet jets and helicopters that attack their supply caravans and support commando raids against them.

The mujaheddin have little effective air defense, relying on heavy machine guns and a limited number of Soviet-made SA7 missiles. Virtually all the mujaheddin encountered disagreed with the conclusions of a December State Department report that said that resistance air defenses had improved with growing numbers of surface-to-air missiles and reduced the effectiveness of Soviet air power.

The most important recent change in the air war, according to Kabul area commander Abdul Haq and others, is that the Soviets now use more helicopters, especially in commando operations.

"They used to send in seven or eight helicopters in an attack, but now they might send 20," he said. The mujaheddin have responded, he said, by offering smaller targets. "We have to move our supplies at night, we use smaller caravans—maybe with 20 camels instead of a hundred."

Many mujaheddin believe that more and better missiles are the answer. And in Washington last fall, intelligence sources were quoted as saying the Reagan administration was considering supplying sophisticated portable antiaircraft missiles, such as the British blowpipe system.

"The U.S. must be careful about listening to missile requests," a western military analyst said in Peshawar. "The mujaheddin see solutions to their problems too easily in sophisticated hardware."

The analyst said that much of the reason for the guerrillas' disappointment in the antiaircraft missiles was their lack of training.

He suggested that simpler weapons, such as Soviet wire-guided missiles would be easier for the mujaheddin to learn to use.

"If they're thinking of sending in even more sophisticated weapons, without any training program, I wonder if they really know who they're dealing with," he said.

Mr. BYRD. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER (Mr. KASTEN). The Senator has 5 minutes remaining.

Mr. BYRD. Mr. President, I ask unanimous consent that I may reserve my 5 minutes throughout this day.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. I yield the floor.

RECOGNITION OF SENATOR PROXMIRE

The PRESIDING OFFICER. Under the previous order, the Senator from Wisconsin is recognized for not to exceed 15 minutes.

SENATOR KASTEN'S WEDDING

Mr. PROXMIRE. Mr. President, I am happy to see my distinguished and handsome Wisconsin colleague presiding over the Senate this morning, and freshly back from his honeymoon.

I congratulate him officially in the RECORD on his marriage. He has obviously married a most beautiful and attractive wife.

I think he deserves all of our credit, and best wishes for a very happy married life.

THE WASHINGTON POST ON TARGET ON CUTTING THE DEFICIT

Mr. PROXMIRE. Mr. President, it is a rare occasion, as far as this Senator is concerned, that I can almost wholeheartedly approve of the recent editorial in the Washington Post. I had that happy experience this morning. The lead editorial in the Washington Post was an excellent editorial.

The Congress urgently needs constructive suggestions on how to reduce the deficit, and the Washington Post comes up this monring with one of the best this Senator has seen in a long, long time. In the lead editorial, the Post called for some powerful but essential cuts in domestic programs. That may surprise a lot of people. It is not quite the Washington Post style to call for cuts in domestic programs. But they do.

They favor ending revenue sharing, finishing off the Economic Development Administration. They would kill a program I authored back in the seventies: the urban development action grant, or UDAG Program. And it should be killed. They would knock off the Small Business Administration. They miss a few other targets. We could save $5 billion over the next few years by a 1-year moratorium on assisted housing. We could take at least $1 billion by 1987 out of the farm program. We can and should end Amtrak.

Mr. President, this is particularly helpful for a paper which I understand has opposed the Gramm-Rudman bill, which I supported. But I think if you are going to oppose the Gramm-Rudman bill, then you ought to come up with some specific cuts. They do that. By and large, the Post has proposed the right kind of reductions in the domestic side of the budget.

They observe properly that these reductions fall far short of the $70 or $80 billion of reductions we must find between now and fiscal year 1987 that begins next October 1. The Post takes it much too easy on defense. We can and should end star wars, the MX, the B-1. Stealth makes much more sense. The Pentagon is woefully topheavy in headquarters staff.

We do not really have to go all the way with a 600-fighting-ship Navy. But the actual economies available in defense are—as the Post points out—not great. This unfortunately is not a Sunday school world. We need a strong defense that will continue to require heavy spending. Sure, arms control negotiations could significantly ease that burden. But in spite of the big talk by Gorbachev and Reagan, such a consummation is very likely years away, probably well after the Reagan administration leaves office.

The Post rightly argues that all this means that a responsible fiscal course absolutely requires a tax increase of one kind or another. None of this will make 1986 a happy year politically. But there is a growing feeling in the country that the huge and continuing deficit represents a terrible future threat that will bring an enormous debt burden, rising interest rates and a curl-your-hair inflation unless the Congress acts and acts now. The country is politically right for both budget cuts and tax increases.

Mr. President, I ask unanimous consent that the lead editorial from the Washington Post be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Washington Post, Jan. 22, 1986]

THE BUDGET SOLUTION

Certainly it's possible to cut the federal budget further. And it's necessary. The Gramm-Rudman-Hollings machinery is now in gear, and the budget that President Reagan proposes to Congress in February will probably call for more than $60 billion in deficit reductions next year. He apparently intends to take nearly all of it from that one-third of the budget that is neither defense, interest nor Social Security and Medicare. Within that one-third, there are still programs—most of them survivors from less straitened times—that could indeed go.

For one example, general revenue sharing can be allowed to pass into history—as Congress acknowledged in the reconciliation bill that it didn't quite pass in December. For another example, the Economic Development Administration, offering additional grants to state and local governments, would not be greatly missed. Nor would UDAG, the urban development acting grant program; it supports cities' renewal plans, frequently for projects that might better find commercial financing. The president was right last year to call for an end to the Small Business Administration, and no doubt he will call for it again. The question is not what's desirable but, in a year of severe constraint, what's indispensable. The list of dispensables could be carried to greater length.

But when you add it all up, you are not going to come up with a great deal of money. Even pressing all the limits, it's hard to see as much as $15 billion in legitimate and plausible budget cuts here for next year. After all, this most vulnerable one-third of the budget has been reviewed repeatedly by the budget-balancers, beginning in the Carter administration. It is ground that has been raked over and over. That part of the budget currently comes to about $320 billion, and since the beginning of the Reagan administration it has sustained more than $60 billion in cuts. If cutting goes much further in this area, it will begin to

erode the ability of the government even to carry out the basic public functions necessary to keep itself operating effectively—to collect the taxes, enforce the laws, administer justice and the rest.

And while some parts of the budget can still be reduced, some other parts of it ugently need to be expanded. The poorest one-fifth of the American people are living in privation that has greatly increased in recent years, and half of that one-fifth are children. Their condition stands as evidence that cuts in family support, nutrition and health outlays have already gone too far.

That's why no part of the budget should be considered off limits. Although Mr. Reagan has adamantly refused to consider it, Social Security can be trimmed without injustice to recipients. Congress has moved a couple of times toward postponing or diminishing the cost-of-living adjustments. That's a bad idea, for the impact would fall equally on the poorest and the wealthiest of recipients alike. But how about taxing Social Security a bit more broadly? Half of Social Security benefits are now taxable above a certain income threshold—$32,000 a year, in the case of a couple. Why not abolish that threshold? If the same sound principle were applied to unemployment compensation and workers' compensation as well, all together it would raise $4 billion next year and much more in the years beyond. But all of that would still leave the total deficit reduction far less than half of the huge amount required by Gramm-Rudman-Hollings.

As for defense, it's possible to debate whether the Pentagon is spending its money on precisely the right things. It's reasonable to say that defense spending is adequate for present circumstances and may not require any further increase in real terms—that is, after inflation. But cutting the defense budget would be altogether unwise. Another way will have to be found to get the deficit under control.

There is only one other way: to raise taxes. A tax increase is now mandatory. It needs to be very large—in the range of $150 billion a year, phased in over the next several years. It does not have to be big enough to reduce the federal deficit to zero, least of all with the unemployment rate still hovering around 7 percent. But it has to be big enough to bring the deficit down rapidly, convincingly and permanently.

Over the months ahead, a simple test will distinguish serious budget strategy from posturing. Any serious strategy will require a tax increase sufficient to pay for national defense, social progress and the other public responsibilities that Americans want their federal government to uphold. Any budget plan that omits that tax is not serious. The arithmetic permits no detour around that reality.

There is a way out of the dangers into which the continuing gigantic budget deficits have brought the country. But there is only one way, and to take advantage of it President Reagan and Congress will have to move rapidly and forcefully.

IS STAR WARS WORTH THE COST?

Mr. PROXMIRE. Mr. President, we have the soaring, exploding, sky's-the-limit cost of this Star Wars Program. Here is a project that costs so much the experts cannot even give us an estimate. We know we will spend more than $2.7 billion on beginning research in the current fiscal year. That is the year beginning October 1, 1986, the 1987 fiscal year. We know that over the next 5 years, the research cost alone will reach $25 billion on this strategic defense initiative before we buy or deploy the hardware. The former Under Secretary of Defense, Secretary DeLauer, who championed this program, warned us that the cost would stagger us. How much will it cost? Estimates by SDI supporters range from $400 to $900 billion. Critics say it will cost well over $1 trillion.

Do you think that is bad? The latest reports are worse. The congressional Office of Technology Assessment tells us that we will have to revive our vanished air defense to supplement this program. Former Secretary of Defense Schlesinger has estimated that particular revival alone will cost at least $50 billion a year in current dollars to produce, deploy, and maintain the look-down, shoot-down capacity necessary to have any chance to stop the bombers, and especially the cruise missiles, that would shoot in under the SDI defense. Those cruise missiles can strike today with the force of 150,000 tons of TNT. Currently, we are defenseless against them. There is no assurance that even $50 billion a year would provide an effective defense.

And now we are told that SDI will need a full-scale civil defense program. Who can estimate the cost of building the underground shelters? How many shelters would this vast country need? One for each of our tens of millions of households? Could we evacuate our cities even with an all-out program that carried no cost limit? And if we could, what would happen to the millions of people pouring into the countryside to confront the real possibility of a nuclear winter? What civil defense could we construct against temperatures that plunged 45 degrees below normal? How could we begin to cope with an environmental disaster that would destroy food production throughout the world for 1 year or more? What would be the cost of a civil defense system designed to meet all these exigencies that would accompany a nuclear war fought under the umbrella of a star wars defense?

Mr. President, let me make it clear that if the star wars anti-missile defense could prevent a nuclear war or even measurably increase the likelihood this country could avoid a nuclear war, this Senator would gladly vote for the taxes and the appropriations necessary to buy the SDI research, the hardware, the deployment, the air defense against bombers and cruise missiles and the civil defense necessary to supplement the SDI. But why should any Member of this body vote to spend these immense sums when the best evidence indicates that SDI will not lessen the likelihood of nuclear war? On the contrary, this is shocking, but star wars defenses will surely increase the prospects of nuclear war. Why? Here is why: We cannot escape the grim fact that if both sides have an SDI or missile defense, the side that strikes first will win a tremendous advantage.

Can anyone deny the compelling fact that the success of the antimissile defense depends on somehow reducing the number of offensive missiles in the adversary's arsenal? This is precisely why, with the advent of the Antiballistic Missile Treaty, deterrence of nuclear war became the true peacekeeper. Why do both Mikhail Gorbachev and Ronald Reagan so emphatically agree that under present circumstances, a nuclear war must never be fought and can never be won? It is because both superpowers now recognize the utter, certain, and total catastrophe of nuclear war without antiballistic missile protective shield. Then, what do we buy when we get that protective SDI shield? What do we receive for the literally trillions of dollars of expenditures? We get a far more dangerous world than we had before.

Mr. President, we cannot find the answer to peace and security in this nuclear world by building more weapons. This is true whether those weapons are offensive or defensive. We cannot buy security and safety. For the first time in the world's history, we cannot, with all our marvelous technology and our superb economy, find salvation in offensive or defensive military strength alone. So where does our salvation lie? It lies in arms control. It lies in negotiating an agreement with the other superpower. Does that mean we approve or trust the Soviet Union? Of course not. It means we have to understand that no matter how aggressive they are, no matter how seriously their ideology erodes human freedom, the Soviet Union has the same yearning to survive that the United States has. The Soviet leader has clearly expressed the same understanding of the totally destructive consequences of a superpower nuclear war as our President.

We do not have to worry about the honesty or sincerity of the Soviet leader, we only have to be concerned over his understanding of the power of the U.S. 10,000 strategic nuclear warheads and of the sure destruction that follows from knowing that the Soviet leader understands, as an absolute certainty, that the United States has the capability of delivering that awesome destructive power on the Soviet Union. On the other hand, Secretary Gorbachev does not have to trust the American Government to agree not to institute an attack. He knows that we understand that any nuclear attack on the Soviet Union by the United States

would provoke a retaliation that would utterly destroy this country.

Given this situation, what purpose does arms control serve? Can both superpowers simply rely on the nuclear standoff continuing indefinitely? In the words of Churchill at the dawn of the nuclear age; "Safety was the twin child of terror." Why not keep it that way? The answer is that we cannot. Not without an arms control treaty like the ABM that prevents the superpowers from building a defensive system that could permit a preemptive first strike from so decimating the offensive arsenal of the adversary that star wars or SDI just might permit the attacking nation to become the lone survivor of an all-out, superpower exchange.

So, Mr. President, arms control is essential to peace in the nuclear world because it stops or freezes the dynamic technological momentum that, without arms control, will push both superpowers out of their deterrent stalemate into a nuclear first strike that could win world domination. Arms control can enable us to achieve peace without the colossal burden of military spending that such projects as star wars and their accompanying air defense and civil defense supplements would require.

We have a choice. We can ignore arms control. We can forget about agreements with the Soviet Union. We can rely on building bigger and better and more devastating offensive and defensive nuclear weapons than the Soviet Union. In the process, we will literally spend trillions. We will also greatly increase the prospect of nuclear war. Or we can negotiate an agreement to end the arms race with the Soviet Union. We can reinforce such an agreement with the strongest possible verification we can negotiate and pour our scientific resources into refining and improving the verificiation technology. We can further buttress the agreement with constant and aggressive reliance on the Standing Consultative Commission, promptly challenging any and every Soviet violation of the agreement. Finally, we can make it absolutely clear to the U.S.S.R. that if they do violate the agreement in any militarily significant way and refuse to stop the violation, we will renounce the treaty and resume the arms race that will be to the serious disadvantage of both nations.

Certainly there is no sure, risk-free panacea for peace in this troublesome nuclear age. We need both military strength and vigorous arms control. Military strength alone is not enough. Arms control can never eliminate a heavy burden of military preparedness. The two can and must work together. Without military strength, arms control becomes a beautiful but empty, idealistic dream. Without arms control, military strength leads us down the road to national bankruptcy and a far more dangerous world.

THE MYTH OF THE DAY: WELFARE RECIPIENTS ARE RESPONSIBLE FOR MEDICAID'S HIGH COSTS

Mr. PROXMIRE. Mr. President, the myth of the day is that the cause of medicaid's cost explosion can be traced to the excessive use of health care services by AFDC recipients.

While medicaid was enacted in 1965, it faced a troubled infancy as the States and the District of Columbia struggled to implement this new program to provide health care for the poor. So, it was not until 1972 that the Federal Government was able to gather and monitor statistics on medicaid enrollment and costs. At that point, medicaid cost $6.3 billion and covered 17.6 million persons. A decade later, medicaid coverage expanded to 22 million Americans and cost a whopping $30 billion. The program had grown at an annual compound rate of 16.9 percent. By contrast, Federal revenues grew at a compound rate of only 11.7 percent and State revenues grew at a slightly lower rate of 11.4 percent. So, it is clear that medicaid's rapid rate of growth has quickly been outstripping the ability of the Federal and State governments to meet its bills.

In my own State of Wisconsin, medicaid is now a billion dollar program with the Federal Government meeting 57 percent of its cost.

The tremendous rate of growth in medicaid has led many to conclude that this explosion in costs can be laid at the doorstep of the AFDC welfare population.

And they are dead wrong. Let us look at the numbers.

In 1982, the AFDC population made up 69 percent of the 22 million Americans eligible for medicaid, yet they were only responsible for 26 percent of all costs in that year.

That is right. Sixty-nine percent of medicaid recipients only ran up 26 percent of the costs for the entire program.

By contrast, the aged, blind, and disabled made up less than 30 percent of medicaid recipients yet incurred over 70 percent of total program costs.

How can that be?

First, the aged, blind, and disabled disproportionately use health care services. Even without the hardships of blindness or SSI-qualifying disabilities, the aged use health services at a rate 3½ times the total population. In addition, disabilities at any age increase service utilization and medicaid services for SSI recipients have increased at an annual compound rate of growth of 20.5 percent, compared to 13.9 percent for AFDC recipients.

Second, the aging of the population has increased the demand for institutionalization. While the number of aged medicaid recipients is actually declining slightly, reflecting in part the improved economic status of the elderly, the percentage of medicaid aged in nursing homes has increased, suggesting an evolution to an older and more impaired aged medicaid recipient.

Third, the decision to extend medicaid coverage to the SSI population, particularly the disabled, and the coverage of nursing home care in ICF-MR's [intermediate care facilities for the mentally retarded] has been a major factor in the rapid growth of medicaid costs. In 1975, the disabled accounted for 24 percent of all medicaid expenditures in nursing homes; by 1982, it had risen to 38 percent and is continuing to escalate rapidly. Costly ICF-MR's provide care to the one-third of institutionalized disabled who are mentally retarded.

Thus, the image of the welfare mother and her children accounting for the explosion in medicare costs misses the mark by a country mile. And by permitting this myth to continue, without refutation, we merely undercut the support which this vital "safety net" program deserves.

For many elderly, medicaid is there when they have exhausted their resources in the nursing home. Medicaid is there for the mentally retarded and the blind, the disabled, the least fortunate of our society when they most need it.

And far from being the cause of the medicaid cost spiral, Americans under age 65 who are in poverty and are not blind or disabled are perhaps the least protected by medicaid. And as I have pointed out before, we need to see that we better target these limited resources to meet their needs as well.

THE VISION OF DR. MARTIN LUTHER KING AND THE GENOCIDE CONVENTION

Mr. PROXMIRE. Mr. President, this week we observed the first Federal holiday commemorating the birth of Dr. Martin Luther King, Jr. Much has been said of his leadership and of his legacy to America: His efforts for civil rights, on behalf of the poor and in support of the cause of peace stirred a complacent nation to action and changed the very fabric of American society within a single generation. He appealed to the very best aspects of American character and his legacy is reflected in our progress toward equality and social justice.

But Dr. King's vision was not limited to home; he had a vision far greater. A dream that the United States would assume its rightful place as a leader in the world for human rights—the rightful role for a nation which once re-

ferred to itself as the leader of the free world.

Unfortunately, we have made far too little progress toward achieving this broader goal. For all of our rhetoric, we have little of substance to demonstrate our willingness to follow through on our commitment to human rights. Among Western nations, we have had a poor track record for ratification of human rights treaties—the essential building blocks for securing these rights.

But why, Mr. President? Why? How could we fail to take action when it is within our grasp to do so? How can we fail to give meaning and substance to our rhetorical commitment to human rights? The sad answer, Mr. President, is that there is no excuse for our past inaction.

Yet while we cannot undo the past, we can change the future and we have a unique opportunity this year to do just that. President Reagan has called upon us to ratify the Genocide Convention, the most basic and fundamental of the human rights treaties ever drafted. Here is a treaty which seeks to guarantee the most fundamental right of all: The right to live for every national, ethnic, racial, and religious group; the right to live without fear of extermination. And what could be more basic?

The Federal holiday for Dr. King, a dedicated servant of the cause of human rights, is an important symbol of the man, his people and, most of all, his cause. As important as that is, it will ultimately be incomplete until we see the realization of that dream: both here and abroad. And ratification of the Genocide Convention this year will be a most fitting step in that direction.

Mr. President, I yield the floor.

RECOGNITION OF SENATOR COCHRAN

The PRESIDING OFFICER. Under the previous order, the Senator from Mississippi [Mr. COCHRAN] is recognized for not to exceed 15 minutes.

FORECLOSURE POLICIES OF THE FARMERS HOME ADMINISTRATION

Mr. COCHRAN. Mr. President, I take advantage of this opportunity to bring to the attention of my Senate colleagues that the Subcommittee on Appropriations which I chair, the Subcommittee on Agriculture, Rural Development and Related Agencies, will conduct a hearing on Friday of this week at 9:30 a.m. in room 138 of the Senate Dirksen Office Building to examine the foreclosure policies of the Farmers Home Administration. The subcommittee has jurisdiction over the funding of this agency. I am concerned about the possible impact of what may be a new policy relating to farm foreclosures on the budget and on the appropriations bill that our subcommittee will have to prepare later this year.

For some background on the subject, when I was back in my State over the Thanksgiving holiday, a friend brought to my attention some instructions that had been promulgated by the Department of Agriculture to county supervisors of the FmHA in my State, and presumably throughout the country, relating to foreclosure policy.

Attached to these instructions were some forms. One was entitled "Notice of Intent To Take Adverse Action."

Reviewing these instructions and the attachments to them, it became obvious to me that the Department of Agriculture, through the Farmers Home Administration, was going to be communicating with almost all Farmers Home borrowers and putting them on notice that immediately after the first of the year foreclosure action was contemplated against every one of them who was $100 or more behind in the payment on his Farmers Home loan.

Well, this struck me as unusual because my recollection had been that the Farmers Home Administration had a policy of leniency and that it would work with farmers to help them work their way out of indebtedness and prevent foreclosure, that that was the policy of the Farmers Home Administration and the Department of Agriculture.

So I wrote a letter upon returning to Washington to the new Administrator of the Farmers Home Administration. My letter was dated December 3, 1985. In my letter, I said:

> When I was in Mississippi this past weekend, I was handed a copy of Farmers Home Administration instruction No. 1924.71, et seq. I am enclosing a copy for your information. The interpretation of these instructions by some borrowers in my State is that anyone who is more than $100 delinquent on December 31 can expect foreclosure. It is my recollection that the policy of the Farmers Home Administration has been one of leniency, with a commitment to farmers to help them work out of their indebtedness problems if at all possible. I want to know if the policy has been changed and whether the interpretation of these instructions is correct or not. Your early advice would be appreciated very much.
>
> Sincerely,
>
> THAD COCHRAN,
> *U.S. Senator.*

Mr. President, I received a response to that letter today. It has taken almost 7 or 8 weeks to get a response to that inquiry. It seemed simple enough to me. I did appreciate a telephone call that I received earlier today from the Administrator of the Farmers Home Administration apologizing for the delay in responding to that inquiry.

But what disturbs me more than not getting an answer until January 22 to a letter dated December 3 about a fundamental policy of the Farmers Home Administration is the attitude on the part of the Farmers Home Administration that is reflected in these instructions and in these forms to which I have earlier referred. So Members will be on notice, I am asking unanimous consent, Mr. President, that copies of these attachments be printed at this point in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[Form FmHA 1924-25 (9-85)]

Position 3

United States Department of Agriculture

Farmers Home Administration

NOTICE OF INTENT TO TAKE ADVERSE ACTION

Dear :

We regret to inform you that a review of your Farmers Home Administration (FmHA) loan account indicates the need to take adverse action.

We have attempted to work out a satisfactory solution to your credit problems through the various servicing options available, but have not been able to do so. For your information and review, we have included with this material a copy of the FmHA notice entitled "Farmer Program Borrower Servicing Options Including Deferrals and Borrower Responsibilities" (Form FmHA 1924-14).

This "Notice of Intent To Take Adverse Action" *requires a response from you within 30 days, using the attached form entitled "Borrower Acknowledgment of Notice of Intent to Take Adverse Action" (Form FmHA 1924-26).* That form offers you the opportunity to request for consideration a number of servicing options. Further details are provided below.

We have conducted a review of your Farmers Home Administration (FmHA) loan accounts and determined the following where checked:

☐ You are presently $———— behind schedule on your FmHA loan installments which is a violation of your note and mortgage and/or security agreement.

☐ You have made unapproved disposition(s) of property that is covered by security instruments which secure your FmHA indebtedness. The property in question is (describe property):

☐ You have stopped farming or ranching which is a violation of your loan agreements.

☐ You have (insert the reason(s) for the proposed adverse action):

If the above listed violation(s) is not corrected by one or more of the actions described in the attached Form FmHA 1924-26, "Borrower's Acknowledgment of Intent to Take Adverse Action," FmHA intends to accelerate your FmHA debts and foreclose on your real estate and/or chattels. This may include repossessing your chattels or in other ways proceeding against property you own in which FmHA has a security interest or terminating the release of sales records.

You may, with regard to your Operating, Economic Emergency, Emergency, Farm Ownership, Soil and Water, Special Livestock, Economic Opportunity, Rural Housing for farm service buildings, and/or Recreation loan(s), apply for servicing options, including deferrals, that are explained in the enclosed Form FmHA 1924-14, "Notice—Farmer Program Borrower Servicing Options Including Deferrals and Borrower Re-

sponsibilities." Please read this form carefully.

If you wish to apply for any of the servicing options you must complete Part I of the enclosed Form FmHA 1924-26, "Borrower Acknowledgment of Notice of Intent To Take Adverse Action," sign the form, and return the form to the address listed on the letterhead of this notice within 30 days after you receive this notice. We will then arrange a conference with you to develop financial statements and farm operating plans which FmHA will use to make a determination on your request for servicing options. If you fail to attend this conference without offering a legitimate excuse or if you fail to provide necessary information, your request will be automatically denied and you will not be given an opportunity to appeal any adverse decision.

At the conference you will be given the opportunity to present information you believe will show you are eligible for the servicing option(s) you requested. FmHA will make a decision on your request based on the information submitted by you, the information in your FmHA case file and the plans developed by you and FmHA at the conference. Such a decision will be in writing and, if the decision is adverse, FmHA will explain how to appeal the decision and to have an appeal hearing. Such a hearing will cover both the denial of your request for servicing alternatives and other adverse actions FmHA intends to take against you as indicated above.

If you do not wish to request servicing options, you have the opportunity to appeal the adverse action(s) FmHA intends to take. In this case, you should complete only Part II of Form FmHA 1924-26, sign the form and return it to the address shown in the letterhead of this notice within 30 days after you receive this notice. You may appear in person, with or without an attorney or other representative, to present your information. The hearing officer will be an FmHA employee who has not been previously involved in your case. The hearing officer will arrange a mutually convenient time and place for the appeal hearing.

Several methods of curing defaults or liquidating your FmHA loan accounts are available. If you prefer to use one of those methods listed in Part III (Curing Defaults) or Part IV (Liquidation Action) of Form FmHA 1924-26, check the appropriate box, sign the form and return it to the address listed in the letterhead of this notice within 30 days of receipt of this notice.

Please note that Form FmHA 1924-26 must be postmarked within 30 days of the day you received this notice. If you fail to respond to this notice by completing, signing and returning Form FmHA 1924-26 in the prescribed time, FmHA will proceed to take the adverse action(s) against you without further notice and right of administrative appeal by you.

(The following paragraph applies for individual borrowers only.)

The Federal Equal Credit Opportunity Act prohibits creditors from discriminating against credit applicants on the basis of race, color, religion, national origin, sex, marital status, age *(provided that the applicant has the capacity to enter into a binding contract);* because all or part of the applicant's income is derived from any public assistance program; or because the applicant has in good faith exercised any right under the Consumer Credit Protection Act. The Federal agency that administers compliance with this law is the Federal Trade Commission, Equal Credit Opportunity, Washington, D.C. 20580.

Sincerely,

_____,

FmHA County Supervisor.

Enclosures: FmHA Form 1924-14; FmHA Form 1924-26.

[Form FmHA 1924-26 (9-85)]

Position 4

United States Department of Agriculture

Farmers Home Administration

BORROWER ACKNOWLEDGMENT OF NOTICE OF INTENT TO TAKE ADVERSE ACTION

County Supervisor, FmHA

This acknowledges that I (we) received your Notice of Intent To Take Adverse Action dated:

(Complete Part I, II, III or Part IV and Part V.)

I. Servicing Actions:

I (we) request FmHA to consider the following servicing actions (check one or more)

A. ___ Rescheduling
B. ___ Reamortization
C. ___ Consolidation
D. ___ Deferral
E. ___ Limited Resource
F. ___ Subordination
G. ___ Restructuring the business and debt by selling a portion of my (our) assets

I (we) understand that if, after I (we) attend a mandatory conference and present necessary information, FmHA denies my (our) request, I (we) will be given opportunity to appeal.

(If you completed this part, proceed to Part V.)

II. Appeal:

I (we) do not wish to apply for the servicing options in Part I above. I (we) understand that I (we) may appeal FmHA's intended adverse action and I (we) wish to have the appeal hearing handled as follows:

(Check appropriate box)

A. ___ I (we) request an appeal hearing and I (we) believe FmHA's intended action is wrong for the following reason(s).

I (we) am (are) enclosing the following information for the hearing officer's consideration (Itemize specific documents).

B. ___ I (we) request an appeal hearing and I (we) will present information at the hearing which I (we) believe will prove FmHA's decision is incorrect.

C. ___ I (we) will not attend an appeal hearing but request the hearing officer to review the existing written record, and based on the review, determine whether FmHA's decision is correct.

D. ___ I (we) do not want to appeal the intended action and waive my (our) right to do so.

(If you completed this part, proceed to Part V.)

III. Curing Defaults (Complete this only if you have checked none of the boxes in I or II above):

I (we) do not wish to request a servicing option in Part I or to appeal the intended adverse action as allowed in Part II. I (we) wish to take the following action to correct the security agreement violations noted in Form FmHA 1924-25 and request a conference with you to discuss this action.

A. ___ Pay my (our) delinquent loan accounts current.

B. ___ Make restitution to FmHA for unauthorized disposition of security.

I will take this action within 60 days of the date this Form FmHA 1924-26 is postmarked. If I cannot accomplish this action within the 60 days, FmHA will proceed to take adverse action against me, and I will not be allowed to appeal the adverse action.

(If you completed this part, proceed to Part V.)

IV. Liquidation Actions (Complete this only if you have checked none of the boxes in I, II, or III above):

I (we) do not wish to request a servicing option in Part I, appeal the adverse action as permitted in Part II, or correct the security agreement violations as permitted in Part III. I (we) wish to take the following action to liquidate my (our) FmHA accounts and request a conference with you to discuss this action.

A. ___ Sell my (our) security for cash.

B. ___ Convey my (our) security to FmHA.

C. ___ Transfer my (our) security to someone who will assume the FmHA debt.

D. ___ Refinance my (our) debt with another lender.

I will take this action within 120 days of the date this Form FmHA 1924-26 is postmarked. I understand that I may be considered for FmHA debt settlement should sale, transfer, or conveyance of secured property fail to satisfy my (our) entire FmHA debt. I understand that if I cannot accomplish this action within 120 days, FmHA will proceed to take adverse action and I will not be allowed to appeal that action.

(Proceed to Part V.)

V. Certification:

I (we) hereby request one of the above actions. I (we) understand that if I (we) do not request any of the actions in Parts I, III, or IV or desire an appeal hearing in Part II, FmHA may proceed to take immediate action on my (our) loan accounts.

Sincerely,

(Signature of borrower)

[FmHA 1924-14 (Rev. 9/85)

Position 3

United States Department of Agriculture

Farmers Home Administration

NOTICE

FARMER PROGRAM BORROWER SERVICING OPTIONS INCLUDING DEFERRALS AND BORROWER RESPONSIBILITIES

SERVICING OPTIONS

All borrowers are expected to repay their loans according to planned repayment schedules. However, sometimes borrowers will not be able to pay as scheduled. If this happens, you may inquire about the following servicing options:

1. Deferral:

An approved delay in making regularly scheduled payments. Such a delay may be granted if FmHA finds that, due to circumstances beyond your control, you are temporarily unable to continue making the scheduled payments on such loan(s) without unduly impairing your standard of living. A more detailed description is available at any FmHA Office.

II. Limited Resource Program:

The Farmers Home Administration (FmHA) has authority to make limited resource farm ownership and operating loans to qualified applicants.

The program provides credit at an interest rate which is lower than FmHA's regular interest rate.

In addition to making loans at reduced interest rate, borrowers with existing farm ownership and operating loans who qualify as limited resource operators may have their loans rewritten at the lower interest rate.

III. Consolidation:

Combining and rewriting similar type loans made for operating purposes at new rates and terms.

IV. Rescheduling:

Rewriting loans made for operating purposes at the interest rate of the original note or current loan rate, whichever is the lesser.

V. Reamortization:

Rewriting loans made for real estate purposes at the interest rate of the original note or current loan rate, whichever is the lesser.

VI. Subordination of the FmHA lien to the lien of another creditor.

VII. Restructuring the business and debt by selling a portion of your assets.

If you would like additional information regarding any of the above items and how to apply you should contact the FmHA County Supervisor. You will be asked to attend a conference with the FmHA County Supervisor and you must furnish the information necessary for FmHA to make a decision on your request. The County Supervisor can advise you of the information needed for a decision.

FARMER PROGRAM BORROWER RESPONSIBILITIES

Please read carefully the following summary of major FmHA requirements. Farmer Program insured borrowers should understand what the Farmers Home Administration (FmHA) expects of them and how FmHA can be of better service. This is not a complete list of all responsibilities of an FmHA borrower; this highlights only some of those responsibilities.

Responsibilities consist of, but are not limited to, the following:

Payments: Payments are due as agreed upon in the note(s). It is essential that payments be made on time. Extra payments are encouraged whenever possible.

Security: The loan(s) is secured by a Financing Statement and Security Agreement and/or a real estate mortgage or other security instruments (depending upon the type of loan or security). These instruments give FmHA a valid lien on crops, chattels, land, etc., as applicable.

Use of loan funds: FmHA loan funds will be used for the purpose(s) shown on the Farm and Home Plan or other plan of operation acceptable to FmHA, and/or Development Plan in cases of real estate improvements.

Releases and sales: The Form FmHA 1962-1, "Agreement for the Use of Proceeds/Release of Chattel Security," which you signed is the agreement between FmHA and you which explains what sales you plan to make, approximately when and to whom those sales will be made, and how the proceeds from those sales will be used. You must inform FmHA if you want to make any sales which are not listed on the form, if you want to sell to a purchaser not listed on the form, or if you make a sale and you receive an amount of proceeds different from the amount listed on the form. It may be a violation of Federal criminal law to make sales which have not been authorized on Form FmHA 1962-1 or to fail to account for sales proceeds.

Changes in operation: FmHA agreed to lend you money based on facts which you supplied about your operation. If any changes occur in your operation you should notify the FmHA County Supervisor at once.

Violation of responsibilities: Violation of any of the above responsibilities may result in denial of further FmHA assistance, and could cause your FmHA loan(s) to be accelerated.

Mr. COCHRAN. Let me read from one of these attachments. It is a document entitled "Notice of Intent To Take Adverse Action." It says that if the above listed violation is not corrected, the Farmers Home Administration intends "to accelerate your FmHA debts and foreclose on your real estate and/or chattels." Among the listed violations are that "You are presently $—— behind schedule on your Farmers Home Administration loan installments"; "You have made unapproved disposition is of property that is covered by security instruments"; or "You have stopped farming or ranching which is a violation of your loan agreements."

If any one of those three conditions exists, the borrower is told, according to this form, that Farmers Home is going to foreclose; no ifs, ands, or buts about it.

But there is another option given to the borrower, another attachment which is, according to these instructions, to be sent out by the Farmers Home county supervisor, giving the borrower a list of things he may check if he is interested in an alternative to foreclosure. I am assuming most would be interested in an alternative to foreclosure. But looking at this, to me, you would be led to believe that you could put a check mark by the word "deferral" and qualify for a deferral—a deferral of your repayment obligations to Farmers Home. A reading of these instructions would lead you to believe that there are some farmers who would qualify for that. And that is encouraging.

What is not encouraging is that after briefings of staff members on the Hill, now, since these instructions have been formulated and sent around all over the country, there is no criterion or eligibility standard that has been developed for the Farmers Home Administration to base a decision that a farmer qualifies for a deferral.

What I am saying, Mr. President, is that if, as earlier contemplated by the agency, it was going to send this notice around the country and then some farmers were going to say they wanted a deferral, the local county supervisor would have no guidelines on which to base a decision as to whether an individual farmer could qualify for a deferral. And where would we be then?

There are over 6,000 farmers in my State of Mississippi who would fall within the definition of those who would receive letters of notice of intent to take adverse action. Therefore, I am assuming that almost 6,000 farmers would contact their Farmers Home county supervisor and seek a way to work out their problems. But when they contacted the supervisor, they would not learn anything about whether they could qualify for deferral or not. And that is disturbing.

I think now that the Administrator and those in his agency and those higher up in the Department of Agriculture may realize what a problem this is going to cause.

Even though I did not have a timely response to the letter which I wrote in early December asking for an explanation about what this meant, others were able to get a response. Some newspapers began checking into it. They began hearing about this and writing stories in leading newspapers all around the country. I read a story in the New York Times which was interesting to me because it appeared that the information they obtained was quite easy to get. Although it is very difficult for a Senator to get an answer to a question, a reporter apparently can get a quick answer.

Not only did the New York Times write an article about the new policy and the new pressures that were going to be brought on borrowers by the Farmers Home Administration, so did the Washington Post, and so did the Wall Street Journal, and just this past week, in the Clarion-Ledger-Jackson Daily News, our leading newspaper in terms of circulation in my State of Mississippi, there was a long article with the headline "Farmers Home Administration To Pressure Delinquent Farmers."

What has all this done? All the stories in the newspapers, coupled with these instructions that have been sent out to all the FHA county offices throughout the country, have caused a near panic among Farmers Home borrowers.

So, on Friday, Mr. President, we are going to have an opportunity at least to question the Administrator of the Farmers Home Administration and the Under Secretary of Agriculture, Frank Naylor. Both of them will be at the hearing, I am told, so we can find out more about this new policy: What does it mean? What are the eligibility criteria for deferral or reamortization of loans?

We know that the terms of a Federal court decision that provided for a moratorium throughout some States on foreclosures has now come to an end because of the expiration of the effective date of that court order, so there is no longer—I am told—a judicially imposed moratorium in effect. The Farmers Home Administration may be free now to pursue the collection of delinquent Farmers Home loans.

Mr. President, I am not suggesting that they should not try to collect loans that are owed to the Government that are past due. What alarms me is the way in which the new policy is apparently being developed and implemented without adequate explanation to many of us who are going to be

asked questions about it and have obligations to try to determine funding levels for agencies that are involved in this. I am not sure the number of employees in the Farmers Home Administration offices in my State of Mississippi will be sufficient to answer the telephone calls that will be coming in to inquire about the new procedures that have to be followed or the appropriate way to fill out the new forms that are being sent to farmers.

Let me say to my colleagues who may be interested in this subject and those who are going to be participating in the hearing on Friday that I am now told that this notice will not be sent out as had earlier been planned to every delinquent borrower. The notice to take adverse action will not be sent out to everyone, even though it was planned to be disseminated in early January. Only those who have wrongfully or fraudulently misappropriated secured property or may have violated the terms of the security arrangements with the Farmers Home Administration will be given notice of an intent to take adverse action. Not all borrowers just because they may be $100 behind on an interest payment or on principal will be given such harsh notice. That is under review, I am told, and those borrowers will probably get another kind of letter advising them that the Farmers Home Administration still sees its role as one where they are trying to be helpful to farmers, helping them work out of their current financial difficulties. That is what I hope we will see reflected in this new policy, Mr. President.

I am encouraged by the response I did receive today from the Administrator of the Farmers Home Administration to my earlier letter. I ask unanimous consent, Mr. President, that a copy of this letter from Vance L. Clark, Administrator, be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

WASHINGTON, DC, *January 21, 1986.*

Hon. THAD COCHRAN,

Chairman, Subcommittee on Agriculture, Rural Development and Related Agencies, Committee on Appropriations, U.S. Senate, Russell Senate Office Building, Washington, DC.

DEAR MR. CHAIRMAN: This is in reply to your letter of December 3, 1985, regarding the Farmers Home Administration (FmHA) regulations pertaining to delinquent borrowers, and I do apologize for the delay in responding.

Previous FmHA regulations required that FmHA terminate the release of proceeds from the sale of chattel security prior to an appeal of the action. The new regulations referred to in your letter were issued primarily as a result of court decisions.

The notice and attachments which you refer to in your letter are sent to the borrower not only to inform the borrower of the default but also provide information regarding the servicing alternatives available to attempt to cure the default. For a monetary default, a borrower may request such assistance as rescheduling, reamortizing, or deferring payments on the loan. Farm ownership and operating loans may be rescheduled at a lower interest rate (limited resource) if the borrower meets certain guidelines. In addition, the regulations provide for more involvement of the borrower in planning the use of proceeds from the sale of FmHA chattel security and thus enable the borrower to be better informed of the availability of various FmHA servicing authorities.

The regulations offer borrowers the opportunity to restructure their indebtedness. It is FmHA's intent to use all its authorities to assist borrowers to continue farming when a reasonable chance of success exists. We will not be able, however, to keep everyone in business. Some borrowers are so deeply in debt that they cannot be saved.

I regret, Senator, that since my arrival at FmHA we have not had the opportunity to meet personally. Yet, it was nice to chat with you by telephone when I visited Mississippi recently. I did appreciate your kind words, and I did enjoy my visit to your fine State. The farmers of Flora were indeed most hospitable.

I appreciate your interest and concern about the farm situation and look forward to discussing personally our policies with you.

Sincerely,

VANCE L. CLARK,
Administrator.

Mr. COCHRAN. Mr. President, the key sentence, as I see it, in this letter is this:

It is FmHA's intent to use all its authority to assist borrowers to continue farming when a reasonable chance of success exists.

I am reassured that this is the attitude of the Administrator, and I hope that as we further explore the policies and intentions of the agency at the hearings on Friday we will see that kind of attitude reflected in practice. We all know that the agency cannot keep every person in the country in the farming business but we do know that there can be a sensitive and understanding attitude reflected by the actions of the administrator and by those employed throughout the States by the Farmers Home Administration so that each Farmers Home Administration borrower will know that this Government is sensitive to his problems and it cares and is trying to help. I hope we can see that kind of attitude reflected.

Mr. President, I also ask unanimous consent that copies of the newspaper articles that I earlier described from the Washington Post, the Wall Street Journal and the Clarion-Ledger/Jackson Daily News be printed in the RECORD.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

[From the Washington Post, Jan. 2, 1986]

U.S. TO SEND FARMERS FORECLOSURE WARNINGS: TWO-YEAR MORATORIUM ENDS

(By Keith B. Richburg)

The Farmers Home Administration, ending a court-ordered two-year moratorium, will begin notifying farmers next week that if they are delinquent on federal loans they must immediately take steps to repay or restructure those loans or face foreclosure of their farms.

Letters, titled "notice of intent to take adverse action," will be mailed out to any farmers who were at least $100 behind in loan payments at the end of December. About 90,000 farmers, a third of all those who took out FHA loans, are estimated to be behind in their payments.

The FHA, a division of the Agriculture Department, has oftentimes been the lender of last resort to America's cash-strapped farmers, and now holds about 12 percent of the nation's total farm debt.

The letters will tell the farmers that they are delinquent in their payments, and spell out seven steps the farmers can seek to take, including having the loan restructured, deferring some payments, combining loans and applying for new short-term, low-interest loans to help with quick cash-flow problems. The farmers will have 30 days to respond to the notices.

Vance L. Clark, the FHA administrator, said yesterday that the notices should not be interpreted as a decision to begin foreclosing on farms. Rather, he said, the letters will tell farmers that they are behind in their payments and will outline the available options.

"Foreclosure, that's the last thing that happens," Clark said. "There are a lot of options open to borrowers to preclude these foreclosures." He said that along with each notification he is sending a letter from himself telling each farmer that the FHA understands the farmers' plight and wants to help.

Still, Clark said, there eventually may have to be some farm foreclosure, bearing out the worst predictions of farmers and farm-state lobbyists. "Not everybody's going to make it this year. There's going to be some who have to leave the farm," Clark said.

The Farmers Home Administration was essentially barred from sending out notifications of foreclosures to farmers in November 1983, when a federal judge in North Dakota said the lending agency must first notify farmers of all other options open to them before moving forward with foreclosure proceedings.

That ruling, in a class-action case brought by farmers whose land was threatened forced the FHA to hold up new foreclosure notices while it drafted regulations giving farmers various options for handling their debts. Those regulations were published in the Federal Register in November.

"The judges said 'wait a minute, you have to tell them [the farmers] of other avenues,' so we cleaned up our act," Clark said. Before the judge's moratorium, which effectively ended yesterday, the FHA had foreclosed on hundreds of farms.

Rising production costs, a grain glut and falling farm prices—expected to go even lower because of new legislation signed by President Reagan to drive commodity prices down—all have taken a toll on thousands of American farmers, forcing many into massive debts and driving some out of business.

[From the Wall Street Journal, Jan. 2, 1986]

U.S. TELLS FARMERS TO MAKE PAYMENTS OR REARRANGE TERMS OF LOAN IN ARREARS

(By David Shribman)

WASHINGTON.—The Farmers Home Administration, signaling the end of a two-year moratorium on foreclosures, is telling farm-

ers to make payments on their federal loans or arrange new terms within a month's time.

The agency, which is an arm of the Agriculture Department, is notifying about 90,000 farmers that they must bring their loans up to date or agree to new loan conditions if they wish to avoid foreclosures. The agency said it couldn't estimate how many foreclosures would result but maintained that the action wouldn't bring major dislocations in rural communities.

"We are not massively foreclosing," said Kathleen Lawrence, deputy undersecretary of agriculture for small-community and rural development. "The policy of the department is still to show forbearance to farmers who have any chance whatsoever to recover."

Though more than a third of the 270,000 farmers who have borrowed money from the agency are in arrears, the Agriculture Department hasn't initiated any foreclosure proceedings for about two years. The department had been prevented from beginning such action by a court order stipulating that the government publish new regulations specifying the rights of borrowers.

Those new regulations were approved by the court and published in October, freeing the government to take action to collect the loan payments or foreclose on farms, which have been suffering from a level of economic distress unsurpassed since the Depression.

"You can assume the effect would be tough on farmers," said Republican Rep. Gene Taylor, whose Missouri district includes many cattle and dairy farms.

Agriculture Department officials emphasized that the Farmers Home Administration would seek to avoid foreclosures on the $8.5 billion in farm and rural housing loans it has made, adding that in some cases foreclosure proceedings can take as long as two years.

The department's action was first reported by the New York Times.

The notices, which are to be sent by certified mail, outline the steps delinquent farmers must take to avoid foreclosures. The options available include renegotiating farm loans on the basis of lower interest rates, agreeing to new deferred payment plans and settling on different collateral arrangements. "We're telling the borrowers that there are things they can do to avoid foreclosure," said Ms. Lawrence.

Even so, lawmakers from farm districts warned that the action would initiate a new series of rural protests.

"You're going to see a replay of what we saw a year ago, when people started making the case that the farm economy just isn't strong enough to sustain itself," said Democratic Rep. Richard Durbin, whose Illinois district includes corn and soybean farmers. "The Reagan administration believes it is just a matter of will out here for farmers to recover. It's much more than that."

[From the Clarion-Ledger/Jackson Daily News, Jan. 18, 1986]

FMHA TO PRESSURE DELINQUENT FARMERS

(By Wanda Cantrell)

Mississippi farmers who have seriously delinquent loans with the Farmers Home Administration will begin receiving notices late next week that they must settle with the federal lending agency.

Farmers will be required to notify FmHA of the location of collateral for their loans and to meet with federal officials to work out a repayment plan, the agency, considered the "lender of last resort," said Friday.

Some 40 percent of Mississippi's $1.4 billion FmHA loan portfolio is delinquent, said the agency's acting director Dan Mattox. There are about 13,000 Farmers Home borrowers in the state.

Mattox stressed that the new demands do not immediately herald foreclosure for the delinquent farmers, who have been protected from foreclosure for more than two years with a pending federal lawsuit in Oxford. "We want to do everything we can to help the farmer and not foreclose," he said.

Mattox said he has not heard from lawyers handling the case for FmHA, and that he has no intention of moving forward with foreclosures at this time.

After several years of not pressing delinquent borrowers, the federal lender is beginning to crack down, particularly on those suspected of fraud in abusing FmHA loan collateral and those who have paid no money—interest or principal—on the loans for three years.

But despite the lack of foreclosure, the new move could have a serious effect on whether some continue to farm. "Our borrowers are going to have to show that they can pay the debt they owe—and how—before they will be eligible for planting loans this year," Mattox said.

"They will have to cash flow these accounts now."

Farmers across the nation are facing FmHA's tightening of money as a result of the recent lifting a court-ordered foreclosure moratorium of 44 states, Mississippi is one of the six states not affected by the North Dakota class action case.

U.S. Department of Agriculture Undersecretary Frank Naylor said Friday that there are 65,351 delinquent borrowers who have a total of 225,073 loans as of Jan. 10, representing about 25 percent of all FmHA borrowers.

The highest delinquency rates continue to be in the Southeast, where farmers are more dependent on federal credit. Mississippi has one of the highest delinquency rates in the nation.

About 40 percent of Louisiana FmHA borrowers are delinquent, and 21 percent of Alabama borrowers are delinquent.

Mr. COCHRAN. Mr. President, I yield the floor.

ROUTINE MORNING BUSINESS

The PRESIDING OFFICER. Under the previous order there will now be a period for the transaction of routine morning business to not extend beyond 12 o'clock noon with statements therein limited to 5 minutes each.

DEFICIT REDUCTION: CONGRESS MUST TAKE CHARGE

Mr. BAUCUS. Mr. President, the new year will be full of historic challenges. This will be the year of deficit reduction. This will be a year when the President's promise of soaring economic growth meets the reality of a $220 billion deficit. A year when priorities for tax reform, American competitiveness with our trading partners, and the need for a strong national defense will clash with the imperative to get our economic house in order.

Political commentators are calling this the year of "the great train wreck." The train, they say, is the Gramm-Rudman-Hollings Act, which has been set on automatic and is barreling down a track that leads to economic chaos.

I do not believe we are heading down the track of economic chaos. I believe we can take control of the deficit reduction process that we voted for in December. If we sit back and set the train on automatic pilot then, yes, the wreck will occur. Domestic programs will be slashed, commitments to the health, welfare, and social progress of the Nation will be abandoned and national security threatened.

I have long supported an across-the-board freeze on Federal spending. The purpose of the freeze was to put a halt to hemorrhaging spending increases long enough for Congress and the President to work together on a long-term deficit reduction plan which would have bipartisan support. In fact, an across-the-board freeze in which all spending programs would be constrained temporarily was the cornerstone of my reelection campaign in 1984.

I mention my support for an across-the-board freeze simply to point out that the American people are willing, if not eager, to see the deficit reduced as long as it is done fairly and the sacrifices are reasonable and across-the-board. And the American people will support politicians during an election year who are willing to vote for such plans.

Last year, Senators BIDEN, KASSEBAUM, GRASSLEY, and I offered such a comprehensive, 1-year freeze plan to the Senate. That plan was not accepted. Instead, the Senate adopted a budget resolution in August which promised deep reductions in the deficit to be enacted before the start of the new fiscal year which began on October 1.

Well, we all know what happened. October 1 came and went, and Congress did not complete the reconciliation bill which contained the savings and new revenues that we had resolved to enact. November and December followed, and still no reconciliation bill. Finally, we left town without acting on the only major piece of legislation that would have actually reduced the deficit.

I still believe that a bipartisan approach to deficit reduction is the only solution. And I am encouraged to hear that others are now starting to talk about the need to tone down the partisan rhetoric and have all the major players in the budget process sit down around a bargaining table and examine all the options for deficit reduction.

We must act cooperatively and decisively this year to achieve deficit re-

duction. If we do not, we might as well admit that we are walking away from the great responsibilities of representative government. We might just as well admit that we are powerless to control our own destiny and that we are willing to surrender the power of the purse because the choices are just too painful.

We have a choice if we go on that track. We can surrender to either the President, who is prepared to sacrifice everything else for his defense buildup, or we can surrender to the anonymous budget technicans in OMB, CBO, and GAO who will generate the formula for cuts without regard to national priorities at all.

Mr. President, I do not know of a single Senator who voted for the Gramm-Rudman-Hollings measure in order to avoid tough choices or to surrender the power of the purse.

This year, Congress must take control of the budget process or risk losing control of it altogether. We have already heard enough of the details of the President's upcoming "prescription for pain" to know that his budget for 1987 will be dead-before-arrival. I hope that we will begin immediately to develop a congressional alternative to the President's proposals so that we can calm the fears of the American people who still believe in a sensible and responsible Federal Government.

I was pleased to read in yesterday's Washington Post that the distinguished chairman of the Budget Committee, Senator DOMENICI, shares my belief that the best way to achieve deficit reduction is to get the political leadership in this town to sit down and start talking sense about the deficit.

I first proposed the idea of an economic summit in a resolution which I offered in August 1984. A bipartisan conference to tackle deficit reduction is needed now more than ever.

Senator DOMENICI's article speaks of the ghosts of budgets past, present, and yet to come. I am glad that his "ghost of budgets yet to come" did not point only to a year of partisan rancor and stalemate and the failure of leadership which guarantees that the train will topple off its tracks by the end of the year.

Instead, I share the vision that we can and must take charge of deficit reduction by having all parties come together to come up with a fair and balanced package. Senator DOMENICI's ghost of budgets yet to come points to a grand summit where everything is on the table, including the defense buildup and new revenues. Out of that grand summit emerges the blueprint for fiscal sanity in which we all can take credit for taking decisive action on the deficit and we all can accept the responsibility for the needed sacrifices.

The time finally has come to set aside the partisanship that has prevented meaningful action on the deficit. Cutting the deficit is not a Republican issue nor is it a Democratic issue. It is a national issue. How to cut the deficit will not be determined solely by the President or by Congress. It will be decided together.

If it takes a grand summit to confront the deficit head on, then I say let us give a grand summit a try. If it means realizing that new revenues are needed to meet the essential commitments of the Federal Government, then I say let us figure out where and how to do it to get the job done. If it means facing the need for sacrifice and compromise, then I say let us do it.

In the end, we all know that the only lasting fix to the deficit will be one that is perceived to be fair and balanced. Any other approach will ensure deadlock or will quickly unravel as the consequences become apparent.

The ghost of budgets yet to come showed us two views of the year ahead. Now it is up to us to wake up out of our dreams and to bring about the future that we plan to live in.

Mr. President, I ask unanimous consent that the article by Senator DOMENICI be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Washington Post, Jan. 21, 1986]

THE GHOSTS OF DEFICIT FOREVER

(By Pete V. Domenici)

In less than three weeks the automatic spending cuts of Gramm-Rudman-Hollings will be triggered unless a court challenge to the new law succeeds. The papers will be filled with the confusion of federal agencies trying to fulfill the law and the outrage of those program beneficiaries who see their activities threatened. Before the coming public panic consumes us, we should review where we are, how we got here, and where we are likely to end up in our struggle with the deficit.

As a prelude, I should note that I am extremely optimistic about the nation's economic potential. We have solved problems of the highest order. We have created millions of jobs for "Baby Boom" workers. We have embarked on a new era of entrepreneurship and rising per-capita incomes. A leanness and quickness characterizes the private sector.

The only cloud on the horizon, and a cloud of mammoth proportions in my view, is the inability of the government to control deficits. The extraordinary deficits we now face symbolize this impotence and also hold the substantive prospect of plunging the nation into an unprecedent economic recession—ironically, one that could well be avoided. The deficit, simply put, remains the foremost policy and political problem confronting the nation. If I may borrow from Dickens, I will call upon three ghosts to lead us on our budget odyssey: the ghosts of budgets past, present and yet to come.

I. BUDGETS PAST

Our Ghost of Budgets Past conjures up a scene of candidate Ronald Reagan speaking in Chicago in September 1980. He explains in some detail his four-part plan for the economy and the federal budget: 1) a 10 percent across-the-board tax cut for individuals in each of the next three years to increase take-home pay and the dismal national savings rate; 2) major changes in the corporate tax code aimed at reviving the staggering American economy; 3) an all-out attack on waste, fraud and abuse in government spending, coupled with a permanent shrinking of the government's programs, directed at saving tens of billions of dollars a year; and 4) a major increase in defense spending.

The president-to-be calmly explains that the increase in defense spending will be "affordable," because his other policies will yield a combination of new revenues to the government (from economic growth) and less domestic spending (from a shrinking of federal domestic programs.).

Our ghost next takes us to March 10, 1981. The president releases the details of his 1982 budget, which replaces the budget of former president Jimmy Carter. The budget is truly revolutionary. It calls for domestic spending cuts in fiscal year 1982 alone of $67 billion. Between FY 1981 and FY 1986, the domestic cuts would total $475 billion.

On top of unprecedented domestic spending restraint, the president fufills his second major campaign promise by requesting the largest single defense increase in the nation's history. For FY 1982, this increase would reach nearly $29 billion and would push defense spending from the FY 1980 level of $146 billion to $226 billion in just two years—an increase of 55 percent.

The budget also keeps the president's promise on taxes. It requests individual and corporate tax cuts of $54 billion in FY 1982 and $718 billion through FY 1986.

Above all, our ghost points to the line in the president's budget that shows that if all his policies were fully implemented, the federal budget would be balanced by FY 1984 and would be running a $28 billion surplus by 1986.

Two major points overlooked by many in that first, fateful budget will come back to haunt the nation. First, almost $75 billion in domestic cuts necessary for achieving a balanced budget in 1984 are not itemized and "will be identified later." Second, the economic projections underlying the budget assume real growth in the economy almost double the historical average for the past 12 years (4.6 percent projected compared to 2.5 percent actual for the 1972-84 time frame).

Finally, our Ghost of Budgets Past takes us to the private conference room of the Senate majority leader, Howard Baker, in early spring of 1981. In the room for an extraordinary meeting is the president, who has left the White House and journeyed to the Hill. The president leans across the table and tells the 12 Republican members of the Senate Budget Committee that he will not support a bipartisan attempt in that committee to freeze cost-of-living adjustments for Social Security recipients as part of a deficit-reduction plan. He asks them to join his opposing effort. In front of the senators is a sheet showing savings from a one-year freeze on the COLAs—$88 billion over five years, and more than $24 billion in the year 1986 alone.

The senators relent. They go back to committee and vote against the move to freeze

COLAs. Social Secrity, although larger than all domestic non-entitlement spending programs put together, is protected in future budget battles; it comprises almost 25 percent of the non-interest spending in the federal budget.

2. BUDGETS PRESENT

Our Ghost of Budgets Present arrives, looking weary and battered. He has watched three years of congressional deadlock; the deficits for the first four years of the Reagan administration have amounted to more than all the deficits accumulated by all other presidents in the nation's lifetime. America is amassing debt—corporate, individual and governmental—at a record pace.

Yet, no perceptible crisis is at hand. Unemployment has subsided below the 7 percent mark; inflation and interest rates are down and dropping further; the economy is perking along at about the historical average growth: 2.5 to 3 percent annually. Everyone thinks the deficit may be a problem, but the political will to tackle it head-on is fading. The short-term pain of policies that would really cut deficits overwhelms the short-term gain of voting to retain Congress' favorite programs.

Our Ghost of Budgets Present reveals an internal congressional staff memo showing that despite public displays of budget-cutting enthusiasm, Congress has allowed large spending increases since FY 1980; an increase of $132 billion (99 percent) in national defense; $169 billion in new spending for domestic entitlement programs (an increase of 60 percent), driven by new Social Security increases; and an additional $26 billion in domestic, discretionary spending (a 17 percent hike).

It turns out that many of the "cuts" were measured from baselines that assumed growth, so even with a cut there was frequently an actual increase in dollars. The memo also shows that revenues have dropped off from those original FY 1982 presidential projections by about $150 billion in FY 1986. Moreover, the gross national product forecast by that FY 1982 budget fell short of reality by $2.4 trillion for FY 1982-86! Almost nothing is "affordable" anymore, in the sense that word was used way back in September 1980.

Even worse, the restraint in spending that has occurred has spared programs that stress present consumption (pensions are a prime example) and hampered programs that stress investment in the future (research in nondefense scientific areas, basic physical infrastructure, education).

Interest payments on this debt are $200 billion annually and are the fastest growing element of federal spending. This means that America cannot make the basic commitment to the future that needs to be made in order to ensure the unparalleled prosperity to which all other indicators point.

We now move to February 1985. The president has emerged from his reelection campaign with one of the most overwhelming victories in America's history. Undeterred deficit-fighters in the administration and in Congress conspire to make one last fight to get deficits under control.

The president's budget asks once again for large domestic spending cuts, $180 billion over three years, with the elimination of more than a dozen major domestic programs as the center-piece of the plan. The budget also asks for a $30 billion increase in defense spending for FY 1986 alone, and rejects tax increases. It projects a deficit of $144 billion in FY 1988, twice as high as any deficit in the non-Reagan era, but a substantial move toward what economists are now calling "structural budget balance."

The ghost now takes us to a dramatic moment. It is May 9, well past midnight. The Senate has concluded debate on an unprecedented deficit reduction package, incorporating Social Security COLA freezes and eliminating several programs. It not only will meet the president's deficit reduction goal in FY 1986, it will yield substantially lower deficits by FY 1988.

The vote stands at 49-48 against the proposal. Sen. Pete Wilson of California arrives from a hospital, where he underwent emergency appendectomy surgery earlier. Against doctors' recommendations, he has come to the Senate in a wheelchair, an intravenous tube in his arm, to vote. He votes for the proposal. With the vote 49-49, Vice President George Bush, in his capacity as president of the Senate, votes for it. It passes, 50-49.

Although only a few suspect it at the time, that moment in the Senate chamber will be the high point for deficit cutting for the year. Our Ghost of Budgets Present speeds over a troubled summer. The budget finally hammered out between House and Senate falls far short of the Senate-passed version, in large part because the president finally opposes any change in Social Security COLAs. His decision dooms any significant congressional action.

Congress finds it impossible to pass almost any significant bills. Appropriations bills fail to move. Approaching is an autumn vote to extend the federal debt the government has run up. Sens. Gramm, Rudman and Hollings conceive a new deficit-cutting mechanism and attach it to the debt limit bill.

Our ghost now takes us to December 1985. Congress sends the president a farm bill that costs an estimated $50 billion during the next three years, about double what the president requested in his FY 1986 budget of nine months earlier. Congress finds it difficult to comply with even the watered-down budget it passed just four months earlier. Congress staggers through a chaos of short-term continuing appropriations and short-term debt extensions, all of which threaten to shut down the government.

Finally, Congress passes more spending bills, postpones action on a multibillion-dollar deficit reduction measure that the administration threatens to veto, and heads home. The president signs the farm bill into law. He signs all of the spending bills, even though they contain in the aggregate about $40 billion more in domestic spending than he wanted and about $30 billion less for defense. He signs the Gramm-Rudman-Hollings bill.

Within a fortnight, the Justice Department announces that it will join in attacking the constitutionality of Gramm-Rudman-Hollings. The president asks for $4 billion more spending for the Commodity Credit Corporation, sending up his formal request Dec. 23. A year that began with high hopes for deficit reduction fizzles into the winter rain of utter failure. Our Ghost of Budgets Present decides to become a consultant to corporations on the impact of Gramm-Rudman-Hollings.

3. BUDGETS YET TO COME

Our Ghost of Budgets Yet to Come offers us a choice. First he takes us to February 1986. The president and Congress have been given the size of the automatic cut order (called a sequester order) mandated by the Gramm-Rudman-Hollings bill for FY 1986. It will take a total of $11.7 billion from federal outlays, equally split between defense and nondefense programs.

This leaves defense spending in March 1986 about $40 billion less than the president's original request for the year. Nondefense programs will be cut in some cases below last year's level. Senators up for reelection later in the year are besieged by interest groups hit by the sequester.

Yet, this tiny cut pales in comparison to what may be necessary later in the year. Our ghost reveals internal staff documents that show deficits of more than $205 billion in FY 1987, a full $60 billion over the Gramm-Rudman-Hollings target of $144 billion. The president presents his budget in early February. It contains a request for $20 billion more in defense spending. It terminates scores of federal programs through direct cuts and privatization ideas. It rejects new taxes. It is kept alive by Congress mostly as a vehicle for repudiation.

Here our ghost presents two scenarios. Sadly, one is more likely than the other. The first scenario is the hope of many of us who voted for Gramm-Rudman-Hollings—a comprehensive compromise on the deficit. It goes like this:

(1) Late March 1986: the president and Congress, unable to come up with a budget for the 1987 year, agree to a "Grand Summit" on the budget. Tax reform plans in the Senate are temporarily laid aside in order to focus on deficit reduction.

(2) April 1986: After weeks of negotiations, Congress and the president agree on a historic deficit-cutting package, including fundamental reforms and reductions in domestic spending, a slowing of the defense buildup, and new revenues.

(3) May and June 1986: Congress passes new laws implementing the "summit" agreement and appropriations bills that are consistent with it.

(4) August 1986: the Congressional Budget Office and the Office of Management and Budget compare their spending updates and conclude that because of presidential and congressional action, the deficit targets of Gramm-Rudman-Hollings will indeed be met.

(5) The stock market surges, interest rates drop, and the economy takes off. America soars into the future.

But that scenario may be unlikely for many reasons, so our ghost provides a second scenario, feared by many of us who are familiar with the realities of both the budget and of the politics of 1986:

(1) Late March 1986: The president's budget has been rejected in all quarters. Congress tries to devise its own budget and fails. The president vigorously pursues his tax reform plan in the Senate, opposing any tax increase within the plan.

(2) April and May 1986: the Senate, with 30 members watching primary results that will select their opponents in the November elections, is stymied. Tax reform is stalled, the budget cannot move, and appropriations bills await some resolution of the deadlock. The House puts off action, claiming it cannot act until some initiative is taken by either the president or the Senate.

(3) June 1986: The Supreme Court rules Gramm-Rudman-Hollings constitutional.

(4) Summer 1986: As the stock and bond market and most of the rest of the world watch, America's government is nearly paralyzed. The size of the amounts needed to meet the $144 billion deficit target prohibit action: $30 billion from defense and from nondefense spending translate into as much as $75 billion in budget authority from de-

fense spending (or almost one-fourth of all new spending authority for defense) and about $45 billion from nondefense programs (or about one-third of all new budget authority in the appropriated, discretionary accounts).

(5) September 1986: Gramm-Rudman-Hollings in the amount of a $60 billion sequester goes into effect, causing grave concern among America's Western allies. Most Senate campaigns are now in the post-Labor Day "hot" period. Groups that participate in federal domestic programs, especially teachers and health professionals, descend on Washington in huge numbers. Many state governments begin to lay off large numbers of employees to try to compensate for cuts in state and local aid.

(6) October 1986: One month before the 1986 federal elections, the president decides that his position as commander-in-chief compels him not to sign the final sequester order because it would violate his oath of office to defend the nation's security. Already more than 100 lawsuits have been filed against the Gramm-Rudman-Hollings cuts by potential program beneficiaries.

(7) Mid-October 1986: Congress, faced with an unprecedented uproar, coupled with a plummeting stock and bond market, tries to devise a way to cope with the new crisis. Everyone attempts to find a way to get out from under the new law. Someone suggests that we need a budget forecast that shows a recession sometime in the next four quarters. The person who makes the suggestion is widely applauded as a genius, and soon the Gramm-Rudman-Hollings bill is suspended.

(8) November 1986: Huge numbers of incumbent senators and representatives of both parties are defeated at the polls, saddled with explaining their position on Gramm-Rudman-Hollings. Our Ghost of Budgets Yet to Come concludes his gloomy scenario by revealing an internal staff memo that shows deficits will be $200 billion or more as far as the eye can see.

I conclude this little budget journey through time by saying that the concept behind the second scenario is a real possibility if both the president and Congress refuse to compromise on major deficit-reduction options. The amount of deficit reduction needed to meet the Gramm-Rudman-Hollings targets, or to make any real dent in deficits regardless of any law, is very large.

If the nation's leadership fails to agree by late spring, especially in a year charged with important elections, the mechanisms of Gramm-Rudman-Hollings will take effect. To allow that to happen would be a national, and even international, tragedy.

MILITARY REFORM

Mr. GOLDWATER. Mr. President, as my colleagues are aware, Senator NUNN and I have carried on the work started by Senators John Tower and Henry Jackson to attempt to reorganize the military into more workable lines.

The September-October issue of Air University Review is almost entirely devoted to this subject, so I intend, at intervals, to put some of these writings into the RECORD so that my colleagues will have a better idea of how people wearing the uniform actually feel.

The first one that I will insert into the RECORD is written by Col. Thomas Fabyanic, entitled "The Cockpit Warning Light Reads 'Reform.'"

I ask unanimous consent that this article appear in my remarks.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

THE COCKPIT WARNING LIGHT READS "REFORM"

(By Col. Thomas A. Fabyanic, USAF, Ret.)

Periodic reform is an absolute necessity for any institution that intends to maintain its viability in the face of extensive external change or prolonged internal degeneration. Even a cursory examination of history will unearth numberous examples of political, economic, social, and military institutions that failed to meet the challenge of adaptation. A detailed study of these institutions, moreover, would reveal that in some instances collapse occurred at the very time institutional self-assessments were rendering judgments of basic soundness.

In military instititions, the need for reform usually becomes fully evident only after a clear military crisis of major proportions. This sequence of events need not be the case, however, since the external and internal causative factors that would indicate the need for reform quite often are evident beforehand. To recognize them, one needs to understand fully the phenomenon of war and, equally important, how it might be affected by prevailing and emerging circumstances. Such awareness, regrettably, is not apparent in today's U.S. military establishment.

If one views war within a Clausewitzian framework consisting of society, its government, and its military, and then applies that structure to the profound changes that have been occurring in much of the Third World, the first of several reform challenges for the U.S. military becomes very clear. Far-reaching political, economic, and social changes—accompanied by rising expectations—are evident throughout Latin America, the Middle East, and Southeast and Southwest Asia. Evident also are the conflicts likely to result, as well as our seeming inability to deal with them militarily. It is obvious that our employment concepts for "low-intensity conflict" or "constrained operations" are virtually nonexistent, and it is equally apparent that the conventional force structure available to us for use is based on an unsubstantiated assumption that what deters the Soviets will function adequately anywhere. Moreover, there appears to be little recognition that without prior development of employment concepts this force structure will remain irrelevant, regardless of its potential and flexibility. Vietnam and Lebanon are the most obvious examples of what probably lies ahead; whether future historians will view them as the beginning of the end of America's military prowess or as turning points in the continuing effort to achieve unparalleled military competence will depend largely on how we assess them now.

A far greater challenge, however, is an internal one involving the degeneration of our military organizational structure. In the course of organizational evolution, we have experienced a loss of military function. Anyone familiar with the existing structure can see the deficiencies readily. The Office of the Secretary of Defense (OSD) has become an institution within an institution; it routinely involves itself in professional military matters such as strategic and logistical planning and operational issues to include strategy and tactics. Too much authority is vested in the Secretary of Defense. By law, the secretary is responsible for professional military matters; but with very few exceptions, the individuals holding that office have not demonstrated sufficient competence. In the words of one analyst, "they found on-the-job training imperative," and "few passed the primer stage before they were replaced." The power vested in the secretary and OSD explains, in part, the corresponding lack of influence by the Joint Chiefs of Staff. In effect, the latter have been removed from the chain of command and replaced by bureaucrats who, for the most part, have no professional responsibility for the defense of the nation. The net results of this prolonged degeneration are obvious; they cast long, bold, and dark shadows that stretch from Vietnam, to a desert landing site in Iran, and thence through the remnants of a city called Beirut.

The most serious internal challenge, however, concerns professional military competence. Our only real reason for being, which is war, is not understood by many officers. All too frequently war is viewed as a great engineering enterprise; and, as a consequence, we prepare for war as it appears on paper rather than as it is likely to occur on the battlefield. Crucial issues at times are turned over to civilian experts who, like the bureaucrats in OSD, have a no long-term, direct responsibility for the nation's security. Such actions are necessary because programs still dominate purpose in the Pentagon and program managers continue to hold sway over strategists. The "management mania," although somewhat subdued, remains with us. Moreover, it is likely to remain, in part, because of the military's willingness to pay 75 percent of tuition fees for its officers to receive advanced degrees in business, management, and public administration. Given all this presumed management expertise by the uniformed military, one is tempted to ask, for example, why our defense procurement practices are in such a shambles. Those difficulties, when viewed in the context of our previously mentioned operational inadequacies, make one wonder whether we have sacrificed our previous military competence for a measure of managerial incompetence.

Perhaps it is time to reestablish ourselves as a professional military organization, one that understands war and knows how to prepare for it, deter it, and, if necessary, fight it across a spectrum of conflict. Fortunately, we have some professional officers who possess an understanding of war, and it is they who are capable of meeting the challenges of adaption. My advice to them is "Burners, now"!

TEXTILE WEEK ESSAY BY TINA DURHAM OF EASLEY, SC

Mr. THURMOND. Mr. President, recently, Textile Week was celebrated throughout our country. That week long observance focused attention on the importance of the textile industry to the economic well-being of our Nation. Various activities and events were held across my home State of South Carolina where textiles account for 48 percent of the manufacturing jobs. In Pickens County, all high

school students were given the opportunity to write an essay pertaining to some aspect of textiles. Tina Durham, who attends Easley High School, won first place in this contest for her essay entitled "It Does Matter To Me." Tina is the daughter of Tommy and Sharon Durham, who are both long-time employees of Alice Manufacturing Co., in Easley.

I congratulate Tina for her well written essay and ask unanimous consent that it be printed in the RECORD.

There being no objection, the essay was ordered to be printed in the RECORD, as follows:

"IT DOES MATTER TO ME"

(By Tina H. Durham)

The American textile industry, along with many other industries, is in desperate need of support from American citizens. Every individual in the United States relies upon the textile industry, whether directly or indirectly. For many years, there has been an ever-rising problem concerned with the trade of textiles. The foreign imports have increased so greatly until the American industries are worried about the role they will have in the future. The American people's freedom and power seem to be the only hope for these industries at the present.

"I pledge allegiance to the flag of the United States of America and to the republic for which it stands, one nation under God, indivisible, with liberty and justice for all."

—Pledge of Allegiance to the Flag

Our country was built upon these words and their meanings. It is only appropriate that we, as American citizens, should think of these words with honor and pride. When purchasing goods, the concern of the consumer should be centered around the Pledge of Allegiance.

Foreign trade is greatly affecting the American economy. Trade is no longer free or fair. As the foreign imports continue to increase, American jobs are being reduced. Every time a foreign-made product is purchased it decreases the demand for American-made products. The reduced demand for American-made products results in loss of jobs in this country.

When just one American job is lost due to an increase in imports, a chain reaction may follow. With the loss of a job, an individual loses the source of an income. This means he or she has no means of purchasing goods or services from others. As a result, other people are put out of work because they have fewer or no customers.

The wages people receive for thier services seem to be one of the major problems involved in American-made versus foreign-made. The American government has a set minimum wage, which is the least amount an employer can legally give an employee. In foreign countries, the wages are half as much or less than half as much. This means that they are able to produce more for less cost and, therefore, sell it for much less than the United States can.

These cheaper products are placed on shelves beside the higher American-made products. Some customers rarely look at anything other than the price of a product. Americans, to solve the job crisis, must start paying more attention to where a product is made rather than how much it costs. In the long run, Americans will end up the winners if they do so.

The support of the citizens in buying American-made goods will save American jobs and also save their own freedom. The future of the United States rests upon its citizens. The problem of foreign imports versus American-made products is a problem we must face and solve.

I am proud to say that it does matter to me, and I buy products made in the United States of America, one nation under God, indivisible, with liberty and justice for all.

LIBERTY HIGH SCHOOL HONORED FOR STATUE OF LIBERTY FUNDRAISING

Mr. SPECTER. Mr. President, on January 30, 1986, a group of very dedicated people are coming together at the Liberty High School in Bethlehem, PA, for a very special concert where the Oscar Mayer Corp. will present a donation of $250,000 for the restoration of the Statue of Liberty.

This event is the culmination of a project begun in January 1984, by Mr. Constantine "Gus" Loupos, a teacher at Liberty, who has been very instrumental in leading students of the Bethlehem Area School District in an effort to raise money for the Statue of Liberty's refurbishment.

So far, Mr. Loupos and his students in the Bethlehem area have raised some $30,000 for this effort. According to recent news reports, these students have raised more than any other students in the country.

As an incentive for the pupils to become involved in raising funds for Miss Liberty, the Oscar Mayer Corp. offered to donate 25 cents for every dollar raised by schoolchildren across the Nation.

Oscar Mayer has chosen to honor the Bethlehem School District for the amount of money it has raised and for the enthusiasm, commitment and involvement of the people involved in this fundraising effort.

At this time, Mr. President, I would personally like to recognize Mr. Loupos, his students, and those in the Bethlehem area who all have worked so tirelessly on this most important project.

I would like to thank Ms. Jean Cowden of the Oscar Mayer Corp. for honoring the Bethlehem School District, and also Ms. Sheila McCauley, director of the Liberty Centennial School Campaign for her exemplary work on this campaign.

As we all know, the Statue of Liberty is symbolic of the ideals on which this Nation was founded.

To have our schoolchildren—the future of our Nation—undertake such an endeavor as to raise $30,000 for the Statue of Liberty is most impressive.

I am indeed proud of all of the people who have sacrificed their time to donate their services for this noblest of causes.

THE BEST FOOTBALL TEAM IN AMERICA: THE UNIVERSITY OF OKLAHOMA

Mr. NICKLES. Mr. President, it is my pleasure to take this opportunity to congratulate the University of Oklahoma football team and coach Barry Switzer for winning their sixth national championship on New Year's Day.

The Sooners won by beating previously-unbeaten and No. 1 Penn State, 25 to 10, in the Orange Bowl.

Coach Switzer certainly deserves special recognition as this win brings to three the number of national championships he has won. He has brought great distinction to the Sooner football team, the University of Oklahoma, and our State. He is the winningest coach in college football.

Coach Switzer also won the national title in 1974 and 1975. The University of Oklahoma also secured the national title in 1950, 1955, and 1956 under Coach Bud Wilkinson.

Of course, the credit must be shared with the fine young athletes who make up the Sooners' team. Their brilliant teamwork and dogged determination against a tough Nittany Lion team made the national championship possible.

Among some of the noteworthy Orange Bowl statistics:

Lydell Carr's rushing total was the best against Penn State in a Bowl game;

Tim Lasher set an Orange Bowl record for most field goals kicked, he was successful on four attempts;

Tim also set a record for most points ever kicked against Penn State, 13.

I would also like to congratulate Penn State and Joe Paterno for their excellent season. They are a good football organization with a lot of pride and tradition. Knowing that they are an outstanding team makes the OU victory that much more significant.

My compliments to Coach Barry Switzer and the best football team in America: the University of Oklahoma.

UKRAINIAN INDEPENDENCE DAY

Mr. GLENN. Mr. President, today, January 22, 1986, marks the 68th anniversary of Ukrainian Independence Day. To millions of people in Ukraine, and to the thousands of Ukrainian Americans in Ohio and across the Nation, it is a day of special significance. On January 22, 1918 the independent republic was proclaimed. And while it endured but 3 short years, it is extremely important that this day and what it represents never be forgotten.

Ordinarily, the commemoration of an independence day is a cause for joy and celebration. But in this particular instance, there can be no such joy, and no such celebration. For the brutal fact of the matter is that Ukrainians still in the Soviet Union have been

ruthlessly deprived of the basic human rights and freedoms of an independent people.

The people of Ukraine have been struggling for over 60 years to secure that freedom and independence. The Soviets, in typical and blatant disregard for basic human rights, have been attempting to grind down the Ukrainian people's spirit and destroy their national identify. They have not been successful. Despite systematic and unrelenting attacks by the Soviets on their customs, language and religion, the Ukrainian people have yet to let their desire for fundamental freedoms be dimmed.

Last year we witnessed a very personal example of that yearning for freedom in the case of Miroslav Medvid. It is a blight on our national conscience that we returned Mr. Medvid to a fate unthinkable at the hands of the Soviet oppressor. To insure that this will never happen again I have joined with a majority of my Senate colleagues in supporting a resolution to create a Special Senate Panel on Asylum. Let us use the occasion of Ukrainian Independence Day to pass this resolution so that the panel may begin its important task of examining and revising United States asylum procedures.

In this fact-paced world which gives us so many examples of human suffering and human rights violations, be they from South Africa, Chile, Afghanistan or Cambodia, the example of the continued suffering of the Ukrainian people cannot be allowed to drop from our consciousness. Over 50 years ago a Soviet-manufactured famine in Ukraine resulted in the deaths of 7 million men, women, and children. Time cannot be allowed to dilute the enormity of that tragedy. As long as the people of Ukraine continue to suffer under the stifling jackboot of Soviet imperialism, our solidarity with them cannot fail.

Today then is a day to commemorate, to keep the hope-light burning for the millions of Urkrainians in the Soviet Union and throughout the world, and to say to them: We have not forgotten your cause. We share your hopes and dreams that someday you shall truly be a free people and nation.

UKRAINIAN INDEPENDENCE DAY

Mr. DIXON. Mr. President, today, January 22, 1986, marks the 68th anniversary of the proclamation of independence in the Ukraine.

For a brief period of 3 years, the Ukrainian nation and its people enjoyed self-determination and a national identity. Ukrainian culture and religious tradition flourished. The Ukraine enjoyed the fundamental right of territorial integrity.

In 1921, this period of Ukrainian freedom was abruptly ended by the outside intervention of the Soviet Union. Troops crushed the Ukrainian democracy and replaced freedom with repression and continuing persecution. We are witnessing the Sovietization of the Ukraine. Its people are denied even the opportunity to explore Ukrainian history and their ethnic heritage.

Those of us who enjoy freedom in this country must continue to recognize an independent Ukraine. We must demonstrate solidarity with its citizens, and keep the spirit of their aspirations alive. For these reasons, we recognize the 68th anniversary of Ukrainian indepencence.

LUCIA CHASE EWING, FOUNDER, AMERICAN BALLET THEATER

Mr. PELL. Mr. President, on January 9, 1986, one of the great figures in American dance died. Lucia Chase Ewing not only cofounded the world-renowned American Ballet Theater but devoted almost her entire adult life to building and nurturing this great dance company and national cultural treasure. Her dedication to her company and her devotion to the art of dance were her most remarkable qualities.

But she was also a warm and quiet family person whose parents had adopted Rhode Island as their summer home. From her early childhood, she came to the seashore at Narragansett for a change of pace from her life in the international dance community.

Lucia Chase Ewing was a brilliant, dedicated, and generous individual whose lifetime work in the field of dance has made life richer for all of us.

I would like to share the obituary of Miss Chase that recently appeared in the Providence Journal-Bulletin with my Senate colleagues and ask unanimous consent that it be printed in the RECORD.

There being no objection, the obituary was ordered to be printed in the RECORD, as follows:

[From the Providence (RI) Journal-Bulletin, Jan. 11, 1986]

LUCIA CHASE EWING DIES; LED AMERICAN BALLET THEATER TO WORLD RENOWN

(By Gerald S. Goldstein)

Lucia Chase Ewing, 88, of New York City and Narragansett, a ballerina who co-founded and co-directed the world-renowned American Ballet Theater, died Thursday at her Manhattan apartment.

Gracious, dignified and persevering, Mrs. Ewing was consumed with love for the ballet, both early in her career as a dancer and later, when over a 35-year span she built an international reputation for the New York company.

A glamorous, auburn-haired world traveler who performed actively until she was nearly 50 and danced character roles into her 70s, Mrs. Ewing co-founded the ballet company in 1940. She became co-director, with Oliver Smith, in 1945.

"It's a small circus," she said once in describing the life of a dance company director—but she attacked the job with a passion that lasted all her life.

As well, Mrs. Ewing loved her summer home in Narragansett, and often—even on damp, sunless days—could be seen walking the beach in front of the Dunes Club, where she was a member.

She came to Narragansett with maid, cook and butler, and was partial to giving small dinner parties on Saturday nights. She bought all the food at the tiny Ideal Market, as her parents had done before her in a family tradition that spanned 65 years.

During her tenure as co-director, the dance company attracted luminaries who won it a reputation as an innovator in American ballet. Among them were dancer Mikhail Baryshnikov and choreographers Jerome Robbins and Twyla Tharp.

Known professionally as Lucia Chase, Mrs. Ewing was a tireless campaigner for her art and her ballet company; during one four-month period the troupe visited 22 cities in 11 countries, prompting her to remark, "We're not particular where we go as long as we're out pioneering."

The pleasure her dance company brought to its audiences, both in this country and on international tour, was in contrast to the sorrow she experienced in her own life.

Her husband, carpet company heir Thomas Ewing Jr., died of pneumonia in 1933, seven years after they were married. In 1963, Mrs. Ewing's eldest son, Thomas III, 34, drowned when his sloop sank off Watch Hill.

Jealous of her private times at the seashore, Mrs. Ewing liked to say that she lived two lives—one as Lucia Chase, New York theater director, and the other as Mrs. Thomas Ewing Jr., low-profile Narragansett resident. So great was here desire to keep the two separate that she once threatened never to speak to a *Journal-Bulletin* reporter again because he refused, in a story featuring one of her historic properties in town, to leave out all references to the Lucia Chase of international ballet fame.

Despite here refined demeanor, Mrs. Ewing did not shrink from battle when she thought she had been wronged; once she sued the Town of Narragansette because she thought a property revaluation was unfair; eventually she won out-of-court concessions.

But she contributed to the town as well; she was one of a group of donors who helped buy what is now a public park on the ocean side of the post office.

Among the properties she owned in Narragansett was the historic, 100-acre Sunset Farm on Point Judity Road, where her millionaire husband once kept the polo ponies he brought in by rail.

Her summer home, "Moonraker," on Taylor Street was flanked by four other turn-of-the-century guest houses she owned: "High Tide," "Miramar," "Sans Souci" and "Seashell."

She inherited her love of the Rhode Island shore from her parents. She was a daughter of Mr. and Mrs. Irving H. Chase of Waterbury, Conn., who summered for years at Narragansett Pier.

Mrs. Ewing was a millionaire many times over. Her husband, the eldest nephew of carpet king Alexander Smith Cochran, inherited the company and left $7 million. Her family had wealth of its own, however, amassed through the Waterbury Clock Co.

Mrs. Ewing was known internationally for her fierce commitment to the Ballet Theater, now directed by Baryshnikov, who succeeded her in 1980. In a statement released after her death, he said of her:

"She was a realist, but she lived like an idealist, and in the darkest time she could force the sun to shine. She stood by us all with love and a will of iron and a heart like a lion."

Mrs. Ewing contributed much of her own money to the theater, and fought vigorously for backing from other sources.

"She was single-tracked on the ballet—it was everything to her," said a nephew, Irving Sheldon of Saunderstown.

Educated at St. Margaret's School and Bryn Mawr College, she left social life behind and moved to New York to study theater, voice and dance, eventually making a debut with the Mikhail Mordkin Ballet.

Among many awards she won was the Medal of Freedom, presented by President Carter at the White House in 1980.

Mrs. Ewing suffered a stroke in 1983 and had been unable to visit Narragansett since then, according to her secretary, Lois Doherty.

Mrs. Ewing is survived by a son, Alexander, of Millbrook, N.Y.; two sisters, Mrs. Edward T. Carmody of Middlebury, Conn., and Mrs. John Griffith Davies of Bourton-on-the-Water, Gloucestershire, England; and three grandchildren.

A funeral service will be held at 9:30 a.m. Monday at St. James Episcopal Church, Madison Avenue, New York City. Burial will be private.

U.S. APPEALS COURT RULING TO PERMIT JAPANESE AMERICAN WORLD WAR II INTERNEES TO SUE GOVERNMENT ACCENTUATES GREATNESS OF AMERICA

Mr. MATSUNAGA. Mr. President, on Monday, January 20, 1986, Americans of all races and religious faiths celebrated the birthday of a great champion of human rights by observing the first national holiday ever dedicated to the memory of a nonwhite citizen, Martin Luther King, Jr. In keeping with that same spirit of justice for all, on Tuesday, January 21, a day later, the U.S. Court of Appeals, here in the Nation's Capital, reversed the decision of the lower court and ruled that Japanese Americans detained in relocation camps during World War II and never compensated can sue the Federal Government for property losses sustained because of such detention.

The decision of the appeals court is good news not only for those Japanese Americans it affects but for our country as a whole. The majority ruling in this case affirms that justice delayed is justice denied—and injustice of the magnitude inflicted upon the World War II internees cannot be healed by time, without a national recognition of the wound to our own body politic itself. Implicit in this opinion is a recognition that the Federal Government erred. The real tragic mistake was the internment of 120,000 U.S. citizens and resident aliens for no reason other than their ethnic origin, although the error the appeals court recognized in its opinion was in the suppressing of evidence that contradicted claims of wartime expediency in earlier arguments before the Supreme Court. This judicial recognition of that injustice benefits all citizens because it reaffirms our great Nation's commitment to a government of justice and fair play for everyone, regardless of race, color or ethnic origin.

The appeals court ruling supports the 19 detainees who brought the suit, as well as those other Americans of Japanese ancestry who have never received any compensation for their losses incurred at the time of their internment. It is important to bear in mind, however, that this ruling does not affect reparations legislation currently pending in Congress, which is designed to accord official recognition of the injuries inflicted by unjustified and illegal Government action and to offer compensation to all those interned, including those who may have received as little as 10 cents on the dollar for lost property under the American-Japanese Evacuation Claims Act of 1948. I am most gratified that the appeals court has established the creation of the Commission on Wartime Relocation and Internment by Congress in 1980 as the starting date from which the statute of limitations should run. This should spur early congressional action on the bill to carry out the commission's recommendations. I heartily applaud the majority statement in the opinion that "it ill behooves the Government of a free people to evade an honest accounting" of this historic injustice. America is undeniably the land of the free and home of the brave, where the biggest dreams of the littlest people still come true.

IN CELEBRATION OF UKRAINIAN INDEPENDENCE DAY

Mr. RIEGLE. Mr. President, today I join with Ukrainians all over the world in celebrating the 68th anniversary of the Proclamation of the Independence of Ukraine. To mark this important event, I am honored to be a cochairman of the Ukrainian Congress Committee of America's annual Ukrainian Independence Day celebration, which will be held in Washington tomorrow.

On this date 68 years ago, the Independent Ukrainian National Republic was born. After centuries of living under czarist Russian domination, the Ukrainians people, through the act of January 22, 1918, rejected Russian colonial imperialism and established, by popular, democratic vote, their own independent republic. Freedom of speech, the press, religion, assembly and association, were among the rights guaranteed under the act. In addition, all minorities were given both national and personal autonomy.

Ukrainian independence, however, was shortlived, and within 3 years, the struggling nation was defeated by the stronger military forces of the Russian Bolsheviks.

In the 68 years since the defeat of the independent republic, life in Soviet-dominated Ukraine has been characterized by persecution, genocide, and a campaign of russification aimed at eliminating every vestige of Ukrainian cultural and religious life.

During 1932 and 1933, 7 million Ukraininans were purposefully starved to death in government-planned famines, while others were deported to slave labor camps in Siberia. In addition, certain Ukrainian religions were abolished and the Ukrainian language was removed from the educational system.

Despite these blatant violations of their rights, the brave Ukrainian people continue the struggle to regain the independence they once enjoyed. The past six decades have shown that all the military strength of the Soviet authorities can never succeed in crushing the spirit and the drive for freedom of the Ukrainian people.

The large Ukrainian-American community in my State of Michigan has been a source of continuing inspiration to those Ukrainians still struggling against Soviet oppression, and has helped keep the dream of freedom alive in the hearts and minds of their countrymen.

Today, we demonstrate our solidarity with the effort to ensure the human rights of the Ukrainian people. As part of that effort, we repeat our call upon the Soviet Government to honor its pledge under the Helsinki Final Act, to protect the human rights of all its people.

We must renew our pledge to speak out on behalf of the many Ukrainians who have been unjustly subjected to imprisonment, exile, or psychiatric incarceration for defending their cultural identity and religious beliefs.

American support for the restoration of Ukrainian liberation signifies not only our disdain for the injustice of Ukrainian subjugation by the Soviet Union, but also our firm commitment to the right of self-determination of all the peoples of the world. In the same way that the American people have shown their opposition to the apartheid policies of the South African Government which denies the rights of its nonwhite citizens, so too must we be clear and unwavering in our call for the restoration of human rights to the citizens of Eastern Europe's captive nations.

As Americans, whose freedoms are guaranteed by law, it is often difficult for us to conceive of the persecution and repression endured by Ukrainians and citizens of other captive nations.

The recent case of Ukrainian seaman Miroslav Medvid reminds us not only of their suffering but also of our responsibility to respond to the cry for help of those seeking freedom.

The controversy surrounding the true intentions of Seaman Medvid is not yet resolved. Nevertheless, his case serves as a poignant reminder of the countless numbers of Ukrainians whose struggle for freedom is far from over.

As a nation which has always provided refuge to people throughout the world fleeing oppression, I believe top priority must be given to both thoroughly investigating the Medvid incident, and establishing proper procedures for the handling of asylum cases. We must ensure that full consideration is afforded every individual seeking asylum in this country.

Mr. President, by repeatedly demonstrating our support for people struggling for their rights to live as free individuals, we give renewed meaning to the democratic principles on which our own Nation was founded.

Today's remembrance of the ongoing struggle in Ukraine is an important part of that effort, and I am proud to be a part of it.

PROBLEMS IN THE THIRD WORLD

Mr. BURDICK. Mr. President, as legislators, we know only too well that all the money in the world won't solve a problem unless that problem is properly defined.

Solutions to the environmental disasters and development problems in the Third World have eluded us for years. Despite an enormous expenditure of funds by international organizations and individual countries, many Third World nations are no better off than they were several decades ago. Indeed, in some cases, they are actually in worse shape.

To understand why aid programs have failed in the past, we must have a much better grasp of the true nature of the problems we face in the developing world.

The Cox newspapers recently published a superb eight-part series which makes an important contribution to our understanding of the complex issues involved. A team of Cox reporters spent nearly a year examining the causes of disasters in Africa, Asia, and Latin America. Their chilling reports make clear that human practices and policies are too often responsible for the disasters we label "acts of God." As the reporters discovered, precious aid resources are devoted to these emergencies as they occur, but that means little money or energy is left over for the kind of long-range planning which could have averted the disasters in the first place.

Mr. President, we simply cannot afford to waste increasingly limited aid funds on shortsighted, ineffective aid programs. For us, it is a budget question. For the Third World, it is a question of lives.

The Cox series serves as an excellent primer on the nature and scope of the problems in the Third World. The Atlanta Journal and Atlanta Constitution, as well as other Cox newspapers, began running the series in early December.

Inserted below is the initial overview story, but I strongly urge my colleagues to read the entire series. I ask unanimous consent that it may be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD as follows:

"ACT OF GOD" OFTEN CAUSED BY ACT OF MAN—ALTERING THE ENVIRONMENT MAKES IT MORE VULNERABLE

(By Andrew Alexander and Jeff Nesmith)

WASHINGTON.—As the world grows more crowded, it is becoming more vulnerable to droughts, earthquakes and other so-called "natural disasters."

The result is that millions of people, mostly in poor countries, are living every day in increasing danger of being swept away by some event that will be dismissed as an "act of God."

But an in-depth study by Cox Newspapers—based on satellite imagery, specially constructed computer models, and interviews in 15 nations on five continents—has produced evidence that, more often than not, human deaths in events like an African drought, a Mexico City earthquake or a Bangladesh flood are not simply "natural disasters."

Rather, they result from acts of man—unrestrained population growth, shoddy construction, poor land use planning, overgrazing, overcultivation, deforestation—that are forcing people into areas where they are more vulnerable to calamities.

On television screens the tragedies are pathetic, often gripping, but they seem faraway. In fact, they affect us directly beause a disaster-prone world is an unstable world.

As former President Jimmy Carter says, a failure to understand the impact that hopelessness and despair can have on other people causes a "distortion" in our understanding of revolution and social upheaval.

Besides that, disasters are expensive. Repeatedly, we see dollars diverted from other causes to lessen the suffering from a disaster that might have been avoided.

The Cox inquiry found evidence that on a scale perhaps unparalleled in history, humans are altering the environment in ways that are making it more prone to disasters.

Long before the Ethiopian famine etched the listless gaze of starving children on the consciousness of America, a U.S. government official stationed in Addis Ababa sent this alarming internal report back to his superiors in the State Department:

"There is an environmental nightmare unfolding before our eyes. It is the result of the acts of millions of Ethiopians struggling for survival: scratching the surface of eroded land and eroding it further, cutting down the trees for warmth and fuel and leaving the country denuded, diverting streams to irrigate dry land and depriving others of their water source."

Vast regions of the country would become "permanent disaster areas," the American official warned, and masses of people would be forced to the edge of death.

That memorandum was written in 1978. Today, although hundreds of thousands are said to have died, experts fear the conditions could worsen again within the next few years.

DISASTERS OCCURRING MORE FREQUENTLY

Other key findings from the Cox Newspapers survey:

The frequency and severity of "natural" disasters are rising. The upward trend is expected to continue. Predicts noted disaster expert E.L. Quarantelli: "We're going to have more and bigger disasters."

Repeated warnings—like the one issued seven years ago from Ethopia—that could have diminished the impact of past disasters have gone unheeded. New warnings are being neglected today by decision-makers throughout the world, including those within the Reagan administration, despite predictions of more devastating and more frequent disasters.

The magnitude of disasters in developing countries is now so great that even larger amounts of foreign emergency assistance can't significantly mitigate them. "The problem is growing too fast for us to keep up," says a United Nations official. "It is beyond our ability to cope."

Disaster relief operations often are slow to respond, lack coordination, rely on inadequate or poorly trained staff, and sometimes end up doing more harm than good. Inappropriate relief aid, like powdered diet food sent to African drought victims or high-heeled shoes to earthquake sites, abounds. Yet there are no international guidelines to discourage it.

Although well-intentioned emergency aid often is not cost-effective because little of it is tied to relief projects aimed at preventing the calamity from recurring. Further, emergency assistance often is given on political—not humanitarian—grounds. It also tends to favor sudden disasters such as earthquakes, which kill quickly, while neglecting "creeping" disasters such as drought, which affect far more people.

"It is a paradox that in our technological age, with an enlarged capacity to manipulate nature, man's vulnerability to injury from natural hazard seems to be increasing," observes Bindi V. Shah of the London School of Economics.

Indeed, figures from a Swedish Red Cross study show that, worldwide, the average number of people affected by drought each year rose from 18.5 million in the 1960s to 24.4 million in the 1970s. The annual number of flood victims grew from 5.2 million to 15.4 million during the same period, while the average number affected by earthquakes jumped from 200,000 to 1.2 million. And those affected yearly by civil strife, which contributes to disasters such as the famine in Ethiopia, nearly quadrupled to 4 million between the two decades.

DECISION-MAKERS TO PEASANTS AT FAULT

"It is not only population growth and people's migration into disaster-prone areas that cause the increase in disasters," the Swedish Red Cross reported last year, "but new hazards created by people."

Recent studies indicate that these trends have continued into the 1980s.

"All the evidence in this office is that we are faced with more emergency situations

than we ever have been," says Marcus Thompson of Oxfam, the British relief organization.

But who is to blame?

Experts say nearly everyone, from powerful decision-makers to landless peasants. And that includes the media.

"Journalists often innocently accept the view that high winds and water killed so many thousand victims of a given cyclone," write disaster specialists Anders Wijkman and Lloyd Timberlake. "They do not dig to see why so many people were allowed to live in such dangerous houses exposed to a storm surge, indeed, why they could not live anywhere else."

"I think the media are not generally very responsible in the reporting of disasters," says Frederick C. Cuny, a respected disaster expert. "But I still blame it more on the [disaster relief] system, because the system hasn't looked at the problem and then done a good job of educating the press."

Late last August, as he talked to a reporter in his Dallas office, Cuny issued a private warning that had been repeated publicly for decades: "Mexico City is probably the most vulnerable city in the world to earthquakes. One of these days we're going to get a wave, everything will come tumbling down, and you guys will call it a natural disaster."

His prediction came true three weeks later, and he flew to Mexico to help. Sifting through the rubble, he concluded that the earthquake had been powerful enough to damage even the best-designed buildings, but he also saw the human hand in the "natural" disaster that killed more than 8,000.

"I would say probably 60 percent of those deaths could have been prevented had the construction work been done properly," he said afterward. "It's very much a man-made disaster."

Most disasters are preceded by warnings.

Geologists had recommended that plans for evacuation be prepared a month before November's volcanic eruption in Colombia triggered mudslides that killed more than 20,000.

CROWDED LIVING AREAS INCREASE RISK

The 5,000 who were washed away in Bangladesh last May by cyclone-induced tidal waves had been cautioned repeatedly against inhabiting the tiny, shifting "char" islands formed by silt collecting in the river deltas. But land shortage caused by high population had forced them there. After the storm, the survivors settled there once again, just as they did in 1970 after 300,000 perished in a similar storm.

The 150 Puerto Rican peasants buried when rains triggered a landslide in October lost their lives because population pressure and lack of affordable land had left them little choice but to build their shanty-town on a slope known to be unstable. Contributing to the tragedy were leaking water lines and septic tanks that saturated and loosened the ground, a problem authorities conceded had been recognized for 15 years.

Before Carter left office, his administration completed a massive three-volume "Global 2000" report projecting a polluted, crowded world at the end of the century, a world damaged by deforestation, desertification and erosion.

Although it was hailed throughout the world as a pioneering study, Global 2000 was greeted with hooting derision by the Reagan administration.

A similar warning was sounded this year by the World Bank, which declared that destruction of environmental systems is "assuming massive proportions" in many Third World countries.

In travels to five continents, Cox reporters found seeds of disasters to come.

On the Asian island of Borneo, a fire in a tropical rain forest—an unheard of event that received scant press attention in the West—burned 8.6 million acres two years ago, an area almost as large as Maryland and Delaware combined. Experts say a major cause was deforestation.

Few, if any, people died in the months-long blaze because the island is sparsely populated. But as part of a development program, Indonesia plans by the end of the century to relocate tens of thousands of citizens to Borneo from the overpopulated main island of Java. The government plans to clear more than 80 million acres of rain forest—an area larger than Georgia and Florida combined. In an interview, a top government minister conceded that by drying out the island environment, the deforestation could increase chances of another massive fire—this time in an inhabited area.

BANGLADESH WELLS ENDANGER ITS WATER

In the northeastern part of Bangladesh, one of the most densely populated countries on earth, so many wells have been drilled that water tables are dropping. Many experts predict that a critical shortage is imminent—crop losses and pockets of famine would be likely—yet action has been stymied for years by a dispute over the best solution.

Throughout Central America, the Caribbean and Mexico, population growth and stagnant economies will result in massive dislocations by the end of the century. Traced in a series of special computer models developed by Cox Newspapers for this series, the trends inevitably will turn up the pressure on America's southern borders.

In the Soviet Union, Kremlin planners desperately seek water to refill the Caspian Sea, which is drying up partly because too much of the water in its tributaries has been diverted for irrigation projects. In recent weeks, final approval was decreed for the initial phase of a massive project to divert and reverse part of the flow of rivers that empty into the Arctic. Some experts has warned that too much diversion could damage th Arctic ice cap and provoke regional and even global climatic changes.

And in Africa, Ethiopians continue to die amid what one relief worker fears may become a "cycle of famine."

Optimists like M. Peter McPherson, head of the U.S. Agency for International Development, believe that the current focus on Africa's problems will yield help and hope for the future.

But McPherson concedes that "right now, yes, we're losing ground."

UKRAINIAN INDEPENDENCE DAY

Mr. SARBANES. Mr. President, on January 22, 1918, the courageous people of the Ukraine proudly declared their independence as a nation. Exactly 1 year later, on January 22, 1919, the governing council of the Ukraine, the Rada, passed the Act of Union incorporating all the lands of the Ukraine into a single nation. January 22 has become an important symbol of the determination and strength of the Ukrainian people, providing all of us an opportunity to reflect upon the proud heritage of our fellow citizens, Americans of Ukrainian descent, and to renew our commitment to the principles of freedom for which Ukrainian Independence Day stands.

It is fitting that as we honor the declaration of Ukrainian independence, we should pay special tribute to the men and women of the Ukraine who today carry forward, at great personal sacrifice and in the face of terrible odds, the quest for human liberty. It is almost a decade now since the establishment of the Ukrainian Helsinki Watch Group; in the wake of the signing of the Helsinki Final Act, 10 Ukrainians joined together to declare their commitment to the full implementation of the Helsinki provisions, in the face of official harassment and repression in their native land.

The arduous work of defending human rights, often carried on in prison, today commands attention and sympathy the world over. The heroes of the movement are many. In some cases, their names are well known to us. Valentin Moroz, whom I have the honor to know, now lives among us; others—Lev Lukyanenko, Mykola Horbal, Mykola and Raisa Rudenko, Yosyf Zisels, and Vasyl Stus—are prisoners and aliens in their own land. In many cases, however, men and women whose names may never be known to us nonetheless perform heroic tasks. The name Myroslav Medvid will not soon be forgotten. Important legislation would require a full accounting of his tragic case, so that it can never be repeated.

There is a second tribute to be paid today to the hundreds of thousands of Americans of Ukrainian descent whose energies and talents have enriched our land, who have made valuable contributions to the growth of America through their participation in the arts, science, politics, business, and other endeavors. We in Maryland are very fortunate to have a large and active Ukrainian American community. Through their stable family life, their sense of community responsibility, and their social and religious activities, Ukrainians in Maryland have greatly enriched the quality of life in our State.

January 22, Ukrainian Independence Day, is therefore a day for tribute and reflection. We pay tribute to the dream of freedom, and to the courage of those who pursue it; we pay tribute to Americans of Ukrainian heritage for their enduring commitment to the principle of liberty which they have so amply demonstrated throughout their history and for the continuing contributions Ukrainian Americans have made to the strength, progress, and prosperity of our Nation. Let us reflect on the events of 68 years ago even as we honor the heroes of today.

Mr. BAUCUS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. PACKWOOD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Morning business is closed.

CONRAIL SALE AMENDMENTS ACT OF 1985

The PRESIDING OFFICER. The Senate will now resume consideration of the motion to proceed to the consideration of S. 638, which the clerk will report.

The assistant legislative clerk read as follows:

A motion to proceed to the consideration of S. 638, a bill to amend the Regional Rail Reorganization Act of 1973 to provide for the transfer of ownership of the Consolidated Rail Corporation to the private sector, and for other purposes.

Mr. PACKWOOD. Mr. President, I rise in support of the motion to proceed on S. 638, the Conrail Sale Amendments Act of 1985.

I believe the chairman of the Senate Commerce Committee, Senator DANFORTH, and my colleagues on the Commerce Committee have done an admirable and conscientious job in their thorough examination of the complex issues surrounding the return of Conrail to the private sector. I support the committee's bill which provides for the sale of Conrail to the Norfolk Southern Corp., the bidder recommended by Secretary of Transportation Elizabeth Dole.

Mr. President, I believe now is the time for the Senate to move forward and consider this matter. The Senate and House, through extensive committee hearings in both bodies, have thoroughly reviewed the issues presented. Before this matter even came to the Congress, Secretary Dole spent over 2 years studying this issue and developing her plan to sell Conrail.

One issue that has been the subject of much debate is the question of taxes. Unfortunately, while there are legitimate issues presented by this sale, the tax impact of this transaction has been the subject of a great deal of overstatement and, in certain instances, even misinterpretation.

For example, the claim has been made that Norfolk Southern will receive special tax treatment under this transaction. This claim simply is not true. Existing provisions of the Internal Revenue Code that govern a stock sale will apply in this case—there are no special tax breaks or special treatment in either S. 638 or the agreement between Norfolk Southern and the Department of Transportation. There is only one difference in this transaction, and that difference is unfavorable to Norfolk Southern: it must give up Conrail's net operating loss and investment tax credit carryovers.

Another exaggerated claim is the benefit to Norfolk Southern from use of excess depreciation; that is, depreciation that Conrail would not be able to utilize against its own income. However, a stand-alone Conrail, either through sale of tax benefits or the establishment of subsidiary corporations, would clearly take advantage of every available option to use this excess depreciation. Conrail has made abundant use of tax shelters in the past, and it would clearly do so in the future, with a longrun revenue loss comparable to any revenue impact of a purchase of Conrail by Norfolk Southern.

All of these issues are overshadowed by one point—who pays Federal taxes and who does not? The contrast here between Norfolk Southern and Conrail is dramatic. An independent Conrail is a tax shelter—it contributes nothing to the Federal Treasury. Conrail has never paid any Federal income taxes, and under the Morgan Stanley plan or any other stand-alone option, it will not in the future pay any taxes to the Federal Treasury.

Compare this to Norfolk Southern. Norfolk Southern is now and will continue to be a significant Federal taxpayer, but more importantly, Norfolk Southern pays the vast majority of all the Federal taxes paid by the entire railroad industry. In 1984, for example, Norfolk Southern paid over $150 million in Federal taxes; the net amount contributed by the entire industry was only about $172 million. Moreover, as a profitable member of the Norfolk Southern rail system, Conrail in the future will become a taxpayer itself.

In summary, I urge the Senate to move forward to the consideration of S. 638. This issue has been exhaustively studied and we have before us a sound public policy option—selling Conrail to Norfolk Southern.

Mr. METZENBAUM addressed the Chair.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. METZENBAUM. Mr. President, I found the remarks of my distinguished colleague and friend from Oregon having to do with the tax aspects of the transaction to be of particular interest, and I think it is a subject to which I intend to reply in some detail but I do not believe it appropriate to do so in this moment.

I will be brief on that subject in my remarks today, and then at a later point I will address the issue more fully. But as a preparatory statement I would point out that there are some specific representations and agreements that are made as pertains to the handling of the tax aspects for this transaction as a part of the agreement. In some instances that would not be that important. When the U.S. Government is a party to the agreement, then it becomes particularly relevant.

This company, Conrail, has better than $2 billion in net operating loss carry-forwards, and there are some specifics that deal with the manner in which those funds are to be handled. They are very relevant. They are not unimportant considerations.

I will address that subject later in much greater detail, and point out that not all of what looks like gold glitters—quite the opposite. I think this agreement that we are called upon to approve by legislation does real harm to the whole concept of tax equity and tax fairness, and does provide for some tax special benefits written right into the deal. But, as I said, I do not want to discuss that now.

I want to discuss my colleague's question of whether or not we really ought to be proceeding at this point with this legislative proposal. Many of us have strong opposition to the entire issue as to whether the sale should be made. But that is not the main thrust of what I am about to say.

The issue at the moment is, should we or should we not proceed forward at this time to deal with the sale of Conrail?

You have to take into consideration in discussing that subject the fact that this Government which is very much in need of revenue has sitting out there an offer from Morgan Stanley $200 million over and above the Norfolk Southern deal, and the First Boston Corp., and Allen Co., have a proposal to come in with $400 million over the $1.2 billion.

I am not prepared to debate on the floor of the Senate the merits of the Norfolk Southern proposal, the merits of the First Boston and Allen Co., proposal, but I am prepared to maintain as strongly as I know how that when there is anywhere from $200 million to $400 million out there on the table available to the Government, we owe it to the taxpayers of this country to explore whether or not we can get not only that $200 million or $400 million but to explore whether or not it is not possible to obtain a figure substantially in excess of either the $1.2 billion, the $1.4 billion, or the $1.6 billion.

I should point out parenthetically that the manner in which the Government took bids in connection with this matter was most unusual if not unique. The Government obtained an appraisal. Normally, an owner selling some portion or all of their assets

would not then share that appraisal with the public.

But what happened in this instance is that the Government obtained the appraisal, immediately went public with that fact, and told the bidders what the appraisal was. As a consequence, eight bids came in, and to the best of my recollection, I think all eight of them were at the $1.2 billion figure. So you truly did not have a competitive bidding situation.

Beyond that fact, we must deal with the entire issue of antitrust. The antitrust department has indicated in phase 1 that they now think there may be some reason to permit the deal to go forward. They think that the Senate ought to continue considering this matter at the very same time that they proceed forward with an evaluation and examination of the balance of the antitrust issues which are truly the most important issues in phase 2.

The answer to that matter is that phase 2 will not be concluded for some time.

Let me share with my colleagues a letter just received, January 21, 1986, from the U.S. Railway Association. Because I think it is so important, I am going to read it in the entirety. It is not that long.

DEAR SENATOR METZENBAUM: Steve Berger asked me to respond to your January 17 inquiry about an assessment of the latest Norfolk Southern divestiture plan. We received a similar request from Congressman James J. Florio, USRA's reply to which is provided as an attachment. Submitted December 3, that reply is now out of date in certain ways which I will cover here.

Generally, the attachment describes the schedule for our review of the divestiture plan, the criteria enunciated by the Department of Justice for its assessment of the plan, and the information required by Justice, its consultants, and USRA in order to assess compliance with Justice's criteria. USRA could finish its study of the divestiture plan within four to six weeks after receiving the appropriate details of the plan from Norfolk Southern and the divestiture carriers, Guilford Transportation Industries and the Pittsburgh & Lake Erie.

Here we come to the critical language.

Unfortunately, despite the optimism expressed in our December 3 letter, the carriers have not yet provided Justice or USRA with the required information. We also are informed that Justice is about a month behind the original schedule for selecting its expert consultants and initiating their contract work. Justice now indicates that the consultant contract might be awarded during the first week of February.

The as yet available data and analyses thereof are essential for the application of Justice criteria. The attachment indicates several specific areas of concern with the earlier divestiture plans, as determined by both Justice and USRA analyses. Justice's estimate of the level of effort for its consultants to study the revised plan is 497 man days over approximately two months.

We will advise you periodically as to the status of information supplied by the carriers, and any other circumstances that might bear upon our work schedule as set forth above.

Sincerely,

JOHN WELLS,
Vice President and Staff Director.

What that letter says in essence is that they are trying to do an analysis but they cannot get the information from the carriers as to what the facts are, and the Justice Department has not even commenced the study that it has promised the Congress that it would complete.

There are many other major problems with respect to this proposed sale, and I intend to discuss each of them in some detail.

Let us start off with the fact that Conrail is a money-making operation. It has been since 1981. It recently was recognized as one of the best operated railroads in the country.

In 1984, Conrail earned over $500 million. In 1983, Conrail earned $313 million. In 1982, it earned $174 million. In 1981, it earned $39 million.

That is not bad, to go from $39 million to $313 million to over $500 million; 1985 from all reports was a good year. In the last quarter, I think the earnings were up 22 percent, according to my recollection.

What are we doing with that? We are saying that this very viable, efficiently operated railroad that is earning somewhere around $500 million a year we are going to give away. That is the only term I can use, we are going to give it away for $1.2 billion, and we are going to give them some goodies with it. We are going to give them $800 million in cash. That is not bad. One billion two hundred million dollars and you get $800 million in cash. That means your net costs are $400 million for a railroad earning $400 million or $500 million a year.

Then we are going to give them $250 million in excess assets in the pension fund. Under the laws we are familiar with, those pension funds have been and continue to be terminated to the extent of over $9 billion in the last 5 years during the Reagan administration.

Then we are going to give them $3.5 billion in depreciable capital assets. We are also going to give them something in the area of $2 billion of net operating losses, although there is some language with respect to that subject as I indicated to the distinguished Senator from Oregon earlier. There are some limitations with respect to the efficacy of the limitations that are provided for in the memorandum of agreement.

Some, including the Department of Transportation, have argued that Conrail's profit figures since 1981 are inflated because Conrail has not had to pay State taxes or industry-level wages.

But Conrail is paying industry-level wages now. In 1984, it paid out $60 million in additional dollars to its employees to bring them up to the industry standard. In 1985, Conrail deposited in escrow $12 million for the purpose of paying its State taxes.

The result: Conrail's performance for 1985 sets the record straight. After taking into account these new costs, Conrail made a net profit in 1985 of $440 million.

Think of it. For $1.2 billion, you get $800 million in cash, you get $440 million in profits, you get $250 million that you can pick up by terminating the pension fund, and you get $3.5 billion to depreciate.

You would not believe that such a deal was possible if it were not the reality that it is here on the floor of the U.S. Senate and we are being asked to approve it.

Conrail is continuing to turn in a strong financial performance, despite 1985's weaker business environment for the railroad industry. Its operating income performance far exceeded most other railroads and was comparable to Norfolk Southern. Conrail's 1985 earnings are only half the picture. In 1985, Conrail spent $562 million for capital projects and maintenance. Conrail's cash balance increased by $60 million to $910 million.

Unquestionably, Conrail's performance puts it right at the top of the class compared to all other major railroads in the country. Conrail is a viable, long-term contender.

I heard some argue yesterday on the floor of the Senate that Conrail could not continue to make it. Why? Why could not Conrail continue to make it? It is doing exceptionally well. It is keeping its capital expenditures up. It is making profits. It is a well-run operation. There is absolutely no reason why we should give away the Conrail properties to Norfolk Southern for a paltry $1.2 billion.

That is particularly true in view of the increased offer from Morgan Stanley of $1.4 billion and the fact that the Allen/First Boston group has an offer in at $1.6 billion.

Why in the world are we continuing this $1.2 billion Norfolk Southern offer with all of its attendant antitrust and labor problems when Morgan Stanley has an offer on the table that would pay the Government $1.4 billion up front in cash?

So that I may make my position clear with respect to the Morgan Stanley offer, there are some in this body that feel very strongly that the Morgan Stanley offer should be accepted. I am frank to say to you that I think we can get more than the $1.4 billion for this railroad. I am frank to say to you that I think the figure will go up considerably if we just give the free enterprise system an opportunity to act. I believe that what we ought to do is withdraw the matter from the

Senate at the present time, that the Secretary of Transportation should then take sealed bids, sealed bids setting out the terms and conditions under which the U.S. Government would be willing to sell this property, and I predict, as I predicted earlier that we could get more than $1.2 billion, I predict we can get substantially in excess of $1.4 billion.

There is another aspect of this giveaway that is worth noting. Most everyone knows that the Government would receive $1.2 billion for its interest in Conrail's common stock. What some people may not realize, however, is that $851 million of long-term debentures and 73 million shares of preferred stock which the Government holds would be canceled entirely. Conrail has never declared dividends on the stock nor paid interest in cash on the debentures. Its cumulative income has not reached the $500 million target points, but it will reach that target point in 1988.

Under continued Federal ownership, in 1988 Conrail will pay the Government nearly $300 million in interest and dividends and Conrail will pay $300 million more in 1989 and an additional $300 million in 1990.

I want to emphasize that. We are talking about picking up $1.2 billion and what a great idea that is. If nothing happens between now and 1988, we are going to have Conrail repaying the Government $300 million in interest and dividends, another $300 million in 1989, and another $300 million in 1990, or $900 million in that short period alone.

Thereafter, as long as Conrail remains profitable, it is obligated to pay the Government half its yearly income in interest and dividend payments until the debentures are retired in the year 2011.

Mr. President, that is a substantial amount of money. That is revenues that the Federal Government could put to use in reducing the deficit. But under this deal, the preferred stock and debentures would be canceled and all that money would be lost.

I think there is some irony in the fact that we got back into session yesterday and the first thing we did was have a White House conference in which the Republican leadership of the House and the Senate met with the President and talked about the challenge of balancing the budget and all of the cuts that will have to take place by reason of Gramm-Rudman-Hollings. Then, having said that, we return to the floor of the Senate to give away—and I mean literally give away—the best single income producer that the U.S. Government has in the arena of business operations.

We do not make that kind of money with respect to any other arm of Government, but we do with Conrail. And lo and behold, the editorial writers want us to give it away; my colleagues on the other side of the aisle want us to give it away; the President wants us to give it away; and everybody is excited about the fact that we are going to pick up $1.2 billion. But we are going to get $900 million by 1990 and under any and all circumstances, we are going to have a continuing source of income; we are not going to have to give away the $800 million that is like cash in the bank and we are not going to have to give away to a new buyer the $250 million that is in surplus in the pension fund and we are not going to have to give away the money gained by using the net operating loss carryforward as well as the right to depreciate $3.5 million in assets.

Conrail has a pension plan that could be liquidated for profit—cash—of $250 million. No matter how you look at this, here is a situation where the Federal Government put $7 billion into this property.

Consider this: The administration and Norfolk Southern argue that while Conrail may be profitable today, it is not in the long run a strong enough corporation to survive on its own. The U.S. Railway Association, Conrail's banker and independent overseer, sees the situation as opposite.

On July 29, 1985, USRA completed a Conrail sales study which said as follows:

> . . . All available evidence supports a finding that Conrail can generate positive cash flow for the foreseeable future. Traffic shortfalls compared to the forecast should not threaten Conrail's survival as long as the rail regulatory framework allows service to be shaped to meet the demands of the marketplace.

And again from the same report:

> Conrail's viability as an independent entity is reasonably assured.

According to USRA, Norfolk Southern's pessimistic view of Conrail viability is overstated. I quote again from the report:

> Norfolk Southern's 10-year outlook for Conrail—that negative cash flows would occur in serious magnitudes by the 1990's, culminating in the need for renewed Federal aid—was determined by U.S.R.A. to be rebuttable.

Morgan-Stanley, one of Wall Street's most respected investment houses, agrees with USRA's assessment of Conrail's future.

Morgan-Stanley has assembled a group of 41 sophisticated investors, including the New York Life Insurance Co., Columbia University and the Pennsylvania public school employee's pension fund, who are ready and willing to invest their money in Conrail. These investors know what they are doing.

If Conrail were not a viable operation, they would not be going to the public to raise money, they would not be investing their own money. They know that Conrail is going to continue to make money. That is the reason they are so willing to pay $1.4 billion instead of the $1.2 billion that has presently been offered.

Let us talk about another aspect of this matter not having to do specifically with dollars and cents. Let us talk about Conrail being a vital asset to the Northeast and Midwest regions of the country.

Over the past 4 years, for example, Conrail has taken business away from every other rail carrier in the region by the old-fashioned expedient of offering lower prices and better service.

Thanks largely to Conrail's good management, Conrail is now a first-class railroad. It has one of the lowest debt-to-equity ratios and one of the lowest operating ratios of any railroad in the industry. It also has the most modern physical plant and rolling stock in the industry.

I fail to see how this plan to sell Conrail—or more properly, to give it away—serves the interests of the Northeast and Midwest, or of the taxpayers of this country.

Yesterday, we heard on the floor of the U.S. Senate concerns expressed by one of those who could not be particularly considered an easterner. The distinguished Senator from South Dakota [Mr. PRESSLER] talked about the impact that the sale of Conrail would have on the regional railroads serving South Dakota and those States that are nearby.

What do we get in return for the Federal interest in Conrail? Why are we doing this? I do not see any reason to do it. One of the things that concerns me about going forward with this sale has to do with the matter of jobs. I stood on the floor of the Senate just before the last session ended and saw where we indicated our willingness to spend billions of dollars with respect to a program called OPIC. OPIC is a way of exporting American jobs around the world. We have no reservation about doing that. Here is a situation where we are making money—100 percent opposite from the OPIC situation—where we do not need any money to subsidize the railroad, where the railroad is making a profit, where, when we sell the railroad as proposed by this legislation, thousands of railroad workers in my region of the country will lose their jobs.

How many? Nobody seems to know.

Norfolk Southern estimates that 2,530 NS-Conrail positions will be eliminated in the course of consolidating NS and Conrail Operations.

The management of CSX Corp. has said that CSX would immediately lose approximately 4,000 jobs because of freight traffic diversions from its lines to the combined Conrail-N.S. System; 900 of these jobs would be in my own State of Ohio. Maryland, West Virgin-

ia, and Kentucky would also be particularly hard hit with job losses.

According to an estimate prepared by Morgan-Stanley, 8,130 jobs would be lost throughout the rail industry as a result of the proposed Conrail-NS merger.

In its July 29 report, USRA addressed the issue of job losses. The Association studied the estimates submitted by all of the railroads as well as the industrywide estimate prepared by Morgan-Stanley. USRA concluded that the Morgan-Stanley estimate of 8,130 jobs lost was probably too high, but, "* * * the concept of a rail labor impact greater than Norfolk Southern's job loss (predictions) * * * is generally valid."

Not a single rail labor union has endorsed the sale of Conrail to the Norfolk Southern. Those that have taken a position have endorsed the Morgan-Stanley alternative.

Transportation Department officials have been telling Norfolk Southern for months that it would have to improve its labor package to win this sale.

The fact is, Norfolk Southern has not improved its labor package.

This sale plan would provide Conrail's employees a combined payment of $375 million for their 15-percent share of Conrail's stock, and for wages deferred between 1981 and 1984.

That is not enough.

The value of the E.S.O.P., calculated on the basis of the amount Norfolk Southern is paying the Government per share of stock, is $212 million. Add to that the deferred wages of about $290 million per year between 1981 and 1984, and the total comes to $502 million, not including interest.

If you add in interest on the deferred wages compounded at a conservative rate of 10 percent, the total amount comes to $762 million.

The N.S. $375 million figure short changes the employees by $387 million.

In other words, Norfolk Southern plans to buy out Conrail's employees for less than half of what they are due. It is no wonder they oppose this sale so strongly.

Mr. President, I intend to address myself further to this issue during the balance of this afternoon but for the time being I believe I am prepared to yield the floor.

I ask unanimous consent that when I resume my remarks they may be included together and that there be no problem with respect to the two-speech rule.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. METZENBAUM. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. METZENBAUM. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. METZENBAUM. Mr. President, as we look at this proposed sale, I think we have to consider what else does the sale have to offer the American public. In addition to costing thousands of jobs in the Northeast and Midwest, the proposed sale would substantially reduce rail competition in the region.

Combining the Norfolk Southern and Conrail systems would produce a carrier of unprecedented size and power. The new system would control nearly 50 percent of the tonnage and nearly two-thirds of the freight rail revenues in the region.

That is a dominant position—the kind of position that inevitably encourages arbitrary rate increases and destroys a company's incentive to provide timely and efficient service.

I am not alone in my concern about the impact of the proposed sale on competition.

The Governor of my own State of Ohio is opposed to this sale. So is the Governor of Maryland.

Hundreds of communities throughout the Northeast and Midwest oppose the sale.

The list of shippers and corporations opposing the sale is several pages long.

Mr. President, I ask unanimous consent that a list of shippers and corporations opposing the sale be printed in the RECORD.

There being no objection, the list was ordered to be printed in the RECORD, as follows:

SHIPPERS FOR AN INDEPENDENT CONRAIL

Shippers for an Independent Conrail (SIC) is a coalition of companies dependent on Conrail for rail transportation. SIC supports the return of Conrail to the private sector as an independent and viable entity. The timing and method of this transformation must preserve or enhance rail competition.

Acme-Evans Co. Div., Air Products and Chemicals, Inc., Alabama By-Products Corp., Alabama Coal Association, Alcan Aluminum Corporation, Allied Corporation, American Crystal Sugar Company, American Iron and Steel Institute, American Maize-Products Company, American President Intermodal Co., Ltd.

Amoco Oil Company, Anderson & Anderson Contractors, Inc., Anker Energy Corporation, Baltimore Gas & Electric Co., Barbour Coal Company, Barnes & Tucker Coal Company, Bethlehem Steel Corporation, Boise Cascade Corp., Bradford Coal Company, Buncher Company.

Cabot Corporation, Clorox Company, ConAgra, Inc., Consumers Power Company, Copperweld Corporation, Dart & Kraft, Inc., Dexter-Carpenter Coal Sales Corp., Diamond Bathurst Inc., Diamond Crystal Salt Company, Drummond Coal Company, Inc.

Early & Daniel Company, Elkem Metals Company, Energy Trading Corporation, FMC Corporation, General Mills, Inc., Grafton Coal Company, GTE Service Corporation, Hepburnia Coal Company, Independent Bakers Association, Industrial Mining Company.

Inland Steel Company, Institute of Scrap Iron & Steel, Interlake, Inc., International Salt, Keystone Bituminous Association, LTV Corporation, Magnum Minerals, Inc., Mining & Reclamation Council of America, National Intergroup, Inc., National Piggy-Back Service.

National Starch & Chemical, New England Electric System, Ohio Mining & Reclamation Assn., Ohio Oil Gathering, Olin Chemicals, BPS Coal Company, Peabody Holding Company, Pennsylvania Coal Mining Assn., Pennsylvania Power & Light, Pennwalt.

Perdue Farms, Inc., Pfizer Inc., PPG Industries, Inc., Rail-Van Consolidated, Reading Anthracite Coal Company, Robbins Manufacturing, Inc., Rochester PiggyBack Services, Rohm and Haas Company, Sunkist Growers, Inc., Tidewater Grain Company, U.S. Steel Corporation, Universal Foods, Inc., Witco Chemical Corporation.

COALITION FOR A COMPETITIVE CONRAIL

ASARCO, Inc., Adventure Coal Company, Alabama Coal Association, Allegheny Resources, Alltransport Inc., American Box Co., American Crystal Sugar Co., American Iron & Steel Institute, Anderson & Anderson Contractors, Inc., Anker Energy Corp.

Arch Mineral Corporation, Assured Freight, Inc., Attorney General Charlie Brown, Attorney General Hubert H. Humphrey, III, Avery Coal Co., Inc., Avonmore Rail Loading, Inc., Barbour Coal Co., Barnes & Tucker Co., Baxter Co. Customhouse Brokers, Inc., Bethenergy, Inc.

Big B Mining Co., Blue Diamond Coal Company, Bologna Coal Company, Boston Edison, Bradford Coal Company, Bridgeton Municipal Port Authority, Bucano International Traffic Mgt., Buckeye Industrial Mining Co., C&K Coal Co., Cabot Corporation.

Calabresi International, Inc., Camelot Coal Company, Campbell Fuels, Inc., Canterbury Coal Co., Canterra Coal Inc., Carpentertown Coal and Coke Co., Center Valley Coal Co., Central Vermont Railroad, Inc., Centroport Surveyors, Inc., Charms Co.

Chemtech Industries, Chicago & Northwestern Transp. Co., Chicago South Shore & South Bend RR, Clorox Company, Coal Association Inc., Coal Hill Mining Co., Inc., Coal Power Corporation, ConAgra Flour Milling Company, Concorde Shipping, Inc., Connecticut Grange.

Consumers Power Company, Cooney Brothers Coal Company, Cooperstown & Charlotte Valley RR, Coordinated Caribbean Transport, Inc., Crescent Brick Co., Inc., Culmtech, Limited, Cumberland Elkhorn Coal & Coke, Inc., Cumberland Steel Co., Darmac Coal, Inc., Delaware Otsego System.

Delta Coal Sales, Inc., Dexter-Carpenter Coal Sales Corp., Diamond Shamrock Coal Company, E. M. Brown Inc., E. P. Bender Coal Co., Economic Development Council of Northwestern Pennsylvania, Elkem Metals Company, Energy Supply, Inc., Energy Trading Corp., Erny's Fertilizer Services, Inc.

Falco Coal Company, First Century Corporation, Full Service Forwarders, Inc.,

Gard Mining, Inc., General Mills, Inc., Gerard F. Tujague, Inc., Gilscot Forwarding Company, Inc., Glen Irvan Corporation, Governor Anthony S. Earl, Grand Trunk Western Railroad Co.

Greater Baltimore Committee, Greater Philadelphia Chamber of Cmc., H. Kieffer Trucking, H.B. Coals, H.D. Shrader Trucking Company, Hagerstown-Washington Co. Chamber of Commerce, Hall's Coal Company, Inc., Hansen Storage Company, Hansloban Coal Company, Harmon Mining Co.

Hawkins Coal Co., Hawley Fuel Coal Co., Inc., Hepburnia Coal Co., Heritage Resources, Inc., Hess & Fisher Engineers, Inc., Hickman, Williams & Company, Hotard Transfer, Hungerford & Terry, I.C. Industries, IUE Coal Sales Co.

Illinois Coal Association, Illinois Grange, Indiana Farmers Union, Intercoastal Warehouse Corp. of Louisiana, Iowa Farmers Union, J & B Products Corp., J. Taliancich & Associates, J.G.H. & Associates, Inc., Jill Mining Company, Inc., John A. Biewer Lumber Co.

John B. Harris, Inc., K & J Coal Co., Inc., K.C. Strader Trucking Company, KMA Enterprises, Inc., Kenerco Coal Sales, Kent Coal Company, Kentucky Farmers Organization, Kentucky May Coal Co., Kentucky River Coal Corp., Kentwood Spring Water.

Kerr Steamship Co., Keystone Steel & Wire Co., L & R Fuels, Inc., LTV Corporation, LaBelle Processing Company, Lackawaxen & Stourbridge Railroad, Lacour Warehousing, Inc., Ladish Company, Inc., Lafayette Springs Enterprises, Inc., Land Use Corporation.

Leaf River Forest Products Inc., Leckie Smokeless Coal Co., Lukens Steel Company, M.A. Hanna Company, Magnum Minerals, Inc., Manville Corp./Manville Svc. Corp., Maple Leaf Coal Company, Marblehead Lime Co., Maryland Chamber of Commerce, Maryland Grange.

Mayor Bruce C. Hagen, Mayor David L. Jannetta, Mayor George M. Wyckoff, Jr., Mayor George V. Voinovich, Mayor Harold Washington, Mayor John Fedo, Mayor Richard G. Campbell, Mayor Richard L. Dunning, Mayor Steven B. Carlson, Mayor Thomas P. Ryan, Jr.

Mayor William Donald Schaefer, McDonald Land & Mining Co. Inc., Metro Drayage & Service Co., Mid-City Cartage Co., Mining & Reclamation Council of America, Minnesota Agri-Growth Council, Minnesota Corn Processors, Minnesota Farmers Union, Mississippi Chemical Corp., Mittercon International.

Moon's Enterprises, Moshannon Falls Mining Co., National Farmers Union, National Grange, National Refractories & Minerals Inc., Navarrete Forwarding Co., Inc., Nebraska Farmers Union, New England Electric System, New Jersey State Grange, New Orleans Distribution Trucking, Inc.

New York Cross Harbor Railroad, New York State Grange, New York Susquehanna & Western RR, Newmont Svcs., Ltd. (Newmont Mining Sub.), North Dakota Farmers Union, Northern Counties Coal Co., Inc., Nutra-Flo Chemical Co., Ohio Mining & Reclamation Ass'n, Ore-Ida Foods, Inc., Oyster Shell Products.

P. and N. Coal Co. Inc., P.V. Burke & Associates, Inc., P.A. Master Corn Growers Ass'n, Inc., PBS Coals Inc., Patrick & Associates, Paul W. Capelle, City Manager of Willard, Peerless Eagle Coal Co., Pennsylvania Coal Marketing, Inc., Pennsylvania Coal Mining Assn., Pennsylvania Farmers Union. Pennsylvania Mine Services, Inc., Pennsylvania State Chamber of Cmc., Pennwalt Corporation, Philip P. Rowan, Director of Economic Devel., City of Bridgeton, Piazza & Associates, Inc., Pinsly Railroad Company, Pioneer Lumber Inc., Pittsburg & Shawmut Railroad Co., Portside Terminal Services, Power Operating Company, Inc.

Princess Susan Coal Company, Producers Liaison, Inc., Quality Coal Company, Quality Crushing & Screening Inc., R.H. Keen & Company, Inc., RBS, Inc., Railway Labor Executives' Assn., Raintree, Inc., Randall Fuel Co., Inc., Raynham Farms.

Reading & Bates Coal Co., Red Star Coal Co., Representative Richard A. Geist, State of Pennsylvania House, Ringgold Coal Mining Co., Robbins Manufacturing, Inc., Rochester & Pittsburgh Coal Co., Scurfield Coal Sales, Inc., Shawville Coal Company, Inc., Skelly and Loy, Sky Haven Coal, Inc.

Slater Steels, Inc., South Dakota Farmers Union, South East Coal Company, Inc., South Jersey Port Corporation, South Louisiana Port Commission, Southeastern Motor Freight, Inc., Spring Church Coal Co., Spring Fork Coal Company, Springmeier Shipping Co., Stanford Coal Company.

State Rep. Michael J. Madigan, Speaker, IL House of Representatives, State Rep. John D. Cherry, Jr., State Sen. J. William Lincoln, State Sen. James J. Rhoades , Co-Chair of Pennsylvania Coal Caucus, State Sen. Mark S. Single, State Sen. Philip J. Rock, President, Illinois Senate, State Sen. Vincent J. Fumo, Strishock Coal Company, Summers Fuel, Inc., Sunshine Fuel Company.

Swistock Associates Coal Crop., TCI Trucking, Inc., Tangi-Transport, Texas Industries, Inc., The McKenzie Company, the Railroader, Thomas Coal Sales Inc., Tonawanda Island Railroad, Inc., Trans Gulf Trucking.

Twinstar Leasing, Ltd., Unionvale Coal Company, United States Steel Corporation, Universal Foods Corporation, Vance Coal Company, Inc., Vermont Railway Inc., Vertac Chemical Corp., W. R. Zanes & Co of Louisiana, Inc., W.V. Surface Mining & Reclamation Assn, Walter N. Heine Associates, Inc.

Warren C. Hartman, Contractor, West Virginia Coal Association, West Virginia Coals, Inc., Wildcat Coal Co., Williamsport-Lycoming Chamber of Commerce, Windber High Standard Coal Co., Wisconsin Assn. of Manufacturers and Commerce, Wisconsin Farmers Union.

(Mr. DURENBERGER assumed the Chair.)

Mr. METZENBAUM. Mr. President, the American Iron and Steel Institute, representing the entire steel industry, is against this sale.

General Mills, GTE Corp., LTV Corp., Monsanto and 147 other companies, associations, and communities have formed a Coalition for a Competitive Conrail, dedicated to fighting the sale of Conrail to the Norfolk Southern Railroad.

Now, why? Why all of this economic power concentrated in opposing the sale of Conrail to Norfolk Southern?

The answer is simple. It is because these States, communities, and companies are scared to death of the market power that a Norfolk Southern-Conrail combine would exercise.

And for good reason.

Last January, after 6 months of study, the Antitrust Division of the Justice Department concluded that a sale of Conrail to the Norfolk Southern Railroad would "have a significant adverse effect on competition." The Department announced that it would oppose the merger "unless its competitive problems are remedied through a prior or concurrent divestiture of assets" owned by Conrail and/or Norfolk Southern.

On the surface, that looked pretty positive. But, unfortunately, it left open the question of what would be divested—and to whom.

Norfolk Southern subsequently negotiated divestiture agreements with two railroads—Pittsburgh and Lake Erie and Guilford Transportation Industries.

These are not, to put it mildly, powerful competitors.

The Pittsburgh and Lake Erie has not in recent years made a profit. The company lost $11.6 million last year, $23.5 million in 1983; and $12.6 million in 1982.

In 1984, the Guilford system made a profit of $5.1 million. That was the only positive sign in the last 4 years.

But are these the railroads that the Justice Department envisioned as viable competitors to a Conrail and Norfolk system, which together earned $982 million in 1984?

Last summer, Norfolk Southern negotiated agreements with Guilford and the Pittsburgh and Lake Erie. Under the terms of these agreements, Norfolk Southern would have divested the absolute minimum amount of trackage needed to comply with the Justice Department order.

Even so, Guilford estimated that it would receive additional gross revenue of $161 million from operations over its new lines.

But an August 30, 1985, study prepared by the staff of the Interstate Commerce Commission found these assumptions to be, and I quote, "generally without merit." According to the report, Guilford underestimated its projected $63 million rehabilitation costs, and even with the necessary rehabilitation, Guilford's operating facilities would be inferior to those of Norfolk Southern-Conrail.

Again, I quote directly from the ICC staff report:

> Guilford will not be able to maintain competitive schedules on the trailer or flatcar traffic at Chicago.

Continuing the quote:

> Guilford's revenue gain is overstated by $25 million. Guilford is a highly leveraged company and must generate sufficient cash flow to service its debt. Guilford will be perilously close to being unable to meet all of its annual fixed charges.
>
> In the long run it does not appear that Guilford will be a financially viable carrier.

With respect to the Pittsburgh and Lake Erie Railroad, the report had this to say.

Even if all of PLE's projections are accepted, PLE admits that it cannot service all of its substantial debt using revenues from rail operations. Substantial income from the sale of, and use of, non-rail assets is needed to cover debt payments. PLE's proposed operating ratios are highly optimistic.

In concluding, the ICC staff report said, "P&LE is not now a financially viable carrier and its acquisition of the new lines will not enable it to reverse its already precarious financial position."

The Assistant Attorney General for Antitrust agreed with the ICC finding. In a letter to the Secretary of Transportation dated September 25, 1985, he stated:

Based on the information we have obtained to date . . . It does not appear that the proposed divestiture will establish a rail carrier in the designed corridor capable of providing long-term, viable competitive service. And, he stated there is:

No assurance that Guilford will provide the sort of competition with the merged NS/Conrail that would be necessary in order to eliminate the problems created by the sale of Conrail to NS.

In response to the Assistant Attorney General's findings, Norfolk Southern developed a second divestiture plan, which too, was found to be unacceptable.

Finally, on its third try, Norfolk Southern came up with a plan that the Justice Department could live with. On November 19, the Assistant Attorney General announced that this third proposal, "appears on its face to address the competitive concerns that must be addressed."

But the Assistant Secretary's announcement does not hide the fact that this third plan is as flawed as the first two plans.

It merely confirms the fact that supporters of the Norfolk Southern purchase have attempted, bit by bit, to hack away at competitive concerns, by providing half a loaf each time the merger appears endangered because of concerns about competition.

The fact is, this merger has not, nor will it be required to face the normal public scrutiny required of a typical railroad merger. By virtue of a highly unusual provision in this bill which grants future immunity to this transaction from antitrust and other laws, such scrutiny will likely never occur.

Because of this immunity, there is substantial likelihood that the limited analysis by the Justice Department may be the only scrutiny of the sale's competitive effect ever provided.

In fact, the effort to have this transaction approved by Congress, based only on the Justice fix, without analysis of the competitive effects by the courts, or by agencies like the ICC or USRA that are familiar with railroads, creates the appearance of an effort to move the merger through Congress precisely to avoid the intense scrutiny a proposal of this magnitude requires.

In that sense, Mr. President, I believe further discussion of the entire Justice review process may be enlightening.

Let us start with the initial standard used by the Justice Department. Former Antitrust Chief Paul McGrath said the merger could go forward if Conrail could be replaced in the market by one or more railroads which could provide "long term, viable, and competitive rail service."

This was the first major compromise with the public interest.

Normally, mergers are governed under the Clayton Act. Section 7 of that act bars mergers where the effect "may be to substantially lessen competition." The requirements of our antitrust laws are not satisfied by the fact that Norfolk Southern is creating two minimal competitors through the divestiture of some of its assets.

That is not the point.

Under the antitrust laws, the question is: What will competition look like after the merger? Will a market with a Norfolk Southern/Conrail combination, CSX, and a Guilford/P&LE combination be significantly less competitive than the current market? The answer is clearly yes, and without the antitrust immunity, this merger would never survive judicial scrutiny.

The fact is these divestitures do not even retain the current level of rail competition in the Northeast-Midwest region.

Let me cite one example: According to the most recent proposal, both Guilford and Norfolk Southern are going to be competing for business at the important St. Louis gateway. Norfolk Southern will keep Conrail's current east St. Louis yard, a new, modern, efficient facility. Guilford will be stuck with the decrepit Madison yard. This yard will take substantial sums to rehabilitate, and even then it will not equal the newer facility in terms of location and access.

If the Justice Department were really interested in preserving competition, it would give Guilford the Conrail yard, and make Norfolk Southern, with its superior resources, refurbish the inferior Madison yard.

But the Justice Department did not do so.

Why?

Because, departing from the mandate of the Clayton Act, justice is not trying to preserve competition. Justice is meeting a much weaker standard. It is merely attempting to create a railroad which can minimally compete in the area.

In its initial review, the Justice Department eliminated from further consideration any market where Norfolk Southern and Conrail did not service 50 percent of the market. This rule has never been validated by the ICC nor the courts for railroad merger analyses.

Second, markets where a third carrier other than Norfolk Southern or Conrail had a monopoly were eliminated. The Justice Department never provided a satisfactory explanation for this decision.

Notwithstanding the obvious flaws associated with this analysis, the Justice Department still identified 39 counties where this merger would be harmful to competition.

The antitrust division has given a tentative OK to divestiture plan No. 3. but even its proponents claim, in their most optimistic projections, that it will solve competitive problems in markets totaling only $214 million.

Restating the facts, even if the Justice Department's market elimination screens were proper, and even if the new firms are true competitors, the new divestiture plan will mitigate the harm to competition for less than half the business affected by this merger.

The attorney general from my State of Ohio, Anthony Celebrezze, identified 14 counties in Ohio which were completely ignored by the Justice Department. Several other State attorneys general reported similar results.

Even in the 15 problem counties where new service is provided, the new service is clearly no equal to that provided by the current competitive environment.

Of these 15 counties, only 8 will be served directly by Guilford or P&LE.

With respect to the other seven, Guilford and the P&LE will have to depend on switching, trackage, and car-haulage agreements.

With whom? You guessed it—Conrail/Norfolk Southern.

Unquestionably, these types of agreements are inferior to the single-line service that Norfork Southern/Conrail will provide.

Indeed, the major justification put forth by the supporters of this merger is the increased single-line service which Norfolk Southern/Conrail will be able to provide its shippers.

If single-line service is so much better than interhauling and switching, how can anyone expect Guilford and P&LE to compete with Conrail/Norfolk Southern?

And there is more.

These minimal switching services which Norfolk Southern has agreed to provide Guilford and P&LE only last for 5 years. What happens to competition after that?

Trackage rights are clearly no substitute for real competition. The needs of the tenant—tiny Guilford or P&LE—will always come second to the needs of the owner—Norfolk Southern. The opportunities for Norfolk Southern to intimidate its tenants into going along with new rate increases are obvious.

I know that a number of my colleagues want to vote for this bill, but are genuinely concerned about the antitrust aspects of the sale. Many were unprepared to vote for the bill without some indication from the Justice Department that the divestitures would pass muster. They claimed, and rightly so, that to pass the legislation last summer would have been like buying the proverbial pig in a poke. But the fact is, we still do not know how this merged and divested rail system will work.

I asked my staff to review some open questions about the divestiture with top antitrust division officials.

Has Justice verified that the new lines to be acquired or used by Guilford and P&LE are of sufficient quality to provide competitive service? The answer ws no.

This question is to be answered in the so-called phase II Justice Department investigation.

What about the quality of the yards to be sold? Again, to be determined in phase II.

What about the total costs of the divestiture to Guilford and P&LE?

That is right: We do not know yet.

What will be the impact of these costs on the debt structure of these weak, faltering entities?

You guessed it, see phase II.

A key element in the divestiture plan is the opening of the Detroit market to Guilford. To operate in that city, Guilford will acquire a portion of the Oakwood yard "sufficient to allow it to assemble its trains and interchange traffic with other carriers."

How much of the yard, must Guilford share with its rival, Norfolk Southern?

Again, this will be determined in phase II.

In order to compete throughout the Midwest corridor for valuable automotive traffic, Guilford will have to purchase specialty equipment, presumably from Norfolk Southern.

Can they do so? At a reasonable cost?

The antitrust division does not know.

To meaningfully commpete in the key St. Louis and Chicago gateways, Guilford must have access to the facilities of the St. Louis terminal railroad and the Chicago belt railway. Norfolk Southern says it will use its "best efforts" to secure this access.

Can it be obtained at a competitive cost?

Of course, we do not know.

Guilford and P&LE claim they can offer service at competitive speeds.

Has Justice verified this yet? No.

P&LE is being granted trackage rights only on secondary lines. NS claims that "they are suitable for the type of operation intended by P&LE."

What type of operation are they talking about?

A competitive one?

Has DOJ verified this?

Not until phase II.

There is no question that the Antitrust Division has been pressured into putting its best face on a proposal about which they know very little. There are so many questions yet to be resolved in phase II, one wonders what the point was to phase I.

In view of the fact that phase II is still a long way off, let me state some of the facts which we do know about this plan.

As I stated previously the ICC concluded that the P&LE has no capacity to incur new debt. But, the ability to take on such debt is critical if P&LE expects to be a viable competitor. How else will it upgrade its facilities? How else will it increase its capacity if needed to undercut a Norfolk Southern price hike?

Guilford proposes to service local customers on its long-distance trains. This will slow down its trains, resulting in inferior long-distance service to NS/Conrail.

Conrail's line through New York is more direct than Guilford's.

Guilford claims that it "will operate through freight trains on its lines with schedules that will be fully competitive with NS/Conrail operations."

Let us check the facts.

Chicago—New York intermodal service NS/Conrail, 11 trains daily; Guilford, 2.

Chicago corridor general freight service: NS/Conrail, 30 trains; Guilford, 2.

St. Louis corridor general freight service: NS/Conrail, 26, trains; Guilford, 2.

Mr. President, these remarks only highlight the major competitive problems which I have been able to identify on the basis of the limited available information about this third divestiture plan. Heaven only knows what might be found in an independent review, either by an antitrust court or by the ICC.

But the sad fact is, there has been none of the scrutiny to which any merger of this size would normally be subjected. The entire antitrust consideration process has been shrouded in secrecy.

The Antitrust Division now proposes to begin the phase II study process.

But the Department does not plan to issue a determination until next year, presumably after Congress approves the sale.

Today, we are putting the cart before the horse. We are acting on this sale bill, knowing full well that it may be illegal under the antitrust laws of the United States.

If we move forward with this legislation, if we approve this sale today, or next week, or next month, does anyone really expect that the Justice Department will have the initiative or the will to kill it based on antitrust considerations?

I, for one, do not. I do not believe the Justice Department, which is only one department in this administration, will buck the President and the Congress, and act to kill the sale on the basis of the antitrust concern.

Mr. President, our consideration of this matter is premature. We have a right to know how much more money we can obtain by selling Conrail. We have a right to know whether the $200 million more offered by Morgan Stanley and the $499 million more offered by Boston Corp. and the Allen Co. is the most that can be obtained. We have a right to know what is the best offer that is possible. And we have a right to know what the new railroad operation will be like, how many jobs it will cost, what impact it will have with respect to competition in the area.

This move to go forward with respect to the sale of Conrail at this time is premature, much too premature.

Mr. WEICKER. Mr. President, I rise today to support the motion to proceed to S. 638, a bill to approve the sale of Conrail to the Norfolk Southern Corp. I believe the time has come for Congress to act on this vital piece of legislation to provide a permanent solution to the uncertainty that has plagued rail shippers and employees in my region for years.

Mr. President, I am one of the 25 or 30 Senators in this distinguished body who was here and witnessed the bankruptcy of the Penn Central Railroad; the turmoil that bankruptcy imposed on its shippers and consumers; and the problems Congress faced in restructuring this vital transportation system. As a member of the Commerce Committee at that time, I helped write the legislation which was to become the Regional Rail Reorganization Act of 1973. This act, known as the 3R Act, established the United States Railway Association [USRA] and charged the association with establishing a quasi private sector system which would provide rail service to the Northeast and Midwest. In 1976, Congress passed the 4R Act, the Railroad Revitalization and Regulatory Reform Act of 1976, which implemented the final system plan. Later, in 1980, Congress passed the Staggers Rail Act that deregulated the railroad industry and in 1981 we passed the Northeast Rail Service Act [NERSA] to provide additional assistance to Conrail's profits. All of these laws have helped Conrail reestablish itself as a carrier capable of providing rail service.

Today, with extensive sacrifices by rail labor, Federal Assistance, the benefits of Government ownership, and the able stewardship of Conrail Management, Conrail has become a profit-

able operation. And, as provided for in the Northeast Rail Service Act, the Secretary of Transportation is authorized to return Conrail to the private sector in a way that best ensures the financial viability of the railroad, preserves service and, consistent with the first two, maximizes return to the Federal Government. After conducting a thorough and extensive sale process, Department of Transportation Secretary, Elizabeth Dole, has recommended that the Government sell Conrail to the Norfolk Southern Corp.

I support the Secretary's recommendation and believe Norfolk Southern will provide a strong, stable future for Conrail. On the day of closing, Norfolk Southern will present the U.S. Government with a check for at least $1.2 billion. Norfolk Southern does not leverage any cash out of Conrail to make the purchase and it has agreed to a series of protective covenants that limit the amount of money that may be taken out of Conrail. Norfolk Southern stipulates minimum levels of investment in Conrail's fixed plant and essentially leaves Conrail operating much as it is now.

However, a Norfolk Southern sale has positive benefits particularly for New England and Connecticut for the following reasons:

First. The Norfolk Southern purchase of Conrail creates the potential to dramatically increase North-South traffic by rail instead of by truck. This increase in rail traffic would significantly benefit my State since Connecticut has steadily lost its ability to ship or receive goods by rail from the South. A Norfolk Southern/Conrail combination can provide a fast and economical single line service for rail shippers from Connecticut to points in the South.

Second. The sale of Conrail to Norfolk Southern enhances the expansion of Guilford Transportation Services from the Northeast to major markets in the Midwest. The Department of Justice has insisted on divestitures of lines west of Buffalo, NY to Guilford Transportation Industries, Inc., a Conrail competitor. Guilford has served Connecticut shippers well since its Boston and Maine subsidiary took over 150 miles of lines Conrail chose to no longer operate for freight service in Connecticut. An expanded and strengthened Guilford will be good for Connecticut and New England since it will be able to provide service from this region all the way to Chicago and St. Louis on the west, Washington on the south, and Montreal on the north.

The expansion of Guilford Transportation Industries also means that for the first time since before the Penn Central merger, New England will have two viable competitive rail operators serving its region, enhancing the options for New England shippers and the region's own economic infrastructure.

Third. The alternative proposals to purchase Conrail bring nothing but purchase money to the deal. Norfolk Southern, on the other hand, has an excellent reputation for managing railroads and its purchase of Conrail brings the prospect of expanded rail traffic to the Northeast region of our country. Norfolk Southern does not own any nontransportation companies. Instead, it concentrates its energies and resources specifically on transportation. We have seen much too much retrenchment of rail service in New England not to be concerned about the longevity of the basic system.

Fourth. As a strong supporter of rail labor, I believe a sale to Norfolk Southern is the best guarantee of long-term employment for Conrail employees. As a stand alone entity, Conrail has continued to prune its work force in order to maintain its viability. In addition, Conrail employees have made enormous sacrifices throughout Conrail's march to profitability. Their battle is not over. Last year, Conrail laid off 3,200 employees, nearly 10 percent of its work force. Norfolk Southern estimates that only approximately 1,200 jobs will be affected by the purchase of Conrail. A stand alone Conrail faces a continued strain of rationalizing its system and continuing abandonments even in its best years. A Norfolk Southern/Conrail combination, with its inherent strength and commitment to rail service, is the best guarantee that jobs will be preserved.

Mr. President, today we have before us the opportunity to approve a sale which will generate new rail traffic and provide Conrail with a long-term partner committed to the business of railroading. This sale will also increase rail competition in the Northeast by expanding Guilford Transportation Industries, Inc. and enhancing the Pittsburgh and Lake Erie Railroad Co. I urge my colleagues to support S. 638 and the sale of Conrail to the Norfolk Southern Corp.

Mr. THURMOND. Mr. President, I rise in support of the Transportation Department's proposal to sell Conrail to the Norfolk Southern Corp.

Mr. President, I have looked repeatedly at this proposal from the perspective of both a Senator from South Carolina and as chairman of the Judiciary Committee. Like many Senators, I have evaluated this transaction from the viewpoint of my constituents, in order to understand who would be made better off and worse off in my State by the proposed railroad merger. I have heard from many people on both sides of the issue, and I have determined that the proposed merger would yield healthy, beneficial economic results for South Carolina. So I am in favor of it from the perspective of a Senator from South Carolina.

As chairman of the Judiciary Committee, I have had an opportunity to evaluate this proposal from the perspective of the committee with jurisdiction over antitrust issues. The proposed transaction is a very large merger of two railroads which compete directly with each other in certain areas. As such, the proposal carries certain antitrust implications, The Secretary of Transportation has understood this from the outset, for it was she who submitted the merger proposal to the Justice Department for antitrust review. The Justice Department has conducted that review during the last year.

As we all know, the Judiciary Committee has devoted considerable attention to the antitrust issues, even though the legislation authorizing the merger was not referred to the Judiciary Committee. As the committee with responsibility for overseeing the enforcement of the antitrust laws and overseeing the Justice Department, it has been appropriate for the Judiciary Committee to inquire into the Justice Department's antitrust review of the Conrail sale. Our inquiry was begun pursuant to an agreement with the distinguished chairman of the Committee on Commerce, Science and Transportation, Mr. DANFORTH. From the beginning, the scope of the Judiciary Committee's inquiry has been limited to the Justice Department's work on the antitrust problems associated with the sale.

For some time now, those who oppose the sale have cited, as a reason to delay Senate consideration of the matter, the Justice Department's continuing review of the antitrust aspects. In my view, it is now time for the Senate to get on with its debate and vote on this legislation. The hearing record on the antitrust aspects of the sale is complete and extensive; that record establishes that the Justice Department's work on the merger has been—and will be—thorough, proper, independent, and reliable. The Justice Department has identified some significant antitrust concerns with the merger, but the Justice Department now anticipates that the antitrust implication will be resolved in a manner totally consistent with antitrust law and competition policy. Therefore, the Senate can feel confident that the antitrust problems attending this merger will be remedied, and should move on to consideration of the transportation policy implication of the proposal.

Mr. LONG. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. PRESSLER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PRESSLER. Mr. President, I would like to speak on the subject of Conrail. I oppose the sale in its present form and hope that we can find an alternative method of selling it which will provide competition. I would like to recount some of the struggles that I have had in getting an answer from the Justice Department about the antitrust impact, and discuss the regional railroad issue as it pertains to the Midwest and other regions of the country.

About a year ago, I raised a number of questions in the Commerce, Science, and Transportation Committee regarding the antitrust issue. Of special concern to me was the fact that the Pittman analysis had been used by the Justice Department in advising the ICC, the Interstate Commerce Commission, regarding the Santa Fe/Southern Pacific merger in the western part of the United States. The Pittman analysis was a Department of Justice method for analyzing the anticompetitive impact of a railroad merger that was developed by a Department of Justice economist, Dr. Russell Pittman. The Pittman methodology was used by the Department of Justice in its study of the Sante Fe/Southern Pacific merger, which it opposes as anticompetitive.

However, the Justice Department used a different economic analysis regarding the Conrail sale. And I asked a number of pointed questions to which I was promised answers, which I have never received. Subsequently, I wrote and other Senators wrote, and there were long delays in getting an answer on the antitrust issues or in getting an adequate explanation of why one economic model had been used to analyze the Santa Fe/Southern Pacific merger in the western part of the United States but the same Justice Department, the same people, used a different analysis in the Conrail/Norfolk Southern study.

Following my remarks today I will insert for the record additional materials which explain the differences between these different methodologies and describe their significance in more detail.

Subsequently, I asked a nationally well-known private transportation firm, Rubie Associates, to analyze the Norfolk Southern/Conrail merger using the Pittman analysis in exactly the same way it was applied in the Santa Fe/Southern Pacific merger. When that was done there were quite different results, especially as the issue relates to the impact on regional railroads and on regional shippers.

Thus, to me, as I look at it from my part of the country—and I think throughout the West and the Midwest and the South—a key issue is the issue of regional railroads or regional trucking firms or regional transportation groups connecting into a Conrail monopoly. I believe that much of the debate thus far has centered on the amount offered in the sale, whether more money can be gotten out of Morgan Stanley or another offer, and what the tax advantages and disadvantages are. But to the United States as a whole there is a real issue at gateways—that is, where a smaller railroad connects with a bigger one—with traffic diversion problems, and other issues relating to the anticompetition aspects of this merger. And that is true of smaller regional and short-line railroads across the United States.

When we passed the Staggers Rail Act deregulation paved the way for some fundamental changes in the railroad industry. Many of those changes have proved to be wise, but some have proved to be not so wise. But we did breathe life into railroads that probably would not be here today without it. Many of those same railroads will experience severe financial setbacks if the Norfolk Southern bid goes through. We will essentially wipe out many of the good things Staggers provided. And I, for one, get especially concerned when those railroads that will be set back are operating in my State. For the Chicago & North Western, and many others, this transaction would be one giant step backward from the advances made over the past few years.

When S. 638 was before the Commerce Committee, I offered an amendment that would have given some protection to the regional railroads.

It was my feeling at the time that some of the railroads were getting special agreements with Norfolk Southern in return for key support. The amendment was an attempt to treat all of the regional and small railroads equally. On the morning of the vote, the Department of Transportation and the Norfolk Southern circulated letters stating that negotiations were underway with the other small railroads and hinted that agreements were close to being reached. This, of course, was not the case and none of these railroads concerns were ever addressed.

In addition, an amendment was viewed and referred to by the Department of Transportation as an attempt to repeal parts of the Staggers Act, and a reinstitution of regulation. My amendment was defeated in the Commerce Committee.

Subsequently, weeks and months passed. And the Justice Department of Transportation still did not come through with specific answers on the antitrust area. I think my colleagues from Pennsylvania did an excellent job yesterday outlining some of those unanswered antitrust questions. They go to the heart of my concern with this sale.

I would like to see the Government get out of the railroad business. I think private enterprise can do a better job of running this railroad. I also think that we are in an era where we will see prosperity of the railroads again. I am seeing prosperity on the short-line railroads that feed into the major railroads.

So progress is being made. But a great mistake that we could make is to allow a monopolistic carrier take control of the east coast. That is precisely what the sale of Conrail to Norfolk Southern would do.

As we look around the United States, I think it is important to remember that the trucking industry and the railroad industry are both very important in terms of moving grain, timber, machinery, and products of all sorts. There is a strong feeling that we should preserve the railroad lines and indeed strengthen them in many cases. But this will not happen if we have a monopoly carrier east of the Mississippi.

I believe I could say there is almost unanimous agreement among the shippers, regional railroads, and labor groups west of the Mississippi that the Conrail sale in its present form should not go forward because of the antitrust questions, because of the gateway and traffic diversion problems, and because of the prices that will be charged or could be charged by this monopolistic carrier. There will not be competition.

Earlier this year I pleaded with the Department of Transportation to come up with some kind of a gateway agreement or diversion, with some assurances so that we could be in a situation where there could be assurances to regional railroads, in the West, and in the South, and in the Midwest—assurances that these smaller railroads would not be subject to predatory pricing practices. No agreements were forthcoming.

It is for that reason that I shall offer an amendment when and if we proceed to that stage of this debate.

Let me say I am one of those Senators who tomorrow at 1 o'clock will not be voting for cloture because I believe that until we have this fundamental answer on antitrust we should not go forward.

That is not said in any obstructionist way. I have not, during my time in the Senate or in the House, engaged in filibuster tactics. I have not engaged in obstructionist tactics. Perhaps one should do more of that kind of thing around here. But I have not done so because of a firm belief that the process should work, and we should go forward. But in this case, the Department of Transportation and the Justice De-

partment are saying to us, go ahead, go forward, and we will provide you with the antitrust analysis and other details later. That is not the way Congress should act.

We should have that analysis before we go forward. But if cloture is invoked, and we are forced to proceed forward, I shall offer an amendment on the traffic diversion issue. I would like to describe that amendment.

This amendment is designed to protect small and regional railroads from unfair market dominance and other anticompetitive pressures which could be exerted by a combined Norfolk Southern-Conrail [NS/CR]. The amendment would apply only to the extent that the ICC finds anticompetitive or unfair market control has been exercised by NS/CR.

The amendment is designed to protect smaller railroads in the Midwest and the West, it also applies to small railroads within the immediate NS/CR region. It does not apply to the larger railroads such as CSX, Burlington Northern, Union Pacific, and so forth.

In effect, the amendment simply gives the affected railroads a cause of action before the Interstate Commerce Commission if within 10 years of the consummation of the sale the ICC finds that these small or regional railroads have experienced traffic diversions of 3½ percent or greater, due to the anticompetitive impact of the sale. That is 3.5 percent or greater. If the diversions are caused by fair competition or some other nonmonopolistic force, no remedy will be available. The remedy under the plan would be to allow the affected railroad, following an ICC investigation and determination, to purchase at fair market value enough track or trackage rights from NS/CR to allow for adequate competition in the affected region.

The philosophy behind this amendment is quite simple: The rail system of the Midwest or the Western part of the country, as well as the smaller Northeastern carriers, should not be sacrificed for the sole benefit of a single railroad.

We do not believe this transaction should be made at the expense of other railroads. But, if Department of Transportation figures are accurate, this amendment should never have to be used.

Indeed, I hope the Department of Transportation will support my amendment because they say that the percentage of diversion will be much less.

The DOT estimates that "[t]he diversion figures for the Midwestern carriers are all below the 2-percent figure, both in the base case and the liberal case estimates," and that the "[i]mpact on the Western carriers is de minimus, both in absolute and percentage terms."

So, this amendment should not pose a problem, assuming these estimates are accurate. Indeed, we have made the numbers extremely conservative. The amendment would require diversions in excess of 200 percent of the DOT's most liberal case estimate before it could be used by railroads outside the immediate Norfolk Southern/Conrail region.

I hope that the Department of Transportation will support my amendment because they say that in the most extreme case diversions will not exceed 2 percent. The diversion figures are all below the 2-percent figure in the most liberal case estimates. My amendment gives them 3½. I hope that the managers of the bill will embrace my amendment, become cosponsors, and say we will take it without a rollcall vote if, indeed, they believe what the Department of Transportation says.

We have used the 3½-percent diversion figure because it represents the point at which the very existence of some of the smaller railroads is actually threatened. Additionally we have made it very clear that the diversions must be caused by anticompetitive factors arising from Norfolk Southern-Conrail mergers. Diversions for other reasons simply will not be considered by the ICC.

This amendment is a result of a sincere desire on our part to avoid a potential catastrophic situation in railroads in other parts of the country. Conrail originally became the ward of the Federal Government because of the large number of railroad failures in the Northeast.

Let me say as a Member of the House of Representatives in those days, I well remember the great railroad problems in the Northeast. I am glad Conrail has shown a profit and has turned around. I believe it is in the national interest that it be sold. I am not an obstructionist to that cause. But I say selling it under the present plan will head us back in the same direction because it will have regional railroads failing elsewhere in the country, and in particular in my part of the country.

Conrail originally became a ward of the Federal Government because of the large number of railroad failures in the Northeast. It would indeed be ironic if by finally turning this system over to the private sector and getting the Government out of the railroad business we set the wheels in motion for larger railroad failures in other parts of our country, thereby starting the process all over again.

Our amendment will provide for protection against that happening. It would not require any reregulation of the industry. Indeed, it may never have to go into effect if DOT figures are accurate, it will never need to be used.

Regardless of how you decide to vote on the merits of this bill, we hope you will be able to support this amendment as a reasonable means of protecting railroads outside of the Norfolk Southern-Conrail region. I ask my colleagues' support for this extremely important amendment and invite them to join as a cosponsor.

There are a number of other issues before us.

I might also say that I have joined in sponsoring another amendment with my colleague, the senior Senator from Illinois [Mr. DIXON]. This amendment involves the antitrust questions, questions that have not yet been resolved and which I mentioned earlier. When S. 638 reaches the Senate floor if cloture is invoked, we intend to offer this amendment to provide an opportunity for independent and thorough review of the antitrust issues without delaying the sale.

The amendment simply makes the sale subject to the antitrust laws and ensures that interested parties have a chance to have the issues hear in Federal court.

The current bill exempts the sale of Conrail from review by the Interstate Commerce Commission which has reviewed every other merger involving profitable railroads and it provides no opportunity for judicial review of antitrust issues.

A letter prepared by Senator Dixon and cosigned by myself and others points this out. The letter says in part:

As even the Department of Justice admits, however, the sale of Conrail to Norfolk Southern raises serious anticompetitive concerns. On January 25, 1985, then Assistant Attorney General McGrath wrote Secretary Dole that, "without appropriate divestitures, the proposed merger would violate both Clayton Act and Interstate Commerce Act merger standards. The merger would have a significant adverse effect on competition for the transport of commodities to and from a number of locations in several States."

The letter continues:

Norfolk Southern, negotiating with the Justice Department in closed sessions, has proposed three different divestiture plans in an attempt to resolve the antitrust concerns. The first plan was studied by the staff of the Interstate Commerce Commission and found to be woefully inadequate. The second plan was also quickly found wanting. Now there is yet a third plan, the details of which are still not in the public domain.

I would say before the Senate votes on this matter, we should certainly know what that antitrust plan is. We do not.

There are still real doubts as to whether the carriers scheduled to acquire lines from the proposed Conrail-Norfolk Southern combine, the very marginal Guilford and Pittsburgh and Lake Erie railroads, can provide meaningful competition. Even if they could, the current divestiture proposal still leaves unresolved many significant competition issues. If, as we believe, they cannot,

passage of S. 638 will mean that Congress has effectively endorsed creation of a monopoly.

Further, shippers and railroads that will be severely adversely affected by the sale to Norfolk Southern have been provided virtually no opportunity to have their views considered. The ordinary process of ICC review, with full information, and the ability to present and cross examine witnesses has not been utilized, even though a merger just as large as the proposed Conrail-Norfolk Southern transaction, the Santa Fe-Southern Pacific merger, is now undergoing ICC review.

I might emphasize this. The Santa Fe-Southern Pacific merger is being handled in an entirely different manner, an entirely different way. A very curious situation, indeed.

Going back to Senator DIXON's excellent letter:

Our amendment will provide affected railroads, shippers, ports, and other interested parties with the opportunity that has so far been denied them. It creates a mechanism for full, independent consideration of the antitrust issues. If Norfolk Southern's latest divestiture plan actually does resolve all antitrust problems, such a review will not delay the sale. If there are, as we believe, still major anticompetitive problems that must be resolved, this amendment provides the opportunity for creating an appropriate remedy without further Congressional action.

The Justice Department acknowledges that it does not have sufficient in-house expertise to evaluate fully the latest divestiture plan. Further, they have not yet even picked a consultant to help it evaluate the proposal, and the details of that proposal have not yet been made public.

We do not believe the Senate has the information before it that would permit it to find that the antitrust issues have been resolved. The very least the Senate should do, therefore, is to ensure that S. 638 provides for independent evaluation of the unresolved antitrust issues, and a judicial mechanism for their resolution.

We strongly urge your support for this essential amendment. The antitrust concerns raised by the proposed sale of Conrail to Norfolk Southern are far too serious to be totally exempted from administrative or judicial review.

The remarks I have just made have been taken from the letter signed by Senator DIXON, myself, and other Senators, and I think they point up the need for that amendment but also point up the need for continued consideration.

Mr. President, earlier this year I informed the chairman of the Commerce Committee that I was prepared to go forward on Conrail at a time when the Justice Department had promised that we would have an adequate written answer on the antitrust letter that I had sent. I still have not received that answer or any analysis comparable to that used in the Santa Fe/Southern Pacific case. For that reason, I feel that the word of the Justice Department and the Department of Transportation to me personally was broken. Therefore, I shall not support the cloture motion.

Mr. President, in concluding, let me say that even if the Department of Justice does not believe that the anticompetitive issues are important, I can tell you that there are many railroads in the Midwest and around the country that literally consider it to be a matter of life or death, a matter of survival or nonsurvival. It is that important if a predatory monopoly is allowed to exist. That is the way these railroads feel.

I have received numerous letters from shippers and railroads and people interested in transportation from around the country saying that we should make that point clear.

It is curious that even though some agencies do not consider it important, the affected railroads and shippers certainly do.

I recall that in some of the first Commerce Committee hearings we held on this issue, our distinguished colleague from Nebraska, Senator EXON, and I asked the Department of Transportation witnesses time and time again whether a Norfolk Southern-Conrail merger would have an adverse impact on the Midwest. The consistent answer was that it would not.

I might add with some amusement that even the materials we have received here on our desk, prepared by the Department of Transportation, state that my State of South Dakota would have no adverse impact. I say this with some amusement because I certainly get a different message from my State and the Railroads which service my State. Just the opposite feeling is held by the Chicago and North Western Railroad, as well as by short line operators, as well as by truckers, and as well as by shippers. So there is a distinct difference. And quite frankly, I tend to trust those in my State. I urge my colleagues to take a close look at the materials supplied by the Department of Transportation and compare notes with transportation officials and railroads in your own State. My guess is that you will find two very different stories in most cases.

Since the time that Senator EXON and I asked those questions in the Commerce Committee, things mysteriously have seemed to change considerably. Railroads, shippers, and labor organizations throughout the Midwest and West have come out in strong opposition to the merger of these two rail giants. In addition to the feeling in my State, a strong sentiment from Western and Midwestern States has come out in opposition to the merger because of the severe impact it would have on those States.

Mr. President, I hope the Senate would consider that while we may solve the problem of getting Conrail sold by moving forward on this bill, we will be creating a whole host of new problems unless we handle the sale correctly.

I am for the sale, if it is done right. I would be prepared to hesitatingly vote for the Morgan Stanley alternative because it promises more competition. I hope that in this legislation, as it wends its way through the House and Senate, there will be gateway and traffic diversion protections similar to the ones in the amendment that I will be offering on diversion.

I challenge the Department of Transportation to support my diversion amendment since they say no more than 2 percent of the traffic would be diverted. My amendment would not kick in until 3.5 percent is diverted.

I ask that the managers of the bill on both sides consider cosponsoring my amendment, because it falls within a safe range. It would never be used if the figures provided to us by the Department of Transportation are accurate.

I urge my colleagues to support that amendment, because it would provide competition in railroads, it would save the regional railroads; it would help truckers and other transportation modes that feed into Conrail.

Mr. President, I ask unanimous consent to submit the materials to which I earlier referred into the RECORD at this point.

The additional materials include:

First. The excellent testimony of Mr. Andrew C. Robertson of Reebie Associates. Mr. Robertson's testimony describes in some detail the differences between the Pittman methodology applied by the Department of Justice in the Sante Fe/Southern Pacific merger; and the much less rigorous analysis and methodology applied by the Department of Justice in the proposed Conrail/Norfolk Southern merger.

Second. A cover letter from Mr. Robertson which outlines his work, along with two very short but very illustrative attachments which, first, give a State-by-State snapshot of the anticompetitive impacts of this merger, and second, a summary discription of the major statistical differences between the two different Department of Justice methodologies.

The PRESIDING OFFICER. Without objection, it is so ordered.

The material follows:

TESTIMONY OF ANDREW C. ROBERTSON BEFORE THE SENATE COMMERCE COMMITTEE

My name is Andrew C. Robertson. I am employed by Reebie Associates located at 200 Railroad Avenue, Greenwich, CT 06830. I have participated in several rail merger analysis projects over the past five years including UP-MP-WP, GTW-MILW, ATSF-SP, and most recently USDOT's sale of Conrail. I have submitted testimony before the Interstate Commerce Commission on behalf of Grand Trunk Western concerning their anticipated losses to NS-CR and the viabili-

ty of NS' proposed divestitures to P&LE and GTI. I am thoroughly familiar with the marketing and antitrust issues that surround the NS-CR case.

INTRODUCTION

In March 1984, the Department of Justice (DOJ) submitted testimony before the Interstate Commerce Commission addressing the anti-competitive impacts of the proposed Santa Fe-Southern Pacific (SF-SP) railroad merger. The testimony of DOJ economist, Dr. Russell Pittman, was based on an analysis of the combined market shares of SF and SP. Reebie Associates provided market share information to Dr. Pittman. As Dr. Pittman's primary contact with our firm, I am very familiar with his methodology and analysis.

In May, Reebie Associates was asked by RBC Associates to use the Pittman-DOJ methodology to produce a comparable market share analysis of the proposed Norfolk Southern-Conrail (NS-CR) consolidation. In my testimony, I will briefly outline the Pittman-DOJ analytical approach. I will then use the market data produced by his analytical approach to support five conclusions:

1. By Dr. Pittman's standard of merger affected tons, the scope of the anti-competitive impact of NS-Conrail is much larger than that of SF-SP.

2. NS-Conrail will control many more market areas than ATSF-SP, primarily in the Northeast and Midwest.

3. Many commodities most severely impacted by NS-Conrail such as coal, iron ore, pulp and corn are not protected from rail monopolies by motor carrier competition.

4. Many NS-Conrail markets identified as problems by the Pittman-DOJ methodology are not addressed by the Pittsburgh & Lake Erie-Guilford divestiture plan.

5. The Pittman-DOJ methodology appears to differ significantly in form and substance from that used in the DOJ's evaluation of NS-Conrail.

PITTMAN-DOJ METHODOLOGY

Market definition

Dr. Pittman used Business Economic Areas (BEAs) to define geographic areas in his analysis. These areas were established by the Department of Commerce to correspond to the economic areas surrounding major centers of industrial and commercial activity. BEAs have been used extensively in every recent rail merger case.

In the Pittman-DOJ methodology commodities are defined by Standard Transportation Classification Code (STCCs) at the five digit level of detail. This level of detail is precise enough to separately identify industries that share similar transportation requirements.

Market share test

Dr. Pittman's anlaysis is designed to identify every case where intramodal competition in the rail market would be significantly affected by a merger. Dr. Pittman employed a market share screen known as the "10-10-50 Test" in his examination of the SF-SP rail merger. By this test, in the analysis of the NS-CR consolidation:

NS market share is greater than 10%
and
Conrail market share is greater than 10%
and
NS-CR combined market share is greater than 50%.

Dr. Pittman's methodology would identify as a "problem" market "problem" market a case where for a particular commodity flowing between two BEAs, NS' share of rail traffic is 25% between two BEAs, NS' share of rail traffic is 25% and Conrail's share is 40% with a combined share of 65%. As both NS *and* CR have at least 10% shares and together over 50% of the rail market, this hypothetical case would meet Dr. Pittman's standard. This rule is applied to markets defined by origin-destination traffic lanes, total inbound flows to destinations, and total outbound flows from origins.

The Pittman-DOJ methodology separately identifies these markets where either NS or CR have total control from those where NS and CR are competitive. Although, a market where a NS share of 92% is combined with a CR share of 8% would not meet the 10-10-50 test, Dr. Pittman considers these exclusively served markets to be "potential" problems.

Market shares are assigned to NS or CR if they participate in a rail movement as an origin, destination or overhead carrier. Therefore, NS would have a share of the traffic moving from N&W in Virginia to B&M in Massachusetts or by a joint FEC-SOU-GTW route.

Market share reports

In Dr. Pittman's testimony, he produced eight tables to provide different perspectives of the competitive impacts of SF-SP. I have used Dr. Pittman's exact report formats with the 1983 ICC Rail Waybill Sample and 1982 TRANSEARCH truck and barge data to reproduce the Pittman-DOJ analysis for the NS-CR case.

Six reports use the "10-10-50" Test" to identify problem markets for three geographic orientations.

By Origin-Destination Traffic Lane e.g. traffic *from* Cleveland *to* Chicago—Tables I-II.

By Destination e.g. traffic *into* Cleveland—Tables IV-V.

By Origin e.g. traffic *out of* Cleveland—Tables VI-VII.

For each of these geographic orientations, there is a separate "sort" of the data to focus on the *commodities* and *locations* most impacted by the NS-CR combination.

Dr. Pittman also designed two reports (Tables VIII-IX) to identify markets where combining railroads either alone or in combination have 100% market share.[1] These reports rank the locations and commodities dominated by NS or Conrail.

MARKET ANALYSIS

I have examined the market share reports and testimony developed by Dr. Pittman for SF-SP and the comparable market share reports created for NS-CR. My comparison of the data supports the conclusion that the NS-CR combination, by several measures of market power, is more significant than the SF-SP merger. Furthermore, the proposed divestitures to P&LE and GTI fail to address several markets that rely on NS and Conrail competition.

I have appended to this testimony, the first two pages of each of my eight market share reports (Attachment 1). I will use these reports to illustrate my analysis of the impacts of NS-CR.

Origin-destination pairs with high NS-CR shares

Tables I and II identify the origin-destination markets where NS and Conrail rail shares meet the "10-10-50 Test". Table I identifies the locations most affected by the combination. Review of the report's first two pages shows that of the twenty-six origin-destination pairs most affected by NS-CR, 12 are not addressed by the proposed P&LE-GTI divestitures. I have examined every traffic lane in Table I and have identified the origin-destination markets that cannot be served by the P&LE/GTI new lines. Of the 22.1 million affected tons in this report, only 44% can possibly be routed by the expanded P&LE/GTI systems.

In some cases, the new lines of GTI and P&LE do not serve affected market pairs e.g. Chicago to Lansing. In others, they cannot offer service that is independent of NS or CSX e.g. Ft. Wayne to Baltimore. In my analysis, I have assumed that GTI/P&LE will have access to the broad range of NS-CR shippers in their new divested markets. This is a very liberal assumption when considering the very limited scope of NS' line divestitures in key markets such as Chicago, St. Louis, and Indianapolis. The second largest impacted traffic flow—coal from Wheeling to Cleveland—will probably be unaffected by the divestitures because NS ensured that P&LE did not gain access to coal mines near Wheeling and utilities in Cleveland.

Table II identifies the commodities with the most affected tonnage when the "10-10-50 Test" is applied to origin-destination pairs. The principal affected commodities, viz. coal, grain, scrap, plastic pellets, paper and motor vehicle parts are all similar in their reliance on rail transportation. Review of the "Truck/Barge" shares show that rail has little significant intermodal competition for most of the affected commodities.[2]

Destinations with high CR/NS rail shares

Tables IV and V show the results of the application of the 10-10-50 Test to total commodity movements *into* a market area. Table IV identifies Cleveland, Evansville, Washington, Boston and Wheeling as the areas where NS and Conrail compete most vigorously for terminating traffic. In Cleveland, there are 37 affected commodities with over 10,000 tons. Intermodal competition is important (i.e. truck-barge share over 50%) for only eight of those commodities.

The GTI and P&LE divestitures do not serve the Washington and Evansville markets. It is more difficult to estimate the potential strength of GTI and P&LE in markets they do serve. Review of the "Other Rail Share" traffic terminating in Boston indicates that Guilford has limited shares for most affected commodities. GTI's weak market position in its present markets such as Boston, Philadelphia and New York and P&LE's weakness in Pittsburgh make it difficult for them to serve as an effective replacement to Conrail.

Table V identifies the commodities most affected by NS-CR control of destination traffic in key market areas. Many of the same commodities identified in the origin-destination analysis appear in this table. Table V shows that NS and CR in combination will have dominant market positions for several large commodity movements.

Combined NS-CR share (percent)

Coal into Cleveland 64

[1] Dr. Pittman's methodology makes no provision to identify markets that do not meet the "10-10-50 Test" or this 100% market control test. For example, a market where Conrail has a 90% share and NS has a 5% share would not be picked up by the Pittman-DOJ methodology.

[2] The source of barge and truck market information, TRANSEARCH, does not fully describe intermodal competition at the 5-digit STCC level of commodity definition chosen by Dr. Pittman.

Paper into Cleveland	85
Corn into Baltimore	70
Steel into Lansing	91
Plastics into Boston	63

These very high shares show the large scale of the proposed NS-CR system. They also indicate that GTI and P&LE must be able to attract a substantial amount of traffic if they are to serve as a meaningful competitive check to NS-CR.[3]

Origins with high CR-NS rail shares

Tables VI and VII show the origin markets that meet Dr. Pittman's "10-10-50 Test". The results differ from the destination markets because of the different mix of rail freight consuming and producing industries in each market and CR's and NS's access to their industries.

Table VI shows that Cleveland origin traffic will be most affected in terms of tonnage. Detroit is not served by GTI or PLE and will be highly dependent on NS-CR for traffic to the East and South. The P&LE was given very little additional trackage in Pittsburgh to complement its relatively weak market position. Both PLE and GTI serve Toledo but only via highly circuitous routes. P&LE was given enhanced access in the Wheeling and Youngstown areas. However, NS chose to retain access to every major traffic generating point on the divested lines. In sum, the new divested lines will have a limited benefit in several of the most impacted origin market areas.

Table VII shows that the NS-CR combination will eliminate intramodal competition at the origin for several rail dependent commodities. NS-CR will have over 50% shares of at least thirteen origin commodity movements of over 1,000,000 tons.

Corn from Toledo, Columbus and Lafayette, IN.

Sheet Steel from Pittsburgh, Youngstown and Cleveland.

Motor Vehicle Parts from Detroit.

Cyclic Intermediates from Houston.

Steel Pipe from Cleveland.

Soybean Cake from Champaign, IL.

Steel Bars from Celevland.

Broken Stone from Toledo.

As most of these commodities are heavily dependent on rail transportation, Conrail and NS are now the only competitive alternatives available to many "affected" shippers. To be truly competitive, P&LE and GTI's new systems will have to serve a much broader market than their traditional bases in the steel and paper industries respectively.

Origin-destination pairs served exclusively by NS-CR

The Pittman-DOJ methodology focuses in those markets where there is clear evidence of serious intramodal competition. The Department of Justice has traditionally been less concerned about instances of present monopoly control deeming them to be unaffected by a new combination of competitors. Dr. Pittman separately identified these cases in his Tables VIII and IX.

Table VIII shows the origin-destination markets currently controlled by NS and/or Conrail. Review of the first two pages of the table show that Conrail has complete control of many important rail markets. If NS acquires Conrail it would, in turn, become the monopoly carrier in many parts of the Northeast. The data also show that a combination of NS and Conrail market shares in several markets such as Cleveland to Wheeling and Toledo to Cleveland will result in the elimination of "potential" NS and CR competition. It should be noted again that the Pittman DOJ methodology only selects markets where NS-CR share is 100%. If their combined share reaches only 94% or 97%, they would be screened from Tables VIII and IX.

Table IX identifies the commodity movements now controlled by NS or Conrail. The combination of NS and Conrail monopoly markets will have the most immediate impact on the coal, stone, steel and grain industries. The combined NS-CR route structure will also include many of the important service routes for piggyback shipments as well.

COMPARISON OF NS-CR AND SF-SP MARKET IMPACTS

The comparison of the NS-CR and SF-SP rail combinations cannot be based solely on review of quantitative market share data such as that assembled by Dr. Pittman. Indeed, the Pittman methodology is not definitive as there are several other useful measures of the antitrust implications of a rail merger. There are many subjective issues differentiating NS-CR from SF-SP that cannot be portrayed in market share reports. However, the Pittman market share analysis is as comprehensive as any other presented in previous rail merger cases. A straight comparison of the NS-CR and SF-SP share data produced by the Pittman-DOJ methodology is an objective way to identify many of the differences and similarities between the two cases.

EXHIBIT 1

Origin and destination markets most affected by SF-SP merger

	Tonnage affected
Origin:	
Houston	10,800,440
San Francisco	8,427,520
Los Angeles	7,280,135
Kansas City	4,672,340
Fresno	4,054,860
Chicago	3,430,860
Seattle	2,726,530
Fort Dodge	2,559,230
Beaumont	1,641,850
Portland	1,011,870
Detroit	877,160
Phoenix	842,070
Baton Rouge	717,800
Amarillo	704,469
Dallas	583,755
Stockton	567,995
Reno	549,694
Wichita	523,525
San Antonio	470,710
Minneapolis	469,270
Denver	369,250
Davenport	338,900
Lake Charles	331,970
Missoula	323,450
Appleton	309,000
Total	54,584,653
Destination:	
Los Angeles	25,254,976
Chicago	10,127,110
Houston	8,912,315
Phoenix	3,298,410
San Francisco	2,390,440
Dallas	1,983,078
San Diego	917,550
Tyler, TX	816,670
Beaumont	793,340
New York	662,350
Oklahoma City	593,894
Boston	512,740
Fresno	492,240
Kansas City	491,370
Philadelphia	334,020
Stockton	259,750
El Paso	214,220
Amarillo	199,030
Waco	149,960
Memphis	120,790
Portland	73,795
Grand Rapids	73,270
Greenville	73,030
Minneapolis	69,140
St. Louis	65,400
Total	58,878,888

EXHIBIT 2

Origin and destination markets most affected by NS-CR merger

	Tonnage affected
Origin:	
Cleveland	9,043,977
Detroit	8,689,947
Pittsburgh	5,439,257
Toledo	5,141,018
Youngstown	2,964,961
Wheeling	2,955,790
Chicago	2,755,866
Houston	2,727,120
Columbus	2,572,180
Champaign	2,368,844
Lafayatte	1,985,998
Springfield	1,749,198
Buffalo	1,506,113
Fort Wayne	1,341,007
Rocky Mount	1,178,443
Anderson	975,415
Kokomo	964,866
Duluth	926,877
Lima	887,479
Roanoke	853,110
Charleston, WV	823,367
St. Louis	816,331
Richmond	783,157
Savannah	773,110
Memphis	746,318
Total	60,969,749
Destination:	
Cleveland	32,545,920
Evansville	9,885,115
Washington	7,996,423
Boston	4,353,400
Wheeling	3,483,650
Baltimore	3,368,495
Indianapolis	2,799,365
St. Louis	2,159,843
Lansing	2,133,579
Columbus	1,888,059
Chicago	1,498,514
Buffalo	1,345,939
Toledo	1,296,822
Pittsburgh	1,083,766
Cincinnati	1,018,272
Detroit	973,138
Champaign	748,176
Hartford	592,689
Fort Wayne	554,913
Kansas City	531,947
Harrisburg	485,690
Kokomo	381,683
Atlanta	291,134
Philadelphia	175,163
Albany	262,783
Total	81,854,478

* * * * *

[3] The impact on Eastern coal-fired utilities will be particularly severe. The reliance of 50 power plants on NS and CR competition is confirmed in a recent study for the Interstate Commerce Commission Coal Fired Utilities Dependency on Rail Carriers as a Transport Delivery Mode.

Twenty-five destination markets most impacted by NS-CR. Six market areas have over 1,000,000 affected tons in the Pittman analysis of SF-SP. The same methodology identifies fifteen NS-CR market areas with over 1,000,000 affected tons. The 25 largest NS-CR market areas have in total 81.9 million affected tons or 139% of the top 25 SF-SP destination markets.

Origins (Table VI). The comparison of Exhibits 1 and 2 for origin traffic again shows that NS-CR will have a larger impact than SF-SP in terms of affected tons. Fifteen NS-CR origin markets are greater than 1,000,000 tons; only ten SF-SP markets are at that level. NS-CR affected tonnage in the top 25 origin areas is 111.7% of the total for SF-SP's top 25 origin markets.

The map in Exhibit 3 portrays the origin and destination markets with over 1,000,000 tons affected by NS-CR or SF-SP. Clearly NS-CR's impacts are more concentrated geographically than those of SF-SP. However, many more markets are affected by NS-CR.

Exhibit 3 not reproducible for the RECORD.

Exclusively Served Markets. Table VIII in Pittman's testimony identifies the origin-destination traffic lanes that would be controlled by SF-SP. They are concentrated in the region stretching from San Francisco to El Paso.

The pattern of NS-CR controlled traffic lanes is less clear. However, there is a high concentration in the Northeast where Conrail is today the dominant carrier.

One simple comparison of the potential monopoly power of NS-CR versus SF-SP can be made. Dr. Pittman's SF-SP Table VIII has 180 pages; my NS-CR Table VIII has 335 pages.

Commodity impacts

Dr. Pittman's Tables II, V, VII, and IX examine the commodities most affected by a rail merger.

Traffic Lanes (Table II). Dr. Pittman identified two commodities with over 1,000,000 affected tons in traffic lanes were SF and SP compete: corn and plastic pellets. Coal, corn, crushed stone, and steel scrap meet that criterion in the NS-CR analysis. The traffic lane movements of coal affected by NS-CR total over 11.7 million tons, more than the total combined tonnage for the 40 largest affected commodities in Dr. Pittman's Table II.

Destinations (Table V). Exhibits 4 and 5 identify the commodities at origin or destination most severely impacted by SF-SP and NS-CR respectively. The four commodities most affected at destination by NS-CR—coal, paper, corn and sheet steel—have combined tonnage almost equal to all ten of the largest commodities affected by SF-SP at destination.

Origins (Table VII). The ten commodities most affected by NS-CR at origin have over 43 million impacted tons—over 242% larger than the comparable total for SF-SP's ten largest affected commodities. In both SF-SP and NS-CR cases, the commodities most affected by rail mergers are, not surprisingly, those most dependent on the rail mode.

Exclusively Served Markets (Table IX). Dr. Pittman's testimony identifies coal, copper ore, corn, sodium compounds and cement as the commodities most vulnerable to SF-SP control. Coal, crushed stone, piggyback traffic, iron ore and steel scrap are the commodities most vulnerable to possible NS-CR control. However, while only two SF-SP commodities have over 1,000,000 affected tons. 18 NS-CR commodities have over 1,000,000 tons.

COMPARISON OF DOJ ANALYSES OF NS-CR AND SF-SP CASES

The Department of Justice chose an analytical approach in the NS-CR case that differed markedly from that employed by Dr. Pittman in the SF-SP case. At this point, the limited documentation available from the DOJ describing their NS-CR analysis makes it impossible to fully understand every facet of their approach. As a rule, it seems that the DOJ in NS-CR used a very fine screening process in order to arrive at findings that support a divestiture recommendation. Dr. Pittman offered very few prescriptive conclusions in his testimony. Indeed, the Department of Justice has yet to make a definitive ruling on SF-SP.

The DOJ analysis of NS-CR was in every way more limiting than that used by Dr. Pittman.

The DOJ's geographic area in NS-CR was the county; Pittman used larger Business Economic Areas.

In NS-CR, DOJ analyzed only origin and destination markets, Pittman also studied origin-destination traffic lanes.

In NS-CR, DOJ screened out market areas controlled by another railroad eg. BN in eastern Montana; Pittman did not use this screen.

DOJ screened small markets (under $2 million) from consideration in NS-CR; there was no volume screen in SF-SP.

If DOJ found one major shipper supporting NS-CR, e.g. Ford Motor in Wayne County, it screened out that county; Pittman had no comparable exclusion rule.

Present NS or CR monopoly markets eg. New York City were excluded by DOJ; Pittman examined exclusively served markets separately.

An intermodal competition screen was used in NS-CR; Pittman used evidence of intermodal competition as a check but not as a screen.

EXHIBIT 4

COMMODITIES MOST AFFECTED BY SF-SP MERGER

[Tons in thousands]

At origin	Affected tons	At destination	Affected tons
Sorghum	2,534	Corn	2,028
Corn	1,816	Liquid sulphur	1,796
Beer	1,712	Fiberboard	1,762
Pulpwood	1,615	Sodium compounds	1,547
Barites	1,350	Plastics	1,417
Wine	1,079	Lumber	1,074
Glycols	700	Newsprint	1,067
Coke	641	Broken stone	928
Soybean cake	605	Beer	854
Cement	508	Sorghum	806
Top 10 total	12,560		13,279

EXHIBIT 5

COMMODITIES MOST AFFECTED BY NS-CR MERGER

[Tons in thousands]

At origin	Tons	At destination	Tons
Corn	8,378	Coal	4,114
Sheet steel	7,650	Paper	3,900
Auto parts	5,141	Corn	3,280
Steel ingots	4,765	Sheet steel	2,916
Set-up autos	4,550	Plastics	2,742
Paper	4,421	Steel scrap	2,506
Cyclic intermediates	2,138	Steel ingots	2,107
Steel pipe	2,117	Iron ore	1,994
Pulp	2,082	Auto parts	1,829
Corn syrup	1,844	Steel bars	1,630
Top 10 total	43,086		27,010

I do not have enough evidence to determine whether the DOJ's analysis of the NS-CR combination is better or worse than Pittman's SF-SP analysis. Certainly, the DOJ analysis in the NS-CR case differs radically from Dr. Pittman's. The use of counties, the $2 million volume screen, and shipper support (rather than opposition) to NS-CR has the inevitable effect of greatly reducing the scope NS-CR's anti-competitive impacts. Without additional documentation and a fuller explanation of their rationale, the analytical approach chosen by DOJ to study NS-CR remains open to question. The skepticism that surrounds the DOJ's findings on NS-CR can only be removed by a more complete explanation of the DOJ's approach and recommendations. In addition, the Department must explain why such radically different approaches were taken to analyze two rail mergers.

REEBIE ASSOCIATES,
Greenwich, CT, June 11, 1985.

Hon. LARRY PRESSLER,
Russell Senate Office Building,
Washington, DC.

DEAR SENATOR PRESSLER: Per your request, I am forwarding to you copies of the anti-competitive impact analysis reports that I developed for RBC Associates.

These reports replicate the approach taken by Dr. Russell Pittman, the Department of Justice's economist who reviewed the anti-trust implications of the Santa Fe-Southern Pacific merger (ATSF-SP). In brief, Dr. Pittman's approach analyzes market share data to identify the markets where two railroads compete today and, after consolidation, would control at least 50% of the rail market.

I have produced eight tables that analyze the combined market shares of Norfolk Southern (NS) and Conrail in several different ways. The Pittman-DOJ methodology clearly identifies the commodities, origin markets, destination markets and origin-destination markets that would be controlled by NS if it acquired Conrail.

I have examined both the ATSF-SP reports produced by the Department of Justice and the NS-Conrail reports that we produced using the Pittman-DOJ methodology. Several observations can be made:

1. When using Pittman's measurement of affected tons, the scope of the anti-competitive impact of NS-Conrail is much larger than ATSF-SP.

2. Many commodities most severely impacted by NS-Conrail such as coal, iron ore, pulp and corn, are not protected by motor carrier competition from rail monopolies.

3. NS-Conrail will control many more market areas than ATSF-SP, especially in the Northeast and Midwest.

4. Many markets identified as problems by the Pittman-DOJ methodology are not addressed by the Pittsburgh & Lake Erie-Guilford divestiture plan.

5. The results of the Pittman-DOJ methodology differ significantly in form and substance from the supporting documentation used in the DOJ's evaluation of NS-Conrail.

Please find enclosed a brief explanation of the Pittman-DOJ methodology used to prepare these reports. If I can be of any further assistance, please do not hesitate to call me.

Yours truly,

ANDREW ROBERTSON.

ATTACHMENT 3—POTENTIAL COMPETITIVE PROBLEMS MISSED BY USING DEPARTMENT OF JUSTICE'S LESS RIGOROUS METHODOLOGY

COMMODITIES MISSED BY DEPARTMENT OF JUSTICE

State	Origin tons plus destination tons	Sample products
Alabama	1,555,898	Iron or steel, tin mill products.
Arizona	86,861	Carrots.
California	106,474	Cantaloupes frozen fruit.
Connecticut	282,297	Paper waste, rough lumber.
Florida	1,105,197	Canned fruit juice.
Georgia	1,911,395	Cereal, lime, synthetic rubber.
Idaho	260,835	Potatoes, onions.
Illinois	8,180,107	Trucks/tractors, wheat bran, corn.
Indiana	16,227,267	Iron/steel, paper, copper alloys.
Iowa	35,760	Sugar, car bodies.
Kansas	113,860	Canned food.
Kentucky	371,905	Motor vehicle parts, tissue.
Louisiana	286,889	Pulp, wrapping paper.
Maine	263,143	Paper tissue, corn starch, soybean.
Maryland	3,988,769	Corn, soybean.
Massachusetts	4,245,260	Lumber, pulp, feed.
Michigan	2,635,461	Motor vehicles, pulp, beer.
Minnesota	1,047,067	Ground wood, motor vehicle parts.
Missouri	3,084,488	Motor vehicle parts.
Montana	46,440	Talc.
Nebraska	26,480	Brick/blocks.
New Mexico	18,140	Wood mouldings, aluminum/alloys.
New York	1,994,842	Fiber paper, wheat, copper alloys, paper.
North Carolina	943,130	Iron/steel, flour, tissue, saw logs.
Ohio	26,990,531	Rough lumber, beer, tires, iron/steel, corn, car parts.
Oklahoma	92,420	Gypsum plaster.
Oregon	158,193	Potatoes, doors.
Pennsylvania	7,647,959	Automobiles, beer, iron/steel, veneer.
Rhode Island	5,600	Aluminum or alloy.
South Carolina	470,423	Lime, iron/steel, truck/tractors.
South Dakota	10,200	Broken stone.
Tennessee	1,252,032	Tissue.
Texas	1,248,229	Pulp, aluminum.
Vermont	342,480	Paper waste.
Virginia	1,555,898	Plastic, sugar, feed.
Washington	292,203	Pulp, canned vegetables.
West Virginia	3,646,472	Iron/steel, coke.
Wisconsin	265,781	Motor vehicle parts, trucks/tractors, rock salt.
Wyoming	19,080	Frozen vegetables.
Washington, DC (impacts on Maryland, Virginia, West Virginia.)	8,461,175	Coal, paper, lime.

ATTACHMENT 5—MAJOR STATISTICAL DIFFERENCES BETWEEN WHAT DEPARTMENT OF JUSTICE DID IN SF/SP AND NS/CR

KEY FINDINGS

Taken together these findings make three important points:

(1) The number of commodities and locations affected by the NS/CR merger are greater than the Justice Department claims. Total problem tons are probably much greater, however, Justice has never indicated how many tons their study covers.

(2) Even assuming the so-called "divestiture" solution will work, the data demonstrates that it will solve less than one half of the competitive problems created by a NS/CR merger.

(3) The competitive problems created by NS/CR are far greater than those created by SF/SP, yet Justice spent more time studying SF/SP and used a much more rigorous analysis.

Tables I and II—Origin-destination pairs (traffic lanes)

(1) 56% of the 22.1 million problem tons identified will not be affected by the "divestiture" solution even if it works as planned.

(2) Traffic lane movements of coal affected by NS/CR total over 11.7 million tons, more than the *total combined tonnage* for the 40 largest affected commodities in SF/SP.

Tables IV and V—Destinations

(1) 6 destination markets have over 1 million problem tons in SF/SP, compared to 15 destination markets with over 1 million problem tons in NS/CR.

(2) The 25 largest NS/CR destination markets have a total of 81.9 million problem tons or 139% of the top 25 SF/SP destination markets.

(3) The four commodities most affected at destination by NS/CR—coal, paper, corn and sheet steel—have combined tonnage almost equal to all ten of the largest commodities affected by SF/SP at destination.

Tables VI and VII—Origins

(1) 10 origin markets have over 1 million problem tons in SF/SP compared to 15 origin markets with over 1 million problem tons in NS/CR.

(2) The 25 largest NS/CR origin markets have a total of 60.9 million problem tons or 111.7% of the top 25 SF/SP origin markets.

(3) The 10 commodities most affected by NS/CR at origin have over 43 million impacted tons—over 24% larger than the comparable total for SF/SP's ten largest affected commodities.

Tables VIII and IX—Monopoly control

(1) SF/SP's Table VIII has 57 pages while the NS/CR Table VIII has 335 pages.

(2) 2 SF/SP commodities have over 1 million problem tons subject to monopoly control, while NS/CR has 18 such commodities over 1 million tons.

Mr. GLENN addressed the Chair.

The PRESIDING OFFICER. The Senator from Ohio is recognized.

Mr. GLENN. Mr. President, I rise in opposition to the Senate's consideration of Conrail legislation, S. 638, at this time. I say "at this time" because I think most people would like at some time to see the Government out of the railroad business, but they want to do it in a way that is practical and fair and preserves competition. We are being asked by the proponents of a Norfolk Southern purchase of Conrail to rush to judgment without the benefit of a deliberate and thorough consideration of the anticompetitive impact of this merger by either the Justice Department or the Interstate Commerce Commission.

As my colleagues well know, a full year ago, the Department of Justice found that the acquisition of Conrail by Norfolk Southern would violate the antitrust laws and stated that divestitures must be made to provide long-term viable competition before they—Department of Justice—would approve the transaction. Upon examining Norfolk Southern's first divestiture plan, the Assistant Attorney General for Antitrust, Douglas Ginsburg, found it to be inadequate in providing long-term viable competitive service. That was a year ago.

The Department of Justice subsequently stated in its press release of November 19, 1985, that the latest divestiture plan "appears on its face to address the competitive concerns" raised by the acquisition. Very significantly, however, Assistant Attorney General Ginsburg went on to say in the fine print, so to speak,

It is appropriate for the division and an independent consultant to begin the very detailed study of the plan that will be required before I can conclusively advise the Attorney General whether the proposed divestiture addresses the competitive concerns raised by this transaction.

Mr. President, I could not agree more with the Assistant Attorney General. I believe that this type of detailed study must be completed and subjected to very careful review by the Senate Committee on the Judiciary before the Senate considers S. 638.

In addition, I am troubled by the fact that this proposed merger has bypassed all the traditional review mechanisms for railroad mergers and consequently, interested States and other parties have not had the opportunity to participate and make their views known.

I realize that the original legislation creating Conrail exempts the sale from the usual review process. But in writing that legislation, perhaps we did not thoroughly consider that the sale may be to another railroad. Since this sale is proposed to another large railroad, perhaps we should follow the thorough procedures applicable to railroad mergers and acquisitions. The abbreviated review process has cut States, shippers, and other interested parties out of the decisionmaking process. Their only opportunity to be heard has been through their congressional representatives.

My point is that we should not rush to voting on this without thoroughly considering their views. They are the ones most directly affected.

Mr. President, I do not stand alone. Prior to the Justice Department's tentative approval of the new divestiture plan, the attorney general of the State of Ohio, Anthony Celebrezze, and 15 other States' attorneys general—15 of them—publicly opposed the Norfolk Southern merger because of its wide anticompetitive impact. They had looked at it carefully from the standpoint of how it was going to affect their States.

In testimony presented before the House Judiciary Committee on October 17, 1985, Attorneys General Neil Hartigan of Illinois, LeRoy Zimmerman of Pennsylvania, and Anthony Celebrezze of Ohio described in some detail the anticompetitive impact of the proposed Norfolk Southern-Conrail merger. They pointed out the deficient procedures used by the U.S. Government in evaluating the proposed sale.

I invite my colleagues, particularly those who are former attorneys general, to review this statement carefully. I believe we have a number of former attorneys general in the Senate. Senator BINGAMAN, Senator DANFORTH—floor manager of this bill—Senator EAGLETON, Senator SLADE GORTON, Senator WARREN RUDMAN, and Senator

ROBERT STAFFORD—I believe they are all former attorneys general. I doubt very much that they would, while they were in their States acting as attorney general, have recommended as the Justice Department has done that we go ahead while they are still studying the issue before them. Yet that is what has happened in this particular situation.

The main point that the State attorneys general made when they came in and testified was that there had to be a better study and that Justice had to give their opinion—Justice and/or the Interstate Commerce Commission.

They were concerned about something else. They were concerned that consideration of this merger was being made on a different basis from consideration of other mergers and other business transactions, that those procedures were being bypassed.

Subsequent to the release of Norfolk Southern's final divestiture plan, those 16 attorneys general plus 8 more attorneys general have expressed their opposition to the Senate's consideration of the merger at this premature time. And they make a special point of that. They do not say that they are against a merger into the indefinite future; they say we do not know enough about it to make that long-reaching decision at this time. So they say it is premature. Indeed, Mr. President, in a December 2, 1985, letter to our distinguished majority leader and minority leader, the 22 attorneys general wrote:

> The Department of Justice repeatedly has found that the merger would violate both the Clayton Antitrust Act and the Interstate Commerce Act. A determination of whether the latest—November 19—in a series of three proposed divestiture plans ameliorate these anticompetitive consequences can only be determined after careful study and review by the affected States and the Department's independent consultant.

This is still part of the quote:

> Even the Department of Justice's Antitrust Division has declined to give its unequivocal approval of the sale until after its independent consultant has completed its own study of Norfolk Southern's third divestiture plan.

That is very clear, Mr. President. The attorneys general urge that the Senate postpone floor consideration until after this independent consultant's investigation is completed and until interested States and their parties have an opportunity to study the latest divestiture proposal and comment on it. That is just the height of common sense, it seems to me, that we do exactly that.

I ask unanimous consent that the December 2, 1985, letter be printed in the RECORD in its entirety at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

[See exhibit 1.]

Mr. GLENN. Mr. President, I agree with the attorneys general. I want to point out what my distinguished colleague from Pennsylvania [Mr. SPECTER] reported to us yesterday. The Department of Justice has not even hired their independent consultant yet. I repeat that: The Department of Justice has not even hired their independent consultant yet. I invite my colleagues to read yesterday's RECORD, where Senator SPECTER included a January 21, 1986, letter to him from the Assistant Attorney General Ginsburg.

Mr. Ginsburg reported that the divestiture plan has been given to all affected States, but I doubt that they have had time to review and comment on it. Mr. Ginsburg also reports that information was only requested on January 8 from Guilford [GTI] and the Pittsburgh & Lake Erie [P&LE] Railroads—information about employment, financing, and equipment that is crucial for the detailed study of the final divestiture plan. So the Department of Justice does not have all the information it needs to approve this sale and yet, Mr. President, they tell the U.S. Senate it should go ahead and approve it. What kind of governmental nonsense is that?

Mr. President, I am particularly concerned about the impact of this proposal in my home State of Ohio. In September, the Ohio Department of Transportation released a report that went into great detail on the impact of the pending Conrail sale on Ohio's freight rail transportation system and its economy. Ohio would be particularly affected because the overlap in rail service currently provided by Conrail and Norfolk Southern is greater than in any other State. I repeat, if this legislation passes and the merger is completed, Ohio would be more affected than any other State in the Union so we are very concerned about this. That is the reason Ohio went ahead and did a separate study—to make sure that we knew how this was going to impact on Ohio.

The Department of Justice identified what they considered problem markets where competition would be most seriously affected. Half of these markets are located in Ohio. However, the study identified additional Ohio markets that are vulnerable to anticompetitive effects of the merger. These concerns were not addressed to Ohio's satisfaction by the divestiture plans submitted to the Department of Justice.

Mr. President, shippers throughout the country are also expressing concern about the anticompetitive impact of a Norfolk Southern takeover of Conrail. For example, last November 22 the National Industrial Transportation League, which directly or indirectly controls the routing of approximately 80 percent of the Nation's commerce, endorsed a public sale of Conrail and stated in a letter to all Members of the Senate that the current proposal to sell Conrail to Norfolk Southern Corporation did not meet its criteria.

I ask unanimous consent that a letter of December 3, 1985, from the National Industrial Transportation League be included in the RECORD following the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

[See exhibit 2.]

Mr. GLENN. Mr. President, in my home State of Ohio many shippers actively oppose the merger with Norfolk Southern just because of its anticompetitive impacts. These include such firms as: Buckeye Industrial Mining Co. of Lisbon; Carpentertown Coal & Coke Co. of Medina; CITGO Petroleum Corp.; Early & Daniel Co. of Cincinnati; J.G.H. & Associates of Maineville; M.A. Hanna Co. of Cleveland; National Refractories & Minerals, Inc. of Columbiana; Ohio Mining & Reclamation Association of Columbus; Procter & Gamble of Cincinnati; Rail-Van Consolidated of Worthington; and RBS, Inc. of Cincinnati. As days go by, we hear more and more from these other Ohio companies.

Mr. President, the input I have received from Ohio and other States, businesses and other interested parties underscores a serious concern that I have with this proposal. The procedures employed for this proposal differ significantly from the rigorous scrutiny traditionally employed for rail mergers. The only formal scrutiny of the current proposal has been a study by the Department of Justice, and as explained in the attorneys general's letter this review did not use the most accurate and generally accepted method of describing geographic competition. It was inconsistent with the standard analyses employed by the Department in other rail merger cases.

Consequently, the Department's report may significantly understate the anticompetitive effects of the merger. That is particularly valid in Ohio, probably the State most affected by the Norfolk Southern purchase of Conrail.

Mr. President, there is another aspect I would like to use as an example of why the Department of Justice review is inadequate. It is crucial that the Department of Justice thoroughly review the Conrail sale to ensure effective competition, but I would point out the success of the sale depends on the ability of two smaller railroads, Guilford Transportation Industries [GTI], and the Pittsburgh & Lake Erie Railroad, to provide viable competition. Yet grave doubts remain about the financial ability of the Guilford and PL&E to acquire the divested Norfolk Southern lines and effectively compete

with a Norfolk Southern-Conrail giant.

I must take this opportunity to compare the situation to the Department of Justice's recent handling of the LTV-Republic Steel merger. As a condition of the merger, the Department of Justice insisted that LTV sell off its Enduro plant at Massillon, OH, with some 700 employees, in order to maintain competition in the steel industry. The Department approved the purchase of Enduro to an undercapitalized buyer and now there is less competition because the plant is closed, the workers are unemployed. How is that for competition under the guidance and leadership of the Department of Justice?

Mr. President, I would refer to an article in the January 30, 1986 edition of Business Week called "LTV-Republic: Did Justice Blow It?"

I ask unanimous consent that that article be printed in its entirety at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

[See exhibit 3.]

Mr. GLENN. Mr. President, we are on the threshold of rushing to approve a merger, the impact of which we are only beginning to identify and appreciate. We do not have a pressing deadline. We certainly do not have an emergency which compels us to rush this legislation through the Senate. What is the hurry, I would ask? Things have been going along well. If we had all the information, I might be leading the charge here along with the distinguished Senator from Missouri to say that we will get the Government out of the railroad business. But here we have the Department of Justice, which has not even completed the analysis that they wish to make with an outside consultant before they even are willing to make the recommendation to the Attorney General of the United States, in the same letter saying they recommend the Senate go ahead with its action.

Now, what kind of topsy-turvy nonsense is that? Is that the way to set up a railroad system that is going to affect the long-term aspects of commerce and shipping in the United States? The point is we do not have a pressing deadline. We do not have an emergency which compels us to rush this legislation through the Senate. We must stop what may in retrospect come to be viewed as an irresponsible approval of the largest railroad combination in the Nation.

The magnitude of the anticompetitive problems which have been identified and the complexity of the analysis required to review this merger demands careful and thoughtful review by experts at the Justice Department, the Interstate Commerce Commission, and by our own Judiciary and Commerce Committees before consideration by the Senate. To do less would be abdicating our legislative responsibilities. So I certainly urge my colleagues to postpone consideration of this legislation.

Mr. President, as I went through my comments, I referred to several other references, and I would like to go back and refer to some of them again.

I talked earlier about the reports that the attorneys general made when they came to Washington and what they proposed before the House committee. Sixteen attorneys general came from States around this Nation—not all of them just in the East, not all of them in the area primarily affected. They came from as far away as Nebraska, Minnesota, and North Dakota, as well as a majority of the Eastern States that would be directly affected by this legislation.

I will read just a few excerpts from the report they made. They talked about the merger's magnitude. They said:

The proposed sale of Conrail by the Department of Transportation to the Norfolk Southern Corporation is of unprecedented magnitude. It will create the nation's largest railroad, with 32,000 miles of tracks extending through 23 states. It will eliminate head-to-head competition between the Norfolk Southern and Conrail throughout many of our states. It will have a devastating effect on the Midwest, the Northeast, and the South.

That is a direct quotation. These are 16 of our State attorneys general.

The second item they took up was on antitrust immunity, and I quote from that section:

The proposal is unprecedented in another way. The authorizing legislation would immunize the merger from the antitrust laws, despite the fact that the merger will create a "mega-carrier" with devastating impact on railroad competition in the Eastern and Midwestern regions of our country.

The Department of Transportation's proposed legislation would shortcircuit all the hearing and review procedures that the Congress has carefully built into the Interstate Commerce Act (Chapter 13 of Title 49, U.S.C.) to assure that rail mergers do not violate fundamental antitrust principles. Under current law, all proposed rail mergers are subjected to a full-scale adjudicatory hearing, where interested parties have an opportunity to present evidence and to cross-examine the proponents of the merger. A complete hearing record is compiled upon which the ICC must base its decision to approve or disapprove the proposed transaction. As an added safeguard, the ICC's decision is subject to judicial review.

None of these protections will apply in this case. Instead, the proposed legislation would confer absolute antitrust immunity upon both Norfolk Southern's purchase of Conrail and Norfolk Southern's future operation of Conrail as part of the giant Norfolk Southern system.

Mr. Chairman, there is no emergency or pressing national need which justifies such a drastic and unprecedented proposal.

I am still quoting from the report. I will repeat the last sentence:

Mr. Chairman, there is no emergency or pressing national need which justifies such a drastic and unprecedented proposal. Conrail is not a failing company that can only be saved by a sale to a major competitor. To the contrary, Conrail is a thriving, profitable carrier. By the end of 1985, Conrail will have had five consecutive profitable years. Conrail had a net income of $210 million for the first six months of this year and expects to have $995 million in cash on hand at the end of the year. A study by the independent U.S. Railway Association concludes that there is every reason to expect Conrail's record of profitability to continue.

It is clear that a transaction of this scope and magnitude merits closer scrutiny than the Norfolk Southern-Conrail merger has received to date. This Subcommittee's efforts have been highly successful in illuminating many of the heretofore unnoticed competitive problems with the proposed merger. However, the limitations inherent in the hearing process prevent it from fully replacing the rigorous analysis and judicial review which railroad mergers historically have received.

The Federal Government "bailed out" the bankrupt Penn-Central and other Northeastern railroads and created a viable Northeastern railroad system under the aegis of Conrail. Congressional approval of a Conrail-Norfolk Southern merger without an appropriate ICC evidentiary hearing would be the equivalent of legislatively sanctioning the acquisition of Chrysler by General Motors or of Lockheed by General Electric after the Federal Government's loans and guarantees resulted in the successful rehabilitation of these companies.

Secretary Dole's objective to see Conrail transferred to the private sector is commendable and one which we endorse. Such a laudable goal alone does not, however, justify a sale that will have enormous anticompetitive impacts in violation of basic antitrust principles.

In contrast to the rigorous scrutiny to which rail mergers are traditionally subjected, the only formal scrutiny of the current proposal has been a cursory study by the Department of Justice. This review did not use the most accurate and generally accepted method of describing geographic competition, and it was inconsistent with the standard analyses used by the Department in other rail merger cases. Consequently, the Department's report significantly understates the anticompetitive effects of the merger.

Mr. President, all that is a quotation from the testimony that was given by the attorneys general when they were before the congressional committee in the House.

I go to a third area of concern in the report of the attorneys general. They talk in their testimony about deficiencies in the analysis of the Department of Justice. I quote from that portion of their testimony:

The Antitrust Division of the Department of Justice concluded, based on a superficial analysis, that "the proposed [Norfolk Southern-Conrail] merger would violate both Clayton and Interstate Commerce Act merger review standards." (January 29, 1985 letter from J. Paul McGrath to the Secretary of Transportation.) Assistant Attorney General McGrath further noted that "the merger would have a significant adverse effect on competition for the transport of

commodities to and from a number of locations in several states, with the greatest adverse effect occurring at locations along an east-west rail corridor running between Buffalo and Pittsburgh in the east and St. Louis and Chicago in the west."

As significant as those findings, are, it is clear that the Justice Department seriously understated the likely impact of a Norfolk Southern-Conrail merger. In its January 29, 1985 letter to Secretary Dole, the Antitrust Division identified only 10 counties—five in Ohio, two in Michigan, two in Indiana, and one in New York—that would suffer effects from the proposed Norfolk Southern-Conrail merger so adverse as to warrant the government's opposition to the transaction on antitrust grounds. Separate analyses by competing railroads throughout the country have identified substantially more. For example, one study identified 53 Business Economic Area (BEA) pairs that under the formula traditionally used by the Department would be considered "highly concentrated markets" where the merger would be likely to "substantially lessen competition."

This disparity is a result of several deficiencies in the Antitrust Division's analysis. First, the Antitrust Division, without explanation, made no use of the Herfindahl-Hirschman Index ("HHI") in this case. The HHI, of course, is a formula used to measure the degree of concentration of a particular market. It was endorsed by the Department in both the 1982 and 1984 Merger Guidelines, and has been consistently used by the Department in analyzing the competitive effects of proposed mergers. In its Norfolk Southern-Conrail analysis, however, the Department employed a "50-10" test, whereby it examined only those geographic markets where (1) each of Norfolk Southern and Conrail currently has at least 10% of the rail transportation on movements in or out of the market, and (2) the railroads together have 50% or more of such traffic.

The exclusive use of the "50-10" test fails to recognize a substantial number of market areas which would be significantly affected by the proposed combination, since the "50-10" test would ignore all markets in which either Norfolk Southern or Conrail does not have a 10% share, regardless of the share of the other party.

So the report made by the attorneys general when they were before the House committee listed those basic three areas of disagreement. I ask unanimous consent that the report be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is ordered.

(See exhibit 4.)

Mr. GLENN. Mr. President, I should like to go on with a few excerpts from the Ohio Department of Transportation report.

Probably, from what I have seen so far, I believe that the State of Ohio, expressing its very deep concern about the impact that this proposed legislation would have on our State, has commissioned what turned out to be the most detailed study, as far as I know, that any State has conducted with regard to this merger.

I would just excerpt a few things from the Ohio Department of Transportation report, because it is almost like a book it is so complete; so I would not want to either put the whole thing in the RECORD nor would I want to try to read it here today. It would take more than a day just to read it into the RECORD. Let me read some excerpts from that report.

On the negative side, the sale of Conrail to NS could adversely affect Ohio's transportation system and its economy in the following ways:

The reduction in competition could result in higher rates and lower service quality for Ohio shippers.

A combined NS/Conrail, without accounting for divestiture or traffic diversion, would have considerable market control in Ohio: about 64 percent of the route miles in Ohio would be owned by NS/Conrail; 45 percent of all rail stations would be served only by NS/Conrail; 58 percent of all rail shipments from Ohio would be originated by NS/Conrail; and 48 percent of all rail shipments to Ohio would be terminated by NS/Conrail. Though 8 counties in Ohio have been identified by the department of Justice as particularly vulnerable to anticompetitive effects of an NS/Conrail merger, reduced competition in 10 other counties also is of concern.

Consolidation of redundant yards, terminals, and operating lines would result in elimination of positions. NS projects 801 positions will be eliminated in Ohio associated with abandonments and consolidations.

The diversion of traffic from CSX and Grand Trunk Western to NS/Conrail would contribute to reduced service, line abandonments and employment layoffs by CSX (Chessie) and Grand Trunk.

CSX Corporation, owner of Chessie System, Ohio's other major carrier, projects reduced service, line abandonments and an immediate loss of 900 Chessie jobs in Ohio, primarily the result of NS/Conrail's ability to shut CSX out of current joint movements with Conrail. Grand Trunk projects a 10 percent loss in business, which could cause abandonments and service reductions in Ohio. NS places potential revenue losses at 90 percent below CSX's projections and 60 percent below Grand Trunk's projections.

Mr. President, that is just one part of the Ohio report. I will not go ahead reading more into this. Obviously, we need to take a long, long look at this proposed legislation before we pass it. One of the things that I come back to, one of the major points I would like to make, is that the Justice Department itself, charged with looking into the competitive aspects of this merger, charged with looking into the maintenance of competition, has refused to say exactly what they think about this until they do further study. And they have said this in a letter as recently as yesterday, which Senator SPECTER read into the RECORD yesterday. Yet they recommend that the Senate go ahead and make its determination as to whether this merger should take place.

I repeat what I started out with, that I am not against getting the Government out of the railroad business. I am not against it in any way. I think most Members of this body feel the same way. But to rush into this thing without doing the studies required to see what anticompetitive impact this will or will not have, and when the Justice Department has not completed their findings on this, we are moving to consider something that is going to have a major impact on the United States of America, on our transportation system, and one that will be a long time in existence. So what we do, we better do very carefully.

I see no big rush to judgment on this. I am not trying to put it off forever. But the Justice Department, in the letter that they sent over yesterday and which Senator SPECTER put in the RECORD, indicated that they could probably have their research done and make their conclusions this spring. Let me quote that part of the letter directly. It says:

> We hope to complete the process and make a recommendation to the Attorney General by late March or early April about whether the new divestiture proposal will do in fact what it appears to do on its face—provide long-term viable and competitive rail service to the areas identified in our January 29 and March 26, 1985 letters to Secretary Dole.

Mr. President, there is absolutely no reason why we should consider this legislation before the Attorney General of the United States is able to give us his best judgment and that of his Department on what the antitrust provisions of this legislation are likely to be. So I am very much opposed to this legislation going through at this time—I repeat, just at this time. I am not against considering it later or once they made their recommendations, but right now we are rushing to judgment on something that we do not know what the impact on it will be. And I do not want to see the U.S. Senate proceed on that basis.

Mr. President, I yield the floor.

EXHIBIT 1

December 2, 1985.

Hon. ROBERT DOLE,
Majority Leader, Senate, Washington, DC.
Hon. ROBERT C. BYRD,
Minority Leader, Senate, Washington, DC.

DEAR SENATORS DOLE AND BYRD: Pending before the Senate is S. 638, a bill which would authorize the sale of Conrail to Norfolk Southern and thus create the nation's largest railroad with 32,000 track miles extending through 23 states. The proposed legislation would immunize the merger from the antitrust laws and would eliminate the usual and customary review of the merger by the Interstate Commerce Commission and the courts.

We urge you to defer floor consideration of this legislation until after the Department of Justice's independent consultant has completed its study of the antitrust implications of the sale and Norfolk Southern's latest divestiture proposal, and until interested States and other parties have had an opportunity to study the latest proposal and testify with respect to the proposal and the report of the Department's independent consultant.

On October 17, 1985, sixteen State Attorneys General submitted Joint Comments to the House Judiciary Committee's Subcommittee on Monopolies and Commercial Law opposing the Norfolk Southern proposal on

antitrust grounds.[1] The proposed sale clearly will have a profound impact on our national rail system, and on shippers, receivers and consumers throughout the country.

The Department of Justice repeatedly has found that the merger would violate both the Clayton Antitrust Act and the Interstate Commerce Act. A determination of whether the latest (November 19) in a series of three proposed divestiture plans ameliorates these anticompetitive consequences can only be determined after careful study and review by the affected states and the Department's independent consultant. Even the Department of Justice's Antitrust Division has declined to give its unequivocal approval of the sale until after its independent consultant has completed its own study of Norfolk Southern's third divestiture plan.

We support the goal of the Administration and the Congress that Conrail be returned to the private sector. There is no pressing national need, however, to justify restructuring our nation's rail system and immunizing the largest railroad merger in the United States from the usual and customary process less than one month after a complex divestiture plan is proposed and before that plan can be evaluated by the affected states and the independent consultant retained for that purpose by the Department of Justice.

Thank you for your consideration of these views.

Very truly yours,

NEIL F. HARTIGAN,
Attorney General of Illinois and
21 State Attorneys General Cosigning.

EXHIBIT 2

THE NATIONAL INDUSTRIAL TRANSPORTATION LEAGUE,
Washington, DC, December 3, 1985.

MEMBERS,
U.S. Senate, Washington, DC.

DEAR SENATOR: The National Industrial Transportation League would like to take this opportunity to inform you about its members' recent policy actions on the disposition of Conrail.

The League is a voluntary organization of shippers, shippers' associations, boards of trade, chambers of commerce, and other entities concerned with the purchasing of transportation services. It is the only way nationwide organization representing shippers of all sizes and commodities using all modes of transportation to move their goods in interstate and international commerce. Its members, directly or indirectly, are responsible for the routing of about 80% of the nation's commerce.

The League has long been concerned about assuring adequate rail service to, from, and within the northeast and midwest. It has played an active role in the creation of Conrail as well as in helping to provide the mechanisms to assure the railroad's return to the private sector. It has provided its members and the shipping public with extensive educational opportunities to explore the ramifications of the various purchase offers reviewed by the Department of Transportation, Department of Justice, Congress, and others. It has acted as a clearinghouse to provide the shipping public with reliable information about the current transfer process.

While Congress intended in the Northeast Rail Service Act to expedite Conrail's return to the private sector, its circumvention of the Interstate Commerce Commission's traditional review process has left shippers and regional carriers without the degree of input to address critical operational issues they normally would have in major merger or consolidation proceedings.

League members strongly believe that competition is the key to creating a national rail transportation system which meets the nation's present and future commercial and defense needs. In fact, at its recent annual meeting, held November 19 to 21, the membership adopted the following merger policy:

"B-18. Railroad Mergers. The League supports the attachment of reasonable conditions to ICC approval of railroad merger applications that would retain and/or enhance competition through: (1) direct physical access by competitive carriers to industrial facilities affected by a merger or mutually accepted reciprocal switching charges; (2) grants of trackage rights; and, (3) required maintenance of, or opening of, economically viable interchange points."

Based on this concern with competition, the members also adopted the following position on Conrail's return to the private sector:

"The League supports a public sale of Conrail to enhance competition, maintain service, and develop the financial viability of the railroads in the northeast."

League members do not believe that the current proposal to sell Conrail to the Norfolk Southern Corporation meets these criteria. They would urge your serious consideration of their recent actions as a means of resolving the current stalemate facing the shipping community.

The League looks forward to working with you and your staff on this important national policy issue. If you have any questions or wish to discuss the matter further, please do not hesitate to contact my office.

Sincerely,

JAMES E. BARTLEY,
Executive Vice President

EXHIBIT 3

[From Business Week, January 1986]

LTV-REPUBLIC: DID JUSTICE BLOW IT?

(By Zachary Schiller)

The scene is familiar in the Midwest: Another steel mill in another steel town is silent. Outside, jobless workers are circulating a petition demanding the reopening of their plant. But Enduro Stainless Inc., in Massillon, Ohio, is no ordinary industry casualty. Just last year it was a money-making stainless steel operation with a well-known name. Then the lawyers arrived.

The Massillon plant was part of Republic Steel Corp. when Republic and LTV Corp. merged in 1984. In a whirl of controversy over the deal, the Justice Dept.'s Antitrust Div. approved the merger on the condition that LTV sell off Enduro and another plant in Gadsden, Ala. Spinning off the plants, the antitrust lawyers reasoned, was the best way to maintain competition in the steel industry. Instead, the antitrusters may have sealed the fate of the plant by approving its purchase by an undercapitalized buyer.

FLIP-FLOP

None of the theories about antitrust law sounds very convincing in Massillon these days. Enduro isn't contributing much to competition anymore. And the Antitrust Div. is fending off criticism that it bungled the most closely watched merger of the Reagan Administration. The criticism comes from all sides of the debate now raging in Washington over antitrust policy. Hard-core antitrusters are saying the spinoff problems and LTV's own precarious finances support their contention that the LTV-Republic merger should never have been approved. Others, such as Commerce Secretary Malcolm Baldrige, say it is folly to force companies to sell off assets to make mergers work.

The Republic-LTV marriage caused problems in Washington from the start. Shortly after it was announced, the Assistant Attorney General then in charge of the Antitrust Div., J. Paul McGrath, said the deal violated antitrust rules. Within weeks he had been publicly second-guessed by Baldrige and the President, who declared the deal an example of one that should not be blocked. Within weeks, McGrath reversed himself.

Justice staffers say the pressure to move the deal along didn't end once McGrath had approved the merger. It continued while the division reviewed the potential buyers for the two plants set for divestiture. Some industry sources say the buyer for the Massillon plant that Justice eventually approved, a company controlled by investor Robert Newstat, was a bad choice from the start. At the time, Newstat owned CDH Metals Inc., a major metals distribution company. Just after acquiring Enduro, Newstat sold CDH, and a few weeks later it filed for Chapter 11 bankruptcy reorganization. An LTV controller recently said in a legal filing that Newstat's company "never had the financial capability to effectively compete in the first place." What's more, some steel executives say Newstat's financial difficulties were well known. His problems with Enduro, says one industry source, "should have been foreseen, given his track record of the last several years."

Some antitrust staffers agree that McGrath overlooked some red flags. In approving the sale, in fact, McGrath overruled a staff recommendation against it. "The staff believed the financial problems of Newstat and his group were more serious than the people above us believed," says Eric F. Kaplan, who worked on the case until he left Justice last year. McGrath, who returned to private law practice early this year, says he doesn't remember much about the Newstat purchase but says he may have overruled his staff.

Once Newstat gained control of Enduro, he got into a bitter dispute with LTV that has both sides in federal court wrangling over a complex agreement under which LTV is to supply Enduro with raw materials. Newstat's lawyers say LTV charged too much and delivered poor quality steel. LTV admits it eventually stopped supplying Endura with steel entirely but says it did so

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[1] The Joint Comments were submitted on behalf of the following Attorneys General: Charles M. Oberly (Delaware), Neil F. Hartigan (Illinois), Thomas J. Miller (Iowa), Robert T. Stephan (Kansas), David L. Armstrong (Kentucky), William J. Guste, Jr. (Lousisana), Stephen H. Sachs (Maryland), Hubert H. Humphrey, III (Minnesota), Robert M. Spire (Nebraska), Stephen E. Merrill (New Hampshire), Nicholas Spaeth (North Dakota), Anothory J. Celebrezze, Jr. (Ohio), LeRoy S. Zimmerman (Pennsylvania), Arlene Violet (Rhode Island), Charlie Brown (West Virginia) and Bronson C. LaFollette (Wisconsin). A copy of the Joint Comments filed with the House Judiciary Committee's Subcommittee on Monopolies and Commercial Law is enclosed. Subsequent to the House Subcommittee hearing, Francis X. Bellotti, Attorney General of Massachusetts, submitted to the Subcommittee his written Comment in Opposition to the Proposed Sale of Conrail to Norfolk Southern. A copy of Attorney General Bellotti's Comment is also enclosed.

only after Newstat had piled up more than $21 million in unpaid bills.

COLD COMFORT

In late November, Endura laid off its 700-person work force, blaming LTV for its problems. But Ken D. Saltz, president of the United Steelworkers' local in Massillon, places much of the blame on the Antitrust Div. Says Saltz: "We're outraged at the sale being allowed. . . . We took their word for it, and a lot of our benefits and livelihood are dependent on that."

It isn't much comfort to Saltz's members, but the Endura workers aren't the only ones whose lives have been changed by the LTV-Republic merger. On Dec. 13 a federal judge turned down an 11th-hour bid from an employee stock-ownership plan for the Gadsden plant that had Justice's lukewarm backing. Then the judge approved Justice's original choice for Gadsden: Akron-based Brenlin Group, which operates 14 metal-bending companies with sales of $240 million. Brenlin's chief executive, David L. Brennan, plans to get the financially troubled operation into the black by having LTV lay off the entire 2,000-person work force. Then he would reopen the plant the next day as a nonunion shop and slash the steelworkers' wages by $6 an hour. A strike is likely. If one does materialize, it will be just one more addition to the sad legacy of the LTV-Republic merger.

EXHIBIT 4

JOINT COMMENTS OF THE ATTORNEYS GENERAL OF THE STATES OF ILLINOIS, DELAWARE, IOWA, KANSAS, KENTUCKY, LOUISIANA, MARYLAND, MINNESOTA, NEBRASKA, NEW HAMPSHIRE, NORTH DAKOTA, OHIO, PENNSYLVANIA, RHODE ISLAND, WEST VIRGINIA, AND WISCONSIN

Mr. Chairman and members of the Subcommittee, I am Neil Hartigan, Attorney General of the State of Illinois. I am accompanied today by my colleagues LeRoy Zimmerman of Pennsylvania, and Anthony J. Celebrezze, Jr. of Ohio. We are also presenting the views of the following Attorneys General: Charles M. Oberly (Delaware), Thomas J. Miller (Iowa), Robert T. Stephan (Kansas), David L. Armstrong (Kentucky), William J. Guste, Jr. (Louisiana), Stephen H. Sachs (Maryland), Hubert H. Humphrey, III (Minnesota), Robert M. Spire (Nebraska), Stephen E. Merrill (New Hampshire), Nicholas Spaeth (North Dakota), Arlene Violet (Rhode Island), Charlie Brown (West Virginia) and Bronson C. LaFollette (Wisconsin).

They share our belief that the proposed Norfolk Southern-Conrail merger is (1) anticompetitive; and (2) unnecessary to the return of Conrail to the private sector; and that it would (3) result in a radical restructuring of the American railroad industry; and (4) cause substantial economic harm to our states; (5) would not be sanctioned by the ICC if presented for approval as required for all other railroad mergers; and should not be (6) immunized from the antitrust laws.

At the conclusion of our joint remarks, I will address the specific anticompetitive harm to Illinois, General Zimmerman will discuss the specific adverse effects on the Northeast and Pennsylvania, and General Celebrezze will comment on the effects on Ohio. We are also submitting for the record a statement of Louisiana Attorney General William Guste detailing the impact in Louisiana.

We commend this Subcommittee for conducting this series of hearings to specifically examine the antitrust issues involved with the proposed merger. As the chief antitrust enforcement officers in our respective states, my colleagues and I share this Subcommittee's profound respect for our free enterprise system and the benefits conferred by a competitive marketplace.

We are here today, Mr. Chairman, to urge the Congress to reject the extraordinary and unnecessary proposed legislation to permit the largest railroad combination in American history.

I. MERGER'S MAGNITUDE

The proposed sale of Conrail by the Department of Transportation to the Norfolk Southern Corporation is of unprecedented magnitude. It will create the nation's largest railroad, with 32,000 miles of tracks extending through 23 states. It will eliminate head-to-head competition between the Norfolk Southern and Conrail throughout many of our states. It will have a devastating effect on the Midwest, the Northeast, and the South.

II. ANTITRUST IMMUNITY

The proposal is unprecedented in another way. The authorizing legislation would immunize the merger from the antitrust laws, despite the fact that the merger will create a "mega-carrier" with devastating impact on railroad competition in the Eastern and Midwestern regions of our country.

The Department of Transportation's proposed legislation would shortcircuit all the hearing and review procedures that the Congress has carefully built into the Interstate Commerce Act (Chapter 13 of Title 49, U.S.C.) to assure that rail mergers do not violate fundamental antitrust principles. Under current law, all proposed rail mergers are subjected to a full-scale adjudicatory hearing, where interested parties have an opportunity to present evidence and to cross-examine the proponents of the merger. A complete hearing record is compiled upon which the ICC must base its decision to approve or disapprove the proposed transaction. As an added safeguard, the ICC's decision is subject to judicial review.

None of these protections will apply in this case. Instead, the proposed legislation would confer absolute antitrust immunity upon both Norfolk Southern's purchase of Conrail and Norfolk Southern's future operation of Conrail as part of the giant Norfolk Southern system.

Mr. Chairman, there is no emergency or pressing national need which justifies such a drastic and unprecedented proposal. Conrail is not a failing company that can only be saved by a sale to a major competitor. To the contrary, Conrail is a thriving, profitable carrier. By the end of 1985, Conrail will have had five consecutive profitable years. Conrail had a net income of $210 million for the first six months of this year and expects to have $995 million in cash on hand at the end of the year. A study by the independent U.S. Railway Association concludes that there is every reason to expect Conrail's record of profitability to continue.

It is clear that a transaction of this scope and magnitude merits closer scrutiny than the Norfolk Southern-Conrail merger has received to date. This Subcommittee's efforts have been highly successful in illuminating many of the heretofore unnoticed competitive problems with the proposed merger. However, the limitations inherent in the hearing process prevent it from fully replacing the rigorous analysis and judicial review which railroad mergers historically have received.

The Federal Government "bailed out" the bankrupt Penn-Central and other Northeastern railroads and created a viable Northeastern railroad system under the aegis of Conrail. Congressional approval of a Conrail-Norfolk Southern merger without an appropriate ICC evidentiary hearing would be the equivalent of legislatively sanctioning the acquisition of Chrysler by General Motors or of Lockheed by General Electric after the Federal Government's loans and guarantees resulted in the successful rehabilitation of these companies.

Secretary Dole's objective to see Conrail transferred to the private sector is commendable and one which we endorse. Such a laudable goal alone does not, however, justify a sale that will have enormous anticompetitive impacts in violation of basic antitrust principles.

In contrast to the rigorous scrutiny to which rail mergers are traditionally subjected, the only formal scrutiny of the current proposal has been a cursory study by the Department of Justice. This review did not use the most accurate and generally accepted method of describing geographic competition, and it was inconsistent with the standard analyses used by the Department in other rail merger cases. Consequently, the Department's report significantly understates the anticompetitive effects of the merger.

Even so, the Department concluded that a Norfolk Southern-Conrail merger would violate both the Clayton and Interstate Commerce Acts without proper divestitures. But, as we discuss later, the divestitures proposed thus far—to Guilford Transportation and the P&LE Railroad—are completely inadequate.

A sale of Conrail to Norfolk Southern would constitute a radical and unnecessary departure from the long-term approach established by Congress to replace regulation with competition in the railroad industry. For example, the Staggers Act, 49 U.S.C. § 10101a (1985), states a congressional policy "to allow, to the maximum extent possible, competition and demand for services to establish reasonable rates for transportation by rail. . . ." Congress reaffirmed this policy in enacting the legislation which provides for the sale of Conrail as a single entity. The preservation of rail competition was a fundamental objective of the Regional Rail Reorganization Act of 1973, the Railroad Revitalization and Regulatory Reform Act of 1976, and the Northeast Rail Service Act of 1981. The House Report accompanying the Northeast Rail Service Act, 45 U.S.C. § 761 et seq. (1981), states:

"A balanced and competitive transportation system is essential to the entire country, and in selling the assets of Conrail the Secretary must not harm the delicate and competitive balance of the transportation systems of the country." H.R. Rep. No. 153, 97th Cong., 1st Sess. 9 (1981).

Since the Staggers Act was enacted in 1980, however, the number of Class 1 railroads has decreased from 31 to 21, with three mergers now pending. Shippers are therefore faced with the loss of both regulation and competition in the battle to maintain reasonable rail rates. It is in this context that the Norfolk Southern-Conrail merger must be evaluated.

Congress clearly did not envision such increased concentration and reduced competition when it promulgated its merger policy, which is generally unfavorable to mergers. Section 7 of the Clayton Act, the primary statute under which mergers have been

challenged, is intended to prevent restraints of trade in their incipiency. Thus, Section 7 prohibits mergers and acquisition where "in any line of commerce in any section of the country the effect of such acquisition may be substantially to lessen competition, or to tend to create a monopoly." 15 U.S.C. § 18 (1980) (emphasis supplied). The Supreme Court recognized that Section 7 reflects an "intense congressional concern with the trend toward concentration" in the United States economy. *United States* v. *Philadelphia National Bank*, 374 U.S. 321, 363 (1963). Further, the Court held in *Philadelphia National Bank* that "if concentration is already great, the importance of preventing even slight increases in concentration and so preserving the possibility of eventual deconcentration is correspondingly great". 374 U.S. at 365 n. 42.

III. DEFICIENCIES IN DEPARTMENT OF JUSTICE ANALYSIS

The Antitrust Division of the Department of Justice concluded, based on a superficial analysis, that "the proposed (Norfolk Southern-Conrail) merger would violate both Clayton and Interstate Commerce Act merger review standards." (January 29, 1985 letter from J. Paul McGrath to the Secretary of Transportation). Assistant Attorney General McGrath further noted that "the merger would have a significant adverse effect on competition for the transport of commodities to and from a number of locations in several states, with the greatest adverse effect occurring at locations along an east-west rail corridor running between Buffalo and Pittsburgh in the east and St. Louis and Chicago in the west."

As significant as those findings are, it is clear that the Justice Department seriously understated the likely impact of a Norfolk Southern-Conrail merger. In its January 29, 1985 letter to Secretary Dole, the Antitrust Division identified only 10 counties—five in Ohio, two in Michigan, two in Indiana, and one in New York—that would suffer effects from the proposed Norfolk Southern-Conrail merger so adverse as to warrant the government's opposition to the transaction on antitrust grounds. Separate analyses by competing railroads throughout the country have identified substantially more. For example, one study identified 53 Business Economic Area (BEA) pairs that under the formula traditionally used by the Department would be considered "highly concentrated markets" where the merger would be likely to "substantially lessen competition."

This disparity is a result of several deficiencies in the Antitrust Division's analysis. First, the Antitrust Division, without explanation, made no use of the Herfindahl-Hirschman Index ("HHI")[1] in this case. The HHI, of course, is a formula used to measure the degree of concentration of a particular market. It was endorsed by the Department in both the 1982 and 1984 Merger Guidelines, and has been consistently used by the Department in analyzing the competitive effects of proposed mergers. In its Norfolk Southern-Conrail analysis, however, the Department employed a "50-10" test, whereby it examined only those geographic markets where (1) each of Norfolk Southern and Conrail currently has at least 10% of the rail transportation on movements in or out of the market, and (2) the railroads together have 50% or more of such traffic.

The exclusive use of the "50-10" test fails to recognize a substantial number of market areas which would be significantly affected by the proposed combination, since the "50-10" test would ignore all markets in which either Norfolk Southern or Conrail does not have a 10% share, regardless of the share of the other party.

For example, the Department identified Champaign, Illinois as a problem origin only for the commodity soybean oil. It identified Fort Wayne, Indiana as a problem destination for five commodities, not one of which was soybean oil. Yet, according to data compiled by CSX, Norfolk Southern carries 96.2% of all traffic from Champaign to Fort Wayne, and Conrail is responsible for the remaining 3.8%. Despite the fact that Norfolk Southern and Conrail have 100% of the rail market at this point pair, the Department did not identify it as a problem.

Second, the Department understated the anticompetitive effects of the proposed Norfolk Southern-Conrail combination because it deviated from its traditional practice of using a "point pair analysis"—that is, using actual flows of traffic between and among geographic points as the measure of railroad market share. Point pair analysis has been an important element of the government's evaluation of proposed mergers for some years.[2]

In the Norfolk Southern-Conrail analysis, the Department limited itself to consideration of traffic flows to particular locations and traffic flows from particular locations, and made no attempt either to correlate the two or to measure the true scope of the competitive foreclosure involved. For example, the Department did not identify Chicago as a problem origin or destination for any commodities, since no railroad dominates the traffic at this major gateway. However, a shipper in Chicago faces highly concentrated markets when he desires to transport commodities to certain cities. According to CSX-compiled data, Norfolk Southern carriers 9.6%, and Conrail 56.7%, of the traffic from Chicago to Pittsburgh. From Chicago to Cleveland, the combined market shares are greater; Norfolk Southern, 6.9%; Conrail, 75.4%. Even more concentrated is the market from Chicago to Buffalo, where Norfolk Southern carries 11.2% of the traffic, and Conrail has 80.3%. An analysis which only considers origin and destination points in isolation cannot be adequate, since the product which railroads sell is the movement of commodities from one point to another.

It is telling that the Department did not rely solely upon a "50-10" origin/destination analysis in the Santa Fe/Southern Pacific merger which is currently pending before the ICC. In that case, Dr. Pittman, the Department's economic expert, employed point pair analysis in which he applied the Department's Merger Guidelines. When questioned about the disparity between the Department's analysis in that case and in the Norfolk Southern-Conrail case, he conceded "I think I included some products by using both kinds of analysis, which it's conceivable that the Conrail analysis omitted unwisely." Santa Fe Southen Pacific Corporation—Control—Southern Pacific Transportation Company, Finance Docket 30400 at 13025 (emphasis supplied).

Application of the Santa Fe/Southern Pacific methodology to the Norfolk Southern-Conrail merge produces dramatically different results from those detailed in the Department's January 29 letter to Secretary Dole. A nationally known transportation consulting firm, which has often been retained by the Department, applied Dr. Pittman's Santa Fe/Southern Pacific methodology to the Norfolk Southern-Conrail merger. The study found that the Department had overlooked nearly 100 million tons of railroad traffic which would be adversely affected by the Norfolk Southern-Conrail combination.

Third, the Antitrust Division's analysis also discarded any market area in which the "major shipper" did not object to the Norfolk Southern-Conrail combination. This represents yet another significant deviation from the Department's historic pattern of railroad merger analysis. While the views of the major customers of a proposed combination are relevant, it is not appropriate for the Department to conclude that no competitive problem exists in a particular market simply because a large customer failed to object to a merger. The Department's economic expert in the *Santa Fe* case agrees. Dr. Pittman testified that "the fact that a shipper supports the merger is not the be-all and end-all, but it is relevant information, yes." Santa Fe/Southern Pacific, supra, at 13182.

Major customers are often in unique positions of strength vis-a-vis their suppliers, and are therefore not significantly affected when the level of competition is reduced. For example, major shippers may have plants throughout the country and may be able to counter the market power of a Norfolk Southern-Conrail combination by leveraging shipments from other plants, while smaller shippers must depend upon the antitrust laws to protect them from the acquisition and use of such power.

Fourth, the Department used a $2 million revenue cut-off level in determining problem markets. This cut-off removes from consideration numerous smaller markets where individual shippers or receivers are especially dependent upon rail service.

Fifth, the Department did not consider the competitive effect of traffic diversions from other railroads because it found that "it is extremely difficult to estimate the size of future diversions." In fact, the United States Railway Association found that the proposed Norfolk Southern-Conrail combination would divert hundreds of millions of dollars of traffic from several regional railroads.

Our objective in detailing the inadequacies in the Department of Justice's evaluation is to stress that there are enormous anticompetitive effects that the proponents of the merger have not even begun to address. The proposed divestiture and track-sharing remedies proposed by Norfolk Southern do not even touch on these effects. In fact, the anticompetitive effects of the merger are so fundamental and perva-

[1] The HHI is calculated by summing the squares of the individual market shares of each company in the relevant (geographic and product) market. For example, the HHI for a market with four firms, each possessing 25% of the market, would be $25^2+25^2+25^2+25^2=2500$. The Department considers a market with a post-merger HHI above 1800 to be highly concentrated.

[2] "Point pair" analysis refers to the measurement of the market shares of various carriers who transport commodities from one location, or "point", to another. The Department has in the past used cities, counties, and Business Economic Areas ("BEAs") as its "points" for purposes of such analysis. For example, the Department recently concluded that United Air Lines' proposed acquisition of certain Pacific routes from Pan American would reduce competition in the United States-Tokyo markets. It recommended that the Department of Transportation require divestiture of a route between Tokyo and one of three U.S. cities. (Department of Justice Press Release, September 17, 1985).

sive that it is difficult to visualize how they can be fixed.

IV. INADEQUACIES OF DIVESTITURE PROPOSAL

Ironically, the proposed solution to the limited problems identified by the Department—that is divestiture of certain lines to the Guilford and the P&LE—is not adequate to cure even the limited problems identified by the Department. Neither the Guilford nor the P&LE will be able to provide viable, long-term competitive rail service. The detailed ICC staff study on the viability of Guilford and P&LE, dated August 30, 1985, concludes that neither railroad will remain financially viable. The ICC forecast for Guilford is that "in fact, after a very marginal first year, Guilford will be unable to service its debt, and this deficiency will grow in each of the succeeding years. In the long run, it does not appear that Guilford will be a financially viable carrier." ICC Staff Divestiture Study at p. 9. The forecast for the P&LE is even more bleak. "It must be noted that, even if all of P&LE's projections are accepted, P&LE admits that it cannot service all of its substantial debt using revenues from rail operations. . . . In conclusion, P&LE is not now a financially viable carrier and its acquisition of the new lines will not enable it to reverse its already precarious financial position." *Id.* at pp. 9-10.

The Department of Justice is in agreement with the ICC staff study findings. In a letter of September 25 to Secretary Dole, the Department concluded that the divestitures to Guilford and the P&LE will not establish long-term viable competitive service to the Norfolk Southern-Conrail mega-carrier. The Department's findings were based on managerial, operational, and financial inadequacies of the Guilford and the P&LE.

After the Department released its September 25 letter, Norfolk Southern hastily announced that it was changing the divestiture plan for Guilford. Instead of selling Guilford the old Nickel Plate Line to St. Louis, Norfolk Southern announced that it would provide trackage rights to Guilford from points in Indiana and Ohio to East St. Louis. This revised plan will do little or nothing to solve the fundamental inadequacies of the whole divestiture scheme.

The Justice Department itself is not satisfied with the new proposal. Assistant Attorney General for Antitrust Douglas Ginsburg stated in a news conference that it did not appear that the new proposal addressed all his "concerns and questions." The new plan provides that Guilford can only carry "overhead" traffic. In other words, Guilford can carry traffic from Buffalo to St. Louis, but has little authority to pick up or deliver anything in between. Thus, while this substitute line may be somewhat faster and in less need of repair, it really does not provide Guilford any new markets.

In fact, the second proposal may well be somewhat worse from a competitive standpoint since Guilford will not own the track and will be dependent on cooperation from Norfolk Southern in order to provide what minimal competition it can muster. For example, if the tracks are crowded and there is a question of whose train and traffic is to get priority—Guilford or Norfolk Southern—it does not take an expert in railroad operations to know who will get the better service.

These are serious questions, and we believe they should be reviewed in depth before any action is taken. Once before, we were told by Norfolk Southern and Guilford that a perfect divestiture proposal existed, and now somehow, after criticism by the ICC and the Antitrust Division, we find that it was not so perfect, and there is an attempt at another last minute cure that is of highly questionable merit. The proposed Norfolk Southern-Conrail merger will restructure and determine the future of our nation's rail; the implications are far too important to rush to judgment on the basis of a continuum of last minute fixes.

The simple fact is that these small railroads cannot in any effective manner counter the substantial market power of a combined Norfolk Southern-Conrail. They would be attempting to compete in an extremely weakened financial state, with inferior, out-moded and out of repair equipment. In a business in which speed and reliability are the hallmarks of service to customers, these deficiencies spell disaster.

In contrast, the United States Railway Association has determined that Conrail is a viable railroad, and will continue to be for the foreseeable future. According to USRA: ". . . all available evidence supports a finding that Conrail can generate positive cash flow for the foreseeable future. Traffic shortfalls compared to the forecast should not threaten Conrail's survival as long as the rail regulatory framework allows service to be shaped to meet the demands of the marketplace." USRA Staff Report at p. 2-2.

Further, Conrail is not only viable, but has been an especially effective competitive force since its inception. For example, Conrail has withdrawn from the historically collective rate bureaus, the only railroad to have done so. Shippers have testified as to the aggressive nature of Conrail's pricing policies which directly resulted from the crumbling of the "equalized joint rate" system and its constraint of independent and, therefore, competitive prices.

V. CONCLUSION

It would be a tragic error for Congress to become an instrument in the largest and most anticompetitive railroad merger in history. There is simply no sound rationale for selling Conrail to Norfolk Southern. Conrail is a viable, independent railroad, and the Department of Transportation should maintain Conrail as a competitive force. We applaud the congressional intent to return Conrail to the private sector. However, it is not necessary to destroy the competitive railroad transportation environment in the Northeast, the Midwest, and the South to accomplish that objective.

(Mr. COCHRAN assumed the chair.)

Mr. DANFORTH. Mr. President, Senator GLENN has made a most comprehensive statement. I do not agree with it, of course, but I do want to compliment him for the care and the attention he has given this issue. I would take exception to several of his conclusions.

Repeatedly, the Senator from Ohio characterized what we are doing as a rush to judgment. I do not believe that that is a reasonable characterization of this bill. In fact, it is the very opposite of a rush to judgment. The process of selling Conrail did not begin a month or two ago and it did not begin a year or two ago. It began in 1981 when Congress decided, in the so-called NERSA bill, that we would sell Conrail. That set in motion a process which led us to where we are today.

As part of that process, the Department of Transportation first hired a consultant, Goldman Sachs, then solicited bids from over 100 possible bidders for Conrail, then received 15 different bids and screened them.

The Norfolk Southern proposal was put together approximately 2 years ago and was submitted to the Department of Transportation on June 19, 1984. It has been studied and restudied by the executive branch and by the Congress not for a few weeks or a few months, but since June 19, 1984.

The Department of Transportation has studied this question comprehensively, the Treasury Department has studied it, and the Justice Department has studied it. The Assistant Attorney General in charge of the Antitrust Division, Mr. Ginsburg, testified before the Judiciary Committee that no other acquisition of this type, no other acquisition that he knows of, has received the kind of comprehensive attention and the kind of time that the Conrail proposal has received.

That is what the Assistant Attorney General tells us.

With respect to whether or not this is premature, the Justice Department has studied this, and they say that they do not see the antitrust problems. Their concerns have been satisfied. The Assistant Attorney General in charge of the Antitrust Division has said to the Congress go ahead. Do not delay any further. Yes, we have a consultant hired. What is the reason for the consultant to be hired? To review the factual bases on which the Justice Department reached its conclusion in the nature of, as Assistant Attorney General Ginsburg put it, dotting the i's and crossing the t's.

It is the nature of a closing at the end of a transaction to make sure that all the facts are as represented.

Furthermore, we have provided in the legislation, and also in the memorandum of intent between Norfolk Southern and the Department of Transportation, that if at the end the Justice Department turns out not to be satisfied, then the Department of Justice has veto power over this transaction—veto power.

Mr. President, I do not know of any other case in history where the Department of Justice has been given veto power for a railroad merger. It does have it in this case.

If we act—if we pass the legislation—still the Department of Justice has veto power if its antitrust concerns are not in fact met by the technical review that will be made.

The Senator from Ohio, senior Senator from Ohio, said, well, why rush? There is no hurry. Mr. President, there is a hurry. There is a hurry. What is the hurry? Norfolk Southern made a good-faith offer based on a solicitation of bids made by the Depart-

ment of Transportation which offer expired on December 21, 1985. The deadline has already been exceeded.

The offer was solicited. The offer was received. The offer was studied. And nothing happened. Nothing happened. December 31 went by, and Congress could not act.

So Norfolk Southern said, well, we will give you another 3 months. We will give you another 3 months at least to see if there is any action on the floor of the Senate—3 months. We will extend the original offer.

Now we have until March 31. Will they extend it again? Who knows? But I would not count on it, Mr. President. I would not count on it.

If I were a member of the board of directors of Norfolk Southern attempting to plan for the future of my railroad, I would not extend forever this offer. Some say there is some uneasiness on the part of some of the directors of Norfolk Southern. I would not know.

But, Mr. President, I do know this: There are those throughout this country who occasionally raise the question of whether the Federal Government can accomplish anything. We cannot even sell a railroad. Here is a process that has been going on 5 years. We cannot even sell a railroad. Is there any reason to question the prevailing sentiment in this country that the Government just does not function very well?

Mr. President, to put the question before us in perspective, there are three possibilities that are before us—three possibilities which I would like to describe today.

One possibility is to do nothing. One possibility is to sell Conrail so that it will become a stand alone railroad, and not affiliated with any other railroad—just out there owned by stockholders standing on its own feet. That was the so-called Morgan Stanley proposal—a stand alone Conrail.

The third possibility is the bill that is before us which is the sale to a very successful, very healthy railroad, and to affiliate Conrail with Norfolk Southern.

Those are the three possibilities: Do nothing, leave it as it is, create a stand alone railroad just out there doing its own thing, not affiliated with anybody else, or create a consolidation of Conrail and Norfolk Southern—three possibilities.

Mr. President, there are some people—I know the junior Senator from Ohio is one—who believe we should do nothing. They believe that Conrail should not be privately owned. They believe that the private sector should not be running the railroad, and that this should be a Government-owned, Government-run operation. Why do with the private sector what can be done in the public sector? So they oppose any sale. They oppose the Norfolk Southern sale, they oppose the Morgan Stanley sale, and they want the Government to continue operating Conrail.

Mr. President, I do not believe that is the majority position in the U.S. Senate. I know that it was not the majority position of those who testified before the Senate Commerce Committee. Witness after witness, people who were in favor of the Norfolk Southern sale, people in favor of the Morgan Stanley arrangement, experts, railroad people, financial people, one after another came before the Commerce Committee, and they were asked the question: Between the three possibilities, Norfolk Southern, Morgan Stanley, and doing nothing, which is the worst of the three? And their answer was the worst of the three is to do nothing. Sell it to Morgan Stanley, create a free-standing railroad, but do not leave it as it is. Do not leave it in the Government's hands. And we received that advice time and time again from witnesses throughout the spectrum of opinion on this matter.

Mr. President, if that is the choice we are going to make to do nothing, flying in the face of the advice of all the witnesses, there are a couple of ways of doing nothing. One is to defeat the bill. We can do that. We can defeat the bill; vote it down.

The other method, of course, is not even to get to the bill. Let us kill it. Let us filibuster it, filibuster the motion to proceed, filibuster the bill itself, post-cloture filibuster, and all of these have been threatened. One is now being carried out. Filibuster the bill. That accomplishes the first of the three alternatives because delay, infinite delay, unending delay, delay for the next month or two, delay until we get into a tax bill or into the budget process, into Gramm-Rudman, delay means opting for the status quo, opting for Government ownership over private ownership, Government management over the private management. That is the decision we will be facing tomorrow when we vote on cloture. It is a decision on delay. It is a decision on the status quo. I would submit that a vote against cloture tomorrow is a vote against both the Morgan Stanley and the Norfolk Southern proposal.

So, Mr. President, that is the first option, to do nothing. Government ownership.

The second is the Morgan Stanley proposal, what I would characterize as the fast buck, stand-alone scheme.

Mr. President, in order to understand the Morgan Stanley proposal, in order to judge the viability of a stand-alone Conrail, I would like very briefly to recount the recent history of Northeast freight rail transportation.

Remember, the question is the viability of a stand-alone Conrail, stand-alone Northeast rail transportation company, not affiliated with Norfolk Southern, standing alone.

What has been the history of railroads over the past 20 years? The history has been this: Between 1967 and 1973, eight Northeast railroads, including the Penn Central, went under, went bankrupt. Eight stand-alone Northeast railroads, including Penn Central, went bankrupt.

Why did they go bankrupt? Because rail tonnage in the Northeast quadrant of our country has steadily declined over the last 20 years.

Between 1966 and now, freight rail tonnage in the Northeast quadrant of our country has declined at an annual rate of 3.6 percent.

In 1985, Conrail's tonnage declined 5.5 percent. A steady decline in business in rail transportation in the Northeast part of our country created the bankruptcy of eight railroads, created the bankruptcy of the Penn Central. I ask the Senate what are the prospects for a stand-alone Conrail in the future?

It was this decline that created Conrail in the first place. It was this failure of stand-alone rail transportation in the Northeast part of our country that got the Federal Government into this act in the first place. Mr. President, if you want to get Uncle Sam back in the railroad business again, if you want to get a second Conrail created a few years down the line, sell it to Morgan Stanley. Tell yourselves that this is $200 million more cash for the Treasury. Big deal. We have done the Government a favor. Right? We have taken Conrail off of our hands for 2 or 3 years before it goes under again.

The existence of Conrail in the first place was created by the conditions that still exist, conditions which inevitably lead to bankruptcy of stand-alone railroads.

What does Morgan Stanley intend to do with the railroad that it acquires? It intends to sell it. It intends to make a buck. It has put together a group of some 41 investors, some private, some educational, fine instutions. My alma mater is one of the underwriting group. I wish it well. I contribute to it every year. But I do not understand, Mr. President, why the people of the United States should be contributing to it.

What Morgan Stanley intends to do is to form an underwriting group, take the stock and hold it for a very limited time and sell it. To whom? Who knows? Who knows who will own the stock? Anybody, Carl Icahn, for all we know, will end up owning the stock.

You know, something very interesting was said yesterday by the junior Senator from Pennsylvania, Senator SPECTER. He made the argument that the assets of Conrail are worth more than the purchase price, meaning be-

71-059 O-87-10 (Pt. 1)

cause the purchase price was established by competitive bidding, meaning that the assets of Conrail, liquidated assets of Conrail, are worth more than Conrail as a going railroad.

Mr. President, what does that say? What does that say? Throw something like that out to the public to create a railroad where the assets are worth more than the railroad as a going entity? It is the open invitation to the corporate raider. That is what it is. It is what the corporate raider, what the Carl Icahns of this world, look for, a Conrail, an attraction. Sugar for the ants.

That is what we are putting out there.

But what do they intend to do, these underwriters, these managers? They intend to bleed Conrail of cash. That is their plan. The plan of Morgan Stanley, the submitted plan of Morgan Stanley—this is not conjecture; this is their program publicly stated—is to bleed Conrail of cash.

How so? They propose to take at least $230 million of Conrail cash to settle past labor concessions that have been made by Conrail employees.

Norfolk Southern has proposed to settle the past labor disputes also with Norfolk Southern cash, not with Conrail cash. The Morgan Stanley proposal is to take it right out of Conrail, $230 million plus cash out. That is part of the deal.

Secondly, they propose to make an offering to buy from the Conrail employees all or part, whatever the employees want to sell, of the 15 percent of Conrail stock that is held in an employee stock option plan, an ESOP. They propose to buy that, to offer to buy that 15 percent, for cash.

Whose cash? Not Morgan Stanley's. Not Princeton University's. Not CSX, or the other members of this investor group, not their cash. Conrail's cash. $230 million for past labor concessions, and an additional amount up to whatever it takes to buy 15 percent of the stock in the ESOP.

Further, they propose to pay out annual dividends of approximately $118 million.

Mr. President, you start with a rail transportation system in the Northwest that has a history of failure and bankruptcy. You put it out there as a stand-alone railroad. Then you start bleeding it for cash—bleeding it. That is the Morgan Stanley proposal: Let us bleed Conrail.

However they want to finance it, where are they going to get all this cash that is going to go flowing out from Conrail? Where will this hundreds of millions of dollars of cash come from? Well, they have proposals to raise it.

First, they say that they are going to increase shipper rates by 5 percent, approximately 5 percent, per year. We have heard expressions of concern about shippers on the floor of the Senate. Well, shipper rates would be increased by 5 percent per year.

Second, they propose to eliminate 1,500 jobs per year through 1989—1,500 Conrail jobs out through 1989.

Third, they propose to downsize the system. The whole program of Conrail since it was created has been to downsize the system. We have thrown such bouquets in the direction of Conrail management, "Oh, thank you for the wonderful job you have done." They have had a fire sale. They have been selling off.

We worry about railroads losing their service, shippers losing their service, laying off employees. Conrail has made this into an art form. But Morgan Stanley says not enough of an art form; why, they still have 14,000 miles of track. Too much, says Morgan Stanley. Let us get it down from 14,000 to 8,000, to 9,000 miles.

After we do that—after we pay out all this cash in dividends, after we pay out all this Conrail cash for settling of employee claims, after we pay out all this Conrail cash to buy up ESOP stock, after we shrink the system yet more, after we increase shipper rates yet more—what is the remaining responsibility of Morgan Stanley and the investor group? Well, their remaining responsibility for the health of the railroad, Mr. President, was very aptly, concisely stated by Mr. Thomas Saunders, a partner in Morgan Stanley and Company, who testified before the Senate Commerce committee. Here is what Mr. Tom Saunders of Morgan Stanley testified about the remaining responsibility of Morgan Stanley and the investor group for the health of this railroad:

When we do the first sale to the public, we will leave town.

Mr. President, my analysis is this: The issue before the Senate is not whether a year and a half of study is too little; not whether the Department of Justice has hired too few consultants; not whether $200 million more cash would flow to the Treasury from one transaction to another. The question before the Senate is the health of rail transportation in the United States.

The Senator from South Dakota and others expressed concern about their parts of the country and what is going to be done about diversion and will there be loses and will people lose jobs and will shippers be inconvenienced. I cannot conceive anything worse for shippers, not only in the Northeastern part of this country but all over the country, than to take a stand-alone railroad, put it in a situation where eight other railroads have gone bankrupt, proceed to bleed it of cash, and then, in the immortal words of Mr. Saunders, "leave town." It is a recipe for disaster.

Mr. President, if we do nothing, if we keep Conrail, if we do nothing by a decision to delay this and debate it forever until time runs out for Norfolk Southern as it will eventually if we decide to do nothing, we have created a permanent drain on the Treasury of the United States. We have already been subsidizing this railroad. Between 1977 and 1984, the Federal Government has spent $3.4 billion to subsidize Conrail's operations and capital investments. It has also paid $606 million to Conrail employees whose jobs are eliminated. It has been a history of subsidy to keep it afloat and we could continue to do that.

Or instead, we can take the third option. We can combine Conrail with a strong, viable, profitable, well-managed railroad, Norfolk Southern. We can combine what otherwise, in a stand-alone fashion, is weakness with strength. We can allow the two systems to complement each other. And we can also provide competition, as was done in the divestiture agreements in order to provide for shipper choice in the Northeastern part of this country.

Mr. President, the criteria before us do not include, in my opinion, how many consultants we hire, how many hearings we hold, how long this agonizing inquiring and studying period should be continued. There is only one criterion. The one criterion is the future of rail transportation throughout the United States, but particularly in the Northeastern quadrant. And there is not the slightest doubt in my mind that that future is eminently well served by the passage of the bill before us.

Mr. DOLE. Mr. President, I ask unanimous consent to have printed in the RECORD a letter dated January 21, 1986, from President Reagan relating to the pending matter in which he states that the bill deserves favorable action now.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

THE WHITE HOUSE,
Washington, January 21, 1986.

Hon. ROBERT DOLE,
Majority Leader,
U.S. Senate, Washington, DC.

DEAR MR. LEADER: The first bill that the Senate will take up this session is S. 638, which authorizes the sale of the Federal Government's 85 percent stock interest in the Consolidated Rail Corporation (Conrail) to the Norfolk Southern Corporation. Now is the time to sell Conrail, to the bidder that has offered the best deal for shippers, consumers, rail labor, and all those who depend upon continued service from a financially strong Conrail. I urge your support for this bill when it comes to the Senate floor.

In 1981, the Congress directed the Secretary of Transportation to return Conrail to the private sector. The Norfolk Southern offer to purchase Conrail will guarantee the financial strength of the railroad, maintain Conrail's service in the Northeast, and

maximize the financial return to the government. Norfolk Southern has agreed to a stringent set of divestiture requirements as a condition of the purchase. Through these divestitures regional railroads will be strengthened, major markets and rail gateways will be opened, and there will be the first competitive east-west long-haul alternative in twenty years.

In addition to these transportation benefits, successful completion of the sale to Norfolk Southern will bring the government a minimum of $1.2 billion in cash at closing. This payment will help us reduce the Federal deficit in fiscal year 1986. Sale of Conrail to the Norfolk Southern Corporation also will get the government out of the railroad business, fulfilling the specific privatization mandate of the Congress. The terms of the sale include, however, public interest covenants, which will protect Conrail's financial strength and service during the post-sale period.

The Senate Commerce Committee, under the leadership of Senators Danforth and Hollings, held extensive hearings on the sale to Norfolk Southern and reported S. 638 with strong bipartisan support. This bill deserves favorable action now.

Sincerely,

RONALD REAGAN.

Mr. DIXON addressed the Chair.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. DIXON. Did my colleague from Ohio wish me to yield for a moment?

Mr. METZENBAUM. Yes, Mr. President, if he would be good enough to do so, I would appreciate it.

Mr. DIXON. I ask leave to do that, Mr. President.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. METZENBAUM. Mr. President, I rise not to respond in chief to the arguments of my distinguished colleague from Missouri. There is one slight comment I would like to make with respect to his reporting facts. He indicated that my position is that Conrail should not be sold. My position is not that it should not be sold but that if and when it is to be sold, we want to be certain that the conditions are right and appropriate. We want to be certain that there is continued competition.

We want to be certain that the Government gets the maximum dollar obtainable and not the $1.2 billion that is provided for herein, maybe not even the $1.4 billion that Morgan Stanley has offered, and also the questionable bid of First Boston Corp. and Allen Co. of $1.6 billion.

My feeling is that the Secretary of Transportation should again take sealed, closed bids. I unappropriately used the word "again" because sealed, closed bids have not been taken previously.

My point is again that she should take bids but this time they should be sealed, they should be closed, they all should be opened at the same time and in advance terms and conditions should be spelled out in order that the interests of all parties concerned can be protected. That includes labor, that includes those who use the services of the railroad, that includes the people who really have the major financial interests in the railroad and that is the taxpayers of this country. And so I would be willing to explore and very well may come forth with an amendment directing the Secretary to do just that.

It is premature for us to try to move forward with the $1.2 billion offer that is before us, particularly when there is a $1.4 billion offer that is sitting out there. It is premature to do so before the Justice Department has been able to respond as to all of the questions that are still pending and are not to be addressed until phase 2 of the Justice Department investigation is completed.

But I did want to clarify that fact for the Senator from Missouri. Having said that, I will not talk further at this point but yield the floor to my distinguished colleague from Illinois.

Mr. DIXON. Mr. President, may I say before I make my remarks that I am so often impressed by the fact that many fine speeches are made on the floor of the Senate, regrettably, when there are so few of us here to hear the remarks. While I disagree generally with the statements made by my distinguished friend and colleague and neighbor from across the Mississippi River, the junior Senator from Missouri [Mr. DANFORTH], I have been present throughout his remarks and observed that they were made extemporaneously based upon his knowledge of the circumstances as he interprets them as the distinguished chairman of that committee.

I was very much impressed by the very fine manner in which he made that very excellent speech expressing his point of view. While I thoroughly disagreed with many of those points. I want my friend and colleague to know that I was singly impressed with the very fine way in which he has presented his case.

Mr. President, I am on the floor today because a motion to proceed to S. 638, the Conrail Sale Amendments Act is before the Senate. As the Senate considers whether or not to move forward on this bill, I think it is worth taking some time to consider a few of the issues it raises.

First, there are strong reasons for arguing against acting on S. 638 at this time because the bill is not yet ready to be acted on and we do not yet have the kind of information that will enable us to make an intelligent decision on the legislation. Further, since the investor group led by Morgan Stanley has increased its offer to $1.4 billion, $200 million more than the Norfolk Southern has bid for the Government's 85 percent interest in Conrail, it can be argued that it is a mistake to take up legislation that does not provide the Treasury with that kind of return. In fact, the difference between the Morgan Stanley bid and the Norfolk Southern bid is far more than $200 million when the Morgan Stanley stock warrants and the tax consequences of the two offers are considered.

If there were no antitrust concerns and the two offers provided similar or identical returns to the Government, it might make sense to take up the Conrail sale legislation now and let the Senate choose between the two offers. But there are major antitrust concerns and the Norfolk Southern bid is financially inferior to the Morgan Stanley proposal.

Morgan Stanley has, as I stated before, raised its offer to $1.4 billion. We are now facing a budget deficit this year that could exceed $220 billion. On March 1, under the terms of the Gramm-Rudman-Hollings deficit reduction statute, there will be cuts in numerous Federal programs that will total $11.7 billion. By April, we will be taking up a budget that will attempt to reduce this year's appalling deficit to $144 billion next year. This means that we will be attempting to reduce the deficit by over $60 billion, and perhaps over $70 billion, in a single year. S. 638, in this context does seem to be a fatally flawed legislative vehicle. It costs the Government at least $200 million—actually much more than that—and raises the most serious kind of antitrust problems.

The Morgan Stanley proposal, it seems to me, represents a much better basis for Senate action on the Conrail sale matter. It maximizes the Government's return from the sale and avoids any competitive problems.

The higher Morgan Stanley bid conclusively demonstrates that the Department of Transportation's bidding process was misguided. That process clearly did not produce a bid of the value of the Morgan Stanley proposal. The Department's sale recommendation, therefore, does not represent a proper basis for the Senate's action on this issue.

S. 638 as it now stands leaves major antitrust issues unresolved and provides the Federal Government with a woefully inadequate return for the billions of dollars it has invested in Conrail. It proposes that the Government sell its interest in Conrail to the Norfolk Southern Corp. I have the greatest respect for that railroad. I know its reputation, and I share the view that it is one of the best-run railroads in the United States. However, the Norfolk Southern bid is financially inferior to the Morgan Stanley proposal and it raises extremely serious antitrust concerns that do not arise under the Morgan Stanley offer. The antitrust consequences of a Norfolk Southern purchase of Conrail could be devastat-

ing, and are worth discussing in some detail.

Mine is not an isolated view. It is shared by railroads within the Conrail region, by railroads that connect with Conrail, by thousands of shippers, by railroad labor, by 24 State attorneys general, by a number of States in the Northeast and Midwest, by the great majority of America's newspapers and other media that have examined this issue, by the staff of the Interstate Commerce Commission, by the staff of the U.S. Railway Association, and by the U.S. Department of Justice.

The antitrust concerns raised by this proposal are made even more serious because Conrail is Government-owned. You would think the Government would take special care that the transfer of its property to the private sector was handled in accordance with the antitrust laws. That should be the Government's responsibility. Yet, S. 638 "deems" the transaction approved by the Interstate Commerce Commission, treating this transaction in a different fashion from every other merger of profitable railroads in our history. Further, the Justice Department admits it is applying different standards in the Conrail-Norfolk Southern case than it is in another major railroad merger now pending before the Interstate Commerce Commission—the Santa Fe-Southern Pacific merger. Finally, the Justice Department is now considering—at this time, as we are considering this issue—the third proposed Norfolk Southern divestiture plan, a plan no other interested party has had a chance to review, analyze or test through the adversary proceedings normally available in these cases.

These serious procedural inadequacies create the appearance of a conflict of interest for the Government. The United States owns Conrail, but instead of bending over backward to see that the antitrust law that applies to evey other railroad merger is honored in this case, S. 638 applies special standards for Conrail, and the Department of Transportation, together with the Department of Justice, conducts its review in a manner that denies the interested parties any semblance of due process.

In the Santa Fe-Southern Pacific case, the railroads filed numerous telephone book-sized volumes detailing the merger transaction, the proposed operating plan, and other considerations. Other parties had the right to appear before the Interstate Commerce Commission, to submit their own information, and to cross-examine Santa Fe-Southern Pacific witnesses on issues raised by the transaction.

I think this is a fair procedure, Mr. President, and one that should be followed in the Norfolk Southern-Conrail case. What is more, it is possible to give interested parties their "day in court" and to thoroughly review all antitrust concerns without taking an undue amount of time. The Santa Fe-Southern Pacific case was filed on March 23, 1984. The Interstate Commerce Commission, under the law, has up to 31 months to make its decision. As I understand it, however, the ICC will actually make its decision in the first half of this year. That is within 1 year or 15 months of the time it was filed.

I do not believe that is an inordinate amount of time for a transaction of that scope and complexity, and I am convinced it is essential to provide the kind of fairness and equity that has been so sadly lacking in the way the proposed sale of Conrail has been handled to date.

It is worth remembering that the Department of Justice has found that the size of the competitive problems in the Norfolk Southern-Conrail case is larger than the problems raised by the Santa Fe-Southern Pacific merger. It would seem to follow, therefore, that the Justice Department would do what it is doing in the Santa Fe case before the Interstate Commerce Commission—oppose the merger. However, that is not what the Justice Department is doing. Applying different standards than in the Santa Fe case, Justice now says that the latest Norfolk Southern divestiture plan "appears on its face to address the concerns" Justice had with the previous two divestiture proposals.

The Justice Department, however, was unwilling to make a final judgement on the issue, and instead planned on referring the issue to a consultant. However, the Department seems to be having a considerable amount of trouble in picking a consultant—it has not yet done so—so it is not at all clear if and when a consultant's report and a final Department of Justice recommendation will ever become available.

Mr. President, there are strong reasons for arguing for delaying consideration of S. 638 until the consultant's report is available and until all interested parties have had a chance to review it. There were too many problems with the previous divestiture proposals to warrant going forward on the basis of a preliminary recommendation on the third divestiture proposal. If the Senate needs to act now, it should act on the basis of the Morgan Stanley proposal, which would make the antitrust issues academic.

The first Norfolk Southern divestiture proposal was the only one submitted early enough to be given any kind of complete review. The result of that review was that the Norfolk Southern proposed divestiture plan was found to be hopelessly inadequate to resolve the competitive problems.

Agreement between Norfolk Southern, on the one hand, and Guilford and the Pittsburgh and Lake Erie, on the other, on the first package of divestitures was reached on February 25th of last year, only 2 days before the Senate Commerce Committee hearings on the Norfolk Southern proposal. By August of 1985, the staff of the Interstate Commerce Commission, in a report prepared on behalf of the House Energy Commerce Committee, concluded that the divestitures would not work. The ICC staff found that:

> P&LE is not now a financially viable carrier and its acquisition of the new lines will not enable it . . . to reverse its . . . position.
>
> Guilford has overestimated the operating efficiencies it will achieve. . . . Consequently, its net revenues from operations will be substantially less than it projects . . . after a very marginal first year, Guilford will be unable to service its debt. . . in the long run it does not appear that Guilford will be a financially viable carrier.

R.L. Banks, the Department of Justice's consultant, reached similar conclusions. In its preliminary report, it concluded that the viability of Guilford and the P&LE and their ability to be effective competitors was questionable.

Last September 25, Norfolk Southern released its second divestiture proposal. There was little opportunity for interested parties to review this plan, and the public was given very little information about it. The result, however, was the same. The divestiture proposal was found to be inadequate. Douglas Ginsburg, the Assistant Attorney General for Antitrust, stated that:

> It does not appear that the proposed divestiture will establish a rail carrier * * * capable of providing long-term, viable competitive service * * *. From our standpoint, we must be satisfied that divestiture will create not just a railroad that will be viable * * * but one that will be an effective competitor in the problem markets.

The third divestiture plan, Mr. President, was released last November, As in the case with the second proposal, interested parties have had little or no information on which to base their analysis of the proposal, and no opportunity to be heard on the plan. Justice stated that the third plan "on its face" appeared to meet the department's concerns. However, the Assistant Attorney General for Antitrust also stated that he planned on having a consultant undertake the "very detailed study of the plan that will be required before I can conclusively advise the Attorney General whether the proposed divestiture addresses the competitive concerns raised by this transaction."

Given the history of the first two divestiture proposals, the extremely serious nature of the competitive issues involved, and the fact that S. 638 does nothing to remedy the antitrust problems, only the Morgan Stanley proposal provides the basis for Senate action

now. Full consideration of S. 638 as it is currently written would only be appropriate when the Justice Department is ready to give the Department of Transportation and the Congress its formal recommendation, and when the Congress has heard from the Interstate Commerce Commission and the United States Railway Association on the latest divestiture proposal, at least informally. Congress greatly benefited from the Commission staff's earlier effort, and I think they should be given the opportunity to review this plan as well.

If there was a consensus among all the interested parties that the third proposal solved all the competitive problems, it might be appropriate for the Senate to begin debate on the sale of Conrail as recommended in S. 638, but that is not the case. Many of the parties interested in the first two divestiture proposals believes that the third proposal shares the same basic problems.

Each is dependent on the same divestiture carriers—Guilford and the Pittsburgh and Lake Erie, and both of those railroads are small and very weak financially. P&LE is virtually insolvent, and exists at the mercy of its creditors. Between 1982 and 1984, the company lost $24 million from its rail operations and $47.7 million overall. Interstate Commerce Commission staff analysis showed that, in 1984, P&LE had a working capital deficit of more than $65 million, failed to pay principal or interest on its borrowings, and was unable to meet its fixed charges. By every measure of profitability, liquidity, efficiency, and productivity, P&LE is scarcely surviving at all. Implementation of this third divestiture plan is probably well beyond P&LE's means.

Guilford is not much better off. Notwithstanding its claims of a financial turnaround, the railroads that now form Guilford reported a net loss from 1982 to 1984 of nearly $30 million, even after employee wage holddowns, and Government subsidies. In 1984, the first full year of Guilford's merged operation, its net railway operating income declined, its fixed charge coverage declined, and its operating ratio worsened.

Further, this plan, like the others, seems to fail to meet the most basic of the Justice Department's requirements: Plan No. 3 fails to provide for competitive rail service in 15 of the 30 counties Justice identified. And even in the 15 counties where service is provided, in only 8 is it provided directly. In the others, the plan relies solely on trackage rights, reciprocal switching, and haulage agreements.

Such arrangements present problems of their own. They are permissive. They offer no assurance that any service will ever be provided in the cities they cover. The agreements governing these indirect service arrangements last for only 5 years. Further, they involve costly, time-consuming, multicarrier operations that can result in competitively inferior service.

It is doubtful, therefore, that either Guilford or the P&LE will be able to compete successfully against the faster, more efficient, and more direct Conrail-Norfolk Southern trains.

With respect to Guilford, a few examples make the point. Guilford claims it will attract 78 percent of its new business from intermodal traffic, while admitting that its service will be slower and its rates higher than Conrail's. While Guilford is granted theoretical access to midwestern auto plant and utilities, it is not given access to the traffic moving into those facilities. Its competitors have such access and can provide the single carrier service that Norfolk Southern says shippers prefer and that it claims as one of the principal benefits of a Conrail-Norfolk Southern merger. Further, up to 70 percent of Guilford's total revenues from shippers served through trackage rights and switching will go to Conrail-Norfolk Southern for trackage and switching charges.

Norfolk Southern's own description of P&LE's proposed service demonstrates its inadequacy. Norfolk Southern stated "all of the lines over which trackage rights have been obtained are secondary lines, but they are suitable for the type of operation intended by P&LE."

I understand the Senate leadership has received a letter signed by 22 State attorneys general, including the distinguished attorney general from Illinois, Neil Hartigan. That letter points out:

> There is no pressing national need, however, to justify restructuring our Nation's rail system and immunizing the largest railroad merger in the United States from the usual and customary process less than 1 month after a complex divestiture plan is proposed and before that plan can be evaluated by the affected States and the independent consultant retained for that purpose by the Department of Justice.

The letter urges the Senate—

> To defer floor consideration until after the Department of Justice's independent consultant has completed its study of the antitrust implications of the sale and Norfolk Southern's latest divestiture proposal, and until interested States and other parties have had an opportunity to study the latest proposal and testify with respect to the proposal and the report of the Department's independent consultant.

Mr. President, I ask unanimous consent that a copy of the attorneys general's letter be included in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See amendment No. 1.)

Mr DIXON. Mr. President, this is by no means a complete description of the problems that have been uncovered with respect to the third divestiture plan, Mr. President, but it does demonstrate the need to carefully analyze the new divestiture proposal before acting on S. 638's recommendation to sell Conrail to the Norfolk Southern Railroad.

As many of my colleagues know, Conrail was formed in 1976 from the remains of seven bankrupt eastern railroads. Congress recognized at the time that the new railroad being formed—Conrail—was anticompetitive and violative of the antitrust laws. However, Congress felt it had no choice. Preliminary review of plans to create two or three railroads out of what was to become Conrail were shown to be too expensive, and attempts to sell parts or all of the trackage to other railroads were either spurned or fell through. Because Conrail is somewhat anticompetitive in structure, however, does not mean we should return the railroad to the private sector in a way that makes that problem even worse.

Let me state again that I support returning Conrail to the private sector. I want to do that in fiscal 1986. However, as I stated before, S. 638 is fatally flawed, both because of the problems it recommendations raise, and because of the fact that the bill does nothing to mitigate those problems.

I do not see how Congress can hope to adequately consider the very serious antitrust questions involved before we have the information on this latest divestiture proposal and before interested parties have had a chance to analyze it or comment on it. The sale of Conrail deserves to be handled in as fair and equitable a way as the Santa Fe-Southern Pacific transaction is being handled. It is not getting that kind of consideration now.

Mr. President, in conclusion, I hope my colleagues will consider making the Morgan Stanley proposal the basis for Senate consideration of the Conrail sale issue if it is felt necessary to go forward with sale legislation at this time.

The Morgan Stanley proposal offers the Senate an opportunity to avoid any possible competitive concerns—keeping Conrail independent ensures the maintenance of the current level of competition. It also provides the Government with a far superior return on its investment than the Norfolk Southern proposal. Using the Morgan Stanley proposal, instead of the unwise and inadequate S. 638 proposal, would demonstrate that the Senate is concerned about the antitrust issues, and that it is concerned about the sales price. Using the Morgan Stanley proposal as the basis for our consideration would save the Senate time and ensure enactment of sale legislation early this year.

EXHIBIT No. 1

December 2, 1985.

Hon. ROBERT DOLE,
Majority Leader,
U.S. Senate, Washington, DC.
Hon. ROBERT C. BYRD,
Minority Leader,
U.S. Senate, Washington, DC.

DEAR SENATORS DOLE AND BYRD: Pending before the Senate is S. 638, a bill which would authorize the sale of Conrail to Norfolk Southern and thus create the nation's largest railroad with 32,000 track miles extending through 23 states. The proposed legislation would immunize the merger from the antitrust laws and would eliminate the usual and customary review of the merger by the Interstate Commerce Commission and the courts.

We urge you to defer floor consideration of this legislation until after the Department of Justice's independent consultant has completed its study of the antitrust implications of the sale and Norfolk Southern's latest divestiture proposal, and until interested States and other parties have had an opportunity to study the latest proposal and testify with respect to the proposal and the report of the Department's independent consultant.

On October 17, 1985, sixteen State Attorneys General submitted Joint Comments to the House Judiciary Committee's Subcommittee on Monopolies and Commercial Law opposing the Norfolk Southern proposal on antitrust grounds.[1] The proposed sale clearly will have a profound impact on our national rail system, and on shippers, receivers and consumers throughout the country.

The Department of Justice repeatedly has found that the merger would violate both the Clayton Antitrust Act and the Interstate Commerce Act. A determination of whether the latest (November 19) in a series of three proposed divestiture plans ameliorates these anticompetitive consequences can only be determined after careful study and review by the affected states and the Department's independent consultant. Even the Department of Justice's Antitrust Division has declined to give its unequivocal approval of the sale until after its independent consultant has completed its own study of Norfolk Southern's third divestiture plan.

We support the goal of the Administration and the Congress that Conrail be returned to the private sector. There is no pressing national need, however, to justify restructuring our nation's rail system and immunizing the largest railroad merger in the United States from the usual and customary process less than one month after a complex divestiture plan is proposed and before that plan can be evaluated by the affected states and the independent consultant retained for that purpose by the Department of Justice.

Thank you for your consideration of these views.

Very truly yours,

NEIL F. HARTIGAN,
Attorney General of Illinois,
(Twenty-three State attorneys general cosigning).

[1] The Joint Comments were submitted on behalf of the following Attorneys General: Charles M. Oberly (Delaware), Neil F. Hartigan (Illinois), Thomas J. Miller (Iowa), Robert T. Stephan (Kansas), David L. Armstrong (Kentucky), William J. Guste, Jr. (Louisiana), Stephen H. Sachs (Maryland), Hubert H. Humphrey, III (Minnesota), Robert M. Spire (Nebraska), Stephen E. Merrill (New Hampshire), Nicholas Spaeth (North Dakota), Anthony J. Celebrezze, Jr. (Ohio), LeRoy S. Zimmerman (Pennsylvania), Arlene Violet (Rhode Island), Charlie Brown (West Virginia) and Bronson C. LaFollette (Wisconsin). A copy of the Joint Comments filed with the House Judiciary Committee's Subcommittee on Monopolies and Commercial Law is enclosed. Subsequent to the House Subcommittee hearing, Francis X. Bellotti, Attorney General of the Massachusetts, submitted to the Subcommittee has written Comment in Opposition to the Proposed Sale of Conrail to Norfolk Southern. A copy of Attorney General Bellotti's Comment is also enclosed.

Mr. DIXON. I yield the floor, Mr. President.

Mr. LAUTENBERG addressed the Chair.

The PRESIDING OFFICER. The Senator from New Jersey.

Mr. LAUTENBERG. Mr. President, tomorrow the Senate will decide whether to shut off debate and move to the consideration of S. 638, the Conrail sale amendments. S. 638 contains the amendments to existing law to implement the Secretary of Transportation's plan to sell the extensive Conrail System to Norfolk Southern.

I do not fault the Secretary's procedure. the Secretary and the Department of Transportation worked very hard to come to the conclusion they did. But I do disagree with the conclusion. I favor returning Conrail to the private sector. I do not think the Government ought to be in any business that it absolutely does not have to be in.

Conrail is a profitable, vibrant and competitive freight rail carrier. Conrail made $440 million last year and, according to the U.S. Rail Association, will remain profitable over the next 5 years or more. A profitable and competitive company belongs in the private sector. The issue before the Senate is under what terms this railroad will be returned to the private sector.

Mr. President, in 1981, Congress passed the Northeast Rail Services Act which empowered the Secretary of Transportation to engage an investment adviser and seek a buyer for Conrail. The act provided Conrail with operating benefits not enjoyed by other railroads. Conrail could abandon unprofitable lines and reduce its employment more quickly than other railroads. Conrail did not have to pay State and local taxes. With these advantages, if Conrail still could not turn a profit, then it would be sold in pieces.

Conrail, under the leadership of Stanley Crane, fooled a lot of people. It took advantage of the Northeast Rail Services Act and the deregulatory provisions of the Staggers Act to become a leader in the industry for innovative service. It shed its status as a ward of the State.

Mr. President, Conrail no longer needs the exemptions from standard railroad operating procedures it has had since 1981. It should operate like any other railroad. Conrail no longer needs to be carried on the Federal Government's books. In fact, Conrail is now in a position to pay back some of the investment made in it over the years.

So, Mr. President, we should return Conrail to the private sector. But the question is how should we do it.

My colleagues should carefully consider the proposition we have before us. We are considering the fate of rail freight service in the Northeast and Midwest, not for the next 5 years, but for decades. If we make a mistake, there will be no turning back. This administration is not going to subsidize rail service of any kind if they can avoid it. The same administration that recommends the death of Amtrak and rail passenger service in the Nation, once rid of Conrail, will not rescue rail freight service, no matter what the economic impact.

Mr. President, the Senate has before it a request by the Secretary of Transportation to ratify a merger of two of the Nation's major railroads. The merger we are asked to ratify will result in the creation of the Nation's largest railroad and reduce the number of major carriers in the Eastern United States from three to two.

The Senate and the Congress is put in an unusual position by this proposition. The Interstate Commerce Commission is usually the forum for settling issues of this kind. The Commission is expected to have the personnel, expertise, and procedures to decide mergers and their impact on other carriers and shippers. But in 1981, the Congress, in a budget reconciliation measure, decided that Conrail was a special case and that Congress would decide its fate. And, so we have before us a merger proposal.

Mr. President, the Secretary of Transportation chose this merger route as a means of returning Conrail to the private sector. There were other interested buyers. There was the option of offering the Government's holdings to the public.

I acknowledge that she worked very hard, very diligently, and we had a lot of communications on this side. I respect her decisionmaking, but not the decision. She chose the merger route.

I thought about this a long time before I decided to take the stand that I have.

The Senate Commerce Committee, with only one member from the Conrail region, substantially approved the Secretary's plan and reported it to the Senate. Now the full Senate has to decide if this merger is in the public interest and whether the sale to Norfolk Southern is the best we can do as a means of privatizing Conrail once and for all.

Mr. President, I am opposed to the sale of Conrail to Norfolk Southern. I believe the proposal is flawed in three fundamental respects.

First, the Senate is asked to approve a merger without benefit of the information as to its competitive impact. This information would be available to the Interstate Commerce Commission if it were deciding the matter. The Senate also is asked to insulate this merger from the antitrust laws. Once the Senate and the Congress has acted, no further inquiry or legal challenge will be in order. I do not believe that we should ratify a merger of this size and complexity without a full understanding of how competing carriers and communities will fare.

Mr. President, proponents of this sale will say that the Justice Department has given its blessing to this merger and has conducted an inquiry comparable to an ICC proceeding. We are asked to ratify the work of two agencies of the executive branch which in this instance is subsituting for the work of an independent agency. It is important to note why the Congress in 1981 decided to exempt this transaction from ICC approval. The Congress in 1981 thought they would be selling a loser and wanted the ability to do it quickly. In addition, the Congress in 1981 did not comtemplate that the sale of Conrail would come in the form of a wholesale restructuring of eastern railroads. Indeed, the Conrail of 1981 is not the Conrail of today. We are not selling a hopeless loser; we are returning to the private sector a healthy, profitable railroad.

Mr. President, the sale to Norfolk Southern will lead to the loss of competition and jobs. Norfolk Southern is a solid, well-run railroad. Its decisions to streamline its operations and facilities will be based, I am sure, on the same sound business practices that earned it its reputation. No vaguely worded so-called public interest covenant will inhibit it from running a sound business. And it should not. I ran a big company. We never did a merger with someone in the same business where we did not try to eliminate redundancy and reduce overhead. This merger, by its very nature, will lead to the consolidation of facilities.

The sale to Norfolk Southern will exacerbate the lack of competition faced by shippers in New Jersey. New Jersey is a captive State; shippers who use rail, use Conrail. Shippers have options outside the State, but if eastern railroads are reduced from three to two, those options will be eliminated or reduced. That will mean higher rates for New Jersey shippers.

Mr. President, the Justice Department's inquiry into this merger and its divestiture proposal did absolutely nothing for the State of New Jersey. If you were captive before the Justice Department began its work, you were captive when they finished.

The second major flaw in this proposal is the impact it will have on the port of New York and New Jersey. Conrail is the only major railroad serving this port, one of the largest and most significant in the world. Competition up and down the Atlantic coast for import/export traffic which moves overland by rail is intense.

Norfolk Southern's focus in on Southern ports, particularly Norfolk. There is certainly nothing wrong with a Southeastern railroad enhancing the competitive position of Southern ports. But, what will be the impact on the competition among ports if Norfolk Southern is the major carrier in both the North and the South? The concern for potential diversion of traffic to Southern ports has caused the Port Authority of New York and New Jersey, of which I am a former commissioner, to abstain from associating itself with the endorsement of the Norfolk Southern sale by the departments of transportation of New York State and New Jersey.

The third major flaw in this proposal is the return to the taxpayers offered by Norfolk Southern. I have never considered the price offered for Conrail as important as maintaining reliable freight service for shippers and communities. But that is not to say that the price should not be examined closely to insure that the $7 billion investment made by the taxpayers is compensated to the maximum extent possible.

Mr. President, Norfolk Southern has offered $1.2 billion for Conrail. Its offer is identical to offers made by nonrailroad interests, such as Marriott and Alleghany. It is $200 million below the latest offer by the investor group assembled by Morgan Stanley. Is the Norfolk Southern offer adequate? The answer to that question lies in the answer to another. Namely, does not a railroad, when buying another railroad, realize advantages not enjoyed by a nonrailroad investor or group of investors? Is not Conrail simply worth more to Norfolk Southern than to Marriott or Alleghany? The synergy of combining Conrail and Norfolk Southern, opening markets to Norfolk Southern now only available to a competitor, should have yielded a higher offer at the outset of the bidding. The fact that Norfolk Southern only matched Marriott and Alleghany's bid indicates that the price was set by the seller and not the buyer.

Mr. President, I have a particular concern regarding the covenant affecting the Philadelphia corporate headquarters of Conrail. Last February, I held a meeting with Norfolk Southern, shippers, labor, and others affected by this sale. I asked Norfolk Southern to broaden and strengthen the covenant regarding maintaining its headquarters, and the employees therein, in Philadelphia. They agreed to consider such a strengthened provision. Yet the legislation before us today has not changed one iota from the covenant as it appeared last February. It appears that the opponents of Norfolk Southern are right: The only way to insure that Conrail's employees, many of them my constituents, remain in Philadelphia, is to keep Conrail as Conrail in Philadelphia.

Mr. President, I am opposed to this merger and the procedures under which we are considering it. We simply do not have a full understanding of the competitive impact of this sale. We are selling Conrail as if it were a loser and there were some crying need to get this basket case off the Federal dole. That is not an intended pun. That is not the case and the Senate should not be stampeded into taking an action we will regret for years to come.

Therefore, Mr. President, I will oppose S. 638, the Conrail sale legislation as presently drafted. If cloture is invoked, I will support amendments which might change some of its more objectionable features. In addition, I am considering offering an amendment which will offer some legal recourse to my State and region should the port diversion and competitive imbalance I foresee come to pass.

Mr. President, a public offering of the Government's holdings in Conrail is possible. Competing public offerings underscore the willingness of the public marketplace to facilitate the return of Conrail to private hands. While I have not embraced any particular public offering, I will consider supporting one, if offered, as an expression of my conviction that there is a better, more competitive and more financially sound means of selling Conrail than the Secretary's plan.

The public offering is one route that should be considered. There are others, such as having Conrail repay some of its debt to the Federal Government during a period in which a sound definitive privatization plan can be worked out. The bottom line is that Secretary Dole should take this matter back to the drawing board and bring to Congress a plan the Northeast and the Nation can live with.

Conrail is a vital link in the economy of New Jersey. New Jersey has over 1,200 miles of Conrail track and over 2,000 Conrail employees. Since the creation of Conrail, New Jersey has been totally dependent on it for rail freight service. As a captive State with no major competing service to Conrail, we have a lot at stake.

Mr. President, I have surveyed shippers, labor, shortline railroads, and locally elected officials in my State. There is great trepidation concerning this merger. Labor in New Jersey fears the loss of jobs; shippers fear the loss of competition; the ports of New York, New Jersey, and Philadelphia fear the diversion of cargo to Southern ports;

and communities fear the loss of the only railroad they have. I am aware of a number of concessions negotiated between Norfolk Southern and the New Jersey Department of Transportation, but there is no written, enforceable agreement between the State of New Jersey and Norfolk Southern at this point.

Mr. President, it will be said that we should sell Conrail to Norfolk Southern now, because failure to do so will postpone the day of decision. I am all for making a decision, but I would especially like to make the right decision. For those of us in States which will have to live with the consequences of this decision, this is not a question of philosophy or ideology. It is a cold hard matter of economics and the calculus of transportation in our region. We should choose, but choose wisely. I cannot choose Norfolk Southern.

Mr. President, I yield the floor.

Mr. DANFORTH. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. HELMS. Mr. President, I ask unanimous consent that the order for a quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

TOBACCO REFERENDUM

Mr. HELMS. Mr. President, this has been cleared on both sides.

I send a bill to the desk and ask unanimous consent for its immediate consideration and action thereon.

The PRESIDING OFFICER. The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (S. 2013) to delay the referendum with respect to the 1986 through 1988 crops of flue-cured tobacco and to delay the proclamation of national marketing quotas for the 1986 through 1988 crops of burley tobacco.

The PRESIDING OFFICER. Is there objection to the present consideration of the bill?

Mr. METZENBAUM. Mr. President, a parliamentary inquiry. As I understand it, there is a motion pending by the Senator from Ohio, and I have no objection to the Senator from North Carolina proceeding. I just want to be certain that the position with respect to my pending motion will not be affected in any way.

The PRESIDING OFFICER. The Chair advises that consideration of the bill under current circumstances, by unanimous consent, would not affect the motion of the Senator from Ohio.

Mr. METZENBAUM. And upon completion of the action with respect to the unanimous consent request of the Senator from North Carolina, the Senate will be in the same position as it was prior to his request?

The PRESIDING OFFICER. The motion of the Senator from Ohio will recur on disposition of the matter of the Senator from North Carolina.

Mr. METZENBAUM. I thank the Chair.

I ask the Senator from North Carolina if he will be good enough to advise as to whether it is a fact, which I believe it to be, that the only purpose of this legislation is to delay for 30 days the balloting and 45 days certain notices. Is that correct?

Mr. HELMS. That is correct.

Mr. METZENBAUM. And there is no other substantive change being made in the legislation?

Mr. HELMS. That is correct.

Mr. BYRD. Mr. President, reserving the right to object, I will not object, but for the record I say that this has been cleared on this side of the aisle. Mr. FORD has been contacted. He supports the action we are about to take.

I ask unanimous consent that following the determination of the pending consent matter, Mr. FORD's name be added as a cosponsor of the measure.

Mr. HELMS. Senator FORD is a cosponsor. He is a principal cosponsor of the bill.

Mr. BYRD. I just want to be sure that is shown, and I state it for the record.

There being no objection, the Senate proceeded to consider the bill.

Mr. HELMS. Mr. President, this legislation allows the Secretary of Agriculture to delay for up to 45 days the producer referendum for the 1986 through 1988 crops of flue-cured tobacco. The mail referendum is currently scheduled for January 27-30, 1986, and ballots will be mailed to eligible voters on Friday, January 24. This delay is a simple administrative, technical matter, but it cannot be accomplished "administratively," and requires legislation.

Also included in this legislation is a 30-day delay in the announcement of the 1986 burley tobacco national marketing quota, from February 1, 1986 to not later than March 1, 1986.

This legislation is necessary because of the temporary delay in final passage of the budget reconciliation conference report. The conferees dealing with the tobacco program reform and cigarette tax measures have reached agreement and signed the conference report. Hopefully, Congress will settle the other objectionable issues and pass the reconciliation bill very soon.

The reason for delaying the flue-cured referendum is that if and when the reconciliation bill is enacted—including the tobacco program reforms—the Secretary of Agriculture will be required to determine a new quota, and the quota announced prior to that time will be null and void. Thus, a "second" referendum would probably have to be held. We think that holding two referendums would be unnecsary, costly, and further confusing to the farmers and the general public.

The same reasons for delaying the flue-cured referendum also apply to the announcement of the burley quota. Current law requires a referendum to be held every third year within 30 days after the Secretary announces quotas for the next 3 years. The burley quota is scheduled to be announced on February 1, so that "30-day time clock" would begin then. With the pending legislation, we would delay the announcement until March 1.

The bottom line, Mr. President, is that this legislation simply delays two items in current law because of pending legislation. It does nothing else. It saves the Government money and reduces confusion for the farmers. There is no reason anyone should oppose its adoption.

Mr. President, I ask unanimous consent that an editorial from the Winston-Salem Journal of January 19, 1986, supporting the delay in the flue-cured tobacco referendum, by printed in the RECORD at this point.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

PUT OFF REFERENDUM

Wise farmers won't buy a pig in a poke. The same wisdom dictates that flue-cured tobacco growers know the kind of federal program they will have before they vote on it.

At this point, they do not know and the referendum is scheduled for Jan. 27-30. Congress created the uncertainty by adjourning for Christmas without completing action on tobacco legislation. Clearing up the confusion should be a first order of business when the solons reconvene on Tuesday.

The first step should be to put off the balloting. Even if agreement on tobacco program revisions could be reached within a week, there wouldn't be sufficient time to inform farmers on details of how this year's crop will be affected. A postponement of at least 30 days certainly seems called for.

Next, Congress should get down to business on the tobacco bill. Farmers need to know what to expect in the way of quotas, price supports, assessment fees and the like. As long as they are in the dark, they are handicapped in arranging finances and other crop plans.

That is not to say action should be rushed and ill-considered. It could hardly be hasty, since key provisions of the legislation have been discussed for months on end. Still, the issues involved are serious, with major implications for tobacco farmers in the years ahead, and should be thoroughly understood.

The central point of the proposals, largely drafted by Sen. Jesse A. Helms, R-N.C. in his role as Senate Agriculture Committee chairman, is participation by manufacturers. That represents a sharp change from the way the program has worked in the past. Helms prevailed over Rep. Charles G. Rose III, D-N.C., in a long, time-consuming wrangle. Rose wanted to finance the tobacco program with a portion of cigarette tax

revenues. He contended Helms' plan made too many concessions to manufacturers.

Under its terms, manufacturers would buy at a substantial discount surplus leaf stocks over a period of eight years. In return for sharing the cost of the program, manufacturers would have a voice in setting production quotas and price supports. Growers would have less say-so, and would end up even more at the mercy of the market.

The prospect may not be attractive, but it may be better than any alternative so far suggested. The burdensome surplus has raised the assessment fee, imposed to relieve taxpayers of financing the program, to intolerable levels. Last year it was 25 cents per pound; without program changes, it could be around 50 cents this year.

Obviously, setting the fee should be deferred until legislation is passed. The delay has been recommended by the board of directors of the Flue-Cured Tobacco Cooperative Stabilization Corp., which also urged that the referendum be put off. To do so would help farmers see clearly what they are voting on, and could spare the expense of a second vote if a new tobacco program called for it.

For guidance in starting the crop, Stabilization officials suggested farmers plan on an average support price of around $1.44 per pound. As changes in the law are contemplated, the figure should be close to the final amount. Last month, an effective cut of 4.7 percent in the production quota was announced by Agriculture Secretary John R. Block.

The year began with one ray of hope in the gloomy tobacco outlook. Stabilization, which handles leaf acquired under price supports, had 66 million pounds less on hand than at the beginning of 1985. At that, its warehouses held 746 million pounds of surplus tobacco.

"That is the trend we want to see," said John H. Cyrus, tobacco chief for the State Department of Agriculture. "But the thing we hope will bail us out is for Congress to pass the law calling for the buy-out manufacturers."

Until the decision is made, farmers can't wisely vote on the program. Putting off the referendum should be a first order of business when Congress meets on Tuesday.

Mr. McCONNELL. Mr. President, during consideration of this proposal to delay the announcement of the 1986 burley referendum, I think it is important to clarify an issue raised by the U.S. Department of Agriculture with respect to establishment of the 1986 price support level for burley.

In the last session of this Congress, a 1-year price support reduction measure for burley was included in a bill to extend then-current dairy legislation. This legislation was passed and signed by the President and, as a result, burley tobacco markets were able to open in a timely fashion. The reason for the temporary price support reduction was simple: a major revision of the method for determining future levels of price support was included in the budget reconciliation package, but this legislation had no chance of being enacted before the 1985 burley markets opened. It was never our intention that the 1985 price support level would be a benchmark for all future levels of price support if our basic legislation was never enacted. To the contrary, the amendment offered by me and my distinguished colleague from Kentucky, Senator FORD, sought to solve a temporary problem with a temporary solution.

Mr. FORD. Will my colleague yield?

Mr. McCONNELL. I am happy to yield.

Mr. FORD. I thank my friend for yielding. Mr. President, it appears that the USDA is seriously misinterpreting the intent of our burley price support amendment of last November. Our legislation was offered so as to provide farmers an opportunity to market their 1985 crop in an orderly and timely fashion, since reconciliation did not appear to be moving fast enough to take care of the problem. It was never our intention to penalize farmers for the Congress' inability to act and to base future price supports on the $1.488 price support level which was included in the temporary 1985 crop legislation. This would be extremely unfair to growers in my State and neighboring States. It is my clear understanding that if the Tobacco Reform Act of 1985 is not enacted in some form, the $1.78 level of price support should be the benchmark for all future burley price support determinations beginning with the 1986 crop. I hope that the Department will take another look at this issue in light of the fact that the announcement date will be extended upon passage of this bill.

The PRESIDING OFFICER. The bill is open to amendment. If there be no amendment to be proposed, the question is on the engrossment and third reading of the bill.

The bill (S. 2013) was ordered to be engrossed for a third reading, was read the third time, and passed, as follows:

S. 2013

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 317(d) of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1314c(d)) is amended by inserting after the third sentence the following new sentence: "Notwithstanding the foregoing sentence or section 312(c) of this Act, the referendum with respect to national marketing quotas for Flue-cured tobacco for the 1986 through 1988 marketing years may be conducted not later than the earlier of (1) thirty days after any proclamation of the national marketing quota for Flue-cured tobacco for the 1986 marketing year made after the date of enactment of this sentence, or (2) March 15, 1986.".

SEC. 2. Section 319(a) of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1314e(a)) is amended by inserting after the second sentence of the third paragraph the following new sentence: "Notwithstanding the foregoing sentence, the proclamation of national marketing quotas for Burley tobacco for the 1986 through 1988 marketing years may be made not later than March 1, 1986.".

Mr. HELMS. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

CONRAIL SALE AMENDMENTS ACT OF 1985

The Senate continued with the consideration of the motion to proceed to consider the bill (S. 638).

Mr. GORTON. Mr. President, as a member of the Committee on Commerce, Science, and Transportation, I signed favorably the report recommending the sale of Conrail to Norfolk Southern. Since the report of that committee, I have fundamentally changed my mind on this subject, and wish to discuss it with my colleagues here in the Senate before tomorrow's vote on cloture on the motion to take up the proposition.

Although I have changed my mind on the merits of the issue, I do intend to vote in favor of cloture tomorrow. I believe firmly that not every subject which comes before this body ought to be the subject of a filibuster, much less a filibuster on the motion to take up a bill. Orderly procedure requires that that kind of opposition be limited to only the most vitally important and most major of national issues.

While I now disagree with both the majority leader and the chairman of my own committee on the appropriate disposition of this subject, I do think it is the right of the majority leader to bring it up and have it discussed on its merits, and for the Senate to deal with the issue on its merits. This is by no means an assurance that I would vote for cloture on the bill itself, however it simply means that the subject which should be discussed is the proposal itself, not whether or not we should be discussing that proposal.

On the merits of the proposal itself we clearly have three possible courses of action. The chairman of the committee has discussed them eloquently, though he has ended up with a different set of priorities than have I.

One course of action, and in some respects the simplest, is to leave Conrail under the ownership of the Federal Government, to continue the course of action which has occupied the last several years. I do not believe the Federal Government is the appropriate owner of a railroad system. I am convinced that if the Federal Government owns it over a period of years, it is less likely to be successful than it would be in the private sector.

I am afraid that at some point or another we will have the spectre of a strike essentially against the Federal Government, nominally, since it is a corporation owned by the Federal Government, and that we will run into many of the classic problems faced by the Federal Government when it is en-

gaged in a major private business in competition with other private enterprises.

We, of course, have before us in this bill two other alternatives for the sale of Conrail. One is to Norfolk Southern and one to a consortium headed by Morgan Stanley. The chairman of the committee thinks the former of those two alternatives is preferable. I now come to the conclusion that the latter of those two alternatives is preferable.

Assuming that we are to go ahead with some sale, Mr. President, it seems to me that there are a number of goals which we should attempt to attain to the maximum extent possible.

The first, of course, is that Conrail, when it goes back into the private sector, do so under circumstances under which it will be a success. That success can be measured in two fashions. First, of course, it should be a success in providing needed rail services to the many millions of people and the many thousands of businesses which will be dependent upon those services. Second, that success should be measured by whether or not Conrail can operate in the black, at a profit, while replacing capital equipment and continuing to provide services to shippers and consumers throughout its service area.

Our second goal, of course, is a broader goal than the first. That is that rail services at reasonable rates be provided not only to the people in the immediate service area of Conrail, but to all of the people of the United States who will be served by it, directly or indirectly. That, in turn, implies competition, implies choice among competing rail services on the part of as many people as possible.

The third goal of any such sale is to maximize the return to the Government of the United States. The taxpayers of the United States have already spent many billions of dollars on saving what was formerly the Penn Central, transforming it into Conrail, making it spectacularly successful.

Unfortunately, neither of the proposed sales meets all of those goals with equal facility. Even though I am now in favor of the Morgan Stanley sale, it is appropriate and just to say that Conrail, itself, is likely to be financially stronger as a division of or under the ownership and control of Norfolk Southern than it is as an independent railroad.

I hope that any relative weakness under Morgan Stanley is not too great. If we simply look at the financial security and the low possibility of an attempt to return to Federal Government ownership, or even to a subsidy on the part of the Federal Government, it may well be that the Norfolk Southern purchase proposal is the best.

On the other hand, it is clear, beyond the ability to debate the question seriously, that competition will be hurt by that sale, by the consolidation of two major eastern American railroads into one. I no longer regard as adequate the modest divestitures which are being required as part of the sale. Many people both in the Northeastern part of the United States and outside of that area, including the States of the present Presiding Officer and my own, will be affected by a lessening of competition that will result from a sale to Norfolk Southern as against any proposed sale which will keep Conrail independent.

Finally, of course, with the new offer from Morgan Stanley, the returns, both direct and indirect, to the Treasury of the United States, seem to argue in favor of the Morgan Stanley sale.

Both the immediate cash price and the tax benefits or absence of tax benefits to potential purchasers indicate that by a measure of several hundred million dollars, the Treasury of the United States would be better off in the immediate future if the Morgan Stanley offer is accepted.

These considerations, as I say, are not all on one side of the equation by any means. Reasonable Members of this body may disagree as to the weight of authority on one side or another. It is my feeling, however, that the advantages of a somewhat higher price and somewhat greater tax benefits for the people of the United States, and the perhaps more important advantages of the continuation of competition, not only between rail and other forms of transportation but among railroad companies themselves, outweigh the slightly or somewhat greater financial security for a Conrail which is a division or subsidiary of Norfolk Southern.

It is certainly my fervent hope, since there are not too many major rail systems in the United States at the present time, that we can retain at least the degree of competition among railroads that we have at the present time. Further consolidation, in this case and in the case of presently privately owned railroads, is not the appropriate solution.

I do feel, as I said at the beginning of these remarks, Mr. President, that it is appropriate for this body to discuss these issues, but it seems to me also more than appropriate that we follow a course of action different from that recommended by the Commerce Committee several months ago.

As a consequence, I intend at the present time, at least, to vote in favor of cloture on the motion to take up the bill, but in favor of alternative methods of dealing with this problem when we are discussing the bill as a whole. It may well be, Mr. President, that the best solution at the present time would be to re-refer this bill to the Commerce Committee to consider the rather different offer which Morgan Stanley has now made and to allow the Judiciary Committee somewhat more time to consider the serious antitrust questions which have been raised so eloquently by the junior Senator from Pennsylvania.

That could be done, it seems to me, in return for an agreement that the bill would come to the floor at a time certain in 1 month to 6 weeks without any filibuster on a motion to take up the proposal.

I have made that suggestion to some Members on both sides of the debate. It has not yet been accepted. Whether I will make such a motion on a debatable basis with a vote to follow awaits some further consultations with other Members interested in this proposal but troubled by the proposal of the Commerce Committee itself.

In any event, Mr. President, I do want to announce formally that I am not in favor of the sale of Norfolk Southern, that I do believe in full and free debate on this issue, and that I do believe there is now an alternative which is measurably preferable to the Norfolk Southern sale.

Mr. INOUYE. Mr. President, I rise in strong support of the motion to proceed to the consideration of S. 638, the Conrail Sale Amendments Act of 1985.

As a longtime member of the Commerce, Science, and Transportation Committee, I am all too familiar with the history of Conrail. Since 1973 when the Regional Rail Reorganization Act established the framework for Conrail, Congress has exercised a stewardship responsibility over the structure and ownership of the railroad. Twelve years and $7 billion later, we finally have an opportunity, through S. 638, to ensure the future strength and viability of rail service in the Northeast and Midwest, to return rail service to nongovernmental ownership, and to do so without fear of ever having to use taxpayer dollars to bail out the Conrail system again.

During the course of the Commerce Committee deliberations on the Conrail sale, the attractiveness of the Norfolk Southern proposal became increasingly more apparent. Norfolk Southern's offer to purchase Conrail reflects more than a century's dedication to the business of providing reliable and efficient rail service. Unlike many other rail holding companies, Norfolk Southern has not invested substantial sums outside the transportation field. Norfolk Southern and the areas served by the railroad have benefited from this commitment. In the 2-year period between 1982 and 1984, Norfolk Southern located over 330 industries on its lines. These industries have made capital investments in excess of $4.2 billion and provided employment for over 17,000 workers. The

statistics for the first three quarters of 1985 are equally impressive.

In addition to its expertise in the field of railroading, Norfolk Southern brings to Conrail the opportunity to open its rail operations to new markets and thereby strengthen a declining industrial base which has contributed to Conrail's severe downsizing. Between 1977 and 1984, Conrail has abandoned 3,754 miles of track and eliminated 43,932 jobs. Conrail's continued practice of downsizing raises serious doubts about the long-term viability of a stand-alone Conrail.

Today we have the opportunity to consider legislation which would ensure the long-term viability of rail service in the Northeast. In the interest of the 37,911 Conrail employees, the shippers who rely on the remaining 15,468 miles of track, and the American taxpayers, we have an obligation to consider S. 638. I, therefore, urge my colleagues to support the motion to proceed on the consideration of S. 638.

Mr. ROCKEFELLER. Mr. President, I rise to comment on the motion to proceed to Calendar Order No. 215, S. 638, the Conrail sale legislation. Mr. President, since the Commerce Committee—on which I serve—took up this legislation last year, I have been concerned about both the merits of the legislation and the process involved in the sale.

Mr. President, I will say, forthrightly, that I am opposed to S. 638 in its present form and support the Morgan Stanley alternative. My preference is to reserve the bulk of my comments for when the Senate turns to this bill on the merits, but I will comment briefly at this point.

When the Commerce Committee voted in April to report S. 638, I thought that our hearings had failed to produce information sufficient to justify approval of the Secretary of Transportation's decision. At that time I detailed my objections to the committee's bill in minority views to the Commerce Committee's report.

In sum, I did not believe that the administration and Norfolk Southern had met the burden it should—to prove with reasonable certainty that at least the same, if not an improved level of service, efficiency, and competition would result from a combination of Conrail and Norfolk Southern. From the standpoint of West Virginia, I thought there was sufficient evidence to doubt that any improvement in these areas would result, and a substantial likelihood that the combination of Conrail and Norfolk Southern would give damaging marketpower to one carrier in important West Virginia coal markets.

From the standpoint of the whole Nation, I thought that the serious concerns about competition and the disruptive effects of a Norfolk Southern/Conrail combination on shippers, bulk commodity producers—coal and grain—and other railroads should have caused the Commerce Committee and the Senate to find a more acceptable alternative. We now have available to us an alternative—the Morgan Stanley proposal—which would build upon the outstanding financial basis Conrail has attained in the last 5 years and return it to the private sector without the anticompetitive and disruptive impact foreseen in a combination with Norfolk Southern.

Mr. President, fundamentally, the Norfolk Southern bid for Conrail has changed very little since the Commerce Committee reported its bill. Indeed, where many had raised doubts, those doubts were substantiated by independent analysis and to some extent by the Justice Department. Where questions remained unanswered and documents had not been provided, many remain outstanding. Where concerns about the initial competitive analysis of the Justice Department have been raised, these remain uncorrected and unaddressed.

Despite the many twists and turns the Norfolk Southern proposal has taken over the last 9 months, despite the numerous revisions required to meet even the incomplete but negative assessment of competition from the Justice Department, despite the mountain of paper that has been generated, S. 638 remains a fundamentally flawed proposal.

Mr. President, one thing has changed fundamentally since the Commerce Committee reported its bill late last April. Morgan Stanley & Co., representing over 40 sophisticated, intelligent, and expert investors, has come forward with not only a bid to match Norfolk Southern's, but a bid that exceeds Norfolk Southern's cash offer by $200 million. Furthermore, not only would the Morgan Stanley bid significantly exceed the financial return to the Government in terms of cash and tax aspects of the sale, but they would also keep the railroad independent, match every covenant established by the Secretary of Transportation, and offer labor a superior financial deal.

Mr. President, as we consider the motion to proceed to the Norfolk Southern proposal, I will say to the Senate I think there are compelling reasons why the American people would be better served by returning the bill to the Commerce Committee. But at the same time, I think in the long run, the Nation will be well served by returning Conrail to the private sector. To meet that second obligation, it makes sense to sell the railroad at a time when the railroad is in peak condition and when its future is bright, and at a time when the Government is in desperate need of the revenue.

Mr. President, I have reached the conclusion that we should reject the Norfolk Southern bid for Conrail. To meet the congressional mandate to sell the railroad and the congressional desire to decide the issue, I think we should sell Conrail to the Morgan Stanley group. But in order to reach that conclusion, I do not intend to delay things. I think we should fully and fairly debate the options and make a judgment.

I am confident, Mr. President, that the Congress will eventually exercise common sense and good judgment and reject the inferior financial bid of Norfolk Southern, together with its several anticompetitive flaws. I am equally confident that the Congress will decide to sell Conrail to the Morgan Stanley investor group, as the financially superior and fully competitive deal on the table.

Mr. President, at this time, I have not made a final decision on how I will vote on the motion to close debate on the motion to proceed to this bill. Based on my desire to sell the railroad, I will vote to proceed if I believe, at the time of the vote, the leadership of the Senate and the floor managers will allow adequate time on the merits of the proposal to consider all views and to deal in a straightforward way with several necessary amendments. But if I sense a rush to push the bill through the Senate, I will vote no and recommend to my colleagues that they send it back to the Commerce Committee for further consideration.

Mr. President, I am hopeful that we can resolve this issue this year and sell Conrail through the public offering proposal of the Morgan Stanley investor group. For now, however, I will yield the floor.

Mr. ZORINSKY. Mr. President, the past year's discussion of the sale of the Consolidated Rail Corp. [Conrail] has revolved around a number of issues, and I believe my colleagues are familiar with the fundamental questions involved in the sale of this rail network. However, one facet of the proposal under consideration today, which I believe has not received adequate attention, is the impact of this transaction on States, such as Nebraska, which are not directly served by Conrail. I would like to take the opportunity to state that Midwesterners would feel the effects of a Norfolk Southern/Conrail combination, and that these effects would be negative. Indeed, many from the Midwest, my home State of Nebraska included, fear the effects of this legislation—private citizens, private corporations, and elected officials alike. The most detailed objections in my State have come from the Nebraska Department of Roads.

On June 17, 1985 the Nebraska Department of Roads announced its

strong opposition to the proposed sale of Conrail to Norfolk Southern Co. At the same time, it endorsed the alternative of a stand-alone Conrail such as that proposed by Morgan Stanley & Co.

The Department of Roads reached this decision based upon its consideration of five goals to be achieved by selling Conrail: To promote rail competition, to maintain local rail service, to promote financial stability of the railroad industry, to minimize employment loss, and to minimize government expenditure—I share these goals.

What changes have occurred since June 17 to alleviate concerns about Norfolk Southern's proposal to purchase Conrail? Very little. In fact subsequently findings have only strengthened the case against a Conrail-Norfolk Southern merger. What changes have taken place since June to increase the attractiveness of the Morgan Stanley bid? Plenty, foremost of which was announced on January 16, 1986. On that date, the Morgan Stanley investor group increased its bid to purchase the Government's interest in Conrail by $200 million—bringing the total offering to $1.4 billion.

The following is a brief summary of the analysis conducted by the Nebraska Department of Roads, and a synthesis of subsequent events and studies that have led me to stand by their findings in opposing the sale of Conrail to Norfolk Southern, and in supporting the stand-alone Morgan Stanley proposal.

The first goal articulated by the Department of Roads was to promote rail competition. The Department concluded that a sale to Norfolk Southern would be anticompetitive and have a negative effect on rail service well beyond the combined service areas of the proposed merger.

What has occurred since June to shed further light on this antitrust issue? On October 17, 1985 the attorney general of Nebraska, together with 15 of his fellow attorneys general joined to officially oppose a sale to Norfolk Southern, based primarily on the anticompetitive aspects of such a merger.

The attorneys general pointed out that the antitrust analysis of the administration was flawed from the beginning. Typically, before a railroad merger such as that proposed by S. 638 would be approved, it would be analyzed by the Interstate Commerce Commission, and all sides would have ample opportunity to be heard. Unfortunately, S. 638 explicitly excludes such a thorough study.

Rather than the ICC, the Justice Department conducted the study on the antitrust aspects of the proposal. The Nebraska Department of Roads concluded that this study was "incomplete, and not consistent either with its analysis of other rail mergers, nor with its standard merger guidelines. Certainly, the implications upon competition in the Midwest have not been evaluated by any agency." To this day, there has still been no Federal evaluation of anticompetitive implications on the Midwest. However, State after State have conducted evaluations of their own and concluded that the effects would be substantial.

Even without vigorous scrutiny, the Justice Department concluded that a Norfolk Southern-Conrail merger would violate both the Clayton and Interstate Commerce Acts without proper divestitures.

Three times, Norfolk Southern attempted to satisfy the Justice Department by proposing divestiture plans. While the third attempt received tentative approval, any final Justice Department opinion awaits further study by independent consultants, and in the meantime details of the plan have not yet been made public.

In addition to the flaws of the Justice Department analysis and problems inherent in the divestiture plan, this proposed mega-merger is inconsistent with the Staggers Act. As the aforementioned 16 attorneys general stated, "A sale of Conrail to Norfolk Southern would constitute a radical and unnecessary departure from the long-term approach established by Congress to replace regulation with competition in the railroad industry." I have been and remain a supporter of business deregulation where feasible. However, it is clear to me that deregulation will only work when regulations are replaced by viable competition.

The second principal goal of the Nebraska Department of Roads was to maintain adequate local service. Last June, Nebraska officials declared that "the attempt to build a NS/Conrail giant will force smaller regional railroads to react to the loss of revenue and traffic by curtailing service, deferring maintenance and abandoning line. Therein lies a serious adverse impact of the NS/Conrail proposal on local rail service."

Norfolk Southern indicated that it expects to realize revenue gain from traffic diversions of $233.9 million annually. The majority of these diversions will come from Midwest carriers like C&NW, IGC, Soo-Milwaukee and Grand Trunk.

What has transpired since June to alleviate concerns about rail traffic diversions? Of the four aforementioned railroads, Norfolk Southern has been successful in negotiating agreements with only the Soo/Milwaukee. The potential impact on the remaining three railroads remains potentially damaging to the Midwest's economic base.

Many, including the Nebraska Department of Roads, are also concerned with minimizing employment loss. In June the Department announced its preference for a stand-alone Conrail to a sale to Norfolk Southern because a stand-alone would cause virtually no loss of employment.

In July, Morgan Stanley signed labor agreements with the Railway Labor Executives Association [RLEA] and the Brotherhood of Railway, Airline and Steamship Clerks [BRAC], and have since been endorsed by other labor organizations. With the additional $200 million offered by Morgan Stanley on January 16, 1986, labor stands to be in an even better position than when they originally endorsed a public offering.

In its analysis, the Nebraska Department of Roads was particularly concerned with the financial stability of the railroad industry, and carefully scrutinized the viability of an independent Conrail versus a Conrail merger with Norfolk Southern. The Department concluded that Conrail was a well-functioning, competitive railroad with excellent earnings, and had a promising future as a stand-alone operation. In addition, the Department questioned the premise of the U.S. Department of Transportation that another railroad's "deep pockets" were needed to ensure the long-term financial security of Conrail.

Conrail's earnings have continued to improve. Conrail recently announced its 1985 earnings at $440 million. Because Conrail paid industry-scale wages only for the second half of 1984, an "apples to apples" comparison between 1984 and 1985 would make 1985 a record profit year. In addition, the Morgan Stanley investor group's recent bid increase speaks well to the issue of Conrail's viability.

Nebraska's concerns with financial stability go beyond concern for the stability of Conrail and extend to a concern with the economic stability of the entire railroad industry. The Department of Roads pointed out in June that "a NS/Conrail merger will cause greater financial burdens for many railroads, particularly regional carriers in the Midwest. The economic stability will be severely threatened because of the major traffic diversions." Although even last June Norfolk Southern was attempting to alleviate some of the anticompetitive problems by offering a divestiture plan, the Department of Roads pointed out that "divestiture of unwanted lines to carriers with limited resources could very well overextend these carriers causing further problems in the Midwest and Northeastern States." After three divestiture proposals, the possibility that those railroads receiving divested lines will be overextended remains as likely and controversial as ever.

I, like many fellow Nebraskans, am concerned with minimizing public and

governmental costs. Investment by the taxpayers of this country has been considerable. Over $7.5 billion was spent buying, rehabilitating, and consolidating rail systems, upgrading and purchasing rolling stock, and managing the process.

In addition to greater tax revenues that will be forthcoming from a publicly owned Conrail than from a Norfolk Southern/Conrail merger, the additional $200 million offered by Morgan Stanley is hardly insignificant. Admittedly, $200 million in additional revenues pales in comparison with the Federal deficit, yet it would certainly be foolish to ignore any additional revenues at this critical time.

For all these reasons, I urge my colleagues to oppose a Norfolk Southern/Conrail merger, and to support the Morgan Stanley alternative for a stand-alone Conrail.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Saunders, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session, the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

SCIENCE INDICATORS—MESSAGE FROM THE PRESIDENT—PM 99

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on Commerce, Science, and Transportation:

To the Congress of the United States:

I am pleased to transmit to you a report of the National Science Board entitled *Science Indicators/The 1985 Report.* This report is the seventh in a continuing series in which important aspects of the status of American science and engineering are examined.

The importance of scientific and engineering research to the well-being of our Nation is widely recognized. Science and engineering play a vital role in maintaining our Nation's defense and increasing its economic productivity.

I commend the report to the attention of the Congress and those in the scientific endeavor.

RONALD REAGAN.

THE WHITE HOUSE, *January 22, 1986.*

REPORT OF THE NATION'S PROGRESS IN AERONAUTICS AND SPACE—MESSAGE FROM THE PRESIDENT—PM 100

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on Commerce, Science, and Transportation:

To the Congress of the United States:

The enclosed report of the Nation's progress in aeronautics and space during calendar year 1984, a record of high achievement, is transmitted to you in accordance with Section 206 of the National Aeronautics and Space Act of 1958, as amended (42 U.S.C. 2476).

Many departments and agencies of the Federal Government contributed substantially to this outstanding record, but the major participants are the National Aeronautics and Space Administration (NASA) and the Department of Defense (DOD) as set forth in the 1958 Act.

Department of Defense efforts in aeronautics and space in 1984 were broad and far-reaching and included programs in military satellite communications crucial for deterring and containing hostilities, a variety of programs in aeronautics to modernize and advance defense helicopters and Vertical/Short Takeoff and Landing Aircraft (V/STOL), and, of course, support at various military facilities for launching space vehicles, both civilian and military, and tracking their operations. Also, DOD consolidated research and technology on defense against ballistic missiles under the Strategic Defense Initiative Organization to provide programs and guidance for future decisions with respect to such defenses.

NASA activities in 1984 began to reflect our new commitment to encouraging private U.S. enterprise in space pursuant to Executive Order 12465 and our National Policy on the Commercial Use of Space. NASA activities also in 1984 continued to reflect the legislative mandate of the 1958 Act: to pursue activities for peaceful purposes for the benefit of all mankind, to provide widest dissemination of information resulting from such activities, and to undertake our national reach into space in cooperation with other nations and groups of nations. Our continuing commitment to this mandate was given special emphasis in 1984 when I announced to you and to the Nation on January 25 a plan of action to establish a permanently manned Space Station in the 1990's. I invited other countries to participate in this endeavor which, I believe, will spotlight the incredible potential of space waiting to be used for the betterment of mankind.

My 1984 goal to build a Space Station is a logical extension of U.S. voyages and operations, both national and international, made possible by the Space Shuttle, the vehicle of our current Space Transportation System. We used both transportation systems to place into orbit a broad array of applications satellites in 1984. Among these were satellites to observe Earth and search out its resources, assess and monitor food production, and keep watch for natural disasters so that human lives and property could be protected against them in a timely fashion.

A highlight in 1984 was our demonstration of the ability to manufacture more perfect products in the gravity-free space environment and offer those products for sale and use on Earth.

Another major highlight of U.S. air and space operations in 1984 was the dramatic demonstration of the ability of our astronauts to recover, repair, and redeploy malfunctioning spacecraft. This capability promises substantial savings in both time and money.

Our reach into air and space in 1984 brought us a rich bounty of information essential for developing new technologies for human advancement on Earth and for ensuring the Nation's continued primacy in air and space research. In our reach for the stars, knowledge continues to be both the key and the quest. As this report reveals, it is a grand search in which we all share, one that enriches and advances our Nation and all peoples everywhere.

RONALD REAGAN.

THE WHITE HOUSE, *January 22, 1986.*

SCIENCE AND TECHNOLOGY REPORT—MESSAGE FROM THE PRESIDENT—PM 101

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on Commerce, Science, and Transportation:

To the Congress of the United States:

I am pleased to submit to the Congress the sixth *Science and Technology Report,* as required under the National Science and Technology Policy, Organization, and Priorities Act of 1976, as amended. This is also the first biennial report, covering the years 1983 and 1984.

Continued strong support for our Nation's science and technology has been and will continue to be a policy of this Administration. The goals of this support are enhanced national security, improved quality of life, and increased industrial competitiveness. Today, more than ever before, we

must use our technological resources aggressively in order to retain international leadership.

This report highlights recent achievements in federally supported science and technology. It also presents areas of major emphasis for Federal action as we move forward in the coming years. Our challenge for the future is to draw upon our unique strength in basic science and accelerate the development of technology and products that will benefit our society.

RONALD REAGAN.

THE WHITE HOUSE, *January 22, 1986.*

MESSAGES FROM THE HOUSE

AT 12:04 p.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the House has agreed to the following concurrent resolution, in which it requests the concurrence of the Senate:

H. Con. Res. 268. Concurrent resolution providing for a joint session of Congress to receive a message from the President on the State of the Union.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC-2211. A communication from the Chairman of the National Capital Planning Commission, transmitting, pursuant to law, a report on the system of internal accounting and administrative controls in effect during calendar year 1985; to the Committee on Governmental Affairs.

EC-2212. A communication from the Director of the Office of Personnel Management, transmitting, pursuant to law, a report on the system of internal accounting and internal controls in effect during calendar year 1985; to the Committee on Governmental Affairs.

EC-2213. A communication from the Acting Administrator of the National Aeronautics and Space Administration, transmitting, pursuant to law, a report on the system of internal accounting and administrative controls in effect during calendar year 1985; to the Committee on Governmental Affairs.

EC-2214. A communication from the Chairman of the Federal Maritime Commission, transmitting, pursuant to law, the annual report of the Commission under the Government in the Sunshine Act for calendar year 1984; to the Committee on Governmental Affairs.

EC-2215. A communication from the Secretary of Defense, transmitting, pursuant to law, a report on the system of internal accounting and administrative controls in effect during fiscal year 1985; to the Committee on Governmental Affairs.

EC-2216. A communication from the Chairman of the Federal Labor Relations Authority, transmitting, pursuant to law, a report on the system of internal accounting and administrative controls in effect during calendar year 1985; to the Committee on Governmental Affairs.

EC-2217. A communication from the Chairman and Members of the Railroad Retirement Board, transmitting, pursuant to law, a report on the system of internal accounting and administrative controls in effect during calendar year 1985; to the Committee on Governmental Affairs.

EC-2218. A communication from the Chairman of the Securities and Exchange Commission, transmitting, pursuant to law, a report on the system of internal accounting and administrative controls in effect during calendar year 1985; to the Committee on Governmental Affairs.

EC-2219. A communication from the Director of the Federal Emergency Management Agency, transmitting, pursuant to law, a report on the system of internal accounting and administrative controls in effect during calendar year 1985; to the Committee on Governmental Affairs.

EC-2220. A communication from the Panama Canal Commission, transmitting, pursuant to law, a report on the system of internal accounting and administrative controls in effect during calendar year 1985; to the Committee on Governmental Affairs.

EC-2221. A communication from the Acting Chairman of the Consumer Product Safety Commission, transmitting, pursuant to law, a report on the system of internal accounting and administrative controls in effect during calendar year 1985; to the Committee on Governmental Affairs.

EC-2222. A communication from the Governor of the Farm Credit Administration, transmitting, pursuant to law, a report on the system of internal accounting and administrative controls in effect during calendar year 1985; to the Committee on Governmental Affairs.

EC-2223. A communication from the Chairman of the National Endowment for the Arts, transmitting, pursuant to law, a report on the system of internal accounting and administrative controls in effect during calendar year 1985; to the Committee on Governmental Affairs.

EC-2224. A communication from the Secretary to the Postal Rate Commission, transmitting, pursuant to law, a notice of the filing of proposed changes in third-class preparation requirements and order designating officer of the Commission and fixing procedural dates; to the Committee on Governmental Affairs.

EC-2225. A communication from the Administrator of General Services, transmitting, pursuant to law, a report on the system of internal accounting and administrative controls in effect during calendar year 1985; to the Committee on Governmental Affairs.

EC-2226. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 6-114 adopted by the Council on December 17, 1985; to the Committee on Governmental Affairs.

EC-2227. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 6-122 adopted by the Council on December 17, 1985; to the Committee on Governmental Affairs.

EC-2228. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 6-115 adopted by the Council on December 3, 1985; to the Committee on Governmental Affairs.

EC-2229. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 6-121 adopted by the Council on December 17, 1985; to the Committee on Governmental Affairs.

EC-2230. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 6-120 adopted by the Council on December 3, 1985; to the Committee on Governmental Affairs.

EC-2231. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 6-119 adopted by the Council on December 17, 1985; to the Committee on Governmental Affairs.

EC-2232. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 6-118 adopted by the Council on December 3, 1985; to the Committee on Governmental Affairs.

EC-2233. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 6-117 adopted by the Council on December 3, 1985; to the Committee on Governmental Affairs.

EC-2234. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 6-116 adopted by the Council on December 3, 1985; to the Committee on Governmental Affairs.

EC-2235. A communication from the Inspector General, General Services Administration, transmitting, pursuant to law, the semiannual report of the Inspector General for the period April 1 through September 30, 1985; to the Committee on Governmental Affairs.

EC-2236. A communication from the Chairman of the Merit Systems Protection Board, transmitting, pursuant to law, a report on the system of internal accounting and administrative controls in effect during calendar year 1985; to the Committee on Governmental Affairs.

EC-2237. A communication from the Chairman of the Merit Systems Protection Board, transmitting, pursuant to law, an annual report on the Board's review of their accounting systems for fiscal year 1985; to the Committee on Governmental Affairs.

EC-2238. A communication from the Director of the National Science Foundation, transmitting, pursuant to law, a report on the system of internal accounting and administrative controls in effect during calendar year 1985; to the Committee on Governmental Affairs.

EC-2239. A communication from the Chairman of the Postal Rate Commission, transmitting, pursuant to law, a report on the system of internal accounting and administrative controls in effect during calendar year 1985; to the Committee on Governmental Affairs.

EC-2240. A communication from the President of the Overseas Private Investment Corporation, transmitting, pursuant to law, a report on the system of internal accounting and administrative controls in effect during calendar year 1985; to the Committee on Governmental Affairs.

EC-2241. A communication from the Chairman of the International Trade Commission, transmitting, pursuant to law, a report on the system of internal accounting and administrative controls in effect during calendar year 1985; to the Committee on Governmental Affairs.

EC-2242. A communication from the Director of the Federal Mediation and Concil-

iation Service, transmitting, pursuant to law, a report on the system of internal accounting and administrative controls in effect during calendar year 1985; to the Committee on Governmental Affairs.

EC-2243. A communication from the Director of the Federal Mediation and Conciliation Service, transmitting, pursuant to law, an annual report on the evaluation of the accounting methods of the Service for fiscal year 1985; to the Committee on Governmental Affairs.

EC-2244. A communication from the Inspector General, Department of Agriculture, transmitting, pursuant to law, notice of a computer matching program; to the Committee on Governmental Affairs.

EC-2245. A communication from the Director of the National Oceanic and Atmospheric Administration, Department of Commerce, transmitting, pursuant to law, the 1984 annual report on the NOAA pension plan; to the Committee on Governmental Affairs.

EC-2246. A communication from the Secretary to the Postal Rate Commission, transmitting, pursuant to law, a notice of proposed rulemaking; to the Committee on Governmental Affairs.

EC-2247. A communication from the Administrator of the Environmental Protection Agency, transmitting, pursuant to law, a report on the system of internal accounting and administrative controls in effect during calendar year 1985; to the Committee on Governmental Affairs.

EC-2248. A communication from the Secretary of Labor, transmitting, pursuant to law, a report on the system of internal accounting and administrative controls in effect during calendar year 1985; to the Committee on Governmental Affairs.

EC-2249. A communication from the Administrator of the Small Business Administration, transmitting, pursuant to law, a report on the system of internal accounting and administrative controls in effect during calendar year 1985; to the Committee on Governmental Affairs.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. HATCH, from the Committee on Labor and Human Resources, with an amendment:

H.R. 2417. A bill to amend the Public Health Service Act to revise and extend the program of assistance for health maintenance organizations (Rept. No. 99-229).

By Mr. HATCH, from the Committee on Labor and Human Resources, with an amendment in the nature of a substitute:

S. 1762. A bill to amend the Public Health Service Act to revise and extend the program of assistance for health maintenance organizations (Rept. No. 99-229).

By Mr. ROTH, from the Committee on Governmental Affairs:

Special Report entitled "Federal Government's Security Clearance Programs", prepared by the Permanent Subcommittee on Investigations (Rept. No. 99-230).

● Mr. ROTH. Mr. President, on behalf of the Senate Committee on Governmental Affairs, I submit a report of its Permanent Subcommittee on Investigations entitled, "Federal Government's Security Clearance Programs."

The Investigations Subcommittee, under the very able leadership of the ranking minority member, Senator SAM NUNN, examined the ability of the Federal Government to effectively insure the integrity of those individuals who have access to classified information. The investigation focused on several instances where individuals holding high Government security clearances had sold some of this country's most highly guarded secrets to agents of hostile intelligence services.

In its findings, conclusions, and recommendations for corrective action, the subcommittee report urges the executive branch to substantially reduce the number of individuals who hold security clearances. The report finds that, under current manpower restrictions, the Government simply cannot adequately guarantee the integrity and trustworthiness of the more than 4.6 million Americans who today hold security clearances.●

● Mr. NUNN. Mr. President, we all hope and pray that the recent summit conference in Geneva has laid the foundation for improved relations between the United States and the Soviet Union.

But, no matter how beneficial these talks prove to be in the long term, the more immediate threat of Soviet espionage will remain serious. As hearings by the Senate Permanent Subcommittee on Investigations demonstrated last spring, it is increasingly apparent that the Soviet Union and its surrogates have embarked on a massive espionage venture in this country with which they plan to obtain as much of our classified information as they can.

In a report entitled, "Federal Government Security Clearance Investigations," made public today, the Investigations Subcommittee summarizes the 4 days of hearings held last April 16-18 and 25 and puts forward findings, conclusions, and recommendations for corrective action.

Filed by Senator WILLIAM V. ROTH, JR., the chairman of the subcommittee, the report recounts information contained in the 1341-page hearing volume containing the testimony of 22 witnesses, 26 exhibits, and 18 written statements submitted for the hearing record.

Copies of the 21-page report are available in room 193 of the Russell Senate Office Building.

As the ranking minority member of the subcommittee, I directed the 12-month investigation by the minority staff that led to the hearings. With the cooperation and concurrence of Chairman ROTH and his staff, the investigation probed into virtually every aspect of the Government's personnel security programs, policies and practices.

The hearings that followed constituted one of the most comprehensive examinations in recent years of the effectiveness of the Government's efforts to test the integrity of its employees and to combat espionage.

One of the immediate results of the investigation and hearings has been a renewed interest in and concern about personnel security programs. In calling attention to shortcomings in the security clearance system, the subcommittee has demonstrated to Congress, the executive branch, the press, and the public the need for reform.

Already, certain of the subcommittee's findings, first put forward by Chairman ROTH and myself last June, have been endorsed by key policymakers in the executive branch. For example, Chairman ROTH and I called for fewer security clearances and improved and more frequent background checks. Accordingly, a report issued on November 21, 1985, by the Pentagon's Security Review Commission made these two proposals its top recommendations for corrective action.

Several other recommendations by Chairman ROTH and myself have also been embraced by the Security Review Commission.

Similarly, the Investigation Subcommittee report filed today reiterates the importance of reducing the number of clearances while making more thorough—and more frequent—those clearance inquiries which are necessary. In example after example, the subcommittee's hearings showed that the security clearance system is not working well because too many people have clearances based on scanty and outdated background information.

The pressure to grant clearances with insufficient and untimely inquiry stems from the fact that more than 4 million persons have some form of security clearance and Government does not have the resources to look into the backgrounds of so many people. In one of the major recommendations of the subcommittee's report, we call upon President Reagan to issue an Executive order directing that Government agencies and defense contractors substantially cut the number of security clearances within 2 years with a goal of a 50-percent reduction.

The reduction in cleared personnel should be accompanied by a significant decrease in classified documents. Government classifiers should stamp secret and top secret only on those documents which deserve it. The overclassification of information remains a serious problem within the Government.

In what I consider to be a timely insight, the subcommittee report warns that unless the White House moves to improve personnel security methods throughout Government the Congress will undertake the task. My view is that it would be far preferable if the executive branch, under the guidance of the President's National Security Adviser, set out to reform the counter-

espionage system. But if the needed reforms are not initiated by the White House, Congress will be forced to do it—and a major overhaul of something as complex as the security clearance system is not the sort of task the Congress is suited for. Instead, the White House should face this challenge in cooperation with Congress.

The National Security Council has the authority and the responsibility to get the process of reform moving forward. But the NSC has been reluctant to carry out this responsibility. That reluctance should be discarded. The Nation's secrets should be guarded more effectively and the Congress is impatient with further delay.

Noting that "a system that must certify to the reliability of everyone ends up certifying to the reliability of no one," the subcommittee report also points out that the security problems caused by Soviet-inspired spying could be eased if Government investigated fewer clearance applicants—but did a better job of it and on a continuing basis. Reinvestigations, which are conducted rarely on previously cleared personnel, should be done at 2- and 4-year intervals, the report says.

Mr. President, I ask unanimous consent that all of the report's 22 findings, conclusions, and recommendations be printed at this point in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

FINDINGS, CONCLUSIONS, AND RECOMMENDATIONS

1. The government's personnel security program should be devoted to accurately detecting potential security risks as well as efficiently clearing large numbers of personnel.

2. The number of personnel holding clearances for access to highly sensitive information must be reduced. Our current system cannot adequately insure the continued integrity and reliability of the 4.3 million Americans who today hold security clearances. Furthermore, hearing testimony strongly suggested that many of those 4.3 million have no actual need for a security clearance. Clearance requests have reached unmanageable numbers, resulting in diluted investigative resources and background investigations of diminished quality. The President should issue an executive order directing that government agencies and contractors substantially cut the number of security clearances within 2 years with a goal of a 50% reduction. As an added incentive, those agencies and contractors who make the largest cuts should be given priority on remaining clearance requests.

3. Complementing the reduction in clearances, there must also be a significant effort to insure that information is classified only where truly necessary to maintain the national security. Although the Subcommittee's investigation did not focus in detail on the problem of overclassification, the 1984 report of the Information Security Oversight Office, released shortly after the Subcommittee's hearings, confirmed that "overclassification" of information remains a problem within the government.

4. The National Security Council should promptly complete its review of the personnel security programs. Although the National Security Council has been charged with initiating needed reforms in personnel security, this had not been accomplished at the time of the hearings. Given the critical importance of these reforms to our national security, the National Security Council should act promptly and without further delay, to carry out this responsibility. Absent such action, Congress will be forced to consider enacting legislation to replace, revise, and consolidate the dated executive orders which now govern the government's security clearance programs.

5. An executive body should be established with personnel security oversight responsibilities for the entire government similar to those which the Information Security Oversight Office now holds for the classification of information. This organization should specify and enforce uniform government-wide standards for security investigations and adjudications for both personnel and facility clearances. Standard requirements for formal training for both investigators and adjudicators should be established.

6. Congress must also focus on problems dealing with classified information in the legislative branch. For the most part, there are no established standards or procedures. Personal offices and Committee practices vary widely in terms of their handling of clearances and classified material. There are few, if any, checks in this system. We believe an overall review of security procedures in the legislative branch should be conducted by the Rules Committee in consultation with the Intelligence Committee with a goal of recommending improvements where needed. We commend the Senate Intelligence Committee's efforts in this area and recommend the review of their practices and procedures as a model for such improvements. Senators Roth and Nunn have addressed this issue through preliminary letters to the Senate leadership.

7. A more thorough quality background investigation should be conducted on those individuals with Secret clearances who have access to highly sensitive information. Hearing testimony established, without dispute, that the national agency check, currently used as the basis for most Secret clearances, is woefully inadequate as a background investigation. Some effort should be made to review and perhaps restructure the massive Secret clearance category with a view of prioritizing those clearances actually affecting the most critical and sensitive information.

8. There should be regular periodic reinvestigations of personnel with Secret and Top Secret clearances. Timely reinvestigation should be considered as important and be accorded as much priority as the initial background investigation. Cleared employees, at both government and contractor levels, should be required to complete periodic updated personnel security questionnaires. Some responsibility for updates should be shifted where possible to the users' security departments.

9. More realistic sanctions, such as debarment, suspension, and the imposition of monetary fines, should be meted out to employers of cleared personnel, including defense contractors, if they knowingly or through negligence violate personnel security regulations. Greater emphasis should be placed on the use of these sanctions in an effort to increase the accountability of contractors for security violations.

10. Legislation should be enacted which would allow security clearance investigative agencies such as the Defense Investigative Service and the Office of Personnel Management to obtain needed background information from criminal justice agencies at the state and local level as well as private corporations. Currently, they are often refused needed information due to interpretations of a variety of laws, including state privacy acts, the federal privacy act, and the Fair Credit Reporting Act. S. 1347, introduced in the Senate by Senators Nunn and Roth on June 25, 1985, is designed to correct this problem.

11. An interagency group should be formed to develop a more effective means for conducting personnel security investigations regarding immigrant aliens and recently natualized citizens who apply for security clearances. U.S. agencies which assist in clearance investigations abroad should recognize the critical importance of this task to national security and prioritize their efforts accordingly.

12. Responsible government agencies should increase efforts in the area of personnel security research to develop appropriate investigative strategies and procedures and to identify, where possible, areas of personnel vulnerability. Hearing testimony indicated that, at least in the Defense Department, there has been no significant dedication of resources for furthering study in this area, despite its growing importance to our national security.

13. Congress should consider the need for legislation clearly specifying that the Merit Systems Protection Board is authorized to review employment, as opposed to security, decisions. The Board, whose expertise does not encompass questions of national security, should not be engaged in the denial or reinstatement of security clearances.

14. The government should determine the feasibility of utilizing available technology for the encoding of classified documents to prevent their unauthorized duplication and removal. If feasible, this technology should be implemented as soon as possible on, at the least, a prioritized basis determined by the sensitivity and vulnerability of the material involved.

15. Continuing security awareness programs on behalf of federal agencies and industrial contractors should be given the highest priority. These programs should emphasize the harsh realities and grave personal consequences of espionage in an attempt to dispel popular misconceptions of espionage as an often glamorous and intriguing adventure.

16. Within the Department of Defense, all industrial clearance adjudication, including Special Access Programs (SAP) or Sensitive Compartmented Information (SCI) procurements, should be consolidated. According to hearing testimony, the present division of adjudication authority generates inconsistency, unpredictability and duplication of effort within the Department of Defense clearance system.

17. Under current rules, contractors who reduce security costs have a competitive advantage in the bidding process. Current Federal Acquisition Regulations should be reviewed to determine whether they can be modified to segregate security costs from those overhead rate determinations used for the award of contracts. Testimony suggested that the current inclusion of security costs in overhead gives contractors a "disincentive" to strengthen and improve security programs.

18. Defense Investigative Service (DIS) and Office of Personnel Management (OPM) investigators are not currently authorized to use the National Crime Information Center (NCIC) data bank. Law enforcement agencies routinely use that data bank to quickly obtain updated criminal record information. The Attorney General should proceed with arrangements for both the Defense Investigative Service and Office of Personnel Management to be granted access to the National Crime Information Center by the Board of Governors. Use of the Center would greatly facilitate access to state criminal records which are often otherwise unavailable for use in clearance investigations.

19. Government agencies and contractors should emphasize and strictly adhere to the "need to know" standard in submitting clearance requests. Greater responsibility should be delegated to the employers of cleared personnel, including contractors, to "prescreen" individuals submitted for clearances. In order to strengthen their incentive to eliminate unnecessary clearances, the costs of investigations conducted by the Defense Investigative Service should be charged to the appropriate DOD service or agency, similar to the system now employed by the Office of Personnel Management. Contractors should be charged for the cost of any DIS investigations requested beyond established quotas for those requests. Under current rules, costs of Defense Investigative Service investigations are covered by the DIS budget, rather than by those agencies requesting the investigations.

20. The requirements for cleared personnel and facilities vary in response to federal budget priorities. To meet uneven demand, the Office of Personnel Management and the Department of State have instituted plans of contracting with experienced outside investigators who can be called upon during surge periods, thus delivering adequate investigative products without unnecessarily expanding the permanent federal work force. All agencies responsible for conducting personnel security investigations should examine the feasibility of, and consider, following this procedure during surge periods.

21. Currently, only three professional employees in the Department of Defense are responsible for policy operations for what amounts to the largest personnel security program in the free world. More realistic staffing would help eliminate the need to periodically create oversight committees to propose reforms of the program. The office in DOD dealing with personnel security policy should be given enhanced status and adequately staffed and funded so that it can effectively oversee the DOD personnel security program.

22. In keeping with these recommendations, the Subcommittee commends the work of the Department of Defense Industrial Security Review Committee as set forth in its December 1984 report. The Committee's analysis of the Defense Industrial Security Program was extremely helpful to the Subcommittee in identifying and examining major shortcomings within the program. The Subcommittee recommends that the Department of Defense review and implement where feasible the Committee's recommendations for improvement of the Industrial Security Program, with particular emphasis on those portions dealing with the enhancement of personnel security investigative standards; the reduction of industrial clearances; increased and improved security requirements for industrial contractors—including strict monitoring of afterhours access; and revision of the industrial security inspection system.●

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. ROTH:

S. 2004. A bill to require the President to submit to the Congress an annual report on the management of the executive branch of the Government; to the Committee on Governmental Affairs.

S. 2005. A bill to amend the Inspector General Act of 1978; to the Committee on Governmental Affairs.

By Mr. ROTH (by request):

S. 2006. A bill to amend the Contract Disputes Act of 1978 and title 31, United States Code, to facilitate the collection of claims against Federal Government contractors; to the Committee on Governmental Affairs.

By Mr. ROTH (by request):

S. 2007. A bill to amend the Office of Federal Procurement Policy Act to provide authority to test innovative procurement methods and procedures; to the Committee on Governmental Affairs.

By Mr. ROTH (by request):

S. 2008. A bill to improve the Federal procurement system by providing an alternative simplified procurement method for competitively negotiating procurements of less than $5 million; to the Committee on Governmental Affairs..

S. 2009. A bill to authorize the Secretary of the Treasury to issue regulations to require that wages and salaries of Federal employees be paid by electronic funds transfer or any other method determined by the Secretary to be in the interest of economy or effectiveness, with sufficient safeguards over the control of, and accounting for, public funds; to the Committee on Governmental Affairs.

S. 2010. A bill to eliminate or change statutory requirements preventing the reduction of paperwork burdens and regulatory simplification; to the Committee on Governmental Affairs.

S. 2011. A bill entitled the "Drug Enforcement Administration Excepted Service Act of 1986"; to the Committee on Governmental Affairs.

By Mr. MATSUNAGA:

S. 2012. A bill for the relief of Isamu Yasutomi; to the Committee on the Judiciary.

By Mr. HELMS (for himself, Mr. McCONNELL, Mr. FORD, and Mr. EAST):

S. 2013. A bill to delay with respect to the 1986 through 1988 crops of Flue-cured tobacco and to delay the proclamation of national marketing quotas for the 1986 through 1988 crops of Burley tobacco; considered and passed.

By Mr. LEVIN (for himself, Mr. GRASSLEY, Mr. GORE, Mr. PRYOR, Mr. SARBANES, and Mr. BURDICK):

S. 2014. A bill to amend title 5, United States Code, to strengthen the protections available to Federal employees against prohibited personnel practices, and for other purposes; to the Committee on Governmental Affairs.

By Mr. TRIBLE (for himself and Mr. DENTON):

S.J. Res. 256. A bill designating August 12, 1986, as "National Neighborhood Crime Watch Day"; to the Committee on the Judiciary.

By Mr. CHILES (for himself, Mr. PELL, Mr. BYRD, Mr. TRIBLE, Mr. KENNEDY, Mrs. HAWKINS, Mr. PROXMIRE, Mr. LAUTENBERG, Mr. DOMENICI, Mr. CHAFEE, Mr. SIMON, Mr. BOREN, Mr. HOLLINGS, Mr. BRADLEY, Mr. DODD, Mr. DOLE, Mr. BURDICK, Mr. MOYNIHAN, Mr. HATCH, Mr. RIEGLE, and Mr. THURMOND):

S.J. Res. 257. Joint resolution to designate the first Friday of May each year as "National Teacher Appreciation Day"; to the Committee on the Judiciary.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. ROTH:

S. 2004. A bill to require the President to submit to the Congress an annual report on the management of the executive branch of the Government; to the Committee on Governmental Affairs.

GOVERNMENT MANAGEMENT REPORT ACT

● Mr. ROTH. Mr. President, I am introducing today the Government Management Report Act of 1986, a measure which would provide for the President of the United States to submit an annual report, with his budget, on the major activities undertaken and planned to improve the management of the executive branch of Government.

I believe this legislation is necessary to ensure that the Congress is fully and currently informed about administration plans and activities designed to ensure that our Federal programs are managed effectively and that every taxpayer's dollar is put to its maximum and appropriate use. This report would also serve as the basis for a closer partnership between the legislative and executive branches on efforts to strengthen Government management.

President Reagan has placed increased emphasis on management issues. In September 1982 he established the Cabinet Council on Management and Administration, the first Cabinet-level White House group devoted specifically to management issues. He also established Reform '88, a comprehensive program to improve, consolidate, and streamline the Government's management systems. After 3 years, according to the Office of Management and Budget, this program has already resulted in substantial progress in increasing the efficiency of Federal operations, while building the management systems for the future.

The Congress has also taken an active interest in management reform in recent years through legislation such as the Paperwork Reduction Act of 1980, the Debt Collection Act of 1982, and the Federal Managers' Financial Integrity Act—all of which

were reported by the Governmental Affairs Committee which I chair.

The Office of Management and Budget said in its February 1985 management report:

> The Federal system works best when there is a cooperative Executive-Legislative effort to address national concerns in a balanced way. Jointly agreed upon action has proven to be the strongest and most effective means of implementing change. The need for such joint action applies to management reform, as well as to other activities of the Federal Government.

It is in the interest of furthering the partnership on management reform that I offer this legislation today.

The report required by this bill would not be another document to be quietly forwarded to Congress and end up collecting dust in some committee staffer's in-box. Rather, I see this report as the basis for annual hearings before the Government Affairs Committee on the state of Government management and what is being done to ensure that our Government has the leadership, the systems, and the organization to meet the challenging times ahead.

For many years, we have relied on the President's budget as our fiscal blueprint. That document has served as the starting point for our budget deliberations. Each year the Budget and Appropriations Committees hold hearings based on this report. The President also submits his economic report and the Joint Economic Committee holds overview hearings. We have now come to a time when Government management has become sufficiently important that it is ready to take its place alongside the budget and the economy as subjects meriting the same systematic and thorough attention.

In 1984, the Congress mandated in the Deficit Reduction Act a report by the President on how he had responded to recommendations made by outside organizations, including the Grace Commission, to improve Government management. The report issued last February by OMB not only addressed the legislative requirement, but also informed the Congress of other improvement efforts being undertaken. For the first time we had a full picture of the President's management program.

OMB plans to continue reporting annually on management at the time the budget is issued, but we have no assurance beyond the Agency's promise that this report will be issued in future years, and we have no voice in deciding what the report will contain. The Deficit Reduction Act required only a single report. My bill would ensure that we have such a report every year. Moreover, it outlines the specific subjects on which OMB would report, including the provision of a summary of major management improvement initiatives and a discussion for each initiative of its purposes, the progress and problems in implementation, the impact on Agency operations in terms of additional costs incurred, cost savings already achieved and projected, resulting improvements in Federal program efficiency or productivity, and resulting improvements in service delivery.

This bill strikes a balance between keeping the reporting requirements as simple and flexible as possible and assuring that the information provided will be useful to Congress in effectively overseeing executive branch management improvement activities. It also assures that the President's report will cover all management activities and present, insofar as possible, a balanced summary of both the problems and accomplishments in management.

Three years ago, OMB instituted a management review process, parallel to the budget process, wherein OMB officials meet annually with the management staff of each of the 20 or so largest Federal agencies to discuss an agenda of management reforms for the coming year. Following these meetings, the agencies submit management improvement plans for OMB review and approval. These plans then are the blueprints for Agency action the following year. OMB also tracks progress using an automated system throughout the year.

The annual hearings triggered by the report required by my bill would not set up so systemmatic a process, but it would give Congress an opportunity, similar to that exercised by OMB with executive agencies, to ensure that appropriate actions are being taken to see that we have the Government management that the Nation expects and deserves.

I urge your support for this legislation and swift enactment by the Congress.

Mr. President, I request unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2004

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Government Management Report Act of 1986".

SEC. 2. (a)(1) Chapter 11 of title 31, United States Code, is amended by adding at the end thereof the following new section:

"§ 1115. Annual management report

"(a) With each budget of the United States Government submitted under section 1105 of this title, the President shall submit to the Congress a report on the management of the executive branch of the Government with respect to the most recently completed fiscal year, the current fiscal year, and the fiscal year for which the budget is submitted. Each such report shall include—

"(1) an overview of the general management improvement goals of the President for the executive branch of the Government during such fiscal years;

"(2) a summary of the management problems and issues for the executive branch of the Government, and the major management improvement initiatives and accomplishments for the executive branch of the Government, involving—

"(A) program delivery systems;

"(B) human resources management;

"(C) productivity;

"(D) information resources management;

"(E) financial management;

"(F) procurement and grants management;

"(G) property management; and

"(H) any other relevant subject areas; and

"(3) for each initiative summarized in paragraph (2), a description, where feasible and appropriate, of—

"(A) the purpose of the initiative;

"(B) the progress and problems in the implementation of the initiative; and

"(C) the impact of the initiative on agency operations, including—

"(i) any additional costs which have been incurred as a result of the implementation of the initiative;

"(ii) any cost savings which have been achieved or which are projected as a result of the implementation of the initiative;

"(iii) any improvements in Federal program efficiency or productivity which have resulted from the implementation of the initiative; and

"(iv) any improvements in the delivery of services which have resulted from the implementation of the initiative;

"(4) proposals for legislative or other action to improve the management or organization of the executive branch of the Government, including proposals to remove statutory impediments to the improvement of the management of the executive branch of the Government; and

"(5) a summary of each significant new management policy for the executive branch of the Government which has been adopted or which is planned for the current fiscal year or the fiscal year for which the budget is submitted, and a discussion of the reasons for such policy.".

(2) The analysis for Chapter 11 of such title is amended by adding at the end thereof the following:

"§ 1115. Annual management report.".

(b) Section 719 of such title is amended—

(1) by redesignating subsections (g) through (i) as subsections (h) through (j), respectively; and

(2) by inserting after subsection (f) the following new subsection:

"(g) Within 90 days after the President has submitted a report under section 1115 of this title, the Comptroller General shall prepare and transmit to the Congress a statement analyzing such report. The statement shall include—

"(1) an evaluation of the items contained in such report which the Comptroller General considers to be of particular interest to the Congress;

"(2) a specification of any questions or issues raised by such report which the Comptroller General considers to require further clarification;

"(3) an analysis of the extent to which such report complies with the requirements of section 1115 of this chapter; and

"(4) recommendations, if any, for improvement of the management or organization of

the executive branch of the Government, including modification or repeal of statutory impediments to efficient and effective management.".●

By Mr. ROTH:

S. 2005. A bill to amend the Inspector General Act of 1978; to the Committee on Governmental Affairs.

INSPECTOR GENERAL ACT AMENDMENTS

● Mr. ROTH. Mr. President, in 1978 the Committee on Governmental Affairs, which I chair, secured the enactment of legislation establishing independent offices of inspector general in many of the larger Federal departments and agencies. In 1982, on the basis of hearings before the committee, I proposed and the Senate adopted an amendment to the Defense authorization bill which established a statutory inspector general for the Defense Department. Most recently, the Congress incorporated under the Inspector General Act of 1978 the State Department inspector general as part of administrative provisions in the Foreign Relations Authorization Act enacted in August 1985.

Eleven Cabinet departments and six major agencies now have statutory inspectors general. The IG's have overall responsibility for coordination and leadership of internal auditing and investigative activities in these agencies and are required to report periodically to their agency heads and the Congress concerning significant problems, abuses or deficiencies and the progress of corrective action. The statutes creating these offices contain a number of specific provisions designed to insure that inspectors general have the independence and authority necessary to carryout their responsibilities.

Although the establishment of statutory offices of inspector general was initially opposed by every department and agency affected, the usefulness of these offices is now widely recognized. President Carter described them as "Perhaps the most important new tools in the fight against fraud * * *". President Reagan has called them "Our first line of defense in attacking fraud, waste, and abuse."

One of President Reagan's first initiatives in the management area was to establish a President's Council on Integrity and Efficiency to coordinate IG activities and strengthen their capabilities. According to the President's fiscal year 1986 management report, IG efforts since March 1981 have resulted in:

Nearly 67,000 allegations of fraud, waste, and abuse;

Over $46 billion put to better uses, including $26 billion in questioned costs upheld as a result of audits conducted by the Defense Contract Audit Agency and commitments by agencies to recover funds, call loans, and cancel guarantees, totaling $6 billion;

More than 10,000 successful prosecutions, including over 2,000 in the last 6 months of 1984 alone; and

Almost 9,400 administrative sanctions or agency actions against Federal employees, contractors, and grantees.

The success of the statutory inspectors general has been possible because of several fundamental improvements mandated by the legislation creating their offices. Under the IG statutes, responsibility for internal audits and investigations was placed in a single central unit in each agency headed by an inspector general. Before, uncoordinated audit and investigative units were often scattered throughout an agency. There are specific statutory provisions designed to insure a high degree of independence and to provide the IG with sufficient authority to carry out his or her responsibilities. By law, the inspector general has direct access to the agency head and significant findings are required to be reported to both the agency head and the Congress.

Recently, as part of his management legislative initiatives, the President submitted proposed legislation which would standardize inspector general authorizing legislation and make other technical and administrative changes to the 1978 act. The legislation I am introducing today, the Inspector General Act Amendments of 1985, incorporates these provisions.

Given the success of the inspector general concept, however, my bill goes one step further. The existing IG legislation covers only 17 of the large departments and agencies. There are about 40 smaller entities—such as executive agencies, regulatory boards and commissions, and Government corporations, with internal audit or investigative units which have no statutory authority or independence; an even larger number have no internal audit or investigative units at all.

To strengthen internal audits and investigations in the small agencies which have such units, I have included provisions in this bill designed to extend the benefits of the inspector general concept to smaller Federal executive agencies, regulatory boards, and commissions, and Government corporations which do not have statutory IG's. The bill does not affect the Justice and Treasury Departments and the Postal Service. The need for IG's in these organizations will be addressed separately.

Strong internal audit is especially needed at smaller agencies because their operations usually are not closely watched by Congress, the press or the public. In the absence of an independent internal audit unit, there is greater risk that serious problems and deficiencies will not be reported to the agency head and no assurance such problems will become known outside the agency.

Under existing laws and procedures, agency heads are responsible for providing adequate audit coverage of the programs they administer. However, this responsibility has simply not been carried our at many—if not most—smaller agencies. A May 1984 GAO report, based on responses to a questionnaire survey of Federal entities without statutory inspectors general, concluded that:

Some agencies are not complying with OMB Circulars A-50 and A-73, which address audits of Federal operations and programs and audit followup; and with GAO's "Standards for Audit of Governmental Organizations, Programs, Activities, and Functions." Some agencies have no audit coverage; at others the internal auditor does not report to the head or deputy head of the agency; and at several agencies that have more than one audit or investigative unit, there are no procedures for coordination.

Since the GAO report is based on responses to a questionnaire, the deficiencies cited are essentially those acknowledged by the agencies responding. An in-depth review might well have disclosed even further problems and deficiencies.

For example, even though the Securities and Exchange Commission is responsible for monitoring the performance of private sector accounting firms in order to help protect investors against fraud and abuse, internal auditing deficiencies at that agency have been particularly flagrant. Until very recently, in fact, SEC did not even have a single internal auditor to review its own operations.

As long ago as 1976, the General Accounting Office criticized SEC because the agency did not have an internal audit unit; however, no action was taken to remedy the situation. In 1980, during the course of a second GAO review of SEC audit operations, an internal audit division with a small staff was established. By 1983, although the internal audit unit continued to exist on paper, its staff had been reduced to zero. The unit now has a small staff again, but only because of a specific directive in SEC's appropriation act requiring such action.

The bill I am introducing would significantly improve internal audits and investigations in small Federal agencies without requiring additional expenditures or personnel. Specifically, the bill would strengthen the independence and authority of internal audit units by:

First, requiring the head of the agency to consolidate all internal audit and investigative units into a single unit reporting directly to the agency head;

Second, providing that the head of the internal audit unit have the same powers and duties as the statutory IG's; and

Third, requiring that the agency head communicate the reasons to Con-

gress in the event the head of an internal audit unit is removed or involuntarily transferred.

The bill represents another important step in improving management and reducing fraud and abuse in Federal programs and activities, and I encourage my colleagues to give it their support.

I ask unanimous consent that the text of this bill and a section-by-section analysis be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 2005

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Inspector General Act Amendments of 1986".

CONFORMATION OF AUTHORITIES OF INSPECTORS GENERAL

SEC. 2. (a) Section 2(1) of the Inspector General Act of 1978 is amended—

(1) by striking out ", and the Department of State";

(2) by inserting "and" before "the Veterans' Administration";

(3) by inserting "the Department of Energy, the Department of Health and Human Services," after "the Department of Education,";

(4) by inserting "the Department of State," after "the Department of Labor,"; and

(5) by striking out "the Community Services Administration,".

(b) Section 9(a)(1) of such Act is amended—

(1) by striking out subparagraph (I);

(2) by redesignating subparagraphs (J) through (N) as subparagraphs (K) through (O), respectively;

(3) by redesignating subparagraphs (E) through (H) as subparagraphs (G) through (J), respectively; and

(4) by inserting after subparagraph (D) the following new subparagraphs:

"(E) of the Department of Energy, the Office of Inspector General as established by section 208 of the Department of Energy Organization Act);

"(F) of the Department of Health and Human Services, the Office of Inspector General (as established by title II of Public Law 94-505);".

(c) Section 11 of such Act is amended—

(1) by inserting "Energy, Health and Human Services," after "Education," each place it appears in paragraphs (1) and (2);

(2) by striking out "Community Services," in paragraph (1); and

(3) by striking out "the Community Services Administration," in paragraph (2).

(d)(1)(A) Section 208 of the Department of Energy Organization Act is repealed.

(B) The table of contents in the first section of such Act is amended by striking out the item relating to section 208.

(2) Title II of Public Law 94-505 is repealed.

UNIFORM SALARIES FOR INSPECTORS GENERAL

SEC. 3. (a) Section 5315 of title 5, United States Code, is amended by adding at the end thereof the following new paragraphs:

"Inspector General, Department of Commerce.

"Inspector General, Department of the Interior.

"Inspector General, Department of State.

"Inspector General, Agency for International Development.

"Inspector General, Environmental Protection Agency.

"Inspector General, General Services Administration.

"Inspector General, National Aeronautics and Space Administration.

"Inspector General, Small Business Administration.

"Inspector General, Synthetic Fuels Corporation.".

(b) Section 5316 of such title is amended—

(1) by striking out the paragraphs relating to—

(A) the Inspector General of the Department of Commerce;

(B) the Inspector General of the Department of the Interior;

(C) the Inspector General of the Agency for International Development;

(D) the Inspector General of the Community Services Administration;

(E) the Inspector General of the Environmental Protection Agency;

(F) the Inspector General of the General Services Administration;

(G) the Inspector General of the National Aeronautics and Space Administration; and

(H) the Inspector General of the Small Business Administration; and

(2) by adding at the end thereof the following new paragraph:

"Deputy Inspector General, Synthetic Fuels Corporation.".

(c) Section 122(a)(5) of the Energy Security Act is amended—

(1) by striking out "level III of the Executive Schedule under section 5314" and inserting in lieu thereof "level IV of the Executive Schedule under section 5315"; and

(2) by striking out "level IV of such schedule under section 5315" and inserting in lieu thereof "level V of such schedule under section 5316".

OATH ADMINISTRATION AUTHORITY

SEC. 4. Section 6(a) of the Inspector General Act of 1978 is amended—

(1) by redesignating paragraphs (5) through (8) as paragraphs (6) through (9), respectively; and

(2) by inserting after paragraph (4) the following new paragraph:

"(5) to administer to or take from any person an oath, affirmation, or affidavit, whenever necessary in the performance of the functions assigned by this Act, which oath, affirmation, or affidavit when administered or taken by or before an investigator or such other employee of an office of Inspector General designated by the Inspector General shall have the same force and effect as if administered or taken by or before an officer having a seal;".

REPORTING ON UNRESOLVED RECOMMENDATIONS

SEC. 5. Section 5(a)(3) of the Inspector General Act of 1978 is amended to read as follows:

"(3) an identification of each significant recommendation which was described in previous semiannual reports and which has not been resolved;".

REQUIREMENTS FOR INTERNAL AUDIT UNITS IN CERTAIN AGENCIES

SEC. 6. The Inspector General Act of 1978 is amended by inserting after section 8A the following new sections:

"REQUIREMENTS FOR CERTAIN INTERNAL AUDIT UNITS

"SEC. 8B. (a) Any internal audit unit established in a Federal entity shall be responsible for the conduct of audits and investigations of the programs and operations of such entity in accordance with the requirements of this section.

"(b) On or after the effective date of the Inspector General Act Amendments of 1985, any appointment to the position of internal audit unit head of a Federal entity shall be made by the entity head of such entity in accordance with the laws and regulations governing appointments in the civil service.

"(c) Within 180 days after the effective date of the Inspector General Act Amendments of 1985, the entity head of each Federal entity in which more than one internal audit unit has been established shall consolidate such units into a single internal audit unit.

"(d)(1) Except as provided in paragraph (2), the entity head of a Federal entity may transfer to an internal audit unit of such entity other units or components of such entity, or functions, powers, or duties of such units or components, if such entity head determines—

"(A) that such units, components, functions, powers, or duties are properly related to the functions of such internal audit unit; and

"(B) such transfer would further the purposes of this section.

"(2) An entity head may not transfer to an internal audit unit any program operating responsibilities.

"(e) Each internal audit unit head of a Federal entity shall report to and be under the general supervision of the entity head of such entity or, to the extent such authority is delegated, the officer next in rank below such entity head, but shall not report to, or be subject to supervision by, any other officer of such entity. Neither the entity head of such entity nor the officer next in rank below such entity head shall prevent or prohibit the internal audit unit head from initiating, carrying out, or completing any audit or investigation, or from issuing any subpena during the course of any audit or investigation.

"(f) If an internal audit head is removed from officer or involuntarily transferred to another position or location, the entity head concerned shall promptly communicate the reasons for any such removal or involuntary transfer to both Houses of Congress.

"(g)(1) The provisions of section 4 shall apply to the internal audit head of a Federal entity in the same manner as such provisions apply to an Inspector General of an establishment.

"(2) The provisions of section 5 shall apply to the internal audit unit head of a Federal entity and the entity head of a Federal entity in the same manner as such provisions apply to an Inspector General of an establishment and the head of an establishment, respectively.

"(3) The provisions of section 6 shall apply to the internal audit unit head of a Federal entity in the same manner as such provisions apply to an Inspector General of an establishment and the head of an establishment, respectively.

"(4)(A) The provisions of section 7 shall apply to an internal audit unit head of a Federal entity in the same manner as such provisions apply to an Inspector General of an establishment.

"(B) The provisions of section 7 shall apply to any employee of a Federal entity in the same manner as such provisions apply to an employee of an establishment.

"(h) For purposes of this section and section 8C:

"(1) The term 'entity head' means the director, administrator, president, chairman, or other chief officer of a Federal entity.

"(2) The term 'Federal entity' has the same meaning as is given to the term 'agency' in section 552(e) of title 5, United States Code, except that such term shall not include—

"(A) an establishment (as defined in section 11(2) of this Act);

"(B) the Executive Office of the President;

"(C) the Department of Justice;

"(D) the Department of the Treasury;

"(E) the Central Intelligence Agency;

"(F) the United States Postal Service;

"(G) the General Accounting Office; or

"(H) any entity in the judicial or legislative branches of the Government (including the Administrative Office of the United States Courts and the Architect of the Capitol and any activities under the direction of the Architect of the Capitol).

"(3) The term 'internal audit unit' means an office, unit, or other component of a Federal entity which carries out audits or investigations for the purpose of reviewing the progams and operations of such entity, but does not include an office, unit, or other component of such entity which carries out audits or investigations as an integral part of the programs or operations of such entity.

"(4) The term 'Interagency Committee' means the Inspector General Interagency Committee established under section 8C.

"(5) The term 'internal audit unit head' means the director or other chief officer of an internal audit unit.

"INSPECTOR GENERAL INTERAGENCY COMMITTEE

"SEC. 8C. (a) There is established the Inspector General Interagency Committee, which shall consist of five Inspectors General who are appointed under section 3 and who are designated by the President to serve on the Interagency Committee.

"(b)(1) The Interagency Committee shall conduct a study with respect to—

"(A) the extent and effectiveness of internal audit and investigative activities at Federal entities, with particular attention to Federal entities in which internal audit units have not been established; and

"(B) the most appropriate and efficient methods of assuring effective audits and investigations at Federal entities.

"(2) Within one year after the date of enactment of this section, the Interagency Committee shall prepare and transmit to the President and the Congress a report describing the findings of the study conducted under paragraph (1) and containing such recommendations as the Interagency Committee considers appropriate.

EFFECTIVE DATE

"SEC. 7. This Act and the amendments made by this Act shall take effect on January 1, 1986.

INSPECTOR GENERAL ACT AMENDMENTS OF 1986—SECTION-BY-SECTION ANALYSIS

SECTION 1

This section states the title of this bill: "The Inspector General Act Amendments of 1986."

SECTION 2

This section of the proposed amendments incorporates the Office of Inspector General of the Departments of Energy and Health and Human Services into the Inspector General Act of 1978, conforming their authorities and responsibilities to those of the other Inspector General (IG) offices established by the Act. Incorporating the IG offices of the Departments of Energy and Health and Human Services into the Inspector General Act of 1978 will eliminate the statutory position of Deputy Inspector General at both departments. This section also repeals the previous statutory provisions under which the offices of Inspector General at Energy and at Health and Human Services functioned, since they would now be covered by the Inspector General Act. In addition, references to the Community Services Administration Inspector General are deleted from the Inspector General Act because that agency was abolished in 1982.

SECTION 3

This section provides that all statutory Inspectors General will be compensated at the Executive Level IV rate, regardless of the agency in which they serve. Under present laws, statutory IGs are compensated at different rates even though their duties are essentially the same. The bill also provides that the statutory Deputy Inspector General at the Synthetic Fuels Corporation will be compensated at Executive Level V.

SECTION 4

This section authorizes Office of Inspector General personnel to administer oaths when necessary in the performance of their duties. During the conduct of investigations, it is often necessary for IG personnel to take voluntary sworn statements. Most IG offices have authority to administer oaths for this purpose but a few do not. This amendment makes the authority uniform and provides it for all IG offices. It would not authorize IG personnel to subpoena testimony.

SECTION 5

This section is a technical amendment to the semi-annual reporting requirements in the Inspectors General Act of 1978. The amendment provides that the Inspector General must identify each significant recommendation which remains unresolved and has been described in previous semiannual reports.

SECTION 6

This section provides authority and responsibilities for internal audit and investigation units in Federal entities not now covered by the Inspector General Act of 1978. The 1978 Act is amended to:

Consolidate in a single internal audit unit the conduct of audits and investigations in those Federal agencies having more than one audit office;

Provide that the internal audit unit head shall be appointed by the Federal entity head in accordance with civil service laws and regulations;

Insulate the internal audit unit from program operating responsibilities;

Require that the internal audit unit head report to the Federal entity head or the officer next in rank below such entity head;

Require that, if the internal audit unit head is removed from office or involuntarily transferred, the cognizant Federal entity head will report the reasons to both Houses of Congress;

Give the internal audit unit heads of such Federal entities the same authorities and responsibilities as the existing statutory Inspectors General with regard to (1) conduct, supervision, and coordination of audits and investigations, (2) preparation and submission of semiannual reports, (3) access to records, subpoena power and related authorities, and (4) receipt and investigation of complaints or information from Federal entity employees concerning waste, mismanagement, and possible violations of law;

Defines the terms used in this section, including "Federal entity" which is the same as "agency" as defined in section 552(e) of title 5, United States Code, but excludes departments and agencies already having a statutory Inspector General, the Justice and Treasury departments, the Central Intelligence Agency, the U.S. Postal Service, and legislative and judicial branch entities; and

Establishes an Inspector General Interagency Committee, consisting of five Inspectors General appointed by the President, to study and make recommendations regarding (1) the extent and effectiveness of audit and investigative activities at Federal entities and (2) the most appropriate and efficient methods of assuring effective audits and investigations at such entities.

SECTION 7

This section makes this Act, and the amendments made by this Act, effective January 1, 1986.●

By Mr. ROTH (by request):

S. 2006. A bill to amend the Contract Disputes Act of 1978 and title 31, United States Code, to facilitate the collection of claims against Federal Government contractors; to the Committee on Governmental Affairs.

CONTRACT DISPUTES AMENDMENTS

● Mr. ROTH. Mr. President, I am introducing, by request, the Contract Disputes Act Amendments of 1986. This bill makes certain technical amendments to the Contract Disputes Act of 1978 designed to eliminate needless litigation and expedite the claims settlement process.

The Contract Disputes Act is the basic statute governing the submission of contract claims to the Government and the resolution of disputes arising from such claims. Since its enactment in 1978, the administration has identified a number of relatively minor problems with the act which the legislation I am introducing today is designed to remedy.

This bill is one part of a series of eight bills which comprise the administration's antifraud enforcement initiative. This package, in turn, is one of several management legislative initiatives which the President outlined in a message to Congress—PM-71—on July 31, 1985.

I welcome the President's initiatives to strengthen the Government's ability to detect and prosecute fraud and this particular proposal to improve the operation of the Contract Disputes Act.

I ask unanimous consent that a copy of the bill and a section-by-section analysis be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 2006

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this

Act may be cited as the "Contract Disputes Amendments of 1986".

SEC. 2. The first sentence of section 6(a) of the Contract Disputes Act of 1978 (92 Stat. 2384; 41 U.S.C. 605(a)) is amended by inserting ", not later than 18 months after the dates on which the claims accrue," before "for a decision".

SEC. 3. Section 10(a)(3) of the Contract Disputes Act of 1978 (92 Stat. 2388; 41 U.S.C. 609(a)(3)) is amended by striking out "twelve months" and inserting in lieu thereof "90 days".

SEC. 4. The Contract Disputes Act of 1978 (92 Stat. 2383; 41 U.S.C. 601 et seq.) is further amended—

(1) by redesignating sections 15 and 16 as sections 16 and 17, respectively; and

(2) by inserting after section 14 the following new section 15:

"COLLECTION OF CLAIMS AGAINST CONTRACTORS; PROVISIONAL RELIEF

"SEC. 15. (a) If a contracting officer finds in a decision issued by the contracting officer under section 6(a) that a contractor owes the Government any amount under a contract or, in such a decision, requires performance under a contract, the contractor shall pay such amount to the Government or commence the required performance within the 90-day period beginning on the date the contractor receives such decision unless the contractor commences an appeal under section 7 or an action under section 10 within such period.

"(b) If a contractor fails to pay an amount owed the Government or to commence performance as required in subsection (a), the Government may file an action in an appropriate district court of the United States to recover the amount owed or to compel the required performance.

"(c)(1) Any appropriate district court of the United States may grant the Government provisional relief in the case of a decision made by a contracting officer under section 6(a) with respect to a claim of the Government against a contractor—

"(A) upon the petition of the Attorney General of the United States or a designee; and

"(B) if the court finds that there is a reasonable likelihood that the contractor will take an action which will hinder, delay, or frustrate any payment of the claim or any performance required in the contracting officer's decision with respect to the claim.

"(2) A petition for provisional relief may be filed under paragraph (1) at any time after the decision of the contracting officer referred to in such paragraph has been issued and without regard to whether the contractor referred to in such decision has commenced an appeal under section 7 or an action under section 10.

"(d) A decision of a contracting officer under section 6(a) and the procedures followed by a contracting officer in making such decision may not be reviewed by a court in an action to enforce such decision brought under subsection (b) or in an action for provisional relief brought under subsection (c).".

SEC. 5. Section 3716(c) of title 31, United States Code, is amended—

(1) by striking out "or" at the end of clause (1);

(2) by striking out the period at the end of clause (2) and inserting in lieu thereof a semicolon and "or"; and

(3) by inserting at the end thereof the following new clause (3):

"(3) a claim which is subject to the Contract Disputes Act of 1978 (92 Stat. 2383; 41 U.S.C. 601 et seq.).".

SEC. 6. (a) The amendment made by section 2 shall take effect with respect to claims accruing on or after the date of enactment of this Act.

(b) The amendments made by section 3 and 4 shall take effect with respect to decisions issued by contracting officers of the Federal Government under the Contract Disputes Act of 1978 on or after the date of enactment of this Act.

CONTRACT DISPUTES ACT AMENDMENTS OF 1986—SECTION-BY-SECTION ANALYSIS

Section 2 would amend 41 U.S.C. Sec. 605 to require contractors to submit all claims to a contracting officer for resolution within eighteen months of when they accrue. Currently, there is no deadline for submission and, therefore, contractors may wait years before requesting payment, thereby making adjudication of disputes much more difficult. An analogous provision applying to navy shipbuilding contracts was included in the 1985 DOD Authorization bill, P.L. 98-525, Sec. 1234, 98 Stat. 2604. (41 U.S.C. Sec. 605.)

Section 3 amends 41 U.S.C. Sec. 609 to clarify the statute of limitations for appeal of a contracting officer's decision. Currently, a contractor has 90 days to appeal the decision to a board of contract appeals, but has 12 months to appeal to the Court of Claims. This inconsistency of time periods would be eliminated by requiring either appeal to be made within 90 days. (41 U.S.C. Sec. 609.)

Section 4 adds a new section 15 to the Contract Disputes Act. Subsection (a) of new section 15 requires a contractor to pay any money which the contracting officer finds is owed the government within 90 days of the contracting officer's decision, unless an appeal is taken. Expressly providing that failure to take an appeal requires immediate payment should improve enforcement of such final judgments. Under subsection 15(b), the government would also be given the right to proceed in district court to collect such sums. Subsection 15(c) gives the government additional authority to seek injunctive relief to protect the assets of a contractor in the event that an award by the court to the government has not yet been paid pending appeal. (41 U.S.C. Sec. 605.)

Finally, subsection 15(d) makes clear that in a suit by the government to enforce such a judgment, the district court judge may not review the underlying decision of the contracting officer (since that was the decision which the contractor chose not to appeal). This amendment will clarify the law and prevent the contractor from relitigating issues in the enforcement proceeding which he failed to appeal in the underlying action on the merits.

Section 5 overturns a recent decision of the Armed Services Board of Contract Appeals, *DMJM/Norman Engineering Co.*, ASBCA No. 28154, 84-1 BCA 17,226, which held that the government must follow the procedures set forth in the Debt Collection Act before using its common law right of offset to collect amounts due. Under the accepted common law right of offset, the government has the right, as does any creditor, to offset money due it (e.g., pursuant to a prior court judgment) before paying a debt to a contractor. (No notice or due process is required for common law offset; all necessary rights were provided when the government adjudicated its underlying right to the money.)

Prior to the Norman Engineering decision, this right had been routinely used and never challenged. However, since enactment of the Debt Collection Act in 1982 and the more recent Norman Engineering decision, contractors have challenged this offset right, asserting that the government must follow the administrative offset provisions established in the Debt Collection Act, 31 U.S.C. Sec. 3716. These procedures include (1) notice of the claim and the intention to offset; (2) "an opportunity to inspect and copy the records of the agency related to the claim;" (3) an opportunity to review of the agency's decision relating to the claim; and (4) an opportunity to make a written agreement with the agency on the terms of repayment. Contractors made particular use of this theory to demand access to all records relating to the contract, in effect using it as a right of discovery. This amendment would ensure that the Debt Collection Act does not hinder government efforts to collect money due for inadequate contract performance. (31 U.S.C. Sec. 3716.)●

By Mr. ROTH (by request):

S. 2007. A bill to amend the Office of Federal Procurement Policy Act to provide authority to test innovative procurement methods and procedures; to the Committee on Governmental Affairs.

S. 2008. A bill to improve the Federal procurement system by providing an alternative, simplified procurement method for competitively negotiating procurements of less than $5 million; to the Committee on Governmental Affairs.

PROCUREMENT TEST ACT AND THE SIMPLIFIED COMPETITIVE ACQUISITION TECHNIQUE ACT

● Mr. ROTH. Mr. President, I am introducing, by request, two bills designed to simplify and improve the Federal procurement process. These bills were submitted to Congress by the Administration last year as part of the President's management legislative initiatives. (See PM-71, July 31, 1985.)

The first bill, the Simplified Competitive Acquisition Techniques Act of 1985, is designed to create a simplified, accelerated, competitive acquisition system for purchasing goods and services up to $5 million. This would shorten the time required for such purchases from 260 days to 85 days. The second bill, the Procurement Test Act of 1985, would grant the Director, Office of Management and Budget, additional authority to test innovative procurement methods and procedures, and would allow the Director to conduct the tests without regard to existing statutory restrictions.

Mr. President, I request unanimous consent that the bills, section-by-section analysis, and other accompanying materials furnished by the administration be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 2007

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Procurement Test Act of 1985."

SEC. 2. Sec. 15 of the Office of Federal Procurement Policy Act (41 U.S.C. 413) is amended to read as follows—

TEST OF INNOVATIVE PROCUREMENT METHODS AND PROCEDURES

(a) The Director of the Office of Management and Budget may develop innovative procurement methods and procedures to be tested by selected executive agencies. The innovative procurement methods and procedures tested under this section shall be consistent with the policies set forth in section 2. In developing any program to test innovative procurement methods and procedures under this section, the Director shall consult with the heads of executive agencies to ascertain the need for such programs. A program to test innovative procurement methods and procedures may not be carried out unless approved by the heads of the executive agencies selected to carry out such programs; such approval by the heads of the agencies shall not be unreasonably denied.

(b) Subject to the provisions of this section, the conducting of any programs to test innovative procurement methods and procedures shall not be limited by any lack of specific authority to take the action contemplated, or by any provision of law or any rule or regulation which would prohibit the conducting of the proposed testing program or any part of it.

(c) Before instituting any test program, the Director shall—

(1) develop a plan for such program which identifies, to the extent practicable—

(A) the purposes of the program;

(B) the executive agencies or components of executive agencies to carry out such program;

(C) the categories and types of products or services to be procured under such program;

(D) the procedures to be followed in conducting the program;

(E) the duration of the program;

(F) the methods to be used to analyze the results of the program;

(G) a description of any aspect of the program for which there is a lack of specific authority; and

(H) a citation to any provision of law, rule, or regulation which would prohibit the conducting of the program or any part of the program as proposed;

(2) publish the program in the *Federal Register;* and

(3) provide notification of the proposed program to each House of Congress at least 60 days in advance of the date any program proposed under this section is to take effect, setting forth the information required by subsection (c)(1)(A) through (H).

SEC. 3. This Act shall become effective 60 days after enactment and shall remain in effect for a period of 3 years.

PROCUREMENT TEST ACT OF 1985—SECTION-BY-SECTION ANALYSIS

This Act amends the Office of Federal Procurement Policy Act to provide authority to test innovative procurement methods and procedures without requiring separate congressional action. Current OFPP testing authority requires congressional action to waive statutes and discourages agencies from testing innovative methods which affect politically-sensitive statutes. This Act allows the Director of OMB to conduct the tests without regard to existing statutory restrictions and provides that the tests will not be limited by any specific lack of authority.

Section 1 states that this Act may be cited as the "Procurement Test Act of 1985".

Section 2 amends Section 15 of the Office of Federal Procurement Policy Act to provide a new and different authority for testing innovative procurement methods and procedures.

Paragraph (a) gives authority to the Director of OMB to develop innovative procurement methods and procedures to be tested by selected executive agencies. They must be consistent with the policies and procedures set forth in Section 2 of the OFPP Act. The Director is required to consult with the heads of the executive agencies to ascertain the needs for the test programs and to obtain the approval of the heads of the agencies selected to carry out the program before the program can be tested. It further provides that the approval of the testing authority by the heads of the agencies shall not be unreasonably denied.

Paragraph (b) provides that neither lack of authority nor a restrictive provision of law, rule or regulation will prevent conducting any program to test innovative procurement methods and procedures.

Paragraph (c) sets forth the contents of the plan which the Director must develop for each test program. These include:

(A) the purposes of the program;

(B) the executive agencies or components of executive agencies to carry out such program;

(C) the categories and types of products or services to be procured under such program;

(D) the procedures to be followed in conducting the program;

(E) the duration of the program;

(F) the methods to be used to analyze the results of the program;

(G) a description of any aspect of the program for which there is a lack of specific authority; and

(H) a citation to any provision of law, rule, or regulation which would prohibit the conducting of the program or any part of the program as proposed.

The program must be published in the *Federal Register,* and notification must be provided to each House of the Congress at least 60 days before the date the program is to take effect. The notice must set forth the information required by the plan.

Section 3 provides that the Act will become effective 60 days after enactment. It also provides that the testing authority is granted only for a 3-year period.

S. 2008

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Simplified Competitive Acquisition Technique Act of 1985."

DECLARATION OF POLICY

SEC. 2. (a) It is the policy of the Congress to promote economy, efficiency, and effectiveness in the procurement of goods and services by the executive branch of the Federal Government by establishing a simplified competitive acquisition technique, which may be used for acquisition, by competitive negotiation, of goods and services estimated to cost less than $5 million.

(b) The Simplified Competitive Acquisition Technique should be characterized by the following features:

(1) Full and open competition;

(2) A shortened acquisition cycle;

(3) Inclusion of the time schedule for the acquisition in the request for proposals;

(4) A clear, concise statement of work or product description;

(5) Synopsis in the Commerce Business Daily with shortened notice time periods, and notices published on an expedited basis in a separate section of the Commerce Business Daily;

(6) Limitations on length of requests for proposals, number of evaluation criteria, and length of offeror's technical proposal;

(7) Evaluation based strictly on evaluation criteria stated in the solicitation and limitations on discussions with offerors;

(8) Award on the basis of most advantageous offer to the Government, as certified by the contracting officer;

(9) Contracting officer as final selecting official, with such authority, responsibility, and accountability given only to highly qualified contracting officers;

(10) Procurement audit on a post-award basis; and

(11) Opportunity for resolution of protest by the contracting officer before filing protest with the Comptroller General.

FINDINGS AND PURPOSE

SEC. 3. (a) Congress finds that the procurement process has become overly complex, that too many procurements are noncompetitive, and that procurement authorities and responsibilities are fragmented and eroded.

(b) The Congress finds, therefore, that economy, efficiency and effectiveness in the procurement of goods and services by the executive agencies will be improved by establishing a new, simplified competitive acquisition technique for acquisition of goods and services estimated to cost less than $5 million.

(c) The purpose of this Act is to provide the legislative authority necessary to establish a simplified competitive acquisition technique.

PROCUREMENT NOTICE

SEC. 4. (a) Section 18 of the Office of Federal Procurement Policy Act (41 USC 416) is amended—

(1) By amending the first sentence in subsection (a)(3) to read as follows:

"Except as provided in paragraph (4), whenever an executive agency is required by paragraph (1)(A) to furnish a notice to the Secretary of Commerce, such executive agency may not—"; and

(2) By adding new paragraphs (4) and (5) at the end of subsection (a), to read as follows:

"(4) Whenever an executive agency conducts a procurement under the provisions of the 'Simplified Competitive Acquisition Technique Act of 1985' (P.L. ——) and the agency is required by paragraph (1)(A) to furnish a notice to the Secretary of Commerce, such executive agency may not—

"(A) Issue the solicitation earlier than 5 days after the date on which the notice is published by the Secretary of Commerce; and

"(B) Establish a deadline for the submission of all proposals in response to the notice required by paragraph 1(A) that is earlier than the date 15 days after the date the solicitation is issued.

"(5) The provisions of subsection (a)(4) shall not apply to procurements which are subject to agreement under the Trade Agreements Act of 1979 (19 USC 2511-2518)."

(b) Section 8 of the Small Business Act (15 USC 637) is amended—

(1) By amending the first sentence in subsection (e)(3) to read as follows:

"Except as provided in paragraph (4), whenever an executive agency is required by paragraph (1)(A) to furnish a notice to the Secretary of Commerce, such executive agency may not—"; and

(2) By adding new paragraphs (4) and (5) at the end of subsection (e), to read as follows:

"(4) Whenever an executive agency conducts a procurement under the provisions of the 'Simplified Competitive Acquisition Technique Act of 1985' (P.L. ——) and the agency is required by paragraph (1)(A) to furnish a notice to the Secretary of Commerce, such executive agency may not—

"(A) issue the solicitation earlier than 5 days after the date on which the notice is published by the Secretary of Commerce; and

"(B) Establish a deadline for the submission of all proposals in response to the notice required by paragraph 1(A) that is earlier than the date 15 days after the date the solicitation is issued.

"(5) The provisions of subsection e(4) shall not apply to procurements which are subject to agreements under the Trade Agreement Act of 1979 (19 U.S.C. 2511-2518)."

(c) Nothing in this Act shall relieve the contracting officer of responsibility for programs under the Small Business Act other than that covered by section 8(e) (3) and (4).

PROCUREMENT PROTEST SYSTEM

SEC. 5. Title 31 of the United States Code is amended—

(a) By adding at the end of Section 2552 the following paragraph:

"Protests against procurements conducted under the 'Simplified Competitive Acquisition Technique Act of 1985' (P.L. ——) shall be filed first with the agency contracting officer; nothing in this section shall affect the right of the interested party to file a protest with the Comptroller General or to file a protest with the General Services Board of Contract Appeals under section 111(h) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 759(h)) after the agency contracting officer has issued a decision on the protest."

(b) By amending the first sentence of Section 3556 to read as follows:

"This subchapter does not give the Comptroller General exclusive jurisdiction over protests, and nothing contained in this subchapter shall affect the right of any interested party to file a protest with the contracting agency (except that protests against procurements conducted under the 'Simplified Competitive Acquisition Technique Act of 1985' (P.L. ——) shall be filed first with the agency contracting officer) or to file an action in a district court of the United States or the United States Claims Court."

AUTOMATED DATA PROCESSING DISPUTE RESOLUTION

SEC. 6. Section 111 of the Federal Property and Administrative Services Act of 1949 (40 USC 759) is amended—

(a) By adding at the end of subsection (h)(1) the following sentence:

"Protests against procurements conducted under the 'Simplified Competitive Acquisition Technique Act of 1985' (P.L. ——) shall be filed first with the agency contracting officer; nothing in this subsection shall affect the right of the interested party to file a protest with the board under this subsection or to file a protest with the Comptroller General after the agency contracting officer has issued a decision on the protest."

(b) By amending the last sentence of subsection (h)(6)(C) to read as follows:

"In addition, nothing contained in this subsection shall affect the right of any interested party to file a protest with the contracting agency (except that protests against procurements conducted under the 'Simplified Competitive Acquisition Technique Act of 1985' (P.L. ——) shall be filed first with the agency contracting officer) or to file an action in a district court of the United States or the United States Claims Court."

PREAWARD AUDIT

SEC. 7. Notwithstanding any other provision of law, agencies shall not obtain a preaward audit for procurements conducted under the provisions of the "Simplified Competitive Acquisition Technique Act of 1985" (P.L. ——).

EFFECTIVE DATE

SEC. 8. This Act shall take effect 120 days after enactment.

A PROPOSAL TO IMPROVE FEDERAL ACQUISITION

IMPORTANCE OF FEDERAL ACQUISITION

Government acquisition is big business. In FY 1984, over $180 billion was spent directly by Federal agencies to purchase goods and services. Further, Government agencies and industry spent additional billions in administrative activities related to these purchases. Because of the large sums involved, the efficiency, economy, and effectiveness of the Government's acquisition system has a significant impact on the Nation's overall productivity and well-being.

BACKGROUND

The acquisition system that has evolved over the years has become increasingly complex and unwieldy. To be effective, acquisitions must be performed in a businesslike manner, with the foremost objective being the timely acquisition of needed goods and services at the lowest reasonable prices. This end result must be stressed, otherwise, the protests, disputes, delays, and unnecessary expenses now being incurred by both the Government and the business community will continue.

The Federal acquisition system has been studied often during the past two decades, and steps have been taken to improve it. Many of these improvement efforts have been successful. The system, however, remains cumbersome, with a myriad of built-in checks and balances causing undue delays without sufficient corresponding benefits. Many of the same problems have persisted for years; e.g.:

1. *Acquisitions Take Too Long.* The acquisition process is so complex that users of products and services sometimes do not get what they need when they need it. While the time required to process a specific acquisition varies with the procedures used and the type of product or service required, administrative lead-times of 27-to-37 weeks are not uncommon for acquisitions in the $1-$5 million range. Such long lead-times add to the uncertainty, risk, and expense of contracts.

2. *Too Many Acquisitions Are Non-Competitive.* Non-competitive acquisitions are usually faster (but often more expensive) than competitive actions. If a product or service is needed in less than the normal lead-time of 27-37 weeks, the acquiring agency often decides to sacrifice competition to obtain timely delivery. Over 53 percent of the FY 84 contract outlays ($96 out of $182 billion) was awarded on a non-competitive basis. While time was not the only factor contributing to this large percentage of non-competitive awards, it was a major factor.

3. *Authorities and Responsibilities Are Fragmented.* Over the years, the authorities and responsibilities of the Government's contracting officers have been eroded. These authorities and responsibilities have been weakened, to a large extent, by excessive or duplicative management reviews and approvals. In many organizations, the flow of acquisition authority and responsibility is not clear, and there is often a lack of accountability for results.

RECENT LEGISLATION

Competition has been, and continues to be, the keystone of the Federal acquisition process. Much new legislation has been passed in the last 2 years aimed at enhancing competition. Specific statutes enacted during 1984 alone include: (1) the Competition in Contracting Act of 1984 (Public Law 98-369, July 18, 1984); (2) the Defense Procurement Reform Act of 1984 (Public Law 98-525, October 19, 1984); and (3) the Small Business and Federal Procurement Competition Enhancement Act of 1984 (Public Law 95-577, October 30, 1984). These statutes contain specific requirements for enhancing competition by mandating actions dealing with acquisition planning, competition advocates, breakout acquisition center representatives, and pre-qualification of sources. While these actions will improve competition, they will not specifically address the problems concerning long procurement lead-times and the fragmentation and erosion of the contracting officer's authorities. A new method is needed to help solve these problems.

NEW METHOD

The new contracting method proposed herein—Simplified Competitive Acquisition Technique (SCAT)—is premised on changing the basic thrust of present procurement management philosophy; i.e., away from managing the acquisition process to focusing on end results. The acquisition process is now micromanaged in many agencies and departments without concomitant beneficial results. SCAT will not replace good planning but it will help provide for an efficient, economical, and effective process with adequate management controls and safeguards resulting from the following key features: competition, responsiveness, wide applicability, and accountability. It is emphasized that the attached legislative proposal encompasses only a part of the SCAT system. To the extent that the SCAT system is not dealt with in the legislative proposal, it will be dealt with in the context of the regulatory process.

Competition. SCAT contracts will be 100 percent competitive; i.e., the SCAT method of contracting is proposed for use only where it is anticipated that two or more acceptable offers will be received.[1] If only one offer is received in response to a SCAT notice in the Commerce Business Daily (CBD), the contracting officer will be required to either synopsize again and follow

[1] Small business set-asides are competitive, and SCAT will not adversely affect agencies' decisions to set-aside procurements.

the present system or document the justification for continuing under SCAT by providing a copy of the justification to the activity's competition advocate or to the agency head, in accordance with Sec. 2711, P.L. 98-369.

Responsiveness. The SCAT process is designed to shorten the acquisition cycle to 10-to-12 weeks. If longer lead-times are needed to achieve specific objectives, the normal 27-to-37-week cycle should be followed. SCAT will save time primarily by simplifying and shortening the evaluation-source selection process. The process now consumes approximately 150 days of the normal 260-day lead-time. This process is administratively controllable and, under SCAT, will be shortened to approximately 30 days.

Applicability. SCAT is not designed for all acquisitions. It is intended primarily for selected acquisitions of supplies and services costing between $25,000 and $5 million where competitive negotiations are used. These acquisitions account for some 300,000 contracting actions per year and result in annual outlays in excess of $54.5 billion.

Accountability. One of the main ways to assure that the Government's acquisition function is efficient, effective, and relatively free of fraud, waste, and abuse is to give the Government's contracting officers sufficient authority to do their job and then hold them accountable for results. This requires the highest level of professionalism and the removal of unnecessary clearance and organizational constraints that have been imposed on the contracting officers. SCAT acquisitions will be administratively simplified and competent contracting officers given the latitude to conduct the Government's contracting in a businesslike manner.

OTHER SPECIFIC FEATURES OF SCAT

Acquisition Planning. SCAT acquisitions will be conducted in accordance with a plan and schedule. The schedule for issuing the RFP and awarding the contract shall be included in the CBD notice announcing the proposed SCAT acquisition.

Clear Statements of Work and Product Descriptions. Statements of work for services and specifications for products will be clear and concise. Commercial item descriptions will be used rather than Federal specifications if the solicitation is for a commercial or commercial-type product. Statements of work and/or product descriptions will be prepared by the program office and will be carefully checked and "scrubbed." SCAT will not be used unless the work to be performed or the product to be acquired can be described in a clear and concise manner.

Increased Small Business Participation. It is anticipated that more small businesses will compete as a result of straight-forward work statements, simplified proposal formats, and substantially faster awards. Many acquisitions conducted under present procedures require the offeror to expend many staff hours in preparing complex, extensive, and costly proposals. As a result, many small business contractors do not compete because they lack the resources for preparation of such proposals and are unable to retain technical personnel during lengthy acquisition cycles. The simplified proposal format and product description and/or work statement under SCAT will help solve this problem.

CBD Announcements. The CICA presently requires 15 days advance notice in the CBD prior to issuing a solicitation and a minimum of 30 days between issuance of the solicitation and the deadline for the receipt of offers. If authorized by Congress, these intervals will be shortened for SCAT acquisitions to 5 and 15 days, respectively. All notices of proposed SCAT acquisitions and synopses of SCAT requirements will be highlighted in a new proposed section of the CBD. Oral requests for SCAT Solicitations will be honored. International trade agreement procurements will continue to grant 30 days for proposal preparation.

Limitation on Length of RFPs. RFPs will not normally exceed 20 pages. Except in very unusual circumstances, they will contain no more than 25 pages. The RFPs will be clearly written and "boilerplate clauses" will be incorporated by reference and furnished to offerors only if requested. Each RFP will contain an "Executive Summary" explaining the salient characteristics of the acquisition, including the evaluation factors. Evaluation criteria will be limited to five or fewer factors and listed in relative order of importance. Extensive subcriteria will not be used.

Limitation on Length of Offerors' Technical Proposals. Offerors' technical proposals will be limited to 15 pages, exclusive of required resumes. Each technical proposal will contain an Executive Summary (2 pages); a statement of the offeror's understanding of the problem and proposed approach for resolving it (5 pages); a management plan (4 pages); a description of past relevant experiences (3 pages); and a listing of key personnel (1 page). These page allocations may vary depending on the nature of the acquisition, but the 15-page limit will be standard.

Limitation of Length of Cost/Price Proposals. Cost/price proposals will normally be limited to the data required by the appropriate standard forms.

Evaluation of Offers. Offers will be evaluated and ranked in strict adherence to the evaluation criteria stated in the RFP. Award may be made on the basis of offers, as submitted. If there are issues that preclude award on this basis, the submitters of the top proposals (no more than three) may be scheduled for oral discussions. If a pre-award survey is required, it shall be conducted concurrently during the source selection process. Only one discussion will be conducted with each offeror. At the end of the oral discussions, which shall be started and completed within 1 week, a best and final offer (BAFO) will be solicited. The technical section of the BAFO should not exceed 4 pages. Generally, there will be no further discussion after receipt of BAFOs, except for negotiations with the offeror selected for award.

Selecting Authority. The contracting officer will be the final selecting official. The SCAT may only be used by highly qualified contracting officers. Each contracting officer using SCAT must be authorized, in writing, by his or her agency. Contracting officers will be held strictly accountable for proper performance under SCAT. This includes actions relating to the acquisition process, as well as business judgments relating to the award of the contract. When SCAT is used, authority, responsibility, and accountability will be centralized in one person—the contracting officer.

Awards. Offers will be selected for award on the basis of the evaluation criteria and in accordance with the best value to the Government concept. In all cases, the contracting officer will be required to certify that the selected offer represents the best value to the Government. Any difference between the selected offer and acceptable but lower-priced offers must be justified in writing by the contracting officer, accompanied by a certification by the program official establishing the Government's need for the technical superiority of the selected firm's proposal. Award will not be delayed pending audits. Pre-award audit will not be performed for SCAT procurements. If the contracting officer determines that an audit is required, it will be performed on a post-award basis. Current statutory requirements for obtaining certified cost and pricing data will continue.

Protest and Debriefings. Offerors will be required to file any protests under SCAT acquisitions with the contracting officer. The contracting officer will attempt to resolve all pre-award protests prior to the contract award, and all post-award protest within 10 days of receipt. If the contracting officer does not resolve protests to the offeror's satisfaction, the offeror will follow the normal bid protest procedures. All offerors requesting debriefings will be given thorough and detailed explanations as to why their offer(s) were not accepted for a SCAT award.●

By Mr. ROTH (by request):

S. 2009. A bill to authorize the Secretary of the Treasury to issue regulations to require that wages and salaries of Federal employees be paid by electronic funds transfer or any other method determined by the Secretary to be in the interest of economy or effectiveness, with sufficient safeguards over the control of, and accounting for, public funds; to the Committee on Governmental Affairs.

ELECTRONIC FUNDS TRANSFER FEDERAL SALARY ACT

● Mr. ROTH. Mr. President, I am introducing, by request, a bill to authorize the Secretary of the Treasury to issue regulations to require that wages and salaries of Federal employees be paid by electronic funds transfer. This is one of the management legislation initiatives addressed in the President's July 31, 1985, message to the Congress on management improvement.

The purpose of this bill is to improve operating efficiency, increase productivity, reduce the costs associated with the current methods, and to ensure that Federal salaries and wage payments are delivered to the recipient on time. Currently, it costs Treasury 24 cents for each issued salary and wage check, while the same payment made by electronic funds transfer methods costs 3 cents. It is expected that approximately $10.8 million annually will be saved through enactment of this bill.

According to the Treasury Department, conversion of Federal salary and wage payments to electronic funds transfer methods will eliminate lost, forged, or stolen checks and the attendant costs associated with issuance of new payments. Use of the electronic funds transfer payment method will afford employees an earlier access to their banked payments.

Treasury is aware that some Federal employees have assignments which preclude use of the electronic funds

transfer payment method. The Department is also sensitive to the fact that some employees may not have bank accounts. Regulations will be prepared to address these concerns and, through regulations, the Secretary will have sufficient discretion to permit checks to continue to be used for some categories of wage and salary payment and when individual circumstances indicate the best method of payment is a check. In this regard, Treasury will work closely with affected employees and their representatives to ensure that no one is unfairly disadvantaged.

Treasury believes that this legislation will receive the support of the private sector financial community.

Mr. President, I request unanimous consent that the bill and accompanying section-by-section analysis be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 2009

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

SECTION 1. This Act may be cited as the "Electronic Funds Transfer Federal Salary Act".

SAFE, ECONOMICAL, EFFECTIVE PAYROLL ADMINISTRATION

SEC. 2. Section 3332 of title 31, United States Code, is amended by striking subsections (a), (b), (c), (d), and (e) and substituting the following subsections (a), (b), (c), and (d) in lieu thereof:

"(a) In this section, "financial organization" means a bank, savings and loan association, a credit union chartered by the United States Government or a State, or a similar institution.

"(b)(1) Notwithstanding any other provision of law, the Secretary of the Treasury may issue regulations requiring that, where he determines it to be practicable, wages and salaries of any or all employees of an agency be paid by electronic funds transfer or any other method determined by the Secretary to be in the interest of economy or effectiveness, with sufficient safeguards over the control of, and accounting for, public funds.

"(2) Such regulations shall require covered employees to designate the financial organization to receive payments of their wages and salaries.

"(3) The head of each employing agency shall include in certifications of payments of wages and salaries information required by the Secretary about the financial organization chosen by the agency's employees.

"(4) The Secretary shall not charge financial organizations any fees in connection with payments made in accordance with this section.

"(5) Financial organizations shall not charge agency employees for handling payments made in accordance with this section.

"(6) The Secretary may, upon request by an employee who was employed by the United States Government on the effective date of this section and whose annual rate of basic pay is less than twenty thousand dollars, exempt such employee from the requirements of this section.

"(c) Payment of an amount by the United States by methods authorized pursuant to subsection (b) or (d) of this section, and accepted by a financial organization, shall constitute full acquittance of the United States for that amount.

"(d) On the written request of a person to whom payment of other than wages and salaries is to be made, the payment may be made using any method authorized by the Secretary pursuant to this section.".

SEC. 3. Section 3332 of title 31, United States Code, is further amended by redesignating subsection (f) as subsection (e) and by striking "The" in the first sentence of subsection (e) (as so redesignated) and inserting in lieu thereof "Notwithstanding subsection (b)(1) of this section, the".

EFFECTIVE DATE

SEC. 4. This Act shall become effective on October 1, 1986.

SECTION-BY-SECTION ANALYSIS

Section 1. This section gives the legislation the popular name the "Electronic Funds Transfer Federal Salary Act."

Section 2. Subsection (a) of § 3332, which defines "financial organization," is revised to clarify that "similar institution" is an inclusive term and not restricted to "savings and loan association."

New subsections (b), (c), and (d) of § 3332 are substituted for current provisions (b) through (e). The former subsection (b) authorized the head of an employing agency, upon an officer's or employee's request, to make allotments of pay, on the officer's or employee's behalf, to not more than three financial organizations.

New subsection (b) authorizes the Secretary of the Treasury to issue regulations requiring that, where he determines it to be practicable, wages and salaries of any or all agency employees be paid by electronic funds transfer or any other method determined by the Secretary to be economical, effective, and safe. Such employees will be asked to designate financial organizations to receive payments of their wages and salary. Ample authority for allotments of pay is now and would continue to be provided by 5 U.S.C § 5525. See also, 38 U.S.C. 701 et seq. Heads of employing agencies will be obliged to include in their certifications of employees' pay the information necessary to make payments by the method determined by the Secretary of the Treasury. New subsection (b) also retains the affirmative statement added to 31 U.S.C § 3332 by its most recent amendment, section 2814 of Public Law 98-369, that the Government shall not charge financial organizations for their handling of direct deposit payments. Subsection (b)(6) provides that the Secretary may, if a person who is employed by the United States Government on the effective date of this Act and whose annual rate of basic pay is less than twenty thousand dollars so requests, permit that person to be paid by check.

Old subsection (c) which authorized the issuance of composite checks is eliminated. (To the extent that the Secretary of the Treasury determines that composite check payments are economical, effective, and safe, this authority is retained in new subsection (b).) New subsection (c) is analogous to old subsection (d). Both provide a rule of law that the Government is acquitted of its debt to the officer or employee to whom payment is due when the statutorily authorized transfer to the financial institution is made.

New subsection (d) merely restates old subsection (e). The restatement preserves the authority of the Secretary of the Treasury to determine the method of any payment when the payee's consent is obtained.

Section 3. Subsection (c) of § 3332 reserves for the Senate and the House their existing authority to issue their own regulations to implement the direct deposit program. The Secretary of the Treasury will issue the regulations for all other agencies to carry out this program.

Section 4. The Act will be effective on October 1, 1986. Additional time, if needed, will be provided for in the regulations that are authorized by the Act.●

By Mr. ROTH (by request):

S. 2010. A bill to eliminate or change statutory requirements preventing the reduction of paperwork burdens and regulatory simplification; to the Committee on Governmental Affairs.

PAPERWORK AND REGULATORY SIMPLIFICATION ACT

● Mr. ROTH. Mr. President, I am introducing, by request, the Paperwork and Regulatory Simplification Act of 1985, a bill designed to modify or streamline existing laws regarding information collection and regulation. This bill was submitted to Congress by the administration last year as part of the President's management legislative initatives. (See PM-71, July 31, 1985.)

This bill is intended to eliminate or change a number of statutory provisions requiring executive branch agencies to impose information collections on the public and to issue regulations. The Office of Management and Budget advises that these provisions are now either obsolete or no longer serve useful purposes. This bill is Governmentwide in scope in that statutory provisions administrated by a number of departments and agencies are being processed for change or elimination. The bill represents the administration's first attempt to seek such changes on a Governmentwide basis. According to OMB, the provisions contained in the bill will, if enacted, result in improvement in overall Government efficiency and will eliminate unnecessary burdens on the public. As the administration continues its activities under the Paperwork Reduction Act, it expects to identify statutory requirements that impose unnecesary burdens on the public, and will bring these to the attention of the Congress.

Examples of existing statutory provisions affected by this legislation include a decennial census of drainage, the establishment of a standard barrel of apples, restrictions on for-profit organization receiving Federal grants or contracts, and a requirement that wholesale liquor dealers post a sign outside their business premises.

I request unanimous consent that the bill and accompanying section-by-section analysis be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 2010

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act be cited as the "Paperwork and Regulatory Simplification Act of 1985."

DEPARTMENT OF COMMERCE

SEC. 101. (a)(1) Section 142 of title 13, United States Code, is amended—

(A) By striking our "Agriculture, irrigation, and drainage" in the heading of such section and inserting in lieu thereof "Agriculture and irrigation"; and

(B) By striking our "and drainage" from subsection (b) of such section.

(2) The table of contents for title 13, United States Code, is amended—

(A) By striking "DRAINAGE" from the item pertaining to subchapter II of Chapter 5 of such title; and

(B) By striking our ", irrigation, and drainage" from the item pertaining to Section 142 of such title and inserting in lieu thereof "and irrigation".

(3) The heading of subchapter II of Chapter 5 of title 13, United States Code, is amended by striking out "DRAINAGE,".

(b)(1) Section 1 of the Act of August 3, 1912, (15 U.S.C. 231) is repealed.

(2) Section 4 of the Act of August 3, 1912, (15 U.S.C. 232) is repealed.

(3) Section 6 of the Act of August 3, 1912, (15 U.S.C. 233) is repealed.

(c)(1) Section 1 of the Act of March 4, 1915, (15 U.S.C. 234) is repealed.

(2) Section 2 of the Act of March 4, 1915, (15 U.S.C. 235) is repealed.

(3) Section 3 of the Act of March 4, 1915, (15 U.S.C. 236) is repealed.

(d)(1) Section 1 of the Act of August 23, 1916, as amended (15 U.S.C. 237) is repealed.

(2) Section 2 of the Act of August 23, 1916, as amended (15 U.S.C. 238) is repealed.

(3) Section 3 of the Act of August 23, 1916, as amended (15 U.S.C. 239) is repealed.

(4) Section 4 of the Act of August 23, 1916, as amended (15 U.S.C. 240) is repealed.

(5) Section 5 of the Act of August 23 1916, as amended (15 U.S.C. 241) is repealed.

(6) Section 6 of the Act of August 23, 1916, as amended (15 U.S.C. 242) is repealed.

(e)(1) Section 402 of the Federal Property and Administrative Services Act of 1949, (40 U.S.C. 512 (a)(1)), is amended by striking "; but in no event shall any property be sold without a condition forbidding its importation into the United States, unless the Secretary of Agriculture (in the case of any agricultural commodity, food, or cotton or woolen goods) or the Secretary of Commerce (in the case of any other property) determines that the importation of such property would relieve domestic shortages or otherwise be beneficial to the economy of this country", and inserting instead a comma.

(2) The amendment made by this subsection shall take effect 90 days following the date of enactment of this Act.

(3) Applications pending before the Secretary of Commerce of the Secretary of Agriculture on, or received after, the date of enactment for authorization to import such property under Section 402 shall be returned without action and applicants shall be informed in writing that authorization is no longer required after the date of enactment.

(4) The amendments made by the subsection shall not affect any civil or criminal proceeding instituted by the Government prior to the date of enactment.

DEPARTMENT OF EDUCATION

SEC. 102. (a) Section 406(h) of the General Education Provisions Act (20 U.S.C. 1221e-1(h)) is repealed.

(b) Section 400A of the General Education Provisions Act (20 U.S.C. 1221-3) is repealed.

DEPARTMENT OF ENERGY

SEC. 103. (a)(1) Section 30 of the Federal Power Act (16 U.S.C. 823a) is amended to read as follows:

"SEC. 30. (a) Except as provided in subsection (b) or (c) of this section, by rule or order the Commission may grant an exemption in whole or in part from the requirements of this part, including licensing requirements, to any facility constructed, operated, or maintained for the generation of electric power, if the exemption is consistent with the public interest and safety and granted in order to simplify, promote, and expedite the development of a hydroelectric power project.

"(b) The Commission may not grant an exemption under subsection (a) to any facility where installed capacity exceeds 15 megawatts.

"(c) In making the determination under subsection (a) of this section the Commission shall consult the United States Fish and Wildlife Service and the State agency with administrative jurisdiction over the fish and wildlife resources of the State in which the project is or will be located on a project specific basis and in the manner provided by the Fish and Wildlife Coordination Act, and shall include in any exemption authorized subsection (a) of this section—

"(1) the terms and conditions as the United States Fish and Wildlife Service and the State agency each determine are appropriate at each proposed project to prevent loss of or damage to fish and wildlife resources from site specific and cumulative impacts and to otherwise carry out the purposes of the Fish and Wildlife Coordination Act, and

"(2) such additional terms and conditions the Commission determines appropriate to insure that the project continues to comply with the provisions of this section and terms and conditions included in an exemption issued under subsection (a) of this section.

"(d) A violation of a term or condition of an exemption granted under subsection (a) of this section shall be treated as a violation of a rule or order of the Commission under this Act."

(2) Section 405(d) of the Public Utilities Regulatory Policy Act (16 U.S.C. 2705(d)) is repealed.

(3) The regulations established under Section 30 of the Federal Power Act (16 U.S.C. 823a) and section 405(d) of the Public Utilities Regulatory Policy Act (16 U.S.C. 2705(d)) as they existed before the passage of this Act shall remain in effect until modified or revoked by the Commission.

(4) Exemptions previously granted by the Commission under section 30 of the Federal Power Act (16 U.S.C. 823a) and Section 405(d) of the Public Utilities Regulatory Policy Act (16 U.S.C. 2705(d)) remain in effect under the conditions previously established by the Commission.

(b) Section 11 of the Energy Supply and Environmental Coordination Act of 1974 (15 U.S.C. 796) is amended by striking the last sentence of subsection (a).

(c) Section 25 of the Federal Energy Administration Act of 1974 (15 U.S.C. 784) is repealed.

(d) Section 133 of the Public Utility Regulatory Policies Act of 1978 (16 U.S.C. 2643) is repealed and the table of contents is amended by striking the item relating to section 133.

(e) Section 208 of the Public Utility Regulatory Policies Act of 1978 (16 U.S.C. 824d(f) is repealed and the table of contents is amended by striking the item relating to section 208.

(f) Section 211 of the Public Utility Regulatory Policies Act of 1978 (16 U.S.C. 825d(c) and 825d(c) note) is repealed and the table of contents is amended by striking the item relating to section 211.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

SEC. 104. (a)(1) Section 2(b)(4) of the Child Abuse Prevention and Treatment Act (42 U.S.C. 5101(b)(4)) is amended by striking out the word "nonprofit".

(2) Section 4(a) of such Act (42 U.S.C. 5103(a)) is amended in the matter preceding paragraph (1) by striking out the word "nonprofit".

(3) Section 203 of the Child Abuse Prevention and Treatment and Adoption Reform Act of 1978 (42 U.S.C. 5113) is amended by striking out the word "nonprofit" wherever it appears therein.

(b)(1) Section 426(a)(1)(A) of the Social Security Act (42 U.S.C. 626(a)(1)(A)) and Section 426(a)(1)(C) of such Act (42 U.S.C. 626(a)(1)(C)) are amended by striking out the word "nonprofit" wherever it appears therein.

(2) Section 426(a)(2) of such Act (42 U.S.C. 626(a)(2)) is amended by striking out "public and".

(c)(1) Section 102(3) of the Development Disabilities Assistance and Bill of Rights Act (42 U.S.C. 6001(3)) is repealed.

(2) Section 102(10) of such Act (42 U.S.C. 6001(10)) is amended by striking out the word "nonprofit" and inserting instead "private".

(3) Section 103(c) of such Act (42 U.S.C. 6002(c)) is amended by striking out the word "nonprofit".

(4) Section 133(b)(3)(B) of such Act (42 U.S.C. 6063(b)(3)(B)) is amended by striking out the word "nonprofit".

(5) Section 145(a) of such Act (42 U.S.C. 6081(a)) is amended by striking out the word "nonprofit".

(d) Section 507(c) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 357) is amended by striking out the third sentence.

(e)(1) The Filled Milk Act (21 U.S.C. 61-64) is repealed.

(2) Section 902(c) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 392(b)) is amended by striking out "the Filled Milk Act of March 4, 1923 (21 U.S.C. 61 et seq.);".

(f) Subsection (c) of section 708 of the Public Health Service Act (42 U.S.C. 292h) is repealed and subsections (d), (e) and (g) of such section are redesigned as subsections (c), (d) and (e), respectively.

(g) Section 304(b)(1) of the Public Health Service Act (42 U.S.C. 242b(b)(1)) is amended by striking out the word "nonprofit".

(h) Section 1906(b)(2) of the Public Health Service Act (42 U.S.C. 300w-5(b)(2)) is amended by striking out the word "annually" and inserting instead "biennially".

(i) Section 1906(a)(1) of the Public Health Service Act (42 U.S.C. 300w-5(a)(1)) is amended by striking out "the Secretary determines (after consultation with the States and the Comptroller General)" and inserting instead "the State determines".

(j) Section 1917(a) of the Public Health Service Act (42 U.S.C. 300x-5(a)) is amended

by striking out "the Secretary determines (after consultation with the States and the Comptroller General)" and inserting instead "the State determines".

(k) Section 1904(b) of the Public Health Service Act (42 U.S.C. 300w-3(b)) is amended—

(A) by adding the word "or" at the end of paragraph (3),

(B) by substituting a period for ", or" at the end of paragraph (4), and

(C) by striking out paragraph (5).

(l)(1) Section 318(a) and 318(b) of the Public Health Service Act (42 U.S.C. 247c(a) and 247c(b) are amended by striking out the word "nonprofit".

(2) Section 2002(a)(3) of the Public Health Service Act (42 U.S.C. 300z-1(a)(3)) is amended by striking the word "nonprofit".

(m) Section 1861(z) of the Social Securty Act (42 U.S.C. 1395x(z)) is amended by striking out paragraph (2).

(n) Section 1876(h)(4)(A) of the Social Security Act (42 U.S.C. 1395mm(h)(4)(A)) is amended by striking out "in an independently certified financial statement".

(o) Section 1881(b)(1) of the Social Security Act (42 U.S.C. 1395rr(b)(1)) is amended by striking out the last sentence.

(p)(1) Section 1882(b)(1)(A) of the Social Security Act (42 U.S.C. 1395ss(b)(1)(A)) is amended by inserting ", except that a policy may provide benefits solely to supplement the benefits provided under part B" before the semicolon.

(2) Section 1882(c)(1) of such Act (42 U.S.C. 1395ss(C)(1)) is amended by inserting ", except that the policy (or policies issued in conjunction with one another) may provide benefits solely to supplement the benefits provided under part A or solely to supplement the benefits provided under part B" before the semicolon.

(q) Section 402(a)(1) of the Social Security Amendments of 1967 (42 U.S.C. 1395b-1(a)(1)) is amended in the first sentence by striking out the word "nonprofit".

(r) Section 1910(c)(2) of the Social Security Act (42 U.S.C. 1396i(c)(2)) is amended in the first sentence by striking out "a hearing by the Secretary to the same extent as is provided in section 205(b)" and inserting instead "a hearing on the record before an official designated by the Secretary at which the entity is entitled to be represented by counsel".

(s) Section 803 of the Native American Programs Act of 1974 (42 U.S.C. 2991b) is amended by striking out "nonprofit private agencies" and inserting instead "private entities".

(t)(1) Section 313 of the Runaway and Homeless Youth Act (42 U.S.C. 5713) is amended in the first sentence by striking out "nonprofit private agency" and inserting instead "private entity".

(2) Section 314 of that Act (42 U.S.C. 5714) is amended in the first sentence and in the caption by striking out "nonprofit private agencies" and inserting instead "private entities".

(u) Section 2001 of the Social Security Act (42 U.S.C. 1397) is amended—

(1) by striking out "and" at the end of clause (4),

(2) by striking out the comma at the end of clause (5) and inserting instead "; and", and

(3) by adding after and below clause (5) the following new clause: "(6) alleviating poverty,".

(v)(1) Notwithstanding any other provision of law, upon application under this title by an Indian tribe the Secretary of Health and Human Services (hereafter in this title "the Secretary") shall consolidate the grants made by that Department directly to an Indian tribe under title XX of the Social Security Act, and under the Low-Income Home Energy Assistance Act of 1981.

(2) Any consolidated grant for any Indian tribe shall not be less than the sum of the separate grants which that tribe would otherwise be entitled to receive for such fiscal year.

(3) The funds received under a consolidated grant shall be expended for the programs and purposes authorized under any or all of the grants which are being consolidated, in accordance with all conditions and requirements which would be applicable to grants for those programs and purposes in the absence of the consolidation, but each Indian tribe shall determine the proportion of the funds granted to be allocated to each such program and purpose.

(4)(A) Notwithstanding any other provision of law, an Indian tribe shall be entitled (i) to submit a single application for a consolidated grant in accordance with this title for any fiscal year, and (ii) to submit a single pre-expenditure report and a single post-expenditure report with respect to each such consolidated grant received for any fiscal year, in accordance with regulations promulgated by the Secretary.

(B) Notwithstanding any other provision of law, an Indian tribe which elects to expend none of its consolidated grant funds for any individual program authorized under any one of the grants being consolidated shall not be required, as a condition of receiving a consolidated grant under this title, to comply with the conditions or to make the reports or assurances applicable to that program.

(C) Nothing in this title shall preclude the Secretary from providing adequate procedures for accounting, auditing, evaluating, and reviewing any programs or activities receiving funding under any consolidated grants.

(5) The provisions of this subsection shall be effective with respect to fiscal year 1986 and succeeding fiscal years.

DEPARTMENT OF THE INTERIOR

SEC. 105. (a) Section 5(g)(2) of the Outer Continental Shelf Lands Act (43 U.S.C. 1334(g)(2)) is repealed.

(b) Section 403(b) of the Outer Continental Shelf Lands Act Amendments of 1978 (43 U.S.C. 1843(b)) is repealed.

DEPARTMENT OF TRANSPORTATION

SEC. 106. (a) Section 114(a) of title 23, United States Code, is amended to read as follows:

"(a) The construction of any highways or portions of highways located on a Federal-aid system shall be undertaken by the respective State highway departments or under their direct supervision. The construction work and labor in each State shall be performed in accordance with the laws of the State and applicable Federal laws. Except as provided in Section 117 of this title, the Secretary shall establish procedures for the inspection and approval of such construction. The State highway department shall not erect any information signs other than official traffic control devices conforming with standards approved by the Secretary on any project where actual construction is in progress and visible to highway users.".

(b) Section 121(c) of title 23, United States Code, is amended by striking the words "following inspections".

DEPARTMENT OF THE TREASURY

SEC. 107. (a) Sections 6034(a) and (b) of the Internal Revenue Code of 1954 (26 U.S.C. 6034(a) and (b)) are amended to read as follows:

"(a) General rule. Every trust described in section 4947(a)(2) shall file an annual return, stating specifically the items of gross income, receipts, and disbursements, and such other information for the purpose of carrying out the internal revenue laws as the Secretary may by forms or regulations prescribe, and shall keep such records, render under oath such statements, make such other returns, and comply with such rules and regulations as the Secretary may from time to time prescribe.

"(b) Exception. This section shall not apply to any section 4947(a)(2) trust to which all transfers in trust were made before May 27, 1969, if all of the net income for the taxable year, determined under the applicable principles of the law of trusts, is required to be distributed currently to the beneficiaries.".

(b) Section 6043(a) of the Internal Revenue Code of 1954 is amended to read as follows:

"(a) Corporations

"When required by the Secretary, every corporation shall make a return regarding its distributions in liquidation, stating the name and address of, the number and class of shares owned by, and the amount paid to, each shareholder, or, if the distribution is in property other than money, the fair market value (as of the date the distribution is made) of the property distributed to each shareholder.".

(c) Section 5008(c)(1) of the Internal Revenue Code of 1954 (26 U.S.C. 5008(c)(1)) is amended by striking the words "withdrawn from bonded premises on payment or determination of tax" and inserting the words "on which tax has been determined or paid".

(d) Section 5175(c) of the Internal Revenue Code of 1954 (26 U.S.C. 5175(c)) is amended to read as follows:

"(c) Cancellation or credit of export bonds—

"Upon the exportation of distilled spirits withdrawn without payment of tax, the bonds given under subsection (a) shall be cancelled or credited and the bonds liable under subsection (b) credited. The Secretary is authorized to prescribe regulations governing the requirements of such evidence, records, or certification, indicating exportation as shall be deemed necessary.".

(e) Section 5181(c)(3) of the Internal Revenue Code of 1954 (26 U.S.C. 5181(c)(3)) is amended by revising the second sentence to read:

"For purposes of sections 5212 and 5232 and subsection (e)(2) of this section, the premises of an eligible distilled spirits plant shall be treated as bonded premises.".

(f) Section 5207(c) of the Internal Revenue Code of 1954 (26 U.S.C. 5207(c)) is amended by striking the words "shall be kept on the premises where the operations covered by the record are carried on and".

(g)(1) Section 5222(b) of the Internal Revenue Code of 1954 (26 U.S.C. 5222(b)) is amended to read as follows:

"(b) Receipt

"Under such regulations as the Secretary may prescribe, fermented materials to be used in the production of distilled spirits may be received on the bonded premises of a distilled spirits plant authorized to produce distilled spirits as follows:

"(1) from the premises of a bonded wine cellar authorized to remove such material by section 5362(c)(6);

"(2) conveyed without payment of tax from brewery premises;

"(3) cider exempt from tax under the provisions of section 5042(a)(1).".

(2) Section 5053 of the Internal Revenue Code of 1954 (26 U.S.C. 5053 is amended by adding at the end thereof the following new paragraph:

(g) Removal for use as distilling material

"Under such conditions and regulations as the Secretary may prescribe, beer may be removed from the brewery without payment of tax to any distilled spirits plant for use as distilling material.".

(h) Section 5232(b)(1) of the Internal Revenue Code of 1954 (26 U.S.C. 5232(b)(1)) is amended by striking the words "only if of 185 degrees or more of proof".

(i)(1) Section 5115 of the Internal Revenue Code of 1954 (26 U.S.C. 5115) is repealed.

(2) Subsections (a) and (c) of section 5681 of the Internal Revenue Code of 1954 (26 U.S.C. 5681(a) and (c)) are amended by striking the words "section 5115(a) or".

(j)(1) Section 5044 of the Internal Revenue Code of 1954 (26 U.S.C. 5044) is amended by—

(a) striking the word "unmerchantable" in the catchline of such section; and

(b) striking the words "as unmerchantable" and the words "produced in the United States and" in subsection (a).

(2) Section 5361 of the Internal Revenue Code of 1954 (26 U.S.C. 5361) is amended by striking the word "unmerchantable".

(k) The Internal Revenue Code of 1954 is amended by adding where appropriate the following new section:

"Sec. 5364. Imported bulk wine

"Wines imported or brought into the United States in bulk containers may, under such regulations as the Secretary may prescribe, be withdrawn from customs custody and transferred in such bulk containers to the premises of a bonded wine cellar without payment of the internal revenue taxes imposed on such wine. The proprietor of the bonded wine cellar to which such wines are transferred shall become liable for the taxes on the wines withdrawn from customs custody under this section upon release of the wines from customs custody, and the importer, or the person bringing such wines into the United States shall thereupon be relieved of the liability for such tax.".

(l) Section 5362(c) of the Internal Revenue Code of 1954 (26 U.S.C. 5362(c)) is amended by—

(1) striking the word "and" at the end of paragraph (8);

(2) striking the period at the end of paragraph (9) and inserting in lieu thereof "; and"; and

(3) adding at the end thereof the following new paragraph:

"(10) without payment of tax for destruction.".

"(m) Section 5053 of the Internal Revenue Code of 1954 (26 U.S.C. 5053) is amended by adding the following:

"(g) Removal of beer to customs bonded warehouses

"Subject to regulations prescribed by the Secretary, beer may be removed without payment of tax for transfer to any customs bonded warehouse for removal as provided in paragraph (h).

"(h) Removal of beer from customs bonded warehouses for use of foreign embassies, legations, etc.

"(1) In general

Notwithstanding any other provision of law, beer entered into customs bonded warehouses under paragraph (g) may, under such regulations as the Secretary may prescribe, be withdrawn from such warehouses for consumption in the United States by and for the official or family use of such foreign governments, organizations, and individuals who are entitled to withdraw imported beer from such warehouses free of tax. Beer transferred to customs bonded warehouses under paragraph (g) shall be entered, stored, and accounted for in such warehouses under such regulations and bonds as the Secretary may prescribe, and may be withdrawn therefrom by individuals free of tax under the same conditions and procedures as imported beer.

"(2) Withdrawal for domestic use

Beer entered into customs bonded warehouses under paragraph (g) for purposes of removal under paragraph (1) may be withdrawn therefrom for domestic use. Beer so withdrawn shall be treated as American goods exported and returned.

"(3) Sale or unauthorized use prohibited

Beer withdrawn from customs bonded warehouses or otherwise brought into the United States free of tax for the official or family use of foreign governments, organizations, or individuals authorized to obtain beer free of tax shall not be sold and shall not be disposed of or possessed for any use other than an authorized use. The provisions of paragraph (a)(3) of section 5054 are hereby extended and made applicable to any persons selling, disposing of, or possessing any beer in violation of the preceding sentence, and to the beer involved in any such violation.

"(i) Removals for destruction

Beer may be removed from the brewery without payment of tax for destruction, subject to such regulations as the Secretary may prescribe.".

(n) Section 5055 of the Internal Revenue Code of 1954 (26 U.S.C. 5055) is amended by striking the first sentence and inserting in lieu thereof the following:

"On the exportation of beer, brewed or produced in the United States, the brewer thereof shall be allowed a drawback equal in amount to the tax paid on such beer. The Secretary is authorized to prescribe regulations governing the payment or crediting of drawback on beer eligible for drawback under this section, including the requirements of such notices, bonds, bills of lading, and such other evidence indicating payment of tax and exportation as shall be deemed necessary.".

(o) Section 5056(a) of the Internal Revenue Code of 1954 (26 U.S.C. 5056) is amended by adding at the end thereof the following new sentence:

"In determining the amount of tax due on beer removed in any one day, the quantity of beer returned to any brewery of the brewer shall be allowed, under such regulations as the Secretary may prescribe, as an offset against or deduction from the total quantity of beer removed from that brewery on the day of such return.".

(p) The Internal Revenue Code of 1954 is amended by adding where appropriate the following new section:

"Section 5418. Imported Bulk Beer

"Beer imported or brought into the United States in bulk containers may, under such regulations as the Secretary may prescribe, be withdrawn from customs custody and transferred in such bulk containers to the premises of a brewery without payment of the internal revenue taxes imposed on such beer. The proprietor of a brewery to which such beer is transferred shall become liable for the taxes on the beer withdrawn from customs custody under this section upon release of the beer from customs custody, and the importer, or the person bringing such beer into the United States shall thereupon be relieved of the liability for such tax.".

(q) Section 5401(b) of the Internal Revenue Code of 1954 (26 U.S.C. 5401(b)) is amended deleting the third and fourth sentences and inserting in lieu thereof the following:

"Whenever required to do so by the Secretary, the brewer shall execute a new bond or continuation certificate, in the penal sum prescribed in pursuance of this section, and conditioned as above provided, which bond or continuation certificate shall be in lieu of any former bond or bonds, or former continuation certificate or certificates, of such brewer in respect to all liabilities accruing after its approval.".

(r) Section 5146 of the Revised Statutes (12 U.S.C. 72) is amended by deleting the first sentence and inserting instead the following:

"Every director must, during his whole term of service, be a citizen of the United States, and a majority of the directors must, throughout their terms, reside in the State, Territory, or District in which the association is located, or within one hundred miles of the location of the main office of the association, except that in the case of an association which is a subsidiary or affiliate of a foreign bank, the Comptroller of the Currency may, in his discretion, waive the requirement of citizenship in the case of not more than a minority of the total number of directors.".

(s) The Act of May 1, 1886 (12 U.S.C. 30, 31 and 32) is amended as follows:

(1) Section 2(a) of such Act (12 U.S.C. 30(a)) is amended by adding at the end thereof the following sentence: "All debts, liabilities, rights, provisions, and powers of the association under its old name shall devolve upon and inure to the association under its new name.".

(2) Section 2 of such Act (12 U.S.C. 30) is amended by adding at the end thereof the following new subsection:

"(c) Nothing in this section shall release any association under its old name or at its old location from any liability or affect any action or proceeding in law in which such association is or may become a party or interested.".

(3) Sections 3 and 4 of Act (12 U.S.C. 31 and 32) are repealed.

GENERAL SERVICES ADMINISTRATION

SEC. 108. Section 207(c)(1) of the Federal Property and Administrative Services Act of 1949, as amended (40 U.S.C. 488 (c)(1)), is amended to read as follows: "(1) real property if the estimated appraised fair market value is less than $1,000,000; or"

INTERNATIONAL TRADE COMMISSION

SEC. 109. Headnote 3 to Subpart A of part 8 of schedule 7 of the Tariff Schedules of the United States (19 U.S.C. 1202) is repealed.

NATIONAL SCIENCE FOUNDATION

SEC. 110. Section 15(c) of the National Science Foundation Act of 1950, as amended (42 U.S.C. 1874(c)), is amended to read as follows:

"(c) No part of any funds appropriated or otherwise made available for expenditure by

the Foundation under authority of this Act shall be used to make payments under any scholarship or fellowship awarded to any individual under section 10, unless such individual has provided the Foundation (in the case of applications made on or after October 1, 1962) with a full statement regarding any crimes of which he has ever been convicted (other than crimes committed before attaining sixteen years of age and minor traffic violations for which a fine of $100 or less was imposed) and regarding any criminal charges punishable by confinement of thirty days or more which may be pending against him at the time of his application for such scholarship of fellowship."

SECTION-BY-SECTION ANALYSIS OF PROPOSED BILL TO ELIMINATE OR CHANGE STATUTORY REQUIREMENTS PREVENTING THE REDUCTION OF PAPERWORK BURDENS AND REGULATORY SIMPLIFICATION

DEPARTMENT OF COMMERCE

Sec. 101. (a) Repeals the requirement for decennial census of drainage. The data were originally collected in the 1920's. Many drainage districts no longer exist. The Department of Agriculture's Soil Conservation Service has administrative data that are as good, or better, than the data that can be gathered through a survey program.

(b) Repeals sections 1, 4 and 6 of the Act of August 3, 1912, relating to the standard barrel for apples. These sections are obsolete and no longer used. The packaging terms of the item covered by these sections are today covered by the weights and measures laws that have been enacted by the legislature of each State.

(c) Repeals sections 1, 2 and 3 of the Act of March 4, 1915, relating to the standard barrel for fruits, vegetables and other dry commodities. These sections are obsolete and no longer used. The packaging in modern day terms of the items covered by this statute is today covered by the weights and measures laws that have been enacted by the legislature of each State.

(d) Repeals sections 1 through 6 of the Act of August 23, 1916 relating to the standard large and small barrels for lime. These sections are obsolete and no longer used. The packaging in modern day terms of the items covered by this statute is today covered by the weights and measure laws that have been enacted by the legislature of each State.

(e) Repeals a condition required when disposing Federal property overseas. Such sales must contain conditions prohibiting importation of the property into the United States unless the Secretary of Agriculture or Commerce determines that the importation would relieve U.S. shortages or be beneficial to the U.S. economy. The number of applications to Agriculture and Commerce under this provision have been small and since 1980 less than $100 million worth of property has been denied import authorization. This repeal would eliminate unnecessary regulatory and paperwork burdens on businesses dealing in surplus merchandise.

DEPARTMENT OF EDUCATION

Sec. 102. (a) Repeals the requirement for data collection on the financing of elementary and secondary education and the periodic publishing of profiles showing the degree to which States have achieved equalization of resources for elementary and secondary education among their school districts and among themselves. There is no consensus within the education finance community as to what definitions and measures should be used to determine disparities in expenditures and disparities from wealth neutrality, as the law requires. Until these issues are resolved, meaningful data collection and reporting are not possible.

(b) Repeals the Secretary of Education's review authority, and related responsibilities including functions of the Federal Data Acquisition Council, covering data collection activities which are education-related. Enactment of the Paperwork Reduction Act of 1980 established a central review and approval mechanism, within the Office of Management and Budget, for all federally-imposed paperwork, including education-related data collections. The reviews conducted by Education under this authority duplicate the OMB review process and often lead to unnecessary delay. This would only affect Department of Education involvement in education-related activities of other departments and agencies since Education would still have responsibilities under the Paperwork Reduction Act to review and coordinate its own data collection activities.

DEPARTMENT OF ENERGY

Sec. 103. (a) Authorizes the Federal Energy Regulatory Commission (FERC) to reduce unnecessary or burdensome regulatory requirements with respect to hydroelectric power projects having an installed capacity of 15 megawatts or less. This expands upon current FERC authority to waive licensing requirements of the Federal Power Act for (1) hydroelectric projects of 5 megawatts installed capacity or less at existing dams or impoundments; and (2) hydroelectric projects of 15 megawatts or less of installed capacity in water conduits on non-Federal lands that are used for irrigation and industrial purposes.

(b) Eliminates the requirement to gather information quarterly on domestic reserves and production; imports; and inventories of crude oil, residual fuel oil, refined petroleum products, natural gas, and coal; and report on energy company finances. The Department is able to collect this information when necessary pursuant to other authority. Reporting of information on a quarterly basis is needlessly detailed and excessively burdensome.

(c) Eliminates a required system for tracking and reporting every transaction, sale, exchange or shipment involving exports of coal or oil. Continuation of the requirement is unjustifiable because sufficiently detailed data on the export of oil and coal currently are collected by the Department of Commerce and made available to the Energy Information Administration.

(d) Eliminates the requirement to collect detailed information on cost of service provided by electric utilities to various consuming classes.

(e) Eliminates the requirements to perform biennial and quadrennial reviews of practices of electric utilities under automatic adjustment clauses.

(f) Eliminates the requirement for annual reports by officers of electric utilities regarding their holding of directorships in related corporations. Interlocking directorships are separately regulated by the Federal Energy Regulatory Commission so this additional reporting serves no useful purpose.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Sec. 104. (a) Repeals provisions barring for-profit organizations from receiving technical assistance and demonstration and service grants under the Child Abuse and Prevention and Treatment Act and the Child Abuse Prevention and Treatment and Adoption Reform Act. The amendments would allow the Department to select the best qualified service providers irrespective of the for-profit or nonprofit status of applicants.

(b) Allows for-profit organizations to be eligible for Child Welfare Services grants. This change will promote wider competition, especially for operational programs for which effective methods are fairly well known.

(c) Repeals provisions of the Developmental Disabilities Assistance and Bill of Rights Act barring for-profit organizations from submitting grant applications on a competitive basis with other, nonprofit organizations.

(d) Eliminates mandatory certification by the Food and Drug Administration of each batch of antibiotics upon demand by a manufacturer. Modern manufacturing practices make this requirement unnecessary.

(e) Repeals the prohibition on shipment in interstate commerce of any milk, cream, or skimmed milk which has any added fat or oil, other than milk fat. This statute was declared unconstitutional in 1972 and is no longer enforceable.

(f) Eliminates a reporting requirement to collect analytic data from medical schools with regard to health professions.

(g) Allows for-profit organizations to be eligible for health statistics and health services research grants. This change will promote wider competition, especially for operational programs for which effective methods are fairly well known.

(h) Replaces the requirement that States conduct an annual independent audit of their Preventive Health and Health Services Block Grant expenditures with a requirement for an audit not less than once every two State fiscal years.

(i) Eliminates the present requirement that the Secretary determines the form and content of State prepared annual reports for the Preventive Health and Health Services Block Grant Program.

(j) Eliminates the present requirement that the Secretary determines the form and content of State prepared annual reports for the Alcohol, Drug Abuse, and Mental Health Service Block Grant Program.

(k) Allows for-profit organizations to receive financial assistance from States to provide, plan, or coordinate services under the Alcohol, Drug Abuse, and Mental Health Services and Preventive Health and Health Services Block Grants on a competitive basis with other nonprofit organizations.

(l) Allows for-profit organizations to submit grant applications for veneral disease research, training and health prevention programs and adolescent family life grants on a competitive basis with nonprofit organizations.

(m) Eliminates the capital planning requirement under Medicare for hospitals, nursing homes, and home health agencies. The change would decrease the administrative burden and the costs of facility operations.

(n) Eliminates a Medicare requirement that health maintenance organization (HMO) cost reports be independently certified. HMOs are the only providers now burdened with this requirement, the cost of which is reimbursed by the Federal government.

(o) Eliminates the minimum utilization rate requirement for facilities furnishing end stage renal disease services under Medicare. Repeal of this section would eliminate some excessive travel for treatment.

(p) Allows States to retain Medigap certification if they allow marketing of Medicare Part A only and Medicare Part B only policies. The change would provide the senior citizen with the choice of the most suitable type of Medicare supplemental insurance, while affording increased regulatory protection.

(q) Repeals exclusion of for-profit organizations in the area of health programs established under the Social Security Act.

(r) Modifies the type of hearing required before the Secretary and cancel a provider's participation in Medicaid. In place of a formal hearing before an administrative law judge the provider would be entitled to an opportunity for an informal hearing on the record.

(s) Allows for-profit organizations to be eligible for grants and contracts under the Native Americans Programs. Increasingly, for-profit organizations combine good business practices with capable services to various groups.

(t) Allows for-profit organizations to be eligible for grants and contracts under the Runaway and Homeless Youth Act. This change will promote wider competition, especially for operational programs for which effective methods are fairly well known.

(u) Amends the Social Services Block Grant Program to include the alleviation of poverty. The proposal would permit greater coordination of social and community services at State and local levels.

(v) Amends the Social Services Block Grant Program to permit Indian tribes to consolidate non-health block grant funds of the Department of Health and Human Services. This amendment is patterned after a similar authority now available to the U.S. territories which has reduced administrative costs and allowed improved targeting of services.

DEPARTMENT OF THE INTERIOR

Sec. 105. (a) Eliminates the requirement that the Department enforce maximum rates of oil and gas production on the outer continental shelf. Companies, rather than the Federal Government, would determine the most economic rates of production except insofar as production is required to ensure conservation of the resource.

(b) Eliminates the requirement that all offshore oil and gas equipment be marked with identification. Frequently, these markings have not been used to verify ownership when damage has occurred because of the difficulty in reaching the equipment often located in deep waters well below the surface.

DEPARTMENT OF TRANSPORTATION

Sec. 106 (a) and (b). Requires the Secretary to establish procedures for inspecting and approving construction but would not require a Federal inspection of each project. Title 23 U.S.C. now requires that the Secretary inspect each highway construction project. These amendments would thereby eliminate an unnecessary requirement. Current law also provides that informational signs erected on any project where actual construction is in progress and visible to highway users must conform with standards developed by the Secretary. These amendments would permit the Secretary to approve standards developed by other parties as well as those developed by the Department of Transportation.

DEPARTMENT OF THE TREASURY

Sec. 107. (a) Allows section 4947(a) trusts to file single information returns.

(b) Eliminates the requirement that corporations must file an information return within 30 days after adopting a plan of dissolution or liquidation. The plan of dissolution or liquidation still would be required to be maintained. Taxpayers would be relieved of filing a form with no useful tax administration purpose.

(c) Permits processing of Puerto Rican spirits at a U.S. distilled spirits plant. Refund, credit or abatement of tax for spirits returned to a distilled spirits plant is currently restricted to those spirits which have been withdrawn from a domestic distilled spirits plant. Because of this, spirits brought into the U.S. from Puerto Rico must be returned to customs custody or to Puerto Rico for destruction, denaturation, redistillation, reconditioning or rebottling.

(d) Gives the Secretary authority to prescribe regulations concerning proof of exportation as may be deemed necessary. Under such authority, regulations allowing the retention at the exporter's place of business, of evidence of exportation, could be prescribed.

(e) Permits small alcohol fuel plants to receive spirits withdrawn from customs custody. Medium and large alcohol fuel plants are currently authorized to receive spirits withdrawn from customs custody, but small plants cannot do so since they have no bonded premises.

(f) Eliminates the requirement that accounting records be maintained on the premises of distilled spirits plants. Such plants equipped with automatic data processing equipment frequently locate their accounting offices in places other than the plant premises. This change would end the necessity of maintaining two sets of records.

(g) Permits transfer of distilling material for the production of distilled spirits to noncontiguous breweries.

(h) Removes the limit on redistillation and denaturation of imports to spirits of 185 degrees proof or more.

(i) Removes the requirements for a sign outside business premises of a lawful wholesale liquor dealer. The requirement is obsolete and unnecessary.

(j) Removes the restriction that wine be both unmerchantable and produced in the United States for return to bond. Bonded winery proprietors would be allowed to return wine to bond for any reason.

(k) Allows bulk imported wine to be brought from customs custody without payment of tax to a bonded wine cellar. Technological advances in the shipping of wine in pressurized containers now make it possible to ship wines in bulk rather than bottled and cased. This section would facilitate the movement of such bulk imported wine through Customs port facilities directly to bonded wine cellars for storage and subsequent bottling, labeling and removal.

(l) Provides sufficient statutory latitude to allow by regulation the voluntary destruction of unsalable wines at sanitary landfills and other locations which are not a part of the bonded wine cellar premises.

(m) Allows domestically produced beer to be removed from a brewery, without payment of tax, for storage pending removal by personnel of foreign government or international organizations. This extends the same treatment to domestically produced beer as currently exists for domestically produced spirits and wine and imported distilled spirits, wine and beer. Also provides statutory authority to allow by regulation the removal of beer from a brewery without payment of tax for the purpose of destruction. This change would allow destruction at sanitary landfills or other convenient locations. Currently, many brewers are experiencing environmental problems with the disposal of large quantities of waste beer at breweries.

(n) Gives the Secretary the authority to credit drawback of tax on beer and the discretion to require or not to require the submission of notices, bonds, bills of lading and other evidence indicating payment of tax and exportation. Under such authority, regulations allowing the retention at the brewery premises of evidence of tax payment and exportation may be prescribed.

(o) Eliminates the requirement that beer must be returned to the same brewery from which it was removed to permit a tax offset without the filing and payment of a claim. This would eliminate the filing and payment of claims by a brewer for beer returned to another brewery.

(p) Permits bulk importation of beer for bottling in the United States. Technological advances in the shipping of beer in pressurized containers now makes it possible to ship the beer in bulk rather than in bottles, cans or barrels. This section would facilitate the movement of bulk imported beer through customs port facilities directly to breweries for storage and subsequent bottling, labeling and removal.

(q) Eliminates the requirement for four year bond renewal by brewers and gives the Secretary discretion as to when a new bond shall be required.

(r) Eliminates entirely the current prior residency rule for national bank directors and reduces from two-thirds to a majority the number of directors that must comply with the residency requirement during tenure in office. The primary purpose of the residency requirement is to assure management familiarity with local capacities and credit needs. By reducing to a majority the number of resident directors, the amendment would maintain a balance between local knowledge and participation and the widest possible range for selection of qualified directors.

(s) Combines three related statutory requirements applying to national banks for clarity. These deal with change of name or location, related rights and liabilities and suits.

GENERAL SERVICES ADMINISTRATION

Sec. 108. Changes the threshold for required antitrust advice form the Attorney General on government disposal of real property from $1 million acquisition cost to $1 million fair market value of the property. Acquisition cost has little bearing on current value of property.

INTERNATIONAL TRADE COMMISSION

Sec. 109. Repeals the requirement that the President annually determine if substantial changes in the consumption of wiskbrooms and other brooms made from broom corn has substantially changed from the previous year and if so he must change the permissible quantity of such imports. This requirement serves as the basis for Executive Order No. 11377 which requires the International Trade Commission to collect annual data on broom consumption. This requirement is now obsolete because this industry is now very minor and the surveys are primarily used for marketing purposes by the broom industry.

NATIONAL SCIENCE FOUNDATION

Sec. 110. Eliminates (1) the requirement that each applicant for a National Science Foundation fellowship or scholarship

submit a signed loyalty oath or affirmation, and (2) an obsolete provision relating to organizations registered under the Subversive Activities Control Act of 1950. This provision also raises to $100 the exemption threshold below which minor traffic violations are not required to be included in a statement of crimes for which an applicant has been convicted.●

By Mr. ROTH (by request):

S. 2011. A bill entitled the "Drug Enforcement Administration Excepted Service Act of 1986"; to the Committee on Governmental Affairs.

DRUG ENFORCEMENT ADMINISTRATION EXCEPTED SERVICE ACT OF 1986

● Mr. ROTH. Mr. President, I am introducing, by request of the administration, a bill which would place all Drug Enforcement Administration personnel into excepted service status. This bill involves a serious and growing problem: drug trafficking. Therefore, although I am not prepared at this time to announce my support for this legislation, I believe it deserves serious consideration by the Senate, and it should be referred to the appropriate committee.

The impetus for this bill is the decision by the Attorney General to give the DEA and the Federal Bureau of Investigation concurrent jurisdiction in the area of narcotics trafficking. Having chaired a number of hearings on drug trafficking and abuse for the Permanent Subcommittee on Investigations, I believe that no stone should go unturned in the fight against illicit drugs. If subsequent hearings indicate that passage and implementation of this bill would assist law enforcement authorities in this fight, I am certain that many Senators would support it.

The bill, entitled the "Drug Enforcement Administration Excepted Service Act of 1986," would, by placing all DEA personnel into the excepted service, allow the reassignment of employees between the DEA and the FBI, which would facilitate cooperation between these two agencies. Current civil service rules prohibit the reassignment of an employee in the excepted service to a position in the competitive service, except for a short-term detail. Since the FBI already has all of its personnel in the excepted service, this bill would make the DEA and FBI personnel systems compatible and would allow these reassignments.

This legislation may also enable DEA to improve and expedite its recruitment of new personnel. In addition, it would extend the "whistle blower" provisions of the Civil Service Reform Act to DEA employees and protect them from any prohibited personnel practices as a result of any covered complaint which they might file.

Mr. President, I request unanimous consent that a copy of the bill be printed in the RECORD.

There being on objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2011

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Drug Enforcement Administration Excepted Service Act of 1986."

SEC. 2. Title II of the Comprehensive Drug Abuse Prevention and Control Act of 1970, (Public Law 91-513) is amended by adding the following new section:

"EXCEPTED SERVICE

SEC. 710. All positions in the Drug Enforcement Administration are excepted from the competitive service, and the incumbents of such positions occupy positions in the excepted service."

SEC. 3. Section 2303 of title 5, United States Code, is amended to read as follows:

"PROHIBITED PERSONNEL PRACTICES IN THE FEDERAL BUREAU OF INVESTIGATION AND THE DRUG ENFORCEMENT ADMINISTRATION

"(a) Any employee of the Federal Bureau of Investigation or the Drug Enforcement Administration who has authority to take, direct others to take, recommend, or approve any personnel action shall not, with respect to such authority, take or fail to take a personnel action with respect to any employee of the Bureau or the Administration as a reprisal for the disclosure of information by the employee to the Attorney General (or an employee designated by the Attorney General for such purpose) which the employee or applicant reasonably believes evidences—

"(1) a violation of any law, rule, or regulation, or

"(2) mismanagement, a gross waste of funds, an abuse of authority, or a substantial and specific danger to public health or safety.

"For the purpose of this subsection 'personnel action' means any action described in clauses (i) through (x) of section 2302(a)(2)(A) of this title with respect to an employee in, or applicant for, a position in the Bureau or the Administration (other than a position of a confidential, policy-determining, policy-making, or policy-advocating character).

"(b) The Attorney General shall prescribe regulations to ensure that such a personnel action shall not be taken against an employee of the Bureau or the Administration as a reprisal for any disclosure of information described in subsection (a) of this section.

"(c) The President shall provide for the enforcement of this section in a manner consistent with the provisions of section 1206 of this title."

CONFORMING AMENDMENTS

SEC. 4. Section 2302(a)(2)(C)(ii) of Title 5, United States Code is amended by inserting "the Drug Enforcement Administration," immediately after "the Federal Bureau of Investigation,"

SEC. 5. Section 4701(a)(1)(B) of title 5, United States Code, is amended by inserting "the Drug Enforcement Administration," immediately after "the Federal Bureau of Investigation,"

SEC. 6. Section 7103 of title 5, United States Code is amended

(a) by deleting "or" at the end of (F) in paragraph (3) of subsection (a);

(b) by inserting "or" immediately after the semi-colon in (G) of paragraph (3) of subsection (a); and

(c) by adding after (G) in paragraph (3) of subsection (a) the following:

"(H) the Drug Enforcement Administration."

SEC. 7. Section 3132(a)(2)(E)(iii) of Title 5, United States Code, is amended to read "any position in the Drug Enforcement Administration;"

SEC. 8. Section 4701(b) of title 5, United States Code, is hereby repealed.

SEC. 9. Section 201 of Public Law 94-503 is hereby repealed.●

By Mr. LEVIN (for himself, Mr. GRASSLEY, Mr. GORE, Mr. PRYOR, Mr. SARBANES, and Mr. BURDICK):

S. 2014. A bill to amend title 5, United States Code, to strengthen the protections available to Federal employees against prohibited personnel practices, and for other purposes; to the Committee on Governmental Affairs.

WHISTLEBLOWER PROTECTION ACT

● Mr. LEVIN. Mr. President, I am introducing today, along with Senators GRASSLEY, PRYOR, GORE, SARBANES, and BURDICK, the Whistleblower Protection Act of 1986. Identical legislation is being introduced in the House of Representatives by Congresswoman SCHROEDER and Congressman HORTON.

This act is urgently needed to restore the faith of conscientious Federal employees in the fairness and integrity of our Federal service. It will do so by strengthening the statutory protections for Federal whistleblowers—those in the Government who "blow-the-whistle" on mismanagement, fraud, and abuse, and are sometimes subjected to reprisal for doing so. It is outrageous that Federal employees should have to risk their financial security and professional careers in order to do that which is right and which we in Congress encourage them to do—blowing the whistle on fraud and mismanagement. Our system should not only protect this kind of activity but reward it. All too frequently, our system does neither. All too frequently, whistleblowers have to struggle through skepticism, hostility, and even harassment to get their message heard, and in the process may even be driven out of the very Government they are trying to improve.

It is alarming but true that the number of people in the Federal Government who feel they can safely come forward with allegations of waste or mismanagement is declining. According to a study by the Merit Systems Protection Board, in 1980, 20 percent of employees who perceived agency problems did not report them because of fear of reprisal. In 1983, that figure was 37 percent. The number of Federal employees who think that blowing the whistle will result in any positive action is also declining. In 1980, 53 percent of the potential whistleblowers didn't act because they didn't think anything

would be done. In 1983, it was 61 percent.

These statistics should be a matter of grave concern not only because reprisals against whistleblowers are illegal, unfair, and unethical, but also because such reprisals directly counter our ongoing efforts to reduce unnecessary Government spending. It doesn't make sense to struggle with deficit reduction with one hand, while on the other hand ignoring or discouraging—or sometimes even punishing—those individuals who are trying to help us cut wasteful spending. The bill we are introducing today will go a long way toward rectifying this situation.

Congress recognized its responsibility to whistleblowers in 1978 by passing the Civil Service Reform Act [CSRA], the most comprehensive reform of the Federal work force since the establishment of the Civil Service Commission in 1883. Among other things, CSRA created the Merit Systems Protection Board [MSPB] to handle hearings and appeals involving Federal employees. The Special Counsel of the MSPB was established to investigate prohibited personnel practices and other activities prohibited by civil service law, and to protect Federal employees from reprisals for disclosures of problems within an agency or for the exercise of appeal rights. The Office of Special Counsel [OSC] was also established to serve as a conduit for reviewing and referring to agencies allegations of waste, fraud, and abuse.

The OSC got off to a shaky start in 1978 for a number of reasons, including funding and administrative problems, the unaggressive attitude of some of the Special Counsels, and frequent staff turnover, including the position of Special Counsel itself. For several years, there were extremely lengthy delays in responding to and processing Federal employees' complaints.

Since 1982, the position of Special Counsel has been held by William O'Connor, who has resolved some of the most serious administrative problems, in particular the inordinate delays in the processing of Federal employees' cases. But the serious substantive problems remain. The OSC is still far from fulfilling its role of protecting Federal employees from prohibited personnel practices. Many Federal employees, and whistleblowers in particular, feel they were better off before Congress' well-intentioned reform of 1978. Prior to CSRA, Federal employees could go to Federal court and sue the perpetrator of any alleged reprisal for damages based on constitutional tort action. After CSRA, the courts ruled that Congress' intent was for the OSC to be the sole avenue of relief for employees alleging prohibited personnel practices. As a result, many civil servants feel their right to individually bring a constitutional tort action in Federal court, which private citizens enjoy, was exchanged for their assignment to an unresponsive or ineffectual advocate in the OSC, which can bring cases only before an administrative body, the MSPB.

Under the current law, the procedures governing the OSC are as follows:

Current Federal employees or applicants for Federal employment who allege they are the victims of a prohibited personnel practices can come to the OSC for assistance. For a number of personnel actions, there is no judicial remedy, and the OSC is the only administrative remedy available. The OSC investigates the employee's claim to the extent necessary to determine whether there are reasonable grounds to believe a prohibited personnel practice has indeed occurred.

If the OSC terminates or does not pursue an employee's claim, the OSC must let the employee know in writing.

If the OSC accepts an employee's case, the OSC can seek a stay of any personnel action taken against the employee. The OSC can initially seek a stay from a member of the MSPB for 15 days, and must then seek subsequent stays if necessary.

If the OSC determines corrective action is necessary to restore a complainant to his previous position, the OSC may request the MSPB to consider the matter. After hearing the case, the MSPB may order whatever corrective action it considers appropriate. The OSC cannot appeal a MSPB decision.

In addition, if the OSC determines disciplinary action should be taken against an employee who has engaged in a prohibited personnel practice, the OSC shall bring an action before the MSPB against that employee. An employee who is the subject of such an action can appeal a MSPB decision.

The OSC can also investigate Hatch Act violations, and bring any necessary corrective or disciplinary actions before the MSPB to correct those violations. In addition, the OSC can investigate prohibited personnel practices on its own initiative, without an allegation by an individual Federal employee.

Federal employees or applicants for employment can also come to the OSC in order to make a "disclosure" of information which the employee believes shows a violation of law, gross waste of funds, abuse of authority, or a danger to public health or safety. The OSC does not have the power to investigate such allegations of agency problems, but must review them and refer them to the agency for investigation.

For those disclosures which the OSC determines to have a substantial likelihood that there is a significant agency problem, the OSC can require a report on the disclosure, signed by the agency head, within 60 days.

For other disclosures, which the OSC determines do not have a substantial likelihood of showing a significant problem, the OSC still refers the disclosure to the agency but requires a less formal report without any set time limit.

In fiscal year 1984, the OSC received 1,383 complaints alleging prohibited personnel practices. According to the General Accounting Office, only about 8 percent of these allegations survived an initial screening process and were given an in-depth investigation. For alleged whistleblower reprisal cases, the statistics are even more startling—99 pecent of these cases were closed by the office without initiating disciplinary or corrective action.

A recent GAO report on the OSC cites three reasons for the low level of response to the some 11,000 complaints to the OSC since 1979:

First, the limited role assumed by the OSC. The current Special Counsel stresses protection of the merit system itself rather than protection of individual Federal employees.

Second, difficulties of proof of retaliation against whistleblowers.

Third, few complaints have sufficient merit.

The first point is an important one. Mr. O'Connor sees his role as protecting the merit system rather than individual employees, and believes that goal can best be achieved through pursuing disciplinary action against employers guilty of prohibited practices, rather than corrective action for employees who might be victims of those practices. Mr. O'Connor has said several times that he is not in office to protect federal employees. His client is the system, he says, and it should be protected by prosecuting those who break its rules.

This distinction between protecting the system versus protecting individuals would be just an argument over semantics, except that it has had the very concrete result of really limiting the kind of help whistleblowers can get. Mr. O'Connor's emphasis on protecting the system through disciplinary measures does not necessarily benefit the human beings who comprise that system. The GAO pointed out: "Few of these complainants (whistleblowers) will ever receive the relief they seek through the Office of Special Counsel, particularly as the Special Counsel does not emphasize the pursuit of corrective action on behalf of aggrieved whistleblowers. During the 2 years prior to August 1984, the Special Counsel obtained redress for a total of but three whistleblowers—redress in the form of cancelled transfers."

GAO points out that the OSC won several disciplinary action cases before

the MSPB, and was able to work out four other disciplinary action settlements with agencies. While whistleblowers might feel disciplinary action is warranted against an employer who took reprisals, such action is hardly helpful if the whistleblower himself is still out in the cold and no one is willing to help him receive corrective action.

There shouldn't be a conflict between protecting the merit system and protecting individuals in it. Surely helping victims obtain corrective action against reprisals serves merit system principles.

Mr. O'Connor's predisposition against assisting individual Federal employees is regrettably evident in other areas of his record. In a 1985 hearing, he said that in his experience most whistleblowers are "malcontents." This is hardly the attitude I would like to see in the director of the office that is supposed to be defending these people's rights.

In addition, the OSC maintains unnecessarily stringent requirements for accepting a case. GAO reports that Mr. O'Connor has said he will only accept cases in which he feels there is an 75-80 percent chance of winning. This 75-80 percent standard can be a rather difficult requirement to meet for an individual battling an agency. But apparently the OSC's standard are now even higher. The OSC's most recent annual report noted that the office will not file complaints "unless there is virtual certainty that the evidence provides sufficient facts to ensure success * * *."

It is no wonder that so few cases are pursued by the OSC if the whistleblower has to prove to the OSC that there is a "virtual certainty" of winning. That's an unreasonable requirement. It means the hardest part for a whistleblower is likely to be not winning the case before the MSPB, but proving to the OSC that the case is just worth looking into in the first place.

The second point cited by GAO—the difficulty of proving retaliation—is also a valid concern. A careful employer can make it very difficult to prove that an action taken against an employee was because of their whistleblowing.

It may also be true, as the GAO says, that many allegations of prohibited personnel practices are without merit or without adequate evidence. But is it true for 92 percent—92 percent of all allegations do not have enough merit to warrant even a detailed investigation?

GAO acknowledges that the vast majority of complainants are disappointed with OSC's actions or lack thereof. Another matter about which I am concerned is that OSC frequently provides minimally acceptable explanations to complainants of why their cases were not accepted. OSC is required by law to provide some explanation, but that explanation can be one sentence long, for example stating that the OSC believes that action taken against the complainant was carried out for "legitimate management reasons." Such an explanation is not very helpful to a complainant who needs to know why his or her case is not being pursued.

Beyond these facts, the most pressing need to improve the OSC is reflected in the statistics I cited earlier showing that fewer and fewer Federal employees believe it is worthwhile coming forward with reports of waste or abuse. Even more damning is that fact that the Special Counsel himself, Mr. O'Connor, does not believe the system works. In a July 17, 1984, Washington Post article, Mr. O'Connor was reported to say that if he were an attorney advising whistleblowers: "I'd say that unelss you're in a position to retire or are independently wealthy, don't do it. Don't put your head up, because it will get blown off."

This is not what we want. We do not want whistleblowers to fear coming forward. We want to encourage them, and must do so by assuring them we'll do our best to protect them against reprisals.

The bill we are introducing today makes three significant improvements to current law. It clarifies that the purpose of the OSC is to protect employees, especially whistleblowers. It should be made clear in statutory language that Congress believes whistleblowers deserve to have an advocate. It is to be hoped this change will settle the continuing argument over this office's mission.

The bill also gives individuals an alternative to going to the OSC. Under this bill, individuals could take their case directly to the MSPB, and if they lost there, they could go to court. Federal employees alleging prohibited personnel practices should have another option besides the OSC, in light of the OSC's negative attitude toward such employees.

In addition, this bill changes the standard of proof for whistleblower reprisal cases before the MSPB from "preponderance" of evidence to "substantial" evidence. This is needed to make it more feasible to bring cases with merit. Agencies would still have the inherent advantage with the weight of the system on their side, the resources, and the witnesses who are often reluctant to testify against the agency. Even with this change in law, it would remain relatively easy to cover up retaliation against employees, and it would remain difficult to show a causal connection between an adverse personnel action, and whistleblowing. But, by changing the standard of proof, we would at least give whistleblowers a better shot at proving their case.

The bill does the following:

Establishes that for proving a case of reprisal taken against a whistleblower, there shall be a more realistic standard of "substantial evidence," rather than the current standard of preponderance of evidence.

Clarifies the purpose of the OSC. The bill establishes that: "(A) the primary role of the Office of Special Counsel is to protect employees, especially whistleblowers; and (B) while disciplining those who commit prohibited personnel practices may be used as a tool to help accomplish this goal, the protection of individuals is the priority." The bill also requires the OSC to establish a lawyer-client relationship with employees who claim to have been subject to prohibited personnel practices.

Provides that Federal employees could take their own cases to the MSPB instead of or in addition to taking it to OSC. If they win, the MSPB must order the agency to pay reasonable attorney's fees and other costs.

Strengthens the current stay procedures. Under the bill, if the OSC believed a prohibited personnel practice had been taken against an employee, the OSC could request the MSPB to order a stay of that personnel action for 60 days. If OSC filed a petition for corrective action from the MSPB, the stay would automatically continue until the MSPB resolved the case. Under current law, the OSC can request an initial stay of only 15 days, and then must seek subsequent extensions if necessary.

Provides that Federal employees could also request the MSPB for a stay of a personnel action taken against them. The MSPB would order the stay if it determined that there was a substantial likelihood the employee would win his or her case.

Gives the OSC the power to take its cases to court if it loses before the MSPB.

Allows Federal employees to go to court if they lose before the MSPB. The court may award reasonable attorney's fees and other costs.

Requires that a letter of termination to a complaining employee about his or her case include the findings of facts ascertained during the investigation.

Expands the definition of prohibited personnel practice to include taking reprisal against an employee who assists someone else who claims to be the victim of a prohibited personnel practice, who cooperates with an agency's inspector general or the OSC, or who fails to follow orders to disobey a law.

Broadens the power of the MSPB to sanction presidential appointees, military officers, and contractor officials.

Officially separates the OSC from the Merit Systems Protection Board. In early years, there were a number of concerns about the close relationship between these two offices. The administrative functions of the two were separated in 1984. This bill would just complete that process.

Requires affirmative congressional action to continue the OSC beyond September 30, 1989, and the MSPB beyond 1991.

Authorizes $5 million for the OSC, and $20 million for the MSPB (which are roughly the current figures).

The current system of relief for victims of prohibited personnel practices is not working fairly. If we want to be fair to Federal workers, encourage them to blow the whistle on waste and fraud, and save taxpayers money, we must make the OSC more responsive and more effective. To achieve this, I urge my colleagues to support this bill.

I ask unanimous consent that the full text of the bill appear immediately following the remarks.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2014

Be it enacted by the Senate and House of representatives of the United states of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Whistleblower Protection Act of 1986".

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—The Congress finds that—

(1) Federal employees who make disclosures described in section 2302(b)(8) of title 5, United States Code, serve the public interest by bringing about reductions in Government expenditures, fraud, waste, and abuse;

(2) protecting employees who disclose Government illegality, waste and corruption is a major step toward a more effective civil service; and

(3) in passing the Civil Service Reform Act of 1978, Congress established the Office of Special Counsel to provide whistleblowers (those individuals who make disclosures described in such section 2302(b)(8)) protection from reprisal.

(b) PURPOSES.—The purpose of this Act is to strengthen and improve protection for the rights of Federal employees, to prevent reprisals, and to help eliminate wrongdoing within the Government by—

(1) mandating that victims of prohibited personnel practices, expecially whistleblowers, should be restored to their previous positions;

(2) establishing that—

(A) the primary role of the Office of Special Counsel is to protect employees, especially whistleblowers; and

(B) while disciplining those who commit prohibited personnel practices may be used as a tool to help accomplish this goal, the protection of individuals is the priority; and

(3) providing that the Office of Special Counsel establish a lawyer-client relationship with employees who claim to have been subject to prohibited personnel practices.

SEC. 3. MERIT SYSTEMS PROTECTION BOARD; SPECIAL COUNSEL; EMPLOYEE RIGHT OF ACTION.

(a) Chapter 12 of title 5, United States Code, is amended to read as follows:

"CHAPTER 12—MERIT SYSTEMS PROTECTION BOARD, SPECIAL COUNSEL, AND EMPLOYEE RIGHT OF ACTION

"Subchapter I—Merit Systems Protection Board

"Sec.
"1201. Appointment of members of the Merit Systems Protection Board.
"1202. Term of office; filling vacancies; removal.
"1203. Chairman; Vice Chairman.
"1204. Powers and functions of the Merit Systems Protection Board.
"1205. Stays of certain personnel actions.
"1206. Transmittal of information to Congress.
"1207. Annual report.

"Subchapter II—Office of Special Counsel
"1211. Establishment of Office of Special Counsel.
"1212. Powers and functions of Office of Special Counsel.
"1213. Receipt and processing of disclosures.
"1214. Investigation of prohibited personnel practices; corrective action.
"1215. Disciplinary actions.
"1216. Discrimination complaints.
"1217. Other matters within the jurisdiction of Office of Special Counsel.
"1218. Transmittal of information to Congress.
"1219. Annual report.

"Subchapter III—Employee Right of Action
"1221. Individual right of action.
"1222. Individual action on agency failure to comply with order of Board.
"1223. Relationship between individual action and Special Counsel action.

"Subchapter I—Merit Systems Protection Board

"§ 1201. Appointment of members of the Merit Systems Protection Board

"The Merit Systems Protection Board is composed of 3 members appointed by the President, by and with the advice and consent of the Senate, not more than 2 of whom may be adherents of the same political party. The Chairman and members of the Board shall be individuals who, by demonstrated ability, background, training, or experience are especially qualified to carry out the functions of the Board. No member of the Board may hold another office or position in the Government of the United States, except as otherwise provided by law or at the direction of the President. The Board shall have an official seal which shall be judicially noticed. The Board shall have its principal office in the District of Columbia and may have field offices in other appropriate locations.

"§ 1202. Term of office; filling vacancies; removal

"(a) The term of office of each member of the Merit Systems Protection Board is 7 years.

"(b) A member appointed to fill a vacancy occurring before the end of a term of office of his predecessor serves for the remainder of that term. Any appointment to fill a vacancy is subject to the requirements of section 1201 of this title.

"(c) Any member appointed for a 7-year term may not be reappointed to any following term but may continue to serve beyond the expiration of the term until a successor is appointed and has qualified, except that such member may not continue to serve for more than 1 year after the date on which the term of the member would otherwise expire under this section.

"(d) Any member may be removed by the President only for inefficiency, neglect of duty, or malfeasance in office.

"§ 1203. Chairman; Vice Chairman

"(a) The President shall from time to time, appoint, by and with the advice and consent of the Senate, one of the members of the Merit Systems Protection Board as the Chairman of the Board. The Chairman is the chief executive and administrative officer of the Board.

"(b) The President shall from time to time designate one of the members of the Board as Vice Chairman of the Board. During the absence or disability of the Chairman, or when the office of Chairman is vacant, the Vice Chairman shall perform the functions vested in the Chairman.

"(c) During the absence or disability of both the Chairman and Vice Chairman, or when the offices of Chairman and Vice Chairman are vacant, the remaining Board member shall perform the functions vested in the Chairman.

"§ 1204. Powers and functions of the Merit Systems Protection Board

"(a) The Merit Systems Protection Board shall—

"(1) hear or adjudicate, or provide for the hearing or adjudication, of all matters within the jurisdiction of the Board under this title, section 2023 of title 38, or any other law, rule, or regulation, and, subject to otherwise applicable provisions of law, take final action on any such matter;

(2) order any Federal agency or employee to comply with any order or decision issued by the Board under the authority granted under paragraph (1) of this subsection and enforce compliance with any such order;

"(3) conduct, from time to time, special studies relating to the civil service and to other merit systems in the executive branch, and report to the President and to the Congress as to whether the public interest in a civil service free of prohibited personnel practices is being adequately protected; and

"(4) review, as provided in subsection (e) of this section, rules and regulations of the Office of Personnel Management.

"(b)(1) Any member of the Merit Systems Protection Board, any administrative law judge appointed by the Board under section 3105 of this title, and any employee of the Board designated by the Board may—

"(A) administer oaths, examine witnesses, take depositions, and receive evidence;

"(B) issue subpoenas requiring the attendance and testimony of witnesses and the production of documentary or other evidence from any place in the United States or any territory or possession thereof, the Commonwealth of Puerto Rico, the District of Columbia, or from any installation or facility of the Government of the United States throughout the world; and

"(C) order the taking of depositions and order responses to written interrogatories.

"(2) Witnesses (whether appearing voluntarily or under subpoena) shall be paid the same fee and mileage allowances which are paid subpoenaed witnesses in the courts of the United States.

"(c) In the case of contumacy or failure to obey a subpoena issued under subsection (b)(2) of this section, the United States district court for the judicial district in which

the person to whom the subpoena is addressed resides or is served may issue an order requiring such person to appear at any designated place to testify or to produce documentary or other evidence. Any failure to obey the order of the court may be punished by the court as a contempt thereof.

"(d)(1) In any proceeding under subsection (a)(1) of this section, any member of the Board may request from the Director of the Office of Personnel Management an advisory opinion concerning the interpretation of any rule, regulation, or other policy directive promulgated by the Office of Personnel Management.

"(2) In enforcing compliance with any order under subsection (a)(2) of this section, the Board may order that any employee charged with complying with such order shall not be entitled to receive payment for service as an employee during any period that the order has not been complied with. The Board shall certify to the Comptroller General of the United States that such an order has been issued, and no payment shall be made out of the Treasury of the United States for any service specified in such order.

"(3) In carrying out any study under subsection (a)(3) of this section, the Board shall make such inquiries as may be necessary and, unless otherwise prohibited by law, shall have access to personnel records or information collected by the Office and may require additional reports from other agencies as needed.

"(e)(1) At any time after the effective date of any rule or regulation issued by the Director in carrying out functions under section 1103 of this title, the Board shall review any provision of such rule or regulation—

"(A) on its own motion;

"(B) on the granting by the Board, in its sole discretion, of any petition for such review filed with the Board by any interested person, after consideration of the petition by the Board; or

"(C) on the filing of a written complaint by the Special Counsel requesting such review.

"(2) In reviewing any provision of any rule or regulation pursuant to this subsection, the Board shall declare such provision—

"(A) invalid on its face, if the Board determines that such provision would, if implemented by any agency, on its face, require or encourage any employee to violate section 2302(b) of this title; or

"(B) invalidly implemented by any agency, if the Board determines that such provision, as it has been implemented by the agency through any personnel action taken by the agency or through any policy adopted by the agency in conformity with such provision, has required or encouraged any employee to violate section 2302(b) of this title.

"§ 1205. Stays of certain personnel actions

"(a)(1) The Special Counsel may request any member of the Merit Systems Protection Board to order a stay of any personnel action for 60 calendar days if the Special Counsel determines that there are reasonable grounds to believe that the personnel action was taken, or is to be taken, as a result of a prohibited personnel practice.

"(2) Any member of the Board requested by the Special Counsel to order a stay under paragraph (1) of this subsection shall order such stay unless the member determines that, under the facts and circumstances involved, such a stay would not be appropriate.

"(3) Unless denied under paragraph (2) of this subsection, any stay under this subsection shall be granted within 3 calendar days (excluding Saturdays, Sundays, and legal holidays) after the date of the request for the stay by the Special Counsel.

"(4)(A) If, during the pendency of any stay granted pursuant to paragraph (2) of this subsection, the Special Counsel files a petition for corrective action pursuant to section 1214(b)(2) of this title seeking cancellation of the personnel actions which are the subject of the stay, the stay shall continue until the Board issues its final decision on the petition of the Special Counsel for corrective action.

"(B) If, during the pendency of any stay granted pursuant to paragraph (2) of this subsection, the employee submits an appeal to the Board under section 7701 of this title, the Board may extend the stay until the Board issues its final decision on the appeal if the Board finds that there is a substantial likelihood that the individual will prevail in the appeal, unless the extension of the stay would impose an extreme and extraordinary hardship on the agency against which the stay has been imposed.

"(b)(1) Any individual who claims to be a victim of a prohibited personnel practice may request the Merit Systems Protection Board to order a stay of any personnel action for 60 calendar days if the individual alleges that there are reasonable grounds to believe that the personnel action was taken, or is to be taken, as a result of a prohibited personnel practice.

"(2) The Board shall order a stay requested under paragraph (1) of this subsection if there is a substantial likelihood that the individual will prevail in an action for relief under section 1221 of this title, or in an appeal under section 7701 of this title unless the ordering of a stay would impose an extreme and extraordinary hardship on the agency against which the stay is sought.

"(3) Unless denial under paragraph (2) of this subsection, any stay uinder this subsection shall be granted within 3 calendar days (excluding Saturdays, Sundays, and legal holidays) after the date of the request for the stay by the individual.

"(4) If, during the pendancy of any stay granted under this subsection—

"(A) the individual files a petition for relief under section 1221 of this title seeking cancellation of the personnel actions which are the subject of the stay,

"(B) the Special Counsel files a petition for corrective action under section 1214 of this title seeking cancellation of the personnel actions which are the subject of the stay, or

"(C) the employee submits an appeal to the Board under section 7701 of this title,

the stay shall continue until the Board issues its final decision on the petition of the individual for relief, on the petition of the Special Counsel for corrective action, or on the appeal of the employee, as the case may be.

"§ 1206. Transmittal of information to Congress

"Notwithstanding any other provision of law or any rule, regulation, or policy directive, any member of the Board, or any employee of the Board designated by the Board, may transmit to the Congress on the request of any committee or subcommittee thereof, by report, testimony, or otherwise, information and views on functions, responsibilities, or other matters relating to the Board, without review, clearance, or approval by any other administrative authority.

"§ 1207. Annual report

"The Board shall submit an annual report to the President and the Congress on its activities, which shall include a description of significant actions taken by the Board to carry out its functions under this title. The report shall also review the significant actions of the Office of Personnel Management, including an analysis of whether the actions of the Office of Personnel Management are in accord with merit system principles and free from prohibited personnel practices.

"Subchapter II—Office of Special Counsel

"§ 1211. Establishment of Office of Special Counsel

"(a) There is established an Office of Special Counsel, which shall be headed by a Special Counsel. The Office shall have an official seal which shall be judicially noticed. The Office shall have its principal office in the District of Columbia and shall have field offices in other appropriate locations.

"(b) The Special Counsel shall be appointed by the President, by and with the advice and consent of the Senate, for a term of 5 years. The Special Counsel shall be an individual who, by demonstrated ability, background, training, or experience, is especially qualified to carry out the functions of the position. A Special Counsel appointed to fill a vacancy occurring before the end of a term of office of his predecessor serves for the remainder of the term. The Special Counsel may be removed by the President only for inefficiency, neglect of duty, or malfeasance in office The Special Counsel may not hold another office or position in the Government of the United States, except as otherwise provided by law or at the direction of the President.

"§ 1212. Powers and functions of Office of Special Counsel

"(a) The Office of Special Counsel shall—

"(1) represent and act as legal counsel on behalf of employees alleging prohibited personnel practices before the Merit Systems Protection Board and Federal courts;

"(2) receive and investigate allegations of prohibited personnel practices, and, where appropriate, bring petitions for stays, under section 1205 of this title, and petitions for corrective action, under section 1214 of this title, to protect individuals from being subject to prohibited personnel practices;

"(3) receive, review, and, where appropriate, forward to the Attorney General or an agency head under section 1213 of this title, disclosures of violations of any law, rule, or regulation, or mismanagement, a gross waste of funds, an abuse of authority, or a substantial and specific danger to public health or safety;

"(4) investigate prohibited personnel practices and, where appropriate, bring disciplinary actions against individuals who have committed prohibited personnel practices, pursuant to section 1215 of this title;

"(5) review each rule or regulation issued by the Director in carrying out functions under section 1103 of this title and, where the Special Counsel finds that any such rule or regulation would, on its face or as implemented, encourage or require the commission of a prohibited personnel practice, file a written complaint with the Board; and

"(6) investigate and bring appropriate actions concerning allegations of violations of other laws within the jurisdiction of the Office of Special Counsel under section 1217 of this title.

"(b)(1) The Special Counsel and any employee of the Office of Special Counsel designated by the Special Counsel may administer oaths, examine witnesses, take depositions, and receive evidence.

"(2) The Special Counsel may issue subpoenas requiring the attendance of any employee, member of the uniformed services or contract employee of the Government for the purpose of interviewing such individual and may issue subpoenas requiring the production of any documents or other information from any such person from any place in the United States or any territory or possession thereof, the Commonwealth of Puerto Rico, the District of Columbia, or from any installation or facility of the Government of the United States throughout the world.

"(3) The Special Counsel may order the taking of depositions and order responses to written interrogatories.

"(4) In the case of contumacy or failure to obey a subpoena issued under paragraph (2) of this subsection, the United States district court for the judicial district in which the person to whom the subpoena is addressed resides or is served may issue an order requiring such person to appear at any designated place to be interviewed or to produce documents or other information. Any failure to obey the order of the court may be punished by the court as contempt thereof.

"(c) Except as provided in section 518 of title 28, relating to litigation before the Supreme Court, attorneys designated by the Special Counsel may appear for the Office of Special Counsel, and represent the Office, in any civil action brought in connection with any function carried out by the Office pursuant to this title or as otherwise authorized by law.

"(d)(1) Except as provided in paragraph (2) of this subsection, the Special Counsel may, as a matter of right, intervene or otherwise participate in any proceeding before the Merit Systems Protection Board, except that the Special Counsel shall comply with the rules of the Board.

"(2) The Special Counsel may intervene or otherwise participate in an action brought by an individual pursuant to section 1221 of this title or in an appeal brought by an employee pursuant to section 7701 of this title only with the consent of such individual or employee.

"(3) The Special Counsel may obtain judicial review of any final order or decision of the Merit Systems Protection Board in which the Special Counsel was a party to the United States district court for the judicial district in which the employee resides.

"(e)(1) The Special Counsel may appoint the legal, administrative, and support personnel necessary to perform the functions of the Special Counsel.

"(2) Any appointment made under this subsection shall be made in accordance with the provisions of this title, except that such appointment shall not be subject to the approval or supervision of the Office of Personnel Management or the Executive Office of the President (other than approval required under section 3324 or subchapter VIII of chapter 33 of this title).

"(f) The Special Counsel may prescribe regulations relating to the receipt and investigation of matters under the jurisdiction of the Special Counsel. Such regulations shall be published in the Federal Register.

"(g) The Special Counsel shall not issue any advisory opinion concerning any law, rule, or regulation (other than an advisory opinion concerning chapter 15, or subchapter III of chapter 73, of this title).

"§ 1213. Receipt and processing of disclosures

"(a) In any case involving—

"(1) any disclosure of information by an employee or applicant for employment which the employee or applicant reasonably believes evidences—

"(A) a violation of any law, rule, or regulation; or

"(B) mismanagement, a gross waste of funds, an abuse of authority, or a substantial and specific danger to public health or safety;

if the disclosure is not specifically prohibited by law and if the information is not specifically required by Executive order to be kept secret in the interest of national defense or the conduct of foreign affairs; or

"(2) a disclosure by an employee or applicant for employment to the Special Counsel or to the Inspector General of an agency or another employee designated by the head of the agency to receive such disclosures of information which the employee or applicant reasonably believes evidences—

"(A) a violation of any law, rule, or regulation; or

"(B) mismanagement, a gross waste of funds, an abuse of authority, or a substantial and specific danger to public health or safety;

the identity of the employee or applicant may not be disclosed without the consent of the employee or applicant during any investigation under this chapter unless the Special Counsel determines that the disclosure of the identity of the employee or applicant is necessary in order to carry out the functions of the Special Counsel.

"(b) Whenever the Special Counsel receives information of the type described in subsection (a) of this section, the Special Counsel shall review such information and shall, within 15 days after the date on which the Special Counsel received the information, make a determination with respect to the matters described in subsection (c)(1) of this section.

"(c)(1) If the Special Counsel determines under subsection (b) of this section that—

"(A) there is a substantial likelihood that the information referred to in such subsection discloses a violation of any law, rule, or regulation, or mismanagement, gross waste of funds, abuse of authority, or substantial and specific danger to public health or safety; and

"(B) the information was transmitted to the Special Counsel by an employee or former employee or applicant for employment in the agency which the information concerns or by any employee who obtained the information in connection with the performance of the employee's duties and responsibilities,

the Special Counsel shall require the head of such agency conduct an investigation and submit a report as provided in paragraph (2) of this subsection.

"(2) The head of an agency referred to in paragraph (1) of this subsection shall—

"(A) conduct an investigation of the information referred to in such paragraph and any related matters transmitted by the Special Counsel to such head of an agency under such paragraph; and

"(B) within 60 days after the date on which the Special Counsel transmits such information to such head of an agency or within such longer period as such head of an agency and the Special Counsel agree to in writing, submit to the Special Counsel a written report setting out the findings of such head of an agency with respect to the investigation.

"(d) Any report required under subsection (c) of this section shall be reviewed and signed by the head of the agency and shall include—

"(1) a summary of the information with respect to which the investigation was initiated;

"(2) a description of the conduct of the investigation;

"(3) a summary of any evidence obtained from the investigation;

"(4) a listing of any violation or apparent violation of any law, rule, or regulation; and

"(5) a description of any action taken or planned as a result of the investigation, such as—

"(A) changes in agency rules, regulations, or practices;

"(B) the restoration of any aggrieved employee;

"(C) disciplinary action against any employee; and

"(D) referral to the Attorney General of any evidence of a criminal violation.

"(e)(1) Any such report shall be submitted to the Congress, to the President, and to the Special Counsel for transmittal to the complainant. Whenever the Special Counsel does not receive the report of the agency head within the time prescribed in subsection (c)(2) of this section, the Special Counsel shall transmit a copy of the information which was transmitted to the agency head to the President, and to the Congress together with a statement noting the failure of the head of the agency to file the required report.

"(2) In any case in which evidence of a criminal violation obtained by an agency in an investigation under subsection (c) of this section is referred to the Attorney General—

"(A) the report shall not be transmitted to the complainant; and

"(B) the agency shall notify the Office of Personnel Management and the Office of Management and Budget of the referral.

"(f) Upon receipt of any report of the head of an agency required under subsection (c) of this section, the Special Counsel shall review the report and determine whether—

"(1) the findings of the head of the agency appear reasonable; and

"(2) the agency's report under subsection (c)(2) of this section contains the information required under subsection (d) of this section.

"(g)(1) If the Special Counsel cannot make a determination described in subsection (c)(1)(A) or (c)(1)(B) of this section with respect to information disclosed to the Special Counsel by an individual, the Special Counsel shall return the information to such individual together with an explanation of the reasons that such determination cannot be made and a referral to any Federal Government agency which might be authorized to take some action on the basis of such information.

"(2) The Special Counsel shall not release outside the Office of the Special Counsel any information returned to an individual under paragraph (1) of this subsection or any related information obtained in connection with the disclosure of such information to the Special Counsel by such individual.

"(h) Except as specifically authorized under this section, the provisions of this section shall not be considered to authorize disclosure of any information by any agency or any person which is—

"(1) specifically prohibited from disclosure by any other provision of law; or

"(2) specifically required by Executive order to be kept secret in the interest of national defense or the conduct of foreign affairs.

"(i) In any case under subsection (a) of this section involving foreign intelligence or counterintelligence information the disclosure of which is specifically prohibited by law or by Executive order, the Special Counsel shall transmit such information to the Permanent Select Committee on Intelligence of the House of Representatives and the Select Committee on Intelligence of the Senate.

"(j) The Special Counsel shall maintain and make available to the public a list of noncriminal matters referred to heads of agencies under subsection (c) of this section, together with reports by the heads of agencies under subsection (c)(2) of this section, in the case of matters referred to under this section. The Special Counsel shall take steps to ensure that any such public list does not contain any information the disclosure of which is prohibited by law or by Executive order requiring that information be kept secret in the interest of national defense or the conduct of foreign affairs.

"§ 1214. Investigation of prohibited personnel practices; corrective action

"(a)(1) The Special Counsel shall receive any allegation of a prohibited personnel practice and shall investigate the allegation to the extent necessary to determine whether there are reasonable grounds to believe that a prohibited personnel practice has occurred, exists, or is to be taken.

"(2) If the Special Counsel terminates any investigation under paragraph (1) of this subsection, the Special Counsel shall prepare and transmit to any person on whose allegation the investigation was initiated a written statement notifying the person of the termination of the investigation, the findings of fact ascertained during the course of the investigation and the reason the Special Counsel decided to terminate the investigation.

"(3) In addition to the authority granted under paragraph (1) of this subsection, the Special Counsel may, in the absence of an allegation, conduct an investigation for the purpose of determining whether there are reasonable grounds to believe that a prohibited personnel practice (or a pattern of prohibited personnel practices) has occurred, exists, or is to be taken.

"(b)(1) If, in connection with any investigation under this section or under section 1213 of this title, the Special Counsel determines that there are reasonable grounds to believe a prohibited personnel practice (or a pattern of prohibited personnel practices) has occurred, exists, or is to be taken by an agency, the Special Counsel shall promptly seek a stay of such prohibited personnel practice pursuant to section 1205 of this title.

"(2)(A) If a prohibited personnel practice is taken or has not been reversed or canceled in violation of a stay ordered under section 1205(a)(2) of this title, the Special Counsel shall petition the Merit Systems Protection Board for corrective action.

"(B) If the Special Counsel, in consultation with the individual who is alleged to be subject to the prohibited personnel practice, finds that the agency has reversed or canceled the prohibited personnel practice, the Special Counsel shall file with the Board such finding together with an indication of whether such individual agrees to the finding. Such individual may file supplementary comments with the Board.

"(3) In the case of any petition for corrective action filed against an agency under paragraph (2) of this subsection, the Board shall provide an opportunity for presentations to be made by the Special Counsel, the agency, the Office of Personnel Management, and any individual who is alleged to be subject to the prohibited personnel practice involved in such petition.

"(4) The Board shall order such corrective action as the Board considers appropriate if the Board determines that the Special Counsel has demonstrated—

"(A) by substantial evidence, in the case of a prohibited personnel practice described in section 2302(b)(8) of this title; or

"(B) by a preponderance of the evidence, in the case of any other prohibited personnel practice,

that a prohibited personnel practice has been taken and continues in effect in the case of any individual or is to be taken against any individual.

"(c)(1) If, in connection with any investigation under this section, the Special Counsel determines that there is reasonable cause to believe that a criminal violation by an employee has occurred, the Special Counsel shall report the determination to the Attorney General and to the head of the agency involved, and shall submit a copy of the report to the Director of the Office of Personnel Management and the Director of the Office of Management and Budget.

"(2) In any case in which the Special Counsel determines that there are reasonable grounds to believe that a prohibited personnel practice has occurred, exists, or is to be taken, the Special Counsel shall proceed with any investigation or proceeding instituted under this section notwithstanding that the alleged violation has been reported to the attorney General.

"(d) If, in connection with any investigation under this section, the Special Counsel determines that there is reasonable cause to believe that any violation of any law, rule, or regulation has occurred which is not referred to in subsection (b) or (c) of this section, the violation shall be reported to the head of the agency involved. The Special Counsel shall require, within 30 days of the receipt of the report by the agency, a certification by the head of the agency which states—

"(1) that the head of the agency has personally reviewed the report; and

"(2) what action has been or is to be taken, and whan the action will be completed.

"(e) During any investigation initiated under this section, no disciplinary action shall be taken against any employee for any alleged prohibited activity under investigation or for any related activity without the approval of the Special Counsel.

"§ 1215. Disciplinary actions

"(a) The Special Counsel may file a petition for disciplinary action, pursuant to this section, against an official for—

"(1) commission of a prohibited personnel practice;

"(2) violating a law within the jurisdiction of the Special Counsel under section 1217 of this title; and

"(3) any knowing and willful refusal or failure to comply with an order of the Merit Systems Protection Board.

"(b) For purposes of this section, the term 'official' means an individual in the civil service or in the uniformed services or an individual employed, directly or indirectly, by the Government to perform work for the Government.

"(c) The Special Counsel shall prepare a written complaint against the official containing the charges and supporting facts, and present the complaint to the official and to the Merit Systems Protection Board.

"(d) Any employee against whom a complaint has been presented to the Merit Systems Protection Board under subsection (c) of this section is entitled to—

"(1) a reasonable time to answer orally and in writing and to furnish affidavits and other documentary evidence in support of the answer;

"(2) be represented by an attorney or other representative;

"(3) a hearing before the Board or an administrative law judge appointed under section 3105 of this title and designated by the Board;

"(4) have a transcript kept of any hearing under paragraph (3) of this subsection; and

"(5) a written decision and reasons therefor at the earliest practicable date, including a copy of any final order imposing disciplinary action.

"(e) Except as provided in subsection (h) of this section, a final order of the Board may impose disciplinary action consisting of removal, reduction in grade, debarment from Federal employment for a period not to exceed 5 years, suspension, reprimand, or an assessment of a civil penalty not to exceed $1,000.

"(f) There may be no administrative appeal from an order of the Board. An employee subject to a final order imposing disciplinary action under this section may obtain judicial review of the order in the United States court of appeals for the judicial circuit in which the employee resides or is employed at the time of the action.

"(g) In the case of any State or local officer or employee under chapter 15 of this title, the Board shall consider the case in accordance with the provisions of such chapter.

"(h) In the case of an official—

"(1) in the civil service who is in a confidential, policy-making, policy-determining, or policy-advocating position appointed by the President, by and with the advice and consent of the Senate (other than an individual in the Foreign Service of the United States), or

"(2) not in the civil service, the final order of the Board shall recommend to the appointing authority of such official what type of disciplinary action should be imposed.

"(i) Any decision of the Board pursuant to this section shall be made publicly available at issuance.

"§ 1216. Discrimination complaints

"Where a complaint is presented to the Special Counsel which alleges a prohibited personnel practice of the type described in section 2302(a)(1) of this title and such complaint has also been made to the Equal Employment Opportunity Commission, the Special Counsel shall refer such complaint to the Equal Employment Opportunity Commission for consideration.

"§ 1217. Other matters within the jurisdiction of Office of Special Counsel

"(a) In addition to the authority otherwise provided in this chapter, the Special Counsel shall conduct an investigation of any allegation concerning—

"(1) political activity prohibited under subchapter III of chapter 73 of this title, re-

lating to political activities by Federal employees;

"(2) political activity prohibited under chapter 15 of this title, relating to political activities by certain State and local officers and employees;

"(3) arbitrary or capricious withholding of information prohibited under section 552 of this title, except that the Special Counsel shall make no investigation under this subsection of any withholding of foreign intelligence or counterintelligence information the disclosure of which is specifically prohibited by law or by Executive order;

"(4) activities prohibited by any civil service law, rule, or regulation, including any activity relating to political intrusion in personnel decisionmaking; and

"(5) involvement by any employee in any prohibited discrimination found by any court or appropriate administrative authority to have occurred in the course of any personnel action.

"(b)(1) If the investigation by the Special Counsel substantiates the allegation referred to in subsection (a)(1) of this section, the Special Counsel shall petition the Merit Systems Protection Board for penalties, pursuant to section 7325 of this title, for the individual engaging in political activity prohibited under subchapter III of chapter 73 of this title.

"(2) If the Special Counsel receives allegations of political activities prohibited under chapter 15 of this title, the Special Counsel shall investigate and present findings pursuant to section 1504 of this title.

"(3) If the Special Counsel receives allegations of an arbitrary or capricious withholding of information prohibited under section 552 of this title, the Special Counsel shall investigate and submit findings pursuant to section 552(a)(4)(F) of this title.

"(4) If the Special Counsel receives allegations of activities described in subsection (a)(4) of this section or involvement described in subsection (a)(5) of this section, the Special Counsel shall investigate and seek corrective action under section 1214 of this title and if appropriate, disciplinary action under section 1215 of this title as if the activities or involvement were a prohibited personnel practice.

"§ 1218. Transmittal of information to Congress

"Notwithstanding any other provision of law or any rule, regulation, or policy directive, the Special Counsel or any employee of the Special Counsel designated by the Special Counsel, may transmit to the Congress on the request of any committee or subcommittee thereof, by report, testimony, or otherwise, information and views on functions, responsibilities, or other matters relating to the Office, without review, clearance, or approval by any other administrative authority.

"§ 1219. Annual report

"The Special Counsel shall submit an annual report to the Congress on the activities of the Special Counsel, including the number, types, and disposition of allegations of prohibited personnel practices filed with it, investigations conducted by it, and actions initiated by it before the Board, as well as a description of the recommendations and reports made by it to other agencies pursuant to this section, and the actions taken by the agencies as a result of the reports or recommendations. The report required by this subsection shall include whatever recommendations for legislation or other action by Congress the Special Counsel may consider appropriate.

"Subchapter III—Employee Right of Action

"§ 1221. Individual right of action

"(a)(1) Any individual who has been adversely affected by a prohibited personnel practice may bring an action before the Merit Systems Protection Board for corrective action.

"(2) The individual shall commence an action by filing a written complaint with the Merit Systems Protection Board, and shall serve a copy of such complaint on the agency in which the prohibited personnel practice is alleged to have occurred. The complaint shall contain the specific prohibited personnel practice which is alleged to have occurred and facts to support such allegation.

"(b) At the request of the individual, the Board shall compel the agency to provide all relevant and material documents and witnesses to assist the individual in the preparation of the case.

"(c) The Board may not defer action on a complaint brought under subsection (a) of this section to await final agency action.

"(d) The Board shall order such corrective action as is necessary to eliminate the adverse effect of the prohibited personnel practice on the individual if the individual demonstrates—

"(1) by substantial evidence that a prohibited personnel practice described in section 2302(b)(8) of this title has occurred, exists or is to be taken; or

"(2) by a preponderance of the evidence that a prohibited personnel practice other than one described in section 2302(b)(8) of this title has occurred, exists, or is to be taken.

"(e) If the Merit Systems Protection Board finds that a prohibited personnel practice has occurred, the Board shall order the agency which committed the prohibited personnel practice to pay to the individual who brought the action under this section all that individual's actual costs in bringing the action, including reasonable attorney's fees.

"(f)(1) The individual may obtain judicial review of any final order or decision of the Merit Systems Protection Board in any action brought by the individual under this section or in a petition for corrective action brought by the Special Counsel pursuant to section 1214 of this title where the individual was alleged to be a victim of the prohibited personnel practice.

"(2) An individual seeking judicial review under this subsection may seek such review in the United States district court for the judicial district in which the individual resides.

"(3) The court referred to in paragraph (2) of this subsection may order the agency which committed the prohibited personnel practice to pay to the individual who brought the appeal under this subsection all of the actual costs incurred by that individual in bringing the action, including reasonable attorney's fees.

§ 1222. Individual action on agency failure to comply with order of Board

"Where the Merit Systems Protection Board orders any Federal agency to comply with an order or decision, pursuant to section 1204(a)(2) of this title, and the agency does not promptly comply, any individual who suffers harm as a result of such delay may file an action before the Merit Systems Protection Board for actual and punitive damages against such agency.

"§ 1223. Relationship between individual action and Special Counsel action

"(a) The right of an individual to bring and pursue an action before the Merit Systems Protection Board or a court of the United States under section 1205, 1221, 1222, or 7701 of this title shall not be affected by any decision of the Special Counsel not to pursue any action requested by the individual.

"(b) An individual may not bring an action under section 1221 of this title if an action involving the same facts and circumstances has previously been brought before the Merit Systems Protection Board by the Special Counsel in the case of such individual pursuant to section 1214 of this title or by such individual pursuant to section 1221 of this title and the Merit Systems Protection Board has previously decided such action on the merits.".

(b) The table of chapters at the beginning of part II of such title is amended by striking out the item relating to chapter 12, and inserting in lieu thereof the following:

"12. Merit Systems Protection Board Special Counsel, and Employee Right of Action ..... 1201.".

SEC. 4. REPRISALS.

Section 2302(b)(9) of title 5, United States Code, is amended to read as follows:

"(9) take or fail to take any personnel action against any employee or applicant for employment as a reprisal—

"(A) for the exercise of any appeal, complaint, or grievance right granted by any law, rule, or regulation;

"(B) for testifying for or assisting any individual who alleges to be the victim of a prohibited personnel practice;

"(C) for cooperating with or disclosing information to the Inspector General of an agency or to the Special Counsel; or

"(D) for failing to follow orders to disobey or not enforce a law;".

SEC. 5. AUTHORIZATION OF APPROPRIATIONS; RESTRICTION RELATING TO APPROPRIATIONS UNDER CIVIL SERVICE REFORM ACT OF 1978.

(a) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated, out of any moneys in the Treasury not otherwise appropriated—

(1) for each of fiscal years 1987, 1988, 1989, 1990, and 1991, the sum of $20,000,000 to carry out the provisions of subchapter I of chapter 12 of title 5, United States Code; and

(2) for each of fiscal years 1987, 1988, and 1989, the sum of $5,000,000 to carry out the provisions of subchapter II of chapter 12 of title 5, United States Code.

(b) RESTRICTION RELATING TO APPROPRIATIONS UNDER CIVIL SERVICE REFORM ACT OF 1978.—No funds are authorized to be appropriated to the Merit Systems Protection Board or the Office of Special Counsel pursuant to the authorization contained in section 903 of the Civil Service Reform Act of 1978 (15 U.S.C. 5509 note).

SEC. 6. TERMINATION AND TRANSFER PROVISIONS.

(a)(1) The positions of Special Counsel of the Merit Systems Protection Board is terminated.

(2) Any reference in any law, regulation, document, record, or other paper of the United States to the Special Counsel of the Merit Systems Protection Board shall be deemed to refer to the Special Counsel referred to in section 1211 of title 5, United States Code, as added by section 3(a) of this Act.

(b) The personnel, assets, liabilities, contracts, property, records, and unexpended balances of appropriations, authorizations, allocations, and other funds employed, held, used, arising from, available or to be made available to the Special Counsel of the Merit Systems Protection Board are, subject to section 1531 of title 31, United States Code, transferred to the Special Counsel referred to in section 1211 of title 5, United States Code (as added by section 3(a) of this Act), for appropriate allocation.

SEC. 7. EFFECTIVE DATE AND APPLICATION.

(a) Except as provided in subsection (b), this Act and the amendments made by this Act shall take effect on October 1, 1986.

(b) This Act and the amendments made by this Act shall apply to any allegation of a prohibited personnel practice received by the Office of the Special Counsel after September 30, 1986.●

● Mr. GRASSLEY. Mr. President, earlier this Congress the Senate approved an amendment I sponsored providing enhanced legal protections for Government whistleblowers. The same language passed this body as a separate piece of legislation in the 98th Congress. Unfortunately, the protections in those bills were not acted on by the House of Representatives.

Today, however, I am joining with my colleagues Senator LEVIN and Representatives SCHROEDER and HORTON to sponsor a more comprehensive bill which offers not only increased legal options, but reforms the administrative system Federal civil servants turn to for fair and just treatment.

I have learned from my own contact with so-called whistleblowers over the past several years that their services are absolutely essential to the Government, the public, and the media, as well as those of us in Congress. Most of us wouldn't know where to begin to find $7,600 coffee pots, not to mention complex schemes of fraud and overpricing, without the aid of whistleblowers from within the system.

Unfortunately, our Government bureaucracies usually have a strange method of rewarding those who point out waste and inefficiency. Harassment, demotions, and undesired relocations are the "prizes" most often handed out.

No wonder this administration's own survey has found nearly 70 percent of observed waste or fraud is going unreported for two basic reasons; one, the belief that nothing will be done to correct the activity, and; two, the fear of reprisal.

Perhaps most disturbing though is the finding that since 1980, fear of reprisal among would-be whistleblowers has nearly doubled.

What does that mean? It means that despite assurances about protections and despite the supposed safeguarding mechanisms within the system, reality tells us there is virtually no protection for whistleblowers—and it's getting worse.

The current system of rewards and punishments in practice is evidence of a bureaucracy whose incentives produce the direct opposite of its stated goals. This legislation is an effort to help reverse what appears to be an upside down system.

Among other provisions, our bill would allow whistleblowers a legal remedy if they suffer retaliation from superiors for disclosing waste, abuse, mismanagement, or fraud. Presently, civil servants who suffer reprisal are tried entirely within the administrative system. If the system prevails, the whistleblower is at the end of his rope. However, if the whistleblower happens to succeed through the administrative route, those found guilty of retaliation do have another chance to have their case heard in the outside judicial arena. This bill would equalize the appeal rights, so that whistleblowers by themselves, or through the Office of Special Counsel, could seek protections in Federal court.

Additionally, this legislation clarifies that the special counsel is a representative for whistleblowers and reestablishes the Office of the Special Counsel as an independent agency.

Mr. President, this bill is a bipartisan vote of confidence for the many whistleblowers and would-be whistleblowers in Government service. The need for sending this message of support is irrefutable. Government efficiency would be promoted, taxpayer funds saved, and honest Federal workers rewarded. I strongly urge my colleagues to join us in supporting this important measure.●

By Mr. TRIBLE (for himself and Mr. DENTON):

S.J. Res. 256. Joint resolution designating August 12, 1986, as "National Neighborhood Crime Watch Day"; to the Committee on the Judiciary.

NATIONAL NEIGHBORHOOD CRIME WATCH DAY

Mr. TRIBLE. Mr. President, I am introducing a joint resolution today which commends the efforts of the Nation's neighborhood crime watch groups and declares August 12, 1986, as "National Neighborhood Crime Watch Day."

During the last several years, the ranks of neighborhood crime watch organizations have grown tremendously. Citizens throughout America, who have been justifiably concerned about the Nation's crime rate, have joined together in voluntary efforts to prevent and deter criminal activity.

One grassroots organization alone, the National Association of Town Watch, has 1,500 chapters from 32 different States. The National Sheriffs Association is actively involved in neighborhood watch efforts. And in my own State of Virginia, roughly 300,000 households participate in some form of neighborhood crime watch program, all of which are operated in close cooperation with local police and sheriffs.

On August 12 of this year, many of these organizations will participate in a "national night out" being sponsored, in part, by the National Association of Town Watch. In large cities and small towns across America, participating neighborhood watch members will spend the hour between 8 p.m. and 9 p.m. local time patrolling their neighborhoods or watching from the lawns of their homes. At least a dozen jurisdictions in Virginia are expected to take part.

This annual event is designed to increase cooperation between community-based watch programs and their local law enforcement authorities. It is also aimed at generating local support for the crime watch groups and increasing their membership.

Last year, more than 10 million people in 46 different States took part in the national night out. A number of law enforcement organizations in Virginia have endorsed this activity, and have told me how highly they value the contribution of neighborhood watch groups. I fully agree, and I am hopeful that an even larger turnout will occur in Virginia and across the Nation on August 12 of this year.

The joint resolution I am introducing today commends the efforts of America's neighborhood crime watch organizations. It also declares August 12, 1986, as National Neighborhood Crime Watch Day, to coincide with the national night out being held on that same day.

Mr. President, I am greatly encouraged by the widespread participation in neighborhood crime groups. I believe it reflects a growing unwillingness on the part of law-abiding Americans to simply buckle under to the threat of crime. It is also a valuable example of the voluntary, community-based efforts that contribute so much to society in general.

I urge my colleagues to join me in supporting this joint resolution, and I ask unanimous consent that a copy be printed in the RECORD.

There being no objection, the joint resolution was ordered to be printed in the RECORD, as follows:

S.J. RES. 256

Whereas neighborhood crime is of continuing concern to the American people;

Whereas the fight against neighborhood crime requires people to work together in cooperation with law enforcement officials;

Whereas neighborhood crime watch organizations are effective at promoting awareness about, and the participation of volunteers in, crime prevention activities at the local level; and

Whereas citizens across America will soon take part in a "National Night Out," a unique crime prevention event which will demonstrate the importance and effectiveness of community participation in crime prevention efforts by having people spend the period from 8 to 9 o'clock postmeridian on August 12, 1986, with their neighbor-

hoods in front of their homes: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That August 12, 1986, is designated as "National Neighborhood Crime Watch Day," and the President is authorized and requested to issue a proclamation calling upon the people of the United States to observe such day with appropriate programs, ceremonies, and activities.

By Mr. CHILES (for himself, Mr. PELL, Mr. BYRD, Mr. TRIBLE, Mr. KENNEDY, Mrs. HAWKINS, Mr. PROXMIRE, Mr. LAUTENBERG, Mr. DOMENICI, Mr. CHAFEE, Mr. SIMON, Mr. BOREN, Mr. HOLLINGS, Mr. BRADLEY, Mr. DODD, Mr. DOLE, Mr. BURDICK, Mr. MOYNIHAN, Mr. HATCH, Mr. RIEGLE, and Mr. THURMOND):

S.J. Res. 257. Joint resolution to designate the first Friday of May each year as "National Teacher Appreciation Day"; to the Committee on the Judiciary.

NATIONAL TEACHER APPRECIATION DAY

● Mr. CHILES. Mr. President, today I am introducing legislation which would designate the first Friday of May each year as "National Teacher Appreciation Day." I am joined in this effort by Senators PELL, BYRD, TRIBLE, KENNEDY, HAWKINS, PROXMIRE, LAUTENBERG, DOMENICI, CHAFEE, SIMON, BOREN, HOLLINGS, BRADLEY, DODD, DOLE, BURDICK, MOYNIHAN, HATCH, RIEGLE, and THURMOND.

I am proud to be introducing this legislation in the same week that we have a teacher, Christa McAuliffe, going into space on the shuttle *Challenger.* Educators from all over the Nation are gathering in Florida for this launch and for briefings by NASA. This kind of joint effort to bring together the Government and classroom teachers around science, one of the most important curriculum areas, is inspiring to everyone. Her class must be excited about having lessons presented from space. My enthusiasm is heightened by the fact that experiments of students from across the Nation will be conducted in space. This is applied science at its best!

This space flight represents the kind of advances we have seen in teaching in recent years. I am happy to see surveys indicating a rise in teachers' salaries. I am also pleased to see an increase in the number of high school seniors who plan to go into teaching. This means that publicly recognizing the importance of teaching in society does affect the views of young people toward the profession and their dedication to it.

Even so, the future of the teaching profession is one of the most challenging areas we are facing as a nation. Approximately one-half of the teachers surveyed indicated that they don't plan to be teaching in 5 years. Data further show that we will need over 1 million new teachers by 1990. The demands facing these new teachers will be greater than ever before as an increasing percentage of students are from disadvantaged backgrounds or are of limited English proficiency. At every level, teachers are called upon to excel in all areas to raise motivation and standards.

To meet the demands of today's schools requires great commitment. Our teachers are rising to the challenge. They are using creative teaching techniques to bring subjects alive in the classroom; they are becoming increasingly involved in parent teacher organizations; and they are enrolling in courses to keep themselves on the cutting edge of the areas they teach. Such dedication must be acknowledged and applauded.

In order to ensure that we continue to have quality teachers in our schools, we must recognize and respect the teachers who do so much. By designating the first Friday of May each year as "National Teacher Appreciation Day," we encourage students, parents, school administrators and the entire community to recognize the invaluable contributions teachers make.●

● Mr. DOMENICI. Mr. President, today I am delighted to join my colleague from Florida, Senator LAWTON CHILES, in introducing a Senate joint resolution designating the first Friday of May each year as "National Teacher Appreciation Day."

As a former junior high school mathematics teacher myself, I am keenly aware of the vital work that goes on each day in our Nation's classrooms. Critical attitude, concepts, and social skills are developed. These form the basis of a lifetime of accomplishment. While we are often reminded that so-called failures are the fault of the school, I am one who believes that failing, like succeeding, depends on individual initiative or the lack thereof. I view our Nation's schools as providing opportunities and buttresses for success, supporting a productive life much as a bridge is supported by its piers and abutments. Those who accept the challenge and choose to cross the bridge will be rewarded with new challenges and a possible life of achievement.

Teachers choose to commit their lives to maintaining and improving this vital bridge. Many distinguish themselves in giving their life energy to others through the art of teaching. Teachers are indispensable in our modern lives, and it is important to our own growth that we stop and give our gratitude to those who have helped us conquer the manifold problems of ignorance.

Teachers are one of society's main supports. Our superstructures would collapse without them. We have grown accustomed to high quality graduates from our Nation's schools, colleges, and universities. We have also become too complacent about the consistent and improving quality of graduates. We have not, as a society, taken the time to thank those who work to help others become the backbone of industry, government, finance, commerce, education, and culture.

By introducing this resolution, we are thanking the millions of teachers who have done their work without asking for national acclaim. Passage of this resolution will help to begin an annual cycle of national attention and appreciation in the month of May for those who are busy preparing yet millions more students for their graduation ceremonies and a productive life to follow.

In an age where teacher evaluation has become commonplace, we hope, by means of this resolution, to turn the critical eyes of society upon ourselves to see whether we have been properly grateful to those teachers who have served us so well. We want to recognize these hidden and reliable pillars of strength for their fine work.

By creating this special day, we hope to give students and parents a new opportunity to express their gratitude to their teachers and their children's teachers who have been there to guide and lend a timely helping hand. This expression of gratitude from students and parents will be a fine finish and a deserved tribute to their friend the teacher. I believe education is incomplete without the opportunity to thank those who give us so much on a daily basis. By so doing we enhance the status of the teacher in our society, the importance of education to our society, the quality of education that we receive, and ultimately, we enhance our society itself.●

● Mr. BOREN. Mr. President, Today I rise to join my colleague, Mr. CHILES, in introducing a resolution to designate the first Friday of May as "National Teacher Appreciation Day."

Nothing is more essential to the quality of education than the quality of the teacher. Few persons outside of our own immediate families exert such an influence on our lives. Few make such a mark on our total cutlure and society as do our teachers.

To remain a first-class Nation, it is imperative that we support an educational system that encourages first-class teachers. This kind of investment in human resources is the only way that our Nation can continue to effectively compete with the rest of the world. We need to solve the problem of the trade imbalance, we need to develop a competitive business technology, we need to insure the strength of our defense. All of these are depend-

ent on a sound and progressive educational system.

Today's commitment to recognizing these teachers can be a step toward reversing the decline of quality students interested in pursuing careers in education. The prognosis has been bleak: only 2 percent of the top quarter of college students plan to enter the teaching profession. Although education constitutes less than 2 percent of the Federal budget, it is being asked to absorb a 6.5 percent reduction for fiscal year 1986. College level professors are being lured away from the campus to higher paying careers in business. On the whole, teachers are very dedicated and committed to the values of education, but simply cannot afford to remain in a program that is not fully supported by the entire Nation.

At a time when there could not be a greater national need for qualified and specially trained minds to bring us into the 21st century, education should be a Federal priority. For this reason, I am pleased to join in this effort to bring much deserved recognition and appreciation to those who have chosen to dedicate their time and energies to the profession of teaching.●

Mr. BYRD. Mr. President, I am pleased to join the other distinguished Senators in offering this joint resolution designating the first Friday of May each year as "National Teacher Appreciation Day."

All parents and grandparents of students have long known what many recent scholarly studies on excellence in education are reporting: That one of the most crucial ingredients in a quality education is a quality teacher. A good teacher can inspire in a student a love of learning, regardless of the amount of resources at hand such as books, computers, and fancy study guides.

Fortunately, the schools in my home State of West Virginia and throughout our Nation are blessed with many very inspiring and excellent teachers. It is my hope that a "National Teacher Appreciation Day" will serve not only to honor the many fine teachers of our students, but also will encourage dedicated young people to join the teaching profession.

ADDITIONAL COSPONSORS

S. 1107

At the request of Mr. NUNN, the name of the Senator from North Carolina [Mr. EAST] was added as a cosponsor of S. 1107, a bill to authorize the Society of the Third Infantry Division to erect a memorial in the District of Columbia or its environs.

S. 1134

At the request of Mr. COHEN, the name of the Senator from Oklahoma [Mr. BOREN] was added as a cosponsor of S. 1134, a bill to amend title 5, United States Code, to provide administrative civil penalties for false claims and statements made to the United States by certain recipients of property, services, or money from the United States, by parties to contracts with the United States, or by Federal employees, and for other purposes.

S. 1203

At the request of Mr. THURMOND, the name of the Senator from Utah [Mr. HATCH] was added as a cosponsor of S. 1203, a bill to amend section 534 of title 28, United States Code, to allow railroad police and private university or college police access to Federal Government criminal identification records.

S. 1288

At the request of Mr. DANFORTH, the name of the Senator from Michigan [Mr. LEVIN] was added as a cosponsor of S. 1288, a bill to amend the Tariff Schedules of the United States regarding the classification of television apparatus and parts thereof.

S. 1429

At the request of Mr. SPECTER, the names of the Senator from Maine [Mr. COHEN], the Senator from Delaware [Mr. ROTH], the Senator from Minnesota [Mr. DURENBERGER], the Senator from Kentucky [Mr. MCCONNELL], the Senator from Nevada [Mr. HECHT], and the Senator from Alaska [Mr. MURKOWSKI] were added as cosponsors of S. 1429, a bill to amend title 18, United States Code, to authorize prosecution of terrorists who attack U.S. nationals abroad, and for other purposes.

S. 1456

At the request of Mr. LAUTENBERG, the name of the Senator from Ohio [Mr. METZENBAUM] was added as a cosponsor of S. 1456, a bill to recognize the Army and Navy Union of the United States of America.

S. 1710

At the request of Mr. HOLLINGS, the name of the Senator from Georgia [Mr. NUNN] was added as a cosponsor of S. 1710, a bill to establish a motor carrier administration in the Department of Transportation, and for other purposes.

S. 1766

At the request of Mr. MATHIAS, the names of the Senator from Nevada [Mr. LAXALT], the Senator from Hawaii [Mr. MATSUNAGA], the Senator from Missouri [Mr. DANFORTH], the Senator from Georgia [Mr. NUNN], the Senator from Indiana [Mr. LUGAR], and the Senator from Texas [Mr. BENTSEN] were added as cosponsors of S. 1766, a bill to designate the Cumberland terminus of the Chesapeake and Ohio Canal National Historical Park in honor of J. Glenn Beall, Sr.

S. 1774

At the request of Mr. GRASSLEY, the name of the Senator from Florida [Mrs. HAWKINS] was added as a cosponsor of S. 1774, a bill to amend section 1951 of title 18 of the United States Code, and for other purposes.

S. 1778

At the request of Mr. BENTSEN, the name of the Senator from Kansas [Mr. DOLE] was added as a cosponsor of S. 1778, a bill to deny most-favored nation trade treatment to any country that provides support for acts of terrorism.

S. 1824

At the request of Mr. ZORINSKY, the name of the Senator from Oklahoma [Mr. BOREN] was added as a cosponsor of S. 1824, a bill to amend section 13(e)(3) of the Federal Deposit Insurance Act.

S. 1919

At the request of Mr. ANDREWS, the name of the Senator from Ohio [Mr. METZENBAUM] was added as a cosponsor of S. 1919, a bill to establish a task force to examine the issues associated with abuse of the elderly.

S. 1966

At the request of Mrs. KASSEBAUM, the names of the Senator from Maryland [Mr. MATHIAS], and the Senator from Mississippi [Mr. COCHRAN] were added as cosponsors of S. 1966, a bill to provide for efficient and equitable use of operating rights at congested airports, and for other purposes.

SENATE JOINT RESOLUTION 220

At the request of Mr. MATTINGLY, the names of the Senator from Florida [Mrs. HAWKINS], the Senator from Maryland [Mr. MATHIAS], and the Senator from New Jersey [Mr. BRADLEY] were added as cosponsors of Senate Joint Resolution 220, a joint resolution to provide for the designation of September 19, 1986, as "National P.O.W./M.I.A. Recognition Day."

SENATE JOINT RESOLUTION 249

At the request of Mr. DENTON, the names of the Senator from Arizona [Mr. DECONCINI], the Senator from Georgia [Mr. NUNN], and the Senator from South Carolina [Mr. THURMOND] were added as cosponsors of Senate Joint Resolution 249, a joint resolution to proclaim October 23, 1986, as "A Time of Remembrance" for all victims of terrorism throughout the world.

SENATE CONCURRENT RESOLUTION 90

At the request of Mr. LAUTENBERG, the name of the Senator from Massachusetts [Mr. KERRY] was added as a cosponsor of Senate Concurrent Resolution 90, a concurrent resolution urging the President to convene a conference to develop an International Seaport Security Agreement relating to seaport and passenger vessel security among the United States, its allies, other interested nations, and the private sector.

NOTICES OF HEARINGS

COMMITTEE ON SMALL BUSINESS

Mr. WEICKER. Mr. President, I would like to announce that the Senate Small Business Committee will hold a full committee field hearing on the impact of tax reform and simplification proposals on small business on February 10, 1986, in Oklahoma City, OK. The hearing will commence at 3 p.m. in Court Room One on the third floor of the Federal court house. Senator DON NICKLES will chair the hearing. For further information, please call Bill Langdon, of the committee staff at 224-5175, or Bret Bernhardt of Senator NICKLES' office at 224-6005.

SUBCOMMITTEE ON ENTREPRENEURSHIP AND SPECIAL PROBLEMS FACING SMALL BUSINESS

Mr. WEICKER. Mr. President, I would like to announce that the Senate Small Business Committee's Subcommittee on Entrepreneurship and Special Problems Facing Small Business will hold 2 days of hearings in Wisconsin on the entrepreneurial spirit in America. The first hearing will be held on February 11, 1986, at 2 p.m. in the Great Hall of the New Student Center at the University of Wisconsin-Stout, in Menomonie, WI. On February 13, 1986, the subcommittee will hold a morning and afternoon hearing. The morning hearing will commence at 8:30 a.m. in room E1-14, of the Fox Valley Technical Institute, Appleton, WI. The afternoon hearing will take place at 3:30 p.m. in the multipurpose room at Mount Mary College in Milwaukee, WI. Senator BOB KASTEN, chairman of the subcommittee will chair all three hearings. For further information, please call Skip Waddell of the committee staff at 224-2809, or Steve Loucks of Senator KASTEN's office at 224-4632.

COMMITTEE ON RULES AND ADMINISTRATION

Mr. MATHIAS. Mr. President, I wish to announce that the Committee on Rules and Administration will meet at 9:30 a.m., in SR-301, Russell Senate Office Building, on Wednesday, January 22, 1986, to receive testimony from Senators on pending legislation to amend the campaign finance laws (S. 59, S. 1072, S. 1787, S. 1806, and S. 1891).

Senators wishing to testify or to submit a statement for the hearing record are requested to contact the elections staff of the Rules Committee at 224-3448.

Mr. President, I wish to further announce that the Committee on Rules and Administration will meet in SR-301, Russell Senate Office Building, on Tuesday, February 4, and Wednesday, February 5, 1986, beginning at 9:30 a.m. on each day, to receive testimony from committee chairmen and ranking minority members on their fiscal year 1986 funding resolutions.

For further information concerning these hearings, please contact Carole Blessington of the Rules Committee staff on extension 40278.

ADDITIONAL STATEMENTS

THE INNOCENT VICTIMS OF ABORTION

● Mr. GARN. Mr. President, on this day 13 years ago, the Supreme Court made a landmark decision that, in essence, sealed the fate of millions of unborn children. In that decision, Roe versus Wade, the Court declared that the Constitution guarantees the right to abortion.

In my readings of the Constitution, I have never found an all-encompassing right to abortion. I have always understood that it was the function of that document to protect what Jefferson called those "unalienable rights," first and foremost of which is life. I do not see how it can at the same time be construed to sanction the wholesale destruction of human life that is taking place in our society today at the rate of about 1.5 million lives per year.

Thousands of people, all across our Nation, share my concern. They are gathering today in their hometowns and cities to protest and mourn the 1973 Supreme Court decision. Many are joining at the State Capitol in Utah for a special "Memorial for Life" to express their distress at the loss of these many young lives and to share their hopes for the future.

I, too, am hopeful that we will be able to stop this destruction of life. Last January, I introduced, for the fifth consecutive Congress, a human life amendment to the Constitution. Senate Joint Resolution 19 states that:

> With respect to the right to life, the word "person" as used . . . in the 5th and 4th amendments to the Constitution . . . applies to all human beings, irrespective of age, health, function, or condition of dependency, including their unborn offspring at every stage of their biological development.

It goes on to specify that measures necessary to prevent the death of the mother should not be prohibited.

Congress has been enmeshed in the debate on abortion this year. At least nine votes took place in the Senate and the House of Representatives on abortion-related issues in 1985. Some significant progress was made, particularly with regard to U.S. moneys going to proabortion organizations overseas. The Supreme Court also heard two more abortion-related cases. We are waiting now for their decisions.

Beyond the familiar arguments between the right to life and the right to choose, some new twists in the abortion debate have evolved. Advances in medicine over the past few years have opened up entirely new questions. Some of these include the constitutional rights of unborn children who are viable before the beginning of the Supreme Court's all-important third trimester; the rights and proper treatment of a child who lives through the abortion procedure; and the very real possibility of fetal pain during abortion. In addition, technical advances are showing, ever more graphically, that abortionists are dealing with two human lives, that of the mother and that of the child.

The cruelest irony, however, is that while we discuss all of the ethical components of these questions, babies are dying—over 4,000 of them every day.

I commend those who are joining today in honor of the innocent victims of abortion. That the abortion topic remains at the forefront, even after 13 years, is just one more indicator for all of us that the controversy has not been resolved. Those who are horrified by this rampant taking of life will not quietly accept its reality, but will continue to raise their voices as advocates for the unborn.

I pledge that I, too, will continue working to see that the laws of our country protect our tiniest and most helpless citizens.●

UKRAINIAN INDEPENDENCE DAY

● Mr. BRADLEY. Mr. President, today is the 68th anniversary of the proclamation of independence in the Ukraine, and I am honored to pay tribute to the Ukrainian people, whose national spirit continues to thrive today despite the hardships they have endured under the Soviet regime.

Although the Ukrainian National Republic lasted only 3 years, from 1918 to 1921, the Ukrainian spirit of freedom has remained strong. Since the Soviet takeover in 1921, the Ukrainian people have suffered insurmountable deprivation and degradation, yet they have not lost their identity, culture and religious traditions.

One of the most severe hardships endured by the Ukrainians was the 1932 famine, engineered by the Soviet Union to destroy the political and cultural life in the Ukraine. The Soviets seized and exported the bulk of the Ukrainian grain crop and went so far as to establish border patrols to prevent food from coming into the Ukraine. Seven million people died during this period. The Soviets took great measures to conceal the famine, and to this day, the Soviet Government continues to deny that the tragedy ever took place. As a result many Americans and other citizens around the world are not even aware of the famine. I am pleased that Congress approved a bill that I introduced in 1984 to create a commission to study this famine and to expand the world's knowledge of the event. Although we cannot change history, we can preserve the memory of those who died

by giving this forgotten Holocaust a secure place in history.

Even today, Ukrainians are subject to persecution for espousing their belief in the principles of democracy and freedom. So, on this 68th anniversay of Ukrainian independence, let us all continue to speak out against human rights violations in the Ukraine and throughout the world and let us praise the Ukrainian people for their tireless struggle for freedom.●

NEW YORK STATE SENATOR RICHARD SCHERMERHORN—MAN OF THE YEAR

● Mr. D'AMATO. Mr. President, I rise today to call the attention of my colleagues to the annual Lincoln Day Dinner held by the Republican Committee of Newburgh, NY. Every year at this dinner, the town of Newburgh's Republican Committee honors an outstanding Republican as their "Man of the Year," an honor which recognizes an individual for years of dedicated service both in government and in civic activities. Receiving this honor for 1986, New York State Senator Richard E. Schermerhorn has devoted his life to serve his country and his community.

Upon graduation from Albany Military Academy at the age of 18, Dick Schermerhorn enlisted in the U.S. Army and served with the infantry in the occupation forces in Japan after World War II. Soon after returning home, he received his bachelor degrees from Bryant College, and then went into the insurance business. Currently, he is president of Richard Schermerhorn Insurance, one of the largest insurance companies in the lower Hudson Valley.

As a Republican-conservative, Dick Schermerhorn was first elected to the New York State Senate in 1970. Currently, he is serving his eighth term in office. During his tenure, he has received many honors and awards from a number of uniformed service organizations for his efforts on their behalf. He also is active in many civic and fraternal organizations such as the VFW, the American Legion, the Elks Club, and the Boy Scouts of America. In 1973, Senator Schermerhorn became the first recipient of the New York State Youth Bureau Award for Distinguished Services for his efforts to "promote the welfare of youth."

As an active member of the New York State Senate, Senator Schermerhorn is Chairman of the Senate Corporations, Authorities and Commissions Committee and the Special Subcommittee on Aviation Facilities. He is a member of the Committees on Civil Service and Pensions, Conservation and Recreation, Energy, Transportation, Social Services, Government Operations, Insurance, and the Select Committee on Casino Gambling.

Mr. President, I salute the town of Newburgh Republican Committee's selection of Senator Richard E. Schermerhorn as their "Man of the Year." But more than this, I salute the Senator for the life he has chosen, a life reflecting his concern for the welfare of others. I, as well as this Congress, wish him many future years of success as a public servant.●

TRIBUTE TO WALT GRIFFIN

● Mr. GORE. Mr. President, I should like to pay tribute today to a great Tennessean and a good friend, Walt Griffin, who died over the recent holidays in Clarksville.

Since 1973, Walt had served as director of the Clarksville Chamber of Commerce and executive director of the Montgomery County Industrial Board. Over the years, no one did more for Clarksville and Montgomery County than Walt Griffin. His work with the American Legion, the public service commission, the industrial board and the chamber will long be remembered.

Walt was a leading Legionnaire and one of the most civic-minded men in the State of Tennessee. The people of Clarksville will miss him as a leader, and all of us will miss him as a friend.

I ask that an editorial tribute to Walt Griffin from the December 14, 1985, Clarksville Leaf-Chronicle be printed in the RECORD.

The editorial follows:

COMMUNITY'S FRIEND

Whenever a person of note dies in this community, the newspaper tries to contact someone who was a friend, and for the past several years, that friend has always been Walt Griffin. He seemed to know everyone.

No matter what the person's occupation or age, it was Mr. Griffin who had been a pal and could describe his friend's life with both accuracy and affection.

When Mr. Griffin died Thursday, his obituary made it clear why he was so knowledgeable about this community and its people. The list of organizations he served over the years went on for several paragraphs—from the Boy Scouts to the American Legion to the Tennessee Industrial Development Council—and his honorary pallbearers alone would fill an auditorium.

"He never forgot you once he met you," said Evans Harvill, who had known "Griff" since their high school days. "In a crowd of 75, he would be able to call everyone by name, and tell a little about each one."

But this was more than just good memory. He genuinely liked people and loved to do things to please them. A few years back, Mr. Griffin wanted to pull his neighborhood together, and so he suggested a barbecue. "Well, he dug the pit himself and got some hogs, and sat up all night long keeping watch," said Mr. Harvill. "Just for the neighborhood."

While Mr. Griffin held several positions in business over the years, most people now remember him best as director of the Chamber of Commerce and executive director of the Montgomery County Industrial Board, two jobs he held simultaneously for 12 years until his death.

The responsibility was monumental, but under Mr. Griffin's leadership, the county succeeded in attracting several major new industries, including Jersey Miniere Zinc, Union Carbide, Jostens American Yearbook and Thun.

"He was fiercely loyal to Clarksville, and he was great at selling it to others," said Mr. Harvill. His knowledge and enthusiasm were important in this, but also his personality.

He was always friendly, but frank as well. "You didn't ever ask him his opinion if you didn't want an answer," said Mr. Harvill. He always followed up on his promises and seemed to have boundless energy. "I've seen him work at conventions and wear out people half his age," said Mr. Harvill.

These qualities helped him in all his civic activities, too, where he was never just a joiner, but always an active participant. "If he couldn't contribute, he wouldn't join," said Mr. Harvill. "He was the most civic-minded man I ever knew in my life."

Indeed, his civic duties took far beyond Clarksville, and in his various leadership roles in the American Legion, he was well respected nationwide

What probably endeared him most to his friends, though, was his wit and good humor. "He was one of the world's greatest bullshooters; he always had a tale about something," said Mr. Harvill. He loved to tease, and was a master of repartee.

"He was just a fun person to be around," said Mr. Harvill. "He made a heck of a good friend."

Yes, not just to the individuals who loved him best, but to the entire community.●

AFGHANISTAN

● Mr. WALLOP. Mr. President, the political situation in Afghanistan and the terrible record of the Soviet military occupation of that country is one which should concern us all during this session of Congress. The Soviet Union has been making vague noises about disentangling itself from its war in Afghanistan and hinting that Moscow might be willing to "negotiate" a "settlement" of its military and political takeover of Afghanistan.

Mr. President, these Soviet hints regarding negotiations over their Afghanistan war are pure propaganda and we must recognize them as deliberate attempts to deceive the West, both now and in anticipation of the forthcoming summit meetings. They also hope to deflect the West from calling into question the Brezhnev doctrine. If it were in fact true that the Soviets wanted real negotiations over Afghanistan, it is clear to me that their purpose would be to try to obtain a political endorsement from the world community that the Soviet takeover in Afghanistan is legitimate and that the puppet government they have set up in Kabul is the legitimate representative of the Afghan people.

Mr. President, we in the U.S. Senate must be wary of these deceptions and guard against them. For that reason, I ask that the following statement entitled "A Negotiated Settlement to the

Soviet Afghan War?", by Dr. Elie Krakowski of the Department of Defense delivered at the Heritage Foundation on January 16, 1986, which gives a penetrating analysis of Soviet aims and objectives in Afghanistan, and the reasons for Soviet noises over negotiations on that war, be printed in the CONGRESSIONAL RECORD.

The statement follows:

A NEGOTIATED SETTLEMENT TO THE SOVIET AFGHAN WAR?

(Presentation by Dr. Elie D. Krakowski)

Has the Soviet position on a troop withdrawal from Afghanistan been shifting? Is Moscow about to accept what it has in the past always refused even to discuss?

Various Soviet public statements, both before and since the Geneva Summit, have been cited as implying a greater Soviet willingness to withdraw troops from Afghanistan.

The question is, Do they? If one is to rely on vague noises emitted publicly by Soviet officials there is in fact not much to go on. In the first place these public statements have not been accompanied by similar statements in private discussions with U.S. officials. Secondly, such rumours about alleged Soviet good intentions—somehow these never materialize into anything more than that—have had a habit of cropping up on various occasions.

Several examples of this tendency should serve as a useful reminder of the propensity for delusion. The New York Times, on February 1, 1980 quoted Armand Hammer as having been told by the Soviet Ambassador to Washington that "the Soviet Union planned to withdraw its troops from Afghanistan, but did not specify when." Added Armand Hammer: the Soviet Ambassador "has never lied to me." According to George Kennan (Washington Post, February 28, 1980), "The United States should not seek to increase the Soviet difficulty there, but rather to explore the hints that the Soviets may seek a way out." Or again, such flat statements as "the Soviet Union wants very much to negotiate its way out of Afghanistan" (Christian Science Monitor, 12/22/82). Dan Rather's pronouncement on CBS Evening News (January 25, 1983) that "there are indications tonight that the Soviet Union may be looking for a way to disentangle itself from Afghanistan."

Some might cite recent Soviet "frank admissions" about the cost of the war, and argue that the situation, six years after the Soviet invasion, is different. The Washington Post, for instance, made such a point recently: "Soviet officials, apparently concerned about the toll their six-year-old military involvement in Afghanistan has taken, have begun to voice complaints about rising casualties and admitted to reporters that they are 'not very happy' with the situation." (November 18, 1985) Here too, however, what is being said at the end of 1985 was already being written at the end of 1983: "As the diplomatic, military, and economic costs of its involvement have grown, Moscow has searched for a face-saving way out." (Selig Harrison, USA Today, 12/27/83).

The predilection for seeing far-reaching implications of a profound Soviet longing for a withdrawal of its troops have so far only been evident among some Western observers. Moscow has periodically encouraged such speculations in the Western press precisely because they serve Soviet purposes.

Moscow's negotiating posture has been clear from the start and has not, in fact, budged since then. It has insisted that the question of Soviet troop withdrawal is a purely bilateral issue between the Babrak Karmal regime and the Soviet Union and, therefore, of no concern to other parties. Moscow continues to assert that it was "invited" into Afghanistan and that, as a result it is up to those who so "invited" it in to request a withdrawal.

Even more central to its negotiating stance, Moscow has always demanded that cessation of outside support to the Afghan resistance precede any consideration of a Soviet troop withdrawal. The so far non-negotiable nature of that demand, its "unconditional surrender" character by now should have been obvious to all. Moscow is in fact saying that the only way it will ever withdraw is when the Afghan resistance has been eliminated. In other words, Moscow will remove its troops when there is no longer any reason for their being in Afghanistan. (There is strong reason to doubt that even then the Soviets would not withdraw willingly—the historical record speaks loudly on this score). It is significant that all the "hints" of a modification in the Soviet position do not even claim that this crucial condition is about to be modified. That is, what is being bounced around is the so-called existence of a "withdrawal plan"—not the removal of that most important Soviet pre-condition.

Furthermore, this so-called withdrawal plan—meaningless without the removal of the Soviet precondition on outside support to the resistance—has itself been tied in press accounts to another of the Communist objectives, direct talks between the puppet Babrak Karmal regime and the Government of Pakistan. According to the Washington Post (28 December 1985) the Afghan foreign minister "reportedly declared that he had details of a withdrawal plan in a folder in front of him on the conference table (reference is to the UN-sponsored "proximity" talks in Geneva) but that he would discuss them only face-to-face with Pakistani representatives—and not through the United Nations intermediary." The Soviet objective is obvious: force the outside world, in this case through obtaining Pakistani acceptance of direct talks with the puppet Babrak regime, to grant the legitimacy that that regime has been unable otherwise to achieve.

In addition, the Soviets are keenly aware that the very mention of the possibility of a deal over the heads of the Afghan resistance sends tremors through the ranks of the Mujahidin. It is that, as well as to sow confusion and doubt about each other's motives in the Pakistani Government and the Afghan resistance, that Moscow seeks to achieve through talk of timetables for withdrawal. More importantly, the Soviet Government, through such a diplomatic move, is attempting to create anxiety and distrust within the Afghan resistance and the Pakistani Government about the United States' motives and reliability.

In order to lay to rest, hopefully permanently, the recurring tendency of some in the West to attach significance to Soviet "withdrawal" "hints," it is necessary to go beyond the more narrow and immediate Soviet objectives described above.

When it is discussed, the war is usually described as a quagmire or a stalemate for the Soviets. The reality is, I believe somewhat more complex.

The general acknowledgement that fully one-third—and perhaps more—of the Afghan population has either been killed or driven into exile, apparently has not been sufficient to make clear the contradiction between a thus far successful Soviet policy of "migratory genocide" and assumptions of "stalemate."

The fundamental flaw with the view of the war as a stalemate, and hence with the derivative assumption about war weariness and an alleged Soviet desire for withdrawal, is that it misunderstands the character of the war, focusing on the short term, and excluding the Soviet perception of things. In part the reason for this can be attributed to American tendencies to project or mirror image. Americans cannot easily visualize anything but a quick war, a "knockout punch." This is particularly true in the Soviet-Afghan War, in which such manifestly unequal power is clearly in evidence. Anything short of clearcut and rapid victory, it seems, is automatically portrayed as a stalemate.

No doubt Moscow first thought that the massive rebellion it itself provoked could be squashed by its Afghan puppets with little direct Soviet involvement. No doubt in the period immediately following the Soviet invasion, Moscow may have believed that its show of force would be sufficient to destroy any opposition. The realization that it was dealing with an unusual enemy, however, came quickly. Within the first year following its invasion, Moscow settled into a long-term strategy whose basic objective has been to outlast the resistance, destroying in the process its support base. The Soviets have themselves on occasions made reference to their colonization/anti-insurgency campaigns of the nineteen twenties and thirties in what is now Soviet Central Asia as a model for their current strategy. And while, in essence, the Soviets have attempted to "empty the water out of the fishbowl," thereby ultimately killing the fish, they have also systematically—and most of the time unsuccessfully—attempted to coopt Afghans.

Ideal conditions for the pursuit of a long-term strategy of this sort would be the cessation of external support for the resistance, as well as ignorance of the conflict by the outside world.

Cessation of external support would rapidly lead to almost complete ignorance by the outside world. The various humanitarian and media organizations from various European countries and the United States would also disappear, and together with them, no doubt, whatever interest there has been in the war. Moscow would then be able, quietly and without any restrictions whatsoever, systematically to destroy any meaningful opposition to its rule. And, while the Soviets no doubt do not believe their own propaganda describing the war as an "undeclared war launched by the imperialists," they are confident that without external help the Afghan resistance will—especially at the current level of fighting—become quickly demoralized and subjugated. The soviets are also clearly conscious of the impact that cessation of aid to the Mujahidin would have on the millions of refugees now in Pakistan and Iran. In their rage and despair at being thus abandoned, the Mujahidin might well turn against the Pakistanis, thereby unwittingly furthering Soviet designs.

Current Soviet "hints" about "withdrawal" and "timetables," talks about a possible enlargement of the Kabul regime to include other political elements, the attempt to coopt Western European governments in this Soviet peace offensive, are all designed

to further the above Soviet objectives. Put somewhat differently, the Soviets have used the UN-sponsored talks to lull the rest of the world into believing that the problem is solvable through negotiations alone, that if only "moderation" were exercised by outside powers, that if only we could give the Soviets "some help," the problem would be solved.

One might have expected a systematic Soviet campaign to encourage wishful thinking in the West to be accompanied, at least in the short term, by some attenuation in the level of fighting, as well as in the level of pressure placed on both the resistance and on the Pakistani Government. The opposite has been true. Soviet military actions have continued through the Afghan winter and, as the Wall Street Journal noted on January 9, 1986, there has been a marked increase in Soviet arms shipments to Afghanistan in recent weeks. Perhaps this tells us something about the amount of respect, or lack of it, Moscow has for Western public opinion.

The question which remains then, is not whether the Soviets are now in fact seriously contemplating withdrawal, but why they have chosen to make such a concerted effort at deception at this time.

One possible answer was given at the beginning of this presentation. It is simply that Moscow has made such noises periodically, especially around special events such as the recent summit, or around the time of sessions of the UN-sponsored talks. The magnitude of the current effort suggests additional explanations. One such additional elucidation is that the "peace" campaign on Afghanistan is part of a worldwide Soviet peace offensive that covers a broad range of subjects. In all of them, however, Moscow's objective is to take advantage of the willingness in the West to give the benefit of the doubt to a new Soviet leader, to portray the Soviet Union as "peace-loving," and to make the point that with some concessions by the West, better, more tranquil relations can soon be re-established.

There is a third, and in the context of Afghanistan, more important possible explanation, and that is that Moscow is responding at the diplomatic level, as well as at the military and other levels, to the changing situation on the ground. Let me explain.

The Soviets no doubt expected that with the passage of time interest in the Soviet-Afghan War would wane. They no doubt expected to continue facing a less and less effective, primitive, and primitively armed resistance that could be worn our with measured Soviet power.

The opposite has happened. Interest in, and opposition to, the war has grown in the six years since the Soviet invasion. Votes in favor of the annual United Nations resolution demanding Soviet withdrawal have encompassed larger and larger majorities, and include almost every member with the exception of Communist countries. Active participation in humanitarian efforts to relieve some of the barbaric conditions in which the Afghan people have been placed by Soviet actions, has grown significantly, and now represents many nations. The Afghan resistance, though suffering heavily, has become more effective and is now better equipped than in the past. In short, the Soviets probably feel that their dual strategy of outlasting the resistance while ensuring no more than minimal outside interest is being threatened by current trends. It is important to point out that what may thus be threatened is not necessarily the ultimate Soviet objective or subjugation, but Moscow's ability to move toward that objective with a relatively limited military commitment, and with no more than minimal external attention to both the conflict and Soviet methods in waging it. Furthermore, such Soviet ability to move toward the objective of subjugation in the fashion outlined will become significantly threatened only with the continuation of current trends toward a better equipped, more effective, resistance, and with greater worldwide interest. Then, the choice before them would become one between withdrawal and escalation. The situation would become one in which the Soviets would, as I have stated it elsewhere, have to escalate in order to win, but fail to achieve their ultimate objective if they did escalate.

The present Soviet approach—hard and intense on the battlefield, soft-sounding in the diplomatic arena—is responding to the developing situation by conveying in essence a single message.

That message is that they are as determined as ever to destroy and subjugate the resistance; that neither the resistance nor the Pakistani Government should put too much faith in the outside world because it will abandon them at the first opportunity. Hence the continuation of military operations at an intense level through the winter; hence the continued campaign of intimidation toward the Afghans and Pakistanis. Hence also the "hints" of withdrawal timetables, designed to undercut outside interest and support by encouraging the belief that increasing restraint by the outside world is the only way to a negotiated settlement. The "tough" component of the Soviet Technique is, if anything, meant to enhance further the appeal of the "peace" component by intimating that embracing the latter is the only way out of an increasingly painful course.

In conclusion, Moscow has probably decided that it has little to lose from the current exercise in deception. At the very least it will have injected an additional dose of distrust and suspicion on the part of the Mujahidin and of the Pakistanis toward the outside world, and helped demoralize somewhat the resistance. Should Soviet pressures for direct Pakistani negotiations with the puppet Karmal regime succeed—for such is the price demanded for the Pakistanis to see, and discuss, the withdrawal timetable—Moscow would have achieved the legitimacy that regime cannot otherwise attain. Beyond this, Moscow understands fully well that democracies, once having taken a step back from commitment, find it more difficult to recommit. Hence the attempt to erode that commitment through appeals to powerful impulses in the Western psyche.

The current series of Soviet "hints," then, does not convey a greater willingness to actually withdraw. The fact that the Soviets have found it necessary to put forth hints of withdrawal timetables, however, does suggest that they feel they now must go to greater lengths to obtain the same results as before. Diplomatically speaking, this may be progress of sorts. We will know that we are facing a changed situation when Moscow no longer insists that cessation or external support must precede talk of Soviet withdrawal. When will the Soviets decide to withdraw? One possibility is that they will do so only when the costs become great enough. The other is that Moscow will recognize before it actually faces the question of escalation, that the costs of such a course will be so great as to negate any potential benefits. Our hope should therefore be that the Soviets will understand sooner, rather than later, that it is in their interest to withdraw from Afghanistan and allow that brave people to resume control of their own destiny, free from the horrors and suffering that the current attempt at colonization carries with it.●

ANNUAL SURVEY OF NATIONAL CONFERENCE ON SOVIET JEWRY AND THE COALITION TO FREE SOVIET JEWS—1985

● Mr. LAUTENBERG. Mr. President, I would like to draw my colleagues' attention to the 1985 annual survey on Soviet Jewry done by the National Conference on Soviet Jewry and the Coalition to Free Soviet Jews. The survey reviews the plight of Soviet Jews over the past year and describes the outlook for the future. Unfortunately, despite hopes raised by the Geneva summit, the picture for Soviet Jews remains bleak, and the need for continued efforts on behalf of this beleaguered community remains urgent.

In 1985, emigration levels remained relatively constant at a low level, with a little over 1,000 Jews permitted to leave during the year. But the survey points out that harassment of Jewish activists through arrests, trials, and other methods increased dramatically in 1985. And the vicious press campaign attacking Israel, Zionism, Judaism, and individual Soviet Jews continued unabated in 1985.

This report must reinvigorate our efforts on behalf of Soviet Jews. Congress has done a great deal to help, but its efforts must continue until every Jew who seeks to emigrate has been allowed to leave. And until those who want to stay are permitted the freedom to practice their religion in peace.

The continuing plight of the Soviet Jews serves as a reminder to the free world of the great strides necessary in the Soviet system to ensure both personal and political rights of Soviet citizens. Soviet Jews must receive our unwavering support as they struggle for ideals which we, as Americans, proudly cherish. We must continue to speak out and work for the freedom of Soviet Jewry until there is no need for an annual survey such as the one I have included in the RECORD today.

The annual survey follows:

ANNUAL SURVEY—1985

Nearly two months have passed since the November summit in Geneva between United States President Ronald Reagan and Soviet General Secretary Mikhail Gorbachev. With the Soviet Party Congress approaching in February and the second round of summit meetings between Reagan and Gorbachev planned for June in Washington, D.C., there is still no concrete evidence—despite many rumors—of a significant improvement in the plight of Soviet Jews. In fact, on Monday, December 30, the Soviet Union issued a press statement label-

ing all rumors of an imminent large-scale Jewish emigration as "a vicious lie". The 1985 year therefore bodes ill for the future of this beleaguered community.

With respect to emigration, a relatively constant level was maintained, with an average of about 100 Jews per month permitted to leave. A comparison of the twelve months of 1985 during which a total of 1,139 Jews left, with those of last year when 896 received exit permits, demonstrates a continuing restrictive Soviet policy. Even those few allowed to leave did not, for the most part, include veteran refuseniks waiting over ten years, despite the welcome news that a handful of refuseniks, notably Eliyahu Essas and Yaakov Mesh, who were refused in the 70's, unexpectedly received permission to go to Israel. Former Prisoners of Conscience who served their terms also continued to be denied permits, with the exceptions of Isaak Shkolnik and Mark Nashpitz.

At the same time that emigration was kept low, the number of arrests, trials and other forms of harassment of Jewish activists rose alarmingly. Of the 26 Prisoners of Conscience sent to prison or labor camps, 12 were arrested or tried since the beginning of 1985—an average of one a month! The police methods employed in some cases were crude even by Soviet standards and involved, among other things, the planting of incriminating evidence. Since the major thrust of these police activities was directed at the informal network of Hebrew teachers, and Soviet authorities wished to maintain the myth that the study of Hebrew by Jews is permissible, the Soviets had a need to fabricate evidence of these teachers' alleged crimes. Wide-ranging searches were conducted in scores of homes in connection with these cases and involved the seizure of Hebrew instructional material as well as religious articles and books.

The tough Soviet policy was aptly demonstrated in the brutal beatings by KGB-provoked assailants of Jewish cultural activities, including film director Leonid Kelbert, who was hospitalized for his wounds, and twelve-year-old Avi Goldstein, son of Tblisi refusenik Isai Goldstein, who was beaten, stripped and photographed naked by his attackers. The general treatment of Jews in the prisons and camps also worsened, with Zachar Zunshain, Iosif Begun, Yuli Edelshtein, Simon Shnirman and Anatoly Shcharansky being particularly singled out for maltreatment. The maltreatment ranged from violations of these prisoners' rights to correspondence and visits, to long periods in isolation and punishment cells, as well as physical abuses by guards and fellow prisoners.

The past year did not see any diminution in the spate of vicious articles and television broadcasts attacking Israel, Zionism, Judaism and individual Soviet Jews. If there was a temporary abatement when Gorbachev assumed control of the party apparatus, they have now resumed their former level of frequency and intensity. "Zionists" of today continue to be equated with the "Nazis" of the past.

The response of Soviet Jews has been a renewal of public activities, manifested in petitions and protests to Soviet authorities, as well as to individuals and organizations abroad. These have focused on official abuses and on the renewed demand for "repatriation to Israel." A parallel development has been a steep rise in requests for Israeli citizenship.

SOVIET LEADERSHIP

These happenings took place against the background of leadership changes in the Soviet Union and within the framework of negotiations between the superpowers. Gorbachev has been rapidly and steadily consolidating his position, and changes to his advantage in the Party Politbureau and Central Committee Secretariat reflect this consolidation. Virtually all of Gorbachev's supporters, like himself, are proteges of former Party chief, and head of government, Yuri Andropov, who was also the former head of the KGB. Reflecting the ambivalence of the situation, his memory is now the subject of cult, promoted by the new leadership, even as Leonid Brezhnev and Konstantin Chernenko seem to slide into oblivion. It is also striking that 25% of the 13 members of the Politbureau have backgrounds in the police or the KGB. Also significant is the fact that the dread KGB, as an institution, appears to have obtained preeminence over the military. In the context of Gorbachev's new domestic policies, emphasizing strict discipline and the suppression of nonconformist behavior, the negative implications of these developments for Jewish activists is heightened.

This trend must be balanced against the opportunity offered by talks between the United States and the Soviet Union on a variety of subjects, including culture, science, arms limitation, and trade, as well as ongoing meetings between Soviet and West European leaders. The Soviet attitude towards Jews should serve as a test of the credibility of Soviet commitments and general good will. Jewish activists perceive the opportunity and are anxious that their fate be accorded a high place on the negotiating agenda of the superpowers. They recognize, however, that a strong public campaign on their behalf must continue to be waged.

The new Soviet leadership has already distinguished itself by a talent for public relations. This was demonstrated in an apparent campaign of disinformation on the Jewish question, designed to create the impression that the situation is improving and to defuse concern. Soviet policy makers would love to remove the matter entirely from the international agenda while the US and the USSR deal with other bilateral issues at the series of Presidential summits. Rumors which circulated in the months before the Geneva summit, of the impending issuance of large numbers of exit visas, proved false, the reality obscuring the moderate tone and the occasional hints with which the Soviet leaders chose to face the world. Similar rumors were spread by Soviet officials after the summit and were then vehemently denied in Moscow in an apparent attempt to throw critics in the West off balance.

It is unlikely that there will be any significant modification of the campaign for Soviet Jews, in the West, without any parallel substantial changes affecting the Jewish minority in the Soviet Union. There have been past occasions when Soviet representatives have given assurances that, if specific activities were to cease, some movement on particular cases could be expected. Such promises have not been fulfilled. Since the public advocacy campaign on behalf of Soviet Jews is a function of Soviet behavior, experience dictates that it remain constant in the face of the present situation.

SOVIET JEWRY RESEARCH BUREAU

JEWISH EMIGRATION FROM THE U.S.S.R.

Oct. 1968 through 1970	4,235
1971	13,022
1972	31,681
1973	34,733
1974	20,628
1975	13,221
1976	14,261
1977	16,736
1978	28,864
1979	51,320
1980	21,471
1981	9,447

	1982	1983	1984	1985
January	290	81	88	61
February	283	125	90	88
March	289	101	51	97
April	288	114	74	166
May	205	116	109	51
June	182	102	72	36
July	186	167	85	174
August	238	130	83	29
September	246	135	69	93
October	168	90	29	124
November	137	56	55	128
December	176	97	91	92
Total	2,688	1,314	896	1,139

From October 1968 through December 1985, 265,656 persons left the Soviet Union with Israeli visas. Approximately 163,556 of them went to Israel.

THE ABORTION ISSUE

● Mr. KERRY. Mr. President, since 1973, when the Supreme Court ruling recognized a woman's right to choose abortion, opponents have attempted to overturn this decision through nearly 500 legislative initiatives. These initiatives seek to restrict abortion from several perspectives ranging from constitutional amendments to prohibiting abortion by statute. As the pro-choice advocates recognize this anniversary and the opponents work to reverse the 1973 ruling one single issue gains significance: that persons of sensitive and informed conscience find themselves on differing sides of the choice issue.

I strongly support the woman's right to terminate a pregnancy, but recognize that such a decision is not made lightly. One may struggle with the circumstances of their own ability to love and care for a coming child and the options a woman must choose from may all seem equally difficult. It is my belief that the pro-choice position is weighed with many responsibilities as we all work for greater respect for human life.

There is the responsibility of maintaining broad, accessible family planning to provide maternal and infant health care as well as preventive services. The provision of family planning services to low- and marginal-income persons can be instrumental in reducing or alleviating poverty and dependency. An especially important part of maternal and infant health is the timing and spacing of births—a key to adequate family planning services. And of course from the beginning, family planning has focused on preventive services to avert the unintended pregnancy. The consequences of pregnancy and childbearing for adolescents is particularly heartrending and family planning services have served to educate teenagers about the obligations of parenting and alternatives for prevention.

There is the responsibility of working for a better quality of life after birth. Our child nutrition programs, Head Start, assistance for the low income, education for the handicapped, and other special programs of benefit to children are all pro-life programs. They seek to improve the quality of life for all children regardless of a family's situation, a child's physical handicap, or other special concerns. Recognizing the value of life entails recognizing the hungry from the fed, the poor from the rich, and the sick from the well.

Coming full circle, though, we return to the value judgment placed on the issue of abortion. The belief in the right to choose abortion is based in philosophical and theological judgments, although no less weighty they cannot be imposed on a multireligious society.

The Supreme Court view in Roe against Wade stated that there is not a necessary relationship between the definition of legal personhood and a given theory of human life. One is the question of law, and the other a question of biology. On the question of law responsible individuals do and will probably continue to disagree.

The right to a safe and legal abortion is under attack from a specific group of opponents who seem to believe that in their effort to protect life, the sanctity of other lives may be threatened. Women have had their examining rooms invaded, children have come home from elementary schools with threatening notes in their school books, and our own domestic version of terrorism, clinic bombings—these incidences represent a trend that all free citizens should fear.

To conclude, I reaffirm my belief that reproductive freedom is a basic human right and while the right to choose abortion is a legal option I shall work to uphold this legal option.●

JOINT SESSION OF THE TWO HOUSES TO RECEIVE A MESSAGE FROM THE PRESIDENT OF THE UNITED STATES

Mr. DOLE. Mr. President, I ask unanimous consent the Senate turn to House Concurrent Resolution 268 providing for the State of the Union Address just received from the House of Representatives.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report.

The legislative clerk read as follows:

A resolution (H. Con. Res. 268) providing for a joint session of Congress to receive a message from the President on the State of the Union.

The Senate proceeded to consider the concurrent resolution.

The PRESIDING OFFICER. The question is on agreeing to the concurrent resolution.

The concurrent resolution (H. Con. Res. 268) was agreed to.

Mr. DOLE. Mr. President, I move to reconsider the vote by which the resolution was agreed to.

Mr. BYRD. Mr. President, I move to table the motion to reconsider.

The motion to lay on the table was agreed to.

INDEFINITE POSTPONEMENT OF HOUSE JOINT RESOLUTION 496

Mr. DOLE. Mr. President, I ask unanimous consent that House Joint Resolution 496 providing for the convening of the 2d session of the 99th Congress be indefinitely postponed.

The PRESIDING OFFICER. Without objection, it is so ordered.

STAR PRINT OF SENATE RESOLUTION 280

Mr. DOLE. Mr. President, I ask unanimous consent that Senate Resolution 280, which was introduced in the Senate on December 19, 1985, by myself, be star printed to reflect the following changes which I send to the desk.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDERS FOR TOMORROW

RECESS UNTIL 12 NOON

Mr. DOLE. Mr. President, I ask unanimous consent that once the Senate completes its business today, it stand in recess until 12 noon on Thursday, January 23, 1986.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECOGNITION OF CERTAIN SENATORS

Mr. DOLE. I further ask unanimous consent, Mr. President, that following the recognition of the two leaders under the standing order, there be special orders in favor of Senators PROXMIRE and HART for not to exceed 15 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

ROUTINE MORNING BUSINESS

Mr. DOLE. I further ask unanimous consent that following the special orders just identified, there be a period for the transaction of routine morning business not to extend beyond 1 p.m., with statements limited therein to 5 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. DOLE. Under the provisions of rule XXII of the Standing Rules of the Senate, at 1 p.m., a live quorum will begin. Immediately following the establishment of a quorum, a cloture vote will occur on the motion to proceed to the consideration of S. 638, the Conrail bill.

So I would guess that vote should come prior to 1:30 tomorrow afternoon.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOLE. If cloture is invoked, the Senate will remain on the motion to proceed throughout the day on Thursday; and if it is involved, we will be on the bill or a substitute, as I understand it. So there could be other votes throughout the day tomorrow.

Mr. METZENBAUM. Does the majority leader expect the Senate to be in session on Friday?

Mr. DOLE. It depends. I would rather not be in on Friday, but I can announce that by 2 o'clock tomorrow.

Mr. BYRD. Could we debate TV in the Senate on Friday?

Mr. DOLE. I am not in a position to indicate that at this time.

RECESS

Mr. DOLE. Mr. President, there being no further business to come before the Senate, I move that the Senate stand in recess until 12 noon on January 23.

The motion was agreed to, and at 5:52 p.m. the Senate recessed until tomorrow, Thursday, January 23, 1986, at 12 noon.

NOMINATIONS

Executive nominations received by the Senate January 22, 1986:

INTERSTATE COMMERCE COMMISSION

J.J. Simmons III, of Oklahoma, to be a member of the Interstate Commerce Commission for a term expiring December 31, 1990, reappointment.

DEPARTMENT OF JUSTICE

Robert Q. Whitwell, of Mississippi, to be U.S. attorney for the northern district of Mississippi for the term of 4 years, vice Glen H. Davidson, elevated.

Ralph L. Boling, of Kentucky, to be U.S. Marshal for the western district of Kentucky for the term of 4 years, reappointment.

Emery R. Jordan, of Maine, to be U.S. Marshal for the district of Maine for the term of 4 years, reappointment.

Wayne D. Beaman, of Virginia, to be U.S. Marshal for the western district of Virginia for the term of 4 years, reappointment.

Paul R. Nolan, of Washington, to be U.S. Marshal for the eastern district of Washington for the term of 4 years, reappointment.

Frederick N. Falk, of Wisconsin, to be U.S. Marshal for the western district of Wisconsin for the term of 4 years, reappointment.

Robert T. Keating, of Wisconsin, to be U.S. Marshal for the eastern district of Wisconsin for the term of 4 years, reappointment.

DEPARTMENT OF STATE

James L. Malone, of Virginia, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Belize.

SOLAR ENERGY AND ENERGY CONSERVATION BANK

Richard H. Francis, of Virginia, to be president of the Solar Energy and Energy Conservation Bank, vice Joseph S. Bracewell.

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

Jeffrey I. Zuckerman, of Maryland, to be general counsel of the Equal Employment Opportunity Commission for a term of 4 years, vice David L. Slate, resigned.

FEDERAL RESERVE SYSTEM

Wayne D. Angell, of Kansas, to be a member of the Board of Governors of the Federal Reserve System for the unexpired term of 14 years from February 1, 1980, vice Lyle Elden Gramley, resigned.

Manuel H. Johnson, of Virginia, to be a member of the Board of Governors of the Federal Reserve System for a term of 14 years from February 1, 1986, vice J. Charles Partee, term expiring.

NATIONAL TRANSPORTATION SAFETY BOARD

Kenneth John Hill, of Virginia, to be a member of the National Transportation Safety Board for the remainder of the term expiring December 31, 1986, vice Donald D. Engen, resigned.

U.S. POSTAL SERVICE

Barry D. Schreiber, of Florida, to be a Governor of the U.S. Postal Service for the remainder of the term expiring December 8, 1992, vice Frieda Waldman.

EXTENSIONS OF REMARKS

BLACK AMERICANS AND THE NFL

HON. LOUIS STOKES

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 22, 1986

Mr. STOKES. Mr. Speaker, as football fans across the Nation prepare for the Super Bowl this Sunday, this is an ideal time to take a close look at the level of involvement of black Americans in professional football.

On Sunday, there will be a number of black Americans playing in the Super Bowl matchup between the Chicago Bears and the New England Patriots. Likewise during the regular professional football season, black America is well represented on the football field each Sunday. This is virtually the total and shameful extent of black Americans in professional football in this country today.

The meager number of black Americans in coaching and management positions is nothing short of disgraceful. While there are 32 black assistant coaches in the National Football League, the harsh reality is that there is not even one black head football coach. Even more appalling is the fact that with the wealth of talent of black Americans in all aspects of the game, not one black American—not even men with the talent or expertise of Bobby Mitchell—have received serious consideration for top management positions with any NFL team.

The Sunday Washington Post included an article by Ken Delinger which detailed this dreadful situation. At this time, Mr. Speaker, I would like to include it in the RECORD.

BLACKS ARE READY TO TACKLE MANAGEMENT JOBS, BUT THE NFL STILL BLOCKS THE WAY

Another season of shame has passed in the National Football League, one more year in which black men were judged qualified to star for their teams but not to manage them. For the 20th time in the Super Bowl's 20-year existence, blacks will be among the leaders on the field but not in the front office.

Our most popular sporting business is the least progressive. Probably, this massive appeal is a major reason for the NFL's management decisions.

Win or lose, most owners turn a tidy profit each year—and the value of their franchises escalates. Most stadiums either are sold out each week, or close to capacity.

So why even hop on the boat, let alone rock it?

Walter Payton can do everything in football just now except dream. Same with the exceptional defender who will lead his Patriots against Payton's Bears Sunday in New Orleans, Andre Tippett. Same with Henry Lawrence of the Raiders and so many more.

History shows that the NFL will make wonderful use of their bodies, but not their minds. If tactics were as slow to evolve in the NFL as social progress, teams still would be in leather helmets and running the single wing.

There is one general manager vacancy in the league and four head-coaching jobs open after the season. I would bet that not one black was even *interviewed* for any of them.

A generation ago, when somebody would inquire of NFL poohbahs why the ranks of head coach and general manager were lily-white, the answer was; name one qualified black.

That no longer works.

Want a black man qualified to be a general manager in the NFL? I can name one: Bobby Mitchell. Also, I can rattle off at least a half-dozen others who should have been groomed for managerial positions but were not.

Mitchell was.

He's been very good for a very long time, and still shut out. I cannot fathom how owners allegedly obsessed with winning could look past a Hall of Fame player who knows scouting and finances and who has organized training camps and Super Bowl functions. They have.

If Bobby Mitchell hasn't earned the chance to run a pro football team, Lee Iacocca isn't qualified to manage a Chrysler dealership on the Rockville Pike.

Vince Lombardi persuaded Mitchell to join Redskins management after his retirement in 1968; George Allen educated him in the ways of the league.

"I learned more football," Mitchell said in the spring of 1983, "more about the league and how to get things done under George Allen in those seven years [from 1971 through '77] than anybody [else] could have taught me.

"Like to have ran me crazy. I didn't have a gray hair when I met him. Three years later, it's gray all over. Dammit, though, he taught me. Have to give him credit for that . . .

"The only reason I stayed all these years was the hope that somebody eventually would say: 'Hey, Bobby Mitchell's good enough to do that.' I think about all the guys I used to have to show how to find a school who now are personnel directors or general managers.

"Certainly, in the back of my mind it's there. But it's not eatin' at me like it once was. This is a business where somebody has to take a chance. And most owners don't have that kind of guts."

As the Post's Gary Pomerantz reported recently, there has been a dramatic increase in the number of black assistant coaches in the NFL; there are 32 in all. Three (Tony Dungy of the Steelers, Billie Matthews with the Colts and Jimmy Raye of the Buccaneers) are in charge of an offense or defense.

Since 1981, the NFL also has sponsored a program during training camp that about 1,000 coaches from the nation's 48 predominantly black colleges have attended. That surely has speeded upward mobility.

Still, reacting to the 26-year-old son of Miami's Don Shula being prominently mentioned for the Eagles' head coaching job, Raye told Pomerantz: "We're always being told that being in the right place at the right time is important. I guess this is a case of being born in the right place at the right time.

Cynics suggest that Don Shula's grandson, David's boy, Danny, might be an NFL head coach before Raye and others from the black talent pool. Danny turned 2 in October.

Maybe many blacks are too smart to get into coaching. It's a business with more heartaches than glory. Even good head coaches are three knee injuries and two lousy drafts away from unemployment.

But Payton, Tippet, Lawrence or any other player—black and white—has devoted so much time to football that the logical career move is into coaching or management.

How appealing can that be when advancement seems no higher than being able to tell the fullback whether to run left, right or straight ahead. Or to make sure the frisky middle linebacker has gone beddy-bye at a decent hour before game day.

Pro football is life with a two-minute warning. Unfair a great deal of the time. Hundreds of talented white assistants and mid-level managers also have gotten bypassed.

There are hundreds of thousands of youngsters who aspire to football fame and fortune; there are 28 NFL head coaches and 28 NFL general managers. And one asinine attitude toward blacks: not yet.

LYNN WOOD RETIRING AS SHERIFF OF STANISLAUS COUNTY, CA

HON. TONY COELHO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 22, 1986

Mr. COELHO. Mr. Speaker, this spring Lynn Wood will retire from his post as Sheriff of Stanislaus County after 32 years of loyal public service.

Lynn was born in Alvarado, TX. He has spent the majority of his life performing duties for the betterment of our community. Over the years, Lynn has served on all three levels of law enforcement and security. He served as a member of the U.S. Marines during the Korean war before undertaking his initial position with the Stanislaus County sheriff's department in 1954. Sheriff Wood began his extensive career in civil service as jailer before many promotions such as those to lieutenant in 1962 and chief deputy in 1968. He was elected sheriff by the citizens of Stanislaus County in 1974. He is also past chairman of the Emergency Planning Committee of the California Peace Officers Association.

In addition, his educational focus has been on public service at the local, State, and national level. After receiving his bachelor of arts degree from the University of San Francisco,

● This "bullet" symbol identifies statements or insertions which are not spoken by the Member of the Senate on the floor.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by the Member on the floor.

he obtained his peace officer standards and training certificate at the executive development level. Furthermore, he was also graduated from the FBI National Academy in 1968.

Lynn's dedication to progress and community improvement merits much admiration and respect. He has worked very hard to make his community, and thus our society, a better place to live. He is a life member of the Modesto Elks Lodge 1282, actively serving as the chairman of the board of the California-Hawaii Elks Association from 1982 to 1985. He is also a member of the Youth Advocacy Council and serves on the Muir Trail Girl Scout steering committee.

Lynn has been an influential and dedicated component of Stanislaus County in his many years of public service. On behalf of the citizens of Stanislaus County, I would like to thank him for all that he has done to maintain and improve the safety of our community.

NEW JERSEY FINDS SUCCESS IN ENTERPRISE ZONES

HON. ROBERT GARCIA

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 22, 1986

Mr. GARCIA. Mr. Speaker, the debate on enterprise zones used to be a matter of theory. However in recent years we have seen much tangible evidence as the States have taken the lead in creating such zones. Now New Jersey has joined the ranks of States that have State designated enterprise zones. They have not been disappointed. Since August 1983, when enabling legislation was passed in the State of New Jersey, five zones have been created in Newark, Camden, Plainfield, Trenton, and Bridgeton. Since then, private sector investment of $125 million has been made by 380 companies, creating over 8,500 jobs. Because of this success five more zones have been approved.

The continual message we get from these States that have tried enterprise zones is that they work. Studies have shown that not only are jobs created, but these jobs tend to go to the long-term unemployed and disadvantaged. Another healthy sign is the number of existing businesses in the enterprise zones that are expanding in response to the incentives rather than closing their doors. Indeed, the retention and expansion of existing businesses is one of the most important elements of any revitalization strategy, especially in the older industrial areas of the Northeast and Midwest.

Enterprise zones are a departure from past urban policies in three ways: (1) they require virtually no new Federal bureaucracy, (2) they provide incentives for private sector job creation and investment automatically rather than through lengthy grant application procedures, and (3) they are designated to secure real commitments from the neighborhoods and up through the city, State and Federal levels of government. If an enterprise zone should fail to induce business activity, then it will not cost the taxpayer a cent. If tax credits are claimed, it is because people have been hired and a business has been formed or expanded.

So far, business, States and local governments have embraced enterprise zones enthusiastically. If Congress fails to followup on the experience the States are now providing us, we will have missed a golden opportunity to help get jobs and to help our cities.

GLOBAL ENVIRONMENTAL RESEARCH ORGANIZATION [GERO]

HON. FRANK J. GUARINI

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 22, 1986

Mr. GUARINI. Mr. Speaker, Dr. Irwin W. Silverman of Weehawken, NJ, a constituent and a close personal friend of mine for more than 20 years, was recently appointed special consultant to Chancellor Huttenback at the University of California at Santa Barbara.

At the suggestion of Dr. Silverman, it was my good fortune to meet Chancellor Huttenback as well as the codirectors of the Global Environmental Research Organization [GERO], Dr. Daniel Botkin of the University of California and Dr. Angelo Orio of the University of Venice. I was invited by them to attend and address the conference sponsored by the Universities of California, Venice, and Padua held in Venice, Italy last October. As the mark up of the Tax Reform Act of 1985 was scheduled during the month of October, I was unable to attend.

Because of my deep interest in environmental matters and in the success of the project, I would like to share with my colleagues a report of the conference which was submitted to me:

A landmark in the history of environmental research was reached this year with the establishment of the Global Environmental Research Organization (GERO). Led by Codirectors Dr. Daniel B. Botkin of the University of California, Santa Barbara and Dr. Angelo Orio of the University of Venice, Italy, GERO was inaugurated at a conference dealing with Man's Role in Changing the Global Environment in Venice in October 1985. The conference introduced what Dr. Botkin called a "new science of the biosphere," which will encompass all aspects of environmental science. GERO's mission will be to lead a change in emphasis from negative to positive aspects of our abilities to technologically influence and manage our environment, and from a local and regional to a global perspective. The conference, attended by economists, geographers, geologists, chemists, biologists, academics from other disciplines, and government officials from various agencies, including the National Aeronautics and Space Administration and the United Nations Environment Programme, underscored the inter-disciplinary dimension of the undertaking.

GERO is a broadly based program, whose initial conference drew 300 participants from 30 countries, including every major western European nation, the United States, Canada, Yugoslavia, Hungary, Poland, Israel, the People's Republic of China, Hong Kong, India, Bangladesh, Nigeria, and the Philippines (five papers from Soviet scientists were submitted to the conference; regrettably, none of the scientists were in attendance). Knowing that many environmental issues do not recognize geo-political boundaries, GERO is prepared to tackle issues which confront both industrialized and developing nations.

With headquarters in Italy and at the University of California, Santa Barbara, GERO will take an entirely new, constructive approach toward global environmental issues. As Lee M. Talbot of the World Resources Institute stated in the conference's concluding remarks, "sustainable use of resources can be achieved, and improvements in environmental quality can be obtained, if human wisdom and ability are well served by modern science and technology."

The Venice Conference was also addressed by the senior academic officers of the institutions which sponsor GERO: UCSB Chancellor Robert A. Huttenback, as well as Rector Giovanni Castellani of the University of Venice and Rector Marcello Cresti of the University of Padua. Each of them, as well as UCSB conference coordinators Dr. Margriet Caswell and Dr. John Estes, made a great contribution to the success of the conference. GERO is also attracting the interest of industry, banking, and government in expanding its foundations beyond the realm of academia; the World Bank and European Economic Community have already demonstrated interest by sending representatives to the first plenary conference.

The distinguished individuals who have come together to found GERO deserve both our praise and congratulations for breaking ground in the new and exciting science of the biosphere and for assembling an international body to assess and attack the international environmental problems which confront every resident of this planet. As UCSB Chancellor Robert A. Huttenback stated, "the Conference on Man's Role in Changing the Global Environment is significant and important in itself, but is not the end, or even the end of the beginning, of what we had in mind; it is rather the beginning of the beginning."

Mr. Speaker, I ask my colleagues to join with me in extending warm congratulations to Dr. Silverman, Chancellor Huttenback, Dr. Botkin and Dr. Orio on the first plenary conference of the Global Environmental Research Organization. GERO's international and inter-disciplinary approach will open new avenues to solutions to the environmental challenges which we face.

A TRIBUTE TO BARBARA CAHN

HON. NORMAN F. LENT

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 22, 1986

Mr. LENT. Mr. Speaker, on January 30, the Valley Stream Central High School District staff will honor a truly outstanding individual, Miss Barbara Cahn, for her efforts to strengthen school and community relations. Barbara is a constituent of mine from Wantagh, NY, and after 10 years of dedicated service, she will be leaving her position as the school district's community relations director for a well-earned retirement.

At this time, I'd like to say a few words in recognition of Barbara's successful efforts to promote support throughout the community for the local high schools. Barbara dedicated her energies to encouraging interaction and a beneficial working relationship between teachers, administrators, parents and students. This interest and mutual support is essential to

meeting the educational needs of the community as well as the individual student.

Prior to her position as community relations director, Barbara worked for many years with the Massapequa Post, a popular weekly newspaper, meeting deadlines, writing, editing, informing people about the local events that are important in their daily lives. Working for the school district, Barbara successfully combined her skills in communicating with people and her interest in the local community. She revamped the concept of school and community relations and brought professional standards to a field that had never received the status it deserved. In addition, the New York State School Public Relations Association honored her with five awards in recognition of her noteworthy accomplishments.

I'd like to express my deepest gratitude to Barbara Cahn for her outstanding contributions to education and service to the community, and I wish her much health and happiness in the years ahead.

THE 1986 ELECTION

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 22, 1986

Mr. HAMILTON. Mr. Speaker, I would like to insert my Washington report for Wednesday, January 22, 1986, into the CONGRESSIONAL RECORD:

THE 1986 ELECTION

With the 1986 elections less than a year away, political talk is beginning to heat up the congressional cloakrooms.

The stakes in the election are high both locally and nationally. With both political parties positioning themselves for the post-Reagan era, the consequences of this election could be greater than usual: Republicans could move within striking distance of becoming the majority party. The biggest national battle will be for control of the U.S. Senate, where Republicans now have a 53-47 advantage. A quieter year is expected in the U.S. House of Representatives, with most of the battles occurring over open seats. It is unlikely that Republicans will gain enough seats to overcome the Democrats' present 253 to 182 advantage. History suggests that the Democrats could solidify their control of the House: in mid-term elections in a President's second term, the party out of power in the White House usually gains seats. There will also be important races in 1986 in the states, where 34 of 50 governors are Democrats and two-thirds of the legislative houses have Democratic majorities. Just as Republicans must defend a disproportionate number of U.S. Senate seats, Democrats have to defend a disproportionate number of governorships. Because 27 of the 36 governors before the voters in 1986 are Democrats, opportunity is rich for Republican gains. The activity of the presidential contenders in both parties as they position themselves for the 1988 election will also be worth watching. The demands of building a national organization, and the intense competition for supporters and resources, drive contenders to increasingly early and elaborate efforts.

Given the high stakes, politicians at all levels are trying to come up with ways to appeal to apparently more open-minded voters. Voter affiliation with either party is at best loose. Recent polls show that the public's preference for political parties is nearly even, but that almost a third of the public identifies with neither party. Politicians are now looking past President Reagan and searching for themes that can win the voters' allegiance in future elections.

These politicians spend a lot of time arguing among themselves about the best way to appeal to American voters. Some favor an emphasis on issues; others stress broad themes. Issue-oriented politicians think voters decide on the basis of issues, like social security, the nuclear freeze, or the high deficit and interest rates. They believe that the way to win elections is to identify the issues most important to voters, then charge the opponent with being wrong on those issues and out of touch with the views of the majority. This issue approach is used in every election, and is especially popular in congressional campaigns. On the basis of some statement or vote, a political opponent is labeled a "big spender" or "soft on communism" or "lacking compassion" or "favoring the rich". One problem with this approach today is that, just eleven months before the next election, they do not detect an issue of overriding importance to the voters. They tend to think that now, with no crisis or great division, local issues will dominate the election, and that the personal, financial and organizational strengths of individual candidates will be more important than national trends and issues.

Another approach, popularized by President Reagan, deemphasizes specific issues, and stresses warmth, emotion, and personal values. In 1984, the President was successful in making people feel good about themselves and their country, and upbeat about their prospects. He was often more interested in creating a mood than in arguing about issues. His idea was that people vote more by how they feel about the candidate and general conditions, and less by their feelings on specific issues. Other politicians favoring this approach stress that people between 30 and 45 years of age cast a disproportionate number of votes, and tend to be the least ideological of all age groups, largely because they are preoccupied with family and personal concerns. Perhaps more than other voters, they are attracted to candidates who emphasize broad themes. Candidates who have a five-point plan for every problem do not make as good an impression on these voters as do those who appeal to values and life-styles. This approach worked well for an incumbent president in 1984 in a campaign dominated by television. A similar approach might not work as well for a challenger in a lesser race.

My view is that politicians must be cautious in choosing between these approaches. They must be ready to appeal to some voters on issues, and to others on broad themes. Recently I have come to believe that voters are concerned more with broad themes and general conditions, and somewhat less with specific issues. Above all, voters want government to keep the economy in reasonable order so that they can continue to provide for their families and tend to their concerns. They also want the government to keep the country out of needless military conflicts. In times when the economy is working reasonably well, and no military crisis looms, most voters will give politicians decent, if not high, grades.

I think that efforts to assess blame do not have as much effect on elections as politicians think. I do not find voters especially interested in efforts by politicians to place blame for failures or to claim credit for successes. Many voters do not have time to monitor closely the intricate political maneuvers in Washington, or to try to distinguish which party has a better approach to specific issues. They have more important and immediate things to do and to think about—principally, the conditions they face in their daily lives: Do they have jobs? Are prices going up? Is a war imminent? Announcing or denouncing specific policies undoubtedly has some effect on the outcome of elections, but I think that for most voters the issues are less important than their general feelings about the economy, security and the candidate.

Politicians may argue over the tactics and issues for 1986. They agree the stakes have rarely been higher.

ILL TREATMENT OF UNDOCUMENTED WORKERS

HON. RONALD D. COLEMAN

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 22, 1986

Mr. COLEMAN of Texas. Mr. Speaker, as the House continues the debate on the reformation of immigration policy and the evaluation of the many issues involved, it is disappointing to read about the certain actions and beliefs of key administration officials charged with carrying out these policies.

The most recent Time magazine contains an article on Harold Ezell, the western regional commissioner for the Immigration and Naturalization Service, who apparently believes that acting out his Rambo fantasies by tearing up and down the Southwest border arresting illegal aliens is "fun," to quote him.

Aside from the fact that Mr. Ezell cannot even pretend to be qualified for the position he holds—his sole reason for having the job is the fact that he worked for the President in both his gubernatorial and Presidential campaigns—Mr. Ezell's philosophy on what should happen to those undocumented workers found in this country is summarized by saying: "If you catch 'em, yu ought to clean 'em and fry 'em yourself."

Now, Mr. Speaker, I am sure that most thinking people would recognize the depth of ignorance portrayed by such a statement on such a complex issue. What troubles me is that such a thing could be stated publicly by a Government official charged with at least having the semblance of being capable of performing his job without lapsing into tasteless "tough guy" posturing.

Racism has a thousand faces, Mr. Speaker, and I believe that Mr. Ezell, through his statements, has added his portrait to this collection.

HOUSE OF REPRESENTATIVES,
Washington, DC, January 14, 1986.

The PRESIDENT,
The White House,
Washington, DC.

DEAR MR. PRESIDENT: I would like to call to your attention an international incident which has developed in El Paso, Texas, over the last three days which the Federal Gov-

ernment has been either unable or unwilling to resolve.

The Immigration and Naturalization Service (INS) has refused entry to a band of about fifteen Mexican Indians who are in the process of making a walking pilgrimage from Mexico City to Los Angeles. The pilgrimage is designed to honor an ancient Aztec ruler. Because this band of Indians lacked the requisite papers for entry into the United States, the INS remains reluctant to act.

Based on conversations between members of my staff and representatives of both the INS and the Department of State (DOS), it appears that there is some degree of confusion as to which agency has primary jurisdiction in this area. It is also apparent that in order for a waiver to be granted to the Indians for normal visa requirements, certain conditions must be met.

I would appreciate your immediate intervention into this matter so as to guarantee a timely response on the part of our government to this problem in order to prevent the escalation of this issue into an international debacle. I would also take this opportunity to formally request a waiver of all traditional requirements for entry into this country in the case of these Mexican Indians. Based upon my personal review of the situation, I am convinced that these Indians seek entry for legitimate reasons and that our government should do all within its power to facilitate their stated intentions of continuing the pilgrimage to Los Angeles.

With kindest personal regards, I remain

Very truly yours,

RONALD D. COLEMAN,
Member of Congress.

IN HONOR OF DR. MARTIN LUTHER KING, JR.

HON. BARBARA BOXER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 21, 1986

Mrs. BOXER. Mr. Speaker, I think Dr. Martin Luther King, Jr. would be surprised that we are gathered here today, joining with millions of other Americans in cities and hamlets, in churches and courthouses, around banquet tables and kitchen tables, to continue a celebration—long overdue—to honor him now and for every year there is a United States of America.

I think he would be surprised that he was awarded the highest of honors that we have given to just two other Americans—George Washington and Abraham Lincoln—a national celebration of their birthdays. We don't do that often.

Dr. King said of himself, "If any of you are around when I have to meet my day, I don't want a long funeral, and if you get somebody to deliver the eulogy, tell him not to talk too long."

Well, here we are, remembering him in a way he didn't ask for, in a way he couldn't ever foresee. I think he would have been surprised.

I'd like to be true to his memory. I won't talk too long, and I'll speak about the ideals he lived for, instead of about him. Dr. King didn't care about himself—"It really doesn't matter with me now, because I have been to the mountaintop," he said—but he cared unto death about justice, peace, and righteousness.

Dr. King gave his life to a mortal struggle that can never be permanently won, but can be permanently lost if we aren't ever-vigilant in our support for human dignity.

He knew that each of us must be a constant caretaker for freedom. He said, "I can never be what I ought to be until you are what you ought to be. And you can never be what you ought to be until I am what I ought to be."

He knew if he blinked on his watch, the light of individual freedom could flicker and fade. And you and I must know that if we are not as vigilant as Dr. King, then racism, sexism, and ageism—all of the terrible "isms" that add to the slavery of the human race—can rise to the forefront, making us the weaker and the poorer for it.

Today, if you turn your head and pretend not to see, there are those in the U.S. Justice Department who will reinterpret the U.S. Constitution to forbid equal access and equal opportunity for all. They call this interpretation a "color-blind" Constitution, and say it is superior to the Constitution that led to the outlawing of segregation, to the Voting Rights Act and to the beginning of fairness in our society.

Today, if you turn your head, there will be no one to hear the voice of Winnie Mandela in South Africa. If you turn your head, there will be no one to prevent the President from an executive order dismissing affirmative action.

Dr. King showed us how never to turn our head, even if we would be called "maladjusted."

He said: "If you will allow the preacher in me to come out now, let me say to you that I never did intend to adjust to the evils of segregation and discrimination. I never did intend to adjust myself to religious bigotry. I never did intend to adjust myself to economic conditions that will take necessities from the many to give luxuries to the few. I never did intend to adjust myself to the madness of militarism, and the self-defeating effects of physical violence. And I call upon all of good will to be maladjusted because it may well be that the salvation of our world lies in the hands of the maladjusted."

As we gather today in celebration, let's remember that we dishonor Dr. King if we honor the man without the message. Let us all resolve to live this and every day in the true spirit of Martin Luther King, for when one of us in the human race loses dignity because of another who may not like our skin color, our sex, our religion, or the way we live, then all of the human race loses. Let us each and every one of us remember that well and remember the meaning of this day all year long.

DISTINGUISHED PUBLIC SERVANT: EARL TOULOUSE

HON. RICHARD A. GEPHARDT

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 22, 1986

Mr. GEPHARDT. Mr. Speaker, it is through the dedication, professionalism, and zeal of public servants that our Nation's local, State, and the Federal governments are truly effective. Today I would like to pay tribute to a man who is the epitome of such a servant, Mr. Earl Toulouse. For 23 years as collector of revenue in Jefferson County, MO, Earl has made the collector's office into a professional organization that serves the county's taxpayers efficiently and effectively.

Throughout his tenure, Earl has worked with taxpayers and for taxpayers. When he assumed his position in 1962, the office had no filing system, no filing cabinets, and few employees. Earl has built the office into an efficient operation with professional staff whose first priority has always been serving the people fairly and honestly. It is quite a marvel that in all of his 23 years, the collector's office has been only 40 cents out of balance—a feat that both the public and private sector should strive toward. He has truly set a standard for effective government service.

Earl Toulouse has recently announced that this is his last term as collector of revenue. The third district wishes him a happy and healthy retirement. I ask my colleagues to join me today as I rise to extend my warm thanks to Earl for his contribution to public service.

Thank you Earl, and best wishes.

A TRIBUTE TO MRS. SHEILA MEYERS

HON. ROBERT E. BADHAM

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 22, 1986

Mr. BADHAM. Mr. Speaker, I rise today to honor a truly outstanding citizen of my district, Mrs. Sheila Meyers of Fountain Valley, CA, upon her retirement from the Orange County Board of Education after a career of public service that has spanned more than 18 years.

In her years devoted to serving the needs of students, faculty, staff and parents of our community's fine public schools, Mrs. Meyers has demonstrated a broad scope of knowledge, expertise, understanding and care plus an immense capacity for hard work.

A recipient of the prestigious "Marian Bergeson Award" for outstanding school board service, Mrs. Meyers was first elected to the Fountain Valley School District Board of Trustees in 1968 after 2 years of service as chairman of the district's personnel commission. While a member of the board, she served two terms as president, two as president pro tem, four terms as clerk, and one as clerk pro tem. She was the district's representative at National and State school board conferences, served two terms as president of the Orange County School Boards Association, spent 7 years on the National School Boards Association Federal relations network and 8 years on the county committee on school district organization, including terms as chair and vice chair.

From 1980 to the present, she has been a member of the Orange County Board of Education, which has broad responsibilities for the education of hundreds of thousands of young people in a county of more than 2 million people.

Mrs. Meyers' commitment to the growth and betterment of her community does not stop

with its schools, however. She has played active roles through the years with the March of Dimes, the Fountain Valley Library, the PTA, the women's auxiliary of Fountain Valley Community Hospital, the Little League, the Cub Scouts, the YMCA, and the Golden West College Citizens Advisory Committee.

The honors bestowed on Mrs. Meyers during this active and extensive period of public service are many, including plaudits from the State legislature, the National School Boards Association, the California School Boards Association and the Orange County School Boards Association.

It is a distinct honor for me to present the outstanding accomplishments of Mrs. Sheila Meyers for your consideration and recognition. Here is the kind of personal, individual commitment and dedication that makes our Nation truly great.

RIGHT TO LIFE OF UNBORN CHILDREN

HON. RICHARD STALLINGS

OF IDAHO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 22, 1986

Mr. STALLINGS. Mr. Speaker, today, on the 13th anniversary of the Supreme Court's Roe versus Wade decision, the attention of Congress and many throughout the Nation is focused on the issue of abortion. Although I realize this is a sensitive issue—one which many consider to be very personal—I cannot morally ignore it.

My feelings on this issue are deeply rooted in my life—a combination of my religious beliefs and lifetime commitments. Abortion is wrong, except in very rare instances such as when the life of the mother may be in danger because of the pregnancy. Fortunately, this belief is shared by a majority of residents of the Second District of Idaho.

During the recently completed session of Congress, I voted my conscience and consistently opposed legislation that would further encourage the morally wrong choice of abortion and as this new legislative year begins, I will continue to oppose legislation which promotes abortion or allows Federal dollars to be used to fund abortions.

I find statistics, which graphically show the number of abortions being performed in this country, staggering. Although it's very difficult to say for certain how many abortions are performed each year, the National Right to Life Committee estimates that 1,573,900 abortions were performed in 1985.

The legalization of abortion has had a dramatic effect on millions of couples who find adoption increasingly difficult. From 1957 to 1970, according to information from the National Committee for a Human Life Amendment, the number of children adopted rose annually from 91,000 to 175,000. However, since 1970, when abortion-on-demand first occurred in some States, the trend has reversed. During the first 5 years of legalized abortions, annual adoptions decreased 20 percent to 140,000.

There are many issues facing us in the House of Representatives this year. Protecting the lives of unborn children must be among our priorities. Toward this end, I am pleased to be a cosponsor of legislation introduced by Representative HAROLD VOLKMER which would amend the Constitution to define "person" to include unborn children for the purpose of the right to life guarantee.

As we begin a new legislative year, I remain committed to supporting legislation which supports the right to life of unborn children. I will continue to oppose legislation which supports abortion or promotes the use of Federal money to fund abortions. I hope my colleagues will join me in this effort.

DISARMAMENT BY STAGES

HON. EDWARD J. MARKEY

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 22, 1986

Mr. MARKEY. Mr. Speaker, Mikhail Gorbachev's recent arms control proposal should be carefully considered by President Reagan. Although Gorbachev's goal of complete disarmament by the year 2000 may not be reached, elements of the first two stages of his three-stage program are encouraging.

Gorbachev has placed the ball in President Reagan's court, and it is his turn to respond. It has become increasingly evident that unless star wars is restricted to laboratory research, no reductions in offensive nuclear weapons are possible. President Reagan should recognize the opportunities for progress inherent in the new Soviet proposal, and drop his stubborn insistence that star wars be completely insulated from arms control. If President Reagan does not do this, he will lose his best opportunity to realize his rhetorical goal of eliminating all nuclear weapons from this planet.

I would like to call my colleagues' attention to a recent Boston Globe editorial on this important issue.

The article follows:

DISARMAMENT BY STAGES

The Kremlin's proposal for staged reductions in nuclear weaponry and its three-month extension of the unilateral moratorium on test explosions are keeping political pressure on the Reagan administration.

The commitment to the elimination of nuclear weapons by the year 2000 with a "universal accord that such weapons should never again come into being" is the least important element of the proposal. As nuclear-deterrent forces are thinned toward the vanishing point, the weapons remaining would assume great importance. Thus, complete disarmament is a theoretical goal unlikely to be reached for decades, if ever.

The intermediate stages proposed by Mikhail Gorbachev are more realistic. They will have an impact on Western public opinion, which no doubt was the reason for the announcement.

In the first stage, lasting five to eight years, Gorbachev proposes a 50-percent cut in long-distance nuclear weapons, together with the elimination of medium-range missiles that the United States and the Soviet Union have based in, or targeted on, Europe. The superpowers would also freeze their tactical, or "battlefield," weapons.

In the second stage, beginning in 1990 and extending five to seven years, other nuclear powers such as Britain and France would eliminate their nuclear forces. The superpowers would cut their tactical weapons.

This two-step sequence represents a substantial Soviet concession. Previously, the Kremlin had insisted on being compensated for British and French forces targeted on the Soviet Union, to maintain equal warhead counts on both sides. This was one issue on which the 1983 round of negotiations to reduce "Euromissiles" foundered.

Now, the Russians have moved to the sensible position that the superpowers, with their far larger arsenals, should move first. Whether this initiative will lead anywhere hinges on the Reagan administration.

To negotiate any cuts in offensive forces, the administration will have to change its stance on space weaponry.

"Star wars" technology is an acceptable subject for laboratory research. But unless it is held short of testing outside the laboratory, it will block any chance of cuts in offensive weapons. This is the Soviet position, one that many Western security specialists agree with.

In recent months, Soviet arms-control positions have had increasing appeal to the Western public. President Reagan should modify his goals on "star wars" and muster the flexibility, initiative and realism needed to match Gorbachev's pace—and possibly steal his thunder.

MERCHANT MARINE ACT AMENDMENTS OF 1986

HON. MARIO BIAGGI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 22, 1986

Mr. BIAGGI. Mr. Speaker, I am introducing legislation today that will help to reverse the critical decline of a vital national resource—the U.S.-flag merchant marine. Foresighted leaders have long recognized the strategic and defense importance of merchant ships. In peace, they are the links that assure uninterrupted commerce. In war, they are the only reliable supply lines for our overseas forces.

Since merchant vessels are such an important resource many nations have developed elaborate methods to support their fleets. Unfortunately, over the last few years we have abandoned many of the programs that helped our fleet compete on the world market. I have never believed our merchant fleet should depend on the Government for its survival. The level of Government subsidy should not be the factor that determines which companies survive and which fall. However, I do believe it is fair and reasonable for the Federal Government to step into the international marketplace and assure the scales are balanced.

This legislation is aimed at decreasing the Government's regulatory role by eliminating requirements that make our fleet uncompetitive while offering the bare minimal assistance necessary to preserve the balance between U.S.-flag ships and their subsidized competitors.

If you examine the U.S. role in the maritime marketplace, it is evident we have largely played not a promotional role but rather an equalizing role. Just as we impose countervailing tariff duties on foreign goods to offset for-

eign government subsidies so, too, we need to offset foreign government subsidies given to foreign-flag shipping lines.

The centerpiece of this legislation is to build foreign authority. Currently, U.S. operators who receive operating-differential subsidies are prohibited from purchasing vessels built in a foreign yard. Since the elimination of the ship construction subsidy in 1981, it has not been financially feasible for U.S. operators to purchase vessels in the United States because U.S.-built ships cost two or three times more than foreign-built ships. Vessels obtained under this provision would be eligible for a 5-year subsidy for crew costs and insurance. Currently, subsidized operators receive subsidy for 20 years. The shorter subsidy period for foreign-built vessels will reduce Federal Government outlays while still offsetting foreign subsidies for the first 5 years a vessel is under U.S. registry.

Other important provisions of the bill relate to the Cargo Preference Program and will meet some of the past criticisms of the program.

First, the legislation will eliminate the prohibition barring reflagged vessels from the preference trade for their first 3 years under the U.S. flag. By increasing the pool of available vessels this provision will reduce the cost of the Cargo Preference Program.

Second, the legislation addresses the complaint that cargo preference rates are sometimes incorrectly based on the assumption that vessels carrying preference cargo will return to the United States empty. The legislation still allows operators to charge rates based on the assumption that they will not be carrying cargo on their return trip. However, the bill provides that if a ship carries cargo on any portion of the back haul, or if the vessel is scrapped while overseas, the operator wil be required to refund a portion of the money he received for that voyage to the Government.

Finally, the bill provides for the exclusive use of U.S.-flag vessels for the shipment of U.S. mail. This provision constitutes Government recognition that companies operating U.S.-flag ships should be given preference over foreign shipping companies. If U.S. vessels are not available at fair and reasonable rates or if U.S. vessels cannot provide sufficient service, the Postal Service would be permitted to use foreign-flag vessels.

Other provisions in this legislation though mainly technical, will streamline the administrative process and further deregulate the ocean shipping industry.

Let me assure my colleagues, I do not see this bill as a panacea for the shipping industry. Certainly, during consideration of this legislation other useful proposals may be presented. I only hope this bill will be a useful first step leading to the enactment of meaningful legislation that will help U.S. carriers compete more effectively while reducing Government outlays.

THE DRUG THREAT TO NATIONAL SECURITY

HON. LAWRENCE J. SMITH

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 22, 1986

Mr. SMITH of Florida. Mr. Speaker, when the administration talks about threats to our "national security," it usually refers to the adventurism of the Soviet Union. But, another threat exists—drugs.

I, therefore, am flabbergasted by reports that the fiscal year 1987 budget may decimate the Customs Service—one of the agencies that is battling the drug threat to our security.

According to these reports, Customs will lose $69 million. About half will come from a decimation of the Customs Air Service. This cut would ground the P-3A aircraft that just now are being used to track drug traffickers entering south Florida.

I am reminded of what nearly occurred several years ago. The administration wanted the Defense Department to handle Customs' Air Interdiction Program, but the Pentagon refused. Congress finally insisted on maintaining the Customs program to prevent a reduction in our antidrug efforts.

Mr. Speaker, it is time for this administration to realize that drugs are as important a threat to American society as communism. Rhetoric will not stop drug traffickers. And neither will the Customs Service if we accept these draconian reductions.

MIAMI HERALD EDITORIAL COMMEMORATES REAGAN'S DECISION TO HONOR SALT II TREATY

HON. DANTE B. FASCELL

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 22, 1986

Mr. FASCELL. Mr. Speaker, an important editorial came to my attention recently regarding U.S. policy toward the SALT II Treaty—the strategic arms limitation treaty signed in 1979, but never ratified. Published in the December 26, 1985, Miami Herald, the editorial emphasizes the key role the SALT II Treaty has played in limiting the number of long-range missiles that either superpower may deploy.

In a letter sent to the President in mid-December I described the President's decision last June to follow a policy of not undercutting the SALT II Treaty as a testament to his commitment to achieving mutual and verifiable arms control agreements. I also urged him to continue U.S. adherence to the treaty.

The President reaffirmed his commitment to the treaty when he recently decided to continue U.S. adherence to the SALT II Treaty after its expiration on December 31, 1985.

As the editorial points out, "the United States and the Soviet Union both have dismantled weapons whose continued existence would have placed them in violation of SALT II limitations." Moreover, while it "has been a bleak year for arms control, the President's decision to continue honoring SALT II averts a costly step backward." I might also add that the President's decision averts a potentially destabilizing impact on the United States-Soviet arms control negotiations in Geneva.

I encourage my colleagues to carefully read this editorial commending the President's decision to honor the SALT II Treaty. The text of the Miami Herald editorial follows:

[From the Miami Herald, Dec. 26, 1985]

NUMBERS DO MATTER

After a year of ominous fulminations, President Reagan quietly has decided against trashing the SALT II Treaty when it expires on Dec. 31. Mr. Reagan's restraint offers welcome reassurance that neither he nor his key advisers have resigned themselves to resuming unbridled arms competition.

Mr. Reagan, mind, has never been a champion of SALT II. The Senate never did ratify the 1979 accords, which limit the number of long-range missiles (ICBMs) that either side may deploy. The President has criticized the treaty for countenancing what he perceives as a Soviet advantage in strategic weapons, and arms-control opponents within his Administration allege that repeated Soviet violations have rendered the agreement meaningless.

But even SALT II's critics concede that both sides have observed the weapons ceiling fixed in the treaty. In fact, the United States and the Soviet Union both have dismantled weapons whose continued existence would have placed them in violation of SALT II limitations.

Whether the number of strategic weapons that either side is permitted to deploy matters as much as the character of those weapons—their mode of basing their targetability, their usefulness in a pre-emptive strike—is a legitimate question. But it's a long way from there to the conclusion that numbers are irrelevant. Numbers do matter, if only because neither side can afford—economically, politically, or morally—to devote ever-increasing proportions of its resources to the production of strategic weapons.

It has been a bleak year for arms control, but the President's decision to continue honoring SALT II averts a costly step backward. If he is to build on his predecessor's modest arms-control legacy, Mr. Reagan must continue to reject any return to unrestrained arms competitions as vigorously as he rejects recourse to nuclear arms themselves.

PITTSBURGH AND ITS SUCCESSFUL TEACHING CENTER

HON. WILLIAM J. COYNE

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 22, 1986

Mr. COYNE. Mr. Speaker, back in the late 1970's, the Pittsburgh public school system was experiencing some difficulties with a court-ordered desegregation directive and a general perception by disillusioned parents that public education was on the decline. Starting in 1980 the city school system, under the direction of Superintendent Richard C. Wallace, Jr., set about to cure the ailing educational system with a unique set of remedies. First, a workable desegregation plan was enacted calling on voluntary and mandatory

shifts in student assignment and then a "teacher center" was instituted.

I would like to take this opportunity to share with you the success Pittsburgh has had in rebuilding its inner city school system. In two articles recently run in the Christian Science Monitor the model teacher center program was discussed at some lenght. I would like to submit these articles for the RECORD.

THE ARTICLES

As Jake Milliones, school board president so aptly points out, "so much in education has to do with what you expect from students and teachers". The Pittsburgh system, through its instructional experiment, has made great strides toward the goal of teacher and student improvement.

[From the Christian Science Monitor, Jan. 10, 1986]

PITTSBURGH REBUILDS ITS INNER-CITY SCHOOL SYSTEM

(By Keith Henderson)

In the late 1970s, Pittsburgh public schools were stuck in a political quagmire.

The school board was locked in wrangling over court-ordered desegregation. Parents, disillusioned by both that struggle and what they saw as a general decline in public education locally, were whisking their children away to private and parochial schools.

A half dozen years later, those storm clouds have largely dispersed.

The city's schools now draw more praise than scorn. Theodore Sizer of Brown University, a prominent critic of public education, hails the city's efforts to "improve schools by helping teachers improve themselves." Eileen Dewalt, a parent volunteer at Pittsburgh's Schenley High School who had taken her son, Jason, out of the city school system, is now "impressed by what the public schools are offering."

What happened? First, in 1980 a workable desegregation plan was finally put in effect, mixing voluntary and mandatory shifts in student assignment. Then administrators and board members zeroed in on the "root cause of the desegregation movement—the quality of education," according to Richard C. Wallace Jr., the superintendent.

Among other things, the district set up a program called MAP (Monitoring Achievement in Pittsburgh) to establish districtwide goals for each subject—e.g., math, reading, writing—and for each grade level. It developed an "instructional model" (dubbed PRISM) that is now used throughout the system to train and evaluate teachers. And it converted an aging hulk of a high school—Schenley, formerly considered one of the worst schools in the city—into a teacher center, where instructors are given eight-week refresher courses.

The payoffs from all this are starting to roll in. Over the last four years all the city's public elementary and middle schools have risen above the national norm in academic achievement tests. In 1981, by contrast, almost half these schools were below that norm. The high school dropout rate is down to 21 percent, from 35 percent five years earlier.

And perhaps most gratifying, the flow of students away from the public schools has reversed. Some 3,400 children have enrolled over the past three years.

Dr. Wallace is widely acknowledged as chief architect of Pittsburgh's educational rebuilding effort. Seated in a spacious office in the block-long Greek Revival administration building, the superintendent recalled his initial task on taking the school district's reins in late 1980: to hammer together a firm list of priorities from a sprawl of "concerns and anxieties."

Working with experts at the University of Pittsburgh, he and his staff surveyed the community—children, parents, teachers, administrators—to see what was on people's minds.

The superintendent took his findings to the school board with the message that, as he put it, "This is what the district says are problems to be addressed." Leading the list: better student achievement, better evaluation of teachers and other personnel, and dealing with declining enrollments.

The board's unanimous approval of these and other priorities was "the most significant thing that's happened in the district," Wallace says. A few months later the board united behind the programs designed to meet those priorities, including the MAP, PRISM, and teacher center projects.

The big difference between now and six years ago, observes school board president Jake Milliones, a clinical psychologist by profession, is a firm emphasis on instruction. "And Dick Wallace is an instructional leader," he adds.

Among other things, the board wanted Wallace to get rid of incompetent teachers.

Instead of going at this as a "weeding out" process, the superintendent decided to view the task as "a strong effort to improve the performance of all the people in the district." That's where PRISM (Pittsburgh's Research-based Instructional Supervisory Model) came in.

"From my perspective," says Wallace, "it's the most important thing we've done—a massive staff development effort."

The tenets of good teaching included in the PRISM model—teaching to an objective, monitoring learners, consistent observation of teachers, among others—are hardly new. But Pittsburgh's thoroughness in promulgating them throughout a large urban school district is. This effort is part of what Dr. Sizer terms the city's "marvelous unwillingness to think that educational reform is simply a matter of testing and grades."

While some teachers have been fired—20 or so in the last three years—the emphasis, says Sizer, is on "not hassling them, but trying to get the best in them to emerge."

Superintendent Wallace explains that the job of teaching the PRISM model began with a four-member "staff development team" assigned to work with principals and supervisory people.

Individual teachers were brought into the program through the teacher center at Schenley High School. A similar center for elementary teachers is just getting under way at the Brookline Elementary School.

In some ways, the city's schools are building on inherent strengths.

For one thing, the district has independent taxing authority and a citizenry willing to support education observes Dr. Milliones. For another, the local teachers' union, an affiliate of the American Federation of Teachers, has been willing to work closely with the district to "professionalize" classroom work. And teachers' pay in Pittsburgh is unusually high—a district average of $35,000 a year.

There is little doubt, however, that innovations of the past few years have been crucial to turning the district around. But Milliones is quick to point out "there's still a ways to go." The board president, himself black, wants to see an even greater effort to close the gap between the achievement of white and black students.

"It's narrowing," he concedes, "but at a pace I'm certainly not satisfied with." In particular, he sees a need to further trim the dropout rate. "We cannot write off any of our kids."

So much in education "has to do with what you expect" from students and teachers, Milliones concludes. In that regard, certainly, Pittsburgh has made genuine strides.

[From the Christian Science Monitor, Jan. 13, 1986]

NEW LIFE FOR PITTSBURGH'S SCHENLEY HIGH

(By Keith Henderson)

Not long ago, Pittsburgh's Schenley High School had all the earmarks of a depressed inner-city school: deteriorating physical plant, an all-black student body, soaring dropout rate, and dismal academic performance.

But the school's image has shifted radically in the last three years. Beginning in 1983, Schenley became Pittsburgh's High School Teacher Center, a place where educators from all parts of the city can sharpen their classroom skills. The school attracted top teachers—180 applicants for 75 openings—district superintendent Richard Wallace recalls. "Magnet" programs such as international studies—designed to draw high-achieving students—were placed there. Physical improvements, including construction of a new gym, are under way.

Schenley is also piloting Pittsburgh's critical thinking" curriculum, aimed at getting high school students to wrestle with Kant, Bacon, and other classical philosophers. What goes on now at Schenley is a kind of multilayered education—for both children and teachers.

A visitor to Harry Bratsky's ninth-grade social studies class sees something akin to a college-level discussion seminar, with Mr. Bratsky firing questions. The students come back with some fairly spirited answers about social security funding and other issues.

A short walk down one of Schenley's cavernous halls, Roger Babusci—a former Pennsylvania "teacher of the year"—helps a class of 10 or 15 pupils negotiate the mysteries of punctuation. These students, from a mix of ethnic backgrounds, need help with fundamental language skills.

In the music room, Ralph Hill admonishes the girls' chorus, "You may not realize it, but you have to sing this Thursday in front of strangers. . . . Sing it now like you're going to sing it Thursday!" Dr. Hill is one of 25 clinical resident teachers (CRTs) at Schenley. They serve as mentors to other teachers in the district, along with handling regular classroom responsibilities of their own.

Four times a year, a new set of 46 to 48 teachers comes to Schenley to begin an eight-week training program. Their regular duties are taken up by replacement teachers assigned from the teacher center.

The first two weeks of the program are spent in seminars devoted to educational theory. The last six focus on applying that theory in Schenley's classrooms, under the tutelage of CRTs. Each visiting teacher conducts 12 classes during his or her stay. Conferences follows each class—a time for comment and useful criticism.

"We're trying to develop a collegial atmosphere," says Judy Johnston, director of the teacher center. Throughout the program, she explains, every effort is made to be "sure that observing of other teachers is seen as positive," not threatening. As many as 200 teachers were involved in drawing up

plans for the center, so it's less something imposed on them than something they helped shape.

Evaluations of those who've been through the program have shown clear gains in such areas as responsiveness to students and ability to concentrate on "the learning task," Dr. Johnston notes.

The training program at Schenley is scheduled to end after 1987. By that time all the high school teachers in the district—900 of them—will have taken part.

The "big-buck question," as Johnston puts it, is how well gains made at the center will be maintained. One key, she says, could be the role of department chairmen in the city's various high schools. They could be instrumental in reinforcing the teaching theory and practice learned at Schenley.

Meanwhile, students at Schenley have shown their own "dramatic improvement in achievement," according to superintendent Wallace. In language skills, for instance, test show 68 percent of the student body is at or above national norms. Three years ago the figure was 27 percent.

Even in "filtering out" the white students—the school is now 30 percent white—there has been remarkable improvement, adds Jake Milliones, president of the city's board of education. Not long ago Schenley was "thumbs down," he says. The main thing, in his view, is that a "climate of learning" has been built within the school and should persist well beyond the four-year run of the teacher center.

Wallace points out that the Schenley Teacher Center costs over $1 million a year and a Ford Foundation grant was crucial in getting the project rolling. He and others in the district, however, have few doubts that it's a sound investment in the future of education in their city.

CONGRESSIONAL SALUTE TO THE HIROSHIMA NIKKEI JIN KAI

HON. ROBERT T. MATSUI

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 22, 1986

Mr. MATSUI. Mr. Speaker, I am pleased to call to the attention of the U.S. Congress a monumental event in the history of the Hiroshima Nikkei Jin Kai. This exceptional organization will be marking its 80th year with an anniversary celebration and new year's party to be held in Sacramento on the afternoon of January 11.

The motivation behind the formation of this remarkable group was deep concern for immigrants coming to the United States from the Hiroshima Prefecture. One of the problems exacerbated by the language barrier was the difficulty of borrowing money from American banks. Based on trust and selfless desire to help, this group came together to assist those facing this serious problem. Over the years the responsibilities of this outstanding club have grown to incorporate those of the community while still generously attending to the special needs of its members.

Mr. Speaker, on behalf of the people of Sacramento, I want to commend this worthy group and offer my best wishes for continued success in all of its endeavors in the coming years.

IN RECOGNITION OF NEW YORK STATE SENATOR RICHARD SCHERMERHORN

HON. HAMILTON FISH, JR.

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 22, 1986

Mr. FISH. Mr. Speaker, today I call the Members' attention to an outstanding legislator from the great State of New York, State Senator Richard E. Schermerhorn. I do so on the occasion of Senator Schermerhorn's recognition by the Republican Committee of the town of Newburgh, NY, as "Man of the Year."

Dick Schermerhorn was first elected to the State senate in 1970, and is presently serving his eighth term in office. During the last 16 years, he has received a long list of awards from the State's uniformed service organizations, including police organizations and professional firefighters. The American Legion has honored the senator for his service in public office and for his Americanism. Senator Schermerhorn was the first recipient of the New York State Youth Bureau Award for Distinguished Services for "promoting the welfare of youth."

The senator enjoys membership in a variety of civic and fraternal organizations, and has served his community faithfully on many different levels. He is also the president of Richard Schermerhorn Insurance, one of the largest insurance agencies in the lower Hudson Valley.

It is only fitting that this dedicated elected official be named "Man of the Year" by those who know him well. He has served as a model of leadership and involvement for the people of the Hudson River Valley. His many years of hard work and service deserve gratitude and praise, and I join the Newburgh Republicans in thanking and commending State Senator Richard E. Schermerhorn.

HOLDING CYPRUS HOSTAGE

HON. MARK D. SILJANDER

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 22, 1986

Mr. SILJANDER. Mr. Speaker, the Cyprus problem, which now spans more than 30 years, has been a matter of concern to the House for a number of years. It has now reached a critical point.

When the leaders of the Greek and Turkish Cypriot communities agreed to meet in New York a year ago, there was genuine hope that 4 months of proximity talks conducted by U.N. Secretary General Peres de Cuellar had succeeded in bringing the two sides close to a settlement.

Regrettably, the Greek Cypriot leader, Mr. Kyprianou, refused to accept the draft agreement put forward by the U.N. Secretary General.

Dissatisfaction with Mr. Kyprianou's action which led to failure of the summit prompted even the Greek Cypriot National Assembly to formally censure him twice.

Many observers have long suspected that Greek Prime Minister Papandreou has been encouraging Mr. Kyprianou's intransigence on a Cyprus settlement. Mr. Papandreou's intervention in the December Greek Cypriot elections, with a warning to the electorate against accepting a settlement formula unacceptable to Greece, was clearly designed to undermine support for the opposition parties, which had made Mr. Kyprianou's handling of the Cyprus negotiations the central campaign issue.

It is paradoxical indeed that Mr. Papandreou decided upon such an open intervention in the Greek Cypriot political process, considering his often proclaimed commitment to the principle of nonintervention in Cyprus.

Mr. Papandreou's action at this critical juncture will certainly have a negative effect on the Secretary General's ongoing efforts to find a solution to the Cyprus problem.

The Wall Street Journal, in a recent editorial titled "Holding Cyprus Hostage," focused on Mr. Papandreou's role in failure to make progress on the Cyprus issue. It clearly describes the current state of affairs, and I commend it to my colleagues.

[From the Wall Street Journal, Dec. 26, 1985]

HOLDING CYPRUS HOSTAGE

For years Greece's premier, Andreas Papandreou, has tried to compensate for his domestic shortcomings by thumbing his nose at both the North Atlantic Treaty Organization, which protects his nation, and the Common Market, which subsidizes it. This has often seemed more silly than sinister. But he has looked a bit nastier as he's tried to embarrass Turkey by flogging the Cyprus issue.

It's time for the Western democracies to sit on Mr. Papandreou. The Greek premier recently attacked a Greek Cypriot parliamentary opposition that had been promoting a more conciliatory line toward Turkish Cypriots. U.N. Secretary General Javier Perez de Cuellar has been trying to prevent total collapse of once-promising talks between Cyprus' resident Greek and Turkish leaders. The U.S. State Department is trying to lend its good offices as well. Finally, EC commissioner Claude Cheysson has been conducting negotiations for a customs union between Cyprus and the EC.

The latest haggling over trade benefits from the EC illuminates the real reason the much-lamented "Cyprus problem" has not been solved. The Greek Cypriots and their Greek guardians have had little incentive to do so. An exclusively Greek Cypriot government is recognized by all but Turkey as the only legitimate voice of Cyprus. Consequently it is Greek Cypriots who get the millions in aid from such institutions as the EC, UNESCO and the World Bank. A Greek Cypriot embargo against the north has helped ensure that Turkish Cypriots remain in relative squalor, dependent upon Turkey for sustenance as well as security.

This dismal state of affairs continues primarily because it serves Mr. Papandreou. So long as Turkish troops remain in North Cyprus to protect the lives and property of Turkish Cypriots, Mr. Papandreou can present Turkey as an imperialist aggressor. Yet while criticizing Turkey, he calls for Cyprus to be unified with Greece.

Now it's true that Turkish troops are in Cyprus and that they invaded the island in July 1974. But the Turks can legitimately claim that the invasion would not have oc-

curred had not Greek Cypriots abused their role as the majority population and had there not been a military coup against then President Makarios, who described it as an invasion by Greeks led by Greek officers. Greece was then run by the colonels who'd taken power through their own coup in 1967 and certainly were no heroes in the eyes of Mr. Papandreou and his fellow leftists. Yet Mr. Papandreou has not improved much on their Cyprus policy.

Turkey, for its part, has been moving closer to the West under Prime Minister Turgut Ozal. Joint European and U.S. recognition of a federated Cyprus would go a long way to guarantee the democratic rights of Turkish Cypriots and put pressure on the Greeks and Greek Cypriots to reach an accord with them. Such recognition could apply to Turkish Cypriot passports; it would entail allowing trade and communications to go directly to Turkish Cyprus and consulting the Turkish Cypriot leadership in any decisions affecting the island. Indeed, Western institutions like the EC and the World Bank should divide up the money earmarked for Cyprus between the two Cypriot states.

That the Turkish Cypriots still want an accord can be seen even in their 1983 statement of independence, where they hold out their hand to the south to join with them in a federal union. The main problem is to influence Mr. Papandreou, but we fail to see why that should be as hard as it has been made to seem.

PITTSBURGH ELKS GROUP CELEBRATES

HON. DOUG WALGREN

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 22, 1986

Mr. WALGREN. Mr. Speaker, on February 16, 1986, the Pittsburgh South Hills Benevolent and Protective Order of Elks will celebrate the 118th anniversary of the founding of this order. This lodge is the first to institute Elks American Patriotism Day, a displaying of the colors. For this, the South Hills group was awarded the All-American Lodge Award in 1984 by the Pennsylvania Elks Association.

The Elks are to be commended for their unwavering patriotism and their contributions to our communities across the land. I would like to share with my colleagues the following background information on the Elks.

THE ELKS

The Benevolent and Protective Order of Elks is one of the oldest and largest fraternal organizations in the United States.

The first formal meeting was held on February 16, 1968, in New York City. Fifteen persons turned out, most of them young, undiscovered but budding artists who had gathered for companionship and to help their other out-of-work peers.

The idea caught on and spread to other groups and other cities. As it grew, the new organization broadened its membership base to include businessmen, professionals, farmers and representatives from other occupations.

Today there are more than 1.6 million members of the Elks in 2,280 local "Lodges" found throughout all fifty states and the District of Columbia. Over the years, these Lodges have evolved into the primary building blocks of the highly decentralized Elks organization. They provide recreational facilities for the entire family, but the Lodges are also the focal point for the many community service and charitable programs that have become an Elk tradition.

Early in its history, the Elks supported groups such as the Salvation Army and the Red Cross. In 1871, they staged a benefit for the victims of the great Chicago fire. Money was raised for victims of the Seattle fire and the Johnstown flood in 1889. And the Elks were the first on the scene to supply money and rescue assistance during the San Francisco earthquake of 1906. Today, disaster relief continues to play an important part in Elk activities.

Patriotism has also been a hallmark of the Elks. In 1907, the Elks became the first fraternal organization in the nation to mandate observance of June 14 as Flag Day. More than 40 years later, fellow Elk, President Harry S. Truman signed into order a declaration naming Flag Day as an official national holiday.

The Elks National Foundation, the philanthropic arm of the organization, was created in July, 1928, as an income-producing fund to help support national Elk projects and to supplement programs at the state and local Lodge levels. Each year, scholarships are awarded to 500 outstanding high school students across the nation. Emergency educational grants are also provided to children of members who have died or been disabled.

Foundation support of state association projects is based on a "revenue sharing" concept. Funds are provided to each state in proportion to the level of contributions made by individuals in the state. The Elks contributed $26 million in 1983 to support cerebral palsy research, veteran's hospital, retarded child care and to provide wheelchairs, recreational facilities and other aids to the handicapped.

The Elks devote a great deal of attention to youth programs. Lodges and individual members today sponsor more than 1,000 Boy Scout troops and 3,000 Little League teams, as well as Boy's Clubs and Camp Fire Girls Clubs.

But one of the most important youth programs in recent years has been the annual "Elks' Hoop Shoot," a national free throw shooting contest, for boys and girls from ages 8 to 13. Over three million youngsters from all fifty states participate yearly in the "Hoop Shoot" from local contest to the national finals where six champions were named.

The program, begun in 1972 on a national basis, provides spirited competition and the chance for youngsters to develop new friendships. Winners and their families also travel to state, regional and national competition, courtesy of the Elks.

RETIREMENT OF THOMAS R. CLARKE FROM TAYLOR CENTER HIGH SCHOOL

HON. WILLIAM D. FORD

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 22, 1986

Mr. FORD of Michigan. Mr. Speaker, I rise today to honor Thomas R. Clarke, who is retiring from Taylor Center High School in my hometown of Taylor, MI.

Tom's retirement follows 33 years of service at Taylor Center High. In fact, Tom has been on the faculty since the school originally opened in 1953. Prior to this, he taught at Tennessee Tech and at Richman High School.

Tom's involvement with and concern for the youth of Taylor extend beyond the classroom. He has coached basketball, baseball, and track at Taylor Center.

Tom has also been active in a number of capacities with the Taylor Federation of Teachers. Tom has served as the treasurer, executive secretary and an organizer for the TFT.

The citizens of Taylor have benefited substantially from Tom's experience in the classroom and in the community. He will truly be missed by students, his fellow teachers, and other members of the community.

I want to take this opportunity to wish Tom, his wife Ruth and the rest of his family all the best as he begins his retirement.

SAKHAROV SIXTH ANNIVERSARY OF EXILE

HON. JOE MOAKLEY

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 21, 1986

Mr. MOAKLEY. Mr. Speaker, I rise today to offer my strong support for the resolution being introduced today to express the sense of Congress that Dr. Sakharov and his wife Yelena Bonner should be allowed to exercise the rights of expression and movement guaranteed to them by the Helsinki accords.

On January 22, 1980, Nobel laureate and human rights activist, Dr. Andrei Sakharov, was arrested and exiled for 5 years to the closed city of Gorky for criticizing Soviet actions. Now, 6 years later, despite his declining health condition, Dr. Sakharov is still in exile. The Soviets have denied proper medical attention to Dr. Sakharov and Yelena Bonner. Fortunately, Yelena Bonner was granted a 3-month visa to receive medical treatment in the United States. She was released from Massachusetts General on Monday 7 days after the triple bypass surgery with the hope of quickly recovering in a home environment of her children. While the surgery was deemed a success, Mrs. Bonner is reported to be in great pain during her recovery process. She has been allowed almost no phone contact with her husband during her visit and what little contact has been allowed has been jammed. Certainly this lack of direct communication has not been easy on Andrei Sakharov whose own health has been reported to be even more serious since his wife's trip to the United States.

Dr. Sakharov and his wife have been dedicated in their fight to preserve human rights and have suffered greatly. It is clearly time for this arbitrary, illegal, and inhumane term of imprisonment to end so that Sakharov and Bonner will finally be able to exercise their rights granted to them in the Helsinki accord. I would like to praise my colleague, BARNEY

FRANK, for his perseverance and leadership in this matter and join with him in sponsoring this timely and important resolution. I urge my colleagues to join with me in this effort and hope that they will continue to press the Soviet Union for the freedom of Dr. Sakharov and his wife.

Thank you very much.

INJUSTICES IN BUDGET BILL

HON. RONALD D. COLEMAN

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 22, 1986

Mr. COLEMAN of Texas. Mr. Speaker, today I am introducing a bill to remedy what I consider to be an injustice for the millions of Americans who have faithfully served the people of this Nation as Government employees and members of the military.

Mr. Speaker, my bill would reverse the injustice contained in the Balanced Budget and Emergency Deficit Control Act of 1985 (Public Law 99-177). My bill would remove all Federal civil service, military, and tier II railroad retirement and disability programs from the sequestration process and provide for full reimbursement of the January 1986 cost-of-living adjustment.

The conferees, whom I commend for their diligence and concern for fairness in deficit reduction, unfortunately overlooked this injustice. By including the cost-of-living adjustments for Federal, military, judicial, and railroad retirees, the Congress broke a good-faith contract with the employees of the Government and the Nation's rail systems. We broke a contract which stems over many years and has contributed to the well-being of millions of Americans in their sunset years of life. That good-faith contract, to provide a fair and equitable employer-employee sponsored retirement and disability plan, has allowed the Government to attract qualified men and women to carry out the duty of Government at a lower rate of compensation than they would have been granted in the private sector. In effect, these men and women in the public work force were promised a respectable retirement in return for a lower rate of pay during their years of labor. This system has worked and it has allowed the Federal Government to attain and retain qualified personnel. But last December, the Congress changed all of that. In the mad rush to defuse the deficit time bomb which truly threatens the economy of this great Nation, the Congress passed the Balanced Budget and Emergency Deficit Control Act of 1985. I supported that legislation because I believed then and now that further Government borrowing to finance our excessive spending would, in the long run, mortgage the future of this Nation. The conferees sought to draft a plan which would achieve a balanced budget by fiscal 1991, while at the same time ensure that the cuts were spread evenly over defense and nondefense spending, and that the poorest of the poor were protected from the automatic cutting measure contained in the bill. They did a worthy job and I commend them. However, somewhere in their deliberations, they overlooked the retirees who have given a lifetime toward the defense, operations, and movement of people and goods. The conferees were looking for every dollar they could find. But in taking away that dollar from the retiree, are we really contributing to deficit reduction while reducing the real purchasing power of millions of Americans?

Section 251 of the Balanced Budget and Emergency Deficit Control Act of 1985, Public Law 99-177, provides that automatic spending increases shall be reduced as part of the sequestration order issued by the President to conform with the specific deficit level provided for fiscal years 1986 through 1991. These automatic spending increases, as defined in section 257 of the act, consist of 19 retirement and disability programs and 3 other Federal programs which are indexed to adjust with increases in inflation. Of these 19 programs, 13 are either Federal employee or military retirement and disability programs. My legislation would exempt all but one of these retirement programs and include the retirement program for tier II railroad retirement under the exemption contained in the bill. These programs, including tier II railroad retirement, would no longer be considered as automatic spending increases for purposes under the act. Therefore, cost-of-living adjustments for these programs would be protected in the same way as those for veterans' pensions and compensation. The bill would set as the effective date the date of the passage of Public Law 99-177, and therefore provide for the full reimbursement of the January 1986 cost-of-living adjustment for Federal, military, and tier II retirees. The cost of this exemption for fiscal year 1986 would be $993.6 million, according to the General Accounting Office report to the President, submitted January 21, 1986.

The programs exempted from being considered as automatic spending increases for purposes of the act and the U.S. General Accounting Office estimated fiscal year 1986 outlays are listed below:

[In millions of dollars]

Program	GAO estimate
Retirement and disability programs (section 257(1), part A):	
CIA retirement and disability system fund	(1)
Civil Service retirement and disability fund	534.5
Comptrollers general retirement system	(2)
Foreign service retirement and disability fund	5.9
Judicial survivors' annuities fund [3]	0
Military retirement fund	409.1
NOAA retirement	0.2
Railroad retirement tier II	18.0
Retired pay, Coast Guard	8.6
Retirement pay for commisioned Public Health Service Officers	2.3
Special benefits, FECA [4]	15.0
Tax Court judges survivors annuity fund [3]	0
Total, part A	993.5

[1] Amounts are classified and have not been included in totals.
[2] Less than $50,000.
[3] Benefits are indexed to general schedule, judicial, or executive level pay, which did not increase for fiscal ear 1986.
[4] Scheduled benefit increase was 3.4 percent.
Source: U.S. General Accounting Office.

In its report to the President, as required by the new budget law, the General Accounting Office calculates the amount of savings the Government will achieve through the suspension of the January 1986 COLA's for civil service, military, and railroad retirees will total less than $1 billion. That amount is 8.49 percent of the total $11.7 billion of cuts which need to be made in fiscal 1986. However, as the total of cuts necessary to meet the specified deficit levels contained in the law rises, to approximately $64 billion in fiscal 1987, the percentage share of savings made up through suspension of the COLA's will fall dramatically. Assuming that inflation stays constant, even with the new entrants into the retirement programs, the percentage value of the savings achieved through suspending the COLA's would fall to a level of approximately 2 percent in fiscal 1987. In the meantime, the real purchasing power of the retirees would have declined by at least 6 percent over this 2-year period.

Mr. Speaker, the law as enacted greatly punishes the Federal, military, and railroad retirees who have given of themselves so that we may live a more safe and secure life as a nation. It is a punishment for a crime they did not commit. In a mad rush to balance the Federal budget, which I agree must be done, we have substituted the welfare of those persons who have provided the goods and services to ensure our own well-being. For the last 5 years Federal and military personnel have willfully contributed to deficit reduction through pay freezes and COLA reductions. They have been more than glad to do their part. But as the law is now written, these retirees are a minority have been singled out unfairly. This law subjects only this minority to the annual threat of reduction in real purchasing power.

Mr. Speaker, I hope the House will join me in assuring the Federal, military, and railroad retiree community that this legislation will be given fair and swift consideration by the appropriate committees and the full House.

ANDREI SAKHAROV

HON. BARBARA BOXER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 21, 1986

Mrs. BOXER. Mr. Speaker, I would first like to commend my colleague, Representative FRANK, for calling this timely special order.

Tomorrow, January 22, 1986, marks the sixth anniversary of Dr. Andrei Sakharov's internal exile to the city of Gorky. To those of us around the world who are concerned with human rights, not one day passes where we do not think of the tragic imprisonment of the man who was called by the Nobel Peace Committee in 1975, "the conscience of mankind."

In demanding Dr. Sakharov's release, we must remember his contributions to the fundamental causes of world peace and human rights. Dr. Sakharov was one of the first scientists to call for a universal political commitment to stop the proliferation of nuclear weapons and to call for world disarmament.

Dr. Sakharov was also one of the first to state the idea that world peace and human rights are inseparable issues. He recognized that human rights without peace, or peace without human rights, is worthless. Dr. Sak-

harov constantly warned against sacrificing one for the other.

On January 22, 1980, Andrei Sakharov was arrested, stripped of his state honors, and sent into internal exile. Although 5 years is the maximum penalty for exile in the Soviet judicial system, Dr. Sakharov was never given a trial or charged with any official crime. Thus he remains in the closed city of Gorky, cut off from the world.

Mr. Speaker, time and again I have stood on this floor condemning the Soviets for their outrageous human rights abuses. But I am not discouraged. I simply keep in mind the words of Dr. Sakharov himself:

Our only protection is the spotlight of public attention on our fate by friends around the world.

I am sure that Dr. Sakharov would be the first to ask us not to forget that January 20 was the 38th birthday of Anatoly Shcharansky, who remains in prison for the crime of asking to join his wife Avital in Israel, and for pointing out Soviet violations of the 1975 Helsinki accord on human rights.

Today we again call on the Soviet Union to release Andrei Sakharov and Anatoly Shcharansky in the name of humanity and respect for human rights. Our voices will not be silent on this issue. As long as these men remain in prison, those of us who believe in the fundamental importance of human rights and justice will not be able to rest.

HILLSDALE COLLEGE, NATIONAL NAIA CHAMPION

HON. CARL D. PURSELL

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 22, 1986

Mr. PURSELL. Mr. Speaker, I rise today to bring tribute to a college which, although lacking the reputation of a football powerhouse, successfully stayed the course to win a national football championship last month.

Hillsdale College, long recognized as an outstanding academic institution located in the city of Hillsdale, MI, demonstrated athletic strength and prowess in becoming the 1985 NAIA national champions.

Just days before Christmas, the 1985 Hillsdale Chargers delivered their "championship gift" by playing to a 10–10 tie with the Central Arkansas Bears. As Head Coach Dick Lowry said after the game, "Winning a national title is not just for Dick Lowry or just the football team. It's for all of Michigan, it's for the Hillsdale people and for the college."

Undoubtedly, it was this spirited perspective which helped the Chargers bring home their first national title since starting a football program 91 years ago.

Mr. Speaker, I am proud today to represent Hillsdale College—and not just because they have won a national title. It is true that a national championship for a school such a Hillsdale College is a proud accomplishment, not having the athletic stature or recruiting clout of larger universities.

I am proud instead, because the determination and dedication of the Hillsdale players parallels that of the entire institution. To me, as well as many others, Hillsdale College serves as a hallmark for smaller educational institutions. And, Mr. Speaker, winning the 1985 championship reinforces that idea.

I ask my colleagues to join with me in congratulating the 1985 Chargers, and Hillsdale College on this fine accomplishment and in wishing them continued athletic and academic success.

DR. MARTIN LUTHER KING, JR.

HON. MARTIN FROST

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 21, 1986

Mr. FROST. Mr. Speaker, January 20, 1986, marked the first observance of our national holiday honoring Martin Luther King, Jr. Dr. King, from his cell in the Birmingham City jail, predicted that, "one day the South will recognize its real heroes." He was referring to all those who joined him in his courageous struggle for peace, justice, and freedom. On Monday, his prophecy came true in a way he could never have foreseen. Americans in all parts of our country, not just the South, joined together to pay tribute to a great national hero, Dr. Martin Luther King, Jr.

Dr. King's work with the civil rights movement began in Montgomery, AL, in 1955 and ended, tragically, in Memphis in 1968. In a span of just 13 short years, he provided leadership and focus for the civil rights movement, touched the world with his philosophy of nonviolence, and was awarded a Nobel Peace Prize for his efforts. In that 13 years, he changed the life of a nation and his influence continues to be felt nearly 18 years after his death. It's impossible to fully comprehend the real meaning his life had for every one of us, and for the generations that will follow us.

Martin Luther King, Jr., awakened in us the best qualities of the American spirit. He called upon us to put aside our fears, our prejudices, and to commit ourselves to the American ideal of liberty and justice for all. We saw him threatened, harrassed, jailed, and finally murdered because he would not abandon his dream. His courage gave us strength, and his words of love and hope gave us inspiration. He provided the voice for a generation's dream and, because of him, that dream lives on today.

Martin Luther King, Jr., devoted his life to fighting bigotry and injustice. Clear vision, courage, and determination were the hallmarks of his character. His memory provides, not just an example, but a challenge. It challenges us to believe, as he did, that "injustice anywhere is a threat to justice everywhere." It presents a special challenge to those of us in public life. It demands that we use the power of politics and of public office to pursue equal justice and true liberation for all Americans. Significant gains have been made but there is much work left to do. We must do all we can to see that our Government is just and responsive—in employment, in education, in health, and in public services. It is up to us to fulfill the dream that Martin Luther King, Jr., articulated so beautifully.

It's important, then, that Martin Luther King Day be more than a celebration of a great man's life. It must be an opportunity for all of us to reaffirm our own commitment to brotherhood and justice. When we quote his speeches, we must remember to live the lessons they teach us. When we praise him, we must remember that words alone are not adequate to honor his memory. We can only truly honor Dr. Martin Luther King, Jr., by working to complete the struggle for which he gave his life. We must remember his hope that "in some not too distant tomorrow, the radiant starts of love and brotherhood will shine over our great Nation in all their scintillating beauty." We must commit ourselves to putting aside those things which separate us and to working together toward that day. The memory of Martin Luther King, Jr., will truly be honored when every American is living his dream of peace, freedom, and equality.

A TRIBUTE TO MR. KENT M. PIERCE

HON. ROBERT E. BADHAM

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 22, 1986

Mr. BADHAM. Mr. Speaker, I would like to take this opportunity to recognize an outstanding citizen of my district, Mr. Kent M. Pierce, for his years of service to the community and to his profession as a realtor. He recently completed his second term as president of the Huntington-Beach/Fountain Valley Board of Realtors in Orange County, CA, and is only the fourth person to serve twice in that capacity in the 25-year history of the organization.

As president of Coats and Wallace Real Estate, he has spent countless hours in volunteer service to the programs, events and activities of the board of realtors over the past 13 years. In recognition of his unselfish commitment to the growth and excellence of his profession, he is a past recipient of the "Realtor Associate of the Year" award.

During his tenure as a board officer, which also includes 5 years as a director, Mr. Pierce has established himself as a staunch defender of private property rights, a strong advocate of the realtors code of ethics and an active promoter of professional standards.

In addition to his work at the local level, Mr. Pierce has established himself as a statewide leader in service to the State Trade Association, the California Association of Realtors. He went first to serve as a delegate in 1975 and then served for 8 years as a member of the board. This year, he is regional vice president of the State organization, representing not only his home board but also the boards which serve the profession in more than two-thirds of Orange County.

Mr. Chairman, it is a distinct pleasure for me to bring this recognition to Mr. Kent Pierce. I am sure the pride in his accomplishments that is felt by his wife, Gianna, and their five daughters is shared by the hundreds of his colleagues with whom he has worked through the years.

HISPANICS IN THE LABOR MARKET

HON. EDOLPHUS TOWNS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 22, 1986

Mr. TOWNS. Mr. Speaker, Hispanic Americans constitute the fastest growing minority group in our Nation today. Unfortunately, we are often without the data necessary to develop public and social policies to address the needs of this population.

Hispanic educational and civil rights organizations have begun to fill this gap developing their own statistical information on Hispanic Americans. This information is particularly useful when it compares the various subgroups within the Hispanic community, that is, Cuban Americans, Puerto Ricans and Mexican Americans. One of the most recent efforts, in this regard, is a study by the National Council of La Raza entitled, "Hispanics in the Labor Market: 1980–85." This study provides some very important comparative analyses on Hispanics performance in the labor market. I have included this study for my colleagues' review. I am certain that the statistics found in the study will be useful to those who are concerned about the employment problems of Hispanic Americans.

HISPANICS IN THE LABOR MARKET: 1980–85

I. INTRODUCTION

Hispanic Americans are the nation's youngest and fastest-growing major population group. Their youth and relatively low levels of eduation pose especially intractable problems, suggesting that hard-core Hispanic unemployment and poverty will endure into the future.

The 1980 Census estimated the Hispanic population in the United States at 14.6 million, or 6.4% of the total U.S. population. The Hispanic community had a birth rate in 1980 of 106.5 births per 1,000 women aged 18–44, compared to the White rate of 68.5 and the Black rate of 84.0. This high fertility rate, which is well above "replacement" level, guarantees larger cohorts of children for years to come. These high birth rates, which stem partly from a higher proportion of Hispanic women of child-bearing age, reflect the low median age of Hispanics, which is 23.2 years as compared to 31.7 years for Whites, and 24.9 years for Blacks.

Hispanics are projected to account for at least 8% of the labor force by 1995. The Hispanic community is an increasing pool of potentially productive workers. However, the progress of Hispanics in the labor market is hindered by their low levels of education, employment, and earnings. Hispanics are the least-educated and the lowest-paid of all groups in the labor market. Hispanic workers are "distressed" workers—a phrase coined by Professor Daniel Saks of Vanderbilt University to identify large segments in the labor force who do poorly in the labor market despite good economic times.[1] As "distressed" workers, Hispanics are extremely vulnerable to shifts in the economy and to restrictive federal policies in education and employment and training.

II. LABOR MARKET STATUS

A. Education

Data from the Bureau of Labor Statistics reveal that Hispanics are the least-educated major population group in the country, and that the general Hispanic population has lower educational attainment than Hispanics in the civilian labor force:

MEDIAN SCHOOL YEARS COMPLETED BY THE CIVILIAN LABOR FORCE

[Persons 16 years old and over, 1980–84]

	1980	1981	1982	1983	1984
Hispanics:					
Men	11.7	11.6	12.0	12.1	12.0
Women	12.2	12.2	12.2	12.3	12.3
Blacks:					
Men	12.3	12.3	12.4	12.4	12.4
Women	12.4	12.5	12.5	12.6	12.6
Whites:					
Men	12.7	12.7	12.7	12.8	12.8
Women	12.7	12.7	12.7	12.7	12.8

A cursory analysis of the civilian labor force data may lead to the conclusion that there are only small differences in the educational levels of various segments of the labor market. However, these numbers only reflect the civilian labor force—the employed and the unemployed who are actively looking for work. It does not include the 1.2 million discouraged workers—those workers who have given up looking for jobs because of the prevailing economic situation or because of various personal factors such as age, or lack of education or training. This measure also does not include the chronically unemployed—those that founder in the job market because they are bereft of marketable skills. This measure also does not include women who are housewives, or persons who are retired from the labor force. Finally, this measure does not include that segment of the population between the ages of 14 and 16. This specific age group is very important to the Hispanic community since Hispanics appear to drop out of school earlier than do other groups of students. According to the Bureau of the Census, 9.0% of Hispanics 14–17 years old have left school without graduating, as compared to 5.3% of White youth, and 5.2% of Black youth.

If these excluded segments of the population were included, Hispanics appear more undereducated when compared to Blacks and Whites, as shown in the following data from the March 1981 Current Population Survey:

Median school years completed, 1981

[Persons 25 years old and over]	*Years*
White males	12.6
White females	12.5
Black males	12.1
Black females	12.1
Hispanic males	11.0
Hispanic females	10.5

The Current Population Survey measures a cross-section of the general population, whether in the labor force or not. Thus, it includes those segments of the general population who are excluded by data based on the civilian labor force.

A disproportionately high percentage of Hispanic youth leave high school without a diploma. Data from a 1979 Census Bureau study showed that 35% of Hispanics 18–21 years old had dropped out of high school as compared with 25% of Blacks and 15% of Whites. In 1983, only 50.3% of Hispanic 18–19 year olds had graduated from high school as compared to 75.6% of Whites and 59.1% of Blacks.

For certain groups of Hispanics, such as women, dropout rates are even higher. Hispanic females are more likely to drop out of school than are Hispanic males, and are more likely than other groups of women to be high school dropouts. Census data from 1980 showed that by age 17, 20.9% of Hispanic females have left high school without a diploma. In 1979, of Hispanic women aged 16–24, 34.2% were high school dropouts as compared to 31.5% of Hispanic males, 12.8% of White females, and 20.0% of Black females.

Education is the single most important human capital characteristic in terms of its direct correlation on future earnings. A study using data from the 1976 Survey of Income and Education and the 1970 census found that Hispanics have lower returns to education than Whites. For example, White men earned 6.1% more for each additional grade of school completed, whereas Mexican men earned 5.4% higher wages per school grade completed, Puerto Rican men earned 3.6%, Cuban men earned 3.5%, and Black men earned 4.9% [2]

These findings are consistent with the results of a 1982 research project of the National Council of La Raza which analyzed data from the March 1981 Current Population Survey and found that Hispanics, both males and females, received less income for each additional year of schooling than did Whites. Hispanic women were worse off in this regard, as they earned only an additional $271.93 per year for each year of education received, while Hispanic males earned $524.84, White females $544.51, and White males $870.91.[3]

B. Labor force participation

The labor force participation rate measures the percent of those persons age 16 and over who are either employed or actively seeking employment. Table 1, attached, reveals that in 1984 Hispanics recorded the highest labor force participation rate of any major population group.

Hispanic men have higher labor force participation rates than White or Black men. Some economists believe that the higher overall labor force participation rate reflects the fact that the current Hispanic male population in the United States is, on average, younger than the non-Hispanic male population (in 1983, 49.7% of the adult Hispanic men were between the ages of 20 and 34 as compared to 39.1% for all adult men) and young adult men traditionally have higher labor force participation rates than older men.[4]

Hispanic women, like all women, have lower labor force participation rates than men. This is primarily due to the traditional cultural belief that women should remain at home and raise the family. However, in

[1] Saks, Daniel H., "Distressed Workers in the Eighties," Committee on American Realities, Report No. 1, 1983.

[2] Reimers, Cordella W., "A Comparative Analysis of the Wages of Hispanics, Blacks, and Non-Hispanic Whites," Hispanics in the U.S. Economy, edited by Borjas and Tienda, Institute for Research on Poverty, University of Wisconsin-Madison, 1985.

[3] Verdugo, Naomi, "The Effects of Discrimination on the Earnings of Hispanic Workers: Findings and Policy Implications," Hispanic Youth Employment Research Center, National Council of La Raza, July 1982.

[4] Roth, Dennis, "Hispanics in the U.S. Labor Force: A Brief Examination," Congressional Research Service, Economics Division, Library of Congress, August 1, 1984.

recent years, the growth of the labor force is due to the increasing numbers of women entering the workplace. In the last quarter of calendar year 1981, 47 million working women accounted for about 43% of the work force. Such growth equaled two-thirds of the total labor force increase during 1981. Hispanic women still have somewhat lower labor force participation rates than other women (49.9% in 1984, compared with 53.3% for White women, and 55.3% for Black women), but Hispanic women's labor force participation increased slightly more between 1981 and 1984 than did participation rates for other women (a 4.4% increase, compared to 4.1% for White women and 4.0% for Black women).

C. Occupational distribution

In 1984 Hispanic workers were especially concentrated in the following occupations:

1. Technical, sales, and administrative support, where 25.8% of Hispanics in the civilian labor force are employed, compared to 30.9% of the total labor force. Over half of Hispanics (60%) employed in this category are concentrated in administrative support, including clerical work.

2. Operators, fabricators, and laborers, where 25.0% of Hispanics in the labor force are employed, compared to 16.0% of the total labor force. Over half of Hispanics (55%) employed in this category are machine operators, assemblers, and inspectors; one-fourth (27%) are handlers, equipment cleaners, and helpers.

3. Service occupations, where 17.6% of Hispanics in the labor force are employed, compared to 13.5% of the total labor force. Excluding private household and protective service occupations, over four-fifths of Hispanics (83%) employed in this category are concentrated in jobs such as cooks, dishwashers, cleaning service workers, and food counter workers.

Hispanics are underrepresented in the managerial and professional occupations, where only 11.8% of Hispanic workers are employed, compared to 14.0% of Black workers, and 24.0% of White workers. On the other hand, Hispanics are overrepresented in the agriculture industry, where 5.7% of Hispanics are employed, compared to 2.7% of Black workers, and 0.35% of White workers.

D. Earnings

The occupational concentration of Hispanics is within those jobs which require a low level of skills and are low paid. The following table identifies the three occupational categories with highest concentrations of Hispanics, and lists their corresponding median weekly earnings:

Occupation and median weekly earnings, 1984

	Dollars
1. Technical, sales, and administrative support	300
Administrative support, including clerical	273
2. Operators, fabricators, and laborers	287
Machine operators, assemblers, inspectors	279
Handlers, equipment cleaners, helpers	250
3. Service occupations	208
Service, except private household/protective	200

Hispanic men and women earn the lowest wages in the labor market. In this regard, Hispanic women are worst off, earning only 52% as much as white men, while Hispanic men earn 71% as much as white men. For the first quarter of 1985, the median weekly earnings by sex and ethnic origin, for individuals 25 years and over, were as follows:

Median weekly earnings, first quarter 1985

	Dollars
White men	452
Black men	325
Hispanic men	319
White women	293
Black women	255
Hispanic women	237

For the total Hispanic workforce, this pattern of lowest median weekly earnings is a recurrent one, as the following table indicates:

MEDIAN WEEKLY EARNINGS

	1980	1981	1982	1983	1984
Total White	$265	$292	$307	$321	$339
Male	321	353	374	397	403
Female	203	220	243	253	264
Total Black	208	236	247	257	265
Male	246	264	279	299	304
Female	184	204	214	231	242
Total Hispanic	207	223	242	250	256
Male	236	251	263	274	286
Female	170	188	203	209	224

The low wage levels of Hispanics in the U.S. are a result of varying factors. For some Hispanics, such as Mexican origin workers, the low level of education is the major source for the wage discrepancy. However, discrimination still plays a significant role in determining the wages earned in Hispanic workers. In this regard, the wage levels of Puerto Rican and Central and South American men appear to be determined by discriminatory practices to a greater degree than the wage levels of other Hispanic subgroups.

Professor Cordelia Reimers in her study, "A Comparative Analysis of the Hispanics, Blacks, and non-Hispanic Whites," found that the average wages offered to minority men are at least 15% below those offered to White men.[5] The Reimers study, based on data from the 1976 Survey of Income and Education and the 1970 Census, yielded the following findings:

1. The lower level of education of Hispanics was the single most important reason for the lower wages they received compared to non-Hispanic Whites.

2. Controlling for sex, age, race, education, and other observable characteristics, lower wages among Hispanic groups were attributed, in part, to employment discrimination. Puerto Rican and Central and South American men were found to experience the most employment discrimination.

3. Even if Puerto Rican wage earners received the same wages as other groups, their families would still have a lower income as a result of relatively low female labor force participation rates and the large proportion of female-headed families.

The following table indicates the wage differences between White men and minority men found by the Reimers study:

WAGE DIFFERENCES

[In percent]

Group	Wage gap	Potential discrimination
Mexican	34	6
Puerto Rican	33	18
Cuban	16	−6
Central/South American	42	36
Black	23	14

Education was found to be the major source of differences in wage offerings. For Mexican origin men, education differences account for half (17%) of the 34% wage-offer differential; for Puerto Rican men, education differences account for 13% of the 33% wage-offer differential; for Cuban men, education differences account for 5% of the 16% wage-offer differential; for Central and South American men, education differences account for 3% of the 42% wage-offer differential; and for Black men, education differences account for 10% of the 23% wage-offer differential.[6]

The Reimers study also found that differences in language fluency, time in the United States, work experience, race, age, armed forces experience, health and government employment are also sources of wage differentials. But, after all these factors are taken into consideration, a wage gap still remains, which can be attributed to discrimination. For Mexican origin men, this "discrimination" wage gap is 6%; for Puerto Rican men, it is 18%; for Central and South American men, it is 36%; and for Black men, it is 14%.[7] With regard to Cuban men, if their background characteristics were the same as those of White non-Hispanic men, the wage differential would be 6% in the Cuban's favor. This result may be explained by the fact that Cubans who immigrated to the U.S. before 1970 formed and maintained their own economic and institutional structure within a small geographic area.[8]

The Reimers study, though based on 1970 and 1976 Census data, corroborates the findings of a 1982 research project of the National Council of La Raza. This research project analyzed data from the March 1981 Current Population Survey and found that unequal opportunities faced by Hispanics account for much of the earnings gap. These inequalities, however, do not account for the total difference between earnings of Whites and Hispanics. La Raza's regression-based analysis evaluated the effects of the following variables on wage and salary income: age, sex, ethnicity, marital status, hours worked, occupation, employment sector (private versus public sector), and industry (which was divided into nine different categories). The results of the analysis indicate that even when all other variables are controlled—thus assuming that Hispanics are equally educated, trained, work the same number of hours, etc.—ethnicity alone appears to account for 14% of the wage differences between White and Hispanic males and 29% of the total difference in earning power between White males and Hispanic females.[9]

[5] Reimers, op.cit.

[6] Ibid, p. 52.

[7] Ibid, p. 53.

[8] Sullivan, T., "Differential Success Among Cuban-American and Mexican-American Immigrants," Report to the United States Department of Labor, Employment and Training Administration, 1979.

[9] Verdugo, op. cit.

E. Unemployment

Hispanics face severe, continuing unemployment and underemployment. During both good and bad economic times, unemployment among Hispanics is usually 60% higher than that of White Americans. Table 2, reveals that double-digit unemployment has been a pattern for both the Hispanic and Black communities during the last five years. In October 1985, the official unemployment rate was 7.1% for the total population, 6.1% for Whites, 15.0% for Blacks, and 11.3% for Hispanics.

The official rate of unemployment does not include long-term discouraged workers, or persons working part-time for economic reasons. When the 1.2 million discouraged workers and 5.5 million part-time workers are added to the officially unemployed, the number of persons affected by unemployment climbs dramatically. In 1984, the official unemployment rate of 7.5% translated to a real rate of 13.6%. In June 1985, the overall official unemployment rate of 7.3% translated to a real rate of 13.0%; the official White unemployment rate of 6.5% translated to a real rate of 11.7%; the official Black unemployment rate of 14.0% translated to a real rate of 23.7%; and the official Hispanic unemployment rate of 10.6% translated to a real rate of 18.0%.

Table 3, ranks metropolitan areas according to incidence of unemployment. Three of the six metropolitan areas with the highest unemployment rates have a Hispanic population of three-fourths or more; among other areas in the top twenty, the concentration of Hispanics is significant. The McAllen, Brownsville, Laredo, and El Paso, TX metropolitan areas are border regions particularly vulnerable to the Mexican peso devaluations and the resultant loss of jobs. These regions were also hit by a severe freeze during Christmas 1983, which destroyed millions of crops and citrus trees and caused the unemployment rates among agricultural and food processing workers to climb dramatically.

III. CONCLUSIONS AND POLICY RECOMMENDATIONS

An analysis of the labor market data clearly shows that Hispanic workers occupy the bottom rungs of the labor market. Although they have a higher labor force participation and lower unemployment rate than Blacks, Hispanics are the least-educated and earn the lowest wages of any major population group in the country. However, Hispanics are a youthful subpopulation group with a vast productivity potential. Hispanics are projected to account for at least 8% of the labor force by 1995. Though national demographics will favor lower unemployment over the next 12 years as prime-age workers make up a larger share of the work force, the particular demographic trends of the Hispanic community indicate the opposite, since its high birth rates and lower median age mean that Hispanics will be entering the workforce at a high rate.

One long-range effect of this demographic trend is that the taxable salaries of Hispanic workers will be increasingly vital to the fiscal viability of many domestic programs, especially Social Security, which relies on withholding allowances of current workers for the support of current retirees. It is not unrealistic to envision an aged White population being supported by an increasingly non-White workforce. Therefore, changes in public policy, which recognize these demographic realities, are necessary in order to bring about greater parity in the labor market for minority subpopulation groups such as the Hispanic community.

The National Council of La Raza strongly supports the continuation and improvement of federal programs and policies which seek to eliminate the barriers to equal employment opportunities. A strong federal commitment to accomplishing equal access for minorities to education and employment and training programs is essential if Hispanics are to improve their labor market status.

Responsive policies from the federal government, policies which recognize the educational crisis faced by Hispanics, are crucial if Hispanics are to become productive workers. Education is inextricably bound to earning levels. Higher education not only raises wage rates, it also lowers the probability and duration of unemployment spells, which ultimately translate to lower earnings. However, research from the National Council of La Raza indicates that when certain variables are controlled—thus assuming that Hispanics are equally educated, trained, work the same number of hours, etc.—ethnicity alone appears to account for 14% of the wage differences between White and Hispanic males and 29% of the total difference in earning power between White males and Hispanic females. Thus, policies which eliminate discrimination in the workplace are also necessary.

Federal employment and training policies must address the issue of hard-core structural unemployment, that unemployment level which never disappears despite the economic progress made during a recovery. Hard-core structural unemployment primarily affects disadvantaged minorities and individuals who lack the education necessary to meet the needs of a changing economy. Current federal employment and training programs, such as the Job Training Partnership Act, must be adequately funded and structured in order to address the differing needs of the various segments of the labor market such as minorities, youth, dropouts, disadvantaged adults, dislocated workers, limited-English proficient persons, and women.

Hispanic workers are disproportionately vulnerable to shifts in the economy and to restrictive federal policies in education and employment and training. The growing Hispanic population will make up an increasing segment of the future labor force. Therefore, to enable Hispanics and other minority groups to make their full contribution in the future—and to assure a trained work force which can meet the future needs of the U.S. economy—human investment partnerships must develop between the public, private, and nonprofit sectors. The Hispanic community is a human resource, whose reservoirs must be tapped in order to maximize its work force participation and productivity potential. The investment should be made now in order to reap societal benefits and protect the nation's economic security tomorrow.

TABLE 1.—LABOR FORCE PARTICIPATION RATES BY RACE, HISPANIC SUBGROUP, AND SEX

[16 years and over—1980–84 annual averages; in percent]

	1980	1981	1982	1983	1984
Total White	64.1	64.3	64.3	64.3	64.6
Men	78.2	77.9	77.4	77.1	77.1
Women	51.2	51.9	52.4	52.7	53.3
Total Black	61.0	60.8	61.0	61.5	62.2
Men	70.3	70.0	70.1	70.6	70.8
Women	53.1	53.5	53.7	54.2	55.2
Total Hispanic	64.0	64.1	63.6	63.8	64.9
Men	81.6	80.8	80.0	80.8	80.5
Women	47.8	48.5	48.6	48.5	49.9
Mexican origin:					
Total	66.4	66.6	65.9	65.7	66.0
Men	84.2	84.0	82.5	82.5	81.8
Women	48.4	49.0	49.7	49.6	50.8
Puerto Rican origin:					
Total	51.6	50.0	51.2	42.2	52.3
Men	74.8	69.5	70.9	71.8	72.3
Women	34.3	34.7	35.7	33.0	37.7
Cuban origin:					
Total	66.0	64.4	63.3	68.4	67.0
Men	80.0	76.4	75.6	80.8	80.4
Women	53.1	52.8	52.1	57.7	55.6

TABLE 2.—UNEMPLOYMENT RATES BY RACE, SEX, AND HISPANIC SUBGROUP

[16 years and over—1980–84 annual averages; in percent]

	1980	1981	1982	1983	1984
Total population	7.1	7.6	9.7	9.6	7.5
Total white	6.3	6.7	8.6	8.4	6.4
Men	6.1	6.5	8.8	8.8	6.4
Women	6.5	6.9	8.3	7.9	6.5
Total black	14.3	15.6	18.9	19.5	15.9
Men	14.5	15.7	20.1	20.3	16.4
Women	14.0	15.6	17.6	18.6	15.4
Total Hispanic	10.1	10.4	13.8	13.7	10.7
Men	9.7	10.2	13.6	13.5	10.4
Women	10.7	10.8	14.1	13.8	11.0
Mexican origin:					
Total	10.3	10.5	13.9	14.7	10.8
Men	9.6	10.0	13.9	14.6	10.7
Women	11.5	11.3	14.1	14.9	10.9
Puerto Rican origin:					
Total	13.6	13.6	17.6	15.9	13.3
Men	13.1	14.2	17.3	17.0	12.3
Women	14.7	12.6	18.0	14.4	14.7
Cuban origin:					
Total	8.4	9.0	11.2	11.9	7.9
Men	9.0	9.1	10.8	11.6	9.0
Women	6.4	9.0	11.7	12.1	6.7

TABLE 3.—20 HIGHEST METROPOLITAN AREAS' UNEMPLOYMENT

[September 1985 Unemployment Rates (most recent), in percent]

Location	Hispanic population	Official rate	Real rate
McAllen-Edinburg-Mission, TX	81.3	21.3	38.3
Lakeland-Winter Haven, FL	3.0	14.8	26.6
Waterloo-Cedar Falls, IA	3.6	14.3	25.7
Brownsville-Harlingen, TX	77.1	13.9	25.0
Beaumont-Port Arthur, TX	3.4	13.6	24.5
Laredo, TX	91.5	13.4	24.1
Modesto, CA	15.0	12.3	22.1
Bakersfield, CA	21.6	11.3	20.3
Galveston-Texas City, TX	12.0	11.1	20.0
Stockton, CA	19.2	10.6	19.1
El Paso, TX	61.9	10.6	19.1
Gary-Hammond, IN	7.3	10.4	18.7

BROOKLYN'S POLYTECH, A STORYBOOK SUCCESS

HON. JOSEPH P. ADDABBO

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 22, 1986

Mr. ADDABBO. Mr. Speaker, I would like to call to the attention of my colleagues an institution of learning which has rightfully earned the distinction as one of the finest and most successful technological schools in the Nation.

Since its inception in 1854 as a finishing school for young men, Polytechnic University has transformed into the largest technological university in the New York metropolitan area.

Comprised of a distinguished faculty and an outstanding student body, Polytech is both an innovator and a major contributor in the field of technology. Over the past 131 years, the Brooklyn university has played a key role in the research and development of microwave physics, radar, the space program and, most recently, electrophysics and polymer blends. Last year a $3.2 million research grant was awarded to the school to develop technology for the Star Wars Program. Polytechnic University's past achievements has been beneficial to all Americans and I am confident that the school's graduates and faculty will continue in their great contributions in high technology.

I would like to share with you an insightful article which appeared in the January 5, 1986, New York Times.

The article follows:

[From the New York Times, Jan. 5, 1986]

BROOKLYN'S POLYTECH, A STORYBOOK SUCCESS

(By Cynthia Sanz)

In a converted razor factory in downtown Brooklyn, across the street from a pizza parlor and a hardware store, resides a school whose contributions to science stand in wild contrast to its surroundings. Over the years it has been a key center of research in the development of microwave physics, radar, polymers and the space program. More recently it has played a key role in the promotion of Metrotech, a 16-acre academic-industrial research park in Brooklyn. And just this year the school—Polytechnic University, the newest of several names it has taken over its 131-year history—was awarded a research grant to develop technology for the "Star Wars" project, the Strategic Defense Initiative.

"We are the institution of the American dream," said Dr. George Bugliarello, president to Polytechnic. "We're scrappy and we're determined to be the best."

With a relatively small and unpretentious campus and buildings designed more for function than esthetics, Polytechnic University, the name it adopted last year, seems light-years away from the ivy-covered walls that usually accompany the image of academia. Founded in 1854 as the Brooklyn Collegiate and Polytechnic Insitute, the school was first an upper-class college-preparatory and finishing school for young men, as recalled by Prof. A. George Schillinger, chairman of Polytechnic's division of management, who came to the institute in 1957. In the late 19th century downtown Brooklyn grew as a commercial and residential area. In response the school altered its focus to training in engineering and the sciences; and in 1890 it became a college, changing its name to the Polytechnic Institute of Brooklyn. It retained the preparatory division until 1917, when it split off. By 1985 the college had outgrown its facilities and moved a few blocks away to its present, larger quarters.

The school's shift to a scientific curriculum reflected a change in the student pool from the wealthier group to an upwardly mobile middle class. These demographics remained stable until the 1930's, according to Professor Schillinger, when the school began to attract the immigrant groups that until that time had mostly attended City College.

Polytechnic has long had a distinguished faculty. Over the last half-century its members have included Herman Mark, a chemist in polymers, who came in 1930; Paul Ewald, an early leader in crystal physics and a founder of X-ray crystallography; Ernst Weber, an electrical engineer and an early leader of the university's Microwave Research Institute; and Donald Othmer and Raymond Kirk, who together edited the Kirk-Othmer Encyclopedia of Chemical Technology.

During World War II the Microwave Institute worked on problems whose solution led to the development of radar, and later broke ground in electromagnetic theory and electronics in general. In later years the university's aerospace department has participated in the space program, solving re-entry problems of the manned space capsules.

Enrollment at Polytechnic is 5,100, making it the largest technological university in the New York metropolitan area and the second-largest in graduate enrollment in the nation after the Massachusetts Institute of Technology.

But while its position now is comfortable, there were days not long ago when faculty members outnumbered students, and a $3.5 million deficit, despite state subsidies of more than $18 million, threatened to close the school for good.

The university began to experience severe budgetary difficulties in the late 1960's as a result of cutbacks in Federal science and engineering support and a general decline in engineering enrollment nationally. By 1970, having invested more than $4 million in teaching and research faculty and new laboratories, Polytechnic found itself left with very few students.

From 1969 to 1975, Polytechnic was forced to rely on state subsidies, which it obtained on the basis of its value as an engineering school and the economic hardship it would create locally if it folded. Despite the state aid, with no cushion of endowments to tide it over, Polytechnic was forced to merge in 1973 with New York University's School of Engineering and Science in the Bronx, another financially troubled private school, but one with enough students to help pay Polytechnic's bills. With the merger went another name change, to Polytechnic Institute of New York.

Over the next several years, Dr. Bugliarello and his staff managed to turn Polytechnic around. An intensive student recruitment plan increased enrollment, while the encouragement of early retirement pruned the faculty. The makeover did not end there. In the mid-1970's Polytechnic began an undergraduate engineering program at its Long Island campus in Farmingdale, which had previously been used only for research, and started offering courses through other universities in the metropolitan area. University administrators meanwhile were furiously pursuing research dollars and endowments.

After three and a half years of tightening its belt, Polytechnic managed to balance its budget, and in 1979 was able to achieve enough of a budget surplus to begin a program of capital reinvestment. "The moment we balanced the budget, we accelerated the tempo," Dr. Bugliarello said. "We started strengthening our computer program while most universities were ignoring theirs, and at the same time we reached out into previously unexplored areas. We began a technical management program and created the nation's only philosophy and technology studies center."

Of the 300 engineering schools in the United States, Polytechnic has the second-largest graduate enrollment and is among the most successful institutions in the country as a producer of science and engineering graduates who go on to doctoral studies. An average of 7.2 percent of Polytechnic graduates go on to achieve a PH.D., compared with two other schools with large engineering programs: Carnegie-Mellon, with an average of 6 percent, and Princeton, with 4.5 percent.

Today, Polytechnic is a full-fledged university generally rated academically in the top 5 percent of all U.S. colleges and universities, and is well known for its research centers in electrophysics and polymer blends. Last year the school was awarded a $3.2 million Federal Government grant to study the concept pulsepower physics—how to produce bursts of power—in space, for the "Star Wars" program.

Polytechnic is also designated the New York State Center for Advanced Technology in Telecommunications, and last year it played a lead role in organizing support for bringing to downtown Brooklyn the Metrotech complex, a 16-acre academic-industrial research park.

"Poly has a reputation of being the best," said Maria C Elevado, a computer-science junior at the school. She remembers applying for a part-time job with the New York City Department of General Services as a freshman and being called immediately to interview for the position. "They saw 'Polytechnic' at the top of my résumé and didn't even read any further," she said. "Simply by virtue of that name, I was chosen for the interview, and I'm sure it was at least partly responsible for my getting the job."

Remi Begonia Mendoza, a graduate student in technological management, agrees. Miss Mendoza says she would have left New York if she felt she could get a better technological education elsewhere, but after studying the alternatives, decided on Polytechnic. "Polytechnic is exploring new areas in this type of education," she said. "Most colleges don't offer such a wide range of courses in the field of technology." She is currently a senior flavor chemist at Pepsico.

"Poly is a breeder of entrepreneurs," said Dr. Bugliarello. "We see our mission as that of a catalyst in the economic development of the region."

The school hopes to give the New York area a strong center of academic support that will insure that it holds its place as the technological nerve center of the nation. "New York is one of those cities at risk," Dr. Bugliarello said. "People can easily move their operations somewhere else, someplace less expensive. But if we can provide an environment that cannot be found in other cities, then New York will continue to be extremely vital."

STOCKTON'S MAN OF THE YEAR—LEO D'OR

HON. NORMAN D. SHUMWAY

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 22, 1986

Mr. SHUMWAY. Mr. Speaker, today I am pleased to ask that my colleagues join with me in hornoring the outstanding civic contributions of an equally exceptional individual, Mr. Leo d'Or, of Stockton, CA. Leo has just been named "Stocktonian of the Year" for 1985 by the Stockton Board of Realtors. This highly coveted award is given annually to the individ-

ual who has contributed beyond the call to the community, and Leo d'Or certainly qualifies as a fine recipient.

I would like to take the liberty of sharing with my colleagues a succinct and touching article concerning the full and wonderful life of Leo d'Or as it appeared in the Stockton Record, for which Leo labored by more than 35 years. He is well remembered and well loved by those who worked with him, those who know of his devotion to the community, and those who are just fortunate enough to know him as a fine human being.

STOCKTON'S MAN OF YEAR—LEO D'OR

(By Luanne Hyde)

Leo d'Or received a bill and a surprise Tuesday when he walked into a meeting of the Weber Point Coffee Club at the Holiday Inn.

The club's founder and president, d'Or has been known to rap his gavel during meetings and jovially tag a member with paying for the day's coffee.

On Tuesday, 35 members watched while Matt Marinkovich, 1985 president of the Stockton Board of Realtors, presented him with a large facsimile of a restaurant bill.

D'Or was asked to read the bill aloud: "Leo C. d'Or, You have been charged with being the 1985 Stocktonian of the Year."

The man who celebrated his 85th birthday two months ago almost missed the surprise announcement of his recognition. He was attending another meeting.

Once at the Holiday Inn. he said, "I can't believe it yet. I was in another meeting but they (club members) knew I'd come back here for coffee."

Chosen Stocktonian of the Year because of his involvement in community activities, d'Or will be honored by the Stockton Board of Realtors at a Jan. 23 banquet at the Stockton Golf and Country Club. Reservations, at $25, may be made by calling the board office at 951-9300.

Friends and former co-workers said Tuesday that active volunteering keeps the retired d'Or laboring as hard or harder than many who receive paychecks.

D'Or was employed by The Stockton Record for more than 35 years and retired in 1969. He began his career as a salesman, then became advertising manager, director of advertising and headed the department when he retired. Since that time, he has devoted much time to volunteering.

The indefatigable d'Or said Tuesday, "It's fun. The big thing is there are no deadlines."

When The Record's retail advertising manager, Fred Risso learned of d'Or's honor, he said, "I'm real excited about this. He's 85 years old and sharp as a tack. There's no one more deserving than Leo d'Or."

"D'Or worked here (The Record) when I started in 1944," Risso said. "He was always the most involved, caring person in Stockton and, through the years, his activities have increased."

Deputy Police Chief Ralph Tribble said, "Leo's the kind of guy that all of us try to emulate. At 85, he's still very active. His mind is brilliant. He is the master of one-liners."

"This club is one of the most upbeat organizations I belong to. Leo runs it with a fast gavel," Tribble said.

The nucleus of the club was formed in the 1940s when d'Or began dropping into Tiny's restaurant at 27 N. Sutter St. for morning coffee. Others joined him and later migrated to DeBono's on Weber Avenue, the Ambassador Hotel on Channel Street and finally the Holiday Inn. By acclamation, d'Or was chosen to lead the group.

The active Stocktonian has been selected for numerous other honors.

For maintaining high standards in the area of public relations, advertising and communications, d'Or in 1984 received the first Ken Fong Memorial Award, established in memory of the late local advertising firm owner. He also received the American Advertising Federation's Silver Medal Award for accomplishments in the field of advertising and civic betterment.

D'Or's concern for education led him to become a Waverly School District trustee and board clerk. He was an original member of the first elected San Joaquin County Board of Education, which he served as chairman for five years. He has also been treasurer of the San Joaquin County School Boards Association.

D'Or started many of the institutions he later served.

He was a founder of the Waterloo/Morada Fire Protection District and served as trustee and secretary for 12 years. He helped organize a lay board of trustees for St. Joseph's Hospital and served the board for 10 years, eight at chairman.

The San Joaquin County Board of Supervisors appointed him to the San Joaquin County Retirement Board and, in 1973, the Private Industry Council board, which he served as chairman for three terms.

In 1985, he received a commendation from President Reagan and the United States Department of Labor for assisting in making the Job Training and Partnership Act a success in San Joaquin County.

WHY UNITED STATES REJECTED NUCLEAR TEST BAN

HON. EDWARD J. MARKEY

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 22, 1986

Mr. MARKEY. Mr. Speaker, last week, Soviet General Secretary Gorbachev indicated that the Soviets will continue Moscow's moratorium on underground nuclear tests until April, and perhaps longer if the United States also stops testing.

The Reagan administration quickly indicated that it has little interest in joining this moratorium. It wants to keep on testing, contending that continued nuclear warhead testing is required for the United States to assure strategic "deterrence."

I find it somewhat incredible that a President who repeatedly says his ultimate goal is the elimination of all nuclear weapons from the face of the earth keeps ducking out of comprehensive test ban talks. If he really wants to eliminate all nuclear weapons, the President should be willing to talk about halting the tests needed to develop new warheads.

When the Soviets first announced their unilateral testing halt, the administration said that we wouldn't join because it was just a propaganda stunt.

But the Soviets have stopped testing. That's not just a stunt; they aren't testing their nuclear warheads and we're continuing to test ours.

As the attached chart indicates, the United States conducted 16 underground tests last year, 7 of them following announcement of the Soviet test moratorium. The Soviets conducted seven tests in 1985 prior to the announcement of their moratorium last July. They have not tested since that time.

I am convinced that the primary reason the administration refuses to enter into a testing moratorium is not its concern with the preservation of strategic deterrence nor its concern about verification. The United States has kept on testing chiefly because of the administration's desire to accelerate a key part of star wars program—the x-ray laser.

The most recent U.S. nuclear test, codenamed Goldstone, was reportedly a test of the nuclear-driven x-ray laser. Maintaining a rigid and accelerated test schedule for this program is so important to this administration that it denied a request from Representative BILL GREEN, myself, and 28 other Members of Congress to temporarily delay this test until technical problems with the design of these experiments had been rectified.

Star wars is not only an obstacle to progress in strategic arms reduction; it is holding up talks on a comprehensive test ban. The administration would better serve our national security interests if it stopped reaching for harebrained technological panaceas like the x-ray laser and committed itself to negotiations to end nuclear testing.

I would like to call to the attention of my colleagues a recent article by Fred Kaplan of the Boston Globe, which analyzes the administration's decision to reject a test ban.

The article follows:

[From the Boston Globe, Jan. 19, 1986]

WHY U.S. REJECTED NUCLEAR TEST BAN

(By Fred Kaplan)

WASHINGTON.—In the package of arms control proposals offered last week by Soviet leader Mikhail S. Gorbachev, there is one element that could instantly be put into effect—a ban on nuclear weapons tests.

Yet the Reagan administration has rejected this idea. The reason is simple. It has nothing to do with whether such a ban can be verified or whether it would make the existing U.S. nuclear arsenal less reliable. It is because the administration wants to develop new types of nuclear weapons, and this requires nuclear testing.

Last July, Gorbachev announced that, as of Aug. 6, the Soviet Union would suspend nuclear testing. The moratorium would last until the end of the year, and could be extended if the United States reciprocated.

Reagan spokesmen declined the invitation. They said a test ban could not be verified, and called the offer a propaganda hoax. They said the Soviets had just completed tests of a new series of nuclear weapons, and had indeed accelerated the test schedule so it could be finished before the suspension began.

One of those rationales for refusal was false, and the Soviets would soon make the other a moot point.

The falsehood was that the Soviets had just accelerated a series of new weapons tests. The data—gathered by the Swedish National Defense Research Institute, whose Hagfors Observatory has seismometers capable of detecting underground nuclear explosions in the Soviet Union down to the level of one kiloton—indicates otherwise.

COUNTING TESTS

In 1983, the Soviets conducted 14 nuclear tests. In 1984, they conducted 18 tests. In the first half of 1985, before the moratorium took effect, they conducted 7 tests, hardly an acceleration.

If one looks at the nuclear explosions the Soviets set off underground for nonmilitary purposes (to open up gas lines, for example), it appears that the number of those tests also declined just before the moratorium. In 1983, they conducted 27 such tests, including the "peaceful nuclear explosions." In 1984, they conducted 28 tests. Yet from January through July 1985, they conducted only 8 tests in all.

The United States conducted 17 nuclear tests in 1983, 17 tests in 1984, and 16 in 1985, 7 of them after Gorbachev's moratorium began.

There is also no way US officials could truthfully say the Soviets had just completed a series of tests on new nuclear weapons. While seismometers can detect a nuclear explosion and measure its magnitude, they cannot tell what weapon is being tested. Only a fraction of the total explosive yield of a weapon is exploded in a nuclear test.

This is because a hydrogen bomb is two bombs in one—a fission explosion, which triggers a fusion implosion. To see if it works, weapons designers need only test the fission element and its trigger.

Thus there is no way anyone could measure a US or Soviet underground nuclear explosion and infer from that which weapon was being set off, or whether the weapons were new or old.

VERIFICATION MEASURES

There is another reason for doubting the Reagan administration's view that Gorbachev's offer was merely propaganda. Since 1957, the Soviets have consistently conducted most—on average, 64 percent—of their nuclear tests in the latter half of the year. Had Gorbachev wanted to score political points, he would have stopped the tests in January.

As for the other US rationale for rejecting the Soviet test-ban offer-that it cannot be vertified—this was made moot last month when Gorbachev offered to allow the United States to place seismic detectors on Soviet soil and to permit US scientists to inspect Soviet test sites if any suspicions arose.

It has been reported that 26 U.S.-designed seismometers, already in place in Norway, can detect Soviet nuclear tests of roughly one-half kiloton. In testimony last April before the House Foreign Affairs Committee, Jack Evernden of the U.S. Geological Survey said an additional network of 25 seismic stations inside the U.S.S.R. "could successfully monitor compliance with a one-kiloton threshold test-ban treaty, even if such explosions were placed in large decoupling cavities." Opponents of a test ban have argued that a bomb exploded in a deep cavity could not be detected by seismometers.

As a result of this proposal, Reagan officials were forced to alter their rationale for opposing a test ban. They now say periodic testing of weapons in the existing arsenal is necessary to gauge their continued reliability, and is thus—in the words of Assistant Secretary of Defense Richard Perle—"indispensable to maintaining the credibility of our nuclear deterrent."

However, in 1978, Norris Bradbury, director of the Los Alamos weapons lab from 1945-70, J. Carson Mark, head of the lab's theoretical division from 1947-73, and Richard Garwin, a Los Alamos consultant since 1950, wrote a letter to then-President Jimmy Carter, saying: "Can the continued operability of our stockpile of nuclear weapons be assured without future nuclear testing? . . . Our answer is 'yes.' "

They said reliability could be, and had been, assured "almost exclusively" by other means—inspection and disassembly of components, firing fuses, and remanufacturing.

The real reason for the refusal to consider test-ban offers is that the Reagan administration wants to develop a new generation of nuclear weapons. For example, a leading program in the Strategic Defense initiative is a weapon that enhances the X-ray energy of an H-bomb and funnels it into a laser beam. The labs are also developing weapons that boost other aspects of a nuclear explosion, for example electromagnetic pulse, which wipes out communications networks.

These effects have never before been tried in nuclear-weapons design. Building such weapons means testing them first.

U.S. AND SOVIET NUCLEAR WEAPONS TESTS—1985

[January 1, 1985–December 19, 1985]

Date (1985)	United States (16 tests)	Soviet Union (7 tests)						
		Name	Location	Type	Yield (kilotons)	Date (1985)	Location	Yield (kilotons)
Mar. 15	Vaughn	Nevada	UG	20–150	Feb. 9	Semipalatinsk	UG	150
Mar. 23	Cottage	do	UG/X-Ray	20–150	Apr. 24	do	UG	75
Apr. 2	Hermosa	do	UG	20–150	June 14	do	UG	150
Apr. 6	Misty Rain	do	UG	–20	June 29	do	UG	120
May 2	Towanda	do	UG	20–150	July 18	N.E. USSR	UG/PNE	3
June 12	Salut	do	UG	20–150	July 19	Semipalitinsk	UG	60
June 12	Ville	do	UG	–20	July 25	do	UG	6
June 26	Mirabo	do	UG	–20				
July 22	Serena	do	UG	20–150				
Aug. 17	Chamita	do	UG	–20				
Sept. 27	Ponil	do	UG	–20				
Oct. 9	Mill Yard	do	UG	–20				
Oct. 9	Diamond Beech	do	UG	–20				
Oct. 16	Roquefort	do	UG	20–150				
Dec. 5	Kinibito	do	UG	20–150				
Dec. 19	Goldstone	do	UG/X-Ray	20–150				

Sources: U.S. Department of Energy, Swedish National Defence Research Institute (Hagtors Observatory), yield estimates for Soviet tests are based on calculations performed by Dr. Hugh DeWitt, LLNL.
Notes: UG = underground tests. PNE = Peaceful Nuclear Explosion. X-Ray = Reported X-Ray Laser Test.

ROBERT A. FUHRMAN

HON. NORMAN Y. MINETA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 22, 1986

Mr. MINETA. Mr. Speaker, I would like to ask you and my distinguished colleagues to join me in saluting Robert A. Fuhrman, group president of Lockheed Missiles, Space, and Electronics Systems. Bob will be honored at a dinner on February 1, 1986, marking his departure from Sunnyvale to new duties in Burbank as president of Lockheed Corp.

In the 27 years that Bob has been associated with Lockheed Missiles and Space, he has been deeply involved in the U.S. Navy's Fleet Ballistic Missile Program from its inception, serving as a member of the Navy's steering task group, occupying successively higher technical management positions in the program, and receiving the Secretary of the Navy's Certificate of Commendation for his contribution. The fleet ballistic missile series—from Polaris through Trident—has been widely regarded as the Nation's most effective deterrent against nuclear war.

Under his leadership, Lockheed in Santa Clara County has become the bay area's largest employer and has continued its longstanding tradition of helpful involvement in the community's charitable and civic efforts. Bob has played a personal role in many of these efforts, including trustee of the United Way, chairman of its Loaned Executive Program for 3 years and general campaign chairman in 1978. He was a founding director of the Santa Clara County Manufacturing Group, served as its second chairman and has continued on the board for the group's entire history. Bob was a member of the San Jose Management Study's executive committee, the bay area council's board of directors, the advisory councils of Junior Achievement and the National Alliance of Businessmen, and Scout-O-Rama chairman for the Palo Alto-Stanford area Boy Scouts. He organized and recruited the leadership council for the Salvation Army's current $5 million capital fund campaign. Bob has served on the advisory boards at Santa Clara University and Stanford University, as well as the Universities of Michigan and Texas.

In his business activities, Bob is a member of the National Defense Science Board, the Aeronautics and Space Engineering Board of the National Research Council, and the Science Advisory Committee of the Alabama Space and Rocket Center. He has served on the boards of Bank of the West and the Federated Employers of the Bay Area and has been awarded Tau Beta Pi's Eminent Engineer Award, the Society of Manufacturing Engineers' Manufacturing Management and Industrial Technology Management Awards, the National Society of Aerospace Professionals John Montgomery Award for his role in the Polaris Program, the National Management Association's Silver Knight of Management and honorary memberships in Tau Beta Pi and Beta Gamma Sigma. Bob is a fellow of the American Institute of Aeronautics and Astronautics and was elected in 1976 to the National Academy of Engineering.

Bob's generous devotion of time to our area is a reflection of his own personality. I've known Bob for many years, and I've always been impressed with his sincerity, his spirit, and his high regard for the people around him. I've also come to know Bob as a friend, a friend willing at any time to devote himself to the betterment of our community and our Nation.

Mr. Speaker, on the occasion of this awards banquet, Robert A. Fuhrman can be confident that our country is most grateful for his contributions and accomplishments. Therefore, I ask you Mr. Speaker, and my colleagues to join in expressing my thanks and congratulations to Bob Fuhrman and to wish him the best for his health and future endeavors.

Thank you very much.

NOT TOO LONG AGO: "I HAVE A DREAM"

HON. ROBERT GARCIA

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 22, 1986

Mr. GARCIA. Mr. Speaker, in honoring the late Martin Luther King, Jr., it should be remembered that he died barely a generation ago. The movement he led is still alive; the "dream" not completely fulfilled.

Martin Luther King created the atmosphere that required action. To his great credit, this was all done by nonviolent means. He raised the conscience of this country and compelled us all to look at the inequalities that existed. Indeed great steps were taken in breaking down the barriers to equality; from voting rights to desegregation he accomplished much for all people. The law came to recognize equality, not just on paper, but in practice.

If we are to make the fruit of his efforts last, we can not stop now. It is our task to bring to fulfillment his dream. Legal justice is now served and people's conscience has been raised. However, we must continue to break down the economic barriers to all minorities and all disadvantaged that still exist today. A constant commitment to helping the poor, improving our cities, relieving our farmers, and aiding the disadvantaged is needed.

It is fitting that Dr. King's birthday should fall at the beginning of the congressional session. His dream speech, of a dream we all should now hold, was made not too far from here and not too long ago. His remembrance should be honored by renewed efforts in making that dream come to be reality. As chairman of the Census and Population Subcommittee, I am proud to have played a part in the development and passage of the King holiday legislation. It is my fervent hope that this holiday will further raise our conscience and reinvigorate our efforts.

Attached is an article which appeared in the Washington Post, Wednesday, January 15, 1986, which expresses the debt that all people owe to Martin Luther King, Jr.

[From the Washington Post, Jan. 22, 1986]

SOUTHERN WHITES OWE THANKS TO KING

ATLANTA.—The billboards went up a few weeks ago. Dramatic and elegant, they portray a pensive Martin Luther King, Jr. in shades of black and white. There is nothing more on them except a date: Jan. 20. A local advertising company raised 10 of the sidings around town to remind Atlantans that a new holiday approaches.

Not everyone needs reminders. The Atlanta Chamber of Commerce, City Hall and the Martin Luther King Center for Nonviolent Social Change have been scrambling for corporate contributions to a local holiday parade. King's home town, which expects to receive national attention during the holiday, hopes to mount a worthy extravaganza.

Yet among whites elsewhere in the South, a different attitude sometimes surfaces. Not long ago, the mayor of Claxton, Ga., was asked what his town would do for the holiday. Not much, he reckoned: "It just not something we can do without irritating the taxpayers. If they want to have something in the black community, that's fine, but the city itself will not participate."

Why? Apparently the mayor believes that while blacks may owe King a debt of gratitude, southern whites owe his memory nothing.

Is he ever wrong. Two decades after the South got on with the business of enfranchisement and desegregation, this much is clear: The social justice that King and civil rights movement forced upon the region was perhaps the best thing that ever happened to it.

If Martin Luther King was a latter-day Moses who led southern blacks toward full equality under the law, he did even more for southern whites. He led us toward the milk and honey of America's economic mainstream. The business boom that Atlanta and other parts of the South have long enjoyed would have been meager stuff indeed without King and the movement.

The reason is simple enough. Ultimately, social justice means efficiency and stability. If the movement did not create today's business boom, it did build an environment that could sustain high-quality investment and growth.

No longer was scarce money squandered on dual sets of schools, colleges, stores, restaurants and the rest. No longer was a major part of the southern work force denied real jobs and decent wages. No longer was the southern caste system allowed to undermine the work ethic among blacks and whites alike.

Suddenly the South was an attractive place in which to invest. In the five counties of metropolitan Atlanta between 1960 and 1972, service jobs increased from 50,350 to 105,900; manufacturing jobs from 85,050 to 112,800; retail jobs from 60,150 to 115,500, and wholesale jobs from 38,850 to 69,500.

Legal segregation had shackled everyone. When it was finally gone, areas that were ripe with economic potential took off. Even areas that saw little actual development reaped some benefits. The wealthier metropolitan Atlanta grew, for example, the more money state coffers held for health, education and welfare throughout Georgia.

Of course, there is a nagging irony here. While the economic benefits have touched rich and poor, the biggest beneficiary has been the middle class. In this category, far and away, whites have gained the most.

For blacks, while the civil rights movement delivered full citizenship, it didn't solve inequities that stem from poor education and historical discrimination. But for whites, it allowed mainstream southerners to become mainstream Americans. It opened the region to a business climate that was to pay handsomely for skills they already possessed.

Two decades after the end of the Civil War, Henry Grady, editor of The Atlanta Constitution, wrote that white southerners "are thankful that the issues at stake in the great Civil War were adjudged by a higher wisdom than their own." Grady and his fellow "New South" boosters knew that economic development could come about only if the South became one with the nation.

Tragically, their aspirations foundered on the twin mistakes of disenfranchisement and segregation.

No, Martin Luther King did not end these two evils by himself. The federal courts and a cast of thousands inside and outside the movement played major roles. But as a symbol of the struggle to reinstate the South as a full-fledged part of the country, the martyred pastor of Atlanta's Ebenezer Baptist Church will do nicely.

On Monday, communities throughout the South may rejoice that the issues at stake two decades ago were "adjudged by a higher wisdom than their own." The King holiday is for everyone, but especially for southern whites. Even those who are blind to the human goodness of his work have tasted its fruits—and liked them.

NATIONAL SANCTITY OF HUMAN LIFE DAY, 1986

HON. MARK D. SILJANDER

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 22, 1986

Mr. SILJANDER. Mr. Speaker, today marks the 13th anniversary of the greatest tragedy to take place in the United States in our lifetimes. The Supreme Court's decision in Roe versus Wade has resulted in the deaths of nearly 20 million unborn children and has blazed the trail for infanticide and euthanasia.

The Democratic leadership in the House has always blocked any attempt to overturn this evil decision. As a result, they too must be considered responsible for the consequences of Roe versus Wade. Every session legislation is offered to overturn this decision. Every poll that examines the depth of public feelings shows that the vast majority of Americans reject abortion on demand and favor it only in extreme cases. Yet no pro-life legisla-

tion that wasn't an amendment has ever been considered on the floor.

Mr. Speaker, the pro-life movement will never go away. Although politicians may wish it, judges may hope for it, and the feminist movement may desire it, the love of life is too strong to ever fade away. As long as I am in this Congress, I will never allow this issue to fade away.

Albert Camus once said:

Perhaps we cannot make this a world in which children do not suffer, but we can lessen the number of suffering children. And if you don't help us do this, who will?

Mr. Speaker, every time the opportunity presents itself, a pro-life Member of this Congress will introduce an amendment, a substitute or legislation that will lessen the number of suffering unborn children. I hope you will leave your mark on history in this final year of your service to the people of the United States by helping us save some lives.

I ask permission that the text of President Reagan's proclamation making today National Sanctity of Human Life Day be printed in the RECORD.

[Proclamation by the President of the United States of America]

NATIONAL SANCTITY OF HUMAN LIFE DAY, 1986

America was founded with a ringing affirmation of the transcendence of human rights. Our Declaration of Independence proclaims that the rights to "Life, Liberty, and the pursuit of Happiness" are not a grant from the government, but a gift from the Creator; and we declared that the same Divine Providence in which the new Nation placed its "firm reliance" imposes on government a solemn duty to respect and secure these fundamental rights.

Yet, on January 22, 1973, the Supreme Court of the United States struck down our laws protecting the lives of unborn children. At that time there were those who predicted confidently that in time Americans would come to accept the Court's decision and the "new ethic" that it reflects. History has proved them wrong. Each year the terrible toll of more than a million innocent human lives has weighed more heavily on the conscience of America.

Each year remarkable advances in prenatal medicine bring ever more dramatic confirmation of what common sense told us all along—that the child in the womb is simply what each of us once was: a very young, very small, dependent, vulnerable member of the human family. When Americans demand legal protections for human life, we are simply being true to our most basic principles and convictions. We are reaffirming the self-evident truths set forth in our Declaration of Independence. Indeed, we are reaffirming the consensus of civilized humanity by recognizing that children need special safeguards and care, including appropriate legal protection, before as well as after birth.

Those who champion the right to life know the harsh pressures and the profound anguish that drive some women to consider abortion. The most moving testimony to our reverence for human life has been the generous, even heroic efforts made by so many religious and charitable organizations to help women with problem pregnancies and to facilitate the adoption of infants into families eager to give them love and care.

Those who work to restore legal protection to the unborn do so with the knowledge that they have gone to the defense of the weak, the silent, the endangered. But that is not something new. Whenever disasters have endangered human life, we Americans have always responded swiftly and selflessly.

Respect for the sanctity of human life has not died in America. Far from it. With every passing year it shines ever more brightly in the hearts of more and more of our citizens as they come to see the issue with greater clarity in all of its dimensions. As we carry this message to our courts, our legislatures, and our fellow citizens, let us never be discouraged. Let us put our trust in God, the Lord and Giver of Life, the Creator Who endowed us with our inalienable rights. May we soon rejoice in the day when reverence for human life is enshrined as surely in our laws as in our hearts.

Now, therefore, I Ronald Reagan, President of the United States of America, do hereby proclaim Sunday, January 19, 1986, as National Sanctity of Human Life Day. I call upon citizens of this blessed land to gather on that day in homes and places of worship to give thanks for the gift of life and to reaffirm our commitment to the dignity of every human being and the sanctity, of each human life.

In witness whereof, I have hereunto set my hand this fifteenth day of January, in the year of our Lord nineteen hundred and eighty-six, and of the Independence of the United States of America the two hundred and tenth.

RONALD REAGAN.

SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee—of the time, place, and purpose of the meetings, when scheduled, and any cancellations or changes in the meetings as they occur.

As an additional procedure along with the computerization of this information, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Any changes in committee scheduling will be indicated by placement of an asterisk to the left of the name of the unit conducting such meetings.

Meetings scheduled for Thursday, January 23, 1986, may be found in the Daily Digest of today's RECORD.

MEETINGS SCHEDULED

JANUARY 24

9:30 a.m.
Appropriations
Agriculture, Rural Development and Related Agencies Subcommittee
To hold oversight hearings on the foreclosure policies of the Farmers Home Administration's and on new regulations for handling delinquent farm borrowers.
SD-138

JANUARY 28

9:00 a.m.
Veterans' Affairs
To hold hearings on the reported sightings of live military personnel missing in action.
SD-138

9:30 a.m.
Banking, Housing, and Urban Affairs
Financial Institutions and Consumer Affairs Subcommittee
To hold hearings on S. 1603 and S. 1922, bills to impose a ceiling on credit card interest rates.
SD-538

Finance
Savings, Pensions and Investment Policy Subcommittee
To hold hearings on S. 1784, to enhance retirement security by broadening retirement benefit delivery, strengthening the present system of voluntary employer-sponsored pensions and encouraging growth and development of the private pension system by simplifying the administration of pension plans.
SD-215

Governmental Affairs
Intergovernmental Relations Subcommittee
To hold oversight hearings on the Office of Management and Budget's regulatory review and planning process, and on the implementation of the Paper Reduction Act (96-511).
SD-342

Governmental Affairs
Governmental Efficiency and the District of Columbia Subcommittee
To hold oversight hearings on the District of Columbia courts.
SD-562

10:00 a.m.
Labor and Human Resources
Education, Arts, and Humanities Subcommittee
To hold hearings to review the role of the Federal Government in measuring the quality of higher education programs.
SD-430

JANUARY 29

9:30 a.m.
Finance
To hold hearings on H.R. 3838, proposed Tax Reform Act of 1986.
SD-215

Select on Intelligence
To hold closed hearings on Intelligence matters.
SH-219

2:00 p.m.
Judiciary
To hold hearings on pending nominations.
SD-226

JANUARY 30

8:30 a.m.
Special on Aging
Business meeting, to consider committee budget request for 1987, and to discuss the committee's agenda for the second session of the 99th Congress.
SR-385

9:00 a.m.
Veterans' Affairs
To resume hearings on the reported sightings of live military personnel missing in action.
SD-192

9:30 a.m.
Finance
To continue hearings on H.R. 3838, proposed Tax Reform Act of 1986.
SD-215

10:00 a.m.
Foreign Relations
To hold closed hearings to review U.S. policy toward Angola.
SD-419

4:00 p.m.
Select on Intelligence
To hold a closed briefing on intelligence matters.
SH-219

JANUARY 31

9:30 a.m.
Finance
Taxation and Debt Management Subcommittee
To hold hearings on S. 1959, to clarify the tax treatment of certain mortgage related securities, and to authorize the ownership of certain mortgage loans in multiple class arrangements, S. 1978, to clarify the taxation of certain asset backed securities in multiple class arrangements, and S. 1839, to provide that certain deductions and credits not be allowed for expenditures within an environmental zone.
SD-215

FEBRUARY 4

9:30 a.m.
Finance
To resume hearings on H.R. 3838, proposed Tax Reform Act of 1986.
SD-215

Rules and Administration
To hold hearings on Senate committee resolutions requesting funds for operating expenses for 1986.
SR-301

FEBRUARY 5

9:30 a.m.
Finance
To continue hearings on H.R. 3838, proposed Tax Reform Act of 1986.
SD-215

Rules and Administration
To continue hearings on Senate committee resolutions requesting funds for operating expenses for 1986.
SR-301

Select on Intelligence
To hold closed hearings on intelligence matters.
SH-219

FEBRUARY 6

9:30 a.m.
Commerce, Science, and Transporation
Aviation Subcommittee
To hold hearings on S. 1966, to provide for efficient and equitable use of operating rights at certain congested airports.
SR-253

Finance
To continue hearings on H.R. 3838, proposed Tax Reform Act of 1986.
SD-215

10:00 a.m.
Labor and Human Resources
Children, Family, Drugs, and Alcoholism Subcommittee
To hold hearings on proposed legislation authorizing funds for ACTION.
SD-430

4:00 p.m.
Select on Intelligence
To hold a closed briefing on intelligence matters.
SH-219.

FEBRUARY 18

10:00 a.m.
Appropriations
HUD-Independent Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1987 for the American Battle Monuments Commission, Army cemeterial expenses, Office of Consumer Affairs (Department of Commerce), Consumer Information Center, and the Consumer Product Safety Commission.
SD-124

Select on Indian Affairs
To hold hearings on those programs which fall within the jurisdiction of the committee as contained in the President's budget requests for fiscal year 1987.
SD-628

FEBRUARY 19

9:30 a.m.
Select on Intelligence
To hold closed hearings on proposed legislation authorizing funds for fiscal year 1987 for the intelligence community.
SH-219

10:00 a.m.
Labor and Human Resources
Employment and Productivity Subcommittee
To hold hearings on S. 1990, to establish an Education and Training Partnership to administer the Job Training Partnership Act, the Wagner-Peyser Act, and the Carl D. Perkins Vocational Education Act.
SD-430

FEBRUARY 20

10:00 a.m.
Appropriations
HUD-Independent Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1987 for the Council on Environmental Quality, Selective Service System, Federal Home Loan Bank Board, Neighborhood Reinvestment Corporation, and the National Institute of Building Sciences.
SD-124

Labor and Human Resources
Children, Family, Drugs, and Alcoholism Subcommittee
To hold hearings on proposed legislation authorizing funds for the National Institute on Drug Abuse and the National Institute on Alcohol Abuse and Alcoholism.
SD-430

4:00 p.m.
Select on Intelligence
To continue closed hearings on proposed legislation authorizing funds for fiscal year 1987 for the intelligence community.
SH-219

FEBRUARY 21

9:30 a.m.
Finance
Health Subcommittee
To hold hearings to review hospital income under the Medicare prospective payment system.
SD-215

FEBRUARY 25

10:00 a.m.
Appropriations
HUD-Independent Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1987 for the National Credit Union Administration, Office of Revenue Sharing (Department of the Treasury), and the Office of Science and Technology Policy.
SD-124

FEBRUARY 26

9:30 a.m.
Select on Intelligence
To resume closed hearings on proposed legislation authorizing funds for fiscal year 1987 for the intelligence community.
SH-219

FEBRUARY 27

10:00 a.m.
Labor and Human Resources
Children, Family, Drugs, and Alcoholism Subcommittee
To hold hearings on proposed legislation authorizing funds for Head Start.
SD-430

4:00 p.m.
Select on Intelligence
To continue closed hearings on proposed legislation authorizing funds for fiscal year 1987 for the intelligence community.
SH-219

MARCH 5

9:30 a.m.
Select on Intelligence
To resume closed hearings on proposed legislation authorizing funds for fiscal year 1987 for the intelligence community.
SH-219

10:00 a.m.
Appropriations
HUD-Independent Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1987 for the National Science Foundation, and the Federal Emergency Management Agency.
SD-124

MARCH 6

4:00 p.m.
Select on Intelligence
To continue closed hearings on proposed legislation authorizing funds for fiscal year 1987 for the intelligence community.
SH-219

MARCH 12

9:30 a.m.
Select on Intelligence

To resume closed hearings on proposed legislation authorizing funds for fiscal year 1987 for the intelligence community.

SH-219

10:00 a.m.
Appropriations
HUD-Independent Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1987 for the Environmental Protection Agency.

SD-124

MARCH 13

4:00 p.m.
Select on Intelligence
To continue closed hearings on proposed legislation authorizing funds for fiscal year 1987 for the intelligence community.

SH-219

MARCH 19

9:30 a.m.
Select on Intelligence
To resume closed hearings on proposed legislation authorizing funds for fiscal year 1987 for the intelligence community.

SH-219

10:00 a.m.
Appropriations
HUD-Independent Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1987 for the Veterans Administration.

SD-124

MARCH 20

4:00 p.m.
Select on Intelligence
To continue closed hearings on proposed legislation authorizing funds for fiscal year 1987 for the intelligence community.

SH-219

APRIL 9

10:00 a.m.
Appropriations
HUD-Independent Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1986 for the Department of Housing and Urban Development.

SD-124

APRIL 16

10:00 a.m.
Appropriations
HUD-Independent Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1987 for the National Aeronautics and Space Administration.

SD-124

APRIL 29

10:00 a.m.
Appropriations
HUD-Independent Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1987 for the Department of Housing and Urban Development and certain independent agencies.

SD-124

APRIL 30

10:00 a.m.
Appropriations
HUD-Independent Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1987 for the Department of Housing and Urban Development and certain independent agencies.

SD-124

CANCELLATIONS

JANUARY 23

10:00 a.m.
Judiciary
Business meeting, on pending committee business.

SD-124

SENATE—*Thursday, January 23, 1986*

(Legislative day of Tuesday, January 21, 1986)

The Senate met at 12 noon, on the expiration of the recess, and was called to order by the President pro tempore [Mr. THURMOND].

PRAYER

The Chaplain, the Reverend Richard C. Halverson, D.D., offered the following prayer:

Let us pray.

Our Father in Heaven, this morning we express our profound appreciation for the officers of the Senate, for Secretary Coe, Sergeant at Arms Garcia, their assistants and staffs, who render indispensable service to the Senate. We thank You for their dedication to the task, their sensitivity to Senate needs and their ready response to those needs. We thank You for the Secretary for the Majority Greene and the Secretary for the Minority Pratt, their assistants and staffs. Like a nerve center in the body, all of the impulses, schedules, aggravations, frustrations, pains, converge on the cloakrooms and we thank You, Lord, for the remarkable way they receive and respond to this multitude of signals. Thank You for their loving interest in and care for the pages. Grant to all of these officers, assistants, staffs, and their families the richest of Your blessings throughout this year and may 1986 be the finest, most satisfying year of their lives and service. Thank You, Father in Heaven, for these splendid servants and friends. In the name of Him Who is the Friend of friends. Amen.

RECOGNITION OF THE MAJORITY LEADER

The PRESIDENT pro tempore. The distinguished majority leader is recognized.

SCHEDULE

Mr. DOLE. Mr. President, under the standing order, the leaders have 10 minutes each; then we have special orders for Senators PROXMIRE and HART not to exceed 15 minutes; routine morning business not to extend beyond the hour of 1 p.m., with statements limited therein to 5 minutes each; and, under rule XXII of the Standing Rules of the Senate, at 1 p.m. a live quorum will begin.

Immediately following the establishment of a quorum, a cloture vote will occur on the motion to proceed to S. 638, the Conrail bill. I hope to indicate sometime shortly after that vote what the schedule will be for the remainder of today and tomorrow, but I am not able to do that at this time. It would seem to me, if there is cloture and if we can then vote on the motion to proceed and get on the bill itself, I would be prepared not to be in session tomorrow. But if those who want to delay consideration of the bill want to delay it, then they ought to be here to delay it on Friday and Monday. But, in any event, that judgment will be made after the cloture vote.

I reserve the remainder of my time.

RECOGNITION OF THE MINORITY LEADER

The PRESIDENT pro tempore. The distinguished Democratic leader is recognized.

TELEVISION IN THE SENATE

Mr. BYRD. Mr. President, at the close of yesterday's session, I had inquired of the distinguished majority leader as to whether or not he would be willing to call up on tomorrow, legislation to provide for Senate TV coverage. I have since spoken with the distinguished majority leader to say that, on second thought, I do not think that is a very good idea; the reason being I do not want TV in the Senate to be just filler material. I want TV in the Senate to be center stage when it is brought up. I hope the distinguished majority leader is amenable to this suggestion.

I do not want S. 28 brought up tomorrow, because I do not want that proposed legislation to be used as filler material.

I thank the majority leader for indicating yesterday afternoon that he would give some thought to having this matter brought up tomorrow. So I want the record to show that, in the event the distinguished majority leader does not heed my yesterday's request, in my judgment he is doing the better thing and certainly has my full support in not attempting to bring it up on tomorrow.

(Mr. HUMPHREY assumed the chair.)

THE AMERICAN-SOVIET DIALOG

Mr. BYRD. Mr. President, our relations with the Soviet Union will be at the top of the Nation's agenda again this year. No one can reasonably doubt the Soviets will remain anything other than our principal adversary at the beginning of 1987, just as they are today, at the beginning of 1986. Nevertheless, the possibilities of developing and deepening the constructive aspects of our relationship should be fully exploited. We should make every effort to preserve and take advantage of the improved international atmosphere created by the summit meeting held in Geneva last November. We should try in various ways to continue and expand the dialog on the major issues which continue to be in contention between our two nations—particularly in the fields of arms control and our conflicting interests in various regions of the Third World.

Democrats in the Senate, and I am sure in the other body as well, will do their part to further these goals, so that peace will be preserved, international stability will be enhanced, and advancements can be made across broad fronts of problems facing our world—in education, basic living conditions for all peoples, and in human rights. These are goals and issues that go beyond party politics. We all desire the President to succeed in establishing sound agreements—sound agreements—with the Soviets in arms control. We do not ask for an agreement just for the sake of having an agreement. We want such arms control agreements to be sound and in the very best security interests of our own country as well as in the best interests of peace. The President has our full and active support in this very important enterprise.

Senator DOLE and I have encouraged the Arms Control Observer Group to continue its monitoring and advising efforts in regard to the Geneva talks again this year. We have encouraged the distinguished administrative chairman of the Arms Control Observer Group, Mr. Stevens, to make the necessary arrangements for a group visit to the negotiations early in the fourth round of the talks, preferably during the recess period early next month. I, personally, plan to accompany the group to one of the negotiation rounds later this year. I note that the current round of talks began on January 16 and that the Soviets chose to offer another comprehensive proposal at the outset of this current round.

I am not now attempting to pass judgment on the proposal one way or another, but I think it was at least an encouraging sign, and the initiative was welcomed by the President. A continued and vigorous give and take on the whole complex of issues—Euromis-

siles, strategic and space weaponry—if proposed in a good faith effort to reach a fair meeting of the minds will hopefully lead us to a mutually acceptable treaty capable and worthy of Senate approval as to its ratification.

In addition, Mr. President, I understand that the second Reagan-Gorbachev summit meeting will take place in the United States sometime this year—although the exact dates have not been nailed down as yet. I would hope that tangible progress on arms control matters can be validated at that time—and, of course, that further exchanges of views and, hopefully agreements on a variety of bilaterial and regional questions will occur as well.

In this regard, it seems to be useful to bring the unedited, straight, full American view of our relations with the Soviet Union directly to the Soviet people. President Reagan has great strengths as a public communicator and is highly effective in expressing his views on television. I was pleased to see the mutual exchange of views, by both President Reagan and General Secretary Gorbachev, beamed directly to both populations on New Year's Day this year. I understand President Reagan's brief address was broadcast in its entirety to a vast segment of the Soviet population. This is a welcome event, unprecedented in our relationship. As well, we certainly welcome Mr. Gorbachev's interest in expressing his views to the American people—he is articulate and forceful.

The American people are an informed people capable of seeing through propaganda. I am not concerned about the decision of the American people in any matter. If they are fully informed, they will make the right decision. Talleyrand stated that public opinion was wiser than Voltaire, Napoleon, or all the ministers of state, present and to come. I think Talleyrand was right. That is the point that we gain. If we could have assurance on the part of the Soviet Government that President Reagan's speech at that time would be beamed to the television audience of the peoples throughout the Soviet Union unedited and with our own interpreter doing the interpreting, it would be a tremendous step forward in my view.

I have no doubt that Mr. Reagan would come through on Soviet television as he comes through on our own—as a person who is warm, congenial, amiable, and reasonable. And while I do not agree with him on all of his policies, I think that such an appearance would be a positive one in the peace process if our President could be shown in the Soviet Union, and the Soviet people would be able to see our President and hear his remarks unfiltered and unedited.

All of this, I think, would be useful and beneficial in furthering what might be called the General American-Soviet Dialog.

With these considerations in mind, I have today suggested to the President and to the Speaker of the House, Mr. O'NEILL, that Mr. Gorbachev's upcoming visit constitutes an appropriate opportunity to extend an invitation to him to address a joint meeting of the Congress.

I should not attempt to speak for the Speaker, but I can speak for myself. I am tired of joint meetings of Congress. I think they pose serious problems in many ways. I think they are degraded by having every Tom, Dick, and Harry who comes to the United States address a joint meeting of the two Houses. But not in this case.

As I have indicated before, no Soviet leader has ever been invited to address a joint meeting, and I think Gorbachev should be invited to address a joint session with quid pro quo that the American President would be allowed to have his own appearance and statement presented during prime viewing time on Soviet television without any editing on the part of the Soviets.

It has been a longstanding practice to recognize foreign leaders in this respect, and I feel it would enhance the development of meaningful communication between the United States and the Soviet Union after years of sterile rhetoric. The recent Geneva summit meeting provided a positive beginning for a more productive relationship with the Soviet Union, and I believe every opportunity should be taken to follow up on that beginning.

I suggested that two conditions be included as part of the invitation: First, that President Reagan also be invited to address a joint meeting of the Congress after Mr. Gorbachev—whatever the President would desire in that regard; and second, that Mr. Gorbachev provide his assurance that President Reagan's address be transmitted in its entirety, live, on Soviet television in prime time. Since Mr. Gorbachev's address would be televised to the American people, it seems only fair that a reciprocal arrangement be made with the Soviets. In this way, both leaders would address both national audiences from the same podium. I believe this idea, if accepted by the President as well as Mr. Gorbachev, would help to enhance the positive development of the Soviet-American relationship.

The more the Soviet people are given the opportunity to hear our President's views, in an unfiltered way, on the vital issues between our two nations, the better the prospects for genuine understanding between our two peoples. Such an event would, I hope, help draw back the heavy curtain which has snuffed out real communications for so many years.

I ask unanimous consent that my letters, to the Speaker and the President appear in the RECORD.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

U.S. SENATE,
OFFICE OF THE DEMOCRATIC LEADER,
Washington, DC, January 23, 1986.

Hon. THOMAS P. O'NEILL, Jr.,
Speaker of the House, House of Representatives, Washington, DC.

DEAR TIP: The President, as you know, has invited the Soviet General Secretary, Mr. Mikhail Gorbachev, to make an official visit to the United States this year, and Mr. Gorbachev has accepted. I believe that this is a welcome event which will extend the vital process of a continuing dialogue between the two leaders. It is a tribute to you that you seized the opportunity to begin this process last April, when you led the first Congressional delegation to meet with Mr. Gorbachev. In an effort to keep that momentum alive, I led a bipartisan group of Senators in a similar effort this past September.

It occurs to me, Tip, that no Soviet leader has ever been invited to address a joint meeting of the Congress. I believe Mr. Gorbachev's upcoming visit constitutes an appropriate opportunity to extend such an invitation, and I would strongly recommend that you consider doing so. It has been a long-standing practice to recognize foreign leaders in this respect, and I feel it would enhance the development of meaningful communication between the United States and the Soviet Union after years of sterile rhetoric. The recent Geneva summit meeting provided a positive beginning for a more productive relationship with the Soviet Union, and I believe every opportunity should be taken to follow-up on that beginning.

I would suggest that two considerations be included in the invitation: First, that President Reagan also be invited to address the same joint meeting of the Congress; and second, that Mr. Gorbachev assure that President Reagan's address be transmitted *in its entirety, live,* on Soviet television. Since Mr. Gorbachev's address would be televised to the American people, it seems only fair that a reciprocal arrangement be made with the Soviets. In this way, both leaders would address both national audiences from the same podium.

The more the Soviet people are given the opportunity to hear our President's views, in an unfiltered way, on the vital issues between our two nations, the better the prospects for genuine understanding between our two peoples. Such an event would, I hope, help draw back the heavy curtain which has snuffed out real communication for so many years.

I would suggest that such a joint meeting be scheduled so that it may be broadcast during prime viewing time in Moscow.

I hope that you will agree that this idea, if accepted by the President as well as Mr. Gorbachev, would help to enhance the positive development of the Soviet-American relationship. I am prepared to provide any assistance that you may desire in making the appropriate arrangements for this event.

With high personal regards,

Sincerely,

ROBERT C. BYRD.

U.S. SENATE,
OFFICE OF THE DEMOCRATIC LEADER,
Washington, DC, January 23, 1986.

The PRESIDENT,
The White House,
Washington, DC.

DEAR MR. PRESIDENT: I was very pleased to learn that during your meetings last November with Mr. Gorbachev in Geneva, Mr. Gorbachev accepted your invitation to visit the United States this year. The development of a more positive relationship with the Soviet Union will, of course, take time, but it is clear that the dialogue which you began with Mr. Gorbachev in Geneva has led to a better overall atmosphere in which to try to resolve our outstanding differences with the Soviet Union. In addition, the schedule for future meetings which was established at the Summit will permit the U.S. and the Soviet Union to explore their relationship regularly.

I have written to Speaker O'Neill to outline the suggestion I spoke with you about this morning, that is, that he consider inviting Mr. Gorbachev to address a joint meeting of the Congress during his upcoming visit to the United States. It is my hope that this would help to enhance the positive atmosphere within which progress is possible with the new Soviet leadership.

As I discussed with you, I also indicated to the Speaker that if he decided to extend such an invitation to Mr. Gorbachev, you should have the opportunity to address the same joint meeting. In addition, it is my feeling that the Soviets should agree to televise your address, *live and in its entirety,* to the Soviet people. Since any address Mr. Gorbachev made would be televised to the American people, I believe reciprocity would be in order.

I appreciated very much your expression of support for this proposal in our conversation this morning.

With highest personal regards,
Sincerely,

ROBERT C. BYRD.

Mr. BYRD. I yield the floor.

RECOGNITION OF SENATOR PROXMIRE

The PRESIDING OFFICER. Under the previous order, the Senator from Wisconsin, Mr. PROXMIRE, is recognized for not to exceed 15 minutes.

NEW YORK TIMES SCHIZOPHRENIA ON THE TEST BAN TREATY

Mr. PROXMIRE. Mr. President, on December 30 last year, the New York Times lead editorial showed that even that great institution has moments of stumblebum error. Year in and year out, the New York Times editorials may be the best in the country. They also seem to be getting better with each passing year. But on last December 30 the Times tripped and fell. It picked far and away the biggest issue of our time to fall over: the issue of whether or not the United States should negotiate a nuclear test ban treaty with the Soviet Union. Here is an issue that goes to the very heart of the nuclear arms race. Stop nuclear testing, and we make the quintessential beginning at ending the arms race. If nuclear testing continues, the arms race continues no matter what other steps we take. If nuclear testing ends, we can begin the long process of reducing nuclear arsenals without the fear that a new nuclear weapon that can be delivered with greater accuracy, surer penetration and more devastating power will emerge from the testing laboratory. Without testing, the terrible specter of a perfected antimatter bomb disappears. Such a bomb could be cheap, light, portable, made to order for a terrorist intent on blowing up American cities.

What did the Times say about such a test ban treaty? It said the following:

I am going to give a series of quick quotations, and my remarks.

First, "A nuclear test ban is no substitute for an agreement to limit nuclear arsenals."

How about that? Consider: a nuclear test ban treaty is far more likely to prevent a nuclear war than an agreement to limit nuclear arsenals. Both have advantages. Both agreements would be desirable. Both would contribute to credible deterrence. Both would slow the feverish nuclear arms race. Both would save billions of dollars. But only the test ban would stop the evolution of nuclear weapons toward ever more destructive weapons.

Why are new weapons developed? Answer: Because both military forces constantly seek advantage. What kind of advantage? An advantage in lesser vulnerability and that is good. But both sides have enough invulnerability now to deter an attack. The danger is that both sides will develop a less stable advantage. Such an ability would more surely and swiftly deliver nuclear power on the adversary.

What will be the consequence on the nuclear arsenals of the two superpowers from continued nuclear weapon testing? Nuclear arsenals may be able to advance their power while reducing the number and the megatonnage. In the last 20 years the U.S. nuclear arsenal has diminished its megatonnage. It has at the same time greatly increased the potency of that arsenal. How? By changing and "improving" their nuclear weapons. Testing was quintessential to this "improvement."

Second, the New York Times wrote: "The arms race is driven by enduring rivalry, not by changing technology."

Sure. Enduring rivalry drives the arms race. And how does it drive the arms race? Answer: By changing technology. Here is the heat of the arms race. Without changing technology, reduction of nuclear missiles, and warhead, and megatonnage and throw-weights on both sides would have meaning. Ah, but with changing technology, the race toward ever more devastating technologies speeds on. Negotiators cannot stop "enduring rivalry." They can put a leash on this rivalry. How? By stopping changing technology and then agreeing to reduce nuclear arsenals.

Third, the New York Times wrote: "A complete test ban in the past would have prevented desirable and undesirable weapons alike, both those that add to nuclear stability * * * and those that detract from it. On balance it would add to nuclear stability in the long term."

You betcha. This is precisely why the United States and the Soviet Union should negotiate a test ban. The question is, Do the superpowers have a stable relationship now? They do, indeed. Best evidence: For the 40 years of the nuclear age—since Nagasaki—we have had nuclear peace. At times, the superpowers have edged toward a threat of nuclear war, but not lately. For the past 20 years the United States and the Soviets have not come close to nuclear war. Now for the first time a President of the United States and a Secretary of the Russian Communist Party can both say: "A nuclear war can never be won, and must never be fought." And they can both mean it. Now is the time to stop "changing technology" by agreeing to end nuclear testing.

Fourth, the New York Times wrote, "The testing debate is still a sideshow. The central issue * * * (is) how to lessen the incentive for launching a surprise attack."

No, the testing debate is not a sideshow. Yes, the central issue is to lessen the incentive for launching a surprise attack. And how do you lessen that incentive? Easy. You stop testing. You stop changing technology at the point which happens to be the present point—where the deterrent is so conspicuous that the leaders of both superpowers agree that a nuclear war must never be fought and can never be won. That time is now.

Fifth, the New York Times wrote: "Can the Russians be induced to reduce their threatening force of land-based missiles? Can the Reagan administration be induced to trade in its threatening star wars defense system? Further restraints of weapons modernization may be easier to reach in the wake of such a deal."

But how do we make such a deal? Answer: Again it is easy. We agree to stop testing. Without testing, star wars stops. Without testing, both Russia and the United States can with confidence greatly reduce their nuclear arsenals in full confidence that their much smaller remaining force provides a deterrent that makes a preemptive attack an act of certain mutual suicide. In fact, the United States could enter into negotiations with the Soviet Union to stop nuclear weapons testing on the condition and only on the condition that the Soviets agree to a very sharp reduction in the

offensive nuclear arsenals of both superpowers.

Survival depends on stopping the nuclear arms race. It cannot stop if the technological race rushes on. This country has promised, solemnly and officially promised, twice in treaties signed by the President of the United States—I repeat, promised—to negotiate a comprehensive end to all nuclear weapons testing. One of those treaties was ratified by the Senate; one was not. We should keep our word.

Mr. President, I ask unanimous consent that the editorial to which I have referred from the December 30 New York Times headlined "The Test Ban Clock Nears Midnight," be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

THE TEST BAN CLOCK NEARS MIDNIGHT

Last August, Mikhail Gorbachev, the Soviet leader, announced that his country would unilaterally stop underground testing of nuclear weapons. The moratorium will expire Wednesday; the United States rejected the invitation to follow suit as soon as it was made. Is a critical chance to moderate the arms race being lost? Hardly. A nuclear test ban is no substitute for an agreement to limit nuclear arsenals.

Mr. Gorbachev's ban, lasting a mere five months, was proposed for the eve of the 40th anniversary of Hiroshima. He added a dab of substance with a letter this month offering to let Soviet test sites be inspected.

Even with that sweetener, there's no more reason to swallow the Soviet offers than to accept Reagan Administration arguments that Soviet compliance would be impossible to verify. Technical improvements in monitoring seismic waves allow detection of explosions too small for military significance.

Public sparring aside, the Administration opposes a comprehensive test ban for a simple reason—it wants to keep on testing. Is that bad? Its critics say a ban on testing new designs of warheads would halt the momentum of the arms race. But the arms race is driven by enduring rivalry, not by changing technology.

A complete test ban in the past would have prevented desirable and undesirable weapons alike, both those that add to nuclear stability, like the undetectable submarine-launched missiles, and those that detract from it, such as land-based missiles with multiple warheads like the MX. The modernization of strategic weapons, which has included a trend toward smaller, less destructive warheads, is not wholly bad.

The Administration's present plans include testing the nuclear-pumped X-ray laser, an exotic weapon of possible use in the "Star Wars" defense system. One such test was conducted last week. The X-ray laser is a good example of what a test ban could usefully close off. The stabilizing, single-headed Midgetman missile, proposed as an eventual substitute for MX-type missiles, would use the same warhead, already tested, as the MX. But a test ban might preclude other desirable weapons in the future for which no off-the-shelf warhead design were available.

A full test ban would make the nuclear powers, like reformed sinners, zealous in preventing other countries from testing nuclear weapons. On balance, it would add to strategic stability in the long term. For all that, the testing debate is still a side-show. The central issue is not how to ban nuclear tests but how to lessen the incentive for launching a surprise attack.

Can the Russians be induced to reduce their threatening force of land-based missiles? Can the Reagan Administration be induced to trade in its threatening "Star Wars" defense system? Further restraints on weapons modernization may be easier to reach in the wake of such a deal.

WHEN LIGHT PIERCED THE DARKNESS: THE RESCUE OF POLISH JEWS

Mr. PROXMIRE. Mr. President, much has been written about the Holocaust, but we are still a long way from understanding why people behaved as they did. Nechama Tec's recent book, "When Light Pierced the Darkness," probes the rescue of Jews in Nazi-occupied Poland and reveals some startling findings.

A New York Times review of the book points out that "many rescuers interviewed by Mrs. Tec shared a feeling of hostility or at least estrangement from the Jews." That some Poles felt hostility toward Jews and yet risked their lives to save them belies any simple explanations of human behavior. We have much to learn about why people acted as they did during the Holocaust and why the murder of 6 million Jews was allowed to occur. Genocide is a baffling, insidious and despicable underside to mankind's positive achievements.

The dimension of moral complexity that motivates action—the actions of those who participated in the Nazi death machine and those who valiantly defied it, often abandoning the safety of silence and apathy—deserve our careful consideration. In the long run, such an understanding of the criminal mind can only improve the effectiveness of our efforts to thwart such heinous actions.

But the continuing prospect of genocide does not permit us the leisure of waiting for the answers and insights which will come from further work in this area. We have a moral imperative to do what we can, everything we can, to prevent a recurrence of the Holocaust.

The Genocide Convention exists for that very purpose. It seeks to make genocide an international crime. It is a small step, but a very important one, in halting the destruction of national, ethnic, racial, and religious groups and deserves our wholehearted support. And it deserves our support this year. Mr. President, I urge my colleagues to join me in seeking prompt action early in this session. We have waited too long already. We cannot afford to let another opportunity slip away.

MYTH OF THE DAY: MEDICAID COVERAGE IS RATIONAL, EQUITABLE OR COMPREHENSIBLE

Mr. PROXMIRE. Mr. President, the myth of the day is that Medicaid coverage of the poor is rational, equitable, or even comprehensible to most policymakers, let alone the poor to whom the program is targeted.

As I have pointed out, the Medicaid Program has been riddled by myths. First, that all of the poor are eligible. In fact, 5 out of 10 poor Americans have no public or private health care coverage during the year. And, if you pick any given month in 1982, Medicaid covered only 4 of every 10 Americans below the Federal poverty standard.

Second is the myth that Medicaid's costs are driven by the acute care needs of the poor. In fact, it is the long-term nursing home needs of the aged and disabled which consume the lion's share; 7 percent of the beneficiaries consume 50 percent of the entire Medicaid budget. When the high costs of acute care for the disabled are included, we find that the aged, blind, and disabled account for 70 percent of the Medicaid dollar; the AFDC population account for 70 percent of those eligible for Medicaid coverage but only 26 percent of the program's costs. Thus, savings from increased competition in health care do not offer the potential for the magnitude of savings touted by the administration's competition advocates. At best, those savings can only be gotten from 50 percent of the Medicaid budget and, realistically, there will be little competition for treating the high-cost disabled for at least a few more years so those savings will come from only a fourth of the total budget.

And, it is against this background, that the administration promotes the most insidious myth of all, seldom stated, but always implied: that the Medicaid Program that remains rationally and equitably provides health care to the poorest of Americans. Even if it does not now, and will not in the near future, it at least covers those most in need and we can smugly feel secure by that knowledge.

Unfortunately, those assurances are nothing but a myth. It does not take away from the tremendous value that Medicaid has proven itself to be for those qualified for coverage to recognize its inadequacies. Medicaid coverage is inequitable. It is not rational. And it is certainly not comprehensible, even to most policymakers.

Let us look at just three case studies developed by the Center for Social Policy in a recent report on Medicaid. These cases underscore the unfairness with which Medicaid coverage is extended to the poor.

Case No. 1.—Tom and Frank work in the same store in Portland, ME, where both receive the minimum wage for 30 hours of work per week. Tom lives with his wife and children; Frank is divorced but has custody of his children. When business slows, both are laid off. Frank qualifies for Medicaid coverage as a single parent with children; Tom does not qualify since the State does not have an AFDC-U program covering intact low-income families.

Tom learned the hard way that Medicaid coverage is a game of geographical Russian roulette for low-income families. In 25 States, including Wisconsin, Tom would have been eligible for Medicaid coverage because the State had chosen to establish an AFDC-U program.

And the establishment of an AFDC-U program for intact families is just the first variation on a theme. The States have a myriad of options for AFDC coverage, resulting in a bewildering array of categorical criteria that must be met, in addition to being low-income, if a family is to qualify for Medicaid coverage.

Case No. 2.—Consider the case of Mrs. Ball. She works as a nurse's assistant for $4.50/hr for 30 hrs/week. Separated, she lives with her 3 children—two of which are in school, one she puts in a day care center. Unfortunately, she lives in one of 16 States setting very tough criteria for AFDC eligibility and, is not eligible; in the other 34 States, or in DC, she would be eligible for AFDC and, therefore, receive health care coverage for herself and her children.

Mrs. Ball is a victim of the fact that there is no minimum for coverage of the poorest of the poor; the States can set AFDC eligibility—the gateway for Medicaid coverage—as they see fit. In 1982, the cutoff point for coverage for a mother and her child ranged from $89 a month to $508 a month in Alaska. Which means that in 11 States in 1982 a mother and child with income of only $175 a month would be considered ineligible.

Case No. 3.—The final case looks at two families in Illinois. Mr. & Mrs. Banks, a retired couple, are solely dependent upon their social security check, which was $488/month in 1982. In the same neighborhood, Ms. Rogers and her daughter also lived. Ms. Rogers, a waitress, also earns $488/month that year. Are both households eligible for Medicaid? No. Mr. and Mrs. Banks qualify because their $488 check is just below the State's SSI threshold level for eligibility ($492). But Ms. Rogers and her daughter are ineligible; the AFDC criteria are lower. Therefore, despite the fact that Ms. Rogers income is lower (it's taxable), she and her daughter are left behind by Medicaid.

As these cases demonstrate, for many, it is the luck of geography whether you qualify for Medicaid. For others, it is the happenstance of age, the composition, or structure of their family. It is not surprising to find families with comparable income being treated differently. And for single individuals, unless they meet SSI's criteria, coverage is virtually nonexistent.

Is this fair? Is this rational? It is neither. And when you examine in detail the options States can exercise for SSI and AFDC coverage, it quickly becomes clear that it is not comprehensible either. As the Center for Social Policy's report noted:

Eligibility for Medicaid is now so complex that few people understand its effects and even those close to the program sometimes fail to comprehend its intricacies.

Medicaid is too important a component of the Nation's social safety net for these problems to remain unexamined. Particularly now as we will face continuous pressure for cuts in public spending to meet the deficit targets of Gramm-Rudman.

But as long as we permit all of these myths regarding the Medicaid program to remain unchallenged, we will be making uninformed and unfair public policy decisions. And, by default, the injustice will continue.

Mr. President, I yield the floor.

RECOGNITION OF SENATOR HART

The PRESIDING OFFICER. Under the previous order, the Senator from Colorado [Mr. HART] is recognized for not to exceed 15 minutes.

AFTER GRAMM-RUDMAN: A NEW CONTRACT OF COOPERATION

Mr. HART. Mr. President, there are moments in life when we are caught between clarity and helplessness. I do not know whether there is a word for this phenomenon. But it is something we have all experienced—when we slip on an icy patch of pavement, when we glance up in traffic and see we are about to collide with a car stopped ahead, or any of several experiences of that sort.

Time slows down. We see with great clarity the danger, the peril. We experience a feeling of regret, a desire to reverse the irreversible. And in the split second before the impact, we know with certainty there is not a thing we can do about it.

As a Congress, as a people, we are now caught in our own moment between clarity and helplessness. If there were no name for that sensation before, there is now: We can call it "Gramm-Rudman." That ill-conceived law is an accident in progress. We have braced for the impact. We foresee the collision. Yet we keep sliding forward.

We have returned from recess facing a yawning deficit that has grown by $48 billion over estimates that are only 5 months old. That re-estimate means Gramm-Rudman now requires $600 to $700 billion in deficit reduction over 5 years. The President tells us this will be accomplished without raising a nickel in taxes, without cutting a dime of buildup from the Pentagon.

But he is already mistaken. The statute the President carelessly embraced has produced the first real dollar decline in defense spending in 15 years. Star wars and procurement contracts were spared. Cut instead were the working expenditures that spell the difference between paper defenses and an intelligent, durable, winning military—training flights, readiness, steaming time for ships, maintenance for tanks.

Mr. President, in 11 days, the administration will announce its budget for the coming fiscal year. In 12 days, that budget will be declared dead on arrival. Not by those of us in the opposition party, but by the leadership of the majority here in the Senate. The administration will propose over $50 billion in spending reductions. It will attempt to comply with Gramm-Rudman by terminating 30 to 50 domestic programs and by selling Federal assets as if it were conducting a fire sale.

As dependable as Halley's Comet—and faithful to the tradition they established 5 years ago—its budget will be founded on a series of economic projections which every thoughtful and honest person will know are deliberately inaccurate in terms of estimates of projected growth and data of that sort.

Most of us see what is bound to happen with perfect clarity. We are facing a classic clash of ideologies and egos. The President will circle his wagons around the Defense and Treasury Departments. Absent Presidntial leadership, Congress will divide into special interest caucuses preferring to protect their favorite programs by bleeding the rest. We will enter the summer in stalemate.

Then, in August, the Congressional Budget Office and the Office of Management and Budget will unveil new deficit estimates. Suddenly, 6 months of budget wrangling will be rendered irrelevant. Billions in budget reductions will not be enough. The economy will not have conformed to the fanciful 4-percent growth estimates the administration has produced. As a result, the computers will order reductions of 15 percent or 20 percent or more from that scanty portion of the budget Gramm-Rudman's authors left on the table.

This is the collision we are careening toward. But, unlike a car crash or a slip on the ice, we are not yet helpless. This is a collision we can prevent.

To do so, we must return to some fundamental truths which some thought Gramm-Rudman would help us forget.

The truth about the Federal budget is that it is and must be more than a simple equation of revenues and expenditures. Like any family's budget, the Federal budget is fundamentally a statement of our values and priorities.

It should be at best a blueprint of the future we want.

The future most Americans want includes a strong and just America driven by a growing economy. That is why the titanic Reagan deficits are so dangerous: They will suffocate our future. But if we balance the budget at the expense of basic prerequisites for economic and social growth, we defeat our purpose. We will cut off our nose to spite the deficit.

A bold, innovative, compassionate Government should be capable of achieving more than the accountant's dream of balanced books. It should be an active partner in the quest for a growing and just economy. It should open the gates of a university to a student from the inner city. It should give a shot in the arm to the young child who needs immunizations. It should feed the hungry and teach them how to feed themselves. It should build a ladder to new job skills for an unemployed steelworker. It should bring a first mortgage within the reach of a young couple. It should help spark the inventions and modernize the factories that put America first in the world in trade in years past and that have let it tragically fall behind.

If we are to reach those goals, the first priority as a nation and as a society, our Government, and our budget must be investment—in our children, our workers, our schools, our factories, and our national security. Deficit reduction is one investment we must make in our future, but it is only one, and it must not preclude or totally overshadow the others.

We are not now making the investments we need. Eight million Americans remain out of work. We have lost 2 million jobs to overseas. A quarter of our students drop out of school while the children of our economic competitors go on to become engineers and scientists and productive individuals. We have let our own roads, bridges, and ports decay while our foreign competitors build new economic circulatory systems of fiber optic cables and supercomputers. Who among us can say we are doing enough as American society?

It is time to clear the haze and speak honestly about the kind of budget we need to reach, the kind of future we want as a nation. It is time to set some markers.

First, despite the clear and present danger of deficits, we must increase our investments in America—not cut them across the board. We need new investments in child nutrition, education, training, innovation, and economic modernization and productivity. Any budget that does not allow for $10 billion each year in new investments is not an opportunity budget, it is not a knowledge budget, and it is not a compassionate budget.

Second, it is time to moderate the uncontrolled defense buildup—a buildup, after 5 years, still in search of a strategy. We are now spending 100 percent more for our defenses than in 1979. We needed some of that increase, but we do not need the continuing pattern of misallocation and waste. For now, we should concentrate on reforming our military forces so our limited funds can buy a credible conventional defense.

Mr. Reagan says the next Federal budget will increase defense spending 3 percent after inflation. I say Mr. Reagan is wrong. The next defense budget must keep pace with inflation—not a penny more or less. Anyone who argues otherwise is destroying our future. Pegging the defense budget to inflation will save $100 billion over the next 5 years.

Third, we must cut spending in other areas. A budget that reflects our priorities must admit that student loans are more important than Amtrak, that worker training is more important than subsidies to the nuclear power industry. For some programs, across-the-board cuts are not good enough; we must eliminate them. Other programs must be returned to State governments, which can operate them with great competence and lower cost. In all, we should cut Federal spending by at least $100 billion over the next 5 years. That includes the increases in investment I have already mentioned.

Finally, we must increase the Federal Government's revenues. Everyone knows it, and everyone but the President has admitted it. We simply cannot keep taking 100 percent of what government has to offer at 80 percent of the cost. That includes the military. Mr. Reagan says the next Federal budget will not include a penny in new revenues. I say it must contain at least $200 billion over the next 5 years.

A good starting place would be a $10-per-barrel oil freedom fee, complemented by a gradual increase in the gasoline tax as oil imports and revenues decline. These fees will promote conservation, revive our domestic petroleum industry, and strengthen our energy security. They can also raise close to $90 billion over the next 5 years.

We must also demand better tax enforcement, and require that those who benefited disproportionately from the Reagan tax cuts now pay their fair share. It is unconscionable that Gramm-Rudman cuts vital social and economic spending without cutting a penny of the billions in "tax spending" that powerful corporations and the wealthy enjoy each year. The collector who makes his $100,000 buying and selling antique cars should pay the same taxes as the office worker who makes his $20,000 working a word processor.

Mr. President, I fought Gramm-Rudman; I voted against it. It is folly and it should be repealed. We should replace it with an agreement between Congress and the President to achieve a "full employment balanced budget" in a way that will not ruin our country's economic future.

Whether or not we repeal Gramm-Rudman, we must write a new contract of cooperation between the Congress and the President. The basic articles of faith in this contract must be: New investment in America; leveling off the defense buildup, particularly in the nuclear area; new revenues; and spending cuts. Those new revenues should not come from an income tax on middle- and lower-income Americans.

For this contract to work, all parties must surrender their ideological totems. The President and his party must abandon their intransigence on revenues and on the defense buildup. Members of my own party must abandon their intransigence on certain entitlement programs—for there is no hope of cutting billions in spending without reforming Medicare, Federal pensions, and commodity support programs.

This meeting of the minds must happen soon. If it does not occur by the end of February, there can be little hope of escaping the bed of Procrustes now called sequestration. Only those who are indifferent to deficit reduction and invesment in our economy will be absent from the table by the first day of March.

Mr. President, the challenge for this Nation and this Congress is not a revisit the debate over Gramm-Rudman. We each have our own opinions, but history will ultimately decide that law's merits.

History will decide whether Gramm-Rudman in the 1980's will be a metaphor for the same kind of economic isolationism and disarray as the Smoot-Hawley tariff a half century earlier.

History will decide whether—like the 19th amendment to the Constitution—Gramm-Rudman will be repealed as foolish, unwise, and unworkable.

And history will decide whether the authors of Gramm-Rudman will finally echo the words of Pyrrhus, who said, after defeating the Romans at Asculum, "one more such victory and we are lost."

Time will determine Gramm-Rudman's place in history. But only we can decide whether America will settle for a balanced budget, or strive for a balanced economy and a balanced society.

At America's proudest moments, this Nation and Congress have shown courage and patriotism by rising above par-

tisanship, above politics, and above sacrifice to protect and defend the priorities and the values that have made us great. I am confident we can and will show the same courage and patriotism now. I am confident we will choose clarity over helplessness, and steer this Nation safely to a better future.

COMMENDING BISHOP DESMOND TUTU FOR HIS COURAGEOUS WORK FOR EQUALITY AND PEACE IN SOUTH AFRICA

Mr. HART. Mr. President, I am proud to join the distinguished Senator from Maryland [Mr. MATHIAS] in introducing a resolution to commend Bishop Desmond Tutu for his courageous leadership in the struggle for justice, equality, and peace in South Africa.

Bishop Tutu is well known not only in this country but indeed, throughout the world. He is a Nobel laureate, a leading theologian, a man of immense personal courage, a moral leader, and one of a dwindling number of voices preaching nonviolence in a land already racked by the pain and violence of apartheid.

Mr. President, I believe that it is significant that Bishop Tutu recently traveled to Atlanta, GA, to participate in the first national observance of the birth of Dr. Martin Luther King, Jr. While in Atlanta, Mr. President, Bishop Tutu was presented the Martin Luther King, Jr., Non-Violent Peace Prize by Dr. King's widow, Mrs. Coretta Scott King.

Like Dr. King, Bishop Tutu responds to the call of a higher authority in his quest for right. He leads through the power of love and moral suasion; powers as old as the Bible, as current as the day's headlines, and stronger than the greatest armies.

To hear Bishop Tutu speak, Mr. President, is to lose any doubt that this Nation must cast its lot with "the least of these" in South Africa. To hear him speak is to know that apartheid is "an evil and immoral system which cannot be reformed." To hear him speak is to know that apartheid must be destroyed. It is to know that South Africa will be free.

Moreover, Mr. President, Bishop Tutu readily admits that he has been thrust into a position of political leadership not by choice, but through default—for the original leaders of the South African majority have been jailed, like Nelson Mandela; murdered, like Steven Biko; banished, like Oliver Tambo; and silenced, like Donald Woods. We can only be thankful Mr. President, that after losses of this magnitude, there are still voices of reason like Bishop Tutu's to fill the void.

Thanks to the work of Bishop Tutu and thousands of other committed, yet unheralded activists, the seeds of victory in South Africa have been sown. In this Nation, they have been sown on college campuses and in our churches. We have even begun to sow them within the fortified walls of our corporations and pension funds.

Those are seeds which all people of conscience and good will must never, never cease to water, to nuture, and to tend, for we hear the voice of ageless prophecy assuring us that we shall indeed reap what we sow.

Mr. President, the suffering and struggle of Bishop Tutu proves once again that the trek across the wasteland of injustice is always long and difficult. But as Dr. King so eloquently reminded us, "the moral arc of the universe is long, but it bends toward justice."

Mr. President, the people of the United States must pledge to continue walking that dry, hot path with Bishop Tutu until the barren desert of oppression blossoms like a garden, "until justice rolls down like water and righteousness like a mighty stream"—for we know that the oppressed people of South Africa have manifested the will for freedom—and will not remain oppressed forever.

Mr. President, I ask unanimous consent that the resolution which the Senator from Maryland and I are introducing today be printed in the RECORD.

There being no objection, the resolution was ordered to be printed in the RECORD, as follows:

S. CON. RES. 103

Whereas Desmond Tutu has committed himself to nonviolent change in South Africa;

Whereas Desmond Tutu has advocated direct dialogue between blacks and whites as the central need for the future of South Africa;

Whereas Desmond Tutu has personally rescued victims of mob violence from certain injury or death at great risk to himself;

Whereas Desmond Tutu has advocated economic sanctions against South Africa as a means to peacefully encourage Pretoria to dismantle the apartheid system of racial separation;

Whereas Desmond Tutu has repeatedly turned to the United States for assistance in his quest for peaceful change in his native country, and

Whereas Desmond Tutu received the 1984 Nobel Peace Prize for his moral leadership in South Africa, Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That Congress commends Bishop Desmond Tutu for his courageous work for peace and freedom in South Africa, and

That Congress encourages all South Africans to heed Bishop Tutu's call for a peaceful end to apartheid.

Mr. HART. Mr. President, if the previous order accommodates, I shall yield whatever time I have remaining to the Senator from Maryland.

Mr. MATHIAS. Mr. President, by this measure we salute moral leadership and a moral leader.

There can be no more exacting test of character, of leadership, than a man's willingness to stand up and put his life in danger to promote and defend his people and his principles. There is no more demanding test of that man's courage than to stand up and lead his people in the path of nonviolent change when the odds are so overwhelmingly against him.

Bishop Desmond Tutu is a man of such courage. "Valor," as Carl Sandberg wrote, "is a gift. Those having it never know for sure whether they have it till the test comes. And those having it in one test never know for sure if they will have it when the next test comes."

The tests have come with staggering frequency and intensity to Bishop Tutu in his years as a schoolmaster and a parish priest and now a truly humanitarian leader on a national and international scale. And he has passed them each time in his unrelenting search for a peaceful path to freedom and justice and reconciliation in South Africa.

Repeatedly, Bishop Tutu has called on his people to protest peacefully and without violence against the inhumane system of apartheid. Repeatedly, he has personally intervened in explosive confrontations to head off more violence and tragedy.

Repeatedly, he has sought to inspire a vision of the future when the pressures of the moment would tempt less patient and visionary men and women to precipitate violent action. While many urged immediate sanctions, he called for an 18-month to 2-year delay with a final deadline to encourage peaceful change. While many resist negotiations, he has sought talks with the leaders of South African Government. In recent weeks, he has traveled in the United States not only to honor Martin Luther King but to secure funds to expand educational opportunities for black South Africans. By such activities he has gained the attention of the world and earned the Nobel Peace Prize.

Let me close by reciting what I consider a remarkably simple and honest plea made by Bishop Tutu last year, a plea to white South Africans which reflects his commitment to peace and reconciliation:

It is that we too are just ordinary human beings. We too love to be with our wives everyday; we too want our children to rush out to meet us as we come back from work; we too would like to live where we can afford it.

We too want to be able to move freely in the land of our birth, we too want to have security of tenure. We too want to participate in the decisions that affect our lives. These are not extravagant demands. They are the expectation of any human being. We want to have a new kind of South Africa. Where we all, black and white, can walk tall together, black and white, into the glorious

future which God is opening before us, black and white together.

ROUTINE MORNING BUSINESS

The PRESIDING OFFICER. Under the previous order, there will now be a period for the transaction of routine morning business not to extend beyond 1 p.m., with statements limited to 5 minutes each.

CONRAIL SALE

Mr. SPECTER. Mr. President, in the course of approximately 15 minutes there will be a live quorum as provided by the procedural rules for the day, and then the scheduling of a cloture vote on the proposition to sell Conrail to Norfolk Southern. For the past 3 days—Tuesday, Wednesday, and today—the attention of the Senate has turned to this issue. I opposed the unanimous-consent request to proceed to the consideration of the proposed sale of Conrail to Norfolk Southern because it seemed to this Senator that there needed to be some focused attention on the underlying issues.

In the course of the presentations, we have attracted the attention of some Senators on the Senate floor, and that is always a difficult matter, especially when the facts are as complex as those present in this subject.

The debate, Mr. President, has laid the foundation to show that the Senate must give very extensive consideration to the antitrust implications of the proposed sale of Conrail to Norfolk Southern. In this matter there is no independent ICC consideration as is customary in a proposed merger, and as is present, for example, in the pending merger between Santa Fe and Southern Pacific Railroads.

It is obvious that the Department of Justice has not given the kind of analysis needed to give the Senate assurance that the antitrust considerations have adequately been considered.

Back in January of 1985, the Department of Justice wrote to the Secretary of Transportation saying that there would be antitrust violations with the proposed merger unless there were appropriate divestitures.

Since that time, Norfolk Southern has come forward with three proposals for divestiture to two small rail lines, the Pittsburgh & Lake Erie and Guilford transportation industries. Both of the first two proposals were rejected by the Department of Justice as being inadequate to provide the requisite competition.

Then, when a third proposal was made in November, in short order the Department of Justice gave what it calls preliminary approval. This is somewhat unfathomable, given the context that the Department of Justice has opposed the proposed merger of Southern Pacific and Santa Fe—a merger which would be less violative of the antitrust laws than the Conrail-Norfolk Southern proposal.

The procedures by the Department of Justice are strange, as evidenced in a letter, which I previously placed in the RECORD, from Assistant Attorney General Douglas Ginsburg to me, dated January 21, 1986. This letter referred to a request for information and documents which I had outstanding for some time, and was only delivered to me while I was on the Senate floor on Tuesday of this week, discussing this issue.

The letter from Mr. Ginsburg to me, dated January 21, 1986, contained copies of letters which have been sent by the Department of Justice to Pittsburgh & Lake Erie and Guilford.

I now refer to a letter dated January 8, 1986, from attorney Paul A. Mapes of the Antitrust Division to Joe Sims, Esq., representing Guilford, which says at page 2:

> However, the nature and viability of the rail service your client intends to provide on the divested properties is of major interest to Congress and the public.

I could not agree more with the statement of the Antitrust Division that it is of interest to Congress, and of course Congress includes the U.S. Senate. But if this body is going to be voting on the sale of Conrail to Norfolk Southern at this time, or next week or the week after, before this information is provided, then obviously, the Senate, as part of the Congress, is not in a position to review these very important matters.

That is why this Senator so strenuously contends that this entire issue is not ripe for consideration by the Senate. We are really being asked to buy a pig in a poke on a matter of enormous importance to this country—the joinder of the 18,000-mile Norfolk Southern line with the 15,000-mile Conrail line, in a context where the Department of Justice has said that this joinder would violate the antitrust laws unless there is appropriate divestiture. There have been two proposals of divestiture to the Pittsburgh & Lake Erie and Guilford railroads, which were rejected by the Department of Justice after an expansive study by a consultant, R.L. Banks. Now the Department of Justice is going back into the field and selecting a new consultant. Why they are not going to Banks is explainable only in terms of their anticipation of a finding by Banks that proposal 3 violates the antitrust laws, as proposals 1 and 2 did.

There have been preliminary studies by the U.S. Railway Association on the third plan. In a letter dated December 3, 1985, to Representative JAMES J. FLORIO, chairman of the House Subcommittee on Commerce, Transportation and Tourism, the U.S. Railway Association commented:

> Lacking definitive agreements which should clarify important terms still under negotiation, the divestiture carriers have not revised their operating plans and financial projections.

That letter makes the obvious point that there can be no determination on the sketchy state of the present record as to whether any proposals would comply with the antitrust laws.

The third proposal contains the infirmities of the first two. There will continue to be "little or no service to many of the problem markets," a failure identified by the Assistant Attorney General in charge of the Antitrust Division, in his letter to the Department of Transportation dated September 25, 1985.

The problems raised in that letter are still present. The Guilford and Pittsburgh & Lake Erie will not meet the test of the Department of Justice for effective competition. The facilities to be acquired are inferior to those to be retained by Norfolk Southern-Conrail. One specific criticism by the Department of Justice is with respect to the yard which Guilford would use in St. Louis. The very cogent objections raised by Assistant Attorney General Ginsburg in his letter of September 25, 1985, to Secretary of Transportation Elizabeth Dole are still present.

Mr. President, that is why it seems to this Senator that the underlying issue of the sale to Norfolk Southern should not be voted upon by this body until we have the details of the divestiture proposal and until there is a hearing by the Committee on the Judiciary on these very important issues. It is only after such consideration has been given that the U.S. Senate will be in a position to undertake an analysis as to whether, in any event, there could be a sale to Norfolk Southern.

Then the issue would arise as a comparison of the merits between Norfolk Southern as a buyer and Morgan Stanley as a buyer—that is, the investor group which has been put together by Morgan Stanley. When we come to that point, the arguments in favor of Morgan Stanley are very substantial.

First, Morgan Stanley has offered $200 million in excess of the Norfolk Southern offer. Second, if Norfolk Southern acquires Conrail, Norfolk Southern will have a tax advantage in the neighborhood of $400 million, or perhaps as high as $800 million.

The offer of Morgan Stanley, with $200 million excess cash on its face and additional tax factors, would bring dollars to the taxpayers of the United States in the range of $600 million, at a minimum, and perhaps as high as $1 billion. These considerations may well be undertaken by further review by the Department of Commerce.

One suggestion which may arise as a possible amendment would be to have the bill recommitted to the Senate

Committee on Commerce for consideration of the Morgan Stanley offer, and there certainly should be consideration by the Committee on the Judiciary of these very serious antitrust issues.

Mr. President, it is my thought that these matters should be foremost in the minds of Senators as we approach the consideration of this very important issue involving the transportation of our Nation.

Mr. President, I yield the floor.

Mr. DIXON. Mr. President, we are about to act on a motion to invoke cloture on the motion to proceed to S. 638, the Conrail sale legislation.

I continue to believe that S. 638 is a fatally flawed bill. It is far inferior financially to the Morgan Stanley proposal. S. 638's sale recommendation provides the Government with over $600 million less than the Morgan Stanley public offering. What is more, the bill raises the most serious kind of antitrust concerns. I think selling Conrail to the Norfolk Southern violates the antitrust laws, and that the efforts to date to cure the antitrust problems have been hopelessly inadequate. What is more, no one, including the Justice Department, has seen the kind of detailed financial and operating information made available in all other merger cases. In the absence of this information, it is impossible for anyone to conclude that the antitrust problems that even the Justice Department admits exist have been resolved.

It seems to me that the Morgan Stanley proposal represents a far better basis for Senate action on the Conrail sale issue, and that we should be moving to proceed to that bill, not S. 638. I do want to sell Conrail, however, and I want to sell it this year. I therefore intend to support cloture on the motion to proceed to S. 638. I do so reluctantly, and only because I believe there is no other practical way to bring the Morgan Stanley alternative before the Senate.

I urge my colleagues to remember, though, that S. 638 does present extremely important antitrust issues, tax issues, issues related to the value of the competing proposals, and issues related to the economic future of railroading in the East, the Midwest, and the rest of the Nation. These issues require and deserve time for full and fair consideration by the Senate. I hope and expect the Senate will provide that kind of opportunity if and when S. 638 is finally before us.

Mr. McCONNELL. Mr. President, although I oppose the sale of Conrail to Norfolk Southern Corp., I will vote for cloture on the motion to proceed. The issues posed by this legislation are too important to be clouded amidst parliamentary maneuverings. It is time we proceed to the bill at hand, and bring to light the various concerns many of us hold about the potential impact of this legislation. In my mind, this institution works best when we can avoid excessive parliamentary battles and, instead, allow the forces of debate and argument to produce the appropriate legislative response.

I welcome the opportunity to engage in the debate surrounding the Conrail Sale Amendments Act, S. 638. Indeed, only until the debate proceeds to the legislation itself can we begin the process necessary to achieve those changes which will more clearly address the problems at hand.

Mr. EAGLETON. Mr. President, I support the motion to proceed with consideration of S. 638.

Should the Federal Government remain involved in the business of supporting an ailing Conrail? That is the first question to be answered when considering this issue. I believe the answer is, "No." Each year, Conrail costs the Federal Government $20 million for employee protection alone. Since 1976, the total cost to subsidize Conrail has been $7.3 billion. As we strive to lower the Federal deficit, I cannot justify continuing such expenditures to Conrail when another alternative is at hand.

Second question: Should the Federal Government sell its share of Conrail to a group of investors led by Morgan Stanley, or should Conrail be sold to Norfolk Southern? Framing this second question is simple, answering it is much more difficult. Two highly pertinent factors to be considered in formulating our answer must be those of national interest and the interests of the Conrail employees.

On the question of employment, Conrail has proven to be a profitable rail carrier, yet it continues to abandon lines and layoff employees. Since 1976, Conrail's work force has been reduced by 59,000 employees. In the span of 1 year, July 1984 through July 1985, Conrail lost nearly 3,600 employees, or over 9 percent of its work force. As Conrail's traffic continues to decline and as it continues to scale back its operations to save money, more displacement of its work force is expected.

For example, in its most recent operating plan, Conrail projected that it will layoff some 4,500 employees over the next 5 years. Norfolk Southern anticipates only 1,800 layoffs in that same period. Further, Norfolk Southern foresees the creation of approximately 600 new positions in the next few years due to the increased business generated by a combined Norfolk Southern-Conrail.

Let me quote a letter from Jim Snyder, national legislative director of the United Transportation Union dated November 27, 1985, to a number of U.S. Senators:

> I know that you are well aware of the many problems created by the rail crisis during the past two decades and of the enormous burden that has been borne by rail employees as a result of the financial collapse of the northeastern and midwestern railroads. Unfortunately, despite massive amounts of Federal funding and major sacrifices by rail labor, Conrail management continues to find it necessary to shrink the system in order to survive. In the last 12 months alone, the railroad has reduced its work force by another 3,200 employees.

Mr. Snyder goes on to conclude:

> In my personal opinion, we would be pleased if you analyze the record of one of the bidders for Conrail, the Norfolk Southern Corp. That company, in my view, has a record of stable employment as well as one of improving its service to shippers and developing new opportunities for those who wish to locate on its lines.

On the question of national interest, it is a given in this debate that the Nation benefits from a stable, secure rail system. By my analysis, it appears that Norfolk Southern's proposal offers the ability and resources to contribute to that goal. Norfolk Southern's net income last year was $482.2 million. It has assets of $8.7 billion, cash in short-term investments exceeding $1 billion, and a long-term debt of $858 million. All of its capital improvements for the past 2½ years have been financed from current earnings. Its managerial talent and expertise in this field is substantial.

A combined Norfolk Southern-Conrail would provide an economically sound railroad and enhanced competition. The Department of Justice has not yet approved the current divestiture plan, but is confident that the current plan will encourage competition and create new markets for railway alternatives, such as in the trucking industry.

On balance, therefore, I support the sale of Conrail to Norfolk Southern. I believe it offers us the best combination of benefits for its employees and for the Nation as a whole.

Mr. HOLLINGS. Mr. President, I rise in strong support of the motion to proceed to consideration of S. 638, legislation to implement the sale of Conrail to Norfolk Southern. The time has come for the Senate to deliberate this matter, which has been under intense examination by many people for many months.

The notion of selling Conrail is not a new one. In 1981 Congress passed the Northeast Rail Services Act, which established a process for selling Conrail in the private sector. It is this process which brings us to the Senate floor today, 4 years later.

Even with this mandate, opponents of this motion to proceed will argue that several questions remain unanswered about any sale of Conrail, and thus that further study is necessary before a decision can be made. The record of deliberations in this matter does not support this conclusion.

Three years ago, in accordance with the Northeast Rail Services Act, the

Department of Transportation began the formal process of finding a buyer for Conrail by hiring an investment banker and proceeding to solicit bids. Throughout 1983 and the first part of 1984, the Department and Goldman Sachs contacted over 100 corporations, and a competitive bidding process resulted in the submission of 15 bids by June 1984. Subsequently, the Department conducted extensive analyses and negotiations regarding these bids, which culminated in the selection of Norfolk Southern in February of this year, 3 years after the process was begun.

Furthermore, numerous Senate hearings have been held on this matter. The Commerce Committee has held 5 days of hearings—1 prior to the selection of Norfolk Southern, 3 of them dealing directly with the selection of Norfolk Southern, and 1 day on the Morgan Stanley public offering proposal which was submitted after the selection of Norfolk Southern. Furthermore, the Judiciary Committee has held 2 days of hearings. Voluminous testimony has been submitted from representatives of the administration, shippers, affected railroads, rail labor, and investment bankers.

In addition to the efforts of the Department of Transportation and the testimony received, substantial information has been compiled on the various issues relating to the proposed sale. We have numerous studies on the viability of Conrail as a stand-alone entity, including analyses by the Department of Transportation, various parties who bid for Conrail, and the U.S. Railway Association. We have for our review various studies on the tax aspects of a sale to Norfolk Southern, including analyses by the Treasury Department and the Congressional Budget Office. We have numerous studies of the competitive impacts of a sale to Norfolk Southern, including an analysis by the Department of Justice and studies of traffic diversions impacting other railroads by staff at the Interstate Commerce Commission and the U.S. Railway Association. The questions have been asked and numerous answers given.

Opponents of the motion to proceed, however, will argue that because the Department of Justice has not yet given formal approval of the sale to Norfolk Southern, the Senate should not act at this time. I do not agree with this conclusion.

First of all, I might remind my colleagues that S. 638 as reported provides that no sale of Conrail to Norfolk Southern shall be consummated until the Justice Department has approved the sale.

Furthermore, the Justice Department has recently said that the sale as now structured seems to meet the anticompetitive objections it raised previously. This statement comes as a result of many months of negotiation which began late last year when the Secretary of Transportation asked the Department of Justice to review the proposed sale to Norfolk Southern. In response to the Secretary's request, the Department of Justice conducted what it has termed a most extensive review and concluded that a sale to Norfolk Southern would not pose competitive problems if certain line divestitures and joint operations were provided to other carriers in the region.

In accordance with this conclusion, Norfolk Southern proceeded to negotiate certain arrangements with Guilford Transportation and the Pittsburgh & Lake Erie Railroad. The Justice Department raised concerns that these arrangements as originally negotiated did not adequately respond to its objections, and, in response to that, the parties made a number of revisions, resulting in the package which the Justice Department recently announced seemed to satisfy its concerns.

The proposed sale to Norfolk Southern has indeed received close scrutiny by the Justice Department. It is clear that the Justice Department has played an active role in ensuring that the sale is not anticompetitive. The Senate need not wait any longer to act.

Finally, those opposed to Senate consideration of this bill will argue that there will be nothing lost by waiting, that perhaps better offers to purchase Conrail might be made in the interim, and that maybe Conrail should not be sold at all. I want to stress to my colleagues that there is harm in waiting. Conrail should be sold, and now is the time to act. The Norfolk Southern offer is the result of many months of bid solicitation assessment and negotiation. After such extensive preparation and study, should we take the risk that waiting will produce a new buyer and a better offer? Furthermore, Conrail shippers and employees need certainty about the future of rail service in the Northeast region. Delay can only create more uncertainty and perhaps frustrate a responsible sale of Conrail.

I cosponsored S. 638 because I believe that a sale to Norfolk Southern represents the strongest alternative to ensuring a more certain future for the Conrail system. Much time and effort has been spent to bring this proposal before the Senate today, and I urge my colleagues to consider its merits.

Mr. CRANSTON. Mr. President, this 2d session of the 99th Congress is just a few hours old, and yet we are already entangled in extended debate. We will have, as our first vote in 1986, a vote not on a substantive issue, but a procedural vote on cloture relating to the Conrail bill. This is not an encouraging beginning, given the seriousness and urgency of the many issues we must resolve this year. I will vote to invoke cloture on the motion to proceed to the Conrail bill. I will do so not as a merit judgment on the Norfolk-Southern position versus the Morgan Stanley position, but in the belief that we must expedite the business of the Senate. The issues raised by the proposed sale of Conrail are many and complex. I want the privilege of hearing the debate. My mind is not yet made up.

Mr. DOLE. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. PRESSLER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PRESSLER. Mr. President, I will vote against the motion——

The PRESIDING OFFICER. The Senator must suspend.

One hour having elapsed since the Senate convened, the clerk will state the motion to invoke cloture.

Mr. METZENBAUM addressed the Chair.

The PRESIDING OFFICER. For what purpose does the Senator address the Chair?

Mr. METZENBAUM. For the purpose of propounding a unanimous-consent request.

Mr. PRESSLER. I want to put a speech in the RECORD.

The PRESIDING OFFICER. The Senator will state his request.

Mr. METZENBAUM. Mr. President, I ask unanimous consent that the Senator from South Dakota may be heard, that immediately thereafter the Senate revert to the quorum call that was occurring, and that the Senate not be in a different posture than it was prior to the request of the Senator from South Dakota.

The PRESIDING OFFICER. Is there objection?

Mr. DOLE. Mr. President, reserving the right to object.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

The Senator from South Dakota.

THE MOTION TO PROCEED WITH CONRAIL

Mr. PRESSLER. Mr. President, I will vote against the motion to proceed to consideration of S. 638, the Conrail Sale Amendments Act, later today. I expect the Senate will vote to go forward on this issue. Indeed, I expect that many who agree with me on the merits of this issue will vote to proceed with debate. I cannot in good conscience vote to go forward at this time. This is a very unusual vote for me, so I wanted to explain my reasons for voting this way.

There are many reasons we should not go forward with debate on Conrail at this time. I will highlight just a few which I believe to be of particular importance.

LACK OF ANTITRUST INFORMATION

First, as a number of Senators have pointed out, we simply do not have adequate information on the anticompetitive impacts of this unprecedented rail merger. If we allow this merger to go forward, we will be creating the largest transportation conglomerate in the United States, indeed probably the largest in the free world, without having answered the very fundamental questions that are required to be answered in any rail merger. We do not have any study of the impact this will have on my part of the country, much less the normally detailed study of its impact on the immediate Conrail-Norfolk Southern region. The Department of Justice has explicitly refused even to consider the problems this merger will have on the Midwest, the West, and other parts of the country.

And believe me, as a member of the Commerce Committee who has been working on the Conrail issue for some time, this absence of information is not for lack of trying on our part. I, along with a number of other Senators, have been asking for this information from the start.

We discovered that the Justice Department is applying a double standard in their railroad merger analyses. They have used two very different methods in analyzing the two big railroad merger cases presently being considered in this country. In a merger case being considered in the South and Western part of the country—Santa Fe-Southern Pacific—the Department is using a fairly rigorous analysis known as the Pittman method. Justice is opposing that merger.

But in the Norfolk Southern/Conrail merger, one that is roughly twice the size of the merger they oppose in the South and West, the Department has used a much less rigorous analysis. Justice seemingly supports this merger.

I am not sure which decision was made first—whether to support the merger or whether to use a much less rigorous analysis. But I do know that this double standard approach is dangerously misleading and very unfair to the parties involved.

We have asked the Justice Department to explain. In addition to a number of earlier informal and committee inquiries, I formally asked the Department of Justice to provide me with this information as early as May 15, 1985. Nearly 5 months later, on October 3, after repeated phone calls and an editorial published in the September 25 edition of the Chicago Tribune, I received a 10-page letter from the Department of Justice dated August 30 which was long on words but short on substance. In essence it said:

> While there were minor differences in the manner in which the guidelines were applied to each transaction, the same fundamental analytical principles were followed in both cases. The differences arose largely because of the differences in the nature of the two mergers and the contexts in which the Department reviewed them and, to a lesser degree, simply because two different economic experts were involved in the two matters.

The letter goes on to state that:

> Although the amount of so-called "problem revenues" identified in the NS/Conrail merger might have been somewhat larger under Dr. Pittman's application of the guidelines, our conclusions and recommendations would not have differed under either approach.

Mr. President, I must give the Department of Justice credit in that they at least admitted there were "minor differences" between the two methodologies. But let me explain just briefly some of these "minor" differences:

First, in the Department's NS/CR analysis they came up with a 6-page printout identifying anticompetitive market points; applying the Pittman analysis to the exact same transaction we get over 500 pages of printouts identifying anticompetitive points!

Second, as the Department admitted in its letter, they applied a host of "screens" in their original NS/CR study that they did not apply in the Pittman methodology. The result of these screens was to simply factor out thousands upon thousands of problem tons which made the merger look much less anticompetitive.

Third, they did not even bother to consider affected tonnage outside the immediate NS/CR region. Indeed, under the Pittman methodology, over one-half of the problem tonnage identified was outside the NS/CR region or unaffected in any way by the proposed divestiture plan. It is this aspect of the study which upsets me the most because that tonnage is in places like the Midwest or the West, which has been ignored throughout this entire process.

There were other differences, but I think I have made my point. The point is that these differences were anything but "minor," and I have a hard time believing that the Justice Department could in good faith say that they believe their "recommendations would not have differed" when they did not even bother to check the other approach. One of the reasons given for not bothering with the Pittman methodology was that it would be too time consuming and expensive. Well, it took us 3 days using the exact same program to run these numbers through the computers. If a transaction of this magnitude is not worth 3 days of a Justice Department economist's time, I do not understand why 100 Senators should spend our time on it now. Let us get these answers and come back here when we have something to argue about.

NO PROTECTION FOR THE MIDWEST

Conrail originally became a ward of the Federal Government because of the large number of railroad failures in the Northeast. Because this merger would give Norfolk Southern a virtual monopoly east of the Mississippi, it would effectively give them control over transcontinental traffic originating and terminating in the East. This will, I am quite confident, lead to a number of railroad failures in other parts of the country. Unfortunately, I am not alone in my belief.

The various railroads around the country which face extinction agree. Despite the Department of Transportation's optimistic predictions to the contrary, we will have railroad failures as a result of this megamerger. And I for one do not like the idea of having those failures begin in my backyard. It would be ironic indeed if, as a result of turning Conrail back to the private sector and getting the Federal Government out of the railroad business in the Northeast, we unwittingly set the wheels in motion for larger railroad failures in other parts of the country, thereby starting the process all over again.

There has been a lot of talk about the viability of a "stand-alone" Conrail. Today, I will leave that issue to my other colleagues. It is not Conrail's viability that worries me. It is the viability of the many railroads throughout the country which worries me. It worries me a great deal, and it should worry many of my colleagues when they take a hard look at this proposal. I urge you to check in your own backyards and ask where this will bring us in a decade or two.

I could not help but chuckle when I found on my desk recently a copy of an impressive looking binder prepared by the Department of Transportation, full of information about how this merger will help South Dakota. I might make just a few suggestions to the Department: Call the railroads in South Dakota. Call the shippers in South Dakota. Call the transportation officials in South Dakota. Call the railroad employees in South Dakota. Call the elected officials in South Dakota. Call any of these people in South Dakota and tell them this sale will have no adverse effect on our State. Tell them how it will help the State. Better yet, maybe you should save your quarters because I have talked to them all and I think I can tell you what their response would be.

Mr. President, I raise this point because I think it is indicative of the kind of preposterous information we have been receiving from some of the agencies. They have long since lost their credibility on this issue. These

are not objective administration information packets, they are lobbyist position papers.

I would urge those Senators who have received the same packet of information to call these same people in your States and ask them these questions. I think you will find a much different picture than the rosy one painted by the Department of Transportation in the optimistic binders we all found on our desks.

CONCLUSION

I could go on and on with reasons why we should not go forward with this bill at this time. If we do, and I suspect that will be the case, I will have an amendment to offer which addresses some of the concerns I have raised, so I am prepared to go forward with that amendment if we must proceed with this bill.

We all want to see Conrail turned back to the private sector, but I hope we can find a way to do it that will not threaten the transportation system in the rest of the country, and I hope we can do it in a forum where we have all the information needed to fully debate and understand the implications of this transaction.

In conclusion, I would say my concern is for the regional railroads of America, those railroads that will have to deal with a monopoly east of the Mississippi. We are in a situation where if we create a monopoly east of the Mississippi, that railroad can engage in predatory practices with any railroad or truck line that feeds into it. Across the West and Midwest of this country small regional railroads have expressed much concern about what will happen at the gateways in terms of rates, in terms of rolling stock, and in terms of other issues that face those railroads. We are on the brink of creating the most monopolistic railroad since the late 19th century. Our entire transportation system will suffer.

I hope the Congress does not approve the Conrail plan as proposed.

Mr. President, I yield back my time.

UNANIMOUS-CONSENT AGREEMENT

Mr. DOLE. Mr. President, before I make this request, I wish to indicate that it has been cleared with the distinguished minority leader.

I ask unanimous consent that the live quorum call under rule XXII be vitiated.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOLE. I further ask unanimous consent that the cloture vote occur at 1:30 p.m. today.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOLE. Mr. President, let me indicate we have been discussing this matter with the distinguished Senators from Ohio, Pennsylvania, and others, and the distinguished manager of the bill, Senator DANFORTH. It is my understanding that the distinguished Senator from Pennsylvania was going to suggest that we vitiate the vote on cloture. I indicated that many Members wanted to vote on the motion to proceed and have returned to Washington for that purpose. So we will have that vote.

At this time I yield to the distinguished Senator from Pennsylvania for further remarks.

Mr. SPECTER. I thank the distinguished majority leader.

I would like to state the substance of our conversation and my own inclination to vitiate the vote on cloture, but I understand the concern of the majority leader and the concern of my colleagues who have come back for this vote.

I had suggested vitiating the vote on cloture because it is my view that it is the sense of this body to proceed to consideration of the bill. It is also my view that any vote on cloture would not be representative of the very strong support which exists for the Morgan Stanley offer, and the very substantial opposition which exists against Norfolk Southern.

For a number of reasons, I intend to vote in favor of cloture and I would urge all those who oppose the sale to Norfolk Southern to do the same for tactical reasons, as has been the practice from time to time for everyone to vote on one side so that there is no inference as to the strength of the underlying position.

There are some important considerations which will come before this body next week. The issue that the distinguished Senator from South Dakota has raised about antitrust matters will be the subject of a motion to recommit the bill or to send the bill to the Judiciary Committee so that there can be consideration of this issue.

There may be a motion to recommit to the Commerce Committee so that the Morgan Stanley matter can be considered.

There will be an amendment as a substitute for the Morgan Stanley offer.

I have discussed with the distinguished manager of the bill, the chairman of the Commerce Committee, the possibility of some time agreements on some of those amendments. There are others of us who will reserve our rights after the cloture vote next week to take whatever action we believe to be appropriate by way of postcloture filibuster, if that should be indicated.

The distinguished majority leader has stated that he would not file a cloture motion until at least Tuesday of next week so that there will not be a vote on that cloture motion until Thursday of next week. That accommodates some of the considerations which are important to this Senator.

It seems to this Senator that it is not necessary to have extended discussion on Friday or Monday on this matter, and that all of the considerations can be accommodated when we reach the important issues next week as the matter is called again before this body. For those reasons, I would urge all those who are opposed to Norfolk Southern, and who favor Morgan Stanley, to vote in favor of cloture at this time for those tactical reasons mentioned. I thank the Chair.

Mr. DOLE. I yield to the Senator from Ohio.

Mr. METZENBAUM. I have heard the discussion between the majority leader and the Senator from Pennsylvania. I have no fault to find with it. I understand that to have abbreviated sessions in this body on Friday and Monday for the purpose of dragging out the issues does not serve the parties to this debate nor the image of the U.S. Senate. I think the indication of the majority leader that if he fails with respect to the motion to proceed and cloture in connection therewith he would not file another cloture motion on the bill itself until Tuesday, which accommodates the concerns of the Senator from Ohio.

It is my feeling that part of the purpose of this discussion which has been taking place on the floor of the Senate is to highlight the issues so that people understand the antitrust issues which have not been resolved; to make it clear that there is an offer out there of $200 million in excess of the present offer; that there is another offer that has some question about it which is $400 million higher.

I think those issues have been discussed adequately and there is no secret as to the concerns those of us who are opposed to this matter are feeling.

Having said that, I am not going to take a position contrary to the position of the Senator from Pennsylvania. I am perfectly willing to see my colleagues vote for cloture and then, as I understand it, have an oral vote with respect to the motion to proceed.

I shall go along with that, but I want to make it eminently clear that my going along with it does not indicate in any way that I have slackened my opposition, that I have any less opposition to the pending legislation. But I think that all of my rights will be preserved, that there will be adequate time to get into those, to offer amendments in connection with the pending legislation. Therefore, I urge those who have a position on this matter, whether for or against, to go along with the cloture motion, which I shall vote for. Then I have no objection if the leader wishes to vote without a rollcall on the motion to proceed.

Mr. DOLE. Mr. President, let me indicate that I appreciate the remarks of both Senators. I hope that if cloture is invoked, the motion to proceed would

be approved on a voice vote. I know a number of Senators have asked whether there will be additional votes. I am prepared to indicate at this time that unless there is a request for a rollcall on the motion to proceed, there will be no further rollcall votes today.

It is my hope that the managers of the bill might continue to discuss the bill today. I understand there will be a substitute offered, but there will be no cloture motion filed on the bill itself until next Tuesday, as the Senator from Pennsylvania pointed out. If there are discussions that can occur today, that will be fine. There will be no session tomorrow. We will be in on Monday. There may be some controversial amendments that can be taken up at that time.

CLOTURE MOTION

The PRESIDING OFFICER. The hour of 1:30 having arrived, the clerk will read the motion to invoke cloture.

The legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, hereby move to bring to a close debate on the Dole motion to proceed to the consideration of S. 638.

Bob Dole, Jack Danforth, Mack Mattingly, John H. Chafee, Ted Stevens, Don Nickles, Strom Thurmond, Al Simpson, Jake Garn, Bob Packwood, Phil Gramm, Warren B. Rudman, Malcolm Wallop, Pete V. Domenici, Pete Wilson, Dan Quayle, and Dave Durenberger.

VOTE

The PRESIDING OFFICER. The question is, Is it the sense of the Senate that debate on the motion to proceed to consideration of S. 638, a bill to amend the Regional Rail Reorganization Act of 1973 to provide for the transfer of ownership of the Consolidated Rail Corporation to the private sector, and for other purposes, shall be brought to a close? The yeas and nays are mandatory under the rule. The clerk will call the roll.

The legislative clerk called the roll.

Mr. SIMPSON. I announce that the Senator from Kansas [Mrs. KASSEBAUM] is necessarily absent.

Mr. CRANSTON. I announce that the Senator from Texas [Mr. BENTSEN] and the Senator from Arkansas [Mr. PRYOR] are necessarily absent.

The yeas and nays resulted—yeas 90, nays 7—as follows:

[Rollcall Vote No. 1 Leg.]

YEAS—90

Abdnor	Bumpers	Danforth
Andrews	Byrd	DeConcini
Armstrong	Chafee	Denton
Baucus	Chiles	Dixon
Biden	Cochran	Dodd
Bingaman	Cohen	Dole
Boren	Cranston	Domenici
Boschwitz	D'Amato	Durenberger
Eagleton	Inouye	Nunn
East	Johnston	Packwood
Evans	Kasten	Pell
Exon	Kennedy	Quayle
Garn	Kerry	Riegle
Glenn	Lautenberg	Rockefeller
Goldwater	Laxalt	Rudman
Gore	Leahy	Sarbanes
Gorton	Levin	Sasser
Gramm	Long	Simon
Grassley	Lugar	Simpson
Harkin	Mathias	Specter
Hart	Matsunaga	Stafford
Hatch	Mattingly	Stevens
Hatfield	McClure	Symms
Hawkins	McConnell	Thurmond
Hecht	Melcher	Trible
Heflin	Metzenbaum	Wallop
Heinz	Mitchell	Warner
Helms	Moynihan	Weicker
Hollings	Murkowski	Wilson
Humphrey	Nickles	Zorinsky

NAYS—7

Bradley	Pressler	Stennis
Burdick	Proxmire	
Ford	Roth	

NOT VOTING—3

Bentsen	Kassebaum	Pryor

The PRESIDING OFFICER. On this vote, the yeas are 90, the nays are 7. Three-fifths of the Senators duly chosen and sworn having voted in the affirmative, the motion is agreed to.

The question is on the motion to proceed.

The motion was agreed to.

CONRAIL SALE AMENDMENTS ACT OF 1985

The PRESIDING OFFICER. The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (S. 638) to amend the Regional Rail Reorganization Act of 1973 to provide for the transfer of ownership of the Consolidated Rail Corporation to the private sector, and for other purposes.

The Senate proceeded to consider the bill, which had been reported from the Committee on Commerce, Science, and Transportation, with an amendment to strike out all after the enacting clause and insert the following:

(The parts of the bill intended to be stricken are shown in boldface brackets, and the parts of the bill intended to be inserted are shown in italic.)

S. 638

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Conrail Sale Amendments *Act* of 1985".

FINDINGS

SEC. 2. The Congress finds that—

(1) the Northeast Rail Service Act of 1981 (45 U.S.C. 1101 et seq.) provided for an orderly return of Conrail freight service to the private sector;

(2) the provisions of the Northeast Rail Service Act of 1981 were successful in removing Conrail's obligations beyond railroad freight service and in otherwise preparing Conrail for an orderly return to the private sector;

(3) acting under section 403 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 763), the Board of Directors of the United States Railway Association twice found Conrail to be a profitable corporation;

(4) acting under section 401 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 761), the Secretary [of Transportation] engaged an investment banker and arranged, through open competitive bidding and negotiation, to sell the interest of the United States in the common stock of Conrail;

(5) the Secretary's Plan for the sale of Conrail provides for sale of the interest of the United States in the common stock of Conrail to Norfolk Southern Corporation;

(6) the Secretary [of Transportation] found that sale of the interest of the United States in the common stock of Conrail to Norfolk Southern Corporation [(A)] best meets the sale criteria of *(A)* leaving Conrail in the strongest financial position after the sale, (B) preserving patterns of service to shippers and communities in the region Conrail serves, and *(C)* maximizing return to the Federal Government consistent with the criteria specified in clauses (A) and (B);

(7) amendments to the Regional Rail Reorganization Act of 1973 (45 U.S.C. 701 et seq.) and related laws are needed to permit the sale of the interest of the United States in the common stock of Conrail to Norfolk Southern Corporation and to permit cancellation of the interest of the United States in Conrail debt and preferred stock; and

(8) the Secretary's Plan satisfies the requirements of the Northeast Rail Service Act of 1981, including the intent, goals, and objectives relating to the sale of the interest of the United States in the common stock of Conrail and the requirements of section 401(e) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 761(e)).

PURPOSE

SEC. 3. It is therefore declared to be the purpose of the Congress in this Act to return Conrail to the private sector by directing and facilitating implementation of the Secretary's Plan for the sale of the interest of the United States in the common stock of Conrail.

DEFINITIONS

SEC. 4. (a) In this Act, unless the context otherwise requires, the term—

(1) "Conrail" means the Consolidated Rail Corporation;

(2) "Definitive Agreements" means any and all agreements existing or to be developed between the United States and Norfolk Southern Corporation, including all representations and warranties made therein, to implement the Memorandum of Intent described in paragraph (4)(A);

(3) "Secretary" means the Secretary of Transportation; and

(4) "Secretary's Plan" means (A) the Memorandum of Intent between the United States and Norfolk Southern Corporation signed February 8, 1985, and (B) the divestitures by the Norfolk Southern Corporation of certain rail tracks, rights, and facilities, [in accordance with] *and any transactions or agreements related or incidental to such divestures, in connection with the implementation of* attachment A to the letter from the Department of Justice attached to the Memorandum of Intent as exhibit E.

(b) Section 102 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 702) is amended—

(1) by redesignating paragraphs (6) through (18) as paragraphs (7) through (19), and paragraphs (19) through (21) as paragraphs (21) through (23), respectively;

(2) by inserting after [paragraphs] *paragraph* (5) the following paragraph:

"(6) 'Definitive Agreements' means any and all agreements existing or to be developed between the United States and Norfolk Southern Corporation, including all representations and warranties made therein, to implement the Memorandum of Intent described in paragraph [(20)(A);"] *(20)(A);"*; and

(3) by inserting after paragraph (19), as so redesignated, the following paragraph:

"(20) 'Secretary's Plan' means (A) the Memorandum of Intent between the United States and Norfolk Southern Corporation signed February 8, 1985, and (B) the divestitures by the Norfolk Southern Corporation of certain rail tracks, rights, and facilities, [in accordance with] *and any transactions or agreements related or incidental to such divestures, in connection with the implementation of* attachment A to the letter from the Department of Justice attached to the Memorandum of Intent as exhibit E;".

(c) Section 1135(a) of the Northeast Rail Service Act of 1981 (45 U.S.C. 1104(a)) is amended—

(1) by redesignating paragraphs (6), (7), and (8) as paragraphs (7), (8), and (10), respectively;

(2) by inserting after paragraph (5) the following paragraph:

"(6) 'Definitive Agreements' means any and all agreements existing or to be developed between the United States and Norfolk Southern Corporation, including all representations and warranties made therein, to implement the Memorandum of Intent described in paragraph [(9)(A);"] *(9)(A);"*; and

(3) by inserting after paragraph (8), as so redesignated, the following paragraph:

"(9) 'Secretary's Plan' means (A) the Memorandum of Intent between the United States and Norfolk Southern Corporation signed February 8, 1985, and (B) the divestitures by the Norfolk Southern Corporation of certain rail tracks, rights, and facilities, [in accordance with] *and any transactions or agreements related or incidental to such divestures, in connection with the implementation of* attachment A to the letter from the Department of Justice attached to the Memorandum of Intent as exhibit E;".

TITLE I—AMENDMENTS TO THE REGIONAL RAIL REORGANIZATION ACT OF 1973 AND THE NORTHEAST RAIL SERVICE ACT OF 1981

Subtitle A—Regional Rail Reorganization Act *of 1973* Amendments

LIMIT ON AUTHORITY TO PURCHASE STOCK

SEC. 101. Section 216(b) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 726(b)) is amended by adding at the end thereof the following paragraph:

"(5) The authority of the Association to purchase debentures or series A preferred stock of the Corporation under this section shall terminate upon the consummation of the sale of the interest of the United States in the common stock of the Corporation under the terms of the Secretary's Plan.".

RESPONSIBILITY OF CONRAIL DIRECTORS

SEC. 102. Section 301(i) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 741(i)) is amended by inserting immediately after "required by law" the following: ", taken to implement the Secretary's Plan,".

APPLICABILITY OF REGIONAL RAIL REORGANIZATION ACT OF 1973 TO CONRAIL AFTER SALE

SEC. 103. Section 301 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 741) is amended by adding at the end thereof the following subsection:

"(k) GOVERNING PROVISIONS AFTER SALE.—The provisions of this Act shall not apply to the Corporation and to activities and other actions and responsibilities of the Corporation and its directors after consummation of the sale of the interest of the United States in the common stock of the Corporation under the terms of the Conrail Sale Amendments *Act* of 1985, other than with regard to—

"(1) section 102 of this Act;

"(2) section 201(d) of this Act;

"(3) section 203 of this Act, but only with respect to information relating to proceedings before the special court established under section 209(b);

"(4) section 216(f)(8) of this Act, but only as such authority applies to activities related to the employee stock ownership plan and related trusts prior to or in connection with consummation of the sale of the interest of the United States in the common stock of the Corporation, including activities related to the sale, exchange, valuation, or disposition of the assets of the employee stock ownership plan and related trusts, or of Conrail Equity Corporation, in connection with the Secretary's Plan;

"(5) sections 216(f)(11) and 216(f)(12) of this Act, as amended by the Conrail Sale Amendments *Act* of 1985;

"(6) section 217(e) of this Act;

"(7) subsection (i) of this section, but only as such authority applies to service as a director of the Corporation prior to consummation or in connection with implementation of the sale of the interest of the United States in the common stock of the Corporation;

"(8) section 305 of this Act, but only as to the effect, and continuing administration, of supplemental transactions consummated prior to consummation of the sale of the interest of the United States in the common stock of the Corporation;

"(9) section 308 of this Act, but only in abandonment actions when such authority has been relied on to file a notice or notices of insufficent revenues prior to consummation of the sale of the interest of the United States in the common stock of the Corporation;

"(10) section 401(a) of this Act, as amended by the Conrail Sale Amendments *Act* of 1985;

"(11) section 402 of this Act, as amended by the Conrail Sale Amendments *Act* of 1985;

"(12) section 408(c) of this Act, as amended by the Conrail Sale Amendments *Act* of 1985;

"(13) section 701 of this Act, but only as may be necessary to identify employees eligible for benefits under agreements entered into under such section;

"(14) section 702(e) of this Act;

"(15) section 704(b) of this Act;

"(16) section 709 of this Act;

"(17) section 710(b)(1) of this Act;

"(18) section 711 of this Act;

"(19) section 714 of this Act, but only with regard to disputes or controversies specified in such section that arose prior to consummation of the sale of the interest of the United States in the common stock of the Corporation; and

"(20) section 715 of this Act, as amended by the Conrail Sale Amendments *Act* of 1985.".

IMPLEMENTATION OF THE SECRETARY'S PLAN

SEC. 104. (a) Section 401(a)(3) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 761(a)(3)) is amended to read as follows:

"(3) The Secretary is authorized and directed to implement the Secretary's Plan, in accordance with paragraph (4) of this subsection. Such implementation of the Secretary's Plan and the coordinated operation of the Corporation's properties with those of Norfolk Southern Corporation and its affiliates as a single rail system is deemed approved by the Commission under chapter 113 of title 49, United States Code.".

(b) Section 401(a) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 761(a)) is amended by adding at the end thereof the following paragraphs:

"(4) The Secretary shall implement the Secretary's Plan by negotiating, executing, delivering, and performing the Definitive Agreements, which [shall, in the Secretary's judgment,] *shall* conform [substantially] to the Memorandum of Intent described in section [102(2)(A)] *102(20)(A)* of this Act. *The Secretary shall, 45 calendar days before the date on which the Secretary anticipates that the interest of the United States in the common stock of the Corporation will be sold to Norfolk Southern Corporation, transmit to the Committee on Commerce, Science, and Transportation of the Senate and to the Committee on Energy and Commerce of the House of Representatives a notification of any alteration from Memorandum of Intent described in section 102(20)(A) of this Act which will be made in the Definitive Agreements. After the date of such sale, the Secretary shall transmit to such Committees notification of any intent to waive compliance with any substantive covenant, agreement or obligation contained in the Definitive Agreements, and the Secretary may not waive such compliance until a period of 45 calendar days has expired after the date of such transmittal.*

"(5) The Secretary shall not transfer the interest of the United States in the common stock of the Corporation except concurrently with a divestiture by Norfolk Southern Corporation of rail assets and rights approved by the Attorney General.

[(5)] *"(6)* The sale of the interest of the United States in the common stock of the Corporation shall be deemed to be consummated at the date title to the common stock passes to Norfolk Southern Corporation and the United States receives the cash purchase price.".

RAILROAD PURCHASERS AND OFFER FOR SALE OF SHARES TO EMPLOYEES

SEC. 105. Subsections (d) and (e) of section 401 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 761(d) and (e)) are repealed.

CANCELLATION OF DEBT AND PREFERRED STOCK

SEC. 106. Section 402 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 762) is amended to read as follows:

"DEBT AND PREFERRED STOCK

"SEC. 402. (a) RECAPITALIZATION.—In connection with the sale of the interest of the United States in the common stock of the Corporation under section 401 of this Act, and consistent with the Secretary's Plan, the Secretary may take all action necessary to cause the Corporation to be recapitalized such that the interest of the United States, or any agent or instrumentality thereof, and all other commitments or obligations of the Corporation to the United States or any agent or instrumentality thereof arising out of such interest, in any debt (including accrued interest and contingent interest there-

on) and preferred stock (including accrued and unpaid dividends thereon) of the Corporation shall be cancelled or retired, and contributed to the capital of the Corporation. The Secretary shall cause the recapitalization authorized by this section to be effective as of the consummation of the sale of the interest of the United States in the common stock of the Corporation.

"(b) BREACH OF REPRESENTATIONS.—(1) Norfolk Southern Corporation or any successor corporation thereto may bring suit for any breach of representations contained in paragraph 6(e) of the Memorandum of Intent described in section 102(20)(A) of this Act (hereinafter referred to as the 'Representations') in the United States Claims Court or a district court of the United States. If such an action is brought, the Claims Court or district court shall determine the amount by which the United States income tax (including interest and penalties whether or not such penalties are assessed as a tax under the Internal Revenue Code of 1954) assessable against the Corporation or against Norfolk Southern Corporation for any year exceeds the amount of such tax which would have been assessable for such year had such Representations not been breached (hereinafter referred to as the [''Offset Amount'').] *'Offset Amount').*

"(2) The Representations shall be considered breached and Norfolk Southern Corporation shall be entitled to bring suit upon the first occurrence of any of the following that is inconsistent with the Representations: (A) the issuance by the Internal Revenue Service of a statutory notice of deficiency (90-day letter), (B) the assessment of the United States income tax, or (C) any claim by the United States in a suit or other judicial proceeding against Norfolk Southern Corporation or the Corporation.

"(3) The right to bring suit pursuant to this section shall not be subject to any waiting period applicable to tax proceedings or to any requirements for payment of any tax as a condition to instituting any suit based on a breach of the Representations.

"(4) Any judgment for money damages relating to breach of the Representations shall only be awarded as an offset in any court or administrative proceeding against the tax liability of Norfolk Southern Corporation or the Corporation, or both, to which such breach relates; except that if any such tax liability resulting from such breach has been paid, the judgment shall to that extent be an offset against any United States income tax liability of the Norfolk Southern Corporation or the Corporation, or both. If any portion of the tax resulting from a breach of the Representations has been paid, then the Offset Amount shall include interest on such payment from the date paid at the rate from time to time specified in the Internal Revenue Code of 1954 for interest payable on refund claims.

"(5) It shall not be a defense to an action brought under this section that Norfolk Southern Corporation knew, or should have known, of the falsity of the Representations or that there exists no carryover basis procedure as contemplated by the last sentence of the Representations.

"(6) For purposes of this section, tax liability of Norfolk Southern Corporation shall include the tax liability of Norfolk Southern Corporation and its affiliated group, within the meaning of section 1504 of the Internal Revenue Code of 1954.".

APPLICABILITY OF CERTAIN LAWS TO SALE OF CONRAIL

SEC. 107. Section 408 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 768) is amended—

(1) by repealing subsection (b);

(2) by amending subsection (c) by striking [out] "No transfer" and all that follows through "subject to" and inserting in lieu thereof "Except as provided in section 1152 of the Northeast Rail Service Act of 1981 (45 U.S.C. 1105), the Secretary's Plan and the Definitive Agreements and their negotiation, execution, and implementation shall not be subject to administrative or"; and

(3) by adding at the end of subsection (c) the following sentence: "The issuance in private placement of notes or other securities in accordance with exhibit B to the Memorandum of Intent (described in section 102(20)(A) of this Act) in the Secretary's Plan shall not be subject to the provisions of subtitle IV of title 49, United States [Code.] *Code.*".

LABOR PROTECTION

SEC. 108. (a) Section 701(d)(2) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 797(d)(2)) is amended by striking "the last day of the [eighteen month] *eighteen-month* period beginning on".

(b)(1) Title VII of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 797 et seq.) is amended by adding at the end thereof the following section:

"PROTECTION AFTER SALE

"SEC. 715. After consummation of the sale of the interest of the United States in the common stock of the Corporation pursuant to the Secretary's Plan, any employee of Norfolk Southern Corporation, the Corporation, any rail affiliate of either company, and any transferee of the rail tracks, rights, and facilities divested in accordance with the Secretary's Plan, who is adversely affected in his employment by the implementation of the Secretary's Plan shall receive from his employer protection under the labor protective conditions set forth in New York Dock Railway—Control—Brooklyn Eastern District Terminal (354 ICC 399 (1978), modified upon further consideration, 360 ICC 60 (1979)). The arbitration provisions of section 4 of New York Dock shall apply to the formation of any implementing agreements that may be necessary in connection with the implementation of the Secretary's Plan, including any resulting coordinations.".

(2) The table of contents of the Regional Rail Reorganization Act of 1973 is amended by inserting immediately after the item relating to section 714 the following item:

"Sec. 715. Protection after sale.".

PREFERENTIAL HIRING

SEC. 109. Section 703 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 797b) is amended—

(1) by redesignating subsection (b) as subsection (c); and

(2) by inserting immediately after subsection (a) the following subsection:

"(b) IMPLEMENTATION OF SECRETARY'S PLAN.—Any employee of any railroad who is deprived of employment as a result of the implementation of the Secretary's Plan shall have the first right of hire for a vacancy for which he is qualified on any Norfolk Southern Corporation rail subsidiary, except where such vacancy is covered by (1) an affirmative action plan, or a hiring plan designated to eliminate discrimination, that is required by Federal or State statute, regulation, or Executive order, or by the order of a Federal court or agency, or (2) a permissible voluntary affirmative action plan. For purposes of this subsection, a railroad shall not be considered to be hiring new employees when it recalls any of its own furloughed employees.".

CROSS CRAFT EMPLOYMENT

SEC. 110. (a) Title VII of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 797 et seq.) is amended by inserting immediately after section 703 the following section:

"CROSS CRAFT EMPLOYMENT

SEC. 703A. Any employee of Norfolk and Western Railway Company, Southern Railway Company, or the Corporation who is deprived of employment as a result of the implementation of the Secretary's Plan shall have the first right of hire for any vacancy for which such employee is qualified at the entry level of any Norfolk Southern Corporation rail subsidiary, without regard to craft or class or the provisions of section 703 of this Act. Such employee shall retain his seniority rights to return to his original craft or class whenever a vacancy occurs. For purposes of this section, a railroad shall not be considered to be hiring new employees when it recalls any of its own furloughed employees.".

(b) The table of contents of the Regional Rail Reorganization Act of 1973 is amended by inserting immediately after the item relating to section 703 the following item:

"Sec. 703A. Cross craft employment.".

Subtitle B—Northeast Rail Service Act *of 1981* Amendments

SPECIAL COURT JURISDICTION

SEC. 121. *(a)* Section 1152 of the Northeast Rail Service Act of 1981 (45 U.S.C. 1105) is amended—

(1) by inserting "or the Conrail Sale Amendments *Act* of 1985" immediately after "subtitle" wherever it appears;

(2) in subsection (a), by striking "or" at the end of paragraph (3), by striking the period at the end of paragraph (4) and inserting in lieu thereof a semicolon, and by adding at the end thereof the following paragraphs:

"(5) brought by the United States or any agency or instrumentality thereof seeking to enforce the Secretary's Plan or the Definitive Agreements;

"(6) brought by Norfolk Southern Corporation seeking to enforce the Secretary's Plan or the Definitive Agreements;

"(7) brought by a party who filed a complaint with the Secretary under subsection (e) of this section, and who is aggrieved by (A) a determination of the Secretary under paragraph (1) of such subsection that the party has not suffered direct economic injury, or (B) a decision of the Secretary under paragraph (2) of such subsection that a covenant has not been violated;

[''(7)] *"(8)* brought by a party which is a signatory to an ancillary agreement entered into in accordance with the Secretary's Plan or the Definitive Agreements and which is seeking to enforce such ancillary agreement; or

[''(8)] *"(9)* brought to determine the value of the interest of the employee stock ownership plan and related trusts, or of the beneficiaries thereof, in the preferred stock of the Conrail Equity Corporation.

For purposes of any action brought under paragraph (5) of this subsection, a violation of any covenant contained in the Secretary's Plan or the Definitive Agreements

shall be deemed to constitute immediate and irreparable harm for purposes of awarding injunctive relief to the United States.".

(b) Section 1152 of the Northeast Rail Service Act of 1981 (45 U.S.C. 1105) is amended by adding at the end thereof the following subsection:

"(e)(1) Any party who suffers direct economic injury as a result of an alleged violation of a covenant contained in the Definitive Agreements may file a complaint with the Secretary seeking enforcement of such covenant. If the Secretary determines that the complainant has demonstrated to the Secretary that it has suffered direct economic injury, the Secretary shall investigate the complaint.

"(2) If the Secretary decides to investigate a complaint under paragraph (1) of this subsection, the Secretary shall give reasonable notice of such decision to investigate to the alleged violator of such covenant and the complainant, and shall make a final decision on such complaint within 60 days after the date on which it was filed.

"(3) If the Secretary finds that (A) the covenant in question has been violated, and (B) the complainant suffered direct economic injury as a result of such violation, the Secretary shall enter an order directing the violator of such covenant to comply with such covenant.

"(4) On appeal, any decision by the Secretary under this subsection shall be upheld, unless such decision is found to be arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law.".

APPLICABILITY OF OTHER LAWS

SEC. 122. Section 1168(a) of the Northeast Rail Service Act of 1981 (45 U.S.C. 1116(a)) is amended by striking "service transfers" and inserting in lieu thereof "sale of the interest of the United States in the common stock of Conrail or transfer of the rail properties and freight service responsibilities of Conrail".

Subtitle C—Employee Stock Ownership Plan

RESPONSIBILITY OF EMPLOYEE STOCK OWNERSHIP PLAN FIDUCIARIES

SEC. 131. (a) Section 216(f)(8)(A) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 726(f)(8)(A)) is amended—

(1) by striking "or" at the end of clause (ii);

(2) by striking the period at the end of clause (iii) and inserting in lieu thereof "; or"; and

(3) by adding at the end thereof the following clause:

"(iv) for or in connection with any action taken to implement the Secretary's Plan, including any sale, exchange, valuation, or disposition of the plan and related trust assets, or the assets of Conrail Equity Corporation, in connection with implementation of the Secretary's Plan and any determination of the terms on which any such sale, exchange, valuation, or disposition is effected.".

QUALIFICATION, REVIEW, AND VALUATION OF EMPLOYEE STOCK OWNERSHIP PLANS

SEC. 132. Section 2[illegible](f) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 726(f)) is amended by adding at the end thereof the following paragraphs:

"(11)[(A)] The employee stock [illegible]nership plans of the Corporation and related trusts maintained, amended, or adopted in implementing the Secretary's Plan shall be deemed to meet the qualification requirements of sections 401 and 501, respectively, of the Internal Revenue Code of [1954] *1954*, notwithstanding [(i)] *(A)* that such plans may not meet the requirements of section 415 of the Internal Revenue Code of 1954, or [(ii)] *(B)* that participants in such plans may be entitled to withdraw a portion of the shares allocated to their accounts prior to the expiration of the period generally imposed by the Internal Revenue Service for qualified plans. Such qualification shall relate only to the contributions, allocations, and withdrawals of shares provided for in the Secretary's Plan with respect to the plans and related trusts maintained, amended, or adopted in implementing the Secretary's Plan. Such contributions and allocations shall in no event be treated as having exceeded the maximum annual addition permitted under section 415 of the Internal Revenue Code of 1954 (but not for purposes of applying section 404(j) of the Internal Revenue Code of 1954) for purposes of calculating any limitation under section 415 with respect to contributions and allocations not described in the Secretary's Plan, including contributions and allocations to plans and related trusts of the Corporation and any affiliated corporation. The continued qualification of such plans with respect to all other contributions, allocations, and withdrawals shall be subject to all provisions of existing law, as amended from time to time. No inference shall be drawn from this paragraph as to whether an amount is a contribution deductible under section 404 of the Internal Revenue Code of 1954 rather than a non-deductible capital expenditure.

"(12) Except as provided in section 1152 of the Northeast Rail Service Act of 1981 (45 U.S.C. 1105), the issuance and sale or contribution of securities by Norfolk Southern Corporation to fulfill arrangements with the Corporation's employees in implementing the Secretary's Plan and the distribution of shares from the Corporation's employee stock ownership plans and related trusts maintained, amended, or adopted in implementing the Secretary's Plan shall not be subject to the registration and prospectus delivery requirements of the Securities Act of 1933, any approval requirement under subtitle IV of title 49, United States Code, or the laws of any State with respect to the issuance and sale of securities.".

TITLE II—TECHNICAL AND CONFORMING AMENDMENTS

REGIONAL RAIL REORGANIZATION ACT OF 1973 AMENDMENTS AND REPEALS

SEC. 201. The following provisions of the Regional Rail Reorganization Act of 1973 are repealed or amended as specified:

(1) Subsections (a) and (b) of section 214 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 724(a) and [(b)),] *(b))* are repealed, and such section 214 is amended by striking "(C) *"(c)* ASSOCIATION.—".

(2) Subsection (f) of section 217 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 727(f)) is repealed, without prejudice to the continued availability of funds appropriated prior to the date of enactment of this Act pursuant to section 217(f)(1)(C) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 727(f)(1)(C)).

(3) Section 404 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 764), and the item relating to such section in the table of contents of such Act, are repealed.

(4) Section 405 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 765), and the item relating to such section in the table of contents of such Act, are repealed.

(5) Section 406 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 766), and the item relating to such section in the table of contents of such Act, are repealed.

(6) Section 407 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 767), and the item relating to such section in the table of contents of such Act, are repealed.

(7) Subsections (a) and (d) of section 408 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 768 (a) and (d)) are repealed.

(8) Section 409 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 769), and the item relating to such section in the table of contents of such Act, are repealed.

(9) Section 410 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 769a), and the item relating to such section in the table of contents of such Act, are repealed.

(10) Section 411 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 769b), and the item relating to such section in the table of contents of such Act, are repealed.

(11) Section 412 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 769c), and the item relating to such section in the table of contents of such Act, are repealed.

(12) Section 713 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 797l), and the item relating to such section in the table of contents of such Act, are repealed.

AMENDMENTS AND REPEALS OF OTHER RAIL LAWS

SEC. 202. The following provisions of law are repealed or amended as specified:

(1) Section 1154 of the Northeast Rail Service Act of 1981 (45 U.S.C. 1107), and the item relating to such section in the table of contents of such Act, are repealed.

(2) Section 1161 of the Northeast Rail Service Act of 1981 (45 U.S.C. 1110), and the item relating to such section in the table of contents of such Act, are repealed.

(3) Section 1166 of the Northeast Rail Service Act of 1981 (45 U.S.C. 1114), and the item relating to such section in the table of contents of such Act, are repealed.

(4) Subsection (c) of section 1167 of the Northeast Rail Service Act of 1981 (45 U.S.C. [1115)] *1115(c))* is repealed.

(5) Subsection (b) of section 1168 of the Northeast Rail Service Act of 1981 (45 U.S.C. 1116(b)) is repealed.

(6) Section 501(8) of the [Regional] Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 821(8)) is amended—

(A) by striking "(A)";

(B) by striking "(i)" and inserting in lieu thereof "(A)", and by striking "(ii)" and inserting in lieu thereof "(B)"; and

(C) by striking all after "utilization;".

(7) Section 505 of the Railroad [revitalization] *Revitalization* and Regulatory Reform Act of 1976 (45 U.S.C. 825) is amended—

(A) in subsection (a)(1), by striking all after "railroad" through ["1981";] *1981)";* and

(B) in subsect[illegible](b)(2)(C), by striking all after "costs" the second time it appears through "subsidy".

(8) Subsection (b)(1) of section 509 of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 829(b)(1)) is repealed.

(9) Section 511(e) of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 831(e)) is amended by striking "(1)", and by striking all after "time" and inserting in lieu thereof a period.

(10) Section 402 of the Rail Safety and Service Improvement Act of 1982 (45 U.S.C. 825a) is repealed.

(11) Section 1005(b)(1) of the Rail Passenger Service Act (45 U.S.C. 655(b)(1)) is

amended by striking "the Consolidated Rail [Corporation.".] *Corporation,".*

(12) Section 10362(b)(7)(A) of title 49, United States Code, is amended by striking "by the Consolidated Rail Corporation or".

(13) Section 332(d) of title 49, United States Code, is [amended, by striking, the] *amended by striking ", the* Consolidated Rail Corporation,".

TITLE III—MISCELLANEOUS PROVISIONS

COMMON CARRIER STATUS OF CONRAIL AFTER SALE

SEC. 301. [conrail's] *(a) Conrail's* status as a common carrier by railroad under section 10102(4) of title 49, United States Code, shall not be affected by virtue of sale of the interest of the United States in Conrail's common stock. Purchase of Conrail stock shall not alone be the basis of a determination that the acquiring entity has become a common carrier by railroad under section 10102(4) of title 49, United States Code.

(b) The Definitive Agreements shall contain a binding commitment by Norfolk Southern Corporation to continue to operate Conrail in full compliance with the provisions of section 10731(e) of title 49, United States Code.

CONSUMMATION OF SALE

SEC. 302. The sale of the interest of the United States in the common stock of Conrail shall be deemed to be consummated on the date title to the common stock passes to Norfolk Southern Corporation and the United States receives the cash purchase price.

CONTRACTS

SEC. 303. (a) Except as provided in subsection (b) of this section, nothing in this Act shall affect—

(1) Conrail's obligation to carry out its transportation contracts and equipment leases, equipment trusts, and conditional sale agreements, in accordance with their terms; and

(2) the obligation of any transferee of divested assets to carry out transportation contracts and equipment leases, equipment trusts, and conditional sale agreements to which such assets are subject, in accordance with their terms.

(b) If a divestiture carried out pursuant to the Secretary's Plan precludes Conrail from providing a transportation service for which it has contracted without a right of termination that may be exercised in the event of the sale of the interest of the United States in the common stock of Conrail and the divestiture will result in a change or modification in the movement of the traffic involved, the transferee of the divested rights and properties and Conrail shall provide the contracted-for service on terms and conditions which, to the maximum extent possible, conform to the terms and conditions in the contract.

CONGRESSIONAL OVERSIGHT OF COMPLIANCE

SEC. 304. The Secretary shall, no later than January 31 of each year, submit to the Committee on Commerce, Science, and Transportation of the Senate and to the Committee on Energy and Commerce of the House of Representatives a report setting forth each certificate which Norfolk Southern Corporation and Conrail provided to the Secretary, during the preceding year, certifying compliance with the covenants contained in the Definitive Agreements.

SEPARABILITY

SEC. [303.] *305.* If any provision of this Act or the application thereof to any person or circumstances is held invalid, the remainder of this Act and the application of such provision to other persons or circumstances shall not be affected thereby.

EFFECTIVE DATE

SEC. [304.] *306.* (a) Except as provided in subsection [(b),] *(b) of this section,* the provisions of and amendments made by this Act shall take effect on the date of enactment of this Act.

(b) Sections 108(a), 201 and 202 of this Act shall take effect on the date of consummation of the sale of the interest of the United States in the common stock of Conrail.

AMENDMENT NO. 1437

(Purpose: To make an amendment in the nature of a substitute)

Mr. DANFORTH. Mr. President, on behalf of the Commerce Committee, I withdraw the committee's amendments, and I send an amendment in the nature of a substitute to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Missouri [Mr. DANFORTH] proposes an amendment numbered 1437.

Mr. DANFORTH. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Strike all after the enacting clause and insert in lieu thereof the following:

That this Act may be cited as the "Conrail Sale Amendments Act of 1985".

FINDINGS

SEC. 2. The Congress finds that—

(1) the Northeast Rail Service Act of 1981 (45 U.S.C. 1101 et seq.) provided for an orderly return of Conrail freight service to the private sector;

(2) the provisions of the Northeast Rail Service Act of 1981 were successful in removing Conrail's obligations beyond railroad freight service and in otherwise preparing Conrail for an orderly return to the private sector;

(3) acting under section 403 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 763), the Board of Directors of the United States Railway Association twice found Conrail to be a profitable corporation;

(4) acting under section 401 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 761), the Secretary engaged an investment banker and arranged, through open competitive bidding and negotiation, to sell the interest of the United States in the common stock of Conrail;

(5) the Secretary's Plan for the sale of Conrail provides for sale of the interest of the United States in the common stock of Conrail to Norfolk Southern Corporation;

(6) the Secretary found that sale of the interest of the United States in the common stock of Conrail to Norfolk Southern Corporation best meets the sale criteria of (A) leaving Conrail in the strongest financial position after the sale, (B) preserving patterns of service to shippers and communities in the region Conrail serves, and (C) maximizing return to the Federal Government consistent with the criteria specified in clauses (A) and (B);

(7) amendments to the Regional Rail Reorganization Act of 1973 (45 U.S.C. 701 et seq.) and related laws are needed to permit the sale of the interest of the United States in the common stock of Conrail to Norfolk Southern Corporation and to permit cancellation of the interest of the United States in Conrail debt and preferred stock; and

(8) the Secretary's Plan satisfies the requirements of the Northeast Rail Service Act of 1981, including the intent, goals, and objectives relating to the sale of the interest of the United States in the common stock of Conrail and the requirements of section 401(e) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 761(e)).

PURPOSE

SEC. 3. It is therefore declared to be the purpose of the Congress in this Act to return Conrail to the private sector by directing and facilitating implementation of the Secretary's Plan for the sale of the interest of the United States in the common stock of Conrail.

DEFINITIONS

SEC. 4. (a) In this Act, unless the context otherwise requires, the term—

(1) "Conrail" means the Consolidated Rail Corporation;

(2) "Definitive Agreements" means any and all agreements existing or to be developed between the United States and Norfolk Southern Corporation, including all representations and warranties made therein, to implement the Memorandum of Intent described in paragraph (4)(A);

(3) "Secretary" means the Secretary of Transportation; and

(4) "Secretary's Plan" means (A) the Memorandum of Intent between the United States and Norfolk Southern Corporation signed February 8, 1985, and (B) the divestitures by the Norfolk Southern Corporation of certain rail tracks, rights, and facilities, and any transactions or agreements related or incidental to such divestitures, in connection with the implementation of attachment A to the letter from the Department of Justice attached to the Memorandum of Intent as exhibit E.

(b) Section 102 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 702) is amended—

(1) by redesignating paragraphs (6) through (18) as paragraphs (7) through (19), and paragraphs (19) through (21) as paragraphs (21) through (23), respectively;

(2) by inserting after paragraph (5) the following paragraph:

"(6) 'Definitive Agreements' means any and all agreements existing or to be developed between the United States and Norfolk Southern Corporation, including all representations and warranties made therein, to implement the Memorandum of Intent described in paragraph (20)(A);"; and

(3) by inserting after paragraph (19), as so redesignated, the following paragraph:

"(20) 'Secretary's Plan' means (A) the Memorandum of Intent between the United States and Norfolk Southern Corporation signed February 8, 1985, and (B) the divestitures by the Norfolk Southern Corporation of certain rail tracks, rights, and facilities, and any transactions or agreements related or incidental to such divestitures, in connection with the implementation of attachment A to the letter from the Department of Justice attached to the Memorandum of Intent as exhibit E;".

(c) Section 1135(a) of the Northeast Rail Service Act of 1981 (45 U.S.C. 1104(a)) is amended—

(1) by redesignating paragraphs (6), (7), and (8) as paragraphs (7), (8), and (10), respectively;

(2) by inserting after paragraph (5) the following paragraph:

"(6) 'Definitive Agreements' means any and all agreements existing or to be developed between the United States and Norfolk Southern Corporation, including all representations and warranties made therein, to implement the Memorandum of Intent described in paragraph (9)(A);"; and

(3) by inserting after paragraph (8), as so redesignated, the following paragraph:

"(9) 'Secretary's Plan' means (A) the Memorandum of Intent between the United States and Norfolk Southern Corporation signed February 8, 1985, and (B) the divestitures by the Norfolk Southern Corporation of certain rail tracks, rights, and facilities, and any transactions or agreements related or incidental to such divestitures, in connection with the implementation of attachment A to the letter from the Department of Justice attached to the Memorandum of Intent as exhibit E;".

TITLE I—AMENDMENTS TO THE REGIONAL RAIL REORGANIZATION ACT OF 1973 AND THE NORTHEAST RAIL SERVICE ACT OF 1981

Subtitle A—Regional Rail Reorganization Act of 1973 Amendments

LIMIT ON AUTHORITY TO PURCHASE STOCK

SEC. 101. Section 216(b) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 726(b)) is amended by adding at the end thereof the following paragraph:

"(5) The authority of the Association to purchase debentures or series A preferred stock of the Corporation under this section shall terminate upon the consummation of the sale of the interest of the United States in the common stock of the Corporation under the terms of the Secretary's Plan.".

RESPONSIBILITY OF CONRAIL DIRECTORS

SEC. 102. Section 301(i) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 741(i)) is amended by inserting immediately after "required by law" the following: ", taken to implement the Secretary's Plan,".

APPLICABILITY OF REGIONAL RAIL REORGANIZATION ACT OF 1973 TO CONRAIL AFTER SALE

SEC. 103. Section 301 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 741) is amended by adding at the end thereof the following subsection:

"(k) GOVERNING PROVISIONS AFTER SALE.—The provisions of this Act shall not apply to the Corporation and to activities and other actions and responsibilities of the Corporation and its directors after consummation of the sale of the interest of the United States in the common stock of the Corporation under the terms of the Conrail Sale Amendments Act of 1985, other than with regard to—

"(1) section 102 of this Act;

"(2) section 201(d) of this Act;

"(3) section 203 of this Act, but only with respect to information relating to proceedings before the special court established under section 209(b);

"(4) section 216(f)(8) of this Act, but only as such authority applies to activities related to the employee stock ownership plan and related trusts prior to or in connection with consummation of the sale of the interest of the United States in the common stock of the Corporation, including activities related to the sale, exchange, valuation, or disposition of the assets of the employee stock ownership plan and related trusts, or of Conrail Equity Corporation, in connection with the Secretary's Plan;

"(5) sections 216(f)(11) and 216(f)(12) of this Act, as amended by the Conrail Sale Amendments Act of 1985;

"(6) section 217(e) of this Act;

"(7) subsection (i) of this section, but only as such authority applies to service as a director of the Corporation prior to consummation or in connection with implementation of the sale of the interest of the United States in the common stock of the Corporation;

"(8) section 305 of this Act, but only as to the effect, and continuing administration, of supplemental transactions consummated prior to consummation of the sale of the interest of the United States in the common stock of the Corporation;

"(9) section 308 of this Act, but only in abandonment actions when such authority has been relied on to file a notice or notices of insufficent revenues prior to consummation of the sale of the interest of the United States in the common stock of the Corporation;

"(10) section 401(a) of this Act, as amended by the Conrail Sale Amendments Act of 1985;

"(11) section 402 of this Act, as amended by the Conrail Sale Amendments Act of 1985;

"(12) section 408(c) of this Act, as amended by the Conrail Sale Amendments Act of 1985;

"(13) section 701 of this Act, but only as may be necessary to identify employees eligible for benefits under agreements entered into under such section;

"(14) section 702(e) of this Act;

"(15) section 704(b) of this Act;

"(16) section 709 of this Act;

"(17) section 710(b)(1) of this Act;

"(18) section 711 of this Act;

"(19) section 714 of this Act, but only with regard to disputes or controversies specified in such section that arose prior to consummation of the sale of the interest of the United States in the common stock of the Corporation; and

"(20) section 715 of this Act, as amended by the Conrail Sale Amendments Act of 1985.".

IMPLEMENTATION OF THE SECRETARY'S PLAN

SEC. 104. (a) Section 401(a)(3) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 761(a)(3)) is amended to read as follows:

"(3) The Secretary is authorized and directed to implement the Secretary's Plan, in accordance with paragraph (4) of this subsection. Such implementation of the Secretary's Plan and the coordinated operation of the Corporation's properties with those of Norfolk Southern Corporation and its affiliates as a single rail system is deemed approved by the Commission under chapter 113 of title 49, United States Code.".

(b) Section 401(a) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 761(a)) is amended by adding at the end thereof the following paragraphs:

"(4) The Secretary shall implement the Secretary's Plan by negotiating, executing, delivering, and performing the Definitive Agreements, which shall conform to the Memorandum of Intent described in section 102(20)(A) of this Act. The Secretary shall, 45 calendar days before the date on which the Secretary anticipates that the interest of the United States in the common stock of the Corporation will be sold to Norfolk Southern Corporation, transmit to the Committee on Commerce, Science, and Transportation of the Senate and to the Committee on Energy and Commerce of the House of Representatives a notification of any alteration from the Memorandum of Intent described in section 102(20)(A) of this Act which will be made in the Definitive Agreements. After the date of such sale, the Secretary shall transmit to such Committees notification of any intent to waive compliance with any substantive covenant, agreement or obligation contained in the Definitive Agreements, and the Secretary may not waive such compliance until a period of 45 calendar days has expired after the date of such transmittal.

"(5) The Secretary shall not transfer the interest of the United States in the common stock of the Corporation except concurrently with a divestiture by Norfolk Southern Corporation of rail assets and rights approved by the Attorney General.

"(6) The sale of the interest of the United States in the common stock of the Corporation shall be deemed to be consummated at the date title to the common stock passes to Norfolk Southern Corporation and the United States receives the cash purchase price.".

RAILROAD PURCHASERS AND OFFER FOR SALE OF SHARES TO EMPLOYEES

SEC. 105. Subsections (d) and (e) of section 401 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 761(d) and (e)) are repealed.

CANCELLATION OF DEBT AND PREFERRED STOCK

SEC. 106. Section 402 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 762) is amended to read as follows:

"DEBT AND PREFERRED STOCK

"SEC. 402. (a) RECAPITALIZATION.—In connection with the sale of the interest of the United States in the common stock of the Corporation under section 401 of this Act, and consistent with the Secretary's Plan, the Secretary may take all action necessary to cause the Corporation to be recapitalized such that the interest of the United States, or any agent or instrumentality thereof, and all other commitments or obligations of the Corporation to the United States or any agent or instrumentality thereof arising out of such interest, in any debt (including accrued interest and contingent interest thereon) and preferred stock (including accrued and unpaid dividends thereon) of the Corporation shall be cancelled or retired, and contributed to the capital of the Corporation. The Secretary shall cause the recapitalization authorized by this section to be effective as of the consummation of the sale of the interest of the United States in the common stock of the Corporation.

"(b) BREACH OF REPRESENTATIONS.—(1) Norfolk Southern Corporation or any successor corporation thereto may bring suit for any breach of representations contained in paragraph 6(e) of the Memorandum of Intent described in section 102(20)(A) of this Act (hereinafter referred to as the 'Representations') in the United States Claims Court or a district court of the United States. If such an action is brought, the Claims Court or district court shall determine the amount by which the United States income tax (including interest and penalties whether or not such penalties are assessed as a tax under the Internal Revenue Code of 1954) assessable against the Corporation or against Norfolk Southern

Corporation for any year exceeds the amount of such tax which would have been assessable for such year had such Representations not been breached (hereinafter referred to as the 'Offset Amount').

"(2) The Representations shall be considered breached and Norfolk Southern Corporation shall be entitled to bring suit upon the first occurrence of any of the following that is inconsistent with the Representations: (A) the issuance by the Internal Revenue Service of a statutory notice of deficiency (90-day letter), (B) the assessment of the United States income tax, or (C) any claim by the United States in a suit or other judicial proceeding against Norfolk Southern Corporation or the Corporation.

"(3) The right to bring suit pursuant to this section shall not be subject to any waiting period applicable to tax proceedings or to any requirements for payment of any tax as a condition to instituting any suit based on a breach of the Representations.

"(4) Any judgment for money damages relating to breach of the Representations shall only be awarded as an offset in any court or administrative proceeding against the tax liability of Norfolk Southern Corporation or the Corporation, or both, to which such breach relates; except that if any such tax liability resulting from such breach has been paid, the judgment shall to that extent be an offset against any United States income tax liability of the Norfolk Southern Corporation or the Corporation, or both. If any portion of the tax resulting from a breach of the Representations has been paid, then the Offset Amount shall include interest on such payment from the date paid at the rate from time to time specified in the Internal Revenue Code of 1954 for interest payable on refund claims.

"(5) It shall not be a defense to an action brought under this section that Norfolk Southern Corporation knew, or should have known, of the falsity of the Representations or that there exists no carryover basis procedure as contemplated by the last sentence of the Representations.

"(6) For purposes of this section, tax liability of Norfolk Southern Corporation shall include the tax liability of Norfolk Southern Corporation and its affiliated group, within the meaning of section 1504 of the Internal Revenue Code of 1954.".

APPLICABILITY OF CERTAIN LAWS TO SALE OF CONRAIL

SEC. 107. Section 408 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 768) is amended—

(1) by repealing subsection (b);

(2) by amending subsection (c) by striking "No transfer" and all that follows through "subject to" and inserting in lieu thereof "Except as provided in section 1152 of the Northeast Rail Service Act of 1981 (45 U.S.C. 1105), the Secretary's Plan and the Definitive Agreements and their negotiation, execution, and implementation shall not be subject to administrative or"; and

(3) by adding at the end of subsection (c) the following sentence: "The issuance in private placement of notes or other securities in accordance with exhibit B to the Memorandum of Intent (described in section 102(20)(A) of this Act) in the Secretary's Plan shall not be subject to the provisions of subtitle IV of title 49, United States Code.".

LABOR PROTECTION

SEC. 108. (a) Section 701(d)(2) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 797(d)(2)) is amended by striking "the last day of the eighteen-month period beginning on".

(b)(1) Title VII of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 797 et seq.) is amended by adding at the end thereof the following section:

"PROTECTION AFTER SALE

"SEC. 715. After consummation of the sale of the interest of the United States in the common stock of the Corporation pursuant to the Secretary's Plan, any employee of Norfolk Southern Corporation, the Corporation, any rail affiliate of either company, and any transferee of the rail tracks, rights, and facilities divested in accordance with the Secretary's Plan, who is adversely affected in his employment by the implementation of the Secretary's Plan shall receive from his employer protection under the labor protective conditions set forth in New York Dock Railway—Control—Brooklyn Eastern District Terminal (354 ICC 399 (1978), modified upon further consideration, 360 ICC 60 (1979)). The arbitration provisions of section 4 of New York Dock shall apply to the formation of any implementing agreements that may be necessary in connection with the implementation of the Secretary's Plan, including any resulting coordinations.".

(2) The table of contents of the Regional Rail Reorganization Act of 1973 is amended by inserting immediately after the item relating to section 714 the following item:

"Sec. 715. Protection after sale.".

PREFERENTIAL HIRING

SEC. 109. Section 703 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 797b) is amended—

(1) by redesignating subsection (b) as subsection (c); and

(2) by inserting immediately after subsection (a) the following subsection:

"(b) IMPLEMENTATION OF SECRETARY'S PLAN.—Any employee of any railroad who is deprived of employment as a result of the implementation of the Secretary's Plan shall have the first right of hire for a vacancy for which he is qualified on any Norfolk Southern Corporation rail subsidiary, except where such vacancy is covered by (1) an affirmative action plan, or a hiring plan designated to eliminate discrimination, that is required by Federal or State statute, regulation, or Executive order, or by the order of a Federal court or agency, or (2) a permissible voluntary affirmative action plan. For purposes of this subsection, a railroad shall not be considered to be hiring new employees when it recalls any of its own furloughed employees.".

CROSS CRAFT EMPLOYMENT

SEC. 110. (a) Title VII of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 797 et seq.) is amended by inserting immediately after section 703 the following section:

"CROSS CRAFT EMPLOYMENT

"SEC. 703A. Any employee of Norfolk and Western Railway Company, Southern Railway Company, or the Corporation who is deprived of employment as a result of the implementation of the Secretary's Plan shall have the first right of hire for any vacancy for which such employee is qualified at the entry level of any Norfolk Southern Corporation rail subsidiary, without regard to craft or class or the provisions of section 703 of this Act. Such employee shall retain his seniority rights to return to his original craft or class whenever a vacancy occurs. For purposes of this section, a railroad shall not be considered to be hiring new employees when it recalls any of its own furloughed employees.".

(b) The table of contents of the Regional Rail Reorganization Act of 1973 is amended by inserting immediately after the item relating to section 703 the following item:

"Sec. 703A. Cross craft employment.".

Subtitle B—Northeast Rail Service Act of 1981 Amendments

SPECIAL COURT JURISDICTION

SEC. 121. (a) Section 1152 of the Northeast Rail Service Act of 1981 (45 U.S.C. 1105) is amended—

(1) by inserting "or the Conrail Sale Amendments Act of 1985" immediately after "subtitle" wherever it appears;

(2) in subsection (a), by striking "or" at the end of paragraph (3), by striking the period at the end of paragraph (4) and inserting in lieu thereof a semicolon, and by adding at the end thereof the following paragraphs:

"(5) brought by the United States or any agency or instrumentality thereof seeking to enforce the Secretary's Plan or the Definitive Agreements;

"(6) brought by Norfolk Southern Corporation seeking to enforce the Secretary's Plan or the Definitive Agreements;

"(7) brought by a party who filed a complaint with the Secretary under subsection (e) of this section, and who is aggrieved by (A) a determination of the Secretary under paragraph (1) of such subsection that the party has not suffered direct economic injury, or (B) a decision of the Secretary under paragraph (2) of such subsection that a covenant has not been violated;

"(8) brought by a party which is a signatory to an ancillary agreement entered into in accordance with the Secretary's Plan or the Definitive Agreements and which is seeking to enforce such ancillary agreement; or

"(9) brought to determine the value of the interest of the employee stock ownership plan and related trusts, or of the beneficiaries thereof, in the preferred stock of the Conrail Equity Corporation.

For purposes of any action brought under paragraph (5) of this subsection, a violation of any covenant contained in the Secretary's Plan or the Definitive Agreements shall be deemed to constitute immediate and irreparable harm for purposes of awarding injunctive relief to the United States.".

(b) Section 1152 of the Northeast Rail Service Act of 1981 (45 U.S.C. 1105) is amended by adding at the end thereof the following subsection:

"(e)(1) Any party who suffers direct economic injury as a result of an alleged violation of a covenant contained in the Definitive Agreements may file a complaint with the Secretary seeking enforcement of such covenant. If the Secretary determines that the complainant has demonstrated to the Secretary that it has suffered direct economic injury, the Secretary shall investigate the complaint.

"(2) If the Secretary decides to investigate a complaint under paragraph (1) of this subsection, the Secretary shall give reasonable notice of such decision to investigate to the alleged violator of such covenant and the complainant, and shall make a final decision on such complaint within 60 days after the date on which it was filed.

"(3) If the Secretary finds that (A) the covenant in question has been violated, and (B) the complainant suffered direct economic injury as a result of such violation, the Secretary shall enter an order directing the

violator of such covenant to comply with such covenant.

"(4) On appeal, any decision by the Secretary under this subsection shall be upheld, unless such decision is found to be arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law.".

APPLICABILITY OF OTHER LAWS

SEC. 122. Section 1168(a) of the Northeast Rail Service Act of 1981 (45 U.S.C. 1116(a)) is amended by striking "service transfers" and inserting in lieu thereof "sale of the interest of the United States in the common stock of Conrail or transfer of the rail properties and freight service responsibilities of Conrail".

Subtitle C—Employee Stock Ownership Plan

RESPONSIBILITY OF EMPLOYEE STOCK OWNERSHIP PLAN FIDUCIARIES

SEC. 131. (a) Section 216(f)(8)(A) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 726(f)(8)(A)) is amended—

(1) by striking "or" at the end of clause (ii);

(2) by striking the period at the end of clause (iii) and inserting in lieu thereof "; or"; and

(3) by adding at the end thereof the following clause:

"(iv) for or in connection with any action taken to implement the Secretary's Plan, including any sale, exchange, valuation, or disposition of the plan and related trust assets, or the assets of Conrail Equity Corporation, in connection with implementation of the Secretary's Plan and any determination of the terms on which any such sale, exchange, valuation, or disposition is effected.".

QUALIFICATION, REVIEW, AND VALUATION OF EMPLOYEE STOCK OWNERSHIP PLANS

SEC. 132. Section 216(f) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 726(f)) is amended by adding at the end thereof the following paragraphs:

"(11) The employee stock ownership plans of the Corporation and related trusts maintained, amended, or adopted in implementing the Secretary's Plan shall be deemed to meet the qualification requirements of sections 401 and 501, respectively, of the Internal Revenue Code of 1954, notwithstanding (A) that such plans may not meet the requirements of section 415 of the Internal Revenue Code of 1954, or (B) that participants in such plans may be entitled to withdraw a portion of the shares allocated to their accounts prior to the expiration of the period generally imposed by the Internal Revenue Service for qualified plans. Such qualification shall relate only to the contributions, allocations, and withdrawals of shares provided for in the Secretary's Plan with respect to the plans and related trusts maintained, amended, or adopted in implementing the Secretary's Plan. Such contributions and allocations shall in no event be treated as having exceeded the maximum annual addition permitted under section 415 of the Internal Revenue Code of 1954 (but not for purposes of applying section 404(j) of the Internal Revenue Code of 1954) for purposes of calculating any limitation under section 415 with respect to contributions and allocations not described in the Secretary's Plan, including contributions and allocations to plans and related trusts of the Corporation and any affiliated corporation. The continued qualification of such plans with respect to all other contributions, allocations, and withdrawals shall be subject to all provisions of existing law, as amended from time to time. No inference shall be drawn from this paragraph as to whether an amount is a contribution deductible under section 404 of the Internal Revenue Code of 1954 rather than a non-deductible capital expenditure.

"(12) Except as provided in section 1152 of the Northeast Rail Service Act of 1981 (45 U.S.C. 1105), the issuance and sale or contribution of securities by Norfolk Southern Corporation to fulfill arrangements with the Corporation's employees in implementing the Secretary's Plan and the distribution of shares from the Corporation's employee stock ownership plans and related trusts maintained, amended, or adopted in implementing the Secretary's Plan shall not be subject to the registration and prospectus delivery requirements of the Securities Act of 1933, any approval requirement under subtitle IV of title 49, United States Code, or the laws of any State with respect to the issuance and sale of securities.".

TITLE II—TECHNICAL AND CONFORMING AMENDMENTS

REGIONAL RAIL REORGANIZATION ACT OF 1973 AMENDMENTS AND REPEALS

SEC. 201. The following provisions of the Regional Rail Reorganization Act of 1973 are repealed or amended as specified:

(1) Subsections (a) and (b) of section 214 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 724 (a) and (b)) are repealed, and such section 214 is amended by striking "(c) Association.—".

(2) Subsection (f) of section 217 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 727(f)) is repealed, without prejudice to the continued availability of funds appropriated prior to the date of enactment of this Act pursuant to section 217(f)(1)(C) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 727(f)(1)(C)).

(3) Section 404 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 764), and the item relating to such section in the table of contents of such Act, are repealed.

(4) Section 405 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 765), and the item relating to such section in the table of contents of such Act, are repealed.

(5) Section 406 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 766), and the item relating to such section in the table of contents of such Act, are repealed.

(6) Section 407 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 767), and the item relating to such section in the table of contents of such Act, are repealed.

(7) Subsections (a) and (d) of section 408 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 768 (a) and (d)) are repealed.

(8) Section 409 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 769), and the item relating to such section in the table of contents of such Act, are repealed.

(9) Section 410 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 769a), and the item relating to such section in the table of contents of such Act, are repealed.

(10) Section 411 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 769b), and the item relating to such section in the table of contents of such Act, are repealed.

(11) Section 412 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 769c), and the item relating to such section in the table of contents of such Act, are repealed.

(12) Section 713 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 797l), and the item relating to such section in the table of contents of such Act, are repealed.

AMENDMENTS AND REPEALS OF OTHER RAIL LAWS

SEC. 202. The following provisions of law are repealed or amended as specified:

(1) Section 1154 of the Northeast Rail Service Act of 1981 (45 U.S.C. 1107), and the item relating to such section in the table of contents of such Act, are repealed.

(2) Section 1161 of the Northeast Rail Service Act of 1981 (45 U.S.C. 1110), and the item relating to such section in the table of contents of such Act, are repealed.

(3) Section 1166 of the Northeast Rail Service Act of 1981 (45 U.S.C. 1114), and the item relating to such section in the table of contents of such Act, are repealed.

(4) Subsection (c) of section 1167 of the Northeast Rail Service Act of 1981 (45 U.S.C. 1115(c)) is repealed.

(5) Subsection (b) of section 1168 of the Northeast Rail Service Act of 1981 (45 U.S.C. 1116(b)) is repealed.

(6) Section 501(8) of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 821(8)) is amended—

(A) by striking "(A)";

(B) by striking "(i)" and inserting in lieu thereof "(A)", and by striking "(ii)" and inserting in lieu thereof "(B)"; and

(C) by striking all after "utilization;".

(7) Section 505 of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 825) is amended—

(A) in subsection (a)(1), by striking all after "railroad" through "1981"; and

(B) in subsection (b)(2)(C), by striking all after "costs" the second time it appears through "subsidy".

(8) Subsection (b)(1) of section 509 of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 829(b)(1)) is repealed.

(9) Section 511(e) of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 831(e)) is amended by striking "(1)", and by striking all after "time" and inserting in lieu thereof a period.

(10) Section 402 of the Rail Safety and Service Improvement Act of 1982 (45 U.S.C. 825a) is repealed.

(11) Section 1005(b)(1) of the Rail Passenger Service Act (45 U.S.C. 655(b)(1)) is amended by striking "the Consolidated Rail Corporation,".

(12) Section 10362(b)(7)(A) of title 49, United States Code, is amended by striking "by the Consolidated Rail Corporation or".

(13) Section 332(d) of title 49, United States Code, is amended by striking ", the Consolidated Rail Corporation,".

TITLE III—MISCELLANEOUS PROVISIONS

COMMON CARRIER STATUS OF CONRAIL AFTER SALE

SEC. 301. (a) Conrail's status as a common carrier by railroad under section 10102(4) of title 49, United States Code, shall not be affected by virtue of sale of the interest of the United States in Conrail's common stock. Purchase of Conrail stock shall not alone be the basis of a determination that the acquiring entity has become a common carrier by railroad under section 10102(4) of title 49, United States Code.

(b) The Definitive Agreements shall contain a binding commitment by Norfolk Southern Corporation to continue to operate Conrail in full compliance with the provisions of section 10731(e) of title 49, United States Code.

CONSUMMATION OF SALE

SEC. 302. The sale of the interest of the United States in the common stock of Con-

rail shall be deemed to be consummated on the date title to the common stock passes to Norfolk Southern Corporation and the United States receives the cash purchase price.

CONTRACTS

SEC. 303. (a) Except as provided in subsection (b) of this section, nothing in this Act shall affect—

(1) Conrail's obligation to carry out its transportation contracts and equipment leases, equipment trusts, and conditional sale agreements, in accordance with their terms; and

(2) the obligation of any transferee of divested assets to carry out transportation contracts and equipment leases, equipment trusts, and conditional sale agreements to which such assets are subject, in accordance with their terms.

(b) If a divestiture carried out pursuant to the Secretary's Plan precludes Conrail from providing a transportation service for which it has contracted without a right of termination that may be exercised in the event of the sale of the interest of the United States in the common stock of Conrail and the divestiture will result in a change or modification in the movement of the traffic involved, the transferee of the divested rights and properties and Conrail shall provide the contracted-for service on terms and conditions which, to the maximum extent possible, conform to the terms and conditions in the contract.

CONGRESSIONAL OVERSIGHT OF COMPLIANCE

SEC. 304. The Secretary shall, no later than January 31 of each year, submit to the Committee on Commerce, Science, and Transportation of the Senate and to the Committee on Energy and Commerce of the House of Representatives a report setting forth each certificate which Norfolk Southern Corporation and Conrail provided to the Secretary, during the preceding year, certifying compliance with the covenants contained in the Definitive Agreements.

SEPARABILITY

SEC. 305. If any provision of this Act or the application thereof to any person or circumstances is held invalid, the remainder of this Act and the application of such provision to other persons or circumstances shall not be affected thereby.

EFFECTIVE DATE

SEC. 306. (a) Except as provided in subsection (b) of this section, the provisions of and amendments made by this Act shall take effect on the date of enactment of this Act.

(b) Sections 108(a), 201 and 202 of this Act shall take effect on the date of consummation of the sale of the interest of the United States in the common stock of Conrail.

(c) Any provision of this Act which, pursuant to Article I, Section 7 of the Constitution, provides for raising revenue shall only be effective upon the enactment into law of a bill which has originated in the House of Representatives enacting such provision.

Mr. BYRD. Mr. President, I will suggest the absence of a quorum until we can have a member of the committee to take this seat. I hope it will be a very short quorum call.

I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. MCCONNELL). The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. DOLE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOLE. Mr. President, for the information of all Senators, there will be no session of the Senate on tomorrow. We will be in session on Monday.

I do not anticipate any additional rollcall votes today.

We will have some discussion of the bill today, because Senator DANFORTH has offered a substitute.

On Monday, I hope we can take up amendments to the bill which are not controversial, so that they may be accepted. The distinguished Senator from Washington [Mr. GORTON] will be in a position to argue his motion to recommit.

But that vote, if a rollcall is requested, will occur on Tuesday. Then, as I have pledged to both Senator SPECTER, from Pennsylvania, and Senator METZENBAUM, from Ohio, we will not file cloture until Tuesday on the bill itself.

Mr. DANFORTH. Mr. President, some time ago I made an inquiry to the Treasury Department as to the effects on tax revenue to the Federal Government of a sale of Conrail to Norfolk Southern. Clearly, as has been recognized by everybody, there is a tax consequence. The fact of the matter is that the proposal that was made by Norfolk Southern to the Department of Transportation forgoes loss carry forward, net operating loss carry forwards and the carry forward of investment tax credit unused from prior years because Conrail has not been paying taxes. These carry forwards would otherwise be available. However, it was agreed by Norfolk Southern to forgo carry forwards of the net operating losses and of the investment tax credit.

However, there are some tax consequences to any business transaction. Why? Because anytime a corporation that generates tax losses files a consolidated tax return with a business that is making money and paying taxes, one offsets the other. So, in the future, there are tax consequences.

The Treasury Department, along with a lot of other people, including Morgan Stanley and the Joint Committee on Taxation and the Congressional Budget Office, have made analyses of what happens to tax revenues by virtue of the acquisition of Conrail by Norfolk Southern. The Treasury Department has written me. Mr. President, I ask unanimous consent that a copy of a letter that I have received from J. Roger Mentz, Acting Assistant Secretary of the Treasury for Tax Policy, be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

DEPARTMENT OF THE TREASURY,
Washington, DC.

Hon. JOHN C. DANFORTH,
Chairman, Committee on Commerce, Science, and Transportation, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: This is in response to your request for an analysis of the Federal income tax revenue effects of the proposed sale of Consolidated Rail Corporation (Conrail) to the Norfolk Southern Corporation (Norfolk Southern). Our analysis is based on the proposed sale transaction as reflected in S. 638, the Conrail Sale Amendments of 1985, and in the Memorandum of Intent signed on February 8, 1985, by Norfolk Southern and the Department of Transportation. Pursuant to your further request, we also have analyzed the tax revenue effects of an alternative proposal for a sale of Conrail to a syndicate of investors organized and headed by Morgan Stanley & Co., Incorporated (Morgan Stanley). We have relied for the details of a sale of Conrail to the Morgan Stanley syndicate upon Morgan Stanley's written description of the proposal dated May 14, 1985, as subsequently amended.

OVERVIEW

Subject to the uncertainties and qualifications noted below, we estimate that a sale of Conrail to Norfolk Southern, in comparison with a continuation of the Federal government's ownership of Conrail, would result in a present value revenue loss of $125 million for the 1986-1990 budget period. Without adjustment for the time value of money, the nominal loss in Federal tax revenues over this period is $174 million. Alternatively, we estimate that a sale of Conrail to the Morgan Stanley syndicate, again in comparison to continuation of Conrail's current ownership, would result in a present value increase in revenue of $18 million over the same 1986-1990 period. This positive revenue effect represents a nominal revenue gain of $24 million.

As discussed in further detail below, the difference in estimated revenue effects of a sale of Conrail to Norfolk Southern and a sale to the Morgan Stanley syndicate is attributable primarily to differences in the rate at which losses and credits generated by Conrail after the sale would be utilized under the alternative sale proposals.[1] Thus, our estimates reflect period and present value differences in the revenue effects of the alternative proposals, even though their revenue effects on a long-run, undiscounted basis would be very similar.

In addition, we must emphasize that the difference in estimated revenue effects of the alternative proposals in highly sensitive to a number of legal and factual issues as to which there is substantial uncertainty. We have, for purposes of our estimates, attempted to resolve these issues on a basis that reasonably reflects the comparative revenue effects of the sale proposals. Alternative assumptions concerning a number of these issues would have been defensible, however, and could have significantly altered the absolute and relative revenue effects of the proposals. We also must emphasize that our revenue estimates do not represent an analysis of the relative merits of selling Conrail to Norfolk Southern or to the Morgan Stanley syndicate. In particu-

[1] Both the Norfolk Southern and Morgan Stanley proposals contemplate that existing Conrail loss and credit carryovers would be extinguished in the sale transaction.

lar, we have made no attempt to evaluate non-tax budgetary effects of either sale proposal, or to weigh the effects of either proposal on the future health of Conrail.

EFFECT OF TAX REFORM

The difference in estimated revenue effects between a sale of Conrail to Norfolk Southern and a sale to the Morgan Stanley syndicate is attributable primarily to the fact that a Conrail owned by Norfolk Southern would be included in Norfolk Southern's consolidated group of corporations and would thus be able currently to pass through all or some portion of the benefit of net operating losses and unused tax credits to Norfolk Southern. It is important to recognize that the extent to which Conrail generates future net operating losses and tax credits that could be passed through to Norfolk Southern is heavily dependent on the cost recovery rules that apply to future Conrail investment. As a matter of convention, our estimates assume that current law cost recovery rules will remain in effect.

The House of Representatives, however, recently passed H.R. 3838, the Tax Reform Act of 1985, and the Senate is expected to consider tax reform legislation early this year. H.R. 3838, like a number of tax reform proposals, including "The President's Tax Proposals to the Congress for Fairness, Growth and Simplicity," would repeal the investment tax credit and extend the period over which the cost of depreciable investment is recovered for tax purposes. Enactment of these or similar proposals altering current tax incentives for depreciable investment would substantially reduce or perhaps eliminate the excess tax benefits generated by Conrail over the period of the revenue estimate. This would reduce correspondingly the benefit to Norfolk Southern of tax consolidation between it and Conrail, and thus the absolute and relative revenue costs of a sale of Conrail to Norfolk Southern. In addition, H.R. 3838 would impose new limitations on the use of certain losses following corporate acquisitions. This too would affect the tax treatment of Conrail and could change substantially the revenue effects of the alternative proposals.

CONRAIL OPERATING PROJECTIONS

Net Income. Our estimates assume that Conrail's net book income for the period 1986-1989 will be as projected in the June 7, 1985 report of Conrail management, with income for 1990 increased by four percent over 1989. These projections update and significantly alter prior Conrail projections that formed the basis for the April 1985 United States Railway Association analysis of Conrail's future operations.

In order to provide a consistent basis for comparison, we have not adjusted the Conrail projections to reflect possible differences in operating results depending upon whether Conrail is sold to Norfolk Southern or to the Morgan Stanley syndicate, or is instead retained by the Federal government. In addition, we have not conformed the macroeconomic assumptions underlying the Conrail projections to the Administration's economic forecasts.

Capital Investment. We also have followed Conrail management's June 7, 1985 report in estimating Conrail's levels of capital investment for 1986-1989, with investment for 1990 again increased by four percent over the 1989 level. Moreover, we have assumed the same levels of capital investment regardless of whether Conrail is sold to Norfolk Southern or to the Morgan Stanley syndicate. This assumption is consistent with our assumptions about Conrail income, and is useful in comparing the revenue effects of the alternative means of returning Conrail to the private sector. At the same time, the assumption of equivalent levels of capital investment disregards the effect on such investment of Conrail's ability to use currently the associated tax deductions and credits. As discussed below, a Conrail owned by the Morgan Stanley syndicate may have a relatively limited ability to transfer the benefit of excess deductions and credits. Although this translates to a present value revenue saving to the Federal government, it also produces a higher after-tax cost of additional capital investment for a Conrail owned by the Morgan Stanley syndicate than a Norfolk Southern-owned Conrail.

UTILIZATION OF CONRAIL TAX BENEFITS

Present Value of Revenue Effects. Based on our assumptions concerning its future earnings and capital investment, Conrail will over the next several years generate deductions and credits well in excess of its ability to use them currently. In general, the varying tax revenue effects of a sale of Conrail to Norfolk Southern or to the Morgan Stanley syndicate turn on Conrail's relative capacity to utilize these excess deductions and tax credits or alternatively to transfer them to other taxpayers. For the most part, this resolves to a question of the rate at which Conrail's excess deductions and credits would be utilized, since it is likely that all of Conrail's losses and credits would eventually be utilized regardless of whether it is owned by Norfolk Southern or by the Morgan Stanley syndicate. Thus, the estimated revenue effects of the alternative sale proposals would be very similar on a long-run, undiscounted basis. There are, however, significant potential differences in the rate at which Conrail's excess deductions and credits would be utilized depending on whether it was owned by Norfolk Southern or the Morgan Stanley syndicate. Of course, the more rapidly Conrail's excess deductions and credits are used, the greater the revenue cost to the government in present value terms.

Consolidation vs. Leasing. Under current law, there are two principal strategies by which utilization of Conrail's deductions and credits could be accelerated. Conrail could consolidate its net operating losses and unused credits with the income of another taxpayer by acquiring or being acquired by a tax-paying corporation. In addition, Conrail could transfer a portion of its excess deductions and credits to other taxpayers by leasing rather than purchasing its new depreciable property.

If Conrail were sold to Norfolk Southern, Conrail would be included in the Norfolk Southern consolidated group, and thus its losses and credits would generally be available to offset income and tax liability of Norfolk Southern. For purposes of our estimates, we assumed that Norfolk Southern's taxable income would be as reflected in its most recent annual report, and would grow at an annual rate of four percent through 1990. We further assumed that Norfolk Southern's level of capital investment would be consistent with its recent historical experience, and would similarly grow at a four percent annual rate through the five-year budget period.[2] On this basis, Norfolk Southern would have sufficient taxable income during the budget period to absorb all projected Conrail losses on a current basis, but its use of Conrail investment tax credits would be limited in four of the five years by the 85 percent of tax liability ceiling imposed under current law.

A Conrail owned by the Morgan Stanley syndicate would not be able to pass through its losses and credits to its owners, and would thus be left to pursue leasing or the purchase of a tax-paying business as a means to accelerate utilization of its losses and excess credits. In this regard, Conrail at the present time engages in leasing transactions, and our estimates assume that it would continue to do so if it were sold to the Morgan Stanley syndicate or retained by the Federal government.[3] Much of the depreciable property acquired by Conrail is not eligible to be leased under current law, however, and thus a Conrail owned by the Morgan Stanley syndicate would have excess losses and credits even if it pursued an aggressive leasing strategy. Our estimates assume that such excess losses and credits would be carried over to future taxable years of Conrail, to be used as Conrail begins eventually to generate taxable income. This deferral of Conrail tax benefits to later years produces a relative savings in revenue from a sale of Conrail to the Morgan Stanley syndicate as compared to a sale to Norfolk Southern.[4]

Implicit in the revenue estimate for each sale proposal is the assumption that Conrail would not attempt to accelerate utilization of excess deductions and/or credits by acquiring a tax-paying business. Although a contrary assumption might be supportable, it would require wholesale speculation as to the terms of the acquisition and the characteristics of the business acquired. The "no-acquisition" assumption reduces the estimated revenue cost of each sale proposal; it has greater significance, however, with respect to the Morgan Stanley proposal because of the greater portion of Conrail tax benefits that would be unused currently. The assumption may thus overstate the rel-

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[2] Our estimates assume that Norfolk Southern would have taxable income of $438 million in 1986 (before adjustment for certain interest costs incurred to purchase Conrail), which is based on Norfolk Southern's 1984 annual report and the assumption of 4 percent annual growth for 1984-1986. Our estimates further assume that Norfolk Southern's capital investment in 1986 would be $600 million, which is consistent with its average levels of investment (adjusted for inflation) over the recent past. Although an averaging approach would perhaps have been appropriate with regard to the assumed level of Norfolk Southern taxable income, the result would be unduly influenced by certain extraordinary tax deductions available to Norfolk Southern in recent years. In 1984, the base year for our income forecast, the effect of such deductions was relatively small and Norfolk Southern's book income was consistent with recent historical levels.

[3] In contrast, we have assumed that a Norfolk Southern-owned Conrail would not engage in leasing transactions, despite the fact that it would generate investment tax credits that could not be used by Conrail or Norfolk Southern during the budget period. This assumption reflects the much shorter period over which excess tax benefits would be deferred in the case of a Norfolk Southern-owned Conrail.

[4] Our estimates indicate that a sale of Conrail to the Morgan Stanley syndicate would actually increase revenues over the budget period. This positive revenue effect is attributable to the use of Conrail funds, under the Morgan Stanley proposal, to make certain payments to Conrail employees. The use of Conrail funds for this purpose effectively transfers income-earning assets from an entity not currently paying taxes to individual taxpayers, i.e., from Conrail to Conrail employees, with a corresponding positive effect on revenues. We did not consider the effects of such transfer on the financial health of Conrail.

ative revenue loss resulting from a sale to Norfolk Southern.

Built-In Deduction Limitations. As described above, the tax revenue costs of a sale of Conrail to Norfolk Southern reflect that Conrail, as a member of Norfolk Southern's consolidated group, would be able to pass net operating losses and credits through to Norfolk Southern. Under current law, however, the benefits of such consolidation may be limited with respect to certain depreciation deductions and losses attributable to Conrail's existing assets. As explained in our letter to you of March 27, 1985, the consolidated return regulations limit the extent to which an acquired corporation's so-called "built-in deductions," including depreciation deductions attributable to basis in excess of the value of depreciable assets, can be utilized by the acquiring corporation. In general, the built-in deduction rules would limit Norfolk Southern's use of Conrail depreciation deductions to the extent the basis in Conrail's existing depreciable assets exceeded the value of those assets.[5]

Information provided to us by the Department of Transportation indicates that Conrail has a total basis in its assets (other than cash) of $4.3 billion, with $3.0 billion of this amount attributable to depreciable assets. Although there is no direct evidence as to the value of Conrail's depreciable assets, a reasonable approximation of their value could in theory be drawn from the proposed purchase price for Conrail's stock. This would require that the cash purchase price be increased to reflect the implicit cost of Conrail's liabilities (and, perhaps, as well of certain covenants to be provided by Norfolk Southern), and adjusted further to account for the value of Conrail's nondepeciable assets, such as cash, receivables, land and rights of way. We have not, for purposes of our estimates, attempted to resolve the uncertainties that would be involved in this process,[6] and have instead assumed that the value of Conrail's depreciable assets is sufficiently high so that the built-in deduction rules would not apply to limit Norfolk Southern's utilization of Conrail depreciation deductions. This assumption does not reflect a judgment about the likely outcome of any judicial or administrative determination on the question of value; rather, it is made in recognition of the uncertainties involved, and tends, in this regard, to produce an upper-bound estimate of the potential loss in tax revenue that would result from a sale of Conrail to Norfolk Southern.

Although we have assumed for purposes of our revenue estimates that the built-in deduction rule would not apply to limit Norfolk Southern's use of Conrail's losses, it has been suggested that any authorizing legislation provide expressly that losses attributable to Conrail's existing assets not be available to offset Norfolk Southern's income. Thus, any legislation authorizing the sale could provide that all post-acquisition deductions attributable to existing Conrail assets would be treated as built-in deductions. In effect, the value of Conail's depreciable assets would be deemed to be zero for purposes of the built-in deduction rules, so that the benefit of tax consolidation would be denied to Norfolk Southern to the extent Conrail incurs tax losses attributable to the depreciation of its existing assets. We estimate that inclusion of this provision in the authorizing legislation would reduce the present value revenue cost of a sale of Conrail to Norfolk Southern from $125 million to $83 million, with a corresponding reduction in nominal revenue loss from $174 million to $111 million.

Long-Term Revenue Effects. Our estimates of the revenue effects of the alternative sale proposals reflect only the five-year budget period. We estimate, however, that significant tax benefits generated by Conrail during the budget period would be unused in that period regardless of whether Conrail is owned by Norfolk Southern or by the Morgan Stanley syndicate. Although such unused benefits could add significant long-term revenue costs to either sale proposal, we do not reflect them in our estimates because of the additional uncertainties involved in estimating revenue effects beyond the budget period. Any estimate based on projections and assumptions for such future periods would have very limited reliability or significance.

OTHER ISSUES

Payments to Labor. The proposals for a sale of Conrail to Norfolk Southern or to the Morgan Stanley syndicate each contemplate certain payments to labor in respect of the employees' interests in Conrail's Employee Stock Ownership Plan (ESOP) and to compensate the employees for past wage concessions. Although the tax consequences of the proposed payments could significantly affect the revenue implications of either sale proposal, such consequences have been disregarded in our estimates for a number of reasons. Most importantly, there are significant factual and legal uncertainties concerning the nature of the proposed payments and the attendant tax consequences. Although the payments would likely generate an ordinary business deduction to the extent treated as satisfying an existing Conrail obligation to compensate its employees, the entire amount could be nondeductible if treated as a cost of acquiring the stock of Conrail. Similarly, depending on the form in which they are made, the payments could create a current tax liability for Conrail employees or instead be taxable only on a deferred basis. The labor payments thus present a matrix of possible outcomes, ranging from deductibility of a significant portion of the payments with no current tax consequences to Conrail employees, to capitalization of the entire amount but full and current taxation to Conrail employees. Resolving which of this range of outcomes should be reflected in a revenue estimate would require not only resolution of significant legal uncertainties, but broad speculation as to the terms of the agreement between labor and any eventual purchaser of Conrail.

Although we have not quantified, for purposes of our estimates, the tax consequences of the labor payments, their likely net effect under either proposal would be to enhance revenues over the budget period. In the case of a Conrail owned by the Morgan Stanley syndicate, deductibility of the labor payments would only increase Conrail losses generated but unused during the budget period. Thus, to whatever extent the labor payments were currently taxable to Conrail employees, tax revenues over the budget period would be increased. A similar net revenue effect is likely in the case of a Norfolk Southern-owned Conrail, although in such case deductibility of any portion of the payments would produce a current tax benefit to Norfolk Southern. The extent of such benefit would depend on what portion, if any, of the labor payments was deductible, but would in any event be limited by a corresponding reduction in Norfolk Southern's ability to utilize investment tax credits during the budget period.[7]

Because of Norfolk Southern's ability to benefit currently from additional Conrail deductions, excluding the labor payments from our estimates may understate, to the extent of such benefit, the relative difference in the revenue effects of the alternative sale proposals. It is our understanding, however, that Norfolk Southern has tentatively agreed to provide additional compensation to labor to reflect any tax savings it receives by virtue of its payments to labor. To the extent such provision were incorporated in any ultimate agreement between Norfolk Southern and labor, Conrail employees rather than Norfolk Southern are the interested parties in the tax treatment of the labor payments. Since the Memorandum of Intent between Norfolk Southern and the Department of Transportation is silent as to the tax consequences of the labor payments, it is possible to regard them as an issue separable from the other tax consequences of the proposed transaction. In this respect, Congress could, consistently with the Memorandum of Intent, define specifically the tax consequences of the labor payments in any legislation authorizing a sale of Conrail.

Employment Effects. Various parties have asserted that a sale of Conrail to Norfolk Southern and a consolidation of their operations would have positive or adverse effects on employment within Conrail and Norfolk Southern and, more broadly, within the railroad industry as a whole. We have not attempted to resolve these conflicting assertions for purposes of our estimates, and thus have assumed that railroad employment would not be affected by a sale to Norfolk Southern. If a sale to Norfolk Southern were instead to cause a relative decline or increase in railroad employment, there would be corresponding tax effects, both with respect to income tax revenues and railroad retirement tax revenues.

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[5] Under a de minimis exception, the built-in deduction limitations would not apply if the aggregate value of Conrail's assets (other than cash and certain marketable securities) equalled or exceeded 85 percent of Conrail's basis in those aggregate assets.

[6] Norfolk Southern has indicated to us in informal discussions that its estimates of the value of Conrail's depreciable assets, based on the purchase price for Conrail's stock, ranged from $1.5 billion to well over $3.0 billion depending on the weight assigned to certain liabilities and covenants. Norfolk Southern has further indicated that it believes a value toward the higher end of that range, which could leave it unaffected by the built-in deduction limitations, would be legally supportable. Although we have not examined the basis for Norfolk Southern's position in detail, we believe the weight that would be assigned to certain liabilities and covenants under its analysis is open to substantial question.

[7] Because of the 85 percent of tax liability ceiling on investment tax credit utilization, the creation of additional Conrail deductions that would pass through to Norfolk Southern would generate a corresponding reduction in Norfolk Southern's ability to use credits currently. Assuming that the labor payments were currently deductible to the extent not allocable to Conrail's ESOP (on a $48 per share basis), the effect would be to increase the revenue cost of a sale of Conrail to Norfolk Southern by approximately $11 million over the budget period on a present value basis. Although any such negative revenue effect would very likely be more than offset, in absolute terms, by the revenue gained from taxation of the labor payments to Conrail employees, it would nevertheless increase the revenue cost of a sale to Norfolk Southern relative to the Morgan Stanley proposal.

SUMMARY

The following estimates of the revenue effects resulting from a sale of Conrail to Norfolk Southern or to the Morgan Stanley syndicate, as compared to the base case of retaining Federal ownership, reflect the assumptions described above.

Fiscal years 1986-90

	Millions
Sale to Norfolk Southern:	
1986	−$14
1987	−35
1988	−37
1989	−41
1990	−47
5-year sum:	
Nominal	−174
Present value	−125
Sale to Morgan Stanley syndicate:	
1986	4
1987	7
1988	3
1989	4
1990	6
5-year sum:	
Nominal	24
Present value	18

I would be happy to discuss further with you the details underlying these estimates.

Sincerely,

J. ROGER MENTZ,
Acting Assistant Secretary
(Tax Policy).

Mr. DANFORTH. Mr. President, what the letter shows is that the sale of Conrail to Norfolk Southern would result in a present value revenue loss of $125 million for the 1986-90 budget period; that is, the discounted present value of the future revenue loss would be, for that 5-year period of time, $125 million.

By contrast, if Morgan Stanley were to acquire Conrail, there would be a revenue gain of $18 million. So the net effect over this 5-year period of time, present value net effect over the 5-year period of time, is $143 million.

Mr. President, I would say this: The loss to the Treasury by virtue of the consolidation of Norfolk Southern and Conrail is not unique to the Norfolk Southern transaction. In fact, the merger of Conrail with any taxpaying entity would have precisely the same consequences; that is to say, if Conrail were not to be sold at all or if it were to be sold to Morgan Stanley and then a few years down the road Conrail were to decide or somebody else were to decide to merge with Conrail, the result of that would be exactly the same.

If you have a losing entity and you have a taxpaying entity and they file a consolidated return, the losses of one are available on the other's tax returns.

So, Mr. President, those who object to this transaction on the basis that the acquiring corporation will have available tax losses of the other corporation are really objecting to the fact that Norfolk Southern is successful, that Norfolk Southern pays taxes, that Norfolk Southern is a healthy railroad. That is the point of objection.

Mr. President, I would gladly forgo $125 million of tax revenue over a 5-year period of time to unite Conrail with a winning, successful, strong taxpaying railroad. I believe that Norfolk Southern is one of the few railroads that pays taxes and I know that of all the railroads in the United States, Norfolk Southern pays the lion's share of taxes to the Federal Government. It is, perhaps, the strongest railroad in the United States today.

The issue that will be before the Senate as we proceed with this bill has to do with the future of rail transportation in the United States, not $125 million over a 5-year period of time, not even the difference in cost or the difference in purchase price.

I am sure that the Secretary of Transportation considered purchase price and considered direct economic consequences to the Treasury. But, Mr. President, in all of my conversations with the Secretary of Transportation, as we were proceeding to analyze various potential buyers for Conrail, I stated the position that the exact amount of the purchase price pales in significance to the long-term health of rail transportation in the Northeast corner of our country.

Again, I submit this letter for the RECORD in order to make it clear to Members of the Senate precisely what the consequences are. It would be the $125 million revenue loss projected by the Treasury is far less than what was said to be the revenue loss by Morgan Stanley. But what else could we expect from Morgan Stanley? I do not, in any way, want to cast aspersions on really a wonderful institution, and Morgan Stanley is. But it is an interested party and this is a disinterested projection by the Department of the Treasury.

Again, the question, though, is not how many dollars over a 5-year period of time might flow to the Treasury, but whether we can unite Conrail with a successful, going railroad enterprise or whether the future of Conrail is going to be continually up for grabs as a stand-alone railroad, out there under the Morgan Stanley proposal, all by itself, being bled of cash year after year, with its future constantly in doubt.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. SYMMS). Without objection, it is so ordered.

TRIBUTE TO PAULA FRANCES HADLEY

Mr. KENNEDY. Mr. President, no words can truly express my feelings about Paula Hadley, a member of my staff and one of the best friends I ever had—a brave young woman who fought as courageously as anyone has ever fought against the illness that finally took her from us.

Paula was 40 years old when she died—an age which is only half a lifetime in today's world. Yet in that half a lifetime, Paula crowded more into her life than most people who live to be twice her age.

I understand that in her teenage years, she not only led the cheerleaders at Bourne High School, she even advised the athletic director on how to coach the teams.

In her spare time she was known to open a book occasionally, and she walked off with most of the academic honors at graduation—but not before she had arranged the senior prom and decorated the hall.

This same uncommon energy took Paula to the University of Massachusetts. She traveled back and forth in here famous tiny blue Volkswagen, and they seemed the perfect match for each other. The car got the most miles per gallon, and Paula got the most done per minute of any person I have ever met.

Paula always regarded summers and vacations as occasions to do bigger and different things. So she traveled—not to places you and I might know—but to the far corners of this planet, such as Afghanistan, Nepal, and the outback of Australia. She lived for one summer in a Kibbutz in Israel, and they tell me that the Kibbutz doubled that summer in productivity.

Her favorite place on Earth was the land of her ancestors from which her maternal grandparents emigrated. And it was in Italy that she learned to speak Italian like a native, after studying at the Universities of Bologna and Perugia.

One of Paula's favorite presents to her friends were the chocolates made in Perugia. The pollsters didn't know it, but my occasional rise in weight and drop in the polls had more to do with Paula's chocolates than with Presidential politics.

Her fluency in Italian was a great help to Paula when she taught in the Boston public schools. It also was a disciplinary tool. To hear Paula raise her voice in Italian was to believe she could calm the most unruly student.

There was hardly a trip around the city when Paula did not meet a student she had taught in high school. They didn't just remember her—they loved her. More than once I have seen people shake my hand half-heartedly, then watch their eyes light up when

they came to Paula in the receiving line.

Paula first entered my life as a volunteer in my 1980 Presidential campaign, helping to organize the New England area.

Two years later, she became an indispensable part of my re-election campaign in Massachusetts, handling all the finances. The campaign workers knew how closely Paula guarded the treasury. Her word was law—no receipt, no reimbursement. I was concerned that she might be overdoing it when I heard that Paula was demanding a receipt even for tunnel toll fares, but she told me:

Senator, unless you want to run on "empty," you stick to the politics and I'll take care of the bookkeeping.

One of the best things to happen to any Kennedy came after that campaign when Paula agreed to come to Washington to manage my household in McLean. What a difference she made. For the first 6 months I thought I was living in a construction zone, because Paula decided that everything needed to be fixed, all at the same time. And, of course, everything got done twice—once by the contractor and then by Paula. I remember coming home from the Senate late one afternoon and walking through the house calling for Paula. I could hear her responding but I had no idea where her voice was coming from. Finally, I stepped outside and there was Paula on the roof—hammering down a losse shingle that the contractor had improperly installed. "I want to make sure that we got what you paid for," was her explanation.

Paula was also a genius at setting up dinners and receptions at my home for visiting dignitaries. One of her greatest frustrations was being in Brigham and Women's Hospital last year during President Reagan's visit to my home. But the phone beside her bed was busy Paula made sure that the staff preparing the event was properly instructed. It was a wonderful evening thanks to Paula, but it was only half complete. President Reagan came to dinner, and Paula wasn't there.

My sons Teddy and Patrick and my daughter Kara not only respected her ability and her loyalty but, more important, they loved her like a member of the family. I learned who really counted most at home on the day Paula warned me: "Don't you use the hot tub without your son's permission. He's got a special date." Paula had the key to the hot tub, and I believe that not even the Holy Father could have used it without a dispensation from Paula.

That's the Paula who was part of our lives—boundless energy, boundless confidence, boundless love. Teacher, counsellor, campaign worker, friend—Paula brought an energy and an intensity to everything she did that left some of us, at times, out of breath. She was always a young woman with great dreams—and so little time to make those dreams come true.

To her parents, Paul and Mary, her brothers Richard and Alan, and her sisters Linda and Barbara, all of us know the sorrow and the emptiness in their hearts. We shall never forget the joy she gave us. To Teddy, Kara, Patrick, and me, Paula was one of the happiest parts of our lives.

Just before Thanksgiving, I was in Rome and I called Paula to tell her that I couldn't find any pasta in all of Rome to equal the pasta she knew how to make. And I am sure that somewhere today, the word is being passed in heaven that Paula is there, and her pasta is the best.

We saw Paula last just before I left 2 weeks ago for Latin America. We went to her room together and sang Christmas carols. We kissed her and she told us to have a safe trip.

We talked about her often on the trip and in the past year. Patrick said she was always so busy asking about him that he seldom had the chance to ask about her—that it took him a year to learn that she had been in Nepal.

Teddy said the thing that was so unique about her was her quality of giving—which never stopped. She taught us all the meaning of love.

I had just returned from Latin America last Friday, safe as she wished, when Paula died. I was calling her, and her mother answered the phone—and I heard the news. I hope her family will not mind if I say she was a precious part of ours. She knew we loved her.

Now her shingles are all nailed down; her schedules are all finished, and her must-do files are all done. Thank you, Paula, not only for what you did—but for the kind of person you were. You were a light in our lives—and in our hearts, that light will never go out.

I will miss her very much.

DON'T DRIVE DRUNK

Mr. CRANSTON. Mr. President, efforts at the local level to raise the national consciousness about the needless slaughter of our citizens resulting from drunk driving are beginning to pay off.

In 1983 the Presidential Commission on Drunk Driving recommended reliance on long-term educational and prevention efforts to reduce drunk driving.

As an example that educational activity is taking place and having some impact, I'd like to share with the Senate a powerful poem, written by a young California student, Melissa McCarty. Melissa, whose poem was forwarded to me by her driver education teacher, William Brusin, is a ninth grader at Nevada Union High School in Grass Valley, CA.

I ask unanimous consent that Melissa's poem be printed in the RECORD.

There being no objection, the poem was ordered to be printed in the RECORD, as follows:

STATISTICS

(Written by Melissa McCarty, 1985)

The streets stood scattered with traces of blood, as a tiny child lay in broken glass and mud.

The small, limp body was carried away, never to see the light of another day.

The car sat still, without a scratch, with only some blood stains, and the front window smashed.

A disheveled woman, her head held low, stood watching the scene, unable to go.

A policeman came up, and read her, her rights; he tested her breath, then he tested her sight.

This is the making of another statistic, the facts are depressing, the scene is realistic.

So here is the truth, you've heard, it's not junk. Don't drink if you drive, and PLEASE, Don't Drive Drunk!

JOSEPH KRAFT

Mr. MATHIAS. Mr. President, it is difficult to make a public speech about the death of a personal friend, but friendship comprehends respect and admiration as well as affection. Few people have both earned and received respect and admiration in such full measure as Joseph Kraft. The evidence of the high regard in which he was held is contained in the many statements made at the time of his death.

I shall miss his great, inquiring mind, and his unfailing ability to see clearly through the fog that often covers political Washington. I also shall miss his wit and humor and the breadth of his interests. But most of all, I shall miss his friendship. We spent many hours over the last couple of decades talking about life and politics and human frailty. We did not agree on every issue, but he always brought depth, clarity, and a broader perspective to any subject we discussed. A wise man who cared about the world in which he lived, he cannot be replaced.

Mrs. Mathias joins me in expressing our sympathy to Polly Kraft and her family.

Mr. President, I ask unanimous consent to have printed in the RECORD a moving and eloquent editorial about Joseph Kraft that appeared in the Washington Post on January 12, 1986, and his obituary that appeared on January 11.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Washington Post, Jan. 12, 1986]

JOSEPH KRAFT

The Romans had a word for it, *gravitas*—meaning gravity, seriousness, weight. You say it of a serious person. But you do not mean by this a person who is without humor—humor surely goes with seriousness. Rather you say it of a person who knows what really matters and who, consequently, really matters himself. You say it of a person like Joseph Kraft, our columnist of 20 years, who died at the age of 61 on Friday. Above all Joe Kraft had *gravitas.* He was in the rare, best sense a serious man.

Mr. Kraft had another attribute that, to be both polite and somewhat cryptic about it, perhaps not all his fellow journalists shared. He was amazingly generous to and about his colleagues, especially many of the younger ones whose work he greatly respected and encouraged and who, in turn, were deeply devoted to him. This generosity was not something that existed apart from his work, as a kind of cultivated virtue or side-line human experience. Rather it reflected precisely Joe Kraft's abiding commitment to journalism and his ferocious, even obsessive, pursuit of the excellent in his chosen line of work. He wanted to be better himself and he wanted others to be better too and he did everything in his power to bring about both results. It did not occur to him to be stingy or secretive or acquisitive or self-protective in relation to his colleagues. He gave them everything he could.

It has been said of Joe Kraft repeatedly in the past couple of days that he was a direct descendant of the great political columnists like Joseph Alsop and Walter Lippmann and James Reston who distinguished and dominated the middle years of 20th century American journalism. And in many respects this is true. Mr. Kraft's prodigious work, his mastery of the head-breaking issues of national and international life, his devotion to subject, his horror of the superficiality and exhibitionism of much modern journalism, his insistence on having something more than merely an opinion to offer his readers—all this made him part of a particular honorable tradition.

He didn't do a buck and wing. He worked like a dog and gave you his best analysis. He moved easily among the people who were making the large decisions and also among those in the ranks who often had more to tell than their bosses did. He had some big successes with individual columns; he sometimes made news in that space at the left-hand top of the op-ed page, and, like all good columnists, he was assiduously plagiarized by his pals. It was Mr. Kraft, you may have forgotten, who put the term "middle American" into the journalistic vocabulary, though not he who drove it into the ground.

Our reservation about the insistence on seeing Mr. Kraft in terms of earlier titans of the trade especially seeing him as the man who would or did replace Walter Lippmann, is this: it doesn't acknowledge what Mr. Kraft himself had become in his own right. You will notice we have dwelt on Mr. Kraft's syndicated newspaper column at the expense of his other writings—his books and magazine articles—and his academic enterprises, important as they were. That is because the column was at the core of what Joe Kraft did and because he did it like no other. The question is not: whom did Joseph Kraft replace as a columnist? The question is: who can replace him?

[From the Washington Post, Jan. 11, 1986]

NEWSPAPER COLUMNIST JOSEPH KRAFT, 61, DIES

(By Martin Weil)

Joseph Kraft, a syndicated newspaper columnist whose work appeared in The Washington Post for 20 years and who was admired for his reportorial energy, his intellectual gifts and his broad spectrum of interests, died last night at the Washington Hospital Center. He was 61.

Regarded as a modern Renaissance man among columnists, Mr. Kraft was a seasoned traveler and tireless interviewer who was at home with economics and social issues as well as with foreign and domestic politics.

As a columnist for the Los Angeles Times and for the Los Angeles Times syndicate, Mr. Kraft was published, according to estimates of syndicate officials, in more than 200 newspapers, whose circulation numbered in the many millions.

Known for penetrating analysis rather than partisan attacks, Mr. Kraft was widely considered to be an heir and exemplar of the great tradition of such eminent predecessors as Walter Lippmann.

Mr. Kraft, who lived in Georgetown was admitted to the hospital center shortly after Christmas. He died at 7:10 p.m. yesterday. Hospital officials said the cause of death was not immediately known, but one of his assistants said he died of heart failure.

He had a long history of heart problems and friends said he had suffered three heart attacks.

"I think he was a great columnist," said Meg Greenfield, editorial page editor of The Post.

Calling Mr. Kraft one of the last survivors of "the great tradition of the extremely well informed generalists," Greenfield said "nobody did as much work as Joe in mastering a variety of very tough subjects."

". . . We are going to miss him terribly much," she said. "I think newspapers all over the country will."

Born in South Orange, N.J., on Sept. 4, 1924, Mr. Kraft entered journalism at the age of 14 on a part-time basis when he began to cover high school sports for the old New York World Telegram.

After Army service from 1943 to 1946, he received a bachelor's degree from Columbia University in 1947 and went on to graduate studies at Princeton University, at the Institute for Advanced Study in Princeton, N.J., and at the Sorbonne in Paris.

After a brief stint in the early 1950s as an editorial writer for The Post, Mr. Kraft worked as a writer for the Sunday section of The New York Times from 1953 to 1957, and then published two books, "The Struggle for Algeria" in 1961 and "The Grand Design" in 1962.

For three years, beginning in 1962, he was Washington correspondent for Harper's magazine, and he was writing a column in the old Washington Evening Star in 1965.

When Benjamin C. Bradlee, now The Post's executive editor, joined The Post that year, one of his first moves was to induce Mr. Kraft to change newspapers.

Bradlee called Mr. Kraft a deeply intellectual man who displayed great humor and a breadth of interests that included nuclear policy, French politics and the Washington Redskins.

Among colleagues and peers, Mr. Kraft was known for his refusal to indulge in ivory-tower punditry and for the diligence with which he pursued the information on which his columns were based.

"He worked the phones unbelievably," Bradlee said. ". . . He was no thumbsucker. He was out on the street. He moved around. He talked to lots of people."

With the possible exception of I.F. Stone, "no journalist of his time in Washington studied the official documents more carefully, questioned officials more precisely, or worked so hard, knowing he had so little time, to fight for the facts and against the television pretenses of contemporary politicians," said James Reston of the New York Times.

Mr. Kraft held three awards for distinguished reporting from the Overseas Press Club. He contributed to The New Yorker and was the author of four books in all. The third and fourth were "Profiles in Power," published in 1966 and "The Chinese Difference," published in 1973.

During the 1960 presidential campaign, he wrote speeches for then-Sen. John F. Kennedy, and he was later a Ford fellow at Harvard and a Poynter fellow at Yale. In 1979 he delivered the Jefferson lectures at the University of California at Berkeley. France made him a chevalier of the Legion of Honor.

In describing his own work, he once said, "I try to identify what is important amidst the bewildering variety of events that continually occur."

After the death of Walter Lippmann in 1974, Encounter magazine described Mr. Kraft, in words echoed often last night, as "the only visible replacement for Walter Lippmann."

Anthony Day, editor of the editorial page of the Los Angeles Times, called Mr. Kraft "a fiercely independent and superb and brave journalist."

For many years, despite serious health problems, he produced three columns a week. In recent years, the number was two. His last published column appeared on the page opposite the editorial page of The Post on Dec. 29. It was an optimistic column.

In it, Mr. Kraft called the year that was closing a "turnaround year."

"So my hunch is," he concluded, "that when all the figures come up on the table . . . Americans will find a way to beat the odds. We will balance welfare and defense and investment and social improvement in a rough way that does not blight vast numbers of lives. Both in dealing with the Russians and in dealing with ourselves, we will make good the promise of a turnaround year."

In addition to his wife, Polly, survivors include two stepsons, Mark Stevens, of New York, and David Stevens of Denver, and a brother, Gilman Kraft of Los Angeles.

SOUTH AFRICA—MAMELODI TRAGEDY—PEACEFUL PROTEST, BRUTAL RESPONSE

Mr. LEVIN. Mr. President, I stand in the Senate today angry, a man who is overwhelmed and stunned by what I am about to share with my Senate colleagues. I searched my soul for some way to express my true emotions, but often times, as you know, words simply cannot truly relate what one feels. I wish to appeal to our compassion, sense of justice, and deep value for human life. For what I am about to relate to this body, deeply touches all of those emotions.

Mr. President, earlier this week our country honored and recognized a man whose moral vision, uncommon courage, and passionate concern for social justice stirred the conscience of our Nation, Dr. Martin Luther King, Jr. Last week, I had the honor of meeting with an individual who has the same struggle as that of Dr. King's, a struggle of equality, justice, and freedom in his country of South Africa, Bishop Desmond Tutu. Bishop Tutu is a Nobel laureate, a bishop of one of the largest dioceses in South Africa, and yet, he cannot vote in his land of birth. While the means of peaceful protest became the symbol of the civil rights movement, the seeds for the South African liberation movement was embedded with the same ideals. I want to share with you an incident which occurred on November 21, 1985 in Mamelodi, South Africa, where 19 peaceful protestors were shot and killed by the South African security forces and hundreds of others were injured. Among the dead were two 10-week-old babies and seven people between the ages of 50 and 70.

The Lawyers Committee for Human Rights, a public interest law center which promotes international human rights, released a report on January 9, 1986, examining the tragic deaths of these citizens of Mamelodi. These indiscriminate killings are considered to be one of the "worst incidents in South Africa's history of racial turmoil since the legendary Sharpeville massacre in 1960." The excessive use of force by the South African security forces is often times brutal, as it is unnecessary.

The Mamelodi march was intended to be a peaceful demonstration organized by the women of the township to present specific grievances to the mayor. The demonstrators were protesting a ban on weekend funerals, high rent, and the brutal action of the security forces toward their families. Many of the protestors were carrying signs which read "Do not shoot. We are not fighting" and "This is a peaceful march." Approximately, 50,000 demonstrators, of whom two-thirds were women, marched to the administration boards office with a police escort to address the mayor. Almost without warning, the police began firing teargas into the crowd and started shooting people as they tried to flee. I would like to read to my colleagues some excerpts from the Lawyer's Committee report, detailing many eyewitness accounts of what happened that day.

The report examines the case of Ms. Thoko Malaza, a 24-year-old woman and activist in the women's organization, who was one of the people killed by the South African security forces. Here is how a witness who was near Ms. Malaza describes her death:

> We were all running for cover but we did not have time to get inside a house before they shot her and blew her head open. Part of her forehead was blown off and her brains scattered. Joseph M. (owner of a nearby house) tried to put her body into his car to take it to a mortuary. He was shot at by the police who then picked up her body and threw it into a police van. After they picked up her body, they went and found part of her skull which had been blown off and threw that in the van too. They were laughing as they did so.

The report also details an eyewitness account of a 64-year-old woman who was killed while walking home after she had hidden herself from the police in a shopping center:

> A police van was coming behind her and she was shot in the back. Her lungs were protruding from her chest—she died instantly. Some of her insides spilled out onto the ground where she fell. They tried to clear it up but you can still see the marks. As we tried to approach her, the police threw tear gas at us. Then they went to her, handcuffed the body and threw it into the van.

Moreover, according to the report: The police operation was not only confined to the march itself but was also carried out in areas quite some distance from the march, apparently with equal brutality. Mary, a 20-year-old student, had stayed at home and was sitting outside her house under a tree with her brother and some friends when a police van drove by. The police got out and demanded to see the students' reference books and to know where they lived. Mary told the Lawyers Committee:

> They kicked one of the boys very hard. I was scared and I went into my house. The boys started to run away. Jerry Shikwane Ngwatla, who was 19 years old and one of my friends, took a different direction to the others. As he was running, I saw the police shoot him in the back. He fell to the ground and the policeman walked over to him and roughly dragged Jerry over to the police van using the belt of his trousers. Blood was running out of his mouth as he was loaded into the van.

According to Mary, Jerry's brothers later went to the police station to see the body and have reported that, in addition to the bullet wound in the back, Jerry had also been shot in the chest, groin and head. Mary said, "I do not know when or how this occurred, although it must have been after he was driven away because I only saw him shot from behind before he was put into the van."

Unfortunately, Mamelodi is not an isolated incident. There has been an alarming increase in the amount of violence perpetrated by the South African security forces. In the township of Langa on March 21, 1985, the police opened fire on a funeral procession, killing at least 20 people. I find these indiscriminate killings to be appalling and I am outraged at such blatant violations of people's basic rights.

Another area of grave concern to me is the deliberate attempt by the South African Government to restrict the dissemination of information regarding these repressive acts. Specifically, the South African police have withheld vital information on the whereabouts of seriously injured citizens. In a recent case, a mother of a victim had to petition the Supreme Court to find out where her son was located. As it turned out, he was killed by the South African security forces. This restrictive policy only adds to the pain and suffering the families must endure.

Furthermore, the South African Government has severely restricted press coverage of confrontations between peaceful demonstrators and the South African security forces. The complete story of the Mamelodi incident did not emerge for several days and nearly 3 weeks had elapsed before the final death toll was confirmed. The police report issued on November 21, never mentioned the march, it only stated that one woman had died when the "police opened fire in Mamelodi after a mob of youths attacked a police vehicle."

In addition, the South African broadcasting network briefly mentioned in their late report that two people had died, but did not give information as to how or why it happened. While flying over Mamelodi, a CBS film crew was forced to land and immediately arrested and a British television crew was forcibly escorted out of the township. I believe this is part of the South African Government's draconian approach to shield their actions from public scrutiny and concern. It is an obvious confession of their discrimination, oppressive behavior and brutality. I detest this as a gross violation and massive denial of decent standards of conduct.

Moreover, there have been significant discrepancies between official police reports and eyewitness accounts. For example, in the official police report, Brigadier Hertzog Lerm reported that the police had "feared for the marchers own safety and that he had warned the crowd to disperse within 40 minutes." However, according to the Lawyer's Committee report, none of the eyewitnesses standing in the front of the crowd recalled hearing any such warning. The police public relations division alleged that the demonstrators attacked police vehicles with bricks, stones, and petrol bombs, thus, prompting the police response. Again, none of the eyewitnesses reported seeing anyone carrying a weapon, except the walking canes of the elderly, hardly a threatening weapon.

The Mamelodi incident is another grave tragedy in South Africa, a direct result of the repressive policies of the South African Government. We must do everything in our power to stop the brutality of such policies. The elec-

tions of August 1984—the so-called colored elections—were a mockery of the democratic process. They have not brought peace or justice to South Africa for the simple reason that they still deny the right to vote to the majority.

Mr. President, let us again reaffirm our support for the legitimate struggle of the majority of South Africans who want a united, nonracial, and democratic South Africa. As we commemorate the great contributions of the late Dr. Martin Luther King, let us remember the struggle in South Africa and our obligation to do everything we can to allow individuals the basic dignity. In this new year, let us all rededicate ourselves to this goal, a goal which is the lesson of our own history.

Mr. President, I have previously introduced legislation which expresses the sense of Congress that President Reagan should urge the Government of South Africa to implement a system of political representation for all South Africans based on the principle of one person, one vote. Mr. President, I am submitting for the RECORD two letters that were recently sent to the South African Government. These letters were initiated by Senator KASSEBAUM, Senator ROTH and Senator GLENN and signed by many concerned colleagues in the House and Senate.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
COMMITTEE ON FOREIGN RELATIONS,
Washington, DC, December 5, 1985.

State President P.W. BOTHA,
The Republic of South Africa, Union Buildings, Pretoria, South Africa.

DEAR MR. STATE PRESIDENT: We want to register our strenuous objections to the restrictions on press reporting imposed by the South African government.

Freedom of the press is fundamental to democracy. The restrictions that you have imposed damage South Africa's international image, and lend weight to the arguments of critics that South Africa is a repressive police state.

Reduced press access will make it increasingly difficult for South African and Western audiences to have an informed and accurate perception of what is happening inside the country. This will have a profound impact on South Africa and its relations with the West.

We call on the government of South Africa to protect freedom of the press and to rescind the restrictions.

Sincerely,

Nancy Landon Kassebaum, William V. Roth, Jr., Richard G. Lugar, Charles McC. Mathias, Jr., Claiborne Pell, Paul S. Sarbanes, Alan Cranston, Christopher J. Dodd, Rudy Boschwitz, Larry Pressler.

William Proxmire, Edward M. Kennedy, Lowell P. Weicker, Jr., Pete V. Domenici, John H. Glenn, Jr., Gary Hart, John C. Danforth, Thomas F. Eagleton, John F. Kerry, Frank H. Murkowski.

Quentin N. Burdick, Daniel K. Inouye, J. Bennett Johnston, Jake Garn, Dale Bumpers, Patrick J. Leahy, Howard M. Metzenbaum, John H. Chafee, John Heinz, David Durenberger.

John W. Warner, Bill Bradley, J. James Exon, Alfonse M. D'Amato, Frank R. Lautenberg, Tom Harkin, John D. Rockefeller IV, Donald W. Riegle, Jr., Spark M. Matsunaga, Max Baucus.

David L. Boren, William S. Cohen, Carl M. Levin, Arlen Specter, Albert Gore, Jr., Mitch McConnell, Joseph R. Biden, Jr.

U.S. SENATE,
COMMITTEE ON ARMED SERVICES,
Washington, DC, December 18, 1985.

His Excellency HERBERT BEUKES,
Ambassador of South Africa.

DEAR MR. AMBASSADOR: It has recently come to our attention that the Government of South Africa intends, on January 1, 1986, to effect the incorporation of the Moutse area into the so-called "homeland" known as KwaNdebele, which is slated for "independence" in 1986, and that a similar incorporation is planned later for Ekangala. It is also our understanding that this is being done without reference to the wishes of the people of Moutse and Ekangala.

We have long considered the "homeland" policy one of the most inhumane manifestations of apartheid. To transfer the people of Moutse and Ekangala, against their will, to KwaNdebele, and thus deprive them of their South African citizenship is tantamount to a forced removal, and a most telling example of the injustice of the "homeland" policy.

You made a particular effort to bring to the attention of Members of Congress the September 30th policy address by President Botha. Among the key points made by the President "on the agenda for continued political and social reform" were: "the Government is committed to one citizenship and a universal franchise within a united South Africa" and "South African citizenship will be restored to all those who lost it in the creation of the homeland states". A decision to proceed with the forced incorporation of Moutse and Ekangala into KwaNdebele would make a mockery of those stated intentions.

Hence, we urge your government to reconsider the decision to redraw the boundaries of KwaNdebele and, instead, to hold a referendum to determine the will of the residents of Moutse and Ekangala.

Sincerely,

John Glenn, William V. Roth, Jr., Nancy Landon Kassebaum, Mitch McConnell, Christopher J. Dodd, Albert Gore, Howard M. Metzenbaum, Paul S. Sarbanes, George J. Mitchell, William Proxmire.

Tom Harkin, John F. Kerry, Edward M. Kennedy, Carl Levin, Thomas F. Eagleton, Alan Cranston, Gary Hart, Patrick J. Leahy, Claiborne Pell, Donald W. Riegle, Jr., Paul Simon, U.S. Senators. Dante B. Fascell, William H. Gray III, Vin Weber, Howard Wolpe, Stephen J. Solarz, Members of Congress.

THE GHOSTS OF DEFICITS FOREVER

Mr. BOSCHWITZ. Mr. President, I rise to put into the RECORD one of the most interesting and provocative articles that has appeared in the Washington Post for many, many months. It is an article written by the chairman of the Budget Committee, PETE DOMENICI. It is a remarkable piece of writing which deals with budgets past, budgets present and looks to the future. He spins a Dickensian tale for the returning Congress. He traces how we got to where we are, where we are, and our options for the future. He explains how bad it could get, but also how we can deal with the problems that are before us if we act decisively and without hesitation.

I have been part of the budget proceeding during the entire period that our colleague PETE DOMENICI traces in this particular tale. I recognize every step of the way and can attest to the fact that we are where we are because of the reasons outlined by Senator DOMENICI.

Also, I think his predictions for the future are most appropriate and give a great deal of hope. But they also warn us that if Congress—the Senate, the leadership—does not take this thing into hand, we could continue to go in the wrong direction. Just as easily, however, if we do move as a unit and if we support a united leadership effort on both sides of the aisle, we can bring this budget into balance, bring interest rates down and have a real upsurge in our economy.

Mr. President, I ask unanimous consent that the article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

THE GHOSTS OF DEFICIT FOREVER

In less than three weeks the automatic spending cuts of Gramm-Rudman-Hollings will be triggered unless a court challenge to the new law succeeds. The papers will be filled with the confusion of federal agencies trying to fulfill the law and the outrage of those program beneficiaries who see their activities threatened. Before the coming public panic consumes us, we should review where we are, how we got here, and where we are likely to end up in our struggle with the deficit.

As a prelude, I should note that I am extremely optimistic about the nation's economic potential. We have solved problems of the highest order. We have created millions of jobs for "Baby Boom" workers. We have embarked on a new era of entrepreneurship and rising per-capita incomes. A leanness and quickness characterizes the private sector.

The only cloud on the horizon, and a cloud of mammoth proportions in my view, is the inability of the government to control deficits. The extraordinary deficits we now face symbolize this impotence and also hold the substantive prospect of plunging the nation into an unprecedented economic recession—ironically, one that could well be avoided. The deficit, simply put, remains the foremost policy and political problem confronting the nation. If I may borrow from Dickens, I will call upon three ghosts to lead us on our budget odyssey: the ghosts of budget past, present and yet to come.

1. BUDGET PAST

Our Ghosts of Budgets Past conjures up a scene of candidate Ronald Reagan speaking

in Chicago in September 1980. He explains in some detail his four-part plan for the economy and the federal budget: 1) a 10 percent across-the-board tax cut for individuals in each of the next three years to increase take-home pay and the dismal national savings rate; 2) major changes in the corporate tax code aimed at reviving the staggering American economy; 3) an all-out attack on waste, fraud and abuse in government spending, coupled with a permanent shrinking of the government's programs, directed at saving tens of billions of dollars a year; and 4) a major increase in defense spending.

The president-to-be calmly explains that the increase in defense spending will be "affordable," because his other policies will yield a combination of new revenues to the government (from economic growth) and less domestic spending (from a shrinking of federal domestic programs).

Our ghost next takes us to March 10, 1981. The president releases the details of his 1982 budget, which replaces the budget of former president Jimmy Carter. The budget is truly revolutionary. It calls for domestic spending cuts in fiscal year 1982 alone of $67 billion. Between FY 1981 and FY 1986, the domestic cuts would total $475 billion.

On top of unprecedented domestic spending restraint, the president fulfills his second major campaign promise by requesting the largest single defense increase in the nation's history. For FY 1982, this increase would reach nearly $29 billion and would push defense spending from the FY 1980 level of $146 billion to $226 billion in just two years—an increase of 55 percent.

The budget also keeps the president's promise on taxes. It requests individual and corporate tax cuts of $54 billion in FY 1982 and $718 billion through FY 1986.

Above all, our ghost points to the line in the president's budget that shows that if all his policies were fully implemented, the federal budget would be balanced by FY 1984 and would be running a $28 billion surplus by 1986.

Two major points overlooked by many in that first, fateful budget will come back to haunt the nation. First, almost $75 billion in domestic cuts necessary for achieving a balanced budget in 1984 are not itemized and "will be identified later." Second, the economic projections underlying the budget assume real growth in the economy almost double the historical average for the past 12 years (4.6 percent projected compared to 2.5 percent actual for the 1972-84 time frame).

Finally, our Ghost of Budgets Past takes us to the private conference room of the Senate majority leader, Howard Baker, in early spring of 1981. In the room for an extraordinary meeting is the president, who has left the White House and journeyed to the Hill. The president leans across the table and tells the 12 Republican members of the Senate Budget Committee that he will not support a bipartisan attempt in that committee to freeze cost-of-living adjustments for Social Security recipients as part of a deficit-reduction plan. He asks them to join his opposing effort. In front of the senators is a sheet showing savings from a one-year freeze on the COLAs—$88 billion over five years, and more than $24 billion in the year 1986 alone.

The senators relent. They go back to committee and vote against the move to freeze COLAs. Social Security, although larger than all domestic non-entitlement spending programs put together, is protected in future budget battles; it comprises almost 25 percent of the non-interest spending in the federal budget.

2. BUDGETS PRESENT

Our Ghost of Budgets Present arrives, looking weary and battered. He has watched three years of congressional deadlock; the deficits for the first four years of the Reagan administration have amounted to more than all the deficits accumulated by all other presidents in the nation's lifetime. America is amassing debt—corporate, individual and governmental—at a record pace.

Yet, no perceptible crisis is at hand. Unemployment has subsided below the 7 percent mark; inflation and interest rates are down and dropping further; the economy is perking along at about the historical average growth: 2.5 to 3 percent annually. Everyone thinks the deficit may be a problem, but the political will to tackle it head-on is fading. The short-term pain of policies that would really cut deficits overwhelms the short-term gain of voting to retain Congress' favorite programs.

Our Ghost of Budgets Present reveals an internal congressional staff memo showing that despite public displays of budget-cutting enthusiasm, Congress has allowed large spending increases since FY 1980: an increase of $132 billion (99 percent) in national defense; $169 billion in new spending for domestic entitlement programs (an increase of 60 percent), driven by new Social Security increases; and an additional $26 billion in domestic, discretionary spending (a 17 percent hike).

It turns out that many of the "cuts" were measured from baselines that assumed growth, so even with a cut there was frequently an actual increase in dollars. The memo also shows that revenues have dropped off from those original FY 1982 presidential projections by about $150 billion in FY 1986. Moreover, the gross national product forecast by that FY 1982 budget fell short of reality by $2.4 trillion for FY 1982-86! Almost nothing is "affordable" anymore, in the sense that word was used way back in September 1980.

Even worse, the restraint in spending that has occurred has spared programs that stress present consumption (pensions are a prime example) and hampered programs that stress investment in the future (research in nondefense scientific areas, basic physical infrastructure, education).

Interest payments on this debt are $200 billion annually and are the fastest growing element of federal spending. This means that America cannot make the basic commitment to the future that needs to be made in order to ensure the unparalleled prosperity to which all other indicators point.

We now move to February 1985. The president has emerged from his reelection campaign with one of the most overwhelming victories in America's history. Undeterred deficit-fighters in the administration and in Congress conspire to make one last fight to get deficits under control.

The president's budget asks once again for large domestic spending cuts, $180 billion over three years, with the elimination of more than a dozen major domestic programs as the centerpiece of the plan. The budget also asks for a $30 billion increase in defense spending for FY 1986 alone, and rejects tax increases. It projects a deficit of $144 billion in FY 1988, twice as high as any deficit in the non-Reagan era, but a substantial move toward what economists are now calling "structural budget balance."

The ghost now takes us to a dramatic moment. It is May 9, well past midnight. The Senate has concluded debate on an unprecedented deficit reduction package, incorporating Social Security COLA freezes and eliminating several programs. It not only will meet the president's deficit reduction goal in FY 1986, it will yield substantially lower deficits by FY 1988.

The vote stands at 49-48 against the proposal. Sen. Pete Wilson of California arrives from a hospital, where he underwent emergency appendectomy surgery earlier. Against doctors' recommendations, he has come to the Senate in a wheelchair, an intravenous tube in his arm, to vote. He votes for the proposal. With the vote 49-49, Vice President George Bush, in his capacity as president of the Senate, votes for it. It passes, 50-49.

Although only a few suspect it at the time, that moment in the Senate chamber will be the high point for deficit cutting for the year. Our Ghost of Budgets Present speeds over a troubled summer. The budget finally hammered out between House and Senate falls far short of the Senate-passed version, in large part because the president finally opposes any change in Social Security COLAs. His decision dooms any significant congressional action.

Congress finds it impossible to pass almost any significant bills. Appropriations bills fail to move. Approaching is an autumn vote to extend the federal debt the government has run up. Sens. Gramm, Rudman and Hollings conceive a new deficit-cutting mechanism and attach it to the debt limit bill.

Our ghost now takes us to December 1985. Congress sends the president a farm bill that costs an estimated $50 billion during the next three years, about double what the president requested in his FY 1986 budget of nine months earlier. Congress finds it difficult to comply with even the watered-down budget it passed just four months earlier. Congress staggers through a chaos of short-term continuing appropriations and short-term debt extensions, all of which threaten to shut down the government.

Finally, Congress passes more spending bills, postpones action on a multibillion-dollar deficit reduction measure that the administration threatens to veto, and heads home. The president signs the farm bill into law. He signs all of the spending bills, even though they contain in the aggregate about $40 billion more in domestic spending than he wanted and about $30 billion less for defense. He signs the Gramm-Rudman-Hollings bill.

Within a fortnight, the Justice Department announces that it will join in attacking the constitutionality of Gramm-Rudman-Hollings. The president asks for $4 billion more spending for the Commodity Credit Corporation, sending up his formal request Dec. 23. A year that began with high hopes for deficit reduction fizzles into the winter rain of utter failure. Our Ghost of Budgets Present decides to become a consultant to corporations on the impact of Gramm-Rudman-Hollings.

3. BUDGETS YET TO COME

Our Ghost of Budgets Yet to Come offers us a choice. First he takes us to February 1986. The president and Congress have been given the size of the automatic cut order (called a sequester order) mandated by the Gramm-Rudman-Hollings bill for FY 1986. It will take a total of $11.7 billion from federal outlays, equally split between defense and nondefense programs.

This leaves defense spending in March 1986 about $40 billion less than the president's original request for the year. Nondefense programs will be cut in some cases below last year's level. Senators up for reelection later in the year are besieged by interest groups hit by the sequester.

Yet, this tiny cut pales in comparison to what may be necessary later in the year. Our ghost reveals internal staff documents that show deficits of more than $205 billion in FY 1987, a full $60 billion over the Gramm-Rudman-Hollings target of $144 billion. The president presents his budget in early February. It contains a request for $20 billion more in defense spending. It terminates scores of federal programs through direct cuts and privatization ideas. It rejects new taxes. It is kept alive by Congress mostly as a vehicle for repudiation.

Here our ghost presents two scenarios. Sadly, one is more likely than the other. The first scenario is the hope of many of us who voted for Gramm-Rudman-Hollings—a comprehensive compromise on the deficit. It goes like this:

1) Late March 1986: the president and Congress, unable to come up with a budget for the 1987 year, agree to a "Grand Summit" on the budget. Tax reform plans in the Senate are temporarily laid aside in order to focus on deficit reduction.

2) April 1986: After weeks of negotiations, Congress and the president agree on a historic deficit-cutting package, including fundamental reforms and reductions in domestic spending, a slowing of the defense buildup, and new revenues.

3) May and June 1986: Congress passes new laws implementing the "summit" agreement and appropriations bills that are consistent with it.

4) August 1986: the Congressional Budget Office and the Office of Management and Budget compare their spending updates and conclude that because of presidential and congressional action, the deficit targets of Gramm-Rudman-Hollings will indeed be met.

5) The stock market surges, interest rates drop, and the economy takes off. America soars into the future.

But that scenario may be unlikely for many reasons, so our ghost provides a second scenario, feared by many of us who are familiar with the realities of both the budget and of the politics of 1986:

1) Late March 1986: The president's budget has been rejected in all quarters. Congress tries to devise its own budget and fails. The president vigorously pursues his tax reform plan in the Senate, opposing any tax increase within the plan.

2) April and May 1986: the Senate, with 30 members watching primary results that will select their opponent in the November elections, is stymied. Tax reform is stalled, the budget cannot move, and appropriations bills await some resolution of the deadlock. The House puts off action, claiming it cannot act until some initiative is taken by either the president or the Senate.

3) June 1986: The Supreme Court rules Gramm-Rudman-Hollings constitutional.

4) Summer 1986: As the stock and bond market and most of the rest of the world watch, America's government is nearly paralyzed. The size of the amounts needed to meet the $144 billion deficit target prohibit action: $30 billion from defense and from nondefense spending translate into as much as $75 billion in budget authority from defense spending (or almost one-fourth of all new spending authority for defense) and about $45 billion from nondefense programs (or about one-third of all new budget authority in the appropriated, discretionary accounts).

5) September 1986: Gramm-Rudman-Hollings in the amount of a $60 billion sequester goes into effect, causing grave concern among America's Western allies. Most Senate campaigns are now in the post-Labor Day "hot" period. Groups that participate in federal domestic programs, especially teachers and health professionals, descend on Washington in huge numbers. Many state governments begin to lay off large numbers of employees to try to compensate for cuts in state and local aid.

6) October 1986: One month before the 1986 federal elections, the president decides that his position as commander-in-chief compels him not to sign the final sequester order because it would violate his oath of office to defend the nation's security. Already more than 100 lawsuits have been filed against the Gramm-Rudman-Hollings cuts by potential program beneficiaries.

7) Mid-October 1986: Congress, faced with an unprecedented uproar, coupled with a plummeting stock and bond market, tries to devise a way to cope with the new crisis. Everyone attempts to find a way to get out from under the new law. Someone suggests that we need a budget forecast that shows a recession sometime in the next four quarters. The person who makes the suggestion is widely applauded as a genius, and soon the Gramm-Rudman-Hollings bill is suspended.

8) November 1986: Huge numbers of incumbent senators and representatives of both parties are defeated at the polls, saddled with explaining their position on Gramm-Rudman-Hollings. Our Ghost of Budgets Yet to Come concludes his gloomy scenario by revealing an internal staff memo that shows deficits will be $200 billion or more as far as the eye can see.

I conclude this little budget journey through time by saying that the concept behind the second scenario is a real possibility if both the president and Congress refuse to compromise on major deficit-reduction options. The amount of deficit reduction needed to meet the Gramm-Rudman-Hollings targets, or to make any real dent in deficits regardless of any law, is very large.

If the nation's leadership fails to agree by late spring, especially in a year charged with important elections, the mechanism of Gramm-Rudman-Hollings will take effect. To allow that to happen would be a national, and even international, tragedy.

A TRIBUTE TO LUCY DuCHARME

Mr. CHILES. Mr. President, I am proud to have the opportunity to pay tribute to Lucy DuCharme, a distinguished Polk County educator, civic leader, and community advocate, upon her retirement. Dedication is a word often used to describe the career efforts of outstanding leaders. But Lucy's career of service and participation—in the schools, the community, and the State—goes beyond dedication. I think the word that might best describe her particular contribution is "efficacy." It is a good thing to care. It is noble to work hard. It is a greater thing to be effective, to make the world work, so to speak, in those endeavors one undertakes.

For the past several years our Nation has embarked on a quest of excellence in education. The State of Florida has been in the forefront of educational reform. At the heart of this national and statewide effort has been the grassroots, recognizing that what happens at the local level—in the classroom, in the community, in partnership with business—is the key to educational qualty and excellence.

If every one of the nearly 16,000 school districts in the Nation had just one Lucy DuCharme, we could be assured of the quality of education in this country. Lucy has epitomized and acted on the concepts of quality education throughout her entire career.

The research and studies of education tell us, "Good schools must have clear goals and standards." Lucy has been a standard-bearer for Polk County schools with business, civic groups, parents, and the community. She has articulated consistently the policies of the school system to the public.

We know that good schools depend on common dedication and a united plan of action throughout the rank and file of school personnel—from the classroom teacher to the lunchroom worker and the custodian. Lucy has led the way in developing this type of esprit de corps in Polk County school employees.

We are told that school administrators are critical elements in educational excellence—that the leadership, problem-solving, planning, and motivational skills of principals, program supervisors, and superintendents make the difference between good schools and mediocre ones. Lucy not only exemplifies these skills, but she has worked within the Polk County system to inspire her colleagues to achieve these attributes of excellence.

Good elementary and secondary schools do not exist in a vacuum, but are an integral part of a continuum of education from the preschool years through postsecondary education. Lucy has been a dedicated participant in all levels of education, from her leadership of the Southern Scholarship Foundation at Florida State University, to her service on the board of trustees of Polk Community College, to her presidency of the Florida Council for the Social Studies and the Sunshine State School Public Relations Association.

Florida faces the challenge of growth and competition with the rest of the Sun Belt for the industries that bring jobs and the highest standard of living to our future. In Lucy DuCharme we have a model of how dedicated education leaders can attract the best of business to an area and open up the dialog of mutual benefit be-

tween the corporations and the schools.

Lucy has found the time and energy to participate and lead a broad range of activities beyond the sphere of education, including her service to the American Association of Women, the Pilot Club, Polk General Hospital Auxiliary, Delta Kappa Gamma, the Women's Club, and Democratic Women's Club. I am particularly grateful for her participation on my Academy Selection Committee and as chairperson of the West Florida Academy Selection Committee.

It is easy to see in Lucy a bright light shining, an ever-enthusiastic, never-tiring leader for the good of children, the community, and the State. But I think what has made her career so exemplary is not only the light that shines from within, but her role as a mirror of the change and aspirations of the people and community she serves. Lucy DuCharme has led and has advocated, yet has never forgotten the importance of being a thoughtful listener. And I trust her retirement will be an active one, in which her willing ears and positive counsel will continue to benefit us all.

STATE OF THE STATE ADDRESS OF GOV. GEORGE R. ARIYOSHI

Mr. INOUYE. Mr. President, it is with pride that I rise today to submit for the RECORD, the 12th and last state of the State address delivered by the Governor of the State of Hawaii, the Honorable George R. Ariyoshi.

George Ariyoshi became Acting Governor in 1973 and was elected the third chief executive of the State of Hawaii in 1974. He has served our State as Governor longer than any other person: 13 years. His state of the State address, which he delivered to the joint session of the 13th legislature on January 21, 1986, sets forth a distinguished record for his administration. In his remarks, he details some of his accomplishments and outlines his vision for Hawaii's future. Governor Ariyoshi's record inspires pride, hope, and confidence. I feel certain that there are many other Governors who wish they could make the same claims.

Governor Ariyoshi epitomizes the finest qualities that a person can bring to public office. I am certain that my colleagues in the U.S. Senate will join me and the people of Hawaii in wishing him continued success during his last year in office.

Mr. President, I ask unanimous consent that the full text of Governor's Ariyoshi's 1986 state of the State address be printed in the RECORD.

There being no objection, the address was ordered to be printed in the RECORD, as follows:

GOV. GEORGE R. ARIYOSHI, STATE-OF-THE-STATE ADDRESS

Mr President, Mr. Speaker, Members of the Legislature, distinguished guests, and my fellow citizens:

In the summer of 1787—a hundred and ninety-nine years ago—a remarkable document was created in the City of Philadelphia—the Constitution of the United States. Thinking it up and writing it down was perhaps the most creative political act in history. And just over twenty-five years ago, our own State came into being with a similar document.

Our State Constitution's Preamble says:

"We, the people of Hawaii . . . reserve the right to control our destiny, to nurture the integrity of our people and culture, and to preserve the quality of life that we desire."

And in Article Five, the Constitution says:

". . . The Governor shall, at the beginning of each session . . . give to the legislature information concerning the affairs of the State, and recommend to its consideration such measures as the governor shall deem expedient."

For nearly half the life of our State, I have obeyed this mandate each January. This morning I appear before you to recommend—for the last time—what I deem not only expedient, but also what I think is the right thing for us to do.

The details of what our Administration is proposing this year are in the written Message that will be delivered to each of you. I shall touch upon them in my remarks, but will do so in less detail than in earlier years.

I want to invite you now to step back with me and take a look at the broader picture.

Let us look back beyond the past year, beyond my time as Governor, even beyond the past century. For we are the inheritors not only of what was achieved in 1985; we are the inheritors of the entire past. Abraham Lincoln said that we cannot escape history. It is from the past that we can get a sense of our future potential—as a State, an Island economy, an Island society.

I take this approach in my final State-of-the-State Address because I am convinced that all of us—even in the midst of solving the everyday problems of life, even in the midst of surviving and raising a family—all of us must keep in mind each day the special nature of this place we call home—this place which history has prepared for us.

If you drive down Kapiolani Boulevard during the evening rush hour, you might easily think that you are on Wilshire Boulevard in Los Angeles. For something remarkable has taken place here in the past forty years. The intricate machinery of a complex consumer society has been put together here in our small Islands. We live on the tips of great volcanic mountains that rise up from the floor of the vast Pacific. And we realize more and more that there's not much room here!

The straight-line distance between Kaena Point and Makapuu Point is only 44 miles. And the longest dimension of what we call the Big Island is only 93 miles. There is no place else in the world quite like these fragile Islands. Today they support a resident population of over a million people and welcome five million visitors a year. To make this place work, to make it habitable for future generations as well as for ourselves, we cannot afford to forget that our Island State has limits. On a vast continent, mistakes can be made in the use of land and water. In our Islands, the same mistakes can be fatal. Living together here in the middle of the sea, we need a richer sense of community than is found elsewhere.

The ancient Hawaiian society—a society that had existed for a thousand years before Captain Cook came ashore at the mouth of the Waimea River on Kauai—had such a sense of community. That Polynesian society emphasized ohana, a connectedness, a sharing of resources. Things were not perfect, of course. The common people were controlled by strict laws. The kapu system governed a great portion of everyone's life. And capital punishment was often used in support of that system. But the Hawaiian people were self-sufficient. They provided their own food supply. They were culturally rich and socially stable. Their world was in balance.

Two hundred and eight years ago, when Captain Cook swung open the door to the Sandwich Islands—as he called them—everything changed. He and those who followed him brought a new and strange world to Hawaii, and these Islands would never be the same again. Along with a new religion, they brought the energetic mercantile traditions of Europe and America. And we are still living today with the effects of Cook's arrival.

During the middle of the 19th century, the people of our Islands experienced innovation and confusion, success and failure, and political turmoil. And they faced a basic question:

"How can we survive as part of the modern world?"

Today, we in Hawaii are still facing the same question.

The early solution was to survive on the basis of successive single economies. At first it was sandalwood, and when that ran out, it was whaling, then ranching, then sugar.

By the turn of the century Hawaii's new political, economic, and social structure was well established. It was in the year 1901 that James Dole borrowed the money to plant his first pineapple field out near Wahiawa.

The structure was pretty simple. After Annexation, the plantation economy was based on sugar, and later pineapple. Politics and social status were dominated by the "Big Five" and their families. Old Hawaiian traditions had faded into the background, and the tiny seaport of Honolulu was the center of business and trade.

This was another time of apparent social stability and economic consolidation. But the benefits came at a high price.

The vast majority of Islanders had little political freedom—and little opportunity for economic or social mobility. A handful of people in power made the decisions and reaped the rewards. And that's the way it was for fifty years.

At the end of World War II came the next big change. I was privileged to help in a modest way in contributing to that change. Had it not come, I would not be standing here today.

When Jack Burns urged me to run for the Territorial Legislature back in 1954, it was with the conviction that we could change things for Hawaii's people. With our party gaining in strength, there was a chance not merely to change the political players in the game, but also to bring new opportunities to more people; to build a more decent and equitable society. Indeed, if we took office and did not do these things, we would be guilty of exactly what we were complaining about.

So there it was: a chance to make democracy a reality; a chance for people to realize their best potential in getting a job and get-

ting ahead; a chance for almost everybody to contribute to the well-being of our Islands. We knew that it would not be easy. There are many reasons why people do not get ahead in life at the same rate—why some are more successful than others. But if we could make everyone feel at home here—if we could make the government fair—then we knew we would be on the right track. And for more than 30 years, that's the track we've been on.

No one person, no one administration, and no one political party can take all the credit for the constructive evolution of these years. Once it got started, it gained its own momentum, and the legislative accomplishments between 1954 and the mid-1970's were remarkable.

In addition to establishing the efficient structure of the State Government itself, the Legislature passed bills for tax reform; for critically important land-use reform; for greatly increased support for education at all levels; and for increased home rule for the Counties. It also passed better laws to benefit our working people.

Ralph Waldo Emerson once wrote that "the height of the pinnacle is determined by the breadth of the base." These were the years when, working together, we broadened the base of Hawaiian life.

As I came into office as your Governor, my fundamental aim was to continue this opening-up process. In my Inaugural Address in 1974, I put it this way:

"Whatever the challenge, we will at least try. I would rather try and err honestly than be faulted for failing to meet a challenge. To all those who would join in our endeavors, I want you to dare, to be imaginative, to be creative." But I also said this in the same address: "In this Administration, we will speak of our efforts and our successes. But we will also speak of our disappointments and setbacks."

As in all endeavors, there have been disappointments and setbacks. Some stand out more clearly than others in my mind:

We are today nowhere near as active a place for international trade as we have wanted to become.

The fact that H-3 has not yet been built is a disappointment to this Administration—and to thousands of commuters, as well.

We have worked for years to establish a general aviation airport on Oahu, but it still eludes us.

We have built new correctional facilities in each County in the effort to foster rehabilitation. However, with an inmate population that has grown from 300 to more than 1,800 in the last 12 years, we are hard-pressed just to find room for all these offenders.

Yet over the years there have been many achievements along with the setbacks. Before I touch on them, however, let me say that nobody knows better than I that the achievements have been made by working with the Legislature, not against it.

As I look out across this Chamber, I see my political friends and colleagues of a lifetime. As the issues have come and gone, you have been with me in some and against me on others—but we have remained colleagues. There are 76 of you. You represent your own areas—and each area has its own needs. Yet you work in the end as a whole. Only through the consent of a majority in each House can a bill become law. It is in the Legislature that the tensions between the needs of the individual and the needs of the whole community are addressed and resolved.

When that great Democratic President, Franklin D. Roosevelt, was campaigning for his first re-election exactly fifty years ago, he went home to vote in Hyde Park—a little town on the Hudson River in New York. On the night before the election, he spoke to his neighbors from the front porch of his house, and he said this:

"We Americans have had to put up with a good many things in the course of our history. But the only rule we have ever put up with is the rule of the majority. And that is the only rule we will ever put up with. If we spell the word with a small 'd,' we are all democrats."

Here then are some of the accomplishments that, working together, we have achieved in the past few years in Hawaii:

ALTERNATE ENERGY

We have today a worldwide reputation as a leading center of research, development and use of renewable energy resources. Our pioneering work will be proven even more important whenever our oil supply is cut off for any reason—or when the oil finally dwindles away entirely.

DIVERSIFIED AGRICULTURE

Its growth has been incredible. In ten years, the value of Hawaii's diversified ag products has tripled to more than two hundred million dollars a year. The State's leadership in developing agricultural parks, in supporting research, financing, marketing, and export promotions, has contributed significantly to this growth.

AQUACULTURE

Although we have had some setbacks, aquaculture has come in one decade from being just a dream to being one of our State's fastest-growing and most profitable industries. Today, we have 47 aquafarms, and 18 more are on the drawing boards.

HAWAIIAN HOME LANDS

By the end of 1986 we will have made more awards of Hawaiian home lands in the past 12 years than were made in all of the prior Administrations, beginning with Wallace Rider Farrington's Administration back in the 1920's. The thousand lots distributed in 1985 alone exceeds by far the distribution for any earlier year—and an additional fifteen hundred lots will be offered during this fiscal year.

FRESH WATER SUPPLIES

Like our land, our supplies of fresh water are limited. We have given the highest priority to our search for new water sources, and we have had considerable success. In the future, it is clear that we shall have to turn to the sea and our coastal waters for our drinking water. We are preparing for that. We have done something equally important by conserving the water resources we do have. Some years ago there was a risk of over-pumping the Pearl Harbor aquifer as a short-term solution to increased demand. Your government would not allow the most valuable aquifer on Oahu to be endangered in such a way.

IMPROVEMENTS IN EDUCATION

This Administration has been committed irrevocably to quality in education. Sixty-two percent of the discretionary money of our State General Fund goes to the Department of Education and the University of Hawaii. We are also committed to the goal that very classroom session—at every level of learning—will attain the hghest possible standards. The amount we spend on educaton is certainly important. But how we spend it—and what improvements in quality we get—are issues of equal importance. We want to make sure that every dollar we spend firmly supports the learning process itself.

SUPPORT FOR TOURISM

In 1975, we set up the State Tourism Office thus beginning a decade of unqualified support—both direct and indirect—for our leading industry. We have helped the Hawaii Visitors Bureau expand its capabilities. We have helped increase the number of foreign visitors to Hawaii—and they add impressively to the total number of tourists. In the past year, we welcomed close to five million visitors.

FACILITIES

We have been constantly improving the physical facilities of the State—the infrastructure that makes life easier for everybody.

There is a new campus for Kauai Community College.

The Fort Ruger campus of Kapiolani Community College has also been built.

We renovated and consolidated the colleges in Hilo and made major improvements throughout the University system.

H-2 is complete today.

There are new hospitals in Hilo and Kona, and others elsewhere have been extensively improved.

We established a brand new harbor at Barbers Point, and made major improvements to commercial and recreational harbors across the State.

We have built gymnasiums and new classrooms and libraries, and improved our airports. Our Honolulu International Airport is one of the finest in the world.

NEW STATE PARKS

Since 1974, we have added 8,000 acres to our parks, spending almost one hundred million dollars to secure these priceless lands for our present and future generations.

GOVERNMENT FINANCE

Due to our firm fiscal policy, this Administration has never presided over a State deficit. Federal budget policies of the 1980's meant very difficult times for every State in the Nation. Most States had to increase taxes or make massive expenditure cuts including layoffs, or both. In Hawaii, we have not increased general fund taxes. We were even able to give rebates to our taxpayers. There have been no significant layoffs of civil service workers. We have always stayed within the spending ceiling set by our State Constitution. I share your pride in these accomplishments.

JOBS AND THE ECONOMY

When I became Governor in 1974, Hawaii's unemployment rate was well above the national average. Since then, it has generally been below that average. Even in the 1980's, when our nation suffered its worst recession since the Great Depression, Hawaii's unemployment rate was several percentage points below that of the country as a whole. And this has occurred in a State with a population growth rate significantly higher than those of other States.

Complementing our economic growth, our training programs have produced a quality labor force. Hawaii's workers have taken full advantage of the opportunities available—and have contributed in this way to our low rate of unemployment.

NEW INDUSTRIES

New industries in Hawaii rarely become major ones overnight. Sugar took many

years, and tourism took time to reach its present success. But for both of these someone began the work. In the past twelve years, we have either begun work on new industries, or nurtured along some seedlings. Diversified agriculture, biotechnology, aquaculture, film production, and energy resources development have all sprouted and are growing nicely. Even astronomy is now a growth industry in Hawaii, which has become a world leader in this field.

This process of seeding an economic forest should not be undertaken sporadically. It needs to be an ongoing process. In the future, we should continue to foster the development of our ocean resources and of high technology appropriate to Hawaii.

In looking at what we have done, and at the new things we can do in the future, it becomes clear that our citizens have more options than ever before. And where once there may have been, as my predecessor put it, "a subtle sense of inferiority" in our people, we have tried to overcome that, so that all might have the confidence to succeed. The job is not complete, but we are on the right track.

There is a unifying thread that runs through this list of achievements. The word is "improvement." Our Hawaii State Plan encourages each person to strive to improve the conditions of his or her own life. We have wanted to help people help themselves. Admiral Chester W. Nimitz, who ran the wartime Pacific Fleet from his headquarters at Makalapa, once said:

"If you need a helping hand, you can always find one right there at the end of your arm."

There are, of course, those who say that we might have accomplished more. I agree. But no one is prouder of what we have accomplished than I am. And no one is clearer about what yet needs to be done.

Our Administration will bring many issues before you. Let me list just four of them now:

First, right down to our last day in office, industrial diversification and economic growth will be at the top of our list—just as it will be for you this Session. Each of us will be taking action and making decisions on this issue.

We will be counseled by some that our decisions must be to do whatever is necessary to meet today's problems. But let me emphasize that we cannot afford to look simply at the short term. We must always be aware of what impact today's decisions will have on tomorrow's Hawaii.

Economic development does not have to mean that we abandon all restraint. Indeed, in a small Island State such as ours, economic development means we cannot abandon restraint. If we are to control our own destinies, if we are to leave a richer legacy for future generations, we must exercise responsible control and use common sense and the wisdom we have gained through our own experiences, to regulate wisely land use, water, waste, and our limited resources. Our desire to control our own destinies is realized through what I would call "collective self-discipline." If we don't achieve it, these valuable resources will be squandered—and the heritage we leave will be a sad one.

For example, I was disappointed that the Federal government wanted to sell Fort DeRussy to help pay for its operational expenses. What would be gained in the Federal treasury is nothing compared to what would be lost in Hawaii. And for the same reason, I am concerned about the City and County of Honolulu's apparent interest in selling some of its lands for a single year's budget needs.

Let us make decisions that will give us the best use of the resources we have—for today and for the future.

My second issue: In past years, we have become quite adept at marketing Hawaii as a place to visit. Now we must turn these selling skills to making Hawaii more adept at marketing our expanding list of products and services. In addition to agricultural products, we should increase the export of our high-level professional skills, and sophisticated manufactured items. There is much more that we can do.

My third issue: Down to our last day in office, we shall continue to urge participation and leadership in the affairs of the dynamic Pacific Basin.

If you take a globe of the earth and hold it in your hands so that you are looking down directly on Pitcairn Island, you will notice something surprising as you look around the edge of that globe. Except for a sliver of Mexico, you cannot see any continental land at all! All you can see is the vast Pacific—dotted with tiny islands. Viewed from this perspective, the Pacific seems to cover half the earth!

Well, this is our ocean! Not in a legal sense, but it is our ocean in the sense that it presents enormous opportunities to Hawaii.

Over the past few years, the people of Hawaii have become more and more aware of what is happening in the Pacific. There are significant developments in trade, science, and technology. Because of historic and cultural ties to many parts of this vast region, we have a unique mixture of Asian, Polynesian, and Western traditions. Yet to play our larger and rightful role in the region, we must now go beyond being simply a multi-cultural society. We need to become even more international. We need to make a greater effort to speak the languages of the Pacific region, and to supply the goods and services needed by the people of this immense territory.

Even though specific opportunities may not be immediately clear, our Administration will urge expanded Pacific interchange, through organizations like the Pacific Islands Conference, the East-West Center, the Pacific Basin Development Council, and our own non-profit corporation formed last year, PICHTR—the Pacific International Center for High Technology Research. The future of these organizations is bright, and we must offer them continuous support. Hawaii has a head start over other parts of our country in perceiving the potentials of the "New Pacific." We must retain that lead.

My fourth issue: Down to our last day in office, we shall continue to stay in touch with the human side of things—particularly as we work to give our young people the best start in life.

Our responsibility begins with their education. I have indicated that we spend great sums of money on education. How we allocate that money will continue to be critical. Ours is a good system today. More students are learning more than ever. Yet we can do even better. The link between the student and teacher remains pivotal. We must provide new forms of support for the classroom teachers who desire to do an ever better job of teaching. We must also be certain that our schools can open practical doors of opportunity to the working world as well as to the world of higher education.

Our University of Hawaii is a source of learning and a beacon of hope for our young citizens. Even as it trains a student for a specific vocation, it also invites that person to consider the broader spectrum of human experience. At the University, our young people are challenged by history's noblest men and women who have contributed in wonderful ways to our civilization. Our University invites our youth to explore the depths of the human mind and heart, as well as the mysteries of our vast oceans and the infinity of outer space. They must be well prepared to lead Hawaii in this New Pacific Age.

But it is not only in formal education that we have this responsibility to our young people. It also extends to the media, to the business world, and indeed to the very way that we conduct our own lives each day.

If we are responsible, our young people will come to appreciate the past—to appreciate, for example, the immigrant experience that began centuries ago with the original voyages of unknown Polynesian pioneers. Hokule'a's Voyages of Rediscovery, having proved the navigational skills of the distant past, have been an outstanding example of the non-formal educational process.

If we are responsible, our young people will come to understand a citizen's right to constructively criticize his or her community—and also the obligation to pitch in with time and talent and energy on a specific community effort.

If we are responsible, and if we are enthusiastic about our future, then our children will be, too.

Abraham Lincoln said this about children:

"A child is a person who is going to carry on what you have started. You may adopt all the policies you please, but how they are carried out depends on the children. They will assume control of your cities, states, and nations. They will move in and take over your churches, schools, universities, and corporations. The fate of humanity is in their hands."

I realize that this is a formal legislative occasion, but I trust that as I near the end of this address, you will grant me the time to make a few personal reflections about this job that I have held for so long—and about the process of which it is a part.

Over the years, hundreds—thousands—of people have come to me complaining about our political process. They say that—it involves too much argument, it moves too slowly, it interferes too much in their lives, it doesn't do enough, it tries to do too much!

These perceptions are not altogether inaccurate, but I think they may arise because many people do not understand the basic nature of the kind of government we are living under.

Unlike the workings of the private sector of our society, which searches always for a clear, immediate, and hopefully profitable final result, the democratic process never quite arrives at the final result. The give and take of the political system creates a kind of uncertainty. To get the benefits of the freedom it confers, we must live with contributions and criticisms from a thousand sources. And we are always asking the important question:

"Shall we change things or shall we leave things as they are?"

By contrast, from a dictator or tyrant we would always get a clear, quick answer—but we couldn't do anything about it if it wasn't the answer we wanted.

As a public servant, how does one get anything done at all in the midst of so many conflicting ideas? Well, I'll tell you. Our next Governor—whoever he or she may be—

may follow a different path, of course, but this has been my way:

When people come to me with a complaint or a proposal, I have been willing to listen carefully. I have always asked questions so their aim or their problem becomes clear to me. I have tried to consider the needs of all who might be affected by what they propose—to think of the whole, rather than just the part.

I have tried to respect the opinions of others, even when they have collided directly with my own. As you know, I have tended to stand firm especially in unpopular decisions, when I have felt that such decisions would clearly benefit the State. In working toward any decision, I have always been more impressed by what I see as the value of an idea than by the number of people supporting it. And finally, I have always tried in this process to envision the future as well as remember the past.

There is, however, a stabilizing factor in the midst of all this dynamic give and take. I have found that most people are good at heart. Most people want to do the right thing—when they can define what it is. And being citizens of Hawaii has helped them to define it, for here we have a political process unique in all the world.

We have the powerful drive of free enterprise.

We have the fairness of democracy.

And we have the tempering, humane note of the Aloha spirit. No other State has this special spirit. And though it has been severely tested at times, it has never been extinguished. It is alive today, just as it was back in 1854 when Kamehameha the Fourth ascended the throne of the Kingdom of Hawaii and said this:

"To be kind and generous to the foreigner, to trust and confide in him, is no new thing in the history of our race. I therefore say to the foreigner that he is welcome. But the duties that we owe to each other are reciprocal."

Thus Hawaii began in generosity, and my feeling—after spending over half my life in public service in my native State—is that Hawaii will continue in generosity. For it is generosity that helps create a sense of community and of shared opportunity. We must continue to create this sense of shared opportunity—as newcomers arrive, as new ideas have their impact, and as the past recedes beyond memory.

If indeed we can find a little time each day to actually do what it says in our Constitution—to control our destiny, to nurture the integrity of our people, to preserve the quality of life that we desire—then all will be well in the Aloha State.

Blessed by Divine Providence and a beautiful nature, we shall have fashioned a decent and durable society—a society that can perhaps exert a modest influence in calming the awful winds of fury that blow each day across so many places in this world.

We will be a useful example—the symbol and the reality of a community that is dynamic and humane—a place of peace and progress, a place of harmony and hope.

Mahalo and Aloha.

SOUTHIE SUCCESS STORY

Mr. KENNEDY. Mr. President, a recent article in the Boston Globe praises my longtime friend and constituent Tom McIntyre as a man who gets the job done.

Tom, who lives and works in South Boston, is the international vice president of Local No. 3 of the Bricklayers Union. He is known for his "can do" attitude and his direct approach to any issue or problem. But more importantly, he is known for his unflagging support and loyalty to his friends from all walks of life. All you have to do is join him for a sandwich and a beer at Amrhein's on West Broadway and you know that here is a man you want on your side.

For those folks who have grown up on Andrew Square, off Dorchester Street, who have married and raised children there, Tom McIntyre is in their corner. As the Boston Globe story of November 24, 1985, shows, Tom McIntyre has worked to provide affordable housing for many young families during a time when inflation has put housing out of reach. During a time of high unemployment for union members in the construction trades, Tom McIntyre has created jobs. This is a man who gets things done. I am proud to call him my friend.

I ask unanimous consent that David B. Wilson's article from the Boston Globe of November 24, 1985, be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Boston Globe, Nov. 24, 1985]

BARGAIN HOUSES—NO SPECULATORS NEED APPLY

(David B. Wilson)

SOUTH BOSTON.—New, archtct-dsgn, brick frnt, 2br town houses, Pkng, off Xway 6 mins to Park Street, walk to beach, $68,900, Bricklayers & Laborers Non-Profit Housing Co. Inc.

No such ad will appear in the Globe because, by spring, when the BLNPHC is ready to sell these 18, sunny, special places, the word will be around and they will all be taken.

And if you don't live in the neighborhood—that's the key word—of Andrew Square, forget it. Tom McIntyre didn't lay up all that brick for yuppie speculators. He did it for what he calls "the two-dollar bettors."

You do not mess with Tom McIntyre. He is international vice president of Local No. 3 of the Bricklayers Union. You do not get to be that and stay that by avoiding or losing fights. He is Mission Hill Irish, silver-haired, black-browed, tough, decisive, the kind of man other men will follow. He also is an idealist with a creative imagination, language to which he would no doubt object.

Like the wheel, great ideas are simple. McIntyre's was, is, this: Boston is desperately short of housing. Housing costs too much because land costs too much. People can't afford to live where they grew up, formed families. The city owns a lot of land, abandoned schools, burn-outs, tax-title takings, vacant lots strewn with rubble and broken glass, going to waste.

The way to produce housing that neighborhood people can afford is to build it on city land conveyed for $1 to a nonprofit developer. A bank that enjoyed the union's pension business ought to be interested in financing. Union craftsmen, paid scale, working for a union-backed outfit, could do the work. And the buyers would get a double discount—the land cost and the developer's profit.

This is pretty radical stuff, you know. No federal funds. No limited partnerships. No sales commissions. No syndicated tax shelters. No complex gimmickry, publicity campaign, extended planning procedures, environmentalist tedium, hearings, seminars, workshops, committees, reviews. Just do it. But you need an architect.

Bill Rawn is an architect. Matter of fact, he is The Architect in Tracy Kidder's best seller, "House." Through Ed Lashman, a mutual friend, McIntyre found Rawn. One night last January they had dinner at Amrhein's on West Broadway and discovered that they liked each other's style and ideas.

It helped—a lot—that McIntyre had been with Ray Flynn early in the 1983 election. It helped that Arthur Cola and Pat Walsh of the Laborers Union were willing to get aboard. It helped that Billy Bulger had gone to the Andrew School. It helped that Dave Mirabassi was willing to take charge as general contractor and that attorney Valerie Swett was fascinated by the legal issues.

Bill Rawn delivered plans a month after the Amrhein's dinner. A month later, McIntyre had cost estimates from Mirabassi. In May, the city issued requests for proposals for the old Andrew School site. In June, to the surprise of almost no one, the BLNPHC was chosen. It took title in August and broke ground Sept. 9. In May, people will be living in the houses.

Boston is not supposed to work that way. In Boston, people love to fight, brood upon ancient wrongs, to chew over issues, to debate important principles, to punish and reward old foes and friends, to convene and consult and pick nits. Instead, Tom McIntyre, the Mission Hill kid, and Bill Rawn, the post-modernist 1 Yalie, Harvard Law graduate and oncoming national celebrity, and their friends, went out and built 18 houses.

You can see them today, framed in and rough-plumbed, their bay windows shining out on Dorchester street, with the fine, clean smell of new lumber blending with the sour scent of mortar. It is the fragrance of progress and growth. Thousands of empty lots in this city could use a little of it.

Valerie Swett has written deed restrictions designed to prevent speculation, and she thinks they will work. The houses, of course, are worth on the open market two to three times their expected price.

Tom McIntyre may have discovered a no-lose game. The union gets work and jobs for apprentices and badly needed public relations. The neighborhood gets some protection against gentrification. A development model has been established. Ray Flynn looks great. The city gets taxes and neighborhood stability. Bill Rawn gets an exciting commission. Valerie Swett breaks new ground in her profession. And people get places to live. Each new unit, just about, creates a corresponding vacancy.

If it all does not work out exactly as planned, well, somebody tried. Right away. Now. Tom McIntyre's way.

AN INVITATION TO MR. GORBACHEV

Mr. PELL. Mr. President, sometime this year the leader of the Soviet Union, Mikhail Gorbachev, will visit

Washington for a summit meeting with President Reagan.

In this regard the senior Senator from West Virginia, our distinguished Democratic leader, has proposed in a speech to the Senate earlier today that Mr. Gorbachev be invited to address a joint meeting of Congress. Such an address, of course, would certainly be carried on all the American networks and would provide Mr. Gorbachev an unparalleled opportunity to take his country's case to the American people.

Senator BYRD would attach two conditions to this invitation; first, that President Reagan be invited to address a joint meeting of Congress prior to, or following, the Gorbachev address; and second, that President Reagan's speech be carried live and in its entirety on Soviet television.

The proposal of the Senator from West Virginia is an innovative and extremely constructive one. The people of each country would get an opportunity to understand the positions and perspectives of the other. I would hope such understanding will lead to a more peaceful environment and will stimulate public pressure in both countries for a prompt and successful conclusion to the arms control negotiations.

Mr. President, I urge the President and the Speaker, in consultation with the rest of the leadership of the two Houses, to move forward with Senator BYRD's proposal.

UPDATE ON RADIATION EXPOSURE ISSUES

Mr. CRANSTON. Mr. President, as many of my colleagues are aware, the General Accounting Office [GAO] in November 1985 completed a review that I requested be done of certain issues concerning radiation safety measures during the 1946 Pacific nuclear weapons test series, Operation Crossroads. The findings of this study, entitled "Operation Crossroads: Personnel Radiation Exposure Estimates Should be Improved," are both significant and of vital interest not only to the Congress but to the public at large.

THE GAO REPORT ON OPERATION CROSSROADS

I believe that there has been no more important document regarding radiation safety activities of the U.S. Atmospheric Nuclear Weapons Test Program than this November 8, 1985, GAO report. Thus, I want to provide an update on this review and the related followup work.

A consistent theme that has generally punctuated Federal Government statements on the issue of possible exposure to radiation as a result of the Nuclear Test Program has been that there is no need for any action because few if any of the veterans involved in the Atmospheric Nuclear Weapons Test Program or with the occupation of Japan after World War II were exposed to other than very low levels of radiation and such levels are not thought to be a potential cause of harm.

The recent GAO report, although it does not purport to establish or estimate any specific exposure levels for veterans who were present at Operation Crossroads, casts significant doubt on the assertions by the Defense Department that the only exposures were to low-level radiation. This report—produced by an entity with no stake in the underlying issue—creates, I believe, a strong mandate for further action to sort out the question of the actual exposure experience at Operation Crossroads—and to apply the learning from that effort to other nuclear blast exposures.

Pursuing study such as that conducted by the GAO is particularly important because the Veterans' Administration [VA] has relied on the Department of Defense [DOD] radiation exposure estimates, calculated by the DOD's Defense Nuclear Agency [DNA], for denying veterans' compensation claims. According to the VA, approximately 500 veterans have claimed injury due to radiation exposure during Operation Crossroads. None of these claims have been approved.

Altogether, an estimated 220,000 military personnel participated in 19 peacetime atmospheric nuclear weapons test operations in which a total of 235 nuclear bombs were detonated. Operation Crossroads, conducted in the Pacific Bikini Island lagoon, was the first such test. Two nuclear bomb detonations were set off there, Shot Able, an atmospheric test, on July 1 and Shot Baker, which was detonated underwater on July 25, 1946.

After completion of the Operation Crossroads study, GAO officials estimated that 41 percent of the 42,000 Crossroads participants—approximately 17,000 people—probably received heavier radiation dosages than previously assumed. The GAO report concluded that the highest risk for exposure was among military personnel who tried to decontaminate the target ships following Test Baker, along with personnel who retrieved those ships and crews who boarded submarines which had resurfaced through the highly radioactive water. About 70 of the 80 Test Baker target ships were eventually sunk "because they were not considered fit for continued use or decontamination proved unsuccessful."

Among the most significant findings of the GAO's review were that:

First. Only 6,300 of the participants in the Operation Crossroads test series—15 percent of the total—wore film badges designed to detect radiation exposure. To make matters worse, the DNA's radiation exposure estimates "made no allowance for inaccuracies" in the film or its processing. The GAO noted that, while the "DNA acknowledges that the recorded film badge readings would have an overall inaccuracy of approximately 30 percent," tests by the National Bureau of Standards suggest that actual exposure could have been twice the amount indicated.

Second. The DNA's estimate of radiation exposure did not take into account the possibility that "personnel may have retained radioactivity on their bodies and clothes." The GAO believes this possibility exists because decontamination procedures were only evolving at Operation Crossroads. The GAO pointed out, for example, that the earliest evidence it found that military personnel were being required to shower or change clothes after returning from contaminated target ships "was in procedures issued on July 31, 6 days after the second detonation." Moreover, even after comprehensive decontamination guidelines were issued, the GAO found that "some violations were reported. Thus, Crossroads participants were probably exposed to more radiation than accounted for by DNA."

Third. The DNA study did not adequately measure internal radiation exposure. For example, it may have underestimated "by a factor of from 5 to 10" the exposure to alpha rays from inhaling radioactive materials, according to the GAO. The DNA also did not consider the possibility of radiation exposure from ingestion and open wounds. The DNA, "believed, incorrectly, a prohibition against food consumption aboard target ships effectively precluded ingestion," the GAO reported. Additionally, DNA "did not know how to calculate for open wounds."

SPECIFIC FOLLOWUP ACTIONS

In view of the many controversies raised by the GAO study, I have taken or will be taking the following steps regarding radiation exposure in the U.S. nuclear weapons test program:

I requested that the Veterans' Affairs Committee conduct a hearing to investigate the findings of the GAO report and to define more precisely the issued relating to Operations Crossroads which need to be resolved. On December 11, the committee held such a hearing during which the members heard from both GAO and DNA, as well as number of individuals who were at Operation Crossroads.

In a November 16, 1985, letter to the Comptroller General, I have asked GAO to do a followup study, focusing on a later nuclear test, as yet unselected, conducted at the Nevada test site in the midfifties, to address the question of whether there were improvements in the safety, personnel monitoring, and decontamination proce-

dures and practices during the course of the atmospheric nuclear test program after Operation Crossroads and, if so, to what extent and generally at what point did such improvement occur. The Comptroller General has agreed to do this followup and has assigned it for action.

In view of allegations that certain Air Force veterans were exposed to radiation as a result of their being in aircraft that were flown through the mushroom clouds which followed certain nuclear detonations in Operation Redwing, I requested GAO to investigate this issue as well as any other issues that arise in the course of investigation with respect to manned planes flying through post-blast nuclear clouds. Specifically, in my November 15, 1985, letter to the Comptroller General, I asked GAO to provide its views on the extent of exposure to radiation experienced by the Operation Redwing plane and plane maintenance crews, whether other individuals were similarly exposed during other detonations and whether the DOD or other governmental entity or any entity acting for the Federal Government has made any attempt to follow these individuals so as to monitor their health status.

In a December 4, 1985, letter, I requested Defense Secretary Weinberger, in consultation with GAO, to arrange for a new, independent review of Operation Crossroads, taking into account the findings and recommendations in the GAO report. With reference to this request, I do not question the integrity of the individuals involved in the DNA efforts. I do believe, however, that the GAO report raised questions of such a degree about the results of those efforts as to require a new review to be carried out and to be carried out by an entity not connected with DNA or with any other reconstruction effort.

I also asked the President to carry out his statutory responsibility, under section 601(c) of Public Law 98-160, to see that such objective work is done on this issue. Without such a review, we will be left with the DNA's views on the one hand and GAO's on the other with no way to reconcile them. That is not a satisfactory result. So, the ball is now in the President's court to bring about a satisfactory resolution of the impasse.

I will be following up with the VA regarding that agency's plans for handling claims for benefits based on a veteran's presence at Operation Crossroads. I congratulate the VA for the generally constructive views the agency expressed to GAO on a draft of the report.

I will continue to pursue diligently getting the Government to carry out scientifically valid study of the health of veterans exposed to radiation, as was mandated in a 1983 law I authored—section 601 of Public Law 98-160. That decision is now pending with VA Administrator Walters. Among other alternatives, one option I have raised with Administrator Walters in a July 24, 1985, letter, and again in a letter of January 21, 1986, was the possibility of making a specific study of veterans who are present of Crossroads. In light of the GAO report, I am pressing ahead with that suggestion.

In January 21, 1986, letters to Dr. Frank Press, Chairman of the National Research Council [NRC], and to Administrator Walters, I have urged follow-up study with regard to the NRC's May 1985 report, entitled "Mortality of Nuclear Weapons Test Participants." Specificially, I urged that, in order to validate the NRC's findings: First, the accuracy of data from the VA's beneficiary identification and records locator subsystem [BIRLS], which was used for identifying deceased veterans for this study, should be verified in light of 1981 changes in veterans' entitlement to VA burial allowances; and second, the NRC should consider the need for comparing the mortality data for nuclear weapons test participants with a similar cohort of other former military personnel, rather than with the general U.S. population which includes individuals whose basic health status may have excluded them from entry into military service, so as to control the results for the so-called healthy soldier effect in the NRC study.

I will continue to assist individual veterans and their survivors who are seeking VA benefits, either from exposure at Operation Crossroads or from some other nuclear blast. On this point, I note that the extension which I proposed, in introducing S. 6 a year ago, of the Public Law 97-72 healthcare eligibility for veterans exposed to radiation has now been enacted in Public Law 99-166. That authority will now run through September 30, 1989, the end of fiscal year 1989.

MANY VALUABLE CONTRIBUTIONS

Mr. President, in closing, I want to congratulate the GAO for a job well done on this report, especially the very thorough and careful work of Mr. Robert J. Baney, the project manager for this review.

I also want to note the work of many others who, in one way or another, contributed to bringing Operation Crossroads to the fore for a reexamination, beginning with the late Dr. Stafford Warren whose papers were the starting point for the inquiry. As an Army colonel, Dr. Warren headed a team of 400 physicians, nurses, paramedics, and technicians who were responsible for monitoring safety precautions and radiation exposure at Operation Crossroads. Earlier, Dr. Warren had been in charge of radiation safety on the Manhattan project, which developed the atomic bomb, and it was he who recommended the sudden halt to Operation Crossroads before all planned actions were complete. I note also the work of Dr. Robert Ruffvold, who called attention to the presence of Dr. Warren's papers at the UCLA Library, Dr. Dorothy Legarreta of the National Association of Radiation Survivors, who traveled to Los Angeles to review the material, Anthony Guarisco, who, with his wife, Mary, spent a number of weeks at UCLA cataloging the material, and Dr. Arjun Makhijani and David Albright, who prepared an analysis of Operation Crossroads based on the Warren papers.

CONCLUSION

Mr. President, I believe very strongly that this past year has brought to light some highly significant findings and developments in the effort to better understand the possible adverse health effects from veterans' exposure to ionizing radiation in the Atmospheric Nuclear Weapons Test Program. Many questions remain to be answered, and I look forward to working together to resolve some of these questions with the chairman, Senator MURKOWSKI, and other members of the Veterans' Affairs Committee, as well as with my good friend from Illinois, Senator SIMON, whose bill, S. 707—the proposed Atomic Veterans Relief Act of 1985—is now pending before the committee. I also look forward to continuing my efforts, in cooperation with my other colleagues here in the Senate, Members of the House of Representatives, the scientific community, veterans' organizations, and the many concerned veterans and other individuals across the Nation, to gain this greater understanding and effectively address these important issues.

Mr. President, I ask unanimous consent that my November 15 letter to the Comptroller General, as well as my December 4 letters to Secretary Weinberger, President Reagan, and VA Administrator Walters, all regarding followup study to the GAO's findings, along with my July 24 letter to Administrator Walters, and his August 26 response, and my January 21, 1986, letters to him and Dr. Frank Press, Chairman of the National Research Council, all regarding health-effect studies on nuclear test participants, be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
COMMITTEE ON VETERANS' AFFAIRS,
Washington, DC, November 15, 1985.

Hon. CHARLES A. BOWSHER,
Comptroller General of the United States, General Accounting Office, Washington, DC.

DEAR CHARLES: As the Ranking Minority Member of the Veterans' Affairs Commit-

tee, I am writing to you in connection with the GAO report—Operation Crossroads: Personnel Radiation Exposure Estimates Should Be Improved (GAO/RCED-86-15)—which you recently completed and transmitted to me.

First, I want to express my appreciation for the high quality of the report—it is in the best traditions of GAO. The project manager responsible for this report, Mr. Robert J. Baney, should be highly commended for the very thorough, very professional job that he did on this project. I ask that you convey to Mr. Baney and the other GAO employees who worked on this report my sincere congratulations for a job very well done and that a copy of this letter be placed in Mr. Baney's personnel file.

As you know, this report concludes that there are many significant questions about the adequacy of the safety procedures which were in place during Operation Crossroads and also about the degree to which the Defense Nuclear Agency (DNA) has estimated that personnel participating in that operation were exposed to radiation. In view of these important questions and DNA's disagreement with many of the findings in the report, I believe that there is a need for follow-up activity. Therefore, in my Committee capacity, I am requesting that you assign appropriate personnel to continue this project so as to provide me with a report or reports in response to the following questions:

1. Is there a basis for concluding that the safety precautions improved during the course of the atmospheric nuclear test program and, if so, to what extent and generally at what point? In addressing these questions, please select for study and evaluation a nuclear test that was carried out at the Nevada Test Site at a time sufficiently removed from Operation Crossroads so that the changes in safety procedures, if any, would be in place. (Specifically, please consider the possibility of studying Shot HOOD or Shot SMOKY in 1957.) Also in answering this question, please comment specifically on any changes in personnel monitoring procedures and decontamination procedures.

2. In view of the findings in your report, do you recommend that the regulations issued by the Veterans' Administration in accordance with Public Law 98-542 be changed in any way, either with reference to Operation Crossroads or to all nuclear tests or otherwise?

3. In further view of those findings, do you recommend that the regulations issued by the Department of Defense in accordance with section 7 of Public Law 98-542 be changed in any way?

4. A. What do you estimate would be the cost if DNA were to implement fully your recommendation that the "Crossroads participants exposure estimates" be adjusted so as to take into account the various exposure factors identified in the report (on pages 55 and 56).

B. In this regard, the VA, in its advance comments on this report, which were set out in an August 26, 1985, letter from Deputy Administrator of Veterans' Affairs Everett Alvarez (reprinted on pages 68 and 69 of the report), noted that "[w]hile GAO recommends revised methods of calculating radiation exposure levels for Crossroads participants, it appears that this new methodology should also be applied to participants in all atmospheric nuclear tests." What do you estimate would be the cost of such a global effort?

C. Is there any feasible way that an entity other than DNA could be the agent for applying the new methodology, in order to lend the appearance of greater objectivity given DNA's adamant resistance to the GAO analysis and recommendations?

5. In light of all the information gathered in the course of preparing your report, please prepare a series of "worst-case scenarios" in terms of possible levels of exposure for service personnel who were present at Operation Crossroads throughout the operation and who participated in decontamination efforts on target ships?

In a related matter, a report was made public last week concerning certain Air Force veterans' exposure to radiation as a result of their being in aircraft that were flown through the mushroom clouds which followed certain nuclear detonations in Operation Redwing. I am enclosing a copy of that report which also includes a Department of Defense document—Preliminary Report, Operation Redwing, Early Cloud Penetrations, issued by Headquarters Field Command, Armed Forces Special Weapons Project, Sandia Base, Albuquerque, N.M.—on this matter. As part of your response to this followup letter, I request that your office investigate this issue, as well as any issues that arise in the course of this investigation with respect to manned planes flying through post-blast nuclear clouds, and report your findings to me. I am particularly interested in learning your views on the extent of the exposure to radiation experienced by the Operation Redwing plane crews, whether other individuals were similarly exposed during other detonations, and whether the Department of Defense or other governmental entity or any entity acting for the Federal Government has made any attempt to follow these individuals so as to monitor their health status.

Finally, in view of his excellent work on the November report and the great expertise he has now acquired in this field, I would greatly appreciate that all the work I am requesting in this letter be carried out under Mr. Baney's supervision if that can appropriately and feasibly be done.

As always, I deeply appreciate your cooperation and assistance.

With warm regards,

Cordially,

ALAN CRANSTON,
Ranking Minority Member.

U.S. SENATE,
COMMITTEE ON VETERANS' AFFAIRS,
Washington, DC, December 4, 1985.

Hon. CASPAR W. WEINBERGER,
Secretary of Defense,
The Pentagon, Washington, DC.

DEAR CAP: I am writing with reference to the recently completed General Accounting Office (GAO) report, dated November 8, 1985, "Operation Crossroads: Personnel Radiation Exposure Estimates Should Be Improved" (GAO/RCED-86-15).

This report raises major questions about the conclusions of the Defense Nuclear Agency, as set forth in the May 1984 DNA historical report on Operation Crossroads and elsewhere, that none of the participants at that operation were exposed to other than low levels of radiation. Although I realize that the DNA has rejected GAO's analysis, I believe that that analysis and GAO's point-by-point rebuttal of DNA's official response published in the final report fairly raise the question whether some portion of the 42,000 personnel (GAO has suggested up to 17,000) who participated in the operation were actually exposed to radiation at levels higher than the levels accounted for by DNA.

In view of GAO's analysis and the weight of the evidence on which it is based, I believe that it is incumbent on the Federal Government to take further steps to study this operation to resolve this stark difference of opinion. Thus, I request that, in consultation with the Comptroller General, you arrange for a new, independent review of Operation Crossroads to be carried out with a specific focus on determining the degree to which participants there were or may have been exposed to higher levels of radiation than DNA has calculated. Such a review should take into account all findings and recommendations in the GAO report, including GAO's findings regarding the accuracy of the film badges used, the safety procedures that were prescribed and the extent to which they were followed, the decontamination activities that were carried out by participants, and the possibilities for exposure through inhalation, ingestion, and open wounds.

In order to ensure that such a review will have the credibility necessary to be accepted by veterans who participated in Operation Crossroads, others with an interest in this issue, and the general public, I believe that such a review must be carried out other than by or under the auspices of DNA, which has rejected the report of the GAO. Accordingly, I ask that you have such a review conducted by an entity not previously connected with the Operation Crossroads reconstruction effort or with any other DNA reconstruction of a nuclear test activity.

I look forward to hearing from you in response to this request at your earliest convenience.

With warm regards,

Cordially,

ALAN CRANSTON,
Ranking Minority Member.

U.S. SENATE,
COMMITTEE ON VETERANS' AFFAIRS,
Washington, DC, December 4, 1985.

Hon. RONALD W. REAGAN,
The White House,
Washington, DC.

DEAR MR. PRESIDENT: I am writing to call to your personal attention the enclosed letter that I am today sending to Secretary of Defense Caspar Weinberger.

In this letter, I note a recent report from the General Accounting Office—"Crossroads: Personnel Radiation Exposure Estimates Should Be Improved" (GAO/RCED-86-15)—which casts serious doubt on prior Department of Defense estimates of the degree to which service personnel who participated in the Operation Crossroads nuclear test were exposed to radiation. In light of this GAO report, I urge that Secretary Weinberger have a new, independent review carried out of that operation, applying the GAO findings and recommendations. In order to attempt to ensure that any such review is credible to those most concerned about Operation Crossroads—the veterans who participated in that operation, their families, and their survivors—as well as the general public, I further urge that the review be carried out by an entity outside of DNA which has no previous involvement with any atomic-test reconstructions.

In this regard, section 601(c) of Public Law 98-160 charges the President with responsibilities for the purpose of ensuring that activities of the Federal Government

with respect to adverse health effects in humans from exposure to radiation are scientifically valid and conducted with efficiency and objectivity. Further effort by the Department of Defense with respect to Operation Crossroads clearly is such activity, and I believe that it is vital that such effort be carried out with objectivity, effectiveness, and credibility. Certainly, a review that has little or no credibility would be ineffective. Hence, I respectfully request that, in fulfillment of your section 601(c) statutory responsibility, you direct that Secretary Weinberger provide for the new review I have recommended and that the review be carried out by an independent entity.

Thank you for your attention to this request.

With warm regards,

Cordially

ALAN CRANSTON,
Ranking Minority Member.

Enclosure.

U.S. SENATE,
COMMITTEE ON VETERANS' AFFAIRS,
Washington, DC, December 4, 1985.

Hon. HARRY N. WALTERS,
Administrator of Veterans' Affairs,
Washington, DC.

DEAR HARRY: I have today written Secretary Weinberger (a copy of my letter is enclosed) in connection with the recent GAO report "Operation Crossroads: Personnel Radiation Exposure Estimates Should Be Improved" (GAO/RCED-86-15), dated November 8, 1985. You reviewed an advanced text of this report earlier this year and submitted your views on it to the GAO on August 26.

I have urged Secretary Weinberger to have a new, independent review of Operation Crossroads carried out, as recommended by GAO, in order to determine the levels of exposure to which participants at that operation were exposed. I believe that such a new review is absolutely vital for many purposes, including, of course, giving veterans and survivors with claims for VA benefits based on participation in Operation Crossroads confidence that the information regarding veterans' exposure on which the VA will base its decisions is as accurate as possible.

In light of your appreciation of the importance of having an investigation of a highly controversial issue carried out by an entity with no preconceived notion about or stake in the result—as evidenced by your decision to assign to CDC the responsibility for conducting the Agent Orange study—I urge you to express to Secretary Weinberger your support for such a new, independent review of Operation Crossroads.

Such a statement of support from you would be both particularly valuable—because the principal beneficiaries of such a new review would, of course, be the veterans who participated in that operation—and fully appropriate as an exercise of your statutory responsibility, set forth in section 220 of title 38, United States Code, to promote the maximum effectiveness of all governmental activity relating to veterans.

Thank you, Harry, for your ongoing cooperation and assistance and for your attention to this request.

With warm regards,

Cordially,

ALAN CRANSTON,
Ranking Minority Member.

U.S. SENATE,
COMMITTEE ON VETERANS' AFFAIRS,
Washington, DC, July 24, 1985.

Hon. HARRY N. WALTERS,
Administrator of Veterans' Affairs,
Washington, DC.

DEAR HARRY: I have recently received and reviewed a copy of the July 1985 Office of Technology Assessment Staff Memorandum entitled "An Evaluation of the Feasibility of Studying Long-Term Health Effects in Atomic Veterans", which was prepared in response to your December 19, 1984, request that OTA review a proposed protocol for a study of veterans exposed to radiation and advise you as to the feasibility of such a study. I am writing to express my views on this issue in light of the mandate in section 601 of Public Law 98-160 that such study be carried out.

The OTA staff memorandum appears to me to be very well done and quite comprehensive, and I have no basis for disagreeing with the OTA staff conclusions that, first, a study "carried out in accordance with the outlines of the VA plan would not produce meaningful scientific results" and, second, that "a study of the group of 1200 atomic veterans with more than 5 rem exposure [an option OTA considered on its own initiative] would be even less powerful than would the study of the entire cohort."

Notwithstanding these conclusions regarding the likely merits of comprehensive studies, however, I continue to believe that valid study, within the context of section 601, of the adverse health effects of exposure to radiation among veterans exposed during the nuclear test program or in connection with the occupation of Japan following World War II can be carried out. Therefore, I urge you to consider, prior to making any final decision that such study is infeasible, the feasibility of study approaches other than those reviewed by OTA. In this regard, I believe that it is important to note that the study mandate clearly contemplates, in section 601(a)(1)(B) of P.L. 98-160, that, even if it is determined that it is not feasible to carry out some elements of the mandated study, other elements as to which a determination of infeasibility cannot be made would continue to be required.

Among the possible study approaches that I urge you to consider before making any final decision are two that are discussed in the OTA staff memo—namely, periodic follow-up studies of the veterans who witnessed the SMOKY shot and a study of the veterans who were present at the tests carried out during Operation Crossroads (with comparisons being made between the health status of these veterans with an appropriately designed control group of veterans who were not exposed to radiation during the test program). This latter study would appear to be particularly important in light of the concerns about the level of exposure and safety precautions at Crossroads which were raised by the Operations Radiological Safety Officer at the shots, the late Colonel Stanford Warren, in various memoranda and letters which were presented to the Congress in 1983 and which have been the subject of a nearly completed GAO study. (I understand that your staff has already reviewed this study in draft.) In addition to these two studies, there may be others focusing on particular shots or series of shots or some other subset of the total population of veterans exposed to radiation that could be the subject of valid study, and I urge you to look for such options before reaching any final decision regarding the infeasibility of carrying out any study under section 601 of P.L. 98-160.

In addition, I urge you to have members of your staff contact appropriate staff at the National Research Council (NRC) to discuss with them the possibility of the VA providing funding support for a further analysis, using a properly constituted control group of veterans, of the information gathered by the NRC in connection with the recently reported study entitled "Mortality of Nuclear Weapons Test Participants". Such an analysis, which members of the Committee staff have already discussed with NRC, would be a valuable addition to the body of information available at present on the health status of veterans exposed to radiation.

Thank you for your continued cooperation.

With warm regards,

Cordially,

ALAN CRANSTON.

VETERANS' ADMINISTRATION,
Washington, DC, August 26, 1985.

Hon. ALAN CRANSTON,
Ranking Minority Member, Committee on Veterans' Affairs, U.S. Senate, Washington, DC.

DEAR ALAN: Thank you for your letter of July 24, 1985, concerning whether it is feasible to conduct a scientifically valid study of veterans who participated in nuclear weapons testing programs or who served in Hiroshima or Nagasaki, Japan, following World War II. I agree with you that the Office of Technology Assessment has done a commendable job in reviewing the Veterans Administration's proposed "Assessment of Veterans With Military Service at Sites of Temporarily Augmented Ionizing Radiation." I have asked the Chief Medical Director to review and comment upon the suggestion that the Veterans Administration undertake mortality studies of those veterans who participated in Shot Smokey or in Operation Crossroads. I will report to you the recommendations of the Chief Medical Director as soon as they become available.

Sincerely,

HARRY N. WALTERS,
Administrator.

U.S. SENATE,
COMMITTEE ON VETERANS' AFFAIRS,
Washington, DC, January 21, 1986.

Hon. HARRY N. WALTERS,
Administrator of Veterans' Affairs,
Washington, DC.

DEAR HARRY: I am writing in follow-up to your August 26, 1985, letter (which responded to mine of July 24) regarding the Veterans' Administration's efforts in response to the mandate in section 601 of Public Law 98-160 to carry out study of veterans exposed to radiation from nuclear detonations.

As you know, the General Accounting Office recently released a report, entitled "Operation Crossroads: Personnel Radiation Exposure Estimates Should Be Improved", on its review of various issues regarding safety procedures and radiation exposure at that first post-World War II nuclear test operation. In light of the GAO report findings which cast significant doubt on the assertions by the Department of Defense that the only exposures at Operation Crossroads were to low levels of radiation, I am renewing the suggestion in my July 24 letter that the VA consider a study focusing specifically on veterans at Operation Crossroads. I would appreciate learning your views on this suggestion.

I would also appreciate your views on the suggestion in my July 24 letter that the VA consider the possibility of providing funding support for a further analysis, using a properly constituted control group of veterans, of the information gathered by the National Research Council of the National Academy of Sciences in connection with the NRC study entitled "Mortality of Nuclear Weapons Test Participants". Enclosed is a copy of my recent letter to Dr. Frank Press, Chairman of the National Research Council, which addresses the same issue.

Thank you, Harry, for your cooperation and assistance.

With warm regards,

Cordially,

ALAN CRANSTON,
Ranking Minority Member.

U.S. SENATE,
COMMITTEE ON VETERANS' AFFAIRS,
Washington, DC, January 21, 1986.

Dr. FRANK PRESS,
Chairman, National Research Council, Washington, DC.

DEAR FRANK: I am writing in connection with the study carried out by the National Research Council—"Mortality of Nuclear Weapons Test Participants"—which was released last year.

As the Ranking Minority Member of the Senate Veterans' Affairs Committee, I have long been concerned about the search for answers to the many questions about the health status of veterans exposed to ionizing radiation from nuclear detonations. Specifically regarding this NRC study, I am concerned about certain assumptions which were made relating to it.

First, in light of the 1981 changes in the entitlement to VA burial allowances, it is not clear to me what level of confidence can or should be given to the reporting of veterans' deaths to the VA Beneficiary Identification and Records Locator Subsystem (BIRLS) in 1981 to 1982, information that was assumed to be accurate in calculating the results in the mortality study. Because of the importance of data from BIRLS—not only with reference to this study but for any study which would rely on that system—I believe a verification of the current accuracy and completeness of the data in BIRLS should be undertaken. In this regard, I believe that the NRC should consider requesting financing for such research and would appreciate your views on the need for such an effort, its cost, and likely duration.

Second, I am concerned that the NRC study compared mortality data for former military personnel with mortality data for the general U.S. population, thereby ignoring the so-called "healthy soldier" effect. As the principal investigator for the 1985 report, Mr. Seymour Jablon, wrote in "Effects of Selection on Mortality", *American Journal of Epidemiology*, in 1974:

It is apparent that the selection process for admission to military service has exerted a profound effect on mortality rates of Army veterans after separation from service. Generally, the mortality rates within the first few years of discharge are considerably lower than those of the general population, but the rates gradually approach those of the parent population over succeeding years. The effect of the bias of selection on subsequent mortality is not short but on the contrary quite prolonged and may persist even after 23 years from Army discharge.

* * * * *

Two conclusions appear to follow: First, the evident lesson that mortality comparisons cannot be made between cohorts that have been screened unequally, or between a screened cohort and the general population; and second, since, in the absence of randomization, "survey" cohorts that differ as to some feature that we wish to study will also differ in other ways, some known to us, but others unknown, we cannot rely on the mere passage of a few years to overcome the unwanted, confounding, distinctions. Initial characteristics may cast long shadows.

In view of the above and questions that have been raised in connection with the validity of the NRC study, I hope that the NRC will seek funding to make a mortality comparison for that study using an appropriate cohort of veterans. Such a further effort seems particularly important in light of the November 8, 1985, General Accounting Office report entitled "Operation Crossroads: Personnel Radiation Exposure Estimates Should be Improved" (GAO/RCED-86-15), which casts significant doubt on the notion that few if any military personnel were exposed to other than low levels of radiation as a result of nuclear detonations. A copy of that report is enclosed.

Thank you for your cooperation.

With best wishes,

Sincerely,

ALAN CRANSTON,
Ranking Minority Member.

MESSAGES FROM THE HOUSE

At 1:56 p.m., a message from the House of Representatives, delivered by Mr. Berry, one of its reading clerks, announced that the House has passed the following bill, without amendment:

S. 2013. An act to delay the referendum with respect to the 1986 through 1988 crops of Flue-cured tobacco and to delay the proclamation of national marketing quotas for the 1986 through 1988 crops of burley tobacco.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC-2250. A communication from the Attorney General of the United States transmitting a notice of litigation challenging the constitutionality of portions of "Gramm-Rudman", and advising of the position of the Department of Justice in the litigation; to the Committee on the Judiciary.

EC-2251. A communication from the General Counsel of the Department of the Treasury transmitting a draft of proposed legislation relating to firearms and explosives; to the Committee on the Judiciary.

EC-2252. A communication from the Secretary of Health and Human Services transmitting, pursuant to law, a report on prevention activities undertaken by the Alcohol, Drug Abuse, and Mental Health Administration; to the Committee on Labor and Human Resources.

EC-2253. A communication from the Secretary of Health and Human Services transmitting, pursuant to law, a report on the health consequences of smoking; to the Committee on Labor and Human Resources.

EC-2254. A communication from the Acting Administrator of the National Aeronautics and Space Administration transmitting, pursuant to law, the annual report on NASA's industrial application centers; to the Committee on Small Business.

EC-2255. A communication from the Clerk of the U.S. Claims Court transmitting, pursuant to law, a copy of the Court's judgment order for the plaintiffs in the matter of the Navajo Tribe of Indians versus the U.S.; to the Committee on Appropriations.

EC-2256. A communication from the Executive Associate Director of the Office of Management and Budget transmitting, pursuant to law, a report on the reapportionment of an appropriation on a basis necessitating a supplemental appropriation for the American Battle Monuments Commission; to the Committee on Appropriations.

EC-2257. A communication from the Director of the Office of Management and Budget transmitting, pursuant to law, notification of the President's intent to exempt $63.1 billion of the military personnel appropriations from sequestration under Gramm-Rudman; to the Committee on Appropriations.

EC-2258. A communication from the Deputy Assistant Secretary of Defense transmitting, pursuant to law, notice of the intention of the Navy to exclude from examination by the Comptroller General records of a contract with a Turkish shipyard; to the Committee on Armed Services.

EC-2259. A communication from an Assistant to the President transmitting, pursuant to law, a report relative to the military implications of Soviet treaty violations; to the Committee on Armed Services.

EC-2260. A communication from the Acting Administrator of the National Aeronautics and Space Administration transmitting, pursuant to law, a waiver of certain requirements of law involving certain technology transfers and NASA's alternative plans for conducting transfers of technology; to the Committee on Commerce, Science, and Transportation.

EC-2261. A communication from the Assistant Secretary of the Interior transmitting, pursuant to law, a report on the administration of the Marine Mammal Protection Act; to the Committee on Commerce, Science, and Transportation.

EC-2262. A communication from the Acting Chairman of the Federal Trade Commission transmitting, pursuant to law, a report on impacts on competition and on small business of agreements and plans carrying out provisions of the International Energy Program; to the Committee on Energy and Natural Resources.

EC-2263. A communication from the Secretary of Energy transmitting, pursuant to law, a report on actions taken under the Uranium Tailings Radiation Control Act; to the Committee on Energy and Natural Resources.

EC-2264. A communication from the Acting Administrator of the National Aeronautics and Space Administration transmitting, pursuant to law, a report on the progress of the Upper Atmospheric Research Program; to the Committee on Environment and Public Works.

EC-2265. A communication from the Acting Fiscal Assistant Secretary of the Treasury transmitting, pursuant to law, a report on the Liabilities and Other Financial Commitments of the U.S. Government as of September 30, 1985; to the Committee on Finance.

EC-2266. A communication from the Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting, pursuant to law, copies of international agreements, other than treaties, entered into by the U.S. within the 60 days previous to January 10, 1986; to the Committee on Foreign Relations.

EC-2267. A communication from the Chairman of the Federal Communications Commission transmitting, pursuant to law, a report on the system of internal accounting and financial management of the Commission; to the Committee on Governmental Affairs.

EC-2268. A communication from the Acting Assistant Secretary of Health and Human Services transmitting, pursuant to law, a report on a new Privacy Act system of records; to the Committee on Governmental Affairs.

EC-2269. A communication from the Acting Assistant Secretary of Health and Human Services transmitting, pursuant to law, a report on a new Privacy Act system of records; to the Committee on Governmental Affairs.

EC-2270. A communication from the Chairman of the U.S. Merit Systems Protection Board transmitting, pursuant to law, the 1984 annual report of the Board; to the Committee on Governmental Affairs.

EC-2271. A communication from the Acting Director of the National Park Service transmitting, pursuant to law, a report on the disposal of surplus Federal real property for parks and recreation purposes under the public benefit discount program; to the Committee on Governmental Affairs.

EC-2272. A communication from the Secretary of the Interior transmitting, pursuant to law, a report on donations received and allocations made from the fund for the advancement of the Indian race; to the Select Committee on Indian Affairs.

EC-2273. A communication from the Executive Director of the Neighborhood Reinvestment Corporation transmitting, pursuant to law, a report on its compliance with the Freedom of Information Act; to the Committee on the Judiciary.

EC-2274. A communication from the Chairman of the Copyright Royalty Tribunal transmitting, pursuant to law, the Tribunal's annual report for FY 1985; to the Committee on the Judiciary.

EC-2275. A communication from the Secretary of Health and Human Services transmitting, pursuant to law, the annual report of the National Heart, Lung, and Blood Advisory Council; to the Committee on Labor and Human Resources.

EC-2276. A communication from the Secretary of Health and Human Services transmitting, pursuant to law, the annual report on the status of handicapped children in Head Start Programs; to the Committee on Labor and Human Resources.

EC-2277. A communication from the Secretary of Education transmitting, pursuant to law, a notice of final funding priority—Handicapped Special Studies Program; to the Committee on Labor and Human Resources.

EC-2278. A communication from the Assistant Secretary of Defense transmitting, pursuant to law, a report on the feasibility of DOD issuing food stamp coupons to overseas households of members stationed outside the U.S.; to the Committee on Agriculture, Nutrition, and Forestry.

EC-2279. A communication from the Under Secretary of Agriculture transmitting, pursuant to law, the quarterly commodity and country allocation table for food assistance; to the Committee on Agriculture, Nutrition, and Forestry.

EC-2280. A communication from the Director of the Office of Management and Budget transmitting, pursuant to law, the cumulative report on rescissions and deferrals as of January 1, 1986; jointly, pursuant to the order of January 30, 1975, to the Committee on Appropriations and the Committee on the Budget.

EC-2281. A communication from the President of the United States transmitting, pursuant to law, a report on his issuance of an Executive Order blocking all property and property interests of the Government of Libya and the Central Bank of Libya within or under the control of the U.S.; to the Committee on Banking, Housing, and Urban Affairs.

EC-2282. A communication from the President and Chairman of the Export-Import Bank of the U.S. transmitting, pursuant to law, a report on guarantee and insurance transactions supported by the Bank during November 1985 with Communist countries; to the Committee on Banking, Housing, and Urban Affairs.

EC-2283. A communication from the Secretary of Transportation transmitting, pursuant to law, a report and inventory of State practices relative to overweight vehicles, penalties and permits; to the Committee on Commerce, Science, and Transportation.

EC-2284. A communication from the Secretary of Commerce transmitting, pursuant to law, a report on the extension of certain export controls for foreign policy; to the Committee on Foreign Relations.

EC-2285. A communication from the Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting, pursuant to law, copies of international agreements, other than treaties, entered into by the U.S. during the 60 days previous to January 7, 1986; to the Committee on Foreign Relations.

EC-2286. A communication from the Attorney General of the United States transmitting, pursuant to law, a report on the Department of Justice's internal accounting and administrative control systems; to the Committee on Governmental Affairs.

PETITIONS AND MEMORIALS

The following petitions and memorials were laid before the Senate and were referred or ordered to lie on the table as indicated:

POM-545. A resolution adopted by the Undergraduate Student Organization of Southern Illinois University at Carbondale favoring corrections in Federal food stamp policies; to the Committee on Agriculture, Nutrition, and Forestry.

POM-546. A resolution adopted by the Governing Body of the Tribal Council of the Penobscot Nation forbidding the establishment of any nuclear waste repositories on Penobscot lands; to the Committee on Energy and Natural Resources.

POM-547. A resolution adopted by the Fourth Congress of the Federated States of Micronesia; to the Committee on Energy and Natural Resources.

"FEDERATRED STATES OF MICRONESIA—RESOLUTION

"Whereas, the social, political, and economic development of our Nation will be imperiled if our citizens do not have sufficient access to post-secondary education to enable them to acquire essential knowledge and skills; and

"Whereas, Pell grants have made it financially possible for many of our citizens to have access to post-secondary education; and

"Whereas, the continued availability of Pell grants is essential if citizens of the Federated States of Micronesia are to continue to have adequate access to post-secondary education; and

"Whereas, Pell grants may not continue to be available to our citizens unless the Government of the Federated States of Micronesia and the Commission on Future Political Status and Transition are able to reach an agreement with the Government of the United States regarding their continued availability; Now, therefore,

Be it Resolved by the Fourth Congress of the Federated States of Micronesia, Second Regular Session, 1985, That it is the sense of the Congress that Pell grants are valuable and necessary to the future of our Nation and must be preserved; and

Be it Further "Resolved, That certified copies of this resolution be transmitted to the President of the Federated States of Micronesia, the Chairman of the Commission on Future Political Status and Transition, the President of the United States of America, the Speaker of the United States House of Representatives, the President Pro Tempore of the United States Senate, Ambassador Fred M. Zeder II, and the Honorable Clairborne Pell of the United States Senate."

POM-548. A resolution adopted by the House of Representatives of the Commonwealth of Pennsylvania; to the Committee on Environment and Public Works:

"HOUSE RESOLUTION No. 209

"Whereas, The Environmental Protection Agency recently proposed to permit the incineration of PCB waste materials in special ships in the Atlantic Ocean off the New Jersey coast; and

"Whereas, The potential for serious environmental hazards has not been eliminated and there is the possibility of ocean contamination or rain-carried contamination reaching from Virginia to Ohio, Maine and Canada, thereby affecting large numbers of individuals; and

"Whereas, PCB is a well-known and well-documented carcinogen; therefore be it

"Resolved, That the House of Representatives of the Commonwealth of Pennsylvania memorialize the Congress of the United States and the Environmental Protection Agency to prohibit the incineration of PCB waste materials in the Atlantic Ocean; and be it further

"Resolved, That copies of this resolution be transmitted to the presiding officers of each House of Congress, to each member of Congress from Pennsylvania and to the Administrator of the Environmental Protection Agency."

POM-549. A joint resolution adopted by the Legislature of the State of Maine; to the Committee on Finance:

"RESOLUTION

"Whereas at the present time under the United States Social Security Act, individuals who became eligible for benefits in or after 1979 receive reduced benefit levels compared to individuals who became eligible prior to 1979, due to changes made in 1977 in the benefit computation formula; and

"Whereas this disparity in benefit levels has been referred to as the "notch" and has resulted in the award of reduced benefits to approximately 1.3 million persons; and

"Whereas any remedy for narrowing the gap in benefits is complicated because the notch has been in use since 1979; and

"Whereas H.R. 4093 has been introduced in the 98th session of the United States Congress by Representative Roybal, the Chairman of the House Committee on Aging, in an effort to eliminate the notch; and

"Whereas it is appropriate that the Legislature of the State of Maine take a stand in support of this legislation to protect the rights of the citizens of our State: Now, therefore, be it

"*Resolved*, That We, your Memorialists, do hereby respectfully urge the Congress of the United States to adopt H.R. 4093 or similar legislation to eliminate the disparity in benefit levels awarded under the United States Social Security Act with respect to benefits awarded prior to 1979 and in and after 1979, so as to provide equitable benefits for retirees; and be it further

"*Resolved*, That a copy of this resolution, duly authenticated by the Secretary of State, be transmitted by the Secretary of State to the Honorable Ronald W. Reagan, President of the United States; the President of the Senate; and the Speaker of the House of Representatives in the Congress of the United States and to each Member of the Maine Congressional Delegation."

POM-550. A resolution adopted by the Board of Chosen Freeholders of the County of Monmouth, New Jersey favoring the adoption of policies and programs concerning nuclear weapons; to the Committee on Foreign Relations.

POM-551. A resolution adopted by the Senate of the Commonwealth of Pennsylvania; to the Committee on Governmental Affairs.

"SENATE OF PENNSYLVANIA—RESOLUTION

"Whereas, As the name Piper is synonymous with "Cub," so "Cub" is synonymous with Lock Haven, and the late industrialist William T. Piper left an impact on aviation still known around the world to this day; and

"Whereas, William Thomas Piper, Sr. (1881-1970), the "grand old man of private flying," has often been called the "Henry Ford of Aviation" because of his efforts to bring the airplane within the financial reach of hundreds of thousands of pilots around the world interested in private flying; and

"Whereas, The year 1987 will mark 50 years of contribution to the general aviation industry by the Piper Aircraft Corporation and William Thomas Piper, Sr., the man and his "Cub"; and

"Whereas, From the christening of his newly relocated manufacturing plant at Lock Haven in November 1937 as the "Piper Aircraft Corporation" to the state-of-the-art corporate aircraft produced today, W. T. Piper and his Piper Aircraft Corporation made advancements that were destined to bring aviation recognition to the town of Lock Haven, the State of Pennsylvania and the United States; and

"Whereas, During World War II, the "Cub," also called the "Grasshopper," served revolutionary new roles in military liaison and directing field artillery and tactical warfare as well as ambulance service. Between Pearl Harbor and V-J Day, Mr. Piper supplied the armed forces with nearly 6,000 of what GI's called the "flying jeeps." After the war, Piper helped provide the general aviation aircraft that have now become a vital part of our modern transportation system. He envisioned an airport in every town, with the light plane serving as a link to the larger commercial airports; and

"Whereas, The "Cub" has been ranked with the DC-3 as one of the world's most significant airplanes, since over 75% of the United States World War II pilots received their first training in a "Cub"; and

"Whereas, The foresight and "imagineering" of W. T. Piper has caused more J-3 Cubs to be produced than any other airplane in aviation history. More pilots, private and commercial, learned to fly in the "Cub" than in any other aircraft. The "Cub" has created a larger following of devoted afficianados who own, restore and fly these historic planes than any other plane in aviation history. The list of owners and operators of the fabric-covered rag-wing Piper aircraft represents a true cross-section of the American population who fly them for business and recreation; and

"Whereas, With Lock Haven, Pennsylvania, being the "home" of the Piper Cub, the year 1987 being the 50th anniversary of the Piper name, and a large extensive, international celebration already being planned to honor this event, it seems proper that the Post Office in Lock Haven, Pennsylvania, have the privilege of presenting a first-day issue of a W. T. Piper and "Cub" memorial stamp; therefore be it

"*Resolved*, That the Senate of Pennsylvania recognize the great contributions made to aviation history by William Thomas Piper, Sr., and his remarkable "Cub" airplane, and urge the citizen Stamp Advisory Committee of the United States Postal Service to issue a W. T. Piper and "Cub" memorial stamp; and further request that the Post Office in Lock Haven, Pennsylvania, be designated as the place of presenting the first-day issue of the memorial stamp; and be it further

"*Resolved*, That copies of this resolution be transmitted to the President of the United States, to the presiding officers of each house of Congress, to each member of Congress from Pennsylvania, and to Mr. Belmont Faries, Chairman, Citizen Stamp Advisory Committee of the United States Postal Service."

POM-552. A petition from a citizen of Salem, Massachusetts, praying for a redress of grievances; to the Committee on the Judiciary.

POM-553. A resolution adopted by the Board of Education of the Carlsbad Municipal School District, Carlsbad, New Mexico, favoring the rejection of H.R. 1523 and S. 415; to the Committee on Labor and Human Resources.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. LUGAR (by request):

S. 2015. A bill to provide for the security of U.S. diplomatic personnel, facilities and operations, and for other purposes; to the Committee on Foreign Relations.

By Mr. DIXON:

S. 2016. A bill to provide for public financing of Federal elections for the U.S. Senate, and for other purposes; to the Committee on Rules and Administration.

By Mr. CHILES:

S. 2017. A bill to amend title 5, United States Code, to expand the class of individuals eligible for refunds or other returns of contributions from contingency reserves in the employees health benefits fund; to the Committee on Governmental Affairs.

By Mr. ROTH:

S. 2018. A bill entitled the "Federal Employees Health Benefits Rebate Act of 1986"; to the Committee on Governmental Affairs.

By Mr. TRIBLE:

S. 2019. A bill to bar construction of new prison facilities at the Lorton Prison in Fairfax County, VA, to accelerate the completion of new prison facilities within the District of Columbia, and for other purposes; to the Committee on Governmental Affairs.

By Mr. RIEGLE (for himself, Mr. ROTH, Mr. PROXMIRE, Mr. EXON, Mr. INOUYE, Mr. QUAYLE, Mr. DECONCINI, Mr. LUGAR, Mr. GRASSLEY, Mr. PELL, Mr. KENNEDY, Mr. MURKOWSKI, Mr. DOMENICI, Mr. PRESSLER, Mr. LEVIN, Mr. ROCKEFELLER, Mr. PRYOR, Mr. SIMON, Mr. GORE, Mr. KERRY, Mr. BUMPERS, Mr. BRADLEY, Mr. HEINZ, Mr. DIXON, Mr. DOLE, and Mr. BURDICK):

S.J. Res. 258. A joint resolution designating "Baltic Freedom Day"; to the Committee on the Judiciary.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. DIXON:

S. Res. 297. A resolution to call for an International Congress on Terrorism; to the Committee on Foreign Relations.

By Mr. WEICKER (for himself, Mr. HATCH, Mr. KENNEDY, Mr. STAFFORD, Mr. NICKLES, Mr. KERRY, Mr. THURMOND, and Mr. SIMON):

S. Res. 298. A resolution expressing support and encouragement of the Senate for the U.S. Disabled Ski Team at the 1986 World Disabled Ski Championships to be held in Salem, Sweden, on April 6 through April 17, 1986; to the Committee on Commerce, Science, and Transportation.

By Mr. HART (for himself and Mr. MATHIAS):

S. Con. Res. 103. A concurrent resolution to commend Bishop Desmond Tutu for his courageous work for peace and equality in South Africa; to the Committee on Foreign Relations.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. LUGAR (by request):

S. 2015. A bill to provide for the security of U.S. diplomatic personnel, facilities, and operations, and for other purposes; to the Committee on Foreign Relations.

DIPLOMATIC SECURITY ACT

● Mr. LUGAR. Mr. President, by request, I introduce for appropriate reference a bill to provide for the security

of U.S. diplomatic personnel, facilities, and operations.

This proposed legislation has been requested by the Department of State and I am introducing it in order that there may be a specific bill to which Members of the Senate and the public may direct their attention and comments.

I reserve my right to support or oppose this bill, as well as any suggested amendments to it, when the matter is considered by the Committee on Foreign Relations.

I ask unanimous consent that the bill be printed in the RECORD at this point, together with a section-by-section analysis of the bill and the letter from the Under Secretary of State for Management to the President of the Senate dated December 19, 1985.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

UNDER SECRETARY OF STATE
FOR M. NAGEMENT
Washington, December 19, 1985.

Hon. GEORGE BUSH,
President, U.S. Senate.

DEAR MR. PRESIDENT: Enclosed for consideration by the Congress is a draft bill to provide for the security of United States diplomatic personnel, facilities and operations, and for other purposes.

In June of this year the Secretary of State's Advisory Panel on Overseas Security, chaired by Admiral Bobby R. Inman, concluded its work and issued its Report. The Report contained 91 recommendations designed to strengthen the Department of State's security program to meet the difficult challenges posed by terrorism directed at diplomatic personnel, facilities and operations. This draft bill is based upon the Report and recommendations of the Advisory Panel.

The proposed legislation contains three principal features.

First, it sets forth the responsibility of the Secretary of State with respect to the security of diplomatic operations at home and abroad. It also provides for the Bureau of Diplomatic Security of the Department of State to be headed by an Assistant Secretary of State and sets forth certain provisions relating to the Diplomatic Security Service of the Department of State.

Second, the proposed legislation calls for the Secretary of State to convene Accountability Review Boards to investigate incidents involving serious injury, loss of life or significant destruction of property at or related to United States Government missions abroad (other than military installations). As part of the accountability review process, the board convened in response to an incident would not only make findings and recommendations relating to security generally; it would also determine whether, and in what ways, a breach of duty by an individual employee contributed to the incident, and it would make appropriate disciplinary recommendations.

Third, the proposed legislation provides an authorization of appropriations for Fiscal Year 1986 and for Fiscal Year 1987, to enable the Department to fulfill its security-related responsibilities. In addition, the bill authorizes appropriations for Fiscal Year 1986 for counter-terrorism research and development.

The Office of Management and Budget advises that from the standpoint of the Administration's program there is no objection to the submission of this legislation, and that its enactment would be in accord with the program of the President.

Sincerely,

RONALD I. SPIERS.

Enclosures: Bill and Analysis.

S. 2015

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SEC. 1. SHORT TITLE.

This Act may be cited as the "Diplomatic Security Act."

SEC. 2. FINDINGS AND PURPOSE.

(a) FINDINGS.—The Congress finds and declares that—

(1) the United States has a crucial stake in the presence of United States Government employees representing United States interests abroad; and

(2) conditions confronting United States Government employees and missions abroad are fraught with security concerns which will continue for the foreseeable future.

(3) the resources now available to counter acts of terrorism and protect and secure United States Government employees and missions abroad, as well as foreign officials and missions in the United States, are inadequate to meet the mounting threat to such personnel and facilities.

(b) PURPOSES.—The purposes of this Act are—

(1) to set forth the responsibility of the Secretary of State with respect to the security of diplomatic operations in the United States and abroad;

(2) to provide for an Assistant Secretary of State to head the Bureau of Diplomatic Security of the Department of State, and to set forth certain provisions relating to the Diplomatic Security Service of the Department of State;

(3) to maximize coordination by the Department of State with Federal, State, and local agencies and agencies of foreign governments in order to enhance security programs;

(4) to promote strengthened security measures and to provide for the accountability of United States Government employees with security-related responsibilities; and

(5) to provide authorization of appropriations for the Department of State to carry out its responsibilities in the area of security and counterterrorism, and in particular to finance the acquisition and improvements of United States Government missions abroad, including real property, buildings, facilities, and communications, information and security systems.

TITLE I—DIPLOMATIC SECURITY

SEC. 101. RESPONSIBILITY OF THE SECRETARY OF STATE.

(c) SECURITY FUNCTIONS.—The Secretary of State shall develop and implement in consultation with other agencies having personnel or missions abroad, within the scope of the resources made available, policies and programs, including funding levels and standards to provide for the security of United States Government operations of a diplomatic nature and foreign government operations of a diplomatic nature in the United States, to include—

(1) protection of all United States Government employees on official duty abroad, other than those under the command of a United States area military commander, and their accompanying dependents;

(2) establishment and operation of security functions at all United States Government missions abroad, other than facilities or installations subject to the control of a United States area military commander;

(3) establishment and operation of security functions at all Department of State facilities in the United States; and

(4) protection of foreign missions, international organizations and foreign officials and other foreign persons in the United States, as authorized by law.

(b) ASSISTANCE.—Other Federal agencies through agreements shall cooperate to the maximum extent possible with the Department of State and may—with or without reimbursement—provide assistance to the Department, perform security inspections and provide logistical support relating to the differing missions and facilities of other agencies, and perform other overseas security functions as may be authorized by the Secretary of State, to facilitate fulfillment of the responsibilities described herein. Specifically, the Secretary of State may agree to delegate operational control of overseas security functions of other Federal agencies to the heads of such agencies, subject to the Secretary's authority as set forth in subsection (a) and provided that the agency head receiving such delegated authority shall be responsible to the Secretary of State in the exercise of the delegated operational control. Upon request and with or without reimbursement, the Department of State may provide training assistance and related equipment to host government personnel assigned to protect United States Government employees and missions abroad.

(c) CHIEF OF MISSION.—Nothing contained herein shall be construed to limit or impair the authority or responsibility of a chief of mission under section 207 of the Foreign Service Act of 1980, as amended (22 U.S.C. 3927).

(d) OTHER AGENCIES.—Nothing contained herein shall be construed to limit or impair the authority or responsibility of any other Federal, State or local agency with respect to law enforcement or domestic security operations, as confirmed by Sections 125 and 126 of Public Law 99-93 (99 Stat. 416-418) or with respect to intelligence activities as defined in Executive Order 12333, or successor orders, and intelligence personnel and information associated therewith.

(e) CERTAIN LEASE ARRANGEMENTS.—The Administrator of General Services is authorized to lease up to 250,000 square feet in the United States for the Department of State to accommodate the personnel required to carry out the purposes of this Act. The Department of State shall pay for such space at the rate established by the Administrator of General Services for space and related services.

SEC. 102. BUREAU OF DIPLOMATIC SECURITY.

(a) ASSISTANT SECRETARY.—The Bureau of Diplomatic Security of the Department of State shall be headed by an Assistant Secretary of State.

(b) NUMBER OF ASSISTANT SECRETARIES.—The first section of the Act entitled "An Act to strengthen and improve the organization and administration of the Department of State, and for other purposes," approved May 26, 1949 (22 U.S.C. 2652), is amended by striking out "fourteen" and inserting in lieu thereof "fifteen".

(c) POSITIONS AT LEVEL IV OF THE EXECUTIVE SCHEDULE.—Section 5315 of title 5,

United States Code, is amended by striking out "(14)" following "Assistant Secretaries of State" and inserting in lieu thereof "(15)".

SEC. 103. DIPLOMATIC SECURITY SERVICE.

(a) DIRECTOR.—The Diplomatic Security Service of the Department of State shall be headed by a Director designated by the Secretary of State. The Director shall be a member of the Senior Foreign Service or the Senior Executive Service and shall be qualified for the position by virtue of demonstrated ability in the area of security, law enforcement, management or public administration. Experience in management or operations at overseas diplomatic posts shall be considered an affirmative factor in the selection of the Director. The Director shall act under the supervision and direction of an Assistant Secretary of State.

(b) ASSIGNMENT AND APPOINTMENT.—Positions in the Diplomatic Security Service shall be filled in accordance with the provisions of the Foreign Service Act of 1980, as amended (22 U.S.C. 3901 *et seq.*), and title 5, United States Code. The Secretary of State shall prescribe the qualifications required for assignment or appointment to such positions. In the case of positions designated for special agents, the qualifications may include minimum and maximum entry age restrictions and other physical standards, and shall incorporate such standards as may be required by law in order to perform security functions, to bear arms and to exercise investigatory, warrant, arrest and such other authorities as are available by law to special agents of the Department of State and the Foreign Service. The regulations to be prescribed by the Secretary with respect to such special agents, pursuant to section 37 of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2709), may provide for such special disciplinary procedures as are deemed necessary to carry out the purposes of this Act.

(c) FUNCTIONS.—The Diplomatic Security Service shall perform such functions as may be assigned to it by the Secretary of State.

TITLE II—PERFORMANCE AND ACCOUNTABILITY

SEC. 201. ACCOUNTABILITY REVIEW.

In any case of serious injury, loss of life or significant destruction of property at or related to a United States Government mission abroad which is covered by the provisions of this Act (other than a facility or installation subject to the control of a United States area military commander), the Secretary of State shall convene an Accountability Review Board (hereinafter in this title referred to as the "Board"); provided, however, that no such Board shall be convened where the Secretary determines that a case clearly involves only causes unrelated to security, or that a case clearly involves no breach of duty by a United States Government employee.

SEC. 202. ACCOUNTABILITY REVIEW BOARD.

(a) MEMBERSHIP.—The Board shall consist of not less than three nor more than five members, including a Chairperson, designated or appointed by the Secretary of State. The Director of Central Intelligence is authorized to designate a member. In cases where intelligence sources and methods are involved, the Secretary of State and the Director of Central Intelligence shall jointly designate the members of the Board.

(b) FACILITIES, SERVICES, SUPPLIES AND STAFF.—

(1) SUPPLIED BY DEPARTMENT OF STATE.—The Board shall obtain facilities, services and supplies through the Department of State. All expenses of the Board, including necessary costs of travel, shall be paid by the Department of State. Travel expenses authorized under this subsection shall be paid in accordance with subchapter 1 of chapter 57, title 5 of the United States Code, or other applicable law.

(2) DETAIL.—At the request of the Board, employees of the Department of State or other Federal agencies, members of the Foreign Service or uniformed members of the military services may be temporarily assigned, with or without reimbursement, as staff employees for the Board. Upon request, an inspector general of the Department of State may provide assistance to the Board.

(3) EMPLOYEES, EXPERTS AND CONSULTANTS.—The Board may appoint and fix the pay of such other employees and may employ and compensate experts and consultants in accordance with section 3109 of title 5 of the United States Code, who shall be responsible solely to the Board, as the Board considers necessary to carry out its functions.

SEC. 203. PROCEDURES.

(a) EVIDENCE.—The Board is authorized to administer oaths and affirmations and require that depositions be given and interrogatories answered. The Board may issue or authorize the issuance of a subpoena for the attendance and testimony of witnesses, who are not employees of Federal agencies, and the production of documentary or other evidence from any person, who is not an employee of a Federal agency, or entity in such instances where the Board finds that such a subpoena is necessary in the interests of justice for the development of relevant, admissible evidence. In the case of contumacy or refusal to obey a subpoena issued under this section a court of the United States within the jurisdiction of which a person is directed to appear or produce information, or within the jurisdiction of which the person is found, resides, or transacts business, may upon application of the Attorney General, issue to such person an order requiring such person to appear before the Board to give testimony or produce information as required by the subpoena. Supoenaed witnesses shall be paid the same fee and mileage allowances which are paid supoenaed witnesses in the courts of the United States. Nothing contained herein shall be construed to require that the Attorney General release any information to the Board unless the Attorney General determines that such release will not seriously impair any pending criminal investigation or prosecution.

(b) CONFIDENTIALITY.—The Board shall adopt for administrative proceedings under this title such procedures with respect to confidentiality as may be deemed necessary, including procedures relating to the conduct of closed proceedings or the submission and use of evidence *in camera*, to ensure in particular the protection of classified information relating to national defense, foreign policy or intelligence matters. The Director of Central Intelligence shall establish the level of protection required for intelligence information and for information relating to intelligence personnel, including standards for secure storage.

(c) RECORDS.—Records pertaining to administrative proceedings under this title shall be separated from all other records of the Department of State, and shall be maintained under appropriate safeguards to preserve confidentiality and classification of information. Such records shall be prohibited from disclosure to the public until such time as the Board completes its work and is dismissed. The Department of State shall turn over to the Director of Central Intelligence intelligence information and information relating to intelligence personnel which shall then become records of the Central Intelligence Agency. After that time, only such exemptions as apply to other records of the Department of State under said section 552(b) shall be available for the remaining records of the Board.

(d) STATUS OF BOARD.—The provisions of sections 1-14 of title 5 Appendix of the United States Code and section 552b of title 5 of the United States Code shall not apply to an Accountability Review Board.

SEC. 204. FINDINGS.

The Board convened in any case shall make written findings determining—

(1) whether there are reasonable grounds to believe that the injury, loss of life or destruction of property with respect to which the Board was convened was security-related; and

(2) whether there is reasonable cause to believe that a breach of duty by a United States Government employee contributed to such injury, loss of life or destruction of property.

In making its findings, the Board shall take into account such standards of conduct, statutes, rules, regulations, instructions and other sources as may have been pertinent to the performance of work and official duties.

SEC. 205. PROGRAM RECOMMENDATIONS.

The Board shall make recommendations as appropriate to improve the efficiency, economy, suitability or security of any program or operation subject to this Act which the Board has reviewed. In particular, the Board shall make recommendations as appropriate to promote security awareness and individual accountability for security programs.

SEC. 206. DISCIPLINARY PROCEEDINGS.

(a) NOTICE.—In any case in which the Board makes an affirmative finding of reasonable cause under section 204, it shall promptly notify the employee concerned. The Board at the same time shall notify the head of the employing agency or the military service involved and recommend that an appropriate investigatory or disciplinary proceeding be initiated.

(b) RECORD.—The Board shall transmit to the Secretary, head of other employing agency or head of military service as the case may be a certified copy of the record of the proceeding, which shall be part of the official record for all purposes of any disciplinary action against the employee concerned.

SEC. 207. CERTAIN AGENCY ACTIONS.

(a) ADMINISTRATIVE LEAVE.—Following notification to an employee of an affirmative finding of reasonable cause under section 204, that employee may be placed on administrative leave for such period or periods as the Secretary of State, the head of the employing agency if other than the Department of State, or head of military service determines to be consistent with the interests of the United States.

(b) DISCIPLINARY ACTION.—Not later than 30 days after a disciplinary recommendation is made by the Board pursuant to section 206, the Secretary of State, the head of the employing agency if other than the Department of State, or head of military service shall initiate or take such action as is

deemed appropriate and shall report to the Board on such action.

SEC. 208. TRANSMISSION OF REPORTS.

The Board shall promptly transmit to the Secretary of State all findings, decisions and recommendations made pursuant to sections 204 through 206 and reports received under section 207(b). The Secretary of State shall promptly report to the appropriate committees of the Congress on all recommendations of the Board, as well as on any action taken with respect to such recommendations.

SEC. 209. RELATION TO OTHER PROCEEDINGS.

(a) FOREIGN SERVICE GRIEVANCES.—Notwithstanding any other provision of law, no action taken with respect to a member of the Foreign Service in accordance with this title shall be considered grounds for a grievance action under chapter 11 of the Foreign Service Act of 1980, as amended (22 U.S.C. 4131-4140).

(b) REVIEW ABILITY.—Nothing in this Act shall be construed to create administrative or judicial review remedies or rights of action. Determinations by the Secretary of State under section 201 of this Act shall not be reviewable in any court.

TITLE III—AUTHORIZATION OF APPROPRIATIONS

SEC. 301. AUTHORIZATION.

(a) SECURITY ENHANCEMENT PROGRAM.—In addition to amounts otherwise authorized to be appropriated, there are authorized to be appropriated to the Department of State for "Administration of Foreign Affairs" for the purposes of this Act such sums as may be necessary for fiscal year 1986, and for fiscal year 1987. Within the scope of total funds available for security, the Department of State shall ensure that equitable funding levels are provided and that, where appropriate, specific amounts are identified for the overseas security of other foreign affairs agencies on an annual basis.

(b) COUNTERTERRORISM RESEARCH AND DEVELOPMENT.—There are authorized to be appropriated to the Department of State for antiterrorism research and development such sums as may be necessary for fiscal year 1986.

SEC. 302. FOREIGN BUILDINGS PROGRAM.

In the implementation of any foreign buildings program funded from amounts authorized by section 301, the Foreign Buildings Office of the Department of State shall utilize, to the maximum extent possible, American contractors from the private sector.

SECTION-BY-SECTION ANALYSIS

(An act to provide for the security of U.S. diplomatic personnel, facilities and operations, and for other purposes)

SECTION 1—SHORT TITLE

The Act may be cited as the "Diplomatic Security Act."

SECTION 2—FINDINGS AND PURPOSE

The Diplomatic Security Act is a response to the new and profoundly difficult security-related challenges confronting United States Government employees and missions abroad, as well as foreign officials and missions within the United States. The Act is based on the recommendations of the Advisory Panel on Overseas Security formed by the Secretary of State in July 1984. The Panel consisted of Admiral Bobby R. Inman (Chairman), Senator Warren B. Rudman, Congressman Daniel A. Mica, Ambassador Lawrence S. Eagleburger, Ambassador Anne L. Armstrong, Lieutenant General D'Wayne Gray and Messrs. Robert J. McGuire and Victor H. Dikeos (Executive Secretary).

The Act creates a comprehensive new framework for the enhanced security of official personnel and facilities. The framework consists of three complementary facets. The Act sets forth the responsibility of the Secretary of State with respect to the security of diplomatic operations at home and abroad, and additionally sets forth certain provisions relating to the Bureau of Diplomatic Security and the Diplomatic Security Service of the Department of State; it provides for the convening of boards of inquiry to examine issues of accountability in cases involving terrorist or security-related attacks against United States Government personnel or facilities abroad; and it provides authorization of appropriations necessary for the Department of State to carry out its responsibilities in the area of security and counterterrorism, and in particular to finance the acquisition of new missions overseas as recommended by the Advisory Panel on Overseas Security.

TITLE I—DIPLOMATIC SECURITY

SECTION 101—RESPONSIBILITY OF THE SECRETARY OF STATE

Subsection (a) of section 101 requires the Secretary of State to develop and implement, within the scope of resources made available, policies and programs, including funding levels and standards, to provide for the security of United States Government operations overseas of a diplomatic nature and foreign government operations of a diplomatic nature in the United States. The subsection provides specific content to the formulation "operations of a diplomatic nature" by listing certain overseas and domestic security functions which are encompassed by the Secretary's responsibility.

With respect to overseas security, under paragraph (1) of this subsection the responsibility of the Secretary of State extends to the protection of all United States Government employees who are overseas on official duty (and their accompanying dependents), other than those under the command of a United States area military commander. The formulation used to describe the persons covered derives generally from section 207 of the Foreign Service Act of 1980, as amended (22 U.S.C. 3927), which specifies the persons who are under the direction and supervision of a United States chief of mission. Similarly, under paragraph (2) the Secretary's responsibility extends to the establishment and operation of security functions at all United States Government missions abroad, other than facilities or installations subject to the control of a United States area military commander.

On the domestic side, under paragraph (3) the responsibility of the Secretary of State embraces the establishment and operation of security functions at all Department of State facilities in the United States. It also extends, under paragraph (4), to the protection of foreign missions, international organizations and foreign officials and certain other foreign persons in the United States. As the phrase "as authorized by law" in paragraph (4) makes clear, the precise scope of the latter function is defined by other provisions of law on the subject, in particular section 37 of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2709), which was recently enacted by section 125 of the Foreign Relations Authorization Act, Fiscal Years 1986 and 1987 (Public Law 99-93).

Section 101 also contains certain other provisions which are closely related to the matters described in subsection (a). Subsection (b) imposes an obligation on other Federal agencies through agreements to cooperate to the maximum extent possible with the Department of State to facilitate fulfillment of its security responsibilities. It also provides that for these purposes such agencies through agreements may render assistance, with or without reimbursement, to the Department of State. It is expressly provided that such agencies may perform security inspections, provide logistic support, and perform other overseas security functions as authorized by the Secretary of State. Assistance of this kind would be appropriate in circumstances, for example, involving the facilities of other agencies abroad and provision is made for delegation of operational control, subject to the Secretary's overall responsibility. Subsection (b) also provides that the Department of State may furnish training assistance and related equipment, upon request and with or without reimbursement to host government personnel assigned to provide security for United States Government employees and missions abroad. Such assistance would be independent of existing programs for antiterrorism assistance under chapter 8 of Part II of the Foreign Assistance Act of 1961, as amended (22 U.S.C. 2349aa *et seq.*).

Subsection (c) makes clear that this Act does not limit on impair the authority or responsibility of a chief mission as set forth in section 207 of the Foreign Service Act of 1980, as amended (22 U.S.C. 3927). Similarly, subsection (d) makes clear that this Act does not limit or impair the authority or responsibility of any other Federal, State or local agency with respect to law enforcement or domestic security operations as confirmed by Sections 125 and 126 of P.L. 99-93, or with respect to intelligence activities (as defined by Executive Order), intelligence personnel and associated information. This language protects, for example, CIA's existing security responsibilities for CIA personnel, information and activities so that it may effectively carry out its assigned responsibilities and mission, and excludes from the Act CIA facilities not colocated with missions of a diplomatic nature. The language also protects the provision of protective services by the Secret Service pursuant to 3 U.S.C. Section 202 and 18 U.S.C. Section 3056.

The specific approval contained in subsection (e) for a lease of up to 250,000 square feet in this country by the Administrator of General Services serves to expedite the process of accommodating the personnel needed by the Department of State to carry out its security-related responsibilities. The Public Buildings Amendments of 1972 require the Administrator to charge commercially comparable rates for space and services.

SECTION 102—BUREAU OF DIPLOMATIC SECURITY

Subsection (a) of section 102 provides for the Bureau of Diplomatic Security of the Department of State to be headed by an Assistant Secretary of State. The appointment of the Assistant Secretary for Diplomatic Security would be made by the President with the advice and consent of the Senate, as is the case with the other Assistant Secretaries of State. Subsections (b) and (c) provide for technical conforming changes in the law made necessary by the increase in the number of Assistant Secretaries at the Department of State.

SECTION 103—DIPLOMATIC SECURITY SERVICE

Under subsection (a) of section 103, the Diplomatic Security Service of the Department of State is to be headed by a Director who shall: 1) be chosen by the Secretary of State, 2) be a member of the Senior Foreign Service or the Senior Executive Service, 3) have qualifications appropriate for the position, and 4) act under the supervision and direction of an Assistant Secretary of State.

Subsection (b) makes clear that the Diplomatic Security Service is to be staffed by drawing upon the existing Foreign Service and Civil Service personnel systems. Qualifications required for assignment or appointment to positions in the Diplomatic Security Service are to be prescribed by the Secretary of State. In the case of "Special Agents," the position qualifications may include minimum and maximum entry age limitations (*e.g.*, 21 years minimum and 35 years maximum). Such limitations are commonly found in organizations having security-related responsibilities. In addition, the position qualifications for Special Agents must incorporate the standards required by law in order to carry out security functions and to exercise the law enforcement authorities available to such Special Agents. Section 37 of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2709) provides for the Secretary to issue regulations governing activities of the Special Agents. In view of the fact that Special Agents perform a unique function—they are directly involved in protecting lives and carry firearms in certain situations—subsection (b) authorizes the Secretary to include in such regulations provisions for special disciplinary procedures to apply to Special Agents. Such procedures might, for example, pertain to the use of administrative leave (a common element of practice among organizations having security-related responsibilities).

Subsection (c) provides that the Diplomatic Security Service shall perform such functions as the Secretary of State may assign to it.

TITLE II—PERFORMANCE AND ACCOUNTABILITY

SECTION 201—ACCOUNTABILITY REVIEW

Section 201 instructs the Secretary of State to convene a board of inquiry, referred to as an Accountability Review Board (the "Board"), in any case involving serious injury, loss of life or significant destruction of property at or related to a United States Government mission abroad covered by the provisions of the Act (other than a facility or installation subject to the control of a United States area military commander). The requirement does not, however, pertain to cases which the Secretary of State determines to clearly involve only natural or other causes not related to security. It also does not pertain to cases in which the Secretary determines that there was clearly no breach of duty by a United States Government employee that contributed to such injury, loss of life or destruction of property.

SECTION 202—ACCOUNTABILITY REVIEW BOARD

Under subsection (a) of section 202, a Board shall consist of three to five members designated by the Secretary of State, who also chooses the Chairperson of the Board. The Director of CIA is authorized to designate a member, and, in cases involving intelligence sources and methods, jointly with the Secretary of State designate all members of the Board. Board members appointed from outside the Government would be special Government employees for conflict of interest purposes. Travel expenses authorized under this Section shall be paid in accordance with 5 U.S.C. subchapter 57, or other applicable law (i.e. the Foreign Service Act).

Subsection (b) deals with the issue of support services for the Board. The Board is to obtain all necessary facilities, services and supplies through the Department of State. The Board's expenses are also to be paid by the Department. In addition, the Board may retain the services of employees, experts and consultants who shall be responsible to the Board, may request that employees of other agencies be detailed to the Board, and may request assistance from an inspector general of the Department of State.

SECTION 203—PROCEDURES

Section 203 empowers the Board to make use of certain authorities of a procedural nature. In particular, under subsection (a) of this section, the Board may issue or authorize the issuance of a subpoena to obtain the testimony of witnesses (who are not employees of executive agencies of the Federal Government) and the production of documentary or other evidence from any such person or from an entity other than a Federal executive agency. In the event of refusal to obey such a subpoena, the Board may apply to the Attorney General to request enforcement by an appropriate United States court. The Attorney General may withhold information if disclosure would prejudice a criminal investigation or prosecution.

Under subsection (b), the Board shall adopt for administrative proceedings under this title such procedures with respect to confidentiality as it deems necessary, to ensure in particular the protection of classified information relating to national defense, foreign policy or intelligence. Those procedures may pertain to the conduct of closed proceedings, for example, or to the submission and use of evidence *in camera*. The Director of CIA prescribes the level of safeguards for intelligence information, including secure storage requirements.

Subsection (c) provides that the records relating to administrative proceedings under this title (including any hearing under section 206) must be maintained separately from all other records of the Department of State and that they must be adequately protected. This subsection creates a (b)(3) exemption under the Freedom of Information Act. Affected employees, however, would have such access to records concerning them as is authorized under the Privacy Act (5 U.S.C. 552a). Upon completion of a Board's work intelligence records would be turned over to CIA and other records to State. Only those Freedom of Information Act exemptions applicable to Department records generally would be available for records in its custody. Subsection (d) exempts Accountability Review Boards from the Government in the Sunshine Act and Federal Advisory Act.

SECTION 204—FINDINGS

Section 204 requires the Board inquiring into an incident to make written findings of two kinds. First, the Board must determine whether there are reasonable grounds to believe that the injury, loss of life or destruction of property with respect to which the Board was convened was security-related. Second, the Board must determine whether there is reasonable cause to believe that a breach of duty by an individual employee of the United States Government contributed to such injury, loss of life or destruction of property. The section specifies that in making its findings the Board is to consult and take into account all sources (such as statutes, regulations and instructions) relevant to the issue of work performance and official duty.

It should be noted that not all inquiries would present a Board with complicated factual circumstances or difficult judgments to make. In a case involving relatively few or relatively easy issues, the Board can—and it is fully expected that it would—move with correspondingly greater speed to complete the inquiry called for by this title.

SECTION 205—PROGRAM RECOMMENDATIONS

When an Accountability Review Board is convened to investigate an incident involving injury, loss of life or destruction of property at a United States Government mission overseas, a principal purpose of its inquiry must be to enable the Department of State to take corrective action to avoid any such incident in the future. Accordingly, section 205 contemplates that the Board shall draw the necessary conclusions from its investigation and make appropriate recommendations to improve security and promote security awareness of missions and personnel subject to this Act.

SECTION 206—DISCIPLINARY PROCEEDINGS

There may be many cases in which a Board finds no probable cause to believe that any breach of duty by an employee contributed to the injury, loss of life or destruction of property involved in an incident. In such cases, the Board's inquiry ends with its written findings and program recommendations under the preceding two sections. However, in any case in which the Board makes an affirmative reasonable cause finding with respect to an individual employee, the Board's inquiry leads to a second phase, which is the subject of this section.

Under subsection (a) of section 206, the Board must promptly notify any employee with respect to whom it has made an affirmative reasonable cause finding. The Board also must notify the head of the employing agency or military service concerned with a recommedation that an appropriate investigatory or disciplinary proceeding be initiated.

Subsection (b) requires the Board to draw conclusions from its decision in the case and recommend to the Secretary of State or other agency head concerned disciplinary action as appropriate. In connection with its recommendation, the Board must also transmit a certified copy of the record of the proceeding. That record becomes part of the official record for purposes of any subsequent disciplinary action.

SECTION 207—CERTAIN AGENCY ACTIONS

Under subsection (a) of section 207, an employee who receives notification of an affirmative reasonable cause finding may be placed on administrative leave for such period or periods as is determined by the head of employing agency or head of military service concerned to be consistent with the national interest. Such leave could be granted, for example, in a case in which the employee's continuing presence on the job was considered to constitute a risk to security. Subsection (b) provides that within thirty days after a disciplinary recommendation is made by the Board, the Secretary or agency head must initiate or take action as deemed appropriate and inform the Board of such action. It should be noted that nothing in this title would preclude an

agency from taking action with respect to an employee (*e.g*, a reassignment or suspension without pay) under authorities other than this Act.

SECTION 208—TRANSMISSION OF REPORTS

Section 208 requires the Board to transmit promptly to the Secretary of State all of its findings, decisions and recommendations. The section also requires the Secretary to report promptly to the appropriate committees of Congress on all recommendations of the Board and on any action taken with respect to those recommendations, including reports received under Section 207(b).

SECTION 209—RELATION TO OTHER PROCEEDINGS

Section 209(a) makes clear that a member of the Foreign Service with respect to whom action is taken in accordance with this title may not utilize Foreign Service grievance procedures, to challenge such action.

Section 209(b) makes clear that this Act creates no administrative or judicial review remedies or rights of action. No findings, decisions, or recommendations made under this title may be used in civil actions as *res judicata* or otherwise. Of particular concern are attempts to hold personally liable those who participate as members or witnesses under Sections 201 through 205 of the Act. Determinations by the Secretary of State not to convene a Board under Section 201 are not subject to judicial review.

TITLE III—AUTHORIZATION OF APPROPRIATIONS

SECTION 301—AUTHORIZATION

Security enhancement

The additional amounts authorized to be appropriated by section 301(a) will be used by the Department of State to carry out the purposes of this Act. The Department is required to assure that, within amounts actually made available, equitable funding levels are provided and specific amounts identified for security needs of other foreign affairs agencies.

Counter-terrorism research and development

Subsection (b) authorizes appropriation of such sums as maybe necessary in Fiscal Year 1986 for counter-terrorism research and development.

SECTION 302—FOREIGN BUILDINGS PROGRAM

Section 302 requires the Foreign Buildings Office of the Department of State, in its implementation of the Act, to make maximum possible use of American contractors from the private sector to carry out the multiyear foreign buildings program to be funded from amounts authorized by section 301. The services to be provided by such contractors could include, for example, project management and control to ensure that individual projects are completed on schedule and within budget, as well as construction management inspection, testing and review.●

By Mr. DIXON:

S. 2016. A bill to provide for public financing of Federal elections for the U.S. Senate, and for other purposes; to the Committee on Rules and Administration.

SENATE GENERAL ELECTION REFORM ACT

Mr. DIXON. Mr. President, I have on several occasions discussed the matter of campaign finance and the escalating costs of elections during our deliberations in this Chamber.

My concern has been that a scandal relating to campaign finance is just waiting to happen. We don't know when or where, but we can predict that one of these days a major catastrophe is going to be upon us. Our reaction, unfortunately, will not be rational or reasonable. We will rush into some kind of quick fix that may well turn out to be a mistake, because it will be overly restrictive, punitive and altogether unwise.

In order to avoid such an eventuality, I have advocated public financing for Senate campaigns. This approach to financing elections is something that will ultimately come to pass. We should take this step in an orderly, deliberate fashion, rather than wait until a scandal is upon us, forcing us to react in the heat of the moment.

As a means of forestalling such an eventuality, I introduced S. 85 in the last Congress. This bill was the subject of oversight hearings by the Rules Committee. Today I again offer this bill for consideration by my colleagues since we intend to embark upon a thorough review of campaign finance.

Although this is a complex matter, there are several basic concerns confronting us in relation to how we finance election campaigns.

First and foremost, the costs of campaigns have gotten out of hand. My proposed legislation copes with this problem by placing a limit on spending for Senate campaigns based on a formula related to the voting age population in each State.

A second disturbing development is the decline in small contributions to Federal election campaigns. My response to this alarming situation is to provide matching funds from the Presidential checkoff fund to encourage small contributors to return to the election process. My plan envisions Federal matching of contributions from individuals up to $100. It is absolutely essential to take steps to restore the confidence of small contributors in our Federal elections, so that they will once again contribute to the candidates of their choice.

If we can limit campaign spending in Senate races, and if we can successfully encourage small contributors to return to the Federal election process, we will have solved the bulk of the difficulties now facing us in each succeeding election cycle.

A third element which contributes greatly toward deterring campaign financing abuse is public disclosure. This requirement for campaign contributions is already on the law books, and the public and all interested parties can pore over these records to determine the sources and amounts of campaign contributions. I have always supported full disclosure of campaign contributions. As a matter of fact, I was the first Democratic statewide official in Illinois to make available not only all of my campaign contributions, but also my net worth statement. This complete public record allows anyone to determine the sources of my campaign contributions and my personal income. I emphasize, Mr. President, my strong support of full disclosure.

I am pleased that the Senate plans to focus its attention on the problem of campaign finance. The financing of elections must be looked at in its totality. Public financing and limits on campaign spending must be key elements in whatever solution and whatever plan we adopt. A comprehensive approach, not a piecemeal step, is what is required.

I urge my colleagues to consider the importance of campaign spending limits and the return of the small contributor to Federal election races as the essential keys to the dilemma of massive campaign spending in our Nation.

Mr. President, I ask that the text of my bill be included at this point in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Senate General Election Reform Act of 1986".

SEC. 2. The Federal Election Campaign Act of 1971 is amended by adding at the end thereof the following new subchapter:

"SUBCHAPTER III—PUBLIC FINANCING OF SENATE GENERAL ELECTION CAMPAIGNS

"DEFINITIONS

"SEC. 501. For purposes of this subchapter—

"(1) the definitions set forth in section 301 of this Act apply to this subchapter;

"(2) 'general election' means any regularly scheduled or special election held for the purpose of electing a candidate to the United States Senate;

"(3) 'eligible candidate' means a candidate who is eligible, under section 502, for payments under this subchapter;

"(4) 'account' means the Senate General Election Campaign Account maintained by the Secretary of the Treasury in the Presidential Election Campaign Fund established by section 9006(a) of the Internal Revenue Code of 1954; and

"(5) 'authorized committee' means, with respect to any candidate for election to the United States Senate, any political committee which is authorized in writing by such candidate to accept contributions or to make expenditures on behalf of such candidate to further the election of such candidate.

"ELIGIBILITY FOR PAYMENTS

"SEC. 502. (a) To be eligible to receive payments under this subchapter, a candidate shall agree—

"(1) to obtain and to furnish to the Commission any evidence it may request about the campaign expenditures and contributions of such candidate;

"(2) to keep and to furnish to the Commission any records, books, and other information it may request; and

"(3) to an audit and examination by the Commission under section 507 and to pay any amounts required under such section.

"(b) To be eligible to receive payments under this subchapter, a candidate shall certify to the Commission that—

"(1) the candidate and the authorized committees of such candidate will not make campaign expenditures greater than the limitations set forth in section 315(j) of this Act;

"(2) no contributions will be accepted by the candidate or the authorized committees of such candidate in violation of section 315(a) of this Act;

"(3) the candidate is seeking election to the United States Senate, and such candidate and the authorized committees of such candidate have received contributions for that campaign in a total amount of not less than the smaller of—

"(A) 20 per centum of the amount of expenditures the candidate may make in connection with the campaign under section 315(j) of this Act, or

"(B) $200,000; and

"(4) at least two candidates have qualified for the election ballot for election to the same seat in the United States Senate under the law of the State involved.

"(c) Agreements, certifications, and declarations under this section shall be filed with the Commission at the time required by the Commission.

"ENTITLEMENT TO PAYMENTS

"SEC. 503. (a) Every candidate who meets the eligibility requirements in section 502 is entitled to payments for use in such candidate's general election campaign in an amount equal to the amount of contributions such candidate and the authorized committees of such candidate receive for that campaign.

"(b) A candidate entitled to payments under subsection (a) shall be entitled to—

"(1) an initial payment in an amount equal to the contributions certified under section 502(b)(3); and

"(2) additional payments to be paid in—

"(A) multiples of $10,000 under section 506, if, with respect to each such payment, the eligible candidate and the authorized committees of such candidate have received contributions aggregating $10,000; and

"(B) a final payment under section 506 (designated as such by the candidate involved) of the balance of the entitlement of the candidate under this section.

"(c) In determining the amount of contributions received by a candidate and the authorized committees of such candidate for the purposes of subsection (a) of this section and section 502(b)(3)—

"(1) no contribution received by the candidate or any of the authorized committees of such candidate as a subscription, loan, advance, deposit, or as a contribution of products or services, shall be taken into account;

"(2) no contribution received from a political committee or any other organization shall be taken into account;

"(3) no contribution received from any individual shall be taken into account to the extent that such contribution exceeds $100 when added to the amount of all other contributions made by that individual to or for the benefit of such candidate in connection with the general election campaign of such candidate;

"(4) no contribution received from any individual who resides in a State other than the State in which the election is held shall be taken into account to the extent that such contribution when added to all other contributions received from such individuals exceeds 20 per centum of the aggregate of contributions otherwise taken into account;

"(5) no contribution (A) which is received before September 1 of the year immediately preceding the year in which any general election is held and (B) which is not maintained in a separate account until the date on which such candidate qualifies under the law of the appropriate State for election, shall be taken into account;

"(6) no contribution maintained in such a separate account shall be used to make any expenditure until the date on which the candidate qualifies under the law of the appropriate State for election to the Senate; and

"(7) no contribution received after the date on which the election is held shall be taken into account.

"(d) Notwithstanding the provisions of subsection (a), no candidate is entitled to the payment of any amount under this section which, when added to the total amount of contributions received by such candidate and the authorized committees of such candidate and any other payments made to the candidate under this subchapter for such candidate's general election campaign, exceeds the amount of the expenditures limitation applicable to such candidate for that campaign under section 315(j)(1) of this Act.

"WAIVER OF OVERALL EXPENDITURE LIMITATION; ADDITIONAL PUBLIC FINANCING FOR CERTAIN CANDIDATES

"SEC. 504. (a)(1) Not later than the date on which a candidate qualifies under the law of the appropriate State for election to the Senate of the United States, or ninety days before the date of any general election, whichever is earlier, each candidate for election to the Senate of the United States shall file with the Commission a declaration of whether such candidate intends to make expenditures in excess of the limitations on expenditures under section 315(j) of this Act.

"(2) Not later than sixty days before the date of such general election, each candidate who has reason to believe that he may make expenditures in excess of such limitations shall notify the Commission to that effect, unless such candidate filed with the Commission a timely declaration that he intended to exceed such limitations, as provided in paragraph (1).

"(3) Each candidate for election to the Senate of the United States shall notify the Commission and each other candidate for the same election within forty-eight hours after such candidate, or any of the authorized committees of such candidate—

"(A) makes any expenditure, or incurs any obligation to make an expenditure, in excess of the limitation on expenditures contained in section 315(j) of this Act; or

"(B) receives any contribution which, when added to the total amount of contributions received by such candidate and the authorized committees of such candidate, exceeds the amount of the limitation on expenditures contained in section 315(j)(1) of this Act.

"(4) The Commission is authorized to determine, upon its own initiative or upon the request of any candidate for election to the Senate of the United States, whether any candidate has made expenditures or incurred obligations to make expenditures in excess of the limitations contained in section 315(j) of the Act, or has received contributions in excess of the limitation contained in section 315(j)(1) of this Act.

"(b) The limitation on expenditures contained in section 315(j)(1) of this Act shall not apply to any candidate for election to the Senate of the United States if any other candidate in the same election—

"(1) fails to file with the Commission a timely declaration as provided in paragraph (1) of subsection (a); or

"(2) files with the Commission a notice as provided in paragraph (2) of subsection (a); or

"(3) is required to notify the Commission in connection with the making of expenditures or the receipt of contributions as provided in paragraph (3) of subsection (a).

"(c)(1) Any person who makes independent expenditures, as defined in section 301(17) of this Act, or incurs costs of communication, required to be reported under section 301(9)(B)(iii) of this Act, shall notify the Commission not later than forty-eight hours after such person first makes such independent expenditures or incurs such costs of communication aggregating more than $5,000, and thereafter shall so notify the Commission each time such person makes any additional independent expenditure, or incurs any such additional costs of communication, aggregating $5,000 or more.

"(2) If, with respect to an election, independent expenditures, as defined in section 301(17) of this Act, are made, or costs of communication, required to be reported under section 301(9)(B)(iii) of this Act, are incurred, aggregating more than one-third of the limitation on expenditures in section 315(j)(1) of this Act, the Commission shall, with respect to such election, suspend the limitation on expenditures established in such section 315(j)(1) at the request of any candidate in such election who is eligible to receive payments under section 502, and who has received the benefit of no more than one-third of such independent expenditures or costs of communication.

"(d)(1) The provisions of section 503(d) shall not apply to a candidate who elects to receive payments under this subchapter if the expenditure limitation contained in section 315(j)(1) of this Act is made inapplicable to such candidate under subsection (a), (b), or (c) of this section.

"(2) The additional amount to which a candidate is entitled under this subsection shall be based only upon the amount of contributions received after the date on which such expenditure limitation is made inapplicable, except that any contribution which is received from an individual after the date on which the limitation on expenditures is made inapplicable shall be considered as a contribution from an individual who has not previously made a contribution to such candidate.

"(3) The additional amount to which a candidate is entitled under this subsection shall not exceed 50 per centum of the amount of the expenditure limitation under section 315(j)(1) of this Act which would otherwise apply to such candidate.

"CERTIFICATIONS BY COMMISSION

"SEC. 505. (a) No later than forty-eight hours after a candidate files a request with the Commission to receive payments under section 506, the Commission shall certify the eligibility of such candidate to the Secretary of the Treasury for payment in full of the amount to which such candidate is entitled. The request referred to in the preceding sentence shall contain—

"(1) such information and be made in accordance with such procedures as the Commission may provide by regulation; and

"(2) a verification signed by the candidate and the treasurer of the principal campaign committee of such candidate stating that the information furnished in support of the request, to the best of their knowledge, is correct and fully satisfies the requirements of this subchapter.

"(b) Initial certifications by the Commission under subsection (a), and all determinations made by it under this subchapter, shall be final and conclusive, except to the extent that they are subject to examination and audit by the Commission under section 507 and judicial review under section 511.

"(c) Any candidate who knowingly and willfully submits false information to the Commission under this section shall be punished as provided in section 512.

"PAYMENTS TO ELIGIBLE CANDIDATES

"SEC. 506. (a) The Secretary of the Treasury shall maintain in the Presidential Election Campaign Fund established by section 9006(a) of the Internal Revenue Code of 1954, in addition to any other accounts he maintains under such section, a separate account to be known as the Senate General Election Campaign Account. The Secretary shall deposit into the account, for use by candidates eligible for payments under this subchapter, the amount available after the Secretary determines that amounts in the fund necessary for payments under subtitle H of the Internal Revenue Code of 1954 are adequate. The moneys in the account shall remain available without fiscal year limitation.

"(b) Upon receipt of a certification from the Commission under section 505, the Secretary of the Treasury shall pay the amount certified by such Commission out of the account to the candidate to whom the certification relates.

"(c) Payments received under this section shall be used only to defray election campaign expenses incurred with respect to the period beginning on the day after the date on which the candidate qualifies for the election ballot under the law of the State involved, and ending on the date of the election, or the date on which the candidate withdraws from the campaign or otherwise ceases actively to seek election, whichever occurs first. Such payments shall not be used (1) to repay any loan to any person, or (2) to make any payments, directly or indirectly, to such candidate or to any member of the immediate family (as defined in section 315(j)) of such candidate.

"(d)(1) If the Secretary of the Treasury determines that the moneys in the account are not, or may not be, sufficient to pay the full amount of entitlement to all candidates eligible to receive payments, he shall reduce the amount to which each candidate is entitled under section 503 by a percentage equal to the percentage obtained by dividing (A) the amount of money remaining in the account at the time of such determination by (B) the total amount which all candidates eligible to receive payments are entitled to receive under section 503. If additional candidates become eligible under section 502 after the Secretary determines there are insufficient moneys in the account, he shall make any further reductions in the amounts payable to all eligible candidates necessary to carry out the purposes of this subsection. The Secretary shall, by registered mail, notify the Commission and each eligible candidate of the reduction in the amount to which that candidate is entitled under section 503.

"(2) If, as a result of such reduction, payments have been made under this section in excess of the amount to which such candidate is entitled, that candidate is liable for repayment to the account of the excess pursuant to procedures the Commission shall prescribe by regulation.

"EXAMINATION AND AUDITS; REPAYMENTS

"SEC. 507. (a) After each Federal election, the Commission shall conduct a thorough examination and audit of the campaign expenditures of all candidates for Federal office who received payments under this subchapter for use in campaigns relating to that election.

"(b)(1) If the Commission determines that any payment made to an eligible candidate under section 506 was in excess of the aggregate amount of the payments to which such candidate was entitled, the Commission shall notify such candidate, and such candidate shall pay to the Secretary of the Treasury an amount equal to the excess amount. If the Commission determines that any portion of the payments made to a candidate under section 506 to be used in such candidate's general election campaign was not used to make expenditures in connection with such campaign, the Commission shall notify the candidate of such determination and such candidate shall pay to the Secretary an amount equal to the amount of the unexpended portion. In making its determination under the preceding sentence, the Commission shall consider all amounts received as contributions to have been expended before any amounts received under this subchapter are expended.

"(2) If the Commission determines that any amount of any payment made to a candidate under section 506 was used for any purpose other than to defray campaign expenditures, it shall notify the candidate of the amount so used, and the candidate shall pay to the Secretary of the Treasury an amount equal to such amount.

"(3) No payment shall be required from a candidate under this subsection in excess of the total amount of all payments received by the candidate under section 506 in connection with the campaign with respect to which the event occurred which caused the candidate to have to make a payment under this subsection.

"(c) No notification shall be made by the Commission under subsection (b) with respect to a campaign more than 18 months after the day of the election to which the campaign related.

"(d) All payments received by the Secretary under subsection (b) shall be deposited by him in the account.

"OTHER POWERS AND DUTIES OF THE COMMISSION

"SEC. 508. (a) The Commission is authorized to conduct examinations and audits, in addition to the examinations and audits under sections 505 and 507, to conduct investigations, and to require the keeping and submission of any books, records, or other information necessary to carry out the functions and duties imposed on it by this subchapter.

"(b) The Commission shall consult from time to time with the Secretary of the Senate, the Clerk of the House of Representatives, the Federal Communications Commission, and other Federal officers charged with the administration of laws relating to Federal elections, in order to develop as much consistency and coordination with the administration of those other laws as the provisions of this subchapter permit. The Commission shall use the same or comparable data as that used in the administration of such other election laws whenever possible.

"REPORTS TO CONGRESS

"SEC. 509. (a) The Commission shall, as soon as practicable after the close of each calendar year, submit a full report to the Senate setting forth—

"(1) the expenditures incurred by each candidate, and the authorized committees of such candidate, who received any payment under section 506 in connection with an election;

"(2) the amounts certified by it under section 505 for payment to that candidate; and

"(3) the amount of payments, if any, required from that candidate under section 507, and the reasons for each payment required.

Each report submitted pursuant to this section shall be printed as a Senate document.

"(b) The Commission shall submit, not later than March 1 of each year immediately following a year in which any Federal election is held, a special report to the Senate setting forth—

"(1) the amounts certified by it under section 505 of this subchapter and sections 9005, 9008, and 9036 of the Internal Revenue Code of 1954 for payments from the Presidential Election Campaign Fund;

"(2) the amount of money remaining in the fund at the end of the calendar year in which any Federal election is held;

"(3) an estimate of the amount of money which will be transferred to such fund during each of the four calendar years immediately following the year in which any Federal election is held; and

"(4) an estimate, to the extent practicable, of the amount of money necessary to make all payments to which eligible candidates and the national committees of each political party will be entitled with respect to the next two Federal elections to be held.

"PARTICIPATION BY COMMISSION IN JUDICIAL PROCEEDINGS

"SEC. 510. (a) The Commission is authorized to appear in and defend against any action filed under section 511, either by attorneys employed in its office or by counsel whom it may appoint without regard to the provisions of title V, United States Code, governing appointments in the competitive service, and whose compensation it may fix without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title.

"(b) The Commission is authorized to appear, through attorneys and counsel described in subsection (a), in the district courts and other appropriate courts of the United States to seek recovery of any amounts determined to be payable to the Secretary of the Treasury as a result of any examination and audit made pursuant to section 507.

"(c) The Commission is authorized to petition the courts of the United States for declaratory or injunctive relief concerning any civil matter arising under this subchapter, through attorneys and counsel described in subsection (a). Upon application of the Commission, an action brought pursuant to this subsection shall be heard and determined by a court of three judges in accordance with the provisions of section 2284 of title 28, United States Code, and any appeal from the determination of such court shall lie to the Supreme Court of the United States. Judges designated to hear the case shall assign the case for hearing at the earliest practicable date, participate in the hear-

ing and determination thereof, and cause the case to be in every way expedited.

"(d) The Commission is authorized on behalf of the United States to appeal from, and to petition the Supreme Court of the United States for certiorari to review judgments or decrees entered with respect to actions in which it appears pursuant to the authority provided in this section.

"JUDICIAL REVIEW

"SEC. 511. (a) Any certification, determination, or other action by the Commission made or taken pursuant to the provisions of this subchapter shall be subject to review by the United States Court of Appeals for the District of Columbia Circuit upon petition filed in such court by any interested person. Any petition filed pursuant to this section shall be filed within thirty days after such certification, determination, or other action by the Commission.

"(b)(1) The Commission, the national committee of any political party, and any individual eligible to vote for a candidate for the office of Senator of the United States are authorized to institute an action under this section, including an action for declaratory judgment or injunctive relief, as may be appropriate to implement or construe any provision of this subchapter.

"(2) The district courts of the United States shall have jurisdiction of proceedings instituted pursuant to this subsection and shall exercise such jurisdiction without regard to whether a person asserting rights under the provisions of this subsection shall have exhausted administrative or other remedies provided at law. Such proceedings shall be heard and determined by a court of three judges in accordance with the provisions of section 2284 of title 28, United States Code, and any appeal shall lie to the Supreme Court of the United States. Judges designated to hear the case shall assign the case for hearing at the earliest practicable date, participate in the hearing and determination thereof, and cause the case to be in every way expedited.

"PENALTY FOR VIOLATIONS

"SEC. 512. Violation of any provision of this subchapter is punishable by a fine of not more than $10,000, or imprisonment for not more than five years, or both.".

LIMITATIONS ON EXPENDITURES IN SENATE GENERAL ELECTION CAMPAIGNS

SEC. 3. (a) Section 315 of the Federal Election Campaign Act of 1971 (2 U.S.C. 441a) is amended by adding at the end thereof the following:

"(i) For purposes of this section expenditures made on behalf of any candidate (as determined under section 315(b)(2)(B)) for the office of Senator of the United States shall be considered to be expenditures made by such candidate.

"(j)(1) Except as otherwise provided in section 504 of this Act, a candidate who receives payments for use in his general election campaign for the office of Senator of the United States, pursuant to section 506 of this Act may not make expenditures in such campaign in excess of $250,000, plus 15 cents multiplied by the voting age population, as certified under subsection (e), of the State in which the election is held.

"(2) For purposes of the limitation on expenditures contained in paragraph (1), only that percentage of an expenditure by a candidate or the authorized political committees of such candidate for broadcasting time which represents the cost to such candidate or committees of transmitting the material broadcast to the State in which such candidate is seeking election shall be taken into account.

"(3) A candidate who receives payments under section 506 of this Act for use in his general election campaign for the office of Senator of the United States may not make expenditures in such campaign from his personal funds or from the personal funds of his immediate family in excess of $35,000. For the purposes of this subsection, the term 'immediate family' means a candidate's spouse, and any child, parent, grandparent, brother, half-brother, sister, or half-sister of the candidate, and the spouses of such persons.".

(b) Section 315(c)(1) is amended by striking out "subsection (b) of this section and subsection (d) of this section" and inserting in lieu thereof "subsections (b), (d) and (j) of this section".

(c) Section 315(c)(2)(B) of such Act (2 U.S.C. 441a(c)(2)(B)) is amended by inserting before the period a comma and "except that with respect to the limitation established by subsection (j) the term 'base period' means the calendar year of 1982".

EFFECTIVE DATE

SEC. 4. The amendments made by this Act shall become effective on January 1, 1987, and shall apply to campaigns for election to the United States Senate after such date.

AUTHORIZATION OF APPROPRIATIONS

SEC. 5. There is authorized to be appropriated to the Federal Election Commission the sum of $900,000 for purposes of carrying out the provisions of this Act during the fiscal year 1987.

By Mr. CHILES:

S. 2017. A bill to amend title V, United States Code, to expand the class of individuals eligible for refunds or other returns of contributions from contingency reserves in the Employee Health Benefits Fund; to the Committee on Governmental Affairs.

REFUNDS FROM CONTINGENCY RESERVES ON EMPLOYEE HEALTH BENEFITS FUND TO ANNUITANTS

● Mr. CHILES. Mr. President, I am introducing today what I believe should be a noncontroversial piece of legislation.

The bill calls for a simple amendment to present law to allow rebates to employees, annuitants, and the Federal Government caused by overpayments to contingency reserves in the Federal Employees Health Benefit Fund. A ruling last year, from the Attorney General, asserting that retirees were not eligible for these rebates, has made this legislation necessary.

I do not believe Congress intended annuitants to be excluded when it passed the original legislation. The Attorney General ruled the word "employees" did not include annuitants that were enrolled in the affected Federal health plans. The word "enrollees" is needed as a substitute for "employees" to resolve the issue.

This bill accomplishes that simple substitution.

This language was contained in legislation passed by both Houses last December 12. President Reagan saw fit to veto that bill. The amount of delay resulting from action not taken to allow refunds identified many months ago is an outrage. It also sends a signal that our Federal employees and retirees are not treated with much regard or given much priority. In a time of crucial budget debate, the President's veto of legislation containing language permitting refunds for all enrollees contributes to an impasse where the Federal Treasury is not receiving a refund of some $800 million. In the face of new budget sequestration procedures, the portion of these funds which was overpayment by the Federal Government on behalf of its employees could go toward reducing the deficit.

Moreover, the estimate of refunds due the enrollees in the affected plans is in the neighborhood of $400 million. These are dollars which belong to our constituents which were paid in individually by them and which should be returned without further delay.

Some have mentioned the possibility of overriding the Presidential veto.

Others have voiced the hope that a new bill, with many of the same provisions contained in the vetoed bill, could go forward quickly.

This bill is not intended to get in the way of either of those courses of action, if that is the Senate's will. But the action in this bill in all fairness, is way, way overdue. Therefore, I am introducing this bill so we might proceed without further delay to permit rebates to all enrollees in the Federal Employees Health Benefit Plan.●

By Mr. TRIBLE:

S. 2019. A bill to bar construction of new prison facilities at the Lorton prison in Fairfax County, VA, to accelerate the completion of new prison facilities within the District of Columbia, and for other purposes; to the Committee on Governmental Affairs.

PROHIBITING CONSTRUCTION OF DISTRICT OF COLUMBIA PRISON FACILITIES IN LORTON, VA

Mr. TRIBLE. Mr. President, I am introducing legislation today addressing one of the most important public safety needs of the Washington Metropolitan area—the urgent need for construction of a new, permanent prison facility within the District of Columbia.

This measure will help to ensure that a prison is constructed in the city as promptly as possible. It will also bar any attempt by District officials to construct new prison facilities at the Lorton complex in northern Virginia. And, it will require that the U.S. Attorney General extend temporarily the use of the Federal prison system to house those convicted of crimes within Washington, DC.

For many years now, rather than face the need for a new prison, District officials have shipped the problem to northern Virginia. As a result, the citizens of Fairfax County have been beset by fear and unease. For

these Virginians have been subject to escapes, riots, and disturbances in a prison over which they have no control.

The District officials responsible for Lorton are not answerable to the residents of northern Virginia. And despite frequent expressions of concern by northern Virginians and their local officials, DC officials have looked first to Fairfax County to solve their prison problems. Instead of confronting the overwhelming need for prison facilities in the District, city officials would attempt to expand the Lorton complex.

The past several weeks have seen a recurrence of this scenario. Two weeks ago, the U.S. Department of Justice announced it was considering severing an agreement with the District that had permitted those convicted in District of Columbia to be incarcerated in the Federal prison system. Once again, the government of the District looked first at Fairfax County. Shortly thereafter, city officials announced that they had entered into a secret plan with the courts of the District to construct a "temporary" 400-bed facility at the Lorton prison in northern Virginia.

To make matters worse, district officials said they would fund this new construction with part of the funds allocated by Congress last year for construction of a permanent prison within the city. City officials said they would use $9 million—of the $30 million appropriated by Congress to build a new prison within the city—to build temporary facilities at Lorton.

Mr. President, these escapades by the District must come to an end. It is time for the city to stop postponding a resolution of its prison population crisis. It is time for the city to act responsibility, and it is time that the city stopped counting on the Lorton prison to handle the overflow that has resulted from the District's own refusal to press ahead with a new prison within the District.

To that end, the legislation I am sponsoring today will accomplish several important and overdue goals. First and foremost, this bill will prohibit the District Government from constructing any new prison facilities—be they temporary or permanent—at the Lorton complex. This measure will require the District to look instead to its own property, within its own limits, for solutions to prison crises.

Next, this bill will establish strict timetables for action that should have been taken by District corrections officials long ago. The Mayor of the District has promised that he will construct a new, permanent prison within the city. On this crucial issue, I take the Mayor at his word.

Yet, the city has been notoriously slow in taking the necessary first steps toward prison construction, especially in choosing a site or sites for the new facility. Accordingly, this legislation sets forth specific deadlines for the city to inform Congress of both its choice of a temporary site within the city to handle the inmates it had intended to place at Lorton, as well as a site for construction of a permanent facility, also within the city.

Finally, this legislation will require the Attorney General to continue to accept DC prisoners on an interim basis. I am fully aware that this is not a problem of the Attorney General's making. Indeed, the U.S. Department of Justice has been most forthcoming in attempting to help the District deal with its prison problems.

Still, I remain concerned about the possibility that all of the District's future surplus of prisoners will be concentrated at Lorton Prison in northern Virginia. The situation at Lorton is already extremely volatile. The prison has been plagued by escapes, riots, and similar disturbances in recent months. And we should not fuel the fires there by adding additional prisoners. For that reason, I believe it would be far safer for those inmates to be dispersed throughout the Federal system.

Mr. President, this legislation will set the District on a path toward alleviating its prison crisis and thus increasing the public safety in the Washington metropolitan area. Moreover, it will do so without further burdening the citizens of northern Virginia.

I ask unanimous consent that a copy of this legislation be inserted into the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2019

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, the District of Columbia shall not—

(1) construct new prison facilities, either permanent or temporary, at the Lorton prison in Fairfax County, Virginia; or

(2) incarcerate prisoners at the Lorton prison beyond the rated capacity or court-orderd capacity of the Lorton prison.

SEC. 2. (a) Not later than 10 days after the date of enactment of this Act, the Mayor of the District of Columbia shall submit to Congress his choice of a site or sites within the District of Columbia for construction of temporary prison facilities for the confinement of District of Columbia Code violators.

(b) not later than 30 days after the date of enactment of this Act, the Mayor of the Distict of Columbia shall submit to Congress his choice of a site or sites within the Distict of Columbia for construction of permanent prison facilities for the confinement of District of Columbia Code violators.

SEC. 3. (a) For a period of one year from the date of enactment of this Act, the Attorney General shall, subject to the provisions of subsection (b), designate Federal prisons as the place of confinement of District of Columbia Code violators when the District has reached its prison capacity at the Lorton prison and the District of Columbia Jail, unless prior to or during that period, the District has established temporary or permanent facilities within the District of Columbia for confinement of those prisoners.

(b) The requirement that the Attorney General designate Federal prisons as the place of confinement of District of Columbia Code violators provided in subsection (a) shall be void in the event that the District of Columbia fails to comply with the provisons of section 2.

SEC. 4. The District of Columbia shall not engage in early release or early parole of violent offenders as a means of alleviating problems of prison overcrowding.

By Mr. RIEGLE (for himself, Mr. ROTH, Mr. PROXMIRE, Mr. EXON, Mr. INOUYE, Mr. QUAYLE, Mr. DECONCINI, Mr. LUGAR, Mr. GRASSLEY, Mr. PELL, Mr. KENNEDY, Mr. MURKOWSKI, Mr. DOMENICI, Mr. PRESSLER, Mr. LEVIN, Mr. ROCKEFELLER, Mr. PRYOR, Mr. SIMON, Mr. GORE, Mr. KERRY, Mr. BUMPERS, Mr. BRADLEY, Mr. HEINZ, Mr. DIXON, Mr. DOLE, and Mr. BURDICK):

S.J. Res. 258. Joint resolution designating "Baltic Freedom Day"; to the Committee on the Judiciary.

BALTIC FREEDOM DAY

Mr. RIEGLE. Mr. President, today, along with the bipartisan support of 26 cosponsors, I am introducing a joint resolution calling for the declaration of June 14, 1986, as Baltic Freedom Day. A companion bill is being introduced in the House of Representatives by Congressman CARNEY of New York.

With this resolution, the Congress focuses the attention of the world on the plight of the Baltic people and demonstrates solidarity with them in their continuing struggle for freedom.

This year, June 14 will mark the 46th year of Soviet subjugation of the Baltic States. Despite the steady erosion of the national identities of the people of Latvia, Lithuania and Estonia over the past four and a half decades, their determination to regain their lost freedoms has not been weakened.

The people of these captive nations know what it means to be free. During their short period of independence—1918-40—their nations flourished both culturally and economically.

Through hard work and raw determination, the Baltic people ushered in an energetic period of reawakening. In Latvia, education blossomed, and Estonia became the first nation in the world to grant cultural autonomy to all of its minority citizens through Government-supported ethnic schools, theaters, and libraries. In Lithuania, Government-supported cultural programs unfolded and Lithuanians achieved a legacy of being the most culturally sophisticated minority in the Soviet Union. Literature and art based on a rich folk tradition thrived,

making this a very proud and memorable era. The energies and talents of the Baltic people extended beyond their own borders, and they made significant contributions to the welfare and culture of Europe.

Before their presence could truly be felt, however, the tiny nations of Latvia, Lithuania, and Estonia were absorbed by the Soviet Union, and their citizens stripped of their most basic human rights.

Today, the brutal Soviet policy of russification, which seeks to eliminate every vestige of the unique cultures and religious traditions of the Baltic peoples, stands in sharp contrast to the cultural blossoming which occurred during independence. Despite the ongoing persecution of those who demonstrate their abhorrence of this policy, the Baltic people continue to defy the efforts of their Soviet occupiers to control them.

It is the memory of independence and prosperity once enjoyed, and the desire to transform the dream of freedom into reality that inspires these brave Baltic people to continue their fight. The past 46 years have shown that all the military strength of the Soviet Union can never succeed in crushing the spirit and the drive for freedom of the Baltic people.

American support for the return of freedom to the Baltic nations is an important demonstration of our belief in the right of self-determination for all people in all nations of the world. Just as the South African policy of apartheid, which denies basic rights to a majority of its citizens, is unacceptable, so too is the continuing Soviet occupation of Latvia, Lithuania, and Estonia. We must not permit the past 46 years of Soviet repression in those nations to dull our sensitivity to the injustices imposed upon the Baltic people.

Expressions of support for the aspirations of the citizens of the captive nations from the free world give hope to those still fighting to secure their fundamental human rights. Prompt Senate approval of this resolution will demonstrate the solidarity of the American people with the Baltic people in their continuing struggle for freedom.

ADDITIONAL COSPONSORS

S. 318

At the request of Mr. HEINZ, the name of the Senator from Kentucky [Mr. FORD] was added as a cosponsor of S. 318, a bill to extend the revenue-sharing program for local governments through fiscal year 1991.

S. 1093

At the request of Mr. MATHIAS, the names of the Senator from Rhode Island [Mr. CHAFEE] and the Senator from New Mexico [Mr. DOMENICI] were added as cosponsors of S. 1093, a bill to amend the patent law to restore the term of the patent grant in the case of certain products for the time of the regulatory review period preventing the marketing of the product claimed in a patent.

S. 1543

At the request of Mr. MATHIAS, the names of the Senator from New Mexico [Mr. DOMENICI], the Senator from Pennsylvania [Mr. HEINZ], and the Senator from Rhode Island [Mr. CHAFEE] were added as cosponsors of S. 1543, a bill to protect patent owners from importation into the United States of goods made overseas by use of a U.S.-patented process.

S. 1586

At the request of Mr. WALLOP, the name of the Senator from Indiana [Mr. QUAYLE] was added as a cosponsor of S. 1586, a bill entitled the "Action Act Against Violations of Human Rights."

S. 1766

At the request of Mr. MATHIAS, the names of the Senator from South Carolina [Mr. THURMOND], the Senator from Utah [Mr. GARN], the Senator from Iowa [Mr. GRASSLEY], and the Senator from Arizona [Mr. GOLDWATER] were added as cosponsors of S. 1766, a bill to designate the Cumberland terminus of the Chesapeake and Ohio Canal National Historical Park in honor of J. Glenn Beall, Sr.

S. 1917

At the request of Mr. BRADLEY, the names of the Senator from Vermont [Mr. LEAHY], the Senator from New York [Mr. MOYNIHAN], and the Senator from Illinois [Mr. SIMON] were added as cosponsors of S. 1917, a bill to amend the Foreign Assistance Act of 1961 to provide assistance to promote immunization and oral rehydration, and for other purposes.

S. 1923

At the request of Mr. THURMOND, the name of the Senator from Florida [Mr. CHILES] was added as a cosponsor of S. 1923, a bill to provide for additional bankruptcy judges.

SENATE JOINT RESOLUTION 239

At the request of Mr. DURENBERGER, the names of the Senator from Michigan [Mr. RIEGLE], the Senator from South Carolina [Mr. THURMOND], and the Senator from Massachusetts [Mr. KENNEDY] were added as cosponsors of Senate Joint Resolution 239, a joint resolution designating the week beginning on June 1, 1986, as "National Maternal and Child Health Week."

SENATE CONCURRENT RESOLUTION 72

At the request of Mr. SIMON, the name of the Senator from Michigan [Mr. LEVIN] was added as a cosponsor of Senate Concurrent Resolution 72, a concurrent resolution expressing the sense of Congress concerning human rights in Poland.

AMENDMENTS SUBMITTED

SALE OF CONSOLIDATED RAIL CORPORATION

DECONCINI AMENDMENT NO. 1436

(Ordered to lie on the table.)

Mr. DECONCINI submitted an amendment intended to be proposed by him to the bill (S. 638) to amend the Regional Rail Reorganization Act of 1973 to provide for the transfer of ownership of the Consolidated Rail Corporation to the private sector, and for other purposes; as follows:

At the end of the bill, add the following:

SEC. (a) The Senate finds that—

(1) The government and people of the United States have a longstanding friendship with the Philippines based on democratic principles and institutions;

(2) The United States has a strategic interest in the preservation of two military bases in the Philippines for the security of the Pacific region;

(3) The current unrest in the Philippines threatens to undermine the continuation of a stable, democratic government in that nation;

(4) Congress has stated that restoration of democratic institutions in the Philippines is the most effective means of defeating the proliferating communist insurgency;

(5) President Marcos has announced his intention that presidential elections be held within the Philippines to end speculation by foreign nations as to his popular support;

(6) Officials of the Government of the Philippines as well as leaders of the opposition have indicated their willingness to cooperate with a delegation of international observers whose purpose would be to verify the openness and fairness of the election;

(7) President Marcos has stated that it would be impossible "in a free society" to control or keep out observers and there would be no attempt to prevent any such group from entering the Philippines to monitor the election;

(8) A decision to limit access to polling places by international observers would seriously impair the ability of observer teams to verify the fairness and validity of the elections and could jeopardize continued United States economic assistance to that nation; and

(9) It has been the experience that international observers to the elections of 1982 and 1984 in El Salvador and more recently, Guatemala, were not limited access to polling places and greatly increased the fairness and credibility of those elections.

(b) The Senate hereby—

(1) Reaffirms its support for genuine, free, and fair elections in the Philippines scheduled for February 7, 1986;

(2) Stresses the importance of the presence of international observers at such elections;

(3) Urges the Philippine Government to permit clear access to the polling places for such international observers; and

(4) Intends to consider the manner in which Philippine elections are conducted in determining future aid requests.

DANFORTH AMENDMENT NO. 1437

Mr. DANFORTH proposed an amendment to the bill S. 638, supra; as follows:

Strike all after the enacting clause and insert in lieu thereof the following:

That this Act may be cited as the "Conrail Sale Amendments Act of 1985".

FINDINGS

SEC. 2. The Congress finds that—

(1) the Northeast Rail Service Act of 1981 (45 U.S.C. 1101 et seq.) provided for an orderly return of Conrail freight service to the private sector;

(2) the provisions of the Northeast Rail Service Act of 1981 were successful in removing Conrail's obligations beyond railroad freight service and in otherwise preparing Conrail for an orderly return to the private sector;

(3) acting under section 403 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 763), the Board of Directors of the United States Railway Association twice found Conrail to be a profitable corporation;

(4) acting under section 401 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 761), the Secretary engaged an investment banker and arranged, through open competitive bidding and negotiation, to sell the interest of the United States in the common stock of Conrail;

(5) the Secretary's Plan for the sale of Conrail provides for sale of the interest of the United States in the common stock of Conrail to Norfolk Southern Corporation;

(6) the Secretary found that sale of the interest of the United States in the common stock of Conrail to Norfolk Southern Corporation best meets the sale criteria of (A) leaving Conrail in the strongest financial position after the sale, (B) preserving patterns of service to shippers and communities in the region Conrail serves, and (C) maximizing return to the Federal Government consistent with the criteria specified in clauses (A) and (B);

(7) amendments to the Regional Rail Reorganization Act of 1973 (45 U.S.C. 701 et seq.) and related laws are needed to permit the sale of the interest of the United States in the common stock of Conrail to Norfolk Southern Corporation and to permit cancellation of the interest of the United States in Conrail debt and preferred stock; and

(8) the Secretary's Plan satisfies the requirements of the Northeast Rail Service Act of 1981, including the intent, goals, and objectives relating to the sale of the interest of the United States in the common stock of Conrail and the requirements of section 401(e) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 761(e)).

PURPOSE

SEC. 3. It is therefore declared to be the purpose of the Congress in this Act to return Conrail to the private sector by directing and facilitating implementation of the Secretary's Plan for the sale of the interest of the United States in the common stock of Conrail.

DEFINITIONS

SEC. 4. (a) In this Act, unless the context otherwise requires, the term—

(1) "Conrail" means the Consolidated Rail Corporation;

(2) "Definitive Agreements" means any and all agreements existing or to be developed between the United States and Norfolk Southern Corporation, including all representations and warranties made therein, to implement the Memorandum of Intent described in paragraph (4)(A);

(3) "Secretary" means the Secretary of Transportation; and

(4) "Secretary's Plan" means (A) the Memorandum of Intent between the United States and Norfolk Southern Corporation signed February 8, 1985, and (B) the divestitures by the Norfolk Southern Corporation of certain rail tracks, rights, and facilities, and any transactions or agreements related or incidental to such divestitures, in connection with the implementation of attachment A to the letter from the Department of Justice attached to the Memorandum of Intent as exhibit E.

(b) Section 102 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 702) is amended—

(1) by redesignating paragraphs (6) through (18) as paragraphs (7) through (19), and paragraphs (19) through (21) as paragraphs (21) through (23), respectively;

(2) by inserting after paragraph (5) the following paragraph:

"(6) 'Definitive Agreements' means any and all agreements existing or to be developed between the United States and Norfolk Southern Corporation, including all representations and warranties made therein, to implement the Memorandum of Intent described in paragraph (20)(A);"; and

(3) by inserting after paragraph (19), as so redesignated, the following paragraph:

"(20) 'Secretary's Plan' means (A) the Memorandum of Intent between the United States and Norfolk Southern Corporation signed February 8, 1985, and (B) the divestitures by the Norfolk Southern Corporation of certain rail tracks, rights, and facilities, and any transactions or agreements related or incidental to such divestitures, in connection with the implementation of attachment A to the letter from the Department of Justice attached to the Memorandum of Intent as exhibit E;".

(c) Section 1135(a) of the Northeast Rail Service Act of 1981 (45 U.S.C. 1104(a)) is amended—

(1) by redesignating paragraphs (6), (7), and (8) as paragraphs (7), (8), and (10), respectively;

(2) by inserting after paragraph (5) the following paragraph:

"(6) 'Definitive Agreements' means any and all agreements existing or to be developed between the United States and Norfolk Southern Corporation, including all representations and warranties made therein, to implement the Memorandum of Intent described in paragraph (9)(A);"; and

(3) by inserting after paragraph (8), as so redesignated, the following paragraph:

"(9) 'Secretary's Plan' means (A) the Memorandum of Intent between the United States and Norfolk Southern Corporation signed February 8, 1985, and (B) the divestitures by the Norfolk Southern Corporation of certain rail tracks, rights, and facilities, and any transactions or agreements related or incidental to such divestitures, in connection with the implementation of attachment A to the letter from the Department of Justice attached to the Memorandum of Intent as exhibit E;".

TITLE I—AMENDMENTS TO THE REGIONAL RAIL REORGANIZATION ACT OF 1973 AND THE NORTHEAST RAIL SERVICE ACT OF 1981

Subtitle A—Regional Rail Reorganization Act of 1973 Amendments

LIMIT ON AUTHORITY TO PURCHASE STOCK

SEC. 101. Section 216(b) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 726(b)) is amended by adding at the end thereof the following paragraph:

"(5) The authority of the Association to purchase debentures or series A preferred stock of the Corporation under this section shall terminate upon the consummation of the sale of the interest of the United States in the common stock of the Corporation under the terms of the Secretary's Plan.".

RESPONSIBILITY OF CONRAIL DIRECTORS

SEC. 102. Section 301(i) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 741(i)) is amended by inserting immediately after "required by law" the following: ", taken to implement the Secretary's Plan,".

APPLICABILITY OF REGIONAL RAIL REORGANIZATION ACT OF 1973 TO CONRAIL AFTER SALE

SEC. 103. Section 301 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 741) is amended by adding at the end thereof the following subsection:

"(k) GOVERNING PROVISIONS AFTER SALE.—The provisions of this Act shall not apply to the Corporation and to activities and other actions and responsibilities of the Corporation and its directors after consummation of the sale of the interest of the United States in the common stock of the Corporation under the terms of the Conrail Sale Amendments Act of 1985, other than with regard to—

"(1) section 102 of this Act;

"(2) section 201(d) of this Act;

"(3) section 203 of this Act, but only with respect to information relating to proceedings before the special court established under section 209(b);

"(4) section 216(f)(8) of this Act, but only as such authority applies to activities related to the employee stock ownership plan and related trusts prior to or in connection with consummation of the sale of the interest of the United States in the common stock of the Corporation, including activities related to the sale, exchange, valuation, or disposition of the assets of the employee stock ownership plan and related trusts, or of Conrail Equity Corporation, in connection with the Secretary's Plan;

"(5) sections 216(f)(11) and 216(f)(12) of this Act, as amended by the Conrail Sale Amendments Act of 1985;

"(6) section 217(e) of this Act;

"(7) subsection (i) of this section, but only as such authority applies to service as a director of the Corporation prior to consummation or in connection with implementation of the sale of the interest of the United States in the common stock of the Corporation;

"(8) section 305 of this Act, but only as to the effect, and continuing administration, of supplemental transactions consummated prior to consummation of the sale of the interest of the United States in the common stock of the Corporation;

"(9) section 308 of this Act, but only in abandonment actions when such authority has been relied on to file a notice or notices of insufficent revenues prior to consummation of the sale of the interest of the United States in the common stock of the Corporation;

"(10) section 401(a) of this Act, as amended by the Conrail Sale Amendments Act of 1985;

"(11) section 402 of this Act, as amended by the Conrail Sale Amendments Act of 1985;

"(12) section 408(c) of this Act, as amended by the Conrail Sale Amendments Act of 1985;

"(13) section 701 of this Act, but only as may be necessary to identify employees eligible for benefits under agreements entered into under such section;

"(14) section 702(e) of this Act;

"(15) section 704(b) of this Act;

"(16) section 709 of this Act;

"(17) section 710(b)(1) of this Act;

"(18) section 711 of this Act;

"(19) section 714 of this Act, but only with regard to disputes or controversies specified in such section that arose prior to consummation of the sale of the interest of the United States in the common stock of the Corporation; and

"(20) section 715 of this Act, as amended by the Conrail Sale Amendments Act of 1985.".

IMPLEMENTATION OF THE SECRETARY'S PLAN

SEC. 104. (a) Section 401(a)(3) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 761(a)(3)) is amended to read as follows:

"(3) The Secretary is authorized and directed to implement the Secretary's Plan, in accordance with paragraph (4) of this subsection. Such implementation of the Secretary's Plan and the coordinated operation of the Corporation's properties with those of Norfolk Southern Corporation and its affiliates as a single rail system is deemed approved by the Commission under chapter 113 of title 49, United States Code.".

(b) Section 401(a) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 761(a)) is amended by adding at the end thereof the following paragraphs:

"(4) The Secretary shall implement the Secretary's Plan by negotiating, executing, delivering, and performing the Definitive Agreements, which shall conform to the Memorandum of Intent described in section 102(20)(A) of this Act. The Secretary shall, 45 calendar days before the date on which the Secretary anticipates that the interest of the United States in the common stock of the Corporation will be sold to Norfolk Southern Corporation, transmit to the Committee on Commerce, Science, and Transportation of the Senate and to the Committee on Energy and Commerce of the House of Representatives a notification of any alteration from the Memorandum of Intent described in section 102(20)(A) of this Act which will be made in the Definitive Agreements. After the date of such sale, the Secretary shall transmit to such Committees notification of any intent to waive compliance with any substantive covenant, agreement or obligation contained in the Definitive Agreements, and the Secretary may not waive such compliance until a period of 45 calendar days has expired after the date of such transmittal.

"(5) The Secretary shall not transfer the interest of the United States in the common stock of the Corporation except concurrently with a divestiture by Norfolk Southern Corporation of rail assets and rights approved by the Attorney General.

"(6) The sale of the interest of the United States in the common stock of the Corporation shall be deemed to be consummated at the date title to the common stock passes to Norfolk Southern Corporation and the United States receives the cash purchase price.".

RAILROAD PURCHASERS AND OFFER FOR SALE OF SHARES TO EMPLOYEES

SEC. 105. Subsections (d) and (e) of section 401 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 761(d) and (e)) are repealed.

CANCELLATION OF DEBT AND PREFERRED STOCK

SEC. 106. Section 402 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 762) is amended to read as follows:

"DEBT AND PREFERRED STOCK

"SEC. 402. (a) RECAPITALIZATION.—In connection with the sale of the interest of the United States in the common stock of the Corporation under section 401 of this Act, and consistent with the Secretary's Plan, the Secretary may take all action necessary to cause the Corporation to be recapitalized such that the interest of the United States, or any agent or instrumentality thereof, and all other commitments or obligations of the Corporation to the United States or any agent or instrumentality thereof arising out of such interest, in any debt (including accrued interest and contingent interest thereon) and preferred stock (including accrued and unpaid dividends thereon) of the Corporation shall be cancelled or retired, and contributed to the capital of the Corporation. The Secretary shall cause the recapitalization authorized by this section to be effective as of the consummation of the sale of the interest of the United States in the common stock of the Corporation.

"(b) BREACH OF REPRESENTATIONS.—(1) Norfolk Southern Corporation or any successor corporation thereto may bring suit for any breach of representations contained in paragraph 6(e) of the Memorandum of Intent described in section 102(20)(A) of this Act (hereinafter referred to as the 'Representations') in the United States Claims Court or a district court of the United States. If such an action is brought, the Claims Court or district court shall determine the amount by which the United States income tax (including interest and penalties whether or not such penalties are assessed as a tax under the Internal Revenue Code of 1954) assessable against the Corporation or against Norfolk Southern Corporation for any year exceeds the amount of such tax which would have been assessable for such year had such Representations not been breached (hereinafter referred to as the 'Offset Amount').

"(2) The Representations shall be considered breached and Norfolk Southern Corporation shall be entitled to bring suit upon the first occurrence of any of the following that is inconsistent with the Representations: (A) the issuance by the Internal Revenue Service of a statutory notice of deficiency (90-day letter), (B) the assessment of the United States income tax, or (C) any claim by the United States in a suit or other judicial proceeding against Norfolk Southern Corporation or the Corporation.

"(3) The right to bring suit pursuant to this section shall not be subject to any waiting period applicable to tax proceedings or to any requirements for payment of any tax as a condition to instituting any suit based on a breach of the Representations.

"(4) Any judgment for money damages relating to breach of the Representations shall only be awarded as an offset in any court or administrative proceeding against the tax liability of Norfolk Southern Corporation or the Corporation, or both, to which such breach relates; except that if any such tax liability resulting from such breach has been paid, the judgment shall to that extent be an offset against any United States income tax liability of the Norfolk Southern Corporation or the Corporation, or both. If any portion of the tax resulting from a breach of the Representations has been paid, then the Offset Amount shall include interest on such payment from the date paid at the rate from time to time specified in the Internal Revenue Code of 1954 for interest payable on refund claims.

"(5) It shall not be a defense to an action brought under this section that Norfolk Southern Corporation knew, or should have known, of the falsity of the Representations or that there exists no carryover basis procedure as contemplated by the last sentence of the Representations.

"(6) For purposes of this section, tax liability of Norfolk Southern Corporation shall include the tax liability of Norfolk Southern Corporation and its affiliated group, within the meaning of section 1504 of the Internal Revenue Code of 1954.".

APPLICABILITY OF CERTAIN LAWS TO SALE OF CONRAIL

SEC. 107. Section 408 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 768) is amended—

(1) by repealing subsection (b);

(2) by amending subsection (c) by striking "No transfer" and all that follows through "subject to" and inserting in lieu thereof "Except as provided in section 1152 of the Northeast Rail Service Act of 1981 (45 U.S.C. 1105), the Secretary's Plan and the Definitive Agreements and their negotiation, execution, and implementation shall not be subject to administrative or"; and

(3) by adding at the end of subsection (c) the following sentence: "The issuance in private placement of notes or other securities in accordance with exhibit B to the Memorandum of Intent (described in section 102(20)(A) of this Act) in the Secretary's Plan shall not be subject to the provisions of subtitle IV of title 49, United States Code.".

LABOR PROTECTION

SEC. 108. (a) Section 701(d)(2) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 797(d)(2)) is amended by striking "the last day of the eighteen-month period beginning on".

(b)(1) Title VII of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 797 et seq.) is amended by adding at the end thereof the following section:

"PROTECTION AFTER SALE

"SEC. 715. After consummation of the sale of the interest of the United States in the common stock of the Corporation pursuant to the Secretary's Plan, any employee of Norfolk Southern Corporation, the Corporation, any rail affiliate of either company, and any transferee of the rail tracks, rights, and facilities divested in accordance with the Secretary's Plan, who is adversely affected in his employment by the implementation of the Secretary's Plan shall receive from his employer protection under the labor protective conditions set forth in New York Dock Railway—Control—Brooklyn Eastern District Terminal (354 ICC 399 (1978), modified upon further consideration, 360 ICC 60 (1979)). The arbitration provisions of section 4 of New York Dock shall apply to the formation of any implementing agreements that may be necessary in connection with the implementation of the Sec-

retary's Plan, including any resulting coordinations.".

(2) The table of contents of the Regional Rail Reorganization Act of 1973 is amended by inserting immediately after the item relating to section 714 the following item:

"Sec. 715. Protection after sale.".

PREFERENTIAL HIRING

SEC. 109. Section 703 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 797b) is amended—

(1) by redesignating subsection (b) as subsection (c); and

(2) by inserting immediately after subsection (a) the following subsection:

"(b) IMPLEMENTATION OF SECRETARY'S PLAN.—Any employee of any railroad who is deprived of employment as a result of the implementation of the Secretary's Plan shall have the first right of hire for a vacancy for which he is qualified on any Norfolk Southern Corporation rail subsidiary, except where such vacancy is covered by (1) an affirmative action plan, or a hiring plan designated to eliminate discrimination, that is required by Federal or State statute, regulation, or Executive order, or by the order of a Federal court or agency, or (2) a permissible voluntary affirmative action plan. For purposes of this subsection, a railroad shall not be considered to be hiring new employees when it recalls any of its own furloughed employees.".

CROSS CRAFT EMPLOYMENT

SEC. 110. (a) Title VII of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 797 et seq.) is amended by inserting immediately after section 703 the following section:

"CROSS CRAFT EMPLOYMENT

"SEC. 703A. Any employee of Norfolk and Western Railway Company, Southern Railway Company, or the Corporation who is deprived of employment as a result of the implementation of the Secretary's Plan shall have the first right of hire for any vacancy for which such employee is qualified at the entry level of any Norfolk Southern Corporation rail subsidiary, without regard to craft or class or the provisions of section 703 of this Act. Such employee shall retain his seniority rights to return to his original craft or class whenever a vacancy occurs. For purposes of this section, a railroad shall not be considered to be hiring new employees when it recalls any of its own furloughed employees.".

(b) The table of contents of the Regional Rail Reorganization Act of 1973 is amended by inserting immediately after the item relating to section 703 the following item:

"Sec. 703A. Cross craft employment.".

Subtitle B—Northeast Rail Service Act of 1981 Amendments

SPECIAL COURT JURISDICTION

SEC. 121. (a) Section 1152 of the Northeast Rail Service Act of 1981 (45 U.S.C. 1105) is amended—

(1) by inserting "or the Conrail Sale Amendments Act of 1985" immediately after "subtitle" wherever it appears;

(2) in subsection (a), by striking "or" at the end of paragraph (3), by striking the period at the end of paragraph (4) and inserting in lieu thereof a semicolon, and by adding at the end thereof the following paragraphs:

"(5) brought by the United States or any agency or instrumentality thereof seeking to enforce the Secretary's Plan or the Definitive Agreements;

"(6) brought by Norfolk Southern Corporation seeking to enforce the Secretary's Plan or the Definitive Agreements;

"(7) brought by a party who filed a complaint with the Secretary under subsection (e) of this section, and who is aggrieved by (A) a determination of the Secretary under paragraph (1) of such subsection that the party has not suffered direct economic injury, or (B) a decision of the Secretary under paragraph (2) of such subsection that a covenant has not been violated;

"(8) brought by a party which is a signatory to an ancillary agreement entered into in accordance with the Secretary's Plan or the Definitive Agreements and which is seeking to enforce such ancillary agreement; or

"(9) brought to determine the value of the interest of the employee stock ownership plan and related trusts, or of the beneficiaries thereof, in the preferred stock of the Conrail Equity Corporation.

For purposes of any action brought under paragraph (5) of this subsection, a violation of any covenant contained in the Secretary's Plan or the Definitive Agreements shall be deemed to constitute immediate and irreparable harm for purposes of awarding injunctive relief to the United States.".

(b) Section 1152 of the Northeast Rail Service Act of 1981 (45 U.S.C. 1105) is amended by adding at the end thereof the following subsection:

"(e)(1) Any party who suffers direct economic injury as a result of an alleged violation of a covenant contained in the Definitive Agreements may file a complaint with the Secretary seeking enforcement of such covenant. If the Secretary determines that the complainant has demonstrated to the Secretary that it has suffered direct economic injury, the Secretary shall investigate the complaint.

"(2) If the Secretary decides to investigate a complaint under paragraph (1) of this subsection, the Secretary shall give reasonable notice of such decision to investigate to the alleged violator of such covenant and the complainant, and shall make a final decision on such complaint within 60 days after the date on which it was filed.

"(3) If the Secretary finds that (A) the covenant in question has been violated, and (B) the complainant suffered direct economic injury as a result of such violation, the Secretary shall enter an order directing the violator of such covenant to comply with such covenant.

"(4) On appeal, any decision by the Secretary under this subsection shall be upheld, unless such decision is found to be arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law.".

APPLICABILITY OF OTHER LAWS

SEC. 122. Section 1168(a) of the Northeast Rail Service Act of 1981 (45 U.S.C. 1116(a)) is amended by striking "service transfers" and inserting in lieu thereof "sale of the interest of the United States in the common stock of Conrail or transfer of the rail properties and freight service responsibilities of Conrail".

Subtitle C—Employee Stock Ownership Plan

RESPONSIBILITY OF EMPLOYEE STOCK OWNERSHIP PLAN FIDUCIARIES

SEC. 131. (a) Section 216(f)(8)(A) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 726(f)(8)(A)) is amended—

(1) by striking "or" at the end of clause (ii);

(2) by striking the period at the end of clause (iii) and inserting in lieu thereof "; or"; and

(3) by adding at the end thereof the following clause:

"(iv) for or in connection with any action taken to implement the Secretary's Plan, including any sale, exchange, valuation, or disposition of the plan and related trust assets, or the assets of Conrail Equity Corporation, in connection with implementation of the Secretary's Plan and any determination of the terms on which any such sale, exchange, valuation, or disposition is effected.".

QUALIFICATION, REVIEW, AND VALUATION OF EMPLOYEE STOCK OWNERSHIP PLANS

SEC. 132. Section 216(f) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 726(f)) is amended by adding at the end thereof the following paragraphs:

"(11) The employee stock ownership plans of the Corporation and related trusts maintained, amended, or adopted in implementing the Secretary's Plan shall be deemed to meet the qualification requirements of sections 401 and 501, respectively, of the Internal Revenue Code of 1954, notwithstanding (A) that such plans may not meet the requirements of section 415 of the Internal Revenue Code of 1954, or (B) that participants in such plans may be entitled to withdraw a portion of the shares allocated to their accounts prior to the expiration of the period generally imposed by the Internal Revenue Service for qualified plans. Such qualification shall relate only to the contributions, allocations, and withdrawals of shares provided for in the Secretary's Plan with respect to the plans and related trusts maintained, amended, or adopted in implementing the Secretary's Plan. Such contributions and allocations shall in no event be treated as having exceeded the maximum annual addition permitted under section 415 of the Internal Revenue Code of 1954 (but not for purposes of applying section 404(j) of the Internal Revenue Code of 1954) for purposes of calculating any limitation under section 415 with respect to contributions and allocations not described in the Secretary's Plan, including contributions and allocations to plans and related trusts of the Corporation and any affiliated corporation. The continued qualification of such plans with respect to all other contributions, allocations, and withdrawals shall be subject to all provisions of existing law, as amended from time to time. No inference shall be drawn from this paragraph as to whether an amount is a contribution deductible under section 404 of the Internal Revenue Code of 1954 rather than a non-deductible capital expenditure.

"(12) Except as provided in section 1152 of the Northeast Rail Service Act of 1981 (45 U.S.C. 1105), the issuance and sale or contribution of securities by Norfolk Southern Corporation to fulfill arrangements with the Corporation's employees in implementing the Secretary's Plan and the distribution of shares from the Corporation's employee stock ownership plans and related trusts maintained, amended, or adopted in implementing the Secretary's Plan shall not be subject to the registration and prospectus delivery requirements of the Securities Act of 1933, any approval requirement under subtitle IV of title 49, United States Code, or the laws of any State with respect to the issuance and sale of securities.".

TITLE II—TECHNICAL AND CONFORMING AMENDMENTS

REGIONAL RAIL REORGANIZATION ACT OF 1973 AMENDMENTS AND REPEALS

SEC. 201. The following provisions of the Regional Rail Reorganization Act of 1973 are repealed or amended as specified:

(1) Subsections (a) and (b) of section 214 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 724 (a) and (b)) are repealed, and such section 214 is amended by striking "(c) Association.—".

(2) Subsection (f) of section 217 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 727(f)) is repealed, without prejudice to the continued availability of funds appropriated prior to the date of enactment of this Act pursuant to section 217(f)(1)(C) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 727(f)(1)(C)).

(3) Section 404 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 764), and the item relating to such section in the table of contents of such Act, are repealed.

(4) Section 405 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 765), and the item relating to such section in the table of contents of such Act, are repealed.

(5) Section 406 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 766), and the item relating to such section in the table of contents of such Act, are repealed.

(6) Section 407 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 767), and the item relating to such section in the table of contents of such Act, are repealed.

(7) Subsections (a) and (d) of section 408 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 768 (a) and (d)) are repealed.

(8) Section 409 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 769), and the item relating to such section in the table of contents of such Act, are repealed.

(9) Section 410 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 769a), and the item relating to such section in the table of contents of such Act, are repealed.

(10) Section 411 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 769b), and the item relating to such section in the table of contents of such Act, are repealed.

(11) Section 412 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 769c), and the item relating to such section in the table of contents of such Act, are repealed.

(12) Section 713 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 797l), and the item relating to such section in the table of contents of such Act, are repealed.

AMENDMENTS AND REPEALS OF OTHER RAIL LAWS

SEC. 202. The following provisions of law are repealed or amended as specified:

(1) Section 1154 of the Northeast Rail Service Act of 1981 (45 U.S.C. 1107), and the item relating to such section in the table of contents of such Act, are repealed.

(2) Section 1161 of the Northeast Rail Service Act of 1981 (45 U.S.C. 1110), and the item relating to such section in the table of contents of such Act, are repealed.

(3) Section 1166 of the Northeast Rail Service Act of 1981 (45 U.S.C. 1114), and the item relating to such section in the table of contents of such Act, are repealed.

(4) Subsection (c) of section 1167 of the Northeast Rail Service Act of 1981 (45 U.S.C. 1115(c)) is repealed.

(5) Subsection (b) of section 1168 of the Northeast Rail Service Act of 1981 (45 U.S.C. 1116(b)) is repealed.

(6) Section 501(8) of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 821(8)) is amended—

(A) by striking "(A)";

(B) by striking "(i)" and inserting in lieu thereof "(A)", and by striking "(ii)" and inserting in lieu thereof "(B)"; and

(C) by striking all after "utilization;".

(7) Section 505 of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 825) is amended—

(A) in subsection (a)(1), by striking all after "railroad" through 1981)"; and

(B) in subsection (b)(2)(C), by striking all after "costs" the second time it appears through "subsidy".

(8) Subsection (b)(1) of section 509 of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 829(b)(1)) is repealed.

(9) Section 511(e) of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 831(e)) is amended by striking "(1)", and by striking all after "time" and inserting in lieu thereof a period.

(10) Section 402 of the Rail Safety and Service Improvement Act of 1982 (45 U.S.C. 825a) is repealed.

(11) Section 1005(b)(1) of the Rail Passenger Service Act (45 U.S.C. 655(b)(1)) is amended by striking "the Consolidated Rail Corporation,".

(12) Section 10362(b)(7)(A) of title 49, United States Code, is amended by striking "by the Consolidated Rail Corporation or".

(13) Section 332(d) of title 49, United States Code, is amended by striking ", the Consolidated Rail Corporation,".

TITLE III—MISCELLANEOUS PROVISIONS

COMMON CARRIER STATUS OF CONRAIL AFTER SALE

SEC. 301. (a) Conrail's status as a common carrier by railroad under section 10102(4) of title 49, United States Code, shall not be affected by virtue of sale of the interest of the United States in Conrail's common stock. Purchase of Conrail stock shall not alone be the basis of a determination that the acquiring entity has become a common carrier by railroad under section 10102(4) of title 49, United States Code.

(b) The Definitive Agreements shall contain a binding commitment by Norfolk Southern Corporation to continue to operate Conrail in full compliance with the provisions of section 10731(e) of title 49, United States Code.

CONSUMMATION OF SALE

SEC. 302. The sale of the interest of the United States in the common stock of Conrail shall be deemed to be consummated on the date title to the common stock passes to Norfolk Southern Corporation and the United States receives the cash purchase price.

CONTRACTS

SEC. 303. (a) Except as provided in subsection (b) of this section, nothing in this Act shall affect—

(1) Conrail's obligation to carry out its transportation contracts and equipment leases, equipment trusts, and conditional sale agreements, in accordance with their terms; and

(2) the obligation of any transferee of divested assets to carry out transportation contracts and equipment leases, equipment trusts, and conditional sale agreements to which such assets are subject, in accordance with their terms.

(b) If a divestiture carried out pursuant to the Secretary's Plan precludes Conrail from providing a transportation service for which it has contracted without a right of termination that may be exercised in the event of the sale of the interest of the United States in the common stock of Conrail and the divestiture will result in a change or modification in the movement of the traffic involved, the transferee of the divested rights and properties and Conrail shall provide the contracted-for service on terms and conditions which, to the maximum extent possible, conform to the terms and conditions in the contract.

CONGRESSIONAL OVERSIGHT OF COMPLIANCE

SEC. 304. The Secretary shall, no later than January 31 of each year, submit to the Committee on Commerce, Science, and Transportation of the Senate and to the Committee on Energy and Commerce of the House of Representatives a report setting forth each certificate which Norfolk Southern Corporation and Conrail provided to the Secretary, during the preceding year, certifying compliance with the covenants contained in the Definitive Agreements.

SEPARABILITY

SEC. 305. If any provision of this Act or the application thereof to any person or circumstances is held invalid, the remainder of this Act and the application of such provision to other persons or circumstances shall not be affected thereby.

EFFECTIVE DATE

SEC. 306. (a) Except as provided in subsection (b) of this section, the provisions of and amendments made by this Act shall take effect on the date of enactment of this Act.

(b) Sections 108(a), 201 and 202 of this Act shall take effect on the date of consummation of the sale of the interest of the United States in the common stock of Conrail.

(c) Any provision of this Act which, pursuant to Article I, Section 7 of the Constitution, provides for raising revenue shall only be effective upon the enactment into law of a bill which has originated in the House of Representatives enacting such provision.

SENATE CONCURRENT RESOLUTION 103 — COMMENDING BISHOP DESMOND TUTU FOR HIS WORK IN SOUTH AFRICA

Mr. HART (for himself and Mr. MATHIAS) submitted the following concurrent resolution; which was referred to the Committee on Foreign Relations:

S. CON. RES. 103

Whereas Desmond Tutu has committed himself to nonviolent change in South Africa;

Whereas Desmond Tutu has advocated direct dialogue between blacks and whites and as the central need for the future of South Africa;

Whereas Desmond Tutu has personally rescued victims of mob violence from certain injury or death at great risk to himself;

Whereas Desmond Tutu has advocated economic sanctions against South Africa as a means to peacefully encourage Pretoria to dismantle the apartheid system of racial separation;

Whereas Desmond Tutu has repeatedly turned to the United States for assistance in his quest for peaceful change in his native country, and

Whereas Desmond Tutu received the 1984 Nobel Peace Prize for his moral leadership in South Africa, Now, therefore, be it

Resloved by the Senate (the House of Representatives concurring), That Congress commends Bishop Desmond Tutu for his

courageous work for peace and freedom in South Africa, and that Congress encourages all South Africans to heed Bishop Tutu's call for a peaceful end to apartheid.

SENATE RESOLUTION 297—CALLING FOR AN INTERNATIONAL CONGRESS ON TERRORISM

Mr. DIXON submitted the following resolution; which was referred to the Committee on Foreign Relations.

S. RES. 297

Whereas, in recent years, numerous civilized nations and their citizens have increasingly suffered needless death and destruction at the hands of terrorists; and

Whereas, individual nations and citizens have largely been unable to combat and defend against these reckless, wanton acts of terrorism on land, at sea and in the air; and

Whereas, efforts to develop a firm, effective allied response to the growing threat of terrorism have met with failure, inaction and disagreement; and

Whereas, cooperative, organized, global efforts have in the past succeeded in addressing and resolving problems of common concern to the international community; and

Whereas, it is imperative that civilized nations come together to reach agreement on international arrangements for dealing with terrorism in a civilized way: Now, therefore, be it

Resolved, That it is the sense of the Senate of the United States of America to urge that the President of the United States, in cooperation with other concerned nations of the world, take immediate steps to convene an International Congress on Terrorism with the objective of finding the ways and means for nations to act in concert responsibly and effectively to bring an end to terrorism once and for all.

Mr. DIXON. Mr. President, I rise today to submit a resolution expressing the sense of the Senate that the President of the United States take immediate steps to convene an International Congress on Terrorism.

Over the past several years, the international community has witnessed a dramatic rise in terrorist activity. Much has been said about how nations should respond to these acts. Unfortunately, Mr. President, a great deal of discussion has left the civilized world with little in terms of an organized, effective means of bringing a halt to random violence against innocent people. I believe the creation of an appropriate forum for the orderly examination of various proposals for dealing with terrorism has real merit.

We do not lack for ideas, Mr. President, I know the administration is continuously examining the options in an effort to save lives, apprehend and bring to justice those responsible for terrorism, and create defenses against future incidents. I wholeheartedly support these efforts. Other nations have come up with ideas as well. On Tuesday of this week the Austrian Government announced visa restrictions on Arab diplomatic passports, which are often issued to terrorist organizations. British Prime Minister Thatcher has, on several occasions, stressed the need for greater international cooperation if international terrorism is to be combated effectively.

An International Congress on Terrorism would allow the ideas of every participating nation to be considered by the community as a whole. We need action, Mr. President. We have learned through several painful episodes that we cannot successfully put a stop to terrorism by acting alone. As long as civilized nations pursue random, disorganized policies against terrorism, policies that sometimes create discord among countries that should be united with a common purpose and common goal, innocent people will suffer, and terrrorists will become more daring and more destructive.

The world desperately needs a coordinated antiterrorism effort, Mr. President. It's impossible to coordinate an effective defense when nations respond to assassinations, bombings, kidnapings, and hijackings on an incident-by-incident basis. The bombings in Rome and Vienna have left Western allies arguing about the value of economic sanctions. If nothing changes in our anti-terrorism policies, the next incident will usher in more arguments and more confusion. Most of all, however, it may usher in another round of inaction.

To gain the upper hand against terrorism, our defenses must be in place before the violence occurs. Policies must be more than simply reactions to an incident, each reaction is different depending on the country. Policy needs to be made cooperatively. Ideas need to be discussed and shared. I cannot believe that the common ground does not exist for the successful development of a sound, cooperative antiterrorism policy. We simply must put in place an international arrangement that will allow concerned nations to deal with terrorism in a civilized, responsible and effective way.

A consortium of nations, deliberating together, can, it seems to me, provide the world with a rational, cooperative means of coping with terrorism. Working together, we can identify terrorists, locate them, and bring them to justice in an appropriate way in the appropriate place of jurisdiction. We can determine how and whether we should retaliate in specific ways. We could consider the effectiveness of rewards. We could develop joint treaties of extradition aimed directly at terrorists.

I'm not saying I have all the answers. What I am saying is that an International Congress on Terrorism might just give us a solution that the international community can accept and implement. It is becoming more obvious every day that international discussions on terrorism need higher priority and higher visibility. The common threat of terrorism deserves mutual consideration at the highest governmental levels. I urge my colleagues to join me in sponsoring this resolution.

SENATE RESOLUTION 298—COMMEMORATING THE ACCOMPLISHMENTS OF THE U.S. DISABLED SKI TEAM

Mr. WEICKER (for himself, Mr. HATCH, Mr. KENNEDY, Mr. STAFFORD, Mr. NICKLES, Mr. KERRY, Mr. THURMOND, and Mr. SIMON) submitted the following resolution; which was referred to the Committee on Commerce, Science, and Transportation.

S. RES. 298

Whereas the United States Disabled Ski Team is a very special group of fine athletes who have displayed the courage, dedication, and perseverance needed to qualify for competition on a national and international level;

Whereas the commitment and determination exhibited by these superior athletes is an inspiration to all people;

Whereas the United States Disabled Ski Team will travel to Salen, Sweden, to represent the United States in international competition;

Whereas the United States Disabled Ski Team has exhibited outstanding performance and has promoted full participation of disabled persons in athletic competition; and

Whereas the United States Disabled Ski Team has been instrumental in changing perceptions of society about persons with disabilities: Now, therefore, be it

Resolved, That the Senate—

(1) commends the achievements of the United States Disabled Ski Team; and

(2) encourages and supports the United States Disabled Ski Team in the competition at the 1986 World Disabled Ski Championships to be held in Salen, Sweden, on April 6 through April 17, 1986.

● Mr. WEICKER. Mr. President, our Nation's 36 million disabled Americans frequently face attitudinal barriers which impede their full participation in society. Yet these individuals continue to make significant efforts to enhance public awareness of their abilities, and to excel in spite of the various obstacles which confront them. A notable example of this is the U.S. Disabled Ski Team, comprised on 60 A team and 13 B team members who have qualified both at regional and national levels. The courage, strength and determination exhibited by these fine athletes is an inspiration to us all.

Too often, emphasis is placed on the limitations of disabled persons and it is high time we recognized outstanding performances such as those displayed by this fine group of athletes.

This year, on April 6-17, the U.S. Disabled Ski Team will be competing at the World Disabled Ski Championships in Salen, Sweden. Among the participants in this event will be my nephew, Mark Godfrey, who won first place in the 1985 Handicapped Nation-

als competition. The demands and rigors of competing in this championship are testimony to his and every participant's extraordinary achievements. These individuals have displayed the courage, dedication, and perseverance needed to qualify for this elite competition. The resolution I am introducing today recognizes the outstanding accomplishments of the following athletes:

TEAM A

Paul Dibello, Jack Benedick, Blaine Albertson, Chuck Weed, Bill Hovanic, Dave Keifer, Mark Godfrey, Dan Ashbaugh, Jim Tulberg, and Greg Manino.

Don Garcia, Tom Gall, Matt Kut, Reed Robinson, Bud Hillman, Bill Henry, Rick Riley, Roanne Kuenzler, Jill Skidmore, and Rick Isom.

Larry Gebhart, Peter Axelson, Kirk Parkhurst, Rick Ruscio, Patti Werner, Martha Hill, Diana Golden, Lana Jo Chapin, Kathy Poohachoff, and Rod Hernley.

Bill Latimer, David Jamison, Dan Pufpaff, Brad Hudiberg, Mary Lee Atkins, Carmela Cantisani, Jim Chlalsant, Barbara Cutler, Cara Dunne, and Greg Evangelatos.

Petra Gibbons, Maria Hansen, Sheila Holzworth, Brian Hubbard, Shelly Keck, Barbara Lewis, Ray Marshall, Pat McCluen, Cristine Montgomery, and John Novotny.

Laura Oftedahl, Joe Raineri, Ron Roe, Brian Santos, Allan Schlank, Billie Ruth Schlank, Joe Walsh, Sandra Wilmot, Steve Young, and John Bates.

TEAM B

Nancy Meyer, Bob Emerson, Ted Kennedy, Jr., Anita Kocab, Michael Anthony, Cathy Gentile, Brent Neddo, Ken Larsen, John Calhoon, Sarah Doherty, Julie Steadman, Andy Gerster, and Chuck Johnson.

These hardworking young people deserve commendation for their unique contribution to the United States and the world. All of these athletes are winners and serve as role models for all Americans seeking to participate in athletics.

The National Handicapped Sports & Recreation Association as well as the United States Association of Blind Athletes should indeed be commended for organizing and supporting our U.S. Disabled Ski Team. Their efforts to provide and promote sports and recreation for our handicapped citizens enrich the lives of thousands of individuals with disabilities each year.

I hope my colleagues will join me in offering support and congratulations to all of the members of the 1986 U.S. Disabled Ski Team for their past and present extraordinary performance. Mr. President, I am pleased to submit this resolution expressing the Senate's support of the 73 members of this elite team.●

NOTICES OF HEARINGS

SUBCOMMITTEE ON PUBLIC LANDS, RESERVED WATER, AND RESOURCE CONSERVATION

Mr. WALLOP. Mr. President, I would like to announce for the information of the Senate and the public that a public hearing has been scheduled before the Subcommittee on Public Lands, Reserved Water and Resource Conservation of the Committee on Energy and Natural Resources on Thursday, January 30, 1986, at 9:30 a.m. in room SD-366 of the Senate Dirksen Office Building in Washington, DC.

Testimony will be received on the following bills:

S.J. Res. 221 and House companion H.J. Res. 382, to authorize the continued use of certain lands within the Sequoia National Park by portions of an existing hydroelectric project.

H.R. 3851, to amend section 901 of the Alaska National Interest Lands Conservation Act.

Those wishing to testify should contact the Subcommittee on Public Lands, Reserved Water and Resource Conservation of the Committee on Energy and Natural Resources, room SD-308, Dirksen Senate Office Building, Washington, DC 20510. Oral testimony may be limited to 5 minutes per witness. Written statements may be longer. Witnesses may be placed in panels, and are requested to submit 25 copies of their testimony 24 hours in advance of the hearing, and 50 copies on the day of the hearing. For further information, please contact Patty Kennedy of the subcommittee staff at (202) 224-0613.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

Mr. BOSCHWITZ. Mr. President, I ask unanimous consent that the Committee on Banking, Housing, and Urban Affairs, be authorized to meet during the session of the Senate on Thursday, January 23, 1986, in order to conduct a hearing on the nominations of Wayne D. Angell, and Manuel H. Johnson, to be members of the Board of Governors of the Federal Reserve System.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

THE GHOSTS OF DEFICIT FOREVER

Mr. COHEN. Mr. President, my friend and colleague, the chairman of the Senate Budget Committee [Mr. DOMENICI] recently authored a timely and insightful "tale" concerning Federal budget deficit, past, present, and future. His writing recounts missed opportunities in the past and warns of the dangers of missing whatever opportunities remain to us in the critical days soon to come.

Senator DOMENICI's narrative does hold out some hope for a happy ending to his Dickensian story—but only if there is a long-overdue change of heart in the Congress and the administration. It behooves us all to heed his grave warning, lest we bring upon ourselves the tragedy we otherwise invite.

I ask that Senator DOMENICI's article, as it appeared in the Washington Post of January 21, 1986, be printed in the RECORD.

The article follows:

[From the Washington Post, Jan. 21, 1986]

THE GHOSTS OF DEFICIT FOREVER

In less than three weeks the automatic spending cuts of Gramm-Rudman-Hollings will be triggered unless a court challenge to the new law succeeds. The papers will be filled with the confusion of federal agencies trying to fulfill the law and the outrage of those program beneficiaries who see their activities threatened. Before the coming public panic consumes us, we should review where we are, how we got here, and where we are likely to end up in our struggle with the deficit.

As a prelude, I should note that I am extremely optimistic about the nation's economic potential. We have solved problems of the highest order. We have created millions of job for "Baby Boom" workers. We have embarked on a new era of entrepreneurship and rising per-capita incomes. A leanness and quickness characterizes the private sector.

The only cloud on the horizon, and a cloud of mammoth proportions in my view, is the inability of the government to control deficits. The extraordinary deficits we now face symbolize this impotence and also hold the substantive prospect of plunging the nation into an unprecedented economic recession—ironically, one that could well be avoided. The deficit, simply put, remains the foremost policy and political problem confronting the nation. If I may borrow from Dickens, I will call upon three ghosts to lead us on our budget odyssey: the ghosts of budget past, present and yet to come.

1. BUDGETS PAST

Our Ghost of Budgets Past conjures up a scene of candidate Ronald Reagan speaking in Chicago in September 1980. He explains in some detail his four-part plan for the economy and the federal budget: (1) a 10 percent across-the-board tax cut for individuals in each of the next three years to increase take-home pay and the dismal national savings rate; (2) major changes in the corporate tax code aimed at reviving the staggering American economy; (3) an all-out attack on waste, fraud and abuse in government spending, coupled with a permanent shrinking of the government's programs, directed at saving tens of billions of dollars a year; and (4) a major increase in defense spending.

The president-to-be calmly explains that the increase in defense spending will be "affordable," because his other policies will yield a combination of new revenues to the government (from economic growth) and less domestic spending (from a shrinking of federal domestic programs).

Our ghost next takes us to March 10, 1981. The president releases the details of his 1982 budget, which replaces the budget of former president Jimmy Carter. The budget is truly revolutionary. It calls for domestic spending cuts in fiscal year 1982 alone of $67 billion. Between FY 1981 and FY 1986, the domestic cuts would total $475 billion.

On top of unprecedented domestic spending restraint, the president fulfills his second major campaign promise by requesting the largest single defense increase in the nation's history. For FY 1982, this increase would reach nearly $29 billion and would push defense spending from the FY 1980 level of $146 billion to $226 billion in just two years—an increase of 55 percent.

The budget also keeps the president's promise on taxes. It requests individual and corporate tax cuts of $54 billion in FY 1982 and $718 billion through FY 1986.

Above all, our ghost points to the line in the president's budget that shows that if all his policies were fully implemented, the federal budget would be balanced by FY 1984 and would be running a $28 billion surplus by 1986.

Two major points overlooked by many in that first, fateful budget will come back to haunt the nation. First, almost $75 billion in domestic cuts necessary for achieving a balanced budget in 1984 are not itemized and "will be identified later." Second, the economic projections underlying the budget assume real growth in the economy almost double the historical average for the past 12 years (4.6 percent projected compared to 2.5 percent actual for the 1972-84 time frame).

Finally, our Ghost of Budgets Past takes us to the private conference room of the Senate majority leader, Howard Baker, in early spring of 1981. In the room for an extraordinary meeting is the president, who has left the White House and journeyed to the Hill. The president leans across the table and tells the 12 Republican members of the Senate Budget Committee that he will not support a bipartisan attempt in that committee to freeze cost-of-living adjustments for Social Security recipients as part of a deficit-reduction plan. He asks them to join his opposing effort. In front of the senators is a sheet showing savings from a one-year freeze on the COLAs—$88 billion over five years, and more than $24 billion in the year 1986 alone.

The senators relent. They go back to committee and vote against the move to freeze COLAs. Social Security, although larger than all domestic non-entitlement spending programs put together, is protected in future budget battles; it comprises almost 25 percent of the non-interest spending in the federal budget.

2. BUDGETS PRESENT

Our Ghost of Budgets Present arrives, looking weary and battered. He has watched three years of congressional deadlock; the deficits for the first four years of the Reagan administration have amounted to more than all the deficits accumulated by all other presidents in the nation's lifetime. America is amassing debt—corporate, individual and governmental—at a record pace.

Yet, no perceptible crisis is at hand. Unemployment has subsided below the 7 percent mark; inflation and interest rates are down and dropping further; the economy is perking along at about the historical average growth; 2.5 to 3 percent annually. Everyone thinks the deficit may be a problem, but the political will to tackle it head-on is fading. The short-term pain of policies that would really cut deficits overwhelms the short-term gain of voting to retain Congress' favorite programs.

Our Ghost of Budgets Present reveals an internal congressional staff memo showing that despite public displays of budget-cutting enthusiasm, Congress has allowed large spending increases since FY 1980: an increase of $132 billion (99 percent) in national defense; $169 billion in new spending for domestic entitlement programs (an increase of 60 percent), driven by new Social Security increases; and an additional $26 billion in domestic, discretionary spending (a 17 percent hike).

It turns out that many of the "cuts" were measured from baselines that assumed growth, so even with a cut there was frequently an actual increase in dollars. The memo also shows that revenues have dropped off from those original FY 1982 presidential projections by about $150 billion in FY 1986. Moreover, the gross national product forecast that FY 1982 budget fell short of reality by $2.4 trillion for FY 1982-86! Almost nothing is "affordable" anymore, in the sense that word was used way back in September 1980.

Even worse, the restraint in spending that has occurred has spared programs that stress present consumption (pensions are a prime example) and hampered programs that stress investment in the future (research in nondefense scientific areas, basic physical infrastructure, education).

Interest payments on this debt are $200 billion annually and are the fastest growing element of federal spending. This means that America cannot make the basic commitment to the future that needs to be made in order to ensure the unparalleled prosperity to which all other indicators point.

We now move to February 1985. The president has emerged from his reelection campaign with one of the most overwhelming victories in America's history. Undeterred deficit-fighters in the administration and in Congress conspire to make one last fight to get deficits under control.

The president's budget asks once again for large domestic spending cuts, $180 billion over three years, with the elimination of more than a dozen major domestic programs as the centerpiece of the plan. The budget also asks for a $30 billion increase in defense spending for FY 1986 alone, and rejects tax increases. It projects a deficit of $144 billion in FY 1988, twice as high as any deficit in the non-Reagan era, but a substantial move toward what economists are now calling "structural budget balance."

The ghost now takes us to a dramatic moment. It is May 9, well past midnight. The Senate has concluded debate on an unprecedented deficit reduction package, incorporating Social Security COLA freezes and eliminating several programs. It not only will meet the president's deficit reduction goal in FY 1986, it will yield substantially lower deficit by FY 1988.

The vote stands at 49-48 against the proposal. Sen. Pete Wilson of California arrives from a hospital, where he underwent emergency appendectomy surgery earlier. Against doctors' recommendations, he has come to the Senate in a wheechair, an intravenous tube in his arm, to vote. He votes for the proposal. With the vote 49-49, Vice President George Bush, in his capacity as president of the Senate, votes for it. It passes, 50-49.

Although only a few suspect it at the time, that moment in the Senate chamber will be the high point for deficit cutting for the year. Our Ghost of Budgets Present speeds over a troubled summer. The budget finally hammered out between House and Senate falls far short of the Senate-passed version, in large part because the president finally opposes any change in Social Security COLAs. His decision dooms any significant congressional action.

Congress finds it impossible to pass almost any significant bills. Appropriations bills fail to move. Approaching is an autumn vote to extend the federal debt the government has run up. Sens. Gramm, Rudman and Hollings conceive a new deficit-cutting mechanism and attach it to the debt limit bill.

Our ghost now takes us to December 1985. Congress sends the president a farm bill that costs an estimated $50 billion during the next three years, about double what the president requested in his FY 1986 budget of nine months earlier. Congress finds it difficult to comply with even the watered-down budget it passed just four months earlier. Congress staggers through a chaos of short-term continuing appropriations and short-term debt extensions, all of which threaten to shut down the government.

Finally, Congress passes more spending bills, postpones action on a multibillion-dollar deficit reduction measure that the administration threatens to veto, and heads home. The president signs the farm bill into law. He signs all of the spending bills, even though they contain in the aggregate about $40 billion more in domestic spending than he wanted and about $30 billion less for defense. He signs the Gramm-Rudman-Hollings bill.

Within a fortnight, the Justice Department announces that it will join in attacking the constitutionality of Gramm-Rudman-Hollings. The president asks for $4 billion more spending for the Commodity Credit Corporation, sending up his formal request Dec. 23. A year that began with high hopes for deficit reduction fizzles into the winter rain of utter failure. Our Ghost of Budgets Present decides to become a consultant to corporations on the impact of Gramm-Rudman-Hollings.

3. BUDGETS YET TO COME

Our Ghost of Budgets Yet to Come offers us a choice. First he takes us to February 1986. The president and Congress have been given the size of the automatic cut order (called a sequester order) mandated by the Gramm-Rudman-Hollings bill for FY 1986. It will take a toal of $11.7 billion from federal outlays, equally split between defense and nondefense programs.

This leaves defense spending in March 1986 about $40 billion less than the president's original request for the year. Nondefense programs will be cut in some cases below last year's level. Senators up for reelection later in the year are besieged by interest groups hit by the sequester.

Yet, this tiny cut pales in comparison to what may be necessary later in the year. Our ghost reveals internal staff documents that show deficits of more than $205 billion in FY 1987, a full $60 billion over the Gramm-Rudman-Hollings target of $144 billion. The president presents his budget in early February. It contains a request for $20 billion more in defense spending. It terminates scores of federal programs through direct cuts and privatization ideas. It rejects new taxes. It is kept alive by Congress mostly as a vehicle for repudiation.

Here our ghost presents two scenarios. Sadly, one is more likely than the other. The first scenario is the hope of many of us who voted for Gramm-Rudman-Hollings—a comprehensive compromise on the deficit. It goes like this:

(1) Late March 1986: The president and Congress, unable to come up with a budget for the 1987 year, agree to a "Grand Summit" on the budget. Tax reform plans

in the Senate are temporarily laid aside in order to focus on deficit reduction.

(2) April 1986: After weeks of negotiations, Congress and the president agree on a historic deficit-cutting package, including fundamental reforms and reductions in domestic spending, a slowing of the defense buildup, and new revenues.

(3) May and June 1986: Congress passes new laws implementing the "summit" agreement and appropriations bills that are consistent with it.

(4) August 1986: the Congressional Budget Office and the Office of Management and Budget compare their spending updates and conclude that because of presidential and congressional action, the deficit targets of Gramm-Rudman-Hollings will indeed be met.

(5) The stock market surges, interest rates drop, and the economy takes off. America soars into the future.

But that scenario may be unlikely for many reasons, so our ghost provides a second scenario, feared by many of us who are familiar with the realities of both the budget and of the politics of 1986:

(1) Late March 1986: The president's budget has been rejected in all quarters. Congress tries to devise its own budget and fails. The president vigorously pursues his tax reform plan in the Senate, opposing any tax increase within the plan.

(2) April and May 1986: the Senate, with 30 members watching primary results that will select their opponents in the November elections, is stymied. Tax reform is stalled, the budget cannot move, and appropriations bills await some resolution of the deadlock. The House puts off action, claiming it cannot act until some initiative is taken by either the president or the Senate.

(3) June 1986: The Supreme Court rules Gramm-Rudman-Hollings constitutional.

(4) Summer 1986: As the stock and bond market and most of the rest of the world watch, America's government is nearly paralyzed. The size of the amounts needed to meet the $144 billion deficit target prohibit action: $30 billion from defense and from nondefense spending translate into as much as $75 billion in budget authority from defense spending (or almost one-fourth of all new spending authority for defense) and about $45 billion from nondefense programs (or about one-third of all new budget authority in the appropriated, discretionary accounts).

(5) September 1986: Gramm-Rudman-Hollings in the amount of a $60 billion sequester goes into effect, causing grave concern among America's Western allies. Most Senate campaigns are now in the post-Labor Day "hot" period. Groups that participate in federal domestic programs, especially teachers and health professionals, descend on Washington in huge numbers. Many state governments begin to lay off large numbers of employees to try to compensate for cuts in state and local aid.

(6) October 1986: One month before the 1986 federal elections, the president decides that his position as commander-in-chief compels him not to sign the final sequester order because it would violate his oath of office to defend the nation's security. Already more than 100 lawsuits have been filed against the Gramm-Rudman-Hollings cuts by potential program beneficiaries.

(7) Mid-October 1986: Congress, faced with an unprecedented uproar, coupled with a plummeting stock and bond market, tries to devise a way to cope with the new crisis. Everyone attempts to find a way to get out from under the new law. Someone suggests that we need a budget forecast that shows a recession sometime in the next four quarters. The person who makes the suggestion is widely applauded as a genius, and soon the Gramm-Rudman-Hollings bill is suspended.

(8) November 1986: Huge numbers of incumbent senators and representatives of both parties are defeated at the polls, saddled with explaining their position on Gramm-Rudman-Hollings. Our Ghost of Budgets Yet to Come concludes his gloomy scenario by revealing an internal staff memo that shows deficits will be $200 billion or more as far as the eye can see.

I conclude this little budget journey through time by saying that the concept behind the second scenario is a real possibility if both the president and Congress refuse to compromise on major deficit-reduction options. The amount of deficit reduction needed to meet the Gramm-Rudman-Hollings targets, or to make any real dent in deficits regardless of any law, is very large.

If the nation's leadership fails to agree by late spring, especially in a year charged with important elections, the mechanism of Gramm-Rudman-Hollings will take effect. To allow that to happen would be a national, and even international, tragedy.●

BONES SEIVERS, AN EXTRAORDINARY CITY ADMINISTRATOR

● Mr. SASSER. Mr. President, the Tennessee Town & City, an official publication of the Tennessee Municipal League, recently included an article and interview with Charles G. Seivers, known as Bones Seivers to his friends, city administrator of Clinton, TN.

The example that Bones Seivers has set in Clinton, TN, is an envy to all city managers. It is especially noteworthy at this time when municipalities are being threatened with staggering Federal budget cuts and their own growing city deficits.

Bones Seivers knows the people of his town and works for their needs. In this interview, he discusses the problems facing municipalities today as well as some of his methods of solution.

Mr. President, I ask that the article and interview by Gael Stahl be printed in the CONGRESSIONAL RECORD.

The article follows:

[From the Tennessee Town & City, Dec. 9, 1985]

TML OFFICER: ANY TOWN CAN DO ANYTHING IT WANTS, IF UNITED

(By Gael Stahl)

Charles G. (Bones) Seivers was born in Clinton, TN, and except for three years as a platoon sergeant in the mid-fifties at a Massachusetts NIKE missile site, has always lived there. His father served for 14 years on the board of mayor and aldermen in the fifties.

Seivers' entire family, father, mother, two brothers and their families, two sons and a daughter have stayed around Clinton. His 84 year-old mother and her twin sister have a family restaurant on Market St. They still go in at 3 am six days a week to make the biscuits. His father, Mack (81) and his Dad's sister Willie (75) still play the Hawaiian & steel guitar, fiddle and piano for the Novelty Hawaiians, the original Tennessee Ramblers and have played with Roy Acuff and Archie Campbell. Mack is an active professional sign painter.

A taunt dynamo, Bones (what else could they call a 100-pound six footer?), returned home from the army to go into the insurance business for three years and then to Union Carbide for ten years as a process supervisor in Oak Ridge. In 1962, he ran for alderman and served four two-year terms as alderman and as mayor for one two-year term.

During Seiver's mayoral term Clinton formed a committee of citizens and former mayors, and the part-time mayor and aldermen to see if they needed someone full time. Not suspecting he'd ever fill the position himself. Mayor Seivers recommended that instead of going to a city manager type government which meant changing the town charter, Clinton go with a city administrator (which can be done by ordinance) "because the administrator must report to the mayor and aldermen who are ultimately responsible anyway, and the administrator is actually a manager."

After applicants were interviewed, Seivers was asked to give up his job at Union Carbide. Thus it was that 13 years ago he became Clinton's first and best city administrator, the only one so far. He was hired "for as long as he does a good job."

Last month a grateful board of mayor and aldermen voted to name the new by-pass around Clinton which they struggled 30 years to get, "the Charles G. Seivers Boulevard. (Locals will no doubt call it "Bones Boulevard.")

Seivers is in his third term as a TML board member, served on the committees that formed the TML insurance pool and bond fund and is first Chairman of the latter.

Clinton's claim to fame in the past several years has been in obtaining federal and other monies for streets, water, sewers, community centers, recreation, and housing, for which Clinton, received the TML award for Superior City Achievement last June.

GS: I once overhead someone describe you as one who gets his teeth in something, finds out who can get it done, flies to Washington and perches on the front steps until they give in if only to get rid of you. Is that how you got so much federal and state money for a small town like Clinton?

CS: I've been told I've been . . . persistent.

GS: You been both an elected and an appointed city leader. What's the major differences between them?

CBS: The difference for the administrator, of course, is that he's not responsible for policy decisions. He's making a living at it, not doing it for nothing as a volunteer mayor or alderman.

The mayor and alderman set the policy as to what they want done, pass ordinances and give the administrator the responsibility to carry those policies out. Any town needs to have a full-time administrator or manager and I can assure you he'll more than pay his way if he's doing his job.

GS: So many town boards are split down the middle on such issues as firing their city manager (Hendersonville) and their police force (Ashland City), and putting in a new sewer system (Mt. Juliet). How does Clinton get on so much better and faster?

CBS: Clinton has been lucky. Next week three aldermen are unopposed for re-elect on which is typical. Last year the mayor and

three aldermen were unopposed. The staff, the school, utility, planning, recreation, senior citizens, all the various boards, work together to make it a better place.

GS: Surely Clinton is more than "lucky"? Do you know some managerial technique that works better?

CGB: Well, we welcome and encourage public opinion on whatever we're doing and as soon as differences of opinion develop we invite everybody in to serve on various committees to help us narrow down the problems so that by the time we get to the ballgame we're all behind the project rather than haggling and being mad at each other and getting nothing done.

The committees are phenomenal at uniting community support. For example, when we needed a library in the seventies the committee raised $80,000 on the streets.

GS: How did you raise funds for Clinton's many, many capital improvements without raising the property tax in 23 years?

CBS: Instead of going to the property tax we go to the people to tell them what we want to do and what it will cost, and suggest a quarter of a cent increase in the sales tax and hold a referendum. We go to the clubs, direct mail, one on one, and on several occasions they've voted overwhelmingly for it. The Board of mayor and aldermen and all the commissions go out and sell it.

GS: How did you get all the federal money when others couldn't?

CBS: We've worked at it constantly. I may be the front person calling on people but you need total support back home for the 50/50 or 80/20 share. When I get back home I know they will support that project. Our first lady mayor, Cathy Brown, who was an alderwoman for six years prior, is doing a tremendous job. Most of our board have served for over ten years. It takes them to make it work.

And above all, with all the traveling I do, I need a staff second to none from the department heads on down to all our 85 fulltime employees. They work so closely together and help each other when necessary to get the job done. They're generalists, not specialists.

GS: I'm still intrigued that the community pulls so well together. One-on-one talks and direct mailings are too infrequent. What are your media relations like?

CBS: The owner, publisher and editor of the Clinton newspaper for the last 50 years attends every meeting. We never fail to notify him and ask his advice. He's genuinely interested in the community and helps my job because he keeps the public informed. I look to him for guidance and advice.

GS: Is the Sunshine Law a problem for small towns?

CBS: It's a very good thing. Some things can't be discussed openly such as lawsuits, but the law provides for them.

GS: Bones, you're known for spending a lot of time outside Clinton, on boards and committees of a broader influence. In 23 years you've served repeatedly on all the major TML boards and committees and on the National League of Cities Small Cities Advisory Council and Steering Committee. Why? They don't involve your city straight out.

CBS: Let me give you a good example. I chair the Tennessee Municipal Bond Fund. Clinton is going to borrow six million dollars for the water and sewer department and a new school. If through the bond fund we can borrow for 2 or 2.25 points less than we can on the open the market, that means we'll save Clinton at least $100,000 a year over a ten or fifteen year period. That's the effect that this fund will have on all the towns. So for me to play a part in making that work is indeed for Clinton.

GS: Does the town suffer while you are away? Can you afford so much time out of the office?

CBS: The town gives total support. I feel very comfortable about leaving two or three days to work on grants, or the boards I work on, but I also know I have a staff there operating just like I were standing there with them. It's not like having a bunch of fires to put out every time I get back to town.

GS: How has your work with TML benefitted Clinton?

CBS: For one, the legislative process. You know how tiring that is and of course you have Joe Sweat, Ed Young, and Joan Pickens working for cities. You know, people don't realize what the TML label means in lobbying for and looking after the bills of interest to local government. A lot of us don't have any earthly idea what they've talking about and how a bill will affect our towns. The state lobbying effort is vital.

GS: Can you give an example?

CBS: If TML is successful with its bills to raise the cap on the sales tax, Clinton alone gets $180,000 a year. That will replace the loss of general revenue sharing. Things of this nature. When you're talking about smaller towns with a three to four million dollar budget a couple hundred thousand dollars is a lot of money.

GS: Can you explain why there are still a few small towns that are not members of TML?

CBS: They just don't realize. You know, I think that probably the best money that a town can spend is its TML dues. I can't understand anyone at all not belonging and actively participating in it because the costs aren't that great for the benefits they derive from it.

I very much believe that and I've served on all the committees from nominating to finance, and I think all the people on the staff, not only Joe and Ed, but the girls in the office, are very pleasant. They take care of the officials when they travel, and when they come here to Nashville, provide us a facility which is worth an awful lot to all of us. It is to me particularly because as you know I'm not too bashful about calling on you and asking for help—and very seldom do I come to Nashville and not ask for help—and I can honestly say I never fail to get it.●

OBSERVATION OF REFORM

● Mr. GOLDWATER. Mr. President, I inserted into the RECORD an article from the Air University Review from the September-October 1985 issue, which dealt almost entirely with the subject of military reform.

I intend to continue to insert these various articles because of the coming legislation that the Armed Services Committee is preparing, to accomplish some of the reforms discussed by Senator SAM NUNN and me on the floor last year.

Today, I have removed from that publication an editorial entitled, "Individuals, Institutions, and the Impulse for Reform." This rather short editorial pretty well summarizes the need—constant need—for the observation of reform.

I ask that it appear at this point in my remarks.

The article follows:

[From Air University Review, September-October 1985]

INDIVIDUALS, INSTITUTIONS, AND THE IMPULSE FOR REFORM

Like individuals, institutions ossify with age. Goals and objectives become part of the warp and woof of corporate personality, enforcing conformity and demanding unity of purpose from those who are part of the institution. When service to institutionalized goals becomes an objective unto itself, a bureaucratic rigidity develops that stifles initiative and, ultimately, causes atrophy and impotence. That is when the invigoration of reform is needed.

Only the strongest establishments can reform themselves. Those that seek to foster change from within must, in most instances, be prepared for the lot of martyrs. On the other hand reform from without can be unduly abrasive, destroying rather than improving. The successful reformation usually results when insiders work with interested outside parties to bring about constructive changes.

The Protestant Reformation and the Catholic Counter-Reformation provide good examples of successful reorientation and reconstitution. In 1520, the Papal Bull *Exsurge* demanded that the monk Martin Luther either recant his position on reforming the Church or be branded a heretic. Luther became an unenthusiastic revolutionary.

Martin Luther loved the Church. He did not seek to destroy it, but he was a determined advocate for redirection and reform, particularly in the area of finances. When Luther criticized the sale of indulgences, he did more than probe at a lucrative practice that was vital to financing Europe's Most lavish court: he ultimately raised questions about doctrines basic to the Church's existence, including that of papal infallibility. However limited Luther's impulse for reform was initially, the consequences were dramatic.

The Air Force, like the medieval church, is subject to the vicissitudes of institutional life. As the Air Force matured, particularly after it attained its independent status in 1947, goals and objectives were incorporated, and air doctrine was defined and developed. Such processes are proper and common for any military service. However, if doctrine has become dogma, reformation may be needed. Like Martin Luther, today's military reformer seeks to correct rather than to destroy. In Luther's day, it was the Infidel Turk that actually sought to destroy Christiandom. Today, it is the Soviets who wish to obliviate the American way of life, with all of our institutions. Military reformers are neither infidel to our military ideals nor Communist, and it would behoove us not to use the terms *heretic* or *adversary* too freely.

Even the most facile study of history teaches that the impulse for reform is virtually irresistible to all but the very entrenched. If accommodated, reform can improve the institution, strengthening it through evolutionary rather than revolutionary development. The United States government is an example of an institution in a continuous state of reformation. Imperial Russia's tsarist autocracy, on the other

hand, could not accommodate much-needed reforms advocated by socialists, democrats, and Mensheviks. The resulting Bolshevik revolution swept away autocrat and democrat alike. The Roman Catholic Church, in contrast, though shaken by Luther and subsequent reformers, undertook its own reformation to survive today as the largest and single most powerful religious institution in Christendom.

Martin Luther's impulse for reform was, at its essence, a personal thing. It began with his own passionate commitment to understanding what he was all about as a Christian and a cleric. His road to reform began with a search of the Scriptures as he sought to better understand his own relationships with God and with the Church of his time. For Luther, the Reformation began with himself.

Whether we consider ourselves reformers or defenders of the faith, we would do well to reexamine our own commitment. Officership, involving service and sometimes self-sacrifice for the good of the greater society and the lot of humanity, may be as much priesthood as profession. Just as the clergy faces the awesome responsibility of dealing in questions relevant to temporal values and eternal existence, so too military officers must master their own set of awe-inspiring imperatives, dealing as they do, ultimately, with life, death, and defense of the nation. That kind of charge demands the stuff of total dedication that transcends institutionalized interests. If self-preservation and promotion within the institution have become our goals, reform might best begin with a rigid examination of what we ourselves are all about. A rereading of both our commissions and the oath of office might be helpful. We could find ourselves paraphrasing Shakespeare's Cassius in the play *Julius Caesar*, "the fault . . . is not in our stars but in ourselves as underlings."—E.H.T.●

FINANCING SENATE CAMPAIGNS

● Mr. SIMON. Mr. President, every Member of the Senate will admit, at least to himself or herself, that the present system of financing campaigns is a disaster.

Senator MATHIAS and I have introduced a bill calling for Senate financing identical to the Presidential financing, with a voluntary checkoff on income tax paying for it.

Our colleague from Maryland had an item in the New York Times recently telling in some detail why the change is needed.

I ask that the article be printed in the RECORD at this point, and I urge my colleagues to read it.

The article follows:

[From the New York Times, Nov. 22, 1985]

FEDERAL FINANCING OF SENATE CAMPAIGNS

(By Charles McC. Mathias)

WASHINGTON.—A year from now, Americans will elect the 100th Congress. While no one can know the identity of the victors, we can be sure they all will take office under a shadow—the long shadow cast on the political process by the powerful, growing influence of private campaign contributions. And in every subsequent decision they make, they will be affected by the size and the sources of the bankroll that helped bring them to office, and by the need to plan for an even larger purse to keep them there.

Congress must act to clean up the system of campaign financing. Senate legislation recently introduced would do just that, by providing public funding of Senate general election campaigns—an approach that has worked well in Presidential elections since 1976.

The legislation would relieve senatorial candidates of the burden of raising millions of dollars, freeing them to pursue the primary purpose of a campaign: getting their message across to the voters. By banning all private contributions in the general election, it would remove not only the reality but the appearance of special-interest influence and in so doing help the public perceive the Senate as serving the public interest, not the interests of the wealthy and powerful.

Public financing is a way to limit overall campaign outlays. The Supreme Court in 1976 ruled that limits that Congress had set on campaign expenditures in Congressional campaigns were unconstitutional, but held that spending limits can be imposed on candidates who accept public funding. Thus, the measure before the Senate permits the Congress constitutionally to place a ceiling on the soaring costs of Senate campaigns.

The need for such limits is obvious. One of the most striking features of elections is the flood of campaign dollars unleashed in successive election cycles. Each passing year records new highs in spending: Since 1980, the cost of every election has surpassed the billion dollar mark, if state and local campaigns are included. In 1984, it cost an average of $3 million to win a Senate race—a fivefold increase over 1976.

What has been the effect of these record torrents of cash? Old familiar landmarks have been washed away, while the rising tide of campaign dollars has reshaped the contours of politics. Small contributors and grassroots volunteerism no longer are important parts of costly media campaigns. And high spending hasn't translated into voter interest. The rate of vote turnout remains dismally low compared to that of other democracies.

Television, while enormously expensive, conveys simplistic and image-based political messages: 30-second spots are unable to portray the complexities of policy choices.

In addition, high costs keep too many good people out of the system—talented men and women who won't enter the political arena because they can't or won't raise the hundreds of thousands, even millions, of dollars necessary to run a campaign.

Let us not overlook the toll on office-holders either. Something is wrong with a system in which Senators now spend half of their six-year terms raising campaign funds. Not only are they distracted from their duties but also the public has the impression that wealthy contributors have privileged access and influence as a result of their campaign contributions.

Hubert H. Humphrey described political fund-raising as demeaning: The politician would stand in the front room greeting potential contributors, acting as if he were not aware of the collecting going on in the back. He was right. It is demeaning to the politician, to the contributor and, ultimately, to our system of government.

In its first serious effort to comprehensively regulate financing, in 1971 Congress passed the Federal Election Campaign Act, which provided for public disclosure of campaign contributions and expenditures. That act and its later amendments represent a good start, but more remains to be done. Congress can act now, or it can wait until it faces a greater crisis of confidence in the system. Some say that in an era of record Federal deficits, we cannot afford to publicly finance campaigns. I would reply that we cannot afford not to.●

ENOCH PRATT FREE LIBRARY

● Mr. MATHIAS. Mr. President, this month, the Enoch Pratt Free Library in Baltimore marks its 100th year of service to the people of Maryland. It is a centennial that celebrates both the role of the public library in American society and the dream of the founder, Enoch Pratt, who envisioned a system of libraries "accessible to the people, who, I hope, will avail of the advantages it is my wish to offer them, they being for all, rich and poor without distinction of race or color * * *"

Our libraries are precious national resources, cataloging our hopes and realities and satisfying our thirst for self-knowledge. As custodians of our intellectual values, libraries illuminate what we were, reflect what we are, and hint at what we aspire to be. The success and longevity of a library such as the Pratt invigorates our commitment to support our libraries in facing the challenges of these difficult times. Our support is a solid investment, for be it 1886, 1986, or 2086, and beyond, libraries are essential to the Nation, fulfilling the need to know and the quest to understand.

Mr. President, I ask that an editorial from Baltimore's Sun newspaper of January 11, 1986, be printed in the RECORD at this point.

The editorial follows:

[From the Baltimore Sun, Jan. 11, 1986]

THE PRATT'S NEXT CENTURY

When it comes to urban libraries, the Enoch Pratt, which celebrates its 100th anniversary this month, is still regarded as a model in the profession. But for public libraries in the larger, older cities today, these are not the best of times. Detroit's public library almost went down the drain, and New York's has experienced very hard going. The Pratt, through heroic efforts, has avoided that—but the cost of books, other materials and staff is on an upward curve while the growth line of public funds lags far behind. It is sad but true that the Pratt begins its second century with less optimism about its future than it began its first.

That is especially unfortunate at this time because information, which is one of the most important services a public library offers its patrons, is becoming more and more important in society. Ours is an information age. It is also the age of mass media. What but a public library can offer to the individual the specific mix of facts, ideas, images and dreams that fits his or her specific needs and desires? Even the most comprehensive newspapers, magazines and broadcast companies fall far short of providing the variety that a good library offers.

Today there are video and audio cassettes, compact discs and other technological marvels unimagined when Enoch Pratt's first library opened. Some people wonder about

the future of books, hence of libraries. But libraries like the Pratt are not unaware of the new technology. Much of their scarce resources go to on-book items. But without taking anything away from the marvels of the VCR, etc., we believe the heart of a good library like the Pratt will always be its book collection. As long as human beings have imagination, there will be no frigate like a book to take its reader on a voyage of discovery, inspiration, amusement and understanding.

There are several good library systems in Maryland. Baltimore County's is one of the busiest and best in the nation. But there is only one Pratt. No other system has the variety of titles and resources it offers—not just to Baltimoreans but to the whole state. The state government supports the Pratt because of this responsibility, but no one familiar with the library's role and needs would contend that the level of support has been high enough. Nor has the city's support been as high as needs be in recent years. Both should do better. And so, of course, should private individuals and groups. Private generosity is important to libraries. Large gifts, like the H.J. Mencken estate, including his unpublished works, and small ones, like the $10 and $25 gifts grateful users make, all help and should be encouraged.●

DAN LAMBERT

● Mr. MITCHELL. Mr. President, the January 8 issue of 55 Plus, a weekly newspaper covering issues and subjects important to Maine residents age 55 and over, included an excellent article on Dan Lambert, the adjutant of the Maine American Legion.

The article centers on Dan's well-known ability as a public speaker, especially on the subjects of Americanism, patriotism, and love of country. I have shared the podium with Dan at numerous functions across Maine since coming to the U.S. Senate. While other speakers might become stale after a time, Dan Lambert remains fresh, engaging and lively for every occasion.

Dan Lambert is a strong and impassioned voice for many things, especially the interests of Maine's veterans. He is a long-time leader of Maine's veterans community. He is a good friend. He is an outstanding citizen of the State of Maine.

I ask that the full text of the article be printed at this point in the RECORD.

The article follows:

"BIG DAN" LAMBERT: HIS SPELLBINDING SPEECHES SUPPORT AMERICAN IDEALS

There's never any danger of boredom whenever "Big Dan" Lambert gets up to speak.

And there's no need for a microphone as he appears in an auditorium jampacked with listeners.

A prepared text? That would only be in his way.

That's because Dan Lambert becomes a spellbinder, an orator of superb talent, as he rises to address audiences at veterans' gatherings, in Grange halls, at service club luncheons, at school assemblies.

In a booming baritone voice, Lambert hammers home the basic message:

Love your country * * * be proud to be an American * * * preserve the rich traditions that have been handed down to you by men of greatness."

He does this between 200 and 250 times a year.

As department adjutant of The American Legion in Maine, Lambert travels some 65,000 miles a year to preach the gospel of Americanism, patriotism, love of country.

Not bad at all for a 62-year-old decorated veteran of World War II who maintains a rugged schedule that would challenge a man half his age. He describes himself as "completely recovered" from a heart attack suffered in 1983.

Since 1975, the state adjutant has been looking after the interests of 26,000 Legionnaires in Maine from state headquarters located in the Legion building of Bourque-Lanigan Post in Waterville.

"I'm the luckiest man in the world * * * I shouldn't be here today," smiles the oft-decorated Irishman who was wounded four times in Europe while fighting with the famed Darby's Rangers unit.

He's a writer and lecturer who serves as editor-publisher of The Maine Legionnaire, the official newspaper of The American Legion of Maine. He also serves as chairman of the Maine Veterans Coordinating Committee. He has been cited many times for his service to children and youth, as well as for his efforts to assist the aged and the handicapped.

But, despite Lambert's many other talents, his strength lies in his ability to stand on his feet and hold an audience spellbound.

On four separate occasions he was presented the George Washington Gold Medal Award from the Freedom Foundation at Valley Forge for his outstanding public addresses.

"I enjoy speaking," Lambert says simply.

That he does it well is an understatement. He's in constant demand. It's not unusual for him to speak at a communion breakfast in the morning, at a service club luncheon at noon, and at a Legion meeting in the evening.

Lambert is a deeply religious man (as a youth he studied for the Roman Catholic priesthood) who terms his speaking ability "a God-given talent," and he means it.

Plaques, awards, citations are prominent on the walls of Lambert's office, testimonials to his service as department adjutant since 1975, as department commander in 1968, and to years of achievement in behalf of others.

Lambert is an outspoken individual who has strong views. He admits that he is disturbed by many events that are taking place on the American scene.

Here are a few comments:

"During the war, I had a kid die on me. I held him in my arms. He was badly wounded. His last words were: 'Who is going to take care of my mother?' I decided to do something.

"What I'm doing now is exactly what I wanted to do in life. My life is complete in that I am able to do something for people, to help people.

"I'm convinced that there are some people in this country who are trying to rewrite history. I've been in every military cemetery in the world. There men fought together and died together and they lie together under the Stars and Stripes.

"I was an aide to Gen. George Patton. I pick up junk written about George Patton that never took place. He was an intellectual. He had a sense of history. As a soldier, he was the greatest military man in World War II.

"A few years ago I was in Washington and I met Mother Teresa of Calcutta. She's so small, like a little speck of dust. Yet she told me: 'Please tell the American people never to close their charity. This is the nation with the biggest heart.' I decided to give up one meal a week and send the money to charity. I lost 25 pounds.

"I'm astounded that we can't do more for the people of Lebanon. I've been through the midwest and for miles all you can see is storage bins and warehouses full of food.

"I believe that no matter who is president or who is governor, we have grown into a very cynical society. There are so many people picking at you that your effectiveness is lost.

"I'm bothered about haters on the left and haters on the right.

"Once I heard a Jesuit priest give a sermon. I never forgot it. He quoted the words of Christ. 'Ye shall be witnesses * * *.' I try to witness for my faith, my country, what I believe in. I tend to be unyielding in my opposition to forces who are attempting to overthrow the nation.

"America has lost its sense of self-discipline. There is an apathy in our people. Many Americans don't seem to care any more. They seem to say, 'It's OK, as long as I get mine.'

"I'm very proud of what I did in the service and I'm very proud of what I'm doing today."

Resting on a table in Lambert's office is a beautifully engraved plaque. It is the Humanitarian Award, given to Lambert at the American Legion state convention of 1982.

From my vantage across from him I can read the words:

"For outstanding self-sacrifice and devotion to the cause of the less fortunate and the underprivileged."

Somehow, those words seem to say it all.●

INTERNATIONAL MONETARY CONFERENCE

● Mr. ARMSTRONG. Mr. President, Newsweek magazine summed up the issue so well . . .

Washington may be agog over the Prince and Princess of Wales, but a less glittery group of visitors this week could create a more lasting stir. Nearly 100 of the world's most influential financial experts will congregate in the nation's capital to consider overhauling the international monetary system. Billed as the Congressional Summit on Exchange Rates and the Dollar, the conference is sponsored by odd bedfellows—conservative Republican Rep. Jack Kemp of New York and liberal Democratic Senator Bill Bradley of New Jersey—and attendees will include everyone from central bankers to gold bugs. Though the participants will disagree on many points, most will concur on one: "Monetary reform," says Kemp, "is an idea whose time has come."

I rise today to commend Representative KEMP and Senator BILL BRADLEY for their initiative in convening the first Congressional Summit on Exchange Rates and the Dollar. I joined as a cosponsor of the event because I too am convinced that monetary reform is an idea whose time has come.

The world is at an economic crossroads in the considered opinion of nearly all of the 350 leading policymakers who attended the monetary conference. And there was virtually unanimous expert opinion that the current international floating exchange rate system is a failure, and needs overhaul.

America has an enormous stake in the international monetary system, and it is time we protect our interests while promoting economic growth abroad. According to the U.S. Commerce Department, some 70 percent of American businesses are affected by international monetary exchange rates either through the price of goods purchased or sold, or terms of credit extended. The U.S. Treasury Department attributes 50 percent of the current U.S. trade deficit to problems stemming from the current international monetary system.

The United States has just become a net debtor nation for the first time since World War I. This means the United States will owe more to foreign nations than the value of its own investments abroad. This decline in the U.S. trading position marks a dramatic reversal. From 1982-85, not only has the United States become a debtor nation, it has reversed, totally, the buildup in international investment that has accumulated over the past 65 years.

The main cause of this is clearly the massive overvaluation and dramatically fluctuating exchange rates.

The twin problems of overvaluation and wild currency fluctuations are at least partially the result of the 1973 decision when the West's major nations abandoned the 44-year-old fixed exchange system—in which currency was backed either by gold or U.S. dollars—to settle international payments. The major nations converted instead to a floating system in which governments allowed their currencies to "float on global money markets."

It was surprising to me to learn from the conference that nearly all of the international monetary experts agreed that this new system has created more problems than it was intended to solve. Just one example, typically each day in international exchanges there is as much as 2 percent change in currency rates. This causes a huge problems for American businessmen who are never sure what price to charge, or what price they will receive for their overseas sales.

This need to solve this problem is what triggered the congressional summit on international monetary policy. This conference has received glowing praise in the financial press for focusing on this problem, and identifying solutions. Mr. President, this is a subject my colleagues will be hearing more and more about in the future. To enhance the Senate's understanding of this issue and the importance of the monetary conference just held, I ask that a series of articles and editorials about the conference be inserted in the RECORD following my remarks.

Mr. President, I sincerely praise Representative JACK KEMP and Senator BRADLEY for convening this monetary conference. This conference surely marks one of the year's most important public policy meetings. I also want to pay tribute to the organizers of this event—Dave Smick and Richard Medley of the Global Monetary Project—for their yeoman behind-the-scenes work in making the conference so successful.

I ask the articles in connection with this matter be printed in the RECORD.

The articles follow:

A NEW MONEY GAME?

Washington may be agog over the Prince and Princess of Wales, but a less glittery group of visitors this week could create a more lasting stir. Nearly 100 of the world's most influential financial experts will congregate in the Nation's Capital to consider overhauling the international monetary system. Billed as the Congressional Summit on Exchange Rates and the Dollar, the conference is sponsored by odd bedfellows—conservative Republican Rep. Jack Kemp of New York and liberal Democratic Sen. Bill Bradley of New Jersey—and attendees will include everyone from central bankers to gold bugs. Though the participants will disagree on many points, most will concur on one: "Monetary reform," says Kemp, "is an idea whose time has come."

It's a view that events have rendered undeniable. The flexible exchange rates adopted in the early 1970's haven't worked as planned: designed to adjust automatically to changes in countries' relative purchasing power, they have instead been overwhelmed by capital flows and other economic forces. The volatile behavior of foreign-exchange markets, meanwhile, has helped yield a drastically overvalued U.S. dollar and other currency distortions—worsening everything from trade imbalances to the Third World debt crisis. The recent decision by the five largest industrial countries to intervene in the markets to drive down the dollar represents a tacit admission that the era of pure floating exchange rates is over. Now, led by the Reagan administration, a move is under way toward a managed system of exchange rates—and greater coordination of global economic policies to shore them up.

Newsweek has learned that the U.S. Treasury Department is drafting a rough plan of action to create a system of "target zones" for exchange rates—possibly modeled after the European Monetary System, which bands the German mark, French franc and six other currencies together in a fluctuating arrangement known as "the snake." Under such a system, countries would meet regularly to discuss their internal fiscal and monetary policies, and a mechanism would be created to press for changes in those policies when necessary to keep currencies fluctuating within broad bands. A move to target zones would represent a major turnaround in the world economy, and prolonged consultations would be needed before a new road map could be devised. But for now the Treasury is acting "within an intellectual framework" to bring about monetary reform, one senior administration official says.

Group of Two: The first step was the intervention agreement crafted by the Treasury and unveiled two months ago by the so-called Group of Five industrial nations. The plan has mainly been carried out by a smaller Group of Two: through a combination of dollar sales and jawboning of large Japanese investors, the U.S. Federal Reserve and the Bank of Japan have succeeded in driving the dollar down 16 percent against the yen. The effort has had the desired effect of cooling protectionist fires in Congress and could begin to make a dent in the U.S. trade deficit next year. Last week Satoshi Sumita, governor of the Bank of Japan, suggested that the bank would continue intervening when necessary to keep the yen at about its current level of 207 to the dollar. Meanwhile, keeping more yen at home, Japanese interest rates have risen—and Tokyo has announced modest measures to stimulate domestic demand through increased public-works spending and tax incentives to encourage new housing construction.

The Kemp-Bradley conference will explore other ways to reform the system. Stanford University economics Prof. Ronald McKinnon will argue that the drastic cycles of inflation and deflation in recent years were in large part attributable to flexible exchange rates—and may repeat his call for a system linking monetary policies in Germany, Japan and the United States. Meanwhile, David Hale, chief economist of Kemper Financial Services, will contend that individual countries' microeconomic policies skew exchange rates as well. He argues that American tax-law changes accelerating depreciation on capital equipment raised the rate of return on real assets and forced returns on financial assets upward—boosting U.S. interest rates and the dollar.

Bradley and Sen. Daniel Patrick Moynihan, among others, may plump for bills they have sponsored that would require the Fed to intervene in currency markets and to boost the money supply whenever the dollar was overvalued or the U.S. trade deficit soared. For his part Kemp, who once advocated a return to the gold standard, now favors a plan that would force the Fed to manage the money supply so as to hold prices level for a "basket" of commodities including gold, other metals and foodstuffs.

Evolutionary Approach? Whether the Treasury will hear much support for target zones remains to be seen, but a consensus for changes is clearly developing. "We are sailing very close to the wind as far as the risks we're running in the financial system," says investment banker and conference participant Felix Rohatyn. The session may lead to further discussions among the industrial nations on how to revamp the current system—"an evolutionary approach, not sitting down and writing [a new] Constitution," says conference participant Charles Kindleberger, professor emeritus of economics at the Massachusetts Institute of Technology. But given the pressures facing the global economy, an intercontinental congress to adopt monetary-reform measures could still be in the industrialized world's future.

[From the New York Times, Oct. 30, 1985]

THE DRIVE TO TAME CURRENCIES

(By Peter T. Kilborn)

WASHINGTON, October 28.—Worldwide concern over the ups and downs of the Ameri-

can dollar and its impact on the livelihood of all countries has set in motion a multinational effort to reimpose some form of government control over currencies, according to international economists.

The catalyst for change could well be a monetary conference here next month to be attended by many of the world's top economic policymakers, leading international economists and senior members of the Reagan Administration. From that meeting will come a report for the seven-nation economic summit conference to be held late next spring in Tokyo. That, in turn, could lead to the first international conference devoted to currency revisions since Bretton Woods in 1944.

What is happening is that governments, and in particular the United States Government, now see political opportunity in regulating exchange rates. The Reagan Administration, once an intractable foe of government intrusion in currency markets, has come to recognize the value of at least occasional intervention to deal with the effects of its $200 billion budget deficits and other pressing economic issues such as the protectionist attitudes in Congress and the developing world's debts to Western banks.

Other industrial nations have been disenchanted for several years with the current system in which currencies are left to vie for themselves in an often volatile marketplace. The change in American attitude is encouraging these nations to step up their efforts for change.

The prospect of revising the currency system has captivated some Congressmen as well. Two men who are often mentioned as possible presidential candidates. Representative Jack Kemp, Republican of Buffalo, and Senator Bill Bradley, Democrat of New Jersey, have joined in sponsoring next month's monetary conference.

"We hope to focus attention on the problem of exchange rates," Senator Bradley said. "The present system isn't working as it was supposed to work, or we wouldn't have $120 billion trade deficits."

Some economists and political leaders in the United States and abroad are calling for a return to the system of tight supervision of currency exchange rates that was established 41 years ago at the conference in Bretton Woods, N.H.

That system, in which the dollar's value was pegged to gold and then the other currencies were tied to the dollar, crumbled with rising world inflation at the start of the 1970's. Most of those now advocating change want a less rigid system, but a system, nevertheless, to curb the volatility of an unsupervised marketplace.

"A broad spectrum of international and financial thinking says we ought to get together and talk it out and see if we can get a little better understanding of financial markets and financial institutions," said Henry Kaufman, chief economist at Salomon Brothers Inc.

A senior Reagan Administration official, who declined to be named, said, "My personal opinion is that we have to reform the system."

Governments are vitally concerned with the values of their currencies because they affect virtually every facet of an economy—the prices of imports and exports, the investments that countries make outside their borders, their inflation and employment rates.

THE DOLLAR SITUATION

In the case of the United States, the relatively expensive dollar has been an important factor in the loss of jobs to foreign competition, to the recession in agriculture and to the boom in American travel abroad. At the same time, the high prices that debtor nations have to pay for dollars to make payments on their loans to American banks is responsible in part for their difficulties in making those payments.

But managing currency exchange rates is a matter of considerable ideological debate. For years, President François Mitterrand of France, a Socialist, has argued for close Government regulation of the international marketplace, including exchange rates, just as he promotes such regulation over domestic policies. At the other extreme, the Reagan Administration has argued for free and open markets at home and—until now—in the international economy.

Managing currencies is also an imperfect art. For centuries, nations have sought to settle upon a method of keeping their currencies in line with one another to avoid the shocks occurring when they rise or fall. But they have yet to devise a system that has satisfied everyone for more than a couple of decades.

During the Bretton Woods era of "fixed" exchange rates, countries complained that the rates often undermined their economies, particularly when the levels of inflation varied from country to country. Yet, few countries are happy with the nonsystem that they settled upon in the early 1970's. They then decided to let currencies "float" in the market, permitting bankers, business executives, governments, international travelers and speculators to determine exchange rates through buying and selling of currencies. The United States endorsed this policy of "benign neglect."

A LOSS OF FAITH

But the Reagan Administration has lost faith in the policy, in part because of the strength of the dollars, which in the last four years has risen more than 40 percent above the average of other currencies.

"There wasn't much objection to floating rates until three or four years ago," said Robert Solomon, economist at the Brookings Institution and for many years the chief international economist at the Federal Reserve Board. "But then we found that the exchange rate can move beyond where you like to see it go, and it interferes with your domestic objectives."

To some extent, multinational reregulation of the currency markets has already begun. Six years ago, Western Europe developed a regional solution, called the European Monetary System, that some economists say could be expanded to the world economy. Eight countries agreed to limit their currencies' rise or fall to 2¼ percent. The system withstood a severe test during a sharp devaluation of the French franc in 1983. "I'd call it a great success," said John Williamson, a British economist at the Institute of International Economics here.

THE U.S. FACTOR

But it is the United States that can make or break any worldwide move towards currency revision. The first hint of a change here came last April when Treasury Secretary James A. Baker 3d told finance ministers from the industrial nations that the United States would "consider the possibility" of holding a monetary conference.

Last month, on Sept. 22, with the trade deficit fueling protectionist moves in Congress, Mr. Baker took a major step toward a more managed currency market by agreeing with four other major industrial powers—Japan, Germany, France and Britain—that the dollar was too high. The officials said that they "stand ready" to force the American currency down and since then the dollar has fallen 6 percent against an average of 15 major currencies.

It is possible that the Administration may go no further than its Sept. 22 commitment. Some critics of the "benign neglect" policy say that a simple endorsement of joint intervention when a currency falls out of line is sufficient to handle the problem.

"We've got a major change already under way," said Robert V. Roosa, a former Under Secretary of the Treasury and a partner at Brown Brothers Harriman in New York, a private bank. Rather than attempt to construct a more elaborate system of currency control, Mr. Roosa said, the Government should now deal with the domestic economic issue that he and many economists see as the source of much of the dollar's rise—the $200 billion annual Federal deficits. Inaction on that, he said, could send the dollar climbing again.

But others endorse a system similar to the Bretton Woods formula, with the dollar or all currencies tied to gold again or to a "basket" of commodities. Proponents of such a system say it would stabilize prices of major commodities, which in turn would stabilize world economies.

"I personally believe in stable, fixed exchange rates and possibly a gold-backed role for the dollar," Representative Kemp said.

But given the failings of the Bretton Woods system, most international economists doubt that a new system would be that extensive. "I think what we need is a synthesis of fixed rates and the excessive volatility that we have now," said C. Fred Bergsten, a former Treasury official and now director of the Institute for International Economics, a research organization here.

"The key," he said, "is to have guidelines, presumptions and even rules that countries could take into account when formulating their economic policies."

[From the New York Times, Nov. 15, 1985]

THE BUCK (POUND, FRANC) STOPS HERE

There's little dispute that the dollar is too high and other currencies are too low, and it's common to blame the current system of free-floating exchange rates for allowing that. But nobody agrees on what, if anything, might work better. A conference in Washington this week has helped put things into focus. Perfection may be out of reach but there are ways to improve the system.

The conference dealt in monetary abstractions, but its roots were profoundly political. Currency values have a direct impact on exports and imports and thus on nations' growth. Growth is how political leaders stay in office. And they are not good at retarding it for some larger common interest. The conference was convened by Senator Bill Bradley, Democrat of New Jersey, and Representative Jack Kemp, Republican of New York. They come at the problem from different directions but agree there's a problem. The Administration didn't until lately, but Treasury Secretary James Baker shows a welcome new openness.

The clearest evidence of trouble is America's immense trade deficit and the huge increase in foreign investment here. With American goods now priced high and foreign goods low, imports have surged and exports lagged. This has cut economic growth at home, inflamed pressure for trade bar-

riers and put America deeply in debt to foreigners. On the positive side the boom in imports stimulates other countries' economies, and foreign investment helps finance the budget deficit.

It is widely assumed that this situation won't last. Countries cannot run large trade deficits indefinitely; one day, foreigners will decide they don't want so many dollars. When they reduce their holdings the dollar's value will drop. If it drops too far or too fast, the world faces a whole new set of distortions. Everyone wants to avoid that; hence the exploration for a more disciplined system.

Until 12 years ago all currencies had a fixed relationship to the dollar, and the dollar was pegged to a fixed price for gold. Fixed rates presume that governments will adjust fiscal and monetary policies if their currencies get out of line. This system was finally overwhelmed by the growth of international trade and capital flows. In 1973 currencies were freed to float.

Mr. Kemp wants to return to some form of rate fixing. Mr Bradley leans toward more flexible controls. There's increased talk of setting "target zones," in which there would be an agreement on exchange rates from which currencies would be allowed to vary by no more than, say, 10 percent.

The big five Western nations agreed in September to seek better alignment of their currencies. But they didn't declare any targets nor reveal any commitments to correct domestic policies. The most notable distortion of currency values comes from the American budget deficits, but other countries' policies are faulty too.

No sovereign government willingly alters domestic policy under foreign pressure. A perfectly harmonious currency system is thus blocked by the political pressures felt by leaders of individual countries. But even sovereigns can recognize a common good. The September accord and this week's brainstorming move in the right direction. Harmony need not be perfect to avert a plunge.

[From the Washington Post, Nov. 13, 1985]

REFORMING THE EXCHANGE RATES

Don't blame imports, or the people who buy them, for the gigantic American trade deficits. The trouble lies in the currency exchange rates, and it's more useful to ask why the exchange markets have been behaving so strangely in the past several years. This week a congressional conference on exchange rates, convened at the initiative of Rep. Jack Kemp and Sen. Bill Bradley, is at work on that question. Most of Congress has now acknowledged, publicly or otherwise, that protectionism—the attempt to hold down imports by law—is dangerous and costly in its effects. But if protectionism won't work, the politicians anxiously ask, what will?

The kind of reform that's needed has less to do with changing the exchange system than with changing the attitudes and political preconceptions that surround it. From World War II until the 1970's, Americans lived in a world in which exchange rates were something for other countries to worry about. The rest of the world made little difference to the hugely powerful economy of this country, most Americans thought, and they were right—for a while. But beginning in the early 1970's this country's foreign trade expanded twice as fast as its economy, and the flows of foreign investment expanded even faster. Although foreign trade and foreign money became major determinants of American prosperity, American views of the world did not adjust immediately to that reality. Until recently the Reagan administration brushed off the foreign connections with the argument that, with steady growth here at home, the international accounts would take care of themselves. That hasn't worked.

As long as the United States runs large budget deficits requiring foreign financing, the dollar exchange rates will continue to be out of line. All of the trading countries draw great advantages from the enormous volumes of trade that now tie their economies together. But because they are tied together their governments enjoy less independence in economic policy than they once did. The Americans in particular are having trouble getting used to these constraints and the obligations to cooperation that they impose.

But the responsibility for poor performance does not lie wholly with the United States. Germany and Japan are still not entirely accustomed to their economic weight, and still behave as though their policies had little effect on anyone but themselves. As long as countries as strong as those two accept so little responsibility for making the system work, it is not likely to work well.

No one country dominates the exchange rates any longer, and managing them successfully is necessarily a joint endeavor. That's the spirit in which the Kemp-Bradley conference is proceeding and that's why it may turn out, in this city of conferences, to be unusually useful.

[From Business Week, Nov. 25, 1985]

KEMP'S MONETARY POWWOW: NOT BAD FOR STARTERS

It was the social event of the year for anyone who matters in international finance. Representative Jack F. Kemp (R-N.Y.) and Senator Bill Bradley (D-N.J.) had called a conference to consider reform of the international monetary system, and 350 leading policymakers, central bankers, and economists flocked to the National Academy of Sciences in Washington for a debate that was downright chic. As it turned out, the conference was a cacophony of diametrically opposed views about how to stabilize the monetary system. But the important thing is that the powwow took place at all.

Treasury Secretary James A. Baker III, who had originally declined an invitation to attend, in the end managed to place himself at the forefront. Supplysider Kemp and his friends had drummed up enough support to make the conference too significant for the secretary to shun.

Baker was the honored guest at the opening party thrown by the organizers in the stately reception rooms of the Federal Reserve. And in an unscheduled interruption of the proceedings the following day, he threw his weight behind the drive to improve the international monetary system. The Sept. 22 agreement between the Group of Five major industrialized countries to stabilize the dollar, the Secretary said. "was not a one-shot effort but one step in a continuing process of enhanced economic cooperation."

World leaders were already alarmed about the monetary system's troubles—and a widespread perception that the G5 agreement was running out of steam only added to the attraction of Kemp's forum. Thanks to sizable intervention in the currency markets by the world's largest central banks, the dollar has come down to its level of early 1984. But the dollar may not stay battened down unless the industrial powers more closely coordinate their economic policies—which could require some painful domestic adjustments.

For that to happen, the world may have to switch to a more managed floating-rate system—a move that may be in the offing. In a significant concession, Deputy Treasury Secretary Richard G. Darman said: "Perhaps there is a middle ground that begins to look like target or reference zones. It seems that that might have some virtue." The French government has backed such a step for some time, and its position was reiterated at the conference by Jacques Attali, chief adviser to President François Mitterrand.

But if Baker was pleased by the support for his more activist approach, he got more than he bargained for. Speaker after speaker criticized the monetary system with a vengeance, struggling to compress their cosmic pronouncements into the five minutes each was allotted. As one organizer put it: "Never before had so many egos been asked to say so much in so little time."

Monetary expert Robert Triffin dismissed the current exchange-rate system as a "world monetary scandal." Professor Robert A. Mundell of Columbia University warned that the world has narrowly escaped total anarchy. He wants to stabilize international monetary reserve around the current price of gold—about $325 per oz. Even such a mainstream economist as Alan Greenspan said that the restoration of something approximating a gold standard would be desirable.

Conspicuously absent. But as Baker warned, improving the international monetary system is "not an overnight task." Although many economists were enthusiastic, there was a noticeable lack of consensus among world leaders on whether major reform is really necessary. Officials of monetarist Britian were conspicuously absent from the conference. Helmut Schlesinger, vice-president of the West German Bundesbank, showed scant interest in reform: "We seem to have forgotten that the fixed-exchange regime had a number of disadvantages as well," he cautioned. And Toyoo Gyohten, a top official at Japan's Finance Ministry, wondered whether the fault lies in the economic policies of the major countries rather than the functioning of the monetary system.

Of course, no one expected the problems of the monetary world to be solved at one meeting. But the talk about reform struck many as refreshing and provocative. If nothing else, said Federal Reserve Vice-Chairman Preston Martin, the conference showed that "it has become socially acceptable" to talk about reforming the international monetary system.

Congressional advocates of reform were equally pleased, and they hope the attention paid to the conference will, as Bradley put it, "accelerate momentum at the official level." That won't be easy. Despite Baker's qualified support for further change, he could run into stiff opposition from Reagan Administration colleagues, including Secretary of State George P. Shultz, who has never been overly fond of currency manipulation. Moreover, as Darman warned the delegates: "Just publishing targets doesn't address the question of policy fundamentals." Put another way, talking about a problem isn't the same thing as fixing it.●

ENCOUNTER ON A MOSCOW SUBWAY

● Mr. SIMON. Mr. President, the November summit between President Reagan and Mikhail Gorbachev is over. Political analysts, Government leaders, and pundits are doing their best to assess the successes and failures of the historic meeting in Geneva. In a weekly column I write for newspapers in my State, I have related an experience that one of my staff members had while visiting the Soviet Union. It illustrates, I believe, the strong yearning peoples of both our countries have for peace. I ask that the article be printed in the RECORD.

The article follows:

ENCOUNTER ON A MOSCOW SUBWAY

(Weekly Column by U.S. Senator Paul Simon of Illinois)

How important was the summit meeting at Geneva?

We will not know with certainty for some time, but there is reason to hope that it was a significant meeting, a time when the U.S. and Soviet leadership came to understand each other better.

President Eisenhower once commented that if the governments of the world stand in the way of peace, the people of the world may push them aside to achieve peace. That is not an exact quote, but it conveys the essence of his remarks.

There is a yearning for peace among all people.

A member of my staff, Art Greles, recently took his first sight-seeing visit to Moscow (not at your expense) and he related this incident:

"It was Friday night, Sept. 6, my birthday—my last night in Moscow. I was returning to the Cosmos Hotel from the Moscow Circus on the subway, and considering how late it was I wanted to make sure that I was on the right train. I saw a Russian man sitting alone—I would say 55 to 60 years of age. I kept saying, 'Cosmos Hotel' and pointed on the map to my destination. He nodded, and said, 'Okay.'

"He then said, in very accented English, 'You American, yes?' I replied, 'Yes.' He then put his hands on my shoulders and forced me down on my knees so I was face to face with him. He then firmly put his hands on the back of my neck and put my head to his chest and patted my shoulders and whispered into my ear, 'Please, no war. No war, please. No war with America—for the children—save children. Russian people do not want war with America. Go home and tell America Russian people do not want war.'

"I replied, 'America does not want war with the Soviet Union. We do not want war, we want peace. I will go home and give your message.' At this point, I was overwhelmed with emotion looking into his eyes. This man was for real—tears almost started coming from my eyes as I felt the adrenalin being released in my system.

"We arrived at my subway stop and I had to get off. He looked at me as I exited, waved and said, with his hand on his heart, 'Please tell them.' I replied, 'I will.'

"This is something I will never forget and was the most moving part of my entire Soviet trip. It showed that they have the same fears and concerns. It also made me wonder exactly what they're being told about the United States."

That is a simple story, but it tells of more than a simple encounter between two people.

The hope and prayer of all of us is that the universal yearning for peace can become a reality. That's what people everywhere want, and we must make sure that governments don't get in their way.●

NOTICE OF DETERMINATIONS BY THE SELECT COMMITTEE ON ETHICS

● Mr. RUDMAN. Mr. President, it is required by paragraph 4 of rule 35 that I place in the CONGRESSIONAL RECORD this notice of a Senate employee who proposes to participate in a program, the principal objective of which is educational, sponsored by a foreign government or a foreign educational or charitable organization involving travel to a foreign country paid for by that foreign government or organization.

The select committee has received a request for a determination under rule 35 which would permit Mr. Robert B. Van Cleve, a member of the staff of Senator JOHN C. DANFORTH, to participate in a program in Israel, sponsored by the Leonard Davis Institute for International Relations of the Hebrew University of Jerusalem, in conjunction with Project Interchange, from January 5 through 16, 1986.

The committee has determined that participation by Mr. Van Cleve in the program, in Israel, at the expense of the Leonard Davis Institute for International Relations of the Hebrew University of Jerusalem, in conjunction with Project Interchange, was in the interest of the Senate and the United States.

The select committee has received a request for a determination under rule 35 which would permit Mr. Bruce Heiman, of the staff of Senator DANIEL PATRICK MOYNIHAN, to participate in a program in Taiwan, sponsored by Soochow University, from January 11 through 19, 1986.

The committee has determined that participation by Mr. Heiman in the program, in Taiwan, at the expense of Soochow University, was in the interest of the Senate and the United States.

The select committee has received a request for a determination under rule 35 which would permit Mr. Greg Chapados, of the staff of Senator TED STEVENS, to participate in a program in Israel, sponsored by the Leonard Davis Institute for International Relations of the Hebrew University of Jerusalem, in conjunction with Project Interchange, from January 6 through 15, 1986.

The committee has determined that participation by Mr. Chapados in the program, in Israel, at the expense of the Leonard Davis Institute for International Relations of the Hebrew University of Jerusalem, in conjunction with Project Interchange, was in the interest of the Senate and the United States.

The select committee has received a request for a determination under rule 35 which would permit Ms. Christina Bolton, of the staff of Senator BOB DOLE, to participate in a program in Taiwan, sponsored by the Chinese Culture University, from January 1 through 10, 1986.

The committee has determined that participation by Ms. Bolton in the program, in Taiwan, at the expense of the Chinese Culture University, was in the interest of the Senate and the United States.

The select committee has received a request for a determination under rule 35 would would permit Mr. Robert W. Porter, Jr., a member of the staff of Senator WILLIAM S. COHEN, to participate in a program in Taiwan, sponsored by Soochow University, from January 11 through 20, 1986.

The committee has determined that participation by Mr. Porter in the program, in Taiwan, at the expense of Soochow University, was in the interest of the Senate and the United States.

The select committee has received a request for a determination under rule 35 which would permit Mrs. Mary McGuire of the staff of Senator FRANK H. MURKOWSKI, and Mr. Edward Long of the staff of Senator TOM HARKIN, to participate in a program in Israel, sponsored by the Leonard Davis Institute for International Relations of the Hebrew University of Jerusalem, in conjunction with Project Interchange, from January 5 through 16, 1986.

The committee has determined that participation by Ms. McGuire and Mr. Long in the program, in Israel, at the expense of the Leonard Davis Institute for International Relations of the Hebrew University of Jerusalem, in conjunction with Project Interchange, was in the interest of the Senate and the United States.

The select committee has received a request for a determination under rule 35 which would permit Mr. Leon S. Fuerth, a member of the staff of Senator ALBERT GORE, JR., to participate in a program in Israel, sponsored by the Leonard Davis Institute for International Relations of the Hebrew University of Jerusalem, in conjunction with Project Interchange, from January 5 through 16, 1986.

The committee has determined that participation by Mr. Fuerth in the program, in Israel, at the expense of the Leonard Davis Institute for International Relations of the Hebrew University of Jerusalem, in conjunction with Project Interchange, was in the

interest of the Senate and the United States.

The select committee has received a request for a determination under rule 35 which would permit Mr. Peter N. Marudas, of the staff of Senator PAUL S. SARBANES, to participate in a symposium in Sussex, England, sponsored by the A.G. Leventis Foundation, Inc., of Paris, France, from January 24 through 26, 1986.

The committee has determined that participation by Mr. Marudas in the symposium in Sussex, England, at the expense of the A.G. Leventis Foundation, Inc., was in the interest of the Senate and the United States.

The select committee has received a request for a determination under rule 35 which would permit Senator PHIL GRAMM to participate in the Davos Symposium, Davos, Switzerland, from January 30 through February 4, 1986, sponsored by the Dallas Chamber, Dallas, TX, and the E-M-F Foundation, Davos, Switzerland.

The committee has determined that participation by Senator GRAMM in the Davos Symposium, in Davos, Switzerland, at the expense of the Dallas Chamber and the E-M-F Foundation, Davos, Switzerland, is in the interest of the Senate and the United States.

The select committee has received a request for a determination under rule 35 which would permit Mr. Brent Erickson, of the staff of Senator ALAN SIMPSON, to participate in a program in the People's Republic of China, sponsored by the Chinese People's Institute of Foreign Affairs, and organized by the United States-China Friendship Program, from January 9 through 11, 1986.

The committee has determined that participation by Mr. Erickson in the program in the People's Republic of China, organized by the United States-China Friendship Program, and sponsored by the Chinese People's Institute of Foreign Affairs, was in the interest of the Senate and the United States.●

PROBLEMS OF TEACHERS

● Mr. SIMON. Mr. President, Marguerite Michaels had an article in a recent Parade magazine about the problems teachers are facing.

It is an extremely important article because it speaks to the future of our country.

I occasionally speak to teachers' institutes. If I am speaking to 4 of 500 teachers and I ask, "How many of you would want your sons or daughters to become teachers?" there are usually not more than 10 hands raised.

Even more disconcerting, if you check what is happening at the top 5 percent of the graduating class in any high school in this country, you will find that those top students want to become lawyers, doctors, engineers, architects, journalists, and a variety of other professions, but very few, if any, want to become teachers.

If we want to build the right kind of future for this Nation, we ought to do more to encourage and keep the very finest of our citizens in the teaching profession.

I urge my colleagues to read the Marguerite Michaels story, which I ask to be printed in the RECORD.

The article follows:

A REPORT CARD FROM OUR TEACHERS

(By Marguerite Michaels)

In all the talk about the crisis in education in America in the last few years, one group has been far more talked about than talked to: teachers. Education experts say that intellectual and motivational problems of teachers are the cause of the crisis in education. Even if that it true—if teachers are a large part of the problem—then they must also be a large part of the solution. It seems only logical that what's wrong with our public school system, cannot be fixed without their involvement.

With that thought in mind, Parade asked Mark Clements Research, Inc. to conduct a survey of teachers' attitudes toward their career and the education process itself. At the end of the last school year, 1941 questionnaires were sent out to elementary and secondary school teachers all over the country.

Some of the findings of the survey are:

Almost all teachers feel that schools have been the scapegoats for a lot of society's ills.

87 percent of teachers feel parents are too permissive.

When asked what would help them do their job better, teachers said (1) students with a better attitude toward learning and (2) more parent involvement with their children's education at home. Higher wages came in a surprising seventh.

Only 40 percent of teachers are very satisfied with their jobs, as opposed to 52 percent of the total working public.

40 percent of teachers are more negative about teaching now than when they first started.

One-third of teachers would leave their profession for another job even if the salary were no more than what they are making now.

Parade asked teachers who answered negatively to explain why they felt as they did. A fifth-grade teacher from Florida wrote that "educational values of students and parents have declined." A high school teacher from Ohio said, "I was unprepared for the apathy of students—and parents—and how to deal with it." Teachers cited stress on the job, lack of parental and community support and loss of respect for the profession.

One out of five teachers mentioned problems with school bureaucracy. "Administrators and central office personnel impair my ability to do the job," said a high school teacher from Georgia. "They play partisan politics and do not match teachers to classes for which they are best suited."

While every working person has problems with his or her boss at one time or another, it should be noted that over the last 20 years the number of principals and supervisors in the public school system has increased by 83 percent, compared with a 64 percent increase in classroom teachers. In 1960, there were 40,000 school districts in the U.S. Today there are only 16,000. Consolidation has led to increasing centralization and bureaucracy. Administrators are now getting a much larger portion of the school budget dollar that are the classroom teachers.

More than half of the teachers in Parade's survey said that the mushrooming central school bureaucracy had a negative effect on their work in the classroom.

Most of the continuing controversy about "why Johnny can't read" has focused on poor teaching—and well over a quarter of the teachers surveyed acknowledge that teachers in general are not doing the best job they can. But then say the teachers, neither is Johnny.

It is not a question of discipline, said 78 percent of the teachers. Apathy is a larger problem. Teachers with at least 10 years of classroom experience found their students "less interested in learning" than before, harder to teach" and "not appreciative" of the job teachers are doing.

The Parade/Clements survey asked a series of questions about how the time students spend viewing television has changed their ability to learn. Teachers overwhelmingly said students now expected to be "entertained in the classroom." They thought their students had "shorter attention spans" and found them "more responsive to visual methods to teaching." Parade asked teachers to write in any other effects they thought important, and a sampling of these responses runs from the expected—"study less," "read less," "less physically fit"—to more profound impacts of television. "Poor listening skills," wrote a sixth-grade teacher fom Utah. Many teachers described problems of "passivity," 'lack of imagination," "expectations of easy solutions to problems." "Creates uncertainty about reality," said a high school teacher from Virginia. Most of the teachers surveyed said they had changed their teaching methods in response to television's impact. They use more audio-visual equipment in their classrooms and plan "more compact" lesson presentations. Some even have taken on a "flamboyant acting style," while others have tried to relate classroom work to specific television programs.

While teachers feel that the student is most responsible for his or her own behavior in the classroom, parents came in a close second. Parade's teachers seem both critical of and sympathetic to the parents; 44 percent of the teachers surveyed are parents of students themselves.

Teachers not only found parents too permissive, they also found them often "not at home" to discuss problems teachers might be having with their children or "not creating an environment at home" conducive to learning. Few teachers wanted more parent participation in classroom issues like school curriculum or textbook choices or the hiring policy of teachers. But they clearly want and need parents' help in getting pupils to a point where they are motivated to learn. A grade school teacher from Michigan thought many parents "are not well informed and don't care."

According to Parade's survey, teachers have a fairly low opinion of the impact of some national policy decisions on the classroom:

52 percent of teachers think busing has not helped minorities get a better education.

52 percent of teachers feel the recent spate of reform on the state level—stricter school curricula and higher grade standards—has not improved the education students are receiving.

20 percent of the teachers said that the higher standards have led to a higher student dropout rate in their schools.

Teachers are evenly divided on the question of merit raises and competency tests. They are not divided on what they think it will take to fix things—a new national attitude recognizing the importance of education. Wrote a junior high school teacher from Minnesota: "Even considering the barrage of negatives from the public and political arenas, I still enjoy the job. But education won't improve in this country until Americans truly begin to respect if for its own sake."

The Parade/Clements survey results are based on a total of 1172 questionnaires. The response rate was an extremely high 77.7 percent.

Clearly, teachers would like to be included in the continuing national debate on the quality of education in the United States.

WHY DO WE HAVE SUCH A BAD IMAGE?

The crisis in education, teachers say, is not what is coming out of the classroom, but what is going in. They list unimaginative, overbearing school administrations and competition for students' attention from television and rock music heroes who ridicule education. Most troubling, however, is their increasing suspicion that society does not value teachers.

"The students have such apathy," says Julie Riegel, an elementary school teacher in Ypsilanti, Mich. "That's coming from the parents. We are working so hard. I think we're doing a great job. But we are not important enough to people out there. Why aren't we? Every parent should spend a day with us in the classroom."

David Sutherland teaches elementary school in Scotts Valley, Calif. "If we as a country don't think that the most important thing is to pass down our values and perpetuate the culture, then that culture is threatened." Sutherland—and many of the teachers Parade talked with and polled—felt that parents were "significantly responsible" for the fact that the school system is not allowed to get "the business of teaching done." Sutherland, 36 has been teaching for 13 years. "Before we can get down to reading and writing," he says, "we must teach self-discipline, concentration, honesty, integrity—values that should have been brought from home."

Teachers understand the rising expectations from society, and they accept the challenge to improve, but they feel they are not getting the support they need. "As the level of professionalism increases," says Sutherland, "the level of frustration also increases. The best teachers are looking elsewhere."

"I don't think the public understands how hard we are working," says Betty Williams, who has been teaching elementary school in Kirkland, Wash., for 22 years. "They are always hearing about the strikes. But for my 9 o'clock to 3 o'clock day, I work 7 to 5. There's no break with kids. I'm always working on weekends, and through the summers. You just give so much time and energy. It's intense. Teachers care. Why do we have such a bad image?"

Teachers, say teachers, are as good as ever. What makes a good teacher? Betty Williams says: "You have to love the profession." Brenda Wilson, a third-grade teacher in Syracuse, N.Y., talks about "those indescribable moments when you walk into a classroom and see what progress the kids are making." Julie Riegel agrees: "It is really exciting to watch a child latch onto something." "A good teacher," says Virginia Smit, a high school art teacher, "is a flexible, caring individual." "And a secure individual," adds Jane Cohen, Smit's colleague at Livingston High School in New York City.

Most of all, good teachers believe in their students. "They are a lot brighter than they were 10 years ago," says Diane Landures, who's been teaching for 16 years—at present in Salt Lake City. "You would be stunned by what an 8-year-old or a 9-year-old knows. The children are our future, but when people ask me what I do for a living and I say 'teach'—they say, 'You're kidding!' There is such scorn.

The lack of respect bothers Ed Amaral, a high school math teacher in Hanover, Mass. "I don't want to blame the parents. I'm a parent myself. But society has changed in the 20 years since I started teaching. We grab more things—VCRs, stereos, TVs. We abuse the kids emotionally. What I mean is that we don't demand enough of them. Maybe we have all forgotten the hard work we put into this country after World War II to get where we are today."

Amaral, however, sees much of the recent criticism of education as a positive thing. "I've been in the business long enough to see the pendulum beginning to swing back now to education as the key to a successful future. I think a lot of parents are looking for more quality and are more concerned. They see the competitive world that their children are facing, and they want them prepared as well as possible. That's good news for teachers."●

THE ABORTION ISSUE

● Mr. KERRY. Mr. President, since 1973, when the Supreme Court ruling recognized a woman's right to choose abortion, opponents have attempted to overturn this decision through nearly 500 legislative initiatives. These initiatives seek to restrict abortion from several perspectives ranging from constitutional amendments to prohibiting abortion by statute. As the prochoice advocates recognize this anniversary and the opponents work to reverse the 1973 ruling, one single issue gains significance: That persons of sensitive and informed conscience find themselves on differing sides of the choice issue.

I strongly support the woman's right to terminate a pregnancy, but recognize that such a decision is not made lightly. One may struggle with the circumstances of their own ability to love and care for a coming child and the options a woman must choose from may all seem equally difficult. It is my belief that the prochoice position is weighed with many responsibilities as we all work for greater respect for human life.

There is the responsibility of maintaining broad, accessible family planning to provide maternal and infant health care as well as preventive services. The provisions of family planning services to low- and marginal-income persons can be instrumental in reducing or alleviating poverty and dependency. An especially important part of maternal and infant health is the timing and spacing of births—a key to adequate family planning services. And of course from the beginning, family planning has focused on preventive services to avert the unintended pregnancy. The consequences of pregnancy and childbearing for adolescents is particularly heartrending and family planning services have served to educate teenagers about the obligations or parenting and alternatives for prevention.

There is the responsibility of working for a better quality of life after birth. Our child nutrition programs, assistance for the low income, Headstart, education for the handicapped, and other special programs of benefit to children are all prolife programs. They seek to improve the quality of life for all children regardless of a family's situation, a child's physical handicap, or other special concerns. Recognizing the value of life entails recognizing the malnourished from the nourished, the sick from the healthy, and the poor from the rich.

Coming full circle, though, we return to the value judgment placed on the issue of abortion. The belief in the right to choose abortion is based in philosophical and theological judgments, although no less weighty they cannot be imposed on a multireligious society.

The Supreme Court view in Roe versus Wade stated that there is not a necessary relationship between the definition of legal personhood and a given theory of when life begins. One is the question of law, and the other a question of biology. On the question of law, responsible individuals do and will probably continue to disagree.

The right to a safe and legal abortion is under attack from a specific group of opponents who seem to believe that in their effort to protect fetal life, the sanctity of other lives may be threatened. Women have had their examining rooms invaded, children have come home from elementary school with threatening notes in their schoolbooks, and clinic bombings are seemingly now part of the territory—our own domestic version of terrorism. These incidences represent a trend that all free citizens should fear.

To conclude, I wish to reaffirm my support for programs which improve quality of life, funding for domestic and international family planning services, and legal right to a safe abortion. It is my belief that reproductive freedom is a basic human right, and I shall not deter from my responsibility to protect this right as secured by the Constitution.●

DECLARATION OF FREEDOM

● Mr. CHILES. Mr. President, today the Cuban American community com-

memorates the 20th anniversary of the signing of the Declaration of Freedom. On this date we pay tribute to the 1,500 Cubans who on January 23, 1966, assembled in Key West, FL, and set forth this historic document. More importantly, we pay tribute to the Declaration of Freedom itself. Similar to our own Declaration of Independence, it lays the cornerstone for a free and independent Cuba.

The 20 years which have passed since the signing of the Declaration of Freedom reflect a record of denial of human rights and civil liberties in Cuba. The Cuban people are denied the most basic of freedoms. Fidel Castro has no sympathy for freedom of speech, freedom of the press, or freedom of religion. He has denied his people the right to unhindered emigration and the common exchange of ideas. And he harbors little tolerance for dissenting opinion. Combinado Del Este and Boniato prisons and the atrocities committed within attest to this intolerance.

In Cuba, freedom does not exist. The hardship imposed by the denial of civil liberties is ever present.

The Declaration of Freedom serves as a rallying cry against the crimes committed by a brutal and merciless government; a government which condones cruel and lengthy prison sentences and subjects its prisoners to the harshest forms of physical abuse and mental torture. The Declaration of Freedom is a reaffirmation of the belief in democratic principles and in the dignity of man.

It is proper that we commemorate the 20th anniversary of the signing of the Declaration of Freedom, for it underscores the desire in every Cuban to see his homeland once again free. It embodies a spirit which burns as fervently today as it did 26 years ago when Fidel Castro first came to power and freedom was quickly extinguished in the island nation. This declaration encompasses the yearning of brothers wishing to see brothers set free. It is a statement by free men desiring to break the chains of those who are enslaved. And it stands in defiance of the actions and priorities of a ruthless dictatorship.

Mr. President, I ask that the Declaration of Freedom be printed at this point in the RECORD.

The material follows:

DECLARATION OF FREEDOM

In the city of Key West, Monroe County, State of Florida, United States of America, we, the Cuban exiles in the United States, in the name of God Almighty, and speaking both for ourselves and the oppressed people in Cuba, the Martyr Island, do say:

That on January 1st, 1959, the slavery yoke that came from Europe and was extinguished in Cuba at the end of the 19th century, was resumed.

That those responsible for this high treason to our Fatherland and our People are just a score of traitors who, usurpating the Government of the Country have been acting as mercenary agents for the Sino-Soviet imperialism, and have surrendered to that imperialism our Freedom and our Dignity, also betraying the American Hemisphere.

That as a consequence of this high treason, those who are usurpating the Power in Cuba (as they were never elected by the People), are imposing a regime of bloodshed, terror and hate without any respect or consideration to the dignity of the human being or the most elementary human rights.

That in their hunger for Power, these traitors, following the pattern of totalitarian regimes, are trying, within Cuba, to separate the Family, which is the cornerstone of actual society, and at the same time, are poisoning the minds of the Cuban children and youth, in their hope of extending the length of time for this abominable system.

That the rule of the law has been wiped out in Cuba, and it has been replaced by the evil will of this score of traitors, who are acting under orders from their masters, the Sino Soviet imperialists.

In view of the aforegoing,

WE DECLARE

First: That the actual Cuban regime is guilty of high treason to our Fatherland and to the ideals of the Freedom Revolution which was started on October 10th, 1868.

Second: That this score of traitors who have committed treason against our Fatherland, in case they survive the downfall of their regime, will have to respond, even with their lives before the Ordinary Courts of Justice of Cuba.

Third: That as the Noble Cuban People will not ever surrender, because that Nation was not born to be slaves, we, the Cuban People, hereby make the present

DECLARATION OF FREEDOM

We hereby swear before God Almighty to fight constantly, until death comes to us, to free Cuba from communism.

The fundamentals of this Revolution for Freedom are:

First: God Almighty, above all things, in Whom we believe as the essence of Life.

Second: The Fatherland, with all of its Laws, traditions, customs and history as a spiritual value, only surpassed by the concept of God.

Third: The Family, as the cornerstone of the Human Society.

Fourth: Human Rights, for each and every citizen, regardless of race or creed.

Fifth: The Law, as the foundation for the proper development of the Human Society.

Sixth: Democratic Government, with its three independent branches: Legislative, Executive and Judicial.

Seventh: Representative Democracy, through the exercise of Universal Suffrage, Periodically, Free and Secretive, as the expression of Popular Sovereignty.

Eighth: Freedom of Worship, Freedom of Teaching, Freedom of the Press and Free Enterprise.

Ninth: Private Property and Ownership, as the basic expression of Liberty.

Tenth: The improvement of living conditions for both rural and city working masses, with the just and necessary measures, keeping in mind the legitimate interests of both Labor and Capital.

Eleventh: The derogation and eradication of anything which is opposed to the political and religious fundamentals aforementioned, and specifically, the abolition of Communism and any other form of totalitarian manifestation.

Signed and sealed in Key West, Florida, on the 23rd of January, 1966.●

OUR NATIONS ECONOMY

● Mr. DODD. Mr. President, I would like to bring to the attention of my colleagues an excellent analysis of the myriad of forces affecting the health of our nations economy by the noted economist Lester Thurow which ran in yesterday's edition of the New York Times.

When viewed in context with the news this morning showing last years economic growth at the lowest level since the recession year of 1982 and the upsurge in consumer prices in the last quarter of 1985, we see a confluence of forces which have the potential to threaten our economic choices and opportunities. In raising these highly interrelated economic concerns, it is neither mine nor, I am quite positive, Dr. Thurow's intention to solely act as a harbinger of an economic Armageddon.

The real message here, I believe, is that our economic system is experiencing a variety of strains and that any attempt to deal with the lack of growth in our economy must be in the form of a multifaceted assault on all of these matters by the public and private sectors working in concert. How totally fitting that such a piece should appear on the day of convening for the 2d session of the 99th Congress for the problems which Dr. Thurow outlines should in fact be the overriding priority agenda of this Congress. Let us forget the posturing as to who will blink first in responding to the mandates of Gramm-Rudman-Hollings, and get about the business of putting this Nation's fiscal house in order and restoring confidence in our financial institutions. Professor Thurow describes the disease. It is now up to each one of us to assume at least partial responsibility for the cure.

I ask that this article be printed in the RECORD at this point.

The article follows:

[From the New York Times, Jan. 22, 1986]

THE 20'S AND 30'S CAN HAPPEN AGAIN

(By Lester C. Thurow)

CAMBRIDGE, MASS.—I am often asked whether the financial panics of the 1920's and the Great Depression of the 1930's could happen again. For 20 years, I have answered that what happened then could not happen now. Today, I would not so answer.

The loan portfolios of American banks include more than $500 billion in farm and third-world debt, where default is easily imagined. As oil prices fall, what were good oil loans are rapidly becoming bad ones. Major banks are sinking under the weight of falling real estate values. Mergers and leveraged buyouts lead to firms that can barely meet interest obligations in boom periods and that could not meet them in a recession.

Give any banking system enough nonperforming loans and it will crack: It must pay interest to its depositors but has no income.

Government compounds the problem by refusing to recognize that it has a duty to insure honesty and a safe place to park one's money. Fraud has played a role in many of the banking collapses that have already occurred, and the citizens of Maryland and Ohio know that their money is not safe. Government insurance funds are minuscule in comparison with probable losses. The public thinks it has the full faith and credit of the Federal Government behind it, but legally it doesn't. The net result is a banking system that is surely as fragile today as it was in the 1920's.

Financial markets are filling up with instruments—junk bonds, index futures, bundled mortgages—and the participants understand what they are buying and selling just about as much as they do when they are playing a hand of poker. One can easily imagine a default, say in the junk bond market, that would bring the salability and hence liquidity of these instruments to an abrupt halt. Yet everyone—consumers, businesses, Government—continues to go into debt at record rates.

A nervous stock market booms while the economy sags. Stagnation, farm bankruptcies, financial speculation, nonperforming loans, large potential defaults, falling real estate values (remember the Florida land boom and bust of the 1920's)—the echoes of the Great Depression sound louder and louder.

In the 1980's, international debt and not the stock market is apt to be the hammer that shatters a fragile financial system. This country entered 1986 with $100 billion in international debt, borrowing $150 billion a year to finance its trade deficit and being able to violate the first commandment of a Swiss banker: "Never lend money to someone who must borrow money to pay interest." By 1989, America will owe more than $600 billion to the rest of the world and have to pay more than $60 billion in interest payments—a sum that will require the annual output of 1.5 million workers.

Just as no one could predict when the stock market would crash in the 1920's, so no one can predict when the foreign lending will stop in the 1980's. But stop it will, for no nation can forever borrow ever larger sums. Since the world's wealthiest nation has never been the world's largest debtor, and since the world's reserve currency has never been held by a debtor nation, no one knows the thickness of the financial ice upon which the world is skating, but any unwillingness to continue lending hundreds of billions of dollars, much less an abrupt shift out of dollars, would create an instant liquidity crisis.

Yet as my colleague Charles Kindleberger, an economist, has pointed out, there is today no international lender of last resort. Would conservative governments be willing to instantly lend hundreds of billions (Japan and West Germany to the United States; the United States to its banks) and effectively nationalize the world's financial markets in the event of a run on the dollar? To do so would be to violate the deeply held principle that free markets take care of themselves. But not to do so would be to watch the system collapse.

It is not hard to imagine that governments will do too little too late if what must be done involves massive interventions violating their own principles. Each government marches on as if it could still go it alone. But "every nation for itself" might have been the motto of the late 1920's.

Societies have a tendency to make fundamental mistakes at 60-year intervals, since everyone old enough to remember the previous mistake is by then either dead or senile. Sixty years ago, the world was marching toward financial disaster. To pretend it cannot happen again and that governments do not have to act to protect the integrity of the system is to guarantee that it will happen again.●

THE NEW FEDERAL BUREAUCRACY POWER GRAB

● Mrs. HAWKINS. Mr. President, as the U.S. Congress considers legislation to regulate and govern the activities of this great Nation, there is an underlying belief that is critical to the continuation of our democracy. This belief is that people are basically honest. This Nation's Founding Fathers envisioned a system of liberty, freedom, free enterprise, and individual growth undergirded by a belief that citizens may be trusted. As a matter of fact, this country's foundation is based on the principle that the trust in people will be held higher than the trust in government.

There is legislation now being considered in Congress that runs contrary to this basic belief. The proposed legislation could penalize every citizen of the United States for honest mistakes. When I say penalize, I mean the Federal Government could exact huge assessment from the people beyond actual damages to the Government for anyone making an honest mistake. Two bills, the Program Fraud Civil Penalties Act—S. 1134, and Civil False Claims Act amendments—S. 1562, when taken together, produce an onerous pattern of Federal legislation.

To cite just a few of the provisions contained in the bills:

No proof of intent to defraud is required, and no proof of actual knowledge of falsity. The reduction in this standard opens up the possibility of the Government charging fraud for a simple honest mistake such as not checking a statement carefully enough or omitting some information deemed to be important.

The burden of proof is reduced to a preponderance of evidence—well below that which is required to protect the average citizen from the vagaries of a Federal official which sets out to punish and intimidate people.

The inspectors general of each Federal agency would be empowered to unlimited subpoena rights including unprecedented authority to require personal testimony and interrogation. This power is extremely pernicious and would lead to unmeasured harassment of the people. Further, the agency would not have to tell the person the purpose of the subpoena or identify any transactions. They do not even have to tell the individual whether or not he or she is a target or merely a bystander.

One bill covers any application or statement such as an application for employment, a veteran applying for VA medical care, a farmer on a farm program, the IRS, Social Security applications, or seeking a Federal loan for housing. About the only Government employees not covered are employees of the legislative branch.

An individual can be fined by a Federal agency without any court trial. The amount may be in $10,000 increments but unlimited in total amount. For example, if an individual filled out 10 employment applications and each contained the same misstatement, the person could be fined $100,000. For more complex situations involving grants, loans, contracts, and so forth, the penalties could reach millions.

One bill applies to any false statements, even where no claim is filed and the Government has suffered no loss. It is not aimed solely at people with contracts with the Federal Government, but will cover anyone who makes a statement which proves to be untrue which is related to any program which receives any Federal funds, even if administered by a local government or a private company.

The unfairnesses are many, the previous are just a few.

What is at stake is whether the Government will be granted extraordinary powers to determine and proclaim fraud where there is no fraud as defined for all other institutions and individuals in this country. In short, what is right and wrong for you and I as ordinary citizens is not the same under the Government's standard.

The further question is—should the Government be exempted from the constitutional guarantees laid down by our Founding Fathers? In 1789, the Bill of Rights proclaims that "No person shall be—deprived of life, liberty or property without due process of law." For something as fundamental as individual and civil rights we must be sure a change is absolutely necessary. Before changes of the order and magnitude proposed are made to apply to federally funded programs, and only to them, we should consider carefully why these radical changes are needed, and if so, why no similar changes are needed in the laws applicable to the rest of us. The debate should be broad. In addition to the fundamental issue raised here, Congress should carefully determine the impact of such legislation on Government programs. In addition, we should evaluate the legislation's impact on effectiveness of Government programs.

As we in Congress seek to reduce the size of Government, much turbulence will be created to bring the budget under control. During this difficult time period, the Federal bureaucracy

will tend to point the finger to others to deflect criticism for their inadequacies to manage. The proposed legislation would open up the potential for a level of harassment and intimidation of U.S. citizens unparalleled in our history. The great Founders and past leaders of this Nation have consistently called for external vigilance regarding Government powers. In 1787, John Adams said:

The way to secure liberty is to give them—the people—power at all times to defend it in the legislature and in the courts of justice.

Supreme Court Justice Louis D. Brandeis some 60 years ago observed that:

The greatest dangers to liberty lie in the insidious encroachment of men, well meaning but without understanding.

In 1940, the respected judge of the U.S. Second Circuit of Appeals, Judge Learned Hand, recognized the dangers of blaming problems of society upon other individuals. He said "a community is already in its process of dissolution where each man begins to eye his neighbors as a possible enemy."

It is vital that we focus on the insidious encroachment of a growing bureaucracy that threatens our free society.

More recently, John F. Kennedy spoke to this issue when he said:

Although our civil liberties also serve important private purposes—above all they were considered essential to the republican form of government. Such a government required that the consent of the governed be given freely, thoughtfully and intelligently. Without freedom of speech, freedom of assembly, freedom of religion, freedom of the press, equal protection of the laws, and other unalienable rights, men could not govern themselves intelligently.

It is with this perspective that I share with my colleagues this deep concern about vesting new powers in the Federal bureaucracy which runs contrary to the underpinning of the United States of America and its people.

In summary, S. 1134 and S. 1562 if enacted would vest with the Federal Government special arbitrary powers that are inimical to the interests of this country and its citizens. Over 200 years ago, John Adams gave us a guiding principle concerning Government power when he said, "nip the shoots of arbitrary power in the bud is the only maximum which can ever preserve the liberties of any people." This we must do.●

LEGALIZED ABORTION

● Mr. HUMPHREY. Mr. President, January 22, 1986, marks the 13th anniversary of the disastrous Roe versus Wade decision legalizing abortion on demand throughout the 9 months of a woman's pregnancy. Over these 13 years we have all heard endless justifications for the views of one side or another. But the abortion debate focuses on a clear, concise, undeniable truth that each and every one of us must accept if we approach the issue with any degree of objectivity: The offspring of human beings are human beings. Abortion is the deliberate killing of a human being without regard for the right to life all human beings enjoy, and thus is the greatest civil rights issue we have known or will know.●

RETIREMENT OF ANN CATON

● Mr. KERRY. Mr. President, upon the retirement of Ann Caton, many people who have known Ann in the Senate wish to express their appreciation for her 25 years of service as an employee of the Senate.

Ann Caton at all times has discharged the important duties and responsibilities of her office with great efficiency and diligence.

Her exceptional service and her continuous dedication to duty have earned for her our respect, esteem, and our affection.

On behalf of all of her many friends in this institution, I wish to commend Ann Caton for her lengthy, faithful, and outstanding service to the U.S. Capitol Guide Service Section 2.●

PHILIPPINE ELECTIONS

● Mr. CRANSTON. Mr. President, at this morning's hearings of the Senate Foreign Relations Committee on the Philippine elections, I expressed my serious concerns about how the anticipated results in the Philippines can impact on America's military and economic interests in the Pacific. I wish to share these views with my colleagues.

The article follows:

OPENING STATEMENT OF SENATOR ALAN CRANSTON, SENATE FOREIGN RELATIONS COMMITTEE—HEARING ON PHILIPPINE ELECTIONS

Mr. Chairman, I want to express my appreciation for today's timely hearing on the Philippine elections.

This committee has worked together with an admirable bipartisan spirit as we've addressed the crisis in the Philippines. As ranking member of the Asian Affairs Subcommittee, I have welcomed the intense scrutiny this issue has borne from concerned committee members. We are united—Republicans and Democrats—in our commitment to promote democracy for the Philippine people. And we are united on this committee in our determination to protect America's vital interest in our Philippine bases—an interest which I am convinced can best be secured by a prompt end to the Marcos dictatorship.

I want to take a moment at the outset to give voice to a concern that I know has been on many senators' minds—and on the minds of senior Administration officials who are anxiously monitoring the developments out of Manila.

That concern is that the Philippine elections are looking more and more like a setup, a sham, that they are shaping up to be elections like the kind they have in the Kremlin—"elections" where the oligarchy always wins.

Consider the events of the past few days:

Worried that the eyes of the world might witness the massive fraud tactics used so successfully in the past by the Marcos machine, Marcos lieutenants have barred all foreign government officials—and journalists—from observing the voting.

Anxious that the opposition candidates might be reaching the Philippine people, President Marcos has intimidated news executives throughout the country; as a result, the opposition candidate has only appeared on the state controlled news three times in the past ten days. She is not quoted, and no footage of her enormous crowds are shown. Philippine journalists who continued to cover her campaign have been summarily fired.

Similarly, all five of the nation's TV stations have refused to carry the oppositions' commercials, which have been held up for censorship review by a board responsible for purging sex and violence from TV films.

—The nations' four largest newspapers, all controlled by Marcos cronies, read like campaign newsletters for the dictatorship, blatantly denying equal access.

—Consider that plans for computerized vote counting to reduce cheating have been dropped. Consider that General Ver, implicated by investigators in the assassination of Senator Aquino, still runs the military. Consider that citizen observers trying to establish a poll monitoring system are subject to fingerprinting and mugshots. Consider that none of the Election Commission vacancies have been filled—thereby ensuring that COMELEC is but another tool for the Marcos machine.

What does it add up to?

Well, Mr. Chairman, I know that if this weekend's ballgame in New Orleans were to proceed with one team getting ten downs, and the other but one, with one team allowed twenty players at a time, and the other only a few, with one team starting their drives from the fifty yard line and the other from their own end zone, why then I don't think we'd call it a Super Bowl. I think we would recognize it as a fraud.

It is clear Marcos is not allowing a level playing field, even with all his power, all his millions, even with his most formidable opponent dead from an assassin's bullet. I think we have to accept the fact that the Philippine election is shaping up as a fraud, a systematic attempt to deny the Philippine people their right to a fair election, their right to a democratic future.

Such a fraud would be an enormous boon for the communists and would have a devastating impact on U.S. security interests. In this respect, Ferdinand Marcos remains the best friend Moscow has in the Philippines today. For in the perpetuation of this crony dictatorship lies the swiftest path for an ultimate communist takeover in Manila.

In conclusion, Mr. Chairman, I think we have to be very realistic. It doesn't look like Marcos is going to allow a fair election because he'd lose it. I believe the Reagan Administration must make clear—publicly and promptly—that the U.S. will sharply curtail its relations with the Marcos dictatorship if it continues between now and February 7 to defraud the Philippine people. We must be prepared to halt all military aid to this dictatorship. And we must accelerate the process of developing alternatives to our facilities at Clark and Subic Bay. For if fraud carries the day, the future for Philippine de-

mocracy—and for vital American security interests in that nation—will be terribly bleak.●

ADDRESS BY JOHN HUME, IRISH STATESMAN

● Mr. MOYNIHAN. Mr. President, I wish to draw the attention of the Senate to an event of some considerable importance in the history now unfolding in Ireland, more precisely in Northern Ireland. Today, of course, by-elections are being held in a number of the British parliamentary districts in Northern Ireland, balloting which Members of this body are watching with interest. It happens coincidently that during the congressional recess just concluded the Catholic University of America awarded the degree doctorate of laws, honoris causa, to the Irish statesman, John Hume, M.P., M.E.P.

John Hume is the leader of the principal nationalist party in Northern Ireland, the Social Democratic and Labor Party. He is, in point of fact, a democratic leader of far greater consequence than merely his offices might suggest. A leader in the truest sense of the word; showing his people in word and deed the way forward, through difficult times, toward what may be hoped to be a peaceful, just, and prosperous society. A democrat he is most fundamentally, in a place and at a time where others are not always, where a commitment such as Mr. Hume's entails risks American politicians can only imagine.

Mr. Hume's professional career began in the classroom and so he was perhaps more at home at Catholic University than might otherwise have been expected. He is also a teacher by vocation and inclination.

Upon receiving the honorary degree from the president of the Catholic University, the Rev. William J. Byron, SJ, Mr. Hume was invited to deliver the Brendan Brown Lecture, sponsored by the Columbus School of Law there.

With explicit reference to the anniversary celebrated on that day, January 15, 1986, the birth of the Rev. Martin Luther King, Jr., Mr. Hume entitled his address "A Society Is Richer for Its Diversity." His message was drawn in equal parts from the writings of Dr. King and the experience of the Irish people.

His theme, as Mr. Hume explained to his American audience, was taken from the obverse of the copper penny, "the smallest coin in this country" which bears America's message of greatest value, the cement of your society—E Pluribus Unum—from many, one.

In an age in which the most enduring and vicious of armed conflicts have been revealed to be based not in ideology and geography, but in the diversity of the world's ethnic experience, John Hume's is a message of tolerance and respect for the diversity of mankind's traditions.

It is no less vital a message in the United States than it is in Ireland—or Africa, or the Middle East, or Southeast Asia or Central America.

For the benefit of Senators, and other readers of the CONGRESSIONAL RECORD, who would like to contemplate the words of Juhn Hume—a man whose life's work has won the lasting respect and admiration of so many Members of this body—I ask that the complete text of the Brendan Brown Lecture, delivered here in Washington, DC, on January 15, 1986, be printed in the RECORD.

The lecture follows.

ADDRESS BY JOHN HUME—MEMBER OF PARLIAMENT FOR FOYLE, MEMBER OF THE EUROPEAN PARLIAMENT FOR NORTHERN IRELAND

It is a great honor for me to accept this Honorary Degree from an educational institution of such high standing and prestige as the Catholic University of America. It is also a great pleasure for me to receive this award and to speak to you in an institution which has such a distinguished record of service in a whole range of fields corresponding to my own background and to the causes which I have sought to serve in my political life.

Coming from Ireland, which over 40 million Americans are proud to claim as the land of their birth or ancestry, let me salute the work and achievement of Catholic University in documenting, in studying, in celebrating the heritage of those Americans. Irish studies were initiated here 1896, the first Department of Irish Studies in any university in the U.S. only seven years after this institution opened its doors and over the intervening period, right up to the present day, the scholars who have graced these halls have made a contribution to the study of the rich linguistic, cultural and literary heritage bequeathed to us by the different major strands and traditions that have gone to make up the Irish nation.

The themes of heritage, of diversity and its acceptance, of the fight to end discrimination and to promote respect and recognition for minorities, are all themes for which this university is rightly celebrated and on which I hope to touch in my remarks here today and which go to the heart of Ireland's present tragedy. We are gathered here today at the beginning of the International Year of Peace and on the birthday of a great American, Martin Luther King, a man of world stature, whose principle of non-violence in the struggle for justice has been an inspiration and guiding light to me personally in my approach to the resolution of conflict, whether in Ireland or the international sphere.

You are, in this country heirs to beneficiaries of great traditions and principles of constitutional government which stand out as of particular value and indeed, as a standard of emulation and application in our own affairs in Ireland today. Through a process of development that was never easy or free of problems, you have gone very far in giving real, practical effect to equality before the law for every citizen and to equality of opportunity. Yours is a state where there is a wider measure of national and political consensus, fashioned from rich and broad diversity. From many you have one.

In America, there has always been respect for this idea of unity in diversity and whatever the controversies may be about the value and application today of the old melting-pot concept, there is, I understand, increasing acceptance of the idea of cultural pluralism. Again not without difficulty yesterday or devoid of controversy today, you have achieved religious toleration and established the separation of Church and State. Written on your smallest coin in this country is your message of greatest value, the cement of your society—E Pluribus Unum—from many, one. The essence of unity is the acceptance of diversity. The tragedy of divided people everywhere, as in Ireland, is that they have pushed difference to the point of division and have not yet learned the lesson that is the essence of unity in every democratic society in the world is to accept and respect diversity. To those among you who come from an Irish-American background, let me say, with no disrespect to those of you here whose ancestry and heritage are different, that you come from a community, which brought to the building of America qualities encompassed in the poet Yeat's description "the indomitable Irishry" and left a record of achievement in which you may take justifiable pride, as we in Ireland certainly do. That is a subject for another time but let me briefly recall how they brought to the support of a thirst for justice, appreciation of the power of organisation, reflected in the development of the labour movement and of popular, democratic politics. They were not all angels but in the main, rejecting the fatalistic claim that power corrupts, accepting instead the dictum of their fellow Irishman G.B. Shaw, "Fools corrupt power," they understood and applied the use of power, of politics, for good, as when in this nation, just over twenty years ago, John F. and Robert Kennedy embraced the vision of Martin Luther King and developed and applied the powers of the federal government in the interests of justice and equality for the black people of America.

The Irish Americans have also understood and put to good use the power of education, its power for the material and social advancement of the individual and of his or her community. They did not seek to improve their position in American society through violence or through any attempt to obtain or exercise a dominant position. Instead they harnessed the non-violent power of education, first saving from their meagre incomes as laboureres or servants the money that was necessary to educate their sons and daughters and, later applying the resources of any improved position to endow institutions of education such as the Catholic University of America and indeed, to support investment, economic and social development and cultural activity in Ireland itself. And all this progress without throwing a stone. The achievements of Irish in America from the background of starving immigrants and deep deprivation to positions of power and influence in all walks of American is one of the greatest success stories of non-violence in America.

In Northern Ireland, the people of Irish nationalist tradition whom I represent have followed the same path. We also shared that thirst and respect for education and when, after World War II, the policies of the British Labour Government greatly widened access to education, we seized the opportunities thus afforded. A new and highly educated generation emerged from the nationalist minority, as it also emerged among

the Irish here and more lately among the black minority here, which was not prepared to accept intolerance and disadvantage as their legacy or as a future for their children. That new generation embarked on a struggle to achieve equal rights in the North of Ireland, including the right to have their political and cultural tradition reflected and expressed in the structures by which they were governed. The methods chosen by the great majority of them were those of nonviolent protest and of democratic politics which *have* served so well for both the Irish and the blacks in America.

Before expanding a little on those parallels, let me sketch in briefly the background to the problems in Northern Ireland whose travail figures so frequently and so tragically in the newspapers here in America.

The story of Northern Ireland is the story of conflict—not one I must explain a religious conflict, even though the two communities who live there draw much of their character and their coherence from their religious traditions. It is rather a conflict between the aspirations of ordinary men and women—600,000 Nationalists, 900,000 Unionists—who have been trapped by a tragic error of history which saw their hopes and fears as mutually exclusive and irreconcilable within an Irish state but which obliged them nonetheless to live and compete side-by-side in one corner of Ireland. These two communities in Northern Ireland, Catholic and Protestant, Nationalist and Unionist, both behave like threatened minorities and only by regarding them and only by removing the fears which they both feel can a just and durable solution be found.

Northern Ireland was born out of the insecurity of the Protestant-Unionist minority in Ireland itself. Fearful of becoming a minority in the Irish State then emerging sixty years ago, distrustful of the intentions of their fellow Irishmen, zealous to protect the advantages they believed they had under British rule, the leadership of the Unionist community sought and achieved, through threat of force, the acquiesence of Britain in the creation of a new political, territorial and artificial entity in Ireland wherein they hoped they could shape their own destiny as part of the United Kingdom. But the new self-governing political entity thereby established, called Northern Ireland, was neither secure or homogeneous. Caught within its boundaries was a substantial Catholic and nationalist minority, which felt itself Irish, and which did not cease to be Irish simply because legislation elsewhere had drawn a line on a map and declared that henceforth they were British. Thus Northern Ireland, served only to extend and aggravate this conflict by compressing the clash of majority and minority within an even more narrow and more rigid territorial, economic and social confine. Much hated little room maimed us from the start.

For over fifty years the Unionist majority sought to entrench their position through political gerrymander and discrimination. Though inexcusable, it was inevitable that they should have acted in this fashion—as other majorities have at times acted—since their inheritance was not a land of promise but a polity of insecurity. It was inevitable also that each attempt they made, at the expense of their neighbors, to strengthen their role and protect their privileges should serve only to disrupt the structures of society as a whole and to create new tensions and new insecurities. This was the case also in the deep south of the United States not too many years ago where an insensitive and insecure white majority held away. I have already referred to the parallel emergence in Northern Ireland and in the American South of a new articulate generation with expectations raised through education and impatient and angry at the injustices they suffered.

The American civil rights movement in the 60's gave birth to ours. Your successes were for us a cause of hope. The songs of your movement were also ours. We also believe that "we shall overcome": that rallying song is sung every year at my Party Conference. Most importantly, the philosohy of non-violence which sustained your strugle was also part of ours. Our own history and our own circumstances gave a special power to the counsel of Reverend Martin Luther King that violence as a way of achieving justice is both impractical and immoral. As he put it:

"It is impractical because it is a descending spiral ending in destruction for all. The old law of an eye for an eye leaves everybody blind. It is immoral because it seeks to humiliate the opponent rather than win understanding; it seeks to annihilate rather than convert. Violence is immoral because it thrives on hatred rather than love. It destroys community and makes brotherhood impossible. It leaves society in monologue rather than dialogue. Violence ends by defeating itself. It creates bitterness in the survivors and brutality in the destroyers."

Can anyone looking at divided societies in the world today like Lebanon, Cyprus and Ireland doubt the wisdom of these words of Martin Luther King?

The world in the 60's responded with sympathy to our non-violent movement for civil rights as it did to yours. But whereas here in the United States the structures of your democracy were resilient enough to encompass the challenge of civil rights, in the unstable political environment of Northern Ireland, our struggle was perceived as a threat to the very survival of the society itself and as such was resisted by the institutions of the State.

In the ensuing clash, the Unionist majority, through the imposition of direct rule from London, lost their local parliament which they had come to regard as the symbol of their independence and as the guarantor of their heritage. Though many would still wish to regard Northern Ireland as their exclusive homeland, they lack the power and indeed the freedom to shape their destiny as they once hoped. Though they dominate the security institutions of the State still, they have not found security as a people. This insecurity has led them to oppose change, even when that change is constructive.

Nevertheless through pressure on the British Government including the presence of sympathetic opinion in America and the world at large, we were able to make, through non-violent methods, major progress on a number of fronts, especially on the original demands of our Civil Rights Movement. These included one-man, one-vote, fair allocation of publicly provided housing and an end to job discrimination. Before that, gerrymander was rife in Northern Ireland and local elections and unfair voting systems were used by the unionist ascendency to control housing and jobs on a sectarian basis. Housing conditions in many parts of the North were appalling. Today the housing situation throughout Northern Ireland has been transformed due to the creation of the Northern Ireland Housing Executive, a proposal which my own party, the Social Democratic and Labour Party, put to the British government of the day and accepted by them, thereby taking public housing allocation out of the hands of local unionist politicians. This has meant a major transformation in the living conditions of people throughout Northern Ireland. The electoral and local government system has been drastically altered with the introduction of proportional representation ending gerrymandering at the local level and drastically reducing the power of political bigots. A public regulatory agency, the Fair Employment Agency, for which we fought successfully but for which we want more teeth, is and has been a valuable watchdog in exposing, and making more difficult, discrimination by public bodies.

While we made these very worthwhile advances, affecting the lives of ordinary men and women, we encountered, as I have said, a blockage from the unionist parties, to our legitimate calls and efforts to secure for the nationalist people we represent effective political, symbolic and administrative expression of their identity, including a fair share in the exercise of political power in the executive, as well as the legislative branch of government. Moreover, the reforms we secured were not, regrettably, generously and openly offered by the majority party but had to be imposed on them by the British Government and Parliament.

Against the background of the resulting clashes and in impatience at the results achieved by peaceful, political methods, the philosphy of non-violence was rejected by a minority in my own community who followed the old law of an eye for an eye, who in the end were inevitably brutalised by the process in which they engaged, who in their savage anger and barbarous deeds have come to reflect themselves all of the hatred and sectarianism they had sought to overthrow and who, in their pursuit of violence, demeaned the cause we hold dear and lost us many good allies around the world. Sustained by their violence this terrorist group is beset by the illusion that they can, one day, impose their will on Ireland as a whole.

This violence, together with the unionist intransigence which gave it birth and the too long continued inadequacies of British policies in tackling the underlying political problem, has left us a bitter harvest. The human losses and economic costs have been enormous. The most tragic loss is that of the deaths of over 2,400 men, women and children. These deaths, in an area with a population of 1½ million, are equivalent in proportionate terms to the killing of approximately 350,000 in the United States. In addition, almost 25,000 people have been injured or maimed. Thousands are suffering from psychological stress because of the fear and tension generated by murder, bombing, intimidation and the impact of security countermeasures. In Northern Ireland, we now have the highest number of prisoners per head of population in Western Europe—in an area where twenty years ago, serious crime was practically unknown. The lives of tens of thousands have been deeply affected. The effect on society has been shattering. There is hardly a family that has not been touched to some degree by death, injury or intimidation.

Those of you concerned with Irish Studies will find the corrosive effects on community, to which Martin Luther King referred, in mutual fear and suspicion among neighbours, in the polarisation of small towns and countryside, in the erosion of the pi-

eties, decencies and courtesies of civilised living, searingly evoked recently, with the savage indignation of Jonathan Swift, in the recent novel by my fellow-Ulsterman and frequent sojourner to America, Ben Kiely, entitled "Nothing Happens in Carmincross". These are the fruits of violence and of alienation.

For terrorist violence, while it can never be condoned or accepted, too often springs from the alienation produced by intransigence or neglect, by the failure to tackle political problems through the political process, by the failure to accommodate adequately the identity and aspiration of communities and peoples whether it is nationalists in Northern Ireland, Palestinians in the Middle East, blacks in South Africa or Jews in the Soviet Union.

I would quote Martin Luther King again: "When an individual is no longer a true participant, when he no longer feels a sense of responsibility to his society, the content of democracy is emptied . . . when the social system does not build security but induces peril, inexorably the individual is impelled to pull away from a soulless society. This produces alienation—perhaps the most pervasive and insidious development in contemporary society."

Although a consequence of the injustices of others, alienation is a desperate and dangerous development within minorities because it weakens their coherence, erodes their faith in progress and gives terrorism the opportunity to take root. As it was expressed by W.B. Yeats: "Too long a sacrifice can make a stone of the heart."

When a society produces alienation in the individual, when it cannot provide for the equality and the differences of its citizens, "when the social system does not build security but induces peril," that society must be reshaped and transformed through new institutions which accommodate diversity and promote the best basis for reconciliation.

This is the only way forward in Northern Ireland. Let me demonstrate this by considering the alternatives offered. There is the unionist approach the majority community in Northern Ireland of ascendancy, of seeking the exclusive exercise of political power in Northern Ireland for themselves, of ignoring the existence of a communiy, comprising 40% of the area's population who have a different identity and a different aspiration. They hark back to the past and speak of the future only with fear and foreboding, a paranoia encapsulated by a poet in the lines now taken up in graffiti on the walls of the area's largest city: "To hell with the future and long live the past, May God in his mercy be kind to Belfast"

One can join in saying "Amen" to the last line but the conflict reflects a sad condition, a seige mentality, rooted in insecurity, in prejudice, in fear of domination by a Catholic majority in Ireland, so-called "Rome Rule". Even if, in light of history and of the terrorist campaign of the IRA, some of these fears are understandable, they are groundless. There can be no solution to our problem which seeks to destroy or to crush the Protestant heritage in Ireland. It would be unthinkable. Accommodation of difference is the only basis of peace and stability in our divided society.

Then there is the other alternative, that of the Provisional IRA and their political wing. The military wing bombs factories and the political wing shout about unemployment, the military wing shoot a teacher in a classroom, kill school bus drivers, kill people on campuses and then the political wing lectures us about education. The military wing maim and injure, they carry out attacks in hospital precincts and then the political wing talk about protecting the Health Service. On a Friday morning their housing spokesman complains about a $6 million cut in the budget of the Housing Executive in Northern Ireland as a whole. On the same Friday evening their military wing blows up $2 million of public money in a single street. The political wing attacks the British Government for reneging on an agreement with the Irish Government to bring natural gas from the South and the military blow up the inter-connector that connected the electricity systems, North and South. The political wing condemn the execution of a young black poet in South Africa but the military wing execute a young unemployed man in a back lane in my own city or a trussed up young couple in the back streets of West Belfast. The real strategy and objectives are clear. Have the military wing create as much discontent and deprivation as possible. The more unemployment the better. Then have your political wing feed off the people's discontent.

My party, the SDLP, born out of the Civil Rights Movement, has rejected these two purported alternatives which in fact offer no hope for the future. Like Martin Luther King, we had a dream, like Theobald Wolfe Tone, the father of Irish republicanism, our vision has been "to substitute for the denomination of Catholic, Protestant and Dissenter the common name of Irishman." Our chosen strategy encompassed Reform, Reconciliation, and Reunification along a path of steady progress, continually narrowing the gap between the reality and the dream, using the political means of dialogue, persuasion, negotiation, accommodation, compromise. Violence can never heal the deep wounds that divide a people. Only a healing process can in time end the division in Ireland.

Our analysis is that the first necessary step in that healing process is the creation of total equality of treatment of all the citizens of Northern Ireland, nationalists and unionists alike, from basic civil rights to full expression of their identity. I have outlined the worthwhile—but still far from adequate—reforms and changes achieved in earlier stages of this reform process. But even after these, Northern nationalists in Northern Ireland remained within a state with which they could not identify, with institutions, a security system, cultural assumptions and official symbolism which are alien to them and appeared in many ways designed to make them strangers in their own land, in a situation where they were denied any constructive means of expressing their Irish identity and aspirations, their cultural and political identification with the rest of Ireland. Thus, the process of bringing about practical recognition and respect for equality between the two identities and communities remains to be completed. To achieve this was the first objective we set for ourselves.

On the basis of that equality on that, because reconciliation can only be based on equality, comes the process of reconciliation, the second element, in my party's long-term programme, the breaking down of barriers between the different sections of our people. No one can underestimate the difficulty of that task. It will take time, but it is a task that involves everyone and that will lead, coming to the third major element, to the only Irish unity that really matters, the only unity that all pre-partition leaders spoke of, a unity that respects diversity and legitimises differences. That is a process and objective that no one need fear because everyone must be part of the building process. Those who claim that their role and objective in politics is to preserve, protect and develop the Protestant tradition in Ireland have surely much more interest in a process such as this than standing forever apart, paranoid about the future precisely because they have refused to grasp the nettle of settling their relationships with the people with whom they share the island of Ireland.

In the analysis I am setting out the process of reform and reconciliation could best be tackled through a framework corresponding to the framework of the problem and thus, through the British-Irish framework, through an approach that dealt and deals with the three major dimensions of the problem—relations between the two communities in Northern Ireland, relations between both parties, the nationalist and unionist traditions in Ireland as a whole and relations between Ireland and Britain. A promising start along these lines was made following discussions between the Irish and British Governments in 1980 but these efforts suffered a major setback in 1981 and 1982, as a result of the trauma arising from the campaign and deaths of the hunger-strikers imprisoned in Northern Ireland. As a consequence in that atmosphere three years ago, we faced a bleak situation and prospect, with alienation greatly accentuated and more widespread among all sections of the nationalist community and with the political situation apparently in a state of deadlock and paralysis.

My Party took a fresh initiative at that stage, designed to break the logjam and to carry our analysis into the realm of practical politics. We put forward the proposal which came to fruition as the New Ireland Forum, a deliberative body of elected representatives from the four major constitutional nationalist parties in Ireland, both North and South, representing over 90% of the nationalist population of Ireland. The purpose was to hold consultations on the manner in which lasting peace and stability could be achieved in a new Ireland through the democratic process and to report on possible new structures and process through which this objective might be achieved or, in other words, to set out a modern up-to-date and formal statement or blueprint, setting out the principles and structures on the basis of which the constitutional nationalist dream of a new Ireland could be achieved. After a process of scientific study, public hearings and political debate and compromise, that body produced, in May, 1984, an agreed report which attracted widespread acclaim and support including from President Reagan and from the United States Congress, in a Concurring Resolution of both Houses, the first on Irish affairs since the 1920's. Against the background of a fresh and generous assessment of the realities of the situation, this Report proposed ten key and necessary elements of a framework within which a new Ireland could emerge. These proposals were firmly rooted in the concept of unity in diversity. Indeed, the kernel of the Report was set out in one of its paragraphs, as follows:

"The solution to both the historic problem and the current crisis of Northern Ireland and the continuing problem of relations between Ireland and Britain necessarily requires new structures that will accommodate together two sets of legitimate rights:

The right of nationalists to effective political, symbolic and administrative expression of their identity; and

The right to unionists to effective political, symbolic and administrative expression of their identity, their ethos and their way of life.

The Report of the New Ireland Forum was adopted as policy by the Irish Government and taken as the basis for a process of negotiation with the British Government which after 18 months and not without some setbacks along the way, led to the signature of a formal international agreement between the two countries about Northern Ireland, on 15 November last, at Hillsborough in Northern Ireland, by the Irish Taoiseach, Dr. Garret Fitzgerald and the British Prime Minister, Mrs. Margaret Thatcher.

The Agreement is a major achievement of democratic, non-violent politics. It is a significant step forward on the road to lasting peace and stability. No one amongst us feels it is the final solution. The Agreement tackles the problem of alienation head on and seeks to secure, in line with the central requirement identified in the Report of the New Ireland Forum, equal recognition and respect for both the nationalist and unionist traditions so that nationalists can raise their heads knowing their position is, and is seen to be, on an equal footing with that of unionists. The Agreement provides, in a unique arrangement reflecting the particular and unique situation in Northern Ireland, for the establishment by the British and Irish Governments of an Intergovernmental Conference concerned with Northern Ireland and with relations between the two parts of Ireland. In the Agreement, the British Government accepts that the Irish Government will put forward views and proposals on matters relating to Northern Ireland within the field of activity of the Conference and the British Government, together with the Irish Government, agree that in the interest of promoting peace and stability, determined efforts will be made through the Conference to resolve any differences. The range of issues that are within the Conference's field of activity comprises most of the matters in which the public authorities of a State exercise responsibility and includes political, security, legal, economic, social and cultural matters. The Conference is serviced on a continuing basis by a Joint Secretariat located in Belfast.

These provisions, going beyond consultative role but falling short of an executive role for the Irish Government, take nothing away from the rights of unionists. Northern Ireland continues to be governed, as unionists still wish, by the British Government. The Agreement rather adds a dimension which by giving institutional recognition to the Irish identity of those of the nationalist tradition, without detriment to the identity, of unionists, will enable nationalists to participate fully in the affairs of Northern Ireland without prejudice to their aspiration to Irish unity.

These arrangements are, as I have indicated, unique in international relations and law as, I am sure, those here familiar with these fields will recognise.

The Agreement has secured the support of substantial majorities of the population in Britain and in the Republic of Ireland. It has been greeted with satisfaction by a majority of nationalists in Northern Ireland although there is, among many, a consciousness that much depends on its practical implementaion, with firmness and fairness, by both Governments. Internationally, there has been unprecedented support including again from President Reagan and from both Houses of Congress.

But, surprise, surprise, there has been a strong negative and hostile reaction among unionists in Northern Ireland. The unionist political parties have embarked on a determined effort to set the Agreement at nought, if necessary, as their spokesmen express, by making Northern Ireland ungovernable. One may regard this opposition from a community used to ascendency, to having all power in their own hands, as understandable, even as inevitable: it is certainly not justifiable or justified. The Agreement takes nothing away from the legitimate rights or concrete interests from unionists, nor does it diminish in any way their political, cultural or spiritual heritage.

Particular opposition has been expressed to the Irish Government having a role in regard to the affairs and administration of Northern Ireland. But this attitude ignores the identity and aspirations of the people I represent, who constitute about 40 percent of the area's population. If there is an apprehension that the role of the Dublin Government represents the thin end of a wedge pushing towards a united Ireland against the wishes of a majority, the answer is in the second major feature of the Agreement itself. This recognises, in a binding international instrument, that which is a matter of fact, that Irish unity would only come about with the agreement of a majority of the people of Northern Ireland; and that the present wish of a majority there is for no change in that status. In this Article the two Governments also declare that, if in the future, a majority of the people of Northern Ireland clearly wish for and formally consent to the establishment of a united Ireland, they will introduce and support in the respective Parliaments legislation to give effect to that wish. Thus the Article of the Agreement devoted to the status of Northern Ireland recognizes the identity and aspirations of both traditions there. It also makes it clear that Britain has no interest of her own, strategic or otherwise, in remaining in Ireland and that Irish unity is a matter for those Irish people who want it persuading those Irish people who don't, thus removing any justification whatsoever for the use of violence. You cannot unite people at the point of a gun.

There have already been three meetings of the Intergovernmental Conference, and it is clear that it is tackling the agenda for its work set out in other provisions of the Agreement and that it provides an effective framework for the resolution of problems through the techniques of democratic politics. The priority now is to stand firm in upholding and implementing the agreement. The unionists will have to be brought to see that, this time, they cannot defy the will of the British Parliament to which they profess loyalty, as they did successfully in 1912 and 1974. They must be brought to realise that they cannot have matters all their own way. In this way they can be liberated from the prison into which they have locked themselves and, one may hope, led to embrace true politics which they have been able to eschew up to now largely like the Whites in the Southern states. The Whites would never have been liberated without the federal government.

When they are ready to do so, I and my party stand ready to meet them and engage in discussions on how we share our future together. We must begin the process of breaking down the barriers between us, barriers of prejudice and distrust which are at the heart of the conflict that has disfigured Ireland for centuries. We have a choice. We can live together or live apart. We have lived apart for too long and we have seen the bitter consequences. Or we can live together with all the painful readjustments that this will require. It is the only road to peace and stability for whatever happens we will be sharing the same piece of earth for a long, long time.

I hope that what I have said has served in some small way to demonstrate the potential of democratic politics and of the philosophy of non-violence to make progress toward the resolution of what is perhaps one of the more intractable political problems in the world today. I believe that these same principles are applicable in the field of international relations.

Ordinary men and women in both our countries have, in the last few years, responded with extraordinary generosity to the problem of famine in Africa. It is no accident that it was an Irishman, Bob Geldof, who has done most to awaken the conscience of the world to the problem of world hunger. It is no accident that per head of population the Irish contributed more to the Live Aid appeal and to this entire famine relief effort than any other country in the Western World. As I said recently in a speech in the U.S. Senate building:

"Our country knew famine in the last century. It is for that reason that our country has been so moved by the present suffering of Africa. We know that our famines were not simply natural disasters. History shows that Irish people were starved, or forced to leave their native land, because of unjust distribution of land, poverty and extortion which forced the production of cash crops for the wealthy abroad instead of food for the hungry at home, trade structures which knew no morality, and unequal power relations between countries. These are the same injustices and absurdities which crucify Africa today. Our famine brought the starving to America and to the rest of the world. May the present famine bring America and the rest of the world to the starving."

World hunger demands change, not just charity. These problems make ours pale into insignificance as does the other great issue. The awesome stockpiling of this issue is intrinsically interlinked with world hunger. Over one million pounds per minute goes into the provision of weapons whose only potential is to destroy the earth. The transfer of those vast resources to the developing world would not only solve the problem of starvation but would transform world markets and end unemployment in the developed world as well.

We know from hard experience that the nuclear arms race did not begin with the election of Ronald Reagan or the discovery of plutonium. It begins with the acceptance of force or might as a means of maintaining or achieving political dominance. It does not take an etymologist to tell us that terrorism and deterrents in the end are about the same thing, force and fear. We know that when we are dealing with human conflict whether in a divided community, a divided country or a divided globe that it is the building of mutual trust and not mutual fear that will solve the problem of conflict—not just in Ireland, but on the globe—because we know that human beings are no different wherever they live. We are whether in Ireland or globally with Martin Luther King:

"We still have a choice today: non-violent co-existence or violent co-annihilation."●

Mr. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. DOLE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. EVANS). Without objection, it is so ordered.

ORDERS FOR MONDAY, JANUARY 27, 1986

Mr. DOLE. Mr. President, I ask unanimous consent that when the Senate convenes on Monday, January 27, 1986, the reading of the Journal be dispensed with, no resolutions come over under the rule, the call of the calendar be dispensed with, and following the recognition of the two leaders under the standing order, there be a special order in favor of the Senator from Wisconsin [Mr. PROXMIRE] for not to exceed 15 minutes, to be followed by a period for the transaction of routine morning business not to exceed 1 hour in length, with Senators permitted to speak therein for not more than 10 minues each; and provided further that the morning hour be deemed to have expired.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. DOLE. Mr. President, on Monday, then, we will convene at 12 noon. The two leaders, under the standing order, will have 10 minutes each and, as I have indicated, there will be a special order and morning business.

Following that, we hope to resume consideration of S. 638, the Conrail bill. I understand there is one amendment that can be agreed upon. It may be that the distinguished Senator from Washington, Senator GORTON, may have a motion to recommit which can be debated on Monday. If, in fact, there is a vote requested on Monday, the vote will occur on Tuesday.

Then, on Tuesday, a cloture motion will be filed on the bill and the cloture vote will occur on Thursday. But I am advised by Senators SPECTER, METZENBAUM, and others that there are a number of amendments that will be considered, and rollcall votes will be requested, I assume, starting on Tuesday.

So I indicate to my colleagues now that we could have rather late sessions on Tuesday, Wednesday, and Thursday of next week. It would be my hope to dispose of the Conrail legislation next week. That is my hope; it may not be a reality.

In any event, if we could do that next week, then we could start on TV in the Senate. That should not take long, a day or two or three and, hopefully, after that, the Genocide Convention and then the constitutional amendment to balance the budget and prayer in school. Counting Conrail, there are five right up front that all require extended debate. So I am not certain how many we will actually be able to turn to.

ADJOURNMENT TO MONDAY, JANUARY 27, 1986

Mr. DOLE. Mr. President, I move that the Senate stand in adjournment until the hour of 12 noon on Monday, January 27, 1986.

The motion was agreed to; and, at 4:06 p.m., the Senate adjourned until Monday, January 27, 1986, at 12 noon.

HOUSE OF REPRESENTATIVES—*Thursday, January 23, 1986*

The House met at 11 a.m.

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

God of peace, God of glory, God of hope, give to Your people that which will sustain and gives strength. Gracious God, people of good will look for direction to solve the ills of poverty, illness, war, and human rights and turn to You for encouragement. May Your spirit point the way to righteousness, and may Your people have the faith to stand for the right not only with words but with deeds of love and concern. Amen.

THE JOURNAL

Mr. SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

Mr. GINGRICH. Mr. Speaker, pursuant to clause 1, rule I, I demand a vote on agreeing to the Speaker's approval of the Journal.

The SPEAKER. The question is on the Chair's approval of the Journal.

The question was taken; and the Speaker announced that the yeas appeared to have it.

Mr. GINGRICH. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will inform absent Members.

The vote was taken by electronic device, and there were—yeas 223, nays 87, answered "present" 6, not voting 118, as follows:

[Roll No. 2]

YEAS—223

Ackerman	Brooks	Dicks
Alexander	Broyhill	Dingell
Annunzio	Bruce	DioGuardi
Anthony	Bryant	Duncan
Aspin	Burton (CA)	Dwyer
Atkins	Callahan	Dymally
Barnard	Carper	Dyson
Barton	Carr	Early
Bateman	Chapman	Eckart (OH)
Bates	Coats	Eckert (NY)
Bedell	Coleman (TX)	Edwards (CA)
Beilenson	Combest	English
Bennett	Conyers	Erdreich
Berman	Cooper	Evans (IL)
Biaggi	Coyne	Fascell
Boggs	Craig	Fazio
Boland	Crockett	Feighan
Boner (TN)	Daniel	Fish
Bonior (MI)	Darden	Florio
Borski	Daschle	Foley
Bosco	Dellums	Ford (TN)
Boucher	Derrick	Frank
Franklin	Manton	Schumer
Frost	Martin (NY)	Seiberling
Fuqua	Martinez	Sharp
Gaydos	Mazzoli	Shumway
Gejdenson	McCain	Shuster
Gibbons	McCollum	Sisisky
Gilman	McCurdy	Skelton
Glickman	McEwen	Slattery
Gonzalez	McHugh	Smith (FL)
Gordon	McKinney	Smith (IA)
Gradison	McMillan	Smith (NE)
Gray (PA)	Miller (WA)	Smith (NJ)
Green	Mineta	Solarz
Hall, Ralph	Mollohan	Spratt
Hamilton	Montgomery	St Germain
Hansen	Morrison (CT)	Staggers
Hatcher	Morrison (WA)	Stallings
Hawkins	Mrazek	Stenholm
Hayes	Murtha	Stokes
Hefner	Myers	Stratton
Hertel	Natcher	Stump
Hiler	Neal	Swift
Holt	Nelson	Synar
Hopkins	Nielson	Tallon
Horton	Nowak	Tauzin
Howard	Oberstar	Thomas (GA)
Hoyer	Obey	Torricelli
Hubbard	Ortiz	Traficant
Huckaby	Owens	Traxler
Hughes	Panetta	Udall
Hutto	Parris	Valentine
Jeffords	Pease	Vander Jagt
Jenkins	Pepper	Vento
Jones (NC)	Porter	Visclosky
Jones (TN)	Price	Volkmer
Kanjorski	Pursell	Waxman
Kaptur	Rahall	Weaver
Kasich	Rangel	Weiss
Kastenmeier	Ray	Wheat
Kennelly	Reid	Whitehurst
Kildee	Richardson	Whitley
Kleczka	Rinaldo	Whitten
Kostmayer	Robinson	Wilson
LaFalce	Rodino	Wirth
Lehman (CA)	Rose	Wise
Lehman (FL)	Rostenkowski	Wolpe
Levin (MI)	Rowland (CT)	Wright
Levine (CA)	Rowland (GA)	Wyden
Lipinski	Roybal	Wylie
Lott	Russo	Yates
Lowry (WA)	Sabo	Yatron
Lujan	Saxton	
Luken	Scheuer	

NAYS—87

Armey	Gekas	Roemer
Badham	Gingrich	Rogers
Bartlett	Goodling	Roukema
Bentley	Gunderson	Schaefer
Bereuter	Hendon	Schroeder
Bilirakis	Henry	Schuette
Bliley	Ireland	Sensenbrenner
Brown (CO)	Jacobs	Shaw
Chandler	Kolbe	Sikorski
Chappie	Lagomarsino	Siljander
Clay	Latta	Skeen
Cobey	Leach (IA)	Slaughter
Coble	Lent	Smith, Robert (NH)
Coleman (MO)	Lewis (CA)	Snowe
Conte	Lightfoot	Solomon
Coughlin	Lloyd	Spence
Courter	Lowery (CA)	Strang
Dannemeyer	Mack	Sundquist
Daub	Madigan	Swindall
Davis	McCandless	Tauke
DeLay	McKernan	Taylor
DeWine	Meyers	Thomas (CA)
Dreier	Michel	Vucanovich
Durbin	Mitchell	Walker
Edwards (OK)	Molinari	Whittaker
Emerson	Moorhead	Wolf
Evans (IA)	Oxley	Zschau
Fawell	Penny	
Fields	Petri	
Gallo	Regula	

ANSWERED "PRESENT"—6

Anderson	Leath (TX)	Watkins
Kolter	Perkins	Young (MO)

NOT VOTING—118

Addabbo	Frenzel	Moakley
Akaka	Garcia	Monson
Andrews	Gephardt	Moody
Applegate	Gray (IL)	Moore
Archer	Gregg	Murphy
AuCoin	Grotberg	Nichols
Barnes	Guarini	O'Brien
Bevill	Hall (OH)	Oakar
Boehlert	Hammerschmidt	Olin
Bonker	Hartnett	Packard
Boulter	Heftel	Pashayan
Boxer	Hillis	Pickle
Breaux	Hunter	Quillen
Broomfield	Hyde	Ridge
Brown (CA)	Johnson	Ritter
Burton (IN)	Jones (OK)	Roberts
Bustamante	Kemp	Roe
Byron	Kindness	Roth
Campbell	Kramer	Rudd
Carney	Lantos	Savage
Chappell	Leland	Schneider
Cheney	Lewis (FL)	Schulze
Clinger	Livingston	Shelby
Coelho	Loeffler	Smith, Denny (OR)
Collins	Long	Smith, Robert (OR)
Crane	Lundine	Snyder
de la Garza	Lungren	Stangeland
Dickinson	MacKay	Stark
Dixon	Markey	Studds
Donnelly	Marlenee	Sweeney
Dorgan (ND)	Martin (IL)	Torres
Dornan (CA)	Matsui	Towns
Dowdy	Mavroules	Walgren
Downey	McCloskey	Weber
Edgar	McDade	Williams
Fiedler	McGrath	Wortley
Flippo	Mica	Young (AK)
Foglietta	Mikulski	Young (FL)
Ford (MI)	Miller (CA)	
Fowler	Miller (OH)	

□ 1115

So the Journal was approved.

The result of the vote was announced as above recorded.

ANNOUNCEMENT BY THE SPEAKER

The SPEAKER. The Chair will announce there will be no 1-minute speeches until after today's legislation.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Sparrow, one of its clerks, announced that the Senate had passed without amendment a concurrent resolution of the House of the following title:

H. Con. Res. 268. Concurrent resolution providing for a joint session of Congress to receive a message from the President on the State of the Union.

The message also announced that the Senate had passed a bill of the following title, in which the concurrence of the House is requested:

S. 2013. An act to delay the referendum with respect to the 1986 through 1988 crops of Flue-cured tobacco and to delay the proc-

lamation of national marketing quotas for the 1986 through 1988 crops of Burley tobacco.

□ 1125

DELAY OF REFERENDUM AND PROCLAMATION OF NATIONAL MARKETING QUOTAS WITH RESPECT TO CERTAIN TOBACCO CROPS

Mr. ROSE. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate bill (S. 2013) to delay the referendum with respect to the 1986 through 1988 crops of Flue-cured tobacco and to delay the proclamation of national marketing quotas for the 1986 through 1988 crops of burley tobacco, and ask for its immediate consideration.

The Clerk read the title of the Senate bill.

The SPEAKER. Is there objection to the request of the gentleman from North Carolina?

There was no objection.

The Clerk read the Senate bill, as follows:

S. 2013

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 317(d) of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1314c(d)) is amended by inserting after the third sentence the following new sentence: "Notwithstanding the foregoing sentence or section 312(c) of this Act, the referendum with respect to national marketing quotas for Flue-cured tobacco for the 1986 through 1988 marketing years may be conducted not later than the earlier of (1) thirty days after any proclamation of the national marketing quota for Flue-cured tobacco for the 1986 marketing year made after the date of enactment of this sentence, or (2) March 15, 1986.".

SEC. 2. Section 319(a) of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1314e(a)) is amended by inserting after the second sentence of the third paragraph the following new sentence: "Notwithstanding the foregoing sentence, the proclamation of national marketing quotas for Burley tobacco for the 1986 through 1988 marketing years may be made not later than March 1, 1986.".

Mr. HOPKINS. Mr. Speaker, I rise in support of this bill, S. 2013, which will simply delay for 30 days the scheduled referendum of farmers on marketing quotas for the 1986 through 1988 crops of Flue-cured and burley tobacco.

Tobacco farmers in Kentucky have asked for this extension of time before holding the referendum in order to sort out the confusion about the future terms of the Federal Tobacco Program. Very frankly, Congress created this confusion by failing to do its job last year.

As many of my colleagues are aware, there is comprehensive legislation to reform the tobacco program in the budget reconciliation bill which the Congress failed to complete action on last session.

The tobacco reform legislation would make significant changes in the methods by which marketing quotas and price supports are determined. However, since that bill has not yet been passed, tobacco farmers are being asked to vote on the "rules of the game" before they know what the rules are. I don't think that is fair. The farmers have a right to know what they are voting on. Forcing them to vote in a referendum before they know how their livelihoods may be affected is unfair and simply cannot be justified.

I urge my colleagues to support S. 2013 and give tobacco farmers an opportunity to make an informed decision about their future.

Also, Mr. Speaker, I wish to go on record at this time to state that it was the intent of the House with respect to the legislation passed in the first session of this Congress regarding the burley tobacco price support reduction, that that price support reduction was temporary in nature and related to the 1985 crop of burley tobacco only.

It was not the intention of the House that such 1985 price support level for burley tobacco would be the benchmark for all future levels of price support if our basic legislation contained in the budget reconciliation bill was not enacted into law by early 1986.

In fact, my statement in the CONGRESSIONAL RECORD of November 18, 1985, when the price support reduction bill (S. 1851) was being considered, makes this point clear:

I want to clarify that this bill only impacts on the 1985 crop of burley tobacco. If further legislation is not passed, the price support part of the program will revert to permanent law and the 1986 price support will be at the same level as it would have been if the 1985 level had remained at $1.78.

The Department of Agriculture's proposed price support level for the 1986 crop of burley tobacco, announced recently, unfortunately did not take the legislation history of S. 1851 into consideration, but certainly that oversight can now be corrected.

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. ROSE. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on S. 2013, the Senate bill just passed.

The SPEAKER. Is there objection to the request of the gentleman from North Carolina?

There was no objection.

EXPEDITED FUNDS AVAILABILITY ACT

Mr. PEPPER. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 357 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 357

Resolved, That at any time after the adoption of this resolution the Speaker may, pursuant to clause 1(b) of rule XXIII, declare the House resolved into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 2443) to limit the number of days a depository institution may restrict the availability of funds which are deposited in any account, and the first reading of the bill shall be dispensed with. After general debate, which shall be confined to the bill and shall continue not to exceed one hour, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Banking, Finance and Urban Affairs, the bill shall be considered for amendment under the five-minute rule. It shall be in order to consider the amendment in the nature of a substitute recommended by the Committee on Banking, Finance and Urban Affairs now printed in the bill as an original bill for the purpose of amendment under the five-minute rule, each section of said substitute shall be considered as having been read, and all points of order against said substitute for failure to comply with the provisions of clause 5(a) of rule XXI are hereby waived. No amendments to said substitute shall be in order except pro forma amendments for the purpose of debate and amendments printed in the Congressional Record at least one legislative day prior to their consideration. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and any Member may demand a separate vote in the House on any amendment adopted in the Committee of the Whole to the bill or to the committee amendment in the nature of a substitute. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.

The SPEAKER pro tempore (Mr. DANIEL). The gentleman from Florida [Mr. PEPPER] is recognized for 1 hour.

Mr. PEPPER. Mr. Speaker, I yield 30 minutes to my friend, the able gentleman from Missouri [Mr. TAYLOR], and pending that, I yield myself such time as I may consume.

Mr. Speaker, House Resolution No. 357 is an open rule providing for the consideration of H.R. 2443, the Expedited Funds Availability Act.

The rule provides for 1 hour of general debate to be equally divided and controlled by the chairman and the ranking minority member of the Banking, Finance and Urban Affairs Committee. The rule makes in order the Banking Committee amendment in the nature of a substitute now printed in the bill as the original text for purposes of amendment. The substitute will be considered by sections, and each section will be considered as having been read.

Mr. Speaker, the rule waives clause 5(a) of rule XXI which prohibits appropriations in a legislative bill. Only those amendments printed in the CONGRESSIONAL RECORD at least 1 legislative day before their consideration will be in order. Pro forma amendments for purposes of debate will be in order as well. The rule provides for one motion to recommit, with or without instructions.

Mr. Speaker, this rule waives clause 5(a) of rule XXI. Clause 5(a) of rule XXI prohibits consideration of a

measure that contains appropriations but was not reported by the Committee on Appropriations. The waiver is necessary because H.R. 2443 directs the Federal Reserve Board to establish an advisory council. Members of the council, while attending its meetings, would be entitled to compensation at a rate fixed by the Board but not to exceed $100 a day. These costs are small but necessary. In fact, funds already available to the Federal Reserve may be used. The provision is an appropriation because it directs that the money be used for a specific purpose. The advisory council would enable the Federal Reserve to consult regularly with consumers and the private sector while the Board designs a better system to expedite the availability of deposited funds. The work of the council could not be performed by any existing agency or advisory committee.

The resolution before the House limits amendments to those printed in the CONGRESSIONAL RECORD. Members should be aware that germane amendments to amendments under consideration need not be printed in the RECORD. Of course, pro forma amendments for purposes of debate will also be in order.

Mr. Speaker, I shall address myself perhaps a little bit more in detail as to why it was that the Rules Committee required the printing of proposed amendments in the RECORD. We do not like to do that. We want the membership of this House to have the fullest possible and desirable opportunity to offer amendments to legislation that is before the House for consideration. But there are times when there are reasons why we do limit the amendments to those printed in the RECORD.

Now, Members should remember that even if that occurs, an amendment printed in the RECORD is subject to amendment, so if you can amend that amendment, you are not denied the privilege of doing that.

One of the occasions when we had a striking need to do that was when we had the immigration bill up before us. We had hundreds of amendments, complicated in character, extensive in effect, and if we had not had the amendments printed in the RECORD, Members would not have had a fair opportunity while the bill was before the consideration of the House to evaluate those various multiple amendments.

Now, in this particular case, this is a sensitive area of legislation. To put one amendment on this bill which is nongermane broadens the scope of the bill to determine what other amendments may be germane.

□ 1135

It may open that piece of legislation, which we started to consider as limited in character, to be very expansive in its existence and character; that is, laying open a whole gamut of new legislation in the field of banking.

This is a critical matter for the economy of our country. We simply felt that this bill, so far as I am aware, is not seriously controversial. Therefore, it would seem to us only reasonable, and I will show you the justification that has already occurred, whether the amendment already offered is being considered right now by the Parliamentarian and the Parliamentarian has advised us that he has some doubt about the germaneness of that amendment. He has not yet made up his mind, as of my last contact with him, about whether this amendment is germane or not. It could just be popped up on the floor by somebody and the Parliamentarian would hardly have the time to deliberate on it and consult the precedents and make whatever study he cared to make if the rule did not require the printing of amendments in the RECORD.

So we just thought that in a critical matter like this, we did not think we were doing serious harm to the rights of any Member to require the amendment to be printed in the RECORD so all Members would know what amendments are coming up and, of course, as I said, those amendments would be subject to amendment.

Mr. Speaker, H.R. 2443 and the accompanying report, including the Banking Committee amendment, have been available since November 26, 1985. If Members wanted to offer amendments, wanted to make inquiries about the contents of this bill, it has been in existence since the 26th of November.

The record of the Banking Committee shows that the issues in dispute are well-defined. Thus the printing amendment, we believe, is not an undue burden, but rather a benefit to the bill.

Mr. Speaker, H.R. 2443 directs the Board of Governors of the Federal Reserve to design a system to speed up the availability of deposited funds. This bill is designed to help the people of the country who utilize the banking system of the country to get the use of their money without unnecessary delay on the part of the banking institutions handling those checks. Unnecessary and unreasonable delays in the availability of funds have harmed consumers and small businesses.

The Banking Committee found that State governments, Federal agencies, and the financial industry have tried unsuccessfully to curb these abuses.

H.R. 2443 provides for a coordinated Federal response to the problem. It is a timely issue and it should be debated. I, therefore, hope that in due course, this rule will be adopted.

Mr. TAYLOR. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, House Resolution 357 is a modified rule under which the House will consider a bill creating a check-clearing schedule at the Federal Reserve that limits the amount of time banks can hold checks before giving customers access to their deposits.

Mr. Speaker, the bill made in order by this rule is an attempt by the Committee on Banking to improve the Federal Reserve system check-clearing process to insure depositors of more timely access to their funds.

The bill, H.R. 2443, is not all that controversial, but I must say that one of the provisions of this rule is somewhat unusual for a bill of this type.

Mr. Speaker, our distinguished chairman, the gentleman from Florida [Mr. PEPPER] has explained that this rule requires the printing of amendments in the CONGRESSIONAL RECORD 1 day prior to their consideration. The practical effect of this provision is that you needed to have your amendments in the RECORD yesterday in order to have them considered today.

I want to compliment our chairman, Mr. PEPPER, not only for his explanation today, but also for his statement here on the House floor yesterday. He helped put the Members on notice about this requirement, and we appreciate that.

Mr. Speaker, in some circumstances, a printing requirement of this kind for amendments is another way of limiting the amendment process. In other circumstances, a printing requirement serves the interests of all Members because it gives the managers of the bill a chance to compare the language of proposed amendments to the language reported by the committee.

Mr. Speaker, although I am generally opposed to this sort of advance printing requirement on amendments, I do want to say that the Committee on Rules included this provision on its own. Neither the chairman of the Banking Committee, the gentleman from Rhode Island [Mr. ST GERMAIN] nor the ranking Republican member of the Banking Committee, the gentleman from Ohio [Mr. WYLIE] asked for this provision.

As a consequence of this rule, today's RECORD contains two complete substitutes and 12 additional amendments to the bill itself. The authors of the two substitutes, the gentleman from Ohio [Mr. WYLIE] and the gentleman from California [Mr. SHUMWAY] have reservations about the committee bill and the rigid schedule it contains.

The Wylie substitute gives the Federal Reserve Board the authority necessary to produce a system for faster customer access to deposited funds, but does not have the Congress write the technical requirements for them.

Mr. Speaker, I have a couple of requests for time, so I will conclude by reminding Members that this rule is

unusual only because it requires the printing of amendments yesterday. Were the situation different, I would strongly oppose such a rule. In this case, however, I can see no good reason to delay consideration of this bill.

Mr. Speaker, I yield 3 minutes to the gentleman from Ohio [Mr. WYLIE], the ranking minority member of the Committee on Banking, Finance and Urban Affairs.

Mr. WYLIE. Mr. Speaker, I want to thank the gentleman from Missouri for yielding me this time.

Mr. Speaker, I want to express my objection to House Resolution 357, the rule accompanying H.R. 2443, the expedited funds availability bill.

At the outset, let me say, Mr. Speaker, that I support the goals included in H.R. 2443 and I intend to vote for the bill on final passage. I have no illusion but that the rule will be adopted.

I support the concept of the bill because it is similar to some legislation which I offered early in the year in H.R. 15, which was the first bill introduced in this Congress on the subject; but, Mr. Speaker, I think that in this first rule of the 2d Session of the 99th Congress that we ought to be aware that this is a gag rule provision and it is preposterous to have a gag rule on a bill which is not controversial. Everybody is for expedited funds availability.

Now, I hope that this does not portend other gag rules on other subjects coming from the Rules Committee. As was pointed out by the gentleman from Missouri, the distinguished chairman of the Banking Committee, the gentleman from Rhode Island [Mr. ST GERMAIN] asked for a 1-hour rule with open debate, an open rule, which I supported when we testified before the Rules Committee yesterday.

There were apparently some rumors that maybe something from the interstate banking bill, H.R. 2707, or perhaps something from H.R. 20, might be added to this consumer bill.

The gentleman from Rhode Island [Mr. ST GERMAIN] and I both agreed that any amendments like that would not be germane and that we would raise the necessary points of order so that nothing from those two bills would be included in this bill, that the interstate banking issue should be left for another time and the nonbanking issue should be left for another time.

Unfortunately, and I must surmise that the majority of the Rules Committee did not accept our word on this score, there is absolutely no need to have a rule which requires an amendment to be printed in the CONGRESSIONAL RECORD 1 day in advance of the consideration of the bill. To my knowledge, the Banking Committee has never requested anything but an open rule for legislation which is reported directly from our committee.

This kind of a rule does a disservice to all Members of Congress, Mr. Speaker. The expedited funds availability bill is basically a good bill, but it is not a perfect piece of legislation. Members ought to have an opportunity to offer germane amendments.

Now, it is possible during the course of the debate on the floor here today that some Member of this House might want to offer an amendment which he thinks would improve the bill. Under this rule, he would be precluded from offering such an amendment because it was not printed in the RECORD yesterday.

Now, I do not think that this is the right way to go about legislating. For that reason, I do raise an objection to the rule.

I also want to suggest that I will put my colleagues on notice that although I will not ask for a vote on this rule today, that if in the future a rule like this comes from the Rules Committee where the members of the Banking Committee have asked for an open rule, that I will oppose the rule.

Mr. TAYLOR. Mr. Speaker, I yield 5 minutes to the gentleman from Texas [Mr. BARTLETT], a member of the committee.

Mr. BARTLETT. Mr. Speaker, I rise to strongly oppose this rule on the basis of the rule.

Now, we will have a debate over the bill itself and there will be some amendments offered which may improve it, and that we can do later.

It seems to me to set on the opening day of this session an unthinkable precedent to start this session with what is a modified closed rule; in fact, even the chairman of the Rules Committee, and I was glad to hear him say it, said that he does not like a rule like this. I think a rule like this, a modified closed rule that attempts to stop amendments that are offered by members of the committee or others, in fact, could have a place in a complicated tariff bill or a bill that required a computer run in advance to decide on a formula or some kind of a tax bill.

Now, I have only been in this House 3 years, but I cannot remember a bill like this, which is just simply a new authority for the Federal Reserve, to be closed or gagged. This is not a tariff bill. This is not a tax bill. There is not a single computer run of a formula that has to be run in advance.

Mr. Speaker, this amounts to—and I know the chairman of the Rules Committee does not intend it this way—but it amounts to a very partisan rule in a very partisan way to open the session.

I do not think anyone in this House wants to start this session on such a partisan note.

This is going to be and ought to be a serious session, a session in which the American people are looking at us to solve on both sides of the aisle the issues of the deficit, the issues of trade, the issues of terrorism, the issues of Central America, the issues of liability reform, and to start off on a bill like this, which is a bill that has some controversy, but not a lot, on the very first day back and to flex our partisan muscles through the Rules Committee is not the way to lead to a good session. It is not the way to lead to a debate on the major issues of the day in which the Congress as a whole can come together on the issues.

I very much urge the House to follow the advice of the chairman of the Rules Committee and to say, "Mr. Chairman, we also don't like a rule like this."

This rule, a closed rule, in effect is not in order in this bill or a bill like it. We do not like it and we would ask the Rules Committee to come back with a bona fide open rule so that the process of the House can work its will.

Mr. Speaker, I do not think it is going to make any difference as far as what finally happens, because those who wanted amendments, they found out about it, they rushed up and put their amendments in. I do not think any amendments that are nongermane are going to be offered or could be or would be accepted in any event. That is what we have the rules of the House for; but this is a precedent-shattering way to start a session that should be a session in which this Congress is expected to grapple with the issues of the day and not fall into partisanship on the very first day.

I am disappointed that the Rules Committee would bring a rule like this on this bill.

Mr. TAYLOR. Mr. Speaker, I yield 5 minutes to the gentleman from Georgia [Mr. GINGRICH].

Mr. GINGRICH. Mr. Speaker, I rise to urge a "no" vote on this rule for precisely, I think, the underlying reason that the gentleman from Texas was just saying.

This rule represents politics as usual. The fact is that America, I think, as it looks at Congress in the year of Gramm-Rudman and Congress as we move toward trying to learn how to balance a budget and what may be the most intense Congress in terms of the issues we deal with that we have had in a very long time.

America is dividing up, not only on Democratic and Republican grounds, not on liberal or conservative grounds. I think there is a bipartisan tendency in America on a nonideological basis to divide up on the issue of whether you want politics as usual or whether you are ready to get the job done to change things so that we can get America in shape so our kids and our grandchildren have a chance for a decent life.

□ 1150

The fact is that there are two grounds for voting "no" on this rule. First of all, this rule is a serious first step by the Committee on Rules and the power structure of the House to begin to take power away from the Committee of the Whole, to begin to make it harder and harder for the average Member to have impact, to hide from the C-SPAN cameras and the public and the news media, to go to small rooms in corridors seldom wandered into and have three, four, or five people decide what amendment is appropriate, what is really correct.

There is a second reason. In my judgment, and I say this, I guess I was finally compelled to move, by the Common Cause magazine cover story, "From Rags to Riches," the cover story, which every Member of this Congress should look at because it raises fundamental questions about the Congress, about what we have been doing for the last year, about the issue of whether or not the American people should trust their representative body.

I would like to suggest, without naming any individual Member or getting involved in any details, that it is inappropriate for this House to take up any issue from the Banking Committee until changes have been made either in the Banking Committee or the Ethics Committee as reported.

For us to start this year by pretending we are engaged in business as usual, in politics as usual, and the same old stuff, I think justifies the kind of anger that the Common Cause magazine cover story "From Rags to Riches" indicates. The American people have the right to expect the average Member of this House to force some minimum level of responsibility and some minimum level of accountability without regard to what might happen in closed rooms and behind closed doors.

In my judgment, every Member of this House should set the tone for this year by voting "no" on this rule because on the procedural grounds of taking power away from the Committee of the Whole and on the specific grounds of this particular committee at this particular time, it is wrong for this bill to come to the floor.

Mr. TAYLOR. Mr. Speaker, I yield 1 minute to the gentleman from Texas [Mr. BARTLETT], a member of the committee.

Mr. BARTLETT. I thank the gentleman for yielding this time to me for an additional comment.

Since the earlier debate, it has come to my attention that the members of the Banking Committee on the other side of the aisle did not ask for this rule. I wonder if there is a member of the Banking Committee that I could yield to to respond to that.

It is my understanding that no one on the Banking Committee asked for a closed rule on this matter.

Mr. FRANK. Mr. Speaker, will the gentleman yield?

Mr. BARTLETT. I yield to the gentleman from Massachusetts.

Mr. FRANK. I thank the gentleman for yielding.

Mr. Speaker, the chairman is on the floor. I did not see the chairman. My understanding is that the chairman is here.

The Banking Committee had requested an open rule on this particular matter. I am going to vote for this rule, but if the question is what the Banking Committee requested, my understanding is that the Banking Committee, through its chairman, asked for an open rule.

Mr. ST GERMAIN. Mr. Speaker, will the gentleman yield?

Mr. BARTLETT. I yield to the gentleman from Rhode Island.

Mr. ST GERMAIN. I thank the gentleman for yielding.

I am sorry. I was out conferring with the ranking minority member on the legislation, but I think if anybody were to look at the RECORD of yesterday's proceedings before the Committee on Rules, they would see that the request from the Banking Committee was for an open rule, 1 hour of general debate, a very pure and simple request.

Mr. BARTLETT. I very much appreciate the gentleman's clarification and appreciate the Banking Committee's request for an open rule, which is what we like.

Mr. ST GERMAIN. I had no control over the decision.

Mr. TAYLOR. Mr. Speaker, I yield 2 minutes to the gentleman from Pennsylvania [Mr. WALKER].

Mr. WALKER. I thank the gentleman for yielding.

Mr. Speaker, I think that the gentleman from Georgia [Mr. GINGRICH] has described this bill correctly. It is a business-as-usual rule around here and now we are finding out just how much business as usual.

If I now understand the colloquy that has just taken place, we have a rule before us that the Banking Committee did not request. The explanation that was given to us was that the reason why we had to limit the availability of amendments in this particular rule was because we were afraid that some amendments might come in that would broaden the scope of the bill. Evidently the Banking Committee had no such fears and the Banking Committee asked for an open rule.

Yet the Committee on Rules, which is largely dominated by the leadership of this body, has decided that instead, the Committee of the Whole shall be limited, that we shall not be able to address issues that might otherwise legitimately come before this body and that we will proceed with business as usual and that we will end up gagging the Committee of the Whole once again with this rule. This is, in fact, business as usual.

I think if the committee wants to broaden the scope of this bill, we ought to have the right to broaden the scope of this bill. In fact, there are some things dealing with the Federal Reserve that a number of us think ought to be looked at, that the monetary policy of this country needs to be examined, and if there is some way within this rule that we could get at some of those Federal Reserve questions and get at the questions of interest rates that are driving farmers out of business and driving small businesses out of business, that we ought to indeed deal with those out on the floor, but we are not going to be able to because we cannot bring those up in the Committee of the Whole.

This is a business-as-usual rule. Here we go again into another year and we are going to deal with things just as though nothing was happening in the country, just as though nothing has happened with regard to a balanced budget and all these issues that are coming before us.

I will tell the Committee of the Whole something else. There is a provision down in this rule that grants a waiver to allow appropriations within an authorization bill. That is right. We are going to violate the procedures around here and allow spending of money within an authorization bill, actual appropriations within an authorization bill, and waive the rules of the House in order to do that. That is what we are doing, and we do not have a Budget Act waiver for it, and the reason why, I am told, we do not have a Budget Act waiver is because we have language in the bill which says that they do not really need to spend the money. The fact is, though, we have allocated $100 a day for members of the commission who would participate under some provision in this bill. That is appropriations in an authorization bill. It is specifically waived by this rule. It specifically goes to the issue of spending.

I would suggest a "no" vote on this rule. It is precisely the right vote. It is the wrong rule at the wrong time and it ought to be voted down.

Mr. PEPPER. Mr. Speaker, I yield such time as he may consume to the distinguished gentleman from Rhode Island [Mr. ST GERMAIN].

Mr. ST GERMAIN. I thank the gentleman for yielding time to me.

Mr. Speaker, I think it is important to clear something up here. The advisory council that is contained in the legislation is not paid from appropriated funds. The funds are from the Fed, and as we know, the Fed has its own funds. They are not appropriated

funds. Therefore, to the best of my knowledge, I do not think a waiver is required.

Mr. WALKER. Mr. Speaker, if the gentleman would yield, the fact is that the waiver is in the rule. This rule waives rule XXI, which is specifically waiving the provisions.

Mr. ST GERMAIN. Mr. Speaker, I do not yield any further time. What I am saying is that even though the waiver is in there, it is an unnecessary waiver. It is not needed because there are no appropriated funds. The funds are coming from the Federal Reserve Board and they do not come under the jurisdiction of Appropriations. They have their own funds.

I cannot say why the Committee on Rules chose to put that waiver in there, but it is an unnecessary waiver.

Mr. TAYLOR. Mr. Speaker, I yield 1 additional minute to the gentleman from Pennsylvania [Mr. WALKER].

Mr. WALKER. I thank the gentleman for yielding.

Mr. Speaker, I think it is important to understand that from what I am told, the Parliamentarian feels as though that waiver is, in fact, necessary in here, and if it is unnecessary we have another flaw in the rule. So far we have learned that the rule is flawed because the Banking Committee did not request a closed rule, yet they got one, and now we are finding out there is a waiver in there that the chairman of the Banking Committee says is not needed.

So it seems to me that we have a terribly flawed rule out here, and it gives us one more reason for voting "no." It is high time, I think, we get out act together. I go back and say again that this is business as usual. It is typical of the way this House has performed, and no wonder the American people get disgusted.

□ 1200

Mr. PEPPER. Mr. Speaker, I yield 1 minute to the gentleman from Rhode Island [Mr. ST GERMAIN].

Mr. ST GERMAIN. Mr. Speaker, I thank the gentleman for yielding.

To the gentleman from Pennsylvania, I would say I have just checked with the Parliamentarian and he agrees the point I made about the Fed is absolutely correct, and that as far as the advisory council is concerned there is no waiver necessary on that point. That is the point I was making.

Mr. WALKER. Mr. Speaker, will the gentleman yield?

Mr. ST GERMAIN. I yield to the gentleman from Pennsyvlania.

Mr. WALKER. Then why is it in there?

Mr. ST GERMAIN. Do not ask me. I am just telling you that it is not necessary.

Mr. WALKER. Will the gentleman from Florida [Mr. PEPPER] answer?

Mr. PEPPER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I say to my distinguished friend from Pennsylvania [Mr. WALKER], the reason the Rules Committee put a waiver is because this provision was in the bill and the Parliamentarian said it needed a waiver, and we gave it a waiver in the rule.

Mr. Speaker, one of the distinguished gentlemen speaking in the well, as I understood it, made some reference to this looked like it was a partisan rule. I wonder if that gentleman has checked the amendments that were filed before 6 o'clock yesterday evening to this bill, and by whom they were filed? I have verified it at the desk, and there are 15 amendments that were offered yesterday, and every one of them was by a Republican.

That does not look very much like it was intended to squeeze out the Republicans who might have something to say about this bill.

Mr. ST GERMAIN. Mr. Speaker, will the gentleman yield?

Mr. PEPPER. I yield to the gentleman from Rhode Island.

Mr. ST GERMAIN. Mr. Speaker, I think it is unfortunate that legislation designed after lo these many years to correct an inequity on behalf of the consumers of this Nation is becoming embroiled in a debate that has nothing whatsoever to do with the merits of the bill. We have waited too long. The consumers of this Nation have seen the banks of this Nation use their money to make money. The consumers of this Nation have had fees tacked onto their accounts for checks returned for insufficient funds when all along the funds were in the account, but the bank said to the consumer, "You cannot have that money yet because we want to use it for a period of time to make more money for ourselves."

Now, ladies and gentlemen of the House, since 1978, the Federal Reserve Board has been studying this issue. We finally got sick and tired of it. They told us this last year, year before last and when they came back before us again this past year, said give us more time to study.

Ladies and gentlemen, the time has come for us to say to our constituents when you deposit a Treasury check, you do not have to wait 2 weeks to use your money; it is there the next day.

I hope that we are not going to lose sight of the primary issue here, and that is the unfairness, the inequity to the consumers of this Nation. Let us at long last put an end to the use of the float by the banks and give people the benefit of their hard-earned moneys.

I thank the chairman of the Rules Committee for yielding.

Mr. PEPPER. Mr. Speaker, I yield 9 minutes to the distinguished gentleman from Delaware [Mr. CARPER].

Mr. CARPER. Mr. Speaker, I thank the chairman of the Rules Committee for yielding me this time.

I just want to concur with the chairman of the Committee on Banking, Finance and Urban Affairs that it is important that we keep our eye on the ball, and the ball in this case is to make sure that the consumers, the customers of banks and savings and loans and thrifts are getting a fair deal. I think on balance this bill ensures that.

Some of my colleagues on the other side of the aisle have suggested today that they do not like this rule, and quite frankly, neither do I. With those people who came to the well and suggested somehow there are partisan politics involved in the crafting of this rule, I say you are wrong. Speaking as a Democrat, quite frankly, I would much rather have the kind of rule that the chairman of our committee requested. It did not happen, but it is not because of partisan politics.

I appreciate the explanation of the chairman of the Rules Committee as to why the rule was proposed that is before us today, even though I do not fully concur with the rationale and the reasoning. I would like to say in response to one of the observations on the other side of the aisle that there are, indeed, other paramount issues that have been reported out by the Committee on Banking, Finance and Urban Affairs, major legislation that awaits action of the Rules Committee. I would like to yield to the chairman of the Rules Committee to find out when we might expect some action on two of those bills. One is H.R. 20, the so-called nonbank banking loophole closer, and the other companion bill is legislation dealing with the phase-in of interstate banking. I yield to the chairman for some update on those pieces of legislation.

Mr. PEPPER. Mr. Speaker, will the gentleman yield?

Mr. CARPER. I yield to the gentleman from Florida.

Mr. PEPPER. I thank the distinguished gentleman for his inquiry and the distinguished chairman for his excellent statement here a moment ago.

There are three critical bills that are pending now before this House in various stages of consideration. One of them is the bill about interstate banking which has the trigger to make lawful intrusion of interstate banking into the several States. That came out of the Committee on Banking, Finance and Urban Affairs.

The other one is the nonbank banking bill. We have been anticipating that there would be a decision of the Supreme Court. It came out yesterday, and the chairman of the Banking, Fi-

nance and Urban Affairs Committee before our Rules Committee yesterday asked us to give consideration now to H.R. 20, which will regulate nonbank banking now that the Supreme Court has said it may exist in large volume in the country. And I have no doubt but what the Rules Committee will give early consideration, I say to the distinguished chairman, to his request made yesterday.

The other one is the bill about holding checks. The real reason that we granted a limitation on amendments, that is, requiring them to be offered in the RECORD yesterday, we did not want these three issues to be jumbled and not considered each on its merits. They are all important pieces of legislation. Had we not required this submission of amendments, some amendments could have slipped in on the floor, even without the chairman perhaps detecting it which would have changed the whole scope of that legislation, and perhaps encouraged the other body to enlarge its consideration of the same thing.

When we deal with these critical matters about banking, we ought to be dealing with them straightforward and fairly, and we are going to see to it that that is done.

Mr. ST GERMAIN. Mr. Speaker, will the gentleman yield?

Mr. CARPER. I yield to the gentleman from Rhode Island [Mr. ST GERMAIN].

Mr. ST GERMAIN. Mr. Speaker, I might state that in my opening remarks to the Rules Committee yesterday, you made it very clear that neither H.R. 20 nor, I think, it is H.R. 2347, I may be wrong on the number, but the interstate banking bill, neither one of those could be considered germane, in order, in any semblance, in any way, shape, matter, or fashion.

I also gave my word to the Rules Committee that I would resist any attempt by the other body in conference to add either of those, because I have maintained all along as well that they should be considered separately on their merits. So I did want to make it clear that I was prepared here to be very alert, very alert that the rules of the House be observed, and that there be no nongermane amendments of the type the chairman of the Rules Committee referred to as being tacked onto this bill. I just want my committee members and everyone in the House to be aware of the fact that that commitment was made to the Rules Committee.

Mr. SCHUMER. Mr. Speaker, will the gentleman yield?

Mr. CARPER. I yield to the gentleman from New York.

Mr. SCHUMER. I thank my distinguished colleague from Delaware.

First I would like to reiterate what the chairman of the committee said. I am an advocate of interstate banking, opposed to the gentleman from Florida's position. As far as I know, there was no attempt by anybody who advocated interstate banking to amend this legislation and add any kind of interstate banking for it.

I am for one very heartened by what the chairman of the Rules Committee has said, that he believes that that bill, as well as H.R. 20, which the Supreme Court decision importunes us to consider shortly, will be considered by the Rules Committee shortly for an up or down vote so that we get a chance to go on the floor. That having happened, I would say to my colleagues on the other side of the aisle that what the gentleman from Florida has said as well as the chairman I think should clear the air. There is no attempt to dictate to the minority or to any Member of this body what should be added or subtracted to the bill before us, provided it is germane.

That does not deal with the two issues embodied in H.R. 20 and interstate banking, and all of the other issues, and any feeling that we were trying to muzzle the matter is incorrect. I think what happened is it was a matter of crossed signals, and I would say to every one of my colleagues, and I will just conclude quickly, the issue here is whether the consumers of this country get their rights. And whether we agree with that or not, let us not let other budget, interstate banking or other extraneous issues interfere.

I very much appreciate the courtesy of the gentleman from Delaware.

Mr. ST GERMAIN. Mr. Speaker, will the gentleman yield?

Mr. CARPER. I yield to the chairman of the Banking, Finance and Urban Affairs Committee, the gentleman from Rhode Island [Mr. ST GERMAIN].

Mr. ST GERMAIN. Mr. Speaker, just briefly, I would like to again say to the Members of this House, everybody has assured each other and let us now assure the people of this Nation, the consumers of this Nation, and let us let them know that our first act in this Congress is to do something for them rather than to take something away from them.

I thank the gentleman for yielding.

Mr. BARTLETT. Mr. Speaker, will the gentleman yield?

Mr. CARPER. I yield briefly to the gentleman from Texas.

Mr. BARTLETT. Mr. Speaker, I thank the gentleman for yielding, because somehow the debate has gotten away. I very much appreciate what the chairman of the Banking, Finance and Urban Affairs Committee has said on the issue of this being partisan, and I will say it again, the rule does have nothing to do with the bill at all, the gentleman is correct. I very much appreciate and we all appreciate the chairman of the committee asking for an open rule.

I also appreciate what the gentleman from New York said, but he said there is no attempt to dictate what can or cannot be offered that is germane. This rule dictates, this rule is a modified closed rule for no apparent reason. The rules of the House in clause 7, rule XVI, would prohibit any nongermane amendments. That is what we have the rules of the House for. This House ought to start off this session on the right foot, and bills that deserve an open rule, which is almost all legislation as the chairman of the Rules Committee and the chairman of the Banking, Finance and Urban Affairs Committee have said, ought to get an open rule so that all Members are permitted the opportunity to offer germane amendments. That is what we have the rules for, and that is what we have a Rules Committee for.

I think the Rules Committee ought to start over and bring us back a rule that can debate the merits of the bill and not attempt to suppress debate.

I thank the gentleman for yielding.

Mr. CARPER. Let me say in conclusion, if I may, I intend to support this rule without enthusiasm. I would add as a Member of an authorizing committee, it is frustrating for me, and I suspect for every Member of authorizing committees in this House to work on legislation, to mark up legislation, to report it out to the floor, to the full House, and months after having done so, to still be waiting for the full House to take action on that legislation.

I am pleased to hear the chairman of the Banking, Finance and Urban Affairs Committee indicate, as well as the chairman of the Rules Committee, indicate we are going to get half a loaf, perhaps, on the bills that we have reported out of the Banking Committee. I certainly hope that the chairman of the Rules Committee and the ranking minority member and so forth will consider giving us the other half of a loaf so that we can at least debate the issue of a phase-in of interstate banking here before the Members of this body and before the public at large.

I thank the gentleman for yielding me this time.

Mr. TAYLOR. Mr. Speaker, I yield 2 minutes to the gentleman from Arizona [Mr. KOLBE].

Mr. KOLBE. Mr. Speaker, I thank the gentleman for yielding. I want to associate myself with the remarks made by the gentleman from Delaware when he spoke of the frustration many of use on the Banking, Finance and Urban Affairs Committee have experience as a result of having the legislation we worked very hard on and passed out of that committee come to this floor, only to have it bottled up in the Rules Committee.

We have heard here this morning that this rule was not desired by the

Banking, Finance and Urban Affairs Committee, and I accept the statements of the chairman and the other Members on the other side of the House that this is the case. Certainly it was the case over on this side.

We know there is a waiver in here to clause 5 of the rule XXI. The chairman of the Banking, Finance and Urban Affairs Committee says that it is not necessary. The chairman of the Rules Committee says that it is necessary, or at least the Parliamentarian advised them that it was necessary.

I think there are some real questions about this rule, and I think we ought to go back and start over. If, indeed, we do not need a modified closed rule, then let us not have a modified closed rule, and let us have a full debate on this bill and a full debate on the amendments which may be offered.

We heard the chairman of the Rules Committee suggest that there were 15 amendments filed yesterday on this bill, all by Republicans from this side of the aisle. That was cited as a reason we need a modified closed rule, to stop more amendments from being offered. That sounds to me like an attempt to try and stifle debate on this bill. Of course, there were amendments that had to be filed on order to protect our rights under this rule. I do not think all of those amendments will be offered today, and certainly would not have been offered under an open rule. But the reason for an open rule is to allow full and free debate by this body on complex legislation such as this.

I believe the issue certainly is the substance of this legislation, as the chairman and the gentleman from New York have suggested. The issue is the substance of this legislation, but the issue is also very much the procedures of this House and the way in which legislation is considered. I think the American people, while they want legislation dealing with this issue, also want the process in this body to be open and to be fair.

This rule is not, and I would urge that we defeat this rule and start all over again.

Mr. LOTT. Mr. Speaker, I want to echo the comments of the gentleman from Missouri [Mr. TAYLOR] about the restrictive nature of this rule.

The chairman of the Banking Committee did not request a rule requiring prior printing of amendments in the RECORD, and I think most Members who were interested in this legislation were under the impression that the Rules Committee would grant the simple 1-hour open rule that had been requested.

However, the Rules Committee took it upon itself to write this condition into the rule whereby, if you didn't have your amendments in the RECORD by midnight last night, you will not be able to offer amendments today.

I think in this case the Rules Committee did have some legitimate concerns about the bill being broadened by amendment to include some controversial matters that are not related to check clearances. And we were assured by Chairman PEPPER that we were not setting a precedent by this rule.

Mr. Speaker, because this is a relatively noncontroversial bill, and because most Members interested in offering amendments were personally notified of this prior-printing requirement yesterday, and have had their amendments printed in the RECORD, I will not oppose this rule today. But I did want to take this opportunity to make it quite clear that we are not going to make a practice of this in the Rules Committee. While it may be fair to those Members who are on a committee and come to the Rules Committee and have already prepared their amendments, it is grossly unfair to the other House Members who may not focus on a bill until it is too late to get their amendments in the RECORD. They should have the same right as committee members to offer their amendments on this floor. And I, for one, intend to see to it that that right is protected in the future. This isn't a partisan issue, it's an institutional one that hits Democrats and Republicans alike in their ability to represent their constituents in this House and to exercise their rights and responsibilities as legislators. Let's not forfeit that fundamental component of our democratic process.

□ 1215

The SPEAKER pro tempore. Does the gentleman from Missouri have additional requests for time?

Mr. TAYLOR. Mr. Speaker, I yield 1 minute to the gentleman from Pennsylvania [Mr. WALKER] for a unanimous-consent request.

Mr. WALKER. I thank the gentleman for yielding.

Mr. Speaker, what we have heard in the debate is that the section with regard to clause 5(a) of rule XXI, as the chairman of the Committee on Banking, Finance and Urban Affairs says, is unnecessary. We have also heard that the language there limiting Members' access to the amendment process also is unnecessary in the rule. I think we have established that now in the debate.

Therefore, Mr. Speaker, I ask unanimous consent that all the language in the rule after the comma on line 11 through the period on line 17 be excised from the rule. That would take out all of the language relating to clause 5(a) of rule XXI and also would take out the limitation on Members having to file their amendments in the RECORD.

Mr. Speaker, I would ask unanimous consent that that language be excised from the rule.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Pennsylvania?

Mr. PEPPER. Mr. Speaker, I object.

The SPEAKER pro tempore. Objection is heard.

Mr. WALKER. Mr. Speaker, I think it then becomes clear precisely what we have been saying on this side is true, that this rule is designed to keep us from offering amendments on the floor and the language in rule XXI is in fact needed language in the rule.

What we have is, we were told all of this is unnecessary, but in the unanimous-consent request, it is the chairman of the Rules Committee who has said that it has to be in there. Please vote against the rule.

Mr. PEPPER. I yield myself such time as I may consume.

Mr. Speaker, may I say again to my distinguished colleagues on the other side, I stated a few moments ago that the Parliamentarian of this House advised our committee, with whom we are in constant consultation, that that $100 provision in the bill needed a waiver. In order to help the bill, we provided the waiver. Did we do anything wrong by doing that?

The next thing is, on the other side, I will say to my distinguished brethren, all of the complaint about this rule has been that it is stifling the minority. Well, is it not rather strange that a stifled minority had the ability yesterday, within the limitation of the rule, to offer 15 amendments? It seems to me they were fairly well alerted if they offered 15 amendments, and if those distinguished Members could offer their 15 amendments, I do not know why others could not have if they had wanted to. Knowing how alert my brethren on the other side are, I know they could have done it if they had chosen to do so.

Mr. WALKER. Mr. Speaker, will the gentleman yield?

Mr. PEPPER. I am sorry I cannot yield at this time.

Mr. Speaker, I want to conclude this debate. The gentleman, the chairman of the Committee on Banking, a moment ago stated here today, "Let us do something to protect the people of this country whose checks, whose money, is being held up unduly in many banks." That is what this bill is all for. We simply want to keep this subject a distinct subject for the House to deal with. We will get around to the others dealing with them separately and distinctly.

Mr. Speaker, I have no further requests for time.

The SPEAKER pro tempore. Does the gentleman from Missouri [Mr. TAYLOR] have additional requests for time?

Mr. TAYLOR. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I think we have whipped this dog about long enough. I think we can recognize that the rule probably, in retrospect, was in error, that the rule was drawn in such a manner as to protect germaneness for other legislation which might or might not have been offered. Seriously, I doubt that it would have been offered. Had it been offered, I doubt it would have been in order. But nevertheless the Rules Committee did draw the

rule in such a manner as to try to be overprotective, in my judgment, of nongermane legislation on different areas which would have probably never been a part of this bill. I think the Rules Committee ought not to have done that.

However, I do think we have a piece of legislation that is before us that is important to the consumers of this Nation. It was brought before the Rules Committee by the Committee on Banking for consideration. I think it should be considered. I think it is well deserved legislation. I commend the Committee on Banking for bringing this legislation before us. I think we can move forward now with consideration of the bill before us which is to protect consumers of this country and their right to utilize the funds once they are made and deposited into a financial institution.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. PEPPER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I respectfully submit that we have a fair rule and critically needed legislation before this House.

Mr. Speaker, I have no further requests for time.

Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

The SPEAKER pro tempore. The question is on the resolution.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. WALKER. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 199, nays 129, not voting 106, as follows:

[Roll No. 3]

YEAS—199

Ackerman	Burton (CA)	Edwards (CA)
Alexander	Byron	English
Anderson	Carper	Erdreich
Andrews	Carr	Evans (IL)
Annunzio	Chapman	Fascell
Anthony	Coleman (TX)	Fazio
Aspin	Conyers	Feighan
Atkins	Cooper	Florio
Barnard	Coyne	Foley
Bates	Crockett	Ford (TN)
Bedell	Daniel	Frank
Beilenson	Darden	Frost
Bennett	Daschle	Fuqua
Berman	Dellums	Gaydos
Biaggi	Derrick	Gejdenson
Boggs	Dicks	Gekas
Boner (TN)	Dingell	Gibbons
Bonior (MI)	Downey	Glickman
Borski	Durbin	Gonzalez
Bosco	Dwyer	Gordon
Boucher	Dymally	Guarini
Brooks	Dyson	Hamilton
Bruce	Early	Hatcher
Bryant	Eckart (OH)	Hawkins
Hayes	Mrazek	Smith (NJ)
Hefner	Murtha	Solarz
Hertel	Natcher	Spratt
Horton	Neal	St Germain
Howard	Nelson	Staggers
Hoyer	Nichols	Stallings
Hubbard	Nowak	Stenholm
Huckaby	Oakar	Stokes
Hughes	Obey	Stratton
Hutto	Olin	Swift
Jenkins	Ortiz	Synar
Jones (NC)	Owens	Tallon
Jones (TN)	Panetta	Tauzin
Kanjorski	Pease	Thomas (GA)
Kaptur	Penny	Torres
Kastenmeier	Pepper	Torricelli
Kennelly	Perkins	Towns
Kildee	Price	Traficant
Kolter	Rahall	Traxler
Kostmayer	Rangel	Udall
LaFalce	Ray	Valentine
Leath (TX)	Reid	Vander Jagt
Lehman (CA)	Richardson	Vento
Lehman (FL)	Rinaldo	Visclosky
Leland	Robinson	Volkmer
Levin (MI)	Rodino	Walgren
Levine (CA)	Roemer	Watkins
Lewis (CA)	Rose	Weaver
Lipinski	Rostenkowski	Weiss
Lloyd	Rowland (GA)	Wheat
Lowry (WA)	Roybal	Whitley
Manton	Russo	Whitten
Martinez	Sabo	Williams
Mazzoli	Scheuer	Wilson
McCloskey	Schumer	Wirth
McCurdy	Seiberling	Wise
McHugh	Sharp	Wright
Meyers	Shelby	Wyden
Mineta	Sikorski	Yates
Mitchell	Sisisky	Yatron
Mollohan	Skelton	Young (MO)
Montgomery	Slattery	
Morrison (CT)	Smith (FL)	

NAYS—129

Armey	Gunderson	Oxley
Badham	Hall, Ralph	Parris
Bartlett	Hansen	Petri
Barton	Hendon	Porter
Bateman	Henry	Pursell
Bentley	Hiler	Regula
Bereuter	Holt	Ridge
Bilirakis	Hopkins	Rogers
Brown (CO)	Hunter	Roth
Broyhill	Hyde	Roukema
Callahan	Ireland	Rowland (CT)
Chandler	Jacobs	Saxton
Chappie	Jeffords	Schaefer
Coats	Johnson	Schroeder
Cobey	Kasich	Schuette
Coble	Kindness	Sensenbrenner
Coleman (MO)	Kolbe	Shaw
Combest	Lagomarsino	Shumway
Conte	Latta	Shuster
Coughlin	Leach (IA)	Siljander
Courter	Lent	Skeen
Craig	Lightfoot	Smith (NE)
Dannemeyer	Lott	Smith, Robert (NH)
Daub	Lowery (CA)	Snowe
Davis	Lujan	Solomon
DeWine	Luken	Spence
Dickinson	Lungren	Strang
DioGuardi	Mack	Stump
Dornan (CA)	Madigan	Sundquist
Dreier	Martin (NY)	Swindall
Eckert (NY)	McCain	Tauke
Edwards (OK)	McCandless	Taylor
Emerson	McCollum	Thomas (CA)
Evans (IA)	McEwen	Vucanovich
Fawell	McKernan	Walker
Fields	McKinney	Whitehurst
Fish	McMillan	Whittaker
Franklin	Michel	Wolf
Gallo	Miller (WA)	Wylie
Gilman	Molinari	Young (FL)
Gingrich	Moorhead	Zschau
Goodling	Morrison (WA)	
Gradison	Myers	
Green	Nielson	

NOT VOTING—106

Addabbo	AuCoin	Boehlert
Akaka	Barnes	Boland
Applegate	Bevill	Bonker
Archer	Bliley	Boulter
Boxer	Gray (PA)	Moody
Breaux	Gregg	Moore
Broomfield	Grotberg	Murphy
Brown (CA)	Hall (OH)	O'Brien
Burton (IN)	Hammerschmidt	Oberstar
Bustamante	Hartnett	Packard
Campbell	Heftel	Pashayan
Carney	Hillis	Pickle
Chappell	Jones (OK)	Quillen
Cheney	Kemp	Ritter
Clay	Kleczka	Roberts
Clinger	Kramer	Roe
Coelho	Lantos	Rudd
Collins	Lewis (FL)	Savage
Crane	Livingston	Schneider
de la Garza	Loeffler	Schulze
DeLay	Long	Slaughter
Dixon	Lundine	Smith (IA)
Donnelly	MacKay	Smith, Denny (OR)
Dorgan (ND)	Markey	Smith, Robert (OR)
Dowdy	Marlenee	Snyder
Duncan	Martin (IL)	Stangeland
Edgar	Matsui	Stark
Fiedler	Mavroules	Studds
Flippo	McDade	Sweeney
Foglietta	McGrath	Waxman
Ford (MI)	Mica	Weber
Fowler	Mikulski	Wolpe
Frenzel	Miller (CA)	Wortley
Garcia	Miller (OH)	Young (AK)
Gephardt	Moakley	
Gray (IL)	Monson	

□ 1240

The Clerk announced the following pairs:

On this vote:

Mr. Addabbo for, with Mr. Grotberg against.

Mr. Pickle for, with Mr. Lewis of Florida against.

Mr. Mica for, with Mr. Ritter against.

Mr. Moody for, with Mr. Weber against.

Mr. Garcia for, with Mr. Wortley against.

Mr. DAVIS and Mr. GILMAN changed their votes from "yea" to "nay."

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

The SPEAKER pro tempore (Mr. DANIEL). Pursuant to House Resolution 357 and rule XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 2443.

□ 1242

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 2443) to limit the number of days a depository institution may restrict the availability of funds which are deposited in any account, with Mr. DURBIN in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. Pursuant to the rule, the first reading of the bill is dispensed with.

Under the rule, the gentleman from Rhode Island [Mr. ST GERMAIN] will be recognized for 30 minutes and the gentleman from Ohio [Mr. WYLIE] will be recognized for 30 minutes.

The Chair recognizes the gentleman from Rhode Island [Mr. ST GERMAIN].

Mr. ST GERMAIN. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, millions of hard-working Americans carry their paychecks down to the bank every week in anticipation that they can use the funds to buy groceries, pay the rent, buy clothes, and other necessities.

In all too many cases, they don't have access to the money they have earned. It is tied up by banking policies, check hold policies, that say the customer has to wait days, and days and, sometimes, weeks and weeks, before the bank says the money is available.

H.R. 2443 is designed to change this outlandish policy—this age-old game of allowing banks to play with and profit from your money, the float—while the customer waits.

Some may suggest that these are just minor inconveniences and that the Congress really ought not be worried.

For the well-heeled with big balances in their checking accounts, the need for this legislation may, indeed, seem remote. But, for the millworker, the salaried employee, the retiree of modest means, and to others who must pay their basic living expenses out of their weekly or monthly income, these arbitrary check holds are a disaster.

It is a traumatic, costly and embarrassing experience for the consumer who becomes a pawn in any bank's check hold schemes.

I can guarantee that the legislation has real meaning for Mrs. Lucy Cody of Boston. Last year, she deposited $1,413.45 in a Boston bank. Most of these deposits were in cash, but about $400 was in checks and an American Express money order. Mrs. Cody assumed that the deposits, since they had included a preponderance of cash would be credited without delay. So she proceeded to write checks on the account, only to have the checks returned. She ended up with $296.30 in return check fees and the embarrassment of having checks for such items as her son's Boy Scout uniform dishonored by the bank. It all happened because her bank had placed an arbitrary 2-week hold on the account.

Over the past few years, the House Banking Committee and Members of the House have received a flood of letters from consumers describing the inconvenience and financial hardship they face when a financial institution holds their deposited checks for an inordinate period of time. Some come from those hit with bounced check charges as high as $30, an exorbitant fee when the Federal Reserve tells us it only costs 36 cents to return a bad check. Others come from those who can least afford having their money tied up for weeks on end—our elderly, our youth, and our citizens living paycheck to paycheck.

These letters come from all over the country, representing your congressional districts as well as mine.

This is not organized, canned, computer-generated mail. This mail comes from individuals—housewives, senior citizens, working men and women, small business people, parents and students. The stationery varied from standard, to lined pads to scraps of paper.

Don't think the victims of check holds are simply unsophisticated consumers. It can happen to even the most knowledgeable.

I have a letter from a man in Philadephia who says he is a former banker and his wife a former bank regulator. He was caught with a pile of overdraft fees when his bank decided to place a 14-day hold on an IRS tax refund. He had written checks on the deposit assuming, as any reasonable person would, that the bank would give immediate credit for a U.S. Treasury check.

It's not an isolated case. From my own State of Rhode Island, I have a letter from a couple in Pawtucket who thought that their $1,212 tax refund check drawn on the good U.S. Treasury could be treated as cash. But their banker said no. This is the bank where these people have their mortgage loan on their home, their loan on their automobile and where they did all their banking business. They were told they would have to wait 5 to 10 days while the check cleared, just to make sure the United States didn't go out of business before it cleared.

But, don't blame just the banks in Philadelphia and Rhode Island. Chicago has its Refrigerator and its own version of the check hold game. I received a letter from a copy editor at the Chicago Tribune who deposited a check for $5,000 into his account at a Chicago bank. Five days later, this individual attempted to withdraw $50 from the bank's ATM but was unsuccessful. Puzzled, he called the bank and was told that it had put a 10-day hold on not only the $5,000 deposit but also on the $1,400 already in his account. Not only had the bank tied up this individuals entire account because of the $5,000 deposit, but he was informed by the company that issued the check that it had cleared its account just 4 days after it was deposited in the Chicago bank.

It is for this reason that 125 of us were cosponsors in the 98th Congress and 146 in the 99th Congress. After extensive hearings in the 98th and 99th Congress, we today respond to these letter writers, whose complaints are certainly justifiable, by passage of H.R. 2443, the Expedited Funds Availability Act.

H.R. 2443 is based on the simple premise that customers are entitled to have access to their deposited funds as rapidly as modern technology allows. The bill mandates the maximum number of days a financial institution can hold a deposited check, cash, or funds transferred by wire without freeing up the funds.

For the first 3 years of the bill, local checks will be available for withdrawal in just 1 to 3 business days. Most out-of-State checks can be withdrawn on the seventh business day after deposit.

After 3 years, local and in-State checks will be available for withdrawal the next business day after deposit, and all other checks by the fourth business day after deposit.

I would like to stress that when the House Banking Committee passed H.R. 2443, we had no intention of making life difficult for the financial community. Indeed, we have acknowledged that financial institutions need time to learn whether a check has cleared. For this reason, H.R. 2443 shortens, rather than eliminates hold periods. And, these shortened periods are phased in over a 3-year period.

Those lobbying against the bill are falsely claiming that shortened hold periods will increase the number of bad checks passed. However, the House Banking Committee repeatedly heard testimony that shortened check hold periods do not lead to an increase in fraud. Indeed, Jill M. Considine, New York State Superintendent of Banks, reported that 130 of 160 New York institutions surveyed had suffered no losses whatsoever from the State's 1984 check hold law. Of those institutions reporting losses, the average 6-month loss was only $1,811. New York's success is no small matter—the State boasts the largest banking market in the country and is home to four of the five largest bank holding companies.

This is not to say that check fraud does not exist. In an effort to be of assistance in controlling check fraud, the committee adopted an amendment granting the Federal Reserve Board authority to act to prevent check fraud. H.R. 2443 empowers the Fed to suspend for 45 days the mandated check hold schedule for a class of checks when such checks are directly related to a nonacceptable level of losses as a result of check fraud. Taken together with the Comprehensive Crime Control Act of 1984, which includes a new section on bank fraud specifically intended to apply to check kiting cases, H.R. 2443 gives the Federal Reserve and law enforcement agencies sufficient authority to respond to fraud-related concerns.

For this reason, I strongly oppose the "good-faith" amendment being bandied about. This amendment would allow a financial institution to disregard H.R. 2443 and hold a deposited check for as long as it wants if, and it's a big if, the institution has "reasona-

ble cause" to doubt whether the check is good. Come on. This is "doublespeak" in the best Orwellian tradition. What the amendment really means to say is that if you are from the wrong side of the tracks, speak with a foreign accent, or are of a certain color, your check is considered suspect. The amendment's potential for discrimination is only limited by the ingenuity of those practicing it. Worst of all, no one at the financial institution is held accountable when this discrimination is practicted. Do we want this supposedly noncontroversial amendment to interfere with a person's basic civil rights?

I don't want a bank teller being able to take away the rights of one of my constitutents simply because he might come into the bank dressed in work clothes, with muddy boots fresh from a construction job. That's the kind of thing that can happen when inexperienced tellers are given the job of sizing up a customer as the so-called good-faith amendment provides.

Let's look at the facts. Over 99 percent of all checks written are paid the first time through the collection process. Or, put another way, only 0.86 percent, or approximately 350 million checks are returned unpaid each year. Of these returned checks, 50 percent are paid the second time through. And, the average returned check is only for $100 or less.

My heart can't bleed for an industry that makes $290 million a year in check float by holding onto money that is rightfully yours—not to mention $3.5 billion a year reaped from returned check fees. These are fees created when the banks played the float game with your money.

I am sure some of you have heard the argument that H.R. 2443 will force bankers to raise customer's fees to make up for losses caused by fraud. I can only suggest that since fraud will not increase under our bill, our friends in the financial community are just looking for another excuse to hike up fees. Don't forget that the cost of basic banking services is skyrocketing, that the poor and elderly are being hard hit by the multiplication of service charges and minimum balance requirements, and that the banking industry is increasingly turning it back on all but the wealthy fat cats.

These skyrocketing fee increases wouldn't be due to greed, would they?

H.R. 2443 will not place an undue burden on financial institutions, will not cause an increase in check fraud and will not warrant an increase in bank service charges. It will, however, free up customers' deposited funds in a shorter period of time, will force financial institutions to disclose their check hold policies and will allow the consumer to sue the bank, thrift or credit union should they fail to abide by the tenets of H.R. 2443.

I hope you will join your 146 House colleagues, the National Conference of State Legislatures, credit union and consumer groups, among others, in supporting H.R. 2443.

I also hope you will lend your support to the thousands upon thousands of consumers whose checks have been held for weeks on end for no reason, to those who have faced up to costly bounced check charges because indiscriminate holds were placed on their accounts. And to those low- and middle-income consumers living from paycheck to paycheck who face severe difficulties when their money is held for inordinate periods of time.

□ 1255

Mr. WYLIE. Mr. Chairman, I yield myself 5 minutes.

Mr. Chairman, I rise to urge my colleagues to vote in favor of H.R. 2443, the Expedited Funds Availability Act.

As the sponsor of the first bill of the 99th Congress to include a provision dealing with funds availability, H.R. 15, I am well aware of the abuses some financial institutions impose on consumers in the form of unreasonably long hold periods on deposited funds. During hearings we learned that some financial institution prevent depositors form withdrawing funds deposited by check in their financial institution, sometimes for periods as long as 3 weeks, while the institution itself has the use of these funds in the form of provisional credit usually within 1 or 2 days after the deposit is made. The depository institutions explain that hold periods are necessary to protect the institution from checks that "bounce" or are returned for insufficient funds. Hopefully, the marketplace will be able to develop, before too long, a mechanism whereby "bounced" checks can go through the system as quickly as honored checks.

Ordinarily, I would advocate a free market approach to this problem. However, during our hearings on this problem I was pursuaded that this approach may not be enough incentive for all institutions to provide consumers with their funds as soon as possible. In my community there has not been a problem and availability is the norm. Unfortunately there are some rotten apples in every barrel. In part, that is why I introduced H.R. 15, which mandated depository institutions to develop and disclose all availability policies and that the Federal Reserve Board formulate a system with the goal of providing 1-day availability on locally drawn checks and 3-day availability for deposits made with all other checks.

Under the leadership of Chairman ST GERMAIN, the Banking Committee reported out an alternative solution to this problem. I want to take this opportunity to commend the chairman for his efforts in this regard. The bill, as reported, is an exemplary consumer protection measure, the goals of which I fully support.

In short, H.R. 2443 provides for a 3-year phase-in period during which depository institutions must make deposited funds available to consumers within reasonable time periods. At the end of 3 years, all local checks must be made available not later than the business day following the business day in which the check is deposited. A similar rule applies for Government checks and institution originated checks, such as cashier's checks and certified checks. Other checks, primarily drafts drawn on nonlocal institutions, must be made available after 3 business days.

Furthermore, complete disclosure of an institution's check hold policies must be made to all customers, and the Federal Reserve Board is given enhanced authority to suspend the operation of the act for up to 45 days at a time where it is determined that the availability schedule is causing increased losses due to fraud.

I would like to add at this point that H.R. 2443 has the support of the American Association of Retired Persons, the National Small Business Association, the AFL-CIO, and consumer groups such as the Consumers Union and the Consumer Federation of America. These groups represent the consumers this bill is designed to protect—our constituents—who are counting on us to address the problems of unreasonably long hold periods on deposited checks.

While this is basically a good bill, there is still room for improvement. The Federal Reserve Board has expressed concern that the availability schedules contained in the bill are too rigid and do not give the Board sufficient flexibility to deal with the inevitable complexities that are sure to arise in the future and that presently occur with the check return process. Nevertheless, I believe that H.R. 2443 represents legislation that strives to provide a solution to a very pressing problem.

The members of the Banking Committee have put in a lot of time and effort into shaping a bill that provides protection for consumers without making it impossible for honest institutions to protect themselves from dishonest customers. In that regard Mr. SHUMWAY will offer an amendment which will make that concept even more clear. In any event, I would urge Members to support H.R. 2443 so consumers will have the full use of their deposited funds at the earliest practical time.

Mr. Chairman, I reserve the balance of my time.

Mr. ST GERMAIN. Mr. Chairman, I yield such time as he may consume to

the gentleman from Texas [Mr. GONZALEZ].

Mr. GONZALEZ. I thank the gentleman for yielding me this time, and I rise in support of this bill.

Mr. Chairman, the Expedited Funds Availability Act, which would prohibit banks from placing unreasonable "checkholds" on customer deposits, is an important and necessary piece of consumer protection legislation. The act is important because it would at once prohibit current checkhold abuses by mandating equitable funds availability schedules, and promote the operation of free market forces in the banking industry by requiring banks prominently to disclose their hold policies to their customers. The act is necessary, because despite repeated prodding from Congress, and from banking regulators, the industry as a whole has not voluntarily corrected the current abuses.

Most of us, at one point or another, have experienced at least annoyance or inconvenience at being denied access to funds deposited in our bank accounts days or even weeks after the deposits were made. For the millions of banking customers who pay their basic living expenses out of their weekly or monthly income, inordinately long hold policies constitute far more than a mere inconvenience. Such practices can result unjustifiably in bounced checks, damaged credit ratings and foregone purchases of necessities. Clearly, the current abuses fall hardest on the middle- and lower-income customers who are least able to wait for their funds.

The banking industry has failed to demonstrate a legitimate need for current checkhold practices, which often result in the freezing of deposits for 2 weeks or more. Long hold policies cannot be justified as being necessary to prevent losses due to returned checks or fraud, since current technology permits the processing of most checks within just a few days. Nevertheless, some banks continue to freeze accounts for 2 weeks or more after deposits are made. Even without current technological advances, the banking industry's actual experience with returned checks suggests that the risk of loss from such occurrences is minimal. Information presented to the Banking Committee demonstrated that more than 99 percent of all checks are paid the first time through the collection process, and 60 percent of the remaining fraction of 1 percent are paid upon second presentment. Moreover, a number of banks have voluntarily adopted policies granting customers immediate or nearly immediate access to check deposits, a fact which belies claims that lengthy holds are necessary.

One can only surmise that the real reason for the imposition of long checkhold periods lies elsewhere. The Federal Reserve Board estimated that the banking industry may receive up to $3.5 billion per year in service charges for returned checks. Inordinately long hold periods increase the chances that customers may write checks for which there are insufficient accessible funds, and may result in service charge income to the banks. In addition, the Banking Committee determined that the industry "earns" over $290 million per year by taking advantage of the "float"—that is, by investing customer funds that have been received by the bank, but not yet made available to the customer.

Bank income attributable to the freezing and related use of customer funds is inequitable. The Expedited Funds Availability Act would curb this inequity by mandating funds availability schedules that are rationally related to actual check processing requirements. The act's notice provisions should foster competition among banks for the funds of more discriminating consumers. These remedies are reasonable and necessary and long past due.

I strongly urge my colleagues to support H.R. 2443 as reported out of the Banking Committee.

Mr. ST GERMAIN. Mr. Chairman, I yield 2 minutes to the gentleman from New York [Mr. LAFALCE].

Mr. LAFALCE. I thank the gentleman for yielding me this time.

Mr. Chairman, I rise in support of H.R. 2443, the Expedited Funds Availability Act.

As a sponsor of legislation in 1984 and 1985 to improve the availability of funds to bank customers, I am pleased that the House Banking Committee has approved a bill to end the so-called float game. As was well documented during committee hearings, virtually every bank customer at one time or another suffers inconvenience or expense, or both, at the hands of bank float managers. I am convinced that a legislative solution to the problem is necessary, and I urge my colleagues to support this important bill.

To illustrate the nature of the problem, let me point to two specific examples. I heard from one constituent who received a large check—close to $50,000—from the settlement of an estate. The check, drawn on a trustee account in one bank, was subject to a 2-week hold period when my correspondent deposited it in a bank across the street. The sad, almost unbelievable part of this story was that the recipient of the inherited windfall was in fact indigent, had been living on the streets, and had little more than the clothes he wore and a few dollars in his pocket when the trustee of the estate found him.

In yet another case, a Philadelphia woman wrote to tell me that when her purse was stolen, she closed her checking account only to find that when she opened another at the same bank, a hold of 10 days was placed on the $1,900 of so-called available funds from the enclosed account. The woman suffered double jeopardy while the bank got to play twice with the same dollars.

These stories represent particularly egregious examples of the problems faced by bank customers. They are not the norm, yet virtually every bank consumer suffers at some time or another inconvenience or expense at the hands of bank float managers. That is why this legislation is essential.

I would like to point out for the record, however, that my own preferred approach was structured differently from this bill. As a matter of philosophy and practicality, I proposed that the Congress establish a mandate and general guidelines for the regulators to follow in speeding the availability of deposited checks. To accomplish this, I introduced legislation modeled on the New York State law which directed the Federal Reserve Board to formulate an availability schedule for consumers' deposits. In contrast, the legislation reported by the Banking Committee establishes by legislation a very stringent schedule, and provides little regulatory flexibility in dealing with problems that might arise. Although I strongly support the bill, I feel that, as a general principle, the complexity of the check clearance system requires that the regulators be given more discretion than they are allowed under H.R. 2443.

For this reason, I plan to support the amendment my distinguished colleague from California, Mr. SHUMWAY, intends to offer which would permit bankers to waive the availability schedules established under the bill in instances where there is a reasonable belief that a check has not or will not clear because of check kiting, fraud, or bankruptcy. Under the bill as approved, banks in such instances would not have the option of placing a temporary "hold" on a check, but would be required to reject it outright or accept it for collection, a practice that is accompanied by a fee charged to the consumer. In my mind, the consumer would suffer less inconvenience and cost if institutions were allowed to make a reasonable exception to the mandated availability schedule. Legislation passed by the States has incorporated such a "good faith" exception, and I would hope that as the bill moves through the Congress, such an exception will be included. There are a few other amendments I believe desirable, and I have enumerated them in separate remarks in the committee report.

Despite my reservations, it is imperative that Congress take action to deal with this problem. I urge my col-

leagues to support this important legislation.

Mr. WYLIE. Mr. Chairman, I yield 3 minutes to the gentleman from Connecticut [Mr. McKINNEY].

□ 1305

Mr. McKINNEY. Mr. Chairman, I rise in strong support of this legislation and I would like to congratulate my colleague from Rhode Island, the chairman of the Banking Committee, and my colleague from Ohio, the ranking Republican member of the Banking Committee, for their efforts in bringing this bill to the floor today.

H.R. 2443, the Expedited Funds Availability Act, is a classic legislative response to the outraged cries of the public we represent. It is a measure of the frustration that has built up as a result of the excessive delays depositors usually have in gaining access to their deposited funds. Even as the financial industry made increasing use of high technology to expedite transaction information, that same technology did not seem to be applied to the handling of checks.

Since there was no established timeframe for financial institutions to follow in processing checks, each institution set its own policy regarding clearance. The period the person depositing a check might have to wait before being able to use his money could vary from a few days to more than 2 weeks depending on a number of factors. In some cases, access to any funds in his account could be denied during the hold period.

As the American public became more aware of how its money was being used, and for whose benefit, more attention was focused on check clearing policies. Adding insult to injury, excessive delays in making funds available frequently caused checks to be returned for insufficient funds, which resulted in substantial penalties. Our committee's report accompanying this bill cites a number of these situations.

I am certain that each Member has heard a horror story from constituents about this problem. In many cases, the policy of the financial institutions seem to have been developed with no logical basis, or at least no modern basis. As I was preparing for this debate, I remembered a problem faced by one of my constituents several years ago which underlined the irrational behavior of some bankers.

My constituent took to her bank a $10,000 U.S. Treasury note due to mature the next day. Her bank accepted the Treasury note and informed her that it would take a week before she could draw on the funds. After inquiring through my office about any Federal guidelines or regulations, my constituent presented to the same bank, 3 months later, Treasury notes totaling $50,000 that were at maturity. This time she was told it would be 10 days before she could use her money. Angered, she disputed that and cited information given by my staff. She wrote to tell me that her funds were available within 3 days. The different periods alone should illustrate that something needs to be done. But to make it worse, we were talking about U.S. Treasury funds! In my opinion, this person should have been able to get almost instantaneous credit after the notes had matured and were given to her bank.

There are many other stories I could tell, but the point is usually the same. For no reason that we can understand, other than greed perhaps, someone else wants to use our money for a few days or so. That bothers my constituents, my family, myself and, I think, most Americans.

The objections of the financial institutions and their trade associations are a few days too late. If we cause a few problems with this bill as a result of fraudulent or criminal activities, the impact will be minimal compared to the consumer benefit.

Banks and thrifts in Connecticut have been innovative in approaching the needs of their customers in the past. They were in the forefront in developing interest-bearing checking accounts and variable rate mortgages; many offer so-called "life-line" accounts. I think that they will work to develop competitive check clearing practices as well.

The bill we are considering is not an extreme measure. It simply tells financial institutions to stop dragging their feet at their customers' expense. I find it to be ironic, as we stand here on the threshold of the 21st century, that some banks are still kicking and screaming about being dragged into the 20th century. Well, guys, welcome to reality. And don't come crying to me if some other industry swallows up your business while they eat your lunch.

Mr. ST GERMAIN. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from Minnesota [Mr. VENTO].

Mr. VENTO. Mr. Chairman, I rise in support of this legislation and to commend my chairman, Representative ST GERMAIN for bringing this important consumer protection legislation to the floor.

The Expedited Funds Availability Act strikes a reasonable balance between the rights of bank customers to have rapid access to money they deposit in a bank and legitimate efforts to insure that our banking system is not subject to check fraud. This is accomplished by establishing clear standards for the financial institutions and the Federal Reserve Board which take into account current check clearing practices and require the development of more efficient technologies to provide more rapid access to the customer's money.

This legislation will provide immediate benefit to the American consumer by providing next day availability for deposits made with cash, wire transfers, checks drawn upon branches of the same institution located in the same area, U.S. Treasury checks, State or local government checks, cashiers, certified, tellers, and depository checks. The consumer will also immediately benefit from the bill's provision which requires that checks drawn on local banks be available within 3 business days and nonlocal checks be available for withdrawal within 7 business days.

The interim standards in this measure reflect what is technically possible now and requires that the American banking system will not force their customers to wait longer than necessary to be able to use his or her own money.

The American consumer will benefit even more in the near future because this legislation mandates the development of a more efficient national check clearing system. Within 3 years every consumer will have next day availability for all local checks and fourth day availability for nonlocal checks.

Mr. Chairman, I'm sure many of the people we represent have had the extremely frustrating experience of depositing a check in our account which is subject to an unreasonably long "hold" period. At the very least, this causes a bank customer inconvenience. But it can likely result in more serious ramifications and embarrassment if the customer writes a check based on the assumption that the money he deposited has been credited to his account.

Long hold periods have even become a serious problem for Veterans and Social Security recipients, pension recipients, and persons on a fixed income. For these kinds of checks there is no reason for the bank which cashes the check should not provide timely credit, surely, these Treasury checks will be honored by the Federal, State, or local government which has issued them. In many instances, the bank receives credit for these checks the same day and rarely will it take longer than a single day. Under the policy established by this proposal institutions which have placed holds on these kinds of checks will no longer be able to force senior citizens to wait for their Social Security money. Other persons are also harmed by unreasonably long check holds. Small businessmen, families, who live from paycheck to paycheck and must watch every penny, people new to a community, and people buying a home or making other large purchases must have

access to their money as soon as possible.

If the check clearing system was so inefficient that it took 14 to 21 days for an out of town check to be credited to a bank then these long hold periods would be justified. However, with today's technology banks receive credit for most checks within 24 hours. The concept embodied in this legislation is that a customer should have access to his money as soon as the bank receives credit for it. Many banks try to provide this service currently and this legislation will not create a burden for those financial institutions. However, those banks which have been playing the float with the consumer's money should earn their profits, not simply achieve it by such credit freezing tactics.

This legislation has been criticized as a overreaction to a minor problem. Opponents of this bill acknowledge that banks do receive credit for deposits before they credit the money to the customer's account. Opponents claim that "everybody does it and besides the loss of a couple of days interest on your paycheck doesn't amount to much money." In essence the opponents are saying "where's the beef?"

This situation is similar to the butcher with the heavy thumb or an inaccurate scale. If the butcher shorts you a couple of ounces each week on hamburger, you will probably never notice. But, if you add up those couple of ounces it comes to a lot of beef over a year. It also means a lot of unearned extra profit for the butcher each week. We don't allow butchers to do this. The Government test the butchers scales for accuracy and requires that he keep his thumb off the scale when weighing our hamburger.

This legislation does the same thing for banks. This legislation recognizes that this hold may not amount to much money on a single paycheck, but when you add up those delays every week or month and you add up thousands or millions of paychecks you can quickly see then the long hold periods mean a substantial amount of money to American bankers and a substantial loss to the American consumer. This bill means that the banker has to use an accurate scale, and he can't inappropriately profit by holding unreasonably consumer access to their deposits.

Mr. Chairman, a good deal is being said during the debate concerning fraud and criminal actions that may occur regarding check cashing. This proposal, the expedited availability of funds, has little or no relationship with stemming such improper and illegal actions. This is a misleading argument, no financial institution is required to cash checks they feel are fraudulent—in fact they are under legal mandate to do the opposite.

The problems with unreasonable hold policies has been explored by the Banking Committee for several years. Under the leadership of the chairman, the committee has urged the Federal Reserve Board and our Nation's financial institutions to develop more responsible policies. Regrettably, they have not taken the initiative to do so. As a result of the public's concern and the unresponsiveness of the financial community and the financial institution regulators, the Banking Committee believes that Congress must act to protect the interests of the American consumer. The legislation we bring before you today does just that and I urge my colleagues to support the legislation.

Mr. SHUMWAY. Mr. Chairman, I yield myself 3 minutes.

Mr. Chairman, the bill before us today has been widely cosponsored by Members of Congress. It reflects a subject which has been before this body for some period of time. It reflects the efforts of a number of hearings that we have held in the Banking Committee, and I think it indeed is a worthy goal.

There are five States that have taken similar action, and we understand that many States anticipate discussing delayed funds availability statutes in coming sessions.

There can be no doubt about the fact that banks in many cases have taken advantage of consumers. They have had a free float, and I think the fact that many of us have had personal experience in that regard testifies that that unfair practice exists, and that some banks have engaged in it. Indeed in my own case, I have a son who worked between school terms, earned some money, and deposited that money in a moneymarket account in a small savings and loan. I was with him one day when he went to that S&L to make a withdrawal, and I noticed there on the teller's window a sign that said that out-of-State personal checks can be held for as long as 30 days before they will be deposited to the account of that particular depositor.

Now, one would think that in a free-market setting, a depositor having that kind of notice before him would be tempted to go elsewhere. And sure enough, in the case of my son's savings and loan, just a few weeks after this experience we were given notice that that S&L was going to be the subject of one of the administrative mergers that had been negotiated by the FSLIC, and it was swallowed up in another and larger institution.

I think, therefore, that Members of this House should realize that the forces of competition cannot be ignored. Banking is a competitive industry, and especially so since deregulation, and indeed many Members of this body as well as the other body have approached this subject in a more free-market setting than would be presented by this bill.

My problem with H.R. 2443 is that it really places banks in a straitjacket. It denies them any kind of discretion with reference to their business, and in that regard it denies the influence of those market forces that have had a role in the past.

I think the bill can be amended to be a very satisfactory bill, and I am proposing an amendment that I will offer when we get into the 5-minute rule. That is not the good-faith amendment that the chairman referred to that was offered in the committee, but it is a more narrowly drawn amendment, specifically describing three situations and requiring a reasonable belief on the part of the bank before this procedure could be invoked. The time limitations would still be in place. My amendment does not gut the bill in that regard. Banks would still be subject to administrative enforcement by the Federal Reserve and other agencies. They would be exposed to civil liability, including class actions, should they misuse this particular discretion.

Mr. Chairman, I think this is a step in the right direction toward making this bill palatable and usable and serviceable to all Americans, both bankers and consumers.

Mr. ST GERMAIN. Mr. Chairman, I yield 2 minutes to the gentleman from Connecticut [Mr. MORRISON].

Mr. MORRISON of Connecticut. Mr. Chairman, I thank the chairman of the committee for yielding me this time.

I think this is important consumer legislation. I am pleased that we are starting this session of Congress with this kind of positive legislation to help the average American consumer. For too long, too many institutions have thought that the consumer would just stand idly by, and seeing his or her resources deposited in a bank and not available to be used, but with the bank making a profit from it. That does not mean that every bank has been doing this nor that every consumer has been hurt, but the fact is that it is a real problem.

□ 1315

This legislation addresses it in a very reasonable way. There is a 3-year phase-in so that banks can adjust to what they are going to have to do. Most banks are already complying with what is down the road or close to doing so. They will be able to comply with this legislation; but consumers will now be able to count on a national legal standard. When they deposit a check in a bank, they will know when that money will be available to them. They will not be embarrassed. They will be able to plan their affairs.

This is the kind of legislation that Congress should be passing. It is responding to a real need. It is being done in a responsible and gradual way. Banks are left with the ability to respond to fraud. They should reject for deposit instruments that they believe are fraudulent, but they should not burden each and every consumer with an unfair tax on his resources for all those good checks which people are depositing day in and day out in their bank accounts, with the hope and in fact the right to have that money immediately available for use or available as quickly as our technology can make it available.

Mr. WYLIE. Mr. Chairman, I yield 3 minutes to the gentleman from California [Mr. DREIER].

Mr. DREIER of California. Mr. Chairman, I think everyone is in agreement that something must be done to clamp down on instances where banks and other depository institutions engage in abusive check hold practices. And although most banks provide reasonable access to deposited funds, I, like most of my colleagues, believe there are enough bad applies to make national availability schedules necessary. However, H.R. 2443 goes well beyond what is reasonable and necessary, and I cannot support it in its current form.

This bothers me, Mr. Chairman, because I was an early cosponsor of this legislation. Also, after witnessing the success of California's new delayed funds law, I felt reasonable legislation could be enacted giving the Fed broad authority to implement a better system for expediting funds. However, I was extremely disappointed that the Banking Committee abandoned the basic principals of this legislation, which is to eliminate abusive check hold practices.

If H.R. 2443, as currently drafted, becomes law, it will rigidly mandate the creation of a system that will be extremely costly to implement. These are costs that will undoubtedly be passed on to the one group we are trying most to protect: the consumers.

For instance, the interim schedule for all depository institutions is unrealistic, and will restrict the ability of banks to protect themselves from the risks of bad checks. As a result, I have been told by several banks that those types of checks which are currently accepted for deposit, subject to an availability delay, will in many instances be rejected. Under such circumstances, banks would accept these checks on a collection basis only, a method that is extremely slow and costly. For all other checks, this bill will encourage banks to place blanket holds to limit the additional risks brought on by its enactment.

For banks, this legislation will require a multibillion dollar investment in computers, software, and electronic check-clearing equipment, the cost of which will be passed on to consumers. In addition, the Fed is mandated to develop and implement an expedited check return system in 3 years, a feat which is, at best, unrealistic given the technology limitations of the current archaic check return system. The cost of this requirement, $30 million a year according to the Congressional Budget Office, will be passed on to the banks which will, of course, pass it on to the consumer.

Ultimately, these requirements could lead to the creation of a national electronic payments system, thereby eliminating the use of paper checks. And again, this will require a huge investment that will be passed on to—you guessed it—the consumer.

I urge my colleagues to consider what it would mean to the average consumer if this legislation becomes law. There is a more reasonable and cost-effective approach which would address both the abusive and systemic problems inherent in the current payments system. Such an approach would consist of stricter bank disclosure rules so that customers are aware of check hold policies. Also, the Fed should be given broader powers to address the more technical aspects of an improved check return system, and to determine necessary exemptions.

H.R. 2443, in its current form, is clearly excessive and burdensome, and I urge my colleagues to oppose it.

Mr. ST GERMAIN. Mr. Chairman, I yield 1 minute to the gentleman from Tennessee [Mr. COOPER], a member of the committee.

Mr. COOPER. Mr. Chairman, I rise in strong support of H.R. 2443, the Expedited Funds Availability Act. I, along with many of my colleagues on the Banking Committee, was an original cosponsor of this bill, and a similar bill introduced in the 98th Congress. The Banking Committee has held extensive hearings on this bill in each of the last 2 years. I am pleased that this important piece of legislation is before the full House.

I wish to especially commend my chairman, the gentleman from Rhode Island, who has done yeoman's work in moving this legislation. He has once again shown himself to be a champion of the consumers of this country, and I look forward to working with him on other consumer issues throughout this second session.

Mr. Chairman, as some of my colleagues have already indicated, H.R. 2443 is long overdue legislation. For too long, banks and other depository institutions, have played the infamous "game of float," in which they earn money—estimated to be several hundred million dollars—by denying consumers access to their own money. While not every financial institution is engaged in this practice, enough of them participate in the game of float to affect the lives of millions of ordinary people.

It is, after all, ordinary citizens who suffer the most from delayed availability of their funds, for they lack the clout of wealthy or corporate customers who can assure early access to their own money. To ask those who can least afford it to suffer through long delays, is to turn fairness on its head.

H.R. 2443 as reported out of the Banking Committee would go a long way toward restoring a measure of fairness in this whole area. If the bill becomes law, banks would no longer be able to place holds on Social Security and other Government checks. Nor would they be able to take cash from hard-working people, and deny them the right to withdraw it for several days. In short, Mr. Chairman, H.R. 2443 would put an end to a whole set of outrageous and unfair practices.

While H.R. 2443 is not perfect, it does offer, I believe, a workable solution to a major problem. There are several, often repeated objections to the bill, however, which I would like to address briefly.

One is that the imposition of a mandatory schedule lies outside the traditional realm of legislative craftsmanship. The formulation of any such schedule, it is argued, should be left to the regulators in this case the Federal Reserve.

No Member of this House has more respect for the Fed than I do. However, in this area, the Fed has been dragging its feet for more than 8 years. It has shown little inclination to take action to end the clear abuses that have been all too well documented.

And, during that time, the problem has actually been getting worse. The Vice Chairman of the Fed, Mr. Preston Martin, testified before our committee, that consumer surveys commissioned by the Fed show an actual increase in the number of consumer complaints over the last 2 years. Thus, as Mr. Martin went on to say, "voluntary efforts do not appear to be providing a rapid solution to this problem." That is an understatement, to say the least, since the problem seems to be getting worse.

If voluntary actions are not solving the problem and if the regulators will not move aggressively in this whole area, then there is little choice but for Congress to act.

Another objection frequently raised against the bill is that the availability schedule is too rigid and will, in the end, cost consumers more than it confers in benefits.

I believe the availability schedules are reasonable. The requirement that all domestic checks be made available within 3 business days of deposit, would not take effect until 3 years after enactment. I think that is a rea-

sonable time period to allow depository institutions to prepare to adopt procedures to meet the 3-day goal. The other provisions of both the temporary and final schedules, seem more than fair, especially, since the banks have been profiting so greatly from the current float game.

In addition, there are, as others have pointed out, numerous exceptions allowed by the bill. One exception is that no bank need worry about turning over more than $5,000 a day to a customer, no matter how large his deposits. I was pleased that the committee adopted this common-sense protection for banks and other depository institutions.

The specific exceptions contained in the bill together with the authority given the Fed to suspend certain classes of checks from the bill's schedule, provide sufficent flexibility.

Nor should Congress fail to act, as is frequently suggested, out of deference to the States. While a handful of States have indeed enacted strong measures, the fate of similar measures in other states is uncertain at best.

H.R. 2443 would not preclude State action. It merely sets minimum national standards of availability. Individual States would still be able to enact more stringent measures designed to address local problems.

In sum, H.R. 2443 is long overdue. I join my chairman in urging this House to pass this important piece of consumer legislation.

Mr. WYLIE. Mr. Chairman, I yield 3 minutes to the gentleman from Indiana [Mr. HILER].

Mr. HILER. Mr. Chairman, the basic objective of the legislation before us today is to expedite the consumer's access to funds deposited in a financial institution. This is a worthy goal, one that I can wholeheartedly support.

We have all heard the horror stories concerning delayed funds availability. And while I believe these stories exaggerate the pervasiveness of the problem, few would argue with the proposition that something should be done to eliminate the problem that does exist. What is at issue today is not whether Congress should adopt measures to facilitate the expeditious availability of deposited funds to consumers; Rather, the issue before us is how this objective can best be accomplished.

It is on this question of method that I have serious problems with H.R. 2443. Unfortunately, the Expedited Funds Availability Act contains provisions for the establishment of excessively rigid funds availability schedules. This represents an unnecessarily draconian and interventionist approach to what is a limited, albelt frustrating, problem.

I am particularly concerned about the imposition of these rigid availability schedules, because there are strong indications that they simply may not be feasible under either the current check clearing system or any expedited system that the Federal Reserve is capable of developing within the next several years. As a result, the availability schedules contained in H.R. 2443 would expose depository institutions to an increased risk of losses from fraud.

Of course, there are many depository institutions throughout the country which currently give consumers prompt, if not immediate, credit for deposited funds. I have discussed this issue with several bankers back in the Third District of Indiana, and they have told me that the rigid funds availability schedules in H.R. 2443 would not pose a serious problem for them, because they now grant immediate credit to depositors in most cases. However, these banks are community banks in relatively small towns and cities, and they generally know their customers and communities well.

There are other depository institutions, particularly those in more urban settings, which would be exposed to a particularly high risk of losses from fraud as a result of the rigid schedules called for in H.R. 2443.

Some proponents of such schedules downplay the risk of losses to depository institutions by pointing to the fact that less than 1 percent of all checks are returned. However, what they fail to mention is that this small percentage of bad checks represents hundreds of millions of individual checks and billions of dollars. Returned checks written for less than $100, which under the Expedited Funds Availability Act's standard schedule will be available to the depositor the business day after deposit, alone represent about 185.5 million checks and hundreds of millions of dollars annually.

Returned checks can translate into significant losses for depository institutions. Some larger banks recently have reported annual losses of a few million dollars due to returned checks. These are substantial losses. Excessively inflexible availability schedules threaten banks with even greater losses due to bad checks and fraud.

And if banks and other depository institutions find themselves losing significant sums of money due to an unnecessarily inflexible funds availability schedule, they will to the greatest degree possible pass on these costs to consumers through the imposition of higher fees for other kinds of services. I do not recall receiving one constituent complaint regarding delayed funds availability; however, I have received several complaints about new and increased bank service fees.

A more effective approach to the problem of delayed funds availability lies in the adoption of measures that improve the operation of the marketplace with limited Government intervention. The most important step we can take is to require better disclosure of funds availability policies. I am pleased that H.R. 2443 does contain provisions that would require depository institutions to clearly and promptly disclose their funds availability policies.

Improved disclosure of bank policies regarding check holds will result in a more competitive and efficient market for bank services. Armed with complete information on the availability policies of banks, consumers will be better able to make rational decisions about where to do their banking. With improved disclosure, banks that impose excessively long holds on checks will be forced by competition either to change their policies or watch their customer bases erode.

Aside from improved disclosure, another step in the right direction would be to require the Federal Reserve to develop an expedited return item system. This provision, I am pleased to say, is also included in H.R. 2443.

I would add that to the extent that funds availability schedules are imposed on despository institutions, these should be determined by the Federal Reserve. The Fed has considerably more hands-on experience in this highly technical area than does Congress and would be better able to adapt schedules to special situations.

While I have serious problems with the method prescribed by H.R. 2443 for remedying the problem of delayed funds availability, I intend to support this bill today. I believe that this is the best bill one can expect the House Banking Committee to report, but I do not believe that it is the final legislative word on the issue. I am optimistic that the other body eventually will adopt an expedited funds availability bill that focuses on improved disclosure and provides more flexibility to the Federal Reserve in the establishment of availability schedules. And I am hopeful that when the House revisits this legislation, perhaps sometime later in this session, it will take up a conference report that better reflects my position on how the problem of delayed funds availability should be addressed.

Mr. ST GERMAIN. Mr. Chairman, I yield 1 minute to a distinguished member of the committee, the gentleman from Alabama [Mr. ERDREICH].

Mr. ERDREICH. Mr. Chairman, I rise in strong support of this measure. It is long overdue, and as many of the prior speakers have mentioned, some of the things we saw in our committee hearings stand out so strong that this sort of measure is crying to be passed. We saw that some 75 percent of the institutions surveyed in one report hold out-of-State checks for 6 business days or more and some 20 percent hold

those checks for more than 2 weeks time.

Now, those are funds of individuals, average consumer funds, being held by those institutions way beyond what the norm is in Alabama and its institutions I am proud to say in Alabama, in my own survey, Mr. Chairman, I determined that the norm is about 1 day at best at the most when funds have been credited; but across this country institutions have taken advantage of consumers.

Mr. Chairman, I rise in strong support of this legislation and urge its passage.

Mr. WYLIE. Mr. Chairman, I yield 3 minutes to the gentleman from Texas [Mr. BARTLETT].

Mr. BARTLETT. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, I can see and I think we can all see the bandwagon that everyone is trying to jump on of this so-called consumer legislation.

Mr. Chairman, I rise to oppose this legislation in the strongest form. This legislation is one of those bills that sounds good at first glance, but the result of the legislation, frankly, is contrary to the interests of the consumers that it serves to protect. The legislation is indeed fashionable, but it is terribly misguided.

Let us begin with what this legislation does. This legislation recognizes that a problem does exist on occasion in which a check is held needlessly for a consumer for processing; but the solution, Mr. Chairman, is worse than the problem, because the solution is to impose one national mandated standard for every consumer, for every institution, for every type of account, for every single situation in this country and leaving consumers with no choices.

Let me suggest that there are some problems that will occur if this legislation is passed and signed into law.

First, it will increase costs to the consumers, some estimates by as much as a billion dollars nationwide. Many banks, most banks do not have the sophisticated computer equipment that is needed to meet these mandatory and inflexible schedules.

It also increases consumer costs because it vastly increases the probability of fraud and check kiting schemes for which the consumers ultimately pay.

I commend to my colleagues the good faith amendment that my good friend and colleague, the gentleman from California [Mr. SHUMWAY] may well offer. I think good faith to exempt check kiting and fraud schemes is a helpful amendment.

Second, this legislation is not the best legislation we could have drafted. We could have drafted, and in fact should draft, simple disclosure legislation, disclosure to consumers as to what the rules are when they make their deposits, which would take care of the problem.

Consumers do have the right to know what their bank's policy is when they make their deposits and then the consumer can make an informed choice. If a consumer chooses to have one kind of account in one kind of institution, then that consumer has a choice and if those costs are lower, the consumer pays those lower costs.

Third, the bill is not flexible. The Federal Reserve has told us that it is not flexible. The Federal Reserve has told us that it will not work. The Federal Reserve has told us, and I quote from a letter from President Martin:

> Currently, the vast majority of local checks are not received by the payor institution until well after the start of business. It is extemely doubtful that it would enhance check collection systems to provide for delivery of all checks.

In summary, Mr. Chairman, this legislation in a perverse way, which is designed to be proconsumer, is in fact an anticonsumer piece of legislation. It will increase costs. It will eliminate consumer choice.

The legislation could be resolved by disclosure legislation. I am hopeful that my good friend, the gentleman from California [Mr. SHUMWAY] will offer a substitute that would solve the problem, that would provide for disclosure and consumer choice.

Mr. ST GERMAIN. Mr. Chairman, I yield 2 minutes to the gentleman from Delaware [Mr. CARPER].

□ 1330

Mr. CARPER. I thank the gentleman for yielding this time to me.

Mr. Chairman, I think we have heard from a series of speakers here in the well today, from those of us who have known, either in our own families or in our own friendships, people who have deposited a big check into their checking account, have waited for several days to pay their own bills, and upon doing so have found that their checks are returned to them for insufficient funds.

For everyone in this body or in this country to whom that has occurred, this bill is for you. Over 2 years ago, in my freshman term, I introduced legislation designed to address this selfsame problem. My original bill focused on three areas.

First of all, it directed the Federal Reserve to begin developing the kind of system that will expedite the availability of funds.

Second, my original bill required disclosure, so that we as customers, and banks and savings and loans and credit unions, could shop with our feet and find the institution that offered us the very best deal possible.

Finally, my original bill said that those interest-bearing accounts into which we deposit checks, we as customers must get interest on our deposit as soon as the institution has that same advantage.

The bill before us today goes well beyond my original ideas. Nonetheless, I am delighted to be an original cosponsor of the bill and commend Members on both sides of the aisle for the work that has been done on it.

Among the things that have been retained from my original initiative were disclosures of check-hold policies so we can indeed shop with our feet. In addition to that, now in this bill when the banks or financial institutions receive use of the funds, we as customers will begin receiving interest on our moneys in interest-bearing accounts.

What is new, as several Members have mentioned, is that now the Federal Reserve is directed to develop and phase in over 3 years a system which will provide for a maximum delay of 3 banking days as the time which can elapse before we as customers can use the money in our accounts.

Several points, I think, need to be mentioned and reiterated here today.

The CHAIRMAN. The time of the gentleman from Delaware [Mr. CARPER] has expired.

Mr. CARPER. I would ask the gentleman from Ohio [Mr. WYLIE] if he might yield 1 minute to me.

Mr. WYLIE. Mr. Speaker, I yield 1 additional minute to the gentleman from Delaware.

Mr. CARPER. I thank the gentleman for yielding this additional time to me.

Mr. Chairman, several points I would like to make. One, we are not picking here on banks, and some of the worst offenders of this practice are not just banks, but the savings and loans and the credit unions. I think the horror stories we have heard and talked about today apply not to the majority of institutions but, rather, to a minority, and we are directing our attention especially to them.

There are, indeed, valid reasons for some delay in availability of funds. Not everyone who goes into a bank to cash a check is honest, and some very honest people unfortunately bounce a lot of checks.

Is this bill perfect? No, I think we will readily acknowledge that it is not. Is it better than the status quo? It darn sight sure is.

Mr. Chairman, in conclusion I would just say that I think that this bill does deserve the support of the majority of the Members. I am delighted, again, to have been an original cosponsor of this bill, and I commend the chairman and all parties who have been a part of moving this bill through.

Mr. WYLIE. Mr. Chairman, I yield 2 minutes to the gentleman from Arizona [Mr. KOLBE].

Mr. KOLBE. I thank the gentleman for yielding this time to me.

Mr. Chairman, we heard the chairman of the Banking Committee earlier recite the need for this legislation, and we heard the specific examples that were recited, the horror stories of things that take place in the banking system where a bank indiscriminately holds funds that are deposited, and even puts a hold on all other funds of a customer in the same account.

These examples outrage citizens and, frankly, I think they should. But the very fact that they have been cited here today as examples of individual cases tells us something. They are exceptions to the rule. They are exceptions to the policy that most banking institutions follow. Certainly problems exist, and I think all of us in this body would admit that there are problems, but these problems do not warrant placing a straitjacket on the banking and savings and loan institutions of this country and, I might add, on the customers of those institutions. This legislation would be such a straitjacket.

The bill has glaring flaws. There is no provision to permit the banks to take protective action when a check may be uncollectible because of insolvency or fraud or because of bankruptcy. Such an amendment will be offered here in a few moments, and I certainly hope this body will act favorably on that amendment.

The legislation leaves no regulatory flexibility. The system that we have is a complex one. Over 100 million checks a day go through banks, and billions and billions of dollars clear banks. By and large, I think we all would agree that the system works pretty well.

The weak point in the system is the return of bad checks. We heard in the hearings in the committee that there are operational problems on the physical return of bad checks, and that causes holds to be placed on checks and sometimes that works unfairly to a customer where it should not have been placed on it.

If we need a national standard, it should be just that: a standard; guidelines to some regulatory body like the Federal Reserve, that has some responsibility for enforcing this. But we should not get into the business of writing these rules very specifically and putting them into law. We need to give some flexibility to the Federal Reserve System for implementing this policy.

I support the concept of this bill. Banks in my State are highly competitive and can live with this, but I suggest that we need to give more flexibility to the Federal Reserve Board and more protection against fraud or insolvency before we adopt this legislation.

Mr. ST GERMAIN. Mr. Chairman, I yield 1 minute to the gentleman from California [Mr. TORRES], a member of the committee.

Mr. TORRES. I thank the gentleman for yielding this time to me.

Mr. Chairman, I rise today in support of H.R. 2443, the Expedited Funds Availability Act, and applaud Chairman ST GERMAIN for his expeditious work on this important legislation. The bill ensures that banks will not impose unreasonably long holding periods on checks deposited for collection.

This bill represents a significant victory for consumers. It is estimated that unfair hold practices have plagued upward of 10 million Americans at some time. Bank restrictions on the availability of funds have caused senior citizens, students, and working people to lose money. These people live from paycheck to paycheck and need their money immediately.

In particular, many older Americans rely solely upon Government pension, dividend, or interest checks for the basic necessities of life. Accordingly, it is essential that the proceeds from these checks be made available to customers in a timely manner in order to avert undue hardship.

Such hardship is routinely the result of current check hold practices. The Federal Reserve Board has estimated that 99 percent of all deposited checks are collected by banks within 2 business days. And yet, a 7-day hold is not unusual. That means that a bank has 5 days to invest the depositor's money and profit from it before the depositor has access to it.

I urge my colleagues to support this long-overdue legislation. Let's eliminate this anticonsumer practice and give our constituents expedited access to their money.

Mr. WYLIE. Mr. Chairman, I yield 2 minutes to the gentleman from Virginia [Mr. PARRIS].

Mr. PARRIS. I thank the gentleman for yielding this time to me.

Mr. Chairman, I will have additional comments on this legislation during the amendatory process, but I take the floor at this time to consider how this bill is affected by the rule that was just adopted. Let us just review quickly how we got to this point and where we are.

Yesterday, at about 1 o'clock, we were given approximately 5 hours to file amendments, to print them in the CONGRESSIONAL RECORD. This morning at noon, just an hour or two ago, we adopted a closed rule, which is a gag rule that permits no more amendments. Now we have only 1 hour to debate this very important matter.

Mr. Chairman, the U.S. Constitution, article I, section 9, clause 3, prohibits the Congress from adopting a law by a bill of attainder or ex post facto. But that is exactly what we have here. This outrageous process requires us to file an amendment in the RECORD before we have the rule to even consider the legislation. That is a terrible precedent and it is, in fact, an ex post facto application of the rules of this House, which unfortunately are not subject to questions of constitutionality.

I want to congratulate publicly the chairman of the Banking Committee of this House for not being a part of that bizarre exercise, and hope that the Rules Committee will never again be constrained to utilize that process.

Let me just make one other observation, Mr. Chairman. There are some problems with unwarranted check holds, but this bill is classic legislative overkill. This bill is just about as unrealistic as expecting Arthur Murray to hire the Chicago Bears to teach the shuffle in his dance classes. It is as unrealistic as expecting "the Refrigerator" to eat lean cuisine to get ready for the Superbowl this week end.

This bill is terrible, and we will have in the next several hours an opportunity to discuss and consider why. I hope the House will reject this rule.

Mr. ST GERMAIN. Mr. Chairman, I yield such time as she may consume to the gentlewoman from Ohio [Ms. KAPTUR].

Ms. KAPTUR. I thank the gentleman for yielding time to me.

Mr. Chairman, I rise in support of H.R. 2443, the Expedited Funds Availability Act.

Mr. ST GERMAIN. Mr. Chairman, I yield 2 minutes to the gentleman from New York [Mr. MANTON], a member of the committee.

Mr. MANTON. I thank the gentleman for yielding this time to me.

Mr. Chairman, I rise in strong support of H.R. 2443, the Expedited Funds Availability Act, of which I am an original cosponsor. As a member of the Banking Committee, I want to commend Chairman ST GERMAIN for his leadership in bringing this important legislation to the floor. For the past several years, the chairman of the Banking Committee has led the fight for legislation to put an end to the inordinate hold periods some banks place on deposited funds and the hardships these delays cause consumers.

At one time or another, most of us have experienced difficulty in gaining prompt access to funds deposited in our accounts. In most instances, these delays are unnecessary and inexcusable. Banks are usually credited for checks they receive within 1 or 2 days. Furthermore, more than 99 percent of all checks clear the first time through the collection process. Despite these facts, many depository institutions hold checks for more than a week before making the funds available to the depositor.

As a result of long check hold periods, many depositors are forced to delay necessary purchases or payments for utilities and other services. This is especially burdensome for low-

and middle-income depositors who have limited savings to drawn on. Furthermore, inordinate check hold periods cost consumers billions each year in returned check fees. It is time to put an end to this unfair practice.

As the Representative of the Ninth Congressional District in New York, I fully appreciate the benefits of limiting check hold periods. New York was the first of five States to enact an expedited funds availability law. The statute has greatly benefited consumers in New York who now have prompt access to funds deposited in their accounts. Furthermore, banks in New York have not experienced any increase in check fraud due to the limit on check hold periods.

H.R. 2443, would limit the hold period on most local checks, checks of $100 or less, and Government checks to no more than 1 business day.

The bill further requires the Federal Reserve Board to establish a system within 3 years that will make all local checks available for withdrawal 1 day after deposit and nonlocal checks available the fourth day after deposit.

I urge my colleagues to vote for H.R. 2443.

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Mr. WYLIE. Mr. Chairman, I yield 2 minutes to the gentleman from Florida [Mr. MCCOLLUM].

Mr. MCCOLLUM. Mr. Chairman, the act that we have before us today is not perfect, but the fact is that it is a step in the right direction, in my judgment, for consumers.

I disagree with some of my colleagues who have been overly criticizing this bill today. We do have problems with check-hold periods. We have problems for consumers with the fact that there are large time gaps and more float, and more profit for some of our financial institutions in the system today than is warranted in a day in which we have all of the electronic wizardry, and computers we have, and the systems of communication.

That does not mean that every bank and every institution is a problem institution, or that every case is an unwarranted hold. But the fact is that there is nothing wrong with our having as a function of Federal Government oversight and regulation of the financial institutions of this country a system in place for a timetable for banks to conform and to provide the service to their customers in the length of time that they hold a check and process it.

So, I strongly support this legislation, although I do favor the amendment to be offered by the gentleman from California [Mr. SHUMWAY] which is coming up, because I think that the bill needs a little more flexibility for banks. And I am going to offer an amendment myself that is really a technical one that goes at a problem that I see in the bill related to the Federal Reserve being given a direction, which I favor, to come up with an expedited funds availability system, while later on in the same legislation, an omission that came about in the legislative drafting after committee work would allow for the fact that no checks and no notice of nonpayment actually has to be made or physically returned from the deposited institution.

So, I find that is a problem. I think we want to say that not all have to be returned, but we do not want to say that we are implying that none have to be. We certainly want the Federal Reserve System and the banks to make every good-faith effort to return as many of these as possible in a timely fashion and get notice of nonpayment out in a timely fashion, and do not want to put an unnecessary loophole.

So, I am going to offer an amendment that I think will be accepted. It really is a technical amendment to insert one word that will make that very clear when the time comes.

I urge the passage of the legislation. I think it is a good bill.

Mr. ST GERMAIN. Mr. Chairman, I yield 2 minutes to the gentleman from Georgia [Mr. BARNARD], a distinguished member of our committee.

Mr. BARNARD. I thank the chairman for the availability of this time.

There has been good and sufficient argument today as to why this legislation is needed and why it should be passed. There is likewise good precedent for this legislation. Already some of the important States of this country have taken note of the consumer abuses and have put in place legislation, and much of it has guided the deliberations of our committee on this legislation.

I want to point out one thing, however, that has not been pointed out at this time, and that is this bill is going to call for a study by the Federal Reserve as to what is the modern, up-to-date capabilities of our check-collection system. I question whether or not, with all of the advance technologies that we have at our disposal today, our regulatory authorities have done a good enough job in trying to expedite the collection of checks. Sometimes I wonder if we have not put this on the back burner because of other more pressing things.

Today more and more checks are still flooding the process. We had an estimate a number of years ago and that estimate has been far, far overexpanded today.

The challenge before us should be that we should have as modern a technological process as possible in trying to expedite the collection of funds, and this bill does that. It does that in two ways.

First of all, it requires reports from the Federal Reserve to the Committee on Banking, Finance and Urban Affairs as to how this schedule is working. If there are some problems with the schedule, we will get reports on it and promise some recommendations on how to change it.

But just as important, the bill calls for a payment system advisory council. This is important because here representatives from the industry, as well as the regulatory agencies, will be able to come together and see if we cannot perfect a better way to collect checks. So, this, I think, is one of the safeguards that consumers, as well as the banking institutions, will have as a protection by this bill.

Mr. LEHMAN of California. Mr. Chairman, I rise in support of H.R. 2443, the Expedited Funds Availability Act.

H.R. 2443 is carefully crafted legislation which is designed to end one of the most abusive practices known to the banking industry and consumers alike—the check float.

The bill as approved by the House Banking Committee provides for a reasonable hold schedule that is to be implemented over a 3-year period and is consistent with check hold schedules that have already been adopted by a number of States.

Furthermore, this legislation obligates depository institutions to disclose their hold policies and end much of the consumer confusion and frustration associated with this problem.

The Federal Reserve Board estimates the 99 percent of all checks are cleared within 1 or 2 business days; there is no justification for the wide discrepancies and often lengthy check hold policies of financial institutions across the country. If depository institutions have access to use these funds, so should the institutions' customers.

H.R. 2443, while forcing depository institutions to adhere to a strict check hold schedule, also grants the Federal Reserve the neccessary authority to provide safeguards against any check-related fraud or losses due to bankruptcy. Any efforts to weaken these safeguards or give banks the discretionary authority to exercise its own judgment would only open a loophole that helped create the check hold problem in the first place.

Passage of this important legislation will provide some relief for consumers and help alleviate some of the frustration associated with check holds, such as overdraft charges and late penalties charged for checks returned because of unknown hold policies.

I urge my colleagues to join me in supporting this legislation and finally put an end to this unfair practice.

Mr. DE LUGO. Mr. Chairman, the Expedited Funds Availability Act may be one of the best consumer protection bills to come before the Congress in many, many years. As an original cosponsor of H.R. 2443, I believe that passage of this bill will provide an equitable solution for consumers who have been victimized by unreasonable "check-holding" on deposited funds.

I would also like to commend Chairman ST GERMAIN for his lead on this complex issue,

and his determination to see that the needs of consumers and depository institutions were balanced—so that adequate protective measures would be provided to both. Additionally, special thanks must be extended to my friend and colleague, Representative ROBERT GARCIA, who saw that an amendment I requested was included to extend all of the consumer benefits in this legislation to residents of the U.S. Virgin Islands and the Commonwealth of Puerto Rico.

The need for this legislation has become evident through continuous reports of abuse, increasing over the past several years, that have been received from across the country. Perhaps the saddest instances concern the poor and the elderly who, often living on fixed incomes, have had checks written in good faith returned because of an unreasonable hold on a check that more often than not was issued by the U.S. Federal Treasury.

Although the banking industry maintains that H.R. 2443 will increase institutional losses as a result of the shortened period in which a bank can "hold" a depositor's access to funds, the irrefutable fact remains that banks do not often lose money on returned checks. According to a recent Bank Administration Institute study, it is estimated that banks actually earn $3.4 billion annually from charges imposed in connection with returned checks. Furthermore, H.R. 2443 provides the Federal Reserve Board with the authority to suspend application of these time limits for 45 days, on any classification of checks with unacceptable levels of loss which can be directly related to check availability schedules.

This is an issue where the Congress can take a stand in behalf of the American consumer. I think that it is time for us to do that now.

Mr. FRENZEL. Mr. Chairman, despite the lofty goals of H.R. 2443, the Expedited Funds Availability Act, I have concerns about the bill as reported out of the committee.

I don't deny that there is some showing of abuse. Some banks have unnecessarily held checks overlong. However, the incidence of needless delay, or abuse, is not great. H.R. 2443 may increase the incidence of NSF checks, causing those costs to be loaded on all the consumers who use the institution. Spreading the costs of deadbeats on the huge majority of bank-using consumers is not my idea of consumer protection.

I believe the bill could be greatly improved, and that consumers could be adequately protected if banks were allowed more discretion to hold checks under certain circumstances where they have reason to believe there was a real risk of noncollection. I understand an amendment will be offered by the gentleman from California [Mr. SHUMWAY] which would provide such discretion, and I support his efforts.

I also am concerned that the 6-day ceiling will become a floor. That, too, is not my idea of consumer protection. Sometimes, the urge to legislate needs to be resisted. This bill, after amendment, could be useful, but there are risks, and it is not the highest priority for the House.

Mr. WORTLEY. Mr. Chairman, today's legislation is about time—the time it takes to clear checks—in-town, out-of-town, travelers, cashiers', Government and payroll—those little slips of paper that mean so much to all of us.

H.R. 2443, the Expedited Funds Availability Act, sets uniform standards for the check clearing process. Wisely, Congress recognizes that a national payments system demands national standards. It's not fair that a depositor and his funds soon be parted in Indiana are not in New York. Financial services customers may have accounts in banks, thrifts, and credit unions outside their home State. Varied and conflicting State laws only add to the general confusion. Time is ripe for a single straightforward national system.

Some of my colleagues may have heard from their hometown bankers and thrift executives who are less than thrilled about this bill. They criticize this bill's timetable as impossible to meet. I disagree.

The bill states that within 3 years, there will be next-day availability for in-State checks and 3 day availability for out-of-State checks. Depository institutions are protected, too. Certain new accounts, checks over $5,000, checks drawn on foreign banks, and checks drawn on accounts with frequent overdrafts are excluded from the timetable. Just to make sure that financial institutions are not adversely affected by the hordes of fraudulent check writers, the Federal Reserve can suspend certain portions of the act to prevent losses from check fraud. I think that this is a most balanced approach.

In the late 1960's, the Federal Reserve found a way to speed up the collection process. Consumers who played the float game found it much more difficult.

Banks playing the float game need the same kind of rules. And that is what H.R. 2443 is about—playing for time so that financial services customers start with the same advantage as their financial institutions.

Mr. GALLO. Mr. Chairman, I rise in support of H.R. 2443, a bill which would regulate the amount of time that a bank may hold the funds authorized by check for a depositor. This is an important bill which will be of considerable benefit to consumers while causing no unusual hardship to depository institutions.

I would like to take this opportunity to alert all of my fellow Members of my strong support for this legislation. There is rarely any reason to hold checks for as long as common practice seems to dictate. In doing so, consumers are short changed, and this practice just has to stop.

Mr. Chairman, we are now in the age of electronic fund transfers, we are in an age where funds are transferred from person to person and from institution to institution with great speed and accuracy. There is no reason whatsoever that depositories should hold a check for extended periods. Statistical evidence indicates that only about 1 percent of all checks are ever returned, and that a far fewer number of them are uncollectible.

This is an important bill whose time has come.

I urge all of my fellow Members of Congress to support this bill.

Thank you.

Mr. BIAGGI. Mr. Chairman, I rise as a cosponsor and supporter of this bill, H.R. 2443, the Expedited Funds Availability Act.

Simply put, this legislation provides important and long overdue protection for our Nation's consumers. For too long, our banks have been allowed to place holds on deposited checks for days or even weeks, unnecessarily preventing their customers from drawing on those funds. Meanwhile, the banks are able to invest this money almost immediately, allowing them to earn interest on the money they are withholding from their customers. In fact, it is estimated that banks earn over $290 million a year by taking advantage of the so-called float.

More importantly, though, this hold on checks has resulted in considerable inconvenience and financial hardship for millions of Americans who are denied access to money that is rightfully theirs. A 1985 survey by the Consumer Federation of America found that bounced check charges average over $13. The 9.7 million checks bounced every year because of check holds thus cost consumers $125 million annually in overdraft charges alone.

Worst of all is the impact check holds have on persons living on fixed incomes. As an original member of the House Select Committee on Aging, I am particularly concerned about how check holds unfairly burden our Nation's elderly. In many cases, seniors and so many others on fixed or low incomes live from one benefit or pay check to the next. If that money cannot be used for a lengthy period of time, as is often the case, these people cannot meet basic living expenses. This situation is not only wrong, it is dangerous.

In theory, hold periods are designed to allow banks to collect funds on deposits by check. That sounds reasonable enough. But, wait a minute. The Federal Reserve board estimates that 99 percent of all deposited checks are collected by banks within 1 or 2 businesses days. What then do 75 percent of the institutions surveyed by the U.S. Public Interest Research Group hold out-of-State checks for 6 business days or more; and why then do some check hold periods last as long as 20 business days? The answer appears simple: it's another way of the banking industry to satisfy its seemingly insatiable greed.

Frankly, I am not surprised. For the past year, I have been studying the way banks treat, or I should say rip off their credit card customers. While the cost of money to the banks is about half as much today as it was in 1981, credit card interest rates charged by the banks have actually gone up during that same period of time. The banks claim that the cost of adminis-

tering their credit card business is high, but the only thing high is the banking industry's profit margin. Credit cards are one of the most lucrative money-making ventures conducted by the banks; so much so in fact that the banks are aggressively seeking new customers by sending out preapproved credit cards—a terribly inefficient business practice that has led to even higher credit card interest rates.

My calculations show that credit card issuers are overcharging their customers in interest by some $2 billion a year. That is why I have authored a bill, H.R. 1197, to cap credit card interest rates at 5 percentage points above the Federal Reserve's discount rate. This cap would be 12.5 percent under present economic conditions, or more than 6 percentage points less than the 18.6-percent national average.

The simple fact of the matter is that banks, like any other business, must be prevented from gouging its customers, whether it is in the form of exorbitant credit card interest rates or a lengthy hold on check deposits.

The provisions contained in H.R. 2443 are totally consistent with this philosophy. Under this bill, maximum holds on checks will range from next business day to 6 intervening business days for the first 3 years after enactment. The bill then limits holds to next-day availability for in-State checks, and 4-day availability for most out-of-State checks.

Significantly, H.R. 2443 also provides certain protections for the banks. For example, the measure authorizes the Federal Reserve Board to suspend the schedule for expedited availability of checks under emergency conditions, or if they find that check fraud losses are substantially increased under this measure. Further, the expedited availability of checks would not apply to certain deposits in new accounts; amounts over $5,000 per day; accounts with frequent overdrafts; and checks drawn on foreign banks. In addition, the bill instructs the Federal Reserve Board to improve the Nation's check clearing system to provide still more protection for the banks.

Mr. Chairman, this bill will protect the rights of consumers; it will look out for the interests of the banking industry; and it will create a quicker, more efficient system of processing checks. In short, it is a bill that deserves our overwhelming support.

Mr. KLECZKA. Mr. Chairman, I rise in strong support of H.R. 2443, the Expedited Funds Availability Act.

We live in an era of rapidly evolving technology, one in which funds can be transferred electronically in the blink of an eye.

Financial institutions understand this. Their representatives have repeatedly petitioned Congress to recognize the technological changes which have occurred in the industry. They argue that the banking system of the 1980's cannot be regulated by the laws of the 1930's.

In some instances, those arguments have merit. But just as Congress should recognize that sophisticated technology has made interstate banking, for example, a fact of life, so should bankers recognize that holding depositors' checks for lengthy periods does not reflect modern conditions.

Consider a few pertinent facts in the banking world of 1986.

First, most checks are cleared by banks within a couple of days.

Second, 99 percent of checks are paid the first time through the clearance process. Of those returned, three out of five are paid upon second presentment.

Third, according to the Federal Reserve, it costs a bank 36 cents to return a check. This figure includes losses to the bank incurred as a result of the return.

Why, then, do bank depositors experience check holds of up to 10 days and returned check charges of $10, $20, or even $30?

It is not difficult to understand the reason when we consider statistics provided by the Federal Reserve Board in 1984. According to the Fed, banks holding depositors' checks earned at least $290 million by taking advantage of the "float"—the period between when the bank has access to funds and when the consumer can use the money. Banks typically invest the funds and earn interest at market rates on depositors' money during the float period.

In addition, a recent study by the Bank Administration Institute indicates that banks earn $3.4 billion annually from charges imposed in connection with returned checks.

Those who bear the biggest burden in arbitrary check charges are wage earners living from paycheck to paycheck. If a bank decides to put a lengthy hold on a deposited check, and the wage earner unwittingly attempts to write checks against the amount deposited, the returned check charges for five checks, for example, can easily total more than $100. When one is working with a household budget with little margin for error, such a financial setback can be temporarily debilitating.

For the well-to-do, returned checks pose less of a problem. As Federal Reserve Board Governor Preston Martin told the Banking Committee in October:

> If you have CD's (certificates of deposit) with the bank and you don't employ your leverage as a customer to get that cost off your statement, you deserve to have the cost on the statement.

Most people lack the clout to convince banks to waive check charges. The Banking Committee heard testimony which described the case of a Chicago man who decided to move his account from a bank which routinely placed 3- to 5-day holds on his paycheck even though his employer's bank was located only a block away. Figuring that it would be easier to bank at his employer's bank, he opened a new account there with a cashier's check.

It was not good enough. The new bank then put a 1-week hold on the cashier's check. It now places a 3- to 5-day hold on his wife's checks drawn from another bank.

It is difficult to assess the total consumer loss which results from lengthy check holds. In addition to the returned check fees, consumers also lose interest from interest-bearing accounts and must often pay late fees to utilities and other creditors because of bounced checks.

The Expedited Funds Availability Act recognizes that changes must be made in the law to bring about reasonable check-holding policies.

The legislation provides customers with next-day access to checks of $100 or less, to checks drawn on in-State branches of the same institution, to cashiers and certified checks, and to Government checks.

In the first year following enactment, banks would have up to 2 business days after deposit to clear other local checks. In the following 2 years, checks would have to clear in no more than 1 business day. The legislation defines as local checks drawn from institutions within the same State or from within 1 of the Fed's 48 check-clearing regions.

Delays of up to 6 days would be allowed within the first 3 years after enactment for checks drawn on accounts from institutions in other States or check-clearing regions. During that time, the Fed is required to establish a permanent check-clearing process that would give customers access to all funds within 3 days.

This is a reasonable piece of legislation which meets the needs of consumers while phasing in the change so as to ease the transition for lenders.

I urge a "yes" vote on H.R. 2443, the Expedited Funds Availability Act.

Mr. WYLIE. Mr. Chairman, how much time do I have remaining?

The CHAIRMAN. The gentleman from Ohio [Mr. WYLIE] has 3 minutes remaining, and the gentleman from Rhode Island [Mr. ST GERMAIN] has 3 minutes remaining.

Mr. WYLIE. Mr. Chairman, I yield myself the remaining time on our side.

Mr. Chairman, overnight, I had a chance to read the so-called Dimension case.

Mr. Chairman, I think the bill before us today may have an additional implication which I would like to point out for the benefit of this record. H.R. 2443, the Expedited Funds Availability Act, may have the practical effect of legislatively overriding part of the so-called Dimension case (Board of Governors of the Federal Reserve System versus Dimension Financial Corp.) handed down yesterday by the Supreme Court in an 8 to 0 decision. Because of language in this bill, H.R. 2443 overturns that portion of the Dimension decision relating to demand deposits and thus would shut down all nonbank banks which make traditional commercial loans.

Let me explain my reasoning. Chairman ST GERMAIN's legislation, among other things, relates to the availability of deposits placed by consumers in depository institutions. Consumers can place their funds in accounts known as demand deposits, negotiable order of withdrawal [NOW] accounts, or share drafts, among other things.

In the Dimension case with respect to the demand deposit aspect of nonbank banks, the Supreme Court held that the statutory language speaks in terms of deposits that the depositor has a legal right to withdraw on demand. The Court then noted that NOW accounts and similar transactional devices specifically reserve a legal right to the depository institution to require advance notice of a withdrawal request of up to 14 days. Therefore, the Court held that these transaction accounts are not demand deposits as defined in the Bank Holding Company Act, even though, as a practical matter, NOW accounts are functionally equivalent to demand deposits. The Court concluded that the Federal Reserve Board had no authority to broaden the definition of a demand deposit to include NOW accounts and similar deposits.

Under H.R. 2443, demand deposits, NOW accounts, and share draft accounts are all treated identically. The legal distinctions which existed yesterday, as far as the Supreme Court is concerned, disappear today if the House acts favorably on this legislation. Funds will have to be made available to depositors for all of these accounts at the same time. Under H.R. 2443, a depository institution loses its legal right to put a 14-day hold on NOW deposits. Therefore, the legal distinction between NOW accounts and other forms of checking accounts which formed the basis for the Supreme Court's Dimension decision no longer exists. The plain language of the bill makes this clear, notwithstanding the discussion in the committee report to the contrary. The logical conclusion is that the Dimension case would no longer be binding in this instance due to a change in law and, in effect, would be legislatively reversed by the plain language of H.R. 2443.

The bottom line is that the legislation before us today closes one part of the so-called nonbank loophole by further reason to support preventing financial institutions from making commercial loans and offering NOW accounts without becoming a "bank" under the Bank Holding Company Act. All nonbank banks which make traditional commercial loans would be shut down because of H.R. 2443.

In conclusion, Mr. Chairman, I wish to commend the distinguished chairman of the Banking Committee, Mr. ST GERMAIN, for his foresight in crafting the Expedited Funds Availability Act. While I am not sure that this is the proper vehicle to begin overturning at least part of the Supreme Court's Dimension case, it is not a bad first step.

Mr. ST GERMAIN. Mr. Chairman, I yield 30 seconds to the gentleman from Michigan [Mr. LEVIN].

Mr. LEVIN of Michigan. Mr. Chairman, I rise in support of the bill. It is carefully drafted legislation. It protects the consumer, and it does safeguard banks in case of unforeseen circumstances.

As I look at it, if Members of this House cannot vote for this consumer protection bill, then I do not think they can vote for any bill. I urge its adoption.

Mr. ST GERMAIN. Mr. Chairman, I yield 1 minute to the gentleman from Illinois [Mr. ANNUNZIO].

Mr. ANNUNZIO. Mr. Chairman, I rise in support of H.R. 2443. For too long, consumers have been denied access to their funds, while bankers have profited by placing long and unjustified holds on checks deposited by consumers. These holds go far beyond any legitimate requirement necessary to protect against loss, and are enforced for profit, not protection.

According to the Federal Reserve, 99 percent of all deposited checks are collected by banks within 2 business days of deposit. Nevertheless, banks impose unrealistically long holds on checks, in some cases of up to 20 business days, or 4 weeks. This enables them to invest the funds while denying consumers access to their money.

Banks benefit not only from the profits they earn on the hold, or float, but on the overdraft charges imposed on checks written on the held funds. Consumers are charged an average of $13 per check for bounced checks written on held funds. At some banks, these charges are as high as $30 per check. These overcharges cost consumers $125 million annually. What is most disgraceful about these charges is not their shocking size, but the fact that the checks are bounced for being written on "uncollected funds," when the funds have been collected.

My own State of Illinois has decided to put an end to this scam. On November 25, the Governor of Illinois signed legislation making sweeping changes in Illinois banking law. The legislation contains important consumer protections, including a provision limiting holds on checks deposited by consumers. With enactment of that provision, Illinois becomes only the sixth State to legislate maximum check holds.

Under the law, consumers will no longer have to suffer inordinate holds on their deposits. For any account that has been opened at least 90 days, financial institutions can hold checks issued by the United States, Illinois, or local Illinois governments for no more than 2 banking days. For other checks drawn on Illinois banks, the hold cannot exceed 5 banking days, and for checks drawn on out-of-State banks, no more than 8 banking days. The bill takes effect on July 1, 1986.

Much credit for the Illinois legislation must go to Illinois House Majority Whip Ralph C. Capparelli, whose 13th legislative district includes much of my 11th Congressional District. Representative Capparelli is to be congratulated for his efforts in passing this bill.

I am pleased that Illinois consumers and consumers of five other States have the benefit of State funds availability legislation. But that means that consumers of 44 other States do not. The Truth in Lending Act, the Equal Opportunity Act, and the other provisions of the Consumer Credit Protection Act show that uniform, Federal, minimum standards are vital in consumer banking legislation. The Expedited Funds Availability Act is in that mold and is sure to benefit consumers nationwide. At the same time, States will be free to establish more favorable consumer protections regarding the length of check holds.

I am proud to be an original cosponsor of H.R. 2443. During the hearings on the bill, I heard overwhelming evidence of the need for this legislation. Having participated in the markup of the bill in both the Financial Institution Subcommittee and the Full Banking Committee, I know that it is carefully balanced to eliminate unreasonable check holds without subjecting financial institutions to any risk of increased fraud losses.

H.R. 2443 is an important piece of consumer legislation. As chairman of the Consumer Affairs Subcommittee, I support H.R. 2443 and urge my colleagues to support it.

Mr. ST GERMAIN. Mr. Chairman, I yield the balance of my time to the gentleman from New York [Mr. SCHUMER], a member of the committee.

Mr. ARMEY. Mr. Chairman, will the gentleman yield?

Mr. SCHUMER. I am happy to yield to the gentleman from Texas.

Mr. ARMEY. Mr. Chairman, while I'm certainly aware of the problem of excessive "holds" on financial instruments which certain depository institutions impose, I must rise in opposition to H.R. 2443, the Expedited Funds Availability Act.

Quite simply, there is not a need for Federal legislation of this sort. Unnecessary delays in clearing checks and other financial instruments is a localized problem, one which varies from State to State and which is best dealt with by State authorities. Six States have already enacted check hold funds availability legislation best suited to their particular concerns and another dozen legislatures have discussed possible legislation. Moving forward with this legislation will only preempt State efforts to construct the best possible means for addressing this problem.

In addition to preempting the State's right to regulate this matter, I also believe this legislation would ultimately raise costs for consumers. H.R. 2443 imposes rigid, unrealistic time schedules on depository institutions. In a system where 40 billion checks are written on 40,000 financial institutions yearly, this bill would require depository institutions to invest hundreds of millions of dollars in processing systems capable of meeting these rigid, federally imposed payment schedules.

This legislation is also lacking in that it does not contain a "good faith" exemption for protecting depository institutions from losses where there is an honest and legitimate belief that a check is uncollectable.

Who pays for this massive investment and for uncollectable checks? It's the consumer, of course.

Access to funds in a timely manner is something we're all interested in, and I don't just mean as legislators. Clearly, different financial institutions have different policies on the availability of funds. But why should we treat banking services differently from other goods and services in the marketplace?

As most depository institutions already realize, providing prompt access to deposited funds is good business. If there are a few institutions who aren't clearing checks expeditiously, why not let consumers exercise the most persuasive and compelling sanction of all—let them move their business elsewhere.

Along these lines, disclosure requirements would be much more effective in dealing with "a few rotten apples," as opposed to mandating rigid, unrealistic, and costly mandatory availability policies.

Mr. SCHUMER. Mr. Chairman, first let me salute our chairman for the leadership that he has shown on this issue. Hopefully, this year will be the year of the consumer in banking law. Hopefully, this will be the first of many pieces of proconsumer legislation to emerge from the Committee on Banking, Finance and Urban Affairs to pass this body and pass the other body.

Without the leadership of our good chairman, this year of the consumer in banking law might well not happen.

I would like to say to my colleagues, I think many of you have laid out very cogently the reasons for this legislation. Let me just try to put them in context.

We are living in a world of banking deregulation. This Congress may choose not to act, but the regulators and the economy move along and banking has become deregulated.

Consumers are hit with fees of every kind, changes in rules, and changes in laws, changes in policy. It is very hard for a consumer who would spend all of his or her time keeping track of these changes to adapt to those laws, let alone a working man or woman who has a family to raise.

It, therefore, behooves this body, this Congress, to do things that will be helpful to the consumer to make sure that a modicum of fairness exists in this wild and wooly world of deregulation. Elemental fairness in saying if you have deposited money and the banks have taken credit for your money, you should have access and interest. That is all this bill does. It deserves passage in an unamended form.

The CHAIRMAN. All time for general debate has expired.

Pursuant to the rule, the committee amendment in the nature of a substitute now printed in the reported bill shall be considered as an original bill for the purpose of amendment, and each section shall be considered as having been read.

No amendments to said substitute are in order except pro forma amendments and amendments printed in the CONGRESSIONAL RECORD at least 1 legislative day prior to consideration.

The Clerk will designate section 1.

Mr. ST GERMAIN. Mr. Chairman, I ask unanimous consent that the committee amendment in the nature of a substitute be printed in the RECORD and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Rhode Island?

There was no objection.

The text of the committee amendment in the nature of a substitute is as follows:

H.R. 2443

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Expedited Funds Availability Act".

SEC. 2. FINDINGS AND PURPOSE.

(a) FINDINGS.—The Congress hereby finds that—

(1) the writing and depositing of checks is an important element in the efficient operation of the American economy;

(2) many people rely on the rapid availability of funds deposited in their accounts for the basic necessities of life;

(3) notwithstanding the fact that depository institutions usually receive provisional credit from the Federal Reserve for checks they receive within one to two business days after such checks are deposited with them, many depository institutions have imposed inordinate delays on the availability of those funds to depositors;

(4) the incidence of returned checks, which depository institutions often use to justify their delayed funds availability policies, amount to approximately one percent of all checks written in the United States, and a substantial portion of these returned checks are paid on second presentment;

(5) with few exceptions, efforts by State governments, Federal agencies, and the financial industry have been unsuccessful in curbing the abuses which have been found in the area of delayed funds availability; and

(6) a coordinated Federal response is the most reasonable way to assure that depositors throughout the United States are treated fairly in gaining access to funds in their accounts.

(b) PURPOSE.—It is the purpose of this Act to—

(1) adopt temporary, maximum time limits for the availability of funds deposited by check;

(2) replace those temporary time limits with standard availability ceilings within 3 years after the effective date of section 4;

(3) require depository institutions to fully disclose their funds availability policies to depositors;

(4) permit States, and individual depository institutions, to adopt funds availability policies which allow depositors to gain access to funds earlier than prescribed by Federal law or regulation; and

(5) prescribe appropriate enforcement mechanisms to ensure compliance with the provisions of this Act.

SEC. 3. DEVELOPMENT OF PERMANENT EXPEDITED FUNDS AVAILABILITY SYSTEM.

(a) PERMANENT EXPEDITED FUNDS AVAILABILITY SYSTEM.—

(1) DEVELOPMENT REQUIRED.—The Board of Governors of the Federal Reserve System shall immediately begin to develop an expedited funds availability system which will meet the funds availability schedule established in subsection (b).

(2) TIME LIMIT ON IMPLEMENTATION.—The expedited funds availability system shall be implemented as soon as possible, but in no event later than 3 years after the effective date of section 4.

(b) SCHEDULE.—

(1) AVAILABILITY OF LOCAL CHECKS.—Funds deposited in an account at a depository institution by checks drawn on a local originating depository institution and checks described in any subparagraph of section 4(c)(2) shall be available for withdrawal not later than the start of the business day following the business day on which such checks were deposited.

(2) AVAILABILITY OF NONLOCAL CHECKS.—For all other checks, not more than three business days shall intervene between the business day on which such checks are deposited in an account at a depository institution and the business day on which the funds involved are available for withdrawal.

(c) REGULATIONS.—In connection with the establishment of the expedited funds availability system described in subsection (a), the Board shall consider (among other proposals) requiring, by regulation, that—

(1) the Federal Reserve banks and depository institutions shall take such actions as are necessary to automate the process of returning unpaid checks;

(2) each depository institution and Federal Reserve bank shall place its endorsement, and other notations specified in regulations of the Board, on checks in the positions specified in such regulations;

(3) within one business day after an originating depository institution is presented a check (for more than such minimum amount as the Board may prescribe)—

(A) such originating depository institution shall determine whether it will pay such check; and

(B) if such originating depository institution determines that it will not pay such check, such originating depository institution shall directly notify the receiving depository institution of such determination;

(4) regardless of where a check is cleared initially, all returned checks shall be eligible to be returned through the Federal Reserve System; and

(5) originating depository institutions shall be permitted to return unpaid checks directly to, and obtain reimbursement for such checks directly from, the receiving depository institution.

(d) CHECK RETURN; NOTICE OF NONPAYMENT.—No provision of this section shall be construed as requiring that, with respect to checks deposited in a receiving depository institution—

(1) such checks be physically returned to such depository institution; or

(2) any notice of nonpayment of any such check be given to such depository institution within the times set forth in subsection (b).

(e) REPORTS.—

(1) IMPLEMENTATION PROGRESS REPORTS.—

(A) REQUIRED SEMIANNUALLY.—The Board shall transmit a report to both Houses of the Congress not later than 6 months after the date of the enactment of this Act and every 6 months thereafter until the schedule established in subsection (b) is implemented.

(B) CONTENTS OF REPORT.—Each such report shall describe the actions taken by the Board to achieve the schedule established in subsection (b).

(2) EVALUATION OF TEMPORARY SCHEDULE REPORT.—

(A) REPORT REQUIRED.—The Board shall transmit a report to both Houses of the Congress not later than 2 years after the date of the enactment of this Act regarding the effects the temporary schedules established under section 4 have had on depository institutions and the public.

(B) CONTENTS OF REPORT.—Such report shall also assess the potential impact the implementation of the schedule established in subsection (b) will have on depository institutions and the public, including an estimate of the risks to and losses of depository institutions and the costs and benefits to consumers.

Such report shall also contain such recommendations for legislative or administrative action as the Board may determine to be necessary.

SEC. 4. EXPEDITED FUNDS AVAILABILITY.

(a) NEXT BUSINESS DAY AVAILABILITY FOR CASH DEPOSITS; WIRE TRANSFERS.—Except as provided in section 5, in any case in which—

(1) any cash is deposited in an account at a receiving depository institution staffed by individuals employed by such institution, or

(2) funds are received by a depository institution by wire transfer for deposit in an account at such institution,

such cash or funds shall be available for withdrawal not later than the business day after the business day on which such cash is deposited or such funds are received for deposit.

(b) CASH DEPOSITS AT AN ATM.—In any case in which cash is received at an automated teller machine for deposit in an account at a depository institution, such cash shall be available for withdrawal not later than the business day after the business day on which such cash is so received.

(c) FIRST YEAR SCHEDULE.—

(1) IN GENERAL.—Except as provided in subsection (f) and section 5, funds deposited by check in an account at a depository institution before the end of the 1-year period beginning on the date this section takes effect shall be available for withdrawal not later than the business day provided in the applicable paragraph of this subsection.

(2) NEXT BUSINESS DAY AVAILABILITY.—Funds deposited in an account at a depository institution by check shall be available on the business day after the business day on which such funds are deposited in the case of—

(A) a check for not more than $100;

(B) a check deposited in a branch of a depository institution and drawn on another branch of the same depository institution if both such branches are located in the same check processing region or in the same State;

(C) a check which—

(i) is endorsed only by the person to whom it was issued; and

(ii) is drawn on the Treasury of the United States;

(D) a check which—

(i) is endorsed only by the person to whom it was issued;

(ii) is drawn on the treasury of a State;

(iii) is deposited in a receiving depository institution which is located in such State and is staffed by individuals employed by such institution; and

(iv) is deposited with a special deposit slip which indicates it is a check drawn on the treasury of a State;

(E) a check which—

(i) is endorsed only by the person to whom it was issued;

(ii) is drawn on the treasury of a unit of general local government;

(iii) is deposited in a receiving depository institution which is located in the same State as such unit of general local government and is staffed by individuals employed by such institution; and

(iv) is deposited with a special deposit slip which indicates it is a check drawn on the treasury of a unit of general local government; and

(F) a cashier's check, certified check, teller's check, or depository check which—

(i) is endorsed only by the person to whom it was issued;

(ii) is deposited in a receiving depository institution which is staffed by individuals employed by such institution; and

(iii) is deposited with a special deposit slip which indicates it is a cashier's check, certified check, teller's check, or depository check, as the case may be.

(3) AVAILABILITY OF LOCAL CHECKS.—Not more than 2 business days shall intervene between the business day on which funds are deposited in an account at a depository institution by a check drawn on a local originating depository institution and the business day on which such funds are available for withdrawal.

(4) AVAILABILITY OF NONLOCAL CHECKS.—Not more than 6 business days shall intervene between the business day on which funds are deposited in an account at a depository institution by a check drawn on a nonlocal originating depository institution and the business day on which such funds are available for withdrawal.

(d) SECOND AND THIRD YEAR SCHEDULE.—

(1) IN GENERAL.—Except as provided in subsection (f) and section 5, funds deposited by check in an account at a depository institution during the second and third year after the effective date of this section shall be available for withdrawal not later than the business day provided in the applicable paragraph of this subsection.

(2) NEXT BUSINESS DAY AVAILABILITY.—Funds deposited in an account at a depository institution by a check described in any subparagraph of subsection (c)(2) shall be available for withdrawal as provided in such subsection.

(3) AVAILABILITY OF LOCAL CHECKS.—Not more than 1 business day shall intervene between the business day on which funds are deposited in an account at a depository institution by a check drawn on a local originating depository institution and the business day on which such funds are available for withdrawal.

(4) AVAILABILITY OF NONLOCAL CHECKS.—Funds deposited in an account at a depository institution by a check drawn on a nonlocal originating depository institution shall be available for withdrawal as provided in subsection (c)(4).

(e) TIME PERIOD ADJUSTMENTS.—

(1) IN GENERAL.—Notwithstanding any other provision of law, the Board may, by regulation—

(A) shorten any time period established under subsection (c) or (d);

(B) extend by one business day any time period established under subsection (c) or (d), or shortened under paragraph (1), with respect to any deposit made at a shared or nonproprietary automatic teller machine; and

(C) extend by one business day any time period established under subsection (c) or (d), or shortened under paragraph (1), with respect to any deposit made at any depository institution described in clauses (ii) through (vi) of section 19(b)(1)(A) of the Federal Reserve Act.

(2) EXPIRATION AFTER 3 YEARS.—The authority contained in paragraph (1)(C) shall expire 3 years after the effective date of this section.

(f) SUBSECTION (c) AND (d) SCHEDULES SUPERSEDED BY SECTION 3 SYSTEM.—If the expedited funds availability system established under section 3(a) is implemented before the end of the 3-year period referred to in paragraph (2) of such section, the schedules established in subsections (c) and (d) (other than subsection (c)(2)) shall not apply after the date such system is implemented.

SEC. 5. SAFEGUARD EXCEPTIONS.

(a) NEW ACCOUNTS.—In the case of any account established at a depository institution by a new depositor, the following provisions shall apply with respect to any deposit in such account during the 30-day period beginning on the date such account was established:

(1) NEXT BUSINESS DAY AVAILABILITY OF CASH ITEMS.—Except as provided in paragraph (3), in the case of—

(A) any cash deposited in such account;

(B) any funds received by such depository institution by wire transfer for deposit in such account; and

(C) any funds deposited in such account by cashier's check, certified check, teller's check, depository check, or traveller's check,

such cash or funds shall be available for withdrawal on the business day after the business day on which such cash or funds are deposited or, in the case of a wire transfer, such funds are received for deposit.

(2) AVAILABILITY OF OTHER ITEMS.—In the case of any funds deposited in such account

by a check (other than a check described in paragraph (1)(C)), the availability for withdrawal of such funds shall not be subject to the provisions of section 3(b), 4(c), or 4(d).

(3) LIMITATION RELATING TO PARAGRAPH (1)(C) CHECKS IN EXCESS OF $5,000.—In the case of funds deposited in such account during such period by checks described in paragraph (1)(C) the aggregate amount of which exceeds $5,000—

(A) paragraph (1) shall apply only with respect to the first $5,000 of such aggregate amount; and

(B) not more than 8 business days shall intervene between the business day on which any such funds are deposited and the business day on which such excess amount shall be available for withdrawal.

(b) DEPOSITS BY CHECKS IN EXCESS OF $5,000.—In the case of funds deposited on any business day in an account at a depository institution by checks the aggregate amount of which exceeds $5,000, sections 3(b), 4(c), and 4(d) shall apply only with respect to the first $5,000 of such aggregate amount.

(c) CHECKS REDEPOSITED AFTER INITIAL RETURN.—In the case of a check which was returned unpaid by the originating depository institution, sections 3(b), 4(c), and 4(d) shall not apply to any subsequent redeposit of such check in an account at a depository institution.

(d) REPEATED OVERDRAFTS.—In any case in which, on three separate and distinct occasions within any 6-month period, any account (or successor account as defined by the Board, by regulation) of a depositor has been the subject of checks which were written by such depositor and which were in excess of the available funds in the account involved, sections 3(b), 4(c), and 4(d) shall not apply to any such account for a period of 6 months following the last occasion involved.

(e) FOREIGN CHECKS.—Sections 3(b), 4(c), and 4(d) shall not apply in any case in which a check is drawn on a depository institution, or an office of a depository institution, located outside of the United States.

(f) EMERGENCY CONDITIONS.—Subject to such regulations as the Board may prescribe, sections 3(b), 4(c), and 4(d) shall not apply to amounts deposited in any receiving depository institution in the case of—

(1) any interruption of communication facilities;

(2) suspension of payments by another depository institution;

(3) any war; or

(4) any emergency condition beyond the control of the receiving depository institution,

if the receiving depository institution exercises such diligence as the circumstances require.

(g) PREVENTION OF FRAUD LOSSES.—

(1) IN GENERAL.—The Board may, by regulation or order, suspend the applicability of this Act, or any portion thereof, to any classification of checks if the Board determines that—

(A) depository institutions are experiencing an unacceptable level of losses due to check-related fraud, and

(B) suspension of this Act, or such portion of this Act, with regard to the classification of checks involved in such fraud is necessary to diminish the volume of such fraud.

(2) SUNSET PROVISION.—No regulation prescribed or order issued under paragraph (1) shall remain in effect for more than 45 days (excluding Saturdays, Sundays, legal holidays, or any day either House of Congress is not in session).

(3) REPORT TO CONGRESS.—

(A) NOTICE OF EACH SUSPENSION.—Within 10 days of prescribing any regulation or issuing any order under paragraph (1), the Board shall transmit a report of such action to the Committee on Banking, Finance and Urban Affairs of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate.

(B) CONTENTS OF REPORT.—Each report under subparagraph (A) shall contain—

(i) the specific reason for prescribing the regulation or issuing the order;

(ii) evidence considered by the Board in making the determination under paragraph (1) with respect to such regulation or order; and

(iii) specific examples of the check-related fraud giving rise to such regulation or order.

SEC. 6. MISCELLANEOUS PROVISIONS.

(a) EFFECT ON POLICIES OF DEPOSITORY INSTITUTIONS.—No provision of this Act shall be construed as—

(1) prohibiting a depository institution from making funds available for withdrawal in a shorter period of time than the period of time required by this Act; or

(2) affecting a depository institution's right—

(A) to accept or reject a check for deposit;

(B) to revoke any provisional settlement made by the depository institution with respect to a check accepted by such institution for deposit;

(C) to charge back the depositor's account for the amount of such check; or

(D) to claim a refund of such provisional credit.

(b) REGULATORY RESPONSIBILITY OF BOARD FOR PAYMENT SYSTEM.—

(1) RESPONSIBILITY FOR PAYMENT SYSTEM.—In order to carry out the provisions of this Act, the Board of Governors of the Federal Reserve System shall have the responsibility to regulate—

(A) any aspect of the payment system, including the receipt, payment, collection, or clearing of checks; and

(B) any related function of the payment system with respect to checks.

(2) REGULATIONS.—The Board shall prescribe such regulations as it may determine to be appropriate to carry out its responsibility under paragraph (1).

(c) AFTER-HOURS DEPOSITS.—For purposes of this Act, any deposit which is made on a Saturday, Sunday, legal holiday, or after the close of business on any business day shall be deemed to have been made on the next business day.

(d) PROHIBITION ON FREEZING CERTAIN FUNDS IN AN ACCOUNT.—In any case in which a check is deposited in an account at a depository institution and the funds represented by such check are not yet available for withdrawal pursuant to this Act, the depository institution may not freeze any other funds in such account (which are otherwise available for withdrawal pursuant to this Act) solely because the funds so deposited are not yet available for withdrawal.

(e) EMPLOYEE TRAINING ON AND COMPLIANCE WITH THE REQUIREMENTS OF THIS ACT.—Each depository institution shall—

(1) take such actions as may be necessary to fully inform each employee of such institution of the requirements of this Act; and

(2) establish and maintain procedures reasonably designed to assure and monitor employee compliance with such requirements.

(f) AVAILABILITY AT START OF BUSINESS DAY.—Wherever any provision of this Act requires that funds be available for withdrawal on any business day, such funds shall be available for withdrawal at the start of such business day.

SEC. 7. EFFECT ON STATE LAW.

Any law or regulation of any State which requires that funds deposited or received for deposit in an account at a depository institution chartered by such State be made available for withdrawal in a shorter period of time than the period of time provided in this Act or in regulations prescribed by the Board under this Act shall—

(1) supersede the provisions of this Act and any regulations by the Board to the extent such provisions relate to the time by which funds deposited or received for deposit in an account shall be available for withdrawal; and

(2) apply to all federally insured depository institutions located within such State.

SEC. 8. PAYMENT OF INTEREST.

Notwithstanding any other provision of law, in any case in which funds are deposited in an interest-bearing account at a depository institution, interest shall accrue on such funds beginning not later than the business day on which the depository institution receives provisional credit for such funds, except that no provision of this Act shall be construed as requiring the payment of interest on funds deposited by a check which is returned unpaid.

SEC. 9. DISCLOSURE OF FUNDS AVAILABILITY POLICIES.

(a) NOTICE FOR NEW ACCOUNTS.—Before an account is opened at a depository institution, the depository institution involved shall provide written notice to the potential customer of the specific policy of such depository institution with respect to when a customer may withdraw funds deposited into the customer's account.

(b) PREPRINTED DEPOSIT SLIPS.—All preprinted deposit slips that a depository institution furnishes to its customers shall contain a summary notice, as prescribed by the Board in regulations, that deposited items may not be available for immediate withdrawal.

(c) MAILING OF NOTICE.—

(1) FIRST MAILING AFTER ENACTMENT.—In the first regularly scheduled mailing to customers occurring more than 30 days after the effective date of this section, each depository institution shall send a written notice containing the specific policy of such depository institution with respect to when a customer may withdraw funds deposited into such customer's account.

(2) SUBSEQUENT CHANGES.—Each time—

(A) a depository institution makes a significant change in the specific policy of such depository institution with respect to when a customer may withdraw funds deposited into such customer's account; or

(B) any period prescribed in section 4(c) or 4(d) is shortened or lengthened by the Board under section 4(e),

such depository institution shall send a written notice to its customers of such change not less than 30 days before the date such change becomes effective.

(d) POSTING OF NOTICE.—

(1) SPECIFIC NOTICE AT MANNED TELLER STATIONS.—Each depository institution shall post, in a conspicuous place in each location where deposits are accepted by individuals employed by such depository institution, a specific notice which describes the time periods applicable to the availability of funds deposited in a customer's account.

(2) GENERAL NOTICE AT AUTOMATED TELLER MACHINES.—In the case of any automated teller machine at which any funds are re-

ceived for deposit in an account at any depository institution, the Board shall prescribe, by regulations, that the owner or operator of such automated teller machine shall post a general notice that funds deposited in such machine may not be immediately available for withdrawal.

(e) NOTICE THAT FUNDS MAY BE AVAILABLE SOONER THAN REQUIRED.—Each written notice required under this section shall contain a statement, in such form as the Board may prescribe, that informs depositors that deposited funds may be available sooner than the time prescribed under the policy of the depository institution.

SEC. 10. MODEL DISCLOSURE FORMS.

(a) DEVELOPMENT.—The Board may publish model disclosure forms and clauses for common transactions—

(1) to facilitate compliance with the disclosure requirements of this Act; or

(2) to aid customers by utilizing readily understandable language.

(b) VOLUNTARY USE.—Nothing in this Act requires the use by any depository institution of any model disclosure form or clause published by the Board under subsection (a).

SEC. 11. PAYMENTS SYSTEM ADVISORY COUNCIL.

(a) ESTABLISHMENT.—(1) The Board shall establish a Payments System Advisory Council to advise and consult with the Board in the exercise of its functions under this Act.

(2) In appointing the members of the Council, the Board shall seek to achieve a fair representation of the interests of depository institutions, consumers, commercial depositors, and the technology industries.

(b) GENERAL PROVISIONS.—(1) The Council shall meet from time to time at the call of the Board.

(2) Members of the Council who are not regular full-time employees of the United States shall, while attending meetings of the Council, be entitled to receive compensation at a rate fixed by the Board, but not exceeding $100 per day, including travel time.

(3) Such members may be allowed travel expenses, including transportation and subsistence, while away from their homes or regular place of business.

SEC. 12. REGULATIONS.

(a) REGULATIONS.—The Board shall prescribe regulations—

(1) to carry out the provisions of this Act;

(2) to prevent the circumvention or evasion of such provisions; and

(3) to facilitate compliance with such provisions.

(b) OVERRIDE OF UNIFORM COMMERCIAL CODE.—Except as provided in section 7, this Act and regulations prescribed under this Act shall supersede any provision of the law of any State, including the Uniform Commercial Code as in effect in such State, which is inconsistent with this Act or such regulations.

(c) CONSULTATION.—In prescribing regulations under subsection (a), the Board shall consult with the Payments System Advisory Council, the Comptroller of the Currency, the Board of Directors of the Federal Deposit Insurance Corporation, the Federal Home Loan Bank Board, and the National Credit Union Administration Board.

SEC. 13. ADMINISTRATIVE ENFORCEMENT.

(a) ADMINISTRATIVE ENFORCEMENT.—Compliance with the requirements imposed under this Act, including regulations prescribed by and orders issued by the Board of Governors of the Federal Reserve System under this Act, shall be enforced under—

(1) section 8 of the Federal Deposit Insurance Act in the case of—

(A) national banks, by the Comptroller of the Currency;

(B) member banks of the Federal Reserve System (other than national banks), by the Board of Governors of the Federal Reserve System; and

(C) banks insured by the Federal Deposit Insurance Corporation (other than members of the Federal Reserve System), by the Board of Directors of the Federal Deposit Insurance Corporation;

(2) section 5(d) of the Home Owners' Loan Act of 1933, section 407 of the National Housing Act, and section 17 of the Federal Home Loan Bank Act, by the Federal Home Loan Bank Board (acting directly or through the Federal Savings and Loan Insurance Corporation), in the case of any institution subject to any of those provisions; and

(3) the Federal Credit Union Act, by the National Credit Union Administration Board with respect to any Federal credit union or insured credit union.

(b) ADDITIONAL POWERS.—

(1) VIOLATION OF THIS ACT TREATED AS VIOLATION OF OTHER ACTS.—For purposes of the exercise by any agency referred to in subsection (a) of this section of its powers under any Act referred to in that subsection, a violation of any requirement imposed under this Act shall be deemed to be a violation of a requirement imposed under that Act.

(2) ENFORCEMENT AUTHORITY UNDER OTHER ACTS.—In addition to its powers under any provision of law specifically referred to in subsection (a) of this section, each of the agencies referred to in such subsection may exercise, for purposes of enforcing compliance with any requirement imposed under this Act, any other authority conferred on it by law.

(c) ENFORCEMENT BY THE BOARD.—

(1) IN GENERAL.—Except to the extent that enforcement of the requirements imposed under this Act is specifically committed to some other Government agency under subsection (a) of this section, the Board of Governors of the Federal Reserve System shall enforce such requirements.

(2) ADDITIONAL REMEDY.—If the Board determines that—

(A) any depository institution which is not a depository institution described in subsection (a), or

(B) any other person subject to the authority of the Board under this Act, including any person subject to the authority of the Board under section 6(b) or 9(d)(2),

has failed to comply with any requirement imposed by this Act or by the Board under this Act, the Board may issue an order prohibiting any depository institution, any Federal Reserve bank, or any other person subject to the authority of the Board from engaging in any activity or transaction which directly or indirectly involves such noncomplying depository institution or person (including any activity or transaction involving the receipt, payment, collection, and clearing of checks and any related function of the payment system with respect to checks).

(d) PROCEDURAL RULES.—The authority of the Board to prescribe regulations under this Act does not impair the authority of any other agency designated in this section to make rules regarding its own procedures in enforcing compliance with requirements imposed under this Act.

SEC. 14. CIVIL LIABILITY.

(a) CIVIL LIABILITY.—Except as otherwise provided in this section, any depository institution which fails to comply with any requirement imposed under this Act or any regulation prescribed under this Act with respect to any person is liable to such person in an amount equal to the sum of—

(1) any actual damage sustained by such person as a result of the failure;

(2)(A) in the case of an individual action, such additional amount as the court may allow, except that the liability under this subparagraph shall not be less than $100 nor greater than $1,000; or

(B) in the case of a class action, such amount as the court may allow, except that—

(i) as to each member of the class, no minimum recovery shall be applicable; and

(ii) the total recovery under this subparagraph in any class action or series of class actions arising out of the same failure to comply by the same depository institution shall not be more than the lesser of $500,000 or 1 percent of the net worth of the depository institution involved; and

(3) in the case of any successful action to enforce the foregoing liability, the costs of the action, together with a reasonable attorney's fee as determined by the court.

(b) CLASS ACTION AWARDS.—In determining the amount of any award in any class action, the court shall consider, among other relevant factors—

(1) the amount of any actual damages awarded;

(2) the frequency and persistence of failures of compliance;

(3) the resources of the depository institution;

(4) the number of persons adversely affected; and

(5) the extent to which the failure of compliance was intentional.

(c) BONA FIDE ERRORS.—

(1) GENERAL RULE.—A depository institution may not be held liable in any action brought under this section for a violation of this Act if the depository institution demonstrates by a preponderance of the evidence that the violation was not intentional and resulted from a bona fide error, notwithstanding the maintenance of procedures reasonably adapted to avoid any such error.

(2) EXAMPLES.—Examples of a bona fide error include clerical, calculation, computer malfunction and programming, and printing errors, except that an error of legal judgment with respect to a depository institution's obligation under this Act is not a bona fide error.

(d) JURISDICTION.—Any action under this section may be brought in any United States district court, or in any other court of competent jurisdiction, within one year after the date of the occurrence of the violation involved.

(e) RELIANCE ON BOARD RULINGS.—No provision of this section imposing any liability shall apply to any act done or omitted in good faith in conformity with any rule, regulation, or interpretation thereof by the Board of Governors of the Federal Reserve System, notwithstanding the fact that after such act or omission has occurred, such rule, regulation, or interpretation is amended, rescinded, or determined by judicial or other authority to be invalid for any reason.

SEC. 15. DEFINITIONS.

For purposes of this Act—

(1) the term "account" means any demand deposit account and any other similar transaction account at a depository institution;

(2) the term "Board" means the Board of Governors of the Federal Reserve System;

(3) the term "business day" means any day other than a Saturday, Sunday, or legal holiday;

(4) the term "cash" means United States coins and currency, including Federal Reserve notes;

(5) the term "cashier's check" means any check which—

(A) is drawn on a depository institution;

(B) is signed by an officer or employee of such depository institution; and

(C) is a direct obligation of such depository institution;

(6) the term "certified check" means any check with respect to which a depository institution certifies that—

(A) the signature on the check is genuine; and

(B) such depository institution has set aside funds which—

(i) are equal to the amount of the check; and

(ii) will be used only to pay such check;

(7) the term "check" means any negotiable demand draft drawn on or payable through a depository institution;

(8) the term "check processing region" means the geographical area served by a Federal Reserve bank check processing center or such larger area as the Board may prescribe by regulations;

(9) the term "Council" means the Payments System Advisory Council;

(10) the term "depository check" means any cashier's check, certified check, teller's check, and any other functionally equivalent instrument as determined by the Board of Governors of the Federal Reserve System;

(11) the term "depository institution" has the meaning given such term in clauses (i) through (vi) of section 19(b)(1)(A) of the Federal Reserve Act;

(12) the term "local originating depository institution" means any originating depository institution which is located in the same check processing region or in the same State as the receiving depository institution;

(13) the term "nonlocal originating depository institution" means any originating depository institution which is not a local depository institution;

(14) the term "originating depository institution" means the branch of a depository institution on which a check is drawn;

(15) the term "receiving depository institution" means the branch of a depository institution in which a check is first deposited;

(16) the term "State" means any State, the District of Columbia, the Commonwealth of Puerto Rico, or the Virgin Islands;

(17) the term "teller's check" means any check issued by a depository institution and drawn on another depository institution;

(18) the term "unit of general local government" means any city, county, town, township, parish, village, or other general purpose political subdivision of a State;

(19) the term "United States" means the several States, the District of Columbia, the Commonwealth of Puerto Rico, and the Virgin Islands; and

(20) the term "wire transfer" has such meaning as the Board shall prescribe by regulations.

SEC. 16. EFFECTIVE DATE.

(a) DATE OF ENACTMENT.—Sections 1, 2, 3, 10, 11, 12, 15, and 16 shall take effect on the date of the enactment of this Act.

(b) 90 DAYS AFTER DATE OF ENACTMENT.—Sections 4, 5, 6, 7, 8, 9, and 13 shall take effect 90 days after the date of the enactment of this Act.

(c) 180 DAYS AFTER DATE OF ENACTMENT.—Section 14 shall take effect 180 days after the date of the enactment of this Act.

(d) REGULATORY AUTHORITY OF THE BOARD.—Notwithstanding subsections (b) and (c), any provision of this Act which authorizes the Board of Governors of the Federal Reserve System to prescribe regulations shall take effect on the date of the enactment of this Act.

AMENDMENT OFFERED BY MR. MC COLLUM

Mr. McCOLLUM. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. McCOLLUM: Page 6, line 24, after "with respect to" insert "all".

Mr. McCOLLUM. Mr. Chairman, this amendment is a very simple, technical amendment. It involves the fact that the Federal Reserve Board, under this legislation, is directed to prepare a system for expedited funds availability. That system would encompass any number of possibilities.

Later on in the legislation, we have given some leeway for the attitude that we otherwise would maybe be imposing here on banks that in the case of checks that are deposited in receiving institutions, they would not be required to return all of those checks or to file notices of nonpayment necessarily within the time limits that we have set forth, or within the system that the Federal Reserve plans.

It was not my intent in committee when offering amendments dealing with this to allow it to be that broad, and the amendment I am offering today, and that I am about to yield to the chairman on, simply will restrict it and instead of any check having to be returned, it will simply say all checks do not have to be.

□ 1355

So we do give the message to the Fed and other people that we intend for them to return most of those checks if they possibly can and give notice when they can.

Mr. ST GERMAIN. Mr. Chairman, will the gentleman yield?

Mr. McCOLLUM. I yield to the chairman of the committee.

Mr. ST GERMAIN. I thank the gentleman for yielding.

Mr. Chairman, as the gentleman so clearly stated, it clarifies that no provision of section 3 should be interpreted as requiring all depositors' checks be returned or that notice of nonpayment be given with certain time frames.

Mr. McCOLLUM. That is correct.

Mr. ST GERMAIN. That being the case, Mr. Chairman this side of the aisle is very happy to accept the gentleman's amendment.

Mr. McCOLLUM. I thank the gentleman.

Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Florida [Mr. McCOLLUM].

The amendment was agreed to.

AMENDMENT OFFERED BY MR. SHUMWAY

Mr. SHUMWAY. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. SHUMWAY: On page 18, line 15, add a new subsection (h) to section 5 as follows:

"(h) Sections 3(b), 4(c), and 4(d) shall not apply to a check if the receiving depository institution reasonably believes that the drawer or drawee of the check has become, or is about to become, subject to bankruptcy, receivership or similar proceeding, or when the receiving depository institution reasonably believes that a situation involving fraud or kiting exists."

Mr. SHUMWAY (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. SHUMWAY. Mr. Chairman, when this bill was considered in the Committee on Banking, I offered an amendment that would allow banks to exempt themselves from the schedules prescribed in this bill if they had some good faith reason to believe that the instrument presented for deposit would not be paid.

Members of the committee objected to that amendment. They felt that the good faith discretion on the part of the bank might lead to abuses. When the vote was taken, the majority of the committee opposed the amendment. Perhaps it was too broad.

For that reason, Mr. Chairman, coming before this body today I have recast this amendment and excluded therefrom any reference to good faith. That is why I say once again this is not a good faith amendment. It has been very carefully drawn to apply to only three situations.

Those three situations would require a reasonable belief on the part of a bank and would close much of the discretion and latitude that members of the committee feared banks otherwise would use to take advantage of consumers.

Those three situations are these: First, if the institution, bank, or whatever, has a reasonable belief that the drawer or drawee is about to become insolvent, bankrupt, or enter into receivership and thereby prevent the bank from recovering on that instrument.

Second, if the institution has some reasonable belief that a situation involving fraud exists. That would be quite apparent by means of detecting forgery or perhaps check alteration or some other things the bankers are trained to look for.

Third, if the institution, again, has a reasonable belief that a situation involving check kiting exists. Usually this is indicated by an unusually high

activity in some depositors' accounts. This amendment would simply say to banks that if they believe, if they have a reasonable belief, that one of these three situations applies, they could exempt the instrument from the hold schedules which otherwise would apply.

The amendment would allow the exception to be exercised only on an individual check-by-check basis. It would not permit banks to exempt entire classifications of checks from the requisite schedules.

Mr. Chairman, without this amendment we are going to have a situation, if a bank discovers reasonable cause to believe that a check is uncollectable after it accepts that check it will have no recourse. It must provide access to the funds, and then upon dishonor of the check it must then be put in a position to attempt reimbursement.

I would suggest, Mr. Chairman, in cases of fraud, check kiting, certainly in a case of insolvency, the chances of bank reimbursement are very, very low indeed.

This produces unfortunate results for both the bank and the consumer. First it would require that banks, in case of one of these doubts applying, would restrict for deposit a check which has been presented for them. Perhaps they would accept it on a for-collection basis only. Those of you not in the banking industry might not realize this, but that requires a very slow and manual process of essentially walking a check through the collection procedures. It takes time, it is very costly; it entails delays and hardships which result to both the bank and the consumer alike.

Second, without this kind of an amendment, we are going to be looking at banks suffering increased losses. You know, as I know, that these losses will be passed on to consumers. We express regret in this body over the fact that banks are now exacting service fees from their customers in many, many areas. We wish that were not the case. But by passage of this bill we are going to give them another reason or excuse or area to pass on more service fees.

I think if we really mean our criticism of these service fees we need to build some balance into this bill to allow banks this degree of discretion.

I would only ask Members of this body to look at this amendment in its true light. It is not designed to gut the bill. The basic purposes and schedules of the bill remain in place. It is not designed to be a probank, anticonsumer amendment. It does not give banks unfettered discretion. They still must meet the "reasonable" standard criteria which, I would suggest again, is much more narrow and tightly controlled than the "good faith" criterion that was referred to, and it is a criterion recognized in the law.

I think this amendment represents a minimal step toward a workable program, and I would urge its passage by the body.

Mr. BARNARD. Mr. Chairman, I move to strike the last word, and I rise in opposition to the amendment.

Mr. HOYER. Mr. Chairman, will the gentleman yield?

Mr. BARNARD. I yield to the gentleman from Maryland.

Mr. HOYER. Mr. Chairman, I rise in strong support of H.R. 2443, the Expedited Funds Availability Act. This bill addresses an important consumer problem caused by a lack of uniformity among financial institutions regarding the time in which they make consumer's funds available to them after they deposit a check. This time lag, often referred to as the "float time" essentially freezes consumers' funds arbitrarily and unnecessarily. I say "unnecessarily" because 99 percent of all checks are paid the first time through the collection process, and of the 1 percent which are returned, 60 percent are paid upon the second presentment. To hold funds for a period of time longer than it takes the bank to receive credit for the check in light of these statistics is to impose an unreasonable hardship on consumers, who naturally rely on quick availability of their funds.

I commend the chairman and the committee for their hard work on this bill. They have structured a bill which protects the interests of both the consumers and the financial institutions. By phasing in shorter check float periods, they have provided an important opportunity for study of the impact of the proposal. Further, they have provided the Federal Reserve Board the power to quickly respond with suspension power over the phased-in schedule, should specific problems or losses occur due to check fraud. The bill also penalizes persons who repeatedly overdraw their accounts by suspending the bill's protection for 6 months for their account. But most importantly, the bill defines a national standard for availability of funds to consumers rather than rely on the arbitrary decision of individual institutions to hold up funds for unlimited periods of time.

Mr. Chairman, as usual, it is not an entire industry that sponsors the grossest violations, but rather, a few which create the most damage. These few, however, have caused difficulties in delaying funds for between 5 and 10 million Americans and many millions more who have had to wait for unreasonable periods of time to access their money. The time is clearly ripe for this well-thought-out and carefully crafted solution to this problem. Again, I commend the chairman for a job well done and would urge all of my colleagues to vote in favor of this legislation.

Mr. BARNARD. Mr. Chairman, certainly the distinguished gentleman from California, in offering this different version of his original amendment, is well meaning in his efforts. However, even though he has limited the so-called good faith effort to more specific goals, it still is so broad that it is going to be difficult for the effective administration of this bill if a bank would like to hide behind any of these provisions.

For example, "reasonable belief." It is just literally impossible to define and totally incapable of being applied in an objective, consistent, and fair manner by the hundreds of thousands of bank tellers in the country. The words "about to become subject to bankruptcy" or "about to become subject to receivership;" this is information and knowledge that requires a degree of clairvoyance, if any of us really possess that, and certainly tellers in a bank.

Discrimination will undoubtedly be widespread with certainly no relief for arbitrary and capricious action.

Banks are endeavoring in this amendment, maybe not obviously, but certainly, if the passage of this amendment is made, banks would be taking a preferred position in the bankruptcy proceedings.

"Similar proceedings" is so broad and vague that it would conceivably cover such actions as separation, divorce, child support proceedings, foreclosure, lien actions, IRS informal meetings, civil actions of unlimited nature, and so forth. To permit check holds based on rumor or "often complex" proceedings is to sanction continued check hold abuse.

We have already given the Fed an opportunity to study the application of this bill and make recommendations, and if we find that legislation such as this might be needed, we will have an opportunity down the road to receive it. But to amend this legislation with such broad language at this time is certainly taking much of the meaning out of this bill.

In all actuality, there is a recourse for banks if they have some doubts. They can always turn down the deposit. At the teller's window they can initially stop the deposit and therefore would not have to be exposed to this liability.

I would hope that the members of the committee would give serious consideration to this because I am afraid it might be providing mischief to the effective operation of this bill.

Mr. ST GERMAIN. Mr. Chairman, will the gentleman yield to me?

Mr. BARNARD. I yield to the chairman of the committee.

Mr. ST GERMAIN. I thank the gentleman for yielding.

Mr. Chairman, I would like to point out that in an explanatory letter to the membership that emanated from the author of the amendment, reading from the explanatory amendment, it says that first an institution may have information that the writer or drawee depositor of a check is insolvent, has or is about to declare bankruptcy.

Now, you see, you have got to be a real crystal ball gazer on that one. "Or that the assets of the drawer of the

check are in legal dispute." That covers anything under the Sun; "legal dispute," those are all-embracing words. Any excuse whatsoever.

Ladies and gentlemen, if we adopt this amendment we are indeed saying that we were just kidding about helping the consumers of this Nation because any teller, as I said in my opening statement, any teller with no experience at all can say, "Well, I have reason to believe that there is a legal dispute." By the way, I say to the gentleman, if the check is deposited and that teller later on can decide there is reasonable belief that there is a legal dispute and the funds are not available, it is in the processing stage and they can hold it up for 1 week or 2 weeks, and as a result thereof that individual, had he been told ahead of time, that is, the depositor, could certainly have gone to another bank and said, "Well, do you believe I am a good person and I have no legal disputes? If so, I will deposit my check, and you will have to comply with the act."

So this, is full, full of infirmities and really and truly would do nothing other than to make nil the whole purpose of the bill.

I thank the gentleman for yielding.

Mr. McCANDLESS. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the amendment offered by my colleague, the gentleman from California [Mr. SHUMWAY].

Mr. Chairman, I join my colleagues in expressing my support for the intention behind this legislation. However, I have several reservations about whether, despite our good intentions, we have produced a good bill. We have the opportunity here to correct one of the major flaws in the bill by adopting the Shumway amendment.

The Shumway amendment is a straightforward, commonsense approach that will allow depository institutions to minimize losses that may occur from fraud and insolvency. It provides an exemption from the availability schedules in three very narrowly drawn circumstances: First, if the depository institution has information that the writer of a check is insolvent or is about to declare bankruptcy; second, if the bank suspects check kiting or other fraud; and third, if a bank detects alteration, forgery, or fraud after a teller has accepted the check for deposit.

The Shumway amendment is not a blanket "good faith doubt" exception. It is narrow enough to prevent banks from exempting a large number of checks from the availability schedule. As the bill is currently drafted, a bank may not exceed the established hold periods even if it has knowledge that a fraud is being perpetrated or that a deposited check is otherwise uncollectible.

Financial institutions can often detect check-kiting schemes or other fraudulant activity through analysis of account activity and balance changes at the end of a day. When a bank detects fraud, it can react by quickly freezing the account in question in order to protect itself from any further losses. Without this amendment, however, this legislation will require an institution to make the deposited funds available, even to a check-kiter or con artist.

Similarly, a financial institution may have good reason to believe that the person who wrote a check may be insolvent or bankrupt. In such cases, the institution should be able to protect itself since it has a reasonable belief that the check may not be honored. This amendment provides that protection.

Perhaps it is important to focus on who is protected and benefited by this amendment. Initially, it is the financial institutions who will be able to reduce their losses. But as is the case with all industry, losses caused by fraud and insolvency are ultimately borne by consumers. Without the Shumway amendment, the only alternative for depository institutions is to instruct their tellers to refuse any deposit about which they have the slightest doubt or suspicion, which will only add to the inconvenience and delay of the consumer. We will see a dramatic increase in the number of checks that a bank will accept "for collection only," a practice accompanied by a charge to the consumer, and additional delay.

A similar exception has been incorporated in the expedited funds laws in California, New York, and I believe, Massachusetts. I am not aware of any reported abuse in those States of this very important, and very narrow, exemption. I urge my colleagues to support the Shumway amendment, and I yield back the balance of my time.

□ 1410

Mr. VENTO. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

Mr. Chairman, I think it is useful that the amendment has been offered because it gives us a chance to examine more closely the provisions of the bill that deal with the expedited funds process.

The fact is that the bill has specific provisions in it that would prevent the check that has been submitted and has insufficient funds or is questionable from in fact benefiting under this or, for that matter, under the laws that exist today.

First of all, as the gentleman from Georgia mentioned, the banks' primary responsibility, and that requirement remains inviolate, is that they refuse to accept a check which they believe is insufficient funds or is fraudulently being submitted for credit.

Second, the bill grants the Federal Reserve the authority to exempt any type of certain kinds of checks that it finds it has problems with, or to even suspend, as an example, provisions of this law if it finds that check fraud has increased because of the provisions dealing with the availability of funds.

I understand the gentleman from California is offering this to ostensibly solve a problem; that is, the problem of reasonable assumption. The fact is, though, that the real difference between this and the way that the measure is drafted now is it takes the notice requirement burden off the bank, which I think is a responsibility that they have. If, for instance, a check is submitted for credit at the teller window and its credit is given provisionally, there is nothing that prevents the bank upon further examination of that to notify the consumer that in fact that check will not be honored within the 24-hour period, within the 1-week period, because they have specific concerns about it. They can do that just as they can refuse the checks.

So, I think that what we want to do is keep the responsibility on the institution, not to walk off into some gray area as I think this amendment does, and not address the concern of providing timely credit to consumers.

Furthermore, in examining this amendment and in the discussion giving the bank the extraordinary—assuming that they have the clairvoyance to be able to assume that for some reason the business, the small business or the individual is about to go into bankruptcy, receivership or similar proceeding—what kind of message does this send out to the community if you are running a small business and all of a sudden the bank refused to accept your check or suggests that you are about to go into receivership or bankruptcy? I think that it could result under some circumstances certainly in becoming a self-fulfilling prophecy in terms of really casting aspersions on the good business reputation of someone that should not have that thrown around.

So I do not think we should treat this amendment lightly or giving that particular judgment to banks lightly. I think it is not necessary in order to accomplish what we are all concerned about, and that is timely credit be provided. I think that this amendment, while I understand the sentiments and listened to the arguments of the gentleman, I think that it does not accomplish what is necessary. So I would urge a "no" vote.

Mr. COOPER. Mr. Chairman, will the gentleman yield?

Mr. VENTO. Mr. Chairman, I am happy to yield to the gentleman from Tennessee, my distinguished colleague, Mr. COOPER.

Mr. COOPER. Mr. Chairman, I appreciate the gentleman yielding.

Mr. Chairman, I would like to add just two points. First, I have enjoyed working with the gentleman from California. As you will recall, we worked very closely on the amendment, a successful amendment, to establish the $5,000 cap on any particular day's liability for a financial institution. That I think we both feel is a very important safeguard that was needed on this legislation. That helps limit any exposure or any risk that an institution would face from a fraudulent or any other type of scheme.

I am afraid, though, in spite of my admiration for the gentleman and my agreement with many of his feelings in this area, that we would be going too far to adopt an amendment like this, an amendment which looks great on the surface but which would, I am afraid, create too many opportunities for mischief on the part of financial institutions.

My second point is this. Many folks might have the impression that industry groups would like this bill if we attach this amendment to it. It is my impression having read a letter from one of the leading industry groups that they do not like any legislation period, and even with this amendment, they would still be opposed to the bill.

Mr. Chairman, I thank the gentleman for yielding.

Mr. VENTO. Mr. Chairman, I thank the gentleman for his comments.

I just would add I think that the discussion with regard to bad checks, of course, is an important one, but this is not the proper format for that. This bill really has little to do with correcting that particular problem. We are dealing with the availability of funds. The time in which we honor and credit checks has little or nothing to do with fraud and some of the other problems dealing with insufficient funds. It could potentially become a problem, that is why we provide for the Federal Reserve Board to deal with it.

The CHAIRMAN. The time of the gentleman from Minnesota [Mr. VENTO] has expired.

(Mr. VENTO asked and was given permission to proceed for 2 additional minutes.)

Ms. OAKAR. Mr. Chairman, will the gentleman yield?

Mr. VENTO. Mr. Chairman, I yield to the gentlewoman, my distinguished colleague from Ohio [Ms. OAKAR].

Ms. OAKAR. Mr. Chairman, I want to thank the gentleman for yielding.

Mr. Chairman, I could not agree with the gentleman more that check fraud is really a very small part of the total of checks written. Studies revealed that only 1 in every 5,245 checks results in a loss to the bank and that the loss is less than 1 cent for a bad check. So we know that more than 99 percent of the checks clear.

Mr. Chairman, with all due respect for the gentleman offering it, and I have a lot of respect for the gentleman, I would like to say that I think the amendment is somewhat mischievous, and it really is sort of a backdoor attempt to gut the bill. I know perhaps the gentleman did not mean that, but that is the way I view the amendment.

So, Mr. Chairman, I hope we reject this amendment.

Mr. VENTO. Mr. Chairman, I thank the gentlewoman for her comments.

Mr. SHUMWAY. Mr. Chairman, will the gentleman yield?

Mr. VENTO. I am happy to yield to the gentleman from California.

Mr. SHUMWAY. Mr. Chairman, let me just assure the gentlewoman from Ohio that there is no mischievous intention in presenting this amendment. We have thought it through very carefully, and it seems to me that it is intended to really accomplish a worthwhile objective.

Mr. Chairman, I would like to just say to the gentleman from Minnesota who made reference to the fact that the bill does empower the Federal Reserve, for example, to close the door to this kind of fraud and abuse once it is detected. I would suggest to the gentleman that that really amounts to after-the-fact protection, and I do not think that you can really try to retrieve the horse by shutting the barn door after the horse has escaped.

What we are dealing with here is the here-and-now situation when an institution must make a decision and can indeed verify that one of these three factual situations applies, and then is either given or not given under this amendment or the bill the discretion necessary to deal with that. I think it is a very straightforward, commercially recognized proposition that we are simply trying to preserve in the banking community.

Mr. VENTO. Mr. Chairman, I thank the gentleman for his insight on what he is attempting to do, and I certainly understand the gentleman's intent and do not fault it. I disagree with the impact of the amendment.

Mr. WYLIE. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the amendment.

Mr. Chairman, I rise in support of the amendment and congratulate the gentleman from California [Mr. SHUMWAY] for offering it. During deliberations of the Expedited Funds Availability Act, the committee considered an amendment offered by Mr. SHUMWAY which would have excluded a check from the availability schedules if an institution had a "good faith" doubt that the check was uncollectable. As pointed out, the author of the amendment has narrowed the scope of the language to include only cases of bankruptcy, fraud, or check kiting. Opponents of this amendment argue that the solution for such a case would be for the depository institution to either refuse to accept the check for deposit altogether or to accept the check on a collection basis only.

I do not believe this is an acceptable solution to the potential fraud problem facing depository institutions. To force institutions to refuse suspect checks, or accept them on a collection basis, is not in the best interest of consumers. As Mr. BARNARD points out institutions can refuse a check. As the author of the amendment points out, refusing suspect checks or accepting the check on a collection basis will ultimately result in substantially increased costs to consumers, as well as significantly greater delays, in many cases, to consumers receiving access to their funds.

Further, I understand that the funds availability laws in the States of New York, California, and Massachusetts contain much broader language regarding a necessary exemption for items where there is a good faith doubt that the item will be uncollectable. This exemption has not been abused in any of the States where it is currently in use.

A final point I would like to make in support of this amendment concerns the "prevention of fraud losses" provision already contained in the bill. Currently, H.R. 2443 contains language permitting the Board of Governors of the Federal Reserve to suspend the availability schedules to any classification of checks if the Board determines that, first, depository institutions are experiencing an unacceptable level of losses due to check-related fraud; and third, if necessary to diminish the volume of such fraud. While this language offers depository institutions some protection, it is very different from the language proposed today by Mr. SHUMWAY.

Under section 4(g) of the bill, a pattern of abuse must exist in a broad classification of checks before the Federal Reserve may intervene. In fact, the Federal Reserve must show that the institutions have already experienced loss due to fraud. We all certainly know who will ultimately pay for those losses. The language contained in the bill does not allow an exemption on an item-by-item basis or for a particular check. The amendment offered by Mr. SHUMWAY provides a safety net for the industry which would allow quick action in the event the depository institution reasonably believes that circumstances surrounding the presented check involve bankruptcy, fraud, or kiting. Therefore, I urge my

colleagues to support the gentleman's amendment.

□ 1420

Ms. KAPTUR. Mr. Chairman, as a member of the Committee on Banking, Finance and Urban Affairs, I move to strike the requisite number of words, and I rise in opposition to the amendment offered by my distinguished and respected colleague, the gentleman from California [Mr. SHUMWAY].

Mr. Chairman, I rise today in support of H.R. 2443, the bill that will protect American consumers against unfair check hold practices of many of our banking institutions. This bill is key to alleviating the unnecessary burden placed upon bank customers, particularly those on low or fixed income, which is caused by banks placing unduly long holds on deposited checks, even on those drawn from the Government or an employer or another local bank. It is also a bill to reduce the unearned profits that these banks reap from the "float" game, a practice of investing funds deposited by customers while denying these same customers access to or interest on these funds.

The amendments being offered today will drastically cut the efficacy of this legislation. Let's call a spade a spade. These are not amendments aimed at controlling fraud, as the banking community is arguing, for check fraud is not a great problem. Less than 1 percent of all checks deposited are returned for nonpayment, and of those, 60 percent are paid in the second presentation. In addition, after much committee investigation and testimony on the subject, there is still no proof of a relationship between the length of a check hold period and the elimination of fraud.

These amendments are, in fact, vehicles for banks to skirt the law. The very nature of the language of the amendments offered will create loopholes. They would allow banking institutions to hold checks beyond the scheduled period—attempt to skirt the law—whenever there is reasonable belief that a customer may be declaring bankruptcy, reasonable belief that the check may be part of a fraud scheme, or reasonable belief that there is evidence of alteration or forgery. The rewording of the amendment to specify these three circumstances under which the banks may deny a customer access to funds does not correct the underlying weakness of the wording. Without a standard of evidence for reasonable belief, the banks can interpret banking account actions at will, place a hold on deposited funds, and continue to profit on the use of these funds at the customers expense.

We cannot let this happen. Bank depositors, all consumers, have a right to quick, reliable access to their own money and to earn interest on their own money. I urge you to support this important consumer legislation, H.R. 2443.

Mr. SHUMWAY. Mr. Chairman, will the gentlewoman yield?

Ms. KAPTUR. I yield to the gentleman from California.

Mr. SHUMWAY. I thank the gentlewoman for yielding.

Mr. Chairman, I would just like to respond to one of the points that the gentlewoman made in her debate.

It is true that, certainly, banks always have the discretion to refuse to accept for deposit a check which might look doubtful to them for some reason. But I would just suggest to the gentlewoman that that kind of action on the part of banks does not go to promote good relationships with the institution and its customer base. They are there to serve customers, and they would like to do what they should do to answer the needs of those customers.

It also does not talk about the problem that does exist when a check has already been deposited in a bank and then, after the fact, the institution discovers that the check is uncollectable, only at that point. Now, there is nothing to protect the institution against loss at that point if they cannot exercise this kind of discretion that my amendment gives them.

Mr. ST GERMAIN. Mr. Chairman, will the gentlewoman yield?

Ms. KAPTUR. I yield to the gentleman from Rhode Island, the chairman of the committee.

Mr. ST GERMAIN. Mr. Chairman, what the gentleman has just said is what this amendment does. Instead of saying, "Well, we are not going to accept a check for collection because we have reason to believe that you are in bankruptcy, in a legal dispute, or something like that," what this amendment does is to say to the bank, "You don't have to tell them, so you can take the check and maybe use it and maybe have the use of those funds, and if they want the funds, you just say, 'We have reason to believe that you are in a legal dispute.' "

I would like to have the bank to have the guts to tell the customer, "We don't want to accept your check."

Let us not ruin the legislation.

Mr. SHUMWAY. Mr. Chairman, will the gentlewoman yield?

Ms. KAPTUR. I yield to the gentleman from California.

Mr. SHUMWAY. I appreciate the gentlewoman's yielding.

I would just say to the chairman that, certainly, the fact that the banks do not want to put themselves in that situation of having to tell their depositor those things, they would be very reluctant to exercise the provisions of this amendment.

Ms. KAPTUR. Mr. Chairman, if I may reclaim my time, I just want to say to the gentleman that I think every business in this country is in business to do business, and one has to decide on a customer's worth and their ability to pay bills. Banks have to do that, just like supermarkets or drycleaners or retail stores. There are all sorts of credit checks. Banks certainly have more access to information than some smaller businesses in our country do, and I do not think that by making that type of determination they are doing anything out of the ordinary.

Mr. FRANK. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I think the last colloquy illustrates why many of us are against the amendment. We are not in this bill taking away the power of a bank to refuse a check when it has a question about its validity. We are requiring them to do that in an open way, notifying the consumer.

Now, the gentleman from California says, "Well, the bank would be reluctant to do that openly."

Yes, that is what we want to do; we want to substitute for a situation where we do not want the bank automatically to assume that all risk goes to the customer. We do not want the bank to have to make any kind of calculation in that case. Under the current system, as the gentleman I think has implicitly testified, it is the consumer's problem. If the bank has a problem with the check, they take the check, they are under no obligation to tell the consumer. That consumer might, after a week or 2 weeks, on a check drawn on the same city, make the natural assumption that in this great technological age the bank in 2 weeks has been able to get the money from the bank next door, write a check and have it bounce on him, because he has not been told.

Yes, the bank ought to have to, if it is going to reject its consumer's check, tell the consumer that. That puts the consumer on notice. The consumer, that way, might be able to go to that company and say, "Wait a minute, that's no good." In other words, the current system says the bank can protect itself against the bankrupt, but the consumer cannot. All the risk of that will go on the consumer.

In addition, I want to say we are describing the current situation. But this bill mandates the Federal Reserve to come up with a system in over 3 years for this to happen.

Today we have got exchanges being opened at 5 o'clock in the morning. You read in the paper, in the financial pages, about these poor people in suburban New Jersey and suburban New York City, they have got to get out of bed at 5 o'clock in the morning to make their $250,000 a year because the

exchanges are open in London and because instant communications are such that, when it comes to trading back and forth, when it comes to arbitrage in currency, when it comes to all of those financial transactions, we have virtual worldwide instantaneous communication of large amounts of money. Differences of minutes can mean a lot of money; differences of hours can put you out of business.

It ought not to be impossible, for the people who have constructed that system, in 3 years and 3 months to come up with a system that says that a consumer ought to be able to get his or her money within a few days, not hours; and, simultaneously, the bank should be able to know if the check is collectable.

In other words, what we are saying to the Federal Reserve Board is, "You want to protect the bank, and so do we. Come up with a system which will allow that to happen within 4 days."

No one familiar with current technology argues that it is impossible today for the bank to get those determinations within 4 days.

It is possible for the banks, if they want to, to get that money.

The question is: Where are we going to put the incentive to improve? If we leave the risk totally on the consumer, as it is today, there is no incentive on the part of the banking community or on the Federal Reserve Board to improve that system.

Mr. ST GERMAIN. Mr. Chairman, will the gentleman yield?

Mr. FRANK. I yield to the chairman, who has done a superb job in bringing this bill forward.

Mr. ST GERMAIN. I thank the gentleman for yielding.

Mr. Chairman, staff has just brought to my attention a statement that will be published in the RECORD by our colleague, the chairman of the Committee on the Judiciary, and he says:

> The bankruptcy laws include provisions that permit persons or companies who have filed bankruptcy to continue writing checks and that protect entities that deal with parties who have filed bankruptcy. In many instances, a court-appointed trustee must cosign these checks. Businesses that file under the chapter 11 reorganization provisions of the Bankruptcy Code need to be able to conduct business in the same manner as other companies, subject to bankruptcy court control and scrutiny, in order to survive.
>
> Then bankruptcy laws offer sufficient protection against bad checks, and the amendment would interfere with the aim of the bankruptcy laws.

Mr. FRANK. I thank the gentleman. Any time I can yield to one of my chairman for him to quote another of my chairman, I think I have certainly done the right thing.

Mr. Chairman, just to summarize, we have in this bill an amendment adopted in committee which says the Federal Reserve Board may suspend the whole bill, part of the bill, it may suspend it geographically, it may suspend it regionally, it may suspend it for different types of checks, if it finds a pattern of abuse. And we have a 45-day period in which to correct that, 45 legislative days. It gives to the banks, we hope, in 3 years and 3 months, a system by which they can protect themselves, and it says, as the gentleman from California has knowledged—his amendment does not say it does not grant the banks the power to protect themselves. They have that now. What the gentleman from California objects to is if the bank wants to protect itself in this case now, assuming that there is a particular check which would not be covered by the language read by the gentleman from Rhode Island, if the banks want to protect themselves, they do it without necessarily telling the consumer, they do it without there being any particular way for the consumer to protect himself.

Mr. SHUMWAY. Mr. Chairman, will the gentleman yield?

Mr. FRANK. I yield to the gentleman from California.

The CHAIRMAN. The time of the gentleman from Massachusetts [Mr. FRANK] has expired.

(By unanimous consent, Mr. FRANK was allowed to proceed for 3 additional minutes.)

Mr. SHUMWAY. I thank the gentleman for yielding.

Mr. Chairman, the bill now allows the Federal Reserve to exempt a classification of checks if indeed they see that fraud is occurring.

What happens on the single individual check that is presented on a one-by-one basis at the time the check is presented? There is no relief at all for the bank at that point.

Mr. FRANK. Yes; there is. The gentleman has admitted the bank can reject the check. But what the gentleman from California says is, "Well, the bank might not want to reject the check openly, that might anger the consumer." So what he wants the bank to be able to do is not say to the consumer, "We won't accept your check because we think there is a problem and we are not going to take it," we want the bank to say, "I am your friendly neighborhood banker, put your check in here, but if you decide to draw on that check, you may get whacked, and you are on your own."

So that is the difference. Yes, the bank has got that right to reject it. The consumer has the right to contest it. The consumer has the right to go to the person who sent the check and say, "Wait a minute, am I getting stuck?"

What the gentleman has said is the banks are reluctant to accept the responsibility to do it openly because they may anger the consumer.

Well, I think consumers are angrier at having that done to them silently than if it were done openly, and we would rather have the consumer have the information.

I yield again to the gentleman from California.

Mr. SHUMWAY. I appreciate the gentleman yielding.

On that point, there is not any effort here at all to allow banks to do something by disguising their motives. Indeed, the law that applies to this subject in my home State of California requires that notice be given to the depositor if there is going to be one of these sections invoked by the receiving bank.

I am not trying to undo that notice. It is something that banks have lived with. It is a system that has worked very well in California. And I am not suggesting that we should change the law in that regard.

Mr. FRANK. I will yield to the gentleman again if he would show me where in his amendment it mentions that notice.

Mr. SHUMWAY. My amendment does not speak to the notice, but I am saying it does apply in my home State——

Mr. FRANK. Reclaiming my time, it is reassuring for me to know that in the gentleman's home State of California that notice is given. I would say to the gentleman that while more and more of us are living in California, not all of us are living there yet. Under the gentleman's amendment, the notice that he so proudly proclaims is extended to people in his home State of California is not extended, so the notice is not included, and my point remains that the difference is whether it is done openly or not.

Mr. SCHUMER. Mr. Chairman, will the gentleman yield?

Mr. FRANK. I yield to the gentleman from New York, who has been a sponsor of this bill.

The CHAIRMAN. The time of the gentleman from Massachusetts [Mr. FRANK] has again expired.

(On request of Mr. SCHUMER and by unanimous consent, Mr. FRANK was allowed to proceed for 1 additional minute.)

Mr. SCHUMER. Mr. Chairman, the gentleman and I and the gentleman from New York, the chairman, were involved in that 45-day suspension period. We do not have wording in the legislation that says whether that 45-day suspension period can be renewed consecutively.

Is it not true that it was the understanding of all of us, when we passed that legislation, at least the gentleman from Massachusetts, the gentleman from New York, and others who were in the discussion, that that could not be renewed until the year was up?

Mr. FRANK. That was our understanding, unless there were some very extraordinary circumstances.

Mr. SCHUMER. Correct.

Mr. FRANK. I mean if Congress were in the middle of acting on something to correct it and we were unable to act, in that very extraordinary circumstance. But the general intention, that 45-day suspension of legislative days was to allow the Congress to act, to bring it to our attention. We can no longer use the legislative veto form, or we would have used that, constitutionally. So the intention is to bring it to our attention, and if we disagree with them, they are not supposed to reinvoke that.

I yield to the chairman, the gentleman from Rhode Island [Mr. ST GERMAIN].

□ 1435

Mr. ST GERMAIN. I thank the gentleman for yielding to me.

Mr. Chairman, I want to rise and state that indeed, as one who participated in the drafting and the adoption of that section, that I care. I would like to make another statement. I want to commend the gentleman from Massachusetts for his analysis of the pending amendment. As usual, his incisive mind has come up with additional defects in it.

The CHAIRMAN. The time of the gentleman from Massachusetts [Mr. FRANK] has expired.

(By unanimous consent, Mr. FRANK was allowed to proceed for 1 additional minute.)

Mr. FRANK. Mr. Chairman, I continue to yield to the gentleman.

Mr. ST GERMAIN. Mr. Chairman, I would also like to make a point to those of our colleagues who are busy in their offices and are unable to be on the floor but who are, nonetheless, following the debate. This amendment is a banker's amendment. This amendment is not supported by the consumers and the people who elected you and I to this office.

So I would say that we should reject this amendment because it is antipeople, anticonsumer, and probank. The banks are protected in this bill very, very sufficiently. Now, let us not be hoodwinked into adopting this amendment; it would destroy the effectiveness of the entire bill.

Again, I wish to commend the gentleman from Massachusetts.

Mr. PARRIS. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, there is an old story that comes out of the Southwest United States somewhere where apparently a local county judge was a cashier in a bank, and a man presented a check for payment. He was a stranger in town, and the judge, who was the cashier, looked to him and said, "The identification you have is just not adequate." The guy said, "Well, judge, I hear you hang people for less evidence than this." The judge said, "Well, that is probably right; but when you are talking about cash, you have got to be very careful."

That is what this bill is all about, my colleagues. We are talking about cash transactions in the form of a check.

Mr. Chairman, the testimony the Banking Committee heard clearly showed that some financial institutions' funds availability policies are excessive, and do impose unjustified delays on consumers in withdrawing moneys which they have deposited. When a customer deposits a check, the bank receives the equivalent of cash from the check-collection process in 1 or 2 days. As one Member of this body, I believe there is no justification for a blanket hold policy that denies customers the use of deposited funds, including Government checks, for as long as 2 weeks. Financial institutions should provide established, financially responsible customers with funds availability in accordance with when the institution can use the funds.

I see no reason why all Government checks payable to, and endorsed by, a customer with an established relationship with the bank of deposit should not be given next-day availability. Also, depositors should receive interest on their funds no later than receipt of provisional credit by the depository institution.

As we all know this bill requires depository institutions to provide specific disclosure of their funds availability policies to new and existing customers. I believe a great part of the check-hold problem is that many customers simply are unaware of what their institution's hold policies are. Full disclosure may well be the most effective remedy for the abuses brought to light in our hearings. Consumers, armed with correct information, would then be able to shop for the institution which best serves their check clearing needs.

Mr. Chairman, we are all here today on behalf of consumers' interests. But the promises we make today in this bill should not result in higher costs and added inconvenience for consumers 3 years from now.

Few would argue that no legitimate justification exists for placing holds on funds in some instances. Several days may pass before a financial institution discovers that a deposited check has bounced or is otherwise dishonored by the bank on which it is drawn. Financial institutions must have an opportunity to guard against bad checks, fraud, and check-kiting schemes.

Our national check processing system is extremely complex. The check-collection system is still predominantly a system of paper transfers; we are several years and a huge investment away from converting to electronic forms.

The system moves approximately 40 billion checks each year written on more than 40,000 institutions, each operating with different geographic, competitive, and technological constraints. It is not simply a case of neighboring banks. The problem also applies to a check written on a California bank and deposited in a Virginia institution.

While we are all aware of clear abuses in check-hold policies, the problem may be overstated when you examine the percentage of checks on which holds are actually placed. Many institutions provide their customers with excellent availability. A survey conducted by the California Banking Commissioner's office in 1984 revealed that less than one-tenth of 1 percent of all deposits in that State were subjected to a hold. Another survey done by the Houston Clearing House Association in the Greater Houston area also showed that less than one-tenth of 1 percent of deposited items were subjected to a hold.

Sovran Bank, Virginia's largest with 265 branches, provides its depositors with immediate availability for all U.S. Treasury drafts, cashier's checks, and checks drawn on Sovran accounts. Moreover, Sovran provides immediate availability for all other checks deposited on all of its depositors' accounts, except new accounts opened within the last 60 days. Sovran's superb availability policies are not without cost to the bank because it is paying interest on funds for which it does not receive provisional credit for usually 2 days.

This bill requires that after 3 years from the date it is passed, that funds be made available for local checks at the start of the business day following the day the check is deposited. What's more, it mandates 3-day availability on nonlocal checks within 3 years of passage. This schedule is at a minimum overly optimistic and at worst unworkable for banks and their customers.

As I have said before, this bill is classic legislative overkill. We have equipped ourselves with an elephant gun to do away with limited abuses when a few well-aimed swipes with a flyswatter by the Federal Reserve or the States would solve the problem.

The Federal Reserve Board told the committee that the check-hold problem is an "essentially localized problem." The National Conference of State Legislatures spokesman reported that the individual States are "leading the way" in dealing with the problem, with six States with laws already on their books and over a dozen more considering remedies for related consumer concerns.

Of course, the bill's availability schedule has a certain superficial appeal, but a closer examination re-

veals landmines which threaten to wipe out most of the benefits this bill promises consumers. Let me mention just a few of those problems.

This bill will require a huge investment by banks and the Federal Reserve to meet its availability schedule. Federal Reserve Board Vice Chairman Preston Martin reported that in order to comply with the mandate of 3-day availability on nonlocal checks within 5 years of the bill's passage, the bill's initial timeframe, a multi-billion-dollar investment in electronic processing equipment, software, mainframe computers, and linkages through extensive branch systems would be required. H.R. 2443, as reported today, narrows the onset of 3-day availability for nonlocal checks to 3 years from the date of passage, and thus spreads this cost over an even shorter time period.

Experts in financial data processing have said that the only way to comply with this schedule is for wholesale conversion to electronic banking, which would require consumers to suddenly abandon paper checks and turn to debit cards and automatic teller machines. Recent surveys show that consumers have not widely accepted these new methods. Who should make this decision about how the citizens of our Nation do their banking, Congress or consumers in a free marketplace?

The CHAIRMAN. The time of the gentleman from Virginia [Mr. PARRIS] has expired.

(By unanimous consent, Mr. PARRIS was allowed to proceed for 3 additional minutes.)

The cost of complying with the bill's mandates could be especially heavy for smaller institutions that lack the array of electronic check-clearing equipment possessed by big-city banks. Is it realistic to impose the same requirements on a small bank in rural Nebraska as are imposed on a big New York City money center bank? That is what this bill does.

In addition, the Congressional Budget Office indicates that this bill will cost the Federal Reserve System up to $30 million annually to comply with its requirements. But of what importance is $30 million when the Fed will simply recoup this cost by increasing the fees it charges to depository institutions?

The bill also requires that after 3 years, funds must be made available for local checks at the start of the business day following the day the check is deposited or next-day availability. This schedule is at a minimum overly optimistic and at worst unworkable for banks, because it is fraught with the potential for check fraud.

Today, the vast majority of local checks are not received by the payor institution until well after the start of business. It is highly unlikely that even an enhanced check-collection system could provide for delivery of all checks to the payor institution within this rigid timeframe, let alone notice of return, according to the Federal Reserve. As a result, depository banks making funds available in accordance with the bill's schedule run the risk of incurring a loss on a dishonored check because insufficient time exists for the check to be sent to the originating bank and returned unpaid. Banks may be faced with increased losses, which will add to their cost of doing business.

In our haste to expedite funds availability, we have ignored the troubling question of who will eventually pay for the bill's added investment and costs. Those of us who champion the consumers' true interests know that Congress has no money available to pay for the multi-billion-dollar investment we are imposing. As is almost always the case in the business world, banks will inevitably pass on all of this extra cost of doing business to their customers in higher service fees. We are sticking consumers with the final bill for the expensive investment required by H.R. 2443.

If we ignore all of the problems I have mentioned, this body should at the very least support the amendment offered by my distinguished colleague from California, Mr. SHUMWAY. There is a legitimate and compelling need to provide very narrowly drawn exceptions to the availability schedules where a bank has reasonable cause to believe a check may not be collectible because the depositor may be insolvent or involved in fraud or kiting schemes.

I urge my colleagues to support the Shumway amendment which will significantly improve this proposal and will remedy the pitfalls the original bill has for consumers.

Mr. McCOLLUM. Mr. Chairman, will the gentleman yield?

Mr. PARRIS. I yield to the gentleman.

Mr. McCOLLUM. I thank the gentleman for yielding to me.

Mr. Chairman, I have heard an argument earlier this afternoon and I think the gentleman's remarks are right on the point and I agree with them. I think the argument needs to be addressed a little bit.

The idea that some people have been saying that the bank may reject a check as a practical matter as a solution to this whole problem is just absurd. It would render chaos to the entire community of the business world.

The CHAIRMAN. The time of the gentleman from Virginia [Mr. PARRIS] has expired.

(On request of Mr. McCOLLUM and by unanimous-consent Mr. PARRIS was allowed to proceed for 2 additional minutes.)

Mr. PARRIS. Mr. Chairman, I continue to yield to the gentleman.

Mr. McCOLLUM. I thank the gentleman.

Mr. Chairman, it would render chaos in the business world if banks felt compelled, because of suspicion and concern over the institutional well-being of various organizations and businesses in a community, to reject their checks. To reject checks written on accounts with their banks. Just because they have heard rumors, and there are rumors about financial instability or what-have-you.

The logical process which is followed now is to let those checks be deposited, go through the check-clearing process under a hold system, and then ultimately be either rejected or collected at the other end. Then pay out the money to the person who has made the deposit. I think that is why the amendment of the gentleman from California [Mr. SHUMWAY] is so reasonable. It would allow for the banks to continue this practice in those cases where they would otherwise probably want to reject, but which would disrupt the financial system. For businesses it might not be actually going to go belly-up or be fraudulent. They may have the funds in the bank down the road.

□ 1445

It just may be that they have a bad reputation at that moment that is unfounded.

So I think the gentleman's points were well made about the whole financial institution system and the fact that we need so strongly to correct the legislation so we do not render havoc with it, in addition to what he had to say about the need to be concerned about the rejection concept.

Mr. Chairman, I thank the gentleman for yielding and letting me comment on it. I, too, strongly support the Shumway amendment.

Mr. PARRIS. Mr. Chairman, I thank the gentleman for his contribution, and I yield back the balance of my time.

Mr. SCHUMER. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I think once again the major arguments have been flushed out very well on both sides.

Summing up on this side, let me first elaborate on something the committee chairman had mentioned. The chairman of the Judiciary Committee has stated to this body in a statement that this amendment is flawed and it would do havoc with the bankruptcy laws. Let me just read an excerpt. This is from what Chairman RODINO had to say:

> The amendment is flawed because it treats a person or company that may file bankruptcy the same as a person or company that has filed bankruptcy and by permitting the banks complete discretion to decide themselves who may file bankruptcy. How

can it be accurately determined who is about to file for bankruptcy? The banks should not be given to power to make such a decision. Since no standard is set for banks, they can seemingly hold up a payment on a check and use it as a bargaining tool in a bankruptcy proceeding.

That alone, I say to the Member of the House, is enough to reject the Shumway amendment.

Let me sum up three arguments that really reside against the Shumway amendment. One is vagueness. There is no standard in the Shumway amendment.

Would Eastern Air Lines be subject to it because there are rumors in the newspapers that it is possibly going bankrupt? Would that allow banks to hold every check from Eastern Air Lines employees? One does not know. The current hold policies, we are told, are based on the need to protect themselves against fraud, but the long and short of it is, I say to the Members of the House, that the loopholes in the Shumway amendment are enough to drive 40 billion checks through.

The second problem that is stated is that there is no notice to consumers. If indeed a bank is going to hold up a check, why cannot they let the consumer know? It is plain and simple. That is not in the Shumway amendment, as has been elaborated before.

Third, they are going to have the bank be judge and jury, as well as one side in the case. It is going to be in a bank's interest to lean against the consumer.

This bill has adequate impartial arbiters: the Federal Reserve Board, as well as the commission. That has not been mentioned so far, but it is in the bill's language.

Why let banks decide, when it is certainly in their interest to lean against the consumer and, on a whim or a chance, decide that a check is not creditworthy?

For those three reasons, as well as the problems it produces in any kind of a standard bankruptcy proceeding, I think that we should let the Shumway amendment be defeated and move the bill. As I stated in the beginning of this debate, this should be a year for consumers. Deregulation has made it necessary that this committee and this body move to protect consumers in banking.

The Shumway amendment would strip this first piece of legislation of most of its proconsumer impact. Let us move this bill, and let us in this committee move along with the proconsumer legislation that deregulation has necessitated.

Mr. DREIER of California. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in strong support of the Shumway amendment, and I wish to engage in a colloquy with my distinguished colleague, the gentleman from California. A number of points have been raised during the course of this debate which I think bear reiteration.

The distinguished ranking Republican member of the committee raised the point that good-faith exemptions now exist in a number of States and there in fact have been no signs of abuse. That is the only track record we have to go on, and I would like to ask the author of the amendment if that is in fact the case.

Mr. SHUMWAY. Mr. Chairman, if the gentleman will yield, that is the case, and I have referred to the California experience, not to hold up California as the beacon for the Nation but simply because that is a place where we have had an actual track record of operating under this kind of language.

Mr. DREIER of California. And in fact it is the most strict language of any of that which exists in any of the other States, which include, I believe, Massachusetts, Rhode Island, New York, and Connecticut; is that correct?

Mr. SHUMWAY. As I understand it, there are five States that have adopted such laws, and four of them allow for the good-faith exemption we talked about in committee. California has a law very closely paralleling that which I have offered here but which is a tighter standard.

Mr. DREIER of California. I would also like to ask the gentleman this: If a bank were in the process of accepting a deposit and had found, after having accepted that deposit, that the institution was in the process of being victim to a check-kiting scheme, what would happen under the present writing of this bill?

Mr. SHUMWAY. Under this legislation the bank would have no recourse once it has accepted that check for deposit. Providing it does not come within the other minimal exemptions, the $5,000 and the new-deposit exemptions, the bank would simply be stuck.

Mr. DREIER of California. Mr. chairman, I have one other question which relates slightly to this amendment.

Correctly and commendably, the chairman refers to the fact that we must have Government checks deposited and paid on as soon as possible. In the 5 years that I have been here, I have been consistently faced with this question as to whether or not we are going to increase the national debt ceiling, and just last year on several occasions we saw the news reports that because of a lack of action here in the Congress the Federal Government was going to come to a standstill.

What I would like to know is, under this legislation would a bank still be required to pay a Government check even if the Treasury was not going to honor it?

Mr. SHUMWAY. The answer is clearly, yes. Now, of course a bank would have some degree of discretion on checks of that sort and others. But under this legislation there would be a straitjacket effect that would mandate the alternative action of the bank.

Mr. ST GERMAIN. Mr. Chairman, will the gentleman yield?

Mr. DREIER of California. Yes, I am happy to yield to the gentleman from Rhode Island.

Mr. ST GERMAIN. Mr. Chairman, the banks know and every citizen of the United States of America knows when we face that type of a crisis because every channel on television and every radio station plays it up. It is a drama that they enjoy, that Government workers may not be paid and social security recipients may not be paid. So certainly the banks are on notice as well that they may not be paid.

So I am certain that if we were not to agree to increase the deficit, the banks would be on notice, and they would just say to you and to me when we go down with our little checks, "Sorry, we can't accept that because you have not agreed to increase the deficit."

Mr. DREIER of California. But, Mr. Chairman, is there a provision in this bill which protects the institution from being required to pay it?

Mr. ST GERMAIN. There is nothing in this bill that says you are required to accept the check. All it says is that if you accept the check, you must in a timely fashion give credit to the depositor.

Mr. DREIER of California. Not to disparage a teller at all, but what if the teller happened to miss the evening news the night before and were to go ahead and receive that check and deposit it?

Mr. ST GERMAIN. Well, that teller's career would be shortened immeasurably, I would imagine.

Mr. DREIER of California. Mr. Chairman, I thank the gentleman very much. It's apparent that under this bill the news media will benefit as all bank tellers will be required to closely monitor the roller coaster actions of this Congress.

Mr. CARPER. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I said earlier in the general debate on the bill that I realize this bill is not perfect. In committee a number of amendments were offered. I offered several myself.

One of the amendments I offered that was rejected was one that said, let us not have a patchwork quilt of State laws dealing with this particular subject; let us instead have a uniform Federal law.

During some of the discussion that has gone on relative to this particular amendment, there has been at least some mention of the State law which

has been passed or enacted in the State of California.

What I would like to do is to yield for the purpose of having the author of this amendment respond to this question so he can tell us how the other five States treat this specific issue. I yield to the gentleman from California.

Mr. SHUMWAY. Mr. Chairman, I thank the gentleman for yielding, and I appreciate the gentleman's raising the question. It is a very good point and one that needs to be understood by Members.

As I understand it, there are now five States that have similar laws to this one governing the subject of availability of deposited funds. In four of those States, those being Rhode Island, Connecticut, Massachusetts, and New York, there is a good-faith exception which can be utilized by banks to put a hold upon checks presented for deposit.

The fifth State, California, as I have mentioned in an earlier colloquy, has a law which very closely parallels my amendment which I have offered here. It outlines three specific areas and requires on the part of the bank a reasonable belief in those areas, rather than just an unfettered grant of discretion, before one of the exceptions could be invoked.

□ 1455

So there is a patchwork quilt being developed, because not all States have the same kind of law.

Mr. CARPER. Mr. Chairman, I thank the gentleman for his response.

Reclaiming my time for another followup question, in the four States where the good faith provision is included, has it indeed been abused by the financial institutions that have been given prerogative?

Mr. SHUMWAY. There was no evidence of abuse at all presented to the committee during the hearings. We had representatives from a number of States that have had some operating experience and in every case there was no evidence or any hint even that the banks have indeed abused those procedures.

Mr. CARPER. In the discussion that occurred between the gentleman from California and the gentleman from Massachusetts earlier this afternoon, the issue of notice being part of the California bill, as opposed to this particular bill, was raised. Has the author of this amendment considered including in his amendment the notice provision?

Mr. SHUMWAY. I do not really have any bias against giving notice. In fact, I intend to introduce later in the afternoon a bill, or a substitute, which would rest the entire proposal on giving notice and making full disclosure to consumers. I have no objection to that. Simply in an effort to be simple and to be very straightforward in my amendment, I have not tried to load it up with provisions requiring notice.

Mr. CARPER. I thank the gentleman for his response.

For purposes of answering this question, let me yield to the chairman of the full committee. The question I want to ask of the chairman is absent this amendment, specifically what protections do these institutions have against, one, fraud; two, bankruptcy; and three, check kiting, because I believe we are all concerned about that.

Mr. ST GERMAIN. Mr. Chairman, if the gentleman will yield, we are all concerned.

I would like to make a few points. No. 1, as to the patchwork quilt, what the other States do, I might mention, you see, I was a member of the State legislature in Rhode Island before I came to Washington. I felt that this was a step up in the world, and that because most of us here are fulltime and in Rhode Island they are in session 60 days a year. With all due deference to the State legislature, they do not have the time, the staff, et cetera, to analyze these things as we do; so I would like to feel that we in the Congress do not have to take a back seat to any State legislature.

No. 2, let us get to the gentleman's question. I think that Chairman RODINO has put the bankruptcy situation to rest in that which has already been introduced in the RECORD.

As to fraud and kiting, page 17 of the bill on prevention of fraud losses, as explained on page 20 of the report, prevention of check fraud losses, adequately takes care of the financial institutions.

Recall this, that at any point in time if this amendment is not in the bill, and as I said to the gentleman from California [Mr. DREIER], there is nothing that says to a bank that it must accept a check. If they really feel that they are going to be defrauded, they can just say, "We are not going to take the check." That is all. That is why I oppose this amendment.

Mr. CARPER. Mr. Chairman, I thank the gentleman for his response.

Mr. SPRATT. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I am not a member of this committee, but I have been watching the debate and attending to the debate. I have some comments I would like to make.

I think the Shumway amendment is well-intended, well-supported and ought to be added to this bill.

The gentleman from Georgia [Mr. BARNARD] started out by saying that the bank has an alternative. The bank simply can refuse to accept payment of a check. They can refuse to put the check in the process of collection. We ought to expose the fallacy in that.

Tellers do not have the knowledge, the information with which to intelligently make that particular decision. That decision is going to have to be made, if it deals with check kiting——

Mr. ST GERMAIN. Mr. Chairman, will the gentleman yield on that point?

Mr. SPRATT. Certainly.

Mr. ST GERMAIN. By the same token, in one instance the gentleman says that the teller does not have the ability to make that decision. The gentleman just said that, right?

Mr. SPRATT. Yes.

Mr. ST GERMAIN. And yet what does the Shumway amendment do and what does it say? It says that if the teller feels there is reason to believe that there might be fraud or bankruptcy or legal procedures, they can put a hold on that check. So how in one instance does that teller bring it and in the other instance is not knowledgeable, if the gentleman will be good enough to explain that?

Mr. SPRATT. Very simple. I am making a generalization. The tellers are not likely to have the specific information needed to know whether there is check kiting going on, whether there is fraud afoot or whether their particular depositor is about to go bankrupt. The loan officer is likely to know that. The credit department may know it. The bookkeeping department may get wind of some sort of check kiting, but the teller on the teller line is not likely to know it. Now, if he or she does know it, then by golly, he or she can exercise that judgment. That is the first problem with this particular bill. It denies the override of intelligent decisionmaking in a bank by the people who have the ability and the knowledge to make that particular decision. It takes it away from them and it says that the teller or somebody at a very low level has got to make the decision when they do not have the information with which to make the decision intelligently. That is the first problem.

We say that this bill is to protect consumers against abuse. Well, let us protect consumers against abuse by other consumers who are going to cost them a lot of money, even if it is capped at $5,000, by putting into the process of collection and receiving credit on checks that are not any good because of bankruptcy or check-kiting schemes.

Second, it is said that this particular amendment is defective because it uses the standard of good faith or reasonableness. Well, anybody who has read the UCC knows that article II and article III are replete with the words "good faith."

Have you ever heard of the BFT, a bonafide purchaser, a good faith taker of a negotiable instrument? The UCC knows good faith and the courts adopt

and interpret and enforce the UCC and they know how to deal with the concept of good faith.

Furthermore, the Shumway amendment has some very discrete grounds. Courts know how to identify whether or not a party has reasonable grounds for believing that a fraud is afoot or that a bankruptcy is imminent or that check kiting is going on.

There are three well-defined discrete grounds that a bank may show.

Now, the gentleman from Minnesota [Mr. VENTO] said that this is going to be a self-fulfilling prophecy. If a bank can say, "I am not going to clear that check. I won't give you credit for it because I think you are about to go into bankruptcy," then every other creditor who gets wind of that will do likewise.

Well, there is a remedy in the law for that in common law. It is called slander or tort, slandering somebody's credit. Banks of all creatures know that they are deep pocket defendants and they are not going to publicize the fact that they suspect somebody is about to go into bankruptcy if they can possibly help it; so there is a remedy there.

In any event, if banks want to protect themselves if this amendment is not adopted, banks will have one remedy, one available remedy to protect themselves. They will refuse all checks where the depositor is presenting checks drawn on another bank or he is suspected of going into bankruptcy.

Now, how is that going to help people who are on the verge of bankruptcy or insolvency? It is going to close down the collection and banking system to them.

Finally, the gentleman from Tennessee [Mr. COOPER] says that even the opponents of this bill do not want this particular amendment. Indeed, they do not. It strengthens the bill. It makes it a better bill. It makes it harder to attack. It ought to be adopted and added to this particular bill.

Mr. PARRIS. Mr. Chairman, will the gentleman yield?

Mr. SPRATT. Certainly.

Mr. PARRIS. Mr. Chairman, I want to congratulate the gentleman on his statement. I think it is an excellent summary of many of the problems with this bill.

Let me just address, if the gentleman will yield for just a moment or so, let me address a question to the chairman.

The chairman suggests that the banking system simply refuses to take a check. Let me give a real world scenario. You and your wife are in your car. You are vacationing. You are a thousand miles from here and for some strange reason you run out of cash. You go to a local bank. Do you really believe they are going to take your check now a thousand miles from here? Maybe they will from a Member of this body, but if you are just consumer No. 1, will they in fact? I submit that no, they will not.

Now, what do you do? Is that in the interest of the consumer? I suggest not.

Mr. RODINO. Mr. Chairman, as chairman of the Judiciary Committee, I rise in opposition to the amendment offered by the gentleman from California. The Judiciary Committee has the responsibility for ensuring the integrity and uniformity of the bankruptcy laws of this country. The amendment offered has not been considered by the Judiciary Committee, and would have a negative impact on the bankruptcy laws.

The amendment excepts from the bill's timetables checks written by or to someone who either has filed bankruptcy, or who the receiving depository institution reasonably believes may file bankruptcy. Presumably, the depository institution can set whatever timetable it likes for making funds available.

The bankruptcy laws include provisions that permit persons or companies who have filed bankruptcy to continue writing checks and that protect entities that deal with parties who have filed bankruptcy. In many instances, a court-appointed trustee must cosign these checks. Businesses that file under the chapter 11 reorganization provisions of the bankruptcy code need to be able to conduct business in the same manner as other companies, subject to bankruptcy court control and scrutiny, in order to survive.

The bankruptcy laws offer sufficient protection against bad checks, and the amendment would interfere with the aim of the bankruptcy laws.

The premise behind the gentleman's amendment insofar as bankrupt debtors are concerned seems to be that the risks that a bad check will be written are greater with a drawer or drawee that has filed bankruptcy. There has been no referral of this issue to the Judiciary Committee, however. At first glance, though, this premise seems inaccurate. Bankrupt debtors are always under bankruptcy court supervision and control; if the debtors write a bad check, the odds are that the court will impose stricter controls over the debtor's finances. This should be incentive for debtors not to write bad checks in the first place.

The amendment is flawed because it treats a person or company that may file bankruptcy the same as a person or company that has filed bankruptcy—and by permitting the banks complete discretion to decide for themselves who may file bankruptcy. How can it accurately be determined who is about to file for bankruptcy? The banks should not be given the power to make such a decision.

Since no standards are set for banks, they could seemingly hold up payment of a check, and use this as a bargaining tool in a bankruptcy proceeding. This would be totally repugnant to the ideas of bankruptcy court control of a proceeding and fair treatment of all creditors.

The amendment makes the bankruptcy or possible bankruptcy of the drawee of a check reason to except the check from the timetables of the bill. This makes no sense. The drawee is the person the check is made out to; its financial condition has nothing whatsoever to do with whether the check is good.

Since the amendment will negatively effect the bankruptcy laws, and since the Judiciary Committee has not had any opportunity to study the amendment despite its clear jurisdiction over the bankruptcy laws, the amendment should be defeated.

Mr. LaFALCE. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, a good many States have adopted expedited funds availability legislation. To my knowledge, everyone that has done so, certainly at least California and New York, which I believe was the first State, I believe Massachusetts also and Connecticut, have adopted legislation that mandates that the State regulatory body prescribe the time periods for check clearances, prescribe the time periods beyond which it would be impermissible for banks to engage in a nefarious float game. They have given the regulatory agencies the authority to be flexible in the implementation of those regulations.

In each State, according to the knowledge I have, there has been a good-faith exception permitted to the financial institutions.

Now, that is broadly interpreted—as good faith.

In each instance, that State legislation and that State regulation, including the good-faith exception or flexibility, has been heralded by consumer groups as about as strong consumer legislation as one could hope for.

Now, let us keep that in perspective. What do we have here? We have here a bill that is modeled after those State statutes, but decidedly different.

I strongly support the legislation before us. It is not the preferred legislation that I drafted, which I think would have been better, but I still strongly support it; however, I think it is important to realize that we do not create the mandate for the Federal regulatory agencies to prescribe time periods. We prescribe those time periods by legislation. They are very inflexible. They are very rigid. They cannot really be lifted except for fraud pursuant to an amendment that I offered, a very watered down amendment, I might add, in order to gain acceptance by the committee.

One difficulty with the committee bill, since there is a prescribed legislative period, is that we do not strike the appropriate balance, in my judgment, between preventing bank abuse of the check clearing process, to the detriment of the consumer, which is our primary aim, and avoiding the possibility that our demands for rapid action might place banks in a position of greatly increased liability.

I think that the bill can be improved tremendously by acceptance, therefore, of the Shumway amendment.

That is not to say that I agree with every word of the Shumway amendment, either.

As a matter of fact, I only saw it today, and unfortunately due to the modified rule, which neither the majority nor the minority on the Banking Committee wanted, we cannot offer amendments; but there are at least two things, I say to the gentleman from California [Mr. SHUMWAY], that disturb me about the gentleman's amendment.

One is the language when the gentleman refers to "or similar proceeding." I do think that the chairman of the committee has made a valid objection to the fact that "or similar proceeding" could be too broad.

Mr. Chairman, I am wondering if the gentleman would entertain my present unanimous consent to delete those three words, "or similar proceeding" from the gentleman's amendment?

Mr. Chairman, I hereby ask such unanimous consent.

The CHAIRMAN. Is there objection to the request of the gentleman from New York [Mr. LAFALCE]?

Mr. SHUMWAY. Reserving the right to object, Mr. Chairman, I simply want to say, Mr. Chairman, that the gentleman from New York and I discussed this matter earlier. Frankly, I do not think those three words add anything in particular to my amendment. I would be very willing to go along with the gentleman's unanimous consent request that they be stricken.

Mr. Chairman, I withdraw my reservation of objection.

The CHAIRMAN. Is there objection to the request of the gentleman from New York [Mr. LAFALCE]?

Mr. ST GERMAIN. Mr. Chairman, reserving the right to object, I cannot agree to the unanimous consent request. I cannot go along with it, because we made the debate, made the argument on this to date, based on the amendment as offered as printed in the RECORD.

Although some of us disagreed, we did not seek that type of rule; nonetheless, the rule requires the amendments to be printed in the RECORD and, to the best of my knowledge, they are not amendable; and therefore, I do object.

The CHAIRMAN. Objection is heard.

The gentleman from New York [Mr. LAFALCE] is recognized.

Mr. LAFALCE. Mr. Chairman, I recognize the fact the amendment is not permissible under the rule.

The CHAIRMAN. The time of the gentleman from New York [Mr. LAFALCE] has expired.

(By unanimous consent, Mr. LAFALCE was allowed to proceed for 2 additional minutes.)

Mr. LAFALCE. That is why, Mr. Chairman, I asked for unanimous consent. We could have dealt with that nefarious modified rule that neither the chairman nor the majority or minority in the committee wanted.

I also am troubled by one other aspect of the Shumway amendment that has been discussed on this floor—and I did not discuss it personally with the gentleman from California [Mr. SHUMWAY]—and that is the lack of a call for notice, if the amendment is agreed to.

It is my intent, Mr. Chairman, and I hereby ask unanimous consent, to add at the conclusion of the gentleman's amendment the following words:

In such situations, the depository institution shall promptly notify the drawer and drawee of the check when it takes action pursuant to this provision.

□ 1510

The CHAIRMAN. Is there objection to the request of the gentleman from New York [Mr. LAFALCE]?

Mr. ST GERMAIN. Mr. Chairman, I reserve the right to object so that I may make the statement to the effect that obviously there was intent not to add disclosure contained in this amendment. Even though it would be inserted here, when we go over to the Senate I feel there would be a move to delete it there.

For that reason, Mr. Chairman, I am constrained to object because, very frankly, I disagree wholeheartedly with the Shumway amendment with or without the two unanimous-consent requests that have been made by the gentleman from New York.

Mr. Chairman, I object.

The CHAIRMAN. Objection is heard.

PARLIAMENTARY INQUIRY

Mr. WYLIE. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN. Does the gentleman from New York [Mr. LAFALCE] yield for the purpose of his parliamentary inquiry?

Mr. LAFALCE. I yield to the gentleman from Ohio.

The CHAIRMAN. The gentleman from Ohio [Mr. WYLIE] may proceed.

Mr. WYLIE. Mr. Chairman, is it not possible that a Member can offer an amendment to the amendment offered by the gentleman from California [Mr. SHUMWAY] along the lines that the gentleman from New York has suggested?

The CHAIRMAN. It is the Chair's understanding that an amendment can be offered to an existing amendment, as long as that amendment is germane.

Mr. WYLIE. Mr. Chairman, I offer an amendment.

Mr. LAFALCE. Mr. Chairman, I yielded to the gentleman for the purpose of a parliamentary inquiry.

The CHAIRMAN. The gentleman is correct. The gentleman yielded for the purpose of a parliamentary inquiry. It is still the time of the gentleman from New York, but that time has expired.

Mr. LAFALCE. Mr. Chairman, having received an answer to that parliamentary inquiry, I wonder if it would be appropriate——

The CHAIRMAN. If the Chair might intervene, the time of the gentleman from New York [Mr. LAFALCE] has expired.

(By unanimous consent, Mr. LAFALCE was allowed to proceed for 1 additional minute.)

Mr. LAFALCE. Mr. Chairman, if it is appropriate, I would ask that the changes that I asked be made by unanimous consent be combined and be considered now as an amendment to the amendment offered by the gentleman from California [Mr. SHUMWAY].

The CHAIRMAN. Under the rules of the House, the gentleman will have to send the amendment to the desk in writing so that the Clerk may report the suggested amendment to the amendment.

Mr. LAFALCE. Mr. Chairman, before the Clerk reads the amendment, I would ask unanimous consent that the two amendments that I initially offered by unanimous consent be combined into one, and I renew my unanimous-consent request.

The CHAIRMAN. Is the gentleman's language at the desk?

Mr. LAFALCE. Yes, it is, Mr. Chairman.

AMENDMENT OFFERED BY MR. LA FALCE TO THE AMENDMENT OFFERED BY MR. SHUMWAY

Mr. LAFALCE. Mr. Chairman, I offer an amendment to the amendment offered by the gentleman from California [Mr. SHUMWAY].

The Clerk read as follows:

Amendment offered by Mr. LAFALCE to the amendment offered by Mr. SHUMWAY: Strike the words "or similar proceeding" and add the words "in such situations, the depository institution shall promptly notify the drawer and drawee of the check when it takes action pursuant to this provision."

The CHAIRMAN. At this point, would the gentleman from New York [Mr. LAFALCE] restate his request?

Mr. LAFALCE. Yes. I have an amendment on the floor right now to the amendment offered by the gentleman from California [Mr. SHUMWAY], but it is my understanding that the gentleman from Rhode Island——

Mr. ST GERMAIN. I am asking that the gentleman renew his unanimous-consent requests. Why do you not do it one at a time?

Mr. LAFALCE. All right, I will do it one at a time.

Mr. Chairman, I ask unanimous consent that my first amendment to the Shumway amendment, that which deletes the words "or similar proceedings," be consented to unanimously.

The CHAIRMAN. Is there objection to the request of the gentleman from New York [Mr. LAFALCE]?

Mr. ST GERMAIN. Mr. Chairman, I reserve the right to object.

The CHAIRMAN. The Chair might at this point advise the membership of the status of the proceedings.

The gentleman from New York [Mr. LAFALCE] has now offered and has had read an amendment to the amendment offered by the gentleman from California [Mr. SHUMWAY].

Does the gentleman from New York seek any action on that amendment at this time?

Mr. LAFALCE. Mr. Chairman, I would ask that we defer action on that amendment because of my understanding that the chairman of the full committee wishes to renew a request for a unanimous-consent seriatim.

The CHAIRMAN. An amendment is pending before the committee offered by the gentleman from New York [Mr. LAFALCE], and at this point the gentleman would have to dispose of that amendment in some fashion before we could proceed to another amendment.

Mr. LAFALCE. Then I would ask, Mr. Chairman, that we have an immediate nod "yes" on that combined amendment.

The CHAIRMAN. Is there any debate on the amendment offered by the gentleman from New York [Mr. LAFALCE] to the amendment offered by the gentleman from California [Mr. SHUMWAY]?

Mr. PARRIS. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I will not take the full time. I suspect, that I'm not the only person in this Chamber who is modestly confused. It is my understanding that we now have the amendment that was previously objected to by the chairman, which was changed by a second amendment which was objected to by the chairman, and now the two are combined in some kind of unholy alliance so that we have the amalgamation of both amendments before us, and the unanimous consent of the gentleman from New York applies so that we may consider that amendment.

Mr. Chairman, is that where we may be close to being?

Mr. LAFALCE. If the gentleman will yield, no, they are joined in a holy alliance rather than an unholy alliance.

Mr. PARRIS. It is a holy alliance? Is that his answer?

Mr. LAFALCE. If the gentleman will yield further, it is a holy alliance, one that I think the gentleman from Virginia would consent to readily, or should.

Mr. PARRIS. I appreciate the gentleman's comment and I support his amendment but the chairman has previously objected to both parts of it.

My point, Mr. Chairman, as I see the situation from a parliamentary standpoint, is that the chairman's position is that he objects to the amendment that many of us favored and he objected because the rule provides that no amendments shall be offered.

But the chairman indicated to us earlier today in the debate that he asked for an open rule, so if we had an open rule, this amendment would in fact be germane and we could discuss it and the House could work its will.

Mr. LAFALCE. If the gentleman will yield, I would advise the gentleman from Virginia that the reason I initially asked unanimous consent was because of my belief that no amendment could be offered to the Shumway amendment.

Upon the response to the parliamentary inquiry of the gentleman from Ohio [Mr. WYLIE], though, we were advised that an amendment was in order to the Shumway amendment. Since unanimous consent had initially not been obtained to my two unanimous-consent requests, I joined those two unanimous-consent requests in one combined amendment.

Mr. PARRIS. Mr. Chairman, if I may reclaim my time, the rule does not prohibit an amendment to an amendment that was printed in the RECORD. That is where we are.

Mr. LAFALCE. That was the ruling of the Chair in response to the parliamentary inquiry of the gentleman from Ohio [Mr. WYLIE].

Mr. PARRIS. I wonder if I could inquire of the chairman, the gentleman from Rhode Island, if he has any inclinations in regard to his position of support or objection to these combined amendments?

Mr. ST GERMAIN. If the gentleman will yield, I will seek my own time when the gentleman from Virginia has completed.

Mr. PARRIS. All right. My only problem with the process, Mr. Chairman, if you will, is that it seems to me that we have come full circle to a closed rule in spite of all of our earnest and, I think, good-faith representations that we want an open rule. Yet, as a net product of the parliamentary complications here, we are, in fact, hiding behind a closed rule in order not to address these amendments unless, in fact, they are accepted under unanimous consent, which I hope they will be.

Mr. LAFALCE. If the gentleman will yield, I guess I agree with him on his last hope that my amendment will be agreed to. I cannot agree with the gentleman, though, that the fact that there has been a ruling that I can offer an amendment to an amendment makes the rule more closed than it otherwise would be. It would seem to me that a rational person can only conclude that it was not as closed as it was originally thought and more open, therefore, than originally thought. So I would have to disagree with the gentleman.

Mr. PARRIS. Mr. Chairman, reclaiming my time, would it not just be nice if we came out here on this floor just once and debated the merits of these amendments so that we had an honest consideration without all the fun and games.

Mr. LAFALCE. I could not agree with the gentleman more, but we must operate under the rules that have been agreed to.

Mr. PARRIS. I thank the gentleman.

Mr. ST GERMAIN. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, let me ask the gentleman from New York, the amendment would strike the words "or similar proceedings" from the Shumway amendment.

Mr. LAFALCE. Yes.

Mr. ST GERMAIN. And he would add the words at the end of the full amendment:

> In such situations, the depository institution shall promptly notify the drawer and drawee of the check when it takes action pursuant to this provision.

Mr. LAFALCE. That is right.

Mr. ST GERMAIN. May I inquire of the gentleman. From whence comes this language? It is not an excerpt from the California regulation? In California, it is a regulation, is it not?

□ 1520

Mr. LAFALCE. My staff.

Mr. ST GERMAIN. In California, it is a regulation, is it not? I would yield to the gentleman from California for a response.

Mr. LAFALCE. There are disclosure requirements in the several States. I cannot tell the gentleman if this language is an exact replication of either California or New York regulations. It is the language that my staff came up with that they deemed best.

Mr. ST GERMAIN. Could the gentleman tell me, when would disclosure have to be given?

Mr. LAFALCE. I put in the word "promptly." I did not define it as within 30 minutes, or I did not define it as within 1 day.

Mr. ST GERMAIN. In other words, if John Doe deposits a check, and 5 days later, it is an out-of-State check, and 5 days later, the bank decides, well, we are going to invoke this, can they after 5 or 6 days?

Mr. LAFALCE. I think 5 days would be blatantly unreasonable. I do not think it would be prompt whatsoever.

Admittedly, I do not put the specific period of time within the amendment that disclosure must be given, that the depository institution would be acting under the Shumway amendment.

Mr. ST GERMAIN. Reclaiming my time, who makes the decision as to what is a prompt notification?

Mr. LAFALCE. The regulatory agency.

Mr. ST GERMAIN. The Federal Reserve Board would have to make a decision in each and every instance?

Mr. LAFALCE. Yes; as to whether or not the bank had acted appropriately, yes.

However, I would point out that there has not been one complaint by any constituent, to my knowledge, of any member of the Committee on Banking, Finance and Urban Affairs, of any of the regulations or laws passed by any of the States.

Mr. ST GERMAIN. Reclaiming my time, and I would ask the gentleman to recognize the fact that this is my time, not his.

Mr. LAFALCE. I recognize that fact.

Mr. ST GERMAIN. I appreciate that and I am not going to object strenuously to the amendment. As far as I am concerned, it can be accepted or we can go by voice vote.

However, in my books, this further clouds the issue because now we say there is going to be a disclosure requirement. However, we do not know who, when, how, why. And frankly, we now mess up the consumer even more and, of course, you still have the words in there that say reason to believe. And of course, you have added one factor now, and that is notification, and invoice costs here are going to be picked up. You talk about costs to the consumer, this will certainly increase the costs.

For that reason, as I say, I will not oppose this amendment being offered. I really feel that it further cripples the Shumway amendment, and I yield back the balance of my time.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New York [Mr. LAFALCE] to the amendment offered by the gentleman from California [Mr. SHUMWAY].

The amendment to the amendment was agreed to.

The CHAIRMAN. The question is on the amendment offered by the gentleman from California [Mr. SHUMWAY], as amended.

The question was taken; and the chairman announced that the ayes appeared to have it.

Mr. ST GERMAIN. Mr. Chairman, if we can get agreement to ask for a Record vote, I will not object to the vote on the basis of a quorum not being present. In that way we will expedite the proceedings.

Mr. Chairman, I demand a recorded vote.

A recorded vote was refused.

Mr. ST GERMAIN. Under the circumstances, Mr. Chairman, I have no alternative but to make a point of order that a quorum is not present and object to the vote and ask for a recorded vote.

The CHAIRMAN. The Chair would advise the gentleman that a recorded vote has been refused by Members standing on the request for a recorded vote. The Chair has announced that an insufficient number has arisen.

Mr. ST GERMAIN. I object to that vote on the ground that a quorum is not present.

The CHAIRMAN. The gentleman from Rhode Island can now question the presence of a quorum. If the gentleman is prepared to make that point, the Chair will consider his point of order.

Mr. ST GERMAIN. Mr. Chairman, the gentleman from Rhode Island makes a point of order that a quorum is not present and objects to the vote on the ground that a quorum is not present.

The CHAIRMAN. Evidently a quorum is not present.

PARLIAMENTARY INQUIRY

Mr. WYLIE. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN. The gentleman will state his parliamentary inquiry.

Mr. WYLIE. Mr. Chairman, a Member cannot object to the vote on the ground a quorum is not present. He can make the point of order that a quorum is not present.

The CHAIRMAN. The gentleman can make the point of order that a quorum is not present. A recorded vote has been refused, the Chair will point out. A division vote could be taken after the quorum is established, but the Committee has already determined by standing with an insufficient number as to the question of an electronically recorded vote.

The question now is on the presence of a quorum and the Chair notes that a quorum is not present.

Members will record their presence by electronic device.

The call was taken by electronic device.

The following Members responded to their names:

[Roll No. 4]

ANSWERED "PRESENT"—305

Ackerman	Boner (TN)	Conte
Alexander	Bonior (MI)	Conyers
Anderson	Borski	Cooper
Andrews	Bosco	Coughlin
Annunzio	Boucher	Courter
Armey	Brooks	Coyne
Atkins	Brown (CO)	Craig
Badham	Broyhill	Daniel
Barnard	Bruce	Dannemeyer
Bartlett	Bryant	Darden
Barton	Burton (CA)	Daschle
Bateman	Callahan	Daub
Bates	Carper	Davis
Bedell	Carr	Dellums
Beilenson	Chandler	Derrick
Bennett	Chapman	DeWine
Bentley	Chappie	Dicks
Bereuter	Clay	DioGuardi
Berman	Coats	Dixon
Biaggi	Cobey	Dornan (CA)
Bilirakis	Coleman (MO)	Downey
Boggs	Coleman (TX)	Dreier
Boland	Combest	Duncan
Durbin	Lehman (FL)	Roybal
Dwyer	Leland	Russo
Dymally	Lent	Sabo
Dyson	Levine (CA)	Saxton
Early	Lewis (CA)	Schaefer
Eckart (OH)	Lightfoot	Schroeder
Eckert (NY)	Lipinski	Schuette
Edwards (CA)	Lloyd	Schumer
Edwards (OK)	Lott	Seiberling
Emerson	Lowery (CA)	Sensenbrenner
English	Lowry (WA)	Sharp
Erdreich	Lujan	Shaw
Evans (IA)	Luken	Shelby
Evans (IL)	Lungren	Shumway
Fawell	Mack	Sikorski
Fazio	Markey	Siljander
Feighan	Martin (IL)	Sisisky
Fields	Martin (NY)	Skeen
Fish	Martinez	Skelton
Ford (MI)	Mazzoli	Slattery
Frank	McCain	Slaughter
Franklin	McCandless	Smith (NE)
Gaydos	McCloskey	Smith (NJ)
Gejdenson	McCollum	Smith, Robert (NH)
Gekas	McCurdy	Snowe
Gibbons	McHugh	Solomon
Gilman	McKernan	Spence
Glickman	McKinney	Spratt
Gonzalez	McMillan	St Germain
Goodling	Meyers	Staggers
Gordon	Michel	Stallings
Gradison	Miller (WA)	Stenholm
Green	Mineta	Stokes
Guarini	Molinari	Strang
Gunderson	Mollohan	Stratton
Hall, Ralph	Montgomery	Stump
Hamilton	Moorhead	Sundquist
Hansen	Morrison (CT)	Swift
Hatcher	Morrison (WA)	Swindall
Hawkins	Mrazek	Tallon
Hayes	Murtha	Tauke
Hefner	Myers	Tauzin
Hendon	Natcher	Taylor
Hertel	Neal	Thomas (CA)
Hiler	Nelson	Thomas (GA)
Holt	Nichols	Torres
Hopkins	Nielson	Torricelli
Horton	Nowak	Towns
Howard	Obey	Traficant
Hoyer	Olin	Traxler
Hubbard	Ortiz	Valentine
Huckaby	Owens	Vander Jagt
Hughes	Oxley	Vento
Hunter	Panetta	Visclosky
Hutto	Parris	Volkmer
Hyde	Pease	Vucanovich
Ireland	Penny	Walgren
Jacobs	Pepper	Walker
Jeffords	Perkins	Watkins
Jenkins	Petri	Weaver
Johnson	Porter	Weiss
Jones (NC)	Price	Wheat
Jones (TN)	Pursell	Whitehurst
Kanjorski	Rahall	Whitley
Kaptur	Rangel	Whittaker
Kasich	Ray	Whitten
Kastenmeier	Regula	Wilson
Kennelly	Reid	Wirth
Kildee	Richardson	Wise
Kindness	Ridge	Wolf
Kolbe	Robinson	Wright
Kolter	Rodino	Wyden
Kostmayer	Roemer	Wylie
LaFalce	Rogers	Yates
Lagomarsino	Rose	Yatron
Latta	Roth	Young (FL)
Leach (IA)	Roukema	Young (MO)
Leath (TX)	Rowland (CT)	Zschau
Lehman (CA)	Rowland (GA)	

□ 1535

The CHAIRMAN. Three hundred five Members have answered to their names, a quorum is present, and the Committee will resume its business.

Mr. ST GERMAIN. Mr. Chairman, I demand a division.

On a division (demanded by Mr. ST GERMAIN) there were—ayes 87, noes 125.

Mr. SHUMWAY. Mr. Chairman, I demand tellers.

Tellers were ordered, and the Chairman appointed as tellers Mr. ST GERMAIN and Mr. SHUMWAY.

□ 1550

The Committee again divided, and the tellers reported that there were—ayes 112, noes 121.

So the amendment, as amended, was rejected.

□ 1600

Mr. BEREUTER. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I rise in support of the pending measure, H.R. 2443, a bill to help consumers by ending the so-called float game in consumer banking. The float game harms consumers by allowing financial institutions to withhold funds from them for up to 2 weeks, on grounds that the checks might bounce. Meanwhile these same institutions earn interest by lending the money to others.

H.R. 2443, the Expedited Funds Availability Act, which I support, was reported by the House Banking Committee on November 20 by voice vote. Earlier, I voted in the Financial Institution's Subcommittee on November 13 to report this bill by a vote of 23 to 6.

Mr. Chairman, there is some need to tighten up this bill. I regret that the rule making this bill in order today fails to allow amendments other than those printed in the RECORD before the rule even was made known to Members. This is not a way to start a new legislative session, especially in view of the troubled history of the Rules Committee last session.

Nebraska's bankers especially are concerned over the failure of H.R. 2443 to permit the good faith exception enacted by States legislating check-hold, funds availability law. While we can argue over whether 2 days or 3 days is the correct national check-hold standard for local checks, we ought to give local banks a good-judgment, reasonable-caution exception in the face of fraud, bankruptcy, and check-kiting schemes.

To illustrate, Lincoln banks recently were hit with a check-kiting scheme resulting in a $16,000 loss when the daughter of a local family got over her head into a small business venture. She thereupon allegedly kited three separate accounts over 7 or 8 days, manipulating $16,000 from the Lincoln bank before caught. Her father stepped in and made good in the bank's case; but a local savings and loan didn't fare so well, due to less costly recordkeeping capacities.

To argue the other side, the check of a daughter of a prominent Lincoln banking family was held for 2 weeks in a Chicago bank when she began school, working hardship and creating considerable, justifiable anger. That example is chosen from a banking family, but it illustrates a very common problem. That illustrates one reason why I support today's bill, H.R. 2443.

Mr. Chairman, as reported, this bill limits to 6 days the amount of time a bank can take to clear all checks, and to 2 days the time to clear local checks. As reported, this schedule would be suspended if unacceptable levels of check fraud losses were found to occur, H.R. 2443 also provides next day availability for cash deposits, checks under $100, Government checks and wire transfers. Within 3 years, the bill would require out-of-State checks to be cleared in 3 days and local checks on the next business day after deposit.

The Shumway amendment, if adopted, will allow banks to hold a check for a longer period when the checkwriter or depositor is believed to be on the brink of bankruptcy or if the check involves fraud or kiting. Adoption of this amendment, which I supported in full committee when it lost on a 17 to 28 vote, will help allay fears of excessive risk to depository institutions and excessive bank regulation.

Five States already have legislation requiring expedited funds-availability schedules, and 15 others are expected to consider similar bills this year. Under this bill, the States would be free to establish hold-period schedules more favorable to consumers than under H.R. 2443.

Mr. Chairman, this Federal banking legislation is long overdue and comes in response to a recognized need to provide consumers with needed protection against unreasonably long delays in check clearing and, thus, the availability of their funds in a timely fashion.

H.R. 2443 correctly, in my judgment, is premised on the principle that bank customers are entitled to have access to their funds as quickly as modern technology will allow.

This legislation represents progress for banking consumers. Most Nebraska banks will have no difficulty meeting its requirements; nor will banker in most parts of this Nation. The maximum amount subject under the bill to the availability schedules is $5,000 per day in the aggregate.

As an added protection, in those instances where the Federal Reserve Board determines that a depository institution "is experiencing" unacceptable check-related fraud losses, additional exceptions may be granted.

While I am concerned about the potential passthrough costs to consumers, I shall do what I can as a member of the Banking Committee to keep a close watch on the implementation of this bill by the Federal Reserve. I encourage my colleagues to support the passage of this act.

AMENDMENT OFFERED BY MR. WYLIE

Mr. WYLIE. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. WYLIE: On page 19, line 11, insert after "Act" the following: "and to preserve the soundness of and prevent abuses of the payments system".

Mr. WYLIE. Mr. Chairman, if the Members are for safety and soundness in the payments mechanism, then they will support this amendment. My amendment is simply a clarifying amendment to that section of H.R. 2443 regarding the regulatory responsibility of the Federal Reserve Board for our Nation's payments system.

The Fed has asked for this amendment. There is no doubt in my mind that the Federal Reserve will assume the responsibility for safety and soundness of the payments mechanism anyway, if the broad language of section 6(b) is enacted into law and, in my opinion, the Federal Reserve should do so, regardless of the outcome of my amendment.

But my amendment would make it very specific. And, in fairness, Mr. Chairman, I have borrowed this amendment from the distinguished chairman of the Banking Committee, Mr. ST GERMAIN. My amendment is identical to language which we offered in subcommittee and then later withdrew.

Mr. Chairman, testimony from the Association of Reserve City Bankers and the Federal Reserve supported the amendment of the gentleman from Rhode Island, and the chairman himself said:

We are putting in a requirement that there has to be a finding on the safety and soundness of the payment system, which I think is a rather important criteria that the Fed would have to address.

Continuing, he noted "the potential for an adverse effect on safety and soundness is out there."

I think the chairman of the full committee is absolutely correct, and I think we owe it to our constituents to ensure that the Federal Reserve preserves the safety and soundness of our payments mechanism.

This point was underscored by an unfortunate event involving a serious operational problem last year, which required the Federal Reserve Board of New York to extend a sizable discount window advance to a large banking institution in New York.

Federal Reserve Board Vice Chairman Preston Martin responded, in a letter to me, that:

This occurrence underscores the need for the Federal Reserve to take all necessary and reasonable steps to ensure the safety, soundness and integrity of the payments system.

In conclusion, Mr. Chairman, I ask: How can any Member oppose an amendment to ensure that the Federal

Reserve maintains and preserves the safety and soundness of our payments system?

An "aye" vote is a vote for the safety and soundness of our Nation's enviable system of clearing checks, and I urge adoption of my clarifying amendment.

Mr. ST GERMAIN. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, as the gentleman from Ohio knows, at the full committee markup I offered a similar amendment to that being offered at this point by my colleague from Ohio. After 1 hour of debate, it became clear to me that the Federal Reserve Board was not able to make a convincing case, and their representatives were given the opportunity, right there in the markup session, to respond to committee inquiries during the markup.

Mr. Chairman, let me repeat: The gentleman from Ohio correctly stated that I advocated a similar amendment in committee. And let me say, I did so at the request of the Federal Reserve Board. Now, in the full committee markup session, members of the committee began questioning the effect of this amendment and the necessity for it. In order to be as helpful as possible to the Federal Reserve Board, I allowed their brilliant, erudite, knowledgeable counsel and members—not members of the Fed, but the staff—to come to the committee table and to explain the amendment and to make the arguments for the amendment.

Very frankly, I have never seen such a dismal failure in my 26 years here.

For that reason, I withdrew the amendment.

Now, I feel that if this amendment should be considered it should be considered in conjunction with H.R. 20. The problem of daylight overdrafts access to the payment system by unregulated holding companies should be dealt with in H.R. 20.

Now, yesterday, before the Rules Committee, as was stated by the Rules Committee chairman earlier today, I urged the Rules Committee to grant a rule on H.R. 20 in an expeditious manner, noting the fact that the committee completed action on the bill on June 12, 1985.

I also made reference to yesterday's Dimension case decided by the Supreme Court that makes urgent need for action on H.R. 20.

Reluctantly, I must oppose this amendment and say to him that at the appropriate time it should be offered to H.R. 20. As a matter of fact, I think it would be wonderful if the gentleman were to withdraw the amendment at this point, and we will consider it in H.R. 20, where it properly belongs.

Would the gentleman care to give that some serious consideration? I tried, the gentleman knows, in committee.

Mr. WYLIE. I appreciate the position in which the chairman finds himself here, and I would like to do that, but I think the issue of safety and soundness of our payments system is one that ought to be brought up at every step of the process.

If the chairman would yield for one further statement, after the hearing, I received a letter from Preston Martin, the Vice Chairman of the Federal Reserve Board. This is not a staff member, Mr. Chairman. I do not know if the chairman got a copy of this or not. I should have supplied him with one if he did not. But he said the need for the Federal Reserve to take all necessary and reasonable steps to ensure the safety and soundness and integrity of the payments system is in this bill, and, therefore, we suggest that this amendment be offered again.

Mr. ST GERMAIN. Well, I would say to the gentleman I do not like labeling this "safety and soundness." If that were the case, the payment system would have collapsed a long time ago. It has done well without this amendment. We do not need it today. We should consider it on H.R. 20, and then determine whether we even need it then. But as of the present time, I repeat, we have gone all this time without this amendment, the safety and soundness of the payment system has not been in jeopardy. I do not think it will be, between now and the time we address H.R. 20 on the floor of the House. For that reason, I ask for a "no" vote on the amendment. I yield back the balance of my time, and I hope we can get to a vote on this amendment expeditiously.

Mr. BARNARD. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

Mr. Chairman, how can you be opposed to a motherhood provision of safety and soundness? You can be opposed to it when it is in here for a purpose other than safety and soundness.

Mr. Chairman, this amendment is for one purpose, and that is to give the Federal Reserve unfair control over companies who own nonbank banks.

There was a provision offered in the first bill known as 5(g). The whole purpose of it was that Federal Reserve could restrict banks from being in the payment system. And it was done for the purpose of keeping owners of nonbank banks, which is an issue completely unrelated to this bill, from accepting deposits of the institutions that owned it.

Just to give you an example, the Federal Reserve was using this safety and soundness as a possible provision whereby it could restrict owners of nonbank banks, such as Sears Roebuck, from actually using their nonbank bank as a depository for its receipts.

Now, there was a lot of opposition to that for several reasons. No. 1, it was not germane to this bill. This was an expedited funds bill. It has no relation to the payment system. They knew that that provision was going to be defeated. So to get around that provision, which I said was not germane—and if it comes up today, I will offer a point of order objection that it is not germane—but to get around that provision, they put this motherhood provision for safety and soundness.

□ 1615

My colleagues, the Federal Reserve was unable to answer the question why they needed the provision. At hearings we heard from staff members of the Fed. They could not answer the question why they wanted to insert safety and soundness. The chairman of our committee, who offered the amendment to accommodate the Federal Reserve, after nearly 2 hours of debate and questions, voluntarily withdrew this amendment because they did not make a case for it.

I respect my colleague from Ohio; I respect him trying to carry the water for the Federal Reserve, but they have not made their case for this amendment, and I strongly hope that you will not let a nongermane issue creep in here at this point. It should be defeated.

Mr. LaFALCE. Mr. Chairman, will the gentleman yield?

Mr. BARNARD. I yield to the gentleman.

Mr. LaFALCE. The gentleman from Georgia makes two arguments, basically. First, that the amendment is dangerous for the reasons he advances. I am not sure that the gentleman is correct in that. He may be correct.

If he is incorrect, I suggest that his other argument is certainly correct, and that is that no valid case has been made for the good that would be accomplished by the amendment. To me, the amendment is either, if the gentleman from Georgia is correct, dangerous or, if he is incorrect, if not dangerous, it then becomes merely superfluous.

In any event, it ought to be defeated because it is either, A, superfluous or, B, dangerous.

Mr. WYLIE. Mr. Chairman, will the gentleman yield?

Mr. BARNARD. I yield to the gentleman.

Mr. WYLIE. I thank the gentleman for yielding.

Mr. Chairman, this amendment goes into a section which is entitled, "Regulatory Responsibility of the Board for the Payment System. Responsibility for the payment system in order to carry out the provisions of this act, the Board of Governors of the Federal Reserve shall have the responsibility to regulate," and so forth.

Then I say, and "reserve the soundness of and prevent abuses of the payment system." There is nothing in there that says anything about any nonbank banks. Now, in the Dimension case, which was decided yesterday, it was held that the Comptroller of the Currency could, if he wanted to, grant nonbank bank charters and the Federal Reserve was wrong when it said that NOW accounts, for example, are deposits which would be covered by the present law defining a bank.

What I am saying is that we are covering NOW accounts in this bill and we ought to go further and say that if the Dimension case is applicable, we ought to preserve the safety and soundness and prevent abuse in the payment system with respect to NOW accounts.

Mr. BARNARD. I would respectfully ask the gentleman: What reasons did the Fed give for putting in this provision? What examples were given where safety and soundness has been an issue?

Mr. WYLIE. Mr. Martin gave me an example of a case out of New York last year, which is referred to as the Bank of New York's Operational Problem, and he indicated in there that because the computer systems were down for awhile, that there was about to be a $20-billion shortfall in the payment system. The Federal Reserve, in a case like that, had to come to the rescue. He is apprehensive that in cases which or in other types of transaction accounts which are referred to in this bill that the same thing could happen.

The CHAIRMAN. The time of the gentleman from Georgia [Mr. BARNARD] has expired.

(By unanimous consent, Mr. BARNARD was allowed to proceed for 4 additional minutes.)

Mr. BARNARD. I compliment the Fed on what they did in that instance, and that is what they should have done. That is already in the law. That did not have to be changed.

Mr. WYLIE. But we are changing the law today.

Mr. BARNARD. I know it, and here is why we are changing the law. For this particular reason: In 5g, which was withdrawn, here is the language that they are seeking to get in this bill.

"In the case of any depository institution which is an affiliate or an unregulated holding company," that is an unregulated financial institution that owns a nonbank bank of which there are many and which we should address. The chairman of the committee is correct: H.R. 20 should come before this House for consideration. We should close the nonbank bank loophole. But until we do that we should not do this type of language.

No check or other negotiable instrument which is drawn, made or endorsed by such holding company or any other affiliate of such holding company may be accepted or otherwise handled by such depository institution or clearing of such check or instrument or for any purpose related to any function of the payment system.

Behind that, behind the safety and soundness they could regulate that nonregulated financial institutions which are legally today owning nonbank banks could not use those nonbank banks for their own payment system, and that is wrong.

Mr. WYLIE. Mr. Chairman, will the gentleman yield?

Mr. BARNARD. I yield to the gentleman.

Mr. WYLIE. Our banking system has been the envy of the world and it is the best banking system ever organized among men. It is one of the reasons, it is the oil which keeps our economy moving. I think anytime that there is likely to be an impact on the payment system as to safety and soundness, that we ought to be alerted ahead of time to try to do something about that. That is the only thrust and purpose of my amendment.

Mr. BARNARD. Let me say this: First of all, every bank is still, whether it is a nonbank bank or otherwise, is still under the control of State banking regulators, the Comptroller of the Currency, or the Federal Reserve. Those safeguards are still there. We do not have to put that in this particular bill. So I am saying that the purpose of this is not what it appears to be. I am convinced of that and I have heard of no arguments to this degree at this point which would correct that.

Mr. ROEMER. Mr. Chairman, will the gentleman yield?

Mr. BARNARD. I yield to the gentleman.

Mr. ROEMER. I think the gentleman from Georgia is correct in his observation insofar as the testimony before committee as the need for this kind of amendment related to nonbank banks. The chairman of our committee has stated here again today, and I join both with him and with you, to state that we ought to have H.R. 20 before this body so we can discuss the implications of H.R. 20. That is, nonbank banks.

This amendment would be in order then; I think it should be considered then, not now.

Mr. VENTO. Mr. Chairman, will the gentleman yield?

Mr. BARNARD. I yield to the gentleman.

Mr. VENTO. I want to thank the gentleman for his statement. I rise in opposition to this amendment. I understand the importance of safety and soundness, but it has no place in terms of this expedited payment system that we are considering here today. This is really an attempt by the Federal Reserve Board to piggyback onto this bill and I think it confuses the issue beyond recognition. I would hope that Members would defeat it here and consider it on its merits when we get to the bill and the subject to which it is related and not muddy the waters as has been done here today.

No one has offered an explanation of why this is necessary on this bill. I have not heard it; I do not think it has been offered. It has not been offered in committee; it is not being offered today in the Committee of the Whole. I think this amendment deserves to be deferred and defeated today.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Ohio [Mr. WYLIE].

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. WYLIE. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 21, noes 289, answered "present" 1, not voting 123, as follows:

[Roll No. 5]

AYES—21

Bateman	Holt	McCollum
Bereuter	Hunter	Michel
DeWine	Hyde	Oxley
Duncan	Kindness	Parris
Fawell	Latta	Stratton
Goodling	Leach (IA)	Vander Jagt
Gradison	Mack	Wylie

NOES—289

Ackerman	Conte	Gaydos
Alexander	Conyers	Gejdenson
Anderson	Cooper	Gekas
Andrews	Coughlin	Gibbons
Annunzio	Courter	Gilman
Armey	Coyne	Gingrich
Aspin	Craig	Glickman
Atkins	Crockett	Gonzalez
Badham	Daniel	Gordon
Barnard	Dannemeyer	Green
Bartlett	Darden	Guarini
Barton	Daschle	Gunderson
Bates	Daub	Hall, Ralph
Bedell	Davis	Hamilton
Beilenson	Dellums	Hansen
Bennett	Derrick	Hawkins
Bentley	Dicks	Hayes
Berman	Dingell	Hefner
Biaggi	DioGuardi	Hertel
Billirakis	Dixon	Hiler
Boggs	Dornan (CA)	Hopkins
Boland	Downey	Horton
Boner (TN)	Dreier	Howard
Bonior (MI)	Durbin	Hoyer
Borski	Dwyer	Hubbard
Bosco	Dymally	Huckaby
Boucher	Dyson	Hughes
Boulter	Early	Ireland
Brooks	Eckart (OH)	Jacobs
Brown (CO)	Eckert (NY)	Jeffords
Broyhill	Edwards (CA)	Jenkins
Bruce	Edwards (OK)	Johnson
Bryant	Emerson	Jones (NC)
Burton (CA)	English	Jones (TN)
Callahan	Erdreich	Kanjorski
Carper	Evans (IA)	Kaptur
Carr	Evans (IL)	Kasich
Chandler	Fascell	Kastenmeier
Chapman	Fazio	Kennelly
Chappie	Feighan	Kildee
Clay	Fields	Kolbe
Coats	Florio	Kolter
Cobey	Foley	Kostmayer
Coleman (MO)	Ford (MI)	LaFalce
Coleman (TX)	Frank	Lagomarsino
Collins	Franklin	Leath (TX)
Combest	Frost	Lehman (CA)

Lehman (FL)	Porter	St Germain
Leland	Price	Staggers
Lent	Pursell	Stenholm
Levine (CA)	Rahall	Stokes
Lightfoot	Rangel	Strang
Lipinski	Ray	Stump
Lloyd	Reid	Sundquist
Lott	Richardson	Swift
Lowry (WA)	Ridge	Swindall
Luken	Roberts	Tallon
Lungren	Robinson	Tauke
Markey	Rodino	Tauzin
Martin (IL)	Roemer	Taylor
Martinez	Rogers	Thomas (CA)
Mazzoli	Rose	Thomas (GA)
McCain	Roth	Torres
McCandless	Roukema	Torricelli
McCloskey	Rowland (CT)	Towns
McCurdy	Rowland (GA)	Traficant
McHugh	Roybal	Traxler
McKernan	Russo	Udall
McKinney	Sabo	Valentine
McMillan	Saxton	Vento
Meyers	Schaefer	Visclosky
Miller (WA)	Scheuer	Volkmer
Mineta	Schroeder	Vucanovich
Mitchell	Schuette	Walgren
Molinari	Schumer	Walker
Mollohan	Seiberling	Watkins
Montgomery	Sensenbrenner	Waxman
Moorhead	Sharp	Weaver
Morrison (CT)	Shaw	Weiss
Morrison (WA)	Shelby	Wheat
Mrazek	Shumway	Whitehurst
Murtha	Shuster	Whitley
Myers	Sikorski	Whittaker
Natcher	Siljander	Whitten
Neal	Sisisky	Williams
Nichols	Skeen	Wilson
Nielson	Skelton	Wirth
Nowak	Slattery	Wise
Oberstar	Smith (FL)	Wolf
Obey	Smith (NE)	Wright
Olin	Smith (NJ)	Wyden
Owens	Smith, Robert (NH)	Yates
Pease	Snowe	Yatron
Penny	Solarz	Young (FL)
Pepper	Spence	Young (MO)
Perkins	Spratt	Zschau
Petri		

ANSWERED "PRESENT"—1

Martin (NY)

NOT VOTING—123

Addabbo	Garcia	Moakley
Akaka	Gephardt	Monson
Anthony	Gray (IL)	Moody
Applegate	Gray (PA)	Moore
Archer	Gregg	Murphy
AuCoin	Grotberg	Nelson
Barnes	Hall (OH)	O'Brien
Bevill	Hammerschmidt	Oakar
Bliley	Hartnett	Ortiz
Boehlert	Hatcher	Packard
Bonker	Heftel	Panetta
Boxer	Hendon	Pashayan
Breaux	Henry	Pickle
Broomfield	Hillis	Quillen
Brown (CA)	Hutto	Regula
Burton (IN)	Jones (OK)	Rinaldo
Bustamante	Kemp	Ritter
Byron	Kleczka	Roe
Campbell	Kramer	Rostenkowski
Carney	Lantos	Rudd
Chappell	Levin (MI)	Savage
Cheney	Lewis (CA)	Schneider
Clinger	Lewis (FL)	Schulze
Coble	Livingston	Slaughter
Coelho	Loeffler	Smith (IA)
Crane	Long	Smith, Denny (OR)
de la Garza	Lowery (CA)	Smith, Robert (OR)
DeLay	Lujan	Snyder
Dickinson	Lundine	Solomon
Donnelly	MacKay	Stallings
Dorgan (ND)	Madigan	Stangeland
Dowdy	Manton	Stark
Edgar	Marlenee	Studds
Fiedler	Matsui	Sweeney
Fish	Mavroules	Synar
Flippo	McDade	Weber
Foglietta	McEwen	Wolpe
Ford (TN)	McGrath	Wortley
Fowler	Mica	Young (AK)
Frenzel	Mikulski	
Fuqua	Miller (CA)	
Gallo	Miller (OH)	

□ 1635

Messrs. NIELSON of Utah, TAYLOR, GILMAN, and ECKART of Ohio changed their votes from "aye" to "no."

So the amendment was rejected.

The result of the vote was announced as above recorded.

AMENDMENT OFFERED BY MR. BARTLETT

Mr. BARTLETT. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. BARTLETT: On page 18, line 15 add a new section 5(h) as follows:

(h) DOUBTFUL COLLECTABILITY.—In accordance with regulations of the Board, sections 3(b), 4(c) and 4(d) shall not apply in instances where the receiving depository institution has reason to doubt the collectability of funds for a check (e.g. suspicion of bankruptcy of the drawer of a check, suspicion of fraud);

Mr. BARTLETT. Mr. Chairman, this amendment is quite similar to the amendment that was offered and debated earlier by my good friend, the gentleman from California [Mr. SHUMWAY]. It is similar in that it provides for a good faith exception for a financial institution that has reason to doubt the collectability of a check.

Now, Mr. Chairman, I am offering this amendment in the spirit of giving the House an opportunity to have a rollcall vote on an amendment that is similar to this; that is to say, and it was no one's fault, but for a series of procedural reasons on the Shumway amendment earlier the House ended up not obtaining a rollcall vote and the final teller vote was a vote, as I recall, of 121 to 111 and that vote, Mr. Chairman, first was so close as to cast in doubt what a majority of this House would feel on that amendment; and second, that leaves about 200 Members of the House uncounted and therefore unvoted, something slightly less than 200 Members.

So Mr. Chairman, I would suggest that there is not a lot of reason to spend much time debating this amendment. It has been well debated under the Shumway version earlier. We have heard all the arguments.

This would simply provide an additional exception for the mandatory availability schedule for situations where the receiving institution has reason to believe that a check may be uncollectable. Those reasons would include fraud or bankruptcy of a party to a check.

So Mr. Chairman, in the interest of the people who are here voting for a vote, I yield back the balance of my time.

AMENDMENT OFFERED BY MR. SHUMWAY TO THE AMENDMENT OFFERED BY MR. BARTLETT

Mr. SHUMWAY. Mr. Chairman, I offer an amendment to the amendment.

The Clerk read as follows:

Amendment offered by Mr. SHUMWAY to the amendment offered by Mr. BARTLETT: At the end of the amendment add to following: ": *Provided further,* That sections 3(b), 4(c), and 4(d) shall not apply to a check if the receiving depository institution reasonably believes that the drawer or drawee of the check has become, or is about to become, subject to bankruptcy, receivership, or when the receiving depository institution reasonably believes that a situation involving fraud or kiting exists. In such situations, the depository institution shall notify the drawer and drawee no later than the close of the next business day of the check when it takes action pursuant to this provision."

Mr. SHUMWAY (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. SHUMWAY. Mr. Chairman, during debate on the amendment which I offered earlier in the afternoon, there was considerable concern expressed on both sides of the aisle about the kind of notice that would have to be afforded to a depositor whose check would be held for one of the three specified purposes in my amendment.

The amendment as proposed by the gentleman from New York [Mr. LAFALCE] stated simply that notice shall be given promptly. Since that was a matter of concern to some Members of the House, Mr. Chairman, I have redrafted the amendment to provide that notice shall be given no later than the close of the business day following. I think that ties down very well the concern that many Members have expressed. It still allows for the discretion that I think is so important to be exercised by financial institutions and I think it does improve the bill considerably.

For those reasons, Mr. Chairman, I urge adoption of the amendment.

Mr. ST GERMAIN. Mr. Chairman, I rise in opposition to the amendment. I will be very brief.

Mr. Chairman, what we have here, and I commend the Minority, is a very ingenuous method of revisiting the Shumway amendment that was voted on by a teller vote. We will now have a record vote, a rollcall vote on this amendment.

I would urge that we again defeat the Shumway amendment so that we can expeditiously complete the bill, take care of the consumers and for those consuming Congressmen who have to go home and face their constituents, we will accommodate them; so I would hope that we could not proceed to a vote on this amendment.

Mr. BARTLETT. Mr. Chairman, I move to strike the last word and I rise in support of the Shumway amendment.

Mr. Chairman, I will not take 5 minutes. I have reviewed the Shumway amendment. It does precisely what the gentleman said. It is a way for the House to be recorded on this good faith issue and I urge Members to vote for the vote on a rollcall vote.

The CHAIRMAN. The question is on the amendment offered by the gentleman from California [Mr. SHUMWAY] to the amendment offered by the gentleman from Texas [Mr. BARTLETT].

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. SHUMWAY. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 156, noes 146, answered "present" 1, not voting 131, as follows:

[Roll No. 6]

AYES—156

Anderson	Green	Ray
Andrews	Gunderson	Richardson
Armey	Hall, Ralph	Ridge
Bartlett	Hamilton	Roberts
Barton	Hansen	Rogers
Bateman	Hendon	Rose
Bentley	Hiler	Roth
Bereuter	Holt	Roukema
Bilirakis	Hopkins	Rowland (CT)
Boucher	Hunter	Saxton
Boulter	Hyde	Schaefer
Brown (CO)	Ireland	Schuette
Broyhill	Jeffords	Sensenbrenner
Bruce	Jenkins	Sharp
Callahan	Kasich	Shaw
Carper	Kindness	Shumway
Carr	Kolbe	Shuster
Chandler	Kolter	Siljander
Chapman	Kostmayer	Skeen
Chappie	LaFalce	Slattery
Coats	Lagomarsino	Smith (FL)
Cobey	Latta	Smith (NE)
Coleman (MO)	Lent	Smith (NJ)
Coleman (TX)	Lightfoot	Smith, Robert (NH)
Combest	Lloyd	Snowe
Coughlin	Lott	Spence
Courter	Lungren	Spratt
Craig	Mack	Stenholm
Daniel	Martin (IL)	Strang
Dannemeyer	Mazzoli	Stump
Daub	McCain	Sundquist
Davis	McCandless	Swindall
DeWine	McCollum	Tallon
DioGuardi	McCurdy	Tauke
Dornan (CA)	McKernan	Taylor
Dreier	McMillan	Thomas (CA)
Duncan	Meyers	Vander Jagt
Durbin	Michel	Vucanovich
Dyson	Miller (WA)	Walgren
Eckert (NY)	Molinari	Watkins
Edwards (OK)	Mollohan	Whitehurst
Emerson	Montgomery	Whitten
English	Moorhead	Williams
Fawell	Morrison (WA)	Wilson
Feighan	Murtha	Wolf
Fields	Myers	Wylie
Franklin	Natcher	Yatron
Gaydos	Neal	Young (FL)
Gilman	Nielson	Zschau
Gingrich	Olin	
Glickman	Oxley	
Goodling	Parris	
Gradison	Pursell	

NOES—146

Ackerman	Bedell	Boner (TN)
Alexander	Beilenson	Bonior (MI)
Annunzio	Bennett	Borski
Aspin	Berman	Bosco
Atkins	Biaggi	Bryant
Barnard	Boggs	Burton (CA)
Bates	Boland	Clay
Collins	Hughes	Rowland (GA)
Conte	Jacobs	Roybal
Conyers	Johnson	Russo
Cooper	Jones (NC)	Sabo
Coyne	Jones (TN)	Scheuer
Crockett	Kastenmeier	Schroeder
Darden	Kennelly	Schumer
Daschle	Kildee	Seiberling
Dellums	Leach (IA)	Shelby
Derrick	Lehman (FL)	Sikorski
Dicks	Leland	Sisisky
Dingell	Levine (CA)	Skelton
Dixon	Lipinski	Solarz
Downey	Lowry (WA)	St Germain
Dwyer	Luken	Staggers
Dymally	Markey	Stokes
Early	Martinez	Stratton
Eckart (OH)	McCloskey	Swift
Edwards (CA)	McHugh	Tauzin
Erdreich	McKinney	Thomas (GA)
Evans (IL)	Mineta	Torres
Fascell	Mitchell	Torricelli
Fazio	Morrison (CT)	Towns
Florio	Mrazek	Traficant
Foley	Nelson	Traxler
Ford (MI)	Nichols	Udall
Frank	Nowak	Valentine
Frost	Oberstar	Vento
Gejdenson	Obey	Visclosky
Gekas	Owens	Volkmer
Gibbons	Pease	Waxman
Gonzalez	Penny	Weaver
Gordon	Pepper	Weiss
Guarini	Perkins	Wheat
Hawkins	Petri	Whitley
Hayes	Porter	Wirth
Hefner	Price	Wise
Hertel	Rangel	Wright
Horton	Reid	Wyden
Hoyer	Robinson	Yates
Hubbard	Rodino	Young (MO)
Huckaby	Roemer	

ANSWERED "PRESENT"—1

Martin (NY)

NOT VOTING—131

Addabbo	Garcia	Miller (OH)
Akaka	Gephardt	Moakley
Anthony	Gray (IL)	Monson
Applegate	Gray (PA)	Moody
Archer	Gregg	Moore
AuCoin	Grotberg	Murphy
Badham	Hall (OH)	O'Brien
Barnes	Hammerschmidt	Oakar
Bevill	Hartnett	Ortiz
Bliley	Hatcher	Packard
Boehlert	Heftel	Panetta
Bonker	Henry	Pashayan
Boxer	Hillis	Pickle
Breaux	Howard	Quillen
Brooks	Hutto	Rahall
Broomfield	Jones (OK)	Regula
Brown (CA)	Kanjorski	Rinaldo
Burton (IN)	Kaptur	Ritter
Bustamante	Kemp	Roe
Byron	Kleczka	Rostenkowski
Campbell	Kramer	Rudd
Carney	Lantos	Savage
Chappell	Leath (TX)	Schneider
Cheney	Lehman (CA)	Schulze
Clinger	Levin (MI)	Slaughter
Coble	Lewis (CA)	Smith (IA)
Coelho	Lewis (FL)	Smith, Denny (OR)
Crane	Livingston	Smith, Robert (OR)
de la Garza	Loeffler	Snyder
DeLay	Long	Solomon
Dickinson	Lowery (CA)	Stallings
Donnelly	Lujan	Stangeland
Dorgan (ND)	Lundine	Stark
Dowdy	MacKay	Studds
Edgar	Madigan	Sweeney
Evans (IA)	Manton	Synar
Fiedler	Marlenee	Weber
Fish	Matsui	Whittaker
Flippo	Mavroules	Wolpe
Foglietta	McDade	Wortley
Ford (TN)	McEwen	Young (AK)
Fowler	McGrath	
Frenzel	Mica	
Fuqua	Mikulski	
Gallo	Miller (CA)	

□ 1700

Mr. PETRI and Mr. BATES changed their votes from "aye" to "no."

So the amendment to the amendment was agreed to.

The result of the vote was announced as above recorded.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Texas [Mr. BARTLETT], as amended.

The amendment, as amended, was agreed to.

AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. SHUMWAY

Mr. SHUMWAY. Mr. Chairman, I offer an amendment in the nature of a substitute.

The CHAIRMAN. The Chair would require of the gentleman from California, was the amendment printed in the RECORD?

Mr. SHUMWAY. The answer is yes, Mr. Chairman, the amendment was printed in the RECORD.

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

Amendment in the nature of a substitute offered by Mr. SHUMWAY: Strike all after the enacting clause and insert in lieu thereof the following:

SHORT TITLE

SEC. 1. This Act may be cited as the "Fair Deposit Availability Act of 1986".

DEFINITIONS

SEC. 2. As used in this Act—

(1) the term "depository institution" means—

(A) Any insured bank or domestic branch as defined in section 3 of the Federal Deposit Insurance Act or any bank which is eligible to make application to become an insured bank under section 5 of such Act, other than a foreign bank having an insured or uninsured branch;

(B) any mutual savings bank as defined in section 3 of the Federal Deposit Insurance Act or any bank which is eligible to make application to become an insured bank under section 5 of such Act;

(C) any savings bank as defined in section 3 of the Federal Deposit Insurance Act or any bank which is eligible to make application to become an insured bank under section 5 of such Act;

(D) any insured credit union as defined in section 101 of the Federal Credit Union Act or any credit union which is eligible to make application to become an insured credit union pursuant to section 201 of such Act;

(E) any member as defined in section 2 of the Federal Home Loan Bank Act; and

(F) any insured institution as defined in section 401 of the National Housing Act or any institution which is eligible to make application to become an insured institution under section 403 of such Act;

(2) the term "deposit account" means an account in a depository institution on which the account holder is permitted to make withdrawals by negotiable or transferable instruments, payment orders of withdrawal, telephone transfers, or other similar items for the purpose of making payments or transfers to third persons or others. Such term includes demand deposit accounts, negotiable order of withdrawal accounts, share

draft accounts, savings, deposits, and share accounts. Such term does not include time deposits;

(3) the term "Board" means the Board of Governors of the Federal Reserve System; and

(4) the term "check or similar instrument" means a check, negotiable order of withdrawal, share draft, money order, or similar instrument, but does not include noncash items.

DISCLOSURE OF FUND AVAILABILITY POLICIES

SEC. 3. (a) Before opening a deposit account, a depository institution shall provide a written disclosure to the potential customer of its general policy with respect to when a customer may withdraw funds deposited by check or similar instrument into the customer's deposit account. A depository institution also shall provide a written disclosure to the potential customer of all fees and charges that can be assessed against deposit accounts. In the case of a deposit account which was opened prior to the effective date of this section, the depository institution shall include such disclosure with the first regularly scheduled mailing pertaining to the account which occurs after such effective date (but not later than 90 days after such effective date) unless the depository institution has provided a disclosure which meets the requirements of this section prior to such effective date.

(b) Each depository institution shall—

(1) post at each location where its employees receive deposits a clear and conspicuous notice setting forth its general policy with respect to when a customer may withdraw funds deposited by check or similar instrument; and

(2) mail at least annually a brief reminder with respect to an account that deposits by check or similar instrument may not be available for immediate withdrawal.

(c) Each owner of an automatic or electronic terminal shall provide at each terminal location where deposits may be made a brief reminder that deposits by check or similar instrument may not be available for immediate withdrawal.

(d) Any change to a depository institution's general policy with respect to when a customer may withdraw funds deposited by check or similar instrument into the customer's deposit account, or any change in the fees and charges to be assessed against a deposit account other than a change which expedites the availability of such funds, may take effect only after the depository institution has provided notice of such changes to the customer.

(e) Each depository institution shall provide disclosure, consistent with the disclosures required under subsection (a), by telephone of its general policy with respect to when a customer may withdraw funds deposited by check or similar instrument into a customer's account upon the telephone request of any person.

(f) The Board shall prescribe regulations to carry out this section. These regulations may contain such definitions, classifications, differentiations, or other provisions, and may provide for such adjustments and exceptions for any class of transactions, as the Board determines are necessary to effectuate the purposes of this section, to prevent circumvention or evasion of this section, or to facilitate compliance with this section. The regulations of the Board shall require all disclosures, statements, and notices provided to be clear and conspicuous and in language that can be readily understood.

(g) A depository institution that does not begin to compute interest or dividends on funds deposited by check or similar instrument to an interest bearing deposit account or a time deposit on or before the date on which the depository institution receives provisional credit for the deposit (or if provisional credit is given on a nonbusiness day, the next business day) shall provide a written disclosure, within the time periods required under subsection (a), with respect to when the institution begins to compute interest on such funds.

(h) The Board shall publish model disclosure forms and clauses for common transactions to facilitate compliance with the disclosure requirements of this section and to aid customers by utilizing readily understandable language. Nothing in this Act requires the use of any such model form or clause prescribed by the Board under this section. A depository institution shall be deemed to be in compliance with the provisions of this section if it (1) uses any appropriate model form or clause as published by the Board, or (2) uses any such model form or clause and changes it by (A) deleting any information which is not required by this Act, or (B) rearranging the format.

(i) Model disclosure forms and clauses shall be adopted by the Board after notice duly given in the Federal Register and an opportunity for public comment in accordance with section 553 of title 5, United States Code.

INTEREST ON DEPOSITS

SEC. 4. For the purpose of computing the amount of interest or dividends payable with respect to an interest bearing deposit account or a time deposit, a depository institution may not delay beginning to compute interest on funds deposited by check or similar instrument to such an account beyond the date on which that depository institution receives provisional credit for the check or similar instrument (or if provisional credit is given on a nonbusiness day, on the next business day) unless the computation of interest begins at a later date for all deposits, including cash deposits, made to the account or deposit. Nothing in this section requires the payment of interest with respect to funds deposited by check or similar instrument which is returned unpaid.

IMPROVED CLEARING PROCEDURES

SEC. 5. (a) Not later than 18 months after the date of enactment of this Act, the Board shall publish for comment a regulation for the purpose of improving the check clearing system used by depository institutions by expediting the process for returning checks or other means in order to achieve the goal of—

(1) making deposits of funds by check or similar instrument drawn on local depository institutions available for withdrawal upon the expiration of one business day after deposit, and

(2) making deposits of funds by check or similar instrument drawn on other depository institutions available for withdrawal upon the expiration of three business days after deposit. This subsection does not apply to any check or similar instrument which poses a serious risk of loss to a depository institution.

(b) In prescribing the regulation under subsection (a), the Board shall consider—

(1) adopting a uniform endorsement standard;

(2) providing for direct notification of returning checks and similar instruments to the depository institution of first deposit;

(3) providing for direct return of checks and similar instruments to the depository institution of first deposit;

(4) providing for return of all checks and similar instruments through the Federal Reserve System's clearinghouse;

(5) extending limits for returns;

(6) establishing schedules for the availability of funds deposited by checks and similar instruments;

(7) prescribing the availability of funds deposited by checks and similar instruments based on the nature of the account to which the deposit was made or the nature of the account holder;

(8) the use of electronic means of collecting and returning checks;

(9) providing for check truncation;

(10) the establishment of an automated return system;

(11) charging a depository institution based upon notification that a check or similar instrument will be presented for payment;

(12) creating incentives for depository institutions to return unpaid items promptly to the depository institution of first deposit; and

(13) keeping the costs of any improvements to be implemented to a minimum.

(c) The regulation prescribed under subsection (a) shall become effective not later than 36 months after the date of enactment of this section. Each depository institution shall comply with the provisions of such regulation.

(d) The Board shall establish an Expedited Funds Availability Council (hereinafter referred to as the "Council") to advise and consult with the Board in the exercise of its functions under this section. The Council shall consist of—

(1) the Comptroller of the Currency or his delegate;

(2) the Chairman of the Federal Deposit Insurance Corporation of his delegate;

(3) the Chairman of the Federal Home Loan Bank Board or his delegate;

(4) the Chairman of the National Credit Union Administration Board or his delegate;

(5) two members of the Consumer Advisory Council designated by the Board;

(6) one representative from the users of payment systems services; and

(7) one representative from the providers of payment systems services in competition with the services offered by the Federal Reserve System.

The Council shall meet from time to time at the call of the Board.

AVAILABILITY OF CERTAIN FUNDS

SEC. 6. The Secretary of the Treasury shall by regulation require that funds deposited by a check drawn on the Treasury of the United States, which is first endorsed for deposit by a customer who has an established relationship, as defined by the Board, with the depository institution shall be available for withdrawal by that customer not later than the date when the depository institution is given provisional credit for that check or, if provisional credit is given on a nonbusiness day, on the next business day.

ADMINISTRATIVE ENFORCEMENT

SEC. 7. (a) Compliance with the requirements imposed under this Act shall be enforced under—

(1) section 8 of the Federal Deposit Insurance Act in the case of—

(A) national banks, by the Comptroller of the Currency;

(B) member banks of the Federal Reserve System (other than national banks), by the Board; and

(C) banks insured by the Federal Deposit Insurance Corporation (other than members of the Federal Reserve System and Federal savings banks), by the Board of Directors of the Federal Deposit Insurance Corporation;

(2) section 5(d) of the Home Owner's Loan Act of 1933, section 407 of the National Housing Act, and section 17 of the Federal Home Loan Bank Act, by the Federal Home Loan Bank Board (acting directly or through the Federal Savings and Loan Insurance Corporation), in the case of any institution subject to any of those provisions; and

(3) the Federal Credit Union Act, by the Administrator of the National Credit Union Administration with respect to any Federal credit union or insured credit union.

(b) For the purpose of the exercise by any agency referred to in subsection (a) of this section of its powers under any Act referred to in that subsection, a violation of any requirement imposed under this Act shall be deemed to be a violation of a requirement imposed under that Act. In addition to its powers under any provision of law specifically referred to in subsection (a) of this section, each of the agencies referred to in that subsection may exercise, for the purpose of enforcing compliance with any requirement imposed under this Act, any other authority conferred on it by law.

(c) Except to the extent that enforcement of the requirements imposed under this Act is specifically committed to some other Government agency under subsection (a) of this section, the appropriate State regulatory authority shall enforce such requirements.

(d) The authority of the Board to issue regulations under this Act does not impair the authority of any other authority designated in this section to make rules respecting its own procedures in enforcing compliance with requirements imposed under this Act.

CIVIL LIABILITY

SEC. 8. (a) Except as otherwise provided in this section, any depository institution which fails to comply with any requirement imposed under section 3 (other than subsection (e)), 4, or 6 with respect to any person is liable to such person in an amount equal to the sum of—

(1) any actual damage sustained by such person as a result of the failure;

(2)(A) in the case of an individual action such additional amount as the court may allow, except that the liability under this subparagraph shall not be less than $50 nor greater than $500; or

(B) in the case of a class action, such amount as the court may allow, except that as to each member of the class no minimum recovery shall be applicable, and the total recovery under this subparagraph in any class action or series of class actions arising out of the same failure to comply by the same depository institution shall not be more than the lesser of $500,000 or 1 per centum of the net worth of the depository institution; and

(3) in the case of any successful action to enforce the foregoing liability, the costs of the action, together with a reasonable attorney's fee as determined by the court.

In determining the amount of award in any class action, the court shall consider, among other relevant factors, the amount of any actual damages awarded, the frequency and persistence of failures of compliance, the resources of the depository institution, the number of persons adversely affected, and the extent to which the failure of compliance was intentional.

(b) A depository institution may not be held liable in any action brought under this section for a violation of section 3, 4, or 6 if the violation was not intentional and resulted from a bona fide error notwithstanding the maintenance of procedures reasonably adapted to avoid any such error. Examples of a bona fide error include, but are not limited to, clerical, calculation, computer malfunction and programming, and printing errors, except that an error of legal judgment with respect to a person's obligations under this Act is not a bona fide error.

(c) Any action under this section may be brought in any United States district court, or in any other court of competent jurisdiction, within one year from the date of the occurrence of the violation.

(d) No provision of this section imposing any liability shall apply to any act done or omitted in good faith in conformity with any rule, regulation, or interpretation thereof by the Board or in conformity with any interpretation or approval by an official or employee of the Federal Reserve System duly authorized by the Board to issue such interpretations or approvals under such procedures as the Board may prescribe therefor, notwithstanding that after such act or omission has occurred, such rule, regulation, interpretation, or approval is amended, rescinded, or determined by judicial or other authority to be invalid for any reason.

EFFECT ON CHECK ACCEPTANCE POLICIES AND OTHER LAWS

SEC. 9. (a) Nothing in this Act—

(1) prevents a depository institution, in accordance with the policy of such depository institution, from making funds available for withdrawal in a shorter period of time than is provided in this Act or in regulations adopted by the Board; and

(2) affects a depository institution's right—

(A) to accept or reject a check for deposit; or

(B) if a check for deposit and the depository institution has made provisional settlement with the depositor, pursuant to law to—

(i) revoke the provisional settlement given by the depository institution;

(ii) charge back the depositor's account; or

(iii) claim a refund of such provisional credit.

(b) Except as provided in subsection (a), the provisions of this Act or the regulations of the Board prescribed under this Act shall supersede the provisions of any State law which the Board determines to be inconsistent with the provisions of this Act or such regulation, but only to the extent of the inconsistency.

IMPROVING PAYMENT MECHANISMS

SEC. 10. Not later than one year after the implementation of any regulations under section 5 of this Act, the Board shall prepare a study and submit its findings to the Congress on the effect of improvements and changes in the payment system, including—

(1) the effect of the changes made by section 5 of this Act, and the advisability and feasibility of further changes;

(2) an assessment of improvements that can be made in the check collection system, including improved procedures for the return of unpaid items, reduction of costs, reduction in the number of returned checks, greater speed and efficiency in the check collection and return system, utilization of more efficient technology, and parity of treatment of depository institutions; and

(3) an assessment of the use of electronics in payments and of the need for improvements in the way the payments system provides services so as to insure efficient and affordable services, including the possible development of additional electronic services.

EFFECTIVE DATE

SEC. 11. Except as provided in section 5, this Act takes effect upon the expiration of twelve months following its enactment.

On page 18, line 15, add a new subsection (h) to section 5 as follows:

"(h) Sections 3(b), 4(c) and 4(d) shall not apply to a check if the receiving depository institution reasonably believes that the drawer or drawee of the check has become, or is about to become, subject to bankruptcy, receivership or similar proceeding, or when the receiving depository institution reasonably believes that a situation involving fraud or kiting exists."

Mr. SHUMWAY (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. SHUMWAY. Mr. Chairman, at the outset, I would like to thank the chairman and thank all Members. I know the hour is late and I apologize for prolonging the debate on this issue. But it is a matter of great importance to banks, to consumers, to all of us as Americans, and I think it does deserve the careful attention of all Members. And this amendment in particular, I think, is one that is important for us to consider.

This amendment parallels a companion piece of legislation which has been introduced in the other body known as S. 1841. It is a substitute for the pending bill which would require the free-market approach requiring notice be given by the institution to depositors of various schedules and fees they charge.

We have had some discussions here during the debate about the requirements of giving notice to depositors if there is going to be any kind of a hold exercised upon a check. It seems to me, Mr. Chairman, that with all of the advances in modern technology, and given the complexity of the payment system in terms of banks and other institutions, differences in geography and differences in competitive makeup, I think it is unwise for Congress to attempt to legislate an inflexible, absolute rigid hold schedule.

The problems in the current check-clearing system really are twofold. One, a failure of the depository institution to disclose to their customers their hold policies that a bank or institution may have; and second, the archaic and highly manual return

system that is now employed in processing checks and transporting them across the country.

This substitute amendment addresses both of these issues in a very flexible and effective manner and protects the interests of both the depository institution and their customers.

Again I point out the two problems. One deals with notice to customers and the other deals with the very archaic system that we use for clearing checks.

This substitute, I submit, addresses both of those concerns, and does so in a way that allows flexibility and yet protection for both financial institutions and their customers.

The substitute essentially gives the Fed 18 months for preliminary regulations and 3 years to promulgate a final regulation to reach a goal of reducing holding time to no more than 2 or 3 days for all checks that do not represent a serious risk of loss to the depository institution. The amendment also requires all depository institutions to disclose their hold periods to their customers, and to begin accruing interest on items deposited in interest-bearing accounts no later than the date when provisional credit is granted to that institution, and this notice shall be given by writing, by posting, by telephone, by personal presentation when the contract of deposit is made.

This approach, ladies and gentlemen, provides incentives for the more rapid handling of checks as well as the return process of the system. It provides the necessary flexibility by delegating authority to the Fed to find the most expeditious and efficient means to speed up the check-processing system.

Mr. DREIER of California. Mr. Chairman, will the gentleman yield?

Mr. SHUMWAY. I am happy to yield to the gentleman from California.

Mr. DREIER of California. Mr. Chairman, I would like to compliment my friend from California for offering this substitute. It truly is now a market-oriented approach to a problem that every single one of us wants to solve.

□ 1715

There is not a Member of this House who wants to have the banks making money on the float, and with full disclosure as this substitute offers, we will in fact be able to rectify that problem.

Mr. Chairman, I strongly support the substitute and compliment the gentleman for offering it.

Mr. SHUMWAY. I appreciate the comments of the gentleman from California.

Finally, let me say that this substitute provides the necessary protections against risk of loss for depository institutions, and at the same time it allows the consumer to know and to compare various institutions' current hold policies and to make a wise and informed decision. It moves us in the right direction. It is an approach that I think is flexible enough to serve our needs, and I urge its adoption by the House.

Mr. ST GERMAIN. Mr. Chairman, I move to strike the last word, and I rise in opposition to the substitute.

Mr. Chairman and Members of the House, in 1978 the Federal Reserve Board told the Committee on Banking that it was studying the problem of a float and the use of everybody's money by the banks when they deposit a check, in order to make money for the banks and to preclude the depositors using the money that they have earned.

Nineteen seventy-eight, that was 7 years ago. Two years ago we held hearings on the legislation before us. This past year we held extensive hearings on the legislation before us. We have a mandated schedule that says for the first 3 years you must give credit to people within 3 days, 3 business days, if within the area, 10 business days beyond. It says 3 years from now it should be the next business day and 4 business days if it is outside the State or the Federal Reserve clearinghouse district.

What does the substitute do? It says to the consumers, "By golly, you have waited since 1932, 50-some-odd years, you can wait another 3, 4, 5 years." It says, "No schedules, no required time within which to give you your money, to allow you the use of your money." Instead, it says 18 months from now regulations will be published; 36 months from now they will decide whether these regulations should be not only published but enacted and requirements made that banks pay people expeditiously, in a timely fashion, for deposits, allowing them the use of their deposits.

Ladies and gentlemen of the House, really and truly, I cannot see how anyone who has any concern for the consumers of his district and for this country can vote for this substitute. Five States already have enacted schedules either by statute or by regulation. Many other States are following suit. Are we, the Congress, going to say that if federally chartered institutions want to cop a plea they need not comply in those States where regulations or statutes are already in force and say to the people of this Nation, "The banks control the Congress, not the consumer?"

I say this is an anticonsumer substitute. I urge its defeat.

Mr. SCHUMER. Mr. Chairman, will the gentleman yield?

Mr. ST GERMAIN. I would be happy to yield to the gentleman from New York.

Mr. SCHUMER. I thank the gentleman for yielding.

I agree with the chairman of the committee. And I say to my colleagues briefly: So that this substitute, the Shumway substitute, is not confused with the previous Shumway amendment, the previous amendment said that if the bank felt in good faith it should not honor a check it would be allowed to hold the funds. That is something I did not support. It is a reasonable amendment. It did not kill the bill.

Make no mistake about it, this Shumway substitute kills the bill. This does nothing. The operative clause, if I might read it, is, "Not later than 18 months after the date of enactment the board shall publish a for-comment regulation for the purpose of improving check clearing." All it says to the Federal Reserve is improve it. Improve it a little bit? Improve it a lot? How would you do it?

Whether these regulations were to go in effect tomorrow, next year, or 10 years from now, this Congress would abrogate its responsibility, give all responsibility to the Federal Reserve Board, which has not done a good job protecting consumers. It leans too much in favor of the banks, and it would kill any hope that the consumers had of fairness. The substitue is a bill killer. A vote for this substitute is like defeating the bill.

Mr. ST GERMAIN. Mr. Chairman, again I urge defeat of the substitute.

Mr. CARPER. Mr. Chairman, will the gentleman yield?

Mr. ST GERMAIN. I yield to the gentleman from Delaware.

Mr. CARPER. I thank the gentleman for yielding.

My colleagues, I rise in reluctant opposition to the amendment offered in good faith by the gentleman from California. I voted in favor of the gentleman's last amendment, as I think the gentleman knows. I think that amendment which was designed to protect the legitimate financial interests or the legitimate interests of financial institutions from fraud, check kiting, bankruptcy, made the bill a better bill.

The CHAIRMAN. The time of the gentleman from Rhode Island has expired.

(By unanimous consent, Mr. ST GERMAIN was allowed to proceed for 2 additional minutes.)

Mr. CARPER. Will the gentleman continue to yield?

Mr. ST GERMAIN. I yield to the gentleman from Delaware.

Mr. CARPER. I thank the gentleman again for yielding.

Mr. Chairman, I am not so favorably disposed toward this particular amendment. I would urge my colleagues to oppose it and defeat this amendment.

Mr. BARNARD. Mr. Chairman, will the gentleman yield to me?

Mr. ST GERMAIN. I yield to the gentleman from Georgia.

Mr. BARNARD. I thank the gentleman for yielding.

Mr. Chairman, I would like to ask a couple of questions about this amendment. No. 1, was this amendment offered during the consideration of the Banking Committee?

Mr. ST GERMAIN. No, it was not.

Mr. BARNARD. Mr. Chairman, I note that this amendment was printed in the RECORD of Wednesday, January 22.

Mr. ST GERMAIN. It is a substitute for the bill, it is not an amendment.

Mr. BARNARD. An entire substitute.

As I read this substitute, it is entirely a new bill, not presented before the Banking Committee.

Mr. ST GERMAIN. The gentleman is absolutely correct.

Mr. BARNARD. Is it true that this tracks a Senate bill that has been introduced in the other body?

Mr. ST GERMAIN. I am given to understand that it does in part but not in toto.

Mr. BARNARD. Could I ask the gentleman, the author of the bill, has this bill been passed by the other body?

Mr. ST GERMAIN. Mr. Chairman, I yield to the gentleman from California in order to reply to the gentleman from Georgia.

Mr. SHUMWAY. If the gentleman will yield, I thank the gentleman for yielding. It has not been passed by the other body but it has been introduced in that body as S. 1481 by Senator DODD, it is exactly the same bill.

Mr. BARNARD. I would ask the chairman again, would not this amendment have fair consideration if this bill passes the House, and maybe that bill will pass the other body, and would it not be fair consideration to be considered in conference?

Mr. ST GERMAIN. Well, I cannot speak for what the other body may do. But, by the same token, I say to the gentleman he made a good point. The gentleman who offers this substitute would be the first to object to any legislation or a substitute that goes as far as this does without consideration in the committee, and yet he now wants to consider it.

The CHAIRMAN. The time of the gentleman from Rhode Island has again expired.

(By unanimous consent, Mr. ST GERMAIN was allowed to proceed for 1 additional minute.)

Mr. ST GERMAIN. Mr. Chairman, for that reason I say that I cannot understand why we should agree to it.

Mr. LAFALCE. Mr. Chairman, will the gentleman yield?

Mr. ST GERMAIN. I yield to the gentleman from New York.

Mr. LAFALCE. I thank the gentleman for yielding.

As the Chairman knows, I favor the concept of having the regulators determine what the prescribed period should be. However, upon a cursory examination of this substitute, I just think this is too vague and ambiguous, in only calling for them to issue regulations to be commented upon; too long a period of time; it is not detailed nor specific enough. For the fact that it was not offered in committee, we did not have ample time to consider it, and it seems too vague and ambiguous, I would urge defeat of the substitute at this time.

Mr. ST GERMAIN. Mr. Chairman, I would urge defeat of the amendment and yield back the balance of my time.

Mr. BARTLETT. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the amendment.

Mr. Chairman, I know the hour is late on Thursday afternoon, but the Shumway substitute which he offers, I call to the attention of the entire House, in fact, resolves the problem that has been discussed by this committee during the debate on the amendment in committee and subcommittee and by the Committee of the Whole all afternoon. What the Shumway amendment does, and it is quite a courageous amendment to offer, it is against the tide on the House floor; it is an amendment that I think speaks for the consumers of this country to give the consumers a choice. The difference between the Shumway substitute and the committee bill is very, very plain. The Shumway substitute would leave the choice as to what type of account, what type of hold, if any, and what type of interest rate, and what type of cost to the consumer. And the consumer then is allowed to be a reasonable and reasoned and informed shopper. I would say to the gentlemen on the other side, the sponsors of the main bill, that there is a problem. There is a problem in this country with deposits that are held for too long. But the problem is the frustration of consumers who are not told about those holds and do not have an informed choice. The Shumway amendment resolves that problem because it ensures that consumers would then be informed when they open their account at every day subsequent to that opening with each deposit as to what their choices are. So a consumer then goes to their financial institution and is told, without having to ask under the Shumway substitute, is told what the policies are and what the costs would be and what the interest rate is for that account. Then if the consumer decides that that is not their package, they go across the street or down the street or across the way and find a financial institution that meets their specific needs.

Let me be very specific: This substitute provides for an informed choice so that a financial institution under this substitute could offer a higher interest rate with a longer hold, tell the depositor about it, and if that fits the depositor's needs, the depositor will accept that account, or the financial institution could offer no hold, offer immediate credit on all deposits with a lower interest rate to account for the additional cost. And if that fits the consumer need, then the consumer chooses that kind of account.

With the Shumway substitute the depositor is the king, the consumer is the king. With the committee bill the Government is the king, the regulators, as the gentleman from New York said, and I admire him a great deal, but he said it. He said he wanted to help the regulators make the decisions for the consumers of this country. I do not think when the Congress really examines this problem that they will conclude that that is the right way to solve it because it is not a solution. It creates a bigger problem. It says we are going to return to the days of no choice, that the Government is going to decide what rate, what date, hours of service, what accounts, what type of accounts. I know the gentleman would not add all of that, but that is the direction.

So I would implore the House to avoid the fashion of being heavy-handed, voting just for the title of the bill, to vote for the consumer, for the consumer choice, and for a disclosure substitute.

Mr. Chairman, I yield back.

The CHAIRMAN. The question is on the amendment in the nature of a substitute offered by the gentleman from California [Mr. SHUMWAY].

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. SHUMWAY. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 80, noes 211, answered "present" 1, not voting 142, as follows:

[Roll No. 7]

AYES—80

Armey	Daub	Hiler
Bartlett	DeWine	Holt
Barton	Dornan (CA)	Hopkins
Bentley	Dreier	Hunter
Bilirakis	Duncan	Hyde
Boulter	Eckert (NY)	Ireland
Brown (CO)	Emerson	Kasich
Broyhill	Fawell	Kindness
Callahan	Fields	Kolbe
Chandler	Franklin	Lagomarsino
Chappie	Gekas	Latta
Coats	Gingrich	Leath (TX)
Cobey	Goodling	Lightfoot
Combest	Gradison	Lott
Craig	Hansen	Lujan
Dannemeyer	Hendon	Lungren

Mack	Rogers	Stenholm
Martin (IL)	Roth	Stump
McCandless	Schuette	Sundquist
McCollum	Sensenbrenner	Thomas (CA)
McMillan	Shaw	Vander Jagt
Michel	Shumway	Vucanovich
Moorhead	Siljander	Walker
Myers	Skeen	Whitehurst
Nielson	Smith, Robert (NH)	Wylie
Oxley	Spence	Young (FL)
Parris		Zschau

NOES—211

Ackerman	Gibbons	Rangel
Anderson	Gilman	Ray
Andrews	Glickman	Reid
Annunzio	Gonzalez	Richardson
Aspin	Gordon	Ridge
Atkins	Green	Roberts
Barnard	Guarini	Robinson
Bateman	Gunderson	Rodino
Bates	Hall, Ralph	Roemer
Bedell	Hamilton	Roukema
Beilenson	Hawkins	Rowland (CT)
Bennett	Hayes	Rowland (GA)
Bereuter	Hefner	Roybal
Berman	Hertel	Russo
Biaggi	Horton	Sabo
Boggs	Hubbard	Saxton
Boland	Hughes	Schaefer
Boner (TN)	Jacobs	Scheuer
Bonior (MI)	Jeffords	Schumer
Borski	Jenkins	Seiberling
Bosco	Johnson	Sharp
Boucher	Jones (NC)	Shelby
Bruce	Jones (TN)	Sikorski
Bryant	Kastenmeier	Sisisky
Burton (CA)	Kennelly	Skelton
Carper	Kildee	Slattery
Carr	Kolter	Smith (FL)
Chapman	Kostmayer	Smith (NE)
Clay	LaFalce	Smith (NJ)
Coleman (MO)	Leach (IA)	Snowe
Coleman (TX)	Lehman (FL)	Spratt
Collins	Leland	St Germain
Conte	Levine (CA)	Staggers
Conyers	Lipinski	Stokes
Cooper	Lloyd	Strang
Coughlin	Lowry (WA)	Stratton
Courter	Luken	Swift
Coyne	Martinez	Swindall
Crockett	Mazzoli	Tallon
Daniel	McCain	Tauke
Darden	McCloskey	Tauzin
Daschle	McCurdy	Thomas (GA)
Davis	McHugh	Torres
Dellums	McKernan	Torricelli
Derrick	McKinney	Towns
Dicks	Meyers	Traficant
Dingell	Miller (WA)	Traxler
DioGuardi	Mineta	Udall
Dixon	Mitchell	Valentine
Downey	Molinari	Vento
Durbin	Mollohan	Visclosky
Dwyer	Montgomery	Volkmer
Dymally	Morrison (WA)	Walgren
Dyson	Murtha	Watkins
Early	Natcher	Waxman
Eckart (OH)	Neal	Weaver
Edwards (CA)	Nelson	Weiss
English	Nichols	Wheat
Erdreich	Nowak	Whitten
Evans (IA)	Oberstar	Williams
Evans (IL)	Obey	Wilson
Fascell	Olin	Wirth
Fazio	Owens	Wise
Feighan	Pease	Wolf
Florio	Penny	Wright
Foley	Pepper	Wyden
Ford (MI)	Perkins	Yates
Frank	Petri	Yatron
Frost	Porter	Young (MO)
Gaydos	Price	
Gejdenson	Pursell	

ANSWERED "PRESENT"—1

Martin (NY)

NOT VOTING—142

Addabbo	AuCoin	Bonker
Akaka	Badham	Boxer
Alexander	Barnes	Breaux
Anthony	Bevill	Brooks
Applegate	Bliley	Broomfield
Archer	Boehlert	Brown (CA)
Burton (IN)	Hoyer	Oakar
Bustamante	Huckaby	Ortiz
Byron	Hutto	Packard
Campbell	Jones (OK)	Panetta
Carney	Kanjorski	Pashayan
Chappell	Kaptur	Pickle
Cheney	Kemp	Quillen
Clinger	Kleczka	Rahall
Coble	Kramer	Regula
Coelho	Lantos	Rinaldo
Crane	Lehman (CA)	Ritter
de la Garza	Lent	Roe
DeLay	Levin (MI)	Rose
Dickinson	Lewis (CA)	Rostenkowski
Donnelly	Lewis (FL)	Rudd
Dorgan (ND)	Livingston	Savage
Dowdy	Loeffler	Schneider
Edgar	Long	Schroeder
Edwards (OK)	Lowery (CA)	Schulze
Fiedler	Lundine	Shuster
Fish	MacKay	Slaughter
Flippo	Madigan	Smith (IA)
Foglietta	Manton	Smith, Denny (OR)
Ford (TN)	Markey	
Fowler	Marlenee	Smith, Robert (OR)
Frenzel	Matsui	
Fuqua	Mavroules	Snyder
Gallo	McDade	Solarz
Garcia	McEwen	Solomon
Gephardt	McGrath	Stallings
Gray (IL)	Mica	Stangeland
Gray (PA)	Mikulski	Stark
Gregg	Miller (CA)	Studds
Grotberg	Miller (OH)	Sweeney
Hall (OH)	Moakley	Synar
Hammerschmidt	Monson	Taylor
Hartnett	Moody	Weber
Hatcher	Moore	Whitley
Heftel	Morrison (CT)	Whittaker
Henry	Mrazek	Wolpe
Hillis	Murphy	Wortley
Howard	O'Brien	Young (AK)

□ 1740

Mr. STRANG and Mr. MILLER of Washington changed their votes from "aye" to "no."

Mr. DAUB and Mr. LIGHTFOOT changed their votes from "no" to "aye."

So the amendment in the nature of a substitute was rejected.

The result of the vote was announced as above recorded.

The CHAIRMAN. Are there any further amendments?

If not, the question is on the committee amendment in the nature of a substitute, as amended.

The committee amendment in the nature of a substitute, as amended, was agreed to.

The CHAIRMAN. Under the rule, the Committee rises.

Accordingly the Committee rose; and the Speaker having resumed the chair, Mr. DURBIN, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 2443) to limit the number of days a depository institution may restrict the availability of funds which are deposited in any account, pursuant to House Resolution 357, he reported the bill back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER. Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment to the committee amendment in the nature of a substitute adopted by the Committee of the Whole? If not, the question is on the amendment.

The amendment was agreed to.

The SPEAKER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

MOTION TO RECOMMIT OFFERED BY MR. DREIER OF CALIFORNIA

Mr. DREIER of California. Mr. Speaker, I offer a motion to recommit.

The SPEAKER. Is the gentleman opposed to the bill?

Mr. DREIER of California. I am, Mr. Speaker.

The SPEAKER. The Clerk will report the motion to recommit.

The Clerk read as follows:

Mr. DREIER of California moves to recommit the bill, H.R. 2443, to the Committee on Banking, Finance and Urban Affairs.

The SPEAKER. Without objection, the previous question is ordered on the motion to recommit.

There was no objection.

The SPEAKER. The question is on the motion to recommit.

The motion to recommit was rejected.

The SPEAKER. The question is on the passage of the bill.

The question was taken; and the Speaker announced that the ayes appeared to have it.

RECORDED VOTE

Mr. WYLIE. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 282, noes 11, answered "present" 1, not voting 140, as follows:

[Roll No. 8]

AYES—282

Ackerman	Chandler	Dymally
Anderson	Chapman	Dyson
Andrews	Chappie	Early
Annunzio	Clay	Eckart (OH)
Aspin	Coats	Eckert (NY)
Atkins	Cobey	Edwards (CA)
Barnard	Coleman (MO)	Emerson
Barton	Coleman (TX)	English
Bateman	Collins	Erdreich
Bates	Combest	Evans (IA)
Bedell	Conte	Evans (IL)
Beilenson	Conyers	Fascell
Bennett	Cooper	Fawell
Bentley	Coughlin	Fazio
Bereuter	Courter	Feighan
Berman	Coyne	Fields
Biaggi	Craig	Florio
Bilirakis	Crockett	Foley
Boggs	Daniel	Ford (MI)
Boland	Dannemeyer	Franklin
Boner (TN)	Darden	Frost
Bonior (MI)	Daschle	Gaydos
Borski	Daub	Gejdenson
Bosco	Davis	Gekas
Boucher	Dellums	Gibbons
Boulter	Derrick	Gilman
Brooks	DeWine	Gingrich
Brown (CO)	Dicks	Glickman
Broyhill	Dingell	Gonzalez
Bruce	DioGuardi	Goodling
Bryant	Dixon	Gordon
Burton (CA)	Downey	Gradison
Callahan	Duncan	Green
Carper	Durbin	Guarini
Carr	Dwyer	Gunderson

Hall, Ralph	Meyers	Siljander
Hamilton	Michel	Sisisky
Hansen	Miller (WA)	Skeen
Hawkins	Mineta	Skelton
Hayes	Mitchell	Slattery
Hefner	Molinari	Smith (FL)
Hendon	Mollohan	Smith (NE)
Hertel	Montgomery	Smith (NJ)
Hiler	Moorhead	Smith, Robert (NH)
Holt	Morrison (WA)	Snowe
Hopkins	Mrazek	Spence
Horton	Murtha	Spratt
Hoyer	Myers	St Germain
Hubbard	Natcher	Staggers
Hughes	Neal	Stokes
Hunter	Nelson	Strang
Hyde	Nichols	Stratton
Ireland	Nielson	Sundquist
Jacobs	Nowak	Swift
Jeffords	Oberstar	Swindall
Jenkins	Obey	Tallon
Johnson	Olin	Tauke
Jones (NC)	Owens	Tauzin
Jones (TN)	Oxley	Thomas (GA)
Kasich	Parris	Torres
Kastenmeier	Pease	Torricelli
Kennelly	Penny	Towns
Kildee	Pepper	Traficant
Kindness	Perkins	Traxler
Kolbe	Petri	Udall
Kolter	Porter	Valentine
Kostmayer	Price	Vander Jagt
LaFalce	Pursell	Vento
Lagomarsino	Rangel	Visclosky
Latta	Ray	Volkmer
Leach (IA)	Reid	Vucanovich
Lehman (FL)	Richardson	Walgren
Leland	Ridge	Walker
Levine (CA)	Roberts	Watkins
Lightfoot	Rodino	Waxman
Lipinski	Roemer	Weaver
Lloyd	Rogers	Weiss
Lott	Roth	Wheat
Lowry (WA)	Roukema	Whitehurst
Lujan	Rowland (CT)	Whitten
Luken	Rowland (GA)	Williams
Lungren	Roybal	Wilson
Markey	Russo	Wirth
Martin (IL)	Sabo	Wise
Martinez	Saxton	Wolf
Mazzoli	Schaefer	Wright
McCain	Scheuer	Wyden
McCandless	Schuette	Wylie
McCloskey	Schumer	Yates
McCollum	Seiberling	Yatron
McCurdy	Sensenbrenner	Young (FL)
McHugh	Sharp	Young (MO)
McKernan	Shaw	
McKinney	Shelby	
McMillan	Sikorski	

NOES—11

Armey	Leath (TX)	Stump
Bartlett	Mack	Thomas (CA)
Dornan (CA)	Shumway	Zschau
Dreier	Stenholm	

ANSWERED "PRESENT"—1

Martin (NY)

NOT VOTING—140

Addabbo	Clinger	Gray (IL)
Akaka	Coble	Gray (PA)
Alexander	Coelho	Gregg
Anthony	Crane	Grotberg
Applegate	de la Garza	Hall (OH)
Archer	DeLay	Hammerschmidt
AuCoin	Dickinson	Hartnett
Badham	Donnelly	Hatcher
Barnes	Dorgan (ND)	Heftel
Bevill	Dowdy	Henry
Bliley	Edgar	Hillis
Boehlert	Edwards (OK)	Howard
Bonker	Fiedler	Huckaby
Boxer	Fish	Hutto
Breaux	Flippo	Jones (OK)
Broomfield	Foglietta	Kanjorski
Brown (CA)	Ford (TN)	Kaptur
Burton (IN)	Fowler	Kemp
Bustamante	Frank	Kleczka
Byron	Frenzel	Kramer
Campbell	Fuqua	Lantos
Carney	Gallo	Lehman (CA)
Chappell	Garcia	Lent
Cheney	Gephardt	Levin (MI)
Lewis (CA)	Morrison (CT)	Slaughter
Lewis (FL)	Murphy	Smith (IA)
Livingston	O'Brien	Smith, Denny (OR)
Loeffler	Oakar	Smith, Robert (OR)
Long	Ortiz	Snyder
Lowery (CA)	Packard	Solarz
Lundine	Panetta	Solomon
MacKay	Pashayan	Stallings
Madigan	Pickle	Stangeland
Manton	Quillen	Stark
Marlenee	Rahall	Studds
Matsui	Regula	Sweeney
Mavroules	Rinaldo	Synar
McDade	Ritter	Taylor
McEwen	Robinson	Weber
McGrath	Roe	Whitley
Mica	Rose	Whittaker
Mikulski	Rostenkowski	Wolpe
Miller (CA)	Rudd	Wortley
Miller (OH)	Savage	Young (AK)
Moakley	Schneider	
Monson	Schroeder	
Moody	Schulze	
Moore	Shuster	

□ 1805

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

AUTHORIZING THE CLERK TO MAKE CORRECTIONS IN ENGROSSMENT OF H.R. 2443, EXPEDITED FUNDS AVAILABILITY ACT

Mr. VENTO. Mr. Speaker, I ask unanimous consent that in the engrossment of the bill, H.R. 2443 the Clerk be authorized to correct section numbers, punctuation, and cross references and to make such other technical and conforming changes as may be necessary to reflect the actions of the House in amending the bill, H.R. 2443.

The SPEAKER pro tempore. (Mr. HUBBARD). Is there objection to the request of the gentleman from Minnesota?

There was no objection.

GENERAL LEAVE

Mr. VENTO. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks, and include extraneous material, on the bill just considered and passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

LEGISLATIVE PROGRAM

(Mr. MICHEL asked and was given permission to address the House for 1 minute.)

Mr. MICHEL. Mr. Speaker, I have taken this time for the purpose of inquiring of the distinguished majority leader about the program for the balance of the week and next week.

Mr. WRIGHT. Mr. Speaker, will the distinguished minority leader yield?

Mr. MICHEL. I yield to the majority leader.

Mr. WRIGHT. Mr. Speaker, the legislative business for this week has been concluded, and I will ask unanimous consent, when we conclude here, that we adjourn today to meet at noon on Monday.

On Monday we have scheduled the District of Columbia Revenue Bond Act. If there should be a recorded vote requested and ordered, we will postpone the vote until Tuesday.

On Tuesday, we will meet at noon. There will be two bills that we expect to consider under suspension of the rules. The first one is S. 1831, the Arms Export Control Act amendments, and the other is S. 1574, the smokeless tobacco bill. Then the House would recess until 8:30 p.m. on Tuesday and reconvene to receive the President of the United States at 9 o'clock in the evening for his annual State of the Union Address.

On Wednesday we will meet at 3 p.m. We will consider H.R. 3525, the single poll closing time for Presidential elections, under an open rule, with 1 hour of general debate.

On Thursday we will meet at 11 a.m. and consider H.R. 3492, protection and advocacy for mentally ill individuals. That is subject to the granting of a rule.

We do not expect the House to be in session on Friday.

Mr. MICHEL. Mr. Speaker, I thank the gentleman.

I would like to yield, if I might, at this moment to the gentleman from Mississippi [Mr. LOTT].

Mr. LOTT. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, I would like to propound a question to the distinguished majority leader about the schedule in the summer months. There had been some difference between the House schedule in the summer and the schedule of the other body, and there had been some discussion perhaps of some change in the month of July. Could the distinguished leader give us any new information on that?

Mr. WRIGHT. Mr. Speaker, I am very happy to respond to that question, and I think this might be good news and welcome to those Members with young children in school.

We have decided that since the Senate is taking the Fourth of July recess through the 13th of July and we had originally scheduled ours only through the 6th, we will go ahead and schedule that July recess through the 13th, particularly in view of the fact that there is only a short recess in August scheduled. This will give Members with children an extra week to spend with their youngsters and with their families.

I am glad the gentleman asked that question, and I think it is useful to advise all Members in order that they might make their plans for that week.

Mr. LOTT. Mr. Speaker, I thank the gentleman for that information. As one of the Members with children still in school, high school and college, I want to express my appreciation. But I would like this to be remembered as the JACK BROOKS district work period since he is one of the parents that had such an interest in this effort.

Mr. WRIGHT. Mr. Speaker, I am sure the gentleman from Texas [Mr. BROOKS] will be deeply grateful for that. It was he, along with others—and particularly he—who agitated for this change in order that those young Members with younger children might be accommodated.

Mr. MICHEL. Mr. Speaker, if I might reclaim my time, it is only to say that I am happy to hear the response to the gentleman from Texas because the distinguished whip on the Republican side has been holding up the very important printing process of the little wallet-sized cards we carry to tell us when we are supposed to be here and when we have free time, either with our families or during district work periods. I would assume now from the gentleman's exchange here that he can proceed with that very important printing process.

Mr. WRIGHT. Mr. Speaker, if the gentleman will yield, I would say that the gentleman from Mississippi was very wise, because a friend of mine named THOMAS S. FOLEY, the majority whip, already has published what I hold in my hand, a card bearing the now outdated dates. Under normal circumstances, I expect the gentleman from Washington [Mr. FOLEY], the majority whip, might republish, but under Gramm-Rudman I am sure he is going to take a pen and go through each of those cards and scratch out the wrong date and write in the right one.

Mr. MICHEL. Well, of course, on the majority side it is always the advantage over there to know a little bit ahead of time what transpires across the aisle here, but knowing the good nature of the gentleman from Washington, I am sure that he will take the majority leader's recommendation and admonition and proceed to get those "babies" corrected, also attempting to live by the letter and spirit of Gramm-Rudman, which is going to transcend all the activities we have around here for the next 100 days, I suppose.

ADJOURNMENT TO MONDAY, JANUARY 27, 1986

Mr. WRIGHT. Mr. Speaker, I ask unanimous consent that when the House adjourns today it adjourn to meet at noon on Monday next.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

DISPENSING WITH CALENDAR WEDNESDAY BUSINESS ON WEDNESDAY NEXT

Mr. WRIGHT. Mr. Speaker, I ask unanimous consent that the business in order under the Calendar Wednesday rule be dispensed with on Wednesday next.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. The Chair will now entertain requests for 1-minute speeches which were waived at the beginning of the day.

LEGISLATION EXEMPTING CERTAIN SPENDING CUTS UNDER GRAMM-RUDMAN

(Mr. ANDERSON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ANDERSON. Mr. Speaker, today I have introduced legislation to exempt certain health, safety, and law enforcement agencies from the mandatory, across-the-board Gramm-Rudman spending cuts.

Specifically, my bill protects the Drug Enforcement Administration, Immigration and Naturalization Service, Federal Aviation Administration, Customs Service, and Coast Guard from the Gramm-Rudman budget ax.

Should we fail to modify Gramm-Rudman, we can expect pink slips to be handed out to air traffic controllers, drug enforcement personnel, border agents, and customs inspectors. I don't think any of us would want to see this happen.

If you agree that we should continue to fully fund those programs that successfully promote our constituents' health and safety, then I urge you to cosponsor my bill.

□ 1815

CAN GRAMM-RUDMAN REALLY WORK?

(Mr. DANNEMEYER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DANNEMEYER. Mr. Speaker, there is an inescapable correlation between the budget deficit and the cost of servicing the public debt. It is no accident that the public debt doubled during the past 5 years, just at the time when the cost of servicing it exploded—thanks to exorbitant interest rates. The bottom line is that the real cause of the budget deficit is neither our defense spending, nor our domestic spending. Rather, it is the regime of high interest rates that the Federal Reserve Board inaugurated in 1979—without the advice or consent of the Congress—when its leaders embraced the monetarist creed.

The problem cannot be solved by selective budget cuts or tax increases. To suggest that a balanced budget will bring down interest rates is to put the cart before the horse. It is to confuse cause and effect. It is to pretend that one can just as easily climb out of a hole as one can climb into it. But the fact remains that the budget deficit cannot be eliminated without eliminating its chief cause: the regime of high interest rates.

In calling for budget cuts and tax increases, while ignoring the Volcker coup d'etat of 1979, the Gramm-Rudman plan is trying to build on quicksand. It has no chance for success while it may bring more agony to the dynamic producers of our society; 15 years ago the Congress abdicated its constitutional powers and prerogatives "to coin money and regulate the value thereof." The result was that usurpers took over, started coining their own kind of money without regard to the requirements of integrity, equity, or honesty. The money-changers invaded the temple. Once the value of the dollar was destabilized, interest rates at double digits inevitably followed.

The real solution to the problem of budget deficits can only come after the Congress has reasserted its constitutional prerogatives, put an end to usurpation of its constitutional powers in redefining the value of the dollar in terms of gold. Once the dollar is so stabilized, the rate of interest will immediately return to a low and stable level. This will make it possible, once more, to bring the budget under control.

It is time to chase the money-changers out of the temple.

MANY KENTUCKIANS LOOK FORWARD TO END OF BINGHAM NEWS MONOPOLY

(Mr. HUBBARD asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HUBBARD. Mr. Speaker, in Kentucky, The Courier-Journal, The Louisville Times, WHAS Radio, WHAS-TV and Standard Gravure Corp.—valued together at as much as $450 million—have been put up for sale following more than a year of a bitter family feud whereby the children of multimillionaire Barry Bingham, Sr., have taken turns in public criticizing each other and their father.

The headlines of the Bingham media empire's morning newspaper on

January 10 read: "State's leaders are saddened by decision."

Typical of the one-sided news coverage by the newspapers, the only ones interviewed were admirers of the Binghams.

Only one western Kentuckian was interviewed—a former State representative who has a longtime newspaper background and is a Bingham family friend.

I could not go home to western Kentucky this weekend without telling it like it is.

Tens of thousands of Kentuckians are absolutely overjoyed with the possibility that the Bingham's news monopoly in Kentucky may come to an end in 1986.

The sale of the multimillion-dollar Bingham media empire is to Kentuckians today what the Chicago Bears team is to our Illinois neighbors.

REMEMBERING OUR HOSTAGES

(Mr. DORNAN of California asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DORNAN of California. Mr. Speaker, while we were gone during the Christmas and New Year holidays, one of our hostages who has written to me passed his first year in captivity, Father Marty Jenco of Illinois. With Father Jenco in that letter of November 8 that I have not been able to forget over the holidays, the signatures of three other Americans appeared. It does not mean that Peter Kilburn, who was taken as a kidnap victim back in May 1984 is not alive, we pray that he is. It does not mean that in spite of all of the torture and death stories that our fine diplomat in our Embassy in Beirut, Mr. William Buckley, who was taken in March 1984, it does not mean that he is not alive; but we know that four are alive. We have seen their pictures. They have written to me and to our colleague, the gentleman from Illinois, Mr. GEORGE O'BRIEN.

I would just like to mention that the man who is approaching a year in captivity, Terry Anderson of the Associated Press, will pass that horrible point, God forbid, on March 16. His father is desperately ill and in the hospital.

I appeal to his captors, who believe, they say, in the same God that we honor, to release Terry so he can get to his father's bedside. It can become very serious very quickly.

I have worked very closely with the two sons. David Jacobson is from my County of Orange in California. David Jacobson, I will remind you, was taken May 28 of last year. His fellow worker at our great university in Beirut, Tom Sutherland, was taken prisoner within an hour of arriving at Beirut Airport on June 9 of last year.

I know that there are many religious emissaries going over, including the courageous Terry Waite, in the name of the archbishop of Canterbury in London. I hope that we will see a resolution to this problem soon.

I know the captors read the CONGRESSIONAL RECORD. Be advised that no one in this or any other body will forget members of our American family.

GENERAL LEAVE

Mr. GINGRICH. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on House Resolution 357, the rule on H.R. 2443, the Expedited Funds Availability Act.

The SPEAKER pro tempore (Mr. HUBBARD). Is there objection to the request of the gentleman from Georgia?

There was no objection.

INDIANA DUNES NATIONAL LAKESHORE 20TH ANNIVERSARY BOUNDARY EXTENSION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Indiana [Mr. VISCLOSKY] is recognized for 5 minutes.

Mr. VISCLOSKY. Mr. Speaker, about 10,000 years ago, as the waters of ancient Lake Chicago began to recede following the glaciers of the Wisconsin period, a splendid and primitive wilderness began to form. During the next 9,000 years, dune ridges extending northward to the present shore of Lake Michigan were formed, thus creating the dunes country so eloquently described by Kay Franklin and the late Norma Schaeffer:

> The Dunes country, nestled between these ancient and new shorelines, offered a unique, various, and everchanging spectacle to the receptive eye. No single aspect lacked the characteristic, startling beauty of the whole: fine white beaches deposited for eons by angry lake storms, low dunes held stable by marram grass and sand cherry, woods composed of both northern and southern pine, ancient climax forests of beech and maple, and, no less breathtaking, the bogs, ponds, and swamps between the shoreline ridges. The Dunes exhibited a collage of contrasts, delicate and lush, stationary and moving, living, changing, dying, and living again.

In the summer of 1821, 165 years ago, Gen. John Tipton saw the dunes country differently.

It is my opinion,

Tipton wrote—

> the hills are formed by the sand beating out of the Lake by the waves when it becomes dry. The hard wind which prevails here from the north drives it into those heaps. Immediately behind those hills the country falls off into ponds and marshes that never can admit of settlement nor never will be of much service to our state.

Tipton was wrong, but another 145 years were to pass until the Nation formally recognized the value of the Dunes by establishing the Indiana Dunes National Lakeshore.

Since it was first proposed in 1916 as the "Sand Dunes National Park" by Stephen Mather, the first director of the National Park Service, the concept of a dunes park, its purpose, and its identity have continued to change. As the dunes are everchanging, so too are the physical, natural, and social situations in which they exist and which they affect.

Therefore, as we celebrate the 20th anniversary of the lakeshore's official formation, I propose that legislative change again occur. Change is needed to ensure that the resource, which thousands have worked tirelessly to preserve, will be made fully accessible to all citizens in an environmentally sound manner. Change is needed to enhance the Park Service's ability to manage and control the lakeshore's perimeter and set aside certain additional areas of value. And finally, I propose to study the possible creation of a Dunes Parkway which would not only improve the national lakeshore from a Federal perspective, but would complement our local endeavors under the Marquette project to emerge from the shadows of industrial decline, by accentuating the positive as we travel the path of progress in northwest Indiana.

Today, I have introduced H.R. 4037, a bill which would incorporate these proposals.

The Dunes, their use and their preservation are exceptionally important to me. And while it may be of little note here, I will always take great personal pleasure in recalling that the first bill I introduced in this House pertained to the Indiana Dunes National Lakeshore.

I recommend this legislation to your attention and respectfully request your careful consideration of it as it now goes to committee.

VOTING "YES" ON EXPEDITED FUNDS AVAILABILITY ACT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New Jersey [Mr. GALLO] is recognized for 5 minutes.

Mr. GALLO. Mr. Speaker, because of personal circumstances I was unable to attend the voting on H.R. 2443, Expedited Funds Availability Act, and its amendments. Had I been present I would have voted "no" on all amendments and "Yes" on final passage.

POLAND INCORRECTLY IDENTIFIED BY GAO AS NAZI ALLY

The SPEAKER pro tempore. Under a previous order of the House, the gen-

tleman from New Jersey [Mr. RODINO] is recognized for 5 minutes.

Mr. RODINO. Mr. Speaker, on June 28, 1985 the Comptroller General issued a report entitled, "Nazis and Axis Collaborators Were Used to Further U.S. Anti-Communist Objectives in Europe—Some Immigrated to the United States" in response to a request I made in May 1982.

In chapter 1, in the introduction, the GAO stated inter alia, "These collaborators come from countries which allied themselves with Nazi Germany, or Fascist Italy, many of which are now under Communist rule; that is, Latvia, Estonia, Romania, Poland, and Hungary."

Many remember the heroic resistance of the Polish people in defending Warsaw against the Nazi blitzkrieg, the battles in which Polish cavalry fought Nazi Tiger tanks on horseback, the exploits of the Polish Air Force in England and above all, the glorious victory led by Polish troops at Monte Cassino in Italy. These actions, plus the continuous functioning of the Free Polish Government in London certainly remove the label of ally to Nazi Germany from any historical truth.

The Comptroller General acknowledges the error in his reference in the report and has sent me the following letter:

GENERAL ACCOUNTING OFFICE,
Washington, DC, January 14, 1986.

Hon. PETER W. RODINO, Jr.,
Chairman, Committee on the Judiciary, House of Representatives

DEAR MR. CHAIRMAN: On page one, line 12 of our report to you entitled "Nazis and Axis Collaborators Were Used to Further U.S. Anti-Communist Objectives in Europe—Some Immigrated to the United States" GAO/GGD-85-66, June 28, 1985, we inadvertently included Poland in our listing of countries allied with Nazi Germany or Fascist Italy. We trust this letter will assist your Committee in responding to those who have brought this matter to your attention. The appropriate change has been made to our reserve stock of this report. We regret any inconvenience this matter may have caused.

Sincerely yours,

WILLIAM J. ANDERSON,
Director.

I sincerely hope that this public acknowledgement will atone for any offense felt by our citizens and immigrants of Polish ancestry.

CURRENT LEVEL OF SPENDING AND REVENUES FOR FISCAL YEAR 1986

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from South Carolina [Mr. DERRICK] is recognized for 5 minutes.

Mr. DERRICK. Mr. Speaker, on behalf of Chairman WILLIAM H. GRAY III, pursuant to the procedures of the Committee on the Budget and section 311(b) of the Congressional Budget Act of 1974, I am submitting the official letter to the Speaker advising him of the current level of spending and revenues for fiscal year 1986. Since my last report, Congress has cleared and the President has signed, the NASA authorization of 1986 (Public Law 99-170), the Labor-HHS appropriations, 1986 (Public Law 99-178), the Commerce, State, Justice appropriations, 1986 (Public Law 99-180), the further temporary extension (Public Law 99-181, Public Law 99-189, and Public Law 99-201), the Veterans Compensation Amendments of 1985 (Public Law 99-238), the Food Security Act of 1985 (Public Law 99-198), the Compact of Free Association (Public Law 99-239), and the further continuing appropriations for 1986 (Public Law 99-190). The President has vetoed the Textile and Apparel Trade Enforcement Act (H.R. 1562) and the Federal Employees Benefits Improvement Act (H.R. 3384). These actions result in changes to buget authority, outlay, and revenue estimates.

The current level is used to compare enacted spending after the start of a fiscal year with the aggregate ceiling on budget authority, outlays, and revenues established in a second budget resolution and enforced by point of order pursuant to section 311(a) of the act. The term current level refers to the estimated amount of budget authority, outlays, entitlement authority, and revenues that are available—or will be used—for the full fiscal year in question based only on enacted law.

The procedural situation with regard to the spending ceiling is affected by section 311(b) of the Congressional Budget Act of 1974, as amended by Public Law 99-177. Enforcement against possible breaches of the spending ceiling under section 311(a) of the Budget Act will not apply where a measure would not cause a committee to exceed it's "appropriate allocation" made pursuant to section 302(a) of the Budget Act. In the House, the appropriate 302(a) allocation includes "new discretionary budget authority" and "new entitlement authority" only. It should be noted that under this procedure neither the total level of outlays nor a committee's outlay allocation is considered.

The intent of the section 302(a) "discretionary budget authority" and "new entitlement authority" subceiling provided by section 311(b) of the Budget Act, as amended, is to protect a committee that has stayed within it's own spending allocation—discretionary budget authority and new entitlement authority—from points of order if the total spending ceiling has been breached for reasons outside of its control. The 302(a) allocations to House committees made pursuant to the conference report on Senate Concurrent Resolution 32 were printed in the CONGRESSIONAL RECORD, September 5, 1985, 22975.

As chairman of the Budget Process Task Force, and on behalf of Chairman GRAY, I intend to keep the House informed regularly on the status of current level.

HOUSE OF REPRESENTATIVES,
COMMITTEE ON THE BUDGET,
Washington, DC, January 23, 1986.

Hon. THOMAS P. O'NEILL,
Speaker, U.S. House of Representatives, Washington, DC.

DEAR MR. SPEAKER: On January 30, 1976, the Committee on the Budget outlined the procedure which it has adopted in connection with its responsibilities under Section 311 of the Congressional Budget Act of 1974 to provide estimates of the current level of revenues and spending.

Pursuant to Committee Rule 10, I am herewith transmitting the status report under S. Con. Res. 32, the First Concurrent Resolution on the Budget for Fiscal Year 1986. This report reflects the adopted budget resolution of August 1, 1985, and the current CBO estimates of budget authority, outlays, and revenues.

The procedural situation with regard to the spending ceiling is affected by Section 311(b) of the Congressional Budget Act of 1974, as amended by P.L. 99-177. Enforcement against possible breaches of the spending ceiling under Section 311(a) of the Budget Act will not apply where a measure would not cause a committee to exceed its "appropriate allocation" made pursuant to Section 302(a) of the Budget Act. In the House, the appropriate 302(a) allocation includes "new discretionary budget authority" and "new entitlement authority" only. It should be noted that under this procedure neither the total level of outlays nor a committee's outlay allocation is considered.

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The enclosed tables compare enacted legislation to each committee's 302(a) allocation of discretionary budget authority and of new entitlement authority.

Sincerely,

WILLIAM H. GRAY III,
Chairman.

REPORT TO THE SPEAKER OF THE U.S. HOUSE OF REPRESENTATIVES FROM THE COMMITTEE ON THE BUDGET ON THE STATUS OF THE FISCAL YEAR 1986 CONGRESSIONAL BUDGET ADOPTED IN S. CON. RES. 32

REFLECTING COMPLETED ACTION AS OF JANUARY 21, 1986

[In millions of dollars]

	Budget authority	Outlays	Revenues
Appropriate level	1,069,700	967,600	795,700
Current level	1,073,035	986,849	793,451
Amount over ceilings	3,335	19,249	
Amount under floor			2,249

BUDGET AUTHORITY

Any measure providing budget or entitlement authority which is not included in the current level for fiscal year 1986, if adopted and enacted, would cause the appropriate level of budget authority for that year as set forth in S. Con. Res. 32 to be exceeded.

OUTLAYS

Any measure providing budget or entitlement authority which is not included in the current level estimate in outlays for fiscal year 1986, if adopted and enacted, would cause the appropriate level of outlays for that year as set forth in S. Con. Res. 32 to be exceeded.

REVENUES

Any measure that would result in a revenue loss for fiscal year 1986, if adopted and enacted, would cause revenues to be less than the appropriate level for that year as set forth in S. Con. Res. 32.

Fiscal year 1986 budget authority comparison of current level and budget resolution allocation by committee

[In millions of dollars]

House committee:	*Current level Budget authority*
Total current level	+3,335
Appropriations Committee:	
Discretionary	(−7,940)
Authorizing Committee—Discretionary action:	
Agriculture	(+1,613)
Armed Services	(+280)
Banking, Finance, and Urban Affairs	(+2,067)
District of Columbia	(....)
Education and Labor	(....)
Energy and Commerce	(+14)
Foreign Affairs	(+75)
Government Operations	(....)
House Administration	(....)
Interior and Insular Affairs	(+3,914)
Judiciary	(....)
Merchant Marine and Fisheries	(+100)
Post Office and Civil Service	(....)
Public Works and Transportation	(....)
Science and Technology	(....)
Small Business	(+216)
Veterans' Affairs	(....)
Ways and Means	(+1,139)

NOTE.—Committees are over (+) or under (−) their 302(a) allocation.

ALLOCATION OF NEW ENTITLEMENT AUTHORITY (NEA)

[In millions of dollars]

Committee	NEA target	Reported	Passed	Enacted
Agriculture:				
H.R. 2100	−1,250	−954	−819	+3,250
H.R. 3128			−20	−20
S. 1851				
Subtotal				+3,230
Armed Services: H.R. 1872	−100	+1,336	+1,336	+1,780
Education and Labor:				
H.R. 3500	−339	−375	−375	
H.R. 2811		−174		
H.R. 2812		−174		
H.R. 7		+61	+61	
H.R. 3128		−174	−174	
Energy and Commerce: H.R. 3128	−80	+23	+23	
Interior and Insular Affairs:				
H.J. Res. 187	+307	+285	+352	+175
House Judiciary: H.R. 484		+2	+2	
Post Office and Civil Service:				
H.R. 2851	−145	+2		
H.R. 3128		−145	−145	
Veterans Affairs:				
H.R. 1538	+45	+311	+311	+286
H.R. 752		+2	+2	
H.R. 3500		+311	+311	
H.R. 2343		+1	+1	
Ways and Means:				
H.R. 3452	−2,454	−229	−229	−229
H.R. 3721		−155	−155	−155
H.R. 3918		−20	−20	−20
H.R. 3981		−6	−6	−6
H.R. 4006		−465	−465	−465
H.R. 3128		−2,366	−2,366	
H.R. 3838		40	40	
H.R. 2817		2	2	
Subtotal				−875

CONGRESSIONAL BUDGET OFFICE,
U.S. CONGRESS,
Washington, DC, January 21, 1966.

Hon. WILLIAM H. GRAY III,
Chairman, Committee on the Budget, U.S. House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: Pursuant to section 308(b) and in aid of section 311 of the Congressional Budget Act, as amended, this letter and supporting detail provide an up-to-date tabulation of the current levels of new budget authority, estimated outlays and estimated revenues in comparison with the appropriate levels for those items contained in the most recently agreed to concurrent resolution on the 1986 budget (S. Con. Res. 32). This report for fiscal year 1986 is tabulated as of close of business January 21, 1986 and is based on assumptions and estimates consistent with S. Con. Res. 32. A summary of this tabulation is as follows:

[In millions of dollars]

	Budget authority	Outlays	Revenues
Current level	1,073,035	986,849	793,451
1985 Budget Resolution, S. Con. Res. 32	1,069,700	967,600	795,700
Current level is:			
Over resolution by	3,335	19,249	
Under resolution by			2,249

Since my last report the President has signed the NASA Authorization of 1986 (P.L. 99-170), the Labor-HHS Appropriations, 1986 (P.L. 99-178), the Commerce, State, Justice Appropriations, 1986 (P.L. 99-180), the Further Temporary Extensions (P.L. 99-181, P.L. 99-189, and P.L. 99-201), the Veterans Compensation Amendments of 1985 (P.L. 99-238), the Food Security Act of 1985 (P.L. 99-198), the Compact of Free Association (H.J. Res. 187), and the Further Continuing Appropriations for 1986 (P.L. 99-190). The President has vetoed the Textile and Apparel Trade Enforcement Act (H.R. 1562) and the Federal Employees Benefits Improvement Act (H.R. 3384). These actions result in changes to budget authority, outlay, and revenue estimates.

This letter is my final report on Congressional budgetary action on the first session of the Ninety-ninth Congress.

With best wishes,

Sincerely,

RUDOLPH G. PENNER,
Director

PARLIAMENTARIAN STATUS REPORT HOUSE SUPPORTING DETAIL, FISCAL YEAR 1986 AS OF CLOSE OF BUSINESS JANUARY 21, 1986

[In millions of dollars]

	Budget authority	Outlays	Revenues
I. Enacted in previous sessions:			
Revenues			792,700
Permanent appropriations and trust funds	706,558	631,009	
Other appropriations		185,348	
Offsetting receipts	−162,006	−162,006	
Total enacted in previous sessions	544,551	654,351	792,700
II. Enacted this session:			
Famine relief and recovery in Africa (P.L. 99-10)		421	
Federal supplemental compensation phaseout (P.L. 99-15)			10
Appropriations for the MS missile (P.L. 99-18)		368	
Contemporaneous recordkeeping repeal bill (P.L. 99-44)			13
U.S.-Israel Free Trade Act (P.L. 99-47)			−8
Statue of Liberty-Ellis Island Coin Act (P.L. 99-61)	−15	31	
International Security and Development Cooperation Act (P.L. 99-83)	−25	−25	
Supplemental appropriations bill (P.L. 99-88)	36	3,138	
State Department authorization (P.L. 99-93)			2
Emergency Extension Act of 1985 (P.L. 99-107)	−49	−230	210
Simplification of imputed interest rules (P.L. 99-121)			−31
Health professions educational assistance (P.L. 99-129)		−8	
Amendments-special defense acquisition fund (P.L. 99-139)	100		
Energy and water appropriations, 1986 (P.L. 99-141)	15,252	8,245	
Department of Defense Authorization Act, 1986 (P.L. 99-145)	280	−5	
Legislative branch appropriations, 1986 (P.L. 99-151)	1,599	1,385	
Temporary debt-limit increase (P.L. 99-155)	−34	−156	140
Agricultural extension, tobacco provisions (P.L. 99-157)	−20	−20	
HUD-Independent Agencies appropriations, 1986 (P.L. 99-160)	56,909	36,247	
Offsetting receipts	−4,185	−4,185	
Military construction appropriations, 1986 (P.L. 99-173)	8,498	2,151	
NASA Authorization Act of 1986 (P.L. 99-170)		107	
Labor, HHS, Education appropriations, 1986 (P.L. 99-178)	95,497	82,042	
Offsetting receipts	−19,816	−19,816	
Commerce, State, Justice appropriations, 1986 (P.L. 99-180)	11,926	9,711	
Offsetting receipts	−118	−118	
Further temporary extension (Medicare) (P.L. 99-181)		−20	
Extension of tobacco excise tax (P.L. 99-181)			12
Further temporary extension (Medicare) (P.L. 99-189)		−6	4
Food Security Act of 1985 (P.L. 99-198)	1,835	1,870	
Further temporary extension (Medicare) (P.L. 99-201)	−93	−467	403
Compact of Free Association (P.L. 99-239)	87	71	−3
Total enacted this session	167,663	120,730	751
III. Continuing resolution authority:			
Continuing appropriations, 1986 (P.L. 99-190)	364,560	214,942	
Offsetting receipts	−4,450	−4,450	
Total continuing resolution authority	360,110	210,492	
IV. Conference agreements ratified by both Houses			
V. Entitlement authority and other mandatory items requiring further appropriation action:			
Payment to air carriers, DOT	26	24	
Maritime, operating-differential subsidies			
Retirement pay for PHS officers	3		
Medical facilities loan guarantee	2		
Payment to health care trust funds [1]	(907)	(907)	
Advances to unemployment trust fund [1]	(51)	(51)	
Federal unemployment benefits and allowances	65	64	
Black lung disability trust fund	46	46	
Veterans compensation	286	235	
Veterans readjustment benefits	180	137	
Veterans pensions	10		
Defense pay raise—military		675	
Compact of free association	92	92	
Total entitlements	710	1,276	
Total current level as of January 21, 1986	1,073,035	986,849	739,451
1986 budget resolution (S. Con. Res. 32)	1,069,700	967,600	795,700
Amount remaining:			
Over budget resolution	3,335	19,249	
Under budget resolution			2,249

[1] Interfund transactions do not add to budget totals.

Note: Numbers may not add due to rounding.

WAIVER FOR DISTRICT OF COLUMBIA REVENUE BONDS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from the District of Columbia [Mr. FAUNTROY] is recognized for 5 minutes.

Mr. FAUNTROY. Mr. Speaker, on the last day of the 1st session of the 99th Congress, December 19, 1985, both the House and Senate passed H.R. 3718 waiving the 30-day congressional layover period for four acts of the council of the District of Columbia.

Unfortunately, by clerical error, the last page of H.R. 3718, listing two of the council acts, was dropped in preparing the enrolled bill for the President's signature. Part of H.R. 3718 became law—Public Law 99-216—and part was left out.

I and my colleagues Chairman DELLUMS, Mr. MCKINNEY, the ranking minority member of the Committee on the District of Columbia, and Congressman BARNES and BLILEY have joined in introducing H.R. 4027 to add the two council acts to the list with waivers as was intended by Congress.

The text of H.R. 4027 and an explanation follow:

H.R. 4027

A bill extending the waiver authority of the District of Columbia Revenue Bond Act of 1985 to certain revenue bond acts of the District of Columbia, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. GRANTING OF WAIVER.

Section 2(c) of the District of Columbia Revenue Bond Act of 1985 (P.L. 99-216) is amended by adding at the end thereof the following new paragraphs:

"(3) The American University Revenue Bond Act of 1985 (Series A), District of Columbia act 6-111, transmitted to the Speaker of the House and the President of the Senate December 4, 1985.

"(4) The George Washington University Revenue Bond Act of 1985 (Series A), District of Columbia act 6-114, transmitted to the Speaker of the House and the President of the Senate December 18, 1985."

SEC. 2. EFFECTIVE DATE OF ACTS; TREATMENT OF OBLIGATIONS.

(a) EFFECTIVE DATE.—The District of Columbia acts referred to in the amendment made by secton 1 shall take effect as if included in section 2(c) of the district of Columbia revenue Bond Act of 1985 on the date of the enactment of such Act.

(b) TREATMENT OF OBLIGATIONS.—(1) Subject to paragraph (2), for purposes of any act of Congress (and any amendments made by any Act of congress) enacted after December 31, 1985, any obligation issued under the authority of the District of Columbia acts made effective under subsection (a) shall be deemed to have been issued on December 31, 1985.

(2) Paragraph (1) shall apply only to obligations issued not more than 60 days after the date of the enactment of this Act.

H.R. 4027—AMENDMENT TO D.C. REVENUE BOND ACT OF 1985

The House on Monday, January 27, is scheduled to consider a unanimous consent request to consider a bill to waive the period of Congressional review of two acts of the D.C. Council, authorizing the issuance of revenue bonds, and to make them effective December 26, 1985.

ACTION BY THE 99TH CONGRESS

H.R. 4027 was introduced on January 22, 1986 and referred by the Speaker to the Committee on the District of Columbia.

BILL SUMMARY

H.R. 4027 waives the normal 30 day Congressional layover period for two Council acts approving revenue bonds for construction at American University and George Washington University and makes them effective December 26, 1985.

BACKGROUND

The waivers in H.R. 4027 had already passed both the House and Senate on December 19, 1985 as part of H.R. 3718, but a clerical error left them out of H.R. 3718 as it was printed on parchment for signatures of the Speaker of the House, President of the Senate, and President of the United States. Thus H.R. 3718, as it became P.L. 99-216, gives waivers for bonds for Georgetown University and Sibley Hospital but not for the two universities listed on the last page of H.R. 3718 as it passed the House and Senate.

The urgency of getting municipal revenue bonds adopted by December 31, 1985 arises because H.R. 3838, the Tax Reform Act of 1985, reported by the Ways Means Committee, passed the House on December 17, 1985, and is being considered by the Senate. It changes the tax treatment of municipal revenue bonds effective January 1, 1986.

States and cities throughout the country hastened to approve revenue bond issues by December 31, 1985, to take advantage of the more favorable tax treatment in existing federal law. The District of Columbia was at a disadvantage in comparison with other local and state governments because federal law (the D.C. Home Rule Act) postpones the effective date of acts adopted by the Council of the District of Columbia for 30 legislative days of Congress, during which time Congress could veto the local legislation. The Council acts were adopted by the District and transmitted to Congress in December 1985.

H.R. 4027 waives the 30 day period and allows the local laws to take effect in December 1985 with the other bond issues in P.L. 99-216.

Cost: CBO estimated no cost to the federal government in its opinions on H.R. 3718, which contained waivers on these and other D.C. revenue bonds.

MAYOR'S REPORT ON HUNGER

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California [Mr. PANETTA] is recognized for 5 minutes.

Mr. PANETTA. Mr. Speaker, yesterday, I had the honor to meet with the Task Force on Hunger and Homelessness of the U.S. Conference of Mayors. At the meeting, Mayor Raymond Flynn of Boston, Task Force Chairman, released a new study entitled "The Growth of Hunger, Homelessness and Poverty in America's Cities in 1985." I regret to report that the plight of the hungry and the homeless continues to worsen in our Nation's cities.

The new report by the U.S. Conference of Mayors is based upon a survey of the 25 cities whose mayors serve on the Task Force on Hunger and Homelessness. Among the key findings in the survey were:

(1) During 1985, 24 of the 25 cities experienced an increase in demand for emergency food assistance. The average increase in demand was 28 percent, including a significant growth in the number of families with children seeking aid.

(2) In 90 percent of the cities surveyed, the demand for emergency shelter increased by an average of 25 percent in 1985. In over half of the cities, shelters routinely turn away people in need.

(3) Despite improvements in the official unemployment rate in nearly half of the cities, most cities reported growth in the number of residents in poverty during 1985. An overwhelming majority of cities expect increases in demand for emergency food and shelter assistance in 1986.

Mr. Speaker, these finding are consistent with the testimony received in 1985 by the Subcommittee on Domestic Marketing, Consumer Relations, and Nutrition, which I chair. Both this subcommittee and the Select Committee on Hunger have documented a significant growth in domestic hunger over the past few years. Despite improvements in the overall economy, the American hunger problem continues to grow more severe.

I was gratified that H.R. 2100, the recently enacted Food Security Act of 1985 (Public Law 99-198), included several provisions that will make a small dent in our hunger problem. However, much work remains to be done. Particularly, in this year of large anticipated budget cutbacks, we must not sweep aside our concern for America's most vulnerable citizens. Through my work as subcommittee chairman as well as chairman of the Task Force on Domestic Hunger of the Select Committee on Hunger, I intend to continue to focus congressional attention on issues like hunger and homelessness.

A summary of the new U.S. Conference of Mayors as well as several tables from the report, follow:

SUMMARY

To assess the current status of hunger, homelessness and poverty in cities, the U.S. Conference of Mayors surveyed the 25 cities whose mayors are members of its Task Force on Hunger and Homelessness. The survey questioned 1) the demand for emergency food assistance and the local response to it; 2) the extent and demographics of the local homeless population and the availability of shelter and other services for homeless people; 3) the persistance of the hunger and homelessness problems and the impact of the economic recovery on them; 4) economic conditions relating to poverty and unemployment; and 5) the outlook for these problems in 1986.

HUNGER

In every Task Force city save one the overall demand for emergency food assistance increased during 1985, on average by 28 percent. In all but two cities, or 92 percent of the Task Force cities, the number of families with children requesting emergency food assistance increased during 1985, by an average of 30 percent.

An average of 17 percent of the demand for emergency food assistance currently goes unmet in the responding cities. Emergency food assistance facilities have to turn people away in two out of three of the responding cities.

Twenty-two of the Task Force cities, or 88 percent of those surveyed, expect the demand for emergency food assistance to increase during 1986; the remainder expect it to remain the same.

Low benefits in public assistance programs, poverty and employment problems lead the list of reasons for the persistence of hunger. Every city save one reported that the national economic recovery has not eased the local hunger problem.

Every survey city except one reported that city government funds—either locally generated revenues or federal or state grants—are used to support local emergency food assistance efforts. In 71 percent of these cities, locally generated revenues are used for this purpose.

HOMELESSNESS

The demand for emergency shelter increased in nearly nine out of 10 of the survey cities during 1985; the average increase was 25 percent. The demand did not decrease in any of the cities.

In 60 percent of the cities, emergency shelters cannot accommodate all of the people seeking assistance. In over half of those cities, shelters must routinely turn away people in need.

Homelessness is expected to continue to increase in 22 of the cities during 1986. Homelessness is not expected to decrease in any of the survey cities this year.

Identified most often as reasons for the persistence of homelessness in cities were: the shortage of housing affordable by low income persons, changes in mental health policies combined with a lack of community services for chronically mentally ill individuals, and unemployment problems. In none of the 25 Task Force cities has the national economic recovery lessened the problem of homelessness.

On average, the composition of the cities' homeless population is 60 percent single men, 28 percent families and 12 percent single women. The number of families with children and the number of single young adults who are homeless have grown significantly in recent years. More persons with chronic mental illness are now found in the homeless population.

Eighty-eight percent of the responding cities use city government funds—either locally generated revenues or federal or state grants—to support shelters and other services for the homeless. Funding sources more frequently used include the Community Services Block Grant, General Revenue Sharing and the Federal Emergency Food and Shelter Program.

ECONOMIC CONDITIONS

Officials in more than half of the Task Force cities indicated that the number of poor residents increased during 1985. Two cities reported decreases in the number of poor people; seven said the number remained the same.

All but three of the responding cities indicated that the problems of the "new poor" have continued. Five cities specifically suggest that their numbers have increased.

The unemployment problem decreased in 46 percent of the responding cities, stayed the same in 29 percent, and increased in one-fourth of them during 1985. City officials expect that in 1986 unemployment will stay the same in 57 percent of the responding cities, increase in 30 percent and decrease in 13 percent.

All but three of the Task Force cities reported that the "official" unemployment rate does not accurately reflect the actual unemployment problem for their city. The reasons most often cited were the failure to include discouraged workers or the underemployed.

City	Estimated number of homeless people	Number of city shelter beds
Boston	5,000	1,282
Charleston	500	350
Chicago	12,000–25,000	2,700
Cleveland	[1] 5,000	350
Denver	2,200–2,600	1,014
Detroit	12,000–13,000	800
Hartford		150
Kansas City	10,800	600
Louisville	3,500	600
Minneapolis	500	380
Nashville	1,500–2,000	668
New Orleans	2,000	550
New York City	[2]	[3] 22,132
Philadelphia	2,500	2,500
Phoenix	4,000	374
Portland	6,000	[4] 319
St. Paul	1,100	477
San Antonio	800	838
San Francisco	4,500–5,500	[3] 3,321
San Juan	2,000	1,213
Salt Lake City	600–800	500
Seattle	3,500–4,000	1,500–1,800
Trenton	2,000–3,000	200+
Washington, DC	6,429	3,291
Yonkers	700	469

[1] Number of people who are homeless at some time during the year.
[2] New York City currently provides emergency shelter to 3,960 families, comprised of a total of 14,612 individuals including 9,644 children. In addition, there are 4,960 single homeless adults housed in the city's shelters.
[3] Total number of beds in emergency shelters and hotels.
[4] Another 310 beds are available as needed.

CITY DATA ON HUNGER

City	Percentage increase in demand for emergency food in 1985	Percentage increase in families with children in 1985	Number of emergency food assistance facilities	Percentage of unmet need	Are people turned away? Yes	No	Frequency
Boston	65	65+	136	50	x		Routinely.
Charleston	50	22	13			x	
Chicago	13	29	650	5		x	
Cleveland			65	[1]	x		Occasionally.
Denver		20	135		x		Routinely.
Detroit	0	0	215		x		Occasionally.
Hartford	50	50	30	0		x	
Kansas City	50	50	165	20	x		Occasionally.
Louisville	4		41		x		Do.
Minneapolis	20	20	15	0		x	
Nashville	11	15	6	12	x		Routinely.
New Orleans	5		15	15	x		Occasionally.
New York City	10	25	357		x		Routinely.
Philadelphia	25–35	20	300		x		Do.
Phoenix	52	40	59		x		Occasionally.
Portland	17	18	8–10	[2]			
St. Paul			48	0		x	
San Antonio	2	2	115	0		x	
San Francisco	25–30	25–30	14	55		x	
San Juan		60	1	10	x		Occasionally.
Salt Lake City	48	23	12	20	x		Routinely.
Seattle	10		50–80		x		Infrequently.
Trenton	10	9	15	25	x		Occasionally.
Washington, DC			15	30		x	Do.
Yonkers	50	50	5		x		Routinely.

[1] High. [2] Minimal.

CITY DATA ON HOMELESSNESS

City	Change in demand in 1985	Percentage composition of homeless population: Families	Single men	Single women	Mentally ill	Substance abusers	Transients	Are people turned away? Yes	No	Frequency
Boston	Increase	40	40	10	32	48	38	x		Routinely.
Charleston	do	5	85	10	50	45	35		x	
Chicago	do	40	40	20	30	40	10	x		Routinely.
Cleveland	do	25			14–20		5	x		Do.
Denver	do	13	73	14	60	41	20	x		Occasionally.
Detroit	do	20	55	25	30	45	50	x		Do.
Hartford	Same	20	60	20	30	40	40		x	
Kansas City	Increase	35	50	15	50	38	20	x		Occasionally.
Louisville	do	15	80	5	40			x		Routinely.
Minneapolis	Same	15	84	1	40	50	33		x	

CITY DATA ON HOMELESSNESS—Continued

City	Change in demand in 1985	Percentage composition of homeless population						Are people turned away?		
		Families	Single men	Single women	Mentally ill	Substance abusers	Transients	Yes	No	Frequency
Nashville	Increase				20	30	15	x		Routinely.
New Orleans	do		90	10	10	45	47	x		Occasionally.
New York City	do	66	30	4	[1] 22–M [1] 38–F	[1] 25–M [1] 8–F	[1] 82–M [2] 86–F		x	
Philadelphia	do				25	15			x	
Phoenix	do	20	70	10	20	20	5	x		Routinely.
Portland	do				20	88	23		x	
St. Paul	do		55				2–5	x		Routinely.
San Antonio	Same	4	82	13	40		92		x	Occasionally.
San Francisco	Increase	15	55	20	45	45	33	x		Do.
San Juan	do	24	53	[3] 3				x		Do.
Salt Lake City	do	20	70	10	45		40		x	
Seattle	do	28	62	[3] 7			27	x		Routinely.
Trenton	do	20	70	10	25	25	15		x	
Washington, DC	do	25	38	37	55	15	20		x	
Yonkers	do	80	13	7	6	10	1	x		Routinely.

[1] Percentages given are for homeless single adults only.
[2] Homeless youth comprise the remaining 20 percent.
[3] Youth comprise 3 percent of the homeless population.

CITY DATA ON ECONOMIC CONDITIONS

City	Poverty in 1985	Official unemployment rate accurate?		Unemployment in 1985	Unemployment in 1986
		Yes	No		
Boston	Same		x	Same	Same
Charleston	Increase		x	do	Increase.
Chicago	do		x	Increase	Decrease.
Cleveland	do		x	Decrease	
Denver	do		x	do	Increase
Detroit	Same		x	do	Decrease.
Hartford	Decrease		x	do	Same.
Kansas City	Same		x	Same	Do.
Louisville	Increase		x	Increase	Increase.
Minneapolis	Same	x		Same	Same.
Nashville	do		x	Decrease	Do.
New Orleans	do	x		Increase	Do.
New York City			x	Decrease	Do.
Philadelphia			x	Increase	Decrease.
Phoenix	Increase		x	Decrease	Increase.
Portland	do		x	do	Same.
St. Paul			x		
San Antonio	Increase		x	Increase	Increase.
San Francisco	Same		x	Decrease	Do.
San Juan	Increase		x	Increase	Do.
Salt Lake City	do		x	Same	Same.
Seattle	do		x	Decrease	Do.
Trenton	Decrease	x		Same	Do.
Washington, DC			x	Decrease	Do.
Yonkers	Increase		x	Same	Do.

LEGISLATION THAT PROHIBITS THE PURCHASE OF SOVIET ENRICHMENT SERVICES FOR UNITED STATES NUCLEAR POWERPLANTS

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Tennessee [Mrs. LLOYD] is recognized for 5 minutes.

Mrs. LLOYD. Mr. Speaker, I have today introduced a bill which prohibits nuclear electric power utilities in the United States from purchasing uranium enrichment services from the Soviet Union.

The United States operates a Uranium Enrichment Program through the Department of Energy, and it is intended to be fully self-sufficient through the revenues it generates from the customers it serves. In the recent past, the demand for uranium enrichment services has been substantially reduced causing a significant retrenchment in the Government's program and the closure of one of the Government's three uranium enrichment plants in the United States.

Soviet Union sales of enrichment services to domestic utilities impair the ability of the United States to continue its Uranium Enrichment Program, which the United States operates without a profit for the benefit of electric ratepayers.

The Soviet Union does not operate its uranium enrichment business on the principles of a free market society. They offer their enrichment services at a discount from whatever level is established as the price of enrichment services in the United States.

The Soviet Union is an unfair competitor and enrichment service sales to U.S. citizens detract from the national energy security of the United States.

For these reasons, Mr. Speaker, I urge my colleagues to join me in cosponsoring this legislation.

UKRAINIAN INDEPENDENCE DAY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York [Mr. STRATTON] is recognized for 5 minutes.

Mr. STRATTON. Mr. Speaker, I join with my colleagues to commemorate the 68th anniversary of the Declaration of Independence made by the Ukrainian Central Rada, the Parliament of the Ukrainian people. The short-lived period of freedom begun on January 22, 1918, is one that must not be forgotten by freedom-loving people throughout the world. Although these remarks come a day after the official Independence day, let me reaffirm my continued support for the Ukrainian people in their long fight to regain that precious freedom.

The people of the Ukraine have long suffered as a captive nation under the control of the Soviet Union. Many of their most patriotic citizens have been imprisoned for urging a free Ukraine.

Events and conditions in "Iron Curtain" nations are rarely reported in the free world. The current struggle for freedom against the Soviet invaders in Afghanistan receives very little exposure in the West. This suppression of information unfavorable to the Soviets has been a strict policy of the Soviet regime. An earlier, devastating example is the Ukrainian famine of 1932–33. This outrageous program brought on as a result of the relocation of Ukrainian citizens and the confiscation of their grain, claimed some 7 million Ukrainian lives, a figure greater than that of the Nazi Holocaust. Yet the Soviets categorically deny there ever was such a famine.

We must not forget this inhumane action. It is our resonsibility to know and pursue the truth about this event. In the last Congress I supported the establishment of a Commission on the Ukrainian Famine to study the causes and events of this tragic famine.

Now I have joined two of my colleagues in introducing House Joint Resolution 494, to authorize the establishment of a memorial to honor Prince Volodymyr the Great of the Ukraine. As head of the Ukraine in the 10th century, Prince Volodymyr was instrumental in unifying the lands and people of the Ukraine, in introducing Christianity to the region, and in working for the freedom of the Ukrainian people. I hope the House will act quickly to approve this legislation.

Once again, I want to commemorate the brief period of freedom for the Ukraine and to reaffirm my dedication to the fight for freedom and independence for all oppressed people.

CONGRESS HAS WALKED AWAY FROM DEFICIT PROBLEM WITH GRAMM-RUDMAN

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Massachusetts [Mr. CONTE] is recognized for 30 minutes.

Mr. CONTE. Mr. Speaker, this week Congress reconvened for the 2d session of the 99th Congress. Some commentators have questioned why we bothered coming back, in light of our passage of the Gramm-Rudman measure last year—and frankly, I am inclined to wonder myself.

Last year, over my objections and the opposition of far too few of my colleagues, Congress simply walked away from the budget deficit problem and turned its back on the Constitution.

In adopting Gramm-Rudman, Congress conceded the battle of the budget to the President, and admitted that it lacked the ability—or perhaps the will—to control Federal revenues and expenditures on its own. In that act, Congress gave up a good portion of its most fundamental constitutional power—the power of the purse. It is most basically the power to raise revenues and provide for the expenditure of Federal funds that the Constitution gives to the Congress alone. In adopting Gramm-Rudman, Congress said "no, thanks. We aren't prepared to make those decisions. We would rather let unelected bureaucrats, bean counters, and computers make those choices."

Mr. Speaker, I don't think the Constitution lets us walk away from those decisions and I don't think that our constituents should either. The people of this country have elected us to make the hard decisions on Federal policy and spending. I am not prepared to surrender my vote, and my representation of the people of western Massachusetts, to some bureaucrat's red pen.

This week, the General Accounting Office has reported to the President on the percentage cuts that will need to be made in order to meet the fiscal year 1986 budget deficit targets set in the Gramm-Rudman measure. It is anticipated that those cuts, amounting to a 4.3-percent reduction in certain nondefense programs, and a 4.9-percent reduction in certain defense programs, will be included in a Presidential order on February 1, and in the absence of intervening congressional action will take effect on March 1.

The possibility of congressional action, either to make sufficient budget cuts to avoid the operation of the Gramm-Rudman process, or to overturn the process itself, is obviously not anticipated, in light of the scheduled recess from February 8 to 18. So what do we have in store for the Nation under Gramm-Rudman this year?

We start off with the inevitable consequence of our failure to make tough choices. Instead of using our judgment about what programs should be cut, and how much, we have taken an ax to the process, undoing in the time it takes to do a computer run the priorities set in nearly 11 months of last year's budget and appropriations process.

Let's start with some of the more bizarre consequences of Gramm-Rudman, the ones that would qualify for Ripley's Believe-It-or-Not. One example is the Panama Canal Commission, that provides for the operation of the Panama Canal through the tolls it collects. Under Gramm-Rudman, expenditures for canal operations and capital improvements are reduced by 4.3 percent, but the tolls keep coming in. The difference, instead of going to the Federal Treasury, goes to the Government of Panama. Does this make sense? Of course not.

How about another curiosity? The 4.3-percent cut would slice about $2 million in interest payments on federally guaranteed bonds for the Washington, DC, subway system, thereby triggering a default for which the Federal Government would be liable.

The cost of honoring the guarantee on the $997 million worth of bonds will be far greater than the ostensible $2 million savings. Does this make sense? Of course not. Fortunately, GAO recognized that this would be absurd and ruled that the bond payments should be exempt from cuts in its report to the President.

Does it make sense to cut funding for our revenue collecting agencies like the IRS and the Customs Service? Under Gramm-Rudman, the IRS gets a $156 million cut, wiping out much of the $250 million in supplemental funding that was going to be requested to overcome last year's tax return processing difficulties.

Does it make sense to cut an agency whose enforcement efforts return between $9 and $10 for every dollar expended? Of course not.

Over the weekend, FAA police at National and Dulles Airports went on alert following a bomb threat and reports that Libyan terrorists might attempt to sabotage a flight from Canada. In light of the increased dangers and threats of terrorism, does it make sense to cut back on FAA police and sky marshals? For that matter, at a time when aviation safety is a major concern, does it make sense to cut back on FAA safety inspectors and air traffic controllers? Of course not.

Mr. Speaker, one of the primary sources of savings is supposed to be the elimination of fraud, waste, and abuse in Federal contracting.

Just this week, we received a report that the Air Force paid as much as $317.79 for 67 toilet pans on its C-5A cargo planes. At a time when incidents like this are almost routine, does it make sense to cut back on funding for inspector general offices?

Do we really want to cut back on bid rigging investigations at EPA and the Federal Highway Administration? Of course not.

After a year of debate and consideration, we passed a funding bill that was signed by the President for the Departments of Labor, Health and Human Services, and Education. After the careful consideration of the priorities contained in that measure, do we really want to cut back on funds for education, for low income energy assistance, for maternal and child health, for childhood vaccinations, for job training, and for biomedical research? I doubt it.

Mr. Speaker, year after year, I have been proud to go back to my district, meet with my senior citizens, and tell them of the effort which the Congress has made to assure decent, safe and affordable housing. This year, I am not proud to tell them that although we were able to exempt large corporations with Synthetic Fuels Corporation loan guarantees from Gramm-Rudman cuts, we were not able to exempt a mere 12,000 units of elderly and handicapped housing.

No, I am not proud to tell this growing constituency that, although our advances in medicine will allow them to live longer and healthier lives, there may be nowhere for them to live.

I can only tell them that the Congress, in its wisdom, has allowed a computer to reduce our minimal Federal commitment of $631 million in direct construction loans by another $27.1 million. At least 500 older Americans have lost the Federal commitment of safe and decent subsidized housing in fiscal year 1986.

And, for those seniors receiving food donations through USDA's elderly

feeding program, I will have to report further bad news: They can expect to see a cut of about $6 million from levels approved by the Congress and the President just 1 month ago. About 9 million less meals will be served in senior centers and to the homebound elderly in fiscal year 1986. Deficit reductions in this case mean nutrition reductions. And savings do indeed mean losses.

For single, unemployed mothers attempting to become self-sufficient, and for large, low-income families on waiting lists for public housing, I have no better news to report. Of the $10 billion made available for assisted housing in November of 1985, the President must sequester another $422 million. What does this action save? A total of $408,000 in outlays—that's right—only $408,000 in outlays this fiscal year.

What do we tell thousands of proud, hardworking Americans in towns and cities across the United States who have been struggling to find new employment because of plant closings? Who is going to meet the gap in economic, community, and urban development funds necessary for the revitalization of their hometowns? When my constituents in North Adams, thousands of whom have lost their jobs over the past few years, ask me how Gramm-Rudman is helping them, their children and grandchildren, I will have to give them the straight facts.

I'll have to tell them that at the crucial time, when Congress was being called upon for leadership, it surrendered the field.

Mr. Speaker, in our actions of the past year, we made choices and set priorities. And now we are surrendering those choices to a computer—a decision I might better have anticipated in George Orwell's "1984" than in the United States in 1985.

Mr. Speaker, because of my concerns over the constitutionality of Gramm-Rudman, I have joined 11 of my colleagues in challenging this measure. I hope that the three-judge court will soon invalidate Gramm-Rudman, and that the Supreme Court will uphold that decision.

In the meantime, I hope that my colleagues—and the administration—will recognize that Gramm-Rudman is a perverse form of legislative "chicken." We need to correct the problems inherent in a percentage reduction system.

We need to get serious and raise the necessary revenues to support the programs that we—and our constituents—consider important. We need to deal with a process that would exempt the $400 million Clean Coal Technology Program from cuts because it is funded by transfer, rather than by appropriations, while imposing cuts on critically needed human service and resource programs.

Mr. Speaker, Gramm-Rudman was a mistake. I hope that we will recognize that there is nothing inherently magical about eliminating the deficit by 1991.

□ 1840

POLITICS AS USUAL VERSUS A NEW GENERATION OF IDEAS AND LEADERSHIP

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Georgia [Mr. GINGRICH] is recognized for 60 minutes.

Mr. GINGRICH. Mr. Speaker, politics as usual versus a new generation of ideas and leadership is the topic of my special order this evening, because I think that is the key question of this session of Congress. That will be the key question of the election this fall, that will be the key question of the 1988 Presidential election. Are we going to have politics as usual or is a new generation of ideas, a new generation of solutions and a new generation of leadership going to emerge?

As some candidates discovered in 1984, simply talking about new ideas as a code-term is not enough. You have to actually have new ideas, new proposals, new legislation.

The key question I think that the American people are asking as they look at this Congress is are we going to continue to drift and decay or are we going to get America into shape for our children and our grandchildren, because the challenge is clear. We have used up the great advantage of winning World War II and creating great industrial and technological advantages over our competitors. Two generations of the liberal welfare state have raised taxes, multiplied the bureaucracy, created massive redtape, built ghettos of welfare, created a bureaucracy which has crippled our productive capacity, distorted our priorities and produced an overly centralized society.

It is hard to realize, but as late as 1965, the United States was clearly the dominant economic power on the planet. We had stability, we were developing a growing economy, we were on the way to landing men on the Moon, we were leading the planet. And then for 15 long years, we decayed. We decayed through the Great Society, we decayed through a war we would not pay for, we decayed as the liberal ideas of the liberal welfare state took root. We watched families disintegrate, we watched neighborhoods collapse, we watched schools educate less and less. We had more and more redtape, more power in Washington, less power at home, and more stiffling uniformity across the Government. We had a bureaucracy that as it grew larger grew less efficient, as it grew more numerous, grew less competent.

By 1980, the America which had helped defeat Hitler's Germany and Japan, and the America which had created a productive capacity so great that in 1945 one-half of all of the economic activity in the world was in the United States, by 1980, that America had massive inflation, 13 percent a year, had a prime interest rate of 22 percent, the highest we had ever had in peacetime, had growing unemployment, was losing its ability to compete with Japan or Korea or Germany, and was weakened militarily, ridiculed around the planet, and was in grave danger of disintegrating.

In 1980, Ronald Reagan was elected President. America stood at the crossroads and began to move toward an opportunity society and away from the liberal welfare state. In 1980, the American people said no to inflation, no to the decay of our jobs and to rising unemployment, no to higher interest rates.

For 5 years, we have had a Reagan administration presiding over a liberal welfare state Government. For every Reagan appointee, there have been 1,000 career civil servants. For every pro-Reagan newspaperman or woman, television reporter in this city, there have been 100 who grew up in the liberal welfare state and still believe in it. For every Reagan intellectual, there have been five liberal welfare state academics. For every Reagan interest group, there have been 5, 10, 15 liberal welfare state interest groups.

The result has been that for 5 long years, the President has preached a vision of an opportunity society, but the Congress refused to follow and the city of Washington refused to follow. The cry has been again and again, raise taxes, raise taxes, keep the bureaucracy strong, and in Washington, make sure the welfare state survives.

Today America is again at a crossroads. Thanks to the brilliance of PHIL GRAMM, and the hard work of GRAMM, RUDMAN, MACK, in developing a process which is crude, which is clumsy, but which I believe, and I will discuss in a minute, is necessary, today we have the possibility of focusing for the first time on bringing the liberal welfare state under control.

We also find that the clock is ticking, that we only have 3 more years of Ronald Reagan as President. If we do not get the job underway and make the decisive changes in 1986, 1987, and 1988, after 1988, the future is unknown. For the first time in many years, we will have an election in which both parties nominate new people, and in which we literally face the greatest choices we will have faced since 1960. Not since 1960 has there been an election in which no incumbent is running for reelection.

In 1964, Lyndon Johnson was President and he ran for reelection. In 1968, Hubert Humphrey was a Vice President, already in office. Richard Nixon had been Vice President. In 1972, Richard Nixon ran for reelection. In 1976, Gerald Ford ran for reelection. In 1980, Jimmy Carter ran for reelection. In 1984, Ronald Reagan ran for reelection. Again and again, there was some sense of stability.

In 1988, in all probability, there will be a wide-open election, a wide-open set of choices. And as the American people look to 1988, I think they would feel much more secure, much safer, much calmer if they could start by knowing that under President Reagan's leadership, the Congress had gotten its act together, it had heeded the will of the people, it as working to truly solve the problems of the liberal welfare state, of massive deficit spending, of the huge debt we are building up for our grandchildren.

So today America is at a crossroads. If we maintain the liberal welfare state, raise taxes, and borrow more money, the simple fact is we will not be able to compete with Japan, Korea, and West Germany economically. We will not be able to protect ourselves from the Soviet Union militarily or lead the Third World into productivity, free elections, and the rule of law.

America is the keystone of Western civilization, of the value of justice under law, of decent standards of living for everyone, of the free press, of free elections, of physical safety from attack by governments or by terrorists. A weak America undermines our way of life and threatens the very survival of our civilization. Without a strong, prosperous America, the North Atlantic Treaty Organization will not last. Without a strong, prosperous America, the continuing shift of the Pacific RIM countries to free enterprise and free governments will not continue, without a strong, prosperous America, there will be no world trade, there will be no dynamic Third World countries earning money, growing in prosperity so that they can repay their loans to the banks. Without a strong, prosperous America, there will be no vision of free people working together freely to create through a free enterprise system new ideas, new technology, and a new standard of living and new hope for their children and their grandchildren.

Therefore, the crossroads we are at have to be answered first in terms of a strong prosperous America. How can we ensure that the economy keeps growing? How can we ensure that we keep creating new jobs, new opportunities? How can we ensure that more inventors, more entrepreneurs go out every day and create more for the future of our children and our grandchildren?

It is time for our generation to grow up. The babyboomers and their children have been adolescents politically long enough. It is time to talk about the truth, to look the truth square in the eye and to make the big decisions. It is time for us to set policy, not just for a week or a month, not even for a year or a decade, but for a generation, to decide that we are tired of being incapable of building enough new factories, building enough new equipment, investing enough savings to compete with the Japanese economically. We are tired of a welfare state that explains to us that we cannot stop the cocaine trade, we cannot educate our children adequately. We cannot provide hope and opportunity in the ghetto, we cannot recreate the bonds of traditional strength that are the very key to families for minority Americans.

We have to start, I think, by looking at the question of budget deficits and by asking ourselves what are we going to do in a country which has in recent years had a remarkably bad record. The simple fact is that if Congress refuses to implement the Balanced Budget Act of 1985, in 1990, just 4 years from now, interest payments on the deficit will consume more than 40 percent, actually 41 percent, of individual income tax collection for 1990 alone.

In other words, we are like a family going into debt which borrows more and more money. I find when I go back home and talk about this that there are enough people now who use credit cards that understand the idea that if you spend a lot in December, and you keep giving people that plastic card, that at the end of the month, you are going to have some very big bills come in. If you do not pay those bills off the next month, there is going to be interest charged on those bills, and that if month after month you keep doing that, you keep buying more than you pay off, the interest is going to get bigger and bigger and bigger, and when the interest gets big enough, you are in real trouble.

Let us look at it in two different ways. First of all, out of the income tax the American people will pay, if the Balanced Budget Act of 1985 is not implemented, then in 1990, just to pay the interest, and this does not pay a dime of the debt, just to pay the interest will take 41 percent of our income tax. In other words, out of every $1 we pay the Federal Government out of our income tax in 1990, 41 cents will go, not to pay off the debt, it will go to pay purely and simply for the interest. Already today, 15 percent of the Federal budget is devoted to interest.

Of all of the entire, gigantic Federal budget, interest is the No. 3 item after Social Security and defense. And in fact, interest takes up more of our tax money today than the Army and the Marine Corps combined. Think about it.

People complain about defense, and I think there is waste in defense. I think we do need to overhaul the defense system. I helped to cofound the military reform caucus precisely because we need a more aggressive approach to rethinking the Pentagon.

But as expensive as it is to have an entire Army and an entire Marine Corps, those two combined are cheaper than paying just the interest on the debt. And every liberal in America should consider the fact that paying interest on the debt is one of the most regressive things you can do, because you take the money from working Americans and you give it to people who are wealthy enough to be holding Government bonds. There is a transfer of money from those who work for a living to those who have saved up and live on their bonds.

So that 15 percent of the budget that goes directly from working Americans to those who have saved is not something that the liberals should be proud of or feel good about.

How have we gotten this debt? Since 1960, there have been 24 deficits in 25 years. Today the Federal Government owes more than $2 trillion.

Let me put that in perspective. In 1962, just 24 years ago, the U.S. Government owed $300 billion. By 1980, that had grown to $1 trillion. That is with a "t" now—not $1 million, not $1 billion—$1 trillion dollars. By 1986, it had grown to $2 trillion. Today we owe over $2 trillion.

Why? Because, from 1962 to 1978, total Government expenses grew 800 percent. Imagine that. In fact, the debt is now so massive, for 1986 alone, the projected debt is $220 billion. This year we will borrow almost as much money as the entire Federal debt in 1962.

It is almost ironic to go back and read the Nixon-Kennedy debates of 1960 when they worried about whether they were going to be $5 billion in debt, and to realize that today we run up a bigger debt than that every 10 days. So the debt is large and has been growing.

Furthermore, the problem has not been primarily taxes. Consider last year. In fiscal 1985, with all of the tax cuts, Federal revenues increased $67,500,000,000.

□ 1855

That is, last year, because we were creating jobs, because people were getting better jobs, because they were able to move up and get a salary increase, because people were coming off of unemployment, off of food stamps, going back to work, and paying taxes, last year we increased Federal revenues $67,500,000,000.

Good, you say? Wonderful? That means we are moving toward a balanced budget. After all, revenues increased.

Not at all. In fiscal year 1985 Federal spending increased by $94 billion, the largest 1-year increase in American history. Now the increase was $94 billion. I can remember in the 1960's Lyndon Johnson working desperately to keep spending, all spending, total spending, under $100 billion.

Last year the increase in Federal spending was almost as large as the entire Federal budget under Lyndon Johnson in 1964. That means that even though the amount of money the Government got in the form of taxes went up by $67,500,000,000, because spending went up $94 billion, the all-time record, we actually lost ground. Even though we got $67,500,000,000 more from the American people, we went $27 billion deeper into debt because Congress simply could not control its spending. Between fiscal years 1963 and 1985, in 22 years time, Federal spending climbed from $111 to $946 billion. That is an increase of almost 900 percent in those 22 years.

Does the deficit matter? Are budget deficits dangerous? Sometimes yes, sometimes no. The bias of the 18th and 19th centuries was clearly antideficit except in dire emergencies. In the 20th century, the bias of a liberal welfare state has been prodeficit. The contrast between free liberal welfare state America and modern liberal welfare state is startling. Dr. Alvin Rabushka, senior fellow at the Hoover Institution, points out in his book "From Adam Smith to the Wealth of America" that from 1795 to 1811 America cut its national debt from $84 million to $45 million. Following the War of 1812 America had 18 years of revenue surplus and nearly paid off all of the national debt of 1836. After the Civil War there were 28 surpluses in a row and the national debt dropped from $2.7 billion to $960 million.

Think of that. Twenty-eight straight years of a surplus. Earlier, 18 surpluses in 21 years. The 19th century commitment to hard money, limited government, and annual surpluses was replaced in the 1930's by the liberal welfare state vision of soft money, centralized bureaucracy, and Government borrowing. The liberal welfare state financed itself by steadily increasing deficits. Since 1960 there have been 24 deficits in 25 years. In 1962 the U.S. Government owed $300 billion. This year it owed seven times as much, over $2 trillion.

Interest on the debt is now the third largest single item in the Federal budget. These deficits indicate that the real key to the liberal welfare state was not a redistribution of income among classes as Karl Marx called for; the real focus of the liberal welfare state has been to redistribute income among generations. In the liberal welfare state version of generational redistribution, this year's politician gives money and services to this year's voter by pledging the resources of future voters. There are no incentives for current fiscal discipline because no one in the current generation will pay the future bills. In fact, liberal welfare state politicians have a credit card whose bills come due in a future generation, and yet the future generation is not able to vote on what to buy with that credit card.

The result of this kind of generational redistribution has been the radical growth in transfer payments. In 1952 the figure was $4,400 million. In 1978 the figure was $218,700 million. In other words, transfer payments grew dramatically. Rabushka notes during these years population grew 39 percent, personal comsumption grew 153 percent, but total Government expenses grew 800 percent.

While the contrast in spending philosophy is evident, it is not clear that the 18th-century or 19th-century focus on balanced budget was fairer and healthier than the 20th-century focus. To really know if deficits are bad, we need to know the circumstances that created them. Historically there have been only three sensible reasons to go into debt.

First, a nation at war may have to finance a war with deficits. Second, it may be good to have a budget deficit if there are high private sector savings rates. In this case it may, in fact, be wise to sell Government bonds to absorb the current private surplus as a form of investing in Government.

Alexander Hamilton's use of the national debt in the 1790's was based on this economic principle.

Finally, a nation could go into debt to fund a project that might benefit our children and our grandchildren, a program which borrowed from current income to create a more productive and prosperous future might make a great deal of sense.

The liberal welfare state fails on all three counts. America is at peace. We do not have massive private savings. Under the liberal welfare state, U.S. tax policy and Government programs discourage savings and encourage borrowing. The result is a private sector savings rate that is miniscule by historical standards, anemic compared to our level of world trade, and vastly insufficient to fund our national debt.

We are not using the debt as a tool to invest in the future of our country. Instead, the current liberal welfare state deficit is used to cover current services. Far from improving the future, the cost of the welfare state, including transfer payments, is crowding out infrastructure investment and technological progress that might improve our future. If anything, the liberal welfare state deficit is going to be a massive burden on future Americans and their ability to create new opportunities and new wealth. Now we are faced with the question of, How dangerous is it to run a deficit, year after year?

We know from history large deficits lead to large crises. When a nation consistently spends more than it earns, it eventually finds itself in deep economic difficulty. America is approaching just such a crisis. The rise of the global money market, the large flow of capital from Europe and Japan, and the influx of Third World upper-class money has allowed the United States to manage its deficits without a liquidity crisis of severe proportions. Americans have been consuming resources borrowed from our neighbors around the world. We have lived better than we have earned.

How serious a danger is the potential for a fiscal heart attack due to a liquidity crisis? In pre-1929 language, we would call it a "panic." What would happen if the Europeans and the Japanese came to fear that America was not able to pay its debts and stopped their investments? The result would be a classic liquidity crisis in which the Federal Reserve System would have to boost the value of the dollar by allowing interest rates to skyrocket. Or, it would have to increase the money supply to 1980 Carter administration inflation levels or worse. There does not seem to be a good alternative to foreign investment without drawing down the already low domestic savings accounts. In short, after 200 years, we have returned to the conditions of 1790 when the Dutch financial market kept the U.S. debt afloat.

This crisis is not inevitable. There does not have to be a financial crisis due to the debt if the American economy grows rapidly enough that foreign investors continue to feel the dollar is a strong investment. If investors conclude the American economy is strong enough to back its debt, they will probably continue to keep their investments flowing.

However, the morning foreign investors conclude that America is not capable of growing out from under its debt, there will surely be a run on the dollar and, in turn, a liquidity crisis. The key, then, to America's financial stability is to maintain a healthy economy so no one fears our ability to pay off our debt. It is important for our general economic growth that we move to five new principles that should govern a modern approach to the deficit.

First, implementing the Gramm-Rudman-Mack plan for cutting the deficit over the next 6 years.

Second, investing in the future rather than merely buying services for the present.

Third, solving the problems of redistributing the wealth of future generations to present voters.

Fourth, resisting the pressure to adopt protectionism as a solution to the trade deficit instead of a pro-growth, pro-export policy.

Fifth, resisting the temptation to raise taxes as a solution to the deficit problem.

First, Gramm-Rudman-Mack may be proof that, as one humorist put it, we wanted to balance the budget in the "worst possible way, and we succeeded." As unelegant and clumsy as Gramm-Rudman-Mack is, it is the only system of deficit reduction we have been able to pass. It is the best chance we have of balancing the budget before financial disaster shatters the U.S. economy.

Let me make it very clear, I think the Gramm-Rudman-Mack system is terrible. I think the Gramm-Rudman-Mack system takes power away from the President and the elected Congress and invests it, delegates it, to technocrats who should not have it. I think that ideally Congress ought to do its job. I think that ideally the President ought to do his job.

I think the fact is that we have collectively failed. We have failed for years. We have failed ever since 1960 in every year except one. So the question becomes: Are we capable of an elegant, complex, theoretically correct solution? In my judgment, the answer is no. I keep hearing economists and political scientists and lawyers and newspaper columnists tell us, "Oh, Gramm-Rudman-Mack is horrible. What we ought to do is * * *" and then they have the fancy theories. I hear politicians on the floor of the House and in the other body say, "Oh, we should do something about it," and I hear their theories. It reminds me of an alcoholic who is faced with the grim absolute reality that he has two choices, quit drinking, or become a drunk. I would suggest in that sense this Congress can force itself to a difficult, complex mechanism, the Gramm-Rudman-Mack mechanism, to really move toward a balanced budget, to really move toward lower interest rates, to really move toward a stable, honest dollar, or we can continue to pretend we are capable of social spending. The fact is, we know in this body there are at least 140 spendaholics, people so committed to spending that at every opportunity they automatically spend. That they in fact form a majority of the Democratic Party's caucus, that they pick the chairmen of the committees and subcommittees and decide what will be on the calendar. And that those spendaholics are literally incapable of controlling spending. So we either adopt something as difficult, as analogous, as clumsy as Gramm-Rudman-Mack, and "go on the wagon" in terms of spending or in the name of being sophisticated we end up much like the common drunk, spending so much money, borrowing so much money, that we cause the very panic and the very crisis in our economy that we wish to avoid. Therefore, I have now concluded that every citizens' group interested in balancing the budget, interested in lower interest rates, interested in a stable, honest dollar to increase our ability to trade internationally to compete with foreign countries, every citizens' group with those interests should fight to make Gramm-Rudman-Mack successful.

They should be aggressively vigilant against efforts to avoid or weaken its commitment to deficit reduction. With sufficient citizen support this law will prove to be the path back to a balanced budget.

Second, in shrinking Government spending we must distinguish between current consumption and investment in the future. We should favor the latter. Our ability to defend freedom, compete in the world market, participate in the information-industrial revolution, provide growing real income, improve standards of living for our children and grandchildren, pay for the health care and retirement of our parents and grandparents, and carry the burden of our national debt, requires that our spending priorities change. We must learn that building a space station instead of propping up inefficient social service programs will provide a greater return on our investment and increase our resources in the future for precisely the social service programs we want.

We must learn the value of scientific research, we must learn the value of building new infrastructures instead of maintaining old bureaucracies.

Creating an opportunity society will require reversing the biases of the liberal welfare state. An opportunity society will almost always lean toward favoring an investment in the future over higher consumption in the present.

□ 1910

And let me say, furthermore, that I listened carefully to my colleague from Massachusetts, a member of the Appropriations Committee, and I sympathize with the deep sense of frustration he feels in his earlier, very eloquent statement about the difficulties in implementing Gramm-Rudman.

But the question is, can we voluntarily put together on the floor of the House a majority that will set priorities, a majority that will choose wisely?

Frankly, I favor keeping the Coast Guard at full strength and think it is foolish to weaken the Coast Guard or the Internal Revenue Service or the Federal Bureau of Investigation. But I am willing to give up specific programs in order to do that. I am willing to set priorities and say, yes, we badly need law enforcement to stop the cocaine trade; that means we may not be able to do everything we wanted to. I am also willing to raise specific user fees to make sure that people who get the services in directed areas raise the money to pay for that particular area.

I am not willing either to raise general taxes, because that way we can avoid controlling and shrinking bureaucracy, or to avoid the tough job of setting priorities.

If in fact the Comptroller General is being dumb about how he sets priorities, there is a simple answer. The Congress can set better priorities. But until the Congress passes them, it is pretty unfair to simply say, I do not like what is happening. We in the Congress have the opportunity, we have the obligation before October 1 to set the right priorities, but we must recognize that priorities are necessary.

Third, despite the political dangers involved, we simply have to confront the problems created by the generational transfer of wealth. For two generations, the liberal welfare state's equivalent of a pyramid scheme worked well. America came out of World War II wealthy enough and with large enough advantages in technology that we could sustain living beyond our means. However, for 35 years, our competitors saved more, worked harder, and invested more in economic growth than we did. Now, we can no longer afford to spend at the expense of saving and investing for later.

Longer lifespans and slower population growth also guarantee that we must rethink our ideas about retirement and then restructure our programs to fit the new reality. We must face the fact that our pension programs must be reformed. Adopting Congressman ARLAN STANGELAND'S fair COLA plan would be a good first step toward real reform.

The facts are simple. When we began adopting, for example, the retired Federal employees program in the 1920's the average American lived to be about 55, and we set the retirement age at 55. When we began adopting Social Security in the 1930's, medicine had improved the average life span to 63, and we adopted a program where you retired at 65 2 years after the average person had died.

Furthermore, in the 1930's, there were 13 workers for every single person who was going to retire. By the 1980's, the average person lives to be 78, and there are only three workers for every retired person. By the year 2000, we will be going toward two persons for every retired person, and I hope people will live even longer, into their eighties.

But an America which is living into its eighties is an America which has to recognize that we must rethink everything from nursing homes to Medicare, to pension systems to retirement ages, and the time has come to be honest with ourselves and not keep running down the road toward disaster.

It is foolish because of political fear, because of demagoguery by those on the left who seek to preserve the liberal welfare state, to automatically run home and say to the baby boomers, "There is nothing I can do but sustain this rickety system that you honestly believe will not survive."

Today 68 percent of the baby boom generation are convinced that there will not be a retirement system for them when it is their turn, and their children believe in even greater numbers that they are being taxed to keep up systems that simply will not be there.

The time to get America's house in order is now, and that requires rethinking the generational redistribution of wealth.

Fourth, the pressure for protectionism in America relates directly to the concern for jobs. Without a chance for better jobs, workers will cling to the old, but certain, jobs. Without adequate adult education and training, workers will remain committed to dying industries offering no future for them. Workers read articles about European export subsidies and the realities of Japanese trade practices and react angrily. The emotional reaction to the threat of unemployment easily overrides the academic argument for an open American market in a world in which other markets are clearly regulated.

Only by creating a competitive, dynamic, job producing, growth-oriented American economy can we avert the pressures of protectionism. That is why every budget issue and every tax question should be carefully examined for its impact on jobs and growth.

A multi-billion-dollar budget cut that eliminates our aerospace research, or advantages in creating jobs, our scientific research base, and our infrastructure investment is a cut that guarantees growing protectionism. It eats the seed corn of the future. It may let us eat better tonight, but guarantees that we will starve in the future.

On the other hand, a budget cut that eliminates current consumption while deliberately protecting or even increasing investments in economic growth is a budget that enables America to avoid protectionism.

In short, we may have to eat less corn tonight to be able to plant some corn in the morning; but in the long run, we will have a lot more to eat.

The question of economic growth transcends the question of America's ability to compete with Japan and Germany. A growing America will be able to absorb the Mexican, Brazilian, and Argentine imports, which are necessary for those countries to pay off their huge debts to American banks. A decaying America will elect politicians committed to withdrawing from the world market. Such a withdrawal could trigger a bank crisis comparable to that of the 1930's.

Creating tax, regulatory, and budget conditions necessary for economic growth is the current challenge to American government. This approach is the only one which will sustain world trade and the world banking system.

Fifth, the requirement of changing from the liberal welfare state to an opportunity society and of maintaining economic growth prohibit any significant tax increase. The Washington establishment will never change spending priorities from present consumption to future investment if they can avoid it. A tax increase allows them to avoid setting priorities and to continue to appease special interests instead of setting priorities. Similarly, politicians will not address the fundamental challenges of reforming our retirement systems and generational redistribution of wealth as long as they can avoid it. A tax increase buys more time for the politicians at the expense of the Nation.

A tax increase large enough to help with the deficit is a tax increase large enough to cause a recession. That recession will probably trigger a wave of protectionism, which may in turn trigger default by the Third World debtor nations and a monetary crisis. It's clear that a large tax increase would be the worst possible medicine. We would have treated the cancer of deficits by triggering the heart attack of economic panic. Ironically, a tax increase would actually increase the deficit by lessening revenues due to loss of jobs and world trade.

Thus, such a tax increase would have effects similar to the Smoot-Hawley tariff.

For those who are not history majors, the Smoot-Hawley tariff was the massive tariff increase which led to the crisis of 1930 to 1935, when the entire world economy came to a grinding halt.

Eventually a giant tax increase could lead to the economic debacle we are seeking to avoid.

Deficits do matter. The deficit of the U.S. Government is irresponsible and unsustainable. We must shrink the debt, but with a constant commitment to economic growth in jobs and in take-home pay.

We have all studied the lessons of the 1929 crash and the Great Depression. We all know that we must do better and avoid the same fate. Now is the time to prove that we can do it.

That is why I believe the centerpiece of this Congress, the centerpiece of politics in America for the next few years, the centerpiece of the 1988 Presidential campaign, will be the choice between politics as usual and a new generation of ideas and a new generation of leadership. There are going to be demagogues who rush out who say, "Oh, don't cut anything." There are going to be people, interest groups, special Washington lobbies, newsletters written by paid political consultants who work for a variety of liberal welfare state lobbies, and they are going to flood the country, and they are going to say, "If the politicians don't give you everything you want right this minute, throw a temper tantrum."

The reaction of the liberal welfare and liberal welfare state politicians and liberal welfare state interest groups could be described as the temper tantrum of 1986. Like petulant children who do not get everything they want, they think if only they roll on the floor kicking and screaming, they will get the evening cookies.

But the fact is if we politicians give in, if we prove we lack the courage to start moving toward a balanced budget, to control the deficit, to fight inflation, to bring down interest rates, to create the jobs and economic growth of the future, to rebuild America's competitive position compared to Japan or Germany, if we lack that courage, if instead of a new generation of ideas and new generation of leadership we go back to politics as usual, if instead of making decisions for the next generation, the baby boomers and their children, we make decisions for this November, then I think we risk enormous, enormous problems.

□ 1920

The real challenge to the average American citizen, I think, is to ask the larger questions, not the petty, smaller questions. The real question, as President Kennedy said in his inaugural address of 1961, is to ask not what America can do for you, but ask what you can do for your country.

At townhall meetings I am going to be challenging the citizens of my district to look at the bigger picture first, look at the $200-billion-a-year deficits, look at the $2 trillion we owe, look at the massive debt with Japan and with Germany, look at the jobs we are losing because we cannot compete, look at our lack of savings. And then ask them to tell me: Are you really willing to give me instructions to come back to Washington to borrow more money from your children and grandchildren?

We used to have a dream, I think, here in America that we would together pay off the debt, pay off the mortgage, and leave our children a little

better off. It used to be a proud thing when the family could pay off the mortgage and leave their children the farm. Today, as a country, we are selling the farm and leaving our children the mortgage.

I am personally willing to go home and ask people to rehire me based on a simple, straightforward belief that the time has come to stand up to be counted, to have the guts to put this country back in shape, to do what is necessary.

Does that mean a lot of people are going to be hurt? Of course they are going to be hurt. The question is: How badly?

Is it not possible for this Congress to work together, to make sure that no one is damaged severely, that no interest group has to suffer unduly?

On the other hand, there are agencies that should not exist. There are people working for the Federal Government today who cannot type. They should not still be working. We need to change the civil service laws so that at least you can do the job you get hired for. There are things we ought to privatize. There are a lot of places we ought to look at that maybe private business could do it better. Maybe we should give back certain functions to business or to local government.

I am willing to ask my cities and counties: What regulations would you like to have the Federal Government to take off of you if we refuse to send you the money?

Maybe we can work out a commonsense solution.

I am willing to ask my health care community: How can we change the rules of the game so you can take care of everybody who needs health care in Carroll County or Douglas County or Clayton County?

I am willing to go home and look at a lot of solutions and work with a lot of people. But I am willing to go to my townhall meetings not out of fear, not out of cowering away from some Washington-based liberal welfare state newsletter that attacks me because that special interest wants its goodies, no matter what it does to our children and grandchildren. I am going to go home first and educate my people on the history of where we are; and I am going to, second, lay out the options. If they want a giant tax increase and a recession and a collapse of world trade, that is a possibility. Are they willing to take that money out of their take-home pay? Do they want to borrow the money from their grandchildren and their children? Do they want to go home that night and say: "Yep, I told Congressman GINGRICH, 'You go back to Washington and borrow all that money,' " and, later on say to Sally, who is 9 years old, "When you get to be old enough, you can pay off my debt"?

If they can look their kids in the face and say, "I am not willing to say no, so I am going to take it away from you because you cannot vote yet," then they will know better who they are. And then when America is in trouble, they will know who got it there.

But what I found over the last few weeks is when you talk about where America is at today, when you lay out the question, "Do you really want politics as usual, or are you ready for a new generation of ideas and a new generation of leadership?" again and again the people of my district were saying, "Get the job done. Let's get this place back in shape, let's compete economically with Japan and Germany, let's create more jobs and take-home pay, let's make sure that our children and our grandchildren inherit an America that is strong, that is productive, that is prosperous, that is able to compete with anybody anywhere in the world."

I think the people of Georgia are ready for that challenge, they want to work together to solve the problems, they would like a Congress that does not bellyache and hide and get involved in politics as usual. They would like a chance to see leadership for a change.

PERSONAL EXPLANATION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Florida [Mr. MACKAY] is recognized for 5 minutes.

Mr. MACKAY. Mr. Speaker, due to a prior commitment in my congressional district, it was not possible for me to be in Washington today to record my vote during consideration of H.R. 2443, the Expedited Funds Availability Act.

Had I been present, on rollcall No. 2, on the approval of the Journal, I would have voted "aye"; on rollcall No. 3, passage of House Resolution 357, the rule providing for the consideration of H.R. 2443, I would have voted "aye"; on rollcall No. 5, the Wylie amendment, I would have voted "no"; on rollcall No. 6, the Shumway amendment to the Bartlett amendment, I would have voted "no"; on rollcall No. 7, the Shumway substitute amendment, I would have voted "no"; and on rollcall No. 8, final passage of H.R. 2443, the Expedited Funds Availability Act, I would have voted "aye."

I appreciate having this opportunity to state, for the record, my position on the votes taken today.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. HUTTO (at the request of Mr. WRIGHT), for after 4 p.m. today, on account of official business.

Mr. MILLER of Ohio (at the request of Mr. MICHEL), for today, on account of illness in the family.

Mr. PACKARD (at the request of Mr. MICHEL), for today, on account of a death in the family.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. GINGRICH) to revise and extend their remarks and include extraneous material:)

Mr. GINGRICH, for 60 minutes, today.

Mr. GINGRICH, for 60 minutes, on January 30.

Mr. GALLO, for 5 minutes, today.

Mr. LUNGREN, for 60 minutes, on February 6.

(The following Members (at the request of Mr. FAZIO) to revise and extend their remarks and include extraneous material:)

Mr. RODINO, for 5 minutes, today.

Mr. DERRICK, for 5 minutes, today.

Mr. ANNUNZIO, for 5 minutes, today.

Mr. FAUNTROY, for 5 minutes, today.

Mr. PANETTA, for 5 minutes, today.

Mrs. LLOYD, for 5 minutes, today.

Mr. MARKEY, for 5 minutes, today.

Mr. STRATTON, for 5 minutes, today.

(The following Members (at the request of Mr. GINGRICH) to revise and extend their remarks and include extraneous material:)

Mr. MACKAY, for 5 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mr. GINGRICH) and to include extraneous matter:)

Mr. BLILEY.

Mr. BROOMFIELD.

Mr. LIVINGSTON.

Mr. MOORHEAD.

Mr. SHAW.

Mr. LAGOMARSINO.

Mr. HYDE.

Ms. SNOWE.

Mr. ROTH.

Mr. RINALDO.

Mr. KEMP.

Mr. CARNEY.

Mr. WHITEHURST in two instances.

Mr. KINDNESS.

Mr. GREEN.

Mr. YOUNG of Florida.

(The following Members (at the request of Mr. FAZIO) and to include extraneous matter:)

Mr. FASCELL.

Mr. STRATTON.

Ms. MIKULSKI in two instances.

Mr. FRANK.

Mr. EDWARDS of California.

Mr. GUARINI in two instances.

Mr. LIPINSKI.

Mr. ACKERMAN.

Mr. TRAFICANT.
Mr. HUBBARD.
Mr. WIRTH in two instances.
Mr. RODINO.
Mr. MORRISON of Connecticut.
Mr. LEHMAN of Florida.
Mr. ERDREICH.
Mr. ADDABBO.
Mr. WEISS.
Mr. LEVINE of California.
Mr. BEDELL.
Mr. HOYER in two instances.
Mr. DELLUMS.
Mrs. BYRON.
Mr. WILLIAMS in two instances.
Mr. LELAND.
Mr. HOWARD.
Mr. PEPPER.
Mr. GARCIA.

SENATE ENROLLED BILL SIGNED

The SPEAKER announced his signature to an enrolled bill of the Senate of the following title:

S. 2013. An act to delay the referendum with respect to the 1986 through 1988 crops of Flue-cured tobacco and to delay the proclamation of national marketing quotas for the 1986 through 1988 crops of burley tobacco.

ADJOURNMENT

Mr. GINGRICH. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 7 o'clock and 25 minutes p.m.), under its previous order, the House adjourned until Monday, January 27, 1986, at 12 o'clock noon.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

2584. A letter from the Administrator, Agency for International Development, transmitting the annual report of the private sector revolving fund, pursuant to FAA, section 108(h) (97 Stat. 972); to the Committee on Foreign Affairs.

2585. A letter from the Chief Justice, Supreme Court of the United States, transmitting the proceedings of the Judicial Conference of the United States, pursuant to 28 U.S.C. 331; to the Committee on the Judiciary.

2586. A letter from the Secretary of Labor, transmitting the annual report of the Black Lung Benefits Act, pursuant to 30 U.S.C. 936(b); jointly, to the Committees on Education and Labor and Ways and Means.

2587. A letter from the Chief Justice of the Supreme Court of the United States, transmitting a draft of proposed legislation to amend section 209 of the Social Security Act and section 312(i)(5) of the Internal Revenue Code of 1954; jointly, to the Committees on the Judiciary and Ways and Means.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. DINGELL: Committee on Energy and Commerce. H.R. 3010. A bill to amend the Public Health Services Act to revise and extend the health planning authority under that act; with an amendment (Rept. 99-464). Referred to the Committee of the Whole House on the State of the Union.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. ANDERSON:

H.R. 4035. A bill to amend part C of the Balanced Budget and Emergency Deficit Control Act of 1985 to provide that certain health, safety and law enforcement agencies shall be exempt from reduction under sequestration orders issued under this part; to the Committee on Government Operations.

By Mr. CONYERS:

H.R. 4036. A bill to repeal the Balanced Budget and Emergency Deficit Control Act of 1985; jointly, to the Committees on Government Operations and Rules.

By Mr. VISCLOSKY (for himself, Mr. JACOBS, Mr. HAMILTON, and Mr. MCCLOSKEY):

H.R. 4037. A bill relating to the Indiana Dunes National Lakeshore, and for other purposes; to the Committee on Interior and Insular Affairs.

By Ms. MIKULSKI:

H.R. 4038. A bill to amend the Shipping Act of 1984 to extend its coverage to certain common carriers providing transportation to or from the United States through ports in nations contiguous with the United States; to the Committee on Merchant Marine and Fisheries.

H.R. 4039. A bill to require owners of foreign vessels engaged in foreign commerce using U.S. ports to establish and maintain financial responsibility for claims arising from the furnishing of maritime services to those vessels, and for other purposes; to the Committee on Merchant Marine and Fisheries.

H.R. 4040. A bill to amend the Merchant Marine Act, 1920, to provide for the implementation of automated cargo documentation centers; jointly, to the Committee on Merchant Marine and Fisheries and Ways and Means.

By Mr. BLILEY (for himself and Mr. BARTON of Texas):

H.R. 4041. A bill to amend the Internal Revenue Code of 1954 to deny a taxpayer's personal exemption deduction for a child who lives temporarily after an abortion, and for other purposes; to the Committee on Ways and Means.

By Mrs. BURTON of California (for herself, Mr. MINETA, Mr. STARK, Mr. MATSUI, Mrs. BOXER, Mr. LANTOS, Mr. DELLUMS, and Mr. EDWARDS of California):

H.R. 4042. A bill to require the Environmental Protection Agency to conduct a study of acid precipitation in a nine-county bay area of California; jointly, to the Committee on Science and Technology and Energy and Commerce.

By Mr. CONTE (for himself, Mr. BOLAND, Mr. EARLY, Mr. FRANK, Mr. ATKINS, Mr. MAVROULES, Mr. MARKEY, Mr. MOAKLEY, Mr. DONNELLY, and Mr. STUDDS):

H.R. 4043. A bill to amend the Education of the Handicapped Act relating to the allotment formula; to the Committee on Education and Labor.

By Mr. DIOGUARDI (for himself and Mr. TRAFICANT):

H.R. 4044. A bill to amend title 18 of the United States Code and the State Department Basic Authorities Act of 1956 to increase the maximum allowed for certain rewards relating to terrorism, and to establish a most wanted terrorists list; jointly, to the Committee on Foreign Affairs and the Judiciary.

By Mr. FOWLER (for himself, Mr. GIBBONS, Mr. PICKLE, Mr. HEFTEL of Hawaii, Mr. GUARINI, Mrs. KENNELLY, Mr. VANDER JAGT, Mr. STANGELAND, Mr. SEIBERLING, Mr. WYDEN, Mr. UDALL, Mr. LOWRY of Washington, Mr. WALGREN, Mr. RICHARDSON, Mr. NATCHER, Mr. GREEN, Mr. SHAW, Mr. MARKEY, Mr. TRAXLER, Mr. AUCOIN, Mr. MCCURDY, Mr. TAUKE, and Mr. NEAL):

H.R. 4045. A bill to amend the Internal Revenue Code of 1954 to extend the residential and business energy credits with respect to solar property until August 1, 1986, and for other purposes; to the Committee on Ways and Means.

By Mr. JONES of North Carolina:

H.R. 4046. A bill to set aside certain surplus vessels for use to provide health and other humanitarian services in developing countries, and for other purposes; to the Committee on Merchant Marine and Fisheries.

By Mr. KOLTER:

H.R. 4047. A bill relating to the tariff treatment of silicon electrical steel; to the Committee on Ways and Means.

By Mrs. LLOYD (for herself and Mr. MCEWEN):

H.R. 4048. A bill to prohibit the purchase of uranium enrichment services from the Union of Soviet Socialist Republics; to the Committee on Foreign Affairs.

By Mr. MICA:

H.R. 4049. A bill to preclude States from taking into account, under the unitary taxing method, the income of a corporation's foreign affiliates; to the Committee on the Judiciary.

By Mr. PARRIS:

H.R. 4050. A bill entitled, "District of Columbia Correctional Reorganization Act of 1986"; jointly, to the Committees on the District of Columbia and the Judiciary.

By Mr. SILJANDER:

H.R. 4051 A bill to authorize the Secretary of the Army, acting through the Chief of Engineers, to permit a temporary increase in the amount of water diverted from Lake Michigan at Chicago, IL, during periods of abnormally high water levels in the Great Lakes for the purpose of alleviating water damage on the shoreline of Lake Michigan and the other Great Lakes; to the Committee on Public Works and Transportation.

By Mr. TRAFICANT:

H.R. 4052. A bill to require the President to submit a report on the national emergency with respect to Nicaragua, and for other purposes; to the Committee on Foreign Affairs.

By Mr. VANDER JAGT:

H.R. 4053. A bill to redesignate the Sleeping Bear Dunes National Lakeshore in the State of Michigan as the Sleeping Bear Dunes National Park; to the Committee on Interior and Insular Affairs.

By Mr. WILLIAMS:

H.R. 4054. A bill to amend part B of title II of the Job Training Partnership Act to require the establishment of an education component in the summer youth employment programs under that part; to the Committee on Education and Labor.

By Mr. CARNEY (for himself, Mr. DONNELLY, and Mr. RITTER):

H.J. Res. 500. Joint resolution designating June 14, 1986, as "Baltic Freedom Day"; jointly, to the Committees on Foreign Affairs and Post Office and Civil Service.

By Mr. BIAGGI:

H. Con. Res. 271. Concurrent resolution to express opposition to the Department of Transportation proposal to consolidate Federal highway aid and mass transit aid into a single urban mobility block grant; to the Committee on Public Works and Transportation.

By Mr. MICA:

H. Con. Res. 272. Concurrent resolution to express the sense of the Congress with respect to the administration of free and fair elections in the Philippines; to the Committee on Foreign Affairs.

By Mr. SCHEUER:

H. Con. Res. 273. Concurrent resolution to request the President to take appropriate actions toward the establishment of a cooperative international research program with respect to the greenhouse effect; to the Committee on Science and Technology.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 480: Mr. LAFALCE.

H.R. 578: Mr. REID.

H.R. 1059: Mr. TAUKE.

H.R. 1088: Mr. HENDON.

H.R. 1213: Mr. FLIPPO.

H.R. 1272: Mr. HENDON.

H.R. 1287: Mr. DYSON, Mr. GONZALEZ, and Mr. WYDEN.

H.R. 1629: Mr. DUNCAN.

H.R. 1715: Mr. DELLUMS, Mr. AUCOIN, and Mr. FOWLER.

H.R. 1905: Mr. BOUCHER and Mr. MCCLOSKEY.

H.R. 2189: Mr. BARNARD.

H.R. 2578: Mr. ANDREWS, Mr. HEFTEL of Hawaii, Mr. HOYER, Mr. LOEFFLER, Mr. PURSELL, Mr. SCHAEFER, Mr. ROBERT F. SMITH, and Mr. FORD of Michigan.

H.R. 2582: Mr. KLECZKA, Mr. ROBINSON, and Mr. COELHO.

H.R. 2583: Mr. SILJANDER.

H.R. 2591: Mr. HENRY, Mr. JACOBS, Mr. LOTT, Mr. LIPINSKI, Mr. FOWLER, and Mr. GRAY of Pennsylvania.

H.R. 2909: Mr. DELLUMS, Mr. GRAY of Pennsylvania, and Mr. HAWKINS.

H.R. 2950: Mr. BURTON of Indiana.

H.R. 3006: Mrs. BYRON.

H.R. 3216: Mr. DOWNEY of New York, Mr. MURPHY, Mr. BEILENSON, Mr. FUSTER, Mr. LANTOS, Mr. SUNIA, Mr. COELHO, Mrs. BURTON of California, Mr. CONYERS, Mr. WISE, Mr. MRAZEK, Mr. SPRATT, Mr. ATKINS, Mr. STUDDS, Mr. BIAGGI, and Mr. MOAKLEY.

H.R. 3260: Mr. STALLINGS, Mr. WIRTH, Mr. HUTTO, Mr. ERDREICH, Mr. COLEMAN of Texas, Mr. RAHALL, Mr. HAMILTON, Mr. CONYERS, Mrs. BOXER, Mr. WOLPE, Mr. MARTINEZ, and Mr. FUQUA.

H.R. 3281: Mr. RAHALL.

H.R. 3326: Mr. SMITH of Florida.

H.R. 3508: Mr. MOAKLEY, Mr. TAUKE, Mr. HUBBARD, Mr. HEFTEL of Hawaii, Mr. GARCIA, Mr. BATES, Mr. ERDREICH, Mr. BEDELL, Mr. BILIRAKIS, Mr. RAY, Mr. BEVILL, Mr. SAXTON, Mr. BOEHLERT, Mr. SKELTON, Mr. MINETA, Mr. PACKARD, Mr. BUSTAMANTE, Mr. STENHOLM, Mr. BURTON of Indiana, Mr. PEPPER, and Mr. PETRI.

H.R. 3510: Mr. SILJANDER and Mr. CARPER.

H.R. 3564: Mr. MCKERNAN.

H.R. 3583: Mr. REID and Mr. ARMEY.

H.R. 3609: Mr. WOLF.

H.R. 3638: Mr. JACOBS, Mr. OWENS, Mr. WILLIAMS, Mr. MOAKLEY, Mr. YOUNG of Alaska, Mr. PARRIS, Mr. DIXON, Mr. KOLTER, Mr. CLAY, Mr. LEACH of Iowa, Mr. FAZIO, and Mr. LUNDINE.

H.R. 3672: Mrs. COLLINS.

H.R. 3736: Mr. NIELSON of Utah.

H.R. 3766: Mr. GEKAS, Mr. BADHAM, and Mr. BARTON of Texas.

H.R. 3798: Mr. FIELDS.

H.R. 3816: Mr. MORRISON of Connecticut, Mr. MATSUI, Mr. WEISS, and Mr. KASTENMEIER.

H.R. 3866: Mr. SMITH of Florida, Mr. HENRY, Mr. MORRISON of Connecticut, Mr. WAXMAN, Ms. KAPTUR, and Mr. CROCKETT.

H.R. 3916: Mr. SWINDALL, Mr. THOMAS of Georgia, Mr. LAGOMARSINO, Mr. IRELAND, and Mr. NICHOLS.

H.R. 3950: Mr. SMITH of New Jersey, Mr. OBERSTAR, Mr. MURPHY, Mr. HEFTEL of Hawaii, Mr. CROCKETT, Mr. LEVINE of California, Mr. MONSON, and Mr. BATES.

H.R. 3968: Mr. HANSEN, and Mr. DASCHLE.

H.J. Res. 7: Mr. DIOGUARDI, and Mr. BLAZ.

H.J. Res. 131: Mr. THOMAS of Georgia, Mr. GINGRICH, Mr. LOEFFLER, and Mr. MURTHA.

H.J. Res. 138: Mr. PETRI.

H.J. Res. 200: Mr. COLEMAN of Missouri.

H.J. Res. 266: Mr. PANETTA.

H.J. Res. 329: Mr. BURTON of Indiana, Mr. RUSSO, Mr. ERDREICH, and Mr. HAMILTON.

H.J. Res. 371: Mr. KRAMER.

H.J. Res. 421: Mr. HOYER.

H. Con. Res. 26: Mr. RINALDO and Mr. DARDEN.

H. Con. Res. 40: Mrs. ROUKEMA.

H. Con. Res. 129: Mr. DANNEMEYER.

H. Con. Res. 241: Mr. SHAW, Mr. ADDABBO, Mr. BATEMAN, Mr. BOEHLERT, Mr. SMITH of New Jersey, Mr. YOUNG of Alaska, Mr. HAYES, Mr. DWYER of New Jersey, Mr. CHANDLER, Mr. LAGOMARSINO, Mrs. BOXER, Mr. BRYANT, Mr. WILSON, Mr. HENRY, Mr. DOWDY of Mississippi, Mr. THOMAS of Georgia, Mr. OLIN, Mr. CHAPPELL, Mrs. BOGGS, Mr. NOWAK, Mr. PENNY, and Mr. BLAZ.

H. Con. Res. 243: Mr. MRAZEK, Mr. RICHARDSON, Mrs. LLOYD, and Mr. LEACH of Iowa.

EXTENSIONS OF REMARKS

THE LAMONT-LODGE LETTERS

HON. TED WEISS
OF NEW YORK
IN THE HOUSE OF REPRESENTATIVES

Thursday, January 23, 1986

Mr. WEISS. Mr. Speaker, Corliss Lamont has long been one of our Nation's most principled and articulate voices on questions of public and foreign policy. If his warnings of the emerging folly of our Vietnam policy had been heeded in time, thousands of lives might have been saved and untold suffering avoided.

An exchange of letters between Corliss Lamont and Henry Cabot Lodge, who served as Ambassador to South Vietnam, has now been published in Harvard Magazine. The correspondence begins with Corliss Lamont's open letter to Lodge dated November 1, 1965, and concludes with Lodge's revealing note of August 2, 1984. This material is of special relevance as we again consider proposals to escalate U.S. military involvement in the Third World. I commend the text of these letters to the attention of all Members of the House.

THE LAMONT-LODGE LETTERS

Corliss Lamont and the late Henry Cabot Lodge were classmates and close friends, but throughout the course of a long-running correspondence they were fierce political adversaries. The Vietnam war brought the two into opposition once more, resulting in a series of public and private documents that deserve a place in the historical record of the Vietnam era.

In November 1965, when Lodge was in his second tour as U.S. Ambassador in Saigon, Lamont wrote a long open letter reproving him for supporting a militarily imposed solution to the crisis in Vietnam. Lodge tenaciously defended the Johnson administration's position in a communication that the New York World Journal Tribune published in September 1966. Lamont replied in a second open letter. Lodge did not respond, but long afterward, in the summer of 1984, he wrote Lamont a brief and compelling note resolving their disagreement.

Lamont's first open letter is reprinted below in slightly shortened form; Lodge's newspaper statement appears in full.

LAMONT TO LODGE

Dear Cabot: You will recall that as classmates in the great Harvard Class of 1924, we both helped to found the Harvard Debating Union, and that you and I had brisk exchanges at its meetings. Ever since, we have carried on a running debate concerning basic issues that have confronted our country and the world. You consistently maintained a conservative position, and before long became a prominent member of the Republican Party. In my judgment you were always one of the better Republicans.

Now our disagreement has become more far-reaching and fundamental than ever because of your active support, as American Ambassador to South Vietnam, of the Johnson Administration's cruel, illegal and immoral war of aggression in Vietnam. Furthermore, you were willing to become Ambassador a second time precisely when Marshal Ky, the new Premier of the South Vietnamese Government, had proclaimed that his great hero was Adolf Hitler.

Like Secretary Rusk and the U.S. State Department, you have pretended that South Vietnam was established as a permanent independent state in the Geneva Accords of 1954, whereas you well know that the division of Vietnam into South Vietnam and North Vietnam was designed as a temporary measure and that the Accords provided for all Vietnam elections in 1956 to unify the country. You must be aware, too, that it was the United States and its puppet, President Diem of South Vietnam, that refused to permit these elections and thus clearly violated the Geneva treaty.

As Walter Lippmann has pointed out: "While our government endorsed the Geneva agreements, and especially the provision for free elections, it opposed free elections when it realized that Ho Chi Minh (President of North Vietnam) would win them. Gen. Eisenhower states this frankly in his memoirs. Since that time, we have insisted that South Vietnam is an independent nation." (New York Herald Tribune, April 20, 1965). What all of this adds up to is that in this matter the United States has been guilty of double-dealing and a failure to honor its pledged word.

The inscription on the seal of Harvard is Veritas, a motto that has deep meaning for Harvard men. Do you really think, Cabot, that you are serving Truth when you join in distorting the meaning and history of the Geneva Accords that are so basic to understanding the situation in Vietnam?

Again, every objective observer knows that the National Liberation Front in South Vietnam, with its military arm—the so-called Vietcong—is leading a nationalist uprising supported by the vast majority of the population. The fact that Communists strongly back this revolution and share in its leadership does not nullify its indigenous character. What we have here is the resolute and unyielding effort of a former colonial people to assert its freedom. Opposing this is a white Western nation, the U.S.A., determined to re-impose shackles such as France maintained for almost a century. As the noted British historian Arnold Toynbee tells us, the Vietcong struggle is part of a world-wide "revolt of the 'native' majority of mankind against the domination of the Western minority."

The Vietcong guerrillas possess effective modern weapons in considerable quantity, but only a trickle of arms reached them from North Vietnam (at least up to February 1965). It is the United States that has been the main source of supply. For the guerrillas have obtained their guns chiefly from deserters bringing in American-made arms or by capturing such arms from the apathetic troops of the South Vietnamese Government.

In spite of these well-recognized facts, the U.S. Government last February, when it realized the Vietcong was winning the civil war, suddenly started intensive bombing of Communist North Vietnam on the specious ground that that country all along had been invading South Vietnam and bore the major responsibility for the troubles there. Johnson and his military advisors invented this line in order to justify their own savage aggression against North Vietnam.

This crass propaganda issuing from the White House you, Cabot Lodge, have supported all the way in public statements. In your heart of hearts, can you possibly think that this is *Veritas?* U Thant of the United Nations was right when he said in reference to Vietnam: "In times of war and of hostilities, the first casualty is truth."

You have also misled your fellow Americans by claiming that the U.S. Government's purpose in Vietnam is to save freedom and establish democracy. In fact, starting with the brutal dictator Diem, the United States has bolstered up one puppet dictatorship after another in Saigon—nine different governments in the past two years—as successive military coups have taken place. These South Vietnamese governments rule through police-state methods of crude violence, terror and torture. None of them would have lasted a week without the military support of the United States. . . .

In all frankness, Cabot, how can you sleep nights when you sanction the horrible and wholesale slaughter by U.S. bombers of women, children and peasants—on noncombatant civilians in general—throughout Vietnam? In the past few months, American planes have repeatedly dropped napalm and heavy-duty bombs indiscriminately on South Vietnam villages where a few Vietcong were "reported" to be. Here is what a U.S. Air Force officer recently told the Associated Press: "When we are in a bind, we unload on the whole area in order to save the situation. We usually kill more women and children than we do Vietcong." In North Vietnam, our bombers have destroyed hospitals and patients, schools and school children, residential houses and civilians. Owing to the terrific bombings in South Vietnam, more than 600,000 destitute refugees have fled to the coastal cities.

You are among those responsible not only for the killing of scores of thousands of Vietnamese, but also for the death of more than 1,000 American soldiers who have resolutely given up their lives in this futile, useless war 10,000 miles from our Pacific Coast—a madcap adventure in which the United States has already wasted billions of dollars collected from American taxpayers. The probabilities are all against our winning this conflict, even if our trigger-happy President sends 1,000,000 troops to Vietnam. We cannot win because of the jungle terrain, because the overwhelming majority of the Vietnamese people is opposed to the U.S. intervention and because no stable, effective government can be established in Saigon.

Yet the United States buildup increases at a rapid rate. On June 30, 1964, a well-known U.S. diplomat was asked what he thought would be the consequences of massive American involvement in Vietnam. His answer was:

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.
Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

Well, that means we become a colonial power and I think it's been pretty well established that colonialism is over. I believe if you start doing that you will get all kinds of unfortunate results: you'll stir up anti-foreign feeling; there'll be a tendency to lay back and let the Americans do it and all that. I can't think that it's a good thing to do.

My dear classmate, do you know who said that? Why, it was none other than the Honorable Henry Cabot Lodge, then serving his first term as Ambassador to South Vietnam. So now that long-suffering country is, as implied by your own words, fast becoming a U.S. colony. Are you hoping soon to become Governor of the fifty-first American State—South Vietnam?

Please consider carefully that if the President keeps on escalating this Vietnam conflict and grabbing more and more Asian real estate, the Soviet Union and Communist China will surely react with far more effective countermeasures than they have used hitherto. Herein lies a terrible danger. For continuing escalation could finally erupt into the Great Nuclear War that would bring untold devastation to the U.S.A. and many other countries. Johnson and you, Cabot, are gambling with the survival of our Nation and of the human race itself.

Addressing you now as a former Senator, there is a special point I want to make: As a member of the U.S. Senate for many years, you ought to be much concerned with the prerogatives and powers of that august body as set forth in the American Constitution. Today, President Johnson is usurping the functions of both the Senate and the House of Representatives by taking this country into a *de facto* war in Vietnam and thus bypassing the Constitution's pronouncement in Article I, Section 8, that Congress alone has the power to declare and make war.

You, as an ex-Senator, should be one of the first to protest against the President's dictatorial flouting of the Constitution—an obvious illegality that is contributing towards the breakdown of democratic government in the United States.

I should think that you, Cabot, as a former U.S. Ambassador to the United Nations pledged to uphold its Charter and international law in general, could not but suffer many qualms of conscience in upholding the President's current foreign policy. For the Administration's brutal course of action in Vietnam flagrantly violates the Charter of the United Nations, the Geneva Accords of 1945, the principles laid down at the Nuremberg Trials of Nazi war criminals, and the 1949 Geneva Convention of the International Red Cross dealing with the "rules of war."

As a member of the United States diplomatic corps, you cannot be unaware that President Johnson's Vietnam venture has seriously set back American influence and prestige virtually everywhere in the world. Even America's own allies are really appalled. On the shelf for the duration are the pressing tasks of working out disarmament agreements regarding both nuclear and conventional weapons. And in general, to cite Walter Lippmann again, "The war in Vietnam is blocking the progress of the nations, including that of Red China itself, towards the peaceable coexistence and accommodation which is the predominant need of all peoples." (New York Herald Tribune, Oct. 12, 1965.)

The way out of the Vietnam mess is clear. There must be a cessation of U.S. bombing in all of Vietnam and a general cease-fire; a peace conference that includes the National Liberation Front as an independent authority in its own right, and the various nations directly involved; and a settlement that returns to the original Geneva Accords. This would mean the complete withdrawal of the U.S. Army and all other foreign troops from South Vietnam; a guarantee against any foreign military bases in that country; and elections to enable the Vietnamese people freely to choose their own government in accordance with the long-established principles of self-determination.

It is often said that America would lose face if it gets out of Vietnam without winning a clear-cut victory. But the United States has already lost so much face because of its barbaric conduct in Vietnam that this argument has little merit. In all truth, our country would gain great prestige by retiring from Vietnam, just as did France and President de Gaulle when they finally agreed to Algeria's independence. . . .

In conclusion, then, I urge you, Cabot Lodge, to stop abetting President Johnson's evil actions and designs in Vietnam. It would be an enormous pity at this advanced stage of your career for you to fatally tarnish your reputation by qualifying as a leading War Hawk. Resign your ambassadorship and rebuild your public image before it is too late! The highest patriotism is not militaristic; it is to strive for justice and peace and that international amity which is the best assurance for America's national security. Come home and help transform the Republican Party into the great American Peace Party, opposed to U.S. military intervention in Asia, Latin America, or anywhere else. On that platform you and the Republicans might well win another election.

CORLISS LAMONT

November 1, 1965.

LODGE ON VIETNAM

This may be an appropriate time to summarize why the suppression of aggression in Vietnam is important—especially so important as to justify the present active involvement of the United States.

To give a brief answer to a big question, I submit, first, that to suppress aggression is morally right since the suppression of aggression has a high priority on the list of the purposes of the United Nations which are embodied in its charter. And the United Nations Charter is the most widely adhered to code of behavior for nations.

Then, to the United Nations Charter should be added the Southeast Asia Treaty and the numerous acts by Congress on the subject which give our involvement in Vietnam not only a moral but a legal base.

Finally, our involvement is a matter of prudence and wisdom, sagacity and self-defense.

If the Communist aggression against Vietnam were to be successful and we were to be expelled and they were to seize the country, a situation of danger would be created which could scarcely be exaggerated and which would make our present situation seem as safe as a church.

No one recognizes this more than the leaders of the other Asian countries. They know if Vietnam goes under, the repercussions would soon come in Thailand, the Philippines, Malaysia and Taiwan. History shows that aggression feeds on itself and that one aggression encourages another.

Do we want to wait until the aggression is lapping at the shores of Japan and Australia, bringing on the worldwide holocaust which a threat to these countries would involve?

Clearly such a defeat would shake confidence in us not only in Asia, but also in the Atlantic community. It would thus endanger peace everywhere.

Clearly, the United States is not trying to be policeman for the whole world. We are not making our stand on the peaks of the Himalayan Mountains. But neither should we wait to defend our country until the enemy is either on the sands of Waikiki Beach or on the sands of Cape Cod.

For this great Vietnamese sweep of coast, with one of the greatest food producing areas of the world at its southern end, to fall to the aggressor would be a direct threat to our security in this shrunken world.

If you look at the map, you can see this country is in the middle of Southeast Asia—a sort of strategic keystone. What happens to it affects all of Southeast Asia. But it also has a direct and vital effect on us.

The American fighting man who is here is quite simply and plainly fighting for his country.

HENRY CABOT LODGE,

U.S. Ambassador to South Vietnam, September 13, 1966.

LAMONT TO LODGE

"Your letter to the World Journal Tribune attempts to bamboozle the readers of that newspaper by omitting any mention of the Geneva Accords of 1954," wrote Lamont in his second open letter to Lodge, dated October 6, 1966. "The aim is to attempt the frameup of a whole country, to mislead the American people into believing that North Vietnam is the aggressor instead of the power-mad big bully—the United States of America."

Lamont reiterated some of the points he had made in his first open letter, but rhetorically he went further, addressing his old friend as "Mr. Major General" [Lodge's rank in the Army Reserve], "General Lodge," and "Proconsul Lodge (as they call you in Europe)." In modern times, he asserted,

. . . Many ambassadors have been mere messenger boys for their governments. But as Ambassador to South Vietnam you have been much more than that. . . . Utilizing your own special study of counter insurgency as taught by the U.S. Army, you have helped plan military strategy. You have advised American generals on how to combat the Vietcong, and Vietnamese generals on how to stage coups to install new U.S. stooges.

Since his previous letter, Lamont noted, the U.S. had raised its commitment of troops in Vietnam from 150,000 to 315,000, and

. . . no matter how many soldiers Johnson pours into Vietnam and how much of our treasure he spends for the killing of Vietnamese, the United States can never win this war. The Pentagon estimates that in a guerrilla operation of this kind the United States must have for victory a ratio of 10 to 1 against the enemy. Even if Johnson sends over 1,000,000 men, it is not too difficult for the Vietcong and North Vietnamese to provide 200,000 additional fighters to match them in the jungle terrain. And if the U.S. raises the ante to 2,000,000, then China will come in and easily marshal 400,000 men. . . . What we are doing in Vietnam is to sink deeper and deeper into the worst military trap in our history.

You, General Lodge, are caught in this same trap and are throwing your reputa-

tion, earned in peaceful and useful public service, down the drain. . . .

In closing, Lamont added:

It is possible that eventually our correspondence may prove to have some historic importance. And I am confident that in judging between us, history and the conscience of America will find you to have been terribly wrong about Vietnam.

LODGE TO LAMONT

In the spring of 1967 Lodge resigned as ambassador to Vietnam. Subsequently he served as ambassador-at-large, ambassador to Germany, chief negotiator at the 1969 Paris peace talks, and special envoy to the Vatican.

In the summer of 1984 he wrote for the last time to Lamont, who had sent him a copy of his autobiography. Reconciling an unsettled account that was almost two decades old. Lodge went straight to the point.

Dear Corliss, regarding your open letter of November 1, 1965 concerning me. You were right. We were wrong and we failed. I should have resigned sooner.

Thank you for your most interesting book which I am reading with avidity.

Best wishes always,

CABOT

August 2

Lodge died on February 27, 1985. His forty-year record of public service had included three terms in the Senate, seven years as U.S. delegate to the United Nations, and the Republican vice presidential nomination in 1960.

Lamont, a self-styled "moderate radical," continues to write and lecture. A New Yorker, he is chairman of the National Emergency Civil Liberties Committee. Recently he endowed an annual lecture at Harvard's Kennedy School of Government, to be given by a person "widely recognized for leadership in diminishing the risk of nuclear war."

TRIBUTE TO REV. MARTIN LUTHER KING, JR.

HON. BARBARA A. MIKULSKI

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 23, 1986

Ms. MIKULSKI. Mr. Speaker, January 20 marked the first Federal observance of the birthday of Rev. Martin Luther King, Jr., a holiday established to celebrate his life and his beliefs. I want to express my complete support for this holiday. It gives us time to remember the work that Reverend King began and the dreams that he instilled in all Americans.

Reverend King dedicated his life to working for the freedom of all humankind. He called on each and every one of us to seek social justice and economic opportunity. He led boycotts, sit-ins, demonstrations, and other peaceful forms of protest. Despite the fact that he was often met with firehoses, tear gas, and prison sentences, Reverend King continued undaunted and undeterred.

Although much work still remains to be done to fulfill his dream for us, Reverend King influenced numerous civil rights victories. In 1955, he led a boycott of the Montgomery bus system in Alabama because of their discriminatory policies. A year later, the city of Montgomery declared an end to racial segregation on the buses. This was one of his first victories. He later witnessed the signing of the 1964 Civil Rights Act which eliminated "white only" signs from public places and guaranteed equal job and educational opportunities for all. In 1965, he was on hand to watch President Johnson sign the Voting Rights Act, which made it illegal to ask for literacy tests and other voting restrictions which had effectively prevented thousands of blacks from voting.

But, perhaps more than anything else, the life of Rev. Martin L. King demonstrated that it was possible for people of different races and backgrounds to work together peacefully to achieve social and economic progress. He gave his life to the advancement of humankind. The best tribute we can pay to him and his life is to answer that call.

MANY ACHIEVEMENTS OF GRANT TINKER

HON. TIMOTHY E. WIRTH

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 23, 1986

Mr. WIRTH. Mr. Speaker, I would like to take this opportunity to bring to the attention of my colleagues the distinguished career of Mr. Grant Tinker, chairman of the board and the chief executive officer of the National Broadcasting Co.

From his work as the head of the prestigious production company, MTM Enterprises, to his extremely influential role as NBC's chief executive, Mr. Tinker has made outstanding contributions to the world of network television, and thus has helped to enrich the lives of millions of Americans. I salute Mr. Tinker for his continual efforts at improving the face of commercial television.

His many achievements are highlighted in an article from the October 20, 1985, Boston Globe Magazine. I would like to share some excerpts from this article with my colleagues:

TINKER'S A-PLUS TEAM

(By Ed Siegel)

He is, he wants you to know, a tinker. The poster over his desk with the dictionary entry even spells it out: "tinker, n. an unskillful or clumsy worker; a bungler."

He is not, he wants you to know, the phoney Grant Tinker who comes on Late Night with David Letterman to hawk RCA stereo television sets or give guided tours of the NBC commissary.

To anyone who knows him—or has even just met him—he is neither of those Tinkers, the Webster's bungler nor the corpulent caricature who cheapskates his way across the Letterman landscape.

The real Grant Tinker is the elegantly dressed, athletically trim, and gracefully articulate 59-year-old chairman of the board of the National Broadcasting Company, who, first as head of the prestigious production company MTM Enterprises and now as chief executive officer of NBC, may have done more than any other individual to change the face of network television since the late 1950s.

Tinker even looks like the ultimate McLuhan-esque television man—cool, relaxed, self-confident, alternately glib and avuncular.

If no one has seen Grant Tinker walk on water, no one doubts that he has led NBC to the promised land in the four years that he has been in charge. Consider that when Tinker took over from Fred Silverman, NBC's failed leader, the network was barely breaking even. Consider that in 1985, NBC became the first network in history to sell $1 billion worth of prime-time advertising before the fall season even began.

Along the way, Tinker seems to have won the kind of admiration usually reserved for subjects of obituaries. Says William P. Croasdale, vice president of Batten, Barton, Durstine & Osborn (better known as BBDO), one of the country's most powerful advertising agencies. "I cannot be high enough in my praise for this man, not only for what he has done, but for the statesmanlike fashion in which he has done it. My reaction was like a lot of others—I knew the job that he had done at MTM, but I knew the quagmire he was walking into. . . . The big thing he brought was stability. Historically, whenever a new chieftain came in, you expected heads to roll, a whole new team brought in. He did some pruning, but he gave Brandon [Tartikoff, head of programming for NBC under both Silverman and Tinker] the support he needed."

Norman Lear, creator of All in the Family and a vocal critic of network television, says, "There's no doubt in my mind that corporate America lives with a total obsession of dealing with the short term. Among the companies that are the best in trying not to do that is NBC since Grant got there. Tartikoff and he have done some brilliant things."

Sy Yanoff, now general manager of CBS Boston affiliate Channel 7, who was general manager of NBC affiliate Channel 4 when Tinker was hired by NBC, recalls. "The first speech he gave to the affiliates was very realistic about the length of time it would take and what he hoped to accomplish with quality programming. I was very impressed with him from the start. He had a self-confidence that was very reassuring. . . . A couple of years later, the affiliates wanted Tartikoff's head, and he never gave it to them. It was a stroke of genius, Tartikoff bearing a lot of responsibility for their accomplishments in prime time."

Even television critics, not known for their love of network executives, voted him their first lifetime-achievement award last year, with Tinker outpolling the rest of the candidates put together.

But what Tinker did—make lots of money for NBC—is less impressive than how he did it: with more quality programs than any commercial network has ever provided at one time: Hill Street Blues (when he was head of MTM), Cheers, Family Ties, St. Elsewhere, Remington Steele, Late Night with David Letterman, Miami Vice, The Cosby Show, Steven Spielberg's Amazing Stories, and Golden Girls.

None of these shows is exactly Death of a Salesman, but together they are indicative of programming that had all but gone out of style 10 years ago—literate (or, as New York magazine television critic John Leonard said of Miami Vice, postliterate), witty, emotional, sometimes even exhilarating.

THE RICHARD BRINSLEY SHERIDAN SHOW

Tinker was born in Stamford, Connecticut. His father was in the lumber business, providing a comfortable but not lavish upbringing. Like Tartikoff, Tinker became an Ivy League English major. At Dartmouth in 1949 he wrote his thesis on the comedy of Richard Brinsley Sheridan and then embarked on his first tour of duty with NBC,

as a management trainee ("Can't you see a direct line from Sheridan to Cosby?" he says). He would leave (in 1952, for a stint as a television executive for advertising agencies), come back (in 1961, as a programming vice president), and leave again—in 1967 to become programming executive of Universal and 20th Century Fox Studios.

Tinker married Mary Tyler Moore in 1962, and in 1970 the two formed the production company that would bear her initials and produce her program, The Mary Tyler Moore Show, for CBS. (Tinker's first marriage produced a daughter and three sons, two of whom work on St. Elsewhere.) After 11 years of developing MTM into a highly regarded, effectively run organization, Tinker received the call for his third coming to NBC.

After a year or so into the job. The news division was in a shambles, playing musical anchors on the evening news, not being able to come up with a prime-time magazine, and losing viewers in the morning to Good Morning, America. Daytime serials were still lagging far behind those on ABC and CBS. And broadcasting and advertising executives were wondering about Tinker as NBC renewed four programs whose ratings would have spelled termination on just about any other network in any other year—Cheers, St. Elsewhere, Remington Steele, and Family Ties. And fans of quality television were angered when NBC canceled four other highly regarded programs—SCTV, Fame, NBC News Overnight, and Taxi.

There was another disgruntled observer. At the 1983 Emmy ceremonies, which in retrospect marked the turning point for NBC, the network won 33 awards, compared with 14 for ABC, 11 for CBS, and 4 for PBS. One of the winners was Judd Hirsch as best actor in a comedy series—the just canceled Taxi. Hirsch used the occasion to lash NBC for canceling the program: He held up the Emmy statue and proceeded to berate both Tinker and the network.

Tinker, whose network was dominating the Emmys that night—and has been the leader ever since—did not look like a happy man. "At the moment, it happened so quickly it was more embarrassing than painful, because, you know, you're sitting in an audience and you can't react," he says.

But it wasn't quality programming that was responsible for solving NBC's immediate problems. In January, the month each year that the networks' second season begins, NBC introduced three programs as midseason replacements. In 1983 it began a series that would be its only Top 20 hit at the time—The A-Team. In January of 1984 came two more replacements—TV's Bloopers and Practical Jokes and Riptide.

All three were enormous commercial successes, but none was exactly Emmy material. NBC was becoming financially solvent, but critics were starting to ask if making money with mindless programming was all there was to the Tinker-Tartikoff strategy.

THE PEACOCK FLIES

Tinker was sounding frustrated in interviews at that point. For the second time in his career, he was blamming the TV audience for the wretched programming they were getting. In the mid-1970s, the success of ABC programs like Happy Days and Three's Company was driving MTM and Norman Lear programs off the air. Tinker was telling the press then that he didn't know whether he belonged in television anymore. He told television critic Gary Deeb, "If things get really bad, I don't think I could start doing Mork and Mindy just to make a living. I might just find another line of work." But then came the success of Lou Grant and M-A-S-H, and things seemed more hopeful.

In 1983, as head of NBC, Tinker was again sounding depressed. He was attacking the television audience for preferring junk to quality and warning that if junk was what the audience wanted, junk was what they were going to get. It was getting harder to make programs like *Lou Grant*, he said. He and Tartikoff even turned down a program for being "too literate."

But while *The A-Team* and *Bloopers* were setting the tone on one front, the Tinker-Tartikoff strategy of staying with quality shows was starting to pay off. *Hill Street Blues* had become a bona fide hit, attracting the most viewers from 10 to 11 p.m. on Thurdays. *Cheers* was inching toward the Top 20. *Remington Steele* was reaping the benefits of the two programs that aired before it—*The A-Team* and *Riptide*. *St. Elsewhere* was making marginal but steady rating gains, as was *Late Night with David Letterman*.

Even more important, NBC was deriving some enormous fringe benefits from its quality programs. According to Tartikoff, the reason for coming up with programs like *Hill Street Blues* and *Cheers* was to develop programs with an urban appeal: "In 1981, when we only made $48 million in profits [a pittance for a network, considering the high cost of program development] we tried to work out of the gutter by making shows that could at least help our five stations. [Each network owns at least five television stations, all in major urban areas.] Since they contribute to NBC earnings, we could make half our profits in one place and the other half on the network. Programs like *Lobo* and *B.J. and the Bears* and *CHiPs* were getting 17 shares on our owned stations and 25 shares nationally." Programs like *Hill Street* and *Cheers* reversed that trend. (A share is the percentage of television sets in use at a given time. Any program with less than a 21 share is generally considered a failure.)

Quality programming had another financial bonus for NBC. While demographic research was nothing new, the advertising agencies were becoming increasingly sophisticated in using the research for targeting audiences. And the rise of NBC's, more urban—and urbane—programming has gone hand-in-hand with that research. For one thing, women were having children later in life, changing the key demographic age group from 18 through 49 to 21 through 54, and, as one might expect, tastes grew more sophisticated from one demographic to the other. Programs like *Laverne and Shirley* that made ABC Number 1 in the mid-1970s—and nearly drove Tinker out of television—were passe, and programs like *Cheers* were in.

And advertisers were asking other questions: How do I reach upscale viewers? How do I reach viewers who don't watch much television? How do I reach homes where cable has bitten into the network share of the audience? In these and other key demographic groups, the answer would come back, advertise on NBC programs such as *Hill Street Blues* or *St. Elsewhere* or *The A-Team* (which, perhaps out of camp appeal, has attracted good demographics). When a program attracts good demographics, the network charges a premium on 30-second commercials. NBC charges as much for a commerical on *Hill Street*—$200,000—as CBS does for *Knots Landing*, the more popular of the two shows. In the case of *St. Elsewhere*, it was that program's demographics, combined with Tinker and Tartikoff's admiration for the program, that saved it from cancellation after the low ratings of the first year.

By the beginning of the 1984-85 season, NBC was in solid financial shape, but it was still well behind CBS and ABC in overall ratings. While ABC was banking on, and failing with, glitzy nighttime soaps such as *Paper Dolls* and *Glitter*, NBC introduced three programs that would lift the network from a weak third in the overall ratings to a strong second, behind CBS. One was a sentimental family drama with Michael Landon playing an angel come to Earth. *Highway to Heaven* may have drawn nothing but guffaws from critics, but it boosted the ratings for the network's Wednesday night lineup.

Had *Miami Vice* appeared on any other network, it most likely would have been canceled early on as it struggled against competition from CBS' Friday night powerhouse, *Falcon Crest*. Like its *Cheers* and *St. Elsewhere* predecessors, *Miami Vice* was attracting a slow but steady growth in the ratings, particularly in the demographically desirable categories. And once *Falcon Crest* went into reruns, *Miami Vice* began to soar. It went as high as Number 2 one week and seems primed to win in its time period against *Falcon Crest* this year.

The program that really rocketed NBC out of the ratings cellar combined the commercial success and the family values of *Highway to Heaven* with the critical success and sophisticated humor of *Cheers*. Advertising executives had predicted that Jell-O and Coca-Cola salesman Bill Cosby had come up with a hit, but no one foresaw that *The Cosby Show* would become the most popular program on television, outrating even *Dynasty* and *Dallas* by the end of the year. America was so taken by the warmth, wit, and strength of Cosby's vision of family life that the three comedies that followed *Cosby* on the Thursday night schedule—*Family Ties*, *Cheers*, and *Night Court*—became Top 20 hits themselves.

This year the momentum is clearly on NBC's side. It has three more potential "quality" shows, Steven Spielberg's *Amazing Stories* (and it's no accident that Spielberg came to NBC with his idea for an anthology series), a new version of *Alfred Hitchcock Presents*, and a situation comedy about three women in their 50s, *Golden Girls*, starring Bea Arthur of *Maude* fame and written by Susan Harris of *Soap*. NBC also has a potential commercial success in Robert Blake's *Hell Town*, about an irreverent priest's attempts to keep his poor neighborhood crime-free.

Even if NBC doesn't overtake CBS as the top-rated network, it will almost certainly win more prime-time advertising dollars than either of its competitors, as buyers are climbing aboard the demographic bandwagon. And Tinker's belief that quality programming can be commercially successful has been completely vindicated: "I'm beginning to be a little encouraged again by some of the things that are succeeding—mostly on NBC, I will selfishly say, but maybe elsewhere occasionally, too. . . . I don't know if it can ever happen across the board; there just isn't that much audience that wants that kind of product. But anyway, I'm a little more optimistic and a little more cheerful about it. Look how cheerful I am."

Tinker does indeed look a great deal more cheerful these days than his counterparts at the other networks. Executives at CBS and

ABC are even taking lessons from the NBC experience, even if they won't admit it publicly. At ABC, there is talk about giving producers more creative freedom and leaving programs on longer before canceling them—even though, except for *Spenser: For Hire*, they are probably not worth saving. At CBS, with programs that appeal to an older, more conservative audience, there is a concerted effort to go after younger demographics with programs such as *Hometown* (already canceled), *West 57th*, and *The Twilight Zone*, although none—with the possible exception of *Twilight Zone*—have the NBC stamp of quality on them.

UKRAINIAN INDEPENDENCE DAY

HON. JACK F. KEMP

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 23, 1986

Mr. KEMP. Mr. Speaker, on January 22, 1918, the Ukraine issued the "Fourth Universal," a tragically short-lived document declaring its independence.

Yesterday, the city of Buffalo and the county of Erie formally recognized Ukrainian Independence Day, and this afternoon I am proud to co-host a reception commemorating this event.

I would like to take this opportunity to share with you an article written by Mike Vogel for the Buffalo Evening News, and a statement which issued from the 1985 Conference of the Anti-Bolshevik Bloc of Nations and European Freedom Council, submitted by its president, former Ukrainian Prime Minister Yaroslav Stetsko.

The material follows:

[From Heritage]

UKRAINIANS TODAY HONOR DREAM OF FREEDOM

(By Mike Vogel)

Some may call it a dream that faltered, but perhaps it wasn't the dream that faltered, but the world.

This morning, the City of Buffalo and the County of Erie once more offered a joint proclamation honoring the dream, as they commemorated the declaration of independence that freed the Ukraine on Jan. 22, 1918.

The declaration issued in Kiev that day is known more formally as the "Fourth Universal," and it proved to be tragically short-lived. In 1921, Russia exerted its domination over the region, and in 1923 the Ukraine was incorporated into the U.S.S.R.

Every year, though, Ukrainians gather to remember and to celebrate the glory of a moment that ended 200 years of foreign domination and provided a brief window of freedom for a troubled people in a troubled land. There would be more tragedy ahead, in a man-made famine and the devastation of a two-front war, but for those brief months in the Ukraine after 1918 there was a liberty and room to dream, at last.

"It's important that we keep it alive," said Dasha Procyk of the Ukrainian Congress Committee of America.

"It's now the 68th year that we are doing it. We feel it's very important to continue, to remember that freedom is something every human being wants."

Sunday, all the churches in the small but active local Ukrainian-American community will offer Masses in remembrance, and a full commemorative program will begin at 2 p.m. in the Common Council Chambers at City Hall. Two survivors of the men who fought for that too-brief freedom will attend.

Nineteen active Ukrainian organizations will participate, and two Ukrainian veterans organizations will present colors. The 36-voice women's choir known as Mriya, the Dream, will perform Ukrainian songs, and two sisters, Laryssa and Myrosia Mychaskiw, will play the bandura. Speeches will be made by Assemblyman Dennis T. Gorski, D-Cheektowaga, and by Dr. Mychajlo Loza.

That is all well and good.

But there is more to this commemoration than just the performances that keep alive an old-world culture in a new-world land. There is a lesson in the tale of the Ukraine.

The lesson is that freedom is not a state, but a process.

There is glory in declaring independence, but that elation bears a continuing price of hard work through the years, as the harshness of the world and the pressures of existence threaten to erode the liberty and tarnish the glory.

After 200 years of domination, the Ukraine tasted that glory. And then it tasted defeat.

Lenin's Russia was one of the nations that recognized Ukrainian sovereignty, but then followed that recognition with a declaration of war.

The world was too much for the fragile freedom that once graced the poppy-strewn fields of a faraway land. Ukrainian freedom fighters were caught between forces fighting for communism and forces fighting for the czar. Freedom, like the poppies, was trampled in the struggle.

Some of those who had fought and lost sought a new land as a haven for their dreams and their freedoms.

They look, now, to a new generation to guard what they found—the fulfillment of dreams, in freedoms that Americans often take for granted.

And while they gather this week to remember what freedom once meant to their homeland, perhaps we would do well to pause and recall what it means to ours.

[Conference, November 21-24, 1985, London, Great Britain]

ANTI-BOLSHEVIK BLOC OF NATIONS AND EUROPEAN FREEDOM COUNCIL

THE PROBLEMS FACING US

Today's attention is focused on the recent summit between President Reagan and Soviet Russian dictator Mikhail Gorbachov. The issue at hand is primarily military. The importance of this issue is a consequence of the gains of Russian imperialism under the guise of communism, whose primary goal is world domination. Only the collapse of the Soviet Russian empire will decidedly eliminate the threat of a nuclear holocaust. To achieve this end, attention must be drawn to the Achilles' Heel of the Soviet Russian empire and its system: the subjugated nations. Without the inclusion of the issue of the subjugated nations into the creation of new realities in the world, all agreements and pacts of exclusively military nature will not eliminate the crisis. The crux of the matter lies not in a change of guard in the Kremlin which will never disavow its imperialism and aggressiveness, but in the striving for freedom and national independence of the subjugated nations. In the final analysis they are the key to the resolution of the world crisis, and in this context they must be viewed as a political superpower.

Naturally, the Anti-Bolshevik Bloc of Nations (ABN) is against nuclear war and proposes its own alternative for the elimination of the root cause of the present world crisis. The ABN supports zero option and stands for the elimination of all nuclear weapons. The ABN also supports the Strategic Defense Initiative (SDI) as the most humane proposal to date—one which destroys weapons not people. This is a revolutionary idea because from the dawn of man weapons were directed against people, whereas now a plan has been advanced to destroy weapons and not people. Only those who harbour ill will could be opposed to the deployment of such a strategic defense system. Even in the advent of difficulty in implementing such a system based on the SDI, the idea itself is worthy of support for the sake of humanity and plain political decency and wisdom.

No temporary solutions will solve the crisis if lasting solutions are not phased in on a parallel basis. The subject of this conference is precisely to establish a basis for that lasting solution which, in our view, is rooted in the invincible human quest for freedom and independence inherent in every man and nation on earth. The key is to find a way to release the explosive power of revolution among the subjugated nations which, in turn would bring down the Soviet Russian empire—that prison of nations par excellence.

What is the raison d'etre of this world conflict? What does Soviet Russia really seek? Moscow's goal is to hold on to the subjugated nations and to gain control over increasingly more countries until global domination finally is complete. By now the goal should be known to all, although there is a lack of effort to voice this fact loud and clear. The crux of the matter is that Moscow's object of conquest—the captive nations fighting to stay free—be recognized as a power potentially capable of breaking up the imperial structure of Soviet Russia.

By fostering and strengthening by means of the available communications technologies the infrastructures of the subjugated nations and by counterposing our system and philosophy of life to the Bolshevik system a psychostrategic offensive can systematically undermine the Soviet Russian system of occupation. Moreover, if the West would cease its economic and other types of relations with the Soviet Union, if it would stop supplying it with grain, technology, credits, and soon, Moscow would be forced to allow, albeit reluctantly, the revival of socio-economic institutions, such as, for example, the private ownership of land (to increase agricultural production). This, in turn, would strengthen the indigenous infrastructures of the captive nations further undermining the colonial system of Soviet Russia in very real terms.

Soviet Russian imperialism follows many paths and the response to it must be equally varied. It is not a classical type of imperialism, but one which attempts to impose upon the nations it controls a totally alien philosophy and way of life. Given this fact, the liberation process in the subjugated nations cannot be viewed only in military and technical terms because we are dealing here with a revolutionary process encompassing all the spiritual, cultural, social, economic, political and religious dimensions of the existence of those nations. Western psychostrategists should take notice of this unique revolutionary phenomenon taking place behind the Iron Curtain, a phenomenon which can be fully interpreted, analysed and conveyed by those representatives of the

subjugated nations who are organically tied to their nation's spirituality and philosophy of life, by those who have not been affected by the scourge of so-called "progressivism" and "new-speak" created by the Soviet Russian "Big Brother" (to use Orwell's concepts) and his system.

The theme of the conference—"High and Low Frontier: Strategic Defense and Liberation"—describes the path to follow if the Free World is eventually to prevail over Soviet Russian totalitarianism. "High Frontier" is the actual implementation of the results of the Strategic Defense Initiative (SDI). "Low Frontier" is a psycho-strategic and political offensive against Soviet Russia which should be based on the inclusion of the captive nations as a vital element in the West's own active measures, with a commitment to provide assistance to prospective insurgencies on the territories of the subjugated nations. The combination of "High Frontier" with "Low Frontier" fully addresses the search for a solution to the impasse in the current world crisis, provides a viable alternative to the threat of a nuclear confrontation between Soviet Russia and the West, offers a way out of the sham that the so-called "disarmament process" has become over the decades and, lastly, it provides a blueprint for dismantling the Soviet Russian empire with the least risk to humanity. A synthesis of "High" and "Low" Frontiers is today the only road that can lead to a world of peace, security and freedom for all the nations on earth. The means of achieving a safe and free world are at hand. The United States and the whole Free World must now muster enough political will and moral strength to break out from the vicious circle of false detente, "containment", "spheres of influence", hopes of "convergence of east and west" and embark on the road of saving humanity from oblivion. There is no other alternative.—Yaroslva Stetsko, ABN President, Former Prime Minister of Ukraine.

STUDENTS AND THE GATEWAY TO EXCELLENCE

HON. MARIO BIAGGI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 23, 1986

Mr. BIAGGI. Mr. Speaker, last November, students from across the country joined together in Washington to speak to lawmakers about their concerns over the future of higher education funding.

This meeting, the second "National Student Summit," organized by student government leaders from the City University of New York, was well-attended not only by their fellow student leaders, but also by Members of Congress. In this summit, they sought to focus on the pending reauthorization of the Higher Education Act, H.R. 3700, passed by the House earlier this month.

As New York's senior member of the House Education and Labor Committee, I want to commend the leaders of this meeting, particularly Melvin Lowe, CUNY student senate president and Frank Viggiano, executive director of USS, for their hard work and dedicated efforts to bring this summit to fruition. Their efforts have assisted those of us who are deeply involved in the reauthorization process in helping to focus greater attention on student issues and concerns.

For the benefit of my colleagues, I wish to insert into the RECORD a copy of the statement issued by the student leaders who attended the summit, entitled "Funding for Higher Education: The Gateway to Excellence."

FUNDING FOR HIGHER EDUCATION: THE GATEWAY TO EXCELLENCE

(A Joint Statement from the Second National Student Summit of State and Campus Student Association Leaders)

Student leaders representing more than 6 million students from across the Nation have assembled in Washington, D.C., to defend the Federal role in higher education. National Student Summit II is an outgrowth of the successful National Student Summit I held in May in New York.

This statement is a response to the proposed House of Representatives Reauthorization Bill, H.R. 3700, and it includes a set of recommendations for Senate consideration.

First, while we support the majority of the House Bill, we will take this opportunity to address those areas which will adversely affect student financial aid. Second, although we understand and support the need to reduce the Federal deficit, we express our opposition to the Gramm-Rudman-Hollings Amendment because of its implications for student financial aid.

Financial assistance is threatened and discredited by the perpetuation of national myths about financial aid, most notably overexaggerated and inflated loan default rates. Student leaders have highlighted a study confirming the improved status of the Guaranteed Student Loan program collections.

The student leaders at the National Student Summit II represent a united voice of concern. We oppose any changes that reduce access to higher education because it is the key to economic growth, political enfranchisement, and social development.

PROVIDING THE OPPORTUNITY: STUDENT AID

The opportunity to receive a postsecondary education is currently slipping out of the grasp of many citizens in this country as the result of the deterioration of student financial aid programs. Effective student aid makes education affordable at all institutions of higher education. It is the great equalizer between the rich and the poor.

A slow erosion, however, has been taking place in the foundation of student financial aid. The gap between grants, work study, and loans has widened to a point where it is becoming critical. The disparity is evidenced in the figures below.

PERCENT OF ALL AWARDS

Year	Grants/ workstudy	Loans
1976	83	17
1979	70	30
1985	48	52

We are alarmed at this shift in the grant/loan balance, because we are creating a greater burden on students, a greater threat to their futures, and a long range negative effect on the economy. Loans were not meant to take the place of grant and work study programs. This shift needs to be reevaluated by Congress and action taken to correct this imbalance.

We believe that House Reauthorization of the Higher Education Act of 1965 addresses some of these concerns while expanding present programs at little cost. Current higher education programs cost the federal government $9.2 billion per year. The House bill which reauthorizes student aid and other programs for the next five years will cost less than $10 billion per year. In this context, student aid is a large investment in our nation's future.

We agree with the general direction of the House version of reauthorization. We object, however, to the proposed definition of a self-supporting (independent) student, which excludes needy students below an arbitrarily selected age from being recognized as independent except in unusual circumstances. There is an significant evidence to support the claim that students are abusing this aid provision. Economic conditions experienced by the applicants should be the criteria for eligibility to receive aid as independent student. Federal aid is to be sensitive to need, not age, and must remain so.

Shifting the burden of funding of the College Workstudy Program from the current institution contribution of 20% to 25% in 1989-90 and to 30% in 1990-91 is unacceptable. This will result in higher institutional costs and a lessened incentive to employ students at fair wages. In addition, we oppose payment of sub-minimum wages under any circumstances.

The Next Step: Senate Considerations

The next step in the reauthorization process is the preparation of a bill by the Senate Subcommittee on Education, Arts, and the Humanities. The bill advanced by the House, as stated earlier, provides many features which we believe should be considered in the preparation of the Senate bill.

We therefore propose that the following recommendations be considered by the Senate Subcommittee on Education, Arts, and the Humanities:

Title IV

1. Pell Grants.—Establish the maximum Pell award at $2,300 in academic year 1987-88, $2,500 in 88-89, $2,700 in academic year 89-90, $2,900 in academic 90-91, and $3,100 in academic 91-92. Provide for a minimum award of $200 for all students except in the case of less than half-time students, for whom the minimum award should be $50.

We oppose any attempt to attach an academic requirement in order to qualify for a Pell Grant. We believe that the present monitoring system which allows individual institutions to set standards of academic progress has worked well.

2. Supplemental Educational Opportunity Grants.—Establish the SEOG authorization level at $500 million in FY87 and "such sums" for succeeding fiscal years. Increase the maximum amount of award to $4,000. Require that recipients demonstrate need. Preference will be given to those students with greatest need.

3. State Student Incentive Grant.—Establish the SSIG authorization at $100 million in FY1987 and "such sums" for succeeding fiscal years. Permit funds in excess of FY1985 appropriations to be used for need-based state work/study programs. Increase the maximum award from $2,000 to $3,000.

4. TRIO.—Establish TRIO authorization at $400 million in FY 1987 and "such sums" for succeeding fiscal years. Establish a National Center for Postsecondary Opportunity to insure that adequate information on student aid reaches students, parents, counselors and others. Fund through set aside of $5 million from the Department's operating

budget. Permit use of peer counselors in the Student Support Services program.

5. Child Care Services for Economically Disadvantaged Students.—Authorize $15 million in FY 1987 and "such sums" in succeeding fiscal years. Grants will enable institutions of higher education to provide child care services to low-income and first generation college students.

6. Federal, State and Private Student Loan Programs.—Retain the current loan limits of $2,500 for undergraduates in their first two years. Expand to $3,500 loan limits for undergraduates at the junior, senior or equivalent level.

Extend the grace period before repayment from 6 to 9 months.

Phase out the origination fee at the rate of 1% a year. Also discontinue charging a processing fee for GSL's, as contrary to Congressional intent. Require all students to show need to qualify for the GSL program, but retain its structure as an entitlement. Permit guarantee agencies and others to issue consolidation loans to students with debts over $7,500.

7. Work/Study Programs.—Authorize $700 million in FY 1987 and "such sums" in succeeding fiscal years.

Include graduate and professional students in the statement of purposes of the college work/study program.

Provide that if an institution includes part-time students in the determination of their need for part-time students, such students be provided a "reasonable proportion" of such funds.

Permit students who have exhausted their eligibility for college work/study to continue employment in non-work/study jobs at the institution for the remainder of the semester. We further recommend that the Federal Government work through the Small Business Administration to enhance cooperative workstudy and internship programs between colleges and businesses.

8. National Direct Student Loans.—Authorize $300 million in FY 1987 and "such sums" in succeeding fiscal years.

Provide for a priority in making awards to students from families with incomes below the median family income.

Expand loan limits for undergraduate, graduate and preprofessional students.

Extend the deferment period from 6 to 9 months. We would note our opposition to any new provision that authorizes the assessment of "late charges" for the failure of a borrower to pay on time.

9. Single Needs Analysis.—We support the concept of moving to a single need analysis for federal financial aid programs, based primarily on the Uniform Methodology System.

Among other things, such a system should clarify the requirement that students not be charged a fee for applying for federal financial aid, establish a federal financial aid calendar to facilitate an orderly and timely operation of the federal aid system, and has the provision that less-than-half-time students are eligible for assistance under the Title IV programs.

10. Toll-Free Number.—We believe that the now-defunct idea of a national student aid hotline should be revived, and support language that directs the Secretary to develop such a system.

11. Part-time Student Aid.—Part-time students make up one of the fastest growing sectors in postsecondary education. Between 1972 and 1982, part-time student enrollment increased 61% until it accounted for 5 million students, representing 41% of postsecondary and 50% of community and junior college enrollments nationwide. Facing significant financial and personal obligations, part-time students make great sacrifices to attend college. We commend Congressman Biaggi's work on behalf of the part-time student population in financial aid programs in the reauthorization of the Higher Education Act.

12. Loan Deferment.—We strongly support deferment of loan repayment for up to six months for parental leave for borrowers who are interrupting school deferment periods for prenatal or infant care and who are not gainfully employed. We further support deferment for up to five years for all public elementary or secondary school teachers.

Title IX

Students applaud the creation of an aid program for the nation's graduate students. We would suggest, however, that several alterations be made in the current structure of the program:

1. Under the proposed House bill, institutions would compete for graduate aid dollars on the basis of "merit" in terms of their graduate curriculum. Aid money awarded would then be distributed by the institution to the students. Further, aid availability would be restricted to those areas of graduate study that are of "critical need"; that is, they are judged to be priorities in terms of research.

2. While supportive of the general concept of aid to graduate students, we would suggest that a more effective method of distributing the aid dollars would be to provide it to the students directly, rather than filtering it through the institutions. Further, we believe that the availability of aid should not be limited to areas of "critical need", since such determinations will inevitably be arbitrary and transient. Rather, we recommend that student need should be the only criteria in the awarding of aid money.

Title XI

Students recognize the unique role played by the nation's urban universities, and we are supportive of programs designed to strengthen that role. We support cooperative programs among higher educational institutions and urban centers across the country.

CONCLUSION

In an era of declining federal resources, educational funding is especially important because it represents an investment in the future of this nation and contributes to the economic vitality of our country.

The House Postsecondary Education Subcommittee has pointed out that this Reauthorization Bill is a step back from allowing student assistance to middle income citizens, as expressed in the "Middle Income Assistance Act." Access to higher education to disadvantaged students is again perceived as the priority for federal student aid.

The ability of the federal government to provide even minimal levels of access has been eroded by gradual dissipation in national attention. This generation of students and higher education professionals has a mission: Reawaken the sense of egalitarianism that first made possible the Higher Education Act of 1965, to once again encourage a bitter and cynical public that federal spending is not always wasteful and inefficient, but that it can be a force to social good. We must recreate a national consensus that a strong system of higher education, accessible to all, is the litmus test to an advanced society. Finally, we must commit ourselves to the preservation of the federal role in higher education as a measure to the generosity and self-sacrifice of the American people.

Such a task is what the student leaders gathered here have taken upon themselves. There are over six million reasons expressed in the six million students represented here—that will succeed.

LAUNCHING OF THE PLUMA DE ORO WRITERS COMPETITION

HON. BILL RICHARDSON

OF NEW MEXICO

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 23, 1986

Mr. RICHARDSON. Mr. Speaker, I am indeed honored to have the opportunity to share with my colleagues news of an exciting competition for Spanish language writers that was launched recently at a press conference.

The Pluma De Oro Spanish literary competition will be open to all U.S. citizens and residents, as well as foreign students and exchange scholars who have equal opportunities to contribute to the enrichment of the Spanish language. Funding for the Pluma De Oro competition is being provided by a grant from the American Express Travel Related Services Co., Inc. One hundred leading figures in the worlds of business, politics, academia, media, and publishing as well as the ambassadors of the Spanish-speaking countries are being invited to join a national board or "patronato" of the award program. The board will give directives and establish policy guidelines for the competition. From among that board a jury committee will be selected. That committee will recommend jurors and organize the juries that will read, comment, and select the finalists. Juries will be comprised of Spanish and Latin American authors, academicians, publishers, and critics as well as their U.S. counterparts.

As a fitting prelude to the 1992 celebration of the 500th anniversary of Christopher Columbus' discovery and opening of the New World—Columbus Day, October 12, 1986, will be the final deadline for the submission of manuscripts. The first prizes will be awarded in January 1987. Thereafter, prizes will be awarded in January of every year. Details on how to enter the competition will be forthcoming.

Mr. Speaker, the Pluma De Oro competition, will give the United States, a country of 20 million Spanish-speaking people, recognition as having a place in the shared culture of Spain and Latin America. Given the Spanish language's early and significant role in U.S. culture, the national competition for literary prizes in Spanish will serve as a key unlying link between the two major languages of the hemisphere: English and Spanish.

Increasingly, English-speaking Americans are becoming more familiar with some of the best writers of the Spanish language like Mario Vargas Llosa, Carlos Fuentes, Gabriel Garcia Marquez, Octavio Paz, Julio Cortazar, and others. The competition will highlight the Spanish language's early and significant role in U.S. culture. Mr. Speaker, I am proud to serve as a member of the Pluma De Oro Ex-

ecutive Committee and will be doing all I can to spread the word about the national competition. I would like to commend the American Express Travel Related Services Co., for launching this competition today that will serve to highlight the many outstanding works of Spanish-speaking writers in the United States.

PRIZES FOR SPANISH LITERATURE WRITTEN IN THE UNITED STATES

SUMMARY

A national competition for the best literary works written in the Spanish language in the United States is being established. The competition, the first of its kind, will stimulate literary production in Spanish, and will give the United States, a country of 20 million Spanish-speaking people, recognition as having a place in the shared culture of Spain and Latin America. The project will act as a link among Hispanics in the United States and as a bridge to the English-speaking population which increasingly appreciates Iberoamerican culture. It will also be a prelude to the 1992 celebration of the 500th Anniversary of Christopher Columbus' discovery and opening of the New World.

Funding for the Pluma de Oro competition, including cash awards, is being provided by a grant from the American Express Travel Related Services Company, Inc.

One hundred leading figures in the worlds of business, politics, academia, media and publishing, as well as the Ambassadors of the Spanish-speaking countries are being invited to join the National Board or "Patronato" of the awards program. The board will give directives and establish policy guidelines for the competition.

From among the "Patronato" a Jury Committee will be selected. This committee will recommend jurors and organize the juries that will read, comment and select the finalists. Juries will be comprised of Spanish and Latin American authors, academicians, publishers and critics as well as their U.S. counterparts.

Columbus Day (October 12, 1986) will be the final deadline for the submission of manuscripts. The first prizes will be awarded in January of 1987. Thereafter, prizes will be awarded in January of every year.

THE SPANISH LANGUAGE: AN INTERNATIONAL ASSET OF THE UNITED STATES

Rewarding the literary craft is a cultural tradition that began with the Greeks. In the United States, there are several well-funded literary prizes for English productions, but only a few locally-organized prizes for works written in Spanish. Thus, writers of the Spanish language in the United States who want to be recognized may become discouraged to use their language.

Since Columbus brought the Spanish language to the Western Hemisphere in 1492, it has become one of the most precious elements of the diverse cultural heritage of the United States.

As an official language in the United Nations for decades, and now, with the entry of Spain into the European Economic Community, Spanish has enhanced its status as a major international language.

Increasingly, English-speaking Americans are becoming more familiar with some of the best writers of the Spanish language like Mario Vargas Llosa, Carlos Fuentes, Gabriel Garcia Marquez, Octavio Paz, Julio Cortazar and others.

Spanish is the language with the largest enrollment in U.S. colleges, having taken the historical lead from French more than a decade ago. In fact, a majority of the academic journals dedicated to Spanish and Latin American letters are published in the United States. Furthermore, every major U.S. university has at least one world-class scholar whose expertise covers the most important aspects of spanish and Latin American literature. Over fifty percent of the master's and Ph.D. theses and dissertations on Latin American, Spanish literature and linguistics are produced by U.S. academics.

This rich reality is part of what we will be celebrating in 1992, five hundred years after Queen Isabella's ships brought the Spanish language to America.

HISPANICS IN THE UNITED STATES

"Hispanic" is a general term used in the United States to describe a group of people who share a common language and culture. Perhaps the most dramatic characteristic of the U.S. Hispanic population is that they are on the way to becoming the largest "minority" in this country. In fact, if the U.S. Hispanic population were to be counted as a "separate country," it would be the fifth largest "country" in the complex of nations that speak Spanish.

The group, however, is far from homogeneous. The term itself is, at times, misleading, for it includes peoples from 20 different countries around the world—countries which are unique in themselves.

The Spanish language, more than any other cultural trait, has served and continues to serve as the key unifying link among this group, as well as the link among Spanish-speaking countries.

LITERARY PRIZES

Given the Spanish language's early and significant role in U.S. culture, the idea of a national competition for literary prizes in Spanish would seem to be in order. Among the immediate and long term consequences of this project are the following:

1. It will, through the prizes, be a fitting match for the prestigious literary prizes awarded annually in Spanish-speaking countries, mainly Spain, and will draw national attention to the need to use the language elegantly and effectively.

2. It will show the rest of the nation that the leaders of the U.S. Hispanic population care for and are willing to support the humanities and cultivate the arts.

3. It will increase the interest of major corporations and businesses catering to the needs of Hispanics in supporting this unique enterprise. Spanish newpapers, radio stations and television networks will be natural backers of the project.

4. It will increase the self-esteem of future teachers, translators, business people and diplomats. Hispanics will realize that the elegant use of the Spanish language is recognized and rewarded.

5. It will constitute a solid link between the two major languages of the hemisphere, English and Spanish, by acting as a diplomatic bridge toward Latin America. In a sense, then, the prizes will be an investment in better political relations with Latin America and Spain, showing that the United States is willing to nurture and develop this gift received from the Spanish-speaking nations.

6. It will draw the immediate interest of Spanish and Latin American publishers and writers to enter aggressively into a market that in the past has been only indirectly cultivated. Publishers will now have the option of publishing U.S.-produced works in the Spanish language with the expectation of sales matching the traditional prize-winning books.

DISTINCTIVE CHARACTERISTICS

The Pluma de Oro Spanish Literary Prizes will be governed by a prestigious National Board or "Patronato". Within the Board there will be two committees:

1. An Executive Committee which will guide and supervise the normal operations of the competition in accordance with the broader policy guidelines set by the Board as a whole.

2. A Jury Committee which will recommend names for the jury pool from which jurors will be selected. For each of the prize categories, a jury will read, comment and select the candidates' final manuscripts. Each jury will be composed of at least four members: possibly one writer, one academician, one editor and one critic or journalist. The exact guidelines for juries will be set by the Board.

The Board will give directives to the North-South Center of the University of Miami, which will act as Executive Secretariat of the project by supplying staff, academic resources, meeting places and communication links. In addition to the two committees of the Board, an International Honorary Board of renowned writers will guide the Executive Secretariat. The Secretariat will be chaired by the Dean of the Graduate School of International Studies and Director of the North-South Center.

Prizes will be awarded in the following five categories: *Novel, Short Story, Drama, Poetry, and Essay.* In each category, there will be two different levels: general prizes and student prizes. The general prizes are endowed with a minimum cash prize of $2,000, while student prizes are endowed with $500. It is hoped that the works of the winners will be published and/or produced, within a year, as previously established through agreements with publishing houses, theatre companies and other institutions.

The competition is open to all United States citizens and residents, as well as foreign students and exchange scholars who will have equal opportunities to contribute to the enrichment of the Spanish language.

EXECUTIVE COMMITTEE

Chairman—Bernard J. Hamilton, President, Latin America & Caribbean Division, American Express Travel Related Services Company, Inc.; Henry Cisneros, Mayor of San Antonio, Texas; Manuel Duran, Department of Spanish, Yale University; Edward T. Foote, II, President, University of Miami; Federico Gil, Professor Emeritus, University of North Carolina, Chapel Hill; John N. Goudie, President, Christopher Columbus, Quincentenary Jubilee Commission; Rafael Hernandez Colon, Governor, Commonwealth of Puerto Rico; and Bill Richardson; William Richardson, Congressman, New Mexico.

EXECUTIVE SECRETARIAT

Director—Ambler H. Moss, Jr., Dean, Graduate School of International Studies, Director North-South Center; Joaquin Roy, Literary Advisor; and Maria Jose Cartagena, Coordinator.

NEWPORT NEWS SHIPBUILDING CENTENNIAL

HON. G. WILLIAM WHITEHURST

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 23, 1986

Mr. WHITEHURST. Mr. Speaker, on Saturday, January 18, 1986, Senator JOHN WARNER addressed the audience gathered at Newport News Shipbuilding to celebrate the centennial of the founding of that great shipyard.

As a former Secretary of the Navy and a present senior member of the Senate Armed Services Committee, the Senator is uniquely qualified to discuss the challenges and opportunities facing both Newport News Shipbuilding and the U.S. Navy. His statement was both eloquent and thought-provoking, and I am pleased to share it with my colleagues.

I hope that Senator WARNER'S words will receive the careful consideration they deserve.

REMARKS OF SENATOR JOHN WARNER

It's always a thrill for me to visit this magnificent shipyard where so much of our nation's maritime history rests. Today, of course, I am particularly excited to be here to participate in these Centennial observances.

I've visited this yard many times and had the honor of participating in many naval vessel ceremonies. Always I think of successive generations of families who have produced many of the finest craftsmen to be found anywhere in the world. I think of those traditions of excellence that have been passed from grandfather to father and from father to son.

Ladies and gentlemen, the U.S. is a nation bordered by two great oceans. Our first line of defense is forward deployment. Therefore, keeping the sea lanes of communication open is essential to our survival. Only with the ships you build is this possible.

One hundred years is a long time.

If you think about it for a moment, this shipyard came into being the same year that the Statue of Liberty was dedicated. But unlike the Statue of Liberty, which is presently being remodeled—you would say "overhauled"—Newport News Shipbuilding has maintained a high level of modernization.

It's not easy for any institution to last 100 years. It takes exceptional management, exceptional craftsmen working as a team with a strong sense of dedication. This is what is responsible for the many successes Newport News Shipyard has earned in its first 100 years. And it's against this background of success that this yard is in a good position to successfully face the challenges ahead for another 100 years. Challenges to the nation's defense, challenges to Virginia's economy.

The partnership between Newport News Shipyard and the Commonwealth of Virginia is an extraordinary success story. First, this yard is, by far, the largest private employer in the state. Second, in 1985, this yard issued 47,700 purchase orders totalling $1.8 billion to 12,255 Virginia suppliers, which means employment throughout the state. Third, the defense work performed in this yard, combined with the work done by other defense contractors throughout the state, is the primary reason why Virginia is now Number One.

By that I mean Virginia is the nation's largest recipient of defense dollars on a per capita basis. That works out to $2,170 for every Virginian. Yes, that is good news, and many here today can take justified pride. Indeed, we owe a great debt of gratitude to the generations who preceded us, for this first place took a long time to achieve.

Virginians historically have been among the first to fight for freedom. But with this position of being Number One goes the responsibility of maintaining the highest standards of excellence in every respect of defense work. If we are to remain Number One in dollars, we must be in the eyes of the nation:

Number One in the quality of craftsmanship.

Number One in efficiency and cost savings, and eliminate waste for the American taxpayer.

Number One in honesty and integrity at every level of defense contracting.

A very special burden falls upon this yard, for you are the biggest, and there is no better. So you are the standard bearer for all Virginia defense contractors. As goes Newport News Shipyard, so goes the reputation of defense contracting in Virginia!

Like a fine wine whose taste improves with age, Newport News Shipyard is building better ships than ever and, I'm confident, will continue to do so for at least another 100 years.

In this audience today are descendants of persons from all ranks and levels of authority who have guided this yard. Many of you come from families who have worked in this yard for generations, carrying on that tradition of handing down valuable skills from one generation to the next.

Never can we lose sight of the fact that these huge machines and cranes that are scattered throughout this yard are operated by people. And never can we lose sight of the fact that talented people are responsible for the good, sound management practices that have led to the successes this yard has enjoyed since 1886.

So, I think it's only appropriate that we recognize each of these fine people who are with us today, as well as those who have gone before them, who have invested of their time and talents and meant so much to this community and to our nation. I ask you to join me in recognizing the past and present employees of Newport News Shipbuilding.

We thank you!

Ladies and gentlemen, in this changing world, America's will to remain strong is being challenged in new ways. We seek a more peaceful world through a lessening of tensions with the Soviet Union in broad areas of security issues. Hopefully during the forthcoming two summit sessions positive results will be reached.

But during this same period we must strengthen our preparations to deter the astounding rise in terrorism—a rear guard threat of rising consequence.

We have only to look at the events of the past few months to appreciate how grave this situation has become. Events such as the *Achille Lauro* hijacking, the Egyptair hijacking and, of course, the senseless killing of 16 persons at the Rome and Vienna airports all underscore the threat each of us faces at the hands of terrorists. If anything, these recent episodes of terrorism clearly say something else—and that is that terrorists are engaging in a pattern of increasing senseless brutality. Each new act appears to be more sensational and grim than the one before and the victims can be anyone from a wheelchair-bound cruise line passenger to an 11-year-old girl.

Our military, in training and in new missions for existing equipment, are preparing to deter this new threat and meet it with force when required.

The carrier, like those that are built in this yard, is being given a vital role in this important mission. In the increasingly hostile and politically uncertain environment of the Middle East, South America and parts of the third world, the U.S. cannot be assured of obtaining or continuing lasting land rights for military air bases.

In recent years, the United States has lost access to a number of air bases around the globe. We can no longer use the Wheelis air base in Libya. We can no longer use four air bases in Iran. We can no longer use four air bases in Morocco, two of which were SAC bases. We can no longer use three air bases in Greece. And now, with the tragic increase in terrorism, even the existing bases have increased problems of security.

Carriers must make up for these losses, actual and contingent. The ability of these carriers to provide forward mobile basing of American air power near crisis locations is unequaled. We witnessed the importance of our carriers in the capture of the hijackers who seized the *Achille Lauro*. The four F-14s and E-2C command and control aircraft that carried out that daring mission with less than two hours notice came from the only airfield we could be certain of in the region—the deck of a U.S. aircraft carrier—the *Saratoga*.

When you cut through all of the arguments, the irrefutable evidence remains that big carriers provide air cover that is an essential element to our forward deployed strategy—terrorism included.

Now our attention, our need to prepare, turns to the future.

Ladies and gentlemen, when the *Theodore Roosevelt*, the *Abraham Lincoln*, and the *George Washington* leave this yard to join the fleet, twelve of the fifteen carriers in the 600-ship Navy will have been built by Newport News Shipyard, including all seven of our nuclear-powered carriers. The Navy has now reached the point where it must make a major decision about the future of our first nuclear-powered carrier, the *Enterprise*.

The *Enterprise* is 25 years old and in need of modernization to bring its propulsion and warfighting systems up to date. Soon the Congress will have to review a decision to be made by the Secretary of the Navy. There are but two options: The *Enterprise* should either be entered into a service life extension program or be mothballed and replaced with a new aircraft carrier. To extend the life of *Enterprise* will be extraordinarily expensive; indeed, my research reveals it may cost nearly as much as a new ship. At present, it's my judgment that we should not restore the *Enterprise*. Rather we should build a new nuclear-powered carrier. Further, we should consider a package of two new carriers using the very successful formula of multi-year procurement. A second ship is needed to replace the aging carrier *Midway* around the year 2000.

I commit to you to do my part, not just because these contracts come to Virginia, but because these ships are essential for our defense.

I have conveyed these views to key people within the Administration, most specifically the Secretary of Defense and the Secretary of the Navy. And I am confident that the

Administration will, after weighing all the facts, agree with my judgment, and that we will see such a proposal from the Navy shortly.

With such an important decision pending, there is a heavy burden on each person in this yard to continue building on the excellent reputation you have earned in these first 100 years. Further, I close with an old Navy message.

"Attention. All hands on deck!"

Should we win these new contracts, which are needed for America's defense, we will have to muster the next generation of sons and daughters of those present today to carry on our work.

Congratulations to all of you. Thank you.

EXECUTIVE ORDER 11246, PRESIDENT REAGAN SHOULD NOT WEAKEN ENFORCEMENT OF AFFIRMATIVE ACTION PROGRAMS FOR FEDERAL CONTRACTORS

HON. CHARLES A. HAYES

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 23, 1986

Mr. HAYES. Mr. Speaker, I want to draw the attention of my colleagues to a recent article which appeared in the Washington Post on Thursday, January 23, 1986, by Bill Peterson, a staff writer for the Washington Post. The article, "GOP Mayor Hits Plan to Relax Hiring Rules," eloquently expresses reasons why William H. Hudnut, III, the Republican mayor of Indianapolis, believes the Reagan administration's efforts to weaken Executive Order 11246, "is a political mistake as well as being morally and legally wrong."

The corporate community strongly supports the continued, vigorous, enforcement of Executive Order 11246 and affirmative action goals and timetables. The meaningful participation of minorities and women in the workplace has greatly improved and will continue to do so.

Mr. Speaker, I believe you and the rest of my colleagues will find this article informative and very helpful in understanding why the Executive order should be preserved in its present form.

The text is as follows:

GOP MAYOR HITS PLAN TO RELAX HIRING RULES

(By Bill Peterson)

William H. Hudnut III, the Republican mayor of Indianapolis, yesterday said an effort by the Justice Department to scale back major affirmative action directives "is a political mistake as well as being morally and legally wrong."

Hudnut said he had written a letter to President Reagan complaining about the efforts because he thought the president "hasn't been briefed well [on the issue] by the people in the injustice department."

The letter said efforts to modify or eliminate a 20-year-old presidential executive order requiring affirmative action in hiring represents "an unfortunate step backward" and would turn "the clock far back on civil rights advances."

These efforts are supported by Attorney General Edwin Meese III and William Bradford Reynolds, the department's civil rights chief. The department has attempted to halt the use of racial hiring goals, supported by Hudnut, in an affirmative action case involving the Indianapolis police and fire departments.

Such action "sends the wrong message politically" to minorities and could damage the Republican Party, Hudnut told a news conference at the annual winter meeting of the U.S. Conference of Mayors.

Two other mayors, Donna Owens (R) of Toledo, Ohio, and Thirman L. Milner (D) of Hartford, Conn., appeared with Hudnut at the news conference and endorsed his stand.

"We haven't reached that goal in the country where we can say, 'Hallelujah. There is no discrimination,' " said Owens.

DR. MARTIN LUTHER KING, JR., BUST DEDICATION CEREMONY

HON. PETER W. RODINO, JR.

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 21, 1986

Mr. RODINO. Mr. Speaker, on January 16, 1986, a very important ceremony took place in the Capitol. On that day a bust of the late Dr. Martin Luther King, Jr., was dedicated and placed in the Capitol rotunda, where it will remain on display for a period of 1 year, after which it will be moved to a permanent location in the Capitol. This ceremony was all the more moving because it coincided with the many events marking the observance of our first national holiday honoring Dr. King.

Black Americans have made countless contributions to the cultural and political development of this Nation. Yet until the placement of Dr. King's bust, not one of the many busts or statues in the Capitol depicted a black American. Though this was long overdue, I can think of no more fitting person to be the first black American honored in the Capitol than Martin Luther King.

The Capitol is our Nation's most important building. It is a symbol of our commitment to the ideals of freedom, justice and equality which are the foundation of our Republic. A memorial to Dr. King rightly belongs there—for no one in American history has better served the principles of our Nation than Dr. King. He lived for them, he fought for them, and he died for them.

Indeed, this bust of Dr. King will be more than just a memorial to a great American. It will serve as a constant reminder to the millions of American citizens and foreign visitors who tour the Capitol that our Nation remains dedicated to the full promise of American life that Dr. King so courageously championed.

Time and again during his lifetime, Dr. King would inspire us with his dream for America. He did it with passion and eloquence, knowing that the rightness of his dream was rooted in the better nature of his countrymen. His dream was an appeal to the conscience and reason of his fellow citizens. It drew from his firm belief that nonviolent social change can conquer the forces of injustice and oppression. And his message was profound in its simplicity: harmony would shame bigotry, justice would outlast its enemies, and true democracy would prevail.

Martin Luther King knew the dangers of complacency. As he wrote from his cell in the Birmingham jail in 1963, "Injustice anywhere is a threat to justice everywhere." It was for good reason that he called himself a drum major for justice. His commitment was real.

What I said to the Southern Christian Leadership Conference 11 years ago remains true today: "They shot down the man—and they snuffed out his life—and the man died. But they could not shoot down his dream. For his dream was stronger than life and more powerful than death. And the dream lives on."

Like many Americans, I sorely miss his voice, his inspired leadership, and his courage. But his contributions have taken on a life of their own.

So I am gratified that with the ceremony placing Dr. King's bust in the Capitol, the man and his dream will be memorialized for years to come in the building that represents the center of our Government. It will serve as a message to us all.

HONORING DR. MARTIN LUTHER KING, JR.

HON. ROBERT A. ROE

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 21, 1986

Mr. ROE. Mr. Speaker, it is a great honor for me to rise today and join in this tribute to the memory of Dr. Martin Luther King, Jr.; a man who changed the history of our Nation with four simple words: "I have a dream."

Yesterday marked the culmination of a 15-year effort to give appropriate recognition to Dr. King and his work by having a national holiday observed on his birthday. I am proud to say that I have been a strong supporter of legislation to establish this well deserved memorial to Dr. King's outstanding contributions and accomplishments.

Martin Luther King, Jr., would have celebrated his 57th birthday this year had he not been slain by a cowardly assassin. During his short life, Dr. King helped bring about enormous social changes that made America a better place for us all to live. And through his efforts to achieve equal treatment for all Americans, Martin Luther King, Jr., remained devoted to nonviolent means of achieving his goals and he inspired thousands of others to conform to his principles of nonviolence.

Through his nonviolent resistance and passionate oratory, Dr. King was able to elevate the struggle for civil rights to the forefront it deserved on the national agenda. From Montgomery, AL, to the jails of Birmingham, his spirit turned violence, bitterness, and alienation into constructive social change.

Martin Luther King, Jr.'s basic doctrine was eloquently given during a speech made at a bus boycott in Montgomery, AL:

If you will protect courageously, and yet with dignity and Christian love, when history books are written in future generations, the historians will have to pause and say, "There lived a great people—a black people—who injected new meaning and dignity into the veins of civilization." This is

our challenge and our overwhelming responsibility.

Mr. Speaker, few men have advanced the cause of justice and affected such deeply rooted changes in our society as Dr. King did. Blessed with inordinate courage and commitment, he liberated the oppressed and pulled them from the abyss of despair and frustration.

For generations to come his birthday will serve as a day when all Americans, regardless of race or creed, can pause to reflect on the life, work, and dreams of Dr. Martin Luther King, Jr., and the great principles of freedom, equality, and civil rights that he so nobly espoused.

MARTIN LUTHER KING, JR.

HON. MICHAEL A. ANDREWS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 21, 1986

Mr. ANDREWS. Mr. Speaker, on Monday, our Nation celebrated the first observance of our newest national holiday, a holiday honoring the memory of Martin Luther King, Jr. I rise today to pay tribute to Dr. King and to praise those who keep his dream of equality and brotherhood alive.

When we, in Congress, passed the resolution creating Martin Luther King Day last year, many of us spoke of Dr. King's life-long struggle for human rights. We spoke of his many awards, his receipt of the Nobel Peace Prize, his commitment to nonviolence, and his leadership of the civil rights movement.

Above all, we, in Congress, remembered Martin Luther KIng's vision—his dream of what America could and should be. Throughout his life, Dr. King maintained an unwavering faith in America's promise of equality and freedom. Indeed, his greatest victory was the rekindling of our Nation's commitment to the creed embodied in the Constitution: That all men are created equal, endowed by their Creator with the same inalienable rights.

It was this faith Martin Luther King had in America, this dream of brotherhood, that supporters of his holiday seek to keep alive. If Monday's celebration was an important signal of progress, it was also a recognition that the struggle must go on as long as there is any bias, any hatred, any inequality in our great Nation. "Injustice anywhere," Martin Luther King said, is a threat to justice everywhere." And so we, who honor his memory, must also pledge to uphold his ideals.

As we look toward the future, as we continue our work to keep America's promise of freedom bright and Martin Luther King's dream alive, let us use our newest national holiday as a time to chart our progress. Working together for peace and justice as Dr. King did, we cannot fail.

MIKULSKI INTRODUCES MARITIME ECONOMIC AGENDA FOR 1986

HON. BARBARA A. MIKULSKI

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 23, 1986

Ms. MIKULSKI. Mr. Speaker, many Members of the House who represent coastal cities like my own Port of Baltimore are aware of the many problems facing our Nation's ports and the U.S. maritime industry.

Since 1981, over 18,000 American seafarers have lost their jobs, a decline in that industry of almost 40 percent. In addition, longshoreman manhours and work for small maritime businesses have declined in many ports.

Because of these problems faced by our U.S. merchant marine, I am today introducing the "Maritime Economic Agenda for 1986." These three bills are initiatives which address familiar maritime problems in new, and what I believe, are more workable ways. If enacted, I believe they will create new jobs for seafarers, longshoremen, carriers and small business by promoting economic growth and opportunity within the maritime industry.

I. THE CROSS-BORDER COOPERATION ACT OF 1986

The Shipping Act of 1984 revises the Shipping Act of 1916 to provide an updated, simplified, more efficient, responsive, and effective regulatory framework for international liner shipping. The principal goal of this framework is is to develop and maintain an efficient and flexible ocean transportation system through commercial means, with minimum Government involvement.

One area where the benefits of the Shipping Act are not now enjoyed, however, is in the cross-border trade. As it is now written, the Shipping Act does not allow agreements between carriers directly serving U.S. commerce through U.S. ports and those that serve that commerce by moving cargo through ports in an adjacent country. This loophole in our shipping laws is unique. Virtually all over shipping systems in the world extend the conference system to cover commerce between the host nation and a third country which moves through a country adjacent to the host nation.

What have been the effects of this loophole? First, a significant amount of cargo that should normally move through U.S. ports now moves through Canadian ports. Second, the absence of clear legal authority to form cross-border agreements has led to a deteriorating situation where unbridled, cut-throat competition could threaten the stability of our ocean transportation system, adversely affecting carriers, shippers, and ultimately consumers. And finally, and perhaps most significantly, carriers moving cargo directly through U.S. ports and those moving goods through ports in adjacent countries have been unable to take full advantage of the framework set forth in the 1984 Shipping Act.

In the past, legislation introduced to address this problem has directed at correcting the so-called "Canadian diversion" problem. These bills focused on the need for U.S. Government regulation of carriers serving U.S. commerce by moving cargo through Canadian ports. In a sense, by focusing on how Government could solve the problem, they directed too much attention away from the Shipping Act of 1984's goal of reducing Government involvement, while increasing the efficiency of our ocean transportation system.

The bill I am introducing today, however, the Cross-Border Cooperation Act of 1986, offers us a chance to make a dramatic break with past approaches to the cross-border loophole in the Shipping Act. It recasts a solution to this problem not in terms of Government regulation, but commercial cooperation. It replaces the idea of confrontation with the notion of conciliation.

How does the Cross-Border Cooperation Act do this?

First, it would create a new category of carrier, called "contiguous carriers," under the Shipping Act of 1984. These carriers would be defined "as persons providing water transportation of passengers or cargo between the United States and a foreign country for compensation; and who use for all or part of that transportation a vessel operating between a port in a nation contiguous with the United States and a port in a foreign country other than that contiguous nation."

Second, it would allow a contiguous carrier, if he chooses, to form the kind of cooperative agreements currently permitted under section 4 of the Shipping Act with carriers serving U.S. ports.

By allowing the formation of these cross-border agreements, the bill does not seek to correct any imbalance in cross-border rate structures through Government regulation. Instead, it attempts to allow the private sector, namely carriers serving U.S. commerce through United States and Canadian ports, to come together and resolve their differences-within the context of a business agreement.

This approach is in keeping with the spirit and intent of the Shipping Act of 1984, while refining U.S. shipping laws to put them on a par with virtually every other nation's in the world.

II. THE MARITIME SERVICES FINANCIAL RESPONSIBILITY ACT OF 1986

The second bill I am introducing is similar to legislation introduced in the two previous Congresses designed to allow many small maritime service businesses to collect on bad debts left them by foreign-owned steamship lines.

Prior to 1976, these small businesses had recourse when foreign steamship owners failed to pay their bills. They could simply file suit and U.S. marshals would seize the vessel until the courts could determine the outcome of the claim. With the passage of the Foreign Sovereign Immunities Act in 1976, however, suits against vessels owned or operated by a foreign government are prohibited. The result, small maritime businesses, including stevedores, marine terminal operators, port authorities, freight forwarders, drayage firms and harbor pilots, are left holding the bag.

A 1983 survey by the National Association of Stevedores put the average bad debt per stevedoring firm at $373,000. Reports from small businessmen in my own Port of Baltimore indicate that the level of this problem is continuing, and in far too many instances, is increasing. And it is not a big waterfront cor-

porations that are forced to absorb these losses, but many family-owned firms that already operate on thin profit margins.

The Maritime Services Financial Responsibility Act of 1986 would correct this abuse by requiring the owners of foreign vessel who are in the foreign trade and use U.S. ports to obtain a certificate of financial responsibility to meet claims for maritime services. The financial responsibility required under this certificate would be equal to $100 per ton of the vessel or $1 million, whichever is less.

Failure to comply with the financial responsibility terms of the act would result in fines up to $10,000 and may be subject to appropriate sanctions, including refusing departure clearance and/or access to other U.S. ports.

The bill I am introducing today makes one significant change from those measures introduced in past Congresses: it applies only to foreign vessels engaged in foreign commerce that call on ports in the United States. It does not apply to U.S. vessels engaged in the foreign commerce. This change will focus the bill's purpose, greater accountability on the part of vessel owners who refuse to pay their dockside bills, on those parties who are responsible for the problem faced by many maritime small businesses: foreign-owned steamship lines.

III. CUSTOMS AUTOMATION ACT OF 1986

The third part of the maritime package I am introducing today is the "Customs Automation Act of 1986." It is designed to aid ports in developing automated cargo processing facilities that will provide them with greatly increased capacity and efficiency to process cargo as it is loaded and unloaded at the docks.

The bill would accomplish this by earmarking 1 percent of the collected customs duties at each particular port to be returned to that port's administering authority to develop automated cargo processing facilities. Funds would be available subject to annual appropriations.

As many of my colleagues know, the U.S. Customs Service has faced sharp budget and personnel reductions in recent years that have hampered both the speed and efficiency of cargo processing at many of the Nation's ports. In many instances, manual processing of cargo only compounds this reduction in Customs personnel.

To combat these reductions and to improve the commercial performance at our Nation's ports, the Customs Service has begun to develop an automated commercial system [ACS]. The ACS is an electronically-operated cargo processing system which would enable each port to have Customs clear cargo for delivery by computer.

Funds authorized by this legislation would be designed to help U.S. ports finance the construction of the necessary facilities to participate in the ACS Program.

The establishment of a cost-sharing program between ports and Federal Government for Customs automation is both essential and cost-effective. There have been significantly increased demands on cargo processing at U.S. ports over the last decade. This fact, combined with the fiscal restraints all levels of Government face, has placed enormous strains on existing cargo processing facilities and Customs personnel. Neither the Federal Government, nor State and local governments, can afford this cargo processing overhaul by themselves.

The cooperative partnership between the Federal Government and the States which this bill would establish would not only improve the efficiency of American ports, and increase the amount of cargo they process, but generate more Customs revenues for the U.S. Treasury.

Mr. Speaker, this bill has its roots in legislation I introduced in the 97th Congress which would have established a similar "Customs Revenue Sharing Program." This legislation, however, makes several key changes embodied in that earlier measure.

First, funds authorized under this act could be used solely for a port to automate its Customs processing. As a result, the purpose of the Federal-State partnership is clearly defined and much more efficient and specific in its use of Federal funds. Second, the bill does not create an open-ended entitlement for local ports. Instead, once a port completes its automated cargo processing facilities and brings its system on line, they would no longer be able to draw upon Federal revenues.

These modifications to the previous legislation demonstrate the need for fiscal responsibility in these difficult budgetary times we face. Yet at the same time this initiative seeks to achieve a goal that each Member of the House ought to support, making our Nation's ports and maritime industry more competitive, and able to enjoy the benefits of new ideas and new technologies.

CONCLUSION

Mr. Speaker, I urge my colleagues to seriously consider each of the measures I am introducing today. They are designed to increase the stability and competitiveness of our domestic maritime industry, providing more jobs for small businesses, longshoremen and seafarers. In short, they are an important beginning to help create a framework for new opportunities for the U.S. merchant marine.

THE BINGHAM FAMILY EMPIRE SELF-DESTRUCTS

HON. CARROLL HUBBARD, JR.

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 23, 1986

Mr. HUBBARD. Mr. Speaker, yesterday I indicated that on January 10, 1986, it was announced first in the Courier-Journal, a Louisville, KY, daily newspaper, that the family of Barry Bingham, Sr., would be selling the media empire the Bingham family had accumulated during the past three generations. Typical of the one-sided news coverage of the giant Bingham media, the reporters for the Bingham media have quoted a few Kentucky leaders expressing their dismay at the decision by Barry Bingham, Sr., to sell the Courier-Journal, the Louisville Times, WHAS Radio, WHAS-TV, and the Standard Gravure, the printing company.

What the Bingham media empire will never reveal is that there are tens of thousands of Kentuckians who are overjoyed with the news that the Bingham family will soon no longer control the news in Kentucky. Even the Associated Press headquarters in Kentucky is located on the fourth floor of the Courier-Journal and Louisville Times building in downtown Louisville and is adjacent to the newsrooms of these two newspapers.

There is only one reporter for the Louisville newspapers who resides in the western half of Kentucky. Tim Roberts, who leases a small apartment in Madisonville, KY, has a telephone which serves as the "west Kentucky bureau." I emphasize Mr. Roberts is the only reporter for the Louisville newspapers who lives west of Louisville, and he moved there just last year. Even western Kentucky population centers such as Bowling Green, Owensboro, Paducah, Henderson, and Hopkinsville do not have a Courier-Journal or Louisville Times office or bureau.

In listing the bureaus of the Bingham empire the reporters understandably don't show their locations on a map of Kentucky because such would be a stark reminder that the Louisville newpapers' bureaus outside Louisville in Frankfort, Lexington, Bardstown, Somerset, and Hazard indicate the interest of the newspapers is in Louisville, central Kentucky and eastern Kentucky.

The following is a portion of the lengthy news article written by Alex S. Jones, headlined "The Fall of the House of Bingham," which appeared in the New York Times last Sunday, January 19.

[From the New York Times, Jan. 19, 1986]

THE FALL OF THE HOUSE OF BINGHAM

(By Alex S. Jones)

LOUISVILLE, KY.—Sallie, now a determined feminist, emerged as a chief protagonist in the saga. Her resistance to Barry Jr.'s decision to remove her from the boards of the family businesses set in motion what became the final crisis.

At the end, even Eleanor, the younger and more conventional sister, who had tried to maintain her family ties, opposed her brother—as implacable in her way as the others.

Now that the decision to sell has been made, a number of media companies are competing to buy the Bingham properties—The Courier-Journal and Louisville Times Company, WHAS Inc., which includes a television station and two radio stations, and Standard Gravure, a commercial printing operation. They are expected to bring about $400 million, with the families of each of Barry Sr.'s children likely to receive about $40 million (See box).

But the family peace that Barry Bingham Sr. and his wife, Mary, hoped for seems far, far away.

THE HISTORY

"Scale the characters down, and it's definitely Faulknerian," said Robert Bingham, the 19-year-old grandson of Barry Sr., comparing his family to the tortured Mississippi delta families of William Faulkner's novels.

Just as Faulkner's fictional characters plumb the past seeking explanations for the pain of the present, the Binghams tend to look far back to pick up the threads of their undoing.

The Binghams, like the Kennedys, started poor, certainly in comparison with their present great wealth. Barry Sr.'s great-great-grandfather, a Scotch-Irish immigrant founded the Bingham School, a secondary school, in North Carolina shortly after the American Revolution. Barry Sr.'s great-

grandfather was also a teacher; so was his grandfather, Robert Bingham, a Confederate soldier, who returned to North Carolina after the Civil War and worked at educating freed slaves.

But Robert's son, Robert Worth Bingham, became a lawyer and moved to Louisville in 1896, at the age of 25, eventually becoming the city's mayor and a circuit court judge. He lost his first wife in 1913 when a car in which she was riding was hit by a train. Barry Sr. was seven years old when his mother died; his brother and sister not much older.

Three years later, Judge Bingham, as he was then and forever after known, married Mary Kenan Flagler, the widow of an oil tycoon with a $100 million estate. Judge Bingham signed a pre-nuptial agreement stating that, upon her death, he would receive $5 million from her estate. As Barry Sr. tells the story in a memo to his children, Judge Bingham insisted on the pre-nuptial agreement, even though without it he would have been entitled to half his wife's fortune.

Eight months after their wedding, the new Mrs. Bingham died, apparently of cardiac arrest. But her brothers accused Judge Bingham and her doctors of conspiring to poison her and the body was exhumed. An autopsy revealed that the cause of death was, indeed, cardiac arrest, and her brothers dropped the charges.

In 1918, Judge Bingham bought, for $1 million, a majority interest in The Courier-Journal and The Times, which even then were Kentucky's premier newspapers. He also acquired a 40-acre estate overlooking the Ohio River, a few miles outside Louisville, and on it a huge red-brick Georgian mansion where Barry Jr. now lives. Judge Bingham christened the estate "Melcombe," after an estate in Dorset, England, where Binghams had lived since the 12th century. The judge had another house built on the estate, which, though generous, was smaller than the mansion and came to be called the "Little House." Barry Sr. and his wife Mary live there today.

The judge was an ardent Democrat and a supporter of the League of Nations, and his newspapers reflected his views. In the 1930's, he backed the New Deal and President Roosevelt rewarded him in 1933 with the ambassadorship to the Court of St. James. Judge Bingham died in London in 1937 and the next ambassador was Joseph Kennedy.

By then, Judge Bingham's younger son, Barry Sr., a magna cum laude graduate of Harvard, was deeply immersed in the family business, which had grown to include WHAS Inc.—then an AM radio station—and Standard Gravue. He alone had moved back to Louisville; his brother and sister spent most of their lives in England and Barry Sr. soon bought them out.

He was 32 years old when his father died, a handsome, garrulous and charming man with a cello voice, and he had married Mary Clifford Caperton, a Richmond girl whom he met while he was at Harvard and she at Radcliffe. The two are very close. Barry Sr. says that he decided to sell the family companies now rather than later so that he and his wife, who is 81 years old, could face the ordeal together. "It would have been almost impossible alone," he says.

In fact, Barry Sr. says that his successful marriage and the extremely close relationship with his wife somehow contributed to what he says was his clear failure to communicate effectively with his children.

Under Barry Sr., known simply as "Senior" to his employees, the family business flourished as Louisville boomed with new industry in the post-war years and Kentucky prospered as a coal mining and tobacco center. But the Courier-Journal and The Times, in the Southern liberal political tradition, frequently supported positions that put the papers in conflict with their more conservative readers. In their columns, labor unions found strong support and strip miners were blasted for not restoring the land.

But it was the strong stand in favor of civil rights that drew the most controversy. Barry Sr. says that one of his proudest accomplishments was the Louisville had the South's first integrated school system, a victory won largely without violence—but at a price.

"I came to Louisville in 1964," said Mr. Janensch, the papers' executive editor, "and Senior was not a beloved figure then. The Binghams were considered the liberal elite. The papers were despised as Communist. And the image of the Binghams was that they were not at all concerned with common people. Patronizing." It was only in recent years that Barry Sr. emerged in Lousville as a popular elder statesman.

THE CHILDREN

For his children, life was very easy. The Binghams, Sallie recalls, had five servants, including a particularly beloved nurse called Nursie by Sallie and her two older brothers, Worth and Barry Jr.

"There was no other family like it," says Sallie, who adds that she remembers a family sense of being liberals under attack; of being somehow "much better looking" than other people, and of being free of the burden of "time wasted on petty boring details." These were handled by the servants and company managers. It was a family, Sallie says, in which the highest priority was placed on an absence of friction and conflict, where troublesome details of day-to-day living simply were taken care of "like magic."

She now blames what she calls the family's "smoothness" for producing a generation of children who did not have to depend on each other, and, in the case of Sallie, Barry, Jr., and the youngest child, Eleanor, never created the close ties that often come with the give-and-take of childhood.

"We all seem to have some inhibitions about each other; it's very hard to express to each other the way we feel sometimes," Barry Sr. says, somewhat ruefully. The Binghams, he says, might have been "much better off if we'd been a more Latin-type family with a lot of outbursts, tears, screams and reconciliations. But that has not been the way any of us operates."

The first-born of this special family was Robert Worth Bingham 3d, as handsome and garrulous as his father and clearly heir to the top spot in the family kingdom. Barry Sr. describes Worth, who was born in 1932, as a natural athlete, a natural newspaperman, a natural leader who loved mixing with politicians and other powerful figures.

He was also a reckless, profane and overbearing personality, according to Sallie and others who were close to him. He loved to take risks, as though the family's seamless lifestyle had cheated him of being tested. As a young man he delighted in fast driving and in trips to Las Vegas, where his losses sometimes forced him to make urgent calls to the non-family executives who managed the Bingham holdings, asking them to replenish his bank account and not tell his parents. He was one of the Louisville businessmen who originally syndicated Muhammad Ali, then a young Louisville boxer named Cassius Clay.

Worth's younger brother by 16 months was Barry Jr., a very different, less daredevil personality. Barry Sr. remembers his second son as having been "a merry little boy," thoroughly devoted to his older brother, as Barry Jr. himself confirms. Despite Barry Jr.'s near adoration, Worth teased his brother relentlessly. For instance, Barry Jr. was overweight until he went to college, and Worth delighted in introducing him as "Belly," rather than Barry.

Even so, Barry Jr. says that he was quite content to grow up in Worth's shadow. Explaining Barry Jr.'s yearningly tender feelings for his brother, Sallie says that Nursie once told her of a time when Worth and Barry were quite small and were gazing together at the night sky at Melcombe. "You can have the moon and all the other stars," Barry told his older brother, "but just let me have the evening star."

Sarah Bingham, whom the family called Sallie, was born in 1937 and was quickly recognized as the writer in the family, sending poems to her father during World War II and carefully printing them in a red leather book that he sent to her from London and that she still has.

Sallie says she always considered herself to be an outsider, a person apart from Worth and Barry, who were nearly inseparable. It was only later, she said, that she came to realize—and to resent—that she had been groomed by her parents for a supportive, woman's role, in contrast to her brothers, for whom management positions in the family business were assumed.

But as a child she grew particularly close to her father, and he to her, in part because she did not go away to prep school, as did her brothers. Night after night, Barry Sr. would read to her from the works of Dickens and Mark Twain. As a writer, "she was always very productive," he says. "She's a strong person and her feelings have been strongly expressed through the years."

The two other children, Jonathan, born in 1942, and Eleanor, in 1946, were raised almost as a second generation of children within the family. "Jonathan was probably the most brilliant intellectually of all," Barry Sr. says. A quiet child, he seemed drawn to science and medicine, while Eleanor was active, outgoing and gregarious. "She's never been the lonely, artistic person that Sallie was almost from the beginning," the father says.

In the Bingham tradition, Worth and Barry graduated from Harvard, and Sallie from Radcliffe, magna cum laude. Eleanor graduated from the University of Sussex, drawn to England as her aunt and uncle had been.

At college, Sallie had unusual success as a writer, and by 21 she had a three-book contract with Houghton-Mifflin. A novel, "After Such Knowledge," was published in 1959. In 1960, one of her short stories was selected for a collection of "Forty Best Stories From Mademoiselle," and she seemed headed for a successful writing career. She married and moved to New York, with no intention of involving herself in the family business or returning to Louisville.

Worth and Barry Jr. also were on their way. By the early 1960's Worth was working at the newpapers. Barry Jr., who had slimmed down as a rower at Harvard and in the Marines, had developed a taste for broadcasting. He had worked as a broadcast journalist for CBS and NBC, then returned

to Louisville at his father's urging to work at WHAS.

Jonathan had dropped out of Harvard and soon after, in 1964, tragedy struck—the first of the Bingham family misfortunes that draw comparisons with the Kennedy clan. Living in Louisville again, Jonathan climbed a utility pole to tap electricity into a barn at Melcombe; his intent was to illuminate a reunion of the members of his boyhood Club Scout troop. When he tried to make the connection, he was electrocuted. He was 22.

Two years later, Worth, age 34, was driving a rented car with his wife, Joan, and their two children early one morning during a vacation in Nantucket. To accommodate a surfboard, the windows of the car had been rolled down and the long surfboard protruded from both sides of the car. When Worth drove too close to a parked car, the right end of the surfboard struck the car. The surfboard, in a snapping pivot, broke Worth's neck, killing him with a sort of karate chop.

For Mary Bingham and Barry Sr., whose brother and sister had passed away in the two years between Jonathan's and Worth's deaths, the tragedies were incalculable. "There were times that I wondered if I would be able to keep on." Barry Sr. says. "Nature helps, and I drew great strength through the church." As always, he depended heart and soul on his wife."

KING HOLIDAY DEDICATED TO EDUCATION ACTIVISM

HON. MAJOR R. OWENS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 21, 1986

Mr. OWENS. Mr. Speaker, the nation has just celebrated the first National Martin Luther King Holiday. Dr. King is not only the first black American to be honored by a national holiday, but he is the first American to be so honored who neither fought in a war nor counted military victories to his credit. He held no political office and yet this nonviolent champion of equal rights and opportunities for all was to have a profound effect on the political life of this country.

The first celebration of Martin Luther King Day presented me, and the people of my district with a unique challenge. The 12th congressional district is the 10th poorest in the Nation. The unemployment rate among our youth is over 50 percent which is exceeded by the high school dropout rate. Within this context, those of us who had remembered Dr. King were called upon to develop a program which would make his ideals and values come alive for our young people. The 12th Congressional District Martin Luther King Commission was founded to continue Dr. King's work and further the ideals which he lived and died for. The commission developed a 5-year plan for youth development and educational excellence.

The five-year plan includes the development and organization of programs on nonviolence and peace, the development of youth talent in areas such as art, the improvement of basic student skills and academic performance, the development of youth sports and recreation and an increase in parent and student involvement in education. The emphasis of programs and competitions will be on the development of academic, artistic, and physical talents and abilities. Young people must be given the opportunity to develop all of their potential. The first community celebration featured student awards for essays, art, and high academic achievement by school athletes and cheerleaders.

Martin Luther King Day belongs to all Americans. He was a man of God who respected the beliefs of others. He was a ceaseless worker for peace on a global scale as well as for peace between individuals who have reacted with reflex suspicion and dislike toward one another. He was a husband and father who knew that he could not care for his own children without caring for all children.

The 5-year plan for youth development and educational excellence is being launched in the spirit of peaceful activism which was a major component of the civil rights movement led by Dr. King. The people of the 12th congressional district have resolved to take action and resolve the problems of education which plague their district. At the end of 5 years we expect to have students who display extraordinary performance in every area. We have dedicated ourselves to this effort in memory of Martin Luther King, Jr.

THE TAX BILL MAKES BAD ECONOMIC SENSE

HON. BOB LIVINGSTON

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 23, 1986

Mr. LIVINGSTON. Mr. Speaker, I believe the House of Representatives made a mistake when it passed H.R. 3838, the Tax Reform Act of 1985. Economically, it will cause a severe loss of capital investment in our industrial base. Regionally, the South and Louisiana specifically, this legislation creates a tax policy which retards investment and stymies economic growth.

Before the full House debate on the tax bill, I received a letter from Mr. R.J. Sharp, vice president of South Central Bell detailing the concerns that they and their parent company, BellSouth Corp., held regarding the bill. Mr. Sharp is opposed to the bill not only from his company's standpoint, but also because of the adverse impact it would have on the economic expansion in the South. Specifically Mr. Sharp states that the repeal of the investment tax credit and the lengthening of the depreciation schedules for equipment in the capital-intensive telephone industry are just two examples why they opposed this legislation. I appreciate their comments and arguments against the committee-reported bill and I would like to include Mr. Sharp's letter in the RECORD at this point:

SOUTH CENTRAL BELL,
New Orleans, LA, December 9, 1985.

Hon. BOB LIVINGSTON,
U.S. House of Representatives, Rayburn House Office Building, Washington, DC.

DEAR CONGRESSMAN LIVINGSTON: The tax reform program of this Congress began with goals of fairness and economic growth. The process of developing legislation that meets those laudable goals is extremely difficult in balancing diverse interests and needs.

Clearly one of the important issues has been a tax policy involving capital investment and the subsequent impact of that changed policy on economic development. To those of us who reside in the fastest growing area of the nation, a tax policy that retards capital investment retards our economic growth.

Twenty-three percent of the nation's population growth over the past 5 years, or approximately one-fourth, has been in the South. Forecasts indicate a continuing strong population growth trend in the South over the next decade. Many industries and businesses that are locating in our area require new facilities and are capital intensive.

To serve this growth in population and new business opportunity, BellSouth has a major capital program of over $2 billion per year to meet our areas growing requirements. In Louisiana, we have well over $3 billion invested in telephone plant within the state and will spend during 1985 well over $300 million with our construction programs. Obviously, these figures highlight the very capital intensive programs we have each year within the state. A tax policy that penalizes economic growth would have an unusual impact upon our area. BellSouth is concerned that trade offs in the current debate on tax reform may place a burden on those areas that are experiencing the greatest growth and require the greatest amount of capital development.

We support a national tax policy that continues the investment tax credit and provides for depreciation schedules that mirror competition and technological realities—both global and domestic. This policy will best serve our areas' growing economic base, meet the job needs of our growing population and assure a state of the art information-communication system for your constituents.

We hope that you will carefully consider this aspect of the tax debate as you prepare to vote on tax reform legislation. For the reasons outlined above, we respectfully request that *you not support* the recent tax bill approved by the Ways and Means Committee.

Yours very truly,

R.J. SHARP,
Vice President.
R.N. TRAVIS,
Assistant Vice President, Public Affairs.

UKRAINIAN INDEPENDENCE DAY

HON. WM. S. BROOMFIELD

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 22, 1986

Mr. BROOMFIELD. Mr. Speaker, we in the Congress know all too well the brief and tragic history of the Ukraine. All Americans and other citizens of the free world should know the sad story of that country. On a lovely building in this city is written, "Past is prologue; study the past." By knowing what happened to that once-free country, we will come to appreciate the fact that we must work to keep our freedom. If we take it for granted, it can be taken from us. I want to commend the Ukrainian Congress Committee of America for

its fine work in organizing the annual Ukrainian Independence Day celebration. This year the celebration will be held on January 23. I wish the committee success in its worthwhile efforts to mark this special occasion with a fitting program.

With their declaration of independence, Ukrainians demonstrated to the world that Moscow and Kiev represented two different nations and two different mentalities. Kiev represented the democratic concept of government based on respect for human rights and the dignity of man. Moscow represented not only totalitarianism, but also a godless force of destruction. The Ukraine, with a population of over 50 million, was the first victim of Soviet aggression.

Since the tragic Soviet occupation of that land, over 10 million Ukrainians have died in the defense of their country. Today, we in the free world pay special tribute to the brave men and women of the Ukraine who are still carrying forward, at great personal danger and sacrifice, the never ending struggle for independence, and freedom. Thanks to their unfailing bravery, the cause of human rights is being carried forward. Soviet violations of the Helsinki Final Act and the Kremlin's brutal imperialism in Afghanistan are stark reminders of the fact that the Soviet bear is still willing to crush and control its neighbors. The only policy capable of shaking the foundations of the Soviet empire is a policy motivated by the idea of individual and national liberty for all. It is this ideological weapon that the Communists fear most. Let our Government never pause in its struggle to win the independence of the Ukraine and keep Afghanistan free. With our help, the gift of freedom will be a reality for the imprisoned nations that encircle our planet.

There is also another group of people who deserve our praise. I want to pay tribute to the millions of Americans of Ukrainian descent who have given much of themselves to make America the great Nation that it is today. These hard-working citizens have toiled in farms and fields and sweated in America's industry to win a better life for future generations. Ukrainian-Americans treasure their freedom and respect the desire for freedom of others. They have not forgotten their brothers and sisters in the Ukraine who yearn for the liberty that we take for granted.

Let me again commend the Ukrainian Congress Committee of America for its admirable efforts in sustaining this struggle for human freedom. In the end, the power of the human spirit will triumph over the forces of oppression.

UKRAINIAN INDEPENDENCE DAY

HON. WILLIAM O. LIPINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 22, 1986

Mr. LIPINSKI. Mr. Speaker, as cochairman of the Democratic Council on Ethnic-Americans, whose goal is to bring traditional ethnic concerns and values to the forefront of the Democratic Party's agenda, I want to draw the attention of my colleagues to this observance of Ukrainian Independence Day.

Today, while over 50 million people live under Soviet domination in the land once known as the Ukraine, persons of Ukrainian heritage in the United States and the free world solemnly observe the inhumanity visited upon their homeland and people throughout its history by its captors.

While the Soviet Union would have us believe that their Ukrainian Soviet Socialist Republic is a fully sovereign state with constitutional rights for its people, the truth of the matter reveals a brutal and very different reality. The Ukraine as we know it today is but a colony of Soviet Russia with little, if any, local autonomy. Its constitution notwithstanding, petitions for true independence from the U.S.S.R. would be illegal and punishable by death.

For all practical purposes, the "sovereignty" that we remember for Ukrainians on this day is but a distant memory of the proud revolution that lasted from 1917 until 1922.

Historically, while the Ukraine fended off invasions and occupations for many years before the 1917 revolution, its long-held disputes with Russia set the stage for subjugation in the modern era. When the Ukrainian National Republic declared independence in 1918, the country found itself between Russian Reds and Whites. Without the benefit of foreign aid and surrounded by hostile forces, the Ukraine was ultimately defeated in a bitter struggle that left the Bolsheviks in control. At this time the Ukraine was once again reannexed to Russia, and the stage was set for incorporation into the Soviet empire. This association of the Ukraine with Soviet Russia has only caused pain, suffering and death for millions of Ukrainians, and stands as a lasting reminder to nations around the globe that fraternity with Soviet Russia always means occupation and an end to basic dignity and human rights. Indeed, the mass murders of Ukrainians that began with the Stalin era in 1929 are perhaps the starkest reminder of the lengths to which the Soviets will go to oppress those within their grip.

Under Stalin, the political killings that marked his first years in power were accelerated with the collectivization of agriculture. Meeting with the fierce resistance that has always marked the Ukrainian spirit, Stalin decided to force matters to a final resolution. The Ukrainian crop harvest of 1932 was confiscated by the Soviets causing a famine of genocide proportions.

By the end of 1933, millions of Ukrainians had died from this artificial, manmade famine.

During World War II, Ukrainians suffered greatly and were further victimized at the war's end when Stalin again requisitioned Ukrainian grain to feed Russia.

It is not possible to estimate accurately the human toll of war, famine, and state terrorism in 20th century Ukraine. From what little data are available, we do know that at least 15 million Ukrainians were left dead, and countless perished as a direct result of Stalin's atrocities.

Despite its history of persecution, on this Ukrainian Independence Day, we celebrate the enduring Ukrainian spirit of fierce pride and resolve for the future. Despite its suffering, the Ukraine's rich cultural heritage has never succumbed to Soviet domination and terror, although individual poets and writers such as Taras Shevchenko, and Mykola Khvylovy were officially suppressed and tortured.

In like manner, the practice of religion by Christians and Jews in Ukraine has survived repeated attempts by the Soviet authorities to extinguish it.

Mr. Speaker, Ukrainian-Americans join together with the people of the Ukraine, on this day, in remembering the atrocities they have endured. But perhaps more important, on this day, their voices rise up to proclaim that a people and its religion and culture will not be ended by Communist oppression. The true spirit of freedom that so embodied the brief and glorious Ukrainian Revolution of 1917–22 is still alive and will not die. This is what we honor on this important day, and this is what I urge my colleagues to remember and observe.

IKE'S LESSON, UNLEARNED

HON. JOSEPH P. ADDABBO

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 23, 1986

Mr. ADDABBO. Mr. Speaker, as the debate over how to balance the budget heats up, it is imperative that my colleagues join together to formulate a fair balance between the country's military needs and the needs of a strong, healthy economy. In his 8 years in office, President Eisenhower never stopped stressing the importance of striving for vigorous growth in the economy not burdened by a huge defict caused by a vast defense buildup. An editorial in the January 21, 1986, issue of the New York Times titled "Ike's Lesson, Unlearned" compares Ike's spending priorities with those of the present administration. I urge my colleagues to carefully study this important message.

IKE'S LESSON, UNLEARNED

A quarter-century ago, after guiding America through eight years of peace and prosperity, President Eisenhower delivered a famous farewell address. It is best remembered for warning against "the acquisition of unwarranted influence . . . by the military-industrial complex. But Ike's valedictory centered on a more fundamental theme: balancing defense spending with the needs of a healthy economy. None of his successors has ignored that advice more than Ronald Reagan.

During the Eisenhower years the Soviet Union and China were resurgent hostile powers that probed menacingly, from Korea to Berlin, for Western weakness. Ike came under incessant pressure from Congress and the armed services to increase defense spending. But even in the near-panic over the Berlin crisis and the Soviet launching of the Sputnik satellite, he refused to let the Pentagon budget unbalance the Federal budget.

Now, instead of a vigorous Sino-Soviet alliance Mr. Reagan faces an independent China and a Soviet Union whose ideology has grown unsalable abroad and unserviceable at home. While America could not have long maintained its huge margin of nuclear superiority of the 50's, it has pushed far for-

ward in everything else that matters—most notably a healthy, innovative economy. Yet in the dream of regaining the strategic margin, Mr. Reagan has put the economy at risk. Instead of a steady and sustainable improvement in defense he has embarked on a crash buildup, financed by vast deficits.

Like Mr. Reagan, Ike viewed the Soviet Union as a ruthless adversary. But he judged endurance and an economy unburdened with deficits to be the essential response, not "emotional and transitory sacrifices." Like Mr. Reagan, he heard Edward Teller, the hydrogen-bomb maker, urge development of new kinds of nuclear weaponry. But he knew enough about weapons to impose his own judgments of military necessity. When the Air Force pressed for a nuclear-powered aircraft, Ike wondered if the next proposal would be to put wings on the liner Queen Elizabeth.

He would surely have rejected a "Star Wars" missile defense. When the Gaither Commission recommended its contemporary equivalent, a $30 billion program of civil defense, Eisenhower turned it down flat, with his usual lecture about balance, avoidance of panic and the danger of becoming a "garrison state," notes Stephen Ambrose, the historian.

Ike knew the difference between national security and service rivalries. "Some day," he wrote to his friend Swede Hazlett, "there is going to be a man sitting in my present chair who has not been raised in the military services and who will have little understanding of where slashes in their estimates can be made with little or no damage. If that should happen while we still have the state of tension that now exists in the world, I shudder to think of what could happen in this country."

Mr. Reagan and Secretary of Defense Weinberger have given the armed services everything each demands, without discrimination or overall plan. In the process, Mr. Reagan has run up crushing deficits and doubled the national debt.

Mr. Reagan faces a more complex world than Ike. His deficits, defense spending and refusal to raise taxes serve his goal of reducing domestic spending. His strategic buildup has caught Soviet attention and may yet secure a significant arms agreement. But the buildup and the deficits are high-risk departures from Ike's advice. If these gambles fail, Mr. Reagan will have launched a furious renewal of both the arms race and inflation.

TRIBUTES TO MARTIN LUTHER KING, JR.

HON. MEL LEVINE

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 21, 1986

Mr. LEVINE of California. Mr. Speaker, this past Monday in Inglewood, a city I am fortunate to represent, I participated in a very moving march and ceremony to honor Dr. Martin Luther King, and his dream. The highlight of the ceremony for me was the reading by two inspired children, a 12th grader and a 5th grader, of tributes they prepared about Dr. King. These two children delivered the prize winning speeches in a competition sponsored by the Inglewood City School System.

I believe that Dr. King would have been moved and gratified, as I was, to hear those eloquent young people working today to help achieve his dream.

One of the prize-winning speeches was prepared by Jarrod Johnson, a 5th grade student who is now being taught by Mr. Richard Barter and Mrs. Susan Atkins. Ms. Georgia Klaras is the principal of the Worthington school.

Michell Shields, a senior at Morningside High School, delivered the other prize-winning speech. Ms. JoAnn Jolly Sparks serves as Michell's counselor and Jerrie Martin is the principal of Morningside High.

I insert copies of these powerful tributes to Dr. King by Jarrod and Michell in the RECORD at this point, and I urge colleagues to take the time to read them. When you do, you will be as inspired as I was in hearing them delivered.

THE FOLLOWING IS THE TEXT DELIVERED BY MICHELL SHIELDS, MORNINGSIDE HIGH SCHOOL, 12TH GRADE

Blacks have been repressed for more than 200 years. Ever since the first shipload of indentured servants sailed to the English North American colonies in 1619, all black people were titled slaves and treated as third class citizens, under the second class poor whites of course. But over the years, there have been many people to help rectify this situation of blacks. A few of the best known are: Frederick Douglass who wrote the North Star paper during the middle 1800's, telling of the injustices faced by slaves; Harriet Tubman, who helped more than 200 slaves escape during the Civil War; and Booker T. Washington, who founded the now prestigious Tuskegee Institute for blacks in 1881.

But blacks were not the only ones sympathetic to the problems faced by slaves. One of the most famous and important was our 16th President, Abraham Lincoln. In 1863, President Lincoln signed the Emancipation Proclamation Act that freed the slaves. But were they free? Were they treated equally in society? Needless to say, they were not.

Blacks were not the only ones persecuted because of people's ignorance for the God-given right to be treated equal. There were the Indians, who were forced to leave the now America by the English and British, all the way through to the Jewish people in Nazi Germany during the Second World War.

Many began to wonder when would all the injustices end? Everyone has the unalienable right to be treated equally in all aspects of life. But one, a man who did not just sit around wondering, decided to get out and help the cause. He had a dream. It was a dream deeply rooted in the American dream, that one day this nation would rise up and live out the true meaning of its creed, and he held these truths to be self-evident, that all men are created equal.

Dr. Martin Luther King, Jr. did have a dream. He saw the abuses of people against people as a child. As he grew older, he started realizing different parts of his dream. By the time he was a young man, he started to preach his dream to any and all who would listen, and to those who would not. Upturned noses, closed ears, and big mouths did not keep Dr. King from preaching what he had to preach.

The time of most turmoil in his life was during the 1950's and 60's, but greatly because of him, bills were passed by President Johnson's Administration. The Civil Rights Act of 1957 started the United States Civil Rights Commission to stop voter discrimination and gave the Attorney General power to go to Federal Court about any known interference with the right to vote. And the Civil Rights Act of 1960 started voting referees to help qualified voters to register and vote.

But the cause continued. On August 28, 1963, over a quarter of a million people from many nationalities, races, religions, and beliefs all came together to support the dream for all to be equal in the historical March on Washington. Miraculously to some, but unsurprisingly to others, the event did greatly affect the Kennedy Administration that was in office during that time. The Civil Rights Act of 1964 was passed that forbid any discriminatory voting registration requirements, and also, the Voting Rights Act of 1965 that charged that the state's poll tax law for voting was unconstitutional and suspended it from being used in any state.

Blacks have come a long way since the days of the back seat of the buses and separate drinking fountains, but as always, there is still a long path to be traveled. Discrimination is not on paper or signs anymore, but unfortunately, it is still in the hearts and minds of many. For some older people, discrimination is on the skin bruised; for some younger people today, discrimination is in the mind confused. Nevertheless, the dream continues to live by many means, whether it be USA for Africa and Live Aid, a variety of musicians coming together to help starving people in Africa; or concerned Americans wanting to help persecuted immigrants—the dream is still there, people helping people for a better way of life.

It does a heart good to see the concern, love, and devotion people put out everyday in causes, be it save the whales or save the world. Some say it is a fad, but faith and spirit can never go out of style. As long as we keep the faith, hope, and dream, someone will always be there for the people in the world.

Yes, the dream does live and through many ways—through music by Stevie Wonder, through religion by Reverend Jesse Jackson, and through a great man's and husband's spirit, by Coretta Scott King.

Today is a day that has been long overdue—17 years overdue since the time of Dr. King's death. Today marks the first time that Dr. King's birthday will be celebrated as a national holiday.

Yes, blacks have come a long way since 17 years ago, and many have died never knowing just how far we have come. But we still have to keep striving for the culmination of Dr. King's dream for all to be equal. Though in the end, only God Himself will be the equalizer for that. We all should try everyday to give Him a little less work to do, through patience, openmindedness, and understanding for all those who are not different from us, but the same as us, all living a dream to be equal.

THE FOLLOWING IS THE TEXT OF "LIVING THE DREAM" BY JARROD JOHNSON, WORTHINGTON SCHOOL, FIFTH GRADE

Dr. Martin Luther King, Jr., was a man that had a dream that one day people of all nations, races, and religion would come together as one and live as brothers sharing each other's lives, giving of themselves not just one day out of a year, but each day of their lives.

Although Dr. King died before I was born, I have heard and read a lot about him; what a great man he was to try and make * * * but he took on the responsibility himself be-

cause he knew by being a spiritual-minded man and believing and trusting in God, all things are possible.

Many times there were obstacles put in his way to discourage him but he never gave up the dream that one day all men will be treated equally—not judged by the color of their skin or by how much money a person has, but by his abilities as a man.

Many times he was put in jail, even beaten, but he never gave up because he knew someone had to try and he knew that his dream had to come through and he was going to do everything in his power with the help of God, and with the help of other people who wanted the same things that he wanted to come true. One day all men, women, and children would enjoy a life of success, joy, and happiness. This world was created not for some of the people but for all of the people.

One day they succeeded in taking his life. That's all they were able to take away from him. They were not able to take away his dream or his beliefs. No, Dr. King's death was not for nothing. Because today we children are the ones who are living the dream. We no longer have to sit in the back of the bus. We do not have to enter the back door of a restaurant. Yes, we are the ones who are benefiting from that dream. My mother sometimes sits and tells my sisters and brothers and me how it was in the old days. Before integration, blacks were separated from whites in schools, where they worked, and where they ate as well.

Now because of Dr. King's hard work and because of that dream that he gave his life for, we are living that dream. Today children of different races are free to go to schools where they want to. Because of that dream we can learn all we can and enjoy our life and live wherever we want to. Dr. King, we thank you from the bottom of our hearts for not giving up on dreaming and your honest belief that your dream would and could come true.

NO IRS BIG BROTHER

HON. DON EDWARDS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 23, 1986

Mr. EDWARDS of California. Mr. Speaker, Americans pay their taxes more faithfully than perhaps the taxpayers of any other country, one reason being that most taxpayers believe their tax information is confidential. Now they are finding that it is not, that an obscure 1985 law authorizes the IRS to withhold tax refunds due to people allegedly in default on government loans.

Mr. Speaker, the following editorial from the San Jose Mercury News points out the problems arising when the IRS is turned into a policeman.

[From the San Jose Mercury News, Jan. 14, 1986]

NO IRS BIG BROTHER

Those federal deficits, that went over $100 billion for the first time in 1982 and topped $200 billion for the first time in 1983, led Congress to pass the Deficit Reduction Act of 1984, which had absolutely no effect on the deficit, now projected at $220 billion for 1986.

Nevertheless, hidden away in that irrelevant act was an unnoticed provision just now coming into effect: Starting with 1985 tax returns, the Internal Revenue Service is to withhold any tax refunds due to people allegedly in default on government loans.

It is not to condone deadbeats to say that this is a lousy idea, which should never have been passed and should be dumped after a two-year trial period. The job of the IRS is to collect taxes and ensure tax compliance—not to become ex officio courts to try, convict and fine people who allegedly owe the government money on non-tax related matters.

According to the Office of Management and Budget, the IRS's new police function will be used to get at some 650,000 individuals in default on $1.3 billion for past and present student loans to the Department of Education.

Another 100,000 people are targeted for allegedly being in default on loans from the Department of Housing and Urban Affairs, Small Business Administration, Veterans Administration and Agriculture Department.

So what's wrong with using one government agency to collect for defaults to another? In our view, several things.

First of all it is interesting to note the testimony of Roscoe Egger, the IRS commissioner, in hearings last September before the House Ways and Means Committee.

Noting that a 1982 law had mandated the IRS to withhold refunds due to people allegedly delinquent in child support payments, Egger testified that IRS studies showed that people thus fined were "twice as likely to become non-filers and three times as likely to have a tax delinquency in the following year."

Thus the first thing wrong with using the IRS as a policeman is that it doesn't work. People stop filing or start filing late, costing the government money on both accounts.

That's the short, technical reason we don't like the idea. But there is a philosophical one that goes deeper.

Why did those people stop filing or start filing late?

According to Egger, it is because most taxpayers believe their tax information is confidential. To turn the IRS into a policeman "violates their trust" in the tax system. This attitude, "right or wrong," he said, "is real."

Big government is bad when it begins resembling the monolithic state envisaged by George Orwell in his classic "1984" (ironically, the year this provision was passed).

Let the IRS collect taxes. If the federal government wants to go after deadbeats, it can do so the way everybody else does it—through bill collectors and legal claims. The IRS has enough to do—and faces enough opprobrium as it is—without being turned into Big Brother.

STEPHEN BACCUS

HON. WILLIAM LEHMAN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 23, 1986

Mr. LEHMAN of Florida. Mr. Speaker, in the 17th District of Florida there resides a young man who is a remarkable example to our youth and to all of us. What he has done demonstrates not only God-given talent and ability, but his own commitment to himself, his family, and society. On January 19, 1986, Stephen Baccus graduated from the University of Miami Law School. At the age of 16 he is the youngest person ever to graduate from law school. This latest accomplishment tops the fact that at the age of 12 he was the youngest student ever to enter New York University. At 14 he graduated with honors from the University of Miami with a bachelor of science degree in computer science and math. I expect that he will some day be the youngest Chief Justice ever.

We are all proud of Stephen and I would like to insert in the RECORD part of the text of the invitation his parents prepared for the celebration of his marvelous achievement:

We the People of the United States of America, through the infinite wisdom of our founding fathers, have been endowed with the opportunity to excel in every aspect of life. An individual needs only to aspire and persevere in order to prosper. Stephen Baccus is one such individual. Yet, the day is rare when one achieves the heights of excellence as Stephen has. Let it be known that at the age of sixteen years, Stephen has become the youngest graduate of Law School in history. A special day in Stephen's honor is therefore declared * * *.

TOWARD A NATIONAL NUTRITION MONITORING SYSTEM

HON. DOUG WALGREN

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 23, 1986

Mr. WALGREN. Mr. Speaker, in the midst of this winter season, images of homeless and hungry people are appearing daily on television screens and in the press. The problem of hunger in this country is real. As a people, we have yet to realize its true magnitude.

Although private sources have estimated that 10 to 20 million Americans suffer from malnutrition, the number of hungry Americans cannot be found in official statistics. Until this problem is quantified, an effective remedy will not be created.

Good "nutrition" is hard to measure. The wide array of Federal, State, and local agencies concerned with nutrition confirm how important it is. But that same wide array of those involved has led to a wide variation in how different agencies approach nutrition. Data is now collected in accordance with each agency's own mission, often with little thought given to its relationship to other studies.

Until this monitoring activity can be coordinated, the true picture of America's nutritional status remains unclear. We now spend millions of taxpayers' funds in nutrition-related efforts in a wide variety of Government agencies. We have an obligation to spend that money responsibly, in a coordinated fashion.

We now have the opportunity to unify these efforts through a National Nutrition Monitoring System—now before us as H.R. 2436, titled the National Nutrition Monitoring and Related Research Act of 1985. Through this structure, information would pass in a streamlined fashion through a central body where a data base would be maintained from which policy decisions can be made.

I would like to introduce into the RECORD an editorial by Lynn Parker, senior nutritionist at the Food Research and Action Center which

appeared in the Pittsburgh Post Gazette. I urge my colleagues to consider the beneficial effect which H.R. 2436 would have on monitoring and enhancing the nutritional status of our citizens.

[From the Pittsburgh Post-Gazette, Nov. 26, 1985]

(By Lynn Parker)

NO NUMBERS ON HUNGRY PEOPLE

WASHINGTON.—How many Americans go hungry each day?

Nobody really knows and it's about time we found out. But so far, despite growing concern, there have been no official numbers from the government.

In 1983, then presidential counselor Edwin Meese III said about hunger in America: "I've heard a lot of anecdotal stuff but I haven't heard any authoritative figures." That's just the point.

Food-stamp rolls, emergency food program use and welfare applications strongly indicate that hunger in America has been steadily increasing over the last five years. Private studies have put figures anywhere between 10 and 20 million Americans suffering from malnutrition.

The Reagan administration's task force on hunger studied the issue for a year and came to the conclusion in 1983 that it couldn't be sure if there is widespread hunger across the nation. The task force attributed its uncertainty to the "lack of up-to-date data, [which] has made it impossible to assess whether the current nutritional status of the population has worsened over the last few years."

That's totally unacceptable in a country that can tell us how many toasters and food processors America uses each year.

Several physician and public-interest groups have conducted studies of their own on hunger in America, but these cannot be considered substitutes for continuous government monitoring of the problem.

As long as America's hungry remain uncounted, policy-makers will be able to use lack of data as an excuse for not making bold moves to combat hunger.

Members of the House of Representatives and the Senate often express frustrations about the lack of up-to-date information on the extent of hunger in our country. Some have called into question the credibility of private surveys documenting the problem.

The answer to the dilemma of not having authoritative and timely national data is a national nutrition monitoring system that would allow us to keep a watch over the nutritional problems in different sections of the country. The federal government could initiate such a system without creating any new bureaucracy simply by better coordinating the collection of nutrition information gathered by numerous government offices, from the Department of Agriculture to the Army.

The Department of Health and Human Services could take responsibility for coordinating the collection of all nutrition information and could continuously report to the Congress and the public on the nutritional problems of our population nationally, as well as by region.

The government is already doing this type of monitoring in several other areas of our national well-being: The Labor Department reports on employment, the Commerce Department reports on Gross National Product and leading economic indicators and the Centers for Disease Control reports on the incidence of illnesses.

The federal government could also provide technical and financial assistance to state and local governments in their efforts to pinpoint areas of hunger that may be overlooked even in the best national survey and use these as early-warning systems for national problems.

Congress has an opportunity this year to enact a national nutrition-monitoring plan. Reps. Buddy MacKay, D-Fla., Doug Walgren, D-Pa., George Brown, D-Cal., and Sen. Jeff Bingaman, D-N.M., have introduced legislation in the House and Senate to authorize the Department of Health and Human Services to coordinate all nutrition information for the government.

The Reagan administration opposed similar legislation last year, arguing that the program would be too "cumbersome" and inefficient.

In fact, the effect would be just the opposite. A system of coordinating would streamline the bureaucracy and help states and localities work together with the federal agencies to provide Mr. Meese and others in government with "authoritative figures" on which to base their judgments.

If we put such a program of continuous monitoring into place this year, we would be in a better position to fight hunger in 1985 and prevent hunger in the future.

ANDREI SAKHAROV

HON. TIMOTHY E. WIRTH

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 21, 1986

Mr. WIRTH. Mr. Speaker, today we recognize the sixth anniversary of a terrible event—the Soviet Government's condemnation of Dr. Andrei Sakharov and his wife, Dr. Elena Bonner, to internal exile in the closed city of Gorky. This anniversary is of special concern to the Congress and the international community because it marks our sixth year without one of the world's foremost advocates for human rights.

As a member of the European Conference on Security and Cooperation which monitors compliance with the 1975 Helsinki accords on human rights, I reject the Soviets' claim that Dr. Sakharov poses a threat to their country's security. The actions by the Soviets in Dr. Sakharov's case directly contravene their legal obligations under the Helsinki Final Act.

The Soviet Government's decision to allow Dr. Bonner to seek medical care in the United States could be viewed as a gesture of good faith. But its significance was undermined by the Soviets' order that she not speak out while in our country. We must also look beyond the public relations screen provided by Dr. Bonner's temporary release to the fact that her husband remains in ill health and requires urgent medical care. The Soviet Government must be compelled to allow Dr. Sakharov to enjoy the rights and privileges which he has sought so tirelessly for others.

The Soviet Union's refusal to provide information about the health and whereabouts of Dr. Sakharov serves to emphasize that country's inadequate concern for the rights of its citizens. This is a point which the House has repeatedly recognized by unanimously passing a series of resolutions on behalf of Dr. Sakharov, including one which I offered in June 1984.

Mr. Speaker, I take this opportunity to remind the Soviet Union that its temporary release of Dr. Bonner will not dilute our concern for her or her husband. I urge my colleagues to continue their campaign for the release of the Sakharovs, as well as for all Soviet prisoners of conscience.

GREAT SHIPS—FAIR PRICE

HON. G. WILLIAM WHITEHURST

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 23, 1986

Mr. WHITEHURST. Mr. Speaker, during the weekend of January 17–18, 1986, it was my privilege to participate in the Founders' Day celebrations commemorating the 100th anniversary of the establishment of the Newport News Shipbuilding Co.

The guest speaker at the dinner on Friday evening was Adm. James D. Watkins, Chief of Naval Operations, and I found his remarks so meaningful that I am pleased to take this opportunity to share them with my colleagues.

Anyone who shares my concern over the future of our national defense and the quality of our military equipment will be heartened by Admiral Watkins' words, but reminded that we cannot afford to lay back on our oars, else we will lose our hard-won advantage.

The article follows:

GREAT SHIPS—FAIR PRICE

It is indeed a pleasure to share founders' day and your centennial celebration, but maybe not for the reasons you might think. You might think I was invited here tonight because Navy is the largest user of Newport News products. Or, you might think I am here tonight to celebrate the 25th anniversary of the day Dwight D. Eisenhower coined the phrase "military industrial complex," which he did in his farewell address on January 17, 1961 . . .

Actually, I was invited to speak tonight because I had a brush with Newport News by birth—long before I joined the Navy. You see, my mother's father—George Clinton Ward—knew and worked for your founder, Collis P. Huntington. Grandfather was a native of New York, where his first work was on the construction of iron bridges and in railroad engineering. Collis hired him because he had heard of his engineering skills, and made him chief engineer of the Racquette Lake Railroad in New York, which Collis owned. Collis used to brag about him so much that grandfather was hired away . . . by another Huntington, nephew Henry E., who as you know became one of the owners of Newport News upon the death of Collis in 1900.

At the turn of the century, grandfather modernized a water supply system in Ohio for Henry, who in 1905 persuaded him to move to California.

So, grandfather became the general manager of Huntington Land and Improvement Company in California. My grandfather became a close friend and confidant of Henry; in fact, my mother would chat with him for hours when he visited our family on Sunday afternoons in California. My sister, Arabella Huntington Watkins James, here with us tonight, was even named after

Henry's wife. So, the Huntington name has always been a living legend in our family, and I was honored when Ed Campbell asked me to speak on this special anniversary.

But, for another reason, this is also a homecoming of sorts . . . for Newport News shipbuilding is an important part of naval history. Seven Newport News-built warships were part of the Great White Fleet. By the outbreak of World War I, 20 percent of the Navy's total tonnage had been built by Newport News. Moreover, the history of World War II carrier operations in the Pacific is the history of Newport News ships—in great sea battles involving the carriers *Enterprise, Yorktown, Hornet,* and *Essex.*

Today, when crisis looms on the horizon, and a U.S. response is deemed prudent or necessary, it is often a Newport-News-built aircraft carrier asked to steam into harm's way on a moment's notice.

Earlier this month for example, when tensions boiled in the Mediterranean, after the tragic murder of passengers awaiting flights in Rome and Vienna, it was Newport News' own USS *Coral Sea,* 39 years young, that got the alert call. You obviously build them to last!

And, in 1981, it was USS *Nimitz,* epitome of airpower at sea, which launched aircraft to down those two foolish Libyan impediments to freedom who dared to fire the first salvo at our airplanes.

You were also in on the ground floor of submarine technology, pioneering in the business with construction of Simon Lake's earliest successfully operated submersibles in 1905. More recently, you delivered the lead ship of the USS *Los Angeles* class, the most highly-capable type of nuclear attack submarine in the world today. Seventeen of her sisters have been, or are being, built by you. I was just aboard one of your fine products, USS *Birmingham,* during a recent visit to Hawaii. Your contribution to national security for 100 years has been uniquely impressive.

Unfortunately, the world has changed since our youthful days. In 1904, a Newport-News-built ship, the battleship *Virginia,* was launched. A State holiday immediately was declared. In contrast, 75 years later, when boats of the *Los Angeles* class were launched, groups in certain cities honored with a namesake ship protested the event while others questioned the need for a strong navy, saying we should make do with less.

The need to convince all Americans just how important a navy—and a strong shipbuilding capability—are to the security of this Nation has never been greater. We must convince the misinformed of this at every misstep of their way.

Unfortunately, insofar as industrial capacity is concerned, we have not always been convincing and our time is running out. We are now down to about 25 major private yards. And, a recent study found that this number could shrink to 17 yards by decade's end if threatened reductions to proposed naval shipbuilding take place. Aggregate shipyard employment could then decline by more than 30 percent.

As we found before World War II, the task of trying to reestablish a shipbuilding industry after skilled craftsmen leave the yards and seek jobs elsewhere is both time-consuming and painful. And, time at the onset of the next conflict will not be on our side. Additionally, once shipyards are closed today and their gates locked, the most likely use for the property is development as high-rise condos and resort hotels. So, even the land is lost. Our endangered maritime industry species is indeed on the verge of extinction. We, as a nation, so dependent on the seas for livelihood, must be concerned.

How can we avoid this? Well, for those who have sailed, you know the only thing that overcomes instability is steady forward motion. That is what we need today. In the tough media environment and close public scrutiny of the 1980's, where defense critics seem to snipe from under every rock, this will take aggressive action and cohesive leadership from all of us who care about the future of American sea power.

For our part, Navy has instituted new management rigor and business acumen in our shipbuilding practices and accounts. We have pulled the reins in on our own inefficient practices of the past, such as the generation of a seemingly endless flow of change orders after initial contract negotiations.

What has been the result of these and related efforts? Between 1982 and 1985, we took delivery of more than 80 ships. Of these, almost half were delivered early, with nearly the entire balance delivered on time . . . and below cost projections. Over the same period, all our submarines were delivered on or ahead of schedule.

Newport News shipbuilding can continue to pick up the gauntlet of progress . . . to show by action that this Nation's maritime underpinnings can remain intact. As Virginia's largest employer, as the largest privately-owned shipyard in the Western Hemisphere, and the only yard capable of building our super carriers, you have in a sense grasped the baton of shipbuilding leadership. You must set the example, and show this Nation we still need good ships, built and repaired at fair prices.

As you know, the Soviet Union is now building their first true aircraft carriers, each about the size of one of your earlier products, USS *Midway.* The first ship of this class was just launched and is expected to be underway late in this decade. Now, I can guarantee one thing . . . she will be no match for the *Teddy Roosevelt* I saw christened at your shipyard last October. No, we're not overly concerned about Soviet competition in this Newport-News-Dominated area yet. But, you must never let up on helping us keep our lead over the Soviets in carrier air capability at sea. You must continue to produce quality products of proven worth, which taxpayers can also agree have come at a fair cost to them.

One of the surest ways to put ourselves out of business would be to lose the public's trust by doing otherwise. If the Nation ever thinks we in uniform and you in industry are indifferent to cost and quality, or that we, together, are "fat cats" feasting out of a cornucopia of defense dollar largess, we will certainly lose the public's confidence and, hence, support of the Congress. What a tragedy for our Nation would then ensue. Unfortunately, we already see some signs of this, with so much criticism in the media and elsewhere. So we must work doubly hard and fast to eliminate the considerable unfairness there and to reverse negative perceptions.

So, Navy will continue to work with you to obtain the best for the American taxpayer, turning out the finest ships possible for dollars they have invested. At the same time, we know that a just profit need not be incompatible with just stewardship of the public's money. This Nation was built on fair competition and product excellence, and our economy and Nation function best when these principles are upheld in the marketplace.

As is customary, the procrastinators club came out with their annual predictions for last year in January of this year. Naturally, every prediction was on the mark. But, we do not need to procrastinate another year in order to make our predictions for 1986. For we will surely founder again on the rocks and shoals of national neglect, as we did last decade, if we allow this Nation to think that we are wallowing in excessive profits and gross mismanagement. So, to predict and achieve the very opposite, we need but uphold the most rigorous standards so we can open ourselves to the closest scrutiny by all our citizenry.

The emphasis must remain on quality—on good ships. As never before, we need a navy built to last, built to carry our people in harm's way, win and return them home again safely. As we have all been reminded again just this week, when tensions build and crises flare, it will be Navy called to the fore, ordered to sail with the tide and bring U.S. force to bear. Our people—the best seagoing professionals in the world, bar none—deserve the best of America's technological genius. After all, our superb people and American technological genius are the two largest gems in our crown of superiority.

In 1893, your yard bid on its first naval contracts for three small gunboats. There was some protest that you lacked the experience needed to build these ships. But your young yard was awarded the contract because your bid was the best.

About those early contracts, Collis Huntington wrote, "The price seems very low and more particularly so, as you know my feeling is that every ship we build . . . should be first-class in quality. What I want to do is to have for this yard the reputation of building the best ships. So do not make any calculations on scrimping the work on any of their parts."

Yes, there were some early losses on these contracts, but the motto stuck with the yard, and you became a standout among the Nation's most important shipyards.

If Collis Huntington had not taken such tough action, even in the face of possible short-term financial loss, the heroes of Midway and Coral Sea in World War II, and of the Gulf of Sidra in 1981, would not have sailed in Newport News' products. The payback for Nation and company was worth the risk and the effort put forth.

It should now be our task to cling to the motto and continue to accept the challenge of Collis Huntington for the next hundred years. The Nation's security and your future depend on it.

Thank you, God bless, and happy birthday.

AIRPORT SECURITY ACT

HON. DANTE B. FASCELL

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 23, 1986

Mr. FASCELL. Mr. Speaker, as we begin the second session of the 99th Congress, the Foreign Affairs Committee will resume its intensive consideration of ways to combat international terrorism. The committee has scheduled briefings on the implementation of the International Airport Security Act, which was adopted by the Congress last summer as part

of the foreign aid bill, as well as the recently announced findings of the Vice President's Task Force on Terrorism. The committee intends to continue its oversight hearings on ways to improve international maritime security, the ongoing Anti-Terrorism Training Assistance Program to friendly countries, and finally the threat of nuclear terrorism. In addition, the committee will continue to press for greater international cooperation against terrorism by exploring the feasibility of creating an international coordinating committee and other such avenues.

In this regard, I would like to commend to my colleagues a Washington Post article by Daniel F. Kohler of the Rand Corp. His article proposes an effective way for our European allies to support the United States economic isolation of Libya. Specifically, Mr. Kohler suggests that our European allies stop providing subsidized credits to Libya, which frees up Libyan currency to train international terrorists. In my judgment this approach would be an appropriate mechanism for our European allies to begin to take effective steps to enhance international cooperation to combat the growing scourge of international terrorism. As the administration discusses with our allies ways to enhance cooperation to combat terrorism, I would encourage them to carefully review and consider Mr. Kohler's suggestion in the following article.

A SANCTION THAT WOULD PINCH QADDAFI

STOP THE TRADE CREDITS

(By Daniel F. Kohler)

The United States has had enough, and the president has decided to impose economic sanctions on Libya. But the effect of these sanctions is likely to be little more than symbolic, particularly in view of the fact that our European allies seem unlikely to join in this effort. Economic sanctions don't work, they argue, and besides, the United States cannot expect them to prohibit profitable business relations with Libya solely on the basis of the tenuous circumstantial evidence linking Col. Muammar Qaddafi to the murders in Vienna and Rome.

There are some minimal sanctions, however, that we could expect the European governments to agree to because they would actually benefit economically from them, even though they may not recognize or admit it.

Not all trade is profitable for Europeans. Almost 20 percent of West European exports to Libya are financed with export credits that are officially supported and subsidized by the West European governments, particularly West Germany and Great Britain. The value of such export credit subsidies to the Libyan government exceeds $40 million to $50 million per year. You can train a lot of terrorists for $40 million.

The form that such subsidies take is usually a repayment guarantee to West European businesses or banks that give credit to Qaddafi. Such a guarantee affords the Libyans preferential access to West European financial markets to finance imports. With such a guarantee, Qaddafi can borrow deutschemarks in Frankfurt or pounds sterling in London at interest rates that are lower than what most West German or British firms have to pay. The outstanding balances on such guaranteed credits from West European governments to Libya have for the past four years fluctuated between $1.2 billion and $2 billion, which corresponds to $350 to $570 for every Libyan man, woman and child.

It is in the Europeans' interest to stop subsidizing the Qaddafi regime through preferential trade credits. True, discontinuing such subsidies might reduce the exports of those European firms that are in the business of providing Qaddafi with anything from management services to bombs and ammunition. Also true, the economic pinch of such a sanction is too slight to make Qaddafi wince. Libya can probably borrow from private banks even without government guarantees, albeit at a higher interest rate, or choose to offset any losses in officially supported export credits by selling more oil on the open market.

Nevertheless, a removal of Western credit subsidies might have some effect. Given that such subsidies are common practice throughout the world, and that the entire East Bloc as well as many other totalitarian regimes and dictatorships benefit from them, refusing them to Qaddafi would serve as an indication that he doesn't even qualify for that less-than-illustrious group.

Furthermore, if Qaddafi were forced to pay the risk premiums that private bankers would attach to unguaranteed loans to Libya, he would have to bear the costs of his irrational actions. Each new terrorist outrage, each additional confrontation with the United States would increase the probability of violent conflict and thus make Libya a worse credit risk in a private banker's eyes. That would lead to increases in Libya's cost of borrowing.

Finally, increased oil sales by Qaddafi could only be welcome, because they would reduce the West's energy bill. It is also difficult to imagine any action on Qaddafi's part that would be more resented by the Arab countries that currently seem to support him.

The main benefit, however, of concentrating on a removal of export subsudies as minimal sanction is that such a proposal cannot be refused by the Europeans on the same grounds as the more comprehensive sanctions requested by the Reagan administration. If removing the subsidies has no effect, then instituting the subsidies in the first place had no effect either. The relevant question becomes why the Europeans subsidize credits to the Libyans in the first place.

More important, removing the subsidies cannot be interpreted as an unwarranted intrusion into the free market by the government. Quite the contrary; it amounts to a freeing of trade between Libya and Western Europe. Any European banker who would like to lend to Qaddafi should be free to do so. Only don't expect the European taxpayer to come to his rescue if the loans are not repaid.

Admittedly, it doesn't speak highly for Western solidarity in the face of terrorism if all we ask our allies to do is stop subsidizing the countries that harbor the terrorists. However, it is certainly better to ask for and obtain a little cooperation than to ask for a lot of cooperation and be refused.

REFORMS MISSING FROM NCAA CONVENTION

HON. JAMES J. HOWARD

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 23, 1986

Mr. HOWARD. Mr. Speaker, earlier this month, the National Collegiate Athletic Association [NCAA] held its annual convention. This convention was to be the one during which university presidents regained control of their athletic departments and enacted necessary reforms. Unfortunately, it appears that talk of reform is becoming ever fainter.

An article in this week's Sports Illustrated stated that the recent movement by university presidents to take control of their athletic programs is losing momentum. It pointed to the fact that matters once deemed important by the presidents were not acted upon. These matters includes: assuring satisfactory academic progress, cracking down on booster clubs, correcting widespread abuses of special-admissions programs and shortening athletic seasons. The article goes on to quote a delegate as saying, "A lot of athletic directors figure they've successfully waited out the presidents. Unless the presidents fight back, NCAA reform is flat-ass dead in the water."

Of course, one could counter by saying that the NCAA did finalize proposition 48. This controversial plan establishes minimum grade-point averages and standardized test scores for incoming athletes. If an athlete fails to meet these standards, he is ineligible to compete in sports his freshman year.

Proponents of proposition 48 believe it will increase graduation rates, but I don't think that is necessarily true. There is nothing to suggest that graduation rates will increase just because some athletes are forced to sit out a year. Proposition 48 conveniently places the responsibility for the education of athletes solely at the high school level. It warns high schools that their graduates will be ineligible during their freshman year of college if they do not meet certain academic standards. It's too bad that the NCAA isn't consistent in handing out responsibility. If it was, it would hold its own member institutions accountable for the education of athletes at the collegiate level.

The heated debate over proposition 48 brought out good arguments on both sides of the issue. The fears of black educators that this policy will disproportionately affect black athletes appears to be valid. However, proposition 48 is now on the books and we should take steps to guarantee that those athletes arriving at college under the higher standards of proposition 48 will not be neglected or exploited.

In absence of such guarantees, I introduced H.R. 2620, the College Athlete Education and Protection Act. My bill is based on the premise that collegiate athletic departments are funded through tax deductible contributions of individuals. The reason these contributions are tax deductible is because they supposedly "advance education." My legislation would require institutions who take advantage of this favorable tax status to live up to

the commitment of "advancing education." Under my bill, schools failing to graduate a reasonable number of their athletes would lose their tax deductions.

This legislation fills the void created by NCAA policies. While proposition 48 requires higher standards for high schools and athletes, my bill will require the same of colleges and universities by ensuring that institutions educate their athletes.

Many have suggested that while my bill may have good intentions, it is not an area in which Congress should be involved. I strongly disagree with this assessment. I believe that Congress not only has the right, but the duty to ensure that federal tax deductions are being used in the manner in which they were intended.

The failure of the NCAA to address the problems facing intercollegiate athletics, as evidenced earlier this month, is forcing others to provide solutions.

COMPACT OF FREE ASSOCIATION

HON. ROBERT J. LAGOMARSINO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 23, 1986

Mr. LAGOMARSINO. Mr. Speaker, on December 11, 1985, the House approved the Compact of Free Association between the United States and the constitutional governments of the Federated States of Micronesia and the Marshall Islands. On December 13, 1985, the Senate also passed the joint resolution approving the compact. That legislation has also now been signed by the President, and the compact will take effect in accordance with its terms and in conjunction with termination of the U.N. trusteeship.

The compact is a comprehensive government-to-government agreement. Because of the exhaustive record created in connection with congressional review of the compact, I will not take the time on this occasion to review all of its elements or implications.

However, there is one aspect of the compact which I would like to address. I am referring to section 177 of the compact and the related provisions for settlement of all claims of Marshallese citizens arising from the U.S. nuclear testing program in the Marshall Islands following World War II. Upon personally reviewing the CONGRESSIONAL RECORD with respect to the compact, I discovered that last minute questions were raised regarding purported "constitutional issues" which some parties may seek to raise with respect to the section 177 settlement agreement.

If the section 177 agreement is challenged in the courts, it is the view of the Department of Justice and the Department of State, whose representatives testified on the section 177 agreement during our hearings on the compact, that the United States will prevail and that the constitutionality of this agreement will be affirmed. I tend to agree with the statements on this subject made in the section-by-section analysis of the compact offered by Senator MCCLURE, chairman of the committee which had jurisdiction over the compact in the Senate. In the December 13, 1985, CONGRESSIONAL RECORD at page S17651, Senator MCCLURE makes it clear that the section 177 agreement is intended by Congress to be a "full and final settlement of all nuclear effects claims." He goes on to remind us that those who are generating questions about the constitutionality of the settlement, including the espousal provisions, may be promoting protracted litigation rather than compensation for the victims.

Senator MCCLURE also refers to Senate and House agreement to expressly endorse the espousal provisions in section 103(g) of the resolution approving the compact. As a member of both the Foreign Affairs and Interior and Insular Affairs Committees of the House, the two committees which had original jurisdiction over the compact and section 177 agreement in the House, I participated in the agreement to which Senator MCCLURE refers. I can confirm that it was the intent of Congress that the section 177 be fully implemented strictly in accordance with its terms, and that the final version of section 103(g) of the resolution represents our rejection of the earlier versions of that provision.

In response to some of the questions that have been raised I would like to make the following statements:

As Congress prepared for review of the negotiated compact, the Congressional Research Service was asked to take a critical look at the document. That study was for the purpose of raising every conceivable question—in some cases even if somewhat farfetched or implausible—about all aspects of the compact, so that the members would be aware of all possible issues and potential problems. The CRS study done on the compact was useful, in that the document assisted the members in formulating questions that were submitted to the administration. However, it is a distortion to rely upon the CRS study of the compact without also looking at the administration's responses, as well as the transcripts of our hearings and the committee reports which also contain administration views on these matters. In the end, the Members of the Congress who were most actively involved with these issues, and I am included in that category, were satisfied that the administration had answered those questions. We came to the conclusion that the section 177 agreement is consistent with international law and U.S. constitutional practice. The fact that we recognize that courts may be asked by plaintiffs in some of the court cases to review the validity of the compact and the section 177 agreement does not alter the clear meaning of the settlement provisions or the provisions of section 103(g) of the resolution approving the compact.

There is one point that is seldom mentioned by those who purport to be concerned about the rights of the Marshallese claimants. I am referring to the fact that the percentage of people voting for the compact and the section 177 agreement was significantly higher in the atolls and islands of the Marshall Islands inhabited by claimants than it was in the Marshall Islands generally. The lawyers involved in these lawsuits visitied these atolls regularly and especially just before the vote and told the people to reject the compact and the section 177 agreement so that they could pursue their remedies in court. The choice presented to the claimants as voters was clear, and the U.N. report on the plebiscite finds that the people voted freely. The people knew exactly what their implications of their vote were, and they voted to approve the settlement as part of the compact. Again, most of the claimant groups voted to approve at a higher rate then the genreal population. Thus, there is no basis for the argument that the rights of the claimants were subsumed in the vote of the general population on the overall agreement. In the major population centers where claimant population is smaller, the vote for the agreement is lower than in the claimant atolls and islands. But even in the Marshall Islands as a whole the vote was decisive in favor of the compact and the section 177 settlement. This fact is too often ignored by those supposedly speaking on behalf of claimant rights.

There have been a lot of questions about the validity of espousal. The arguments we have heard questioning the espousal mechanism seem to have little connection with the factual and legal bases of the section 177 agreement. After considering the views expressed by all sides, it seems clear that when the people of the Marshall Islands, including the claimants, exercise their sovereignty through their constitutional government to enter into a settlement, and then these people, who retain their inherent sovereignty notwithstanding the fact that they are in a transition from non-self-governing status to self-government, expressly and specifically affirm that exercise of sovereignty in a free vote, then any conceivable test of international law with respect to the rights of the claimants has been met. I am referring generally to fairness and equity here. The espousal process itself is a government-to-government arrangement that is well-established and recognized under international law and U.S. practice. The Marshall Islands Government made its decision to espouse these claims, the United States recognized the authority of the Marshall Islands to make that decision within the context of its constitution and the state of affairs as the trusteeship is drawing to a close and the transition to self-government is nearly complete. The section 177 agreement meets all the legal tests I know of—and then some—by providing a tribunal for adjudication of additional claims, as well as recognizing the possibility of "changed circumstances" and future ex gratia measures. Anyone who studies the agreement, instead of listening only to the arguments of those who thrive on litigation, will recognize why Congress approved this very fair and comprehensive settlement.

LANDMARK NUMBER OF MILES PROTECTED ON THE APPALACHIAN TRAIL

HON. BEVERLY B. BYRON

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 23, 1986

Mrs. BYRON. Mr. Speaker, I would like to take this opportunity to say how thrilled I am that a grand total of 85.2 miles of the Appa-

lachian Trail has been protected as of September 1985. As the Appalachian Trail runs directly through my district of western Maryland, I have always taken a personal interest in the acquisition of trail land. My family has spent many happy times hiking portions of Maryland's 40.5 miles. My late husband, Goodloe E. Byron, both sponsored and supported legislation to increase funding for the trail's protection during his years in the Maryland State Legislature and the U.S. Congress. I am delighted to see that his dream has nearly come true.

For the RECORD, I am including a table that outlines exactly how much land was acquired this year. I am pleased to say that these numbers indicate that, out of the Appalachian Trail's 2,096.3 miles, a total of 1,831.8 miles have been protected. That amounts to an 87 percent completion rate. I hope all of my colleagues will join with me in applauding the Appalachian Trail Conference and the National Park Service for their tremendous dedication to getting the job done.

TOTAL MILES PROTECTED BY SEPTEMBER 1985

State	NPS	State	Forest Service	Total
Maine	57.1			57.1
New Hampshire	.1			.1
Vermont	7.7			7.7
Massachusetts	1.9	.6		2.5
Connecticut	6.5			6.5
New York				
New Jersey				
Pennsylvania	2.9			2.9
Maryland		1.0		1.0
Virginia	3.3			3.3
Virginia/West Virginia	2.3			2.3

DR. DONALD MACDONALD BRINGS A SPECIAL PERSPECTIVE TO THE BATTLE AGAINST DRUG ABUSE

HON. C.W. BILL YOUNG

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 23, 1986

Mr. YOUNG of Florida. Mr. Speaker, in the 2 years since his appointment as Administrator of the Alcohol, Drug Abuse, and Mental Health Administration, Dr. Donald Macdonald, my good friend and constituent from Pinellas County, FL, has had a tremendous impact on our Nation's battle against drug abuse.

Based upon his family experiences, he has brought to the agency a special perspective to our Nation's drug and alcohol problems. His efforts within the Department of Health and Human Services have been noticed and well received and, as a result, his responsibilities have grown in his new position as Acting Assistant Secretary for Health. In this new role, Dr. Macdonald not only oversees the agency for alcohol and drug abuse, but also the Centers for Disease Control, the National Institutes of Health, and the Food and Drug Administration.

As a member of the Appropriations Subcommittee on Health, I know of the high esteem my colleagues hold for his work and opinions. The New York Times, in a profile yesterday, described Dr. Macdonald's unique qualifications and experiences which help set him apart from others. Following my remarks, I would like to include this profile because it is an example of how one man has taken his tragic experiences, learned from them, educated others, and now is in a position to directly influence Federal policy.

As a friend of Dr. Macdonald and his family for many years prior to his appointment, I have known of the fine qualities which now make him an important part of this administration. I'm pleased that in his current role, all the Nation can now benefit from his knowledge and expertise in these critical areas of public health care.

[From the New York Times, Jan. 22, 1986]

FOUND: A WARM HEART AMONG THE BUREAUCRATS

(By Jane Gross)

WASHINGTON.—Dr. Donald Ian Macdonald sees no point in containing his delight when the hot line rings in his office and the caller is a member of the Cabinet.

He also cannot imagine disguising the tears that fill his eyes when he talks of his son's recovery from a drug habit or of the similar ordeals of teen-agers he used to treat as a small-town pediatrician.

In a city of starchy bureaucrats, many of them jaded and cool, Dr. Macdonald brings a sense of wonder and emotional openness that has disarmed Government types who were skeptical when President Reagan appointed him two years ago to head the Alcohol, Drug Abuse and Mental Health Administration, a part of the Department of Health and Human Services.

Dr. Macdonald is now serving as Acting Assistant Secretary in charge of the department's Public Health Service, the division that oversees the drug abuse agency, the National Institutes of Health, the Centers For Disease Control and the Food and Drug Administration. And he is said to have made such a mark in Washington that he is on the "short list" of candidates for the permanent post.

"It's been a miraculous sort of life," Dr. Macdonald said one recent afternoon as he reconstructed an unlikely path that took him from an ocean-front pediatric practice in Clearwater, Fla., to a position where he is in charge of a $10 billion budget and 40,000 employees. "I'm like a kid discovering something new all the time."

Until the early 1970's, Dr. Macdonald's life was proceeding smoothly, with his practice flourishing, his four children entering adolescence and his wife active in local Republican political affairs. Then shortly after his 40th birthday, he passed into what he describes as "my male menopause," grew a beard, ditched his coat and tie and tried his hand at sailing and painting.

It was in this self-absorbed episode, Dr. Macdonald continued, that his son Andy, then 15 years old, "got in trouble" and was taken to a psychologist who detected the boy's drug problem. Unknown to his parents, that problem had escalated to a dozen joints of marijuana a day plus alcohol.

"The psychologist said, 'I can't help you because he's stoned,'" Dr. Macdonald recalled.

Andy Macdonald, now a 21-year-old prelaw student at Emory University, spent 10 months in treatment at Straight Inc., a drug-abuse program for adolescents that has spread nationwide from its base in St. Petersburg, Fla.

Stunned by his own ignorance as a parent and physician, and impressed with the Straight program despite periodic contentions that it is coercive, Dr. Macdonald wrote a book about drug abuse, began to concentrate on abuse among his patients and began an intensive tour of the country, lecturing on the subject.

In the process he met, and apparently impressed, Nancy Reagan, who has made drug abuse her White House mandate, and Dr. Carolton E. Turner, President Reagan's deputy assistant for drug abuse policy. They urged Dr. Macdonald's appointment to his first Federal post over the objections of those who doubted his qualifications, including Margaret M. Heckler, then Secretary of Health and Human Services.

Dr. Macdonald understood the objections to his original appointment and even agreed with his detractors that his management experience was limited, as was his background in scientific research, and that his affiliation with Straight had raised the specter that he was a zealot.

"People wondered why I wasn't angry," Dr. Macdonald said, "but everything they were saying was true."

"Now, I feel very comfortable here in having proved myself."

Dr. Macdonald, now 54 years old, brought to his job in Washington some of the lessons he had learned about drug abuse in teen-agers.

"The way to reach kids is not through their rotten behavior," he said. "A kid knows he's a bum. The way to reach a kid is to see pain, sadness, death. When you say, 'You look like you're hurting,' the response is amazing. They look at you like maybe you have something to say to them."

Parents, Dr. Macdonald says, are often harder to reach since a diagnosis of drug abuse seems to carry with it blame. The surest sign of trouble, he discovered, is a mother's response when asked when she last had a good night's sleep.

"You ask that question and they start to cry," Dr. Macdonald said, his own eyes filling at the memory. "They may have no understanding what's going on, but they know when their kid is in difficulty."

As he sits in the assistant secretary's office these days, Dr. Macdonald marvels at the nice things people are saying about him. Fred Coglan, an aide to Dr. Turner, for example, says Dr. Macdonald is a man "with no hidden agendas" and "a smile you can hear over the telephone."

When Dr. Macdonald first moved to his corner suite in the Health and Human Services building in downtown Washington, he regarded himself as "a neutral guy without aspirations," reluctant but dutiful about his temporary post. Then, he says, he felt the bubbling of ambition.

And now he is relaxed and enjoying the opportunity to hobnob with the country's leading scientists and health care experts and to carry out some pet projects, like the encouragement of programs affecting children and the recent appointment of an AID coordinator for the Public Health Service.

"One of the things I've loved seeing in Government is the balance between the amateurs and the pros," Dr. Macdonald said. "This is the way our country was started, by amateurs with high ideals and purpose."

LET'S ADD COMPONENT TO THE SUMMER YOUTH EMPLOYMENT PROGRAM

HON. PAT WILLIAMS

OF MONTANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 23, 1986

Mr. WILLIAMS. Mr. Speaker, in the 1st session of the 99th Congress, I was joined by over 80 of my colleagues in cosponsoring H.R. 1090, to add an education component to the Summer Youth Employment Program [SYEP]. Since then, I have incorporated suggestions from hearings on the bill and am reintroducing a new bill. In expanding the existing summer youth employment program this new bill will:

First, provide youth the basic academic and functional competencies,

Second, provide counseling on the connection between skills and job prospects,

Third, involve those who are behind in school in combined work experience and remedial education activities,

Fourth, develop individual remedial strategies for each young person to pursue during the school year,

Fifth, add a 90-percent hold-harmless provision to insure against shifts in allocations,

Sixth, allow those local service delivery areas under the Job Training Partnership Act [JTPA] to participate in this program if they so chose with incentives to do so,

Seventh, ensure that local areas can select and serve those youth in most need of remediation and,

Eighth, permit the operation of SYEP on a year around basis in those service delivery areas whose schools operate on a year around schedule so that youth are not prevented from participation based solely on the basis of what part of the year that they are in school.

This legislation requires no additional Federal dollars and is thus revenue neutral, since it requires that each private industry council [PIC] raise a limited amount of non-Federal funds (1.5 percent of the SYEP allocation) to pay for this effort. These locally raised funds would then be increased by the State from non-Federal sources or from existing Federal funds available to the State under section 202(b)(1) and (3) of JTPA and under chapter 2 of the Education Consolidation and Improvement Act of 1981.

This legislation was developed in response to research findings that:

First, economically disadvantaged youth are likely to experience decay in their achievement scores during the summer;

Second, a significant portion of the difference in learning from year to year between disadvantaged and advantaged youth may occur during the summer;

Third, disadvantaged youth who are behind one grade level or more in school are at-risk of dropping out of school;

Fourth, individualized, self-paced remedial instruction is effective and the preferred approach in reversing these trends with economically disadvantaged youth, and can produce modest and lasting gains in basic academic and functional competency skills; and

Fifth, when achievement scores can be raised during the summer, especially for youth aged 14–15, high school dropout rates may be reduced.

MARCH 1986—NATIONAL EYE DONOR MONTH

HON. FRANK J. GUARINI

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 23, 1986

Mr. GUARINI. Mr. Speaker, perhaps the best gift a person can give is a gift of sight. By being an organ or tissue donor, the lives of the suffering are renewed. Thanks to medical advances and increased national awareness of the benefits of organ and tissue donation, last year more than 25,000 Americans were restored to useful vision through corneal transplants.

This procedure has a 95-percent success rate in improving sight and can only be done with donated eye tissue. The procedure helps a wide spectrum of society. In 1985, a 9-day-old infant and a 103-year-old man were given this precious gift and can see today. However, thousands more people without vision could benefit from this operation but are not being helped because of a shortage of eye donations.

A united national effort exists to eliminate this shortage. The 88 eye banks belonging to the Eye Bank Association of America are committed to the goal of having a cornea readily available for anyone suffering from corneal blindness. In 1986, the 25th Anniversary Year of the EBAA, these eye banks are intensifying their work to preserve medical standards of the highest quality, to promote organ and tissue donation, and to encourage research into the prevention and treatment of eye disease and injury.

The major barrier to the elimination of waiting lists for corneal tissue is the lack of public knowledge about organ and tissue donation. In particular, many citizens do not realize that all eye tissue is acceptable for donation, regardless of the donor's age or quality of vision. There is no substitute for human eye tissue. No synthetic cornea currently is effective. Thus eye tissue not suitable for transplant is used for research projects so valuable information can be gained to help the thousands of others with diabetes, glaucoma, retinal disease, and other eye problems.

Therefore, as we in Congress have done the last 3 years, it is fitting that we once again inform the public of the need for eye and tissue donations and encourage more Americans to become organ and tissue donors. By doing so, we designate March 1986 as "National Eye Donor Month" and call on all of our citizens to support this humanitarian cause with appropriate activity.

SILVERSTEINS CELEBRATE 50TH ANNIVERSARY

HON. GARY L. ACKERMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 23, 1986

Mr. ACKERMAN. Mr. Speaker, I rise today to honor the happy occasion of Abraham and Jeanette Silverstein's 50th wedding anniversary, which they will celebrate on Saturday, January 25, 1986.

Mr. Speaker, it is with great pride that I rise to record here a very special day in the lives of two wonderful people. The Silversteins are truly a shining example of the institution of marriage: it is an example from which we can all profit.

The Silversteins are now enjoying their retirement in Royal Palm Beach, FL, after residing for many years in Oceanside, NY. Abraham Silverstein was a salesman and buyer in children's wear in New York, and he reached the top of his trade, earning many honors. He was elected the first president of the Fabric Sales Guild, and also served as president of the Piece Goods Buyers Association. Jeanette Silverstein was actively involved in the Oceanside community, including a stint as president of the Oceanside Jewish Center Sisterhood. The Silversteins have three daughters—Carol, Doreen, and Eve—and seven grandchildren.

Mr. Speaker, the story of the Silversteins is a story we can all be proud of, because they are the kind of people who have made America great. I call now on all of my colleagues in the U.S. House of Representatives to join me in congratulating Abraham and Jeanette Silverstein on this joyous occasion, and in wishing then many more happy years together.

WHITE HOUSE UNCONCERN FOR DOMESTIC OIL INDUSTRY

HON. WES WATKINS

OF OKLAHOMA

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 23, 1986

Mr. WATKINS. Mr. Speaker, once again the White House has shown a total unconcern for the ramifications of international conditions on the domestic oil industry. The White House concerns are obviously more deep and compassionate for international money changers and developing countries than it is for one of the most fruitful, and revenue producing, segments of the American economy, an industry whose health is essential to national security and a thriving economy.

Mr. Larry Speakes, as reported in yesterday's Washington Post, said that falling world prices for petroleum are, and I quote, "obviously a problem * * * for all oil-exporting countries and can aggravate the problem of debtor countries." Again, Mr. Speaker, the Reagan administration is showing more concern for foreign interests than domestic ones, and independent domestic producers in Oklahoma.

Almost 3 years ago, on February 1, 1983, then Secretary of Treasury Donald Regan, the

budget director and the Chairman of the Council of Economic Advisors appeared before the Appropriations Committee on which I have the honor to serve. At that time, Mr. Regan said that while a reduction in the price of crude from $8 to $10 a barrel would cut the rate of inflation by at least 1 percent, it would add to the gross national product by about another 1 percent. Then he said, "We might have to take extreme measures of one type or another to shore up any failing banks or what have you, because we would not want the oil price drop to precipitate a bank's crisis."

At that time, I asked Mr. Regan if he would be willing to tell the oil producers of Oklahoma, and other oil-producing States, that they can take bankruptcy and belly up like Penn Square Bank did.

Mr. Regan told me that he felt sure that many of the wells drilled in Oklahoma and many of the new wells that will be drilled in the future can be profitable at $25 a barrel. "I see no reason why at $25 a barrel they couldn't be profitable now," he said.

Mr. Speaker, in 1982 the average rig count for Oklahoma was 621.5. that means there was an average of 621.5 rigs exploring for oil or gas, doing workovers, or servicing producing wells. This week, Mr. Speaker, the rig count in Oklahoma is 242.

An $8 to $10 a barrel drop in price means that Oklahoma will lose $88 to $100 million in revenue. A dollar drop in crude price means Oklahoma loses $11 million in revenue. Should the price of crude level off at $20, which is doubtful, Oklahoma will be losing around $6 million a month, or $72 million annually in revenues to the State, the Oklahoma Corporation Commission reports. Federal revenues also decline.

Mr. Speaker, my question is this: When the State of Oklahoma's budget, which is a balanced budget by law submitted by the Governor, incidentally, is based on crude oil priced at $23, and the budget is still shy a quarter of a billion dollars, what are we supposed to do?

Can Oklahoma apply to the World Bank or the International Monetary Fund? Can my independent oil producers seek relief through agencies to which, as I understand it, the American taxpayers are making possible 7.25-percent interest?

I told Mr. Regan then, I was shellshocked when he said, in essence, that bankruptcy of the domestic oil industry is good for America because it was good for consumers because of lower prices. If the wells run dry and no new ones are drilled, the consumers will have to rely on insecure and much more costly imported supplies from OPEC. Mr. Speaker, we've been down that road before. I am even further shocked that the only utterance we can get from the White House is their concern for oil-exporting countries and for debtor nations.

Mr. President, your silence concerning the recordbreaking number of bankruptcies and bank closures in the oil patch is deafening.

I ask, how about the oil exporting States, Mr. Speaker, and the thousands of banks that, like Mr. Regan suggested, did not loan full value on crude reserves collateral.

Mr. Speaker, last February I was at the White House while the President pitched us for more support for his military spending. I asked him then, and I ask him again, to endorse an import fee on crude oil and refined products, with the proceeds to retire the national deficit. The policies of this administration are not only ruining the domestic oil industry, they are also causing an unhealthy and extremely hazardous reliance on imported petroleum. Given the tenor of the Mideast * * * with madman Mu'ammar Qadhafi sitting on hair trigger in Libya, who knows what can happen. We know from history what can happen and how long it takes to get petroleum and natural gas from the ground.

The ramifications, Mr. Speaker, of further deterioration of the domestic petroleum industry can make the OPEC embargo of 1973–74 and its effects look like a Sunday school picnic.

Mr. Speaker, I suggest the White House should concern itself with assuring a domestic oil industry for national security purposes than plunging into those bottomless pits where billions and billions of dollars have been spent overseas, usually to create an economy which is in direct competition to U.S. industries. Thank you, Mr. Speaker.

HAZEN AWARD FOR EXCELLENCE IN CLINICAL RESEARCH

HON. BILL GREEN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 23, 1986

Mr. GREEN. Mr. Speaker, it gives me great pleasure to insert into the RECORD an article from the New York Times of November 8 focusing on the seventh annual Lita Annenberg Hazen Awards for Excellence in Clinical Research, administered by the Mount Sinai School of Medicine.

The $100,000 award is presented to a physician and his chosen research fellow, whose investigative studies have changed the medical profession's knowledge and consequent treatment of a disease. The 1985 recipient is Dr. Hugh O'Neill McDevitt of Stanford University, an immunologist and clinical investigator whose scientific achievements have had wide-ranging influence on our thinking about the interrelationships of genetics and the immune system—in particular, the genetic basis for susceptibility of individuals to specific diseases.

A new and more fundamental understanding of immunologically mediated disease processes and significant insights into their prevention have resulted from his original, precise, and scholarly experimentation. Dr. McDevitt's research is creative and his excellence as a mentor is known throughout the medical community.

[From the New York Times, Nov. 8, 1985]

TISSUE RESEARCH WINS AWARD

(By Harold M. Schmeck, Jr.)

Dr. Hugh O. McDevitt of Stanford University, an expert in research on the links between human tissue types and susceptibility to disease, was named winner of the $100,000 Lita Annenberg Hazen Award for excellence in clinical research yesterday.

The award is presented each year to a physician whose research is deemed to have "changed the medical profession's understanding and consequent treatment of disease." Half of each award goes to the winner; the rest is used to support work by a young medical scientist who is chosen by the award winner to join in continuing research.

Dr. McDevitt, an immunologist, was a pioneer in discovering that people who have certain tissue types have heightened susceptibility to a variety of diseases, including rheumatoid arthritis, insulin-dependent diabetes and multiple sclerosis.

"He has been responsible for many of the crucial discoveries that underlie the association between disease and the human leukocyte antigens," the award announcement said. Human leukocyte antigens, substances found on the surfaces of white blood cells, are used to define a tissue type as substances on red blood cells determine blood type.

USED IN ORGAN TRANSPLANTS

While blood types are determined mainly by the presence or absence of four substances, however, tissue types are more complex and depend on at least 80 substances on leukocytes, the white blood cells. The white cells are important in the body's immune defenses.

Antigen types first came to notice when they proved vital to matching a donor and a recipient in organ transplants. Dr. McDevitt and other scientists noticed that people who had certain leukocyte antigen profiles were more likely than others to develop certain diseases that involve malfunction of the immune system. In other cases, a person's type seemed to be associated with heightened resistance to one disease or another.

Dr. James F. Glenn, president of the Mount Sinai Medical Center, chairman of the award committee, said Dr. McDevitt was being honored for research bridging basic and clinical immunology that had "yielded significant insights into the possible prevention or cure of immunologically mediated diseases." The awards are administered by Mount Sinai School of Medicine.

Mr. Speaker, established in 1979 by Mrs. Lita Annenberg Hazen, the award is a reflection of her concern about the steady decline in the number of physicians choosing research over private practice in the United States. With the reduction of Federal funds for biomedical research, private sector funding, such as the award established by Mrs. Hazen, plays an increasingly important role in clinical investigation. We cannot underestimate the importance of cooperation between Government, industry, and the academic research communities in insuring the overall health of American scientific research during these difficult times.

We thank Mrs. Hazen for her wisdom and leadership in creating this award. We congratulate Dr. Hugh O'Neill McDevitt for his elegant research and devotion to teaching, and it gives me great pleasure to share with my colleagues my excitement about the most valuable discoveries that will come from the work made possible by Mrs. Hazen's award.

BALTIC FREEDOM DAY

HON. WILLIAM CARNEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 23, 1986

Mr. CARNEY. Mr. Speaker, I am pleased to introduce today a joint resolution designating June 14, 1986, as "Baltic Freedom Day."

The purpose of this resolution is to set aside a day of remembrance for the continuing plight of the people of Estonia, Latvia, and Lithuania, who have endured 46 years of foreign domination and suppression by the Soviet Union.

The United States has never recognized the illegal occupation of the Baltic States by the Soviet Union. Our Nation has expressed its outrage over the brutal deportations of thousands of innocent Baltic citizens into Siberia since 1940.

This resolution reaffirms the U.S. policy of nonrecognition of the Soviet takeover of these nations and stresses our continued support of the Baltic states' desire for independence, sovereignty, and freedom.

The resolution introduced today is this body's way of reminding the free world that there are nations and people who, despite 46 years of repression, have not given up hope for freedom. This resolution asks that we in this body remember, and that the President observe Baltic Freedom Day with appropriate actions to commemorate this day. It is a small price to pay for such large principles as human rights and self-determination.

Mr. Speaker, I hope that my colleagues will join with me in cosponsoring this resolution. Let us not miss this opportunity to stand with those who still dare work and hope for freedom in the shadow of Soviet domination.

THE FIGHTING FARMERS, NEW JERSEY FOOTBALL CHAMPIONS

HON. MATTHEW J. RINALDO

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 23, 1986

Mr. RINALDO. Mr. Speaker, some of the finest high school football in the Nation is played in my home State of New Jersey. The spirit of competition and the level of ability are second to none. From the hundreds of teams and thousands of players who engage in interscholastic football competition in New Jersey, the Group IV champion is generally recognized as the strongest team in the State. For the second consecutive year, the Fighting Farmers of Union High School emerged from the season playoffs as the No. 1 rated team in the State, according to the Star-Ledger rating system.

Under Coach Lou Rettino, Union extended its undefeated string to 22 games in capturing the State championship. This winning tradition is not new to Union High School. It has displayed similar achievements in baseball and other sports, and it has kindled a spirit of pride in the school and the community.

The discipline, hard work and desire to succeed that have inspired the players at Union High School will remain with them long after their athletic abilities have waned and the headlines on the sports pages have yellowed. These are qualities that will endure for the rest of their lives.

In a competitive world where the line between winning and losing is very clear, the Union High School players experienced the exhilaration of victory and personal triumph.

They played against some of New Jersey's finest teams, and won their championship game on a field so muddy that it was hard to distinguish the players. Union High School's Farmers not only won the State championship over the opposing Montclair Mounties, but they also defeated the weather and a sea of mud. It was a game that every player will remember.

I wish to congratulate Coach Rettino, the coaching staff and players, ranging from their great running back Tony Stewart, to the substitutes who participated in many practice sessions where there were no crowds to cheer them, but only the pride of being on the team and winning. They richly deserve the No. 1 ranking as New Jersey's best high school football team.

BIRMINGHAM CELEBRATES ITS JEWISH HERITAGE

HON. BEN ERDREICH

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 23, 1986

Mr. ERDREICH. Mr. Speaker, on Monday, January 27, 1986, the Birmingham Historical Society will celebrate Jewish Heritage Night, highlighting the many contributions that Jewish Americans have made to the economic and cultural vitality of the city of Birmingham and Jefferson County.

Although Jews make up less than 1 percent of the total population of Birmingham, with their rich heritage and religious beliefs, they have made major contributions to the city's business and civic community.

Business and civic leadership involvement led the Jews of Birmingham to be highly active in our county, and through the years they have served with distinction on many of the city's boards, councils, and commissions.

The Jewish community in Birmingham is rich in religious heritage, with Reform Judaism dominating as the primary tradition practiced at Temple Emanu-El prior to 1889. After that time, the quickly growing number of Jews from Europe and Russia who settled in Birmingham led to the establishment of an Orthodox congregation that came to be known as K'nesseth Israel, or Assembly of Israel. Temple Beth-El, with its mix of both a modern and traditional congregation, was established in 1907 and provided Jews from all religious and cultural backgrounds the opportunity to participate in synagogue life.

As strong supporters of economic growth and community fellowship through their active participation in business, education, the arts, and philanthropy, Birmingham's Jewish citizens have greatly enriched the city and the lives of all those who live there. I would like to congratulate all those participating in "Jewish Heritage Night," particularly the members of the Birmingham Historical Society, for their continuing recognition of the many ethnic groups and traditions that have made Birmingham the great city that it is.

IMMIGRATION REFORM LEGISLATION

HON. THOMAS N. KINDNESS

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 23, 1986

Mr. KINDNESS. Mr. Speaker, a front page story in today's New York Times reports that the President's Council of Economic Advisors will soon issue a report warning that proposals to punish employers of illegal aliens would have adverse effects on the Nation's economy. I ask that the article be included in the RECORD.

Most of us know that employer sanctions were a centerpiece of the immigration bill which the House passed last Congress; they will be included in the immigration reform legislation which the Senate passed in this Congress and which waits House action.

I agree with the draft report's assertion that employer sanctions are a faulted idea, but the sanctions themselves are only part of the picture.

What this news article did not discuss is the unfair burden the bill would place on the Nation's employers by charging them with the duty of policing the work force. The immigration bill pending before the House would require detailed recordkeeping by all employers—large and small, no exceptions—even if they don't come within 300 miles of an illegal alien and even if they have never hired an illegal.

I doubt that this additional Government regulation would accomplish anything other than headaches for employers and increased costs to the Immigration Service for processing all the new paperwork. Costs, I might add, that would be better spent policing our borders.

The time has come to take a look at this issue from another angle. Surely we can resolve the illegal immigration problem without burying employers, particularly those with small businesses, under an ocean of paperwork.

[From the New York Times, Jan. 23, 1986]

REAGAN'S ADVISERS SAY BILL ON ALIENS CAN HURT ECONOMY

PENALTY PROPOSAL CITED

Report says fining employers of illegal immigrants would be labor market tax

(By Robert Pear)

WASHINGTON.—President Reagan's Council of Economic Advisers warns in a new report that proposals to punish employers of illegal aliens would have adverse effects on the nation's economy.

Imposing sanctions on employers for hiring illegal aliens would reduce the national output of goods and services and would impose a new labor market tax on employers, the council says in a confidential draft of its 1986 report, to be submitted to Congress in early February.

The report undermines the rationale for a comprehensive immigration bill designed to

curtail the influx of illegal aliens by imposing penalties on employers who hire them. In the past, the Reagan Administration has supported such bills, including one passed by the Senate last September and awaiting action in the House.

RESTRICTIONS ARE COSTLY

But the Council of Economic Advisers said in a draft report that restrictions on immigration like restrictions on trade, are costly to employers and to the economy as a whole.

The report estimated that it would cost employers $1.6 billion to $2.6 billion a year to screen job applicants and weed out illegal aliens. The council did not give the basis for this estimate, which it called conservative.

The draft report, obtained today from a White House official, said there was no firm evidence that illegal aliens displaced native-born workers from jobs in the United States. The number of jobs is not fixed, the report said, adding that alien workers contributed to an overall economic expansion whose benefits were "widely diffused," in the form of lower prices, new job opportunities and higher profits for investors.

OUTPUT SAID TO BE INCREASED

The report concluded that immigration to the United States increased total employment and output in this country as well as the per-capita income of the native-born population. Conversely, it said, employer sanctions "would reduce employment and output."

The study generally does not distinguish between legal and illegal aliens in assessing their effects on the economy. It is nearly impossible to draw such distinctions from the available evidence, which suggests that the two groups affect labor markets in similar ways, the report said.

The main function of the Council of Economic Advisers, established in 1946, is to advise the President on economic developments.

Members of Congress have not yet received or read the report, so it is difficult to gauge its impact. However, the document appears likely to impede progress on the immigration bill, which is awaiting action in the House Judiciary Committee. The bill is sponsored by Representatives Peter W. Rodino Jr. of New Jersey and Romano L. Mazzoli of Kentucky, both Democrats. The Senate bill is sponsored by Senator Alan K. Simpson, Republican of Wyoming.

The report also seems certain to strengthen the hand of critics of the legislation, including Hispanic groups and farmers who have resisted tighter controls on immigration.

Albert R. Brashear, a White House spokesman, declined to comment on the report. "We don't generally comment on documents before they are released," he said.

Other Administration officials said the report reflected the views of Beryl W. Sprinkel, chairman of the Council of Economic Advisers. Confidential minutes of Domestic Policy Council meetings over the last six months show that Mr. Sprinkel has expressed similar views in that forum, challenging the "fundamental premises" of the Senate and House bills. But to date no member of the Reagan Administration has publicly expressed such doubts.

The Domestic Policy Council is an advisory body composed of Cabinet officers.

The draft report said that Americans who competed directly with immigrant labor might experience "job losses or wage reductions." Such losses, although "more visible than the economic gains," are outweighed by the overall increase in national output, which "increases the per capita income of the native-born U.S. population," the report said. In addition, it said, "The work of immigrants reduces the prices of domestically produced goods."

FARMERS HELPED BY ALIENS

The presence of low-skilled foreign workers in the United States "enables domestic business enterprises to produce goods profitably that would not otherwise have been produced here," the report said.

For example, it said the availability of alien workers had helped American farmers compete with their counterparts in other countries. Restricting the supply of alien farm labor would "increase the costs of farm production," it said.

In addition, the report said aliens often helped Americans perform their work more efficiently. "A scientist is more productive if there are assistants to wash the test tubes and type manuscripts," it said. "A worker with family responsibilities is more productive if there are others in the household to help with child care."

The House bill would require employers to ask all job applicants for identification documents to verify that they were United States citizens or aliens authorized to work in this country. Employers would be subject to civil penalties of $1,000 to $5,000 for each illegal alien hired. The Senate bill also provides for civil penalties.

COST TO EMPLOYERS ASSAILED

The economic report said: "The imposition of screening and record-keeping obligations, along with penalties for noncompliance, imposes costs on employers and employment agencies. These costs are the equivalent of a labor market tax. Such a tax falls on both legal and illegal workers. The most adverse employment effects are on workers with low skill levels, particularly on youths and minorities."

"To the extent that sanctions are effective in barring illegal aliens from employment, aggregate income and output will also be reduced," the report said.

TRADE ADJUSTMENT ASSISTANCE EXTENSION

HON. OLYMPIA J. SNOWE

OF MAINE

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 23, 1986

Ms. SNOWE. Mr. Speaker, today I am introducing legislation to extend trade adjustment assistance, an important program which was allowed to expire when the first session of the 99th Congress adjourned in December.

My home State of Maine has been seriously hurt by the flow of foreign imports into our country, particularly in the shoe industry. For workers who have lost their jobs as a result of foreign imports, the Trade Adjustment Assistance Program is a valuable source of vocational retraining, job search and relocation, and temporary financial assistance.

While the continuing resolution for fiscal 1986 extended funding for the training and job search portion of the Trade Adjustment Assistance Program, the weekly benefits were allowed to lapse. As a result, 458 people in Maine, and nearly 10,000 beneficiaries nationwide, had their weekly trade readjustment allowance [TRA] benefits cut off in December. This serious omission is one which must be corrected immediately.

Maine has made great strides in establishing programs to help dislocated shoeworkers and other dislocated workers make the difficult transition from the loss of a career to successful employment in a new field. Through counseling, education, job training, and job search assistance, Maine's dislocated workers are reentering the workplace.

However, for dislocated workers to spend time in school or other training, they need the monetary assistance provided by TRA weekly benefits. By allowing these benefits to be cut off, we fail to provide an incentive to workers to seek the assistance they need to reenter the job market. In essence, we are making the adjustment trade adjustment assistance intends to facilitate nearly unattainable.

The bill I am introducing is a simple extension. It will reauthorize the Trade Adjustment Assistance Program through September 30, 1989, making weekly benefits retroactive to December 19, 1985 when they were allowed to expire. No other changes will be made by this measure.

I urge my colleagues to join me in supporting the extension of the Trade Adjustment Assistance Program. Supporting this program is the very least we can do to show concern for America's workers who have lost their jobs because of the importation of foreign products.

IDIOSYNCRASIES OF FALL RIVER, MA

HON. BARNEY FRANK

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 23, 1986

Mr. FRANK. Mr. Speaker, one of the best, most interesting and freshest thinking journalists in Massachusetts is Bob Kerr who works for the Providence Journal. For several years now, Bob Kerr has been covering the city of Fall River. He has recently been transferred to other duties by the Journal, and one of his recent columns was a tribute to that very diverse and vibrant city. It's an excellent example of Bob Kerr's first-rate writing, and an excellent testimony as well to a great city.

The article follows:

[From the Providence Journal, Jan. 6, 1986]

A GUIDE TO FALL RIVER FOR THOSE WHO LOVE ITS IDIOSYNCRASIES

(By Bob Kerr)

The question will always come, I guess. Old acquaintances from other places often ease into it with, "Fall River? That place with all the old mills on the way to the Cape? That's where you live?"

Not-so-old acquaintances with not so-distant addresses are more scathing, some times scatological, in passing judgment on my decision to live where I live.

I'm getting tired of the defense because there really shouldn't have to be one. Those who don't understand will never understand because they won't take the time to go into the rich little corners of the city and find the people who make it the wonderfully

rough-edged, warm, funny, sometimes bizarre place it is.

They'll never meet Louis Sanft, who delivers Italian cookies on Christmas Eve and whom I had the honor of watching wrap up his 200th hour of hairstyling to mark the Bicentennial.

They'll never climb to the fourth floor of the Police Athletic League, on Franklin Street, and watch Libby Medeiros, a construction worker with a lot of patience, teach kids to box and throw in a few basic lessons on matters beyond the ring.

They'll never visit the big stone house on Rock Street and be charmed off their narrow-minded pins by Florence Brigham, the lady who preserves local history with a style not to be matched.

They'll never go to Billy's Cafe for a chourico sandwich and enough atmosphere to outlive a dozen fern bars.

They'll never have a lime rickey at Main Drug.

They'll never talk to a lady who has helped clothe thousands through her incredible ability to run miles of cloth through a power sewing machine.

They'll never watch the Durfee High School basketball team win yet another state championship.

They'll never talk to the wonderful couple who run the soup kitchen in the south end.

They'll never have a kielbasa plate at the Ukrainian Club.

They'll never laugh at a BMW.

They'll never go to that madcap city hall with the highway in the basement.

They'll never settle down with morning coffee and a radio talk show and marvel at the incredible local store of inventive opinion.

They'll never hang out on North Main, near Franklin, at noontime. They'll never hear Tommy Tanous play the trumpet or tell stories.

If I had the tour concession, I'd start at Jerry's Lodgings, on North Main Street, with a few words from Jerry Lawton, proprietor and champion of the mentally ill, who has given a home a dozens of people who have nowhere else to go.

Then, I'd pass the mike to my friend, Richard Thibault, who would talk about the simple joys of freedom after years of living in a mental hospital.

After picking up the obligatory sweaters at a mill outlet, some Portuguese sweet bread at a Columbia Street bakery and a chicken pie at Plourde's Bakery, on North Main Street, the tour would move on to the Belmont Club, a three-star standout in the regional quaffing guide.

A guy named Paul would talk about the New York Giants; a guy named Tommy would evenly sprinkle insults from behind the bar; and a guy named Dan would list the sins of the news media, all in the course of three frosty rounds.

We'd hit a few gorgeous churches, swing by the house on Second Street where Lizzie Borden did or did not fillet her parents with an ax, and then stop for some Portuguese food at one of half a dozen spicy choices.

We'd go "Up The Flint," "Down North" and "Out The Globe." We'd run some red lights.

Anyone wanting to leave the bus could do so on request. But they could never get back on. Like it or leave it. But don't knock it 'til you've tried it.

CREDIT CARD INTEREST RATE DISCLOSURE

HON. TOBY ROTH

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 23, 1986

Mr. ROTH. Mr. Speaker, Americans are daily being deluged with offers of credit cards. For the price of a stamp, a person can return a preapproved "application" and receive a credit line, immediate cash, travel insurance, and a host of extras certain to enhance the individual's prestige—and indebtedness.

Frequently, these applications are accompanied by full-color brochures and a friendly letter from the president of the institution offering the credit. There is, unfortunately, one item that is difficult to find in the attractive advertising. That is the cost of the credit card to the consumer.

To address this problem, on January 21, I introduced H.R. 4019, the Credit Card Interest Rate and Cost Disclosure Act of 1986.

Recent hearings before the Banking Committee's Subcommittee on Consumer Affairs and Coinage, of which I am a member, shed a great deal of light on the issue of credit card interest rates. Since 1981, the prime interest rate has declined to 9.5 percent. Fixed rate mortgages can now be had for under 12.5 percent. Personal loans are frequently available at a rate of less than 16 percent.

A recent Federal Reserve Board study, however, shows that credit card interest rates average 18.6 percent. Most of the largest credit card issuers have rates which exceed 19.5 percent. Thus, credit card interest rates exceed by more than 10 percent the cost of money to the financial institutions which offer them.

This year alone, Americans will pay $6 billion in interest on their credit card accounts on top of $3 billion they will pay in annual fees. If credit card rates were just 1½ percentage points lower—the same rate they were in 1980—consumers would save $700 million in interest charges.

The most obvious solution to the problem of high credit card interest rates is to set a cap on them. While an attractive idea on the surface, a rate ceiling has a number of serious drawbacks.

First, credit card issuers may begin limiting the availability of credit to only the lowest risks. Many people who deserve credit might well be denied it. Grace periods for paying unpaid balances interest-free might well be eliminated.

Second, if the profitability of credit cards slips to low levels, the issuer could shift costs to other types of loans or services. Thus, consumers may not be net beneficiaries of mandatory reductions in credit card rates.

The solution to the problem of high credit card interest rates is not an arbitrary cap. The key is improved marketplace competition. But marketplace competition is strangely lacking.

Although there are thousands of banks, savings and loans, credit unions, and retailers offering credit cards, interest rates are not coming down across the board.

Competition does not work when the seller is the price setter and the consumer the price taker. A large number of sellers does not guarantee a wide range of choices.

Lending rates are set arbitrarily by card issuers because the consumer is unable to judge with certainty the true cost of a product to compare it to similar products. Many people are unaware, for example, that all MasterCards do not carry the same rates of interest.

And many credit cards are not marketed on the basis of their cost to the consumer. The fact is that information concerning finance charges and fees is virtually hidden from view on many credit card solicitations.

In addition, most people are unaware that they pay the interest rate allowed in the State where the credit card company is located, not the rate allowed for institutions within the State in which they reside.

As the availability of credit grows in our society and the amount of consumer indebtedness grows, we must protect credit card users. An informed public is the best assurance that the marketplace will work effectively. Consumers can't make informed choices without access to all the appropriate information.

A recent survey by one of our colleagues indicated that there are financial institutions which offer credit card interest rates below the national average. I have no doubt that their interest rate is one of their prime selling points. But an institution which issued a credit card carrying a 19.8-percent rate and a large annual fee is much less likely to point with pride to the cost of its product. Unfortunately, most of this country's largest credit card issuers charge the highest fees.

The legislation I am introducing today would amend the Truth in Lending Act to require that any application or preapproved application for credit display prominently the conditions of credit. Those conditions include the annual percentage rate and finance charge, annual or other charges or fees, and whether there is an interest-free grace period. To the greatest possible extent, this information must be contained in an easy-to-read table.

Cost is but one item to consider in selecting an appropriate credit card. For some, card holder services are most important. But for the large percentage of credit card users, cost is major consideration.

Until credit card consumers become more selective and careful, there will be those who will satisfy their demand for credit, at whatever the price. We can give the consumer the tools needed to make an informed decision. This legislation will help consumers shop around for the best credit card terms they can get. It will help give the consumer a better idea of the true cost of going into debt.

OIL PRICES: A MIXED BLESSING

HON. MICKEY LELAND

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 23, 1986

Mr. LELAND. Mr. Speaker, I am sure we all have been following the rapid decline in the price of crude oil both on the international and domestic markets. Here in the United States, as late as November of last year, the price of

west Texas intermediate crude was $32 a barrel; now it is selling for as low as $20 per barrel on the spot market. This is a mixed blessing. For many motorists and home heating oil customers, this may result in lower fuel prices. However, it also spells potential disaster for the economies of the oilpatch States of Texas, Oklahoma, and Louisiana.

This situation does not bode well for both my home State of Texas and my home city of Houston. Analysis has shown that now that oil is selling at below $25 per barrel, every $1 drop below that price will cost Texas 25,000 jobs and millions of dollars in lost revenue. The economy of the city of Houston has been in decline for over 3 years now. I am fearful of what a collapse in domestic oil prices could do to my city.

Mr. Speaker, I would like to bring to the attention of my colleagues a story that appeared on the Associated Press newswire yesterday. It illustrates the horrific impact a large decline in crude oil prices could have on the economy of Texas and other oil-producing States.

NAIL BITING TIME FOR OIL DEPENDENT STATES

DALLAS.—The oil price plunge on the spot market has sent shivers through state officials in oil producing areas who may find themselves millions of dollars short in their state budgets.

Texas, for example, planned on oil being at $25 a barrel this year, and each $1 drop below that means the loss of 25,000 jobs, $100 million in tax revenue and $3 billion in gross state product, according to the state comptroller's office.

Oil on the spot market was trading Wednesday at less than $21 a barrel.

"We're just getting over the shock of seeing that $20 price on the spot market and looking with super concern at what's happening," said Tony Proffitt, tax information director in the comptroller's office.

A sustained price of $20 on the contract, on "posted price," market, where 95 percent of the oil business in Texas takes place, could mean a "devastating" loss of $750 million from Texas' $22 billion biennium budget, Proffitt said Wednesday, "and $15 would be a real deal, a real deal."

The story is the same throughout the oilpatch.

Louisiana was expecting a $150 million budget deficit with oil at $24 a barrel, and will lose an additional $50 million in tax revenue for every $1 below that, Mark Drennan, the Louisiana legislature's chief fiscal officer, told lawmakers Tuesday.

If the price continues to drop, Drennan said, more budget cuts will have to be made, and the impact will begin to be felt as early as February and March tax collections.

State economists in Alaska say every $1 drop costs the state $150 million in lost revenue, but recent price reductions have not substantially affected the state's economy.

And Oklahoma, which planned on an average price of $23 a barrel, stands to lose $33 million in tax revenue if the price drops to $20 or below, said Gov. George Nigh, who has pledged there will be no tax increases.

The price declines were accelerated by slack demand and increased output in recent months, leaving prices 18 percent lower in one week and 35 percent since November. Analysts say prices could drop below $20 a barrel if OPEC countries continue to aggressively chase market share.

One week ago a barrel of West Texas Intermediate, a major U.S. benchmark, cost $25.15 on the spot market, where surplus oil is sold on demand. The spot price closed Tuesday at $20.10. In November it has been $32.

Officials say the drop in prices on the spot market won't immediately translate into a major decline in the oilpatch since most transactions are done on contracts.

But the spot market decline may be a bad omen, they said.

"This could be either a mild shower or a very big rain storm. The clouds are right out there," said Proffitt. "Our concern now is what happens if all this spills over onto the contract market."

Prices on the contract market are still about $25 per barrel, Proffitt said, although Citgo Petroleum Corp. announced this week it was dropping the price it would pay for West Texas Intermediate by $1 to $24.50 a barrel.

Texas actually won't have to settle its state budget dilemma until the end of the currect budget Aug. 31, 1987, when tax increases or budget cutbacks might have to be made to account for lost oil-related revenue.

But Royal Lyson will feel the effects next month.

Lyson, regional sales manager for the N.L. McCullough Co., an oil field service firm in Midland, the heart of western Texas' oil-rich Permian Basin, said Wednesday he has already heard from nervous customers who have decided to postpone drilling because of the price drops.

At $20 a barrel, most independents would stop drilling and McCullough might lose 50 percent of its business, Lyson said. A price of $15 a barrel "would probably bankrupt us."

"It's nail-biting time," he said.

Officials say the price decline's effect on unemployment in oil-producing areas is hard to guage since unemployed workers may pack up and move to areas with more opportunity.

More than 65,000 people were employed in the Oklahoma oil and natural gas industry last December, when unemployment in the state was 7.1 percent. But Wayne Hugus of the state's Employment Security Commission said officials know only that sustained decline "would definitely increase unemployment."

California has 41,000 workers in the oil business, and Texas, where December unemployment was 6.8 percent, has already absorbed declines in the energy industry, U.S. Bureau of Labor Statistics economist Nic Santangelo.

If the price falls to $20 for long periods, he said, employment in Texas "goes down through the bottom."

And at $15, "you might as well roll Texas up and put it away."

IN PRAISE OF SPAIN'S FORMAL RECOGNITION OF ISRAEL

HON. ROBERT GARCIA

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 23, 1986

Mr. GARCIA. Mr. Speaker, on January 17, Spain formally recognized Israel. As one who actively worked to see these two nations formalize their relationship, I applaud both Prime Minister Felipe Gonzalez and Prime Minister Shimon Peres for their efforts to bring about this recognition.

In many ways, Spain is very similar to Israel. Both nations have emerged as prominent international forces on the strength of their people and their traditions. Each nation has struggled to achieve and maintain democracy, and in each, political debate is lively. Such debate is more than a function of the democratic process in Israel and Spain—it is a way of life.

Since 1982, Israel has had an informal mission in Spain. The two nations have had a number of cultural, scientific, and economic contacts. The January 17 agreement is the fruition of the growing relationship between Israel and Spain.

The whole question of diplomatic ties between the two nations has also been of personal interest to me. I can trace my ancestors back to Spain, and I grew up in a neighborhood populated by Jewish immigrants. In addition, the Jewish-American and Hispanic-American communities have a solid relationship. I have a bond with both cultures. Many of the members of the congressional Hispanic caucus, which I had the pleasure of chairing for 4 years, have visited Israel. In fact, the caucus sent a letter to Prime Minister Gonzalez in 1983, asking that Spain recognize Israel. I would like to briefly quote that letter, which accurately reflects my feelings on the subject of Spain's recognition of Israel:

DEAR MR. PRIME MINISTER: Your recent election signifies a positive change for the people and government of Spain. It serves to emphasize the total emergence of Spain as a full, democratic partner in the community of nations.

As such, the political and diplomatic role of Spain has become increasingly important. We, therefore, request that your government review its present diplomatic situation with Israel. Since Spain maintains open relations with many nations regardless of their political perspective, it does not seem unreasonable to hope that your government would seriously consider having formal diplomatic relations with Israel.

The special relationship between Israel and the United States is well known, and the world is also becoming more aware of the growing influence of Spain in international affairs. Also, your country's unique heritage and geographical location put it in a position to act as a conduit between the Arab world and Israel. Any lessening of tension among these nations would be in the interest of not only the nations involved, and the United States, but of all nations dedicated to seeking peace in the Middle East.

I spoke to the Prime Minister and members of his cabinet several times about the question of diplomatic recognition of Israel. They always assured me that it would happen when the time was right. The Prime Minister is a man of his word.

Finally, as Foreign Minister Yitzak Shamir of Israel said about the recognition, "We congratulate the Spanish Government, and we hope that we will be able to develop meaningful relations in the diplomatic, economic, and cultural spheres." I too congratulate the people and government of both nations. It is also my hope and belief that this is the beginning of a long and meaningful relationship between the two nations.

TRIBUTE TO ED COYLE

HON. JAMES J. FLORIO

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 23, 1986

Mr. FLORIO. Mr. Speaker, I would like to bring to the attention of my colleagues the retirement from active public service of Mr. Edward F. Coyle, a distinguished community leader of Burlington County, NJ, part of my First Congressional District.

Ed Coyle has served Burlington County with honor and distinction for over 60 years.

As chairman of the Riverside Democratic Committee for 25 years, Ed Coyle helped lead our party through times of depression and war, prosperity and peace.

He was a cofounder of the Riverside Franklin Delano Roosevelt Democratic Club, a community based, grassroots organization that has encouraged enthusiastic participation in the democratic process.

Ed's strong leadership has been overshadowed only by his sincere concern for people and the community of Riverside. For the last 56 years Ed has been a member of the Riverside Fire Company and served on the Riverside Sewerage Authority Board of Commissioners.

Ed also served Burlington County as its treasurer for almost a decade.

On the occasion of his retirement after 6 years of tireless, dedicated service to the Riverside Township Committee and the people of Riverside, Ed's friends are hosting a tribute on February 2, 1986, at the Knights of Columbus Hall in Delran, NJ.

Mr. Speaker, I am sure my colleagues would be pleased to join me in honoring Ed Coyle for his commitment and service to Burlington County and its people.

THE 20TH ANNIVERSARY OF DECLARATION OF FREEDOM

HON. CLAUDE PEPPER

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 23, 1986

Mr. PEPPER. Mr. Speaker, today marks the 20th anniversary of a great Declaration of Freedom by 1,500 Cuban exiles who loved their homeland and who today are as committed as they were at Key West, FL, in 1966 to seeing the beautiful isle of Cuba released from the tyranny of Castro. In their Declaration of Freedom, these brave individuals dedicated themselves unequivocally to continuing their fight for democracy in Cuba and their dedication to this cause is still strong. Their ideals of freedom of worship, freedom of teaching, freedom of the press, and free enterprise for all the people of Cuba are ideals which we, as Americans, strongly share. I ask, therefore, Mr. Speaker, that the Declaration of Freedom, signed in Key West, FL, on January 23, 1966, by 1,500 dedicated men and women who longed to return to their fatherland and to see their fatherland a free, democratic Cuba once again be inserted in the CONGRESSIONAL RECORD following these remarks:

The declaration follows:

DECLARATION OF FREEDOM

In the City of Key West, Monroe County, State of Florida, United States of America, we, the Cuban exiles in the United States, in the name of God Almighty, and speaking both for ourselves and the oppressed people in Cuba, the Martyr Island, do say:

That on January 1st, 1959, the slavery yoke that came from Europe and was extinguished in Cuba at the end of the 19th century, was resumed.

That those responsible for this high treason to our Fatherland and to our People are just a score of traitors who, usurpating the Government of the Country have been acting as mercenary agents for the Sino-Soviet imperialism, and have surrendered to that imperialism our Freedom and our Dignity, also betraying the American Hemisphere.

That as a consequence of this high treason, those who are usurpating the Power in Cuba (as they were never elected by the People), are imposing a regime of bloodshed, terror and hate without any respect or consideration to the dignity of the human being or the most elementary human rights.

That in their hunger for Power, these traitors, following the pattern of totalitarian regimes, are trying, within Cuba, to separate the Family, which is the cornerstone of actual society, and at the same time, are poisoning the minds of the Cuban children and youth, in their hope of extending the length of time for this abominable system.

That the rule of the Law has been wiped out in Cuba, and it has been replaced by the evil will of this score of traitors, who are acting under orders from their masters, the Sino-Soviet imperialists.

In view of the aforegoing,

WE DECLARE

First: That the actual Cuban regime is guilty of high treason to our Fatherland and to the ideals of the Freedom revolution which was started on October 10th, 1868.

Second: That this score of traitors who have committed treason against our Fatherland, in case they survive the downfall of their regime, will have to respond, even with their lives before the Ordinary Courts of Justice of Cuba.

Third: That as the Noble Cuban People will not ever surrender, because that Nation was not born to be slaves, we, the Cuban People, hereby make the present.

DECLARATION OF FREEDOM

We hereby swear before God Almighty to fight constantly, until death comes to us, to free Cuba from communism.

The fundamentals of this Revolution for Freedom are:

First: God almighty, above all things, in Whom we believe as the essence of Life.

Second: The Fatherland, with all of its Laws, traditions, customs and history as a spiritual value, only surpassed by the concept of God.

Third: The Family, as the cornerstone of the Human Society.

Fourth: Human Rights, for each and every citizen, regardless of race or creed.

Fifth: The Law, as the foundation for the proper development of the Human Society.

Sixth: Democratic Government, with its three independent branches: Legislative, Executive and Judicial.

Seventh: Representative Democracy, through the exercise of Universal Suffrage, Periodically, Free and Secretive, as the expression of Popular Sovereignty.

Eighth: Freedom of Worship, Freedom of Teaching, Freedom of the Press and Free Enterprise.

Ninth: Private Property and Ownership, as the basic expression of Liberty.

Tenth: The improvement of living conditions for both rural and city working masses, with the just and necessary measures, keeping in mind the Legitimate interests of both Labor and Capital.

Eleventh: The derogation and eradication of anything which is opposed to the political and religious fundamentals aforementioned, and specifically, the abolition of Communism and any other form of totalitarian manifestation.

Signed and sealed in Key West, Florida, on the 23rd day of January, 1966.

PERSONAL EXPLANATION

HON. BILL ALEXANDER

OF ARKANSAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 23, 1986

Mr. ALEXANDER. Mr. Speaker, because of official business I was unavoidably absent during the vote on final passage of H.R. 2443, the Expedited Funds Availability Act. I support the legislation, and had I been present I would have voted "aye."

BILL TO CORRECT AN INJUSTICE

HON. THOMAS J. BLILEY, JR.

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 23, 1986

Mr. BLILEY. Mr. Speaker, I am joined today by my colleague, Mr. BARTON, introducing a bill which, I hope and trust, will draw overwhelming support from my colleagues. It concerns an issue that has been brought to the floor of this House time and time again—abortion.

Under current tax law, a parent whose child is the object of an abortion may be claimed as a dependent by that parent if the child survives; even if he only takes a single breath. This, to my mind, is a terrible and repugnant loophole in the law. It is evident that the taxpayer who chooses to abort his or her child does not want to, or feels that he or she cannot, contribute to the support of that child if it were born. How can we then allow the "dreaded complication," the brief and often painful life of an aborted baby, to become a "fringe benefit."

Though many may argue that a fetus is not alive before it is born, few would deny that abortion prevents human life, whether by ending it or preventing its inception. The parent who chooses abortion, whether for social, economic, or other reasons, does not want the child to live. The final decision was to abort. I do not believe we should degrade that child's brief life by putting a price on it.

Our proposal will prohibit a taxpayer from claiming his child who is born alive after an induced abortion, and who subsequently dies as a result, as a dependent.

Furthermore, this bill will correct another related injustice by no longer allowing a taxpayer who has intentionally killed or substantially contributed to the death of his spouse or child to claim such person as a dependent.

Finally, it will stop implicit back-door funding of abortion by prohibiting the inclusion of abortion services as deductible medical care. If we as a body and as representative of the people of the United States do not believe in supporting or promoting abortion as an acceptable method of family planning in our health care and health insurance programs, we should not subsidize it indirectly by allowing those able to pay for abortions to deduct those expenses from their taxable income.

Mr. Speaker, the Hyde amendment calls for an end to taxpayer funding of abortion in all its forms. Common sense calls for an end to these other injustices.

VILLAGE OF ROSEMONT, IL, CELEBRATES 30TH ANNIVERSARY

HON. HENRY J. HYDE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 23, 1986

Mr. HYDE. Mr. Speaker, on Monday, January 20, 1986, the village of Rosemont, IL, observed 30 years of incorporation as a village: Three decades of phenomenal growth and progress that has helped Illinois become an important center of business and tourism.

The village of Rosemont is a textbook example of a spirited community working together to create a town run like our country's most successful businesses: Efficient operation, steady growth, team effort toward clearly delineated goals.

Rosemont's wide variety of operations run efficiently and profitably because of the total involvement of village residents. Through the years, each resident has contributed his or her own time and talents to the continued progress of the village.

We salute Mayor Donald E. Stephens and the people of Rosemont Village Hall: Trustees Lorraine Clemmensen, Anthony D. Esposito, Hubert Langer, Emmett Michaels, Steven Minale, and Leslie Scott; and Village Clerk Irene Kolaski. Other dedicated personnel at Rosemont Village Hall include Deputy Mayor Donald E. Stephens II, Finance Officer Ray Gold, Deputy Clerk Frances Stevens, Finance Clerk Lee Doberton, Purchasing Coordinator August Sansone, Health and License Officer Joe Rizzo, Executive Secretary Gail Stephens, Clerk Rosalie Lennstrom, and Receptionist Isabelle Seib.

At Rosemont/O'Hare Exposition Center, Managing Director James Freeman and Peter Lombardi, executive director of the Rosemont/O'Hare Convention Bureau, bring important, income-producing trade shows to Rosemont. With the help of Jeff Mahnke of Rosemont Catering Services, and David Houston, president/general manager of Rosemont Exposition Services, exposition manager and business travelers receive top-drawer attention.

Rosemont's Public Safety Department helps maintain order and safety for the 18,000 business people and tourists who visit Rosemont each day. Jack Hasselberger, director and chief of patrol; Gary Hopkins, deputy director and fire chief; and Mel Ramones, captain in charge of special services, coordinate these efforts. Tom Clinger, captain in charge of patrol division and Lt. Roy Evans of the services division, lend their talents. Rosemont's considerable traffic and crowds are controlled by the Rosemont Public Safety Auxiliary Department, under Lt. Jack Geren. Vito Corriero directs a public works department that keeps Rosemont streets clean and clear for visitors.

In serving its visitors, Rosemont does not forget its residents. Rosemont is a town that reveres its senior citizens and schoolchildren. Residents enjoy a park district that provides activities for young and old throughout the year, under the leadership of Robert Thompson and Robert Koehler. Dr. Frank Tavano, superintendent of Rosemont Elementary School, heads a staff of dedicated professionals who provide Rosemont schoolchildren with the tools for tomorrow.

But Rosemont refuses to rest on its laurels. Not content with already outstanding accomplishments in business, tourism, and civics, the village of Rosemont presses on in realizing the potential of this tiny parcel of land adjacent to the world's busiest airport, O'Hare International.

Late last year, Mayor Donald Stephens and the village trustees announced a $500 million, 100-acre redevelopment project for Rosemont.

The program includes 10 major construction projects scheduled for completion in 1987. Among these projects are nine office building, comprising 9 million square feet; four world-class hotels, a unique 7,000 linear foot skybridge system, which will be the first of its kind in the Nation to connect a major exposition center with fine hotels and parking facilities; a performing arts theatre; a 4,458-car garage; a new church; a new 12,000 square foot fire station; and a 100,000 square foot addition to the Rosemont/O'Hare Exposition Center. This addition will bring the Expo Center's total square footage to 450,000 square feet on two levels, making the center the 11th largest exposition facility in the Nation.

This construction further solidifies Rosemont's position as the premier location for business, meetings, and conventions, and travel. Rosemont already is home to nine of the world's most prestigious hotels; the Rosemont Horizon, a 19,000-seat sports, music, and entertainment venue; the spacious Rosemont/O'Hare Exposition Center; and the versatile meeting facility, the Rosemont/O'Hare Conference Center.

Mr. Speaker, it is not often that we can point to a community so alive with dreams and the vitality to reach them. We commend Mayor Donald E. Stephens and the residents of Rosemont. Their self-sufficiency and creativity is a symbol of America at its most industrious. We of the House of Representatives congratulate Rosemont for 30 years of success, and we wish them a bright future.

A TRIBUTE TO DR. ALFRED B. VUOCOLO

HON. FRANK J. GUARINI

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 23, 1986

Mr. GUARINI. Mr. Speaker, a high honor has been paid to a family friend, who has been invested as a Knight of Malta. The individual I am paying tribute to is Dr. Alfred B. Vuocolo, a native of Jersey City, who received the award from His Eminence John Cardinal O'Connor at ceremonies held at St. Patrick's Cathedral on Friday, January 17, 1986.

Dr. Vuocolo, age 60, retired last October, due to illness, as chief executive officer for the New Jersey State Forensic Psychiatric Hospital in Trenton.

The award is the highest layman honor in the Catholic religion and dates back to the year 1113 and was approved as a religious order, the Hospitalers of St. John by Pope Pascal II. The order principally is in hospital work and included knights, and chaplains among its members. Its headquarters have been located in Rome since 1834 with sovereign status embodied in a new constitution in 1961. Malta is still an independent country. The religious aspects of the order are subject to regulations by the Pope.

Dr. Vuocolo is being honored for his service in the mental health field, beginning in 1950, at the Menlo Park Diagnostic Center, where he was a psychiatric social worker. A few years later, at the request of Gov. Richard J. Hughes, Dr. Vuocolo planned and designed the New Jersey State Department of Corrections State Training School for Boys at Skillman, NJ, providing counseling and rehabilitation for boys ages 6 through 13 years who were involved with the criminal justice system. He served as its first director for 25 years. The boys' facility was a pilot program described "as the first and the best in the Nation" by Governor Hughes.

In 1983, at the request of Gov. Thomas H. Kean, he began planning for the new psychiatric hospital known as the Vroom Building, which houses 180 maximum security cells for the criminally insane. Groundbreaking for the $12.5 million separate forensic facility to replace the 68-year-old Vroom Building is scheduled for this year, calling for a 100 bed, 65,000 square foot, facility located near the current Vroom Building site.

At a testimonial dinner in his honor last month, Vuocolo was praised by New Jersey Human Services Acting Commissioner Geoffrey S. Perselay, "for his contribution in bringing this facility into the forefront of state hospitals serving the mentally ill. His outstanding work treating each individual under his jurisdiction for the past 35 years with dignity and respect has truly been outstanding." More than 500 friends and officials attended the tribute.

The Jersey City resident graduated from St. Peter's Preparatory School, St. Peter's College, and received his master's degree in social work from Fordham University after serving in World War II with the U.S. Navy. He

studied for his doctorate degree at New York University.

Married to the former Marie Mosca, of west New York, they now reside in Lawrenceville, NJ, with their four children, Alfred B. Vuocolo, Jr., assistant counsel in the office of Governor Kean; Andrea, a professional artist; Robert, a CPA, and Lisa, a medical student.

The present Grand Master of the Knights of Malta is Most Eminent Highness Cardinal Angelo De Mojana di Cologna, a lawyer of Milan, who was elected for life in 1962. His Eminence John Cardinal O'Connor heads the Knights of Malta in the United States. Its members, in addition to the high honor, receive a coat of arms and pledge to continue their work striving for Christian perfection and to aid those in need.

Dr. Vuocola has lectured throughout the country and has served as president of the New Jersey Association of Social Workers.

During Dr. Vuocola's retirement dinner he was lauded by Governor Kean who said:

. . . Your 35 years of selfless dedication to improving the status of the less fortunate citizens of this State, particularly children, have exemplified the highest standards of public service.

Former New York Mayor Robert Wagner and Alexander Haig, former U.S. Secretary of State, are recipients of the award.

J. Peter Grace is president of the American Association of the Sovereign Military Order of Malta, and regional vice presidents are William H. Edwards, Intercontinental; Thomas P. Joyce, Midwestern; Bryan F. Smith, Southwestern; John A. Volpe, New England; Robert F. Wagner, mid-Atlantic; and David M. Walters, Southeastern.

At the solemn investiture ceremony His Eminence Bernard Cardinal Law was invested with about 100 individuals from throughout the country. For the first time, women have been vested according to His Eminence John Cardinal O'Connor.

Another New Jersey resident, Patricia Q. Sheehan, who has also given her life in the area of public service as mayor of New Brunswick, as a member of the cabinet, and as New Jersey Commissioner of Community Affairs, was also invested as a Dame of Malta at the same time.

In addition to Commissioner Perselay, those speaking at Dr. Vuocolo's retirement dinner on December 6, 1985, at Hamilton Square, NJ, included Robert Rusciano, assistant director, division of mental health and hospitals; Albert C. Wagner, chairman, board of trustees, forensic psychiatric hospital; Dennis Lafer, acting director, division of mental health and hospitals; Gary Hilton, assistant commissioner, department of corrections; Richard H. Wilson, deputy commissioner, department of human services; with benediction by Rev. W. Iving.

All those making presentations echo the words of Commissioner Perselay, praising Dr. Vuocolo's contribution, indicating that his serving of the mentally ill has been exceptional.

During his remarks, Alfred noted that the affair was conducted on his late father's birthday, and he would have been 90 years old. Reminiscing he told the audience, and especially his 60 nieces and nephews in attendance, of the trials and tribulations of his father, who came to America alone, at the age of 16, and raised a family of eight children and "was never on anyone's payroll."

Alfred took pride in telling the audience that his father encouraged his interest in social work indicating that "the poor and the unfortunate needed support." He indicated that the interest of his father, Vito, and his mother, Mary, for their neighbors instilled the need for the involvement of their offspring in the area of social work and community service.

There are almost 60 children, grandchildren, and great-grandchildren in the Vuocolo family, with more than 75 percent being involved in the areas of child care, housing, criminal justice, mental health, nursing, law, and teaching and other public service careers.

Dr. Vuocolo's brother, Conrad, and his wife, Rosemarie, are long time family friends and members of my staff. Their brother, Salvatore, a former magistrate, was affiliated with my father, Frank J. Guarini, Sr., for many years, as an attorney at law. He was most supportive of my father, as was their late brothers, Joseph and Charles.

They introduced me to Dr. Vuocolo, who assisted me on many occasions during my career as a New Jersey State senator and as a Member of the House of Representatives in various programs in which I was involved regarding those in need, especially in the criminal justice system.

I recall how Dr. Vuocolo spoke with so much pride of his work building and directing the training school for boys at Skillman. He insisted on cottage living conditions for the boys ages 6 to 13 who already were involved in our criminal justice system and had to be provided for because of acts they committed which would have incarcerated them if they were adults.

Dr. Vuocolo assured that the training school for boys was the most modern facility, excellently staffed, and designed and operated with the principle in mind that the children needed special treatment and must be served.

During the building of the facility in Blawenburg, he insisted that classrooms, modern gymnasium facilities, libraries, comfortable living conditions were provided in order to try to save the children for reentry into community life.

One incident he told me about was when he met some opposition when his building plan called for a chapel on the State facility grounds, but he met the opposition and took pride that a religious influence of the choice of the young boys could be observed.

Alfred constantly stated that his care for the children had to provide hope for the future and his results are renowned, indeed a shining example for the entire Nation to follow.

Dr. Vuocolo gave of himself to his family, to his profession, to his God. Indeed he echoes the words of Elizabeth Bibesco who wrote in "Gifts": "Blessed are those who can give without remembering and take without forgetting."

Al Vuocolo, the best gifts you gave were:
To your enemy, forgiveness.
To an opponent, tolerance.
To a friend, your heart.
To a customer, service.
To all men, charity.
To every child, a good example.
To yourself, respect.

The fact that the Knights of Malta saw fit to invest Dr. Vuocolo pleases me deeply as I know that he made a great financial sacrifice in his lifetime to serve those he loved so much. He felt it was his way of paying back, and echoed the words of one of his favorite people, Bishop Fulton J. Sheen:

Some people have a belief that every tree, when it burns, gives back the colors that went into its making, they see in the flaming logs the red of many sunsets, the purple of early dawn, the silver of moonrise and the sparkle of stars. So it is with us: what we have accepted into our hearts and made a permanent part of ourselves is given back in times of trials.

I thank His Eminence John Cardinal O'Connor, Mr. Grace, and the Knights of Malta for making this proud family even prouder. I share the joy of his wife, Marie, and her mother, Jennie Mosca, their children, and his brothers and sisters, Anita, Irene, and Rosalie, who have walked with all members of their families, step by step serving God and man.

When hearing about Al's award I asked my good friend, Rev. Raymond Kupke, archivist of the Diocese of Paterson, to provide me with background on this illustrious group, and he told me of its prestigious quality and that its members made solemn promises to strive for Christian perfection, providing hospital and charitable works in more than 77 countries.

I am thankful for the special efforts and voluntarism which our Nation and world needs so badly, working for God and country.

Well done good and faithful servant.

RETIREMENT OF RICHARD K. GROULX

HON. RONALD V. DELLUMS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 23, 1986

Mr. DELLUMS. Mr. Speaker, on January 30, the Central Labor Council of Alameda County, CA will celebrate the retirement of Richard K. Groulx. I want to bring to the attention of my colleagues the outstanding career of one of the Nation's preeminent local labor leaders.

Dick Groulx was born in 1924 in rural New York. During the Great Depression, his father moved the family to the Midwest, seeking work as a skilled mechanic. During that time his father was a UAW activist. His labor activities led to blacklisting, causing the family to move back to New York and then on to southern California.

Dick Groulx served in the Marine Corps during the Second World War, and was discharged as a corporal. He remained in Hawaii, and began his association with organized labor by volunteering with the Culinary Workers Union.

Upon his return to the mainland Dick worked as an organizer for Oakland Teamsters 588. In 1952, he transferred to Local 29 of the Professional Employees Union and began an aggressive campaign of organizing women in small companies. By enforcing union security provisions, the working conditions of these women were improved in an era of widespread sexism and sex discrimination.

In 1956, Dick ran for the position of assistant secretary to the Central Labor Council of Alameda County. With strong support from women and minority unionists, he achieved his goal, commencing his long career as a union leader.

His longstanding commitment to integration and full civil rights for all citizens found its expression in his vigorous efforts to effectuate the merger of the CIO and AFL members and unions in 1957. Over the next decade, he used his position to forge ahead for complete integration of crafts and peoples, 10 years before the National Government started implementing its own civil rights programs.

In 1958 the council, because of the integration efforts, secured strong minority support to defeat the right to work initiative, to develop a strong COPE, to send a crew to the Selma marches, to support the first Peace marches in Alameda County and to oppose the Gulf of Tonkin resolution.

When he was elected to the Central Labor Council's top position of executive secretary in 1967, Dick took his place as one of the most militant council leaders in the Nation. He helped lead the county's first successful public employee strike, expanded the COPE operation to elect pro-labor candidates and secured the council's support for the United Farm Workers, the first AFL-CIO council in the Nation to do so.

During the 40 years since he knocked on the Culinary Workers door, he has proven his dedication to working men and women everywhere. As a leader, he has had the vision to forge a cooperative relationship between his AFL-CIO council and the independent ILWU and Teamsters unions as well as to steer his own council on the most progressive course seen in the Nation. As a leader, he never believed in letting others carry the burden while he basked in the glory. His 17 arrests, most on picket lines, during his career attest to his willingness to sacrifice comfort and privilege to advance the cause of social and economic justice for all in our society.

I commend the career of Dick Groulx, and urge my colleagues to reflect on the unselfish and principled behavior that is being honored by his brothers and sisters in the union movement, and community leaders throughout the bay area, the State of California, and the Nation.

A CONGRESSIONAL SALUTE TO DEA LANGLOIS—LAKEWOOD WOMEN'S DEMOCRATIC STUDY CLUB "WOMAN OF THE YEAR"

HON. GLENN M. ANDERSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 23, 1986

Mr. ANDERSON. Mr. Speaker, I am honored today to inform my colleagues that Dea Langlois has been selected as "Woman of the Year" by the Lakewood, CA, Women's Democratic Study Club.

A native of Wisconsin, Dea graduated from business college and moved to Washington, DC, where she worked for the Departments of Justice and Agriculture from 1941-45. In 1946 she began working for the U.S. Navy and met and married her husband, Marv.

In 1951, Dea and Marv bought their present home in Lakewood. Dea attended California State University at Long Beach and began her career in the field of education. She held positions at St. Maria Goretti Elementary, St. Bartholomew's Elementary, St. Anthony's K-12, DeMille Junior High School, and Hughes Junior High School. She retired in 1985 after 26 years of service.

In addition to her professional duties, Dea has somehow managed to find the time to devote countless hours to her community and the Democratic Party. She has been actively involved with the Los Angeles County Democratic Central Committee, Democratic State Central Committee, California Democratic Council, numerous local, State, and national elections and many hearings and meetings relating to the Democratic Party. Additionally, she has been involved with the Long Beach Math Association, California Math Council, National Council of the Teachers of Mathematics, Teachers Association of Long Beach, California Teachers Association, and the National Education Association.

Mr. Speaker, Dea Langlois has done much over the years in helping make the Lakewood area such a special place to live and work. And her commitment to the Democratic Party has not gone unnoticed by her colleagues across the State of California. My wife, Lee, joins me in congratulating Dea on this special occasion and we wish her and her husband, Marv, and their daughter, Cheri, continued success and happiness in all their future endeavors.

MARYLAND DEPOSITORS FAIRNESS ACT OF 1986

HON. BARBARA A. MIKULSKI

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 23, 1986

Ms. MIKULSKI. Mr. Speaker, today I am introducing the Maryland Depositors Fairness Act of 1986.

This legislation amends the IRS Code of 1954 to "defer the inclusion in gross income of interest on certain deposits which are subject to withdrawal restrictions by reason of the bankruptcy or insolvency of the financial institution" until depositors have access to such income.

Mr. Speaker, a number of my constituents who have deposits in Maryland savings and loans have asked me to help make sure they are treated fairly by the IRS. These depositors have already suffered economic hardships because of the S&L crisis in Maryland. For them to have to pay Federal taxes on income to which they do not have access would only compound the injustice of this unfortunate situation.

The Maryland Depositors Fairness Act would simply defer payment of taxes by depositors on their interest income until the time when they are able to freely use this income.

A LATE CHRISTMAS PRESENT TO THE PLO

HON. DANTE B. FASCELL

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 23, 1986

Mr. FASCELL. Mr. Speaker, on December 31, the head of the Sandinista regime in Nicaragua sent a late Christmas present to Yasir Arafat of the PLO: A letter condemning Israel and praising the PLO for their heroic struggle. Mr. Ortega also expressed his gratitude for the PLO's solidarity with Nicaragua. The purpose of the letter was ostensibly to congratulate the PLO on its 20th anniversary.

I wonder what the valuable solidarity of the PLO is for which the Nicaraguan people are supposed to be grateful. Perhaps Arafat has a return gift for Mr. Ortega in the form of tips about how to export terrorism.

This letter speaks for itself, and I am including it in the RECORD for the enlightenment of my colleagues:

NICARAGUA'S ORTEGA SENDS LETTER TO ARAFAT

[Managua Prensa Latina in Spanish to Prensa Latina Havana, Dec. 31, 1985]

[Letter sent by Nicaraguan President Daniel Ortega to Yasir Arafat, president of the Central Committee of the PLO; date not given]

Commander YASIR ARAFAT,
President,
Central Executive Committee, PLO.

DEAR COMMANDER: On the occasion of the 20th anniversary of the Armed Forces of the Palestinian national liberation struggle, I send you on behalf of the National Directorate of the FSLN and the people and Government of Nicaragua, as well as myself, our fraternal and solidarity embrace. On this historical date we would like to renew our firm solidarity and support for the Palestinian people's just struggle in favor of their inalienable rights over their occupied territories. Likewise, we want to reiterate our strong condemnation and rejection of the policy of force and intimidation exerted by Israel, in an effort to deny the heroic Palestinian people their unrenounceable right to self-determination, flagrantly violating the UN Charter and the Security Council resolutions.

Taking advantage of this memorable occasion to express gratitude for the Palestinian people's valuable solidarity and that of their legitimate representative, the PLO, I want to express our firm conviction that our peoples' just cause will prevail over the policy of force imposed on us today because of our unyielding decision to defend our legitimate rights. Receive, with our recognition of your people's heroic struggle, the fraternal greetings of Sandino's people.

Fraternally,

DANIEL ORTEGA SAAVEDRA.

RECOGNIZING JAMES VAN ZANDT

HON. DOUG WALGREN

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 22, 1986

Mr. WALGREN. Mr. Speaker, I want to join my Pennsylvania colleagues in recognizing the Honorable James Van Zandt, who died of cancer on January 6. "Jimmy" Van Zandt served 11 terms in the House of Representatives and then as special Washington representative of the Governor of Pennsylvania until 1971. For 20 years, he served as secretary of the Pennsylvania congressional delegation, where he continued to make devoted friends and contribute to the Congress and Pennsylvania.

Jimmy Van Zandt knew a lot about the defense needs of this country, starting his military career in 1917 as an apprentice seaman in the U.S. Navy and retiring as a rear admiral in 1959 in the U.S. Naval Reserve. He saw active duty in both World Wars and the Korean war. In the House, he served on the House Armed Services Committee and was the ranking minority member of the Joint Committee on Atomic Energy. He served his country as a civic leader as well, holding the position of national commander of the Veterans of Foreign Wars three times.

We all admired his energy after his retirement and marveled at his physical strength. The House of Representatives kept him young in spirit and in body—and Jimmy made the House of Representatives a better place by contributing his spirit and energy to the community represented by the House of Representatives. We will all miss him and we all want to extend our sympathy to his family and express our appreciation for his life.

THE 25TH ANNIVERSARY OF CUB SCOUT PACK 461

HON. ROBERT A. BORSKI

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 23, 1986

Mr. BORSKI. Mr. Speaker, I rise today to commend the Trinity Evangelical Lutheran Church of Philadelphia for their sponsorship and support of Cub Scout Pack 461. The Scout troop will celebrate its 25th anniversary on February 2, 1986.

The Cub Scout Program provides youngsters with an avenue for community involvement, creativity, and service. Thousands of boys each year begin to become active citizens by recognizing their civic responsibility for duty and service in Cub Scout troops across America. Beyond that, the Cub Scout Program provides boys with a chance to meet other boys, plan cultural and historical outings, and participate in sport and camping activities.

Without sponsors, Scouting organizations could not exist. For this reason, I ask my colleagues to join me as I recognize the outstanding contribution the Evangelical Lutheran Church has made to the Northeast Philadelphia community. For 25 years the church has offered assistance and guidance to the troop over and above providing their hall for meetings and activities. Its constant encouragement is undoubtedly a source of the troop leaders' success as educators, and the pack's achievements throughout 25 years of community involvement. By lending a hand to Cub Scout Pack 461, the Trinity Evangelical Lutheran Church has enriched the larger community and provided a foundation and example for the future.

NATIONAL JAYCEE WEEK

HON. BERKLEY BEDELL

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 23, 1986

Mr. BEDELL. Mr. Speaker, as this is National Jaycee Week, I would like to recognize the accomplishments of the Jaycees in my home State of Iowa.

Over the past year they succeeded in raising nearly $60,000 for the Muscular Dystrophy Association. They also raised money for the Kids With a Dream Program, which helps terminally ill children realize a dream. This program was founded by David Stiener, of Des Moines. He was later honored as one of the "Ten Outstanding Young Americans" for this original concept.

The Iowa Jaycees also recognize an outstanding young farmer during the month of February. This program, which originated in Shenandoah, IA, during 1951, has now become a national program for the Jaycees.

Physical fitness is another high priority of the Jaycees. Each year they sponsor a junior athletic program in which youngsters participate in an Olympic competition. The Iowa Jaycees are also credited with starting the Run, Punt, and Pass Program in the Midwest.

Besides the development of the body, the Jaycees also encourage the advancement of the mind. During the month of May the Jaycees sponsor the Young Iowans' Leadership Program. The Jaycees also sponsor substance abuse awareness programs throughout the State of Iowa.

I am very proud of the accomplishments of the Iowa Jaycees and I wish them the best of luck in the year ahead.

PRESIDENT MUST CONSULT WITH CONGRESS BEFORE ACTING ON NATIONAL EMERGENCY

HON. JAMES A. TRAFICANT, JR.

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 23, 1986

Mr. TRAFICANT. Mr. Speaker, today I have introduced legislation requiring the President to submit a more detailed report to the Congress on the national emergency with respect to Nicaragua, and request that following a thorough review of this report both Houses of Congress meet to consider a vote on whether the emergency declared in Nicaragua should be terminated.

During the past 9 months, the President has declared national emergencies in three areas, Nicaragua, South Africa, and most recently in Libya. In each case the President also imposed emergency economic sanctions, such as the trade embargo with Nicaragua.

The President acted in all three instances under the authority of the National Emergencies Act [NEA], enacted in 1976 and amended in 1985, and the International Emergency Economic Powers Act [IEEPA], enacted in 1977. These statutes were enacted in the aftermath of Watergate and sought to subject the President's use of emergency powers to strict procedural limitations. Specifically, the President is required to do two things. The President is required to consult with Congress before acting under the NEA and the IEEPA and consult regularly once the actions have been carried out. Second, the President is required to transmit reports to Congress at the time of the initial action and every 6 months thereafter.

In addition to the Presidential requirements, the Congress has the option to consider a joint resolution on whether to continue the current emergency actions.

The essence of my legislation is twofold. First of all, I would require a more detailed report from the President outlining specific areas I believe should be reported. I believe this more specific information is essential in order for Congress to understand the total picture and decide on whether a vote on this issue is warranted. Contained within my legislation is a timetable for this action.

I have introduced this bill because I do not believe the President or the Congress have fulfilled their duties concerning the original intent of the NEA and the IEEPA. I believe our President should be held accountable and the Congress must respond to this explanation.

UNITED COMMUNITY CHURCH OF GLENDALE, CA, CELEBRATES 25TH ANNIVERSARY

HON. CARLOS J. MOORHEAD

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 23, 1986

Mr. MOORHEAD. Mr. Speaker, I would like to take a moment to recognize the United Community Church of Glendale, which on January 26, 1986, will celebrate its 25th anniversary.

The United Community Church is one of the youngest churches in Glendale, yet it has one of the most impressive records in terms of growth. Founded in 1961 in the foothill community of La Crescenta, the basic idea behind the formation of the church was "biblical truth and patriotism."

This mixture struck a responsive chord with many people in the community, and the church grew rapidly. Soon it moved to downtown Glendale where it temporarily occupied the Tuesday Afternoon Club.

Today, it occupies a sanctuary and support buildings in Glendale that are beautiful and permanent. The centerpiece of the church complex is a splendid and unique amphitheater. Other structures of architectural note are

the Heritage Hall, the library, and the Rose Chapel.

Mr. Speaker, I want to congratulate the United Community Church, its founding pastor, Dr. W.S. McBirnie, and each member of the congregation on their 25th anniversary.

REHABILITATION ACT AMENDMENTS OF 1986

HON. PAT WILLIAMS

OF MONTANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 23, 1986

Mr. WILLIAMS. Mr. Speaker, today I am introducing the Rehabilitation Act Amendments of 1986, a bill which reauthorizes this Nation's rehabilitation efforts, extending them for 5 years, and making a number of modest changes in the language of this statute.

The Rehabilitation Act is very important, Mr. Speaker. It provides the mechanism by which the States and the Federal Government have maintained a successful partnership for a number of years. This partnership has worked to the benefit of our economy by providing employment-related assistance to individuals who are disabled, thereby increasing the contributions by such individuals to our economy. It also helps some persons with disabilities maintain a level of independence that adds immeasurably to the quality of their lives, and thus, enriches us all.

The Subcommittee on Select Education has held five hearings around the country and in Washington. We have heard from many witnesses, representing individuals, governments, and rehabilitation organizations. Out of these many helpful discussions have come the suggestions that are now incorporated in this proposed reauthorization bill.

I referred to the changes as "modest." Witnesses pointed out a variety of problem issues that minor statutory changes could resolve. For example, this bill modifies the definition of local agency in order to ensure that Indian organizations are included in this definition. Other examples of such modest changes would include adding a requirement that the annual report go to the Congress simultaneously with its delivery to the President and making the language gender-free.

Several management changes are also proposed in this legislation. Currently, the Office of Special Education and Rehabilitation Services consists of three units, the Office of Special Education, the Rehabilitation Service Administration, and the National Institute for Handicapped Research. The heads of these units report to the Assistant Secretary. The head of special education is appointed by the Secretary; the remaining two are appointed by the President. In this legislation all three would become secretarial level appointees to a Presidentially appointed Assistant Secretary. The changes would become effective upon a vacancy in the current slots.

Examples of other management changes include increasing the public membership of the Architectural and Transportation Barriers Board, to balance an increase in the Federal agency members that occurred when HEW became HHS and DOE, and specifying that the chairman of that board is elected from the public members.

This legislation would require that the Director of the National Institute of Handicapped Research, working with the Interagency Committee, come up with recommendations for establishment of some type of agency or mechanism for ensuring the development of cost-effective production and marketing of technological devices and the efficient distribution of such to persons with disabilities.

However, there is one change that is not modest and I would be remiss in not pointing it out to my colleagues. Presently, and for some time, the Rehabilitation Act contains an 80-20 match requirement. The Federal share is 80 percent. Repeatedly, we have heard from State directors of rehabilitation agencies and from others that the system is not serving anywhere close to the true number of individuals who might be eligible for such services. It is equally clear that investment in rehabilitation is a sound investment; the returns outweigh the costs. Therefore, it is time that the States begin to take a greater role in this partnership that is so beneficial to all our citizens. I am proposing in this legislation to change the match to 75-25, and at the same time, ensure that the States' contributions do not drop below their fiscal year 1985 levels.

Finally, the bill also includes language to reauthorize the Helen Keller National Center Act for 3 years and would authorize funding for that center at current levels.

Mr. Speaker, I believe the proposed changes reflect sound policy. The Subcommittee on Select Education will soon hold hearings on this bill, and we welcome the input of everyone concerned about rehabilitation as we move to finalize this legislation in the coming months.

LEGISLATION THAT PROHIBITS THE PURCHASE OF SOVIET ENRICHMENT SERVICES FOR UNITED STATES NUCLEAR POWERPLANTS

HON. MARILYN LLOYD

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 23, 1986

Mrs. LLOYD. Mr. Speaker, I have today introduced a bill which prohibits nuclear electric power utilities in the United States from purchasing uranium enrichment services from the Soviet Union.

The United States operates a uranium enrichment program through the Department of Energy, and it is intended to be fully self-sufficient through the revenues it generates from the customers it serves. In the recent past, the demand for uranium enrichment services has been substantially reduced causing a significant retrenchment in the Government's program and the closure of one of the Government's three uranium enrichment plants in the United States.

Soviet Union sales of enrichment services to domestic utilities impair the ability of the United States to continue its uranium enrichment program, which the United States operates without a profit for the benefit of electric ratepayers.

The Soviet Union does not operate its uranium enrichment business on the principles of a free market society. They offer this enrichment services at a discount from whatever level is established as the price of enrichment services in the United States.

The Soviet Union is an unfair competitor and enrichment service sales to U.S. citizens detract from the national energy security of the United States.

For these reasons, Mr. Speaker, I urge my colleagues to join me in cosponsoring this legislation.

HOUSE OF REPRESENTATIVES—*Monday, January 27, 1986*

The House met at 12 o'clock noon and was called to order by the Speaker pro tempore [Mr. FOLEY].

DESIGNATION OF SPEAKER PRO TEMPORE

The SPEAKER pro tempore laid before the House the following communication from the Speaker:

WASHINGTON, DC,
January 24, 1986.

I hereby designate the Honorable THOMAS S. FOLEY to act as Speaker pro tempore on Monday, January 27, 1986.

THOMAS P. O'NEILL, Jr.,
Speaker of the House of Representatives.

PRAYER

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

We are aware, O God, of the sacrifices that the people of the armed services have experienced and we acknowledge their bravery and devotion. We remember those lost and particularly their families that they will know the comfort of Your presence and the assurance of Your eternal love. Help us all to know that in death or life You watch over us and that underneath all our lives are Your everlasting arms. Amen.

THE JOURNAL

The SPEAKER pro tempore. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

HOUSE-PASSED SUPERFUND REAUTHORIZATION BILL SHOULD BE SUSTAINED BY CONFEREES

(Mr. FAZIO asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. FAZIO. Mr. Speaker, yesterday, a General Accounting Office report was released which revealed that a number of Federal agencies, including McClellan Air Force Base in my district, have been dumping toxic wastes at the Kettleman Hills disposal facility in southern California.

This is the same hazardous waste dump, Mr. Speaker, that the Environmental Protection Agency has repeatedly cited for violating the Federal laws which govern the safe disposal of toxics.

Because of the significant violations against Kettleman Hills, EPA barred the facility from receiving any Superfund wastes. EPA took the right action. The Agency wants to ensure that Superfund wastes do not go to facilities like Kettleman Hills which may themselves become future Superfund sites.

Despite EPA's action against Kettleman Hills, Federal agencies have continued to dump huge quantities of poisons at the facility. The Secretary of Defense and other Federal agency heads must stop this practice immediately. Failure to do so creates a potential future legal liability for the Federal Government and threat to the public health.

In addition, Mr. Speaker, this incident points out the need for the Congress to put EPA in charge of the cleanup of all Superfund sites, including the cleanup of military Superfund sites like McClellan, currently exempt by Executive order. The House-passed Superfund reauthorization bill accomplishes this and should be sustained by the conferees.

EXTENSION OF WAIVER AUTHORITY OF THE DISTRICT OF COLUMBIA REVENUE BOND ACT OF 1985

Mr. FAUNTROY. Mr. Speaker, I ask unanimous consent that the Committee on the District of Columbia be discharged from further consideration of the bill (H.R. 4027) extending the waiver authority of the District of Columbia Revenue Bond Act of 1985 to certain revenue bond acts of the District of Columbia, and for other purposes, and ask for its immediate consideration.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from the District of Columbia?

Mr. PARRIS. Mr. Speaker, reserving the right to object, I yield to the gentleman from Connecticut [Mr. MCKINNEY] at this time.

Mr. MCKINNEY. I thank the gentleman for yielding to me.

Mr. Speaker, will the chairman of the subcommittee please explain the bill to the House.

Mr. PARRIS. I yield to the gentleman from the District of Columbia for his response.

Mr. FAUNTROY. I thank the gentleman for yielding to me.

Mr. Speaker, the purpose of this bill is to correct a clerical error which occurred after Congress adjourned sine die on December 19, 1985. On that last day of the session both the House and Senate adopted identical language as H.R. 3718, entitled the District of Columbia Revenue Bond Act of 1985.

Unfortunately, the final page of the bill—as amended and voted on by both the House and Senate—did not get copied onto the parchment sheets that are the final enrolled bill prepared for signatures of the Speaker of the House, the President of the Senate, and the President of the United States.

Of course that part of the bill as signed by the President on the day after Christmas, December 26, 1985, is now law. It is Public Law 99-216. All we are doing today is adding the missing page already voted on by the House and Senate on December 19, 1985, so that it too will become law.

The President signed so much of the congressional enactment as included revenue bonds of Georgetown University and Sibley Memorial Hospital. Today we are adding bonds for American University and George Washington University, already approved by Congress on December 19, 1985, but missing through clerical error from the bill as signed by the President.

Mr. PARRIS. Mr. Speaker, further reserving the right to object, my purpose in reserving my right to object was that this matter is being brought forward under unanimous consent, which is an unusual procedure. This is District Day; we could bring this bill forward under the normal District procedures, presumably, but we have not. The bill was not referred to committee. I do understand that it is a technical oversight. It is something about the last page or the last two paragraphs or whatever. It does not seem to be a matter of great urgency.

I just wonder if the gentleman can enlighten us as to this. I certainly have not been informed. Frankly, I did not know the bill was on the calendar for this morning until this morning. I am not aware of any particular emergency that would require the abandonment of the normal District of Columbia legislative procedures.

Could the gentleman give us a further explanation?

I yield to the gentleman from the District of Columbia for his response.

Mr. FAUNTROY. I thank the gentleman.

Mr. Speaker, I suspect that it is rare that the House and Senate pass legislation, and that due to an inadvertent

error, a page of legislation is not included in the document signed by the President.

It was purely an error, and we thought in light of the heavy schedule which the Congress has in this second session, that the unanimous consent motion like this would have no problem passing.

Mr. PARRIS. I understand that there was an error committed in the legislative process. My point, though, if I might say to my friend from the District, we have another District Day 2 weeks from today. This matter could be referred to the normal committee; some perfunctory hearing could be held on the bill.

I am, very frankly, constrained to object as a result of the procedure and the precedent that we may in fact be establishing here. I concern myself with some of the business processes of the committee on which I am privileged to serve. I would certainly hate to see us establish a precedent in which we are, in some way, short-circuiting those processes.

Mr. McKINNEY. Mr. Speaker, will the gentleman yield?

Mr. PARRIS. Mr. Speaker, further reserving the right to object, I yield to the gentleman from Connecticut.

Mr. McKINNEY. I thank the gentleman.

Mr. Speaker, I will assure the gentleman from Virginia that I am in the same boat that he is. I was not, unfortunately, due to my health, able to participate in the last mad, halcyon days of the session, but I did watch on channel 56, courtesy of the Virginia University system. I was appalled that anything got done correctly, let alone this.

So I am willing to go along with the chairman of the subcommittee on what, obviously, was a clerical mistake at this point. It was obviously understandable considering the confusion. I do not approve of the system at all. I would say to the gentleman that if you are being skewered, which American University and several others, Georgetown, are, then you feel the immediacy and the urgency of the situation far more than you do standing up here on the Hill, way past your college years.

Mr. PARRIS. Mr. Speaker, further reserving the right to object, do I understand from the gentleman that you would certainly not consider this a precedent of normal business procedures in the committee, and that there is some urgency in the 2 weeks between today and the next District of Columbia Day; that these bonds will be in some way affected?

I yield to the gentleman from the District of Columbia for his response.

Mr. FAUNTROY. Yes, I think there is. May I state first that I do think there is some urgency. Both George Washington and American Universities are very important institutions of higher education in our Nation's Capital.

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They have at risk here $62 million in revenue needed for vital programs, and to delay them even 2 weeks, I think, would be unnecessary in light of the fact again that we had thorough hearings, took testimony at length, and reached a considered judgment both in subcommittee and in the full committee.

The House considered it, the Senate did as well, and passed identical bills.

Again the only reason we have had to do this is due to a clerical error on the part of the Clerk perhaps during the last day of the holiday season, and that is what created this situation for us.

Mr. PARRIS. Mr. Speaker, certainly we all regret that there has to be error in all of our lives. I am the ranking Republican on the subcommittee that deals with this matter and that dealt with the matter originally, and if it was a matter of such timely urgency, I would have thought that the institutions that were involved would have in some way sought to contact us before this matter came on the floor today.

However, based on the representations of my friend, the gentleman from the District of Columbia, and the observations of the gentleman from Connecticut, I withdraw my reservation of objection.

The SPEAKER pro tempore (Mr. TORRES). Is there objection to the request of the gentleman from the District of Columbia?

Mr. McKINNEY. Mr. Speaker, reserving the right to object, I can assure the gentleman from Virginia that this will not be our considered operation. I disapprove of it, also. I also disapproved of the fact of the gentleman from Virginia not being on the bill, although the other gentleman from Virginia is, since he is the ranking member of the committee.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from the District of Columbia?

There was no objection.

The Clerk read the bill, as follows:

H.R. 4027

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. GRANTING OF WAIVER.

Section 2(c) of the District of Columbia Revenue Bond Act of 1985 (Public Law 99-216) is amended by adding at the end thereof the following new paragraphs:

"(3) The American University Revenue Bond Act of 1985 (Series A), District of Columbia Act 6-111, transmitted to the Speaker of the House and the President of the Senate December 4, 1985.

"(4) The George Washington University Revenue Bond Act of 1985 (Series A), District of Columbia Act 6-114, transmitted to the Speaker of the House and the President of the Senate December 18, 1985".

SEC. 2. EFFECTIVE DATE OF ACTS; TREATMENT OF OBLIGATIONS.

(a) EFFECTIVE DATE.—The District of Columbia Acts referred to in the amendment made by section 1 shall take effect as if included in section 2(c) of the District of Columbia Revenue Bond Act of 1985 on the date of the enactment of such Act.

(b) TREATMENT OF OBLIGATIONS.—(1) Subject to paragraph (2), for purposes of any Act of Congress (and any amendments made by any Act of Congress) enacted after December 31, 1985, any obligation issued under the authority of the District of Columbia Acts made effective under subsection (a) shall be deemed to have been issued on December 31, 1985.

(2) Paragraph (1) shall apply only to obligations issued not more than sixty days after the date of the enactment of this Act.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

AN ALLEGED BOONDOGGLE IN OREGON

(Mr. WEAVER asked and was given permission to address the House for 1 minute.)

Mr. WEAVER. Mr. Speaker, last fall the House, under my motion to deauthorize the Elk Creek Dam in Oregon, narrowly missed defeating that dam by a vote of 220 to 200. It is a dam with no purpose. It is a loss of $120 million, added to the deficit, to build a dam in a spot which I was able to jump over at the small stream—Elk Creek Stream—at the place of the damsite.

This is a boondoggle. It should not be built just because it has been planned for many years. It is going ahead mindlessly under construction.

Last week the Corps of Engineers, which opposes the building of the dam, nevertheless, operating under congressional instructions, awarded the bid of $62,700,000 for the construction of the dam to a Japanese corporation. So we have the instance of a boondoggle dam, wasting deficit money, being built by a foreign corporation.

I wonder what is happening to our country when we waste money on projects and have foreign corporations build them.

How many dams or other projects are American companies building in Japan? How much longer can we in Oregon and elsewhere in the country go on with Canadian dumping of our lumber on our lumber markets, driving our mills out of business, and tens of thousands of our workers out of their jobs?

THE BREAKUP OF THE AMERICAN FAMILY

(Mr. COATS asked and was given permission to address the House for 1 minute, and to revise and extend his remarks, and include extraneous matter.)

Mr. COATS. Mr. Speaker, for the last few years I have been calling attention to the fact that many of the social problems that our Nation faces can be traced to the breakup of the American family. As ranking member of the House Select Committee on Children, Youth, and Families, I have witnessed at first hand the link between family disorientation and teen pregnancy, drug and alcohol abuse, runaway youth, juvenile delinquency, sexual abuse and exploitation, and other social ills affecting our society.

I am becoming increasingly pleased that this message is now being acknowledged by many of our opinion leaders. I would like to commend CBS for its insightful and powerful documentary titled "The Vanishing Family—Crisis in Black America" which aired this past Saturday evening.

Mr. Speaker, I also submit for the record two recent commentaries which appeared in the Washington Post, authored by David Broder and William Raspberry. The impact of the breakup of the American family is so devastating and the need for restoration so great that all segments of our society must address this issue of how we can best strengthen the American family.

Mr. Speaker, the editorials to which I referred are as follows:

Drumbeat for the Family

(By David S. Broder)

Over the past 25 years, it is hard to think of two public figures who have more consistently and constructively addressed the major concerns of this nation than Daniel Patrick Moynihan and Bill Moyers. That both of them now have chosen to focus on the breakdown of the family, especially the black family, strongly suggests that the rest of us should pay attention.

Moyers' documentary on CBS Saturday night brought to life the painful reality of which Moynihan, the senator from New York, wrote in his newly published book, "Family and Nation." That reality is that a growing portion of America's young people—a large majority of blacks and more than one-third of whites—will spend a substantial portion of their first 18 years in a "family" with no man as its head.

Many of them will have started life as children born out of wedlock, often as children of females still in their teens. They are part of a "culture of poverty" that mocks the economic gains the rest of us are enjoying.

Alice Sondra Jackson, one of Moyers' subjects, was 20 when her first child was born. She had graduated from high school, taken a year at a business school and was working steadily when she got pregnant. "I wanted to be a mother, you know," she said. "It was exciting to me. I just thought I'd have something of my own, a little child that's gonna call me Mama. . . ." Two more pregnancies followed in the next three years. Alice now lives on welfare, though she says, "It makes you lazy just to sit around and wait for a monthly check to come in."

The father of her children is Timothy McSeed, who has three other living children by as many other women—none of whom he supports. Born to a 16-year-old unmarried woman, Timothy is a high-school dropout who has not worked in almost three years. He will marry, he says, when he can afford "a big wedding" with all the trimmings.

Stories like this are what made Eleanor Holmes Norton, a black scholar, lawyer and public official, say, "Repair of the black family is central to any serious strategy to improve the black condition."

But not just the black family. As Moynihan writes, "By the mid-1980s, it was clear that family disorganization had become a general feature of the American population and not just an aspect of a frequently stigmatized and appropriately sensitive minority community."

In 1965, Moynihan described an "approaching new crisis in race relations" because one-fifth of the nonwhite families had a female head of household. Today, he notes, "single-parent families with children accounted for more than one-quarter of all family groups—white, black, Hispanic, et al. . . . What was a crisis condition for the one group in 1960 is now the general condition."

What lies ahead for the growing number of one-parent children is indicated by a 1980 Kettering Foundation study cited by Moynihan. They are poor students; 40 percent are rated low-achievers. They are sick more often, absent more often, more likely to be truant and twice as likely to drop out short of graduation. At which point, they are far more likely to be unemployed—and perhaps unemployable. And procreating another generation like themselves.

So what is to be done? Everyone acknowledges that to the extent the problem is most severe in the black community, as it is, it challenges the total leadership of that community—its stable families, its churches and it growing middle class.

But the larger society cannot turn its back on the problem, for it is our problem too. Moynihan, perhaps overoptimistically, suggests that both conservatives and liberals may be able to see the need for something he has long championed, a "family policy." Such a policy would consciously shape every area of government—taxes, Social Security, welfare, housing, anti-crime and anti-drug measures—to strengthen incentives and supports for two-parent families.

It remains to be seen whether that concern will inform decision-making in this age of budget-cutting. But even if an immediate response is unlikely, the challenge must be posed, as Moyers and Moynihan have posed it. Carolyn Wallace, who with her husband runs a community center in the heart of the Newark ghetto, closed Moyers' program by assuring him that preaching greater personal and social responsbility was not in vain.

"They won't listen to me," Moyers said.

"It doesn't make any difference," she replied. "You've got to say it anyway. They may not listen to me, either. But . . . if you say it in your corner and I say it in my corner, and everybody's saying it, it's going to be like a drumbeat, and sooner or later it will sound. . . . I think it's going to surpass color. And you're not going to be safe. I'm not going to be safe, and nobody's going to be safe unless we all send out this drumbeat—hey, let's deal with it. Let's deal with the problem."

The Vanishing Black Family

(By William Raspberry)

Teachers and principals searching for effective material for their sex education classes might want to tape Saturday night's Bill Moyers special. "The Vanishing Family—Crisis in Black America."

The two-hour CBS production contains lessons for just about everybody. It is a reminder to the social theoreticians that we really do need to look at the way we do welfare; it is an alarm bell telling church and community leaders that they had better get busy rebuilding the collapsed value system in the black ghettos, and it makes clear the inability of government, no matter how generous or compassionate, to deal with the problem.

But its greatest value may be as an instrument of sex education for the young people who are playing at sex, with hardly any recognition of what a dangerous game they play—for them and for America.

And especially for black America.

"Single parent families," Moyers reminds us, "are twice as common in America today as they were 20 years ago. But for the majority of white children, 'family' still means a father and a mother. This is not true for most black children, For them, things are getting worse. Today, black teen-agers have the highest pregnancy rate in the industrial world, and in the black inner city, practically no teen-age mother gets married."

Yes, there are strong, successful black families; the "Huxtables" of the Bill Cosby Show represent a reality that gets too little play on television. But the Moyers special is about a different reality: the almost irretrievable collapse of the family in the black ghettos.

The alarming increase in the number of teen-age mothers is both the result and the accelerator of that collapse.

But as "The Vanishing Family" makes clear, the inner-city teen-agers themselves seem wildly oblivious of the crisis. Few of the young mothers interviewed planned to have babies, but hardly any of them took any precautions against it, not because they are ignorant of birth control but because they are ignorant of the implications of having babies before they are ready—psychologically, educationally or economically—to be parents. The young fathers display an unsettling combination of pride in having fathered babies and utter indifference to the babies themselves.

"Well," offers a young man who has sired six babies by four different women, and who supports none of them, "This is something that I've done. Just like the carpenter, here's something that you've done. You can see what you've done if it's anything. If you don't do nothing, you can see something, you know, what your life was, you know, it was to you."

And how does he expect his children to survive without any support from him?

"Well, the majority of the mothers are on welfare, and welfare gives them the stipend for the months, so what I'm not doing, the government does."

That's part of the breakdown. The other, in many ways deadlier, part is that the young women expect—even unconsciously encourage—just such an attitude.

Moyers asks one mother whether she wants her own children to get married.

"Sure," she says. "Especially my daughter. My boys, they'll probably be—whatcha call it?—free-lancers."

If it seems as though no one has given these young people any conception of what being a real father entails, it is because no one has. Often themselves products of teenage pregnancies, many of them have never experienced the presence of a normal, functioning father. The idea of a husband as a provider, disciplinarian and role model for his sons seems not to occur to them.

A part of the reason may lie in the stupendously high unemployment rate that renders inner-city young men superfluous except as intermittent lovers. Part of it may be the changed moral climate that renders out-of-wedlock parenting free of moral censure, and part of it may be welfare's usurpation of the father's breadwinning role.

But as "The Vanishing Family" makes alarmingly clear, welfare can provide money but it cannot teach boys how to be men. It's something the rest of us will have to do, starting right now. Indeed, for much of the growing underclass, it may already be too late.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. LEWIS of Florida) to revise and extend their remarks and include extraneous material:)

Mr. STRANG, for 30 minutes, January 29.

(The following Members (at the request of Mr. FAUNTROY) to revise and extend their remarks and include extraneous material:)

Mr. ANNUNZIO, for 5 minutes, today.

Mr. ALEXANDER, for 60 minutes, January 28.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mr. LEWIS of Florida) and to include extraneous matter:)

Mr. COURTER.

(The following Members (at the request of Mr. FAUNTROY) and to include extraneous matter:)

Mr. ANDERSON in 10 instances.

Mr. GONZALEZ in 10 instances.

Mr. BROWN of California in 10 instances.

Mr. ANNUNZIO in six instances.

Mr. JONES of Tennessee in 10 instances.

Mr. BONER of Tennessee in five instances.

Mr. MILLER of California.

ADJOURNMENT

Mr. FAUNTROY. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 12 o'clock and 17 minutes p.m.), the House adjourned until tomorrow, Tuesday, January 28, 1986, at 12 noon.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

2588. A letter from the Executive Associate Director, Office of Management and Budget, transmitting notification that the appropriation to the Agricultural Stabilization and Conservation Service has been reapportioned on a basis that indicates the necessity for a supplemental estimate of appropriation, pursuant to 31 U.S.C. 1515(b)(2); to the Committee on Appropriations.

2589. A letter from the Deputy Assistant Secretary for Programs and Commercial Activities, Department of the Army, transmitting notice of the decision to convert the commissary shelf stocking at Fort Carson, CO, to contract performance, pursuant to 10 U.S.C. 2304 note; to the Committee on Armed Services.

2590. A letter from the Deputy Assistant Secretary for Programs for Commercial Activities, Department of the Army, transmitting notice of the decision to convert the directorate of the facility engineer at Fort Gordon, GA, to contract performance, pursuant to 10 U.S.C. 2304 note; to the Committee on Armed Services.

2591. A letter from the Secretary of Education, transmitting the annual report of the International Research Studies Program, pursuant to 20 U.S.C. 1125(b); to the Committee on Education and Labor.

2592. A letter from the Secretary of Health and Human Services, transmitting a report on improving services for retarded and developmentally disabled persons, pursuant to Public Law 98-527, section 3(a) (98 Stat. 2684); to the Committee on Energy and Commerce.

2593. A letter from the assistant legal adviser for treaty affairs, Department of State, transmitting copies of international agreements, other than treaties, entered into by the United States, pursuant to 1 U.S.C. 112b(a); to the Committee on Foreign Affairs.

2594. A letter from the Assistant Secretary of State for Legislative and Intergovernmental Affairs, transmitting a report on political contributions for Otto J. Reich, of Virginia, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Venezuela, pursuant to 22 U.S.C. 3944(b)(2); to the Committee on Foreign Affairs.

2595. A letter from the Executive Director, Committee for Purchase From the Blind and Other Severely Handicapped, transmitting a report on activities under the Freedom of Information Act, pursuant to 5 U.S.C. 552(d); to the Committee on Government Operations.

2596. A letter from the Assistant Attorney General, Department of Justice, transmitting a draft of proposed legislation to provide for seabed boundary agreements between the United States and any coastal state; to the Committee on the Judiciary.

2597. A letter from the Secretary of Transportation, transmitting a report on the delegation of vessel inspection and documentation services, and reviews of vessel hull, machinery, piping, and electrical plans to the American Bureau of Shipping, pursuant to 46 U.S.C. appendix 9(c); to the Committee on Merchant Marine and Fisheries.

2598. A letter from the Secretary of Transportation, transmitting a report on the feasibility of providing essential air transportation to Cordova, Yakutak, Gustavus, Petersburg, and Wrangell, AK, and the impact of using smaller aircraft, pursuant to 49 U.S.C. appendix 1389 note; to the Committee on Public Works and Transportation.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. LENT:

H.J. Res. 501. Joint resolution to commemorate the 125th anniversary of the Congressional Medal of Honor and the deceased and living recipients of this honor; to the Committee on Post Office and Civil Service.

By Mr. WAXMAN:

H.R. 4055. A bill to assist the States to establish and operate protection and advocacy systems for mentally ill individuals and to promote family support groups for Alzheimer's disease patients and their families; to the Committee on Energy and Commerce.

By Mr. ARCHER:

H.R. 4056. A bill to amend the Internal Revenue Code of 1954 to deny the benefits of section 911 of such code to individuals who are in a foreign country in violation of an Executive order; to the Committee on Ways and Means.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 385: Mr. KOLBE.

H.R. 838: Mr. HAMILTON.

H.R. 2588: Mr. KRAMER, Mr. WHITTAKER, Mr. SCHAEFER, and Mr. MARLENEE.

H.R. 3006: Mr. MYERS of Indiana.

H.R. 3421: Mr. ANDERSON, Mr. BATES, Mr. BERMAN, Mr. BOSCO, Mrs. BURTON of California, Mr. CHAPPIE, Mr. EDWARDS of California, Mr. MARTINEZ, Mr. MATSUI, Mr. LEVINE of California, Mr. PANETTA, and Mr. PASHAYAN.

H.R. 3555: Mr. SCHULZE, Mr. BEREUTER, Mr. ROYBAL, Mrs. BURTON of California, Mr. RICHARDSON, Mr. BEVILL, Mr. TOWNS, Mr. SAVAGE, Mr. FUSTER, Mr. OLIN, and Mr. BONIOR of Michigan.

H.R. 3798: Mr. WILSON.

H.J. Res. 297: Mr. WALGREN, Mr. FLIPPO, Mr. NIELSON of Utah, Mr. FIELDS, Mr. RAHALL, and Mr. WILSON.

H.J. Res. 439: Mr. NEAL, Mr. GROTBERG, Mr. LEHMAN of California, Mr. RODINO, Mr. NIELSON of Utah, Mr. SCHAEFER, Mr. ENGLISH, Mrs. BURTON of California, Mr. FAUNTROY, Mr. ACKERMAN, Mr. MANTON, Mr. WEBER, Mr. LEVINE of California, Mr. BATEMAN, Mrs. JOHNSON, Mr. KOLBE, Mr. BONIOR of Michigan, Mr. BARTLETT, Mr. GUARINI, Mr. EVANS of Illinois, Mrs. VUCANOVICH, Mr. CRAIG, Mr. MCCANDLESS, Mr. DREIER of California, Mr. WALKER, and Mr. PERKINS.

H.J. Res. 451: Mr. MADIGAN, Mr. BIAGGI, and Mr. EARLY.

H.J. Res. 458: Mr. PORTER, Mr. CRANE, Mr. BRYANT, Mr. ROBINSON, Mr. THOMAS of California, and Mr. WILSON.

H. Con. Res. 243: Mr. ECKART of Ohio.

H. Res. 346: Mr. BIAGGI.

SENATE—*Monday, January 27, 1986*

The Senate met at 12 noon and was called to order by the President pro tempore [Mr. THURMOND].

PRAYER

The Chaplain, the Reverend Richard C. Halverson, D.D., offered the following prayer:

Let us pray.

Eternal Father, "God of all comfort, Who comforts us in all our affliction," on this 13th anniversary of the Paris accords, which ended American involvement in Vietnam, we join with multitudes in remembering those still missing in action, or prisoners of war. It is painful to contemplate the unimaginable suffering, the indescribable pain, and unspeakable boredom endured by those who have been languishing so many years. Minutes become hours, hours—days, days—weeks, weeks—months, and months stretched into years without relief. Nor can we, who have not experienced such loss, identify with their loved ones for whom anxiety and hope were mixed, and finally became hopelessness and despair. God of all comfort, we pray for those who remain in Vietnam. Your love and grace in the confidence that You, the Omnipresent One, are there. We pray for their loved ones the peace and comfort that only the God of all comfort can give. And we pray for those public servants and private citizens who do not forget, and are doing all in their power to resolve this unconscionable situation. We pray in His name Who suffers when those He loves suffers. Amen.

RECOGNITION OF THE MAJORITY LEADER

The PRESIDENT pro tempore. The distinguished majority leader is recognized.

SCHEDULE

Mr. DOLE. Mr. President, under the standing order, the leaders have 10 minutes each followed by a special order for the Senator from Wisconsin [Mr. PROXMIRE] for not to exceed 15 minutes.

That will be followed by routine morning business not to exceed 1 hour with Senators permitted to speak therein for not more than 10 minutes each.

Following routine morning business, the Senate will resume consideration of S. 638, Conrail. Pending is the committee substitute.

I understand that there may be two or three amendments. Hopefully some can be worked out, and accepted by both sides.

I do not know of any rollcall votes that will occur. There will be no rollcall votes after 6 p.m. in any event.

For the information of all Senators, the State of the Union Message will occur tomorrow, Tuesday, January 28. Members are asked to be in the Chamber no later than 8:30 p.m. so that we can go as a group to the House of Representatives Chamber.

NOTICE CONCERNING 1985 YEAR END REPORT REQUIRED BY THE FEDERAL ELECTION CAMPAIGN ACT, AS AMENDED

Mr. DOLE. Mr. President, I wish to advise that the mailing and filing date for the 1985 Year End Report required by the Federal Election Campaign Act, as amended is Friday, January 31, 1986. Principal Campaign Committees supporting Senate candidates file their reports with the Senate Office of Public Records, 232 Hart Building, Washington, DC 20510.

The Senate Office of Public Records will be open from 9 a.m. until 12 midnight on the filing date for the purpose of accepting these filings. The extended evening hours, after 5:30 p.m., are being instituted on a trial basis to ascertain the level of interest in extended filing hours.

In general, reports will be available 24 hours after receipt. For further information, please do not hesitate to contact the Public Records Office on (202) 224-0322.

RECOGNITION OF THE MINORITY LEADER

The PRESIDENT pro tempore. The distinguished Democratic leader is recognized.

Mr. BYRD. Mr. President, I thank the distinguished President pro tempore who presides over the Senate at this moment.

A POET AND SCHOLAR AMONG US

Mr. BYRD. Mr. President, most of our distinguished colleagues are multidimensional men and women. They possess talents and interests that reach beyond the skills for which they have most often earned respect here in the Senate. For example, two of our colleagues, Senator HART of Colorado and Senator COHEN of Maine, recently wrote and published a novel together that has done well in the bookstores, I am told. Before entering electoral politics Senator MOYNIHAN of New York was a university professor, and is esteemed in policy and academic circles for the authoritative essays and studies on a variety of questions that he periodically publishes. Those are but a few examples of Senate talent that I could cite.

But today, as a lover of poetry, myself—and I do not write poetry, but I do like poetry—I want to call the Senate's attention to the poetic talents of one of our other colleagues.

Senator SPARK MATSUNAGA of Hawaii was first elected to the Senate in 1976, and became a member of this body after 14 years of service in the House of Representatives. Educated at the University of Hawaii and Harvard University Law School, Senator MATSUNAGA rose to the rank of lieutenant colonel in World War II as a member of the famed Nisei 100th Infantry Battalion. Much decorated, Senator MATSUNAGA was twice wounded and counts among his military awards the Purple Heart with Oak Leaf Cluster.

In addition to his exemplary work in the Senate, Senator MATSUNAGA has taken the time and the pains required to compose many verses of admirable poetry. Recently, some of Senator MATSUNAGA's poems were included in a complimentary 1986 pocket calendar that Senator MATSUNAGA had printed and sent to me. He may have sent the same to others.

I also call our colleagues' attention to an exceptional piece of research and analysis that Senator MATSUNAGA coauthored a few years ago on the operations and nature of the House of Representatives' Rules Committee. I remember that he gave me a copy of this book shortly after he came to the Senate—or, it may have been immediately before he came to the Senate, and during his campaign for election to the Senate.

That work, entitled "Rulemakers of the House," should be interesting reading for those of us who were Members of the House of Representatives prior to our election to the Senate. I am also confident that students of American government, and the Congress in particular, will find Senator MATSUNAGA's study a rich resource for many years.

Senator MATSUNAGA is to be congratulated for the contributions that he had made in his book on the House Rules Committee, for his fine poetry, and for his continuing work among us here in the Senate.

Mr. President, I now ask unanimous consent that the lines and verses of Senator MATSUNAGA's poetry to which

I earlier alluded be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

Success in life demands an early goal,
Which you yourself must set and strive to gain.
'Tis better to be known as a good man than a great one,
For greatness is an assessment of mortals;
Goodness a gift of God.

Envy him not who sings and trips along,
For saddened hearts oft hide behind a song.
Remember happier days you've known and sing,
And Life's detractors lose their painful sting.

A soul completely immersed in one's work
Reflects a youthful face.

Commence your work wherever you can;
Your major task may be to start.

In fending Life's soul-trying blows,
Let Patience be your winning ploy.

To seek out the wrong is only half the task;
To set it right is the tougher half.

Strike at your foe and be struck in return;
Befriend your foe and secure your own peace.

Learn well the languages and the arts:
A genius unable to express himself is no better than a silent fool.

As small as it may seem,
A good deed is always worth the doing.

The manner in which you perform your daily tasks
Builds and reveals your personal character.

Personal suffering begets deeper understanding of human values.

DEJA VU

(By Spark Matsunaga)

I've been here before, I say—
That house, that wall, that brook
I've seen them all before;
Yet I've neither been this way
Nor read in any book
Of what I see, I'm sure.
What strange things
Our minds must know;
We know not yet our minds.

ON RELIGION

(By Spark Matsunaga)

When I think of the foolish fight
That men o'er religious differences wage,
I can see mortals in blind plight,
Headed towards one goal, whatever their rage.
As waters run from different heights and ferret rivers to a common sea,
So do men make different rites and found religions to one great Deity.

Mr. BYRD. Mr. President, I ask unanimous consent that I may reserve my time throughout the day.

The PRESIDING OFFICER (Mr. NICKLES). Without objection, it is so ordered.

Mr. BYRD. Mr. President, I yield the floor.

RECOGNITION OF SENATOR PROXMIRE

The PRESIDING OFFICER. Under the previous order, the distinguished Senator from Wisconsin [Mr. PROXMIRE] is recognized.

WHY ARE SO MANY AFRAID TO TALK ABOUT THE GORBACHEV ARMS CONTROL PROPOSAL?

Mr. PROXMIRE. Mr. President, hurray for Scotty Reston of the New York Times, and Mary McGrory of the Washington Post. These two veteran columnists are among the few who have fractured the thundering silence that has greeted the most momentous, far reaching, and very possibly hypocritical arms control proposal since the dawn of the nuclear age: The Gorbachev proposal for eliminating nuclear arms within 14 years, and drastically reducing conventional arms.

McGrory denounced the lack of a full scale reaction in this country as "The Insult of Silence." Reston searched out the most constructive and realistic parts of the massive Gorbachev package, and ignored the rest. In all fairness, President Reagan did say that the Gorbachev proposal offered new and constructive possibilities. Sure that was a reaction. But it was a vague, generalized response.

What kind of reaction did this Gorbachev bombshell get from the Arms Control and Disarmament Agency? How about the State Department? The Defense Department? The Senate Foreign Relations Committee? The House Foreign Relations Committee? Answer: Nothing. As McGrory wrote: The answer in all cases was the insult of silence. And yet the silence of much of official Washington was understandable. With an arms control package this complex, responsible officials could plead caution while they think it over.

But how about the American press? Certainly this astonishing change in arms control policy by the other superpower—our prime nuclear adversary in the world—should be expected to provoke a raging flood of discussion and debate from the great American press. How many widely circulated columnists are there in this country today: conservative, liberal, middle of the road? Answer: They are countless. There are hundreds of editorial pages, separate, competing, and proudly independent. The country is swamped in radio and television commentators.

All of these opinion leaders often desperately search day after day for relevant and significant comment on our country and its future. In general they do an enlightening and impressive job. Our press is probably the best in the world and certainly the best this country has ever enjoyed. It is better informed. It is fairer. It is provocative. It is amusing. We live in a golden age of discussion and debate.

So what as happened to comment—pro and con—on the most significant arms control proposal of our time? Where are these guys? There has been far more in the press about the Chicago Bears quarterback Jim McMahon's headband and his alleged compliments for New Orleans women than there has been about a proposal that could carry with it the fate of the world.

Obviously, these commentators have thought about discussing this Gorbachev proposal. So come on fellas. Let us in on your thoughts. Since the Gorbachev proposals may have more to do with the fate of this nuclear world than any other development in a long time, why have they not given us the benefit of debate?

The great British political theorist, Walter Bagehot, years ago wisely observed that the strength of democracy lies precisely in the vigorous differences of opinion and the debate on the big crucial issues. Bagehot argued that the give and take of vigorous public debate resulted in wiser decisions in a democracy than in dictatorships that prevent public dissent.

And where does that big clash of opinion take place in America? In America most of the real public debate takes place not on the floor of the Congress, not in political campaigns, and not in campaigns for the Presidency. The continuous day-after-day, week-after-week debate that counts the debate that millions of Americans hear and see, the debate that really determines public opinion, takes place in the American media: in the newspapers, on radio, on television. This is the discussion that reaches tens of millions of Americans, and determines public opinion.

Certainly when the General Secretary of the Communist Party of the Soviet Union proposes the most drastic and far reaching arms control program in history, our great media should discuss it. Instead, the country suffers a yawning silence. It is as if Gorbachev had never spoken.

This Senator has said on the floor of this body that the Gorbachev proposal to banish nuclear weapons from the face of the Earth is so far out, so unrealistic, so impossible that it is ridiculous. Does that mean this Senator would flatly reject the Gorbachev initiative forthwith? Certainly not. As James Reston has written, the Gorbachev verification suggestions, for example, for on-the-spot investigation have great promise.

Also Gorbachev's proposal to negotiate an end to nuclear weapons testing is not new. But, if we can negotiate it, it would greatly serve the interest of

peace, especially in concert with the new verification initiative. We should thoroughly examine Gorbachev's suggestion for banning chemical weapons. Why should we not pursue his startling idea for limiting the major conventional weapons that have much the same impact as nuclear weapons?

We have a golden opportunity to begin the most constructive negotiations with the Soviet Union to achieve peace since the beginning of the nuclear age. That is this Senator's judgment. That judgment may be wrong—seriously wrong. Possibly we should not touch any of these Gorbachev initiatives. I do not know, but what I do know is that follow them or not we ought to talk about them. We should debate them, discuss them. In this case silence is a shocking sign of weakness for this great democracy.

CORNELL KICKS THE PORK BARREL POLS IN THE TEETH

Mr. PROXMIRE. Mr. President, late last year over the objections of this Senator the Senate appropriated some $12 million without peer review and without competitive bids to Syracuse University for a research project. The award was vigorously protested by university leaders throughout the country. In the judgment of this Senator it was sheer pork barrel politics at its worst. The true victim of this policy of making awards based on sheer political power is not the university which can provide the higher quality and lower price research. The prime victim is the Nation's national interest and the American taxpayer.

Yesterday's New York Times carried an article that spoke most eloquently for a policy by the Congress of sticking strictly to peer review and competition for such research awards. One of the Nation's great universities, Cornell, declared that it will accept Federal research grants only if they are free of politics and subject to competitive bidding by colleges. And, Mr. President, Frank Rhodes, the president of Cornell University, was not just blowing smoke when he made that announcement. He was referring to a $10 million grant recently designated for a new campus center for a supercomputer whose capabilities far exceeds those of ordinary computers. The $10 million is contained in a bill that mentions Cornell as a recipient. Mr. President, this rejection by Cornell of an award most institutions would kill for speaks with the most profound eloquence of how deeply the university community resents the policy of the Congress passing out awards to universities to undergird a senatorial or congressional campaign.

Cornell is the first great university to speak from principle. They deserve a world of credit for doing so. Ten universities, including Cornell, were awarded grants totaling $65.6 million in the bill that passed the Congress last month. So far, Cornell is the only one to announce that it would not accept the money if merit review procedures were bypassed. It is rare but wonderful when any recipient of congressional goodies bites the hand that is feeding it. When it happens, the Congress should sit up and take notice. It is just possible that fair and honest, merit based allocations of congressional millions may turn out to be better politics than the usual awards to reelect incumbent Members of the Congress.

Mr. President, I ask unanimous consent that an article by Gene Maeroff in the Sunday, January 26, 1986, New York Times reporting the Cornell reaction, and a wire I have received as of December 20, 1985, from President Rhodes of Cornell, be placed in the RECORD at this point.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the New York Times, Jan. 26, 1986]

CORNELL SPURNS GRANTS GIVEN WITHOUT REVIEW

(By Gene I. Maeroff)

At a time when some universities are getting direct research grants by lobbying in Congress, Cornell University has declared it will accept such money only if it is free of politics and subject to competitive bidding by colleges.

Cornell, in a letter being distributed to its faculty, said it would welcome a merit review of its qualifications to get a $10 million grant recently designated for a new campus center for a supercomputer, whose capabilities far exceed those of ordinary computers. The funds are contained in a bill that mentions Cornell as a recipient.

The grant was provided without the knowledge of university officals, through the initiative of Senator Mark Hatfield, an Oregon Republican. Money would go to Cornell and an Oregon company helping to build the supercomputer unless someone else produces an equal or superior proposal.

"I determined that Cornell could not accept a funding award if it circumvented traditional merit-review procedures," said Frank Rhodes, the president of Cornell, which will continue to develop the supercomputer whether or not it gets the $10 million grant.

CHALLENGE TO PROCEDURE

What is at stake in Cornell's stand is the process through which individual universities seek funds and their supporters in Congress earmark the money, rather than allocating it after a merit review. Under such a review, all institutions competing for the funds submit proposals, which are evaluated by a panel of independent scientists.

The section of the Defense Department that is to distribute the grant, the Defense Advanced Research Projects Agency, said that it was setting up competition for the $10 million grant based on a merit review.

The bill's language relating to Cornell and the supercomputer project "unambiguously opens it to competition," said Craig I. Fields, deputy director of the engineering applications office of the agency.

"I imagine Cornell looked at the language and wanted the world to understand that they were not seeking special favor and were willing to stand on their merit," he said.

HARM TO RESEARCH SEEN

Cornell is among a few dozen major research universities that have condemned the direct grants in joint statements as harmful to research because such allocations do not ensure that money goes to those best qualified to use it. Cornell officials said they wanted to emphasize the need for an open allocations, free of political influence.

Smaller institutions and those without a long tradition of strong research prefer the direct grants because, they say, money awarded by panels of experts generally goes to a handful of prestigious universities.

"Frankly, for too long peer review has been a pipeline for the haves to continue and the have-nots to be shunted aside," said Charles Coffin, director of government relations at Northeastern University in Boston, which was designated in the same bill for a $13.5 million grant for engineering research. "'One man's peer review is another's old boy network,' as John Silber, the president at Boston University, has said."

GRANTS TOTAL $65.6 MILLION

Ten universities, including Cornell and Northeastern, were awarded grants totalling $65.6 million in the bill that was passed last month. So far, Cornell is the only one to announce it would not accept the money if merit review procedures were bypassed.

The other schools are Wichita State University in Kansas, the University of Nevada at Las Vegas, the University of Kansas, Iowa State University, a consortium of institutions known as the Oregon Graduate Center, Oklahoma State University, Rochester Institute of Technology and Syracuse University.

Some leaders in research hailed Cornell's decision.

"It is not easy in these times for a university president to bite a hand that is trying to feed his institution," said Robert Rosenzweig, president of the American Association of Universities, an organization of leading research universities. "But it certainly is admirable."

[Mailgram]

DECEMBER 20, 1985.

Senator WILLIAM PROXMIRE,
530 Dirksen Senate Office Building,
Washington, DC.

Amendment No. 1378 to the continuing resolution for the Department of Defense provides 10 million dollars for supercomputer development. These funds were later identified in the conference report with Cornell University. Cornell respects the responsibility of Congress to set priorities in broad policy areas such as access to supercomputers and restoring U.S. leadership in supercomputer technologies. The university attaches equal importance to the merit-review processes used by funding agencies to select specific projects for support.

Cornell University will not accept funding awards which bypass normal review procedures. We are told that Amendment No. 1378 was intended to help restore U.S. leadership in supercomputer technology, a purpose we fully support, but was not intended to circumvent such merit review. The university did not develop or support an initiative intended to bypass merit review.

FRANK H.T. RHODES,
President, Cornell University.

GENOCIDE: A STATE-SPONSORED CRIME

Mr. PROXMIRE. Mr. President, recently the Washington Post carried a review of John Simpson and Jana Bennett's book, "The Disappeared and the Mothers of the Plaza: The Story of the 11,000 Argentinians Who Vanished." This book serves as another reminder of the atrocities that are committed under some governments and of the urgent need for the Genocide Convention.

Ever since the massive, State-sponsored killing that occurred in Argentina between 1976 and 1983 has been publicized, many comparisons have been made between events there and those in Nazi Germany. The killing that occurred in Argentina was of a much smaller scale, but it serves as a harsh reminder that mankind has not changed since the Holocaust and that the possibility of genocide is still a real and present danger.

One of the most frightening aspects of the Argentine tragedy is that "the horror of it all went unremarked." The Post review comments that, "Evil was everywhere, every day. It was so normal, so accepted, so banal. And so few spoke out."

The reviewer seems surprised that most of those who did speak out were foreigners. This is disappointing, perhaps, but it should not be surpising. History indicates that people living under violent, repressive regimes tend to react with denial, fear, and, finally, numbness. The horror of events saps the emotional resolve of the people.

The present Alfonsin government deserves great credit for holding the former military regime accountable for its crimes. However, it can never make up for the 11,000 lives lost. Perhaps if other countries had spoken out more vehemently, early on, some of those lives would have been spared. It is important for other nations to speak on behalf of oppressed populations, to champion their basic rights and press for reforms. This is the underlying premise of the Genocide Convention, and this is why we need to ratify it.

MEASURING THE HYPE ON STAR WARS

Mr. PROXMIRE. Mr. President, it is of critical importance to the Congress that the technological feasibility of the star wars program be well understood. Decisions involving billions in tax dollars should not be based on partial information or data which has been deliberately inflated to portray a rose picture.

What does it mean when a 103-foot Titan missile body is blown apart by a chemical laser in a test of star wars? Are we ready for deployment? Why was the test publicized so widely by the SDI office? Why has there been a steady drum beat of publicity from that office about breakthroughs in various SDI technology?

Here is an interesting contrast. The SDI office deals with some of the most highly classified studies and tests in the history of our country. They have knowledge of technology the Russians would die to have. So do they conduct their research in a closely guarded environment without public scrutiny? Hardly. Instead, they find every opportunity to make public their accomplishments and crow about successes.

This is a high visibility public relations strategy—a form of lobbying the American public and the Congress for more funding. The military officers in charge of the SDI program are Madison Avenue specialists in selling their product. They are salesmen in uniform, publicists, and entertainers, hoping to mold public opinion by a repetition of success stories until there is no questioning, no suspicion about the technical feasibility of star wars.

That is why there is no substitute for accurate press reporting on the SDI program. It is the responsibility of the American press to weigh and balance competing claims of success and failure. Out of that analysis may flow a national consensus.

Mr. President, I can think of no better example of this kind of evaluation than in a recent article of James McCartney of the Philadelphia Inquirer and I ask unanimous consent that his article from January 5, 1986, be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Philadelpha Inquirer, Jan. 5, 1986]

BEHIND THE HYPE, QUESTIONS PERSIST ON SPACE DEFENSE

(By James McCartney)

WASHINGTON.—The picture was right there on your television set in September: a 103-foot Titan missile, weighing 165 tons, under attack by a "Star Wars" laser.

There was a brilliant flash of light and the missile tilted, then collaped in flames.

The unquestionable visual message: President Reagan's controversial Star Wars program, which aims at developing an anti-ballistic missile system and is officially known as the Strategic Defense Initiative (SDI), is working.

That message, and that television film, have become major objects of controversy in the scientific world today.

One of the nation's leading laser experts, Kosta Tsipis of the Massachusetts Institute of Technology, described the film and the test itself as an effort at "bamboozling the public."

Both, he said, were misleading. "The experiment had absolutely nothing to do with the ability of a laser to shoot down a missile," Tsipis said in a telephone interview.

"It is a technology pursued in the 1970s. It was a very old laser. The lethality demonstration has been around for years. The wavelength of the laser is not appropriate to SDI purposes; it is too long.

"This is the kind of bamboozling of the public the SDI program is undertaking," he said.

SDI officials do not dispute that the laser—and the technology—used in the test was old. But they say that critics have "misunderstood" the test, that it was designed to determine how much heat was necessary to destroy a missile, not to show that the SDI Program had developed a missile-killing capability.

The incident illustrates the continuing uproar in the scientific world over the Star Wars program that has come into sharp focus in recent weeks.

As Reagan prepares to ask for substantial new funds for the program, Gen. James Abrahamson, SDI director, and his top aides have claimed sweeping scientific breakthroughs that they say have increased confidence that Star Wars will work. Abrahamson in recent weeks repeatedly has referred to "exciting" and "incredible" progress.

But many scientists are complaining publicly about what they term "hype" from those promoting the program and are questioning whether significant progress has been made in the $26 billion research program that has become the apple of Reagan's eye.

A detailed examination of the status of major scientific challenges facing the program, complemented by a series of interviews with scientists on both sides, reveals this picture:

No technical breakthroughs have been made in the central scientific and technical problem areas facing Star Wars, nor have any been claimed by Abrahamson and his top aides. Some progress has been made, however, in marginal areas.

It is still not possible to determine whether a defensive system against Soviet missiles that would protect the entire U.S. population is scientifically feasible. This was the goal set by Reagan when he announced the SDI program in March 1983.

No weapons or support systems for SDI have yet been developed to the point that it is clear that they will work.

No decisions have been made on the basic question of how a Star Wars system might be structured, its size or even what kinds of weapons would be used—or, as Abrahamson puts it, what its organizational "architecture" might be.

SDI officials say Reagan will request between $4.5 billion and $5 billion for the program in the new budget, about 63 percent more than Congress approved last year.

How much progress has been made on developing a Star Wars system?

To work, the system would have to be able to intercept thousands of Soviet missiles, many traveling at 17,000 m.p.h., and destroy them before they reached U.S. targets. It would require:

Space-based sensors to locate, identify and track missiles within four minutes after they were launched.

Weapons to destroy at least 2,100 Soviet missiles in the first three or four minutes after launched, at distances of up to 1,000 miles, and about 250 more in the next 25 minutes.

Computers to take information from the sensors and give instructions to the weapons, aiming them at missiles on flight-paths that would extend halfway around the world.

Here is a report on the progress, or lack of it, in each of these major areas as pieced together from current Strategic Defense Initiative literature, statements by SDI official

and contractors and interviews with scientists:

SENSORS

According to John Scott of Energy-Environmental Research Group Inc., SDI sensor specialists, present technology does not permit the kind of "wide-scale and detailed resolution" of objects that would be necessary for Star Wars. Nor does it permit positive identification of thousands of objects in space. "The discrimination problem is a terrible one," he said.

Sensors today are also far too heavy to be space-based, and no way has been found to protect them so that they would not be subject to Soviet attack.

However, Abrahamson's special assistant, Maj. Simon Worden, said that the "premier breakthrough" in the last year has been the discovery of techniques to discriminate and identify targets, using particle beam and laser technology.

Said Thomas Karas of the congressional Office of Technology Assessment: "What they've got is an interesting idea. What they don't have is all the things it would take to make it work."

WEAPONS

Two major kinds of weapons are under intensive research: kinetic energy weapons, which would fire high-speed projectiles at about 20,000 m.p.h.; and "directed energy" or speed-of-light weapons, including lasers and partial beams.

Kinetic energy weapons are the most promising so far, but there is a basic problem: They are far too heavy and expensive. The most promising developments are in rocket-fired homing vehicles and what are called "rail guns," huge space-based machines that fire projectiles.

Today's homing vehicles weigh 7,000 pounds. The weight would have to be brought down to a few hundred pounds—or, ideally, a pound or two.

Current rail-gun technology would require a 100-ton system in space—nowhere near practical. In addition, the guns, which would have to fire hundreds and perhaps thousands of projectiles, can fire only a few before they wear out.

"The major problem," said Rodney Burton of G.T. Devices Inc., an SDI contractor, "Is designing an overall system. It's still very much research."

Among directed energy weapons, the hottest current candidates are what are called "free electron lasers" and neutral particle beams.

Lasers require huge amounts of energy, and recent decisions have been made to concentrate on land-based systems that would send beams of high-energy light to mirrors based 23,000 miles in space. These mirrors, in turn, would reflect the beams to "battle mirrors" orbiting about 100 miles over the Soviet Union.

But at this point, the high-powered beams destroy mirrors rather than reflect off them, and no way has been found to focus or aim beams accurately.

According to James Swingle, of Lawrence Livermore Laboratories, it also is not clear whether the type of lasers that would be necessary would be able to destroy possible targets.

"We still have a lot to learn about actually destroying missiles," he said. "It is not very well understood. This is very much a research program. There are several key areas that will need a lot of work to determine whether this system will work or not."

Particle beam weapons would have to operate in space, and they are also far too heavy at this point. Nor has it been established that they can destroy missiles. "We can cook a pot roast with one," said Damon VioVanielli, of New Mexico's Los Alamos Laboratories, "but we cannot kill a booster [missile]."

COMPUTERS

Because any Star Wars system would have to be able to process information from sensors about thousands—or even hundreds of thousands—of objects in space in a matter of minutes, officials acknowledge that computers are a key if any system is to work.

The "hardware," or the actual computer machinery, needed to handle this volume of information is already in sight, most computer experts say. One of them estimated recently that the system would have to process 600 million to 1 billion computations a second, while current technology can manage 500 million computations a second.

But "software"—how to program the computers to meet the Star Wars challenge—is a problem, Strategic Defense initiative officials concede.

Gerold Yonas, chief scientist for the SDI, said the issue is "whether you can write enough software to do the problem. . . . And, more than anything else, you have to have a system that is tested and tested and tested again."

At this point, no one has figured out how to test such a system.

Nor has anyone figured out how to put the necessary computers, if they did work, into space, or how to protect them once they got there.

One scientist, David Lorge Parnas, resigned recently from an SDI advisory panel on the ground that reliable software could never be developed.

"We cannot trust it," he told a Senate Armed Services subcommittee earlier this month, because the software could never be tested under realistic conditions. And without testing and de-bugging, he said, any system would be subject to "catastrophic failure."

MYTH OF THE DAY: THE $171.9 BILLION MYTH

Mr. PROXMIRE. Mr. President, the Halls of Congress are filled with the sounds of heart-rending cries of pain, gnashing of teeth, and possibly even the rending of pin-striped suits. What is causing this joblike misery? The possibility of having to reduce—get that, reduce—the deficit to $144 billion.

You might think that this $144 billion had appeared suddenly, like something that goes bump in the night. But no, I looked in the Gramm-Rudman bill and there it is written large—$144 billion.

What, then, is causing this outpouring of grief? The realization that a comforting myth—the 1986 deficit will be about $170 billion—has gone with the wind. For years, Congress has passed budget resolutions and then quietly exceeded the deficit "ceiling" contained in those resolutions. And nothing horrible happened. But this year something horrible is in the offing.

That horror is that the Congressional Budget Office and the Office of Management and Budget, looking at reality instead of myths, estimated that the fiscal year 1986 deficit will be around $220 billion instead of that mythical $171.9 billion. Therefore, the deficit will have to be reduced not from $171.9 to $144 billion but from roughly $210 billion, after the sequeston order, to $144 billion. That is the cause of all the grief.

Note the villian in this drama. It is not the $144 billion target for the deficit in fiscal year 1987. Rather, it is the gross underestimation of the 1986 deficit.

What is behind this underestimation? Did something unforeseen happen? Not on your life. The causes of this higher deficit are:

Failure to pass the budget reconcilation bill, which added $8 billion to the fiscal year 1986 deficit.

Low-ball estimates of the cost of agricultural programs to the tune of $15 billion.

Defense spending which exceeded the unrealistically low targets in the budget resolution by $7.8 billion.

Additional domestic spending which exceeded the resolution by $1.4 billion.

Finally, rosey economic forecasts which were not met and which added $12 billion to the deficit.

Not one of these causes was unforseen at the time the budget resolution passed the Senate. A number of my colleagues stood on this floor and warned that the fiscal year 1986 deficit would be substantially above the projected $171.9 billion. But our voices went unheeded.

Now those smoke and mirrors estimates are coming back to haunt us. Despite all the crocodile tears being shed, it is about time for some reality in place of myths.

Mr. President, I yield the floor.

ROUTINE MORNING BUSINESS

The PRESIDING OFFICER. Under the previous order, there will now be a period for the transaction of routine morning business not to exceed 1 hour, with Senators being permitted to speak therein but not to exceed 10 minutes each.

THE 1985 CHICAGO BEARS: THE HALAS LEGACY LIVES ON

Mr. DIXON. Mr. President, early in 1920, A.E. Staley, a Decatur, IL, starch manufacturer and soybean entrepreneur, hired a young engineer from Chicago. This engineer was hired to make starch part-time and to help turn the good company football team into one of the best semiprofessional teams in the country. During the winter he made starch, met with other semipro teams to form the American Professional Football Association, and recruited new players.

After several years as an industrial sports team, Mr. Staley sold the team to the young engineer with the advice that he take the team to Chicago where he would be able to draw bigger crowds and make more money. The young man took that advice and thus was born the Chicago Bears professional football team. The young engineer was, of course, George Stanley Halas, the father of professional football.

As an owner, player, and coach, George Halas was responsible for a lot of what the NFL stands for today. He had high standards in his private and professional lives and he expected his players to maintain those same standards. George Halas loved the game of football and was always looking for ways to improve the game. Many of his innovations are still in use today.

He always tried to recruit the best players. Their names are famous: Red Grange, Sid Luckman, Gale Sayers, Dick Butkus, Mike Ditka or Walter Payton. George Halas knew that success was built on a combination of talent and desire, and that's why I think that Mr. Halas would be very proud of the 1985 Chicago Bears.

This year's players have talent, desire and that indefinable something that makes for a great professional athlete. They work hard together. They are a true team. Those of us from Illinois are indeed proud to be represented by these men, who have worked so hard and earned the respect of their colleagues in the NFL and of the whole country. When they were 4–0, there were nonbelievers. When they were 8–0, there were still people who were nonbelievers. The Bears didn't let that bother them. They just kept playing their own brand of professional football and now there can be no more nonbelievers.

I think it's fitting in this 20th Super Bowl year, that the team founded by the man who meant more to the growth of the National Football League than any other has won the world's championship.

George Halas isn't with us this year in person, but he is in spirit. It is the spirit of a man whose words were proved true again yesterday in New Orleans: "I do believe we gave a lot of people pleasure today. It's a great game, a great game."

REPORT ON U.S. POSITION AROUND THE WORLD

Mr. GOLDWATER. Mr. President, beginning in late December, I undertook an investigatory trip that took me to some of the key locations around the world where the United States has vital interests. I have reported to President Reagan my observations on the U.S. position in some of the most strategically important areas of the world and I have also sent a letter to Secretary of State Shultz relative to my concern about reported plans of our Government to provide a $500 million arms sale package to Red China.

The long and the short of my report to the President is that while U.S. Armed Forces are in good or excellent condition around the world, a disturbing perception exists in certain foreign countries that the United States is not living up to past promises to support the defense capabilities of our friends.

The point of my letter to Secretary Shultz is to protest reports of United States participation in seeking to enhance and modernize the military forces of Communist China without paying adequate attention to the threat this activity would pose to other nations in the far Pacific.

Mr. President, in the interests of communicating these first-hand observations to my colleagues and the American people, I ask unanimous consent that the text of the two letters be printed in the RECORD.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

U.S. SENATE,
COMMITTEE ON ARMED SERVICES,
Washington, DC, January 21, 1986.

The PRESIDENT,
The White House,
Washington, DC.

DEAR MR. PRESIDENT: Two days after Christmas, I began a trip that took me around the world for the purpose of visiting not only our own bases and the bases of allies, but friends that we have around the world. I will keep this report as short as I can, even though that might be a little bit difficult.

Beginning in Hawaii, I found the Navy, the Army, and the Air Force to be in good condition. There are shortages, naturally. There have been shortages in spares throughout the military for a good number of years, but recently that situation has been improving. I was most disturbed by being briefed there to learn that about 800 different intrusions have been made by the Soviets over the Pacific with Badger and Bear bombers. Some of these incursions have approached the Philippines and, how far they have gone into the central Pacific, I don't believe anyone really knows.

From Hawaii, we traveled to Korea where I found our ground forces to be in excellent condition; likewise, our air forces. Our Ambassador to that country, Mr. Walker, is one of the most outstanding Ambassadors I feel that we have. The people in South Korea seem most friendly to the United States, but naturally, the people in North Korea do not quite hold that feeling. I inquired as to the possibility of disruption or attempted disruption of the Olympic Games in 1988 by the North Koreans, and I have to report to you that is a worry, although I am sure you have been briefed on this. It is not something that is worrisome to the point that they feel there are no solutions, but there is the fact that they can attempt troubles.

From there, I stopped very briefly in Japan, where I met Ambassador Mike Mansfield whom, as you know, is doing an outstanding job of representing our country, expressing our wishes and our desires. We had a very friendly chat, not long enough, but I just wanted to report to you of the excellence of his service.

Then, on to Taiwan. I know the great and high regard that you hold for Taiwan. Even though it was Mr. Carter, not you, who withdrew recognition from the Republic of China and transferred that honor to the Peoples' Republic on the Mainland, I feel that the agreements with Taiwan under the Taiwan Relations Act have not been and are not being fully complied with. Instead we seem to be bent on assisting with the modernization of Red China's military capabilities. I may hold hearings before the Armed Services Committee sometime later this spring to examine the arms assistance the United States is giving to the Mainland.

Taiwan badly needs new aircraft. They are flying the F-104 long given up by our own Air Force and by the German Air Force, and they are using the F-5 which is rapidly becoming antiquated. I repeat to you what I have said to you before, the F-20 would be an ideal solution to the aircraft problem of Taiwan, and I see absolutely no reason at all, under any agreement, that we cannot furnish this weapons system to the Taiwanese and to give them other equipment they badly need which I do not care to relate at this point.

I repeat to you, Mr. President, what I have often said. I don't think any of us or our children and possibly our grandchildren will even live to see the day the Peoples' Republic of China becomes a viable nation with power in this world. If they could ever rid themselves of the communist government, they could become, in my opinion, the strongest economic nation in the world, but I don't believe for one single moment that communism will leave those shores.

From there, we traveled to Singapore, where I had the real pleasure of meeting the Prime Minister and discussing very briefly his situation. As you know, he has put together an armed force of about 60,000 men, with some 200,000 reserves, and he is building an air force with the help of our own Air Force. There is an economic problem in that country, created by the reduced quantity of oil that we and other countries are buying. But I have to tell you, to travel the crowded streets, to try to get into the crowded stores, makes me question the depth or severity of that recession. As you know, it is a most delighful country, in fact one of the most beautiful in the entire world, and the fact that it sits at the mouth of the Straits of Malacca, which I believe is the only Strait left in this world not dominated by the Soviets or one that could be dominated very quickly, makes it become of immediate importance to us.

Our next stop was the atoll of Diego Garcia in the middle of the Indian Ocean and I would suggest that someday, if time permits, you pay a visit to this most interesting installation. What our country has been able to do with that very valuable spot on earth is almost unbelievable. I am happy to report that the leadership is good, the morale is good, and our decision to cooperate with the British in maintaining the space is, to me, one of the most vital strategic decisions our country has ever made.

The next stop was the little island of Masira off the coast of Oman, a place by the way, that I landed at once in a while during World War II. It is a desolate place. It is very difficult to find even a bush growing, but the British are there helping the Omanian Air Force and I believe everything is in good order. While it was not possible

for me to visit with the Sultan of Oman becasue of a little mixup in my scheduling, I was able to see the fabulous growth that has occurred in that country over the last fifteen years and it is almsot unbelievable. I feel that the Sultan is a good friend of ours. His first interests are his own country, the education of his people, and the righting of wrongs that were perpetrated by his predecessor, his father.

Next, we visited Saudi Arabia, first the large Saudi air base on the island of Dahran, where we had a thorough briefing of one of the most wonderful tactical installations I believe can be found anyplace on earth. There, at the level of the pilots and the squadron, I found a dissatisfaction that I found wherever we went over the fact that we have not carried out our promise to sell them more F-15 aircraft. This was borne out to me by a visit, in Riyadh, with the Minister of Defense, Prince Sultan.

Mr. President, there in Saudi Arabia, I found a disturbing repetition of matters I had been hearing wherever I had been, with the possible exception of Korea, that we, the United States, are not living up to our promises—the promises to supply weapons. Now, I know the great reluctance of the Congress to supply weapons to Arab countries because of the tremendous influence of Israel on the Congress but, nevertheless, if we are going to make promises, we must keep them, and I urgently appeal to you to use your power to see that these promises are kept. We are beginning to be looked upon, not just as a paper tiger, but as a country who makes promises only not to keep them. I fully understand the political power exerted on Congress to influence these decisions relative to the Arab countries, but I think we have to sit down and take a very modern, realistic look at this whole area that I call the Islamic Crescent, for if we do not stand by our friends there, we could find ourselves in serious trouble. This is a situation I would enjoy discussing with you at any time.

From Riyadh, we stopped briefly in Geneva to visit with several members of the government and to visit an old and dear friend of mine. The last two days of the trip we spent in London, where I visited the missile site at Greenham, and it is truly a remarkable bit of construction. It is impossible to describe it to you by letter but I am sure you are acquainted with it. I just wanted you to know that everything is in good shape there. The trip back across the Atlantic was, as usual, very interesting with a short stop at Shannon, Ireland, for the necessary replenishments.

In summing all of this up, Mr. President, I think we should start paying very close attention to the promises we make. I find, not too much, but a little bit of questioning about our country and its intentions. I am particularly impressed with one growing fact that grows stronger with every trip—the world is changing in more ways than we know and the world is becoming less and less dependent upon the United States.

I have seen, in my journeys, a tremendous amount of construction, none of it by American companies. I see jet airliners and aircraft not made in the United States. I have found practically no American cars abroad, so, Mr. President, I never thought I would live to see the day when that would happen, but I think it is high time that the policies you are advocating become adopted by not just the American Congress, but by the American people. If we are going to cut a road that we can follow with freedom and ease, we had better get back to the old idea that we work, and work, and work.

With all respect,

BARRY GOLDWATER.

U.S. SENATE,
COMMITTEE ON ARMED SERVICES,
Washington, DC, January 22, 1986.

Hon. GEORGE P. SHULTZ,
Secretary of State,
Washington, DC.

DEAR GEORGE: Whether or not you will ever receive this letter will not prevent my writing it in the hopes that you might see it.

I have been made aware of the fact that the United States is considering selling to the People's Republic of China a number of rather sophisticated military items coming to about $500 million.

George, you know my feeling about Red China so possibly you can throw this in the prejudiced pile, but I cannot help but voice my complete disagreement with any decision such as the one that is being contemplated, if it is being contemplated.

I have often said that we will never see the day when the People's Republic of China is not a communist government. We will never see the day when they are important to us economically, strategically, or any other way, and by continuing to do the type of thing I am referring to in this letter, we are alienating South Korea, Japan, and most of all, Taiwan.

I know your feelings on Taiwan. I know the President's feelings on Taiwan, and you know my feelings on the same place. I don't want to see them threatened by the People's Republic of China, yet the sale of these items will do exactly that. Never in our history have we needed a friend as we need Taiwan today—not only Taiwan, but Korea, the Philippines, and the rest of the far Pacific countries that the People's Republic of China means no good to. I just want to strongly protest this gesture. I pray that you will not allow it to happen. It has been bad enough that we have recognized the People's Republic, so let's not go any further with this rather useless gesture.

With respect and best wishes,

BARRY GOLDWATER.

MILITARY REFORM IN AMERICA

Mr. GOLDWATER. Mr. President, to follow through on my remarks that I intended to introduce into the RECORD articles appearing in the Air University Review for September-October relative to reorganization of the military, I will today introduce another one, entitled "Military Reform in America," by Dr. Allan R. Millett.

Dr. Millett has taken more or less a historic view of military reform in America. It is extremely interesting reading and being a great believer in the engraving found on the steps of the Archives Building, "What is past is prologue, study the past," I think my colleagues would enjoy reading this, just to have a better grasp of why constant attention is necessary to keep every organization, whether it is military, business, or political, up on its toes, living in the present, not the present we necessarily like, but the present as it necessarily is.

I ask unanimous consent that this article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

MILITARY REFORM IN AMERICA

(Dr. Allan R. Millett)

Serving soldiers from time immemorial have recognized that dictated change does not always bring increased military effectiveness, the basic criterion they apply to reform. An unnamed soldier in the army of republican Rome recognized the problem:

"We trained hard . . . but it seemed that every time we were beginning to form up into teams, we would be reorganized. I was to learn later in life than we tend to meet any new situation by reorganizing; and a wonderful method it can be for creating the illusion of progress while producing confusion, inefficiency, and demoralization."

The Duke of Cambridge, who witnessed the impulse for reform in Queen Victoria's England, summed up the thinking conservative's view of all reform, civil and military: "There is a time for all things; there is even a time for change; and that is when it can no longer be resisted." Whether the parent state is autocratic, revolutionary, or democratic, its armed forces are not likely to view military reform as an unconditional good. As Alexis de Tocqueville observed, however, the armed forces of democracies had a special problem because they were altered so radically in peacetime periods between wars. The change was not necessarily dictated by size but represented a fundamental challenge of the values of the standing forces. In times of peace, democracies ignored their standing forces, for they knew that in wartime the "nation in arms," for better or worse, would go to the battlefield with a new set of criteria for evaluating military leadership, organization, weapons, and tactics. Skeptical of the adaptiveness of peacetime forces, democracies would dictate that their military establishments would fight and change their institutional character at the same time.

Like many of his other observations in *Democracy in America*, Tocqueville had more to say about military reform in Europe as the seasons of American military reform may or may not coincide with belligerency. They certainly do not match the outcomes of wars. For example, in comparing the results of the Mexican War (1846-48) with the Spanish-American War (1898), one can conclude that both were smashing victories in terms of national objectives. The War with Mexico outstripped the War with Spain in its degree of mismanagement and the near perilous commitment of inadequate military power. Yet it was the 1898 war that set off more than a decade of land force reform, largely because it occurred simultaneously with the Progressive Era. Nor does the importance of the war dictate the degree of reform. The American Revolution gave rise to a generation of rhetoric but prompted little change to the militia system inherited from the colonial era. The War of 1812, in contrast, created the political environment that brought significant change to the War and Navy departments. Nor does military reform require the shock of wars badly won or lost that galvanizes public outcry. Reform in the twenty years before the Spanish-American War and World War II proceeded with minimal public attention, yet produced important changes in both the U.S. Army and the Navy.

If military reform is purposeful change that improves the U.S. Armed Forces (i.e.,

the product of public policy), it is not a phenomenon that occurs in either linear or cyclical fashion across time. Even "improve" can mean several things. By strictly military criteria, reform should increase the likelihood that the armed forces will perform their missions in war and peace with increased effectiveness, but reform in the United States seldom meets the standard of pure functionalism. Indeed, some of the most deep-seated notions of military change have included both explicit and hidden agendas that had little to do with military effectiveness in the direct, tangible sense. For example, at one time or another, the federal government has used military reform to encourage infant industry, build continental railroads, teach young males hygiene and physical fitness, further racial and gender integration in the larger society, and educate generations of civil and marine engineers. In fact, American military reform probably includes only one constant: it must not endanger civilian control of the military. In any event, the reason why military reform defies simple explanation is that it has worked in five distinct aspects of the institutional development of the armed forces:

The organization of the four services that comprise the armed forces and the network of civil, political agencies with which they work;

Technology;

The social composition of the armed forces and the set of formal regulations and informal mores that determine social relationships in the armed forces;

The nature and functions of officership in the armed forces; and

The development of operational doctrine and tactics for force employment.

Reform in each of these five areas has built its own set of historical patterns, and the causal relationship between reform movements has not been nearly so direct as some military reformers believe. In fact, it is closer to the historical experience to recognize that successful reform in one area may retard improvement in others. Such unanticipated outcomes have occurred so often that they explain some of the military predisposition to make change slowly, especially in peacetime. On the other hand, compartmentalized reform may have no effect at all outside its narrow sphere of influence. Thus, military reform in the United States refuses to fit neatly into a historical pattern that points clearly to reform's future.

ORGANIZATION

For their first century, the three existing services (the U.S. Army, Navy, and Marine Corps) developed a dual structure that gave their administrative headquarters in Washington centralized control. Operating forces in the field had little influence on service policy because the service civilian and military staffs controlled budgets and regulation writing, largely to satisfy civilian oversight. Effective power to run the Army rested with the department and bureau chiefs of the War Department. Their counterparts in the Navy's bureaus and the Marine Corps' small headquarters staff had similar power. In wartime, however, this system normally collapsed, since the standing procedures and limited numbers of personnel could not cope with mobilization. By the end of the nineteenth century, the services moved to close the line-staff division through the creation of service general staffs. The Navy began the process with the establishment of a General Board (1900) and the Office of the Chief of Naval Operations (1915), but the Army went further in centralizing military control with its War Department General Staff (1903). The Air Force duplicated the Army system in 1947, although Strategic Air Command established a semifeudalistic autonomy like that maintained by some portions of the Navy's support establishment. In the twentieth century, the general staff reform movement finally ensured that line officers would dominate their services and provide authoritative advice to their civilian superiors, but Congress has worked to counter this trend by providing staff access through the funding process. The career of Admiral Hyman Rickover is only the most notable example of technocratic insurgency.

The pressure for interservice collaboration—some coming from civilians, some from military officers—coincided with the growth of the general staff movement and in some ways competed with it. The Joint Board (1903) coped with such joint service responsibilities as coast defense, aviation policy, and amphibious operations, as well as advising the service secretaries on war plans. Replaced by the Joint Chiefs of Staff system in World War II, the Joint Board showed characteristics of joint planning that still prevail. The board had only an advisory role; it could not make decisions, which required active civilian participation and a willingness to decide. The joint planning system dictated that interservice disagreement would surface, whether the issue was the defense of Subic Bay or the management of military space programs. The organizational response to this condition after 1947 has been to increase the power of the Secretary of Defense and, much less significantly, the power of the Chairman, Joint Chiefs of Staff. Drawing from service experiences, the reformers have assumed that more centralization alone will improve joint collaboration. But service-level centralization rested on a different problem: the ascendancy of line officers in service planning within a system of civilian control. The debate on joint planning now focuses on force employment issues that require strategic guidance from political authority, something noticeably absent throughout the entire history of the general staff reform movement. During the one period in which that guidance came with a vengeance, the tenure of Robert S. McNamara as Secretary of Defense (1961-67), the entire system shuddered and eventually rebelled.

TECHNOLOGY

Since the earliest bureaucratization of the armed forces, technological change developed as a constant focus of military reform. Only the issue of technological adaptation has been a constant, for the pattern of change itself has varied. In the design of military vehicles and their different power plants, reform has normally wedded government designers and civilian innovators and producers, linked by a delicate balance of military need, psychic satisfaction, and monetary profits. Through World War I, this military-civilian collaboration produced sailing ships, the first ironclads and steel warships, Army wagons and their braying "power plant," railroad systems (most notably during the Civil War), automobiles and trucks, and airplanes. Although the pattern of collaboration has continued into the 1980s, it has been affected by the growing specialization of military vehicles, increased unit cost, and the length and complexity of the design and procurement process. Procurement, however, since the Frigate Act of 1794, has always been a political issue, which it will remain as long as Congress exercises its fiscal powers. Changes in military vehicles, an area of high need and high cost whether the vehicles carry weapons or simply provide transportation, will continue to be in the forefront of technological development because the mastery of time and space remains a central criterion for military effectiveness.

Ordnance development, on the other hand, has been made principally on the arsenal model, since military ammunition, cannon, and fusion warheads have little commercial appeal. Ordnance development had depended more on nation-against-nation military assessments of weapons effectiveness than military-civilian comparisons, which shape evaluations of vehicles. Except for the occasional intervention of individual inventors (e.g., John Browning and John Garand) into the arsenal system, ordnance development has been the province of military bureaucracies, which tend to balance promised increases in firepower with questions of tactical effectiveness and logistical feasibility. If there is any historical trend in weapons development, it has been that the capabilities of the platform vehicles have often exceeded the ordnance they carried, at least until the development of nuclear and terminally guided conventional munitions.

The change of military infrastructure reflects a different historical pattern. Military investments in construction (e.g., coastal defense fortifications, naval and military bases and airfields, civil engineering projects) has declined and been replaced by investment in electronic command and control systems with global and extraterrestrial reach. Like the development of vehicles, both military construction and electronics have depended on close military-scientific-commercial interaction. At an ever-accelerating pace, the application of electronics for military purposes has dictated a bond between commercial exploitation and military application that cannot be divided. The trend began with the development of the telegraph, radio, and the electrification of warships into the use or radars, computers, infrared sensing, satellite and aerial photography, and microwave/space relay communications. In a sense, the growing importance of military information processing and analysis reflects the more widespread shift of the American economy from industrial to service entrepreneurship. Whether the microchip and solid-state circuitry will prove as important a quantum leap in the effectiveness of military command as the vacuum tube remains to be seen.

Although ideally the adaptation of military technology might be separated from domestic partisan politics (as distinguished from bipartisan military pork-barrel politics), such has not been the case, largely because military procurement always seems to carry social and political benefits of little military relevance. Historically, military procurement has been used to stimulate cutting-edge industrial giants (in shipbuilding, steel, and aviation, for example), to encourage small businesses, to strengthen labor unions and minority employment opportunities, and to sustain a broad academic-industrial research and development infrastructure. Whatever the wisdom of this public policy, it politicizes technological reform, since both major political parties have populist factions that see corporation-governmental collaboration in terms of imperialist intervention abroad and economic exploitation at home. Despite the yearning of technologists, the concerns of the laboratory,

factory, and military user alone are unlikely to shape technological reform.

SOCIAL COMPOSITION, STRUCTURE, AND BEHAVIOR

Since the first ill-fated campaigns by the Army into the Northwest Territory and the first cruises of the frigate Navy against Barbary pirates and French privateers, American military commanders have argued that they could do much better in the field with better men. Those "better men" should not desert and should stay sober (at least on duty), obey superior officers and NCOs, and show some interest in training and physical fitness. They might even fight. In peacetime, the military recruiters did not have much success in drawing sturdy yeomen and fishermen or intelligent clerks into the ranks and crews, but throughout the nineteenth century they did attract pliant immigrants, wayward youths, and occupationally displaced workers into the peacetime services. Fortunately, they knew, the services would be more representative of the nation's male talent in wartime because volunteering and conscription (usually a subtle combination of both) would bring citizen-soldiers and citizen-sailors into the Army and Navy. These servicemen would not stay for the following peace. Indeed, until the twentieth century, they often went home legally even before the war ended. The services knew that these phenomena existed and tried to close the quality gap between the peacetime and wartime services. They are still trying.

Most personnel reforms designed to attract quality people—defined as trainable men in good health—came from the services themselves in collaboration with Congress. The reforms focused on "more"—more pay, more rank, more and better food, improved living conditions, more off-duty recreation, more health care and retirement benefits, more religion. They also focused on "less"—less corporal punishment, less issue alcohol, less menial work, less capricious discipline by martinet superiors. In terms of eliminating the unattractive aspects of service life, the armed forces often found themselves allied with unlikely co-reformers that ranged from the antislavery movement to legal rights groups. While they may have had the rights of servicemen in mind, civilian reformers had little interest in military effectiveness, having more concern in using the military as a laboratory for social experimentation.

The armed services had a good idea of what sort of people they did not want in the ranks, except under duress, Southern and Eastern Europeans, Jews, black Americans, Indians, Hispanics, Asians, and women all found entry and career advancement impossible or difficult at best, but as their political power grew in American society, so too did their influence on military personnel policies. In some cases, the armed forces moved more rapidly toward equal opportunity than civilian institutions; sometimes they did not. In any event, wartime service normally paved the way for better military careers, for the twentieth-century American military establishment could not defend its insular possessions or man the forces committed to forward, collective defense after 1945 without modifying its social structure. Enlisted service for a special group usually led eventually to admission to the officer ranks, sometimes at the insistence of civil rights groups with influence on Congress. With greater access to formal education and powerful formal and information sanctions against other than meritocratic advancement, minorities have demonstrated that increased military effectiveness may be compatible with social reform. The lesson, however, has not been painlessly learned by all parties or free of ambiguity.

OFFICERSHIP

Military professionals did not find the North American continent hospitable from the earliest settlement, as the travels of Miles Standish and John Smith attest. The low state of career officers had nothing to do with the requirement for their services, which the Indians and French kept at a high level. Little had changed by the end of the Revolution, as Hamiltonian Federalists learned when they tried to create an academy and cadre of professionals to train their "federal select militia."

The Navy had less difficulty finding a professional identity for its officers, since the occupation of mariner/ships officer had high status in a country that boasted a world-class merchant marine. Moreover, a Navy officer could show his commitment to the entrepreneurial seacoast culture by seeking prize-money like his privateering brethren and by his diplomatic efforts to expand American commerce abroad.

Army officers—except those who served as explorers, surveyors, and civil engineers—had little to offer the nation; even in wartime, they shared preferment with citizen-officers whose overall excellence and ability to recruit made them more valuable than regulars. Even the establishment of the Military Academy (1802) and Naval Academy (1845) did not advance the concept of special skill and public trust, for appointments to the academies soon became part of the political patronage system. Not until the post-Civil War period did academy graduates dominate the services, and then the Army had to accommodate officers whose volunteer wartime service drew them to a postwar career. Moreover, the larger society no longer ignored former wartime commanders (indeed, it elected some president of the nation), and it also rewarded a host of technicians, inventors, organizers, managers, and scientists who happened to wear uniforms.

The reform of officership in the U.S. Armed Forces largely came from within the officer corps itself and from officers who believed that peacetime education for wartime command defined military professionalism. Some of the officers' inspiration came from the debacle of the Civil War, some from foreign military practices, and some from the example of civilian professionals and businessmen.

By World War I, all the services had taken giant stops to establishing preparation for wartime command (or operational staff service) as the fundamental justification for military professionalism. The signs of reform were everywhere: in school systems for midcareer education, in the movement toward promotion by merit and board selection, by personal efficiency reporting, by the rotation through line and staff assignments. The giants of World War I and II emerged from this system and gave it its ultimate sanction. To their credit, the officers of the Army (Sherman, Upton, Schofield, Wood, Pershing, Marshall), Navy (Luce, Mahan, Sims, Pratt, Fullam, King), and Marine Corps (Barnett, Lejeune, Russell, Holcomb) who championed the professionalization of officership did so most often in the face of (at best) public apathy. They also persisted in the face of opposition from many of their fellow officers, who preferred to rely on their political contacts, bureaucratic expertise, and romantic notions of charismatic battlefield leadership. The career officer as "manager of state violence" owed little to civilian inspiration or assistance. As long as professionalization could be squared with access to officership based on education and performance and did not menace civilian control, political leaders accepted it.

The cold war, however, resurrected the dual definition of officership common in the nineteenth century, destroying the dominant identity of the officer-as-commander and rational planner of military operations. Officers explored space and the ocean depths, not just mountains and harbors; officers functioned as corporate managers and technicians in massive installations and nuclear laboratories, not railroads and gun factories; officers guided interservice and coalition commands and military assistance groups in foreign lands, not just negotiated with the Cheyennes and Fiji Islanders; officers moved freely throughout the national security bureaucracy rather than simply in and out of their service bureaus. In a sense, the power to serve the public good corrupted the core defintion of officership, setting the stage for a collective malaise triggered by the Vietnam War. Since much of the crisis in professionalism was rooted in the changed values that the officer corps itself had encouraged, there should be little wonder that officers have preferred to carry on the redemptive or redefining process themselves rather than allow Congress, academic gurus, and the media to prescribe ill-suited cures for their unique diseases of the spirit. The general social pattern of professions reforming others but not themselves has little to recommend it.

OPERATIONAL AND TACTICAL DOCTRINE

The general concepts and procedures that guide the employment of military forces in campaigns and battles emerged in the nineteenth century as the intellectual core of officership, an acquired mix of art and science. Unlike strategy, so dependent on transient political goals and subject to the whims of wartime leaders, operational and tactical doctrine required a beguiling mix of universal principles and situational adaptations that fused the capabilities of one's own forces and one's enemy as well as considered the physical environment in which those forces would meet one another. Moreover, operations and tactics demanded that a commander *do* something, not just think about it—a responsibility that required emotional and physical sturdiness, not just intellectual skill. In land warfare, battles moved from sequential concepts (the artillery fired, the infantry attacked or defended, the cavalry skirmished and then pursued) to the combination and integration of arms in simultaneous combat, complicated further by the advent of the airplane. At sea, single ship actions progressed to squadron, then fleet surface operations, then major naval campaigns that included submarines, fleet aviation, surface combatants, and amphibious forces. Fighting with allies in the world wars, in Korea, and in Vietnam further complicated the crafting and adjustment of doctrine, as did the introduction of the concept of deterrence based on the threat of nuclear weapons. The technical lethality of weapons in terms of the volume of fire such weapons could produce over ever-expanding distances presented additional problems to doctrinal reformers. Technological anxiety (will our weapons work as well as the enemy's?) reinforced or-

ganizational anxiety (will our system of command and logistics suffice when Murphy's Law replaces the current SOP?).

Operational and tactical reform in the U.S. Armed Forces has been largely the province of the officer corps, which has done a surprisingly good job in peacetime in changing the services' operational concepts. The old saw that the military refights the last war bears little reality to the process of adaptation, since much doctrine comes from a desire not to fight the last war again. Whether the reformed doctrine actually fits the next war is, of course, another matter, but the Armed Forces of the United States at least had the pleasure of fighting World War II almost precisely as they thought they would in terms of operational concepts, if not in terms of place of timing. Perhaps that experience was too satisfying.

Doctrinal reform has invariably created serious internal disputes within the officer corps of every service, a condition that makes intervention by outsiders especially unwelcome. Doctrinal adaptation is like a civil war, noteworthy for the high stakes and the intensity of commitment it spawns. Outside intervention may be important but is never fully welcomed, even by the winners. When doctrinal reform coincides with other types of reform, however important and well-intentioned, the effect on a service may be wrenching. The process is even more complicated when the doctrine requires interservice negotiation, in part because joint doctrine creates additional opportunities for extramilitary intervention. Thus, the development of air power doctrine in this century, especially when it became linked with nuclear weapons, proceeded with consistent messiness from the Billy Mitchell era through the "revolt of the admirals" in 1949 into the questions of control of helicopters, close air support squadrons, and military transports. Similar disputes have characterized the question of special operations forces, whether they were Marine raiders in the Pacific, Ranger battalions in the European theater, or Special Forces detachments in Vietnam.

The importance of operational and tactical reform is seldom in question, but no intelligent military leader can regard it as a pleasant experience. The only more perilous situation is to remain wedded to the status quo and find that adaptation must be built on the burning wreckage of one's materiel and the bodies of one's comrades.

The history of the U.S. Armed Forces provides many examples of adaptation across the entire range of organizational, technological, social, professional-occupational, and operational concerns that have drawn reformers' interest. But reform has seldom been driven by concerns for military effectiveness alone. Eventually, reform, because of its political nature, may achieve legitimacy with the nation's political leadership, but it also carries a cost—a cost extracted in time, money, interservice harmony, and the full faith and confidence that should characterize civil-military relations. Military reform is much like the very nature of republican government itself. As Federalist Congressman Fisher Ames observed, an autocratic government is like a beautiful sailing ship, fast and steady in a fair breeze, but prone to floundering in foul weather. A republic is like a raft, ungainly, unsightly, and nearly uncontrollable even in calm waters. But it never sinks, even in a gale. Nevertheless, one's feet are always wet.

Mr. PROXMIRE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. METZENBAUM. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER OF PROCEDURE

Mr. METZENBAUM. Mr. President, what is the pending business?

The PRESIDING OFFICER. The Senate is in morning business.

Mr. METZENBAUM. Mr. President, I have no desire to determine what will take place on the floor of the Senate. That is not my responsibility. However, we have all been advised that as of today we would be back on the Conrail bill. I am wondering what is the intention of the leaderhsip as far as going back on the Conrail bill. Although I love the Halls of the Senate, I am not just anxious to sit here and twiddle my thumbs. If the manager could indicate what his intentions are, the Senator from Ohio would appreciate it.

Mr. DANFORTH. Mr. President, the manager of the bill is certainly willing to go forward this afternoon. I know the Senator from Louisiana had an amendment which he was going to offer. I thought he was going to offer it today. It is my understanding that he will not be prepared to offer it today.

There is a possibility that the senior Senator from Illinois might have an amendment to be offered today. We are trying to ascertain that.

Mr. President, I am perfectly prepared to go forward with the bill today, if Senators would like to either offer amendments or make speeches.

Mr. METZENBAUM. Mr. President, the Senator from Ohio is prepared to go forward today, as soon as the manager of the bill or the majority leader puts us back on the bill. Does the manager have anything further he would like to say at this time?

Mr. DANFORTH. I am not prepared right now, but I will have some comments when we get back on the bill. I anticipate that will be in something like 20 minutes or a half-hour.

Mr. METZENBAUM. Could we tentatively agree that at about a quarter to 2 we will reconvene on the bill and the Senator and I can proceed to discuss certain matters?

Mr. DANFORTH. That may very well be.

Mr. METZENBAUM. Mr. President, I thank the Senator and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. DANFORTH. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

CONCLUSION OF ROUTINE MORNING BUSINESS

The PRESIDING OFFICER. Is there further morning business? If not, morning business is closed.

CONRAIL SALE AMENDMENTS ACT OF 1985

The PRESIDING OFFICER. The clerk will report the pending business.

The legislative clerk read as follows:

A bill (S. 638) to amend the Regional Rail Reorganization Act of 1973 to provide for the transfer of ownership of the Consolidated Rail Corporation to the private sector, and for other purposes.

The Senate resumed consideration of the bill.

Pending:

Danforth Amendment No. 1437, in the nature of a substitute.

Mr. DANFORTH. Mr. President, at approximately 3 o'clock, it is my intention to propose a unanimous-consent request which would have the effect of treating my subsitute amendment to S. 638 as an original text for the purpose of further amendment.

I do this for several reasons. First of all, the Senate customarily treats substitute amendments as original text for the purpose of further amendment in order to simplify the amendment process. Second, since my amendment is a substitute amendment, if it is agreed to there would be no text of S. 638 as it was originally introduced for the Senate to consider. The original S. 638 has been modified as a result of extensive committee deliberations. These changes, which reflect a number of concerns raised against the original Conrail sale proposal, are all contained in my substitute amendment. Therefore, it is pointless for the Senate to consider what is outdated text. The old text does not enjoy any support either by proponents or opponents of the Conrail sale to Norfolk Southern and does not require Senate consideration.

I would urge my colleagues to agree to this request. It has no material impact on their ability to amend my substitute which will continue to be amendable in two degrees as the original S. 638 would have been.

Mr. METZENBAUM. Mr. President, I will address the body on some of the problems with respect to the Conrail legislation and then at the appropriate time I will also discuss somewhat the procedures under which we are operating.

Mr. President, diversions of rail traffic from Eastern and Midwestern rail-

roads to the giant Norfolk Southern-Conrail combine will have profound implications for rail competition in the region.

What will be the effect on those railroads?

I point to the report of the U.S. Railway Association, which states as follows:

> Carriers both large and small will be affected by diversion. CSX Corp., with its major overlap of network with Conrail/Norfolk Southern, will suffer significant loss in absolute dollars. Smaller carriers, such as Grand Trunk Western; Illinois Central Gulf; Chicago and North Western; and Soo/Milwaukee will lose substantial volumes of traffic in relation to their traffic bases.

USRA states that the larger carriers in the West will not escape the effects of diversions.

Norfolk Southern estimates that traffic diversions to its system will total $262.4 million.

But CSX estimates that it will lose $400 million of business just from its own lines.

The Midwestern regional railroads are afraid they will be eaten alive by the Norfolk Southern-Conrail giant, and after reading the USRA report, I agree entirely with them.

There is a distinct possibility that traffic diversions to Norfolk Southern-Conrail could so weaken the financial position of the Midwestern regional carriers that Federal intervention will be necessary to prevent a collapse.

It is, indeed, ironic that the administration, in its rush to unload Conrail, is setting the stage for a repeat of a regional rail collapse on a scale comparable to the Penn Central fiasco.

And how do the taxpayers fare in this sale? Not very well.

According to the Congressional Budget Office, the Federal Governmment would be paid about $1.4 billion for the sale of Conrail. But we would lose about $400 million in tax revenues and $800 million in the future interest and dividend payments between now and 1990. I will return to the same subject subsequently in order to point out the President's comments in connection therewith and the facts as I understand them to be.

The losses I have just mentioned according to the CBO do not take into account what we will lose in interest and dividends between 1991 and 2011, when the debt becomes due.

The Federal Government under this scheme would get $200 million for an asset whose net worth has been calculated at over $3 billion, and in which the taxpayers of this country have invested over $7 billion.

Again, this is how this would happen.

The amended and restated financing agreement between the U.S. Railway Association and Conrail requires Conrail to make payments on debentures and preferred stock held by the Government once its cumulative net income exceeds $500 million. CBO estimates that if the United States were to retain ownership of Conrail, payments to the Federal Government would begin in 1988. These payments would be slightly less than $300 million in each year, totalling approximatley $800 million between 1988 and 1991.

This debt to the Government will be cancelled under the proposed sale agreement, or the memorandum of intent, as it is called, between the Department of Transportation and Norfolk Southern.

The $400 million loss of tax revenue will result largely from Norfolk Southern's ability to utilize Conrail's tax breaks.

But that is not all.

The memorandum of intent also contains a number of tax warranties which guarantee to Norfolk Southern the manner in which the Internal Revenue Service will handle the sale transaction for tax purposes.

That, in and of itself, makes this a most unusual memorandum of agreement. To provide how the IRS is going to handle a particular transaction is most unusual, if not unique.

The Department of Transportation claims that there is nothing in the memorandum of intent that varies from normal tax procedure. But this is simply not so.

For example: Paragraph 4 of the memorandum states that:

> The cancellation by seller on the date of closing of any interest of seller in any debt, including accrued interest thereon and in preferred stock, including accrued and unpaid dividends thereon of Conrail held by seller shall not result in the recognition of gross income for the purposes of the code.

Simply stated, that mumbo-jumbo means that the $800 million Conrail debt from which Norfolk Southern will be excused will not be recognized as income to Norfolk Southern. Therefore, Norfolk Southern will not have to pay taxes on it.

This is not normal tax procedure.

Suppose the Internal Revenue Service does not buy this argument, and decides that the forgiven debt is, in fact, income, and should be taxed as such.

Well, the memorandum takes care of that problem, too. It indemnifies Norfolk Southern against just such an IRS decision. If the IRS does not go along with the deal, the Department of Transportation will pay Norfolk Southern's tax bill.

Page 3, paragraph 4 of the memorandum specifies that:

> Conrail's net operating loss carryforwards shall not be available for carryover to taxable years beginning on or after the closing.

But there is an exception:

> Except to the extent such carryforwards are attributable solely to reductions required by the Internal Revenue Service in the adjusted tax basis of Conrail's depreciable or amortizable assets as reflected in its U.S. corporation income tax return for the taxable year ending on the closing.

When somebody says that these are not special provisions, it is because they have not seen many other agreements or because they have not read this one, because these are very special provisions.

The sale agreement guarantees to Norfolk Southern the value of Conrail's assets for tax depreciation purposes. However, if the Internal Revenue Service objects to this arrangement, the provision of the memorandum that I just read permits Norfolk Southern to make up the lost tax depreciation benefits by retaining Conrail tax loss carryforwards of a comparable value.

Not bad. In fact, very good, if you are the buyer, but not very good for the U.S. Government.

Here is another unusual warranty.

The IRS may not adjust the tax value basis of Conrail's assets after closing of the sale because, on page 4, paragraph 6(E), subparagraph 2, the memorandum states:

> The adjusted basis at closing of Conrail's and its affiliates' depreciable or amortizable assets shall be as shown on its U.S. corporation income tax return for the taxable year ending on the closing (of the sale), determined without extraordinary departures from the methods of prior years, and said basis as of closing shall not thereafter be increased or decreased as a result of any adjustment to a taxable year of Conrail ending on or before the closing.

I am afraid the American people do not know what we are talking about. But when all is said and done, it winds up to one of the most massive giveaways and specially protected deals that probably the U.S. Government has ever entered into. As a matter of fact, it reminds me of those deals we talked about a couple of years ago, the ship leasing deals, in which the Government guaranteed the tax aspects of the deal and verified the tax application of it. With respect to those deals, Congress has now seen fit to say that we will not look favorably on them and approve them, and this is one we should not.

From the beginning, the value of Conrail's assets for tax depreciation purposes carried over from the old bankrupt railroads. That is normal tax procedure. However, nobody knows whether the carryover basis is actually correct since Conrail has never been audited by the Internal Revenue Service.

By prohibiting the Internal Revenue Service from adjusting the tax value basis of Conrail's assets, the memorandum guarantees that Norfolk Southern will not be harmed by any audit of Conrail's asset that the IRS decides to undertake in the future.

How far we have gone in protecting the buyer and being indifferent to the

concerns of the rest of the taxpayers of this country.

The list of special tax warranties goes on, and the sad fact is the Senate Finance Committee never even had a chance to consider them. The bill was not referred to that committee.

At my request, the Senate Judiciary Committee, on which I serve, conducted 2 days of hearings on the sale proposal even though we did not have the bill before us.

The testimony offered during those hearings clearly showed that this is a truly incredible deal for Norfolk Southern.

But it is a raw deal for the taxpayers and for the Northeast-Midwest section of the country.

The price is totally inadequate.

The tax breaks and warranties cannot be justified.

And, there is no indication that the new rail network will provide the level of rail service currently enjoyed by shippers and communities throughout the Northeast and Midwest.

The sale has the marks of a monumental giveaway and I intend to fight it to the end.

But I think we ought to discuss further the misinterpretation and misunderstanding that apparently exists at the White House in connection with this deal.

Mr. President, on January 23, the President of the United States announced in a meeting before a group of business leaders that the sale of Conrail to Norfolk Southern is a test of congressional will to cut Federal spending.

The President said, and I quote:

> This is a test to see if Congress is serious about meeting the challenge of Gramm-Rudman-Hollings, (to) start scaling back the scope and size of Government. If we're to bring down deficit spending, what a better place to start than by trimming away those costly activities like Conrail, which the Government should never have been involved with in the first place.

End of Presidential quote.

I regret to tell my colleagues that the President is seriously misinformed.

The Federal Government has not spent one thin dime on Conrail since 1981.

In fact, in 1981, Conrail earned $39 million.

In 1982 Conrail earned $174 million; in 1983 Conrail earned $313 million; in 1984 it earned $500 million; and in 1985 it earned $440 million.

In other words, Mr. President, Conrail is about the only Government asset that actually makes money.

Yet the President wants us to sell it. Or, more accurately, he wants us to pay Norfolk Southern to take it from us.

What a sweetheart deal for Norfolk Southern this transaction would be.

For $1.2 billion, Norfolk Southern will receive $800 million in cash, they will take control of a pension fund that has a surplus of $250 million and they will be in a position to write off $3.5 million of the capital assets of this railroad.

But, notes the President, the Government will receive $1.2 billion in cash.

Oh, what a deal that is for the Federal Government.

According to the Congressional Budget Office, the Government will lose that entire $1.2 billion between 1986 and 1990 because of Norfolk Southern's ability to depreciate Conrail's assets, and because the Government will forego interest and dividend payments that a federally owned Conrail would pay the Government beginning in 1988.

Mr. President, that last sentence is so important to what we are talking about that I am going to take the liberty of repeating it exactly as I read it the first time, because it is the critical issue on this entire subject.

I quote:

> According to the Congressional Budget Office, the Government will lose that entire $1.2 billion between 1986 and 1990 because of Norfolk Southern's ability to depreciate Conrail's assets and because the Government will forego interest and dividend payments that a federally owned Conrail would pay the Government beginning in 1988.

In testimony before the Senate Judiciary Committee, on April 2, 1985, Treasury Department officials promised to provide the committee the Department's analysis of the tax implications of the Conrail sale. After 10 full months of delay, from April 2, 1985, after the bill was already pending before the Senate, the Department finally saw fit to provide us their report.

What does their analysis say?

It says that selling Conrail to Norfolk Southern will cost the Government $174 million in lost tax revenues between 1986 to 1990.

I believe that these figures are conservative at best. But even assuming that they are correct, the figures are just another reason why we should not enact this legislation.

In each year starting with 1986, this transaction will reduce the amount of revenues collected by the Federal Treasury.

The President's own Department of the Treasury admits that this sale is a revenue loser.

And, therefore, this bill violates section 311 of the Budget Act as amended by Gramm-Rudman-Hollings. It is, in other words, a budget buster.

How absurd. How unbelievable. The only asset that this Government has that makes money, that reduces the Federal budget deficit, and what are we asked to do?

We are asked to pay someone to take it off our hands.

We are asked to bust the budget.

We are asked to violate Gramm-Rudman-Hollings as the first order of business before this session of Congress.

I believe the President of the United States ought to consider the views of his own Treasury Department before he announces that selling Conrail to Norfolk Southern is consistent with "meeting the challenge of Gramm-Rudman-Hollings," and balancing the Federal budget.

The fact is, it is not consistent with the Gramm-Rudman effort. This proposed sale is a blatant giveaway of valuable Government assets and it will create one of the largest tax shelters in history.

This issue before us, this Conrail bill, is the acid test for Gramm-Rudman. If we pass this bill, if we give away $174 million in revenues, Gramm-Rudman-Hollings is dead.

Therefore, Mr. President, I raise a point of order that the bill violates section 303 of the Budget Act as amended by Gramm-Rudman-Hollings.

Mr. DANFORTH. Mr. President, pursuant to section 904 of the Congressional Budget Act, I move to waive section 303 of that act for the consideration of S. 638 and any amendment thereto.

Mr. METZENBAUM. Mr. President, this is a debatable motion?

The PRESIDING OFFICER (Mr. MCCONNELL). The motion made by the Senator from Missouri is debatable.

Mr. METZENBAUM. Is debatable?

The PRESIDING OFFICER. Is debatable.

Mr. METZENBAUM. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. METZENBAUM. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. METZENBAUM. Mr. President, we now have the Senator from Missouri making the motion, which he is entitled to make, to waive the Budget Act. But the issue is simple. The issue is whether or not the U.S. Senate, in its first major act with respect to legislation, is going to waive the budgetary constrictions that we ourselves have enacted into law. Are we going to stand here and say that Conrail is so important that we do not worry about Gramm-Rudman-Hollings; we do not worry about the Budget Act; we are only concerned about Conrail, and the first thing we are going to do of any real importance this year is to waive those budgetary constraints?

I say to my colleagues: Are you prepared to go back home, wherever that home is, and say you have been making speeches about balancing the budget and, at the very same time, the first thing you are going to do, the first important vote is going to be waive, waive the budget? Do that, my colleagues, and you will make a farce out of the entire budgetary process. You will say that we have made the speeches but, when push comes shove, we are prepared to waive it.

Now, it does not matter that it is Conrail or anything else. It indicates that there is no lack of resolve, if you accept and approve the motion of the Senator from Missouri to waive the budgetary restrictions.

What possible difference does it mean to have these restraints? What kind of hypocrisy will it be if we decide that the very first thing we do in the U.S. Senate of any consequence is to waive Gramm-Rudman-Hollings? I think that is something that every Member of this body has to think about. It does not matter whether you are for Conrail or against Conrail. It does not matter what your political philosophy is.

I voted against Gramm-Rudman-Hollings. I did not think it made any sense.

I see the distinguished leader of the Senate coming on the floor and I point out to him that the issue is a simple one: Is the first act that the U.S. Senate is going to perform going to be to waive the provisions of Gramm-Rudman-Hollings? You will make it an editorial field day across the country. The columnists and the cartoonists and the editorial writers are going to say that the Senate indicated its strong resolve when they took a bill such as the Conrail bill, where we have $200 million more that will be available if we sold it to somebody else, and there is probably a lot more available if we would just go to secret bidding—the real question is: What is this body up to; why would we possibly want to waive the provisions of the Gramm-Rudman bill?

Now there is no secret about the fact that the reason that the motion was made is because the Senator from Ohio raised the point of order that it was in violation of Gramm-Rudman-Hollings; it was in violation of section 303.

I will pose a parliamentary inquiry to the Parliamentarian or the Chair. Is it not the fact that, had there not been a motion to waive the rule, the Senator from Ohio's point of order would have been well taken?

The PRESIDING OFFICER. Since the bill affects revenues in a fiscal year for which there is no concurrent resolution on the budget, the bill would violate section 303 of the Budget Act.

Mr. METZENBAUM. I thank the Chair. The bill would violate section 303 of the Budget Act. And so we have a motion to waive the rule, waive the rule so we can go ahead and violate section 303 of the Budget Act.

How many of my colleagues who fought so hard—and there were many of you—who fought so hard to enact the Gramm-Rudman-Hollings bill are going to be able to walk off the floor, if you support the motion of the Senator from Missouri, and say, proudly, "The first thing I did in the U.S. Senate this year of any real consequence was to violate section 303 of the Budget Act," parenthetically, called the provisions of the Gramm-Rudman-Hollings Act? I do not think that this body is prepared to take that action.

I cannot believe that there are 51 Members of this body who are going to vote in the affirmative to waive the provisions of the very law that we just spent almost an entire year seeing to it that it became the law and the President of the United States has indicated his approval by signing it into law.

Mr. President, I have indicated to my distinguished colleague from Missouri that I think it would be unfair, both from his standpoint and my standpoint, and in fairness to our colleagues who have been assured there would not be a vote on this matter today, so I inquire of him as to whether or not he would agree to a unanimous consent request that, when we return tomorrow, when we get back on the bill at 2 o'clock, there be 2 hours of debate, evenly divided, with respect to this motion and that there be a vote in connection with his motion at 4 o'clock and that the yeas and nays would be ordered.

Mr. DANFORTH. Mr. President, I have discussed this matter with the majority leader. He has suggested 3 o'clock. He believes that, in view of the fact that it is possible that a motion to recommit will be made, several amendments will be offered and there will be rollcalls and he is anxious to get the bill moving forward, he suggested perhaps we vote at 3 o'clock. That would be suitable for me. I would suggest that, if we come in at 2, an hour, equally divided, would perhaps give us an opportunity to air the issue.

Mr. METZENBAUM. Mr. President, I am not prepared to make an issue of whether it is 3 o'clock or 4 o'clock. I do understand we have been requested on this side of the aisle to run a hotline to see whether or not there is any problem. I, therefore, suggest the absence of a quorum.

Mr. DANFORTH. Will the Senator withhold?

Mr. METZENBAUM. Yes, of course.

Mr. DANFORTH. Mr. President, I have two parliamentary inquiries to put to the Chair. First, the Senator from Ohio refers to section 303 of the Budget Act as modified by the Gramm-Rudman-Hollings provision. Does Gramm-Rudman-Hollings modify section 303 of the Budget Act?

The PRESIDING OFFICER. Section 303 of the Budget Act is not modified by the legislation referred to as Gramm-Rudman-Hollings.

Mr. DANFORTH. I thank the Chair.

Second, Mr. President, the Senator from Missouri last Friday offered a substitute for S. 638. Earlier today, before the Senator from Ohio made his point of order, I stated that it was my intention to ask unanimous consent that the substitute be agreed to and treated as original text.

Mr. President, let me ask first of all: Is the point of order of the Senator from Ohio made against the underlying bill, or is it made against the substitute?

The PRESIDING OFFICER. The point of order was made against the underlying bill.

Mr. DANFORTH. Mr. President, the Chair has stated that the point of order would be well taken against the underlying bill. But I ask the Chair: Would the point of order be well taken against the substitute?

The PRESIDING OFFICER. In response to that question, the Chair would like to clarify an earlier response to an earlier inquiry. It is the understanding of the Chair that the point of order was made on grounds that the underlying bill affects revenues. Section 303 of the Budget Act was affected by Gramm-Rudman-Hollings to apply to credit, and the Chair wishes to correct his response to the Senator from Missouri in that respect.

As to revenues, the substitute offered by the Senator from Missouri would not affect revenues in fiscal 1987, and, therefore, would not be subject to a point of order under section 303.

Mr. DANFORTH. Mr. President, let me clarify for the Senate what the position is as I understand it that is taken by the Senator from Ohio.

The bill itself—the underlying bill, S. 638—is a complex piece of legislation, and provides among other things some tax provisions; that is to say, the bill incorporates within it the basic agreement between Norfolk Southern and the Department of Transportation. That basic agreement included a forgoing by Norfolk Southern of various tax advantages that it would otherwise have, including the net operating loss carryover, and the investment tax credit carryover. Those provisions in the agreement were embodied in the bill itself. And I believe there were several other—I think it would be fair to say—minor provisions of tax law that were incorporated into the bill.

Therefore, Mr. President, the Senator from Ohio is quite correct as a technical matter: S. 638 not only

would violate section 303 of the Budget Act, but it would in fact violate the Constitution because it is a Senate bill. And it includes within it certain tax provisions. But, Mr. President, it is the suggestion of the Senator from Missouri that the underlying S. 638 should no longer be before the Senate.

What we have done, among other things, in the substitute is to provide that no tax provisions, however technical, shall take effect in this legislation until the House bill is passed. Therefore, as the Chair has clearly stated, the point of order that has been raised by the Senator from Ohio would not lie against S. 638 as it would appear if the substitute were agreed to.

Mr. President, the basic question that is raised by the Senator from Ohio when we get beyond the technical fine points—and I think that he is really insisting on technical fine points here—is the question of budget consequences. My view is exactly the opposite of the Senator from Ohio. My view is, from the standpoint of budgetary consideration, the arguments are all for the sale. The Senator from Ohio in making his argument does not argue for the Morgan Stanley sale. He does not argue for some alternative form of selling the railroad. He says:

> Let us keep it. Let us keep the railroad. Let us renege on the decision of the Congress in 1981. Let us renege on the agreement by the Department of Transportation. Let us forget about the whole thing. We have climbed this mountain now for 6 years. Let us climb right back down again, and not have any sale at all.

Now, he claims by not having any sale at all somehow that would have positive budgetary consequences. I do not see why. Mr. President, we did not do much last year. We did not do much in solving the problem of the deficit in the Federal budget, but one of the things we agreed to—I thought when we passed the budget resolution itself—was we were going to sell Conrail, and pick up $1.2 billion in proceeds from that sale. Those are the proceeds that would be coming in. They would be scored accordingly pursuant to the budget resolution which we passed last year.

Now the Senator from Ohio says, oh, forget about the $1.2 billion that we agreed to. Well, if we forget about it, Mr. President, where are we going to go? Where are we going to get it? We are going to be fighting the battle of the budget all year. The majority leader can hardly wait to get this bill off the floor so we can go on with other work that we have to do in the Senate. We are going to be tied into knots by the budget. If we give up $1.2 billion in proceeds, where is that money going to come from? Defense, discretionary appropriations? That is just a question of proceeds.

I do not think that the ownership of Conrail by the Federal Government has been any great financial boon to Uncle Sam. In fact, between 1977 and 1984, the Federal Government spent $3.4 billion in subsidies for Conrail's operations and capital investments, and in addition to that, Uncle Sam paid out a little over $600 million to Conrail employees whose jobs were eliminated.

Mr. President, if the Senator from Ohio wants to argue the technicalities of whether there are tax provisions in the underlying bill, I concede that he is right. He is right. Let us correct that. That is what I suggest. Let us correct that. Let us adopt the substitute. We can solve that problem. We can solve it. The Parliamentarian tells us we can solve it, the Chair tells us, simply by adopting the substitute which does not make any substantive changes in the bill. It is merely a technical substitute. We can solve that problem if he is making a technical point, and if he is making a debater's point.

But if he is making the point the overall health of the Federal Treasury, if he is making the argument about the whole point of Gramm-Rudman-Hollings, then, Mr. President, the worst thing we can do is to do nothing. The worst thing we can do is to retain ownership of Conrail.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. PRESSLER. Mr. President, I rise today to offer an amendment to ensure competition between the proposed Norfolk Southern/Conrail Railroad and the many smaller railroads which could be jeopardized by such a merger. I will explain why this amendment is needed, its purpose, how it will work, and the rationale behind each of its specific substantive provisions.

WHY THE AMENDMENT IS NEEDED

To state it very simply, this amendment is needed to protect small and regional railroads from being driven out of business as a result of Norfolk Southern's monopoly-like market position. Norfolk Southern would have the ability to devastate smaller railroads through traffic diversions. Let me explain:

Norfolk Southern and the Department of Transportation have argued before our Commerce Committee that: First, any diversion of traffic from small and regional carriers as a result of this merger would be slight; and second, the traffic that is diverted would be diverted as a result of increased efficiencies realized by the merger rather than because of the exercise of market power. They maintain that there will still be strong, effective competition for transcontinental traffic. But it is my fear that the essential element of effective competition will be absent in S. 638. This is so because Norfolk Southern will have a monopoly in the Eastern part of the United States.

Because of its monopoly position in the East, Norfolk Southern will be able to divert transcontinental traffic from its present route to one which goes through a greater percentage of Norfolk Southern track, thereby assuring it a bigger percentage of the joint rate. This could be done even though a more direct and efficient route is available because Norfolk Southern will be able to dictate the route through which this transcontinental traffic will enter its territory. It cannot do that today because it competes with Conrail for the traffic within its territory. After the merger, it will control all effective access to the Eastern markets. There is no evidence that Guilford or anyone else will be able to provide the kind of competition to prevent this from happening.

If the essential element of effective competition is absent in S. 638, the amendment I am introducing will be critical to the very existence of many smaller railroads within and outside the Norfolk Southern/Conrail region. If I am wrong and the competitive element is there, this amendment can never go into effect. The amendment specifically provides that the diversions must result from the exercise of market power by Norfolk Southern before it can be utilized.

Indeed, if the Department of Transportation is correct in its estimates, the amendment can never be used outside the NS/CR region. So I sincerely hope that the Department will support its passage. Last Friday, I sent a letter to the Secretary of Transportation asking for the Department's support. I shall have the entire text of that letter printed in the RECORD following my remarks, but would like to quote from relevant parts of it here:

> Enclosed for your consideration is a copy of an amendment I will be offering to S. 638, the Conrail Sale Amendments Act. The purpose of this letter is to seek your support for its successful passage in the Senate.
>
> As you know, my major concern with S. 638 is the potential adverse impact that a merged Norfolk Southern/Conrail Railroad System would have on the railroads in the midwest and other parts of the country outside the immediate Norfolk Southern/Conrail region. Since the Department of Transportation has estimated that no railroad outside this area will suffer traffic diversions in excess of 2 percent of present traffic, it is my hope that you will be able to support the amendment.
>
> We have chosen the three and one-half percent diversion figure because it represents the point at which the actual existence of some of these smaller railroads is threatened. I trust you will find this percentage figure to be extremely conservative as it would require diversions in excess of 200 percent of the department's "most liber-

al case" estimates before it could be used by railroads outside the NS/CR region.

If for any reason you find the three and one-half percent figure to be out of line with the department's estimate, I would be happy to substitute it with the actual percentage figures contained in the department's June 28, 1985, letter to Chairman Danforth of the Senate Commerce, Science, and Transportation Committee.

THE AMENDMENT'S PURPOSE

The purpose of the amendment is quite simple. It is to protect small and regional railroads from unfair market power and other anticompetitive pressures which could be exerted by a combined NS/CR railroad. The rail system of the West and Midwest, as well as the smaller Northeastern carriers, should not be sacrificed for the sole benefit of a single railroad.

The return of Conrail to the private sector represents the last chapter in the Federal Government's rescue of the Northeast rail system after the Penn Central and six other railroads collapsed in 1970. This amendment is designed to ensure that it is not the first chapter in the collapse of the rail system in the Midwest or other parts of the country. It would be ironic indeed if, by finally turning this system over to the private sector and getting the Federal Government out of the railroad business, we set the wheels in motion for larger railroad failures in other parts of the country, thereby starting the process all over again.

This amendment is the result of a sincere desire to avoid a potentially catastrophic situation with railroads in other parts of the country. It is not intended to be, and certainly should not be, a killer amendment of any kind.

HOW THE AMENDMENT WILL WORK

Mr. President, this is a relatively brief, straightforward, and simple amendment. It is approximately three pages in length and the substantive provisions are as follows:

First, the amendment permits smaller railroads to petition the ICC to seek relief from diversions of traffic from their lines that are attributable to the acquisition of Conrail by Norfolk Southern. The conditions precedent to seeking relief are: First, that the petition be filed within 10 years of the consummation of the sale of the interest of the United States in the stock of Conrail to Norfolk Southern; second, that in calendar 1985 the petitioning railroad have had rail operating revenues less than $1 billion; and third, that the petitioning railroad allege the diversions result from the acquisition of Conrail by Norfolk Southern and the exercise of market power by the consolidated Norfolk Southern and Conrail system—the consolidated system.

Second, the ICC will not be required to proceed with the petitioning railroad's claim unless it finds that the petitioning railroad, as a result of the exercise of market power by the consolidated system, has suffered either: First, a diversion of traffic equal to or greater than 3½ percent of the number of carloads handled by the railroad in calendar 1985, or second, a rerouting of traffic that has resulted in a loss of revenues from such traffic equal to or greater than 3½ percent of the rail operating revenues of the petitioning railroad in calendar 1985.

Third, if the ICC finds that the traffic diversion have occurred as a result of the exercise of market power, they will then determine the divestitures or conditions necessary to eliminate the market power of the consolidated system, and to provide the petitioning railroad fully competitive connecting access to each major rail market.

Fourth, the amendment requires that any divestiture required shall be made at prices to be agreed by the Norfolk Southern and the divestee. In the event that the parties cannot agree on a price, the Commission is directed to set a price for the divested properties. In setting a price the Commission is directed not to take into account any value of the divested properties that results from the market power of the consolidated system in any rail market.

And finally, the amendment requires that a final decision be made within 1 year of the date of filing the petition, and that the ICC follow the normal Administrative Procedure Act and Interstate Commerce Act guidelines.

Mr. President, I have prepared a full section-by-section analysis which I shall submit for the RECORD in its entirety.

RATIONALE BEHIND CERTAIN PROVISIONS

Finally, Mr. President, I would like to explain the rationale behind some of the provisions of this amendment that I expect will be questioned by those who support Norfolk Southern's desire to have a clean bill with no amendments.

First and foremost, I want to make it very clear that this is not an attempt to reregulate the industry in any way. I think that this is clear enough on its face, but I want to emphasize this point. Indeed, many of the strongest advocates of deregulation support this amendment.

This does not confer any unusual authority on the ICC. In fact, merger proposals normally are required to be approved by the ICC unless they have a special statutory exemption, as is the case here. When the ICC does approve a merger under the normal procedures, it frequently retains jurisdiction to modify conditions or to impose new conditions on the merged railroad if it utilizes its monopolistic position to the competitive detriment of other affected railroads. This amendment is modeled after that frequent ICC practice and is not giving the ICC any unusual authority. In fact, it is simply restoring a small portion of what normally would have been within its power, if Congress had not granted an exemption.

Second, the amendment requires Norfolk Southern to show that the diversions resulted "because of superior service and efficiency," rather than because of its market power. This burden of proof is placed on Norfolk Southern for two very good reasons.

Most importantly, Norfolk Southern will be the only railroad with the information and data necessary to prove the reasons for the diversions. To place the burden on the petitioning railroad would be to require them to prove a negative. That is almost impossible in any case. Norfolk Southern is clearly in the best position to prove what caused the diversions and the amendment reflects that reality. The second reason is that Norfolk Southern has consistently stated that no diversions will result from the merger. I feel it is only fair that they be required to prove their point.

CONCLUSION

With that, Mr. President, I conclude my remarks on this amendment. I urge my colleagues to support it when it is offered tomorrow or later in the debate on S. 638. It should not present a problem to Norfolk Southern, the Department of Transportation, or the proponents of S. 638 if the information the Department has been supplying us is correct. And it will insure against a potentially catastrophic situation that could be caused in other parts of the country as a result of S. 638 without this important amendment.

Mr. President, I ask unanimous consent that first, a copy of the amendment, second, a section-by-section analysis of the amendment, third, a copy of the January 24 letter I sent to the Secretary of Transportation regarding the amendment, and fourth, a copy of the "Dear Colleague" signed by the eight cosponsors of this amendment be printed in the RECORD at this time.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

The text of the amendment (No. 1438) is printed under Routine Morning Business.

SECTION-BY-SECTION ANALYSIS OF THE AMENDMENT TO ESTABLISH A PROCEEDING BY THE INTERSTATE COMMERCE COMMISSION

Subsection 303(a). This subsection of the amendment permits smaller railroads to petition the ICC to seek relief from diversions of traffic from their lines that are attributable to the acquisition of Conrail by Norfolk Southern. The conditions precedent to seeking relief are (1) that the petition be filed within 10 years of the consummation of the sale of the interest of the United States in the stock of Conrail to Norfolk Southern; (2) that in calendar 1985 the petitioning

railroad have had rail operating revenues less than $1 billion; and (3) that the petitioning railroad allege the diversions result from the acquisition of Conrail by Norfolk Southern and the exercise of market power by the consolidated Norfolk Southern and Conrail system (the Consolidated System.)

Subsection 303(b). This subsection requires the Commission to commence a proceeding in response to a petition filed under subsection 303(a) if it finds that the petitioning railroad, as a result of the exercise of market power by the Consolidated System, has suffered either: (1) a diversion of traffic equal to or greater than 3½ percent of the number of carloads handled by the railroad in calendar 1985, or (2) a rerouting of traffic that has resulted in a loss of revenues from such traffic equal to or greater than 3½ percent of the rail operating revenues of the petitioning railroad in calendar 1985.

In determining whether the diversion or rerouting of traffic was caused by the exercise of market power by the Consolidated System, Norfolk Southern will have the burden of establishing by clear and convincing evidence that the diversion or rerouting was caused by superior service and efficiency on the route to which the traffic was diverted. In the absence of such proof by Norfolk Southern, the Commission is required to presume that the diversions were caused by the exercise of market power by the Consolidated System.

Subsection 303(c). This subsection requires the Commission, in a proceeding commenced under subsection 303(b), to determine the additional divestitures or conditions necessary to eliminate the market power of the Consolidated System, and to provide the petitioning railroad fully competitive connecting access to each major rail market.

In determining whether the Consolidated System has market power in any major rail market, the Commission is directed to accord substantial weight to the methods of analysis of market power set forth in the merger guidelines issued by the Department of Justice.

At the conclusion of such a proceeding, the Commission is required to issue an order directing divestitures and conditions to eliminate the market power of the Consolidated System in those major rail markets where it has such power, and to provide the petitioning railroad with competitive alternative access to the major rail markets served by the Consolidated System.

Subsection 303(d). This subsection requires that the divestitures ordered by the Commission under this Section shall be made at prices to be agreed by the Norfolk Southern and the divestee approved by the Commission. In the event that the parties cannot agree on a price, the Commission is directed to set a price for the divested properties. In setting a price the Commission is directed not to take into account any value of the divested properties that results from the market power of the Consolidated System in any rail market.

Subsection 303(e). This subsection requires that the Commission issue a final order in a proceeding initiated in response to a petition filed under subsection 303(a) within one year of the date of filing of the petition.

Subsection 303(f). This subsection ensures that the decision and order of the Commission issued in a proceeding under this Section be subject to judicial review in the same manner as other Commission orders in merger proceedings—in the United States Court of Appeal under the provisions of the Hobbs Act and in accordance with the standards of the Administrative Procedure Act. The subsection also provides that any divestiture or condition ordered by the Commission under this Section be deemed approved by the Commission under Chapter 113 of the Interstate Commerce Act. This approval ensures that the divestitures and conditions ordered by the Commission may be implemented with immunity from antitrust liability and notwithstanding the contrary provisions of any state or federal law.

U.S. SENATE, COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION,
Washington, DC, January 24, 1986.

Hon. ELIZABETH DOLE,
Secretary, Department of Transportation, Washington, DC.

DEAR MADAME SECRETARY: Enclosed for your consideration is a copy of an amendment I will be offering to S. 638, the Conrail Sale Amendments Act. The purpose of this letter is to seek your support for its successful passage in the Senate.

As you know, my major concern with S. 638 is the potential adverse impact that a merged Norfolk Southern/Conrail railroad system would have on the railroads in the Midwest and other parts of the country outside the immediate Norfolk Southern/Conrail region. Since the Department of Transportation has estimated that no railroad outside this area will suffer traffic diversions in excess of 2 percent of present traffic, it is my hope that you will be able to support the amendment.

As I have described in recent Senate speeches, this amendment is designed to protect smaller railroads in the Midwest and the West from the potentially anticompetitive impacts of the merger. It would not go into effect unless the ICC finds that, as a result of the anticompetitive impact of the merger, these smaller railroads have experienced traffic diversions in excess of three and one-half percent. If the Department's estimates are accurate, the amendment should never have to be used by these railroads and I hope you can support it.

We have chosen the three and one-half percent diversion figure because it represents the point at which the actual existence of some of these smaller railroads is threatened. I trust you will find this percentage figure to be extremely conservative as it would require diversions in excess of 200 percent of the Department's "most liberal case" estimates before it could be used by railroads outside the NS/CR region.

If for any reason you find the three and one-half percent figure to be out of line with the Department's estimate, I would be happy to substitute it with the actual percentage figures contained in the Department's June 28, 1985, letter to Chairman Danforth of the Senate Commerce, Science, and Transportation Committee. That letter contained the following traffic diversion estimates for Midwestern carriers:

	Percent
Milwaukee Road:	0.7
ICG	1.3
Katy	0
C&NW	1.2
Soo	0
KCS	1.0

Another letter from the Department addressed to me dated August 2, 1985, stated that "[t]he diversion figures for the Midwestern carriers are all below the two percent figure, both in the base case and the liberal case estimates," and that the "[i]mpact on the Western carriers is *de minimus*, both in absolute and percentage terms."

I have relied on these letters, along with the Department's testimony at Commerce Committee hearings, in drafting this important amendment. It is a good faith effort on my part to soften what I fear will be a serious anticompetitive problem for railroads around the country. I still believe that a stand-alone Conrail would address the problem far more efficiently. However, absent the stand-alone alternative, I believe this amendment will go a long way in addressing my concerns.

I would appreciate it if you could advise me as to your position on this amendment as soon as practicable. If you should have any questions or would like to discuss this issue in more detail, please feel free to call me or have your staff contact Kevin Schieffer of my office. Any suggestions would be appreciated. I appreciate your consideration of this matter and look forward to working with you.

Sincerely,

LARRY PRESSLER,
U.S. Senator.

U.S. SENATE,
Washington, DC, January 21, 1986.

Re Conrail Sale Amendments Act (S. 638).

DEAR COLLEAGUE: When the Senate considers the Conrail Sale Amendments Act (S. 638) this week, we will offer an amendment which is designed to protect small and regional railroads from unfair market dominance and other anticompetitive pressures which could be exerted by a combined Norfolk Southern/Conrail (NS/CR). The amendment would apply only to the extent that the ICC finds anticompetitive or unfair market control has been exercised by NS/CR.

Although the amendment is designed to protect smaller railroads in the Midwest and the West, it also applies to small railroads within the immediate NS/CR region. It does not apply to the larger railroads such as CSX, Burlington Northern, Union Pacific, etc.

In effect, the amendment simply gives the affected railroads a cause of action before the Interstate Commerce Commission if within ten years of the consummation of the sale the ICC finds that these small or regional railroads have experienced traffic diversions of three and one-half percent or greater, due to the anticompetitive impact of the sale. If the diversions are caused by fair competiton or some other nonmonopolistic force, no remedy will be available. The remedy under the plan would be to allow the affected railroad, following an ICC investigation and determination, to purchase at fair market value enough track or trackage rights from NS/CR to allow for adequate competition in the affected region.

The philosophy behind this amendment is quite simple: the rail system of the Midwest or the Western part of the country, as well as the smaller Northeastern carriers, should not be sacrificed for the the sole benefit of a single railroad.

We do not believe this transaction should be made at the expense of other railroads. But, if Department of Transportation figures are accurate, this amendment should never have to be used. The DOT estimates that "[t]he diversion figures for the Midwestern carriers are all below the two per-

cent figure, both in the base case and the liberal case estimates," and that the "[i]mpact on the Western carriers is *de minimus*, both in absolute and percentage terms." So this amendment should not pose a problem assuming these estimates are accurate. Indeed, we have made the numbers extremely conservative. The amendment would require diversions in excess of 200 percent of the DOT's "most liberal case" estimates before it could be used by railroads outside the immediate NS/CR region!

We have used the three and one-half percent diversion figure because it represents the point at which the actual existence of some of the smaller railroads is threatened. Additionally, we have made it very clear that the diversions must be caused by anticompetitive factors arising from the NS/CR merger. Diversions for other reasons simply will not be considered by the ICC.

This amendment is the result of a sincere desire on our part to avoid a potentially catastrophic situation with railroads in other parts of the country. Conrail originally became the ward of the federal government because of the large number of railroad failures in the Northeast. It would indeed be ironic if, by finally turning this system over to the private sector and getting the federal government out of the railroad business, we set the wheels in motion for larger railroad failures in other parts of the country, thereby starting the process all over again.

Our amendment will provide for protection against that happening. It would not require any re-regulation of the industry. (Indeed, it may never have to go into effect.) Regardless of how you ultimately decide to vote on the merits of S. 638, we hope you will be able to support this amendment as a reasonable means of protecting railroads outside the NS/CR region from the potentially anticompetitive impacts of this transaction.

We ask for your support for this extremely important amendment, and invite you to join us as a cosponsor.

If you have any questions regarding this amendment or if you would like to cosponsor, please contact us or have our staff contact Kevin Schieffer of Senator Pressler's office at Ext. 45842 or Bill Mattea of Senator Dixon's office at Ext. 48814.

Sincerely,

Alan J. Dixon, Larry Pressler, John Heinz, Paul Simon, Russell Long, James Abdnor, Edward Zorinsky, James Exon.

Mr. METZENBAUM. Mr. President, I do not think we want to confuse the issue. Let me see if I can throw a little light on it.

The Parliamentarian has stated that the point of order the Senator from Ohio has made would have been sustained but for the fact that the Senator from Missouri made his motion to waive the Budget Act provisions. The Parliamentarian has also made it clear that section 303 of the Budget Act says that no revenue can be lost in fiscal year 1987 prior to the adoption of the first concurrent budget resolution for this year and that Gramm-Rudman made a number of modifications to this section, such as expanding it to include a later budget, but that the facts are that section 303 of Budget Act is in place and would provide the basis for sustaining the point of order of the Senator from Ohio.

If I have misstated the facts or the law, then I hope that the Parliamentarian will be good enough, through the Chair, to advise the Senator from Ohio if he has misstated it.

The PRESIDING OFFICER. The Senator is correct in his statement.

Mr. METZENBAUM. I thank the Chair.

What we were talking about is the point that the Senator from Ohio has made. That is that we are going to lose revenue—we are going to lose revenue—if we adopt the pending bill. I shall address myself momentarily to the substitute, but first, I want to point out the situation with respect to the pending bill, because the substitute is not yet in place.

The Congressional Budget Office, on June 6, 1985, wrote as follows to my colleague from Missouri:

If this bill is enacted, we estimate that the Federal Government would be paid about $1.4 billion in 1986 for the sale of Conrail, would save about $10 million a year in labor protection payments, and would lose about $0.4 billion in tax revenues and $0.8 billion in future interest and dividend payments from Conrail over the 1986-90 period.

So, instead, there would be a loss of revenue.

As a matter of fact, my colleague from Missouri is aware of the fact that this body has no authority to deal with revenue producing measures and the Conrail bill is such a measure as would be barred from our acting in connection with it under the Constitution of the United States because the Constitution of the United States provides that revenue measures must originate in the House of Representatives. So, what do we have before us today?

My colleague from Missouri is asking unanimous consent to substitute a totally different bill than that which came out of committee and that bill contains a provision that is unique. It is understandably unique because it has not been proposed at an earlier time because it will not fly. It is not in accord with the Constitution. You cannot make a rose out of a sow's ear and you cannot make a revenue producer into a nonrevenue producer in the manner in which the effort has been made in the substitute bill which my colleague is asking us to take up by unanimous consent or put in place by unanimous consent. They have inserted the following provision in the substitute:

Any provision of this act which, pursuant to article I, section 7, of the Constitution, provides for raising revenue shall only be effective upon the enactment into law of a bill which has originated in the House of Representatives enacting such provision.

If any Member of the U.S. Senate thinks that our distinguished colleagues in the House of Representatives are going to give up in one fell swoop their prerogatives in originating revenue measures, he is kidding himself or she is kidding herself.

The House of Representatives is not going to accept a bill to circumvent the restraints in the Constitution of the United States. As a matter of fact, I think that there is a kind of impudence, and I do not mean the word in a derogatory sense, but there is a kind of impudence or impertinence in our sending that kind of measure over to them and thinking that they are going to accept it. I have had some exploratory talks with some Members of the House—with many of them; I cannot speak to all of them at once since there are 435—to inquire of them as to their reaction to this very unique and unusual provision. Before the afternoon has concluded or at some point tomorrow, I shall address myself further to that subject after having heard from one or more Members of the House.

Suffice it to say that we stand here this afternoon being asked to waive—to waive—Gramm-Rudman-Hollings as it affects section 303 or, vice versa, section 303 as amended by Gramm-Rudman-Hollings. But slice it any way you want, we are being asked to waive Gramm-Rudman-Hollings.

The first act of any meaningful consequence by the U.S. Senate in the year 1986, and what would it do? It would open the door for another waiver and another waiver and another waiver and another waiver, down the line, from Gramm-Rudman-Hollings.

If my colleagues feel as strongly as I do about our obligation to balance the budget—and some may hope to do it through Gramm-Rudman-Hollings, and others of us think it should be done by an up or down vote, but no one can deny our obligation to attempt to balance the budget. If that be the case, we have a responsibility from which we should not shrink. That is, we should not agree to waive the Gramm-Rudman-Hollings provisions as they affect section 303.

Mr. DANFORTH. Mr. President, the Senator from Ohio says slice it any way you want. I do not want to slice it the way the Senator from Ohio sliced it, whatever "it" is.

Mr. President, the fact is that the Senator from Ohio has made a very technical point of order going against the underlying bill, not pertaining in any way to the substitute and not touching in any way Gramm-Rudman-Hollings. The Senator from Ohio says that the issue before the Senate is whether, the first thing out of the box, we are going to waive Gramm-Rudman-Hollings. Mr. President, I have not asked that the Senate waive Gramm-Rudman-Hollings. I support Gramm-Rudman-Hollings. I voted for Gramm-Rudman-Hollings. I believe

that it is a step toward getting control of the Federal deficit. I believe that selling Conrail is a step toward getting control of the Federal deficit in two ways: One, bringing revenue in through the sale and, two, stopping the hemorrhage of subsidies which has flowed out of the Treasury in order to keep Conrail going.

Mr. President, to further clarify my understanding that the point of order raised by the Senator from Ohio does not have anything to do with Gramm-Rudman-Hollings, I would put the following question to the Chair. Mr. President, I would like to reiterate my understanding of the point of order raised by the Senator from Ohio. The Senator raised a point of order under section 303 of the Budget Act that the underlying bill would affect revenue. Am I correct in my understanding that the Gramm-Rudman bill did not make any material change in the revenue provisions of section 303?

The PRESIDING OFFICER. That is correct.

Mr. DANFORTH. And therefore, Mr. President—I will not direct this question to the Chair but just say it as a point of analysis—when the Senator from Ohio attempts to link his point of order with Gramm-Rudman, his point of order has nothing whatever to do with Gramm-Rudman—nothing. It is totally an extraneous argument. It is an effort by the Senator from Ohio to try to shoehorn the question of the Federal budget into an infinitesimally small procedural point directed not against the substitute but against the underlying bill.

Mr. President, I suggest that we could agree not to waive the Budget Act, we could go along with the point made by the Senator from Ohio. Maybe the most straightforward way, however, for Senators to say the same thing is to vote against the bill when we get to it, the bill as modified, the bill as altered by the substitute. That would be the most straightforward way to oppose the sale, but this point of order has nothing to do with Gramm-Rudman-Hollings.

Mr. President, I really appreciate what I would call the hypersensitivity of the Senator from Ohio to Gramm-Rudman-Hollings. I did not quite get that same concern for it last fall when the Senate was addressing the question of Gramm-Rudman, but on the authority that politics makes strange bedfellows I am glad we are in the same bed under Gramm-Rudman.

Mr. METZENBAUM. If the Senator will yield for a moment so he can yield to the Senator from Pennsylvania——

Mr. DANFORTH. I will yield the floor.

Mr. METZENBAUM addressed the Chair.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. METZENBAUM. It is indeed the fact that I was very sensitive to Gramm-Rudman-Hollings, so sensitive that I voted against it. And if I had the privilege to do it again, I would vote against it. I am inclined to think there are a number of Senators in this body who, given the opportunity to do so, might very well like to vote against it as I did. I think many have second thoughts about it. But the Senator from Ohio believes that, regardless of how I voted, it is now the law, and if it is the law I think we ought to live up to the law. I believe that we will be violating section 311 of the Budget Act as amended by Gramm-Rudman.

It is true that Gramm-Rudman did not affect the revenue aspects of it but did affect 311 in other respects. So the whole issue is simple. It does not matter whether it is 311, it does not matter whether it is part of the Budget Act, whether it is Gramm-Rudman. The fact is the Senator put in the RECORD a letter from Treasury indicating that this bill will cost $174 million. CBO has even larger figures, substantially larger figures as to the cost. You do not have to be a great mathematician to understand if you are not going to get $300,000 a year between 1987, 1988 and 1989 repaid, that is a loss. You do not have to be a great mathematician to understand someone has the right to depreciate $3.5 billion in capital assets, which Norfolk-Southern would have and take that depreciation away from its other profits. You do not have to be a mathematician to know that this company is making $440 million a year and that the buyer is going to get $800 million in cash and $250 million in pension funds.

All of those things are self-evident. The fact is this bill will cost this revenue. And so my sole point in making the point of order is not to be technical but to be realistic and say to my colleagues in the Senate you wanted to balance the budget, and the first thing you are going to vote for on the floor is a measure that would waive constraints of the Budget Act.

Mr. DANFORTH. Mr. President, if the Senator will yield for a question, I think the Senator misquoted himself but I am not sure. My understanding was that the point of order went to section 303 of the Budget Act. The Senator just stated that he intended to raise the question of section 311 of the Budget Act.

Mr. METZENBAUM. The Senator from Missouri is correct. My point of order was to 303, not to 311.

Mr. DANFORTH. The Senator's reasoning, as I understand it, is that there is, despite the reply of the Chair to my parliamentary inquiry, some language which is relevant to the argument before us between section 303 and Gramm-Rudman?

Mr. METZENBAUM. That is correct.

Mr. SPECTER addressed the Chair.

The PRESIDING OFFICER (Mr. PRESSLER). The Senator from Pennsylvania is recognized.

Mr. SPECTER. Mr. President, when the distinguished manager of the bill, the Senator from Missouri, makes the statement that politics make strange bedfellows, it is obviously a truism of American politics and has been true in this body for many years. But this Senator believes there is a way to rearrange the sleeping accomodations to take care of the underlying thrust that the distinguished manager of the bill, the Senator from Missouri, wants to accomplish, and to accomplish the objections raised by the distinguished Senator from Ohio as well.

When the Senator from Missouri says that the most straightforward way to deal with the objection raised by the distinguished Senator from Ohio may be to vote against the bill, I suggest that there is a better approach. That approach would accommodate the interest of the Senator from Missouri along with the interest of the administration in selling Conrail, in privatizing Conrail, and to do so in a way which would not violate the Budget Act.

My obvious reference here is to have a sale to the investment group gathered by Morgan Stanley, which has offered $1.4 billion—$200 million in excess of the amount offered by Norfolk Southern, and an amount plainly sufficient to meet the requirements of the Budget Act.

The letter from the Treasury Department which specified that the Norfolk Southern proposal would cost the Government, I believe, $124 million, inserted a figure showing that there would be a net gain to the Treasury by the offer of Morgan Stanley. I believe that figure was $24 million.

So I think there is no question about the fact that the Morgan Stanley offer would comply with the requirements of the Budget Act.

I compliment the distinguished Senator from Missouri on his very assiduous work on this Conrail issue. As chairman of the Commerce Committee, he has presided over lengthy hearings. He has worked very hard on this issue. It is a complicated issue, While I do not know the details of his schedule, I am sure he has conferred on many occasions with many administrative officials, and many of his colleagues, and has spearheaded the work of a very expert staff.

The Senator from Missouri and this Senator from Pennsylvania have discussed this matter at length. I know of his very hard work, and I understand his preference for the Norfolk Southern offer. But were Norfolk Sourthern suddenly to withdraw from the pic-

ture, or were Norfolk Southern suddenly to be disqualified, then I believe it is a fair inference to say that the Senator from Missouri would have some interest in an alternative buyer. He might not necessarily lean to Morgan Stanley, or maybe he might. But he would be interested—as I think the Secretary of Transportaton would be, and the President of the United States—in making the best deal possible because of their underlying interest in privatizing Conrail.

So, there is way to accommodate the really basic thrusts which we have on the floor of the U.S. Senate today.

At an appropriate time, this Senator intends to offer an amendment to the pending legislation, S. 638, which would substitute the offer of Morgan Stanley, which this Senator says would satisfy the requirements of the Budget Act, would privatize Conrail, and would avoid an enormous number of complicated questions which this Senator feels will ultimately defeat the bid of Norfolk Southern.

The antitrust issues are enormous. The combination of the Norfolk Southern lines with these of Conrail is a violation of the antitrust laws, as the Department of Justice has stated. The efforts at divestiture are very weak indeed. The efforts at divestiture to Pittsburgh and Lake Erie and Guilford would be like sending the distinguished Senator from Ohio. [Mr. METZENBAUM] to stop "The Refrigerator" on a 1-yard plunge in the Super Bowl. It simply could not be done.

Even it this body gives approval ultimately to Norfolk Southern, this Senator predicts that a fair application by the Department of Justice will ultimately rule out that acquisition as being violative of the antitrust laws.

This body could save itself a great deal of time by avoiding further efforts to sell Conrail to Norfolk Southern, It is my view that Congress would save itself a great deal of time in the House of Representatives as well by taking up the Morgan Stanley offer. That proposal would accommodate the many conflicting contentions which have been advanced today. It would be in the national interest. It would satisfy the budget resolution issue. It would give more money to the U.S. Treasury—a minimum of $200 million by which the Morgan Stanley offer exceeds the Norfolk offer, an additional $24 million at least on the tax issue, and maybe as much as $400 million as projected by the Congressional Budget Office.

So there is a way to solve the problems for all involved, and I urge this body to give serious consideration to the proposal by Morgan Stanley for these reasons.

I yield the floor.

Mr. DANFORTH. Mr. President, I ask unanimous consent that when the Senate resumes consideration of S. 638 at 2 o'clock tomorrow afternoon, the motion to waive section 303 of the Budget Act, which I have made, be the pending business, and that there be 1 hour for debate, equally divided between the Senator from Ohio and myself, and that the vote on that motion occur at 3 o'clock.

Mr. SPECTER. Objection.

The PRESIDING OFFICER. Objection is heard.

Mr. METZENBAUM. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. DANFORTH. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. GORTON). Without objection, it is so ordered.

Mr. DANFORTH. Mr. President, earlier this afternoon, I announced that within an hour or so I was going to propound a unanimous-consent request that the Danforth amendment to S. 638 be agreed to and be treated as original text for the purpose of further amendment. I stated at the time that it was my intention to make that unanimous-consent request later in the afternoon.

We have made an effort to run the hotlines on the unanimous-consent request. However, because a number of Senators on both sides are not in the area this afternoon, it it not possible to clear that unanimous-consent request. Therefore, I announce to the Senate that it is my intention to make such a request at some point tomorrow.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. DANFORTH. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DANFORTH. Mr. President, I modify my previous motion to strike from it the words "and any amendments thereto."

The PRESIDING OFFICER. The motion is so modified.

Mr. DANFORTH. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DANFORTH. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DANFORTH. Mr. President, I ask unanimous consent that, when the Senate turns to S. 638 at 2 o'clock tomorrow afternoon, the Danforth motion to waive the Budget Act be the pending business.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

SALE OF CONRAIL TO NORFOLK SOUTHERN VIOLATES ANTITRUST LAWS

Mr. DIXON. Mr. President, there is no doubt that the proposed sale of Conrail to the Norfolk Southern, as recommended in the committee substitute, raises the most serious kind of antitrust issues. What is more, the fact that Conrail is Government-owned creates real conflict-of-interest problems; Government must be particularly careful to ensure that its role as seller does not compromise a fair and impartial review of antitrust issues.

S. 638, however, does not take that kind of care. It does not provide any real due process for shippers, railroads, ports, and others who are adversely affected by the anticompetitive aspects of the proposed sale. Instead, the bill "deems" the sale approved by the Interstate Commerce Commission, effectively ensuring no impartial review of the transaction by either the ICC or the courts. There is, therefore, no way to be sure that proposals the Norfolk Southern and the Department of Justice have made to resolve competitive concerns are sufficient to do so. I do not believe they are, and I do not see how, given the total absence of information on the antitrust issues, anyone can definitively argue otherwise.

The fact that selling Conrail to Norfolk Southern presents major antitrust problems is beyond dispute, Mr. President, even the Department of Justice conceded that without appropriate remedies the proposed merger would violate both the Interstate Commerce Act and the Clayton Antitrust Act. In a January 29, 1985, letter to Secretary of Transportation Dole, the then-Assistant Attorney General for Antitrust, J. Paul McGrath, stated:

> The merger would have a significant adverse effect on competition for the transport of commodities to and from a number of locations in several States, with the greatest corridor running between Buffalo and Pittsburgh in the east and St. Louis and Chicago in the west * * * the Department of Justice therefore would oppose the proposed merger unless its competitive problems are remedied * * *.

The dimensions of the antitrust problem become even more apparent if some of the factors the Department ignored are reviewed. Many observers, including two former Assistant Attorneys General for Anti-trust, have questioned the thoroughness of the Department's analysis. They believe the Department neglected to consider a number of issues that would have demonstrated that the antitrust problem was, and is, in fact, substantially larger than Justice admitted.

Justice failed to follow many of its normal procedures. It did not, for instance make use of the Herfindahl-Hirschman index, a means of identifying concentrated markets, in this case, despite the fact that this methodology was endorsed by Justice in both its 1982 and 1984 merger guidelines. Instead, the Department used a 50-10 test, examining only those markets where both Norfolk Southern and Conrail each had at least 10 percent of the market in rail transportation, and the two railroads together had at least 50 percent of the market. This inferior approach ensured that many competitive problem areas were not examined by Justice.

Further, Justice did not really consider market pairs. It analyzed traffic only to or from a point. This may sound sensible, but it can permit substantial anticompetitive impacts to remain unidentified. For example, Justice did not identify Chicago as either a problem origin or destination. However, Chicago shippers would face highly concentrated markets to a number of areas if Conrail and Norfolk Southern are combined. For example, NS carries 9.6 percent and Conrail 56.7 percent of the Chicago-Pittsburgh traffic, NS carries 6.9 percent and Conrail 75.4 percent of the Chicago-Cleveland traffic; and NS carries 11.2 percent and Conrail 80.3 percent of the Chicago to Buffalo Traffic.

Other analysts, using the techniques Justice ordinarily uses, found significantly larger antitrust problems than were identified by the Department. For example 16 State attorneys general, led by my good friend Neil Hartigan, the attorney general of Illinois, testified before the Senate Judiciary Committee that one study identified 53 business economic area pairs that under the formula traditionally used by the Justice Department would be considered highly concentrated markets where the merger would be likely to substantially lessen competition. This is much larger than the 30 counties that Justice found would be adversely affected.

Another aspect of the competitive problems the proposed sale of Conrail to Norfolk Southern presents can be seen by looking at the traffic that would be diverted from other railroads to a combined Conrail-Norfolk Southern system. In a report prepared for the House Commerce Committee, the staff of the Interstate Commerce Commission found that there could be over $330 million in traffic diverted from a number of railroads to a combined Norfolk Southern-Conrail system. To cite just a few examples, the Chicago & Northwestern could lose over $45 million in traffic; the Illinois Central Gulf could lose over $32 million; and the Grand Trunk Western could lose almost $29 million.

The United States Railway Association also found that a Conrail-Norfolk Southern combination would cause substantial diversions. Diversion estimates by individual railroads that would be affected were even higher. One set of estimates by a number of affected railroads showed that more than $677 million worth of traffic would be diverted to a Conrail-Norfolk Southern system, and that railroad employment of the adversely affected roads would decline by more than 8,100 jobs.

It's important to remember, Mr. President, that these diversions would not occur because a combination of Conrail and Norfolk Southern would be more efficient. Rather they would occur principally because of the monopoly power of the new railroad, which would be the largest carrier in the Nation. In fact, the head of the Federal Railway Association indirectly admitted as much when he told a meeting of eastern railroad officials last year that he did not believe there would be any transcontinental railroad mergers in the near future because there were not major efficiencies to be gained, the new larger systems would be difficult to manage, and most achievable efficiencies could be implemented through agreements between carriers. John Riley's argument is a good one, and it applies with almost equal force to the Conrail-Norfolk Southern situation.

I think it is worth detailing the kind of anticompetitive consequences that would be felt in my own State of Illinois as an example of the problems that an NS-Conrail merger could create. The merged system would dominate rail traffic to and from 18 counties in Illinois; in 10 of these counties, NS/Conrail would control more than 90 percent of the inbound and outbound tonnage, The merged system would give it 100 percent of the rail traffic between major Illinois cities and locations throughout the Nation. The merged system would use its routing power to divert traffic from competing rail carriers for movements between Illinois and other States, and reduce the benefits of rail rate and service competition for Illinois shippers and receivers. The merged system could also divert traffic from major Illinois Rail gateways such as Chicago and East St. Louis to the Kansas City gateway. Further, according to Illinois's attorney general, Neil Hartigan, Illinois could lose over 400 miles of railroad and over 1,000 rail jobs due to the merger.

What this all demonstrates is that the anticompetitive problems caused by a sale of Conrail to Norfolk Southern are very substantial, much more serious than the Justice Department first estimated—and Justice opposes the merger without appropriate divestitures. It also means that the antitrust problems are very widespread. Anticompetitive problems are not limited to the Conrail and Norfolk Southern territories. They extend well into the Midwest and West because of the impact this proposed merger would have on connecting railroads. The kind of problems I have described in Illinois will also be found in numerous other Eastern, Southern, Midwestern, and Western States to one degree or another. No State is immune from the consequences that would ripple out from a merger of this magnitude.

The ordinary rail merger approval process, Mr. President, provides a mechanism for handling antitrust issues such as those presented by the proposed Conrail-Norfolk Southern merger. Under current law, the Commission has 31 months to consider merger transactions. Commission approval then immunizes the merger from the antitrust laws. The ICC effectively functions as the antitrust forum, and has the authority to disapprove mergers as anticompetitive or to condition their approval on the implementation of appropriate remedies, such as divestitures, trackage rights agreements, and gateway agreements.

Importantly, ICC review provides all affected parties, including shippers, other railroads, and ports, for example, with full due process. These rights usually include full on-the-record proceedings, with the right to present evidence, and to cross-examine witnesses—in short, complete procedural due process.

The ICC also demands fairly complete disclosure by the railroads that are merging. The Commission requires the merging parties to provide:

First. An executive summary of the proposed transaction, listing in about 25 to 80 pages:

The proposed actions to implement the merger; construction necessary to tie the tracks together at key points; changes in traffic patterns; proposed abandonments; and environmental impacts as operations change and jobs move to other locations;

Second. An operating plan, identifying in detail changes in service, including:

Existing routes and terminals, traffic mix, route densities, and local service; major changes after the merger, such as changes at each common point, new through train schedules, discontinued trains, new crew districts, new route densities, and shifts in activities for major yards; rehabilitation projects proposed to maximize the benefits from consolidated services and projects avoided because of the merger; equipment utilization projects; and plans to coordinate and consolidate overhead functions such as purchasing, computers, sales offices, public affairs, legal, and planning.

Third. A traffic study identifying sources of additional revenue following the merger, including diversions that would occur as a result of the merger, together with the sources of this additional traffic. The merging partners must analyze place to place diversions, railroads that lose traffic, railroads that gain traffic, and truck traffic diversions.

Fourth. Pro forma balance sheets and income statements for a 3-year period following the proposed merger, and a sources and application of funds statement; and

Fifth. A labor impact analysis, identifying job losses by geographic location, and job category, and identifying jobs relocated and jobs added.

This extensive documentation provides the basis for analysis of the merger, and there is ample opportunity for all parties to test it, to challenge it, and to otherwise act to verify its accuracy. This kind of record has been available in every past railroad merger between profitable railroads, but it is not available in this case. Norfolk Southern has provided almost none of the documentation normally available in merger cases. The shippers, railroads, ports, employees, and others who would be adversely affected by the merger have had virtually no opportunity to see relevant data, to testify themselves, or to cross-examine Norfolk Southern officials.

There has been no due process in this case. S. 638 and the Northeast Rail Services Act together work to totally immunize the sale of Conrail from review by the Interstate Commerce Commission or from judicial review using antitrust law standards applicable to most other mergers. S. 638 provides no substitute process to protect the rights of those adversely affected. Instead, it seems designed to ensure that there is no independent review, and little or no available evidence on which to base such a review.

Now some would argue that the Justice Department has undertaken the kind of review that needs to be provided. However, the Justice Department has had multiple roles in this transaction. Justice was the advisor to Secretary Dole before she selected a bid. Justice is the Government's lawyer, and the Government owns Conrail. And Justice has never undertaken the kind of review that could be called full and independent. Donald I. Baker, a former assistant attorney general for antitrust commented in an April article in the National Law Journal on some of the things Justice has failed to do in reviewing the Conrail sale:

It has not looked at whether there are any less anticompetitive alternative purchase offers available.

It has not publicly analyzed the viability of the Conrail 'public offering' proposal—which would keep Conrail as an independent competitor.

It has not used the Heffindahl-Hirshman index, its standard for measuring anticompetitive effects under the merger guidelines.

It has not weighed the 'efficiency' claims in anything but very general terms.

It has not yet publicly analyzed the probable viability of the proposed spinoffs to Guilford and Pittsburgh and Lake Erie, or the associated conditions.

It has not issued civil investigative demands for documents or taken depositions of anybody.

Instead, the Department has negotiated in secret with the Norfolk Southern, in an attempt to facilitate the sale of Conrail to Norfolk Southern on behalf of the Department of Transportation. Justice, which has admitted that it does not have the in-house expertise to fully analyze rail mergers, has not yet even hired a consultant to review the latest Norfolk Southern divestiture proposal. Whatever one might say about the Department's role in this case, it is crystal clear that the justice's work to date does not constitute a full and independent analysis of the antitrust issues.

Mr. President, as I stated earlier, the kind of inadequate review of antitrust issues that Justice has provided, followed by complete immunity from administrative or judicial antitrust review as provided by S. 638 is not the ordinary way rail mergers are handled. In fact, the Interstate Commerce Commission is now considering a merger just as large as the proposed Conrail-Norfolk Southern merger—the Santa Fe-Southern Pacific merger. The Santa Fe case was filed on March 23, 1984. Santa Fe submitted extensive information on the merger and its consequences. The ICC has held hearings and all parties have had the opportunity to present testimony, and to cross-examine Santa Fe and Southern Pacific witnesses on issues raised by the proposed merger. I understand that the Commission will make its decision in the first half of this year, that is, within a year or 15 months of the time it was filed.

It is worth taking a little time to contrast the role of the Department of Justice in this case as opposed to the Conrail case. Justice is opposing the Santa Fe merger, although the anticompetitive problems it presents are less than half as large—and perhaps several times smaller—than the problems presented by the Norfolk Southern proposal. Justice estimated that roughly 6.2 million tons of freight, or about $240 million, would present antitrust problems in the Santa Fe case. Justice's own analysis showed that a Conrail-Norfolk Southern merger presented problems for over 19 million tons of freight, or about $527 million in revenues, and over $500 million worth of other problems were excluded from its analysis.

In the Santa Fe case, Justice said that even extensive divestitures and trackage rights would not be adequate to solve the antitrust problems. Further Justice rejected the "deep pockets" argument in that case, arguing that the Southern Pacific could make it on its own, even though several measures of SP's economic health are significantly worse than Conrails. Finally, a Justice Department consultant, Dr. Pittman, in testifying on the Santa Fe case, admitted the inadequacies of the analysis in the Conrail case. When questioned about the disparity between the Department's analysis in the Santa Fe case and the Conrail-Norfolk Southern case, he conceded "I think I included some products by using both kinds of analysis, which it's conceivable that the Conrail analysis omitted unwisely."

Even though its Conrail Analysis was woefully inadequate when compared with its work in the Santa Fe case, Justice nonetheless understood that there were severe antitrust problems with a Conrail-Norfolk Southern merger, Mr. President. Its clear that those problems were extensive enough to warrant total Justice Department opposition to the Merger—as in the Santa Fe case. However, because Justice was under severe pressure from the Department of transportation to help DOT implement its sale recommendations, Justice attempted to negotiate a package of divestitures to resolve at least part of the competitive issues.

Justice's efforts have produced not one, but at least three different divestiture proposals by the Norfolk Southern. All three proposals have been built around packages of line sales and trackage rights to two very marginal railroads, Guilford—a regional New England Railroad—and the Pittsburgh and Lake Erie.

Justice established three basic conditions for a divestiture proposal that would ensure competitive service. First, the acquiring railroads must demonstrate that they possess the managerial, operational, and financial capability to compete effectively, and to remain viable over the long-term so that there was some assurance of their ability to provide long-term rail service along the affected corridors. Second, the divestiture should provide the acquirer direct connections in Buffalo, Chicago, Toledo, and East St. Louis to one or more railroads other than Conrail-Norfolk Southern or CSX. Third, after the divestiture, shippers in affected counties located on Conrail-Norfolk Southern must have access through reciprocal switching or other arrangements to the divestiture carrier.

The first divestiture proposal effectively met none of these goals. The lines proposed to be transferred to Guilford, for example, while providing access to East St. Louis on the map, were in such poor shape that there

would be no way for Guilford to offer any real service over the route. Further, the proposal did nothing for shippers in a number of counties where justice admitted there are competitive problems.

Most fundamentally, however, neither Guilford or the Pittsburgh and Lake Erie are railroads healthy enough, or which could become healthy enough in the near future, to provide effective long-term competition to a merged Conrail-Norfolk Southern system. In an August 30, 1985 report to the House Commerce Committee, the staff of the Interstate Commerce Commission concluded that neither Guilford nor the P&LE could survive as long term, viable carriers competing against the proposed new merged railroad. Regarding Guilford, the report said:

Because [Guilford's] assumptions generally are without merit, Guilford's proposal will not result in a viable post-divestiture operation.

As to the Pittsburgh and Lake Erie, the report concluded that the—

P&LE is not now a financially viable carrier and its acquisition of the new lines will not enable it to reverse its already precarious financial position.

The Justice Department hired a consultant, R.L. Banks and Associates to review the proposed divestiture plan after admitting that it "does not have the in-house expertise to evaluate technical and operational aspects of any proposed divestiture." The preliminary Banks report came to much the same conclusion as the ICC staff report. Regarding Guilford, the Banks report said:

[Guilford's] "viability would be dependent heavily upon the realization of several optimistic assumptions, and . . . even under the most favorable circumstances, GTI's [Guilford's] continued existence would be parlous".

The report went on to state:

Doubts about the realism of the marketing and operating plans apply equally to the financial statements; the very real possibility that GTI [Guilford] would fail to realize projected gains in revenues and efficiency, leads to the conclusion that survival of an expanded GTI [Guilford] system is yet to be proven.

The Banks reports conclusions regarding the P&LE were even more devastating. The report found that:

Review of available financial date for the P&LE * * * raises serious concern as to whether a business plan and financing agreement can be developed that would allow an affirmative finding with respect to the likely long-term viability of the P&LE.

These independent reports demonstrated the inadequacy of the first divestiture proposal, and made it impossible for DOT to move forward with the merger. Norfolk Southern therefore developed a second divestiture proposal. DOT and Justice had learned their lesson, however. There would be no opportunity for independent review of divestiture proposals. Nonetheless, the second divestiture proposal was also quickly seen to be hopelessly inadequate.

Last November, therefore, a summary of a third divestiture plan was released. The plan includes extensive trackage rights over Conrail lines for Guilford—over 1,000 miles—together with certain line sales. P&LE would also purchase lines and receive trackage rights under the third proposal. On November 19, the Justice Department announced that the third plan:

Appears on its face to address the competitive concerns that must be addressed before the Department can approve Norfolk Southern's acquisition. * * *

I do not understand, Mr. President, how the Justice Department was able to reach that conclusion. At the time Justice made its announcement it did not have:

The written agreements between Norfolk Southern and Guilford and P&LE setting out the terms and conditions of the latest divestiture plan, including such fundamental matters as the total price to be paid by the P&LE for the lines to be acquired by it.

Marketing and operating plans for Guilford and P&LE, including projected train schedules and supporting date for revenue and cost projections.

Financial projections for Guilford and P&LE, including sources of funding for the payments to be made to Norfolk Southern in respect to line acquisitions, equipment purchases, leasehold arrangements, and track and yard rehabilitation; pro forma financials showing anticipated revenues and expenditures in the first full year of operations following divestiture; and balance sheets for the pro forma year; and

Density projections showing the likely volume of traffic to be handled over the raillines and trackage rights to be acquired by Guilford and P&LE, together with projections of commodity mix sufficient to form a reasonable basis for projections of anticipated revenue.

As I understand it, Justice still does not have this information. What is more, no one else has seen it either, or been able to analyze whatever information Justice might have. Justice refused to hear from any of the parties that would be adversely affected by the merger regarding the divestiture proposal.

On the basis of what little information is available, however, there is little doubt about the adequacy of the third divestiture proposal. There is virtually no reason to believe that the latest proposal will result in effective rail competition.

First, there is still no evidence to indicate that Guilford and the P&LE will ever be anything more then extremely marginal carriers. Guilford lost $29 million in the 1982–84 period, and the P&LE lost even more, over $45 million in the 1982–84 timeframe.

There is, on the other hand, strong reason to believe that Guilford's and P&LE's very existence in the future would be dependent on the sufferance of the Conrail-Norfolk Southern System. Guilford and P&LE together had revenues of only about $350 million in 1984, as opposed to revenues of almost $7 billion that year for a combined Conrail-NS. In fact, considering that the Department of Transportation argues that Conrail, with its excellent facilities and 5-year history of increasing profits, is not viable over the long term, it is hard to imagine how the administration could ever contend with a straight face that Guilford or the P&LE would ever be viable enough to provide effective competition.

Second, the plan fails to provide for any new rail service in 15 of the 30 counties where the Justice Department admitted new service was essential. Where rail service is offered, it is often competitively inferior. In fact, it is hard to imagine how the marginal Guilford and P&LE railroads, both of which need major rehabilitation, can compete with the high-capacity and well-maintained Conrail and Norfolk Southern Systems.

Third, the plan is insensitive to the needs of employees, shippers, and communities. It would force many Conrail employees, who have already been through painful restructuring, through another unnecessary restucturing process.

Fourth, the plan fails to address in any realistic fashion the diversion problems facing railroads that connect with Conrail. It does nothing, for example, to ensure that a Conrail-Norfolk Southern System would not use its monopoly power to divert traffic from the Chicago and East St. Louis gateways to the Kansas City gateway. It is worth remembering that the Federal Government has invested substantial sums into upgrading the Chicago and Northwestern's line from the West into Chicago. Diversion of traffic off the Northwestern to Conrail-Norfolk Southern at Kansas City would work to undercut that investment.

Finally, because the plan calls for granting the divestiture carriers substantial trackage rights over Conrail, there is a real question as to where the plan is in accordance with at least the spirit of the Northeast Rail Services Act. That act expressed Congress' clear preference for selling Conrail as a unit, and not breaking it up. Yet the plan transfers substantial trackage rights over Conrail lines to the divestiture carriers.

The Department of Justice indicated in its statement on the third divestiture plan that it intended to have a consultant review the proposal and

report back. It is now 2 months since the Department made its statement, yet the Department has not even picked a consultant. I do not believe a consultant's analysis could possibly cure the procedural and substantive errors involved with the third divestiture plan. However, I do believe that the absence of the consultant's report is a strong indication that the Department of Justice is afraid of what an independent analyst would find.

Let me conclude, Mr. President, by summarizing the reasons I believe S. 638 is so flawed on antitrust grounds. Selling Conrail to Norfolk Southern would create the largest railroad in our Nation. It is a merger that everyone admits raises serious antitrust problems, even the Department of Justice. The Antitrust Division's analysis, however, was inadequate, and greatly underestimated the anticompetitive effects of the proposed merger.

What is even worse, the Antitrust Division and the Department of Transportation have followed a procedure that seems designed not to uncover antitrust problems, and to ensure that they are not resolved in any effective way. The process has been closed. Shippers, railroads, ports, and others who would be adversely affected have had no opportunity to present their case.

This is not the ordinary way mergers are handled. Every other merger between profitable railroads has been considered by the Interstate Commerce Commission where all parties have had full procedural rights. The ICC process also works to ensure that all parties have access to the kind of information necessary to consider antitrust issues—information that has been so sadly lacking in this case.

Further, Justice has not played an independent role in this case; it has instead acted as DOT's lawyer in attempting to do everything possible to expedite a sale. It has analyzed the Norfolk Southern-Conrail merger using different standards than it has in other cases, including the Santa Fe-Southern Pacific case. The Department opposes the Santa Fe merger, even though the anticompetitive impacts are much smaller than in the Norfolk Southern case. In that case, the Department found divestitures to be inadequate, while now it supports divestitures.

The divestiture proposal that Norfolk Southern is now proposing is hopelessly flawed. It is based on two railroads—Guilford and the P&LE—who simply do not have the financial wherewithal to provide effective competition. And the proposal does nothing to resolve a number of the antitrust issues, such as the Midwest diversion problem.

It seems to me that the Government is in a real conflict of interest in this situation. Because the Government owns Conrail, it should be particularly careful to see that its role as owner does not preclude full and fair analysis of the antitrust remedies, followed by implementation of remedies appropriate to ensure that competitive issues are resolved. But that is not what S. 638 has done. Instead that bill "deems" the merger approved by the ICC, and precludes review of the antitrust issues by the courts.

Mr. President, I do not believe the Senate wants to ignore the antitrust concerns presented by this huge merger. I'm sure my colleagues want to know that adequate information is available on antitrust issues, that they get independent review, and that all parties have a chance to make their case.

Antitrust considerations deserve the kind of attention that S. 638 so studiously avoids. Congress should act to return Conrail to the private sector, but not in a manner that so totally ignores the competitive concerns raised by the Norfolk Southern offer. It is possible to return Conrail to the private sector in a manner that is in accordance with our antitrust laws. I urge my colleagues to join me in working to ensure that the Senate adopts that course of action.

Mr. DANFORTH. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DOLE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Saunders, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session, the Presiding Officer laid before the Senate a message from the President of the United States submitting a nomination which was referred to the appropriate committee.

(The nomination received today is printed at the end of the Senate proceedings.)

ANNUAL REPORT ON HAZARDOUS MATERIALS TRANSPORTATION—MESSAGE FROM THE PRESIDENT—PM 102

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on Commerce, Science, and Transportation:

To the Congress of the United States:

In accordance with the requirements of Section 109(e) of the Hazardous Materials Transportation Act (P.L. 93-633), I hereby transmit the Fifteenth Annual Report on Hazardous Materials Transportation for calendar year 1984.

RONALD REAGAN.

THE WHITE HOUSE, *January 27, 1986.*

PRESIDENTIAL APPROVALS

A message from the President of the United States announced that he had approved and signed the following enrolled bills and joint resolutions:

On December 18, 1985:

S. 727. An act to clarify the application of the Public Utility Holding Company Act of 1935 to encourage cogeneration activities by gas utility holding company systems.

S. 1116. An act to amend the act of October 15, 1982, entitled "An Act to designate the Mary McLeod Bethune Council House in Washington, District of Columbia, as a national historic site, and for other purposes".

On December 20, 1985:

S. 1264. An act to amend the National Foundation on the Arts and the Humanities Act of 1965, and for other purposes.

On December 23, 1985:

S. 947. An act to amend the Foreign Assistance Act of 1961 with respect to the activities of the Overseas Private Investment Corporation.

S. 1884. An act to amend the Farm Credit Act of 1971, to restructure and reform the Farm Credit System, and for other purposes.

S.J. Res. 32. Joint resolution to authorize and request the President to designate September 21, 1986, as "Ethnic American Day".

S.J. Res. 70. Joint resolution to proclaim March 20, 1986, as "National Agriculture Day".

S.J. Res. 213. Joint Resolution to designate January 19 through January 25, 1986, "National Jaycee Week".

On December 26, 1985:

S. 1728. An act to authorize the Cherokee Nation of Oklahoma to lease certain lands held in trust for up to ninety-nine years.

S.J. Res. 189. Joint resolution designating the week beginning January 12, 1986, as "National Fetal Alcohol Syndrome Awareness Week".

On December 28, 1985:

S. 1621. An act to amend title 25, United States Code, relating to Indian education programs, and for other purposes.

S. 1706. An act to authorize the Architect of the Capitol and the Secretary of Transportation, in consultation with the Chief Justice of the United States, to study alternatives for construction of a building adjacent to Union Station in the District of Columbia, and for other purposes.

S. 1918. An act to change the date for transmittal of a report.

S.J. Res. 198. Joint resolution to designate the year of 1986 as the "Sesquicentennial Year of the National Library of Medicine".

S.J. Res. 235. Joint resolution to designate the week of January 26, 1986, to February 1, 1986, as "Truck and Bus Safety Week".

S.J. Res. 255. Joint resolution relative to the convening of the second session of the Ninety-ninth Congress.

On January 2, 1986:

S. 1840. An act to amend title 5, United States Code, to revise the authority relating to the payment of subsistence and travel allowances to Government employees for official travels; to prescribe standards for the allowability of the cost of subsistence and travel of contractor personnel under Government contracts; and for other purposes.

MESSAGES FROM THE PRESIDENT RECEIVED DURING THE ADJOURNMENT

Under the authority of the order of the Senate of January 3, 1986, the Secretary of the Senate, on January 23, 1986, during the adjournment of the Senate, received messages from the President of the United States submitting sundry nominations, which were referred to the appropriate committees.

(The nominations received on January 23, 1986, are printed at the end of the Senate proceedings.)

MESSAGE FROM THE HOUSE RECEIVED DURING THE ADJOURNMENT

ENROLLED BILL SIGNED

Under the authority of the order of the Senate of January 3, 1986, the Secretary of the Senate, on January 23, 1986, received a message from the House of Representatives, announcing that the Speaker had signed the following enrolled bill:

S. 2013. An act to delay the referendum with respect to the 1986 through 1988 crops of Flue-cured tobacco and to delay the proclamation of national marketing quotas for the 1986 through 1988 crops of Burley tobacco.

Under the authority of the order of the Senate of January 3, 1986, the enrolled bill was signed on January 23, 1986, during the adjournment of the Senate by the President pro tempore [Mr. THURMOND].

MESSAGE FROM THE HOUSE

At 12:01 p.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the House has passed the following bill, in which it requests the concurrence of the Senate:

H.R. 2443. An act to limit the number of days a depository institution may restrict the availability of funds which are deposited in any account; to the Committee on Banking, Housing, and Urban Affairs.

ENROLLED BILL PRESENTED

The Secretary of the Senate announced that on January 23, 1986, she had presented to the President of the United States the following bill:

S. 2013. A bill to delay the referendum with respect to the 1986 through 1988 crops of Flue-cured tobacco and to delay the proclamation of national marketing quotas for the 1986 through 1988 crops of burley tobacco.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC-2287. A communication from the Chairman of the Equal Employment Opportunity Commission, transmitting, pursuant to law, a report on the system of internal accounting and administrative control in effect during calendar year 1985; to the Committee on Governmental Affairs.

EC-2288. A communication from the Chairman of the Board of Governors of the United States Postal Service, transmitting, pursuant to law, the annual report of the Board under the Government in the Sunshine Act for calendar year 1985; to the Committee on Governmental Affairs.

EC-2289. A communication from the Chairman of the Securities and Exchange Commission, transmitting, pursuant to law, schedules to supplement the previously submitted report on the system of internal accounting and administrative controls in effect during calendar year 1985; to the Committee on Governmental Affairs.

EC-2290. A communication from the Special Counsel Merit Systems Protection Board, transmitting, pursuant to law, a report on the system of internal accounting and administrative controls in effect during calendar year 1986; to the Committee on Governmental Affairs.

EC-2291. A communication from the Acting Chairman of the Federal Trade Commission, transmitting, pursuant to law, a report on the system of internal accounting and administrative controls in effect during calendar year 1985; to the Committee on Governmental Affairs.

EC-2292. A communication from the Acting Chairman of the Federal Trade Commission, transmitting, pursuant to law, a report on the system of internal accounting and administrative controls in effect during calendar year 1986; to the Committee on Governmental Affairs.

EC-2293. A communication from the District of Columbia Auditor, transmitting, pursuant to law, a report entitled "D.C. Auditor's Review of the University of the District of Columbia's Postsecondary Education Fund"; to the Committee on Governmental Affairs.

EC-2294. A communication from the Director of the Federal Judicial Center, transmitting, pursuant to law, the annual report of the Center for fiscal year 1985; to the Committee on the Judiciary.

EC-2295. A communication from the Executive Secretary, Office of the Secretary of Defense, transmitting, pursuant to law, the annual report on Department of Defense procurement from small and other business firms for fiscal year 1985; to the Committee on Small Business.

EC-2296. A communication from the Director of the Defense Security Assistance Agency, transmitting, pursuant to law, a report on the Department of the Air Force's proposed letter of offer to Turkey for defense articles estimated to cost in excess of $50 million; to the Committee on Armed Services.

EC-2297. A communication from the Director of the Defense Security Assistance Agency, transmitting, pursuant to law, a report on the Department of the Air Force's proposed letter of offer to Korea for defense articles estimated to cost in excess of $50 million; to the Committee on Armed Services.

EC-2298. A communication from the Administrator of the Panama Canal Commission, transmitting, pursuant to law, the annual report of the Commission, including unaudited financial reports, for fiscal year 1985; to the Committee on Armed Services.

EC-2299. A communication from the Secretary of Housing and Urban Development, transmitting, pursuant to law, the annual report of the Department's Solar Energy and Energy Conservation Bank for fiscal year 1985; to the Committee on Banking, Housing, and Urban Development.

EC-2300. A communication from the Secretary of Transportation, transmitting, pursuant to law, a report on essential air service to Southeast Alaska; to the Committee on Commerce, Science, and Transportation.

EC-2301. A communication from the Federal Co-Chairman of the Appalachian Regional Commission, transmitting, pursuant to law, a report on the system of internal accounting and administrative controls in effect during calendar year 1985; to the Committee on Governmental Affairs.

EC-2302. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a list of the reports issued by the General Accounting Office during December 1985; to the Committee on Governmental Affairs.

EC-2303. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 6-124 adopted by the Council on December 17, 1985; to the Committee on Governmental Affairs.

EC-2304. A communication from the Chief Justice of the United States, transmitting, pursuant to law, a copy of the Report of the Proceedings of the Judicial Conference of the United States, held in Washington, D.C. on September 17 and 18, 1985; to the Committee on the Judiciary.

EC-2305. A communication from the Clerk of the United States Claims Court, transmitting, pursuant to law, the annual report of the United States Claim Court for fiscal year 1985; to the Committee on the Judiciary.

EC-2306. A communication from the Secretary of Education, transmitting, pursuant to law, the annual report of the Special Education Software Center for fiscal year 1984; to the Committee on Labor and Human Resources.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. McCLURE, from the Committee on Energy and Natural Resources, without amendment:

S. 595. A bill to provide relief for certain land entrymen in Idaho (Rept. No. 99-231).

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first

and second time by unanimous consent, and referred as indicated:

By Mr. TRIBLE (for himself, Mr. COHEN and Mr. WARNER):

S. 2020. A bill to amend title 5, United States Code, to expand the class of individuals eligible for refunds or other returns of contributions from contingency reserves in the Employees Health Benefits Fund; to make miscellaneous amendments relating to the Civil Service Retirement System and the Federal Employees Health Benefits Program; and for other purposes; to the Committee on Governmental Affairs.

By Mr. TRIBLE (for himself and Mr. ARMSTRONG):

S. 2021. A bill to authorize humanitarian assistance for the National Union for the Total Independence of Angola [UNITA]; to the Committee on Foreign Relations.

By Mr. METZENBAUM:

S. 2022. A bill to amend the Clayton Act regarding antitrust enforcement; to the Committee on the Judiciary.

By Mr. LEVIN (for himself, Mr. DURENBERGER and Mr. RUDMAN):

S. 2023. A bill to provide for the establishment of a file concerning the review of rules by the President, and for other purposes; to the Committee on Governmental Affairs.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. TRIBLE (for himself, Mr. COHEN, and Mr. WARNER):

S. 2020. A bill to amend title 5, United States Code, to expand the class of individuals eligible for refunds or other returns of contributions from contingency reserves in the employees health benefits fund; to make miscellaneous amendments relating to the civil service retirement system and the Federal Employees Health Benefits Program; and for other purposes; to the Committee on Governmental Affairs.

FEDERAL EMPLOYEES BENEFITS IMPROVEMENT ACT

Mr. TRIBLE. Mr. President, last May, Blue Cross/Blue Shield first announced plans to offer premium rebates to policy holders under the Federal Employees Health Benefits Program. These rebates were made possible by a decreasing rise in health care costs and increasingly responsible use of health care resources by policy holders. Subscribers, Congress and the administration welcomed this news and the rebates were eagerly awaited.

As my colleagues will recall, soon after this announcement by Blue Cross/Blue Shield, it was discovered that current law permits such refunds for employees of the Federal Government only. Federal retirees are ineligible.

In response, I introduced legislation last July which corrected this deficiency in the law and permitted Federal retirees to receive rebates along with their currently employed Federal counterparts. Representative FRANK WOLF introduced similar legislation in the House of Representatives.

Since that time, this legislation—originally aimed at providing premium rebates for Federal retirees—has evolved into legislation making a number of changes in the Federal Employees Health Benefits Program and other programs including the civil service retirement system. Finally, after many months of deliberations, Congress passed this measure shortly before adjourning in December. Federal employees and retirees who had been waiting 7 months for passage of this measure, believed that their premium refunds would be in the mail shortly.

Unfortunately, this long awaited measure was recently vetoed by the President. While enthusiastically supporting the health insurance premium rebates, the President objected to provisions in the legislation lifting the existing cap on the Government's share of contributions to the health insurance premiums.

Mr. President, over 2 million Federal employees and retirees have now been waiting over 8 months to receive their premium rebates. These individuals have been patiently waiting for Congress and the President to enact legislation that would correct an oversight in existing law and provide retirees as well as employees with premium refunds. Eight months is an unacceptable length of time to wait for enactment of legislation which enjoys overwhelming bipartisan support.

Therefore Mr. President, I am introducing legislation along with Senators COHEN and WARNER, which I hope will be enacted quickly. The legislation incorporates nearly all provisions of the final version of the health insurance rebate bill which passed Congress in December. However, this measure addresses the concerns which prompted the President to veto the rebate bill, by eliminating the language regarding Government contributions.

In addition to providing authority for retirees to receive rebates, this legislation provides for open seasons before the start of any contract year in which there are changes in the Federal Employees Health Benefits Program. Additional modifications are made in the Federal Health Program including reinstatement of authority to make payments to nonmedical health care providers in medically underserved areas.

My legislation also incorporates modifications in the civil service retirement system. A number of technical clarificaitons are made to the Civil Service Retirement Spouse Equity Act of 1984 regarding benefits for former spouses. And, this measure includes provisions I originally introduced to give Federal retirees a second chance to provide survivor benefits for their spouse.

I urge my colleagues to support this measure and join with me in pressing for immediate passage of this legislation. We must not require Federal employees and retirees to continue to wait for the legislation needed to provide them with rebates.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2020

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Federal Employees Benefits Improvement Act of 1986".

TITLE I—FEDERAL EMPLOYEE HEALTH BENEFITS

SEC. 101. AUTHORITY TO PAY CERTAIN HEALTH CARE PROFESSIONALS.

(a) DEFINITIONS.—Section 8901 of title 5, United States Code, is amended—

(1) by striking out "and" at the end of paragraph (9);

(2) by striking out the period at the end of paragraph (10) and inserting in lieu thereof a semicolon; and

(3) by adding at the end thereof the following new paragraphs:

"(11) 'certified nurse-midwife' has the same meaning given to such term in section 1905(m) of the Social Security Act; and

"(12) 'qualified clinical social worker' means an individual—

"(A) who is licensed or certified as a clinical social worker by the State in which such individual practices; or

"(B) who, if such State does not provide for the licensing or certification of clinical social workers—

"(i) is certified by a national professional organization offering certification of clinical social workers; or

"(ii) meets equivalent requirements (as prescribed by the Office).".

(b) NURSES AND NURSE-MIDWIVES.—Section 8902(k) of title 5, United States Code, is amended by striking out "or optometrist" each place it appears and inserting in lieu thereof ", optometrist, nurse, or certified nurse-midwife".

(c) CLINICAL SOCIAL WORKERS.—Section 8902(k) of title 5, United States Code, is further amended—

(1) by striking out "(k)" and inserting in lieu thereof "(k)(1)";

(2) by striking out the last sentence; and

(3) by inserting at the end thereof the following:

"(2) When a contract under this chapter requires payment or reimbursement for services which may be performed by a qualified clinical social worker, an employee, annuitant, family member, or former spouse covered by the contract shall be entitled under the contract to have payment or reimbursement made to him or on his behalf for the services performed. As a condition for the payment or reimbursement, the contract—

"(A) may require that the services be performed pursuant to a referral by a psychiatrist; but

"(B) may not require that the services be performed under the supervision of a psychiatrist or other health practitioner.

"(3) The provisions of this subsection shall not apply to group practice prepayment plans.".

(d) EFFECTIVE DATES.—The amendments made by subsections (a), (b), and (c) shall be effective with respect to contracts entered into or renewed for calendar years beginning after December 31, 1986.

SEC. 102. ELIMINATION OF REQUIREMENT OF THREE MEDICAL SPECIALTIES FOR GROUP-PRACTICE PREPAYMENT PLANS.

The second sentence of section 8903(4)(A) of title 5, United States Code, is amended to read as follows: "The group shall include at least 3 physicians who receive all or a substantial part of their professional income from the prepaid funds and who represent 1 or more medical specialties appropriate and necessary for the population proposed to be served by the plan.".

SEC. 103. AUTHORITY TO WAIVE CERTAIN ELIGIBILITY REQUIREMENTS.

Section 8905(b) of title 5, United States Code, is amended by adding at the end thereof the following new sentence: "The Office may, in its sole discretion, waive the requirements of this subsection in the case of an individual who fails to satisfy such requirements if the Office determines that, due to exceptional circumstances, it would be against equity and good conscience not to allow such individual to be enrolled as an annuitant in a health benefits plan under this subchapter.".

SEC. 104. ANNUAL OPEN SEASON.

(a) IN GENERAL.—Section 8905(f) of title 5, United States Code, is amended to read as follows:

"(f)(1) Under regulations prescribed by the Office, the Office shall, before the start of any contract term in which—

"(A) an adjustment is made in any of the rates charged or benefits provided under a health benefits plan described by section 8903 or 8903a of this title,

"(B) a newly approved health benefits plan is offered, or

"(C) an existing plan is terminated,

provide a period of not less than 3 weeks during which any employee, annuitant, or former spouse enrolled in a health benefits plan described by such section shall be permitted to transfer that individual's enrollment to another such plan or to cancel such enrollment.

"(2) In addition to any opportunity afforded under paragraph (1) of this subsection, an employee, annuitant, or former spouse enrolled in a health benefits plan under this chapter shall be permitted to transfer that individual's enrollment to another such plan, or to cancel such enrollment, at such other times and subject to such conditions as the Office may prescribe in regulations.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall be effective with respect to contracts entered into or renewed for calendar years beginning after December 31, 1986.

SEC. 105. AUTHORITY TO REFUND CERTAIN CONTRIBUTIONS TO ENROLLEES.

The last sentence of section 8909(b) of title 5, United States Code, is amended by striking out "employees" and inserting in lieu thereof "enrollees".

SEC. 106. HEALTH SERVICES FOR MEDICALLY UNDERSERVED POPULATIONS.

(a) IN GENERAL.—(1) Section 3 of the Act entitled "An Act to amend chapter 89 of title 5, United States Code, to establish uniformity in Federal employee health benefits and coverage by preempting certain State or local laws which are inconsistent with such contracts, and for other purposes", approved September 17, 1978 (Public Law 95-368; 92 Stat. 606; 5 U.S.C. 8902 note), is amended by striking out "; except that such provisions shall not apply to services provided after December 31, 1984".

(2) Section 5(b) of the Act entitled "An Act to amend the provisions of chapters 83 and 89 of title 5, United States Code, which relate to survivor benefits for certain dependent children, and for other purposes", approved January 2, 1980 (Public Law 96-179; 93 Stat. 1300; 5 U.S.C 8902 note), is amended by striking out "and before January 1, 1985,".

(3) Section 8902(m)(2)(A) of title 5, United States Code, is amended by adding at the end thereof the following: "This paragraph shall apply with respect to a qualified clinical social worker covered by subsection (k)(2) of this section without regard to whether such contract contains the requirement authorized by clause (i) of the second sentence of subparagraph (A) of such subsection (k)(2).".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect with respect to services provided after December 31, 1984.

SEC. 107. MENTAL HEALTH, ALCOHOLISM, AND DRUG ADDICTION BENEFITS.

(a) FINDINGS.—The Congress finds that—

(1) the treatment of mental illness, alcoholism, and drug addiction are basic health care services which are needed by approximately 40,000,000 Americans each year;

(2) treatment of mental illness, alcoholism, and drug addiction is increasingly successful;

(3) timely and appropriate treatment of mental illness, alcoholism, and drug addiction is cost effective in terms of restored productivity, reduced utilization of other health services, and reduced social dependence; and

(4) mental illness is a problem of grave concern to the people of the United States and is widely but unnecessarily feared and misunderstood.

(b) SENSE OF THE CONGRESS.—It is the sense of the Congress—

(1) that participants in the Federal employees health benefits program should receive adequate benefits coverage for treatment of mental illness, alcoholism, and drug addiction; and

(2) that the Office of Personnel Management should encourage participating health benefits plans to provide adequate benefits relating to treatment of mental illness, alcoholism, and drug addiction (including benefits relating to coverage for inpatient and outpatient treatment and catastrophic protection benefits).

SEC. 108. STUDY OF THE ADEQUACY OF HEALTH BENEFITS PROGRAM INFORMATION.

(a) IN GENERAL.—Not later than March 1, 1986, the Office of Personnel Management shall (1) study the adequacy of any sources or methods currently provided under chapter 89 of title 5, United States Code, to assist individuals in making informed decisions concerning the choice of a health benefits plan under such chapter and the use of benefits available under any such plan, and (2) submit to the Committee on Post Office and Civil Service of the House of Representatives and the Committee on Governmental Affairs of the Senate a report on the findings and determinations of the Office resulting from such study.

(b) REPORT REQUIREMENTS.—The report required by subsection (a) shall include—

(1) an assessment of the adequacy of the sources and methods referred to in such subsection in advising individuals with respect to the coordination of benefits under chapter 89 of title 5, United States Code, with benefits available under other health insurance programs established by or under Federal law, including title XVIII of the Social Security Act; and

(2) the administrative actions and any recommendations for legislation which the Office considers necessary in order to improve the effectiveness of any such source or method.

SEC. 109. DEMONSTRATION PROJECT.

(a) DEFINITIONS.—For the purposes of this section—

(1) "health protection" means activities to minimize environmental and other workplace conditions which cause or aggravate stress, illness, disability, or other health impairments, including such activities as—

(A) accommodation of the handicapped;

(B) review of plans for new or altered facilities;

(C) routine inspections, surveys, studies of worksites;

(D) inspections of worksites by a physician, nurse, or other licensed health professional with training in occupational safety and health;

(E) evaluation and monitoring of worksite hazards; and

(F) investigations of causes of occupational disease or injury;

(2) "health promotion" means activities to encourage the development of health enhancing habits and practices, including activities encouraging—

(A) cessation of tobacco smoking;

(B) reduction in the misuse of alcohol, drugs, and other chemical substances;

(C) improvements in nutrition;

(D) improvements in physical fitness, including weight reduction; and

(E) control of stress;

(3) "disease prevention" means activities to prevent unnecessary illnesses, morbidity, disability, and medical treatment, including—

(A) occupationally related examinations;

(B) general health assessments;

(C) biological monitoring;

(D) immunizations, chemoprophylaxis, fitting respirators and hearing protectors, use of barrier creams, control of high blood pressure, control of sexually transmittable diseases, care to improve pregnancy outcome, control of toxic agents, control or elimination of hazards leading to accidental injuries, control of infectious agents, and other health intervention activities; and

(E) referral to private physicians, dentists, and other licensed health professionals;

(4) "secondary prevention" means—

(A) activities to provide on-the-job emergency health and dental care and assistance, and

(B) rehabilitation or follow-up care after emergency care,

to reduce morbidity, disability, lost productivity, and medical treatment.

(b) IN GENERAL.—The Director of the Office of Personnel Management, in consultation with the Secretary of Health and Human Services, shall establish and carry out at least one demonstration project to determine—

(1) the most effective (including cost-effective) means of—

(A) furnishing health protection, health promotion, disease prevention, and secondary prevention services to Federal Government employees;

(B) encouraging such employees to adopt good health habits;

(C) reducing health risks to such employees, particularly the risks of heart disease, cancer, stroke, diabetes, anxiety, depression, and lifestyle-related accidents;

(D) reducing medical expenses of such employees through health protection, health promotion, disease prevention, and secondary prevention activities;

(E) enhancing employee productivity and reducing health related liability of the Federal Government through a comprehensive occupational health program; and

(F) carrying out a program—

(i) to train employees under the jurisdiction of a Federal Government agency to furnish health protection, health promotion, disease prevention, and secondary prevention services to employees of such agency; and

(ii) to promote interagency agreements under which trained employees of an agency are available to furnish such services to employees of other Federal Government agencies, subject to reimbursement of the costs of the agency in making the trained employees available; and

(2) the cost effectiveness of organizational structures and of social and educational programs which may be useful in achieving the objectives described in clause (1).

(c)(1) CONDUCT OF THE DEMONSTRATION PROJECT.—The demonstration project described in subsection (b) shall be conducted in cooperation with at least one—

(A) health profession school;

(B) allied health profession or nurse training institution; or

(C) public or private entity which provides health care.

(2)(A) The Director of the Office of Personnel Management, in consultation with the Secretary of Health and Human Services, may enter into contracts with, or make grants to, any school of medicine, school of osteopathy, school of public health, school of nursing, health maintenance organization, or other qualified health care provider for the purpose of carrying out the demonstration project described in subsection (b).

(B) The authority of the Director of the Office of Personnel Management to enter into contracts or to make grants under subparagraph (A) is effective for fiscal year 1986 and subsequent fiscal years only to such extent or in such amounts as are provided in appropriation Acts.

(C) For the purposes of this paragraph, the terms "school of medicine" and "school of osteopathy" have the same meanings as provided for such terms in section 701(4) of the Public Health Service Act (42 U.S.C. 292a(4)).

(d) REPORT.—Not later than 60 days after the date the demonstration project required by subsection (b) terminates, the Director of the Office of Personnel Management, in consultation with the Secretary of Health and Human Services, shall submit to Congress a report on the project.

(e) ESTABLISHMENT AND TERMINATION REQUIREMENTS.—The demonstration project required by subsection (b) shall be established not later than 6 months after the date of enactment of this Act and shall terminate on the date 2 years after such date of enactment.

SEC. 110. ADDITIONAL TYPE OF HEALTH BENEFITS PLAN.

Paragraph (4) of section 8903 of title 5, United States Code, is amended by adding at the end thereof the following new subparagraph:

"(C) MIXED MODEL PREPAYMENT PLANS.—Mixed model prepayment plans which are a combination of the type of plans described in subparagraph (A) and the type of plans described in subparagraph (B).".

SEC. 111. RESTRICTIONS RELATING TO AMOUNTS REFUNDED TO THE EMPLOYEES HEALTH BENEFITS FUND FROM CARRIERS' SPECIAL RESERVES.

(a) PROHIBITED TRANSFERS.—(1) No amount in the Employees Health Benefits Fund may be transferred to the general fund of the Treasury of the United States or the United States Postal Service as a result of a refund described in paragraph (2).

(2) This subsection applies with respect to any refund made by a carrier during fiscal year 1986 or 1987 to the Employees Health Benefits Fund to the extent that such refund represents amounts in excess of the minimum level of financial reserves necessary to be held by such carrier to ensure the stable and efficient operation of its health benefits plan.

(b) RESTRICTION RELATING TO USE OF CERTAIN AMOUNTS IN THE FUND.—(1) Any amount which is in the Employees Health Benefits Fund, and which is described in paragraph (2), may be used solely for the purpose of paying the Government contribution under chapter 89 of title 5, United States Code, for health benefits for annuitants enrolled in health benefits plans.

(2) This subsection applies with respect to any amounts—

(A) which are referred to in subsection (a)(2); and

(B) which are attributable to Government contributions (other than contributions by the government of the District of Columbia) that were made under section 8906(b) of title 5, United States Code, as determined under regulations which the Office of Personnel Management shall prescribe.

(c) DEFINITIONS.—For the purpose of this section—

(1) the term "Employees Health Benefits Fund" refers to the fund described in section 8909(a) of title 5, United States Code;

(2) the term "carrier" has the meaning given such term by section 8901(7) of such title; and

(3) the term "health benefits plan" has the meaning given such term by section 8901(6) of such title.

TITLE II—CIVIL SERVICE SPOUSE AND FORMER SPOUSE EQUITY IMPROVEMENTS

SEC. 201. REVISION OF THE APPLICATION AND SPECIAL ELECTIONS PROVISIONS OF THE CIVIL SERVICE RETIREMENT SPOUSE EQUITY ACT OF 1984.

(a) APPLICATION.—Section 4(a) of the Civil Service Retirement Spouse Equity Act of 1984 (Public Law 98-615; 98 Stat. 3204) is amended to read as follows:

"(a)(1) Except as provided in paragraphs (3), (4), (5), and (6) and subsections (b) and (c), the amendments made by section 2 of this Act shall take effect May 7, 1985, and shall apply—

"(A) to any individual who, on or after such date, is married to an employee or Member who, on or after such date, retires, dies, or applies for a refund of contributions under subchapter III of chapter 83 of title 5, United States Code, and

"(B) to any individual who, as of such date, is married to a retired employee or Member,

unless (i) such employee or Member has waived, under the first sentence of section 8339(j)(1) of such title (or a similar prior provision of law), the right of that individual's spouse to receive a survivor annuity, or (ii) in the case of a post-retirement marriage or remarriage, an election has not been made before such date by such employee or Member with respect to such individual under the applicable provisions of section 8339(j)(1) or 8339(k)(2) of such title, as the case may be (or a similar prior provision of law).

"(2) Except as provided in subsection (f), the amendments made by section 3 of this Act shall take effect May 7, 1985, and shall apply to any individual who, on or after such date, is married to an employee or annuitant.

"(3) The amendments made by subparagraphs (B)(iii) and (C)(ii) of section 2(4) of this Act (relating to the termination of survivor benefits for a widow or widower who remarries before age 55) and the amendments made by subparagraph (F) of such section 2(4) (relating to the restoration of a survivor annuity upon the dissolution of such a remarriage) shall apply—

"(A) in the case of a remarriage occurring on or after the date of the enactment of this Act; and

"(B) with respect to periods beginning on or after such date.

"(4)(A) Except as provided in subparagraph (B), the amendment made by section 2(3)(A) of this Act (but only to the extent that it amends title 5, United States Code, by adding a new section 8339(j)(5)(C)) and the amendment made by section 2(3)(C) of this Act (which relate to the election of a survivor annuity for a spouse in the case of a post-retirement marriage or remarriage) shall apply—

"(i) to an employee or Member who retires before, on, or after May 7, 1985; and

"(ii) in the case of a marriage occurring on or after May 7, 1985.

"(B) The amendments referred to in subparagraph (A) shall not apply in the case of a marriage of an employee or Member retiring before May 7, 1985, if the marriage occurred after May 6, 1985, and before the date of the enactment of the Federal Employees Benefits Improvement Act of 1986.

"(C) Any election by an employee or Member described in subparagraph (B) to provide a survivor annuity for that individual's spouse by a marriage described in such subparagraph shall be effective if made in accordance with the applicable provisions of section 8339(j)(1) or 8339(k)(2) of title 5, United States Code, as the case may be, as in effect on May 6, 1985.

"(5)(A) Paragraphs (2), (3), (4), and (5)(B) of section 8339(j) of title 5, United States Code (as added by section 2(3)(A) of this Act), shall apply in the case of a former spouse of an employee or Member whose marriage to such employee or Member terminated before May 7, 1985, if such employee or Member retires on or after such date.

"(B)(i) The requirement described in clause (ii) shall not apply to an election made by an employee or Member under section 8339(j)(3) of title 5, United States Code (as amended by section 2(3)(A) of this Act), in order to provide a survivor annuity under section 8341(h) of such title (as amended by section 2(4)(G) of this Act) in the case of a former spouse referred to in subparagraph (A) if the election meets the requirements of clause (iii).

"(ii) The requirement referred to in clause (i) is the requirement prescribed in section 8339(j)(3) of title 5, United States Code, for an employee or Member to make an election in the case of a former spouse under such section 8339(j)(3) at the time of retirement or, if later, within 2 years after the date on

which the marriage of the former spouse to the employee or Member is dissolved.

"(iii) Clause (i) applies to an election which is made by an employee or Member who retires on or after May 7, 1985, and before the date of the enactment of the Federal Employees Benefits Improvement Act of 1986, and is received by the Office of Personnel Management within the 2-year period beginning on the date of the enactment of such Act.

"(C) A survivor annuity shall be paid a former spouse as provided in section 8341(h) of title 5, United States Code (as amended by section 2(4)(G) of this Act), pursuant to an election made in the case of such former spouse under this paragraph.

"(D) The amendments made by paragraphs (6) and (7) of section 2 of this Act shall apply in the case of survivor annuities and elections authorized by this paragraph.

"(6) The amendment made by section 2(4)(A) of this Act (relating to the definition of a widow or widower) and the amendment made by section 2(4)(G) of this Act (but only to the extent that it amends title 5, United States Code, by adding a new section 8341(i)) shall apply with respect to any marriage occurring on or after the date of the enactment of this Act.".

(b) ENTITLEMENT OF A FORMER SPOUSE IN CASE OF RETIREMENT OR DEATH OF AN EMPLOYEE OR MEMBER BEFORE THE EFFECTIVE DATE.—Section 4(b) of the Civil Service Retirement Spouse Equity Act of 1984 (Public Law 98-615; 98 Stat. 3205) is amended—

(1) in paragraph (1)—

(A) by striking out "the one hundred and eightieth day after the date of enactment of this Act" in the matter before subparagraph (A) and inserting in lieu thereof "May 7, 1985, or who died after becoming eligible to retire and before such date,";

(B) by striking out "retired" in the matter before clause (i) in subparagraph (B); and

(C) by striking out clause (iii) in subparagraph (B) and by redesignating clauses (iv), (v), and (vi) of such subparagraph as clauses (iii), (iv), and (v), respectively; and

(2) by redesignating paragraph (4) as paragraph (5);

(3) by inserting after paragraph (3) the following new paragraph (4):

"(4)(A) A former spouse of an employee or Member referred to in the matter before subparagraph (A) in paragraph (1) of this section shall be entitled to a survivor annuity under subparagraph (B) of such paragraph if—

"(i) the former spouse satisfies the requirements of clauses (ii) through (v) of such subparagraph (B); and

"(ii) there is no surviving spouse of the employee or Member and no other former spouse of such employee or Member who is entitled to receive a survivor annuity under subchapter III of chapter 83 of title 5, United States Code, based on the service of such employee or Member which is creditable under such subchapter and there is no other person who has been designated to receive a survivor annuity under such subchapter by reason of an insurable interest in such employee or Member.

"(B) For the purposes of this paragraph, the term 'surviving spouse' means a widow or a widower as defined in paragraphs (1) and (2), respectively, of section 8341(a) of title 5, United States Code."; and

(4) in paragraph (5), as redesignated by clause (2) of this subsection—

(A) by striking out "Member," in the matter before subparagraph (A) and inserting in lieu thereof "Member (or of that portion of the annuity which such employee or Member may have designated for this purpose under paragraph (1)(A) of this subsection),"; and

(B) by striking out "section 8341(b)(4)" in the matter following subparagraph (B) and inserting in lieu thereof "section 8341(h)(2)".

(c) ELIGIBILITY OF CERTAIN FORMER SPOUSES TO ENROLL IN A FEDERAL EMPLOYEES HEALTH BENEFITS PLAN.—(1) The first sentence of section 4(f) of the Civil Service Retirement Spouse Equity Act of 1984 is amended to read as follows: "Any individual—

"(1) who is entitled to a survivor annuity under subsection (b) of this section or pursuant to an election authorized by reason of the application of subsection (a)(5) of this section,

"(2) as to whom a court order or decree referred to in section 8345(j) of title 5, United States Code (or similar provision of law under a retirement system for Government employees other than the Civil Service Retirement System) has been issued before May 7, 1985, or

"(3) who is entitled (other than as described in paragraph (2)) to an annuity or any portion of an annuity as a former spouse under a retirement system for Government employees as of May 7, 1985,

shall be considered to have satisfied section 8901(10)(C) of title 5, United States Code, as amended by this Act.".

(2) The second sentence of such section 4(f) is amended—

(A) by inserting ", within 12 months after the date of the enactment of the Federal Employees Benefits Improvement Act of 1986," before "enroll"; and

(B) by inserting before the period at the end the following: "(other than the conditions prescribed in subparagraphs (A) and (B) of paragraph (1) of such section 8905(c))".

(d) ADDITIONAL ELECTION.—(1) Notwithstanding the time limitation prescribed in subparagraph (A) of section 4(b)(1) of the Civil Service Retirement Spouse Equity Act of 1984, an election may be made under such subparagraph before the expiration of the 12-month period beginning on the date on which the regulations under paragraph (3) of this subsection first take effect.

(2) Any retired employee or Member who has made an election under section 4(b)(1)(A) of the Civil Service Retirement Spouse Equity Act of 1984 (as in effect at the time of such election) before the regulations under paragraph (3) of this subsection become effective may modify such election by designating, in writing, that only a portion of such employee or Member's annuity is to be used as the base for the survivor annuity for the former spouse for whom the election was made. A modification under this subparagraph shall be subject to the deadline under paragraph (1) of this subsection.

(3) The Office of Personnel Management shall prescribe regulations to carry out this subsection, including regulations under which an appropriate refund shall be made in the case of a modification under paragraph (2) of this subsection.

SEC. 202. CREDIT FOR MILITARY SERVICE.

Section 8332(j)(1) of title 5, United States Code, is amended by striking out "widow" each place it appears and inserting in lieu thereof "spouse, former spouse".

SEC. 203. ANNUITY REDUCTIONS.

(a) IRREVOCABILITY OF A JOINT SPOUSAL WAIVER.—Section 8339(j)(3) of title 5, United States Code, is amended by inserting ", unless all rights to survivor benefits for such former spouse under this subchapter based on marriage to such employee or Member were waived under paragraph (1) of this subsection" before the period at the end of the first sentence.

(b) REPLACEMENT OF TERMINATED REDUCTION.—Section 8339(j)(5)(B) of title 5, United States Code, is amended to read as follows:

"(B) Any reduction in an annuity for the purpose of providing a survivor annuity for a former spouse of a retired employee or Member shall be terminated for each full month after the former spouse remarries before reaching age 55 or dies. This reduction shall be replaced by an appropriate reduction or reductions under paragraph (4) of this subsection if the retired employee or Member has (i) another former spouse who is entitled to a survivor annuity under section 8341(h) of this title, (ii) a current spouse to whom the employee or Member was married at the time of retirement and with respect to whom a survivor annuity was not jointly waived under paragraph (1) of this subsection, or (iii) a current spouse whom the employee or Member married after retirement and with respect to whom an election has been made under subparagraph (C) of this paragraph or subsection (k)(2) of this section.".

(c) ELECTIONS RELATING TO A SURVIVOR ANNUITY FOR A PERSON WHO HAS AN INSURABLE INTEREST IN AN ANNUITANT.—(1) Section 8339(j)(5)(C) of title 5, United States Code, is amended by adding at the end thereof the following:

"(v) An election to provide a survivor annuity to a person under this subparagraph—

"(I) shall prospectively void any election made by the employee or Member under subsection (k)(1) of this section with respect to such person; or

"(II) shall, if an election was made by the employee or Member under such subsection (k)(1) with respect to a different person, prospectively void such election if appropriate written application is made by such employee or Member at the time of making the election under this subparagraph.

"(vi) The deposit provisions of clauses (ii) and (iii) of this subparagraph shall not apply if—

"(I) the employee or Member makes an election under this subparagraph after having made an election under subsection (k)(1) of this section; and

"(II) the election under such subsection (k)(1) becomes void under clause (v) of this subparagraph.".

(2) Section 8339(k)(1) of such title is amended by adding at the end thereof the following: "In the case of a married employee or Member, an election under this paragraph on behalf of the spouse may be made only if any right of such spouse to a survivor annuity based on the service of such employee or Member is waived in accordance with subsection (j)(1) of this section.".

(3) Paragraph (2) of section 8339(k) of such title is amended—

(A) by striking out subparagraph (B)(i) and inserting in lieu thereof the following:

"(B)(i) The election and reduction shall take effect on the first day of the first month beginning after the expiration of the 9-month period beginning on the date of marriage. Any such election to provide a survivor annuity for a person—

"(I) shall prospectively void any election made by the employee or Member under

paragraph (1) of this subsection with respect to such person; or

"(II) shall, if an election was made by the employee or Member under such paragraph with respect to a different person, prospectively void such election if appropriate written application is made by such employee or Member at the time of making the election under this paragraph.";

(B) by striking out "(other than an employee or Member who made a previous election under paragraph (1) of this subsection)" in subparagraph (B)(ii); and

(C) by adding at the end thereof the following new subparagraph (D):

"(D) Subparagraphs (B)(ii) and (C) of this paragraph shall not apply if—

"(i) the employee or Member makes an election under this paragraph after having made an election under paragraph (1) of this subsection; and

"(ii) the election under such paragraph (1) becomes void under subparagraph (B)(i) of this paragraph.".

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect May 7, 1985.

SEC. 204. PRORATED COST-OF-LIVING ADJUSTMENTS FOR THE FIRST YEAR.

Section 8340(c)(1) of title 5, United States Code, is amended—

(1) by striking out "or widower" the first time it appears and inserting in lieu thereof ", widower, or former spouse,"; and

(2) by striking out "or widower" the second and third time it appears and inserting in lieu thereof ", widower, former spouse, or insurable interest designee".

SEC. 205. SURVIVOR BENEFITS FOR CHILDREN.

(a) EQUITABLE SURVIVOR ANNUITIES FOR SURVIVING CHILDREN.—Section 8341(e) of title 5, United States Code, is amended—

(1) by redesignating paragraphs (1) and (2) as paragraphs (2) and (3), respectively; and

(2) by inserting before paragraph (2), as redesignated by clause (1), the following new paragraph:

"(1) For the purposes of this subsection, 'former spouse' includes a former spouse who was married to an employee or Member for less than 9 months and a former spouse of an employee or Member who completed less than 18 months of service covered by this subchapter.".

(b) INDIVIDUAL DETERMINATION OF SURVIVOR ANNUITY AMOUNT.—Section 8341(e)(2) of title 5, United States Code, as redesignated by subsection (a)(1) of this section, is amended by striking out "each surviving child" both times it appears and inserting in lieu thereof "that surviving child".

SEC. 206. DEFERRED ANNUITIES FOR FORMER SPOUSES OF FORMER MEMBERS OF CONGRESS.

Section 8341(h)(1) of title 5, United States Code, is amended by striking out "or annuitant" and inserting in lieu thereof "annuitant, or former Member who was separated from the service with title to a deferred annuity under section 8338(b) of this title".

SEC. 207. CHANGES IN COURT ORDERS AFTER DEATH.

Section 8341(h)(4)(A) of title 5, United States Code, is amended by inserting "or death" after "retirement".

SEC. 208. EFFECT OF A SEPARATION AGREEMENT ON REFUND OF A LUMP-SUM CREDIT.

Section 8342(j)(1)(B) of title 5, United States Code, is amended to read as follows:

"(B) shall be subject to the terms of a court decree of divorce, annulment, or legal separation or any court order or court approved property settlement agreement incident to such decree if—

"(i) the decree, order, or agreement expressly relates to any portion of the lump-sum credit involved; and

"(ii) payment of the lump-sum credit would extinguish entitlement of the employee's or Member's spouse or former spouse to a survivor annuity under section 8341(h) of this title or to any portion of an annuity under section 8345(j) of this title.".

TITLE III—MISCELLANEOUS CIVIL SERVICE AMENDMENTS

SEC. 301. RECEPTION AND REPRESENTATION EXPENSES OF THE OFFICE OF PERSONNEL MANAGEMENT.

Section 1103(a) of title 5, United States Code, is amended—

(1) by striking out "and" after paragraph (7);

(2) by striking out the period after paragraph (8) and by inserting in lieu thereof "; and"; and

(3) by inserting after paragraph (8) the following:

"(9) incurring official reception and representation expenses of the Office subject to any limitation prescribed in any law.".

SEC. 302. EXCEPTION TO NOTICE REQUIREMENTS FOR ROUTINE PAY MATTERS.

Section 1103(b) of title 5, United States Code, is amended by adding at the end thereof the following new paragraph:

"(4) Paragraphs (1) and (2) of this subsection and section 1105 of this title shall not apply to the establishment of any schedules or rates of basic pay or allowances under subpart D of part III of this title. The preceding sentence does not apply to the establishment of the procedures, methodology, or criteria used to establish such schedules, rates, or allowances.".

SEC. 303. PREDEPARTURE ALLOWANCE.

Section 5924(2)(A) of title 5, United States Code, is amended by inserting after "United States" the following: ", its territories or possessions, the Commonwealth of Puerto Rico, or the areas and installations in the Republic of Panama made available to the United States pursuant to the Panama Canal Treaty of 1977 and related agreements".

SEC. 304. DENTAL CARE IN GOVERNMENT MEDICAL FACILITIES OVERSEAS.

The second sentence of section 5 of the Act of May 10, 1943 (24 U.S.C. 35; 57 Stat. 81) is amended to read as follows: "Routine dental care, other than dental prosthesis and orthodontia, may be furnished to such persons who are outside the naval service under the same conditions as are prescribed in section 4 of this Act for hospital and dispensary care for such persons.".

SEC. 305. MINIMUM ANNUITY UNDER THE CIVIL SERVICE RETIREMENT AND DISABILITY SYSTEM.

(a) REPEAL.—Section 8345(f) of title 5, United States Code, is repealed.

(b) SAVINGS PROVISION.—An annuity payable from the Civil Service Retirement and Disability Fund as of the day before the date of enactment of this Act shall not be reduced—

(1) by reason of the repeal of section 8345(f) of title 5, United States Code; or

(2) if or to the extent that the reduction is to be made for the purpose of eliminating an overpayment resulting from the manner in which such section 8345(f) has been administered by the Office of Personnel Management.

(c) RATIFICATION OF ERRONEOUS PAYMENTS.—Any individual to whom an overpayment of an annuity has been made from the Civil Service Retirement and Disability Fund before the date of enactment of this Act shall be deemed to have been entitled to that overpayment if and to the extent that such overpayment resulted from the manner in which the Office of Personnel Management has administered section 8345(f) of title 5, United States Code.

(d) ADJUSTMENTS OF CERTAIN REDUCTIONS.—(1) Effective for any month after the date of enactment of this Act, the amount of any annuity which—

(A) is payable from the Civil Service Retirement and Disability Fund; and

(B) was reduced after June 30, 1985, and before the date of enactment of this Act, to eliminate any overpayment resulting from the manner in which the Office of Personnel Management administered section 8345(f) of title 5, United States Code,

shall not be less than the amount which would have been payable as of such date of enactment if the reduction described in clause (B) had not been made.

(2)(A) The Office shall make a lump-sum payment to each individual receiving an annuity to which paragraph (1) applies.

(B) The lump-sum payment made to any individual under this paragraph shall be equal to the excess of—

(i) the total amount of the annuity payments which would have been made to the individual for the period beginning with the first month in which the reduction described in paragraph (1)(B) was made and ending on the last day of the month in which this Act is enacted if the reduction had not been made, over

(ii) the total amount of the annuity payments which have been paid to such individual for that period.

SEC. 306. CIVIL SERVICE BENEFITS FOR FORMER EMPLOYEES OF COUNTY COMMITTEES.

(a) RETENTION.—Section 3502(a)(C) of title 5, United States Code, is amended by striking out "who is an employee in or under the Department of Agriculture".

(b) RATE OF PAY ON CHANGE OF POSITION.—Section 5334(e) of title 5, United States Code, is amended—

(1) by inserting a comma after "may"; and

(2) by striking out "under the Department of Agriculture,".

(c) ACCRUAL AND ACCUMULATION OF LEAVE.—The first sentence of section 6312 of title 5, United States Code, is amended by striking out "in the case of any officer or employee in or under the Department of Agriculture".

SEC. 307. 18-MONTH PERIOD TO ELECT A SURVIVOR ANNUITY UNDER THE CIVIL SERVICE RETIREMENT AND DISABILITY SYSTEM.

(a) IN GENERAL.—Section 8339 of title 5, United States Code, is amended by adding at the end thereof the following:

"(o)(1)(A) An employee or Member—

"(i) who, at the time of retirement, is married, and

"(ii) who notifies the Office at such time (in accordance with subsection (j)) that a survivor annuity under section 8341(b) of this title is not desired,

may, during the 18-month period beginning on the date of the retirement of such employee or Member, elect to have a reduction under subsection (j) made in the annuity of the employee or Member (or in such portion thereof as the employee or Member may designate) in order to provide a survivor annuity for the spouse of such employee or Member.

"(B) An employee or Member—

"(i) who, at the time of retirement, is married, and

"(ii) who at such time designates (in accordance with subsection (j)) that a limited portion of the annuity of such employee or Member is to be used as the base for a survivor annuity under section 8341(b) of this title,

may, during the 18-month period beginning on the date of the retirement of such employee or Member, elect to have a greater portion of the annuity of such employee or Member so used.

"(2)(A) An election under subparagraph (A) or (B) of paragraph (1) of this subsection shall not be considered effective unless the amount specified in subparagraph (B) of this paragraph is deposited into the Fund before the expiration of the applicable 18-month period under paragraph (1).

"(B) The amount to be deposited with respect to an election under this subsection is an amount equal to the sum of—

"(i) the additional cost to the System which is associated with providing a survivor annuity under subsection (b)(2) of this section and results from such election taking into account (I) the difference (for the period between the date on which the annuity of the participant or former participant commences and the date of the election) between the amount paid to such participant or former participant under this subchapter and the amount which would have been paid if such election had been made at the time the participant or former participant applied for the annuity, and (II) the costs associated with providing for the later election; and

"(ii) interest on the additional cost determined under clause (i) of this subparagraph computed using the interest rate specified or determined under section 8334(e) of this title for the calendar year in which the amount to be deposited is determined.

"(3) An election by an employee or Member under this subsection voids prospectively any election previously made in the case of such employee or Member under subsection (j).

"(4) An annuity which is reduced in connection with an election under this subsection shall be reduced by the same percentage reductions as were in effect at the time of the retirement of the employee or Member whose annuity is so reduced.

"(5) Rights and obligations resulting from the election of a reduced annuity under this subsection shall be the same as the rights and obligations which would have resulted had the employee or Member involved elected such annuity at the time of retiring.

"(6) The Office shall, on an annual basis, inform each employee or Member who is eligible to make an election under this subsection of the right to make such election and the procedures and deadlines applicable to such election.".

(b) EFFECTIVE DATE AND APPLICATION.—(1) The amendment made by subsection (a) shall take effect 3 months after the date of the enactment of this Act.

(2)(A) Subject to subparagraph (B), the amendment made by subsection (a) shall apply with respect to employees and Members who retire before, on, or after such amendment first takes effect.

(B) For the purpose of applying the provisions of paragraph (1) of section 8339(o) of title 5, United States Code (as added by subsection (a) of this section) to employees and Members who retire before the date on which the amendment made by subsection (a) first takes effect—

(i) the period referred to in subparagraph (A) or (B) of such paragraph (as the case may be) shall be considered to begin on the date on which such amendment first becomes effective; and

(ii) the amount referred to in paragraph (2) of such section 8339(o) shall be computed without regard to the provisions of subparagraph (B)(ii) of such paragraph (relating to interest).

(3) For purposes of this subsection, the terms "employee" and "Member" each has the meaning given that term in sections 8331(1) and 8331(2) of title 5, United States Code, respectively.

By Mr. TRIBLE (for himself and Mr. ARMSTRONG):

S. 2021. A bill to authorize humanitarian assistance for the National Union for Total Independence of Angola [UNITA]; to the Committee on Foreign Relations.

U.S. ASSISTANCE TO ANTI-COMMUNIST REBELS IN ANGOLA

Mr. TRIBLE. Mr. President, today I have introduced legislation on behalf of myself and Mr. ARMSTRONG, authorizing much-needed humanitarian assistance to the anti-Communist rebel forces under Jonas Savimbi—the National Union for the Total Independence of Angola [UNITA]. This action will serve as another symbol of America's resolve to assist those resisting Communist oppression.

Last year, the Congress took an important step by repealing the Clark amendment. Today and in the days ahead, it is crucial that we take the additional step of providing direct aid to the anti-Communist freedom fighters under Jonas Savimbi.

Only in the past several years has the United States been willing to provide visible, substantial assistance to freedom fighters around the world. In Afghanistan and in Nicaragua, we have offered support to those forces resisting tyranny.

Regrettably, we have failed to offer the same support to Jonas Savimbi and his anti-Communist forces, support which is needed now more than ever.

Mr. President, 10 years ago, the Portuguese withdrew from Angola. Shortly thereafter, the Marxist Popular Movement for the Liberation of Angola [MPLA] seized power, and was promptly rewarded with a massive infusion of Soviet and Cuban assistance. A mere 1 month after declaring a Marxist state, the MPLA received an estimated $50 million in Soviet aid, together with several thousand Cuban combat troops and hundreds of Soviet advisers.

Over the years, the presence of Soviet and Cuban personnel in Angola has multiplied. Today, an estimated 5,000 to 10,000 advisers from the Soviet Union, East Germany, and Cuba are present in Angola. So too are an estimated 30,000 Cuban combat personnel.

Over these years too, the Angolan people's hopes for democracy and freedom have been crushed. The MPLA's constitution provides for popular participation in the Government. But it is the only legal political party in Angola. The party's opponents have been outlawed, and as a consequence, Angolan citizens have no opportunity to change their Government.

Moreover, the MPLA has proscribed virtually every basic right. The State Department's country reports on human rights practices paints a dismal portrait of Angolan life:

In Angola today, there is no semblance of due process, with respect to either arrests or trials.

There is no freedom to travel within Angola, and very little opportunity to leave.

There is no freedom of speech.

There is no freedom of the press.

There is no freedom of assembly.

Moreover, Cuban forces appear increasingly bent on reigning in the activities of the Christian church in Angola. At present, the majority of Angolans are Christians, and perhaps for this reason, the MPLA has not moved to shut down all churches. But the Government continues to emphasize the importance of atheism and remains critical of religion. Several weeks ago, I sponsored a showing of two films which detailed the bombing of churches by Cuban military personnel.

Simply put, we are witnessing a massive effort by the Soviet Union, Cuba, and the Marxist MPLA to extinguish the last vestiges of freedom in Angola. And this, we must not allow. Throughout our history, Americans have believed that freedom is the birthright of all people, that victories against poverty are greatest and peace most secure when people are free.

Recently, this Congress opened the door to aiding the UNITA forces by repealing the ill-advised Clark amendment, which for a decade had banned U.S. assistance to the Angolan rebels. We must now walk through that opened door. It is time again for the United States to fulfill its historic promise to combat tyranny and foster freedom around the world.

The legislation will reward those forces in Angola who believe in freedom and who are committed to democracy. I urge my colleagues to join us in the effort to aid the UNITA rebels by cosponsoring this important bill, and ask that the text of it be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2021

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That there are authorized to be appropriated to such

department or agency of the United States as the President shall designate, except the Central Intelligence Agency or the Department of Defense, $27,000,000 for humanitarian assistance to the National Union for the Total Independence of Angola (UNITA).

SEC. 2. As used in this Act, the term "humanitarian assistance" means the provision of food, clothing, medicine, and other humanitarian assistance, and it does not include the provision of weapons, weapons systems, ammunition, or other equipment, vehicles, or material which can be used to inflict serious bodily harm or death.

By Mr. METZENBAUM:

S. 2022. A bill to amend the Clayton Act regarding antitrust enforcement; to the Committee on the Judiciary.

ANTITRUST IMPROVEMENT ACT

Mr. METZENBAUM. Mr. President, today I am introducing legislation to reform and improve our antitrust laws. This legislation has three fundamental objectives: First, to strengthen antitrust remedies; second, to provide for careful consideration of cost reductions and foreign competition in antitrust analysis; and third, to improve antitrust enforcement.

Three times in our Nation's history Congress has enacted major legislation to prevent conduct that hurt competition. In 1890, Congress enacted the law that remains today the most comprehensive and fundamental statement of our antitrust principles, the Sherman Act. In 1914, Congress strengthened the antitrust laws by enacting the Clayton Act and the Federal Trade Commission Act. In 1950, Congress was again concerned that mergers were reducing competition and injuring the economy. It responded by strengthening the law once again in enacting the Cellar-Kefauver Act.

These laws have served this country well. When they have been enforced, they have prevented mergers that would harm competition, discouraged price fixing, and deterred large companies from attempting to drive small rivals out of existence through unfair means.

Over the last 5 years, our Nation has witnesses a misguided retreat from fundamental antitrust principles. This administration has consistently cut back on enforcement and attempted to reinterpret the law whenever possible to reduce its effectiveness. The result has been the most permissive antitrust climate in this century.

The administration is not content with only lax enforcement. It wants to change the antitrust laws permanently to make sure that no future administration can adopt a different set of policies. It has proposed legislation to undercut both private and public enforcement of the antitrust laws. I will strongly oppose this effort and I urge my colleagues in the Congress to join me.

The legislation I am introducing today also is intended to reform the antitrust laws, but not in the way the administration is proposing. This legislation will help restore the antitrust laws to a vigorous and important role in the Nation's economic policy.

THE LEVEL OF MERGER ACTIVITY

Before I explain my proposal, let me review the record of the last 6 years in merger activity.

In 1983 the total number of mergers was 2,533, up 8 percent from 1982. This was the highest annual count since 1974. The total dollar value paid for all transactions in 1983 was $73.1 billion, up 36 percent from $53.8 billion in 1982. The 1983 total was just short of the all-time record of $82.6 billion in 1981. Deals of $100 million or larger have risen steadily from 94 in 1980, 113 in 1981, 116 in 1982, 137 in 1983 to 200 in 1984.

The extraordinarily high level of merger activity continued in 1984. There were 2,543 acquisitions in 1984, even higher than the 1983 level. In addition, the number of acquisitions of over $100 million in value was up 47 percent from the 1983 level. During the first half of 1985, there were 1,563 acquisitions. This rate over all of 1985 would have resulted in 3,126 mergers, an increase of 583 over 1984, and the largest since 1974.

In addition to the large number of total mergers, the number of massive combinations has far exceeded any period in our Nation's history. Incredibly, the largest 16 mergers in the history of the country have occurred during the permissive climate that has existed since this administration took office. The table below shows the top 16 mergers.

Year and acquisition	*Value (In billions of dollars)*
1984: Gulf-Socal	13.2
1984: Texaco, Inc.-Getty	10.1
1981: Dupont-Conoco	8.0
1981: United States Steel-Marathon	6.6
1984: Mobil Corp.-Superior Oil	5.7
1985: General Foods Corp.-Philip Morris	5.6
1984: Royal Dutch Shell-Domestic Shell	5.2
1983: Southern Pacific-Santa Fe	5.1
1985: Hughes Aircraft-General Motors	5.0
1985: Reynolds-Nabisco	5.0
1985: Allied Corp.-Signal	4.5
1981: Societe Nationale Elf Aquitaine-Texas Gulf	4.3
1981: Connecticut General Corp.-INA Corp.	4.2
1982: Occidental-Cities Service Corp.	4.1
1985: United States Steel-Texas Oil and Gas	4.1
1985: Baxter Travenol-American Hospital Supply	3.7

Note.—This list does not include the pending proposed mergers of Beatrice-Kohlberg, Kravis, Roberts ($6.2 billion) and GE-RCA ($6.3 billion).

There is little doubt that this merger wave can be traced directly to the signals coming from this administration. Business Week in February 1984 reported:

The trend to concentration, which started as a series of survival moves in the last recession, has developed a powerful momentum.

It also noted that companies are more likely to decide that a merger is the most attractive alternative after—a hint from their advisers that the time to combine is during this "window of opportunity" opened by the Reagan administration's antitrust policy.

Congress cannot change the officials in charge of antitrust enforcement at the Federal Trade Commission and the Justice Department. However, we can improve and strengthen the existing antitrust laws.

IMPROVING REMEDIES

The bill I am introducing today makes a number of substantial improvements to remedies available in antitrust cases. First, it allows the Federal antitrust agencies to bring an action on behalf of consumers to recover damages on their behalf. The recovery would be distributed to consumers in any reasonable way possible.

Under current law, the Justice Department cannot sue on behalf of injured consumers. While the courts have not clearly stated the authority of the FTC, it has never brought a case directly seeking consumer redress for antitrust violations and its authority is at least very doubtful. This provision recognizes that there are many cases when private litigation is not a feasible way for consumers to be compensated. In 1976, Congress gave authority to State attorneys general to sue on behalf of injured consumers. This authority has produced substantial benefits by allowing State authorities to pursue actions where consumers would not otherwise have been compensated. Giving this same authority to the Federal enforcement agencies is necessary in cases which affect consumers of many States and are not practical for a single State attorney general to bring.

The bill also authorizes the Federal enforcement agencies and the State attorneys general to sue for damages by indirect purchasers, consumers who do not buy directly from parties to the antitrust violation. The Supreme Court held in the Illinois Brick decision that indirect purchasers could not pursue a claim under the antitrust laws. If all the major automobile manufacturers engaged in price-fixing, only dealers could bring a case. This unfair principle must be changed.

It is true that authorizing suits by indirect purchasers introduces some complexity in sorting out damages between direct and indirect purchasers. The bill deals with this problem by providing that parties with both types of claims should normally present their claims in the same proceeding. This approach allows the Court to conduct the case in the most efficient

way possible and to insure that the defendant is not forced to pay twice for the same injury.

Another improvement in antitrust remedies is to require that divestitures which are undertaken to resolve an anticompetitive merger must fully restore competition lost as a result of the merger. The antitrust agencies have recently approved merger settlements in which the divestitures were not adequate to cure the competitive problem. In fact, the Justice Department and the FTC appear to accept the principle that partial divestitures do not have to fully restore competition. In addition, the bill provides that divestitures to acceptable purchasers should be arranged before the merger is approved and that the interests of employees should be considered in approving partial divestitures as a settlement of an unlawful merger.

The bill also strengthens remedies by allowing successful plaintiffs to obtain interest from the time of the violation, allowing the United States to receive treble damages for suits in its own behalf, and clarifying that divestiture is available to private parties in a merger case.

COST REDUCTIONS AND FOREIGN COMPETITION

The antitrust laws have not been the cause of our crisis in foreign trade. The trade deficit has grown steadily worse as the anitrust climate has become more permissive. The administration would like to point to antitrust as a way of diverting attention from its disastrous trade policies.

Our problem in international competition is not that American companies are too small. American firms are already the largest in the world in automobiles, steel, electronics, and textiles, as well as other industries. The Japanese have 9 automobile manufacturers, 44 textile manufacturers, over 30 companies making steel products, and over 90 manufacturers of electrical products in a domestic market less than half the size of the United States. Yet the Japanese are the symbol of our strongest international competition.

It would be a disastrous mistake for the Congress to create a broad antitrust exemption for industries hurt by foreign competition. The result would be to increase permanently concentration in many of our basic industries. In the long run, we would be less efficient, not more. We would do more poorly in foreign markets, not better. A recent study by economists at the Federal Trade Commission concluded:

> A general policy of liberalizing the antitrust laws for declining industries would * * * permit mergers with potential anticompetitive effects even though no justification could be offered based on efficiencies and foreign competition. It might be suggested that such mergers would nevertheless be justified to save jobs in areas hard hit by declining employment and/or to improve the balance of trade. However, * * * there is no persuasive reason to believe that the mergers that would be allowed under the liberalization in question would increase employment or improve the trade balance. (Frankena and Pautler, "Antitrust Policy for Declining Industries," FTC, October 1985).

The truth is that the massive wave of mergers we have experienced over the last few years has been a failure for American industry. Business Week recently reported that one out of three mergers is undone. A recent management consulting study of major acquisitions showed 62 percent of them failed to meet basic tests of success. A study by 14 economists of mergers between 1962 and 1972 showed mergers in the United States did not increase profits and tended to slow down the growth rate of the firm.

Such merger disasters as the Penn Central Railroad combination, the Pan Am acquisition of National, Mobil's acquisition of Montgomery Ward, Exxon-Reliance Electric, Standard Oil of Ohio-Kennecott, and Flour Corp.-St. Joe Minerals, are a few on the long list of failures. Yet each of them was justified as promising efficiencies and higher profits for the acquiring company.

The antitrust laws should not permit large mergers which threaten competition on the bare hope and speculative arguments by the companies that they will promote international competitiveness. On the other hand, we need to ensure that the antitrust laws do accommodate the reality of foreign competition and the possibility that a merger will reduce costs. In some cases, a merger will enable a firm to streamline its operations and to reduce production costs. In other cases, foreign imports will offset any harm from competition from the merger of American companies. The bill I am introducing today insures that these factors will be taken into account in assessing whether mergers will harm competition.

We must be particularly careful in how these factors are taken into account, however. Otherwise, they will serve as a loophole to justify mergers that should not be permitted. Companies who want to merge now routinely claim vast efficiencies in trying to justify their merger to the Federal Trade Commission and the Justice Department. Some have even claimed that tax savings or other financial manipulations should count in favor of the merger. The antitrust agencies should consider efficiency claims in the exercise of prosecutorial discretion but only if the merging companies prove by clear and convincing evidence that their merger will substantially lower costs and that prices will be reduced, too.

Similarly, foreign competition should be considered in assessing a proposed merger but only if we can be reasonably sure that foreign imports will actually offset the possible harm to competition from an unlawful merger. The bill I am introducing today sets out a careful standard for taking these factors into account.

The general standards in the antitrust laws now are flexible enough to accommodate consideration of these factors. However, there are substantial benefits in incorporating careful standards into the law. Doing so will eliminate any misunderstanding that these factors can be considered as well as insure that these factors are not used so loosely that they become a justification for mergers that will really harm competition.

IMPROVING ENFORCEMENT

The third major objective of the bill is to improve enforcement. First, in order to improve antitrust review of large mergers by the Department of Justice and the Federal Trade Commission, the bill provides for a longer waiting period under the Hart-Scott-Rodino Act for mergers over $1 billion in value. Second, the bill allows State attorneys general to have access to information filed under the Hart-Scott-Rodino Act to facilitate their own enforcement actions. Both these provisions will encourage more careful review of proposed mergers.

SECTION-BY-SECTION ANALYSIS

Mr. President, I ask unanimous consent that a more detailed explanation of the bill and its text be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 2022

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Antitrust Improvement Act of 1986".

REDRESS FOR CONSUMERS

SEC. 2. (a) Section 4C(a) of the Clayton Act is amended—

(1) in paragraph (1), by striking out "Any" and inserting in lieu thereof "The Attorney General, the Federal Trade Commission, or any";

(2) in paragraph (1), by striking out "such State," each place it appears and inserting in lieu thereof "the United States or such State, as appropriate,";

(3) in paragraph (1), by inserting before the period at the end of the first sentence ", including injury resulting from indirect purchases";

(4) in paragraph (2), by inserting "United States, or the" before "State";

(5) in paragraph (2), by striking out "including" and inserting in lieu thereof "and in the case of a State,"; and

(6) in paragraph (2), by adding at the end thereof the following: "The court, in its discretion, may order the distribution of the award in a manner that is just and equitable to those persons or the class of persons on whose behalf the action was brought.".

(b) Section 4C(b) of the Clayton Act is amended—

(1) in paragraph (1) by inserting "Attorney General, the Federal Trade Commission, or the " before "State";

(2) in paragraph (1) by inserting ", as appropriate," after "general"; and

(3) in paragraph (2) by striking out "State claim" and inserting in lieu thereof "claim of the United States or the State".

(c) Section 4C(d) of the Clayton Act is amended by inserting "Attorney General, the Federal Trade Commission, or the" before "State".

(d) Section 4C of the Clayton Act is amended by adding at the end thereof the following:

"(e)(1) If the Attorney General, the Federal Trade Commission, or a State attorney general asserts a claim for damages based on indirect purchases pursuant to subsection (a)(1), the defendant shall be entitled to allege, as a partial or complete defense to a claim by a direct purchaser based on the same or substantially the same alleged conduct, that some or all of what would otherwise constitute direct purchaser's damages were passed on by the direct purchaser to persons on whose behalf the claim for damages from indirect purchases was brought.

"(2)(A) Any person entitled to maintain an action pursuant to subsection (a)(1), alleging injury from indirect purchases, may intervene in any action under section 4 alleging injury from direct purchases based on the same or substantially the same alleged conduct, if a request for such intervention is made within six months after the date of the filing of the initial action. The failure to request intervention in a pending action by any person alleging injury from indirect purchases, within such time, shall constitute a bar to a claim by such person for injury from indirect purchases based on the same or substantially the same alleged conduct.

"(B) Any person initiating an action under section 4 may intervene in any action under subsection (a)(1) which alleges injury from indirect purchases based on the same or substantially the same alleged conduct.

"(C) Upon a request made by the defendant, the court shall order the consolidation of any pending actions pursuant to subsection (a)(1) alleging injury from indirect purchases and any other action under section 4 based on the same or substantially the same alleged contract, combination, or conspiracy.

"(3) Upon the initiation of any action pursuant to subsection (a)(1) alleging injury from indirect purchases, the Attorney General, the Federal Trade Commission, or State attorney general, as the case may be, shall provide reasonable public notice of the allegations of the suit and, to the extent possible, a general description of any direct purchasers who may be entitled to maintain an action under section 4.".

DAMAGES FOR INJURY TO THE UNITED STATES

SEC. 3. Section 4A of the Clayton Act is amended by striking out "actual" and inserting in lieu thereof "threefold the".

DIVESTITURES

SEC. 4. The Clayton Act is amended by adding between section 7A and section 8 the following:

"CONSENT AGREEMENTS AND DECREES AND ORDERS IN ACQUISITIONS

"7B. (a) With respect to any acquisition—

"(1) no Commission consent agreement,

"(2) no consent decree proposed to a court of competent jurisdiction by the Commission or the Attorney General, and

"(3) no order issued by either the Commission or a court

which provides for the divestiture of any part of the assets of a party to such acquisition shall become final before the required divestiture has been approved by the Commission or the court. If the divestiture required by a consent agreement, consent decree, or order is not approved, such agreement, decree, or order may be rescinded by the Commission or court and the Commission or the Attorney General may petition the court for further relief or, if appropriate, initiate an action or proceeding to consider the legality of the acquisition and the need for further relief.

"(b) The provisions of consent decrees proposed by the Attorney General or the Commission and consent agreements proposed by the Commission shall be enforceable, consistent with the terms of the agreement or proposed decree, after agreement by the persons subject to the provisions of the consent decree or agreement, in accordance with procedures authorized by law for enforcement of final orders and decrees.

"(c) No divestiture shall be deemed an acceptable remedy for an acquisition which substantially lessens competition unless the divestiture fully restores competition lost as a result of the acquisition and there is a substantial likelihood that any buyer of divested assets shall be a viable competitor for the foreseeable future. In approving divestitures, the Attorney General, the Federal Trade Commission, or the court, as appropriate, shall insure that reasonable steps are taken to protect the interests of affected employees and to preserve employment consistent with the full restoration of competition.".

COST REDUCTION AND IMPROVING COMPETITION

SEC. 5. (a) The Federal Trade Commission and the Attorney General shall, pursuant to section 7A(d) of the Clayton Act, promulgate rules within 180 days after the date of enactment of this Act, specifying information to be provided by persons, subject to subsection (a) of section 7A of such Act, who claim that an acquisition of securities or assets or a joint venture will reduce the costs of operation and thereby promote competition. Such information shall be limited to specific reductions in the costs of production, distribution, transportation, or, in exceptional cases, other factors directly related to firm operations. The Federal Trade Commission and the Attorney General shall take into account such information in determining whether to initiate an action under any of the antitrust laws or the Federal Trade Commission Act.

(b) In any case in which the Federal Trade Commission or the Attorney General declines to initiate an action regarding an acquisition or joint venture on the grounds that the acquisition or joint venture is likely to promote competition through reducing costs, the agency primarily responsible for the antitrust review shall certify that the parties have demonstrated by clear and convincing evidence that—

(1) costs of operation are likely to be substantially reduced directly as a result of the proposed acquisition or joint venture,

(2) the cost reduction is likely to lead to reduced prices, and promote competition, and

(3) there is no reasonable alternative method for achieving such cost reductions other than the proposed acquisition or joint venture.

(c) In the event such a certification is made, it may be offered by any party to any action under the antitrust laws or the Federal Trade Commission Act alleging that the acquisition or joint venture violates such laws and shall be relevant in determining whether the acquisition or joint venture may substantially lessen competition.

FOREIGN COMPETITION

SEC. 6. The Clayton Act is amended by adding between section 7B, as added by this Act, and section 8, the following:

"FOREIGN COMPETITION

"Foreign competition shall be considered in determining whether an acquisition or joint venture may substantially lessen competition to the extent that—

"(1) there is a substantial likelihood that foreign sales in the United States will increase significantly in response to a reduction in competition resulting from the acquisition or joint venture, and

"(2) such increase will substantially offset any harm from such reduction.".

TIME FOR REVIEW OF MERGERS

SEC. 7. (a) Section 7A(b)(1)(B) of the Clayton Act is amended by striking out "(or in the case of a cash tender offer, the fifteenth day)".

(b) Section 7A(e) of the Clayton Act is amended—

(1) by striking out "(or in the case of a cash tender offer, the 15-day waiting period)" each place it appears,

(2) in paragraph (2) by striking out "(or in the case of a cash tender offer, 10 days)", and

(3) by adding at the end thereof the following new paragraph:

"(3) If, as a result of an acquisition to which subsection (a) applies the acquiring person would hold an aggregate total amount of the voting securities or assets of the acquired person in excess of $1,000,000,000 in value, the additional waiting period provided in paragraph (2) of this subsection shall be 60 days.".

INFORMATION TO STATE ATTORNEYS GENERAL

SEC. 8. Section 7A(h) of the Clayton Act is amended by inserting before the period at the end thereof the following: ", or to officers and employees of appropriate Federal law enforcement agencies or to any officer or employee of any State law enforcement agency upon the prior certification of an officer of any such Federal or State law enforcement agency that such information or documentary material will be maintained in confidence. The maintenance of confidence requirement does not preclude any use of such information or documentary material for official law enforcement purposes, including the preparation of comments regarding consent agreements or decrees proposed by the Commission or the Attorney General under any of the antitrust laws or the Federal Trade Commission Act".

PRIVATE REMEDIES

SEC. 9. Section 16 of the Clayton Act is amended by adding at the end thereof the following: "Injunctive relief under this section may include equitable remedies of dissolution, rescission, partial divestiture, and related equitable remedies.".

INTEREST ON DAMAGE AWARDS

SEC. 10. (a) Section 4(a) of the Clayton Act is amended by—

(1) inserting after "sustained,", in the first sentence, the following: "simple interest on the actual damages for the period beginning on the date of service of such person's pleading setting forth a claim under the antitrust laws or the Federal Trade Com-

mission Act and ending on the date of judgment, such interest to be adjusted by the court if it finds that the award of all or part of such interest is unjust under the circumstances,"; and

(2) striking out, beginning with "The court may" in the second sentence, all that follows through the end of such subsection.

(b) Section 4A of the Clayton Act is amended by—

(1) inserting after "sustained," in the first sentence, the following: ", simple interest on actual damages for the period beginning on the date of service of the pleading of the United States setting forth a claim under the antitrust laws and ending on the date of judgment, such interest to be adjusted by the court if it finds that the award of all or part of such interest is unjust under the circumstances,"; and

(2) striking out, beginning with "The court may" in the second sentence, all that follows through the end of such section.

(c) Section 4C(a)(2) of the Clayton Act is amended by—

(1) inserting after "this subsection," the following: "simple interest on the total damage for the period beginning on the date of service of the pleading of the United States or the State setting forth a claim under the antitrust laws and ending on the date of judgment, such interest to be adjusted by the court if it finds that the award of all or part of such interest is unjust under the circumstances,"; and

(2) striking out, beginning with "The court may" in the second sentence, and all that follows through the end of such subsection.

ANTITRUST IMPROVEMENT ACT OF 1986

BASIC APPROACH

The Antitrust Improvement Act of 1986 makes changes in the antitrust laws in three areas—(1) improving remedies for antitrust violations; (2) providing guidelines for the consideration of foreign competition and possible efficiencies from mergers; and (3) strengthening enforcement. In each area, the objective of the bill is to promote more vigorous enforcement of the antitrust laws against conduct that harms competition while avoiding any interference with efficient and productive activities by American companies.

I. IMPROVING REMEDIES

1. Redress for consumers.—Under current law, the Justice Department cannot bring an action to recover damages to consumers injured by antitrust violations. While the courts have not clearly stated the authority of the Federal Trade Commission to bring such a suit, its authorization to do so is doubtful. The bill allows both agencies to sue for treble damages to consumers.

This is an extension of the current law which allows State attorneys general to sue on behalf of consumers in the State. It is important to allow Federal antitrust agencies this same authority to deal with very large cases that affect people in many States.

The bill also allows suits on behalf of consumers injured through "indirect" purchasers. Under the Supereme Court's Illinois Brick decision, someone who pays higher prices because of price-fixing cannot sue unless he or she buys directly from the parties to the conspiracy. For example, consumers could not sue for pricefixing by all the major automobile manufacturers. This provision eliminates that prohibition for suits by the FTC, the Justice Department, and the State attorneys general.

In order to avoid duplicate recovery, the bill requires that any claim for indirect purchases be made either by intervening in a pending suit by a direct purchaser, or by filing a suit in which direct purchasers are allowed to intervene. If the parens patriae suit is filed on behalf of indirect purchasers, the Government must give reasonable public notice to persons who potentially can file damages for injury from direct purchases. If the direct purchaser initiates a suit, the Government must file a request to intervene within 6 months in order to pursue a claim for direct purchases.

In any case where the government has filed a claim for indirect purchases, the defendant may raise a defense in a direct purchaser suit that the direct purchaser has "passed on" his damages.

2. Effectiveness of divestitures.—The Federal antitrust agencies have increasingly relied on partial divestitures to cure the harmful effects on anticompetitive mergers. While the justice Department says it is preferable for required divestitures to take place before the merger occurs, in practice the FTC and Justice have resolved merger cases by allowing divestitures months or even years after the merger takes place. For example, in the Texaco-Getty merger, the FTC approved the merger before acceptable divestitures of a refinery and retail stations were approved. In both cases, there were serious questions about whether a satisfactory divestiture could be arranged. The bill provides that no merger order involving divestitures is final until satisfactory divestitures have been arranged and approved by the Commission or the court.

In addition, the bill requires that divestitures fully restore lost competition by finding a viable buyer who will be as significant a competitor as the merged firm. For example, in the proposed Norfolk-Southern-Conrail merger, the Justice Department has approved a divestiture plan in which less than half of the competitive problem has been resolved. In the case of the LTV-Republic merger, the Department approved the sale of a plant in Masillon, OH, which closed within 2 years of the merger.

Finally, the bill requires that the antitrust agencies consider employees' interests in approving partial divestitures, consistent with the preservation of competition.

3. Treble damages for the United States.—Under current law, the United States can recover only actual damages in suits for injury to the Government itself. This provision allows the United States to recover treble damages as a plaintiff in its own behalf.

4. Divestiture remedy in private cases.—Section 16 of the Clayton Act provides that private plaintiffs may sue for "injunctive relief" for violations of the antitrust laws. A number of courts have properly concluded that section 16 authorizes the courts to order divestitures in appropriate cases brought by private parties.

In a questionable opinion in 1976, the ninth circuit distinguished between "injunctive relief" and the equitable remedy of dissolution to conclude that the remedy of divestiture is not available to private plaintiffs in an action challenging a merger. However, because of the importance of this remedy, and in order to avoid any further certainty and litigation, the bill makes clear that this remedy is available.

5. Interest awards to injured parties.—Under current law plaintiffs in antitrust cases can obtain interest on damage awards from the time of the judgment. However, the violation and the damage caused by it occur long before the case is won. This provision recognizes that the plaintiff should receive interest dating from the time of the loss. This provision will more fairly compensate injured parties and encourage the speedy resolution of cases by ending the incentive for delay.

II. COST REDUCTIONS AND FOREIGN COMPETITION

The problem American firms face in foreign competition is not their small size. American companies are the largest in the world in automobiles, steel, electronics and textiles and among the largest in shoes. Japan, with a domestic market less than half the United States has 9 companies that manufacture automobiles and over 30 companies that make steel.

Allowing firms to merge in order to meet foreign competition only makes sense if the merger will reduce costs and allow the firm to lower its prices. Otherwise, the merged companies will be even less competitive. A recent study by Federal Trade Commission economists concluded that: "A policy liberalizing the antitrust laws specifically for declining industries would be ill-advised. Such a move would open the way for anticompetitive mergers for which there is no efficiency justification. Some have argued that such a liberalization might be justified to save jobs in areas hard hit by declining employment/ and or to improve the balance of trade. However, there is no persuasive reason to believe that the mergers that would be allowed under the liberalization in question would increase employment or improve the trade balance. Indeed, anticompetitive mergers that do not improve efficiency could reduce U.S. employment and U.S. firms' ability to compete with foreign firms as domestic prices rise and output falls. As a result, changes in merger policy that allow anticompetitive mergers are not a solution to the problem of industrial decline." (Frankena and Pautler, "Antitrust Policy for Declining Industries," FTC, October 1985.)

Because the real question is whether a merger will allow a firm to reduce costs and prices, the bill provides for consideration of possible cost reductions from proposed mergers.

The bill provides that the Federal Trade Commission shall develop rules for companies to furnish specified information regarding any claims that the proposed merger will reduce costs. The information is limited to cost reductions involving production, distribution and transportation, and in exceptional cases, other factors. In all cases, the information to be considered must relate directly to the operations of the firm and cannot extend to reductions which are not real savings in resources such as tax savings. Claims of more efficient management, savings in overhead and administrative expenses, better relations with employees and the like would almost always be too speculative to be considered.

The bill requires that the FTC and the Justice Department take into account reliable evidence that mergers will substantially reduce costs in these specified areas. If the antitrust agencies decline to bring a case based on these considerations, they must certify that the parties have shown by clear and convincing evidence that (1) the merger will substantially reduce costs in one or more of these areas (2) the cost reductions are likely to outweigh any decrease in com-

petition and result in lower prices and (3) there are no reasonable alternatives for achieving these cost reductions. This certification is relevant in a suit by another person challenging the merger.

Foreign competition should be considered in some cases in evaluating the impact of a merger in the United States but only if foreign imports can really make a difference in preventing harm to competition.

The bill requires that the courts consider the impact of foreign competition to the extent it can be shown there is a substantial likelihood that increased foreign sales in the United States will significantly offset any reduction in competition. In some cases, companies have argued that all production in the world should be considered even if only a small portion is exported to the United States. In other cases, companies have argued that increased foreign competition will offset any increase in competition even though additional imports are blocked by quotas or other trade barriers or it is unrealistic to expect that significant additional imports will result from a price increase in the United States. The intent of this provision is to preclude speculation as to increased foreign imports and to require that there be a substantial likelihood that they will substantially offset any harm to competition before they can be considered.

III. STRENGTHENING ENFORCEMENT

1. Time for review of mergers.—The bill provides for a longer period of review under the Hart-Scott-Rodino Act for mergers over $1 billion in value. Currently, the antitrust agencies can be forced to review a large, complex merger transaction in as little as 25 days. The bill provides at least 90 days for review of large proposed mergers and allows an equal review period for cash tender offers and other acquisitions. As is the case under current law, the antitrust agencies can shorten this waiting period in individual cases.

2. Access to information for State attorneys general.—The bill allows State attorneys general to have access to information filed by proposed merging companies pursuant to the Hart-Scott-Rodino Act. Prior to 1984, the policy of the Federal Trade Commission had been to release this information to State AG's for use in connection with law enforcement proceedings. However, in 1984 the FTC by a 3 to 2 decision interpreted its statute to mean that it did not have this authority. Several States sued the FTC to reverse this ruling. The FTC decision was upheld by the courts in large part because of deference to the FTC in interpreting its own statute. Consequently, several State AG's who wished to review information regarding a number of proposed mergers were denied access to it.

The bill would ensure that State AG's could have access to this information upon a certification that it would be kept confidential, subject to the need to use it for law enforcement actions and to file comments regarding the adequacy of consent agreements and consent decrees proposed by the Commission or the Attorney General. This provision would aid State attorneys general in bringing their own enforcement actions as well as enable them to participate meaningfully in commenting on FTC and Justice Department merger cases.

By Mr. LEVIN (for himself, Mr. DURENBERGER, and Mr. RUDMAN):

S. 2023. A bill to provide for the establishment of a file concerning the review or rules by the President, and for other purposes; to the Committee on Governmental Affairs.

RULE MAKING INFORMATION ACT

● Mr. LEVIN. Mr. President, today I am introducing, along with Senator DURENBERGER and Senator RUDMAN a bill to bring accountability into the regulatory review process conducted by OMB and established by President Reagan in two Executive Orders 12291 and 12498.

The concept for public disclosure contained in this bill is not new. It was addressed in S. 1080, the omnibus regulatory reform bill passed unanimously by the 97th Congress on March 24, 1982; it was addressed in the reauthorization of the Paperwork Reduction Act passed unanimously by the Senate Governmental Affairs Committee in the 98th Congress on July 26, 1984; and it has been publicly endorsed in part by OMB officials involved in the regulatory review process over the past several years. It has not, however, been put into effect, and that is why we are here today introducing a bill containing basic "sunshine in government" provisions for the OMB review process, which should have been implemented over 5 years ago. We are having to mandate by legislation, what OMB and the President should have had the good sense to do administratively many years ago. But that fact does not make this bill any less important. In fact, it is vitally significant to well established and congressionally intended principles of public participation in the rulemaking process.

Let me take a minute before I elaborate on the problems concerning the lack of public participation in OMB's review of rules, to provide a brief background on just what review process this bill addresses, for those who may be unfamiliar with it.

On February 17, 1981, President Reagan issued Executive Order 12291, which required all covered agencies—that included all executive branch agencies, but not the independent regulatory agencies—to submit their proposed and final rules to OMB for review prior to publication. It directed OMB to review the rules for compliance with five principles layed out in the Executive order. For the record, these five principles are:

(a) Administrative decisions shall be on adequate information concerning the need for and consequences of proposed government action;

(b) Regulatory action shall not be undertaken unless the potential benefits to society for the regulation outweigh the potential costs to society;

(c) Regulatory objectives shall be chosen to maximize the net benefits to society;

(d) Among alternative approaches to any given regulatory objective, the alternative involving the least net cost to society shall be chosen; and

(e) Agencies shall set regulatory priorities with the aim of maximizing the aggregate net benefits to society, taking into account the condition of the particular industries affected by regulations, the condition of the national economy, and other regulatory actions contemplated for the future.

The order set a timetable for OMB review of 10 days for proposed and final nonmajor rules, 60 days for proposed major rules, and 30 days for final major rules. Implicit in the order, however, is the understanding that these timeframes are not inviolate and can be extended indefinitely by OMB. In short, OMB can delay the publication or implementation of a rule indefinitely under Executive Order 12291, if it sees fit, but arguably only if one of the standards in the order is not met. That's strong medicine and an unprecedented role for the management side of OMB.

Now, I should add, here, that my description of the operation of Executive Order 12291, would not coincide with that of OMB. It maintains to my utter amazement, in documents filed in court cases challenging the authority of OMB to hold up rules, that its role is limited to that of an adviser, that the agency head retains the legal authority to draft and issue rules, and that OMB only offers advice. The consequences, it says, to an agency's failure to follow OMB's advice is not legal in nature, but political—that is the possible loss of a job by the responsible agency personnel. So, OMB maintains, it is not the ogre in the rulemaking process; it is merely the consultant.

Well, this consultant has developed a remarkable track record for getting its ideas accepted. Following this fiction created by OMB, on OMB's "advice," agencies, such as the EPA and OSHA have delayed numerous rules beyond the time periods specified in the order and many indefinitely. Senator DURENBERGER, chairman of the Intergovernmental Relations Subcommittee of the Governmental Affairs Committee, will be chairing a hearing on next month at which testimony will be presented citing several examples of the strength of OMB's ability to "consult" with these rulemaking agencies. The House Subcommittee on Oversight and Investigations of the Committee on Energy and Commerce held a lengthy hearing and conducted an extensive investigation into the example of OMB's involvement in EPA's asbestos regulations. Numerous court cases have been filed, the discovery portion of which has disclosed OMB's heavy hand.

Many highly experienced persons in the field of regulation have called for the elimination of the OMB review process. They argue that the OMB has no legitimate role in reviewing many of the highly complex, unique and exhaustively developed rules agencies are required to send OMB for review. They point out that OMB simply does

not have the technical expertise to intelligently comment on, much the less attempt to dictate the outcome of, the thousands of rules which are now required to be reviewed. I have not yet reached that conclusion. I am not uncomfortable with a President having a direct role in the rulemaking process, because I value the political accountability that brings to the rulemaking process. I think the public should be able to go to its President and seek relief from, or the benefits of, agency regulation and know that he or she is in charge. Because it is the President, here in the form of OMB, who is truly responsible for the rules that are being reviewed under the Executive order. President Reagan, in signing that order, has decided to take the heat, and well he should, for the outcome of his agencies' rules.

But, and this is the big but, OMB and the President cannot have it both ways—or at least we should not let them have it both ways. They cannot, on the one hand, seek and obtain the power to shape the rules being issued and on the other hand, obfuscate the extent of their role and the basis for the changes they demanded. When I read the documents filed by OMB and the Justice Department in the lawsuit involving the EPA regulations for the underground storage of hazardous waste, I am shocked. Here OMB and the Justice Department are openly talking out of two sides of their mouths and are not shy about it. To the agencies, they say, "You follow the Executive order and the "comments" of OMB or your job is at risk." To the court they say, "Any agency head is free and has the lawful responsibility to issue the agency rule in whatever form the agency head deems advisable. OMB's comments are not legally binding. The responsibility lies with the agency head." That's cute. It's much like the older brother who intimidates his younger brother into throwing the rock through the garage window and then when the moment of reckoning comes, he is silent in his support of his brother and refuses to acknowledge any part he played in the matter. When his little brother explains to their parents his older brother's threats, the older brother says, "Yeah, but, it was his decision." That type of conduct is shameful, but it is exactly what OMB is doing. It acts with the iron hand, and then lets the agencies turn slowly in the wind to meet the repercussions and defend the OMB-imposed actions.

Well, this bill will eliminate that inequity and that problem. Because by requiring the extent of OMB's involvement to be in the public record, OMB itself will be responsible for its own actions and will not be able to hide behind the agency and escape public scrutiny. Moreover, the Congress and the public will know exactly the extent to which OMB affected the outcome of the rule and the basis upon which OMB argued for its position. No longer will it be a guessing game. Finally, but no less importantly, the public will know whom it should be lobbying on specific issues, because it will know from which agency the criticisms of the rule are coming.

Those who have followed this issue for the last 5 years will note that we have added one part to this bill which was not included in previous discussions of the disclosure provisions. And that is a limitation on the amount of time OMB can have to review a rule. There is ample evidence that OMB—on rules of some importance—is exceeding the timeframe established by the Executive order. And once exceeded, the time for review can become almost unlimited. Senator DURENBERGER and I have agreed that OMB's opportunity for review should be limited as well as a public one, and in establishing a strict timeframe, we are reestablishing the authority of the agency head to make a timely decision. The Senate unanimously passed this provision, too, when it passed S. 1080 in the 97th Congress, since S. 1080 contained a comparable provision.

This bill also addresses the disclosure issues that have arisen pursuant to Executive Order 12498. That Executive order was issued by President Reagan on January 4, 1985. It regularized what those in the rulemaking field had come to understand—that OMB's role in an agency rulemaking is not limited to the review period specified in Executive Order 12291, the proposed and final rule. OMB's role begins—or at least OMB tries to initiate its role—when the agency first contemplates the development of a rule. Executive Order 12498 requires rulemaking agencies—but for the independent regulatory commissions—to develop regulatory agendas; that is, a yearly plan of rules to be developed or worked on, and to submit a draft of that plan to OMB for review. OMB is then in the position to add to and subtract from that regulatory plan. Once OMB has reviewed the regulatory plan and obtained agency compliance with its "recommendations," the agency must then submit a final regulatory plan, which is then combined by OMB with the plans of other agencies, and embodied in the final overall regulatory plan for the executive branch.

For many rules, inclusion in or exclusion from the regulatory plan can be the entire ball game, so to speak. Yet, these draft regulatory plans are not available to the public for comment. This bill would change that. It would require the rulemaking agency to make its draft regulatory plan available to the public at the time it is submitted to OMB. The same would be true for the final regulatory plan. This would enable the public to weigh in with their opinions about the pros and cons of conducting certain rulemakings and to track OMB's role in determining the agency's rulemaking agendas.

The fact that OMB has worked so hard over the past 5 years to keep its role in the rulemaking process hidden from the public. Congress, and the courts, has undermined the public's confidence in the rulemaking process and violated the essence of the Administrative Procedure Act passed by Congress in 1946. In passing that act, Congress made a clear statement that agency rulemaking was to be public matter, with public participation. OMB, through its diligence in obfuscating its role, has undermined those congressionally established principles.

And so we come to the substance of the bill we are introducing today. The Rulemaking Information Act of 1976 would do the following:

SUMMARY OF RULE MAKING INFORMATION ACT OF 1986

Requires each rulemaking agency to establish a file at the time the agency takes any action to consider whether to initiate a rulemaking.

The agency must include in that file:

Any written material it receives, including any written material from OMB;

Any written material it submits to OMB, including any draft of a proposed or final rule;

A description of any substantive change the agency made in a proposed or final rule because of OMB's comment and an explanation of the specific reasons for such change.

Requires OMB personnel who have contacts with outside parties about a rulemaking to make a record of such contacts, if the contacts form a basis for making a recommendation to the rulemaking agency, and forward such record to the rulemaking agency;

Requires that the agency place the record of OMB contacts in the public file.

Requires that the agency make the file available to the public at the time the rule is published in the Federal Register as proposed.

Requires the agency on an annual basis to publish in the Federal Register a list of those rules that were sent to OMB for review but which were never published as proposed.

Requires the agency to maintain a file which records the dates on which proposed and final rules are sent to OMB for review and the dates on which such rules are returned to the agency by OMB.

Requires each agency to make available to the public the draft and final regulatory programs required to be submitted by the agency to OMB pursuant to Executive Order 12498.

Limits the period for review by OMB to 30 days for proposed and final rules, with the opportunity for an additional 30 day extension for good cause.

The Senate spoke unanimously in 1982 in support of disclosure provisions similar to the ones contained in the bill we are introducing today. OMB has had ample time to implement such requirements administratively but has steadfastly refused to

significantly move in that direction. We are in the position of having to mandate what should already have been done voluntarily in the name of good government. It is my hope that we can have early hearings on this bill in the Governmental Affairs Committee and obtain swift passage of this legislation in the Senate this spring. My friends and colleagues, it is a bill whose time has not only come, but is long overdue.

I ask unanimous consent that the full text of the bill be printed in full following my remarks.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2023

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Rule Making Information Act of 1986".

ESTABLISHMENT OF FILE

SEC. 2. (a) At the time an agency takes any action to consider whether to initiate a rule making, the agency shall establish a file with respect to such rule making. Such file shall include—

(1) a copy of any written material received by the agency pertaining to the rule or the rule making;

(2) a copy of any written material, including any draft of the proposed rule or of the final rule, which was submitted by the agency or its employee to an officer of the Government directed by the President to review proposed or final rules for their regulatory impact or such officer's employee;

(3) a description of any substantive change made by the agency in the proposed or final rule which responds to any written or oral comment made by such officer or such officer's employee on any draft proposed rule, proposed rule, draft final rule, or final rule;

(4) a written explanation of the specific reasons of the agency for making each substantive change described pursuant to paragraph (3); and

(5) a copy of each summary provided to the agency with respect to the rule or the rule making pursuant to subsection (b).

(b) In any case in which an officer of the Government designated by the President to review proposed or final rules for their regulatory impact, or such officer's employee, has a written or oral contact with a person outside the Government with respect to a rule or a rule making, and such contact provides a basis for any written or oral recommendation or comment by such officer or such officer's employee to an agency with respect to such rule or rule making, such officer or such officer's employee, shall, within 5 days after making such recommendation or comment, provide such agency with a written summary of such contact, including an identification of the person with whom such contact was made and a description of the substance of such contact.

(c)(1) Each agency shall make available, as of the date of publication referred to in subparagraph (2), to the public for inspection and copying any file required to be established by the agency pursuant to this section.

(2) An agency shall publish in the Federal Register with a notice of proposed rule making with respect to a rule, or in the case of rule for which an advanced notice of proposed rule making is published, with such notice, a statement specifying—

(A) that the agency has established the file required by this section with respect to such rule making;

(B) that such file is, as of the date of such publication, available for public inspection and copying; and

(C) the times when, and location where, the public may inspect and copy such file.

(d) The file required to be established by this section with respect to a rule making shall be in addition to any file required to be established for such rule making under subchapter II of chapter 5 of title 5, United States Code, or any other law.

AGENCY NOTIFICATION OF STATUS OF RULES

SEC. 3. (a) Within 30 days after the end of each calendar year, each agency shall publish in the Federal Register—

(1) a list of proposed rules which the agency forwarded for review during the most recently completed calendar year to the officer of the Government designated by the President to review proposed or final rules for their regulatory impact and for which the agency did not publish a notice of proposed rule making or advanced notice of proposed rule making during such calendar year; and

(2) a statement of the current status of each rule making, described pursuant to subparagraph (1), and the agency's plan for the rule making in the coming year.

(b) Each agency shall maintain a file, available for inspection by the public upon request, which records the date each proposed, or final rule was submitted by the agency to an officer of the Government directed by the President to review proposed or final rules for their regulatory impact and the date when the respective proposed or final rule was returned by such officer to the agency.

PUBLIC AVAILABILITY OF REGULATORY PROGRAM

SEC. 4. (a) Each agency shall make available to the public for inspection and copying any draft regulatory program or any final regulatory program submitted by the agency to an officer of the Government designated by the President to review regulatory programs.

(b) Within 15 days after submitting a draft regulatory program or a final regulatory program to an officer of the Government designated by the President to review regulatory programs, an agency shall publish a notice in the Federal Register. Such notice shall specify—

(1) that the agency has completed the preparation of the draft regulatory program or the final regulatory program, as the case may be, and has submitted such regulatory program to the President or such officer;

(2) that such regulatory program is available for public inspection and copying; and

(3) the times when, and the location where, the public may inspect and copy such regulatory program.

DEFINITIONS

SEC. 5. For purposes of this Act:

(1) The term "agency" has the same meaning as in section 551(1) of title 5, United States Code.

(2) The term "person" has the same meaning as in section 551(2) of such title.

(3) The term "regulatory program" means a statement submitted by an agency to the President or to an officer of the Government designated by the President which contains—

(A) an overview of the agency's regulatory policies, goals, and objectives for the program year; and

(B) such information concerning all significant regulatory actions of the agency, planned or underway, including—

(i) actions taken to consider whether to initiate rule making;

(ii) requests for public comment; and

(iii) the development of documents that may influence, anticipate, or could lead to the commencement of rule making proceedings at a later date,

as the President or such officer deems necessary.

(4) The term "rule" has the same meaning as in section 551(4) of such title.

(5) The term "rule making" has the same meaning as in section 551(5) of such title.

(6) The term "substantive change" means any change other than a clerical or grammatical change.

TIME PERIOD FOR REVIEW

SEC. 6. (a) If the President directs an officer of the Government to review proposed or final rules for their regulatory impact, except for subsection (b) of this section the time for any such review of a proposed or final rule shall not exceed thirty days following the receipt of the proposed or final rule by such officer. The time for each such review may be extended for good cause by such officer for up to but no more than an additioal thirty days. Notice of any such extension, together with a succinct statement of the reasons therefore shall be inserted in the rule making file.

(b) Nothing in this section shall supercede any deadline imposed by statute or judicial order or the authority of an agency to proceed with a rule in an emergency situation.

EFFECT OF ACT

SEC. 7. Nothing in this Act authorizes or requires the review of a proposed or final rule or any rulemaking plans or activities of an agency by an official of the Government designated to do so by the President.

EFFECTIVE DATE

SEC. 8. This Act shall become effective upon enactment.●

● Mr. DURENBERGER. Mr. President, today I rise to join my colleague, the gentleman from Michigan, to express my strong support for this bill. S. 2023 is intended to safeguard Congress and the public's right to know what factors an agency considers when it promulgates rules. That Congress enjoys this right is undeniable. The privilege of rulemaking power is conferred upon agencies by Congress in order to provide administrative flexibility in the face of technological and scientific complexity. And, Congress saw fit to protect the public's basic right to know when it enacted the Administrative Procedure Act in 1946.

Both of these rights are now endangered because Congress has failed to effectively counter OMB's growing power to change the course of regulatory policy as it sees fit under procedural authorities created by Executive order.

Some regard OMB's exercise of these powers as unconstitutional. I do not share that view. As chairman of the Intergovernmental Relations Sub-

committee, which is charged with responsibility for overseeing the regulatory process generally and OMB's exercise of its responsibilities particulary, I believe that we need a watchdog on excessive regulatory costs and intrusive regulatory strategies. I believe it is appropriate for the President to play this role. One reason we need an institutional voice for economy in rulemaking is that while the Federal Government creates the regulatory programs, it's not the Federal Government that pays most of their costs. So there is little incentive in Washington to take a hard look at them. Most regulatory costs aren't reflected in the Federal budget: they are hidden in expenses paid by businesses, State and local governments, and in the prices consumers pay for goods and services. While the costs are shifted and spread out across the economy, they mount up. By one 1980 estimate, if the Federal Government had to write a check for the sum total of all the regulatory programs it was responsible for, that check would have been for over $100 billion in 1980 alone.

One hundred billion dollars. That's a big check. We ought to be sure that we're not paying for more than we need. No more regulatory overkill. We ought to be sure that what we're getting is worth what we're paying for. No more getting taken for a regulatory ride.

Given OMB's analogous role in budget decisions who better than it to act as a voice for holding down regulatory costs? But, OMB's power should not be exercised in secret and it should not be unilateral. For one thing, OMB cannot substitute for agency expertise because the voices of scientific and technical understanding are not those of budget examiners, economists or management specialists. For another, Congress, should not have to count on OMB to act as its interpreter when in comes time to decide the meaning of a particular statute or provision. We do not need OMB's voice to substitute for our own. Nor can the views of the public be represented by OMB, at least not those of the people regulation seeks to protect.

Those who believe as I do that Government runs best when its institutions are open—when everyone, not just a select few, is allowed to play his or her part—should support this legislation.

There are those who believe this bill does not go far enough. Under the logic that you can't get too much of a good thing some say we should pull the doors wide open on the OMB regulatory review process. We should make OMB and the agencies log every call, summarize every exchange, and keep it all open and on the record as it happens. The fact is that taking disclousre to the extreme will do more harm than good. This bill is not intended to bury agencies and OMB in paperwork. Nor is it intended to squelch free and candid discussion by executive branch personnel and the President's staff.

Instead, it recognizes that OMB review has fundamentally altered the process of agency rulemaking. It allows that process to continue, but at the same time it builds in protections so that Congress' delegation of rulemaking authority is not abused nor its legislative intentions subverted. And, so that the spirit of the Administrative Procedure Act—the law which has protected the public's right to participate in rulemaking since 1946—is not trampled in the quest for more cost efficient, less intrusive regulatory policies.

How would it do that? It requires the agency to establish a rulemaking file at the time it considers whether or not to initiate rulemaking, earlier than currently required under the Administrative Procedure Act, but in keeping with the current realities imposed by the new Office of Management and Budget process.

What would go in the file? Less than some might hope, more than others might like. It would include a copy of any written material received by the rulemaking agency pertaining to rulemaking, a copy of any written material—including drafts of proposed and final rules submitted to OMB—and a description of any changes made in the substance of the rule as a result of the OMB review process, the reasons for making the change, as well as a copy of any summaries of conversations provided the agency by OMB. Under this bill, neither the agency nor OMB is required to document every conversation or every editorial correction, only those few that made a substantive difference. This bill does not envision a paperwork nightmare, and it should not create one.

When would the file be available to the public? Only when the rule is published in the Federal Register. This seems necessary to protect the right of the OMB and the agency to a free and candid exchange of views as to the rule.

What about those rules that are proposed by the agency but are withdrawn as a result of the regulatory review process? How can the public's right and the Congress' need for this kind of information be systematically and routinely made available? This bill would require within 30 days of the end of each calendar year agencies to publish a list of rules which it forwarded to OMB for review but which were not published in the Federal Register. And, the agency will be required to keep log when it sends a rule to OMB, and when that rule is returned.

Finally, what about the new, and potentially farsweeping, regulatory planning process created by Executive Order No. 12498? In the first year of the program, OMB allowed agencies to make their draft proposed programs, the ones sent to OMB, available to the public. As far as I can see, no earthshaking negative consequences befell the executive branch as a result of letting some sun shine in on this process. It should continue. If this bill is enacted, it will. Each agency is required to make available to the public a copy of any draft or final regulatory program submitted by the agency to OMB for review. Notice of the availability of these programs is to be given in the Federal Register within 15 days after they are submitted.

If the race toward regulatory reform goes to the swift, then there is no doubt that the President would win it. The OMB regulatory review process is one of a number of powerful tools the President is using to change the course of regulatory policy through administrative means. But what can be done quickly by the President alone, without a firm basis in the law, can be undone just as quickly by the stroke of another President's pen. For those of us who believe in real regulatory reform, that's just not good enough. We in Congress cannot, we must not, short cut the regulatory policy process by abdicating our responsibility to participate in regulatory policymaking. Nor should we give away the public's right to our rush to cut the costs of Federal regulation.●

ADDITIONAL COSPONSORS

S. 812

At the request of Mr. GARN, the name of the Senator from Alabama [Mr. DENTON] was added as a cosponsor of S. 812, a bill to amend the Export Administration Act of 1979 to authorize controls on the export of capital from the United States.

S. 1090

At the request of Mr. HELMS, the name of the Senator from South Dakota [Mr. ABDNOR] was added as a cosponsor of S. 1090, a bill to amend section 1464 of title 18, United States Code, relating to broadcasting obscene language, and for other purposes.

S.1224

At the request of Mr. MCCLURE, the name of the Senator from Virginia [Mr. WARNER] was added as a cosponsor of S. 1224, a bill to limit the importation of softwood lumber into the the United States, and for other purposes.

S.1456

At the request of Mr. LAUTENBERG, the names of the Senator from North Dakota [Mr. ANDREWS] and the Senator from Wisconsin [Mr. PROXMIRE] were added as cosponsors of S. 1456, a bill to recognize the Army and Navy Union of the United States of America.

71-059 O-87-19 (Pt. 1)

S. 1874

At the request of Mr. WICKER, the names of the Senator from Pennsylvania [Mr. HEINZ], and the Senator from Michigan [Mr. RIEGLE] were added as cosponsors of S. 1874, a bill to authorize quality educational programs for deaf individuals, to foster improved educational programs for deaf individuals throughout the United States, to reenact and codify certain provisions of law relating to the education of the deaf, and for other purposes.

S. 1923

At the request of Mr. THURMOND, the name of the Senator from Texas [Mr. GRAMM] was added as a cosponsor of S. 1923, a bill to provide for additional bankruptcy judges.

S. 1969

At the request of Mr. SPECTER, the names of the Senator from North Dakota [Mr. ANDREWS], and the Senator from Vermont [Mr. STAFFORD] were added as cosponsors of S. 1969, a bill to create a National Center for the Prosecution of Child Abuse under the Office of Justice Programs in the Department of Justice.

S. 1979

At the request of Mrs. KASSEBAUM, the name of the Senator from Florida [Mrs. HAWKINS] was added as a cosponsor of S. 1979, a bill to fulfill the purposes of the Airport and Airway Improvement Act of 1982, promote air passenger safety, and provide equity to airway users.

SENATE JOINT RESOLUTION 234

At the request of Mr. WILSON, the names of the Senator from Utah [Mr. HATCH], the Senator from Nebraska [Mr. ZORINSKY], the Senator from Massachusetts [Mr. KERRY], the Senator from Georgia [Mr. NUNN], the Senator from Florida [Mrs. HAWKINS], the Senator from Tennessee [Mr. GORE], the Senator from Idaho [Mr. MCCLURE], the Senator from Minnesota [Mr. DURENBERGER], the Senator from Tennessee [Mr. SASSER], the Senator from Illinois [Mr. SIMON], the Senator from New Jersey [Mr. LAUTENBERG], the Senator from Pennsylvania [Mr. HEINZ], the Senator from Connecticut [Mr. DODD], and the Senator from South Carolina [Mr. THURMOND] were added as cosponsors of Senate Joint Resolution 234, a joint resolution to designate the week of February 9, 1986 through February 15, 1986, as "National Burn Awareness Week."

SENATE JOINT RESOLUTION 257

At the request of Mr. CHILES, the names of the Senator from Maryland [Mr. SARBANES], the Senator from Nebraska [Mr. ZORINSKY], the Senator from California [Mr. CRANSTON], the Senator from Vermont [Mr. STAFFORD], the Senator from North Dakota [Mr. ANDREWS], the Senator from Louisiana [Mr. JOHNSTON], and the Senator from Mississippi [Mr. STENNIS] were added as cosponsors of Senate Joint Resolution 257, a joint resolution to designate the first Friday of May each year as "National Teacher Appreciation Day."

SENATE JOINT RESOLUTION 258

At the request of Mr. RIEGLE, the name of the Senator from Ohio [Mr. GLENN] was added as a cosponsor of Senate Joint Resolution 258, a joint resolution designating "Baltic Freedom Day."

SENATE CONCURRENT RESOLUTION 90

At the request of Mr. LAUTENBERG, the names of the Senator from Ohio [Mr. METZENBAUM], and the Senator, from Wisconsin [Mr. PROXMIRE] were added as cosponsors of Senate Concurrent Resolution 90, a concurrent resolution urging the President to convince a conference to develop an International Seaport Security Agreement relating to seaport and passenger vessel security among the United States, its allies, other interested nations, and the private sector.

SENATE CONCURRENT RESOLUTION 103

At the request of Mr. HART, the names of the Senator from Wisconsin [Mr. PROXMIRE], and the Senator from Maine [Mr. MITCHELL] were added as cosponsors of Senate Concurrent Resolution 103, a concurrent resolution to commend Bishop Desmond Tutu for his courageous work for peace and equality in South Africa.

SENATE RESOLUTION 82

At the request of Mr. D'AMATO, the names of the Senator from Iowa [Mr. GRASSLEY], and the Senator from Georgia [Mr. MATTINGLY] were added as cosponsors of Senate Resolution 82, a resolution to preserve the deduction for State and local taxes.

SENATE RESOLUTION 298

At the request of Mr. WEICKER, the names of the Senator from North Dakota [Mr. BURDICK], and the Senator from Michigan [Mr. RIEGLE] were added as cosponsors of Senate Resolution 298, a resolution expressing support and encouragement of the Senate for the U.S. Disabled Ski Team at the 1986 World Disabled Ski Championship to be held in Salem, Sweden, on April 6 through April 17, 1986.

AMENDMENTS SUBMITTED

CONRAIL SALE

PRESSLER (AND OTHERS) AMENDMENT NO. 1438

(Ordered to lie on the table.)

Mr. PRESSLER (for himself, Mr. DIXON, Mr. Long, Mr. EXON, Mr. ABDNOR, Mr. ZORINSKY, Mr. SIMON, and Mr. HEINZ) submitted an amendment intended to be proposed by them to amendment No. 1437 proposed by Mr. DANFORTH to the bill (S. 638) to amend the Regional Rail Reorganization Act of 1973 to provide for the transfer of ownership of the Consolidated Rail Corp. to the private sector, and for other purposes; as follows:

On page 30, insert the following immediately after line 10:

PROCEEDING BY THE INTERSTATE COMMERCE COMMISSION

SEC. 303. (a) Within ten years after the date of consummation of the sale of the interest of the United States in the common stock of Conrail to Norfolk Southern Corporation, any railroad which—

(1) had rail operating revenues of less than $1 billion in calendar year 1985; and

(2) alleges that it has been injured by diversion of traffic from its lines as a result of the acquisition of Conrail by Norfolk Southern Corporation and the exercise of market power by the consolidated Norfolk Southern Corporation and Conrail system (hereinafter in this section referred to as the "consolidated system"),

may petition the Interstate Commerce Commission to institute a proceeding under this section.

(b)(1) The Commission shall commence a proceeding under this section, if the Commission finds that such railroad, as a result of the exercise of market power by the consolidated system, has experienced—

(A) a diversion of traffic from its lines equal to or greater than three and one half percent of the number of carloads handled by such railroad during calendar year 1985; or

(B) a rerouting of traffic that has resulted in a loss of revenues from such traffic that is equal to or greater than three and one-half percent of the total railway operating revenues of such railroad in calendar year 1985.

(2) For purposes of this subsection, Norfolk Southern Corporation shall be required to establish by clear and convincing evidence that such diversions have occurred because of superior service and efficiency on the route to which the traffic is diverted. In the absence of such evidence, the Commission shall presume that the diversions occurred as a result of the exercise of market power by the consolidated system.

(c) In any such proceeding, the Commission shall determine what additional divestitures or conditions are necessary to eliminate the market power of the consolidated system in each major rail market served by the consolidated system, and to provide to such railroad fully competitive alternative connecting service to each such major rail market. The Commission shall issue an order directing that such divestitures be completed and that such conditions be imposed. In determining whether the consolidated system has market power in any major rail market, the Commission shall accord substantial weight to merger guidelines issued by the Department of Justice.

(d) Divestitures ordered to be completed under this section shall be made at a price agreed upon by Norfolk Southern Corporation and the purchaser. If Norfolk Southern Corporation and the purchaser are unable to agree on such a price, the Commission shall fix a price for the divestiture which shall not reflect any value of the line to be divested that is attributable to the market power of the consolidated system in any rail market.

(e) The Commission shall issue a final order in any such proceeding within one

year after the date of filing of a petition under subsection (a) of this section.

(f) Any order issued under this section shall be subject to judicial review in the same manner and to the same extent as orders issued by the Commission under chapter 113 of title 49, United States Code. Any divestiture ordered to be completed, or condition imposed, by the Commission under this section shall be deemed to be approved by the Commission under such chapter 113.

NOTICES OF HEARINGS

SUBCOMMITTEE ON LABOR, HEALTH AND HUMAN SERVICES, EDUCATION AND RELATED AGENCIES

Mr. WEICKER. Mr. President, I am pleased to advise the Senate that the Appropriations Subcommittee on Labor, Health and Human Services, Education and Related Agencies will hold its fiscal year 1987 public witness hearings on Tuesday, April 29, Thursday, May 1, Tuesday, May 6, Thursday, May 8, Tuesday, May 13, and Thursday, May 15. The hearings will be preceded by a hearing on Thursday April 24, when the subcommittee will take testimony from Members of Congress.

The deadline for interested groups and individuals to submit their requests for an opportunity to testify is Tuesday, March 4. All requests must be in writing and should be addressed to me in care of the Labor, Health and Human Services, Education and Related Agencies Appropriations Subcommittee, SD-131, Washington, DC, 20510.

Those persons whose requests are received by March 4, will receive a letter providing instructions for their appearance before the subcommittee.

In addition, the deadline for those who only wish to submit statements for the hearing record will be Tuesday, May 20. Such statements must be no longer than seven double-spaced pages, and three copies should be sent to me in care of the subcommittee.

COMMITTEE ON SMALL BUSINESS

Mr. WEICKER. Mr. President, I would like to announce that the Senate Small Business Committee will hold a full committee hearing on February 6, 1986, on the impact of tax reform and simplification proposals on small business. The hearing will commence at 9:30 a.m. in room 428A of the Russell Senate Office Building. For further information, please call Bill Langdon or Steve Williams of the committee staff at 224-5175.

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. McCLURE. Mr. President, I would iike to announce for the information of the Senate and the public the scheduling of 2 days of oversight hearings before the Committee on Energy and Natural Resources. The hearings will be held in room SD-366 in the Dirksen Senate Office Building as follows:

Wednesday, February 5, beginning at 10 a.m. to consider the President's proposed budget for fiscal year 1987 with witnesses from the Department of the Interior.

Wednesday, February 5, beginning at 1:30 p.m. to consider the President's proposed budget for fiscal year 1987 with witnesses from the Department of Agriculture (Forest Service).

Thursday, February 6, beginning at 10 a.m. to consider the President's proposed budget for fiscal year 1987 with witnesses from the Federal Energy Regulatory Commission.

Thursday, February 6, beginning at 1 p.m. to consider the President's proposed budget for fiscal year 1987 with witnesses from the Department of Energy.

Those wishing to submit written statements for the hearing record should write to the Committee on Energy and Natural Resources, U.S. Senate, Washington, DC 20510. For further information regarding these hearings, you may wish to contact Mr. Richard Grundy at 224-2564.

Mr. McCLURE. Mr. President, I would also like to announce for the information of the Senate and the public the scheduling of a public hearing before the Committee on Energy and Natural Resources to consider the nomination of Jed Dean Christensen, of Virginia, to be Director of the Office of Surface Mining Reclamation and Enforcement.

The hearing will take place Tuesday, February 18, 10 a.m. in room SD-366 of the Senate Dirksen Office Building in Washington, DC.

Those wishing to testify or who wish to submit written statements should write to the Committee on Energy and Natural Resources, U.S. Senate, room SD-358 Dirksen Senate Office Building, Washington, DC 20510. For further information, please contact Jim Beirne or Becky Barbour at 202-224-2564.

SUBCOMMITTEE ON ENERGY RESEARCH AND DEVELOPMENT

Mr. DOMENICI. Mr. President, I would like to announce for the information of the Senate and the public that the Subcommittee on Energy Research and Development of the Committee on Energy and Natural Resources will conduct a hearing on Monday, February 24, 1986, beginning at 10 a.m. in room SD-366 of the Senate Dirksen Office Building in Washington, DC.

Testimony will be received on S. 1686, the "Renewable Energy/Fuel Cell Systems Integration Act of 1985" and S. 1687, the "Fuel Cells Energy Utilization Act of 1985."

Those wishing to testify or who wish to submit written statements for the hearing record should write to the Subcommittee on Energy Research and Development, Committee on Energy and Natural Resources, U.S. Senate, Washington, DC 20510.

For further information regarding this hearing, please contact Mr. K.P. Lau on the subcommittee staff at 202-224-4431.

ADDITIONAL STATEMENTS

DURENBERGER VS. CASEY

● Mr. BOSCHWITZ. Mr. President, I rise today to enter into the RECORD an article from the Christian Science Monitor. The article sets the record straight concerning a flap between my good friend and colleague from Minnesota, DAVE DURENBERGER, and CIA Director Bill Casey, fought on the front pages of the Washington Post.

Senators may recall, late in the last session, a front page article in the Post in which DAVE appeared to be leveling some major league criticisms at Casey and his handling of the CIA. That article then engendered a Casey response, again on page 1.

As it turns out, the squabble was really a creation of the Washington Post. As the article I am submitting indicates, the Post took out of context and sensationalized a few remarks DAVE made over a long luncheon with several reporters in which the general tenor of DAVE's comments were really very positive about Casey and the Agency. DAVE praised Casey for his professionalism and called him "as good a DCI [Director of Central Intelligence] as we have had in a long time." Nevertheless, it was a couple of criticisms that DAVE made over a long lunch in response to reporters' questions that the Post put on page 1, setting off a public—and needless—dispute that served no one's interests, except possibly the Post's.

I believe each of us ought to read the true story of what DAVE said and then ponder a bit about the influence and power of the media.

I ask that the article from the Christian Science Monitor be printed in the RECORD.

The article follows:

[From the Christian Science Monitor, Dec. 3, 1985]

DURENBERGER VS. CASEY

(By Godfrey Sperling Jr.)

The other day Sen. David F. Durenberger (R) of Minnesota, chairman of the Select Committee on Intelligence, discussed at some length the Central Intelligence Agency and its director, William J. Casey, with a group of reporters over lunch.

The next morning the Washington Post's Page 1 headline read: "CIA, Casey Criticized by Hill Chairman." And the lead paragraph said that Mr. Durenberger criticized Mr. Casey "for lacking a 'sense of direction' and particularly for failure to understand the Soviet Union.

Yet Durenberger and several of the reporters who attended that luncheon thought that the Post's caption beneath the senator's picture on Page 3, where the article was continued, caught his basic view of Casey. It read, "[Durenberger] defends Casey as 'Professional'."

These reporters all thought that Durenberger's criticism of and reservations about Casey came within a context of an overall appreciation of Casey and the job he was doing. They said they believed that a positive lead (and headline), reflecting Durenberger's defense of Casey, would have accurately mirrored the thrust of the senator's comments on the intelligence director.

The Post's story set off an explosion, at least in the pages of that influential newspaper. Casey, responding to the story, fired off a public letter, asking at one point, "What are [CIA officers around the world] to think when the chairman of the Senate Select Committee offhandedly, publicly, and inaccurately disparages their work?"

Casey might have held his fire if he had been aware of this response by Durenberger at the luncheon to the question "Do you have any doubts about the leadership of the CIA?"

"Not yet," he said. "I think Bill is as good a DCI [director of central intelligence] as we have had in a long time. That forgives a whole lot of things by saying that.

[Chuckling.] "And you would have an 8-to-7 vote on the committee if I put it to a vote." Continuing:

"Bills' problems are still more style and perception than they are substance. I think as a substantive professional politician he is just a darn good guy in that job. When he gets them into trouble by, say, shutting down information to the Congress or something like that, it's because they can't be trusted.

"There is a professionalism in Bill. He knows the craft. He knows something of the politics involved in it. He knows about the relationship between information and intelligence and between intelligence and public policy."

Later on in the lunch, Durenberger said he would give Casey a plus for his job performance. Then he expressed this reservation: "One of the things we [the committee] will be sorting out is whether . . . [national-security adviser Robert] McFarlane shouldn't be the President's right hand on the intelligence input into policy and Casey ought to be the pro who runs the organization.

The next day the Post ran a Page 1 article in which Sen. Patrick Leahy of Vermont, the ranking Democrat on the committee, said he believed that Casey wanted to go back to the days when there was no congressional oversight of CIA covert operations.

And the day after, the Post on its Sunday Op-Ed page printed, side by side, the Casey letter and a responding letter from Durenberger in which the senator defended congressional oversight and public discussion of the CIA. What developed here was a yelling contest between Durenberger and Casey that probably would not have occurred if Casey had heard the carefully and quietly uttered Durenberger assessment of him at the lunch.

The Post's ombudsman, Sam Zagoria, followed up a few days later with his own carefully researched appraisal of these stories and public exchanges in his column on his newspaper's opinion page.

"[The Post's] report could not be supported by snips and snaps in the transcript," he wrote, "but Senator Durenberger's string of compliments for Mr. Casey and the vagueness of his suggestions for possible change by the end of 1986 should have discouraged treating the story so one-sidedly."

"Leads and headlines have a tendency to simplify and polarize positions." Mr. Zagoria added, "and this happened here. The result has been a four-day battle in the Post, and I doubt that it was intended by the three public officials. What started out as a low-key discussion about relationships between a key Senator and an agency escalated into a shouting match and some of the most surprised were the Senator and some of his auditors."●

REMEMBERING DR. KING

● Mr. CHILES. Mr. President, this Nation has just observed the first celebration of Dr. Martin Luther King, Jr.'s birthday. It was a time of celebration, a time to reflect on the life of Dr. King and the meaning of his words.

In his famous "I have a dream" speech, Dr. King could have modified and described his dream with any word in his vast vocabulary. I think it is both fitting and insightful that he gave the foundation for his dream a patriotic foundation, when he said "It is rooted in the American dream." So it is with this day of observance—it was and should continue to be an American holiday.

Black Americans are justly proud that America has decided to honor a black person in this manner. However, Dr. King's teachings are such that all Americans can be proud. Proud that the Constitution has been expanded to include every race, both sexes, all nationalities, and every creed. The Constitution which was written almost 200 years ago was not a perfect document but rather a document with perfect potential. Dr. King, the civil rights movement, the ultimate desegregation of America, all served to make our Nation stronger and our Constitution relevant.

On Monday, January 20, 1986, almost every television set and every radio played the words of Dr. King over and over. His full vibrant voice once again reminded us of the dream—sadly, it is a dream that remains unfulfilled for far too many of our citizens.

On this day, Monday, January 27, 1986, the radio stations have gone from hard reality to hard rock, from the eloquent words of Dr. King to the unintelligible lyrics of Twisted Sister, but the impact of Dr. King's life must not be restricted to 1 day's celebration, but rather to a life's commitment. So, although the television stations will now devote their cameras and tape machines to Miami Vice or Dynasty, the image of the man and the movement should inspire each of us to help those less fortunate than ourselves.

There are many people in this great Nation for whom the dream of Dr. King means little. We read the cold statistics and often we are not impressed at all, but behind those statistics are live, warm human beings. Unemployment among minority youth in this country has reached depression levels, fueled in part by the scandalous drop-out rates among black and Hispanic teenagers; 4 of every 10 black youths who begin school will drop out and in some areas the number is even higher for Hispanic youths. It may be true that we are moving forward in our economy, but we are leaving far too many of our young people behind. The business community which by and large supported the King holiday should also support hiring practices and training programs that will enable our youth to gain meaningful work experiences.

In infant mortality, according to every statistic I have seen, black infants are twice as likely to die in their first year as are white infants. Even American white infant death rates supersede many white European rates. The data is startling, the facts are irrefutable. For the unemployed, for dropouts, for young babies "at risk," the dream is a hollow vision. The solutions we seek do not all rest with Government programs. As the ranking member of the Budget Committee, I understand quite clearly the limitations we face from the public sector but public/private partnerships could be extremely helpful. My legislative proposals on infant mortality (S. 1209) and dropouts (S. 1771) are not total solutions—they are only beginning efforts.

The real challenge which faces all Americans is that of making the American dream live for so many who are left out and forgotten. The highest honor we can pay to Dr. King's memory is not simply setting aside a day to remember, but to commit our lives to not forgetting those who need and deserve our help.●

BUDGET SCOREKEEPING REPORT

● Mr. DOMENICI. Mr. President, I hereby submit to the Senate the first report on congressional budgetary action in the 2d session of the 99th Congress, prepared by the Congressional Budget Office. This report also serves as the scorekeeping report for the purposes of section 311 of the Congressional Budget Act, as amended.

The report follows:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, January 27, 1986.

DEAR MR. CHAIRMAN: The attached report shows the effects of Congressional action on the budget for fiscal year 1986. The estimated totals of budget authority, outlays, and revenues are compared to the appropriate or recommended levels contained in the most recent budget resolution, S. Con. Res. 32. This report meets the requirements for Senate scorekeeping of Section 5 of S. Con. Res. 32 and is current through January 24, 1986. The report is submitted under Section 308(b) and in aid of Section 311 of the Congressional Budget Act, as amended.

Since my last report no changes have occurred in budget authority, outlay, and revenue estimates.

This letter is my first report on Congressional budgetary action for the second session of the Ninety-ninth Congress.

With best wishes,

Sincerely,

RUDOLPH G. PENNER.

CBO WEEKLY SCOREKEEPING REPORT FOR THE U.S. SENATE, 99th CONGRESS, 2d SESSION, AS OF JANUARY 24, 1986

[Fiscal Year 1986—in billions of dollars]

	Budget authority	Outlays	Revenues	Debt subject to limit
Current Level [1]	1,073.0	986.8	793.6	1,946.3
Budget Resolution, Senate Concurrent Resolution 32	1,069.7	967.6	795.7	[2] 2,078.7
Current Level is:				
Over Resolution by	3.3	19.2		
Under Resolution by			2.1	129.4

[1] The current level represents the estimated revenue and direct spending effects (budget authority and outlays) of all legislation that Congress has enacted in this or previous sessions or sent to the President for his approval. In addition, estimates are included of the direct spending effects for all entitlement or other programs requiring annual appropriations under current law even though the appropriations have not been made. The current level excludes the revenue and direct spending effects of legislation that is in earlier stages of completion, such as reported from a Senate committee or passed by the Senate. Thus, savings from reconciliation action assumed in Senate Concurrent Resolution 32 will not be included until Congress sends the legislation to the President for his approval. The current level of debt subject to limit reflects the latest U.S. Treasury information on public debt transactions.

[2] The current statutory debt limit is $2,078.7 billion.

FISCAL YEAR 1986, SUPPORTING DETAILS FOR CBO WEEKLY SCOREKEEPING REPORT, U.S. SENATE, 99TH CONGRESS, 2D SESSION, AS OF JANUARY 24, 1986

[In millions of dollars]

	Budget authority	Outlays	Revenues
I. Enacted in previous sessions:			
Revenues			793,551
Permanent appropriations and trust funds.	708,634	632,166	
Other appropriations	554,277	543,994	
Offsetting receipts	−190,586	−190,586	
Total enacted in previous sessions.	1,072,325	985,573	593,551
II. Enacted this session			
III. Continuing resolution authority.			
IV. Conference agreements ratified by both Houses.			
V. Entitlement authority and other mandatory items requiring further appropriation action:			
Payment to air carriers, DOT.	26	24	
Maritime, operating-differential subsidies.		3	
Retirement pay for PHS officers.	3		
Medical facilities loan guarantee.	2		
Payment to health care trust funds. [1]	(907)	(907)	
Advances to unemployment trust fund. [1]	(51)	(51)	
Federal unemployment benefits and allowances.	65	64	
Black lung disability trust fund.	46	46	
Veterans compensation.	286	235	
Veterans readjustment benefits.	180	137	
Veterans pensions	10		
Defense pay raise—military.		675	
Compact of free association.	92	92	
Total entitlements	710	1,276	
Total current level as of January 24, 1986.	1,073,035	986,849	793,551

FISCAL YEAR 1986, SUPPORTING DETAILS FOR CBO WEEKLY SCOREKEEPING REPORT, U.S. SENATE, 99TH CONGRESS, 2D SESSION, AS OF JANUARY 24, 1986—Continued

[In millions of dollars]

	Budget authority	Outlays	Revenues
1986 budget resolution (S. Con. Res. 32)	1,069,700	967,600	795,700
Amount remaining:			
Over budget resolution.	3,335	19,249	
Under budget resolution.			2,149

[1] Interfund transactions do not add to budget totals.

Note: Numbers may not add due to rounding.●

PRESIDENT'S PROLIFE PROCLAMATION

● Mr. HUMPHREY. Mr. President, for the second year in a row, President Reagan has proclaimed the Sunday preceding the anniversary of the disastrous Roe versus Wade abortion decision, "National Sanctity of Human Life Day." Sunday, January 19, 1986, is that day set aside when we recall how we as individuals, and we as a society, have failed to respect life at every stage of development. National Sanctity of Human Life Day is a day when we are called to pray for the unborn, the newly born, the handicapped and the elderly. It is a day to reflect on the inherent dignity of each human being, and to assist concretely those whose sanctity of life is threatened.

Many institutions have observed National Sanctity of Human Life Day in the past, and more will be doing so in the years to come. The Southern Baptists have placed the day on their official calendar; and over 20,000 primarily Protestant congregations have observed for the third year a day of prayer for the unborn.

The increased recognition and efforts on behalf of the unborn fostered by National Sanctity of Human Life Day are commendable, and long overdue. They presage further, more extensive advances in our struggle to grant unborn children the rights that all human beings enjoy. They also portend observances by a greater number of organizations, and proclamations of even grander scope: For example, the President has before him a request from six U.S. Senators calling for a declaration of 1987 as "The Year of the Unborn."

I applaud all such efforts, and I encourage renewed activity in defense of life.●

UKRAINIAN INDEPENDENCE DAY

● Mr. BOSCHWITZ. Mr. President, on January 22, Ukrainians throughout the world observed the anniversary of Ukrainian independence. Following World War I, the newly established Ukrainian State was recognized by a number of governments including the Russian Federated Soviet Republic. Despite Moscow's pledge to respect the independence of the Ukraine, it soon attacked the young state both militarily and by employing subversion from within. After almost 4 years of war, the Ukraine fell to the forces of Soviet Russia and her eastern neighbors. After losing their short-lived freedom, the Ukrainian people have endured a long period of religious and national persecution and economic exploitation.

In the 1930's, for example, Stalin ordered the liquidation of the Ukrainian autocephalous Orthodox Church. Many bishops and priests were murdered, as were an untolled number of intellectuals. In 1932-33, over 7 million men, women, and children perished in the Soviet Government's intentionally induced famine.

World War II brought more tragedy upon the Ukrainian people. On one side, the fleeing Red troops left behind devastated lands. On the other side, the advancing Nazi armies engaged in looting, sent many on forcible deportations to slave labor camps, and even mass executions. According to reports of the Soviet Ukrainian Academy of Sciences, the Nazi occupation resulted in the extermination of over 5 million people.

After World War II, the suffering did not end. In 1946, the Kremlin destroyed the Ukrainian Catholic Church in western Ukraine by arresting, murdering or deporting many in its hierarchy.

For some time, we have received reports that hundreds of young poets, writers, researchers, and human rights activists have been arrested and sentenced to long imprisonment or confined to psychiatric institutions. According to U.S. Government reports, although Ukrainians account for only 12 percent of the Soviet population, they account for 40 percent of all political prisoners in the Soviet Union.

Although deprived of freedom and suffering great losses, the Ukrainian people have never surrendered nor given up hope of liberation. By recalling their short-lived independence they continue to demonstrate their undying struggle to regain their freedom.

This year, while commemorating Ukrainian independence, we as Americans wish to commend the Ukrainian people for their commitment to the principles of liberty they have so undeniably demonstrated.●

PROPOSED ARMS SALES

● Mr. LUGAR. Mr. President, section 36(b) of the Arms Export Control Act requires that Congress receive advance

notification of proposed arms sales under that act in excess of $50 million or, in the case of major defense equipment as defined in the act, those in excess of $14 million. Upon such notification, the Congress has 30 calendar days during which the sale may be reviewed. The provision stipulates that, in the Senate, the notification of a proposed sale shall be sent to the chairman of the Foreign Relations Committee.

In keeping with my intention to see that such information is available to the full Senate, I ask to have printed in the RECORD the notifications which have been received.

The notifications follow:

DEFENSE SECURITY ASSISTANCE AGENCY,
Washington, DC.

Hon. RICHARD C. LUGAR,
Chairman, Committee on Foreign Relations, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: Pursuant to the reporting requirements of Section 36(b)(1) of the Arms Export Control Act, we are forwarding herewith Transmittal No. 86-19, concerning the Department of the Air Force's proposed Letter(s) of Offer to Korea for defense articles and services estimated to cost $82 million. Shortly after this letter is delivered to your office, we plan to notify the news media.

Sincerely,

PHILIP C. GAST,
Director.

[Transmittal No. 86-19]

NOTICE OF PROPOSED ISSUANCE OF LETTER OF OFFER PURSUANT TO SECTION 36(b)(1) OF THE ARMS EXPORT CONTROL ACT

(i) Prospective Purchaser: Korea.

(ii) Total Estimated Value:

	Millions
Major defense equipment [1]	0
Other	$82
Total	82

[1] As defined in Section 47(6) of the Arms Export Control Act.

(iii) Description of Articles or Services Offered: Cooperative Logistics Supply Support Arrangement (CLSSA) under a Foreign Military Sales Order II (FMSO II) Blanket Order Requisition for spare parts and supplies to support AT-37, C-123K, F-4, F-5, F-16 and T-33 aircraft and other systems and subsystems of U.S. origin.

(iv) Military Department: Air Force (KBV).

(v) Sales Commission, Fee, etc., Paid, Offered, or Agreed to be Paid:

(vi) Sensitivity of Technology Contained in the Defense Articles or Defense Services Proposed to be Sold: None.

(vii) Section 28 Report: Case not included in Section 28 report.

(viii) Date Report Delivered to Congress: January 22, 1986.

POLICY JUSTIFICATION

KOREA—SUPPLY SUPPORT ARRANGEMENT

The Government of Korea has requested a Cooperative Logistics Supply Support Arrangement (CLSSA) under a Foreign Military Sales Order II (FMSO II) Blanket Order Requisition for spare parts and supplies to support AT-37, C-123K, F-4, F-5, F-16, and T-33 aircraft and other systems and subsystems of U.S. origin. The estimated cost is $82 million.

This sale will contribute to the foreign policy and national security of the United States by helping to improve the security of a friendly country which has been and continues to be an important force for political stability and economic progress in Eastern Asia.

The Republic of Korea needs these spare parts and supplies to assure that aircraft previously procured from the United States are maintained in a mission capable status. The Korean Air Force will have no difficulty in absorbing these spare parts and supplies.

The sale of this equipment and support will not affect the basic military balance in the region.

Procurement of these items and services will be from the many contractors providing similar items and services to the U.S. armed forces.

Implementation of this sale will not require the assignment of any additional U.S. Government personnel or contractor representatives to Korea.

There will be no adverse impact on U.S. defense readiness as a result of this sale.

DEFENSE SECURITY ASSISTANCE AGENCY,
Washington, DC.

Hon. RICHARD C. LUGAR,
Chairman, Committee on Foreign Relations, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: Pursuant to the reporting requirements of Section 36(b)(1) of the Arms Export Control Act, we are forwarding herewith Transmittal No. 86-23, concerning the Department of the Air Force's proposed Letter(s) of Offer to Turkey for defense articles and services estimated to cost $97 million. Shortly after this letter is delivered to your office, we plan to notify the news media.

You will also find attached a certification as required by Section 620C(d) of the Foreign Assistance Act of 1961, as amended, that this action is consistent with Section 620C(b) of the statute.

Sincerely,

PHILIP C. GAST,
Director.

[TRANSMITTAL NO. 86-23]

NOTICE OF PROPOSED ISSUANCE OF LETTER OF OFFER PURSUANT TO SECTION 36(b)(1) OF THE ARMS EXPORT CONTROL ACT

(i) Prospective Purchaser: Turkey.

(ii) Total Estimated Value:

	Millions
Major defense equipment [1]	0
Other	$97
Total	97

[1] As defined in Section 47(6) of the Arms Export Control Act.

(iii) Description of Articles or Services Offered: Foreign Military Sales Order II (FMSO II) Blanket Order Requisition for follow-on spare parts in support of C-130E, RF/F-4E, F/RF-5A/B, F-100C/D/F, TF/F-104G, T-33, T-37B/C and T-38 aircraft and other systems or subsystems of U.S. origin.

(iv) Military Department: Air Force (KBX).

(v) Sales Commission, Fee, etc., Paid, Offered, or Agreed to be Paid: None.

(vi) Sensitivity of Technology Contained in the Defense Articles of Defense Services Proposed to be Sold:

(vii) Section 28 Report: Case not included in Section 28 report.

(viii) Date Report Delivered to Congress: January 22, 1986.

POLICY JUSTIFICATION

TURKEY—SUPPLY SUPPORT ARRANGEMENT (FMSO II)

The Government of Turkey has requested the purchase of a blanket order requisition case for follow-on spare parts in support of C-130E, RF/F-4E, F/RF-5A/B, F-100C/D/F, TF/F-104G, T-33, T-37B/C and T-38 aircraft and other systems or subsystems of U.S. origin. The estimated cost is $97 million.

This sale will contribute to the foreign policy and national security objectives of the United States by improving the military capabilities of Turkey in fulfillment of its NATO obligations; furthering NATO rationalization, standardization, and interoperability; and enhancing the defense of the Western Alliance.

Turkey needs this logistics support to maintain the readiness of Turkish Air Force weapon systems of U.S. origin. The cooperative logistics support will be provided in accordance with, and subject to the limitations on use and transfer provided for under the Arms Export Control Act, as embodied in the terms of sale. This sale will not adversely affect either the military balance in the region or U.S. efforts to encourage a negotiated settlement of the Cyprus question. Turkey will have no difficulty absorbing this logistics support into its armed forces.

Procurement of these items and services will be from the many contractors providing similar items and services to the U.S. forces.

Implementation of this sale will not require the assignment of any additional U.S. Government or contractor personnel to Turkey.

There will be no adverse impact on U.S. defense readiness as a result of this sale.

UNDER SECRETARY OF STATE FOR SECURITY ASSISTANCE, SCIENCE AND TECHNOLOGY,
Washington, DC, January 17, 1986.

Pursuant to section 620C(d) of the Foreign Assistance Act of 1961, as amended (the Act), and the authority vested in me by Department of State Delegation of Authority No. 145, I hereby certify that the provision to Turkey of a blanket order requisition case of support of C-130, RF/F-4E, F/RF-5A/B, F-100C/C/F, and other U.S. origin aircraft at an estimated value of $97 million is consistent with principles contained in section 620C(b) of the Act.

This certification will be made part of the certification to the Congress under section 36(b) of the Arms Export Control Act regarding the proposed sale of the abovenamed articles and is based on the justification accompanying said certification, and of which such justification constitutes a full explanation.

WILLIAM SCHNEIDER, Jr.●

PROPOSED ARMS SALES

● Mr. LUGAR. Mr. President, section 36(b) of the Arms Export Control Act requires that Congress receive advance notification of proposed arms sales under that act in excess of $50 million or, in the case of major defense equipment as defined in the act, those in excess of $14 million. Upon such notification, the Congress has 30 calendar days during which the sale may be reviewed. The provision stipulates that, in the Senate, the notification of pro-

posed sales shall be sent to the chairman of the Foreign Relations Committee.

In keeping with the committee's intention to see that such information is immediately available to the full Senate, I ask to have printed in the RECORD the notification which has been received. The classified annex referred to in the covering letter is available to Senators in the office of the Foreign Relations Committee, room SD-423.

The notification follows:

DEFENSE SECURITY ASSISTANCE AGENCY,
Washington. DC.

Hon. RICHARD C. LUGAR,
Chairman, Committee on Foreign Relations, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: Pursuant to the reporting requirements of Section 36(b)(1) of the Arms Export Control Act, we are forwarding under separate cover Transmittal No. 86-20, concerning the Department of the Navy's proposed Letter(s) of Offer to Korea for defense articles and services estimated to cost $14 million or more. Since most of the essential elements of this proposed sale are to remain classified, we will not notify the news media.

Sincerely,

PHILIP C. GAST,
Director.

[Transmittal No. 86-20]

NOTICE OF PROPOSED ISSUANCE OF LETTER OF OFFER PURSUANT TO SECTION 36(b)(1) OF THE ARMS EXPORT CONTROL ACT

(i) (U) Prospective Purchaser: Korea.

(ii) Total Estimated Value:

Major defense equipment	(Deleted.)
Other	(Deleted.)
Total	(Deleted.)

(iii) Description of Articles or Services Offered: (Deleted).

(iv) (U) Military Department: Navy (LKZ).

(v) (U) Sales Commission, Fee, etc., Paid, Offered, or Agreed to be Paid: None.

(vi) (U) Sensitivity of Technology Contained in the Defense Articles or Defense Services Proposed to be Sold: See Annex under separate cover.

(vii) (U) Section 28 Report: Case not included in Section 28 report.

(viii) (U) Date Report Delivered to Congress: January 22, 1986.●

ORDERS FOR TUESDAY

RECESS UNTIL 11 A.M.

Mr. DOLE. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in recess until the hour of 11 a.m. on Tuesday, January 28, 1986.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECOGNITION OF SENATOR PROXMIRE

Mr. DOLE. I further ask unanimous consent that, following the two leaders under the standing order, there be a special order in favor of the Senator from Wisconsin [Mr. PROXMIRE] for not to exceed 15 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

ROUTINE MORNING BUSINESS

Mr. DOLE. Following the special order in favor of Senator PROXMIRE, I ask unanimous consent that there be a period for the transaction of routine morning business not to extend beyond the hour of 12 noon with Senators permitted to speak therein for not more than 5 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECESS BETWEEN THE HOUR OF 12 NOON AND 2 P.M.

Mr. DOLE. Following routine morning business, I ask unanimous consent that the Senate stand in recess between the hour of 12 noon and 2 p.m. in order for the weekly party caucuses to meet.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. DOLE. At 2 p.m., the Senate will resume consideration of S. 638, the Conrail matter.

Votes will occur during Tuesday's session.

Pending, by unanimous-consent request, at 2 o'clock is the Danforth motion to waive section 303 of the Budget Act with respect to the consideration of S. 638.

Once we complete action on that motion, I understand there will be a series of amendments.

Since there is a joint session tomorrow evening, and most Senators will be in the Capitol, we might be able to debate and offer amendments up until around 7 or 7:30 tomorrow evening.

RECESS UNTIL 8:30 P.M.

Once the Senate completes its business on Tuesday, I ask unanimous consent that it stand in recess until 8:30 p.m., Tuesday, January 28.

The PRESIDING OFFICER. Without objection, it is so ordered.

STATE OF THE UNION ADDRESS

Mr. DOLE. Mr. President, Senators are asked to assemble in the Senate Chamber no later than 8:30 p.m. in order to proceed as a body to the Hall of the House of Representatives in order to hear the President's State of the Union Address.

We will have a late evening tomorrow night with the joint session of Congress.

RECESS UNTIL 11 A.M. TOMORROW

Mr. DOLE. Mr. President, there being no further business to come before the Senate, I move, in accordance with the order just entered, that the Senate stand in recess until 11 a.m. tomorrow, Tuesday, January 28.

The motion was agreed to; and, at 4:50 p.m., the Senate recessed until tomorrow, Tuesday, January 28, 1986, at 11 a.m.

NOMINATIONS

Executive nominations received by the Secretary of the Senate January 24, 1986, under authority of the order of the Senate of January 3, 1985:

DEPARTMENT OF STATE

Gaston Joseph Sigur, Jr., of Maryland, to be an Assistant Secretary of State, vice Paul D. Wolfowitz.

Paul Dundes Wolfowitz, of the District of Columbia, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Indonesia.

DEPARTMENT OF DEFENSE

Michael P.W. Stone, of California, to be an Assistant Secretary of the Army, vice Pringle P. Hillier, resigned.

NATIONAL COUNCIL ON EDUCATIONAL RESEARCH

Robert Lee McElrath, of Tennessee, to be a member of the National Council on Educational Research for a term expiring September 30, 1987, vice M. Blouke Carus, resigned.

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

James H. Duff, of Pennsylvania, to be a member of the National Museum Services Board for the remainder of the term expiring December 6, 1986, vice Craig C. Black, resigned.

SENIOR FOREIGN SERVICE

The following-name career member of the Senior Foreign Service of the U.S. Information Agency for promotion in the Senior Foreign Service to the class indicated:

Career member of the Senior Foreign Service of the United States of America, class of Career Minister:

Stanton H. Burnett, of Washington.

Career members of the Senior Foreign Service of the United States of America, class of Minister-Counselor:

Robert R. Gosende, of Massachusetts.
Frederic S. Mabbatt, of Idaho.
Kent D. Obee, of Nevada.
Eugene Frederick Quinn, of California.

The following-named career members of the Foreign Service of the U.S. Information Agency for promotion into the Senior Foreign Service to the class indicated:

Career members of the Senior Foreign Service of the United States of America, class of Counselor:

Charles L. Bell, of Ohio.
Gilbert R. Callaway, of Arkansas.
Michael P. Canning, of North Dakota.
Charles H. Dawson, of Tennessee.
Laurence Garufi, of New Jersey.
Christopher M. Henze, of California.
John E. Katzka, of California.
Robert E. Knopes, of Virginia.
Claude William La Salle, II, of Louisiana.
Lewis R. Luchs, of Maryland.
Thomas E. O'Connor, of Florida.
Ronald P. Oppen, of Florida.
Majorie Ann Ransom, of Virginia.
Leon M.S. Slawecki, of Virginia.
Frank C. Strovas, of Colorado.
John C. Thomson, of California.
Gerald A. Waters, of Illinois.

SENIOR FOREIGN SERVICE

The following-named career members of the Senior Foreign Service of the Agency for International Development for promotion in the Senior Foreign Service to the classes indicated:

Career members of the Senior Foreign Service of the United States of America, class of Career Minister:

Peter W. Askin, of Virginia.
Owen Cylke, of Maryland.
John William Koehring, of Virginia.
Sarah Jane Littlefield, of California.

Career members of the Senior Foreign Service of the United States of America, class of Minister-Counselor:

Peter J. Bloom, of the District of Columbia.
Laurance William Bond, of California.
William R. Brown, of Connecticut.
Dennis M. Chandler, of Virginia.
Charles E. Costello, of Maryland.
Richard M. Dangler, of Colorado.
Robert G. Huesmann, of Maryland.
William Edwin Paupe, of Maryland.
James R. Phippard, of Arizona.
Jimmie M. Stone, of California.
Charles Darwin Ward, of Virginia.
Charles Frederick Weden, Jr., of Virginia.

The following-named career members of the Foreign Service of the Agency for International Development for promotion into the Senior Foreign Service, and consular officer and secretary in the Diplomatic Service appointments, as indicated:

Career members of the Senior Foreign Service of the United States of America, class of Counselor:

Byron H. Bahl, of the District of Columbia.
Peter Benedict, of Virginia.
Charles C. Brady, of Texas.
Douglas J. Clark, of Colorado.
Phyllis L. Dichter, of New Jersey.
Sara A. Frankel, of California.
Paul Fritz, of Virginia.
Myron Golden, of Ohio.
Howard Raymond Handler, of Virginia.
Robert Hechtman, of Virginia.
Harry Richard Johnson, of Rhode Island.
Richard Alan Johnson, of Maryland.
Hjalmar P. Kolar, of Virginia.
G. Franklin Latham, of New Jersey.
Dayton L. Maxwell, of Maryland.
Duncan R. Miller, of Virginia.
Linda Ellen Morse, of Virginia.
William Bennett Nance, of North Carolina.
Raymond Frank Rifenburg, of California.
Satishchandra P. Shah, of Florida.
Nancy M. Tumavick, of Virginia.
Paul Edward White, of Virginia.
Aaron S. Williams, of Illinois.
Frederick A. Zobrist, of Hawaii.

Career members of the Senior Foreign Service of the United States of America, class of Counselor, and consular officers and secretaries in the Diplomatic Service of the United States of America:

Ellsworth M. Amundson, Jr., of Virginia.
Francis Joseph Kenefick, of California.
Lynn Monroe Lee, of Virginia.
Charles R. Matthews, of Virginia.
Richard C. McClure, of California.

IN THE AIR FORCE

The following-named officer for promotion to the grade indicated under the provisions of article II, section 2, clause 2, of the Constitution of the United States of America:

To be lieutenant colonel

Jerry L. Ross, [redacted]

IN THE ARMY

The following-named officer for promotion to grade indicated under the provisions of article II, section 2, clause 2 of the Constitution of the United States of America:

To be colonel

Lt. Col. Sherwood C. Spring, [redacted]

IN THE MARINE CORPS

The following-named officer for promotion to the grade of colonel under the provisions of article II, section 2, clause 2 of the Constitution of the United States of America:

Lt. Col. Bryan D. O'Connor, U.S. Marine Corps, [redacted]/7508

Executive nominations received by the Senate January 27, 1986:

FEDERAL TRADE COMMISSION

Andrew John Strenio, Jr., of Maryland, to be a Federal Trade Commissioner for the unexpired term of 7 years from September 26, 1982, vice George W. Douglas, resigned.

EXTENSIONS OF REMARKS

MR. KERMIT LYNCH OF BERKELEY

HON. RONALD V. DELLUMS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, January 27, 1986

Mr. DELLUMS. Mr. Speaker, I would like to bring to the attention of my colleagues an article that was printed last year in the Washington Post regarding the outstanding contribution that a constituent of the Eighth California District has made to the enjoyment of fine wines.

Kermit Lynch, a wine merchant in Berkeley, CA, has pursued the difficult and unenviable job of building a successful business importing European wines into the very heart of the California wine community. His dedication to pursing and convincing small owner-operated wineries in France and Italy to export their excellent wines to the United States has, in the words of the Post, placed him at the top of his profession.

I urge my colleagues to read this article in order to appreciate how one small business operator has merged an appreciation for fine wines with hard work to create a nationally recognized business.

WINE—A FRENCH PASSION

(By Robert M. Parker, Jr.)

It seems ironic and highly unlikely that the man considered by many to be today's finest importer of French wines works out of Berkeley, Calif., in the shadow of the booming wine industry 30 miles to the north in Napa and Sonoma counties.

His name is Kermit Lynch and in the competitive imported-wine business no one has a better reputation for uncompromising quality and impeccable tasting standards. It all started in 1971 when Lynch sold his handicraft business and took off for Europe.

There, he developed an interest in European wines, though his first wine shop, which he opened the next year in Albany, Calif., specialized in hard-to-get California wines such as Joseph Swan and Chalone. He maintained an inventory in those days of only 30 cases and by his own admission struggled for two years to keep afloat in what he has described as "a closet wine shop."

By 1974, his first big opportunity, as well as gamble, occurred. At the time, this country was awash in an ocean of imported wine that was being dumped on the market because speculative deals involving French wines had gone sour.

The great wine crash of '74 occurred largely because large beer and whiskey corporations had misjudged how much consumers would spend for a bottle of bordeaux or burgundy. They had invested heavily in a series of poor vintages, 1972, 1973 and 1974, and when the international oil crises hit they panicked and sold off their huge stocks to a wine-consuming public that was unwilling and financially unable to accept such poor wines.

One of America's premier importers of fine burgundies, the Chateau and Estates Co., in 1974 also decided to dump, at distress sale prices, its line of burgundies selected by the late, great American wine specialist Frank Schoonmaker. Lynch saw the extensive offering of burgundy wines from Chateau and Estates and notice that it included not only mediocre vintages like '73 and '74, but great burgundy vintages such as 1972, 1971 and 1969.

Rather than buy them blindly, Lynch and close friend Joe Swan flew to Burgundy and arranged to taste these selections across the board. The outcome was that Lynch invested everything he had in the best of these wines, and it was these selections that permitted him to build a strong following in California for his expertise in burgundy.

The 1974 trip was followed by yearly trips to France to visit winemakers, taste wines and develop contracts in the vineyards. Lynch gives a great deal of credit to famous author and Provence native Richard Olney, whom he first met in 1976. He claims that Olney helped develop his interest in the better wines of the underregarded Rhône Valley and Provence, two areas that Lynch has exploited extensively. Almost alone, he has been responsible for introducing many Americans to their gems.

Lynch also credits Olney with introducing him to the wines of such legendary Rhône and Provence producers and Chave in Hermitage, Clape in Cornas, Multier in Condrieu and the Peyraud family in Bandol. In the early days of Lynch's career, Olney acted not only as a wine advisor, but also as a translator as Lynch spoke no French, a deficiency he quickly corrected.

By 1978, Lynch had developed a word-of-mouth reputation (he never did and still does not advertise) in the San Francisco Bay area as a top specialist in the Rhône, Provence and Burgundy regions. It was also at this time that Lynch began doing things that other merchants and importers deemed too costly and unorthodox.

Distressed at the changed condition in San Francisco of some of the wines he had selected in France, he became convinced that the exposure of wine to both heat and cold during the 7 to 10 days of a traumatic ocean voyage was robbing his wines of the character they possessed. In 1978, he commenced shipping all of his wines (whether $5 mâcon-villages wines or rare $60 burgundies) in temperature-controlled containers known in the trade as "reefers."

Though it is more expensive, Lynch has maintained that it is the only way to guarantee that "the quality in the barrel ends up as the same quality in the bottled wine." He remains one of a handful of importers who go to this care and expense for their wines.

Another Lynch campaign has been a 10-year battle with producers not to filter or pasteurize their wines. Lynch, a fervent believer in (and even crusader for) natural, unmanipulated wines, has refused to deal with growers who stripped and eviscerated their wines of character and personality by extensive filtration. Just this year, after pre-selling $15,000 in futures of a red burgundy from a famous grower in Gevrey-Chambertin to his clients he refused to accept the wine after learning that the grower "filtered the hell" out of it. Lynch returned the $15,000 to his buyers, saying he would not sell them a mediocre wine. He also stopped buying the wine from this particular grower. In today's world of commercial realities, such actions are unheard of.

The year 1978 was also a watershed for Lynch because he stopped selling California wines in his store. He was criticized by California wineries for not being willing to represent their wines, but he claims the decision was necessary because (1) he did not have room in his small shop, (2) he wanted to select only the best bottlings from each winery and they insisted he purchase the entire line, and (3) he felt that the great majority of California wines had no character, personality or finesse.

Lynch claims that his fanatical dedication to wine quality was also an outgrowth of his respect and admiration for restaurateur Alice Waters of Chez Panisse, who now is a regular buyer of Lynch's burgundy, rhône and provence wines for her famous restaurant in Berkeley.

Lynch remembers visiting Waters one day and seeing her throw 100 heads of lettuce into the garbage because they were "not quite fresh enough." Lynch is known to pay an extra premium for special lots of wine from growers in France to get only the wine made from old vines or from special hillside vineyards. Like Waters, he spares no expense in trying to deliver a product in its most dramatic and natural form.

Lynch's fame and expertise has spread throughout America. His top wines, ones he used to have to beg clients to try, are now on strict allocation.

Six months ago he went national and his wines are now represented throughout the country by Chalone Imports, a national importer based in San Francisco.

Even if you can not get a bottle of Lynch's most exquisite rhône or burgundy wine, you can get on his mailing list to receive his free, well-written, often-poetic wine newsletter (write to Kermit Lynch, Wine Merchant, 1605 San Pablo Ave., Berkeley, Calif. 94702).

A SALUTE TO FRANK DeRUGIERO

HON. JIM COURTER

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Monday, January 27, 1986

Mr. COURTER. Mr. Speaker, for 13 years Mr. Frank DeRugiero served as the custodian at the Morristown, N.J. Post Office wherein is located one of my district offices.

Frank's meticulous and dedicated work to the building and for its tenants earned him an outstanding reputation throughout the greater Morristown community. Constituents, my staff, and I benefitted from countless conveniences made possible by Frank. On this occasion of

● This "bullet" symbol identifies statements or insertions which are not spoken by the Member of the Senate on the floor.
Matter set in this typeface indicates words inserted or appended, rather than spoken, by the Member on the floor.

his retirement, I wish Frank all the best for the future. The following article from the Daily Record provides a testament of Frank's commitment to people. The article follows:

FORMER POSTAL EMPLOYEE TAKES ON NEW JOB AT 72

(By Joe Malinconico)

MORRISTOWN.—Most people first came to know Frank DeRugiero at his Speedwell Avenue barber ship, where they spent hours "shooting the breeze" amid the strong smell of hair tonic and warmth from an old black stove.

But after 25 years, as the rent increased along with the length of the latest hairstyles, it became difficult to pay the bills. DeRugiero closed shop to take a better-paying job as a custodian at the Post Office, where a new generation grew to know the hard-working man who manicured the building's lawn as carefully as he clipped his customers' hair.

Then 13 more years passed, and DeRugiero, now 72, could feel his age each time he bent down to a pull a weed.

"There comes a time when you have to pack it in," he said. "I just couldn't do the work anymore. They wanted me to stay on, but I felt that it wasn't right."

So last week he retired from the Post Office and replaced his janitor's overalls with the bright orange vest and cap he wears as a school crossing guard. The children who pass the corner of Mills Street and Sussex Avenue each day are getting to know the same strong voice and sincere smile that first greeted local residents in the days of the Depression when they would pay a quarter to have their hair trimmed.

Frank DeRugiero doesn't retire, he just moves on to another job.

"It's enough to give me something to do," he said, sitting in the living room of the Ralph Place home he had built in 1954 for $20,000. "It's not that strenuous of a job. And it gives me some spending money."

J. Robert Tracey, the local postmaster, describes DeRugiero as if he were a local landmark.

"Everybody knows Frank," said Tracey, who used to be a customer at his former employee's barber shop," and everybody likes him.

"He would come by on weekends to make sure if all the doors were locked and the windows were closed," he continued. "And he'd always check the boilers so we'd have heat come Monday morning."

Tracey said several other local businesses had asked the Post Office to let DeRugiero help landscape their grounds. His work also won praise from Glenn Coutts, the head of Morristown Beautiful Inc.

"The small grass plot and well-tendered flower garden in front of the Post Office makes a clear statement to the community that someone cares," Coutts wrote in a letter to Tracey.

DeRugiero is at times uncomfortable when asked about his life.

"To tell you the truth, I really don't like this," he said. "I don't like to talk about myself."

But once he drifts off into the past, DeRugiero is at ease, whether he is recalling his days fighting fires with the Civil Conservation Corps in the state of Washington or retelling the story of how he resisted a young mugger who tried to steal a canvas bag filled with $100 worth of coins of the Post Office's money.

His parents came to America from Naples and they soon settled in the former Little Italy section of town on Flager Street. He hawked newspapers on the veranda of the old Washington Hotel and remembers shouting: "Extra Extra Harding dead Coolidge inaugurated." Then there was the hot summer day he sneaked atop the ice wagon to swipe a chunk and ended falling off and getting run over.

"Yep," he paused, "those were the good old days."

He and his wife, Jo, bought their first house in 1945. ("I'll never forget, it was the day President Roosevelt died.") Nine years later they moved to their Ralph Avenue home, just a few blocks from the corner where DeRugiero crosses school children each weekday morning and afternoon.

"I don't know how long I'm going to stay in this job," he says. "I do know it can get cold out there."

PERSONAL EXPLANATION

HON. TOM LEWIS

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Monday, January 27, 1986

Mr. LEWIS of Florida. Mr. Speaker, because of official business, I was unavoidably absent during the rollcall Nos. 2, 5, 6, 7, and 8. Had I been present, I would have voted as follows: No. 2: "aye"; No. 5: "nay"; No. 6: "aye"; No. 7: "aye"; No. 8: "aye."

AUTO SEATBELTS RATED SAFER THAN AIRBAGS

HON. BOB CARR

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Monday, January 27, 1986

Mr. CARR. Mr. Speaker, with the current high level of interest throughout the country in mandatory seatbelt use laws, I think our colleagues will be interested in the following article from the November 19, Detroit News:

AUTO SEAT BELTS RATED SAFER THAN AIR BAGS

(By John E. Peterson)

WASHINGTON.—Laws requiring motorists to use the lap-and-shoulder belts already on new cars are the fastest, most effective way of reducing the nation's traffic death toll, according to a report by a group of leading scientists.

The report, released by the American Council on Science and Health, said an analysis of crash data compiled by the National Highway Traffic Safety Administration (NHTSA) showed the lap/belt combination to be 5.5 times more effective in preventing deaths and 2.4 times more effective in preventing injuries than air bags.

The council is made up of more than 100 scientific scholars from such prestigious universities as Harvard, Yale, Minnesota, UCLA, Chicago, Wisconsin, Southern California, Vanderbilt, California at Berkeley and Stanford. The council's advisory board includes four Michigan State University faculty members.

"The evidence to date suggests that air bags will not be as effective as first claimed," said the report, which was authored by council research associate Sharon Campbell.

The report said consumers should be able to purchase air bags as options, but it said they should not be made mandatory equipment on American automobiles because of their current initial costs, replacement costs and doubts about their long-term reliability. Both Ford and Mercedes-Benz will be offering air bags on 1986 models.

While cost estimates for the initial purchase of full-frontal air bag systems ranged from $575 to $828, the report said Mercedes-Benz charged nearly $900 for a driver-side only air bag in 1984. The bags must be replaced after every deployment, the report said, and replacement costs will be two and one-half to three times the initial installation cost, "and thus could be as much as $2,700 per collision. Insurance companies will pick up the tab, so premiums are clearly likely to rise."

The report noted that manually operated seat belts "currently cost only $60 to install and, if they do require replacement . . . will cost only around $75."

The council said results of mandatory belt laws "are encouraging," noting that compliance jumped to 96 percent from 20 percent in France, to 37 percent from 17 percent in Belgium and to 95 percent from 40 percent in Britain after those countries required front-seat occupants to buckle up.

"Proper consistent use of manual belt systems would save some 12,000 lives each year and greatly reduce the injury toll as well," the report concluded.

EASTER SEAL SOCIETY OF ALAMEDA HONORS CLARENCE J. WOODARD

HON. RONALD V. DELLUMS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, January 27, 1986

Mr. DELLUMS. Mr. Speaker, on January 29, 1986, the Easter Seal Society of Alameda County will hold a testimonial dinner in honor of Clarence J. Woodard. On this occasion, Mr. Woodard will be awarded the "Humanitarian of the Year" award in recognition of his outstanding service to the society and his prodigious contributions of time, talent, and concern on behalf of those less fortunate than himself in the bay area community.

Mr. Woodard is president of Woodard Industries, Inc., and is former chairman of the board of the Rucker Co. He has been active in numerous community activities, including serving on the board of directors of the Jonas Salk Medical Institute and service on the boards of the Boys Clubs of America, the United Way of the Bay Area, the Museum of Modern Art in San Francisco, CA, and many others. He is chairman of the California Foundation for the Retarded, and serves on the board of regents of the distinguished John F. Kennedy University in Orinda, CA.

Among Mr. Woodard's endowments are the chair of mechanical engineering at Stanford University, the Patricia R. Woodard distinguished lecture series on cancer at the St. Francis Memorial Hospital, San Francisco, and the intensive care unit of the Children's Hospital Medical Center in Oakland, CA.

I am very pleased to join the Easter Seal Society of Alameda County in honoring this

distinguished humanitarian, and wish to share with my colleagues in the Congress this very sincere commendation.

COMMUNITY MOBILIZATION FOR SMOKING CESSATION PROJECT

HON. GEORGE MILLER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, January 27, 1986

Mr. MILLER of California. Mr. Speaker, I am pleased to call to the attention of the House of Representatives the National Cancer Institute's [NCI] "Community Mobilization for Smoking Cessation Project." NCI should be applauded for both its research focus and community approach to smoking prevention and cessation in the general population.

NCI has distinguished itself among the National Institute of Health by introduction of research initiatives in black and Hispanic populations where there eixsts a higher incidence of smoking. These large-scale community based smoking prevention and cessation efforts are major stepping stones toward NCI's goal of 50 percent reduction in the cancer rate, and the Surgeon General's goal of wiping out smoking by the year 2000.

Richmond, CA., a city I am privileged to represent, has been chosen as one of the model research sites. Having witnessed the community effort prior to the actual funding, I am delighted to have aid in securing this recognition. The Richmond community's preliminary activities brought together smokers, nonsmokers, public and private sector representatives alike to work on this public health concern.

NCI has now provided the vehicle to assist their efforts and validate their effectiveness with a $2 million grant.

Mr. Speaker, I am honored and privileged that the Seventh Congressional District has become one of the beneficiaries of this partnership. The results will help reduce the increased incidences of cancer, of related illnesses, and of the needless deaths which accompanies smoking. The efforts of our citizens, together with NCI, will serve as a model for other communities which want to provide similar services to their residents.

I also want to call attention to the four leaders of one Richmond project who have come to Washington this week to inaugurate the anti-smoking effort: Enid Hunkeler, project director, Bess Anderson-McNeal, community participation coordinator, Dr. Leonard Syme, principal investigator, and Larry Hill, project coordinator.

A SALUTE TO EDIE HUGGINS

HON. WILLIAM H. GRAY III

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Monday, January 27, 1986

Mr. GRAY of Pennsylvania. Mr. Speaker, I would like to bring to the attention of my colleagues in the U.S. House of Representatives an extraordinary journalist, community leader, and actress—Ms. Edie Huggins.

Ms. Huggins has been a member of Philadelphia's Channel 10 family since January 1966. From her beginning as a featured news reporter on the "Big News Team with John Facenda" to 1971, she anchored and coanchored the news, interviewed scores of personalities and newsmakers, reported countless news stories, and presented memorable investigative series on a variety of subjects.

In addition to her news reporting duties, Ms. Huggins cohosted "What's Happening," a midday news and conversation program from 1972 to 1974; She also hosted "Morningside," a magazine show which featured interviews with politicians and famous people from all fields as well as featured segments on health, homemaking, finance, and entertainment, from 1974 to 1976.

In 1981, Edie Huggins was named to the position of director of community affairs. In that position, she served as station liaison with community groups and civic leaders, organized a speakers bureau, and facilitated meetings between station representatives and community groups.

Presently, Ms. Huggins is hostess and producer for "Horizons," a 1-hour theme program focusing on people and issues in the various communities of Delaware Valley. Topics covered on the broadcast have ranged from education to entertainment—from black history to art history—from prison systems to problems that plague pension programs.

Ms. Huggins also presents a weekly special report called "Talk Back To Ten," which airs during Channel 10 News "Live at Five" broadcast. The segment consists of airing viewers' comments, complaints, and commendations about the station's news broadcasts. She continues to represent the station at various civic, community, and service groups throughout the Delaware Valley.

Ms. Huggins is listed in "Who's Who in America," and has received numerous awards. She was selected Woman of Valor by the Philadelphia Adult Trainee Center for handicapped children; named Woman of the Year by the Philadelphia chapter of the Order of the Eastern Star, and also received the Young Achiever's Award and the Golden Slipper Award.

Additionally, Huggins was named Woman of the Year by the Links, a national organization of black women. She received the Philadelphia Tribune Charities Community Service Award, and a citation from Pennsylvania's former Governor Milton Shapp "for meritorious service to the citizens of the Commonwealth," as well as being selected a Philadelphia Super Achiever by the Juvenile Diabetes Foundation for "outstanding talent, creativity, and accomplishments."

More recently, she was named Woman of the Year by the Philadelphia Neighborhood Crusade, Inc. Ms. Huggins is on the board of directors for the Philadelphia Center for Older People and is an active member of the Association of Black Journalists and Sigma Delta Chi, a professional Journalism organization.

A woman of varied talents and a great many interests, Ms. Huggins did not enter television through any of the usual routes. At the time of her first television appearance, her "acting" was limited to the job of spokeswoman at the International Auto Show, an outgrowth of her part-time work as a model. Her full-time career was as a registered nurse. While working at both Bellevue and Flower-Fifth Avenue Hospitals in New York, she made national headlines by doubling as union actress and unofficial technical consultant for NBC's "The Doctor." She has also appeared on the network daytime serials, "The Edge of Night" and "Love of Life."

Ms. Huggins is a cum laude graduate with a bachelor of science degree in nursing education from New York State University. She is a mother of two children and resides in Bala Cynwyd, PA.

DAVID S. SPERBER

HON. HENRY A. WAXMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, January 27, 1986

Mr. WAXMAN. Mr. Speaker, on March 2, 1986, David S. Sperber will be honored as "Man of the Year" by Chabad of the Valley for his outstanding contributions to the community.

David Sperber, a well-known attorney in southern California and former deputy attorney general of the State of California, has devoted much of his time to a multitude of civic and humanitarian causes. Among his affiliations are membership to the Lawyers Club, Los Angeles County Bar Association, San Fernando Valley Criminal Bar Association, Federal Criminal Indigent Defense Panel, Los Angeles Trial Lawyers Association, and California trial Lawyers Association.

Mr. Sperber's community activities include participation in the Junior Barristers Parble Aid Program; president of the Board of Trustees of Hear Center; member of the Board of Trustees Hillel Hebrew Academy; associate chairman of the United Jewish Welfare Fund (metropolitan division); member of the City Attorney's Criminal Procedure Committee; cochairman of the Chabad Bar Mitzvah Celebration; chairman of the Legal Committee, Yeshiva University Holocaust Center.

Of Mr. Sperber's many philanthropic and civic activities, the one which has received the lion's share of his attention has been Chabad of the Valley. This organization is the San Fernando Valley branch of the worldwide Lubavitcher movement which is under the leadership of the renowned Lubavitcher Rebbe Menachem Mendel Schneerson. The work of Chabad ranges from elementary Jewish education to senior citizen activities. Chabad of the Valley maintains four synagogues, a counseling service, and an extensive outreach program to bring the moral and spiritual values of Judaism to the unaffiliated.

David S. Sperber reflects in his character and community activities the values manifest in the Hebrew acronym which ChaBaD spells—chochma (wisdom), binah (knowledge), and daas (understanding).

I ask the Members to join me in congratulating David S. Sperber, his wife Jeanine Rosemarie, and children, Toby, Elliot, Joshua, and Mara on this special occasion. May the years ahead continue to be filled with happy and meaningful experiences and pursuits.

OAKLAND TECHNICAL HIGH SCHOOL REMEMBERS DR. KING

HON. RONALD V. DELLUMS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, January 27, 1986

Mr. DELLUMS. Mr. Speaker, it gives me a great deal of pleasure to share with my colleagues an accomplishment of students at one of America's fine public schools. The school is Oakland Technical High School, and it is the school of which I am an allumni. A group of senior students from Oakland Tech's class of 1985, in a single advanced placement American Government class took on a historical preservation thrust that started in their own front yard.

Through lobbying knowhow gained from the exploits of Tech's class of 1981, whose primary efforts created California's "Dr. Martin Luther King, Jr., Holiday." These determined students set about gaining landmark status for their school.

At this reading Tech High, whose classic bronze doors were first opened for students in 1915, has been designated as a city of Oakland landmark. This first recognization of their school went along with the students 47 page application to their State historical preservation commission to make Tech both a State landmark and to have it listed in the U.S. Department of the Interior National Register of Historical Places.

The positive impact of the public schools has reached into every community in America. Through the efforts of these preservation oriented students we can anticipate a groundswell of national proportions to designate, in each of our congressional districts, schools and earlier school sites as local/State National landmarks. This is being done by student historical preservation groups in coalition with their own local teachers association. That alliance between students and teachers is being promoted through policy actions started by the Oakland Education Association and expanded upon nationwide by the National Education association at it's annual convention last July in Washington, DC.

The inscription on the face of the California Grey Granite Landmark Monument—that has been sponsored by communtiy, allumni, and Student groups which will be unveiled on "Landmark Dedication Day": February 22, 1986, will read:

When we, with practiced eye, preserve a shining example by the hands and from the souls of an earlier time, we create additional luster in the lives of the yet unborn—Student Landmark Committee

I know that you share in my commendation of these fine young people that personify, so much of what each of us look for in our hopes for America's tomorrow.

SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee—of the time, place, and purpose of the meetings, when scheduled, and any cancellations or changes in the meetings as they occur.

As an additional procedure along with the computerization of this information, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Any changes in committee scheduling will be indicated by placement of an asterisk to the left of the name of the unit conducting such meeting.

Meetings scheduled for Tuesday, January 28, 1986, may be found in the Daily Digest of today's RECORD.

MEETINGS SCHEDULED

JANUARY 29

9:00 a.m.
Armed Services
Closed briefing on worldwide intelligence.
S-407, Capitol

9:30 a.m.
Finance
To hold hearings on H.R. 3838, proposed Tax Reform Act of 1986.
SD-215

Select on Intelligence
To hold closed hearings on intelligence matters.
SH-219

10:00 a.m.
Energy and Natural Resources
Business meeting, to consider committee budget request for 1986, and to resume consideration of S. 1192 and H.R. 3113, bills to coordinate the operation of the Central Valley project with the State water project in California, and S. 1171, to authorize additional funds for assistance to non-Federal organizations for developing reclamation projects.
SD-366

Joint Economic
To hold hearings in preparation of its forthcoming annual report, focusing on the economic outlook for 1986.
2318 Rayburn Building

3:00 p.m.
Conferees
On H.R. 7, to extend and improve the National School Lunch Act and the Child Nutrition Act of 1966.
2175 Rayburn Building

JANUARY 30

8:30 a.m.
Special on Aging
Business meeting, to consider committee budget request for 1986, and to discuss the committee's agenda for the second session of the 99th Congress.
SR-385

9:00 a.m.
Finance
Business meeting, to consider committee budget request for 1986.
SD-215

Veterans' Affairs
To resume hearings on the reported sightings of live military personnel missing in action.
SD-192

9:30 a.m.
Energy and Natural Resources
Public Lands, Reserved Water and Resource Conservation Subcommittee
To hold hearings on S.J. Res. 221 and H.J. Res. 382, measures to permit the continued use of Sequoia National Park, California, lands for the Kaweah Project of Southern California Edison Company, and H.R. 3851, to extend the statute of limitations on challenges to the Bureau of Land Management's determination of nonnavigability of submerged lands in Alaska.
SD-366

Finance
To continue hearings on H.R. 3838, proposed Tax Reform Act of 1986
SD-215

10:00 a.m.
Agriculture, Nutrition, and Forestry
To hold oversight hearings on the Farmers Homes Administration loan servicing regulations and on a General Accounting Office report on FmHA's farm loan portfolio.
SR-328A

Environment and Public Works
To hold hearings on the nomination of J. Craig Potter, of Virginia, to be an Assistant Administrator of the Environmental Protection Agency.
SD-406

Foreign Relations
To hold closed hearings to review U.S. policy towards Angola.
SD-419

Judiciary
Business meeting, to consider pending calendar business.
SD-226

10:30 a.m.
Armed Services
Strategic and Theater Nuclear Forces Subcommittee
To hold hearings on anti-tactical ballistic missile (ATBM) defenses.
SR-253

4:00 p.m.
Select on Intelligence
To hold a closed briefing on intelligence matters.
SH-219

JANUARY 31

9:30 a.m.
Finance
Taxation and Debt Management Subcommittee
To hold hearings on S. 1959, to clarify the tax treatment of certain mortgage related securities, and to authorize the ownership of certain mortgage loans in multiple class arrangements, S. 1978, to clarify the taxation of certain asset backed securities in multiple class arrangements, and S. 1839, to provide that certain deductions and credits not be allowed for expenditures within an environmental zone.
SD-215

10:00 a.m.
Labor and Human Resources
To hold hearings on the nomination of Lois Shepard, of Maryland, to be Director of the Institute of Museum Services.
SD-430

FEBRUARY 3

9:30 a.m.
Commerce, Science, and Transportation
Aviation Subcommittee
To hold oversight hearings on the impact of debt ceiling legislation on aviation funding and safety.
SR-253

2:30 p.m.
Rules and Administration
To hold hearings on Senate committee resolutions requesting funds for operating expenses for 1986.
SR-301

FEBRUARY 4

9:00 a.m.
Finance
To hold hearings on the nomination of Michael A. Samuels, of the District of Columbia, to be a Deputy United States Trade Representative, with the rank of Ambassador.
SD-215

9:30 a.m.
Armed Services
To hold hearings on U.S. military posture in review of the fiscal year 1987 Department of Defense military authorization request.
SR-325

Finance
To resume hearings on H.R. 3838, proposed Tax Reform Act of 1986.
SD-215

Labor and Human Resources
Handicapped Subcommittee
To hold hearings on proposed legislation authorizing funds for education of the handicapped, focusing on discretionary programs.
SD-430

9:50 a.m.
Rules and Administration
To hold hearings on Senate committee resolutions requesting funds for operating expenses for 1986.
SR-301

FEBRUARY 5

9:30 a.m.
Finance
To continue hearings on H.R. 3838, proposed Tax Reform Act of 1986.
SD-215

Rules and Administration
To continue hearings on Senate committee resolutions requesting funds for operating expenses for 1986.
SR-301

Select on Intelligence
To hold closed hearings on intelligence matters.
SH-219

10:00 a.m.
Energy and Natural Resources
To hold oversight hearings to review those programs which fall within the jurisdiction of the committee as contained in the President's proposed budget for fiscal year 1987, focusing on the Department of the Interior.
SD-366

Labor and Human Resources
Aging Subcommittee
To hold hearings on the 3% set aside for older workers in the Job Training Partnership Act.
SD-430

Joint Economic
To resume hearings in preparation of its forthcoming annual report, focusing on the economic outlook for 1986.
Room to be announced

1:30 p.m.
Energy and Natural Resources
To continue oversight hearings to review those programs which fall within the jurisdiction of the committee as contained in the President's proposed budget for fiscal year 1987, focusing on Forest Service programs of the Department of Agriculture.
SD-366

FEBRUARY 6

9:30 a.m.
Commerce, Science, and Transportation
Aviation Subcommittee
To hold hearings on S. 1966, to provide for efficient and equitable use of operating rights at certain congested airports.
SR-253

Finance
To continue hearings on H.R. 3838, proposed Tax Reform Act of 1986.
SD-215

Small Business
To hold hearings on the impact of tax reform and simplification proposals on small business.
SR-428A

10:00 a.m.
Energy and Natural Resources
To continue oversight hearings to review those programs which fall within the jurisdiction of the committee as contained in the President's proposed budget for fiscal year 1987, focusing on the Federal Energy Regulatory Commission.
SD-366

Labor and Human Resources
Children, Family, Drugs, and Alcoholism Subcommittee
To hold hearings on proposed legislation authorizing funds for ACTION.
SD-430

1:00 p.m.
Energy and Natural Resources
To continue oversight hearings to review those programs which fall within the jurisdiction of the committee as contained in the President's proposed budget for fiscal year 1987, focusing on the Department of Energy.
SD-366

4:00 p.m.
Select on Intelligence
To hold a closed briefing on intelligence matters.
SH-219

FEBRUARY 7

9:30 a.m.
Joint Economic
To hold hearings on the employment/unemployment situation for January.
Room to be announced

FEBRUARY 18

10:00 a.m.
Appropriations
HUD-Independent Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1987 for the American Battle Monuments Commission, Army cemeterial expenses, Office of Consumer Affairs (Department of Commerce), Consumer Information Center, and the Consumer Product Safety Commission.
SD-124

Energy and Natural Resources
To hold hearings on the nomination of Jed Dean Christensen, of Virginia, to be Director of the Office of Surface Mining Reclamation and Enforcement.
SD-366

Select on Indian Affairs
To hold hearings on those programs which fall within the jurisdiction of the committee as contained in the President's budget requests for fiscal year 1987.
SD-628

FEBRUARY 19

9:30 a.m.
Select on Intelligence
To hold closed hearings on proposed legislation authorizing funds for fiscal year 1987 for the intelligence community.
SH-219

10:00 a.m.
Appropriations
Transportation and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1987 for the Department of Transportation.
SD-138

Labor and Human Resources
Employment and Productivity Subcommittee
To hold hearings on S. 1990, to establish an Education and Training Partnership to administer the Job Training Partnership Act, the Wagner-Peyser Act, and the Carl D. Perkins Vocational Education Act.
SD-430

FEBRUARY 20

10:00 a.m.
Appropriations
HUD-Independent Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1987 for the Council on Environmental Quality, Selective Service System, Federal Home Loan Bank Board, Neighborhood Reinvestment Corporation, and the National Institute of Building Sciences.
SD-124

Labor and Human Resources
Children, Family, Drugs, and Alcoholism Subcommittee
To hold hearings on proposed legislation authorizing funds for the National Institute on Drug Abuse and the National Institute on Alcohol Abuse and Alcoholism.
SD-430

4:00 p.m.
Select on Intelligence
To continue closed hearings on proposed legislation authorizing funds for fiscal year 1987 for the intelligence community.
SH-219

FEBRUARY 21

9:30 a.m.
Finance
Health Subcommittee
To hold hearings to review hospital income under the Medicare prospective payment system.
SD-215

Labor and Human Resources
Handicapped Subcommittee
To resume hearings on proposed legislation authorizing funds for education of the handicapped, focusing on discretionary programs.
SD-430

FEBRUARY 24

10:00 a.m.
Energy and Natural Resources
Energy Research and Development Subcommittee
To hold hearings on S. 1686, to implement a research program regarding specified aspects of fuel cell technology, and S. 1687, to develop a national policy for the utilization of fuel cell technology.
SD-366

FEBRUARY 25

9:00 a.m.
Labor and Human Resources
Employment and Productivity Subcommittee
To resume hearings on S. 1990, to establish an Education and Training Partnership to administer the Job Training Partnership Act, the Wagner-Peyser Act, and the Carl D. Perkins Vocational Education Act.
SD-430

10:00 a.m.
Appropriations
HUD-Independent Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1987 for the National Credit Union Administration, Office of Revenue Sharing (Department of the Treasury), and the Office of Science and Technology Policy.
SD-124

Appropriations
Labor, Health and Human Services, Education, and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1987 for the Office of the Secretary of Labor and the Employment and Training Administration, Department of Labor.
SD-116

Energy and Natural Resources
Closed business meeting, to consider pending calendar business.
SD-366

FEBRUARY 26

9:30 a.m.
Appropriations
Labor, Health and Human Services, Education, and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1987 for the Labor-Management Services Administration, Employment Standards Administration, the Bureau of Labor Statistics, all of the Department of Labor, and the Pension Benefit Guaranty Corporation.
SD-116

Select on Intelligence
To resume closed hearings on proposed legislation authorizing funds for fiscal year 1987 for the intelligence community.
SH-219

10:00 a.m.
Appropriations
Transportation and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1987 for the Research and Special Programs Administration and the Office of Inspector General, Department of Transportation.
SD-138

Energy and Natural Resources
Business meeting, to consider pending calendar business.
SD-366

FEBRUARY 27

9:30 a.m.
Appropriations
Labor, Health and Human Services, Education, and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1987 for Departmental Management, Occupational Safety and Health Administration, and the Mine Safety and Health Administration, all of the Department of Labor.
SD-116

10:00 a.m.
Energy and Natural Resources
To hold closed hearings on the status of Micronesia.
SH-219

Labor and Human Resources
Children, Family, Drugs, and Alcoholism Subcommittee
To hold hearings on proposed legislation authorizing funds for Head Start.
SD-430

4:00 p.m.
Select on Intelligence
To continue closed hearings on proposed legislation authorizing funds for fiscal year 1987 for the intelligence community.
SH-219

MARCH 4

9:30 a.m.
Appropriations
Labor, Health and Human Services, Education, and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1987 for the Office of the Secretary of Health and Human Services.
SD-116

MARCH 5

9:30 a.m.
Appropriations
Labor, Health and Human Services, Education, and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1987 for the National Institutes of Health, Department of Health and Human Services.
SD-116

Select on Intelligence
To resume closed hearings on proposed legislation authorizing funds for fiscal year 1987 for the intelligence community.
SH-219

10:00 a.m.
Appropriations
HUD-Independent Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1987 for the National Science Foundation, and the Federal Emergency Management Agency.
SD-124

Appropriations
Transportation and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1987 for the Federal Highway Administration and the National Highway Traffic Safety Administration, Department of Transportation.
SD-138

*Governmental Affairs
Governmental Efficiency and the District of Columbia Subcommittee
To hold oversight hearings on the District of Columbia courts.
SD-342

MARCH 6

9:30 a.m.
Appropriations
Labor, Health, and Human Services, Education, and Related Agencies Subcommittee
To continue hearings on proposed budget estimates for fiscal year 1987 for the National Institutes of Health, Department of Health and Human Services.
SD-116

4:00 p.m.
Select on Intelligence
To continue closed hearings on proposed legislation authorizing funds for fiscal year 1987 for the intelligence community.
SH-219

MARCH 11

9:00 a.m.
Labor and Human Resources
Employment and Productivity Subcommittee
To hold hearings on proposed legislation authorizing funds for job training programs.
SD-430

9:30 a.m.
Appropriations
Labor, Health, and Human Services, Education, and Related Agencies Subcommittee
To resume hearings on proposed budget estimates for fiscal year 1987 for the National Institutes of Health, Department of Health and Human Services.
SD-116

MARCH 12

9:30 a.m.
Appropriations
Labor, Health, and Human Services, Education, and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1987 for the Health Resources and Services Administration and Office of the Assistant Secretary for Health, both of the Department of Health and Human Services.
SD-116

Select on Intelligence
To resume closed hearings on proposed legislation authorizing funds for fiscal year 1987 for the intelligence community.
SH-219

10:00 a.m.
Appropriations
HUD-Independent Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1987 for the Environmental Protection Agency.
SD-124

Appropriations
Transportation and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1987 for the St.

Lawrence Seaway Development Corporation, Department of Transportation, and the Panama Canal Commission.
SD-138

MARCH 13

9:00 a.m.
Labor and Human Resources
Employment and Productivity Subcommittee
To resume hearings on proposed legislation authorizing funds for job training programs.
SD-430

9:30 a.m.
Appropriations
Labor, Health and Human Services, Education, and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1987 for the Centers for Disease Control, Alcohol, Drug Abuse and Mental Health Administration, Office of Inspector General, and Office of Civil Rights, all of the Department of Health and Human Services.
SD-116

4:00 p.m.
Select on Intelligence
To continue closed hearings on proposed legislation authorizing funds for fiscal year 1987 for the intelligence community.
SH-219

MARCH 18

9:30 a.m.
Appropriations
Labor, Health and Human Services, Education, and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1987 for the Health Care Financing Administration, Social Security Administration, Office of Child Support Enforcement, and refugee programs, all of the Department of Health and Human Services.
SD-116

MARCH 19

9:30 a.m.
Appropriations
Labor, Health and Human Services, Education, and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1987 for Human Development Services, Office of Community Services, Departmental Management (salaries and expenses), and Policy Research, all of the Department of Health and Human Services.
SD-116

Select on Intelligence
To resume closed hearings on proposed legislation authorizing funds for fiscal year 1987 for the intelligence community.
SH-219

10:00 a.m.
Appropriations
HUD-Independent Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1987 for the Veterans Administration.
SD-124

Appropriations
Transportation and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1987 for the National Transportation Safety Board, Department of Transportation, and the Architectural and Transportation Barriers Compliance Board.
SD-138

MARCH 20

9:30 a.m.
Labor and Human Resources
Handicapped Subcommittee
To hold hearings on proposed legislation authorizing funds for rehabilitation programs.
SD-430

4:00 p.m.
Select on Intelligence
To continue closed hearings on proposed legislation authorizing funds for fiscal year 1987 for the intelligence community.
SH-219

MARCH 25

9:30 a.m.
Labor and Human Resources
Handicapped Subcommittee
To resume hearings on proposed legislation authorizing funds for rehabilitation programs.
SD-430

MARCH 26

10:00 a.m.
Appropriations
Transportation and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1987 for Interstate Commerce Commission and the Office of the Secretary of Transportation.
SD-138

APRIL 9

9:30 a.m.
Appropriations
Labor, Health and Human Services, Education, and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1987 for the Office of the Secretary of Education, Departmental Management (salaries and expenses), Office for Civil Rights, and Office of Inspector General, all of the Department of Education.
SD-116

10:00 a.m.
Appropriations
HUD-Independent Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1986 for the Department of Housing and Urban Development.
SD-124

Appropriations
Transportation and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1987 for the Federal Railroad Administration, Department of Transportation, and the National Railroad Passenger Corporation (AMTRAK).
SD-138

APRIL 10

9:30 a.m.
Appropriations
Labor, Health and Human Services, Education, and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1987 for the Department of Education, including elementary and secondary education, education block grants, and impact aid.
SD-116

APRIL 15

9:30 a.m.
Appropriations
Labor, Health and Human Services, Education, and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1987 for the Department of Education, including education for the handicapped, rehabilitation services and handicapped research, and special institutions (including Howard University).
SD-116

APRIL 16

9:30 a.m.
Appropriations
Labor, Health and Human Services, Education, and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1987 for the Department of Education, including student financial assistance, guaranteed student loans, higher and continuing education, higher education facilities loans and insurance, college housing loans, and educational research and training.
SD-116

10:00 a.m.
Appropriations
HUD-Independent Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1987 for the National Aeronautics and Space Administration.
SD-124

Appropriations
Transportation and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1987 for the U.S. Coast Guard, Department of Transportation.
SD-138

APRIL 17

9:30 a.m.
Appropriations
Labor, Health and Human Services, Education, and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1987 for the Department of Education, including bilingual education, vocational and adult education, education statistics, libraries, and the National Institute of Education.
SD-116

APRIL 22

9:30 a.m.
Appropriations
Labor, Health and Human Services, Education, and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1987 for the Soldiers' and Airmen's Home, Prospective Payment Commission, Railroad Retirement Board, National Labor Relations Board, National Mediation Board, Occupational Safety and Health Review Commission, Federal Mediation and Conciliation Service, and the United States Institute of Peace.
SD-116

APRIL 23

9:30 a.m.
Appropriations
Labor, Health and Human Services, Education, and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1987 for ACTION (domestic programs), Corporation for Public Broadcasting, National Council on the Handicapped, Mine Safety and Health Review Commission, National Commission on Libraries and Information Science, and National Center for the Study of Afro-American History and Culture.
SD-116

10:00 a.m.
Appropriations
Transportation and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1987 for the United States Railway Association and Conrail.
SD-138

APRIL 24

9:30 a.m.
Appropriations
Labor, Health and Human Services, Education, and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1987 for the Departments of Labor, Health and Human Services, and Education, and certain related agencies.
SD-116

APRIL 29

9:30 a.m.
Appropriations
Labor, Health and Human Services, Education, and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1987 for the Departments of Labor, Health and Human Services, and Education, and certain related agencies.
SD-116

10:00 a.m.
Appropriations
HUD-Independent Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1987 for the Department of Housing and Urban Development and certain independent agencies.
SD-124

APRIL 30

10:00 a.m.
Appropriations
HUD-Independent Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1987 for the Department of Housing and Urban Development and certain independent agencies.
SD-124

Appropriations
Transportation and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1987 for the Federal Aviation Administration, Department of Transportation.
SD-138

MAY 1

9:30 a.m.
Appropriations
Labor, Health and Human Services, Education, and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1987 for the Departments of Labor, Health and Human Services, and Education, and certain related agencies.
SD-116

MAY 6

9:30 a.m.
Appropriations
Labor, Health and Human Services, Education, and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1987 for the Departments of Labor, Health and Human Services, and Education, and certain related agencies.
SD-116

MAY 7

10:00 a.m.
Appropriations
Transportation and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1987 for the Urban Mass Transportation Administration, Department of Transportation, and the Washington Metropolitan Area Transit Authority.
SD-138

MAY 8

9:30 a.m.
Appropriations
Labor, Health and Human Services, Education, and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1987 for the Departments of Labor, Health and Human Services, and Education, and certain related agencies.
SD-116

MAY 13

9:30 a.m.
Appropriations
Labor, Health and Human Services, Education, and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1987 for the Departments of Labor, Health and Human Services, and Education, and certain related agencies.
SD-116

MAY 14

10:00 a.m.
Appropriations
Transportation and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1987 for the Department of Transportation and certain related agencies.
SD-138

MAY 15

9:30 a.m.
Appropriations
Labor, Health and Human Services, Education, and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1987 for the Department of Labor, Health and Human Services, and Education, and certain related agencies.
SD-116

CANCELLATIONS

JANUARY 29

2:00 p.m.
Judiciary
To hold hearings on pending nominations.
SD-226

HOUSE OF REPRESENTATIVES—*Tuesday, January 28, 1986*

The House met at 12 o'clock noon.

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

We ask Your blessing, Almighty God, upon those women and men who respond to the call to public service. Help them to see in their work the opportunity for serving people in ways that promote peace between the nations and encourage freedom and justice for all. In areas where truth is not apparent, give them insight and wisdom to discern the way of righteousness that in all things, we may seek justice, love, mercy, and ever walk humbly with You.

At this moment, O God, let us remember in a moment of silent prayer those who were involved in the space shuttle accident just a few minutes ago off Florida. [Pause.] May Your Spirit be with them and may Your love follow them and their families this day and every day. This we pray. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

RECESS

The SPEAKER. Pursuant to the order of the House of Tuesday, January 21, 1986, the House will be in recess until the hour of 2 o'clock.

Accordingly (at 12 o'clock and 1 minute p.m.), the House stood in recess until 2 o'clock.

□ 1400

AFTER RECESS

The recess having expired, the House was called to order by the Speaker at 2 o'clock and 2 minutes p.m.

RECESS

The SPEAKER. Pursuant to the order of the House of Tuesday, January 21, 1986, the House will continue in recess until 2:15 p.m., and bells will be rung at that time.

Accordingly (at 2 o'clock and 3 minutes p.m.), the House stood in recess until 2:15 p.m.

□ 1415

AFTER RECESS

The recess having expired, the House was called to order by the Speaker at 2 o'clock and 15 minutes p.m.

COMMUNICATION FROM THE CLERK OF THE HOUSE

The SPEAKER laid before the House the following message from the Clerk of the House of Representatives:

WASHINGTON, DC,
January 27, 1986.

Hon. THOMAS P. O'NEILL, Jr.,
The Speaker, House of Representatives, Washington, DC.

DEAR MR. SPEAKER: Pursuant to the permission granted in Clause 5, Rule III of the Rules of the U.S. House of Representatives, I have the honor to transmit a sealed envelope received from the White House at 3:35 p.m. on Monday, January 27, 1986 and said to contain a message from the President whereby he transmits the Fifteenth Annual Report on Hazardous Materials Transportation for Calendar Year 1984.

With kind regards, I am,

Sincerely,

BENJAMIN J. GUTHRIE,
Clerk, House of Representatives.

FIFTEENTH ANNUAL REPORT ON HAZARDOUS MATERIALS TRANSPORTATION FOR CALENDAR YEAR 1984—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES

The SPEAKER laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, referred to the Committee on Energy and Commerce, the Committee on Public Works and Transportation, and the Committee on Merchant Marine and Fisheries:

(For message, see proceedings of the Senate of Monday, January 27, 1986, page 560.)

BILLS AND JOINT RESOLUTIONS APPROVED AFTER SINE DIE ADJOURNMENT

The President, subsequent to the sine die adjournment of the Congress, notified the Clerk of the House that on the following dates he had approved and signed bills and joint resolutions of the House of the following titles:

On December 17, 1985:

H.J. Res. 491. Joint resolution making further continuing appropriations for fiscal year 1986.

On December 18, 1985:

H.J. Res. 485. Joint resolution waiving the printing on parchment of enrolled bills and joint resolutions during the remainder of the 1st session of the 99th Congress; and

H.R. 3981. An act to extend until December 19, 1985, the application of certain tobacco excise taxes, trade adjustment assistance, certain medicare reimbursement provisions, and borrowing authority under the railroad unemployment insurance program.

On December 19, 1985:

H.J. Res. 424. Joint resolution to designate the year of 1986 as the "Year of the Flag";

H.J. Res. 465. Joint resolution making further continuing appropriations for the fiscal year 1986, and for other purposes;

H.R. 1789. An act relating to the authorization of appropriations for certain components of the National Wildlife Refuge System; and

H.R. 3735. An act to designate the pedestrian walkway crossing the Potomac River at Harpers Ferry National Historical Park as the "Goodloe E. Byron Memorial Pedestrian Walkway."

On December 23, 1985:

H.J. Res. 436. Joint resolution to designate 1986 as "Save for the U.S.A. Year," and for other purposes;

H.J. Res. 450. Joint resolution to authorize and request the President to issue a proclamation designating April 20 through April 26, 1986 as "National Organ and Tissue Donor Awareness Week";

H.R. 664. An act to amend the Panama Canal Act of 1979 with respect to the payment of interest on the investment of the United States;

H.R. 729. An act to amend the Panama Canal Act of 1979 in order that claims for vessels damaged outside-the-locks may be resolved in the same manner as those vessels damaged inside the locks, and for other purposes;

H.R. 1534. An act to convert the temporary authority to allow Federal employees to work on a flexible or compressed schedule under title 5, United States Code, into permanent authority;

H.R. 1627. An act to designate certain national forest system lands in the State of Kentucky for inclusion in the National Wilderness Preservation System, to release other forest lands for multiple use management, and for other purposes;

H.R. 2100. An act to extend and revise agricultural price support and related programs, to provide for agricultural export, resource conservation, farm credit, and agricultural research and related programs, to continue food assistance to low-income persons, to ensure consumers an abundance of food and fiber at reasonable prices, and for other purposes;

H.R. 2694. An act designating the U.S. Post Office Building located at 300 Packerland Drive, Green Bay, WI, as the "John W. Byrnes Post Office and Federal Building";

H.R. 2976. An act to direct the Secretary of Agriculture to release the condition requiring that a parcel of land conveyed to New York State be used for public purposes and to convey U.S. mineral interests in the parcel to New York State;

H.R. 3085. An act to clear title to certain lands along the California-Nevada boundary; and

H.R. 4006. An act to extend until March 15, 1986, the application of certain tobacco excise taxes and certain medicare reimbursement provisions.

On December 26, 1985:

H.J. Res. 495. Joint resolution to provide for the temporary extension of certain programs relating to housing and community development, and for other purposes;

H.R. 2391. An act to authorize the Administrator of General Services to collect additional contributions of money provided to him by private individuals or organizations for the Nancy Hanks Center;

H.R. 2542. An act designating the building located at 125 South State Street, Salt Lake City, UT, as the "Wallace F. Bennett Federal Building";

H.R. 2698. An act to designate the U.S. Courthouse in Tucson, AZ, as the "James A. Walsh United States Courthouse";

H.R. 2903. An act to designate the Federal Building and United States Post Office located in Philadelphia, PA, as the "Robert N.C. Nix, Sr., Federal Building and United States Post Office";

H.R. 3003. An act to authorize the Secretary of the Interior to convey certain land located in the State of Maryland to the Maryland-National Capital Park and Planning Commission;

H.R. 3718. An act to waive the period of congressional review for certain District of Columbia acts authorizing the issuance of revenue bonds;

H.R. 3837. An act to extend the deadline for the submission of the initial set of sentencing guidelines, by the U.S. Sentencing Commission, and for other purposes; and

On December 28, 1985:

H.R. 1603. An act to amend the Securities Exchange Act of 1934 to authorize the Securities and Exchange Commission to subject banks, associations, and other entities that exercise fiduciary powers, to the same regulations as broker-dealers, pursuant to section 14(b) of the Securities Exchange Act of 1934;

H.R. 1784. An act to authorize appropriations for fiscal year 1986 for the operation and maintenance of the Panama Canal, and for other purposes;

H.R. 1890. An act to provide for an equitable waiver in the compromise and collection of Federal claims;

H.R. 2962. An act to remove certain restrictions on the availability of office space for former Speakers of the House;

H.R. 3608. An act to amend the Small Business Investment Act of 1958; and

H.R. 3974. An act to provide for temporary family housing or temporary housing allowances for dependents of members of the Armed Forces who die on or after December 12, 1985, and for other purposes.

On January 9, 1986:

H.R. 2651. An act to amend section 504 of the Alaska National Interest Lands Conservation Act to promote the development of mineral wealth in Alaska;

H.R. 3931. An act to designate the General Services Administration building known as the "United States Appraiser's Stores Building" in Boston, MA, as the "Captain John Foster Williams Coast Guard Building."

On January 13, 1986:

H.J. Res. 440. Joint resolution to designate the week of December 1, 1985, through December 7, 1985, as "National Autism Week";

H.R. 1538. An act to amend title 38, United States Code, to provide a 3.1-percent increase in the rates of disability compensation and of dependency and indemnity compensation paid by the Veterans' Administration; to make improvements in veterans' job training programs; and for other purposes.

On January 14, 1986:

H.J. Res. 187. Joint Resolution to approve the "Compact of Free Association," and for other purposes.

On January 15, 1986:

H.R. 1083. An act to amend the Low-Level Radioactive Waste Policy Act to improve procedures for the implementation of compacts providing for the establishment and operation of regional disposal facilities for low-level radioactive waste; to grant the consent of the Congress to certain interstate compacts on low-level radioactive waste; and for other purposes.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 3010, HEALTH PLANNING AMENDMENTS OF 1985

Mr. BEILENSON, from the Committee on Rules, submitted a privileged report (Rept. No. 99-465) on the resolution (H. Res. 359) providing for the consideration of the bill (H.R. 3010) to amend the Public Health Service Act to revise and extend the health planning authority under that act which was referred to the House Calendar and ordered to be printed.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 4055, PROTECTION AND ADVOCACY FOR MENTALLY ILL INDIVIDUALS

Mr. BEILENSON, from the Committee on Rules, submitted a privileged report (Rept. No. 99-466) on the resolution (H. Res. 360) providing for the consideration of the bill (H.R. 4055) to assist the States to establish and operate protection and advocacy systems for mentally ill individuals and to promote family support groups for Alzheimer's disease patients and their families, which was referred to the House Calendar and ordered to be printed.

JOINT SESSION OF CONGRESS—STATE OF THE UNION ADDRESS

Mr. WRIGHT. Mr. Speaker, I offer a privileged concurrent resolution (H. Con. Res. 274) and ask for its immediate consideration.

The Clerk read the concurrent resolution, as follows:

H. CON. RES. 274

Resolved by the House of Representatives (the Senate concurring), That, notwithstanding the provisions of H. Con. Res. 268, the two Houses of Congress assemble in the Hall of the House of Representatives on Tuesday, February 4, 1986, at 9 o'clock post meridiam, for the purpose of receiving such communication as the President of the United States shall be pleased to make to them.

The concurrent resolution was agreed to.

A motion to reconsider was laid on the table.

AUTHORIZING THE SPEAKER TO DECLARE RECESSES ON TUESDAY, FEBRUARY 4, 1986

Mr. WRIGHT. Mr. Speaker, I ask unanimous consent that it may be in order for the Speaker to declare recesses at any time on Tuesday, February 4, 1986, subject to the call of the Chair.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

ORDER OF BUSINESS

Mr. WRIGHT. Mr. Speaker, I ask unanimous consent that special orders granted today, January 28, 1986, be postponed until tomorrow, January 29, and that they be called before those granted for Wednesday, January 29.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

EXPRESSING SORROW OF THE HOUSE AT IN-FLIGHT TRAGEDY OF "CHALLENGER" SHUTTLE MISSION 51-L

Mr. WRIGHT. Mr. Speaker, I offer a resolution (H. Res. 361) and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 361

Whereas the House of Representatives has learned with profound sorrow of the first in-flight tragedy of the space program of the National Aeronautics and Space Administration, involving the "Challenger" Shuttle Mission 51-L and its crew consisting of Francis R. Scobee (commander), Michael J. Smith (pilot), Judith A. Resnik (mission specialist), Ronald E. McNair (mission specialist), Ellison S. Onizuka (mission specialist), S. Christa McAuliffe (payload specialist), and Gregory Jarvis (payload specialist): Therefore be it

Resolved, That the House expresses its condolences to the families of the crew members of the "Challenger" Shuttle Mission; and be it further

Resolved, That the Clerk communicate these resolutions to the families of the "Challenger" crew; and be it further

The SPEAKER. The gentleman from Texas [Mr. WRIGHT] is recognized for 1 hour.

Mr. WRIGHT. Mr. Speaker, I yield 30 minutes of that time to the distinguished minority leader, the gentleman from Illinois [Mr. MICHEL], and pending that I yield myself such time as I may consume.

Mr. Speaker, the brave and dedicated young Americans who this day perished in the unspeakable tragedy witnessed with such trauma and vicariously experienced by millions of

people are the very essence of what has made our country great from age to age.

Theirs was the willingness to risk everything they owned and were upon a sublime faith in the skills of thousands of fellow workers, unknown and nameless, in order that our Nation might conquer the next frontier of progress.

Two or three generations ago, a patriot and dreamer wrote a poem which expressed the spirt of the pioneer in every age:

Have I named a single river?
Have I claimed a single acre?
Have I kept a single nugget barring samples?
No, not I.
I have been repaid 10 times over by my Maker,
But you would not understand that
Who go up and occupy.

Surely such was the spirit of Copernicus, of Columbus, and of Gallileo, and such surely is the spirit immortalized today by Francis R. Scobee, Michael J. Smith, Judith Resnik, Ellison S. Onizuka, Ronald E. McNair, Gregory Jarvis, and S. Christa McAuliffe, a schoolteacher from Concord, NH.

In our own time, we have discovered the exhilaration of expanding mankind's field of knowledge and broadening the fields of opportunity for the growing population of a hungry world and to the heretofore trackless voids of space. It is the "New Frontier," and the exploratory beckoning to what Thomas Jefferson called the "illimitable freedom of the human mind."

The poet John Gillespie Magee, Jr., understood that exhilaration, as to a lesser degree have all who have flown and tracked a new frontier and a new place, surely felt and understood by our own beloved colleague, BILL NELSON, who only such short days ago experienced the very same.

He wrote:

Oh, I have slipped the surly bonds of Earth
And danced the skies on laughter-silvered wings;
Sunward I've climbed, and joined the tumbling mirth
Of sun-split clouds . . . and done a hundred things
You have not dreamed of . . . wheeled and soared and swung
High in sunlit silence. Hov'ring there,
I've chased the shouting wind along, and flung
My eager craft through footless halls of air . . .
Up, up the long, delirious, burning blue
I've topped the wind-swept heights with easy grace,
Where never lark, or even eagle flew . . .
And, while with silent, lifting mind I've trod
The high untrespassed sanctity of space,
Put out my hand and touched the face of God.

With hearts heavy in trauma and deeply felt sorrow, the Nation today pays honor and tribute to these brave young Americans and extends its hand to their families and their loved ones and their comrades in such small ways as we can, and in this resolution may we express to all the hopes, the beliefs, the faith and the sympathy which always have underlaid our country.

□ 1425

Mr. MICHEL. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this is one of those very sad occasions when there is no center aisle, when all the Members who will be privileged to speak in support of the resolution will, in a sense, speak with one voice.

I am reminded of when I was a boy in another age of flight, and before the age of television, when I was gathered around a radio with my parents listening to the landing of the *Hindenburg*, and then the resultant explosion and burning of that *Hindenburg* when I was a young man and the feeling that I had at that time. Today, just incidentally, I happened to be listening, watching the monitor again as the shuttle took off, and after liftoff, getting to feel like it was so routine, turned my back and went back to my office when only a few seconds later, I was told by one of the girls in my office of the tragic accident that had taken place. I had that same terrible wrenching feeling down inside that what we had always conceived to be a possibility in this age of space would happen.

We have come to accept these flights as being so routine, and yet it is so highly sophisticated, highly technological in nature that any little thing can go wrong. It reminds me again of how God moves in mysterious ways, I guess from time to time to remind us of what mortal beings we really are and that everything is not all that sure. So much so that our colleague, always feeling so secure and sure that nothing could go wrong, just a few weeks ago took that risk, as did our colleague in the other body.

But I guess in this case it is important that we remind ourselves and the American people that this tragedy, terrible as it is, deserves at least an attempt to discuss it.

The first thing we feel is sorrow, sorrow for the heroic individuals of that tragedy, sorrow for their loved ones, sorrow for our country. But we also feel pride in the seven members of the crew, pride in their dedication, their belief in the space program, in themselves and in our country. And we also feel a sense of resolve, a sense that what they symbolized is too important to be stopped.

Sorrow, pride, a sense of resolve, a human desire to know what happened. These conflicting feeling are with us now, and it is my hope that the American people continue to share the faith that motivated and inspired the crew of the *Challenger*, a faith that transcends the tragedy, a faith that remembers those who have died while at the same time trying to continue as best we can the work that they are doing.

Mr. WRIGHT. Mr. Speaker, I yield such time as he may consume to the distinguished gentleman from Florida [Mr. FUQUA], chairman of our House Committee on Science and Technology.

Mr. FUQUA. Mr. Speaker, I thank the distinguished majority leader for yielding and I appreciate his comments and the comments of the distinguished minority leader. Certainly no one took a more personal sadness today in seeing this on television as millions of people were watching.

I just had a chance over the weekend to visit with the entire crew and talk with them, and talk about their mission, and how delighted and thrilled they were to be able to make it.

Of course, at this particular time, we do not have all of the facts and cannot verify the status of the seven members of this crew. We have had 28 years of success in America's Space Program. This is the first time we have had an in-flight accident of this type. I think we can be very proud of our accomplisments and success, and I think all seven members of this crew would also urge that we continue with this very program, seeking new frontiers, and like all new frontiers that involve a certain amount of risk, we must always try to minimize those risks. But we should not let them dissuade our efforts to meet the Nation's space goal with a sense of responsibility and commitment.

Our thoughts and prayers and sympathy go out to their families.

Nineteen years ago and one day, I had a similar sad task, along with my late colleague, Olin Teague, to make the announcement that there was the *Apollo* fire at Kennedy Space Center which caused the loss of three very distinguished astronauts. I would like to say that the Committee on Science and Technology will conduct a comprehensive investigation into the cause of this accident after the National Aeronautics and Space Administration has completed its immediate investigation. We invite comments from those within and without Government that may have any comments that would be pertinent so that we can try to have a comprehensive report to make to our colleagues in Congress who have been very supportive of this program over the years.

Mr. Speaker, we are all very saddened, a great personal sadness on the part of my wife, Nancy, and I because we have been very great friends of these members of the crew, and our heartfelt sympathy goes out to the members of their families.

Mr. MICHEL. Mr. speaker, I yield such time as he may consume to the gentleman from New Mexico [Mr. LUJAN], the ranking minority member of the Committee on Science and Technology.

Mr. LUJAN. Mr. Speaker, I thank the gentleman for yielding.

What a terrible day it is for us. Such a tragedy and we all offer our condolences to the families of these great Americans.

Mr. Speaker, these men and women are truly heroes, pioneers of America in the truest sense of the word.

I was watching the launch in my office, Mr. Speaker, and with me was Dr. William Graham, the Acting Administrator of NASA. We were so pleased, Mr. Speaker, that the weather was fine and we could finally launch.

The initial burn went well, and we saw the roll come off as planned, and then, then, Mr. Speaker, and then the ball of fire, and we knew what that meant: a terrible tragedy.

You keep hoping against hope that there are survivors, but you know there cannot be.

This resolution honors these heroes, these pioneers. You feel so helpless, Mr. Speaker. What can one say? What can one do? We pray for them.

I am stunned by today's tragic explosion of the space shuttle *Challenger.* This, the 25th launch of the shuttle, promised to be an exciting one with the first non-Government private citizen, Christa McAuliffe, aboard. Christa was to be our first "teacher in space" and with her rode the hopes and dreams of our Nation's young people.

I join my colleagues in mourning the loss of our astronauts and in sharing our grief with their families and friends. This is a day of sadness that we will never foreget.

We will, however, Mr. Speaker, go on with our Space Program. We will pursue our dream to live and work in space, to push back the limits of our knowledge in the vast sea of space. But wherever we go, we will carry in our hearts the memory of those courageous men and women who died today so suddenly and so unexpectedly. God bless them and their families in this tragic hour.

Mr. WRIGHT. Mr. Speaker, I yield such time as he may consume to the distinguished gentleman from Florida [Mr. NELSON].

Mr. NELSON of Florida. Mr. Speaker, to the families of my personal friends, Dick Scobee, Mike Smith, Judy Resnik, Ron McNair, El Onizuka, Christa McAuliffe, and Greg Jarvis, Grace and I extend to you our thoughts and prayers, to your families, to your friends at the time of this hour of your loss and our shared grief.

The Space Program has been a marvelous program for America to expand its knowledge, its horizons, and it will continue to be so in the future. As long as man has the thirst for knowledge, we will continue to press outward, and in the process there is risk. That risk is taken by each one of us every day, and that risk is understood by all of the members of the crew that climb into a loaded spaceship.

My concluding remarks would be, as we reflect upon this tragedy, a tragedy that this whole Nation grieves in, let us remember the remarks by someone who knew something about risk, a galliant lady named Helen Keller, when she spoke of risk and security, and this is what she said:

> Security is mostly a superstition. It does not exist in nature, nor do the children of men as a whole experience it. Avoiding the danger is no safer in the long run than outright exposure.

Listen to what she ends with: "Life is either a daring adventure or nothing."

God bless and be with and keep in the palm of His hand our departed brothers and sisters, daring adventurers, and God bless and comfort their families and friends.

Mr. MICHEL. Mr. Speaker, I yield such time as he may desire to the gentleman from Pennsylvania [Mr. WALKER].

Mr. WALKER. Mr. Speaker, we have today witnessed a terrible tragedy, and this resolution is the Nation saying how shocked and saddened all of America is at the loss.

Those of us intimately involved with our Space Program have known its risks. We know that the men and women who have carried us on to the space frontier are people of great strength of character who are willing to face the dangers unsolved in the Space Program so that our future and the future of our children and their children may be assured. The rewards to mankind and this Nation that exist on that frontier are believed by each of them to be worth the risk. That is why despite tragedy, we must resolve to go on.

But for the moment, our thoughts are with all of those who grieve for loved ones and comrades. We in this body join them in their grief and express our profoundest sorrow on behalf of a nation.

Mr. WRIGHT. Mr. Speaker, I yield 3 minutes to the gentleman from Maryland [Mr. HOYER].

Mr. HOYER. Mr. Speaker, I rise in great sadness and in shock. The tragedy that struck at 11:39 a.m. this morning has stunned us all. In an instant, the incredible energy that we have harnessed broke loose in destruction and devastation occurred.

□ 1440

Among the seven people whom we lost was the first teacher in space, Christa McAuliffe. She was my friend. Her husband, Steve, was a law clerk in my office for 2 years.

She got her master's degree from Bowie State in Prince Georges County. She taught in our school system for 8 years. She now, as you know, Mr. Speaker, teaches in New Hampshire.

Christa was a warm, caring, capable human being. She was accorded the highest honor her country could give her. She was selected to represent her colleagues in one of America's most exciting and important efforts. She embodied, Mr. Speaker, all of the qualities we would hope for in the very best of our teachers.

We had a rally, Mr. Speaker, in August 1985, as the school year was about to begin, and as Christa was about to embark upon here training to prepare herself for this day. She spoke, Mr. Speaker, to some 12,000 members of the Prince Georges County school system, teachers, and support personnel.

I would like to bring to the attention of the House certain of her remarks. She said:

> I see this year as a year of opportunity for education. The Teacher-in-Space Program has already started people looking positively at schools.

She went on to say:

> People have asked me if I plan to return to the classroom next fall. It has been my life for 15 years. I will be at Concord High School in September 1986, because if the teacher-in-space does not return to teaching, something is wrong.

During this year, she said:

> I hope to get students and teachers excited about the future because, after all, this space, this frontier out there belongs to all of us. I hope to help make people aware that teaching is an exciting and necessary profession. I hope to challenge students to reach for the stars.
>
> I often tell my students we need a relationship based on mutual respect, and the two things that I require of them are two things that I require of myself: that they do the best they can and that they be true to themselves.

She concluded with this in talking to those teachers who were so proud of her and their profession, of which she was so proud, she said: "I touch the future; I teach."

Christa was excited and thankful for the opportunity to be a part of America's effort in space. She believed that it was an important and necessary effort.

As our colleague, BILL NELSON, has so eloquently stated, "It was an effort worth the risk."

I believe that Christa would tell us that today.

We grieve this day, Mr. Speaker, the personal loss of the families of these seven astronauts so representative of the best of humankind.

Mr. MICHEL. Mr. Speaker, I yield 2 minutes to the gentleman from California [Mr. PACKARD].

Mr. PACKARD. I thank the Minority Leader.

Mr. Speaker, ladies and gentlemen, brave men and women have often been called upon to pay the supreme sacrifice for this country. Five men and two women this morning are American heroes when this shuttle blew up in space.

Often in the past there have been—well, not often, but on occasion there has been sacrifice made. In this very program there are those that have made the supreme sacrifice in the past, and there likely will be additional tragedies and sacrifices required in the future. But that ought not to deter us from one of the greatest success stories in American history. This Space Program has never been without risk even though the phenomenal success we have had has led, in many cases, the American people to be complacent with the program.

We almost expect perfection. We do not think of tragedies as we have experienced today. But certainly the risk has always been there and will always be there.

This morning's tragic and terrible and shocking experience has brought us and brought all Americans and, for that matter, all the world to a realization of those risks.

Mr. Speaker, our hearts and our deep sympathies go out to the families and friends of those brave heroes.

The Space Program has been one of America's exciting and most successful programs. It will and must continue.

We must continue to give it the same emphasis and commitment that we have in the past. Obviously, there are many questions to be asked, and this is a time to review and to evaluate the program, to determine if we are moving in the correct direction and if all is well, and if all the security measures are taken.

But certainly this is not a time to make preliminary judgments or to cast doubt on the future of the program. We do not know the facts at this time. We may never know all of them.

Unquestionably, the committees and subcommittees that I serve on will be called upon and will be conducting appropriate hearings and investigations.

Now is the time, however, to pay tribute to those who remain, the loved ones, the families and friends of those who have sacrificed all today.

May God bless you that you may know that God's love is with you. His comfort is with you, and His strength is with you, and that you have given the most valuable gift to America that could be given. Thank you.

Mr. WRIGHT. Mr. Speaker, I yield 3 minutes to the gentleman from New York [Mr. SCHEUER].

Mr. SCHEUER. I thank the gentleman for yielding.

Mr. Speaker, we are all in a state of shock this afternoon over the unutterably tragic events of just a few hours ago. All of us across party lines, across the lines of the House and the Senate and the American people, all of us extend our heartfelt condolences to the loved ones of that noble seven, to their families, to their friends, and I think we have to share in the sorrow and understand the sorrow, the traumatic shock of millions and millions of schoolchildren this morning who were watching that television tube live to see their hero, their prototypical teacher, soar into the heavens as part of man's latest advance, breaking down further the barriers of man's knowledge.

The trauma to the millions of schoolchildren of America must be unbelievable. I am sure all of us extend our heartfelt feelings of support and condolence to the kids of America who saw that awful, awful occurrence and will be, in a real sense, traumatized by it.

I think the one thing we can do to dignify the memory of this glorious seven and to give meaning to their lives, to their effort, to their commitment, and to their sacrifice is to follow their trail and continue unflinchingly with the same determination, the same courage, the same grit, the same energy that we showed in further space exploration.

We would be demeaning their memory if our efforts flagged; we would be saying that their sacrifice came to naught. I do not think any of us want that. I think all of us feel that even the fallout that we have enjoyed and benefited from thus far of space exploration justifies space flight, justifies the risk that it always is there.

The advances that have been made and will continue to be made not only in flight itself but in the art of telecommunications, the art of metallurgy, the art of computer sciences, the art of chemical and medicine developments, untold applications to human health, that we have already benefited from more than justify our staying the course and honoring these wonderful, professional, dedicated, committed seven by supporting their efforts, supporting the continuity and the continuation of space flight, both manned and unmanned. I guess that is the best way we can pay them the homage that they deserve and that they merit.

I thank the Speaker.

Mr. MICHEL. Mr. Speaker, I yield 2 minutes to the gentleman from Pennsylvania [Mr. COUGHLIN].

Mr. COUGHLIN. Mr. Speaker, we were horrified, as were all Americans, at the fate of the brave men and women of the shuttle *Challenger*. Our hearts and our prayers, indeed, do go out to their friends and their families.

Having been associated with the Shuttle Program since its inception as a member of the authorizing committee in 1971 and as a member of the Appropriations Committee for NASA since then, it has been my high honor to have known many of our astronauts personally. All of them have known that there were elements of risks in the program. Yet they have undertaken the exploration of space for the betterment of all mankind.

Mr. Speaker, the safety of flight crews has always been the first priority of NASA, transcending all questions of schedule, of delay, or even of public relations.

The space shuttle as a transportation system involves risks of all transportation systems; yet the program has had immense benefits in communications, in knowledge of the Earth and the universe, in national security, medicine, and even such mundane things as weather forecasting. Despite the tragedy, I have confidence that the program should continue, and I am sure there will still be brave men and women who will carry it forward. Perhaps what they will do will be the greatest tribute that can be paid to the great and brave men and women who today made the ultimate sacrifice for our country and for mankind.

Mr. WRIGHT. Mr. Speaker, I yield 3 minutes to the gentleman from North Carolina [Mr. JONES].

Mr. JONES of North Carolina. Mr. Speaker, along with the rest of America and this body, I rise with a heavy heart, one of sadness and one that is hard to explain. To the families of the seven men and women who were lost today, on behalf of this body and the rest of the Nation, I extend sympathy, prayers, and understanding.

□ 1455

But for a moment or two, I would like to call your attention to just one of these seven. His name is Mike Smith. He graduated from the Beaufort, NC, High School, a relatively small rural high school, in 1963. He graduated from the U.S. Naval Academy in 1967 with a bachelor of science degree. He graduated from the Navy Postgraduate School in 1968 with a masters degree in aeronautical engineering. He leaves a wife and three children. He leaves two brothers and a sister.

Now let me just for a moment sketch his background to show what can happen even from a rural high school in North Carolina: Navy Distinguished Flying Cross, 3 air medals, 13 Strike Flight Air Medals, Navy Commendation Medal, Navy Unit Citation, Vietnam Cross of Gallantry, and the Silver Star. He served during the Vietnam tour aboard the *Kitty Hawk*.

So, Mr. Speaker, I think it is important to realize in this hour of sadness

and darkness the untapped resources we have with the American youth if properly developed.

So, in closing, once again my sincere sympathy to the families and all concerned.

Mr. MICHEL. Mr. Speaker, I yield 2 minutes to the gentleman from New York [Mr. GILMAN].

(Mr. GILMAN asked and was given permission to revise and extend his remarks.

Mr. GILMAN. Mr. Speaker, I thank the gentleman for yielding.

It is with a heavy heart that I rise to join my colleagues in expressing our condolences and personal sorrow to the families and loved ones of the crew of the *Challenger* shuttle mission 51-L:

Comdr. Francis Scobee, who logged more than 6,500 hours in 45 types of aircraft.

Pilot Michael Smith, an astronaut since 1980.

Mission specialist Judith Resnik, the first Jewish astronaut as well as one of the first women on board.

Mission specialist Ronald McNair, one of the first black astronauts.

Mission specialist Ellison S. Onizuka, the first Japanese-American in space.

Payload specialist S. Christa McAuliffe, a school teacher, ready to give lesson plans "on the ultimate first trip."

Payload specialist Gregory Jarvis, a Hughes Aircraft specialist.

Their courage, their dedication, and their sacrifice in their pursuit of new horizons in our Nation's space program will not be forgotten.

My congressional district has been touched by this tragedy. One of the astronaut's families, the Jarvis family, having formerly lived in my congressional district, and one of our district's teachers having been a finalist in the competition for the teacher member of the *Challenger's* crew.

It is hoped that this tragedy will not deter our space program but rather that the pioneering spirit of the dedicated crew of the *Challenger* mission 51-L will inspire us and motivate us to continue to pursue our explorations of space.

It is hoped that the knowledge that our entire Nation is sharing the grief of the families of this brave, dedicated *Challenger* crew will help to ease the burdens of the bereaved.

Mr. WRIGHT. Mr. Speaker, I yield 3 minutes to the gentleman from Massachusetts [Mr. BOLAND], chairman of the Appropriations subcommittee which handles the budget on the space program.

Mr. BOLAND. Mr. Speaker, I want to compliment the Speaker of the House of Representatives and the minority leader of the House of Representatives for taking this time to pay tribute and honor to the crew of the space shuttle *Challenger.*

As all of us have indicated today, this, of course, is one of the saddest days in this Nation's history. We lost today a crew of seven on the 25th flight of the space shuttle.

I have stood in the well of this House many times since the inception of the space program and I have often said that the space shuttle was this Nation's most complicated and complex technological achievement. It has flown to this day 24 times without mishap. No other space vehicle ever built by the mind or the hand of man by any nation, including our own, can make that claim. And as so many Members have said here today, we cannot let this terrible tragedy stop us from going ahead. Man and woman will work and will live in space.

Everything humanly possible is done to make these flights as safe as possible, but nothing in life is risk free. Nothing is foolproof. And today we have learned that lesson in the most tragic and in the very saddest way. Every astronaut who has flown on the shuttle, to a man and to a woman, recognizes that their work is indeed a risk. But they all recognize that their work is vital to our own spirit as a nation, and it is my judgment, and the judgment of all of those in this House that we can best honor their spirit, their courage, and their dedication by reaffirming their belief in the human exploration of space.

The names, Mr. Speaker, of Comdr. Francis R. Scobee, Pilot Michael J. Smith, Mission Specialist Judith A. Resnik, Mission Specialist Ellison Onizuka, Mission Specialist Ronald E. McNair, Payload Specialist Gregory Jarvis all will be remembered by this Nation forever.

So, too, will be the name of Christa McAuliffe, the teacher, the teacher who lifted the spirits of teachers and students and uncounted numbers of people across the Nation, yea, and across the world.

To their families, Mr. Speaker, I offer my deepest sympathy and pray that the Lord will grace upon it His choicest blessings in the years to come.

Mr. MICHEL. Mr. Speaker, I yield 2 minutes to the gentleman from New York [Mr. GREEN].

Mr. GREEN. Mr. Speaker, it has been my privilege as the ranking minority member of the Appropriations Subcommittee for NASA to get to meet, to chat with and sometimes even to break bread with most of those who have flown the shuttles, including some of those on today's tragic flight. They have all been fine people and it is a terrible loss.

Obviously, both the authorizing committee and our appropriations subcommittee is going to have to ask a lot of questions about how and why this happened and what its implications are for the space program in general and the shuttle program in particular. However, today is not the day for those questions, and it is certainly not the day to leap to any premature judgment about the program. Instead it is a day to mourn our losses, the personal losses of those who had known those involved in the flight, the losses of the families and friends of those on the flight and, above all, of the Nation's loss of these fine people.

Mr. WRIGHT. Mr. Speaker, I yield 2 minutes to the gentleman from Florida [Mr. PEPPER].

Mr. PEPPER. Mr. Speaker, the heart of America is heavy today in sympathy with the agony of the families and friends who have lost their treasured loved ones in today's shuttle accident.

Mr. Speaker, we look back over the long line of heroes and heroines of the past and we see they have all been noble figures, constantly lifting the spirit of man from Earth into vaster areas and larger spheres of freedom.

Jesus died that the spirit of man might be free. Intrepid patriots have laid their lives upon the alter of freedom for their beloved land. Adventurers have scaled the highest mountain peaks reaching for the summit in the ethereal skies. Many of them, too, have paid the price of their lives. To have others seeking the North and the South Poles, the remote and frigid parts of our Earth. That indefatigable, that adventurous spirit of man has ever been rising to higher and higher levels.

We have paid much for our conquest in the field of aviation. I have on my office wall a photograph, the first flight at Kitty Hawk, NC, in 1903 by Orville Wright given to me by him.

□ 1505

In that flight, he rose for a few feet.

The first time I ever saw an airplane in Birmingham, AL, in 1910, the pilot rose a few hundred feet into the air and lost his life. And down through the years, so many have paid the price of their lives for the great conquests we have made in the mystic areas of space.

But, Mr. Speaker, the soul of man, destined eventually to reside in a heavenly home, will not be deterred by another costly sacrifice.

Other intrepid men and women will rise again to the challenge, and we will reach further and further into the mysteries of space, trying to reach our kindred spirits' home.

May the Lord extend his consolation to the bereaved of these noble heroes.

Give them the comfort that Lincoln bestowed upon the mother who had given so many of her sons to the cause of freedom. How fortunate they are to have made so costly a sacrifice upon the altar of man's highest dreams and noblest aspirations.

Mr. MICHEL. Mr. Speaker, I yield 2 minutes to the gentleman from Arizona [Mr. KOLBE].

Mr. KOLBE. Mr. Speaker, today's tragedy with the space shuttle is a stark reminder that we still stand on the edge of a deep and dangerous frontier when we venture into space. Fifty-five successful launches, without the loss of any life, is a record of which we can be justifiably proud. But those who entered this frontier knew the dangers they faced, and yet they went willingly and bravely.

The Space Program, with all of the contributions it has made to medical technology, has saved the lives of literally thousands of people here at home.

With each new launch of the space shuttle, we have pushed back the frontier of space and improved our lives here on Earth.

But these advances are not without cost, and we are reminded of that today with this tragedy.

I join with each of my colleagues, I know, in expressing my deep sense of loss for this tragedy and my sympathy to each of the families.

Not many months ago I attended a reception in Tucson for Arizona's finalist among the teachers. I remember well his hopes and his dreams he expressed to me to be the teacher that went into space, and I know today what thoughts are in his mind. I know the anguish he feels and the anguish of each of the families of these brave men and women.

Those families can take some solace in the knowledge that their wives and husbands, their fathers and their mothers, have joined the pantheon of American heroes who have made our conquest of space possible, as those before them have made the conquest of other frontiers possible.

Mr. WRIGHT. Mr. Speaker, I yield 1 minute to the gentleman from Texas [Mr. PICKLE].

Mr. PICKLE. Mr. Speaker, in this hour of grief, our hearts go out to the members of the families. Almost simultaneously, we are being asked, "What will now happen to our Space Program? Will it be weakened, or will we stop?" And the answer is a resounding no, we will not stop. We will have a full review and evaluation of our procedures, our technologies. But when that is concluded I am confident we will move forward. If the voices of any of the astronauts aboard the *Challenger* could be heard today, I think they would cry out loudly and strongly, "Go forward, do not let up. We were committed, we are confident the American people should be committed."

And, Mr. Speaker, we will go forward because it is in the best interest of mankind.

Mr. MICHEL. Mr. Speaker, I yield 2 minutes to the gentleman from California [Mr. LEWIS].

Mr. LEWIS of California. Mr. Speaker, words are not adequate to express our shock and our sorrow. The sorrow we feel is in the hearts of all Americans at this moment.

The best that America has to give have given their last full measure on the cutting edge of technology, challenging the unknown, in order to know, reaching for the future in order to better teach our young who indeed are the pioneers of the future.

These young men and women have not given their lives in vain. Their contribution as pioneers of the frontier that is our tomorrow will live forever in the annals of space flight and space exploration.

It is now for us to go forward to better understand their challenge and to go forward with a new surge of commitment in their honor. It is the least that they would ask.

Mr. MINETA. Mr. Speaker, I yield 2 minutes to the gentlewoman from Ohio [Ms. OAKAR].

Ms. OAKAR. Mr. Speaker, today we are as a country all united in our sense of tragedy and sadness, and our hearts really do go out to the families and the friends and, in a sense, to ourselves, because we know the crew members represented the best that was America. They were so vibrant, so educated, so hard working. In a sense, they represented us in their exploration of space.

And so they are genuine heroes, tragic heroes, to us.

I really extend my sympathy to all of the families of the seven crew members, but I cannot help pointing out that Judy Resnik was from northeast Ohio. We were, in greater Cleveland and Akron, very proud of her. She was the second woman to explore space, and she was a mission specialist. Her parents were both very, very proud of her indeed.

As a former teacher, I was thrilled that Christa McAuliffe was going to have an opportunity to not only represent those of us who are civilians but to place the art of teaching on a new lofty level.

And I believe that she would want to instill in her students something that she herself personified, and that is a thirst for knowledge. I believe very strongly that she would want us to continue in our thirst for knowledge in exploring the mysteries of space.

We have all reaped many, many benefits from space exploration. Today we sustain a deep loss, but let us in the memory of these seven heroes rededicate ourselves to this new adventure and to the safety and success of the Space Program.

Mr. MICHEL. Mr. Speaker, I yield such time as she may consume to the gentlewoman from Illinois [Mrs. MARTIN].

Mrs. MARTIN of Illinois. Mr. Speaker, unlike many of my colleagues, I did not personally know any of the seven who died today. In fact, until the last few hours, I could not remember their names or their color or their sex or what number the flight was. I knew one was a woman and a teacher. But with what even seemed like overdrawn hype, that name seemed a bit vague to me. The shuttle seemed a little like the Metro or, back in my home area, the RTA. Sometimes there were delays, but the Space Program had seemed almost boring. Then, in a flash, the shuttle chariot was swallowed in its own sun, and the price for this leap into the future became very clear.

When I was young, I used to read a lot of science fiction: Ray Bradbury, Robert Heinlein, Asimov, Van Camp, and others, every bit of it I could get my hands on. And I had an incredible belief that some day I would go to Mars. I became a teacher. And, in fact, today I am not even comfortable in an airplane. But seven men and women read those same books and refused to stay earthbound. On this flight, there were black and white, male and female, an Asian-American and a blond male named Smith. It was America. There was even a civilian who was a teacher and who said them that can, both act and teach.

They were all of us. For their families and for their friends, our hearts and our prayers. For the rest of us, the danger and the joy of the leap to the future are again entwined.

Now their names become history. But their drive and the dream of the human spirit will not die. In the flash and fire, the dream was reborn again in other young men and young women who will read, learn, and fly. To the crew of the *Challenger* we say goodbye, but we will not forget you and your dream.

Mr. MICHEL. Mr. Speaker, I yield such time as he may consume to the distinguished Speaker, the gentleman from Massachusetts [Mr. O'NEILL].

Mr. O'NEILL. Mr. Speaker, I join my colleagues in expressing my personal sorrow at today's tragedy.

Sometimes an event strikes us with such drama and surprise that it exceeds our ability to absorb it. This is what happened today in the terrible destruction of our country's space shuttle.

The space shuttle carried on its side the flag of the United States. And those who served on her served us, the American people.

They served our hopes for scientific exploration and for human progress. But they also served our dreams because they lived at the frontier of what mankind can achieve together.

Today, as our shock turns to sadness, we salute those who risked and gave their lives to serve our country at the last great frontier. We salute those

who died performing exploits that people of my age grew up reading about in comic books or in fiction.

These wonderful people—Francis Scobee, Michael Smith, Judith Resnik, Ronald McNair, Ellison Onizuka, Christa McAuliffe, and Gregory Jarvis—died performing their duty. They died not as individuals but as a crew, working as a team, united in devotion and commitment to the United States, their country.

This afternoon we are united in the same spirit as the crew. Oh, our deep feeling for them. We pray for these brave Americans, for their families and for our country.

We are delighted that the resolution comes before us as the product of the majority leader of the House and the minority leader of the House, and it allows us to express our sentiments on this day of sorrow.

GENERAL LEAVE

Mr. MINETA. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the resolution now under consideration.

The SPEAKER. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. RODINO. Mr. Speaker, as a nation we may never be able to measure the extent of our loss from today's tragic explosion of the space shuttle *Challenger.* This tragedy has robbed us of the lives of seven American heroes—the shuttle crew members. It has turned hope into tears for thousands of school children who were thrilled with the expectation of a classroom from space. And it has sent the people of our country into deep mourning and sad reflection. Each of us shares the pain.

The seven crew members gave their lives to America, and it is important to express what this means to us. Since the founding of our Nation, brave pioneers have risked their lives to conquer successive frontiers—and our Nation has prospered and grown because of them. Years ago the frontier was the wild West. Today it is space and technology. In the truest sense of the word, each of these seven crew members on the space shuttle *Challenger* was an American pioneer. For they gave their lives unlocking the mysteries of the heavens—so that the rest of us could benefit from the vast sources of knowledge to be gained. We will remember their sacrifice.

To our Nation's honor roll we will add the names of Christa McAuliffe, the social studies teacher from Concord, NH, who bravely accepted the role as the first "common person" to go up in space; retired Air Force Maj. Francis R. "Dicky" Scobee, the flight commander; Navy Comdr. Michael J. Smith, the pilot; mission specialists Judith Resnik, Ronald McNair, and Air Force Lt. Col. Ellison S. Onizuka; and payload specialist, from Hughes Aircraft Co., Greg Jarvis.

This was going to be a very special space shuttle flight. With the presence of a high school teacher, Christa McAuliffe, and the planned classroom from space, this shuttle was really dedicated to the children of our Nation—to inspire their imagination and lift their eyes to the future. This makes the tragedy doubly sad.

I want to extend my condolences to the families and friends of the crew members, and to offer them all the strength they need in the difficult days ahead. My thoughts are with them.

Ms. MIKULSKI. Mr. Speaker, I rise today to join with millions of Americans—young and old—in expressing our sorrow and grief over the tragic loss of the seven astronauts this morning aboard the space shuttle *Challenger.*

My thoughts and prayers go out today to the families and loved ones of these seven heroes. We mourn them in death and we vow never to forget the lessons they taught us in life—that we must reach for the stars and seize all the opportunities and challenges we can.

As we grieve today for the six professional astronauts who were on board the *Challenger,* we each share special sorrow at the tragic death of Christa McAuliffe who was to be the first teacher in space.

While I did not know Mrs. McAuliffe personally, I certainly knew of her. I knew that she and her husband once lived in Maryland and I knew that she came back to our State this past fall to speak to students and teachers in Prince Georges County where she once lived and taught.

During her remarks last fall, Christa McAuliffe told the teachers and students of Prince Georges County how proud she was to have been selected to represent her profession and her Nation on a space shuttle flight. She challenged teachers and students alike to "reach for the stars" in everything they do; she urged them to always do the best they can and to be true to themselves.

Christa McAuliffe said she is in touch with the future every day because she is a teacher, touching the lives of the very people who represent our future—our students.

These seven heroes died today not as individuals but as a team. They represented the best America has to offer; they embodied the same spirit, energy and life that President Kennedy saw in all of us when he called us to reach for new frontiers.

President Kennedy wasn't just calling on our astronauts to seek these new frontiers, he was calling on all of us. He would have been as proud of these seven heroes as all of us are, he would have mourned their tragic deaths, and he would have urged us to continue to "reach for the stars" and so do I.

Mr. STANGELAND. Mr. Speaker, I share the shock and sadness felt by the entire Nation over the loss of the space shuttle *Challenger* and its crew of seven astronauts.

The men and women who go into space are special people. I have met with former astronauts in Washington, and they are motivated by a special sense of mission.

Today we lost seven adventurers, seven heroes. In many ways, they represent the best America has to offer. They were conscious of the danger, but eager to push back the limits of human knowledge.

Our prayers are with the souls of the lost crew and with their families.

There should be a comprehensive NASA investigation of the fiery explosion which destroyed the spacecraft. But I emphasize the need to continue the space program.

We must mourn our dead, take care of their families, learn from the tragedy, and turn our eyes to the stars again.

Mr. TALLON. Mr. Speaker, this is a very tragic day in American history. It is especially difficult for those of us in South Carolina and the Sixth Congressional District who knew and admired Astronaut Dr. Ronald McNair of Lake City.

I want to extend to his devoted family my deepest sympathy. They will certainly face some difficult hours in the days ahead. If there is any consolation, I hope they will remember that Ron McNair was a pioneer. He gave his life in service to our country.

Ron McNair represented the very best of this Nation—in spirit, courage, intellect, and dedication. Those are fine qualities and having had the good fortune to meet Dr. McNair, I want to assure you that he embodied all of these characteristics.

When I met him in February of 1984, I was very impressed. In addition to his keen intellect, Dr. McNair was a kind, humble, and very genuine human being.

I want to again express my sympathy to Dr. McNair's family and to all of the families of the astronauts aboard the mission.

In Dr. McNair, we have lost a gifted scientist, a talented individual, and a dedicated American—we have lost a giant among men.

Mr. MATSUI. Mr. Speaker, the tragic death of the space shuttle astronauts touches each of us in a very personal and emotional way. As a nation, we share a great sense of loss.

These pioneers carried with them the hopes and dreams of all Americans. We draw strength from their courage.

Mr. FORD of Tennessee. Mr. Speaker, at 11:38 this morning, a group of seven astronauts on the space shuttle *Challenger*, including the first private citizen, teacher Christa McAuliffe, lost their lives in a terrible accident some 9 miles above the coast of Cape Canaveral. Words cannot express the grief that I and all Americans feel for these individuals, and their loved ones.

After 24 successful shuttle flights, many Americans took the frequent flights as routine. I can guarantee you, the men and women who participated in every one of the previous 24 missions understood the dangers involved, and they proceeded undaunted.

As we have become accustomed to their successes, we tend to forget that these astronauts risk their lives each time they step on board. Our Nation has reaped the benefits of their courage. We owe it to those lost today that every effort be made to understand the circumstances behind the events of this morning.

Mr. BROOKS. Mr. Speaker, along with all of my colleagues, I am deeply saddened at the loss of the *Challenger* crew members in this morning's tragic accident. Our Nation will long mourn the passing of these brave and courageous young Americans who lost their lives serving their country's space exploration program.

Americans will always remember the selfless dedication that these men and women brought to the task of pushing back the barriers of space. My heart goes out to the families and loved ones of these brave *Challenger* crew members. Their achievement in life will long serve as an inspiration to those who seek to expand the boundaries of our knowledge of space.

The Ninth Congressional District of Texas, which I represent, is the home of the Johnson Space Center where these valiant Americans and their fellow astronauts who will crew future flights of the shuttle have been trained. We mourn this tragic loss of our friends and neighbors.

Mr. ANNUNZIO. Mr. Speaker, as were so many of my colleagues, I was deeply saddened and shocked to learn of the loss of the crew of the shuttle *Challenger*. For over a quarter of a century through 55 successful manned space flights, we have been able to avoid this type of horrendous inflight accident, and it is truly difficult to put into words our great sense of loss now that such a tragedy has occurred.

Throughout our history as a Nation, brave men and women have risked their lives in order to conquer new frontiers, and our country has prospered and grown because of their selfless efforts. Our seven astronauts—the flight's commander, retired Air Force Maj. Francis R. "Dicky" Scobee; the pilot, Navy Comdr. Michael J. Smith; mission specialists, Judith Resnik, Ronald McNair, and Air Force Lt. Col. Ellison S. Onizuka; payload specialist, Greg Jarvis; and social studies teacher, Christa McAuliffe—were all pioneers. They were great Americans willing to take extraordinary risks—even to that of risking their lives—in order to gain knowledge and to advance our technology.

These seven astronauts were representative of the hopes, dreams, and strength of America—men and women of all races, colors, and creeds, coming from all walks of life, and diverse in their ethnic and religious backgrounds. They served our country and died, not as individuals, but as a team, representative of the best America has to offer, and they leave behind a legacy of all that is great about America.

As a former high school teacher, I know how great an inspiration our first nongovernment civilian astronaut, Christa McAuliffe, was to her own students as well as to students throughout this country. Her spirit and the spirit of her co-crewmembers will continue to inspire future generations to work toward expanding the boundaries of human knowledge.

Mr. Speaker, I join with my colleagues in the House of Representatives in mourning the tremendous loss of our astronauts, and I want to extend my deepest sympathy to the families and friends of these courageous seven crewmembers. Our entire Nation remembers them in our prayers and we salute these brave individuals who sacrificed their lives on behalf of our country.

Mr. ANDREWS. Mr. Speaker, since 1961, when John F. Kennedy set us upon the high road to manned space exploration, Americans have cherished and have loved its heroes in a special way. These men and women have embodied for us the American spirit of hope, the adventure and promise of new frontiers. We have reveled in the program's many triumphs, and now are stunned to silence by its greatest disaster—a tragedy which has taken from us the lives of seven brave explorers: Capt. Francis "Dick" Scobee, Michael Smith, Judith Resnick, Ellison Onizuka, Ronald McNair, Christa McAuliffe, and Gregory Jarvis.

Their sacrifice is best honored by our rededication to the vision of the future that they carried so close to their own hearts. We must renew our resolve to go forward with the space program and not allow this tragedy to turn our enthusiasm from our greatest frontier. It is in our natures to explore. John Kennedy, in his address to the students of Rice University, said: "If * * * history * * * teaches us anything, it is that man, in his quest for knowledge and progress, is determined and cannot be deterred."

Our shuttle program has suffered a setback. That is obvious. But it is critical to the future of our country that we heed the words of John Kennedy. Our greatest challenges and our richest rewards lie in the unknown of space. We will accept that challenge. We can do no less for our country and for the *Challenger* seven.

Perhaps we had come to expect near-flawless shuttle flights. Perhaps our understanding of the danger of each journey had been dulled by the many easy liftoffs and smooth landings we have witnessed over the past 5 years.

But no shuttle flight is routine. No astronaut or crew member is ordinary. The enormous risks willingly accepted by our shuttle crews with every liftoff is a shining testament to their courage, the clarity of their vision, their selfless search for knowledge. In the words of Shakespeare:

When he shall die,
Take him and cut him out in little stars,
And he will make the face of heaven so fine
That all the world will be in love with night.

Having witnessed the worst tragedy of our 25 years in space, we see our heaven now hung with the shining stars of these seven brave heroes who gave us everything. Someday soon, we will watch as another shuttle orbiter shoots through the Florida skies destined for the eternal night of space. And then we will again fall in love with flight and with our Nation's still-young dream of manned space exploration.

In the meantime, our prayers are with the families and the friends of the *Challenger* crew.

Mr. YOUNG of Florida. Mr. Speaker, we mourn as a nation the loss of the seven *Challenger* crew members.

They embodied the American spirit with their courage and quest for knowledge. Despite the element of risk inherent in any space flight, they bravely trained and prepared for their mission knowing of the wealth of information and realm of benefits it would provide our Nation.

Having served as a member of the Appropriations Subcommittee which funds the Space Program, and as a member of the Defense Appropriations Committee, I know of the dedication and motivation required of NASA pilots and mission specialists. They are a special group of individuals who have the opportunity to open the door to an area of science full of useful applications and unanswered questions.

As Americans, we watch and share in their successes, and today we share in their sorrow and grief. We offer our sincerest sympathy to the families of Comdr. Francis Scobee, Michael Smith, Ronald McNair, Lt. Col. Ellison Onizuka, and Gregory Jarvis. I also am saddened by the loss of Judith Resnik who held a special place in the heart of many Pinellas County residents. She graciously accepted my invitation to participate in an October 1984 program at the Bay Pines Veterans' Administration Medical Center. Her warmth and sincerity touched the audience and brightened the day of the hospitalized patients she took time to visit.

Finally, we say a special prayer for Christa McAuliffe. She shared with us her spirit and enthusiasm and symbolized as a teacher the search for knowledge that is the goal of our Space Program.

In the spirit of these seven Americans, our Nation will continue to be the world leader in the exploration of space. They will forever be a part of our future achievements and advancements. They also will remain a small part of all Americans because they have given us a sense of their pride, courage, and bravery—qualities that have sustained explorers throughout our Nation's proud history.

Mr. MINETA. Mr. Speaker, I yield 1 minute to the gentleman from Illinois [Mr. HAYES].

Mr. HAYES. Mr. Speaker, needless to say, I rise in support of the resolution. I did not personally know any of the seven people involved in the flight, except as human beings.

I would like to raise the obvious question which has been trickling around in my mind as I hear the speeches here: Is it worth it? Is it worth it? Some have already answered this question as they mourn for the families and express sympathy. And as we lament over the next few days and next few weeks and try to find out what caused it, I just hope, as we pray and talk to the Lord God Almighty, that we ask him for guidance and to give us a sense of direction so that we might determine our purpose for space exploration. I hope our motivation is something more than just trying to keep pace with the Soviet Union.

□ 1520

We do it based on a determination and decision as to what it is going to do to help mankind. I could not help but listen to the amount of money that went down with these lives of these seven people; $3.2 billion for one spaceship. How many people who are hungry today that might be helped if we decide to continue, we must understand.

I have not made a decision as to whether or not we should continue or not. I want guidance as to whether or not we are going in the right direction. I think we ought to be able to understand and be motivated for other pur-

poses other than to just keep pace with somebody else at the expense and risk of lives.

Robots may be used for this purpose; I am not a scientist, I do not know. Certainly we have had success and I do not want to ignore it. But I just want us to think and think deeply and pray over this situation and ask the good Lord to give us a sense of direction as to where to go from here.

Mr. MINETA. Mr. Speaker, I yield 1 minute to the gentleman from Texas [Mr. DE LA GARZA].

Mr. DE LA GARZA. I thank the gentleman for yielding me this time.

Mr. Speaker, I join the rest of my colleagues today on behalf of my constituency to extend our sympathy to the families of those that sacrificed their lives today on behalf of our country.

Mr. Speaker, I think that in what we have heard from a lot of the Members, perhaps one thing that has been to the point of being mentioned but it has not, and I think that my tribute to them would be this: The world will send condolences to our President. Why? Because they saw it. I think this is a tribute to our country, to our system, to our heritage that we do nothing in a closed shop. That these brave men and women for the world to see were there. They sacrificed their lives where every person in this world will be able to see.

That is what space exploration is about. That is what legislation is about. That is what we do here today. That the principle freedom cannot be achieved unless it is in an open society. Equal rights and justice cannot be achieved unless it is in an open society. There we have for the world our successes and our failures, and they sacrificed in one of the failures their last devotion of duty to this great country of ours and to what it means to have a free, open society. I think the tribute in their lives should be dedicated. We should in fact dedicate ourselves to the fact that they were willing and that they went. But more so that our system of government allowed it for the world to see.

Mr. MINETA. Mr. Speaker, I yield myself the balance of my time.

Mr. Speaker, this gentleman from California is stunned by this tragic event. The crew of the shuttle captured our hearts and we mourn for them and their families.

Ellison Onizuka was a personal friend of my wife, May, and me. He was the first American of Japanese ancestry to become an astronaut and we were all so proud of him. Christa McAuliffe captured the attention of this Nation's teachers and children, and all our hopes for the future possibilities of the Space Program.

And we lost so much NASA talent—veterans of past missions who with courage and commitment had devoted their careers to scientific exploration. These were exceptional men and women and we will never fully recover from this loss.

We will mourn, but we will continue to push for progress in space. As a member of the Space Science and Applications Subcommittee of the House Committee on Science and Technology, I will urge my colleagues to join with me in this commitment. The best memorial to the sacrifices made by those on the shuttle *Challenger* would be to strive to continue their heroic efforts.

Clearly a full investigation will have to be conducted, and we will anxiously await the findings. At this moment, all we have is conjecture as to what happened.

The SPEAKER. All time has expired.

The Clerk will report the final resolving clause.

The Clerk read as follows:

Resolved, That the House do now adjourn as a further mark of respect to the memory of the valiant crew members of the "Challenger" shuttle mission.

The SPEAKER. The question is on the resolution.

The resolution was agreed to.

ADJOURNMENT

The SPEAKER. In accordance with the provisions of House Resolution 361, the House stands adjourned to meet at 3 o'clock tomorrow afternoon.

Accordingly (at 3 o'clock and 27 minutes p.m.), pursuant to House Resolution 361, the House adjourned until tomorrow, Wednesday, January 29, 1986, at 3 p.m., in respect to the memory of the crew members of the *Challenger* shuttle mission.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

2599. A letter from the Chairman, Commodity Futures Trading Commission, transmitting a draft of proposed legislation to extend the Commodity Exchange Act, and for other purposes; to the Committee on Agriculture.

2600. A letter from the Acting Director, Defense Security Assistance Agency, transmitting a proposed lease of defense articles to Spain (Transmittal No. 12-86), pursuant to 22 U.S.C. 2796(a); to the Committee on Foreign Affairs.

2601. A letter from the Assistant Secretary of State for Legislative and Intergovernmental Affairs, transmitting notice of a proposed manufacturing license agreement for the manufacture of certain equipment in Egypt (Transmittal No. MC-10-86), pursuant to 22 U.S.C. 2776(d); to the Committee on Foreign Affairs.

2602. A letter from the Director, Defense Security Assistance Agency, transmitting notice of the Department of the Army's proposed letters of offer of Norway for defense articles and services estimated to cost $26 million (Transmittal No. 86-22), pursuant to 22 U.S.C. 2776(d); to the Committee on Foreign Affairs.

2603. A letter from the Secretary of Housing and Urban Development, transmitting an evaluation of compliance with the requirements of the internal accounting and administrative control system, pursuant to 31 U.S.C. 3512(3); to the Committee on Government Operations.

2604. A letter from the Director, National Legislative Commission, The American Legion, transmitting a report of proceedings during the preceding calendar year, pursuant to 36 U.S.C. 49; 44 U.S.C. 1332 (H. Doc. No. 99-154); to the Committee on Veterans' Affairs and ordered to be printed.

2605. A letter from the Secretary of Defense and the Administrator of the Veterans' Administration, transmitting recommendations and guidelines to promote the sharing of health care resources, pursuant to 38 U.S.C. 5011(f); jointly, to the Committees on Armed Services and Veterans Affairs.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. WHEAT: Committee on Rules. House Resolution 359. Resolution providing for the consideration of H.R. 3010, a bill to amend the Public Health Service Act to revise and extend the health planning authority under that act. (Rept. 99-465). Referred to the House Calendar.

Mr. BEILENSON: Committee on Rules. House Resolution 360. Resolution providing for the consideration of H.R. 4055, a bill to assist the State to establish and operate protection and advocacy systems for mentally ill individuals and to promote family support groups for Alzheimer's disease patients and their families. (Rept. 99-466). Referred to the House Calendar.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. DAVIS:

H.R. 4057. A bill to amend part C of the Balanced Budget and Emergency Deficit Control Act of 1985 to provide that cost-of-living increases in benefits under the civil service, military, and other Federal retirement and disability programs shall be exempt from reduction pursuant to a sequestration order thereunder respecting fiscal year 1986, and for other purposes; to the Committee on Government Operations.

By Mr. GONZALEZ:

H.R. 4058. A bill to repeal the Balanced Budget and Emergency Deficit Control Act of 1985; jointly, to the Committees on Government Operations and Rules.

By Mr. McCAIN:

H.R. 4059. A bill to recognize the organization known as the Red River Valley Fighter Pilots Association; to the Committee on the Judiciary.

By Ms. OAKAR (for herself, Mr. CHAPMAN, Mr. DASCHLE, Mr. MICA, Mr. KOSTMAYER, Mr. HOYER, Mr. BOSCO, Mr. BARNES, Ms. KAPTUR, Mr. PARRIS, Mr. BOUCHER, Mr. YATRON, Ms. MIKULSKI, and Mr. FAZIO):

H.R. 4060. A bill to amend title 5, United States Code, to provide that the full cost-of-living adjustment in annuities payable from the civil service retirement and disability fund shall be made for 1987; to the Committee on Post Office and Civil Service.

By Ms. OAKAR (for herself, Mr. FORD of Michigan, Mr. TAYLOR, Mr. MYERS of Indiana, Mr. YOUNG of Alaska, Mr. HOYER, Mr. BARNES, Ms. MIKULSKI, Mr. WOLF, and Mr. PARRIS):

H.R. 4061. A bill to amend title 5, United States Code, to expand the class of individuals eligible for refunds or other returns of contributions from contingency reserves in the employees health benefits fund; to make miscellaneous amendments relating to the civil service retirement system and the Federal Employees Health Benefits Program; and for other purposes; to the Committee on Post Office and Civil Service.

By Mr. ROTH:

H.R. 4062. A bill to provide for the conveyance of certain public lands in Oconto and Marinette Counties, WI; to the Committee on Interior and Insular Affairs.

By Mr. CONTE:

H.J. Res. 502. Joint resolution to designate the week beginning on April 20, 1986, as "National Reading is Fun Week"; to the Committee on Post Office and Civil Service.

By Mr. WRIGHT:

H. Con. Res. 274. Concurrent resolution providing for a joint session of Congress to receive a message from the President on the state of the Union; considered and agreed to.

By Mr. WHEAT:

H. Res. 359. Resolution providing for the consideration of the bill (H.R. 3010) to amend the Public Health Service Act to revise and extend the health planning authority under that act; House Report 99-465, House Calendar No. 118.

By Mr. BEILENSON.

H. Res. 360. Resolution providing for the consideration of the bill (H.R. 4055) to assist the States to establish and operate protection and advocacy systems for mentally ill individuals and to promote family support groups for Alzheimer's disease patients and their families; House Report 99-466, House Calendar No. 119.

By Mr. WRIGHT:

H. Res. 361. Resolution expressing the condolences of the House on the tragic accident of the *Challenger* shuttle mission; considered and agreed to.

By Mr. ROTH:

H. Res. 362. Resolution to amend the Rules of the House of Representatives to require a rollcall vote on the passage of bills making appropriations, certain authorization bills, and certain bills providing revenue, and on the adoption of certain amendments; to the Committee on Rules.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. COELHO:

H.R. 4063. A bill for the relief of Rajiv Parjan; to the Committee on the Judiciary.

By Mr. FAUNTROY:

H.R. 4064. A bill for the relief of Cheatham A. Weaver; to the Committee on Armed Services.

H.J. Res. 503. Joint resolution commending Dr. William Moody, innovative educator of children; to the Committee on Post Office and Civil Service.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 22: Mr. ROWLAND of Connecticut.
H.R. 471: Mr. GINGRICH.
H.R. 479: Mr. FIELDS and Mr. MACKAY.
H.R. 559: Ms. SNOWE.
H.R. 692: Mr. TORRICELLI.
H.R. 932: Mr. SHAW.
H.R. 1615: Mr. HAMILTON.
H.R. 1626: Mr. PORTER and Mr. ATKINS.
H.R. 1809: Mr. LELAND.
H.R. 2365: Mr. MCHUGH, Mr. OBERSTAR, Mr. DYMALLY, Mr. ROBINSON, Mr. FAUNTROY, Mr. LAFALCE, Mr. WORTLEY, and Mrs. BOXER.
H.R. 2440: Mr. FASCELL, Mr. JACOBS, and Mr. MACKAY.
H.R. 2489: Mr. CROCKETT, Mr. STOKES, and Mr. VISCLOSKY.
H.R. 2761: Mr. MCHUGH.
H.R. 2791: Mr. GREEN, Mr. GRAY of Pennsylvania, Mrs. MARTIN of Illinois, and Mr. WAXMAN.
H.R. 3006: Mr. BURTON of Indiana
H.R. 3109: Mr. SCHAEFER.
H.R. 3298: Mr. DENNY SMITH.
H.R. 3371: Mr. VALENTINE.
H.R. 3692: Mr. HOPKINS.
H.R. 3798: Mr. WHITEHURST.
H.R. 3866: Mrs. JOHNSON, Mr. BOEHLERT, and Mr. TOWNS.
H.R. 4045: Mr. DAUB, Mr. CARR, Mr. BATES, Mr. MITCHELL, Mr. LEVINE of California, Mr. MATSUI, Mr. FASCELL, Mr. JACOBS, Mr. WEBER, Mr. FAZIO, Ms. KAPTUR, and Mr. LEHMAN of Florida.
H.R. 4055: Mr. BILIRAKIS, Mr. LUKEN, Mr. SIKORSKI, Mr. CONYERS, Mr. ASPIN, and Mr. LELAND.
H.J. Res. 23: Mr. FASCELL.
H.J. Res. 96: Mr. ARMEY, Mr. FRANKLIN, Mr. LOTT, Mr. GROTBERG, and Mr. BROYHILL.
H.J. Res. 133: Mr. FRANKLIN, Mr. MILLER of Washington, Mr. LOWRY of Washington, and Mr. LOTT.
H.J. Res. 254: Mr. BROYHILL, Mr. SLAUGHTER, Mr. BOLAND, Mr. FOWLER, Mr. OBERSTAR, Mr. DERRICK, Mr. HALL of Ohio, Mr. FORD of Michigan, Mr. APPLEGATE, and Mr. HATCHER.
H.J. Res. 376: Mr. HEFNER, Mr. EDGAR, Mr. BEDELL, Mr. FOGLIETTA, Mr. RICHARDSON, Mr. FASCELL, Mr. DAUB, Mr. MCHUGH, Mr. MARTINEZ, and Mr. STRATTON.
H.J. Res. 433: Mr. SLAUGHTER, Mr. GRAY of Pennsylvania, Mr. KOSTMAYER, Mr. MURPHY, Mr. ST GERMAIN, Mr. GROTBERG, Mr. ANTHONY, Mr. HAMMERSCHMIDT, Mr. GEJDENSON, Mr. DOWDY of Mississippi, Mr. BROYHILL, Mr. MURTHA, Mr. LOTT, Mr. PORTER, Mr. SWINDALL, Mr. FRENZEL, Mr. UDALL, Mr. BOEHLERT, Mr. NATCHER, Mr. JACOBS, Mr. LEHMAN of Florida, Mr. SUNDQUIST, Mr. ENGLISH, Mr. DURBIN, Mr. YOUNG of Missouri, Mr. HAMILTON, Mr. WEBER, Mr. OBERSTAR, Mr. CONTE, Mr. STANGELAND, Mr. MORRISON of Connecticut, Mr. STALLINGS, Mr. LELAND, Mr. VALENTINE, Mrs. VUCANOVICH, Mr. DARDEN, Mr. LAFALCE, Mr. YOUNG of Florida, and Mr. STUMP.
H.J. Res. 500: Mr. KOSTMAYER, Mr. GALLO, Mr. BATEMAN, Mr. ANNUNZIO, Mr. MARTIN of New York, Mr. ROE, Mr. HUNTER, Mrs. JOHNSON, Mr. WEBER, Mr. DANNEMEYER, Mr. KINDNESS, Mr. MANTON, and Mr. SCHEUER.
H. Con. Res. 204: Mr. EVANS of Illinois, Mr. PENNY, Mr. MATSUI, and Mr. FAZIO.
H. Con. Res. 205: Mr. EVANS of Illinois, Mr. PENNY, Mr. MATSUI, and Mr. FAZIO.
H. Con. Res. 206: Mr. EVANS of Illinois, Mr. PENNY, Mr. MATSUI, and Mr. FAZIO.
H. Con. Res. 240: Mr. DELLUMS and Mr. OWENS.
H. Con. Res. 243: Mr. HOYER.

SENATE—*Tuesday, January 28, 1986*

The Senate met at 11 a.m., on the expiration of the recess, and was called to order by the President pro tempore [Mr. THURMOND].

PRAYER

The Chaplain, the Reverend Richard C. Halverson, D.D., offered the following prayer:

Let us pray.

Gracious God, with gratitude we remember those in the Senate responsible to keep multitudinous and diverse Senate records. Thank You for Russ Walker, editor in chief of the CONGRESSIONAL RECORD, his assistant editor, the official reporters of debates and expert transcribers. Thank you for the legislative, journal, and bill clerks and the parliamentarians. Thank you for their commitment to accuracy and the awesome responsibility they bear to be free from error. Thank You for their remarkable skills, their tireless dedication which requires their presence, not only when the Senate is in, but before it convenes and often long after it has recessed. Help them to realize, Father, the inestimable esteem in which they are held and grant to all who benefit from their faithful labors never to forget how essential their expert services are to life and business in the Senate. Bless them and their loved ones with "every spiritual blessing in Christ," in whose name we pray. Amen.

RECOGNITION OF THE ACTING MAJORITY LEADER

The PRESIDENT pro tempore. The distinguished acting majority leader is recognized.

Mr. TRIBLE. Mr. President, it is my pleasure to represent the majority leader who, at this time, is meeting with the President at the White House.

SCHEDULE

Mr. TRIBLE. Mr. President, under the standing order, the two leaders will be recognized for 10 minutes each. Then there will be a special order in favor of the Senator from Wisconsin [Mr. PROXMIRE] for not to exceed 15 minutes.

Following the execution of this special order, there will then be a period for the transaction of routine morning business, not to extend beyond the hour of 12 noon, with Senators permitted to speak therein for not more than 5 minutes each.

The Senate will stand in recess between the hours of 12 noon and 2 p.m. in order for the weekly party caucuses to meet. At 2 p.m., the Senate will resume consideration of the Conrail measure, S. 638. Rollcall votes can be expected in relation to that bill during today's session.

The majority leader asks that Senators assemble in the Senate Chamber at not later than 8:30 p.m. this evening to proceed as a body to the Hall of the House of Representatives to hear the President's State of the Union Address.

ROMANIA'S TRADE PRIVILEGES

Mr. TRIBLE. Mr. President, I rise today to underscore my concern about the continued extension of special trade privileges to the repressive regime in Romania.

Since the United States granted most-favored-nation status to Romania in 1975, the West has received a steady stream of reports about severe human rights abuses by the Ceausescu regime. Yet, for each of those 10 years, America has renewed its decision to confer special benefits on Romania.

It is time to base our policy on reality.

Romania's foreign policy is not independent of the Soviet Union's. In fact, Ceausescu is deeply devoted to Marxism, and the only recent major issue on which he has differed with the Soviet line was whether to send Romanian athletes to the most recent Olympiad.

Second, Romania's moderation in foreign policy is largely mythic. Ceausescu has offered support to the PLO and other terrorist organizations, and Romania is ranked along with the other nations of the Soviet bloc in opposing the United States in votes at the United Nations.

Finally, Romania is said to be less repressive than the Soviet Union, and to be open to Western overtures that might lead to an improvement in the human rights situation there. In fact, during the last 10 years when Romanian-American trade has flourished, the Romanian secret police extended this reach into the lives of Romanian citizens. Surveillance, harassment, and persecution of religious and political believers have increased markedly.

For that reason, I have sponsored S. 1817, a bill to suspend Romania's MFN status for 6 months. I urge my colleagues to join me as cosponsors of this legislation, and I thank the chairmen of the Foreign Relations Committee and the Finance Committee for agreeing to hold hearings on this important matter.

I ask unanimous consent that an article by a former aide to Romania's President Ceausescu be inserted in the RECORD at this point.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Wall Street Journal, Jan. 13, 1986]

CEAUSESCU: AMERICA'S MOST FAVORED TYRANT

(By Ion Mihai Pacepa)

For many Americans, Romania's Nicolae Ceausescu is the leader of the plucky little country that defied the Soviet boycott of the 1984 Olympic Games in Los Angeles. For the U.S. government, he presides over the communist country whose "most favored nation," or MFN, trade status should be renewed when it comes up for its annual review. In Washington's misguided view, MFN status can help improve human rights in Romania and encourage a degree of political independence from Moscow.

But for Mr. Ceausescu, the 1975 granting of MFN status crowned 10 years of intense propaganda and influence operations aimed at realizing his grand plan of strengthening Romanian communism by getting financial and technological help from capitalism.

DEVOTION TO STALINIST MARXISM

In October, Rep. Chris Smith (R., N.J.) and Sen. Paul Trible (R., Va.) introduced legislation that would deny Romania MFN status for six months. However, even this modest step is opposed by the State Department. In fact, during his last visit last month to Romania, Secretary of State George Shultz said that "[The U.S.] would like to see trade [with Romania] flourish to the extent that it can. I believe that it can increase more in the future—and I hope it does."

Meanwhile, average Romanians—who receive few, if any, of the benefits of MFN status—face another bitter winter without adequate heat or light. The near-collapse of the Romanian economy has led to rumors that the Soviets would not at all mind if the army toppled Mr. Ceausescu and installed a military government similar to the one that has run Poland since 1981. However, any such move is unlikely. For all of his economic bungling, Mr. Ceausescu still delivers valuable exports to the Soviet Union and serves as a conduit for the transmission of embargoed Western technolgy to Moscow.

Continuing to renew Romania's MFN status will not make that nation more independent of the Kremlin. Mr. Ceausescu's devotion to Stalinist Marxism is clear even to naive observers. I worked with him for many years, and the one thing I came to understand was that his position toward Moscow was never influenced by the U.S. Rather, it was primarily determined by the nature of his personal relationship with the Kremlin's top man. Yuri Andropov, whom I met, seemed to show less rigidity toward Mr. Ceausescu than Leonid Brezhnev had; Mikhall Gorbachev is apparently following the same policy.

According to recent reports, relations with Moscow are getting closer again, with a

large Soviet presence once more in Romania. In addition, secret bilateral agreements with Moscow, such as those between the two intelligence services for the procurement of Western technology, are sacred obligations for Mr. Ceausescu.

Human rights in Romania have been strangled since the granting of MFN status in 1975. The proportion of security personnel in the population has steadily increased over the years, reaching a ratio of 1:15—the world's highest—by the time of my break with Bucharest in 1978. Selective mail censorship was replaced in 1976 with total censorship, with every single letter and package from abroad being opened. In February 1977 a secret Communist Party decision approved the complete monitoring of all international telephone calls. At the same time, Mr. Ceausescu personally ordered that the only legally permissible telephone device to be used was one developed by the security police that can be instantly converted into a microphone to monitor people's private conversations.

During the mid-1970s electronic monitoring devices were secretly installed in every Roman Catholic church and Jewish synagogue. In March 1978 a top-secret decision by Mr. Ceausescu required that all but a few token Jews be quietly removed from the military and security forces as well as from sensitive posts in the party and government.

Bucharest's terrorism against the West has also increased substantially. In the mid-1970s there was a surge in the secret training given in Romania to Western communists, especially Spaniards and Greeks, in sabotage and other forms of guerrilla warfare. In 1975 the DIE, the Romanian foreign intelligence service, made secret agreements with Palestine Liberation Organization terrorists, providing them with significant logistical support and using them in operations against Romania's own political opponents in the West.

In 1975, only days after receiving MFN status, Romania had its DIE secretly kill three militant anti-communists in the West, one of whom, Vasile Zapartan, was a priest. The DIE later organized assassination attempts and savage beatings of emigres who had publicly criticized the cult of personality in Romania, using PLO terrorists in France in 1976 and criminal mercenaries in both West Germany in 1976 and Frnace in 1977. In July 1978 I personally received the order to arrange unattributable assassinations of emigres working for the U.S. government in Radio Free Europe, and to bomb the radio's Munich headquarters (an action that finally took place in February 1981).

On July 28, 1981, Emil Georgescu, a senior editor at Radio Free Europe in Munich, was stabbed 22 times by criminals hired by Bucharest and barely escaped with his life. (He was one of the people I had been ordered to have killed.)

Nevertheless, Bucharest has always considered itself able to outwit Washington in obtaining the annual renewal of MFN. The only significant step I saw Mr. Ceausescu take to ensure the renewal was his August 1975 appointment of a permanent MFN task force, consisting of the minister of foreign affairs, the minister of interior, and the deputy chief of the DIE (at that time myself). Because the U.S. indicated that Romania's emigration policy was the key to MFN renewal, Mr Ceausescu decided to maintain emigration from Romania (mostly Jews and ethnic Germans) at the minimum level but no higher. "We should make as much money as possible on our vanishing national resources—oil, Jews and Germans," he told the task force.

As part of the task force, the DIE was also responsible for selling the West on the myth of Mr. Ceausescu's domestic popularity and persuading the U.S. government to like Romania. The DIE paid for the Western publication of hundreds of articles and books about Mr. Ceausescu's accomplishments. It mounted successful operations to develop sources of influence at the U.S. Embassy in Bucharest and to exert pressure through agents and contacts in the U.S. It created and financed Romanian emigre organizations in the U.S., which paid for thousands of emigres to come periodically to Washington from all over the U.S. and Canada to demonstrate and lobby on Capitol Hill for MFN renewal.

Nor will the most recent renewal of MFN status improve U.S.-Romanian relations. Bucharest is now apparently pressing for a new official visit by Mr. Ceausescu to Washington, but its Oriental-rug-merchant approach to bilateral relations is entirely different from the American one. I personally was responsible for preparing Mr. Ceausescu's last visit to the U.S., in April 1978, and I also then accompanied him as a member of his official delegation.

Mr. Ceausescu assigned the visit a more pragmatic mission besides its political significance: setting the stage for the secret development and eventual recruitment of President Carter's brother, Bill. Because I broke with Bucharest shortly thereafter, the only tangible result of this planned operation was the Romanian commercial office opened in Atlanta as a first step.

BUCHAREST OUTFOXES WASHINGTON

The tactic of recruiting close relatives of foreign heads of state is one in which Mr. Ceausescu excels. On one official visit to Iran, he himself spotted the corrupt brother of the late shah as a likely prospect, and in Syria he saw potential in the then-powerful brother of President Hafez Assad. Both were later recruited, royally rewarded by fat payments into Swiss bank accounts, and used for promoting Romanian political and economic interests. Perhaps someday another Romanian defector will tell us what Mr. Ceausescu's ulterior motive is for his next visit to Washington. In any case, we may be sure that he has more than the exchange of mutual compliments in mind.

Bucharest is successfully outfoxing Washington day after day. The U.S. now has 10 years' worth of proof that MFN does not produce the desired effect in Romania, and enough is enough. America must stop supporting a communist regime that is scornful of American democratic principles and hostile to U.S. interests.

RESERVATION OF LEADER TIME

Mr. TRIBLE. Madam President, I ask unanimous consent that the remainder of the majority leader's time be reserved for his use later in the day, and I also ask unanimous consent that the time of the Democratic leader be reserved for his use later in the day.

The PRESIDING OFFICER (Mrs. KASSEBAUM). Without objection, it is so ordered.

Mr. TRIBLE. Madam President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. DOLE. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

NOTICE CONCERNING ANNUAL REGISTRATIONS OF MASS MAILINGS

Mr. DOLE. Madam President, in view of the approaching February 3 filing date, I would like to remind Senators of the requirements concerning registration of mass mailings under Senate rule 40.

Members are required to register annually such mass mailings. The 1985 calendar year filing will be due on February 3, 1986. Mass mailings are also accepted on an "as mailed" basis if Members so desire.

For your information, the following is excerpts from rule 40:

". . . 3. (a) When a Senator disseminates information under the frank, by a mass mailing (as defined in section 3210(a)(6)(E) of title 39, United States Code), the Senator shall register annually with the Secretary of the Senate such mass mailings. Such registration shall be made by filing with the Secretary a copy of the matter mailed and providing, on a form supplied by the Secretary, a description of the group or groups of persons to whom the mass mailing was mailed.

(b) the Secretary of the Senate shall promptly make available for public inspection and copying a copy of the matter mailed, and a description of the group or groups of persons to whom the mass mailing was mailed. . . ."

The Senate Office of Public Records will be open from 9 a.m. until 12 midnight on the filing date for the purpose of accepting these filings. The extended evening hours (after 5:30 p.m.) are being instituted on a trial basis to ascertain the level of interest in extended filing hours.

For further information, please do not hesitate to contact the Public Records office.

RECOGNITION OF SENATOR PROXMIRE

The PRESIDING OFFICER. Under the previous order, the Senator from Wisconsin [Mr. PROXMIRE] is recognized for not to exceed 15 minutes.

Mr. PROXMIRE. I thank the Chair.

WHY WE MUST NEGOTIATE AN END TO NUCLEAR WEAPONS TESTING

Mr. PROXMIRE. Madam President, most thoughtful people believe that nuclear weapons are here to stay. The two most powerful people on Earth, President Ronald Reagan and Secretary Mikhail Gorbachev, disagree. President Reagan contends that the star wars missile defense system is the

first step toward the permanent destruction of nuclear weapons. Secretary Gorbachev goes farther and faster. He agrees with President Reagan that nuclear weapons can be eliminated from the face of the Earth. But Secretary Gorbachev tells us it can be done in the next 14 years.

Could Reagan and Gorbachev be right? Can we destroy all nuclear weapons everywhere? Can we stop them from ever being constructed again? The answer is a loud, emphatic and certain "no." The prospect of stopping the development of a nuclear bomb died on December 2, 1942, when Enrico Fermi successfully tested the nuclear chain reaction. That was the first and fatal test. Once the theory of how to produce a nuclear bomb explosion had been designed, and especially once it had been tested and found to work, there was no more chance that this knowledge could be forever suppressed than there was that we could disinvent the gasoline engine, or the electric light, or gun powder.

In all the long history of mankind, there has never been a scientific development that could provide economic advantage or military power that has been disinvented. The greater the military power a weapon possesses, the more clearly impossible it would be to ban the knowledge, once the knowledge has been proven and established by testing. Since there has been such an extraordinarily potent military force as the nuclear bomb, this weapon is henceforth and forever a sure companion of man on Earth.

We cannot perform some kind of forget-it operation or amnesia—anesthesia on the minds of the thousands of scientists who know how to design nuclear weapons. This Senator believes that verification can accomplish far more than many of his colleagues believe. But I do not believe that no matter how we advance our verification or improve our intelligence, we could verify the destruction of every last nuclear weapon on Earth. Even with an agreement for intensive, unannounced, on-the-spot inspection, weapons could be concealed. There is no way the five acknowledged nuclear-weapon nations could assure each other that every last nuclear bomb has been destroyed.

And what happens if they could? Imagine the incentive for a Libya or Syria or Iran or any one of more than 150 other nations to suddenly achieve superpower status with their own monopoly on nuclear power. Gorbachev and Reagan are wrong. Nuclear weapons are here to stay. Forever. That's the first fundamental fact to accept.

So the real question is: How do we live in peace with nuclear weapons? If we cannot ban nuclear weapons from the face of the Earth, what can we do?

For the answer, we should go back to that Fermi test of December 2, 1942. That was the last chance to stop the development of nuclear weapons on Earth. If neither Fermi nor anyone else had tested the nuclear reaction, the idea, the theory might have persisted but the bomb itself would never have been proven or established. In 1963 and again in 1974, the United States, together with the Soviet Union, promised to negotiate a comprehensive mutual end to all nuclear weapons testing. Two hundred and seven members of the House have cosponsored a resolution that would call on the President to negotiate such an agreement. Once the superpowers successfully agree to end nuclear testing, they could both vigorously pursue an attempt to bring the other nuclear weapon nations into the agreement.

Would such an agreement be simply 44 years too late? No indeed. Nuclear weapons labs in the Soviet Union and in the United States are working feverishly to develop newer, cheaper, more efficient weapons than either superpower has in its arsenal now. As these new weapons are developed and proven by testing, we should keep in mind they are—like the first Fermi nuclear reactions, forever.

Could that destroy the prospects for world peace? You betcha! Consider just one among many haunting possibilities: The antimatter bomb. Einstein's antimatter theory has never been developed into a weapon that has been tested. But that may be happening right now. Such a weapon would be to the present nuclear weapons what the present weapons are to the gun powder in a shotgun. The force of the energy freed with the antimatter principle would exceed by a factor of 100 or more the present most powerful nuclear explosion.

Think what could be packed into a terrorist's suitcase or briefcase. Since the principal cost in nuclear weapons is the delivery system—that is the missile or the bomber or the submarine—consider how cheap such a device could be and therefore, how widely available to scores of nations.

The antimatter bomb is a few years away—depending on the intensity of the development program and especially on when the testing comes. The superpowers should work right now on ending this nightmare by a prompt agreement to negotiate a comprehensive, mutual, verifiable end to all nuclear weapons testing. Secretary Gorbachev has said he is ready. He has proposed some far-reaching verification procedures including on-the-spot inspection. We should take him up on them and take him up on them now.

ATTACKS ON REFUGEE CAMPS: A FLAGRANT RIGHTS ABUSE

Mr. PROXMIRE. Madam President, the United Nations High Commissioner on Refugees recently reported that armed attacks against refugee camps and settlements have been increasing in recent years. These acts of aggression are occurring around the world in places as diverse as Angola and Thailand, but they are alike in character. They are attacks against large concentrations of defenseless civilians. This is clearly reprehensible—a flagrant crime.

What is more, not only the scope but the type of violence is worsening. The UNHCR is witnessing "new forms of brutality and physical assaults against refugees, which by their horror and viciousness remind us of some of the worst manifestations of human wickedness."

The circumstances of these attacks vary. The assailants may come from across the borders and escape back into their own country where they go unpunished. Sometimes the host country denies the incident. The refugees are people without a homeland, without a government to protect their rights. Their only advocates are the international humanitarian groups who try to act as their witnesses. Countries are anxious not to tarnish their world image, so the hope is that a strong international presence will deter attacks against refugees.

We must add our voice to the outcries against such attacks—just as we must add our voice to the condemnation of genocide. It is crucial that we protect the rights of the powerless, and that we make our opposition to human rights abuses well known and indisputable. Genocide is the most outrageous of rights abuses. Ratification of the Genocide Convention is a fundamental statement for the rights of all people worldwide. It is the necessary first step.

A BILL TO REQUIRE SENATE CONFIRMATION OF THE FDA COMMISSIONER

Mr. PROXMIRE. Madam President, today I am introducing legislation to require Senate confirmation of the Commissioner of the Food and Drug Administration.

SCOPE OF RESPONSIBILITY

I can think of few officials at the Department of Health and Human Services with the broad scope of responsibility of the Commissioner of the Food and Drug Administration. By contrast, Senate confirmation is required for 17 officials at the Department—including the Commissioner for Children, Families, and Youth; the Commissioner of Aging; and the Administrator of the Alcohol, Drug Abuse, and Mental Health Administration [ADAMHA]—but few of these officials have a fraction of the FDA Commissioner's responsibilities.

Just consider the scope of FDA's jurisdiction:

The composition, quality, safety, and labeling of food, food additives, colors, and cosmetics;

Inspection of food and cosmetic producers' facilities, surveillance of advertising of prescription drugs, and researching consumer complaints;

Drug approval, ranging from premarket approval and insuring good manufacturing processes to monitoring the quality and labeling of marketed drugs;

Setting standards for radiation-emitting devices; and

Responsibility for implementation of the Medical Devices Act.

It is hard to find any official at the Department of Health and Human Services, with the exception of the Secretary and the Administrator of the Health Care Financing Administration, whose decisions can affect so many Americans and whose decisions are so crucial to the protection of public health.

POLITICIZING THE FDA

With such sweeping responsibilities, the Commissioner of the FDA is often at the center of important decisions, attempting to reconcile public health considerations and economic considerations.

Unfortunately, there has been increasing political pressure to place economic considerations above considerations of public health and the three Commissioners to serve during the Reagan administration have been kept on increasingly short leashes. The result has been a triumph of politics over science and has led to criticism from both sides of the aisle on a number of issues:

Despite repeated recommendations by FDA scientists that a number of color additives caused cancer, the administration refused to even consider taking them off the market as the law required. They even took away the FDA Commissioner's authority to ban cancer-causing color additives, which past administrations had delegated to the Commissioner;

Despite a clear link between aspirin and Reye's syndrome, a potentially fatal disease, political pressure by the administration to accommodate industry resulted in the ill-fated decision to rely upon a voluntary warning label. Public outcry finally prompted the administration to reverse its position to assure protection for our Nation's children;

And while the FDA has finally taken action on sulfites, it took more than 21 deaths and more than 800 injuries caused by allergic reactions to sulfites before they were prodded to action. And then only in the face of possible legislative action.

And the list goes on and on. The administration still opposes complete labeling of all ingredients used in drugs, despite the strong support for such truth in labeling by the American Academy of Pediatrics and the American Medical Association.

The track record of the last 5 years makes it clear that the FDA Commissioner can no longer be just another hired hand of the administration. We don't need another team player. We need a tough, independent FDA Commissioner who can resist powerful political and economic interests.

Senate confirmation will help restore accountability and ensure that future FDA Commissioners understand that their first loyalty must be to the public trust they hold.

Madam. President, I ask unanimous consent that the text of the bill be reprinted in the RECORD as well as an article from the Chicago Tribune, entitled "FDA 'Politicization' Called Hazardous to Health".

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

[From the Chicago Tribune, Oct. 20, 1985]

FDA POLITICIZATION CALLED HAZARDOUS TO HEALTH

(By Michael L. Millenson)

WASHINGTON.—Not long after becoming Commissioner of the Food and Drug Administration, Dr. Frank Young gave enlarged replicas of his FDA inspector's badge to his boss, the secretary of Health and Human Services [HHS], and her chief of staff.

To Young, the gifts were "thank-yous" for the help that Secretary Margaret Heckler and the chief of staff, C. McClain Haddow, were giving him in running an agency whose responsibilities range from food, drugs and cosmetics to artificial hearts and computerized brain scanners.

To critics, however, the gifts symbolized what they see as the erosion of the FDA's traditional independence under the Reagan administration and the growing influence of politics on scientific decisions.

In particular, critics charge that intervention by HHS and the Federal Office of Management and Budget [OMB] has endangered public health in activities ranging from eating a salad at a restaurant and giving aspirin to a sick child to applying makeup:

Critics say it took congressional hearings spotlighting the death of a 10-year-old girl from an alleged allergic reaction to sulfites before the FDA proposed a limited ban on the preservative, often used to improve the appearance of fruit and vegetables in restaurants.

When studies showed that children taking aspirin for the flu could develop a potentially fatal disease called Reye's syndrome, pressure built for mandatory warnings on aspirin bottles. Aspirin makers disputed the studies, and the FDA decided to allow voluntary labeling, which critics now charge manufacturers are ignoring.

Although FDA scientists concluded that several dyes and colorings often used in cosmetics were weak carcinogens, HHS and OMB refused to allow the agency to ban their use, a congressional committee found.

In an unusual gesture, Dr. Alexander Schmidt, the FDA commissioner under President Richard Nixon, told state regulators recently, "We have more politicization of the agency than is either warranted by rational politics or good for the American people."

One particular target of critics' ire has been Haddow, a former aide to Sen. Orrin Hatch [R., Utah]. But Haddow, along with Young, vigorously denies that public health has been threatened in any way.

"We believe without question that science has to be left to the people at FDA," says Haddow, "But we think there's a role to play in the application of public policy to that science.

"Policy decisions that affect virtually every American deserve to have another level of review. . . . We think the American people have clearly said which philosophy should prevail [in that review]."

Adds Hatch: "It's the 'outs' complaining about the 'ins.' It's sour grapes."

To help assure a change in philosophy, a longstanding order giving the FDA commissioner semiautonomous authority was revoked soon after the Reagan administration took office in early 1981. Meanwhile, OMB, which is part of the executive office of the president, stepped up its oversight of the FDA under an executive order requiring an economic "cost-benefit" review of government regulations.

The new attention from HHS and OMB was evident when the FDA moved to ban six colorings and dyes found to cause cancer in animals. Although the additives seemed, at worst, to be weak carcinogens, the FDA concluded that the Delaney Clause, a federal law that forbids any use of a carcinogenic food additive, left them no choice.

Nevertheless, a proposed ban was rejected repeatedly by HHS, a report by the House Committee on Government Operations concluded. Meanwhile, an industry trade group attorney with ties to Vice President George Bush intervened with OMB. The FDA then was told that the administration opposed banning the additives, because they were unlikely to cause health problems.

"The administrative record contains no justification from department officials for not approving FDA's recommendations," the House committee said in a unanimous report. "It is likely that OMB played a major, if not pivotal role, in the continued, unlawful marketing of these dyes."

Complains Rep. Ted Weiss [D., N.Y.], chairman of a government operations subcommittee: "It's not up to the regulatory agency to say they don't like the law and, therefore, they've not going to adhere to it."

Both Republican and Democratic representatives, meanwhile, have asked hard questions about the FDA's slowness to ban the use of sulfite as a food preservative.

Since early 1983 the FDA has received reports of 21 deaths and more than 800 injuries allegedly caused by allergic reactions to sulfites. In August the agency finally proposed regulations that eventually will ban the preservative in fresh foods and vegetables.

Young insists that the FDA acted as quickly as scientific evidence would allow. "Sulfites was one of the fastest regulations ever to go through FDA and the department," he says.

Critics, however, contend the agency did not move until congressional hearings focused publicity on the death of 10-year-old Medaya McPike of Salem, Ore., who died earlier this year, allegedly from an allergic reaction to sulfites.

"It is sad, but true, that you need dead bodies and the glare of adverse publicity to overcome this administration's aversion to public health regulation," says Rep. John Dingell [D., Mich.], chairman of the sulfite hearings.

Adds an FDA insider who asked not to be identified: "Most of the [lag] time was spent trying to convince [HHS] that we had to have regulation, that people were dying."

The FDA's decision to use a voluntary approach with aspirin manfacturers regarding warning labels on bottles has provoked charges from critics that the action is not working.

In a recent letter to several senators, the American Academy of Pediatrics complained that the aspirin makers have reneged on their promise to post a clear warning about Reye's syndrome on the bottles in time for this winter's flu season. [The Aspirin Foundation of America disputes the charge.]

S. —

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) chapter IX of the Federal Food, Drug, and Cosmetic Act is amended by adding at the end the following:

"APPOINTMENT OF COMMISSIONER

"SEC. 903. The Food and Drug Administration shall be headed by a Commissioner of Food and Drugs who shall be appointed by the President, by and with the advice and consent of the Senate.".

(b) The amendment made by subsection (a) shall apply to individuals appointed to the office of Commissioner of Food and Drugs after the date of the enactment of this Act.

MYTH OF THE DAY

Mr. PROXMIRE. Madam President, the myth of the day is that the administration's budget will comply with the $144 billion deficit ceiling set in the Gramm-Rudman law. No doubt it will project a deficit of $144 billion or less as required. But will that projection be realistic or will it be a myth?

Their budget will be about as realistic as Tinker Bell. It will be filled with smoke-and-mirror savings, will-of-the-wisp cuts, and rosy economic projections. Such a budget may serve the administration's purpose in avoiding telling the American people bad news.

What do I mean by imaginary cuts and rosy projections? Look first at the so-called privatization proposals. There may be good reasons why some Government assets should be sold. Yet each of these proposals is certain to be a political hot potato. And Congress, acting in a bipartisan fashion, is likely to reject some if not all of the administration's recommendations. Other proposals, for example, ending the agricultural extension service, are likely to face the same fate.

Regarding rosy forecasts, the administration will likely say that GNP will grow by 4 percent next year after adjusting for inflation. The Congressional Budget Office will not be as optimistic, which means that the deficit will be still higher. Adding these factors together means that the administration's budget deficit will really be around $200 billion. That is the figure the Senate Budget Committee will have to work from.

In the past, Congress has often gone along with this charade, often adding a few frills of its own. But this year, a sequester order stands in the way of relying on mythical accounting as the administration will do.

Congress is going to have to be relatively honest in preparing a budget resolution. The smoke-and-mirrors cuts in the administration's budget will disappear. And to stay within the Gramm-Rudman ceiling, the Budget Committee will be forced to look elsewhere for an equal amount of savings. And elsewhere is likely to be the defense budget.

Imagine the pain. Senators who have been life-long advocates for defense will be forced to choose between politically popular domestic programs and defense. At this point, the administration's penchant for imaginary cuts will come home to roost.

This prospect is behind the calls for a quick grand compromise on the budget. If such a compromise is not reached and members of the Senate Budget Committee have to start voting on these tough choices, they will be unlikely to let the rest of us off the hook. If that happens the chances for a compromise later in the year—say, September—will be slim to none. That is why the administration's mythical budget may turn into a nightmare later in the year.

THE ORIGINS OF STAR WARS

Mr. PROXMIRE. Madam President, it is a story no one would believe without evidence. It is the story of the origins of the President's star wars message to the Nation. The biggest defense program potentially in the history of the world was conceived in a casual and intellectually uniformed manner that almost resists cogent explanation.

A President of the United States, enamored with the concept of a perfect defense against attack, decides to commit his Nation to a trillion dollar program without seeking even the most rudimentary assessment of his technical experts. And his staff, for whatever reasons they saw fit, served him by creating a screen of secrecy which prevented any evaluation of his plan or even significant modification of his language until the last minute.

Before the President's speech was there any consideration of the technical problems of star wars? Not according to a participant in these events. Was thought given to the military consequences of such a program? Again no. How about its effect on our allies? Not a word. And an assessment of the likely Soviet response? Again no consideration.

So here we have one of the key weapons decisions of all times being made in a political, technical, diplomatic, and one might argue, intellectual vacuum. It would be amusing to read of the "stunned, livid, outrage" of the top military and civilian advisers to the President when they discovered they had not been consulted were it not for the commonsense conclusion that they should have been.

I believe that the President's staff protected him from his advisers out of fear that his simple concept would have been ridiculed by his own experts—the same experts who you dutifully serve as proponents of the Star Wars Program.

Madam President, the history of the origins of the star wars concept has never been more thoroughly researched or documented than by Frank Greve of Knight-Ridder Newspapers. His accounting of this remarkable decision almost leaves the reader stunned in disbelief that so complex a matter could have been handled so cavalierly.

Madam President, I ask that Frank Greve's article titled "How Reagan's Plan Caught Many Insiders by Surprise," from the San Jose Mercury News be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

HOW REAGAN'S PLAN CAUGHT MANY INSIDERS BY SURPRISE

(By Frank Greve)

WASHINGTON.—Secretary of State George P. Shultz was livid. He had just learned that President Reagan would announce a stunning change in the nation's nuclear warfare policy in two days.

It was a change that would immediately and unalterably be nicknamed "Star Wars," a change Shultz opposed because he considered it dangerous and, on technical grounds, impossible.

But Shultz had not been consulted, a Mercury News Washington Bureau examination of the origin of "Star Wars" reveals. He simply had been given a copy of Reagan's intended speech—an "eyes only" copy that Shultz could not share with Paul Nitze, the arms control adviser to Shultz and the president. Nitze first learned about "Star Wars" at 11 a.m. on the day of the speech, March 23, 1983.

Like Shultz, members of the Joint Chiefs of Staff got two days' warning. So did the Defense Department's top nuclear strategist, Assistant Secretary Richard N. Perle, who was so enraged at being blind-sided, according to an aide, that he "nearly fell on his sword."

Undersecretary Richard D. DeLauer, the chief Pentagon scientist, learned of the biggest, most ambitious weapons research program in history nine hours before its public announcement. Fred C. Ikle, the undersecretary of defense for policy, was notified at the same time, and he pleaded vainly for a chance to alert NATO leaders.

And so it went throughout the highest echelons of the Reagan administration. The "Star Wars" proposal, which pushed Soviet leader Mikhail S. Gorbachev toward the bargaining table in Geneva—and which now is the principal obstacle to new arms control agreements—came as a bolt from the blue.

That plan to knock out incoming Soviet ballistic missiles was conceived almost casu-

ally in 1983—but since then it has become so expensive it has no price tag, so complicated it has no due date. It also has become the biggest of the many differences between Reagan and Gorbachev on the eve of their Geneva summit.

"Whether strike weapons will make it to outer space or be barred from it is an all-important question," the Soviet leader said recently. "The answer to it is decisive to the course of developments in the world for many years ahead."

Yet the Strategic Defense Initiative, as "Star Wars" is officially named, was not a decision arrived at "after careful consultation with my advisers," as Reagan said when he announced the plan on national television. Rather, it was a decision made by Reagan and kept secret by him and a half-dozen National Security Council staff members from nearly everyone else, particularly the doubters, the Mercury News Washington Bureau examination found.

Many of the generals, aides, scientists, bureaucrats and appointees who know about the beginnings of "Star Wars" have retired. Some now consider it such a success that they are eager to chronicle its history and perhaps stake small claims to paternity. Others say they are appalled at what they consider folly's progress.

With significant exceptions, "Star Wars" participants still in government asked not to be identified, a request honored in this story. All details coming from unidentified sources were confirmed by at least one other participant.

AVOID OBSTACLES

The basic strategy, under a plan carried out by Robert C. McFarlane, then the president's deputy national security adviser, was to skirt Congress, the bureaucracy and the media. Those three sectors, the proponents reasoned, would smother the radical "Star Wars" idea in its crib if given a chance.

As a result, most top officials did not learn of the proposal until they had no choice but to back their boss, according to many of the principals. "If you supported Reagan, you supported SDI," one insider recalled recently, referring to "Star Wars" by its formal initials.

In reality, many insiders—including the Joint Chiefs of Staff, whom Reagan singled out twice in his speech as influential supporters—had reservations about "Star Wars'" technology, timing and cost. Nearly all of Reagan's official advisers considered fanciful his suggestion that the new technologies might "give us the means of rendering these nuclear weapons impotent and obsolete."

COULDN'T SUPPORT THAT

"Those of us who knew what was really going on couldn't support that," said DeLauer, now a private consultant. "It was an overstatement with regard to how it would protect cities and the assertion that the protection would be leak-proof."

"We recognized that SDI was not a panacea" against nuclear threats of all kinds, said retired Army Gen. John W. Vessey Jr., then chairman of the Joint Chiefs of Staff. In fact the Joint Chiefs had urged the president to consider strategic defense, but they had no specific plan in mind, simply considering it a concept worth careful study.

Both proponents and opponents of "Star Wars" agree it was not carefully considered.

FIVE DAYS' WARNING

Nuclear physicist George A. Keyworth II, for example, chief scientific adviser to the president, received five days' warning of the "Star Wars" decision. He might have gotten less, according to an NSC member, "had not we asked ourselves, 'How can the president go on the tube directing a major high-technology initiative and tell his science adviser nothing?'"

So, McFarlane called Keyworth on Saturday, March 19, 1983, and asked one crucial question: Could Keyworth support stepped-up strategic defense research? Keyworth, without significant hesitation, said yes and was told to help draft the speech and build support within the scientific community.

His immediate reaction to the "Star Wars" idea was, "Give me time. It's big. Give me time," Keyworth said in a recent interview.

LET'S THINK SOME MORE

"Most people saw the speech very close to delivery, and most—myself included, incidentally—had the same reaction: "My God, let's think about this some more. Let's think about the implications for the allies. Let's think about what the Soviets are going to think. Let's think about what's technically feasible. Let's think about what the scientists are going to think. Let's think about the command and control problems.'"

They are formidable concerns. Under the system Reagan proposed, several layers of speed-of-light weapons, either space-based or with their beams reflected off space-based mirrors, would fire upon Soviet ICBMs as they rose off their launch pads and arched through space toward the United States or Western Europe.

A BALL ON THE MOON

In a Soviet first strike, the system would have to destroy, within half an hour of their launch, thousands of warheads. In each instance, the beam would have to be aimed so precisely, according to DeLauer, that the feat would be like spotlighting, from Earth, a basketball on the surface of the moon.

An important White House analyst involved in the decision was asked recently whether such technical problems had been examined before Reagan's speech.

"That was not an issue," he replied. "The idea was to make a decision and then make it happen."

What about whether "Star Wars," if it worked, would contribute to a sound military strategy?

"That wasn't considered either."

What about the likelihood that the Soviet Union would consider "Star Wars" threatening?

"As best I could tell, none of that was really thought through either."

NEVER CONSIDERED

What about the system's relation to the Outer Space Treaty (banning weapons in space) and the ABM, or Anti-Ballistic Missile treaty (limiting defenses against ballistic missiles)?

"That was never considered.

"None of the things you assume would be considered were considered at all. People just don't believe that the president could make such a momentous decision so impulsively. They think we must have thought through what it would do to the treaties and how it might work as a bargaining chip in Geneva, and so on, but I can't find it.

"Neither can anybody else who has undertaken a history of SDI, and the reason is, it isn't there."

Another participant said the decision was made "with little more consideration than you give to the jacks before you bounce the ball." A third source, marveling at how Reagan slipped the fetters of his bureaucracy, said, "It was a fabulous study of top-down leadership."

NO ONE CHALLENGED HIM

Another took a more critical view. "You'd think that if the president proposed something absolutely off-the-wall," he said, "there'd be someone who would stand up and say, 'That's screwy!'

"Well, there wasn't."

What there was, by the consensus of three eminent scientists who have briefed him, was a president with the scientific acumen of the average man on the street. They are not surprised that Reagan has muffed some basic strategic facts, appearing on one occasion to be unaware that the Soviets rely heavily on land-based missiles, and on another describing mobile missiles as possible first-strike weapons.

The scientists add, however, that Reagan is quicker than most top business executives to recognize the implications of scientific advances. And they say that Reagan, more than anyone else in his administration, is optimistic that scientific research can solve national security problems.

THE START OF AN IDEA

Reagan vividly encountered the strategic defense problem during a 1979 campaign visit to the North American Air Defense Command headquarters in Cheyenne, Wyo.

After observing NORAD radars tracking thousands of objects in space, including, he would later recall, an astronaut's glove, Reagan asked commanding Gen. Jim Hill what NORAD could do to stop an incoming Soviet missile.

"The answer was, 'Nothing,'" recalled Martin Anderson, an economic adviser who had accompanied Reagan.

So, Anderson drafted a campaign memo in August 1979 suggesting that Reagan propose construction of a protective missile shield against Soviet intercontinental ballistic missiles, perhaps exploiting laser beam technologies.

DIDN'T LIKE THE TIMING

A senior campaign adviser, Michael K. Deaver, said no. Deaver, who later would become deputy White House chief of staff, liked the idea but not the timing. He feared his candidate might look like a radical hawk if he proposed sharp changes in traditional nuclear doctrine.

Under that doctrine, called Mutually Assured Destruction, the superpowers have maintained nuclear peace by restricting defensive weapons and leaving themselves virtually naked to nuclear attack. The theory has been that the threat of retaliation produces a defensive effect.

Reagan has never liked this idea, calling it, privately, "a Mexican standoff."

"He said it was like two men with nuclear pistols pointed at each other's heads, and if one man's finger flinches, you're going to get your brains blown out," recalled retired Air Force Lt. Gen. Daniel Graham, a defense adviser to Reagan in 1976 and 1980. "He said it didn't make any sense to him."

TECHNOLOGICAL SUPERIORITY

Graham, a former head of the Defense Intelligence Agency, favored space-based defense. As he explained in an October 1980 U.S. News & World Report interview, "The kind of superiority we should seek is technological superiority—that is, to have some of our military capabilities in an area where the Soviets, with inadequate technology, cannot challenge us. . . . If we challenge them in a technical way—such as with a space-borne defense system—and make

them face an entirely different military equation, we can quickly restore the balance."

After the election, Graham founded the Washington-based think tank "High Frontier" to promote space-based defenses against Soviet ICBMs.

KITCHEN CABINET'S ROLE

Four members of the president's Kitchen Cabinet initially were contributors to Graham's effort: brewer Joseph Coors, 68; paper magnate Karl R. Bendetsen, 78; investor and rancher William A. Wilson, 71; and foods magnate Jacquelin Hume, 80. All are influential supporters, not only of Reagan, but of Stanford University's Hoover Institution on War, Peace and Revolution, the nation's premier conservative think tank.

In 1981, a senior scientist from the Hoover Institution approached science adviser Keyworth and said he wanted to offer his technical expertise to the president's well-meaning friends.

The scientist was nuclear physicist Edward Teller, 77, father of the hydrogen bomb and Keyworth's mentor. Teller, whom Keyworth described in an interview as "my father," had pushed Keyworth for the science adviser job.

TELLER'S FEARS

Like Reagan, Teller has the gravest fear of Soviet intentions. Like Reagan, he considers the ABM treaty, which limits defensive weapons against ICBMs, a mistake that has undermined U.S. security.

Teller believes that "the old MAD policy of mutual assured destruction is nonsense" and that "MAD is not only morally bankrupt, it is rapidly getting technically bankrupt."

Guided by Teller, the four Kitchen Cabinet members split from Graham and High Frontier. Thereafter, they used their influence to promote four meetings between Reagan and Teller before the "Star Wars" speech. Teller would not comment on the sessions. "If the President will tell you, then I will comment on it," he said.

EXCALIBUR

Teller proposed to build an X-ray laser powered by a nuclear detonation. Called "Excalibur" in tests, the device would pick off Soviet ICBMs with powerful X-ray beams created by a controlled bomb-scale explosion in the weapon's core. It might be fired from a space-based platform or from a ground station, its beams reflected off orbiting mirrors.

In a Sept. 14, 1982, meeting with the president, Teller warned, according to two sources who were present, that the Soviet Union was developing an X-ray laser weapon similar to "Excalibur."

"Because the Soviets are doing it, by now it is a question of life or death" be explained in a recent interview.

Like Graham, Teller was not thinking of the weapon in strictly defensive terms. "Excalibur," he promised the president after his speech, "would end the MAD era and commence a period of assured survival on terms favorable to the Western alliance."

NOT FIRST APPEAL

It was not the first time Reagan had heard such an appeal and warning. In January 1982, Kitchen Cabinet members Coors, Hume and Bendetsen had proposed an ABM system using directed energy weapons. Accounts of that meeting reveal much of Reagan's thinking about strategic defense.

Reagan wondered, for example, whether the system should be designed to protect missile silos or populations. (Protecting hardened silos is a relatively easy task called "point defense," protecting cities and civilians is a much more demanding job called "area defense.")

"Bendetsen told him that if you could do one, you could do the other, but that the cost and time would be very different," recalled a source present at the meeting. "He said it was a question that was not answerable by thinking of cost alone and said that, if he had the president's permission and it were up to him, whatever the answer, it should be secret.

"Whatever the case, Bendetsen said, it was too early to make a distinction between city protection and silo protection and we ought to get on with it."

The president answered, "You're right," said the source, whose account was independently confirmed.

ISSUE QUICKLY DISMISSED

The question of how to deal with existing ABM and space treaties was quickly dismissed. Reagan appeared satisfied when Bendetsen stated, "So many people on your staff and State and committees on the Hill will be endlessly involved in those questions that it is more constructive for you to pursue the means that are involved."

Bendetsen, retired chairman of Champion International Corp., was an undersecretary of the Army between 1946 and 1952. he recommended that Reagan announce in a nationwide speech a quest, like the 1942 Manhattan Project that produced the atomic bomb, to develop new speed-of-light weaponry for strategic defense.

To do that, Reagan replied, he would need that recommendation from the Defense Department.

"Sir," said Bendetsen, "if it is going to come from the Secretary of Defense, you're going to have to talk him into it."

GOOD NEWS, BAD NEWS

In February 1983, Gen. Vessey had the kind of good news/bad news problem that sometimes befalls chairmen of the Joint Chiefs of Staff. He and Reagan got on so well that the president had recently instituted monthly meetings with the Joint Chiefs. Now the problem was, Vessey couldn't decide what to talk about. He called the chiefs to his office on a Saturday morning.

"We decided we didn't want to just tell him readiness was up and so forth," a participant recalled. "We wanted to bring the president something new, different and exciting."

Adm. James Watkins, chief of naval operations, had an idea. Reading from notes, Watkins told the chiefs that it was time to consider the possibility that new technologies would make it possible to defend against a Soviet ICBM attack.

Gradually, in careful consultation with NATO allies, the United States should pursue the weapons technology advantage it had over the Soviet Union, Watkins suggested, according to notes that survived the session.

CALLED A MORAL ANSWER

A devout Catholic deeply involved at the time in the church's nuclear ethics debate, Watkins said it was more moral to protect Americans from nuclear attack than to hold them hostage to Soviet intentions under the MAD doctrine.

"Wouldn't it be better to save lives than to avenge them?" he asked.

And where had Watkins' idea come from? "If there was a father of the idea in Adm. Watkins' mind, it was Dr. Teller," an important aide said.

Between October 1982 and January 1983, Teller and Watkins had met "a number of times," the aide said, "And it was Dr. Teller who brought the technical information to Watkins that got him so interested in SDI."

Teller confirmed the exchange but stressed that Watkins had initiated it. Watkins declined to be interviewed. In the same 1982-83 period, according to several sources, Watkins had also met informally with McFarlane.

VAGUE AND PHILOSOPHIC

Still, on Feb. 11, when the Joint Chiefs met in the Roosevelt Room with the president, their strategic defense idea was vague and philosophic in tone. They did not distinguish between protecting cities and protecting missile silos or between space-based and ground-based defenses. They put the subject low on their agenda, considering it worthy, some day, of further study. "Our recommendation was that we move into the defensive in the long run," Vesey recalled recently.

"The next step, we figured would be to put a group together and see what was feasible and what the alternatives were," Army chief of staff Gen. E.C. "Shy" Meyer explained in an interview.

Administration accounts of the session say that the Joint Chiefs were polled on the feasibility of strategic defense, that they concurred, and that Reagan drew the determination to act from their counsel, Vesey and Meyer, in recent interviews, could not recall such a polling. Neither could others present.

REAGAN PERKED UP

As far as the Joint Chiefs were concerned, the session with Reagan had gone well, particularly when he "perked up," as one participant put it, for Watkins' strategic defense briefing.

Reagan's recollection is somewhat different. "Well, the whole thing started right in our Cabinet Room," he told U.S. News & World Report recently. "That was when, meeting with the Joint Chiefs of Staff, I brought up the question that nuclear weapons were the first weapons in the history of man that had not led to the creation of a defense system to protect against them. I asked if it was worthwhile looking into this. Is it possible to come up with a defense? They were all agreed it was. And right there the program was given birth."

Reagan, it appears, seized on the Joint Chiefs' strategic defense idea as an endorsement of his own leanings. He plainly fell for Watkins' rhetorical figure, "Wouldn't it be better to save lives than to avenge them?" But when Reagan used the line in his "Star Wars" speech six weeks later, it had an expanded meaning. He meant to use space-based weapons that would protect cities as well as missile silos.

PULL SOMETHING TOGETHER

Unknown to the chiefs, within hours after they met with Reagan, McFarlane assigned three National Security Council staff members, all senior Air Force officers, to think about strategic defense.

McFarlane "told them he had the seeds of something, could they pull something together on strategic defense," according to a well-placed source.

They were to propose various options for strategic defense and weigh for each of them "the implications for the president's MX, B-1, Trident 2 and Pershing programs;

probable international reactions; where support might come from."

What led Reagan to act, at that moment, remains a mystery. McFarlane makes it a practice not to discuss his dealings with the president, and Reagan has said only, "I made the decision." What he enjoyed most about the "Star Wars" idea, he has said, was that it provided "a vision of the future that offers hope."

PROBLEM WEAPONS

He needed that in March 1983. One embattled offensive missile, the MX, couldn't find a home; his promised deployment of Pershing 2 and ground-launched cruise missiles in Europe had helped spawn an intimidating peace movement at home and abroad; U.S. Catholic bishops, who had tentatively found nuclear warfare immoral, threatened to make the anti-nuclear movement a mainstream crusade.

Congress, to make matters worse, appeared ready to cut by half the growth of the defense budget, and a popular nuclear freeze resolution loomed.

Reagan had contributed to the clamor, attacking communism as "the focus of evil in modern world" in an address March 8 in Orlando, Fla. Pending nuclear freeze proposals, he said, ignored "the aggressive impulses of an evil empire."

LONG-RANGE HOPE

Shortly after the Orlando speech, the NSC staffers working on the "Star Wars" concept got new orders. They were to provide the content for the last five minutes of a speech Reagan planned to deliver on March 23 to promote his embattled 10 percent defense budget increase.

Specifically, the staffers were to provide some uplift. "The president wanted legitimately to offer some long-range hope because the rest of the speech was to be about the bucks required for his defense buildup," an informed source recalled.

"He wanted to say that, long-range, there was a prospect of real peace, and that the shift toward defensive systems offered us the possibility of resolving the nuclear dilemma."

THE ANNEX

The NSC staff members worked in the highest secrecy on a speech insert they nicknamed "The Annex." Scrap paper and drafts went into burn bags for disposal. No contact was permitted with speech writers of the remainder of the president's address, let alone anyone outside the White House. Defense Department experts were excluded because "they leak over there," one "Star Wars" analyst explained.

Outside scientific advisers were excluded, too, Keyworth said, "because if the president had gone outside the White House to solicit people for opinions, you've got to admit we would have had the leak of the month to say the least."

Had they not been excluded, the president might have heard daunting news.

DUBIOUS REPORT

A panel of experts from the White House Science Council had produced for Keyworth in January 1983 a highly classified report on exotic weapons technologies. The report was characterized by several sources as dubious about the military applicability of all of them, including chemical lasers and particle beams. The advisers deemed Teller's X-ray laser project to be the most promising technology, but still very remote from weapons applications.

"The report never went beyond Dr. Keyworth" in the formative period of SDI deliberations, according to an authoritative source. Keyworth said, in an interview, that all he believed the president to be proposing was a further examination of new technologies that might be useful in strategic defense.

SPEECH VAGUE, CONFUSED

Meanwhile, within NSC and the White House Situation Room, efforts to draft the "Star Wars" speech ran afoul of vagueness and confusion.

"The language of the drafts fluctuated from urgency to leisure in intent," according to one participant. "It ranged from, 'It might be a good idea to begin thinking about. . . .' to, 'As of tonight, I have directed . . .' followed by the High Frontier approach. On the one side, they were saying, we have the answer today, and on the other they were trying to stuff that widget back in the box."

This sawing back and forth intensified in the final days as selected officials received drafts, then weighed in with protests and amendments to McFarlane and Reagan. In several instances, the protests produced important changes in the final speech.

NARROW THE FOCUS

For example, arms control expert Perle managed to narrow the focus of the strategic defense concept to protection against a Soviet ballistic missile attack. Otherwise, Soviet bombers and cruise missiles would have been included, dramatically increasing the complexity and cost of a strategic defense for the United States, let alone Western Europe.

Continued vulnerability to Soviet bombers and cruise missiles is often cited as the flaw in Reagan's pledge that strategic defense would "give us the means of rendering these nuclear weapons impotent and obsolete."

Once they finally learned of the "Star Wars" decision, Perle, phoning from a NATO conference in Lisbon, Portugal, and Shultz, in two hastily arranged meetings with Reagan, argued that his speech was unduly provocative. According to authoritative sources, they foresaw the instant Soviet Nightmare that a U.S. first strike might destroy most Soviet ICBMs, and a "Star Wars" defense would prevent retaliation with the remainder.

NO ONE WANTS THAT

Their arguments led to this Reagan assurance: "I clearly recognize that defensive systems have limitations and raise certain problems and ambiguities. If paired with offensive systems, they can be viewed as fostering an aggressive policy, and no one wants that."

Perle also sought to reassure NATO allies. He knew what the speech writers had overlooked: that Western Europe lies within six minutes of Soviet missiles, giving NATO allies a different, tougher defense problem than the United States faces.

This produces some soothing phrases and this awkward sentence in Reagan's speech: "Tonight, consistent with our obligations under the ABM treaty and recognizing the need for closer consultation with our allies, I'm taking an important first step."

That first step, as Reagan phrased it, was "a comprehensive and intensive effort to define a long-term research-and-development program to begin to achieve our ultimate goal of eliminating the threat posed by strategic nuclear missiles." If that appeared vague, it was a reflection of the uncertainty among the "Star Wars" advisers and speech writers.

CONSOLIDATE PROGRAMS

The speech also reflected the concerns of the joint chiefs that "Star Wars" not interfere with their acquisition of new offensive strategic or conventional hardware. Their influence appeared more powerful the following day when White House briefers explained that "Star Wars" would be a consolidation of existing research programs, not a Manhattan Project, and that no new spending for research were foreseen in 1983 and 1984.

"So they were talking about the out years," concluded Gen. Meyer, then the Army's chief of staff. "I've always thought that was funny money." Not on his watch would "Star Wars" hurt the Army.

Meyer has since had his doubts, he admitted, whether the system would work. "Whether 'Star Wars' is naive or not, I don't know," Meyer said. "It's naive to critics, but Reagan did what a leader does. He waves toward the horizon instead of toward the ground."

ANDROPOV DISAGREED

Then-Soviet Premier Yuri V. Andropov disagreed. He warned of a new arms race and concluded, "The issues of war and peace must not be treated so flippantly."

Teller first learned of the president's decision when the speech was piped into a White House dinner to which he, the Joint Chiefs and leading scientists had been invited.

Teller's delight faded some weeks later when the administration dropped space-based X-ray lasers into low priority in its strategic defense plans.

Among administration officials, only Defense Secretary Caspar Weinberger had backed "Star Wars" from the start. "Anything the president wants is OK with Weinberger," defense scientist DeLauer asserted recently.

IS IT A BOMB?

But Weinberger was to make an unsettling discovery.

One day, as they headed toward a "Star Wars" congressional hearing, Weinberger had turned to DeLauer and asked about the X-ray laser: "Is it a bomb?"

"I had to tell him," DeLauer recalled recently. "That's how you're going to get the X-ray. You're going to have to detonate a nuclear bomb in space."

Weinberger appeared disappointed. He repeated his question: "It's not a bomb, is it?"

DeLauer, tactfully, said no, it would be a "nuclear event."

Mr. PROXMIRE. Madam President, I yield the floor.

ROUTINE MORNING BUSINESS

The PRESIDING OFFICER. Under the previous order, there will now be a period for the transaction of routine morning business not to extend beyond the hour of 12 noon, with statements therein limited to 5 minutes each.

CIVIL LITIGATION

Mr. McCONNELL. Madam President, on November 1, 1985, I noted the serious problem we face from the runaway cost of civil litigation in the United States. In connection with that statement, I urged greater use of alter-

native dispute resolution techniques in an effort to move away from the unreasonable reliance on lawsuits to resolve, it sometimes seems, every conceivable problem.

During the recent adjournment, I read a fine article by Mr. James J. Kilpatrick, published in the Louisville, KY, Courier-Journal on November 28, 1985. Mr. Kilpatrick's column noted that the U.S. Supreme Court has recently, in his words, "struck a blow for sanity" when it imposed a fine of $1,000 on a lawyer who pursued a frivolous lawsuit.

I believe Mr. Kilpatrick's comments regarding the need for a more sensible approach toward civil litigation, and the need to impose greater responsibility on attorneys and litigants alike, are commendable, and I ask unanimous consent that his column be printed in full in today's CONGRESSIONAL RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

HOOSIER'S HIGH-COURT FINE COULD SLOW THE RUSH TO SUE

By James J. Kilpatrick

WASHINGTON.—Chief Justice Warren Earl Burger struck a blow for sanity the other day. He persuaded four of his colleagues to join him in levying a $1,000 fine on John Hyde of Hammond, Ind. The summary punishment was imposed for abuse of the judicial process—more specifically, for pursuing a frivolous lawsuit.

Three cheers for the chief, and for Justices Byron White, Lewis Powell, William Rehnquist and Sandra Day O'Connor too! If the word would get around in our litigious society that the patience of judges at some point can be exhausted, we might hope for a break in the nationwide logjam of litigation.

Hyde's particular obsession has to do with paper currency. He believes firmly that the founding fathers intended the dollar to be fixed in value by its relation to the Spanish doubloon. The Constitution prohibits the states from making anything but gold and silver legal tender. Surely the same prohibition applies to the Federal Government. Therefore a $100 bill is not legal tender, and the gentleman brought suit to prove it.

His crusade ended abruptly on Nov. 18, when the Supreme Court threw out his suit and hit him with the $1,000 fine. Justice William Brennan, joined by Justices Thurgood Marshall and John Stevens, objected that the majority had acted arbitrarily, but arbitrary actions are nothing new around the high court. It is high time that some brakes were applied to nonsensical litigation.

Consider a few examples. In Clearwater, Fla., last March, the father of 17-year-old twin girls sued the Pinellas County School Board. His daughters would have tied for top honors in the graduating class of Seminole High School if the board had given them credit for a class in band. The board unanimously refused. "I'll soon," cited the father, and he did.

In Santa Rosa, Calif., a 15-year-old girl bought a new red dress to wear to the senior prom. Her 18-year-old date spent several hundred dollars having his Corvett repainted to match the color. Then the school superintendent ruled that the girl, a ninth-grader, couldn't attend the prom because ninth-graders aren't allowed. The teenagers' parents sought an injunction to force the school to let the couple attend. The school's insurance adjuster settled for $4,500 to cover dress, paint job and mental anguish.

In Bend, Ore., an indignant customer sued McDonald's, the golden-arches people, for $1,000 in damages. He contended that the restaurant refused to serve him breakfast at 10:25 a.m., though it advertised breakfast service until 10:30. County District Judge Ed Perkins threw the case out of court.

In Cleveland, an associate professor of political science compiled a study ranking American cities in terms of their "quality of life." He gave the city of Tulsa, Okla., poor marks. The city went into U.S. District Court and sued the professor for $26 million in damages.

When grievances are real and substantial, and cannot be settled by negotiation or arbitration, an injured party has every right to seek redress in court. That elemantary proposition scarcely needs to be defended. But the courts ought not to be used, or abused, by publicity-seeking litigants. Things have reached a point at which "Let's Soon" is about to replace the national motto.

The United States has more lawyers per capita—far more lawyers per capita—than any nation in the world, and most of them stay busy. To the extent that they serve to preserve a rule of law, fine! To the extent that they burden the courts with trivial pursuits, they do a disservice to their profession. If the $1,000 fine imposed on the Indiana goldbug gives pause to these frivolous folks, maybe our courts will gain time to spend on issues that count.

ADDED FLOOD DAMAGE PREVENTED BY WATER PROJECTS

Mr. MATHIAS. Madam President, as many of my colleagues know, many areas of Maryland, Virginia, and West Virginia experienced heavy flooding of their rivers due to tropical storm Juan, last November. The resulting damage to these areas and the suffering of the residents, as great as it was, could have been worse. What prevented a much greater disaster was the many dams and levees on and along the rivers of this region.

People often summarily dismiss water projects such as these as simply serving the interest of a few at the expense of the general taxpayer. The experience in the recent flooding shows us that this is not the case. The attached articles from the Cumberland Times and Cumberland News underscore how invaluable these projects prove to be in the times of potential disaster, both in monetary and human terms. The articles point out that Federal flood protection prevented more than $167 million in damage in this three-State area and relate how the Bloomington Dam itself held back enough water to prevent an astounding $113 million in damage. The benefits in human terms are immeasurable.

It is because of the foresight of past Members of Congress such as Senators J. Glenn Beall and Jennings Randolph, and Representatives Goodloe Bryon, and Harley Staggers, that we were able to prevent the further suffering of today's inhabitants of these regions.

I commend the two articles to my colleagues and ask unanimous consent that they be printed in the RECORD.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

[From the Cumberland News, Nov. 16, 1985]

ADDED FLOOD DAMAGE PREVENTED BY PROJECTS

Preliminary estimates indicate that flood protection projects constructed in the Potomac River basin by the U.S. Army Corps of Engineers' Baltimore District prevented more than $167 million in damages during and after rainfall from Storm Juan last week.

The announcement was made Friday by Col. Martin W. Walsh Jr., Baltimore District engineer.

"Last week's heavy rains caused considerable flooding and damage in the Potomac and Shenandoah river basins," Col. Walsh said. "Look at the devastation along the South Branch of the Potomac, and imagine what the damages would have been like on the Potomac's North Branch and main stem without our flood control projects in place," he said.

During the week of Nov. 3, Corps projects were pressed into service to hold back rising water which otherwise would have flooded property had the projects not been there.

Bloomington Dam, which the Corps built on the North Branch of the Potomac River along the Maryland-West Virginia state line, prevented an estimated $113 million in damages. "In this one event, Bloomington came close to paying two-thirds of its contruction cost of $175 million," said Ken Hartzell of the Baltimore District's Planning Division. The Corps completed Bloomington Dam in 1982.

In Garrett County, the Savage River Dam also saved considerable property from damage. Started by the Works Progress Administration (WPA) in 1939 but finished by the Corps in 1952 this $6.4 million dam prevented an estimated $28.3 million in damages. Although the Upper Potomac River Commission of Maryland maintains the dam, the Corps regulates it during periods of flooding.

Corps-built local flood protection projects on the North Branch above and below Bloomington Dam also prevented significant damages. Baltimore District officials estimate that the Cumberland and Ridgeley, W. Va. flood control project, which cost $21 million to build, saved an estimated $23 million in damages to those towns, which are 40 miles downstream from Bloomington.

Two flood protection projects on the North Branch upstream from Bloomington also produced sizable savings. The Corps estimates that levees at Bayard, W. Va., which cost $347,000 to build, prevented $540,000 in damages last week.

At Kitzmiller, another levee project, costing $600,000 to build, saved an estimated $2.5 million in flood damages.

The Corps has two types of flood control projects in the Potomac basin. Local flood protection units, which consist of levees, floodwalls and the like, allow a greater amount of water to pass through an area by increasing the height of the surrounding banks.

Dams and reservoirs are used to retain excess water until it can be released safely downstream.

Monetary benefits credited to Corps flood protection projects are determined by computing what river stages would have occurred if there had been no projects in the area and relating these stages to the corresponding acreage which would have been inundated. A dollar value is then assigned to the projected damage prevented because of the projects.

The Bloomington and Savage River Dams were able to reduce even more flow than usual because the Corps of Engineers-constructed Bloomington Dam was drawn well below its normal, or summer pool, level last week to permit workers access to a service road located adjacent to the dam, said Russell Newman, reservoir manager at Bloomington Lake.

When the heavy rains inundated this area, the pool was 50 feet below its standard level. Rainwater pushed that level to almost 20 feet above the normal pool.

"This was the flood of record of the North Branch Basin," he said, adding the dams played a role in reducing the massive volume of water which hit the basin.

During the storm, flows above the dam ranged up to 50,000 cubic feet per second at Kitzmiller. The Corps waited until the Potomac River crested at Paw Paw and then began releasing dam water which reduced the flow to about 200 cubic feet per second.

"We calculated that this reduced the level of flood stage at Luke by more than 12 feet and at Cumberland by more than 14 feet. At Cumberland that would have been equivalent to a 100-year storm and at Luke to the severity of a 500-year storm," Newman said.

"Normally speaking we don't claim much affect on flood control below Cumberland but in this flood it was demonstrated we did. Now the people of Paw Paw would question that. Their flood stage was 24 feet and the river crested at about 56 feet. But the dam reduced the overall flow by 2.4 feet and as far as Hancock it reduced it by three feet and 2.9 feet at Shepherdstown, W.Va.," he added.

"To people at Paw Paw who were already wet it probably didn't mean much. But it does if it kept the flow just below flood stage," Newman said.

Newman said the reservoir level is now again about 55 feet below standard level to permit work on a service road.

Dams also reduced the flow of rivers in West Virginia, said Jim Dove, state engineer for the Soil Conservation Service there.

"None of the SCS flood control dams were washed-out and none went over the top," he said Friday.

The SCS built and manages 64 dams in the Potomac drainage including 23 on the South Fork north near Moorefield.

Dove said the dams held 10 billion gallons of water which otherwise would have rushed down the river.

"It would have washed-out places like Maysville, Keyser and Brandywine," Dove said.

"We've built more than 150 dams in West Virginia and as far as we know all of the dams are still in place and are now drained and ready for any other rain," the West Virginia SCS engineer said.

DAMS PROVE WORTH IN NOVEMBER FLOOD

Ever since the Savage River Dam went into operation in 1952, the control of the release of water during periods of much rainfall and flooding of the North Branch of the Potomac River has prevented millions of dollars of property damage downstream.

In fact, figures compiled by the U.S. Army Corps of Engineers have shown that this one dam has paid for itself many times in flood curtailment alone. During this one flood alone, the use of the dam, which cost $6.4 million to build, as a retainer of water prevented an estimated $28.3 million in damages.

Then, after being protected by this dam for three decades, the Bloomington Dam was constructed by the Army Engineers, the largest impoundment of its kind in eastern United States.

The real worth of this project which took ten years to complete was measured in the Nov. 4-5 flood of the Potomac River. The Corps estimates Bloomington Dam held back enough water to prevent an estimated $113 million in damages, a figure that is about two-thirds of the amount the dam cost, $175 million.

What made the Bloomington Dam more effective in this flood of record was its low pool, 50 feet below the spillway because of the drought from Aug. 24 to the early part of October. Another of the dam's functions and also that of Savage River Dam is to augment the flow of the North Branch of the Potomac River during dry periods. The very dry summer took much of the water in both impoundments to maintain a constant flow.

In severe dry periods and in times of above normal rainfall, the Army Corps of Engineers regulates the release of water from these two reservoirs.

The effective use of these two dams had a tremendous effect on communities downstream, in fact, a very dramatic effect on places such as Luke where the flood level was reduced by more than 12 feet and at Cumberland by more than 14 feet. That prevented what is termed a 500-year flood at Luke and a 100-year flood at Cumberland.

The Corps noted that while residents downriver from Cumberland will doubt the effect the dams had, the flood level was reduced 2.4 feet at Paw Paw, three feet at Hancock and 2.9 feet at Shepherdstown, W. Va., notwithstanding the tremendous flow of the South Branch entering the main stream at Green Spring.

The Army Corps of Engineers has to be given much credit for these dams and their regulation. But even greater credit must be given to those Cumberland men with foresight back as early as the late 1920s and during the 1930s for their endeavors in seeking a dam on the Savage River to reduce the damages that occurred so frequently in the Queen City.

The very dedicated group of citizens who worked for flood control projects succeeded in getting the first dam started as a Workers Progress Administration project in 1939. It was half built by the time World War II suspended the job, but through the efforts of these leaders in Allegany County and their legislators the Corps of Army Engineers finished it in 1952.

Time and time again residents downstream have appreciated the work of these men and agencies for building Savage River Dam and now much more so when we see the benefits of the much larger Bloomington Dam.

In recalling the long Congressional trails these two dams required, recognition must go to the work of the late Sixth Maryland District Representative and U.S. Senator Glenn Beall and his West Virginia constituents, retired former Second District Representatives Harley O. Staggers Sr. and Jennings Randolph, the latter who served in the U.S. Senate with Sen. Beall.

The dedication of all those connected with the two dams must be appreciated by those today who benefit from their efforts.

Today we concentrate on flood prevention or curtailment, but one of the other main uses of the two dams is maintaining a constant flow of water in the river. That has been one of the major reasons why the Luke Mill of Westvaco has modernized and expanded to become the largest industry in the tri-state region.

As time goes on residents of this section will see the benefits of water from Savage River Dam for municipal supplies and from both dams for industry in the Potomac River Valley.

THE U.S. STAKE IN THE PHILIPPINES

Mr. MELCHER. Madam President, next week on February 7 the people of the Philippines go to the polls to vote in the first Presidential election in years to determine the future of their republic.

I believe it is clear to Americans and Filipinos alike that the time has come for changes in their government to turn around the growing economic hardships, the military abuses, and the use of extraordinary constitutional powers to restrict individual freedoms.

For the past 18 months or longer, relations with the Philippines have been misguided. The State Department has blocked sales of wheat, dairy products, and other goods while orchestrating a chorus of charges of corruption about the election process and the principals involved. Further, the State Department, in pursuit of their ill-defined policy of goals and objectives, has alienated Filipinos and damaged United States producers. This course loses sight of the objectives of the election itself. We are focusing too closely on February 7 and not enough on February 8 and beyond.

While the end of the Marcos 20-year regime appears to be desirable, it is a decision for the Filipinos to make—not for the United States to dictate. We do have a vital stake in the outcome of the election. Paramount in United States vital interests are the strategic location of the Philippines for United States trade and military bases and neither of these interests is served by the nitty-gritty of political partisanship.

Retaining our strategic military bases at Subic Bay and Clark Air Force Base is essential regardless of who will lead that Pacific nation. There are no worthy substitute base locations in any other islands of the far western rim of the Pacific.

For trade, the United States dominates the Pacific rim and the gateway to Southeast Asian trade in the Philippines. With 54 million persons, it is the leading market for U.S. agricultur-

al products—especially wheat—and manufactured products which, over the past 3 years, have been reduced by a third.

Buttressing the strategic and trade alliances dating back to the turn of the century are the strong and historic United States-Philippine cultural ties.

The slippage in United States-Philippine relations in recent years is the result of persistent meddling by the U.S. State Department in the long-standing trade and economic policies between our two countries. It is this inconsistency that is resented by the Filipinos and, at the same time, is damaging to United States producers—especially farmers and ranchers—whose products are exported to Southeast Asian markets.

Whatever internal changes the State Department is promoting in the Philippines, our job as Americans is to mend our vital military, trade and cultural alliances regardless of the outcome of the election.

In a country where political activities are part of family life, more than 80 percent of the voters will be at the polls. Make no mistake; Filipinos will vote to improve their lot—economically, socially, and politically—as they see it. Both sides campaign with money and promises funneled through their party structures. On February 5 all compaigning ceases so that the voters can reflect on this most important election of their lives.

The Philippine electorate may split their ballots, choosing the president of one party and the vice president of the other party. In some areas of the country, opposition vice presidential candidate Salvador Laurel is more attractive as the logical successor to the ailing Marcos than Marcos' running mate, the 75-year-old Arturo Tolentino, the former foreign minister. A significant number of voters may view the experienced Laurel as a satisfactory bridge of change from Marcos to a new president, viewing the election of Laurel as a worthy successor to a retiring or incapacitated Marcos.

But whatever the election results in the Philippines, the vital interests of the United States can only be served by a resumption of the strong ties between our two countries. The strategic location, trade opportunities, and cultural ties of our two peoples will not, and should not, be altered or taken hostage by the outcome of this important exercise in democracy.

TRIBUTE TO EDIE HUGGINS

Mr. SPECTER. Madam President, on Thursday evening, January 30, 1986, Edie Huggins, news reporter, commentator, show hostess, and director of community affairs for WCAU-TV, channel 10, Philadelphia, will be honored by her colleagues and fellow workers at channel 10 for more than 20 years of outstanding service to the station and to Philadelphia.

Ms. Huggins has brought a rare blend of professional competence and unusual sensitivity to the many on-air roles she has so successfully essayed. Her grace, charm, and obvious sincerity in countless telecasts have won her the affection of millions of viewers in the Delaware Valley over the past two decades.

It is altogether fitting that Ms. Huggins receive the encomiums of her colleagues as well as the plaudits of a grateful public on the occasion of her 20th anniversary with WCAU-TV.

Mr. PROXMIRE. Madam President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

The PRESIDING OFFICER. The Chair, in her capacity as a Senator from Kansas, asks unanimous consent that the order for the quorum call be rescinded.

Without objection, it is so ordered.

MESSAGE FROM THE HOUSE RECEIVED DURING THE RECESS

Under the authority of the order of the Senate of January 3, 1985, the Secretary of the Senate, on today, January 28, 1986, during the recess, received a message from the House of Representatives announcing that the House has agreed to the following concurrent resolution:

H. Con. Res. 274. A concurrent resolution providing for a joint session of Congress to receive a message from the President on the state of the Union.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC-2307. A communication from the Executive Associate Director of OMB transmitting, pursuant to law, a request for a supplemental appropriation for the Agricultural Stabilization and Conservation Service; to the Committee on Appropriations.

EC-2308. A communication from the Secretary of State transmitting, pursuant to law, a report on a determination by the President that the Government of Jamaica is sufficiently responsive to the United States concerns on drug control that added expenditures for that country are in the United States national interest; to the Committee on Appropriations.

EC-2309. A communication from the Secretary of the American Battle Monuments Commission transmitting, pursuant to law, a report on the sequestering of salaries and expenses; to the Committee on Appropriations.

EC-2310. A communication from the Deputy Assistant Secretary of the Army transmitting, pursuant to law, a report on a study of the commissary shelf-stocking function at Fort Carson, CO, for conversion to performance under contract; to the Committee on Armed Services.

EC-2311. A communication from the Deputy Assistant Secretary of the Army transmitting, pursuant to law, a report on a decision to convert the directorate of the facility engineer at Fort Gordon, GA, to performance under contract; to the Committee on Armed Services.

EC-2312. A communication from the Treasurer of the United States transmitting, pursuant to law, a report on the Olympic Commemorative Coin Program; to the Committee on Banking, Housing, and Urban Affairs.

EC-2313. A communication from the Secretary of Transportation transmitting, pursuant to law, the final annual report on the implementation of section 9 of Public Law 97-136; to the Committee on Commerce, Science, and Transportation.

EC-2314. A communication from the Administrator of the National Oceanic and Atmospheric Administration transmitting, pursuant to law, the deep seabed mining report; to the Committee on Energy and Natural Resources.

EC-2315. A communication from the Assistant Attorney General of the United States transmitting a draft of proposed legislation to delineate Federal and State boundaries between the area of the seabed and subsoil; to the Committee on Energy and Natural Resources.

EC-2316. A communication from the Secretary of Transportation transmitting, pursuant to law, a report on access control demonstration projects; to the Committee on Environment and Public Works.

EC-2317. A communication from the Chairperson of the U.S. Architectural and Transportation Barriers Compliance Board transmitting, pursuant to law, a report on the Board's manual processes and internal controls; to the Committee on Environment and Public Works.

EC-2318. A communication from the Chief Justice of the United States transmitting a draft of proposed legislation to prevent a reduction in retirement pay of Federal judges in senior status if they perform any judicial services; to the Committee on Finance.

EC-2319. A communication from the Secretary of Health and Human Services transmitting, pursuant to law, a report on policies for improving services for mentally retarded and other developmentally disabled persons under title XIX of the Social Security Act; to the Committee on Finance.

EC-2320. A communication from the Secretary of the Treasury transmitting, pursuant to law, the Annual Report for the U.S. Government for the Fiscal Year Ended September 30, 1985; to the Committee on Finance.

EC-2321. A communication from the Administrator of the Agency for International Development transmitting, pursuant to law, the annual report on the operations of the private sector revolving fund, its portfolio and finances; to the Committee on Foreign Relations.

EC-2322. A communication from the Acting Assistant Secretary of State transmitting, pursuant to law, a report on the status of discussions with the Government of Mexico on impediments to in-transit truck trade; to the Committee on Foreign Relations.

EC-2323. A communication from the acting assistant legal adviser for treaty affairs transmitting, pursuant to law, copies of international agreements, other than treaties, entered into by the United States within the 60 days previous to January 24, 1986; to the Committee on Foreign Relations.

EC-2324. A communication from the Administrator of the Veterans' Administration and the Secretary of Defense transmitting, pursuant to law, a joint report on the implementation of law relative to the sharing of medical resources between VA and DOD; to the Committee on Governmental Relations.

EC-2325. A communication from the Executive Director of the Committee for Purchase From the Blind and Other Severely Handicapped transmitting, pursuant to law, a report on Freedom of Information Act activities for 1985; to the Committee on the Judiciary.

EC-2326. A communication from the Secretary of Education transmitting, pursuant to law, the annual report of the International Research and Studies Program; to the Committee on Labor and Human Resources.

EC-2327. A communication from the Secretary of Labor transmitting, pursuant to law, the annual report on the administration of the Black Lung Benefits Act for calendar year 1983; to the Committee on Labor and Human Resources.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. HATCH, from the Committee on Labor and Human Resources, without amendment:

S. Res. 300. An original resolution authorizing expenditures by the Committee on Labor and Human Resources; referred to the Committee on Rules and Administration.

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. DIXON, from the Committee on Armed Services: H. Lawrence Garrett, III, of Virginia, to be General Counsel of the Department of Defense.

Mr. DIXON. Mr. President, from the Committee on Armed Services, I report favorably the attached listing of nominations.

Those identified with a single asterisk (*) are to be placed on the Executive Calendar. Those identified with a double asterisk (**) are to lie on the Secretary's desk for the information of any Senator since these names have already appeared in the CONGRESSIONAL RECORD and to save the expense of printing again.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The nominations ordered to lie on the Secretary's desk were printed in the RECORD of December 18, 1985 and January 21, 1986 at the end of the Senate proceedings.)

MILITARY NOMINATIONS WHICH HAVE BEEN PENDING WITH THE SENATE ARMED SERVICES COMMITTEE, THE REQUIRED LENGTH OF TIME, AND TO WHICH NO OBJECTIONS HAVE BEEN RAISED

**1. In the Air Force there are 12 promotions to a grade not higher than lieutenant colonel (list begins with James E. Carne). (Ref. No. 810)

**2. In the Air National Guard there are 31 promotions in the Reserve of the Air Force to the grade of lieutenant colonel (list begins with Terry O. Bernhardt). (Ref. No. 811)

**3. In the Air Force there is 1 appointment to the grade of major (Paul R. Mumford). (Ref. No. 812)

**4. In the Air Force there are 12 permanent promotions to the grade of major (list begins with Scott K. Kellogg). (Ref. No. 813)

**5. In the Air Force Reserve there are 207 promotions to the grade of colonel (list begins with Thomas F. Abbott). (Ref. No. 814)

**6. In the Air Force there are 2,091 permanent promotions to the grade of lieutenant colonel (list begins with Roy L. Aanerud). (Ref. No. 815)

**7. In the Army Reserve there are 892 promotions to the grade of colonel and below (list begins with Ronald G. Bernoski). (Ref. No. 816)

**8. In the Marine Corps there are 362 appointments to the grade of second lieutenant (list begins with Susan A. Aivaz). (Ref. No. 817).

*9. In the Air Force Reserve there are 18 appointments to the grade of major general and below (list begins with Charles R. Cargill). (Ref. No. 843)

*10. Major General William G.T. Tuttle, Jr., U.S. Army, to be lieutenant general. (Ref. No. 844)

*11. Lt. Gen. Robert Arter, U.S. Army, to be placed on the retired list; and Maj. General Frederick F. Woerner, Jr., U.S. Army, to be lieutenant general. (Ref. No. 845)

*12. In the Army Reserve there are 14 appointments to the grade of major general and below (list begins with Rudolph E. Hammond). (Ref. No. 846)

*13. In the Army National Guard there are 15 appointments to the Army Reserve to the grade of major general and below (list begins with Willard K. Carey). (Ref. No. 847)

*14. In the Air Force there are 6 permanent promotions to the grade of colonel and below (list begins with Paul R. Mumford). (Ref. No. 848)

*15. In the Air Force there are 957 appointments to the grade of second lieutenant (list begins with Michael A. Abbott). (Ref. No. 849)

*16. In the Marine Corps there are 4 permanent appointments to the grade of lieutenant colonel and below (list begins with Charles F. Laughinghouse). (Ref. No. 850)

*17. In the Navy there are 50 appointments to the grade of chief warrant officer and below (list begins with Keith J. Allred). (Ref. No. 851)

*18. In the navy there are 370 appointments to the grade of chief warrant officer, W-2, and below (list begins with Jerry Mata Aguinaldo). (Ref. No. 852)

Total 5,045.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. MATHIAS:

S. 2024. A bill to amend the Internal Revenue Code of 1954 to provide for the establishment of, and the deduction of contributions to, education savings accounts; to the Committee on Finance.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. DOLE (for himself, Mr. BYRD, Mr. ABDNOR, Mr. ANDREWS, Mr. ARMSTRONG, Mr. BAUCUS, Mr. BENTSEN, Mr. BIDEN, Mr. BINGAMAN, Mr. BOREN, Mr. BOSCHWITZ, Mr. BRADLEY, Mr. BUMPERS, Mr. BURDICK, Mr. CHAFEE, Mr. CHILES, Mr. COCHRAN, Mr. COHEN, Mr. CRANSTON, Mr. D'AMATO, Mr. DANFORTH, Mr. DECONCINI, Mr. DENTON, Mr. DIXON, Mr. DODD, Mr. DOMENICI, Mr. DURENBERGER, Mr. EAGLETON, Mr. EAST, Mr. EVANS, Mr. EXON, Mr. FORD, Mr. GARN, Mr. GLENN, Mr. GOLDWATER, Mr. GORE, Mr. GORTON, Mr. GRAMM, Mr. GRASSLEY, Mr. HARKIN, Mr. HART, Mr. HATCH, Mr. HATFIELD, Mrs. HAWKINS, Mr. HECHT, Mr. HEFLIN, Mr. HEINZ, Mr. HELMS, Mr. HOLLINGS, Mr. HUMPHREY, Mr. INOUYE, Mr. JOHNSTON, Mrs. KASSEBAUM, Mr. KASTEN, Mr. KENNEDY, Mr. KERRY, Mr. LAUTENBERG, Mr. LAXALT, Mr. LEAHY, Mr. LEVIN, Mr. LONG, Mr. LUGAR, Mr. MATHIAS, Mr. MATSUNAGA, Mr. MATTINGLY, Mr. MCCLURE, Mr. MCCONNELL, Mr. MELCHER, Mr. METZENBAUM, Mr. MITCHELL, Mr. MOYNIHAN, Mr. MURKOWSKI, Mr. NICKLES, Mr. NUNN, Mr. PACKWOOD, Mr. PELL, Mr. PRESSLER, Mr. PROXMIRE, Mr. PRYOR, Mr. QUAYLE, Mr. RIEGLE, Mr. ROCKEFELLER, Mr. ROTH, Mr. RUDMAN, Mr. SARBANES, Mr. SASSER, Mr. SIMON, Mr. SIMPSON, Mr. SPECTER, Mr. STAFFORD, Mr. STENNIS, Mr. STEVENS, Mr. SYMMS, Mr. THURMOND, Mr. TRIBLE, Mr. WALLOP, Mr. WARNER, Mr. WEICKER, Mr. WILSON, and Mr. ZORINSKY):

S. Res. 299. Resolution relative to the space shuttle, *Challenger;* considered and agreed to.

By Mr. HATCH, from the Committee on Labor and Human Resources:

S. Res. 300. An original resolution authorizing expenditures by the Committee on Labor and Human Resources; to the Committee on Rules and Administration.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. MATHIAS:

S. 2024. A bill to amend the Internal Revenue Code of 1954 to provide for

the establishment of, and the deduction of contributions to, education savings accounts; to the Committee on Finance.

HIGHER EDUCATION INVESTMENT PLAN

● Mr. MATHIAS. Mr. President, George Washington, in his first message to Congress, said: "Knowledge is to every country the surest basis of public happiness."

The Congress would do well to heed Washington's words this year as it examines severe new limits on Government spending and considers proposals for a better Tax Code.

Higher education is one of the best, most cost-effective investments for securing the future of our Nation. The Federal student loan and grant programs have proven very effective in assuring every able student access to higher education and choice in higher education. These Federal programs have permanently changed the higher education landscape of the Nation and are serving our country well.

Although I would prefer, and will support, continued full funding of the direct aid and loan programs, I recognize that escalating costs are higher education's worst enemy. Thus I reluctantly anticipate, under the Gramm-Rudman-Hollings Balanced Budget and Emergency Deficit Reduction Act, significant adjustments and limitations on these Federal assistance programs in the years immediately ahead.

Educators and legislators should recognize that Federal student aid in an era of deficit reduction will be increasingly targeted toward the lowest income students and will leave others with fewer options. The challenge we must meet, if we are to develop the creativity and talent of all our young people, is to assure continued access to higher education for all able students.

With the long view in mind, the Citizens League of Baltimore conducted a thorough 2-year study of additional ways to help students and their families pay for higher education. Based on this study, the Citizens League has recommended a higher education investment plan that is practical, administratively simple, and economically sound.

Under this plan, individuals who set aside up to $2,000 per year per student beneficiary for educational purposes would be allowed a corresponding income tax deferral. This is the same kind of tax relief now accorded individual retirement accounts. The funds would not be taxed until after the student has graduated, and then the funds would be taxed as income to the beneficiary over a 10-year period in equal parts.

The distinctive feature of this education savings account plan is that it would benefit those who cannot save as well as those who can. Five percent of the total saved in each account would be placed in that State's scholarship pool for needy students. Taxes on this amount would be forgiven entirely.

In a time of contracting Government support for higher education, this 5-percent contribution could place millions of new dollars in State scholarship pools the year after the plan goes into operation, long before any student beneficiaries would draw from the individual accounts. In Maryland, for example, calculations show that if only half of the eligible families or individuals participated in the plan during its first year of operation, the State scholarship fund would increase by $11.3 million.

The education savings account plan I am introducing will:

Provide incentives for saving;

Defer taxes on principal and earnings for the investor;

Benefit many people in addition to those who can afford to save;

Make new scholarship funds available through tax-exempt contributions; and thereby

Provide additional funds to students who are otherwise unable to finance their education.

The incentives in this bill encourage financially able families to act in the public interest by assuming greater responsibility for financing their children's higher education. This proposal is basically a self-help plan that will maintain the opportunity for access and choice in higher education.

Those who have confidence enough in the future to save to finance education should be able to expect this limited Government incentive. Investments for higher education should be treated in a manner similar to other capital investments or to investments in individual retirement plans.

When we invest a dollar in higher education, we are investing in America's future. We are buying this Nation something it sorely needs. The benefits of higher education accrue to the entire society and not merely to individual students.

Young people today make up only two-fifths of our population, but the whole of our future will lie in their hands. We must act now to assure that higher education will not be out of their reach.

I ask unanimous consent that the text of the bill and the recommendation of the Citizens League of Baltimore, together with tabular material, be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 2024

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. EDUCATION SAVINGS ACCOUNTS.

(a) IN GENERAL.—Part VII of subchapter B of chapter 1 of the Internal Revenue Code of 1954 (relating to additional itemized deductions for individuals) is amended by redesignating section 223 as section 224 and by inserting after section 222 the following new section:

"SEC. 223. EDUCATION SAVINGS ACCOUNTS.

"(a) DEDUCTION ALLOWED.—In the case of an individual, there is allowed as a deduction for any taxable year the sum of—

"(1) amounts paid in cash, and

"(2) the fair market value at time of transfer of stock, bonds, or other securities, which are readily tradeable on an established securities market,

transferred during the calendar year which ends with or within such taxable year by such individual to an education savings account established for the benefit of an eligible individual.

"(b) LIMITATIONS.—

"(1) ACCOUNT MAY NOT BE ESTABLISHED FOR BENEFIT OF MORE THAN 1 INDIVIDUAL.—

"(A) IN GENERAL—An education savings account may not be established for the benefit of more than 1 individual.

"(B) ALTERNATE BENEFICIARY.—The limitation in subparagraph (A) shall not prohibit the designation of an alternate beneficiary in the case of the death of the original beneficiary or the failure of the original beneficiary to attend an eligible educational institution.

"(2) INDIVIDUAL MAY NOT BE BENEFICIARY OF MORE THAN 1 ACCOUNT PER CALENDAR YEAR.—An individual who is the beneficiary of more than 1 education savings account during any calendar year shall only be treated as an eligible individual for the first account established for the benefit of such individual.

"(3) MAXIMUM DEDUCTION PER ACCOUNT.—The amount allowable as a deduction under subsection (a) to an individual for amounts paid or transferred to an account for any calendar year shall not exceed $2,000.

"(4) CONTRIBUTIONS BY MORE THAN 1 PERSON.—If more than 1 individual makes contributions to an education savings account during a calendar year, the $2,000 amount under paragraph (3) shall be allocated proportionately among all individuals contributing to the account during that year on the basis of the amounts contributed by each such individual.

"(5) ADJUSTMENT OF LIMIT FOR INFLATION.—

"(A) IN GENERAL.—Beginning in 1986, the dollar amounts in paragraphs (3) and (4) of this subsection and subparagraphs (A) and (D) of subsection (c)(2) shall each be adjusted by multiplying such amounts by the inflation adjustment factor for the 12-month period ending on July 31 of the preceding calendar year and, as adjusted, shall be substituted for such amounts for taxable years ending with or within the calendar year next beginning after such 12-month period.

"(B) COMPUTATION OF INFLATION ADJUSTMENT FACTOR.—

"(i) DETERMINATION AND PUBLICATION.—The Secretary shall, not later than October 1 of each calendar year (beginning in 1986), determine and publish in the Federal Register the inflation adjustment factor for the immediately preceding 12-month period ending on July 31 in accordance with this paragraph.

"(ii) INFLATION ADJUSTMENT FACTOR.—The term 'inflation adjustment factor' means, with respect to a calendar year, a fraction the numerator of which is the average monthly Consumer Price Index (all items—United States city average) published by the Bureau of Labor Statistics of the Department of Labor for the most recent 12-month period ending on July 31 and the denomina-

tor of which is the average monthly Consumer Price Index (all items—United States city average) for the 12-month period ending on July 31, 1985.

"(c) DEFINITIONS AND SPECIAL RULES.—

"(1) ELIGIBLE INDIVIDUAL.—The term 'eligible individual' means the taxpayer or a child of the taxpayer (within the meaning of section 151(e)(3)) unless the taxpayer has the attained the age of 50 or the child has attained the age of 25 before the close of the calendar year for which the contribution is made.

"(2) EDUCATION SAVINGS ACCOUNT.—For purposes of this section, the term 'education savings account' means a trust created or organized in the United States exclusively for the purpose of paying the educational expenses of an eligible individual, but only if the written governing instrument creating the trust meets the following requirements:

"(A) No contribution will be accepted unless it is in cash, stocks, bonds, or other securities which are readily tradeable on an established securities market, and contributions will not be accepted for the taxable year in excess of $2,000.

"(B) The trustee is a bank (as defined in section 401(d)(1)) or another person who demonstrates to the satisfaction of the Secretary that the manner in which that person will administer the trust will be consistent with the requirements of this section.

"(C) No part of the trust assets will be invested in life insurance contracts (other than contracts the beneficiary of which is the trust and the face amount of which does not exceed the amount by which the maximum amount which can be contributed to the account exceeds the sum of the amounts contributed to the account for all taxable years).

"(D) The assets of the account may be invested in an annuity contract, or an endowment contract (as determined by regulations prescribed by the Secretary), issued by an insurance company which meets the following requirements:

"(i) The contract is not transferrable by the owner.

"(ii) Under the contract—

"(I) the premiums are not fixed,

"(II) the annual premium on behalf of any individual will not exceed $2,000, and

"(III) any refund of premiums will be applied before the close of the calendar year following the year of the refund toward the payment of future premiums or the purchase of additional benefits.

"(E) The assets of the account may be invested in accordance with the direction of the individual contributing to the account, but, if more than one individual has made contributions to the account, the consent of all such individuals shall be required for any such direction.

"(F) The assets of the trust will not be commingled with other property except in a common trust fund or common investment fund.

"(G) Any balance in the account on the day before the earliest date on which—

"(i) the eligible individual, if the taxpayer, attains the age of 60,

"(ii) the eligible individual, if the child of the taxpayer, attains the age of 30, or

"(iii) three years have expired since the eligible individual attended an eligible educational institution,

will be distributed on that date to each of the individuals who have contributed to the trust in an amount which bears the same ratio to such balance as such individual's contributions bear to the sum of all such contributions.

"(H) The trustee is required to transfer 5 percent of the amount of any contribution to the trust to a qualified State educational fund.

"(3) TIME WHEN CONTRIBUTIONS DEEMED MADE.—For purposes of this section, a taxpayer shall be deemed to have made a contribution on the last day of a calendar year if the contribution is made on account of such calendar year and is made not later than the time prescribed by law for filing the return for the taxable year (including extensions thereof) with or within which the calendar year ends.

"(4) STOCK, ETC., TO BE VALUED AS OF TRANSFER DATE.—The fair market value of stocks, bonds, and other securities shall be determined as of the date on which they are transferred to the account. If the date of transfer falls on a Saturday, Sunday, or public legal holiday, then the fair market value shall be determined by reference to the last preceding day on which they could have been traded on an established securities market.

"(5) EDUCATIONAL EXPENSES.—The term 'educational expenses' means—

"(A) tuition and fees required for the enrollment or attendance of a student at an eligible educational institution,

"(B) fees, books, supplies, and equipment required for courses of instruction at an eligible educational institution, and

"(C) a reasonable allowance for meals and lodging.

"(6) ELIGIBLE EDUCATIONAL INSTITUTION.—The term 'eligible educational institution' means—

"(A) an institution of higher education, or

"(B) a vocational school.

"(7) INSTITUTION OF HIGHER EDUCATION.—The term 'institution of higher education' means the institutions described in section 1201(a) or 491(b) of the Higher Education Act of 1965.

"(8) VOCATIONAL SCHOOL.—The term 'vocational school' means an area vocational education school as defined in section 195(2) of the Vocational Education Act of 1963 which is in any State (as defined in section 195(8) of such Act).

"(9) SPECIAL RULES RELATING TO TRANSFERS TO QUALIFIED STATE EDUCATIONAL FUND.—

"(A) QUALIFIED STATE EDUCATIONAL FUND.—The term 'qualified State educational fund' means a fund established by State law or the chief executive officer of a State the assets of which are used to provide scholarship assistance to individuals attending eligible educational institutions within the State.

"(B) TIME PAYMENT MADE.—The trustee shall make the transfer described in paragraph (2)(H) with respect to any contribution not later than 30 days after the last day prescribed by law for filing the return (including extensions thereof) for the taxable year—

"(i) of the individual making the contribution, and

"(ii) within which the contribution was made or deemed to be made.

"(C) STATE TO WHICH MADE.—An individual or the executor of such individual (as defined in section 2203) making a contribution with respect to which a transfer described in paragraph (2)(H) is required shall designate the qualified State educational fund to which such transfer shall be made.

"(d) TAX TREATMENT OF DISTRIBUTIONS.—

"(1) IN GENERAL.—Except as otherwise provided in this subsection, any amount paid or distributed out of an education savings account shall be included in gross income by each individual who has contributed to the account, in an amount which bears the same ratio to such payment or distribution as the amount contributed by that individual for all taxable years bears to the amounts contributed by all individuals for all taxable years, for the taxable year in which the payment or distribution is received, unless such amount is used exclusively to pay the educational expenses incurred by the individual for whose benefit the account is established, or such amount is transferred to a qualified State educational fund at the date described in subsection (c)(2)(G).

"(2) EXCESS CONTRIBUTIONS RETURNED BEFORE DUE DATE OF RETURN.—Paragraph (1) does not apply to the distribution of any contribution paid during a taxable year to an education savings account to the extent that such contribution exceeds the amount allowable as a deduction under subsection (a) if—

"(A) such distribution is received on or before the day prescribed by law (including extensions of time) for filing such individual's return for such taxable year,

"(B) no deduction is allowed under subsection (a) with respect to such excess contribution, and

"(C) such distribution is accompanied by the amount of net income attributable to such excess contribution.

Any net income described in subparagraph (C) shall be included in the gross income of the individual for the taxable year in which it is received.

"(3) QUALIFIED DISTRIBUTIONS INCLUDED IN BENEFICIARY'S INCOME OVER 10-YEAR PERIOD.—The gross income of an individual for whose benefit an education savings account was established for the taxable year in which the date described in subsection (c)(2)(G) occurs and for each of the 9 succeeding taxable years shall be increased by 10 percent of the sum of the amounts paid or distributed out of the account which were used exclusively to pay the educational expenses incurred by that individual.

"(4) AMOUNTS TRANSFERRED TO QUALIFIED STATE EDUCATIONAL FUNDS.—The gross income of any individual shall not be increased by reason of any amount paid or distributed out of an education savings account to a qualified State educational fund.

"(e) TAX TREATMENT OF ACCOUNTS.—

"(1) EXEMPTION FROM TAX.—An education savings account is exempt from taxation under this subtitle unless such account has ceased to be an education savings account by reason of paragraph (2) or (3). Notwithstanding the preceding sentence, any such account is subject to the taxes imposed by section 511 (relating to imposition of tax on unrelated business income of charitable, etc. organizations).

"(2) LOSS OF EXEMPTION OF ACCOUNT WHERE INDIVIDUAL ENGAGES IN PROHIBITED TRANSACTION.—

"(A) IN GENERAL.—If, during any taxable year of an individual who contributes to an education savings account, that individual engages in any transaction prohibited by section 4975 with respect to the account, the account ceases to be an education savings account as of the first day of that taxable year.

"(B) ACCOUNT TREATED AS DISTRIBUTING ALL ITS ASSETS.—In any case in which any account ceases to be an education savings account by reason of subparagraph (A) on the first day of any taxable year, paragraph (1)

of subsection (d) applies as if there were a distribution on such first day in an amount equal to the fair market value (on such first day) of all assets in the account (on such first day).

"(3) EFFECT OF PLEDGING ACCOUNT AS SECURITY.—If, during any taxable year, the individual for whose benefit an education savings account is established uses the account or any portion thereof as security for a loan, the portion so used is treated as distributed to that individual.

"(f) ADDITIONAL TAX ON CERTAIN AMOUNTS INCLUDED IN GROSS INCOME.—

"(1) DISTRIBUTION NOT USED FOR EDUCATIONAL EXPENSES.—If a distribution from an education savings account is made, and not distributed to a qualified State educational fund or used in connection with the payment of educational expenses of the individual for whose benefit the account was established, the tax liability of each of the individuals who has contributed to the account for the taxable year in which such distribution is received shall be increased by an amount equal to 10 percent of the amount of the distribution which is includable in his gross income for such taxable year.

"(2) DISQUALIFICATION CASES.—If an amount is includable in the gross income of an individual for a taxable year under subsection (d), his tax under this chapter for such taxable year shall be increased by an amount equal to 10 percent of such amount required to be included in his gross income.

"(3) DISABILITY CASES.—Paragraphs (1) and (2) do not apply if the payment or distribution is made after the taxpayer becomes disabled within the meaning of section 72(m)(7).

"(g) DEATH OF CONTRIBUTOR.—With respect to any individual who has contributed to an education savings account, if any amount pursuant to the provisions of this section is to be distributed or included in the gross income of such individual subsequent to his death, such amount shall be distributed or included in the gross income of the individual for whose benefit such account was established.

"(h) COMMUNITY PROPERTY LAWS.—This section shall be applied without regard to any community property laws.

"(i) CUSTODIAL ACCOUNTS.—For purposes of this section, a custodial account shall be treated as a trust if the assets of such account are held by a bank (as defined in section 401(d)(1)) or another person who demonstrates, to the satisfaction of the Secretary, that the manner in which he will administer the account will be consistent with the requirements of this section, and if the custodial account would, except for the fact that it is not a trust, constitute an education savings account described in subsection (c). For purposes of this title, in the case of a custodial account treated as a trust by reason of the preceding sentence, the custodian of such account shall be treated as the trustee thereof.

"(j) REPORTS.—The trustee of an education savings account shall make such reports regarding such account to the Secretary and to the individual for whose benefit the account is maintained with respect to contributions, distributions, and such other matters as the Secretary may require under regulations. The reports required by this subsection shall be filed at such time and in such manner and furnished to such individuals at such time and in such manner as may be required by those regulations.".

(b) DEDUCTION ALLOWED IN ARRIVING AT ADJUSTED GROSS INCOME.—Paragraph (10) of section 62 of such Code (relating to retirement savings) is amended—

(1) by inserting "or education" after "Retirement" in the caption of such paragraph, and

(2) by inserting before the period at the end thereof the following: "and the deduction allowed by section 223 (relating to deduction of certain payments to education savings accounts)".

(c) TAX ON EXCESS CONTRIBUTIONS.—Section 4973 of such Code (relating to tax on excess contributions to individual retirement accounts, certain section 403(b) contracts, and certain individual retirement annuities) is amended—

(1) by inserting "EDUCATION SAVINGS ACCOUNTS," after "ACCOUNTS," in the caption of such section,

(2) by striking out "or" at the end of paragraph (1) of subsection (a),

(3) by redesignating paragraph (2) of subsection (a) as paragraph (3), and by inserting after paragraph (1) the following:

"(2) an education savings account (within the meaning of section 223(c)), or", and

(3) by adding at the end thereof the following new subsection:

"(d) EXCESS CONTRIBUTIONS TO EDUCATION SAVINGS ACCOUNTS.—For purposes of this section, in the case of an education savings account, the term 'excess contributions' means the amount by which the amount contributed for the taxable year to the account exceeds the amount allowable as a deduction under section 223(b) for such taxable year. For purposes of this subsection, any contribution which is distributed out of the education savings account and a distribution to which section 223(d)(2) applies shall be treated as an amount not contributed.".

(d) CONTRIBUTION NOT TO BE TREATED AS A GIFT FOR GIFT TAX PURPOSES.—Section 2503 of such Code (relating to taxable gifts) is amended by adding at the end thereof the following new subsection:

"(f) EDUCATION SAVINGS ACCOUNTS.—For purposes of subsection (b), any payment made by an individual for the benefit of his child to an education savings account described in section 223(c) shall not be considered a gift of a future interest in property to the extent that such payment is allowed as a deduction under section 223.".

(e) TAX ON PROHIBITED TRANSACTIONS.—Section 4975 of such Code (relating to prohibited transactions) is amended—

(1) by adding at the end of subsection (c) the following new paragraph:

"(4) SPECIAL RULE FOR EDUCATION SAVINGS ACCOUNTS.—An individual for whose benefit an education savings account is established shall be exempt from the tax imposed by this section with respect to any transaction concerning such account (which would otherwise be taxable under this section) if, with respect to such transaction, the account ceases to be an education savings account by reason of the application of section 223(e)(2)(A) to such account.", and

(2) by inserting ", or an education savings account described in section 223(c)," in subsection (e)(1) after "described in section 408(a)".

(f) FAILURE TO PROVIDE REPORTS ON EDUCATION SAVINGS ACCOUNTS.—Section 6693 of such Code (relating to failure to provide reports on individual retirement account or annuities) is amended—

(1) by inserting "OR EDUCATION SAVINGS ACCOUNTS" after "ANNUITIES" in the caption of such section, and

(2) by adding at the end of subsection (a) the following: "The person required by section 223(i) to file a report regarding an education account at the time and in the manner required by such section shall pay a penalty of $10 for each failure unless it is shown that such failure is due to reasonable cause.".

(g) DISTRIBUTIONS EXCLUDED FROM GROSS INCOME.—Part III of subchapter B of chapter 1 of such Code (relating to items specifically excluded from gross income) is amended by redesignating section 134 as section 135 and by inserting after section 133 the following new section:

"SEC. 134. EDUCATION SAVINGS ACCOUNT DISTRIBUTIONS.

"In the case of an individual, and except as is provided in section 223(d)(1), gross income does not include distributions from an education savings account used exclusively for the payment of educational expenses of that individual (within the meaning of section 223(c)(5)).".

(h) DEPENDENT SUPPORT DOES NOT INCLUDE EDUCATION SAVINGS ACCOUNT PAYMENTS.—Subsection (b) of section 152 of such Code (relating to definition of dependent) is amended by adding at the end thereof the following new paragraph:

"(6) A payment to an individual for whose benefit an education savings account (as defined in section 223(c)) is established from that account which is excluded from the gross income of that individual under section 134 shall not be taken into account in determining support for purposes of this section.".

(i) CLERICAL AMENDMENTS.—

(1) The table of sections for part VII of subchapter B of chapter 1 of such Code is amended by striking out the item relating to section 223 and inserting in lieu thereof the following:

"Sec. 223. Education savings accounts.

"Sec. 224. Cross references.".

(2) The table of sections for chapter 43 of such Code is amended by striking out the item relating to section 4973 and inserting in lieu thereof the following:

"Sec. 4973. Tax on excess contributions to individual retirement accounts, education savings accounts, certain 403(b) contracts, certain individual retirement annuities, and certain retirement bonds.".

(3) The table of sections for subchapter B of chapter 68 of such Code is amended by striking out the item relating to section 6693 and inserting in lieu thereof the following:

"Sec. 6693. Failure to provide reports on individual retirement accounts or annuities or on education savings accounts.".

(4) The table of sections for part III of subchapter B of chapter 1 of such Code is amended by striking out the item relating to section 134 and inserting in lieu thereof the following:

"Sec. 134. Education savings account distributions.

"Sec. 135. Cross references to other Acts.".

(j) EFFECTIVE DATE.—The amendments made by this section shall take effect with respect to taxable years beginning after December 31, 1985.

CITIZENS LEAGUE OF BALTIMORE HIGHER EDUCATION INVESTMENT PLAN

THE PLAN

Amend the U.S. Internal Revenue Code to allow an annual income tax deduction to individuals of up to $2,000 per beneficiary for amounts invested in a Higher Education Investment Plan. The $2,000 maximum allowable amount would be indexed to allow for the effects of inflation, as measured by annual changes in the Consumer Price Index of each year the plan is in effect.

ADJUSTING THE PRINCIPAL—A STATE SCHOLARSHIP POOL

Five percent of the total investment will be placed in a scholarship pool of the saver's state of residence for distribution to prospective students in that state according to financial need. Taxes are forgiven on the 5 percent contribution while taxes are deferred on the residual principal sum and on all earnings on principal until withdrawn.

For example:

Original investment in the plan	$2,000
Less: 5 percent contribution (tax forgiven)	100
Equals: Principal (tax deferred)	1,900

The resulting principal investment must remain in the account for at least one year.

USING THE FUNDS

Amounts withdrawn from the account for education expenses will be taxed to the beneficiary of the account over a ten-year period beginning the second year after completion of a course of studies at an approved institution of higher education or vocational school.

Education expenses include tuition, fees, books, supplies and equipment required for courses of instruction at an eligible educational institution, and a reasonable allowance for meals and lodging. An eligible institution is an approved institution of higher education or vocational school.

Each account will be administered by a custodian which is a bank, insured credit union or person satisfactory to the Secretary of the Treasury.

HOW THE PLAN WORKS—A HYPOTHETICAL CASE

Assume an investor with four dependents who has an annual salary of $25,000 invests in the plan. The investor's effective tax rate will be 25 percent federal and 7.5 percent state. The investor is a parent and the beneficiary is the investor's child.

The maximum of $2,000 per year is deposited over a six-year period. Deposits begin three years prior to the beneficiary's entrance into college as shown in Table 1.

TABLE 1.—RETURN TO INDIVIDUAL INVESTOR IN HIGHER EDUCATION INVESTMENT PLAN

Year	Investment year	Beginning of year	Deposit	5 percent contribution	Principal	Interest earned	End of year balance	Withdrawal
(1)	(2)	(3) (8)	(4)	(5)	(6) (4−5)	(7)	(8) (6+7)	(9)
X	1	X	$2,000	$100	$1,900	$190	$2,090	X
X	2	2,090	2,000	100	3,990	399	4,389	X
X	3	4,389	2,000	100	6,289	629	6,918	3,000
1	4	3,918	2,000	100	5,818	582	5,400	3,000
2	5	3,400	2,000	100	5,300	530	5,830	3,000
3	6	2,830	2,000	100	4,730	473	5,203	5,203
4	7	0			0	0	0	0
Total			12,000	600		2,803		14,203

Source: Citizens League Contribution.

This year it is expected that approximately 226,000 Marylanders will attend college; 171,000 in Maryland institutions and 55,000 in out-of-state institutions. Table 2 illustrates the effects of a 5 percent contribution to the Maryland Scholarship Pool under three participation rates in the plan.

TABLE 2.—EFFECTS OF 5 PERCENT CONTRIBUTION FROM THE PLAN ON STUDENT FINANCING OF HIGHER EDUCATION

	Student participation rates		
	5 percent (11,300)	50 percent (113,000)	100 percent (226,000)
Total deposited in the plan at $2,000 maximum per buyer (million)	$22.6	$225.8	$451.6
Amount available from 5 percent contribution (million)	$1.1	$11.3	$22.6
Remaining principal	$21.5	$214.5	$429.0
Interest at 10 percent, 1 yr	$2.5	$21.5	$42.9
Number of students which 5 percent contribution pool will support in tuition and fees:			
Public	1,063	10,630	21,260
Private	266	2,655	5,310
Estimated tuition and fees per student in Maryland: Public—$1,063; private—$4,256			

Note.—The interest earned can be reinvested in the accounts for a greater overall return. Interest earned can also be seen as additional funds for higher education expenditures by individuals as can deferred taxes to be paid by the beneficiary.

Source: Citizens League Calculation.

BENEFITS OF THE PLAN

1. No new federal or state agencies are required to administer this plan.

2. Referring to Table 1, each person who invests a maximum of $2,000 per year per beneficiary or student over a six-year period will have:

$3,705 in taxes deferred on deposits of $12,000.

$195 in taxes forgiven on the 5% contribution to the Scholarship Pool of $600.

$982 in taxes deferred on the interest income of $2,803.

$4,882 is the total of deferred taxes and taxes forgiven.

Since deferred taxes would be paid by the beneficiary or student, later, this $4,882 per investor could represent an additional amount of spending by the investor on higher education.

3. The plan's yield should be consistently 4 to 5 percent greater than market interest rates due to the tax deferral compounding.

4. Investors or buyers can create a possible tax-free source of funds for education which no other plan allows.

5. The fund may counter the coming reduction in government funds for operating costs and student loans.

6. Persons with investment capabilities may benefit others who cannot save.

7. Anyone can now make a charitable contribution, including persons who do not itemize their deductions. The plan is unique since the proposed contribution to the Scholarship Pool would be automatic.

CONSTRUCTING THE PLAN

The Citizens League analyzed the effects of the Higher Education Investment Plan with special emphasis on yield to the investor, funds going to the tuition pool, and taxes forgiven and deferred until payment by the beneficiary. The investor-beneficiary, where a person invests in his or her own education, is also considered.

The financial effects of the plan were calculated using assumptions and projections on participation rates and educational costs. The results are reasonable estimates of the financial effects of the plan. Table 1 summarizes selected participation by 226,000 Maryland residents who would be paying for public and independent higher education in and out of the state this year. The projected buyers are based upon Citizens League and State Board of Higher Education forecasts of enrollments.

It was assumed that 75 percent of all Maryland residents buying higher education in and out of the state will invest in the plan.

The effective yield of the plan is based upon:

1. The interest income earned on the adjusted principal, after the 5 percent scholarship pool contribution is deducted;

2. The taxes forgiven on this contribution; and

3. The value of the taxes deferred on the adjusted principal and its interest income.

It is assumed that the adjusted principal will yield an average of 10 percent, irrespective of the length of time invested. The average investor, it is further assumed, pays a 25 percent federal tax rate and 7.5 percent Maryland tax rate.

The third item, the value of the taxes deferred on the adjusted principal and its interest income is of major importance. If the investor is a parent, for example, and not a beneficiary, he or she is not obligated to pay income tax on the adjusted principal or on the accumulated income, and the deferral of taxes for this investor is treated as though the taxes are forgiven. This is the case since the beneficiary of the parent's investment will pay deferred taxes at a later date over a ten-year period upon graduation from a higher education institution. The beneficiary will pay the taxes at his or her own rate at the time of repayment. Table 3 illustrates the payback and compares this to the repayment of a student loan.

A comparison of the beneficiary's obligation to pay back taxes and earnings under the plan against a 9 percent student loan is illustrated in Table 3, below. This is especially appropriate at this time, since severe limitations will be placed on U.S. Govern-

ment Student Loan Funds available to individual students in the immediate future.

TABLE 3.—BENEFICIARY PAYBACK COMPARISON HIGHER EDUCATION INVESTMENT PLAN VERSUS STUDENT LOAN

[Adjusted]

	Percent	Amount
(a) With investment plan principal $2,000 per year or $8,000 over		
(b) Payback period—10 yrs (120 mos)		
(c) Assumed income tax rate:		
1st 2 yrs	15	$240
2d 2 yrs	20	320
3d 2 yrs	25	400
4th 2 yrs	30	480
5th 2 yrs	35	560
(d) With loan of $8,000		
(e) Payback period—10 yrs (120 mos)		
(f) Interest rate—9 percent		

	Higher education plan	Student loan
1. Amount spent on higher education	$8,000	$8,000
2. Total amount required to payback	2,000	15,200
3. Annual payment (average)	[1] 200	[2] 1,520

[1] Taxes.
[2] Principal and interest.

Note: This table illustrates an either-or situation. Doubtless a combination of the plan and a loan would be appropriate.

QUESTIONS AND ANSWERS ABOUT THE HIGHER EDUCATION INVESTMENT PLAN PROPOSAL

1. What will be the level of administration costs; will there be a maximum; how will they be paid?

The costs of administering the fund will be set by the administering financial institution and will vary depending on the size of the fund in that institution. Usually, the smaller the fund, the larger the percentage of the principal required to offset administrative expenses. The payment of administrative expenses should be deducted from the net return, after the 5 percent contribution to the scholarship pool. Obviously, the higher the administrative costs of an institution, the lower the net return of the plan to the investor, and the less attractive it becomes.

2. Can a rate of return on an investment in the fund be guaranteed?

This will be left up to each institution managing the fund.

3. What happens to the investment of an individual who changes residence from one state to another?

Federal benefits do not depend on the state in which the institution is located. Therefore, at the end of the calendar year, the investment could be moved from an institution in the old state to an institution in the new state, or it could be left in the original institution. The option belongs to the individual investor, and the only difference might be in the burden of state and local taxes.

4. What percentage of the investor's initial investment should be contributed to the scholarship pool?

The Citizens League believes 5 percent allows the plan to remain attractive enough to potential investors and still make a significant contribution to the students. The more contributed to the pool, the less attractive the plan will become for the investor, so that too high a percent could result in less being contributed.

5. What should be the basis for the distribution of the scholarship pool?

Funds from the pool in each state will be earmarked for scholarships according to students' academic attainment and financial need. This assumes that intellectual achievement and potential have been established by the applicant in accordance with his or her state's criteria.

6. Should the fund be allowed to make loans to individuals?

No. This provision would unnecessarily burden the fund with extra administrative expenses and also preempt other agencies and institutions from organizing to make these loans.

7. Should there be any restrictions on the types of investments made by the institutions administering the fund?

None other than those for an IRA or Keogh Plan.

8. What happens to an investor's fund if it is not used for higher education expenditures?

The 5 percent contributions to the investor's state scholarship pool would not be returned. If the investor chooses, he or she may:

a. Donate the proceeds to a state scholarship fund. The transaction would be treated as a charitable contribution; or

b. Withdraw the proceeds and pay a penalty and accumulated taxes on the deferment on principal and interest earned.●

ADDITIONAL COSPONSORS

S. 869

At the request of Mr. MITCHELL, the name of the Senator from South Carolina [Mr. THURMOND] was added as a cosponsor of S. 869, a bill to provide that the pensions received by retired judges who are assigned to active duty shall not be treated as wages for purposes of the Social Security Act.

S. 1290

At the request of Mr. MATHIAS, the name of the Senator from Connecticut [Mr. DODD] was added as a cosponsor of S. 1290, a bill to prohibit discrimination in insurance on the basis of blindness or degree of blindness.

S. 1723

At the request of Mr. CHAFEE, the name of the Senator from Pennsylvania [Mr. HEINZ] was added as a cosponsor of S. 1723, a bill to establish pilot programs to develop methods for parents of children between the ages of 2 and 8, who may be emotionally at risk, to enroll in adult literacy programs in which they will acquire the skills necessary to prepare their children for school and enhance their children's educational achievement through home learning.

S. 1766

At the request of Mr. MATHIAS, the names of the Senator from Rhode Island [Mr. CHAFEE], the Senator from Kentucky [Mr. FORD], and the Senator from South Dakota [Mr. ABDNOR] were added as cosponsors of S. 1766, a bill to designate the Cumberland terminus of the Chesapeake and Ohio Canal National Historical Park in honor of J. Glenn Beall, Sr.

S. 1891

At the request of Mr. HEINZ, the name of the Senator from Alabama [Mr. DENTON] was added as a cosponsor of S. 1891, a bill to amend the Federal Campaign Reform Act.

SENATE JOINT RESOLUTION 241

At the request of Mr. DOLE, the names of the Senator from Minnesota [Mr. DURENBERGER] and the Senator from South Carolina [Mr. THURMOND] were added as cosponsors of Senate Joint Resolution 241, a joint resolution designating the week beginning on May 11, 1986, as "National Asthma and Allergy Awareness Week."

SENATE JOINT RESOLUTION 246

At the request of Mr. DIXON, the name of the Senator from South Carolina [Mr. THURMOND] was added as a cosponsor of Senate Joint Resolution 246, a joint resolution to designate May 25, 1986 as "Hands Across America Day," for the purpose of helping people to help themselves, and commending United Support of Artists for Africa and all participants for their efforts toward combating domestic hunger with a 4,000-mile human chain from coast to coast.

SENATE JOINT RESOLUTION 249

At the request of Mr. DENTON, the names of the Senator from Missouri [Mr. DANFORTH], the Senator from Iowa [Mr. GRASSLEY], the Senator from Maryland [Mr. MATHIAS], the Senator from Ohio [Mr. METZENBAUM], and the Senator from Vermont [Mr. STAFFORD] were added as cosponsors of Senate Joint Resolution 249, a joint resolution to proclaim October 23, 1986, as "A Time of Remembrance" for all victims of terrorism throughout the world.

AMENDMENTS SUBMITTED

CONRAIL PUBLIC SALE ACT

SPECTER (AND OTHERS) AMENDMENT NOS. 1439AND 1440

(Ordered to lie on the table.)

Mr. SPECTER (for himself, Mr. DIXON, Mr. HEINZ, Mr. EXON, Mr. MCCONNELL, Mr. SIMON, Mr. ZORINSKY, Mr. ROCKEFELLER, and Mr. PRESSLER) submitted two amendments intended to be proposed by them to the bill (S. 638) to amend the Regional Rail Reorganization Act of 1973 to provide for the transfer of onwership of the Consolidated Rail Corporation to the private sector, and for other purposes; as follows:

AMENDMENT NO. 1439

Strike all language following the enacting clause and insert the following:

* * * * *

return Conrail to broad private ownership through one or more public stock offerings;

(5) the sale proposal of the investor group organized by Morgan Stanley and Company, Incorporated best meets the objectives of (A) leaving Conrail in the strongest financial position after the sale, (B) preserving patterns of service to shippers and communities in the region that Conrail now serves

by continuing Conrail as an independent railroad, and (C) maximizing the return of the United States on its investment consistent with the objectives set forth in subparagraphs (A) and (B);

(6) the sale proposal of the investor group organized by Morgan Stanley and Company, Incorporated satisfies the requirements of the Northeast Rail Service Act of 1981, including the intent, goals, and objectives relating to the sale of the interest of the United States in the common stock of Conrail and the requirements of section 401(e) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 761(e)); and

(7) amendments to the Regional Rail Reorganization Act of 1973 and related laws are needed to permit the sale of the interest of the United States in the common stock of Conrail to the investor group organized by Morgan Stanley and Company, Incorporated and to permit cancellation of the interest of the United States in Conrail debt and preferred stock.

PURPOSE

SEC. 3. It is the purpose of the Congress in this Act to return Conrail to private sector by directing and facilitating the sale of the interest of the United States in the common stock of Conrail to the investor group organized by Morgan Stanley and Company, Incorporated.

DEFINITIONS

SEC. 4. In this Act, unless the context otherwise requires, the term—

(1) "closing date" means the date that the interest of the United States in the common stock of Conrail is transferred pursuant to the Purchase Agreements;

(2) "Conrail" means the Consolidated Rail Corporation;

(3) "Purchase Agreements" means the agreements between the Purchasers and the Secretary in the form filed with the Committee on Commerce, Science and Transportation of the Senate;

(4) "Purchasers" means the investor group organized by Morgan Stanley and Company, Incorporated to purchase the interest of the United States in the common stock of Conrail as identified in the Shareholders' Agreement;

(5) "Secretary" means the Secretary of Transportation; and

(6) "Shareholders' Agreement" means the agreement among the Purchasers, Conrail and Morgan Stanley and Company, Incorporated in the form filed with the Committee on Commerce, Science and Transportation of the Senate.

TITLE I—AMENDMENTS TO THE REGIONAL RAIL REORGANIZATION ACT OF 1973 AND THE NORTHEAST RAIL SERVICE ACT OF 1981

LIMIT ON AUTHORITY TO PURCHASE STOCK

SEC. 101. Section 216(b) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 726(b)) is amended by adding at the end thereof the following new paragraph:

"(5) The authority of the Association to purchase debentures or series A preferred stock of the Corporation shall terminate upon the closing date.".

RESPONSIBILITY OF CONRAIL DIRECTORS

SEC. 102. Section 301(i) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 741(i)) is amended by inserting immediately after "required by law" the following: ", taken to implement the sale of the interest of the United States in the common stock of the Corporation to the Purchasers,".

APPLICABILITY OF REGIONAL RAIL REORGANIZATION ACT OF 1973 TO CONRAIL AFTER SALE

SEC. 103. Section 301 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 741) is amended by adding at the end thereof the following new subsection:

"(k) GOVERNING PROVISIONS AFTER SALE.—The provisions of this Act shall not apply to the Corporation and to activities and other actions and responsibilities of the Corporation and its directors after the closing date, other than with regard to—

"(1) section 102;

"(2) section 201(d);

"(3) section 203, but only with respect to information relating to proceedings before the special court established under section 209(b);

"(4) section 216(f)(8), but only as such authority applies to activities related to the ESOP and related trusts before the closing date;

"(5) section 217(e);

"(6) subsection (b) of this section, but only with respect to matters covered by the last sentence of such subsection;

"(7) subsection (i) of this section, but only as such authority applies to service as a director of the Corporation before, or in connection with the implementation of, the sale of the interest of the United States in the common stock of the Corporation;

"(8) section 305, but only as to the effect, and continuing administration, of supplemental transactions consummated before the closing date;

"(9) section 308, but only in abandonment actions when such authority has been relied on to file a notice or notices of insufficient revenues before the closing date;

"(10) section 401;

"(11) section 402;

"(12) section 404;

"(13) section 408;

"(14) section 701, but only as may be necessary to identify employees eligible for benefits prescribed under that section and as provided in section 108 of the Conrail Public Sale Act of 1985;

"(15) section 702(e);

"(16) section 704(b);

"(17) section 709;

"(18) section 710(b)(1);

"(19) section 711; and

"(20) section 714, but only with regard to disputes or controversies specified in such section that arose before the closing date.".

IMPLEMENTATION OF SALE

SEC. 104. (a) Section 401 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 761) is amended to read as follows:

"SALE OF THE CORPORATION

"SEC. 401. (a) PURCHASE AGREEMENT.—As soon as practicable, but not later than 10 days following the date of enactment of the Conrail Public Sale Act of 1985, the Secretary shall execute and deliver on behalf of the United State the Purchase Agreements. The Secretary shall transfer the interest of the United States in the common stock of the Corporation to the Purchasers in accordance with such Agreements.

"(b) CONDITIONS OF SALE.—In addition to the terms and conditions of the Purchase Agreements, the transfer of the interest of the United States in the common stock of the Corporation shall be subject to, and governed by, the terms and conditions of the Shareholders' Agreement and the Conrail Agreement, which shall be executed concurrently with the Purchase Agreements.

"(c) RAILROAD PURCHASERS.—Any railroad which purchases common stock of the Corporation shall vote such stock in the same proportion as all other common stock of the Corporation is voted unless the Commission determines that such railroad has purchased a controlling interest. As use in this subsection, the term 'railroad' shall include any entity controlling, controlled by, or under common control with any railroad (other than the Corporation or its subsidiaries).

"(d) ANTI-TAKEOVER RESTRICTION.—Except as may be provided in the Purchase Agreements with respect to the initial allocation of shares among the Purchasers, no person (with the exception of the ESOP), affiliated group of persons, of group of persons acting in concert may, for a period of five years beginning on the closing date, hold or acquire more than 10 per centum of the outstanding shares of any class of the voting stock of the Corporation.".

(b) The item in the table of contents of the Regional Rail Reorganization Act of 1973 relating to section 401 is amended to read as follows:

"Sec. 401. Sale of the Corporation.".

CANCELLATION OF DEBT AND PREFERRED STOCK

SEC. 105. Section 402 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 762) is amended to read as follows:

"DEBT AND PREFERRED STOCK

"SEC. 402. (a) RECAPITALIZATION.—In connection with the sale of the interest of the United States in the common stock of the Corporation under section 401, and consistent with the Purchase Agreements, the Secretary shall take such action as may be necessary to cause the corporation to be recapitalized to assure that the interest of the United States, or any agent or instrumentality thereof, and all other commitments or obligations of the Corporation to the United States or any agent or instrumentality thereof arising out of such interest, in any debt (including accrued interest and contingent interest thereon) and preferred stock (including accrued and unpaid dividends thereon) of the Corporation shall be canceled or retired and contributed to the capital of the Corporation. The Secretary shall cause the recapitalization authorized by this section to be effective as of the closing date.

"(b) EFFECT.—For purposes of regulation by the Commission and State public utility regulation, the recapitalization authorized by this section, the sale of the interest of the Untied States in the common stock of the Corporation, and the value of the consideration received therefor by the United States shall not reduce the Corporation's investment net of depreciation in any of its assets and shall not affect the calculation of the Corporation's stock or asset values, expenses, costs, returns, profits, or revenues, or otherwise affect or be the basis for a change in the regulation of any railroad service, rate, or practice of the Corporation, including any service, rate or practice provided or established by the Corporation in connection with other carriers,".

PUBLIC INTEREST COVENANTS

SEC. 106. (a) Section 404 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 764) is amended to read as follows:

"PUBLIC INTEREST COVENANTS

"SEC. 404. (a) DEFINITIONS.—For purposes of this section, the term—

"(1) 'affiliate' means, with respect to any person, any other person directly or indirectly controlling, controlled by, or under common control with, such person (for

which purpose the term 'control' when used with respect to any person means the possession, directly or indirectly, of power to direct or cause the direction of the management and policies of such person) and, without limiting the generality of the foregoing, includes any officer of such person or of any affiliate of such person;

"(2) 'capital expenditures' means all amounts expended by the Corporation and its subsidiaries for replacement or rehabilitation of, or enhancements to, the railroad plant, property, trackage, and equipment of the Corporation and its subsidiaries, all as determined in accordance with generally accepted accounting principles: *Provided, however,* That no amount spent upon normal repair, maintenance and upkeep of such railroad plant, property, trackage, and equipment in the ordinary course of business shall constitute capital expenditures;

"(3) 'cumulative net income' means, for any period, the net income of the Corporation and its consolidated subsidiaries (after provision for income taxes) properly attributable to the conduct of the business of the Corporation and its consolidated subsidiaries before provision for any preferred stock payments;

"(4) 'debt' means (A) indebtedness, whether or not represented by bonds, debentures, notes, or other securities, for the repayment of money borrowed, (B) all deferred indebtedness for the payment of the purchase price of property or assets purchased, (C) all guaranties, endorsements, assumptions, and other contingent obligations in respect of, or to purchase or to otherwise acquire, indebtedness of others, and (D) all indebtedness secured by any mortgage pledge or lien existing on property owned, subject to such mortgage pledge or lien, whether or not indebtedness secured thereby shall have been assumed;

"(5) 'net additional debt' means, at any time, an amount equal to the difference between the Corporation's consolidated debt outstanding at such time and its consolidated debt outstanding immediately after the closing date;

"(6) 'net additional preferred stock' means, at any time, an amount equal to the fair market value of the consideration received by the Corporation for the issuance of outstanding preferred stock issued subsequent to the closing date;

"(7) 'non-required capital expenditures' means the amount, if any, by which capital expenditures for any fiscal year exceeds the greater of (A) an amount equal to depreciation of the Corporation for financial reporting purposes for such year or (B) $500,000,000;

"(8) 'person' means an individual, corporation, partnership, association, trust, or other entity or organization, including a government or political subdivision thereof or a governmental body;

"(9) 'preferred stock' means any class or series of preferred stock, and any class or series of common stock having liquidation and dividend rights and preferences superior to the common stock acquired by the Purchasers from the Secretary on the closing date; and

"(10) 'subsidiary' means any corporation more than 50 per centum of whose outstanding voting securities are directly or indirectly owned by the Corporation.

"(b) AFFIRMATIVE COVENANTS.—During a period of five years commencing on the closing date:

"(1) The Corporation shall furnish to the Secretary its audited consolidated financial statements within 90 days after the end of each fiscal year of the Corporation and its unaudited interim financial statements within 45 days after the end of each quarter (except the fourth quarter). Such interim financial statements shall have received such limited review by the Corporation's independent certified public accountants as such accountants normally accord to interim financial statements of publicly held companies.

"(2) The Corporation and each railroad subsidiary shall continue in the railroad business substantially as such business was being conducted by the Corporation as of February 8, 1985, and such railroad subsidiary and (subject to permitted abandonments and service alterations in accordance with applicable law and the normal procedures and regulations of the Commission) to maintain rail freight services throughout its system that are economically justifiable: *Provided, however,* That expedited abandonment proceedings commenced pursuant to section 308 of this Act before the closing date may be continued, but no new filings of notices of insufficient revenues may be made pursuant to such section. The Corporation shall maintain its corporate existence and its material licenses and franchises.

"(3) Notwithstanding any repeal of section 308 of this Act, the Corporation shall continue its practice of offering any line for which an abandonment certificate is issued by the Commission to a purchaser who agrees to provide interconnecting rail service. Such offer shall last for the 120-day period following the date of issuance of the abandonment certificate and the price for such abandoned line shall be equal to 75 per centum of net liquidation value as determined by the Commission.

"(4) The Corporation and each of its subsidiaries shall maintain, preserve, protect, and keep their respective properties in good repair, working order, and condition, and shall not permit deferred maintenance, in order to provide and maintain rail service as required by paragraph (2) of this subsection.

"(5) The Corporation and each of its subsidiaries shall maintain insurance against loss or damage of the kinds customarily insured against by corporations similarly situated.

"(6) The Corporation shall spend in each fiscal year the greater of (A) an amount equal to the Corporation's depreciation for financial reporting purposes for such year or (B) $500,000,000, in capital expenditures: *Provided, however,* That in any year, the Corporation's Board of Directors may reduce the required capital expenditures for such year to an amount which the Board determines is justified by prudent business and engineering practices: *And further provided,* That in any event, the Corporation's cumulative capital expenditures subsequent to the closing date shall not be less than: $350,000,000 on the first anniversary of the closing date, $700,000,000 on the second anniversary of the closing date, $1,050,000,000 on the third anniversary of the closing date, $1,400,000,000 on the fourth anniversary of the closing date, and $1,750,000,000 on the fifth anniversary of the closing date.

"(7) The Corporation and each of its subsidiaries shall pay all debt promptly when due and payable.

"(8) The Corporation and each of its subsidiaries shall keep proper books and records in which full, true, and correct entries of all transactions will be made in accordance with generally accepted accounting principles (as applicable to companies subject to the reporting requirements of the Securities Exchange Act of 1934) applied on a consistent basis.

"(9) The Corporation shall continue to operate from its headquarter in Philadelphia, Pennsylvania, and to retain its locomotive shop and car repair shop in Altoona, Pennsylvania;

"(10) The Corporation shall continue to maintain or reestablish, with the small eastern rail carriers of less than $300,000,000 annual operating revenues, reasonably efficient routes of major importance at the request of any such rail carriers.

"(11) The Corporation shall continue its affirmative action program, including its minority vendor program, substantially as such program was being conducted by the Corporation as of February 8, 1985, subject to any provisions of applicable law.

"(12)(A) Within 45 days after the close of each fiscal quarter of the Corporation and promptly following the declaration of any common or preferred stock payment described in paragraph (5) or (6) of subsection (c) of this section by the Board of Directors of the Corporation, but not later than 10 days before making such payment, the Corporation shall deliver to the Secretary a certificate executed by an executive officer or representative of the Corporation which shall (i) certify that as of such date, and, in the case of any such certificate delivered in connection with such payment, after giving effect thereto, the Corporation shall have complied, and, after giving effect to such payment, shall then be in compliance with, all of the covenants set forth in this section and that no default exists, or after giving effect to such payment, would exist, with respect to any such covenant, and (ii) set forth all computations necessary to evidence compliance with all of the covenants set forth in this section at the date of such certificate, and in the case of any such certificate delivered in connection with such payment on a pro forma basis after giving effect to such payment.

"(B) The Secretary shall, not later than January 31 of each year, submit to the Committee on Energy and Commerce of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a reporting listing the certificates required under subparagraph (A) that were submitted by the Corporation during the preceding calendar year.

"(13) The Corporation shall give prompt notice to the Secretary and to each of the signatories to the Shareholder's Agreement of any default under way of the covenants set forth in subsection (b) or (c) of this section.

"(c) NEGATIVE COVENANTS.—During a period of 5 years commencing on the closing date:

"(1) The Corporation shall not, absent insolvency, liquidate, wind-up, dissolve, or file for voluntary reorganization under title 11 of the United Staes Code or any other law relating to bankruptcy, insolvency, or relief of debtors.

"(2) The Corporation shall not permit to occur any transaction or series of transactions (other than in the ordinary course of business of the Corporation and its subsidiaries) whereby all or any substantial part of the railroad assets and business of the Corporation and its subsidiaries taken as a whole are sold, leased, transferred, or otherwise disposed of to any corporation or entity other than to a wholly-owned subsidiary of the Corporation.

"(3) The Corporation shall not merge or consolidate with or into any corporation or any other entity. The Corporation shall not permit any subsidiary to merge or consolidate with or into any other entity unless, after giving effect to such merger or consolidation—

"(A) the Corporation shall be fully in compliance with all of the convenants enumerated in this section;

"(B) all of the covenants enumerated in this section shall continue to apply to the surviving or resulting entity of such merger or consolidation fully and to the same extent as they applied to the Corporation or to its subsidiaries (as the case may be) immediately prior to such merger or consolidation; and

"(C) such merger or consolidation shall not have violated any of the provisions of paragraph (8) of this subsection.

"(4) In connection with the financing of the purchase price of the common stock of the Corporation sold pursuant to the purchase agreements, (A) the Corporation shall not use its cash or cash equivalents on hand, other than in connection with the transactions which employees contemplated by such agreement and (B) the Corporation shall not subject its or its subsidiaries' assets to any pledge, lien, mortgage, or other security interest.

"(5)(A) Except as otherwise provided under subparagraph (B), the Corporation shall not at any time, in respect of any shares of any class or series of the common stock of the Corporation—

"(i) declare or pay any dividends in cash, property, or other assets (other than dividends payable solely in shares of any class or series of the common stock of the Corporation) thereon;

"(ii) apply any of its property or assets to the purchase, redemption, or other acquisition or retirement thereof;

"(iii) set apart any sum for the purchase, redemption, or other acquisition or retirement thereof, or

"(iv) make any other distribution, by reduction of capital or otherwise.

Any action described in clause (i), (ii), (iii), or (iv) with respect to the Corporation's common stock is hereinafter in this section referred to as a common stock payment.

"(B) No such common stock payment shall be made except to the extent that each of the conditions set forth below shall have been satisfied:

"(i) Such common stock payment is entirely in cash and the Corporation shall, after giving effect to such common stock payment, be fully in compliance with all of the covenants enumerated in this section.

"(ii) Immediately after giving effect to such common stock payment, the cumulative amount of all common stock payments made subsequent to the closing date shall not exceed (I) 40 per centum of the cumulative net income of the Corporation accrued subsequent to the closing date minus (II) the cumulative amount of all preferred stock payments (as defined in paragraph (6) of this subsection) made subsequent to the closing date.

"(iii) Immediately after giving effect to such common stock payment, the Corporation shall have cash and cash equivalents on hand at such time not less than the greater of: (I) $500,000,000, or (II) the sum of $500,000,000, net additional debt, and net additional preferred stock (the 'formula'): *Provided, however,* that the formula shall be reduced by an amount equal to cumulative nonrequired capital expenditures made by the Corporation subsequent to the closing date.

"(6)(A) Except as provided under paragraph (B), the Corporation shall not in respect of any shares of any class or series of preferred stock of the Corporation—

"(i) declare or pay any dividends in cash, property, or other assets thereon;

"(ii) apply any of its property or assets to the purchase, redemption, or other acquisition or retirement thereof;

"(iii) set apart any sum for the purchase, redemption, or other acquisition or retirement thereof; or

"(iv) make any other distribution, by reduction of capital or otherwise.

Any action described in clause (i), (ii), (iii), or (iv) with respect to the Corporation's preferred stock is hereinafter in this paragraph referred to as a 'preferred stock payment'.

"(B) No such preferred stock payment shall be made except to the extent that each of the conditions set forth below shall have been satisfied:

"(i) Such preferred stock payment is entirely in cash and the Corporation shall, after giving effect to such preferred stock payment, be fully in compliance with all of the covenants enumerated in paragraphs (6) and (7) of subsection (b), and paragraphs (2), (3), (5), and (6) of subsection (c), of this section.

"(ii) Immediately after giving effect to such preferred stock payment, the cumulative amount of all common stock payments and all preferred stock payments made subsequent to the closing date shall not exceed the cumulative net income of the Corporation accrued subsequent to the closing date.

"(iii) Immediately after giving effect to such preferred stock payment, the Corporation shall have cash and cash equivalents on hand at such time not less than $500,000,000.

"(7) Notwithstanding paragraph (5) of this subsection, if the Corporation is in default in making capital expenditures pursuant to subsection (b)(6) of this section, common stock payments may not be made until the Corporation is again in compliance with such subsection (b)(6).

"(8)(A) The Corporation shall, and shall permit its subsidiaries to, enter into transactions with the Purchasers and their affiliates only if such transactions are (i) in the aggregate fair to the Corporation and its subsidiaries, and (ii) similar in kind and nature to, and documented, recorded, and accounted for in the same manner as, transactions between the Corporation and other persons not affiliated with the Corporation or with any of the Purchasers.

"(B) Except in the implementation of the transactions contemplated by the Conrail Sale Agreements, the Corporation and its subsidiaries shall not engage in any of the following transactions with any Purchaser or its affiliates;

"(i) transfer, by merger, assumption, or otherwise, of any obligation of any Purchaser or its affiliates to the Corporation or any subsidiary in an amount greater than the value of the transferee of such merger, assumption, or other transaction;

"(ii) loans or advances by the Corporation or any subsidiary to any Purchaser or its affiliates; purchases or other acquisitions by the Corporation or any subsidiary of any capital stock, obligations, or securities of any Purchaser or its affiliates; capital contributions to or investments in or guarantees of any debt or obligation of any Purchaser or its affiliates by the Corporation or any subsidiary; and

"(iii) assignments of any right to receive income for a consideration of less value than such right by the Corporation or any subsidiary to any Purchaser or its affiliates.

"(C) Nothing in this paragraph shall prohibit transactions between the Corporation and any of its subsidiaries or among any of such subsidiaries.

"(9) In no event shall the Corporation obtain a reversion of any excess assets held in the trust or a successor trust maintained with the Corporation's supplemental pension plan or any successor plan. The Corporation shall not terminate its supplemental pension plan.

"(10) The Corporation shall not amend, modify, rescind, or revoke any provision of the Corporation's restated articles of incorporation relating to the relative rights, preferences, and limitations of any series or class of capital stock of the Corporation held by the Purchasers immediately after the closing date.

"(d) ACCOUNTING TERMS AND DETERMINATIONS.—(1) Unless otherwise specified in this section, all accounting terms used in this section shall be interpreted, all accounting determinations shall be made, and all financial statements required to be delivered shall be prepared, in accordance with generally accepted accounting principles as in effect from time to time in the United States, applied on a basis consistent (except for changes approved by the Corporation's independent public accountants) with the most recent audited consolidated financial statements of the Corporation.

"(2) For the purpose of calculations under paragraphs (5) and (6) of subsection (c), the transactions by which the Purchasers assumed ownership of the Corporation's common stock shall be accounted for as a recapitalization of the Corporation with a 100 per centum revaluation of the Corporation's assets and liabilities based on the fair value of the new capital structure.

"(e) ADMINISTRATION.—(1) The Secretary may, upon application by the Corporation, waive (in whole or in part) any provision of this section if the Secretary determines in writing that such waiver would not impair continued rail service by the Corporation and its railroad subsidiaries or result in a material reduction in the financial strength of the Corporation and its subsidiaries taken as a whole.

"(2) The Secretary shall transmit to the Committee on Energy and Commerce of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate any determination under paragraph (1).

"(3) No waiver shall be effective under this subsection until after the expiration of 45 calendar days after the transmittal required by paragraph (2).".

(b) The item in the table of contents of the Regional Rail Reorganization Act of 1973 relating to section 404 is amended to read as follows:

"Sec. 404. Public interest covenants.".

APPLICABILITY OF CERTAIN LAWS TO THE SALE OF CONRAIL

SEC. 107. (a) Section 408 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 768) is amended to read as follows:

"REVIEW

"SEC. 408. (a) AGREEMENTS.—Except as provided in section 1152 of the Northeast Rail Service Act of 1981 (45 U.S.C. 1105), the Conrail Sale Agreements and their negotiation, execution, and implementation shall

not be subject to administrative or judicial review or to review by the Commission.

"(b) WARRANTS.—Warrants issued to the Secretary under the Conrail Agreement, and any shares of stock issued upon the exercise of such warrants, shall be deemed to have been issued and approved under section 1130(b) of title 49, United States Code.".

(b) The item in the table of contents of the Regional Rail Reorganization Act of 1973 relating to section 408 is amended to read as follows:

"Sec. 408. Review.".

LABOR PROTECTION

SEC. 108. (a) Notwithstanding any other provision of law, the benefit schedule prescribed by the Secretary of Labor under section 701(a)(2) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 797(a)(2)) shall continue in force and effect until superseded by an agreement between Conrail and the representatives of the various classes and crafts of employees of Conrail providing for protection for employees of Conrail.

(b) Conrail shall be responsible for funding all benefits under subsection (a) after the closing date, and the United States shall not be liable for any such benefits after that date.

SPECIAL COURT JURISDICTION

SEC. 109. Section 1152 of the Northeast Rail Service Act of 1981 (45 U.S.C. 1105) is amended—

(1) by inserting "or the Conrail Public Sale Act of 1985" immediately after "subtitle" each place it appears;

(2) in the second sentence of subsection (c), by inserting ", as the case may be," after the insertion made by paragraph (1) of this section;

(3) in subsection (a), by striking out "or" at the end of paragraph (3), by striking out the period at the end of paragraph (4) and inserting in lieu thereof a semicolon, and by adding at the end thereof the following:

"(5) brought by the United States to enforce section 401 or 404 of the Regional Rail Reorganization Act of 1973 or any term or condition of the Conrail Sale Agreements entered into under such section 401;

"(6) brought by one or more of the Purchasers to enforce any obligation of the United States (or any agency or instrumentality thereof) under the Conrail Sale Agreement entered into under section 401 of the Regional Rail Reorganization Act of 1973; or

"(7) brought by the Corporation to enforce section 401 of the Regional Rail Reorganization Act of 1973.

For purposes of any action brought under paragraph (5) of this subsection, a violation of any provision of subsection (b) or (c) of section 404 of the Regional Rail Reorganization Act of 1973 shall be deemed to constitute immediate and irreparable harm for purposes of awarding injunctive relief to the United States."; and

(4) by adding at the end the following new subsection:

"(e) Any person who suffers direct economic injury as a result of an alleged violation by Conrail of any provision of subsection (b) or (c) of section 404 of the Regional Rail Reorganization Act of 1973 may petition the Secretary to seek enforcement of such provision. If the Secretary determines that a petitioner has demonstrated that it has suffered direct economic injury as a result of such a violation, the United States shall bring an action under subsection (a)(5) to require Conrail to comply with such provision.".

APPLICABILITY OF OTHER LAWS

SEC. 110. (a) Section 1168(a) of the Northeast Rail Service Act of 1981 (45 U.S.C. 1116(a)) is amended by striking out "implementing service transfers" and inserting in lieu thereof "implementing the sale of the interest of the United States in the common stock of Conrail".

(b) Section 16(b) of the Securities Exchange Act of 1934 (15 U.S.C. 78p(b)) shall not apply to any public sale of Conrail common stock by the Purchasers for a period of seven months beginning on the closing date.

TITLE II—TECHNICAL AND CONFORMING AMENDMENTS AND REPEALS

SEC. 201. The following provisions of the Regional Rail Reorganization Act of 1973 are repealed or amended as follows:

(1) Section 102 (45 U.S.C. 702) is amended—

(A) by inserting after paragraph (1) the following new paragraph:

"(1A) 'closing date' means the date that the interest of the United States in the common stock of the Corporation is transferred pursuant to the Purchase Agreements;";

(B) by inserting after paragraph (4) the following new paragraphs:

"(4A) 'Conrail Agreement' means the agreement between the Corporation and the Secretary in the form filed with the Committee on Commerce, Science and Transportation of the Senate;

"(4B) Conrail Sale Agreements' means the Conrail Agreement, the Purchase Agreements, and the Shareholders' Agreement;";

(C) by inserting after paragraph (7) the following new paragraph:

"(7A) 'ESOP' means the Consolidated Rail Corporation Employee Stock Ownership Plan adopted July 25, 1980, as amended, and the trust created in connection therewith;";

(D) by inserting after paragraph (13) the following new paragraphs:

"(13A) 'Purchase Agreements' means the agreements between the Purchasers and the Secretary in the form filed with the Committee on Commerce, Science and Transportation of the Senate;

"(13B) 'Purchasers' means the investor group organized by Morgan Stanley and Company, Incorporated to purchase the interest of the United States in the common stock of the Corporation as identified in the Shareholders' Agreement;"; and

(E) by inserting after paragraph (18) the following new paragraph:

"(18A) 'Shareholders' Agreement' means the agreement among the Purchasers, the Corporation, and Morgan Stanley and Company, Incorporated in the form filed with the Committee on Commerce, Science and Transportation of the Senate;".

(2) Subsections (a) and (b) of section 214 (45 U.S.C. 724(a) and (b)), are repealed, and such section 214 is amended by striking out "(c) ASSOCIATION.—".

(3) The following provisions of the Regional Rail Reorganization Act of 1973 (together with the item relating to each such provision contained in the table of contents of such Act) are repealed:

(A) Section 405 (45 U.S.C. 765).
(B) Section 406 (45 U.S.C. 766).
(C) Section 407 (45 U.S.C. 767).
(D) Section 409 (45 U.S.C. 769).
(E) Section 410 (45 U.S.C. 769a).
(F) Section 411 (45 U.S.C. 769b).
(G) Section 412 (45 U.S.C. 769c).
(H) Section 713 (45 U.S.C. 797l).

AMENDMENTS AND REPEALS OF OTHER RAIL LAWS

SEC. 202. (a) The following provisions of the Northeast Rail Service Act of 1981 are amended as follows:

(1) Section 1135(a) (45 U.S.C. 1104(a)) is amended by inserting after paragraph (5) the following new paragraphs:

"(5A) 'Conrail Agreement' means the agreement between Conrail and the Secretary in the form filed with the Committee on Commerce, Science and Transportation of the Senate;

"(5B) 'Conrail Sale Agreements' means the Conrail Agreement, the Purchase Agreements, and the Shareholders' Agreement.

"(5C) 'Purchase Agreements' means the agreements between the Purchasers and the Secretary in the form filed with the Committee on Commerce, Science and Transportation of the Senate;

"(5D) 'Purchasers' means the investor group organized by Morgan Stanley and Company, Incorporated to purchase the interest of the United States in the common stock of Conrail as identified in the Shareholders' Agreement."; and

(2) by inserting after paragraph (7) the following new paragraph:

"(7A) 'Shareholders' Agreement' means the agreement among the Purchasers, Conrail, and Morgan Stanley & Co. Incorporated in the form filed with the Committee on Commerce, Science and Transportation of the Senate;

(b)(1) The following provisions of the Northeast Rail Service Act of 1981 are repealed:

(A) Section 1154 (45 U.S.C. 1107).
(B) Section 1161 (45 U.S.C. 1110).
(C) Section 1166 (45 U.S.C. 1114).
(D) Subsection (c) of section 1167 (45 U.S.C. 1115).

(2) The items relating to such sections 1154, 1161, and 1166 in the table of contents of such Act are repealed.

(c) Section 501(8) of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 821(8)) is amended by striking out "(A)" and by striking out all that follows "improved asset utilization;".

(d) Section 505 of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 825) is amended—

(1) in subsection (a)(1), by striking out all after "railroad" through "1981)"; and

(2) in subsection (b)(2)(C), by striking out all after "costs" the second time it appears through "subsidy".

(e) Subsection (b)(1) of section 509 of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 829) is repealed.

(f) Section 511(e) of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 831(e)) is amended—

(1) by striking out "(1)" in the first paragraph;

(2) by striking all that follows "time" in the first paragraph and inserting in lieu thereof a period; and

(3) by striking out paragraph (2).

(g) Section 402 of the Rail Safety and Service Improvement Act of 1982 (45 U.S.C. 825a) is repealed.

(h) Section 1005(b)(1) of the Rail Passenger Service Act (45 U.S.C. 655(b)(1)) is amended by striking out "the Consolidated Rail Corporation,".

(i) Section 10362(b)(7)(A) of title 49, United States Code, is amended by striking out "by the Consolidated Rail Corporation or".

(j) Section 332(d) of title 49, United States Code, is amended by striking out ", the Consolidated Rail Corporation,".

EFFECT OF REPEALS

SEC. 203. All repeals under this Act of provisions authorizing the appropriation of funds are made without prejudice to the continued availability of funds appropriated under such provisions before the effective date of such repeal.

TITLE III—REVENUE PROVISIONS

TAX TREATMENT

SEC. 301. (a) GENERAL RULE.—Except as provided in subsection (b), nothing in this title (or in any amendment made by this title) shall affect the Federal tax treatment of Conrail (or of any affiliated group of which it is a member).

(b) MODIFICATION AND CLARIFICATION OF TAX TREATMENT.—For purposes of the Internal Revenue Code of 1954—

(1) CONRAIL CARRYFORWARDS MAY NOT BE CARRIED FORWARD.—No Conrail net operating loss, capital loss, or credit under the Internal Revenue Code of 1954 attributable to any period before the closing date may be carried forward to any period after the closing date.

(2) NO INCOME FROM CANCELLATION OF DEBT OR PREFERRED STOCK.—No amount shall be included in the gross income of any person (and no basis adjustment in the assets of Conrail shall be made) by reason of any cancellation of any obligation (or preferred stock) of Conrail in connection with the Conrail Sale Agreements.

(3) ADJUSTED BASIS.—The adjusted basis of Conrail's assets shall not be increased by any adjustment relating to any period prior to the closing date.

(4) EARNINGS AND PROFITS.—For purposes of section 316 of the Internal Revenue Act of 1954, Conrail shall be deemed to have accumulated earnings and profits of $500,000,000 as of the closing date.

(5) WAIVER OF CERTAIN EMPLOYEE STOCK OWNERSHIP PLAN PROVISIONS.—For purposes of determining whether the employee stock ownership plans of Conrail meet the qualifications of sections 401 and 501 of the Internal Revenue Code of 1954 the limits of section 415 of such Code (relating to limitations on benefits and contributions under qualified plans) shall not apply with respect to interests in stock transferred pursuant to a law heretofore enacted.

(6) TAXABLE YEAR OF CONRAIL.—The taxable year of Conrail shall close as of the closing date.

DEFINITIONS

SEC. 302. For purposes of this title—

(1) CONRAIL.—The term "Conrail" includes any corporation which was a subsidiary of Conrail immediately before the closing date.

(2) CONRAIL SALE AGREEMENTS.—The term "Conrail Sale Agreements" has the same meaning such term is given in paragraph (4B) of section 102 of the Regional Rail Reorganization Act of 1973, and includes all representations and warranties made in such agreements, entered into to implement this Act.

TITLE IV—MISCELLANEOUS PROVISIONS

COMMON CARRIER STATUS OF CONRAIL AFTER SALE

SEC. 401. Conrail shall be a common carrier by railroad under section 10102(4) of title 49, United States Code, notwithstanding this Act. Purchase of Conrail stock shall not be the sole basis of a determination that any Purchaser has become a common carrier by railroad under section 10102(4) of title 49, United States Code.

SEPARABILITY

SEC. 402. If any provision of this Act or the application thereof to any person or circumstance is held invalid, the remainder of this Act and the application of such provision to other persons or circumstances shall not be affected thereby.

EFFECT ON CONTRACTS

SEC. 403. Nothing in this Act shall affect any obligation of Conrail to carry out its transportation contracts and equipment leases, equipment trusts, and conditional sales agreements, in accordance with their terms.

EFFECTIVE DATES

SEC. 404. (a) Except as provided in subsection (b), the provisions of this Act, and amendments made by such provisions, shall take effect on the date of enactment of this Act.

(b) Sections 108, 201, and 202 of this Act shall take effect on the closing date, except that subsection (a) of each of sections 201 and 202 shall take effect on the date of enactment of this Act.

(c) Any provision of this Act which, pursuant to Article I, Section 7 of the Constitution, provides for raising revenue shall only be effective upon the enactment into law of a bill which has originated in the House of Representatives enacting such provision.

AMENDMENT NO. 1440

In lieu of the matter proposed to be inserted, insert the following:

That this Act may be cited as the "Conrail Public Sale Act of 1985".

FINDINGS

SEC. 2. The Congress finds that—

(1) the Northeast Rail Service Act of 1981 (45 U.S.C. 1101, et seq.) provided for an orderly return of Conrail freight service to the private sector;

(2) the provisions of the Northeast Rail Service Act of 1981 were successful in removing Conrail's obligations beyond railroad freight service and in otherwise preparing Conrail for an orderly return to the private sector;

(3) the Board of Directors of the United States Railway Association twice found Conrail to be profitable corporation under section 403 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 763);

(4) Morgan Stanley and Company, Incorporated developed a firm proposal on behalf of a diverse group of private investors to purchase the interest of the United States in the common stock of Conrail and to return Conrail to broad private ownership through one or more public stock offerings;

(5) the sale proposal of the investor group organized by Morgan Stanley and Company, Incorporated best meets the objectives of (A) leaving Conrail in the strongest financial position after the sale, (B) preserving patterns of service to shippers and communities in the region that Conrail now serves by continuing Conrail as an independent railroad, and (C) maximizing the return of the United States on its investment consistent with the objectives set forth in subparagraphs (A) and (B);

(6) the sale proposal of the investor group organized by Morgan Stanley and Company, Incorporated satisfies the requirements of the Northeast Rail Service Act of 1981, including the intent, goals, and objectives relating to the sale of the interest of the United States in the common stock of Conrail and the requirements of section 401(e) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 761(e)); and

(7) amendments to the Regional Rail Reorganization Act of 1973 and related laws are needed to permit the sale of the interest of the United States in the common stock of Conrail to the investor group organized by Morgan Stanley and Company, Incorporated and to permit cancellation of the interest of the United States in Conrail debt and preferred stock.

PURPOSE

SEC. 3. It is the purpose of the Congress in this Act to return Conrail to private sector by directing and facilitating the sale of the interest of the United States in the common stock of Conrail to the investor group organized by Morgan Stanley and Company, Incorporated.

DEFINITIONS

SEC. 4. In this Act, unless the context otherwise requires, the term—

(1) "closing date" means the date that the interest of the United States in the common stock of Conrail is transferred pursuant to the Purchase Agreements;

(2) "Conrail" means the Consolidated Rail Corporation;

(3) "Purchase Agreements" means the agreements between the Purchasers and the Secretary in the form filed with the Committee on Commerce, Science and Transportation of the Senate;

(4) "Purchasers" means the investor group organized by Morgan Stanley and Company, Incorporated to purchase the interest of the United States in the common stock of Conrail as identified in the Shareholders' Agreement;

(5) "Secretary" means the Secretary of Transportation; and

(6) "Shareholders' Agreement" means the agreement among the Purchasers, Conrail and Morgan Stanley and Company, Incorporated in the form filed with the Committee on Commerce, Science and Transportation of the Senate.

TITLE I—AMENDMENTS TO THE REGIONAL RAIL REORGANIZATION ACT OF 1973 AND THE NORTHEAST RAIL SERVICE ACT OF 1981

LIMIT ON AUTHORITY TO PURCHASE STOCK

SEC. 101. Section 216(b) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 726(b)) is amended by adding at the end thereof the following new paragraph:

"(5) The authority of the Association to purchase debentures or series A preferred stock of the Corporation shall terminate upon the closing date.".

RESPONSIBILITY OF CONRAIL DIRECTORS

SEC. 102. Section 301(i) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 741(i)) is amended by inserting immediately after "required by law" the following: ", taken to implement the sale of the interest of the United States in the common stock of the Corporation to the Purchasers,".

APPLICABILITY OF REGIONAL RAIL REORGANIZATION ACT OF 1973 TO CONRAIL AFTER SALE

SEC. 103. Section 301 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 741) is amended by adding at the end thereof the following new subsection:

"(k) GOVERNING PROVISIONS AFTER SALE.—The provisions of this Act shall not apply to the Corporation and to activities and other actions and responsibilities of the Corporation and its directors after the closing date, other than with regard to—

"(1) section 102;
"(2) section 201(d);
"(3) section 203, but only with respect to information relating to proceedings before the special court established under section 209(b);
"(4) section 216(f)(8), but only as such authority applies to activities related to the ESOP and related trusts before the closing date;
"(5) section 217(e);
"(6) subsection (b) of this section, but only with respect to matters covered by the last sentence of such subsection;
"(7) subsection (i) of this section, but only as such authority applies to service as a director of the Corporation before, or in connection with the implementation of, the sale of the interest of the United States in the common stock of the Corporation;
"(8) section 305, but only as to the effect, and continuing administration, of supplemental transactions consummated before the closing date;
"(9) section 308, but only in abandonment actions when such authority has been relied on to file a notice or notices of insufficient revenues before the closing date;
"(10) section 401;
"(11) section 402;
"(12) section 404;
"(13) section 408;
"(14) section 701, but only as may be necessary to identify employees eligible for benefits prescribed under that section and as provided in section 108 of the Conrail Public Sale Act of 1985;
"(15) section 702(e);
"(16) section 704(b);
"(17) section 709;
"(18) section 710(b)(1);
"(19) section 711; and
"(20) section 714, but only with regard to disputes or controversies specified in such section that arose before the closing date.".

IMPLEMENTATION OF SALE

SEC. 104. (a) Section 401 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 761) is amended to read as follows:

"SALE OF THE CORPORATION

"SEC. 401. (a) PURCHASE AGREEMENT.—As soon as practicable, but not later than 10 days following the date of enactment of the Conrail Public Sale Act of 1985, the Secretary shall execute and deliver on behalf of the United States the Purchase Agreements. The Secretary shall transfer the interest of the United States in the common stock of the Corporation to the Purchasers in accordance with such Agreements.

"(b) CONDITIONS OF SALE.—In addition to the terms and conditions of the Purchase Agreements, the transfer of the interest of the United States in the common stock of the Corporation shall be subject to, and governed by, the terms and conditions of the Shareholders' Agreement and the Conrail Agreement, which shall be executed concurrently with the Purchase Agreements.

"(c) RAILROAD PURCHASERS.—Any railroad which purchases common stock of the Corporation shall vote such stock in the same proportion as all other common stock of the Corporation is voted unless the Commission determines that such railroad has purchased a controlling interest. As used in this subsection, the term 'railroad' shall include any entity controlling, controlled by, or under common control with any railroad (other than the Corporation or its subsidiaries).

"(d) ANTI-TAKEOVER RESTRICTION.—Except as may be provided in the Purchase Agreements with respect to the initial allocation of shares among the Purchasers, no person (with the exception of the ESOP), affiliated group of persons, of group of persons acting in concert may, for a period of five years beginning on the closing date, hold or acquire more than 10 per centum of the outstanding shares of any class of the voting stock of the Corporation.".

(b) The item in the table of contents of the Regional Rail Reorganization Act of 1973 relating to section 401 is amended to read as follows:

"Sec. 401. Sale of the Corporation.".

CANCELLATION OF DEBT AND PREFERRED STOCK

SEC. 105. Section 402 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 762) is amended to read as follows:

"DEBT AND PREFERRED STOCK

"SEC. 402. (a) RECAPITALIZATION.—In connection with the sale of the interest of the United States in the common stock of the Corporation under section 401, and consistent with the Purchase Agreements, the Secretary shall take such action as may be necessary to cause the corporation to be recapitalized to assure that the interest of the United States, or any agent or instrumentality thereof, and all other commitments or obligations of the Corporation to the United States or any agent or instrumentality thereof arising out of such interest, in any debt (including accrued interest and contingent interest thereon) and preferred stock (including accrued and unpaid dividends thereon) of the Corporation shall be canceled or retired and contributed to the capital of the Corporation. The Secretary shall cause the recapitalization authorized by this section to be effective as of the closing date.

"(b) EFFECT.—For purposes of regulation by the Commission and State public utility regulation, the recapitalization authorized by this section, the sale of the interest of the United States in the common stock of the Corporation, and the value of the consideration received therefor by the United States shall not reduce the Corporation's investment net of depreciation in any of its assets and shall not affect the calculation of the Corporation's stock or asset values, expenses, costs, returns, profits, or revenues, or otherwise affect or be the basis for a change in the regulation of any railroad service, rate, or practice of the Corporation, including any service, rate or practice provided or established by the Corporation in connection with other carriers.".

PUBLIC INTEREST COVENANTS

SEC. 106. (a) Section 404 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 764) is amended to read as follows:

"PUBLIC INTEREST COVENANTS

"SEC. 404. (a) DEFINITIONS.—For purposes of this section, the term—

"(1) 'affiliate' means, with respect to any person, any other person directly or indirectly controlling, controlled by, or under common control with, such person (for which purpose the term 'control' when used with respect to any person means the possession, directly or indirectly, of power to direct or cause the direction of the management and policies of such person) and, without limiting the generality of the foregoing, includes any officer of such person or of any affiliate of such person;

"(2) 'capital expenditures' means all amounts expended by the Corporation and its subsidiaries for replacement or rehabilitation of, or enhancements to, the railroad plant, property, trackage, and equipment of the Corporation and its subsidiaries, all as determined in accordance with generally accepted accounting principles: *Provided, however,* That no amount spent upon normal repair, maintenance and upkeep of such railroad plant, property, trackage, and equipment in the ordinary course of business shall constitute capital expenditures;

"(3) 'cumulative net income' means, for any period, the net income of the Corporation and its consolidated subsidiaries (after provision for income taxes) properly attributable to the conduct of the business of the Corporation and its consolidated subsidiaries before provision for any preferred stock payments;

"(4) 'debt' means (A) indebtedness, whether or not represented by bonds, debentures, notes, or other securities, for the repayment of money borrowed, (B) all deferred indebtedness for the payment of the purchase price of property or assets purchased, (C) all guaranties, endorsements, assumptions, and other contingent obligations in respect of, or to purchase or to otherwise acquire, indebtedness of others, and (D) all indebtedness secured by any mortgage pledge or lien existing on property owned, subject to such mortgage pledge or lien, whether or not indebtedness secured thereby shall have been assumed;

"(5) 'net additional debt' means, at any time, an amount equal to the difference between the Corporation's consolidated debt outstanding at such time and its consolidated debt outstanding immediately after the closing date;

"(6) 'net additional preferred stock' means, at any time, an amount equal to the fair market value of the consideration received by the Corporation for the issuance of outstanding preferred stock issued subsequent to the closing date;

"(7) 'non-required capital expenditures' means the amount, if any, by which capital expenditures for any fiscal year exceeds the greater of (A) an amount equal to depreciation of the Corporation for financial reporting purposes for such year or (B) $500,000,000;

"(8) 'person' means an individual, corporation, partnership, association, trust, or other entity or organization, including a government or political subdivision thereof or a governmental body;

"(9) 'preferred stock' means any class or series of preferred stock, and any class or series of common stock having liquidation and dividend rights and preferences superior to the common stock acquired by the Purchasers from the Secretary on the closing date; and

"(10) 'subsidiary' means any corporation more than 50 per centum of whose outstanding voting securities are directly or indirectly owned by the Corporation.

"(b) AFFIRMATIVE COVENANTS.—During a period of five years commencing on the closing date:

"(1) The Corporation shall furnish to the Secretary its audited consolidated financial statements within 90 days after the end of each fiscal year of the Corporation and its unaudited interim financial statements within 45 days after the end of each quarter (except the fourth quarter). Such interim financial statements shall have received such limited review by the Corporation's independent certified public accountants as such accountants normally accord to interim financial statements of publicly held companies.

"(2) The Corporation and each railroad subsidiary shall continue in the railroad

business substantially as such business was being conducted by the Corporation as of February 8, 1985, and such railroad subsidiary and (subject to permitted abandonments and service alterations in accordance with applicable law and the normal procedures and regulations of the Commission) to maintain rail freight services throughout its system that are economically justifiable: *Provided, however,* That expedited abandonment proceedings commenced pursuant to section 308 of this Act before the closing date may be continued, but no new filings of notices of insufficient revenues may be made pursuant to such section. The Corporation shall maintain its corporate existence and its material licenses and franchises.

"(3) Notwithstanding any repeal of section 308 of this Act, the Corporation shall continue its practice of offering any line for which an abandonment certificate is issued by the Commission to a purchaser who agrees to provide interconnecting rail service. Such offer shall last for the 120-day period following the date of issuance of the abandonment certificate and the price for such abandoned line shall be equal to 75 per centum of net liquidation value as determined by the Commission.

"(4) The Corporation and each of its subsidiaries shall maintain, preserve, protect, and keep their respective properties in good repair, working order, and condition, and shall not permit deferred maintenance, in order to provide and maintain rail service as required by paragraph (2) of this subsection.

"(5) The Corporation and each of its subsidiaries shall maintain insurance against loss or damage of the kinds customarily insured against by corporations similarly situated.

"(6) The Corporation shall spend in each fiscal year the greater of (A) an amount equal to the Corporation's depreciation for financial reporting purposes for such year or (B) $500,000,000, in capital expenditures: *Provided, however,* That in any year, the Corporation's Board of Directors may reduce the required capital expenditures for such year to an amount which the Board determines is justified by prudent business and engineering practices: *And further provided,* That in any event, the Corporation's cumulative capital expenditures subsequent to the closing date shall not be less than: $350,000,000 on the first anniversary of the closing date, $700,000,000 on the second anniversary of the closing date, $1,050,000,000 on the third anniversary of the closing date, $1,400,000,000 on the fourth anniversary of the closing date, and $1,750,000,000 on the fifth anniversary of the closing date.

"(7) The Corporation and each of its subsidiaries shall pay all debt promptly when due and payable.

"(8) The Corporation and each of its subsidiaries shall keep proper books and records in which full, true, and correct entries of all transactions will be made in accordance with generally accepted accounting principales (as applicable to companies subject to the reporting requirements of the Securities Exchange Act of 1934) applied on a consistent basis.

"(9) The Corporation shall continue to operate from its headquarters in Philadelphia, Pennsylvania, and to retain its locomotive shop and car repair shop in Altoona, Pennsylvania;

"(10) The Corporation shall continue to maintain or reestablish, with the small eastern rail carriers of less than $300,000,000 annual operating revenues, reasonably efficient routes of major importance at the request of any such rail carriers.

"(11) The Corporation shall continue its affirmative action program, including its minority vendor program, substantially as such program was being conducted by the Corporation as of February 8, 1985, subject to any provisions of applicable law.

"(12)(A) Within 45 days after the close of each fiscal quarter of the Corporation and promptly following the declaration of any common or preferred stock payment described in paragraph (5) or (6) of subsection (c) of this section by the Board of Directors of the Corporation, but not later than 10 days before making such payment, the Corporation shall deliver to the Secretary a certificate executed by an executive officer or representative of the Corporation which shall (i) certify that as of such date, and, in the case of any such certificate delivered in connection with such payment, after giving effect thereto, the Corporation shall have complied, and, after giving effect to such payment, shall then be in compliance with, all of the covenants set forth in this section and that no default exists, or after giving effect to such payment, would exist, with respect to any such covenant, and (ii) set forth all computations necessary to evidence compliance with all of the covenants set forth in this section at the date of such certificate, and in the case of any such certificate delivered in connection with such payment on a pro forma basis after giving effect to such payment.

"(B) The Secretary shall, not later than January 31 of each year, submit to the Committee on Energy and Commerce of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a reporting listing the certificates required under subparagraph (A) that were submitted by the Corporation during the preceding calendar year.

"(13) The Corporation shall give prompt notice to the Secretary and to each of the signatories to the Shareholder's Agreement of any default under way of the covenants set forth in subsection (b) or (c) of this section.

"(c) NEGATIVE COVENANTS.—During a period of 5 years commencing on the closing date:

"(1) The Corporation shall not, absent insolvency, liquidate, wind-up, dissolve, or file for voluntary reorganization under title 11 of the United States Code or any other law relating to bankruptcy, insolvency, or relief of debtors.

"(2) The Corporation shall not permit to occur any transaction or series of transactions (other than in the ordinary course of business of the Corporation and its subsidiaries) whereby all or any substantial part of the railroad assets and business of the Corporation and its subsidiaries taken as a whole are sold, leased, transferred, or otherwise disposed of to any corporation or entity other than to a wholly-owned subsidiary of the Corporation.

"(3) The Corporation shall not merge or consolidate with or into any corporation or any other entity. The Corporation shall not permit any subsidiary to merge or consolidate with or into any other entity unless, after giving effect to such merger or consolidation—

"(A) the Corporation shall be fully in compliance with all of the convenants enumerated in this section;

"(B) all of the covenants enumerated in this section shall continue to apply to the surviving or resulting entity of such merger or consolidation fully and to the same extent as they applied to the Corporation or to its subsidiaries (as the case may be) immediately prior to such merger or consolidation; and

"(C) such merger or consolidation shall not have violated any of the provisions of paragraph (8) of this subsection.

"(4) In connection with the financing of the purchase price of the common stock of the Corporation sold pursuant to the purchase agreements, (A) the Corporation shall not use its cash or cash equivalents on hand, other than in connection with the transactions which employees contemplated by such agreement and (B) the Corporation shall not subject its or its subsidiaries' assets to any pledge, lien, mortgage, or other security interest.

"(5)(A) Except as otherwise provided under subparagraph (B), the Corporation shall not at any time, in respect of any shares of any class or series of the common stock of the Corporation—

"(i) declare or pay any dividends in cash, property, or other assets (other than dividends payable solely in shares of any class or series of the common stock of the Corporation) thereon;

"(ii) apply any of its property or assets to the purchase, redemption, or other acquisition or retirement thereof;

"(iii) set apart any sum for the purchase, redemption, or other acquisition or retirement thereof, or

"(iv) make any other distribution, by reduction of capital or otherwise.

Any action described in clause (i), (ii), (iii), or (iv) with respect to the Corporation's common stock is hereinafter in this section referred to as a common stock payment.

"(B) No such common stock payment shall be made except to the extent that each of the conditions set forth below shall have been satisfied:

"(i) Such common stock payment is entirely in cash and the Corporation shall, after giving effect to such common stock payment, be fully in compliance with all of the covenants enumerated in this section.

"(ii) Immediately after giving effect to such common stock payment, the cumulative amount of all common stock payments made subsequent to the closing date shall not exceed (I) 40 per centum of the cumulative net income of the Corporation accrued subsequent to the closing date minus (II) the cumulative amount of all preferred stock payments (as defined in paragraph (6) of this subsection) made subsequent to the closing date.

"(iii) Immediately after giving effect to such common stock payment, the Corporation shall have cash and cash equivalents on hand at such time not less than the greater of: (I) $500,000,000, or (II) the sum of $500,000,000, net additional debt, and net additional preferred stock (the 'formula'): *Provided, however,* that the formula shall be reduced by an amount equal to cumulative nonrequired capital expenditures made by the Corporation subsequent to the closing date.

"(6)(A) Except as provided under paragraph (B), the Corporation shall not in respect of any shares of any class or series of preferred stock of the Corporation—

"(i) declare or pay any dividends in cash, property, or other assets thereon;

"(ii) apply any of its property or assets to the purchase, redemption, or other acquisition or retirement thereof;

"(iii) set apart any sum for the purchase, redemption, or other acquisition or retirement thereof; or

"(iv) make any other distribution, by reduction of capital or otherwise.

Any action described in clause (i), (ii), (iii), or (iv) with respect to the Corporation's preferred stock is hereinafter in this paragraph referred to as a 'preferred stock payment'.

"(B) No such preferred stock payment shall be made except to the extent that each of the conditions set forth below shall have been satisfied:

"(i) Such preferred stock payment is entirely in cash and the Corporation shall, after giving effect to such preferred stock payment, be fully in compliance with all of the covenants enumerated in paragraphs (6) and (7) of subsection (b), and paragraphs (2), (3), (5), and (6) of subsection (c), of this section.

"(ii) Immediately after giving effect to such preferred stock payment, the cumulative amount of all common stock payments and all preferred stock payments made subsequent to the closing date shall not exceed the cumulative net income of the Corporation accrued subsequent to the closing date.

"(iii) Immediately after giving effect to such preferred stock payment, the Corporation shall have cash and cash equivalents on hand at such time not less than $500,000,000.

"(7) Notwithstanding paragraph (5) of this subsection, if the Corporation is in default in making capital expenditures pursuant to subsection (b)(6) of this section, common stock payments may not be made until the Corporation is again in compliance with such subsection (b)(6).

"(8)(A) The Corporation shall, and shall permit its subsidiaries to, enter into transactions with the Purchasers and their affiliates only if such transactions are (i) in the aggregate fair to the Corporation and its subsidiaries, and (ii) similar in kind and nature to, and documented, recorded, and accounted for in the same manner as, transactions between the Corporation and other persons not affiliated with the Corporation or with any of the Purchasers.

"(B) Except in the implementation of the transactions contemplated by the Conrail Sale Agreements, the Corporation and its subsidiaries shall not engage in any of the following transactions with any Purchaser or its affiliates;

"(i) transfer, by merger, assumption, or otherwise, of any obligation of any Purchaser or its affiliates to the Corporation or any subsidiary in an amount greater than the value of the transferee of such merger, assumption, or other transaction;

"(ii) loans or advances by the Corporation or any subsidiary to any Purchaser or its affiliates; purchases or other acquisitions by the Corporation or any subsidiary of any capital stock, obligations, or securities of any Purchaser or its affiliates; capital contributions to or investments in or guarantees of any debt or obligation of any Purchaser or its affiliates by the Corporation or any subsidiary; and

"(iii) assignments of any right to receive income for a consideration of less value than such right by the Corporation or any subsidiary to any Purchaser or its affiliates.

"(C) Nothing in this paragraph shall prohibit transactions between the Corporation and any of its subsidiaries or among any of such subsidiaries.

"(9) In no event shall the Corporation obtain a reversion of any excess assets held in the trust or a successor trust maintained with the Corporation's supplemental pension plan or any successor plan. The Corporation shall not terminate its supplemental pension plan.

"(10) The Corporation shall not amend, modify, rescind, or revoke any provision of the Corporation's restated articles of incorporation relating to the relative rights, preferences, and limitations of any series or class of capital stock of the Corporation held by the Purchasers immediately after the closing date.

"(d) ACCOUNTING TERMS AND DETERMINATIONS.—(1) Unless otherwise specified in this section, all accounting terms used in this section shall be interpreted, all accounting determinations shall be made, and all financial statements required to be delivered shall be prepared, in accordance with generally accepted accounting principles as in effect from time to time in the United States, applied on a basis consistent (except for changes approved by the Corporation's independent public accountants) with the most recent audited consolidated financial statements of the Corporation.

"(2) For the purpose of calculations under paragraphs (5) and (6) of subsection (c), the transactions by which the Purchasers assumed ownership of the Corporation's common stock shall be accounted for as a recapitalization of the Corporation with a 100 per centum revaluation of the Corporation's assets and liabilities based on the fair value of the new capital structure.

"(e) ADMINISTRATION.—(1) The Secretary may, upon application by the Corporation, waive (in whole or in part) any provision of this section if the Secretary determines in writing that such waiver would not impair continued rail service by the Corporation and its railroad subsidiaries or result in a material reduction in the financial strength of the Corporation and its subsidiaries taken as a whole.

"(2) The Secretary shall transmit to the Committee on Energy and Commerce of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate any determination under paragraph (1).

"(3) No waiver shall be effective under this subsection until after the expiration of 45 calendar days after the transmittal required by paragraph (2).".

(b) The item in the table of contents of the Regional Rail Reorganization Act of 1973 relating to section 404 is amended to read as follows:

"Sec. 404. Public interest covenants.".

APPLICABILITY OF CERTAIN LAWS TO THE SALE OF CONRAIL

SEC. 107. (a) Section 408 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 768) is amended to read as follows:

"REVIEW

"SEC. 408. (a) AGREEMENTS.—Except as provided in section 1152 of the Northeast Rail Service Act of 1981 (45 U.S.C. 1105), the Conrail Sale Agreements and their negotiation, execution, and implementation shall not be subject to administrative or judicial review or to review by the Commission.

"(b) WARRANTS.—Warrants issued to the Secretary under the Conrail Agreement, and any shares of stock issued upon the exercise of such warrants, shall be deemed to have been issued and approved under section 1130(b) of title 49, United States Code.".

(b) The item in the table of contents of the Regional Rail Reorganization Act of 1973 relating to section 408 is amended to read as follows:

"Sec. 408. Review.".

LABOR PROTECTION

SEC. 108. (a) Notwithstanding any other provision of law, the benefit schedule prescribed by the Secretary of Labor under section 701(a)(2) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 797(a)(2)) shall continue in force and effect until superseded by an agreement between Conrail and the representatives of the various classes and crafts of employees of Conrail providing for protection for employees of Conrail.

(b) Conrail shall be responsible for funding all benefits under subsection (a) after the closing date, and the United States shall not be liable for any such benefits after that date.

SPECIAL COURT JURISDICTION

SEC. 109. Section 1152 of the Northeast Rail Service Act of 1981 (45 U.S.C. 1105) is amended—

(1) by inserting "or the Conrail Public Sale Act of 1985" immediately after "subtitle" each place it appears;

(2) in the second sentence of subsection (c), by inserting ", as the case may be," after the insertion made by paragraph (1) of this section;

(3) in subsection (a), by striking out "or" at the end of paragraph (3), by striking out the period at the end of paragraph (4) and inserting in lieu thereof a semicolon, and by adding at the end thereof the following:

"(5) brought by the United States to enforce section 401 or 404 of the Regional Rail Reorganization Act of 1973 or any term or condition of the Conrail Sale Agreements entered into under such section 401;

"(6) brought by one or more of the Purchasers to enforce any obligation of the United States (or any agency or instrumentality thereof) under the Conrail Sale Agreement entered into under section 401 of the Regional Rail Reorganization Act of 1973; or

"(7) brought by the Corporation to enforce section 401 of the Regional Rail Reorganization Act of 1973.

For purposes of any action brought under paragraph (5) of this subsection, a violation of any provision of subsection (b) or (c) of section 404 of the Regional Rail Reorganization Act of 1973 shall be deemed to constitute immediate and irreparable harm for purposes of awarding injunctive relief to the United States."; and

(4) by adding at the end the following new subsection:

"(e) Any person who suffers direct economic injury as a result of an alleged violation by Conrail of any provision of subsection (b) or (c) of section 404 of the Regional Rail Reorganization Act of 1973 may petition the Secretary to seek enforcement of such provision. If the Secretary determines that a petitioner has demonstrated that it has suffered direct economic injury as a result of such a violation, the United States shall bring an action under subsection (a)(5) to require Conrail to comply with such provision.".

APPLICABILITY OF OTHER LAWS

SEC. 110. (a) Section 1168(a) of the Northeast Rail Service Act of 1981 (45 U.S.C. 1116(a)) is amended by striking out "implementing service transfers" and inserting in lieu thereof "implementing the sale of the interest of the United States in the common stock of Conrail".

(b) Section 16(b) of the Securities Exchange Act of 1934 (15 U.S.C. 78p(b)) shall not apply to any public sale of Conrail common stock by the Purchasers for a period of seven months beginning on the closing date.

TITLE II—TECHNICAL AND CONFORMING AMENDMENTS AND REPEALS

SEC. 201. The following provisions of the Regional Rail Reorganization Act of 1973 are repealed or amended as follows:

(1) Section 102 (45 U.S.C. 702) is amended—

(A) by inserting after paragraph (1) the following new paragraph:

"(1A) 'closing date' means the date that the interest of the United States in the common stock of the Corporation is transferred pursuant to the Purchase Agreements;";

(B) by inserting after paragraph (4) the following new paragraphs:

"(4A) 'Conrail Agreement' means the agreement between the Corporation and the Sectrary in the form filed with the Committee on Commerce, Science and Transportation of the Senate;

"(4B) Conrail Sale Agreements' means the Conrail Agreement, the Purchase Agreements, and the Shareholders' Agreement;";

(C) by inserting after paragraph (7) the following new paragraph:

"(7A) 'ESOP' means the Consolidated Rail Corporation Employee Stock Ownership Plan adopted July 25, 1980, as amended, and the trust created in connection therewith;";

(D) by inserting after paragraph (13) the following new paragraphs:

"(13A) 'Purchase Agreements' means the agreements between the Purchasers and the Secretary in the form filed with the Committee on Commerce, Science and Transportation of the Senate;

"(13B) 'Purchasers' means the investor group organized by Morgan-Stanley and Company, Incorporated to purchase the interest of the United States in the common stock of the Corporation as identified in the Shareholders' Agreement;"; and

(E) by inserting after paragraph (18) the following new paragraph:

"(18A) 'Shareholders' Agreement' means the agreement among the Purchasers, the Corporation, and Morgan-Stanley and Company, Incorporated in the form filed with the Committee on Commerce, Science and Transportation of the Senate;

(2) Subsections (a) and (b) of section 214 (45 U.S.C. 724(a) and (b)), are repealed, and such section 214 is amended by striking out "(c) ASSOCIATION.—".

(3) The following provisions of the Regional Rail Reorganization Act of 1973 (together with the item relating to each such provision contained in the table of contents of such Act) are repealed:

(A) Section 405 (45 U.S.C. 765).
(B) Section 406 (45 U.S.C. 766).
(C) Section 407 (45 U.S.C. 767).
(D) Section 409 (45 U.S.C. 769).
(E) Section 410 (45 U.S.C. 769a).
(F) Section 411 (45 U.S.C. 769b).
(G) Section 412 (45 U.S.C. 769c).
(H) Section 713 (45 U.S.C. 797l).

AMENDMENTS AND REPEALS OF OTHER RAIL LAWS

SEC. 202. (a) The following provisions of the Northeast Rail Service Act of 1981 are amended as follows:

(1) Section 1135(a) (45 U.S.C. 1104(a)) is amended by inserting after paragraph (5) the following new paragraphs:

"(5A) 'Conrail Agreement' means the agreement between Conrail and the Secretary in the form filed with the Committee on Commerce, Science and Transportation of the Senate;

"(5B) 'Conrail Sale Agreements' means the Conrail Agreement, the Purchase Agreements, and the Shareholders' Agreement.

"(5C) 'Purchase Agreements' means the agreements between the Purchasers and the Secretary in the form filed with the Committee on Commerce, Science and Transportation of the Senate;

"(5D) 'Purchasers' means the investor group organized by Morgan-Stanley and Company, Incorporated to purchase the interest of the United States in the common stock of Conrail as identified in the Shareholders' Agreement."; and

(2) by inserting after paragraph (7) the following new paragraph:

"(7A) 'Shareholders' Agreement' means the agreement among the Purchasers, Conrail, and Morgan Stanley & Co. Incorporated in the form filed with the Committee on Commerce, Science and Transportation of the Senate;

(b)(1) The following provisions of the Northeast Rail Service Act of 1981 are repealed:

(A) Section 1154 (45 U.S.C. 1107).
(B) Section 1161 (45 U.S.C. 1110).
(C) Section 1166 (45 U.S.C. 1114).
(D) Subsection (c) of section 1167 (45 U.S.C. 1115).

(2) The items relating to such sections 1154, 1161, and 1166 in the table of contents of such Act are repealed.

(c) Section 501(8) of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 821(8)) is amended by striking out "(A)" and by striking out all that follows "improved asset utilization;".

(d) Section 505 of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 825) is amended—

(1) in subsection (a)(1), by striking out all after "railroad" through "1981)"; and

(2) in subsection (b)(2)(C), by striking out all after "costs" the second time it appears through "subsidy".

(e) Subsection (b)(1) of section 509 of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 829) is repealed.

(f) Section 511(e) of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 831(e)) is amended—

(1) by striking out "(1)" in the first paragraph;

(2) by striking all that follows "time" in the first paragraph and inserting in lieu thereof a period; and

(3) by striking out paragraph (2).

(g) Section 402 of the Rail Safety and Service Improvement Act of 1982 (45 U.S.C. 825a) is repealed.

(h) Section 1005(b)(1) of the Rail Passenger Service Act (45 U.S.C. 655(b)(1)) is amended by striking out "the Consolidated Rail Corporation,".

(i) Section 10362(b)(7)(A) of title 49, United States Code, is amended by striking out "by the Consolidated Rail Corporation or".

(j) Section 332(d) of title 49, United States Code, is amended by striking out ", the Consolidated Rail Corporation,".

EFFECT OF REPEALS

SEC. 203. All repeals under this Act of provisions authorizing the appropriation of funds are made without prejudice to the continued availability of funds appropriated under such provisions before the effective date of such repeal.

TITLE III—REVENUE PROVISIONS

TAX TREATMENT

SEC. 301. (a) GENERAL RULE.—Except as provided in subsection (b), nothing in this title (or in any amendment made by this title) shall affect the Federal tax treatment of Conrail (or of any affiliated group of which it is a member).

(b) MODIFICATION AND CLARIFICATION OF TAX TREATMENT.—For purposes of the Internal Revenue Code of 1954—

(1) CONRAIL CARRYFORWARDS MAY NOT BE CARRIED FORWARD.—No Conrail net operating loss, capital loss, or credit under the Internal Revenue Code of 1954 attributable to any period before the closing date may be carried forward to any period after the closing date.

(2) NO INCOME FROM CANCELLATION OF DEBT OR PREFERRED STOCK.—No amount shall be included in the gross income of any person (and no basic adjustment in the assets of Conrail shall be made) by reason of any cancellation of any obligation (or preferred stock) of Conrail in connection with the Conrail Sale Agreements.

(3) ADJUSTED BASIS.—The adjusted basis of Conrail's assets shall not be increased by any adjustment relating to any period prior to the closing date.

(4) EARNINGS AND PROFITS.—For purposes of section 316 of the Internal Revenue Act of 1954, Conrail shall be deemed to have accumulated earnings and profits of $500,000,000 as of the closing date.

(5) WAIVER OF CERTAIN EMPLOYEE STOCK OWNERSHIP PLAN PROVISIONS.—For purposes of determining whether the employee stock ownership plans of Conrail meet the qualifications of sections 401 and 501 of the Internal Revenue Code of 1954 the limits of section 415 of such Code (relating to limitations on benefits and contributions under qualified plans) shall not apply with respect to interests in stock transferred pursuant to a law heretofore enacted.

(6) TAXABLE YEAR OF CONRAIL.—The taxable year of Conrail shall close as of the closing date.

DEFINITIONS

SEC. 302. For purposes of this title—

(1) CONRAIL.—The term "Conrail" includes any corporation which was a subsidiary of Conrail immediately before the closing date.

(2) CONRAIL SALE AGREEMENTS.—The term "Conrail Sale Agreements" has the same meaning such term is given in paragraph (4B) of section 102 of the Regional Rail Reorganization Act of 1973, and includes all representations and warranties made in such agreements, entered into to implement this Act.

TITLE IV—MISCELLANEOUS PROVISIONS

COMMON CARRIER STATUS OF CONRAIL AFTER SALE

SEC. 401. Conrail shall be a common carrier by railroad under section 10102(4) of title 49, United States Code, notwithstanding this Act. Purchase of Conrail stock shall not be the sole basis of a determination that any Purchaser has become a common carrier by railroad under section 10102(4) of title 49, United States Code.

SEPARABILITY

SEC. 402. If any provision of this Act or the application thereof to any person or circumstance is held invalid, the remainder of this Act and the application of such provision to other persons or circumstances shall not be affected thereby.

EFFECT ON CONTRACTS

SEC. 403. Nothing in this Act shall affect any obligation of Conrail to carry out its transportation contracts and equipment leases, equipment trusts, and conditional sales agreements, in accordance with their terms.

EFFECTIVE DATES

SEC. 404. (a) Except as provided in subsection (b), the provisions of this Act, and amendments made by such provisions, shall take effect on the date of enactment of this Act.

(b) Sections 108, 201, and 202 of this Act shall take effect on the closing date, except that subsection (a) of each of sections 201 and 202 shall take effect on the date of enactment of this Act.

(c) Any provision of this Act which, pursuant to Article I, Section 7 of the Constitution, provides for raising revenue shall only be effective upon the enactment into law of a bill which has originated in the House of Representatives enacting such provision.

SENATE RESOLUTION 299—RELATIVE TO THE SPACE SHUTTLE "CHALLENGER"

Mr. DOLE (for himself, Mr. BYRD, Mr. ABDNOR, Mr. ANDREWS, Mr. ARMSTRONG, Mr. BAUCUS, Mr. BENTSEN, Mr. BIDEN, Mr. BINGAMAN, Mr. BOREN, Mr. BOSCHWITZ, Mr. BRADLEY, Mr. BUMPERS, Mr. BURDICK, Mr. CHAFEE, Mr. CHILES, Mr. COCHRAN, Mr. COHEN, Mr. CRANSTON, Mr. D'AMATO, Mr. DANFORTH, Mr. DECONCINI, Mr. DENTON, Mr. DIXON, Mr. DODD, Mr. DOMENICI, Mr. DURENBERGER, Mr. EAGLETON, Mr. EAST, Mr. EVANS, Mr. EXON, Mr. FORD, Mr. GARN, Mr. GLENN, Mr. GOLDWATER, Mr. GORE, Mr. GORTON, Mr. GRAMM, Mr. GRASSLEY, Mr. HARKIN, Mr. HART, Mr. HATCH, Mr. HATFIELD, Mrs. HAWKINS, Mr. HECHT, Mr. HEFLIN, Mr. HEINZ, Mr. HELMS, Mr. HOLLINGS, Mr. HUMPHREY, Mr. INOUYE, Mr. JOHNSTON, Mrs. KASSEBAUM, Mr. KASTEN, Mr. KENNEDY, Mr. KERRY, Mr. LAUTENBERG, Mr. LAXALT, Mr. LEAHY, Mr. LEVIN, Mr. LONG, Mr. LUGAR, Mr. MATHIAS, Mr. MATSUNAGA, Mr. MATTINGLY, Mr. MCCLURE, Mr. MCCONNELL, Mr. MELCHER, Mr. METZENBAUM, Mr. MITCHELL, Mr. MOYNIHAN, Mr. MURKOWSKI, Mr. NICKLES, Mr. NUNN, Mr. PACKWOOD, Mr. PELL, Mr. PRESSLER, Mr. PROXMIRE, Mr. PRYOR, Mr. QUAYLE, Mr. RIEGLE, Mr. ROCKEFELLER, Mr. ROTH, Mr. RUDMAN, Mr. SARBANES, Mr. SASSER, Mr. SIMON, Mr. SIMPSON, Mr. SPECTER, Mr. STAFFORD, Mr. STENNIS, Mr. STEVENS, Mr. SYMMS, Mr. THURMOND, Mr. TRIBLE, Mr. WALLOP, Mr. WARNER, Mr. WEICKER, Mr. WILSON, and Mr. ZORINSKY) submitted the following resolution; which was considered and agreed to:

S. RES. 299

Resolved, That the Senate has heard with deep sorrow and regret of the fate of the Challenger shuttle mission, and as a mark of respect now stand in recess until 11 a.m., Wednesday, January 29, 1986.

SENATE RESOLUTION 300—ORIGINAL RESOLUTION REPORTED AUTHORIZING EXPENDITURES BY THE COMMITTEE ON LABOR AND HUMAN RESOURCES

Mr. HATCH from the Committee on Labor and Human Resources, reported the following original resolution; which was referred to the Committee on Rules and Administration:

S. RES. 300

Resolved, That, in carrying out its powers, duties, and functions under the Standing Rules of the Senate, in accordance with its jurisdiction under rule XXV of such rules, including holding hearings, reporting such hearings, and making investigations as authorized by paragraphs 1 and 8 of rule XXVI of the Standing Rules of the Senate, the Committee on Labor and Human Resources is authorized from March 1, 1986, through February 28, 1987, in its descretion (1) to make expenditures from the contingent fund of the Senate, (2) to employ personnel, and (3) with the prior consent of the Government department of agency concerned and the Committee on Rules and Administration, to use on a reimbursable basis the services of personnel of any such department or agency.

SEC. 2. The expenses of the committee under this resolution shall not exceed $4,453,130, of which amount not to exceed $56,600 may be expended for the procurement of the services of individual consultants or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946, as amended).

SEC. 3. The committee shall report its findings, together with such recommendations for legislation as it deems advisable, to the Senate at the earliest practicable date, but not later than February 28, 1987.

SEC. 4. Expenses of the committee under this resolution shall be paid from the contingent fund of the Senate upon vouchers approved by the chairman of the committee, except that vouchers shall not be required for the disbursement of salaries of employees paid at an annual rate.

SEC. 5. There are authorized such sums as may be necessary for agency contributions related to the compensation of employees of the committee from March 1, 1986, through February 28, 1987, to be paid from the Appropriations account for "Expenses of Inquiries and Investigations."

NOTICES OF HEARINGS

SUBCOMMITTEE ON GOVERNMENT EFFICIENCY

Mr. MATHIAS. Mr. President, I would like to announce that the Subcommittee on Governmental Efficiency and the District of Columbia of the Governmental Affairs Committee will hold a hearing on Oversight of the District of Columbia Courts. The legislative proposals to be considered at the hearing are H.R. 2946, a bill to establish an independent jury system for the Superior Court of the District of Columbia and H.R. 3578, the District of Columbia Judicial Efficiency and Improvement Act of 1985.

The hearing will be held on Wednesday, March 5, 1986, from 10 a.m. to 12 noon in SD-342 of the Dirksen Senate Office Building.

For further information, contact Eileen Mayer of the subcommittee staff at 224-4161.

ADDITIONAL STATEMENTS

SENATOR CHURCH AND SENATOR JORDAN

● Mr. McCLURE. Mr. President, February 1 marks a day of honor for two of our former colleagues from the State of Idaho. That evening in Boise, friends and colleagues will gather for an evening to honor Frank Church and Len Jordan—a benefit to raise funds for the Frank Church Chair of Public Affairs and the Len B. Jordan Endowment for Economic Studies.

Over $300,000 has already been contributed to finance these two worthwhile programs, which are centered at Boise State University. It is hoped that through this event, both programs will be funded at a level of $500,000.

When fully funded, the Church Chair at Boise State will sponsor a faculty position for public affairs, as well as the Frank Church Conference on Public Affairs, held annually in Boise. The Jordan Endowment will fund scholarships and lectures that are designed to improve the understanding of economic issues by both students and the general public.

A number of distinguished public officials have already had the privilege of speaking at one of these lectures. I hope that some of our colleagues who are in the Chamber today will have an opportunity to speak at one as well.

I consider myself fortunate to have had the honor of assuming Len Jordan's seat in this body after he retired in 1972, and the privilege of serving with Frank Church during his career in the Senate. I know many of my colleagues have fond memories of their work with both of these men, who have left a lasting mark on Idaho and on the Nation.

While Senator Church and Senator Jordan are no longer with us, these two positions at Boise State University will remind future students and educators of their commitment to public service, and to addressing the issues of my State, the Nation and the world. I ask my colleagues to join me in commending the organizers of this event to benefit a worthy cause.●

"MAN OF THE YEAR" DOUG BROWN

● Mr. COHEN. Mr. President, I rise to pay tribute to Doug Brown of Bangor, ME, who has been named "Man of the Year" by the Maine State Chamber of Commerce.

I have been privileged to know Doug both personally and professionally for many years. His is a story of hard

work, determination, and an abiding concern for his home State of Maine.

I am submitting for the RECORD an article from Maine Today which details Doug's rise from modest circumstances to become the head of an extremely successful chain of food stores throughout Maine. The article also discusses his contribution to his community, which can only be described as monumental.

I am proud to call Doug Brown my friend and know that my colleagues will enjoy reading of his work and distinguished history of community involvement.

The article follows:

[From Maine Today, January 1986]

MAN OF THE YEAR: A DAY'S WORK PLUS 10 PERCENT

(By Diane Peterson)

"The harder I work, the luckier I get," says Douglas H. Brown, president of Doug's Shop 'n Save Stores.

From a poor farm family in Lubec to president of a chain of eight Shop 'n Save Stores with sales approaching $100 million a year, is a story of Doug Brown's self-made success. Looking back on his childhood, the hard times during the Great Depression, Brown remembers he "became very enterprising at a young age." Cutting and hauling firewood, cleaning ashes from furnaces, mowing lawns and shoveling snow from walks often brought in more money than his father was able to earn at the American Can Company. At times, the young entrepreneur put cardboard in his worn shoes for the three-mile walk to school and went to the local filling station to have his boots patched.

Brown's first introduction to the grocery business was as a delivery boy for his uncle's grocery store near his home in Lubec.

"I was intrigued by the consistency of what people ordered," he said. The amount was always the same, and the shopping habits of his uncle's customers made an impression on the delivery boy.

In 1943, when he was 14 years old, the family moved to the Portland area in search of better job opportunities, and his father was hired by the shipyard in South Portland.

When a new grocery store opened nearby in the Redbank area of South Portland, Brown remembered his observations in Lubec and believed the store would be a success.

Few people owned automobiles and Brown's family, like many others arriving to work at the wartime shipyard, had to take the bus from South Portland to downtown, shop, then carry groceries back. A Red & White grocery store, located in the neighborhood, seemed to fill a need—and provide a good opportunity.

"I said to myself, 'This ought to be a good place to work,'" Brown recalls. "People always have to eat."

So, he went in to inquire about a job. The store manager was reluctant to hire him. The manager explained that he had to see whether the new business justified more workers. Brown immediately focused on the opportunity. He made the manager an offer: he would work for nothing until he was needed. "I said to him: 'I have confidence that you're going to do more business than you think.'"

The manager accepted the offer and Brown went to work. And on pay day, Brown got a pay envelope.

He worked for the same store all through high school, and by the time he graduated in 1947, Brown had done many jobs throughout the grocery store. He also met his wife of 38 years there.

Ana Brewer worked in the meat department. She came to Portland from Houlton to be with her sister.

Although his family wanted him to go to college, Brown had other plans. He wanted to stay in the grocery business, and he wanted to get married.

When he was 18, he and his wife moved to Thomaston, where he landed a job running a store for Hannaford Bros., Inc. If he made the store a success, Hannaford told him he could buy it. At that time, Hannaford Brothers was setting firmly established in the retail part of the grocery business. The Portland-based wholesale grocery business acquired retail stores during the late 1920s. In 1939, Hannaford purchased the H.S. Melcher Company, sponsors of Red & White stores in Maine.

Brown's move to Thomaston was the first phase of his relationship with the growing wholesale and retail firm.

Although it took some unexpected turns along the way, today Doug's Shop 'n Save is the largest chain that remains in an equity partnership with Hannaford.

Although his father may not have agreed with Brown's decision not to attend college, he did offer young Douglas some advice: "No matter who you work for or what work you do—it doesn't matter how much they pay you. Give them a day's work plus 10 percent. You'll develop a reputation and you won't have to seek a job, you'll be sought after."

Brown always tried to follow his father's advice, and the results proved the wisdom in the words.

After turning the Thomaston store into a booming business in two-and-a-half years, Brown decided to exercise the option to buy it.

In this case Brown's "day's work plus 10 percent" rule apparently backfired. The purchase offer was turned down because the store now was too profitable for Hannaford to consider selling it.

So, Brown quit. He left Thomaston to work at an independent grocery store in Camden for two years, then he joined International Milling Company to sell Robin Hood flour. He stuck to his father's advice and increased that company's account. "I sized-up the competition, found out what they weren't doing and should have been doing," Brown says. 'And of course I was used to working long hours.'"

He later worked for the T.R. Savage Company of Bangor, then the largest wholesale grocery company in eastern Maine, to develop stores for the company.

In 1955, T.R. Savage merged with Hannaford, and Brown says he was "right back home." Hannaford's president told Brown, "If we didn't get anything more out of this merger other than getting you back working for us, it's worth it."

Brown became director of sales and services for the company. But he still had the itch to work for himself. In 1960, at 30 years of age, he got the chance.

The deal was an equity partnership with Hannaford for a store at Third and Union Streets in Bangor. The price of incorporation was set at $20,000. Brown borrowed his half of the money from Boutelle Savage, former president of the T.R. Savage Company.

Savage told Brown he owed him a favor for the hard work Brown did for him, "I worked 49 Saturdays and 47 Sundays in one year bringing along stores," Brown says.

Twenty-six years later, Brown chuckles when he recalls the story. Savage made only one condition to the loan: "I don't care if you ever pay the principal but never miss an interest payment."

Eventually, he acquired seven more stores—in Bucksport, Ellsworth, Brewer, Orono, Old Town and two more in Bangor. He has an equity partnership with Hannaford Brothers on seven of them and owns outright one Bangor store, the one on Broadway.

Although he didn't ever plan to own that many stores, Brown moved when he saw each opportunity. "It was just one thing after another," he says.

But, he points out, "When you put the operation together to run three stores, you must have an organization to run them successfully, so you could run 100. The same principles apply."

Brown attributes his success to a willingness to divide and grow. "I'm a builder by nature," he says. "And I've enjoyed it immensely."

A change in Hannaford's direction in the mid-60s, from equity partnerships to wholly-owned corporate stores, has imposed limits on further expansion of Brown's chain. "This has made us geographically bound," Brown says. Although he expresses frustration with the inability to expand, he says the Hannaford relationship has been good.

"In business today, you've got to keep growing—you can't stand still." But, he's quick to point out, Hannaford has allowed him the autonomy to operate.

Recent news of his retirement has been greatly exaggerated. Since he signed his first contract with Hannaford in 1960, he has had an agreement giving it first option to buy his interest in the stores when he retired or if he decided to sell. That agreement was firmed up recently, with a target date of no later than January 1989.

Brown's success in the business community parallels his contributions to the Bangor community. Bangor Daily News Vice President Arthur E. McKenzie, a longtime friend and former chairman of the Greater Bangor Chamber of Commerce, describes Brown's community work as "endless."

"He's probably the most community-minded person I know," McKenzie said. "He's so concerned about the community and is involved in everything. He doesn't turn anything down."

Last year, Brown was chairman of the board of five organizations—Eastern Maine Healthcare, Eastern Maine Medical Center, Husson College, Bangor Center Development Corporation and The Training and Development Corporation.

He is past president of the YMCA Board of Directors, past chairman of United Way Campaign, and chairman of the University of Maine Foundation. Brown also is a member of several other organizations, including the Action Committee of 50. He also has been campaign chairman for the American Heart Association, and honorary campaign chairman of the Downeast Big Brothers/Big Sisters.

Elizabeth Scott Stowell, president of the Greater Bangor Chamber of Commerce, says Brown is modest about his community work. "I don't really know how much he has done. Most is done very quietly," she said.

"There's a real sense of being kind for kindness sake and that's a really special thing about him.

"He's been involved in anything that has the least bit to do with progress in the community."

Several awards for his contributions have noted Brown's efforts, including, in 1982, the Chamber President's Award for significant contributions to the economic well-being of the community. For Brown, his involvement stems from both personal and corporate commitment.

"My father had a great belief in the more you give the more you receive—not necessarily in material things. And as poor as he was, I always thought he was wealthy."

Doug, Ana and their children, Ronald and Debra, seem to have a rule. "What we've done as a family, is try not to abuse the privileges of what we've been able to accomplish," Brown explains, "to use funds in very discreet ways to help other people."

Brown believes he owes his success to the community and he responds by merging his corporate activities into area activities. "We got involved with our dollars as well as our manpower," he says. "You have to have tremendous commitment from your subordinate management, and that I have."

Brown also credits his corporate contributions as a way to defuse any resentment about his company's dominance in the marketplace.

"We try to conduct our contributions with a spirit of community pride," he says. "As an organization, we are very cognizant of our public image. We never say 'no' to anybody."

Brown estimates the company donates about $500 a week in small grocery items to a variety of recipients—to organizations needing a turkey, or a bag of popcorn, or hot dogs for a picnic. "People respond to that," he says. "It's part of our makeup."

Some employees work for Brown through high school and college, and until recently, daughter Debra worked in the Personnel Department of the company. "We take great pride in our relationship as a family of people," he says. "We have 740 employees and we consider ourselves a family."

Employee loyalty to his company was demonstrated when a competing supermarket opened. Brown only lost one full-time and seven part-time employees to the competition.

As for the future, Brown views the takeover by Hannaford after he retires in three years as an opportunity "to wind down." For an additional two years he is to serve as a consultant.

Until 1989, Doug Brown still will give "a day's work plus 10 percent." Maybe more. Maybe longer.●

ANNIVERSARY OF THE BIRTH OF JOSE MARTI

● Mr. CHILES. Mr. President, today marks the 133d anniversary of the birth of Jose Marti.

In my home State of Florida, among my constituents in the Cuban-American community, there are many events being held in commemoration of Jose Marti. Special recognition is given to this man known to Cubans as the apostle of the Cuban revolution. Marti's words, his thoughts and his struggle for a free Cuba serve as a source of inspiration for all the world's people.

He loved freedom and pursued it with a vengeance. Liberty was so dear that he gave his life in the battle for Cuba's independence. It is appropriate that special homage is paid to this great man, for his words and his deeds have made him most prominent in the history of the Americas. It is appropriate we honor Jose Marti's love of freedom as the struggle for Cuba's independence continues today.

I can think of no greater tribute to bestow upon the legacy of Jose Marti than the radio station approved by this Congress, the radio station which bears his name. Of course, I refer to Radio Marti.

From its initial broadcasts on May 20, 1985, Radio Marti has been a steady and reliable voice. Much like Jose Marti himself, it serves as a source of inspiration for the Cuban people. As we honor this radio station's namesake, I also feel compelled to recognize the fine men and women involved in its everyday operation. Theirs is a continuous dedication accentuated by an unmatched professionalism. They enjoy the pride that comes from a job well done, from a commitment that never wanes.

To those who have criticized Radio Marti in the past, I especially would like to point out that Radio Marti's personnel strive to ensure this radio station fulfills its important responsibility of providing objective and unbiased news and information to the Cuban people. They realize that this is the only way Radio Marti can succeed. I am proud that its programs have consistently proven to be of the highest quality and exemplify a fair and objective reporting of the facts. Radio Marti's wide audience and the changes which Cuban Government-sponsored programs have had to make to continue to attract audiences lend credence to the fact that its message is being well received in Cuba.

As we commemorate Jose Marti and his struggle for freedom, we recognize the Cuban-American community's commitment to continue the cause for a free Cuba. Nowhere is this more in evidence than in the corridors and broadcast rooms of Radio Marti. Nowhere is this hope better expressed than in the faces of young and old Cubans lined up along a Jose Marti parade route waving Cuban and American flags and longing for a "Cuba libre."

Radio Marti's signal is heard loud and clear in Cuba. I am confident that by providing Cubans this uncensored voice, we will once again prove that the pen is mightier than the sword, the exchange of ideas will supersede all forms of government indoctrination. Radio Marti's truth will crush the Cuban Government's lies. The liberty Cubans feel when hearing its uncensored voice will break the bars of Castro's prisons, and uplift the spirit of a nation enslaved. Radio Marti is an appropriate tribute to the legacy of Jose Marti—the apostle of the Cuban revolution.

I have on numerous occasions spoken on the crimes and violations of international law committed by the Cuban Government. Cuba's exportation of revolution and its sponsorship of international terrorism and subversion threaten freedom in all corners of the world. This Government's insidious involvement in the exportation of drugs and in providing safe harbor to drug smugglers is well documented. I view these actions as a brazen attempt to tear at our own social fabric and the essence of our Democratic societies. Like a dagger aimed straight at our hearts, Castro encourages actions which intend to poison and incapacitate our ability to defend freedom wherever threatened.

I have come before this body and spoken on behalf of Cuba's political prisoners. I have condemned the Cuban Government's total disregard for human rights. I supported the establishment of Radio Marti as it acknowledges the Cuban people's right to the exchange of ideas, and I have favored unhindered immigration and the goals of family reunification.

Reports that the Cuban Government has been able to circumvent the embargo imposed by the United States argues for stronger means of enforcement. Shortly before the end of the 1st session of the 98th Congress, 18 Members of the Florida delegation signed a letter to President Reagan listing various recommendations which set to strengthen our policy toward Cuba. It is my hope that serious consideration will be given by the administration to these suggestions.

Mr. President, I ask that this letter be printed at this point in the RECORD.

The letter follows:

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
Washington, DC, November 19, 1985.

Hon. RONALD W. REAGAN,
The President, The White House, Washington, DC.

DEAR MR. PRESIDENT: For the last seven administrations, including your own, the policy of the United States toward Fidel Castro's Cuba has been one of containment and denial—containment of Castro's international adventurism and denial of the resources he needs to finance his initiatives.

The U.S. embargo of Castro has been effective, but he continues to find ways, through various loopholes in or violations of the law, of circumventing it. In addition, Castro is currently engaged in numerous subversive and terrorist activities detrimental to U.S. interests.

As you have pointed out, the Castro government promotes and sponsors international terrorism and subversion. Havana's links with terrorist groups in Latin America and the Middle East have been well documented. And Fidel Castro has recently been attempt-

ing to damage the international financial system by exhorting Latin American governments to default on their debts to the West.

In view of the above-mentioned concerns, we respectfully request that you give serious consideration to the following suggested policy options.

The United States could bring to the attention of both international organizations and Western governments the Cuban government's continuing violations of human rights, particularly the internationally recognized right "to seek, receive and impart information through any media regardless of frontiers".

As you know, Fidel Castro reneged on his promise to allow the return of about 3,000 individuals who were sent here in 1980 in violation of U.S. laws. More than five years after their arrival we strongly recommend that all Cuban/U.S. exchanges—cultural, artistic, sports, etc.—be suspended until these individuals may be returned to Cuba.

Given the role of thousands of Cuban troops in remote parts of the world, and the increasing bloodshed in Angola, the U.S. ought to seek ways of broadcasting Radio Marti to Castro's armies abroad.

In this context, the recent repeal of the Clark Amendment makes it possible for your Administration to support legislation providing assistance to the Angolan freedom fighters.

The U.S. Information Agency is successfully providing television programs via satellite all over the world. Cuban TV signals can be received in the Florida keys. Professor George H. Quester, Chairman of the University of Maryland Political Science Department, has recently written about the feasibility of TV broadcasts to Cuba "from Key West (or from a barrage balloon moored above Key West)".

The Cuban government, in its search for hard currency, exploits the Cuban-American community through several questionable schemes carried out by certain travel agencies and companies who send money and packages to Cuba. Perhaps the Justice Department could review the appropriateness of these types of activities.

Another way that Castro has been able to circumvent American laws to obtain hard currency is by encouraging the illegal use of U.S. credit cards in Cuba. To date no prosecutions have taken place based on this violation.

In view of Fidel Castro's campaign urging non-payment of the foreign debt by Third World nations, perhaps you could include U.S. concerns on this matter on every bilateral agenda with Western governments. Castro's efforts to destabilize the Western economy should not be viewed as distinct from his efforts to renegotiate his own debt. Until now the rescheduling process at the club of Paris has failed to take into consideration Castro's attempts to wreak havoc on the Western financial community.

As well as informing other governments about Castro's duplicity in the debt issue, the United States should make every effort to expose Castro's support for terrorist organizations and narco-trafficking.

The Cuban Interests Section in Washington freely distributes Cuban government publications to our opinion- and decision-makers. The United States should actively distribute through our Interests Section in Havana a wide selection of American newspapers and magazines.

From time to time it has come to our attention that some of our allies, including governments who receive American aid, purchase Cuban sugar and other exports. Given the great need among our friends in the Caribbean who produce the same commodities, you are in a position to encourage our allies to redirect their trade toward our democratic friends in the region. To this effect a systematic effort to monitor Cuban exports ought to be implemented.

In order to obtain more hard currency, Fidel Castro's government has been participating in "joint venture" companies. The establishment of such companies is an obvious effort to circumvent the U.S. trade restrictions by disguising Cuban government participation. The U.S. embargo should apply to these joint ventures in the same way as it would apply if the company were solely Cuban government-owned.

For granting the loans and trade deals to Havana, on very favorable terms, by countries that benefit from American aid, the U.S. embargo is further and directly diluted. Every effort should be made to assure that this American aid is not being transferred, directly or indirectly, to the benefit of Castro.

Mr. President, as legislators on Capitol Hill, we are prepared to help the Administration in any way we can to implement the recommendations offered herein, or any others you may feel would be useful in restraining the spread of communism from Cuba.

Very sincerely,

Claude Pepper, Bill Young, Tom Lewis, Andy Ireland, Larry Smith, E. Clay Shaw, Paula Hawkins, Connie Mack, Don Fuqua.

Lawton Chiles, Mike Bilirakis, Bill Chappell, Earl Hutto, Bill Nelson, Sam M. Gibbons, Buddy MacKay, Bill McCollum, Dan Mica.

Mr. CHILES. Mr. President, the Cuban revolution of the 1800's—the revolution which took with it the life of Jose Marti—culminated with Cuba's freedom from an oppressive Spanish regime. The more recent Cuban revolution began quietly in the mountains of the Sierra Maestra and with the failed attacks on the Moncada barracks. This revolution culminated with the dictatorship of Fidel Castro and an ensuing denial of human rights.

While one revolution brought freedom to a freedom-loving people, the more recent one has brought Cubans a bleak future which promises only a constant denial of liberty.

On this 133d anniversary of the birth of Jose Marti it is appropriate that we commence a review of our Cuba policy. Are we pursuing measures which effectively rein in Cuba's antagonistic leaders? Are we striving to ensure that those who proclaim to be the enemies of our democratic principles are held accountable for the actions which severely threaten our freedom?

As we reflect on the effectiveness of our Cuba policy, it is my hope that the administration seriously considers the options recommended. Jose Marti would pursue these efforts with a vengeance.●

GEORGIA SOUTHERN EAGLES

● Mr. NUNN. Mr. President, I rise today to take a few minutes of the Senate's time to make my colleagues aware of the amazing events surrounding a dedicated group of 105 men from Statesboro, GA, known as the Georgia Southern Eagles. This group won the 1985 National Collegiate Athletic Association Division I-AA national football championship. This is a great feat and deserves recognition in its own right. However, there are other circumstances surrounding this team which make their accomplishments almost unbelievable.

Georgia Southern College is a school with approximately 7,000 students located in Statesboro, GA. The school, which began classes in 1908, discontinued its football program in 1941 because of World War II. After a 40-year interruption, Georgia Southern decided to reinstate its football program in 1981 and hired Erskine [Erk] Russell as head football coach. The team began playing games in 1982 under club team status. In other words, the NCAA had not yet accepted Georgia Southern as a recognized member of a division. During the team's two seasons playing football as a club sport, they compiled records of 7-3-1 and 6-5.

In 1984, the Eagles began competing in NCAA Division I-AA. They finished the 1984 season at 8-3, an outstanding record considering the quality of the competition in this division. However, the accomplishments of the 1984 squad only set the stage for what the 1985 team would achieve.

Led by Tracy Ham, and All-Americans Vance Pike and Tim Foley, the Eagles compiled a regular season record of 9-2 in 1985. This record was good enough to qualify for the NCAA playoffs. The Eagles won their first two games against Jackson State and Middle Tennessee by the scores of 27-0 and 28-21, respectively. In their third playoff game, Georgia Southern and Northern Iowa were tied at 33 points apiece with 2:44 left in the game. The Eagles then marched 77 yards and won the game when quarterback Tracy Ham scored on a 20-yard run around left end with 34 seconds remaining in the game.

The Eagles next competed on December 21 in the championship game against the Furman Palladins. The Eagles fell behind 28-6 in the third quarter. However, they then scored 29 unanswered points in under 9 minutes to take the lead 35-28. Furman regained the lead, though, and with 1:34 to play, the Palladins led 42-35. The Eagles roared back down the field as Tracy Ham directed an 8-play, 88-yard drive which culminated with a 14-yard touchdown pass with 10 seconds left to play. Thus, the Eagles had won the

game 44-42 and the Division I-AA national championship.

As I stated earlier, Mr. President, winning the national championship is quite an accomplishment. Winning the national championship in the second year of competition in Division I-AA is tremendous. However, winning the national championship in only the fourth year of existence is almost unparalleled in college athletics. This team also showed great character in the way they won football games exemplified by their coming from behind to win five games, including two playoff games. I want to commend President Dale Lick and the administration of Georgia Southern College, Coach Erk Russell and his assistants, and most of all, the men who compose the Georgia Southern football team for their outstanding achievement. The enthusiasm and character which the Eagles have exhibited is something for all of us to admire.●

TAX REFORM

● Mr. BRADLEY. Mr. President, for the last several years I have been working to develop a tax system that would be fair, simple, and equitable for all Americans. I proposed the Fair Tax Act to eliminate tax loopholes and lower rates for all Americans. I continue to believe that Americans want an income tax system that allows them to keep more of the money they earn and a tax law under which equal incomes pay equal taxes.

By simplifying our Tax Code and lowering tax rates, tax reform will encourage Americans to make investment decisions on economic grounds rather than to shelter their income from taxes. This, in turn, will spur economic growth, create jobs, and enhance the competitiveness of U.S. goods and services in international markets.

Mr. John H. Bryan, Jr., chairman and chief executive of Sara Lee Corp., makes an excellent argument in favor of tax reform in a current article in Fortune. Mr. Bryan focuses his article on the benefits of tax reform for the business community, and I ask that the article be printed in the RECORD.

The article follows:

WHY BUSINESS SHOULD BACK TAX REFORM

(By John H. Bryan, Jr.)

News reports from Washington suggest that corporate America was wringing its hands after President Reagan's logrolling won passage of the tax reform bill in the House of Representatives. That impression is wrong. There is strong support in the business community for tax reform, and rightly so. U.S. business would benefit greatly from the proposals put forward so far.

So why do we continue to hear that business is violently opposed to tax reform? Because the companies opposed to tax reform are the ones that own the Washington lobbying machinery that secured business tax preferences in the first place. In recent months they have been gearing up that machinery as never before. And they will continue fighting to preserve the high corporate tax rates that justify special preferences.

However, business as a whole surely would be better off with the tax system that has squeaked through the political wringer and cleared the House. The House bill is true tax reform. It substantially lowers maximum tax rates for both corporations and individuals by eliminating many tax preferences. It makes a significant step toward equitably distributing the tax burden within corporate America. And it strikes at the heart of the system that fashions tax laws by responding to the pleas of special interests.

Two issues have emerged most prominently in the tax reform debate. They are growth and fairness. First, consider growth. The centerpiece of reform is lower tax rates. We have an opportunity for the lowest U.S. tax rates in almost 50 years. No one seriously questions the notion that lower tax rates foster economic growth.

The price for lowering tax rates is the elimination of tax preferences, but that too is a change for the better. Tax preferences are obstacles to growth. They grossly misdirect human resources and misallocate the financial resources of our country. Let me back up that statement with an example.

Seven years ago Sara Lee Corp. acquired a small but growing frozen baked goods company. The company had been founded by a talented young entrepreneur who took Sara Lee stock in exchange for his company and agreed to continue running the business. Two years later he came to me with good news and bad. The good news was that during the previous year, with dividend and salary income of about $1 million, he had paid just $4,000 in federal income taxes. The bad news was that he wanted out of his contract. He had become so involved in his tax shelters that he didn't have time to run the company he founded.

I have had a total disdain for tax shelters ever since. How can it possibly be in the national interest to drive our most talented people to spend their energies and financial resources on schemes to avoid taxes?

Tax preferences for corporations will cost the federal government approximately $120 billion this fiscal year, well over half the budget deficit. This tax relief comes from the investment tax credit, accelerated cost recovery, and dozens of lesser-known loopholes sprinkled throughout the tax code. These preferences create a de facto industrial policy, one which grants government subsidies on an uneven basis throughout the business community. This industrial policy is hidden in a complicated tax code, and thus has not been publicly debated.

The test of this policy should be whether these tax-generated grants are producing a worthwhile and intended effect. The presumed purpose of most tax incentives is to stimulate growth and create jobs. But if this is true, why do we allocate most tax breaks to nongrowing, low-labor-intensive industries? My board of directors would fire me in an instant if I allocated our corporate capital to our low-growth businesses and starved the fast-growing ones.

Tax preferences do create discretionary cash for corporations, which they presumably use to build new factories and create new jobs. However, several trends are worth noting. It is interesting that corporate acquisitions have grown massively, and some companies that pay little or no taxes have been among the acquirers.

General Electric is sensitive about accusations that it will pay for RCA with money it got from tax preferences. But GE cannot deny that its coffers were greatly enhanced by tax policy in recent years. This fuels the debate about whether the RCA acquisition is a growth-oriented, job-creating investment or simply a diversification move, perhaps even a strategy to exploit unused tax credits.

Corporations also have been buying in significant amounts of their own shares. Merrill Lynch estimates that announced repurchases of common stock amounted to $42 billion in the first nine months of last year. Companies that received tax breaks have been some of the largest repurchasers. Tax preferences received by Sara Lee have had noninfluence on our capital investment decisions, but they have provided funds for both acquisitions and stock repurchasers.

The tax reform debate also centers on the issue of fairness. Anti-reform business lobbyists argue that it is unfair to raise business taxes while lowering personal taxes. They fail to note that the increasing use of preferences has lowered corporate tax payments dramatically in recent years. In 1960 corporations paid 23% of all federal taxes. By 1983 the corporate share was down to 6%. The statutory corporate tax rate is 46%, but corporations pay an average of about 17% of their pretax profits to the federal government. I am confident that skilled managers will eventually wipe out all tax revenues from business if the tax code is not reformed.

Defenders of the current corporate tax system ignore its greatest unfairness; the absurd range of effective tax rates that apply to different industries. The chemical industry's average tax rate is minus 1%, while pharmaceutical companies pay an average of 27% of their profits in taxes. Fairness makes reform of such disparate rates imperative.

Some opponents of tax reform make the assertion that the only fair system would be no corporate taxes. They argue that corporations don't pay taxes, but merely pass them along to their customers. In fact, there is no way to determine exactly how a company absorbs any cost. But even if you accept the premise that corporations simply pass income taxes along, we cannot abolish the corporate income tax. To do so could create the greatest tax shelter ever: everyone would rush to incorporate, just as many doctors, lawyers, and entertainers do now. For that reason, there must be close parity between corporate and individual tax rates.

When the Senate takes up tax reform this year, some businessmen will be arguing in favor of it and some against. The split is simply and obviously a matter of self-interest. It is easier for me to espouse my personal convictions about tax reform because the legislation will have a positive effect on Sara Lee. My corporate friends with low effective tax rates oppose reform because it will have the opposite effect on their companies.

Many business leaders say to me in private, "You're right in principle, but you're naive. If I don't fight for my tax breaks, Congress will just give them to someone else." Or, "If we eliminate business tax breaks, they won't really lower the rates. They'll just raise everybody's taxes and spend more money." And, finally, they close their arguments with the clincher: "That

tax bill will cost my company X millions every year."

While not very persuasive, these sentiments are understandable. Chief executives are paid to serve the interests of their companies. But our elected representatives must not make judgments based on the self-serving songs of business. They must judge the issue on a higher plane. President Reagan and the House have agreed to the basic principle that we can promote growth more efficiently, and raise revenues more equitably, by lowering rates and reducing tax preferences. The Senate must surely agree.

RECESS UNTIL 2 P.M.

The PRESIDING OFFICER. In accordance with the previous order, the Senate will stand in recess until the hour of 2 p.m.

Thereupon, at 11:59 a.m., the Senate recessed until 2 p.m.

The Senate reassembled at 2 p.m., when called to order by the Vice President.

THE SPACE SHUTTLE "CHALLENGER" TRAGEDY

(Note: At approximately 11:39 a.m., shortly after being launched at Cape Canaveral, FL, the space shuttle *Challenger* exploded. On board were Francis R. Scobee, mission commander; Michael J. Smith, pilot; Dr. Judith A. Resnick, electrical engineer; Dr. Ronald E. McNair, physicist; Lt. Col. Ellison S. Onizuka of the Air Force, Gregory B. Jarvis, engineer with the Hughes Aircraft Co., and Christa McAuliffe, a New Hampshire school teacher.

The VICE PRESIDENT. The Chaplain will lead us in prayer.

PRAYER

The Chaplain, the Reverend Richard C. Halverson, D.D., offered the following prayer:

Let us pray.

Eternal God, our hearts are smitten and we are reduced to silence. Let us pray silently for a few moments and then I will attempt to verbalize a prayer for all of us.

(Moment of silence.)

"Father in Heaven, this must be what the Apostle Paul meant when he wrote "the Spirit helps us in our weakness for we do not know how to pray as we would like. But the Spirit itself interferes for us with sighs too deep for words."—Romans 8:26.

God of love, comfort the husband and children of Christa McAuliffe in this devastating reversal of the excitement they felt in anticipation of such an important event in their lives. Give consolidation to the spouses and families of the astronauts in their tragic loss. Be with those responsible for ground control, lift-off, and all space officials in their quiet agony as they ask hard questions and rehearse over and over in their minds every detail of the operation.

Be with the President, the Vice President, the Senators, Members of the House of Representatives, and all leadership in this inexpressible tragedy. Bless Senator GLENN, Senator GARN, and Representative NELSON as they struggle with their thoughts. Help the press and the media in their responsibility to communicate to the Nation this traumatizing event. And, dear God, touch our whole Nation redemptively in grace. In the name of incarnate love. Amen.

Mr. DOLE addressed the Chair.

The VICE PRESIDENT. The majority leader.

Mr. DOLE. Mr. President, the Senate shares the Nation's grief with the tragedy at Cape Canaveral today. We have apparently lost seven brave Americans who dedicated their lives to probing the unknown. Our prayers and sympathies go out to the families of these American heroes.

We are shocked by the wrenching image of this Nation's scientific pride and joy disappearing over the Florida Coast. Many in this body have come to know our astronauts and they are indeed the right stuff: Vibrant, fearless individuals who have proudly carried the red, white, and blue into outer space. We are immensely proud of our own shuttle crew member, Senator JAKE GARN of Utah, and space pioneer Senator JOHN GLENN of Ohio. And so today's disaster is a personal, as well as a national, loss.

The space shuttle has been a symbol of America's commitment to excellence and achievement. Its superb track record has made these launches almost routine, but we are now reminded that the road to the heavens is a dangerous one.

Let us remember the five men and two women who have, we fear, given their lives to their country.

Mr. BYRD addressed the Chair.

The VICE PRESIDENT. The minority leader is recognized.

Mr. BYRD. Mr. President, I associate myself with the remarks of the distinguished majority leader.

All Americans have been stunned and saddened by this tragedy. The seven courageous heroes who lost their lives in the *Challenger* today were a cross section of our Nation's finest men and women—in mind, spirit, discipline, commitment, talent, and training. They will stand out in our history as pristine examples of the continuing willingness and ability of Americans to attempt and to accomplish the hazardous for the sake of national and human progress. In this time of loss, we hold the families, friends, and colleagues of those who have died in our hearts and in our prayers.

Mr. GLENN addressed the Chair.

The VICE PRESIDENT. The Senator from Ohio.

Mr. GLENN. Mr. President, there has been a quarter century of the space program that we have been very proud of. Today's tragedy involves man's attempt to try, and to go ahead, and man triumphs. It requires dedication to do that. Occasionally, our judgments, the things we do, are not perfect. Sometimes triumph is accompanied by tragedy. We hoped to push this day back forever, but that was not to be. So the tragedy is not only for our space program, but for all Americans who share a sense of loss.

As one who has been personally involved in the program, I feel a particularly personal sense of loss because there have been 55 successful manned missions. I believe this was the 56th one today. This was the 25th shuttle flight over a 5-year period.

Our triumphs have been many along with the tragedy of today. This is the first time we have lost anyone actually in flight in space.

I guess about all I can say is that in the days and weeks ahead, I, my family, and I am sure all of you stand united in the hope that the Good Lord will grant a measure of comfort and understanding to the families and the friends of the seven courageous people up there today. They indeed carried our hopes and our dreams with them. Let us carry their memory with us.

Mr. GARN addressed the Chair.

The PRESIDING OFFICER (Mr. MATTINGLY). The Senator from Utah.

Mr. GARN. Mr. President, I will not attempt to say what I feel because it is difficult for me to do so. It is not only a tragedy that John has spoken about.

First, let me thank all of you for paying tribute to my friends. It is especially hard because I trained with most of them. Mike Smith, the pilot, was known as my mother hen, the first one with whom I was in training in Houston. Mike was assigned to me to show me the ropes. He was a magnificent young man, and a tremendous naval aviator.

Each one of them were very dedicated to their country. I am simply incapable of going on, but I want to just say thank you to my colleagues for taking this time to pay tribute to my friends.

ORDER OF PROCEDURE

Mr. DOLE. Mr. President, let me indicate that we are waiting for a resolution from the House resetting the date of the State of the Union Message to be a week from today. I assume it will be at the same time.

Mr. President, the only business to be transacted today is I will file a cloture motion. We will wait for the joint resolution. Then we will recess in respect to the shuttle crew. There will be no votes today.

Mr. BYRD. Mr. President, will the distinguished majority leader offer the resolution immediately so we can then

go out following his offering of the cloture motion?

Mr. President, I ask unanimous consent that the names of all Members be added to the resolution which the distinguished majority leader will be offering.

CONRAIL SALE AMENDMENTS ACT OF 1985

CLOTURE MOTION

Mr. DOLE. Mr. President, I send a cloture motion to the desk.

The PRESIDING OFFICER. The cloture motion having been presented under rule XXII, the Chair directs the clerk to read the motion.

The assistant legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of Rule XXII of the Standing Rules of the Senate, hereby move to bring to a close debate on amendment No. 1437 to S. 638, a bill to amend the Regional Rail Reorganization Act of 1973 to provide for the transfer of ownership of the Consolidated Rail Corporation to the private sector, and for other purposes.

Strom Thurmond, Nancy Kassebaum, Paul Trible, Paul Laxalt, Ted Stevens, Mack Mattingly, Malcolm, Wallop, John Danforth, James A. McClure, James Abdnor, Phil Gramm, Thad Cochran, Jesse Helms, Steve Symms, Al Simpson, Pete Domenici, and Don Nickles.

Mr. DOLE. Mr. President, I request, on behalf of the distinguished Senator from Ohio [Mr. METZENBAUM], the yeas and nays on the motion of the distinguished Senator from Missouri [Mr. DANFORTH] when that motion comes before the Senate tomorrow.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. RIEGLE. Mr. President, will the majority leader yield?

Mr. DOLE. Yes, I yield.

Mr. RIEGLE. Mr. President, in light of the fact that a vote was expected today and some of us planned to be here today to make that vote, is there any thought as to when that vote might come tomorrow so we can plan to be here?

Mr. DOLE. We shall come in probably at 10 a.m., I assume, tomorrow. That vote, I suspect, should come somewhere around, between 12 and 1 o'clock tomorrow.

Mr. RIEGLE. Mr. President, I can try to be here. I thank the majority leader.

THE SPACE SHUTTLE "CHALLENGER"

Mr. HART. Will the majority leader yield for a question?

Mr. DOLE. Yes, I yield.

Mr. HART. I was unclear from the remarks he made. Is it the intention of the majority leader to offer a resolution of regret on behalf of the Senate?

Mr. DOLE. Yes, it is. I ask unanimous consent that all Members be made cosponsors of that resolution.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DANFORTH. Mr. President, I am sure that several Senators might have comments to make on the question of the tragedy. Does the leader want us to proceed now or does he want to set aside some time when those comments may be made?

Mr. DOLE. What I would like to do now is recess. I think we can do that by unanimous consent. We can perhaps set aside some time when Members may include their statements in the RECORD at this point as if given, or they may wish to proceed at this point. I am not trying to shut off anyone.

Mr. BYRD. Mr. President, I ask unanimous consent that all Senators may extend their remarks in the RECORD today.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DANFORTH. Mr. President, the untimely accident of the space shuttle *Challenger* and its crew is unquestionably the most tragic episode in the history of our Nation's Space Program. While at this time the details of the accident have not been confirmed, it appears that the lives of the seven crew members—Comdr. Dick Scobee, Michael Smith, Judith Resnik, Ron McNair, Ellison Onisuka, Gregory Jarvis, and Christa McAuliffe—are in question. We as a nation pray for them and their loved ones and recognize and commend the valiant service that they have committed to our Nation.

Not since the January 27, 1967, accident of the Apollo 204 spacecraft, in which our three astronauts died on the launch pad as a result of a fire in the spacecraft, has our Space Program faced such a disastrous moment and uncertain future. Just as with the 1967 accident, Congress will throughly investigate this present accident and its potential impact on the future of our Nation's involvement in space. We owe this to the astronauts involved and to our Nation.

Meanwhile, we anxiously await further information on the accident. This tragedy will be indelibly imprinted on our minds as individuals and on our Nation's consciousness. Again, our deepest thoughts and prayers are with the seven crew members and their families.

The PRESIDING OFFICER. The Senator from Washington.

Mr. GORTON. Mr. President, this is a day of tragedy for our seven fellow Americans who have been lost in space, for their families and friends, for all who have shared in the great American and human exploration of space, and for all Americans. On this day, we are tied by history and memory with these seven of our fellow citizens and with all humans who, over the centuries have risked their lives and their safety to increase the knowledge of all humans about the world in which we live, about the space which surrounds us, and about our own place in creation. These seven Americans are now an immortal part of that history. We remember through them the courage of all who have preceded them in space, including two highly distinguished Members of this body.

We are reminded once again that the price we as humans pay for an increase of knowledge about the world in which we live is paid not in dollars alone, but also in the lives of those who have the daring to attempt to push back the frontiers of knowledge as far as they can.

We know, because it is our duty here in the Senate, that we must now examine closely, soberly, and objectively the physical causes of this disaster. We know that we must take every action that is within our power to see to it that it is not repeated.

We are reminded, of course, as we engage in the 56th American manned exploration of space, the 25th launching of a space shuttle, that it is still an experiment at this point and that it is accompanied by great danger. We also know, as tragic as this incident has been, that it will not end our inquiry, our quest for knowledge, or the supply of the brave and dedicated Americans who are willing and anxious to be on the cutting edge of this exploration.

So we especially honor these seven, who will be remembered for a long, long time for their courage and dedication. We pray for them and for their souls. We pray and we hope for comfort to those who have survived them here, those who have worked so hard on this mission which went awry in spite of their best and most dedicated efforts.

We in this body dedicate ourselves to the improvement, and the increasing safety of, our Nation's Space Program. We appreciate the past service of many men and women, while we remember and grieve for those who have passed from us.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. RIEGLE. I thank the Chair. I want to associate myself with the remarks of the Senator from Washington, who serves as the chairman of the Subcommittee on Science and Space, as I serve as the ranking member of that subcommittee, and join with him in the expression of sorrow that is felt by all Americans. I think every American citizen is heartsick at what has occurred today. Watching it replayed on television and seeing the family members of the astronauts whose lives

were lost today is an experience that will change all of us, change us all in ways that time will not affect.

Today's space disaster is one, as Senator GLENN has said, which comes after really a remarkable degree of success and safety of our Space Program now over many long years. I was struck by his comment that prior to today no astronauts have been lost on any space mission. We had one other tragedy on the ground where three atronauts, including Chafee from Michigan, lost their lives some years ago. But this is the first time this has happened on a space flight, which I think by itself is a remarkable statement about what we have been able to achieve over this long period of years up until today. So we owe these astronauts who gave their lives today answers as to what went wrong, and I think we likewise owe to every other astronaut that we will not ask them to undertake any further flight until we have the answers, until the appropriate officials within NASA and those who otherwise have responsibility for oversight here have determined as best we can exactly what went wrong and to fix whatever problems may have caused this disaster so that we do not put others in the future at the risk of this kind of accident.

The President's decision to postpone the State of the Union Message today and for the House and Senate to shortly conclude their business for today is the appropriate step for us to take as a nation.

I conclude by saying to the memory of those astronauts who were lost today and to their families who carry this terrible pain and suffering today, there is a great love in this country for them at this moment of profound personal loss. We are heartsick about this tragedy today and will do everything we can within our power to prevent it from happening again.

Mr. CRANSTON. Mr. President, although this tragedy occurred over the State of Florida, California and many Californians have played a vitally significant role in creating the air shuttle and in space exploration generally. I speak on behalf of all Californians in expressing our deep sorrow for this tragedy, our regret of the loss of lives of those who perished and our deep sympathy for the members of their families and friends who survive. I know that California, the United States, and the world will want to carry on the exploration of space, and I am confident that we will do so. We will want to know, to the best of our ability, what happened to cause this tragic event. We will hope to learn whatever lessons there are to be drawn from that, but I think we also recognize that all forms of travel, like most human experiences, are fraught with danger. I know that we will seek to overcome the dangers, that we will do our utmost to do so, and we will soon once again be carrying on our ventures into space.

Mr. WILSON. Mr. President, no words, not even the eloquent tributes paid by my distinguished colleague, can adequately express either the grief of the American people or our sympathy for the families and loved ones of the crew of *Challenger.* The only way we can adequately honor the memory and sacrifice of these magnificent seven young Americans is for the United States to attempt in small part to match their courage. We have been reminded by their tragedy that all of those who venture into space to benefit mankind place their lives at risk. The only way we can vindicate their faith is to keep faith with them. It is for America to continue with our space program and not to falter. Those whom we have lost today would be the first to say to us, "persevere, go forward," because these were pioneers in the truest sense of that word and in the greatest American tradition of pioneering. They were people willing to take risks, even to risk their lives in order to benefit mankind. For us to adequately honor them, Mr. President, is for America to keep their rendezvous in destiny and in space. We dare not falter lest we be false to their memory.

I thank the Chair.

Mr. KENNEDY. Mr. President, like all Americans, we feel a sense of personal loss over the tragedy which occurred today shortly after the *Challenger* lifted off from the Kennedy Space Center. When we embarked a quarter century ago on the great voyage into space President Kennedy said, "It will not be one man going to the Moon; it will be an entire Nation."

Seven brave astronauts pursuing that dream were apparently killed today and our entire Nation has been wounded. From their sacrifice let us resolve once more to continue the work to which they gave their skill and their courage and their lives.

Mr. ABDNOR. Mr. President, today our thoughts and our prayers are with those who have died in this terrible tragedy, and with their loved ones.

It is impossible to put into words the anguish we feel as a nation at the loss of seven Americans, who had dedicated themselves and their lives to improving our world through scientific exploration and achievement.

They knew that their life's work, as routine as these shuttle flights have become to most of us, involved a great deal of personal risk. They chose to accept that risk in order to acquire the kind of scientific knowledge that will benefit all of mankind. These seven courageous individuals currently have our grief. They deserve our commemoration.

Mr. President, again, our hearts and our prayers go to those who have suffered enormous personal loss today. May God be with them, and all Americans, during this national tragedy.

Mr. MATHIAS. Mr. President, America is shocked and saddened by today's tragic accident which is so unexpected after the brilliant success of the Shuttle Program. Our hearts reach out to the families and friends of the seven men and women who traveled on this mission. It is a tragic reminder that the Space Program, like other human adventures, is not without its costs.

From the beginnings of recorded history, human beings have longed to enlarge their knowledge of the universe. But exploration and discovery have always exacted a heavy human price. Men and women have been called upon to sacrifice their lives as we have extended the boundaries of our knowledge and wisdom. We recall the costly search for the Northwest Passage and the disappearance of Amelia Earhart as two of the many examples of pioneers and explorers who never came home. Sadly, exploration cannot succeed without these sacrifices, and as we enjoy the benefits made possible by that exploration, we must never forget those who gave their lives.

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. RUDMAN. Mr. President, the people of the Nation feel a deep grief today. The people of New Hampshire feel a very special and profound sense of loss because the first teacher in space, Christa McAuliffe—a woman of indomitable spirit, a mother of two young children, who wished to do this to further education in America—was apparently lost today off Cape Canaveral. We will always remember Christa McAuliffe for her special spirit and the enthusiasm that she brought to life. The people of New Hampshire will especially remember her as one who cared about her students, the development of their minds, and the furtherance of their opportunities. She will go down in the history of our State and our Nation as a woman who dared to try. We will remember her and we will pray for her and her family for a long time to come.

I thank the Chair.

Mr. CHILES. Mr. President, I am stunned by the tragedy of today's space shuttle explosion and the apparent loss of the crew members. I share the sorrow of their families and my deepest sympathies and prayers are with them.

I sense this is a national tragedy, a trauma that will live in our minds and hearts much in the way the shooting of a President does. I know it is a mark in our history that will always be vivid in my mind.

From the very beginning of our space exploration, the involvement of human lives has dictated utmost care

and caution at each step, and this has been borne out by the number of times flights have been delayed. No chances have been taken.

But this catastrophe reinforces that we can take nothing for granted; we cannot relax our diligence. We as a people and as a nation have benefited greatly from space exploration, but we must have answers; we must understand exactly what has happened before any further launches can be made. Exhaustive investigations and inquiries lie ahead.

SPACE SHUTTLE "CHALLENGER" TRAGEDY

Mr. FORD. Mr. President, words are inadequate for expressing the shock and grief which swept across our Nation Tuesday as we learned of the tragic takeoff of the space shuttle *Challenger.*

Still fresh in our minds are images of these brave Americans smiling and laughing, clearly anxious to begin their shuttle journey.

We are all overwhelmed with sorrow for the families of these astronauts, one of whom was a New Hampshire schoolteacher. It is difficult to imagine the heartbreak they are experiencing.

I do not doubt that workers at the National Aeronautics and Space Administration are among those most grieved, having lost some of their best and brightest in this tragedy. These astronauts spent years preparing for this mission.

During nearly 12 years as a member of the Committee on Commerce, Science, and Transportation, I have developed a deep appreciation for NASA and its dedicated and conscientious workers. The agency has a glory-filled history that has been a source of pride to all Americans.

NASA has carried out 55 successful man-in-space missions, including those in which man first walked on the Moon. In the past 5 years, there have been 24 successful shuttle missions.

No one has forgotten the 1967 tragedy during which three Apollo astronauts were killed in a launch pad explosion. Now, 19 years later, we have witnessed the first in-the-air disaster in our Nation's space history.

Once our disbelief and shock have passed, many tough questions must be asked.

We demand and await answers as to why these seven young lives were lost. Before any other missions are undertaken, we must know why this one went so terribly wrong.

More often than not, through the years, NASA has been criticized for being overly cautious rather than lax. The agency's safety record is a tribute to its workers, who combine their diverse backgrounds to make space exploration possible.

It was an appreciation of the space program that led Christa McAuliffe to yearn to be the first teacher, and the first citizen, in space. She was a credit to her profession simply because of her great desire to experience space so that she could inspire and challenge our Nation's youth. The program has been remarkable and has contributed many benefits to our society through the years. This brave young woman wanted to illustrate that through televised lessons from space.

As classrooms across the United States and Canada watched the ill-fated liftoff, I am sure many teachers felt unable to explain what was seen on television. I hope most of them were able to convey to their students that the tragedy illustrates why America is great; that we have brave men and women who are willing to face danger, and to sacrifice, so that the Nation's dreams can come true.

Certainly, it is time to reexamine the entire space program and where it is going. However, we cannot fail to adequately assess the space program's success and achievements.

We in Congress must assure the Nation that explanations for this tragedy will be demanded. Meanwhile, our sympathies and prayers go out to those who lost loved ones in this space shuttle launch.

CHALLENGER TRAGEDY: TIME FOR REFLECTION

Mr. PELL. Mr. President, the explosion that claimed the lives of all seven aboard the space shuttle *Challenger* is a dreadful tragedy that has shocked and saddened the Nation.

It also is a lesson to all of us that we should never take for granted the calm courage and the quiet heroism that makes even the exploration of outer space look routine.

Any loss of life is tragic, but the death of Christa McAuliffe, a schoolteacher selected to ride on the space shuttle, highlights the tragedy because she represented the hopes of so many to join the veteran space pioneers of NASA.

I am truly saddened by this tragedy, and I grieve for the brave men and women who were lost and for their families.

Mr. MITCHELL. Mr. President, just as there are times in our national life when we celebrate together, so there are times when we mourn together. This is such a time—a time for all of us to reaffirm the values that make us one people.

The astronauts who were lost today were the embodiment of the strength and the best of our country. They stand in the place of all the brave men and women who defend us, who push back the frontiers of science—and tragically today, of all those who teach our children.

President Kennedy said 25 years ago of the space program: "We take a risk by making the commitment in full view of the world."

Today the world saw what that risk can mean.

The world saw what manner of men and women we have among us who give of themselves—and today their lives—to our country.

Tomorrow, for many tomorrows to come, when other Americans sail on the sea of space, they will honor the memory of these magnificent seven who made the ultimate sacrifice: Comdr. Francis Scobee, Copilot Michael Smith, Judith Resnik, Ellison Onizuka, Arnold McNair, Satellite Engineer Gregory Jarvis, and Christa McAuliffe.

Our hearts go out to their families. They have an imperishable place in history.

Mr. HECHT. Mr. President, the tragic loss today of the space shuttle *Challenger* and, apparently, her crew is indeed shocking to us all. It is with profound sadness, yet, respect, that we remember the courage and heroism of these brave Americans. I personally am distressed and deeply saddened over this tragedy. Our thoughts and prayers go out to the families and friends of the crewmembers.

In the days to come, I am confident NASA will conduct an intensive investigation to determine the cause of this accident. Our Space Program is vital to the defense of our national security and must move ahead despite the unfortunate events of this morning.

Mr. McCONNELL. Mr. President, to merely comment that we are all deeply saddened and shocked by the tragic explosion of the shuttle *Challenger* this morning seems inadequate. For Americans who have enjoyed so many triumphs of the Space Program from their living rooms, to now face this tragedy leaves us with the sense of inescapable loss. And yet no such feeling compares with the loss suffered by the families and friends of the seven-member crew.

Awed by the first steps on the Moon, we are no less impressed by the ventures which have been made by NASA over the past decades bringing the heavens closer to our realm. Yet, on this fateful day we pause and wonder. We pause and ask if our sights are too high, the costs too great.

As we all know, Christa McAuliffe, the first teacher chosen for space travel, was aboard the *Challenger.* It was appropriate that a member of the teaching profession, dedicated to preparing our young for the challenges of the future, was chosen for what was to be a historic venture. It was appropriate that a teacher was involved in our space program which continues to provide the stimulus for research and technology development which has enriched our lives for decades.

History may view the tragic events of today as a setback. And yet, there may be no greater reaffirmation of the crew's commitment to the venture's

goals than the successful continuance of the Space Program.

Mr. DECONCINI. Mr. President, words fail to describe my emotions as we discuss the loss of the entire space shuttle *Challenger* crew. There is no easy way to relay the feelings we all felt upon hearing the news of the explosion of the shuttle. In the pit of our stomachs something clenches and will not unclench.

Perhaps we had forgotten that the paths to the heavens are treacherous. Man's fallibility and our inability to completely control our surroundings has been proven yet again. I had begun to take space travel for granted, perhaps many of us have. In the early days of our Space Program, we had a healthy fear of space and space travel. Recently, we had begun to think of it as safe. Clearly, we need to rethink that notion.

One of the things that has distinguished America as a nation has been our willingness to hide nothing—neither our victories nor defeats. In this hour of defeat, we must commit ourselves to finding answers to what has happened today. In that regard, I would urge the President to delay all further shuttle missions until we completely understand what caused this tragedy. At the same time, we must move ahead cautiously and not abandon our commitment to exploration of the vastness that surrounds us.

My deepest sorrow today is for the families of those who died in today's explosion. We grieve as a nation and as individuals knowing, but not fully comprehending, the pain that the families and friends of the members of the *Challenger* crew are experiencing. To them, I extend my heartfelt sympathy and my prayers.

It is appropriate that the Senate recessed early today, and it is appropriate that the President has canceled today's State of the Union Address so we can grieve as a nation and as members of the family of man.

Mr. SARBANES. Mr. President, we are stunned and deeply saddened by today's event at Cape Canaveral.

The loss of the seven men and women aboard the shuttle is a tragedy which touches all Americans. They were individuals of vigor, accomplishment, and hope, who represented the best of America.

Mr. President, those who have sought to advance the frontiers of our knowledge, to expand our understanding of science and our environment, have always undertaken extraordinary risks. The *Challenger* team followed in that tradition of courageous individuals dedicated to a better world and a brighter future.

Mr. President, as the Nation honors these brave men and women, our thoughts and prayers are with their families and their communities to whom they gave so much.

Mrs. HAWKINS. Mr. President, today all of us are extremely moved by the tragedy at Cape Canaveral. The Shuttle Program has been fate free for 24 flights. But today, on perhaps the most highly publicized flight, seven of America's finest have lost their lives.

What was projected to be a coup for the educational community, our children, and teachers nationwide, has resulted in the fate of a teacher from Concord, NH, Sharon Christa McAuliffe. Christa was selected from among over 11,000 applicants to represent teachers nationwide. She had been studying since September 1985, to develop the lesson plans for two classes that she was to have taught from space. Thousands of schoolchildren nationwide eagerly anticipated this new dimension in their learning.

When Christa was selected last year, educational associations nationwide banded together with pride to encourage teachers and children alike to keep their porch lights on from 7 p.m. on Thursday evening until 7 a.m. on Friday morning—the morning that Christa was scheduled to teach her first lesson. In memory of the entire crew, Americans are being encouraged to keep those lights on. A tragic turn of events.

Christa represented our Nation's teachers extremely well. She exuded confidence and a tremendous love for learning. Her training, which included instruction in weightlessness and confinement in a black bag to simulate conditions in space, was a constant adventure. And she was not willing to put herself in the limelight. Rather, she gave constant credit to her fellow educators and astronauts.

I ask Americans nationwide to pray for the immediate families of the seven shuttle members. America is stunned by this event, and I hope and pray that we would band together in support of one another.

Mr. HEFLIN. Mr. President, like all Americans and all people around the globe who recognize the value of human life, I was filled with complete and total shock when I first learned of the horrible tragedy which struck the space shuttle *Challenger* and its seven-member crew. The memory of this disaster will remain with us always, as will the dreadful, sinking, emotional feeling I am sure we all experienced as we learned of the explosion.

We have not yet learned all the details of the tragedy. We still do not know what caused the explosion or what could have been done to prevent it. We can be certain, however, that the incident will be probed and investigated until we have learned all that can be learned. I have always been a fervent supporter of our Space Program, but, in our quest for further learning about the Moon, the planets, and the stars, we cannot lose sight of the necessity of taking every possible safety precaution.

Just a little more than 19 years ago, on January 27, 1967, three Apollo astronauts were killed during a test of their spacecraft. In the wake of that tragedy, which was the only previous loss of life during training or performance of a NASA flight, we basically placed the Space Program on hold while instituting greater safeguards. Today, it is just as necessary that we gain even greater strength from this tragic occurrence, and I am fully confident that NASA will become even more determined than ever to fulfill the greatest possible role in exploring our last frontier in the absolutely safest environment possible.

The Space Shuttle Program has been one of the greatest technological achievements in the history of mankind, and all Americans have been proud of the growth of the program. We must not look at this tragedy as a betrayal of the Shuttle Program, but as a turning point for even greater efforts.

In spite of this calamity, NASA has had a remarkable record of safety and efficiency. One cannot witness a launch without realizing the danger from the fire, the thrust, and the power. Nevertheless, this horrible explosion should renew and strengthen our efforts to protect human life as we continue to explore the unknowns of space.

The seven patrotic Americans who lost their lives during this tragic accident—Francis (Dick) Scobee, Michael Smith, Ronald McNair, Judith Resnik, Ellison Onizuka, Gregory Jarvis, and Christa McAuliffe—will always live in our memories. Their efforts on behalf of our Space Program must not go unnoticed or unrewarded; it would be a fitting legacy, one of which I am sure they would be proud, for us to learn from and grow because of their loss, for then they will surely not have died in vain. To their loved ones, their friends, their coworkers, go our thoughts and our prayers.

Mr. HOLLINGS. Mr. President, today is a sad day in the U.S. Space Program. The tragic explosion of the shuttle orbiter *Challenger* this morning has shocked the Nation and has dealt a severe blow to the Nation's Space Program.

I should like to express my heartfelt sympathy to the families of the shuttle crew of mission 51-L. Dick Scobee, Michael Smith, Judith Resnik, Ronald McNair, Ellison Onizuka, Gregory Jarvis, and Christa McAuliffe will not be forgotten, nor will their dreams and aspirations. Man will continue to voyage into space and to respond to the challenges of new frontiers. Unfortunately, seven of America's finest have been lost to space and our space effort.

Mr. President, at this point in time, it is hard to consider anything but the fate of the crew and their families' loss. However, it is absolutely critical that the cause of this accident be determined as soon as possible. I would recommend, therefore, that the Shuttle Program be halted until this accident can be thoroughly investigated by NASA and the Senate Committee on Commerce, Science, and Transportation. The shuttle is a critical component of our civilian and military space programs. However, the safety of the crew is an even more critical component of our Space Program. I hope that a thorough review of this tragedy will result in safer space flight for those who follow Dick Scobee, Michael Smith, Judith Resnik, Ronald McNair, Ellison Onizuka, Gregory Jarvis, and Christa McAuliffe into space.

Mr. President, in 1967, when Virgil Grissom, Edward White, and Roger Chaffee were killed in the only other U.S. manned space flight tragedy, the Space Program was put on hold for 18 months until the cause of the tragedy could be thoroughly investigated by NASA and the Senate Committee on Aeronautical and Space Sciences. The result of those investigations and hearings was a "safer" Space Program and a successful Apollo Program.

Today, the same challenge confronts NASA and the Senate Committee on Commerce, Science, and Transportation, and it is my hope that the Senate Commerce Committee will turn our attention to this investigation immediately.

The purpose of a Senate Commerce Committee investigation would be fourfold:

First, to establish the facts related to the accident.

Second, to insure that the formal NASA inquiry is conducted with complete objectivity.

Third, to establish the validity of any recommendations to prevent recurrence.

Fourth, to review such other aspects of NASA's stewardship of the Shuttle Program which may be necessary to accomplish the foregone objectives.

Mr. President, I stand prepared to initiate this investigation immediately, to work with NASA to find the cause of this tragedy, and to make the necessary improvements to the shuttle to prevent a future recurrence.

Today is a sad day in the Nation's history, and I hope that all Americans will take time to bow their heads and pray for Dick Scobee, Michael Smith, Judith Resnik, Ronald McNair, Ellison Onizuka, Gregory Jarvis, and Christa McAuliffe. Their dreams were our dreams, and their loss is our loss.

I speak from personal experience when I describe the Nation's loss today, because Ron McNair, a native son of South Carolina and a man who had dedicated his life to the people of South Carolina and the Nation's Space Program, was one of the seven astronauts lost in today's tragedy.

If ever an astronaut was truly made of the right stuff, it was Ron. And I would like to express my heartfelt sympathy to his mother, Pearl, who lives in Lake City, SC, and his wife, Cheryl, and his two children, who live in Houston.

I had the pleasure of knowing Ron, and I can tell you that seldom has one person done so much for his home State. Whereas most people spend their free time pursuing personal pleasures, Ron spent his free time going throughout the State of South Carolina telling kids about the importance of getting a good education and staying in school. When students at Spartanburg High School wanted a speaker last February to speak during Black History Month, Ron was nice enough to take the podium on my behalf.

Ron McNair was special, and you knew that the moment you met him. Educated at Carver High School in Lake City, SC, Ron went on to get a B.S. at North Carolina A&T, a Ph.D. in physics at MIT, and several honorary doctorates, including one from the University of South Carolina.

The Nation's Space Program suffered a great loss today; the Nation suffered a great loss today; South Carolina suffered a great loss today.

My heartfelt sympathy goes out to the family of Ron McNair, and I guarantee that I will continue to work to fulfill his dreams.

Mr. HUMPHREY. Mr. President, today our Nation grieves over the enormous loss which we suffered today off the coast of Cape Canaveral, FL.

The citizens of the State of New Hampshire are especially touched by our national loss. The first teacher of space was to have been a brave woman from Concord, NH, Christa McAuliffe. Christa carried forth with her onto her journey the same enthusiasm and dedication which she brought to the students of her classroom every day. Her courage will serve as an inspiration to students in New Hampshire and across our Nation. Christa will be remembered as one of our State's great citizens.

I join in offering my profound sympathy to Christa's family, including her husband Steve and her two children, as well as the families of the other crew members. All of them have bravely given their lives in service of our country.

Mr. MATTINGLY. Mr. President, I rise to join my colleagues and, indeed, the entire Nation, in extending my prayers for the astronauts who lost their lives today in the explosion of the space shuttle *Challenger* and in offering my sympathies and condolences to their families.

Safety has always been of paramount importance during the hugely successful U.S. Space Exploration Program. The National Aeronautics and Space Administration [NASA] has always emphasized this critically important aspect of manned space flight and it is this practically unblemished record that makes today's tragedy all the more difficult to comprehend.

But, Mr. President, the loss of *Challenger* reminds us in a cruel way of the dangers that have always existed in the efforts made to push back frontiers and to explore the unknown. It is ironic, Mr. President, that this tragedy occurs during a week when another space exploration vehicle, the Voyager 2 spacecraft has provided us with a wealth of new information about our universe during its travel through the solar system.

Thus, Mr. President, we have extraordinary success with Voyager at the same time that we encounter the acutely painful loss of the *Challenger* crew. I am confident, though, that the courageous crew of *Challenger* would be the first to urge that we continue the efforts that they were making to explore space, to expand our knowledge, and to apply those lessons for the benefit of all those on our Earth.

However, that does not make their loss any easier to accept and I pray for those affected by the tragedy. Perhaps the pain of their loss can be eased by knowing that our Nation shares their sorrow.

Mr. EVANS. Mr. President, words do not adequately express the personal shock and sadness I feel for the brave crew of the shuttle *Challenger* and for the grieving families of these American heros. The pain is very close to home with the knowledge that the captain of the shuttle *Challenger*, Francis R. (Dick) Scobee, is from the State of Washington. My deepest sympathy goes to Captain Scobee's family and the families of the entire *Challenger* crew.

In May of 1984, I had the pleasure of visiting with the crew of the 11th space shuttle mission, at which time I met Dick. He will be remembered as a hero and a pioneer on the frontier of space.

It is premature to speculate about the cause of this tragedy. However, we must remember that in our Space Program we are working on the edge of technology. Perhaps we have become overly confident, almost victims of our own skill. This was the 25th shuttle mission, missions that are now viewed as routine. We've forgotten the dangers involved and we've forgotten that danger is the lot of those willing to work on the edge of discovery and push the boundaries of knowledge further.

We are still explorers in space. Our lost astronauts were following in that

tradition of exploration and we will long remember them and their contributions to our explorations.

The human spirit has been enriched by exploration of the unknown throughout the ages. We cannot let this tragedy slow our enthusiasm for space exploration. I'm confident that those who died so tragically would want the Space Program to continue. Benefits for generations to come will flow from the discoveries we make in our explorations of space.

Mr. SPECTER. Mr. President, it is with great sorrow that I rise to reflect on the event which occurred at Cape Canaveral, FL, this morning. The explosion of the space shuttle *Challenger,* with the deaths of the seven astronauts, is a tragedy which touches the hearts of all Americans.

I stand with my colleagues in the U.S. Senate and citizens across the country in extending my deepest sympathy to the families and friends of Comdr. Dick Scobee, Ellison Onizuka, Gregory Jarvis, Judith Resnik, Michael Smith, Ronald McNair, and schoolteacher Sharon Christa McAuliffe.

Ever since Neil Armstrong's small step for man and giant leap for mankind in 1969, the United States has been at the forefront of the exploration of space. Our satellite *Voyager 2* has stretched the bounds of human knowledge with information and photographs of Uranus and its surrounding moons. America's Space Shuttle Program has also served a vital role in the development of medical and other technologies. With the continued growth of the Space Shuttle Program, we will be able to realize our goal of permanent, manned space stations orbiting the Earth.

As we reap the benefits of advancing our technological base, we must be ready to acknowledge the vast responsibilities that accompany these benefits. It is my hope that these seven heroes, who gave their lives for a valiant purpose, should inspire America to work even more diligently for a safe and successful space program.

Mr. HEINZ. Mr. President, I rise to join my colleagues in expressing the grief of our Nation over the loss of the seven members of the shuttle *Challenger.*

So many times we have watched with pride the majestic launch of a shuttle. Today, many of us watched with a sickening sense of horror the tragedy which unfolded off the Florida coast.

Mr. President, the thoughts and prayers of all Americans are with the families of the *Challenger's* crew who sacrificed their lives to expand the boundaries of human knowledge. We are all, I think, especially saddened by the loss of Christa McAuliffe, and wish we could bear in some measure the dreadful shock to her husband and two little children who must have been filled with such eager anticipation and pride until the awful moment of tragedy. Christa McAuliffe represented ordinary Americans and the promise of what space travel could become for future generations. Her death is a particularly grievous blow to the national psyche and brings home what is true of the six other members of the crew as well: these were our fellow Americans who were performing a dangerous job to broaden opportunities for all of us.

Throughout history, humans have tried to express the unexpressable with symbolic actions meant to convey respect and grief for those whom we have lost. It is, therefore, fitting that the Senate stand in recess today to express our collective sorrow and as a tribute to the *Challenger's* crew.

MOURNING THE LOSS OF "CHALLENGER'S" CREW

Mr. MATSUNAGA. Mr. President, I am so deeply shocked by the tragedy which took place at the Kennedy Space Center today that I am unable to find adequately words to express my sadness. Inadequate as it may be, let me say Mr. President, that we are a nation in mourning across the breadth of this great country of ours—from Concord, NH, hometown of Ms. Christa McAuliffe, to Kealakekua, HI, birthplace of Lt. Col. Ellison S. Onizuka. As the shuttle drew upon our diversity in recruiting its crew, so does this national tragedy bring us together in mourning their loss.

The seven crew members of the U.S. space shuttle *Challenger* were embarking on a landmark mission—one which was to have launched into space, the first civilian, Ms. McAuliffe, a schoolteacher. It was also to have been the second flight for Hawaii-born astronaut, U.S. Air Force Lt. Col. Ellison S. Onizuka.

As one who views space exploration as a key to our world's continued search for peace, I join with all who mourn the tragic loss of the brave crew who sacrificed their all in a mission for peace.

Mr. President, as it was so penetratingly observed by William Shakespeare many years ago, we mortals know no real pain until we have lost a child. As the father of five children, I can sense the grief with which Mrs. Mitsue Onizuka of Keopu, HI, mother of Colonel Onizuka, must be overcome. No less grief stricken must be Ellison's widow Lorna Leiko and his two daughters, Janelle Mitsue, age 16, and Darien Lei Shizue, age 10. To them I extend my heartfelt condolences and deepest sympathy. As a personal friend of Ellison, I share their immeasurable loss, and pray that the good Lord will bestow his blessings upon them in their bereavement.

I offer that same fervent prayer in behalf of the surviving love ones and families of Christa McAuliffe, Francis (Dick) Scobee, Michael Smith, Judith Resnik, Arnold McNair, and Gregory Jarvis.

Mr. SASSER. Mr. President, the terrible tragedy in the skies over Cape Canaveral this morning, the explosion of the space shuttle *Challenger,* has left the American people shocked and grief-stricken over the loss of seven brave lives. Our first thoughts, our prayers, are with the astronauts' families. The horror they must have suffered at seeing the fireball ignite overhead can only be imagined by the rest of us. The Nation waited together for the news we hoped would not come: NASA crews have advised this afternoon that there is no evidence that any of the crew have survived.

An added dimension to the terrible events of this morning was felt in an auditorium in a New Hampshire school, where hundreds of Christa McAuliffe's students, friends and fellow teachers waited in excited anticipation of their new heroine's bold adventure. Comdr. Dick Scobee; Pilot Michael Smith; Mission Specialists Dr. Ronald McNair, Dr. Judy Resnik, Lt. Col. Ellison Onizuka; and Payload Specialists Gregory Jarvis and Christa McAuliffe—more noted as the first teacher in space—were all members of the *Challenger's* crew this morning on mission STS-51L, the 25th launch of the space shuttle.

It had been 19 years since a disaster of these proportions had struck the Space Program, and I think we had come to be comfortable with the inevitability of success.

The calm confidence with which this mission team approached the launch has been a hallmark of the astronaut program from the outset. Their training, their readiness, the reserves of inner strength they brought to the task belied the dangers. The program's early days were no more full of danger than today, but they were more full of doubt. This morning's launch was to be another in a long line of successful launches—almost bordering on the routine in the public mind.

We have had false starts, on this mission and on earlier missions. The national impatience with delays gave way to a grudging acknowledgment that all systems had to be as perfect as human beings could make them before giving a go for launch.

And that is the key point: As perfect as human beings could make them. There will be investigations. There will be review boards. Every shred of information, every piece of data, will be examined in full detail. We may or may not have final answers on the precise cause of the disaster this morning. What we will have, what we have always had, is the certainty that the best scientific and engineering talent in this country will be dedicated to the task. It is not that these dedicated ex-

71-059 O-87-21 (Pt. 1)

perts have failed, it is not that the United States has failed; the truth is that no human endeavor is immune from imperfection.

Mr. HART. Mr. President, what a sadness! Today, all Americans grieve for the loss of seven brave astronauts who died in the service of our country. These soldiers of exploration, no less than America's soldiers who have fallen in battle, gave their fellow citizens "the last full measure of devotion."

Today, all of us hurt for the families and friends of *Challenger's* crew. We all hurt for the students in Christa McAuliffe's class. We hurt for the thousands of devoted public servants and private citizens who have labored to make America's Space Program one of the proudest achievements of human history. Each of them and each of us has lost something which was very much a part of our national character and our individual dreams.

There are times of great success and great tragedy that stand as lonely mileposts in America's history. Surely, all of us who were of age remember what we were doing when John Kennedy was murdered. All of us remember what we were doing when his promise of landing a man on the Moon was realized. In the same way, none of us will ever forget what we were doing when today's tragic news first reached us.

The crewmembers of this space shuttle mission truly were American heroes. Each of them represented the best of America's idealism, courage, commitment, and patriotism. Although we have today lost these seven brave pioneers, we will never forget the pioneering spirit they carried upward on behalf of their Nation.

Benjamin Mays once said: "The tragedy of life doesn't lie in not reaching you goal. The tragedy lies in having no goal to reach. It is not a disgrace not to reach the stars, but it is a disgrace to have no stars to reach for." The world will always remember that these seven were reaching for the stars, and that is why their loss gives us such great sorrow.

Mr. THURMOND. Mr. President, I was greatly shocked and saddened by the explosion of the space shuttle *Challenger* during launch this morning. I extend my deepest sympathies to the families and friends of those on board.

I am especially regretful of the apparent loss of a fellow South Carolinian, Dr. Ronald McNair of Lake City. He visited with me in my Washington office recently, and I feel a deep personal loss because of today's tragedy.

Dr. McNair had previously flown as the mission specialist on the February 1984, *Challenger* flight. This particular flight was noted for the first use of the Canadian arm, which Dr. McNair himself operated.

Upon graduation from Carver High School in Lake City, SC, in 1967, Ron McNair entered North Carolina A&T State College, where he earned a B.S. degree in physics. In 1976 he earned his doctor of philosophy of physics from Massachusetts Institute of Technology. He was later awarded three honorary degrees, the lastest from the University of South Carolina in 1984.

He and his wife, Sheryl, had more recently resided in New Jersey with their two children, Reginald Ervin and Joy Cheray. My thoughts and prayers are with them today and with his parents, Mrs. Pearl McNair of Lake City, and Mr. Carl McNair of New York.

At our recent meeting, Dr. McNair expressed his boundless enthusiasm and confidence in our country's space program, and I can think of no better tribute to his memory than the continuation of our research of the vast frontiers of space.

Mr. HARKIN. Mr. President, the tragic loss of life in the first space flight disaster is a very personal loss to millions of Americans.

There is something about the exploration of our last frontier that deeply and profoundly touches the American psyche and our spirit of adventure.

This accident has special significance to me because I tried to get into the Space Program during my years as a pilot in the Navy. I even took the series of tests that the earlier Mercury astronauts took—and did quite well—but there were no openings when I applied. I was struck and fascinated by the challenge and wonder of space flight and applied to NASA again, but finished my tour of duty before my name ever came up on the list.

The *Challenger* tragedy should not deter us from our goal of space exploration and space flight just as past tragedies did not deter the pioneers of aviation from moving forward. We should not forget that each innovation in the history of aviation was accompanied by personal tragedy, accidents, and loss of human life. The amazing safety record and successes of NASA and our Space Program has allowed us to forget that fact.

We grieve with the families of those who died today but we should not abandon the mission which those seven Americans gave their lives.

Let us renew and redouble our commitment to conquer this last frontier.

ORDER FOR RECORD TO REMAIN OPEN UNTIL 5 P.M.

Mr. DOLE. Mr. President, I ask unanimous consent that the RECORD remain open to 5 p.m. today for the insertion of statements by all Members regarding today's tragic loss.

The PRESIDING OFFICER. Without objection, it is so ordered.

POSTPONEMENT OF STATE OF THE UNION MESSAGE

Mr. DOLE. Mr. President, I ask unanimous consent that when the Senate receives the concurrent resolution from the House setting the time for the State of the Union message, it be deemed considered and agreed to.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOLE. I am advised that resolution will contain the date Tuesday, February 4, at 9 p.m. Mr. President, the only thing remaining is the resolution to recess, and I will do that as quickly as I can.

THE "CHALLENGER" SHUTTLE MISSION

Mr. DOLE. Mr. President, I send a resolution to the desk on behalf of myself, the distinguished minority leader, Senator BYRD, and all other Senators.

The PRESIDING OFFICER. The resolution will be stated.

The assistant legislative clerk read as follows:

S. RES. 299

A resolution relative to the Space Shuttle *Challenger.*

Resolved, That the Senate has heard with deep sorrow and regret of the fate of the *Challenger* shuttle mission, and as a mark of respect now stand in recess until 11 a.m., Wednesday, January 29, 1986.

The PRESIDING OFFICER. Is there objection to the present consideration of the resolution?

There being no objection, the resolution was considered and agreed to.

Mr. DOLE. Mr. President, I move to reconsider the vote by which the resolution was agreed to.

Mr. MATHIAS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

RECESS UNTIL 11 A.M. TOMORROW

At 2:30 p.m., in accordance with the provisions of Senate Resolution 299, the Senate recessed until tomorrow, Wednesday, January 29, 1986, at 11 a.m.

EXTENSIONS OF REMARKS

THE BRETTON WOODS COMMITTEE

HON. CHARLES McC. MATHIAS, JR.

OF MARYLAND

IN THE SENATE OF THE UNITED STATES

Tuesday, January 28, 1986

● Mr. MATHIAS. Mr. President, the Bretton Woods Committee is a necessary organization to bring reason to the troubled world of international finance. In the process it helps to educate Americans on the subject of their vital interest in economic development of Third World countries and the essential role in that process played by the multilateral financial institutions.

The Bretton Woods Committee convened a remarkable meeting in Washington last week to review and discuss the developments in the world that influence and are influenced by the economy. Speakers included the Secretary of the Treasury, James A. Baker III, the Managing Director of the International Monetary Fund, Jacques de Larosiére, and the President of the World Bank, A.W. Clausen.

I ask that a copy of the texts of these speeches be printed in the RECORD.

The texts of the speeches follow:

THE INTERNATIONAL FINANCIAL INSTITUTIONS: THE CHALLENGES AHEAD

(Remarks by Hon. James A. Baker III, Secretary of the Treasury)

I am pleased to have this opportunity to join you here today. The task you have undertaken—to explain the workings and significance of the Bretton Woods institutions to our fellow citizens—remains as important, and as difficult, as ever. But your activities are needed and appreciated. One of my reasons for wanting to join you at your annual meeting is to urge you to keep up the fine work you have done in the past.

For forty years, since the original Bretton Woods meetings, the International Monetary Fund and the International Bank for Reconstruction and Development have been focal points for the international community's efforts to facilitate and promote soundly based growth and development of the world economy. Over these years, not only has their role been important, but their record has been impressive. Yet it is in the past dozen years or so, as the world has experienced the oil crises of the 1970s and the debt crisis of the early 1980s, that these institutions have made their greatest contributions. Without the Bretton Woods institutions, we would certainly have emerged from these crises a poorer, more fragmented, less hopeful world.

Despite the fact that the international financial institutions have been playing an increasingly critical role, it must be acknowledged that public support has declined. One of the reasons may be the increasingly intense competition for federal budgetary resources. If so, the climate will hardly be more benign in the coming years than it has been in the past.

While I can hope the shocks of international economic crises are behind us, I know the problems we face are not. We will continue to need these institutions, and we will continue to need your help in mobilizing support for them.

The American public must understand that it is not just the rest of the world (nor just the developing countries) that would be the poorer without the international financial institutions—the American public would be poorer, as well. The impact on U.S. exports of the debt-related economic downturn in Latin America and other developing countries may have brought this realization home to many people. Still, the message that growth in the developing world affects the level of employment here needs to be more widely understood.

Looking ahead, I see two main challenges to which the international financial institutions must respond. These institutions must play a major role in implementing the proposed "Program for Sustained Growth" in developing nations that lies at the heart of the current phase of our global debt strategy. Secondly, the International Monetary Fund remains at the center of our efforts to improve the functioning and stability of the international monetary system.

Your Committee's recent policy statement is a welcome contribution to the discussion in these areas, and I would like to share with you the Administration's latest thinking.

THE DEBT SITUATION

Since the debt crisis emerged in 1982, considerable progress has been made in reducing the substantial current account deficits of the major debtor nations. The decline in growth in most of these countries has been reversed, and imports are increasing once again. However, progress in reducing domestic imbalances has been less impressive, and more needs to be done to assure a firm foundation for sustainable growth. Net commercial bank lending to support these efforts in the principal debtor countries has declined significantly, from $25 billion in 1982 to virtually no new new lending in 1985.

As you know, at the Annual Meetings of the Bank and the Fund in Seoul last October, the United States proposed a "Program for Sustained Growth" that involved mutually reinforcing actions by debtor nations, the IMF and the multilateral development banks, and commercial banks. The response has been very positive and encouraging. We have received broad statements of support from the U.S. banking community and key foreign banks, the International Monetary Fund, the World Bank, and the Inter-American Development Bank, as well as positive responses from a number of the debtor nations.

Where do we go from here?

For the multilateral development banks, the next step will be enactment of reforms to streamline procedures and to enhance disbursements of loans conditioned for policy reforms.

We expect to see a growing stream of policy-based structural and sectoral adjustment loans from the World Bank and a strengthened emphasis on privatization, open markets, and increased savings and investment. The suggestion in your policy statement on developing capital markets should fit well with the Bank's efforts in this direction. We believe there should be both debt and equity market development, with the latter designed to facilitate the privatization process.

Total lending by the Bank in 1986 should be about $2 billion higher than in 1985, with the share of policy-based loans rising substantially, concentrated in the principal debtor countries. The regional development banks should provide an additional increment of $1 billion in lending in 1986.

We anticipate that adoption of reforms to support structural change in borrowing countries, well coordinated with the IMF, will be a key element in the negotiations for the Eighth Replenishment of the International Development Association which begin later this month.

We will also be working closely with the Inter-American Development Bank to encourage necessary procedural and policy reforms to support the U.S. initiative.

The IMF is already considering how to implement the kinds of reforms we are proposing, including greater emphasis on supply-side measures to help mobilize domestic savings and investment and on market-opening measures.

The banking community will need to devise its own mechanisms for implementing its commitment to increase net lending to support growth-oriented measures in the developing countries. We have a pledge of support from U.S. banks that account for 95 percent of exposure to the countries in question. Pledges of support from the banking industries in other countries have also been made directly to the World Bank and the International Monetary Fund.

Finally, and most importantly, we must now look to the debtor countries themselves to adopt the essential economic measures to carry out the U.S. proposal. This won't happen overnight, nor can we expect all of the principal debtor nations to pursue identical paths in this regard.

Some nations, such as Argentina and Mexico, have already begun, or will need, full-fledged negotiations with the IMF and the World Bank, which may take some time.

Other countries, such as Ecuador, Colombia, the Ivory Coast, Morocco and Uruguay, already have new bank financing, debt rescheduling and IMF programs in place, and are now in the process of negotiating additional structural or sectoral loan programs with the World Bank.

Ecuador, which signed a large World Bank loan last week, is an excellent example of a country that is adopting the sound economic policies that are fundamental to the approach we have proposed, and we hope others will follow.

We can continue to expect that implementation of the overall effort will be governed by the pace and type of negotiations by each individual debtor nation on economic

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

programs with the IMF and the World Bank.

IMPROVING THE INTERNATIONAL MONETARY SYSTEM

A second challenge lying ahead of us is to advance our efforts to improve the international monetary system. The current system, in particular its flexibility, served us well as we passed through a period of global economic shocks. Its basic structure remains valid. At the same time, the system has been less stable than we would have liked, and exchange rate movements have been one factor—though not the only one—contributing to protectionist pressures.

In approaching the task of improving the international monetary system, I have found there is a near consensus that the key to stability is to encourage convergence of favorable economic performance among the major industrialized nations. The fundamental outstanding issue is how to encourage sovereign nations to pursue, in the words of your policy statement, "mutually consistent and reinforcing policies." At a minimum, we have to develop a more effective means of assuring that the international implications of domestic policies are taken into account.

As the center of our framework for international economic and financial cooperation, the IMF clearly has a central role to play, and our broad objective is to make the Fund more effective. The April meeting of its Interim Committee will have before it the reports of the Group of Ten and the Group of Twenty-Four on improving the international monetary system. These reports provide suggestions for improving the exchange rate system, international surveillance, arrangements concerning international liquidity, and the role of the IMF.

While these issues are almost always complex and often politically difficult, the recent accomplishments of the Group of Five constitute an encouraging sign that progress in key areas is possible. The agreement they reached last September in New York demonstrates the willingness of these key countries to collaborate regarding their policy intentions in order to foster increased and more balanced growth and to ensure that exchange rates more fully reflect underlying economic fundamentals.

Since September, the exchange markets have clearly recognized that better convergence of economic performance has taken place and is in prospect. For its part, the U.S. has moved to implement the policy actions set forth in that agreement. We have begun to put in place a program for reducing our budget deficit, made meaningful progress on tax reform, and continued to resist protectionist pressures firmly. Even if in some instances actions have not always been as fast and forceful as one might hope, the other participants in the G-5 are also moving to implement the New York agreement.

However, we recognize that work on improving the international monetary system must continue. We will patiently pursue our efforts to improve arrangements for international economic and financial cooperation.

The challenges now facing the Bank and Fund will make your work in explaining to the American public how the institutions operate even more important. And we are very grateful for the important service you are performing for your country. Thank you.

THE ROLE OF THE IMF IN THE PRESENT INTERNATIONAL SCENE

(Remarks by J. de Larosière, Managing Director of the International Monetary Fund)

It has been a year since I last had the pleasure of meeting with you. It has been an eventful period. The year was characterized by a number of difficulties in the world economy which had implications for the management of the debt problems. But it ended on a distinctly positive note—with several manifestations of a new resolve to tackle the problems facing the world economy in a cooperative and constructive way. The new developments involve a continued pivotal role for the Fund, in close association with the World Bank, in paving the way to a resolution of the debt problems and toward a more dynamic world economy.

1. THE WORLD ECONOMIC SITUATION

Developments in the world economy last year were marked by a number of difficulties. First and foremost, growth in the industrial countries slowed down—from about 5 percent in 1984 to around 3 percent. This was accompanied by a deceleration in the rate of growth of world trade to about 4 percent, less than half the rate recorded in 1984. These developments were, in turn, reflected in reduced growth of developing countries' export volumes and a further weakening of commodity prices. Export earnings of the LDCs—excluding the major oil exporters—were flat last year, having risen by 12 percent in 1984. This put increased strain on indebted countries seeking to meet their heavy debt servicing obligations. It also restricted their growth in output.

A second concern has been in the realm of international financing. Net new lending by commercial banks to developing countries has all but stopped. While it was inevitable, and indeed essential, for the banks to scale back their lending from the unsustainable rates recorded up to 1981, the recent trend has been toward a too-rapid disengagement—one that if not reversed could undermine the efforts of countries making progress toward adjustment. Despite some positive developments since 1984, including for example, the multiyear rescheduling agreements for Mexico, Venezuela, and Ecuador, and a decline in interest rates, there has been great difficulty in putting together some recent financing packages, such as those for Chile and Uruguay.

A final area of concern relates to the situation and policies of the developing countries themselves. Despite the remarkable improvement in external positions over the past few years, policy adjustments in many countries are still incomplete. One indication of this is given by the fact that inflation remains much too high in many developing countries and has been getting worse. Another is that much of the improvement in current account positions of developing countries has come from reduction in imports and investment; increases in exports and in savings need to make a larger contribution if external adjustment is to be combined with growth. In short, a desire for growth and stability is not enough: the conditions and policies necessary to achieve it need to be put in place in the developing countries themselves.

2. REINFORCING THE DEBT STRATEGY

It was against this background that the Annual Meetings of the Fund and the Bank took place in Seoul last October. The dominant theme of those discussions was how to restore the momentum of growth in the developing countries in such a way that it will be sustained and will permit continued progress toward overcoming their external financial difficulties.

The Seoul meetings served to reaffirm several important aspects of the present debt strategy—the case-by-case approach; the need for adjustment and financing to go hand-in-hand; and the importance of cooperative action on the part of all parties. There was a clear recognition on the part of industrial and developing countries alike that sound domestic policies and orderly international financing were essential ingredients of a successful resolution of the debt problems. National authorities and financial institutions shared a common responsibility in meeting this challenge. The emphasis on shared responsibility in assuring the continued success of the debt strategy was strongly stressed in the discussions.

But the key development at the Seoul meetings was a consensus on the need for reinforcing the debt strategy. As you know, Treasury Secretary Baker unveiled a constructive and comprehensive set of proposals based on three elements:

The adoption by principal debtor countries of comprehensive macroeconomic and structural policies, geared to promoting growth and balance of payments adjustment, and to reducing inflation.

A continued central role for the IMF, in conjunction with increased and more effective structural adjustment lending by the multilateral development banks, in support of the adoption by principal debtors of market-oriented policies for growth, and

A call on commercial banks to support these growth-oriented adjustment programs by lending new money—to the tune of $20 billion over the next three years for an indicative group of 15 major debtor countries.

The Baker initiative has received considerable support from the Fund membership at large and from commercial banks in North America, Europe, Japan, and Saudi Arabia. In a recent discussion at the Fund's Executive Board, the initiative was seen as an important signal to the international community and as a timely step toward renewing the momentum in dealing with the debt problems and toward providing a constructive framework within which to act.

In responding to the U.S. proposals, commercial banks in the major financial centers, accounting for an overwhelming majority of the claims on indebted countries, have welcomed Secretary Baker's initiative and have confirmed their willingness to play their part in the implementation of the debt strategy, on a case-by-case basis, in collaboration with all other participants. A resumption of net new lending by commercial banks is in the common interest of the banks and their country-clients: higher lending will facilitate the adjustment efforts being undertaken while, at the same time, increasing the quality of the banks' own assets.

3. THE ROLE OF THE FUND

I now come to the final subject of my remarks—the role of the Fund.

To begin with, the Fund will have an important role to play in the formulation and implementation of the reinforced strategy. The Fund is working with the membership, the World Bank, and the commercial banks in seeking to translate the Baker initiative into concrete action. If we want more growth, we can't only rely on external financing. We will need more investment,

more exports, and greater economic efficiency. That can only be brought about with more domestic savings, better incentives for exporting, and more competition. This in turn implies the right policies on the fiscal, monetary, exchange rate, and supply sides. The Fund will continue to play a key role in assisting members to establish a macroeconomic framework that can combine durable growth and adjustment. A review of the supply-side aspects of programs is being undertaken by the Fund in connection with the current review of conditionality. We are also strengthening further and intensifying our already close collaboration with the World Bank in helping countries formulate comprehensive economic programs needed to promote growth and attract external financing. There can be no doubt that the success of the strategy will depend heavily on the closeness and effectiveness of the cooperation between the two Bretton Woods institutions.

The Fund will also continue to play an important role in the financing of the system. Given the heavy lending by the Fund over the past few years and the revolving nature of its financing, the Fund's role as a financial catalyst will assume added importance. As you know, the Board has taken action to reduce marginally the ceilings under the Fund's enlarged access policy: the annual limits have been reduced from 95 percent to 90 percent of quota, and the cumulative limit scaled down from 408 percent to 400 percent. (Access limits under the special facilities are unchanged.) Nevertheless, the Fund still retains the necessary flexibility to help member countries finance their balance of payments deficits.

Also, the necessary papers are now before the Board to put into effect the agreement reached in Seoul on the use of the Trust Fund reflows. Those reflows are estimated to amount to about $2.7 billion over the next five years, and will be made available to support programs of structural adjustment and growth in low-income countries facing protracted payments problems. India and China, which have large quotas, and would have been eligible for a large share of these resources, agreed to abstain from utilizing them. This is very important because it is going to mean that the entire amount can be concentrated on the smaller poor countries, particularly in Africa, which are saddled with structural balance of payments and debt problems.

Of course, the Fund's role in the international monetary system extends beyond that of assisting members in devising economic programs and providing financial support. We also have a central responsibility to promote the effective operation of the international monetary system. In this regard, the Executive Board will be giving detailed consideration in the immediate future to two reports on the functioning of the international monetary system—one by the Group of Ten industrial countries, and the other by the Group of Twenty-four developing countries. This will provide the basis for a full discussion at next April's meeting of the Interim Committee. Both reports lay stress on the need to make Fund surveillance more symmetrical and effective, with the aim of achieving better economic convergence among major countries and thus of fostering more stable international monetary conditions and a better climate for growth. Widespread support was expressed at Seoul for this approach as well as for the commitments and intentions stated by the five major industrial countries following their meeting in New York on September 22, to strengthen their cooperation in order to achieve a better and more stable pattern of exchange rates.

The policy agenda is full. Economic growth has to be consolidated, both in industrial and developing countries; efforts to improve policies need to be sustained; and financial flows to indebted countries have to be increased. At the same time, we must seek to strengthen the international monetary system and we must give effect to the commitments that have been made to resist protectionism. In my view, the Seoul meetings were very positive. They reflected a strong spirit of solidarity among the membership and a resolve to act together, within the framework of the Bretton Woods institutions, to overcome the problems now facing us. Our task now is to build on this spirit and translate it into concrete action. The support of your Committee will be a valuable element in the fulfillment of this task.

Priority Issues on the World Bank's Agenda

(Remarks by A.W. Clausen, President, The World Bank and International Finance Corporation)

Good morning ladies and gentlemen, the first order of business is a word of congratulations. The Bretton Woods Committee has completed its first year, and already it is firmly established. You have seized opportunities to speak clearly and frankly about the international economic issues of the day. You have advanced public understanding of the Bretton Woods institutions through your diligent work with the media and the Congress. We are most grateful to you for these efforts, and we would urge you to build upon this impressive beginning, expanding the unique and important role which your organization has proved itself so capable of performing.

This is an exceptionally well informed audience and I feel it would be more productive today if we had an exchange of views, rather than a long monologue from me. So, I will be brief in these opening remarks, concentrating on some of the key priorities that are at the top of The World Bank's agenda—most notably our strategies to assist the highly indebted nations; our work with other middle-income nations; our support for urgently needed development progress among the poorest nations, which is to say the role of IDA; and our commitment to private sector development through the work of the International Finance Corporation and our new Multilateral Investment Guarantee Agency.

Permit me to begin with the highly indebted nations and The World Bank's response to their difficulties. The members of the Bretton Woods Committee need no introduction to this issue—indeed, you have already produced an excellent policy statement on the subject.

So, you will recall that in Seoul, at our last annual meeting, the Bank's shareholders reached agreement that the Bank should play an enhanced role in assisting the highly indebted, middle-income nations to move forward on a development path that would secure growth and restore creditworthiness. Secretary Baker played a leading part in forging that new consensus on the debt problem, and we are most grateful to the United States for stressing the importance of a resumption of growth in the highly indebted countries and for placing such confidence in The World Bank as a major participant in the international debt strategy. Our long experience in promoting growth throughout the developing world makes us very willing and, let me say, capable partners in this effort.

The new consensus on the debt issue that emerged at Seoul grew from a recognition that our efforts to ease the debt problem were being hindered by some unfavorable, unexpected developments. The robust U.S. recovery did not endure, commodity prices remained flat, and the expected flows of new money did not come forth from the commercial banks.

All of this has left the highly indebted nations turning in a vicious circle. Their heavy debt service obligations take away resources needed for domestic investment. The resulting shortfall of investment activity precludes a significant expansion of export capacity to generate additional foreign exchange. Debt payments remain an overwhelming burden, which in turn diminishes economic prospects and investor confidence. Commercial banks shy away and domestic capital flies off to more hospitable climes. And there is no economic growth.

Our discussions in Seoul have put the issue sharply in focus: without new sources of capital the heavily indebted countries will fall deeper into a low investment—low growth trap. In order to escape that trap, the heavily-indebted countries will need cooperative, concerted action from all participants in an expanded international debt strategy. This means that the indebted countries themselves, the industrial economies, the commercial banks, and the multilateral development banks each have their respective responsibilities. The World Bank takes its role very seriously.

But I want to point out that our sense of urgency on the debt problem did not originate in Seoul. Well before that meeting we put together creative lending programs for several highly indebted Latin American countries. In Colombia, for example, we supported the government's trade liberalization initiative with a $300 million loan, and our monitoring of Colombia's trade policy is associated with the provision of new money by commercial banks. We have forged similar cooperative lending arrangements with Costa Rica, Chile, and Uruguay.

Building on this firm base of experience, our work on the debt issue has accelerated sharply.

We are pressing ahead with extensive planning and analysis activities. We are redeploying staff to enhance our capabilities as our coordinating function in the debt strategy grows. We are more directly engaging commercial banks in the process and more dynamically entering into discussions with our borrowers. And let me assure you that our coordination with the IMF is being developed even further. The will to secure this on both sides of Nineteenth Street is very great.

Our special capability in this enhanced international strategy lies in our close relationship with the countries themselves. Through our knowledge of those countries and the mature quality of our policy dialogue, we have and we will continue to help them work out the necessary changes in economic policy. Three basic areas must be addressed—first, an increase in the rate of growth of savings, both in the private and public sector. Without new domestic savings, productive new investment will be very difficult to attain. Second, there must be an improvement in economic efficiency, particularly the use of capital if a high growth

strategy is to be affordable. And finally, exports must increase in order to win back the creditworthiness which has ebbed away in recent years.

To take one specific example from the many countries we are actively working with, Argentina faces some daunting problems. Interest payments on external debt now absorbs some 40 percent of gross domestic savings compared to less than 5 percent in the early 1970s. While the external debt increased, domestic production declined. In 1985, real GDP per capita was 13 percent below the 1974 level, and investment fell off too, from 21 percent of GDP to 13 percent last year.

What can Argentina do to reverse this decline? First, a continuation of its policy of monetary and fiscal reform is a necessary precondition for any program. Second, positive economic growth must be restored. Third, per capita consumption must steadily improve in order to maintain the social and political consensus behind the program. And last, the ratio of debt to exports must be brought down to levels where foreign capital will be willing to play a more normal role in the economy.

We are engaged in a vigorous, uninterrupted dialogue with Argentina and we are fully confident that an enhanced financial relationship will ensue, perhaps similar to our evolving work with Ecuador.

Just last week we signed two significant growth oriented adjustment loans to Ecuador, with the President of that country in attendance. These are the first in a series of loans which will strengthen that nation's ability to secure growth, to enhance domestic economic efficiency and, over time, create a far greater capacity to manage external debt obligations.

In December, I visited Ecuador, Uruguay and Argentina. My discussions with Latin American leaders were fruitful, and the expressed willingness of their governments to take tough actions in order to secure better long-term growth prospects was most encouraging.

Our discussions with indebted country governments are progressing well, and I assure you that the results of our current activities will become increasingly, publicly evident over the next twelve months. But let me make two very important points here. The first concerns the mechanics of our negotiations—they are country-by-country. Each indebted nation has its own distinctive situation which requires highly customized attention. Today's debt problems will not be erased with a single sweeping gesture, but resolved step-by-step and case-by-case.

My second point on country negotiations is this. Adjustment lending on the scale we envision and in association with the thorough economic restructuring that will be required will not be embraced or arranged overnight. Our experience in this sort of operation is well developed, and we have found that sovereign nations negotiate such loans with extreme care. They face political and economic dilemmas just as sensitive and just as intractable as those which we face right here in our own country.

So let us not build up naive expectations. We do have the will of the leaders of most of these nations to act swiftly, but political realities demand time for the process of economic analysis, policy formulation, loan negotiation and program completion to unfold.

If we push for instant results and swift conclusions, we will risk an impasse that will be damaging for all: damaging to the hopes for recovery in the countries themselves and damaging to the high quality of our lending which our shareholders and investors have come to regard so highly. Let there be no question that our negotiations with borrowers will proceed on an urgent basis, but we insist that the pace be measured and the results be of the highest quality.

The World Bank's coordinating role has also involved us in frequent discussions with commercial bankers who, as you know, are very key players in this cooperative strategy. We feel that the willingness of the commercial banks to provide more financing to the indebted countries will rest very squarely on the progress of adjustment in the indebted countries, the quality of that adjustment, and its orientation to growth. My discussions with both bankers and developing country leaders in recent weeks make me confident that the required cooperation will be obtained.

Thus, we are geared up to play three distinct roles, and the work has begun. First, we will be assisting in the formulation of country growth programs and will be helping in the monitoring of their progress. Second, we will be providing an expanded volume of capital necessary to support the programs. Third, we will be acting as a catalyst in the mobilizing of capital from other sources.

We are already making excellent progress given the complexity of this many-sided effort. And we want all of our friends in the Bretton Woods Committee to understand how determined we are to see this debt strategy work and how confident we are that we can build on the progress already made.

It might seem from all the recent attention paid to the problem of the highly indebted nations that The World Bank has given up its project lending in the rest of the middle-income countries. This, of course, is not the case. To sustain growth and balanced development in these relatively unburdened countries is another key priority on our agenda. From China to Turkey to Indonesia and Tunisia our lending activities are moving ahead. Indeed, overall we see IBRD commitments this year totalling between $12 to $13.5 billion, compared to $11.4 billion last year. And our work in progress, the pipeline as we call it, leaves little doubt that in our next fiscal year still higher levels of commitments will be reached.

This growth in IBRD lending will continue, and before long, we will face limitations on that growth imposed by the amount of our capital and reserves. I therefore want to reiterate to this influential audience, that the IBRD will need, in time, a general capital increase.

Let me turn now to our concessional financing affiliate, and that is IDA, the International Development Association. It is no secret to this audience that the replenishment of IDA's resources has not always been trouble-free. IDA's 33 donor nations agreed to a $9 billion total in 1984, a sum $3 billion less than the previous replenishment and frankly a disappointment, not only for IDA's borrowers in Africa and Asia, but for many donors as well. At the conclusion of those negotiations, there was a palpable sense among donors of a job not fully done.

Africa's relentless economic decline has been a grim reminder of the need for a strong IDA, and early last year donors established the Special Africa Facility as a response to the crisis. To date $1.4 billion has been pledged, and we are appreciative of the recent appropriation by the United States to this Facility. Next Monday the IDA Deputies will meet in Paris. They will look at the terms and conditions of IDA's credits; they will look at the geographical distribution of IDA's assistance, and they will discuss the policy orientation of IDA lending.

We are hopeful that the IDA donors will recognize that the resources we now have, through IDA and the Africa Facility, fall seriously short of what is needed by the poorest countries. They must understand that in Africa the needs for adjustment finance are much longer term than the three-year life of the Facility. And in addition to the investments needed in human resource development, poverty alleviation and basic infrastructure, one of IDA's more urgent tasks will be to address the emerging debt problems of many poorer countries in the developing world.

Let us be candid here. We cannot rely in the future on ad hoc, one-shot special facilities to make up for funding shortfalls in the IDA replenishments. This is not a complaint, but an appeal for pragmatism. To meet the need of all of our poorer country members, including the growing volume of adjustment lending, it will be far more effective to rely on a long established, proven instrument, and provide it with sufficient resources to do the job well. And that means we will need to equip IDA with resources which exceed the total of IDA VII and the Special Africa Facility contributions.

Let me add that Secretary Baker has outlined ideas for additional concessional flows in association with the IMF Trust Fund—we are working to develop this most constructive initiative.

IDA's replenishment and the Bank's full response to the needs of our middle-income countries are two of our highest priorities, but they are closely followed by issues crucial to the future of private sector development and deeply deserving of your continuing support—that is the future of MIGA and the IFC.

Last year, we were very gratified with the decision of our Board of Governors to approve the convention establishing the Multilateral Investment Guarantee Agency or MIGA. MIGA will promote private investment for development through its coverage against the risks of adverse currency situations, political violence, and expropriation. Through those coverages and an array of advisory and intermediary services, we expect MIGA to substantially improve the investment climate in participating developing countries.

To bring the MIGA convention into force, we will need the signatures of five industrialized countries and fifteen developing countries. Six developing countries have already signed the convention and more are expected shortly. They are Korea, Turkey, Ecuador, Senegal, Sierra Leone, and St. Lucia. The United States has announced its intention to seek Congressional authorization of U.S. participation in MIGA; and we expect the Administration to move in the near term. United States leadership will be emulated by others, thereby moving up MIGA's first day of operation to the nearest possible date. Your vigorous support of this issue is indispensable.

Our commitment to private sector development is also in evidence with the expanding activities of the International Finance Corporation. The IFC's Board has approved a doubling of its capital to $1.3 billion. And last year, the United States Congress appro-

priated $29 million as a first installment on the American allocation of $175 million.

We are very pleased with that outcome but we should not be complacent. The Graham-Rudman procedures recently enacted by Congress will certainly be a factor in further installments, and therefore we must make clear how important it is to maintain the commitment to contribute the full U.S. allocation of IFC's capital increase, even if it means stretching out payments somewhat to meet budgetary targets. As in the case of MIGA, the U.S role must be one of unquestioned leadership in the expansion of IFC's capital, and we hope to see that leadership role sustained for the strengthening of the IFC.

Ladies and gentlemen, we have set before you today the priority issues on our agenda as we see them. Against a backdrop of an uncertain economic climate in the industrial countries no one in this room can underestimate the degree of difficulty we face in these challenges. But The World Bank is stronger now than ever before to confront its responsibilities. Our liquidity is high, the management of our investment portfolio is efficient, and we recently borrowed at the finest spreads ever over the cost of government obligations.

So let there be no uncertainties concerning the financial strengths of The World Bank, and let me assure you that in close partnership with the International Monetary Fund we will play to the full the major roles we and our shareholders have set for ourselves. And with your support and encouragement, we are confident that we will succeed.

Thank you. And now I will be pleased to hear your comments and questions.●

THE FEDERAL EMPLOYEES BENEFITS IMPROVEMENT ACT OF 1986

HON. MARY ROSE OAKAR

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 28, 1986

Ms. OAKAR. Mr. Speaker, today I am introducing the Federal Employees Benefits Improvement Act of 1986. Joining me as original cosponsors are Congressmen WILLIAM FORD, GENE TAYLOR, JOHN MEYERS, DON YOUNG, STENY HOYER, MIKE BARNES, Congresswoman BARBARA MIKULSKI, and Congressmen FRANK WOLF and STAN PARRIS. I want to commend them for their support for this bill, and for their untiring efforts on behalf of Federal workers.

Mr. Speaker, this legislation is similar to a bill I introduced last fall, H.R. 3384, which was vetoed by the President on January 17, 1986. I was surprised and deeply disappointed by the President's veto of H.R. 3384. That bill would have enabled Federal employees and annuitants to receive refunds from their health insurance plans. In addition, it included many other important changes in the Federal health insurance and retirement programs.

Members in the House and Senate worked together with the administration in a spirit of bipartisan cooperation to develop H.R. 3384. The legislation was supported by numerous associations and employee organizations. H.R. 3384 should have been enacted: it had widespread support in both bodies; but it was vetoed.

As a result, millions of Federal employees and retirees are still counting on the reforms that were in H.R. 3384. Many are waiting to receive their health insurance refunds. Others, living in medically underserved States, still are not eligible to be reimbursed for basic health services. Hundreds of widows are hoping for changes in the retirement law so that they will be treated more fairly. It is essential that we act as expeditiously as possible to help these individuals and to improve the health insurance and retirement programs.

The President cited two provisions in H.R. 3384 upon which he based his decision to veto the bill. The first was a provision to eliminate the 75-percent cap on Government contributions to the Federal Employees Benefits Program [FEHBP]. The second mandated direct reimbursement for nurses and nurse-midwives for services provided to FEHBP enrollees. I believe the President's objections to these provisions were misdirected. These changes would have resulted in a more equitable health benefits program and substantial long-term savings to the Federal Government. Nevertheless, in order to expedite enactment of this legislation, the bill I am introducing today omits the two provisions specified in the President's veto message.

My colleagues should understand, however, that I will not abandon these two provisions. Earlier in this Congress, conferees on the reconciliation legislation agreed to eliminate the 75-percent ceiling on the Government's FEHBP premium contributions. I continue to support this measure in reconciliation because it will promote long-term cost savings. As enrollees are allowed to take full advantage of the Federal premium contribution, we can expect a shift in enrollments to more efficient health plans, with a corresponding reduction in the Federal Government's overall health insurance premium bill.

It is unfortunate that the Office of Management and Budget [OMB] and the President completely distorted the budgetary impact of the cap provision in vetoing H.R. 3384. Their opposition is especially curious given the administration's long history of support for this reform. The opportunity for another change of heart will present itself again, however, when Congress takes up reconciliation. This issue is far from over.

The President also expressed opposition to a direct reimbursement policy for nurses under the FEHBP. It appears this opposition stems more from political pressure exerted by the American Medical Association than from any inherent problem with the policy, itself. I believe the FEHBP should pay for services provided by nurses and other qualified health professionals. Accordingly, my legislation retains important aspects of this provision.

H.R. 3384, as originally introduced, directed the Office of Personnel Management [OPM] to study the feasibility of direct reimbursement for nonphysician health providers, including nurse practitioners and others. During Senate consideration of H.R. 3384, the study was replaced by mandatory direct reimbursement for nurses and nurse-midwives. The legislation I am introducing today returns to the original study proposal.

My legislation directs the OPM to study and report to Congress, no later than April 1, on the feasibility and cost-effectiveness of direct reimbursement for various health professionals, including nurse practitioners, nurse-midwives, clinical social workers, and chiropractors. Immediately upon completion, the OPM study will be reviewed in hearings before the Subcommittee on Compensation and Employee Benefits, which I chair, and appropriate legislation will be developed for consideration by this body.

I firmly believe that all qualified health practitioners should be paid for the services they provide. Direct reimbursement not only reflects the value our society places on quality health care, it expands access to providers for our health care consumers. In addition, this reform will promote cost savings. In many cases, nurse practitioners, nurse-midwives, and other professionals can offer the same quality health care for a lower fee than that charged by physicians. We need this kind of cost-effective choice in our Federal Health Insurance Program.

Mr. Speaker, I am proud to introduce this legislation to assist Federal employees, annuitants and their dependents. I urge its swift consideration in the House of Representatives so that Federal employees can benefit from these reforms without further delay.

JAMES MATLACK HUGHES

HON. CLAUDE PEPPER

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 28, 1986

Mr. PEPPER. Mr. Speaker, I would like to insert into the CONGRESSIONAL RECORD notice of the tragic death of Maj. James Matlack Hughes, U.S. Army, and the eulogy delivered by Major Hughes' brother-in-law, Capt. David Gorski, U.S. Army. I want to extend my deepest sympathy to this devoted family.

Major Hughes was born into a distinguished Army family at Fort Benning, GA, on December 9, 1952. As an Army son, Jim Hughes traveled in this country and in Germany with his family. He lived at West Point when his father, Lt. Col. Henry J. Hughes, U.S. Army, was a tactical officer for the Corps of Cadets. Jim Hughes enlisted in the Army in 1970. Then, like his father, Lieutenant Colonel Hughes, and his maternal grandfather, Col. Jesse Brooke Matlack, U.S. Army, Jim Hughes entered the U.S. Military Academy. Jim received a commission in the field artillery upon graduation in 1975. A gifted mathematician, Major Hughes earned a master's degree in applied mathematics at the naval postgraduate school at Annapolis and another in operations research. Major Hughes was awarded the Legion of Merit during his Army service.

Maj. James M. Hughes leaves a valiant family: his wife, Theresa, an Army daughter herself; two children, James Matlack and Heather Holley Hughes; his mother, Barbara Matlack Hughes; his grandmother, Dorothe Kerans Matlack; his twin sister, Brooke Hughes Gorski, nurse and former Army captain; and two brothers, Maj. H. Joseph

Hughes, U.S. Army, and Capt. John M. Hughes, U.S. Army.

Capt. David Gorski, an Army doctor in San Antonio, TX, delivered the eulogy of Maj. James Matlack Hughes, just as that splendid soldier had done for his father in 1981. Major Hughes told that bereft gathering that he wanted to be like his father and endeavored to emulate that noble man since his childhood in Germany.

JAMES MATLACK HUGHES, 1952-1985

"To remember him is to recall a happy man who loved life, with a twinkle in his eye, a quick smile, a man who loved people, and was easy to love in return."

These words were written by Jim Hughes. They were spoken from this very pulpit four years ago as Jim delivered his father's eulogy. There is a twinge of irony in the thought that Jim could easily have been writing about himself, and yet the words are so fitting: "a man who loved all of us, and who was so easy to love in return."

I think it is especially tragic when a young man dies. Somehow the loss seems so much more profound. We are left shocked and bewildered, even questioning our very purpose in life. In Jim's mind there would be no doubt as to his purpose on earth. He would tell you he was here to be a soldier. Like his father and his mother's father, Jim graduated from West Point, where the tenants of the Academy's motto, Duty, Honor, Country, were more than words emblazened on a school ring. For Jim, the motto was a template for his actions. He was a man of traditional values: loyalty, truthfulness, totally dedicated to his profession. A soldier's soldier, his great military love was to push troops, and he would have been content to be in command his entire career. In Jim's mind, this was his purpose.

But I would disagree. Jim Hughes was here to touch all of us. He was a compassionate, caring man with a great talent for making you feel good about yourself. I remember meeting him for the first time. I was newly assigned to the headquarters of the Field Artillery School, trying to keep a low profile. Jim was the general's aide working down the hall. Now Jim and I had gone to the same high school, but had never met; for he was only a freshman when I was a senior. On my second afternoon in the job, Jim marched into my office, straight to my desk and said, "Sir, I know you! You're Dave Gorski!" Then in front of me and my new co-workers he began to recite with freshman admiration all of my high school achievements, half of them embellished and the other half purely fabricated. By the time he finished I was sure to be canonized. I feigned embarrassment, but secretly I was delighted. And this was so typical of Jim. He was far more interested in the achievements of his family and friends than in his own many accomplishments.

Telling you this story reminds me what a marvelous storyteller Jim was. His anecdotes were wonderful. With his articulate and expressive style, he could make you feel as if you had been right there. And his laugh was infectious. Those of you who knew him can hear it now—a deep raucous boistrous belly laugh, that turned his ruddy cheeks redder, and warmed all of us.

It is memories like these that serve as Jim's legacy. The importance of his life is the impact he had on all of us. He touched us with his goodness and his generosity. His memory inspires us to care a little more, to give a bit more, as Jim gave so freely of himself. Truly, there was never a more devoted husband or loving father, never a more dutiful son or brother. There was no better friend. To remember him is to recall a happy man who loved life, the twinkle in his eye, the quick smile, a man who loved all of us, and who was so easy to love in return. We will miss him dearly. Godspeed, Jim!

ANDREI SAKHAROV

HON. SILVIO O. CONTE

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 21, 1986

Mr. CONTE. Mr. Speaker, I rise on behalf of Dr. Andrei Sakharov, prominent nuclear physicist, human rights activist, and Nobel Peace Prize recipient, currently residing, in exile, in the closed city of Gorky. January 22, marks the sixth anniversary of the date on which Dr. Sakharov was arrested and exiled. According to Soviet law, 5 years is the maximum someone may be internally exiled. In addition, Dr. Sakharov was never convicted of an actual crime.

This 64-year-old peace activist is in poor physical health. He has been harassed, treated with mind-altering drugs, and is disallowed access to facilities and information neccessary to continue his work. Dr. Sakharov is not allowed to communicate with foreigners and, at times, his own family. As of this date he has not been heard from in over 3 weeks.

Dr. Sakharov's wife, Yelena Bonner, now recovering from surgery in Boston, is also restricted to residency in Gorky. This 62-year-old victim of Soviet antisemitism was only recently given permission to come to the United States for critically needed surgery. Permission to come was given only after repeated and extensive hunger strikes by Dr. Sakharov, and Western pleas on her behalf.

The Helsinki Act, cosigned by the Soviets, is supposed to guarantee the fundamental rights of people like the Sakharovs. As we know, all too well, this has not been the case in the Soviet Union.

Only through continuous petitioning and condemnation of the Soviet's violation of human rights, demonstrating our sincere concern, can we hope to force the leaders of that nation to see the error of their ways. Their constant violation of their citizen's rights, guaranteed them as human beings, cannot be allowed to continue without consequence. The Soviet Union must realize the rights of the people they claim to represent, and the effect such actions will have on the relations between the West and the U.S.S.R.

WHY NOT A TEST BAN?

HON. EDWARD J. MARKEY

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 28, 1986

Mr. MARKEY. Mr. Speaker, the Reagan administration should adopt the offer made by the Soviet Union, and abandon its opposition to a test ban. A comprehensive test ban would make great strides toward stopping the arms race, while seriously inhibiting nuclear proliferation.

I would like to call my colleagues attention to an excellent article by Flora Lewis which appeared in the New York Times on Friday, January 24. The article is a superb commentary on the need for a test ban, and the rationale behind the anti-test-ban position. Mrs. Lewis indicates that Congress should press for a comprehensive test ban, and I wholeheartedly agree.

The article follows:

[From the New York Times, Jan. 24, 1986]

WHY NOT A TEST BAN?

(By Flora Lewis)

GENEVA.—Mikhail Gorbachev has extended the Soviet moratorium on nuclear testing until the end of March to induce the United States to stop testing. A House resolution calling on the Administration to resume negotiations for a complete nuclear test ban has 207 Congressional co-sponsors, and is sure of passage. A similar resolution was passed by the Senate.

Since 1963, the U.S. has repeatedly committed itself by treaty to negotiate a permanent ban on all nuclear tests. But the Reagan Administration has broken off talks with Moscow on the issue and clearly does not want to start up again. It is apparently all the more reluctant now, since the Russians have made interesting offers for inspection and verification, rather than being intrigued by this new Soviet flexibility on what was always called the major stumbling block.

Why? There are layers on layers in the arguments against giving up nuclear explosions underground, the only remaining legal possibility. A current favorite is to develop the X-ray laser weapon for "Star Wars," which has to be fueled by a nuclear explosion. Beyond that is the argument that the U.S. can't rely on its existing arsenal without testing some other weapons occasionally to see if they still work as planned.

The anti-test-ban group in the Pentagon, at the weapons laboratories and elsewhere brushes aside the point that the Russians would be faced with the same uncertainty about their weapons, which would make them less likely to try a surprise attack. They say the less sophisticated Soviet arms are more "robust," a word fashionable in military jargon, and therefore less likely to deteriorate than more complex, refined American missiles.

And why aren't American missiles made so they are more reliable and can have defective parts replaced without nuclear tests? They could be, but as the Livermore physicist Hugh E. DeWitt pointed out in 1983 in the magazine Physics Today, the labs don't want to design them that way. The designers have always worked on the assumption that tests will never be forbidden, and therefore they can argue that they need tests to ratify their choice of design. It makes a closed circle.

If tests were banned, the lab directors say, the designers would drift off to other jobs in boredom and frustration. The United States would lose its pool of expertise. Is the real reason for continued testing then to give weapons designers something exciting to do?

No, say the opponents of a ban, it's because the Russians might cheat no matter how effective the verification system, and then America would need experienced people to catch up quickly.

Besides, some argue, if the U.S. wants to move away from multi-warhead missiles, which are destabilizing and vulnerable, toward smaller, one-warhead missiles like Midgetman, it could need more tests. But this isn't at all clear. Donald Kerr, who recently resigned as director of the research installation at Los Alamos, N.M., has said that whether tests would be required depends on Pentagon specifications for the missiles. The Pentagon has deliberately dawdled in deciding what it wants, and doesn't seem to want Midgetman.

As you probe down and down through the arguments, the basic one emerges. It is that the United States needs to keep "all its options," that it needs to have the choice to make different and better nuclear weapons when a new idea comes along.

And that leads to the core question. Even as it negotiates with Moscow to destroy a large percentage of existing weapons on both sides, does America still want to keep building more kinds of nuclear arms, or are there more than enough in the world already?

While a comprehensive test ban wouldn't guarantee that no more countries are going to become avowed nuclear powers, it would be a strong restraint on proliferation. If the Soviet Union, the U.S. and Britain, which were negotiating such a ban, agreed to renounce all testing permanently, any test by a new country would provoke world outrage and possibly sanctions.

There are compelling reasons for a ban that can be adequately verified, it would go a long way toward stopping the nuclear arms race. But it is obvious that the Administration refuses to take the initiative. So it is up to Congress.

Congress has proved that it can act effectively on arms control by making a law banning U.S. tests of antisatellite weapons as long as the Russians don't test them. That is an important start. The next step is to press for a ban on all nuclear tests.

THE HISTORY OF THE NORTH ATLANTIC ASSEMBLY

HON. CHARLES McC. MATHIAS, JR.

OF MARYLAND

IN THE SENATE OF THE UNITED STATES

Tuesday, January 28, 1986

● Mr. MATHIAS. Mr. President, during the last quarter of a century many Members of the Congress have participated in sessions of the North Atlantic Assembly. Some have served as officers of the Assembly and as chairmen of Assembly committees. But today few Members have any personal recollection of the days when the concept of a parliamentary group within the North Atlantic Treaty Organization was first discussed and developed.

It is useful to refresh our memory in this respect. As we consider the future agenda of the North Atlantic Assembly there is value in reviewing the purpose in the minds of the founders of the Assembly and the goals that they sought. One important element in setting our course for the future is to be very familiar with the road over which we have come.

An interesting paper entitled "Evolution of an Atlantic Assembly" by John A. Matthews was recently brought to my attention by former Representative Henry P. Smith III. It is dated January 20, 1962, so we can read it today with all the wisdom of hindsight. But we can also use it as a benchmark to determine how well we have employed an important institution. I ask that this paper be printed in the RECORD.

The paper follows:

EVOLUTION OF AN ATLANTIC ASSEMBLY

(By John A. Mathews)

INTRODUCTION

Interparliamentary assemblies have been made a substantial component of wholly-European political structures which have been created since World War II in the general social movement toward unity of "Western" countries. Such assemblies are now an important component of the Council of Europe, the Western European Union, and the three "European Communities"—Coal and Steel, Atomic Energy and Economic. Only the "Atlantic" structures—the Organization for economic Cooperation and Development and the North Atlantic Treaty Organization—and the decaying European Free Trade Association—have failed to make use of an interparliamentary assembly. However, the value of such an assembly to the more extensive Atlantic structures has not gone unnoticed but has been proposed and promoted privately to a point where it may soon gain acceptance by the cooperating governments. It is the purpose of this paper to trace the evolution of this historic development.

ORIGIN AND BACKGROUND OF THE PROPOSAL FOR AN ATLANTIC ASSEMBLY

The first widely-publicized proposal for an Atlantic Assembly was made by Senator Guy M. Gillette in a speech at Charlotte, North Carolina, on November 20, 1951. He said:

"What a great advance it would be if the legislators who are elected by and responsible to the peoples of the North Atlantic could meet regularly in a continuing forum to cooperate on solving common Atlantic problems!

"Why should we not set up; machinery through which the legislators of the Western European and British parliaments, the parliament of Canada, and the U.S. Congress could come together to consider common problems in the framework in which those problems really fit? Why should there not be created a North Atlantic Assembly?"

This proposal, made at the very moment that a delegation from the United States Congress was conferring with a delegation of the Consultative Assembly of the Council of Europe, aroused interest in the United States, Canada, and Western Europe. That meeting had been arranged by Mr. Spaak and Lord Layton, President and Vice-President of the Consultative Assembly in compliance with a resolution of that Assembly several months before. They had visited the United States, presented the Resolution to the Speakers of both Houses of Congress together with a synopsis of the Assembly's structure, role, and record, and had developed an agenda for such a meeting.

The Resolution had been proposed to the Assembly by Mr. Paul Reynaud, who in a speech at a World Brotherhood dinner in Washington in March 1951 had suggested that members of the U.S. Congress belonging to both parties come to the September meeting of the Assembly of the Council of Europe to discuss the "vital interests which bind us together . . ."

Senator Gillette's proposal probably culminated from numerous favorable responses he had received from legislators and political leaders of the North Atlantic countries to a letter he had sent in February 1951 "urging them to press for a governmental union of the democracies now associated in the Atlantic Alliance." In this letter, which had been sent with the concurrence of 26 others, he also described an informal committee being formed in the U.S. Congress to advance this cause, and suggested that similar groups be formed within the Parliamentary body of each of the Atlantic-Pact-sponsoring countries.

Concurrently with the Gillette proposal, Freedom & Union magazine published an article proposing a North Atlantic Assembly as an organ of NATO. Written by Mr. Livingston Hartley, a dedicated student of Atlantic unity, this article argued that "unity cannot be forged by governments alone; there must be a desire for unity and a feeling of unity among people or else their representatives in Congress and in parliaments will balk at steps which the common welfare requires." It also proposed several ways by which such an assembly could be created.

What was the background of these proposals for an Atlantic Assembly? It is probable that an assembly was considered and rejected by the drafters of the North Atlantic Treaty in 1948, so what encouraged Senator Gillette and Mr. Hartley to make their proposals in November 1951? The most obvious encouragement was the booming success of the program of the Atlantic Union Committee which had been formed about two years before for the purpose of:

"(a) enlisting public support for a resolution to be introduced in Congress inviting the other democracies with whom the U.S. is contemplating an alliance, to meet with American delegates in a federal convention to explore the possibilities of uniting with them in a Federal Union of the Free, and

"(b) continuing this support until such a Federal Union of Democracies becomes an accomplished fact."

Led by Owen J. Roberts, a former Associate Justice of the U.S. Supreme Court, Judge Robert P. Patterson, a former Secretary. of War, and William L. Clayton, a former Undersecretary of State, this Committee had secured the introduction into both Houses of Congress (July 1949) of a resolution "inviting the democracies which sponsored the North Atlantic Treaty to name delegates to a Federal Convention." Their personal influence and that of thousands of citizens who had joined the Committee in the two years since, had secured the publicly-declared support of almost a third of the Senate and over a fourth of the House. A brochure of the Atlantic Union Committee including the text of the Resolution is attached as Appendix A. Senator Gillette had been one of the original sponsors of the Resolution and had become an enthusiastic advocate of it. Mr. Hartley had been a governor of the Atlantic Union Committee almost from its inception and had been devoting all of his time to promoting its purposes.

It is not the purpose of this study to discover the individual inspiration of the Atlantic assembly concept but the foregoing discussion would be superficial without

some explanation of the origin of the Atlantic Union Committee. This Committee was an offspring of another private citizen's movement, Federal Union, Incorporated, which had been struggling for ten years to spread the concept of a federation of free people to form a nucleus for eventual world federation. Its founder, Clarence Streit, was a reporter for the New York Times. As its representative in Geneva about eight years before that, he had witnessed the decline of the League of Nations and gotten the inspiration for his book "Union Now" which many widely-revered persons acclaimed as an epoch-making proposal.

Incorporated as a non-profit educational membership association in 1940, its roots were local committees of little-known persons in communities from Boston to Oakland, California. These had met in July 1939 and organized the Inter-Democracy Federal Unionists, which a year later became Federal Union, Incorporated.

The need for direct political action was gradually recognized in the years immediately following World War II. The impact of the atomic explosions and the creation of the United Nations had evidently convinced many Federal Union members that they should begin to crusade for a universal federation without the intermediate phase of interdemocracy federation. Federal Union rapidly shrunk in size but its leaders retained faith in the practicality of its purpose. In 1946, it began publication of a monthly magazine, Freedom & Union, which has been very influential in promoting the "union of democracies" concept.

In January 1949 Justice Roberts at the suggestion of Mr. Streit, Senator Kefauver and several others, invited a group of about seventy to form the Atlantic Union Committee of which he became and remained the president until his death in May 1955.

The above "flashbacks" thus reveal that the proposal for an Atlantic Assembly stemmed from a more fundamental proposal to create a comprehensive government of democratic nations—most of which have gradually come to be thought of as the Atlantic Community.

POLITICAL ENVIRONMENT OF THE PROPOSAL

When the Assembly proposal was made, the Council of Europe had been in operation more than two years. Its Consultative Assembly had shown considerable vitality and a profundity to overcome the habits of nationalism. Negotiations for the Coal and Steel Community had been completed and it was awaiting ratification. It would have an Assembly with power to review the performance of the executive and dismiss it if unsatisfactory. The European Defense Community had been proposed a year before. It would have an assembly with similar power.

The Gillette and Hartley proposals for an Atlantic Assembly were soon supplemented by group action in widely distant places. In the Netherlands, two groups—the Association for the International Rule of Law, and the Netherlands Council of the European Movement—issued in March 1952 a joint resolution as a basis for action toward a North Atlantic federation, and established a committee to further their cooperation in this. The first paragraph of the Resolution advocated "A North Atlantic representative assembly within the framework of NATO. Even if this assembly could not make binding decisions, as a representative body it might have a great deal of influence in molding opinion.

About a month later, sixty Canadian senators and members of Parliament were hosts to a U.S. delegation comprising Justice Roberts, Senator Gillette, and Congressman Leroy Johnson. Other top officials of the Atlantic Union Committee accompanied the Delegation.

After two full sessions of debate, the joint group unanimously adopted the following resolution:

"Therefore be it resolved that, as a first step, this Conference urges the national legislatures of the sponsor nations of NATO to give consideration to the creation of a North Atlantic Assembly, composed of parliamentary representatives of the people concerned, which will have as its objective the implementation of Article II of the North Atlantic Treaty.

Only two days before, on a motion of Alistair Stewart, Member of Parliament for Winnipeg North, the Canadian parliament had debated the Atlantic Union Resolution and adopted the following policy:

"That, in the opinion of this house, if an invitation is received by the parliament of Canada to appoint delegates to meet with delegates from the legislatures of the sponsor nations of NATO, with a view to discussing their closer cooperation within the framework of the United Nations Organization, the Government should give consideration to the acceptance of the invitation."

In the same week on a motion of John Tilney, a Conservative Member of Parliament from Liverpool, the British House of Commons declared itself in favor of using " . . . every endeavor to bring about a closer partnership, economically and politically, among the North Atlantic Treaty Powers and any other nation which practices the concepts and ideals of Western civilization."

Several weeks later (May 1952), the Atlantic Union Committee held a "strategy conference" in Washington and, at the request of General Draper, the U.S. Permanent Representative on the North Atlantic Treaty Council in Paris, cabled its views to him. The first recommendation was "a North Atlantic Assembly composed of representatives of the peoples of NATO whose objective would be to implement Article II of the Treaty." The European Defense Community Treaty was signed in May and the Coal and Steel Community was ratified two months later.

In a report to President Truman the following August Mr. Draper said, "In the free world the trend toward unity and strength is now clear. If this trend can be maintained, we can see ahead the changes in world relations for which free men everywhere have waited since Soviet imperialism unmasked its evil intentions."

By then (August 1952), Atlantic Union groups had been formed in five of the seven countries which founded NATO: the United States, Canada, France, Netherlands and Great Britain.

In the U.S. election only a few months away, voters were confronted with Atlantic Union supporters on both tickets. Both nominees for vice-president—Senators Nixon and Sparkman—had co-sponsored the Atlantic Union Resolution. Senator Kefauver, its chief sponsor, had been a leading candidate for the presidential nominee on the first two ballots of the Democratic Convention.

In September 1952, three events improved the environment for Atlantic unity. First was the 41st session of the Inter-Parliamentary Union. Several hundred parliamentarians of thirty-five countries adopted a resolution recommending that each national delegation work for the adaptation of its own constitutional laws to render international collaboration more effective. Senator Kefauver, member of the U.S. Delegation, praised the progress being made toward federation in Western Europe but stressed that the most important effort for federation is the North Atlantic Treaty Organization. Second was a conference of nearly a hundred influential individuals from fourteen of the NATO countries in Oxford, England. They met to consider how to promote among the people of these countries a fuller understanding of the implications of the North Atlantic Treaty Organization. Sponsored by the British Society for International Understanding, this meeting was addressed by Lord Ismay, the first Secretary-General of NATO, and had been inspired by his influence on the Society about six months earlier. This was the beginning of the first international movement to promote Atlantic unity. Third was the biennial meeting of the British Commonwealth Parliamentary Association in Ottawa. Among the ninety-five delegates representing forty-seven legislatures were several from Ireland and the United States. At its previous meeting it had adopted a new object reading:

"To promote understanding and cooperation through the exchange of information and visits between its members and the members of legislatures which are not part of the British Commonwealth, but which share with it common parliamentary practice or tradition, common language and interests, or past political relations."

While the first draft of a European constitution was being prepared by the Ad Hoc Assembly created for this purpose by the Council of the European Coal and Steel Community, Mr. Edward Herriot, President of the French National Assembly, and Mr. Gaston Monerville, President of the Council of the French Republic, joined the French Atlantic Union Committee.

Writing in Look magazine in November 1952, Arnold Toynbee said:

"In Western countries whose constitutions are federal as well as democratic, it is an axiom that a political unity at the governmental level will remain precarious, and perhaps illusory, unless and until it has been underpinned by unity at the deeper level of popular representative institutions. If we were now to take this first step of convening delegations of national legislatures from all the NATO countries to deal, at this level, with NATO's common affairs, we might find that we had created a growing point from which a democratically governed Western community could bring itself into being step by step."

In the meanwhile, Mr. Hartley, an originator of the Atlantic assembly proposal, continued to keep it current by timely articles in Freedom & Union. See "Four Trends Knitting the Atlantic Community", Nov. 1952, and "A North Atlantic Assembly" in January and February 1953. The latter is a research report comprehensively dealing with the purpose, functions, and structure of such an assembly.

The Dutch Atlantic Committee, now a year old, sponsored a conference at the Hague in March 1953 which achieved two important results:

"(1) It expressed and was itself the proof that the pursuit of European Union and Atlantic Union was compatible and could be undertaken simultaneously;

"(2) It resulted in the first authoritatively formulated request to be made in Europe for giving the people—not simply the gov-

ernments—representation in the North Atlantic Treaty Organization."

As the Council of NATO was about to meet in Paris in April 1953, one hundred and forty prominent citizens of Britain, Canada, France and the United States addressed an open letter to their countrymen and NATO representatives. It called attention to the "authority in the Treaty for further development of the North Atlantic Community" and suggested among other things:

"The creation of a North Atlantic Consultative Assembly, composed of representatives of peoples of the NATO countries, which would have as its principal objective the implementation of Article II of the North Atlantic Treaty which pledges members to bring about "conditions of stability and well being" and to "encourage economic collaboration between any or all of them."

This letter had been initiated by Governor Christian Herter of Massachusetts; Joseph C. Crew, former Ambassador to Japan; former Undersecretary of State, Will L. Clayton, Texas; and former Ambassador to Norway, Lithgow Osborne. Among its signers were numerous leaders in the fields of industry, education, religion, labor, publishing, finance, science, law, civic organizations and public affairs. This proved to be the impetus for a similar but more important later enterprise. (see p. 14)

Reporting on the meeting of the NATO Council, Pierre Streit of the Paris Bureau of Freedom & Union, noted:

"That proposals are now reportedly being considered by the NATO international staff to create something very similar to a consultative body. The proposal is that each member Parliament appoint a special committee on NATO affairs and that these committees meet together in Paris from time to time to thrash out problems of common concern.

His report is supported by later information that the Norwegian Storting (parliament) had discussed such a proposal and its NATO representative had placed it on the agenda of the North Atlantic Council which had referred it to a working committee.

The international movement started by the British Society for International Understanding in September 1952 held a "Second Atlantic Community Conference" at Copenhagen in Sept. 1953. One hundred and twenty persons from all fourteen NATO countries studied the progress of private national organizations "working to enlighten public opinion on the Atlantic community" in several member countries, and made plans to "hasten the creation of Atlantic Committees in member nations where they do not exist and set August 1954 as a deadline for drafting a constitution for a permanent International Atlantic Organization" (of all these private national organizations). It did not adopt but noted a resolution of one of its commissions which:

"Recommends to the North Atlantic Council and its Member Governments that they consider favorably the creation within the framework of NATO of a conference, advisory in nature, representative of the Parliaments of Member Nations which would meet periodically to discuss common problems concerning the development of the Atlantic Community, in particular those relating to the implementation of Article II of the Treaty."

A similar resolution had been rejected the year before. A year later, this became the Atlantic Treaty Association with affiliates in most NATO countries.

Senator Kefauver placed the Atlantic Assembly in a historical frame of reference in addressing the 42d session of the Interparliamentary Union. One of the main topics for this session held in the United States Capitol in October 1953 was "Parliaments and Foreign Affairs." His comprehensive discourse on the history and nature of various parliaments ended with an endorsement of the proposals of the Norwegian parliament and the Copenhagen Conference that NATO create "an advisory body drawn from the parliaments of the member nations."

Dennis Healy, a member of the British House of Commons, who had supported Senator Kefauver's endorsement at the Interparliamentary Union meeting, put it before the House of Commons the following December (1953) during debate on foreign affairs. *The Economist* of London reported Mr. Healy's action and published a long editorial on the ramifications of giving NATO a consultative assembly.

THE NATO PARLIAMENTARIANS

Although Senator Gillette had mentioned an informal committee of U.S. legislators early in 1951—in connection with his letters to legislators and political leaders of North Atlantic countries urging them to do likewise, the first formally-constituted group of legislators for this purpose was formed in Canada in May 1954. This group included fifty members of both Houses and of all four major parties; it was led by Senator Wishart Robertson, Speaker of the Senate, including John Diefenbaker, then spokesman on External Affairs for the main opposition party in the House of Commons (now Prime Minister), and the chairman for External Affairs of both Houses. Its objectives were:

1. To develop among its members a greater knowledge of the accomplishments of NATO, and to consider in what manner, while maintaining adequate common self-defense, it may be further developed as an instrument in assisting to achieve for the peoples of the signatory countries, and incidentally for all men of good will, the greatest possible degree of freedom, economic betterment and political stability.

2. To make and maintain contact with parliamentary representatives in other NATO countries who have similar purposes, and to seek to meet periodically with all such representatives for joint public discussions of common problems and aims.

Senator Robertson then wrote to the Speakers of the legislative assemblies in all the other NATO countries inviting them to form similar associations to cooperate with Canada's.

In August 1954, ratification of the European Defense Community failed, and the proposed European Political Community was abandoned. However, the Brussels Treaty was then quickly converted into the Western European Union.

By October 1954, the "open letter" mentioned above (see page 12) had developed into what has since been known as the Declaration of Atlantic Unity. One hundred and sixty-nine leaders in many fields from eight of the NATO countries had signed the Declaration and it had been released to the press of these countries on the same day as the Nine Power Accords in London. Soon thereafter, the number of signatures increased to 244 "distinguished citizens of many occupations . . . including members of nearly all the political parties of . . . nine countries." (Belgium, Canada, Denmark, France, Italy, Netherlands, Norway, United Kingdom and United States). All nine foreign ministers, the heads of five governments, other party leaders, and the civilian and military chiefs of NATO commented favorably on it.

At a dinner in New York in November 1954, a group including the Speakers of the Canadian Senate and the Belgian Chamber of Representatives, the Foreign Affairs Chairman of the Norwegian Storting, a former Defense Minister of France and members of four other NATO legislatures decided to promote the formation of NATO Parliamentary Associations in each of their legislatures and the sending of delegates to a conference of legislators from NATO countries at Paris in July 1955.

On December 16, 1954, a distinguished delegation headed by Roy H. Thomson, leading Canadian newspaper publisher, and representing the eight countries then participating, presented the Declaration formally to the North Atlantic Council in Paris. The delegation was entertained at lunch, together with the President of the Council and the Permanent Representatives of the eight countries, by Lord Ismay. Addressing the delegation and the press, Lord Ismay said: "I will send copies to all the governments and the Council in permanent session will continue, we hope, with even added vigor to try to carry out those clauses (points 2, 3 and 4) of the Declaration.

The Declaration with a list of the signatories, the comments of government leaders, the text of the North Atlantic Treaty, a summary of the Paris Agreements which modified the Brussels Treaty, and a brief description of eleven organizations promoting Atlantic union or unity was published early in 1955 in English and French and sent to all members of the sponsors' national legislatures.

Those endeavors succeeded and a NATO Parliamentary body was created in Paris at the Palais de Chaillot July 18-22, 1955. It comprised 190 legislators from all the NATO countries, and although many were outstanding leaders with long experience in Atlantic Affairs, only six of them—all from the House—represented the United States. Several U.S. Senators had signed the Declaration but it proved impossible to send a delegation from the Senate. This first assembly of parliamentarians of NATO countries apparently considered it wise to make no pronouncements of substance but simply to provide for regular meetings arranged through the North Atlantic Council. It adopted a resolution to this effect and established a Continuing Committee to implement it.

This Committee met several times and prepared comprehensive plans for the second assembly. Its U.S. Member, Congressman Wayne Hays introduced timely legislation which assured continuing and appropriate representation of the United States.

The Second NATO Parliamentary Conference met at the Palais de Chaillot from November 19-22, 1956 but, unlike the first, had a carefully prepared agenda, considered proposals prepared by experts, and adopted several important resolutions. Meeting in the midst of the Suez-Hungary crisis served as a special test of its usefulness. Of the 175 delegates from all NATO legislatures, seventeen were from the United States and included the Majority Leader of the Senate, prospective chairman of the Senate Foreign Relations Committee, and Chairman of the Senate Armed Services Committee. Evidently in appreciation of his devotion to the cause, Congressman Wayne Hays was elected president. Canadian Senator Robertson,

the founder and first president, was named Honorary President. He was unable to attend but sent a long letter expressing his views concerning the auspices and functions of the assembly. Resolutions adopted concerned the Soviet use of force against Hungary, political and military consultation on developments outside the NATO area, training of scientific and technical personnel, oil supply, aid to underdeveloped countries, cultural progress, future status of the Conference, and possibility of financing future conferences from NATO funds. Among those attending were: Senator Johnson (now U.S. Vice President), Hugh Gaitskell (leader of the Opposition in United Kingdom), Senator Michel Debré (now Premier of France) and Lord Ismay, Secretary-General of NATO.

The third meeting of the Parliamentarians at the same place in November 1957 reveals signs of a mature and durable institution. Permanent rules of procedure were adopted including a system of voting not requiring unanimity and giving voting power to countries on a basis approximating their populations. Committees were established to deal with cultural, economic and political matters—and each had for consideration proposals prepared by rapporteurs selected at the previous conference. Addresses by the Secretary General of NATO and three outstanding military leaders were each followed by a searching question and answer period. Resolutions adopted were more significant than before and the meeting was given much better coverage by the Press. The Conference of 160 legislators from twelve NATO countries unanimously adopted resolutions:

(1) initiating two steps towards greater Atlantic unity on the citizen level: the first instructing its Standing and Political Committees to arrange a meeting of leading citizens "whose cooperation would be valuable and appropriate for the convening in 1959 . . . of an Atlantic Congress comparable to the Hague Congress of 1948" and requesting the heads of governments to support this proposal at their next meeting; the second recommending that the NATO governments, in consultation with these two committees, bring about a conference composed of leading representative citizens to convene as often as necessary to examine exhaustively and to recommend how greater cooperation and unity of purpose, as envisioned by the North Atlantic Treaty, may best be developed. This resolution proposed that "the members of the Conference should, as far as possible, be officially appointed but should act in accordance with their individual convictions." Findings and recommendations would be reported to the appropriate committees of the NATO Parliamentarians' Conference as well as to governments and the North Atlantic Council.

(2) suggesting that a link be set up between the Standing Committee and the North Atlantic Council, that the NATO Secretariat prepare a report each year for discussion by the Conference, and that the NATO Council delegate one of its members to be present.

(3) urging improved consultation and implementation of Article II of the Treaty.

(4) to submit to the North Atlantic Council and urge it to bring to the attention of the forthcoming heads-of-government meeting, a Conference report proposing talent development scholarships, mathematical science awards, summer institutes, cooperative project research under NATO contract, A NATO Defense Missile Training Center and an Atlantic Institute for Defense Studies.

(5) proposing a "coordinated Atlantic policy to serve as the basis for a common system of defense" as well as steps to improve defense, including close collaboration between NATO political and military leadership and how to apply the NATO infrastructure program elsewhere.

(6) requesting the Standing Committee to study during the coming year the proposals for an Atlantic Institute made by the Bruges Conference on North Atlantic Community in September and, if desirable, cooperate with groups seeking this objective.

(7) recommending that the NATO Secretary General produce a publication which would give an account of the achievements, the power and the possibilities of NATO and of the Atlantic Community.

(8) urging further assistance by NATO members to bodies dealing with refugees from Communist enslavement.

(9) recommending specific steps to bring about consideration of economic affairs of member countries, aid to under-developed areas and foreign economic and technical assistance and private investment which might be coordinated within the NATO framework.

(10) adopting an annual budget of 40,000 pounds, ($112,000) to enable the new work envisioned in these resolutions to be undertaken.

At this the third meeting of the Parliamentarians there was considerable evidence of "a growing spirit of teamwork among the Atlantic legislators."

SOME EFFECTS OF THE PARLIAMENTARIANS

The NATO Parliamentarians have continued to meet annually and to expand their influence but further references to these meetings will be made only as related to three actions of this Assembly which seem to have a great portent for the future.

A. The Atlantic Congress

The first step in the first resolution adopted by the third NATO Parliamentarians Conference came to fruition in London in June 1959. As instructed by the Conference, its Standing and Political Committees proceeded to arrange for an Atlantic Congress comparable to the Congress of Europe held at The Hague in 1948. The latter had adopted resolutions proposing the merging of some aspects of sovereignty preparatory to the creation of an economic and political union, the establishment of a European consultative assembly and a court of human rights. It was a major impetus to the establishment of the Council of Europe.

Special non-governmental national committees selected about 650 eminent citizens from their countries—former prime ministers, foreign ministers, legislators, ambassadors, generals, corporation and labor union executives, college presidents, religious leaders, editors, authors and persons from other fields of endeavor. The number from each nation was approximately proportioned to the respective populations.

These met for six days, June 5-10, in London to consider the theme: "The Atlantic Community in the Next Ten Years." This Atlantic Congress was opened by Queen Elizabeth and addressed by Prime Minister Macmillan, Opposition Leader Hugh Gaitskell, and the Archbishop of York from Britain; Prince Bernhard, Foreign Minister Luns and Colonel J. J. Fens, President of the NATO Parliamentarians Association and of the Congress, from the Netherlands; NATO Secretary General Spaak, former Premier Van Zeeland and J. Oldenbrock, General Secretary of the World Federation of Free Trade Unions, from Belgium; J. F. Cahan, Deputy Secretary General of OEEC, from Canada; Foreign Minister Lange of Norway; and General Lauris Norstad, NATO Commander-in-Chief, Admiral Jerauld Wright, Supreme Allied Atlantic Naval Commander, Lewis Douglas, former Ambassador to Britain, Eric Johnston, former President U.S. Chamber of Commerce, and Dr. Mordecai Johnson, president of Howard University, from the United States.

The Congress established five committees to consider various kinds of problems:

A. Spiritual and Cultural.
B. Political.
C. Economic.
D. Free World.
E. Communist Bloc.

The Congress adopted many of the resolutions emanating from these Committees and also consolidated them into a declaration which is quoted below:

"DECLARATION OF THE ATLANTIC CONGRESS, 1959

"I. PRINCIPLES

"Six major principles have guided this Congress.

"A-1. The NATO military alliance has, in its first ten years, preserved the peace of Europe, although the threat of aggression is still present.

"A-2. Great changes have taken place in this decade that make essential increased cooperation among Atlantic nations in all fields.

"A-3. No military alliance can endure unless supported by close political and economic cooperation.

"A-4. The time is ripe for these nations to build an Atlantic community with responsibilities extending to military, political, economic, social and scientific fields.

"B-5. The Atlantic nations are interdependent with the other nations of the free world. All these nations want peace and the preservation of their own conception of life. All have a common interest in the development of economic activity and social improvement throughout the world; all people have a common stake and status in a free world.

"B-6. The Atlantic community has a duty to help less developed countries to help themselves.

"II. PROPOSALS

"In order to apply these principles, the Congress has passed a number of important resolutions, attention being drawn particularly to the following:

"A. Political

"1. That there should be increased consultation and cooperation among member states. Consultation should become a habit, not an occasional exercise.

"2. That there should be broader and more frequent consultation among Parliamentarians of the Atlantic countries, and that the governments should convene a special conference of leading citizens to examine exhaustively means of attaining greater unity, as recommended by the third NATO Parliamentarians' Conference.

"3. That national governments should not take major decisions affecting NATO unity without previous consultation.

"4. That the report of the "Three Wise Men" should be more fully implemented.

"B. Military

"1. That the forces forming the European shield should be brought as soon as possible up to the minimum strength laid down in the agreed strategic concept of NATO.

"2. That governments should give continual attention to improving the military structure of NATO, and in particular should foster increasing interdependence throughout the military field.

"C. Economic

"1. That governments should promote the maximum economic growth in production, employment and living standards and should avoid restrictive economic measures, take all feasible actions to reduce tariff barriers and maintain monetary stability; and, in view of the services rendered by OEEC and EEC and those one might expect from any other form of effective multilateral association, they should work especially for an increase of the benefits of closer economic integration.

"2. That consideration be given to the possibility of transforming OEEC into an OAEC in which all Atlantic countries would hold full membership.

"3. That the Atlantic countries should undertake a massive and sustained effort to help the peoples of the less developed countries to achieve a rising standard of living together with individual freedom, human dignity and democratic institutions; in this effort we must act not as outside patrons but as equal partners with them in a joint enterprise of freedom.

"D. Cultural

"1. That effective counter measures be taken by NATO countries to combat Soviet ideological warfare and that there be set up an international unofficial free nations organization for the dissemination of information to this end.

"2. That a 'Studies Centre for the Atlantic Community' be set up, to serve as a clearing house and intellectual focus.

"3. That there should be further integration of scientific research and in particular of pure research.

"4. That informational and educational activities should be strengthened and broadened in order to bring the significance of the Atlantic Community with its spiritual and moral content more deeply into the hearts and minds of the peoples of the world."

The greatest significance of this Declaration is perhaps the fact that all three of its proposals for the establishment or further development of institutions have been implemented. The Organization for Economic Cooperation and Development which began last September fulfilled proposal C 2; the Atlantic Institute recently established in Paris fulfilled proposal D 2; and the Atlantic Convention which began in Paris several weeks ago fulfilled proposal A 2.

B. The Atlantic Institute

In September 1957—two months before the third conference of the NATO Parliamentarians, another Conference on North Atlantic Community was held at Bruges, Belgium. The University of Pennsylvania and the College of Europe had collaborated to assemble more than a hundred scholars, journalists, and other intellectuals from nineteen countries to study the spiritual and cultural aspects of Atlantic community. Its most concrete recommendation called for the establishment of an Atlantic Institute to develop a sense of community among the Atlantic peoples and all others who share their basic ideals. It was to be governed by a board of eminent citizens and so constituted as to be able to receive funds from foundations, individuals, institutions and governments in order to provide research and coordination of related endeavors.

Among the distinguished participants and observers were former French Premier Robert Schuman; British Member of Parliament Walter Elliott, treasurer of the NATO Parliamentarians; Thomas K. Finletter (now U.S. Ambassador to NATO); General Pierre Billotte, former French Minister of Defense; Marcel Decombis, director of the European School of the Coal and Steel Community; Hans R. Nord, Chairman, Netherlands Atlantic Committee; James Reston, Washington correspondent for the New York Times; Jacques Rueff, Judge, Court of Justice, Coal and Steel Community; and former Belgian Premier Paul Van Zeeland. The Institute was promptly endorsed by the Parliamentarians (see page 20) and later (1959) given a greater boost by the Atlantic Congress which had been initiated by the Parliamentarians.

A nucleus for such an Institute was created by the formation of a Standing Committee of some of the distinguished scholars who had met at Bruges in 1957. This Committee met in Zurich, Switzerland in May 1958 and made plans to create the Institute.

In the autumn of 1961, the Atlantic Institute was formally established in Paris. It is a private institution of leading citizens from Western Europe, Canada and the United States, with the purpose of bringing the intellectual resources of the Atlantic community to bear on its common problems. Its Board of Governors is headed by Paul Van Zeeland, a former prime minister of Belgium, and includes men such as Dr. James Conant, Dr. Kurt Birrenbach, Adlai Stevenson, Lord Gladwyn, William C. Foster, Antoine Pinay, Haakon Lie, and Lester Pearson. Last November, its Policy Committee elected Henry Cabot Lodge to be its first Director-General, and announced a budget of $350,000 for the first year of operation.

C. The Atlantic Convention

The second step of the Resolution mentioned in (A) above was accomplished when approximately 100 distinguished citizen-delegates from all the NATO countries met in Paris January 8, 1962 to explore how to attain greater political and economic cooperation within the Atlantic community. This was a unique gathering: its delegates were appointed by the various governments but were to act as private individuals collectively seeking a solution to a common problem.

The Convention's Preparatory Committee with members from all the NATO countries had met in London in October 1961, and had recommended rules of procedure generally similar to those of the NATO Parliamentarians but with several important differences:

1. The members of the Atlantic Convention will be seated alphabetically by their individual names, and not in the customary national groups. The aim is to stress that they meet as individual citizens, not as government representatives, and to facilitate their knowing one another, voting across national lines and generally developing an Atlantic community spirit.

2. The voting will be by delegates as equal members of the Convention, and not by nations.

3. All decisions will be taken by a simple majority of those present and voting. This rule was adopted after it was pointed out that the Convention could take no actions binding on any government, but could only make recommendations to the NATO governments and peoples.

4. The Convention will tackle the Atlantic problem as a whole in a committee of the whole, instead of dividing into various committees—political, economic, defense, etc. The latter is the standard European practice which Americans have hitherto accepted with hardly a thought of the more fruitful "committee of the whole" approach which the Philadelphia Convention of 1787 followed.

The Atlantic Convention was not arranged directly by agencies of the NATO Parliamentarians—their Resolution was a recommendation to the various governments—but was initiated by the U.S. Citizens Commission on NATO which had been established by U.S. Public Law 86-719 enacted in September 1960. A brochure of the Commission is attached as Appendix I. Such Act had evidently resulted from the persistent efforts of the Atlantic Union Committee and Federal Union for the past eleven years, and from the influence of the resolutions of the NATO Parliamentarians and the Atlantic Congress described above. Since the Convention was still in session at the completion of this paper, nothing can be reported concerning its actions.

A CURSORY APPRAISAL OF FACTORS AFFECTING THE EVOLUTION

The foregoing portion of this study is substantially factual, at least it has been the intention to make it factual. Some inferences will now be drawn concerning the relations of those facts and their portent for the future.

Clarence Streit's concept of uniting all the experienced democracies of the world, conceived in the early thirties, gained considerable momentum in the United States as a result of the unifying tendencies of World War II. Similar momentum in European countries was weakened or lost as most of those countries were defeated and demoralized by the German military forces led by Hitler. The advent of atomic weapons, the creation of the United Nations, and the end of the War diffused and weakened the momentum in the United States. Many of its advocates veered to support of universal world government, hopefully through modification of the United Nations, but, if necessary, through a constitutional convention. Others simply became apathetic.

As the European countries began their reconstruction, the long-dormant urge for European unity resurged and was enhanced by their common plight. However, the former advocates of democratic unity continued to influence unifying tendencies.

Ideological cleavage between the Soviet Union and the "West" coupled with the resurgence of democratic leadership in Germany and Italy increased the momentum for both "brands" of Western unity—European and Atlantic. In the meanwhile the remoteness of Australia and New Zealand, the neutrality of Sweden and Switzerland, and the Brussels Treaty had changed the focus from democratic unity to Atlantic unity.

Three movements gradually formed:

(1) one for European union—through a functional approach.

(2) one for an Atlantic alliance—with gradual de-emphasis of national sovereignty.

(3) one for Atlantic union—the sooner the better.

The first and second movements have made concrete accomplishments exempli-

fied by the three supranational communities in the first instance, and by NATO in the second. The third, naturally more difficult, is now surging—spurred by the ever-increasing challenge of the Soviet Union and encouraged by the experience gained from the other two. This experience has been both positive and negative. The success of the supranational communities has provided confidence for the larger undertaking, and the weaknesses of NATO have added urgency for something stronger.

The desirability of Atlantic union has rarely been denied. Its faltering progress has been due to: (1) long-ingrained habits of nationalism and (2) human reluctance to fundamental change.

The three groups now seem to be merging. The European Unionists are more willing to consider Atlantic Union for two reasons: (1) the progress of European integration has assured them of adequate influence to resist possible United States domination of such a union, and (2) they have witnessed increasing willingness of United States leaders to promote it. The advocates of simple alliance are more ready for closer integration—also for two reasons: (1) they have witnessed the weaknesses of alliance to counter growing challenge of the Soviet Union and (2) they have always favored ever-closer relations but insisted the growth must be gradual. The Atlantic Unionists are more willing to compromise on their basic principle in order to gain the support of the other movements which they consider essential to progress toward the goal of complete federation.

The numerous conferences, proposals, and endorsements of Atlantic Assembly described above seem to portend its formal establishment as an organ of NATO in the near future. Whether or not this happens, the momentum of the movement for Atlantic unity is now so strong that it is quite unlikely to subside before further common institutions are created.●

LEGISLATION TO ENSURE A COLA FOR FEDERAL RETIREES

HON. MARY ROSE OAKAR

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 28, 1986

Ms. OAKAR. Mr. Speaker, much has been written over the past few weeks concerning the potential for disaster contained in the provisions of Gramm-Rudman. There is no doubt in my mind that this law could wreak havoc on essential programs for the citizens of this great country.

For most people, the impact of Gramm-Rudman will not be felt until March 1 at the earliest. For a group of our Nation's senior citizens, however, Gramm-Rudman has already become a painful reality. Gramm-Rudman, which preserved inflation protection for Social Security recipients, snatched the same benefit away from Federal annuitants and other retirees by eliminating the scheduled January COLA from their annuity checks.

The sudden withdrawal of this COLA is contradictory to policy decisions that were made by Congress earlier last session. The Subcommittee on Compensation and Employee Benefits, which I chair, recommended a full COLA in January for Federal retirees. Our recommendation was approved by the Post Office and Civil Service Committee, adopted by the Budget Committee, and passed by the House in its first budget resolution.

Federal retirees, expecting the 1986 COLA, were shocked to learn just 2 weeks before they were supposed to receive their checks that the increase would not be made. Only a few days before Christmas, Federal retirees and others, who had devoted their lives to public service and who had been relying upon the COLA increases, became the first victims of Gramm-Rudman. I was outraged by this provision of the law which is one of the reasons I voted against Gramm-Rudman. To deny retirees, whose annuities average less than $13,000 a year, a COLA increase with no notice is terribly unfair.

Mr. Speaker, it is obvious that we cannot change the past. Gramm-Rudman is the law unless, or until, the courts declare it unconstitutional. The specific issue of the retroactive COLA denial is before the courts right now. There will be no opportunity for this Congress to restore COLA equity for fiscal year 1986 given the confines of Gramm-Rudman.

Nevertheless, the Congress can restore equal COLA protection for the future, and that is precisely what my legislation would do. My bill guarantees that those who retired from Federal service will receive a full increase in their annuities in 1987—an increase which will be equal to that provided under Social Security—no more, no less. It will also become effective at the same time as the next Social Security COLA—no sooner, no later.

The bill I am introducing today is supported by the National Association of Retired Federal Employees [NARFE] and other groups. It provides an opportunity to restore COLA equity for Federal retirees. As chair of the Subcommittee on Compensation and Employee Benefits, I urge my colleagues who support this policy to join me in sponsoring this legislation and actively working for its passage in the House.

Mr. Speaker, realistically, we cannot undo the events of the last few weeks. We can prevent, however, the perpetuation of inequitable treatment of those senior citizens who performed the jobs so essential to making our Government work. Unless we act, the automatic provisions of Gramm-Rudman may deny inflation protection to these retirees for 5 years. Full House support for my bill will demonstrate our commitment to equal treatment and protection for our Nation's retired citizens.

I might add that my subcommittee's jurisdiction is limited to civilian retirees of the Federal Government. My proposal does not extend beyond this jurisdiction. However, I would be eager to cosponsor similar legislation for those other groups of retirees who were denied inflation protection under Gramm-Rudman when such legislation is offered by my colleagues.

Mr. Speaker, in conclusion, I want to point out that I am very concerned with the unprecedented Federal deficit that is threatening our economy and our National security. We must act to reduce the deficit and place our country on a stronger economic foundation. In so doing, however, we must act with fairness and compassion. The legislation I am introducing today is an important step in bringing equity to our budget reduction efforts.

PENSION LEAK

HON. WILLIAM (BILL) CLAY

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 28, 1986

Mr. CLAY. Mr. Speaker, I would like to call to the attention of my colleagues the editorial which appeared in the Sunday, January 19, 1986, Washington Post. The editorial recognizes the importance and need for the changes in our Nation's private pension insurance system as proposed in the omnibus budget reconciliation legislation now pending before the Congress. These changes are desperately needed to eliminate the current Pension Benefit Guaranty Corporation deficit and to strengthen the termination insurance system for the future.

I ask my colleagues to consider the Post's editorial.

[From the Washington Post, Jan. 19, 1986]

PENSION LEAK

One of the things that Congress neglected to do before it left town last month was rescue the nation's pension insurance system. That safety net was erected in 1974, when Congress transformed the law so employers no longer could walk away so easily from promises to pay retirement income to their employees. Companies with pension plans were assessed a fee, so much per covered worker per year. The Pension Benefit Guaranty Corp. used the fees to help pay benefits when companies went under, or when plans were terminated for other reasons without enough money to cover their costs.

For some time the system worked; since its creation PBGC has taken over nearly 1,100 plans. But more recently the corporation's obligations have begun to outstrip its foreseeable income. The law leaves PBGC no defense: for the sake of the workers involved, it has to take over a plan a company abandons. Some companies, including some very large ones, have taken advantage of this to abandon plans they possibly could have sustained—in a sense shifting a burden to their competitors.

A year ago PBGC's obligations were already about $400 million greater than its likely future ability to pay. Then last summer Allis-Chalmers Corp. dropped about $160 million more in obligations on the agency. Last fall the Wheeling-Pitt Steel Corp., from bankruptcy court, cast off an estimated $425 million more. Other troubled steel companies are also eyeing the agency as a possible source of relief.

Congress moved to deal with the problem last fall in the so-called reconciliation bill required by its budget resolution. The bill was meant to make structural changes in a broad array of programs to reduce their cost and the deficit. The PBGC provisions would have (1) made it harder for companies to slough plans off and (2) raised the fee for solvent companies from $2.60 per employee per year to $8.50. But the reconciliation bill failed in the final hours of the session because the House and Senate could not agree on an unrelated proposal to finance the expansion of the Superfund.

The failure of the reconciliation bill was an embarrassment to Congress on fiscal grounds. In several areas it was costly on policy grounds as well. The members may not have the heart to try again on reconcili-

ation when they return. But in that case the least they can do is pass a pension bill. And quickly.

AN INEXCUSABLE INCIDENT OF GOVERNMENT WASTE

HON. BILL RICHARDSON

OF NEW MEXICO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 28, 1986

Mr. RICHARDSON. Mr. Speaker, it is with great frustration that I speak to you about an incident of wasteful Government spending which recently occurred in my State. Mr. Art Brown of Bosque Farms, NM, sent me a copy of a legal notice that appeared in the Albuquerque Journal for 3 days. This notice, shown below, was printed by the Department of the Treasury, Bureau of Alcohol, Tobacco and Firearms. It informed the citizens of my district that six rounds of .22 caliber ammunition was seized in Otero County, NM for violation of title 18, United States Code, chapter 44. With diligent effort to detail, the notice stated how a person could file a petition in order to reclaim this property.

Mr. Speaker, the value of six rounds of .22 caliber ammunition is about 10 cents. Mr. Art Brown, a hardworking and concerned taxpayer, wrote me to inquire into how much money the Bureau of Tobacco and Firearms spent to confiscate and locate the owner of these bullets. He rightfully pointed out that "if cost percentages were compared, this was a more shameful waste of tax money than the Pentagon purchase of hammers!"

At a time when this country is plagued by record deficits, and must cut into the heart of some of its most important programs, this kind of ridiculous waste cannot be tolerated. How many more similar incidents of this nature have occurred? Certainly, this is an instance where a reduction in Government spending could be made—without detriment to anyone.

DEPARTMENT OF THE TREASURY, BUREAU OF ALCOHOL, TOBACCO AND FIREARMS

On October 23, 1985. Six rounds of .22 caliber ammunition was seized in Otero County, New Mexico for violation of Title 18 USC, Chapter 44.

Any person claiming an interest in said property may file a petition for remission or mitigation of forfeiture, or file a claim and deliver a cost bond, with the undersigned on or before, January 22, 1986, otherwise the property will be forfeited and disposed of according to law. Surety for the claim and cost bond should be made payable to the Clerk of the United States District Court, and mailed to the Bureau of Alcohol, Tobacco and Firearms, Chief Planning & Analysis Staff. Attn: Seized Property. 1200 Pennsylvania Avenue, NW, Washington, DC. 20226. The amount of the cost bond is $250.00, unless the property is a vehicle, vessel or aircraft seized under Title 49 U.S.C., Chapter 11 and then the cost bond should be in the amount of $2,500 or ten percent of the value of the claimed property, whichever is lower, but not less than $250.00

MINORITY HEALTH CONCERNS

HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 28, 1986

Mr. RANGEL. Mr. Speaker, as chairman of the Select Committee on Narcotics Abuse and Control, I would like to bring to my colleagues' attention a recent article on minority health concerns. The article appeared in the December 1985 issue of Alcohol, Drug Abuse, and Mental Health News, the newsletter of the Alcohol, Drug Abuse, and Mental Health Administration of the Department of Health and Human Services. It reports on the findings of the Secretary of Health and Human Services' Task Force on Black and Minority Health.

According to the article, the task force found that a disparity exists between the health of minorities and other U.S. citizens. They identified six primary causes of death chiefly responsible for the "excess mortality" among U.S. minorities. These were: Homicide, chemical dependence, cancer, cardiovascular disease and stroke, diabetes, and infant mortality. Personally, I am deeply disturbed by these findings.

What is even more disturbing, however, is that not only are blacks and minorities affected disproportionately by these conditions, but they suffer the consequences of them unnecessarily. The report acknowledges that the medical capacity and scientific knowledge to diagnose, treat, and cure such diseases have not been made available to our minority citizens. Moreover, it concludes that until these resources are extended to minorities, they cannot benefit "fully and equitably from the fruits of science or from those systems responsible for translating and using health science technology."

Finally, the task force indicates how far we have to go to ensure equal access to health care for our minority citizens. The report calls on the Department of Health and Human Services "to adopt and foster a broad research agenda, directed toward risk factor identification and sociocultural factors and health outcomes, health education intervention, preventive services interventions and treatment services." Thus, the road to better health for our minority citizens is a long one, and it requires not only research and additional services, but creative and aggressive national leadership.

The article in the ADAMHA News focuses specifically on the findings of most concern to this agency—homicide and chemical dependence. The complete text of the article follows:

[From Alcohol, Drug Abuse, and Mental Health News, December 1985]

MINORITY HEALTH ADAMHA CONCERN

Two health problems with important implications for ADAMHA—homicide and chemical dependence—are among the six primary causes of death recently identified by the Secretary's Task Force on Black and Minority Health as chiefly responsible for the disparity between the health of U.S. minorities and that of others.

Causes of "excess mortality" among U.S. minority groups identified by the Task Force also include: cancer, cardiovascular disease and stroke, diabetes, and infant mortality.

Secretary Margaret Heckler formed the Task Force in January 1984 to study the health disparities.

Its report stresses that ". . . scientific knowledge and the phenomenal capacity of medicine to diagnose, treat, and cure disease" has not extended to minorities. Until it does, the Task Force concluded, Black and other minorities cannot benefit "fully and equitably from the fruits of science or from those systems responsible for translating and using health science technology."

The report calls on the Department to adopt and foster a broad research agenda directed toward risk factor identification and sociocultural factors and health outcomes, health education intervention, preventive services interventions and treatment services.

Upon releasing the Task Force report Secretary Heckler announced establishment of a new PHS office to provide leadership on efforts to improve the health of minority groups.

The Task Force held that factors critical to understanding the behavioral underpinnings of health, identifying effective strategies for disease prevention, maintaining treatment regimens, and suggesting ways to change behavior for more healthful living habits must be linked together more effectively.

The 18-month review involved six subcommittees. The "Subcommittee on Homicide, Suicide, and Unintentional Injuries" was headed by ADAMHA Deputy Administrator Robert Trachtenberg; the "Subcommittee on Chemical Dependence" was headed by former Food and Drug Administration Deputy Commissioner Mark Novitch. Highlights of the findings of these two groups are given below:

HOMICIDE

National and local homicide data reveal Black males and females and Hispanic males have rates of death "far in excess of the rates of their peers" in the general population. In 1983, according to the subcommittee report, Black-on-Black homicide accounted for 43 percent of the total 19,000 murder victims reported in the U.S. In 1981, the homicide rate for Black males, ages 25 to 34 years, was 136.9 per 100,000 compared with 17.6 for white males of the same age group.

Data collected during the period 1976 to 1980 in the five-State southwestern region of the U.S., where more than 60 percent of Hispanics reside, show the homicide rate was 21.6 per 100,000, "more than 2.5 times the rate of the non-Hispanic white population in the same geographical area," the report holds. National data for homicide deaths among Hispanics were not available.

Native American Indians also have high rates of homicide, 18.1 per 100,000 in 1980—70 percent higher than the rate for the general population.

The disparity caused by deaths due to homicide among the minority populations makes it a major public health problem, the Task Force emphasized.

"Homicide increasingly has been recognized as a preventable public health problem for which the health sector needs to devote greater attention and energy," it reported. "Traditionally, problems of violence and homicide have been left to the criminal justice system. Prevention of homicide is a new endeavor for public health, and it presents an opportunity for the public health

field to deal with a previously ignored health problem.

"The high homicide rate," the report says, "can be related to psychological factors involving the mental processes and behavior; external environment including physical, historical-cultural, social, educational, and economic environments; lifestyle, or individual and group ways of life; and physiological factors related to age and gender."

The Task Force noted, "Primary prevention in the public health sense involves averting the initial occurrence of a disease, defect, or injury. In the case of homicide, primary prevention efforts need to be directed at those social, cultural, technological, and legal aspects of the environment in the U.S. that facilitate perpetuation of the Nation's extraordinarily high homicide rates."

The study points to a connection between homicide and alcohol and drug abuse. The National Institute on Alcohol Abuse and Alcoholism has estimated that about one-half of all homicides in the U.S. are related to use of alcohol.

"An estimated 10 percent of homicides nationwide are associated with use of illegal drugs. In some of the Nation's largest cities, the number of drug-related homicides is more than 20 percent," the report states.

CHEMICAL DEPENDENCY

Few studies were found on the drinking behavior of minorities, but the report states that "Blacks appear to be at disproportionately high risk for certain alcohol-related health programs."

For example, National Cancer Institute data show that between 1979 and 1981 the incidence rate of esophageal cancer for Black males, aged 35-44 years, was ten times that of whites. Alcohol consumption is believed to be a primary cause of this cancer.

Black males begin to report high rates of heavy drinking and social problems after the age of 30, compared with white males among whom heavy and problem drinking is concentrated in the age group of 18 to 25 years, the report says.

Hispanic youth tend to drink more heavily than either Black or white youths, ages 18-29, the study finds.

Data from the Indian Health Service showed, "that five of the top ten causes of death among Indians are directly related to alcohol; accidents (21 percent), cirrhosis of the liver (6 percent), alcoholism (3.2 percent), suicide (2.9 percent), and homicide (2 percent). In addition, the report said Native Americans "appear to be at higher risk" for fetal alcohol syndrome/fetal alcohol effects.

The 1982 National Household Survey on Drug Abuse indicates the prevalence of drug use is generally higher in urban areas where minorities are more likely to reside. For this reason, the Task Force reported, "minorities may be at greater risk of drug abuse and, ultimately, the negative social and health consequences associated with drug abuse."

For example minorities are more involved in the intravenous use of drugs, and therefore "are at increased risk of potentially fatal infection from hepatitis B virus, bacterial endocarditis, and acquired immune-deficiency syndrome (AIDS)," the report notes.

Multiple drug use is reported as a problem for all minorities. Data from hospital emergency room cases and from drug abuse treatment programs indicate that Hispanics are more likely than whites to report a primary problem with heroin, cocaine, and PCP.

The report recommends the initiation and expansion of efforts to develop coping skills in children and adolescents, ages 9 to 15 years. Such programs, would be aimed at delaying or preventing the use of substances such as tobacco, drugs, and alcohol, with special emphasis on needs of minorities.

The report further recommends increased studies on the biological consequences of alcohol use as they relate to excess mortality and urged that improved incidence and prevalence data gathering techniques be used to assess alcohol and drug abuse among minority groups.

ADMINISTRATOR ON MINORITY CONCERNS

"ADAMHA is committed to ensuring that the needs of minorities are appropriately addressed in its research, knowledge transfer, and national leadership efforts," said ADAMHA Administrator Donald Ian Macdonald in an immediate response to the report of the Secretary's Task Force on Blacks and Minority Health.

Macdonald sent a memorandum to the directors of the Agency's three institutes, in which he outlined six areas in which minority goals should be established. These areas are research, epidemiology, demonstration programs, technical assistance, knowledge transfer and dissemination, and training.

"I am asking each institute to develop a dynamic and challenging plan which addresses each of these goals and which will constitute ADAMHA's minority strategy. The plan should be detailed and specific so that we can readily track our accomplishments."

Macdonald has designated Dr. Delores Parron, NIMH Associate Director for Special Populations, as ADAMHA's Coordinator for Special Populations to monitor minority activies and to assist Institute Directors in implementing minority strategies.

H.R. 4056

HON. BILL ARCHER

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 28, 1986

Mr. ARCHER. Mr. Speaker, on January 27, I introduced H.R. 4056. This legislation is designed to ensure that current tax law provisions relating to the exclusion of foreign earned income cannot be used by Americans who continue to work in countries where we have banned such employment as a matter of national policy.

H.R. 4065 would specifically deny the foreign earned income exclusion—currently $80,000 per year—available under section 911 of the Internal Revenue Code, to any American resident in a foreign country in violation of an Executive order issued by the President of the United States under the authority granted to him under the International Emergency Economic Powers Act (50 U.S.C. 1701 et seq.) and other existing statutes. This legislation would be effective with respect to income received for services rendered after the effective date of any such Presidential order. Initially, it would be effective for income earned after January 31, 1986.

As the author of legislation that resulted in the 1981 adoption of current section 911 exclusion. I strongly believe that this type of tax provision is essential to the goal of promoting American exports of both goods and services. In light of the recent Presidential order with regard to Libya. I also feel that it is incumbent upon me as an advocate of section 911 to see that it is not used in those situations where we as a nation have no export interest and that is certainly the case with regard to Libya today.

The State Department has estimated that there are between 2,000 and 4,000 Americans still residing in Libya despite the dangers inherent to all foreigners there and the repeated warnings by our Government that Americans should leave. When the President's order takes effect on February 1, those Americans who decide to remain in Libya face fines and/or imprisonment upon their return to U.S. jurisdiction. Our Tax Code should be consistent with all other laws and this requires that we amend the foreign earned income exclusion to prevent persons living in foreign nations in violation of our laws from receiving the current income exclusion.

This legislation is not solely directed at Libya but is drafted to apply generally to all those nations currently designated by Executive order as constituting an unusual and extraordinary threat to our national security and foreign policy. In addition to Libya, there are five other nations who would fall under the provisions of this legislation. They are: First, North Korea—designated by President Truman; second, Cuba—designated by President Kennedy; third, Cambodia—designated by President Nixon; fourth, Vietnam—designated by President Johnson; and fifth, Iran—designated by President Carter.

As a matter of national policy, we should encourage Americans to work overseas representing American goods and services, thus creating jobs at home. However, there are very valid foreign policy considerations which must at times override these trade concerns and that is certainly the situation vis-a-vis Libya and these other five nations. Our Tax Code should work in harmony with our foreign policy and not at cross-purposes. It is for this reason that I believe H.R. 4056 should be expeditiously enacted to eliminate this potential abuse.

TIM GREEN: SYRACUSE UNIVERSITY'S MAN OF EXCELLENCE

HON. GEORGE C. WORTLEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 28, 1986

Mr. WORTLEY. Mr. Speaker, for a few hours this past Sunday, millions of Americans and television viewers around the globe focused their attention on the playing field in the New Orleans Superdome. No matter how one viewed the outcome of Super Bowl XX, the people we are privileged to represent and all who viewed and heard the telecast were treated to a performance of extraordinary athletic excellence and a spectacle that is uniquely American.

What the players and coaches said after the game was an inspiration to the youth of America, no matter what their goals. Each member of the Bears and the Patriots had given their best. To a man, they sent an inspirational message.

This coming Sunday, on February 2, in the 27th Congressional District of New York State, another unique event is scheduled to take place when the Liverpool Chamber of Commerce will hold a dinner to honor a 22-year-old constituent of mine who epitomizes what is best about American youth.

To be honored is Tim Green, the senior All-American tackle of Syracuse University.

Throughout his college career, Tim has made the dean's list while majoring in English literature and pursuing a minor in finance. For the past four semesters, he has maintained a 4.0 average. He is Phi Beta Kappa. And he has found time to offer time and service to such nonprofit activities as the Easter Seals Society, the Cystic Fibrosis Foundation, and the American Red Cross. Besides earning the first-team All-American recognition for his gridiron prowess, he has won All-American academic honors. At the end of this past season, for the second consecutive year, he won a first-team berth on the All-East Team. Sporting News, Pro Football Weekly, and USA Today all picked him as a member of their first teams. He was a Rhodes scholar finalist and was picked to serve as grand marshal for the Syracuse University's graduation ceremonies.

Mr. Speaker, it is with pride that I commend the achievements of Tim Green to the attention of you and our colleagues in the Congress.

I salute his parents, Richard and Judy Green of 13 Kiwi Path, Liverpool.

I expect we will hear much more from Tim Green during the NFL draft and in the years to come as he pursues his goals as an athlete and as a writer.

As those who gave their best in Super Bowl XX, Tim has given all of us an example of excellence.

SPACE SHUTTLE DISASTER

HON. CHARLES E. BENNETT

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 28, 1986

Mr. BENNETT. Mr. Speaker, I was shocked to learn today of the explosion of the space shuttle *Challenger*. There are no words sufficient to express the grief I think all of us share when pioneering Americans lose their lives in an effort to further our knowledge of God's creation. When disaster does strike such brave individuals, the duty of the rest of us is to show our gratitude through mourning.

My thoughts are with the families of those lost in today's accident. My prayers will be for them as well.

IN HONOR OF RICHARD GROULX

HON. FORTNEY H. (PETE) STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 28, 1986

Mr. STARK. Mr. Speaker, on January 30, 1986, labor leaders throughout the United States, will gather to honor Richard Groulx, executive secretary-treasurer of the Alameda County Central Labor Council, AFL-CIO, upon his retirement after 40 years of service to the trade union movement.

Dick, as he is known to his friends and associates, has had a distinguished career in labor. He has been at the helm of the Alameda County Central Labor Council, which has gained the reputation for being the most progressive AFL-CIO council in the United States, since 1968. From civil rights to peace, Dick Groulx has always been the champion in the forefront to support the cause of labor and justice.

As a young U.S. Marine corporal just discharged from the service in Honolulu, Dick went to the offices of the Culinary Union to offer his services to striking bus workers who were being arrested on false conspiracy charges. He started off writing strike bulletins and assisting as a volunteer. It wasn't long before the Culinary Union hired him as an organizer. His instinctive organizing abilities expanded into major efforts such as the Royal Hawaiian Hotel, the Queen Surf, and other major and smaller hotels in Hawaii.

In 1948, Dick moved to the mainland and settled in Oakland, CA. His high recommendations from Hawaii quickly landed him a job with Teamsters Local 588 as an organizer. From 1948 to 1952, he concentrated on smaller delivery companies and vegetable sheds.

By 1952, he decided to move to the Office and Professional Employees Local 29 where he embarked on an agressive organizing campaign. Within one year he increased the local's membership from 900 to 1200.

"Working with office workers I learned the importance of the Central Labor Council. I was representing and organizing the most oppressed workers—women and minorities" said Dick. He found himself going to the council often for assistance. In turn he offered his help whenever the council needed his help.

In 1956, Dick was asked to run for the position as assistant to the executive secretary-treasurer of the Alameda County Central Labor Council. The rest is history.

He brought a style of leadership and political savvy that has built the Alameda County Central Labor Council into a powerful and influential labor body. Dick considers himself a "gladiator for the labor movement."

I am honored to be a friend of this "gladiator." He has the respect of every rank-and-file worker throughout the labor movement. Even in retirement, this courage, unshakeable dedication and determination will be felt.

A CONGRESSIONAL SALUTE TO DEA LANGLOIS—LONG BEACH WOMEN'S DEMOCRATIC STUDY CLUB "WOMAN OF THE YEAR"

HON. GLENN M. ANDERSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 28, 1986

Mr. ANDERSON. Mr. Speaker, I am honored today to inform my colleagues that Dea Langlois has been selected as "Woman of the Year" by the Long Beach, CA, Women's Democratic Study Club.

A native of Wisconsin, Dea graduated from business college and moved to Washington, DC, where she worked for the Departments of Justice and Agriculture from 1941-45. In 1946 she began working for the U.S. Navy and met and married her husband, Marv.

In 1951, Dea and Marv bought their present home in Lakewood. Dea attended California State University at Long Beach and began her career in the field of education. She held positions at St. Maria Goretti Elementary, St. Bartholemew's Elementary, St. Anthony's K-12, DeMille Junior High School, and Hughes Junior High School. She retired in 1985 after 26 years of service.

In addition to her professional duties, Dea has somehow managed to find the time to devote countless hours to her community and the Democratic Party. She has been actively involved with the Los Angeles County Democratic Central Committee, Democratic State Central Committee, California Democratic Council, numerous local, State, and national elections and many hearings and meetings relating to the Democratic Party. Additionally, she has been involved with the Long Beach Math Association, California Math Council, National Council of the Teachers of Mathematics, Teachers Association of Long Beach, California Teachers Association, and National Education Association.

Mr. Speaker, Dea Langlois has done much over the years in helping make the Lakewood-Long Beach area such a special place to live and work. And her commitment to the Democratic Party has not gone unnoticed by her colleagues across the State of California. My wife, Lee, joins me in congratulating Dea on this special occasion and we wish her and her husband, Marv, and their daughter, Cheri, continued success and happiness in all their future endeavors.

HANDS OFF OUR HEROES

HON. PATRICIA SCHROEDER

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 28, 1986

Mrs. SCHROEDER. Mr. Speaker, in his annual heroes of the Union address the President enshrines veterans of one feat or another. In most cases, the achievements are well worth venerating and the heroes are in the public domain.

Not so with our Democratic heroes. This Republican President freely borrows our Democratic Presidents, pelted though they were by his party while they were in public office, and installs them in his pantheon.

Franklin Roosevelt, Harry Truman, and John Kennedy have all been posthumously volunteered by Reagan to serve the GOP. Mr. President, it's time to call "halt," it's time to call "HOOH"—hands off our heroes.

President Reagan does a disservice to the pantheon of Republican heroes, whose names are never mustered to duty. We all know them by heart: Hoover, Harding, Nixon, Ford, the list runs on.

I hope this evening we will see the President return his party to its grand old traditions.

DR. WILLIAM MOODY, INNOVATIVE EDUCATOR OF CHILDREN

HON. WALTER E. FAUNTROY

OF THE DISTRICT OF COLUMBIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 28, 1986

Mr. FAUNTROY. Mr. Speaker, I have today introduced a joint resolution of the U.S. Congress commending Dr. William Moody for creating and implementing a unique and effective process oriented curriculum known as the Renaissance curriculum.

With illiteracy increasing in the United States year by year and now reaching an alarmingly high rate, with public school dropout rates intolerably high, the distinguished work of Dr. William Moody is an inspiration to all concerned about the educational development of American children.

The Renaissance curriculum comprises the Rudy Reader Early Reading Program, the Barrett Math Program, the Moody French Language Experience Program, the Mystery High Reading Program for older nonreaders, the Philosophy for Children Program, and chess, music, and dance among other curriculum components.

As ample and dramatic proof of the success of this curriculum, P.S. 149 in Harlem, New York City, raised its reading score from 13.6 to 56.1 percent in 1985, which was reading at or above the national norm for its grade.

For this reason, Mr. Speaker, I urge my colleagues to join me in commending Dr. William Moody and his effective and unique educational contributions.

TRIBUTE TO THE UNIVERSITY OF THE PACIFIC WOMEN'S VOLLEYBALL TEAM

HON. NORMAN D. SHUMWAY

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 28, 1986

Mr. SHUMWAY. Mr. Speaker, I ask that my colleagues join with me today in paying tribute to the members of the University of the Pacific Women's Volleyball Team, crowned the NCAA Division I National Champions on December 22, 1985. The UOP team defeated Stanford in an exciting final with game scores of 15 to 17, 15 to 7, 15 to 12, 15 to 13.

The members of the team are an enthusiastic group of young women who will be honored by several hundred equally enthusiastic fans at a special banquet on February 9 in my hometown of Stockton, CA. I plan to attend that special event, and it will be my pleasure to share with the team the joint congratulations of my colleagues in the House in this manner.

Congratulations to a fine group of young athletes.

HOUSE OF REPRESENTATIVES—*Wednesday, January 29, 1986*

The House met at 3 p.m.

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

As the Nation struggles with the sorrow of yesterday and the families of the astronauts know the intensity of grief and pain, we ask You, O gracious God, to hear our prayer. We pray not for easy answers to perplexing questions, but we pray that Your abiding presence will help heal the hurt and Your spirit will give strength. We are reminded that we do not have in this world an abiding city, yet we can be confident that in all things Your peace that passes all human understanding is ever with us and will never depart from us. We pray especially for the families whose joy has been turned to mourning. Bless them and comfort them, and give to each of us a new awareness of Your providence and Your everlasting grace. In Your name, we pray. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Sparrow, one of its clerks, announced that the Senate had passed without amendment a concurrent resolution of the House of the following title:

H. Con. Res. 274. Concurrent resolution providing for a joint session of Congress to receive a message from the President on the State of the Union.

RETIREMENT OF ANN CATON

(Mr. MOAKLEY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MOAKLEY. Mr. Speaker, it is my honor today to announce the retirement of Ann Caton from the U.S. Capitol Guide Service. Annie has given 25 years of dedicated service as a Capitol tour guide, sharing with people from all over the country and the world her knowledge and experience of our Nation's legislative branch of Government. During her 25 years on Capitol Hill approximately 80 million people have visited the Capitol, many of whom are my own constituents and have personally conveyed to me how much they enjoyed their tour of the Capitol as well as Annie's friendly and gracious manner.

I'm sure I can speak for all my colleagues when I say that Annie will be sorely missed. However, I also know that we all wish her well in her much deserved retirement back to Cape Cod with her husband Bill. Good luck Annie, and thanks for all your hard work and dedication on behalf of the U.S. Congress.

CHRISTA McAULIFFE

(Mr. GREGG asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GREGG. Mr. Speaker, this is a period of immense loss for America. In New Hampshire, we are stunned, thinking of the lives of the crew, but especially Christa.

Concord is a small city; New Hampshire is a small State. A community really. Christa was our friend, our neighbor, and our source of pride. Our love goes out to Steve and her children.

Christa represented so many things that have come to characterize our small State and our great Nation. Her energy, her enthusiasm. Her belief in challenging the unknown, her concern for others, especially for students. She was extraordinary and yet typical of our land and our history. A mother, a wife, a teacher, a seeker of the future.

We will miss her entirely, but we will not forget those qualities and dreams which she and the rest of the shuttle crew so personified. She lived as our neighbor, and yet she defines our Nation.

IN HONOR OF A GREAT SPACE PIONEER, LT. COL. ELLISON S. ONIZUKA, USAF

(Mr. AKAKA asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. AKAKA. Mr. Speaker, so much has already been said, and so eloquently, of yesterday's space shuttle tragedy. Nevertheless, I would like to share a few thoughts with you this morning, for *Challenger's* loss, a major tragedy for our country, is a personal one for me. A man I am honored to have known, Lt. Col. Ellison S. Onizuka, was one of the seven who so valiantly gave their lives for the benefit of our country and the world.

I was yet a newcomer to Congress when Ellison was selected as an astronaut candidate by NASA in January 1978. I remember going to the Island of Hawaii, Ellison's birthplace, to inform his mother, Mrs. Mitsue Onizuka, of the great news. Rarely have I seen such display of jubilation and pride as at that moment. Mrs. Onizuka knew that, for Ellison, this was greater than any dream ever imagined. For years, Ellison had idolized astronauts, and he fancied the thought of someday being involved in the Space Program, in any capacity.

One year later, Ellison became eligible for assignment as a mission specialist on future space shuttle flight crews. After 6 more years of training, on January 24, 1985, Ellison saw his greatest dream come true as he became a member of of the *Discovery* mission. During the mission Ellison was responsible for the primary payload activities, which included the deployment of a modified inertial upper stage [IUS]. And, with the completion of *Discovery's* 48 orbits of the Earth before landing at Kennedy Space Center on January 27, Ellison logged a total of 74 hours in space.

I was fortunate to have been in attendance at the launching of that exciting voyage, and with the Onizuka family and a host of well-wishers, I shared in the historic moment.

For the people of Hawaii, and especially for the children, Ellison became a hero. He was the first Hawaiian astronaut in the history of the Space Program, and in this role, he inspired and motivated all. Ellison hardly gave up a chance to speak of his experiences, and often took time to visit local schools.

Last September, Ellison honored me by appearing on my monthly talk show. We talked of his first mission, and his impressions of that voyage. He left no doubt in my mind that the experience was more fulfilling than he had even imagined it would be. I recall asking him if there was a single sensation which he had not experienced in simulation exercises. He said that the few seconds at liftoff were the worst. The crackling, crunching sound resulting from those thousands and thousands of pounds of rocket force left him with the feeling that the entire vessel was about to cave in. That was the worst part.

This weekend, at Ellison's invitation, I planned to go to Houston to share in homecoming festivities. Friends and family were to arrive from distant Hawaii, laden with foods that Ellison

so loved, in honor of his triumphant return.

We shall not share in such festivities together. Instead, with Ellison's death, we shall share a deep sense of loss. I grieve for Ellison, and my thoughts are with his wife, Lorna, his children, Janelle and Darien, and the host of loved ones he has left behind.

Yet, it is up to us, the living, to look to the light which Ellison has left us. This great space pioneer, who so willingly lived his lifelong dream, is a symbol of perseverance and strength. Ellison shall forever live in our hearts and our memories. We do him justice only through our actions and through our continued support of the work which he so loved. Ellison best exhibited his commitment when he said, "There are a lot of outcomes of these projects which will benefit both our society and the rest of the world."

Let us never forget this great man. But, more importantly, let us never forget what he truly valued, the betterment of society and the rest of the world. It is up to us to ensure that even in his death Ellison's vision lives on.

THE ATTITUDE OF THE SANDINISTA REGIME

(Mr. LAGOMARSINO asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LAGOMARSINO. Mr. Speaker, the United States and the world have reacted with stunned disbelief and sadness at the loss of the space shuttle *Challenger* and its crew. It's difficult to express the sorrow we all feel and the sympathy we extend to each crew member's family and friends.

The shock of yesterday's events is compounded by what I learned this morning of the reaction of the Salvadoran guerrillas to this tragedy. Radio Venceremos, the F.M.L.N. radio station for the Salvadoran guerrillas, which is known to originate its broadcasts out of Managua, gave a report early this morning on the space shuttle tragedy. I quote:

Given that the *Challenger*'s ostentatious failure represents an overwhelming blow to the U.S. Government's plans to extend the war to outer space and given that two war criminals have died aboard the *Challenger*, we share the happiness felt by those who reject and condemn the U.S. imperialism war-mongering policy.

That represents the attitude we face with the Salvadoran guerrillas and the Sandinista regime in Managua guiding them.

OUR GREAT HEROES DID NOT DIE IN VAIN

(Mr. LEVINE of California asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LEVINE of California. Mr. Speaker, our Nation suffered a devastating and tragic loss yesterday. Words cannot express the sorrow that I know every one of us in this Chamber feel, and every one of us in this country feel.

We must now come to terms with our grief and our sorrow. As horrible as this tragedy is, it would be compounded if we were to listen to those inevitable voices of timidity and fear who call for an end to our manned space program. If we were to allow the deaths of these seven American heroes to weaken our commitment to exploring outer space, they surely would have died in vain.

Mr. Speaker, now is the time to remember President John F. Kennedy's words in his 1961 State of the Union Address when he said:

Now it is time for a great new American enterprise which may hold the key to our future on Earth. The eyes of the world now look into space to the Moon and the planets beyond. We have vowed that we shall not see it governed by a flag of conquest, but by a banner of freedom and peace. We have vowed that we shall not see space filled with weapons of mass destruction; but with instruments of knowledge and understanding. Yet the vows of this Nation can only be fulfilled if we are first.

Mr. Speaker, it is because of people like Francis Scobee, Michael Smith, Judy Resnik, Ellison Onizuka, Ronald McNair, Gregory Jarvis, and Christa McAuliffe that the United States has led the way into outer space for the last 2½ decades. The five men and two women who lost their lives yesterday are great heroes. Their sacrifice can never be forgotten.

□ 1510

SALVADORAN COMMUNISTS EXPRESS HAPPINESS OVER SPACE SHUTTLE TRAGEDY

(Mr. BROOMFIELD asked and was given permission to address the House for 1 minute.)

Mr. BROOMFIELD. Mr. Speaker, as we, and all decent people mourn yesterday's tragic national loss, I am angry and shocked that anyone could find joy in the terrible accident. While our country and the world mourn, the Communist terrorist rebel radio in El Salvador stooped to an all time low in expressing its "happiness" over this incident.

It is important to note that this crude and insensitive statement was made by a Communist umbrella group which claims to represent peace and the Salvadoran people. How could any group which claims national aspirations dare to vilify the names of dedicated men and women who gave their lives in the exploration of space

It is also important to compare this Communist guerrilla group, which aspires to represent the people of El Salvador, with the leadership of President Duarte who is struggling valiantly to bring about peace and democracy for all his people. In view of the statement of the guerrillas, he strongly deserves our full support.

BENEFITS FOR SURVIVORS OF NEWFOUNDLAND AIR CRASH

(Mr. MONTGOMERY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MONTGOMERY. Mr. Speaker, today I would like to speak of another tragedy. I want to update my colleagues on the status of GI life insurance payments to survivors of the service men and women killed December 12 in the Newfoundland plane crash.

I have been advised that all but one of the 248 servicemembers who died were covered by this insurance. For some reason, that individual soldier had declined, in writing, to participate in the insurance program.

The Veterans' Administration has told me that 180 claims have been approved, 12 cases are being developed and the remaining beneficiaries have not yet returned claim forms. Each claim is being paid the day after receipt of the application.

In November, you may recall, we passed H.R. 505, which included an increase in the maximum servicemen's group life insurance from $35,000 to $50,000, effective January 1, 1986. We later rolled back the effective date by a new law in the latter part of December and as a result, the families of these servicemembers will receive an extra $15,000 insurance payment.

GRAMM-RUDMAN PRESCRIBES THE WRONG MEDICINE

(Mr. DANNEMEYER asked and was given permission to address the House for 1 minute.)

Mr. DANNEMEYER. Mr. Speaker, in fiscal year 1986 debt-servicing will cost $200 billion as compared with general tax revenues of $500 billion. This is 40 percent of the general revenue funds. In other words, 40 cents of every tax-dollar collected will be spent, not by this Government, but by its creditors. Moreover, as the Congressional Budget Office projections show, this ratio will rise to 48 cents of every tax-dollar collected in 1990. I wish to remind the House, Mr. Speaker, that under the gold standard, debt-servicing typically cost 3 cents of the tax-dollar collected.

Gramm-Rudman, for all its massive spending cuts, will not be able to change this outrageous ratio substantially, because no substantial reduction in the cost of debt-servicing is envisaged. Unless something more imaginative than the Gramm-Rudman proposals are adopted, this Government will be reduced to a collection agency, not to say a foreclosure agency, acting

on behalf of the coupon-clipper class. It might even face a tax-revolt, if the agitation on the part of the spenders triggered tax increases in lieu of spending cuts, according to the provisions of Gramm-Rudman.

The cost of debt-servicing is high because the value of the dollar was destabilized in 1971, sending interest rates into the outer space. The proper medicine is to stabilize the dollar, which would immediately pull interest rates back to the Earth's gravitation, would reduce the cost of debt-servicing to 3 cents of each tax dollar collected and, incidentally, would also wipe out three-quarters of the budget deficit without tax increases or spending cuts.

NEW SECRETARY OF AGRICULTURE LACKS FAMILY FARM BACKGROUND

(Mr. DORGAN of North Dakota asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DORGAN of North Dakota. Mr. Speaker, in the midst of a farm crisis President Reagan has now appointed a new Secretary of Agriculture. Dick Lyng is a good fellow, I like him, and I wish him well. However, I would like to say to the President that I am disappointed by the appointment.

Instead of someone with "hands-on" family farm experience coming to this administration, we now have another person who comes basically from corporate agriculture. I am sure we will continue the unbending approach of the influence of corporate agriculture in the formulation of agriculture policies in this administration.

To coin an old phrase, "this is a chip off the old block." Richard Lyng will be required, as John Block was, to subscribe to Herbert Hoover's farm policies that this President advises this Congress to adopt. The way to solve the farm problem, he says, is simply to get rid of farm price supports. What he means is to get rid of family farmers and have a Nation of corporate farms.

Mr. Speaker, family farmers are on the brink of extinction in this country. We must in this Chamber fiercely fight to preserve them. We especially need a Secretary of Agriculture who knows and cares about family farmers and comes up to the Cabinet table in the White House and speaks persuasively for their interests.

LOWER INTEREST FARM LOANS COULD NOW BECOME REALITY

(Mr. LIGHTFOOT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LIGHTFOOT. Mr. Speaker, interest costs weigh heavily in whether or not farmers can stay in business these days. The ripple effect of interest rates carries over to all commercial farm lenders and rural communities as a whole.

For that reason, I have devoted considerable effort in the past few months to developing a workable plan to offer lower cost farm loan funding.

After consulting with farmers, bankers, and lawyers, I have developed a realistic plan which I am introducing today.

The plan calls for "Ag America" savings certificates to be issued by the U.S. Treasury. Any American will be able to purchase these savings certificates in denominations from $10 to $1,000 through banks, which will be allowed to offer competitive rates. At maturation rates of 10, 15, or 20 years, taxpayers will have the incentive of tax exemption on interest earned on the certificates.

Proceeds from certificate sales will form a Farm Trust Fund to be managed by the Secretary of Agriculture, in consultation with the Treasury Secretary. Farm lenders will be eligible to bid for funds from this pool, on the condition that the funds be used only for farm loans at no greater than 9 percent interest.

In the likelihood that Congress decides to consider credit assistance for farm lenders this year, I am offering this proposal as an alternative to other types of aid packages.

This plan is workable for the entire farm lending sector and is less costly to the taxpayer than many options being debated. Furthermore, leading agricultural economists have suggested that help with interest rates would be one of the more workable and cost effective options for providing financial assistance to the troubled farm sector.

I welcome my colleagues' consideration of and support for my proposal.

HAPPY BIRTHDAY, KANSAS

(Mr. SLATTERY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SLATTERY. Mr. Speaker, today is the 125th birthday of the great State of Kansas.

In 1861 the South had seceded from the Union, President-elect Lincoln was preparing for his inauguration, and after years of bloodshed, Kansas entered the Union as a free State.

The pioneer values of independence, freedom, hard work, and neighbor helping neighbor are a way of life in my State of Kansas. The focus of Kansas communities, large and small, has always been on family, friends, and faith. That remains our focus today.

Kansas is my home by birth and by choice. I am proud to say that I would not want to live anywhere else.

Today the State of Kansas celebrates its 125th birthday with all the pride, optimism, and dignity befiting a great State that has weathered many storms, a State that nourishes our Nation and other nations with its grain and with its ideals.

Happy birthday, Kansas.

A DRUMBEAT THAT SURPASSES COLOR

(Mr. COATS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. COATS. Mr. Speaker, Monday I referred to the recent CBS News special on black families, and inserted for the record David Broder's column entitled "Drumbeat for the Family."

Today I would like to highlight from that documentary the comments of Caroline Wallace, who together with her husband run a youth center in the heart of Newark, NJ. I believe her message should be heard by all our Nation's policymakers.

When asked by Bill Moyers if moral values had changed, she said,

"Oh yes [today], it's morally acceptable to have babies. It was not morally acceptable years ago. That's what's hurting the black family."

But then Moyers asks, "even though the messages from the society that the kids are getting seem to say do anything you want to, the U.S. Government, the Governor of New Jersey, a white man like Moyers, cannot step in and say to young black kids it's just not right to have children out of wedlock, welfare needs to be changed, you've got to take responsibility, who's going to say these things to kids?"

"Why can't you say it?" Mrs. Wallace asked.

"They won't listen to me," Moyers said.

"Doesn't make any difference," Wallace replies. "You've got to say it anyway. They may not listen to me either. I'm saying that if you say it in your corner and I say it in my corner, and if everybody is saying it, it is going to be like a drumbeat. And sooner or later it will sound. But it's not just for me to talk about, it's for all of us to talk about. And I think it's going to surpass color."

I urge my colleagues to hear the message of Caroline Wallace, and join in the drumbeat.

THE BANKS WANT TO EXACT A PRICE FOR CONSUMER RIGHTS

(Mr. ST GERMAIN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ST GERMAIN. Mr. Speaker, last Thursday, the American consumer gained a clean-cut victory when the

House passed H.R. 2443, legislation to give bank customers timely access to their deposits.

No sooner had the House acted than rumors began circulating around the lobbyists' watering holes that the banks—who have lived high off the delayed funds game—planned to exact a new price from the consumer if H.R. 2443 was to become law.

The banks, unabashed by their billions of dollars of profits from the delayed funds, are now demanding a variety of new powers as a quid pro quo for giving the consumers the right to their funds as provided by H.R. 2443.

"Sure, we'll let our customers have their money if the Senate lets us dabble in retail businesses, the securities market, insurance, and whatever high-risk investment that happens to come along—of course, all the while with fewer regulators looking over our shoulders," seems to be the outline of the banks' demands—their price—for granting consumer rights. "We'll let you be protected for a price," is the banks' rallying cry.

It'll be interesting to see whether the Senate will protect consumers' basic rights without having to pay a further price.

The merits of the various items on the banks' legislative wish list should be decided on their own and not piled on the blistered shoulders of the already overburdened American consumer.

□ 1520

LEGISLATION PROVIDING FOR ANNUAL TEACHERS' APPRECIATION DAY

(Mr. SHAW asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SHAW. Mr. Speaker, yesterday our Nation witnessed the tragic explosion of the space shuttle *Challenger.* Not only was this a loss to the families and loved ones of the *Challenger's* crew, but it was also a tragic loss to the schoolchildren and teachers of this Nation, for among the crew was a schoolteacher who was to have been the first private citizen in space.

I think all would agree that Christa McAuliffe was a great representative of the teaching profession and that she embodied all the qualities found in great teachers, she was dedicated to her profession, dedicated to her students, and dedicated to the excitement of learning and discovery. She had hoped that her participation in the Space Shuttle Program would provide an example to children across the country to strive and push their abilities to the limit.

I feel this example of commitment to teaching should be honored. On December 12, 1985, I introduced a bill to provide for annual Teachers Appreciation Day, a day to be set aside each and every year in which we honor those who have taught us and are teaching our children.

I think it would be an appropriate tribute at this time, and I urge all my colleagues to sign on this bill as a cosponsor.

A TRIBUTE TO THOSE WHO FLY THE SPACE SHUTTLE

(Mr. PEASE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PEASE. Mr. Speaker, like all Americans, I am stunned and deeply saddened by the loss of the space shuttle *Challenger* and her brave crew.

At this time of sorrow we are reminded, yet again, of the inherent risks involved in the probing of space. It is a tribute to those who fly the space shuttle that the knowledge of these risks did not deter them from their duty.

We must not lose sight of the courage of these individuals who represent so much of what is good about America.

Our hearts go out to the families of the crew. Their loss is deep and personal, and so is that of the entire Nation.

LEGISLATION TO HONOR GERALD R. FORD, 38TH PRESIDENT OF THE UNITED STATES

(Mr. DAUB asked and was given permissions to address the House for 1 minute and to revise and extend his remarks.)

Mr. DAUB. Mr. Speaker, today I am introducing legislation to honor Gerald R. Ford, our 38th President of the United States. This legislation will give authority to the Secretary of the Interior to enter into a cooperative agreement for the purpose of providing technical assistance for the interpretation and marking of the birthplace of President Ford, located in Omaha, NE.

President Ford was born in Omaha on July 14, 1913. His birthsite burned in 1971, but Mr. James Paxson developed the site as a memorial to President Ford in 1975. Mr. Paxson has since donated the birthsite to the city of Omaha.

Mr. Speaker, President Ford's rise to become the 38th President followed a long and distinguished career in this body, where he was liked and respected by his colleagues. When he became President, his decency and integrity contributed greatly toward leading this country through difficult times.

I appreciate this opportunity to honor President Ford for his accomplishments, and I commend Mr. Paxson and the city of Omaha for their efforts with regard to the Ford birthsite.

NAMING SEVEN MOONS OF URANUS IN HONOR OF SEVEN LOST ASTRONAUTS

(Mr. NELSON of Florida asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. NELSON of Florida. Mr. Speaker, yesterday the Speaker accorded to me the privilege of addressing the House during the passage of a House resolution concerning the *Challenger* crew and I shared with the Speaker and I shared with our colleagues that for the past 4 months that I had been privileged to work side by side, to play, to eat, to enjoy the company of this group of brave Americans.

Mr. Speaker, we are still consumed in the numbness of the national tragedy. I would propose to the House, Mr. Speaker, and I will follow up with appropriate legislation, that perhaps one way of keeping etched the memory of these seven brave astronauts is now that we have discovered more than seven new moons of the planet Uranus and since these moons have been discovered by a product of American technology, the spacecraft that has been traveling for years, and since that spacecraft is a part of the National Aeronautics and Space Administration, perhaps, Mr. Speaker, we ought to consider naming at least seven of those moons after these seven departed brothers and sisters.

MEMORIAL TO HONOR AMERICAN ASTRONAUTS WHO HAVE PERISHED IN SPACE EXPLORATION

(Mr. BADHAM asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BADHAM. Mr. Speaker, prompted by the tragedy of yesterday that occurred to our dedicated and brave souls flying the *Challenger,* I have been prompted by that to introduce legislation, which I will today, to establish a memorial to honor America's astronauts who have perished in the quest of conquering, understanding, and exploring space. I would encourage my colleagues to join me in support of this resolution to have a memorial for those who have given the ultimate sacrifice to their country toward the exploration of space. It would be privately established under the auspices of the Smithsonian Institution.

I would welcome the support that we might dedicate a memorial to the seven who perished so tragically yesterday, in addition to the three who perished 19 years ago.

TRIBUTE TO THE TWO WOMEN ASTRONAUTS LOST ON SPACE FLIGHT

(Mrs. BOXER asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. BOXER. Mr. Speaker, people far more eloquent have spoken of the unforgettable tragedy of yesterday. The shuttle crew was the best representative of America, black, white, Asian, all religions, men and women.

I would like for a moment to speak as a woman, to say how proud the two women on the shuttle made me feel. They not only were seeking new frontiers in space, they were living proof of the new frontiers of equality. All the astronauts will be missed, but their contributions and their role models will be long remembered.

As a mother, as a wife, as a daughter, my heart goes out to all the families whose personal loss really can never be measured.

OUR SPACE PROGRAM IS A NATIONAL TREASURE

(Mr. RITTER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. RITTER. Mr. Speaker, our Space Program is a national treasure. It is a place where team America gets to put its best foot forward for ourselves and for all of human civilization.

The accident was a terrible tragedy, personal and national. It remains a very real setback, but we cannot let it deter us from the greater goal of exploring the heavens.

When the frontiers were on land or at sea, there were setbacks, too; but it was then and it is now in our nature to explore. The space voyagers who perished yesterday would have it no other way.

LEGISLATION TO ESTABLISH A NATIONAL TEACHER RECOGNITION DAY ON JANUARY 28 EVERY YEAR

(Mr. ACKERMAN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ACKERMAN. Mr. Speaker, the image of our children across the Nation watching in horror as celebration turned to nightmare, will haunt America for years. In tribute to the memory of Christa McAuliffe, an authentic American hero, I am introducing legislation today to establish a permanent National Teacher Recognition Day to be celebrated on January 28 every year.

I call on all of my colleagues to join me in cosponsoring this joint resolution.

As a former schoolteacher myself, I keenly feel the loss of this rare woman who inspired educators and students to go beyond the average and the mundane. However painful it is to remember, we must always cherish the pioneering spirit that led Christa McAuliffe and our brave astronauts to break the barriers of the unknown.

If our children are our most valuable resource—and they are—then our educators are entrusted with our most sacred responsibility. It is only appropriate that we should set aside 1 day out of the year to celebrate their contributions to our Nation, on the day that one of the profession's brightest stars was taken from us.

TRAGEDY STRIKES THE "CHALLENGER"

(Mr. FASCELL asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. FASCELL Mr. Speaker, with stunning abruptness tragedy struck in the blue skies over Florida. The explosion of the space shuttle *Challenger* and the death of its seven-member crew leaves us appalled, bewildered, and heartsick.

As a nation, we mourn the loss of the five men and two women who died on this ill-fated mission. As a people, our hearts go out to their families and loved ones. As individuals, we offer our prayers to the victims of this disaster, both those who died and those who remain behind.

As NASA's scientists work to determine what went wrong so that this will never happen again, the rest of us can only feverishly search our hearts and minds for words of comprehension and comfort. And, somehow, words never seem adequate to the task.

We have, perhaps, been spoiled by our Nation's magnificent successes in space. One glorious mission after another. We have come to accept such successes as routine.

Now we are reminded that such successes are never routine, that each mission is fraught with potential dangers, and that each generation has sent its sons and daughters into the perils of the unknown in search of knowledge and understanding.

The search will go on, as indeed it must. And if there is any single lesson to be learned from the tragedy of the *Challenger*, it is this: That men and women will always be found who are willing to risk all in the search for human understanding. And that spirit must never be lost.

ELECTION OF MEMBERS TO CERTAIN STANDING COMMITTEES OF THE HOUSE

Mr. GEPHARDT. Mr. Speaker, I offer a privileged resolution (H. Res. 363) designating membership on certain standing committees of the House, and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 363

Resolved, That the following named Members be, and they are hereby, elected to the following standing committees of the House of Representatives:

Committee on Agriculture: Terry L. Bruce, Illinois;

Committee on Education and Labor: Stephen J. Solarz, New York; Mervyn M. Dymally, California; Dennis E. Eckart, Ohio; Timothy J. Penny, Minnesota; and Chester G. Atkins, Massachusetts;

Committee on Foreign Affairs: Robert Garcia, New York;

Committee on Post Office and Civil Service: Ron de Lugo, Virgin Islands; and Morris K. Udall, Arizona;

Committee on Public Works and Transportation: Carl C. Perkins, Kentucky; and

Committee on Small Business: Tommy F. Robinson, Arkansas.

The resolution was agreed to.

A motion to reconsider was laid on the table.

PROVIDING FOR A DELEGATION TO ATTEND A MEMORIAL SERVICE FOR THE "CHALLENGER" SHUTTLE CREW

Mr. MOAKLEY. Mr. Speaker, I offer a resolution (H. Res. 364) providing for a delegation to attend a memorial service for the *Challenger* shuttle crew, and ask unanimous consent for its immediate consideration.

The Clerk read the title of the resolution.

The SPEAKER. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

The Clerk read the resolution, as follows:

H. RES. 364

Resolved, That a committee of such Members of the House as the Speaker may designate be appointed to attend the memorial service for the crew members of the *Challenger* shuttle mission in Houston, Texas, on Friday, January 31, 1986.

Resolved, That the Sergeant at Arms of the House be authorized and directed to take such steps as may be necessary for carrying out the provisions of these resolutions and that the necessary expenses in connection therewith be paid out of the contingent fund of the House.

The resolution was agreed to.

A motion to reconsider was laid on the table.

ANNOUNCEMENT BY THE SPEAKER

The SPEAKER. The Chair desires to make the following announcement:

Pursuant to House Resolution 364, a delegation of House Members will be attending the memorial services of the crewmembers of the *Challenger* shut-

tle mission in Houston, TX, on Friday, January 31, 1986.

Any Member desiring to attend, please contact the Sergeant at Arms.

APPOINTMENT AS ADDITIONAL MINORITY MEMBER OF SELECT COMMITTEE ON AGING

The SPEAKER. Pursuant to clauses 6 (f) and (i) of rule X, and without objection, the Chair appoints the gentleman from South Carolina [Mr. SPENCE] as an additional minority member of the Select Committee on Aging.

There was no objection.

APPOINTMENT AS MEMBERS OF BOARD OF VISITORS TO THE U.S. NAVAL ACADEMY

The SPEAKER. Pursuant to the provisions of title 10, United States Code, section 6968(a), the Chair appoints as members of the Board of Visitors to the U.S. Naval Academy the following Members on the part of the House.

Mr. WILSON of Texas;
Mr. FOLEY of Washington;
Mrs. HOLT of Maryland; and
Mr. SKEEN of New Mexico.

APPOINTMENT AS MEMBERS OF BOARD OF VISITORS TO THE U.S. MILITARY ACADEMY

The SPEAKER. Pursuant to the provisions of title 10, United States Code, section 4355(a), the Chair appoints as members of the Board of Visitors to the U.S. Military Academy the following Members on the part of the House:

Mr. DIXON of California;
Mr. HEFNER of North Carolina;
Mr. FISH of New York; and
Mr. HILLIS of Indiana.

□ 1535

APPOINTMENT AS MEMBERS OF BOARD OF VISITORS TO U.S. MERCHANT MARINE ACADEMY

The SPEAKER. Pursuant to the provisions of title 46, United States Code, section 1295B(h), the Chair appoints as members of the Board of Visitors to the U.S. Merchant Marine Academy the following Members on the part of the House:

Mr. MANTON of New York; and
Mr. CARNEY of New York.

APPOINTMENT AS MEMBERS OF BOARD OF VISITORS TO U.S. COAST GUARD ACADEMY

The SPEAKER. Pursuant to the provisions of section 194(a), title 14 of the United States Code, the Chair appoints as members of the Board of Visitors to the United States Coast Guard Academy the following Members on the part of the House:

Mr. GEJDENSON of Connecticut; and
Mrs. JOHNSON of Connecticut.

APPOINTMENT AS MEMBERS OF BOARD OF VISITORS TO U.S. AIR FORCE ACADEMY

The SPEAKER. Pursuant to the provisions of section 9355(a) of title 10, United States Code, the Chair appoints as members of the Board of Visitors to the U.S. Air Force Academy the following Members of the House:

Mr. DICKS of Washington;
Mr. WIRTH of Colorado;
Mr. KRAMER of Colorado; and
Mr. LEWIS of California.

COMMUNICATIONS FROM THE CHAIRMAN OF THE COMMITTEE ON MERCHANT MARINE AND FISHERIES

The SPEAKER laid before the House the following communications from the chairman of the Committee on Merchant Marine and Fisheries:

COMMITTEE ON MERCHANT MARINE AND FISHERIES,
Washington, DC, January 24, 1986.

Hon. THOMAS P. O'NEILL, Jr.,
Speaker of the House, House of Representatives, the Capitol, Washington, DC.

DEAR MR. SPEAKER: Pursuant to Public Law 453 of the 96th Congress, as amended, I have appointed the following Members of the Committee on Merchant Marine and Fisheries to serve as Members of the Board of Visitors to the United States Merchant Marine Academy for the year 1986:

The Honorable Mario Biaggi of New York; the Honorable Roy Dyson of Maryland; and the Honorable Gene Snyder of Kentucky.

As Chairman of the Committee on Merchant Marine and Fisheries, I am authorized to serve as an ex officio member of the Board.

With warmest personal regards, I am,
Sincerely,

WALTER B. JONES,
Chairman.

COMMITTEE ON MERCHANT MARINE AND FISHERIES,
Washington, DC, January 24, 1986.

Hon. THOMAS P. O'NEILL, Jr.,
Speaker of the House, House of Representatives, the Capitol, Washington, DC.

DEAR MR. SPEAKER: Pursuant to Public Law 301 of the 78th Congress, I have appointed the following Members of the Committee on Merchant Marine and Fisheries to serve as Members of the Board of Visitors to the United States Coast Guard Academy for the year 1986:

The Honorable Gerry E. Studds of Massachusetts; the Honorable William J. Hughes of New Jersey; and the Honorable Robert W. Davis of Michigan.

As Chairman of the Committee on Merchant Marine and Fisheries, I am authorized to serve as an ex officio member of the Board.

With warmest personal regards, I am,
Sincerely,

WALTER B. JONES,
Chairman.

SINGLE POLL CLOSING TIME FOR PRESIDENTIAL GENERAL ELECTIONS IN THE CONTINENTAL UNITED STATES

The SPEAKER. Pursuant to House Resolution 329 and rule XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 3525.

□ 1539

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 3525) to amend title 3, United States Code, to establish uniform regional poll closing times in the continental United States for Presidential general elections, with Mr. BARNARD in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. Pursuant to the rule, the first reading of the bill is dispensed with.

Under the rule, the gentleman from Washington [Mr. SWIFT] will be recognized for 30 minutes and the gentleman from California [Mr. THOMAS] will be recognized for 30 minutes.

The Chair recognizes the gentleman from Washington [Mr. SWIFT].

Mr. SWIFT. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, H.R. 3525 is a bill to establish a single poll closing time in the continental United States for Presidential general elections. It was reported from the Committee on House Administration by voice vote, with bipartisan support.

H.R. 3525 is an important bill that will solve a serious problem that exists—and has existed for some time—in our Presidential elections. The problem is that the outcome of an election can be determined and announced before all voters in this country have had an opportunity to cast their ballots.

The process that takes place on election day, the voting process, is a cornerstone of our democracy. We go to great lengths to preserve the integrity of that process. To ensure that it is fair, accurate, open, and honest, and that voters are able to exercise their rights and privileges without hinderance.

But over the last two decades the integrity of election day has gradually been eroded in one crucial respect. With advances in election technology it has become possible to predict with extreme accuracy the outcome of an election before all polls for that election are closed. Thousands of voters are told, in effect, that the election has been held without them, and that their votes do not count.

The developing problem came to a head most recently in 1980 when the

outcome of the Presidential race was announced on network television at 5:15 Pacific time. At that time, polls were still open in approximately half the States. In every time zone: several in the eastern time zone; about a third in the central time zone; and all in the mountain, Pacific, Alaskan, and Hawaiian time zones.

In the second largest State in the Union—New York—there was nearly an hour remaining before polls would be closed. And in the largest State, the one with more voters than any other—California—there were nearly 3 hours remaining before polls would be closed.

What ensued was accurately described by Columnist David Broder as an "uproar." Millions of voters felt that their franchise was undermined. There were even assertions that the projections had affected the outcomes of some elections. Particularly State and local elections that often have relatively small numbers of voters and are decided by narrow margins.

In response to the tremendous public outcry, this House, through the Committee on House Administration and the Committee on Energy and Commerce, became actively involved in seeking to ensure that every voter has the opportunity to cast a ballot before the results of an election are announced. In seeking a way to do that, we held numerous hearings over the last several years, both here in Washington, DC, and in other cities around the country.

What we found was that the problem of early projections of election returns had two parts, and therefore that any solution would also have to be a two-part solution.

The first part of the problem was new in 1980. That was the network use of "exit polls" to make their election projections.

Exit polls are interviews with voters as they leave the voting booth. They have been around for several election cycles, and have been used to provide accurate information on voting patterns and on questions of who votes for whom and why. What was new in 1980 was the use of that data to predict the outcome of the election while voting was still going on. The networks have discovered that they can often project the outcome of a Presidential election within a few hours after the polls open, and certainly well before they are closed everywhere.

Eliminating that part of the problem turned out to be a difficult proposition. Any attempt to legislate restrictions on the television networks would immediately become tangled in arguments over the first amendment rights of the press. So we moved instead to exert public pressure on the networks to voluntarily refrain from announcing election results before polls were closed. Pressure came from many quarters, including a congressional resolution that was passed overwhelmingly last year, calling on the networks to exercise voluntary restraint.

Early last year that effort finally paid off.

After 4 years of working on this issue, we achieved a major breakthrough when the three television networks finally joined with Westinghouse Broadcasting and with Turner Broadcasting and agreed that they will not use their exit polling data to make election projections until the polls in a State are closed.

That agreement, important as it was, solved half of the problem—but not all of it. The second part of the problem we found is simply that this is a large country, spanning several time zones, made up of States with widely varying poll closing times. Therefore, polls in some parts of the country are closed hours before polls in other parts of the country. Furthermore, we have a winner-take-all electoral college system. In short, it is quite possible for actual vote totals from places where polls are closed to reveal the outcome of an election while polls elsewhere are still open.

Only a nationwide uniform poll closing time can prevent that from happening.

The Senate first recognized this situation in the mid-1970's. They passed uniform poll closing proposals on several different occasions. Unfortunately, at that time the House did not act. And, when the problem was compounded in 1980 with the advent of projections based on exit polls, we had to go back and solve the exit polling part of the problem first.

Having done that, we are once again to the point where a uniform poll closing time will finally and completely eliminate the problem of having the outcome of an election determined and announced before people in all parts of the country have had an opportunity to vote.

Last year we set to work on the second part of the solution to our problem, a uniform poll closing time. Our hearings were devoted to finding the best uniform poll closing proposal. The bills before us included Sunday voting, 24-hour voting, directing the Federal Election Commission to select a poll closing time, closing the polls at 11 p.m. e.s.t., and closing the polls at 10:30 p.m. e.s.t.

We talked to secretaries of State, local election officials, political party people, representatives of citizens' groups and unions, Members of the House and local broadcasters.

By the conclusion of the hearings, a general consensus had developed with respect to several potential aspects of a uniform poll closing proposal.

First, election day should remain on Tuesday.

Second, there was widespread agreement that any bill should apply to Presidential general election day only. Election officials in some States felt that polling times for other Federal and State elections should be brought into line with the polling time in the Presidential election, in the interest of consistency from one election to the next. Other officials were not certain they would want to adopt that time for all elections.

And, since the problem we are trying to solve occurs in the Presidential general election, the overwhelming consensus was that Federal legislation should affect that one election only, and that each State should be left to decide for itself which course to pursue for other elections.

The third point of general agreement was that any bill should address poll closing times only, not poll openings. Only the poll closing time is a factor in early projections, so the general feeling from the hearings was that only the poll closing time should be included in any legislation. States will then be free to keep or alter their opening times as they see fit.

Finally, with respect to the actual poll closing time, the information developed in the hearings suggested that an 11 p.m. closing, or even a 10 p.m. closing would be difficult for eastern election officials to administer. Election officials expressed considerable concern about cost, the difficulty of recruiting poll workers, security, and other problems that would arise with poll closings so late. They were much more comfortable with a 9 p.m. closing—which already exists in New York, Rhode Island, and Iowa—and which election officials generally felt would present few major difficulties for the eastern, central, and mountain time zones. For the Pacific time zone, however, a poll closing of 6 p.m. Pacific standard time is just too early. The poll closing time there cannot realistically be earlier than 7 p.m. local time.

Briefly, what we had then was that in the East—where we were pleased that we found widespread willingness to contribute to a solution—election officials felt that they could administer a 9 p.m. closing, but they made cogent arguments about the difficulties of a later closing. People in the West were willing to close their polls an hour earlier, at 7 p.m. local time, but felt that an earlier closing would have a detrimental effect on voter turnout.

Since there is a difference of only 2 hours between 7 p.m. in the West and 9 p.m. in the East, while the actual time difference between East and West is 3 hours, we needed a way to eliminate an hour of the time difference.

After weighing all of the information, data, suggestions, proposals, and

ideas from our hearings, the committee adopted a proposal put forward in our hearings by the secretary of State of Massachusetts and the secretary of State of California, among others. It is exactly the proposal that is currently included in H.R. 3525.

Under this plan, two things will happen:

First, polls will close at 9 p.m. eastern standard time—which is 8 p.m. c.s.t. and 7 p.m. m.s.t.

Second, in the Pacific time zone, in Presidential election years only, in order to achieve a 7 p.m. poll closing, daylight saving time will be extended for 2 weeks—which means the four and one-half States in the Pacific time zone will be on daylight saving time on election day while everyone else is on standard time.

Since 7 p.m. Pacific daylight time is the same as 9 p.m. eastern stardard time, uniformity is achieved.

This proposal commended itself to the committee for a number of reasons. Among them are:

It achieves uniformity, so all polls will close simultaneously on the Presidential election day.

It does so while keeping poll closing times within the limits—9 p.m. in the East and 7 p.m. in the West—that election officials are confident they can administer effectively.

No State will be required to close its polls either later—9 p.m. local time—or earlier—7 p.m. local time—than many States now do.

Similarly, no State will be required to have a voting day either longer—15 hours—or shorter—11 hours—than some States now do.

Fully 27 percent of the States—more than one-fourth—will not have to change their poll closing hours at all.

States that will be required to extend their closing hours will be extending them by less than under any other proposal. None will change more than 3 hours and, if those few choose to adjust their opening times, as they have complete authority to do, the change will be less.

It is a good proposal, and it provides the necessary last piece of the complete solution what will protect the integrity of election day for all citizens in all parts of the country.

To summarize, Mr. Chairman, since 1980 this committee has been assembling the pieces of a plan that will once again ensure at least a minimal degree of protection for election day. A major piece of the plan fell into place early last year when the television broadcasters agreed that they would not use exit polling data to intrude on the period of time when voting is underway.

The final step necessary to complete the plan is to have the voting process finished simultaneously across the country. This bill, H.R. 3525, as amended, is that final step—the one piece necessary to complete the solution.

This particular proposal has merit because, of all the proposals examined by the committee, it is the least intrusive—the one that is least disruptive of the fragile process of administering elections in the tens of thousands of jurisdictions across the country that perform the difficult, expensive, crucial, remarkable work of conducting our elections year after year.

Our country is so large, and there is so much variety among the States in how they conduct elections that, going into the hearings, few members of the committee would have believed a solution could be found in which fully three-fourths of the States would change by a maximum of 1 hour.

And yet, while this proposal makes relatively modest changes in most States, it is a complete solution: one that will achieve uniformity: one that will solve the problem.

I commend H.R. 3525, as amended, to the House and urge all my colleagues to support it.

□ 1545

Mr. Chairman, I reserve the balance of my time.

Mr. THOMAS of California. Mr. Chairman, I yield 5 minutes to the esteemed ranking member of the Committee on House Administration, the gentleman from Minnesota [Mr. FRENZEL].

Mr. FRENZEL. Mr. Chairman, when this bill passed the Committee on House Administration under the skillful management of the distinguished chairman of the subcommittee, the gentleman from Washington [Mr. SWIFT] and the distinguished ranking member of the subcommittee, the gentleman from California [Mr. THOMAS], I opposed this bill very strongly.

My judgment of this bill is that it is tinkering for the amusement of the managers of the bill to no good purpose whatsoever.

If I understand the rationale of the managers of the bill, and I may be imperfect in my understanding, it is that they want to change the times of poll openings and closings in many of the States because they are afraid that early resignations by candidates or early announcement of poll closing in other States will discourage voters in the Far West.

That is an interesting supposition. However, the fact has never been proved that voters in the Far West do not vote once they have heard election returns in the East. That is point one.

Point two is that we have no guarantee that Presidential candidates will not concede early. None of them have said they would do so. If they do, the same discouragement could of course take place.

It is also true that the chairman of the subcommittee, the distinguished gentleman from Washington [Mr. SWIFT] said that this will achieve uniformity. It will not, of course.

The two worst cases, as far as westernmost States are concerned, are Alaska and Hawaii. The bill exempts those two States. That is how it achieves uniformity. It simply waives them out of the Union and says that the Continental United States will be uniform. But the managers of the bill do not care if people in Alaska or Hawaii are discouraged.

There is no credible research that would back up the statement that people were discouraged in California or Washington. The subcommittee heard 10 witnesses from Washington and California, who presented anecdotal evidence that made new people who were in line that did not vote. Again, anecdotal evidence is worth exactly what it is described as being.

The managers tell us also that they have promises from the networks not to do any early polling until the polls in each State, in the State on which they report, have closed. That is very interesting, but those are not affidavits. They are not signed by the board of directors—managements change; conditions change. In my judgment until those statements are filed with the FEC or some responsible body, there is no reason to pass a law that forces States to do things the States would prefer not to do.

Mr. Chairman, I would be opposed to this bill in any instance because it forces the States of these United States to do things that those States do not want to do. The managers of this bill have told us that many States approve it. Some do. Most of those who approve it are not going to be subject to change, but if you take the States that are going to have to make changes, the disapproval rate is almost unanimous.

□ 1555

My own poll of State election officers shows 24 States opposed, 23 in favor. Clearly, that is no consensus. There is a slight majority opposed to the bill.

Most of those polling against it are those whose States must make changes in their closing hours.

What are those changes? The polls are going to have to stay open longer. They are going to have to train additional judges, or they are going to have to make judges work longer. In many States these judges are elderly and retired people who do not want to work longer hours. The States do not want to pay any more than they are paying now. It is difficult, under cur-

rent conditions to get people to come at all.

What this bill says is the thing that Congress used to say frequently in the 1960's, less frequently in the 1970's, and almost never in the 1980's; that is, that Congress knows better than States how to run the affairs of the States. I did not believe it in the 1960's, and I don't believe it now.

I believe in Indiana where the State decided it would close its polls at 6 p.m., it did so for a good reason. It knew what its people wanted and how its people would vote best.

In other States where they want to stay open longer, the States do so, and seem to get along with it very well. In this bill, we are doing social tinkering with the most precious right of the American people, that is, the election franchise. In order to satisfy a few people on the west coast, we are going to change radically the closing times of many of our other States, and in some cases, in the extreme cases, which are Indiana and Kentucky, there will be a change in the voting hours by as many as 2 to 3 hours.

The CHAIRMAN. The time of the gentleman from Minnesota [Mr. FRENZEL] has expired.

Mr. THOMAS of California. Mr. Chairman, I yield 2 minutes additional to the gentleman from Minnesota.

Mr. FRENZEL. I thank the gentleman for yielding further.

Mr. Chairman, as I was saying, the voting hours will be increased by as many as 2 to 3 hours, 2 hours in Alabama, Georgia, South Carolina, Virginia, Vermont, Florida, and Mississippi; increasing by 1 hour in another 15 or so States. Those States did not want to have that burden laid on them. They are right.

When we are in the full House, Mr. Chairman, I shall ask to make a part of this RECORD letters which I have, and a resolution, from a large number of State election officials asking that the Congress not go through with this folly, not force this way of voting down their throats, not amend State laws at the whimsey of Congress. Those letters and resolution follow:

STATE OF MAINE,
DEPARTMENT OF STATE,
Augusta, ME, January 24, 1986.

Hon. BILL FRENZEL,
Longworth Building,
Washington, DC.

DEAR REPRESENTATIVE FRENZEL: Good luck in your attempt to derail H.R. 3525.

Uniform poll closing times, in my opinion, are a bad idea and are responding to an elitest view of what is "good for the people". In addition, it would impose a hardship in terms of our polling hours, especially, if indeed we would have to remain open until late in the evening.

Our current law requires polls to be closed at 8 p.m. A delay in this time by one hour will have several unfortunate consequences. First, it will create different closing times for Federal and nonfederal elections. Essentially this will mean that local elections and State referendum elections will have closing times of 8 p.m. rather than 9 p.m. This will undoubtedly cause confusion among voters and may result in some people not voting since they erroneously think the polls will stay open later.

In addition, the later closing time will require election workers to work later into the evening to compile the results. Since many of the same work throughout election day, increased fatigue, especially in heavy turnout presidential elections, will result in more counting errors. These errors are likely to produce an increased number of election recounts which will be an unfortunate burden and cost to the candidates and administrators. Of course, the cost of election day itself will increase by many thousands of dollars to pay election personnel and those indirectly involved such as custodial and law enforcement staff. Finally, the people of Maine will have to wait until the wee hours of the night to receive election results through news media reporting while those in the West should have their results by late evening. Confusion, error, cost and inconvenience would be the fruits of such a Federal mandated policy.

A few more comments on the motivation behind this effort. While I agree that the impact of news concerning voting behavior in the East affects the decision of many voters in the West about whether to vote, I do not believe that this information should be restricted. Advocates of such restrictions apparently believe that the western voters will not make the "right" decision about whether to vote, go fishing or read a good book. I personally resent the Government, or a "voluntary"' effort by the great communication companies, withholding information on any matters except on a true national security basis.

There is a "foot-in-the-door" aspect of this that also appears dangerous to me. The highly scientific and accurate national public opinion polls are probably a better source about the outcome of an election than are the disjointed "projections" of the national television networks. Will these polls also be blacked out days or weeks before an election?

Even more outrageous, these reports, projections or polling results are only educated opinions about the results of an election. Are we going to restrict not only information but opinion as well?

In summary, this attempt to manage public information is misguided, unnecessary, an infringement on the citizens right to know and an undue burden on election administration in the East.

Sincerely,

JAMES S. HENDERSON,
Deputy Secretary of State.

December 26, 1985.

Hon. BILL FRENZEL,
U.S. Representative, House of Representatives, 1026 Longworth Building, Washington, DC.

DEAR MR. FRENZEL: Thank you for your letter of December 19. Like you, I strongly oppose H.R. 3525, the Uniform Poll Closing Bill. I appreciate your leadership in trying to prevent its enactment.

I'm enclosing the testimony I submitted to the Subcommittee and a copy of my letter to Congressman Jeffords, which outlines some of my concerns.

Vermont relies principally on paper ballots, and it's often well after midnight before some of the larger towns complete their counting on election night. An extra two hours of voting time will extend that period even further into the wee hours of the morning and result in more exhaustion, confusion, and error.

One argument I have not advanced yet is a practical one. Vermonters are very independent and often contrary, and I would predict that if this legislation is enacted, many towns in the State will simply refuse to comply. I encountered this several years ago when the State required that the polls stay open until 7:00 p.m. for all Australian ballot elections, and I was surprised to find some towns, in the case of our last two Presidential Primaries (which incidentally many people oppose), simply shut down when they felt like it. Imagine the resulting challenges and litigation when presidential candidates find out that the polls did not stay open until the appropriate hour in some cases.

There will certainly be a financial impact on our municipalities, already overburdened by the loss of revenue sharing and increased costs. I also think it will be difficult to recruit poll workers on a weekday evening to stay any later than they already do.

I believe that the only answer to the problem of early projections is for the networks to recognize their responsibilities not to interfere with the sanctity of the voting booth and stop doing it.

Thanks again for your efforts on behalf of those of us out here in the trenches.

Best wishes.

Sincerely,

JAMES H. DOUGLAS,
Secretary of State.

MAY 21, 1985.

Hon. JAMES M. JEFFORDS,
House of Representatives,
Rayburn House Office Building,
Washington, DC.

DEAR JIM: The papers lead me to believe that several proposals to establish uniform polling hours throughout the country are now being considered with some seriousness by the Election Subcommittee of the House Administration Committee. I feel compelled to write you my personal opinion of such proposals.

The problem the legislation seeks to remedy is very serious. The major television networks consistently announce their projections of Federal elections, based on exit polls and other statistical data, in advance of the closing hours of West Coast States, in many cases causing people who would otherwise exercise the voting franchise to turn around in their cars and return home rather than participate in an election already determined by other voters. Nothing kills the incentive to vote faster than the thought that your vote won't make any difference.

The uniform polling hour proposals would establish 11:00 p.m., 10:00 p.m. or perhaps 9:00 p.m. on Sundays, as the hours polls would close in the East.

Imagine the impact of this proposal on Vermont elections. Poll workers would be forced to delay the process of beginning to count ballots from the present 7:00 p.m. to the hour they normally complete the process today. Sunrise will become a normal part of the experience of working at the polls; exhaustion and resulting bad counting procedures will become the standard; recounts and contests will increase many fold. As most towns offer a modest compensation to their election workers, the cost to our municipalities will increase.

The proposal doesn't make sense to a state like Vermont where more than three-

quarters of all voters vote by paper ballot, where all but a dozen communities need to recruit election workers to sort and count paper ballots, often into the wee hours of the morning.

I have no objection philosophically to a uniform poll closing hour. Our Nation has changed dramatically since the framers of our constitution first designed the democratic system where all voters were on the East Coast and news traveled very slowly. The problem with this concept is its practical effect on Vermont. I would have no objection if all polls in America closed at 7:00 p.m. Eastern Standard time, but I realize that this would have an obvious undesirable effect out West.

I've served for several years on the committee for the National Association of Secretaries of State which has considered a variety of aspects of this problem. We've met several times with network executives and have, very frankly, failed to arrive at a mutually satisfactory approach. I personally continue to believe that the best solution to the problem is voluntary restraint on the part of the national networks.

A proposal now pending before the House would have a serious adverse effect on the procedures for conducting elections in Vermont, and I hope you will seek a more satisfactory solution.

Thank you and best wishes.

Sincerely,

JAMES H. DOUGLAS.

UNIFORM POLLING HOURS TESTIMONY OF HON. JAMES H. DOUGLAS, VERMONT SECRETARY OF STATE BEFORE THE U.S. HOUSE SUBCOMMITTEE ON ELECTIONS

The question of how to prevent the news of election results from affecting the results of elections is one that troubles election officials across this country. While the State of Vermont has not seen the loss of turnout due to early reporting of returns that Washington and California have, we all suffer when elections are affected by factors other than the strength of candidates and their positions on the issues. The State of Vermont does have a direct interest, however, in the matter of uniform polling hours, if the "solution" offered to solve a national problem interferes with the conduct of elections in the Green Mountain State.

Vermont elections are conducted principally by volunteers. These devoted citizens usually work from 15 to 20 hours on election day, checking voters in, explaining the voting process, and counting votes from paper ballots by hand until the small hours of the morning. Fully three-quarters of Vermont voters still use paper ballots; only a dozen cities and towns have voting machines, where the tabulating can be done quickly. All polls now close in Vermont at 7:00 p.m., but most election officials seldom finish before midnight, given the need for ensuring an accurate tallying of checklists, count of votes, and completion of returns.

Our experience shows that the longer the time needed for winding up the election, the more likely we will find errors and mistakes in the final outcome. This is not intended to be a negative reflection on Vermont pollworkers, but rather a realistic assessment of the limits of human stamina. Election officials do an incredible job, with very few problems, but if you saddle them with two or three more hours of work before the polls close, you are asking the impossible from them.

Consider also the fiscal impact on cities and towns. At a time when the property tax has been stretched to the limit to pay for necessary local services such as education, longer hours of voting will force municipalities to pay more for poll workers, thus straining local resources even further.

The problem that gives rise to the proposal to establish uniform polling hours originates with the news media, principally the national news networks. It is their competition to be first with the announcement of who has won an election that has made victims of voters in the West and that now threatens to disturb the well-oiled election process we have developed in other parts of the country through this ill-advised federalization of the election process.

Article I, Section 4 of the Constitution of the United States guarantees the right of the states to prescribe the times, places and manner of holding elections for Senators and Representatives. While that section reserves a residual right of Congress to make or alter such regulations, it seems clear that the purpose of this residual right was to reserve to the federal government "a right to interpose, whenever extraordinary circumstances might render that interposition necessary to its safety." Hamilton, Federalist 59.

Here is no national emergency caused by the states, but a problem caused by the media. Here is a bitter medicine being forced down the throats of the states, when the disease is manifest in the behavior of television reporters. The medicine is worse than bitter: it may well cause as great harm to existing election systems as the ill it seeks to cure.

What price must we pay to protect the award given to the network that breaks the news first?

We do not object to solutions to the problem which leave our system intact. We do object to proposals which will set the closing hours of polls in the East at hours later or earlier than 7:00 p.m. Earlier closing hours will disenfranchise working people who traditionally vote on the way home from their place of business. Later closing hours will affect the reliability of the vote counting process.

We can only hope that Congress will make no precipitous decisions until all alternatives have been explored and all the consequences of their actions have been considered. Elections are delicate mechanisms, easily damaged by slight changes in routine. Please remember this, before making the lives of dedicated election officials more difficult by a uniform poll closing bill such as that proposed by Mr. Guarini.

Thank you.

JANUARY 8, 1986.

Hon. BILL FRENZEL,
Longworth Building,
Washington, DC.

DEAR CONGRESSMAN FRENZEL: I read with interest your letter concerning H.R. 3525, the Uniform Poll Closing Bill. I wish to state that while I agree with the theory of uniform closing so as not to discourage voting, some provisions of this Bill would pose problems in Mississippi.

In June of 1984, Dick Molpus, the Secretary of State, appointed a twenty-five member Task Force to study and evaluate the present election laws. As a result, an election bill will be introduced during the 1986 Legislative session calling for a comprehensive revision of these statutes. One of the recommendations of the Task Force was the extension of polling hours. At the present time, the polls open at 7:00 a.m. and close at 6:00 p.m. After considerable study, the Task Force recommended an extension of one hour to the closing time or 7:00 p.m.

To be more specific, Mississippi, has approximately 49 counties utilizing paper ballots. After the polls close in these counties, poll workers must hand tally the votes. They are paid $40 per day for their services. The consensus of the Task Force was not to recommend that the polls remain open longer than twelve hours. Certainly, an increase in polling hours would necessitate a salary increase.

Also for your information, Mississippi is governed by the provisions of the Voting Rights Act. The United States Justice Department will have to approve any change to amend our present election statutes.

In conclusion, thank you for giving me the chance to respond to this matter. I am hopeful that my letter will give you insight into the voting procedures of this State. I will follow with interest the progress of this Bill.

Sincerely,

NANCY SULSER,
Special Projects Officer.

DECEMBER 31, 1985.

Hon. BILL FRENZEL,
Longworth Building,
Washington, DC.

DEAR CONGRESSMAN FRENZEL: I appreciate your letter of December 19, 1985 concerning uniform poll closing in Presidential Elections. I, too, have concerns with this legislation since it is an intrusion into the state's ability to run elections.

Currently in Virginia, polls open at 6:00 a.m. and close at 7:00 p.m. The officers of elections are already working very long hours and extending the close of the polls by two hours I believe is an undue hardship. In many cases it means the results would not be complete until well after midnight. That, I am afraid, would lead to many more errors in the tabulation of results.

As to changes in state law, I am not sure how Virginia's General Assembly will address the additional hours. They have several options:

1. Do nothing and require the officers to serve longer hours.
2. Open polls later in the morning.
3. Develop shifts for officers to serve which would require additional personnel.

If I can answer further questions or assist you in any other way in this matter, please contact me.

Sincerely,

SUSAN H. FITZ-HUGH,
Secretary.

DECEMBER 27, 1985.

Hon. BILL FRENZEL,
U.S. House of Representatives,
Washington, DC.

DEAR CONGRESSMAN FRENZEL: Thank you for your letter of December 19, 1985, regarding H.R. 3525, the Uniform Poll Closing Bill.

I agree with your evaluation of the bill and the lack of effect it will have on increased voter participation. Utah's polls are presently open from 7:00 a.m. until 8:00 p.m. on election day. H.R. 3525 would close our polls one hour earlier, which would have a greater negative impact on voter participation than would any media information regarding vote trends from the east.

Election procedure has traditionally been a state responsibility. Utah has a history of being one of the leaders in voter participation. Our elections have also been fair and lacking in fraud. We feel that H.R. 3525

would be an unnecessary infringement on our right and responsibility to conduct elections in a way that provides the greatest benefit to our people.

We hope that when this bill is brought up for discussion it will be soundly defeated.

Sincerely,

DAVE HANSEN,
Deputy Lieutenant Governor.

OCTOBER 25, 1985.

Hon. BILL FRENZEL,
Hon. BILL THOMAS,
Committee on House Administration, Washington, DC.

DEAR REPRESENTATIVES FRENZEL AND THOMAS: Thank you for the opportunity to comment on election proposals currently being considered by the Subcommittee on Elections of the House Administration Committee. I am sorry for the delay in answering your inquiry; however, I have been in the hospital and only recently returned to my office.

Enclosed is the completed questionaire which you requested comments concerning. In addition, based upon my experience in elections as director of the State Election Commission for the past 20 years, I should like to make a suggestion to your committee for a solution to the problem we are experiencing in the times the polls close on the east coast in presidential and vice presidential elections. It would cause a great deal of disruption, additional work and expenses to the states on the east coast to require them to work additional hours on election day or to change the voting hours to open later and close later in the election day although the actual working hours are not increased. It would seem to me that a more workable solution to this problem would be a federal statute that would prohibit any election official, federal, state or local, from disclosing or making publicly known the results of the vote for president and vice president until the polls close in the western portion of the United States. This would permit election officials in the east to maintain the same voting hours; to go ahead and begin counting the ballots for president and vice president; but it would prevent them, by law, from publicly disclosing these results to anyone, including the media, until such time as the polls close in all other States.

If you or your committee would like to discuss this matter with me further, I would be happy to meet with you.

Yours very truly,

JAMES B. ELLISOR,
Executive Director.

QUESTIONNAIRE

Please complete and return to: Hon. Bill Frenzel and Hon. Bill Thomas, Committee on House Administration, H-326 The Capitol, Washington, D.C. 20515

1. Please list the number of officials required by state law to work in each precinct on election day. What is the amount of compensation for each official?

Three officials for each 500 registered voters or portion thereof in each precinct. For example, if there are 650 registered voters in a precinct, the law requires six officials. Each official receives a minimum of $50 for the election.

2. Would any of the bill require additional poll workers in your state? If yes, approximately how many more. Would there be a problem to recruit the additional poll workers?

Longer hours would require additional poll workers and it would be difficult in some areas to recruit additional poll workers.

3. Would any of the proposals require different locations for precinct polling places?

Possibly so, but not to any great extent with the exception of Sunday voting. We use many churches in South Carolina as voting places and they would be unavailable on Sundays.

4. Based on your own local circumstances, would you recommend that Congress pass any of the following bills?

A. Twenty-four hour voting: Yes—No X.

B. Sunday voting: Yes—No X.

C. Opening and closing times set by Federal Election Commission: Yes—No X.

D. Uniform closing times—1. What hour would be best for you?—p.m.: Yes—No X.

Name: James B. Ellisor.

State: South Carolina.

MICHIGAN DEPARTMENT OF STATE,
SECRETARY OF STATE,
Lansing, MI, October 10, 1985.

Hon. BILL FRENZEL,
Hon. BILL THOMAS,
Congress of the United States, House of Representatives, Washington, DC.

DEAR CONGRESSMEN FRENZEL AND THOMAS: Secretary of State Richard Austin is concerned with the effect of the early release and projection of presidential election returns and believes that this significant problem rightfully deserves the attention of the Congress. Mr. Austin has asked me to convey to you his concerns on this issue and on the legislative proposals now being considered.

I have three concerns with the proposed uniform poll closing changes that would result in Michigan from the legislation enclosed with your letter. (Currently, Michigan's polls open at 7 a.m. and close at 8 p.m. E.S.T.) First, the extension of Michigan's polling period by even two hours would mean that Michigan communities would have to pay election day workers approximately $250,000.00 in additional wages. This additional cost burden could not be justified unless it could be demonstrated that the two or three hour polling period extension would result in an increase in voter turnout levels. Secondly, by shifting the opening of Michigan's polls to 8 a.m., one of the busiest voting hours in the state would be lost (7 a.m. to 8 a.m.). Finally, an 11: p.m. poll closing would mean that the majority of Michigan's percinct workers would not complete their end-of-day duties until 1 a.m. and in some cases, 2 a.m. I view this as an extremely late hour for precinct workers who have reported for duty at 6:30 a.m. During the final hours of the day, when highly detailed precinct reports must be completed, fatique would be great—increasing the chance for inaccuracies in the reports. Clearly a second shift of precinct workers would have to be brought in to cover the latter half of an 18 to 19 hour day. I question whether many of our local clerks are prepared to cope with a sudden doubling of their precinct staffing needs, a significant increase in costs and training and a more difficult recruiting task.

A further concern is that the proposed legislation does not compel the media to withhold election projections until the polls are closed. While I understand that most of the networks have agreed to withhold projections as long as all of the networks adhere to the agreement, the recent and continuing proliferation of new networks (CNN, Metro Media) reduces the likelihood that an agreement of this sort would work in actual practice. With the competition between television networks as keen as it is—and exit polling techniques becoming increasingly more sophisticated—it is probable that the contest to see who can call the election first would continue even with uniform national polling hours and a nonbinding agreement between the networks in place. At a minimum, the legislation should reference the agreements with the networks and automatically release all states from uniform hours if and when the networks violate the agreement.

In summary, while I am anxious to help work toward a solution to the problem presented by the early projection of presidential election results, I feel that alternative solutions to the problem should be explored. Two possible solutions that would not be disruptive to polling hours currently in place across the country would be a federal prohibition enforced by the Federal Communications Commission against the broadcast of election returns before 10 or 11 p.m. or a requirement that television networks blackout projections in a time zone until the polls close in the region.

I thank you for giving me the opportunity to offer my comments on this issue.

Sincerely,

CHRISTOPHER M. THOMAS,
Director of Elections.

QUESTIONNAIRE

Please complete and return to: Hon. Bill Frenzel and Hon. Bill Thomas, Committee on House Administration, H-326, The Capitol, Washington, D.C. 20515

1. Please list the number of officials required by state law to work in each precinct on election day. What is the amount of compensation for each official?

Michigan election law requires that three (3) precinct inspectors be appointed to each precinct. Punch card voting systems require four (4) precinct inspectors. Generally, precinct inspectors are paid between $50-$80 per day.

2. Would any of the bill require additional poll workers in your state? If yes, approximately how many more? Would there be a problem to recruit the additional poll workers?

H.R. 348, H.R. 622, H.R. 640, and H.R. 1759 will require additional precinct inspectors. The election work day now is 6:30 a.m. to midnight. Any additional time requirement will require a split shift—doubling the number of workers. it would not be feasible to pay less than $50 even on a split shift and still recruit sufficient number of workers. Our cost would double. Recruitment is a problem now and these bills would definitely increase the problem.

3. Would any of the proposals require different locations for precinct polling places?

No.

4. Based on your own local circumstances, would you recommend that Congress pass any of the following bills?

A. Twenty-four hour voting: Yes—; No X.

B. Sunday voting: Yes—; No X.

C. Opening and closing times set by Federal Election Commission: Yes—; No X.

D. Uniform closing times—1. What hour would be best for you? 9 p.m.

Name: Christopher M. Thomas.

State: Michigan.

STATE OF MISSOURI,
OFFICE OF SECRETARY OF STATE,
Jefferson City, MO, January 3, 1986.

Hon. BILL FRENZEL,
Member of Congress,
Longworth Building, Washington, DC.

DEAR CONGRESSMAN FRENZEL. Thank you for your letter of December 19 updating me on the status of the House vote on H.R. 3525. As you know, I have gone on record in opposition to Uniform Poll Closing. Primarily, I do not believe it should be the role of the federal government to set a closing time for elections involving state and local as well as federal candidates. I have several other points of concern which I will outline for you. For your convenience, I have also enclosed a letter I sent to members of the House Elections Subcommittee and the Senate Rules Committee, as well as members of the Missouri delegation, in October.

Your letter mentions cost as a concern when considering uniform poll closing. Certainly, cost is a major concern. Additional time at the polls means, at the very least, increasing costs in terms of pay to pollworkers. But, because of pollworker fatigue, we might be forced to add workers, which would certainly add to the expense. Recruitment of pollworkers would most likely be made more difficult with the longer hours. And, we must bear in mind that local jurisdictions must pay these added costs. I don't need to tell you that many of these jurisdictions cannot shoulder any more financial burden.

I think uniform poll closing, and certainly the bill now being considered is confusing to voters. We could conceivably have "national election voting times" and "non-national election voting times," leaving the voter to figure out when he can exercise his right to vote based on what's on the ballot. I am also told the extension of Daylight Savings Time to accommodate the uniform poll closing could also have a substantial negative impact on our transportation systems.

Finally, I have serious questions about changing our national system of elections based on what the national news media may or may not do. While the top executives now in control may pledge one thing, they might not hold their current positions in 1988. The news executives at that time could have completely different thoughts on election coverage.

Congressman, I appreciate your interest in my opinion on this matter. If I may be of further assistance to you as you continue your deliberations, don't hesitate to contact me.

Sincere regards,

ROY BLUNT,
Secretary of State.

STATE OF MISSOURI,
OFFICE OF SECRETARY OF STATE,
Jefferson City, MO, October 10, 1985.

DEAR ———: As Missouri's Secretary of State, I would like to officially voice my opposition to federally mandated uniform poll closing. I have several reasons for taking this position and will highlight them in this letter.

First, I do not believe it should be the role of the federal government to set a uniform closing time for elections that involve state and local, as well as federal candidates. Currently, states have varied polling hours in place to serve the needs of their voters. For instance, in Missouri there are seven possible election dates each year on which state or local elections may be held. The polls open at 6:00 a.m. and close at 7:00 p.m. In my opinion, adjusting those election times to accomodate federal elections sharing only certain election dates would be a needless and confusing intrusion into the process of voting.

As you know, a large percentage of the public has not been voting. In Missouri, election authorities have launched various efforts to reduce voter apathy and encourage the electorate to vote. With uniform poll closing, we would be forced to make a decision: Would we change polling times on all elections to create a uniform system or would we simply have "federal election voting times" for those elections held in November of even-numbered years and "state and local election voting times" for the great majority of elections? Either way, I think we would confuse voters and possibly discourage some we have worked hard to involve because polling hours could be inconsistent.

Secondly, I feel uniform poll closing would be a costly proposition. Each additional hour we add to the voting day adds thousands of dollars to local election costs. These costs are, of course, borne by local jurisdictions, many of which are ill-equipped to shoulder any more financial burden. The recruitment of local "election judges" is already difficult in Missouri. Longer hours would almost certainly make a difficult situation worse.

Finally, I am not enthusiastic about the re-structuring of the local election hours in response to new techniques used by the national news media. The election process is, after all, public business. Certainly, we recognize the important functions of the news media, and I agree that they must have proper access for coverage. But I do not believe a national uniform poll closing is an appropriate solution to the problems brought on by early projections and the broadcasting of polling results.

I believe that changing our national system of elections in response to pledges of the current managing executives of the national news networks causes more problems than it solves. Two one-sided Presidential elections combined with the advent of "exit" polling and sampling have made the problem of early projections appear to be greater than it probably will turn out to be. Information technology changes, projections based on demographic data become more refined, policy makers for the national networks change in ways that require us to make decisions based on circumstances that will probably change by the next election.

I think the idea of federally mandated uniform poll closing creates more problems than it solves and in all probability will not solve the problem that occurred in 1980 and 1984. As Secretary of State of Missouri, I oppose this legislation.

I would be glad to discuss this with you or any member of your staff at any time.

Respectively submitted,

ROY BLUNT,
Secretary of State.

STATE OF TEXAS,
SECRETARY OF STATE,
Austin, Texas, October 1, 1985.

Hon. BILL FRENZEL,
Hon. BILL THOMAS,
Congress of the United States, House of Representatives, Washington, DC.

DEAR CONGRESSMEN FRENZEL AND THOMAS: Enclosed is my reponse to your recent questionnaire. I hope this information is helpful.

Sincerely,

MYRA. A. MCDANIEL,
Secretary of State,
State of Texas.

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1. Section 32.031 of the Texas Election Code requires the appointment of a presiding judge and an alternate for each precinct. In addition, House Bill 123 of the 69th Legislature requires the presiding judge to appoint at least one clerk. Since the alternative judge may serve as a clerk, the theoretical minimum is two workers per polling place. As a practical matter, however, only the smallest precincts could function with the minimum staff. Almost every precinct, especially in the general election, employs well in excess of this minimum.

Section 32.091 of the Texas Election Code provides for compensation to be set by the commisisoners of each county up to a maximum compensation of $5.00 per hour. In the general election, this maximum is almost universally the amount actually paid.

2. Any bill which extends the hours during which the polls are open will result in the need to compensate judges and clerks during the extra hours. However, extra personnel would not be necessary. A more important consideration may be the reluctance of some poll workers to work very late hours. Many poll workers are women and most of the more than 6,000 polling places in Texas are located in urban areas. It is reasonable to expect that, since working extended hours at the polls would require them to be out several hours after dark, this might discourage otherwise interested workers from volunteering to serve. It is always difficult to recruit polling place workers, and this may add to the difficulty.

3. Polling places are often located in privately owned buildings. In some cases, owners may consider the later closing time in deciding whether to permit use of their property for a polling place. The extent of such a problem, if any, is not possible to ascertain.

4.A. No.

4.B. No. Since many polling places are now located in churches, this would result in extreme difficulty in locating polling places.

4.C. No.

4.D. No. The real problem is due to the efficiency of exit polling and the geographical reality of multiple time zones. Results of presidential elections will remain predictable before the polls are closed unless the press practices restraint in reporting the results of exit polls.

Uniform poll closing is unlikely to change the voting habits of the public. Most people in the east will have voted before those in the west regardless of the voting hours, and the results of the exit polls will have a disproportionate effect (to the extent they have an effect at all) on the westernmost states.

STATE OF OHIO,
SECRETARY OF STATE,
Columbus, OH, December 23, 1985.

Hon. BILL FRENZEL,
U.S. Representative,
Washington, DC.

DEAR REPRESENTATIVE FRENZEL: I am writing to you regarding House Resolution 3525, the uniform poll closing bill.

I oppose uniform poll closing because it misses the underlying cause of the problem—the television networks. Networks insist on disrupting our electoral system so that they can increase their ratings with exit polls and victory projections. Clearly, it is a case of creating news rather than reporting it. And, as you noted in your dissenting report, there is nothing to prevent the networks from breaking their pledge of withholding results until the polls have closed in the particular state.

As Ohio's Chief Elections Officer, I share your concern over the confusion that would be raised by having one set of longer hours for presidential elections and another set of shorter hours for years with local and state elections. In non-presidential years, voters would be coming to the polls late only to find them closed.

And, as you noted, these changes in voting hours would create expensive administrative problems for many states. In Ohio, more money would be needed for poll workers training and for poll worker wages. It might also require split shifts for Ohio's 13,508 precincts. In addition, adding poll workers could increase difficulty in tracking any inaccuracies that might occur.

I wholeheartedly agree with your arguments and share your concern that this bill misses the real problem. Instead of the states bailing out the networks, national television networks should shoulder the responsibilities that come with the rights of a free press.

If I can provide you with any supporting information in your fight against this bill, please let me know.

Very truly yours,

SHERROD BROWN,
Ohio Secretary of State.

STATE OF KANSAS CAPITOL
TOPEKA, KS, JANUARY 2, 1986.

Congressman BILL FRENZEL,
House of Representatives,
Washington, DC.

DEAR CONGRESSMAN FRENZEL: Thank you for your letter dated December 19 1985 requesting my comments on H.R. 3525.

I am not in favor of H.R. 3525. There are no proven advantages to a Uniform Poll Closing law, therefore a bill of this magnitude should not be passed based upon pure speculation.

The passage of H.R. 3525 would result in higher cost to county and state governments. Office staff and board workers would need to be paid overtime for the extra hours worked. Expenses for utilities and rental of polling places and courthouses would increase. Furthermore, the possibility exists that higher wages would need to be paid to entice board workers to work longer hours.

There is no solid evidence that H.R. 3525 will increase voter turnout. Moreover, modern technology allows networks to make projections as early as 8:00 a.m. election day. The ability to make early projections undercuts any substance H.R. 3525 might have.

I do not believe the Uniform Poll Closing bill offers a solution to voter turn-out or the broadcasting of race projections, or efficiency in administering elections. Thus, the cost is not warranted. H.R. 3525 should not be passed based upon theory. Too much is at stake for a bill of this magnitude to be passed without solid evidence as to its value. Should you have any questions please feel free to contact me in the future.

With every good wish.

Cordially,

JACK H. BRIER,
Secretary of State.

OKLAHOMA CITY, OK
December 26, 1985.

Representative Bill Frenzel,
1026 Longworth Building,
Washington, D.C.

DEAR REPRESENTATIVE FRENZEL:

Thank you for requesting my input concerning the ramifications of H.R. 3525 on Oklahoma election administration.

Oklahoma law now requires that polling places be open from 7 a.m. to 7 p.m. If H.R. 3525 were to become law, I presume that the Legislature would change the closing time to 8 p.m. for Presidential elections, so that voters who arrived at the polls between 7 p.m. and 8 p.m. would receive not just federal ballots—as would be required by H.R. 3525—but state and county ballots as well. I do not anticipate significant changes in terms of increased personnel or costs. As I am sure you are aware, it is becoming increasingly difficult to retain the services of qualified poll workers. H.R. 3525 would act to exacerbate that problem by adding additional time to an already-long day for these election officials.

If I may be of further service to you, please let me know.

Sincerely,

LEE SLATER,
Secretary, State Election Board.

STATE OF INDIANA
Indianapolis, IN, January 6, 1986.

Re Uniform poll closing. Presidential elections, legislative proposal.

Hon. BILL FRENZEL,
United States Congressman, 1026 Longworth Building, Washington, DC.

DEAR REPRESENTATIVE FRENZEL: I am writing in response to your letter of December 19, 1985, inquiring as to my thoughts on the Uniform Poll Closing Bill (H.R. 3525) to be considered by the U.S. House of Representatives at the end of January. Although well intentioned, I believe the concept of uniform poll closings is ill conceived.

One lesson recently learned from our state's famed 8th District congressional controversy is that it is difficult to commit citizens to serve on an election board for the 12-hour period during which the polls are open. If Congress were to extend the hours of our voting process beyond the present 12-hour period, I fear that the election process would suffer from an unwillingness of people to work the polling places for the extended three hours.

If two shifts of workers were utilized, costs of administering elections would increase dramatically. Again, under present circumstances, it is difficult to obtain the necessary workers to perform election tasks for a single 12-hour shift. It would be practically impossible to recruit, train and enlist the services of sufficient numbers of people to work through two shifts of a 15-hour election day.

Advocates of the proposal argue that despite all of the problems which can be assigned to the proposal, such problems would only arise on one election day every four years. My response is that Indiana would, of necessity, extend and lengthen the polling times for all elections if they did so for general election day in the presidential year. Otherwise, voters would have an extended day in presidential years, but in the primary and general elections in other years of the four-year cycle, the state would operate within the traditional 12-hour timeframe.

What's the result? Total confusion. Scores of people will converge on polling places at 7:00 or 8:00 in the evening expecting to vote as they did in the most recent presidential election . . . only to find the polling place closed.

There are other, more technical problems inherent in this Congressional proposal. I have, however, touched on the overriding concerns which support my belief that the uniform poll closing concept is bad public policy. It would contribute nothing to either the sound administration of elections in the country or public confidence in the process.

Thank you for the opportunity to speak to this subject. I know that you, too, are opposed to this concept and I hope that my comments will be of assistance in your efforts to defeat it.

Sincerely,

EDWIN J. SIMCOX,
Secretary of State.

STATE OF WEST VIRGINIA,
CHARLESTON, WV,
January 7, 1986.

Hon. BILL FRENZEL,
U.S. House of Representatives,
Washington, DC.

DEAR BILL: I have always tried to take a national approach to problems, not wanting to judge the solutions by what seems desirable to a particular state. However, in my position as Secretary of State of West Virginia, I have to look closely at what H.R. 3525, the Uniform Poll Closing Bill, would do to West Virginia elections.

Polls in West Virginia open at 6:30 a.m. Many of the counties are rural and even after the polls close the poll officials are more than a half hour away from the county clerk's office where the ballot boxes must be taken. Also, 30 of our 55 counties still use paper ballots, which must be counted at the polls. In smaller precincts with single election boards, this counting doesn't begin until after the polls close at 7:30 p.m.

County clerks from all over West Virginia have told me they weren't sure if they could run elections with the extended hours. They find it difficult even now to get competent poll officials, many of whom are retired and have difficulty with the long hours as it is.

What disturbs me most is realizing that the Congress is considering putting an additional burden on counties and other election administrators throughout the east, as a result of a problem created by the networks. It would seem to me that there is one way to solve the problem which does not increase the burden on ordinary prople: plainly and simply, work out the problem with the networks.

I realize they are balking at promising to withhold election forecasts until after the polls are closed nationwide, but maybe all the work hasn't been done there that could be done.

The longer day will raise the cost of elections, because we couldn't hope to get poll officials to arrive at the polls for preparation at 5:30 in the morning and stay until well past 9:00 o'clock in the evening, plus any additional counting time, for the current pay of $50 per day. Possibly, we could

get by without additional poll clerks, but that would depend on county clerks' ability to find people to work the double shift.

Therefore, I oppose H.R. 3525.

If you ever pass through West Virginia, be sure to put me on your list to visit.

Sincerely,

KEN HECHLER,
Secretary of State.

OFFICE OF THE SECRETARY OF STATE,
SPRINGFIELD, IL,
January 17, 1986.

Hon. BILL FRENZEL,
Member of Congress, 1026 Longworth Building,
Washington, DC 20515

DEAR CONGRESSMAN FRENZEL: Thank you for your letter of December 19 regarding the pending Uniform Poll Closing Bill. I fully agree with the general thrust of your remarks that the Congress should stay out of the business of running elections, which always has been, and should remain, the responsibility of the states. The logic is particularly peculiar in this legislative development. The proponents of H.R. 3525 are saying, in effect, that because the television networks broadcast their election coverage in a manner objectionable to the Congress, the federal government should take over the conduct of elections in presidential election years.

Please understand that these are my personal opinions, and not those of an elections administrator. Since 1974, the conduct of elections in Illinois has been under the jurisdiction of the State Board of Elections, 1020 South Spring Street, Springfield, Illinois 62708. If you are seeking a more expert point of view, I recommend that you consult the Board. However, I thank you for this opportunity to present my views.

Sincerely,

JIM EDGAR,
Secretary of State.

STATE OF COLORADO,
DEPARTMENT OF STATE,
Denver, CO, *January 7, 1986.*

Hon. TOM FRENZEL,
House of Representatives,
1026 Longworth Building,
Washington, DC.

DEAR CONGRESSMAN FRENZEL: Thank you for contacting me concerning H.R. 3525, the Uniform Poll Closing bill. I had already written the Colorado delegation and am enclosing copies of the responses received to date.

My concerns as stated to them are first that the problem of early projections and predictions is not resolved by this proposal. Second, that this is an intrusion into the conduct of elections by the states. Let me explain further. The proposed legislation speaks only to presidential election years, yet federal offices are on the general election ballot every two years and projections are made on U.S. Senate and House of Representatives polls in those years. Early projections from polling place interviews may be misleading since voters have indicated to our office that they resent exit polls and do not answer with a true indication of their vote.

When these early projections are broadcast in our state on the voting patterns of eastern states, the time lapse may indicate to the voter that projections have been made from *results*, not *exit polls*. In Colorado, general election races at all levels may be decided by a few votes. If electors stay away from the polls because winners of major national races have been projected, no votes are cast for all other races also on the ballot. If close, Colorado requires a recount of the race.

Examples of recent close races are as follows:

1978—Congress—Third District (33 counties)

Registered	227,182
Voter turnout	151,636
Ray Kogovsek (D)	69,669
Harold L. (Mack) McCormick (R)	69,303

1978—State Representative—65th District—(5 counties)

Registered	18,841
Voter turnout	13,951
Melba Hastings (D)	6,678
Elizabeth G. Sharp (R)	6,669

1978—State Senator—34th District—(5 counties)

Registered	31,802
Voter turnout	22,448
Ken Clark (R)	10,532
Jim Rizzuto (D)	10,506

1980—U.S. Senator

Registered	1,434,571
Voter turnout	1,225,549
Mary Estill Buchanan (R)	571,295
Gary Hart (D)	590,501

1980—State Senator—24th District—(1 county)

Registered	50,621
Voter turnout	42,235
S. G. "Sandy" Arnold (R)	19,407
Ron Stewart (D)	19,910

1980—State Representative—13th District—(1 county)

Registered	20,826
Voter turnout	18,409
Jerry Kopel (D)	8,629
Paul Swalm (R)	8,439

1982—State Representative—9th District—(2 counties)

Registered	27,273
Voter turnout	19,769
Norma Edelman (D)	9,189
Ruth Pendergast (R)	9,125

1982—State Representative—11th District—(1 county)

Registered	29,719
Voter turnout	20,528
Charles Brown (D)	9,841
Greg Rogers (R)	9,726

1982—State Representative—31st District—(3 counties)

Registered	21,238
Voter turnout	14,340
Jim Chaplin (R)	6,837
Faye Fleming (D)	6,858

1982—State Representative—36th District—(1 county)

Registered	19,061
Voter turnout	12,633
Annabelle M. Dunning (D)	6,052
Bev Scherling (R)	5,895

1982—State Representative—57th District—(4 counties)

Registered	24,843
Voter turnout	16,022
Scott McInnis (R)	7,714
Kathleen Sullivan (D)	7,701

1984—State Representative—11th District—(2 counties)

Registered	30,783
Voter turnout	25,628
Charles Brown (D)	11,460
Dottie Wham (R)	11,895

1984—State Representative—31st District—(3 counties)

Registered	25,200
Voter turnout	21,447
Dale E. Erickson (R)	10,115
Faye Fleming (D)	9,712

Recounts are expensive, with those falling within the statutory mandate of one percent or less of the highest vote cast for a candidate for that office, paid for by the state and counties involved. Colorado law provides for a 100 foot limit on prohibition of electioneering or election-related activities except that of the conduct of the election. (CRS 1-6-101(5) and CRS 1-13-714). Colorado statute 1-13-712(2) and 1-13-718 provide for protection against disclosure of votes and release of information concerning the count. These provisions have worked effectively for a number of elections, with problems resolved quickly and efficiently.

I would encourage other states to adopt similar statutes since exit polling in our state is used only from 7:00 PM until returns come in. It affects no votes since the polls are closed.

To adopt federal legislation, changing time factors will not solve the problem of exit polling from which the projections are made. It may add confusion for those of us administering elections in adjacent time zones. If exit polling projections continue being broadcast before poll closing times, we may feel the effect of lower turn-out and increased recount costs.

Sincerely,

NATALIE MEYER,
Secretary of State.

ELECTIONS

1-6-202.—Notice of general or congressional vacancy election by secretary of state.

PART 3.—REGISTRATION BOOKS

1-6-301.—Original registration book to be used at the polls.

1-6-302.—Computer lists may be used in lieu of registration books.

PART 4.—BALLOTS

1-6-401.—Primary election ballots.

1-6-402.—Ballots for general and congressional vacancy elections.

1-6-403.—Arrangement of names on ballots for nonmachine voting in general or congressional vacancy elections.

1-6-404.—Arrangement of names on voting machine ballot in general elections—testing of machines.

1-6-405.—Ballots—electronic voting.

1-6-406.—Single cross mark for party slate not permitted.

1-6-407.—Printing and distribution of ballots.

1-6-408.—Substitute ballots.

1-6-409.—Correction of errors.

1-6-410.—Sample ballots.

PART 5.—POLLING PLACE SUPPLIES AND EQUIPMENT

1-6-501.—Sufficient voting booths, voting machines, or electronic voting equipment.

1-6-502.—Ballot boxes for nonmachine voting.

1-6-503.—Arrangement of voting machines or voting booths and ballot boxes.

1-6-504.—Cards of instruction.

1-6-505.—Election expenses to be paid by county.

PART 6—AUTHORIZATION AND USE OF VOTING MACHINES AND ELECTRONIC VOTING SYSTEMS

1-6-601.—Use of voting machines or electronic voting system.

1-6-602.—Requirements for voting machines.
1-6-603.—Adoption and payment for voting machines.
1-6-604.—Experimental use.
1-6-605.—Other laws apply—paper ballots permitted for absentee voting.
1-6-606.—Election officials not to have interest in voting machines or electronic voting equipment or devices.
1-6-607.—Elected officials not to handle voting machines or electronic voting equipment or devices.
1-6-608.—Requirements—electronic voting system.
1-6-609.—Acquisition and use authorized.
1-6-610.—Preparation for use—electronic voting.
1-6-611.—Requirements—non-punch card electronic voting system.

PART 1.—POLLING PLACES

1-6-101. Establishing precincts and polling places. (1)(a) The boards of county commissioners of the several counties shall divide their respective counties into as many election precincts for all general, primary, and congressional vacancy elections as they may deem expedient for the convenience of the electors of the county and shall designate the place for each precinct at which elections are to be held. The precincts shall be numbered consecutively. The precincts and places of holding elections thus established shall so remain until consolidated, divided, or otherwise changed by each board of county commissioners. Changes in the precinct boundaries of a county shall be made only within the district boundaries of each representative and senatorial district. No polling place shall be located in a room wherein any intoxicating malt, spirituous, or vinous liquors are usually sold for consumption on the premises or in a room within the distance of fifty feet, measured in a direct line, of any place where any such liquors are usually sold for consumption on the premises.

(b) In counties which use paper ballots, the boards of county commissioners shall establish at least one precinct for every five hundred active registered electors.

(c) In counties which use voting machines or electronic voting equipment, the boards of county commissioners shall establish at least one precinct for every one thousand active registered electors.

(2) Changes in the boundaries of precincts or the creation of new precincts shall be completed not less than thirty-two days prior to the precinct caucus day, except in cases of precinct changes resulting from changes in county boundaries.

(3) Each board of county commissioners shall change any polling place upon a petition of a majority of the registered electors residing within a precinct if the request is made at least ninety days prior to the primary election.

(4) All changes in precinct boundaries or numbering shall be reported immediately by the county clerk and recorder to the secretary of state, and a corrected precinct map shall be transmitted to the secretary of state as soon as possible after the changes have been effected.

(5) No election related activities shall be conducted within one hundred feet of the polls except that of the conduct of the election at the polling place.

(6) No later than June 1, 1987, each board of county commissioners of the several counties shall establish precinct boundaries which shall remain in effect until after the general election in 1990; except that precincts so established may be divided within the boundaries of the original precinct following the 1988 general election. In establishing boundaries pursuant to the provisions of this subsection (6), the board of county commissioners shall take into consideration natural and man-made boundaries that meet the requirements of the United States bureau of the census.

Source: R & RE, L. 80, pp. 341, 424 § § 1, 1; L. 83, pp. 354, 366 § § 20, 1; L. 85, p. 260, § 15.

1-6-102. Polling place—designation by sign. All places established for holding elections shall be designated by a sign conspicuously posted at least ten days before each general, primary, and congressional vacancy election. Such sign shall be substantially in the following form: "Polling place for precinct no. . . .". The lettering on such sign and the precinct number shall be black on a white background, with all letters and numerals at least four inches in height. In addition, such sign shall state the date of the next election and the hours the polling place will be open.

Source: R & RE, L. 80, p. 341, § 1.

* * * * *

Source: R & RE, L. 80, p. 434, § 1.

1-13-709. Voting in wrong precinct. Any person who, at any election provided by law, knowingly votes or offers to vote in any election precinct in which he is not qualified to vote is guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine of not more than two hundred dollars or by imprisonment in the county jail for not more than three months.

Source: R & RE, L. 80, p. 434, § 1.

1-13-710. Voting twice—penalty. If any voter votes more than once or, having voted once, offers to vote again or offers to deposit in the ballot box more than one ballot, he is guilty of misdemeanor and, upon conviction thereof, shall be punished as provided in section 1-13-111.

Source: R & RE, L. 80, p. 434, § 1.

1-13-711. Interference with voter while voting. Any person who interferes with any voter who is inside the immediate voting area or is marking a ballot or operating a voting machine at any election provided by law is guilty of a misdemeanor and, upon conviction thereof, shall be punished as provided in section 1-13-111.

Source: R & RE, L. 80, p. 434, § 1.

1-13-712. Disclosing or identifying vote. (1) Except as provided in section 1-7-108, no voter shall show his ballot after it is prepared for voting to any person in such a way as to reveal its contents. No voter shall place any mark upon his ballot by means of which it can be identified as the one voted by him, and no other mark shall be placed on the ballot by any person to identify it after it has been prepared for voting.

(2) No person shall endeavor to induce any voter to show how he marked his ballot.

(3) No election official, watcher, or person shall reveal to any other person the name of any candidate for whom a voter has voted or communicate to another his opinion, belief, or impression as to how or for whom a voter has voted.

(4) Any person who violates any provision of this section is guilty of a misdemeanor and, upon conviction thereof, shall be punished as provided in section 1-13-111.

Source: R & RE, L.80, p.434, §1.

1-13-713. Intimidation. It is unlawful for any person directly or indirectly by himself or by any other person in his behalf, to impede, prevent, or otherwise interfere with the free exercise of the elective franchise of any elector or to compel, induce, or prevail upon any elector either to give or refrain from giving his vote at any election provided by law or to give or refrain from giving his vote for any particular person or measure at any such election. Each such offense is a misdemeanor, and, upon conviction thereof, the offender shall be punished as provided in section 1-13-111.

Source: R &RE, L.80, p.435, §1.

1-13-714. Electioneering—removing and return of ballot. No person shall do any electioneering on the day of any election within any polling place or in any public street or room or in any public manner within one hundred feet of any polling place, as publicly posted by the county clerk and recorder. No person shall remove any official ballot from the polling place before the closing of the polls. Any person who violates any provision of this section is guilty of a misdemeanor and, upon conviction thereof, shall be punished as provided in section 1-13-111.

Source: R &RE, L.80, p. 435, § 1.

1-13-715. Liquor in or near polling place. (1) It is unlawful for any election official or other person to introduce into any polling place, or to use therein, or to offer to another for use therein, at any time while any election is in progress or the result thereof is being ascertained by the counting of the ballots, any intoxicating malt, spirituous, or vinous liquors.

(2) It is unlawful for any officer or board of officers of any county or any municipality, whether incorporated under general law or by special charter, who may at any time be by law charged with the duty of designating polling places for the holding of any general or congressional election therein, to select therefor a room wherein any intoxicating malt, spirituous, or vinous liquors are usually sold for consumption on the premises or a room within the distance of fifty feet, measured in a direct line, of any place where any such liquors are usually sold for consumption on the premises.

(3) Any person who violates any provision of this section is guilty of a misdemeanor and, upon conviction thereof, shall be punished as provided in section 1-13-111.

Source: R & RE, L. 80, p. 435, § 1; L. 83, p. 358, § 31.

1-13-716. Destroying, removing, or delaying delivery of election records. (1) No person shall willfully destroy, deface, or alter any ballot or any election records or willfully delay the delivery of any such ballots or election records, or take, carry away, conceal, or remove any ballot, ballot box, or election records from the polling place or from the possession of a person authorized by law to have the custody thereof, or aid, counsel, procure, advise, or assist any person to do any of the aforesaid acts.

(2) No election official who has undertaken to deliver the official ballots and election records to the county clerk and recorder shall neglect or refuse to do so within the time prescribed by law or shall fail to account fully for all official ballots and other records in his charge. Informality in the delivery of the ballots and election records shall not invalidate the vote of any precinct if such records are delivered prior to the canvassing of the votes by the county board of canvassers.

(3) Any person who violates any provision of this section is guilty of a misdemeanor and, upon conviction thereof, shall be punished as provided in section 1-13-111.

Source: R & RE, L. 80, p. 435, § 1.

1-13-717. Penalty for destruction of supplies. Any person who, during an election,

willfully defaces, tears down, removes, or destroys any card of instruction or sample ballot printed or posted for the instruction of voters or who, during an election, willfully removes or destroys any of the supplies or conveniences furnished to enable a voter to prepare his ballot or willfully hinders the voting of others is guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine of not less than five dollars nor more than one hundred dollars, or by imprisonment in the county jail for not more than three months, or by both such fine and imprisonment.

Source: R & RE, L. 80, p. 436, § 1.

1-13-718. Release of information concerning count. Any election official, watcher, or other person who releases information concerning the count of ballots cast at precinct polling places or of absent voters' ballots prior to 7 p.m. on the day of the election is guilty of a misdemeanor and, upon conviction thereof, shall be punished as provided in section 1-13-111.

Source: R & RE, L. 80, p. 436, § 1.

1-13-719. Employer's unlawful acts. (1) It is unlawful for any employer, whether corporation, association, company, firm, or person, or any officer or agent of such employer:

(a) In any manner to control the action of his employees in casting their votes for or against any person or measure at any precinct caucus, assembly, or convention; or

(b) To refuse to an employee the privilege of taking time off to vote as provided by section 1-7-102, or to subject an employee to a penalty or reduction of wages because of the exercise of such privilege, or to violate any of the provisions of section 1-7-102 in any other way; or

(c) In paying his employees the salary or wages due them, to enclose their pay in pay envelopes upon which there is written or printed any political mottoes, devices, or arguments containing threats, express or implied, intended or calculated to influence the political opinions, views, or actions of such employees; or

(d) Within ninety days of any election provided by law, to put up or otherwise exhibit in his factory, workshop, mine, mill, boardinghouse, office, or other establishment or place where his employees may be working or be present in the course of such employment any handbill, notice, or placard containing any threat, notice, or information that, if any particular ticket or candidate is elected, work in his place or establishment will cease in whole or in part, or his establishment will be closed, or the wages of his workmen will be reduced or containing other threats, express or implied, intended or calculated to influence the political opinions or actions of his employees.

(2) Each offense mentioned in subsection (1) of this section is a misdemeanor, and, upon conviction thereof, the offender shall be punished as provided in section 1-13-111. In addition thereto, any corporation violating this section shall forfeit its charter and right to do business in this state.

Source: R & RE, L. 80, p. 436, § 1.

1-13-720. Unlawfully giving or promising money or employment. (1) It is unlawful for any person, directly or indirectly, by himself or through any other person:

(a) To pay, loan, or contribute, or offer or promise to pay, loan, or contribute, any money or other valuable consideration to or for any elector, or to or for any other person, to induce such elector to vote or refrain from voting at any election provided by law or to induce any elector to vote or refrain from voting at such election for any particular person or to induce such elector to go to the polls or remain away from the polls at such election or on account of such elector having voted or refrained from voting for any particular person or issue or having gone to the polls or remained away from the polls at such election; or

(b) To advance or pay, or cause to be paid, any money or other valuable thing to or for the use of any other person with the intent that the same, or any part thereof, shall be used in bribery at any election provided by law or to knowingly pay, or cause to be paid, any money or other valuable thing to any person in discharge or repayment of any money wholly or partially expended in bribery at any such election; or

(c) To give, offer, or promise any office, place, or employment or to promise, procure, or endeavor to procure any office, place, or employment to or for any elector, or to or for any other person, in order to induce such elector to vote or refrain from voting at any election provided by law or to induce any elector to vote or refrain from voting at such election for any particular person or issue.

(2) Each offense set forth in subsection (1) of this section is a misdemeanor, and, upon conviction thereof, the offender shall be punished as provided in section 1-13-111.

Source: R & RE, L. 80, p. 436, § 1.

PETITION IN OPPOSITION TO PASSAGE OF THE UNIFORM POLL CLOSING BILL, TO THE HONORABLE MEMBERS, U.S. HOUSE OF REPRESENTATIVES, JANUARY 27, 1986

It is with the utmost concern that we voice our opposition to passage of the Uniform Poll Closing Bill, H.R. 3525 which was approved by the House Committee on Administration.

That bill would: (1) establish a uniform time for poll closing in presidential general elections only of 9:00 p.m. Eastern Time; (2) extend Daylight Savings Time until the Sunday after election day every four years in those states in the Pacific time zone; and (3) require polls in the Pacific time zone to close at 7:00 p.m. Daylight Time.

As chief election officials in the various states, we appreciate the interest the federal government has taken in the problems created by the networks' practice of projecting early election returns. We are all in agreement that a situation wherein any voter is discouraged from casting his ballot because the television networks have, for all intents and purposes, announced the results of the election before the polls even close is intolerable.

But consider for a moment the effect this legislation would have if passed. Without getting into the specifics, passage would mean dramatically altering the election laws of 39 states for one election held every four years. Such changes do not come without considerable cost to the states and to local communities already facing financial difficulties. Also, the number of hours polls would be open in some states would have to be changed or cut back, further distorting the voting process.

Moreover, the function of conducting elections is one that rightly belongs to the several states. The fact that federal officials are elected in conjunction with state officials is in the nature of a courtesy and is not an opportunity for federal control.

The most serious consequence of passage is, however, the message it sends to the major television networks in this country. We are telling them, in essence, that while they are responsible for detering large numbers of voters from participating in the election process, they hold such power over us as citizens and as elected officials that we are not able to hold them accountable for their actions. Rather, we have chosen to sidestep the real issue and settle for a "band aid" solution with potentially-serious consequences of its own.

That is not responsible government, and we cannot support such a measure as that sponsored by Representative Swift. We ask that you vote no on H.R. 3525 when it comes before this distinguished body for consideration.

Thank you for your attention.

Jim Waltermire, Secretary of State, Montana; Sherrod Brown, Secretary of State, Ohio; David Hansen, Office of the Lieutenent Governor, Utah; James H. Henderson, Deputy Secretary of State, Maine; Lee Slater, Secretary of State Election Board,, Oklahoma; James B. Ellisor, Executive Director, Election Commission, South Carolina.

James H. Douglas, Secretary of State, Vermont; Alex K. Brock, State Director of Elections, North Carolina; Natalie Meyer, Secretary of State, Colorado; Ken Hechler, Secretary of State, West Virginia; Nancy Sulser, Elections Coordinator, Office of the Secretary of State, Mississippi.

I would also state that the committee report says that CBO estimates it will cost an additional $2 million for State and local election officials. Now for a Congress that spills $2 million before breakfast, that is not a very big sum. For local election officials it may be a back-breaking sum. In my judgment, it is vastly understated.

The CBO estimate does not take into account the additional dollars that are going to be lost to our economy because of daylight saving time on the west coast and its effect on our transportation system.

I hope to have a chance to talk about that later during debate on the bill under the 5-minute rule. I also hope to talk more about the Voting Rights Act. This impinges on the Voting Rights Act, and the enforcement of that act is on a case-by-case basis. Decisions will take a long time and cannot be made in blocks.

The bill has no penalties. If States don't comply, there seems to be no way to make them do so. States may try to comply and find local jurisdictions will not do so.

Again I can only say, Mr. Chairman, there is no reason to legislate, and there is doubly no reason when it means telling the States to do things that they do not want to do for no good reason.

H.R. 3525 is unwise, almost whimsical legislation. It is tilting, or half tilting, a nonexistent windmill. The bill will surely discourage more potential voters than it will encourage.

I urge this body to reject this imprudent bill. Local governments are having enough trouble with federally

imposed conditions with no money to pay for them. Let's not do another.

Mr. SWIFT. Mr. Chairman, I yield 3 minutes to the chairman of the full Committee on House Administration, the gentleman from Illinois [Mr. ANNUNZIO].

Mr. ANNUNZIO. I thank the chairman of the subcommittee, the gentleman from Washington [Mr. SWIFT].

Mr. Chairman, the gentleman from Washington, Hon. AL SWIFT, as chairman of House Administration's Subcommittee on Elections, has dedicated hundreds of hours, presided over countless hearings, studiously considered every bill on the subject, pondered each of their provisions, and considered every alternative, before bringing H.R. 3525, the uniform regional poll closing bill, to this floor for our consideration.

The gentleman from California, Hon. BILL THOMAS, as the ranking minority member of the Subcommittee on Elections, and one of the best and most active members of the Committee on House Administration, has staunchly supported and diligently participated in all of the investigations and studies which brings this matter to our attention.

These two gentlemen, whose energies and efforts are most responsible for the legislation we have before us today, have been extremely sensitive to the conflicting concerns of all those involved—the voters, the election administration officials, the networks, and the candidates themselves—and they have brought to the floor a bill which I feel effectively meets all of those concerns.

Predicting the outcome of an election before all the polls are closed has serious consequences for the democratic processes of our Nation. Having heard projections on the outcome of an election, many voters are discouraged from casting their ballots believing the results have been decided. The effect is the same as if they were disenfranchised.

The process of casting ballots to select political leaders is fundamental to our citizenship in the United States of America. In developing this legislation, it was the objective of the Subcommittee on Elections to maintain the integrity of the electoral process while at the same time protecting the freedom of the media.

H.R. 3525 is a balanced bill designed to protect the election process in conformance with the traditions of our unique and great democracy.

Vote yes and pass this bill. Vote yes and send a message to all of the voters in our Nation that their votes count whenever the polls in the United States are open. Vote yes and improve America's electoral process through this measure.

I support passage of this bill and urge you to do likewise.

Mr. THOMAS of California. Mr. Chairman, I yield 6 minutes to my distinguished colleague from California [Mr. BADHAM], a member of the committee.

Mr. BADHAM. Mr. Chairman, H.R. 3525, however nobly motivated, or however conceptually appealing, should be characterized as "reform without reason." There should only be one legitimate rationale on which to base Federal invasion of an area traditionally left to each State, and that rationale should be an increase in voter participation.

This bill will not achieve that purpose. In fact, it may accomplish exactly the opposite. Shortening voter hours in a number of States and changing voting hours in most of the States for Presidential general elections only confuse voters.

THE PERCEIVED PROBLEM

Following the 1980 and 1984 landslide Presidential elections, there have been scattered complaints about the impact of early projections of winners by the television networks, and their perceived impact on west coast voters. An early concession by the defeated Presidential candidate was a particular irritant. During each set of hearings conducted by the task force on elections after the 1980 election and the Subcommittee on Elections after the 1984 election, little statistical evidence was brought forward to verify the impact on the west coast.

During both sets of hearings, west coast election officials were virtually unable to present any more than stories of people leaving the polls or that their projected number of voters were less than the actual number of voters which they felt suggested that early projections caused folks to stay home.

Additionally, some proponents cited a University of Michigan study conducted after the 1980 election that suggested turnout dropped 6-11 percent because of projections. However a critique of that study published in a public opinion magazine using the same data indicated that 0.2 percent of all eligible respondents reported that they did not vote because of election night coverage instead of the 6-11-percent figure.

The point of all this, Mr. Chairman, is to suggest to my colleagues that we are considering a so-called reform without a good reason. This bill will change the election hours in 39 States every 4 years for no justifiable reason except that there is a perceived problem in 4½ States.

THE NETWORKS COMMITMENT

After the 1984 election, Congressman SWIFT and Congressman THOMAS met with the networks officials and extracted statements from them that they would no longer "use exit poll date to suggest, through interpretation of that data, the probable winner in any State until polls in the State have closed."

Testimony before the subcommittee indicated some very real concern, which I share, with the scope of that pledge particulary in light of previous pledges made and broken by the networks.

But yet, we are going to change the election laws of 39 States based upon a nonbinding agreement between the current corporate management of the networks. At the very least, we should accept the gentleman from New Hampshire's amendment requiring the renewal of this commitment 90 days before a general election.

IMPACT ON TRANSPORTATION INDUSTRY

One of the provisions of the bill would extend daylight savings time for a maximum of 2 weeks for the 4½ States in the Pacific time zone in Presidential election years. This means that everyone else will be on standard time except for those States.

The Air Transport Association of America indicated in a letter to me that this would result in considerable confusion among passengers and cargo shippers moving goods in interstate commerce, disrupt airline schedules, and cause airlines and related travel industry businesses to incur considerable expense.

The most serious problem is, of course, the disruption of airline schedules because many of them are geared to Pacific time zone departure and arrival times. They would also incur considerable expense to print two complete schedules in a 2-week period. Not to mention loading the schedules into the computer. Additionally, they would have difficulty with crew scheduling and lastly, they would be unable to comply with nighttime noise curfews at not less than four airports.

Again, Mr. Chairman, I have to ask for what reason are we creating this mess? Because of a perceived problem of early projections on the west coast voter.

POLL HOUR CHANGES

H.R. 3525 will require the majority of States to change their polling hours. In eight States: Iowa, portions of South Dakota, Montana, Utah, Idaho, California, Oregon, and Washington will be required to reduce the time polls will be open in their States. One of the more interesting comments from one of the election officials testifying before the subcommittee came from our secretary of state of California who indicated in her written testimony that between 5 and 10 percent of the electorate vote between 7 and 8. However, that wouldn't be a problem because of their liberal absentee voting laws. She was unable to quantify the impact of early projections. I would suggest that anytime there is a change—particularly a reduction in voting hours only every 4 years—it will

result in reduced numbers and voter confusion.

Polling hours in 11 States will remain the same: New York, Rhode Island, Louisiana, Minnesota, Wisconsin, Nebraska, Arizona, Colorado, New Mexico, Wyoming, and Nevada.

In the balance of the States and the District of Columbia, 31 States will be required to alter their voting hours from a minimum of one-half hour in Arkansas to 2 to 3 hours in Indiana and Kentucky.

Two secretaries of state have indicated to me that this change probably would result in voter confusion and may require them to change the times of all of their elections, not just the Presidential general election.

And again, I will ask my colleagues—for what reason are we requiring States to make these changes?

CONCLUSION

In the 1980 and 1984 Presidential elections, Ronald Reagan was elected and reelected by a landslide electoral college vote. It was possible on both occasions that candidate Reagan had won enough electoral college votes to be declared the winner before polls had closed in all parts of the Nation. If one had watched the evening news the night before the election, they knew the election was not going to be a cliff hanger.

Even though it may be years before that phenomena occurs again, this bill is going to require 39 States to alter their voting hours based on a nonbinding pledge made by three corporate entities in the hope that this will solve some sort of a perceived problem.

State and local governments are responsible for managing elections and paying for their costs. The Congressional Budget Office has indicated this could be at least $2 million. The Federal Government can set standards. It should never interfere in local management of elections unless there is compelling evidence of a need to do so. The committee has presented no such evidence.

Mr. SWIFT. Mr. Chairman, I am happy to yield 4 minutes to the gentleman from Oregon [Mr. WYDEN].

Mr. WYDEN. I thank the chairman of the subcommittee.

First of all, Mr. Chairman, I want to commend the gentleman from Washington [Mr. SWIFT] and the gentleman from California [Mr. THOMAS] for canvassing the country to listen to what the people of this country would believe to be fair, responsible legislation. I think they have done that. They have come up with a responsible bill. The right to vote is the coin of democracy and it seems to me that the early projection of election results is devaluing the currency.

What we are seeing, particularly in the West, is our citizens go to the polls after the winners of an election is announce and because of the early network projections our citizens believe that the votes of those who vote late simply do not count as much as the votes of those who vote early.

Mr. Chairman and colleagues, we have tried a variety of voluntary approaches in this area. For example, in the last Presidential election I asked Mr. Mondale and President Reagan to agree voluntarily to hold off any election announcements until polls closed in the West. They did so, to their credit.

But the networks still announced the results before we were done voting in the West. So it is clear that purely voluntary approaches are not going to deal with this matter.

My last point is that the gentleman from Minnesota [Mr. FRENZEL] has continually said there is no evidence that early election projections discouraged people from voting. I would tell the gentleman that there is evidence right in committee reports. Every single study that has been done in this area indicates that some people are being discouraged.

□ 1610

We can debate how many people, that is, whether it is 3 or 2 percent or what have you. But the evidence is clear, some people are being discouraged.

The other point is that the gentleman from Minnesota has said that there is not a great deal of interest around the country in this legislation. I would just tell the gentleman that in every community that I am acquainted with, when the networks come on the air with an early projection, they continually have their phones ring off the hook from irate citizens who are unhappy about these early projections.

So I would hope that we could pass this legislation to ensure that all citizens have a right to have their votes be seen as counted as equally.

Mr. THOMAS of California. Mr. Chairman, I yield 3 minutes to the distinguished gentlewoman from Nevada, [Mrs. VUCANOVICH], a member of the committee.

Mrs. VUCANOVICH. Mr. Chairman, I rise in strong support of H.R. 3525, the uniform regional poll closing bill. This bill will allow polls to close simultaneously across the country only during Presidential elections. I believe this bill will enable all voters to have the opportunity to cast their vote without knowing the outcome of the election beforehand.

In the 1980 election, the outcome of the election was announced before any of the Western States' polls had closed. Many voters did not even vote believing that since the winner of the Presidential election had already been announced, their vote was worthless. While this may not have had much affect on the outcome of the Presidential election, many State and local elections were decided without the benefit of full voter participation.

Earlier this year, the three networks agreed to exercise voluntary restraint in using their exit polling data to determine the outcome of elections. The networks agreed not to use exit polling data or suggest the probable winner until the polls in that State are closed. This agreement solved only half the problem because Western voters could still be subject to actual vote totals declaring a winner before the polls closed. This is why I believe nationwide uniform poll closing will solve this problem.

This legislation allows Americans to retain one of their most precious rights—the right to vote. I believe all Americans, should have the opportunity to cast their ballot and to have their vote count. H.R. 3525 insures that right and I hope my colleagues will support this bill.

Mr. SWIFT. Mr. Chairman, I yield such time as he may consume to the gentleman from Maryland [Mr. HOYER].

Mr. HOYER. Mr. Chairman, I thank the chairman of the subcommittee for yielding time to me.

Mr. Chairman, I rise in support of H.R. 3525, the uniform poll closing act. The chairman of this committee and subcommittee deserve to be commended for their excellent work and perseverance on this issue.

Primarily, it is an issue of fairness. All voters deserve the right to cast their ballot for the candidate of their choice without the slightest hint of discouragement. Unfortunately, voters in the Western United States have had to confront news reports which predict the outcome of elections before the polls have been closed and all votes cast. Common sense tells us that such a policy diminishes the value of our most important democratic institution—the ballot box, by implying that some votes count more than other votes. In this case, early votes are given a greater weight than later ones. This is unfair to those who through no choice of their own, are 3 hours behind their fellow citizens on the opposite coast.

Mr. Chairman, it might appear that the easiest method for correcting this situation would be to prohibit the media from making such predictions until all polls are closed. This however treads into another treasured right, the freedom of the press, and the subcommittee and its chairman, Representative SWIFT, recognized this conflict early in their deliberations. Undeterred, they successfully crafted a compromise which it appears all parties can abide by. The networks have agreed not to predict probable winners of an election in a State until the polls in that State are closed. Since such a

policy is only meaningful if all polls close at the same time, the committee has wisely pursued this legislation. With its passage, the networks will be unable to reveal probable outcomes relying on a few key States while some States' polls are still open.

Mr. Chairman, the root of liberty is the right to vote. Nothing should be allowed which would impugn the integrity of this right. The committee has worked long and hard to develop a workable compromise and now it is the responsibility of the floor to help bring this solution to fruition. I would urge all Members to join me in supporting this proposal and in protecting our most precious American possession, the right to vote.

Mr. SWIFT. Mr. Chairman, I yield 4 minutes to the gentleman from Ohio [Mr. LUKEN].

Mr. LUKEN. Mr. Chairman, I thank the gentleman from Washington for this time.

Mr. Chairman, I want to very sincerely congratulate the gentleman from Washington and the gentleman from California for their leadership in this matter, because it is a problem that is perceived by many and it is one that they have devoted conscientiously a great deal of time and effort. And they have marshaled a great deal of support for this proposition.

Unfortunately, I cannot fully agree with the sponsors. I do not envy the sponsors. I do not envy them in their attempt to regulate the 48 States in an area that has not been regulated before.

I voted against the sense-of-Congress resolution in 1984, as did 64 other Members, because I believe the arguments are overdrawn. I believe the issues are overblown. I believe what it comes down to is, as has been stated here today, the purely voluntary will not work and, therefore, we are going to an involuntary, a forced kind of approach, and I really do not think that works in an election matter. I do not think it is going to work. I do not think people realize what is coming down the track.

In the State of Ohio, the secretary of state, as many secretaries of state, have urged us to oppose this legislation. The secretary of state of Ohio opposes the legislation because it is going to cause a great deal of expense, more than is estimated for the entire State, because it will probably require two shifts of workers in the State of Ohio. It will require additional expense. It will require, if not two shifts, then 18- and 19-hour shifts, which means that errors will creep in this all-important election system that we have.

If we attempt to regulate from Washington what each State does in the conduct of its elections, there are going to be errors, there are going to be distortions, and I do not envy the sponsors in the product.

Mr. Chairman, I do congratulate them for what they are trying to do, but these are governmental restrictions. These are restrictions in program content, regulations in an area where regulations should not occur. That is the point.

Now, I think the bill has an inherent flaw, as I have stated. I thought that I might improve it by an amendment. But upon further consideration, I would only be restricting the restrictive effect of a bill which regulates too much. Therefore, I really do not think I can improve the legislation.

I am sorry that the conditions are such that the real problems that have arisen in the case of some elections on the west coast have convinced people that we should go to this extreme situation of regulating the 48 States in their conduct of election. But because I do not think it can be improved, I will quietly vote against the legislation, but I will not attempt to offer the amendment which is printed in the RECORD.

Mr. Chairman, again I congratulate the authors for the hearings, for the light that they have shown on it and for an attempt to solve what is a real problem. But I just think that we have gone too far, and so I must demur.

Mr. THOMAS of California. Mr. Chairman, I yield 4 minutes to the gentleman from New Hampshire [Mr. GREGG].

Mr. GREGG. Mr. Chairman, I thank the gentleman from California and I thank the Chairman of the committee.

This bill is truly ill conceived, although it is obviously a genuine effort to address a problem which some people in the Western States feel affects their rights and their ability to vote.

It is, however, a bill which has a number of fundamental flaws. The first fundamental flaw is it places faith in promises and in hopes of activities which will be undertaken, first by the people who are running for office. There is nothing to say that a candidate cannot concede his election or her election prior to the closing of the polls in the West. And second, on behalf of the networks a statement from the networks that they will honor this agreement. And I do not think anyone who has watched the network news over the last 2 days at least, when we have watched them in what I consider to be a totally disreputable activity, interviewing children in the second grade about their feelings and their emotions as they watched the shuttle explode, can give much confidence in the order of the networks on the issue of news collection. And certainly we cannot place much faith in their representations, in my opinion.

But more fundamental than our commitment of faith in this bill is our belief in States' rights. The fact is that this bill is a clear usurpation of the rights of local communities and States to govern themselves and decide how they proceed with their most fundamental right, and that is how they elect their officials.

In my own home State, there are many small communities. All of those communities have their own polling hours. They are told only by the State that they must be open to a limited number of hours. I believe it is 6 hours. And they can set those hours as they deem best and their citizens deem best, and it is done by the citizens, not by the Federal Government or by the State telling them how to do it. It is done at a town meeting where all the citizens of the town get together and say, we want our polls open from this time to this time.

In my own hometown, which has 900 people, where there are approximately 250 voters or 300 voters who will vote in an election, it is open from 10 o'clock in the morning until 6 o'clock in the evening. People vote. Our percentage of voter participation in New Hampshire is extraordinarily high. They know it is their duty to plan their day so that they can vote. They also know that it is their personal duty to return home to their families at night after 6 o'clock and to be with their families.

□ 1620

And to deny that to the poll workers, to say to those poll workers, "You have to be there until 9 o'clock at night because of some arbitrary decision of the Federal Government, that you must stay until 9 o'clock at night," is unfair to them, but, more importantly, it is a usurpation of a very fundamental right in this government, which is the right of the local communities and the States to set their election hours.

The mechanics of handling this bill will be extraordinarily expensive to a State like New Hampshire and many States in the Northeast that do have at this time polls that close throughout the day, because you are talking about forcing those States to keep the polls open for an additional minimum, in some situations, of 3 hours, and longer in other situations, and the cost will be exceptional and it will be a cost that is borne by the local community and it will be a cost that the local community will have a lot of trouble explaining to itself when it was running elections very effectively without having to stay open all evening.

One has to also wonder what happened to Hawaii and Alaska. Are they not part of the Union? Did we decide that Hawaii and Alaska have disappeared simply because they are not

part of the continental United States? They are not in this bill. And yet everybody else in the United States is in this bill. That seems to be an inconsistency so fundamental that it flaws the bill to the point where it should be defeated simply on that point.

Mr. SWIFT. Mr. Chairman, I yield 3 minutes to the gentleman from New York [Mr. BIAGGI].

Mr. BIAGGI. I thank the gentleman for yielding.

Mr. Chairman, I rise as a cosponsor and supporter of this bill, H.R. 3525, to establish a uniform poll closing time for Presidential general elections. The notion of same-time voting has long appealed to me. In fact, I authored a bill in 1980 providing for same-time voting in Presidential elections and I have been advocating the idea ever since. My support for same-time voting is based on a firm belief that we must do everything possible to overcome controllable obstacles to voting. Quite frankly, the voter turnout rate in our Nation, which is barely 50 percent in Presidential elections, is a disgrace.

I am convinced that there is a direct link between the elimination of early election projections and increased voter turnout. One study, conducted by the University of Michigan, concluded that the early projection in 1980 resulted in a 6- to 11-percent decline in overall voter turnout.

Now, thanks to the deep concern and tireless work of the distinguished chairman of the Elections Subcommittee, Mr. SWIFT, and the ranking minority member, Mr. THOMAS, a sensible and workable solution is before us. They have pressured the major networks into pledging not to make projections based on exit polls until the polling places are closed. If this pledge is coupled with a uniform poll closing time, as proposed in H.R. 3525, the problem of early election projections would be eliminated. That is an objective worth achieving and I urge my colleagues to join me in voting for this very responsible measure.

But, let me add that while this change should help to increase voter turnout, this modest reform must not be the end of our efforts to stimulate voter participation. A more comprehensive plan deserves our priority attention and such reforms as Sunday elections and 24-hour voting should be given serious consideration.

The previous speakers, Mr. Chairman, addressed themselves to the States of Hawaii and Alaska, and we realize they are distinguished because of the location and the time zones involved, and they pose a problem. The committee has dealt with that. And in this case, there is no possible universal legislation that could address the 50 States. But for those two States, the program will not impose any hardship, will not increase any cost. We have had hearings in the past, when most witnesses testified there would be little or no additional cost.

So most of the arguments that have been offered by those who oppose this legislation are specious, at best, when you consider the overall principle of providing an election process that permits every person's vote to be as valuable as the other, whether it be the first or the last.

I strongly urge the passage of this legislation.

Mr. THOMAS of California. Mr. Chairman, I yield 2 minutes to the gentleman from Washington [Mr. MILLER].

Mr. MILLER of Washington. Mr. Chairman, I rise in support of this bill. I want to congratulate my colleague, the gentleman from Washington [Mr. SWIFT], for his fine work in addressing a very difficult problem.

Mr. Chairman, throughout the history of this Nation, we have battled to preserve the right of every American citizen to cast his or her ballot freely and without any undue interference on election day. The battle started back in the 1700's at the Constitutional Convention. Then in the early 1800's there was a battle against having property rights interfere with voting. And then the battle against having race interfere with voting. And then the battle against having sex interfere with voting.

Well, those were battles against too little knowledge, ignorance, prejudice. Today we have a new obstacle to the right to vote. Instead of knowing too little, today we know too much. New techniques have created a technological global village where there are instant error-free election predictions, where the news media competes with each other to put out the news so that we know instantly across the Nation who is going to win, and the would-be voter on the west coast is very discouraged from voting, from exercising that franchise that we have fought for.

My colleague, who not coincidently is himself a former broadcast journalist, has found a cure for the problem, and it is a cure that is not as bad or worse than the disease. This bill, by extending daylight savings time and modifying poll closings is a thoughful and effective answer to our dilemma.

I believe this bill deserves our support and it continues that fight that started hundreds of years ago to make sure that all of us have a right to vote without interference.

Mr. SWIFT. Mr. Chairman, I yield myself 2½ minutes.

Mr. Chairman, a number of points have been raised, and I think when we get to the amending process we will be able to go into these in greater detail, but a number of points have been raised that simply are not true.

First of all, the concern on the west coast and across the country has been characterized as scattered complaints on the west coast. I would point out that, first of all, it was an uproar and not scattered complaints. And, second, I would point out that after the TV Guide ran a series of articles in two editions, they suggested that anyone who is concerned with the problem write our subcommittee, and we received hundreds and hundreds of responses. They came from 49 of the 50 States. And out of all of the responses we have had, only four suggested we should not deal with the problem.

We have heard that there is only anecdotal evidence. Well, there have been a number of studies, and one that has gone so far as to indicate that among people who intended to vote and had not voted by 6 o'clock in 1980, fully 25 percent did not go to the polls.

People quibbled with that. There have been other ones. And you can always quibble with a poll. But what there is consensus on is that you can demonstrate at least a 2-percent drop-off. I do not believe anyone can say in a democratic society that 2 percent of the electorate is de minimis.

The transportation system, that is way overblown. We are talking about problems that may occur during 1 hour of the day at perhaps six airports, and we have looked into it and in each instance that can be taken care of. That is the greatest straw dog of them all.

And, finally, I would like to point out that there has been much said here about the increased cost and that they will have to go too long, in double shifts, and so forth.

One of the things about this proposal is that it does not require of any State to do something that some States do not do now. It requires no State to be open longer than some States do now. It does not require them to stay open later than some States do now. The concerns with double shifting are not legitimate concerns. There will be no need for double shifting because States currently are able to make this work, there is no double shifting anywhere in the 50 States of the United States now, and this bill will not require of any State that kind of an extraordinary effort.

So the points that are being raised are points that I think are being raised because of sincere concern but they are not of accurate concern.

Mr. THOMAS of California. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, we are not here because we want to engage in social tinkering. We are not here because we think we know better than the States themselves. Mr. Chairman, we are here because we are trying to deal with technological prowess.

In 1980, it has been charged by one of our former colleagues that the

reason we had the problem on the West Coast was because the President went belly up on national TV. In point of fact, there was a network projection that he was to be a loser before he made his announcement.

In 1984, we had both Presidential candidates agree that they would not issue a statement prior to 11 p.m. eastern standard time, and yet almost 3 hours before the polls closed on the west coast, 2 hours before the polls close in mountain States, the announcement was made that the election was over.

What you have in front of you is a work product in H.R. 3525, which is a very modest attempt to deal with this advancing technology in a way in which Congress has the full power to do so.

I would invite any of my colleagues to read briefly article I, section 4 of the Constitution, in which the Congress has the full power to deal with time, place and manner of Federal elections.

When you examine the various alternatives, to try to provide some solution to the problem—and I think, yes, there can be a fundamental disagreement as to whether or not there is a problem—I would say to my colleague from California if he believes the problem is 4½ States, just wait, because by 1988 or by 1990 it could fully be half the States of the Union, and shortly thereafter, because of technological advancements, it will be entirely possible through polling techniques to tell you who won by noon eastern standard time.

What we did was examine those areas, those institutions, those activities surrounding the election process which would have to make changes if we desired to solve what we thought was a problem.

It has been mentioned that the candidates could certainly concede, as President Carter did. We saw in 1984 both Presidential candidates willingly agreeing not to make a statement. They want to be part of the solution, not a part of the problem. I fully believe that whoever the parties nominate in 1988, they will want to be part of the solution and not part of the problem.

For a long time it was argued that the networks were part of the problem, and I fully believe they were, because until they made the flat statement to us that they would not project in any form or characterize an election before the polls in a State closed, it meant we could try to bring before you this kind of a measure and they could through the back door undermine our efforts so we could not even start.

As has been indicated, in January of 1985, the networks agreed that they would not project or characterize elections until the polls had closed in any given State. That meant, then, that they were not any longer a part of the problem.

The problem can be solved by Congress. The candidates are not the problem. The networks are not the problem. The problem is the antiquated election process across the United States which does not allow for a uniform poll closing time. What we are offering you in H.R. 3525 is the minimally intrusive procedure to provide for that uniformity.

In our hearings we heard all kinds of alternatives to the current situation: Sunday voting, 24-hour voting, any number of procedures which would cost far more and which would go far beyond what the gentleman from Washington, the chairman of the subcommittee, and this gentleman would consider as reasonable and appropriate solutions.

□ 1635

So it is a little humorous to me to listen to the objections that are being presented in opposition to this very, very, modest proposal. The gentleman from Minnesota has gone so far as to characterize the FEC as a responsible body. I can tell you if any of you know him, that indicates the lengths to which he has had to go now to find objections to this particular measure.

It might seem a kind of an inelegant solution to fiddle with time zones. I might remind individuals that the time zones that we currently have are creatures of our minds and that we have adjusted them at will. As a matter of fact, we did not even have a uniform daylight saving time across the country until 1966. It amazes me that the airlines and the ground transportation could move across this Nation without, apparently, this procedure that now must remain in place. Fixed immutably in time and that by a simple adjustment of 1 hour on the west coast in terms of the time of ending of daylight savings time, would provide us with an opportunity to provide uniform closing in Presidential elections, seems to me a solution which the Members of this House would leap at when you compare it with possible alternatives in terms of disruptions in the system.

So let me just say to my colleagues who are concerned about this as an alternative: Many, many hours were spent in examining other possible options. This is the most minimal instrusion into the system in a manner which is totally appropriate under the Constitution, and which I think provides an opportunity for us to examine other possible changes in the Election Code which will allow us to stay at least abreast of advancing technology.

So I would say to may colleagues as they contemplate their vote on H.R. 3525, candidates for President have done their job in the past, and I am confident will do their job in the future. The networks have made the commitments necessary for us to bring you this bill today. The only folks left, in terms of whether or not they want to do the job, they want to provide uniform poll closing in Presidential elections, are you, our colleagues, and we have before you a vehicle which will do that if you so choose.

So I would urge you to vote "aye" on H.R. 3525.

Mr. SWIFT. Mr. Chairman, I yield 1 minute to the gentleman from Oregon [Mr. WYDEN].

Mr. WYDEN. I thank the gentleman for yielding to me at this time.

Mr. Chairman, I just want to make two points. Three-quarters of the States in this country will be changing their election laws by a maximum of 1 hour to solve a national problem. I think it is clear that that indicates that this can be done with a minimum of inconvenience.

The second point that I would mention is that we continually hear about the airlines being inconvenienced by having to do this once every 4 years. It seems to me that an industry that is capable, almost on the spur of the moment, of putting in place nationwide discount plans and changing all their schedules to reflect these discounts, surely can once every 4 years handle their scheduling to allow for uniform poll closing laws.

Mr. SWIFT. Mr. Chairman, I yield myself the balance of my time.

Mr. Chairman, I would add to what the gentleman has just said. It is also true that the airlines publish their schedules once every 2 weeks anyway, so it adds no additional burden there.

I would like to close debate by making one simple observation. It seems to me that the thrust of the opposition to the legislation goes this way: There is not any problem really, so therefore, we should reject this solution. I think that the vast majority of the American public disagrees with the judgment that there is no problem.

Just today, across my desk, came the results of a study by the Times-Mirror; "People on America's Attitude Toward the Media." It is very interesting and I think somewhat good that we find that in most instances the American public is very concerned about the first amendment when asked: "Should Government require equal access for candidates in newspapers?" Or, "Should the Government not get involved?" The majority of the American people say the Government should not get involved. When asked, "Should Government require all sides receive coverage on controversial issues?" or, "Should the Government not get involved?" The American public says the Government should not get involved. But when asked,

"Should the Government not allow early projections on election night?" or "Should the Government not get involved?" The public says the Government should prevent early projections.

Now, fortunately, we do not have to go that far. The gentleman from California [Mr. THOMAS] and I, have no interest whatever and would not support a proposal that involved the Government telling the networks what to do. A clear transgression of the first amendment. But do not tell me the American public does not believe there is a problem here. And do not tell me that the carefully crafted, very restrained proposal that this committee is bringing the Congress today is not one that will solve that problem.

Mr. CHANDLER. Mr. Chairman, I would like to express my strong support for the uniform poll closing time and commend my colleagues, AL SWIFT and BILL THOMAS, for their leadership in bringing this bill to the floor.

It would have been easy to neglect this issue since the problem arises only once every 4 years, but it is an issue that deserves the attention of Congress because it involves the basic right of our citizens to participate in the electoral process. It is a definite infringement on that right when voters learn the outcome of an election before they have cast their ballots.

H.R. 3525 will eliminate that infringement, and not tamper with the constitutional rights of broadcasters. The uniform poll-closing time, in effect, tells people on the west coast that their votes do count and carry the same impact as those of voters in earlier time zones. In addition, a uniform closing will avoid the possibility that the outcomes of State and local races are affected because people lose some of the incentive to vote once they learn the Presidential results.

I believe the bill before us today is an innovative and workable way to address a problem that is a source of concern for voters not only on the west coast, but those in the Nation as a whole. This proposal accomplishes an important national objective with a minimum of disruption and confusion for voters in all regions of the country.

H.R. 3525 deserves the support of the House, and I urge my colleagues to oppose any weakening amendments.

Mr. RAHALL. Mr. Chairman, I would like to take this opportunity to voice my opposition to H.R. 3525 to establish a uniform poll-closing time for Presidential elections. I believe that the problem of people being discouraged from going to the polls by early projections is one that is somewhat exaggerated. While I agree with efforts that are underway to get the networks to discontinue the use of exit polls to make their projections, I feel that if voters intend to vote they will not be swayed by premature speculations and projections. The right to vote is our constitutionally protected voice in our Government and I feel that most Americans cherish this right and would exercise their right regardless of the status of elections.

This bill would also have a negative effect on our polls in West Virginia. The bill would force the polls to remain open until 9 p.m. on the night of the election. Many of our precincts in some of the rural counties vote by paper ballots. Keeping the polls open until 9 p.m. would give them a late start on counting and verifying the ballots, thereby delaying the actual tallying of their votes. Such delays are not needed in West Virginia.

We must also keep in mind the confusion factor which would be raised by a changing of the poll hours. We can tell from experience that confusion or uncertainty over whether or not the polls are open is a very large factor in keeping voters away from the polls. In non-Presidential election years, some voters may still think that the polls would be open until 9 p.m. when, in fact, they would have closed a few hours earlier. Some States would be forced to close their polls at 9 p.m. every year in order to avoid the confusion. Yet, these new hours would serve no purpose in years when there is no Presidential election.

It is for these reasons, Mr. Chairman, that I must oppose this bill and I urge my colleagues to do the same. There are other ways to increase voter turnout.

Mr. GUARINI. Mr. Chairman, today I rise in support of H.R. 3525, legislation to establish a standard closing time for Presidential general elections. After a careful investigation of the facts pertaining to this issue, it is clear to me that there have been serious infringements upon our Nation's electoral procedures. The lack of uniform poll closings threatens the backbone of America's democratic tradition. In order to remedy this situation, I have cosponsored this measure so all polls will close simultaneously on Presidential election day.

For the past 25 years the increasing speed and accuracy of network polling has resulted in projections of Federal elections considerably earlier than all votes are cast. While the media strives to report the outcome of a national campaign as soon as polls close in the East, there are nearly 3 hours of balloting left in some Western States. Serious questions have arisen as to how these early projections influence voting decisions and the public's motivatiion to vote.

This problem manifested itself during the Presidential election of 1980 when pollsters predicted President Reagan's victory over Carter well before west coast polls were closed. An in-depth investigation after this event concluded that some voters declined to cast their ballot after hearing media reports of Reagan's landslide. The outcome of some congressional contents were affected as well.

It has been argued that the number of voters influenced by these announcements represents an insignificant minority in a large Presidential campaign. This narrow argument fails to incorporate the larger ramifications which confront the electoral process as a whole. A margin of voters, however narrow, whose political voice is not heard can have a significant effect on any election, especially small, close races. Indeed, there are numerous instances in which the outcome of congressional, gubernatorial and municipal elections have depended upon one-vote margins.

Most importantly, premature projections violate the concept of fairness and equity which is of primary importance in conclusively declaring a candidate the victor. Since the 1980 Presidential campaign, these network "characterizations" of election results have overridden the media's commitment to prepoll closing discretion.

Mr. Chairman, we must ensure that the democratic principles which depend upon a fair and equitable process are not placed second in the network's pursuit to quickly and efficiently report newsworthy events. I urge my colleagues to vote for this timely legislative initiative.

Mr. MATSUI. Mr. Chairman, I rise today to speak in favor of H.R. 3525, a bill to establish a uniform poll closing for Presidential general elections.

We live in an information age where news is transmitted with immediacy by communications networks linking every corner of America and the world. But despite our great technological advancements, our Nation is still divided by numerous time zones. This has created a problem on election day when national networks broadcast early projections of winners based upon exit polls conducted in the eastern time zones.

The most infamous incident of this occurred on election day of the 1980 Presidential general election when early forecasts predicted Ronald Reagan the winner over Jimmy Carter. Media reporting and Carter's subsequent concession speech resulted in a lowered voter turnout in my home State of California. Some citizens actually standing in line waiting to vote left their polling places without casting their ballots when they heard the projections that Reagan had won. Many more people decided against going to the polls to exercise their right of suffrage upon hearing the network projection a winner in the Presidential race. Numerous Federal, State, and municipal elections were substantially impacted by the lowered voter turnout.

I am pleased to note that the major networks have since made a commitment not to project probable winners in any State until polls in that State have closed. While this solves the problem of exit poll projections, it does not address the situation created when actual east coast results become available hours before polls close on the west coast.

The solution is a uniform poll-closing time. H.R. 3525 will extend the polling hour in the eastern time zone until 9 eastern standard time. This bill will extend Pacific daylight time 1 week during Presidential election years so that west coast polls closing at 7 P.D.T. will do so uniformly with the east coast polls.

The uniform poll closing concept has the support of the board of supervisors in my Sacramento County district. I agree with their conclusion that uniform poll closing will contribute to increased voter turnout in Sacramento County. This conclusion is based upon statistics compiled by Mr. Ernest Hawkins, registrar of voters for Sacramento County. These statistics show that in both 1980 and 1984, the 4 p.m. voter projection was higher than actual turnout.

Mr. Chairman, a uniform poll-closing time would not be an additional burden on the taxpayers and would not require an additional layer of bureaucracy. A uniform poll-closing time will stimulate interest in voting in California. Those of us who cast our ballots on the

west coast will know that our votes will be counted at the same time, and will count just as much, as votes cast on the east coast.

Mr. UDALL. Mr. Chairman, I rise in support of H.R. 3525, a well considered and carefully structured piece of legislation that will establish a uniform poll closing time, a sorely needed improvement in our election procedures in this time of instantaneous national reportage by the electronic media.

Mr. Chairman, every 4 years we hear of voters, especially in the Far West, who report they were discouraged from going to the polls on Presidential election days because the issue had been decided by the networks hours before the polls were to close in their locals.

In several instances, notably in Washington State, Oregon, and California, local and congressional elections were undisputedly affected by the lower turnout that came after network announcements of the outcome of the Presidential race.

Mr. Chairman, we are not asking the States to adopt drastic change. Indeed, States coast to coast have supported the intent and the mechanics of H.R. 3525.

This change, long overdue, will be a positive step in bringing order to our sometimes chaotic system of electing a President.

I wish to commend my colleagues Mr. SWIFT and Mr. THOMAS for their outstanding efforts on behalf of this excellent bill.

The CHAIRMAN. All time has expired.

Pursuant to the rule, the committee amendment in the nature of a substitute now printed in the reported bill shall be considered as an original bill for the purpose of amendment. Each section shall be considered as having been read.

The Clerk will designate section 1.

The text of section 1 is as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SINGLE POLL CLOSING TIME FOR PRESIDENTIAL GENERAL ELECTIONS IN THE CONTINENTAL UNITED STATES.

Chapter 1 of title 3, United States Code, is amended by—

(1) redesignating section 21 as section 22; and

(2) inserting after section 20 the following new section:

"§ 21. Single poll closing time in continental United States

"(a) Each polling place in the continental United States shall close, with respect to a Presidential general election, at 9:00 o'clock post meridiem, eastern standard time. Any person who, as determined under the law of the State involved, arrives at a polling place after that time shall not be permitted to vote in the Presidential general election.

"(b) As used in this section, the term—

"(1) 'continental United States' means the States of the United States (other than Alaska and Hawaii) and the District of Columbia;

"(2) 'Presidential general election' means the election for electors of President and Vice President; and

"(3) 'State' means a State of the United States and the District of Columbia.".

Mr. SWIFT. Mr. Chairman, I ask unanimous consent the remainder of the committee amendment in the nature of a substitute be printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Washington?

There was no objection.

The text of the remainder of the committee amendment in the nature of a substitute is as follows:

SEC. 2. EXTENDED DAYLIGHT SAVING TIME IN PACIFIC TIME ZONE IN PRESIDENTIAL ELECTION YEARS.

Section 3 of the Uniform Time Act of 1966 (15 U.S.C. 260a) is amended by adding at the end of the following new subsection:

"(d)(1) Notwithstanding subsection (a) of this section, in each year in which a Presidential general election takes place, the period of time during which the standard time shall be advanced with respect to the Pacific time zone shall end at 2:00 o'clock ante meridiem on the first Sunday after the date of that election.

"(2) As used in this subsection, the term 'Presidential general election' means the election for electors of President and Vice President.".

SEC. 3. TECHNICAL AMENDMENTS.

(a) AMENDMENTS TO TITLE 3, UNITED STATES CODE.—The table of sections for chapter 1 of title 3, United States Code, is amended—

(1) by striking out the item relating to section 21 and inserting in lieu thereof the following:

"22. Definitions."; and

(2) by inserting after the item relating to section 20 the following new item:

"21. Single poll closing time in continental United States.".

(b) Amendments to Uniform Time Act of 1966.—Section 3(a) of the Uniform Time Act of 1966 (15 U.S.C. 260a(a)) is amended by striking out "2 o'clock antemeridian" each place is appears and inserting in lieu thereof "2:00 o'clock ante meridiem".

AMENDMENT OFFERED BY MR. GREGG

Mr. GREGG. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. GREGG: On page 4, after line 7 insert the following:

"(b) Notwithstanding subsection (a), a polling place shall close, with respect to a Presidential general election, as provided by the law of the State involved, in the case of a polling place at which each person who is eligible to vote has voted.

On page 4, line 8, strike out "(b)" and insert in lieu thereof "(c)".

Mr. GREGG (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from New Hampshire?

There was no objection.

Mr. GREGG. Mr. Chairman, this is a fairly innocuous amendment. What it says, in very simple terms, is that if you are in a precinct where everybody votes, everybody in the precinct who is a registered voter goes to the polls and votes, then you do not have to keep your polls open until 9 o'clock at night. This affects three States: New Hampshire, Montana, and Idaho, where they have State laws, because the size of our towns and our communities are quite small in many instances. I have a number of towns, for example, with voting populations of under 25.

In those instances, the votes are cast in the household of the local registrar or the local moderator, usually in her kitchen. As a result, people come by and she checks them off until everybody in town has voted. Or he checks them off until everybody has voted. Then they close up shop and they count the votes. It does not take too long because usually there is only about 10 or 20 votes to be counted, and they report the votes to the Secretary of State.

Now, to ask those people to be open until 9 o'clock at night makes absolutely no sense. It obviously will not prejudice the election to allow those very small towns to close their polling places after everybody in the town has voted. As I say, this is a simple amendment. It simply requests that in those instances where 100 percent of the people who are registered vote, that in those instances the polls may be closed before 9 o'clock. It is obviously going to affect only a few towns throughout the Nation.

Mr. SWIFT. Mr. Chairman, will the gentleman yield?

Mr. GREGG. I yield to the gentleman.

Mr. SWIFT. I thank the gentleman.

Mr. Chairman, we have had an opportunity on this side to examine this amendment and believe it to be constructive and would be happy to accept it.

Mr. THOMAS of California. Mr. Chairman, will the gentleman yield?

Mr. GREGG. I yield to the gentleman.

Mr. THOMAS of California. I thank the gentleman.

Mr. Chairman, I would like to commend the gentleman from New Hampshire because not only is it eminently logical that you ought to be able to close the polling place after everyone who is eligible to vote has voted, it also provides, I think, an incentive for any other precinct that might feel that they would like to close at an earlier time. All they have to do is go out and make sure that everyone of the eligible voters has voted. I appreciate that kind of incentive and we have no problem with the amendment.

Mr. FRENZEL. Mr. Chairman, I move to strike the last word.

Mr. Chairman, there is no doubt, because this amendment allows local units of governments to do what they have been doing before, to conduct their elections in a reasonable manner that suits the citizens of their area, that the amendment makes the bill less

worse than it is. But what the amendment does it points out the essential, nonsensical nature of the bill.

The two gentlemen who are promoting this bill, until we came to the floor today, did not care about Dixville Notch, a little hamlet in New Hampshire, which is the first unit of government to report in every Presidential general election.

□ 1645

That is a great American tradition, and I am glad the gentleman from New Hampshire has persuaded the managers of the bill to allow that tradition to continue.

The bill's unreasonable requirements on the towns dear to the gentleman from New Hampshire have now been relieved, but the unreasonable requirements on 39 other States are still not relieved. That is my problem with the bill.

A previous speaker said that only a few States will have to keep their polls open more than an hour longer. The gentleman from California said this was a "minimal" change in voting laws. The gentleman from Washington said there were "modest" changes in election hours. Yet as I look through the list that I have, I have to believe that those changes are pretty strong. I count 12 or 13 States which have their voting hours extended by more than 1 hour, and I count 39 States that have their voting times changed. That is a drastic change.

So, yes, the amendment offered by the gentleman from New Hampshire is worthwhile. It removes some of the ridiculous and onerous restrictions of the bill. The only way the gentleman from New Hampshire could have done better is to see that the whole bill is defeated.

Mr. DURBIN. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I wonder if the gentleman from New Hampshire would answer a question for me in relation to this amendment.

Mr. GREGG. Yes, I will, Mr. Chairman, if the gentleman will yield.

Mr. DURBIN. Mr. Chairman, I detect what appears to be an ambiguity, and perhaps the gentleman can clarify it.

According to the language here, it speaks of "a polling place at which each person who is eligible to vote has voted." That is the operative language at the end of the amendment.

There is a situation where, on the polling books in the polling place where I live, an individual's name can show up as a registered voter when that person has in fact moved from the precinct. There is also a possibility that that person could still legally vote in that precinct. In other words, the person who has registered to vote has moved from the precinct, but because they moved in the last 30 days before the election, they did not have time to establish residence in another precinct. To all intents and purposes, the judges sitting at the polling place would believe that person has moved away.

At this point, would the person be eligible to vote, in their estimation, and, therefore, they would have to leave the polls open until the last minute if a registered voter is on the books and has not appeared?

Mr. GREGG. Mr. Chairman, if the gentleman will yield, that would be a determination for the moderator, I would think, as to whether or not that was a registered voter who qualified to vote in the precinct.

Mr. DURBIN. I would suggest to the gentleman that that raises an ambiguity that may cause some problems in precincts, unlike your own, where only maybe 50 voters in some precincts are all known to everyone and no one has moved in or out of town in a period of time.

In an area of the country where there is a more mobile population, there is a possibility that the polling place would be closed before a registerd voter could show up to vote. You could be disenfranchising a person who, although they have moved from a precinct, could still legally vote in the precinct. It would seem to me that the language would be clearer if it said: "A polling place at which each person who registered to vote at that polling place has voted."

Mr. GREGG. Mr. Chairman, I think we can clear that up in the report language. It seems to me that that type of technicality is something that would probably be inappropriate to legislate. We are dealing with districts where obviously by definition we are going to have very small numbers of people registered in that district or else you are not going to get 100 percent anyway.

Mr. DURBIN. If the gentleman would respond to this question, the amendment which I have before me does not limit the size of the precinct.

Mr. GREGG. No, it does not, but I think as a practical matter the size of the precinct is limited.

Mr. DURBIN. Mr. Chairman, I would suggest to the gentleman that perhaps if a person who is legally registered to vote in this country shows up to vote at a time when he believes his polling place is open and finds the door locked and is unable to vote, it would not be any small matter to that person, and perhaps it is a matter we ought to consider as we make a rule which will apply to literally hundreds of thousands of precincts across America.

Mr. SWIFT. Mr. Chairman, will the gentleman yield?

Mr. DURBIN. I am happy to yield to the gentleman from Washington.

Mr. SWIFT. Mr. Chairman, I would make the point that the amendment refers to State law. If this amendment is passed on this bill, it would not take away from the States the right to define "eligible voter." I think it should be left to the States in that regard.

So should an ambiguity develop—I really do not think it will, but should an ambiguity develop, the State would have the authority in that regard.

Mr. GREGG. Mr. Chairman, if the gentleman will yield further, there are only three States to which this applies anyway, and Illinois is not one. It would only apply to Idaho, Montana, and New Hampshire.

Mr. DURBIN. Would the gentleman be kind enough to explain to me why this only applies to three States?

Mr. GREGG. Because it is only where State law allows a polling place to close when everyone has voted.

Mr. SWIFT. If the gentleman will yield, there is nothing in this that would prevent a State from so changing its State law, but currently only three States choose to do it that way.

Mr. DURBIN. Mr. Chairman, I will be honest with the gentleman. Having read the amendment, I did not conclude that that was the original intent, that only three States would be affected.

Mr. GREGG. Well, that is the intent. There is language that may not be on the copy the gentleman has which says, "as provided by the law of the State involved." That is in the introductory language.

Mr. DURBIN. Mr. Chairman, I thank the gentleman, and I am happy that the gentleman clarified that point for me.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New Hampshire [Mr. GREGG].

The amendment was agreed to.

AMENDMENT OFFERED BY MR. FRENZEL

Mr. FRENZEL. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Chair would remind the gentleman from Minnesota that the first part of his amendment amends the title of the bill, and the title cannot be amended in the Committee of the Whole.

Mr. FRENZEL. I thank the Chair for pointing that out.

The CHAIRMAN. If the gentleman wishes to strike the first part of the amendment, the amendment could be considered.

Mr. FRENZEL. Mr. Chairman, I ask unanimous consent that the language of my amendment referring to the title of the bill be deleted from my amendment, and that the amendment be considered.

The CHAIRMAN. The Clerk will disregard that portion referring to the title and will report the amendment.

The Clerk read as follows:

Amendment offered by Mr. FRENZEL: On page 3, line 18, strike "continental".

On page 4, line 1, strike "continental".

On page 4, line 2, strike "continental".

On page 4, beginning on line 9, strike subsection (1).

On page 4, line 12, strike (2) and insert in lieu thereof (1).

On page 4, line 14, strike (3) and insert in lieu thereof (2).

Mr. FRENZEL (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

Mr. FRENZEL. Mr. Chairman, the amendment which I have offered, and which I have asked not to be read in its entirety, makes changes in a number of pages of the bill deleting the word, "continental."

The intention of the amendment is to put Alaska and Hawaii under the full force and effect of the law. The managers of this bill, who were so concerned that the precious voting rights of people in the Western part of the United States would be violated if they knew what happened in the East a few minutes before their own polls closed, either forgot, or for some reason omitted, putting Hawaii and Alaska, our two most Western States, under this bill.

I can only assume that they decided that the precious voting rights of the people of Alaska and Hawaii were less precious than the precious voting rights of Oregon, Washington, California, et cetera. Perhaps they can explain that later. I can't. The unhappy result is that we now have a two-tiered operation here that says that some of our voters need protection and some of our voters do not need protection. That paradox gives evidence of congressional whimsey.

I do not think this amendment is going to be accepted by this body. It should be. If we are going to have a uniform closing time for the polls, it should include all the States of this great Union. I certainly believe that Hawaii and Alaska are part of the Union, even though they are the most recently admitted States. I see no reason to exempt them or to set them aside.

In fact, they are the ones whose precious voting rights are most threatened if the gentleman from Washington and the gentleman from California are correct in their reasoning that knowing about other States' results somehow will prejudice one's vote in a Western State. In its present state the bill saves the least imperiled, and leaves the most imperiled in danger.

I do not think the people of Alaska and the people of Hawaii would like my amendment. I do not think they want to be in this bill, nor do I think most of the people in the United States want to be in this bill. My amendment merely shows that the bill, not the amendment, is frivolous.

□ 1655

Mr. Chairman, why would anyone protect some Western States and not protect other Western States? What is more blessed about Washington and California than about Hawaii and Alaska?

If we are going to have a uniform poll closing time, this bill doesn't do it. Its title is as inaccurate as the managers' descriptions of the difficulties it will cause.

The gentleman from Washington said, I believe more than once, that we were being presented with a uniform poll closing time. Well, it is sort of uniform, except it is not uniform.

I have another amendment that deals with primary elections. We have forgotten about primary elections. Your sacred, precious right to vote in primary elections is not as sacred and precious under this bill as your right in Presidential general elections, nor is your right in other than Presidential elections.

Somehow we have got this thing arranged so that a few dozen of us in this committee will decide whose rights, under what conditions, are precious and sacred. Then we will protect them in our way, which is, more often than not, contrary to the way the States want them to go.

Mr. Chairman, I offer this amendment merely to show that the bill is not providing a uniform closing time, that it makes unreasonable distinctions between citizens of some States and citizens of other States who are subject to the same risks and hazards. My amendment shows that the bill, if it is what it says it is, is then without merit.

Mr. Chairman, I hope my amendment will be adopted.

Mr. SWIFT. Mr. Chairman, I rise in opposition to the amendment.

I think the gentleman's amendment does not show weakness in the bill. It shows that you can take any bill and make it ridiculous.

What this bill would do is close the polls in Alaska at 5 p.m. and close the polls in Hawaii at 4 p.m. That is not going to be acceptable to anyone in Alaska or Hawaii.

The gentleman asks why did we choose to do this? Well, this is a very great and large country and being able to try to come up with a workable solution between the four time zones in the continential United States was in itself difficult. Adding the additional time that this would be stretched out for Alaska and Hawaii was a conundrum, not one that the committee ignored. We counseled with the representatives from Hawaii. We held a hearing in Anchorage, AK, to explore this.

Essentially what they said is, "Look, if the majority of the States are going to be able to resolve this problem in a way that makes sense to them, you will have to apply it to us"—exactly as the gentleman's amendment does—"to close our polls so early is unacceptable to us. We believe that you can craft a solution that will help the 48 States resolve this problem. We do not believe you can craft a solution that is in any way acceptable to us if you force us to close our polls that soon."

They point out that due to their geographical locations the people in those two States, while they may not like it, do get used to things occurring much earlier in terms of their network programming, in terms of news, and so forth. As a result, the kind of thing that occurs has less psychological effect on people in these 2 States than it does in the continental 48.

We were asked by these States, so that they would not have to deal with the sharp and extraordinarily early and unfair closing times that are contained in this amendment, to exempt them from the bill and we acceded to their wishes.

Mr. THOMAS of California. Mr. Chairman, I move to strike the last word.

I do not find impressive the argument that we ought to include Alaska and Hawaii or somehow this bill is fatally flawed. Because you can come up with a solution for 95 percent of Americans, you ought to discard it because it does not cover the entire 100 percent. Those of us who live on the west coast are familiar with the time anomalies that Hawaiians and to a degree Alaskans have to deal with, it is tough enough to get up at 3 a.m. to watch the beginning of the Rose Parade or to have your Monday night football games come on at 4 o'clock in the afternoon. They are used to the adjustments necessary.

Clearly, if we were to extend a uniform time closing to the furthest tip of the Aleutian Islands or to Hawaii, that you would be dealing with an absolute impossible late evening or early morning time situtation on the east coast.

What we have done is attempt to provide a solution to a problem not to deal in abstract uniformities.

This legislation attempts to deal in a realistic way with a real problem and this amendment clearly is deleterious and I would ask that it be defeated.

Mr. GREGG. Mr. Chairman, I move to strike the requisite number of words.

I think the gentleman's amendment has made the point very effectively as

to the fundamental flaw of this bill. I mean, if you are going to be honest about it, I do think that Hawaii and Alaska are a part of this Union.

The fact is Hawaii, I do not believe, is any further from California than New Hampshire is from California. We just happen to be separated by a land mass and they are separated by a water mass.

As a very practical matter, I do not see how you can effectively enforce this type of discrimination on New Hampshire if you are not going to enforce it on Hawaii and Alaska. It is not fair. It is not equal protection of the law.

The fact is that it shows this bill is flawed and it is so flawed that we should probably put it to rest right here.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Minnesota [Mr. FRENZEL].

The question was taken; and on a division [demanded by Mr. FRENZEL] there were—ayes 6, noes 7.

So the amendment was rejected.

AMENDMENT OFFERED BY MR. FRENZEL

Mr. FRENZEL. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. FRENZEL: On page 1, after the word "for" in the title, insert the following: "for Presidential primary dates on which there is more than one State conducting its primary election and".

Mr. FRENZEL [during the reading]. Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

Mr. SWIFT. Mr. Chairman, I reserve a point of order against the amendment.

Mr. FRENZEL. Mr. Chairman, I have no objection to the making of the point of order at this point in the proceedings.

POINT OF ORDER

The CHAIRMAN. The gentleman will state the point of order.

Mr. SWIFT. Mr. Chairman, if the gentleman will yield, I would be happy to let the gentleman conduct his debate. If the gentleman would like, I would be happy to withhold until he has had a chance to comment on the amendment before making my point of order, if that would be agreeable to the gentleman.

Mr. FRENZEL. Mr. Chairman, I think we may as well go ahead with the point of order.

Mr. SWIFT. In that case, Mr. Chairman, I make a point of order against the amendment on the grounds that it is in violation of clause 7 of rule XVI, the germaneness rule. I would say in particular "Deschler's Procedure," chapter 28, section 7, to the effect that "one individual proposition is not germane to another individual proposition." This bill deals exclusively with Presidential general elections. The amendment deals with Presidential primary elections and I make the point of order that it is not germane.

Mr. FRENZEL. Mr. Chairman, I would like to be heard on the point of order.

The CHAIRMAN. The gentleman from Minnesota is recognized on the point of order.

Mr. FRENZEL. Mr. Chairman, I have had this done to me before on a very similar point of order which was sustained by the Chair a number of years ago. I suspect that the precedents are not with me on it; nevertheless I think any rational reading of our rules and of our precedents in a philosophical way and any presentation to a body of Americans who can read or write would result in the amendment being declared germane.

The committee clearly has jurisdiction over matters of election laws. This bill clearly deals with an election law. This amendment of mine clearly deals with an election law. It happens to be a different step in the same process.

Now, I believe that primary elections are just as important as general elections, particularly in Presidentials, because that is the way Presidential candidates get to general elections.

I submit that the primary is inseparable in the process from the general election.

To sustain the point of order would be to say that if we had an election law covering half the States, we could not have an amendment that affected the other half of the States, or to make distinctions between parts of the political process it seems to me does not make any sense at all.

I do not know how the Chair is going to rule on this. All I can say is that it is very hard for the general public to understand that you can separate a general election from a primary election and make one not able to be amended on to the other.

I believe that the point of order should be rejected.

The CHAIRMAN (Mr. BARNARD). The Chair is prepared to rule.

In this case the matter of germaneness need not be decided, inasmuch as the amendment clearly violates rule XIX because it only amends the title of the bill and the title of the bill can only be amended after the bill is passed; so the Chair sustains the point of order.

Mr. BIAGGI. Mr. Chairman, I move to strike the last word. I do so to discuss an amendment I had intended to offer today. The amendment would have changed election day from Tuesday to Sunday on a one-time trial basis during the 1992 Presidential election. The amendment would have also required the Federal Election Commission to study the impact of this change on voter turnout and recommend to Congress whether the change should be made permanent. This amendment is very similar to legislation I first authored in 1980 and reintroduced this year as H.R. 639. Quite simply Sunday elections would help to increase our Nation's dismal voter turnout rate by making it more convenient for people to vote.

Based on assurances I have received from the distinguished chairman of the Elections Subcommittee, I will not be offering this amendment today. However, I do want to discuss the idea.

Perhaps the best argument of all for Sunday voting is that it has proven so successful in other countries. At my request, the Congressional Research Service examined 111 separate elections held in 29 democracies between the years 1968 and 1984. Elections held on Sunday, which occurred in such places as France, West Germany, and Sweden, averaged an 83.6 percent voter turnout rate—more than 10 percentage points higher than the elections held on a weekday. The average voter turnout rate for U.S. elections was a disgraceful 46.3 percent.

More than anything else, Sunday elections would help to resolve the work conflict. Under our current system, 80 percent of the voting hours occur while people are working or are traveling to or from work.

Some have suggested that Sunday voting might result in added costs, due to such things as paying election workers premium wages. However, that argument is weakened considerably by a survey of State election officials I conducted on this issue. Of the 18 State election officials who responded, 11 of them indicated that Sunday voting would result in little or no additional expenses. It should also be noted that voting hours could be shortened if elections were held on a nonworkday, thus actually, reducing certain costs.

Before I first introduced my Sunday election proposal in 1980, I contacted religious leaders throughout the country to obtain their views about how American church life might be affected. Surprisingly, the response was quite favorable. For instance, the head of the U.S. Catholic Conference wrote, "I cannot see how (Sunday voting) would react negatively on church obligations, but might rather emphasize the moral aspects of voter responsibility for all citizens * * * voting on Sunday, then, could be quite consistent with Catholic social ministry."

An official from the Episcopal Church Center echoed this same sentiment, saying, "The possibility of having Sunday as an election day raises no problem from a religious standpoint."

I would point out that those who do have religious objections would not be prevented from voting, since the absentee ballot is designed to accommodate those types of situations.

Will Sunday voting work in the United States? Why speculate? Let's try it and find out. Surely, the voter turnout results can't be any worse than they already are.

Mr. Chairman, at this time I would like to engage the distinguished gentlemen from Washington in a colloquy to reaffirm his earlier assurances to me regarding Sunday voting. Specifically, I would like to know if he agrees that Sunday voting is an appealing idea, one that he and his subcommittee intend to seriously consider?

□ 1710

The CHAIRMAN. The time of the gentleman from New York [Mr. BIAGGI] has expired.

(By unanimous consent, Mr. BIAGGI was allowed to proceed for 2 additional minutes.)

Mr. SWIFT. Mr. Chairman, will the gentleman yield?

Mr. BIAGGI. I will be delighted to yield to the gentleman from Washington.

Mr. SWIFT. Mr. Chairman, first of all, having served with the gentleman as one of the panelists on the ABC-Harvard symposium on voter participation, I know of the gentleman's long-time concern with increasing voter participation, voter turnout, and particularly his interest in Sunday voting as a means of doing it.

The committee, admittedly in this bill, was looking primarily for a solution to the early projection issue, but we are also very concerned about what can be done to encourage greater participation. We do plan to undertake hearings on a variety of proposals, more liberal registration and so forth, including Sunday voting, to examine it very carefully to see what it could contribute to an increased voter participation in the United States of America.

Mr. BIAGGI. I thank the gentleman.

Mr. JEFFORDS. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I would like to commend the Committee on House Administration for the extensive work it has done to resolve the difficult problem of poll closing times and early election predictions. I am well aware of the hours the committee has invested in discussions with State, local, and party officials in many States. However, reluctantly, I will vote against the bill.

Vermont is one of the first States to vote and close its polls. However, because the majority of towns still use paper ballots, vote counting is a slow process, often continuing until midnight. The Secretary of State James Douglas has expressed the opposition of most town officials to keeping the polls open for an additional 2 hours. This would push the final vote tallying into the wee hours of the morning, thereby increasing general exhaustion and the possibility of error. In addition, towns would have to deal with confusion resulting from polls closing earlier in non-Presidential election years.

Progress has been made in securing an agreement from the networks to refrain from exit polling and early predictions until the polls are closed. However, mediawide adherence to this pledge is necessary if there is to be any solution to this problem. While this bill provides a remedy for one aspect of the early predictions problem, it does not address the central issue of media restraint.

In sum, I can appreciate the perplexing nature of this problem, but I cannot support a solution that would cause undue confusion and difficulty for Vermont.

AMENDMENT OFFERED BY MR. FRENZEL

Mr. FRENZEL. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. FRENZEL: Strike out line 16 on page 4 and all that follows through line 3 on page 5 and insert in lieu thereof the following:

SEC. 2. STUDY BY SECRETARY OF TRANSPORTATION

The Secretary of Transportation shall conduct a study of the impact that an extension of daylight saving time in the Pacific time zone to the first Sunday after the date of each Presidential general election would have on the air and surface transportation system of the Nation. The Secretary shall report the results of the study to the Congress not later than December 31, 1986.

Mr. FRENZEL. Mr. Chairman, the purpose of the amendment, which may not have been clear from the reading, is to strike the 2-week daylight saving time gimmick which relates to 4½ Western States, and to insert in its place a study by the Secretary of Transportation. The purpose of that study is to find out whether my position, that is, that this extra 2 weeks does too much damage to our passenger and freight transportation system, to our communications system, and to the movement of people and materials across the country, or whether, as the gentleman from Washington says, it is a matter of minor inconvenience.

Mr. Chairman, we have referred to the Air Transport Association of America in a letter which I received from its senior vice president on November 4. That organization cites more than disruption. The disruption is supposed to be the most serious problem. According to that group, particularly with regard to fitting schedules together from areas that are not on daylight savings to another that is, but only on a temporary basis. Airline schedules, as everyone knows, and crew assignments, fit together very carefully into little pieces like a jigsaw puzzle, and they are difficult enough to manipulate and for passengers or traffic managers to understand when we have them under normal conditions. But, when we have a temporary 4½ States, 2-week adventure, I think it will cause some real trouble.

I do not know very much about airline guides. I do know that this agency says it will incur substantial costs to develop and publish two complete schedules within a 2-week period. It also indicates that crew scheduling problems will be a matter of difficulty.

The fourth point that organization makes is that airlines will have some difficulty with noise curfews. The gentleman from Washington says that would affect only six airports. I presume he knows more about it than I do. I think if it affects even a single airport it is going to be an additional burden which is more than our country should have to bear.

We have just deregulated the airlines. Even so, they seem to be one sector of our transportation industry that is getting along pretty well. I would hope that we would not insert this little 2-week moment of madness which will confuse the customers of the system as well as those who have to operate it.

Again, I would not make the amendment if I thought the 2-week period of daylight saving time for 4½ States was going to do something that would ultimately benefit the people or the people's voting franchise. Since we do not care about Hawaii and Alaska, obviously we only care about some, not all, voting franchises. Therefore, it seems to me to be reasonable to pass this amendment.

Mr. THOMAS of California. Mr. Chairman, will the gentleman yield?

Mr. FRENZEL. I am happy to yield to the gentleman from California.

Mr. THOMAS of California. Mr. Chairman, in the gentleman's general discussion of his desire for a study, he indicated the communications system as well. Since the amendment is restricted to air and surface transportation, does the gentleman wish to expand his amendment so that the study be of the communications system as well, or was that just a discussion about how this is going to rent the fabric of the Nation?

Mr. FRENZEL. That was just an additional discussion for the gentleman's edification.

Mr. THOMAS of California. If the gentleman will yield further, you are only concerned about the rending of the fabric of the Nation in the area of the air and the surface transportation?

Mr. FRENZEL. No, I am not. I am concerned with rending the fabric of our Nation's economy in all respects,

but the ones I have put in the amendment are the ones that I deem to be most serious.

Mr. THOMAS of California. If the gentleman will yield further, this gentleman from California, who is vitally affected and wants to see this bill passed, appreciates the gentleman from Minnesota, whose State is not affected under this legislation at all, taking up the guantlet.

Mr. FRENZEL. I thank the gentleman, and I yield back the balance of my time.

Mr. SWIFT. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, this concern was brought to our attention by the Air Transport Association, and we examined it with considerable care. Their concerns are overdrawn, to say the very least, in part, I think, because they did not understand our bill rather than we did not understand their problems.

This is what the effect would be: They are arguing, it is going to upset our scheduling of our personnel and all of that because they seem to have the idea that you are going to go into some kind of a time warp any time you go through the Pacific time zone.

Well, obviously, time is time, regardless of what you happen to call it in a time zone, and nothing is going to change. The air transport people were able to function perfectly well in this country when there was no uniform time at all, and they are going to be able to function very effectively now.

The one problem that this bill could cause, and the only problem this bill could cause, would be in an airport in the Pacific time zone which limited the hours during which they could land or take off. The way this works out, it would be at the end of the day where there are curfews, and in six cities in California, that is the total extent of it, and in some of those it is a voluntary rather than a mandatory thing. In talking with people from California, in talking with the Aviation Subcommittee of the Committee on Public Works and Transportation, we found that there was no reason to believe that accommodations could not be made in that 2-week period for those curfews once every 4 years.

□ 1720

The fact is we believe there is no interruption whatever.

We did not stop there; we went further. We asked the CRS analyst in Transportation to examine the potential effects. His conclusion, after studying the bill and conferring with other CRS analysts was that the potential problem for the airlines, and I quote: "Do not strike us as insurmountable."

He went on to say, and I quote again: "We believe that potential problems for other common carrier transportation modes; rail, truck and bus, would also be minor" and then he pointed out, and I quote again: "Prior to the more uniform adoption of daylight saving time that exists at present, the airlines and other transportation modes were able to operate in different time settings without significant problems."

It is clear from an examination of this, which we took the trouble to make, that there is no problem of any significance that cannot be dealt with, and therefore, I think, to suggest that we farm this out for further study is simply to not recognize what one can figure out with an examination of the facts themselves; that the amendment is totally unnecessary, and I urge all of my colleagues to oppose it.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Minnesota [Mr. FRENZEL].

The question was taken, and on a division (demanded by Mr. FRENZEL) there were—ayes 5, noes 9.

So, the amendment was rejected.

AMENDMENT OFFERED BY MR. FRENZEL

Mr. FRENZEL. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. FRENZEL: On page 3, line 18, insert the following: "primary and" before the word "general".

On page 4, line 4, after the word "election" insert the following: "or a Presidential primary election in which there is more than one State conducting its primary election,".

Mr. ECKART of Ohio. Mr. Chairman, I reserve a point of order on the amendment.

Mr. FRENZEL. Mr. Chairman, I have no objection to going ahead with the point of order at this point in the process. There is no reason for a delay.

POINT OF ORDER

The CHAIRMAN. The gentleman from Ohio [Mr. ECKART] is recognized to make his point of order.

Mr. ECKART of Ohio. Mr. Chairman, I offer a point of order based on clause 7 of rule XVI, the germaneness rule. I would cite in particular Deschler's Procedure, chapter 28, section 7 to the effect that "one individual proposition is not germane to another individual proposition." This bill deals exclusively with Presidential general elections. The amendment deals with Presidential primary elections. I make the point of order that the amendment is not germane and would go further to the point that suggest that not all States in fact have primaries. Many have conventions, many have other delegate selection processes known as caucuses, and therefore the application of this amendment across general election procedures would not be uniform. Therefore I insist on my point of order based on the germaneness rule.

The CHAIRMAN. Does the gentleman from Minnesota [Mr. FRENZEL] wish to address the point of order?

Mr. FRENZEL. I do, Mr. Chairman.

It is true that the primary system is nonuniform. It is also true that this bill is not uniform, since it now eliminates certain jurisdictions, and, of course, from the origination did not include two of our great States, who have a part in both the general and the primary process.

However, the point that I made is, that without primary elections it would be impossible to select the candidates for the general election; and to say that a person's vote in the general election has a different value or weight than one in the primary election, I think, is something that is antithetical to our form of representative government.

It is all one process; it is inseverable, and whatever the precedent says about this thing, I think most sentient Americans would suggest that an election bill handled by a committee with election jurisdiction that could not be amended for a primary would be a very strange election bill, indeed.

I believe that the point of order should be rejected, and I yield the balance of my time.

The CHAIRMAN (Mr. BARNARD). The Chair is prepared to rule.

As stated in the committee report, the sole purpose of the bill is to regulate Presidential general elections in terms of poll closing. An amendment to extend the scope of the bill to Presidential primary elections is not germane under the principle that an individual proposition is not germane to another individual proposition although the two may belong to the same class, and the point of order is sustained.

Are there any other amendments?

AMENDMENT OFFERED BY MR. FRENZEL

Mr. FRENZEL. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. FRENZEL: on page 5, add the following section:

SEC. 4. EFFECTIVE DATE.

The amendments made by this Act shall not apply unless prior to September 1, of the Presidential election year, all of television networks state, in writing in a form proscribed by the Federal Election Commission, their intention not to use exit poll data to suggest, through interpretation of that data, the probable winner in any State until polls in that State have closed and each of the major party Presidential and Vice-presidential nominees state, in writing in a form proscribed by the Federal Election Commission, their intention not to declare victory or concede defeat prior to all of the polls closing in the United States.

Mr. SWIFT. Mr. Chairman, will the gentleman yield?

Mr. FRENZEL. I yield to the gentleman from Washington.

Mr. SWIFT. Mr. Chairman, I have just a technical point. In the copy of the amendment that I have, the word "proscribed" is used rather than "prescribed" and I could not tell from the Clerk; I think the gentleman means "prescribed".

Mr. FRENZEL. I do mean "prescribed" and I thank the gentleman.

Mr. SWIFT. I would accede to a unanimous-consent request.

Mr. FRENZEL. Mr. Chairman, I ask unanimous consent that the Clerk make the typographical correction.

The CHAIRMAN. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

The CHAIRMAN. The change is noted; the amendment is modified.

The amendment, as modified, is as follows:

Amendment offered by Mr. FRENZEL, as modified: On page 5, add the following section:

SEC. 4. EFFECTIVE DATE.

The amendments made by this Act shall not apply unless prior to September 1 of the Presidential election year, all of television networks state, in writing in a form prescribed by the Federal Election Commission, their intention not to use exit poll data to suggest, through interpretation of that data, the probable winner in any state until polls in that state have closed and each of the major party presidential and vice-presidential nominees state, in writing in a form prescribed by the Federal Election Commission, their intention not to declare victory or concede defeat prior to all of the polls closing in the United States.

Mr. FRENZEL. Mr. Chairman, it is good to know that in addition to being a broadcaster, the gentleman was probably an editor in another incarnation.

Mr. Chairman, this bill before us is based on many slender reeds. One of the slenderest is that which says this subcommittee has some sort of guarantee from the networks that they will not do any of their early projection work or exit polling work.

If the bill is going to be passed, and I think it should not be and I think it will not be, it seems to me that it is important that this body have the guarantee that the assertions made to one subcommittee are indeed something that the networks are willing to stand behind fully.

This amendment is intended to make more definitive the 1984 statements or letters, statements to the subcommittee and letters to the subcommittee chairman and its ranking member by various networks.

Networks do come and go. They change. Their management changes. Their ownership changes. Their boards of directors change. I think the least that we can do is to suggest that sometime close to the date of the election, if we are going to unsettle 39 States and force them to revise their laws about the way they close and open their polls, the least we can do is to pass this amendment and ask that these networks stand up and be counted in a little more emphatic way.

In addition, another slender reed on which this bill hangs is the idea that a Presidential candidate in 1980 conceded too soon and that people went home from the voting lines because of that. Here, my amendment would also require that Presidential candidates or nominees in writing again prescribed, not proscribed, by the Federal Election Commission state their intention not to declare victory or concede defeat prior to all of the polls closing in the United States.

It seems to me these are simple requirements; they fit what I think is the irrational rationale of the bill, imperfect as it may be, and would, in my judgment, strengthen the bill.

Mr. Chairman, I yield the balance of my time.

Mr. SWIFT. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, this is a most mischievous amendment. It sets the stage for something I cannot believe the gentleman from Minnesota intends: It would permit a Presidential candidate who could feel that his strength lay in those States who would report first to refuse to sign the amendment, short circuit the uniform poll closing process, let his votes come in early and hope he could stampede the country.

□ 1730

I am sure that is not what the gentleman from Minnesota intended. It is precisely what the amendment could do, and it should be defeated summarily.

Mr. FRENZEL. Mr. Chairman, will the gentleman yield?

Mr. SWIFT. I would be happy to yield to the gentleman from Minnesota.

Mr. FRENZEL. I thank the gentleman for yielding.

To tell the gentleman in more precise terms what this gentleman intended, it was to show that the assurances that the gentleman has are less than ironclad and that he is, in my judgment, asking the States to do things they should not have to do and do not want to do on the basis of promises that he has that are not hard promises.

So I ask the gentleman is he going to get all the networks and are they going to certify on a stack of Bibles or the Constitution or a letterhead or a corporate resolution that this is indeed going to be the case?

Mr. SWIFT. Well, the answer to the gentleman is twofold: First of all, they already have. Second, that does not obviate the fact that the gentleman's amendment not only would seek to draw that more tightly but it does set up the kind of mischievous loophole that I have just indicated and, in any event, should be defeated.

Mr. GREGG. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the amendment.

Mr. Chairman, I believe this amendment once again, as the prior amendments of the gentleman from Minnesota have done, points out the fundamental failures of this bill. What you have here is a situation that we are proposing to pass legislation which has as its basic foundations an agreement with the networks. I do not see how we can really take with a great deal of seriousness such an agreement. The networks, by definition, probably cannot live by such an agreement because they are in competition. Once one network begins to give on this point, the other two networks have to jump in and give also. They must compete with each other for news. If we just have some sort of ethereal agreement from them or some sort of letter or some sort of understanding upon which we pass this legislation, it is pretty clear that when the pressures come down to the day of getting those ratings on the day of that election, that that sort of ethereal agreement is going to lose out to the need for a higher rating and a need to get the viewer participation in order to sell the advertising.

Thus I believe we have to, if we are going to have this type of legislation which is based on network participation, have the networks participate, not by some sort of agreement which everyone believes exists but by an agreement which is actually written and produced in stone.

Mr. HYDE. Mr. Chairman, would the gentleman yield?

Mr. GREGG. I would be happy to yield to the gentleman from Illinois [Mr. HYDE].

Mr. HYDE. I thank the gentleman for yielding.

As I understand it, the gentleman from Washington has an agreement from the major networks that they will not do exit polling. Is that correct?

Mr. GREGG. I am not absolutely sure what the agreement provides.

Mr. HYDE. Would the gentleman from Washington state what his understanding is on this agreement?

Mr. SWIFT. Mr. Chairman, will the gentleman yield?

Mr. GREGG. I will yield to the gentleman from Washington if he wants to respond.

Mr. SWIFT. I would be happy to respond. I thank the gentleman.

First of all, the agreement is between the three networks and the Subcommittee on Elections and was presided over in a ministerial way, if you will, by the gentleman from California [Mr. THOMAS] and myself.

What it provides is the following: That the networks agree not to use exit poll information, information they have gained from exit polls, to project or characterize, or in any way hint at a probable winner until the polls have been closed in a given State.

Mr. HYDE. I thank the gentleman.

Mr. Chairman, will the gentleman yield further?

Mr. GREGG. I yield to the gentleman from Illinois.

Mr. HYDE. I thank the gentleman.

It is my experience as an avid newspaper reader that matters of tight secret national security get printed in the papers without any qualms; things that can affect the security of this country, of the West, of intelligence operatives placed around the globe, and these are fairly routine and without the slightest qualm.

I have listened to media debates about, "How far would you go to get a story?" "Would you burglarize somebody's office; if it was on somebody's desk would you take it?"

It seems to me the highest duty of a media person is to get that news and communicate it, whatever the cost.

So I would suggest or I would say that an agreement by the networks not to publicize something, information which they have received, is like Samuel Johnson's characterization of second marriages: 'A triumph of hope over experience."

I thank the gentleman for yielding

Mr. GREGG. I thank the gentleman from Illinois. I think the gentleman has made the point well. I believe without the Frenzel amendment it is fairly clear that there is no enforcement mechanism placed on the networks to comply with their agreement and that by definition, as the gentleman from Illinois so succinctly pointed out, these networks, by the definition of their purpose, will not be able to live up to such an agreement unless it is part of the legislation.

Mr. THOMAS of California. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

Mr. Chairman, this gentleman appreciates the efforts of those who earlier were trying to defeat the bill to now solve some of the quote, unquote, problems with the bill. Clearly, though, the gentleman from Washington has pointed out the mischievous nature of this particular amendment. It would allow anyone to hold hostage the process.

It is interesting to point out in the amendment that while the gentleman from Minnesota pleads for each and every last voter, no matter where they may be, in Hawaii or Alaska, he contains it only to the major party Presidential and Vice Presidential nominees and is not concerned about the minor party nominees that are involved.

I would say to those of you who are concerned that the networks perhaps attempted to dupe those of us who dealt with them not just over long hours but over long months of trying to convince them that this was in their own interest, and they finally arrived at the conclusion that it was in their own interest.

The networks, if you will examine, which I have available and will in the House ask that this extraneous material be placed in the RECORD, a letter signed by Lawrence K. Grossman, president of the News Division of the National Broadcasting Co., a letter signed by Roone Arledge, president of ABC News, and a letter by Edward M. Joyce, president of CBS News.

Mr. WYDEN. Mr. Chairman, will the gentleman yield?

Mr. THOMAS of California. I would certainly yield to the gentleman.

Mr. WYDEN. I thank the gentleman for yielding.

Mr. Chairman, I want to associate myself with the remarks of the gentleman from California [Mr. THOMAS]. I just think the gentleman from Minnesota's amendment essentially delegates to a private citizen whether a law will be effective. That strikes me as highly peculiar and of dubious constitutionality. I want to yield back to the gentleman from California, and I associate myself with his remarks.

Mr. THOMAS of California. I thank the gentleman.

If I might make this point: In terms of the negotiations with the networks, those who feel perhaps uncomfortable in the networks' corporate policy which is now stated in the letters which have been sent to the gentleman from Washington and myself and that will be on record in the congressional journal; I guess they do not just appreciate the number of months spent in discussing the way in which we could solve our problem and that one of the clear obstacles was the networks, since they had to be part of the solution rather than the problem.

I also apparently feel that the gentleman from Minnesota does not realize that the candidates are already part of the solution and not part of the problem, as was witnessed by the election in November 1984 in which the candidates not only wanted to sign those but were glad to sign them because they wanted to be part of the solution. The networks are now part of the solution; the candidates are part of the solution.

What we are trying to do is move legislation so that the Congress can afford the mechanism which will resolve the problem.

The letters referred to are as follows:

HOUSE OF REPRESENTATIVES,
Washington, DC, December 6, 1984.

Hon. LAWRENCE K. GROSSMAN,
President, NBC News, NBC,
New York, NY.

DEAR MR. GROSSMAN: As you know, on November 6, 1984 both presidential candidates honored their commitment to withhold commenting on the trends for results of voting behavior of America's citizenry until 11:00 p.m. EST or until the polls had closed in the lower 48 states. The networks (ABC, CBS, NBC) also honored their commitment of not projecting winners until after the polls had closed in a given state.

Yet, despite adherence to these commitments, potential voters were confronted with a network-announced winner for President with as much as three hours left before polls in the West had closed.

The Congress had urged a solution to this dilemma by passing H. Con. Res. 321 asking the networks to "voluntarily refrain from characterizing or projecting results of an election before all the polls for the office have closed . . ." But, this solution was unacceptable to the networks because, in their professional judgement, it put them at a disadvantage to their competitors and was a possible violation of their First Amendment freedoms.

In their turn, the networks argued that the dilemma is a result of archaic election laws and that the solution was for Congress to enact uniform poll closing provisions.

Because past discussions have not produced an agreement, we must continue to examine all options available to us as we plan our legislative agenda for the 99th Congress. Before again traveling down a well-worn path, we are compelled to restate our goal of resolving this problem and clearly communicate to you our position:

"We feel that Congress cannot and will not seriously entertain legislation offering a uniform poll closing time or modified voting day or similar solution until the networks are on record with a firm, explicit, public, corporate commitment not to use exit poll data to suggest, through interpretation of that data, the probable winner in any state until polls in that state have closed."

Such a commitment would provide Congress with the needed reassurance that the results of exit polls would not be used, through characterizations, trending (or any other euphemism), to "short-circuit" a lasting solution to this important and seemingly neverending problem. With such a commitment, we feel the networks would have done their part and we in Congress could turn to doing our part in a positive and constructive atmosphere that bodes well for success.

We appreciate your consideration of our views and look forward to your response.

Best regards,

AL SWIFT,
WILLIAM M. THOMAS,
Members of Congress.

NATIONAL BROADCASTING COMPANY, INC.,
New York, NY, December 12, 1984.

The Honorable AL SWIFT,
The Honorable WILLIAM M. THOMAS,
Congress of the United States, House of Representatives, Washington, DC.

DEAR CONGRESSMEN: This is in response to your letter of December 6 requesting a "commitment" from NBC News regarding the use of our exit poll data during elections if there were "a uniform poll closing time or modified voting day or similar solution" to the problem we have discussed.

NBC News policy currently requires that we not make an election projection until state election officials begin the release of actual votes.

As I said in a recent talk to the Radio and Television News Directors' Association, "If polls in all 50 states close simultaneously, then NBC News would effectively and realistically be able to hold all the information we gather from our election day polling until after the election is over across the nation."

In short, NBC News policy enables us to go on record with our commitment that we shall not use the exit poll data we gather "to suggest the probable winner in any state until polls in that state have closed." I hope this will give you the reassurance you seek that the results of our exit polls would not be used to "short circuit" a proposed solution along the lines that you have suggested in your letter.

Like you, we hold the conviction that the integrity of the election process is most important to our democracy. I personally believe, as the attached copy of my recent talk in San Antonio indicates, that there are considerable "advantages of a uniform poll closing time" in helping to resolve this issue. As I also pointed out, however, there may well be news releases, interviews or statements by candidates, high campaign officials or others that provide newsworthy information which should be reported in a timely manner. But I do believe your initiative will go a long way to help resolve the basic network news reporting dilemma we all face.

Best regards,

LAWRENCE K. GROSSMAN.

ABC NEWS,
New York, NY, December 12, 1984.

Representative AL SWIFT,
Longworth House Office Building, Washington, DC.

Representative WILLIAM M. THOMAS,
Cannon House Office Building, Washington, DC.

DEAR REPRESENTATIVES SWIFT AND THOMAS: I am responding immediately to your letter received today on behalf of ABC News and the American Broadcasting Companies, Inc. We believe your letter offers a very positive and constructive approach towards resolving the issues raised in Presidential elections when results from one part of the country are known before polls have closed in later time zones.

Throughout this controversy, ABC News has suggested that a uniform national poll closing hour would solve the problem. Your letter states that Congress will not seriously consider a uniform poll closing hour, or similar solution, until the networks are on record with a "firm, explicit, public, corporate commitment not to use exit poll data to suggest, through interpretation of that data, the probable winner in any state until polls in that state have closed."

In fact, ABC News announced before the recent Presidential election that we would "not use exit poll data to suggest the winner of an election in any state until polls in that state have closed," That meant ABC News did not utilize exit polls to characterize, report trends, or in any other way to state or imply the outcome of any election until polls in a given state were closed.

Susequently, in a letter to members of Congress, I urged Congress to enact a uniform poll closing time and called on the other networks to join with ABC News in pledging not to characterize or hint at the outcome from exit polling data prior to a national closing time. In response to your letter, I am reaffirming that commitment. Again, your initiative offers hope of a positive, constructive and lasting solution to this problem. You and your colleagues have the full support of ABC News.

Sincerely,

ROONE ARLEDGE.

CBS NEWS,
January 17, 1985.

DEAR CONGRESSMAN SWIFT AND CONGRESSMAN THOMAS: We are delighted to learn that you will be considering legislation establishing a uniform poll closing time in Federal elections.

As you know, CBS has long advocated such a step as the best means of alleviating the problems caused by the patch-quilt of multiple poll closings across several time zones. We also see this solution as the least intrusive to First Amendment Rights.

You have noted in the past that the intent of such a uniform poll closing law would be defeated if the networks characterized or projected the likely outcome of races before the polls close.

And you have accordingly asked us whether we would pledge not to engage in such characterization or projections, based on our election day exit poll results prior to the time the polls close.

As you know, our policy in 1984 and in prior years has been to project the races one state at a time, but not before the polls in each of those states have closed, or in those states with multiple closings, until the vast majority of polls have closed.

This policy is entirely consistent with the request.

However, in recent years we have developed the capability of using our exit polls to arrive at characterizations of the unlikely outcome prior to the time the polls have closed.

We understand that these characterizations would defeat the very purpose of the legislation you are considering.

Since we agree with you that a uniform poll closing law is the only realistic solution to the issues that modern technology has produced, and in furtherance of the realization of such legislation, CBS News will no longer use election day exit polls to characterize races before the polls close in the states involved.

We trust that this letter, which you are free to make part of the record, will be helpful in removing barriers to early and earnest consideration by the Congress of uniform poll closing time legislation. We wish you success in your endeavors.

Sincerely,

EDWARD M. JOYCE,
President.

Mr. FRENZEL. Mr. Chairman, will the gentleman yield?

Mr. THOMAS of California. Certainly I yield to the gentleman from Minnesota, [Mr. FRENZEL].

Mr. FRENZEL. I thank the gentleman for yielding.

Mr. Chairman, I am glad to know that the candidates were willing to sign the pledges last time and they will this time. That should alleviate the fears of the gentleman from Oregon about the mischievous nature of this particular amendment.

But I noticed in those three letters from the networks, which are only three of many networks, and there may of course be more by the time the Presidential election rolls around, that they refer to the fact that they had in previous years had a similar commitment and they were making one now which was couched in different terms than what the gentleman and the distinguished chairman asked for.

Does that lead the gentleman to believe, as it does me, that next year there may be a third policy and the year after that a different policy? My amendment is simply trying to give some basis to a bill which is on pretty flimsy ground from yard one.

Mr. THOMAS of California. Reclaiming my time, perhaps the gentleman from Minnesota can read more into language than is there because if he will look, for example, at the CBS News letter, it says pretty frankly, boldly, and plainly on page 2 that:

CBS News will no longer use Election Day exit polls to characterize races before the polls close in the States involved.

Now that to me is pretty declaratory. Perhaps the gentleman can read more into that than anyone else can.

Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. The question is on the amendment, as modified, offered by the gentleman from Minnesota [Mr. FRENZEL].

The question was taken; and on a division (demanded by Mr. FRENZEL) there were—ayes 8, noes 10.

So the amendment, as modified, was rejected.

AMENDMENT OFFERED BY MR. FRENZEL

Mr. FRENZEL. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. FRENZEL: On page 5, after line 16, insert the following new section:

SEC. 4. SUNSET PROVISION.

The amendments made by section 1, section 2, and section 3(a) shall apply only with respect to the Presidential general election in the year 1988, unless otherwise provided by law.

Mr. FRENZEL. Mr. Chairman, this is a simple sunset amendment.

What will happen if this bill becomes law is that we will force 39 States to change the way in which they hold elections on Presidential general years. Some of them will have to make adjustments of from 2 to 3 hours in the poll opening times. Thirty-nine of them, nearly 80 percent of the States, will have to make some changes.

We will be having a separate, 2-weeks daylight savings time in 4½ States. There will be mass confusion.

In my judgment, it will result in more people being disenfranchised than have ever been disenfranchised because of discouragement of hearing early results from another source outside of their State.

For that reason, my amendment says if we have to do it, let us do it once only, and then look and see what kind of carnage we have created. If we think it did any good, and if we think the country tolerated it, we can always pass it again. If we think, as I believe we are going to think, that it was an unrelieved, unmitigated disaster, then at least we will be secure in the knowledge that it will not happen again unless the Congress is silly enough to pass it again.

I think we are taking a high risk with a dangerous bill, and I believe it should have a sunset. This amendment provides one. I urge its adoption.

Mr. Chairman, I yield back the balance of my time.

Mr. SWIFT. Mr. Chairman, I move to strike the last word, and I rise in opposition to the amendment.

I would suspect if this turned out to be an unremitting and unyielding disaster that the gentleman from Minnesota would quietly inform the body of that fact.

This committee obviously is not going to pass this legislation and walk away from it. This committee clearly will want to take a look at how this works after the 1988 election, and we will hold detailed oversight hearings on it, obviously. But the fact is that the way this place operates, for good and sound reason, is you try to come up with the most appropriately defined legislation that you can, and you pass it, and you watch it, and you adjust it if necessary, and you repeal it if it is necessary.

The idea that you are going to assume disaster is one that the gentleman would like to make because he opposes the legislation. He does not like it, he does not think there is a problem, and he does not think we therefore need a solution. But for those of us who believe, along with the vast majority of the American public, that there is a problem, believe that we have crafted here a restrained, mimimally intrusive solution that will solve that problem. We will take great care to watch carefully how it unfolds. We will have formal hearings following its first implementation, and we will take swift action—no pun intended—should that prove to be necessary.

□ 1745

But to adopt this kind of an amendment is clearly a tactic on the part of those who oppose the bill and, if you support the bill, you should oppose the amendment. Mr. Chairman, I urge its defeat.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Minnesota [Mr. FRENZEL].

The question was taken; and on a division [requested by Mr. FRENZEL] there was—ayes 8, noes 12.

So the amendment was rejected.

AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. FRENZEL

Mr. FRENZEL. Mr. Chairman, I offer an amendment in the nature of a substitute.

The Clerk read as follows:

Amendment in the nature of a substitute offered by Mr. FRENZEL: Strike out all after the enacting clause and insert in lieu thereof the following:

That the President shall provide for a study, with respect to Presidential general elections, of the impact of the availability of actual results from areas where the polls have closed on voting in areas where polls have not closed. The study shall be conducted in the manner prescribed by the President and shall include—

(1) an examination and analysis of the effect of such availability on total voter participation and patterns of voter participation; and

(2) an assessment of the need for, and the practicality of, a single poll closing time for such elections in the continental United States.

Not later than December 31, 1986, the President shall report the results of the study to the Congress.

Mr. FRENZEL [during the reading]. Mr. Chairman, I ask unanimous consent the amendment in the nature of a substitute be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

Mr. FRENZEL. Mr. Chairman, to give the body some advice, I believe that this is the last amendment that the body will take up. I have tried to expedite the process. I have not asked for recorded votes. It will be my intention to ask for a recorded vote on this particular amendment, and I hope I would get it rather than go through the travail of having a quorum call as well. But that should complete the work on this particular bill.

Mr. Chairman, this amendment was the best I could do to save a little face on the problem of uniform poll closing and still prevent what I think is an unreasonable set of strictures being placed on the States of this great Union.

This bill is based on the fact that the managers believe that some people were done out of their votes because they heard how other people voted. I find that hard to believe. And the study that I have looked at which, when we are in the full House, I will ask to put in the RECORD a piece from the Journal of Public Opinion which relates to the Michigan survey and suggests that instead of 6 to 12 percent found in that survey, that the number 0.2 percent would be more reasonable.

The article referred to follows:

[From the Journal of Public Opinion]

SURVEY RESEARCH AND ELECTION NIGHT PROJECTIONS

(By Laurily Epstein and Gerald Strom)

The passage of time has done nothing to abate criticisms of network projections of Ronald Reagan's victory before polls closed on the West Coast. The visceral reactions that immediately followed the election have been replaced by empirical studies, but the battle is no less intense. Evidence may have supplanted emotionalism, but the aim is the same; to demonstrate that would-be voters were, in fact, dissuaded from voting by the early evening projections.

No one has argued that the projections were incorrect or that they somehow "cheated" Jimmy Carter of a second term in the White House. Instead the accusation is that early evening projections reduce turnout, and that, in turn, affects contests below the presidency.

The issue remains unresolved, despite a spate of studies going back to the 1964 election, which have found that early evening projections have no systematic effect on turnout.[1] Although the early studies used survey data, the sample sizes were so small that the results have been questioned on those grounds alone. The more recent studies have used aggregate data—and are challenged on those grounds—or have used survey data—but have suffered from trying to compare presidential and midterm electorates.

For example, a study we did, published in 1981, looked at turnout from 1960 to 1980 (a period characterized by alternating early evening and late night election projections) by using total votes cast as the numerator and the voting age population as the denominator.[2] It showed that early evening projections did not diminish turnout on the West Coast, at least when compared to turnout trends elsewhere in the country. This study has been critized on the grounds that it is risky to speculate about individual behavior from aggregate data.

A recently published study also used aggregate data, but with California's registered voters as the denominator and ballots cast on election day (absentees were excluded) as the numerator, and showed that turnout on the West Coast *was* affected by the 1980 projections.[3] But California's registration procedures changed in the mid-1970s, and this may have led to an artificially inflated base of registered voters by 1980.

A study using survey data from the Census in 1972 and 1974 showed that, in 1972, turnout on the West Coast was affected by the early evening projection.[4] This study suffers from two problems. First, it compares presidential and midterm electorates. Second, it indulged in a little projection of its own—using data from the 1972 and 1974 elections to speculate about 1980.

Because voting decisions are made by individuals, there are those who insist that survey data are the only appropriate source of information about potential media effects on turnout. But until 1980, there were no reliable survey data available to address this issue.

In January of 1981, however, the Survey Research Center at the University of Michigan reinterviewed two of their national election samples, asking a series of questions designed to determine the effects of early projections (and Carter's early concession speech) on voting behavior. Both were stratified random samples of the adult population in some of the 48 mainland states.

Of the original 2,579 respondents in the two samples, about 1,800 (69 percent) completed the January telephone interview. This drop in the number of respondents from an otherwise representative national sample is a serious problem with the data. The author of a series of papers based on the data acknowledges that the January 1981 sample is neither random nor representative.[5] These data are, however, the best currently available.

The questions asked of the respondents included: whether or not they had voted; the time of day they had voted (or decided not to vote); their reasons for not voting if they had abstained; and several questions about the time of day they had first heard reports or projections of election results. Because these respondents were a subset of the entire national sample, their responses could be matched with Michigan's vote validation project, which used official voting records to determine whether each respondent was registered to vote and whether the respondent actually voted. Vote validation was critical because voting rates determined by surveys are routinely higher than actual rates. We used only the validated vote in our analysis.

JACKSON'S RESEARCH

John Jackson, the principal investigator of the January 1981 survey, has presented at least three papers analyzing these same data.[6] Using some fairly sophisticated statistical modeling techniques, Jackson asserts that some combination of election night news broadcasts, the early evening projections, and Carter's concession speech lowered overall turnout by 6 to 12 percent. We believe that there are a number of very serious problems with Jackson's methodology and analysis.

First, he reports that there were 1,814 respondents in the survey, but we could find only 1,800 in the tapes furnished by the University of Michigan. Similarly, he excluded respondents for whom there was not complete data, but does not tell the reader what constitutes missing information. Thus, it is unclear how he arrived at the 1,123 respondents used in his analysis.

Second, there are problems with his recoding and collapsing of variables. For example, he assumes that all polls closed at 8:00 p.m. local time,[7] yet a majority did not in 1980. All or parts of twenty-two states closed their polls before 8:00 p.m., twenty-two states and the District of Columbia closed at 8:00 p.m., and all or parts of only five states closed after 8 p.m.

Jackson's findings of reduced turnout are based on model estimates that assess the likelihood of individuals voting before or after 6 p.m. local time (when he believes people nationwide could have heard election news). But since it was less likely for polls to close at 8:00 p.m., the probability Jackson assigns for voting after 6:00 p.m. is undoubtedly incorrect—network projections or no network projections.

Moreover, it appears that he used three time zones instead of four. Additionally, he asserts that the South and the East are on Eastern time, the Midwest is on Central time, and the West is on Pacific time.[8] (There is no reference to the Mountain region, so we are forced to infer that it falls into "the West.") Yet five of the eleven former Confederate states are wholly or partly in a time zone other than Eastern, and large areas of what are typically considered the Midwest are on Eastern, not Central time. And, of course, Mountain states are on Mountain, not Pacific, time.

This lack of specifically regarding time zones and regions may help to account for the peculiar regional coefficients Jackson reports in his various studies.

Third, Jackson uses one model to estimate the likelihood of voting and then uses these results to project turnout. Thus, he compounds normal error in the measurement of variable with additional error in model estimation. Thus, it is very unclear what he is estimating or what the true values of the parameters really are.

A DIFFERENT METHODOLOGY

We steered away from sophisticated statistical models, and looked instead at the actual data collected by Michigan. First, we excluded from their sample respondents who were not registered to vote (22 respondents). We allowed in our pool those who were registered and those for whom registration information was missing or incomplete. This increased the pool of eligible nonvoters—but not the pool of voters—and we may therefore be overstating the numbers who did not vote because of early forecasts. In the end, there were 1,778 respondents in the sample.

These respondents divided neatly into three groups: those who had voted (1,047); those who had not voted (574); and those for whom there was missing information on vote validation (157).

Having identified these three categories of respondents, we tried to establish who might have been affected by election night broadcast information. To do this we used the Michigan respondents' answers to the following questions: 1. When did you vote? 2. If you didn't vote, did you ever intend to vote? 3. If you didn't vote, when did you decide not to vote? 4. If you didn't vote, why not? 5. When did you first hear news reports about the election?

We selected the most liberal question about hearing reports of election results, to bend over backward to make the case for a media impact.

THE SAMPLE

Because we were looking for the impact of election night coverage on those who might have voted but did not, we excluded from our sample the 1,047 respondents who had voted. This left us with 574 nonvoters. Unfortunately, 175 of those claimed to have voted, when in fact they had not; therefore, they could not have been asked the series of questions about why they did not vote. Excluding these missing cases left us with 399 respondents who had been asked the nonvoting questions. Of these, 143 (or 36 percent) stated that they had never intended to vote. Those who stated that they had intended to vote were asked when they had decided not to vote. Of these respondents, 98 said they had decided not to vote before election day, and 103 gave no answer to this question.

That brought us down to 45 respondents who had decided on election day not to vote, and so may have been affected by election night news. When asked for their reasons for abstaining, 41 of these 45 gave reasons other than election night news (e.g. illness, the weather). The remaining four respondents, however, stated they did not vote because they had heard that Carter had lost or was losing. Looked at in this way, election night news may have discouraged 1 percent (4/399) of registered nonvoters from voting. If these four voters had voted, the number of voters in the sample would have gone from 1,047 to 1,051 and the number of nonvoters would have declined from 574 to 570. This implies that actual turnout may have been decreased by 0.2 percent—in other words, if the four had voted, turnout would have been 0.2 percent higher than it was.

THE FLAWS

Although survey research is a well-accepted and popular tool, there are problems associated with analyzing its results. One is the inherent messiness of asking people to recall behavior which occurred several months (and in some cases, years) before the survey is conducted. This is true for all surveys that ask recall questions, including Jackson's.

Among the errors we found in Jackson's data are the following, determined by comparing responses from the January 1981 survey with the earlier Vote Validation Survey:

Eight self-reported nonvoters from the post-election survey reported in January that they had voted, and even gave a time at which they had putatively voted.

Three self-reported voters from the post-election survey reported in January that they had not voted.

Seventy-four individuals reported in the January survey that they had not voted because they had not registered when, in fact, they had.

Thus, at least 5 percent of the sample is known to have given the wrong information about their registration or voting behavior. (This 5 percent overlaps, but not entirely, with the 175 January respondents—10 percent of the sample—who reported that they had voted when, in fact, they had not.) While such a modest misreporting has no particular effect on the entire survey analysis, it can have a devastating effect on the analysis of any given individual's behavior.

Jackson himself admits that there are two problems with his data set. First, he noted that the sample, while drawn from what was originally a set of random samples, is not random and, therefore, not representative of the original sample or of the adult population. Second, he noted that there was error in recall of both time of vote and time of hearing the news.

Our analysis of Jackson's data confirms that the sample was not random. It was skewed toward more upscale respondents. Since such people pay more attention to the media than the less affluent and less educated do, potential media effects are exaggerated by their over-inclusion. Indeed, this may explain why Jackson found that Republicans, not Democrats, were dissuaded from voting because of the coverage.

Our analysis of the data also substantiated Jackson's statement that there was a fair amount of misreporting of when news was heard; many people said they heard the news well before they could have. While we have no way to validate the time of vote, we assume that this, too, was subject to inaccuracy.

CONCLUSION

Our purpose here is not to challenge the integrity of survey research or to criticize the methodology employed by scholars at the University of Michigan. Instead, we wish to note that not all questions can be addressed adequately by survey methodology. The magnitude of media effects on would-be voters is one of those questions. Using the same data—but with strikingly different methods—John Jackson found turnout reduced in 1980 by 6 to 12 percent because of election night coverage. We found four nonvoters, or 0.2 percent of all eligible respondents, who reported that they

did not vote because of election night coverage. This discrepancy between Jackson's findings and our own illustrates the difficulties of trying to use survey data to measure the magnitude of media effects.

For those who believe that the difference between 0.2 percent and 6 to 12 percent is insignificant—merely the result of social scientists quibbling over arcane methodological niceties—it should be noted that a large number of people, including some legislators, believe that the networks should cease reporting election news until all polls are closed. Their argument is predicated on the assumption—backed up by data such as Jackson's—that election night projections reduce turnout and thereby interfere with the democratic process. Many people not only believe this—they feel legislation is needed to prohibit network projections.

The state of Washington, for example, recently passed a law banning any exit polling activity less than 300 feet from the polling place. While the law does not explicitly prohibit the practice, it makes it—and any predictions based on exit polls—almost impossible.

We do not believe that there is any evidence that election night news coverage has had a significant effect on turnout. Leaving aside any consideration of the First Amendment and concentrating instead on what are purported to be the facts involved, we see no reason for the networks to discontinue their policy of projecting winners when whatever data the news organizations have amassed allow them to do so.

FOOTNOTES

[1] K. Lang and G. Lang, "Ballots and Broadcasts: The Impact of Expectations and Election Day Perceptions on Voting Behavior," paper presented at the Annual Conference of the American Association for Public Opinion Research, 1965; D.A. Fuchs, "Election-Day Radio-Television and Western Voting," *Public Opinion Quarterly*, 30 (Summer 1966), 226-237; H. Mendelsohn, "Election-Day Broadcasts and Terminal Voting Decisions," *Public Opinion Quarterly*, 30 (Summer 1966), 212-225; W. Miller, "Analysis of the Effects of Election Night Predictions on Voting Behavior," Hearings of the Subcommittee on Communications, Committee on Commerce, U.S. Senate, 90th Congress (July 1967), 211-219.

[2] Laurily K. Epstein and Gerald S. Strom, "Election Night Projections and West Coast Turnout," *American Politics Quarterly*, 9 (October 1981), 479-491.

[3] Philip L. Dubois, "Election Night Projections and Voter Turnout in the West: A Note on the Hazards of Aggregate Data Analysis," *American Politics Quarterly*, 11 (July 1983), 349-364.

[4] R. Wolfinger and P. Linquitti, "Network Election Day Predictions and Western Voters," *Public Opinion* (February/March 1981), 56-60.

[5] John Jackson and William McGee, "Election Reporting and Voter Turnout," Report of the Center for Political Studies, The University of Michigan, Ann Arbor, 1981; John Jackson, "Election Reporting and Voter Turnout," Center for Political Studies, Institute for Social Research, The University of Michigan, Ann Arbor, 1982; John Jackson, "Election Night Reporting and Voter Turnout," *American Journal of Political Science*, 27 (November 1983), 615-635.

[6] Ibid.

[7] According to Jackson (1982), "We use poll closings of 8 PM local time for each region, assuming that the east and south are on Eastern time, the midwest on Central time and the west on Pacific time."

[8] Ibid.

Mr. FRENZEL. Mr. Chairman, the problem with the bill, of course, is that, while it purports to protect the votes of those in Washington, Oregon, and California, it dispatches in a cavalier manner the votes of those in Oregon and Hawaii and, at the same time, provides in some of those very States where it is going to protect the voters less time to vote, because their polls will be closing at 7 p.m. as compared to the usual 8 p.m. How many voters will be confused? How many will think that the old rules apply and not show up? In my guess, there will be a great deal many more doing that than those who would have been discouraged had they heard some early news from elsewhere.

The voters in my State and I believe the voters in those States take their voting franchise not only as a right, but as a duty, and they perform it in great numbers. I know that that is true of at least three of those States that are affected most by this bill.

Now, my amendment scratches the whole bill. It makes the concession that there may be a problem. It asks the President to provide for a study with respect to Presidential general elections of the impact—and I know the Chair will be delighted to hear that it applies only to general elections—the impact of the availability of the actual results from areas where the polls have closed on voting, in areas where the polls have not been closed, et cetera, examination and the analysis of the effect of the availability on participation, and assessment of the need or the practicality of a single poll-closing time for such elections in the continental United States.

This study may put to rest the fears that the managers of this bill have. It may show that the managers of the bill's fears were legitimate. In my judgment, they were not; but let us have a study to take care of it for us.

My problem with the subcommittee—and I would say here parenthetically, Mr. Chairman, that I really regret being in opposition to the two distinguished managers of this bill, whose motivations I consider lofty, whose characters I consider unblemished, and whose friendship I hold very dear. Most of the time we are in agreement on election laws. I would not take the time to disagree if I did not believe very strongly, very fundamentally, that they are on the wrong track. And I think where they did go wrong was where they got a little confused between early poll closing, dealing with the networks, getting some kind of a pledge which they thought was a great victory, and it was—and I must credit them for extraordinarily successful work in that regard—but them feeling they had to back it up with a bill that forced Federal procedures on States who are unwilling to take them.

Mr. Chairman, my personal poll of the chief election officials of all the States shows that 24 were against it and 23 were for it. Of the 23, more than one-half of them were not affected in their closing hours. Of the 24 who were opposed to the bill, most of them were affected.

I give you the case of Indiana where a change will be from 2 to 3 hours extra time.

The CHAIRMAN. The time of the gentleman from Minnesota [Mr. FRENZEL] has expired.

(By unanimous consent, Mr. FRENZEL was allowed to proceed for 2 additional minutes.)

Mr. FRENZEL. Indiana is a State where the polls close at 6 p.m. The people there like that procedure. The election officials like the procedure. The election judges, who are recruited from the public, like the procedure.

Kentucky has a similar problem. There are States that are affected by 1 hour and by 1½ hours. There are States that are not affected at all.

It is, I think, unseemly and unwise, imprudent for this body to force its superior judgment on the States unless there is conclusive, overwhelming, persuasive evidence that some Americans are being beaten out of their vote.

Mr. Chairman, we have not had that evidence. The subcommittee has not had it. I would be delighted if somebody could lay it out for us. There are a number of surveys that suggest that is the case. There are a number of surveys that suggest that is not the case.

If you talk to the participants, most of them lay the blame at the feet of a Presidential candidate who quit early in 1980. I do not know whether they are right or not.

All I know is it is a bad thing for this Congress, for this body, to impose its will in an arbitrary and whimsical manner on a group of States who are doing their very best under very difficult, expensive conditions to maintain their voting laws.

And I might say that most of the Secretaries of State who wrote in opposition suggested that the later closing times on the east coast were going to cause counting errors by tired judges. We went through the Indiana Eight problem. That was a mess. I would like not to have any more counting errors. I would like to have the States run their business in the best way that they know how and in a way that suits them and their citizens.

I, therefore, ask for a vote on my substitute amendment which rejects the bill, strikes everything, and provides for a Presidential commission to report on the matter.

□ 1755

Mr. WYDEN. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

Mr. Chairman, let us be very clear. The gentleman from Minnesota wishes to put off the establishment of the uniform poll closing hour and, in

effect, have a Presidential study of the issue.

I would just say that this is exactly what the committee has been doing for the last 5 years. The committee has held numerous hearings. The committee has heard from scores of witnesses. The committee has examined very, very thoroughly every single proposal that has been put forward by any reputable source in the elections field. There is absolutely nothing that the President could do that has not already been done in a bipartisan way by the gentleman from California and the gentleman from Washington, examining the whole range of proposals that have been offered over the years. It seems to me that the time for additional studies and repetitive studies has come to an end, and I think it is time to establish a uniform poll-closing law.

I oppose the amendment.

Mr. THOMAS of California. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I have refrained from examining the particulars of the gentleman's research in terms of his numbers as to how many States favor or oppose it. I will have to say that I disagree fundamentally with his characterization of half for and half against. The research that I have done and that we have done indicate about 2 to 1 for. But the thing that I think is most impressive is the sacrifice willing to be made by a number of States who perceive it to be a problem.

For example, the State of Minnesota has indicated that although their polls close at 8 p.m. central standard time, they would be willing to accept a 9 p.m. closing time, in the interest of uniform poll closing. The State of New Jersey, which now closes at 8 p.m., said they would be willing to take a later time. The State of Nebraska said, certainly, to solve the problem, a later time. North Dakota, yes, to solve a problem, a later time. Tennessee, yes, they would go to 10 o'clock eastern standard time. Rhode Island, which currently closes at 9, said they would be willing to go to 10 o'clock to try to solve the problem.

So it just is not a west coast problem. It is a problem that is perceived as a problem across the Nation.

I would tell the gentleman that if he would examine all of the hearings we have had, they constitute a study, and I personally do not think we ought to give the job of making this decision involved with the election of Federal officers, as outlined in the Constitution, to the executive branch. I think it logically is reposed here. I think the subcommittee and the committee has done its job, and the question is whether or not the House of Representatives is going to join the Presidential contenders and is going to join the networks in solving this problem.

So I would ask for a no vote on this amendment so that we can get on with passing the legislation.

Mr. ECKART of Ohio. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

Mr. Chairman, the question is whether the Congress is going to lead or whether the Congress is going to follow. I suppose if we took the suggestion of my colleague from Minnesota about avoiding clerical errors in the elections, we could continue to constrict eligibility of voters, thereby reducing them to almost a minimum and thereby reducing dramatically the number of people who actually vote.

There is an old saying that I saw once in the boiler room of an old Navy ship that went like this: When in trouble, when in doubt, run in circles, scream and shout.

I would add, in light of this amendment: Or in lieu thereof, if a Member of Congress, form a committee and study it to death.

Well, that is exactly what this amendment would do, and make no mistake about it. This is the gutting amendment. If you are in favor of encouraging people to have access to the political process, if you truly believe that the laboratory of American politics is in the living rooms and the streets and the roads and the byways of this country, then vote against this amendment. If you truly believe that economics is a major issue that ought to deter us from changing fundamental policy or ensuring people to have rights and opportunities to access to those changes, then vote against this amendment, as others 130 years ago were urged to do in the name of economics to preserve slavery. Or if you truly believe, as one prominent candidate for office said in 1976, upon suffering an electoral defeat in his own right, "The reason I lost was too many people voted."

Mr. Chairman, we have learned a lesson in the past few days, brought to us most vividly and personally, the visitation of tragedy in each and every single one of this Nation's homes. What the last few days should have underscored for us so dramatically once and for all is the permeation of television as a part of life of America, our very heart and our very soul, bringing emotion, bringing sorrow and bringing death into our homes.

That is the same thing that is going on in these elections, watching that big board behind those wonderful anchors fill up with the tidal wave sweeping from East to West of green, blue, brown, red or white, indicating who has won or lost, thus chilling, much in the same way that lawn signs, much in the same way that people were accosting you before you go into the polls, much as in the olden days, of the solicitation of liquor and money outside the polling place did, to intimidate voters and to prevent them from voting.

We prohibit people standing outside the polls for good reason. We prohibit in many States the serving of alcohol, so that people can make informed intelligent decisions with a clear mind. Is not an equally clear mind reflected in what we do and do not make available to voters sitting in their homes, with the permeation of mass media and television?

Yes, Mr. Chairman, the Frenzel amendment is the ripper amendment. If you honestly believe that public policy, that civic responsibility is going to serve all of us, then let us follow the words of Lyndon Johnson who, when he signed the Voting Rights Act Amendment, just about 20 years ago, said, 'The mandate of November's election must be by the vote of the people, not by the default of the people."

Mr. Chairman, the Frenzel amendment does egregious harm to this bill. It tears it stem from stern and reduces to those who truly want to believe in an open access of all people to all facets of our Government that we really do not care about their problems and, once again, another Presidential study commission is going to be the answer.

I urge the rejection of the Frenzel amendment.

Mr. TAUZIN. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in opposition to the amendment. Those of you who believe that Congress has a reputation of always forming a committee to study a problem to death and who believe that that reputation is valid, let me assure you that we have already formed the committee and we have already studied this problem extensively. Let us not, for heavens sake, repeat it, let us not create another study committee, this time lodged in the executive branch, to study the problem this legislature has already studied in its committees. That ought to be the last thing we should do when we have perceived a serious problem in our Nation's most critical election, the election of our Chief Executive.

Mr. Chairman, there are lots of ways to deny American citizens the right to vote. If you look at American history, you can see that ingenious devices have sometimes been designed. The old poll tax in the South was designed to discourage certain classes of citizens from voting. The registration laws of some States make it more difficult for some citizens to have access to this most sacred privilege in a democracy.

There are many ways that have been designed to prevent citizens from having access to the polls. And then there are some ways not designed in-

tentionally, yet which have the same results. If you watch the results of the way in which polls have closed across the nation and how voters in one part of the country have effectively been denied their real right to cast a ballot in the Presidential election because someone has already told them the election is over, it has already been decided, you would just as soon stay home, and if you knew the numbers of elections that may have been affected in congressional races out West by voters who did in fact stay home because they felt their right to vote had been denied them by someone declaring the election over before they even got in the care and went to the polling place, you would know that what has happened in our society because of this wonderful instrument of television is that some new device unintended but nevertheless a device has been established in our society that equally prevents citizens from voting in this most critical of all elections, the selection of our Chief Executive.

This is what the Congress in the work we have done in studying this Hill and presenting this solution has tried to correct, has tried to correct it with the help of the networks, with the help of the Presidential candidates, with the advice of many in our society through extensive hearings. We do not need another Presidential study. That is simply another way to kill the solution to a serious problem.

I suggest to my good friend perhaps he should have made it a Vice Presidential study. Our President has a lot to do other than to study this issue. We have studied it extensively. It is time now to come up with a solution. We have presented a reasonable one to this body. It is time now to vote on it.

Mr. FRENZEL. Mr. Chairman, will the gentleman yield?

Mr. TAUZIN. I yield to the gentleman from Minnesota.

Mr. FRENZEL. I thank the gentleman for yielding.

I thank you both for your good advice, and I take this opportunity to advise that I shall not ask for a vote on this amendment. So those who are making plans for the night should be advised there will likely be only a vote on final passage.

The CHAIRMAN. The question is on the amendment in the nature of a substitute offered by the gentleman from Minnesota [Mr. FRENZEL].

The question was taken; and on a division (demanded by Mr. FRENZEL), there were—ayes 13, noes 19.

So the amendment in the nature of a substitute was rejected.

The CHAIRMAN. Are there other amendments?

If not, the question is on the committee amendment in the nature of a substitute, as amended.

The committee amendment in the nature of a substitute, as amended, was agreed to.

The CHAIRMAN. Under the rule, the Committee rises.

Accordingly the Committee rose; and the Speaker pro tempore [Mr. TORRES] having assumed the chair, Mr. BARNARD, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 3525) to amend title 3, United States Code, to establish uniform regional poll closing times in the continental United States for Presidential general elections, pursuant to House Resolution 329, he reported the bill back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment to the committee amendment in the nature of a substitute adopted by the Committee of the Whole? If not, the question is on the amendment.

The amendment was agreed to.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER pro tempore. The question is on the passage of the bill.

The question was taken; and on a division (demanded by Mr. FRENZEL) there were—ayes 22, noes 16.

Mr. FRENZEL. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 204, nays 171, not voting 59, as follows:

[Roll No. 9]

YEAS—204

Ackerman	Breaux	Dorgan (ND)
Akaka	Brooks	Downey
Anderson	Brown (CA)	Dwyer
Annunzio	Bryant	Dymally
Applegate	Bustamante	Dyson
Aspin	Carper	Eckart (OH)
Atkins	Carr	Edgar
AuCoin	Chandler	Edwards (CA)
Barnard	Chapman	English
Barnes	Chappell	Evans (IL)
Bates	Clay	Fazio
Beilenson	Coelho	Feighan
Bennett	Coleman (TX)	Fish
Bereuter	Conyers	Florio
Berman	Cooper	Foglietta
Biaggi	Courter	Ford (MI)
Boggs	Coyne	Ford (TN)
Boland	Crockett	Frost
Boner (TN)	Dannemeyer	Fuqua
Bonior (MI)	Daschle	Garcia
Bonker	Dellums	Gaydos
Bosco	Dicks	Gejdenson
Boxer	Dingell	Gephardt
Gibbons	Lundine	Sabo
Gilman	Lungren	Schumer
Gonzalez	MacKay	Sharp
Gordon	Manton	Sikorski
Gray (PA)	Markey	Skelton
Guarini	Martinez	Smith (IA)
Gunderson	Matsui	Smith (NE)
Hall, Ralph	Mavroules	Solarz
Hamilton	Mazzoli	Spratt
Hawkins	McCain	St Germain
Hayes	McCloskey	Stallings
Hefner	McCurdy	Stark
Heftel	McHugh	Stenholm
Hertel	McKinney	Stokes
Hopkins	Mica	Stratton
Horton	Mikulski	Studds
Howard	Miller (CA)	Stump
Hoyer	Miller (WA)	Sundquist
Hubbard	Mineta	Swift
Huckaby	Mitchell	Synar
Hughes	Moody	Tallon
Hunter	Morrison (CT)	Tauzin
Hutto	Morrison (WA)	Thomas (CA)
Ireland	Mrazek	Torres
Jacobs	Murphy	Torricelli
Johnson	Neal	Towns
Jones (NC)	Nelson	Traficant
Kanjorski	Nowak	Traxler
Kastenmeier	Oberstar	Vento
Kennelly	Ortiz	Visclosky
Kildee	Owens	Vucanovich
Kleczka	Panetta	Walgren
Kolter	Pease	Watkins
Kostmayer	Penny	Waxman
LaFalce	Pepper	Weaver
Lantos	Pickle	Weiss
Lehman (CA)	Price	Wheat
Leland	Rangel	Wilson
Lent	Reid	Wirth
Levin (MI)	Richardson	Wolpe
Lewis (CA)	Ridge	Wyden
Lipinski	Robinson	Yates
Lloyd	Rodino	Yatron
Lowery (CA)	Rose	Young (AK)
Lowry (WA)	Roybal	Young (FL)

NAYS—171

Archer	Evans (IA)	McGrath
Armey	Fawell	McKernan
Badham	Fiedler	McMillan
Bartlett	Fields	Meyers
Barton	Franklin	Michel
Bateman	Frenzel	Molinari
Bedell	Gallo	Mollohan
Bevill	Gekas	Monson
Bilirakis	Gingrich	Montgomery
Bliley	Glickman	Moore
Boehlert	Goodling	Moorhead
Borski	Gradison	Myers
Boucher	Green	Natcher
Boulter	Gregg	Nichols
Broomfield	Hall (OH)	Nielson
Brown (CO)	Hammerschmidt	Obey
Broyhill	Hansen	Oxley
Bruce	Hartnett	Packard
Burton (IN)	Hendon	Parris
Callahan	Henry	Pashayan
Campbell	Hiler	Perkins
Carney	Hillis	Petri
Chappie	Holt	Porter
Cheney	Hyde	Pursell
Clinger	Jeffords	Rahall
Coats	Jenkins	Ray
Cobey	Kaptur	Regula
Coble	Kasich	Rinaldo
Coleman (MO)	Kindness	Ritter
Combest	Kolbe	Roberts
Conte	Kramer	Rogers
Coughlin	Lagomarsino	Rowland (CT)
Craig	Latta	Rowland (GA)
Daniel	Leach (IA)	Rudd
Darden	Levine (CA)	Saxton
Daub	Lewis (FL)	Schaefer
Davis	Lightfoot	Schneider
DeLay	Livingston	Schroeder
DeWine	Lott	Schuette
Dickinson	Lujan	Schulze
DioGuardi	Luken	Sensenbrenner
Dreier	Mack	Shaw
Duncan	Madigan	Shelby
Durbin	Martin (IL)	Shumway
Eckert (NY)	Martin (NY)	Shuster
Edwards (OK)	McCandless	Sisisky
Emerson	McCollum	Slattery
Erdreich	McEwen	Slaughter

Smith (FL)	Strang	Weber
Smith (NJ)	Sweeney	Whitehurst
Smith, Denny (OR)	Swindall	Whitley
Smith, Robert (NH)	Tauke	Whittaker
Snowe	Taylor	Wise
Solomon	Thomas (GA)	Wolf
Spence	Valentine	Wortley
Stangeland	Vander Jagt	Wylie
	Volkmer	Zschau
	Walker	

NOT VOTING—59

Addabbo	Frank	Roe
Alexander	Gray (IL)	Roemer
Andrews	Grotberg	Rostenkowski
Anthony	Hatcher	Roth
Bentley	Jones (OK)	Roukema
Burton (CA)	Jones (TN)	Russo
Byron	Kemp	Savage
Collins	Leath (TX)	Scheuer
Crane	Lehman (FL)	Selberling
de la Garza	Loeffler	Siljander
Derrick	Long	Skeen
Dixon	Marlenee	Smith, Robert (OR)
Donnelly	McDade	
Dornan (CA)	Miller (OH)	Snyder
Dowdy	Moakley	Staggers
Early	Murtha	Udall
Fascell	O'Brien	Whitten
Flippo	Oakar	Williams
Foley	Olin	Wright
Fowler	Quillen	Young (MO)

□ 1820

The Clerk announced the following pairs:

On this vote:

Mr. Jones of Tennessee for, with Mr. Crane against.

Mr. Addabbo for, with Mr. Grotberg against.

Mrs. Burton of California for, with Mr. O'Brien against.

Mrs. Collins for, with Mr. Kemp against.

Mr. MOLINARI changed his vote from "yea" to "nay."

So the bill was passed.

The result of the vote was announced as above recorded.

The title was amended so as to read: "A bill to amend title 3, United States Code, and the Uniform Time Act of 1966 to establish a single poll closing time in the continental United States for Presidential general elections."

A motion to reconsider was laid on the table.

AUTHORIZING THE CLERK TO MAKE CORRECTIONS IN ENGROSSMENT OF H.R. 3525

Mr. SWIFT. Mr. Speaker, I ask unanimous consent that in the engrossment of the bill, H.R. 3525, the Clerk be authorized to make corrections in section numbers, punctuation, and cross-references, and to make such other technical and conforming changes as may be necessary.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Washington?

There was no objection.

GENERAL LEAVE

Mr. SWIFT. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks and to include extraneous matter on H.R. 3525, the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Washington?

There was no objection.

□ 1830

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 3609

Mrs. LLOYD. Mr. Speaker, I ask unanimous consent that my name be removed as a cosponsor of the bill, H.R. 3609.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman form Tennessee?

There was no objection.

MAKING MISCELLANEOUS CHANGES IN LAWS AFFECTING U.S. COAST GUARD

Mr. JONES of North Carolina. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 2466) to make miscellaneous changes in laws affecting the U.S. Coast Guard, and for other purposes, with a Senate amendment thereto, and concur in the Senate amendment.

The Clerk read the title of the bill.

The Clerk read the Senate amendment, as follows:

Strike out all after the enacting clause and insert:

That subtitle II of title 46, United States Code, is amended as follows:

(1) In section 2101(14)(C), strike "Material" and substitute "Materials".

(2) Section 2101(21) is amended as follows:

(A) In subclause (A)(ii), strike "crewmember." and substitute "crewmember or other individual engaged in the business of the vessel who has not contributed consideration for carriage on board the vessel.".

(B) Strike subclause (B)(v)-(vii) and substitute the following:

"(v) a guest on board a vessel being operated only for pleasure who has not contributed consideration for carriage on board; or

"(vi) an individual on board a towing vessel of at least 50 gross tons who has not contributed consideration for carriage on board.".

(C) At the end, add the following new subclause:

"(F) on a sailing school vessel, means an individual carried on the vessel except—

"(i) the owner or representatives of the owner;

"(ii) the master or a crewmember engaged in the business of the vessel who has not contributed consideration for carriage and who is paid for services;

"(iii) an employee of the owner of the vessel engaged in the business of the owner, except when the vessel is operating under a demise charter;

"(iv) an employee of the demise charterer of the vessel engaged in the business of the demise charterer;

"(v) a guest on board the vessel who has not contributed consideration for carriage on board; or

"(vi) a sailing school instructor or sailing school student.".

(D) Strike "or a sailing school vessel," in clause (B).

(3) In section 3302(i)(5), strike "charter" and substitute "charterer".

(4) At the end of section 3302, add the following new subsection:

"(k) Only the boiler, engine, and other operating machinery of a steam vessel that is a recreational vessel of not more than 65 feet overall in length are subject to inspection under section 3301(9) of this title.".

(5)(A) Section 3304 is amended as follows:

(i) In the section catchline, strike "Carrying" and substitute "Transporting".

(ii) In subsection (a), strike "carrying cargo that carries" and "vessel." and substitute "transporting cargo that transports" and "vessel if the vessel is otherwise subject to inspection under this chapter.", respectively.

(iii) In subsection (b), strike "Before an individual in addition to the crew is carried" and substitute "Except when subsection (e) of this section applies, before an individual in addition to the crew is transported".

(iv) In subsection (c), strike "The privilege" and substitute "A privilege".

(v) Add at the end the following new subsection:

"(e) The Secretary may by regulation allow individuals in addition to the crew to be transported in an emergency or under section 2304 of this title.".

(B) In item 3304 in the analysis of chapter 33, strike "Carrying" and substitute "Transporting".

(6) In section 3318(f), before clause (1), strike "then" wherever it appears and substitute "than".

(7)(A) Section 3503 is amended as follows:

(i) Insert "(a)" at the beginning of the section.

(ii) Strike the last sentence and substitute "Before November 1, 1993, this section does not apply to a vessel in operation before January 1, 1968, and operating only on the inland rivers.".

(iii) Add at the end the following:

"(b)(1) When a vessel is exempted from the fire-retardant standards of this section—

"(A) the owner or managing operator of the vessel shall notify prospective passengers that the vessel does not comply with applicable fire safety standards due primarily to the wooden construction of passenger berthing areas;

"(B) the owner or managing operator of the vessel may not disclaim liability to a passenger for death, injury, or any other loss caused by fire due to the negligence of the owner or managing operator; and

"(C) the penalties provided in section 3504(c) of this title apply to a violation of this subsection.

"(2) The Secretary shall prescribe regulations under this subsection on the manner in which prospective passengers are to be notified.".

(B) Until the regulations required by clause (7) of this section become effective, the owner or managing operator shall notify prospective passengers in all promotional literature and on each ticket that the vessel does not comply with those standards due primarily to the wooden construction of passenger berthing areas.

(8) In section 3714(a)(4), strike "charter" and substitute "charterer".

(9) Section 4308 is amended by striking "operator" wherever it appears and substituting "individual in charge".

(10) In section 7111, strike "Part" and substitute "part".

(11) In section 7312(e), strike "able seaman-limited" and substitute "able seamen-limited".

(12) Section 8104(k) is amended by striking "watchers" and substituting "watches".

(13) In section 8502(a)(4)(A), strike "Part" and substitute "part".

(14) Chapter 89 is amended as follows:

(A) In item 8903 in the chapter analysis, strike "Uninspected" and substitute "Self-propelled, uninspected".

(B) In the catchline of section 8903, strike "Uninspected" and substitute "Self-propelled, uninspected".

(C) In the text of section 8903, strike "An" and substitute "A self-propelled,".

(15) In section 10709(a)(1), before clause (A)—

(A) strike "then $1,500 in value, and" and substitute "than $1,500 in value, the court,"; and

(B) strike "wages, the court" and substitute "wages,".

(16) Section 12122(a) is amended by adding at the end the following sentence: "Each day of a continuing violation is a separate violation.".

(17) In section 13102(a)(4), strike "coordinate carrying the State" and substitute "coordinate carrying out the State".

(18) Section 13104(b) is amended by inserting after "Secretary" the words "for State recreational boating safety programs".

(19) Chapter III is amended as follows:

(A) At the end of the chapter analysis, add the following new item:

"11112. Master's lien for wages.".

(B) At the end of the chapter, add the following new section:

"§ 11112. Master's lien for wages

"The master of a documented vessel has the same lien against the vessel for the master's wages and the same priority as any other seaman serving on the vessel.".

SEC. 2. (a) The Coast Guard may enter into a lease in excess of one fiscal year to acquire a site on the State pier in New Bedford, Massachusetts, for construction of maintenance assistance team and vessel support facilities on that pier.

(b) Any lease under this section is effective only to the extent that amounts are provided for in appropriations laws.

(c) Notwithstanding section 322 of the Act of June 30, 1932 (40 U.S.C. 278a), and beginning in fiscal year 1986, the Coast Guard may spend appropriated amounts for the construction of fixed facilities and improvements on that portion of the State pier leased from Massachusetts for the use of a maintenance assistance team and Coast Guard vessels.

SEC. 3. Notwithstanding any other law, the Coast Guard Yard, Curtis Bay, Maryland, and the Coast Guard Aircraft Repair and Supply Center, Elizabeth City, North Carolina, are exempt from statutory and administrative personnel ceilings through September 30, 1988.

SEC. 4. The body of water known as Lawyer's Ditch located at block 5000 in the city of Newark, County of Essex, New Jersey, is declared to be a nonnavigable waterway of the United States within the meaning of the General Bridge Act of 1946 (33 U.S.C. 525 et seq.).

SEC. 5. Notwithstanding the last sentence of section 81 of title 14 of the United States Code, the Coast Guard may not, except for the installation of fixed aids to navigation, carry out by contract the determination of the location, or the placement, of aids to maritime navigation in the Intracoastal Waterway in New Jersey.

SEC. 6. The Coast Guard may enter into any agreement or letter of intent with a municipal utility within the Seventeenth Coast Guard District to provide electricity to a Coast Guard facility without complying with the provisions of section 14 of Public Law 98-557.

SEC. 7. (a) There is established a National Offshore Vessel Operators Safety Advisory Committee (hereinafter in this section referred to as the "Committee"). The Committee shall advise, consult with, and make recommendations to the Secretary of the department in which the Coast Guard is operating (hereinafter in this section referred to as the "Secretary") on matters relating to the safety aspects of offshore oil, gas, and other mineral operations subject to regulation by the Secretary. The Secretary shall, whenever practicable, consult the Committee concerning proposed or desirable actions affecting the safety of such offshore operations. Any advice or recommendation made by the Committee to the Secretary shall reflect the independent judgment of the Committee on the matter concerned. The Committee is authorized to make available to Congress any information, advice, and recommendations which the Committee is authorized to give to the Secretary. The Committee shall meet at the call of the Secretary, but in any event not less than once during each calendar year. All proceedings of the Committee shall comply with the Federal Advisory Committee Act (5 U.S.C. App. 1 et seq.).

(b)(1) The Committee shall consist of fifteen members, who have particular expertise, knowledge, and experience regarding the transportation and other technology, equipment, and techniques that are used, or are being developed for use, in the exploration for, or the recovery of, offshore oil, gas, or other mineral resources, as follows:

(A) Two members representing enterprises engaged in the production of oil, gas, or other mineral resources, except that not more than one member may represent companies included on the list of restricted joint bidders prepared by the Department of the Interior;

(B) Two members representing enterprises specializing in offshore drilling;

(C) Two members representing enterprises specializing in the supply of offshore oil, gas, or other mineral exploration or recovery operations by water;

(D) Three members representing general support services for offshore oil and gas activities, including construction, diving, geophysical, and helicopter services;

(E) Two members representing individuals employed in offshore operations;

(F) Two members representing environmental interests; and

(G) Two members representing the general public.

(2) The Secretary shall appoint the members of the Committee after first soliciting nominations by notice published in the Federal Register. The Secretary may request the head of any other Federal agency or department to designate a representative to advise the Committee on matters within the jurisdiction of that agency or department.

(3) The Committee shall elect, by majority vote at its first meeting, one of the members of the Committee as the Chairman and one of the members as the Vice Chairman. The Vice Chairman shall act as Chairman in the absence or incapacity of, or in the event of a vacancy in, the Office of the Chairman.

(4) Terms of members appointed to the Committee shall be for three years, except that the terms of those members first appointed under subsections (c)(1) (A), (B), and (C) shall be for two years. The Secretary shall, not less often than once a year, publish notice in the Federal Register for solicitation of nominations for membership on the Committee.

(c)(1) Members of the Committee who are not officers or employees of the United States shall serve without pay and members of the Committee who are officers or employees of the United States shall receive no additional pay on account of their service on the Committee. While away from their homes or regular places of business, members of the Committee may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code. The Secretary shall furnish to the Committee an executive secretary and such secretarial, clerical, and other services as are considered necessary for the conduct of its business. There are authorized to be appropriated such sums as may be necessary to implement the provisions of this section.

(2) Unless extended by subsequent Act of Congress, the Committee shall terminate five years from the date of enactment of this section.

SEC. 8. Bayou Lafourche, in the State of Louisiana, between Canal Boulevard, city of Thibodaux, Parish of Lafourche and the Southern Pacific Railroad bridge crossing the bayou, city of Thibodaux, Parish of Lafourche, is hereby declared to be a nonnavigable waterway of the United States within the meaning of the General Bridge Act of 1946 (33 U.S.C. 525 et seq.).

SEC. 9. Notwithstanding sections 12105, 12106, 12107 and 12108 of title 46, United States Code, and section 27 of the Merchant Marine Act, 1920 (46 U.S.C. App. 883), as applicable on the date of enactment of this Act, the Secretary of the department in which the Coast Guard is operating may issue a certificate of documentation for the following vessels: MARILYN, Maryland registration number MD 3533 AA; ROYAL STAR, Michigan registration number MC 9707 J; ALASKAN SHORES, United States official number 603879; SHEARWATER, United States official number 260827; GYPSY ROSE, California registration number CF 4291 HF; ELIMINATOR, United States official number 507572; PUKA KAI, United States official number 677462; LOBSTER HOUSE, Panama registration number 494-PEXT; JANE E., Bahamian official number 315924; and DIANE M., Bahamian official number 315925, except that such vessels JANE E and DIANE M. may be operated under such documentation only in the waters of the Atlantic Ocean and the Gulf of Mexico.

SEC. 10. Any use or expenditure of funds by the Coast Guard related to the alteration of the Burlington-Northern Railroad Bridge at mile 6.9 on the Willamette River in Portland, Oregon shall be subject to the first six sections of the Act of March 3, 1931 (40 U.S.C. 276a through 276a-5).

SEC. 11. Section 2(a) of the Act entitled "An Act to facilitate increased enforcement by the Coast Guard of laws relating to the importation of controlled substances, and for other purposes", approved September 15, 1980 (21 U.S.C. 955b(a)), is amended by inserting immediately before the period the following: ", except that an event otherwise qualifying as an arrangement under such section does not lose that qualification by the fact that consent to, or the terms of, such arrangement are communicated by radio,

telephone, or other similar means, or by how specific such arrangement is as to the vessel to which such arrangement applies".

SEC. 12. The Coast Guard may enter into a cost-sharing arrangement with the City of Cape May, New Jersey under which the City of Cape May will provide necessary roadway improvement on and along Pennsylvania Avenue between Pittsburg and Buffalo Avenues, as abutted by housing owned by the Coast Guard. For purposes of entering into such an arrangement, the Coast Guard may expend from previously-appropriated funds an amount not to exceed $200,000 on a non-recurring basis.

SEC. 13. Section 2103 of title 46, United States Code, is amended by striking all after "subtitle" the third time it appears and substituting ". The Secretary may prescribe regulations to carry out the provisions of this subtitle.".

SEC. 14. Section 4370(a) of the Revised Statutes of the United States (46 U.S.C. App. 316(a)) is amended—

(1) by striking all from "a certificate of registry," through "the Act of June 7, 1918, as amended (U.S.C., 1934 edition, Supp. IV, title 46, sec. 288)," and substituting "a certificate of documentation issued under sections 12106 or 12107 of title 46, United States Code,"; and

(2) by striking "a vessel of foreign registry, or a vessel in distress," and substituting "a vessel in distress".

SEC. 15. Section 3 of the Shipping Act of 1984 (46 U.S.C. App. 1702) is amended—

(1) in paragraph 6, (A) by striking the period at the end of subparagraph (B) and substituting a comma, and (B) by adding at the end thereof the following: "except that the terms does not include a common carrier engaged in ocean transportation by ferry boat, ocean tramp, or chemical parcel-tanker. As used in this paragraph, 'chemical parcel-tanker' means a vessel whose cargo-carrying capability consists of individual cargo tanks for bulk chemicals that are a permanent part of the vessel, that have segregation capability with piping systems to permit simultaneous carriage of several bulk chemical cargoes with minimum risk of cross-contamination, and that has a valid certificate of fitness under the International Maritime Organization Code for the Construction and Equipment of Ships Carrying Dangerous Chemicals in Bulk."; and

(2) in paragraph (18), by striking all from the semi-colon and substituting a period.

SEC. 16. (a) As used in this section, the term—

(1) "commercial fishing industry vessel" means a fishing vessel, fish processing vessel, or fish tender vessel, as those terms are defined in section 2101 of title 46, United States Code;

(2) "Committee" means the Commerical Fishing Industry Vessel Safety Advisory Committee established in subsection (b) of this section; and

(3) "Secretary" means the Secretary of the department in which the Coast Guard is operating.

(b) There is established a Commercial Fishing Industry Vessel Safety Advisory Committee as an advisory committee of the United States Government reporting to the Secretary.

(c)(1) The Committee shall advise, consult with, and make recommendations to the Secretary on matters relating to commercial fishing industry vessels, including—

(A) navigation safety;

(B) safety equipment and procedures;

(C) marine insurance;

(D) vessel design, construction, maintenance, and operation; and

(E) personnel qualifications and training.

(2) The Secretary, and the Secretary of Commerce, shall use the information, advice, and recommendations of the Committee in consulting with other agencies and the public or in formulating policy regarding commercial fishing industry vessels.

(3) The Committee shall meet at the call of the Secretary, but not less often than once during each calendar year.

(4) Any advice or recommendations made by the Committee shall reflect the independent judgment of the Committee on the matter concerned.

(5) The Committee may make available to Congress any information, advice, and recommendations which the Committee is authorized to give to the Secretary.

(d)(1) The Committee shall consist of seventeen members with particular expertise, knowledge, and experience regarding the commercial fishing industry, as follows:

(A) ten members from the commercial fishing industry who reflect a regional and representational balance, and have experience in the operation of commercial fishing industry vessels, or have experience as a crew member or processing line worker on a commercial fishing industry vessel;

(B) two members from each of the following:

(i) underwriters engaged in insuring commercial fishing industry vessels; and

(ii) the general public, including, whenever possible, a member of a national organization composed of commercial fishing industry vessel and marine insurance interests; and

(C) one member from each of the following—

(i) naval architects or marine surveyors;

(ii) manufacturers of fishing industry vessel equipment; and

(iii) education or training professionals related to commercial fishing industry vessel safety or personnel qualifications.

(2) At least once each year, the Secretary shall publish a notice in the Federal Register and in newspapers of general circulation in coastal areas soliciting nominations for membership on the Committee. After timely notice is published, the Secretary shall appoint the members of the Committee. A member may be reappointed to any number of terms.

(3) The term of a member is three years, except that—

(A) initially, one-third of the members shall serve a term of one year and one-third of the members shall serve a term of two years, to be determined by lot at the first meeting of the Committee;

(B) initially, terms may be adjusted to coincide with the Government's fiscal year; and

(C) if a vacancy occurs, the Secretary shall appoint a member to fill the remainder of the vacated term.

(4) The Committee shall elect one of its members as the Chairman and one of its members as the Vice Chairman. The Vice Chairman shall act as Chairman in the absence or incapacity of, or in the event of a vacancy in the office of, the Chairman.

(5) The Secretary and the Secretary of Commerce shall, and any other interested agency may, designate a representative to participate as an observer with the Committee. These representatives shall, as appropriate, report to and advise the Committee on matters relating to commercial fishing industry vessels under the jurisdiction of their respective departments. The Secretary's designated representative shall act as executive secretary for the Committee and perform the duties specified in section 10(c) of the Federal Advisory Committee Act (5 U.S.C. App. 10(c)).

(e)(1) The Secretary shall, whenever practicable, except regarding issues which could compromise national security, consult with the Committee concerning the following actions affecting commercial fishing industry vessels—

(A) proposing legislation;

(B) proposing or publishing a regulation;

(C) authorizing or conducting research or a study; or

(D) taking any other major action of the United States Government relating to the Committee's purpose and duties as set forth in subsection (c)(1) of this section.

(2) Consultation with the Committee shall be deemed to satisfy all requirements of title 46, United States Code, for consulting with representatives of the private sector having experience in the operation of commercial fishing industry vessels.

(f)(1) Except as otherwise provided in paragraph (3) of this subsection, a member of the Committee, when attending meetings of the Committee or when otherwise engaged in the business of the Committee, shall serve without pay. While away from their homes or regular places of business, members of the Committee may be allowed travel or transportation expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code.

(2) Any payment made under this subsection shall not render a member of the Committee a member of the uniformed services (as defined in section 101(3) of title 37, United States Code), or an officer or employee of the United States for any purpose.

(3) A member of the Committee who is a member of the uniformed services or an officer or employee of the United States may not receive additional pay on account of such member's service on the Committee, but a member of the Committee who is a member of the uniformed services shall be allowed travel or transportation expenses under section 5703 of title 5, United States Code, unless such member is otherwise entitled to such expenses under any other provision of law.

(4) The Secretary shall furnish the Committee an executive secretary and such secretarial, clerical and other services as are necessary for the conduct of the Committee's business.

(g)(1) The Committee shall terminate on September 30, 1991.

(2) Two years prior to the date of its termination, the Committee shall submit to the Congress its recommendation as to whether the Committee should be renewed and continued beyond such termination date.

(h) There are authorized to be appropriated such amounts as may be necessary to carry out the provisions of this section.

SEC. 17. Notwithstanding the provisions of the Act entitled "An Act to authorize the Secretary of Commerce to sell two obsolete vessels to Coast Line Company and for other purposes", approved June 3, 1980 (Public Law 96-260; 94 Stat. 435), the Secretary of Transportation shall permit the vessels PICTOR, United States official number 243529, PROCYON, United States official number 244022, and ZELIMA, United States official number 248207, to be scrapped in the foreign market if—

(1) the purchaser of such vessels and the country in which such vessels are to be

scrapped are acceptable to the Secretary of Transportation; and

(2) the seller of any such vessel agrees in writing to reimburse the United States a reasonable amount, acceptable to the Secretary of Transportation, of not less than one-half of the profits realized from such sale.

SEC. 18. Notwithstanding any other provision of law or any agreement with the United States Government, the vessels PAUL BUNYAN, United States official number 602272, and JOHN HENRY, United States official number 599294, may be sold to a foreign purchaser or purchasers if—

(1) the person desiring to sell the vessel submits to the Secretary of Transportation and the Secretary of the Navy a written offer under which the Secretary of Transportation may elect to acquire either or both vessels for the National Defense Reserve Fleet or the Secretary of the Navy may elect to acquire either or both vessels for the Ready Reserve Fleet, under the same terms and conditions as those offered by the foreign purchaser or purchasers; and

(2) neither Secretary elects to acquire the vessel within 60 days after the date on which a written offer is submitted to the Secretaries under paragraph (1) of this subsection.

SEC. 19. The Port of Houston Authority bridge over Greens Bayou approximately two and eight-tenths miles upstream of the confluence of Greens Bayou, Texas and the Houston Ship Channel is declared to be a lawful bridge for all purposes of the Act entitled "An Act to provide for the alteration of certain bridges over navigable waters of the United States, for the apportionment of the cost of such alterations between the United States and the owners of such a bridge, and for other purposes", approved June 21, 1940 (33 U.S.C. 511 et seq.). The Secretary of the department in which the Coast Guard is operating is authorized to reimburse the owner of the bridge for work done prior to the date of enactment of this section that would be the responsibility of the United States under the Act of June 21, 1940 (33 U.S.C. 511 et seq.) if performed after the date of enactment of this section, except that such reimbursement shall not exceed $450,000.

SEC. 20. Notwithstanding any other provision of law or of prior contract with the United States, the United States flag tug MOIR, official Coast Guard number 60018, shall not be subject to the requirements of section 506 of the Merchant Marine Act, 1936 (46 U.S.C. App. 1156).

Mr. JONES of North Carolina (during the reading). Mr. Speaker, I ask unanimous consent that the Senate amendment be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from North Carolina?

There was no objection.

The SPEAKER pro tempore. Is there objection to the initial request of the gentleman from North Carolina?

Mr. YOUNG of Alaska. Mr. Speaker, I reserve the right to object at this time so the gentleman from North Carolina can explain this very short and very valuable bill. I do not intend to object, but I want to give the gentleman an opportunity to explain it.

I yield to the gentleman from North Carolina.

Mr. JONES of North Carolina. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, this bill, as passed by the House on June 29, 1985, under suspension of the rules, contained miscellaneous provisions of law affecting Coast Guard operations. The bill returned from the Senate retains nearly all of these provisions in essentially the same form. The Senate has added several minor amendments, but I do not think that any of them are controversial.

Mr. Speaker, this bill was brought up for unanimous consent back on December 19. At that time, my colleague from the State of California, Mr. BADHAM, objected to considering the bill so late in the evening on the closing night of the first session. Subsequently, Mr. BADHAM wrote this letter to me withdrawing his objection to the bill's passage.

Mr. Speaker, I know of no controversies regarding these Senate amendments and believe that both majority and minority leaders of the Merchant Marine and Fisheries Committee are prepared to recommend that the House accept them.

Let me describe the Senate amendments.

New section 9 waives the restrictions in coastwise laws for certain vessels. The House have previously approved most of these in a private bill, H.R. 739.

New section 11 clarifies statutory provisions to facilitate drug enforcement activities of the Coast Guard.

New section 12 provides authority for the Coast Guard to share costs with Cape May, NJ, for improvements of roads.

New section 13 gives the Secretary of Transportation explicit authority to prescribe regulations relating to marine safety and seamen's welfare.

New section 14 amends the towing vessel statutes to close a loophole that allows foreign tugs to be used to tow foreign registry vessels in U.S. ports.

New section 15 resolves an ambiguity in the Shipping Act of 1984 relating to chemical parcel tankers. It clarifies that those vessels are not subject to regulation by the Federal Maritime Commission as common carriers and are, therefore, not exempt from the antitrust laws.

New section 16 establishes a Commercial Fishing Industry Safety Advisory Committee. It is similar to the provisions of H.R. 3025 introduced by Mr. LENT and which I cosponsored.

New section 17 provides authority for three vessels, currently tied up and rusting, to be scrapped in foreign yards if the purchaser and country in which they will be scrapped are acceptable to the Secretary of Transportation and the Secretary is given at least one-half of the profits realized from the scrapping.

Section 18 allows two vessels to be sold to a foreign purchaser if neither the Secretary of Transportation nor the Secretary of the Navy elect to buy them at world market prices.

New section 19 is the same as in section 10 of the House bill with a minor change. It allows the Port of Houston authority to seek up to $450,000 in reimbursement from the Coast Guard for alteration of a bridge.

New section 20 allows the sale of a tugboat free of the requirements resulting from CDS payments.

Mr. YOUNG of Alaska. Mr. Speaker, the explanation of the gentleman from North Carolina satisfies me.

Mr. Speaker, I too rise in support of H.R. 2466, a bill that makes a variety of changes in laws administered by or affecting the Coast Guard. In particular, this bill includes provisions dealing with:

The operation, sale, or scrapping of various merchant vessels documented by the Coast Guard;

Exemptions for certain permits in the Coast Guard Bridge Program;

Technical, conforming, and miscellaneous changes to the shipping laws in title 46, United States Code, administered by the Coast Guard;

Enhancement of Coast Guard drug law enforcement authority on the high seas;

Establishment of two needed Coast Guard advisory committees to address various matters and problems in offshore oil and gas development and regarding the safety of and insurance for fishing industry vessels—with regard to the purpose of the Commercial Fishing Industry Vessel Advisory Committee, I refer you to the remarks of my colleague, and ranking minority member of our committee, Hon. NORMAN LENT on July 17, 1985, the date he and I introduced H.R. 3025, a bill to create such a committee; and

Certain authorizations or restrictions regarding day-to-day Coast Guard administrative and management matters, including letting the Coast Guard freely negotiate a wind generation power agreement on St. Paul Island, AK.

Mr. Speaker, each provision of this bill may not be of great significance in and of itself, but in total they all represent necessary legislation which will benefit the Coast Guard and the maritime industry in the United States.

I recommend that my colleagues fully support this bill.

Mr. SHAW. Mr. Speaker, I rise in support of H.R. 2466 for its administrative improvements and in particular for an amendment contained in the bill which I introduced earlier this year to clarify a critical provision of law regarding Coast Guard drug enforcement procedure. In April of this year, I, along with the chairman of the Subcommittee on Crime, introduced H.R. 2132, legislation to clarify the intent of 21 USC 955 as regards the definition of an "ar-

rangement" and return jurisdiction to the United States to intercede foreign drug ships on the high seas.

I wish to commend my friend from New Jersey, the Crime Subcommittee chairman for promptly convening hearings on the bill and providing us the opportunity to learn more about problems facing the Coast Guard in the drug enforcement area. I also wish to commend the Coast Guard staff for providing excellent technical assistance to us on this issue and on this bill.

Mr. Speaker, this legislation was drafted in response to frustrations experienced by our U.S. attorneys in their efforts to convict foreign drug ships. A loophole was created in our jurisdictional statutes by criminal defense lawyers which worked to preclude our prosecutors from obtaining jurisdiction to convict drug smugglers. U.S. law was intended to reach foreign drug runners in international waters and this amendment simply clarifies the intent of the law as it is written. I wish to thank the U.S. attorney's office for their help in defining this problem and I especially thank the U.S. attorneys office in Miami, FL, for providing background information and direction.

Lastly, I thank my friend from Florida, the fine gentleman from the other body, for his efforts in attaching our bill as an amendment to H.R. 2466 and once again helping this country close the gap between the drug smugglers edge and our law enforcement efforts. Our courts have been active in this area, Mr. Speaker, and I am pleased that we have this opportunity through legislation, to clarify this particular issue. This may be only a first step toward clarifying procedure in this area Mr. Speaker, but it is progress in the vast battle against the drug war being waged against my State and this country.

Mr. YOUNG of Alaska. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the initial request of the gentleman from North Carolina [Mr. JONES]?

There was no objection.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. JONES of North Carolina. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill, H.R. 2466, just considered.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from North Carolina?

There was no objection.

SHUTDOWN OF THE TAA PROGRAM

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Ohio [Mr. PEASE] is recognized for 5 minutes.

Mr. PEASE. Mr. Speaker, for a few minutes let me take you behind the slick public relations operations in the Reagan administration to show you how ruthlessly some officials wield their influence. I am speaking about the haste and apparent glee with which the Trade Adjustment Assistance [TAA] Program was shut down. Just when we in the Congress and the rest of the Federal Establishment departed town for a festive holiday season last month, the Office of Management and Budget directed Labor Department officials to stop payment of income maintenance payments [TRA] to more than 12,000 unemployed Americans who have lost their jobs to imports in recent years. Quickly following suit, Commerce Department officials right after New Year's sent a mailgram to each of the 13 trade adjustment assistance centers, in effect telling them to close down and stop providing any further technical assistance to small firms struggling to stay in business.

The reason given for these actions is an assertion that the Congress failed to pass the necessary legislation to authorize continued payment of TRA benefits or firm assistance. To the contrary, the fiscal year 1986 Labor-HHS appropriations bill that was enacted in early December, according to the House Appropriations Committee, contains sufficient language to enable TRA benefits to have been continued without interruption as well as the needed flexibility to fund them from the advance accounts. Furthermore, the fiscal year 1986 Commerce-Justice-State appropriations bills specifically appropriated $14.5 million for "grants to maintain the trade adjustment assistance centers." It appears what is lacking is a willingness in the executive branch to continue this program and to adhere to the will of the Congress, not a lack of legal authority or funding for the TAA Program.

Both the House and the Senate passed reauthorization bills as part of their respective budget reconciliation bills. Extension of the TAA Program in all of its facets was one of the first areas of agreement reached by the conferees on the reconciliation bill before the conference broke off, for the time being, in a dispute over the future financing of the Superfund. Also, it is worth noting that Senator PHIL GRAMM offered an amendment to the budget reconciliation bill during Senate debate that specifically sought to abolish the TAA Program. His motion failed miserably and he did not even request a recorded vote because he knew what strong support such a vote would reveal for continuation of the TAA Program.

It is inexcusable in my estimation that with all of the trade problems besetting our country, President Reagan would abolish the only program specifically designed to help thousands of unemployed Americans and their companies that are struggling for survival against foreign competition.

Mr. Speaker, the administration may oppose trade adjustment assistance, they may have abandoned the program, but the Congress has not. The Ways and Means Committee will be meeting next week to try to get through temporary legislation to extend TAA, and we hope to bring to the House floor the reconciliation before the end of February.

I ask my colleagues to join me in supporting this worthwhile program and keeping faith with those Americans who have lost their jobs because of foreign competition.

PERSONAL EXPLANATION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Florida [Mr. NELSON] is recognized for 5 minutes.

Mr. NELSON of Florida. Mr. Speaker, last Thursday, January 23, 1986, I was not present for one rollcall vote because the bells could not be heard in the room in the Rayburn Building in which I was meeting with my subcommittee staff. Had I been present, I would have voted "nay" on roll No. 5, the Wylie amendment to H.R. 2443, expedited funds availability.

PERSONAL EXPLANATION

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Colorado [Mrs. SCHROEDER] is recognized for 5 minutes.

Mrs. SCHROEDER. Mr. Speaker, I was absent on Thursday afternoon, January 23, 1986. Had I been present, I would have voted as follows: Roll No. 7, "no"; roll No. 8, "yes."

PERSONAL EXPLANATION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Oklahoma [Mr. SYNAR] is recognized for 5 minutes.

Mr. SYNAR. Mr. Speaker, on Thursday, January 23, I was unavoidably absent due to official business. Had I been present and voting, I would have voted "no" on roll No. 5, "no" on roll No. 6, "no" on roll No. 7, and "aye" on roll No. 8.

SHUTTLE "CHALLENGER"

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Tennessee [Mr. BONER] is recognized for 5 minutes.

Mr. BONER of Tennessee. Mr. Speaker, yesterday morning, our Nation's Space Program suffered a great loss. A tragic accident aboard the shuttle *Challenger* took the lives of our brave astronauts, including the first teacher selected to be the first civilian in space.

Our hearts and prayers go out to the families, friends, and relatives of the brave men and women who were members of the shuttle

crew this morning. We pray for Commander Dick Scobee, Pilot Michael Smith, Astronauts Judith Resnik, Ronald McNair, Ellison Onizuka, and Gregory Jarvis, and civilian teacher Christa McAuliffe.

As a matter of course, an investigation will attempt to discover the causes of this tragic accident. Let us use the findings from the accident investigation to improve the safety of the Shuttle Program. The NASA Space Program has an outstanding safety record. Where tragedy has occurred before, as in the 1967 fire aboard Apollo 1 which killed three astronauts, we have learned from the accident. We can do so now.

Man's exploration of space should and must continue. Certainly the legacy of the shuttle crew who perished yesterday morning should be to continue our reach for the stars. With great sadness over their deaths, we dedicate their memories to this goal.

REPEAL GRAMM-RUDMAN

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas [Mr. GONZALEZ] is recognized for 5 minutes.

Mr. GONZALEZ. Mr. Speaker, I have introduced a bill to repeal the so-called Gramm-Rudman Act, H.R. 4058. Gramm-Rudman makes a fine slogan, but it is the very embodiment of bad legislation, bad policy, and bad faith.

Gramm-Rudman is bad legislation for many reasons. In important parts even the President says it is unconstitutional. It is bad legislation because it establishes a system whereby appropriations acts are undone by acts that are less than laws, acts that themselves are of dubious constitutionality. It is bad legislation because it was drawn without hearings, adopted in a spate of political expedience and cowardice, and perfected in an atmosphere of panic and coercion. It is bad legislation because it attempts to repeal the processes of reason, judgment, and responsibility, and replace them with a rigid, unreasoning, and unyielding economic fantasy, a fantasy that assumes the long discredited fairy tale of voodoo economics is true, after all.

Gramm-Rudman is bad policy, for many reasons. It is bad policy because it creates bizarre effects. It requires activities that are self-supporting and profitable to the Government to be cut, even though the result is actually to increase the deficit the law is supposed to be reducing. It is bad policy because while it protects certain entitlements, it reduces the administrative resources necessary to pay those entitlements. It is bad policy because it treats some retirees generously and denies equitable treatment to other retirees. It is bad policy because it does not distinguish or even permit any distinction in any way between activities that are worthwhile, essential, and even basic to Government function, as opposed to activities that may be of less value, virtue, or soundness. It is bad policy because it replaces judgment with rigid formulations. It is bad policy because it would undermine even such basic functions as law enforcement and tax compliance, because the cuts it requires can be made in no other way. It is bad policy because it undermines and undercuts the whole of the Defense Establishment, without regard to national security or any other consideration. It is bad policy because, as one of its own authors said, "a bad idea."

Gramm-Rudman is a law in bad faith. It is bad faith because some rationalized that it was the way to kill the defense buildup, while others rationalized that it was the way to kill domestic spending; and unfortunately both these sour and wicked notions turned out to be right. It is bad faith because it promises what cannot be delivered, at least on the terms its authors and supporters claimed, a fact that they knew but denied. It is bad faith because it breaks faith with retirees who had right and reason to expect better; it breaks faith with States and cities that will be unable to cope with its rapid and unreasoning abandonment of their needs; it breaks faith with veterans who need medical care, elderly citizens who will find less and less access to medical care, and with all others who had been assured and who require some reasonable degree of help and assistance.

Already, we see the White House changing its budget estimates to hide the impact of Gramm-Rudman. Already, we see that its arithmetic does not work, while the White House steadfastly denies this basic reality. Already, we see that the administration continues, as it has all along, to deny both its own responsibility and to refuse to provide leadership, even to its own partisans. Already, we see the Budget Office redoubling its usual smoke and mirrors effort to disguise the failures of the administration's fiscal program, and rationalize away the real cause—which is voodoo economics.

We in Congress cannot evade our responsibility to establish responsible and workable national policy. Nor can the President. But Gramm-Rudman seeks to do that, by substituting dogma for thought, formula for policy, and providing mass suicide for all who are blind enough to embrace it. This law does not serve the American people; it undermines their most basic interests, their most basic needs, from health to highways, law enforcement to urgent scientific research, from education to air traffic control. This law does not create responsibility, it abdicates responsibility. It ought to be repealed.

□ 1845

PERSONAL EXPLANATION

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Ohio, [Ms. KAPTUR] is recognized for 5 minutes.

Ms. KAPTUR. Mr. Speaker, I regret that I was unavoidably absent from the Chamber on Thursday, January 23, 1986, on official business and missed several rollcall votes. Had I been present, I would have voted "no" on rollcall No. 6; "no" on rollcall No. 7; and "yes" on rollcall No. 8.

TRIBUTE TO THE LATE HONORABLE J. EDGAR CHENOWETH

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Colorado [Mr. STRANG] is recognized for 30 minutes.

GENERAL LEAVE

Mr. STRANG. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks and to include extraneous material on the subject of my special order today.

The SPEAKER pro tempore. Is there objection to the request of gentleman from Colorado?

There was no objection.

Mr. STRANG. Mr. Speaker, on January 2, while Congress was in recess, J. Edgar Chenoweth, who was from Colorado and in Congress for 22 years, died.

At this time I yield to my colleague, HANK BROWN, his constituent.

Mr. BROWN of Colorado. Mr. Speaker, I rise today to honor the memory of a former colleague. J. Edgar Chenoweth served in the U.S. House of Representatives for 22 years, longer than any Republican in the history of Colorado. He passed away Thursday, January 2, after a brief illness, at the age of 88.

Judge Chenoweth, as he was fondly known in the old Third Congressional District in Colorado, was first elected to this body in 1940. He was a warm, generous, and able man who served his district exceptionally well. Although he was a Republican in a largely Democratic district, the people of eastern Colorado appreciated his many outstanding qualities, and elected Judge Chenoweth to Congress for 11 terms.

Congressman Chenoweth worked hard and long to advance Colorado's important role in defending our Nation. He helped to locate the Air Force Academy in Colorado Springs. And his many efforts in Congress helped locate the Air Defense Command in Colorado.

During his very first term in the early days of the Second World War, he persuaded the Army to establish a post, then known as Camp Carson, in

Colorado Springs. And nearly 10 years later he led the move to make the camp a permanent facility, Fort Carson.

Judge Chenoweth was a native of Trinidad, CO, near the southern border of our State. His parents were pioneers, coming from Maryland to settle in southern Colorado. Judge Chenoweth was born near Trinidad in 1897. After graduation from Trinidad High School, he attended the University of Colorado and later studied law in his spare time. He was admitted to the Colorado Bar in 1925 and served as assistant district attorney in Trinidad. He was appointed, then elected, judge for Las Animas County for a total term of 8 years. In 1933 he administered Colorado's first old age pension fund. In both the 1934 and the 1936 elections, Judge Chenoweth was the only Republican elected in the county. In 1937 he was elected chairman of the Republican State Central Committee. After a successful 1940 campaign for Congress, Judge Chenoweth served 22 of the next 24 years here in Washington. In 1948 he lost to Democrat John Marsalis by just 1,800 votes out of more than 128,000. But the Judge was the victor in the next eight elections. He retired to a law practice in Trinidad which he maintained until a few days before his death. He also served as district governor of Rotary. In Congress, he served on the House Rules Committee, and was secretary of the Republican Congressional Committee. And in Colorado, he served on the board of the Colorado Boys Ranch and on the board of the Colorado-Wyoming Railroad. Congressman Chenoweth was a prime mover in making the Trinidad Dam and Reservoir a reality. And he was instrumental in the Frying Pan-Arkansas project which brought water, and prosperity, to the Front Range. Judge Chenoweth married Ruth Olivia Crews on Christmas Eve, 1919. Together they had three sons, William B., of Denver, John E., Jr., of Pueblo, and James R., of Trinidad, and two daughters, Wanda Mattern, of Lancaster, PA, and Ruth Anne Vigil of Mission Viejo, CA. He is survived by his wife and children, and also by 10 grandchildren and 5 great grandchildren. The Judge's papers have been donated to the Western History Library of the University of Colorado. Congressman Chenoweth was a kind man. He is very fondly remembered by those who served with him, and by those he served.

Mr. STRANG. Mr. Speaker, I thank the gentleman from Colorado [Mr. BROWN] for those comments.

Mr. Speaker, Judge Chenoweth, for many of his years in Congress, represented a substantial number of the citizens of what are now in the Third Congressional District which I have the privilege to represent, Pueblo and Pueblo County. My guess is that between Representatives BROWN, KRAMER, and myself we touch on all of the old third that he served so well for many years.

My colleague, Congressman BROWN, has covered his distinguished legislative career and his distinguished career as a Republican in Colorado, but I would like to point out that Judge Chenoweth was a champion of Western water, which is a topic which is particularly important to me and is particularly important to the West. He introduced the Frying Pan, Arkansas bill in 1952, and he introduced it every year thereafter until it was finally passed and signed into law by President Kennedy in 1962.

□ 1855

Construction was begun in 1964, and work on the project was completed in 1984.

The thing that we all remember about Judge Chenoweth, in addition to his championing Western water and his establishment of important military bases in Colorado, his work on the Interior and Insular Affairs Committee; we also remember that he was one of the first members of the then-called Committee on Science and Astronautics. When he joined that committee in 1959, Mr. Speaker, it did some of the very important work in getting our space program underway. It is now the Committee on Science and Technology.

Beyond his temporal accomplishments, the Judge is remembered even more for his warmth and his caring for others. Former Colorado Governor John Love said of him recently.

He brought a special kind of decency and kindness to elective office, and laterally defined the term "constituent service."

To the day when he got sick, Judge Chenoweth never failed to touch personally every person in a room which he entered.

The one common thread throughout all the tributes to him has been citations of his decency, cheerfulness, and desire to help those who needed it. He was truly a representative of the people. He never stopped that service, even after he left the Congress, to return to Trinidad and the practice of law, which he continued to do until a few weeks before he died.

He was married to his lovely Ruth in 1919, Mr. Speaker. They were husband and wife for 66 years. Five children, 10 grandchildren, 5 great-grandchildren survive him, and our prayers are with them in this hour of grief.

I am honored today to offer this tribute to one of the great Colorado Congressmen, who in many ways set the standards in service and devotion to those he represented for all of us who have followed, Judge Chenoweth.

Mr. Speaker, I now yield to my distinguished colleague from Colorado, Congressman KRAMER.

Mr. KRAMER. Mr. Speaker, I would like to join the gentlemen from Colorado in paying tribute to a distinguished Coloradan and an honored former Member of Congress, J. Edgar Chenoweth.

Mr. Chenoweth's passing January 2nd at the age of 88 saddens his colleagues and all those many people, in Colorado and elsewhere, who knew him and respected him. As we mourn the loss of a man known as "the judge," let us take solace as we remember Mr. Chenoweth's long and exemplary careers as a lawyer, a judge, a Republican Party official, and, finally, as a Congressman.

Let us also remember his hard work, his dedication and his achievements. Most of all, let us remember a kind and gracious gentleman whom I was fortunate to call a friend, who devoted so many years to public service and who, always and to everyone, was quick to share a smile and a welcoming hand.

Mr. Chenoweth was a native of Trinidad, CO. He graduated from the University of Colorado and then returned to his home, where he was first a prosecuting attorney and later a county judge in Las Animas County. It was that latter service that earned him his affectionate nickname.

Mr. Chenoweth served in the House from 1941 to 1949 and again from 1951 to 1965. As one who now represents a district once partly included in his, I have had the privilege to see the many fruits of Mr. Chenoweth's labor. In particular, the magnificent Air Force Academy owes its presence near Colorado Springs in large part to Mr. Chenoweth's foresight and diligence. Today, thousands of young men and women from that institution serve their Nation proudly and help keep us strong and secure. Mr. Chenoweth also was mainly responsible for helping establish the Air Defense Command and Fort Carson Army Base, both near Colorado Springs and both vital links in our Nation's defense.

Mr. Chenoweth's efforts were acknowledged by the Army, which in 1984 awarded him its Patriotic Service Award for his role, during his first term in Congress, in persuading the Army to make Camp Carson a permanent base.

Mr. Chenoweth can rightly be called "Mr. Republican" in Colorado. He served as chairman of the State Central Committee from 1937 to 1940 and was a past secretary of the Republican Congressional Committee. His advice and counsel inspired and guided so many other Republicans, officeholders and party members alike. The strength of our Republican Party in Colorado today is due in large part to his patience and effort.

Even after leaving Congress, Mr. Chenoweth continued to play a promi-

nent role in his native community of Trinidad. He resumed his law practice, which he continued right up to the time of his passing. He watched his party and his State grow and prosper, the result of people like him, people who were not content to stand back but who got involved, using skill and hard work to leave this world a better place than before.

Mr. Chenoweth's life and his accomplishments are treasured by all Coloradans. He serves as an example to us all. We extend our prayers and our sympathy to his lovely wife, Ruth, to his three sons and his two daughters, and to the rest of his family. May his memory live on with us and inspire us daily.

Mr. STRANG. Mr. Speaker, I thank Congressman KRAMER. I now yield to my colleague from Colorado, Congressman DAN SCHAEFER.

Mr. SCHAEFER. Mr. Speaker, I am pleased to have the opportunity this evening to honor such an instrumental figure in Colorado history. J. Edgar Chenoweth, known to most as "The Judge," served the people of Colorado's Third District for 22 years, in which only his dedication matched his accomplishments.

Elected as a Republican in a traditionally Democratic district, Chenoweth's overriding loyalty was to his constituency. Due primarily to his efforts, Colorado has become the home of Fort Carson, the North American Air Defense Command, and the United States Air Force Academy. Even today, few Members have enhanced the economy and image of their districts more than the Judge.

But Chenoweth's achievements in Congress are only the most noticeable in a life dedicated to community service. Nowhere is this more evident than his contribution to the Colorado Boys Ranch. The many hours the Judge spent toward the betterment of the State's young citizens showed that his commitment to Colorado was not restricted to the time spent in these Halls, but was rather his lifelong ambition.

Perhaps his greatest accomplishment, however, was the respect he earned from Members of the opposing party and the press. In fact, the Denver Post once described Chenoweth as "a kindly and gracious man who probably hasn't a single real enemy." As my colleagues well know, this is quite a compliment for a Member of 22 years.

J. Edgar Chenoweth will not be remembered as a Democrat or Republican, but as an individual whose constituents' concerns came before any personal political gain. His career is a model of commitment—one which all of us, from whatever State we represent, should emulate.

Mr. STRANG. I thank the gentleman from Colorado.

Mr. WIRTH. Mr. Speaker, it is a great privilege to participate in this special order to honor the late J. Edgar Chenoweth.

I would like to thank my colleague, Congressman STRANG, for arranging for this opportunity to remember a special individual and dedicated public servant.

Judge Chenoweth was indeed a special individual. He first became known as "The Judge" during his days as a country judge in Colorado's Las Amimas County during the late 1930's and early 1940's. His friends and constituents continued to affectionately refer to him as Judge Chenoweth throughout his 22-year Congressional career and beyond.

The Denver Post, writing about Judge Chenoweth 20 years ago, said he was "a kindly and gracious man who probably hasn't a single real enemy." The citizens of Pueblo, Colorado Springs and the other communities in the old Third District, I believe, were fortunate to have known Judge Chenoweth.

And he was indeed a dedicated public servant. The Coloradans with whom I have talked remember Judge Chenoweth most for the great care and attention he gave to his district. The Honorable Frank Evans, who succeeded Judge Chenoweth in Congress in 1965, recalls, "He serviced his constituency with his whole heart."

Judge Chenoweth was an ardent and effective advocate for a number of water projects in Colorado, including the Fryingpan-Arkansas project. As a freshman Member of Congress he convinced the U.S. Army to convert then-Camp Carson into the permanent installation, Fort Carson, a role for which he was later to receive the Army's Patriotic Service award. By the time his work was done, Judge Chenoweth was instrumental in also bringing to Colorado the Air Force Academy and Air Defense Command.

Right up to his last days, Judge Chenoweth remained very active and involved. At age 88, he continued to practice law in Trinidad and continued to serve the public that he so loved. His most recent activities included serving on the Judicial Nominating Committee at the request of the Governor.

I would like to express my deepest sympathy to Judge Chenoweth's wife, Ruth Chenoweth, and his five children, 10 grandchildren and five great-grandchildren. All of Colorado shares in their mourning. Yet we also share in their warm memories of a man who generously gave to others—form his heart—both during a long career in public office and in his private life.

Judge Chenoweth was Colorado's own, and he will always be remembered.

Mr. STRANG. Mr. Speaker, I would like to conclude by saying that the respect and affection, admiration for J. Edgar Chenoweth was so broad in the State of Colorado that rare was the resident of that State who did not know who you mean when you just mentioned "The Judge." Such respect and affection is unusual, well-deserved. We wish the family well.

□ 1905

INTELLECTUAL PROPERTY ANTITRUST PROTECTION ACT OF 1986

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York [Mr. FISH] is recognized for 20 minutes.

Mr. FISH. Mr. Speaker, there is an increasing public awareness that America must respond to the competitive challenge from abroad. Perhaps more than ever before in our history, there is a national consensus in favor of more realistic governmental policies which will serve to foster the development of new technology and encourage our own economic growth in face of global competition. Some have responded by urging changes in the Tax Code. Others have sought tougher trade policies and urged import restrictions on certain products. Still others have pressed for expanded regulatory reform and the further deregulation of certain industries.

One area where Congress should focus its legislative attention is on the need to bring about greater harmony between the patent laws and the antitrust laws. For too long, Mr. Speaker, court decisions have reflected an artificial tension between antitrust law, on the one hand, and patent law, on the other. This judicial tension has discouraged both personal and industrial innovation, to the overall detriment of the American economy.

The basic problem stems from certain Supreme Court and lower Federal court decisions that characterize the patent system as inherently in conflict with goals of antitrust law. The Supreme Court, for example, has depicted the patent grant as a "monopoly," the limits of which are to be "narrowly and strictly confined" so as to avoid the "evils of an expansion of the patent monopoly by private engagements". *Mercoid Corp.* v. *Mid-Continent Co.,* 320 U.S. 661, at 665–6 (1944). Unfortunately, the view that an exclusive legal property right; that is, a patent, copyright or trademark, is somehow at odds with a free market system has been reflected in a number of subsequent cases. *Deepsouth Packing Co., Inc.* v. *Laitram Corp.,* 406 U.S. 518, rehearing denied, 409 U.S. 902 (1972); *United States* v. *Paramount Pictures, Inc.,* 334 U.S. 131 (1948); *International Salt Co.* v. *United States,* 332 U.S. 392 (1947); *United States* v. *Studiengesellschaft Kohle, m.b.H.,* 670 F.2d 1122 (D.C. Cir. 1981).

But the viewpoint reflected in these court decisions mistakes the actual economic relationship between the protection of intellectual property and the goals of antitrust policy. While it might be true in theory that protection of intellectual property can be too generous, it is also the case that inadequate rewards will lead to insufficient research efforts. Reductions in research programs mean fewer new products and processes and, ultimately, less competition. While it is difficult to specify the precise level of protection that is appropriate, it is critical to recognize that any system of intellectual property protection must reflect a carefully structured balance between the dan-

gers of inadequate protection and those of excessive protection. It is an oversimplification at best to regard the patent system or the copyright system as inherently at odds with competitive policy. Rather, intellectual property laws and antitrust law serve complementary functions basic to our national economic progress.

What is needed, then, are revisions in the antitrust laws that reflect a more realistic view as to how intellectual property rights can be exercised without undue fear of litigation. Consequently, today I am introducing the "Intellectual Property Antitrust Protection Act of 1986". Joining me in this effort is my good friend and Judiciary Committee colleague, Hon. CARLOS J. MOORHEAD. Congressman MOORHEAD has long been recognized as a leader in legislative efforts aimed at encouraging and protecting intellectual property rights. Also joining with us as an original cosponsor is the Honorable ED ZSCHAU, who has done such an excellent job as the chairman of the task force on high technology initiatives of the House Republican Research Committee.

Our bill would require that the courts consider the procompetitive benefits of an intellectual property license before they could find that a particular contract or transaction involving intellectual property violates the antitrust laws. Intellectual property licenses would be analyzed and evaluated under the rule of reason test of antitrust law. Furthermore, and importantly, this measure would also remove the possibility of treble damage liability for an individual, a small business, or a corporation which chooses to sell or lease its patent rights or other intellectual property rights to others. The protection proposed in this legislation would cover a broad spectrum of intellectual property, including patents, copyrights, trade secrets, and semiconductor chips.

The presumption that underlies this proposal is that enhanced legal protection of intellectual property rights will, in fact, promote competition. By providing increased safeguards for the licensing of intellectual property, Congress would encourage the private sector in the development and implementation of new technologies. The result will be new and better products, additional market place choices for consumers and lower prices. Recent economic research demonstrates that further protections with respect to intellectual property enhance, rather than hinder, the competition protected by the antitrust laws. Consequently, it is crucial that the antitrust laws not be interpreted in an overly restrictive manner that unreasonably discourages the licensing of technology.

Patent licensing, for example, has the potential for significant procompetitive benefits. Often, the creator of a new product is not in the best position to commercially develop that particular product. Other individuals or businesses may have superior manufacturing capabilities or product distribution networks. Licensing permits the patent owner to match its own knowledge and other advantages with those of its licensees, who may possess superior production, distribution, or marketing facilities or skills. Licensing can result in products getting to the marketplace more quickly or at lower cost than would be possible through reliance only upon the patent holder's own resources. Licensing can therefore be important in allowing patent owners to compete more effectively. Equally important, by allowing the owner to utilize its patent in the way it deems most effective, licensing increases the value of the patent grant, and hence increases the perceived rewards and the incentive to innovate. Facilitating the patent lease transaction can have broad and favorable economic implications.

Investment in research and development is a risky business. An entrepreneur, be he large or small, is unlikely to risk the investment necessary if the prospects for financial reward are not present or severely limited. Again, the license mechanism permits the rightful owner of the technology to combine the idea he owns with the manufacturing or distribution assets of a third party—thereby utilizing the new technology in the most economically efficient manner possible. Licensing often permits products to get to the market place at the lowest possible cost and, consequently, can result in lower retail prices. When licensing leads to a more efficient use of technology and its wider application, consumers will be the ultimate beneficiaries.

The changes we propose in the antitrust laws would further encourage American industry to develop new ideas and new technologies. All too often today, advances in technology are not fully explored because the individual or corporation in question may not have the capacity to market the idea or new discovery. Correspondingly, the current state of antitrust law with regard to patent licensing or the licensing of other intellectual property is simply too restrictive. While some recent court decisions have begun to reflect a better understanding of the fundamental benefits of intellectual property, the business community still needs a stronger, more reliable signal from Congress. Only statutory change can reverse the years of caselaw precedents that have discouraged the full utilization of the intellectual property license in American business practice. We need to encourage such individuals or corporations to believe that they can profitably and successfully license or sublicense their ideas.

In 1984, Congress passed the "National Cooperative Research Act"—Public Law 98-462—which, among other things, prohibited per se treatment of licenses of intellectual property developed through research and development joint ventures. There is no logical reason why we should treat patent licenses which are independently developed any differently than those that are the result of a joint venture. Our bill is based upon concepts originally contained in title III of the National Productivity and Innovation Act which was proposed by the Reagan administration in 1983. Unfortunately, that proposal was never acted upon by the Congress.

Simply put, the time has come to reverse the misdirected judicial hostility seen between intellectual property law and antitrust law. If that legal view was ever valid, it is outdated in our current economic climate. We must remove the threat of treble damage liability from those who seek to more effectively market new technologies. The patent and antitrust laws should be structured so as to be complimentary, not conflicting. This legislation will encourage the creation, development, and commercial application of new products and processes. It can mean technological advances which create new industries, increase productivity and improve America's ability to compete in foreign markets.

THE HOUSE OF REPRESENTATIVES CAMPAIGN FINANCE REFORM ACT OF 1985

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York [Mr. LAFALCE] is recognized for 10 minutes.

Mr. LAFALCE. Mr. Speaker, few Members of Congress would dispute the fact that our entire system of campaign finance is in dire need to reform. Nothing can mask the fact that the law needs to be changed, and changed dramatically.

I have long advocated a number of reforms designed to improve our campaign finance laws. In recent years, I have introduced bills which eliminate the tax credit for contributions to PAC's, and which prohibit Members of Congress from converting campaign funds to personal use, regardless of when the Member was elected to Congress. But the area of campaign finance most in need of reform pertains to the amounts spent by candidates. The vast sums of money that are being spent running for public office in this country have become unconscionable, and threaten to undermine the electoral process in the United States. Therefore, first and foremost, we need to impose limits on campaign spending. Regrettably, the Supreme Court, in the decision of Buckley versus Valeo, blocked Congress' ability to impose spending limits without making public financing available to the candidates. Only through the inauguration of public financing of House campaigns can we constitutionally curb campaign expenditures.

The cost of all elections in the United States approached the $2 billion mark in 1984. Congressional campaign spending rose from $77 million in 1974 to $374 million in 1984—an increase of more than 385 percent. In the last election, Senator JESSE HELMS set a new all time spending record of almost $16.5 million. His challenger, Gov. Jim Hunt spent over $9.4 million. Senator JAY ROCKEFELLER also reached new heights by spending more than $12 million to win his seat in 1984.

The story is the same in the House of Representatives. The 435 House winners in 1984 spent an average of $288,000 with 10 candidates spending upwards of $1 million or more. If only seriously contested races were included, I believe the winning candidate's expenditures would then average closer to $500,000. Even in upstate New York, many Members have raised and spent almost $500,000 repeatedly, per election cycle. The constant ongoing cycle of raising and spending huge sums, money does not necessarily corrupt the individual, but it surely corrupts the process. Of all the proposed reforms, the most important is to bring campaign expenditures under control.

In the last House election, about 83% of all House winners received a third or more of their contributions from Political Action Com-

mittees [PAC's]. There is nothing intrinsically evil abourt PAC's; indeed, they developed as an effort to reform other campaign abuses.

There is at least one troubling aspect, however, to the PAC phenomenon. PAC's have the very real capability to virtually determine the outcome of an election. Under the law, individual PAC's are limited to contributions of $5,000 per candidate, per election. That may not be an amount to be overly concerned with, although I do think it should be lowered. However, if 50 or 100 like-minded PAC's, such as those representing the interests of either business or labor, decide to help a candidate, they have the ability, acting in concert, to pump $500,000 into a campaign in a matter of days. Oftentimes this will occur during the critical last days of a campaign, leaving an unmistakable, and oftentimes surprising, imprint on the outcome of the race. To safeguard against this, many individuals, including myself, have accumulated considerable war chests to cope with the threat of a massive and sudden injection of PAC money into opponents campaign coffers.

Mr. Speaker, I think the point is clear. We must take some form of action, and the sooner the better.

Let's look at some of the reform options that are available. The alternatives include at least the following: first, a constitutional amendment, which would allow spending limitations to be imposed on candidates; second, a new decision by the Supreme Court to reverse Buckley versus Valeo, which greatly restricts our ability to impose spending limits; and third, a system of public financing which would allow us constitutionally to impose spending limitations, and in turn to diminish reliance on PAC contributions.

I have already cosponsored a constitutional amendment. Realistically, however, an amendment has virtually no likelihood of being approved or ratified. With respect to the Court's Buckley decision, at this time, we have no reason to expect the Court to reverse itself and allow Congress to impose strict spending restrictions. The best chance for meaningful reform is for Congress to pass and for the President to approve, a comprehensive reform of the laws which govern campaign contributions and expenditures.

A number of very fine legislative initiatives have been introduced in the House this session which address specific problems in the world of campaign finance. But rather than confine ourselves to a piecemeal approach, we need a comprehensive reform act which imposes overall limits both on overall campaign spending and on PAC contributions to House campaigns, and which provides an alternative source of funding—public financing—for House elections.

The bill which I am introducing, the House of Representatives Campaign Finance Reform Act of 1985, does just this, and more. Specifically, the bill will reduce the amount of contributions a House candidate can receive from individual nonparty PAC's, from $10,000 per election cycle—$5,000 each for the primary and general election—to $6,000 per election cycle. The overall limitation on total nonparty PAC contributions to a House candidate per cycle would be set at $125,000—$100,000 if only one candidate qualifies for the ballot.

In so limiting PAC contributions, we cannot ignore the high cost of campaigning. Indeed, the limitation on PAC contributions could pose a financial hardship to some candidates. Therefore, the second part of my strategy is to install a system of public financing of House campaigns, modeled upon the Presidential Election Campaign Fund which is now in place. Here's how the plan works:

A candidate who complies with certain requirements and is able to raise $10,000 from individual contributions, will receive a matching grant from the Presidential Election Fund, now established at the Treasury Department, for that same amount. Thereafter, the money raised in $10,000 increments will be matched up to a total of $125,000 for the 2-year election cycle. Only 25 percent of the contributions raised under these conditions could come from out-of-state contributors. A cap on the use of personal funds would be set at $50,000, and total campaign expenditures could not exceed $250,000. This scheme would comply, I believe, with the strictures of Buckley versus Valeo.

My bill is also directed at reigning in unwieldy independent expenditures made on behalf of a candidate by unaffiliated organizations. These so-called independent groups, which are paying for such expenditures, would be required to identify themselves at the conclusion of any paid advertisements they might sponsor. In addition, if more than $5,000 in independent expenditures are made in opposition to or in support of a candidate who is receiving public funds, the other candidate may receive payments from the fund equal to that amount.

I firmly believe that now is the time to focus our energies on rectifying the deficiencies inherent in the existing system governing House elections. As we prepare for the 1986 elections, the time is ripe for a comprehensive review of our present system. We must not shirk our responsibility to ensure that the integrity of our electoral process is preserved. Under existing law, that integrity is suspect. Further, the public perception that huge sums of money unduly influence the electoral process is an accurate one, which must be corrected.

My proposal limits both receipts and expenditures, and replaces primary reliance on PAC money with public financing, without undercutting the rights of PAC members to participate in the political process. I urge my colleagues to work with me to achieve this fundamental reform.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. STAGGERS (at the request of Mr. WRIGHT), for today and January 30, on account of a necessary absence.

Mr. MILLER of Ohio (at the request of Mr. MICHEL), for today, on account of illness in the family.

Mr. GROTBERG (at the request of Mr. MICHEL), for today, on account of illness.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. STRANG) to revise and extend their remarks and include extraneous material:)

Mr. MCDADE, for 15 minutes, on February 4.

Mr. FISH, for 20 minutes, today.

(The following Members (at the request of Mr. PEASE) to revise and extend their remarks and include extraneous material:)

Mr. PEASE, for 5 minutes.

Mr. NELSON of Florida, for 5 minutes, today.

Mrs. SCHROEDER, for 5 minutes, today.

Mr. ANNUNZIO, for 5 minutes, today.

Mr. SYNAR, for 5 minutes, today.

Mr. BONER of Tennessee, for 5 minutes, today.

Mr. GONZALEZ, for 5 minutes, today.

Mr. KLECZKA, for 5 minutes, today.

Ms. KAPTUR, for 5 minutes, today.

Mr. LAFALCE, for 10 minutes, today.

Mr. SLATTERY, for 30 minutes, today.

Mr. RANGEL, for 60 minutes, on February 4.

Mr. DOWNEY of New York, for 60 minutes, on February 6.

Mr. BEDELL, for 60 minutes, on February 6.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. FRENZEL, and to include extraneous matter, on H.R. 3525 in the Committee of the Whole today.

Mr. THOMAS of California, and to include extraneous matter, on H.R. 3525 in the Committee of the Whole today.

(The following Members (at the request of Mr. STRANG) and to include extraneous matter:)

Mr. WORTLEY.

Mr. ARCHER.

Mr. TAUKE.

Mr. SHUMWAY.

Mr. MCDADE in two instances.

Mr. DAVIS in two instances.

Mr. VANDER JAGT in two instances.

Mr. CONTE in four instances.

Mr. STANGELAND.

Mr. COBEY.

Mr. ROTH in two instances.

Mr. CLINGER.

Mr. GILMAN in six instances.

Mr. LENT.

Mr. COURTER in two instances.

Mr. LEWIS of California in two instances.

Mr. HUNTER.

Mr. GEKAS.

Mr. MORRISON of Washington.

Mr. WEBER.

Mr. PORTER.

Mr. MACK.
Mr. BLILEY.
Mr. BLAZ.
Mr. DREIER of California.
Mr. KRAMER.
Mr. CLINGER.
Mr. DENNY SMITH.
Mr. HYDE.
Mr. COLEMAN of Missouri.
Mr. WHITEHURST.

(The following Members (at the request of Mr. PEASE) and to include extraneous matter:)

Mr. HAYES in two instances.
Mr. RICHARDSON.
Mr. CLAY.
Mr. PEPPER.
Mr. FAUNTROY.
Mr. RANGEL.
Mr. MARKEY.
Mr. MATSUI.
Mr. BENNETT.
Mr. LANTOS.
Mr. DELLUMS.
Mr. SKELTON.
Mr. RAHALL.
Mr. MARTINEZ.
Mr. BOXER.
Mr. ST GERMAIN.
Mr. SIKORSKI.
Mr. DOWNEY of New York in three instances.
Ms. KAPTUR.
Mr. GARCIA.
Mr. FASCELL in two instances.
Mr. GORDON.
Mr. MINETA in two instances.
Mr. YATRON.
Mr. ORTIZ.
Mr. TRAFICANT.
Mr. HERTEL of Michigan.
Mr. HOWARD.
Mr. BRYANT.
Mr. GUARINI.
Mr. KOLTER.
Mr. BIAGGI.
Ms. OAKAR.
Mr. MOODY.
Mr. RAHALL.
Mr. HUBBARD.
Mr. APPLEGATE.

ADJOURNMENT

Mr. STRANG. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 7 o'clock and 6 minutes p.m.), the House adjourned until tomorrow, Thursday, January 30, 1986, at 11 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

2606. A letter from the Chief Financial Officer, Potomac Power Company, transmitting the balance sheet of the Potomac Electric Power Company as of December 31, 1985, pursuant to the act of March 4, 1913, section 8; to the Committee on the District of Columbia.

2607. A letter from the Chairman, Board of Trustees, Harry S Truman Scholarship Foundation, transmitting the annual report of the Foundation for fiscal year 1985, pursuant to Public Law 93-642, section 13(b); to the Committee on Education and Labor.

2608. A letter from the Assistant Secretary of State for Legislative and Intergovernmental Affairs, transmitting the original report of political contributions for Paul D. Wolfowitz of Washington to be the Ambassador of the United States to the Republic of Indonesia, pursuant to 22 U.S.C. 3944(b)(2); to the Committee on Foreign Affairs.

2609. A letter from the Chairman, Board for International Broadcasting, transmitting a report on the activities of the board and evaluation of the operation of Radio Free Europe/Radio Liberty for the period ending September 30, 1985, pursuant to Public Law 93-129, section 4(a)(8) (90 Stat. 833, 91 Stat. 851); to the Committee on Foreign Affairs.

2610. A letter from the Secretary of Health and Human Services, transmitting a report on donations of personal property to public health institutions for fiscal year 1985, pursuant to 40 U.S.C 484(o); to the Committee on Government Operations.

2611. A letter from the Secretary of the Interior, transmitting the final management plan for the Owyhee Wild and Scenic River, pursuant to 16 U.S.C. 1274(a)(53) and (b); to the Committee on Interior and Insular Affairs.

2612. A letter from the Secretary of Transportation, transmitting a report on access control demonstration projects, pursuant to 23 U.S.C. 307 nt.; to the Committee on Public Works and Transportation.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. ROYBAL:

H.R. 4065. A bill to continue the current waiver of liability presumption for home health agencies and skilled nursing facilities under the medicare program in order to protect beneficiary access to home health and extended care services; jointly, to the Committees on Ways and Means, and Energy and Commerce.

By Mr. DAUB:

H.R. 4066. A bill to authorize the Secretary of the Interior to provide technical assistance with respect to the Gerald R. Ford birthplace in the State of Nebraska, and for other purposes; to the Committee on Interior and Insular Affairs.

By Mr. CLINGER:

H.R. 4067. A bill to amend the Social Security Act to safeguard the integrity of the social security trust funds by ensuring prudent investment practices; to the Committee on Ways and Means.

By Mr. COURTER:

H.R. 4068. A bill to abolish the Defense Logistics Agency and the Defense Contract Audit Agency; to the Committee on Armed Services.

By Mr. DYMALLY:

H.R. 4069. A bill to direct the Secretary of Transportation to designate a portion of California State Route 91 as part of the Interstate System; to the Committee on Public Works and Transportation.

By Mr. FISH (for himself, Mr. MOORHEAD and Mr. ZSCHAU):

H.R. 4070. A bill to modify the application of the antitrust laws so as to encourage the licensing and other use of certain intellectual property; to the Committee on the Judiciary.

By Mr. KOLTER:

H.R. 4071. A bill to amend the Railroad Retirement Act of 1974 to eliminate the COLA offset provisions, and restore amounts offset under those provisions after January 1984; to the Committee on Energy and Commerce.

By Mr. LAFALCE:

H.R. 4072. A bill to amend the Federal Election Campaign Act of 1971 to change certain contribution limits for elections for the House of Representatives and to provide for financing of general election campaigns for the House of Representatives, and for other purposes; to the Committee on House Administration.

By Mr. LIGHTFOOT (for himself, Mr. MCEWEN, Mrs. BENTLEY, Mr. EVANS of Iowa, Mr. BEDELL, and Mr. TAUKE):

H.R. 4073. A bill to stimulate savings and to lower the cost of money for farmers; jointly, to the Committees on Ways and Means, and Agriculture.

By Mr. MOODY:

H.R. 4074. A bill to repeal part C of the Balanced Budget and Emergency Deficit Control Act of 1985 (relating to emergency powers to eliminate deficits in excess of maximum deficit amount), and to make conforming amendments in other provisions of that Act and in related provisions of the Congressional Budget Act; jointly, to the Committees on Government Operations, and Rules.

By Mr. PARRIS (for himself, Mr. WHITEHURST, Mr. BATEMAN, and Mr. HOYER):

H.R. 4075. A bill to amend part C of the Balanced Budget and Emergency Deficit Control Act of 1985 to restore cost-of-living adjustments under certain Federal retirement and disability programs; to the Committee on Government Operations.

By Mr. ROTH (for himself, Mr. GINGRICH, Mr. SOLOMON, Mr. SILJANDER, Mr. LAGOMARSINO, Mr. BURTON of Indiana, and Mr. HYDE):

H.R. 4076. A bill to express the opposition of the United States to the system of oppression in Ethiopia, to promote the development of democracy in Ethiopia, and for other purposes; jointly, to the Committees on Foreign Affairs, Banking, Finance and Urban Affairs, and Ways and Means.

By Mr. TORRICELLI:

H.R. 4077. A bill to amend the Internal Revenue Code of 1954 to provide that the interest on an obligation issued to provide property for use by an electric utility is not exempt from tax if such utility fails to adhere to certain take or pay agreements entered into in connection with the proposed construction of certain nuclear electric generating facilities; to the Committee on Ways and Means.

By Mr. TRAXLER (for himself, and Mr. SCHUETTE):

H.R. 4078. A bill to amend the Agricultural Act of 1949 to require that dry edible beans not be treated as a nonprogram crop for purposes of certain payments under the price support programs for wheat, feed grains, upland cotton, and rice; to the Committee on Agriculture.

H.R. 4079. A bill to amend the Agricultural Act of 1949 to authorize the Secretary of

Agriculture to modify the definition of nonprogram crop to discourage any increase in the production of any commodity that would adversely affect the income of producers of that commodity; to the Committee on Agriculture.

By Mr. WEBER (for himself, Mr. TAUKE, Mr. BEDELL, Mr. STANGELAND, Mr. COLEMAN of Missouri, and Mr. EVANS of Iowa):

H.R. 4080. A bill to exclude from gross income amounts received from certain sales of farm property and amounts attributable to the discharge of indebtedness on certain farm property; to the Committee on Ways and Means.

By Mr. BADHAM:

H.J. Res. 504. Joint resolution authorizing establishment of a memorial to honor America's astronauts; to the Committee on House Administration.

By Mr. ACKERMAN (for himself, Mr. HAWKINS, Mr. GARCIA, and Mr. MOODY):

H.J. Res. 505. Joint resolution designating January 28th of each year as "National Teacher Recognition Day;" to the Committee on Post Office and Civil Service.

By Mr. KINDNESS:

H.J. Res. 506. Joint resolution to designate the week of July 7, 1986, as National Bowhunters Week; to the Committee on Post Office and Civil Service.

By Mr. GEPHARDT:

H. Res. 363. Resolution designating membership on certain standing committees of the House; considered and agreed to.

By Mr. MOAKLEY:

H. Res. 364. Resolution authorizing the Speaker to appoint a committee of Members of the House to attend the memorial service for the crew members of the Challenger shuttle mission; considered and agreed to.

By Mr. COURTER:

H. Res. 365. Resolution to amend the Rules of the House of Representatives to provide the Committee on Armed Services with the authority to report all appropriations for the Department of Defense, and for other purposes; to the Committee on Rules.

By Mr. ST GERMAIN:

H. Res. 366. Resolution providing amounts from the contingent fund of the House for the expenses of investigations and studies by the Committee on Banking, Finance and Urban Affairs in the second session of the Ninety-ninth Congress; to the Committee on House Administration.

By Mr. WOLPE (for himself, Mr. YATRON, Mr. SOLARZ, Mr. BONKER, Mr. WEISS, Mr. GARCIA, and Mr. SILJANDER):

H. Res. 367. Resolution expressing the sense of the House of Representatives regarding the furnishing of assistance for the Republic of Liberia, and for other purposes; to the Committee on Foreign Affairs.

MEMORIALS

Under clause 4 of rule XXII.

288. The SPEAKER presented a memorial of the House of Representatives of the Commonwealth of Pennsylvania, relative to steel; to the Committee on Ways and Means.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII.

Mr. KINDNESS introduced a bill (H.R. 4081) for the relief of Joseph W. Newman; to the Committee on the Judiciary.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 43: Mr. HERTEL of Michigan and Mr. MARKEY.

H.R. 479: Mr. BROWN of Colorado, Mr. MCMILLAN, Mr. MARTIN of New York, and Mr. WYLIE.

H.R. 780: Mr. CLINGER.

H.R. 796: Mr. ERDREICH and Mr. DASCHLE.

H.R. 864: Mrs. Boxer and Mr. LAFALCE.

H.R. 979: Mr. FISH.

H.R. 1004: Mr. CLINGER.

H.R. 1021: Mr. SEIBERLING.

H.R. 1145: Mrs. BENTLEY.

H.R. 1294: Mr. STRANG.

H.R. 1326: Mr. SKELTON.

H.R. 1400: Mr. DOWDY of Mississippi, Mr. TRAFICANT, and Mr. MAZZOLI.

H.R. 1499: Mr. DORNAN of California.

H.R. 1550: Mr. MCKINNEY.

H.R. 1579: Mr. BOSCO.

H.R. 1769: Mr. OLIN and Mr. MCHUGH.

H.R. 1824: Mr. CLINGER.

H.R. 1825: Mr. CLINGER.

H.R. 1826: Mr. CLINGER.

H.R. 1840: Mr. BOUCHER, Mr. PENNY, and Mr. SUNDQUIST.

H.R. 2657: Mr. CROCKETT.

H.R. 2684: Mr. VANDER JAGT, Mr. ARCHER, Mr. SILJANDER, and Mr. GROTBERG.

H.R. 2860: Mr. DASCHLE, Mr. MATSUI, Ms. OAKAR, Mr. SCHEUER, and Mr. WAXMAN.

H.R. 2950: Mr. BEREUTER.

H.R. 3006: Mr. CHAPMAN.

H.R. 3024: Mr. SHELBY, Mr. ROBINSON, Mr. BARTLETT, Mr. TALLON, and Mr. FOGLIETTA.

H.R. 3087: Mr. LUJAN and Mr. BREAUX.

H.R. 3120: Mr. BLILEY, Mr. BOEHLERT, Mr. FORD of Tennessee, Mr. HAWKINS, Mr. LOEFFLER, Mr. TORRICELLI, and Mr. MORRISON of Connecticut.

H.R. 3136: Mr. ROBINSON, Mr. LEWIS of Florida, and Mr. CHANDLER.

H.R. 3358: Mr. MOAKLEY, Mrs. JOHNSON, Mr. FRANK, Mr. GUARINI, Mr. HOWARD, Mrs. BOXER, Mr. MRAZEK, Mr. MARTINEZ, Mr. CARPER, Mr. SCHEUER, Mr. MAVROULES, Mr. FAZIO, Mr. BIAGGI, Mr. WEISS, Mr. MORRISON of Connecticut, and Mrs. KENNELLY.

H.R. 3371: Mr. BARTON of Texas.

H.R. 3426: Mr. CARPER.

H.R. 3459: Mr. STOKES and Ms. OAKAR.

H.R. 3766: Mr. HENRY.

H.R. 3798: Mr. BATES.

H.R. 3894: Mr. JEFFORDS, Mr. ROE, Mr. AKAKA, Mrs. LONG, Mr. SOLARZ, Mr. FISH, Mr. MATSUI, Mr. MITCHELL, Mr. WRIGHT, Mr. SIKORSKI, Mr. UDALL, Mr. MRAZEK, Mr. MOLLOHAN, Mr. CROCKETT, Mr. EVANS of Illinois, Mr. GRAY of Pennsylvania, Mr. BOEHLERT, Mr. COYNE, Mr. SABO, Mr. MCHUGH, Mr. HAMILTON, Mr. BREAUX, Mr. SYNAR, Mr. LAFALCE, Mr. HOYER, Mr. BONIOR of Michigan, and Mrs. BURTON of California.

H.R. 4041: Mr. ARMEY, Mr. DAUB, Mr. HENRY, Mr. KINDNESS, Mr. SHUMWAY, Mr. STANGELAND, Mr. WEBER, and Mrs. VUCANOVICH.

H.J. Res. 7: Mr. GRADISON, Mr. SWINDALL, Mr. SMITH of New Jersey, Mr. MCKERNAN, Mr. YOUNG of Alaska, Mr. DANNEMEYER, Mr. LUJAN, Mr. RALPH M. HALL, and Mr. ROWLAND of Connecticut.

H.J. Res. 254: Mr. FUQUA, Mr. WEBER, Mr. PERKINS, Mr. RALPH M. HALL, and Mr. KINDNESS.

H.J. Res. 345: Mr. STRANG, Mr. BOEHLERT, Mr. EDGAR, Mr. CALLAHAN, Mr. FAUNTROY, Mr. GRAY of Illinois, Mr. FEIGHAN, Mr. LATTA, Mr. CLAY, Mr. BLAZ, Mr. BIAGGI, Mr. LEWIS of California, Mr. MCCLOSKEY, Mr. MCCOLLUM, Mr. KASICH, Mr. RODINO, Mr. ROE, Mr. MRAZEK, Mr. OWENS, Mrs. BOXER, Mr. JENKINS, Mr. ROBERT F. SMITH, Mr. LAFALCE, Mr. PURSELL, Mr. MANTON, Mr. TALLON, Mr. WISE, Mr. YOUNG of Alaska, Mr. SNYDER, Mr. FUSTER, and Ms. MIKULSKI.

H.J. Res. 365: Mr. JACOBS, Mr. BURTON of Indiana, Mr. CLINGER, and Mr. WOLPE.

H.J. Res. 398: Mr. ACKERMAN, Mr. ADDABBO, Mr. ALEXANDER, Mr. ANTHONY, Mr. APPLEGATE, Mr. ATKINS, Mr. BADHAM, Mr. BARTLETT, Mr. BEDELL, Mr. BENNETT, Mr. BEVILL, Mr. BILIRAKIS, Mr. BOLAND, Mr. BONER of Tennessee, Mr. BONIOR of Michigan, Mr. BORSKI, Mr. BOULTER, Mr. BROOKS, Mr. BROOMFIELD, Mr. BROWN of Colorado, Mr. BROYHILL, Mrs. BURTON of California, Mr. BUSTAMANTE, Mrs. BYRON, Mr. CALLAHAN, Mr. CAMPBELL, Mr. CARPER, Mr. CLAY, Mr. COATS, Mr. COBEY, Mr. COELHO, Mr. CONTE, Mr. CONYERS, Mr. COOPER, Mr. CROCKETT, Mr. DANIEL, Mr. DANNEMEYER, Mr. DARDEN, Mr. DAUB, Mr. DAVIS, Mr. DE LA GARZA, Mr. DELAY, Mr. DEWINE, Mr. DIOGUARDI, Mr. DORNAN OF California, Mr. DUNCAN, Mr. DWYER of New Jersey, Mr. DYMALLY, Mr. ECKART of Ohio, Mr. EDWARDS of Oklahoma, Mr. EMERSON, Mr. ENGLISH, Mr. ERDREICH, Mr. EVANS of Iowa, Mr. FAZIO, Mr. FIELDS, Mr. FUQUA, Mr. GARCIA, Mr. GINGRICH, Mr. GRAY of Illinois, Mr. GROTBERG, Mr. GUARINI, Mr. GUNDERSON, Mr. RALPH M. HALL, Mr. HAMMERSCHMIDT, Mr. HANSEN, Mr. HATCHER, Mr. HAYES, Mr. HEFNER, Mr. HENRY, Mr. HILER, Mr. HILLIS, Mrs. HOLT, Mr. HORTON, Mr. HOWARD, Mr. HOYER, Mr. HUGHES, Mr. HUNTER, Mr. HUTTO, Mr. HYDE, Mr. IRELAND, Mr. JEFFORDS, Mr. JENKINS, Mr. JONES of Tennessee, Ms. KAPTUR, Mrs. KENNELLY, Mr. KINDNESS, Mr. KLECZKA, Mr. KOLTER, Mr. KRAMER, Mr. LAFALCE, Mr. LAGOMARSINO, Mr. LANTOS, Mr. LATTA, Mr. LEACH of Iowa, Mr. LENT, Mr. LEVIN of Michigan, Mr. LEWIS of California, Mr. LIGHTFOOT, Mr. LIVINGSTON, Mrs. LLOYD, Mr. LOEFFLER, Mr. LOTT, Mr. LUKEN, Mr. LUNGREN, Mr. MCEWEN, Mr. MCKERNAN, Mr. MANTON, Mr. MCMILLAN, Mr. MACK, Mr. MACKAY, Mr. MADIGAN, Mr. MARTIN of New York, Mr. MATSUI, Mr. MAVROULES, Mr. MAZZOLI, Mrs. MEYERS of Kansas, Mr. MICHEL, Mr. MILLER of Washington, Mr. MOAKLEY, Mr. MONSON, Mr. MOORE, Mr. MOORHEAD, Mr. MORRISON of Washington, Mr. NEAL, Mr. NICHOLS, Mr. NIELSON of Utah, Mr. O'BRIEN, Mr. ORTIZ, Mr. OWENS, Mr. PANETTA, Mr. PARRIS, Mr. PASHAYAN, Mr. PORTER, Mr. RAHALL, Mr. RANGEL, Mr. REID, Mr. RICHARDSON, Mr. ROBERTS, Mr. ROE, Mr. ROSE, Mr. SCHAEFER, Mr. SHUMWAY, Mr. SILJANDER, Mr. SKELTON, Mr. SLAUGHTER, Mr. SMITH of New Jersey, Mr. DENNY SMITH, Mr. SMITH of Florida, Ms. SNOWE, Mr. SNYDER, Mr. SPRATT, Mr. STALLINGS, Mr. STANGELAND, Mr. STENHOLM, Mr. SWINDALL, Mr. TALLON, Mr. TAUKE, Mr. TAYLOR, Mr. THOMAS of Georgia, Mr. TOWNS, Mr. SUNIA, Mr. VALENTINE, Mr. VANDER JAGT, Mr. VOLKMER, Mr. WEBER, Mr. WEISS, Mr. WHITTEN, Mr. WILSON, Mr. WOLF, Mr. WORTLEY, Mr. WYLIE, Mr. YOUNG of Florida, and Mr. YOUNG of Missouri.

H.J. Res. 439: Mr. ANNUNZIO, Mr. BATES, Mr. COOPER, Mr. DEWINE, Mr. GEKAS, Mr. HENDON, Mr. HILER, Mrs. HOLT, Mr. JONES of Tennessee, Mr. JONES of North Carolina, Mr. KINDNESS, Mr. LIPINSKI, Mr. LUJAN, Mr. MILLER of Washington, Mr. OLIN, Mr. PACKARD, Mr. ROBERTS, and Mr. SCHUMER.

H.J. Res. 470: Mr. BONIOR of Michigan, Mr. SAVAGE, Mr. LEHMAN of Florida, Mr. FLORIO, and Ms. OAKAR.

H.J. Res. 500: Mr. HENRY, Mr. HUGHES, Mr. MCGRATH, Mr. HOYER, Ms. OAKAR, Mr. KANJORSKI, and Mr. ANDERSON.

H. Con. Res. 241: Mr. WHEAT, Mr. LOWERY of California, Ms. KAPTUR, Mrs. BENTLEY, Mr. MRAZEK, and Mr. MCKERNAN.

H. Con. Res. 271: Mr. SOLARZ, Mr. TOWNS, Mr. FAUNTROY, Mr. SCHEUER, Mr. GUARINI, Mr. SAVAGE, Mr. DIXON, Mr. MOAKLEY, Mr. CONYERS, and Ms. MIKULSKI.

H. Res. 183: Mr. BERMAN, Mr. UDALL, and Mr. NIELSON of Utah.

H. Res. 256: Mr. OWENS.

H. Res. 311: Mr. EVANS of Illinois, Mr. FOGLIETTA, Mr. HOYER, Mr. LEHMAN of Florida, Mr. RICHARDSON, Mr. MCHUGH, Mr. ADDABBO, Mrs. COLLINS, Mr. CONYERS, Mr. KOSTMAYER, Mr. BONER of Tennessee, Mr. OBERSTAR, Mr. CARPER, Mrs. BENTLEY, Mr. RODINO, Mr. JACOBS, Mr. WHEAT, Mr. CLAY, Mr. UDALL, Mr. HOWARD, Mr. MATSUI, Mr. CARR, Mrs. LLOYD, Mr. TOWNS, Mr. FAZIO, Mr. PURSELL, Mr. FRENZEL, Mr. SISISKY, and Mr. MITCHELL.

DELETIONS OF SPONSORS FROM PUBLIC BILLS AND RESOLUTIONS

Under clause 4 of rule XXII, sponsors were deleted from public bills and resolutions as follows:

H.R. 3609: Mrs. LLOYD.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 4055

By Mr. MCKINNEY:

—Page 4, strike out lines 10 through 12 and insert in lieu thereof the following:

"(A)(i) in the case of individuals who need to be placed in inpatient mental health facilities, to place such individuals in optimum therapeutic settings and to provide mental health treatment and related support services appropriate to such individuals' level of functioning,

"(ii) in the case of residents of public inpatient mental health facilities who have been inappropriately placed in such facilities, to discharge such residents, and, to the extent appropriate, to place them in optimum therapeutic settings and to provide mental health treatment and related support services appropriate to such individuals' level of functioning,

"(iii) in the case of individuals who are discharged from, or are in need of placement in, inpatient mental health facilities, to inform them of available community-based facilities and programs providing mental health treatment and related support services and to provide them access to a sufficient number of adequately staffed and adequately funded community-based facilities and programs providing mental health and related support services, and

"(iv) to otherwise establish or carry out an appropriate individual program plan or treatment or discharge plan for a mentally ill individual,".

Page 4, insert after line 21 the following:

"For purposes of clauses (i) and (ii) of subparagraph (A), the term "optimum therapeutic setting" means the environment that is least restrictive of an individual's personal liberty and where the care, treatment, habilitation, or rehabilitation is particularly suited to the level of services necessary to properly implement an individual's treatment, habilitation, and rehabilitation. The optimum therapeutic setting for an individual may be a licensed and properly operated State hospital or other public residential care facility."

—Page 4, strike out lines 10 through 12 and insert in lieu thereof the following:

"(A)(i) in the case of individuals who need to be placed in inpatient mental health facilities, to place such individuals in optimum therapeutic settings and to provide mental health treatment and related support services appropriate to such individuals' level of functioning,

"(ii) in the case of residents of public inpatient mental health facilities who have been inappropriately placed in such facilities, to discharge such residents, and, to the extent appropriate, to place them in optimum therapeutic settings and to provide mental health treatment and related support services appropriate to such individuals' level of functioning,

"(iii) in the case of individuals who are discharged from, or are in need of placement in, inpatient mental health facilities, to inform them of available community-based facilities and programs providing mental health treatment and related support services and to provide them access to a sufficient number of adequately staffed and adequately funded community-based facilities and programs providing mental health and related support services, and

"(iv) to otherwise establish or carry out an appropriate individual program plan or treatment or discharge plan for a mentally ill individual,".

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"For purposes of clauses (i) and (ii) of subparagraph (A), the term "optimum therapeutic setting" means the environment that is least restrictive of an individual's personal liberty and where the care, treatment, habilitation, or rehabilitation is particularly suited to the level of service necessary to properly implement an individual's treatment, habilitation, and rehabilitation. The optimum therapeutic setting for an individual may be a licensed and properly operated State hospital or other public residential care facility if the available community services fail to provide conditions which enhance the care, treatment, and general well being of the individual."

SENATE—*Wednesday, January 29, 1986*

The Senate met at 11 a.m., on the expiration of the recess, and was called to order by the President pro tempore [Mr. THURMOND].

The PRESIDENT pro tempore. Our prayer this morning will be delivered by the Most Reverend Edmond Lee Browning, presiding bishop of the Episcopal Church. He is sponsored by Senator MATSUNAGA.

PRAYER

The Most Reverend Edmond Lee Browning of Honolulu, HI, presiding bishop of the Episcopal Church, offered the following prayer:

I ask that this morning we remember in prayer the seven who lost their lives so tragically yesterday, and may we remember their families and friends and the communities from which they came.

O God, Whose days are without end and Whose mercies cannot be numbered, we give You our humble thanks for the life and witness of Christa McAuliffe, Francis Scobee, Michael Smith, Judith Resnik, Ronald McNair, Ellison Onizuka, and Gregory Jarvis. We pray that the gift of their lives might be honored by this Nation with a deeper sense of dedication to the pursuit of truth and peace. For their families and friends—for all who are bereaved—grant the spirit of faith and courage, that they and we may have strength to meet the days ahead with steadfastness and patience; not sorrowing as those without hope but in thankful remembrance of Your promise of life always.

And now unto God's gracious mercy and protection we commit those we have remembered and ourselves this day. May the Lord bless us and keep us, may the Lord make His face to shine upon us and be gracious unto us, may the Lord lift up the light of His countenance and give His peace to us, to this Nation, and to all the world, this day and evermore. Amen.

RECOGNITION OF THE MAJORITY LEADER

The PRESIDENT pro tempore. The distinguished majority leader is recognized.

Mr. DOLE. Mr. President, I yield to the distinguished Senator from Hawaii, Senator MATSUNAGA.

BISHOP BROWNING'S PRAYER

Mr. MATSUNAGA. Mr. President, Bishop Browning's prayer expresses for all of us the agony of the human spirit while pointing us toward an appreciation of the eternal glories of creation which can bridge for us the chasms of despair.

It is appropriate that our man of God this morning is the presiding bishop of the Episcopal Church of the United States, who has just come to Washington from Honolulu and his home diocese of Hawaii. There the loss of the *Challenger* space shuttle is not only the enormous shock that it is nationwide, but also by virtue of Lt. Col. Ellison Onizuka, a death in our community family of a hometown hero who was one to be emulated and now venerated.

As my own bishop, since I claim to be an Episcopalian, Bishop Browning has offered prayful words which have provided consolation for me this morning, Mr. President, and solace for this entire body and a grieving Nation and world.

Mr. DOLE. Mr. President, I thank my distinguished colleague from Hawaii for his remarks.

I am very pleased to have Bishop Browning here with us this morning.

SCHEDULE

Mr. DOLE. Mr. President, under the standing order, the leaders have 10 minutes each, followed by a special order for the distinguished Senator from Wisconsin, Senator PROXMIRE, and then we have routine morning business until noon, with a 5-minute limit per Senator, and at noon we go back on Conrail, S. 638.

Today we will be having votes. I would hope we would have a number of votes to try to get somewhere near the end of this rather important matter.

We are now in the second week, and there are a number of other issues that we would like to bring before the Senate.

I know the distinguished manager, the Senator from Missouri, Senator DANFORTH, shares that view.

Mr. DANFORTH. Mr. President, if the leader will yield, he is quite correct. I think that this week, maybe next week, marks the 1-year anniversary from when we received the proposed sale of Conrail from the Secretary of Transportation.

We have had numerous hearings in the Commerce Committee and the Judiciary Committee.

This matter has now been on the floor of the Senate for a week. I believe we had one vote and that was a cloture vote on the motion to proceed, and that is as far as we have gotten.

I do hope we can make some progress today. It is going to be a watershed day because the initial vote will in fact determine whether or not we are going to have a Conrail bill.

I think that the leader made it clear yesterday to the Republican Senators, and I wonder if he will state his views today. If the motion to waive the Budget Act does not prevail and if instead the point of order is agreed to by the Chair, what would be the effect, as the leader sees it, on the future of a Conrail bill?

Mr. DOLE. As I see it now and as I indicated yesterday in our policy luncheon, it will probably mean the end of consideration of the bill for some time.

There has been almost endless delay in consideration of this matter anyway. If we cannot sell an asset, we might as well give up on us reducing spending around this place, and many have already.

Mr. DIXON. Mr. President, will the majority leader yield?

Mr. DOLE. No.

I would suggest that those who have amendments should offer their amendments. We should vote on them. We should get on with the business.

We are well into the session. I would just hope that we could complete action on Conrail.

I did not want to get into discussion of Conrail right now. I would be happy to have Members who want to discuss it do so.

125TH ANNIVERSARY OF KANSAS STATEHOOD

Mr. DOLE. Mr. President, I wish to insert in the RECORD at this point and note the fact that today is the birthday of the State of Kansas, 125 years ago.

Mr. President, it was a century and a quarter ago that this Congress passed legislation—signed into law by President James Buchanan—which permitted Kansas to join our Union as a State.

Today we observe what is known as Kansas Day—the 125th anniversary of the Sunflower State as a partner in these United States.

The celebration today may be muted as we reflect on the Nation's tragedy of yesterday. Yet while we quietly ponder what the future holds, we gain strength from the motto of Kansas itself: "Ad astra per aspera," "To the stars through difficulties."

Although we lost no Kansans in yesterday's tragic accident, obviously the people of Kansas share in the Nation's grief because we do have native sons who have raced to the stars as participants in our country's Space Program.

Apollo Comdr. Ron Evans was born in St. Francis, KS. Shuttle Comdr. Joe Engle came from Chapman, KS. And another shuttle astronaut, Steve Hawley, comes from Salina, KS.

Even before these brave men soared through space, another Kansan—a woman—long ago served as a pioneer in flight. And, like the courageous educator who left us yesterday, she too never returned. Amelia Earhart of Atchison helped pave the way to the stars.

But these are not the only men and women of Kansas who have contributed greatly to our country. The list is long, and on this 125th anniversary of Kansas' birthday, we remember William Allen White, Charles Curtis, Dwight Eisenhower, and Jim Ryun. We remember, too, the scores of lesser known sons and daughters who in their own time and their own way also reached to the stars.

And in their wake, through difficulties—indeed, through great sacrifice and at times with tragic personal consequences—Kansans have made our State, our Nation, and our world a better place. Out of the soil of Kansas, from its vast prairies and out of the stars, have come a unique people destined to lead the way.

The region that is now Kansas had for thousands of years been inhabited by native Indians before the first white settler appeared. Some 80 years before the Pilgrims landed at Plymouth Rock, Spanish Conquistador Vasquez de Coronado explored for gold in Kansas.

French military and trading posts were established in Kansas by the early 18th century, and within another century the Santa Fe and Oregon Trails crossed through Kansas to open up the western wilderness to a young country.

The Pony Express began in Kansas. No other State sent a higher percentage of its young men to help save the Union during our Civil War. The first American Indian to serve as Vice President, Charles Curtis, came from Kansas. The Sunflower State serves as the breadbasket for the world.

Yes, we have our challenges today. But on this 125th anniversary of Kansas Day, I share the confidence of the people of Kansas who know these challenges can be met. Our motto, "Ad astra per aspera," serves as our rallying cry, for we will get to the stars, even through difficulty.

Mr. President, while we look forward in our State to celebrating additional birthdays, I wish to share the confidence of the people of Kansas along with the rest of the American people who know we can meet the challenges ahead and, as I have suggested, their motto in itself is not only symbolic but it is a challenge for all of us to do the very best we can in whatever we may do.

Mr. President, I reserve the remainder of my time.

(Mr. KASTEN assumed the chair.)

Mr. DIXON. Mr. President, will the majority leader accommodate this Senator to answer one question?

Mr. DOLE. Yes.

Mr. DIXON. May I say to the majority leader, I believe he knows I have not been supportive of the idea of a filibuster against Conrail. I recognize a cloture motion has been filed. My staff indicates to me that there could be problems with respect to germaneness of my antitrust amendment, which is an important amendment, should we not have sufficient time before we get to the cloture vote.

Now, as the majority leader knows, there are about four major amendments. I am perfectly willing to go to these things and I am willing to have time limits on these things, may I say to the majority leader. We can have votes and if we are beat, we are beat. I have no problem with that.

But can the majority leader give us some assurance, or can he, through the chairman of the committee, the distinguished Senator from Missouri, give us some assurance that germaneness questions will not be raised? I can file other amendments, but I would like to not have to resort to that because the correct amendment is the amendment I am prepared to file.

Mr. DOLE. Mr. President, I believe, if other Senators are willing to do the same as the Senator from Illinois has always been willing to do, we will not have that problem and we will dispose of the amendments. But if others wish to delay the bill, obviously that presents another problem.

But if there is a good faith effort to accomplish this and deal with the four amendments, I certainly think we can work out something to satisfy the Senator from Illinois.

Mr. DIXON. I am prepared to submit mine and have a time limit on it and dispose of it at any time today, may I say to the majority leader. But I would appreciate his courtesy and that of the chairman very much to not get me into a problem about germaneness later. The issue is well known. It has been discussed at length.

Mr. DOLE. I am not managing the bill, so I am not certain if anyone has requested to be recognized to offer the next amendment, but the Senator from Illinois might discuss that with the Senator from Missouri. After we dispose of the motion, depending on what happens to that vote, then the bill is open for amendment. I do not believe anyone has been promised that their amendment would be brought up. At that time, maybe the Senator from Illinois can bring up his amendment.

RECOGNITION OF THE MINORITY LEADER

The PRESIDING OFFICER. The Democratic leader is recognized.

IN MEMORY OF SEVEN HEROES

Mr. BYRD. Mr. President, nearly four centuries ago, John Donne wrote:

> No man is an island, entire of itself; every man is a piece of the continent, a part of the main; . . . any man's death diminishes me, because I am involved in mankind; and therefore never send to ask for whom the bell tolls; it tolls for thee.

Yesterday, millions of Americans, as they have so often in recent decades, felt the universal truth of those words. Together, we have relinquished a mutual national pride in the bounding successes of our space program. So great had our confidence grown in our extraterrestrial exploits that few of us were prepared for yesterday's tragedy.

But as untold millions of us witnessed the death of seven of our exceptionally gifted and courageous fellow-Americans, we were reminded of the dangers inherent in this great effort. And more important, perhaps, we felt again our common, treasured American-ness. Most of us did not know Francis Scobee, Michael Smith, Ronald McNair, Judy Resnik, Gregory Jarvis, Ellison Onizuka, or Christa McAuliffe personally, but around the country the pain of their deaths was akin to that experienced by many at the passing of a family member or a friend. And as the hours wore on and more information was shared with us about their individual achievements and accomplishments, our sense of loss—the frustration coming from the destruction of so much talent and brilliance—that sense of loss waxed larger. All of us, as individuals and as Americans, felt diminished by yesterday's tragedy.

Part of America's destiny, however, is to be a cutting edge of mankind's larger destiny. Throughout our history, being an American has often demanded some kind of risk. In generations past, numberless men and women, who took their lives into their own hands to cross the oceans to come to America, never made it. Most of those men and women realized the hazards involved in leaving the relative certainties of the Old World to come to the uncertainties of this land. But the possibilities of the American endeavor promised too great rewards to keep them on safer shores. That was the courage that built this Nation.

We saw that courage again 24 hours ago. The seven whom we lost yesterday were aware of the hazards of contemporary space exploration, even if others were not. Nevertheless, they were willing to lay their lives on the line to push back the borders of the unknown. Those seven, perhaps, real-

ized, as did many of our forebearers, that being an American is to live ever on new thresholds, that a pioneering people will always search for untried frontiers.

Their witness cannot be lost. Through a glass darkly, prophets tell us that space is our next destiny. And if Providence is with us, Americans will be in the vanguard of those who reach out into the universe, of those who plant human footprints on the dust of distant planets. But wherever we go, the memory of those seven heroes—those seven giants—whom we lost yesterday will go with us.

THE PILGRIM

Man comes a pilgrim of the universe,
Out of the mystery that was before
The world, out of the wonder of old stars.
Far roads have felt his feet, forgotten wells
Have glassed his beauty bending down to drink.
At altar-fires anterior to Earth
His soul was lighted, and it will burn on
After the suns have wasted on the void.
His feet have felt the pressure of old worlds,
And are to tread on others yet unnamed—
Worlds sleeping yet in some new Dream of God,

CRITICAL MINERALS DEPENDENCE

Mr. BYRD. Mr. President, in May of last year, I offered a successful amendment to the Defense Department authorization requiring that the Defense Department report to the Congress on the impact of the loss of ferroalloy production capacity on the Nation's industrial base. Since 1978, we have seen ferroalloy production capacity decline by more than 50 percent. Late last year, another plant—the Foote Mineral Company operation in West Virginia—closed as a result of imports from abroad.

Why is this loss of capacity important? The ferroalloy problem is not a West Virginia jobs issue alone. These vital alloys are used in hundreds of special metals applications, from jet engines to computer chips.

In the January 22, 1986, issue of the Christian Science Monitor, a report on our mineral dependence on South Africa reminds us that we have become vulnerable because of imports of several of these crucial metals.

How can we reduce this dangerous dependence and assure adequate domestic supplies in the event of an emergency or supply disruption? A recent Office of Technology Assessment report points to the answer by noting that "a strategy for diversification of supply should consider whether the processing of these ferroalloys is also to be diversified or whether domestic processing of the ores into their allow form is to be encouraged." We learned during the oil crisis of the early 1970's that raw materials can be stockpiled, and can be bought even in times of supply disruption. But, if we do not have the capacity to process raw materials—whether crude oil or ores—then we put our domestic production base at risk.

So we lean upon South Africa for this vital element in our national defense. Of course, we could go to the next major supplier, the Soviet Union—maybe—we could, depending upon where the problem is, what the problem is, and with what country we have the problem. So if the United States were to be in a conventional war at some point throughout the world against Soviet forces or against Soviet-supported forces, then could we depend upon the Soviet Union to supply us with these vital materials?

The European community and Japan have comprehensive programs to assure the survival of their ferroalloy production capacity. But the United States remains vulnerable because of its failure to guarantee an adequate ferroalloy production base.

I ask unanimous consent that the article from the Christian Science Monitor of January 22, 1986, entitled "United States Sizing Up Alternatives To Skirt South Africa for Critical Metals" be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Christian Science Monitor, Jan. 22, 1986]

UNITED STATES SIZING UP ALTERNATIVES TO SKIRT SOUTH AFRICA FOR CRITICAL METALS

(By Andrew Collier)

South Africa supplies the United States with four metals used in everthing from soap dishes and car bumpers to the turbine blades in jet engines.

Without these metals, the soap dish would rust, the bumper would lose its shine, and the turbine blade would crack.

Although an embargo or slowdown in the flow of these metals does not seem imminent, political unrest in South Africa is causing manufacturers and government leaders to examine United States reliance on that country for chrome, platinum, managenese, and cobalt (the latter of which is transported through South Africa from Zaire and Zambia).

South Africa, the Soviet Union, and Zaire account for more than half the world production of chrome, cobalt, managanese, and the platinum group metals, according to the congressional Office of Technology Assessment (OTA). The Soviet Union is obviously not a prime alternative supplier to the United States, since the metals are often used in defense-related goods.

HOW TO PREPARE FOR A SHUTOFF

In 1984, South Africa produced 47 percent of the nonsocialist world's chrome, 40 percent of its manganese, and about 80 percent of its supply of platinum. Zaire and Zambia in 1982 produced 58 percent of the world's cobalt.

Both chrome and cobalt increase the strength and hardness of steels used at high heat—important in jet engines. Chrome reduces oxidation and provides a shiny finish to steel. Stainless steel is partly made of ferrochromium, an alloy.

About 90 percent of the manganese used in the United States goes into steel as an alloying agent to prevent the buildup of iron sulfides, which affect steel's strength and brittleness. This is equally true of garden-variety steels in ordinary objects and of high-strength, low-alloy steels used in cars and other products.

The platinum group metals, which include platinum, palladium, rhodium, iridium, osmium, and ruthenium, are essential to catalytic converters that reduce exhaust emissions in cars. They also assist in the catalytic functions in oil refining and are found in switching systems for telecommunications.

There are two alternatives in preparing for a shutoff of these metals: Stockpile enough to tide the country over what most believe would be only a one- or two-month suspension; or develop new materials and recycling capabilities now that could be adopted quickly.

These alternatives depend, in turn, upon how easily each metal can be substituted and how ready the economy is to accept vast changes in its consumption habits.

Analysts agree chrome would be the hardest to eliminate from the U.S. materials diet. According to a Shearson Lehman Brothers publication: "The world industrial economy would be hard pushed to operate at normal levels without stainless steels. There are alternative alloy steels, but they tend not to have the same qualities as stainless steels in such areas as corrosion resistance."

Arden L. Bement, vice-president of technical resources at TRW Inc., a defense contractor, notes that "in some critical applications it's very difficult to find substitutes to do what chrome does without trading off performance."

Iron-aluminum alloys, though more brittle than chrome alloys, work well in low- to medium-temperature applications, he says. Overall, however, this alloy lacks the strength and resistance to fatigue that chrome alloy has. Chrome combines corrosion resistance with mechanical advantages.

Manganese is added to most steels. It provides toughness and prevents the buildup of sulfur and phosphorus. Mr. Bement suggests that the move to cleaner steel by using a high degree of refinement and accuracy in the melting process could go a long way toward reducing the need for manganese. The OTA predicts that these processing improvements could lessen manganese demand by 45 percent by the year 2000.

Platinum group metals are widely available as scrap in automobile catalytic converters and from electronic parts. The expense of collecting and separating the scrap from other materials keeps it from becoming an easy substitute for imported pure platinum. But an increasing amount of it is being recycled.

The United States also has significant deposits of these metals in Montana which could supply between 2 and 3 percent of world production, according to the OTA.

A variety of new alloys have sprung up as a substitute for cobalt since unrest in Zaire in 1978 caused a brief but alarming jump in its price. But each new alloy requires years of testing and certification by the Defense Department when it is used in armaments.

The OTA study said the U.S. can increase the government's stockpile of these strategic metals or reduce dependency through conservation, new production, or substitution.

ROUTINE MORNING BUSINESS

Mr. THURMOND. Mr. President, I ask unanimous consent that there now be a period for the transaction of routine morning business until 12 noon with statements limited to 5 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

SPACE SHUTTLE "CHALLENGER"

Mr. THURMOND. Mr. President, our Nation has now had 1 day to reflect on the tragedy of the space shuttle *Challenger.* We have seen the films of this nightmare, and the anguished faces of the families, friends, and colleagues, of these brave Americans.

As I have contemplated yesterday's events, it is my opinion that the death of Christa McAuliffe makes this tragedy even more personal and painful to us all.

If I were to compile a list of the most unforgettable, character-building individuals in my life, I know that such a list would contain the names of several of my teachers. I do not believe that my devotion to these teachers is unique. On the contrary, I believe that the strength of feeling Americans have for teachers is common. Accordingly, when we saw Christa McAuliffe enthusiastically tell the Nation to watch her teach class in space, we saw more than just Christa McAuliffe. We also remembered that same enthusiasm in our favorite grade schoolteacher.

Thousands applied to become the first teacher in space. Christa McAuliffe was chosen from 10 finalists. When she was selected she told the other finalists: "When that shuttle goes, there might be one body, but there's going to be 10 souls that I'm taking with me." It is very characteristic of the first teacher selected to travel in space to be so unselfish, and to make her peers, who were not selected, feel as if they would always be a part of her journey. The teachers I remember also displayed this strength of character.

It seems to me that it takes a special type of person to be a teacher. They are not people who are interested in self-aggrandizement. Wealth is not their goal. They are energetic role-models for our youth. Their desire is to serve, and to spread the enthusiasm for learning to their students.

With all the pain our Nation has suffered in the last day, it is easy for other feelings, like pride, to be suppressed. As we pray for those closest to the crew members of the *Challenger,* and in the midst of the pain we all feel regarding this tragedy—let us also take this opportunity to express our pride. We are proud of the bravery and the outstanding character exhibited by each member of the crew during the course of their lives. We are proud of the entire Space Program. We are proud of our astronauts, and in this time of reflection—we are very proud of the American teacher.

ELIE WIESEL, THE HOLOCAUST, AND THE GENOCIDE CONVENTION

Mr. PROXMIRE. Mr. President, Elie Wiesel, Chairman of the U.S. Holocaust Memorial Council, returned to Germany last week, almost 41 years since his release from the Buchenwald concentration camp. The purpose of his visit was to continue his effort to keep alive the memory of Nazi horror.

The story of the Holocaust remains difficult to tell. Yet, as Mr. Wiesel has eloquently stated in his novels and speeches, it is a history of suffering that must be told. How can the victims describe the horror of being selected for extermination, the nightmare of the unending hunger, or the despair of being torn forever from loved ones?

The abandoned concentration camps of Europe stand as mute reminders of these crimes against humanity. Some, such as the camp at Auschwitz, have been developed into museums, so that visitors will not fail to see the crematorium or the mass graves. But do the cleaned and manicured grounds, or the shrines erected in memory of the dead tell the whole story? The words and actions of spokesmen such as Mr. Wiesel bring dignity that was never accorded to the innocent victims, but can his words ensure that these crimes will never again be repeated? For is not the purpose of the recollection and study of the Holocaust but to prevent the repetition of such horrible crimes?

Mr. President, should we simply applaud Mr. Wiesel's efforts? No, Mr. President, we must take action to confirm the gains made on behalf of the persecuted. The Genocide Convention is not merely a symbolic eulogy of the Holocaust. This treaty offers a step that America can take to prevent the repetition of the ghastly Nazi war crimes. Is genocide simply a lamentable fact of our past? How can we sympathize with Mr. Wiesel's cause without taking action? The Genocide Convention establishes the mechanisms for action whenever the world is threatened again by such crimes. Never again should we stand by and allow the suffering expressed by the victims of the Holocaust to be experienced.

STAR WARS SPENDING UNFAIR TO MOST STATES

Mr. PROXMIRE. Mr. President, for the past 2 years, those of us who are opposed to star wars have attacked it for many reasons including the following:

First. It will threaten and perhaps destroy the credibility of the superpower deterrents that have kept the nuclear peace during the 40 years of the nuclear age.

Second. It will not work. A preponderance of independent scientific competence contends that whatever technological progress SDI or star wars makes will be matched and overcome by a corresponding technological progress for offensive nuclear missiles capable of penetrating the defense.

Third. It will set off a furious arms race between offensive and defensive nuclear weapons that will steadily increase the fear, the danger, and the likelihood of a fatal accident that could trigger the disaster of a full-fledged nuclear exchange.

Fourth. It will cost between half a trillion and a trillion dollars, to begin with. And that is truly only a beginning. It will provoke an endless spiral of defensive and offensive counterexpenditures that will drive Federal spending out of sight.

Fifth. It will bury any prospect of arms control. That will obviously start with the destruction of the Anti-Ballistic Missile [ABM] Treaty. Star wars will be a direct and complete repudiation of that ABM Treaty. But that will not be all. Star wars will also finish off the Strategic Arms Limitation Treaty [SALT II]. That treaty expired January 1, 1986. It cannot be effectively renewed as long as the SDI proceeds because the Soviets could not and would not agree to limit their offensive missiles as SALT II requires, if such a limitation would make star wars a potential success.

Somehow, all of this is known by the Congress and the informed American public, but star wars plows on anyway, with multibillion-dollar appropriation after appropriation.

Maybe, Mr. President, another element in star wars will shake Members of the Congress awake. Within a few years this will be the most expensive project in human history, at any time anywhere. This happens to be precisely the time when Gramm-Rudman-Hollings is forcing the Congress to reduce every project in sight, including drastic reductions in the military itself.

Since star wars will certainly provoke a sharply stepped up race between offensive and defensive arsenals, it will, as time goes on, impose an immense burden on the taxpayers of every State and where will that money be spent? A few States will enjoy a massive increase in personal income and jobs that will greatly exceed the amount they pay to the Federal Government to bankroll SDI. But for the great majority of States star wars will be a huge economic loser. A review of star wars contracts in 1983 and 1984 showed that just four States—California, Washington, Texas, and Alabama—received literally 90 percent of

all star wars funding. That is right, Mr. President, four States received 90 percent of the star wars dollars. Forty-six States were very big net losers. This is sure to continue to be the case as time goes. Why? Here is why: The Reagan administration has now adopted a policy to farm out increasing billions of star wars research dollars—all of which are paid by American taxpayers—to foreign countries. The United Kingdom recently signed an agreement with this country. The agreement was kept secret. But the reported demand of the United Kingdom was for a $1.5 billion share of all star wars funding over the next 5 years. The administration can be expected to show the same generosity to West Germany, Japan, France, Italy, and others. The expenditures come exclusively and entirely from American taxpayers. There has been no indication of any funding contributions from the United Kingdom or any other foreign country.

So, Mr. President, the residents of my State and most of the other States will be left providing billions of dollars over the years for this program with far less coming back than what will be going out. If this were a program that had the wholehearted support of the scientific community as an efficient way of protecting our country, Wisconsin citizens could be expected to pay their Federal taxes to support the program even though none of the funding of the program came to the State. But with a program that virtually every informed and independent scientific expert says cannot work, there is no way this Senator can do anything but oppose this folly with all my heart. Wisconsin taxpayers will pay out billions of dollars over the years. Wisconsin industry will surely suffer because of this drain of our capital. Our State will receive nothing in the way of job opportunities because of this payment in the next few years and far less than it pays out over the many years of the program. Mr. President, I can just see a Wisconsin U.S. Senator in 1990 and 1995 and in the year 2000 trying to answer to his constituents for the gaping discrepancy between the taxes paid to the Federal Government and the jobs and personal income returned to the State. I can tell you it is tough, very tough, to explain that right now. Star wars will make this much worse.

Think of the injustice. The Minister of Defense in the United Kingdom has signed an agreement with the United States for the United Kingdom to receive billions of dollars of the star wars work that will be financed by the taxpayers of Wisconsin and the rest of the United States. The only cold comfort for the United States is that it has so much company among other States. Except for the four States that will secure 90 percent of the star wars money, other States will be strictly losers.

And that is not all. The top 10 contractors—I am not talking about States now, I'm talking about defense contractors on this program. These few big defense contractors received 87 percent in dollar value of the awards through January 1985. What does that leave for small- and medium-size business? And that concentration spells real trouble for the great majority of American businesses that will pay taxes to support this program. SDI will control 20 percent of all venture capital from all sources, public and private, in the next 4 years. This program also means far less of Government funding of research and development will go for health and for improvements in technologies that will advance the general efficiency of American industry. In 1980 the military took 50 percent of all Government funding of research and development. In 1986 it will take 73 percent. If this program continues by the middle of the 1990's, the military will take 90 percent.

THE MYTH OF THE DAY: MEDICARE COVERS 100 DAYS OF SKILLED NURSING HOME CARE

Mr. PROXMIRE. Mr. President, the myth of the day is that Medicare actually provides 100 days of skilled nursing home care to beneficiaries.

If you look at any catalog of Medicare benefits, you will see that Medicare beneficiaries are entitled to 100 days of care in a skilled nursing facility [SNF] following discharge from a hospital if it is warranted by their medical condition. The first 20 days are free of charge to the beneficiary, and for each day beyond the 20th day the beneficiary must meet a daily copayment set by law at one-eighth of the Medicare hospital deductible.

What is not readily apparent in reading that explanation is that the nursing home copayment for the first time this year will begin to exceed the actual cost of a day of care in a nursing home to the Medicare Program. And where the daily out-of-pocket cost exceeds the actual cost of care, you have no benefit at all which means that the Medicare nursing home benefit, in effect, has become a 20-day SNF benefit.

This year the nursing home copayment will be $61.50 beginning on the 21st day of care. But the latest figures from Blue Cross-Blue Shield show the average cost to Medicare in Wisconsin last year for a day of nursing home care was only $57.68. And today the best guess is in the $60 to $65 range.

Keep in mind that Medicare is paying nursing homes based upon a determination of their costs, not their charges. Yet it seems clear that with a $60 to $65 average, many nursing homes will have costs below the out-of-pocket contribution that Medicare will require of its beneficiaries.

The source of this problem is the Medicare hospital deductible. By law it is set at the average cost of 1 day in the hospital, and the nursing home copayment is set at one-eighth of that amount.

But the hospital deductible has become a casualty of the very success of the new DRG system for hospital inpatient care. This new system has promoted earlier discharges and outpatient care for simple surgery and procedures leaving in its wake a growing number of empty beds which remain a part of the hospital's fixed overhead in the short term. In addition, the Medicare patients who remain in the hospital are on average sicker than those in prior years; the easier cases are no longer in the hospital. Therefore, the average cost of a day in the hospital has jumped from $400 last year to $492 this year, and the out-of-pocket costs of the elderly have risen by 23 percent this year as a result.

While the impact of the increased deductible on hospital care has been widely publicized, there has been little attention to its impact on the nursing home copayment. This is unfortunate; it means that Medicare's promise of 100 days of nursing home care is rapidly becoming a myth. And no one is even talking about it.

CBS REPORTS: "THE VANISHING FAMILY—CRISIS IN BLACK AMERICA"

Mr. KENNEDY. Mr. President, last Saturday, CBS Reports broadcast one of the most extraordinary documentaries in the history of television. Bill Moyers' program, "The Vanishing Family—Crisis in Black America" presented an unusually moving and perceptive analysis of the worsening cycle of pregnancy, unemployment, and welfare that condemns millions of black Americans to lives of poverty and despair.

Bill Moyers' analysis is television at its best; it is also a call to action for all of us in public life to undertake the reforms in public policy that are essential if we are to deal responsibly and effectively with this critical problem of our time.

I believe that all of us in Congress who are concerned with this challenge will appreciate the opportunity to see a full text of the broadcast. I ask unanimous consent that a transcript of Mr. Moyers' program and of the panel discussion that followed it may be printed in the RECORD.

There being no objection, the transcript was ordered to be printed in the RECORD, as follows:

"THE VANISHING FAMILY—CRISIS IN BLACK AMERICA"

BILL MOYERS. Tell me, raise your hand if you're married.

None of you are married.

Raise your hand if you would like to be married to your baby's father.

One.

[Laughing.]

MOYERS. The rest of you don't plan to get married. Why don't you plan to get married? I'd like to know that.

LA DON. You already have your child to think about, and then a whole family to care for, you know—it's a lot of responsibility. And then you don't want the commitment.

CLARINDA HENDERSON. I wouldn't want no man holding me down, because I think I could make it as a single parent.

MOYERS. But don't you think you might need help in raising that baby from a man?

LA DON. Not really. I didn't have a father. My father wasn't in the home. So, you know, it really . . . male figures are not substantially important in the family.

[Music.]

TIMOTHY MCSEED. I ain't thinking about holding up as far as no sex, my man, you know. If a girl, you know, she's having a baby, carryin' a baby, that's on her, you know. I'm not going to stop my pleasures because of another woman.

MOYERS. What about birth control? What about condoms?

TIMOTHY. I haven't . . . girls don't like them things! They don't like them things. They'll tell you to take them things off. They figure that you sayin' that they filthy or they dirty or something.

MOYERS NARRATION. It's been a startling change in values.

Twenty-five years ago, you would not have heard such things said so freely, because they were not embraced so widely. The strong family was still the backbone of black America, and three out of four children had both parents at home. That is true no longer. Most black children are now growing up without their fathers.

The result is a world turned upside down, as children copy what they see and repeat what they learn.

[Baby crying.]

NARRATION. La Don says she didn't have a father in her home, and doesn't think her children need one. She's not unusual. Half the black families today are headed only by a woman.

Clarinda said she could make it on her own as a single parent. She has never been married, and is raising her daughter without a man's help. She's not unusual. Today, nearly sixty percent of all black children are born out of wedlock.

Timothy said his children are not his responsibility. He has left them to be supported by their mothers and welfare. He's not unusual either.

For La Don and Clarinda and Timothy, and many more like them in cities all over America, the traditional family no longer exists. It has vanished, and something new is taking its place. Single women and the children they're rearing alone are the fastest growing part of the black population. What becomes of the black family in a world where the values are being turned upside down?

CAROLYN WALLACE. If the parent is seventeen and eighteen, uneducated, unmotivated, fooling around, wanderin' around—what's the child gonna learn? Who's to teach them? When you learned something, you was taught by your parents. It was reinforced by school and your neighbors, but it was taught by your parents. Well, if the parents don't know anything, how are they gonna teach the children? So it's not racism that I'm fighting right now, it's the lack of motivation. See, I'm not even talking about racism, maybe later on we'll get back to that. But I think we're destroying ourselves.

THEME MUSIC AND TITLES

ACT I

MOYERS ON CAMERA. This is Newark, New Jersey, one of America's inner cities. "Inner city" is a polite name for ghetto, as in black ghetto. Those of us who don't live in the ghetto are brought here usually by television, and usually only when there are violent pictures to show. But we have to come here if we want to understand those fearsome statistics about the vanishing black family. Now a lot of white families are in trouble, too.

Single parent families are twice as common in America today as they were twenty years ago. But for the majority of white children, "family" still means a father and a mother. This is not true for most black children. For them, things are getting worse. Today, black teenagers have the highest pregnancy rate in the industrial world, and in the black inner city practically no teenage mother gets married. That's no racist comment. What's happening goes far beyond race. Why then do so many teenage girls get pregnant and have children? Why do so many fathers abandon their families? The answers begin with the people here. They told us what happens to family when mothers are children, fathers don't count, and the street is the strongest school.

[Radio, Music, Laughing.]

CLARINDA HENDERSON. OK, OK. Bye/bye.

NARRATION. It is the beginning of another school day in Newark, New Jersey. Another day of class for Clarinda Henderson. She is seventeen, and had hoped to graduate from high school next year. But that was before the birth of her baby.

CLARINDA. I think that having a little baby you could just cuddle in your arms, and just hug all the time, kiss on it, smell, 'cause it smells so sweet. I thought it'd be fun until I had her.

MOYERS. The reality is different?

CLARINDA. The reality just punched me right in the eye. I like had to pinch myself to see if I was here, 'cause I was like, "This is too much."

NARRATION. Clarinda was only fifteen when she got pregnant with her daughter, Shaquna. She is not unusual. Half of all black teenagers become pregnant. Clarinda has never been married; she's still living with her mother at home, where she's raising her baby daughter.

Clarinda goes to a special school for dropouts, after she takes her daughter to a day-care center. She has fifth grade math skills and reads at a sixth grade level.

CLARINDA. When I got pregnant, I said, "Well, I'm gonna have this baby, and she's not gonna stand in the way of my education, I'm not going to let no one stand in the way of my education. I ain't gonna be like these other girls, just drop out, can't get no job, no money, have to be on welfare.

TEACHER. When you're ready on the vocabulary. Bingo.

NARRATION. Clarinda learned about birth control in sex education courses. But she still became pregnant.

MOYERS. Do you think it was a mistake?

CLARINDA. I'll say no. Because I wasn't on, in the, you know, birth control method, and neither was he, and, you know, and we were sexually active. And when it happened, it just happened.

MOYERS. When you think back on that day when you learned you were pregnant, what went through you mind?

CLARINDA. Oh, gosh, how'm I gonna tell my mother? And when I tell my mother, she's gonna make me get an abortion. I was really scared, I think.

MOYERS. Why didn't you want to get an abortion?

CLARINDA. Because I wanted his baby.

MOYERS. What did you like about him?

CLARINDA. His legs.

MOYERS. His legs?

CLARINDA. I got a thing for bow-legged boys.

MOYERS. Bow-legged boys? [Laughs.]

CLARINDA. I love 'em. They have some gorgeous legs, I just don't know.

NARRATION. Darren Lyell is the father of Clarinda's baby. He is eighteen, and lives in central Newark. He dropped out of high school when he was sixteen. He has never had a steady job.

[Music.]

DARREN LYELL. I spend most of my time listening to the radio, and I don't go to school, I don't work. I don't do nothing . . . just like this, killing time.

MOYERS. Did you want to have a baby?

DARREN. Not now . . . I . . . no, not really. It just happened, you know . . . she just popped up pregnant . . . and I just, you know . . .

MOYERS. Were your friends impressed?

DARREN. You know, everybody was telling me, you know, that, you know, she look just like me, and, you know, she's kinda cute and, you know, kinda pretty. But . . . and make me feel good.

MOYERS. Sure.

DARREN. Um . . .

MOYERS. Do any of them have babies?

DARREN. That's all they be doing around here. Making babies and stuff. Making babies.

NARRATION. Darren told us in this neighborhood it's easy to get involved with girls, and easy to get into trouble. Darren has been arrested five times—for stealing, suspicion of homicide, and for possession of a deadly weapon.

MOYERS. When were you arrested for carrying a dangerous weapon, what was it?

DARREN. One of those big machetes . . .

MOYERS. Machete?

DARREN. Knives, big knives.

MOYERS. You mean you just carried it around with you?

DARREN. I used to bring it to school with me.

MOYERS. That's, uh, hard to conceal that, isn't it?

DARREN. Nah, 'cause I had like this blue coat, like a blue goose. I poked a hole in the pocket of it, and I just put it right in there.

MOYERS. Isn't that dangerous?

DARREN. That's the way the stuff was going, you know, like that was the way the people was acting towards me. So I felt like I needed a weapon, 'cause, you know, it seemed like, you know, it's like a war, really like Vietnam.

MOYERS. Have you asked Darren to help you with the baby?

CLARINDA. No, because I see he can't even help himself. He can't . . . it's pitiful to say that. But he can't.

MOYERS. He wasn't prepared to be a father?

CLARINDA. No. And he still isn't.

MOYERS. Were you ready to be a mother?

CLARINDA. Well, no. But now that I am, I just have to take it step by step.

NARRATION. Clarinda relies on welfare to support Shaquna. But it's her mother, Gloria Henderson, who gets the check for the whole family. Gloria, thirty-four, has never been married. She was a teenager when Clarinda was born, just as her own mother—Clarinda's grandmother—had been when Gloria was born.

MOYERS. When you were pregnant, did you assume that you could turn to welfare for help after the baby came?

CLARINDA. Well, yeah. But I didn't have her just to collect welfare. I had her because I felt it would have been a part of me; I would of had somebody to live for and also somebody to love, and love me back.

MOYERS. Is your daughter the first person you've ever loved?

CLARINDA. I really, really love my daughter.

NARRATION. Two months after the birth of their baby, Clarinda was pregnant again by Darren. This time, she had an abortion. She didn't think she could handle two little children while still a teenager herself.

MOYERS. Your grandmother was a single woman with a child, your mother a single woman with a child . . . now you. Why is that happening?

CLARINDA. I really didn't plan on getting pregnant. But, if I really had somebody to really sit down and talk to, like really express my feelings to them, I don't think none of this would've happened. But then when it did happen, my grandmothers like, "I told you this, I told you this." You didn't tell me nothing.

NARRATION. Nobody told Darren anything, either. He, too, lives at home with his mother.

MOYERS. Where's your father?

DARREN. Locked up.

MOYERS. Locked up where?

DARREN. Green Street.

MOYERS. What for?

DARREN. Fighting and stuff—fighting, violence and stuff like that.

MOYERS. Had anybody ever told you what it is like to be a father?

DARREN. I like watchin' others . . . other older, you know . . . had kids . . .

MOYERS. What did you learn from them?

DARREN. I learned it like take a lot of, like, patience, take a lot of patience.

MOYERS. Do you have a lot of patience?

DARREN. I don't got a lot of patience.

NARRATION. Clarinda doesn't always have a lot of patience, either.

CLARINDA. You want to fight? Then don't ask me if I want to fight if you don't want to fight.

DARREN. Get off my porch then.

CLARINDA. Don't say to me . . .

DARREN. Get off my porch then, you know . . .

CLARINDA. Come here, Nook.

DARREN. You like goin' out like that . . .

CLARINDA. No, you went out, you shouldn't have said nothing to me. You done already pissed me off.

DARREN. What'd I do?

NARRATION. Two months after her abortion, Clarinda and Darren broke off their relationship. They see each other rarely now. Once in a while, Clarinda will take Shaquna to visit.

MOYERS. Do you ever think about marrying Clarinda?

Why not?

DARREN. Not now. I ain't thinking about that now . . . that's the last thing on my mind.

MOYERS. You ever feel depressed?

DARREN. I don't be feeling . . . I don't be like sad, I just be like frustrated. I . . . be like, really like frustrated.

MOYERS. What are the odds that your daughter will follow the same route? Because there was your grandmother, your mother, and you.

CLARINDA. No, I will see to that. She won't. I will sit down, I will talk to her about her being a young lady, like, "Quna, if you go out here, you have sex, be sure you are on birth control or, you know, if you do have sex, make sure whoever you're having sex with care about you. Don't just let them just get, just let, you know, let them get over on you thinking they got a piece of the action and they can go tell Tom, Dick and Harry.

MOYERS. Did your mother tell you those things?

CLARINDA. No.

MOYERS. You tell them to yourself?

CLARINDA. I talk to myself in the mirror. [Laughs.]

MOYERS. And you say, "No. No."

CLARINDA. "No. No." Like I say to my daughter, "No. No. No more."

ACT II

NARRATION. Alice Sondra Jackson is twenty-three. She's the mother of two, expecting a third, and is not married. She, too, lives in Newark.

Like nearly half of all black children in America, Alice's children are being raised in poverty. They live a subsidized life in subsidized housing. But that's not what Alice wanted or intended.

Alice lives in one of the toughest neighborhoods in Newark, in the project where she was born and brought up. But she hoped that one day she would move out of here. She graduated from high school, went to business college for a year, and worked steadily until she became pregnant with her first child.

ALICE SONDRA JACKSON. You know, I was doing so good before I was pregnant; I had a little job. I kept money, you know, stuff. But after I had the child, that's when money started going low.

MOYERS. What was your reaction when you found out you were pregnant the first time? Did you intend to get pregnant?

ALICE. It wasn't . . . no, it wasn't planned. But when I got pregnant, I wanted it. I wanted to be a mother, you know, it was exciting to me. I just thought I'd having something of my own, a little child that's gonna call me "Mama." But after you have 'em it's hard, you know, you gotta buy them this, gotta buy them that.

[Baby crying.]

NARRATION. Malik is Alice's firstborn. He is now three years old. Soon after he was born, Alice, then twenty, quit her job to take care of him. Sixteen months later, her second child, Antwan, was born. When we met, she was six months pregnant with her third child.

Tim McSeed is twenty-six, the father of Alice's three children. Though they're not married, they see each other regularly.

ALICE. When I first met him, I didn't like him. But when I started talkin; to him, he seemed like he was like a man that wanted to have a home, have children, take care of 'em.

MOYERS. Did you talk with Timothy about how you were going to support the baby when you were pregnant?

ALICE. No, that's what we didn't do. No, we didn't even talk about how we was going to support the child.

NARRATION. Timothy McSeed held his last steady job two and a half years ago. He's been arrested several times on robbery and drug charges. He was brought up in Newark by his mother, who was sixteen when Timothy was born. His father has another family in another city.

Timothy has a talent for drawing, which he has never developed. He dropped out of high school at sixteen and spent two years in the Job Corps. He was twenty-three when he and Alice had their first child. Timothy does not support any of his children.

MOYERS. How many children do you have?

TIMOTHY MCSEED. Six. [Laughing.]

NARRATION. He fathered those six children by four women. He also had two more children by two other women, but one died in infancy and the other was aborted. We asked him about the birth of his first surviving child.

TIMOTHY. It was kind of a funny experience. Because like me and the girl was just messing around, right, and she was involved with somebody else. She used to be an old girlfriend of mine; she managed to get popped up by me.

MOYERS. OK, that's the second baby. The third was . . .

TIMOTHY. Mustafa. He was the third.

MOYERS. That was by another lady.

TIMOTHY. Uh huh. Mrs. Ward. Yes, I go see him every now and then.

MOYERS. How old is he now?

TIMOTHY. He's five, if I'm not mistaken. Five or four, either one.

MOYERS. And then the fourth one was?

TIMOTHY. Simone. I don't . . . I only say her twice. Two times.

MOYERS. What happened to her?

TIMOTHY. It's a family problem. You know, the father didn't want me to see the mother and all that, you know, so I got tired of running behind her, and I found me someone else. I didn't have to sweat it, because I guess the father was taking care of them anyway, so, you know . . .

MOYERS. How did it feel to have those . . .

TIMOTHY. Women?

MOYERS. No, kids. Kids.

TIMOTHY. Well, you see, if it ain't one thing you done—like artwork for instance, you look at your art and say, "This is something that I've done." Just like the carpenter, here's something that you've done. You can see what you've done if it's anything. If you don't do nothing, you can see something, you know, what your life was, you know, it was to you.

MOYERS. So the kids are sort of artwork?

TIMOTHY. Well, not really, But, you know, like they might grow up to be doctors, or actors, you know—and you can say, "Look, that's my boy, that's my girl," you know. Where there's, you know, some people that can't have children at all.

NARRATION. Their mothers raise Timothy's children, and welfare pays for them. On the first day of each month at noon, the mothers gather outside the project's mail room, waiting for the postman to deliver their checks.

ALICE. We call it "Mother's Day."

MOYERS. Why?

ALICE. 'Cause us mothers, we getting our check that day, getting their welfare checks. So we call it "Mother's Day."

[Voices.]

NARRATION. Alice's welfare check comes to three hundred and eighty-five dollars a month. She cashes it at the corner store. She gets another one hundred and twelve dollars in food stamps.

ALICE. I don't think I would have had the second two children if I didn't think welfare was there. I don't like welfare because it makes me lazy.

MOYERS. It does?

ALICE. Yeah, it makes you lazy just to sit around and wait for a monthly check to come in. You know, I just like to work; I like money coming every week or every two weeks.

MOYERS. Why doesn't Timothy help you take care of those kids?

ALICE. One thing I do know about Timothy, that if he did have a job I know he would take care of me and the children and the bills. But what's holding him back—well this is what he tells me all the time—he figure I'm going to be with another guy, or I'm going to slip away from him while he at work. But that don't make no sense to me.

MOYERS. Don't you get mad sometimes?

ALICE. I get mad a lot of times about financially support from Timothy.

MOYERS. What do you say to him?

ALICE. I always say it ain't that hard and get a job, go out there and look for a job. 'Cause I'm sick and tired of just laying back waiting for a welfare check. I say, "This is not how I want to live the rest of my life. This is not the way I planned for my future to be."

MOYERS. Does it make you feel bad that you can't support your kids?

TIMOTHY. Yes.

MOYERS. How do they make it, where do they get the money?

TIMOTHY. Well, the majority of the mothers are on welfare. And welfare gives them the stipend for the month. So what I'm not doing the government does.

MOYERS. What would happen if the government didn't?

TIMOTHY. Guess it would be a big disaster, I guess. Cause you can't give something that you don't have. In order to give, you got to have for yourself.

MOYERS. See, people out there watching are going to say, "Why didn't he think about that before he brought six kids into the world?"

TIMOTHY. Well, the mother had a choice; she could of had an abortion or she could of kept the child. She decided the way that she wanted to have the child, so therefore I guess it's not sweating her or nothing—I mean, it's not bothering her.

MOYERS. You think it's her fault if she gets pregnant? I mean, you popped her.

TIMOTHY. Well, maybe, maybe not. They say, "Mama's baby, Papa's maybe," know what I mean?

NARRATION. A week before their last baby is born, Alice comes for what is only her fourth visit to the doctor during her pregnancy.

ALICE. Yeah, I was very much worried, and I was kinda unhappy being pregnant, you know, to know that I'm having a third child and I'm not doing so good with my two I have already.

NURSE. Miss Jackson? Come with me, please.

ALICE. As you know, the months went by, I just had to deal with it, being pregnant, and knowing it's my child, and I'm going to have a child, and I'm just going to have to support it the same way I supported them.

I'd do better if I could do better.

MOYERS. Is that the last one?

ALICE. Well, I ain't gonna say that, cause I said that when I had my first one. So then I had second one, and I said that with my second one and I had me a third one. So I ain't gonna say that.

MOYERS. Did you think about birth control?

ALICE. No, I didn't even think about birth control. I was afraid of birth control, because I always heard that birth control give you cancer, and all that stuff.

MOYERS. What about Timothy? Did you talk to him about taking precautions, about being careful?

ALICE. Yeah, I talked to him about being careful, about, you know, birth control.

MOYERS. But . . .

ALICE. Umm . . .

MOYERS. But?

ALICE. But?

MOYERS. Did he?

ALICE. No, he wasn't with it.

[Baby crying.]

NURSE. Nine twenty-four.

[Delivery room.]

NARRATION. On Father's Day, Alice and Timothy had their third son—Hakim Lamonte Jackson, seven pounds, seven ounces.

TIMOTHY. Yea, little boy! Little boy!

ALICE. That baby tried to kill me!

TIMOTHY. I'm the king! I'm the king! Hey!

NURSE. That's it, honey.

TIMOTHY. How you feeling now? You feeling all right, sweetheart?

ALICE. No. I feel kind of sore. My stomach . . . pain.

[Baby crying.]

ALICE. Fat face little baby.

You hungry? I know you're hungry.

TIMOTHY. Let me see my little man here.

MOYERS. So many women, so many children . . . do you ever think that maybe you shouldn't do it unless you can be sure you don't have a kid?

TIMOTHY. Not really, 'cause I'm highly sexed. But I have ways of cooling myself down, you know. Because like when you're dealing with one female, and you're not dealing with another female, having sex with her too much is bad, so you have to like, you now, set a schedule when you should do it and when you should not.

MOYERS. You seem to break your schedule sometimes.

TIMOTHY. Well, most women say, "You're a baby-maker." I just got strong sperm, myself. [Laughs.]

MOYERS. Would you have had these kids if you'd thought about them in advance?

TIMOTHY. No.

MOYERS. All were an accident?

TIMOTHY. Yeah. You could say that.

MOYERS. Were you just having a good time?

TIMOTHY. Yeah, a lovely time. I enjoyed myself.

MOYERS. And you didn't think about marrying any of these women except the first one, the first girl?

TIMOTHY. Yes, Well, I'm going to marry Alice.

MOYERS. Sondra?

TIMOTHY. Oh, yes, we're going to get married.

MOYERS. Do you love Sondra?

TIMOTHY. Yes, a lot. A great deal.

MOYERS. Does she love you?

TIMOTHY. The girl crazy about me.

MOYERS. Tell me, why don't you get married?

TIMOTHY. Well, see, I'm old-fashioned. I want a big wedding, that's that. My uncles and my aunts, you know, they all had their little tuxedos, and, you know, I'm going to have mine, too.

MOYERS. I thought you were going to say to me, "Because I can't afford to at the moment."

TIMOTHY. No, that ain't it. Because I'm going to find me something, and I'm going to get something. See, I'm strong in that spot.

MOYERS. When?

TIMOTHY. Whenever. I'm going to keep on trying. I'll never give up.

MOYERS. You know, you feel very responsible for your children, and Timothy doesn't. What does that say?

ALICE. Umm . . . sometimes I think like that I said, "Here I am, I got two children, one on the way"—well, this was before the first one. I'm doing this all by myself, and sometimes, you know, if you sit down and think about that, I know I really get very upset. Cause I don't think he really understands that I'm here, you know, taking care of all this really by myself. If he think like that, I think he'll do something; I don't think he really understand that I'm doing that.

MOYERS. Why do you let him off the hook? Why do you put up with it?

ALICE. Sometimes I be like telling him to leave me alone, it's over with. But every time I do that, when he not with me even the same day or the next day, I feel, you know, lonely without him. So like, you know, I just get angry and say them things, I really don't be meaning 'em.

MOYERS. Do you love him?

ALICE. Yes, I love him.

MOYERS. Does he love you?

ALICE. Yes, I think he love me, too.

ACT III

MOYERS ON CAMERA. There's a famous book about the black experience in America called *The Invisible Man.* Ironically, the young black man today is anything but invisible. He's the one who shows up in the highest unemployment rates. He's right there in the top of the crime statistics. He's the one most threatening to his black neighbors and the one most feared in the mind of white America. Every teenage boy growing up can go either way, but the son of a young single woman in the ghetto is pressured to go the wrong way every time he hits the streets.

MOYERS. What do you see for your future out there? You're how old now?

BERNARD WARDRICK. I'm fifteen, and right now if I keep going like it's going now I really think I'll probably make it, and then again I probably won't have all the things that I really want in life right now. But I think I will have most of the things I want.

[Music.]

NARRATION. For teenagers like Bernard Wardrick and his friends Bosky, "C" and Mike, there are no familiar road maps for the way up and out. It is the street and the media that teach a boy here how to become a man.

Bernard dreams of making it as a rap star. He and his friends have formed a group, "The Educated Three."

ANNOUNCER. I like that. Now here they come, Newark, New Jersey, your own "Educated Three."

[Rap music.]

MOYERS. What is rapping?

BERNARD. To me, it's like poetry, because, you know, I could just sit down and write it. I can sit at the table or whatever or wherever I'm at and I can just think of it.

MOYERS. What does it take to be a good rapper? What's the skill?

BERNARD. You gotta have style, class, and originality. (Laughs) Anybody can rap. You just got put yourself into it, and make it mean something.

[Music.]

NARRATION. "The Educated Three" tell the story of the only life they know—the life of their block. They were born and raised here, in homes without fathers, and most of their time is spent here. The world they describe is no nursery rhyme, as Bernard's friend "C" told us.

"C" [rapping]. "All the people got guns, they're trying to stick up kids while their mother is at home shedding tears. Because the son that she thought she had brought up right is on the streets leading a terrible life. He's walkin' down a road headed for nowhere. From my point of view he don't even care. Because the attitude he has makes him care about nothin' Not his mother, his brother, or even his cousin. He think life is all about for the streets. Bein' a two-time loser and a petty thief. But everybody knows that you're the thief of the week because you're no good for nothin', you swear you're good for somethin'

But, boy, the only thing you good for is frontin'."

MOYERS. You wrote that?

"C". Yeah.

MOYERS. Who'd you write about?

"C". I judged a lot on myself, 'cause I used to be out there, man.

MOYERS. Out there on the street.

"C". Yeah, eighteen years. I've seen a lot happen that I'd never thought I'd see.

MOYERS. When you're out on that street, is it dangerous?

BERNARD. It's dangerous, it's dangerous. Anything can happen to you.

"C". Yeah, but it's how you make it, sure.

MOYERS. Can a guy get killed on the street easily?

"C". Sure. See how you blink your eye? Like that. Yeah.

BERNARD. Can get killed just like that.

NARRATION. The leading cause of death for young black men is murder. One in twenty-one will be killed before the age of twenty-five. Bernard was shot and robbed by two teenagers when he was fifteen. Four months later, he was arrested for carrying a gun. That is not unusual—nearly half of young men in the inner city are arrested before they reach eighteen. Trouble, Bernard told us, waits at every corner.

MOYERS. How does a guy keep from falling into that trap you described in that rap?

"C". If you see everybody else robbin', man, or selling drugs, you supposed, it takes a wise man to learn from another man's mistakes.

BERNARD. The adults gotta set an example for the kids. They see the adults do it, you know, that's what they gonna do too, eventually.

MOYERS. Who would be an example?

BERNARD. My family, my mother.

NARRATION. His mom is Brenda Wardrick, thirty years old, the mother of four children by three different men. She has never been married. She raises her children alone, in a daily tug-of-war with the street.

MOYERS. Tell me something about the street out there.

BRENDA WARDRICK. It's a battle. It's almost like . . . and I think most parents feel the same, that you fear for your children leaving home. They can leave out and walk right across the street and trouble can get in their way.

MOYERS. What's the hardest thing about being a single parent?

BRENDA. It's hard, you know, understanding them sometimes. And they have difficulty understanding me, 'cause I'm a young parent, and sometimes they act like I'm their sister as well as their mother, you know.

NARRATION. Brenda was just fourteen when she became pregnant with Bernard, her first child. Bernard's father was fifteen. By the time she was in her early twenties, there were three more children, each unplanned. To support them, Brenda works on and off as a nurse's aide, but she could not make ends meet without welfare. None of the children's fathers give her any financial support.

MOYERS. I don't understand what happens that causes so many fathers not to take responsibility for the kids they created, or helped to create.

BRENDA. It's easier on their pockets if they can . . . most of the men today don't, you know, assume their responsibilities as they should, not that they can't. They just don't.

MOYERS. Well, I'd get very mad if I were a mother. I think I would.

BRENDA. Oh, I get angry. But getting angry isn't gonna solve anything. And then sometimes, you know, their fathers, they feel like if they're gonna support them then they have to have more time with me. And I don't feel that that's really necessary, you know.

MOYERS. You'd rather take the burden of the children alone than to have to . . .

BRENDA. I wouldn't rather. But I have.

MOYERS. What do your children mean to you?

BRENDA. My friends, they're my world, you know. When I wake up in the morning, see, you know, if you don't have a husband or a man with you, your children are always there. So you have someone to call your own. See, your children will smile when nobody else will.

MOYERS. Do you want your kids to get married?

BRENDA. Sure, especially my daughter. My boys, they'll probably be—whatcha call it—freelancers.

MOYERS. Freelancers? Like their fathers?

BRENDA. Yeah. Maybe, I don't know.

MOYERS. That does seem to be the pattern.

BRENDA. YEAH . . .

WOMAN [Singing.] "Come a long way . . . oh, yeah . . ."

NARRATION. Once a single mother like Brenda would not have been so alone in raising children. She was born here in rural North Carolina, surrounded by an extended Baptist family. But her father went north looking for work, and Brenda was raised in Newark. Many summers she came back south to visit her kinfolk. They still live here, and every year hold a family reunion. With her present boyfriend, Lamonte Banks, Brenda brought her children down for the occasion.

She wanted Bernard especially to see a world different from the streets of Newark.

WOMAN [Singing.] "Jesus fed me when I was hungry . . . Oh, ask the Lord, come a long way."

Thank you.

[Applause.]

WOMAN. That was just beautiful. She told us how we made it to the family reunion.

MAN. Let us pray. "Almightly, all wise and eternal God . . . "

NARRATION. The church was part of the extended family. It was sanctuary, community, comfort—brothers and sisters in faith and consolation.

WOMAN [Singing.] "Oh, what a . . . "

GROUP [Singing.] "Fellowship. What a peace of mind . . . "

BRENDA. Being away from people that you love and care about—these reunions sort of just makes up for the distance, you know, spend a little time, you go back, and you look forward to the next time. Keeps us together, keeps me goin' . . .

BERNARD. I'm lighting this for my great-grandfather, and my great-grandmother, Cora Wardrick.

BRENDA. And I'm hoping my children will get together and give reunions to keep the flow, to keep close with their family.

NARRATION. More than blood, place, and faith held these families together through hard times. There was memory, never more alive than at the old family burial ground. Brenda's three aunts brought her and the kids to see where their roots run—far from the main highway, farther still from Newark.

MOYERS. Did you have to work, work those days in the field?

WOMAN. Sure. We worked in the field. But now, they got so much equipment now, people don't have to work hard now.

MOYERS. What was the hardest?

WOMAN. Pickin' cotton I think.

Pickin' cotton, that was the hardest.

MOYERS. You all really have strong ties here, don't you, to this piece of earth?

WOMAN. Oh, of course, sure.

MOYERS. Is this cemetary all Wardricks?

WOMAN. As far as I know, yes.

WOMAN. This is the Wardrick family.

MOYERS. Now, that would be Bernard's great-great-grandfather?

WOMAN. Right.

MOYERS. What kind of man was he?

WOMAN. Wonderful.

WOMAN. Wonderful.

WOMAN. Wonderful.

MOYERS. Brenda, do you try to tell your kids about the family?

BRENDA. Yes, I do, as much as I possibly can, and whenever I come home I always ask questions. There's a lot that I don't know, and I'm still learning a lot about them . . .

MOYERS. There's a lot you want to know?

BRENDA. Yes, yes, yes. And I want my children to know.

MOYERS. Why?

BRENDA. Because I think they should know who they are, and where they come from, and what we all stand for. And I just get a good feeling when I'm here, you know, and I want to share that with my kids.

WOMAN. Together we stand—divided we must fall.

MOYERS. Together we stand . . .

WOMAN. Yes, sir.

MOYERS. Do you think that's true as a family?

WOMAN. Yes, sir.

MOYERS. It's hard to hold a family together, though, isn't it?

WOMAN. True. That's true.

MOYERS. Think it's harder today than when you were little?

WOMAN. Seems to be. I can remember years ago, when if something happened over here, our family in Virginia was right here.

MOYERS. Everybody pitch in . . .

WOMAN. Right. And now you never hear of that. So now it's up to us to try to keep it together, 'cause this is what we were taught, love and affection. That's the only way we can make it.

MOYERS. Bernard, this is such a change from Newark. What do you think when you're here in this place?

BERNARD. Um, I enjoy coming to visit. But, you know, I wouldn't like to live here, 'cause . . .

MOYERS. Why?

BERNARD. The environment isn't the same. You got about twenty or thirty houses all

on one block, and down here, you know, you've got like a half a mile. (Laughs)

MOYERS. A lot more action up there, right?

BERNARD. Yeah. I enjoy when I come down here, I love to visit, but I wouldn't like to live down here.

MOYERS. What do you think your life would be without if you didn't have these folks here and didn't come to these reunions?

BRENDA. Empty. Maybe almost not belonging somewhere. I just couldn't imagine not having this here, you know.

MOYERS. Of course, you have these reunions, and this place, and these people to fall back on. What do you think your children will have to fall back on?

BRENDA. This is what I'm trying to share with them, so that they will have this, too.

MOYERS. But it's this, not Newark, isn't it?

BRENDA. No, they won't . . . they're, they're missing a lot. Because this is where I was born, and they were born in Newark. I don't think they have . . . they're not as fortunate.

[Music, Street Noise.]

NARRATION. But Bernard calls *this* home and doesn't miss the extended family that means so much to his mother. His notion of extended family is something different—the rap group, friends from the street and Brenda's boyfriend, Lamonte Banks.

Lamonte is thirty-one years old, and much of what has happened over the last generation to the young black man who grew up in a broken family in the inner city is reflected in his experience. Lamonte was raised in Newark by a single mother and grew up on the street. Now he has two children of his own who live with their mother in another part of town.

He works when he can cleaning oil drums, but does not support his children or Brenda's. He has become one of Bernard's acting role models. He told us what it was like to spend his teenage years, as Bernard is doing, in the school of the street.

LAMONTE BANKS. I grew up hard.

MOYERS. Hard?

LAMONTE. I grew up, basically, being the man of my family at thirteen. Mommy was there, but Mommy was like always saying, well, she needed this or it was hard, and, you know, sometimes we'd go in the house and didn't have no food. You know what I mean. And I couldn't take that sometimes, you know. So I would take to the streets.

MOYERS. And?

LAMONTE. And whatever was necessary, so I could bring my mother some type of relief or help.

MOYERS. Steal? Hustling?

LAMONTE. If it took that.

MOYERS. How did you, as a kid, get caught up in that street life?

LAMONTE. Hanging with a crowd.

MOYERS. What happened? Give me some examples.

LAMONTE. I was . . . basically, I was going with this girl, and, uh, at twelve years old, and these other guys liked her, and they jumped me. And I got me a bat, and I put me some nails in this bat, and I taped this bat up with these nails in it. And I went looking for these guys, and each one I caught I hit them with this bat, and I hurt them with this bat, you know.

MOYERS. What happened?

LAMONTE. Um, they parents came to my mother with the police, and they locked me up. And several years later I shot a guy. Out of anger.

MOYERS. Anger?

LAMONTE. Anger. What he had done to me had maybe hurt my feelings, but not so much to the point where I should have did what I done.

MOYERS. What'd he do?

LAMONTE. He spit on me.

MOYERS. And you shot him?

LAMONTE. And I shot him. Not that I probably couldn't beat him, but I was just that angry to the point where I wanted to kill somebody.

MOYERS. And you had the gun on you?

LAMONTE. I had a rifle. Not a gun, a rifle.

MOYERS. Was it normal to carry a gun when you were growing up?

LAMONTE. Yeah, to protect yourself.

MOYERS. What does a kid need to know to be smart on the street, to be a big man?

LAMONTE. To be hateful, to be mean—don't care about the next person. If you get in my way, I don't go around—I go over you.

MOYERS. A doctor told me yesterday that one out of every fifteen kids on the streets in Newark could be dead by the end of this year, there's so much violence.

LAMONTE. It's . . . it's . . . it's a lot, you know.

MOYERS. How are you going to keep Bernard from being one of those?

LAMONTE. Well, basically, Bernard . . . you give him, you give him a strict rule, and hopefully he follows it. You know, he ain't no special child or nothin' like that. But if you tell Bernard something, Bernard will listen, and Bernard will do it.

MOYERS. Is there a tug-of-war between the street and what you imagine yourself becoming one day?

BERNARD. Yes, because I really be hoping to get up out of this. And it be times I be wondering, well, how I'm going to do it, and if I'll be able to do it. But I really think I'll be able to. Because I'm strong.

MOYERS. The street's strong too, though, isn't it?

BERNARD. Yes, it is. It really is. Because it's a lot of things that's out there that be, you know, pull you back. But you stand to do right things, and do the right thing, you can make it.

MOYERS. I actually get the sense talking to Bernard that he's still a little boy struggling to be a man, and is more boy than man.

BRENDA. Yes. Yes.

MOYERS. Do you think he has a chance to get out of here to a good environment? Fresh start?

BRENDA. I hope so. I hope so. And that's all I can say as to hope.

MOYERS. Does your heart sometimes beat twice when you see him walk down those steps and out into that?

BRENDA. Every day. Every day. I wonder if he'll make it, reach his destination safely, and then return back home. My relief is when I hear his key turn in the door in the afternoon, and at least I know he's back home.

ACT IV

MOYERS ON camera. You won't find in these neighborhoods the prime time family of Bill Cosby. There are strong, successful black families in America—families that affirm parental authority and the values of discipline, work, and achievement. But not many of them live here. Still, not every girl in the inner city ends up as a teenage mother. Not every young man goes into crime. There are people here who have stayed to fight for these kids. They're outnumbered by the con artists and the pushers; it's not an even match. But they stand for authority and morality, and they give some of the kids here a bracing dose of unsentimental love.

CHILDREN. P-A-L . . . P-A-L . . .

NARRATION. When their own fathers are missing, kids need someone else to stand in—to practice damage control, lest the streets take over. For these kids, that someone is Detective Shahid Jackson of the Newark Police. He came by his street smarts the hard way.

DET. SHAHID JACKSON. Well, I came up out of the streets, so I know how to get around a lot of that stuff, and I guess the older you get the more you learn. I was fortunate enough coming up that I never got caught. And I grew out of the streets. And yet, I still have some of the street in me.

NARRATION. There was a time when he wasn't sure he would make it off those streets. He was an unmarried father at eighteen, and he had his share of troubles. But he was raised by two parents—his father was a Baptist minister—and they pushed him to make something of himself.

SHAHID. On Sunday morning on my block, you would see each family, almost, coming out, going to church. You know, you don't see that anymore, the family unity.

NARRATION. When he was twenty-one, Shahid Jackson joined the Police Department. Although he handled security for us while we were in Newark, his beat is the kids of the neighborhood, who look up to him as if he were their father. What he can do with them here, he knows, is just warm-up for what they face out of the ring and out of his reach.

SHAHID. You're goin' for the title . . . work, work, work, work, work, work, . . . time!

MOYERS. What have you learned about these kids in those four years?

SHAHID. That they need somebody to love 'em. You know, they identify with us because we don't, excuse the expression, we don't take any crap. You know, you come in here, you gotta be disciplined, you gotta, you know, follow the rules and regulations. Because when they go out of here and deal with life, they gonna have to follow rules and regulations in life.

NARRATION. Self-control and self-esteem—far more important than a good left hook. That's his message to kids like Bernard Wardrick. He's been coaching Bernard for the past four years.

SHAHID. There's like a big brother/father image with me and Bernard. There's been times when he's gotten me mad, and I've spanked him, you know, and his mother knows I'll spank him, and he knows I'll spank him. 'Cause sometimes that's what a kid needs to know.

Freedom is a lot of times destruction. The more freedom a man has, a lot of times he'll just self-destruct. So I try to, you know, keep 'em in a little cage . . . keep 'em in my arms.

MOYERS. A cage or their arms—somebody has to say, "No."

SHAHID. Yes. Somebody has to say, "No, you cannot do this."

MOYERS. A lot of these kids grow up with nobody saying, "No."

SHAHID. Right.

MOYERS. And you think it's important for them to have men around?

SHAHID. Yeah, I think, uh, you know, if you have a one parent family and its's a mother, she can not teach all of the things that a man can teach a son. There's no way.

MOYERS. So where do they learn the routine techniques of just daily work and living? They don't?

SHAHID. Unless they get it from their parents, they'll get it from the streets.

MOYERS. How do these kids on the streets make it?

SHAHID. He could either be a stick-up man, if he stays in the streets. He could be a mugger, he could be a drug dealer. There's so many different things. Like, you get a kid who's a good boxer, and, uh, a drug dealer may say, "Hey, you want to make so much money a day? Just make sure nobody sticks up my man here."

MOYERS. He becomes a soldier for the drug dealer?

SHAHID. Or a strong-arm, you know.

MOYERS. Helping to protect the drug dealer.

SHAHID. Helping to protect him. 'Cause if he can make a hundred dollars a day, or sixty dollars a day just standin' there watchin' something, and, you know, he does it. That's the battle you gotta deal with, you know, that's the war. You try to convince them that stuff in the streets isn't what's in their best interest.

MOYERS. Does it worry you that Bernard could fall into that?

SHAHID. I think that he could go either way. But I think if he does it would be something that would really hurt me. So I don't think I'll let him go that way, you know; he's like a son to me.

MOYERS. What do you think's ahead for kids like Timothy and Alice Sondra?

SHAHID. That's going to be rough. It's like hell where they live, and Alice is sweet as hell, but she loves Timothy. I would say if Alice had a husband that was strong she could do something with her life.

MOYERS. Is a kid like Timothy . . . what happens to a kid like that down the road?

SHAHID. He's like a guy on a trip without a road map. Timothy's just out there. Timothy doesn't know which way he wants to go, what he wants to do. Timothy is a guy with great talent as far as art, the kid can draw anything. But Timothy is a ladies' man.

MOYERS. Is that a point of pride with him, accomplishment?

SHAHID. To him, I imagine, yeah, it's an accomplishment.

MOYERS. Where does he get any money, Shahid? He doesn't work; he told me he hadn't had a job in two years . . .

SHAHID. Oh, Alice gets, uh, assistance I imagine.

MOYERS. Welfare?

SHAHID. Yeah, welfare and stuff. And . . .

MOYERS. That happen alot? The mother gets public assistance and helps a guy on the side?

SHAHID. Oh, uh, I don't know if you would say they help 'em, but, you know, it's a lot of guys that I know that just goes around lookin' for welfare mothers. And they may have six of 'em like that and get a little piece of money out of each of 'em. That's their job, you know, that's their hustle.

MOYERS. What do you think about welfare?

SHAHID. Welfare to me . . . some people need it, you know, I'll be for real—some people really, actually need it. And then others take advantage of it.

MOYERS. Sondra, Alice told me yesterday that she thinks welfare has made her lazy.

SHAHID. Yeah, because it's there. You know that your food is going to be there every month, 'cause with welfare finance come food stamps. Then you get Medicaid to cover your medical expenses. Welfare is doing everything; you're married to welfare. A lot of the women, they more married to welfare than the guys layin' in the bed next to 'em. 'Cause he's just a physical thing. The whole backbone of the family is coming out of downtown or out of uptown offices.

MOYERS. Government offices . . . .

SHAHID. Yeah.

MOYERS. Does this cycle of dependency . . . I mean, what does it do to the values of these kids?

SHAHID. They see it as a game, you know—somebody owes me something, somebody's gonna take care of me. There's not the self-esteem.

MOYERS. What do you think's ahead for kids like Timothy?

SHAHID. Maybe he'll get shot at, he'll pick up a gun to protect himself and he'll get shot at by the police officer pulling it, or he'll get arrested.

MOYERS. Some of these kids are just losers, aren't they? Sad as it is.

SHAHID. I mean, yeah, you you . . . you're born into a dead end. You know, and you're in that rut. If you're born into that cycle situation, how do you escape? That's the biggest question that I would like to answer. See, I just started gettin' these kids to know it.

MOYERS. Why do they have kids so early? Why do these children have children? This is a dead end; that's a perfect description for it.

SHAHID. Well, when . . . when I was growin' up, sex was almost a dirty word. Now, sex is what's happening. You know, they see sex on TV, sex in the movies, sex everywhere, you know. And some girls think it's cute walking down the street pregnant.

MOYERS. Don't you ever get discouraged?

SHAHID. Oh, I get discouraged. I lock people up, I get in fights . . . .

MOYERS. Don't you ever want to walk away from it?

SHAHID. Yes, but I feel like so many people have done that. To me, I hate to lose. I hate to lose. And I never would have started workin' with kids if I . . . you know, for me to walk away from it, I'd feel like I lost.

NARRATION. Dr. George Jackson is a practicing psychologist who teaches at Howard University. He is blind. Three days a week he counsels Newark kids referred to him by the courts and the social workers.

Dr. Jackson cannot see. But he has heard over and over what the breakdown of the family means to children.

DR. GEORGE JACKSON. We see depression, we see terrible anger. We see a lack of expectancy.

MOYERS. What are they angry about?

DR. JACKSON. Children are born, uh, without any understanding as to how to manage their feelings. And its through the training and teaching that these foundations are set. Um, children who are the children of children are not being trained to understand how to manage their feelings. So they want when they want what they want it when they want it—and when they don't get it, they get angry.

MOYERS. I talked to a young man yesterday, thirty now, but he described what happened to him when he was fifteen, how he took a baseball bat to somebody who'd messed with his girlfriend, how he actually shot somebody who had spit on him. What causes that hair-trigger emotion?

DR. JACKSON. If you have no respect for uh, uh life, you then will try to destroy or dismantle another person; it won't matter to you. Such a person doesn't have a conscience. And I think that, uh, again, we don't have the foundations. The foundations weren't set.

MOYERS. We've talked to one twenty-seven year old father, he has seven kids he's not caring for, seven kids by several different women. Why? Why does that happen?

DR. JACKSON. If you're a rolling stone, and if the father before you was a rolling stone, or there are no values to constrain you from this behavior, then you have . . . you do this, and you do this with impunity.

MOYERS. This fellow even seemed proud of it. It becomes a badge of honor?

DR. JACKSON. Right. And it's the only badge of honor that you expect to get.

MOYERS. Do they feel any sense of guilt over their impotence as fathers?

DR. JACKSON. No . . . um, not the kind of guilt that would be appropriate to changing the behavior.

MOYERS. Are we breeding a new outlaw society?

DR. JACKSON. We're breeding a society more that will destroy itself.

MOYERS. There are people saying, "Well, that doesn't bother me—I mean, as long as they stay in Newark and shoot each other, and mug each other, screw each other . . . so what do I care?"

DR. JACKSON. But what goes around comes around. It may appear that these individuals are on, um, reservations; they're isolated. But you cannot really divorce yourself from what happens to other people in this country. And if you design a society, a subsociety where people will annihilate themselves, it won't be long before this becomes a disease and infects the entire population.

MOYERS. You don't think we can run to the suburbs anymore?

DR. JACKSON. No. I think you can run, but you can't hide.

[Children's voices.]

JAMES WALLACE. All right, who was the last people on the field?

NARRATION. James Wallace chose not to run or to hide. He learned in his own youth that one person who cares can make a difference.

MR. WALLACE. When I came up, I wasn't any, uh, what you call an angel; I did little things. I was a one parent family. I only had a mother. That's why I can relate to these kids. There was another old man that took an interest in me and showed me the right way.

MOYERS. And he said to you, "You matter."

MR. WALLACE. Yes, yes, he said, "You have more to offer than what you're doing."

NARRATION. Twenty years ago, James Wallace began telling children they mattered. At first, he ran afterschool programs.

Now he and his wife, Carolyn, head the International Youth Organization, a community center in the heart of Newark. If James Wallace is a surrogate father to many kids, Carolyn Wallace is a surrogate mother. She's seen too many children grow up and stumble not to be angry.

CAROLYN WALLACE. If the parent is seventeen and eighteen, uneducated, unmotivated, fooling around, wanderin' around—what's the child going to learn? Who's the teacher? When you learned something, you were taught by your parents; it was reinforced by school and your neighbors. But it was taught by your parents. Your parents said, "Bill, you'd better not do that, don't put that plug over there—you gonna get a whippin'," right? Your parents did it. Well, if the parents don't know anything, how are they going to teach the children? Now if we have a generation of that kind of thing happening and the kids that are up, coming up under that, then we got another generation of lost young people.

MOYERS. Why are there so many single parent households?

MRS. WALLACE. Have you been walking the streets of Newark lately? All our young men are out on the corner—just absolutely doing nothing. That's the problem.

MOYERS. Why? What's happened to those young men? What's happened to the black men?

MRS. WALLACE. It's like they've given up; it's like they're not really a part of what's going on.

MOYERS. Why are they not . . . why have they given up?

MRS. WALLACE. There aren't that many jobs, OK, for the laborer like there used to be . . . and they're just totally unmotivated. And society has made living, for the woman without the husband or with the male, easy.

MOYERS. Oh?

MRS. WALLACE. Yeah, welfare. I think welfare is not the best thing for everybody.

MOYERS. Tell me why.

MRS. WALLACE. Because it provides you with some kind of income that you sooner or later just settle for. I know, I was on welfare. I've been on welfare.

MOYERS. Are you suggesting that we do away with welfare?

MRS. WALLACE. No. I'm saying it has to be upgraded. For instance, I have some young people here that are on welfare, OK, but would like to work. But they can't work and make a coin because everything you make is taken away from your check.

MOYERS. Can you push the solution even further back? Is there any way to stop the cycle of teenage pregnancies?

MRS. WALLACE. That's so difficult to even talk about. In my heart, I think I have a solution. And I know now that it may rub people the wrong way. But I believe that teenage pregnancy cannot be stopped by programs; it has to be morals, and morals come from God. And somewhere along the line, the black family kind of strayed away from that. And I believe we need it.

MOYERS. You say the moral values have changed?

MRS. WALLACE. Oh, yes. It's morally acceptable to have babies. It was not morally acceptable years ago. That's hurting the black family.

MOYERS. What I hear you saying is that even though racism may have brought about these circumstances, even though society may have created conditions that are terrible, you're saying you have to be responsible, you have to practice discipline and self-restraint?

MRS. WALLACE. That's right. We are destroying ourselves. Now, it might have motivated and plotted and seeded with racism, but we're content to be in this well now, OK, we're just content to be in this mud, and we need to get out of it. Uh, there aren't any great white people running around in this block tearing up stuff. It's us; we've got to stop doing that.

MOYERS. Does the civil rights movement, which came to its peak in the Sixties, have anything to say to this?

MRS. WALLACE. Well, "civil rights" to the young people now is a foreign word. What does it really mean to them? They don't have any knowledge about it.

MOYERS. The issue now is different, isn't it?

MRS. WALLACE. Yes, it is. I'm quite sure it is. If Martin Luther King were alive, he would not be talking about, uh, the things I think he was talking about—labor and all that. I think he'd be talking about the black family.

MOYERS. And you're worried about the survival of the black family. You think it's precarious?

MRS. WALLACE. I think it's all gonna be an endangered species.

MOYERS. Even though the messages that kids are getting from society seem to say, "Do anything you want to," the United States government, the government of New Jersey, a white man like Moyers cannot step in and say to young black kids, "It's not right to have children out of wedlock, welfare needs to be changed, you've got to take responsibility." Who's going to say these things to these kids?

MRS. WALLACE. Why can't you say it?

MOYERS. They won't listen to me.

MRS. WALLACE. It doesn't make any difference; you've got to say it anyway. They may not listen to me, either. But I'm saying if you say it in your corner and I say it in my corner, and everybody's saying it, it's going to be like a drumbeat, and sooner or later it will sound. But it's not just for me to talk about, it's for all of us to talk about. And I think it's going to surpass color. And you're not going to be safe, I'm not going to be safe, and nobody's gonna to be safe unless we all send out this drumbeat—hey, let's deal with it. Let's deal with the problem.

PANEL DISCUSSION OF "THE VANISHING FAMILY—CRISIS IN BLACK AMERICA"

(CBS News Correspondent Bill Moyers)

PANEL PARTICIPANTS

Rev. Jesse Jackson, Founder of PUSH and Chairman, National Rainbow Coalition.

Eleanor Holmes Norton, Professor of Law, Georgetown University Law Center, Washington, D.C.

Dr. Glenn C. Loury, Professor of Political Economy, Harvard University.

Charles Knox, Newark, N.J. Police Director.

BILL MOYERS. So far, we've listened this evening to the people who were actually living the experience that was the subject of this broadcast. Now we want to hear from some people who come at the issue from different angles.

With me are:

The Reverend Jesse Jackson;

Charles Knox, who was born and reared in Newark, and is now Director of Police there. He introduced me to Shahid Jackson, whom Director Knox personally assigned to the Police Athletic Program in Newark;

Eleanor Holmes Norton, who once chaired the Equal Opportunity Commission, and is now Professor of Law at Georgetown University;

And Dr. Glenn Loury, Professor of Political Economy at the John F. Kennedy School of Government at Harvard, and a member of the Council for a Black Economic Agenda.

Dr. Loury, as you listened to those voices, what went through your mind?

Dr. GLENN LOURY. Well, I was deeply moved. I was impressed with what I perceived to be the great strengths of character in some of the individuals. I was dismayed at what I perceived as the profundity of the problem that confronts us. I was encouraged by some of what I heard said, particularly the emphasis on values. The strength and the helping hand that I saw coming from some people indigenous to that community made me hopeful about the possibilities that we can, even at this late date, still make a significant dent in the problem. But, realistically, I was also chastened by the sense of the fact that we've got an awfully long way to go. It will be decades before we can actually turn the circumstance around.

MOYERS. What do you think, each of you, can be done to break the cycle of children born of children born of children? The third generation, as you saw in the film, of teenage mothers in one family. What can be done practically? Specifically.

Dr. ELEANOR HOLMES NORTON. This is not like any other social problem that has ever arisen in this country. This is not like unemployment. This is not like teenage delinquency. This is not even like children who can't read. This is a conundrum. This is a . . . well, I'm, I'm . . . I want to, I want to get to it. I . . . I want to describe the beast before I try to, try to get to the remedy. When you have a phenomenon as complex as to have cut to the very heart of the most basic institution in society, the family, you have got a real problem on your hands. There's no question that the mobilization—internal mobilization of the black community as if their life depended on it, because it does—is the first priority.

But we've got to understand as well what the context is. The social and moral context goes against what is happening in the United States today. Sex and crime and undisciplined forces surround the black community—do not . . . do not emanate from it.

MOYERS. Comes in through the tube every night.

NORTON. Comes in through the tube. Comes in, is piped in in a thousand different ways. So that the black community is going against, against the grain. But go against the grain it must. It's got to do that itself. But, again, in order to avoid the . . . the cynical connotation that this can be done in a self-made fashion without, for example, the jobs for the teenage boys to go to is to create the possibility of an even worse situation. One thing I think we who prescribe remedies forget, and that is that virtually none of us are truly self-made people. Somewhere you can find something that made . . . made a difference.

When you say to a boy that's fifteen—the last boy, for example. We don't know which way he's . . . he's going. If that boy is born of, let us say, a functionally illiterate mother, grows up surrounded by a pathological environment and we say, "Hey, go out there and make something of yourself," we are in effect saying, "Recreate yourself," in a way that nobody I personally know has done. At the very least, society has some responsibility.

MOYERS. This is not an easy society in which to pull oneself up by one's bootstraps.

NORTON. Not any longer.

Rev. JESSE JACKSON. My point is on this issue of sex education and sex discipline and self-respect—there must be a massive counterculture movement by no less than the people who have the ears of the masses of our young people. The first generation by about age fifteen has watched eighteen thousand hours of television. About seven hundred thousand murders. Twenty-odd thousand hours of radio. Less than eleven thousand hours of school, and less than three thousand hours of church.

So who has the . . . the maximum access to our children's minds? Mass media has more access and makes a greater impression than home, church, and school combined. That's a kind of centralization of our society where very central messages are being fed in, saying that babies making babies—the idea of a girl thinking that, that being pregnant is a beautiful profile as a sense of . . . being . . . of looking all right—that says

that the decadence has hit a point where we must en masse join hands and stop finger pointing and go another way.

MOYERS. We've started . . .

Dir. CHARLES KNOX. Not only that. It's . . . it's the music, you know. Even our music. Every, every song you hear. There's no . . . no real message except more sex, more lowering of your values and morals. You can't even hear a good song. A song has a good beat. But you listen to the words; the words are outrageous.

MOYERS. Director Knox, you heard in the beginning of the broadcast some of the young women say male figures are not essential. They don't think that children need a father. Did that ring true to you, on the basis of your experience with these kids?

KNOX. I think that a family means a husband and a wife. So I'm very, very perplexed, you know, to hear females say that they don't believe that they can . . . that they need to have a man around.

NORTON. I think people say what they have to say. These women don't have any prospect of marriage. And so, they have rationalized their lives, the way they see them. We saw women who are surrounded by other women in the prior generation who also had no husbands. And this has become, therefore, intergenerational and expectable. And thus, they say what indeed turns out to be, at least for them, quite realistic.

JACKSON. That's one concern. Secondly, there are some areas in there of moral degeneracy. The young man with all of the babies without any sense of responsibility—that is moral degeneracy. And it's not genetic, it's environmental. And therefore, we have some obligation to speak of the need for moral regeneration.

LOURY. The danger is that in the process of giving this problem—which I think is a discreet and identifiable problem—too much attention, we will stigmatize the individuals involved, and we will adversely affect the way in which the rest of the American society perceives this problem. The danger is well-founded, because there are people in this society who would make use of these kinds of images in order to legitimize certain mean-spirited policy inclinations that they have, and not deal seriously with the problem.

But . . . what I want to say is that there is a discrete, identifiable inner city context, such as that described in Newark, which is repeated in many, many other communities around the country, and which is in some ways different from—not better or worse, but different in its particulars—from the situation of West Virginia or of rural Arkansas, or whatever. We could see in this film the importance of peers, the importance of what might be called the local culture, the values and the interactions between people that were happening in that particular context.

JACKSON. You know, Bill, the reason I keep trying to keep this issue broader than just the black situation: (A), for the reason that Dr. Loury said it. I remember once speaking at a Washington, DC, school about the impact of drugs and liquor, and babies making babies, and violence. And I challenged the youth in that environment to make a choice, as to whether you choose hope or the dope, and to give life a chance. And those who could really hear me with their inner ear to come forward. Six hundred . . . about three hundred came forward, having experimented with some form of drugs. And it was traumatic to see that many boys and girls come forward.

And the next day I went to Montgomery County, and then went to the Latin School just outside of Harvard there in Boston. And when white children came forward in even greater numbers, it shifted from *"they* got a problem" to *"we* got a problem."

MOYERS. I said in the beginning of the program that white families are in trouble, too. The single parent family is twice as common in the country as it was 20 years ago. But in the 1960's, when this issue of what was happening—the breakdown in the black family in particular—was raised, we all retreated from it. And as a consequence of that blacks, in meetings that I've attended and read about and listened to, are debating the issue within the black community. And the facts are there—they come from the Census Bureau, they come from the Children's Defense Fund—that the rate of birth to black teens is twice that for whites. Women head fifty percent of all black families with children under eighteen, compared to 15 percent for white children. Only 41 one percent of black children are living with both parents, compared to eighty percent of white children, and seventy percent of Hispanic children.

So, while it is true that white families are in trouble, that blacks are not the only ones who have children out of wedlock, the reality says that it's pronouced, it's exaggerated, it's concentrated, in many respects, among black families. Are you willing to admit that? Are we . . .

NORTON. I'm not willing to admit it, I think we've got to sound the alarm about it. And I think increasingly that alarm is being sounded from within the black community, and that is the important change, I think, that has occurred. There is no question that this is a phenomenon that stretches across the face of the United States. And I couldn't agree with Jesse more that we have to deal with it in its national context. At the same time, I think it is clear that it has reached proportions in our community when half of our children are being born to single women who are disproportionately poor. We see the faces of the next generation of black people. And if we keep this up, if we don't find a way to intervene—and it is so complex that intervention has got to take place on a number of levels—but if we do not find a way to intervene, we are going to see progressively greater disadvantage with each generation of black people, which is the antithesis of the American imperative.

MOYERS. There is a study at the University of Chicago that says if action is not taken, the year 2000 will—the year 2000, fourteen years from now—will see seventy percent of all black families headed by single women, and only thirty percent of black men employed. Now, that's the future you're talking about.

JACKSON. And, you know, in some sense, when we had the lack of government support mechanisms in days gone by, the only bulwark we had really was a sense of moral resistance, a sense of discipline, a sense of hope against hopelessness.

MOYERS. What's happened to that?

JACKSON. Well, in some sense, that hope has . . . many of the grapes have been turned into raisins, and a lot of despair has set in. And I remember some years ago, about 1976, you might recall that Attorney Norton and I began to talk about it in our schools, about the . . . opportunity was about to outdistance effort. And that the formula of effort to the third power plus opportunity represents a breakthrough. And somehow, we must keep this, this balance between effort and opportunity. And one senses in this film an awful lot of . . . a lot of despair. And in our analysis of it, we must not give the impression that we are defending it or trying to justify it. Because it really is unjustifable.

I go to schools, Bill, and I'll ask four to five thousand children—white, black, and brown—"How many of you know someone who is in . . . who is dead because of drugs?" Almost every hand will go up. "How many of you know someone who is in jail because of drugs?" Every hand goes up. "In your generation . . . how many know someone at this school who has taken drugs?" Hands up. "How many know someone who has brought a gun or a knife to school?" And I tell you, whether it is the suburbs of Montgomery County, or San Diego, or Newark, or Boston, it is a pervasive threat to this generation of young people. And the most fundamental question—when I ask them, "Do you believe taking drugs and babies having babies is morally wrong?"—there's a split opinion. There's no absolute ethic of moral resistance . . .

MOYERS. Mrs. Wallace said that . . .

JACKSON. . . . To taking drugs, or the baby. I say, "Do you think drugs will kill you?" "Well, we're not sure." "You can afford the baby?" "Not sure." So there is neither the moral nor the mental resistance at this point to the drug/alcohol phenomenon, or the babies making babies.

MOYERS. Now, let's take three specific issues that were raised by the film, and we'll start with welfare. Charles Murray, in his book "Losing Ground," called for scrapping the entire federal welfare and income support structure. People who can work—ADFC, Medicaid, food stamps, subsidized housing, and so on—he says this would leave the working age person with no recourse whatsoever except the job market, family members, friends, and public or private locally funded sources. Do away with it altogther, force people to look for help from their peers and from whatever sources are nearby. And you saw in the film that one woman, one mother said, "welfare makes me lazy." You heard Shahid Jackson, your compatriot, say that it's become a way of life for many men over there. What do you think about welfare as a specific factor in this problem? Director Knox?

KNOX. Well, I don't think we should do away with it. I think some people need it. I don't think that we should allow it to be a self-perpetuating institution, though. What . . . what happens is there's no steps taken to provide any incentive for people to get off of it. The result is you end up with people who are hopeless, who feel that that's the easy way out, and—particularly in my profession—it creates a real problem for me.

MOYERS. How come?

KNOX. Because I find that some of the kids that you saw in those films—guys like the slick one who walks around and he makes all these babies, and he has no sense of responsibility—is the same stickup guy that I have to arrest every day, you see. Not only does he impact on me, but he impacts on everyone else in our community. And the result is that we don't have any place to put these guys. And I'm a firm believer that some of them—some of them are unsalvageable. As much as I feel . . .

MOYERS. They're lost, like Shahid said. Some are lost . . .

KNOX. That's right. As much as I feel compassion, you know, for—for trying to salvage kids that can be salvaged, you know,

by providing other alternatives for them except for this crime and stuff—I believe that some of them aren't salvageable. And I base that on twenty-one years of police experience.

MOYERS. You put your pencil down on the table when he said that. Were you disagreeing or agreeing with him? Are we going to have to give up on some of these and try for the next generation?

LOURY. Well, I hate to say we have to give up, but I agree that we are sometimes confronted with individuals whose behavior compels of us, as a pragmatic and moral matter, that they be dealt with accordingly. And people who are violently brutalizing their primarily black neighbors in the central cities of these countries, of this country, it seems to me warrant that kind of response.

MOYERS. We'll come back on that point in just one minute, after this message.

MOYERS. Is there anything that can be done that would use welfare to promote self-reliance, but not harm the children who really do need it?

NORTON. We already have some idea of what to do about the welfare system, because we have some models that are beginning to emerge—and emerge, I must say, out of state and local levels, because the federal government has abandoned any effort to reform the welfare system, even as it tries to destroy it.

We see in the Massachusetts example—the so-called E.T. Example, Education and Training—where welfare recipients sign up for education or training, and we're told this was voluntary. Except that Massachusetts found itself overwhelmed with volunteers who wanted to sign up and get off of welfare. And this program, by all accounts, has been unusually successful, and indeed it's now being copied in, in other states. New York and . . . and California have adopted versions of it.

Indeed, if your tape, if your film had any glaring fault, it was the failure to render the black women who in fact are going out here—though they do have children—and working, who are leaving their children catch as catch can with whoever in the neighborhood can take care of them rather than go on welfare. And, of course, that is the average black female single headed family. Not, not the family on welfare, although the family on welfare is . . . it certainly abounds in . . . in the most desperate parts of, of the black community.

The fact is that our welfare system really needs to be redesigned altogether. Not, not . . . not as Murray would have it—to increase not only misery, but pathology in the ghetto by under-girding female headed households with no support—but converting the welfare system itself into a work and training system. Every poll that has ever been taken of women on welfare has shown that they wanted to work, and yet the great failing of the federal government for at least the twenty-five years it has been on notice of this has been to, in fact, reform the welfare system into a . . . into an education, training, and work system.

JACKSON. Bill, you know, the first thing we really must establish—that this problem is not genetic or natural. It is social. And therefore, it is not racial in that sense. It is important to establish for the persons watching this, you know, in rural America and suburban America, that this is not genetic or racial. We'll need to dig those studies back up again. This is a social situation, and . . .

MOYERS. What is it? Is it . . . is it a cycle that just keeps beaming itself back like a mirror, and these children learn it and they repeat it?

JACKSON. An environment with limited options that retreads itself. That kind of feeds upon itself.

KNOX. The opportunities aren't that great to get out of it. Some people escape it. But most people don't, and I think that it's time for us to really, really become very serious about doing something about the ghettos.

JACKSON. That's right.

People really have four options to make a living. One is . . . the first option's a private economy. People would rather have a good paying private job. If that does not work, a good paying public or a government job. If that does not work, welfare. If that does not work, then the illicit economy or the hustle or the underground economy. So people really kind of got four options in that sense. The . . . the pain when we look at the bottom of it—when my son, sons, Jonathan and Jess, and I went to jail over the Free South Africa issue, I counseled about twenty-five young men that night and saw some of this, Dr. Holmes, face to face. Neither had a father at home. Only one had a dream. "I would like to be a policeman," he said. "But then, since I been arrested, I don't want to be a policeman, either."

So Johny . . . Johny said—and this was the son of mine that went to high school in Chicago, and was a pallbearer at twelve funerals in three years, ten, eleven, and twelfth grades—he said, "Dad, you don't understand. These boys can't lose." I said, "Johny, they've already lost. They're in jail, at fourteen and fifteen." He said, "No, Dad. See, one, if they rob a bank and get the money, they win. If they're caught, they go to jail. It's warm. They're with their friends. They can eat. Get medicine if they're sick. If they get killed, they're out of their misery. And Dad, to have a . . . a generation of young people living under these kind of conditions is dangerous. We must wake up."

When you dehumanize people to the point where they have lost their sense of conscience, their sense of moral responsibility, we . . . we cannot confine this predicament to that ghetto. That's again why everybody has vested interest in addressing it. To some of them, art is a way out. For some, athletics is a way out. To some, music is a way out. For some others, it must be trades training; it must be jobs and education as ways out.

MOYERS. You've come back occa . . . you come back often to what government should do. Mr. Knox mentioned it. You raised it in, indirectly in the welfare reforms. But that goes against the grain of so much that you have written and said. You—you said just recently dealing with behavioral problems, with community values, with attitudes and beliefs about responsibility, work, family, and schooling is not something government is well suited to do. Teaching of "oughts" properly belongs in the hands of private volunteer associations—churches, families, community groups. Did . . . will more government programs help?

LOURY. I think it depends on what those programs are. I mean, there have been White House conferences on the family or on families. There was one back in the mid-Sixties that was gutted of any substantive content because of the few who were around talking about the black family. President Carter finally managed to hold a White House conference on the families which, too, was fairly weak by virtue of the fact that the enormous number of interests—from gay rights activists to radical feminists—who had to have their imprint on the agenda was such that it was impossible to focus it on, if you will, the kinds of traditional values that we heard so many people in that film hark back to.

I . . . I think government is involved by virtue of the fact that the safety net kind of support that welfare and other programs provide is absolutely essential for a decent society, and that it has a significant impact on the lives of the people who receive the benefits. Mr. Murray, in my judgment, is wrong to call for the draconian solution of cutting all benefits to able-bodied persons. But I think he is right—and profoundly so—to call our attention to the extent to which the way in which we try to help may sometimes undermine the moral fiber of the persons, people that we're trying to assist.

JACKSON. Bill, I don't think that you should try to over-polarize our points of view. Really. Because so many . . .

MOYERS. Are they polarized?

JACKSON. Well, no. I don't think they're, not so much of whether . . . well, let me go on through. I want to . . . much of what he is saying, the sense of compassion. He is mixing with the government situation which could curb dependency syndrome, has a sense of soundness right around this table. The system itself is now beginning to hurt people by not having ways out. If there's no incentive to earn—if you make a dollar, they take a dollar—that's bad. Or, if you got a tenth grade education, get a GED, there is no incentive to go further—that's bad. So if you're locked in without earn or learn your way out, if the father does come home, you lose that which you do have. So keep him away. You get another baby, you get a little more increment. That's a terrible inducement, you see. That system must give way to a human development system that has positive presuppositions about human beings rather than negative presuppositions.

MOYERS. The issue is that we passed legislation in the sixties. We started these programs. We enhanced welfare. We did a lot of things, and the situation has gotten worse and worse. There are more . . .

NORTON. Well, obviously, welfare hasn't contributed much to that, since welfare has lost more than thirty percent in actual dollars since the early seventies. I think one's got to start talking about values. As the, the last lady said on the tape.

MOYERS. Mrs. Wallace?

NORTON. She said the drum beat's got to go out . . . look, just like they're listening to the rap, we've got to have this rap go out. But I fear that, for example, a society that says to the woman with three children, "You ought to be out here working," and she says, "I feel lazy when I'm not working"—what makes it absolutely impossible for her to work without throwing her children in the streets . . .

MOYERS. And isn't she already . . .

NORTON. . . . Creates grave cynicism in her about values. If the holier-than-thou Eleanor Norton says you ought to work, but of course Eleanor Norton has somebody to take care of her children and I don't—we've got to be very careful during this period that we make it, make it clear that we expect more from the very poor, and we're willing to do something to make that more happen. That's why I say the Massachusetts experiment . . . experiment is an important one, because what Massachusetts said was, "Look, we want you to sign up for work." It, it was . . . it was trying to break through this notion that the, the lady on the tape

had, that you sit home and, and . . . and wait for a check. People signed up in such huge numbers that they had waiting lists to work. They have saved millions of dollars in Massachusetts in welfare, and what this means is that with the same money that was being put into welfare for women to set, sit home, women are now out and working with . . . with real jobs.

MOYERS. What happens to their children while they're out there?

NORTON. Well, they provided a day care at least for a year.

MOYERS. . . . Because there is the argument that you shouldn't expect welfare recipients to work, since they are doing a more valuable service by raising their children. You saw from the film it was the women who are raising the children.

KNOX. But they're not raising the children. They're not raising them.

NORTON. That is the answer.

KNOX. You know, what's happening is these, these . . . these women are young. They keep having babies. And at some point guys, like the guy that was projected in the film—he leaves. And then they have to go out and find some other guy. So the result is, in many instances, the children are neglected. And then the children are raised by their peer group in the streets. Okay. And the result is more problems for me. And more problems for you.

JACKSON. It would be important, Bill, to note that some of those programs you talked about in the Sixties did work. And they've not been defended adequately. I mean, Head Start did work. Preschool education. Breakfast and lunch programs helped to wipe out malnutrition substantially. I mean, that did work. Many of my generation otherwise could not have gone to college without a paid scholarship grant. It—it did work. If the War on Poverty Program gave many of us the first on-hands administrative jobs we ever had—it did work. So when we try to resolve the problem, we should not throw out the baby with the water. We should save that which has worked and build upon it, and just, just say it is lost because, you know . . . it was working even better, but money designed for the war on poverty went in even greater resources to the war on Vietnam.

LOURY. If I may, I would like to return to this question of values, because I think there's an aspect that hasn't, that hasn't been touched upon. We look at the inner city of Newark and many other communities—they happen to be black and urban communities. As I say, they have their own texture, their own feel, their own history, and their own culture. And many of the people there who were doing good works have stressed how important it is that we send out right messages about what appropriate behavior is.

But that's not easy to do in our society, and it's not easy to mobilize the forces of government behind it, because there are other people in our society—some of them civil libertarians, some of them radical liberationists of one sort of another—who put considerable political weight behind propositions that we ought not to say one thing is right or wrong. Try to teach in a sex education class in New York City that having a kid out of wedlock is wrong and the value clarifications people come at you out of the woodwork, telling you, "Well, no, what we should do is let kids find out for themselves; let's just help them along the way, as it were." Try to deal with kids taking guns into high schools in Detroit, where people get shot into the chest by, let's say, using metal detectors to find out whether the kids have guns on their persons when they come into a school building, and the civil libertarians are all over the Federal District Court finding that that can't be done because it violates someone's conceptions of someone's rights.

Now, don't get me wrong. I'm not an attorney. There may be very significant issues at stake here that ought to be litigated and so on. But what I'm saying is the thrust of trying to instill values in this kind of community comes into tension with some other thrusts in our society, and it's so easy for people to appropriate the poor en masse in legitimation for their particular conception of how it is that our society ought to be ordered—that this kind of experience ought to call to mind for us that maybe what's really needed to get at these hard-core poverty problems is not the same thing as the contemporary agenda of the National Organization for, of Women.

MOYERS. You've said there is . . . excuse me.

NORTON. Well, I . . . I just wanted to say that I, I . . . I can understand Dr. Loury's frustration. In a pluralist society there are gonna be many messages and counter messages. By the way, I'm less worried about the messages that come from the National Organization of Women or the ACLU that I am about the messages that come from within . . . within our own community, some of the rap music, for example, and—and not the remedial or curative type, but, but some of the type that young man himself may have made up. That's one reason why I think that the leadership on values here has to be taken by the black community. The black community has a very . . . has very deep-rooted values that have survived over years that would have eroded the values of a lesser people.

MOYERS. Well, Dr. Loury said the responsibility for the behavior of black youngsters lies squarely on the shoulders of the black community itself. That's a pretty strong statement. Why is it only a black responsibility?

LOURY. It's not *only* a black responsibility. But it is a black responsibility. Do you see what I mean? We are a republic. We are a nation of persons of many different ethnic groups. As a political community, we have obligations to each other, including the provision of minimal substance of those who otherwise wouldn't have it. It's not a racial issue. But we are also a pluralistic society. Culturally, sociologically, we're a many-layered complex interweaving of . . . of distinct traditions. And those traditions being distinct and being important to some and not to others also have a role to play in this problem. And so when I say, as I . . . as you quoted me saying about blacks, I'm not speaking to the public question about what we as the nation, the U.S. of A., ought to do with respect to how many dollars should be taxed and given to others. But I'm speaking to, if you will, the private question of what this particular community—and the urban central city black poor constitutes, as I say, an integral context that we can look at—I'm speaking to that, and I think that's a, that's a . . . a field of endeavor in which blacks have a preponderant advantage in conveying the messages that we want to get conveyed to these kids.

JACKSON. You know, Bill, somebody must say that babies making babies is morally wrong. Babies and young people taking drugs is morally wrong and physically destructive. And we shouldn't be equivocating and hee-hawing about that. That's very clear. It runs across lines of race and sex.

KNOX. That's right. We should be concerned about the, the . . . the number of crimes that are being committed in our communities by our own people, and . . . and we have to take a tough, a tough stance on that.

JACKSON. I want to pick up on that, because I accept his drift. I was in Detroit a few months ago. Twelve children had been shot and/or killed in the course of that week. There was a sense of outrage about it. We spoke to twenty thousand youth in Cobo Hall, with the support of Dr. Jefferson and the school system. A great response. And there was a call for metal detectors in the hallways because, just as we have them in the airports, to stop guns and knives from interfering with pilots flying the airplane, in some instances they can be used to allow teachers to . . . to fly in classrooms without being interrupted by the threat of guns and knives, or a young man with a machete running down his suit. And there was a kind of outcry. It may have had a legal technical basis. But it made no moral sense. And . . . and we may . . . can't stop in that instance the technical libertarian from arguing about the student's right to have his gun. But they could not stop us from the right to argue that having metal detectors in that context—not metal detectors for blacks and not for whites, and for girls and not for boys, and all of that—having those metal detectors to serve the purpose in that instance—equal protection under the law and all of that in making the school environment a more safe place in which to operate.

MOYERS. Well, on that note we have to finish this discussion because we're out of time. Thanks to each of you for coming here. We started small in Newark and ended up talking about a national issue. Thank you very much.

CEREMONIES FOR THE 101ST AIRBORNE DIVISION AT FT. CAMPBELL

Mr. FORD. Mr. President, the 1st session of the 99th Congress ended upon a somber note—the loss of 248 soldiers from the 101st Airborne Division in a plane crash at Gander, Newfoundland. As we in the Senate finished our last day of work before the Christmas holidays, a memorial service was held at Ft. Campbell for the men and women who gave their lives in the line of duty, for the cause of world peace.

It was an impressive ceremony. Maj. Gen. Burton Patrick, well known to the Senate as the former chief of the Army's Legislative Liaison Office and now commander of the 101st Airborne, assembled the entire division on the parade field. Secretary of the Army John O. Marsh, Jr., Gen. John A. Wickham, Jr., Chief of Staff of the Army, and General Patrick each gave as fine an address as I have been privileged to hear. I would like to share these words with my colleagues and ask that they be printed in the RECORD.

The new year at Ft. Campbell began in a more positive way as the 3d Battalion, 502d Infantry started to rebuild. This is a task that demands more than merely replacing the numbers and equipment that were lost in the crash. It demands the recreation of the intangible bonds of esprit de corps, of mutual trust, of loyalty to comrade and to unit. It is a process that involves both physical training and mental healing.

A recent story in the New York Times describes how Ft. Campbell has begun to close its wounds and I ask that it, too, be reprinted in the RECORD. I am confident that, under General Patrick's stewardship, morale will soon be restored and the community will once again look forward to the future.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

MEMORIAL CEREMONIES FOR 101st DIVISION

(December 20, 1985, Fort Campbell)

MAJOR GENERAL BURTON PATRICK COMMANDER, 101ST AIRBORNE DIVISION (AIR ASSAULT)

General PATRICK. Fellow soldiers and members of the Combat Division assembled in this center, we have come together on this field of honor, albeit bitter cold, to pay our last respects to your destiny. It is only fitting that we have snow today. This Division seems to unite under these conditions as they did 41 years ago at Bastogne when the battle raged there.

As your Commander, it is my solemn duty to call you here under these tragic and difficult circumstances. I wish with all my heart that it could be otherwise. But I know that each of you feel the same way.

The airplane tragedy that has taken the lives of our fellow soldiers has cast a dark cloud over Fort Campbell and the homes of every family throughout the land. We have suffered a loss of indescribable proportions, a loss that cuts across the entire Division, and the Nation and its territories.

Our hearts go out to the families and loved ones of those brave soliders who lost their lives in Newfoundland flying on their way home from peacekeeping duties in the Sinai, a mission that they had done so efficiently, effectively, and quietly that the general public did not even realize that they were there.

Our courageous peacekeepers have departed our midst suddenly, and they have ascended to heights where even eagles cannot fly. They will be missed in so many ways, and their service and sacrifice like our Silent Eagles of the past will remain in our memories forever.

The single and very bright ray of sunshine that had made its way through our black cloud occurred yesterday morning when the remainder of our Task Force touched down safely at Campbell Army Air Field. Heavy hearts were lifted somewhat then as those of us who were there know so well. Welcome Home Task Force 3502. A job well done. It is with heavy hearts that we welcome you home.

Each of you know the father of Fort Campbell and the Screaming Eagles is strong. And the cohesion and comradeship of our people is like steel wire, it runs deep. It is with these words that I tell you that we must now look to the future and the promise of happier days ahead.

I know that these past eight days have been trying and hectic, and that you have to had sufficient time to regroup and mourn your dead. I promise you that time. As I have said previously, we will lick our wounds, help those families in grief, reconstitute our forces, and continue the mission. I will need your total support as always, as will those families personally affected by tragedy.

Speaking of families, I have just received this message from Mr. and Mrs. Estel Banks, parents of Bob Banks from Headquarters Company 3502. And I quote: "While we cannot be at Fort Campbell we are with you in mind, heart, and spirit. We grieve with and for you. In our mutual sorrow, we remember our son and your loss, and their brave courageous service to the peace in our world. Be strong, be proud. We pray for you, please pray for us."

I think that this expresses the true feelings of all families who have lost sons and daughters today all across this country. I know that they express ours.

HONORABLE JOHN O. MARSH, JR., SECRETARY OF THE ARMY

Secretary MARSH. To all of those in sorrow, members of Congress, and our foreign guests, and above all to those soldiers of Fort Campbell and the great 101st Airborne Division, this is a sad time.

My wife and I have come here because our hearts go out with you, to the families of those soldiers that we memorialize today. Words may fail, but the Army and this great Division will honor and will long remember those it has lost.

We often take for granted the quiet unsung duties of others who perform for us. Our comfort, our security, these are the gifts of time and sacrifice of those we often do not know as we are swept along in the current of our own little world. And then tragedy strikes, and it shocks us into awareness.

A nation mourns the men and women, soldiers of the 101st Airborne Division of Fort Campbell who gave their lives in the line of duty. They were the peacemakers. For them, we grieve. Yet the grief that we bear cannot measure to the anguish of the hearts and souls of those who knew them best, who loved them most, their families, their friends, their comrades-in-arms.

The poet said, "No man is an island unto himself/Any man's death diminished me." Therefore, it is our prayer that in some way through the sadness that we share that it might ease the heaviness of your hearts.

These soldiers, these magnificent Americans, they died in service to their country. They died serving a noble cause, a cause rooted in the value of a nation dedicated to liberty, to justice, to bring peace to a violent and troubled world. The defense of these values, that was their mission. It took them to the depth of Sinai, a place of troubled sands and rugged mountains.

There in an isolated outpost for more than a half a year, they were the peacekeepers. Seven battalions of the American Army have been there before them, and another has come after them. They are all part of a multinational force serving the same cause. Today in support of our country's commitment for a better world, American soldiers are on duty at the DMZ in Korea, at Checkpoint Charlie in West Berlin, and in many, many other places far from home. They, too, like you, are peacekeepers.

To those of you who wear the patch of this great 101st Division, the most lasting tribute that you can pay to those who are lost is to continue your superb performance of duty, and this I know that you will do.

Those we honor were coming home from the cradle of our faith, the Sinai, the land of the Exodus and the Ten Commandments where values that they sought to protect where formed. Christmas is a spiritual time. We reflect on life's meaning. It is a moment that brings out the best that is in us. We want a better world and values to take on new meaning.

We find strength in faith, in hope, and love. We reach out to others. We have a sense of gratitude to our country. And we are thankful to those like you who bear arms to keep us free. This yuletide, this Christmas, let us honor these magnificent soldiers that we have lost. And from the bottom of our hearts, we thank them, and those who they have left with us for what they did for their country, for what they did for peace on earth, for what they did for goodwill to men, for what they did for all of us.

In their memory with compassion and resolution, let us meet the days ahead.

GENERAL JOHN A. WICKHAM, JR. CHIEF OF STAFF OF THE ARMY

General WICKHAM. Members of Congress, members of the Diplomatic Corps that are here, and friends and loved ones of this great tradition and great Post, and magnificent soldiers of Fort Campbell, Mrs. Wickham and I have returned home here to share in the sorrow and sadness of this moment. We mourn those magnificent soldiers who have perished in the line of duty in the lonely outpost in the Sinai carrying out its responsibility to maintain peace in the region. They truly are peacekeepers and peacemakers.

You have lost your loved ones and comrades. I know how you feel. I was with this Division as Commander, and I knew many of these wonderful men. As Chief of Staff, I saw them in the field at Fort Erwin, and then I visited the Sinai and saw another battalion of this great Division.

So I have lost just as much as you have. And I understand the depth of your hurt. But as your Commander said, our task now is to build anew the great power of this Division that keeps the legacy of the past, World War II and Vietnam, and peacetime periods in between.

The memory of the Army is love. We love our soldiers and we love our families. The Congress has just passed some additional legislation that helps the families even further. The support mechanism that has worked on this Post to deal with the realities of the family have been magnificent. And we shall continue, the Army and this Post, the support of our families, and particularly those loved ones who are dealing with the reality of a loss here.

The last thought that I leave with you is a question that I am sure that many have asked. Why these young people in the flower of their youth, why were they taken from us in such a tragic way? Words can never answer that question entirely. But let me add a thought that might be helpful in comfort to all of you young men here in front of us who were so close to those beloved soldiers.

Almost twenty years ago in a combat incident in Vietnam, I survived with slight wounds while dear friends were killed around me. And I asked that question, why should these younger people who have fami-

lies larger than mine perish, and I was given a chance?

And the only comfort that I have been able to take out of that question has been the belief that time was given in the way of a gift. The gift of additional time, to do what? To glorify those who have perished, and to glorify our Maker, who has given us the time to live longer.

That is the answer that has been helpful to me, the gift of additional time to do good work. I think that all of us can find some solace in that. As you rebuild anew this great Division, as you make your time count, the gift that has been given to you, these young people directly in front of us who did survive, and all of you on this great Post who knew of these folks or wonder about the incident.

Make use of the gift of additional time to glorify your Maker who has given you the gift and talent to use. God bless all of you. Our hearts reach out to every soul here, and particularly to the families who are filled with deep sorrow. God bless all of you.

[From the New York Times, Jan. 20, 1986]

ARMY REPLACING MEN KILLED IN CRASH

(By Richard Halloran)

FORT CAMPBELL, KY.—The infantry battalion of the 101st Airborne Division that lost nearly a third of its soldiers in an airplane crash in Newfoundland has begun to rebuild.

The new commander, Lieut. Col. Harry E. Rothmann, called the 3d Battalion, 502d Infantry, together in early January to tell them about plans for the next six months. "We are all soldiers," the colonel said, "and we know what we have to do."

In a brief ceremony to symbolize the step into the new year, the colonel read a letter from a Marine officer who had lost colleagues in the terrorist attack in Lebanon in 1983, formally inducted two new company commanders, then led the battalion on a four-mile run.

The battalion had been the main element of the American contingent in an international peacekeeping force in the Sinai and was on the way home when a chartered airliner crashed shortly after taking off from Gander Dec. 12, killing all 256 people aboard.

In soldiers killed, the battalion suffered a catastrophic loss. In combat, casualties of 10 to 15 percent are considered heavy. All together, the battalion lost 187 officers and soldiers, almost a third of the total.

The commander, seven staff officers, two company commanders, the chaplain and the sergeant major, the senior noncommissioned officer, died in the crash. Company A was nearly wiped out, as was the anti-tank platoon of Company D.

A battalion is the basic fighting unit of the Army and Marine Corps. In the 101st, a helicopter assault division, an infantry battalion comprises 40 officers and 650 enlisted men organized into a headquarters, three rifle companies and a weapons company with mortars and anti-tank missiles.

But an infantry battalion depends more on esprit and discipline than on numbers and weapons to become an effective combat force. Soldiers are motivated, said Colonel Rothmann, "by the intangible bonds of trust, loyalty and confidence."

To reconstitute the battalion, Colonel Rothmann reassigned officers and sergeants within the battalion, received others from the brigade of which the battalion is one of three, and was given several from the other two brigades in the division.

He has reassigned eight squads of 9 to 11 soldiers, the smallest units, from other companies to rebuild Company A. That way, Colonel Rothmann said, "we have a battalion that is associated with success in the Sinai."

The brigade commander, Col. John P. Herrling, who is supervising the rebuilding, emphasized the common experience of the Sinai mission as a bond. "The whole thing," he said, "is to try to maintain the cohesion of the unit."

ATTENTION TO MORALE

While the battalion is being retrained, Colonel Herrling said, equal attention will be given to morale. "You've got to heal the spirit as well as the physical wound," he said. "It's going to take a while to get over that loss."

A new chaplain has been named and a psychologist has been assigned to the battalion; both will look for signs of depression or other problems.

Large numbers of rifles, anti-tank weapons and communication gear were lost in the crash, but replacing those is among the least of the battalion's problems. Colonel Herrling said most of the weapons would be replaced by the end of February.

Colonel Rothmann, who was the brigade's executive officer before being named battalion commander the day after the crash, held meetings with all leaders in the battalion, down to the squad level, to get ideas for retraining.

"We'll start from the basics," the colonel said, "just as if we were starting a football season. We'll go through the drills and learn the plays again."

In February, the battalion will go to the field for platoon-level exercises. Troops will be trained in air assault tactics and leaders will take part in a command-post exercise to train them in making tactical decisions.

EMPHASIS WAS ON SAFETY

In March, the battalion will stay in garrison to serve guard duty, send soldiers to specialized schools like the noncommissioned officers academy and communications school, and work on shortcomings spotted in the field.

In April, Company A will go to amphibious warfare school to train on its own and to build company cohesion. The battalion will also be given its first tactical evaluation to see if it is ready for combat.

In May, part of the battalion is scheduled to train with forces from other services in a joint exercise while one company will go to Fort Irwin, Calif., to act as the adversary for other battalions training there.

A grim irony, Colonel Herrling said, was that the 3d Battalion, 502d Infantry, had emphasized safety in its six-month tour in the Sinai. Earlier units had lost soldiers in accidents or drowning, but the worst the battalion had suffered until the crash was a broken leg.

In his first formation with the battalion, Colonel Rothmann said he hoped to set a tone. For that reason, he read to the soldiers the letter from the Marine officer whose battalion was hit by a terrorist attack in Beirut, saying that both battalions "lost people who were performing their duties in the service of the nation."

The marine's letter included a check for $205 his troops had chipped in for survivors of the soldiers. Letters from all over the country, Colonel Rothmann told the battalion, "reflected recognition from the people of this country that we are their soldiers."

DEATH OF SEVEN SHUTTLE ASTRONAUTS

Mr. BINGAMAN. Mr. President, the passage of 24 hours following the tragic death of the seven shuttle astronauts aboard *Challenger* has not served to lessen in any way the shock and sorrow we all feel. It is a national tragedy that touches all of us deeply and permanently as human beings.

Our compassion and concern go out unreservedly to the sorrowing families of all of those brave men and women aboard the shuttle. If there was anything any of us as individuals could do to help them bear the terrible burden they must carry, we would all do it in an instant.

While there is little most of us can do as individuals, there is much we can do as fellow Americans and as legislators to keep faith with them and their ultimate sacrifice. We can work to insure that such a tragedy does not repeat itself as we push on with the programs in space to which they were brave pioneers and are now martyrs.

There is no question that we must continue to reach out toward space with further manned flights. The spirit of man requires it, and the seven astronauts would have wanted it. As the President said in his eloquent statement yesterday, "We'll continue our quest in space. There will be more shuttle crews and, yes, more volunteers, more civilians, more teachers in space. Nothing ends here. Our hopes and our journeys continue."

Our challenge, as the journeys continue, is to become ever more vigilant, ever more careful, that human life, which is the program's most precious ingredient, is protected to the greatest possible extent.

While we sorrow in this terrible loss, we are at the same time ennobled by the intense sacrifice of the seven astronauts. Let us carry on in the same spirit of courage which they showed us all.

HUMAN RIGHTS IN NICARAGUA

Mr. DURENBERGER. Mr. President, during the past several years, I have tried to bring the human rights situation in Nicaragua to the attention of the Members of both Houses of Congress. During the last years of the Somoza regime, the independent Permanent Commission for Human Rights [CPDH] of Nicaragua served as the primary clearinghouse for reports of human rights violations in that troubled country. From 1977 until 1979, Somoza's regime subjected CPDH's courageous workers to harassment, imprisonment, and physical attack.

With the defeat of Somoza in 1979, some Sandinistas, including Interior Minister Tomas Borge, suggested that there would be no further need for the

CPDH or any other human rights organization as there would be no further abuses of individual rights in Nicaragua. Since 1981, the relationship between the CPDH and the Sandinista regime has steadily worsened as human rights abuses have escalated. CPDH attorneys have been arrested and threatened, its files have been ransacked and copied on numerous occasions by state security officers, and various unsuccessful efforts have been made to prevent the international dissemination of CPDH findings.

The most serious recent attacks against the CPDH occurred in conjunction with the imposition of a broadened state of emergency by the Sandinistas on October 15. The practical effect of the state of emergency was to serve notice that opposition would no longer be tolerated by the Sandinista regime. Lino Hernandez, the national coordinator of the CPDH, was called into the Interior Ministry for interrogation on November 14 by Capt. Nelba Blandon, that ministry's chief of censorship. Mr. Hernandez was ordered to submit all CPDH documents to the Government for prior censorship. Numerous human rights organizations, including the International League for Human Rights, Amnesty International, and Americas Watch, have sharply criticized the Sandinista government for this move toward totalitarianism and have supported the CPDH's continued independence.

The Nicaraguan Catholic Church remained a primary target for the Sandinista regime's attacks throughout the fall of 1985. The increased state pressures on the church were felt at all levels of Nicaraguan society. In response, the church established a Commission for Justice and Peace in October under the auspices of Cardinal Miguel Obando y Bravo. A leading Nicaraguan human rights specialist, Manta Patrica Baltodano, was appointed as the commission's director. The commission was located within the offices of the Archdiocese's social services agency in Managua. These offices were occupied by Sandinista state security agents on October 15 and the commission's files and plans were confiscated. Obviously, these actions against the CPDH and the Commission for Justice and Peace have been a severe setback for the cause of human rights in Nicaragua.

We in Congress have an obligation to speak out in support of these brave individuals who monitor human rights violations and to circulate their findings as widely as possible. I have just obtained the most recent reports of the CPDH, which have been published for the months of September through November of 1985. While it is clear that the Sandinista regime has tried to prevent the continued operation of the CPDH, Mr. Hernandez and his colleagues have been able to provide at least a partial portrait of the process of repression in Nicaragua. The most recent document is a letter from Mr. Hernandez to Interior Minister Borge regarding the arrest and detention of a prominent Nicaraguan labor leader, Jose Altamirano Rojas, on December 14.

The last of the documents which I shall include is a letter from Interior Minister Borge to one of my constituents, Episcopal Bishop Robert Anderson. The letter refers to three human rights cases with which I have been involved since last summer. One of these individuals was Jose Soza Jarquin, a driver for the CPDH, who was imprisoned at El Chipote for 2 months because of his place of employment. Mr. Soza was released by President Ortega and Interior Minister Borge on August 19 in compliance with the requests of Congressmen BUDDY MACKAY and MIKE ANDREWS, who were visiting Managua at that time. In this letter, however, Minister Borge denies any knowledge of Mr. Soza despite his close involvement in the case.

Luis Mora Sanchez is a journalist and a member of the Nicaraguan Social Democratic Party, while Mauricio Paul Membreno Gaitan is an activist within the youth wing of the Social Democratic Party. Both men were arrested on June 15 in connection with a demonstration in support of Cardinal Obando on the previous day. They were held without charge in El Chipote political prison until July 31 and brought before a special revolutionary tribunal [TPA]. At this TPA hearing, they were read two pages of charges which they were asked to sign. Both Mora and Membreno Gaitan claimed that they were refused food for about 20 days and that they were frequently bound during captivity. Mora states further that his interrogator, Omar Cabezas, told him, "We've had enough of you people. We're going to make you disappear." Cabezas is the director of Political Affairs for the Ministry of Internal Affairs as well as a noted writer and intellectual of the revolution. Mora and Membreno were returned to El Chipote after their appearance before the TPA and remain in detention. Their sentences cannot be appealed.

In closing, I would strongly urge my colleagues to read Minister Borge's letter carefully. It is, without a doubt, one of the more cynical and disingenuous documents that I have ever received. Despite his claims to the contrary, it is increasingly clear that political and religious repression is the order of the day in Managua. As the Sandinista regime consolidates itself, we should not forget the efforts of the true revolutionaries—the Nicaraguan democrats—who continue to stand for the original goals of the Nicaraguan revolution against those who have betrayed it for personal gain and power.

Mr. President, I ask unanimous consent that the CPDH reports for September through November as well as letters from Lino Hernandez and Tomas Borge be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

MINISTERIO DEL INTERIOR,
Managua, Free Nicaragua,
December 7, 1985.

Right Rev. ROBERT M. ANDERSON,
Bishop Episcopal Diocesis of Minnesota, United States.

DEAR BISHOP ANDERSON: I have recently received your letter requesting information, in the interest of Senator Dave Durenberger, Chairman of the Senate Intelligence Committee. I wish to state that what you expressed in your letter regarding social justice, human rights, pardon, and abolishment of capital punishment in our Free Nicaragua, is nothing more than a part of the fundamentally humanistic project undertaken by our Revolution, that rescued the respect and the elemental values of the individual, that unfortunately, continue to be trampled by outside forces that are financing the aggression that our people is suffering.

Allow me to express my gratitude for your positive attitude toward our people, and I hope that the information on my country that you will convey to Senator Durenberger and to your people will in some way help to end the aggressiveness of certain sectors of the government and will create consciousness that all we want in Nicaragua is Peace and mutually respectful relationships with your Government.

I will provide you detailed information related to the alleged Human Rights abuses of the following individuals: Mauricio Paul Membreño Gaitán, Luis Manuel Mora Sánchez, and José Soza Jarquín.

The young man Membreño Gaitán, whose name according to our records is Mauricio Raul, was detained on November 1, 1984 because of violating our standing Law of Military Service, when he tried to leave the country by illegal means. During the investigative process of his case, his illegal activities were fully approved, and after being submitted to a legal process, he was set free on March 9, 1985. Currently, he is to the order of the competent Court of Law accused of aggression and attacks to the police authorities of our country.

Luis Mora Sánchez: He was involved in illegal activities since 1982 as a member of the Counter-Revolutionary Organization known as A.R.D.E., and was directly involved in recruiting youngsters and in handling of large amounts of economical resources for the realization of subversive actions against Economic and Military objectives in our country. This individual was submitted to a legal process before the due judicial authorities, and was condemned in 1984 to a 9 year prison term, having been set free, by generosity of the Revolution, through and indult on September 8, 1984. Currently, this citizen is being processed in the Judicial Courts for public aggression to the police authorities.

I can not give you any information in relation to Jose Soza Jarquín, due to the fact that I do not have any. Nevertheless, with the intention of clarifying any confusion that might exist, I must advise you that if

your question was intended for Jose Joaquín Sánchez Soza, he was set free by resolution of the Judicial Court on July 12, 1985.

I hope, Bishop Anderson, to have satisfied your interest, and I want to ratify that in the new Nicaragua, repression against any person on account of his or her political or religious creed has been abolished forever. It is my deep understanding that from your position as a Religious Leader you have played, and will continue playing, a very important role in the handling of information regarding the reality that our Sandinista Popular Revolution is living through.

Fraternally,

TOMAS BORGE.

CPDH OF NICARAGUA PERMANENT COMMISSION ON HUMAN RIGHTS OF NICARAGUA

SEPTEMBER 1985 REPORT

A total of 91 reports of the most different aspects of violations of human rights was filed in September 1985 with the CPDH of Nicaragua offices.

Among these reports is a total of 60 arrests, 48 of them corresponding to persons detained by the "State Security" forces, most of them being peasants accused of collaborating with insurgent groups or without any apparent cause. Ten cases refer to common crimes which have some relation to a violation of human rights, such as sick prisoners, or those arbitrarily sentenced by the police; two are cases of soldiers in the Sandinista Army accused of desertion and eight are cases of former members of the National Guard who, after six years in prison, are ill.

Six cases of missing persons were reported after they had been arrested or where there are strong indications and evidence that they had been arrested. In addition, within this framework, five persons who had been considered missing were found and had been or were in the hands of State Security; the time that these persons remained "missing" varies between two and 17 months of total solitary confinement.

Six cases of torture and abuse of prisoners were reported in September, many of these cases revealing true acts of savagery against prisoners, more and more open, especially in the State Security jails.

Three cases of a violation of the freedom of religion or of persecution for religious reasons were reported during the month with which we are concerned; these cases vary from the prohibition of broadcasts of masses celebrated by the President of the Episcopal Conference of Nicaragua, Cardinal Miguel Obando Bravo, to threats of persons working on the Social Advancement Commission of the Catholic Church.

Cases of persecution of members of independent unions were also reported, especially against the Confederation of Union Unification (CUS) and the Confederation of Workers of Nicaragua (CTN).

In the following pages we present a small summary of the principal cases reported in September 1985.

UNEXPLAINED DEATH

Alejandro Montealto Ramos, 54 years of age, married, farmer, residing in the District of La Orilla, jurisdiction of Nandaime, in the Department of Granada. He was detained on March 8 of this year by six members of State Security who came to his house to tell him that he had to make some statements, taking him to this force's jails in Jinotepe, Department of Carazo, where he remained incommunicado for 20 days, after which they allowed his wife to visit him.

He was later transferred to the jails known as Zona Franca, in Managua, and put under the orders of the Court of Exception which operates in Managua.

On September 3, when his wife Auxiliadora Apias Marquez was in Zona Franca to visit a son of the two of them who is also in those jails, he told her that his father—Alejandro Montealto Ramos had died inside of the prison on August 28 and that he wondered why they still had not handed over the body to her.

Finally after several requests, the body was handed over to her, and she was told that he had died from a heart attack. At the time of death, six months after his detention, the court of exception which was trying him had not pronounced a verdict on his innocence or guilt.

Finally, Mrs. Arias Marquez has stated that in spite of the problems associated with his age, which were aggravated by his stay in jail, Mr. Montealto Ramos had never received appropriate medical treatment.

TORTURE

Marcelino Rayo Morales, 26 years of age, single, fisherman, and with residence in the port of Corinto, in the Department of Chinandega. He was detained on May 22, 1984 in the city of Somoto, being transferred to the jails of State Security of Esteli, where he remained two days and was later moved to the State Security jails of Leon, known as "Quinta ya," where he spent five months completely incommunicado. His family was told that he was not being held in that center.

Later he was moved to the jails known as El Chipote, in Managua, where he remained for nine months, incommunicado, in what he calls a tunnel; a great part of this time he was blindfolded and he was subjected to cruel physical torture, consisting of blows to his entire body; His cheekbones still have two black marks as a result of blows with the heels of military boots, and on his right foot he has a scar as a result of a kick. As his mother states, when she saw him the first time, more than 15 months after he had been detained, his face was practically disfigured.

He is currently in the jail known as Zona Franca and has problems with his sight and pains in the ribs; he has told his mother that his ribs had been fractured when he was tortured and that he never received medical treatment.

The CPDH had this case reported to it at the end of 1983 as a kidnaping by insurgent groups and had made efforts on his behalf before various groups based in Honduras. In addition, beginning in 1984 we had reports that he was being detained in Nicaragua and efforts were made with the corresponding authorities, but his detention was always denied.

MISSING

Mario Cortes Bravo, 22, single, ship captain and Jose Mendoza Chavarria, 24, single, nautical mechanic, both of the domicile of the port of Corinto, in the Department of Chinandega, and inducted into the Sandinista Armed Forces in the Coast Guard; they were detained on August 1 of this year, when they were supposedly trying to cross into Honduras, deserting the Army.

According to reports provided by Mario Cortez' father, both were taken to the jails of Somotillo and from there it is not known where they were transferred. Both had been in Cuba, receiving training in their respective areas of work.

The CPDH has requested reports on this case from the Ministry of the Interior of Region II (Leon) without having obtained any reply on the matter.

FOUND

Jose Antonio Blandon Gutierrez, 18 years of age, driver, married, Alfredo Amador Altamirano, 29, laborer, married, Ariel Amador Altamirano, 22, driver, single, all from Jinotega, were arrested by State Security on June 18 of this year, in the market of the city of Jinotega.

Their families looked for them in the jails of Jinotega, Matagalpa, and Managua, their detention being denied in all of them, so that they reported the case to the CPDH, saying that they were missing. Finally in the middle of August of this year the authorities of the Ministry of the Interior of Matagalpa agreed that they were in the jail known as Las Tejas, located approximately 5 kilometers from the city of Matagalpa. Finally, they were moved to the jails known as Zona Franca, in Managua, were they were able to receive a visit on September 4 of this year.

They told their families that for 51 days they had been totally incommunicado in the State Security jails of Matagalpa, where they had been tortured, subjected to blows by investigators who wore hoods to cover their faces, they were held in completely dark cells, in which they were only allowed to stand; later they were transferred to other cells where they were allowed to lie on the floor and they were kept for several days without eating or drinking water; later they would receive one glass of water a day for two prisoners.

They tried to force one of the prisoners to write a letter to his wife in which he would tell her not to worry, that he was fine and that he had joined the "contras."

In addition, one of the prisoners was able to communicate through a hole in the wall of the cell with another prisoner named Miguel Angel Castro Cruz, who has been reported as missing to CPDH, after having been taken on May 25 of this year and whose detention is still being denied by members of State Security. Evidently this prisoner (Miguel Angel) is sick since his voice can almost not be heard.

UNION MEMBERS

Noel Efrain Alvarado Flores, 24, married, fisherman and residing in Paso Caballos, jurisdiction of the port of Corinto, in the Department of Chinandega, who is a member of the Fishermen's Union of Paso Caballos, affiliated with CUS. He reported to CPDH that on August 28 of this year, when he was returning from fishing, he was apprehended by some soldiers who were riding in a military vehicle, WAS brand, and which had on its doors the acronym CIS (Military Counterintelligence); he was handcuffed and forced to get into the vehicle that took them to the jails of the Corinto police department, where he was subjected to interrogations for two days, after which he was released. During the questioning on his union activities, they also made accusations against CUS, which they indicated was a counterrevolutionary organization and that if he continued his affiliation with it he would end up in jail.

Since then he has been harassed by State Security members for not having abandoning his union activity.

RELIGIOUS

Catholic Radio: Official broadcasting station of the Nicaraguan Catholic Church, on September 12 of this year it received the order from the Office of Mass Media,

through a telephone call, to not broadcast live the Holy Mass that would be celebrated by Cardinal Miguel Obando Bravo, in the city of Boaco. In the afternoon of the same day, two officials of the Ministry of the Interior, heavily armed, appeared at the radio station and proceeded to cut off a delayed and summarized broadcast that was being given of the mass.

All of this, while the foreign delegations that visit the country are told that in Nicaragua the broadcasting of mass is not prohibited, nor is the freedom of worship hindered.

MILITARY SERVICE

Dionisio Jose Narvaez Espinoza and Manuel de Jesus Narvaez Guerrero, 22 and 18 years old, respectively. They were detained by members of State Security, at their home of residence in the Ciudad Sandino part of this capital on July 14 of this year, being investigated for supposedly carrying out "counterrevolutionary activities," remaining detained until September 9, the date on which they were taken to the Health Center of Ciudad Sandino and at midnight of that day they were sent to provide Military Service at a base located in the mountains of the northern area of the country.

Before releasing them on the condition that they provide military service, they were forced to sign an "oath" in which they stated that they were going to combat on the basis of their own and spontaneous will.

CPDH had been making efforts for these prisoners to receive medical treatment, since the reports that their families had given us had said that they were both physically and mentally ill as a result of the conditions in jail in El Chipote.

SPECIAL

Socorro Gutierrez Mejia, 35 years of age, married, domestic, and residing in Rio San Juan. On June 23 of this year she was at her house of residence in the El Tigre District, jurisdiction of San Miguelito, in the Department of San Juan, when several soldiers of the Sandinista Armed Forces appeared; they proceeded to surround the house and forced her to cook for them a pig that she owned. At night they forced her to accompany them, taking her detained to the port of San Miguelito, in the company of her children, Juan Carlos, 8, and Daniel, 10, who were left helpless when they reached that port, being picked up by charitable persons who took them to the house of some relatives in Managua.

Mrs. Gutierrez was taken from San Miguelito to the State Security base in San Carlos, in the same department where, she remained for a month, and she is currently in the State Security jails in Juigalpa, without it being known what the charges are against her, nor when she will be taken before a competent court.

She is the mother of five children who are completely helpless since the father of the children had abandoned her.

Note: The reports presented to this office are true according to our knowledge and understanding and are supported by reports and testimonies properly signed. CPDH does not claim to justify or defend the persons who have committed crimes; however, it believes that all Nicaraguans have the right to minimum legal guarantees so that true justice will be done.

Managua, October 23, 1985

CPDH: COMMISSION ON HUMAN RIGHTS OF NICARAGUA OCTOBER 1985 REPORT

On October 15, 1985, the government of the Sandinista Front once again imposed a State of National Emergency, by means of a decree through which the principal rights and guarantees of Nicaraguans were suspended, among others the rights to: individual freedom and personal safety; the appeal of habeus corpus; due process; freedom of movement and residence; the principle of legality; not to have interference in one's private life, his communication or correspondence, his domicile, honor or private documents; freedom of expression and information; peaceful assembly and public expression; free association; to found organizations and associations, both trade unions and professional ones; to found labor unions and to have them belong to international organizations; to strike and file an appeal for protection.

With the present one, there have been four cases in which the government has issued emergency laws, and of the six years of the Sandinista government, the people have seen their rights legally suspended totally or partially for almost five years. CPDH has written to President Daniel Ortega to express to him its consternation because of this new suspension of guarantees and has made him see that the best defense of any government is to respect the rights of its citizens, not to confiscate them. In addition, we have sent an explanation to the Inter-American Commission on Human Rights, in which it is reported that the government is violating the American Convention on Human Rights (Pact of San Jose), since in addition to applying the suspension of citizens' rights for an excessive time, it has suspended the minimum legal guarantees that make effective the rights still in force.

In addition to suspending the rights of citizens, it has begun to implement a Reserve Military Service, through which citizens between the ages of 25 and 40 will have to register, train, and if "selected," serve.

Since October 15, the grave situation of human rights in Nicaragua has deteriorated drastically, and one of the main institutions that has been affected by the government actions has been the Catholic Church of Nicaragua. On October 15 before the issuance of the decree suspending guarantees, the offices of the Social Advancement Commission of the Archdiocese (COPROSA), part of the Archiepiscopal Curia of Managua, were taken over militarily, the employees were removed from the facilities, and Cardinal Obando Bravo was not allowed access to them, the spokesman of the Archiepiscopal Curia, Mons. Bismarck Carballo, was removed by violent pushing upon the direct orders of the national head of State Security. So far the offices continue to be under military control.

National leaders of different political and union organizations have been taken to State Security offices, where they have been detained for a short time and threatened, among others: Dr. Eduardo Rivas Gasteazoro, President of the Nicaraguan Democratic Coordinator (CDN), Luis Rivas Leiva, Secretary General of the Social Democratic Party, Erick Ramirez, President of the Social Christian Party, Enrique Meneses Pena, of the Independent Liberal Party. The offices of the CTN were entered, accounting documents were removed, and three of its main leaders were also taken to the jails of El Chipote, where they spent several hours. On the other hand, the government has announced the detention of more than a hundred peasants in the northern region, accusing them of being "couriers" for the Contras and they have announced that they will be tried in the court of exception in Managua.

During October a total of 78 reports were filed with the CPDH of Nicaragua, dealing with a variety of aspects—only three weeks were worked—among them 39 detentions by the members of the General Administration of State Security (SGSB) of persons accused of "collaborating" with the contras were reported, as well as 11 cases of former members of the National Guard who are ill and not receiving medical treatment; these prisoners for the most part are in a deplorable physical condition after six years of extremely precarious conditions in the jail known as Carcel Modelo (Model Jail); more than a thousand prisoners in this jail have not received visits since June of this year. In that jail there are approximately 3,000 prisoners.

Below we present details of the principal reports received in October 1985.

DEATH

Victor Castro Ubeda, adult, married, laborer, residing at the Hacienda Santa Gertrudis, jurisdiction of Pueblo Nuevo, in the Department of Jinotega. He was detained by members of a patrol composed of 25 soldiers who appeared at said hacienda on September 9 of this year; in addition to him, they detained his brother Bayardo Castro Ubeda and work companions Francisco Velasquez Aragon, Gabriel Altamirano and Rudy Lopez Lopez. Their family members were advised that they would be taken to a military base located in Asturias, in the same department. When family members appeared the following day, they were informed that Victor Castro Ubeda had fled when he was being transferred and that the most likely was that he had "gone with the Contras."

A soldier of the patrol named Pastor Mendiola stated to the family that Victor Castro Ubeda had been killed when he tried to escape, he warned them that he was telling them that so that they would not continue looking for him but that if they told anyone the family would also be killed. Maria Ignacia Rugama Flores, partner in life of Victor Castro, sought him along with other workers of the hacienda, and on Friday, September 13 they found his body on the land of a neighboring hacienda; he was buried in a hole barely a meter deep and covered with branches and rotten sticks; the body was wrapped up in an olive green cloak and had his feet tied by means of his thumbs and also both wrists with shoe laces, his face was distorted as if he had been beaten fiercely, his teeth pulled out, his nose cut, the fingers and the right arm crushed, he had a wound in his stomach, the genitals destroyed, and weapons jabs were seen on his body. Apparently he had no wound from a firearm. The body was buried in Pueblo Nuevo on September 14.

The other persons detained were taken to State Security jails known as Las Tejas, in the city of Matagalpa and so far family members do not know the charges against them. Both they and the one murdered led a peaceful public life as workers on the Santa Gertrudis hacienda.

CPDH has in its possession a statement given before a Public Notary of the city of Jinotega, signed by 68 workers of Santa Gertrudis hacienda, in which the above is confirmed. These persons received promises

from the local authorities to investigate the events, which so far has not been done.

TORTURE AND ABUSE OF PRISONERS

Julio Ramon Montes, President of the Social Christian Party in the Department of Leon, Eduardo Paredes, Secretary of the Social Christian Revolutionary Youth of the Department of Chinandega, and the doctor Manuel Adan Rugama, of Managua, have been being subjected to discriminatory treatment, together with other political prisoners in the penal center known as Zona Franca. They are under "disciplinary sanctions" for being the supposed organizers of a hunger strike, demanding better food and treatment in keeping with the human dignity of prisoners.

The family visits of these prisoners have been limited, and they have reduced to the minimum the time in the sun, they are being threatened with transfer to a jail farther from Managua, in order to make visitations more difficult.

Dr. Manuel Adan Rugama, in spite of having heart problems, has not received appropriate medical treatment and the authorities have claimed that he "does not want" to receive medical treatment, or to be transferred to a clinic.

He has told his family that after his family or the International Red Cross Committee take him food and personal hygiene articles that they are robbed from him by "common thieves" who enter his cell at night.

MISSING

Victor Centeno Castro, 46 years of age, married, farmer, residing in San Jose del Bocay, in the Department of Jinotega, was detained on October 22, 1983; together with his case the apprehensions of the following were reported: Oscar Danilo Sobalvarro Zeledon, 21 years of age, Jorge Francisco Vargas Rivera, 21, Juan Diaz Amirena, 17, Cruz Chavarria Arteta, 19, Domingo Flores Palacios, 18, and Jose Zeledon Rizo, 18, all residing in Jinotega. Their whereabouts has been unknown since their detention.

In view of different efforts made by CPDH, the government responded to different international human rights organizations that these persons had not ever been apprehended and that the information that the government had is that "in December 1983 they had joined counterrevolutionary groups."

Mrs. Maria Nieves Centeno Blandon, companion in life of Victor Centeno Castro, appeared before CPDH to state that that reply of the government is false, since they were all taken in their house of residence by a patrol under the command of Gabriel Sanchez, the one in charge of the San Jose de Bocay command, and in which State Security member of Odel Garcia operated, both still in service in the city of Jinotega.

UNION MEMBERS

On Thursday, October 24, 1985, the CTN, a union organization with Christian leanings, was entered militarily by members of the General Administration of State Security (DGSE), who proceeded to take the national leaders of that organization, Sergio Gutierrez, Agustin Rodriguez Lopez, and Eugenio Membreno, all members of the National Executive Committee.

All of them were taken to the jails of State Security known as El Chipote, where they received humiliating treatment and were locked up in dark and bad-smelling cells, after having been photographed and having had their fingerprints taken. They were interrogated on the origins of a CTN declaration in relation to the state of emergency, and at all times were treated as "thieves," "scoundrels," etc.

Agustin Rodriguez was told that the only alternative to avoiding jail was becoming an informer for State Security and the Sandinista Workers Confederation (CTS).

After six hours they were released and the offices emptied, accounting documents and private documents such as passports being taken, which were not returned.

On the same day the house of Carlos Huembes Trejos, Secretary General of the CTN, was searched by members of the State Security and the same at that of Executive Committee member Miguel Salgado Baez, who at that time were not at their respective houses, but their family members were subjected to degrading treatment.

POLITICIANS

The Nicaraguan Democratic Coordinator (CDN), a coalition of different democratic sectors of the country, reported to CPDH that as a result of a communique released by this coalition of the opposition, related to the recently established State of Emergency, they were summoned to the offices of the General Administration of State Security (DGSE). The persons were: Dr. Eduardo Rivas Gasteazoro, President of CDN, and Dr. Luis Rivas Leiva, Secretary General of the Social Democratic Party (PSD), who after being put in dark one-square meter cells were photographed, had their fingerprints taken, and before being released were threatened by the National Chief of State Security, Comandante Lenin Cerna, that if they kept on challenging the State of Emergency, they would be jailed for more time.

The Nicaraguan Democratic Coordinator (CDN), also denounced the detention for a period of four hours of Lic. Erick Ramirez, President of the Social Christian Party and the detention for three days of Dr. Enrique Meneses Pena, leader of the Constitutionalist Liberal Party and director of the Unit Center and Democratic Promotion, after the fortieth anniversary of the United Nations had been celebrated in this center, a ceremony at which representatives of different diplomatic delegations accredited in the country were present. Both Lic. Erick Ramirez as well as Dr. Meneses Pena were threatened with new detentions if they continued their critical position toward the government.

RELIGIOUS

The Archiepiscopal Curia of Managua reported on October 15 of this year, that in the morning (before the rights of citizens were suspended) members of the General Administration of State Security militarily took over the premises of the Archdiocese Social Advancement Commission (COPROSA), which belong to that curia; the employees were forced to leave the offices, and they were not even allowed to remove their private vehicles from the premises. Entry into the premises was not permitted for the Archbishop of Managua, Cardinal Miguel Obando Bravo, nor the Asst. Bishop of Managua, Mons. Bosco Vivas. The spokesman for the curia, Mons. Bismarck Carballo, was removed from the premises violently upon the direct orders of Comandante Lenin Cerna, National Chief of State Security.

Although the authorities of the Catholic Church were not notified officially of the reason for these actions, the government has stated publicly that it was to withdraw from circulation the existence of a newspaper called Iglesia, which was not registered, nor was it submitted to censorship in the Ministry of the Interior.

Coprosa also operates the printing shop of the Curia of Managua; on the date of this report it continues to be occupied militarily.

CPDH has addressed a letter to the President of Nicaragua, calling these actions part of the repression implemented against the Catholic Church for its critical stance toward injustices. In addition, we have sent a letter to the international human rights associations and the diplomatic delegations, asking for their resolute intervention on behalf of the Catholic Church, which embraces at least 80% of the Nicaraguan population.

SPECIAL

Patricio Bolanos Davis, adult, married, degree in business administration, residing in Managua. He reported to CPDH that on October 23 of this year he was traveling in his Honda Accord on the road to Masaya, near the supermarket in the Centro America district, in the right lane, when he was overtaken by an olive green jeep, with the inscription CJ7. A little further on he caught up with the jeep and to his surprise the soldiers who were traveling in it fired a round from a machine gun which punctured the tires of his vehicle, and one bullet penetrated the left door, breaking the glass, and lodged in the executive briefcase that he had next to his legs.

The vehicle stopped immediately, so that with the help of Dr. Roberto Perez Alonso, his friend who by chance was passing by, they pushed it to the parking lot of the Bank of America, where he told watchmen what had happened; one of them called the police and immediately several members of the police and State Security appeared, and together with Mr. Perez Alonso he was taken detained to the police substation in the Centro America district, where he was interrogated by four members of Security, on his activities, relations, etc. The next day, on October 24, at around 3:30 a.m. he was taken to the offices of the Traffic Department, where they released him at about 11 a.m. on that same day after fining him for "not heeding traffic signals and drunk driving."

NOTE: The reports presented to this office are true according to our knowledge and understanding and are supported by reports and testimonies properly signed. CPDH does not claim to justify or defend persons who have committed crimes; however, it believes that all Nicaraguans have the right to minimum legal guarantees so that true justice will be done.

Managua, November 11, 1985

LETTER CONCERNING NOVEMBER 1985

Managua, December 17, 1985.

Comandante of the Revolution,
Daniel Ortega Saavedra, President of the Republic

MR. PRESIDENT: The Permanent Commission on Human Rights of Nicaragua addresses you in order to express the following to you:

On November 14 of this year, the Executive Secretary of our humanitarian institution was summoned to the Mass Media Office, where Captain Nelba Bandon told him orally that it was absolutely prohibited for CPDH of Nicaragua to issue any type of publication unless it was previously registered and submitted to censorship by said offices of the Ministry of the Interior, and otherwise, with all of its rigor the Law of

National Emergency would be applied, an open threat against those whom we work with so that respect for human rights will be a reality in the country.

Different international human rights organizations have come out in support of CPDH and asked your government not only to respect our publications, but to also offer us facilities for carrying out our work; among these organizations are the International League of Human Rights, with its headquarters in New York; the Inter-American Commission on Human Rights (CIDH), which is the specialized group of the Organization of American States, and Americas Watch, with its headquarters in Washington.

According to the reports received by CPDH of Nicaragua in November of this year repression begun with the implementation of the State of Emergency last October increased, especially directed at the religious and political sectors that maintain a critical position with regard to the government.

Forty individual detentions by State Security were reported to our offices, apart from massive ones in the region of Nueva Guinea, where the detention of 50 peasants was reported, as well as another 40 peasants in the Esteli region. In addition, nine cases of common prisoners were reported to us, related to human rights violations such as torture and abuse of prisoners, citizens held as hostages until their families are apprehended or appear before them, sentences without the requirements of police law being followed.

Especially in the month of November cases of repression against religious sectors were reported: more than 10 priests of the Catholic Church were called to police offices or to State Security, where they were "warned" not to criticize the state of emergency and not to put out religious statements with authorization. They were also fingerprinted and photographed.

Eight persons from the city of Chinandega, who were members of the Reception Committee on the occasion of the visit that Cardinal Miguel Obando made to that city on November 10, were detained by State Security and threatened before being released to give up all religious activity.

Below we present a small summary of the principal cases denounced in November 1985.

DEATH AND TORTURE

Zacarias Martinez Coronado, 17, single, farmer, residing in the El Almendro District, jurisdiction of the municipality of San Isidro, in the Department of Matagalpa. Member of the Social Christian Party (PSC). On November 9 of this year he was taken in his house by a patrol of the Sandinista Police, composed of six members, under the command of a soldier known only as "TORIBIO;" together with him they arrested Vicente Rodriguez Martinez, 18, also a member of the Social Christian Party.

The reason given by the captors was that of drafting them into Patriotic Military Service, in which they were already registered. They were transferred from the community of El Almendro to the neighboring district of El Carrizo, but on the way they were beaten brutally with the butts of weapons and with military boots.

The youth Vicente Rodriguez was abandoned on the road, having been beaten all over, since his captors felt that he was dead, but he managed to revive and get to his house.

A group of neighbors went out in search of Zacarias Martinez Coronado, finding his body two days later in a state of decomposition, in a place known as "Valle el Chorro," located between El Carrizo and the town of San Isidro.

MISSING

Eduardo Jose Rivas Miranda, 26, single, watchman, living in Bocana de Paivas, in the Department of Zelaya, disappeared from his house on September 28 of this year; he was working as a guard at the National Development Bank of Bocana de Paivas. His sister, Sara Rivas de Cordero, has made a series of efforts before the State Security authorities of Rio Blanco and Matagalpa, but the only information that she has received has been that they are looking for him since he supposedly "joined the contras," including with the weapon he used in his job as watchman, and he was not being held.

Mrs. Rivas de Cordero has received information from peasants that have been prisoners in State Security jails of Rio Blanco, in the Department of Zelaya, that Eduardo Jose Rivas is being held in those jails, that he is incommunicado in a cell known as "La Chiquita," completely naked with a leg immobile, which he drags when he walks.

RELIGIOUS

Ramiro Matus Campos, 45, married, with a degree in pedagogical sciences and residing in Jinotepe, in the Department of Carazo, who is the coordinator of the community of charismatics called "House of Yavhe," which operates in Jinotepe, was detained by members of State Security in Jinotepe, on November 19 of this year, when he appeared because of a summons from said agency of the Ministry of the Interior.

On three previous occasions Mr. Matus Campos had received threats of apprehension if he did not give up his religious activities.

Mr. Campos' wife, Mrs. Yelva Del Carmen De Matus, was fired from her job two days after the detention. She is a teacher and had been such for 18 years; the reason given against her is that there were "orders" from the regional delegation of the Ministry of Health.

Mr. Juan Ramon Macis Norori, who belongs to the same community, was jailed the same November 19 of this year by members of State Security.

The Catholic priest Dionisio Quintalilla, who is the spiritual leader of the congregation of the "House of Yavhe," appeared to carry out efforts on behalf of the detained persons but he was threatened, photographed, and fingerprinted at said offices of State Security.

Mr. Ramiro Matus Campos was finally released on December 3, 1985.

POLITICIANS

Erick Ramirez Benavente: President of the Social Christian Party reported to the CPDH of Nicaragua that the repression against members of his party has increased since the implementation of the State of Emergency on October 15 of this year. Among the principal hostile acts against the PSC in November are the following:

In their respective editions of November 1, the official media Barricada, El Nuevo Diario and El Sistema Sandinista De Television tried to tie the Social Christian Party to illegal activities related to military service, through tententious publications.

On November 8 Miguel Angel Manzanares, National Attorney for the PSC, was intimidated and threatened by the soldier in charge of the community of Mangos, jurisdiction of San Isidro, in the Department of Matagalpa, to desist from any partisan activity in that locality.

On November 9 Zacarias Martinez Coronado, member of the National Peasant Union of the PSC, resident of the district of El Almendro, jurisdiction of San Isidro, in the Department of Matagalpa, was murdered after being taken by a military patrol that detained him supposedly to induct him by force into military service.

The same day, November 9, Vicente Rodriguez Martinez was detained together with his cousin Zacarias Martinez C. and beaten savagely by members of the military patrol that apprehended them, until leaving him completely lifeless, thinking that he was dead.

The members of the PSC that are in jail have been subjected to intensive pressures in order to try to force them to "make a statement" at "press conferences" on supposed conspiratorial ties between leaders of this party and armed groups trying to overthrow the FSLN government.

UNION MEMBERS

Nicolas Antonio Rodriguez Gutierrez, member of the Confederation of Workers of Nicaragua (CTN). On October 19 of this year he was taken by members of the Sandinista People's Militia (MPS) in the community of Cerro de Agua, Department of Jinotega, being moved to the jails of State Security of Matagalpa, known as La Perrera, where he still remains, without concrete charges having been made against him.

CPDH of Nicaragua has intervened with a formal writ of Habeus Corpus before the Court of Appeals of Nicaragua in order to try to establish the causes of his detention, but so far that legal recourse has not provided any result.

FREEDOM OF EXPRESSION AND INFORMATION

Normal Talavera Sevilla, 29, married, journalist and of this domicile, who works as an editor for the newspaper LA PRENSA, where he is in charge of covering everything related to religion, was detained by members of the General Administration of State Security (DGSE) on November 10 of this year in the evening at his home.

That morning he had traveled to the City of Chinandega in order to cover the visit that day of Cardinal Miguel Obando Bravo, Archbishop of Managua to that city of Chinandega. Before his detention he was interrogated on whether he had taken photos at the reception given Cardinal Obando in Chinandega. Members of Security proceeded to search his house, taking with them a family photo album, his personal correspondence, 13 cassettes of English lessons, his passport and a copy of the newspaper IGLESIA, which was the official publication of the Archbishopric Curia of Managua that was prohibited on October 15, 1985.

Journalist Talavera Sevilla was kept in the jails known as El Chipote until November 14, kept in an isolation cell, competely dark and foul-smelling, which is under surface level and whose only ventilation was a tube that went from the roof of the cell to the outside.

He was threatened to give up his work as a religious correspondent and if possible to stop working for the newspaper La Prensa. He continues as a journalist for La Prensa.

NOTE: The reports made to this office are true according to our knowledge and understanding and are supported by reports and testimonies properly signed. CPDH does not claim to justify or defend persons who have

committed crimes; however, it believes that all Nicaraguans have the right to minimum legal guarantees so that true justice will be done.

Managua, January 9, 1986.
Comandante of the Revolution,
Tomas Borge Martinez, Minister of the Interior.

COMANDANTE BORGE: On December 14 of last year members of the General Administration of State Security arrested Mr. Jose Altamirano Rojas, who is 43 years of age, married and a leader of the Confederation of Workers of Nicaragua (CTN), an organization in which he occupies the position of Associate Secretary General.

Since the date of his detention, Mr. Altamirano Rojas has been kept in the jails of State Security in Managua, known as El Chipote, without concrete charges having been filed against him and his family has only been informed that he is being investigated in relation to "counterrevolutionary activities."

Mr. Jose Altamirano Rojas is a man of high moral principles and at all times has shown his vocation in the civic struggle for the rights of workers, which in September 1982 earned him from the President of Venezuela, Dr. Luis Herrera Campins, the First of May Order, as recognition of his union activity, carried out within the laws of the country.

This Commission on many occasions has received reports and denunciations in which a clear tendency is evident on the part of members of State Security to implicate Mr. Altamirano Rojas in supposed counterrevolutionary activities.

Among the principal reports given to CPDH in relation to Mr. Altamirano Rojas are:

(1) On December 16, 1982, he was called to the offices of the police department of Managua, known as Palo Alto, where he was subjected to an interrogation on the publication of a CTN bulletin.

(2) In July 1984, a supposed prisoner named Hernan Espinoza who identified himself at a "press conference" as "chief of the internal front of the contras," mentioned him as one of the persons with whom he had "contacts."

CPDH of Nicaragua had reports beginning in March 1983 that this individual Hernan Espinoza was a State Security agent and although he was tried and sentenced together with other persons, he is currently free, through a pardon, but the others such as Dr. Adan Rugama are still in prison.

(3) On December 2, 1984, he was prevented from leaving Nicaragua in order to attend a union program in the Dominican Republic; the pretext given by the Migration official at the airport was that his passport was "streaked," that is, stained with pen ink on one of its pages. Said streaks or stains were made by the Migration agent in his presence.

(4) In February 1985 he was informed by another CTN member (whose name we shall keep to ourselves) that the latter was being pressured by State Security to report on all actions taken by Mr. Altamirano Rojas.

(5) On October 24, 1985, the date when the CTN offices were entered militarily by State Security and three of its main leaders taken, two agents of that agency appeared at Mr. Altamirano Rojas' home, with evident intentions of apprehending him, which did not come about since he was not there.

On the basis of all of the above, Mr. Comandante, we cannot help but deduce that the current imprisonment of Mr. Jose Altamirano Rojas is but one more link in the chain of pressures, persecutions, and harassment of which the CTN of Nicaragua, as well as its main leaders, have been the object, for carrying out the sacred mission of organizing the less favored sectors of our people.

We take the liberty of reminding you that more than 100 international agreements in which union freedom in all its forms is guaranteed have been signed by our government, but that in practice, this union freedom continues to be an aspiration for the sectors that maintain an independent and critical line toward the Sandinista Front government.

In the name of the family of Mr. Jose Altamirano Rojas, the CTN of Nicaragua and our own names, we come before you to ask that the martyrdom of a just man not be continued and that he be released immediately.

This Commission feels that when Nicaraguan workers are persecuted and jailed simply because they think differently from the government party, then the very bases of this revolution are being attacked.

Sincerely,

Permanent Commission on Human Rights of Nicaragua.

LINO HERNANDEZ TRIGUEROS,
Executive Secretary.

AN EXTRAORDINARY TEACHER—MRS. CHRISTA McAULIFFE

Mr. PELL. Mr. President, I would like to share with my colleagues an excellent article about Mrs. Christa McAuliffe, who died in yesterday's tragic explosion of the space shuttle *Challenger*.

The article was written by a reporter who met her briefly before her final selection from among thousands of teachers to be the first private civilian in space.

John E. Mulligan, manager of the Providence Journal's Washington Bureau, met Mrs. McAuliffe for about 2 hours in a small Capitol Hill office with dozens of other reporters but she made a lasting impression.

Mrs. McAuliffe left, as part of her legacy, the clear picture of an unassuming, enthusiastic teacher who enjoyed her work with children every bit as much as her work preparing to teach them about space flight.

She appeared to "have been plucked from our midst" to be as member of the space shuttle *Challenger* crew, but she clearly was an extraordinary person.

I ask unanimous consent that the article from today's Providence Journal, "Recalling the Girl Next Door," by John E. Mulligan, be printed in the CONGRESSIONAL RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

RECALLING THE GIRL NEXT DOOR
(By John E. Mulligan)

WASHINGTON.—I met the woman months ago for a total of maybe two hours' time, most of it shared by dozens of other reporters. So why do I feel as if I just lost a sister?

When Christa McAuliffe greeted me in a little Capitol Hill office last July 18, I mistook her for the receptionist. She smiled, showed me to a seat and asked how she could help while I waited to interview Dick Methia, the New Bedford teacher among the finalists vying for the chance to be the first private citizen in space.

We chatted for a few minutes before Mrs. McAuliffe got around to introducing herself as another of the 10 chosen from among 11,000 teachers.

She's not the one, I thought instantly. Too sweet, too unassuming, too down-to-earth to match the right-stuff macho we seem to associate with the space program.

But the next day at the White House, Vice President Bush announced that the sunny-faced woman in the mustard jacket was indeed the one. Score one for the plain people, I thought, and I wasn't alone. The social studies teacher from Concord (N.H.) High was an obvious favorite with her competitors and with the reporters and officials who knew her.

Mrs. McAuliffe's first impulse was a gesture to the others who had made it through the space agency's exacting selection process. "I've made nine wonderful friends over the past two weeks," she said with some tears, "and when that shuttle goes, there may be one body but there's gonna be 10 souls I'm taking with me."

Coming from the skilled politicians who do most of the talking in this city, that could have seemed contrived. Coming from Mrs. McAuliffe in the unmistakable accents of her native Boston, it was touching.

Coming back to me from the pages of my notebook yesterday, it was—like every detail of the disaster—monstrously ironic.

It took a dozen viewings, it seemed, for me to get past the surface of the televised image, the cruel beauty of the fireball and the smoke plume etching themselves against the blue.

To watch the faces of Christa McAuliffe's students at Concord High School was to know that their young memories will be etched with that image like mine was etched one eighth-grade afternoon with the image of Jacqueline Kennedy's blood-spattered pink suit and pillbox hat.

It's been a good few years, I realized last July at the White House, since I've paid much attention to the space program. But the selection of Christa McAuliffe made perfection of President Reagan's masterly decision to make a teacher, of all people, the first ordinary citizen in space.

The space agency doesn't tell how it selects the shuttle travelers and it must have been tough to choose these 10 uniformly attractive and bright personalities from a most slighted profession. But I fancied that Christa McAuliffe stood out because in her mind teaching was so clearly as noble a profession as space flight.

Each candidate had to propose a personal project for the shuttle flight. Mrs. McAuliffe's was disarmingly straightforward and teacherly. Like the pioneer women crossing the prairies in their Conestogas more than a century ago, she said, "she would keep a journal of an ordinary person's perspective of history."

She said she wanted to teach the children that "the space program belongs to them and to try to bring them up with the space program" by answering the children's questions. "How's the food have to be different? How's the toilet have to be different?" she wondered.

Since last summer, I've caught myself following the space program for the first time in years and silently rooting for this woman whose dancing eyes suggested that her classes must have been a lot of fun.

It was refreshing that she never adopted the low-key coolness of the NASA persona. "Oh my God, it's beautiful," she murmured in wonderment when she witnessed her first liftoff at close hand last fall.

Her voice came back to me yesterday in ghastly contrast to that of the anonymous NASA announcer who called the explosion "obviously a major malfunction."

God knows we have to grieve for the six professionals and their families. These are a brave class of people, after all, who occasionally convince even the cynics among us that people are capable of majestic feats.

But when I finally absorbed that television image yesterday, my thoughts went to this woman because she of all the space travelers is the one who seemed truly to have been plucked from our midst.

When the image of the fireball forces itself on them, I hope the kids can summon up some other pictures. I hope they can see Christa McAuliffe in the weightless chamber, laughing and yelling, "I love it" with that childish wonder that all the great teachers keep for life.

I hope they can see and hear Christa McAuliffe after the announcement that she was the one who would fly: "I'm still kind of floating. I don't know when I'll come down to earth."

Christa McAuliffe was one of those extraordinary people—one in 11,000, you might say—who can make strangers believe that maybe she is their sister.

FLASH OF DESTINY

Mr. HATFIELD. Mr. President, in the face of tragedy such as that which struck our Nation yesterday, our feelings sometimes are best captured in the words of the poet rather than the politician. Today I met such a poet. Moments after watching disaster strike the *Challenger* space shuttle, Renna McPhatter was moved to express the thoughts of her countrymen in verse that already has moved me and others to tears. As my offering of sympathy to the families of the crew of the *Challenger* and to my fellow citizens, I ask unanimous consent that these beautiful words, "Flash of Destiny," be placed in the RECORD.

Mrs. McPhatter, who lives in Seneca, MD, is a native of Greece and came to the United States to live in 1955. Like so many others who have immigrated to our shores, she understands in a deep way the blessing of liberty and democracy enjoyed here. One day each week is given "to my democracy," she says. Today she has given us her heart in these tender words:

FLASH OF DESTINY

Oh God, we fall the hardest
When we aim so very high
But thus you charged us, Lord
And you challenged us to try.

As a Nation stood with hope
In our lips were solemn cheers
While gazing at eagles
Our eyes were filled with tears

In a sudden flash of light
Less than one more breath away
Thy majestic hand of destiny
Called seven more with you to stay

In Thy hands, Oh Lord, we pray, take
Michael, Gregory, Francis, and Christa
Also Ronald, Ellison, and Judith
Into the realm of heavenly vista

In Thy breast, Oh Lord, we pray, hold
The hearts now filled with sorrow
Guide their steps each day and year
'Til their glory of some tomorrow

Throughout this land weave two wreaths
Of pine cones and steel with orchids laced
Leave one here in their memory
Take the other with you into space

We may again the hardest fall
When we aim, Oh Lord, so high
But we feel You charged us, Lord
And for this challenge, again we'll try!

—*Reena Keyvellou McPhatter.*

TAX REFORM AND U.S. INTERNATIONAL COMPETITIVENESS

Mr. SPECTER. Mr. President, as we begin the 2d session of the 99th Congress, there are few issues more important than tax reform and our country's international competitiveness. President Reagan has initiated an historic effort to reform our Nation's Tax Code, an effort in my estimation which is long overdue. It is a matter of basic fairness that our Tax Code should be simpler, tax income at lower rates, and lessen the tax burden on the poor and working poor. Although the bill reported by the House of Representatives is far from perfect, I commend the President for his personal commitment to keeping this vital initiative alive.

At the same time, it is a matter of fundamental importance that tax reform take into account the necessity of promoting capital investment, productivity, job creation, economic growth, and American competitiveness in the international marketplace.

While capital is mobile, American families, towns, and communities are not. Unless sufficient incentives for capital formation and industrial growth are maintained, more American companies will locate offshore to take advantage of lower taxation and wage rates. Given the inability of the United States to compete with foreign labor on a price basis, it is imperative that we encourage capital formation to encourage investment and greater productivity.

The investment tax credit [ITC] has been an integral part of our Tax Code since President Kennedy proposed it in 1961. Originally a 7-percent credit for capital expenditures, it was suspended from October 1966 to March 1967, and late repealed in 1969. The 7-percent credit was reenacted in 1971 and expanded to 10 percent in 1975. Economic studies reveal that the credit has been a significant incentive for capital investment.

In 1981, Congress enacted the accelerated cost recovery system [ACRS] and expanded the ITC to counter the effects of double-digit inflation and increase the competitive position of U.S. industry in the world economy. ACRS, known as 10-5-3, also significantly simplified our depreciation system.

Mr. President, many of my Pennsylvania constituents have studied the House tax bill and its effect on capital formation, and have overwhelmingly concluded that adoption of this bill would have tremendously adverse effects on capital investment, productivity, job creation, economic growth, and industrial competitiveness.

The House bill will raise the cost of capital in the United States in comparison with other countries and thus encourage United States and foreign companies to shift investment abroad. It is estimated that this will result in a decrease in investment of $30 billion by 1988 and a loss of 1.5 million industrial jobs. This could increase our foreign trade deficit and increase social welfare spending at a time when Federal, State, and local governments are already under severe budgetary constraints.

Mr. President, based on 1982 data, it is estimated that this economic downturn will result in the loss of 90,000 production jobs in the State of Pennsylvania alone. My State, Mr. President, simply cannot afford the loss of 12 percent of its industrial jobs. Many areas of my State, particularly in western Pennsylvania near Pittsburgh and northeast Pennsylvania near Wilkes-Barre-Scranton have not fully recovered from the past recession. Many towns, such as Clairton, are on the brink of bankruptcy due to job losses. Many cannot even pay for fire or police services on a current basis. It would be economic folly to change course dramatically from a policy encouraging capital investment, job creation, and economic growth.

Mr. President, I would like to stress that we cannot overemphasize the importance of maintaining a competitive position in the worldwide marketplace for American companies. A recent study by Arthur Anderson & Co. assesses that adoption of the House bill would move the United States from a competitive position of tax treatment for capital investment to dead last among industrial nations. I ask unanimous consent that the results of this study be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

COMPARISON OF THE PRESENT VALUE OF COST RECOVERY ALLOWANCES IN THE UNITED STATES AND OTHER COUNTRIES

Country	Present value	Rank
MANUFACTURING EQUIPMENT [1]		
4-percent real return:		
Luxembourg	139.4	1
Spain	114.2	2

COMPARISON OF THE PRESENT VALUE OF COST RECOVERY ALLOWANCES IN THE UNITED STATES AND OTHER COUNTRIES—Continued

Country	Present value	Rank
Belgium	110.1	3
Canada	100.3	4
United States–ACRS/ITC	96.7	
Hong Kong	88.6	5
Denmark	87.3	6
United States–CCRS	85.1	
Sweden	83.9	7
Italy	83.1	8
France	82.4	9
West Germany	78.3	10
Switzerland	76.5	11
United Kingdom	76.4	12
South Korea	74.7	13
Japan [2]	71.6	14
United States–H.R. 3838	70.4	
Taiwan	68.5	15
8-percent real return:		
Luxembourg	132.6	1
Belgium	105.5	2
Spain	104.3	3
Canada	95.6	4
United States/ITC	89.4	
Hong Kong	84.7	5
Denmark	79.1	6
Sweden	78.2	7
Italy	77.1	8
France	76.1	9
United States–CCRS	75.0	
West Germany	71.0	10
United Kingdom	69.3	11
Switzerland	69.2	12
South Korea	67.1	13
Japan [2]	64.2	14
United States–H.R. 3838	61.7	
Taiwan	60.4	15
12-percent real return:		
Luxembourg	126.8	1
Belgium	99.1	2
Spain	98.4	3
Canada	91.4	4
United States/ITC	83.2	
Hong Kong	81.5	5
Sweden	73.1	6
Denmark	72.5	7
Italy	71.9	8
France	70.8	9
United States–CCRS	66.9	
West Germany	64.9	10
United Kingdom	63.6	11
Switzerland	63.2	12
South Korea	60.8	13
Japan [2]	58.3	14
United States–H.R. 3838	54.8	
Taiwan	53.9	15
MINING EQUIPMENT [3]		
4-percent real return:		
Luxembourg	143.8	1
Spain	118.9	2
South Korea	102.0	3
Belgium	99.6	4
United States/ITC	96.7	
Canada	89.8	5
United States–CCRS	87.9	
Denmark	87.3	6
Italy	86.0	7
Hong Kong	84.8	8
Sweden	83.9	9
France	82.4	10
Switzerland	81.4	11
Japan [2]	80.2	12
West Germany	79.7	13
United Kingdom	76.3	14
Taiwan	71.9	15
United States–H.R. 3838	70.4	
8-percent real return:		
Luxembourg	138.5	1
Spain	110.9	2
Belgium	94.6	3
South Korea	94.3	4
United States ACRS/ITC	89.4	
Canada	82.6	5
Italy	80.8	6
Hong Kong	80.3	7
United States–CCRS	79.9	
Denmark	79.1	8
Sweden	78.2	9
France	76.1	10
Switzerland	75.1	11
West Germany	73.7	12
Japan [2]	73.6	13
United Kingdom	69.3	14
Taiwan	63.5	15
United States–H.R. 3838	61.7	
12-percent real return:		
Luxembourg	133.7	1
Spain	104.0	2
Belgium	90.1	3
South Korea	87.7	4
United States–ACRS/ITC	83.2	
Canada	76.7	5

COMPARISON OF THE PRESENT VALUE OF COST RECOVERY ALLOWANCES IN THE UNITED STATES AND OTHER COUNTRIES—Continued

Country	Present value	Rank
Hong Kong	76.7	5
Italy	76.2	7
United States–CCRS	73.1	
Sweden	73.1	8
Denmark	72.5	9
France	70.8	10
Switzerland	69.7	11
West Germany	69.0	12
Japan [2]	68.0	13
United Kingdom	63.6	14
Taiwan	56.9	15
United States–H.R. 3838	54.8	

[1] Class 4 of the Tax Reform Act of 1985 (H.R. 3838) incentive depreciation system includes, for example: Mining equipment and assets used in the manufacture of electric and nonelectrical machinery including machine tools, farm and construction machinery, commercial and home appliances, mining and oil field equipment, business machines, motor vehicles, wood products, and finished plastic products. Calculations for the comparison were made with respect to light manufacturing textile equipment. Class 4 equipment is subject to double declining balance depreciation over a 10-yr. recovery period, switching to straight line at the optimal point.

[2] Although Japan's capital cost system is inferior to that of the United States, research by Dr. John B. Shoven, Stanford University, suggests that when all factors affecting the cost of capital are considered, Japanese investors enjoy a substantial advantage over their United States competitors. Japan's advantage over the United States stems from: (1) Much lower taxes on capital income at the individual level; (2) individual's almost unlimited ability to deduct savings from taxable income; (3) reduced corporate tax rates on income paid out as dividends; and (4) much higher debt/equity ratios than in the United States.

[3] Class 4 of the Tax Reform Act of 1985 (H.R. 3838) incentive depreciation system includes, for example: Mining equipment and assets used in the manufacture of electrical and nonelectrical machinery including machine tools, farm and construction machinery, commercial and home appliances, mining and oil field equipment, business machines, motor vehicles, wood products, and finished plastic products. Calculations for the comparison were made with respect to mining equipment. Class 4 equipment is subject to double declining balance depreciation over a 10-yr. recovery period, switching to straight line at the optimal point.

Note.—The computations assume an inflation rate of 5 percent and a 4, 8, or 12 percent real rate of return. Depreciation is computed on an asset placed in service by a calendar year taxpayer on July 1, 1986 without regard to the mid-month convention. Rank shown for all foreign countries assumes current law for the United States (ACRS).

Source: Arthur Andersen and Co.

Mr. SPECTER. Mr. President, in the months ahead, I plan to play an active role advocating capital investment incentives. As cochairman of the Northeast-Midwest Senate Coalition, and chairman of the Senate Coal Caucus, I am convinced that this region and many vital industries, including coal, would be adversely and unfairly affected by changes proposed in the House bill. Some changes in ACRS and the ITC may be advisable, such as limiting incentives to domestically manufactured assets or targeting the ITC to so-called blue-collar productive assets. However, unless the accelerated cost recovery system and investment tax credit are maintained, I fear America faces a receding economic tide. Experience has taught us that it is a far wiser course to maintain incentives for capital investment than to eliminate fair investment treatment and cast American workers into the sea of economic recession.

CHRISTA McAULIFFE, A TEACHER TO APPRECIATE

Mr. CHILES. Mr. President, last week I introduced a resolution to designate the first Friday of each May as "National Teacher Appreciation Day." In my statement, I expressed how proud I was to be offering the legislation during the week we were scheduled to send our first teacher into space.

As we join in national mourning for the deaths of the seven astronauts yesterday, Americans learn more each hour about the kind of teacher and person Christa McAuliffe was. The more we learn, the more we respect her dedication to her profession and the children she taught.

My comments last week applauded the opportunity this flight represented—to bring Government and education together, to bring classroom science to the real world of space flight and thus inspire students nationwide, and to publicly recognize the important contributions teachers make to our society. These thoughts are strengthened by the national tragedy we are sharing, and our personal appreciation of Mrs. McAuliffe's efforts is heightened as the details of her life and teaching career unfold.

Christa McAuliffe consistently made the relationship between learning and life real for her students. She shared with them the challenge of entering the national competition to fly with the shuttle. Through her experience, they saw how fulfilling it can be to dream and to realize that dream through hard work and confidence. Had Mrs. McAuliffe not been selected as our teacher in space, I am equally sure she would have shared the experience in a way that taught the value of the quest itself above winning, the personal satisfaction to be gained from putting forth one's best effort, whether it is rewarded or not.

It was not only adventures such as space flight that Christa McAuliffe shared with her students. And it was not only vicarious experience she offered them. She taught American history through the journals of common people like the pioneers who settled the American West. She took her students out into the community as well, where they interacted with the people and institutions that comprise their real world. She even took them to prisons, so they would understand that not all challenges facing this Nation are as glamorous as flight in space.

Her death makes us all her students, learning or relearning the lesson of risk and our own mortality along with her lessons of courage, giving, and aspiration. Christa McAuliffe had great hopes for what her shuttle flight could mean for the esteem of all teachers, the inspiration of all students. I think the example of her life and character achieves that hope.

TEXTBOOKS: WHAT ARE THEY TEACHING ABOUT COMMUNISM?

Mr. HELMS. Mr. President, a remarkable young man, Gary L. Bauer, Under Secretary at the Department of Education, recently gave a superb

speech to the Association of American Publishers at their annual meeting. In his remarks, Mr. Bauer addressed the subject of school textbooks, their uses and abuses, and their roles in a free society and in a Communist society.

In a free society textbooks should serve the purpose of teaching the truth about the world. Mr. Bauer points out, however, that in our society contemporary textbooks are falling far short of the mark, especially in their failure to present objectively the truth about communism. On the other hand, textbooks in the Soviet Union and other Communist countries make little pretense about conveying the truth about the world; text books are used instead for indoctrination in Communist ideology.

Mr. President, so that Mr. Bauer's speech may reach a wider audience than the publishers' association, I ask unanimous consent that it be printed in the RECORD.

There being no objection, the speech was ordered to be printed in the RECORD, as follows:

SPEECH BY GARY L. BAUER

It is my pleasure to be with you this evening. You are, at the risk of flattery, important people centrally involved in the task of the education of children in the most free and arguably the most powerful nation in the world. This puts you in an enviable position but one, at the same time, that is burdened with responsibilities. Living in a free nation, you have great discretion in what you publish—in what you believe is important for our children to learn. You should not lightly dismiss this fact. For although every country has textbooks and textbook publishers, few countries give them a milieu of liberty in which to operate. In fact, it might be edifying to examine the role of your counterparts in the rest of the world—particularly in the communist block and their Third World allies. When one undertakes such examination, it becomes clear that what happens to children under communism is not in any sense of the word "education." It's indoctrination in which textbooks play a key role.

Thus, Soviet school children learn from their textbooks that John Wilkes Booth was a "hireling of the slave-owning South, and, it is suspected, of the large Northern capitalists." And that the American government practiced "bacteriological warfare" against the Indian population. And that "under the conditions of capitalism, one-third of Americans are unable to buy necessary food." These "facts" can be found in history books used by students throughout the Soviet Union, and according to a textbook study done in 1981 they are typical of the Soviet treatment of American history.

In a recent article in American Education, Arch Puddington has accurately described what happens in Soviet classrooms.

"From the Russian Revolution onwards, education has served a special function in communist societies, one radically different from the role of education in the democratic world. While practically every society develops educational policies with an eye towards the inculcation of attitudes of responsible citizenship and respect for the national culture, communist regimes teach children to become productive and patriotic citizens in ways that vary sharply from the methods that a free society would find acceptable. Communist and democratic educational systems represent two fundamentally opposed philosophies, not simply different techniques for achieving similar goals, a fact that educational authorities in communist societies readily admit. In countries ruled by a single, monolithic communist party, the schools are expected to instill "socialist" values in children, promote unquestioning devotion towards the motherland and the communist system, encourage contempt for other, non-communist societies (the United States above all) and convince the younger generation that there is but one correct interpretation of history, that set down by the state. In other words, indoctrination—pure and simple—is perceived as a legitimate job of the schools."

George Will tells the story of a young Soviet teacher who died heroically when he fell on a live grenade to protect his pupils in the Ukrainian village of Ivanichi. What was a grenade doing in the school? According to the London Times, the teacher, a graduate of a KGB border guard college, had been delivering military instruction, a compulsory part of the curriculum for Soviet children. Apparently, a live grenade was accidentally mixed with the demonstration models. The manual the teacher used teaches "hatred for the enemies of socialism." It also teaches the assembly of machine guns and the use of bayonet and rifle butts in the "decisive armed conflict of two opposing world systems."

In the Third World, where a number of communist or quasi-communist regimes are in power, the situation is even more disturbing. In Cuba, Vietnam, Afghanistan and similar Third World countries, the imparting of knowledge takes a back seat to instilling ideology and hatred of the West in general and America in particular.

Let's take a look at what is happening in Vietnam, for example. After the war, the Communist government nationalized the entire educational system, a significant step since many of the schools were run by religious denominations. Next, massive purges of teachers were instituted with almost all male teachers under 45 sent to re-education camps, where some languished for many years. Within each school and university, a special vice principal for political affairs was appointed. These individuals, almost uniformly from North Vietnam, were given direct control over curricula. Each school also contains a network of "young informants," headed by a communist party member. They report on students or teachers who criticize the regime or make politically unacceptable statements.

As for the curriculum, here again the dividing line between propaganda and education was effectively abolished. First-grade children were confronted with math problems such as:

Our troops went to the battlefield and killed five American imperialists and three puppet troops. How many troops did our troops kill?

The significance of all this was noted by a teacher who succeeded in fleeing the country:

"The purpose . . . is to create and nurture hatred in the minds of children. . . . The insidious thing is that such stuff is made an integral part of every subject taught, and that children in the classroom must repeat it all the time, so that they get used to it."

Our way is different. Our children are spared this sort of indoctrination. We are rightly proud, as free men and women, of this, and we cannot doubt that our children are better off as a result. Our freedom, however, also brings with it a responsibility. If no government agency can tell you what to publish—and clearly in this country none must ever do so—then it falls on your shoulders to act responsibly in helping decide what our children must learn.

The decisions that you and your companies make about the structure and content of textbooks, determine in large part, what goes into the teaching of our children. You may have heard these statistics before, but let me mention them as a reminder of the significant responsibility you bear: 95 percent of reading in high school is done from textbooks; supplementary materials, such as workbooks and skill sheets, account for 70 percent of time allocated for reading instruction in grade schools; and teachers, in general, are extremely dependent upon textbooks and teacher guides for the majority of their classroom instruction.

What is in our textbooks, what we choose to teach our children about our free institutions and about those governments with which we share the globe, takes on added significance in light of international developments in recent months. The US-USSR Summit, which resulted in preliminary agreement for widespread student exchanges between our two countries, should lead us to review whether our children are adequately prepared to meet and debate their Soviet counterparts.

There is some cause for concern. Let me cite an example. Some months ago, The Washington Post carried a story about 15 American teenagers and 15 Soviet teenagers who met near Washington to discuss the threat of nuclear war. The Americans were members of a county school's talented and gifted school program. The Russians attend an embassy school, and are the children of Soviet diplomats. Here are some excerpts from occurred:

"'What do you think of America?' asked one (American) pupil. "America is a good country," replied Dmitry Domakhin, 12, whose father is a diplomat. . . . "It's such a pity that it's a capitalist country." Dmitry grinned as the audience of parents and pupils laughed. Later, he posed his own question to the American children. "In the Soviet Union, when we have lunch at school, the lunch is free," he said. "I just want to know, how much do you have to pay?" Ninety to 95 cents per meal was the answer. Dmitry smiled again.

"Alexei Palladin, 14, whose father is a correspondent for (a) Soviet newspaper, pointed out that the Soviet Union and the United States have been friends before.

"'What do you know about the Second World War?' Alexei asked the Americans. No answer. He nodded as if that was what he expected. "Nobody even knows," he said, "that we were allies. We were fighting Nazism together. . . ."

"Alexei sat down to hearty applause . . . Afterward, the children were invited to contribute to the "Peace Ribbon," a seven-mile long strip of peace slogans that encircled the Pentagon in August to mark the 40th anniversary of the bombings of Hiroshima and Nagasaki."

If you are like me, you no doubt find these stories depressing and alarming. I would have given a great deal if just one of those American children would have been bold enough or knowledgeable enough to bring up the Nazi-Soviet pact that helped usher in World War II, or the Gulag where uncount-

ed men and women of conscience have suffered, or the genocide taking place in Afghanistan, or free speech of Andre Sakharov.

Now, there is a temptation in our anger to blame these children, but we would be wrong to do so. For these are, after all, our children. If we have not prepared them for the world they must live in, then it is our fault. If they are not aware of the special freedom they enjoy, then perhaps we haven't been aggressive enough in telling them about it. And if they seem to be children who have forgotten the past, then perhaps it is because no one has ever taught it to them.

So why is there this confusion among some of them about the nature of the societies with which we share the globe? Unfortunately, a case can be made that part of the problem resides in our textbooks—textbooks that are quick to be hyper—critical of American institutions, while glossing over the intrinsic character of totalitarian governments.

Many textbooks reflect the views of prominent historians and social scientists who refuse to see a difference between the United States and the Soviet Union, who refer to both nations commonly with the neutral term, superpower, but are unable or unwilling to make crucial distinctions about both systems of government.

One can see this in a booklet published by the National Council for the Social Studies on the subject of teaching about human rights in the schools. In the introduction of the booklet, aimed at teachers, the editors contend there are several ways to each about human rights—including the comparative approach. And then to make their point, the authors say the following: "In Western Europe and the United States, for example, civil and political rights such as freedom of speech, voting, and due process are of prime concern. In Eastern European countries, economic rights such as the right to work, to form trade unions, to strike, and to take vacations are considered essential." Now never mind the questionable concept of teaching that freedom of speech is comparable to the right to take a vacation. That is dubious enough. But where is it in Eastern Europe, under the yoke of Soviet Communism that one finds the rights described? Lech Walesa, for one, will certainly be interested in knowing he has the right to form a trade union and to strike.

Recently, I examined six global history texts, all newly written or revised since 1983, and all of them aimed at the secondary school market. I was particularly interested in how these books handled issues of contemporary geopolitical significance—to see just what it is that a 14-year old is supposed to end up knowing about problems besetting the world.

One world history book widely used in America's high schools has a section on Soviet women. It says the following: "Equality for women in the USSR is a reality . . . They receive equal pay for equal work . . . Men and women are treated equally under Soviet law. They may marry or vote when they are 18." These statements would be laughable if the misinformation they spread were not so dangerous. Soviet women have the right to vote in the same context as Soviet men—in the context of a society that gives them only hand-picked candidates of the communist party and no one else. This shouldn't be a hard concept for a textbook writer to understand or to explain. Equal pay for equal work—yes, I suppose one could say that is true, but only in the context of an economic system completely controlled by a central government, with little chance for real initiative or economic independence. To fail to tell our children these facts is to seriously mislead them about the nature of the Soviet system.

Coincidentally, this textbook also seems to suffer from amnesia. No mention can be found in it of the great man-made famine in the Soviet Union in 1932-33 in which the Soviet Government used food as a weapon to kill more than seven million men, women and children in the Ukraine. Nor is there any mention to the millions that died in China in the name of communism, in the name of building a new man. Nor of the genocide that took place in Cambodia following the communist takeover of that nation in 1975.

The other texts were hardly better. Although most of the books look reasonably accurate up through World War II, when we get to modern times, they falter badly.

What happened in Vietnam after the war? Several texts described the atrocities visited upon neighboring Cambodia by Pol Pot, and all mentioned the "boat people." But only one explained that these were refugees from a brutal, totalitarian regime. In several books, they just happened to set sail.

Why did Russian troops move into Afghanistan in 1979? One volume got it about right: "The Soviets invaded Afghanistan to bring that country under their complete control. The UN and the United States condemned the invasion. Soviet forces in Afghanistan were only 250 miles from the Persian Gulf." In the other books, however, the Soviet Goal was simply to shore up the government in Kabul, to fend off guerrilla attacks, or—remarkably—because "the Soviets feared that an uprising among the Muslims of Afghanistan might spread to . . . the Soviet Union." In short, five out of six give the impression that Moscow's move was essentially defensive or vaguely compassionate. None, it must be noted, has a word about exploding toys that maim Afghani children.

What is the U.N.'s track record? Every volume waxes eloquent about its founding. Several also indicate that it has not been hugely effective as a peacekeeper. Only one, however, acknowledges that "some people" say that "many members use the UN as a place to denounce the policies of the United States" and that "many UN countries openly violate the charter of the UN." None of the others casts even a shred of doubt on the innate virtue of the United Nations.

How is life inside the Soviet empire? Most books discuss suppression of religion and the persecution of dissidents. Solzhenetsyn turns up in five volumes, Sakharov in three. Yet it is easy to derive the impression that ordinary Russians face no real difficulty so long as they don't do odd things like pray or speak out. One volume lauds Soviet successes in bringing about "almost total literacy" saying "In fact, reading has become a national pasttime." Really? What does this mean, in a country where what can be read is determined by a dictatorship?

Here is another book's entire paragraph on Caribbean adventurism: "Castro has been accused of sending military aid to the guerrillas in El Salvador and aid to the Sandinista government in Nicaragua. In 1983 the U.S. Invaded Grenada when it learned that Cuba and the USSR had provided weapons to that country." So far as our hypothetical teenager knows, the U.S. still occupies Grenada, and Castro is merely accused, not convicted, of arming the Managua regime.

In some ways the most telling messages of all are contained in those final chapters on "challenges facing the modern world." In virtually every instances, one finds adoring treatments of science and technology, oddly coupled with "limits to growth" warnings against pollution and resource exhaustion. Economic development in the Third World looms large, as do "changing cultural patterns." There is much talk of the nuclear peril and of global interdependence. But there is rarely any mention of human rights issues; of repression and savagery; of freedom and tyranny; of the conflict between democracy and totalitarianism; or of the fact that only a small fraction of the globe's citizens live under regimes of their own choosing.

Unevenness coupled with relativism, bad history joined to ideology, events without causes or consequences. Such shortcomings do no service to children who will have the burden of preserving liberty in a dangerous world.

So what am I suggesting? Let me make clear that I am not suggesting that textbooks should be in accord with the policy positions of this Administration or any other. Our textbooks should not contain indoctrination masquerading as education. But they also should not read as if they were written by neutrals in the struggle between freedom and slavery. We need do nothing more than tell the truth—the truth about our attributes and about our shortcomings, about our triumphs and about our defeats, about our heroes and about our fools. And we should tell the truth about those who believe and act upon different principles than us—about those who see man as a creature of the state, and not as a child of God endowed with inalienable rights.

Earlier, I mentioned an American textbook that failed to tell about the many atrocities from the Ukraine famine to the genocide in Cambodia commited in the name of Marxism. A Washington journalist contacted one of the writers of this textbook, a history professor at Clark University, to ask why, in 854 pages these significant events were omitted. He responded that he was "afraid of raising the temperature of indignation, because it leads to bad ends in our contemporary world. And so I am generally inclined to tone down what brutalities there are." He added he worried that the children might build up a "hostility" toward communism "without understanding why these things happened." Let me urge you, as publishers, to reject this type of censorship, for it hides from our children the truth. And it is the truth that will in the end keep us free, and preserve liberty for future generations.

Thank you.

MARKUP HEARING ON REORGANIZATION OF DEPARTMENT OF DEFENSE

Mr. WARNER. Mr. President, next weekend, the Senate Armed Services Committee will begin a markup of a bill directed at reorganization of the Department of Defense. Chairman GOLDWATER and Senator NUNN, in directing this very important legislation, have concluded an extensive set of hearings.

The staff of the committee have prepared their own outline, which has not been endorsed in whole or in part by the committee. However, I and other committee members are desirous of receiving comments on this staff outline as we prepare for the markup session. To inform interested persons who may desire to communicate their views, I ask unanimous consent to have a press release printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

GOLDWATER AND NUNN RELEASE SUMMARY OF STAFF PROPOSAL ON DEFENSE REORGANIZATION

In a joint statement, Senator Barry Goldwater (R-Ariz.) and Senator Sam Nunn (D-Ga.), the Chairman and Ranking Minority Member of the Senate Armed Services Committee, released a summary of a draft bill on defense reorganization that has been prepared by the Committee staff. The draft legislation would make several organizational changes in the major elements of the Department of Defense: the Office of the Secretary of Defense, the Organization of the Joint Chiefs of Staff, the unified and specified commands, and the Military Departments.

For more than three years, the Armed Services Committee has been examining the organization and decision-making procedures of the Defense Department and the Congress. As part of its review, the Committee held a total of 23 hearings with 45 witnesses. In addition, the Committee staff prepared a 645-page report entitled, "Defense Organization: The Need for Change." At the conclusion of the Committee's most recent series of hearings in December 1985, Senator Goldwater and Senator Nunn directed the staff to draft a bill that incorporated, as much as possible, the consensus views that had emerged during the Committee's lengthy examination. The legislative proposal that the staff has now drafted, however, has not been endorsed by the Armed Services Committee or any of its Members.

The Senators explanied that "the summary we are releasing today outlines a staff proposal which was prepared to help the Committee to focus on specific organizational changes in the Defense Department. Although we may not agree with every provision of the draft bill, we do believe that it represents an excellent starting point for the Committee's consideration."

Senator Goldwater and Senator Nunn announced that the Armed Services Committee will begin to mark-up the staff proposal on Tuesday, February 4th.

A summary of the draft bill prepared by the Committee staff is attached to this press release.

DEPARTMENT OF DEFENSE REORGANIZATION ACT OF 1986: A STAFF PROPOSAL

SUMMARY OF MAJOR PROVISIONS

1. *Secretary of Defense*

a. Repeal the Secretary of Defense's authority to reorganize Department of Defense (DoD) positions and activities that have been established in law.

b. Specify the authority of the Secretary of Defense to command all combatant commands.

c. Specify that the Secretary of Defense is responsible for advising the President on the qualifications of DoD political appointees and senior military officers.

d. Require the Secretary of Defense to keep the Service Secretaries informed on military operations and DoD activities that directly affect their responsibilities.

e. Establish the Office of the Secretary of Defense (OSD) in statute.

2. *Under Secretaries of Defense*

a. Increase the number of Under Secretaries of Defense from two to five.

b. Specify their titles, powers, and duties: Nuclear Deterrence; NATO Defense; Regional Defense and Force Projection; Research and Engineering; Readiness, Sustainability, and Support.

3. *Assistant Secretaries of Defense*

a. Reduce the number of Assistant Secretaries of Defense from eleven to seven.

b. Do not specify their titles, powers, and duties except for the Assistant Secretary of Defense (Comptroller) and the Assistant Secretary of Defense (Reserve Affairs).

4. *Defense Agencies and Field Activities*

a. Direct the Secretary of Defense to assign supervisory responsibility for each Defense Agency or Field Activity to an OSD official or the Chairman of the Joint Chiefs of Staff (JCS).

b. Direct the Secretary of Defense to establish procedures for the effective review of the programs and budgets of the Defense Agencies and Field Activities.

c. Direct the JCS Chairman to advise the Secretary of Defense on the wartime preparedness of the Defense Agencies and Field Activities.

d. Direct the Secretary of Defense and the Director of Central Intelligence to correct jointly those deficiencies that the JCS Chairman may identify in the wartime preparedness of the Defense Intelligence Agency and the National Security Agency.

e. Direct the Secretary of Defense to assess periodically the need for the Defense Agencies and Field Activities.

5. *Joint Chiefs of Staff*

a. Specify that the Chairman and other JCS members should have substantial joint duty experience.

b. Designate the corporate JCS, assisted by the Joint Staff, as the Secretary of Defense's military staff.

c. Designate the Chairman as the principal military adviser to the President, the National Security Council (NSC), and the Secretary of Defense.

d. Require the corporate JCS to provide advice whenever the President, the NSC, or the Secretary of Defense request it.

e. Assign duties to the Chairman (including the duty of providing advice to the President in the establishment of unified commands) that are currently performed by the JCS but require him to consult, as appropriate, with JCS members and unified commanders in carrying out those duties.

f. Authorize each JSC member to submit to the President, the NSC, and the Secretary of Defense any opinion in disagreement with the Chairman's advice.

g. Repeal the Service Chief's authority to make recommendations, on their own initiative, directly to the Congress.

6. *Chairman of the Joint Chiefs of Staff*

a. Allow the President to reappoint the JCS Chairman to a third two-year term.

b. Update and expand the Chairman's duties: Require the Chairman to assess joint military requirements, especially in communications; require the Chairman to advise the Secretary of Defense on the extent to which the Services' budget proposals conform with overall national security objectives and the requirements of unified commanders; require the Chairman to develop joint doctrine; require the Chairman to prepare fiscally constrained strategy plans along with other strategy plans.

c. Require the Chairman to evaluate the joint service of military officers recommended for three- and four-star rank.

d. Require the Chairman to sumit a biennial report to the Secretary of Defense on the appropriateness of the Services' roles and missions.

7. *Vice Chairman of the Joint Chiefs of Staff*

a. Create the new position of Vice Chairman of the JCS with the rank of four-star officer.

b. Assign the Vice Chairman the duty of serving as the Acting Chairman in the absence of the Chairman and performing whatever duties are assigned to him.

c. Designate the Vice Chairman as the second ranking military officer just below the Chairman.

d. Specify that the Vice Chairman's initial and reappointment terms are to be the same as those of the Chairman.

e. Require the Chairman and the Vice Chairman to be from different Services.

8. *Joint Staff*

a. Remove the limitation of 400 officers on the size of the Joint Staff.

b. Authorize the Chairman to independently manage the Joint Staff.

c. Authorize the Chairman to prescribe the staffing procedures of the Joint Staff.

9. *Combatant Commands (Unified and Specified Commands)*

a. Require the Military Departments to assign all combatant forces to the combatant commands.

b. Specify that the chain of command, unless otherwise directed by the President, runs from the President to the Secretary of Defense to the combatant commander.

c. Authorize the President or the Secretary of Defense to place the JCS Chairman in the channel of command communications between the Secretary of Defense and the combatant commander.

d. Require the combatant commanders to specify the chains of command and organizational structures within their commands.

e. Specify that the combatant commanders should have substantial joint duty experience.

f. Specify that the combatant commanders rank in order of precedence just below the Chairman, Vice Chairman, and Service Chiefs.

g. Specify the combatant commanders' direct resonsibility to the Secretary of Defense.

h. Provide the combatant commanders with full operational command over all forces assigned to their command.

i. Define "full operational command" to include all aspects of military operations and joint training and those aspects of administration and support that the unified commander, with the Secretary of Defense's approval, believes are necessary to perform his mission.

j. Specify that component and force commanders are under the authority of their combatant commanders and shall communicate with other parts of the DoD only according to procedures approved by their combatant commander.

k. Require that the selection of component and major force commanders be made with the concurrence of their combatant commanders.

l. Require the combatant commanders to select their staff members according to procedures established by the Secretary of Defense.

m. Direct the Secretary of Defense to specify for the Military Departments the extent to which they are responsible for those administrative and support duties related to forces in combatant commands that the combatant commanders have not assumed.

n. Authorize the Secretary of Defense to assign the responsibility for the administration and support of forces in a combatant command to a DoD agency other than the Military Department.

o. Authorize the Secretary of Defense to delegate to the Chairman the responsibility for overseeing the combatant commands.

p. Repeal the statutory prohibition on the consolidation of military transportation commands.

q. Repeal the fiscal year 1986 DoD Appropriations Act prohibition on change of command arrangements for Alaska.

r. Provide that the current version of JCS Publication 2, Unified Action Armed Forces, will be null and void as of September 30, 1986.

10. *Military Departments*

a. Require that a Service Secretary not have served as a regular officer on active duty within 10 years of his appointment.

b. Remove the inconsistencies in the appointment and statutory descriptions of the roles and authorities of the Service Secretaries, Chiefs, Vice Chiefs, and subordinate officials and officers.

c. Specify the responsibilities of the Service Secretaries to the Secretary of Defense.

d. Specify that the functions of the Military Departments (to man, equip, train, supply, etc.) are to be undertaken to meet the requirements of the combatant commander.

e. Repeal the Service Secretaries' authority to make recommendations, on their own initiative, directly to the Congress.

f. Reduce the number of Service Assistant Secretaries (from 5 to 3 in the Army, 4 to 2 in the Navy, and 3 to 2 in the Air Force) while specifying the following positions: Civil Works and Comptroller in the Army; Comptroller in the Navy; Comptroller in the Air Force.

g. Provide that the Army and Air Force Secretaries and Chiefs would be served by one staff (to be entitled the Army Staff and the Air Staff).

h. Provide for greater integration of the Navy Secretariat, the Office of the Chief of Naval Operations, and Headquarters, Marine Corps.

i. Establish the Officer of the Secretary of the Navy, Office of the Chief of Naval Operations, and Headquarters, Marine Corps in statute.

J. Delete the responsibility of the Chief of Naval Operations to be the principal naval adviser to the President.

k. Require the Service Chiefs to keep their Service Secretaries fully informed on matters considered or acted upon by the JCS.

l. Remove "operations" from the duties of the Secretaries of the Army and Air Force.

11. *Miscellaneous*

a. Reduce the number of military and civilian personnel in OSD by 10 percent; Defense Agencies and Field Activities by 10 percent; unified command headquarters staffs by 10 percent; Military Department headquarters staffs by 15 percent.

b. Set out general principles for the Secretary of Defense to follow in ensuring that the Services' personnel policies enhance the ability of officers to perform joint duties.

12. *Congress*

a. Repeal 11 recurring reporting requirements now in law.

b. Reduce the scope or frequency of six other recurring reporting requirements now in law.

Mr. DOLE. Mr. President, I suggest that absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. METZENBAUM. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

CONRAIL SALE

AMENDMENTS NOS. 1441 TO 1554

Mr. METZENBAUM. Mr. President, I now send to the desk a number of amendments to S. 638 and the substitute proposal thereto.

The PRESIDING OFFICER. The amendments will be received.

Mr. METZENBAUM. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. PRESSLER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Morning business is closed.

CONRAIL SALE AMENDMENTS ACT OF 1985

The Senate resumed consideration of the bill (S. 638) to amend the Regional Rail Reorganization Act of 1973 to provide for the transfer of ownership of the Consolidated Rail Corporation to the private sector, and for other purposes.

MORGAN STANLEY CONRAIL BID

Mr. PRESSLER. Mr. President, I understand that the pending item of business will be the Danforth motion to waive section 303 of the Budget Act with respect to Conrail. I also understand that there still may be the possibility of a motion to recommit the Conrail bill to the Commerce Committee with instructions to report back on the Morgan Stanley proposal.

Mr. President, I rise today to express concern over the possible motion to recommit the bill to the Commerce Committee. Although I disagree with the chairman on certain aspects of the Conrail issue, I fail to see any significant purpose to be served by sending this legislation back to the Commerce Committee.

The chairman has conducted fair and extensive hearings on the issue in the Commerce Committee. Indeed, he was very cooperative in holding additional hearings to address specific Members' concerns, and I would like to commend him for his able handling of this matter.

The Commerce Committee has done its work, it has spoken, and although I happened to be on the losing side I see no purpose to be served by recommitting the bill to the committee. Even though I am fairly confident we would have a much stronger vote in opposition to the Norfolk Southern bid today than we did earlier this year, that is not a reason to recommit the bill to the committee.

It is true that we do not have adequate information to fully assess the merits of this issue. We lack important information on the proposal. But that is a problem created by the agencies and others involved in the process. It is not for lack of hearings or committee probing. All the questions were asked. We will not get the answers any faster—if at all—by recommitting this matter to the Commerce Committee.

The Commerce Committee and its chairman have done their work on this bill and we should dispense with it on the floor. For these reasons, I will support the chairman if there is a vote on a motion to recommit.

Having said that, let me make it very clear that I strongly support the Morgan Stanley proposal and am prepared to debate the merits of that proposal. There are many reasons why the Morgan Stanley proposal is superior to the Norfolk Southern bid. Let me highlight just a few.

First, a stand alone Conrail under Morgan Stanley will not present the huge antitrust and anticompetitive problems caused by a merger with the Norfolk Southern. This is especially important to Western and Midwestern States because a stand alone Conrail will not harm our railroads through traffic diversions and monopolistic practices. I am prepared to offer an amendment to the Norfolk Southern proposal which will correct some of these problems, but a stand alone Conrail would be a far superior solution to the problem.

Second, Morgan Stanley provides more money for the Federal Government. My distinguished colleague from Missouri seems to agree with this point, but says that the amount of return to the Government is really a secondary issue. He emphasizes Norfolk Southern's "deep pockets" and questions the viability of a stand alone Conrail. I will speak on that subject later, but let me say now that the

issue of Conrail's viability was resolved long ago by the private markets. The Morgan Stanley bid represents many highly sophisticated investors throughout the country who are much better qualified to answer this question than either the Senate or the Department of Transportation.

But while on the one hand the distinguished floor manager argues that the return to the Federal Government is a secondary issue, he argues on the other that we must move forward on this issue now if we are serious about reducing the Federal deficit and complying with Gramm-Rudman-Hollings. Mr. President, you cannot have it both ways. I would say to my colleagues that if they are truly concerned about the Federal deficit, they should support the Morgan Stanley proposal because it clearly represents a larger return to the Federal Treasury and a real reduction in the deficit.

That leads me to the third issue of taxes. In addition to the $200 million extra cash offered by Morgan Stanley, the CBO estimates that Morgan Stanley represents an additional $400 million in tax savings to the Federal Government.

Finally, the Morgan Stanley proposal is far superior to the Norfolk Southern proposal in its treatment of labor. Mr. President, Norfolk Southern and its supporters argue that their proposal represents a better deal for labor. Well, without even discussing the differences between the two proposals this issue is easily resolved by listening to the labor organizations. Every major labor organization in my State and around the country is adamant in its opposition to Norfolk Southern and very firm in its support of the Morgan Stanley alternative. I believe that labor itself is in the best position to determine what is best for the workers represented by the different organizations.

Mr. President, on all these points—on competition and regional railroad concerns, on the budgetary issue, on the tax issue, and on the labor issue—the record speaks for itself. The Morgan Stanley proposal is clearly the superior offer. I hope we will have an up or down vote on the merits of this issue and not get bogged down in some procedural motion to send this back to committee. Further, I strongly urge my colleagues to vote for the Morgan Stanley alternative to Norfolk Southern. As a member of the Commerce Committee who has been deeply involved in this issue, I am not prepared to say that Morgan Stanley is the perfect solution, but I can safely say that it is miles and miles ahead of the Norfolk Southern bid when looked at from both a transportation policy and a public interest perspective.

Mr. DOMENICI. Mr. President, the fiscal condition of our country and the existence of our new Emergency Budget Act, known as Gramm-Rudman-Hollings is causing almost everyone to attempt to use the Budget Act, as amended by Gramm-Rudman-Hollings, to block anything they do not want to let happen around here.

I, first of all, would like to say that I believe, from the standpoint of the law, I know as much about Gramm-Rudman-Hollings as anyone. In fact, I can attest to being responsible for at least 50 clarifying amendments that occurred from the first time the Senate voted the bill in until we finally passed it. All of these amendments were crafted to make it more workable, to make it better, and to make sure it accomplished what we intended. Frankly, I have looked carefully at this issue and I find nothing in the so-called Gramm-Rudman-Hollings amendments to the original Budget Act that has anything to do with the issue that is before us.

There may be some who want to argue—and hopefully they will do it as a matter of substance—that they have a better plan and, therefore, we would accomplish some better result. I do not agree with that either. But, if they would like to say the Federal Government can get a better deal another way and, since the objective of Gramm-Rudman-Hollings is fiscal restraint, let us go with another approach, that is fine.

But, from the standpoint of the waiver that is sought here, this has been in the Budget Act since it was enacted in 1974. The 303 point of order that was raised against the original Conrail bill, as it was introduced, was a provision in law before Gramm-Rudman-Hollings, and it remains in law after it. The distinguished chairman of the Commerce Committee, who seeks a waiver and will ask us to vote on it, seeks a waiver on a provision that was there from the beginning, long before the Emergency Budget Act Amendments. Section 303 remains in place as I understand it, in the same manner that it was before, as far as the point of order raised yesterday is concerned.

You do not put a waiver provision in a law like the Congressional Budget and Impoundment Control Act just to have it there. You put it there because, from time to time, the occasion will arise when this institution, the U.S. Senate, has to make a decision whether it wants to waive something or not. I think we put the waiver provision in the original Budget Act precisely for this kind of bill.

First of all, everyone in this institution knows that the bill that is pending has attached to it, as the subject matter for this U.S. Senate, the proposal that we are going to vote on; and the technical budget violations are not there at all, even without a waiver, when we get around to voting on the amendment that the distinguished chairman will ask the U.S. Senate to vote on. So, in a very real sense, not only is the objection technical, but, in another sense, when we get around to voting, even the technical ones will be gone, as I understand it. So, frankly, I would urge that, unless one wants to use technical aspects of the Budget Act to avoid a vote at all and somehow feel that we are going to dispose of this Conrail issue under the Budget Act and just not vote on the substance, if that is what somebody wants the Senate to do, then, obviously, they ought to find that it violates the Budget Act and not go along with the chairman's request that we waive.

I do not come down here very often and say, "Let's waive the Budget Act." In fact, for a number of years, I only did one or two as chairman of the Budget Committee. But, frankly, this one, it seems to me, fits the bill; that is why it is in there, and we ought to waive and get on with the substantive business.

Let me raise one other point. Frankly, budget resolutions are not perfect documents. Obviously, there is no line itemization. Even when you make serious assumptions in a budget resolution, nobody can say they are binding.

But, clearly, the U.S. Senate voted on an assumption that Conrail would be disposed of and we voted that up or down and we were substantially in favor of disposing of it. And, on the receipts side of the ledger, it was assumed that the U.S. Treasury would receive a substantial amount of money from the sale of it and, thus, reduce the deficit.

Now, some might want to argue that there is another way to do it and you might reduce the deficit more. I say, let us have at that debate. If there is another proposal that does better at that, let us get it up and let us vote on it. Maybe it is Morgan Stanley; maybe it is something else.

But, clearly, the budget resolution, at the very minimum, contemplates the disposal of Conrail with some substantial net gain to the Government of the United States. And to now say we should not vote at all because there is a technical provision in the Budget and Impoundment Control Act that will permit us to avoid it, and to try to say that it is in the spirit of the budget resolution or it is good fiscal policy or it accommodates to Gramm-Rudman-Hollings, let me just say I do not believe that. I do not think that is the case and I urge that we not do it. For those who would like to delay things indefinitely, I think that is their prerogative. I do not want to be part of them—doing it by talking about Gramm-Rudman-Hollings, some technical thing in the Budget Act, because I do not think that is either what it was, what the Budget Act is, or intends for us to do.

71-059 O-87-24 (Pt. 1)

I yield the floor.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. DOMENICI. Mr. President, I would be pleased to yield for a question.

Mr. METZENBAUM. I thought I was just recognized for the floor. I was recognized for the floor. I wonder if I can have an opportunity to respond to my colleague from New Mexico while he is still here. I am afraid he may be leaving us.

Mr. DOMENICI. I do not control the floor, and the Senator does not control me. So I may not be here in any event. But I will be glad to listen.

Mr. METZENBAUM. If the Senator from Missouri does not mind my proceeding at this point.

Mr. DANFORTH. Mr. President, I would be happy for the Senator from Ohio to proceed. I have a couple of clarifying questions I wanted to ask the Senator from New Mexico. They are only clarifying. I could ask him now or wait.

Mr. METZENBAUM. If the Senator would be good enough to let me respond, I would appreciate it very much.

Let me say I am a little disappointed at my chairman. I am a member of that Budget Committee which he chairs, and does so ably, so well. I am a little disappointed that he is here saying this is a technical question.

First of all, there is not any doubt about it. My point of order is well taken. Let me read to my colleagues the exchange that occurred the other day.

Therefore, Mr. President, I raise a point of order that the bill violates section 303 of the Budget Act as amended by Gramm-Rudman-Hollings.

It was never actually acted upon by the Chair because the Senator from Missouri immediately moved to waive.

Subsequently, I then said:

I will pose a parliamentary inquiry to the Parliamentarian or the Chair. Is it not the fact that, had there not been a motion to waive the rule, the Senator from Ohio's point of order would have been well taken?

The PRESIDING OFFICER. Since the bill affects revenues in a fiscal year for which there is no concurrent resolution on the budget, the bill would violate section 303 of the Budget Act.

I do not think there is any question that this is a violation of the provisions that we have written into law with respect to the Budget Act, and that Budget Act as amended by Gramm-Rudman-Hollings. But I think it is important that we just not think of it in a technical sense but that we understand what the numbers are because when this matter was before the Budget Committee, it was indicated that there would be $1.2 billion in revenues, that that would be income.

That just is not the fact, and the chairman of the Budget Committee will recollect that at that time I raised a question with him about that subject. He said we would get to that matter at a later point. We did not get to that matter. But since that time, through an exchange of letters, the chairman of the Commerce Committee has been advised by the Treasury that there would be a loss of $174 million with a present value of $125 million if this bill were to become law.

Second, the CBO has provided us with their own figures. The CBO has indicated that there would be a loss of not $174 million, but $400 million in tax revenue, and that there would be an additional foregoing of $800 million in repayment of the debt plus interest. As a matter of fact, if we did not, the United States would receive $300 million in 1987, $300 million in 1988, and $300 million in 1989, according to CBO, although I think I overstated by a very small amount the full $300 million. I think it is slightly less than that.

So we are not talking about a technical matter. We are talking about a very real matter. We are talking about violating the budget as the first act of the U.S. Senate of any significance. Everybody is talking about Gramm-Rudman-Hollings: What are we going to do about it? How are we going to operate under it? What a problem. What a challenge. Will it affect defense spending? Will we have to pass a tax bill? Will we have to do any one of a host of other things? The chairman of the Budget Committee is one of the loudest voices—and I do not mean loud in a pejorative term, but I mean he is a spokesperson on that issue—and is very much concerned.

So to hear him come to the floor and say he supports the waiver of the Budget Act is disturbing. It is disturbing to me as a member of the Budget Committee, and it is disturbing to me as if it were a matter of a player on a team. The ball game would not be over if the motion of the Senator from Missouri is turned down. What would then happen, I assume, is that the Secretary of Transportation would then take new bid proposals, and everybody would be on the same basis.

The Senator from New Mexico is certainly aware of the fact that there is out there another bid which has $200 million in additional revenues available to us. Two hundred million dollars may not be much money in the overall scheme of balancing the budget, but I think he and I would both agree that $200 million is a lot of money, and I do not think there is any great secret about it; that I think Morgan Stanley bidders are prepared to increase that figure when and if they are prodded and pushed to do so.

I do not have much doubt in my mind that Norfolk Southern would be prepared to increase their figures, and well they might. What a steal they have gotten here. What a giveaway. For $1.2 billion I have never heard of a deal where you buy $800 million in cash—$800 million in cash for a purchase price of $1.2 billion. You also get $250 million in surplus funds in the pension fund, and although there are some restraints about using that immediately, there are no restraints about using it long-rangewise. You also get the right to depreciate $3.5 billion in capital assets—$3.5 billion in capital assets. You get a company that made $450 million last year.

So to say that this is technical is to belie the facts because the facts are that this is a very, very bad deal. I would say that this is not even a fire sale. There is a giving away of one of the finest assets we have.

The President of the United States wrote us the other day, and indicated it is time for us to quit—I think the word was subsidizing or continuing to keep going with Conrail. It is time for us to get out of the business. Conrail has been a profitmaker in 1981, 1982, 1983, 1984, and 1985. In 1981, it made $39 million; in 1982, it made $174 million; in 1983, it earned $315 million; in 1984, it earned $500 million; and, in 1985, after paying both real estate and State taxes as well as paying some adjustments on payroll retroactively, it still earned $440 million.

So for the chairman of the Budget Committee to be saying to our colleagues that it is just a technical issue and that we ought to go forward and waive the budget is not wrong. It is disappointing.

It is disappointing that he is the one who is here making that statement.

I yield the floor.

Mr. DOMENICI addressed the Chair.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Mr. President, I am sorry what I have said disappoints the distinguished Senator. He is a member of the Budget Committee. I do not seek to disappoint him or anyone.

Let me repeat. Almost all of his arguments, even if they are valid, as I see it, deserve to be considered by the U.S. Senate. Perhaps they should have already been considered by us. We have been down here 2 weeks on the issue. If his eloquence prevails, we should turn down this sale and perhaps adopt another one. But it does not change my mind one bit with reference to using the Budget Act in a technical violation to cause us to abort this and start over or to say we should not proceed with a proposition that has been in the mill since 1981 as a direct mandate, that was preceded by the $7 billion of taxpayers' money.

The distinguished Senator talks about this as if these people who are

managing Conrail have just done this magnificent job. I think almost anyone could make this a wonderful railroad if they had $7 billion of taxpayers' money to start with.

So it is time to get rid of it and say to them, "Thank you, you have done a marvelous job, but we do not think we want to gamble with you anyone. We put you on your feet. Now let us get this railroad out from under the continued subsidization potential which has already seen $7 billion go in to save this corridor."

It has magnificent equipment, everybody says, as if the current management should say, "We did all of that."

Of course, the taxpayers did it. Management buys pure gold when they buy it. They do not buy anything second rate.

It has nothing to do with the Budget Act. It has nothing to do with the budget resolution.

If you do not want to sell it and you agree with Senator METZENBAUM, vote no when we vote. If you want to do the Morgan Stanley one, let somebody offer it. You can offer any deals down here. There is nothing precluding that. If someone wants to preclude the sale of it and say it cannot be sold until this and this, let them offer that.

I believe we will be here another week or 2 weeks. Is that correct, I ask the chairman?

Mr. DANFORTH. Perhaps another day.

Mr. DOMENICI. None of those arguments of my friend change my mind on the technical aspects. I am here to listen to the substance. He has made some good arguments.

Mr. DANFORTH. Will the Senator yield?

Mr. DOMENICI. I yield.

Mr. DANFORTH. Mr. President, I appreciate the remarks of the chairman of the Budget Committee. It is my understanding from his remarks that the chairman does support waiver of the Budget Act in this very technical case and that the chairman does intend to vote to waive the Budget Act.

Mr. DOMENICI. I support it and I will vote aye.

Mr. DANFORTH. Mr. President, one further question. Last year when the Budget Committee was meeting on the budget resolution and then the budget resolution was on the floor of the Senate, did we not at that time contemplate precisely the sale that is now before the U.S. Senate?

Mr. DOMENICI. The Senator is correct. The distinguished chairman of the committee is correct. We assumed it, as I indicated in my opening remarks, and we put in a number on the receipt side that recommended the best estimate of the sale that is contemplated. As I indicated, all we do is make those kinds of assumptions.

Mr. DANFORTH. Right. However, if we vote no on the budget waiver, is not the practical effect of that vote to pull down this bill and to, in effect, say that we are not going to sell this railroad to anyone?

Mr. DOMENICI. I believe it is. I said that a few minutes ago. Frankly, I am not one to predict the way we get things done because sometimes only God knows how we get things done, it is so complicated. Basically, I believe those who do not want the waiver granted would paint a scenario in terms of what they have accomplished, which is that the bill would be pulled and we would be pulled and we would be back to ground zero or the start over point. If that is what you are asking, I believe so. Nothing will happen, in my opinion, for a long, long time.

Mr. DANFORTH. I appreciate the comments of the chairman of the Budget Committee.

Mr. SPECTER. Will the Senator yield for a moment?

Mr. DANFORTH. May I propound a unanimous-consent request?

Mr. SPECTER. I would like to ask a few questions of Senator DOMENICI before he leaves the Chamber.

Mr. DANFORTH. Mr. President, I ask unanimous consent that the rollcall vote on the Danforth motion to waive the Budget Act with respect to Senate consideration of S. 638 occur at 2:30 p.m. today and that the time between 1 p.m. and 2:30 p.m. be equally divided and controlled between Senator DANFORTH and Senator METZENBAUM.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. HOLLINGS addressed the Chair.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. HOLLINGS. Did the Senator from Pennsylvania wish to be recognized?

Mr. SPECTER. Mr. President, I have just worked it out with the distinguished Senator from New Mexico to have a colloquy this afternoon. I will not proceed at this time.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. HOLLINGS. I thank the distinguished Presiding Officer.

Mr. President, we support very strongly Senator DANFORTH's motion to waive the Budget Act. The fundamental issue involved here is the affectation of revenues during a particular fiscal year. The report that the Chair relied upon in making its ruling is dated June 1985. That is when we in the Commerce Committee made our report on this particular bill and we included the effect of revenues with respect to the 1986 fiscal year. The concurrent resolution for the budget for 1986 has been passed and is now in course.

On page 25 of that particular report it states:

> The Joint Committee on Taxation estimates revenue losses to the Federal Government of approximately $1 billion annually from 1987 through 1990 as a result of a sale to Norfolk Southern. The Joint Committee on Taxation has indicated that as more information becomes available, revisions may be necessary. The Congressional Budget Office has reviewed and concurs with these revenue estimates.

So, in one interpretation, yes, the revenue impact, the use of taxation, would not take place until 1987. That would be the first year, and the Chair's ruling is on target. But the general thrust of the provision of section 303 of the Budget Act—and, incidentally, I'm speaking as a cosponsor of the Budget Act as well as a cosponsor of Gramm-Rudman-Hollings—is to take the real effect of revenues with respect to that fiscal year in the main. In other words, in 1986. When the Commerce Committee reported the Conrail bill in the summer of 1985, we hoped it would pass the Senate before Christmas. In fact, many people were talking about adjourning by September 30. History has been made and we did not get through anything, practically, other than our setting of the debt limit and the Gramm-Rudman-Hollings amendments to the Budget Act, which did not substantially affect section 303. Gramm-Rudman-Hollings never affected section 303 in any major fashion. It was never discussed. It was never intended to affect it. All of the discussions with the distinguished chairman of our Budget Committee, who handled most of the amendments when it went to conference and brought back the conference agreement, never bore on the fundamentals of section 303. So Gramm-Rudman-Hollings has nothing to do with it.

But in essence, we have been delayed. That is why we come into that 1987 provision there. It is a technical thing with respect to someone trying to make the point—well, what about 1988? If they take a tax loss in 1988, do we have to come back and get another waiver? What about 1989 or 1990? Do we have to get another waiver for those years because our language relied upon for the ruling says all those years? The distinguished Chair advises that 303 provides for the first year and the first year alone.

I only emphasize this part of it to bring into focus that there are no monkeyshines going on with respect to the Conrail bill now before the Senate.

I think our distinguished chairman, Senator DANFORTH, has proposed the right solution, for us to get an up or down vote for the waiver, because that very act also provides for the waiver. I do not know of a more typical, or per-

haps I should say needed kind of provision for that waiver—"use" for it is the word I am seeking—than at the present time, where you overlap in the particular fiscal year. We are not trying to get ahead of the year 1987. We are in step with the fiscal year 1986.

Conrail was discussed. The idea there in section 303, that you bring up a matter never before the Budget Committee itself, never discussed, never debated, never acted upon, and all of a sudden, out of the blue, try to effect a fiscal year revenue or taxation loss or gain, one way or the other, without any kind of treatment during that fiscal year—that treatment has been had ad infinitum into 1986 itself, way past the beginning of the fiscal year. We had not even passed reconciliation. But the spirit of section 303 has been complied with.

Here we are under the technical situation whereby they have just said, "Wait a minute, we have found this language in the report." And some sharp staffer said, "Let us raise a point of order." So we now can vote up or down if the Members, my colleagues, know the particular merits involved here. That Conrail bill has complied with it. In order to make sure of that compliance, the substitute is there. But, of course, you can see the kind of filibuster that we have here is delay, delay, delay. In fact, we would have brought this up last fall had we not been faced with all these different kinds of motions, delays, and things of that kind.

As a cosponsor of the Budget Act of 1974 and that section 303 and as a cosponsor of Gramm-Rudman-Hollings, I say they are very much reconcilable. They are not irreconcilable. The truth is that Gramm-Rudman-Hollings did not substantively affect this 303 section. Nobody should be complaining about the requirements of Gramm-Rudman-Hollings on this score.

Of course, they are going to be blaming everything on it. I jokingly said at one meeting before Christmas that by next spring they will be blaming Gramm-Rudman-Hollings for giving people AIDS. I went out to Washington National Airport to go home for Christmas and there were some demonstrators displaying signs which said exactly that. I did not bother to stop to find out what they were complaining about. But that is exactly what they had on their signs. So they did not wait until spring. They had it at the Christmas holidays when we were leaving town. They will blame everything on it.

We will get into the debates to try to adhere to the discipline set by Gramm-Rudman-Hollings, but let us not try to compare Gramm-Rudman-Hollings and its discipline with the discipline of section 303, which has been adhered to. This is just overlapping a couple of years.

You can assume in a purchase of this kind that there are tax benefits going, let us say, to Norfolk Southern. That is not an unreasonable assumption, but it is an assumption. And Norfolk Southern did state, yes, they would take the tax benefits in 1987.

But what about Morgan-Stanley's proposal? Now, that is a leverage buyout. They will take the tax benefits right away, Mr. President, I can tell you that. They will take them in 1986. They will bring me into compliance with section 303 without question. That is exactly the Morgan Stanley presentation and offer for the purchase of Conrail—just a leverage buyout and get all the tax benefits and losses they possibly can. They tried to bring out a little article they had about fourth-quarter increase in earnings. The truth is they started the fiscal year on tax benefits—Conrail did in 1985—with some $856 million. They only made $56 million. That is not any of the benefits. They merely dipped into this capital in order to maintain and their revenues were 2 percent over 1985 earnings, or a 2-percent dimunution or loss in revenues.

Conrail is going out of business. The distinguished chairman of CSX testified on many occasions exactly what is occurring—That an independent Conrail could not sustain itself without all kinds of Government money going to it. And since Conrail had started, as we all know, they have closed down some 5,000 miles.

In fact, they have gone from 19,000 down to about 14,000 miles. They have let go some 59,000 employees. They have planned now, have on course, another layoff of 5,000 employees and an abandonment of 4,500 additional miles.

So, as it is going out of business, the question before Congress is, How do we maintain this service, protect the financial interests of the Government, and more than anything else, protect the railroad itself and its service to the American public? We have only one company that has come forward with the interest and ability to continue Conrail. They have the money, they have an interest to invest the money, and they have an interest in the continuation of Conrail's service. That company is Norfolk Southern.

So, Mr. President, I hope my colleagues understand that this upcoming vote is a part of a technical maneuver. We are going through filibusters, clotures, and everything else to get to the meat of the coconut. We will continue and will not give up.

This is not a well-taken point at all on this upcoming vote about the budget and not complying with the budget, the spirit of the law or otherwise. It has just been stated by one of the proponents that we have yet to vote, that yes, we would use the tax benefits, but that is not to say it is going to them. If you ask Morgan-Stanley, they would start using the tax benefits and they are probably writing off the cost of the proposal right now, the tax benefits in 1986, if I know anything about lawyers and I have been at the bar 40 years almost. I think I know a little bit about that crowd. The benefits are now being taken in 1986.

We made this report in the middle of 1985. We discussed it in the resolution, debated it extensively before the Budget Committee—which is really the requirement in section 303—and the consideration has been full. I hope we can sustain the Danforth motion.

I thank the distinguished chairman.

Mr. DANFORTH. Mr. President, I am going to make some remarks. It is now 1 minute to 1. We are under a time agreement beginning at 1 o'clock, so I ask unanimous consent to yield myself as much time as I require.

The PRESIDING OFFICER (Mr. HECHT). Without objection, it is so ordered.

Mr. DANFORTH. Mr. President, first, let us face up to what the vote is going to be at 2:30. The vote at 2:30 is whether or not we are going to sell Conrail to anyone. That is the vote. It appears as a procedural vote, it appears as a very technical vote on a waiver of the Budget Act. But the substance of the vote is whether we are going to sell Conrail to anyone.

Mr. President, it has also seemed to me that there are three alternatives that are before the U.S. Senate.

One alternative is to sell Conrail to Norfolk Southern. That is the recommendation of the administration after very long study. That is the recommendation of the Commerce Committee which had extensive hearings into the subject. That is the bill that is on the floor. That is the Danforth substitute for the bill. Sell it to Norfolk Southern. That is one option.

The second alternative is to sell Conrail to the public, a stand-alone Conrail. That is the Morgan Stanley suggestion. There will be an amendment, assuming that we prevail on the waiver of the Budget Act, which will be offered, I believe, by Senator SPECTER to agree to the Morgan Stanley transaction. Morgan Stanley is an underwriter. It has put together an underwriting group, and it would acquire Conrail and then resell it to the general public. That would create a stand-alone Conrail. Some people believe that is a good idea. I do not.

But, Mr. President, the third alternative is to do nothing, to keep Conrail as it is. The third alternative is not to sell it at all. The third alternative is to say that when we passed the Northeast Rail Services Act in 1981 stating that we were going to sell Con-

rail, we had our fingers crossed. The third alternative is to say that those who negotiated in good faith with Uncle Sam, some 15 prospects who wanted to buy Conrail, negotiated in vain; that when the U.S. Congress says we are going to go through with the deal, we do not mean it.

That is the third option—do not sell it to anybody.

Mr. President, who is ever going to do business with the U.S. Government again if we take that third option? The real debate, in my opinion, is between the Norfolk Southern offer and the stand-alone Conrail. We will get to that debate. But, Mr. President, those witnesses who testified before the Commerce Committee on behalf of Morgan Stanley, on behalf of Norfolk Southern, one after another, came before the Commerce Committee and said, "Sell it to one of us but don't do nothing. Don't do nothing."

Mr. President, that is the issue that is on the floor now, doing nothing. If you want to kill it, if you want to kill the bill, you can do it right now. You can kill not only the committee's bill, you can kill any sale. You can kill the Morgan Stanley deal. You can kill the bill, take it down, get it off the floor at 2:30 this afternoon. How do you do it? Vote not to waive the Budget Act. Vote not to waive the Budget Act.

That is the issue, Mr. President. This issue that we will be voting on at 2:30 is almost like a vote on final passage. Are we going to do anything at all? That is the question on which we will be voting.

Mr. President, the casting of this vote as having anything at all to do with Gramm-Rudman-Hollings is really put to rest not only by considering the fact that Senator METZENBAUM is, to say the least, a convert to the cause of defending Gramm-Rudman-Hollings, but also it is, I think, clarified by the fact that the chairman of the Budget Committee, Senator DOMENICI, has already appeared on the floor and stated that he supported the waiver and supported the sale, and also by the fact that there is a Dear Colleague letter. All the Senators have received it in their offices and all the Senators have it on their desks today. The Dear Colleague letter, Mr. President, is signed by Senators GRAMM, RUDMAN, and HOLLINGS, and they also let me sign their letter. I want to read some excerpts from this Dear Colleague letter dated today:

Today's vote on the motion to waive section 303 of the Budget Act is a key vote on S. 638, the Conrail sale. Is Congress going to implement its 1981 decision to sell Conrail? A vote for this motion is a vote to go ahead and try to complete 5 years of work on this sale. A vote against this motion is a vote to do nothing, to keep the U.S. Government in the railroad business, and to bring into serious question the Federal Government's ability to operate as a good faith partner in any business transaction.

The letter then goes on to say, and I am skipping parts of it:

The point of order is not a Gramm-Rudman-Hollings matter, nor is it made against the sale proposal recommended by the Commerce Committee. Instead, it is a proposal to stop the sale dead in its tracks, killing for this year any chance of a Conrail sale. We believe that would be a terrible mistake.

If you support a sale to Norfolk Southern, or a sale to the Morgan-Stanley investment group, or if you simply want to permit the Senate to work its will as you make up your mind, you should vote for the waiver motion.

We urge you to do so.

The letter is signed by Senator GRAMM, Senator RUDMAN, Senator HOLLINGS, and the Senator from Missouri.

Mr. President, I ask unanimous consent that this Dear Colleague letter be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

COMMITTEE ON COMMERCE,
SCIENCE, AND TRANSPORTATION,
Washington, DC, January 29, 1986.

DEAR COLLEAGUE: Today's vote on the motion to waive Section 303 of the Budget Act is a key vote on S. 638, the Conrail sale. Is Congress going to implement its 1981 decision to sell Conrail? A vote for this motion is a vote to go ahead and try to complete five years of work on this sale. A vote against this motion is a vote to do nothing, to keep the U.S. government in the railroad business, and to bring into serious question the federal government's ability to operate as a good faith partner in any business transaction.

This motion to waive the Budget Act is a response to Senator Metzenbaum's point of order raised against the text of S. 638 as it was introduced in early 1985. This text, the original DOT proposal to sell Conrail to Norfolk Southern, is outdated. It was examined and debated in four days of hearings and two days of Executive Session in the Commerce Committee. The Danforth substitute amendment, No. 1437, is the final version of the bill, containing all the Committee's recommended modifications and changes. *No point of order would lie against the true sale proposal,* the Danforth substitute. The point of order has been raised against the underlying original bill, which is not the focus of this debate and which has no support from anyone.

It is ironic that Gramm-Rudman-Hollings is being incorrectly invoked in support of this point of order because the sale of Conrail to either Norfolk Southern or the Morgan-Stanley investment group will raise on the order of $1.3 to $1.5 billion for the U.S. Treasury. A failure to receive these sale proceeds will only increase deficit pressures.

The point of order is not a Gramm-Rudman-Hollings matter, nor is it made against the sale proposal recommended by the Commerce Committee. Instead, it is a proposal to stop the sale dead in its tracks, killing for this year any chance of a Conrail sale. We believe that would be a terrible mistake.

If you support a sale to Norfolk Southern, or a sale to the Morgan-Stanley investment group, or if you simply want to permit the Senate to work its will as you make up your mind, you should vote for the waiver motion.

We urge you to do so.

Sincerely,

ERNEST F. HOLLINGS.
WARREN RUDMAN.
JOHN C. DANFORTH.
PHIL GRAMM.

Mr. DANFORTH. Mr. President, I also have a statement by Senator RUDMAN. Senator RUDMAN says:

Mr. President, before we vote on the motion to waive Section 303 of the Budget Act with respect to consideration of the Conrail bill, I would like to clarify for my colleagues the impact of this vote on the newly-enacted Balanced Budget and Emergency Deficit Control Act, more popularly known as the Gramm-Rudman-Hollings bill. On Monday, a question raised as to whether the Conrail bill is in violation of Gramm-Rudman-Hollings. The assertion was that S. 638, because it has a revenue impact and because there is no current budget resolution for this fiscal year, violates Section 303 of the Budget Act as amended by Gramm-Rudman-Hollings.

I would like to make absolutely clear that the Conrail bill would have been subject to the same point of order raised by the Senator from Ohio—for the same reasons—had Gramm-Rudman-Hollings never been enacted.

Mr. President, the provision in Section 303 which gives rise to the point of order was not amended by Gramm-Rudman-Hollings. Section 303 of the Act has always provided that it not be in order to consider a bill which, during any fiscal year, provides new budget authority, increases or decreases revenues, or increases or decreases the public debt limit, until a budget resolution for that year has been agreed to. Gramm-Rudman-Hollings did amend Section 303 by adding legislation which provides new credit authority to that list. It also provided an exception for certain appropriations bills considered in the House. Neither of these modifications in any way affect today's vote. Let me repeat, Mr. President, that Gramm-Rudman-Hollings did not amend the provision of Section 303 which subjects the Conrail bill to a point of order. Because this is the case, I would like to point out to my colleagues that the motion to waive the budget act on this vote will be decided by a simple majority—not the three-fifths vote necessary to waive a point of order under the Gramm-Rudman-Hollings legislation.

In conclusion, Mr. President, it should be perfectly clear that whatever the merits of the issues presented on this procedural vote, they have nothing to do with Gramm-Rudman-Hollings. Members should vote their conscience on this vote and should not be influenced by the false allegation that waiving the Budget Act in this instance threatens the integrity of the new Deficit Control Act.

That is the statement of the Senator from New Hampshire [Mr. RUDMAN].

Mr. President, let me take a few more minutes to respond to some comments by the Senator from Ohio.

The Senator from Ohio claims that Conrail is a moneymaking machine, pumping out its profits to the Federal Government, and that in future years, starting in 1988, Conrail is going to begin repaying its debt to Uncle Sam.

Mr. President, the U.S. Government began pumping money in Conrail in 1973. Since 1973, Conrail has cost Uncle Sam $7 billion. During that 13-year period, the amount of money that Conrail has returned to Uncle Sam is a round number—zero, not a penny. Anybody who believes that Conrail is going to be repaying its debt believes in the tooth fairy. There is no chance that debt is going to be repaid, not a chance in the world.

Whom are we fooling? Eight Northeast railroads went bankrupt, leading to the creation of Conrail, in the first place. Then Conrail was created, and we pumped in $7 billion.

The Senator from Ohio says that in the last 5 years it has been profitable. The correct version of that statement is that in 2 of the last 5 years it has been profitable; because in 1981, 1982, and 1983, when you subtract the goodies that Uncle Sam has given it, it lost money.

It made not $500 million but $285 million in 1984, and not $440 million but $269 million in 1985, when you subtract the goodies: That the Federal Government paid its labor protection; that Conrail received special benefits under NERSA—for example, wage concessions from its employees; that it was exempted from paying State taxes; that Conrail sold tax benefits and it used its tax leases; that Conrail made large property sales, including approximately $90 million worth in 1985.

So much for the profitability of Conrail. It has been a sponge.

So, Mr. President, the view of the Senator from Missouri is let us get rid of the thing. If you want to get rid of it to the general public—that is the Morgan Stanley proposal—OK. I do not agree with it, but OK. If you want to get rid of it by selling it to Norfolk Southern, good. But let us get rid of this thing.

This is not any profit-making operation. This is a sponge that has sopped up $7 billion in Federal money since 1973. It has never returned a penny.

The PRESIDING OFFICER. Who yields time?

Mr. METZENBAUM. Mr. President, I suggest the absence of a quorum, with the time to be charged equally between the Senator from Missouri and the Senator from Ohio.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. DANFORTH. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DANFORTH. Mr. President I yield myself 2 minutes.

The PRESIDING OFFICER. The Senator from Missouri is recognized.

Mr. DANFORTH. Mr. President, my statement is a detailed analysis of certain aspects of the proposed sale of Conrail which were raised by the Senator from Ohio. According to the Senator from Ohio, the proposed sale represents a "special" tax deal for Norfolk Southern in two respects.

First, it is asserted that Norfolk Southern gets a special benefit because the memorandum of intent provides that the cancellation of the Conrail debt held by the United States will not result in the recognition of income. Simply put, the Senator from Ohio is wrong if he believes that under our tax laws the proposed cancellation of the Conrail debt is a taxable event. In fact, our tax laws specifically provide that the cancellation of the debt of a corporation held by its shareholder is not a taxable event. This is the legal conclusion of the Department of the Treasury.

Second, the Senator from Ohio refers to several provisions of the memorandum of intent in which the United States makes specific representations and warranties concerning the adjusted tax basis of Conrail's assets. According to the Senator from Ohio, special benefits to Norfolk Southern are its contractual rights under the memorandum of intent which permit it to cover damages from the United States in the event the United States, albeit inadvertently, misrepresented important facts relied upon by Norfolk Southern. In my opinion, these provisions are not special benefits. Rather, these provisions contain reasonable representations and warranties bargained for by the parties in good faith. The provisions reflect sound business policies on the part of both Norfolk Southern and the United States.

Mr. President, this past Tuesday the Senator from Ohio raised a number of concerns relating to the Federal income tax consequences of the proposed sale of Conrail to Norfolk Southern. In my opinion, the Federal income tax aspects of the proposed sale are perhaps the most misunderstood and the most misrepresented issues stemming from the sale of Conrail. I have stated repeatedly that the two principal questions facing the Senate with respect to Conrail are whether Conrail should be sold, and, if so, to whom. In response to these questions, I have clearly stated that it is time to end the Federal Government's ownership of Conrail, and that the best available purchaser for Conrail is Norfolk Southern.

Notwithstanding these principal issues, the Senator from Ohio and others are attempting to sidetrack us. I will not assert that the Federal income tax consequences of the proposed sale should not be considered in evaluating the Norfolk Southern bid for Conrail. Quite the contrary. My rule of thumb on this issue has been that the proposed sale to Norfolk Southern should not produce any Federal income tax consequences that materially differ from the consequences arising from a similar sale of stock between two nongovernmental entities. With the sole exception of the relinquishment of net operating loss and investment tax carryforwards—benefits which accrue entirely to the United States—the proposed sale of Conrail does not include any tax or contractual provisions which are substantively different than the tax or contractual rights that would be included in a similar transaction with a party other than the Federal Government.

Today I will address the specific tax points raised by the Senator from Ohio on Tuesday. Tomorrow I will probably be doing the same thing on additional tax points raised by the Senator from Ohio or by someone else. Hopefully, by the time the Conrail bill comes to a final vote, we will have resolved the confusion on the tax issues and will vote on the merits of the principal issue of how to best provide for the future of a nongovernmentally owned Conrail.

Specifically, the Senator from Ohio stated that the provisions of paragraph 4 of the "Memorandum of Intent"—

> * * * means that the $800 million Conrail debt from which Norfolk Southern will be excused will not be recognized as income to Norfolk Southern. Therefore, Norfolk Southern will not have to pay taxes on it. This is not normal tax procedure.

The Senator from Ohio is incorrect. I am unaware of any party, other than the Senator from Ohio, who has seriously raised the possibility that Norfolk Southern would recognize income from the proposed cancellation of the debt of Conrail. Any such implication is clearly not normal tax procedure.

What is normal tax procedure under these circumstances? Generally, the cancellation of debt of a corporation results in the recognition of taxable income by the corporation in an amount equal to the debt canceled. This rule does not apply however, to the cancellation of the debt held by a shareholder provided that the shareholder's basis in the debt is not less than the face amount of the debt.

The proposed cancellation of the debt of Conrail held by the United States falls squarely within the scope of this nonrecognition of income rule. Thus, the cancellation of debt, because it would occur at a time when the United States is a shareholder of Conrail, would not result in the recognition of income by Conrail. Morever, under no conceivable scenario would it result in the recognition of income by Norfolk Southern. A letter dated March 27, 1985, from Assistant Secretary of the Treasury for Tax Policy,

Ronald A. Pearlman, reaches precisely this conclusion. The letter states:

Under the substantive principles described above, Conrail would not recognize income from the cancellation of its debt if such cancellation were treated as a contribution to its capital by the Federal Government.

Even if we were to assume, solely for the sake of argument, that the cancellation of Conrail's debt would result in the recognition of income by Conrail, the practical effect of such an assumption would be nil. It is clear that the cancellation would occur prior to the sale of the Conrail stock and thus the full amount of Conrail's net operating loss carryforward would be available to offset the income from the cancellation of debt. Thus, treating the canceled debt as income would not result in any increase in tax revenues to the United States under any reasonable scenario. The provisions of the "Memorandum of Intent" merely confirm the result otherwise dictated by law—a result that could also be confirmed by obtaining a private letter ruling from the IRS.

The Senator from Ohio also takes objection to the provisions of paragraph 4 which eliminate Conrail's net operating loss and investment tax credit carryforward as of the closing. The Senator refers to an exception which provides that such carryforward will remain available to the extent they are attributable solely to reductions required by the IRS in the adjusted tax basis of Conrail's assets as reported in Conrail's tax return for the year ending on the closing. These provisions complement another provision of the "Memorandum of Intent" where the U.S. Government represents and warrants to Norfolk Southern that the adjusted basis at closing of Conrail's depreciable or amortizable assets shall be as shown on its tax return for the year ending on the closing.

The Senator from Ohio states that these provisions are special provisions. To the extent "special" implies that the result of the provisions are contractual rights that differ substantively or materially from the rights Norfolk Southern would negotiate from a nongovernmental seller of a corporation, I strongly disagree with the Senator from Ohio. To the extent "special" means that the provisions reflect the reality that the Federal Government is a party to the "Memorandum of Intent," I agree with the characterization.

What are the effects of the provisions referred to earlier? They are simple: The provisions insure that Norfolk Southern obtains that which it has bargained for. In determining the amount of its bid for Conrail, Norfolk Southern reviewed the tax characteristics of Conrail as they were made available to Norfolk Southern and other prospective bidders, and factored these considerations into its bid. Norfolk Southern then requested and received a representation and warranty from the Federal Government to the effect that the adjusted tax basis in Conrail's assets is as had been represented prior to entering into the "Memorandum of Intent." This is not a special provision. This is not a unique provision. It is precisely the type of assurance that any knowledgeable buyer would require from a seller in a transaction of this type.

The next question, therefore, is: What are the consequences of a breach of this representation; that is, what rights does Norfolk Southern have under the warranty?

In a contract between two nongovernmental entities, the buyer would be entitled to money damages. The amount of the money damages would be equal to the tax benefit lost to the buyer as a result of the adjusted tax basis being less than the amount represented.

The amount of damages to Norfolk Southern should be precisely the same as the hypothetical buyer I just described. Accordingly, the "Memorandum of Intent" permits Norfolk Southern to sue the United States in the event the adjusted basis in Conrail's assets is less than represented. The "memorandum of Intent" also specifically defines the amount of damages Norfolk Southern could obtain, and that amount is precisely equal to the damages the hypothetical buyer would be entitled to recover. Thus, in short, these provisions reflect only normal contractual rights and responsibilities and nothing more.

I am sure that the Senator from Ohio will point out that the "memorandum of Intent" contains a different remedy if the IRS determines, as a result of an audit of Conrail, that the adjusted basis of Conrail's assets is less than as represented by the Government. In this case, Norfolk Southern could not sue for damages, but instead would be entitled to use a portion of Conrail's otherwise foregone net operating loss carryforwards.

According to the Senator from Ohio, this is a special benefit which accrues to Norfolk Southern. This is not the case. Rather, the facts are to the contrary. Norfolk Southern would be substantially better off if allowed to collect money damages from the United States. This provision bestows benefits only on the United States—and to the detriment of Norfolk Southern. The reason for this is that Conrail's ability to use such net operating loss carryforwards is restricted under the separate return limitation year rules in the consolidated return regulations, whereas the same restrictions do not apply to Conrail's ability to use the depreciation deductions which it will lose as a result of a misrepresentation by the United States of Conrail's adjusted basis in its assets.

In summary, Mr. President, I want to reiterate the statement that the Department of Transportation and the Department of the Treasury have repeatedly made with respect to the proposed sale of Conrail. That statement is that the proposed deal confers no special tax benefits on Norfolk Southern. Except for the loss of the carryforwards, the tax results to Norfolk Southern are the same under this deal as they would be under any similar transaction between two nongovernmental parties.

Mr. President, I suggest the absence of a quorum with the provision that it be charged equally to both sides.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. METZENBAUM. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. STAFFORD). Without objection, it is so ordered.

Mr. METZENBAUM. Mr. President, I yield myself such time as I may need.

The PRESIDING OFFICER. The Senator from Ohio is recognized.

Mr. METZENBAUM. Mr. President, my distinguished colleague from Missouri just said that I was wrong in indicating that cancellation of a debt is not income to the shareholders. That very likely may be the fact. But cancellation of a debt owed by a corporation is income to the corporation because what happens is the corporation 1 day owes, let us say, $1 billion. If the next day it does not owe $1 billion, then it has an income item that has to show up somewhere.

The fact is, as I understand the tax laws, that would otherwise be income to the corporation, and it would be taxable income. I am not prepared to debate the tax laws of this country with my colleague. But I do believe that when he talks about it not being income to the shareholders, that very well may be the fact. But I do believe that it is probably income to the corporation absent the warranty that is provided for in the memorandum of agreement.

I respect the chairman of the Finance Committee when he spoke the other day, but I just would like to make some clarifications because I do not think that he was fully knowledgeable as to exactly what the situation is as it pertains to this particular transaction.

On March 1, I released a letter from the Joint Committee on Taxation describing the special tax treatments of this sale. At that time I publicly stated that this sale would possibly be the

largest tax shelter in history. I stand by that statement.

There are 12 provisions in the memorandum of intent, and in the bill that pays special, favorable tax treatment to Norfolk Southern.

Mr. President, I do not intend to use the time that I have allotted to me to spell out each of the 12 provisions.

First. The amounts which the Federal Government contributed to the capital of Conrail in the form of loans and preferred stock will not be considered income to Conrail when canceled despite Internal Revenue Code provisions which may reach a contrary result.

Page 4, paragraph (e)(i):

(e) TAX MATTERS.—(i) The cancellation by seller on the date of closing of any interest of seller in any debt, including accrued interest thereon, and preferred stock, including accrued and unpaid dividends thereon, of Conrail held by seller (or any agent or instrumentality thereof) shall not result in the recognition of gross income for purposes of the code.

Second. The IRS may adjust the tax value—basis—of Conrail's assets prior to closing, but Norfolk Southern shall retain a carryforward equal to the amount of any such reduction in the tax value of said assets.

Page 3, paragraph 4(ii):

(ii) That Conrail's net operating loss carryforwards shall not be available for carryover to taxable years beginning on or after the closing (except to the extent such carryforwards are attributable solely to reductions required by the IRS in the adjusted tax basis of Conrail's depreciable or amortizable assets as reflected in its U.S. corporation income tax return (Form 1120) for the taxable year ending on the closing.)

Third. Upon audit the IRS may *not* adjust the tax value—basis—of Conrail's assets after closing.

Page 4, paragraph 6(3)(ii):

. . . the adjusted basis at closing of Conrail's (and its affiliates') depreciable or amortizable assets shall be as shown on its U.S. corporation income tax return (Form 1120) for the taxable year ending on the closing determined without extraordinary departures from the methods of prior years and said basis as of closing shall not thereafter be increased or decreased as a result of any adjustment to a taxable year of Conrail (or any affiliate) ending on or before the closing;

Page 3, paragraph 4(iii):

. . . That the adjusted tax basis of Conrail's assets shall not be increased by any adjustment to a taxable year ending on or before the closing.

Fourth. The IRS shall not find that Conrail realized gain on the sale of its stock.

Page 4, paragraph 6(e)(iii):

(III) No gain or loss or income shall be recognized by buyer or Conrail upon a sale of shares to buyer (or the resulting change in control of Conrail) except in the event buyer makes, or is deemed to have made, an election under section 338 of the code;

Fifth. The IRS shall not reduce the tax value of Conrail's assets from $3 to $1.2 billion (as required under section 338) if Conrail property is transferred to Norfolk Southern.

Page 4, paragraph 6(E) (III), (IV), (IV)(B):

(III) No gain or loss or income shall be recognized by buyer or Conrail upon a sale of the shares to buyer (or the resulting change in control of Conrail) except in the event buyer makes, or is deemed to have made, an election under section 338 of the code. For the purpose of clauses (III) and (IV), buyer shall not be deemed to have made an election under section 338 of the code in connection with the sale of the shares to buyer (or any affiliate) or Conrail (or any affiliate) that would otherwise trigger the application of section 338(E)(I) of the code provided that (B) buyer (and its affiliates) elects under conditions to be agreed upon that the basis of such assets in their hands immediately following such acquisitions shall not exceed the basis of such assets in the hands of the seller of such assets immediately before such acquisition.

Sixth. Amounts paid to employees after closing, in order to increase wages to the industry standard, and amounts paid for routing concessions, shall be immediately deducted rather than amortized. (Written off over a longer period).

Page 10, paragraph 10(E):

(E) Closing agreement; rulings and representations. Conrail and the IRS shall have entered into the closing agreement described in paragraph 4; and buyer shall have received (at seller's sole election) either a ruling of the Internal Revenue Service or a written representation and warranty of seller under the provisions of paragraph 6(e) to the effect that the amounts paid to employees of Conrail or its affiliates for services rendered after the closing in order to increase their post-closing wages to industry standard and the costs paid or incurred for the routing concessions referred to in paragrah 12(A)(VIII) which are otherwise ordinary and necessary business expenses shall not be treated as built-in deductions and buyer and Conrail (and its affiliates) shall be entitled to deduct them when accrued or
paid, such ruling or representation and warranty, as the case may be, shall be in full force and effect at and as of the closing.

Seventh. If any of the representations contained in the memorandum of intent to sell Conrail are breached by the United States, Norfolk Southern can sue in district court or the Court of Claims.

Bill section 106:

(B) Breach of representation—(1) Norfolk Southern Corp. or any successor corporation thereto—may bring suit for any breach of representations contained in paragraph 6(E) of the memorandum of intent described in section 102(20)(A) of this act (hereinafter referred to as the respresentations) in the U.S. Claims Court or a district court of the United States.

Eighth. The right to bring suit is not subject to any waiting period applicable to tax proceedings or any requirement for tax payments as a condition of bringing suit.

Bill section 106:

(B)(8) The right to bring suit pursuant to this section shall not be subject to any waiting period applicable to tax proceedings or to any requirements for payment of any tax as a condition to instituting any suit based on a breach of the representations.

Ninth. It is no defense for the United States that Norfolk Southern knew or should have known of the falsity of the representations or that there exists no carryforwards procedure as contemplated in the representations.

Bill section 106(b):

(5) It shall not be a defense to an action brought under this section that Norfolk Southern Corporation knew, or should have known, of the falsity of the representations or that there exists no carryover basis procedure as contemplated by the last sentence of the representations.

Tenth. Section 131 of the bill provides civil immunity to ESOP fiduciaries for action taken to implement the sale.

Why?

This sale plan would provide Conrail's employees a combined payment of $375 million for their 15-percent share of Conrail's stock, and for wages deferred between 1981 and 1984.

That is not enough to give a fair price for the shares owned by the ESOP.

The value of the ESOP, calculated on the basis of the amount Norfolk Southern is paying the Government per share of stock, is $212 million. Add to that the deferred wages of about $290 million per year between 1981 and 1984, and the total comes to $502 million, not including interest.

If you add in interest on the deferred wages compounded at a conservative rate of 10 percent, the total amount comes to $762 million.

The Norfolk Southern $375 million figure shortchanges the employees by $387 million.

In other words, Norfolk Southern plans to buy out Conrail's employees for less than half of what they are due.

No wonder the fiduciaries want immunity.

Eleventh. Despite the fact that the ESOP may fail to continue as a qualified retirement plan under the Tax Code, it will be deemed a qualified plan.

Section 132 of the bill:

(11)(A) The employee stock ownership plans of the corporation and related trusts maintained, amended, or adopted in implementing the Secretary's plan shall be deemed to meet the qualification requirements of section 401 and 501, respectively, of the Internal Revenue Code of 1954 notwithstanding (1) that such plans may not meet the requirements of section 415 of the Internal Revenue Code of 1954.

Twelfth. Contributions to the ESOP shall not be treated as exceeding the maximum contribution levels imposed on every other retirement plan by the Tax Code.

Section 132 of the bill:

(11)(A) Such contributions and allocations shall in no event be treated as having exceeded the maximum annual addition permitted under section 415 of the Internal Revenue Code of 1954.

Mr. President, if these are not special tax concessions then I see no reason why we should not strike them.

But Mr. President, there is more.

Norfolk Southern is purchasing $3.5 billion in depreciation writeoffs for $1.2 billion. And S. 638 in its current form would not prevent Norfolk Southern from using these writeoffs to shelter its income.

Mr. President, I will conclude with my last example of how S. 638 bestows privileged tax status to Norfolk Southern.

The House tax reform proposal contains an amendment to section 382 of the Tax Code that would have the result of limiting Conrail's tax writeoffs to the purchase price.

But paragraph (6)(e) of the memorandum of intent warrants that the tax basis of Conrail cannot be reduced as a result of the sale of Conrail to Norfolk Southern. And section 106 of the bill permits Norfolk Southern to sue the United States if the warranty is breached.

Mr. President, we have effectively, by contract, immunized Norfolk Southern from the tax reform changes. Yet the tax reform provision provides a means to accomplish what the Secretary of Transportation promised—a way to prevent Norfolk Southern from gaining access to Conrail's tax writeoffs to shelter Norfolk Southern income.

Mr. President, this is no way to sell a railroad.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. Will the Senator advise as to how he wishes the time to be divided?

Mr. METZENBAUM. I thank the President. Equally divided between the Senator from Missouri and the Senator from Ohio.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. DANFORTH. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. COCHRAN). Without objection, it is so ordered.

POSTPONEMENT OF VOTE UNTIL 2:45 P.M.

Mr. DANFORTH. Mr. President, I ask unanimous consent that the vote previously scheduled for 2:30 p.m. be held at 2:45 p.m. and that the additional 15 minutes be equally divided between Senator METZENBAUM and myself.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. DANFORTH. Mr. President, I yield myself 2 minutes.

The PRESIDING OFFICER. The Senator from Missouri.

Mr. DANFORTH. Mr. President, because most of the time on this debate has been consumed by quorum calls, I am concerned that I might not get not only a last inning but even a late inning. Therefore, I should like very briefly to state what I think is involved here and what is not involved.

First, what is not involved is Gramm-Rudman-Hollings. I say that, Mr. President, noting that Senator DOMENICI supports the budget waiver in this case and Senators GRAMM, RUDMAN, and HOLLINGS have signed a Dear Colleague letter supporting the budget waiver.

So this is not a budget matter, this is not a Gramm-Rudman-Hollings matter. It is purely technical.

The second point I make is that the real issue before the Senate is whether we are going to proceed with any sale of Conrail. The effect of not waiving the Budget Act in this case is that a point of order would lie and that that would be the end of the bill. Senator DOLE has said that this is it as far as Conrail is concerned; if we cannot do it now, we are not going to do it later in the year. So the question is whether we are going to sell it to anybody.

If you do not want to sell Conrail, if you want the Government to operate Conrail, then you vote against the budget waiver.

Mr. President, I suggest the absence of a quorum.

Mr. METZENBAUM. Mr. President, will the Senator withhold?

Mr. DANFORTH. Mr. President, I yield the floor.

Mr. METZENBAUM. Mr. President, our distinguished colleagues, Senators GRAMM, RUDMAN, and HOLLINGS, unquestionably know the specifics of their bill, and I am not prepared to debate that. The fact is that the point of order that the Senator from Ohio made was that the bill violated section 303 of the Budget Act as amended by Gramm-Rudman-Hollings.

The Presiding Officer said: "Since the bill affects revenues in a fiscal year for which there is no concurrent resolution on a budget, the bill would violate section 303 of the Budget Act."

They can be the authors of the legislation and I suppose you could say it did not violate Gramm-Rudman-Hollings, but it violates the Budget Act and the Parliamentarian has so determined.

Now they say, in their letter, "A point of order is not a Gramm-Rudman-Hollings matter." Well, whether it is a Gramm-Rudman-Hollings matter or a budget matter, it all comes down to the same thing: What we are talking about in Gramm-Rudman-Hollings has to do with budgetary considerations, busting the budget, losing money we otherwise would have. That is $174 million according to the Treasury—the letter was sent to the Senator from Missouri saying $174 million; $400 million according to CBO, plus $800 million that would be repayed on the outstanding obligations of Conrail to the U.S. Government.

That is real money, Mr. President. So whether they authored the legislation or not, the facts are facts and fiction is fiction.

They cannot change the facts. The facts are that if we pass this bill, this Government is going to suffer, and the Budget Act is going to be violated.

Now, they go on to say that it would be a terrible mistake and that if you do not pass this there will be no bill. That is what my colleague from Missouri says, there will be no bill.

I do not know that that is the fact. I heard Senator SPECTER say publicly, the Senator from Ohio has said publicly, what ought to be done is that the Secretary of Transportation should take new, sealed bids. There were never sealed bids taken. Never were sealed bids taken in connection with the sale of this railroad. A rather unbelievable arrangement was made. The Department of Transportation went out and they hired—I think it was Goldman Sachs, but I am not certain—somebody to come in and make an appraisal. They made an appraisal of $1.2 billion. And then what happened? Instead of then going forward and taking sealed bids, they told the whole world they had a $1.2 billion appraisal and then took bids. My recollection is they took eight bids, all of which were approximately the $1.2 billion figure. I think one of them might have been a little different.

Now, that is not the way to conduct the Federal Government's business. It is not the way to conduct the sale of property owned by the people of this country. The people of this country put $7 billion into Conrail and now we are talking about giving it away for $1.2 billion. I do not see any reason why.

In giving it away for $1.2 billion we are also giving away $800 million in cash that is in the Treasury. There is actually more cash than that in the Treasury but the deal spells out that anything in excess of that amount will be turned over to the Federal Government.

As a matter of fact, every day we discuss this matter there is more and more money going to accrue to the Federal Government because there will be more and more cash in the bank and the excess over $800 million—and there is more than $800 mil-

lion now—rebounds to the benefit of the United States.

So the facts are if you figure last year's earnings of $440 million, better than a million dollars a day is accruing to the Federal Government from this railroad by reason of the fact the U.S. Senate is debating it. And so if we debated it for 2 days more, 4 days more, you would pick up that much more money.

That is obviously not an adequate reason to continue debating it, but it only serves to make the point that we are giving away a very valuable asset of the Federal Government, and we should not be doing it.

It is all right to sell it. I do not take issue with that, although you can make an argument to the contrary. But if you are going to sell it, you ought to get the best price available and not take the lowest price available. The Morgan Stanley bid is $200 million more.

It is pretty much agreed, I believe, that Morgan Stanley, if pushed to do so, would come in with a higher bid. This is a valuable asset. This is a giveaway. We are giving it away on a firesale basis. It is time that we recognize that it does not make sense. This is a revenue loser. It violates the budget.

I say to my colleagues on both sides of the aisle, if you vote to waive the budget, then you ought to go back home and proudly say to your constituents, "The United States Senate has been in session now for 2 or 3 weeks and I am proud to tell you what we have accomplished in those 2 or 3 weeks. We have waived the budget in order that the Government may give away a railroad that is recognized for its quality service, for its profitmaking ability, for its efficiency. Isn't it wonderful that we waive the budget in order to give that railroad away to Norfolk and Southern?"

It does not make sense to me, and I do not think any reasonable thinking person would think it makes sense. As more and more people in this country understand what this issue is all about, more and more people will be convinced that this is a bad deal.

If it were not bad in that respect, let me tell you why it is particularly bad. It means we are going to lose 7,000 or 8,000 jobs when we are trying to keep people employed in this country; 1,200 people will lose their jobs in my State alone. Why? It will mean lesser service. It will mean lesser income to the U.S. Government. It will mean that 1,200 people will be seeking jobs that are not available in our economy at the moment. It will mean that they will go on unemployment compensation or they will go on welfare. Why would we want to do that? Why is there such a sense of excitement—we have to do this now?

We can take new bids. The Morgan Stanley bid, of which I am not an advocate, at least would not cost the jobs that this proposal would. Regardless of how you slice it, this deal does not make sense. The political pressure is on, but that does not make it right. I hope my colleagues on both sides of the aisle will see fit not to make the first important act of this year's session a waiver of the budget.

Mr. President, I reserve the remainder of my time.

I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. COCHRAN). The clerk will call the roll.

Mr. METZENBAUM. I suggest that time be charged equally against Senator DANFORTH and myself.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

(Mr. SPECTER addressed the Chair.)

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SPECTER. Mr. President, are we in a quorum call?

The PRESIDING OFFICER. The Senator from Ohio had suggested the absence of a quorum and the Chair presumes that he has withdrawn that suggestion.

Who yields time?

Mr. METZENBAUM. Mr. President, how much time does the Senator from Pennsylvania seek?

Mr. SPECTER. Not more than 10 minutes.

Mr. METZENBAUM. I yield the Senator from Pennsylvania as much time as he needs but not in excess of 10 minutes at this point.

The PRESIDING OFFICER. The Senator from Pennsylvania is recognized.

Mr. SPECTER. Mr. President, I support the position advanced by the distinguished Senator from Ohio, and I oppose the motion to waive the Budget Act as proposed by the distinguished floor manager because the substance of the matter before this body is that the Norfolk Southern offer will produce less revenue than is called for in the budget resolution. In the opinion of this Senator, that is not a technical matter, that is a substantial and substantive matter.

The budget resolution provides that the purchase price shall be $1.2 billion, that that much revenue should be produced from the sale of Conrail. The Congressional Budget Office has reported that there will be a tax loss of $400 million if Norfolk Southern acquires Conrail because of a variety of tax considerations. Therefore, by simple arithmetic there is a loss of $400 million below the $1.2 billion which Conrail is supposed to produce for the budget.

For those reasons, it seems to this Senator that the position asserted by the Senator from Ohio is correct, and that as the U.S. Senate begins its deliberations on many complex issues in 1986, where we will be called upon to reduce the deficit in a variety of ways, it is unwise and inappropriate to accept the offer of Norfolk Southern for Conrail when it means less than the budget resolution provides.

There is, of course, an alternative, and should the distinguished floor manager be successful in his motion to waive the Budget Act, this Senator intends to propose an alternative of the Morgan Stanley proposal to purchase Conrail at a figure significantly in excess of that offered by Norfolk Southern, a figure worth $1.4 billion on the surface and $400 million more to the taxpayers without a deduction for tax loss carryovers, and so forth. So that there is an alternative. But when we talk about $400 million, that is not a technical consideration, and this body ought not to start off 1986 in the context of our efforts to reduce the deficit by approving a sale to Norfolk Southern which brings in $400 million less than called for by the budget resolution.

It is for those reasons that this Senator believes that the point of order raised by the Senator from Ohio is correct, that the Chair was correct in sustaining the point of order, and that the Budget Act ought not be waived.

Mr. President, I yield the floor, and I suggest the absence of a quorum.

Mr. METZENBAUM. Mr. President, I ask unanimous consent that the time during the quorum call be allocated equally.

The PRESIDING OFFICER. Is there objection?

Mr. DANFORTH. Mr. President, I yield myself 1 minute.

I should like to respond to the point made by the Senator from Ohio, which at least went to the merits, which is really what we are debating now.

This is not procedural. This is on the merits, on whether the Government is going to keep it or sell it. He says a lot of jobs are going to be lost. Here are the facts as to whether Conrail itself is a great job producer.

Conrail has reduced its size. Between 1976 and 1984, its work force has been reduced from 99,000 to 39,000. In 1985 alone, 3,200 Conrail people were laid off. Conrail has announced that it is going to get rid of an additional 4,500 employees by 1989. Conrail has reduced its trackage between 1977 and 1984 by 5,000 miles. It announced last year another 570-mile contraction.

Mr. President, Conrail has been keeping itself afloat by shrinking, by kicking people out of their jobs and reducing its trackage. I do not think it is any great bargain for its employees, and it certainly is not a great bargain for Uncle Sam.

Mr. LEAHY. Mr. President, I rise today to oppose the motion to waive the provisions of Gramm-Rudman-

Hollings and the Budget Act to consider the sale of Conrail to the Norfolk Southern Corp.

Congress has considered the proposed sale of Conrail for nearly 1 year. There is no need for further delay. My vote is not to stall, but to comply with the law, Gramm-Rudman-Hollings, which we enacted just 3 months ago.

Gramm-Rudman-Hollings is absolutely clear. It prohibits the Senate from considering legislation which causes a loss in tax revenue to the Treasury without accompanying cuts in spending or new taxes.

The sale of Conrail will result in a loss of $175 million in revenues, according to the Treasury and a loss of $400 million, according to the Congressional Budget Office.

I voted for Gramm-Rudman-Hollings and I endorse the concept that, in these times of fiscal austerity, we must not permit revenue losses without offsetting them on a pay-as-you-go basis.

All of the Federal income taxes paid by Vermonters pay only two days interest on the Federal debt. I cannot support this measure which causes such a substantial loss of revenues to the Treasury in fiscal year 1987, before Congress has had an opportunity to even consider the appropriate levels of spending for next year.

The Senate need not delay and we must not reverse this important protection established under Gramm-Rudman-Hollings.

Mr. BYRD. Mr. President, I would like to inform the Senate that Senator BAUCUS is returning to Montana today for a critical meeting.

This evening, the Bonneville Power Administration is holding a rate hearing in Columbia Falls, MT.

The hearing is critical to the future of the aluminum industry in the Northwest and the survival of the only aluminum processing plant in Montana.

As other Senators in the Northwest know, the aluminum industry—which has been a major part of this region's economy for decades—is facing very hard times.

To survive, the industry must get reasonable power rates from BPA. That's what tonight's hearing is all about and Senator BAUCUS felt compelled to be there to emphasize the emergency nature of the situation.

Senator BAUCUS plans to return tonight so that he can be here for tomorrow's session.

THE HISTORY OF THE NORFOLK SOUTHERN

Mr. PRESSLER. Mr. President, I have had the opportunity to listen to every aspect of the Conrail debate, from the original hearings on the bill in the Commerce Committee to the most recent floor debate. As my colleagues know, I have raised numerous questions and concerns over the proposal to sell Conrail to Norfolk Southern.

Both Secretary Dole and the Justice Department's Antitrust Division have acknowledged potential problems, ranging from diversions to monopoly control. However, they steadfastly adhere to their basic argument that regardless of the potential problems, Conrail's ultimate survival depends on Norfolk Southern's "deep pockets."

I know many of my colleagues are sympathetic to this argument. Yet before making a decision based on that argument, I think it would be useful for my colleagues to review, as I have done, the history of Norfolk's "deep pockets."

Norfolk has been called upon in the recent past to provide "deep pockets" for ailing Northeast railroads.

Norfolk Southern results from the merger of the Southern Railway and Norfolk Western [N&W], the latter with substantial operations in the Northeast. N&W, was itself the product of a series of mergers and consolidations effected in the early 1960's. Most notably, the N&W was a combination of the Norfolk and Western, the Nickel Plate, the Wabash, and the Sandusky line of the Pennsylvania.

In considering the combination, the Interstate Commerce Commission found that the Erie-Lackawanna, Delaware & Hudson and the Boston & Maine could not survive as independent carriers in the face of the new N&W system. The Commission required N&W, if requested to do so by the three roads, to acquire them. As ordered by the ICC, consummation of the merger constituted "acquiescence in and irrevocable assent to" absorption of the three roads. (N&W merger decision, 324 ICC 148 (1964)).

This ICC requirement was a kind of public interest covenant agreed to by Norfolk as a condition for purchasing desired rail properties.

The Erie-Lackawanna and D&H requested inclusion, and early expectations were high. The Commission noted:

As a result of inclusion of the petitioners in the N&W system, petitioners will become stronger carriers and their ability to render adequate transportation service to the public will be strengthened. The advantages flowing from the unification will enable them to render more efficient and economic service to the public. "(N&W merger decision, 330 ICC 780, 826 (1067)).

The rest is, as they say, history. The Erie-Lackawanna underwent a long period of benign neglect, declared bankruptcy and its principal assets were nationalized as part of the formation of Conrail. D&H's financial position declined steadily, avoiding the formality of bankruptcy by becoming a ward of the Federal and State governments. It remained that way until Norfolk Southern sold its ailing child to Guilford Transportation Industries in 1984 for $500,000.

Contrary to the purpose behind the ICC's inclusion order, N&W was able to walk away from the Erie-Lackawanna and D&H through a legal technicality. While agreeing to accept the roads, it always resisted a direct merger. Rather, it offered a parent/subsidiary relationship. A subsidiary company, Dereco, was created, and it owned the Erie-Lackawanna and the D&H. Both railroads were kept separate from the N&W.

N&W went further than simply insulating itself from its subsidiaries. In a number of important ways they materially weakened their finances. In the late 1960's, for example, Dereco funneled $2.3 million in D&H dividends to the failing Erie-Lackawanna. D&H was hardly in a position to give up that kind of cash. N&W also continued to realize tax benefits from the companies it refused to support. As noted by the former Chairman of the Interstate Commerce Commission:

The tax benefits to the N&W resulting from the D&H's operating losses and investment tax credits have been substantial. Under existing tax law, this is one purpose of establishing a holding company. In addition to providing a vehicle for realizing tax benefits, the N&W created Dereco to shield the profitable N&W from the assumption of debt liability of the Dereco components. (Letter of ICC Chairman A. Daniel O'Neal to U.S. Representative James Hanley, Jan. 6, 1978.)

Although "required" to take the tax benefits from Erie-Lackawanna and D&H, N&W refused to enter into a tax allocation agreement, frequently done in such cases, by which its distressed subsidiaries would have received a portion of the taxes it saved by using the shelter.

Robert Claytor, current chairman of the board of Norfolk Southern and leading proponent of the "deep pockets" theory, was the executive vice president of N&W. Testifying before a 1978 congressional committee on the decline of the D&H, he stated his company's attitude toward its subsidiary very clearly:

N&W's stockholders have been assured that N&W has not assumed or guaranteed any liabilities of D&H and has no financial commitments toward its operation. . . . The future of the D&H rests with Government policy. (Testimony of Robert B. Claytor, executive vice president of N&W, House Subcommittee on Transportation and Commerce, August 15, 1978.)

N&W may have had very deep pockets, but it had very short arms.

Today Norfolk Southern has been presented to those of us in Congress as a kind of White Knight, riding to the rescue of a financially shakey Conrail. Before we let the damsel be rescued, it might be well to consider the remarks of one of our own former Members, Congressman James Hanley, who was deeply involved in the issues surrounding rail service in the Northeast. Testi-

fying before the same committee that Mr. Claytor did in 1978, he said:

Quite frankly, Mr. Chairman, the N&W has exemplified the worst aspects of railroading and corporate tactics and deserves to be roundly condemned for its actions. . . . Obviously, we should not allow the N&W to reap the tax benefits for forcing the railroad (D&H) into bankruptcy nor should it reap the profits from a railroad revitalized with taxpayer's money." (Congressman James Hanley before the House Subcommittee on Transportation and Commerce, August 15, 1978.)

Mr. President, I recite this brief history to my colleagues because I am troubled over the kind of "trust us" advocacy that is being used by the supporters of this sale. The Department of Transportation asks us to accept their conclusion that the merger is what is best for Conrail viability. The Department of Justice asks us to take on faith a divestiture scheme that they will analyze after we vote. Norfolk Southern asks us to trust them to keep Conrail viable even in the event of another recession.

Given the history I have just recited, I cannot find any reasonable basis to trust Norfolk Southern to open its deep pockets to a failing Conrail. Indeed, if their motives were pure as the driven snow, prudent business practice would require that they cut their losses on the failing Conrail that their doom and darkness studies project. There is absolutely no assurance that the Norfolk Southern Corp. is fully committed to the preservation of rail service over Conrail lines, and that Norfolk Southern cannot insulate its other rail operations from those in the Northeast and Midwest, as it did in the case of the Erie-Lackawanna and the Delaware and Hudson.

Mr. President, if Secretary Dole's most compelling argument for selling Conrail to Norfolk Southern is the "deep pockets" argument, then I would submit that we would do well to start looking at the Morgan Stanley alternative.

The PRESIDING OFFICER. Who yields time?

Mr. DANFORTH. Mr. President, I suggest the absence of a quorum, and I ask that it be charged equally to both sides.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. METZENBAUM. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. METZENBAUM. Mr. President, how much time does the Senator from Missouri have remaining and how much time does the Senator from Ohio have remaining?

The PRESIDING OFFICER. The Senator from Missouri has 3 minutes and 22 seconds remaining and the Senator from Ohio has 6 minutes and 38 seconds remaining.

Mr. METZENBAUM. Mr. President, I suggest the absence of a quorum for 3 minutes on the time of the Senator from Ohio.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. METZENBAUM. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. METZENBAUM. Mr. President, I suggest the absence of a quorum and ask unanimous consent that time be equally divided between the Senator from Missouri and the Senator from Ohio.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. METZENBAUM. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. METZENBAUM. Mr. President, I yield myself 1 minute.

Mr. President, there is only one issue that we are going to vote on in about 5 minutes, and that is: Should the Budget Act be waived? We are not going to vote on whether we believe Conrail should be retained by the Government. We are not going to vote on whether it should be sold to Morgan Stanley. We are not going to vote on whether it should be sold to Norfolk Southern. There is one issue—should the Budget Act, section 303 of that act, be waived? And every Member of this Senate who had spoken so loudly and so effectively about balancing the budget has to recognize that when they cast their vote what they are voting on is not Conrail. They are voting on whether or not the U.S. Senate's first official act will be to waive the Budget Act.

Mr. President, I reserve the balance of my time.

Mr. DANFORTH. Mr. President, I yield myself 1 minute.

Mr. President, the issue before the Senate is whether or not we are going to sell the railroad to anybody. If we do not waive the Budget Act, the result of that is that this bill goes right off the floor. The leader said that we will not be considering it again.

The sale of Conrail was built into the budget. We agreed last year that we would make $1.2 billion selling Conrail. The budgetary arguments are all in favor of proceeding with the sale.

The question before us is whether this is going to remain on the floor of the Senate or be pulled off. That is what we are about to vote on.

I urge Members of the Senate to vote to waive the Budget Act. Senator DOMENICI agrees with this position and strongly supports a waiver under the circumstances.

The PRESIDING OFFICER. Who yields time?

Mr. HOLLINGS. Mr. President, just in 10 seconds I would say not just to waive the Budget Act, but rather to comply with section 303, which provides for a waiver of that particular section. You are not waiving the act; you are complying with the provisions of the act which asks that any kind of revenue impact be discussed and ruled on by the Congress in its budget resolution.

This has been discussed, included in the resolution, and been ruled on. That is why we asked for the waiver, in accordance, really, with the act.

Mr. METZENBAUM. Mr. President, I yield myself 10 seconds. I want to point out to my distinguished colleague from South Carolina that the motion that is before us is to move to waive section 303 of the Budget Act, period. So that when you say we are moving to comply with it, there is no compliance at all. It is moving to waive it, and that is the simple English language.

Mr. HOLLINGS. But the waiver, I say to my distinguished friend, is provided. That motion that has been made has been provided in the act itself.

Mr. METZENBAUM. On the Senator's time, I would be glad to respond.

Mr. HOLLINGS. All right.

Mr. METZENBAUM. The response is, sure, it is provided it can be done, but I think everybody who wants to abide by the budget and thinks the budget is important should not vote to waive it.

Mr. HOLLINGS. I believe the budget is important and that we have complied with it. That is why I would vote to waive, in accordance with the provisions to waive.

Mr. METZENBAUM. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. To be divided evenly?

Mr. METZENBAUM. To be divided evenly.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DANFORTH. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

VOTE ON MOTION TO WAIVE SECTION 303 OF THE BUDGET ACT

The PRESIDING OFFICER. The hour of 2:45 having arrived, the question is on agreeing to the motion of the Senator from Missouri to waive section 303 of the Budget Act. The yeas and nays have been ordered and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON announced that the Senator from Montana [Mr. BAUCUS] is necessarily absent.

The PRESIDING OFFICER (Mr. QUAYLE). Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 68, nays 31, as follows:

[Rollcall Vote No. 2 Leg.]

YEAS—68

Abdnor	Gorton	Mitchell
Armstrong	Gramm	Moynihan
Bentsen	Grassley	Murkowski
Bingaman	Hatch	Nickles
Boren	Hatfield	Nunn
Boschwitz	Hawkins	Packwood
Chafee	Hecht	Pressler
Cochran	Heflin	Pryor
Cohen	Helms	Quayle
D'Amato	Hollings	Roth
Danforth	Humphrey	Rudman
DeConcini	Inouye	Sasser
Denton	Johnston	Simpson
Dodd	Kassebaum	Stennis
Dole	Kasten	Stevens
Domenici	Kennedy	Symms
Durenberger	Kerry	Thurmond
Eagleton	Laxalt	Trible
East	Long	Wallop
Evans	Lugar	Warner
Garn	Mattingly	Weicker
Goldwater	McClure	Wilson
Gore	McConnell	

NAYS—31

Andrews	Glenn	Pell
Biden	Harkin	Proxmire
Bradley	Hart	Riegle
Bumpers	Heinz	Rockefeller
Burdick	Lautenberg	Sarbanes
Byrd	Leahy	Simon
Chiles	Levin	Specter
Cranston	Mathias	Stafford
Dixon	Matsunaga	Zorinsky
Exon	Melcher	
Ford	Metzenbaum	

NOT VOTING—1

Baucus

So the motion to waive section 303 of the Budget Act was agreed to.

Mr. DANFORTH. Mr. President, I move to reconsider the vote by which the motion was agreed to.

Mr. WALLOP. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from Pennsylvania.

AMENDMENT NO. 1440 TO AMENDMENT NO. 1437

(Purpose: To make an amendment in the nature of a substitute)

Mr. SPECTER. Mr. President, I have an amendment at the desk, amendment No. 1440. I ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Pennsylvania [Mr. SPECTER], for himself, Mr. DIXON, Mr. HEINZ, Mr. EXON, Mr. MCCONNELL, Mr. SIMON, Mr. ZORINSKY, Mr. ROCKEFELLER, Mr. PRESSLER, and Mr. GORTON, proposes an amendment numbered 1440.

Mr. SPECTER. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

AMENDMENT NO. 1440

In lieu of the matter proposed to be inserted, insert the following:

That this Act may be cited as the "Conrail Public Sale Act of 1985".

FINDINGS

SEC. 2. The Congress finds that—

(1) the Northeast Rail Service Act of 1981 (45 U.S.C. 1101, et seq.) provided for an orderly return of Conrail freight service to the private sector;

(2) the provisions of the Northeast Rail Service Act of 1981 were successful in removing Conrail's obligations beyond railroad freight service and in otherwise preparing Conrail for an orderly return to the private sector;

(3) the Board of Directors of the United States Railway Association twice found Conrail to be profitable corporation under section 403 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 763);

(4) Morgan Stanley and Company, Incorporated developed a firm proposal on behalf of a diverse group of private investors to purchase the interest of the United States in the common stock of Conrail and to return Conrail to broad private ownership through one or more public stock offerings;

(5) the sale proposal of the investor group organized by Morgan Stanley and Company, Incorporated best meets the objectives of (A) leaving Conrail in the strongest financial position after the sale, (B) preserving patterns of service to shippers and communities in the region that Conrail now serves by continuing Conrail as an independent railroad, and (C) maximizing the return of the United States on its investment consistent with the objectives set forth in subparagraphs (A) and (B);

(6) the sale proposal of the investor group organized by Morgan Stanley and Company, Incorporated satisfies the requirements of the Northeast Rail Service Act of 1981, including the intent, goals, and objectives relating to the sale of the interest of the United States in the common stock of Conrail and the requirements of section 401(e) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 761(e)); and

(7) amendments to the Regional Rail Reorganization Act of 1973 and related laws are needed to permit the sale of the interest of the United States in the common stock of Conrail to the investor group organized by Morgan Stanley and Company, Incorporated and to permit cancellation of the interest of the United States in Conrail debt and preferred stock.

PURPOSE

SEC. 3. It is the purpose of the Congress in this Act to return Conrail to private sector by directing and facilitating the sale of the interest of the United States in the common stock of Conrail to the investor group organized by Morgan Stanley and Company, Incorporated.

DEFINITIONS

SEC. 4. In this Act, unless the context otherwise requires, the term—

(1) "closing date" means the date that the interest of the United States in the common stock of Conrail is transferred pursuant to the Purchase Agreements;

(2) "Conrail" means the Consolidated Rail Corporation;

(3) "Purchase Agreements" means the agreements between the Purchasers and the Secretary in the form filed with the Committee on Commerce, Science and Transportation of the Senate;

(4) "Purchasers" means the investor group organized by Morgan Stanley and Company, Incorporated to purchase the interest of the United States in the common stock of Conrail as identified in the Shareholders' Agreement;

(5) "Secretary" means the Secretary of Transportation; and

(6) "Shareholders' Agreement" means the agreement among the Purchasers, Conrail and Morgan Stanley and Company, Incorporated in the form filed with the Committee on Commerce, Science and Transportation of the Senate.

TITLE I—AMENDMENTS TO THE REGIONAL RAIL REORGANIZATION ACT OF 1973 AND THE NORTHEAST RAIL SERVICE ACT OF 1981

LIMIT ON AUTHORITY TO PURCHASE STOCK

SEC. 101. Section 216(b) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 726(b)) is amended by adding at the end thereof the following new paragraph:

"(5) The authority of the Association to purchase debentures or series A preferred stock of the Corporation shall terminate upon the closing date.".

RESPONSIBILITY OF CONRAIL DIRECTORS

SEC. 102. Section 301(i) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 741(i)) is amended by inserting immediately after "required by law" the following: ", taken to implement the sale of the interest of the United States in the common stock of the Corporation to the Purchasers,".

APPLICABILITY OF REGIONAL RAIL REORGANIZATION ACT OF 1973 TO CONRAIL AFTER SALE

SEC. 103. Section 301 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 741) is amended by adding at the end thereof the following new subsection:

"(k) GOVERNING PROVISIONS AFTER SALE.—The provisions of this Act shall not apply to the Corporation and to activities and other actions and responsibilities of the Corporation and its directors after the closing date, other than with regard to—

"(1) section 102;

"(2) section 201(d);

"(3) section 203, but only with respect to information relating to proceedings before the special court established under section 209(b);

"(4) section 216(f)(8), but only as such authority applies to activities related to the ESOP and related trusts before the closing date;

"(5) section 217(e);

"(6) subsection (b) of this section, but only with respect to matters covered by the last sentence of such subsection;

"(7) subsection (i) of this section, but only as such authority applies to service as a director of the Corporation before, or in connection with the implementation of, the sale of the interest of the United States in the common stock of the Corporation;

"(8) section 305, but only as to the effect, and continuing administration, of supplemental transactions consummated before the closing date;

"(9) section 308, but only in abandonment actions when such authority has been relied on to file a notice or notices of insufficient revenues before the closing date;

"(10) section 401;

"(11) section 402;

"(12) section 404;

"(13) section 408;

"(14) section 701, but only as may be necessary to identify employees eligible for benefits prescribed under that section and as provided in section 108 of the Conrail Public Sale Act of 1985;

"(15) section 702(e);

"(16) section 704(b);

"(17) section 709;

"(18) section 710(b)(1);

"(19) section 711; and

"(20) section 714, but only with regard to disputes or controversies specified in such section that arose before the closing date.".

IMPLEMENTATION OF SALE

SEC. 104. (a) Section 401 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 761) is amended to read as follows:

"SALE OF THE CORPORATION

"SEC. 401. (a) PURCHASE AGREEMENT.—As soon as practicable, but not later than 10 days following the date of enactment of the Conrail Public Sale Act of 1985, the Secretary shall execute and deliver on behalf of the United State the Purchase Agreements. The Secretary shall transfer the interest of the United States in the common stock of the Corporation to the Purchasers in accordance with such Agreements.

"(b) CONDITIONS OF SALE.—In addition to the terms and conditions of the Purchase Agreements, the transfer of the interest of the United States in the common stock of the Corporation shall be subject to, and governed by, the terms and conditions of the Shareholders' Agreement and the Conrail Agreement, which shall be executed concurrently with the Purchase Agreements.

"(c) RAILROAD PURCHASERS.—Any railroad which purchases common stock of the Corporation shall vote such stock in the same proportion as all other common stock of the Corporation is voted unless the Commission determines that such railroad has purchased a controlling interest. As use in this subsection, the term 'railroad' shall include any entity controlling, controlled by, or under common control with any railroad (other than the Corporation or its subsidiaries).

"(d) ANTI-TAKEOVER RESTRICTION.—Except as may be provided in the Purchase Agreements with respect to the initial allocation of shares among the Purchasers, no person (with the exception of the ESOP), affiliated group of persons, of group of persons acting in concert may, for a period of five years beginning on the closing date, hold or acquire more than 10 per centum of the outstanding shares of any class of the voting stock of the Corporation.".

(b) The item in the table of contents of the Regional Rail Reorganization Act of 1973 relating to section 401 is amended to read as follows:

"Sec. 401. Sale of the Corporation.".

CANCELLATION OF DEBT AND PREFERRED STOCK

SEC. 105. Section 402 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 762) is amended to read as follows:

"DEBT AND PREFERRED STOCK

"SEC. 402. (a) RECAPITALIZATION.—In connection with the sale of the interest of the United States in the common stock of the Corporation under section 401, and consistent with the Purchase Agreements, the Secretary shall take such action as may be necessary to cause the corporation to be recapitalized to assure that the interest of the United States, or any agent or instrumentality thereof, and all other commitments or obligations of the Corporation to the United States or any agent or instrumentality thereof arising out of such interest, in any debt (including accrued interest and contingent interest thereon) and preferred stock (including accrued and unpaid dividends thereon) of the Corporation shall be canceled or retired and contributed to the capital of the Corporation. The Secretary shall cause the recapitalization authorized by this section to be effective as of the closing date.

"(b) EFFECT.—For purposes of regulation by the Commission and State public utility regulation, the recapitalization authorized by this section, the sale of the interest of the Untied States in the common stock of the Corporation, and the value of the consideration received therefor by the United States shall not reduce the Corporation's investment net of depreciation in any of its assets and shall not affect the calculation of the Corporation's stock or asset values, expenses, costs, returns, profits, or revenues, or otherwise affect or be the basis for a change in the regulation of any railroad service, rate, or practice of the Corporation, including any service, rate or practice provided or established by the Corporation in connection with other carriers.".

PUBLIC INTEREST COVENANTS

SEC. 106. (a) Section 404 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 764) is amended to read as follows:

"PUBLIC INTEREST COVENANTS

"SEC. 404. (a) DEFINITIONS.—For purposes of this section, the term—

"(1) 'affiliate' means, with respect to any person, any other person directly or indirectly controlling, controlled by, or under common control with, such person (for which purpose the term 'control' when used with respect to any person means the possession, directly or indirectly, of power to direct or cause the direction of the management and policies of such person) and, without limiting the generality of the foregoing, includes any officer of such person or of any affiliate of such person;

"(2) 'capital expenditures' means all amounts expended by the Corporation and its subsidiaries for replacement or rehabilitation of, or enhancements to, the railroad plant, property, trackage, and equipment of the Corporation and its subsidiaries, all as determined in accordance with generally accepted accounting principles: *Provided, however,* That no amount spent upon normal repair, maintenance and upkeep of such railroad plant, property, trackage, and equipment in the ordinary course of business shall constitute capital expenditures;

"(3) 'cumulative net income' means, for any period, the net income of the Corporation and its consolidated subsidiaries (after provision for income taxes) properly attributable to the conduct of the business of the Corporation and its consolidated subsidiaries before provision for any preferred stock payments;

"(4) 'debt' means (A) indebtedness, whether or not represented by bonds, debentures, notes, or other securities, for the repayment of money borrowed, (B) all deferred indebtedness for the payment of the purchase price of property or assets purchased, (C) all guaranties, endorsements, assumptions, and other contingent obligations in respect of, or to purchase or to otherwise acquire, indebtedness of others, and (D) all indebtedness secured by any mortgage pledge or lien existing on property owned, subject to such mortgage pledge or lien, whether or not indebtedness secured thereby shall have been assumed;

"(5) 'net additional debt' means, at any time, an amount equal to the difference between the Corporation's consolidated debt outstanding at such time and its consolidated debt outstanding immediately after the closing date;

"(6) 'net additional preferred stock' means, at any time, an amount equal to the fair market value of the consideration received by the Corporation for the issuance of outstanding preferred stock issued subsequent to the closing date;

"(7) 'non-required capital expenditures' means the amount, if any, by which capital expenditures for any fiscal year exceeds the greater of (A) an amount equal to depreciation of the Corporation for financial reporting purposes for such year or (B) $500,000,000;

"(8) 'person' means an individual, corporation, partnership, association, trust, or other entity or organization, including a government or political subdivision thereof or a governmental body;

"(9) 'preferred stock' means any class or series of preferred stock, and any class or series of common stock having liquidation and dividend rights and preferences superior to the common stock acquired by the Purchasers from the Secretary on the closing date; and

"(10) 'subsidiary' means any corporation more than 50 per centum of whose outstanding voting securities are directly or indirectly owned by the Corporation.

"(b) AFFIRMATIVE COVENANTS.—During a period of five years commencing on the closing date:

"(1) The Corporation shall furnish to the Secretary its audited consolidated financial statements within 90 days after the end of each fiscal year of the Corporation and its unaudited interim financial statements within 45 days after the end of each quarter (except the fourth quarter). Such interim financial statements shall have received such limited review by the Corporation's independent certified public accountants as such accountants normally accord to interim financial statements of publicly held companies.

"(2) The Corporation and each railroad subsidiary shall continue in the railroad business substantially as such business was being conducted by the Corporation as of February 8, 1985, and such railroad subsidiary and (subject to permitted abandonments and service alterations in accordance with applicable law and the normal procedures and regulations of the Commission) to maintain rail freight services throughout its system that are economically justifiable: *Provided, however,* That expedited abandonment proceedings commenced pursuant to section 308 of this Act before the closing date may be continued, but no new filings of notices of insufficient revenues may be made pursuant to such section. The Corporation shall maintain its corporate existence and its material licenses and franchises.

"(3) Notwithstanding any repeal of section 308 of this Act, the Corporation shall con-

tinue its practice of offering any line for which an abandonment certificate is issued by the Commission to a purchaser who agrees to provide interconnecting rail service. Such offer shall last for the 120-day period following the date of issuance of the abandonment certificate and the price for such abandoned line shall be equal to 75 per centum of net liquidation value as determined by the Commission.

"(4) The Corporation and each of its subsidiaries shall maintain, preserve, protect, and keep their respective properties in good repair, working order, and condition, and shall not permit deferred maintenance, in order to provide and maintain rail service as required by paragraph (2) of this subsection.

"(5) The Corporation and each of its subsidiaries shall maintain insurance against loss or damage of the kinds customarily insured against by corporations similarly situated.

"(6) The Corporation shall spend in each fiscal year the greater of (A) an amount equal to the Corporation's depreciation for financial reporting purposes for such year or (B) $500,000,000, in capital expenditures: *Provided, however,* That in any year, the Corporation's Board of Directors may reduce the required capital expenditures for such year to an amount which the Board determines is justified by prudent business and engineering practices: *And further provided,* That in any event, the Corporation's cumulative capital expenditures subsequent to the closing date shall not be less than: $350,000,000 on the first anniversary of the closing date, $700,000,000 on the second anniversary of the closing date, $1,050,000,000 on the third anniversary of the closing date, $1,400,000,000 on the fourth anniversary of the closing date, and $1,750,000,000 on the fifth anniversary of the closing date.

"(7) The Corporation and each of its subsidiaries shall pay all debt promptly when due and payable.

"(8) The Corporation and each of its subsidiaries shall keep proper books and records in which full, true, and correct entires of all transactions will be made in accordance with generally accepted accounting principales (as applicable to companies subject to the reporting requirements of the Securities Exchange Act of 1934) applied on a consistent basis.

"(9) The Corporation shall continue to operate from its headquarter in Philadelphia, Pennsylvania, and to retain its locomotive shop and car repair shop in Altoona, Pennsylvania;

"(10) The Corporation shall continue to maintain or reestablish, with the small eastern rail carriers of less than $300,000,000 annual operating revenues, reasonably efficient routes of major importance at the request of any such rail carriers.

"(11) The Corporation shall continue its affirmative action program, including its minority vendor program, substantially as such program was being conducted by the Corporation as of February 8, 1985, subject to any provisions of applicable law.

"(12)(A) Within 45 days after the close of each fiscal quarter of the Corporation and promptly following the declaration of any common or preferred stock payment described in paragraph (5) or (6) of subsection (c) of this section by the Board of Directors of the Corporation, but not later than 10 days before making such payment, the Corporation shall deliver to the Secretary a certificate executed by an executive officer or representative of the Corporation which shall (i) certify that as of such date, and, in the case of any such certificate delivered in connection with such payment, after giving effect thereto, the Corporation shall have complied, and, after giving effect to such payment, shall then be in compliance with, all of the covenants set forth in this section and that no default exists, or after giving effect to such payment, would exist, with respect to any such covenant, and (ii) set forth all computations necessary to evidence compliance with all of the covenants set forth in this section at the date of such certificate, and in the case of any such certificate delivered in connection with such payment on a pro forma basis after giving effect to such payment.

"(B) The Secretary shall, not later than January 31 of each year, submit to the Committee on Energy and Commerce of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a reporting listing the certificates required under subparagraph (A) that were submitted by the Corporation during the preceding calendar year.

"(13) The Corporation shall give prompt notice to the Secretary and to each of the signatories to the Shareholder's Agreement of any default under way of the covenants set forth in subsection (b) or (c) of this section.

"(c) NEGATIVE COVENANTS.—During a period of 5 years commencing on the closing date:

"(1) The Corporation shall not, absent insolvency, liquidate, wind-up, dissolve, or file for voluntary reorganization under title 11 of the United Staes Code or any other law relating to bankruptcy, insolvency, or relief of debtors.

"(2) The Corporation shall not permit to occur any transaction or series of transactions (other than in the ordinary course of business of the Corporation and its subsidiaries) whereby all or any substantial part of the railroad assets and business of the Corporation and its subsidiaries taken as a whole are sold, leased, transferred, or otherwise disposed of to any corporation or entity other than to a wholly-owned subsidiary of the Corporation.

"(3) The Corporation shall not merge or consolidate with or into any corporation or any other entity. The Corporation shall not permit any subsidiary to merge or consolidate with or into any other entity unless, after giving effect to such merger or consolidation—

"(A) the Corporation shall be fully in compliance with all of the convenants enumerated in this section;

"(B) all of the covenants enumerated in this section shall continue to apply to the surviving or resulting entity of such merger or consolidation fully and to the same extent as they applied to the Corporation or to its subsidiaries (as the case may be) immediately prior to such merger or consolidation; and

"(C) such merger or consolidation shall not have violated any of the provisions of paragraph (8) of this subsection.

"(4) In connection with the financing of the purchase price of the common stock of the Corporation sold pursuant to the purchase agreements, (A) the Corporation shall not use its cash or cash equivalents on hand, other than in connection with the transactions which employees contemplated by such agreement and (B) the Corporation shall not subject its or its subsidiaries' assets to any pledge, lien, mortgage, or other security interest.

"(5)(A) Except as otherwise provided under subparagraph (B), the Corporation shall not at any time, in respect of any shares of any class or series of the common stock of the Corporation—

"(i) declare or pay any dividends in cash, property, or other assets (other than dividends payable solely in shares of any class or series of the common stock of the Corporation) thereon;

"(ii) apply any of its property or assets to the purchase, redemption, or other acquisition or retirement thereof;

"(iii) set apart any sum for the purchase, redemption, or other acquisition or retirement thereof, or

"(iv) make any other distribution, by reduction of capital or otherwise.

Any action described in clause (i), (ii), (iii), or (iv) with respect to the Corporation's common stock is hereinafter in this section referred to as a common stock payment.

"(B) No such common stock payment shall be made except to the extent that each of the conditions set forth below shall have been satisfied:

"(i) Such common stock payment is entirely in cash and the Corporation shall, after giving effect to such common stock payment, be fully in compliance with all of the covenants enumerated in this section.

"(ii) Immediately after giving effect to such common stock payment, the cumulative amount of all common stock payments made subsequent to the closing date shall not exceed (I) 40 per centum of the cumulative net income of the Corporation accrued subsequent to the closing date minus (II) the cumulative amount of all preferred stock payments (as defined in paragraph (6) of this subsection) made subsequent to the closing date.

"(iii) Immediately after giving effect to such common stock payment, the Corporation shall have cash and cash equivalents on hand at such time not less than the greater of: (I) $500,000,000, or (II) the sum of $500,000,000, net additional debt, and net additional preferred stock (the 'formula'): *Provided, however,* that the formula shall be reduced by an amount equal to cumulative nonrequired capital expenditures made by the Corporation subsequent to the closing date.

"(6)(A) Except as provided under paragraph (B), the Corporation shall not in respect of any shares of any class or series of preferred stock of the Corporation—

"(i) declare or pay any dividends in cash, property, or other assets thereon;

"(ii) apply any of its property or assets to the purchase, redemption, or other acquisition or retirement thereof;

"(iii) set apart any sum for the purchase, redemption, or other acquisition or retirement thereof; or

"(iv) make any other distribution, by reduction of capital or otherwise.

Any action described in clause (i), (ii), (iii), or (iv) with respect to the Corporation's preferred stock is hereinafter in this paragraph referred to as a 'preferred stock payment'.

"(B) No such preferred stock payment shall be made except to the extent that each of the conditions set forth below shall have been satisfied:

"(i) Such preferred stock payment is entirely in cash and the Corporation shall, after giving effect to such preferred stock payment, be fully in compliance with all of the covenants enumerated in paragraphs (6) and (7) of subsection (b), and paragraphs

(2), (3), (5), and (6) of subsection (c), of this section.

"(ii) Immediately after giving effect to such preferred stock payment, the cumulative amount of all common stock payments and all preferred stock payments made subsequent to the closing date shall not exceed the cumulative net income of the Corporation accrued subsequent to the closing date.

"(iii) Immediately after giving effect to such preferred stock payment, the Corporation shall have cash and cash equivalents on hand at such time not less than $500,000,000.

"(7) Notwithstanding paragraph (5) of this subsection, if the Corporation is in default in making capital expenditures pursuant to subsection (b)(6) of this section, common stock payments may not be made until the Corporation is again in compliance with such subsection (b)(6).

"(8)(A) The Corporation shall, and shall permit its subsidiaries to, enter into transactions with the Purchasers and their affiliates only if such transactions are (i) in the aggregate fair to the Corporation and its subsidiaries, and (ii) similar in kind and nature to, and documented, recorded, and accounted for in the same manner as, transactions between the Corporation and other persons not affiliated with the Corporation or with any of the Purchasers.

"(B) Except in the implementation of the transactions contemplated by the Conrail Sale Agreements, the Corporation and its subsidiaries shall not engage in any of the following transactions with any Purchaser or its affiliates;

"(i) transfer, by merger, assumption, or otherwise, of any obligation of any Purchaser or its affiliates to the Corporation or any subsidiary in an amount greater than the value of the transferee of such merger, assumption, or other transaction;

"(ii) loans or advances by the Corporation or any subsidiary to any Purchaser or its affiliates; purchases or other acquisitions by the Corporation or any subsidiary of any capital stock, obligations, or securities of any Purchaser or its affiliates; capital contributions to or investments in or guarantees of any debt or obligation of any Purchaser or its affiliates by the Corporation or any subsidiary; and

"(iii) assignments of any right to receive income for a consideration of less value than such right by the Corporation or any subsidiary to any Purchaser or its affiliates.

"(C) Nothing in this paragraph shall prohibit transactions between the Corporation and any of its subsidiaries or among any of such subsidiaries.

"(9) In no event shall the Corporation obtain a reversion of any excess assets held in the trust or a successor trust maintained with the Corporation's supplemental pension plan or any successor plan. The Corporation shall not terminate its supplemental pension plan.

"(10) The Corporation shall not amend, modify, rescind, or revoke any provision of the Corporation's restated articles of incorporation relating to the relative rights, preferences, and limitations of any series or class of capital stock of the Corporation held by the Purchasers immediately after the closing date.

"(d) ACCOUNTING TERMS AND DETERMINATIONS.—(1) Unless otherwise specified in this section, all accounting terms used in this section shall be interpreted, all accounting determinations shall be made, and all financial statements required to be delivered shall be prepared, in accordance with generally accepted accounting principles as in effect from time to time in the United States, applied on a basis consistent (except for changes approved by the Corporation's independent public accountants) with the most recent audited consolidated financial statements of the Corporation.

"(2) For the purpose of calculations under paragraphs (5) and (6) of subsection (c), the transactions by which the Purchasers assumed ownership of the Corporation's common stock shall be accounted for as a recapitalization of the Corporation with a 100 per centum revaluation of the Corporation's assets and liabilities based on the fair value of the new capital structure.

"(e) ADMINISTRATION.—(1) The Secretary may, upon application by the Corporation, waive (in whole or in part) any provision of this section if the Secretary determines in writing that such waiver would not impair continued rail service by the Corporation and its railroad subsidiaries or result in a material reduction in the financial strength of the Corporation and its subsidiaries taken as a whole.

"(2) The Secretary shall transmit to the Committee on Energy and Commerce of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate any determination under paragraph (1).

"(3) No waiver shall be effective under this subsection until after the expiration of 45 calendar days after the transmittal required by paragraph (2).".

(b) The item in the table of contents of the Regional Rail Reorganization Act of 1973 relating to section 404 is amended to read as follows:

"Sec. 404. Public interest covenants.".

APPLICABILITY OF CERTAIN LAWS TO THE SALE OF CONRAIL

SEC. 107. (a) Section 408 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 768) is amended to read as follows:

"REVIEW

"SEC. 408. (a) AGREEMENTS.—Except as provided in section 1152 of the Northeast Rail Service Act of 1981 (45 U.S.C. 1105), the Conrail Sale Agreements and their negotiation, execution, and implementation shall not be subject to administrative or judicial review or to review by the Commission.

"(b) WARRANTS.—Warrants issued to the Secretary under the Conrail Agreement, and any shares of stock issued upon the exercise of such warrants, shall be deemed to have been issued and approved under section 1130(b) of title 49, United States Code.".

(b) The item in the table of contents of the Regional Rail Reorganization Act of 1973 relating to section 408 is amended to read as follows:

"Sec. 408. Review.".

LABOR PROTECTION

SEC. 108. (a) Notwithstanding any other provision of law, the benefit schedule prescribed by the Secretary of Labor under section 701(a)(2) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 797(a)(2)) shall continue in force and effect until superseded by an agreement between Conrail and the representatives of the various classes and crafts of employees of Conrail providing for protection for employees of Conrail.

(b) Conrail shall be responsible for funding all benefits under subsection (a) after the closing date, and the United States shall not be liable for any such benefits after that date.

SPECIAL COURT JURISDICTION

SEC. 109. Section 1152 of the Northeast Rail Service Act of 1981 (45 U.S.C. 1105) is amended—

(1) by inserting "or the Conrail Public Sale Act of 1985" immediately after "subtitle" each place it appears;

(2) in the second sentence of subsection (c), by inserting ", as the case may be," after the insertion made by paragraph (1) of this section;

(3) in subsection (a), by striking out "or" at the end of paragraph (3), by striking out the period at the end of paragraph (4) and inserting in lieu thereof a semicolon, and by adding at the end thereof the following:

"(5) brought by the United States to enforce section 401 or 404 of the Regional Rail Reorganization Act of 1973 or any term or condition of the Conrail Sale Agreements entered into under such section 401;

"(6) brought by one or more of the Purchasers to enforce any obligation of the United States (or any agency or instrumentality thereof) under the Conrail Sale Agreement entered into under section 401 of the Regional Rail Reorganization Act of 1973; or

"(7) brought by the Corporation to enforce section 401 of the Regional Rail Reorganization Act of 1973.

For purposes of any action brought under paragraph (5) of this subsection, a violation of any provision of subsection (b) or (c) of section 404 of the Regional Rail Reorganization Act of 1973 shall be deemed to constitute immediate and irreparable harm for purposes of awarding injunctive relief to the United States."; and

(4) by adding at the end the following new subsection:

"(e) Any person who suffers direct economic injury as a result of an alleged violation by Conrail of any provision of subsection (b) or (c) of section 404 of the Regional Rail Reorganization Act of 1973 may petition the Secretary to seek enforcement of such provision. If the Secretary determines that a petitioner has demonstrated that it has suffered direct economic injury as a result of such a violation, the United States shall bring an action under subsection (a)(5) to require Conrail to comply with such provision.".

APPLICABILITY OF OTHER LAWS

SEC. 110. (a) Section 1168(a) of the Northeast Rail Service Act of 1981 (45 U.S.C. 1116(a)) is amended by striking out "implementing service transfers" and inserting in lieu thereof "implementing the sale of the interest of the United States in the common stock of Conrail".

(b) Section 16(b) of the Securities Exchange Act of 1934 (15 U.S.C. 78p(b)) shall not apply to any public sale of Conrail common stock by the Purchasers for a period of seven months beginning on the closing date.

TITLE II—TECHNICAL AND CONFORMING AMENDMENTS AND REPEALS

SEC. 201. The following provisions of the Regional Rail Reorganization Act of 1973 are repealed or amended as follows:

(1) Section 102 (45 U.S.C. 702) is amended—

(A) by inserting after paragraph (1) the following new paragraph:

"(1A) 'closing date' means the date that the interest of the United States in the common stock of the Corporation is transferred pursuant to the Purchase Agreements;";

(B) by inserting after paragraph (4) the following new paragraphs:

"(4A) 'Conrail Agreement' means the agreement between the Corporation and the Secretary in the form filed with the Committee on Commerce, Science and Transportation of the Senate;

"(4B) Conrail Sale Agreements' means the Conrail Agreement, the Purchase Agreements, and the Shareholders' Agreement;";

(C) by inserting after paragraph (7) the following new paragraph:

"(7A) 'ESOP' means the Consolidated Rail Corporation Employee Stock Ownership Plan adopted July 25, 1980, as amended, and the trust created in connection therewith;";

(D) by inserting after paragraph (13) the following new paragraphs:

"(13A) 'Purchase Agreements' means the agreements between the Purchasers and the Secretary in the form filed with the Committee on Commerce, Science and Transportation of the Senate;

"(13B) 'Purchasers' means the investor group organized by Morgan Stanley and Company, Incorporated to purchase the interest of the United States in the common stock of the Corporation as identified in the Shareholders' Agreement;"; and

(E) by inserting after paragraph (18) the following new paragraph:

"(18A) 'Shareholders' Agreement' means the agreement among the Purchasers, the Corporation, and Morgan Stanley and Company, Incorporated in the form filed with the Committee on Commerce, Science and Transportation of the Senate;

(2) Subsections (a) and (b) of section 214 (45 U.S.C. 724(a) and (b)), are repealed, and such section 214 is amended by striking out "(c) ASSOCIATION.—".

(3) The following provisions of the Regional Rail Reorganization Act of 1973 (together with the item relating to each such provision contained in the table of contents of such Act) are repealed:

(A) Section 405 (45 U.S.C. 765).
(B) Section 406 (45 U.S.C. 766).
(C) Section 407 (45 U.S.C. 767).
(D) Section 409 (45 U.S.C. 769).
(E) Section 410 (45 U.S.C. 769a).
(F) Section 411 (45 U.S.C. 769b).
(G) Section 412 (45 U.S.C. 769c).
(H) Section 713 (45 U.S.C. 797l).

AMENDMENTS AND REPEALS OF OTHER RAIL LAWS

SEC. 202. (a) The following provisions of the Northeast Rail Service Act of 1981 are amended as follows:

(1) Section 1135(a) (45 U.S.C. 1104(a)) is amended by inserting after paragraph (5) the following new paragraphs:

"(5A) 'Conrail Agreement' means the agreement between Conrail and the Secretary in the form filed with the Committee on Commerce, Science and Transportation of the Senate;

"(5B) 'Conrail Sale Agreements' means the Conrail Agreement, the Purchase Agreements, and the Shareholders' Agreement.

"(5C) 'Purchase Agreements' means the agreements between the Purchasers and the Secretary in the form filed with the Committee on Commerce, Science and Transportation of the Senate;

"(5D) 'Purchasers' means the investor group organized by Morgan Stanley and Company, Incorporated to purchase the interest of the United States in the common stock of Conrail as identified in the Shareholders' Agreement."; and

(2) by inserting after paragraph (7) the following new paragraph:

"(7A) 'Shareholders' Agreement' means the agreement among the Purchasers, Conrail, and Morgan Stanley & Co. Incorporated in the form filed with the Committee on Commerce, Science and Transportation of the Senate;

(b)(1) The following provisions of the Northeast Rail Service Act of 1981 are repealed:

(A) Section 1154 (45 U.S.C. 1107).
(B) Section 1161 (45 U.S.C. 1110).
(C) Section 1166 (45 U.S.C. 1114).
(D) Subsection (c) of section 1167 (45 U.S.C. 1115).

(2) The items relating to such sections 1154, 1161, and 1166 in the table of contents of such Act are repealed.

(c) Section 501(8) of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 821(8)) is amended by striking out "(A)" and by striking out all that follows "improved asset utilization;".

(d) Section 505 of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 825) is amended—

(1) in subsection (a)(1), by striking out all after "railroad" through "1981)"; and

(2) in subsection (b)(2)(C), by striking out all after "costs" the second time it appears through "subsidy".

(e) Subsection (b)(1) of section 509 of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 829) is repealed.

(f) Section 511(e) of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 831(e)) is amended—

(1) by striking out "(1)" in the first paragraph;

(2) by striking all that follows "time" in the first paragraph and inserting in lieu thereof a period; and

(3) by striking out paragraph (2).

(g) Section 402 of the Rail Safety and Service Improvement Act of 1982 (45 U.S.C. 825a) is repealed.

(h) Section 1005(b)(1) of the Rail Passenger Service Act (45 U.S.C. 655(b)(1)) is amended by striking out "the Consolidated Rail Corporation,".

(i) Section 10362(b)(7)(A) of title 49, United States Code, is amended by striking out "by the Consolidated Rail Corporation or".

(j) Section 332(d) of title 49, United States Code, is amended by striking out ", the Consolidated Rail Corporation,".

EFFECT OF REPEALS

SEC. 203. All repeals under this Act of provisions authorizing the appropriation of funds are made without prejudice to the continued availability of funds appropriated under such provisions before the effective date of such repeal.

TITLE III—REVENUE PROVISIONS

TAX TREATMENT

SEC. 301. (a) GENERAL RULE.—Except as provided in subsection (b), nothing in this title (or in any amendment made by this title) shall affect the Federal tax treatment of Conrail (or of any affiliated group of which it is a member).

(b) MODIFICATION AND CLARIFICATION OF TAX TREATMENT.—For purposes of the Internal Revenue Code of 1954—

(1) CONRAIL CARRYFORWARDS MAY NOT BE CARRIED FORWARD.—No Conrail net operating loss, capital loss, or credit under the Internal Revenue Code of 1954 attributable to any period before the closing date may be carried forward to any period after the closing date.

(2) NO INCOME FROM CANCELLATION OF DEBT OR PREFERRED STOCK.—No amount shall be included in the gross income of any person (and no basis adjustment in the assets of Conrail shall be made) by reason of any cancellation of any obligation (or preferred stock) of Conrail in connection with the Conrail Sale Agreements.

(3) ADJUSTED BASIS.—The adjusted basis of Conrail's assets shall not be increased by any adjustment relating to any period prior to the closing date.

(4) EARNINGS AND PROFITS.—For purposes of section 316 of the Internal Revenue Act of 1954, Conrail shall be deemed to have accumulated earnings and profits of $500,000,000 as of the closing date.

(5) WAIVER OF CERTAIN EMPLOYEE STOCK OWNERSHIP PLAN PROVISIONS.—For purposes of determining whether the employee stock ownership plans of Conrail meet the qualifications of sections 401 and 501 of the Internal Revenue Code of 1954 the limits of section 415 of such Code (relating to limitations on benefits and contributions under qualified plans) shall not apply with respect to interests in stock transferred pursuant to a law heretofore enacted.

(6) TAXABLE YEAR OF CONRAIL.—The taxable year of Conrail shall close as of the closing date.

DEFINITIONS

SEC. 302. For purposes of this title—

(1) CONRAIL.—The term "Conrail" includes any corporation which was a subsidiary of Conrail immediately before the closing date.

(2) CONRAIL SALE AGREEMENTS.—The term "Conrail Sale Agreements" has the same meaning such term is given in paragraph (4B) of section 102 of the Regional Rail Reorganization Act of 1973, and includes all representations and warranties made in such agreements, entered into to implement this Act.

TITLE IV—MISCELLANEOUS PROVISIONS

COMMON CARRIER STATUS OF CONRAIL AFTER SALE

SEC. 401. Conrail shall be a common carrier by railroad under section 10102(4) of title 49, United States Code, notwithstanding this Act. Purchase of Conrail stock shall not be the sole basis of a determination that any Purchaser has become a common carrier by railroad under section 10102(4) of title 49, United States Code.

SEPARABILITY

SEC. 402. If any provision of this Act or the application thereof to any person or circumstance is held invalid, the remainder of this Act and the application of such provision to other persons or circumstances shall not be affected thereby.

EFFECT ON CONTRACTS

SEC. 403. Nothing in this Act shall affect any obligation of Conrail to carry out its transportation contracts and equipment leases, equipment trusts, and conditional sales agreements, in accordance with their terms.

EFFECTIVE DATES

SEC. 404. (a) Except as provided in subsection (b), the provisions of this Act, and amendments made by such provisions, shall take effect on the date of enactment of this Act.

(b) Sections 108, 201, and 202 of this Act shall take effect on the closing date, except that subsection (a) of each of sections 201 and 202 shall take effect on the date of enactment of this Act.

(c) Any provision of this Act which, pursuant to Article I, Section 7 of the Constitution, provides for raising revenue shall only

be effective upon the enactment into law of a bill which has originated in the House of Representatives enacting such provision.

Mr. SPECTER. Mr. President, this amendment numbered 1440 is the so-called Morgan Stanley proposal which had been filed as an independent bill and which has been filed as an amendment to the pending bill, which puts into comparison the two serious competing offers for the sale of Conrail.

Mr. President, the budget resolution provides for the sale of Conrail and provides for a return of $1.2 million for the interest of the U.S. Government. There is widespread recognition, both within this body and elsewhere, that it is desirable to sell Conrail to the private sector.

I submit that the real issue which this body must decide is whether Conrail should be sold to Norfolk Southern or whether Conrail should be sold to Morgan Stanley.

Mr. President, I submit that the Morgan Stanley offer is clearly superior to the Norfolk Southern offer because it will bring to the Federal Treasury approximately $600 million more than will be realized by the sale to Norfolk Southern.

The second reason is that the Morgan Stanley offer avoids the very serious antitrust problems posed by Norfolk Southern, which realistically viewed, are a violation of the antitrust law.

Third, Conrail is a viable, stand alone railroad which really meets the objection raised by the Secretary of Transportation in her effort to seek the so-called deep pockets of Norfolk Southern.

An analysis of Conrail's earnings and an analysis of the findings of the National Railway Administration, the congressional overseer in this area, shows conclusively that Conrail has the potential to operate in the future. When concerns are expressed about potential mistreatment of Conrail by Morgan Stanley, the best answer is that Conrail has demonstrated, through a 5-year earning period, its ability to make money and to be a profitable railroad. That, after all, is the best assurance that Conrail will continue to exist

When you take a look at the earnings of Conrail of $39 million in 1981, $174 million in 1982, $313 million in 1983, $500 million in 1984, and $442 million in 1985, it is obvious that Conrail has made a recovery which its history shows makes it a viable railroad for the future.

That, Mr. President, is a brief summary of the arguments which I shall now elaborate upon. These are the essential terms of the Morgan Stanley proposal.

The Morgan Stanley investor group proposes to purchase for cash the 25 million shares of Conrail which constitutes 85 percent of the stock, being all of the stock owned by the U.S. Government, for $56 per share, or a total of $1.4 billion. The critical fact emerges at the outset that that is $200 million more than offered by Norfolk Southern.

In addition, the Morgan Stanley group will cause Conrail to issue to the Government 10-year warrants to purchase 1 million shares of Conrail common stock at a price of $56 per share, which is the same price at which the investor is buying Conrail. Those warrants will be exercisable at any time starting 90 days after the first public offering, up to 10 years after the closing.

The warrants represent approximately 3.5 percent of the amount of Conrail's currently outstanding stock and permit the Government, at no risk, to share appreciation of the Conrail stock.

The group will also commit to return to the Government any Conrail excess cash, defined in the same manner as the Norfolk Southern proposal. It will agree to surrender cumulative net operating loss and investment tax credit carry-forwards, also consistent with the Norfolk Southern offer. Unlike Norfolk Southern, however, the investor group will not use Conrail tax deductions to shelter non-Conrail income.

That is a very important factor, Mr. President, because Norfolk Southern's use of the tax losses will amount to something in the range of $400 million, as I shall establish in a few moments.

Over a period not to exceed 5 years, the investor group will resell its shares to the public. The Government will not bear any market risk associated with the public offering.

Mr. President, those who have been assembled by Morgan Stanley constitute blue-chip investors who have impeccable reputations in the financial world. Their participation is further evidence of the solidity of Conrail, without which Morgan Stanley would not be in this picture, nor would its blue-chip investors.

Through such sales, the group will reduce its aggregate ownership to no more than 40 percent of Conrail's outstanding shares and no single investor will hold more than 10 percent. For a 5-year period from the closing date, no person will be permitted to acquire or increase its ownership to more than 10 percent of the Conrail common stock. No member of the initial investor group will be able to sell shares outside the group without the consent of the group.

Mr. President, for purposes of graphic illustration, a chart has been prepared which is at the rear of the Chamber, denominated "The Morgan Stanley Investor Group Agrees." Then the terms are set forth. At the top of the poster is a statement by President Reagan on January 21, 1986, a week ago yesterday, which sets the administration standard which, we submit, Mr. President, is met by the Morgan Stanley offer much better than by the Norfolk Southern offer. President Reagan made this statement on January 21:

> Now is the time to sell Conrail to the bidder that has offered the best deal for shippers, consumers, rail labor, and all those who depend upon continued service from a financially strong Conrail.

Mr. President, given the strength of Conrail and its ability to continue in existence, I add to the President's statement one other group to be considered and to be satisfied. That is the taxpayers of the United States, who will realize substantially more money from the Morgan Stanley offer than from the Norfolk Southern.

As the chart shows, Mr. President, Morgan Stanley will pay $1.4 billion in cash, which is $200 million more in cash than Norfolk Southern, for the Government's 85-percent interest in Conrail. This, Mr. President, is an important line, where Morgan Stanley asserts "We stand ready to pay now."

As one of my colleagues said yesterday, "I will sell to the first person who brings the check." Well, Morgan Stanley's commitment in a legally binding context is on the table and the check will be produced as soon as the offer is accepted. That is what I propose we initiate by the vote of this body today.

The second aspect of the Morgan Stanley offer is a commitment of 1 million warrants to the Government which will bring another $30 million or $35 million more than Norfolk Southern. That will be calculated at $.035 billion.

The third aspect is, plus another $400 million in taxes in 1986-90, as documented by the Congressional Budget Office estimate, which is the controlling document for our purposes.

The fourth item is a $245 million amount which would be lost to the Federal railroad retirement fund because of merger-related job losses.

The bottom line, Mr. President, is $2 billion; $2 billion as projected by this offer.

Mr. President, the chart continues: "Well over $2 billion to reduce the Federal deficit"—at least $800 million more than under the Morgan Stanley offer.

Question: Under Gramm-Rudman, what programs will be cut or whose taxes will be increased to make up the $800 million lost if Norfolk Southern takes over Conrail?

Mr. President, as we all know, that is on the mind of every U.S. Senator today: What are we going to do to comply with the mandate of Gramm-Rudman? How are we going to deal substantively with the huge deficit

which we confront? Eight hundred million dollars is a very substantial sum of money on that critical question.

The chart continues:

Support the Morgan Stanley public offering proposal; oppose the sale to Norfolk Southern. Avoid the permanent damage from a Norfolk Southern takeover of Conrail. No anticompetitive rail monopoly. No job losses. No injury to regional railroads, ports and gateway cities. Get the best deal for the taxpayer. Let Conrail be Conrail.

Mr. President, in assessing the value of Conrail, a number of factors have to be considered. One factor is that the taxpayers of the United States have put some $7 billion in Conrail over many years. Another factor is the book value of Conrail, an item very difficult to document. But reliable estimates place that somewhere between $3 and $4 billion.

Well over a year ago this Senator wrote to the Secretary of Transportation and asked for that figure, and it has not been forthcoming, doubtless because of the difficulty of compiling such a figure. But if Conrail were to be salvaged, if its rails were to be raised and junked, if its cars were to be sold, if its locomotives were to be salvaged or resold, if its real estate were appraised, it might come to a figure in the range of some $3 to $4 billion. Conrail has cash in the range of $850 million, plus $200 million in excess pension and retirement benefits, so that whoever acquires Conrail receives an asset of really great value.

When the Morgan Stanley offer is evaluated in that context, it is an offer which is realistically calculated to take over a railroad, to be able to run the railroad at a reasonable profit and to succeed.

Mr. President, I will now retire to the rear of the Chamber for a moment to refer to another chart which shows the net effect of the steal that would result were Norfolk Southern to acquire Conrail, if the chairman will indulge me for 1 moment.

Mr. President, a part of the issue involved in an evaluation of the sale of Conrail today turns on the substantial period of time which passed since Conrail was initially offered for sale. It was approximately 2 years ago that the Department of Transportation put out the initial bids. I would suggest, Mr. President, that Conrail is demonstrably worth substantially more money today than Conrail was worth at the time the bids were first put out.

This chart, entitled "Who's the Fast Buck Artist in the Conrail Game?" shows the steal which would be present with the sale to Norfolk Southern. On the top of the chart there is the denomination, "Norfolk Southern Cash Needs" totaling $1.875 billion, constituting $1.2 billion in purchase price, $375 million to labor, $300 million to working capital, which totals $1.875 billion.

On the bottom side of the line is Norfolk Southern's cash receipts, overall $2.302 billion; $1.122 billion in overall tax savings projected over the life of the depreciation and other tax considerations, $900 million in Conrail cash, $250 million from overfunded Conrail pension fund, $30 million from divestitures, so that in this acquisition Norfolk Southern gets $427 million plus the railroad—$427 million plus the railroad.

That is the arrangement which this body is being asked to approve today. This is a rail entity of very substantial value which can succeed as a stand alone railroad and which will be successful if purchased by the Morgan Stanley group.

Mr. President, the Secretary of Transportation has objected to the sale to Morgan Stanley and has sought the sale to Norfolk Southern on the ground that the Secretary of Transportation seeks a very deep pocket which will assure that Conrail will operate in the future without ever again being a problem for the U.S. Government.

Mr. President, if we were to combine all the railroads in the United States, we would have the deepest pocket, we would have the most competitive assurance that the railroads would succeed because of their monopoly position. But that kind of assurance is inappropriate. That kind of assurance costs taxpayers, costs consumers, costs shippers, costs labor, and costs business much more than it brings in, in terms of the elimination of any conceivable risk for the future. We simply cannot have the kind of monopolization where so much competition would be destroyed in order to achieve the sort of assurance looked for by the Secretary of Transportation.

The future of Conrail was the subject of an elaborate study, to which I alluded earlier, by the United States Railway Association, which was completed on July 29, 1985, and looked into the Secretary's concern about what would happen to Conrail in the future. These are the summary of findings, Mr. President, at page 1-5, "Compared to Conrail's May 1984 outlook"—which was the basis of the United States Railway Association's April 1, 1985 report "the revised Conrail traffic outlook is stronger as a result of more current estimates of the macroeconomic environment, specifically reduced inflation rates and elimination of a recessionary cycle during the forecast priod. While a nonrecession period of such duration could be regarded as unusual, it is typical of other current macroeconomic contrasts. Moreover, Conrail has been conservative in the industrial production index growth . . . assumed during the forecast period. Conrail reasonably estimated traffic flows within the assumed economic environment. Conrail's operating income was reasonably forecasted for the assumed traffic levels and was based on rates of accomplishment. Conrail's maintenance and capital program estimates are appropriate to the current condition of the plant and the wear on plant implicit in projected traffic levels."

Moving over to page 1-6,

The United States Railway Association found no reason to alter the Conrail viability conclusion reported in April. No one can guarantee the effects of tomorrow but all available evidence supports a finding that Conrail can generate positive cash flow for the foreseeable future.

Mr. President, that is the crux of the issue before this body today, on whether Conrail can function as a stand-alone railroad.

The United States Railway Association, backed by its expertise, experience, knowledge, and authoritative position, says that all available evidence supports a finding that Conrail can generate positive cash flow for the foreseeable future. That is why the sophisticated investors of Morgan Stanley have made the offer which they have. That is why the blue chip investors stand behind Morgan Stanley on its offer, and that is the best assurance as to what will happen in the future.

Mr. President, I submit that the alternative of selling to Morgan Stanley instead of Norfolk Southern is established by the facts already presented, but it is a conclusive judgment when the issue of antitrust and anticompetitive matters are taken into account.

Mr. President, the large chart positioned in the rear of the Chamber shows the overlap of Conrail and the Norfolk Southern systems and the factor of production of competition which would occur if these two rail lines were to merge.

It is apparent, in viewing the blue and red lines on this chart, constituting a significant portion of the Northeast and Midwestern sections of the United States, what the impact would be. The blue lines are the Conrail lines extending from St. Louis through to Boston, north of Baltimore, into Montreal. The red lines are the tracks of Norfolk Southern, extending to the west of St. Louis and Kansas City, running through to Baltimore, on practically parallel lines with the Conrail system, and the Norfolk line extending to the south into Louisiana and Florida, through Mississippi, Alabama, Georgia, Tennessee, and Virginia, constituting an enormous rail line.

On its face, it is apparent that if you take the 18,000-mile line of Norfolk Southern, which has been put together by acquisition and merger, and combine that with the 15,000-mile Conrail line, you have a giant rail system which affects, realistically, not only the eastern section of the United

States but also the entire Nation. It would have a very profound impact upon the railway system and the transportation system of the Nation as a whole.

Mr. President, this matter was reviewed primarily by the Department of Justice on the antitrust issue, and the Department of Justice wrote, in a letter to the Secretary of Transportation Elizabeth Dole, exactly 1 year ago today, January 29, 1985, referring to the combination of Norfolk Southern and Conrail:

* * * The merger would have a significant adverse effect on competition for the transport of commodities to and from a number of locations in several states, with the greatest adverse effect occurring at locations along an east-west rail corridor * * *

Mr. President, those statements form the overlay of the conclusions of the Department of Justice, and as of this moment, those conclusions stand fast.

Norfolk Southern has attempted, through a series of proposed divestitures to two small railroads—Guilford and Pittsburgh & Lake Erie—to solve this antitrust problem. The first two efforts were conclusive failures, recognized by all involved. The third submission is equally doomed to failure for the same reasons that the first two submissions were failures.

The specifics on failure as to the first and second divestiture proposals were outlined in a report by R.L. Banks & Associates, Inc., which I have placed in the CONGRESSIONAL RECORD in a statement made on January 21, 1986, the first day we considered this issue. Suffice it to say, for current purposes, that the Banks study finds—and this is a quotation from page 13 of the report:

* * * that Guilford's viability would be dependent heavily upon the realization of several optimistic assumptions, and that even under the most favorable circumstances, Guilford's continued existence would be parlous.

On page 14:

Coupled with poor projected liquidity, Guilford would be hard pressed to maintain the quality of service and competitive thrust projected by its marketing and operating plans.

A final statement on Guilford:

Doubts about the realism and the marketing plans apply equally to the financial statements; the very real possibility that Guilford would fail to realize projected gains in revenues and efficiency leads to the conclusion that the survival of an expanded Guilford system is yet to be proven.

The Banks study came to essentially the same conclusions about Pittsburgh & Lake Erie. Page 19 of the Banks report says:

There is adequate evidence to support the view that seriously unrealistic assumptions are a factor in P&LE's plan. In addition, it is questionable whether there is a reasonable expectation that P&LE is likely to be financially capable of providing long-term, viable rail service over the divestitured properties given the fact that a third party would acquire the lines and lease them back to Pittsburgh & Lake Erie.

Mr. President, the staff of the Interstate Commerce Commission, the ICC, made a study of the reasonable likelihood of success of the proposed divestiture to Guilford and Pittsburgh & Lake Erie and came to the same conclusion the Banks study did.

Again, Mr. President, these documents are placed in full in the CONGRESSIONAL RECORD on January 21 and suffice it for present purposes, simply for summary, to refer to the conclusions which appear at page 7 of the study by the staff of the Interstate Commerce Commission prepared for the Subcommittee on Commerce, Transportation and Tourism.

These are the conclusions:

Because these assumptions, referring to what Guilford has proposed, generally are without merit, Guilford's proposal will not result in a viable post-divestiture operation. Guilford has underestimated its rehabilitation by only about 10 percent; however, even with the necessary rehabilitation the carrier's operating facilities will be inferior to its chief competitor, Norfolk Southern-Conrail in terms of both structure and circuitry. Its operating plan does not take into account the numerous operating difficulties such as the lack of double-track line, poorly-spaced sidings and inefficient connections. Guilford also fails to consider how the movement of spurs to and from Norfolk Southern-Conrail lines will be affected by the large volume of Norfolk Southern-Conrail traffic on those lines.

And continuing on page 8:

Without the full amount of revenues many project, Guilford will be perilously unable to meet all of its annual fixed charges.

The ICC study came to essentially the same conclusion as to Pittsburgh & Lake Erie, with the summary appearing on page 9 as follows—and again all this is in the CONGRESSIONAL RECORD in detail on January 21. The summary sufficient for present purposes says:

However, Pittsburgh & Lake Erie's financial forecasts are foremost open to question. It must be noted that even if all of P&LE projections are accepted, P&LE admits that it cannot service all of its substantial debt using revenues from rail operation and substantial income from the sale of and use of Conrail assets is needed to cover the debt payments.

For those reasons, the ICC rejected the proposal to have divestiture for those two small lines to be sufficient.

Mr. President, we have prepared two additional charts which show the relative strength of Pittsburgh & Lake Erie and Guilford contrasted with combined Norfolk Southern-Conrail. The first chart now positioned at the rear of the Chamber designates 1984 net income in millions, with Conrail being $500 million and Norfolk Southern at $482 million for a total income of $982 million. Guilford has $5 million and Pittsburgh & Lake Erie is $12 million under the line. It should have been in red even though it appears in black.

Yet, we are being asked to take this giant, this colossus, and have these two small ineffective railroads combine to compete with them.

The second chart, Mr. President, shows 1984 revenues that again, a comparison shows the impossibility of these two small lines to compete. Conrail is shown here with 1984 revenue of $3,379 million; Norfolk Southern, $3,525 million; for a total of $6,904 million; contrasted with Guilford's $307 million and Pittsburgh & Lake Erie $50 million, again showing the impossibility of any realistic competition.

It was for those reasons, Mr. President, that the newly sworn-in Assistant Attorney General Douglas Ginsburg, for the Department of Justice, wrote to Secretary of Transportation Dole on September 25, 1985 in ruling out the proposed divestiture to Guilford and Pittsburgh & Lake Erie in a very strongly worded letter which again has been made a part of the CONGRESSIONAL RECORD back on January 21. These are some of the essential conclusions by the Department of Justice.

Based on the information we have obtained to date, including but not limited to recent preliminary report of the Department's independent counsel, R.L. Banks and Associates, it does not appear that the proposed divestiture will establish a rail carrier in the designated corridor capable of providing long-term viable competitive service.

Skipping down on page 2:

Also a great concern is the fact that Guilford's operating plan provides no assurance that Guilford will provide the sort of competition with the merged Norfolk Southern-Conrail that would be necessary in order to eliminate the problems created by the sale of Conrail to Norfolk Southern.

Skipping again for purposes of brevity:

While Guilford's participation in the traffic might allow Guilford to remain financially viable and even to earn a profit, it would not address the competitive problems created by the sale of Conrail to Norfolk Southern.

From our standpoint, we must be satisfied that the divestiture will create not just a railroad that will be viable in the long term but one which will be an effective competitor in the problem markets.

Mr. President, it is in this context that a rather strange thing occurred in November 1985. That is that Norfolk Southern came forward with a third divestiture proposal, a skeleton plan which offered no details, which offered no substance to what would be accomplished, and that plan surprisingly enough was preliminarily approved by the Department of Justice.

Mr. President, that preliminary approval was granted on November 19 in what is realistically viewed a very, very surprising contest. There has since been an effort to determine what

really is going to happen with these two tiny railroads which would enable the Department of Justice to move from the strong opinion rendered in its September 25, 1985, letter to Secretary of Transportation Dole, less than 2 months before it gave preliminary approval and this Senator sought to find what changes there were which could conceivably justify such preliminary approval.

Mr. President, it is appropriate to know that a session of the Judiciary Committee was called for December 21, 1985, 2 days after the preliminary approval, and on this occasion the Judiciary Committee did not have a regular hearing because the notice was not in accordance with the rules of the Senate, but the distinguished chairman, Senator THURMOND, was present and this Senator was present and only the two of us proceeded to question Secretary of Transportation Dole and Assistant Attorney General Ginsburg. The results of that proceeding in the judgment of this Senator shed absolutely no light on why the Department of Justice had made this strange reversal.

I then wrote to the Department of Justice, to Mr. Ginsburg on December 19, and the fastest way to express it is to read the letter which is less than a page and this Senator stated there:

I remain extremely concerned about the unanswered questions surrounding the "preliminary approval" which the Department of Justice's Antitrust Division has given to the latest divestiture plan proposed by Norfolk Southern, Guilford Transportation Industries, and the Pittsburgh & Lake Erie Railroad.

I previously expressed this concern to you when you appeared before an "informal gathering" of the Senate Committee on the Judiciary regarding the sale of Conrail last month. At that time, you stated that the latest divestiture plan "appeared" to resolve Justice's concerns of anticompetitive effects resulting from the proposed merger of the Conrail and Norfolk Southern systems. You admitted during that meeting, however, that extensive documentation, including financial plans, revenue estimates, balance sheets and operating schedules, would have to be submitted by the parties, and evaluated and verified by the Antitrust Division, as well as by an outside consultant, before any final approval be given.

I would like to know whether the outside consultant has been chosen and whether any of the necessary documentation has been provided to you or your staff. Specifically what, if any, further action has been taken thus far by Justice with regard to analysis of this divestiture proposal? I would also appreciate it if you would provide me with a list of any remaining documents which must be supplied to you, when such documents are expected, and when you would reasonably expect review of the documents to be completed by both Justice and its outside consultant.

When no response was received to this letter, this Senator then wrote to the Attorney General on January 9, 1986, requesting a prompt response to the letter of December 19, 1985, and noting that the majority leader had placed the Conrail issue on the Senate agenda for January 21, 1986, our first day back.

While sitting on the floor of the Senate preparing to make a statement on Conrail on January 21, 1986, this Senator received a reply, finally, from Assistant Attorney General Ginsburg, which is most easily summarized by again reading it. It is a relatively short letter.

Starting at paragraph 2, after some reference matters, it reads:

The Department has made significant progress in our preparations to review the divestiture proposal. First, we have given copies of the new divestiture proposal to transportation officials from all the States in the divestiture corridor, including Pennsylvania, and to several railroads and other interested parties, in order that we might obtain their views on the proposal at an early date. Second, the Department has nearly completed the process of selecting an outside consultant; we expect that the consultant will be selected, retained, and ready to begin work by January 31.

This is a surprising feature that Banks, which had submitted a voluminous report rejecting Guilford and Pittsburgh & Lake Erie, no longer was satisfactory to the Department of Justice as its consultant. Doubtless Banks was not satisfactory to the Department of Justice because Banks had come to the wrong conclusion. As of this moment, January 29, we still do not have a consultant selected by the Department of Justice.

The letter from Mr. Ginsburg to me—and I believe it is of sufficient importance that I ask unanimous consent that it be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

DEPARTMENT OF JUSTICE,
ANTITRUST DIVISION,
Washington, DC, January 21, 1986.

Hon. ARLEN SPECTER,
U.S. Senate,
Washington, DC.

DEAR SENATOR SPECTER: This letter responds to your letters of December 19, 1985 and January 9, 1986, concerning the proposed sale of Consolidated Rail Corporation ("Conrail") to Norfolk Southern Corporation ("NS"). You have asked what further action the Department of Justice has taken, since the informal meeting that Secretary Dole and I had with you and several other Senators on November 21, 1985, to analyze the divestiture proposal made in NS. Guilford Transportation Industries, Inc. ("GTI"), and the Pittsburgh & Lake Erie Railroad ("P&LE") in mid-November 1985. In particular, you have requested information concerning both the outside consultant that we will retain to assist us in our analysis and the documentation that we will receive from the parties to the proposed divestiture.

The Department has made significant progress in our preparations to review the divestiture proposal. First, we have given copies of the new divestiture proposal to transportation officials from all the States in the divestiture corridor, including Pennsylvania, and to several railroads and other interested parties, in order that we might obtain their views on the proposal at an early date. Second, the Department has nearly completed the process of selecting an outside consultant; we expect that the consultant will be selected, retained, and ready to begin work by January 31.

Third, the Department recently sent detailed information requests to GTI and P&LE; copies of the requests are enclosed. Similar requests will be sent next week to NS and Conrail. As the GTI and P&LE information requests state, we may find it necessary to seek additional information at a later date, as our analysis of the divestiture proposal progresses. In order to facilitate meaningful public comment about the divestiture proposal, we have advised GTI and P&LE that they should "disclose publicly all information that you provide to us about your plans and ability to operate the divested rail properties, except when the information is particularly sensitive. . . ."

If the parties meet the various deadlines contained in our information request letters, we should begin to receive specific information concerning the proposed divestiture from GTI and P&LE within the next two weeks and from NS and Conrail soon thereafter. We and our consultant will review that information and conduct a field investigation as quickly as possible. We hope to complete the process and make a recommendation to the Attorney General by late March or early April about whether the new divestiture proposal will do in fact what it appears to do on its face—provide long-term, viable, and competitive rail service to the areas identified in our January 29 and March 26, 1985, letters to Secretary Dole.

I trust that this letter has been responsive to your concerns about our analysis of the new divestiture proposal. I would be happy to discuss this issue with you in person if you wish.

Sincerely,

DOUGLAS H. GINSBURG,
Assistant Attorney General.

Mr. SPECTER. Mr. President, the letter of January 21, 1986, had enclosed with it two letters which the Department of Justice had written to Guilford and Pittsburgh & Lake Erie, dated January 8, 1986. It is unexplained, Mr. President—I search for a word not to use one too harsh—it is unexplained why, when the proposal was submitted on November 11 and the Department of Justice gave preliminary approval on November 19, that it took until January 8 for the Department to ask questions of Guilford and Pittsburgh & Lake Erie, but that is what happened. And it was only at that time that requests for documents, the divestiture agreement, operating statement, operation plans, and so forth, were requested.

Mr. President, at this point, I ask unanimous consent that the text of the letter from the Department of Justice to Guilford be printed in the RECORD. It is not necessary to encumber the RECORD with the one to Pittsburgh & Lake Erie because it is identical in form.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

DEPARTMENT OF JUSTICE,
Washington, DC, January 8, 1986.

JOE SIMS, Esq.,
Jones, Day, Reavis & Pogue, Metropolitan Square, Washington, DC.

DEAR JOE: As you know, the Department of Justice has announced that it will proceed with the second phase of its analysis of the divestitures proposed in connection with the planned sale of Conrail to the Norfolk Southern Corporation. In this regard, we have reviewed the November 11 and November 19, 1985 joint documents of Norfolk Southern Corporation, Guilford Transportation Industries, Inc., and the Pittsburgh and Lake Erie Railroad Company. Although those documents have provided some information to help us determine whether the new divestiture plan will achieve long-term, viable, competitive rail service that will resolve the competitive problems we have identified, a substantial amount of additional information will be needed before we can make a final determination about the divestiture. Accordingly, I am enclosing an initial list of the types of additional information that we will need to receive from GTI to complete our analysis.

I wish to emphasize strongly that time is of the essence in complying with these information requests. The consulting firm that the Department selects to assist in our analysis must have information on all of the basic details of GTI's proposed post-divestiture plans before it can begin conducting its analysis. If there are delays in receiving that information, there will be delays in completing the analysis and corresponding delays in the final decision of the Attorney General. Accordingly, I have marked with an asterisk those requests for which we need complete responses as soon as possible and no later than January 24 1986. We ask that you supply us with complete responses to those requests not marked by February 10, 1986. In order to facilitate this process, I would like to meet with you or any other GTI representative as soon as possible in order to answer any questions you may have about the scope of the requests.

As you may know, it is possible under the Freedom of Information Act for the Justice Department to refuse to disclose publicly confidential commercial or financial information. Much of the information we are requesting in this letter could therefore be held in confidence by the Department, if you were to request that it be treated confidentially. However, the nature and viability of the rail service your client intends to provide on the divested properties is of major interest to Congress and the public. We believe, therefore, that it is appropriate to disclose publicly all information that you provide to us about your plans and ability to operate the divested rail properties, except when the information is particularly sensitive. Accordingly, we are asking that you designate information as confidential only if its public disclosure would be clearly unwarranted. In particular, we believe that the details of both your final agreement with Norfolk Southern and your operating plan should be available for public analysis, and that at least a general description of your financial structure and market analysis should be disclosed. In addition, you should realize that it will be necessary for us to disclose some or all of the information that you designate as confidential to the outside consultant who will be retained by the Department to assist in our analysis of the divestiture. Please let us know if you would like to have the consultant enter into a confidentiality agreement with GTI. In addition, we plan to request that Donaldson, Lufkin and Jenrette furnish us their firm's internal documents concerning GTI's proposed acquisition of the divestiture properties, and we are asking that you waive any claim of confidentiality that GTI may have concerning such documents.

Finally, I note that the attached request is preliminary and that in the future it will be necessary for us or our consultant to request additional material about the proposed purchase. Please note that whenever the term "GTI" is used in the attached information requests, we intend that the term include GTI's Rail Division and its corporate parent and subsidiaries, unless otherwise specified.

If you have any questions about this matter, please call me at (202) 724-6478.

Sincerely,

PAUL A. MAPES,
Attorney, Antitrust Division.

APPENDIX A

I. Divestiture Agreement

1. A detailed description and a copy of the divestiture agreement reached between GTI and NS.

2. All documents in GTI's possession used in calculating the final purchase price.

3. A list of all locomotives, rail cars and maintenance-of-way equipment GTI intends to purchase or lease from NS, and the amount GTI will pay for such equipment.

4. A detailed description of all the terminal and yard arrangements between GTI and NS.

5. The specific number and type of employment positions that GTI will offer to NS/Conrail employees.

6. An estimate of the labor protection costs that GTI is likely to incur as a result of operating the divestiture properties.

7. To the extent not supplied in response to item 1, above:

a. A detailed description and a copy of all trackage rights agreements between GTI and NS and between P&LE and GTI;

b. A detailed description and a copy of all switching and haulage arrangements between GTI and NS and between P&LE and GTI;

c. A detailed description and a copy of any agreement between GTI and NS concerning the rescission or transfer of transportation contracts and a list of all NS or Conrail transportation contracts to be assumed by GTI;

d. A list and description of all rail properties to be purchased by GTI; and

e. A statement outlining in detail any interest GTI will acquire or will have the option of acquiring in any railroads or terminal carriers and the anticipated costs of such acquisition.

8. A statement of GTI's rationale for selecting each rail property in the sales agreement.

9. A description of the current operational capabilities of the tracks, yards and rights of way that GTI will be acquiring, together with a description of the effects on these properties of any deferred maintenance or delayed capital improvements, a time schedule and estimated costs of any planned rehabilitation or upgrading of the acquired properties, and any other plans for improving the operational capability of the acquired properties.

10. A description of the modifications and rehabilitation that will have to be done for any properties purchased or leased by GTI including estimates of the cost of such modifications and rehabilitation, and a copy of any agreement whereby NS will assist GTI with the modifications or rehabilitation work.

11. A description in detail of all interchange connections with all carriers, including the condition of the track, switches and signals and any anticipated modifications or rehabilitations of such connections.

II. Operations

An operating plan that shows the following for the next three years or until the operating plan goes fully into effect, whichever is longer:

1. A map indicating clearly, in separate colors, the acquired properties to be operated by GTI, interline connections, other rail lines in the territory, and the counties and the principal geographic points in the region traversed;

2. The pattern of service intended for the acquired properties, including proposed principal routes, proposed coordination of these routes with the services of other railroads and GTI's current operations, anticipated traffic density and general categories of traffic, service frequency and train schedules;

3. Anticipated equipment requirements for providing rail service on the acquired properties, plans for acquiring equipment not conveyed under the sales agreement, and plans for retiring equipment; and

4. A comparison between the services currently provided on the acquired properties by NS/Conrail and the services to be provided under GTI's operating plan.

III. Financial Information

1. A description of the source, amount, and all material conditions relating to any funds to be expended by GTI or any related entity to acquire, or rehabilitate or operate the acquired properties for the first three years of operation or until the operating plan is anticipated to go fully into effect, whichever is longer.

2. A pro forma balance sheet for GTI and any other related entities that will operate the acquired properties for the first three years of operation or until the operating plan is anticipated to go fully into effect, whichever is longer.

3. A pro forma income statement showing estimated revenues, expenses, not income and dividends for GTI and any related entities that will operate on the acquired properties for the first three years of operation or until the operating plan is anticipated to to fully into effect, whichever is longer.

4. A forecast of the source and application of funds for GTI and any other related entities that will operate the acquired properties for the first three years of operation or until the operating plan is anticipated to go fully into effect, whichever is longer.

5. A list and description of all of the acquired properties subject to new or assumed encumberances, with a full description of each encumberance including maturity date, interest rate and other material terms and conditions, and a schedule of proposed asset dispositions for 1986.

6. Monthly balance sheets and income statements from January, 1985, through December, 1985, for the GTI Rail Division and 1985 quarterly balance sheets and income statements for GTI, and the 1985 consolidated financial statements for both GTI and the GTI Rail Division.

7. The 1985 Budget and all existing Lines of Credit Agreements for GTI's parent corporation and GTI's Rail Division.

8. All loan agreements between the GTI Rail Division and GTI's parent corporation, and all loan agreements between GTI's parent corporation and Timothy Mellon, and/or between the GTI's Rail Division and Timothy Mellon.

9. All documents that contain plans or proposals for GTI to participate in third party lease arrangements.

10. A schedule of federal, state and/or local subsidies (grants) expected to be received by GTI for 1985-1987.

11. Documents detailing the status of renegotiations for Boston commuter train service, including net fees/bonuses for GTI or its Rail Division.

12. A statement describing and quantifying any expenses that are not reflected in GTI's financial statements, past or future, including but not limited to, pension contributions.

13. Cost estimates of overhead expenses expected to be incurred by GTI to coordinate its operations with the operations of NS/CR on lines where GTI will be granted trackage rights and/or car haulage arrangements.

14. Data used by GTI to estimate an additional 173,000 carloads of traffic annually and incremental annual revenues of $189 million.

15. A schedule estimating reciprocal switching, trackage rights and car haulage fees to be paid by GTI during the next three years or until the operating plan goes fully into effect, whichever is longer.

16. All documents concerning GTI's financial condition that GTI has provided since January, 1985, to any person or financial institution for the purpose of obtaining a loan.

17. Any document that revises the August 20, 1985 comfort letter to GTI from Donaldson, Lufkin & Jenrette (DLJ or the firm).

18. All documents supplied by GTI to DLJ since GTI retained the firm to arrange financing.

19. All documents received from DLJ since GTI retained the firm to arrange financing.

20. All documents reflecting meetings concerning proposed financing of GTI's acquisition of the divestiture properties where representatives of DLJ were present.

21. A list of all potential investors and/or institutions who have been contacted by or who have contacted DLJ/GTI about financially participating in the divestiture to GTI, as well as materials provided by GTI and/or DLJ to the potential investors.

22. All documents prepared by GTI concerning future financing requirements for the entire GTI rail system, including:

a. Amount of funds to be raised.
b. Equity/debt position.
c. Use of funds.
(1) Working capital.
(2) Acquisition.
(3) Paydown of debt.
(4) Rehabilitation.
(5) Other.

IV. Market Analysis

An economic analysis of the transportation markets to be served by GTI showing the following:

1. Maps and charts estimating for the next three years or until the operating plan is anticipated to go fully into effect whichever is longer. GTI's gross ton miles of freight moving in each direction on those segments of the acquired properties connecting major freight yards and terminals, including major intermodal and intramodal exchange points.

2. Revenue car load interchange data estimating for GTI for the next three years or until the operating plan is anticipated to go fully into effect whichever is longer: (1) all traffic received or delivered at any gateway located on the acquired lines, (2) the number of these car loads originating and terminating on the acquired properties, (3) the volume of overhead traffic moving on the acquired lines, and (4) the number of revenue carloads handled in local service on the acquired properties.

3. A narrative discussion identifying the transportation markets to be served or that could be served by GTI's operations on the acquired properties, the types of traffic expected to be generated or that could be generated, and levels of business anticipated on these properties.

4. A copy of all agreements and understandings between GTI or its Rail Division and other railroads (including NS) concerning traffic that could be moved over the acquired properties, including but not limited to agreements and understandings relating to:

a. Joint-line rates, single-line rates, or divisions of revenues;
b. Solicitation of shippers;
c. Coordination of train schedules;
d. Run-through trains, and
e. Routing traffic through particular gateways.

5. A study estimating the volume of revenue freight cars that, as a result of NS's acquisition of Conrail, may be diverted to or from railroads currently operated by GTI and to or from any entity that GTI may use to provide rail service over the acquired properties.

V. Miscellaneous

1. All information that was requested but not provided to the Department of Justice in response to previous requests for information and that would still be relevant to the new divestiture proposal, including but not limited to Appendix A of Sepember 13, 1985 report of R.L Banks & Associates, which is attached to this letter.

2. All studies, analyses, and reports within the possession of GTI not otherwise requested that relate to the agreement to purchase or lease the acquired properties: development or implementation of an operating plan for the acquired properties; financing the purchase and operation of the acquired properties; estimating current or future revenues and expenses for operating the acquired properties; and estimating the current or future flow and volume of rail traffic on the acquired properties.

3. Traffic tapes showing 100 percent of traffic moved on each GTI railroad for calendar year 1984.

Mr. SPECTER. Mr. President, on page 2 of this letter, there is a very important statement where the Justice Department says to attorneys for Guilford:

However, the nature and viability of the rail service your client intends to provide on the divested properties is of major interest to Congress and the public.

I could not agree more with that statement, that it is of major interest to the Congress, and the Congress, obviously, includes the Senate of the United States. And yet this body, the U.S. Senate, is being asked to approve this sale without having that information.

Mr. President, in a matter of this magnitude, of this importance to the public and this country, it is outrageous and scandalous that this body be asked to or consent to giving approval to this merger on the face of this record with all of these unanswered questions.

Mr. President, there has been an effort made by the U.S. Railway Association to review these matters. In a letter dated December 3, 1985, the U.S. Railway Association, writing to the Honorable JAMES J. FLORIO of the House of Representatives, states on page 1:

Lacking "definitive agreements" which should clarify important terms still under negotiation, the divestiture carriers have not revised their operating plans and financial projections.

In short, the U.S. Railway Association cannot answer the question as to whether divestiture plan 3 has any meaning at all.

Mr. President, the problems identified by the Department of Justice in its September 25, 1985, letter concerning the original divestiture to Guilford and Pittsburgh & Lake Erie remain unsolved, such as, first, there will continue to be little or no service to many of the problem markets.

That is what the Department of Justice said on September 25, and that is still the inevitable result with these two small railroads.

Second, Guilford and Pittsburgh & Lake Erie will not meet the Department of Justice's test for effective competition in 10 of the 16 markets.

Third, the substitution of One Streak of Rust, the name of the line between Toledo and Fort Wayne, but for the Delta, the St. Louis segment contained in the original divestiture plan to be the obvious facility to be acquired, are still inferior.

Fourth, Guilford and Pittsburgh & Lake Erie's service will still be "substantially slower and less frequent than that which is likely to be offered by Norfolk Southern and Conrail"—a finding of the Department of Justice's September 25 letter, which ruled out the divestiture plan.

Fifth, substantial questions concerning the accuracy of Guilford's estimates of its operating costs, as well as Guilford's ability to obtain the revenues projected by its operating plan, as identified in the September 25, 1985 letter, are still present.

Sixth, circuitous routes between major problem markets still exist.

Seventh, reliance upon reciprocal switching will still be present to prevent Guilford and Pittsburgh & Lake Erie from providing competitive service on auto-related movements from Wayne and Washtenaw Counties as

identified in the Department of Justice letter.

Eighth, these two railroads will not obtain direct access to shippers and "will have to rely on their competitors for shipping in almost every location."

So that, on this state of the record, Mr. President, there is, simply stated, no way that this divestiture can provide the kind of competition which the Department of Justice said was mandatory when it wrote its letter on January 29, 1985, and which the Department of Justice said was not presented when it wrote to the Secretary of Transportation on September 25, 1985. Yet this body is being asked to buy a pig in a poke and give approval in the context where the divestiture cannot possibly provide the kind of competition which is necessary to avoid a violation of the antitrust laws.

Mr. President, there has been a very able analysis made of the antitrust aspects of this proposed merger by Arnold & Porter. And, although this letter running some 27 pages has been made a part of the RECORD in the past, it is worth inserting at this point because it summarizes the situation in an excellent fashion. So that my colleagues may have an opportunity to read this letter in the RECORD, its availability for House Members, and its relevance on other matters which may come before this body, including the antitrust questions, it is worth inserting in the RECORD.

I ask unanimous consent that the full test appear in the RECORD as if read on the floor.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

ARNOLD & PORTER,
Washington, DC, January 8, 1986.

Re Norfolk Southern-Conrail.

Hon. STROM THURMOND,
Chairman, Senate Committee on the Judiciary, Dirksen Office Building, U.S. Senate, Washington, DC.

Hon. JOSEPH R. BIDEN, Jr.,
Senate Committee on the Judiciary, Dirksen Office Building, U.S. Senate, Washington, DC.

DEAR SENATORS: We are writing on behalf of CSX Corporation ("CSX") to set forth our views concerning the inadequacy of the process that has culminated in the Antitrust Division's preliminary approval of the latest divestiture plan put forward by Norfolk Southern Corporation ("Norfolk Southern"). That plan, advanced in aid of Norfolk Southern's proposed acquisition of the government's stock interest in consolidated Rail Corporation ("Conrail"), would involve divestitures of line segments and other rail assets to Guilford Transportation Industries, Inc. ("Guilford" or "GTI") and Pittsburgh & Lake Erie Railroad ("P&LE").

SUMMARY OF CSX'S POSITION

The Antitrust Division's preliminary approval of the latest Norfolk Southern divestiture plan is fundamentally flawed for the following reasons, among others:

The Division refused to consider the views of interested and affected parties, and instead permitted Norfolk Southern to withhold from the public any information about its latest divestiture proposal until after the Division gave its preliminary approval;

The Division lacked both the information and the in-house expertise necessary to make an informed, meaningful judgment concerning the latest divestiture proposal;

On its face, the latest divestiture plan is as inadequate as the earlier versions, because of the manifest incapacity of Guilford and P&LE to provide viable, long-term competitive rail transportation in the Conrail service area.

INADEQUATE DISCLOSURE OF MEANINGFUL INFORMATION

From late September 1985, when Norfolk Southern earlier proposed and the Antitrust Division speedily rejected a previous Norfolk Southern divestiture plan, to and including November 19 and 21, 1985, when the Antitrust Division gave its preliminary assent to the latest version, Norfolk Southern and the Division conducted their business behind a veil of secrecy. By the admission of Assistant Attorney General Ginsburg before members of the Senate Judiciary Committee on November 21, 1985, representatives of Norfolk Southern and the Division engaged in nearly continuous negotiations commencing in late September.

On or about November 11, 1985, Norfolk Southern, together with Guilford and P&LE, submitted to the Division a "Joint Memorandum" that recited certain particulars of a further revised divestiture package. The Joint Memorandum was unaccompanied by meaningful evidentiary support, or by evidence of revised or amended contracts between Norfolk Southern on the one hand and Guilford and P&LE on the other. Thereafter, according to Mr. Ginsburg, the Division and Norforlk Southern engaged in further negotiations, again of an unspecified character.

During those negotiations, according to later reports, Mr. Ginsburg wrung additional concessions from Norfolk Southern. The particulars of those concessions have not yet been made public.

On November 19, 1985, the Antitrust Division stated in a press release that it "appeared" Norfolk Southern now had advanced a satisfactory divestiture package. Again, only the sketchiest of information was announced.

Throughout this "process" of developing Norfolk Southern's third divestiture plan, the many interested parties who are vitally concerned about the preservation of competition in rail transportation in the eastern United States vainly sought to be heard before the Division. In conversations with the Staff and in letters to Mr. Ginsburg, they pointed out that past Norfolk Southern divestiture proposals had proved inadequate upon public examination; that the Staff had benefitted from the ventilation of those proposals, and their subjection to public scrutiny as proposals, before the Division gave any indication, however preliminary, of its approval or disapproval. Those arguments were made without avail.

On November 21, 1985, two days after the Division's press release, the proponents of the Norfolk Southern transaction appeared before members of the Senate Judiciary Committee. Secretary Dole and Mr. Ginsburg were heard at length. Again, critics of the transaction sought but were denied an opportunity to be heard before the Committee. The Committee's session was called at such an inappropriate time under the Senate's rules that the Committee Chairman was obliged to declare the session not a hearing, but only a "meeting," of which no official transcript was even maintained.

To this day, the particulars of the latest Norfolk Southern divestiture program are unknown to the public. Perhaps they are unknown to Guilford and P&LE; presumably they are unknown as well to the Antitrust Division. So far as is publicly known, the agreements have yet to be reduced to writing. Nobody has publicly specified what industries will be served by Guilford along substantial segments of the rail lines at issue in the latest plan. The candidates for divestiture have not made public updated financial projections or pro formas. Updated operating plans have not been forthcoming from either Norfolk Southern or from Guilford or P&LE.

THE ANTITRUST DIVISION NECESSARILY LACKS THE DATA NEEDED TO MAKE AN INFORMED FINAL JUDGMENT

The Antitrust Division says it has exacted meaningful concessions from Norfolk Southern and has obtained every element needed to establish viable, long-term, effective competition in rail transportation in the geographic area to be dominated by the combined Norfolk Southern-Conrail. That position is insupportable. Proof of this may be found in a partial listing of the indispensable information that the Antitrust Division admittedly did not have when it signaled its preliminary approval of the Norfolk Southern divestiture plan and that, so far as can be ascertained, the Division still does not have:

The written agreements between Norfolk Southern on the one hand, and Guilford and P&LE on the other, setting forth the terms and conditions of the latest divestiture plan (including such fundamental matters as the total price to be paid by P&LE for the lines to be acquired by it);

Marketing and operating plans for Guilford and P&LE, including projected train schedules and supporting data for revenue and cost projections;

Financial projections for Guilford and P&LE, including sources of funding for the payments to be made to Norfolk Southern in respect of line acquisitions, equipment purchases, leasehold arrangements, and track and yard rehabilitation; pro forma financials showing anticipated revenues and expenditures in the first full year of operations following divestiture; and balance sheets for the pro forma year;

Density projections showing the likely volume of traffic to be handled over the rail lines and trackage rights to be acquired by Guilford and P&LE, together with projections of commodity "mix" sufficient to form a reasonable basis for projections of anticipated revenues.

The Antitrust Division's failure to have even the most rudimentary information available to it before intimating its preliminary acceptance of the latest Norfolk Southern plan demonstrates that the Division cannot have analyzed the Norfolk Southern proposal with the care warranted by a matter of such importance. If this were a proceeding before the Interstate Commerce Commission (the "ICC"), the materials released to date by the proponents of the Norfolk Southern-Conrail combination and ancillary divestiture would fail to satisfy the basic requirements of the administrative agency for an opening filing. Instead, Norfolk Southern has accomplished a de facto reversal of the burden of coming forward with evidence to support its proposals—it, and its proposed candidates for di-

vestiture, keep their information close to the vest, while commentators and critics are obliged to scramble for relevant data and to speculate concerning the details of the contemplated transaction.

In one sense, the Antitrust Division's latest response to Norfolk Southern comes as no surprise. The Division does not function in this matter as the neutral arbiter of a merger proposed by two private parties. Rather, the Division is acting as legal counsel to the Department of Transportation, which since January 1985 has been pressing for the sale of the government's stock interest in Conrail to Norfolk Southern. Proof of the Division's role as advocate, rather than as disinterested administrator, may be found in the Division's widespread assertion of the "work product" privilege in resisting disclosure of documents in a Freedom of Information Act lawsuit brought by CSX against the Department of Justice and currently pending before Judge Jackson in the United States District Court for the District of Columbia. As advocate for the cause of its client, rather than an impartial administrator passing upon the merger plans of two unaffiliated parties, the Division has put the best face it can on its client's determined course of action—without meaningful review of the facts before the Division undertook to express a preliminary opinion of approval. In effect, the Antitrust Division by its actions of November 19 and 21 has disqualified itself as the watchdog of the public interest so far as the Conrail issue is concerned.

THE PRESENT DIVESTITURE PLAN REMAINS WOEFULLY DEFICIENT

It merits emphasis that this is the latest in a series of occasions on which Norfolk Southern, together with Guilford and P&LE, has announced a "definitive" plan of divestiture, which supposedly provides a complete answer to the Antitrust Division's requirements for approval of the Norfolk Southern-Conrail combination. The first such plan featured as its centerpiece the sale to Guilford of the old Nickel Plate line from Crestline, Ohio to East St. Louis, Illinois—a line of track in such disrepair that it is now generally known as the "Streak of Rust." When the proposal initially advanced by Norfolk Southern was universally condemned, Norfolk, after having previously tacked on some inconsequential trackage-rights arrangements for Guilford in the East (to Croxton Yard, New Jersey, and Lurgan, Pennsylvania), substituted for the Nickel Plate a "trackage rights" arrangement over Conrail's parallel line from Ridgeway, Ohio to East St. Louis. That arrangement may have improved the quality of track involved in the transaction, but it lessened the number and volume of shippers to be served directly by Guilford, because the "trackage rights" arrangement was "overhead" only—it carried no right to serve customers en route.

Now that its second proposal has been rejected, Norfolk Southern has come up with a third plan, and a fourth public declaration that at last it has resolved all outstanding anticompetitive issues. There is no reason to suppose that Norfolk Southern's latest proposal is any more acceptable than the earlier versions. Each of these proposals in turn has been discredited in the public eye after interested (and disinterested) parties have had an opportunity to examine the details and to comment upon them.

On its face, the latest plan fails to accomplish more than marginal adjustments to the earlier variations. P&LE is accorded the right to purchase an additional line of track, from Toledo to Fort Wayne—which is said to be akin to the old Nickel Plate in terms of its parlous condition, and which may well be nicknamed "Son of Streak of Rust." Guilford obtains the nominal opportunity to provide rail transportation service to Detroit (but not to Ann Arbor), but only on an arrangement that, according to Conrail, will enable Guilford to serve fewer than one-quarter of the shippers and receivers in the Detroit metropolitan area. Also, Guilford obtains the theoretical right to provide outbound rail transportation service for some (but not all) of the automotive plants in Wayne County, but only if Guilford can obtain the highly specialized, expensive automotive transportation equipment that the auto manufacturers insist their rail carriers furnish—equipment that currently is in short supply in the marketplace, and that Norfolk Southern has given no indication it will make available to Guilford.

Guilford's own sketchy figures, released as part of the November 11, 1985 Joint Memorandum, disclose that under the now-pending plan of divestiture, Guilford's basic plan of business is essentially unaltered. Guilford will not provide comprehensive rail transportation service in the area deemed by the Antitrust Division to be adversely affected by the Norfolk Southern-Conrail combination. Rather, Guilford stands by its original intention to concentrate on providing TOFC service from Boston and New York in the East to Chicago and St. Louis in the West—through the impacted area as defined by the Division, but not in it. That service will be confined for the most part to one through train in each direction each day. If the congressional testimony of Guilford's principal shareholder is to be believed, GTI's service on this time-sensitive traffic is to be provided on trains that will operate at 40 or 50 miles per hour, in contrast to Norfolk Southern-Conrail's 60 to 70 mile per hour service.

THE NORFOLK SOUTHERN-CONRAIL COMBINATION PORTENDS A MASSIVE VIOLATION OF THE ANTITRUST LAWS

No observer of the situation seriously disputes that a combination of Norfolk Southern and Conrail, standing alone, would violate the federal antitrust laws. The Antitrust Division has said so. In his letter of January 29, 1985 to Secretary Dole, then Assistant Attorney General McGrath wrote: "[W]e have concluded that, without appropriate divestitures, the proposed merger would violate both Clayton Act and Interstate Commerce Act merger review standards. The merger would have a significant adverse effect on competition for the transport of commodities to and from a number of locations in several states, with the greatest adverse effect occurring at locations along an east-west rail corridor running between Buffalo and Pittsburgh in the east and St. Louis and Chicago in the west" (McGrath Jan. 29, 1985 letter, p. 1).

To be sure, many observers, including two former heads of the Antitrust Division, have questioned the thoroughness of the Division's analysis leading even to the foregoing conclusion. First, the Division neglected the "monopoly extension" aspects of the Norfolk Southern-Conrail combination, arising from Conrail's rail transportation monopoly throughout the vital tri-State region encompassed by eastern Pennsylvania, New York, and New Jersey. Second, the Division employed a series of "screens"—many of them unprecedented—to narrow its projection of the adverse effects of the transaction. Third, the Division ignored the issue of "resourcing" basic commodity movements, such as coal and grain, that will arise once a dominant Norfolk Southern-Conrail combination alters transportation patterns throughout the present Conrail service territory and beyond. Finally, the Division departed from methodologies customarily used by it in rail merger cases (including most prominently in the Santa Fe-Southern Pacific proceeding, currently before the ICC).

In effect, the Antitrust Division treated the antitrust issues presented by the proposed Norfolk Southern-Conrail combination as a static picture, taken at the hypothesized instant of combination, while disregarding the dynamic consequences that would flow from the transaction after it is consummated. As a result of these idiosyncracies in its antitrust analysis, the Division cast in doubt both the process and the conclusion of its study of the proposed Norfolk Southern-Conrail combination.

But even on its own terms, the Division's assessment of the anticompetitive impact of the propose combination should have revealed the inadequacies of the divestiture plan put forward by Norfolk Southern and now provisionally accepted by Assistant Attorney General Ginsburg.

THE DIVESTITURE REQUIRED TO SATISFY THE CONCERNS OF THE ANTITRUST DIVISION MUST BE MEANINGFUL

From its first expression of views, the Antitrust Division has insisted that on the basis of its own investigation, the only remedy for the massive antitrust violation inherent in the Norfolk Southern-Conrail combination, even as narrowly defined by the Division, would be a significant divestiture of rail lines and assets: "to one or more independent acquirers, other than CSX or any entity owned or controlled by CSX, that would provide *long-term, viable, and competitive rail service* to locations along the corridor [described above]" (Jan. 29, 1985 letter, p. 1) (emphasis supplied).

Underscoring the foregoing views, then Assistant Attorney General McGrath advised Secretary Dole: "To ensure competitive service, the divestiture must satisfy [a number of] conditions. . . . [T]he acquirer or acquirers . . . must demonstrate to the satisfaction of the Attorney General that it possesses the managerial, operational, and financial capability necessary to compete effectively, and to remain a viable entity providing long-term rail service along the designated corridor" (*id.*, p. 7).

Again, in an April 15, 1985 letter to Congressman Dingell, then Acting Assistant Attorney General Rule said: "Our divestiture plan requires a divestiture to one or more long-term viable competitors. To meet these criteria, the ultimate operator(s) of the divested lines *will have to be more than a marginal competitor or one capable of being made so by its purchaser*" (Rule Apr. 15, 1985 letter, p. 43) (emphasis supplied).

GUILFORD AND P&LE ARE INHERENTLY INADEQUATE AS CANDIDATES FOR THE REQUIRED DIVESTITURE

From the outset, analysis of Norfolk Southern's divestiture proposals has focused on the question posed by the Antitrust Division since last spring—whether Norfolk Southern's favored candidates for divestiture, Guilford and P&LE, either singly or in combination, possess "the managerial, operational, and financial capability necessary to compete effectively, and to remain a viable entity providing long-term rail service . . ." The answer to that question, from all

objective sources, has been a resounding "No."

On August 30, 1985, in a report submitted to a subcommittee of the House Commerce Committee chaired by Congressman Florio, the Staff of the ICC concluded unambiguously that neither Guilford nor P&LE could survive as long-term, viable entities in a rail transportation market dominated by a combined Norfolk Southern-Conrail. Said the ICC Staff concerning Guilford: *"Because (Guilford's) assumptions* [concerning the condition of lines to be acquired, its ability to provide time-competitive service on TOFC traffic, its likely additional gross revenues, and the unlikelihood of substantial diversions from its lines to those of the combined Norfolk Southern-Conrail] *generally are without merit, Guilford's proposal will not result in a viable post-divestiture operation"* (ICC Staff Study, p. 7) (emphasis supplied).

As for P&LE, the ICC Staff said: "P&LE's financial forecasts are far more open to question. It must be noted that, even if all of P&LE's [operating and marketing] projections are accepted, P&LE admits that it cannot service all of its substantial debt using revenues from rail operations. Substantial income from the sale of, and use of, non-rail assets is needed to cover debt payments.

"P&LE is not now a financially viable carrier and its acquisition of the new lines will not enable it to reverse its already precarious financial position" (*id.*, pp. 9, 10) (emphasis supplied).

The Antitrust Division candidly advised Congress in April 1985 that it "does not have in-house expertise to evaluate technical and operational aspects of any proposed divestitures" (Rule April 15, 1985 letter to Congressman Dingell, p. 45). Accordingly, after publishing a solicitation for bids, the Division retained R.L. Banks & Associates, a consulting firm, to assist it in evaluating Norfolk Southern's then-pending divestiture plan. Less than a month after publication of the ICC Staff report, discussed above, the Banks organization came to the same conclusion as had the ICC Staff. With respect to Guilford's financials, the Banks organization said, in pertinent part:

"GTI's viability would be dependent heavily upon the realization of several optimistic assumptions, and . . . *even under the most favorable circumstances GTI's continued existence would be parlous.*

* * * * *

"Doubts about the realism of the marketing and operating plans apply equally to the financial statements; the very real possibility that GTI would fail to realize projected gains in revenues and efficiency leads to the conclusion that *survival of an expanded GTI system is yet to be proven"* (Banks Report, pp. 13, 14) (emphasis supplied).

As for P&LE, Banks' assessment was even gloomier:

"Although the data provided by P&LE are incomplete and inadequate to support a positive assessment of P&LE's longterm viability, there is adequate evidence to support the view that *seriously unrealistic assumptions have been factored into P&LE's planning. . . .*

"P&LE's *pro forma* balance sheet shows that even after financial restructuring, its *debt/equity ratio is extremely unfavorable* reaching a level usually considered above financially sound levels.

* * * * *

"[T]he review of available financial data for the P&LE . . . raises serious concern as to whether a Business Plan and financing agreement can be developed that would allow an affirmative finding with respect to the likely long-term viability of the P&LE" (*id.*, pp. 19, 20) (emphasis supplied).

In a 16-page appendix, the Banks study listed numerous issues and documents requiring further study before a favorable opinion concerning the viability of Guilford and P&LE could be expressed. To date, so far as we are aware, *none* of those issues has been determined; *none* of the documents produced. So far as appears, the Antitrust Division has not begun, let alone completed, the process by which the resolution of the issues identified by Banks could be accomplished.

* * * * *

From the day that Norfolk Southern first proposed Guilford and P&LE as its candidates for divestiture to the present, no spokesman for any point of view, other than Norfolk Southern itself and Guilford and P&LE as the beneficiaries of the proposed divestitures, has intimated that Guilford and P&LE could qualify as satisfactory candidates for divestiture under the standards announced by the Antitrust Division.

THE ANTITRUST DIVISION'S OWN PRIOR CRITICISM SHOWS THAT GUILFORD AND P&LE ARE UNACCEPTABLE AS DIVESTITURE CANDIDATES

Until last November, no commentator had been more forthright in his criticism of Guilford and P&LE as proposed candidates for divestiture than the present Assistant Attorney General himself. In a letter to Secretary Dole dated September 25, 1985, Mr. Ginsburg condemned the Norfolk Southern divestiture plan then pending before the Antitrust Division on a number of grounds, including the following:

First, Mr. Ginsburg deplored the absence of a financial commitment to Guilford or P&LE sufficient to support either carrier's burden of acquiring rail lines and assets from Norfolk Southern, providing for necessary rehabilitation of lines and terminal facilities, and acquiring necessary locomotives and rolling stock. Said Mr. Ginsburg:

"[O]ur review indicates that GTI has underestimated the amount of capital required to rehabilitate the lines it would acquire and that GTI has not yet obtained a firm commitment for the financing necessary in order to acquire and rehabilitate the divested lines. This raises serious questions as to GTI's financial viability" (Sept. 25, 1985, letter, p.2).

In contrast to the firm commitment required by Mr. Ginsburg, GTI at the time had "obtained only a letter from an investment bank stating its opinion that GTI could obtain certain financing, conditioned upon unspecified covenants yet to be negotiated" (*id.* n.2).

The same was true as to P&LE. Said Mr. Ginsburg: "It appears even less likely that P&LE could obtain the financing necessary to acquire and operate the assets necessary in order to provide truly competitive service" (*id.* n.3).

We ask: What has changed with respect to either Guilford or P&LE's financing since Mr. Ginsburg's letter of September 25?

The answer is: Nothing. Guilford still projects that it needs to raise $55 million in order to complete the acquisition and to make related rehabilitation and other investments. Some $35 million of those funds must come from sources other than Guilford's principal shareholder. To date, there is no indication that Guilford has obtained any firm commitment for the advance of such sums.

The situation for P&LE is even worse. Under the latest divestiture plan, that carrier is required to undertake the purchase of even more track than was the case at the time of Mr. Ginsburg's September 25 letter. As in the case of Guilford, there is no indication that P&LE has obtained the financing necessary to make the required acquisitions.

Second, Mr. Ginsburg in his September 25, 1985 letter said: "Also of great concern is the fact that GTI's operating plan provides no assurance that GTI will provide the sort of competition with the merged NS/Conrail that would be necessary in order to eliminate the problems created by the sale of Conrail to NS" (Sept. 25, 1985 letter, p. 2).

Again, we ask: What has changed in this respect since September 25?

Again, the answer is: For all practical purposes, nothing. Under the latest divestiture plan, Guilford will have the nominal opportunity to reach various points in the Midwest. That does not mean that Guilford actually will provide service to those points, or that it is capable of doing so. It does not even mean that Guilford will be legally obliged, or contractually committed, to provide service to and from these points. Aside from Guilford's own unsubstantiated numbers, there is no evidence to support the notion that Guilford can provide meaningful, competitive rail transportation service to *any* point in its system as expanded under the latest Norfolk Southern plan of divestiture. That the commodity-location markets identified by the Antitrust Division as in need of competitive relief will become theoretically accessible to Guilford after divestitures does not mean that those markets will become "contestable" in fact. They will not be contestable if Guilford lacks the where-withal to contest them.

As for P&LE, that hapless carrier's situation is even worse. So far as the public record discloses, P&LE has not yet submitted *any* numbers to the Antitrust Division to support the theory that it somehow will provide meaningful, competitive rail transportation service in the territories it now will reach under the latest plan of divestiture. Absent P&LE's own numbers, how can the Antitrust Division have concluded, even preliminarily, that that carrier will be in position to provide the meaningful competitive service that the Division previously has insisted upon as a prerequisite to approval of the Norfolk Southern acquisition?

Third, Mr. Ginsburg in his September 25, 1985 letter complained that: "GTI's current operating plan shows that GTI has no intention of providing a competitive alternative to shippers in Wayne and Washtenaw Counties in Michigan [respectively, Detroit and Ann Arbor]. Yet those two counties were identified in the January 29 letter as counties (a) that must be served by an independent carrier and (b) that generate a very large portion of the problem revenues identified in that letter" (Sept. 25, 1985 letter, p. 3).

Again, we ask: What has changed since September 25?

The answer is: Not much. To be sure, under the latest plan of divestiture, Norfolk Southern will allow Guilford to reach Detroit from Toledo and Fort Wayne. In and out of Detroit, Guilford's own sketchy "operating plan" apparently proposes to offer *not more than one train per day* in each direction to and from East St. Louise, Chicago, and New York/Boston. That one train apparently will be expected to handle both TOFC traffic (which by definition is time-

sensitive) and so-called manifest or "general freight" traffic, which, again by definition, is local in nature. It is impossible to have a rail transport service that indiscriminately handles both TOFC and general freight traffic on the same train and to provide meaningful competition to the combined NS-CR. The TOFC traffic will be so seriously delayed by the local movements of the train that the carrier will cease to provide competitive TOFC service. Loss of TOFC traffic, in turn, will jeopardize Guilford's ability, even on its own figures, to attain the level of financial performance, with cash flow from operations, that is indispensable to competitive survival in the rail transportation industry.

Guilford's projected one-train-per-day service between Detroit and other points on its system contrasts dramatically with the numerous trains per day currently operated in and out of Detroit by Conrail—a number that hardly can be expected to decline once Conrail is absorbed in the Norfolk Southern system.

THE DIVESTITURE PLAN FAILS TO PROVIDE COMPETITIVE SERVICE TO ANN ARBOR

As recently as October 22, 1985, Mr. Ginsburg assued Congressman Dingell that "we will not recommend that the Attorney General approve a divestiture unless it provides a competitive rail alternative for the major motor vehicle facilities located in Wayne and Washtenaw Counties." (Oct. 22, 1985 letter, p. 9) (emphasis supplied). Yet, it is apparent on the face of the latest divestiture proposal that Washtenaw County, Michigan (Ann Arbor) is left without divestiture relief. Neither Guilford nor P&LE will acquire any right of access to that county, whether by conveyance of rail lines in fee or lease, or by the grant of trackage rights of whatever character.

Instead, under the latest Norfolk Southern plan, Guilford will provide so-called "indirect" service to and from Ann Arbor via a connection with the Ann Arbor Railroad at Milan, Michigan. The first problem with this proposal is that it lacks the concurrence of the Ann Arbor. That railroad currently reaches Toledo on its own lines. There is no reason that it will do Norfolk Southern the favor of agreeing to interchange traffic with Guilford at Milan, which lies just outside Ann Arbor on the way to Toledo. Interchange at Milan would short-haul the Ann Arbor, thereby depriving that regional railroad of its present long-haul and associated revenue.

Earlier, the Antitrust Division tacitly conceded that "indirect" service, such as that now envisioned for Washtenaw County, would be unacceptable. In late September, the Antitrust Division condemned the arrangement whereby Guilford theoretically would have provided "indirect" service to Detroit and Ann Arbor via a connection with the Grand Trunk Western at Toledo. Grand Trunk had protested that it would refuse to shorthaul itself over Toledo for the benefit of Guilford. The situation is parallel in all respects with Ann Arbor at Milan. Just as the earlier proposed "solution" to the Detroit-Ann Arbor problem at Toledo proved unworkable, so is the present proposed arrangement to "solve" the Washtenaw County problem at Milan.

Even the long-haul connection of the Ann Arbor with Guilford at Toledo is no answer to the Washtenaw County problem. Even before Norfolk Southern's latest divestiture plan, the arrangement whereby Guilford would reach Toledo provided a theoretical long-haul connection for the carrier with the Ann Arbor. The Antitrust Division's earlier rejection of the Toledo "solution" necessarily reflected its dissatisfaction with the notion that Guilford's interchange of traffic with the Ann Arbor at that city somehow could alleviate the anticompetitive problems in Washtenaw County presented by a Norfolk Southern-Conrail combination.

NORFOLK SOUTHERN HAS NOT SHOWN THAT ITS CANDIDATES FOR DIVESTITURE WILL ATTRACT SUFFICIENT TRAFFIC TO BE VIABLE

A key component of rail carrier viability is the volume, along with the "mix," of traffic to be handled by the proposed candidates for divestiture. The Antitrust Division recognized this principle at least as early as April of this year, when, in a letter to Congressman Dingell, then Acting Assistant Attorney General Rule advised:

"The Department's major concern regarding the divestiture is that the entity or entities purchasing the divested assets be, to the maximum extent possible, strong, independent competitors in the affected markets. This means that the purchaser or purchasers must be financially sound, well-managed, and that, following the divestiture, the new entity or entities operating in the region *must have access to a volume of traffic sufficient to enable it (or them) to achieve the economies required to be a long term, viable, competitive force in the markets affected by Norfolk Southern's acquisition of Conrail*" (Apr. 15, 1985 letter p. 47) (emphasis supplied).

As noted above, both the ICC Staff and the Banks organization have shown that neither GTI nor P&LE qualifies as a "financially sound" rail carrier. Noteworthy here is the Division's insistence upon the divestiture candidates' access to traffic in volumes sufficient to sustain operations in the long run. The ICC Staff and the Banks organization have expressed negative views on this point as well.

So far as the public record discloses, P&LE has offered nothing to support the notion that it will attain the requisite volume of traffic to achieve viable competitive status. To the contrary, now that Guilford and P&LE will compete with one another to a certain extent, based upon their parallel trackage between Detroit and Fort Wayne, P&LE may well *lose* traffic as a result of the latest divestiture plan.

Guilford has made self-serving, unsubstantiated claims that it will attract higher volumes of traffic to its lines, but was yet to submit credible proof to that effect. Its prior projections of this type, after study, invariably have been rejected as unrealistic. Notwithstanding those earlier rejections, coming from expert, disinterested observers such as the ICC Staff and the Banks organization, Guilford has done nothing to meet their criticisms. Rather, it has tacked on new unsubstantiated numbers (reflecting the claimed adjustments from the modifications in the divestiture scheme) to its old unsubstantiated numbers. It has proceeded as though not one word of adverse commentary had been sounded in respect of its prior projections.

Moreover, Guilford has nowhere addressed the point that it will operate under a special handicap wherever it reaches customers only by means of the reciprocal switching service to be afforded it by Norfolk Southern—which, so far as can be determined, appears to encompass the greater part of the volume of the new traffic that Guilford anticipates it will handle on its expanded lines following divestiture. For each such switch, Guilford will have to pay Norfolk Southern up to $250—a payment that must come "off the top" of the gross revenues received by Guilford for the long-haul movement. Where Guilford is dependent upon Norfolk Southern for reciprocal switching service at both ends of a given movement (which is likely to occur throughout the expanded territory to be reached by Guilford after divestiture), GTI will be required to pay Norfolk Southern up to $500, again "off the top." Saddled with such operating expenses, Guilford will find it difficult, if not impossible, to provide competitive pricing for its transportation service and simultaneously to carry a significant share of revenues to the bottom line.

Under such circumstances, it strains credulity to say that it "appears" the Norfolk Southern solution can satisfy the Division's requirements.

THE DIVESTEES' SERVICE OPPORTUNITIES WILL BE SEVERELY CIRCUMSCRIBED UNDER THEIR AGREEMENTS WITH NORFOLK SOUTHERN

A major component of the Norfolk Southern divestiture package is the grant of "trackage rights," primarily to Guilford. A hefty majority of the line "access" to be accorded Guilford by Norfolk Southern will consist of trackage rights—some 1080 miles in trackage rights, according to the November 11, 1985 Joint Memorandum, in contrast to a mere 460 miles to be conveyed to Guilford in fee.

A commercially significant portion of the trackage rights to be accorded Guilford, as well as those to be accorded P&LE, will consist of "overhead" rights only—that is, solely the right to haul traffic along the length of the line in question, from one terminus to the other, without providing local service to customers *en route*, and without interchanging traffic with connecting rail carriers at junctions along the way. Yet, on March 28, 1985, in a letter to Norfolk Southern, a senior Staff member of the Division said:

"[U]nder paragraph 3 of the Attachment [to the February 8, 1985 Memorandum of Intent between Norfolk Southern and the Department of Transportation], it is anticipated that the new entity [to be formed by divestiture] will provide rail service 'along the rail corridor(s) and to, from and between the counties enumerated.' . . . It would be clearly inconsistent with this language to deny the new firm the opportunity to serve the shippers *along the corridors where the divesture will occur*" (Weiss March 28, 1985 letter, p. 2) (emphasis in last lines supplied).

By contrast, Mr. Ginsburg's preliminary approval of Norfolk Southern's latest divestiture plan does not give recognition to the patent inconsistency between the continued "overhead" trackage arrangement accorded Guilford and P&LE, on the one hand, and the requirements imposed by the Division in its January 29 and March 28 letters, on the other.

Even where Norfolk Southern recently has expanded its grant of trackage rights to embrace the opportunity for direct local service (which continues not to include Detroit), as well as interchange with connecting carriers, none of the proponents of the transaction has quantified the extent to which those grants are meaningful. An assessment must be made concerning the specific industries to be served by Guilford and P&LE along the lines over which they will operate on trackage rights. Until that assessment is offered by the proponents of the plan, it is hardly incumbent on the commen-

tators to seek to evaluate the latest divestiture plan, much less to determine whether it accomplishes the objectives previously expressed by the Division.

THE DIVISION HAS ACCEPTED NORFOLK SOUTHERN'S PROPOSAL WITHOUT THE BENEFIT OF EXPERT ANALYSIS AND ADVICE

Last spring, the Antitrust Division told Congress that it would have to look to outside experts to evaluate the significance of any given divestiture proposal. Said then Acting Assistant Attorney General Rule to Congressman Dingell:

"The Department of Justice does not have in-house expertise to evaluate technical and operational aspects of any proposed divestitures. Accordingly, when such proposals are advanced, we intend to rely on information we receive from the departments of transportation in the various states affected by the merger, the U.S. Department of Transportation, local shippers and such experts as we may retain to advise us with respect to these matters" (Rule Apr. 15, 1985 letter, p. 45).

Thereafter, in evaluating Norfolk Southern's initial divestiture plan, the Antitrust Division turned to persons outside the Department to assist in its evaluation. It consulted with representatives of the departments of transportation in affected States; and, as noted, it retained R.L. Banks & Associates, a transportation consultant, as an expert to advise with respect to the Norfolk Southern proposal. As we have pointed out above, the Banks organization reported its conclusion in September 1985—that the Norfolk Southern divestiture proposal was inadequate on its face, and that the evidence failed to show that either Guilford or P&LE could provide the meaningful competitive alternative demanded by the Division.

In his September 25, 1985 letter to Secretary Dole, adverted to above, Mr. Ginsburg plainly relied upon the Banks report in advising the Secretary of his conclusion that Norfolk Southern's initial divestiture plan failed to satisfy the requirements imposed by the Division in its January 29, 1985 letter.

Immediately upon disclosure of the Banks report, Norfolk Southern modified its divestiture proposal in certain respects. As noted above, it deleted the requirement that Guilford purchase the former Nickel Plate line from Crestline, Ohio to East St. Louis, Illinois (the so-called "Streak of Rust"); and it substituted a grant of trackage rights—"overhead" only—along the Conrail main line from Ridgeway, Ohio to East St. Louis. That proposal, which would have decreased the volume of traffic handled by Guilford to and from affected localities, promptly was rejected by Mr. Ginsburg, who pronounced it no more satisfactory than its predecessor.

Now, without benefit of any consultation either with the Banks organization or, so far as we can determine, with any other outside consultant, with any State transportation department, or with any expert of independent standing, the Antitrust Division has declared that the third Norfolk Southern proposal "appears" to satisfy the Division's divestiture requirements. There is not the slightest factual basis to suppose that the Division, in the limited time since Mr. Rule's April 15, 1985 letter to Congressman Dingell, has acquired the in-house know-how sufficient to enable it to perform the evaluation that only a few short months ago it confessed it could not do. Nor is there any factual basis to suppose that the Division, either internally or by recourse to outside experts, has assessed the significance of the Norfolk Southern divestiture proposal in the limited time that elapsed between November 11, 1985, when Norfolk Southern submitted its plan, and November 19, 1985, when the Division provisionally accepted it.

To be sure, Mr. Ginsburg told members of the Senate Judiciary Committee in his appearance on November 21, 1985 that the Division will look to the views of an outside expert in this matter. But that look, and those views, may be meager. Said Mr. Ginsburg:

"The expert who is hired will be asked to look at all aspects of the plan, both operational and financial, in detail *in order to confirm the accuracy of the representations upon which we have based our conclusion*" (Statement of Douglas H. Ginsburg, dated November 21, 1985, p. 7) (emphasis supplied).

In other words, the expert to be retained by the Division will be asked to "verify" the "facts" advanced by Norfolk Southern in its November 11, 1985 Joint Memorandum and follow-up submissions to the Division. We wonder whether this means that the expert will be asked to confirm, among other things:

That P&LE has no financing to acquire the lines to be sold to it, and has developed no marketing, operating, financial, or other plans in respect to the latest divestiture proposal;

That Guilford has submitted a so-called marketing and operating plan that consists exclusively of self-serving, unsubstantiated figures that make no allowance for criticisms of its earlier projections, while confessing that between virtually all major points to be served in Norfolk Southern-Conrail territory, Guilford will operate no more than one train per day in each direction;

That Norfolk Southern, Guilford, and P&LE have yet to negotiate contracts reflecting the latest proposed arrangements, and (so far as is known) have reduced none of those arrangements to writing;

That neither Guilford nor P&LE has submitted financials, *pro forma* statements, balance sheets, or any other materials sufficient to enable the Justice Department to opine whether the two proposed candidates for divestiture can function in a viable, long-term manner from a financial standpoint.

Confirmation of the foregoing "facts" would be easy; but it scarcely would demonstrate that the divestitures would meet the important public interest goals that the Division's January 29, 1985 letter set out for them.

It was, of course, on the basis of highly detailed presentations in the foregoing subject areas that the Banks organization previously was able to conclude that the initial Norfolk Southern plan of divestiture was inadequate. That conclusion was corroborated by the Staff of the ICC and, as we have noted, by every other commentator on the proposed plan of divestiture other than the parties most keenly interested in its approval.

Now, it appears that the Antitrust Division's outside expert may be unencumbered with the need to undertake such detailed presentations. He may be called upon only to "verify" such information as that there is, indeed, a line of rail track belonging to Conrail that extends from Toledo to Detroit; a line of rail tracking belonging to Norfolk & Western extending from Detroit to Fort Wayne; and the like. As the Secretary of Transportation put it, perhaps seriously, at the November 21 session of the Senate Judiciary Committee, the task of the outside expert is to determine "if the tracks are where they [Norfolk Southern] say they are . . ."

It must be remembered that Guilford and P&LE earnestly represented to the Antitrust Division (albeit before they learned they were to be the beneficiaries of Norfolk Southern's divestiture program and determined to make common cause with Norfolk Southern) that a combination of Norfolk Southern and Conrail would drive them to the wall and might well put the finish to their corporate existence. P&LE told the Justice Department that the Norfolk Southern-Conrail combination would cost it approximately $12.6 million in lost gross freight revenues per year, at a time that P&LE already was operating heavily in the red (Rule Apr. 15, 1985 letter to Congressman Dingell, p. 30). Guilford told the Justice Department in writing that "the acquisition of Conrail by NS and the resulting loss of revenue by D&H [the Delaware & Hudson, a railroad subsidiary of Guilford] could . . . prove to be fatal for D&H and threatening for the entire Guilford system"; also, that the Norfolk Southern-Conrail combination would cost Guilford up to $22 million in lost gross freight revenues annually (Guilford Submission to Antitrust Division, undated, at pp. 7, 10, annexed to Rule Apr. 15, 1985 letter to Congressman Dingell).

At stake in this battle are economic matters of transcendent importance to thousands of shippers and receivers throughout the eastern half of the United States, and to the rail carriers that connect and compete with Norfolk Southern and Conrail. The combined Norfolk Southern-Conrail would dominate rail transportation in the East. It would destroy competition in rail transportation service throughout Conrail's present territory, and beyond; it would distort competition in rail transportation service elsewhere in the eastern half of the United States; it might well obliterate rail competition among the regional carriers of the Midwest by destroying them; it undoubtedly would affect rail competition throughout the rest of the country.

Guilford and P&LE will no more be able to provide effective rail competition against the combined Norfolk Southern-Conrail than could a mom-and-pop two-seater airline against a combined United and American. Guilford and P&LE are a joke, and a bad one at that—the one is on the brink of failure and the other already is well over the edge. Guilford and P&LE will survive in a post-divestiture environment, if at all, only at the sufferance of the gigantic NS-CR.

For political reasons, Norfolk Southern may choose to keep its tiny "competitors" afloat through a regime of "administered pricing." NS-CR easily could establish an "umbrella" pricing policy that would ensure a temporary margin of profit to Guilford and P&LE while amassing a monopoly return to NS-CR. Such a regime would impose bloated rail transportation costs and degraded service upon shippers and receivers dependent on rail transportation throughout Conrail's present service territory and beyond. Perhaps Norfolk Southern would continue such an arrangement for five years—when its vaunted "convenants" with the Department of Transportation, and many of its key contractual commitments to Guilford and P&LE, all expire.

Thereafter, Norfolk could pull the plug. A concerted program of selective price-slashing, route closings, and other such tactics would put a speedy end to the nominal "competition" afforded by Guilford and P&LE (as well as by connecting Midwest regional rail carriers). The rail transportation markets for which Mr. Ginsburg now thinks he has obtained "contestability" will be at Norfolk Southern's mercy. The competitive "contest" will be at an end.

Nor will any party be able to mount a legal challenge to the Norfolk Southern-Conrail collossus—ever. The legislation urged by the Administration would provide complete antitrust immunity not only to the NS-CR merger itself, but to its "implementation" under the Secretary's plan. Neither the ICC, nor any other independent administrative agency, nor any court will ever have a say in the NS-CR operations as they relate to the combination.

Why all the secrecy? Why the rush to judgment? Why the extraordinary exemptions from the antitrust and commerce laws (to name just two of the many) that have served the Nation so well in the past? The reason, we are told, is to "rescue" Conrail. But Conrail does not need to be rescued. It is healthy, and viable; it is earning solid profits. Its indices of performance, as measured by traditional ICC standards, are strong. We ask: If Conrail is so sick as to require salvation through these extraordinary means, in what condition are Guilford and P&LE? When the time comes, who will rescue them?

Respectfully submitted.

ARNOLD & PORTER.

(By Leonard H. Becker, Dennis G. Lyons, Charles H. Cochran, Rebecca E. Swenson.)

Mr. SPECTER. Mr. President, one of the conclusions of Arnold & Porter is that the Department of Justice has realistically disqualified itself as being an impartial arbiter in this matter because it is really acting as legal counsel to the Department of Transportation. Documentation and evidence for that is found in the Antitrust Division's widespread assertion of the work product privilege in resisting disclosure of documents.

The Department of Justice's inability to be an impartial arbiter is further demonstrated, Mr. President, by the fact that the Department of Justice has taken a stand objecting to the proposed merger of the Santa Fe and Southern Pacific Railroads pending in the Interstate Commerce Commission, which situation poses fewer problems under the antitrust laws than does this merger.

This Senator made extensive reference to that matter on January 21, and I shall not repeat it here, including insertion into the RECORD of very substantial documents. But that conclusion by the Department of Justice that the Southern Pacific-Santa Fe merger violated the antitrust laws conclusively would require an identical conclusion by any objective analysis.

Simply stated, Mr. President, this body ought not to rely upon the Department of Justice, given all the facts and the totality of the circumstances presented in the RECORD in this case.

What we really should do, and this could be the subject of a later motion on this matter, is refer this matter back to the Commerce Committee and to the Judiciary Committee until the Department of Justice has finished its analysis of the antitrust questions, and the Judiciary Committee has had an opportunity to review those findings.

Mr. President, at this time I ask unanimous consent to print in the CONGRESSIONAL RECORD, as if read in full, the letter which I submitted to Mr. Timothy Mellon, chairman, chief executive officer, Guilford Transportation Industries, dated January 9, 1986, and the full text of the letter which I submitted to Mr. Gordon Neuenschwander, executive vice president, Pittsburgh & Lake Erie Railroad, dated January 9, 1986.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

U.S. SENATE,
Washington, DC, January 9, 1986.

Mr. TIMOTHY MELLON,
Chairman and Chief Executive Officer, Guilford Transportation Industries, Inc., Boston, MA.

DEAR MR. MELLON: On November 1, 1985, Guilford Transportation Industries entered into an agreement with the Norfolk Southern Corporation and the Pittsburgh & Lake Erie Railroad regarding the divestiture of certain rail lines involved in the proposed merger of Conrail/Norfolk Southern.

The November 11, agreement is devoid of certain critical documents which are necessary for the evaluation of Guilford's role in this proposal. This extensive documentation includes financial plans, revenue estimates, balance sheets and operating schedules.

Assistant Attorney General Douglas H. Ginsburg, appearing before an "informal gathering" of the Senate Committee on the Judiciary last November, stated that these documents would be submitted to the Department of Justice, and evaluated and verified by the Antitrust Division, as well as by an outside consultant, before any final approval of the plan could be given.

I would like to know if the necessary documentation has been provided to Mr. Ginsburg's staff and, if so, I request that I be provided copies of these documents forthwith as the Senate is expected to consider the Conrail sale legislation when it reconvenes on January 21. If the materials have not yet been provided, I would like to know when they will be, and I would appreciate a list of the anticipated documents.

Thank you for your prompt attention to this extremely important matter.

Sincerely,

ARLEN SPECTER.

U.S. SENATE,
Washington, DC, January 9, 1986.

Mr. GORDON NEUENSCHWANDER,
Executive Vice President, Pittsburgh & Lake Erie Railroad, Pittsburgh, PA.

DEAR MR. NEUENSCHWANDER: On November 11, 1985, the Pittsburgh & Lake Erie Railroad entered into an agreement with the Norfolk Southern Corporation and Guilford Transportation Industries regarding the divestiture of certain rail lines involved in the proposed merger of Conrail/Norfolk Southern.

The November 11 agreement is devoid of certain critical documents which are necessary for the evaluation of Pittsburgh & Lake Erie Railroad's role in this proposal. This extensive documentation includes financial plans, revenue estimates, balance sheets and operating schedules.

Assistant Attorney General Douglas H. Ginsburg, appearing before an "informal gathering" of the Senate Committee on the Judiciary last November, stated that these documents would be submitted to the Department of Justice, and evaluated and verified by the Antitrust Division, as well as by an outside consultant, before any final approval of the plan could be given.

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Thank you for your prompt attention to this extremely important matter.

Sincerely,

ARLEN SPECTER.

Mr. SPECTER. These letters constituted requests for information so that this body could consider the antitrust questions, and as of this date no responses have been received to these letters.

Mr. President, in summary, on the issue of the considerations which have been raised here today this Senator would submit that there is a powerful case, really an irrefutable case, that the proposed divestiture to Guilford and Pittsburgh & Lake Erie cannot possibly satisfy the antitrust law requirements set forth by the Department of Justice; that this in and of itself is sufficient to beat the proposed sale to Norfolk Southern. But at a very minimum these factors should weigh heavily in the deliberations by this body on taking the offer of Morgan Stanley over the proposal by Norfolk Southern.

Mr. President, I have only a few more comments to make on the remaining issues, if the Chair would indulge me while I return to my regular desk.

Mr. SIMON addressed the Chair.

The PRESIDING OFFICER (Mr. EVANS). The Senator from Pennsylvania has the floor.

Mr. SIMON. If the Senator from Pennsylvania will yield, I am just curious as to what the plan is for tonight. Will we be voting on this amendment yet tonight?

Mr. SPECTER. My expectation, to respond to the question, is that we would be. I intend to conclude in the next few minutes. The Senator from Kentucky, Senator MCCONNELL, has asked to proceed with a relatively short statement of 10 or 15 minutes. I expect that we can conclude this consideration, and vote tonight.

The PRESIDING OFFICER. I believe the Senator from Illinois is waiting for the floor also.

Mr. SIMON. Yes; I would like to speak in support of the Senator from Pennsylvania.

Mr. SPECTER. I shall be relatively brief and will conclude.

The final factor which I wish to call to my colleagues' attention relates to the issue on taxation because that bears upon the purchase price. The Congressional Budget Office has estimated that the tax loss to the U.S. Treasury would be $400 million. That really should be conclusive on the subject, except that the Treasury Department has made a submission which seeks to lower those figures to a 5-year total of $174 million loss; reduced to its present value, $125 million. That letter has already been made a part of the record.

Mr. President, I do not think it is worthy of extensive consideration, but I do not think it is determinative which figures are accepted for the purpose of the conclusion here once it is noted that the Norfolk offer has so many antitrust problems, once it is noted that Conrail is a viable standalone railroad, and once it is noted the Government would be receiving more money by taking the Morgan Stanley offer.

The significance of the Treasury Department letter, I think, is most forcefully noted in the context of the advocacy role taken by the Treasury Department just like the Department of Justice, trying to press for the administration's preference in this matter.

Mr. President, there has been an excellent analysis made of the tax issue by a former ranking member of the Department of the Treasury, Mr. John E. Chapoton, in a letter dated January 28, 1986, yesterday to me, which I ask unanimous consent to be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

VINSON & ELKINS,
Washington, DC, January 28, 1986.

Hon. ARLEN SPECTER,
Hart Senate Office Building,
Washington, DC.

DEAR SENATOR SPECTER: My firms was retained in May 1985 by Morgan Stanley & Co., Incorporated to advise and assist in its analysis of the impact on federal tax revenues of a sale of Conrail to Norfolk Southern compared to a sale to public investors. In connection with this undertaking, we have also reviewed closely the federal tax analyses put forth by the Congressional Budget Office (CBO) in its June 1985 letter to Senator Danforth and by the Department of Treasury earlier this month.

Each of the three analyses (CBO, Treasury and Morgan Stanley) makes one thing clear—the cost in lost tax revenues to the federal government of a sale of Conrail to Norfolk Southern will be large and will continue for many years. In evaluating whether to sell Conrail to Norfolk Southern, the tax revenue losses that would be incurred by the federal government cannot be disregarded, particularly in light of the difficult budget decisions currently facing Congress.

The Congressional Budget Office, concurring with estimates prepared by the Joint Committee on Taxation, shows the revenue loss to the federal government from a Norfolk Southern/Conrail combination to be at least $400 million, when compared with an independent Conrail—that is, $400 million in nominal value over the 1986-1990 budget period. This compares with Morgan Stanley's analysis of $359 million of losses in nominal value for the same period and $577 million (present value) for the 10 years to 1995.[1] Therefore, CBO and Morgan Stanley are generally in agreement as to the size of the income tax loss to the government that results from Norfolk Southern's ability to shelter its income with Conrail's tax deductions and investment tax credits in the initial years (see the attached Exhibit).

In its letter Treasury concluded that the tax lasses over the next five years of the sale of Conrail to Norfolk Southern, as compared with a sale to the public under the Morgan Stanley proposal, are $198 million in nominal value and $143 million in present value. Although the Treasury analysis confirms the significance of the revenue loss, I want to call to your attention what we can discern from the text of the Treasury letter as some of the reasons the Treasury analysis produces a lower revenue loss estimate and explain to you why we believe the Morgan Stanley analysis produces a more realistic estimate of the revenue loss.

Losses in income tax revenues attributable to Norfolk Southern utilization of Conrail deductions, investment tax credits and other tax benefits. The Treasury estimates regarding lost federal income tax revenues are lower than Morgan Stanley's estimates because of different assumptions made by the Treasury (all of which had the effect of creating a lower revenue loss). Certain of those differences which are discernible from the text of the Treasury letter are as follows:

First, Treasury analyzed the tax cost for only five years, whereas Morgan Stanley analyzed the 10-year impact. Treasury did concede, however, that significant tax benefits generated by Conrail in the first five years would be unused by Norfolk Southern in that time period, but stopped short of estimating what the cost of using those over subsequent years would be. As can be seen in the attached exhibit, Morgan Stanley estimates that a significant portion of the taxes foregone will indeed occur in the second five years.

Second, Treasury assumed lower taxable income for Norfolk Southern in 1986 and then grew that income at a 4% annual rate, which is below the rate of growth used for Conrail (approximately 6%) during the period.[2] This seems extremely difficult to justify, given Norfolk Southern's recent performance and the fact that the Department of Transportation consistently attributes a stronger financial condition to Norfolk Southern relative to Conrail. Treasury's use of a lower initial taxable income figure and lower growth rate has the effect of lowering the revenue loss estimate by assuming that it will take longer for Norfolk Southern to utilize Conrail's tax benefits.

[1] The CBO and Treasury analyses cover fiscal years 1986 through 1990; the Morgan Stanley analysis has been prepared on a calendar year basis.

[2] As best we can determine, Norfolk Southern has not made their taxable income projections available for purposes of any of these tax analyses.

Third, Treasury ignored the deductibility of payments made under settlements with labor. Labor settlements total $375 million under Norfolk Southern and $475 million under Morgan Stanley's public offering proposal. Treasury has concluded that it cannot decide how these payments should be treated by Conrail for tax purposes and therefore totally ignores their deductibility. Morgan Stanley, on advice from my firm, has assumed a portion of such payments (that portion allocable to back wages and accelerated contributions to the Conrail ESOP) is deductible by Conrail, increasing deductions usable by Norfolk Southern.

Loss to the Railroad Retirement Tier II Fund (a federal fund). A revenue loss to the Tier II fund would be caused by the huge loss of railroad industry jobs that representatives of rail labor have estimated would occur. Morgan Stanley has developed, with input from the Railroad Retirement Board, and estimated loss of $245 million (present value). Neither the CBO nor the Treasury has estimated this loss, apparently because they are unwilling to estimate the number of job losses and because the impact occurs primarily after the budget period. The Treasury acknowledges that there would be tax effects if railroad employment declined, however.

I will be happy to discuss our analysis with you or your staff at any time.

Sincerely yours,

JOHN E. CHAPOTON.

EXHIBIT.—ESTIMATED TAX LOSSES: SALE OF CONRAIL TO NORFOLK SOUTHERN COMPARED WITH SALE TO PUBLIC UNDER MORGAN STANLEY PROPOSAL

[In millions of dollars]

	Congressional Budget Office	Department of Treasury	Morgan Stanley, Vinson & Elkins
Utilization of Conrail deductions and credits:			
Nominal value:			
5 yr	400	198	359
10 yr			970
Present value:			
5 yr	[1]	[2] 143	285
10 yr			577
Railroad retirement fund tier II:			
Present value: 15 yr			[3] 245

[1] Not calculated but estimated loss was $100,000,000 per year equal to $302,000,000 (present value).

[2] Discounted at effectively higher rate than Morgan Stanley method, reducing present value accordingly. Made up of $125,000,000 tax cost of Norfolk Southern/Conrail combination and $18,000,000 tax gain under Morgan Stanley plan.

[3] Assumes loss of 10,000 jobs industrywide, adjusted for effect of New York dock job protection payments to qualified Norfolk Southern and Conrail workers.

Mr. SPECTER. Without taking any more time on it at this point, the thrust of Mr. Chapoton's analysis is that the figure of the Congressional Budget Office is much more realistic. It takes into account a more relevant period of time, and it has a sounder base. But whether the tax loss to the U.S. Government is $123 or $174 or $400 million, there is no question but that the taxpayers, of the United States get less from the Norfolk Southern offer than from the Morgan Stanley offer.

For these reasons, Mr. President, I urge my colleagues to vote yes on the pending amendment and to adopt the proposal to sell Conrail to Morgan Stanley.

Mr. President, I yield the floor.

Mr. McCONNELL addressed the Chair.

The PRESIDING OFFICER. The Senator from Kentucky.

Mr. McCONNELL. Mr. President, I commend the Senator from Pennsylvania for his statements and his outstanding leadership on this particular issue. Those of us who share his view on this are impressed with his knowledge and expertise.

Mr. President, for almost a year now, I have tried to comprehend the reasons for selling the profitable Conrail to Norfolk Southern. I have considered the arguments, one by one, yet am even more baffled that the implementing legislation has reached the Senate floor. Our consideration of this bill today is premature and shortsighted, and I hope my colleagues have listened to the forceful and compelling arguments of those who have taken the floor against this sale. In my mind, the arguments in favor can best be summarized as follows:

ARGUMENT 1

Conrail cannot remain viable as an independent entity. It needs the "deep pockets" of Norfolk Southern to keep it from failing. Is Conrail losing money? No. Is it just breaking even? No again. On the contrary, Conrail continues to achieve a strong economic performance and posted $440 million in earnings last year. In its independent analysis, the United States Railway Association found that Conrail can generate positive cash flow for the foreseeable future. Conrail's demonstrated fiscal and service performance as well as projections by USRA and others should remove any doubt about the ability of Conrail to compete effectively as an independent entity. In addition, Morgan Stanley's recent bid increase to $1.4 billion and the submission of the Conrail Acquisition Corporation's proposal demonstrate the confidence of the capital markets in an independent railroad.

ARGUMENT 2

I do not believe there is another argument for selling Conrail to Norfolk Southern. Since the future viability of Conrail has been established, then there is no practical reason for merging it with another railroad. Yet proponents still insist that Norfolk Southern's deep pockets are necessary notwithstanding Conrail's strong performance and the myriad of problems which would abound if such a merger were consummated.

As the distinguished chairman of the Senate Commerce Committee has expressed, I, too, am concerned for the future of rail transportation in this country. Concerns about the tax implications and sale price pale in comparison to the paramount issue of preserving effective rail competition. It is for this reason above all other arguments that I firmly oppose the sale to Norfolk Southern.

Common sense dictates that when you take two rail systems that compete head-to-head and merge them into one megaunit, that competition and its attendant benefits will be substantially reduced. No doubt some shippers will profit from the single-line service that a combined system would provide. If afforded an alternative route on NS/Conrail, they may opt for that system thus siphoning off revenues from other carriers. If a substantial number of diversions occur, as is anticipated, the very viability of other railroads and the jobs of their employees will be jeopardized. The Justice Department considered this possibility but reached no conclusions about the magnitude of diversions. Let me quote from then Assistant Attorney General J. Paul McGrath's January 29 letter to Secretary Dole on this issue:

> We also considered the argument that following the merger, the combined entity would divert so much interchange traffic from regional railroads in the northeast and midwest that some of these railroads would be unable to compete effectively in the markets they currently serve and that the resulting loss of competition would reduce consumer welfare. We find, however, that as a general matter, it is extremely difficult to estimate the size of future diversions. It may be even more difficult to determine whether such diversions would be so substantial as to render otherwise viable regional railroads incapable of providing competition in markets where they currently operate and where their exit would reduce competition significantly. Because diversions often result from lower costs to railroads of providing single-line, rather than interline, service and because single-line service is often attractive to shippers, any potential harm in markets currently served by regional carriers must be weighed against possibly substantial benefits. Hence, even if we knew with certainty that such diversions would significantly impair the operations, or even the viability, of regional railroads, this would not demonstrate that the diversions are, on balance harmful to the economy.

While diversions may be difficult to estimate, the Interstate Commerce Commission staff and the United States Railway Association have projected that diversions would be from $80 to $113 million higher than Norfolk Southern had projected. How will these losses be addressed? Layoffs, abandonments and, in the end, decreased rail options. And I assert as Norfolk Southern's market power increases, so will its rates.

Notwithstanding the potential adverse impact on other carriers, the Justice Department asserted that "any potential harm in markets currently served by regional carriers must be weighted against possibly substantial benefits." Benefits to whom? To shippers? Some certainly, but not the majority.

The National Industrial Traffic League, the organization whose members route some 80 percent of the Nation's commerce, endorse a public sale of Conrail. The following well-known national organizations oppose the sale to Norfolk Southern: Mining and Reclamation Council, American Iron & Steel Institute, National Coal Association, National Grange, Independent Bakers Association, American Association of Retired Persons, New England Grain & Feed Council, American Frozen Food Institute, Eastern Coal Transportation Conference, National Farmers' Union, American Bakers Association, American Mining Congress, and the Northwest Food Processors Association. These groups are joined by a coalition of shippers representing close to 400 companies in 38 States. And if these shippers are ultimately harmed, as they fear they will be, then they and their consumers will eventually bear the cost. Coal is an excellent case in point.

About 60 percent of the coal shipped to consumers in the United States is transported by rail. The average cost of rail transport represents over 30 percent of the delivered cost. It follows that any future decrease in competition will only increase the cost of transportation and impact upon this industry's ability to compete domestically and in the export market. The potential impact of such a sale cannot be taken lightly when over 60,000 miners are unemployed and when our coal exports have declined by 27 percent since 1981. Not only will producers and miners be harmed by this proposal, but the consumer as well.

Currently, coal supplies 56 percent of our Nation's electricity needs. Under this proposal, electric consumers will undoubtedly face higher rates through increased transportation costs. As a major coal producer in my State expressed to me,

> Such an acquisition will lessen competition and in many instances will limit the sale of coal from many coal producing areas to a very narrow market segment. It is our belief that this proposed acquisition would adversely affect the ability of all coal producers to offer competitive coal prices on a per BTU basis to many public utilities. Therefore, in the end the consumer would again suffer.

Coal is but one among many industries I have mentioned which will be adversely impacted by this sale. Notwithstanding the broad impact this sale would have on shippers in particular, and the economy in general, the Justice Department asserted that the divestiture it proposed would address the anticompetitive problems inherent in this sale. I question that assertion, Mr. President, because I question the ability of two fledgling railroads to compete with a megarailroad.

We are asked to approve a sale without the benefit of a conclusive finding by the Justice Department that the latest in a series of divestiture propos-

als will address the anticompetitive problems. We are asked to give the merged entity permanent antitrust immunity. We are asked to believe that two little railroads, Guilford & Pittsburgh and Lake Erie [P&LE], with revenues equal to 5 percent of the merged system, can successfully compete. We are to assume that they meet the Justice Department's criteria, that they "possess the managerial, operational and financial capability necessary to compete effectively and to remain a viable entity providing long-term rail service along the designated corridor."

Yet, in his September 25 letter to Secretary Dole, Douglas Ginsburg stated:

GTI (Guilford) appears to be so highly leveraged that it is questionable whether it can obtain the additional debt financing necessary to acquire, rehabilitate, and operate the divested assets in a competitive manner. In addition to being highly leveraged, GTI is unable to cover current debt with current assets.

I have received no information to suggest that Guilford's financial situation has changed, not to mention P&LE's. In that same September 25 letter, Mr. Ginsburg stated that:

P&LE's financial situation seems to be extremely serious in every respect. P&LE appears even less likely than GTI to be able to obtain the financing necessary to acquire and operate the assets necessary in order to provide truly competitive service.

I cannot be convinced that two railroads with combined revenues of $357 million will be able to compete with a huge system with combined revenues of $7 billion. Mr. President, we should be concerned about the ability of these two small railroads to remain viable over the long term, not Conrail.

Proponents of the merger will argue that now that Justice has given its preliminary blessing to divestiture III, the sale should be approved. Never mind that the Senate will be granting the merger system permanent antitrust immunity; never mind that attorneys general from 25 States, including my own, oppose the sale; never mind the fact that outstanding concerns remain unanswered; and never mind that the Justice Department has not completed its review and given its firm blessing. Rather, we are to proceed on the Justice Department's assurance that the new proposal "appears on its face to address the competitive concerns."

Mr. President, we are proceeding today as if some crisis is to be averted. In my judgment, we can only avert a crisis in rail transportation if we slow down. We can only avert a crisis if we review and consider our options. Because, Mr. President, we do have options. One such alternative is to return an independent Conrail to the private sector through one or more public stock offerings. I support this option and was an original cosponsor of the Morgan Stanley proposal.

In my judgment, the Morgan Stanley proposal is superior to the Norfolk Southern sale in all respects. First and foremost, the public offering avoids the severe potential anticompetitive problems posed by the merger. The Morgan Stanley proposal offers $200 million more in cash as well as stock warrants. The Congressional Budget Office has estimated that the Norfolk Southern sale will result in $400 million in lost tax revenues. Such tax losses will be avoided under the public offering because the investors will have no access to Conrail tax benefits. Thousands of rail jobs will be preserved and Conrail employees will receive a labor package worth $475 million in past wage claims and retained ESOP rights. The very existence of regional carriers will not be threatened. Shippers, and ultimately consumers, will not suffer the consequences of reduced rail transportation options. I ask my colleagues' careful consideration of this option and oppose the merger which will have far-reaching repercussions for years to come.

Mr. DANFORTH. Mr. President, there are at least three Senators supporting the amendment—Senator HEINZ, Senator SIMON, and Senator ROCKEFELLER. I shall speak against the amendment for maybe 10 minutes or so. My hope is that we could have a vote at about 5 o'clock or shortly thereafter, depending on how many other Senators want to speak, but I did want to alert the Senate and any who might be listening to the fact that we do hope to proceed with some speed toward a vote.

Mr. SIMON addressed the Chair.

The PRESIDING OFFICER. The Senator from Illinois

Mr. SIMON. Mr. President, I rise in strong support of the amendment of the Senator from Pennsylvania. I entered this whole field making no commitment initially as to what I wanted to do, and I weighed things. Then, when the Morgan Stanley offer came along, it seemed to me it was very clear that that was in the national interest.

In remarks in behalf of Morgan Stanley, let me say I have great respect for Norfolk Southern. They are a fine railroad, contributing much to the Nation. I want that railroad to continue to thrive. But I do not want it to thrive in lonely eminence in too many areas. For my colleagues who may be hearing in their offices and for those who are on the staff around here, I think there are several basic questions. One is that there are not very many Members of this body who have not made speeches saying we ought to do something about the merger mania in this country, the trend for companies to invest, not in research, not in industrial development, but in just gobbling up other companies. It is a major problem.

It is more profitable now, for example, to explore for oil on the floor of the New York Stock Exchange than it is out in the fields of Illinois and Missouri and Pennsylvania and elsewhere. Here, we have a choice: Do we encourage a merger or do we encourage free enterprise and competition? I come down on the side of free enterprise and competition.

Second, what about jobs? Here we have in this country a high level of unemployment that we are becoming comfortable with. Why do some countries have a lower rate, a substantially lower rate of unemployment than we do today? Because they work at it; because they make a priority of putting people to work. We ought to make a priority of putting people to work. And there is no question that a Morgan Stanley sale, the adoption of the Specter amendment, will save railroad jobs and it saves railroad lines so that we can have industrial growth and save industries along those lines.

I do not know how many industries are going to be put out of business if the Norfolk Southern sale goes through. I do not know how many potential industries we presently have in New York and elsewhere that are not going to be there. But it means jobs. If there is any question on the part of anybody in this body on that question, check with the railroad brotherhoods. Why are the railroad brotherhoods for the Morgan Stanley or Specter amendment? Jobs.

Why throw away jobs? Why make people tax recipients rather than taxpayers? Jobs, it is clear.

Third, is something we have not heard much about on the floor of the Senate in recent years, but it is a problem that is going to confront our Nation again, I fear, and it does cyclically. That is the whole question of inflation. How do we most effectively counter inflation? Buy having competition and keeping rates and costs down. This morning, I was at a breakfast meeting with the distinguished Senator from Pennsylvania. Why was the chief executive officer of one of America's major corporations there talking about the importance of having a Morgan Stanley sale? Because he wants competition. He wants to keep his prices down so he can sell his products.

Why artificially have inflation when there is no public service performed by that inflation? The national association of shippers—that is not their exact title; I forget the exact title. But the national shippers association favors the Specter amendment. Why? A very simple reason: Because it means lower rates.

In the State of Illinois, just for example, this merger would allow Nor-

folk Southern to dominate rail traffic to and from 18 Illinois counties. These 18 counties currently account for $3 billion of Illinois manufacturing output, 84,000 jobs, and 31 million tons of rail movement. I have just picked a few examples, companies that have contacted us.

Quaker Oats Co., a major company, feels its total freight expense will be subject to a significant increase if Conrail is sold to Norfolk Southern. Keystone Steel & Wire, a small company in Peoria, IL, which makes nails, has already been imposed upon by policies of this Federal Government because we have not taken the advice of my good friend from Missouri, Senator DANFORTH, in this issue of trade. Keystone Steel & Wire makes nails. Nails go into Canada. Canada charges us 50 cents a hundredweight. Nails coming from Canada into the United States, we charge Canada 5 cents a hundredweight. I am a free trader, but I think we ought to have some equity on both sides. If it is 5 cents on one side, it ought to be 5 cents on the other. If it is 50 cents on one side, it ought to be 50 cents on the other. We are already imposing on Keystone Steel & Wire and now they say if we approve this merger, it is going to cost them more in freight rates.

The Chicago Board of Trade, not a minor little entity, strongly opposes this merger and by inference certainly it supports the Specter amendment. Marblehead Lime Co. of Chicago feels that they would lose about 6 million dollars' worth of revenue if this goes through. And those are just a few of the many, many shippers that could be cited.

If we are interested in cutting back on this deficit, if we are interested in moving quickly, clearly the Specter amendment provides us more dollar payoff very quickly. And I would hope we would move in that direction.

The distinguished Senator from Missouri as well as our colleague from South Carolina [Mr. HOLLINGS] sent around a booklet, and I glanced through it to see if I could see some arguments that I had not seen that would convince me. Well, it was very interesting. It lists in Illinois one of the reasons I ought to vote for the merger is that 12 municipalities in Illinois have gone on record for the merger. Six of those municipalities are Albers, Bluford, Germantown, Hoffman, Meredosia, and New Baden—fine communities. I know each of them very, very well. Those six communities totally do not have 6,000 population in a State with 12 million people. The support that is supposedly there for this merger just is very, very thin.

The booklet says, "The attorney general for the State of Illinois has alleged that a Norfolk Southern acquisition would raise rail rates 20 to 25 percent in Illinois. There is absolutely no basis for this statement."

I do not know what the rates would be raised, but the attorney general of Illinois and the attorney general of Ohio and the attorney general of Pennsylvania and other attorneys general are clear in their position because they know rates would be raised; you create a monopolistic tendency.

One of the arguments used says, "The Norfolk Southern-Conrail combination"—and I am quoting now—"provides efficient single-system service." That is another way for saying it takes away the helpful competition that we have right now.

I think it ought to be awfully clear what we should do.

Two final points. One, I was talking to one of our colleagues on the floor just 30 minutes ago while the distinguished Senator from Pennsylvania was speaking. I asked him what he was going to do. He said, "I really buy the Specter arguments, but the question in my mind is can the railroad survive if Morgan Stanley purchases it?" Well, the answer, my friends, is Morgan Stanley is a cautious company that has made its reputation by moving solidly and knowing what it is doing. The people who have invested, put up the money with Morgan Stanley have confidence that this railroad will work. Any railroad which can produce 440 million dollars' worth of revenue this past year strikes me as a viable entity. I think it can.

Now, it is a gamble, it is a judgment call, but it seems to me the gamble in the judgment call is much safer with the Specter amendment.

Finally, I say to my colleagues from Western States who do not appear to be directly affected—one of them said to me, "I am not hearing anything from my railroads one way or another"—I say to them not just to wait to hear from the railroads but, if you can, between now and the time we vote on this, call your Western railroads.

There is some reluctance on the part of railroads to stand up publicly for two reasons. One, they do not want to get involved in a fraternal war, and, two, many of them have to rely very heavily on the Department of Transportation and they do not want to get into a public fight with the Secretary of the Department of Transportation.

But it seems to me clear, Mr. President, whether you live in Washington, whether you live in Missouri, whether you live in Pennsylvania, wherever you live, we are best served as a nation by having as much competition as we can, by having as many railroad miles as we can, by maintaining as many jobs as we can, and we do that best by adopting the Specter amendment.

I shall vote for the Specter amendment. I shall do it with pride. It is, I recognize, an uphill fight because not only does Norfolk and Southern have a good railroad system, they have a pretty good system around Capitol Hill, too. But we ought to do what is right for the country, and what is right for the country is to adopt the Specter amendment. I yield back the floor.

Mr. President, I question the presence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. HEINZ. I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Pennsylvania.

Mr. HEINZ. Mr. President, I rise as a cosponsor of this amendment which in my view is an absolutely essential amendment. This amendment provides us with the opportunity on the floor to rewrite a flawed piece of legislation, a piece of legislation that, were we to allow it to go through the Senate, would seriously jeopardize not only the jobs of many people but, most importantly, would be a step backward in helping to frame a competitive rail transportation network in this country.

At the same time, the bill before the Senate, offered by the Senate Commerce Committee, is a bad deal for our taxpayers. It is not the best deal on the table in terms of what others have offered. It allows a back-door tax bonanza to the Norfolk Southern Corp. If you are Norfolk Southern, it is one of the great all-time bargain purchases that has ever been consummated.

Of course, if this were just between private parties, we would not take an interest in that. But the trouble is that it is not between private parties. It involves the American public, which, since 1976, has invested $7 billion in the Consolidated Rail Corporation.

Anybody who can buy a $7 billion investment that is making $400 or $500 million a year, get $400 million worth of tax advantages, pick up at the same time more than $900 million worth of cash, for a purchase price of $1.2 billion, has what we would conservatively call a sweet deal. But it is a bad deal for the American taxpayer. It is a bad deal for people who depend upon having a competitive rail transportation network.

It is a bad deal for those industries that are transportation sensitive, and we have many, as I will enlarge upon in a moment; and I suppose, worst of all, there is no compelling reason for us to be stampeded into making a deal that is not in the best interests of the taxpayers or transportation policy.

We might reflect for a moment on why we are going through this. We are

going through all this because the Consolidated Rail Corporation, now just about on its 10th anniversary, is legally a Government-run railroad. It is a nationalized rail transportation system.

Most of us are extemely uncomfortable with having the Government run a viable, competitive, able-to-stand-on-its-own-two-feet, rail operation. Make no mistake: Conrail has been standing firmly on its own two feet for the last several years. It has made money, a lot of money, in each of the last several years—over $400 million in 1985.

As I mentioned, it has a very large cash balance, almost $1 billion. It has managed to struggle up on those two feet, make money, build its cash balance, while the region of the country it has served—the mid-Atlantic States, Pennsylvania, New Jersey, the Midwest, often referred to as the "Rust Belt"—has been going through what some people might benignly call an economic transition.

Mr. President, the area of the country I come from—Pennsylvania, Ohio, those Northern-Midwestern States—from the standpoint of those of us who live there, has not been going through an economic transition. We have been going through a depression. We have lost half the steelworkers in the mills. We have lost a lot of mills. We have lost some efficient mills.

We have lost mills where if workers worked for nothing, the industry still could not compete, because foreign steel comes in here at such a low price, either because it is dumped or subsidized, or because of the strong dollar. When you lose half the jobs in an industry, that is a bit more than an economic realignment. That is depression.

The coal industry is important to our State and many of the other States in the region—Ohio, West Virginia, the rest of the Appalachian States. We are the third largest, in Pennsylvania, when it comes to producing coal. Coal is having just about as big, if not a bigger problem than steel.

I do not mention those two industries simply because they are important to me and important to the economy of my State. Lord knows, they are. But they are also important to the business of Conrail. For Conrail to be able to strengthen its economic position, for it to be able to build up its cash reserves, for it to be able to make the substantial amounts of money it has made, competing as it does with barges, trucks, Norfolk Southern, and a lot of other railroads, when these industries are struggling, is a truly remarkable achievement. If any people think that this railroad cannot stand on its own two feet—I guess one of them is the Secretary of Transportation—they should take a look at what this railroad has done in the last 3 years, in the face of absolutely awful economic conditions in the area it serves.

You might say that I am prejudiced. You might say that I do not like the idea of some 5,000 shipping points, which now have at least two competitors willing to serve them, becoming dependent on just one railroad company, an amalgamated Conrail-Norfolk Southern Corp. I am prejudiced about that.

I think it is absolutely insane policy. It goes against everything that we believe in, going back to the writing of the Clayton Act and the Sherman Antitrust Act, the establishment of the Interstate Commerce Commission—two laws and one agency that this bill would exempt from any jurisdiction, now and at any future time, over this merged railroad.

Yes, I am prejudiced when it comes to creating a giant megamonopoly, as this proposed merger—or sale, if you prefer—would create. But if one wants to discount my prejudice in the matter, I suggest that my colleagues listen carefully to what people with the appropriate interest in this matter—people who are not politicians, but people whose livelihood depends on having competitive rail service and dependable rail service—have to say.

I mean shippers, people who want to ship their coal, their steel, their potatoes, their wheat, and virtually every other commodity and product you can name, people who do not have a political ax to grind, people who do not stand to benefit because may be a few miles of track and some trackage rights and a few other goodies are being promised by the Secretary of Transportation at some future time, or because the acquiring railroad, the Norfolk Southern, has struck a deal with a number of other transportation interests too necessary to them as part of an alleged divestiture plan. I am not talking about people who have been put on the gravy train here. I am talking about people who produce the gravy that the train carries.

The only shippers I have been able to find who are in favor of this merger are shippers who are now served by the Norfolk Southern Railroad. I do not find west coast shippers supporting this merger. I do not find midwestern shippers supporting this merger. I do not find eastern and northeastern shippers supporting this merger.

I find some southern shippers who have been serviced by Norfolk Southern supporting this merger, and what that tends to tell me, and maybe I am suspicious, maybe I am cynical, is that this is a great deal for Norfolk Southern and its present customers who may have imagined that they are going to get some kind of better deal from Norfolk Southern if they can make money, a lot of money, someplace else, and that the people from someplace else in the Far West, the Midwest and the Northeast have read the tea leaves correctly and that this merger works against their competitive needs.

Someone might say, "Well, most people really only care about what their transportation is going to cost them tomorrow." I will be honest. I had breakfast with someone today, a constituent, the chairman of a very valued company in Pennsylvania, the Air Products Co., Mr. Ed Donnelly of Allentown, the incoming chairman of the National Chamber of Commerce, our chamber of commerce in this country, and it is true that higher freight rates would mean a lot to his company. He makes, as the name implies, products out of the constituents of air and other gases and transportation costs are about $1 out of every $2 he has to spend on making and then distributing his products. He is in a transportation-sensitive industry.

He worries in the short run about the increase in prices and what it would do to Air Products, which must compete internationally against imports.

But let me tell you one other thing. Employing 25,000 people as that company does—by the way in 1946 it employed no people, it grew from zero in the way of people and sales in 1946 to $2 billion in sales and 25,000 people today, not bad—that particular company has absolutely no interest in backing a proposal, namely the amendment that is before us, to sell Conrail to the public through the Morgan Stanley proposal, if it would result, as some people have contended or will contend, that somehow that kind of a company cannot make it, that Conrail cannot stand on its own two feet.

Anyone who thinks all the shippers, and they are legion, who are supporting this just for short-term gain and they do not care whether they are going to get their nitrogen, their hydrogen, their coal, their potatoes, and all the other things that we have to move, have to move by rail, that they do not care what happens 2 or 4 or 6 years from now, do not understand the way businessmen think.

When you build a plant, you do not build it for 1 year or 2 years. You do not build it even for 5 years or 10 years. You build it for the economic lifetime of your company. Why? Because to take the Air Products Co., here are 25,000 people, most of them principal wage earners, most of them married with families, maybe 100,000 or more human beings who the company just does not want to pick up and walk out on a few years later. That is not the way intelligent, honest businessmen do business in this country.

And, therefore, Mr. President, if there is any skepticism about my statements as to why this proposal is

the right proposal, or why the amendment before us is the right amendment, and anyone chooses to say that I am not objective in this, I think there are literally thousands of other informed observers who have very straightforward interests here who are quite objective and they are the shippers.

Now, I do not want to filibuster a good amendment. I do want to say, and I said this last week, that I am concerned about the integrity of the basic legislative process, when we bring a bill to the floor of the Senate when we know that we do not have the absolutely most essential piece of information to judge whether or not it meets its strongest proponents' criteria—I refer to the Secretary of Transportation and her belief that this bill must be procompetitive—when we have not gotten to a definitive conclusion on the third attempt by the Norfolk Southern to meet the competitive tests posed by the Secretary of Transportation, through a divestiture plan. What we do know is that two previous divestiture plans designed to satisfy the Secretary's criteria have been rejected by the Department of Justice, after careful study by an independent consultant. What we do know is that as of today a third plan has been sent to the Department of Justice and the Department of Justice at least as of today, in spite of having been urged literally 1½ months ago to employ an independent consultant, has dragged its feet in doing so and is—I suppose, charitably, either just inept or, uncharitably, is playing along with the gag. The gag at this point is in the mouth of any independent consultant because they have been invited not to speak.

Mr. HUMPHREY assumed the chair.

Mr. HEINZ. There are some things, Mr. President, that you learn much better when people maintain or enforce a silence than when they say them. In this case, the silence that the Justice Department has enforced by refusing to even let a contract to an independent consultant speaks volumes.

There is no doubt in my mind that an independent consultant coming in would observe that a minimum of half of the markets that the Justice Department pointed out as having serious problems—and these were just those markets with serious problems do not receive access to competitive service by this later plan; that the majority of those 5,000-some shipping points are still going to be reduced from having either two or three rail service options to one or two—mostly it is from two to one—and that is called a monopoly.

It does not make a lot of sense to gag someone independent unless you are not going to like hearing what they are going to say. It does not make a lot of sense to prevent the Interstate Commerce Commission from ruling on the competitive effects of this merger unless you do not want to hear what they are going to say. It does not make a lot of sense to try to rush this bill through the Senate unless you are afraid that somebody may actually get the details of the divestiture plan proposed by Norfolk Southern, somebody who may not be hired by the Justice Department, who may not be the Interstate Commerce Commission, but who might be credible and objective and expert and who has an opinion you do not want to hear.

I said earlier that the taxpayers have better alternatives. We know of two—the Morgan Stanley alternative, which would certainly, just in terms of cash received, provide $200 million more to the Government, to the taxpayers, than the legislation before us. There is another offer in excess of that from the Allen Company Group.

Mr. President, I thought that the Republican Party believed in letting the free market operate. I thought that the way you determined the value of something is to ask people, after you have set all of your terms and conditions and your 5 years of protection and your covenants, after you have got a deep pocket, such as public stock ownership, I thought the American way was to let the market establish the market price, to let the market establish who should run Conrail subject to those necessary conditions that I think most all of us agree upon.

And what do I find? That a fine Republican, Mrs. Dole, our Secretary of Transportation, and a Republican Senate, and a Republican-led Commerce Committee is trying in this legislation to repeal the free market principles that I always thought were the cornerstone not only of our party but of our country.

Mr. President, that does not make any sense. In fact, nothing that is being forced down our throats here makes any sense at all. What we need is an intelligent alternative.

I think the amendment of the Senator from Pennsylvania is a good alternative. I will be honest with you, I do not think it is necessarily the best alternative. The best alternative would be to set our criteria very carefully and let not just Morgan Stanley but other people, after setting those criteria, bid for this rail entity, qualify all bidders who have the staying power, the deep pockets, and have the ability to go to the market to raise the capital necessary.

I put a resolution in to this effect about a year ago that sets out what I think is the intelligent approach.

But, absent any consensus on being intelligent about how we rationally dispose of a nationalized railroad—Conrail is a Government-run railroad—I think the amendment of the Senator from Pennsylvania is in the realm of the responsible, the realm of the right and the realm of the possible. And so I unreservedly support it and urge all of my colleagues to do so.

Mr. President, I just hope that all of my colleagues will reflect for a moment before they vote on what is at stake. What makes it difficult, I suspect, for many of our colleagues is that if a mistake is going to be made, they would rather let someone else make it, particularly if people in their neck of the woods do not view this as a make-or-break political issue for all times. And I think it is probably fair to say that, other than shippers, industry, labor—a few groups often viewed as special interest—there is not much public interest in what we do with Conrail.

The average person probably does not care. And so I suspect an awful lot of people in this body—I hope I am wrong—probably really do not care as long as the problem gets solved somehow. And the best way to solve the problem is to let the administration do what they want to do, whether it is right or wrong. If something goes wrong, it is their fault; if it turns out all right, well so much the better.

Well, I did not get into this line of work just to be a go-along guy. I did not come down here to spend the last 14 years of my life here—5 years in the House, 9 years, going on 10 years, in this body—just to play it safe. Playing it safe is playing along with the administration, all right. That is playing if safe. You are not going to get anybody really, really fired up on the editorial pages. My goodness sakes, no. Norfolk Southern has hired so many lobbyists to talk to all the editorial page writers they do not know what is going on themselves.

But being safe, Mr. President, is not what this job is all about. It is trying to do the right thing. And I would like to see my colleagues say to the administration, "Look, we have the same objective; namely, returning Conrail to the private sector." That is right.

But simply having an answer when it is the wrong answer is not good enough. That is why I urge my colleagues to support the Specter amendment.

I yield the floor.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Nebraska.

Mr. EXON. Mr. President, I have been listening with keen interest to the excellent remarks of my friend and colleague, the distinguished Senator from Pennsylvania.

I noticed toward the end of his remarks he said he was shocked and surprised that the Commerce Committee controlled by his party was not going along with the free market approach.

It is sometimes true that Members on that side of the aisle seem to believe that when it comes to free enterprise and free market, the other party has a monopoly. I encourage my friend from Pennsylvania to come over, join the free market side of the aisle, and I call his attention to the recent rollcall vote on this matter that 26 or 27 of the 31 votes cast in opposition to the measure before us on that significant vote with regard to waiving the budget were from the free market, free enterprise people on this side of the aisle.

Mr. President, I rise to support the sale of Conrail. It is time to get the Government out of the railroad business. But, Mr. President, not as envisioned in S. 638. My opposition to the sale of Conrail to the Norfolk Southern is well founded. My support is for the alternative purchase of Conrail by Morgan Stanley, a sale that is clearly in the public and taxpayer interest.

By supporting S. 638 which approves the sale of Conrail to the Norfolk Southern Railroad, we are being asked to give our blessing to a plan which, in this Senator's opinion, is seriously flawed.

Mr. President, we are being asked by the administration to give our blessing to a plan which is unrealistic and would be rejected out of hand by any businessman given the circumstances that we face.

We still do not have the final report on the Norfolk Southern's divestiture plan from the Department of Justice. The preliminary approval, which is suspect on its own, came the same day that the Morgan Stanley investor group indicated its willingness to extend their offer for 6 additional months which I believe to be highly commendable. The final DOJ report will have the findings of an independently commissioned firm on the third Norfolk Southern proposal. If we are to proceed with this sale approval, as proponents of this bill wish, we will be acting in the dark without the final report on whether or not the divestiture plan will work.

This is, in my view, a convoluted procedure seeking to rush this bill through before all the facts are known. I don't like it and I will not support proceeding to this bill until we have all of the facts. I might add at this point that it is my further understanding that the Justice Department has yet to commission this independent study. This Senator suspects that the folks down at Justice know what that final report will say; that the divestiture plan simply will not work. Why is the Senate asked to rush to a conclusion before the report is furnished?

Mr. President, I have in my hand an extensive list of distinguished businesses, manufacturers, government entities, agriculture groups and labor unions all opposing selling Conrail to Norfolk Southern.

I ask unanimous consent that the opponents to this plan be printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

[See exhibit No. 1].

Mr. EXON. Mr. President, if this bill is such a great deal for the American taxpayers, for the rail industry, for the shipping industry, and for the working men and women of this Nation, why are so many people against this plan? Do these people know something about S. 638 that we don't? Do they foresee something if this plan is approved that some of us fail to see? The answer to these questions should be obvious.

These people oppose this sale because they fear that rail service in the Northeast and Midwest will be forever adversely impacted. They oppose this sale because they foresee a monopoly being created which will have no, and I repeat, no viable competition to keep rail rates at some semblance of reasonableness. This proposed plan is also of concern because these people see not only the loss of service but the loss of jobs.

Some of my colleagues may ask why this Senator who represents an area of the country not directly served by either the Norfolk Southern or Conrail would take such a direct interest in this matter. This Senator from the Plains has a very real parochial concern with this proposed sale. The State of Nebraska has joined with other States in similar circumstances in opposing this plan because it is, first, anticompetitive; and second, unnecessary to the return of Conrail to the private sector; and that it would, third, result in a radical restructuring of the American railroad industry; and fourth, cause substantial economic harm to our State; fifth, would not be sanctioned by the ICC—which it is exempt from under the terms of the current proposal—if presented for approval as required for all other railroad mergers; sixth, and should not be immunized from the antitrust laws.

A number of large business firms in my State have also expressed their opposition to this merger. These Nebraska businesses believe, and I concur with their belief, that the Conrail sale to the Norfolk Southern would spell the decline of rail service from West to East which would ultimately impact our State's already fragile economy. I would like to quote from a letter transmitted to me by an official of Conagra, Inc., one of Nebraska's largest business concerns just prior to the April 4 hearing in the Commerce Committee:

> It is Conagra's position that Conrail should be returned to the private sector in a way that would strengthen rather than weaken the Nation's transportation system. The sale of Conrail to Norfolk Southern, a parallel carrier, would clearly be anticompetitive and a great disservice to shippers and the public in the affected territory.

Conagra concludes by saying:

> The sale of Conrail to Norfolk Southern could possibly be one of the most anticompetitive mergers in the history of the transportation industry. Consolidation of parallel carriers with overlapping trackage creates excessive market power and this, in turn, translates into higher shipping costs which are ultimately passed on to consumers.

These concerns by Nebraska businesses have been confirmed by one of the major "bridge carriers" serving Nebraska. In testimony before the Senate Commerce Committee on April 4, 1985, Mr. Jerry Conlan, senior vice president for government affairs and corporate analysis of the Chicago & North Western Transportation Co. said of the proposed sale, "It could result in significant harm to shippers, consumers, employees, our railroad, and the upper Midwest economy in general."

Mr. Conlan testified that in his view the question of traffic diversions had been overlooked as well as the so-called ripple effects of these diversions on the economy of the Midwest. Mr. President, we in Nebraska have been concerned for a number of years that the C&NW service to parts of the State was in jeopardy due to the financial problems facing this railroad. After passage of the Staggers Rail Act, this railroad began to improve its financial picture. Now we are once again faced with the prospects of a reversal of their improving financial picture if the Conrail sale is approved. This will, once again, renew our concerns regarding service by the C&NW in Nebraska.

Mr. President, I believe the arguments speak for themselves. As it now stands this is simply a bad plan. This merger will only really benefit one entity, the Norfolk Southern. It will harm many throughout this country. I cannot support this plan before the Senate at this time. This is simply too important to be rammed through the Senate without all of the facts in place.

Mr. President, I am very pleased with the recent turn of events regarding Morgan Stanley's willingness to increase their cash offer by $200 million bringing their total cash offer to $1.4 billion. I certainly believe this is a further step in the right direction. I hope this is the beginning of further changes to come which will adequately compensate the Federal Government for their investment in Conrail over the years.

Mr. President, the Morgan Stanley public offering proposal is by far the superior plan. Not only does Morgan Stanley offer the Federal Treasury $200 million more for Conrail than the Norfolk Southern, it also will not cost the Federal Treasury between $400 to

$800 million in lost tax revenues depending on who's numbers one believes.

Morgan Stanley would continue the operation of Conrail as a separate entity fully viable and competitive. Under this plan there will be no need of divestitures to the Guilford and P&LE Railroads. Further, the overall antitrust questions, which have caused 25 State attorneys general to oppose the Norfolk Southern plan, including Nebraska's attorney general, will be answered. There simply will not be any antitrust questions under Morgan Stanley.

An independent Conrail preserves thousands of railroad jobs which would be lost under a Norfolk Southern-Conrail merger. Morgan Stanley offers employees of Conrail a labor package worth $475 million which has the strong backing of Conrail's unions.

Mr. President, the final point I wish to make concerns not just who gets to buy Conrail, but the message the action we take on this matter sends to the American people.

In our rush to "unload" Conrail, is it the wish of the administration to sell at any price or do we have an obligation to get the best deal possible? Do we ignore the fact that this Congress adopted Gramm-Rudman in an attempt to balance the Federal budget by approving the sale of Conrail to Norfolk Southern for $200 million less than Morgan Stanley? Are we to pass S. 638 because the President wrote to each of us and said it was "OK" ignoring not only the cash loss, but all of the other flaws contained in this "sweetheart" deal for the Norfolk Southern?

I ask unanimous consent to insert the President's letter to me dated January 21 confirming his support for this flawed proposal in the RECORD.

There being no objection, the letter was ordered to be printed in the Record, as follows:

THE WHITE HOUSE,
Washington, DC, January 21, 1986.

Hon. J. JAMES EXON,
United States Senate, Washington, D.C.

DEAR JIM: The first bill that the Senate will take up this session is S. 638, which authorizes the sale of the Federal government's 85 percent stock interest in the Consolidated Rail Corporation (Conrail) to the Norfolk Southern Corporation. Now is the time to sell Conrail, to the bidder that has offered the best deal for shippers, consumers, rail labor, and all those who depend upon continued service from a financially strong Conrail. I urge your support for this bill when it comes to the Senate floor.

In 1981, the Congress directed the Secretary of Transportation to return Conrail to the private sector. The Norfolk Southern offer to purchase Conrail will guarantee the financial strength of the railroad, maintain Conrail's service in the Northeast, and maximize the financial return to the government. Norfolk Southern has agreed to a stringent set of divestiture requirements as a condition of the purchase. Through these divestitures regional railroads will be strengthened, major markets and rail gateways will be opened, and there will be the first competitive east-west long-haul alternative in twenty years.

In addition to these transportation benefits, successful completion of the sale to Norfolk Southern will bring the government a minimum of $1.2 billion in cash at closing. This payment will help us reduce the Federal deficit in fiscal year 1986. Sale of Conrail to the Norfolk Southern Corporation also will get the government out of the railroad business, fulfilling the specific privatization mandate of the Congress. The terms of the sale include, however, public interest covenants, which will protect Conrail's financial strength and service during the post-sale period.

The Senate Commerce Committee, under the leadership of Senators Danforth and Hollings, held extensive hearings on the sale to Norfolk Southern and reported S. 638 with strong bipartisan support. This bill deserves favorable action now.

Sincerely,

RONALD REAGAN.

Mr. EXON. Mr. President, it has been the policy of the Federal Government to buy from the lowest bidder. Under the Secretary of Transportation's proposal, the Federal Government would now be selling to the lowest bidder. No wonder we're broke. I urge my colleagues to vote for the Morgan Stanley proposal.

Mr. President, I yield the floor.

EXHIBIT No. 1

COALITION FOR A COMPETITIVE CONRAIL

ASARCO, Inc.
Adventure Coal Company
Alabama Coal Association
Allegheny Resources
Alltransport Inc.
American Box Co.
American Crystal Sugar Co.
American Iron & Steel Institute
Anderson & Anderson Contractors, Inc.
Anker Energy Corp.
Arch Mineral Corporation
Assured Freight, Inc.
Attorney General Charlie Brown
Attorney General Hubert H. Humphrey III
Avery Coal Co., Inc.
Avonmore Rail Loading, Inc.
Barbour Coal Co.
Barnes & Tucker Co.
Baxter Co. Customhouse Brokers, Inc.
Bethenergy, Inc.
Big B Mining Co.
Blue Diamond Coal Company
Bologna Coal Company
Boston Edison
Bradford Coal Company
Bridgeton Municipal Port Authority
Bucano International Traffic Mgt.
Buckeye Industrial Mining Co.
C & K Coal Co.
Cabot Corporation
Calabresi International, Inc.
Camelot Coal Company
Campbell Fuels, Inc.
Canterbury Coal Co.
Canterra Coal, Inc.
Carpentertown Coal and Coke Co.
Center Valley Coal Co.
Central Vermont Railroad, Inc.
Centroport Surveyors, Inc.
Charms Co.
Chemtech Industries
Chicago & Northwestern Transp. Co.
Chicago South Shore & South Bend RR
Clorox Company
Coal Association, Inc.
Coal Hill Mining Co., Inc.
Coal Power Corporation
ConAgra Flour Milling Company
Concorde Shipping, Inc.
Connecticut Grange
Consumers Power Company
Cooney Brothers Coal Company
Cooperstown & Charlotte Valley RR
Coordinated Caribbean Transport, Inc.
Crescent Brick Co., Inc.
Culmtech, Limited
Cumberland Elkhorn Coal & Coke, Inc.
Cumberland Steel Co.
Darmac Coal, Inc.
Delaware Otsego System
Delta Coal Sales, Inc.
Dexter-Carpenter Coal Sales Corp.
Diamond Shamrock Coal Company
E.M. Brown, Inc.
E.P. Bender Coal Co.
Economic Development Council of Northeastern Pennsylvania
Elkem Metals Company
Energy Supply, Inc.
Energy Trading Corp.
Erny's Fertilizer Service, Inc.
Falco Coal Company
First Century Corporation
Full Service Forwarders, Inc.
Gard Mining, Inc.
General Mills, Inc.
Gerard F. Tujague, Inc.
Gilscot Forwarding Company, Inc.
Glen Irvan Corporation
Governor Anthony S. Earl
Grand Trunk Western Railroad Co.
Greater Baltimore Committee
Greater Philadelphia Chamber of Cmc.
H. Kieffer Trucking
H.B. Coals
H.D. Shrader Trucking Company
Hagerstown-Washington Co. Chamber of Commerce
Hall's Coal Company, Inc.
Hansen Storage Company
Hansloban Coal Company
Harmon Mining Co.
Hawkins Coal Co.
Hawley Fuel Coal Co. Inc.
Hepburnia Coal Co.
Heritage Resources, Inc.
Hess & Fisher Engineers, Inc.
Hickman, Williams & Company
Hotard Transfer
Hungerford & Terry
IC Industries
IUE Coal Sales Co.
Iliinois Coal Association
Illinois Grange
Indiana Farmers Union
Intercoastal Warehouse Corp. of Louisiana
Iowa Farmers Union
J & B Products Corp.
J. Taliancich & Associates
J.G.H. & Associates, Inc.
Jill Mining Company, Inc.
John A. Biewer Lumber Co.
John B. Harris, Inc.
K & J Coal Co. Inc.
K.C. Strader Trucking Company
KMA Enterprises, Inc.
Kenerco Coal Sales
Kent Coal Company
Kentucky Farmers Organization
Kentucky May Coal Co.
Kentucky River Coal Corp.
Kentwood Spring Water
Kerr Steamship Co.
Keystone Steel & Wire Co.
L & R Fuels, Inc.
LTV Corporation

LaBelle Processing Company
Lackawaxen & Stourbridge Railroad
Lacour Warehousing, Inc.
Ladish Company, Inc.
Lafayette Springs Enterprises, Inc.
Land Use Corporation
Leaf River Forest Products Inc.
Leckie Smokeless Coal Co.
Lukens Steel Company
M. A. Hanna Company
Magnum Minerals, Inc.
Manville Corp./Manville Svc. Corp.
Maple Leaf Coal Company
Marblehead Line Co.
Maryland Chamber of Commerce
Maryland Grange
Mayor Bruce C. Hagen
Mayor David L. Jannetta
Mayor George M. Wyckoff, Jr.
Mayor George V. Voinovich
Mayor Harold Washington
Mayor John Fedo
Mayor Richard G. Campbell
Mayor Richard L. Dunning
Mayor Steven B. Carlson
Mayor Thomas P. Ryan, Jr.
Mayor William Donald Schaefer
McDonald Land & Mining Co. Inc.
Metro Drayage & Service Co.
Mid-City Cartage Co.
Mining & Reclamation Council of America
Minnesota Agri-Growth Council
Minnesota Corn Processors
Minnesota Farmers Union
Mississippi Chemical Corp.
Mittercon International
Moon's Enterprises
Moshannon Falls Mining Co.
National Farmers Union
National Grange
National Refractories & Minerals Inc.
Navarrete Forwarding Co., Inc.
Nebraska Farmers Union
New England Electric System
New Jersey State Grange
New Orleans Distribution Trucking, Inc.
New York Cross Harbor Railroad
New York State Grange
New York Susquehanna & Western RR
Newmont Svcs., Ltd. (Newmont Mining Sub.)
North Dakota Farmers Union
Northern Counties Coal Co., Inc.
Nutra-Flo Chemical Co.
Ohio Mining & Reclamation Ass'n
Ore-Ida Foods, Inc.
Oyster Shell Products
P. and N. Coal Co. Inc.
P.V. Burke & Associates, Inc.
PA Master Corn Growers Ass'n, Inc.
PBS Coals Inc.
Patrick & Associates
Paul W. Capelle, City Manager of Willard
Peerless Eagle Coal Co.
Pennsylvania Coal Marketing, Inc.
Pennsylvania Coal Mining Assn.
Pennsylvania Farmers Union
Pennsylvania Mine Services, Inc.
Pennsylvania State Chamber of Cmm.
Pennwalt Corporation
Philip P. Rowan, Director of Economic Devel., City of Bridgeton
Piazza & Associates, Inc.
Pinsly Railroad Company
Pioneer Lumber Inc.
Pittsburg & Shawmut Railroad Co.
Portside Terminal Services
Power Operating Company, Inc.
Princess Susan Coal Company
Producers Liaison, Inc.
Quality Coal Company
Quality Crushing & Screening Whse., Inc.
R.H. Keen & Company, Inc.
RBS, Inc.
Railway Labor Executives' Assn.
Raintree, Inc.
Randall Fuel Co., Inc.
Raynham Farms
Reading & Bates Coal Co.
Red Star Coal Co.
Representative Richard A. Geist State of Pennsylvania House
Ringgold Coal Mining Co.
Robbins Manufacturing, Inc.
Rochester & Pittsburgh Coal Co.
Scurfield Coal Sales, Inc.
Shawville Coal Company, Inc.
Skelly and Loy
Sky Haven Coal, Inc.
Slater Steels, Inc.
South Dakota Farmers Union
South East Coal Company, Inc.
South Jersey Port Corporation
South Louisiana Port Commission
Southeastern Motor Freight, Inc.
Spring Church Coal Co.
Spring Fork Coal Company
Springmeier Shipping Co.
Stanford Coal Company
State Rep. Michael J. Madigan, Speaker, IL House of Representatives
State Rep. John D. Cherry, Jr.
State Sen. J. William Lincoln
State Sen. James J. Rhoades, Co-Chair of Pennsylvania Coal Caucus
State Sen. Mark S. Singel
State Sen. Philip J. Rock, President, Illinois Senate
State Sen. Vincent J. Fumo
Strishock Coal Company
Summers Fuel, Inc.
Sunshine Fuel Company
Swistock Associates Coal Corp.
TCI Trucking, Inc.
Tangi-Transport
Texas Industries, Inc.
The McKenzie Company
The Railroader
Thomas Coal Sales Inc.
Tonawanda Island Railroad, Inc.
Trans Gulf Trucking
Twinstar Leasing, Ltd.
Unionvale Coal Company
United States Steel Corporation
Universal Foods Corporation
Vance Coal Company, Inc.
Vermont Railway Inc.
Vertac Chemical Corp.
W.R. Zanes & Co. of Louisiana, Inc.
WV Surface Mining & Reclamation Assn.
Walter N. Heine Associates, Inc.
Warren C. Hartman, Contractor
West Virginia Coal Association
West Virginia Coals, Inc.
Wildcat Coal Co.
Williamsport-Lycoming Chamber of Commerce
Windber High Standard Coal Co.
Wisconsin Assn. of Manufacturers and Commerce
Wisconsin Farmers Union

SHIPPERS FOR AN INDEPENDENT CONRAIL

Acme-Evans Co. Div.
Air Products and Chemicals, Inc.
Alabama By-Products Corp.
Alabama Coal Association
Alcan Aluminum Corporation
Allied Corporation
American Bakers Association
American Crystal Sugar Company
American Iron and Steel Institute
American Maize-Products Company
American President Intermodal Co., Ltd.
Amoco Oil Company
Anderson & Anderson Contractors, Inc.
Anker Energy Corporation
Baltimore Gas & Electric Co.
Barbour Coal Company
Barnes & Tucker Coal Company
Bethlehem Steel Corporation
Boise Cascade Corp.
Bradford Coal Company
Buncher Company
Cabot Corporation
Clorox Company
ConAgra, Inc.
Consumers Power Company
Copperweld Corporation
Dart & Kraft, Inc.
Dexter-Carpenter Coal Sales Corp.
Diamond Bathurst, Inc.
Diamond Crystal Salt Company
Drummond Coal Company, Inc.
Early & Daniel Company
Elkem Metals Company
Energy Trading Corporation
FMC Corporation
General Mills, Inc.
Grafton Coal Company
GTE Service Corporation
Hepburnia Coal Company
Independent Bakers Association
Industrial Mining Company
Inland Steel Company
Institute of Scrap Iron & Steel
Interlake, Inc.
International Salt
Keystone Bituminous Association
LTV Corporation
Magnum Minerals, Inc.
Manville Corporation
Mining & Reclamation Council of America
National Intergroup, Inc.
National Piggyback Service
National Starch & Chemical
New England Electric System
Ohio Mining & Reclamation Association
Ohio Oil Gathering
Olin Chemicals
PBS Coal Company
Peabody Holding Company
Pennsylvania Coal Mining Association
Pennsylvania Power & Light
Pennwalt
Perdue Farms, Inc.
Pfizer, Inc.
PPG Industries, Inc.
Rail-Van Consolidated
Reading Anthracite Coal Company
Robbins Manufacturing, Inc.
Rochester Piggyback Services
Rohm and Haas Company
Sunkist Growers, Inc.
Tidewater Grain Company
U.S. Steel Grain Corporation
Universal Foods, Inc.
Witco Chemical Corporation.

RAILWAY LABOR EXECUTIVES' ASSOCIATION

The American Railway and Airway Supervisors Association—Division of BRAC
American Train Dispatchers Association
Brotherhood of Locomotive Engineers
Brotherhood of Maintenance of Way Employees
Brotherhood of Railroad Signalmen
Brotherhood of Railway Carmen of the United States and Canada
Brotherhood of Railway, Airline and Steamship Clerks
Hotel Employees and Restaurant Employees International Union
International Association of Machinists and Aerospace Workers
International Brotherhood of Boilermakers and Blacksmiths
International Brotherhood of Electrical Workers

International Brotherhood of Firemen and Oilers
International Longshoremen's Association
International Organization of Masters, Mates and Pilots of America
National Marine Engineers Beneficial Association
Railroad Yardmasters of America
Sheet Metal Workers' International Association
Seafarers International Union of North America
Transport Workers Union of America
United Transportation Union

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Washington.

Mr. GORTON. Mr. President, first, I would like to ask my distinguished colleague from Pennsylvania [Mr. SPECTER] whether or not he has included me as a cosponsor of his amendment and, if not, to ask him to do so.

Mr. SPECTER. I am delighted to say that I have already included the distinguished Senator from Washington as a cosponsor.

Mr. GORTON. I thank my colleague.

Mr. President, this question is not one which I have found free from reasonable debate by any stretch of the imagination.

During the long deliberations over the Conrail proposal in the Commerce Committee, I came down with some reluctance in favor of the proposal to sell Conrail to Norfolk Southern. I have since changed my mind on that subject and find the arguments for a different course of action at this point to be more compelling.

Nevertheless, Mr. President, it is only appropriate for me to say that I do feel that there are strong arguments on both sides of the question. I find myself in the unhappy situation of opposing the distinguished chairman of the Commerce Committee, although I must say I have found myself in that position before. I am sorry that it is the case, but it nevertheless is necessary for me to speak strongly in favor of this amendment.

Perhaps, Mr. President, if the only consideration before us was the fiscal strength of Conrail in the private sector, I might well favor the sale to Norfolk Southern. It might well be the case that these two large railroads, by consolidating, would both be stronger from the perspective of the market. Nevertheless, it seems to me that such a sale would be an appropriate choice only if we were convinced that Conrail standing alone would not be a viable entity. I am not convinced that that is the case. I am convinced that Conrail is potentially a strong and viable entity standing alone.

But the most important point that should be considered by all Members as they approach this vote is that there is more than one consideration at stake, more than one issue before this body. At least as important as the consideration of the strength of Conrail after it is returned to the private sector is the factor of competition.

Even if everything else were equal, Mr. President, it would seem to me that we should start with a strong bias, a strong presumption, in favor of retaining that competition.

One of the proponents of this amendment has placed before the body a map showing the overlap of Conrail and Norfolk Southern lines in the northern part of the Midwest of this country, showing how graphically those two railroad companies compete for traffic at the present time.

Certainly, many shippers, as described in the eloquent address of the senior Senator from Pennsylvania, are deeply concerned about a proposal which, in their view, and evidently from a mere look at the map, would lessen competition in rail transportation. That view is shared by shippers in my own State, far from the closest direct approach of either Conrail or Norfolk Southern, who nevertheless ship their goods all the way across the country and who are bothered by what they are convinced will be a lessening of competition should the Norfolk Southern sale be authorized.

It is argued eloquently by the very distinguished Secretary of Transportation and, I believe, by the thoughtful and distinguished chairman of the Commerce Committee, that we should reject the sale to Morgan Stanley because Morgan Stanley simply seeks to make a profit—seeks, perhaps, to sell this railroad to someone else or to the general public, as if somehow or other that were an inappropriate course of action for a private purchaser or a private owner of a railroad. I find it hard to convince myself that Norfolk Southern has not made its bid for Conrail because it expects to make a profit out of it, because it expects to run it in a way which benefits the shareholders of Norfolk Southern. Certainly, it should not have made any effort if it does not regard that benefit as a likely result. Of course Morgan Stanley hopes that it can run this railroad successfully, perhaps successfully enough to resell it for more than he pays for it. That, it seems to me, is the heart of the free market system.

Our concern should simply be whether or not it is, in fact, a viable entity. Certainly, Morgan Stanley regards it as a viable entity, not simply something that will go bankrupt again and be thrust back into the hands of the Federal Government. It will have wasted all of its time and money, should that be the case.

Personally, I am willing to take at least a mild chance on the workings of the free market in this connection, to say that I think that both Morgan Stanley and Norfolk Southern know what they are doing when they regard Conrail as a valuable and viable asset over which they have engaged in spirited competition.

Beyond this question of competition, which seems to me to weigh heavily on the side of an independent Conrail, there is also the question of how much the Federal Government itself will receive from any sale. We can certainly start from the proposition that it will receive nothing like its own investment in Conrail. We are going to sell it at a tremendous loss. An investment of some $8 billion over the years has made a much better railroad out of Conrail than it was under the aegis of Penn Central, but the maximum gain which we can expect from it, directly or indirectly, if we believe all of the figures of Morgan Stanley, is about $2 billion, or 25 cents on the dollar. But $2 billion, or $1.8 billion or $1.6 billion, is still better than the $1.2 billion which has been offered by Norfolk Southern, from which must be substracted greater tax benefits which would accrue under its purchase than would accure under a purchase by Morgan Stanley.

I do not believe that the price consideration is the overwhelming factor in our own decision as to which sale to make. It is probably not as important as either of the other two—the viability of Conrail and the retention of competition—but it nonetheless is important.

Finally, Mr. President, I can say that this is an issue which I have tried to approach from a reasonably objective standpoint. During most of the early consideration of this bill, I perceived that my constituents in the State of Washington, far from any Conrail routes, have little or no interest in the subject. That is not the case any longer. As this debate has proceeded, more and more of my constituents, most particularly in the port districts of the State through which much of our commerce flows, and many of the shippers who use our port districts and our own railroads, have become increasingly concerned with the Norfolk Southern sale for the reasons I have already outlined—because they feel that it will mean for them less competition and, in the classic justification of competition, less responsive and more expensive rail service, and perhaps even a diversion of traffic which now flows efficiently through our ports across the country to the Northeastern and Southeastern sectors of the United States.

As a consequence, with three considerations weighing on one side—constituent concerns, a better price, more competition—against the possible greater security or greater financial strength of Conrail in the hands of Norfolk Southern, it seems to me fairly and rationally that we should

retain that competition, that we should get that best price, that we should allay to the maximum possible extent the concerns of our shippers.

The distinguished chairman of the Committee on Commerce has quite eloquently stated, on the floor of the Senate and in the private meetings, that there are essentially three courses of action which the Congress of the United States can follow. One is the sale which he proposes of Conrail to Norfolk Southern. Two is the sale of Conrail in such fashion as to retain its independence. Three is to do nothing at all and keep it in the ownership of the Federal Government. I agree completely with the Senator from Missouri that the third of those potential courses of action is much the poorest. It is up to this body, it seems to me, to decide on a course of action rather than on a course of inaction. By our votes, both on cloture on the motion to proceed to the consideration of this bill and, earlier this afternoon, with respect to the budget waiver, a very substantial majority of the Members of this body have decided that we should take action, and should make one or another of these sales.

We are now going to make the most important single vote in this debate, a decision as to which of the two proposed sales is the better for the direct and indirect users of Conrail itself and for the people of the United States. After considerable soul searching, and after spending a great deal of time on this question, I firmly believe, Mr. President, and I submit to my colleagues that the better course of action is the amendment presented by the distinguished Senator from Pennsylvania, which takes the highest price, retains the greatest possible degree of competition, and moves us forward to asssure that we have a secure, strong, and effective employer and competitor in the Northeastern part of the United States as an independent Consolidated Railroad Corporation.

I thank the Chair.

Mr. PRESSLER and Mr. ROCKEFELLER addressed the Chair.

The PRESIDING OFFICER. The Senator from South Dakota.

Mr. PRESSLER. Mr. President, as an original cosponsor, I wish to make a statement in support of the amendment offered by my colleagues, the Senator from Pennsylvania. I strongly support the Morgan Stanley proposal. There are many reasons why the Morgan Stanley proposal is superior to the Norfolk Southern bid. Many of them have already been addressed. Let me highlight just a few that are of particular concern to me.

First, a stand-alone Conrail under Morgan Stanley will not present the huge antitrust and anticompetitive problems caused by a merger with the Norfolk Southern. This is especially important to Western and Midwestern States because a stand-alone Conrail will not harm our railroads through traffic diversions and monopolistic practices. I am prepared to offer an amendment to the Norfolk Southern proposal which will correct some of these problems, but a stand-alone Conrail would be a far superior solution to the problem.

Second, Morgan Stanley provides more money for the Federal Government. My distinguished colleague from Missouri seems to agree with this point, but says that the amount of return to the Government is really a secondary issue. He emphasizes Norfolk Southern's deep pockets and questions the viability of a stand-alone Conrail. I shall speak on that subject later, but let me say now that the issue of Conrail's viability was resolved long ago by the private markets. The Morgan Stanley bid represents many highly sophisticated investors throughout the country who are much better qualified to answer this question than either the Senate or the Department of Transportation.

But while, on the one hand, the distinguished floor manager argues that the return to the Federal Government is a secondary issue, he argues on the other that we must move forward on this issue now if we are serious about reducing the Federal deficit and complying with Gramm-Rudman-Hollings. Mr. President, we cannot have it both ways. I say to my colleagues that, if they are truly concerned about the Federal deficit, they should support the Morgan Stanley proposal because it clearly represents a larger return to the Federal Treasury and a real reduction in the deficit.

That leads me to the third issue of taxes. In addition to the $200 million extra cash offered by Morgan Stanley, the CBO estimates that Morgan Stanley represents an additional $400 million in tax savings to the Federal Government.

Finally, the Morgan Stanley proposal is far superior to the Norfolk Southern proposal in its treatment of labor. Mr. President, Norfolk Southern and its supporters argue that their proposal represents a better deal for labor. Well, without even discussing the differences between the two proposals, this issue is easily resolved by listening to the labor organizations. Every major labor organization in my State and around the country is adamant in its opposition to Norfolk Southern and very firm in its support of the Morgan Stanley alternative. I believe that labor itself is in the best position to determine what is best for the workers represented by the different organizations.

Mr. President, on all these points—on competition and regional railroad concerns, on the budgetary issue, on the tax issue, and on the labor issue—the record speaks for itself. The Morgan Stanley proposal is clearly the superior offer. I strongly urge my colleagues to vote for the Morgan Stanley alternative to Norfolk Southern. As a member of the Commerce Committee who has been deeply involved in this issue, I am not prepared to say that Morgan Stanley is the perfect solution, but I can safely say that it is miles and miles ahead of the Norfolk Southern bid when looked at from both a transportation policy and a public interest perspective.

Let me add, Mr. President, that I have spoken frequently on the impact that this sale will have on regional railroads in the Midwest, the West, the South, and, indeed, even in the East. The fact is that, if we allow a monopoly to exist in this region, we will be in a situation where railroads coming to gateways and ports, ships coming into ports, or trucks coming to gateways will find themselves at the mercy of a monopoly. The Morgan Stanley alternative is much more flexible.

Later, if the Morgan Stanley proposal is not adopted, I shall offer an amendment regarding regional railroads, providing that if there is over a 3.5-percent diversion of traffic that results from Norfolk Southern/Conrail's market power there would be potential for a review by the ICC. The burden of proof would be upon the petitioning regional railroad to prove a 3.5-percent diversion existed. Then Norfolk Southern/Conrail would have the opportunity to show that any part of those diversions were not caused by its market power. If Norfolk Southern/Conrail can show that less than 3.5 percent of the diversions were caused by its market power, the amendment will not go into effect.

The point is that we are creating a whole host of problems for railroads in other parts of the country, and, although we may be "saving Conrail-Norfolk Southern," we will be creating the very same problems in regional railroads throughout the United States where short-line railroads will be at the complete mercy of a monopoly. That is the reason that my amendment on regional railroads, which I will offer tonight or tomorrow, is very important. But it is my strongest conviction that we could avoid the need for that amendment, and avoid the problems we are creating, by voting for the Morgan Stanley alternative.

Mr. ROCKEFELLER. Mr. President, I rise to support the amendment of the Senator from Pennsylvania to return the Consolidated Rail Corporation [Conrail] to private sector ownership via a public offering conducted by the respected firm of Morgan Stanley, Inc.

Mr. President, the sale of Conrail is a complex matter, filled with exceed-

ingly cumbersome, yet relevant, arguments and concerns about potential antitrust problems, general rail competition, tax consequences, and shipper impact resulting from the sale. For almost a year I have read and studied countless documents, listened to committee testimony, met with dozens of people, and received thousands of letters on the subject.

Indeed, amid the blitz of paper and statistics, it is possible to lose sight of our common goal—to sell the railroad, for a fair and reasonable price, to someone, who, in our best judgment, will continue it as an ongoing, efficient and competitive enterprise. But we must not lose sight of our common responsibility—to exercise extraordinary care in ending the governments trusteeship role of Conrail, and to do so with an absolute minimum of disruption to the current transportation system.

Many Senators, Mr. President, have come to the floor during this debate and recited the arguments. If you oppose the Norfolk Southern bid, if you have studied the details, and made the judgment that it would be bad for your State, and for the Nation, the following argument is made: The Norfolk Southern plan should be defeated because their purchase of the railroad would undermine the already limited competitive forces in the railroad industry—the Justice Department, the Interstate Commerce Commission staff, and the United States Railway Association, as well as many outside experts, have produced reams of paper that conclude that the sale will have a substantial impact on competition. Further, given the on-again, off-again, and then on-again approval of the Justice Department to the divestitures required to satisfy the competitive concerns they raised, the process of antitrust review is far from complete. In addition, Norfolk Southern's is a substantially inferior financial bid, both in terms of actual cash to the government, and in terms of its tax consequences in future years.

Mr. President, others tell us that to choose Morgan Stanley's plan would leave Conrail vulnerable to eventual economic decline, and would cause the "ghost of Penn-Central past" to revisit the Halls of Congress. They say, further, that Morgan Stanley is akin to a corporate raider, planning to inflict a gaping wound on the cash accounts of Conrail.

Mr. President, I give the Secretary of Transportation, and Norfolk Southern credit. They have developed a complete plan to return Conrail to the private sector. The plan is about as good as you could expect from a direct railroad competitor, and in a circumstance where you are melding two rail giants into one behemoth. The question before the Senate, though, is have they done well enough?

Is it good enough that they have produced a plan which may result in the diversion of millions of tons of coal per year, originated from my State, to other States, at a time when the coal market is flat on its back? Is it good enough that they have produced a plan that causes shippers of steel, corn, paper, iron ore, and many other products, to wonder, will I lose my business, or, at the very least, will the loss of rail alternatives cause my transportation costs to rise? Is it good enough that they have produced a plan that poses substantial doubt as to whether the $1.2 billion received will disappear in tax advantages to Norfolk Southern?

Mr. President, for some in the Senate, the answer to that question may be "yes." For these members, the loss of competition, the risk of diversions, and the windfall of high-quality rail lines, and tax benefits, are a small price to pay just to get Conrail out of the hands of Government.

Mr. President, for most of us, the answer is not so clearcut. The impact on competition and on the businesses of our various States is important. The cost to our coal miners, farmers, steelworkers, and electric ratepayers is important. The $200 million in immediate cash difference between the Norfolk Southern and Morgan Stanley offer and the $400, $600, or $800 million difference—and tax loss to the Government—between the plans, depending which estimate you believe, is significant.

Were Conrail a basketcase, were it a current drain on the Federal Treasury, we might accept the impact, the costs of selling this railroad to Norfolk Southern. But, Mr. President, Conrail is a railroad that made $440 million last year, and $435 million the year before, and there is every expectation that it will earn comparable amounts well into the future.

Conrail is not a basketcase; it is a Chrysler after the turnaround. It is a company that was in desperate need of modernization, was in desperate need of new and innovative management, was in desperate need of the time and the resources to rebuild. But Conrail is on the rebound. It possesses a modernized plant, it has implemented innovative and shipper-oriented service options, it has become an aggressive competitor. It has become highly profitable.

Conrail, Mr. President, is viable in its own right. Morgan Stanley has taken up the challenge to do what the Department of Transportation should have done in the first place. It has assumed the financial risk of returning Conrail to private sector control via a public offering of stock.

Mr. President, I am a supporter of the Morgan Stanley option. In fact, I am an original cosponsor of the measure. Yet, I will not take the further time of the Senate to provide another recitation of the facts that weigh heavily against the combination of Conrail and Norfolk Southern and for the Morgan Stanley alternative.

For my part, I reached my decision on the sale of Conrail not solely because of the statistics and studies, but because the statistics and studies bore out what seemed to be the practical, commonsense conclusion—that three strong railroad competitors in eastern and midwestern markets are far better than two.

Had there been no reasonable alternative, I would have been for the sale of Conrail to Norfolk Southern, if the administration and Norfolk Southern had proven, with reasonable certainty, that at least the same, if not an improved, level of service, efficiency and competition would result from the combination of Conrail and Norfolk Southern; and if this could be accomplished without significant disruption to rail transportation.

But the fact is, Mr. President, it cannot. I have looked at the cold and drab statistics, the estimates of potential traffic diversions if Conrail were sold to Norfolk Southern, the impact this sale would have on the West Virginia coal industry, the impact this sale would have on the regional rail carriers of the midwest, the impact it would have on shippers throughout the country.

The experience of shippers in my State of West Virginia tell the practical side of the story. Any coal producer in my State can tell you that Norfolk Southern's rates for hauling coal typically exceed the rates of other railroads. An independent Conrail has been both a direct and indirect force of competition in many markets. Further loss of competition will lead to more hardship for my coal producers and miners and higher electric rates for consumers, while opening the door to increased coal imports to utilities—which has already been the case at New England Electric, and Viginia Power. These concerns are not unique to West Virginia, but are replicated in other industries throughout the Conrail service area.

If you look at these concerns—as they have been catalogued in excruciating detail by the ICC staff, by the U.S. Railway Association, by the various railroads, by the many State attorneys general, and by various State transportation departments—if you look at all these, you reach the inescapable conclusion that a sale of Conrail to Norfolk Southern is not justified. We would have ignored our responsibility to exercise extraordinary and unusual care in ending our trusteeship role.

Mr. President, the Morgan Stanley plan would take this railroad public the way it should be. It relies on the

free market system on which we depend, and to which we look for innovation. It structures Conrail's return to the private sector so that the government gets the best possible return on the investment it has made. Importantly, it avoids all the negatives that a sale to a direct railroad competitor entail.

Mr. President, despite Morgan Stanley's better financial offer, despite Morgan Stanley's ability to take Conrail public without a substantial impact on competition, despite the expert financial opinion of the 43 sophisticated Morgan Stanley investors as to Conrail's long-term viability, the red herrings keep coming. It is said that the Morgan Stanley investors won't show up at closing. It is said that they have guaranteed their investors dividends that will raid the Conrail back account. It is said that the less than 5 percent contribution of CSX to the investor group will hand Conrail over to another railroad.

The fact is, Mr. President, Morgan Stanely wants to take Conrail public and allow it to be operated by an independent board of directors who are committed to the same aggressive, service-oriented, and profitable practices as current management. The fact is that Morgan Stanley has firm commitments from its investors, and a provision to cover the unlikely event of one not showing up at the closing. The fact is that future Conrail dividends will be determined by the same type of management decisions as any other company in the Nation—based on the performance of the company. The fact is that Chessie's shares of Conrail will be put in a voting trust according to ICC guidelines, that Chessie will not have a representative on Conrail's board and will be limited in its ability to buy other shares.

Mr. President, when all is said and done, the bottom line is that the administration made a bad deal and has scrambled frantically ever since to justify it. They ruled out the possibility of a public offering and an independent Conrail, and they were wrong.

Everything else flows from that decision. There is no other reason that in this time of budget crisis, we would be asked to ignore the fact that Morgan Stanely has offered $200 million more than Norfolk Southern—and avoids future tax losses to the Government. There is also no other way to understand the contortions that the Justice Department has gone through, except as the best some talented lawyers could do when the facts were against them.

Mr. President, our judgment on this issue is a commonsense matter. We can sell it to Norfolk Southern with all of the attendant concerns about competition, diversion of traffic, and about the process that the administration used to review this recommendation. Or, we can avoid the disruption to the rail system, substantially improve upon the financial return to the Government, and keep a strong and viable third railroad in the east and midwest.

Mr. President, the best way to end the Government's trusteeship role over Conrail, the best way to exercise extraordinary care in returning Conrail to private sector management, the best way to exercise our collective common sense is to vote for the Morgan Stanely proposal. I urge my colleagues to support the amendment of the Senator from Pennsylvania and reject the committee bill.

Mr. President, I yield the floor.

Mr. SARBANES. Mr. President, I rise in support of the amendment offered by the distinguished Senator from Pennsylvania and join in the positions advanced by my colleagues who have been speaking recently on the floor in support of this amendment.

First, I think it is important to make the point that we are not in a crisis. Conrail made a significant profit last year. If the Government held on to it for another year, it would make, by every reasonable expectation, another significant profit. But I join those who think it is a desirable course to move in the direction of placing Conrail in private hands. The question is, which private hands, and how?

We have two major propositions before us, and it is clear that the Morgan Stanley proposal, in money terms, would be a better proposition for the Federal Government and for the people of our country. The offering price is $200 million more.

There is some conflict as to the figures with respect to the tax aspects of the sale, but the CBO figure for the discrepancy between the two proposed purchases is $400 million. It turns by some estimates as high as $800 million. If you take the lower figure, $600 million—the $200 million on the offering price and the $400 million on the taxes—that is an additional $600 million we are talking about for the U.S. Treasury, on a price of $1.2 billion.

So it is a 50-percent difference. I dare say there is not a Member of this Senate who, if they had an asset to put up for sale and another bidder came in with a 50-percent higher bid, would not want to look again at where he ought to sell that asset. Even if you leave the taxes out and talk only about the $200 million, that is a 17-percent difference. I dare say there is not a Member of this Senate who in selling an asset that a buyer would pay 17 percent more would not want to move in that direction, other things being equal.

I think the issue in a theoretical sense was well put by William Smith, the former chairman of the U.S. Railway Association, in an article which appeared in the Hagerstown Daily Mail last fall in which he said, and I am going to quote in part from his article.

> Deep pockets versus viability. These few words frame the debate over the future of Conrail, the Government-controlled railroad, operating in the Northeast and Midwest. Some, including the Department of Transportation, believe Conrail must be sold to one of its two major competitors, Norfolk Southern Corporation, because Norfolk Southern allegedly has deep pockets that will keep Conrail out of financial trouble. Others, including the United States Railway Association, all of the rail unions, many shippers and expert observers, as well as Conrail itself, believe Conrail needs no deep pockets and is on its own a strong viable railroad. My answer to the deep pockets versus viability debate is unequivocal. Conrail is a very profitable company owned by the Federal Government. It can be a very profitable company owned by private investors independent of an acquisition or a consolidation or a merger involving any other railroad.

He then goes on to talk about Conrail's improvement in operations subsequent to the Federal involvement and their current ability to turn a profit. In fact, he points out that last year, 1985, was expected to be an up year in the railroad industry. In the first half it did not turn out that way. Every major railroad in the United States, except the Union Pacific, experienced unexpected declines in revenue ton miles in the first 6 months of 1985. Conrail's traffic fell 4.58 percent, but only Conrail among those with falling traffic managed to increase profits. Both Norfolk Southern and CSX, the other two major eastern rail systems, saw lower profits and both on smaller traffic decreases than Conrail experienced.

Mr. President, the argument is being made that says ignore the better deal in terms of money because Council must be put into Norfolk Southern for an assurance of continuity. The fact of the matter is that numerous experts, good railroad men, say Conrail standing alone holds out the prospect of continuity.

Second, and very relevant to the judgment we must make, is the entire antitrust question, which I think is an extremely important question because it requires looking down the road as to how competition in the railroad industry is going to evolve and completition between the industry and other modes of transportation.

Twenty-five State attorneys general have joined in raising important antitrust questions with respect to this proposed sale to Norfolk Southern.

A number of them, including the attorney general of my State, submitted joint comments before the House Committee on the Judiciary, and in their conclusion in those comments they stated, and I quote:

> It would be a tragic error for Congress to become an instrument in the largest and most anticompetitive railroad merger in history. There is simply no sound rationale for

selling Conrail to Norfolk Southern. Conrail is a viable, independent, railroad, and the Department of Transportation should maintain Conrail as a competitive force.

We applaud the Congressional intent to return Conrail to the private sector. However, it is not necessary to destroy the competitive railroad transportation environment in the Northeast, the Midwest, and the South, to accomplish that objective.

Mr. President, that statement was made in October of last year. The Department of Justice twice has in effect found wanting, lacking, inadequate divestiture proposals made by Norfolk Southern with respect to this proposed merger. The Department has not yet come to Congress with a definitive statement on this issue. It seems to me exceedingly important that the Senate know exactly what the antitrust situation is with respect to the judgment of the Department of Justice before it proceeds in this matter.

The Morgan Stanley offer, of course, does not raise these antitrust questions, as my distinguished colleague from West Virginia pointed out. It in fact would result in maintaining, in a large part of the affected area, three railroads in competition with one another and certainly two throughout the rest of the area.

Finally, Mr. President, I want to make a point to my colleagues who come from areas of the country where they perceive themselves to be unaffected by the issue that is on the floor. I think it is fair to say that a clear majority of the Members of the Senate from those States that are directly affected by this proposed sale do not support the merger between Norfolk Southern and Conrail. In other words, those who have the closest touch with the problems of the shippers, with the problems of labor, with their own particular State and regional problems, see great difficulties in the proposal that has been brought forward from the Commerce Committee.

I really ask Members from States where they perceive themselves to be unaffected—and I believe the distinguished Senator from South Dakota made a very good point earlier when he pointed out that they may indeed be more affected in the future than they think—but to the extent they perceive themselves as being unaffected, stop and look and listen very carefully at this proposition. There is not a crisis. In fact, in money terms, the proposition which we are supporting, the Morgan Stanley proposition, is superior. We believe very strongly that it is clear, in terms of potential anticompetitive impact, that it is superior. It does not, in fact, raise those questions as the Norfolk and Southern merger would in fact do.

Therefore, I say to my colleagues who feel that they have no stake in it, that they have a stake, and if they take a careful look at the broader national interest, the arguments are on the side of Morgan Stanley—a better return to the Treasury, no anticompetitive dangers, strong support in the region directly involved and affected, unanimous support by the working people impacted by these rail operations, and strong support amongst the shipper community, although I concede that it is to some extent divided. Therefore, I hope that, as Members consider this matter, they take these various items into account.

The public sale proposal of Morgan Stanley represents an opportunity to leave Conrail as a strong, independent company, avoiding the noncompetitive effects of a merger with one of the two other Eastern rail systems. That alone is a strong argument for this amendment.

In addition, this amendment would bring a greater return by, under some estimates, a factor of 50 percent to the Federal Treasury at a time when that also is a matter of important consideration to us.

Mr. President, I ask unanimous consent that the full article by Chairman Smith be printed in the RECORD, along with two editorials opposing the recommendation of the committee and supporting the proposal now before us on the floor of the Senate.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Daily Mail, Oct. 2, 1985]

CONRAIL IS CAPABLE OF STANDING ALONE

(By William K. Smith)

"Deep pockets" versus "viability." These few words frame the debate over the future of Conrail, the government controlled railroad operating in the Northeast and Midwest.

Some, including the Department of Transportation, believe Conrail must be sold to one of its two major competitors. Norfolk Southern Corp., because Norfolk Southern allegedly has "deep pockets" that will keep Conrail out of financial trouble.

Others including the U.S. Railway Association (USRA), all of the rail unions, many shippers and expert observers as well as Conrail itself believe Conrail needs no deep pockets and is on its own, a strong, viable railroad.

My answer to the "deep-pockets versus viability" debate is unequivocal: Conrail is a very profitable company owned by the federal government. It can be a very profitable company, owned by private investors, independent of an acquisition, or a consolidation or a merger involving any other railroad.

This judgment does not come lightly.

From 1974 to 1980, I was director and chairman of USRA, the organization created by Congress to plan the Conrail system, to act as a conduit for federal funds used to modernize and operate Conrail and to oversee the reborn railroad's operations.

Before and after my work at USRA, I have served as vice president of transportation for one of Conrail's largest shippers, and I am currently involved in several transportation education and research activities.

As a result of this experience I was recently invited to testify before the House Subcommittee on Commerce, Transportation and Tourism on the question of Conrail's viability as a stand-alone railroad.

As I told the subcommittee, there is no doubt in my mind that the government can and should sell Conrail. Equally, there is no doubt in my mind that, assuming a continuation or increase in the level fo economic deregulation in the railroad industry, and an economic climate no worse than the past five years, there is no chance that Conrail will be unprofitable. There is no chance of a bankrupt Conrail. There is no economic reason to fear a "stand-alone Conrail."

Norfolk Southern and others who doubt Conrail's viability cite declining traffic. Yes, tonnage has declined from about 250 million tons in 1976 to 180 tons today. But, today's tonnage is profitable, while the 200-250 million annual tons in 1976 through 1980 were unprofitable.

Conrail's management and Conrail's employees have done an outstanding job of reducing and controlling costs, and the federal government's investment of over $3 billion has turned Conrail into one of the most modern and efficient railroads in the country.

Recent numbers speak for themselves—1985 was expected to be an up year in the railroad industry. In the first half, it didn't turn out that way. Every major railroad in the United States, except the Union Pacific, experienced unexpected declines in revenue ton miles in the first six months of this year Conrail's traffic fell 4.58 percent. But only Conrail, among those with falling traffic, managed to increase profits. Both Norfolk Southern and CSX—the other two major eastern rail systems—saw lower profits—and both on smaller traffic decreases than Conrail experienced.

Today, Conrail's traffic base is profitable because of sharply reduced operating costs and because it is a traffic base specifically sought by Conrail. The company's cost controls and marketing strengths permit a "stand-alone Conrail" and the consumer's needs for competition within the northeast railroad system require a "stand-alone Conrail."

In 1976, Conrail was described by USRA as an "monopolistic railroad." To add Conrail to the Norfolk Southern in 1985 would be an anti-competitive and anti-consumer act. Perhaps such an act could be justified if Conrail were not able to stand alone, but Conrail can stand alone and a sale to Norfolk Southern is definitely not necessary.

Fortunately, there is an alternative to the Norfolk Southern. The recent "public sale" proposals of Morgan Stanley and Company represents the opportunity to leave Conrail as a strong, independent, company avoiding the non-competitive effects of a merger with one of the two other eastern rail systems.

[From the Baltimore Sun, Jan. 21, 1986]

ITEM NO. 1 FOR THE SENATE

When the Senate returns to work today after an extended recess, the first item on the agenda will be the Reagan administration's proposal to sell Conrail to the Norfolk Southern Corp. It is a bad idea that should be rejected.

Conrail was formed by the federal government in 1976 to take over six bankrupt Northeast rail lines. Since then, $7 billion has been spent modernizing the company and making it a viable entity. This approach has worked. Conrail now has been profitable for five consecutive years. It has a cash surplus of $910 million. And its net income for

1985 is expected to reach $440 million, despite a decline in freight traffic that affected all major U.S. railroads and spending $572 million on essential capital investments.

The problem with selling Conrail to Norfolk Southern for $1.2 billion is that it would wreck other, competing railroads serving the Northeast and Midwest. Shippers would find themselves at the big railroad's mercy. Arch-rival CSX would be badly hurt. Maryland's economy would suffer a body blow, with the new railroad diverting freight traffic away from the Port of Baltimore to Norfolk.

It is not surprising, then, to find both Conrail's management and its labor unions opposing a Norfolk Southern takeover. Numerous rail shippers in the Northeast and states in the Midwest—as well as the state of Maryland—also are fighting the proposal. They want to see Conrail maintain its independence. The Senate should listen carefully to their arguments.

The U.S. Railway Association, which oversees Conrail's operation for the federal government, expects the railroad to remain profitable for the rest of this decade. Projections of Conrail's profits for 1989 are $400 million—proof that the company is now strong enough to withstand adverse economic downturns on its own. Why risk devastating the economies of a number of Midwest and Northeast states and railroads to sell off Conrail to Norfolk Southern?

Yes, Conrail should be returned to private ownership. But that can be done through a proposed stock offering from a group headed by Morgan, Stanley & Co. that would net the government $1.4 billion, or by considering additional bids. Congress could write restrictive covenants into any sale agreement to assure that Conrail remains independent and retains profits for internal improvements. That is the option the Senate should pursue in its Conrail debate.

[From the Star-Democrat Sept. 16, 1985]

MORGAN YES, NORFOLK NO

Nine years ago, Congress created Conrail Corp. from the remnants of the bankrupt Penn Central Railroad and other failing railroad lines in the Northeast (including ones here on the Eastern Shore), and Midwest. Since then, the government-subsidized corporation has made a remarkable economic recovery, largely because of the efforts of L. Stanley Crane, a retired railroad executive, who took over Conrail's operations in 1981.

Mr. Crane assembled a new management team that cut 3,500 miles of unprofitable branch lines from the Conrail system, eliminated unneeded facilities and pared 21,000 workers from the payroll. The remaining workers agreed to forego some scheduled pay raises and they accepted work assignments that increased productivity.

Because of its streamlined operation, Conrail now has a book value in excess of $4 billion. The corporation has turned a consistent profit during the last four years and has $1.05 billion cash on hand, including $850 million in a cash reserve and approximately $200 million in excess funding for the corporation's pension commitments.

This dramatic turnaround began about the same time that President Reagan secured congressional approval to sell Conrail to the highest private bidder. After screening several bids, the U.S. Department of Transportation recommended that Norfolk Southern, a Virginia-based railroad conglomerate, purchase the corporation for $1.2 billion.

Congress ought to reject the Transportation Department's recommendation and preserve Conrail as an independent entity. This could be accomplished by allowing a group of private investors represented by the firm of Morgan Stanley & Co. to purchase Conrail for $1.2 billion and make it a publicly owned corporation.

Although the proposed purchase prices are identical, there are important differences between the two offers.

For starters, a public stock offering would allow an independent Conrail to preserve effective rail-freight competition in the Northeast and Midwest and connecting routes in the South and West. In fact, the Interstate Commerce Commission and the Justice Department have concluded that Norfolk Southern's acquisition of Conrail would give the conglomerate a virtual monopoly on rail transportation in the Northeast.

The Morgan Stanley offer, moreover, would permit the government to recoup an estimated $600 million in tax revenues by preventing Norfolk Southern from sheltering non-Conrail income from federal taxes. The Transportation Department has reached agreement with the Internal Revenue Service wherein Conrail's net depreciable assets valued at more than $3.1 billion would not be charged as taxable income to Norfolk Southern. Meanwhile, Morgan Stanley has offered the government an opportunity to participate in any appreciation of the price of Conrail's stock. The government would have the option to purchase 1 million shares of the corporation's common stock at $48 per share for 10 years after the stock is offered to the public.

Finally, an independent Conrail would preserve jobs and pension benefits for its employees who have made considerable sacrifices to make the corporation solvent. Norfolk Southern estimates that 1,800 jobs would be eliminated following the merger. And the conglomerate is only willing to guarantee the pension fund for another five years.

The heart of the matter, however, is that Conrail deserves to remain as an independent company. Apart from the corporation's financial comeback, it has become an effective force in the freight-transportation marketplace, respected by shippers and consumers alike. Indeed, readers of *Distribution* magazine in 1984 voted Conrail the best railroad in the country overall, and eighth best among all transportation companies.

Yet, the Transportation Department and Norfolk Southern insist that Conrail cannot survive the rigors of the marketplace without merging with the conglomerate. This self-serving argument is effectively countered by the numerous independent analysts who point to Conrail's strong performance these last four years. The U.S. Railway Association, an agency established by Congress to oversee Conrail, emphasizes that the corporation can continue to "generate a positive cash flow for the forseeable future" and will enhance competition in the railroad industry.

Congress should insist that Conrail remain an independent entity. And Morgan Stanley's proposal, which would return the corporation to the private sector, is the best way to achieve that worthy goal.

Mr. RIEGLE addressed the Chair.

The PRESIDING OFFICER (Mr. BOSCHWITZ). The Senator from Michigan.

Mr. RIEGLE. Mr. President, I thank the Chair. I ask for the attention of my colleagues, both in the Chamber, and the senior staff people working on this issue, as well as those that may be in their offices and listening to this over the broadcasting system, because I rise as a member of the Senate Commerce Committee.

I have not yet spoken in this debate about this issue, although others have, and we have had some considerable amount of debate and discussion up until this point. But I have withheld speaking until others have had a chance to speak and until we could see if there might be some movement, either by the administration or by some of the other players in this particular situation, and that has not taken place.

So I rise today to address my remarks principally to those who may not have yet a final judgment as to how they intend to vote, both on the proposition upcoming from the Senator from Pennsylvania, and then, depending on the dispositon of that, on any other votes that follow.

I have probably spent as much time on this issue as most Senators serving on the committee. As the Senator from West Virginia, Senator ROCKEFELLER, said, he received a lot of letters and had a lot of meetings and certainly that is true in my own case.

I have studied this very carefully. I listened to the testimony and the presentation of the administration in the Commerce Committee very carefully. I have to tell you, I am very troubled about where I find us now in terms of the action that is being pressed upon the Senate at this time.

We have just started the second session of Congress. This is the first order of business. It is obvious there is an attempt, I believe, to try to push this thing on through in a rather hurried fashion. Obviously, those who have opposed it have taken the time to try to get at least due consideration of their position. But I think that, by itself, is a signal that something may be amiss here, and in my view something is amiss. There are some very serious problems here that have not been answered and we are being asked, in effect, to just roll over those problems in terms of an action here that I think is not justified.

I believe Norfolk Southern is a fine railroad. I am impressed by their operating performance over a period of time. They know what they are doing in the railroad business. My hat is off to them. I feel the same way about Conrail. Conrail has justified the faith of the Congress and the American people in terms of their operating performance, as well, in the most recent operating periods and there are signs that that will continue, in fact, in both cases.

But what I am troubled about here more than anything else is that we are seeing a recommendation by the administration and by the committee—not, I might say, with my vote, but by a majority of the committee—to sell this public asset, which belongs to the American people, and the value of the asset belongs to the American people. We are here as trustees in their behalf and we are being asked to sell that asset not to the high bidder, not to the high bidder, but to the low bidder. And we are not talking about giving out Government contracts now where we try to give those to the low bidder. But when you are selling assets, you are selling something that belongs to the American people. If we are going to sell it, if it makes sense to sell it, we ought to sell it to the highest bidder. We ought to realize the full value of the sale of that asset.

Now, that is not to say there are not other things that have to be looked at, because there are, and I will deal with those in due course—certainly the competitive aspect, certainly the operating plans, certainly the impact on rail labor, all of these issues need to be looked at and I will in due course.

But none of them, when you look at them, favor the Norfolk Southern package, which adds to the troubled feeling I have and why I think anybody that has not made a judgment better take a very careful look at this before we steamroller a decision through to sell something that belongs to the American people for less than full value.

I have talked with all the participants. One of the questions that I asked Morgan Stanley, I said:

Look, if you are favored in this ultimate decision by the Congress and your investment consortium has the opportunity to buy Conrail and take it out of Government ownership and put it into private ownership, how much money will be in that check that is put on the table at the closing when the documents are signed and ownership is transferred? What will be the printed dollar figure on that check?

And the answer was it will be $1,400,000,000, and that is a lot of money. And that is a certified statement by a group of people that I believe are telling us the truth. That is their offer.

And yet we are being asked to turn aside a buyer who is prepared to pay $1.4 billion and, instead, sell the same asset to a buyer who is only going to pay $1.2 billion and, right on the face of it, forgo that difference of $200 million.

Now here we are struggling with a budget deficit in the range of $200 billion. We have just passed the Gramm-Rudman legislation to figure out how we are going to squeeze down budget deficits. We are on the verge of across-the-board cuts of one size coming here within a matter of weeks and then much deeper cuts coming later in the year for fiscal 1987. And yet we are being asked by the administration and by the committee to come in here and sell a public asset for less, substantially less, than somebody else is willing to pay for it.

Well, I will be frank to say to you that we need the money, we need the extra $200 million.

Frankly, there is absolutely no justification for forgoing it.

If Norfolk Southern came in here and said, "we will up the ante," we will pay the $1.4 billion, and we will neutralize that difference. That would be a very substantial showing on their part. They have not done that. What they are saying is at the closing they will have a check for $1.2 billion. Well, I want a check there for at least $1.4 billion. So their first obligation if they want to buy this public assset is to match that offer dollar for dollar. If they are not willing to do it, I am not terribly sympathetic. But I think when we are selling public assets we ought to sell them for the high dollar, and not the low dollar.

That is just part of it because there is a question of very important tax considerations that work their way back through to the revenue flow to the Federal Government, and in the end comes down to the bottom line; namely the Federal Government deficit which is a matter of enormous concern and difficulty at this time.

The Congressional Budget Office which works for us, and is an impartial body, has made an estimate of the difference in the tax impact if Norfolk Southern is the buyer versus someone else—in this case Morgan Stanley, or if some other buyer were to be considered in a serious way.

What they have said to us is that not only is this offer adverse in terms of being $200 million too low on the cash on the table basis, but we would lose according to CBO's estimate another $400 million in terms of tax credits that would be available to be used by Norfolk Southern reducing the ultimate financial result to the Federal Government that would not be available to Morgan Stanley or presumably some other buyer.

That $400 million added to the $200 million cash on the table is $600 million. It is six-tenths of a billion dollars. That is a lot of money. It is not our money to squander. That money belongs to the American people. It represents the value of these assets.

Mr. SARBANES. Will the Senator yield at that point?

Mr. RIEGLE. I yield briefly.

Mr. SARBANES. $600 million, which is the addition that the Government would realize from Morgan Stanley, is 50 percent of the Norfolk Southern offer. In other words, we have another offer in here that is worth 50 percent more than is now being argued by the Department that we ought to take—50 percent. It is not something at the margin where you say, this is for another 5 percent more or 10 percent more. There is a 50-percent difference.

Mr. RIEGLE. The Senator is exactly right. The question that has to be asked, and frankly the Senate has the first obligation to ask the question because we are the body that is taking it up. I am certainly asking it now. I am not satisfied with the answers. But I say this as well; the American press has an obligation to ask this question. Why is this being done? Why is this being done particularly at a time of national budget crisis? What conceivable justification is there for that kind of loss of dollar value to the Federal Government at this time? I will tell you something: If we do this now we should not put it just in the context of this particular transaction—since there will be other transactions of this nature.

I am told the President in the State of the Union Message a week from now is going to come in, and in the name of the private sector talk about fire-selling off all kinds of Federal assets, presumably Federal land, weather satellites again, and I do not know what all is going to be on the list in terms of things that are going to be offered to be sold to the private sector, and the money will presumably be used to reduce the Federal deficit.

Are we going to sell those things for the low dollar? Are there going to be any set of reasons or arrangements, or decisions made in a hurried fashion to sell off what belongs to the American people for less than full value? I hope not. It certainly ought not to be done in this case.

But I do not know why people are not asking that question because it seems to me on its face—on its face—we are obligated not to take the low-dollar offer, and at a minimum anybody that wants to buy this asset ought to come in and offer full value—full competitive value.

If the situation were exactly reversed, if we were in here today and the Morgan Stanley offer were the low offer, and Norfolk Southern were coming in with a high offer, I would be making the same point the other way, and properly should.

So on the dollars and cents side of this thing, something does not smell right. I do not know how to get that outside this Chamber, through the national press, and out to the American people. But it is their money. If we sell this thing for less than it is worth, it is just like stealing the money from the American people because it is their money. They put it at risk over a period of time to get Conrail on its feet, and when it is sold it ought to be sold for top dollar—not something less.

I am frank to say I do not know why the Department has itself way out on this limb in this fashion. I do not know who said what to whom or whose reputation is on the line or how this whole thing got sort of put into this kind of a situation, but on the face of it, when we have this kind of a budget deficit, and we are talking about cutting all Federal spending, we cannot turn around and say to the American people we are going to sell a very valuable asset here for less than it is worth. We are going to sell it for less than somebody else is going to pay for it. How do you say that to the tune not just of the $200 million cash on the table but at least another $400 million in terms of tax credits which come right down through to the bottom line which is the Federal deficit?

How are we going to say to the American people, "Look, we are going to inflate that deficit by $600 million because we would rather sell this to the low bidder rather than to the high bidder"? That just does not hold water. That just is standing any kind of common sense on its head. The public when they understand this is going to resent it. They are going to resent Senators who vote that way. People ought to at least vote with their eyes open. They ought to know what is about here. Those are not the only financial factors. There are at least two others.

Mr. HARKIN. Will the Senator yield?

Mr. RIEGLE. I yield briefly.

Mr. HARKIN. I thank the distinguished Senator from Michigan for yielding.

I want to compliment him on his remarks. I have been listening to this entire debate. A lot of Senators have made very good statements, and have pointed out the essential flaws in this proposal of Norfolk Southern. I think the distinguished Senator from Michigan, as he has so often done in the past, in the closing hours of debate, really put it all together. He has asked the essential question, "Why? Why are we doing this?"

I am going to ask unanimous consent on my own time later to insert an editorial that was in the Des Moines Register yesterday. The editorial talked about how bad the deal is going to be for the State of Iowa in terms of selling Conrail to Norfolk Southern. The editorial writer said the Secretary of Transportation "engineered the negotiated sale for $1.2 billion despite a later better offer of $1.4 billion that would keep Conrail intact. She has invested too much prestige in the deal to back away from it." Those are not my words. Those are the words of the editorial.

Is that what we are being asked to do here, to sell this to the lowest bidder, to sacrifice this additional money that we can raise for the taxpayers because of the invested efforts in it? I mean, is that what we are being asked to do? Is that the reason?

Mr. RIEGLE. If the Senator is posing that as a question, I would hope not.

I have enormous professional regard for the Secretary of Transportation as well as enormous personal regard. I would not in any way attempt to characterize her position other than being what she thinks is right, and what is sound.

But I will say this: The bureaucrats who are involved in this, have their fingerprints all over it, and have gotten themselves out on a limb on this issue simply do not have the facts on their side.

I just do not know how we turn to the American people today, and ask them to take less than full value for something that belongs to them.

If we make this judgment this way, I think we will have acted improperly. This is not the way it works in the stock market or any other place. I hear talk about free markets, and open markets. And I believe in them. If you are going to sell something, and a public asset, why in the world is it you do not sell it to the highest bidder? Why is it under any set of circumstances you sell to the low bidder? Some might say, well, there are other factors involved. There are other factors involved. Let us take a look at them because every single one cuts on it the other way.

What about the competitive problem? I asked, in the Commerce Committee and the Justice Department. They are involved in a million and one things. Have they gotten their work done to give us a final Justice Department approval to the effect that this union of Conrail and Norfolk Southern would not be anticompetitive to the commerce of this country?

Frankly, I must say, we were given an assurance, what I took for an assurance, in the committee that this issue would not come to the Senate floor until we had that kind of an ironclad approval from the Justice Department. I will tell you, we do not have it today. We do not have it as we stand here.

Frankly, it is not right that we are here without it.

I will tell you why we do not have it: because it is anti-competitive and they cannot make the proper finding, the proper ascertainment, to the contrary. So they are holding back. The effort is being made to sort of rush this thing on through.

Frankly, it is an embarrassment. It is an embarrassment to the Senate and I think it is an embarrassment to the committee that we are here without that final judgment, making it clear as a bell, putting the Justice Department on record, that no antitrust problems exist.

That cuts against accepting this Norfolk Southern offer or whoever else might be making it in their stead under the same circumstances.

You might say, well, what about the operating plan? We inquired about that. When we were in the committee, there was no operating plan. I asked for it repeatedly. They said they were developing the operating plan. They did not have it yet. Quite frankly, there were efforts going on to do a little bit over here to try to satisfy one Senator, do a little manipulation over here to satisfy another Senator, another area, a few customers here and there to try to develop support along the line.

We do not have an operating plan as of this day. We do not have a full operating plan. Yet, we are being asked to make a final judgment and sell these assets off at less than full value. Does that distinguish us as a body in terms of the kind of care with our work that we should be taking? I think not.

What about the labor agreements? There are a lot of jobs involved here. A lot of people have devoted their life to railroading, not just in the top of these companies but down through the ranks. What will happen to the jobs of these different rail companies that are affected. Some are in my area. But to all of them, have we an answer for that?

I asked the question in the committee hearings, what was the labor plan that was being put forward by the administration and by this presumed buyer that was being favored, namely Norfolk Southern?

I was told, "Well, that will be taken care of." One can read the committee record and see for themselves those kinds of assertions were made. They were misleading. They were assertions that were made because without any firm understandings and there are no agreements today on the labor issue.

Where are we tonight? We do not have clear answers on the labor situation. What is going to happen to the jobs involved? We do not have clear, final and clear, answers on the anticompetitive side of this puzzle. We do not have that either.

Plus, we have a situation where there is such a wide disparity in the numbers that anybody who does not have a particular angle on this thing who would look at it cold would say: "Something is wrong here. Why are we selling these assets to the low bidder and at less than full value when we have other serious bidders there who have more money on the table?"

Well, the bottom line is there are not any good answers. There are no good answers because this is a bad recommendation. It has a bad smell be-

cause these issues that I have raised do not provide the proper kinds of answers that would be required.

I do not like saying it, but I do not like to see us in this situation. I think it puts the Senate procedures in a poor light, frankly, because it suggests we cannot do our work properly, when we come in here right off the bat in the second session and try to rush this thing through without the kinds of answers being available to the points I have raised here. I am disturbed about it.

As I say, I have enormous regard for Norfolk Southern as a railroad. These people know how to run railroads. I am impressed by that. I am impressed by their performance. But that does not mean that they have a right, or that anybody else has a right, to come in here and buy off valuable public assets for less than they are worth and to inflate the Federal budget deficit by at least $600 million. In fact, it is more than that because there are two other factors that ought to be mentioned just in terms of the completeness of the record.

One is the fact that there is an impact in terms of revenues to the Federal Railroad Retirement System that ought to be cranked into the equation if we are going to try to really make accurate comparisons. But that also cuts against the Norfolk Southern offer. It widens the gap.

It is the same thing with respect to the warrants that have been offered as part of the Morgan Stanley package, and so forth, which widen it even further.

This is not just a debating issue between Senators and between the administration and the Congress across party lines or what have you. In the end, we ought to set all of that aside because we are really here in behalf of 240 million American people and most of them are feeling squeezed these days. They are having a hard time sending their kids to college. They are having a hard time with their utility bills in the wintertime. They are having a hard time saving money. They are having a hard time getting ahead. They are worried about the Federal budget deficit. They are worried about the growing trade deficit.

They want us to be intelligent on these money issues. They want us to stop squandering money. They want us to stop spending on things that are not necessary. They want us to stop wasting money in other forms, whether it is $9,000 for a wrench in the Pentagon or gold plating something or poor administrative practice in any part of the Government. They are exactly right.

How does it look? Here we are about to make across-the-board cuts under Gramm-Rudman and we are going to go to the American people and say, "The first thing we are going to do this year is take this major asset you have been investing in and we are going to sell it. But we are not going to sell it for what it is worth. We are going to sell it for less. You will get less than your money's worth. That is how serious the financial problem is around here, that we are going to give away $600 million."

That is unfair competition. If you were selling this on the floor of the New York Stock Exchange, you would sell it to the high bidder, not the low bidder. It is only when the bureaucracy gets involved. We are selling assets at less than the full value to the low bidder rather than the high bidder. There is no justification on its face.

They would do that right today with the Federal budget deficit where it is and that is the bottom line, that there is a bottom line on this transaction. The bottom line says to us that we are absolutely unjustified on any grounds in accepting this recommendation from the Commerce Committee and it ought not to have been made.

I appreciate my colleagues and senior staff members for listening to my thoughts on this. I feel strongly about it, as I said. I have spoken about it before. I hope that I can see something done here to try to adjust this thing and try to make it more realistic. At the point we are now it is a sham. At least the public ought to understand what is happening here. If we are going to squander the public's money they ought to know we are doing it, and at the same time when we vote we would have a way to track where everybody is on this issue.

I am upset about it. Here we are, we are going to cut everything else—UDAG grants, veterans' pensions, and a lot of other things—because we do not have enough money. But we have enough money to give away, in effect, $600 million of the public's money. Well, not with my vote. Not with my vote.

If we can settle the other issues, the operating plan, settle the anticompetitive aspects and maybe some adjustments that need to be made, and if Norfolk Southern is willing to walk in here and pay the same price that someone else is willing to pay, including the offset for the tax benefits, then they will find somebody who will be very sympathetic to the sale to them. I am open to it. That would be an even-steven proposition. That is something where the American people would be getting a fair shake. But anything less than that is not a fair shake. It is not a fair shake and I do not care how you dress it up because the numbers tell the story.

I hope that we would sell this to the high bidder. If Norfolk Southern wants to adjust its proposition and make itself the high bidder, that is fine with me, assuming the other situations that I have mentioned are already attended to, or Morgan Stanley or anyone else who wants to come along. There is another investor group that has indicated it is interested in buying it. But I am not prepared to shut the bidding down or to give it away to someone who is not prepared to pay the fair price or the full price. That is what we are proposing here. I would like to see it so at least the cards are out on the table.

Let us make no mistake about what is happening here. People ought to vote with their eyes open when they vote.

I conclude by saying I hope the senior staff will bring these facts to light, bring them to the attention of those Senators who may not have been here when these remarks were made. They are going to have to live with these facts. We are all going to have to live with these facts, because those are the facts. I wish they were otherwise.

So the Senate is going to have to decide to accept or not to accept the recommendation here unless there are fundamental adjustments in it and send this back to the committee, which would be one option. It is pretty hard to pick and choose between proposals or decide which we ought to pick, although on its face today, the Morgan Stanley offer is a far better offer, a far larger offer financially and solves the competitive problems that Norfolk Southern creates and does not solve. If we do not do that, we ought to go back and make an honest, careful effort to sell these assets for full value and not for something substantially less.

We cannot play favorites, I hope, in terms of something as important as this and with the financial crisis we have on our hands.

Mr. President, I yield the floor.

MORGAN STANLEY PLAN—THE SUPERIOR CONRAIL SALE ALTERNATIVE

Mr. DIXON. Mr. President, the Senate has before it two alternatives for selling Conrail: the Norfolk Southern proposal, as recommended by the Secretary of Transportation, and the Morgan Stanley public offering proposal.

Let me say at the outset that I have the greatest respect for the Secretary of Transportation. She has worked hard and long in an effort to return Conrail to private ownership. I appreciate her efforts, and her openness and willingness to consult with me and other interested Senators as the extremely long sales process moved along.

I would also like to say that I am among the first to acknowledge that the Norfolk Southern is one of the best run railroads in the United States—and it may well be the best run. Norfolk Southern has been efficient. It has provided high-quality,

cost-effective service to its customers, and no one can doubt its reputation as an innovator.

It pains me, therefore, to be opposing the Secretary of Transportation and the Norfolk Southern on this Conrail sale issue. I share their desire to see Conrail rapidly returned to the private sector, and I agree that Congress should sell Conrail in a manner that will ensure that we will not have the railroad back in our laps in another 5 or 10 years.

While I would like to be supporting Norfolk Southern, I cannot. The reason I cannot is that there is a far superior offer now on the table—the Morgan Stanley public offering proposal. Morgan Stanley provides a far greater return to the Treasury than Norfolk Southern, and it avoids the serious antitrust problems raised by a Conrail-Norfolk Southern merger.

The Morgan Stanley investment group, Mr. President, consists of 43 investors that can only be characterized as the "bluest of the blue chip." They are not fly-by-night operators. They are institutions, like Columbia, Harvard, the Metropolitan Museum of Art, the Dreyfus Corp., New York Life Insurance, and T. Rowe Price Associates, Inc. Yet, these hard-nosed, conservative investors are willing to put up $1.4 billion in cash on day of closing for the Government's 85 percent share of Conrail—$200 million more than Norfolk Southern is offering.

In addition, according to the Congressional Budget Office, the Morgan Stanley plan means approximately $400 million more in tax revenues to the Treasury than Norfolk Southern's proposal. Finally, the Morgan Stanley investor group is willing to provide the Government with warrants on the new Conrail stock, which provides the Government with an opportunity for a still higher return on the sale.

The net result is that the Morgan Stanley plan is worth at least $600 million more to the Treasury than Norfolk Southern's offer. Let me repeat that for my colleagues. Morgan Stanley is offering over $600 million more than Norfolk Southern. I won't quote one of my distinguished predecessors from Illinois, Senator Everett McKinley Dirksen, on whether $600 million is a significant sum; I am confident that even in this era of $200 billion plus annual budget deficits, the Senate recognizes that $600 million is a lot of money; $600 million represents roughly 20 percent of the over $3 billion the Government invested directly in Conrail.

Even more importantly, it represents over 5 percent of the amount scheduled to be cut under Gramm-Rudman-Hollings on March 1 of this year. We are facing a budget deficit that could exceed $220 billion. the Gramm-Rudman-Hollings deficit reduction targets mean we will have to find perhaps as much as $75 billion in cuts for fiscal 1987. Six hundred million dollars may not look large when compared with those appalling numbers, but given the wrenching cuts we will have to be making, I don't see how we can possibly afford to pass up a bid that is so much more financially attractive.

I think it is especially difficult to even consider the lower Norfolk Southern bid, Mr. President, because of the major antitrust problems a Conrail-Norfolk Southern merger presents. I will not take the time of the Senate to discuss the antitrust problems at length. I made a long statement on the problems earlier this week. Let me simply say at this time that the competitive problems an NS-Conrail merger would present are widely known. The staff of the Interstate Commerce Commission, the United States Railway Association, 25 State attorneys general, railway labor, literally hundreds of shippers, cities and local communities, States, and railroads that connect and compete with Conrail and Norfolk Southern have all provided clear and convincing evidence of the antitrust problems the Norfolk Southern proposal causes.

Even the Department of Justice acknowledges that a Conrail-Norfolk Southern merger is anticompetitive. In fact, the Department's own figures indicate that the antitrust problems of a Norfolk Southern-Conrail merger are over twice the size of those presented by another railroad merger the Department is currently reviewing, the proposed Santa Fe-Southern Pacific merger. The San Fe case is particularly relevant because Justice is arguing that the anticompetitive problems presented by that merger—though less than half the size of Norfolk Southern-Conrail—cannot be resolved by any divestiture proposal. They are just too serious.

Norfolk Southern is aware that its proposal is seriously flawed on antitrust grounds and has proposed three different divestiture proposals in an attempt to alleviate at least some of the problems. Their first proposal, the only one to get any kind of real independent review, was rejected as inadequate, as was the second. Justice has said that the third proposal "appears on its face" to resolve its concerns, but Justice has yet to even hire the independent consultant it said it wanted to review the proposal, suggesting Justice was afraid of what an independent review might find. Justice admits it does not have most of the information needed to make an informed judgment on the adequacy of the third divestiture proposal, and those who would be adversely affected by the proposed transaction have had no opportunity to review the proposal in detail, and no forum in which to raise objections or concerns.

Further, the proposal addresses only part of the antitrust problems, and it is difficult to see how even that partial solution could be successful. The third divestiture plan, like the previous two rejected plans, depends on two very maginal railroads—Guilford and the Pittsburgh & Lake Erie—to provide competition for the proposed giant Conrail-Norfolk Southern system. It is much more likely that Guilford's and the P&LE's very existence would be at the sufferance of Norfolk Southern. These small railroads' financial condition can be easily summarized. If this were 1976 instead of 1986, there would be no discussion of whether they could provide viable competition to Conrail-Norfolk Southern; instead, they would have been included with the other bankrupt carriers that formed Conrail.

The Senate can avoid these antitrust problems very easily, Mr. President, by choosing the Morgan Stanley public offering proposal. Morgan Stanley, by keeping Conrail independent, preserves the competitive status quo and avoids any antitrust concerns.

Now some may argue that it makes no difference that Morgan Stanley is offering more money and that it avoids antitrust problems because only Norfolk Southern provides long-term assurance that Conrail will not again become a ward of the Government.

I was initially skeptical of Conrail's ability to survive and prosper over the long-term. For a long time, I was somewhat inclined toward the idea of using the "401" process to sell Conrail. Under that procedure, the Secretary could sell Conrail in pieces to individual railroads and others, which also avoids anticompetitive problems and would also work to maximize the return on the Government's investment in Conrail.

Careful analysis of Conrail, however, has convinced me that it can and will be viable over the long term. Conrail has been profitable for the past 5 years, and has had positive cash flow during that period. Further, the evidence is convincing that Conrail has become a lot more efficient then it was in 1976, and that it now provides high-quality, cost-efficient service to its customers. Independent analysts such as the United States Railway Association also confirm that Conrail is financially viable.

There are literally mountains of evidence that conclusively demonstrate Conrail's ability to survive and prosper as an independent carrier. I won't take the Senate's time to cite a lot of figures to show that Conrail is in sound financial health. Instead, I'd like to briefly discuss just one reason that to me provides very persuasive evidence of Conrail's viability—the sale process itself.

When the Department of Transportation asked for bids on Conrail, it did

not receive one or two reluctant bids, as it might if Conrail were widely perceived as an economic failure. Rather, it got 15 bids—15—which seems to me to indicate that a lot of very sophisticated people believe Conrail is a good investment and can make it on its own.

One of the bidders was the Norfolk Southern Corp. As I stated earlier, I have the greatest respect for NS. It is a hard-nosed, well-run corporation, and it does not have a reputation for wasting its money. And unless I am greatly misinformed, it is not a charitable enterprise. It does not make investments that it does not believe will be profitable.

Yet there seems to be some feeling that Norfolk Southern will use its "deep pockets" to protect and support the "marginal" Conrail system. Nothing could be further from the truth. The history of the Norfolk Southern and its predecessor railroads demonstrates that they do not put good money after bad to subsidize unprofitable operations. The Norfolk & Western never did so with the Delaware & Hudson, the railroad that is now a part of Guilford, and I think it is illogical to suggest that it might do so now.

The simple truth is that Norfolk Southern wants Conrail because it believes Conrail to be profitable. It is wishful thinking to believe they would operate any part of the Conrail system for long if they could not make money doing so.

Now some might argue that efficiencies in a combined Norfolk Southern-Conrail system makes acquisition of Conrail for NS more profitable than it would be for other buyers. I can't buy that argument either, Mr. President, unless we're talking about the monopoly profits that would result from this kind of anticompetitive combination. The distinguished Administrator of the Federal Railroad Administration, John Riley, spoke before a group of eastern railroad officials last fall. At that meeting, he argued that there would not soon be any transcontinental mergers because the efficiencies were just not there. I agree with Mr. Riley, and I think his argument applies just as well to the proposed Conrail-Norfolk Southern transaction.

It seems to me that those that express the concern over Conrail potentially coming back for Federal assistance are afraid—afraid to acknowledge that Conrail represents a Federal success. Conrail is now a different railroad than it was in 1976. It is smaller; it has less traffic, but it is much more efficient and it now generates consistent profits instead of losses. Further, Conrail is operating in a changed regulatory environment. Passage of the Staggers Deregulation Act gave Conrail the freedom it needed to become profitable, and it has made good use of that opportunity.

Let me conclude by repeating that Conrail can make it on its own. I hope my colleagues will join me, therefore, in supporting the Morgan Stanley public offering proposal. It avoids the antitrust problems raised by Norfolk Southern. It provides over $600 million more to the Government than Norfolk Southern. And it provides equal assurance that it will never again be necessary for the Government to assume ownership of Conrail.

Mr. GRASSLEY. Mr. President, I have given much thought to the sale of Conrail to either the Norfolk Southern or to the Morgan Stanley investment group.

I have also asked the Iowa Department of Transportation to look at the different offers that have been considered and to give me their views on the different options.

The President is proposing the sale of some Federal assets in the future through his Privatization Program. I am basically, but not totally, supportive of this program. I will make my decision on a case-by-case basis.

I feel that the Government should be getting more money for this railroad than is being offered today. We cannot send the wrong message to others who will be bidding on other Government property that we will not be going for the top dollar when we sell off through the Privatization Program.

Because of this concern and that of the Iowa Department of Transportation, I have decided to vote against the Morgan Stanley offer. I ask unanimous consent to have printed in the RECORD today a copy of a letter that I received from the Iowa Department of Transportation regarding the Morgan Stanley offer.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

IOWA DEPARTMENT OF TRANSPORTATION,
Ames, IA.

HON. CHARLES GRASSLEY,
U.S. Senator, Hart Senate Office Building, Washington, DC.

DEAR SENATOR GRASSLEY: Thanks for asking whether the DOT would support the sale of Conrail to Morgan Stanley, or whether we think the government can get a better offer.

When the Commissioners voted on the issue, they wanted above all else to insure a healthy railroad business continues to exist in the Midwest. Their second concern, expressed by Chairman Rigler, was that the taxpayer get the best return on investment. For those reasons, the Commission did not endorse either offer and urged "the administration to pursue a sale more in the best interest of the taxpayers who have made such a huge investment in Conrail, and a sale that will insure competition among the several railroads providing essential, efficient service to the midwest and to the entire nation."

If the Norfolk Southern were to provide iron-clad agreements to the midwestern railroads which satisfy the railroads' concerns, our objections to that company buying Conrail would diminish substantially. Even so, we are convinced Conrail is worth more than either Morgan Stanley or the Norfolk Southern purchase offer. I am enclosing a recent Forbes interview with railroad expert Isabel H. Benham substantiating this viewpoint.

Our folks are closely monitoring developments related to Conrail and I'll be in touch if something significant develops. In the meantime, if you'd like more detailed information, please call me.

Sincerely,

WARREN B. DUNHAM,
Director.

Mr. LEVIN. Mr. President, I will vote against tabling Senator SPECTER's amendment to sell Conrail to Morgan Stanley after having carefully considered the impact of a sale to Norfolk Southern on the State of Michigan. When the Department of Justice gave preliminary approval to the third version of Norfolk Southern's divestiture plan, I asked the Michigan Department of Transportation about their views relative to the administration's proposal. The Department informed me that, based on the latest divestiture plan, a sale to Norfolk Southern would not be in the best interest of the State of Michigan because it does not adequately address the anticompetitive aspects of the sale. The Department is probably in the best position to evaluate the impact of a merger between Conrail and Norfolk Southern on shippers, other railroads, labor, and consumers in my State, and therefore I am inclined to give great weight to the Department's recommendation.

The Michigan Department of Transportation has written a letter to me which outlines their specific concerns regarding the proposed sale to Norfolk Southern and I have made this letter available to Norfolk Southern. There is, of course, still a possibility that some or all of these concerns will be addressed in further negotiations. However, based on the current divestiture plan and the Michigan Department of Transportation's reaction to it, I have determined that a vote in favor of Morgan Stanley is in the best interest of my State.

Mr. President, a sale to Morgan Stanley is also in the best interest of the Nation for the following reasons: First, there is every reason to believe that Conrail can weather future declines in our economy and continue to exist as an independent entity. Maintaining an independent Conrail avoids the competition problems raised by the Norfolk Southern proposal. Second, a sale to Morgan Stanley will bring at least $200 million more to the Federal Treasury than will a sale to Norfolk Southern. Third, the Morgan Stanley plan allows employees to continue to participate in Conrail's Employee Stock Ownership Plan and

gives the public an opportunity to invest in the future of Conrail.

Mr. President, I have also weighed the no sale option. A decision to maintain the status quo with respect to Conrail would be at odds with previous congressional directives and would prevent us from recouping some of our investment in Conrail at a time when it is needed to reduce the Federal budget deficit. Additionally, proponents and opponents of the administration's bill agree on at least one point. They want to return Conrail to the private sector. Because I have concluded that Conrail is viable as an independent entity and for all the other reasons I have mentioned, I will support the Morgan Stanley alternative to S. 638.

Mr. LAUTENBERG. Mr. President, I rise in support of the amendment offered by the Senator from Pennsylvania. This amendment will require that Conrail be sold by way of a public offering constructed by Morgan Stanley Co. Inc.

When I announced my opposition to the sale to Norfolk Southern, I indicated that I was in favor of a sale of this railroad. Conrail is a healthy, profitable business and it belongs in the private sector. I also stated that I would support a public offering, if offered, as an expression of my support for an alternative to Norfolk Southern.

Mr. President, I have not been a cosponsor of the Morgan Stanley public offering. I believe that there have been some valid critiques of the Morgan Stanley plan. Only recently have they addressed the issue of dividend payout and other issues that were cause for concern. Nevertheless, when compared to the Norfolk Southern merger, the Conrail that would result from a Morgan Stanley plan has distinct advantages.

First, the Morgan Stanley plan means a greater return to the American taxpayer who has assisted rail freight service in the Northeast to the tune of $7 billion. I don't think we do the taxpayer a favor by taking the low bid for Conrail.

Second, Mr. President, the Morgan Stanley plan will not impair rail competition at all. Although New Jersey will remain a monopoly State, with Conrail its only major railroad, at least our competitive position in terms of our ports and movements out of New Jersey will not be worsened.

Finally, Mr. President, we will not see a massive loss of jobs as a result of the Morgan Stanley offer. Those who work at Conrail facilities today will stay on the job.

Mr. President, I surveyed shippers, labor, locally elected officials, and port authorities in my State regarding this sale. Yes, some favored Norfolk Southern. Many favored leaving Conrail just as it is. Some expressed no opinion or would only speak off the record. When all was said and done, I concluded that what many in New Jersey wanted in the face of a merger of Conrail with Norfolk Southern was something else. Many supported a public sale, but no particular public sale. They simply wanted another option.

Mr. President, my support for the Morgan Stanley offer is designed to send a message to the administration that there is a better way to sell Conrail than through a huge, anticompetitive merger. There may be a better way than the Morgan Stanley plan and, if so, I would hope the Secretary of Transportation would bring such a plan to the Senate.

Today, Mr. President, we are asked to choose between only two competing offers. We must evaluate those offers on the basis of the criteria we have each applied to this sale. My criteria was the preservation of jobs in my State, the preservation of competition for my shippers and reasonable rates for the shipment of their goods and a fair return on the vast taxpayer investment made in Conrail. On the basis of those criteria, I conclude that between the Morgan Stanley and Norfolk Southern offers, my choice must be Morgan Stanley.

Mr. METZENBAUM. Vote.

Mr. HARKIN addressed the Chair.

The PRESIDING OFFICER. Who seeks recognition? The Senator from Iowa.

Mr. HARKIN. Mr. President, I find it difficult to follow the eloquent remarks of my colleague from the State of Michigan, but I did want to follow up and perhaps expand on a couple of points he has made and also to point out why this proposal to sell this railroad to Norfolk Southern would be a great detriment to my home State of Iowa. The proposal to sell Conrail to Norfolk Southern is really fundamentally flawed. Again, let us walk through it one more time for the benefit of those who, maybe, have not followed the debate or whose minds are still open on what we ought to do or not to do with this railroad.

What we have basically is a Government that owns a railroad that has $910 million in cash in the bank and has accumulated over $400 million in tax benefits that a purchaser such as Norfolk Southern could use. This is a railroad, Conrail, that made record earnings of $440 million in 1985 and $435 million in 1984.

Last, this railroad, Conrail, has at least $250 million in a pension fund that could be taken over by the purchaser almost immediately.

At the same time, Mr. President, this is a railroad that invested $572 million in capital expenditures and maintenance last year, while earning those record profits.

Now let us take a look at the numbers about which the Senator from Michigan was just talking. I am going to expand on it because not only are we talking the lesser bid, we are actually paying Norfolk Southern to take the railroad.

Take a look at the numbers. The purchaser gets $1.2 billion in cash. That is figured this way: $800 million in the bank, $400 million in tax benefits plus an additional $250 million from the pension fund. We get $1.2 billion.

Get this: The railroad gets $800 million in cash, $400 million in tax benefits, $250 million in pension funds. When you add that all up, after this transaction takes place, they have paid us $1.2 billion and they got $250 million in cash, more than that basically, plus they get 13,000 miles of railroad track and all of the profit that goes with it.

So it is not that we are taking the lowest bid; we are paying Norfolk Southern $250 million to buy it and we are giving them the railroad to boot. Boy, what a deal that is.

In 1973, we had what we now refer to in the history books as the great grain robbery of 1973, when we gave away all of our grain at a lesser price to the Soviet Union. Well, this is the great train robbery of 1986.

I do not think I have seen such a deal. Not even when I was a kid playing Monopoly did I see such a deal as this cooked up. Here is a railroad that we are actually paying to take over.

Really, the question we ought to be asking ourselves is this: What should the Government get in addition to the sums and what we have put into that railroad for the ownership of such a railroad? That is really what we ought to be asking. We have put a lot of money into this railroad. Some people say that the Government cannot run a railroad, the private sector is far better at it. Well, from the Conrail experience, I draw a different picture.

This is a railroad that made $440 million in a year with a mediocre economy. That is not bad. The railroad has shown a profit in every year since 1981. We all know the history. The Government took over seven railroads in bankruptcy. After years of additional losses, they turned the railroad around with the help of a solid management. We put, as I understand it, something like $7 billion into those bankrupt railroads' system. Now Conrail is substantial. It is making a profit. So I would say that the Government's major failure has not been in running the railroad; the Government's major failure has been in the effort to sell it. That is where the Government has failed. Clearly, the private sector is far better at selling major assets than is the Federal Government if we use this is an example.

Mr. SARBANES. Would the Senator yield?

Mr. HARKIN. I would be delighted to yield.

Mr. SARBANES. I think we ought to point out that in addition to this analysis that the Senator made of what is in Conrail now that Norfolk Southern would take over in terms of available cash and so on, it is an enterprise that made $500 million last year. If you presume the same thing happening this year, they are going to get almost half of the purchase price back in the profit of the first year of operating a railroad.

Mr. HARKIN. The Senator is absolutely right.

Mr. SARBANES. On top of all the other things that the Senator was pointing out.

Mr. HARKIN. The Senator is absolutely right and we already know from what is happening in this corridor with this railroad that they are going to make the same kind of profits this year. In one year, they are going to make back in profits what they paid for the railroad. I keep pointing out that not only are they going to get that, they are going to wind up with all of the track and everything else in valuable property that they are going to wind up with that can only appreciate as time goes on.

Again, for the life of me, I cannot understand why there is this rush to sell this railroad to Norfolk Southern.

Again, I get back to what is the essential question we ought to be asking: The Government took over these railroads, sold off some parts, put $7 billion into it, built it up into a profitmaking enterprise. What we should be asking is, in addition to the cash that we have—the $910 million in cash and the $250 million from the pension fund—in addition to that, what should the Government get for this railroad? But no one is asking that question.

We ought to throw this out for open bids, let people come in and bid on this railroad. But again, that is the fundamental flaw in this. It was the Department of Transportation that came up with the figure of $1.2 billion. Of course, if they say that is what it is worth, that is what the private sector is going to come in with. I do not blame the private sector for coming in and offering $1.2 billion for it if that is what the Department of Transportation says it is worth.

Rather than what it is worth, we ought to say, here is what we put into it, here is the cash on hand, here is the property and now, if anybody is interested in it, we are going to take sealed bids on it and see what the highest bid is. Again, I cannot see why we should be paying any attention at all, let alone being out here on the floor voting on the Norfolk Southern offer.

Basically what we are doing is paying them. We are paying the Norfolk Southern to take over this railroad, and it is really an outrage. But what do we get for it? What does the Government get for paying Norfolk Southern to take the railroad? Well, we get a nice slogan, privatization. But I do not know if that one word, good as it is, is worth that kind of money.

Well, there are other offers. The Morgan Stanley Group is clearly the leading alternative. Not being another railroad, they do not gain the accelerated use of the tax benefits. They have also raised, as people have said, their up-front payment to $1.4 million. Well, this clearly is the way we ought to go—the highest bid and not the lowest bid.

Now, I have some other problems not only with this sale but with the way that we have been led to believe what is involved.

A couple weeks ago I came into the Chamber and found on my desk a nice, fancy, black notebook and in that notebook were all the reasons why we should sell Conrail to Norfolk Southern. I looked at the index tabs on my notebook, and I found the one that said State of Iowa. I was interested to find out what the impact was on the State of Iowa with regard to the sale, so I opened the tab to the State of Iowa. I looked at it, I read it over, not really fully cognizant of what the position of the State of Iowa was. I will read from this notebook "The Norfolk Southern acquisition will actually have little, if any, impact on Iowa. The Antitrust Division identified no competitive issues in the State of Iowa," et cetera, et cetera. Well, I telecopied this out to the Iowa Department of Transportation. I said, "I found this on my desk. I guess it came through the Commerce Committee. This is what we are told is the impact on Iowa. Would you care to comment?"

Well, I have received back a response to this. They said, "We don't know how anybody could in good faith say that this is Iowa's impact," what was in the black notebook that was put on my desk a couple of weeks ago. Quite frankly, according to the Iowa Department of Transportation, the acquisition of Conrail by Norfolk Southern will have a devastating effect on the State of Iowa. I remind Senators who are present that the State of Iowa is already suffering as it is because of the farm bankruptcies and the foreclosures and the lack of a farm income and now we are having another blow dealt to the State of Iowa. But I was concerned that I had this notebook which said it would have little, if any, impact on Iowa. I just wonder how many other Senators had a notebook on their desk with their State heading saying that really the takeover by Norfolk Southern would have little, if any, impact upon that Senator's home State.

Let me read from the letter that I received on January 28 from the Iowa Department of Transportation in which they said:

> The acquisition of Conrail by Norfolk Southern will have major negative effects upon Iowa through its anticompetitive results on the railroads serving the State and the upper Midwest.

And then they went on to say, regarding the point that the Antitrust Division discovered no competitive issues in the State of Iowa, that the U.S. Department of Justice had not ruled formally on this matter, that they only ruled on the anticompetitive aspects in the Conrail area but not outside of the Conrail area such as the State of Iowa.

That has not been done, and I understand that the Senator from Illinois is going to have an amendment later on to address it. Regardless of the outcome of this vote, I certainly hope that the Senator from Illinois' amendment would be adopted to address those anticompetitive concerns that we have in the Midwest. But I wanted to point out that the concerns of the Iowa Department of Transportation are not red herrings, as was stated in this black notebook, but in fact real concerns, a concern that on an annualized basis we would lose from the Chicago Northwestern, which is our main service to Chicago and points East, 45,050 carloads and 75,790 trailers, resulting in a gross freight revenue loss of $54.6 million annually to the State of Iowa.

Mr. CHAFEE. I wonder if the Senator will yield for a question.

Mr. HARKIN. I am delighted to yield for a question.

Mr. CHAFEE. The question is can we proceed to a vote fairly soon? What is the Senator's intention?

Mr. HARKIN. I think that I have probably about 10 more minutes and that would be about it. I am making a point on what the impact is going to be on my State of Iowa, and it is going to have a devastating impact on the State of Iowa.

Mr. DANFORTH. Will the Senator yield just for 30 seconds so I can respond to the Senator from Rhode Island?

Mr. HARKIN. Yes.

Mr. DANFORTH. The debate on this amendment has gone on now since 7 minutes after 3. Nothing has been said in opposition to the amendment. I intend to speak for perhaps 10 minutes, and then it would be my hope to make a motion to table. I really think this has been debated enough and people are anxious to leave. Senator HOLLINGS has stated that he would be willing to speak on it. I may be able to do a persuasive enough job in 10 minutes to cover all the bases. If not, he might want to speak. I would hope that if the Senator from Iowa could wrap it up in about 10 minutes and I could speak for

about 10 minutes and move to table, we could be voting on this by a quarter after 7.

Mr. DOLE. Mr. President, will the Senator from Iowa yield?

Mr. HARKIN. I yield.

Mr. DOLE. Mr. President, I wonder if we might be able to agree, if the Senator from Iowa has 10 more minutes and the Senator from Missouri has 10 minutes, we could agree to vote on a motion to table, whatever, at 20 after 7.

Mr. HARKIN. I do not have any objection. I do want to finish my statement. I estimate 10 minutes. I do not think it will take any longer than that. I do not want to cut off other people who want to speak.

Mr. BYRD. Mr. President, I do not think we have any objection over here so long as the distinguished Senator from Iowa can finish his statement within that time.

Mr. DOLE. Is there any objection to that request?

The PRESIDING OFFICER. Is there objection?

Mr. BYRD. Does this give the Senator from Iowa the time he wants?

Mr. DOLE. Yes.

Mr. HARKIN. I understand I cannot be stopped, I can go ahead and keep speaking. I hope to finish in 10 minutes. I believe in good faith I will be.

Mr. DANFORTH. I am going to have to object if I cannot get 10 minutes out of more than 4 hours of debate to oppose the amendment. I am sorry, Mr. Leader, I could not agree to it. My intention would be as soon as Senator HARKIN has finished his remarks to get the floor to speak for I hope 10 minutes. I do not think it will be any longer, maybe shorter, then move to table.

Mr. DOLE. The Senator from Iowa would probably conclude by 10 after 7, correct?

Mr. HARKIN. Yes.

Mr. DOLE. That would be fine. And then 10 minutes. Divide it that way.

Mr. DANFORTH. If we can divide it equally, that is fine with me.

Mr. DOLE. Fine.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. HARKIN. Mr. President, this is not a red herring for the State of Iowa. This is a real concern that we are going to lose, in the Chicago-Northwestern run, about $55 million a year. With the Illinos and Central Gulf, trackage, we are going to lose an additional $35 million a year, and we do not know about some of the other smaller railroads. So this is not a red herring for the State of Iowa. We will have a devastating loss of service to the State if this railroad is sold to Norfolk Southern.

Mr. President, I ask unanimous consent that this letter from the Iowa Department of Transportation be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

IOWA DEPARTMENT OF TRANSPORTATION,
January 28, 1986.

We have reviewed the U.S. DOT Critique of Iowa's position on Conrail. We are providing you with our response for your information because of the inaccurate and misleading statements contained in the critique which should be brought to your attention.

LES HOLLAND.

REVIEW OF U.S. DOT CRITIQUE OF IOWA POSITION ON CONRAIL

Comments provided by U.S. DOT regarding Iowa's concerns with Norfolk Southern's (NS) purchase of Conrail (CR) are inaccurate, and misleading.

1. Adverse effect on Iowa:

Acquisition of CR by NS will have major negative effect upon Iowa through its anticompetitive results on the railroads serving the state and the upper Midwest. This will occur through diversion of traffic and loss of revenues to Iowa carriers. Iowa shippers will also be deprived of competitive choices of services and freight charges. Service to be provided by the Guilford Transportation Company (GTI) will not restore to Iowa railroads and shippers the choices currently open to them. It should be noted that the U.S. Department of Justice (DOJ) has not ruled formally on this matter.

2. Antitrust analysis of anticompetitive effects:

The DOJ restricted their analysis of anticompetitive effects of the NS proposal to the merged CR service area. They did not identify competitive issues in the state of Iowa.

3. The U.S. DOT identified as "red herrings" our concerns with the traffic diversions:

The diversion is not frivolous. The carloads and dollar figures reflect actual traffic moving between Iowa and Chicago originating both on and off line during 1985.

CNW's independent outside consultant using DOJ methodology, identified an annual loss (based on 1985 traffic levels) of 45,050 carloads, and 75,790 trailers together resulting in a $54.6 million deficit in gross revenue.

ICG would lose $35 million annually.

Iowa disagrees with NS's negative description regarding its physical route between Kansas City to Chicago or to other NS territory east of the Mississippi River. This NS main line is fully signalized (centralized traffic control) and meets the FRA safety standard for operation at 60 mph. Over 75% of the track consists of 132# continuous welded rail. The remaining portions average 115# rail.

4. Iowa Interstate and Soo Position:

Agreements between NS and the Iowa Interstate and Soo were not obtained because of support for the merger. The agreements were defensive in nature because both of these carriers are uniquely susceptible to adversarial actions by NS at the present time. The agreements do not guarantee long term immunity.

Mr. HARKIN. Mr. President, I did want to make two other points.

The first is that the Government can probably sell the railroad on the open market through the usual channels and keep the profits itself. I believe that would be the preferable route. But obviously that is not going to happen. It is going to be done in a different way; and if it is going to be done in a different way, then a profit should be made, and that profit rightfully belongs to the Government.

As I have said, we have invested $7 billion to make Conrail profitable. Unfortunately, this option of trying to sell it ourselves is not going to happen. Since we are faced with two choices, the choice basically of selling it to Norfolk Southern or selling it to Morgan Stanley, Morgan Stanley is the best way to go. It is the best way to go because they offer more money. Second, they will provide for a competitive type of railroad that will not work a hardship on the Midwest and, more specifically, my State of Iowa.

I understand that one-half of the attorneys general in our country have considerable reservations about the creation of a Conrail-Norfolk Southern combination. The attorney general of the State of Iowa has voiced major concerns about this merger. As I said, the Iowa Department of Transportation believes it is anticompetitive.

I think the interesting point is that the U.S. Department of Justice has refused to give this arrangement a formal clean bill of health on antitrust grounds, the issue about which the Senator from Michigan spoke.

Unfortunately, under the bill, this transaction is exempt from existing antitrust laws. At a minimum, that needs to be changed. But I think it says something, when we have a bill before us which has attached to the end of it a clause that exempts it from the antitrust laws. That ought to throw up red flags all over the place; because what we are talking about is not selling this railroad, but giving this railroad—no, even more than giving the railroad, we are not only giving the railroad to Norfolk Southern, but also, we are actually paying them to take if off our hands, when in fact the taxpayers could be making money from it.

Mr. President, numerous editorials have been written about this deal, raising very serious concerns. Yesterday, the Des Moines Register had an editorial entitled "Showdown on Conrail." I ask unanimous consent that the editorial be printed in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

SHOWDOWN ON CONRAIL

Among the first bills the Reagan administration is trying to push through Congress this year is one authorizing sale of the government-owned Conrail to the Norfolk Southern railroad. The president made a pitch for it on the opening day of the session at the request of Transportation Secretary Elizabeth Dole.

She engineered the negotiated sale for $1.2 billion. Despite a later, better offer

($1.4 billion) that would keep Conrail intact, she has invested too much prestige in the deal to back away from it. The bill has been tied up in the Senate since last summer, and even though Dole's husband is majority leader, the 60 votes needed to shut off debate are still lacking.

If those 60 votes can be rounded up, the bill will pass the Senate. Its prospects in the House are less bright—fortunately, because it would be a bad deal. Its anti-competitive aspects are serious.

Norfolk Southern is the only real competition for Conrail in numerous important markets in the eastern part of the Midwest. NS proposes to sell track or give trackage rights to two small, flimsy rail systems, Guilford Transportation Industries and the Pittsburgh & Lake Erie Railroad, to maintain what NS and Secretary Dole call competition.

NS relies heavily on its argument that Conrail—which is earning about $400 million a year while competing with NS—is too frail to survive a recession and needs the "deep pockets" of NS. If Conrail couldn't make it alone, how could little, money-losing Guilford and P&LE compete with a merged NS/Conrail?

They couldn't, and the anti-trust division of the Justice Department rejected the first two NS plans for setting up this so-called competition. A third proposal is under consideration, but Congress could go ahead without approval, and the legislation forbids court review.

Iowa would be better served by an independent Conrail, because Iowa's major railroad, the North Western, depends heavily on hauling freight between Conrail in Chicago and the Union Pacific in Fremont, Neb.

After a merger, much of this freight would move on NS/Conrail to Kansas City, bypassing the North Western and costing it as much as $40 million a year that would have to be made up by higher rates or less service.

By voting "no" on the sale to Norfolk Southern, Iowa's congressional delegation will be acting in the best interest not only of the Conrail region but of Iowa.

Mr. HARKIN. Mr. President, the editorial raises a serious question about why we are continuing on this road to sell Norfolk Southern. It says that some bureaucratic decision was made some time ago and, to coin a phrase, the train got rolling down the tracks, and now no one is going to stop it. Is that what we have become? Have we become enslaved to a bureaucratic decision that somehow this sale has to go through, and only to Norfolk Southern? I think the people of the United States, the taxpayers, want more from the U.S. Senate than just a rubberstamp of some decision that was made in antiquity which no longer is even deserving of our consideration. I think the people of this country deserve more than a Senate that would just roll over and give this railroad away and actually pay Norfolk Southern to take it off our hands.

Mr. President, in conclusion, all I can say is that the Norfolk Southern proposal is fundamentally flawed. The amendment now before us, the offer by Morgan Stanley, is much the preferable offer. We would actually make money on the deal. We actually have a competitive railroad that will compete and give our customers the best choice of how to ship in this country, not an anticompetitive, monopolistic railroad that can charge whatever the traffic will bear.

So, if the vote is on a motion to table, I ask Senators to vote not to table and to vote for the Morgan Stanley proposal, to give the taxpayers of this country the best deal possible.

Mr. President, there is something very fishy about this whole deal when you look at it, on the face of it, as to why we are being asked to rush to judgment, to pay Norfolk Southern $250 million to take the railroad, to give them the railroad as a side deal. There is something here that smacks, as I said earlier, of "the great grain robbery of 1973."

I think that when the history books are written, if this deal should go through, that Norfolk Southern does get this railroad—or, even if it does not, if the Senate votes against the Morgan Stanley proposal and subsequently votes for Norfolk Southern—it will go down in the history books, I think, as the low point in this administration's conduct of our domestic economy during its 8 years, because it will point out, I think, the fallacy in this administration, that they have been saying all along they are for free enterprise, that they are for competition, therefore cutting the deficit. Yet, this deal runs counter to that. This very deal, to sell it to Norfolk Southern, is anticompetitive, it is antifree enterprise, and it increases the deficit rather than decreasing it.

So I think the history books will point back to this vote and say that the Senate, rather than following the best judgment of selling this to the highest bidder, in fact gave away a railroad—gave away a railroad that became the biggest monopolistic transportation system in this country, one which, only because of an additional clause that exempted it from the anticompetitive clause we have on the books, was able to squeeze out competition and become, perhaps in the future, the only railroad in the United States.

This, I predict, could be the first step on the road toward making Norfolk Southern perhaps the only major railroad east of the Mississippi. When that happens, we certainly will not have any competition.

Mr. President, I urge a "yes" vote on the Morgan Stanley proposal, the best deal for our taxpayers.

I yield the floor.

The PRESIDING OFFICER (Mr. GORTON). The Senator from Missouri.

Mr. DANFORTH. Mr. President, after more than 4 hours of argument in favor of the Morgan Stanley amendment, I rise for 10 minutes to state the case against it.

First, I say that the Government of the United States cannot do business this way. In 1981, we passed the NERSA bill, the Northeast Rail Services Act, and we decided at that time that we are going to sell the railroad.

Between 1982 and 1984, the Secretary of Transportation solicited bids, hired a consultant. A hundred different possible bidders were contacted—more than 100. In April 1984, the Secretary of Transportation set a 60-day deadline for submitting bids on Conrail.

On June 19, 1984, the Secretary received 15 bids for Conrail—15 including Norfolk Southern's. June 19, 1984, was the deadline set by the Secretary of Transportation.

In February 1985, after very careful analysis, the Secretary of Transportation picked from the 15 bids the Norfolk Southern bid. Then in May 1985, 3 months after the Secretary picked the winning bid, enters Morgan Stanley with another bid.

We have heard it said on the floor that there is something fishy about it. I am going to tell you what would be fishy. Get a bidding practice under way, set the deadline, have the deadline pass, have people negotiate with Uncle Sam in good faith and then, at the end of the whole thing, 3 months after the best bid is picked, come in and say Morgan Stanley is the winner.

You talk about sweethearts and favoritism and smell bad. That smelled bad to me. I do not think we want that kind of Government.

Mr. President, the real question, though, before the Senate now is very simple and it is the health of rail transportation in the Northeast quadrant of this country. That is the issue. You know it is kind of funny hearing everyone stand up and say oh, the question is the budget, $200 million difference, lost tax benefits, and whatnot. The big issue is not any $200 million, Mr. President. The big issue is what to do about the health of the railroads in the Northeast quadrant of this country. That is the only issue in my mind.

What good does it do to get rid of Conrail and have it come back in a year or two? The question is, Is Conrail to be affiliated with Norfolk Southern, one of the largest railroads in this country, one of the few that pays taxes, or is it going to be put there as a stand-alone railroad, and that is the Morgan Stanley deal? What the Morgan Stanley deal is it is an underwriting, an underwriting. Morgan Stanley is an underwriter. Morgan Stanley has put together an investor group and the Morgan Stanley deal is that the investor group buys Conrail from the Government and then resells it to who knows whom? Anybody they want. Carl Icahn.

We have heard arguments today about the fact that the assets are valued higher than the purchase price. That is probably true, because the going concern is what they are buying, not a bunch of assets. But because that is true, this is an invitation to corporate raiders if we put it out there to Morgan Stanley.

Here is what Morgan Stanley proposes to do: Morgan Stanley proposes to bleed Conrail of cash. It proposes to pay out $230 million of Conrail cash to settle labor concessions. It proposes to pay out Conrail cash to buy up 15 percent of the stock from the ESOP Program and it proposes to pay out $118 million per year in dividends to its stockholders, and then it proposes to sell it.

Here is what Tom Saunders of Morgan Stanley said when he testified before the Senate Commerce Committee. He said: "When we do the first sale to the public, we will leave town."

That is what we are getting if we give it to Morgan Stanley. They will leave town. They have no remaining responsibility for the future of this railroad. They leave town.

Will it survive as a stand-alone railroad?

Mr. President, do not listen to Jack Danforth. Do not listen to any Member of the Senate. We are not railroad experts.

Let us hear a real railroad expert about the future of a stand-alone Conrail, abandoned by this underwriting group.

Mr. Hays Watkins, chairman of CSX, in November 1984, said as follows:

> Financial integrity contributes to the long-term preservation of a central rail service, cushions the corporation against cyclical downturns which typify the rail industry, reduces the risk of a return to the Government and permits the establishment of a normalized labor-management structure based on consensus rather than panic. Thus, financial integrity can best be assured by assimilating Conrail into the railroad industry. The sale of Conrail to a nonrailroad entity fails to shore up Conrail's inherent vulnerability.

This is the great competitor, CSX, speaking.

Mr. President, a stand-alone Conrail is doomed. It cannot survive. It will go under and we will end up owning a railroad yet again.

Someone argued earlier today: Will the shippers put up with a sale to Morgan Stanley if they thought it was doomed? Sure, because good, old Uncle Sucker would end up holding the bag again. I think the U.S. Government should get out of this business.

I think that the best way to get us out is to sell Conrail to a sound railroad and not to put it out there to stand-alone.

I will just add one more thing, Mr. President. If we are going to sell Conrail to the general public, a stand-alone Conrail, why have middleman profits? Why set up these middlemen? How are you going to answer that to your constituents? When Conrail goes under after a year or two of standing alone, how would Senators answer to their constituents why fat middlemen profits were given to Morgan Stanley and some underwriting group? If you are going to sell the railroad, sell it yourself.

Mr. President, that completes my comments, and I yield back the remainder of my time.

However, I wish to ask the Democratic leader if he is prepared to enter into a unanimous-consent agreement with respect to the time of the cloture vote.

Mr. BYRD. Mr. President, I think I am.

Would the distinguished Senator state the time for the cloture vote that would be in the request?

Mr. DANFORTH. The cloture vote would be at 3 o'clock.

Mr. BYRD. Mr. President, at what time will the distinguished majority leader bring the Senate in tomorrow?

Mr. DANFORTH. Mr. President, I am instructed that the majority leader would convene the Senate at 9:30 a.m.

Mr. BYRD. One final question, Mr. President. What if the agreement is to the effect that the Senate begins the vote on cloture at 3 o'clock? This would mean then, would it, that Senators could get their second-degree amendments in if they were filed by no later than 2 o'clock?

Mr. DANFORTH. That is my understanding, that second-degree amendments must be filed at the desk by 2 p.m. tomorrow to qualify under rule XX.

Mr. BYRD. Mr. President, I have no objection.

Mr. DIXON. Mr. President, reserving the right to object.

The PRESIDING OFFICER. There is no unanimous-consent request before the Senate at this point.

Mr. BYRD. May I say this for the record? If the Senator from West Virginia does not agree, the majority leader has it within his authority to bring the Senate in at such time as will force the vote at 3 o'clock. So, I think it is the better part of valor on my part to agree in this instance.

Mr. DIXON. Mr. President, reserving the right to object, and I do not object at this time, may I ask the distinguished majority manager of the bill if he will answer a question?

The PRESIDING OFFICER. The Senator from Illinois is informed there is no unanimous-consent request before the Senate.

Mr. DANFORTH. Mr. President, I ask unanimous consent that notwithstanding the provisions of rule XXII of the Standing Rules of the Senate that the cloture vote occur at 3 p.m. tomorrow and the mandatory quorum under rule XXII be waived.

The PRESIDING OFFICER. Is there objection?

Mr. DIXON. Mr. President, reserving the right to object, and I do not expect to object, may I say to the distinguished manager of the bill and to the majority leader as well as the minority leader I have no problem with 3 o'clock. There have been ongoing discussions for several days. The manager of the bill knows I have amendment 1567 at the desk. I expect to lay it down immediately succeeding the Morgan Stanley rollcall. That is the antitrust amendment. I am perfectly agreeable to debate in the morning from, say, 10 to 11, and have a rollcall at 11 a.m. on my amendment.

Is there any problem about that? That is my intention.

Mr. DANFORTH. There is no problem at all, as far as I am concerned, with the Senator from Illinois laying down his amendment tonight, and he and I have agreed with each other to have a 1-hour time agreement. That would be perfectly agreeable to me. Whether it would be agreeable to other Members of the Senate is unknown to me.

Mr. DIXON. I have no objection.

Mr. DOLE. Mr. President, if there is no objection, I wonder if we might agree that there would be an hour time agreement on the amendment by the Senator from Illinois, Mr. DIXON.

Mr. BYRD. Mr. President, I am advised we cannot agree because of a Senator who has so informed us by telephone.

The PRESIDING OFFICER. The question is on the unanimous-consent request of the Senator from Missouri. Is there objection? Without objection, the unanimous-consent request is agreed to.

Mr. DANFORTH. Mr. President, is a motion to table now in order?

The PRESIDING OFFICER. A motion to table is now in order.

Mr. DANFORTH. Mr. President, I move to table the Specter amendment.

Mr. SPECTER. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Missouri (Mr. DANFORTH) to table the amendment of the Senator from Pennsylvania (Mr. SPECTER). The yeas and nays have been ordered and the clerk will call the roll.

The legislative clerk called the roll.

Mr. SIMPSON. I announce that the Senator from Arizona [Mr. GOLDWATER], the Senator from Kansas [Mrs. KASSEBAUM], and the Senator

from Alaska [Mr. STEVENS], are necessarily absent.

Mr. CRANSTON. I announce that the Senator from Montana [Mr. BAUCUS], the Senator from Florida [Mr. CHILES], the Senator from Colorado [Mr. HART] the Senator from Georgia [Mr. NUNN], and the Senator from Mississippi [Mr. STENNIS], are necessarily absent.

I further announce that, if present and voting, the Senator from Mississippi [Mr. STENNIS] would vote "yea," and I further announce that if present and voting the Senator from Montana [Mr. BAUCUS] would vote "nay."

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 53, nays 39, as follows:

[Rollcall Vote No. 3 Leg.]

YEAS—53

Bentsen	Garn	McClure
Biden	Gore	Mitchell
Bingaman	Gramm	Moynihan
Boren	Grassley	Murkowski
Bradley	Hatch	Nickles
Burdick	Hatfield	Packwood
Chafee	Hecht	Pryor
Cochran	Helms	Quayle
Cohen	Hollings	Roth
D'Amato	Humphrey	Rudman
Danforth	Inouye	Sasser
DeConcini	Johnston	Simpson
Denton	Kasten	Symms
Dole	Kennedy	Thurmond
Domenici	Kerry	Trible
Durenberger	Laxalt	Wallop
Eagleton	Matsunaga	Weicker
East	Mattingly	

NAYS—39

Abdnor	Gorton	Metzenbaum
Andrews	Harkin	Pell
Armstrong	Hawkins	Pressler
Boschwitz	Heflin	Proxmire
Bumpers	Heinz	Riegle
Byrd	Lautenberg	Rockefeller
Cranston	Leahy	Sarbanes
Dixon	Levin	Simon
Dodd	Long	Specter
Evans	Lugar	Stafford
Exon	Mathias	Warner
Ford	McConnell	Wilson
Glenn	Melcher	Zorinsky

NOT VOTING—8

Baucus	Hart	Stennis
Chiles	Kassebaum	Stevens
Goldwater	Nunn	

So the motion to lay on the table amendment No. 1440 was agreed to.

Mr. DANFORTH. Mr. President, I move to reconsider the vote by which the motion was agreed to.

Mr. DIXON. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 1567 TO AMENDMENT NO. 1437

(Purpose: To provide for judicial antitrust review and to remove antitrust factions from the exclusive jurisdiction of the Special Court)

Mr. DIXON. Mr. President, I have an amendment at the desk, amendment No. 1567. I ask for its immediate consideration, subject to the understanding that I have with the majority leader and the distinguished manager of the bill that no further discussion will take place this evening and that we will take the matter up at 10 o'clock in the morning. I am agreeable to 1 hour evenly divided with the rollcall vote at approximately 11 o'clock.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Illinois [Mr. DIXON], for himself, Mr. PRESSLER, Mr. ANDREWS, Mr. EXON, Mr. HEINZ, Mr. ROCKEFELLER, Mr. SPECTER, Mr. SIMON, and Mr. ZORINSKY, proposes an amendment numbered 1567 to amendment No. 1437.

Mr. DIXON. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 10, line 19, beginning with "Such", strike out all through the first period on line 24.

On page 15, strike out lines 18 through 25 and insert in lieu thereof:

(2) by amending subsection (c) to read as follows:

"(c) Except as provided in section 1152 of the Northeast Rail Service Act of 1981 (45 U.S.C. 1105), the Secretary's Plan and the Definitive Agreements and their negotiation, execution, and implementation and not be subject to administrative review by the Commission, to other administrative review, on to judicial review: *Provided, however,* That issues arising under the antitrust laws of the United States shall be subject to judicial review."

On page 19, line 9, immediately after the comma, insert the following:

by inserting ", except for causes of action arising under the antitrust laws of the United States," immediately after "Notwithstanding any other provision of law,".

The PRESIDING OFFICER. The Senator from Missouri.

Mr. DANFORTH. Mr. President, as far as I know, there is no more business on this bill tonight.

ROUTINE MORNING BUSINESS

Mr. DANFORTH. Mr. President, I ask unanimous consent that there be a period for the transaction of routine morning business, not to exceed 5 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Saunders, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session, the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

MESSAGES FROM THE HOUSE

At 11:45 a.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the House has passed the following bill, in which it requests the concurrence of the Senate:

H.R. 4027. An act extending the waiver authority of the District of Columbia Revenue Bond Act of 1985 to certain revenue bond acts of the District of Columbia, and for other purposes.

MEASURE HELD AT THE DESK

By unanimous consent, the following bill was ordered held at the desk pending further disposition:

H.R. 4027. An act extending the waiver authority of the District of Columbia Revenue Bond Act of 1985 to certain revenue bond acts of the District of Columbia, and for other purposes.

PETITIONS AND MEMORIALS

The following petitions and memorials were laid before the Senate and were referred or ordered to lie on the table as indicated:

POM-554. A communication from a citizen of Nashville, Tennessee praying for a redress of grievances; to the Committee on the Judiciary.

POM-555. A resolution adopted by Chapter 16 of the Disabled American Veterans, Puerto Rico, favoring the inclusion of Puerto Rico in acquiring the right to vote for President and Vice President of the United States; to the Committee on the Judiciary.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. McCLURE, from the Committee on Energy and Natural Resources:

S. Res. 301. An original resolution authorizing expenditures by the Committee on Energy and Natural Resources; referred to the Committee on Rules and Administration.

By Mr. LUGAR, from the Committee on Foreign Relations, without amendment:

S. Res. 302. An original resolution authorizing expenditures by the Committee on Foreign Relations; referred to the Committee on Rules and Administration.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. PROXMIRE (for himself and Mr. METZENBAUM):

S. 2025. A bill to amend the Federal Food, Drug, and Cosmetic Act to require the ap-

pointment of the Commissioner of Food and Drugs to be subject to Senate confirmation; to the Committee on Labor and Human Resources.

By Mr. ROTH (for himself, Mr. MOYNIHAN, Mr. HEINZ, Mr. CHAFEE, Mr. DANFORTH, Mr. BRADLEY, Mr. MITCHELL, Mr. GRASSLEY, Mr. BAUCUS, Mr. PRYOR, Mr. BOREN, Mr. DURENBERGER, Mr. COHEN, Mr. KERRY, Mr. GORE, Mr. KENNEDY, Mr. DODD, Mr. LAUTENBERG, Mr. SPECTER, Mr. DIXON, Mr. SIMON, and Mr. BIDEN):

S. 2026. A bill to extend the trade adjustment assistance programs; to the Committee on Finance.

By Mr. DIXON (for himself and Mr. SIMON):

S.J. Res. 259. A joint resolution designating February 16, 1986, as "Lithuanian Independence Day"; to the Committee on the Judiciary.

By Mr. COCHRAN:

S.J. Res. 260. A joint resolution designating the first Sunday of October as "National Stepparents Day"; to the Committee on the Judiciary.

By Mr. DOMENICI (for himself, Mr. BURDICK, Mr. BRADLEY, Mr. CHAFEE, Mr. ZORINSKY, Mr. COCHRAN, Mr. DOLE, Mr. LUGAR, Mr. HATCH, Mr. MATSUNAGA, Mr. NUNN, Mr. THURMOND, Mr. KERRY, and Mr. LEVIN):

S.J. Res. 261. A joint resolution to designate the week of April 14, 1986, through April 20, 1986, as "National Mathematics Awareness Week"; to the Committee on the Judiciary.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. McCLURE, from the Committee on Energy and Natural Resources:

S. Res. 301. An original resolution authorizing expenditures by the Committee on Energy and Natural Resources; to the Committee on Rules and Administration.

By Mr. LUGAR, from the Committee on Foreign Relations:

S. Res. 302. An original resolution authorizing expenditures by the Committee on Foreign Relations; to the Committee on Rules and Administration.

By Mr. HEINZ (for himself, Mr. MOYNIHAN, Mr. DIXON, Mr. SPECTER, Mr. STAFFORD, Mr. ANDREWS, and Mr. BURDICK):

S. Res. 303. A resolution to express the sense of the Senate with respect to proposals currently before the Congress to tax certain employer-paid benefits and other life-support benefits; to the Committee on Finance.

By Mr. TRIBLE (for himself, Mr. STEVENS, Mr. MATHIAS, Mr. EAGLETON, Mr. HOLLINGS, and Mr. SARBANES):

S. Res. 304. A resolution to express the sense of the Senate that the present 3-year basis recovery rule on taxation of retirement annuities be maintained; to the Committee on Finance.

By Mr. HEINZ (for himself, Mr. GLENN):

S. Res. 305. A resolution relating to the printing of a report entitled "Developments in Aging: 1985"; to the Committee on Rules and Administration.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. PROXMIRE (for himself and Mr. METZENBAUM):

S. 2025. A bill to amend Chapter IX of the Federal Food, Drug, and Cosmetic Act to require the appointment of the Commissioner of Food and Drugs to be subject to Senate confirmation to the Committee on Labor and Human Resources.

SENATE CONFIRMATION OF ADMINISTRATOR OF FOOD AND DRUG ADMINISTRATION

Mr. PROXMIRE. Mr. President, today I am introducing legislation to require Senate confirmation of the Commissioner of the Food and Drug Administration.

SCOPE OF RESPONSIBILITY

I can think of few officials at the Department of Health and Human Services with the broad scope of responsibility of the Commissioner of the Food and Drug Administration. By contrast, Senate confirmation is required for 17 officials at the Department—including the Commissioner for Children, Families, and Youth; the Commissioner of Aging; and the Administrator of the Alcohol, Drug Abuse, and Mental Health Administration [ADAMHA]—but few of these officials have a fraction of the FDA Commissioner's responsibilities.

Just consider the scope of FDA's jurisdiction:

The composition, quality, safety, and labeling of food, food additives, colors, and cosmetics;

Inspection of food and cosmetic producers' facilities, surveillance of advertising of prescription drugs, and researching consumer complaints;

Drug approval, ranging from premarket approval and insuring good manufacturing processes to monitoring the quality and labeling of marketed drugs;

Setting standards for radiation-emitting devices; and,

Responsibility for implementation of the Medical Devices Act.

It is hard to find any official at the Department of Health and Human Services, with the exception of the Secretary and the Administrator of the Health Care Financing Administration, whose decisions can affect so many Americans and whose decisions are so crucial to the protection of public health.

POLITICIZING THE FDA

With such sweeping responsibilities, the Commissioner of the FDA is often at the center of important decisions, attempting to reconcile public health considerations and economic considerations.

Unfortunately, there has been increasing political pressure to place economic consideration above considerations of public health and the three Commissioners to serve during the Reagan administration have been kept on increasingly short leashes. The result has been a triumph of politics over science and has led to criticism from both sides of the aisle on a number of issues:

Despite repeated recommendations by FDA scientists that a number of color additives caused cancer, the administration refused to even consider taking them off the market as the law required. They even took away the FDA Commissioner's authority to ban cancer-causing color additives, which past administrations had delegated to the Commissioner;

Despite a clear link between aspirin and Reye's syndrome, a potentially fatal disease, political pressure by the administration to accommodate industry resulted in the ill-fated decision to rely upon a voluntary warning label. Public outcry finally promoted the administration to reverse its position to assure protection for our Nation's children;

And while the FDA has finally taken action on sulfites, it took more than 21 deaths and more than 800 injuries caused by allergic reactions to sulfites before they were prodded to action. And then only in the face of possible legislative action.

And the list goes on and on. The administration still opposes complete labeling of all ingredients used in drugs, despite the strong support for such truth in labeling by the American Academy of Pediatrics and the American Medical Association.

The track record of the last 5 years makes it clear that the FDS Commissioner can no longer be just another hired hand of the administration. We don't need another team player. We need a tough, independent FDA Commissioner who can resist powerful political and economic interests.

Senate confirmation will help restore accountability and ensure that future FDA Commissioners understand that their first loyalty must be to the public trust they hold.

Madam President, I ask unanimous consent that the text of the bill be reprinted in the RECORD as well as an article from the Chicago Tribune, entitled "FDA 'Politicization' Called Hazardous to Health."

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 2025

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) chapter IX of the Federal Food, Drug, and Cosmetic Act is amended by adding at the end the following:

"APPOINTMENT OF COMMISSIONER

"SEC. 903. The Food and Drug Administration shall be headed by a Commissioner of Food and Drugs who shall be appointed by the President, by and with the advice and consent of the Senate.".

(b) The amendment made by subsection (a) shall apply to individuals appointed to the office of Commissioner of Food and Drugs after the date of the enactment of this Act.

[From the Chicago Tribune, Oct. 20, 1985]

FDA POLITICIZATION CALLED HAZARDOUS TO HEALTH

(By Michael L. Millenson)

WASHINGTON.—Not long after becoming commissioner of the Food and Drug Administration, Dr. Frank Young gave enlarged replicas of his FDA inspector's badge to his boss, the secretary of health and human services (HHS), and her chief of staff.

To Young, the gifts were "thank-yous" for the help that Secretary Margaret Heckler and the chief of staff, C. McClain Haddow, were giving him in running an agency whose responsibilities range from food, drugs and cosmetics to artificial hearts and computerized brain scanners.

To critics, however, the gifts symbolized what they see as the erosion of the FDA's traditional independence under the Reagan administration and the growing influence of politics on scientific decisions.

In particular, critics charge that intervention by HHS and the Federal Office of Management and Budget [OMB] has endangered public health in activities ranging from eating a salad at a restaurant and giving aspirin to a sick child to applying makeup:

Critics say it took congressional hearings spotlighting the death of a 10-year-old girl from an alleged allergic reaction to sulfites before the FDA proposed a limited ban on the preservative, often used to improve the appearance of fruit and vegetables in restaurants.

When studies showed that children taking aspirin for flu could develop a potentially fatal disease called Reye's syndrome, pressure built for mandatory warnings on aspirin bottles. Aspirin makers disputed the studies, and the FDA decided to allow voluntary labeling, which critics now charge manufacturers are ignoring.

Although FDA scientists concluded that several dyes and colorings often used in cosmetics were weak carcinogens, HHS and OMB refused to allow the agency to ban their use, a congressional committee found.

In an unusual gesture, Dr. Alexander Schmidt, the FDA commissioner under President Richard Nixon, told state regulators recently, "We have more politicization of the agency than is either warranted by rational politics or good for the American people."

One particular target of critics' ire has been Haddow, a former aide to Sen. Orrin Hatch [R., Utah]. But Haddow, along with Young, vigorously denies that public health has been threatened in any way.

"We believe without question that science has to be left to the people at FDA," says Haddow. "But we think there's a role to play in the application of public policy to that science.

"Policy decisions that affect virtually every American deserve to have another level of review. . . . We think the American people have clearly said which philosophy should prevail [in that review]."

Adds Hatch: "It's the 'outs' complaining about the 'ins.' It's sour grapes."

To help assure a change in philosophy, a longstanding order giving the FDA commissioner semiautonomous authority was revoked soon after the Reagan administration took office in early 1981. Meanwhile, OMB, which is part of the executive office of the president, stepped up its oversight of the FDA under an executive order requiring an economic "cost-benefit" review of government regulations.

The new attention from HHS and OMB was evident when the FDA moved to ban six colorings and dyes found to cause cancer in animals. Although the additives seemed, at worst, to be weak carcinogens, the FDA concluded that the Delaney Clause, a federal law that forbids any use of a carcinogenic food additive, left them no choice.

Nevertheless, a proposed ban was rejected repeatedly by HHS, a report by the House Committee on Government Operations concluded. Meanwhile, an industry trade group attorney with ties to Vice President George Bush intervened with OMB. The FDA then was told that the administration opposed banning the additives, because they were unlikely to cause health problems.

"The administrative record contains no justification from department officials for not approving FDA's recommendations," the House committee said in a unanimous report. "It is likely that OMB played a major, if not pivotal role, in the continued, unlawful marketing of these dyes."

Complains Rep. Ted Weiss [D., N.Y.], chairman of a government operations subcommittee: "It's not up to the regulatory agency to say they don't like the law and, therefore, they're not going to adhere to it."

Both Republican and Democratic representatives, meanwhile, have asked hard questions about the FDA's slowness to ban the use of sulfite as a food preservative.

Since early 1983 the FDA has received reports of 21 deaths and more than 800 injuries allegedly caused by allergic reactions to sulfites. In August the agency finally proposed regulations that eventually will ban the preservative in fresh foods and vegetables.

Young insists that the FDA acted as quickly as scientific evidence would allow. "Sulfites was one of the fastest regulations even to go through FDA and the department," he says.

Critics, however, contend the agency did not move until congressional hearings focused publicity on the death of 10-year-old Medaya McPike of Salem, Ore., who died earlier this year, allegedly from an allergic reaction to sulfites

"It is sad, but true, that you need dead bodies and the glare of adverse publicity to overcome this administration's aversion to public health regulation," says Rep. John Dingell [D., Mich.], chairman of the sulfite hearings.

Adds an FDA insider who asked not to be identified: "Most of the [lag] time was spent trying to convince [HHS] that we had to have regulation, that people were dying."

The FDA's decision to use a voluntary approach with aspirin manufacturers regarding warning labels on bottles has provoked charges from critics that the action is not working.

In a recent letter to several senators, the American Academy of Pediatrics complained that the aspirin makers have reneged on their promise to post a clear warning about Reye's syndrome on their bottles in time for this winter's flu season. [The Aspirin Foundation of America disputes the charge.]

By Mr. ROTH (for himself, Mr. MOYNIHAN, Mr. HEINZ, Mr. CHAFEE, Mr. DANFORTH, Mr. BRADLEY, Mr. MITCHELL, Mr. GRASSLEY, Mr. BAUCUS, Mr. PRYOR, Mr. BOREN, Mr. DURENBERGER, Mr. COHEN, Mr. KERRY, Mr. GORE, Mr. KENNEDY, Mr. DODD, Mr. LAUTENBERG, Mr. SPECTER, Mr. DIXON, Mr. SIMON, and Mr. BIDEN):

S. 2026. A bill to extend the trade adjustment assistance program; to the Committee on Finance.

TRADE ADJUSTMENT ASSISTANCE EXTENSION

Mr. ROTH. Mr. President, I rise to introduce with Senator MOYNIHAN and 10 other members of the Senate Finance Committee, a bill to provide for temporary and retroactive extension of the Trade Adjustment Assistance Program.

Congress must act now to stop the dismantling of the Trade Adjustment Assistance Program. The failure of the Congress to include a temporary extension of the authorization of this program in the final version of H.R. 4006, the extension bill which passed on December 20, has provided the administration a convenient rationale for eliminating trade adjustment assistance. Though we may disagree with the administration's legal interpretation of this legislative situation, one thing is clear—the passage now of a temporary and retroactive extension bill will prevent the further dismantling of the TAA Program. It will give us time to complete the legislation process on the full extension and reform of the program that was twice-passed by this body as part of the Omnibus Budget Reconciliation Act of 1985.

How can we expect to maintain responsible trade policies, if we abandon those who lose their jobs to imports? A trade policy that calls for growing trade among nations simply will not succeed unless it is accompanied by policies to help workers adjust to foreign competition. The strong interest in the Congress in strengthening trade adjustment assistance repeatedly demonstrated in votes prior to the December recess, even in the face of Gramm-Rudman, shows that we in the trenches of the trade debate understand this basic point. Instead of fighting this constructive effort by the Congress, it is time for administration to recognize the clear link between an effective Trade Adjustment Assistance Program and the chances for success of its broader trade objectives.

The decision to abruptly stop payments of cash benefits to workers already participating in the Trade Adjustment Assistance Program has caused great hardship. Let me make the situation clear—these people had already been told that they would receive up to 52 weeks of cash benefits and many of them are enrolled in training programs. One week before Christmas their cash benefits stopped with absolutely no prior warning.

I have received many letters from people affected by this decision. I ask unanimous consent to include some of these in the RECORD along with a reprint of a article from a Danville, IL newspaper, and the text of the bill.

These letters detail the gravity of this situation.

Let's move now to assure that the administration keeps its commitment to workers already under the Trade Adjustment Assistance Program. The retroactive provision in this legislation will restore cash benefits back to December 20. Then let's move ahead expeditiously on the longer term extension and reform of the program in the Omnibus Budget Reconciliation Act.

The avalanche of imports continues. This is no time to abandon those who lose their jobs to imports.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 2026

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) section 285 of the Trade Act of 1974 (19 U.S.C. note preceding section 2271) is amended by striking out "December 19, 1985" and inserting in lieu thereof "March 15, 1986".

(b) Chapters 2 and 3 of title II of the Trade Act of 1974 (19 U.S.C. 2271 et seq.) shall be applied as if the amendment made by subsection (a) had taken effect on December 18, 1985.

WORKERS' RETRAINING FUNDS AXED

(By Tom Nelson)

The federal government pulled the rug from under us, say Gary Hubbard, Bill Swearingen and Ron Fuller, all laid-off Hyster Company workers.

"We held up our part of the bargain. We were made promises. Why isn't our government holding up its part of the bargain?" Fuller said.

The three took up the federal government's offer to pay for job retraining after their jobs of about 12 years fell victim to foreign competition. Under the Trade Readjustment Act, the government agreed to pay tuition plus provide additional 52 weeks of weekly income during their retraining.

But Dec. 21, the weekly income—a maximum of $209 for a person with a dependent—ended, several months before the three thought it would.

Swearingen, of 47 E. Liberty, Hubbard of Tilton, Ill., and Fuller of 21 Park, all in their 30s, are among about 75 persons in the Danville area enrolled in TRA retraining programs who lost their weekly government check. For workers in their 30s through 50s, some with families and mortgages, the unanticipated loss hit hard.

Several hundred other workers who lost jobs to foreign trade but who aren't in training programs also lost TRA weekly income.

Swearingen, Fuller and Hubbard said they are frustrated and confused because they see themselves working to become productive and taxpaying workers again, but have been cut off.

"Social Security (recipients) got an increase, Public Aid (welfare recipients) got an increase, but ours gets cut off. Instead of being productive, we'll be on Public Aid," Fuller said.

"We'll all be able to get jobs after our training. All we want is a chance," Hubbard said.

The three were laid off in February 1985 after about 12 years at the lift truck maker, which has lost sales to lower-priced Japanese models. When the U.S. Department of Labor certified Hyster employees eligible for Trade Readjustment Act retraining, all three jumped at the chance. They enrolled in two-year programs. Don Haberkorn, coordinator of admissions and record at Danville Area Community College, said "these (retraining program people) are workers. They're used to getting up in the morning. They'll be employable."

Hubbard enrolled in computer programming, Swearingen in electronics and Fuller in heating, air conditioning and refrigeration. They've all completed one semester of schooling and need four.

As TRA was then set up last fall, the federal government paid for retraining—tuition and books. For students, TRA provided 52 weeks of weekly benefits after the 26 weeks of regular unemployment benefits. TRA-certified workers who didn't enroll in school got only 26 weeks of weekly income following the regular 26 weeks of benefits following layoff.

Only about 10 percent of the workers eligible for TRA enrolled in training. Some didn't enroll because they wouldn't have any income in the second year of training, just the first.

All three had been laid off about 3½ years in the early 1980s. That left them without savings and more dependent on the government, they said. The loss of government income was critical, they said.

Fuller's program is at DeVry Institute in Terre Haute, Ind. "I have a 140-mile round trip. I can't afford to continue my education without the weekly benefit," Fuller said.

Fuller has three children (two of whom live with him and his wife.) His wife, a waitress, makes $2 an hour plus tips and the rent is $300 a month, including utilities.

Hubbard said he can finish the spring semester without the income, but the next year isn't clear. His wife works and they have a child and a mortgage. "With her check I can scrape by," he said.

Swearingen, who is single and has no mortgage, said he'll get by "but I don't know for how long."

Student loans are a possibility, but those are less practical for adults with family obligations and debts, they said. Hubbard is worried his grades will suffer if he spends more of his time at a part-time job (if one is available).

"We'll have to have the grades to get hired. Why else would somebody want to hire somebody our ages?" Hubbard said.

The Job Training Partnership programs, which also provides job training, doesn't specifically train workers who lose their jobs to foreign trade. JTP goes to senior workers, workers who fall below low-income levels and workers whose plants close.

TRA got the squeeze amid efforts to reduce $200 billion a year federal deficits. Congress is expected to take up the assistance for victims of foreign trade when it convenes later this month. But it is not clear whether weekly income will continue for some or for all.

The Danville Area Community Services Council, a social service agency backed by organized labor, asks that any person affected by the change in TRA benefits call it at 443-4047.

[From the Syracuse (NY) Post-Standard]

VICTIMS OF IMPORT COMPETITION LOSE JOBLESS AID

(By Tom Baden)

Concluding that Congress failed to renew funding for a special unemployment benefits program, the Labor Department has cut off cash payments to workers in Central New York and across the country who lost their jobs because of import competition.

That move has drawn howls of protest from some congressmen, who said renewal of the trade adjustment assistance program was indeed included in last-minute legislation passed in late December.

"This is an absolutely intolerable situation," said Rep. Sherwood Boehlert, R-Utica. "A federal agency, for some unknown reason, is clearly violating the intent of Congress."

Among companies whose laid-off workers have been receiving the payments are General Electric Co. in Syracuse, Pico Products in Liverpool, SCM Corp.'s Smith-Corona division in Cortland and Syracuse, and Chicago Pneumatic in Utica.

About 1,000 workers in New York State received trade adjustment assistance payments in November, with the average payment about $360 a month, according to Roger Gerby of the state Labor Department in Albany.

At its height, when industrial plant shutdowns beset the state in the late 1970s, the program provided benefits for about 35,000 idled New York workers, Gerby said.

In Central New York, hundreds of recently unemployed workers have been receiving, or hope to soon qualify, for the benefits.

Art Smith, president of General Electric's union, said the payments have already stopped for about 200 workers, and another 800 who would have been eligible for the plan are awaiting word of the program's fate.

Officials of the state unemployment division are advising workers to continue reporting to their local unemployment offices as the normally would, Smith said, just in case payments are renewed retroactively.

Oneida Ltd. was told this week that some of its ex-employees qualify for the trade adjustment assistance program, a spokesman for Rep. George Wortley, R-Fayetteville, said Friday.

Carrier Corp., which has laid off hundreds of employees in recent months, and Allied Corp., which will soon fire about 1,400 workers when it closes its Syracuse-area facilities, have asked the U.S. Labor Department to provide trade adjustment assistance to their former employees.

Union officials at both companies said they will contact representatives in Washington early next week to check the status of the program and urges its renewal.

But for now, however, the federal government maintains that Congress failed to renew funding for the program, which last year received $51 million.

Lou Ann Burney, a spokeswoman for the Labor Department, said Friday the appropriations bill passed by Congress in mid-December contained language that renewed the training, job search and relocation assistance portion of the program. That, in essence, provides counseling for workers who have lost jobs because of import competition.

But, Burney said, the legislation did not renew the cash assistance part of the program. So as of Dec. 19, the Labor Department discontinued payments.

"If Congress chooses to make it retroactive or to reauthorize the program, then we'll start making payments again," she said.

Earlier this week, Boehlert and Rep. Donald Pease, D-Ohio, wrote a letter of protest to the Reagan administration. The congressmen contended that the legislation enacted clearly continued the trade adjustment assistance payments, and that "what is lacking is the executive will to continue the payments, not legal authority or funding."

"Given the many trade problems besetting America, now is hardly the time to cripple the only federal program specifically designed to help those workers who are losing their jobs to an ongoing flood of imports," Pease and Boehlert said.

The issue is likely to develop into a full-scale battle between the Reagan administration and congressional advocates of the benefits.

The program, which was enacted in 1962 and expanded in 1976, has been favored by congressmen in industrial states where firms have been hit hard by foreign imports and forced to lay off workers.

The Reagan administration has attempted several times to scuttle the program, arguing that it has failed to place a substantial number of unemployed workers in new jobs.

DANVILLE AREA COMMUNITY COLLEGE,
January 13, 1986.

Senator WILLIAM ROTH,
Hart Senate Office Building, Washington, DC.

DEAR SENATOR ROTH: Please let me introduce myself. I am Donald F. Haberkorn, Coordinator of Admissions and Records at Danville Area Community College in Danville, Illinois.

Danville Illinois is a city in East Central Illinois whose principle employers have been of a heavy industrial nature. It is an area which in recent years has been plagued with high unemployment. It is an area whose unemployment rate is still lingering around 14 percent. It is an area whose workers have lost their jobs due to foreign imports and who have greatly benefited from the Trade Adjustment Act.

It is with this in mind that I write with regard to a large number of students who have been attending Danville Area Community College and receiving benefits. Their record is unbelievable. Of the 49 students six made the President's List (straight "A" grades), 13 made the Dean's List (no grade less than a "B"), 12 had a "B" average, but did have a grade less than "B", and only four had a grade average less than "C".

When these students complete their program, they will definitely be employable, because it is students of this caliber that employers are seeking to employ.

I am afraid, however, that many of these students will be denied the chance to complete their programs and enter the job market. Unless congress extends the weekly pay allotments for these eligible students and makes these payments retroactive to December 21, 1985, the majority will have little recourse except to drop out of their training programs.

Granted the education benefits were extended, but unless these participants have subsistance money to support themselves and their families, there is little to be gained from having funds to pay tuition, fees and book costs.

Therefore, I am asking you on the behalf of this very important group of students who are used to going to work, paying their bills and who for so many years were active participants in the American Dream of health, home, family, and the pursuit of happiness to please extend the Trade Adjustment Act Benefits and make them retroactive to December 21, 1985.

Sincerely,

DONALD F. HABERKORN,
Coordinator Admissions and Records.

DEAR SENATOR ROTH: I am calling on you concerning the recent legislation affecting the weekly benefits of the T.R.A. program.

Presently I attend Indiana Vocational Technical Institute located in Terre Haute, Indiana. Having completed my first quarter with a 3.81 grade average of possible 4.0 in Heating, Air Conditioning & Refrigeration.

Living in Danville, Illinois I must commute 140 miles each day to receive my education. Without the weekly benefits I cannot afford to feed my family of four and continue my education.

When I attended the T.R.A. seminar held in my community I felt that there was still a hope and a future for myself and my family. The only alternative I can see now is to sign up for Public Aid. I would much rather be an educated and productive tax paying citizen.

So please Senator Roth, hear my plea. Be my voice to your fellow constituents and help to reinstate the weekly T.R.A. benefits not only for myself but for the hundreds of T.R.A. recipients that are in the same financial and vocational distress.

Thank you for your concern and support.

Sincerely,

RON FULLER.

DEAR SENATOR ROTH: I am writing you with deep concern about the TRA program, in particular the weekly benefits, which as of December 21, 1985 have been suspended.

In August of 1985 I started attending Ivey Tech in Terra Haute, Indiana, to be retrained in the field of heating, air-conditioning, and refrigeration. So far I have completed one quarter of a one year program with a 4.0 average on a 4.0 scale. My fellow classmates that are in this program under TRA have also completed the first quarter with a 3.5 or better average.

This is a program that is working and giving us the opportunity to become working and productive citizens again. However, even with tuition, books, fees and etc., I see no way for me to finish my education without the weekly benefits. I must still find a way to support my family and pay my bills.

Without this weekly benefit I am forced to go look for a job in a field where there are none. For you see I am a factory worker of some twelve years. Due to foreign imports I found myself out of a job with little hope of finding another one.

I feel that I am fulfilling my part of the TRA agreement and ask only that the government do the same.

I am not asking for a handout just a chance to finish my education.

Sincerely yours,

DANIEL E. COLLINS.

JANUARY 10, 1986.

SENATOR ROTH: After 13 years of working at Hyster Company, Danville, Illinois, I found myself without a job due to foreign competition within the lift truck industry. My future was uncertain until I entered the TRA program, which I am confident will allow me to find a job once my training is complete.

I am currently enrolled at Eastern Illinois University at Charleston, Illinois, majoring in elementary Education. I chose education because of the anticipated need of additional qualified teachers that will be needed to fill classrooms as the number of children attending school increases.

Last semester I carried 15 semester hours and maintained a 3.67 average out of a 4.0 scale (4.0-A). This average was maintained even though I spent 3 hours per day on the road traveling round trip to school and back. I have also talked with others on TRA who are doing equally as well.

At the present time I am enrolled for 17 semester hours. I know that I can do well, but my biggest fear is that I may have to drop out of school, since my weekly benefit has been cancelled. I need this income to survive.

I feel that I am putting forth the effort to obtain these benefits, I am trying to obtain skills that will help me find employment.

Please do what you can to keep the TRA program in tact for those of us who are trying their best to retrain for available jobs. Anything that you can do to help us will be greatly appreciated.

Sincerely,

JOHN G. GROVE.

Mr. MOYNIHAN. Mr. President, for the workers of this country who recently lost their jobs to foreign competition, the Christmas just past was not merry; the new year not happy. Indeed, the season was an especially cold one for an estimated 10,000–15,000 workers nationwide—about 1,000 in New York alone—who had lost their jobs to foreign competition and until last month were receiving cash assistance under the Trade Adjustment Assistance Program.

On December 19, the Department of Labor ceased paying the extended unemployment benefits—trade readjustment allowances—available to workers under the TAA Program.

The result of the cutoff is clear. For those who had failed to find a job using their existing skills or had not completed training to learn new skills, and had exhausted their regular unemployment benefits, paying the rent and putting food on the table became a much more difficult proposition.

I might also note, Mr. President, that technical and financial assistance for firms that are trying to adapt and adjust to import competition, by improving their production processes or changing their line of work, also ceased on December 19. The Department of Commerce—International Trade Administration—notified the 13 regional trade adjustment assistance centers—the administrative vehicle for delivering aid—that no additional funds or technical assistance could be granted, no new applications accepted, and that phaseout plans must commence as of February 7, 1986.

The arguable basis for the two department's actions can be found, if one looks carefully, in the final days of the first session's legislative bog. In order that we might all have a clear under-

standing of the legislative situation, I wonder if I might briefly review developments during the first session.

As some of my colleagues know, the TAA Program was last reauthorized in 1983 through September 30, 1985. In anticipation of the need to reauthorize the program last year, on the first day of the 99th Congress I introduced with Senator HEINZ legislation to reauthorize and extend the existing TAA Program for 6 years. Thereafter, on July 31, 1985, we joined with Senators ROTH, CHAFEE, and SYMMS, six other members of the Finance Committee, and two others to introduce the Trade Adjustment Assistance Reform and Extension Act of 1985 (S. 1544).

S. 1544 would extend the TAA Program—in modified form—for 6 years, reform the program to emphasize worker retraining, and fund a revised TAA Program with a small fee on imports.

Our bill was unanimously adopted by the Finance Committee on September 20 as part of its budget reconciliation package, and appropriately so, since the program reforms set forth in the bill will result in immediate savings of about $7 million per year.

S. 1544 was part of the Senate's budget reconciliation bill, S. 1730, when it passed the Senate on November 14. A 4-year extension of the TAA Program—with some amendments—was similarly included in the House's budget reconciliation bill (H.R. 3128) during the Ways and Means Committee's markup on July 23 and 24 and when it passed the House on October 31.

During the conference on the reconciliation bill, the House conferees agreed—with some minor changes—to the Senate's provisions to reform and extend the TAA Program. The conferees agreed to a 6-year extension of the program beginning on the date of enactment.

Of course, as we all know, the conference report was not submitted and considered until December 19 and ultimately was not adopted by the Congress because of an unrelated dispute over the Superfund provisions. But what about TAA, which was set to expire on September 30. What happened in the interim?

Congress, recognizing the will of both Houses to have a TAA Program, extended the existing TAA Program four times between September 30 and December 19, while the budget reconciliation bill proceeded through the legislative process. For the record: H.R. 3452, Public Law 99-107, extended the program through November 14; H.R. 3721, Public Law 99-155, extended the program through December 14; H.R. 3918, Public Law 99-181, extended the program through December 18; and H.R. 3981, Public Law 99-189, extended the program through December 19.

Mr. President, it is unfortunate that in the rush to adjournment, Congress failed to explicitly reauthorize the TAA Program yet again. If memory serves, I believe the House sent a bill to the Senate on the 19th which extended TAA, along with three other programs—extending the cigarette tax, railroad retirement borrowing authority and Medicare hospital physician freeze—and numerous tax extender provisions, to March 15, 1986. The Senate passed that bill with an amendment striking some provisions other than TAA. The next day, the House passed an amended version of the bill without extending TAA—or the railroad retirement borrowing authority. Indeed, the final version of the bill included only the cigarette tax extension and the Medicare hospital physician freeze.

It is important to note that throughout this period, Congress has appropriated funds to continue the TAA Program—which some would argue obviated the need for reauthorizations.

Funding for the Department of Labor was included in the continuing resolution—House Joint Resolution 465, section 101(f)—adopted by the Congress on December 19. Funding was provided generally to the extent and in the manner provided for in the conference report on fiscal year 1986 Labor-HHS appropriations (H.R. 3424) was adopted by the House on December 5. However, an examination of that conference report shows that the appropriations committees had deferred their decisions on TAA funding waiting until they could see the final form of bill reauthorizing and extending the program.

Thus for worker cash benefits, the committees appropriated only a small portion—$5 million—of last year's appropriation. Of course, they understood that this would not create a problem for workers qualifying for such assistance, since such benefits are an entitlement and DOL would simply borrow money from its advances account—to be replenished by a later supplemental appropriations.

On the other hand, the appropriations conferees recognized that job search, retraining, and relocation expenses are not an entitlement and would have to be explicitly provided for in the continuing resolution if funds were to be available. Therefore, they included a separate provision—section 101(j)—providing appropriations for these activities at their current rate; that is, $26 million annually.

As for funding for the Department of Commerce, appropriations were provided for firm TAA in the House, Senate, and final fiscal 1986 appropriations bills for the Departments of Commerce, Justice, and State, the Judiciary, and related agencies—H.R. 2965, Public Law 99-180; $192 million was provided for the international trade activities of the International Trade Administration, and the conference report makes clear that $18.5 million is for the TAA Program, including $14.5 million for grants to maintain the trade adjustment assistance centers—which provide the technical consulting assistance to firms trying to adjust to import competition—and $2 million for loans to firms.

Mr. President, given this history of TAA funding and authorization, the administration's refusal to spend appropriated funds, is of questionable validity. It certainly is of dubious merit as a matter of trade policy, especially in the face of continued record trade deficits.

But most importantly, while the Congress proceeds to complete consideration of the reconciliation bill—and with it the Roth-Moynihan bill to reform and extend the TAA Program—we need to restore benefits to the workers who are suffering.

Therefore, today Senator ROTH and I, joined by 20 of our colleagues, are introducing legislation to explicitly reauthorize the program through March 15, 1986. We understand that the House Ways and Means Committee will mark up similar legislation next week and that it may be considered by the full House. And we hope that as soon as such a bill is passed by the House, the Senate will act as quickly to pass such legislation.

Mr. CHAFEE. Mr. President, I am pleased to join Senator ROTH as a sponsor of this bill to extend the Trade Adjustment Assistance [TAA] Program, retroactively from December 19, 1985. This extension is necessary to keep the program going until this Congress completes action on the renewal of the TAA Program contained in our budget reconciliation measure, still in conference. Furthermore the extension is necessary to ease the plight of those unfortunate workers whose benefits were stopped midstream on December 19, 1985, because the Congress failed to complete action renewing the program.

I am also a cosponsor of the original proposal to restructure the TAA Program, which has already received the approval of House and Senate conferees on the budget reconciliation bill. This program fulfills a commitment to America's workers who are dislocated due to our open markets.

For the past 4 years America has been flooded with bargain imports and its traditional exports—machinery, chemicals, electronics, grain—have lost their price competitiveness. Industry after industry has come to the Congress seeking protection from imports. These industries, and their workers, assume that we have more to lose to open world trade than we have to benefit from it.

Open markets serve America in very tangible ways. Unfettered trade gives consumers access to a greater variety of products at lower prices. Trade forces domestic industries to adjust to changing technology before they become hopelessly inefficient. Perhaps most important, trade is the primary source of hope for the world's poor and indebted, increasing their stake in a stable world economic order.

Trade adjustment assistance is an essential aspect of this open system. We have all had our complaints in the past about the TAA Program in this country because of the way it has been organized and administered, but I believe we all recognize the stake that workers have in our efforts to dismantle trade barriers.

Some workers, laid off because of competing imports, have no reason to rejoice over cheap, high quality steel coming from Korea. Unemployed textile workers in Rhode Island, for example, hardly revel in the fact that American consumers are buying low cost high quality sweaters from Hong Kong in increasing numbers.

This Trade Adjustment Program can offset the sacrifice we impose on workers. Fortunately we have come up with a program which stresses adjustment through retraining and not simply assistance through cash payments. This extension keeps the existing program going until we can put this new program into place.

The revised program is consistent with our current efforts to trim Federal spending, in that the program would be funded through imposition of a very small fee on imports, which we want the GATT to endorse, permitting all GATT members to do the same. I feel very confident that our trading partners would also welcome the opportunity to put into place a good retraining program, creatively funded to reduce budgetary pressures.

Trade adjustment assistance programs provide an alternative policy to import restrictions as a temporary relief measure for workers. The cost of extending the program and the slight burden it places on imports are far less than the cost that consumers and the entire economy will suffer if we enact import protections for industries and workers which are suffering at the hands of foreign competition.

We cannot afford to abandon our commitment to an open and liberal international trading system, but neither can we ignore the plight of workers who are dislocated due to import competition. We certainly cannot ignore the difficulties being experienced by those currently in the program whose benefits were terminated December 19 solely because of the Congress' failure to renew the program.

Mr. BRADLEY. Mr. President, the Finance Committee has unanimously approved measures to strengthen the national effort to help workers who have lost their jobs due to foreign competition. The focus of those programs is to help cushion the shock of unemployment and retrain workers for new jobs in other industries. Both Houses of Congress supported this legislation as part of the 1986 reconciliation package. But because of continuing debate on unrelated parts of the bill, the congressional budget process has left dislocated workers who were already certified as eligible for the existing Trade Adjustment Assistance Program, without support. In some cases, dislocated workers had made retraining commitments and were relying on trade adjustment assistance readjustment allowances to make ends meet. Trade adjustment for firms is similarly frozen. In an economic environment that punishes our trade-sensitive sectors with an uncompetitive dollar and unfair foreign trade barriers, we must help workers who lose their jobs because of imports.

While I continue to support the reform proposals reported by the Finance Committee, and strongly support passing the reconciliation bill, with its reauthorization of trade adjustment assistance, I think it is crucial for us to extend the existing program so that current beneficiaries are not abandoned while Congress debates long-term changes.

Mr. MITCHELL. Mr. President, I am pleased to join my colleagues today as an original cosponsor of the urgent legislative extension of the Trade Adjustment Assistance Program.

Because Congress failed to conclude action on last year's budget reconciliation measure, reauthorization of this program was not enacted. Authority for benefit payments therefore expired on September 30, 1985, and no payments have been issued since last year.

The reconciliation bill that extended this program last year made valuable reforms in the program, as well as providing for a financing mechanism to maintain the program in the future.

Those reforms are essential. I believe the considered judgment of the Senate Finance Committee and other interested parties last year resulted in a reform proposal that merits enactment in a substantially similar form. Because this administration opposes extension of the program, a full scale extension will involve a lengthy debate.

But an immediate emergency short-term extension is necessary now because the abrupt and unanticipated expiration of the program last year has left thousands of Americans all over the country with no source of income and total uncertainty about their future.

In Maine alone, 450 dislocated workers, people who have lost their jobs because of import competition, have received no benefits—no income—since December 20. Those of them who are now in training programs have stayed in training, in the hope that this Congress will act promptly to restore those benefits this year.

If Congress fails to act, these people will be forced to drop out of training, to seek alternative work if other jobs are available. Some of them will be forced to apply for public assistance. All of them have already suffered severe financial loss and the personal turmoil that is involved with job loss.

They are all dislocated workers whose problems are the direct result of conscious policy choices made by this administration in the area of trade.

Our trade imbalance imposes an unfair and crushing burden on those industries and workers whose products are targeted by foreign competition.

Although the long-range answer to their problem will require a dramatic change in the operation of our Nation's trade policy and improved investment and competitiveness on the part of every manufacturing sector, the immediate short-term problem must be addressed.

That short-term problem is very serious for the thousands of workers who have seen long-established shoe manufacturing plants closed with no hope of their reopening. It is serious for textile workers who have seen their intensive efforts to modernize overtaken by the combined effects of an overvalued dollar and foreign government subsidies to their overseas competitors.

The problem facing these manufacturers and workers are not of their own making. They are problems which have a variety of causes, including conscious Government policy choices. The policy of this administration, to favor imports as a way of restraining domestic inflation, has kept some prices lower for all at great personal cost to a few.

The Trade Adjustment Assistance Program is a small effort on the part of Government to redress the unfairness with which trade deficits affect different parts of the country. The program provides direct income help for those with no other income source; it creates the conditions that allow some to seek training for a new job field.

The Trade Adjustment Assistance Program is not the only answer to the changing makeup of our manufacturing sector. It is not a sufficient answer. But at the present moment, it is the only program in place which has the capacity to provide some level of assistance to those most directly and most drastically affected by our trade deficit.

For that reason, we cannot permit the lack of congressional action to terminate the program in this manner. An extension will permit the program to continue at its current level, and will give Congress the time it needs to address reforms and an orderly reauthorization of trade adjustment aid.

As I indicated, the steps taken last year are a basis for such long-term reforms. They include eligibility for the workers of impacted supplier industries; a requirement for retraining as a condition of receiving cash benefits; a program of training vouchers for workers in lieu of cash benefits; reimbursement of job search costs; and, most importantly, a self-financing mechanism through a minimal ad valorem import duty which would pay for the costs of this program.

Trade adjustment assistance can never take the place of an improved and aggressive U.S. trade policy. It cannot take the place of an improved international monetary policy to moderate wild imbalances in international currency rates.

But so long as governments insist on manipulating their export industries for competitive advantage, some form of trade adjustment aid will be necessary.

A long-term reform of our overall Trade Adjustment Program is essential. But a prerequisite to proper reform at this time is an immediate extension of the existing program authority.

Mr. BOREN. Mr. President, I am joining with several of my Senate colleagues today in introducing legislation to reauthorize workers' cash benefits under the Federal Trade Adjustment Assistance Program. This legislation is needed because the Department of Labor has taken the position that the catchall funding bill passed by Congress prior to adjournment in December did not contain the necessary language to authorize continued payments of cash benefits.

Although the Labor Department is continuing to fund other parts of the Trade Adjustment Assistance Program, including employment services, job search and job retraining, the Cash Assistance Program has been suspended. Under the Cash Assistance Program, after regular State unemployment benefits are exhausted, eligible workers are entitled to equivalent cash trade adjustment assistance benefits that pick up unemployment benefits for the balance of 52 weeks.

Although many of us disagree with the Department of Labor ruling in this matter, we nevertheless realize that time is of the essence in reauthorizing this important Trade Adjustment Assistance Program.

Mr. President, the Trade Adjustment Assistance Program was created some 25 years ago to assist workers who, through no fault of their own, are thrown out of work because of import competition. All across this Nation, there are growing lists of businesses which are simply unable to compete with the influx of foreign goods into the United States. In my own State, a B.F. Goodrich tire plant located in Miami, OK, will be forced to close next month due to the impact of foreign-made products. Some 1,900 employees will be left without jobs as a result.

We must not only take actions providing temporary assistance to our U.S. workers who are the victims of such foreign competition. In addition, Congress must take the lead in addressing the underlying problems that are fueling our mushrooming international trade deficit. I am continuing to work with others in the Senate who feel, as I do, that the time for action has come. In the coming weeks we will be introducing additional legislation aimed at solving these problems.

I am proud to join with my colleagues in offering this trade adjustment assistance legislation today. I urge the Senate to act swiftly in approving it.

Mr. COHEN. Mr. President, I rise to join my colleagues today in introducing legislation to temporarily extend the Trade Adjustment Assistance Program for workers and companies adversely affected by import competition. This important program which provides funding for worker retraining and company restructuring through the Departments of Labor and Commerce was inadvertently allowed to expire on December 19. Since then, many thousands of workers and companies across the country actively involved in retraining and restructuring programs have been forced to call an abrupt halt to the needed efforts. Immediate enactment of this legislation is necessary to prevent further hardship for these individuals and companies which are desperately trying to adjust to import competition.

Since 1962, the Trade Adjustment Assistance Program has provided the means by which American companies and their workers can make the frequently difficult transition to the new competitive realities of the world marketplace. The value of this program has long been recognized. Even during periods when the United States has enjoyed a positive trade balance, certain sectors of our economy have required a measure of Federal assistance to regain their competitive position. The need for this program becomes especially critical during times like the present when scores of U.S. industries and their workers are feeling the devastating pressures of import penetration.

In my own State of Maine the footwear, textile, and paper industries have been particularly hard hit by recent surges in imports. Currently, some 450 displaced workers are actively involved in the TAA Program administered by the Labor Department. An additional eight companies are pursuing major restructuring efforts with the help and guidance of the Commerce Department. Unless this program is reauthorized immediately, we may lose all eight companies which have shown the potential to once again become major employers in the State.

The legislation we are introducing today simply extends the expired provisions of the Trade Adjustment Assistance Program until such time as permanent structural refinements can be made. We have an obligation to immediately replace the rug we inadvertently pulled out from under these companies and workers the week before Christmas. I strongly urge my colleagues to support this important measure.

Mr. DIXON. Mr. President, I am pleased to join as a cosponsor of a temporary extension of the Trade Adjustment Assistance Program or TAA.

The authorization for this program expired September 30, 1985, and a reauthorization, with some changes, has been included in the omnibus reconciliation bill, portions of which are still being negotiated between the House and Senate.

As the Congress attempts to deal with the details of this legislation, there are many people in this country who are suffering at the hands of the administration, because it has chosen to withhold the trade readjustment allowances or TRA, from individuals who have already qualified for these benefits.

TRA is the equivalent of an additional 26 weeks of unemployment benefits for workers who have lost their jobs due to imports. There are requirements to meet in order to receive these benefits, principally that a person must continue to seek employment.

Many of the individuals receiving TRA are enrolled in some form of job training assistance. The administration has continued to provide the training portion of the program to current registrants, even though the authorization for this benefit also expired on September 30. It has gone on record, however, opposing the continuation of TRA, and prefers to see it become exclusively a training program as part of the Dislocated Worker Program under the Job Training Partnership Act.

Abruptly, and without notice, the TRA benefits were stopped on December 21, 1985. I have received a great deal of mail and many telephone calls from affected workers. Many are from the Danville, IL, area. The Hyster Co. employees were taking advantage of this program, and are now without the ability to support themselves while

they try to find a new way to earn a living.

One case, I think, exemplifies the importance of continuing this program, and the problems that are being created by the failure of the administration to carry out the intent of Congress in paying TRA.

Harry Cooley worked at the Hyster Co. as a welder for 13 years. He is married, and has two children. He lost his job in March 1985, and collected regular unemployment benefits for 26 weeks. He then was certified for the TRA. He collected $209 per week through TRA until December 21. Mr. Cooley is attending college, taking 16 credit hours toward an associate arts degree in computer programming. He is working part time, earning $80 a week. His wife also works part time, earning $90 per week. They were just getting by when the $209 a week stopped coming. He is an "A" student, and expects to earn his degree in May 1987. The TRA benefits should have continued through March 1987, and with some savings and careful management, he could have made it.

Now, he's not so sure. The family was getting by on $1,500 a month, and suddenly, they have $680 to spend instead. The Cooley family is luckier than most. They were able to sell their home, and there is a small nest egg from that sale. Others have not been so fortunate. In industrial towns all over Illinois, there are several homes on every block with for sale signs posted and no buyers for them. There are also no jobs for these people. They're stuck in communities which offer little hope for new jobs. The Trade Adjustment Assistance Program provides relocation allowances for workers who want to try to find work in another area.

Mr. Cooley also tried that. He went to South Carolina, registered with the local Job Service office and had some interviews. However, he found that since he did not have a permanent residence there, he wasn't considered for employment. So, he returned to Illinois. He also went to Texas and encountered a similar reaction. It would seem that relocation is not all it is cracked up to be in reality. He had some skills, but wasn't considered because he was coming from another area.

There are thousands of other stories like this one across our country.

The bill we are introducing today will retroactively restore the TRA benefits which were cut off December 21, and continue them through March 15, 1986, so that we have an opportunity to address a permanent extension of the program which is included in the reconciliation bill.

It is vitally important that we continue this program for all the workers in Illinois and across the country who were made a promise and have seen that promise broken.

In closing, I would again like to share some of Harry Cooley's thoughts on this program and the hope it has brought to him and many others like him. He said, and I quote:

After all, it—(TAA)—is like our last chance, and we take it seriously because it is. I am working harder, and putting in more hours working part time, going to school and studying than I did when I was working as a welder. I have two boys and a wife to care for and this program is giving me that opportunity to do that.

Trade adjustment assistance is the only hope we can offer many workers like Harry Cooley, who have lost their jobs due to imports. The administration has continually turned its back on these people in industries which have taken a tremendous beating. Illinois is home to nearly all of the affected manufacturers—steel, footwear, textiles, electronics, construction equipment, bicycles, and oil, to name a few. In my State alone there are many companies which have qualified for trade adjustment assistance. Firms such as the Hyster Co. in Danville, Fiat-Allis Corp. in Springfield, Texaco in Lawrenceville, Republic Steel, United States Steel, Schwinn, Allis-Chalmers, Zenith Electronics have all been certified eligible for TRA in the past few years. As of December 21, there were 966 workers eligible for the TRA benefits in Illinois and are no longer receiving them. The same is true all over the country. They need our help and they need it now.

I urge my colleagues to join us in rectifying this serious problem as soon as possible.

By Mr. DIXON (for himself and Mr. SIMON):

S.J. Res. 259. Joint resolution designating February 16, 1986, as "Lithuanian Independence Day"; to the Committee on the Judiciary.

LITHUANIAN INDEPENDENCE DAY

Mr. DIXON. Mr. President, today I am introducing a joint resolution, along with my distinguished friend and colleague from Illinois, PAUL SIMON, which recognizes February 16, 1986, as the 68th anniversary of the declaration of Lithuanian independence.

I urge my colleagues not only to cosponsor this joint resolution, but to enter their supportive comments in the CONGRESSIONAL RECORD to commemorate this important event.

By Mr. COCHRAN:

S.J. Res. 260. Joint resolution designating the first Sunday of October as "National Stepparents Day"; to the Committee on the Judiciary.

NATIONAL STEPPARENTS DAY

Mr. COCHRAN. Mr. President, I would like to take a moment to commend a growing number of men and women who have taken on the challenge of trying to build healthy, rewarding family relationships with children to whom they are not biologically related. These are the stepmothers and stepfathers who become part of the more than 1,300 new stepfamilies that are formed each day in this country.

Today, I am introducing legislation to designate the first Sunday of October as "National Stepparents Day." This day will offer stepchildren the opportunity to freely honor their stepparents, while allowing them to maintain loyalty to their natural parents on the traditional Mother's and Father's Days.

More than 35 million adults in America are currently stepparents, and 1 in every 5 children under the age of 18 is a stepchild. It is estimated that in the near future the number of stepfamilies will be greater than the number of traditional families. It is my hope that on National Stepparents Day efforts will be made to alert and educate the general public about the uniqueness of stepfamily relationships, and that special recognition be given to those stepparents who have extended their roles in life to enhance the lives of others.

I hope the Senators will support this joint resolution.

I ask unanimous consent to print the joint resolution at this point in the RECORD.

There being no objection, the joint resolution was ordered to be printed in the RECORD, as follows:

S.J. RES. 260

Whereas stepfamilies and stepparents are the largest growing social phenomena in our country;

Whereas there are more than 1,000 new stepfamilies formed daily in the United States;

Whereas it is estimated that by 1990 the number of stepfamily and single parent households will be greater than the number of traditional families in America;

Whereas currently more than 35 million adults are stepparents and one in every five children under the age 18 is a stepchild;

Whereas it is appropriate to give national recognition to the unique role assumed by stepparents and to increase public awareness of the special needs and concerns experienced by these individuals;

Whereas setting aside a specified day to recognize stepparents creates a new tie between child and stepparent; and

Whereas designating a special day for stepparents would give public validation and affirmation to this special group of individuals by focusing on the love, time, and personal commitment that stepparents unselfishly give to help raise, educate, and develop the children of other people: Now, therefore be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled That the first Sunday in October is hereby declared "National Stepparents Day." The President is requested to issue a proclamation calling upon the people of the United States to cel-

ebrate that day with appropriate ceremonies and activities.

By Mr. DOMENICI (for himself, Mr. BURDICK, Mr. BRADLEY, Mr. CHAFEE, Mr. ZORINSKY, Mr. COCHRAN, Mr. DOLE, Mr. LUGAR, Mr. HATCH, Mr. MATSUNAGA, Mr. NUNN, Mr. THURMOND, Mr. KERRY, and Mr. LEVIN):

S.J. Res. 261. Joint resolution to designate the week of April 14, 1986 through April 20, 1986, as "National Mathematics Awareness Week"; to the Committee on the Judiciary.

NATIONAL MATHEMATICS AWARENESS WEEK

● Mr. DOMENICI. Mr. President, on behalf of myself and a number of colleagues, I am introducing a joint resolution to authorize the President to issue a proclamation designating the week of April 14-20, 1986, as "National Mathematics Awareness Week."

This resolution acknowledges the need to recognize the important part that basic mathematics research plays in maintaining the excellence of U.S. technology. Mathematics is a discipline which touches all of our lives. Medicine, social science, and the arts make use of mathematics as well as more obvious disciplines such as computer science and space science. Mathematical techniques for accumulating and projecting numerical data have changed the way in which we conduct business, elect our national leaders, and evaluate our national debt. Three examples will serve to show how mathematics contributes to U.S. technological leadership in the world economy.

Scientists at the Los Alamos National Laboratories in New Mexico have developed a new computerized method to predict the flow of air, fluids, and particles. This breakthrough in flow dynamics will allow extremely complex problems in aerodynamics to be solved on relatively small computers. These results which have implications for auto design, aircraft design, and spacecraft design are basically a new way of solving a system of partial differential equations. These equations are an important area of basic mathematics research.

Much has been made recently about the competitiveness of the Japanese and their effective management style. One component of that style is the introduction of statistical techniques for the control and quality testing of manufactured products. These techniques are beginning to find wider application in U.S. manufacturing, thereby increasing the competitiveness of U.S. business.

One of the interesting aspects of basic mathematics research is its spin-off or technology transfer potential. What begins as simply an interesting problem for a mathematician may have wide application in a variety of areas. Currently a new mathematical area called fractal geometry is being used to describe cellular growth, crystal formation, and to create alien landscapes in some of our current box office movie hits.

In spite of this, enrollment in mathematics programs at all levels is declining, there is a shortage of competent instructors, and only 55 percent of Ph.D. graduates in mathematics from American institutions last year were American citizens. In its review of U.S. mathematics, the National Research Council expressed concern that if this trend is not reversed basic research necessary to support U.S. technology and to introduce new technologies to the U.S. economy will not be done.

"National Mathematics Awareness Week" gives us an opportunity to focus on the contributions that mathematics and American mathematicians have made to our society, economy, and innovative technologies. While space and computer science have exotic hardware to attract recognition to their fields, basic mathematics research does not. However without the proper mathematics these other sciences could not have developed. Those of us who are sponsoring this legislation hope that by drawing national attention to the critical and exciting area of mathematics research, we will stimulate continued growth and innovation in this field.●

ADDITIONAL COSPONSORS

S. 524

At the request of Mr. ARMSTRONG, the names of the Senator from Michigan [Mr. LEVIN], the Senator from Vermont [Mr. LEAHY], and the Senator from West Virginia [Mr. BYRD] were added as cosponsors of S. 524, a bill to recognize the organization known as The Retired Enlisted Association, Inc.

S. 608

At the request of Mr. SYMMS, the name of the Senator from Pennsylvania [Mr. HEINZ] was added as a cosponsor of S. 608, a bill to amend the Internal Revenue Code of 1954 to exclude small transactions and to make certain clarifications relating to broker reporting requirements.

S. 1005

At the request of Mr. NICKLES, the name of the Senator from Virginia [Mr. WARNER] was added as cosponsor of S. 1005, a bill to amend the Davis-Bacon Act to modify the provisions of such act prescribing the minimum wages to be paid laborers, mechanics, and helpers employed on public construction projects, and for other purposes.

S. 1053

At the request of Mr. MATSUNAGA, the name of the Senator from Illinois [Mr. DIXON] was added as a cosponsor of S. 1053, a bill to accept the findings and to implement the recommendations of the Commission on Wartime Relocation and Internment of Civilians.

S. 1815

At the request of Mr. HATCH, the name of the Senator from Delaware [Mr. BIDEN] was added as a cosponsor of S. 1815, a bill to prevent the denial of employment opportunities by prohibiting the use of lie detectors by employers involved in or affecting interstate commerce.

S. 1817

At the request of Mr. TRIBLE, the names of the Senator from North Carolina [Mr. EAST], and the Senator from Georgia [Mr. MATTINGLY] were added as cosponsors of S. 1817, a bill to suspend temporarily most-favored-nation treatment to Romania.

S. 1917

At the request of Mr. BRADLEY, the name of the Senator from Minnesota [Mr. DURENBERGER] was added as a cosponsor of S. 1917, a bill to amend the Foreign Assistance Act of 1961 to provide assistance to promote immunization and oral rehydration, and for other purposes.

S. 1919

At the request of Mr. ANDREWS, the name of the Senator from Alaska [Mr. MURKOWSKI] was added as a cosponsor of S. 1919, a bill to establish a task force to examine the issues associated with abuse of the elderly.

S. 1981

At the request of Mr. MURKOWSKI, the name of the Senator from Virginia [Mr. TRIBLE] was added as a cosponsor of S. 1981, a bill to provide a duty on surimi.

SENATE JOINT RESOLUTION 256

At the request of Mr. TRIBLE, the names of the Senator from Florida [Mr. CHILES], the Senator from Georgia [Mr. NUNN], the Senator from North Dakota [Mr. BURDICK], the Senator from Michigan [Mr. RIEGLE], the Senator from Mississippi [Mr. STENNIS], and the Senator from Rhode Island [Mr. CHAFEE] were added as cosponsors of Senate Joint Resolution 256, a bill designating August 12, 1986, as "National Neighborhood Crime Watch Day."

AMENDMENT NO. 1440

At the request of Mr. SPECTER, the name of the Senator from Washington [Mr. GORTON] was added as a cosponsor of amendment No. 1440 proposed to S. 638, a bill to amend the Regional Rail Reorganization Act of 1973 to provide for the transfer of ownership of the Consolidated Rail Corporation to the private sector, and for other purposes.

SENATE RESOLUTION 301—ORIGINAL RESOLUTION REPORTED AUTHORIZING EXPENDITURES BY THE COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. MCCLURE, from the Committee on Energy and Natural Resources, reported the following original resolution; which was referred to the Committee on Rules and Administration:

S. RES. 301

Resolved, That, in carrying out its powers, duties, and functions under the Standing Rules of the Senate, in accordance with its jurisdiction under rule XXVI of such rules, including holding hearings, reporting such hearings, and making investigations as authorized by paragraphs 1 and 8 of rule XXV of the Standing Rules of the Senate, the Committee on Energy and Natural Resources is authorized from March 1, 1986, through February 28, 1987, in its discretion (1) to make expenditures from the contingent fund of the Senate, (2) to employ personnel.

SEC. 2. The expenses of the committee under this resolution shall not exceed $2,397,763, of which amount (1) not to exceed $35,000 may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946, as amended), and (2) not to exceed $7,000 may be expended for the training of the professional staff of such committee (under procedures specified by section 202(j) of such act).

SEC. 3. The Committee shall report its findings, together with such recommendations for legislation as it deems advisable, to the Senate at the earliest practicable date, but not later than February 28, 1987.

SEC. 4. Expenses of the Committee under this resolution shall be paid from the contingent fund of the Senate upon vouchers approved by the Chairman of the committee, except that vouchers shall not be required for the disbursement of salaries of employees paid at an annual rate.

SEC. 5. There are authorized such sums as may be necessary for agency contributions related to the compensation of employees of the committee from March 1, 1986, through February 28, 1987, to be paid from the Appropriations account for "Expenses of Inquiries and Investigations".

SENATE RESOLUTION 302—ORIGINAL RESOLUTION REPORTED AUTHORIZING EXPENDITURES BY THE COMMITTEE ON FOREIGN RELATIONS

Mr. LUGAR, from the Committee on Foreign Relations, reported the following original resolution; which was referred to the Committee on Rules and Administration:

S. RES. 302

Resolved, That, in carrying out its powers, duties, and functions under the Standing Rules of the Senate, in accordance with its jurisdiction under rule XXV of such rules, including holding hearings, reporting such hearings, and making investigations as authorized by paragraphs 1 and 8 of rule XXVI of the Standing Rules of the Senate, the Committee on Foreign Relations is authorized from March 1, 1986, through February 28, 1987, in its discretion (1) to make expenditures from the contingent fund of the Senate, (2) to employ personnel, and (3) with the prior consent of the Government department or agency concerned and the Committee on Rules and Administration, to use on a reimbursable basis the services of personnel of any such department or agency.

SEC. 2. The expenses of the committee under this resolution shall not exceed $2,434,509, of which amount not to exceed $6,000 may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946, as amended).

SEC. 3. The committee shall report its findings, together with such recommendations for legislation as it deems advisable, to the Senate at the earliest practicable date, but not later than February 28, 1987.

SEC. 4. Expenses of the committee under this resolution shall be paid from the contingent fund of the Senate upon vouchers approved by the chairman of the committee, except that vouchers shall not be required for the disbursement of salaries of employees paid at an annual rate.

SEC. 5. There are authorized such sums as may be necessary for agency contributions related to the compensation of employees of the committee from March 1, 1986, through February 28, 1987, to be paid from the Appropriations account for "Express of Inquiries and Investigations."

SENATE RESOLUTION 303—RELATING TO TAXATION OF EMPLOYEE BENEFITS

Mr. HEINZ (for himself, Mr. MOYNIHAN, Mr. DIXON, Mr. SPECTER, Mr. STAFFORD, and Mr. ANDREWS) submitted the following resolution; which was referred to the Committee on Finance:

S. RES. 303

Whereas beginning a century ago in imperial Germany, and universally since World War II, the industrial nations of the world have looked upon health care, education, retirement security, and life disability, and unemployment insurance as fundamental necessities of a stable, progressive society;

Whereas unlike many other industrialized nations which have perceived that the national interest requires constantly rising minimum standards in these areas and have chosen to create government programs financed through general revenues, the United States chose to try to meet these needs indirectly through the tax code;

Whereas today more than one hundred and forty million Americans, including more than 90 per centum of full-time workers, are covered by an employer health plan and millions of Americans are also covered by other employee benefit programs such as life insurance, dental plans, child care, educational assistance, unemployment and worker compensation, and prepaid legal assistance;

Whereas a recent national survey of corporate managers illustrates that if a new tax on employee benefits were levied most employers would seek to reduce the level and availability of employee benefits, resulting in fewer protections and added coinsurance costs; and

Whereas this new tax on employee benefits, particularly on health insurance benefits, would discriminate against and penalize Americans with large families, the working aged, handicapped, and chronically ill whose health insurance premiums are more costly than those for younger, single, healthier workers; and

Whereas this new tax on employee benefits, would discriminate against and penalize employees who live in high-medical-cost areas, where health insurance premiums are more costly, and employees in hazardous, high-risk occupations who usually pay higher health insurance premiums: Now, therefore, be it

Resolved, That it is the sense of the Senate that employee benefits not be taxed.

● Mr. HEINZ. Mr. President, our Nation's tax policies have for decades encouraged employer-provided benefits which are without parallel in the world. Through the Tax Code, the private sector has been able to provide a broad array of employee benefits, health care, education, retirement security, life, disability, and unemployment insurance. This unique system means that private industry helps contain costs which the Federal Government would otherwise pick up.

Proposals to end the Tax Code's special status for employer-provided fringe benefits come as a shock. My colleagues should be advised that we have not seen the end of this issue, and the upcoming Finance Committee markup will present several opportunities for proponents of a tax on employer-provided fringe benefits. Those who would have tax reform include a cap of $175 per month on tax-free health benefits for family plans and $70 per month for individuals will devastate retirees, the unemployed, the handicapped, the working aged, and surviving spouses and dependents who have little income with which to pay the additional tax. Taxation of health benefits will also penalize those with the costliest health premiums, including the chronically ill, the handicapped, and families with children. The effect on older workers could well prove disastrous. The Federal Government's role in providing health benefits to such workers will be increased, as needy citizens who now rely upon their health benefits are forced to turn to the Federal Government for assistance.

The former Secretary of Health and Human Services, Richard Schweiker, recently said that changing the present tax status of health insurance benefits "could cause the entire health insurance system to unravel, leading to higher costs for Medicare and Medicaid."

In addition, the conclusions raised at the conference of the Senate Finance Committee, held at Berkeley Springs over this past weekend, add to the uncertainty. The sense of the committee's members was that the House-passed bill, because of serious capital formation flaws, should not be the vehicle for Senate markup. Although the House wisely rejected any taxation

of these vital health benefits, the Finance Committee's decision to start with an as yet unwritten committee print opens the door to the taxation of employee benefits.

Mr. President, I believe taxation of employee benefits is ill-advised and counterproductive. I am submitting a resolution declaring the sense of the Senate that employee benefits not be taxed. I am pleased to be joined in this effort by my distinguished colleagues. Mr. MOYNIHAN, Mr. DIXON, Mr. SPECTER, Mr. STAFFORD, and Mr. ANDREWS.

I also wish to commend the efforts of the distinguished chairman of the Senate Finance Committee, Mr. PACKWOOD, to prevent the taxation of employee fringe benefits. I am looking forward to working with him to produce an equitable tax reform bill.

Mr. President, I urge all my colleagues to join me in sponsoring this effort to protect the benefits of working men and women.●

● Mr. SPECTER. Mr. President, as an original sponsor of the Heinz-Moynihan-Specter resolution on the taxation of employee fringe benefits, I rise in strong support of this measure.

Benjamin Franklin once was heard to remark, "Nothing in life is certain except death and taxes." While I agree with this distinguished Philadelphian, I also believe that nothing is more uncertain than when death or injury will occur and how to tax fairly, simply, and efficiently. In order to counter the risks of life, many Americans protect themselves with health and life insurance, and retirement plans. And, in order to achieve a fair, simple, and efficient Tax Code, Americans need tax reform.

In late May, President Reagan submitted a bold plan for tax reform to Congress. Although I believe that Americans want reform, the administration's plan raised many issues for debate. President Reagan must be commended for keeping his vital initiative alive.

The administration proposed including employer contributions to health plans in a worker's income up to $10 per month—$120 per year—for individual coverage and up to $25 per month—$300 per year—for family coverage. By taxing as income the value derived from company-sponsored health insurance policies, the cost of maintaining adequate coverage could have risen beyond the reach of most Americans.

I have consistently opposed attempts to tax fringe benefits and believe that this resolution sends a strong signal to the Finance Committee and to Members in both Chambers that we must maintain the current tax treatment of these benefits. At a time when working families in Pennsylvania and across the Nation are under severe financial pressure, we simply cannot justify adding to their burdens by any changes in the tax status of these benefits.

Company-sponsored benefits provide a decentralized, and effective means of keeping employees healthy, encouraging savings, and providing income in the event of disability, death, or retirement. According to the U.S. Bureau of Labor Statistics, 82 percent of full-time workers in medium and large firms have employer-provided pension protection. In addition, the same survey indicates that 96 percent of full-time workers have employer-provided life and health insurance protection.

While I am pleased to note that the House bill has retained the current tax-exempt status of most employee benefits, I am concerned over changes which would adversely affect retirement savings.

The House bill would limit the use of 410(k) and individual retirement account [IRA] plans. The committee has recommended reducing from $30,000 to $7,000 the limit on employee contributions to 401(k) retirement plans. Unlike current law, these contributions would count against an individual's $2,000 IRA deduction limit. In addition, a 15-percent penalty tax would be assessed on those who withdraw funds before the age of 59½.

As budget deficits grow larger, and available capital pools dwindle, it is important to retain incentives for increased savings. High personal savings fosters lower interest rates, and thus are a principal catalyst to productive investment in this country. Section 401(k) and IRA plans have encouraged many rank-and-file employees to save money on a long-term basis, and it is difficult to justify changes that would limit use of these plans.

Maintaining a viable system of decentralized health and life insurance and other employee benefits is vital for Pennsylvania and for the Nation as a whole. As tax reform works its way through the Senate, I intend to oppose any changes which would limit the ability of employers to provide important medical and retirement services to their employees and their families.●

● Mr. DIXON. Mr. President, I am pleased to join my colleagues in submitting what I believe to be a fundamentally important resolution today, expressing the sense of the Senate that we should maintain our present policy of not taxing employee benefits.

There are many reasons why these benefits should not be taxed. Some of them are obvious, others are less so. There would be some very far-reaching and negative consequences of a reversal of our policy on this critical issue.

Almost every country in the industrialized world provides some form of protection for their citizens for health care, education, retirement security, and unemployment. Many are financed directly by these governments from general revenues. The United States has followed a different path, choosing instead to address these needs through our tax policy by giving deductions to employers for their contributions to employee benefit plans. Workers are not taxed for these benefits and they never have been.

Taxation of these benefits would destroy private-sector incentive and would ultimately lead to the erosion of employee compensation and benefit packages that currently exist. We all remember the devastating effect of the crippling unemployment rates in this country a few years ago. One of the related tragedies of those lost jobs was the loss of employment-related health insurance. Millions of people were suddenly faced with no protection whatsoever. This led to increased Federal costs in instances where these former workers were forced to depend on Medicaid instead of private insurance. Many were totally without protection and were denied health care altogether.

A recent Roper survey indicated that most employers would move to reduce health benefits if they were to lose the tax deduction for their contributions. This would mean that young, single, and healthy individuals would no longer be included in the insurance pool creating a situation which would lead to even higher health care costs than we now face.

Similarly, by taxing pension and retirement plans, we would jeopardize the ability of workers and their employers to provide retirement security, leading to more poverty among retirees and more dependence on the public sector as our work force grows older. The present administration has stressed the privatization of many benefits and services previously provided by the Government. By taxing employee benefits, we would be making those protections which are being provided by the private sector less economically feasible.

The thought of further taxation of unemployment compensation is not, in this Senator's opinion, something that we can do in a just society. Unemployment benefits now reach only one worker in four, the lowest in the program's history. These benefits have deteriorated, not only in the number of people who can receive them, but in the number of weeks available, from an all-time high of 65 weeks in 1975, to 26 weeks in most States today. When many States still have unacceptably high unemployment rates, and no longer count many people who are still out of work or are underemployed, placing an additional burden on those few who do receive some assistance would be unconscionable.

Taxing benefits of workers who are injured on the job and who receive

compensation for those injuries, many of which are permanent impairments, is neither responsible nor humane.

Although I recognize that some would find the taxes on employee benefits a source of additional revenue, in my opinion and that of many others, it would be penny wise and pound foolish, leading to more drastic budget ramifications.

More importantly, it would be one more swipe at the workers of this country who are the backbone of our economy. These people are self-sufficient, and they want to stay that way. In an era when the Federal Government has slammed the door on many previously provided services and protections, taxing employee benefits would be the final straw.

As the Senate begins its deliberations on a new tax bill, it is my hope that we will see the wisdom of avoiding what may appear to be an easy source of revenue. It would be economically irresponsible and morally reprehensible.

I urge my colleagues to join us in cosponsoring this resolution so that it will serve as a guidepost as we begin consideration of the tax bill.●

SENATE RESOLUTION 304—RELATING TO TAXATION OF RETIREMENT BENEFITS

Mr. TRIBLE (for himself, Mr. STEVENS, Mr. MATHIAS, Mr. EAGLETON, Mr. HOLLINGS, and Mr. SARBANES) submitted the following resolution; which was referred to the Committee on Finance:

S. RES. 304

Whereas retention and recruitment of qualified personnel is essential to the efficient operation of Federal, State, and local governments in meeting the vital needs of United States citizens as well as national and international obligations;

Whereas retention of qualified government personnel, such as scientists, engineers, technicians, senior managers, physicians, and educators is now threatened by a provision of the Tax Reform Act of 1985 (H.R. 3838);

Whereas any disproportionate burden placed upon public sector employees through a tax reform measure is an inequity which will create a powerful incentive for retirement and which will precipitate large-scale loss of government employees currently filling key positions;

Whereas this massive exodus from government service could result in unanticipated government expenses due to additional retirement benefits payments, compounded by continued payment of salaries for those vacant positions which are filled, thereby offsetting a large part of the tax revenues predicted to be received from repealing the 3-year basis recovery rule; and

Whereas the Senate intends and has stated its intention, in S. Res. 281, to "prepare legislation which will maximize fairness and long-term economic growth and minimize short-term economic disruption": Now, therefore, be it

Resolved, That it is the sense of the Senate that section 1122(c)(1) of H.R. 3838 repealing section 72(d) of the Internal Revenue Code of 1954 pertaining to the 3-year basis recovery rule on taxation of retirement annuities will be deleted from the tax reform legislation now pending before the Senate Finance Committee, and that the present 3-year basis recovery rules will be maintained.

Mr. TRIBLE. Mr. President, as the Senate begins deliberations on the House-passed tax reform bill, I urge my colleagues to join with me to ensure that the Senate version of the tax bill does not contain an ill-conceived provision included in the House bill which eliminates the 3-year basis recovery rule for contributory defined benefit pension plans. To that end I am submitting a resolution which expresses the Senate's opposition to this proposal.

Approximately 19 million Americans—primarily Federal, State, and local employees—contribute to their retirement plans. These employees pay taxes on the moneys which they put into their annuity fund. Under current law, when the employee retires and begins to receive an annuity, these payments are not taxed until that individual has received an amount equal to his own contributions to the retirement fund.

The House tax reform bill proposed a drastic change in this established rule. Section 1122(c) of H.R. 3838 would eliminate the current procedures and subject retirees to immediate taxation of retirement benefits. This provision would have disastrous effects on those 19 million Americans now contributing to their retirement plans. And, this provision would have equally unproductive effects on the administration of Government at all levels, the service provided by Government, and the cost of Government.

The financial losses imposed upon employees would be severe and this onerous burden would compound year after year after year. The House provision seriously jeopardizes retirement income security for Federal employees and postal workers, for State and local employees, for teachers and firemen and policemen, for every American in public or private employment who pays into his retirement fund.

Although the House provision has not been enacted, its effects are already being felt. Across the Nation employees who are eligible to retire are beginning to leave their jobs or are making plans to do so in order to avoid the financial hardships which would be imposed upon them should Congress enact this tax penalty.

In the Federal Government, 210,000 employees are currently eligible to retire. An estimated 75 to 90 percent of those eligible to retire will do so prior to the effective date of the tax reform provisions.

Who are these employees eligible to retire? Fifty percent of the senior executive service, the highest level of employees in Government service, are eligible to retire. Over 40 percent of NASA's scientists and engineers are now eligible to retire. The Federal Government already has a severe recruitment and retention problem for these positions and others, such as nurses, physicians, air traffic controllers, and technicians. We cannot afford to lose these skilled and experienced personnel to early retirement.

Moreover Mr. President, the costs associated with the premature retirements of Federal employees could easily surpass any revenue gained by a change in the tax law. It is estimated that the House tax provision would raise $6.3 to $8.3 billion over 5 years, or on average, $1.26 to $1.68 billion per year. However, current Government obligations are $2.5 billion in annual annuities for Federal employees eligible to retire. If the majority of retirement eligible Federal workers choose early retirement as they have indicated, the costs of providing them with annuities would cancel our revenues expected by the proposed tax change.

I urge my colleagues to take note that the $2.5 billion figure represents only those costs associated with retirements of Federal workers. Federal workers number only 2.7 of the 19 million affected by the House provisions. The $2.5 billion figure does not include costs which would be imposed on State and local governments and private employers affected by the tax change.

Mr. President, the deleterious effects of section 1122(c) of H.R. 3838 are already being felt. We are already seeing the beginning of a crisis in government at all levels. Section 1122(c) must be omitted from the Senate bill and the Senate must provide an immediate signal of its intent to do so. We must assist employers to retain personnel now making retirement plans who may be unduly influenced by the proposed tax penalty. We must allay the well-founded fears of employees.

The resolution I am submitting today will provide the much needed signal for the 19 million Americans affected by the proposed tax change. The resolution expresses the Senate's opposition to section 1122(c) of the House tax bill and its intent to omit those provisions from the Senate version of the tax reform plan.

I urge every Senator to join me by cosponsoring this resolution. We must avert the crisis now in the making.

SENATE RESOLUTION 305—REGARDING THE PRINTING OF THE ANNUAL REPORT FROM THE SPECIAL COMMITTEE ON AGING

Mr. HEINZ (for himself and Mr. GLENN) submitted the following reso-

lution; which was referred to the Committee on Rules and Administration:

S. RES. 305

Resolved, That there shall be printed for the use of the Special Committee on Aging the maximum number of copies of volume 1 of its annual report to the Senate, entitled "Developments in Aging: 1985," which may be printed at a cost not to exceed $1,200.

AMENDMENTS SUBMITTED

CONSOLIDATED RAIL CORPORATION SALE

METZENBAUM AMENDMENTS NOS. 1441 THROUGH 1554

(Ordered to lie on the table.)

Mr. METZENBAUM submitted 114 amendments intended to be proposed by him to the bill (S. 638) to amend the Regional Rail Reorganization Act of 1973 to provide for the transfer of ownership of the Consolidated Rail Corporation to the private sector, and for other purchases; as follows:

AMENDMENT No. 1441

In lieu of the language proposed to be inserted, insert the following:

That this Act may be cited as the "Conrail Sale Amendments Act of 1985".

FINDINGS

SEC. 2. The Congress finds that—

(1) the Northeast Rail Service Act of 1981 (45 U.S.C. 1101 et seq.) provided for an orderly return of Conrail freight service to the private sector;

(2) the provisions of the Northeast Rail Service Act of 1981 were successful in removing Conrail's obligations beyond railroad freight service and in otherwise preparing Conrail for an orderly return to the private sector;

(3) acting under section 403 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 763), the Board of Directors of the United States Railway Association twice found Conrail to be a profitable corporation;

(4) acting under section 401 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 761), the Secretary engaged an investment banker and arranged, through open competitive bidding and negotiation, to sell the interest of the United States in the common stock of Conrail;

(5) the Secretary's Plan for the sale of Conrail provides for sale of the interest of the United States in the common stock of Conrail to Norfolk Southern Corporation;

(6) the Secretary found that sale of the interest of the United States in the common stock of Conrail to Norfolk Southern Corporation best meets the sale criteria of (A) leaving Conrail in the strongest financial position after the sale, (B) preserving patterns of service to shippers and communities in the region Conrail serves, and (C) maximizing return to the Federal Government consistent with the criteria specified in clauses (A) and (B);

(7) amendments to the Regional Rail Reorganization Act of 1973 (45 U.S.C. 701 et seq.) and related laws are needed to permit the sale of the interest of the United States in the common stock of Conrail to Norfolk Southern Corporation and to permit cancellation of the interest of the United States in Conrail debt and preferred stock; and

(8) the Secretary's Plan satisfies the requirements of the Northeast Rail Service Act of 1981, including the intent, goals, and objectives relating to the sale of the interest of the United States in the common stock of Conrail and the requirements of section 401(e) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 761(e)).

PURPOSE

SEC. 3. It is therefore declared to be the purpose of the Congress in this Act to return Conrail to the private sector by directing and facilitating implementation of the Secretary's Plan for the sale of the interest of the United States in the common stock of Conrail.

DEFINITIONS

SEC. 4. (a) In this Act, unless the context otherwise requires, the term—

(1) "Conrail" means the Consolidated Rail Corporation;

(2) "Definitive Agreements" means any and all agreements existing or to be developed between the United States and Norfolk Southern Corporation, including all representations and warranties made therein, to implement the Memorandum of Intent described in paragraph (4)(A);

(3) "Secretary" means the Secretary of Transportation; and

(4) "Secretary's Plan" means (A) the Memorandum of Intent between the United States and Norfolk Southern Corporation signed February 8, 1985, and (B) the divestitures by the Norfolk Southern Corporation of certain rail tracks, rights, and facilities, and any transactions or agreements related or incidental to such divestitures, in connection with the implementation of attachment A to the letter from the Department of Justice attached to the Memorandum of Intent as exhibit E.

(b) Section 102 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 702) is amended—

(1) by redesignating paragraphs (6) through (18) as paragraphs (7) through (19), and paragraphs (19) through (21) as paragraphs (21) through (23), respectively;

(2) by inserting after paragraph (5) the following paragraph:

"(6) 'Definitive Agreements' means any and all agreements existing or to be developed between the United States and Norfolk Southern Corporation, including all representations and warranties made therein, to implement the Memorandum of Intent described in paragraph (20)(A);"; and

(3) by inserting after paragraph (19), as so redesignated, the following paragraph:

"(20) 'Secretary's Plan' means (A) the Memorandum of Intent between the United States and Norfolk Southern Corporation signed February 8, 1985, and (B) the divestitures by the Norfolk Southern Corporation of certain rail tracks, rights, and facilities, and any transactions or agreements related or incidental to such divestitures, in connection with the implementation of attachment A to the letter from the Department of Justice attached to the Memorandum of Intent as exhibit E;".

(c) Section 1135(a) of the Northeast Rail Service Act of 1981 (45 U.S.C. 1104(a)) is amended—

(1) by redesignating paragraphs (6), (7), and (8) as paragraphs (7), (8), and (10), respectively;

(2) by inserting after paragraph (5) the following paragraph:

"(6) 'Definitive Agreements' means any and all agreements existing or to be developed between the United States and Norfolk Southern Corporation, including all representations and warranties made therein, to implement the Memorandum of Intent described in paragraph (9)(A);"; and

(3) by inserting after paragraph (8), as so redesignated, the following paragraph:

"(9) 'Secretary's Plan' means (A) the Memorandum of Intent between the United States and Norfolk Southern Corporation signed February 8, 1985, and (B) the divestitures by the Norfolk Southern Corporation of certain rail tracks, rights, and facilities, and any transactions or agreements related or incidental to such divestitures, in connection with the implementation of attachment A to the letter from the Department of Justice attached to the Memorandum of Intent as exhibit E;".

TITLE I—AMENDMENTS TO THE REGIONAL RAIL REORGANIZATION ACT OF 1973 AND THE NORTHEAST RAIL SERVICE ACT OF 1981

Subtitle A—Regional Rail Reorganization Act of 1973 Amendments

LIMIT ON AUTHORITY TO PURCHASE STOCK

SEC. 101. Section 216(b) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 726(b)) is amended by adding at the end thereof the following paragraph:

"(5) The authority of the Association to purchase debentures or series A preferred stock of the Corporation under this section shall terminate upon the consummation of the sale of the interest of the United States in the common stock of the Corporation under the terms of the Secretary's Plan.".

RESPONSIBILITY OF CONRAIL DIRECTORS

SEC. 102. Section 301(i) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 741(i)) is amended by inserting immediately after "required by law" the following: ", taken to implement the Secretary's Plan,".

APPLICABILITY OF REGIONAL RAIL REORGANIZATION ACT OF 1973 TO CONRAIL AFTER SALE

SEC. 103. Section 301 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 741) is amended by adding at the end thereof the following subsection:

"(k) GOVERNING PROVISIONS AFTER SALE.—The provisions of this Act shall not apply to the Corporation and to activities and other actions and responsibilities of the Corporation and its directors after consummation of the sale of the interest of the United States in the common stock of the Corporation under the terms of the Conrail Sale Amendments Act of 1985, other than with regard to—

"(1) section 102 of this Act;

"(2) section 201(d) of this Act;

"(3) section 203 of this Act, but only with respect to information relating to proceedings before the special court established under section 209(b);

"(4) section 216(f)(8) of this Act, but only as such authority applies to activities related to the employee stock ownership plan and related trusts prior to or in connection with consummation of the sale of the interest of the United States in the common stock of the Corporation, including activities related to the sale, exchange, valuation, or disposition of the assets of the employee stock ownership plan and related trusts, or of Conrail Equity Corporation, in connection with the Secretary's Plan;

"(5) sections 216(f)(11) and 216(f)(12) of this Act, as amended by the Conrail Sale Amendments Act of 1985;

"(6) section 217(e) of this Act;

"(7) subsection (i) of this section, but only as such authority applies to service as a director of the Corporation prior to consummation or in connection with implementation of the sale of the interest of the United States in the common stock of the Corporation;

"(8) section 305 of this Act, but only as to the effect, and continuing administration, of supplemental transactions consummated prior to consummation of the sale of the interest of the United States in the common stock of the Corporation;

"(9) section 308 of this Act, but only in abandonment actions when such authority has been relied on to file a notice or notices of insufficent revenues prior to consummation of the sale of the interest of the United States in the common stock of the Corporation;

"(10) section 401(a) of this Act, as amended by the Conrail Sale Amendments Act of 1985;

"(11) section 402 of this Act, as amended by the Conrail Sale Amendments Act of 1985;

"(12) section 408(c) of this Act, as amended by the Conrail Sale Amendments Act of 1985;

"(13) section 701 of this Act, but only as may be necessary to identify employees eligible for benefits under agreements entered into under such section;

"(14) section 702(e) of this Act;

"(15) section 704(b) of this Act;

"(16) section 709 of this Act;

"(17) section 710(b)(1) of this Act;

"(18) section 711 of this Act;

"(19) section 714 of this Act, but only with regard to disputes or controversies specified in such section that arose prior to consummation of the sale of the interest of the United States in the common stock of the Corporation; and

"(20) section 715 of this Act, as amended by the Conrail Sale Amendments Act of 1985.".

IMPLEMENTATION OF THE SECRETARY'S PLAN

SEC. 104. (a) Section 401(a)(3) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 761(a)(3)) is amended to read as follows:

"(3) The Secretary is authorized to implement the Secretary's Plan, in accordance with paragraph (4) of this subsection.".

(b) Section 401(a) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 761(a)) is amended by adding at the end thereof the following paragraphs:

"(4) The Secretary shall implement the Secretary's Plan by negotiating, executing, delivering, and performing the Definitive Agreements, which shall conform to the Memorandum of Intent described in section 102(20)(A) of this Act. The Secretary shall, 45 calendar days before the date on which the Secretary anticipates that the interest of the United States in the common stock of the Corporation will be sold to Norfolk Southern Corporation, transmit to the Committee on Commerce, Science, and Transportation of the Senate and to the Committee on Energy and Commerce of the House of Representatives a notification of any alteration from the Memorandum of Intent described in section 102(20)(A) of this Act which will be made in the Definitive Agreements. After the date of such sale, the Secretary shall transmit to such Committees notification of any intent to waive compliance with any substantive covenant, agreement or obligation contained in the Definitive Agreements, and the Secretary may not waive such compliance until a period of 45 calendar days has expired after the date of such transmittal.

"(5) The Secretary shall not transfer the interest of the United States in the common stock of the Corporation except concurrently with a divestiture by Norfolk Southern Corporation of rail assets and rights approved by the Attorney General.

"(6) The sale of the interest of the United States in the common stock of the Corporation shall be deemed to be consummated at the date title to the common stock passes to Norfolk Southern Corporation and the United States receives the cash purchase price.".

RAILROAD PURCHASERS AND OFFER FOR SALE OF SHARES TO EMPLOYEES

SEC. 105. Subsections (d) and (e) of section 401 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 761 (d) and (e)) are repealed.

CANCELLATION OF DEBT AND PREFERRED STOCK

SEC. 106. Section 402 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 762) is amended to read as follows:

"DEBT AND PREFERRED STOCK

"SEC. 402. (a) RECAPITALIZATION.—In connection with the sale of the interest of the United States in the common stock of the Corporation under section 401 of this Act, and consistent with the Secretary's Plan, the Secretary may take all action necessary to cause the Corporation to be recapitalized such that the interest of the United States, or any agent or instrumentality thereof, and all other commitments or obligations of the Corporation to the United States or any agent or instrumentality thereof arising out of such interest, in any debt (including accrued interest and contingent interest thereon) and preferred stock (including accrued and unpaid dividends thereon) of the Corporation shall be cancelled or retired, and contributed to the capital of the Corporation. The Secretary shall cause the recapitalization authorized by this section to be effective as of the consummation of the sale of the interest of the United States in the common stock of the Corporation.

"(b) BREACH OF REPRESENTATIONS.—(1) Norfolk Southern Corporation or any successor corporation thereto may bring suit for any breach of representations contained in paragraph 6(e) of the Memorandum of Intent described in section 102(20)(A) of this Act (hereinafter referred to as the 'Representations') in the United States Claims Court or a district court of the United States. If such an action is brought, the Claims Court or district court shall determine the amount by which the United States income tax (including interest and penalties whether or not such penalties are assessed as a tax under the Internal Revenue Code of 1954) assessable against the Corporation or against Norfolk Southern Corporation for any year exceeds the amount of such tax which would have been assessable for such year had such Representations not been breached (hereinafter referred to as the 'Offset Amount').

"(2) The Representations shall be considered breached and Norfolk Southern Corporation shall be entitled to bring suit upon the first occurrence of any of the following that is inconsistent with the Representations: (A) the issuance by the Internal Revenue Service of a statutory notice of deficiency (90-day letter), (B) the assessment of the United States income tax, or (C) any claim by the United States in a suit or other judicial proceeding against Norfolk Southern Corporation or the Corporation.

"(3) The right to bring suit pursuant to this section shall not be subject to any waiting period applicable to tax proceedings or to any requirements for payment of any tax as a condition to instituting any suit based on a breach of the Representations.

"(4) Any judgment for money damages relating to breach of the Representations shall only be awarded as an offset in any court or administrative proceeding against the tax liability of Norfolk Southern Corporation or the Corporation, or both, to which such breach relates; except that if any such tax liability resulting from such breach has been paid, the judgment shall to that extent be an offset against any United States income tax liability of the Norfolk Southern Corporation or the Corporation, or both. If any portion of the tax resulting from a breach of the Representations has been paid, then the Offset Amount shall include interest on such payment from the date paid at the rate from time to time specified in the Internal Revenue Code of 1954 for interest payable on refund claims.

"(5) It shall not be a defense to an action brought under this section that Norfolk Southern Corporation knew, or should have known, of the falsity of the Representations or that there exists no carryover basis procedure as contemplated by the last sentence of the Representations.

"(6) For purposes of this section, tax liability of Norfolk Southern Corporation shall include the tax liability of Norfolk Southern Corporation and its affiliated group, within the meaning of section 1504 of the Internal Revenue Code of 1954.".

APPLICABILITY OF CERTAIN LAWS TO SALE OF CONRAIL

SEC. 107. Section 408 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 768) is amended—

(1) by repealing subsection (b);

(2) by amending subsection (c) by striking "No transfer" and all that follows through "subject to" and inserting in lieu thereof "Except as provided in section 1152 of the Northeast Rail Service Act of 1981 (45 U.S.C. 1105), the Secretary's Plan and the Definitive Agreements and their negotiation, execution, and implementation shall not be subject to administrative or"; and

(3) by adding at the end of subsection (c) the following sentence: "The issuance in private placement of notes or other securities in accordance with exhibit B to the Memorandum of Intent (described in section 102(20)(A) of this Act) in the Secretary's Plan shall not be subject to the provisions of subtitle IV of title 49, United States Code.".

LABOR PROTECTION

SEC. 108. (a) Section 701(d)(2) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 797(d)(2)) is amended by striking "the last day of the eighteen-month period beginning on".

(b)(1) Title VII of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 797 et seq.) is amended by adding at the end thereof the following section:

"PROTECTION AFTER SALE

"SEC. 715. After consummation of the sale of the interest of the United States in the common stock of the Corporation pursuant to the Secretary's Plan, any employee of Norfolk Southern Corporation, the Corporation, any rail affiliate of either company, and any transferee of the rail tracks, rights, and facilities divested in accordance with the Secretary's Plan, who is adversely af-

fected in his employment by the implementation of the Secretary's Plan shall receive from his employer protection under the labor protective conditions set forth in New York Dock Railway—Control—Brooklyn Eastern District Terminal (354 ICC 399 (1978), modified upon further consideration, 360 ICC 60 (1979)). The arbitration provisions of section 4 of New York Dock shall apply to the formation of any implementing agreements that may be necessary in connection with the implementation of the Secretary's Plan, including any resulting coordinations.".

(2) The table of contents of the Regional Rail Reorganization Act of 1973 is amended by inserting immediately after the item relating to section 714 the following item:

"Sec. 715. Protection after sale.".

PREFERENTIAL HIRING

SEC. 109. Section 703 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 797b) is amended—

(1) by redesignating subsection (b) as subsection (c); and

(2) by inserting immediately after subsection (a) the following subsection:

"(b) IMPLEMENTATION OF SECRETARY'S PLAN.—Any employee of any railroad who is deprived of employment as a result of the implementation of the Secretary's Plan shall have the first right of hire for a vacancy for which he is qualified on any Norfolk Southern Corporation rail subsidiary, except where such vacancy is covered by (1) an affirmative action plan, or a hiring plan designated to eliminate discrimination, that is required by Federal or State statute, regulation, or Executive order, or by the order of a Federal court or agency, or (2) a permissible voluntary affirmative action plan. For purposes of this subsection, a railroad shall not be considered to be hiring new employees when it recalls any of its own furloughed employees.".

CROSS CRAFT EMPLOYMENT

SEC. 110. (a) Title VII of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 797 et seq.) is amended by inserting immediately after section 703 the following section:

"CROSS CRAFT EMPLOYMENT

"SEC. 703A. Any employee of Norfolk and Western Railway Company, Southern Railway Company, or the Corporation who is deprived of employment as a result of the implementation of the Secretary's Plan shall have the first right of hire for any vacancy for which such employee is qualified at the entry level of any Norfolk Southern Corporation rail subsidiary, without regard to craft or class or the provisions of section 703 of this Act. Such employee shall retain his seniority rights to return to his original craft or class whenever a vacancy occurs. For purposes of this section, a railroad shall not be considered to be hiring new employees when it recalls any of its own furloughed employees.".

(b) The table of contents of the Regional Rail Reorganization Act of 1973 is amended by inserting immediately after the item relating to section 703 the following item:

"Sec. 703A. Cross craft employment.".

Subtitle B—Northeast Rail Service Act of 1981 Amendments

SPECIAL COURT JURISDICTION

SEC. 121. (a) Section 1152 of the Northeast Rail Service Act of 1981 (45 U.S.C. 1105) is amended—

(1) by inserting "or the Conrail Sale Amendments Act of 1985" immediately after "subtitle" wherever it appears;

(2) in subsection (a), by striking "or" at the end of paragraph (3), by striking the period at the end of paragraph (4) and inserting in lieu thereof a semicolon, and by adding at the end thereof the following paragraphs:

"(5) brought by the United States or any agency or instrumentality thereof seeking to enforce the Secretary's Plan or the Definitive Agreements;

"(6) brought by Norfolk Southern Corporation seeking to enforce the Secretary's Plan or the Definitive Agreements;

"(7) brought by a party who filed a complaint with the Secretary under subsection (e) of this section, and who is aggrieved by (A) a determination of the Secretary under paragraph (1) of such subsection that the party has not suffered direct economic injury, or (B) a decision of the Secretary under paragraph (2) of such subsection that a covenant has not been violated;

"(8) brought by a party which is a signatory to an ancillary agreement entered into in accordance with the Secretary's Plan or the Definitive Agreements and which is seeking to enforce such ancillary agreement; or

"(9) brought to determine the value of the interest of the employee stock ownership plan and related trusts, or of the beneficiaries thereof, in the preferred stock of the Conrail Equity Corporation.

For purposes of any action brought under paragraph (5) of this subsection, a violation of any covenant contained in the Secretary's Plan or the Definitive Agreements shall be deemed to constitute immediate and irreparable harm for purposes of awarding injunctive relief to the United States.".

(b) Section 1152 of the Northeast Rail Service Act of 1981 (45 U.S.C. 1105) is amended by adding at the end thereof the following subsection:

"(e)(1) Any party who suffers direct economic injury as a result of an alleged violation of a covenant contained in the Definitive Agreements may file a complaint with the Secretary seeking enforcement of such covenant. If the Secretary determines that the complainant has demonstrated to the Secretary that it has suffered direct economic injury, the Secretary shall investigate the complaint.

"(2) If the Secretary decides to investigate a complaint under paragraph (1) of this subsection, the Secretary shall give reasonable notice of such decision to investigate to the alleged violator of such covenant and the complainant, and shall make a final decision on such complaint within 60 days after the date on which it was filed.

"(3) If the Secretary finds that (A) the covenant in question has been violated, and (B) the complainant suffered direct economic injury as a result of such violation, the Secretary shall enter an order directing the violator of such covenant to comply with such covenant.

"(4) On appeal, any decision by the Secretary under this subsection shall be upheld, unless such decision is found to be arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law.".

APPLICABILITY OF OTHER LAWS

SEC. 122. Section 1168(a) of the Northeast Rail Service Act of 1981 (45 U.S.C. 1116(a)) is amended by striking "service transfers" and inserting in lieu thereof "sale of the interest of the United States in the common stock of Conrail or transfer of the rail properties and freight service responsibilities of Conrail".

Subtitle C—Employee Stock Ownership Plan

RESPONSIBILITY OF EMPLOYEE STOCK OWNERSHIP PLAN FIDUCIARIES

SEC. 131. (a) Section 216(f)(8)(A) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 726(f)(8)(A)) is amended—

(1) by striking "or" at the end of clause (ii);

(2) by striking the period at the end of clause (iii) and inserting in lieu thereof "; or"; and

(3) by adding at the end thereof the following clause:

"(iv) for or in connection with any action taken to implement the Secretary's Plan, including any sale, exchange, valuation, or disposition of the plan and related trust assets, or the assets of Conrail Equity Corporation, in connection with implementation of the Secretary's Plan and any determination of the terms on which any such sale, exchange, valuation, or disposition is effected.".

QUALIFICATION, REVIEW, AND VALUATION OF EMPLOYEE STOCK OWNERSHIP PLANS

SEC. 132. Section 216(f) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 726(f)) is amended by adding at the end thereof the following paragraphs:

"(11) The employee stock ownership plans of the Corporation and related trusts maintained, amended, or adopted in implementing the Secretary's Plan shall be deemed to meet the qualification requirements of sections 401 and 501, respectively, of the Internal Revenue Code of 1954, notwithstanding (A) that such plans may not meet the requirements of section 415 of the Internal Revenue Code of 1954, or (B) that participants in such plans may be entitled to withdraw a portion of the shares allocated to their accounts prior to the expiration of the period generally imposed by the Internal Revenue Service for qualified plans. Such qualification shall relate only to the contributions, allocations, and withdrawals of shares provided for in the Secretary's Plan with respect to the plans and related trusts maintained, amended, or adopted in implementing the Secretary's Plan. Such contributions and allocations shall in no event be treated as having exceeded the maximum annual addition permitted under section 415 of the Internal Revenue Code of 1954 (but not for purposes of applying section 404(j) of the Internal Revenue Code of 1954) for purposes of calculating any limitation under section 415 with respect to contributions and allocations not described in the Secretary's Plan, including contributions and allocations to plans and related trusts of the Corporation and any affiliated corporation. The continued qualification of such plans with respect to all other contributions, allocations, and withdrawals shall be subject to all provisions of existing law, as amended from time to time. No inference shall be drawn from this paragraph as to whether an amount is a contribution deductible under section 404 of the Internal Revenue Code of 1954 rather than a non-deductible capital expenditure.

"(12) Except as provided in section 1152 of the Northeast Rail Service Act of 1981 (45 U.S.C. 1105), the issuance and sale or contribution of securities by Norfolk Southern Corporation to fulfill arrangements with the Corporation's employees in implementing the Secretary's Plan and the distribution of shares from the Corporation's employee stock ownership plans and related trusts maintained, amended, or adopted in

implementing the Secretary's Plan shall not be subject to the registration and prospectus delivery requirements of the Securities Act of 1933, any approval requirement under subtitle IV of title 49, United States Code, or the laws of any State with respect to the issuance and sale of securities.".

TITLE II—TECHNICAL AND CONFORMING AMENDMENTS

REGIONAL RAIL REORGANIZATION ACT OF 1973 AMENDMENTS AND REPEALS

SEC. 201. The following provisions of the Regional Rail Reorganization Act of 1973 are repealed or amended as specified:

(1) Subsections (a) and (b) of section 214 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 724 (a) and (b)) are repealed, and such section 214 is amended by striking "(c) ASSOCIATION.—".

(2) Subsection (f) of section 217 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 727(f)) is repealed, without prejudice to the continued availability of funds appropriated prior to the date of enactment of this Act pursuant to section 217(f)(1)(C) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 727(f)(1)(C)).

(3) Section 404 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 764), and the item relating to such section in the table of contents of such Act, are repealed.

(4) Section 405 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 765), and the item relating to such section in the table of contents of such Act, are repealed.

(5) Section 406 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 766), and the item relating to such section in the table of contents of such Act, are repealed.

(6) Section 407 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 767), and the item relating to such section in the table of contents of such Act, are repealed.

(7) Subsections (a) and (d) of section 408 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 768 (a) and (d)) are repealed.

(8) Section 409 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 769), and the item relating to such section in the table of contents of such Act, are repealed.

(9) Section 410 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 769a), and the item relating to such section in the table of contents of such Act, are repealed.

(10) Section 411 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 769b), and the item relating to such section in the table of contents of such Act, are repealed.

(11) Section 412 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 769c), and the item relating to such section in the table of contents of such Act, are repealed.

(12) Section 713 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 797l), and the item relating to such section in the table of contents of such Act, are repealed.

AMENDMENTS AND REPEALS OF OTHER RAIL LAWS

SEC. 202. The following provisions of law are repealed or amended as specified:

(1) Section 1154 of the Northeast Rail Service Act of 1981 (45 U.S.C. 1107), and the item relating to such section in the table of contents of such Act, are repealed.

(2) Section 1161 of the Northeast Rail Service Act of 1981 (45 U.S.C. 1110), and the item relating to such section in the table of contents of such Act, are repealed.

(3) Section 1166 of the Northeast Rail Service Act of 1981 (45 U.S.C. 1114), and the item relating to such section in the table of contents of such Act, are repealed.

(4) Subsection (c) of section 1167 of the Northeast Rail Service Act of 1981 (45 U.S.C. 1115(c)) is repealed.

(5) Subsection (b) of section 1168 of the Northeast Rail Service Act of 1981 (45 U.S.C. 1116(b)) is repealed.

(6) Section 501(8) of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 821(8)) is amended—

(A) by striking "(A)";

(B) by striking "(i)" and inserting in lieu thereof "(A)", and by striking "(ii)" and inserting in lieu thereof "(B)"; and

(C) by striking all after "utilization;".

(7) Section 505 of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 825) is amended—

(A) in subsection (a)(1), by striking all after "railroad" through 1981)"; and

(B) in subsection (b)(2)(C), by striking all after "costs" the second time it appears through "subsidy".

(8) Subsection (b)(1) of section 509 of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 829(b)(1)) is repealed.

(9) Section 511(e) of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 831(e)) is amended by striking "(1)", and by striking all after "time" and inserting in lieu thereof a period.

(10) Section 402 of the Rail Safety and Service Improvement Act of 1982 (45 U.S.C. 825a) is repealed.

(11) Section 1005(b)(1) of the Rail Passenger Service Act (45 U.S.C. 655(b)(1)) is amended by striking "the Consolidated Rail Corporation,".

(12) Section 10362(b)(7)(A) of title 49, United States Code, is amended by striking "by the Consolidated Rail Corporation or".

(13) Section 332(d) of title 49, United States Code, is amended by striking ", the Consolidated Rail Corporation,".

TITLE III—MISCELLANEOUS PROVISIONS

COMMON CARRIER STATUS OF CONRAIL AFTER SALE

SEC. 301. (a) Conrail's status as a common carrier by railroad under section 10102(4) of title 49, United States Code, shall not be affected by virtue of sale of the interest of the United States in Conrail's common stock. Purchase of Conrail stock shall not alone be the basis of a determination that the acquiring entity has become a common carrier by railroad under section 10102(4) of title 49, United States Code.

(b) The Definitive Agreements shall contain a binding commitment by Norfolk Southern Corporation to continue to operate Conrail in full compliance with the provisions of section 10731(e) of title 49, United States Code.

CONSUMMATION OF SALE

SEC. 302. The sale of the interest of the United States in the common stock of Conrail shall be deemed to be consummated on the date title to the common stock passes to Norfolk Southern Corporation and the United States receives the cash purchase price.

CONTRACTS

SEC. 303. (a) Except as provided in subsection (b) of this section, nothing in this Act shall affect—

(1) Conrail's obligation to carry out its transportation contracts and equipment leases, equipment trusts, and conditional sale agreements, in accordance with their terms; and

(2) the obligation of any transferee of divested assets to carry out transportation contracts and equipment leases, equipment trusts, and conditional sale agreements to which such assets are subject, in accordance with their terms.

(b) If a divestiture carried out pursuant to the Secretary's Plan precludes Conrail from providing a transportation service for which it has contracted without a right of termination that may be exercised in the event of the sale of the interest of the United States in the common stock of Conrail and the divestiture will result in a change or modification in the movement of the traffic involved, the transferee of the divested rights and properties and Conrail shall provide the contracted-for service on terms and conditions which, to the maximum extent possible, conform to the terms and conditions in the contract.

CONGRESSIONAL OVERSIGHT OF COMPLIANCE

SEC. 304. The Secretary shall, no later than January 31 of each year, submit to the Committee on Commerce, Science, and Transportation of the Senate and to the Committee on Energy and Commerce of the House of Representatives a report setting forth each certificate which Norfolk Southern Corporation and Conrail provided to the Secretary, during the preceding year, certifying compliance with the covenants contained in the Definitive Agreements.

SEPARABILITY

SEC. 305. If any provision of this Act or the application thereof to any person or circumstances is held invalid, the remainder of this Act and the application of such provision to other persons or circumstances shall not be affected thereby.

EFFECTIVE DATE

SEC. 306. (a) Except as provided in subsection (b) of this section, the provisions of and amendments made by this Act shall take effect on the date of enactment of this Act.

(b) Sections 108(a), 201 and 202 of this Act shall take effect on the date of consummation of the sale of the interest of the United States in the common stock of Conrail.

(c) Any provision of this Act which, pursuant to Article I, Section 7 of the Constitution, provides for raising revenue shall only be effective upon the enactment into law of a bill which has originated in the House of Representatives enacting such provision.

AMENDMENT No. 1442

On page 10, line 17 of the amendment strike "and directed".

AMENDMENT No. 1443

Beginning on page 10, line 17, strike out all after the word "is" through the period on line 24, and insert in lieu thereof: "authorized to implement the Secretary's Plan, in accordance with paragraph (4) of this subsection.".

AMENDMENT No. 1444

On page 1 of the amendment, strike out all after the word "authorized" and insert in lieu thereof the following: "but not directed, to implement the Secretary's Plan, in accordance with paragraph (4) of this subsection.".

AMENDMENT No. 1445

On page 1 of the amendment, strike out all after the word "authorized" and insert in lieu thereof the following: "but not directed, to implement the Secretary's Plan, in accordance with paragraph (4) of this subsection.".

AMENDMENT No. 1446

Beginning on page 10, line 17, strike out all after the word "is" through the period on line 24, and insert in lieu thereof: "authorized to implement the Secretary's Plan, in accordance with paragraph (4) of this subsection.".

AMENDMENT No. 1447

In lieu of the language proposed to be inserted, insert the following:

That this Act may be cited as the "Conrail Sale Amendments Act of 1985".

FINDINGS

SEC. 2. The Congress finds that—

(1) the Northeast Rail Service Act of 1981 (45 U.S.C. 1101 et seq.) provided for an orderly return of Conrail freight service to the private sector;

(2) the provisions of the Northeast Rail Service Act of 1981 were successful in removing Conrail's obligations beyond railroad freight service and in otherwise preparing Conrail for an orderly return to the private sector;

(3) acting under section 403 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 763), the Board of Directors of the United States Railway Association twice found Conrail to be a profitable corporation;

(4) acting under section 401 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 761), the Secretary engaged an investment banker and arranged, through open competitive bidding and negotiation, to sell the interest of the United States in the common stock of Conrail;

(5) the Secretary's Plan for the sale of Conrail provides for sale of the interest of the United States in the common stock of Conrail to Norfolk Southern Corporation;

(6) the Secretary found that sale of the interest of the United States in the common stock of Conrail to Norfolk Southern Corporation best meets the sale criteria of (A) leaving Conrail in the strongest financial position after the sale, (B) preserving patterns of service to shippers and communities in the region Conrail serves, and (C) maximizing return to the Federal Government consistent with the criteria specified in clauses (A) and (B);

(7) amendments to the Regional Rail Reorganization Act of 1973 (45 U.S.C. 701 et seq.) and related laws are needed to permit the sale of the interest of the United States in the common stock of Conrail to Norfolk Southern Corporation and to permit cancellation of the interest of the United States in Conrail debt and preferred stock; and

(8) the Secretary's Plan satisfies the requirements of the Northeast Rail Service Act of 1981, including the intent, goals, and objectives relating to the sale of the interest of the United States in the common stock of Conrail and the requirements of section 401(e) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 761(e)).

PURPOSE

SEC. 3. It is therefore declared to be the purpose of the Congress in this Act to return Conrail to the private sector by directing and facilitating implementation of the Secretary's Plan for the sale of the interest of the United States in the common stock of Conrail.

DEFINITIONS

SEC. 4. (a) In this Act, unless the context otherwise requires, the term—

(1) "Conrail" means the Consolidated Rail Corporation;

(2) "Definitive Agreements" means any and all agreements existing or to be developed between the United States and Norfolk Southern Corporation, including all representations and warranties made therein, to implement the Memorandum of Intent described in paragraph (4)(A);

(3) "Secretary" means the Secretary of Transportation; and

(4) "Secretary's Plan" means (A) the Memorandum of Intent between the United States and Norfolk Southern Corporation signed February 8, 1985, but not including paragraph 6(e) of such Memorandum of Intent, and (B) the divestitures by the Norfolk Southern Corporation of certain rail tracks, rights, and facilities, and any transactions or agreements related or incidental to such divestitures, in connection with the implementation of attachment A to the letter from the Department of Justice attached to the Memorandum of Intent as exhibit E.

(b) Section 102 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 702) is amended—

(1) by redesignating paragraphs (6) through (18) as paragraphs (7) through (19), and paragraphs (19) through (21) as paragraphs (21) through (23), respectively;

(2) by inserting after paragraph (5) the following paragraph:

"(6) 'Definitive Agreements' means any and all agreements existing or to be developed between the United States and Norfolk Southern Corporation, including all representations and warranties made therein, to implement the Memorandum of Intent described in paragraph (20)(A);"; and

(3) by inserting after paragraph (19), as so redesignated, the following paragraph:

"(20) 'Secretary's Plan' means (A) the Memorandum of Intent between the United States and Norfolk Southern Corporation signed February 8, 1985, but not including paragraph 6(e) of such Memorandum of Intent, and (B) the divestitures by the Norfolk Southern Corporation of certain rail tracks, rights, and facilities, and any transactions or agreements related or incidental to such divestitures, in connection with the implementation of attachment A to the letter from the Department of Justice attached to the Memorandum of Intent as exhibit E;".

(c) Section 1135(a) of the Northeast Rail Service Act of 1981 (45 U.S.C. 1104(a)) is amended—

(1) by redesignating paragraphs (6), (7), and (8) as paragraphs (7), (8), and (10), respectively;

(2) by inserting after paragraph (5) the following paragraph:

"(6) 'Definitive Agreements' means any and all agreements existing or to be developed between the United States and Norfolk Southern Corporation, including all representations and warranties made therein, to implement the Memorandum of Intent described in paragraph (9)(A);"; and

(3) by inserting after paragraph (8), as so redesignated, the following paragraph:

"(9) 'Secretary's Plan' means (A) the Memorandum of Intent between the United States and Norfolk Southern Corporation signed February 8, 1985, but not including paragraph 6(e) of such Memorandum of Intent, and (B) the divestitures by the Norfolk Southern Corporation of certain rail tracks, rights, and facilities, and any transactions or agreements related or incidental to such divestitures, in connection with the implementation of attachment A to the letter from the Department of Justice attached to the Memorandum of Intent as exhibit E;".

TITLE I—AMENDMENTS TO THE REGIONAL RAIL REORGANIZATION ACT OF 1973 AND THE NORTHEAST RAIL SERVICE ACT OF 1981

Subtitle A—Regional Rail Reorganization Act of 1973 Amendments

LIMIT ON AUTHORITY TO PURCHASE STOCK

SEC. 101. Section 216(b) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 726(b)) is amended by adding at the end thereof the following paragraph:

"(5) The authority of the Association to purchase debentures or series A preferred stock of the Corporation under this section shall terminate upon the consummation of the sale of the interest of the United States in the common stock of the Corporation under the terms of the Secretary's Plan.".

RESPONSIBILITY OF CONRAIL DIRECTORS

SEC. 102. Section 301(i) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 741(i)) is amended by inserting immediately after "required by law" the following: ", taken to implement the Secretary's Plan,".

APPLICABILITY OF REGIONAL RAIL REORGANIZATION ACT OF 1973 TO CONRAIL AFTER SALE

SEC. 103. Section 301 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 741) is amended by adding at the end thereof the following subsection:

"(k) GOVERNING PROVISIONS AFTER SALE.—The provisions of this Act shall not apply to the Corporation and to activities and other actions and responsibilities of the Corporation and its directors after consummation of the sale of the interest of the United States in the common stock of the Corporation under the terms of the Conrail Sale Amendments Act of 1985, other than with regard to—

"(1) section 102 of this Act;

"(2) section 201(d) of this Act;

"(3) section 203 of this Act, but only with respect to information relating to proceedings before the special court established under section 209(b);

"(4) section 216(f)(8) of this Act, but only as such authority applies to activities related to the employee stock ownership plan and related trusts prior to or in connection with consummation of the sale of the interest of the United States in the common stock of the Corporation, including activities related to the sale, exchange, valuation, or disposition of the assets of the employee stock ownership plan and related trusts, or of Conrail Equity Corporation, in connection with the Secretary's Plan;

"(5) sections 216(f)(11) and 216(f)(12) of this Act, as amended by the Conrail Sale Amendments Act of 1985;

"(6) section 217(e) of this Act;

"(7) subsection (i) of this section, but only as such authority applies to service as a director of the Corporation prior to consummation or in connection with implementation of the sale of the interest of the United States in the common stock of the Corporation;

"(8) section 305 of this Act, but only as to the effect, and continuing administration, of supplemental transactions consummated prior to consummation of the sale of the interest of the United States in the common stock of the Corporation;

"(9) section 308 of this Act, but only in abandonment actions when such authority has been relied on to file a notice or notices of insufficent revenues prior to consummation of the sale of the interest of the United

States in the common stock of the Corporation;

"(10) section 401(a) of this Act, as amended by the Conrail Sale Amendments Act of 1985;

"(11) section 402 of this Act, as amended by the Conrail Sale Amendments Act of 1985;

"(12) section 408(c) of this Act, as amended by the Conrail Sale Amendments Act of 1985;

"(13) section 701 of this Act, but only as may be necessary to identify employees eligible for benefits under agreements entered into under such section;

"(14) section 702(e) of this Act;

"(15) section 704(b) of this Act;

"(16) section 709 of this Act;

"(17) section 710(b)(1) of this Act;

"(18) section 711 of this Act;

"(19) section 714 of this Act, but only with regard to disputes or controversies specified in such section that arose prior to consummation of the sale of the interest of the United States in the common stock of the Corporation; and

"(20) section 715 of this Act, as amended by the Conrail Sale Amendments Act of 1985.".

IMPLEMENTATION OF THE SECRETARY'S PLAN

SEC. 104. (a) Section 401(a)(3) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 761(a)(3)) is amended to read as follows:

"(3) The Secretary is authorized to implement the Secretary's Plan, in accordance with paragraph (4) of this subsection. Such implementation of the Secretary's Plan and the coordinated operation of the Corporation's properties with those of Norfolk Southern Corporation and its affiliates as a single rail system is deemed approved by the Commission under chapter 113 of title 49, United States Code.".

(b) Section 401(a) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 761(a)) is amended by adding at the end thereof the following paragraphs:

"(4) The Secretary shall implement the Secretary's Plan by negotiating, executing, delivering, and performing the Definitive Agreements, which shall conform to the Memorandum of Intent described in section 102(20)(A) of this Act. The Secretary shall, 45 calendar days before the date on which the Secretary anticipates that the interest of the United States in the common stock of the Corporation will be sold to Norfolk Southern Corporation, transmit to the Committee on Commerce, Science, and Transportation of the Senate and to the Committee on Energy and Commerce of the House of Representatives a notification of any alteration from the Memorandum of Intent described in section 102(20)(A) of this Act which will be made in the Definitive Agreements. After the date of such sale, the Secretary shall transmit to such Committees notification of any intent to waive compliance with any substantive covenant, agreement or obligation contained in the Definitive Agreements, and the Secretary may not waive such compliance until a period of 45 calendar days has expired after the date of such transmittal.

"(5) The Secretary shall not transfer the interest of the United States in the common stock of the Corporation except concurrently with a divestiture by Norfolk Southern Corporation of rail assets and rights approved by the Attorney General.

"(6) The sale of the interest of the United States in the common stock of the Corporation shall be deemed to be consummated at the date title to the common stock passes to Norfolk Southern Corporation and the United States receives the cash purchase price.".

RAILROAD PURCHASERS AND OFFER FOR SALE OF SHARES TO EMPLOYEES

SEC. 105. Subsections (d) and (e) of section 401 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 761 (d) and (e)) are repealed.

CANCELLATION OF DEBT AND PREFERRED STOCK

SEC. 106. Section 402 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 762) is amended to read as follows:

"DEBT AND PREFERRED STOCK

"SEC. 402. (a) RECAPITALIZATION.—In connection with the sale of the interest of the United States in the common stock of the Corporation under section 401 of this Act, and consistent with the Secretary's Plan, the Secretary may take all action necessary to cause the Corporation to be recapitalized such that the interest of the United States, or any agent or instrumentality thereof, and all other commitments or obligations of the Corporation to the United States or any agent or instrumentality thereof arising out of such interest, in any debt (including accrued interest and contingent interest thereon) and preferred stock (including accrued and unpaid dividends thereon) of the Corporation shall be cancelled or retired, and contributed to the capital of the Corporation. The Secretary shall cause the recapitalization authorized by this section to be effective as of the consummation of the sale of the interest of the United States in the common stock of the Corporation.

"(b) BREACH OF REPRESENTATIONS.—(1) Norfolk Southern Corporation or any successor corporation thereto may bring suit for any breach of representations contained in paragraph 6(e) of the Memorandum of Intent described in section 102(20)(A) of this Act (hereinafter referred to as the 'Representations') in the United States Claims Court or a district court of the United States. If such an action is brought, the Claims Court or district court shall determine the amount by which the United States income tax (including interest and penalties whether or not such penalties are assessed as a tax under the Internal Revenue Code of 1954) assessable against the Corporation or against Norfolk Southern Corporation for any year exceeds the amount of such tax which would have been assessable for such year had such Representations not been breached (hereinafter referred to as the 'Offset Amount').

"(2) The Representations shall be considered breached and Norfolk Southern Corporation shall be entitled to bring suit upon the first occurrence of any of the following that is inconsistent with the Representations: (A) the issuance by the Internal Revenue Service of a statutory notice of deficiency (90-day letter), (B) the assessment of the United States income tax, or (C) any claim by the United States in a suit or other judicial proceeding against Norfolk Southern Corporation or the Corporation.

"(3) The right to bring suit pursuant to this section shall not be subject to any waiting period applicable to tax proceedings or to any requirements for payment of any tax as a condition to instituting any suit based on a breach of the Representations.

"(4) Any judgment for money damages relating to breach of the Representations shall only be awarded as an offset in any court or administrative proceeding against the tax liability of Norfolk Southern Corporation or the Corporation, or both, to which such breach relates; except that if any such tax liability resulting from such breach has been paid, the judgment shall to that extent be an offset against any United States income tax liability of the Norfolk Southern Corporation or the Corporation, or both. If any portion of the tax resulting from a breach of the Representations has been paid, then the Offset Amount shall include interest on such payment from the date paid at the rate from time to time specified in the Internal Revenue Code of 1954 for interest payable on refund claims.

"(5) It shall not be a defense to an action brought under this section that Norfolk Southern Corporation knew, or should have known, of the falsity of the Representations or that there exists no carryover basis procedure as contemplated by the last sentence of the Representations.

"(6) For purposes of this section, tax liability of Norfolk Southern Corporation shall include the tax liability of Norfolk Southern Corporation and its affiliated group, within the meaning of section 1504 of the Internal Revenue Code of 1954.".

APPLICABILITY OF CERTAIN LAWS TO SALE OF CONRAIL

SEC. 107. Section 408 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 768) is amended—

(1) by repealing subsection (b);

(2) by amending subsection (c) by striking "No transfer" and all that follows through "subject to" and inserting in lieu thereof "Except as provided in section 1152 of the Northeast Rail Service Act of 1981 (45 U.S.C. 1105), the Secretary's Plan and the Definitive Agreements and their negotiation, execution, and implementation shall not be subject to administrative or"; and

(3) by adding at the end of subsection (c) the following sentence: "The issuance in private placement of notes or other securities in accordance with exhibit B to the Memorandum of Intent (described in section 102(20)(A) of this Act) in the Secretary's Plan shall not be subject to the provisions of subtitle IV of title 49, United States Code.".

LABOR PROTECTION

SEC. 108. (a) Section 701(d)(2) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 797(d)(2)) is amended by striking "the last day of the eighteen-month period beginning on".

(b)(1) Title VII of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 797 et seq.) is amended by adding at the end thereof the following section:

"PROTECTION AFTER SALE

"SEC. 715. After consummation of the sale of the interest of the United States in the common stock of the Corporation pursuant to the Secretary's Plan, any employee of Norfolk Southern Corporation, the Corporation, any rail affiliate of either company, and any transferee of the rail tracks, rights, and facilities divested in accordance with the Secretary's Plan, who is adversely affected in his employment by the implementation of the Secretary's Plan shall receive from his employer protection under the labor protective conditions set forth in New York Dock Railway—Control—Brooklyn Eastern District Terminal (354 ICC 399 (1978), modified upon further consideration, 360 ICC 60 (1979)). The arbitration provisions of section 4 of New York Dock shall apply to the formation of any implementing agreements that may be necessary in con-

nection with the implementation of the Secretary's Plan, including any resulting coordinations.".

(2) The table of contents of the Regional Rail Reorganization Act of 1973 is amended by inserting immediately after the item relating to section 714 the following item:

"Sec. 715. Protection after sale.".

PREFERENTIAL HIRING

SEC. 109. Section 703 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 797b) is amended—

(1) by redesignating subsection (b) as subsection (c); and

(2) by inserting immediately after subsection (a) the following subsection:

"(b) IMPLEMENTATION OF SECRETARY'S PLAN.—Any employee of any railroad who is deprived of employment as a result of the implementation of the Secretary's Plan shall have the first right of hire for a vacancy for which he is qualified on any Norfolk Southern Corporation rail subsidiary, except where such vacancy is covered by (1) an affirmative action plan, or a hiring plan designated to eliminate discrimination, that is required by Federal or State statute, regulation, or Executive order, or by the order of a Federal court or agency, or (2) a permissible voluntary affirmative action plan. For purposes of this subsection, a railroad shall not be considered to be hiring new employees when it recalls any of its own furloughed employees.".

CROSS CRAFT EMPLOYMENT

SEC. 110. (a) Title VII of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 797 et seq.) is amended by inserting immediately after section 703 the following section:

"CROSS CRAFT EMPLOYMENT

"SEC. 703A. Any employee of Norfolk and Western Railway Company, Southern Railway Company, or the Corporation who is deprived of employment as a result of the implementation of the Secretary's Plan shall have the first right of hire for any vacancy for which such employee is qualified at the entry level of any Norfolk Southern Corporation rail subsidiary, without regard to craft or class or the provisions of section 703 of this Act. Such employee shall retain his seniority rights to return to his original craft or class whenever a vacancy occurs. For purposes of this section, a railroad shall not be considered to be hiring new employees when it recalls any of its own furloughed employees.".

(b) The table of contents of the Regional Rail Reorganization Act of 1973 is amended by inserting immediately after the item relating to section 703 the following item:

"Sec. 703A. Cross craft employment.".

Subtitle B—Northeast Rail Service Act of 1981 Amendments

SPECIAL COURT JURISDICTION

SEC. 121. (a) Section 1152 of the Northeast Rail Service Act of 1981 (45 U.S.C. 1105) is amended—

(1) by inserting "or the Conrail Sale Amendments Act of 1985" immediately after "subtitle" wherever it appears;

(2) in subsection (a), by striking "or" at the end of paragraph (3), by striking the period at the end of paragraph (4) and inserting in lieu thereof a semicolon, and by adding at the end thereof the following paragraphs:

"(5) brought by the United States or any agency or instrumentality thereof seeking to enforce the Secretary's Plan or the Definitive Agreements;

"(6) brought by Norfolk Southern Corporation seeking to enforce the Secretary's Plan or the Definitive Agreements;

"(7) brought by a party who filed a complaint with the Secretary under subsection (e) of this section, and who is aggrieved by (A) a determination of the Secretary under paragraph (1) of such subsection that the party has not suffered direct economic injury, or (B) a decision of the Secretary under paragraph (2) of such subsection that a covenant has not been violated;

"(8) brought by a party which is a signatory to an ancillary agreement entered into in accordance with the Secretary's Plan or the Definitive Agreements and which is seeking to enforce such ancillary agreement; or

"(9) brought to determine the value of the interest of the employee stock ownership plan and related trusts, or of the beneficiaries thereof, in the preferred stock of the Conrail Equity Corporation.

For purposes of any action brought under paragraph (5) of this subsection, a violation of any covenant contained in the Secretary's Plan or the Definitive Agreements shall be deemed to constitute immediate and irreparable harm for purposes of awarding injunctive relief to the United States.".

(b) Section 1152 of the Northeast Rail Service Act of 1981 (45 U.S.C. 1105) is amended by adding at the end thereof the following subsection:

"(e)(1) Any party who suffers direct economic injury as a result of an alleged violation of a covenant contained in the Definitive Agreements may file a complaint with the Secretary seeking enforcement of such covenant. If the Secretary determines that the complainant has demonstrated to the Secretary that it has suffered direct economic injury, the Secretary shall investigate the complaint.

"(2) If the Secretary decides to investigate a complaint under paragraph (1) of this subsection, the Secretary shall give reasonable notice of such decision to investigate to the alleged violator of such covenant and the complainant, and shall make a final decision on such complaint within 60 days after the date on which it was filed.

"(3) If the Secretary finds that (A) the covenant in question has been violated, and (B) the complainant suffered direct economic injury as a result of such violation, the Secretary shall enter an order directing the violator of such covenant to comply with such covenant.

"(4) On appeal, any decision by the Secretary under this subsection shall be upheld, unless such decision is found to be arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law.".

APPLICABILITY OF OTHER LAWS

SEC. 122. Section 1168(a) of the Northeast Rail Service Act of 1981 (45 U.S.C. 1116(a)) is amended by striking "service transfers" and inserting in lieu thereof "sale of the interest of the United States in the common stock of Conrail or transfer of the rail properties and freight service responsibilities of Conrail".

Subtitle C—Employee Stock Ownership Plan

RESPONSIBILITY OF EMPLOYEE STOCK OWNERSHIP PLAN FIDUCIARIES

SEC. 131. (a) Section 216(f)(8)(A) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 726(f)(8)(A)) is amended—

(1) by striking "or" at the end of clause (ii);

(2) by striking the period at the end of clause (iii) and inserting in lieu thereof "; or"; and

(3) by adding at the end thereof the following clause:

"(iv) for or in connection with any action taken to implement the Secretary's Plan, including any sale, exchange, valuation, or disposition of the plan and related trust assets, or the assets of Conrail Equity Corporation, in connection with implementation of the Secretary's Plan and any determination of the terms on which any such sale, exchange, valuation, or disposition is effected.".

QUALIFICATION, REVIEW, AND VALUATION OF EMPLOYEE STOCK OWNERSHIP PLANS

SEC. 132. Section 216(f) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 726(f)) is amended by adding at the end thereof the following paragraphs:

"(11) The employee stock ownership plans of the Corporation and related trusts maintained, amended, or adopted in implementing the Secretary's Plan shall be deemed to meet the qualification requirements of sections 401 and 501, respectively, of the Internal Revenue Code of 1954, notwithstanding (A) that such plans may not meet the requirements of section 415 of the Internal Revenue Code of 1954, or (B) that participants in such plans may be entitled to withdraw a portion of the shares allocated to their accounts prior to the expiration of the period generally imposed by the Internal Revenue Service for qualified plans. Such qualification shall relate only to the contributions, allocations, and withdrawals of shares provided for in the Secretary's Plan with respect to the plans and related trusts maintained, amended, or adopted in implementing the Secretary's Plan. Such contributions and allocations shall in no event be treated as having exceeded the maximum annual addition permitted under section 415 of the Internal Revenue Code of 1954 (but not for purposes of applying section 404(j) of the Internal Revenue Code of 1954) for purposes of calculating any limitation under section 415 with respect to contributions and allocations not described in the Secretary's Plan, including contributions and allocations to plans and related trusts of the Corporation and any affiliated corporation. The continued qualification of such plans with respect to all other contributions, allocations, and withdrawals shall be subject to all provisions of existing law, as amended from time to time. No inference shall be drawn from this paragraph as to whether an amount is a contribution deductible under section 404 of the Internal Revenue Code of 1954 rather than a non-deductible capital expenditure.

"(12) Except as provided in section 1152 of the Northeast Rail Service Act of 1981 (45 U.S.C. 1105), the issuance and sale or contribution of securities by Norfolk Southern Corporation to fulfill arrangements with the Corporation's employees in implementing the Secretary's Plan and the distribution of shares from the Corporation's employee stock ownership plans and related trusts maintained, amended, or adopted in implementing the Secretary's Plan shall not be subject to the registration and prospectus delivery requirements of the Securities Act of 1933, any approval requirement under subtitle IV of title 49, United States Code, or the laws of any State with respect to the issuance and sale of securities.".

TITLE II—TECHNICAL AND CONFORMING AMENDMENTS

REGIONAL RAIL REORGANIZATION ACT OF 1973 AMENDMENTS AND REPEALS

SEC. 201. The following provisions of the Regional Rail Reorganization Act of 1973 are repealed or amended as specified:

(1) Subsections (a) and (b) of section 214 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 724 (a) and (b)) are repealed, and such section 214 is amended by striking "(c) ASSOCIATION.—".

(2) Subsection (f) of section 217 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 727(f)) is repealed, without prejudice to the continued availability of funds appropriated prior to the date of enactment of this Act pursuant to section 217(f)(1)(C) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 727(f)(1)(C)).

(3) Section 404 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 764), and the item relating to such section in the table of contents of such Act, are repealed.

(4) Section 405 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 765), and the item relating to such section in the table of contents of such Act, are repealed.

(5) Section 406 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 766), and the item relating to such section in the table of contents of such Act, are repealed.

(6) Section 407 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 767), and the item relating to such section in the table of contents of such Act, are repealed.

(7) Subsections (a) and (d) of section 408 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 768 (a) and (d)) are repealed.

(8) Section 409 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 769), and the item relating to such section in the table of contents of such Act, are repealed.

(9) Section 410 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 769a), and the item relating to such section in the table of contents of such Act, are repealed.

(10) Section 411 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 769b), and the item relating to such section in the table of contents of such Act, are repealed.

(11) Section 412 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 769c), and the item relating to such section in the table of contents of such Act, are repealed.

(12) Section 713 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 797l), and the item relating to such section in the table of contents of such Act, are repealed.

AMENDMENTS AND REPEALS OF OTHER RAIL LAWS

SEC. 202. The following provisions of law are repealed or amended as specified:

(1) Section 1154 of the Northeast Rail Service Act of 1981 (45 U.S.C. 1107), and the item relating to such section in the table of contents of such Act, are repealed.

(2) Section 1161 of the Northeast Rail Service Act of 1981 (45 U.S.C. 1110), and the item relating to such section in the table of contents of such Act, are repealed.

(3) Section 1166 of the Northeast Rail Service Act of 1981 (45 U.S.C. 1114), and the item relating to such section in the table of contents of such Act, are repealed.

(4) Subsection (c) of section 1167 of the Northeast Rail Service Act of 1981 (45 U.S.C. 1115(c)) is repealed.

(5) Subsection (b) of section 1168 of the Northeast Rail Service Act of 1981 (45 U.S.C. 1116(b)) is repealed.

(6) Section 501(8) of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 821(8)) is amended—

(A) by striking "(A)";

(B) by striking "(i)" and inserting in lieu thereof "(A)", and by striking "(ii)" and inserting in lieu thereof "(B)"; and

(C) by striking all after "utilization;".

(7) Section 505 of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 825) is amended—

(A) in subsection (a)(1), by striking all after "railroad" through "1981)"; and

(B) in subsection (b)(2)(C), by striking all after "costs" the second time it appears through "subsidy".

(8) Subsection (b)(1) of section 509 of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 829(b)(1)) is repealed.

(9) Section 511(e) of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 831(e)) is amended by striking "(1)", and by striking all after "time" and inserting in lieu thereof a period.

(10) Section 402 of the Rail Safety and Service Improvement Act of 1982 (45 U.S.C. 825a) is repealed.

(11) Section 1005(b)(1) of the Rail Passenger Service Act (45 U.S.C. 655(b)(1)) is amended by striking "the Consolidated Rail Corporation,".

(12) Section 10362(b)(7)(A) of title 49, United States Code, is amended by striking "by the Consolidated Rail Corporation or".

(13) Section 332(d) of title 49, United States Code, is amended by striking ", the Consolidated Rail Corporation,".

TITLE III—MISCELLANEOUS PROVISIONS

COMMON CARRIER STATUS OF CONRAIL AFTER SALE

SEC. 301. (a) Conrail's status as a common carrier by railroad under section 10102(4) of title 49, United States Code, shall not be affected by virtue of sale of the interest of the United States in Conrail's common stock. Purchase of Conrail stock shall not alone be the basis of a determination that the acquiring entity has become a common carrier by railroad under section 10102(4) of title 49, United States Code.

(b) The Definitive Agreements shall contain a binding commitment by Norfolk Southern Corporation to continue to operate Conrail in full compliance with the provisions of section 10731(e) of title 49, United States Code.

CONSUMMATION OF SALE

SEC. 302. The sale of the interest of the United States in the common stock of Conrail shall be deemed to be consummated on the date title to the common stock passes to Norfolk Southern Corporation and the United States receives the cash purchase price.

CONTRACTS

SEC. 303. (a) Except as provided in subsection (b) of this section, nothing in this Act shall affect—

(1) Conrail's obligation to carry out its transportation contracts and equipment leases, equipment trusts, and conditional sale agreements, in accordance with their terms; and

(2) the obligation of any transferee of divested assets to carry out transportation contracts and equipment leases, equipment trusts, and conditional sale agreements to which such assets are subject, in accordance with their terms.

(b) If a divestiture carried out pursuant to the Secretary's Plan precludes Conrail from providing a transportation service for which it has contracted without a right of termination that may be exercised in the event of the sale of the interest of the United States in the common stock of Conrail and the divestiture will result in a change or modification in the movement of the traffic involved, the transferee of the divested rights and properties and Conrail shall provide the contracted-for service on terms and conditions which, to the maximum extent possible, conform to the terms and conditions in the contract.

CONGRESSIONAL OVERSIGHT OF COMPLIANCE

SEC. 304. The Secretary shall, no later than January 31 of each year, submit to the Committee on Commerce, Science, and Transportation of the Senate and to the Committee on Energy and Commerce of the House of Representatives a report setting forth each certificate which Norfolk Southern Corporation and Conrail provided to the Secretary, during the preceding year, certifying compliance with the covenants contained in the Definitive Agreements.

SEPARABILITY

SEC. 305. If any provision of this Act or the application thereof to any person or circumstances is held invalid, the remainder of this Act and the application of such provision to other persons or circumstances shall not be affected thereby.

EFFECTIVE DATE

SEC. 306. (a) Except as provided in subsection (b) of this section, the provisions of and amendments made by this Act shall take effect on the date of enactment of this Act.

(b) Sections 108(a), 201 and 202 of this Act shall take effect on the date of consummation of the sale of the interest of the United States in the common stock of Conrail.

(c) Any provision of this Act which, pursuant to Article I, Section 7 of the Constitution, provides for raising revenue shall only be effective upon the enactment into law of a bill which has originated in the House of Representatives enacting such provision.

AMENDMENT No. 1448

In lieu of the language proposed to be inserted, insert the following:

That this Act may be cited as the "Conrail Sale Amendments Act of 1985".

FINDINGS

SEC. 2. The Congress finds that—

(1) the Northeast Rail Service Act of 1981 (45 U.S.C. 1101 et seq.) provided for an orderly return of Conrail freight service to the private sector;

(2) the provisions of the Northeast Rail Service Act of 1981 were successful in removing Conrail's obligations beyond railroad freight service and in otherwise preparing Conrail for an orderly return to the private sector;

(3) acting under section 403 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 763), the Board of Directors of the United States Railway Association twice found Conrail to be a profitable corporation;

(4) acting under section 401 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 761), the Secretary engaged an investment banker and arranged, through open competitive bidding and negotiation, to sell the interest of the United States in the common stock of Conrail;

(5) the Secretary's Plan for the sale of Conrail provides for sale of the interest of the United States in the common stock of Conrail to Norfolk Southern Corporation;

(6) the Secretary found that sale of the interest of the United States in the common stock of Conrail to Norfolk Southern Corpo-

ration best meets the sale criteria of (A) leaving Conrail in the strongest financial position after the sale, (B) preserving patterns of service to shippers and communities in the region Conrail serves, and (C) maximizing return to the Federal Government consistent with the criteria specified in clauses (A) and (B);

(7) amendments to the Regional Rail Reorganization Act of 1973 (45 U.S.C. 701 et seq.) and related laws are needed to permit the sale of the interest of the United States in the common stock of Conrail to Norfolk Southern Corporation and to permit cancellation of the interest of the United States in Conrail debt and preferred stock; and

(8) the Secretary's Plan satisfies the requirements of the Northeast Rail Service Act of 1981, including the intent, goals, and objectives relating to the sale of the interest of the United States in the common stock of Conrail and the requirements of section 401(e) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 761(e)).

PURPOSE

SEC. 3. It is therefore declared to be the purpose of the Congress in this Act to return Conrail to the private sector by directing and facilitating implementation of the Secretary's Plan for the sale of the interest of the United States in the common stock of Conrail.

DEFINITIONS

SEC. 4. (a) In this Act, unless the context otherwise requires, the term—

(1) "Conrail" means the Consolidated Rail Corporation;

(2) "Definitive Agreements" means any and all agreements existing or to be developed between the United States and Norfolk Southern Corporation, including all representations and warranties made therein, to implement the Memorandum of Intent described in paragraph (4)(A);

(3) "Secretary" means the Secretary of Transportation; and

(4) "Secretary's Plan" means (A) the Memorandum of Intent between the United States and Norfolk Southern Corporation signed February 8, 1985, but not including paragraph 6(e) of such Memorandum of Intent, and (B) the divestitures by the Norfolk Southern Corporation of certain rail tracks, rights, and facilities, and any transactions or agreements related or incidental to such divestitures, in connection with the implementation of attachment A to the letter from the Department of Justice attached to the Memorandum of Intent as exhibit E.

(b) Section 102 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 702) is amended—

(1) by redesignating paragraphs (6) through (18) as paragraphs (7) through (19), and paragraphs (19) through (21) as paragraphs (21) through (23), respectively;

(2) by inserting after paragraph (5) the following paragraph:

"(6) 'Definitive Agreements' means any and all agreements existing or to be developed between the United States and Norfolk Southern Corporation, including all representations and warranties made therein, to implement the Memorandum of Intent described in paragraph (20)(A);"; and

(3) by inserting after paragraph (19), as so redesignated, the following paragraph:

"(20) 'Secretary's Plan' means (A) the Memorandum of Intent between the United States and Norfolk Southern Corporation signed February 8, 1985, and (B) the divestitures by the Norfolk Southern Corporation of certain rail tracks, rights, and facilities, and any transactions or agreements related or incidental to such divestitures, in connection with the implementation of attachment A to the letter from the Department of Justice attached to the Memorandum of Intent as exhibit E;".

(c) Section 1135(a) of the Northeast Rail Service Act of 1981 (45 U.S.C. 1104(a)) is amended—

(1) by redesignating paragraphs (6), (7), and (8) as paragraphs (7), (8), and (10), respectively;

(2) by inserting after paragraph (5) the following paragraph:

"(6) 'Definitive Agreements' means any and all agreements existing or to be developed between the United States and Norfolk Southern Corporation, including all representations and warranties made therein, to implement the Memorandum of Intent described in paragraph (9)(A);"; and

(3) by inserting after paragraph (8), as so redesignated, the following paragraph:

"(9) 'Secretary's Plan' means (A) the Memorandum of Intent between the United States and Norfolk Southern Corporation signed February 8, 1985, but not including paragraph 9(d)(iii) of such Memorandum of Intent and (B) the divestitures by the Norfolk Southern Corporation of certain rail tracks, rights, and facilities, and any transactions or agreements related or incidental to such divestitures, in connection with the implementation of attachment A to the letter from the Department of Justice attached to the Memorandum of Intent as exhibit E;".

TITLE I—AMENDMENTS TO THE REGIONAL RAIL REORGANIZATION ACT OF 1973 AND THE NORTHEAST RAIL SERVICE ACT OF 1981

Subtitle A—Regional Rail Reorganization Act of 1973 Amendments

LIMIT ON AUTHORITY TO PURCHASE STOCK

SEC. 101. Section 216(b) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 726(b)) is amended by adding at the end thereof the following paragraph:

"(5) The authority of the Association to purchase debentures or series A preferred stock of the Corporation under this section shall terminate upon the consummation of the sale of the interest of the United States in the common stock of the Corporation under the terms of the Secretary's Plan.".

RESPONSIBILITY OF CONRAIL DIRECTORS

SEC. 102. Section 301(i) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 741(i)) is amended by inserting immediately after "required by law" the following: ", taken to implement the Secretary's Plan,".

APPLICABILITY OF REGIONAL RAIL REORGANIZATION ACT OF 1973 TO CONRAIL AFTER SALE

SEC. 103. Section 301 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 741) is amended by adding at the end thereof the following subsection:

"(k) GOVERNING PROVISIONS AFTER SALE.—The provisions of this Act shall not apply to the Corporation and to activities and other actions and responsibilities of the Corporation and its directors after consummation of the sale of the interest of the United States in the common stock of the Corporation under the terms of the Conrail Sale Amendments Act of 1985, other than with regard to—

"(1) section 102 of this Act;

"(2) section 201(d) of this Act;

"(3) section 203 of this Act, but only with respect to information relating to proceedings before the special court established under section 209(b);

"(4) section 216(f)(8) of this Act, but only as such authority applies to activities related to the employee stock ownership plan and related trusts prior to or in connection with consummation of the sale of the interest of the United States in the common stock of the Corporation, including activities related to the sale, exchange, valuation, or disposition of the assets of the employee stock ownership plan and related trusts, or of Conrail Equity Corporation, in connection with the Secretary's Plan;

"(5) sections 216(f)(11) and 216(f)(12) of this Act, as amended by the Conrail Sale Amendments Act of 1985;

"(6) section 217(e) of this Act;

"(7) subsection (i) of this section, but only as such authority applies to service as a director of the Corporation prior to consummation or in connection with implementation of the sale of the interest of the United States in the common stock of the Corporation;

"(8) section 305 of this Act, but only as to the effect, and continuing administration, of supplemental transactions consummated prior to consummation of the sale of the interest of the United States in the common stock of the Corporation;

"(9) section 308 of this Act, but only in abandonment actions when such authority has been relied on to file a notice or notices of insufficient revenues prior to consummation of the sale of the interest of the United States in the common stock of the Corporation;

"(10) section 401(a) of this Act, as amended by the Conrail Sale Amendments Act of 1985;

"(11) section 402 of this Act, as amended by the Conrail Sale Amendments Act of 1985;

"(12) section 408(c) of this Act, as amended by the Conrail Sale Amendments Act of 1985;

"(13) section 701 of this Act, but only as may be necessary to identify employees eligible for benefits under agreements entered into under such section;

"(14) section 702(e) of this Act;

"(15) section 704(b) of this Act;

"(16) section 709 of this Act;

"(17) section 710(b)(1) of this Act;

"(18) section 711 of this Act;

"(19) section 714 of this Act, but only with regard to disputes or controversies specified in such section that arose prior to consummation of the sale of the interest of the United States in the common stock of the Corporation; and

"(20) section 715 of this Act, as amended by the Conrail Sale Amendments Act of 1985.".

IMPLEMENTATION OF THE SECRETARY'S PLAN

SEC. 104. (a) Section 401(a)(3) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 761(a)(3)) is amended to read as follows:

"(3) The Secretary is authorized and directed to implement the Secretary's Plan, in accordance with paragraph (4) of this subsection. Such implementation of the Secretary's Plan and the coordinated operation of the Corporation's properties with those of Norfolk Southern Corporation and its affiliates as a single rail system is deemed approved by the Commission under chapter 113 of title 49, United States Code.".

(b) Section 401(a) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 761(a)) is

amended by adding at the end thereof the following paragraphs:

"(4) The Secretary shall implement the Secretary's Plan by negotiating, executing, delivering, and performing the Definitive Agreements, which shall conform to the Memorandum of Intent described in section 102(20)(A) of this Act. The Secretary shall, 45 calendar days before the date on which the Secretary anticipates that the interest of the United States in the common stock of the Corporation will be sold to Norfolk Southern Corporation, transmit to the Committee on Commerce, Science, and Transportation of the Senate and to the Committee on Energy and Commerce of the House of Representatives a notification of any alteration from the Memorandum of Intent described in section 102(20)(A) of this Act which will be made in the Definitive Agreements. After the date of such sale, the Secretary shall transmit to such Committees notification of any intent to waive compliance with any substantive covenant, agreement or obligation contained in the Definitive Agreements, and the Secretary may not waive such compliance until a period of 45 calendar days has expired after the date of such transmittal.

"(5) The Secretary shall not transfer the interest of the United States in the common stock of the Corporation except concurrently with a divestiture by Norfolk Southern Corporation of rail assets and rights approved by the Attorney General.

"(6) The sale of the interest of the United States in the common stock of the Corporation shall be deemed to be consummated at the date title to the common stock passes to Norfolk Southern Corporation and the United States receives the cash purchase price.".

RAILROAD PURCHASERS AND OFFER FOR SALE OF SHARES TO EMPLOYEES

SEC. 105. Subsections (d) and (e) of section 401 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 761 (d) and (e)) are repealed.

CANCELLATION OF DEBT AND PREFERRED STOCK

SEC. 106. Section 402 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 762) is amended to read as follows:

"DEBT AND PREFERRED STOCK

"SEC. 402. (a) RECAPITALIZATION.—In connection with the sale of the interest of the United States in the common stock of the Corporation under section 401 of this Act, and consistent with the Secretary's Plan, the Secretary may take all action necessary to cause the Corporation to be recapitalized such that the interest of the United States, or any agent or instrumentality thereof, and all other commitments or obligations of the Corporation to the United States or any agent or instrumentality thereof arising out of such interest, in any debt (including accrued interest and contingent interest thereon) and preferred stock (including accrued and unpaid dividends thereon) of the Corporation shall be cancelled or retired, and contributed to the capital of the Corporation. The Secretary shall cause the recapitalization authorized by this section to be effective as of the consummation of the sale of the interest of the United States in the common stock of the Corporation.

"(b) BREACH OF REPRESENTATIONS.—(1) Norfolk Southern Corporation or any successor corporation thereto may bring suit for any breach of representations contained in paragraph 6(e) of the Memorandum of Intent described in section 102(20)(A) of this Act (hereinafter referred to as the 'Representations') in the United States Claims Court or a district court of the United States. If such an action is brought, the Claims Court or district court shall determine the amount by which the United States income tax (including interest and penalties whether or not such penalties are assessed as a tax under the Internal Revenue Code of 1954) assessable against the Corporation or against Norfolk Southern Corporation for any year exceeds the amount of such tax which would have been assessable for such year had such Representations not been breached (hereinafter referred to as the 'Offset Amount').

"(2) The Representations shall be considered breached and Norfolk Southern Corporation shall be entitled to bring suit upon the first occurrence of any of the following that is inconsistent with the Representations: (A) the issuance by the Internal Revenue Service of a statutory notice of deficiency (90-day letter), (B) the assessment of the United States income tax, or (C) any claim by the United States in a suit or other judicial proceeding against Norfolk Southern Corporation or the Corporation.

"(3) The right to bring suit pursuant to this section shall not be subject to any waiting period applicable to tax proceedings or to any requirements for payment of any tax as a condition to instituting any suit based on a breach of the Representations.

"(4) Any judgment for money damages relating to breach of the Representations shall only be awarded as an offset in any court or administrative proceeding against the tax liability of Norfolk Southern Corporation or the Corporation, or both, to which such breach relates; except that if any such tax liability resulting from such breach has been paid, the judgment shall to that extent be an offset against any United States income tax liability of the Norfolk Southern Corporation or the Corporation, or both. If any portion of the tax resulting from a breach of the Representations has been paid, then the Offset Amount shall include interest on such payment from the date paid at the rate from time to time specified in the Internal Revenue Code of 1954 for interest payable on refund claims.

"(5) It shall not be a defense to an action brought under this section that Norfolk Southern Corporation knew, or should have known, of the falsity of the Representations or that there exists no carryover basis procedure as contemplated by the last sentence of the Representations.

"(6) For purposes of this section, tax liability of Norfolk Southern Corporation shall include the tax liability of Norfolk Southern Corporation and its affiliated group, within the meaning of section 1504 of the Internal Revenue Code of 1954.".

APPLICABILITY OF CERTAIN LAWS TO SALE OF CONRAIL

SEC. 107. Section 408 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 768) is amended—

(1) by repealing subsection (b);

(2) by amending subsection (c) by striking "No transfer" and all that follows through "subject to" and inserting in lieu thereof "Except as provided in section 1152 of the Northeast Rail Service Act of 1981 (45 U.S.C. 1105), the Secretary's Plan and the Definitive Agreements and their negotiation, execution, and implementation shall not be subject to administrative or"; and

(3) by adding at the end of subsection (c) the following sentence: "The issuance in private placement of notes or other securities in accordance with exhibit B to the Memorandum of Intent (described in section 102(20)(A) of this Act) in the Secretary's Plan shall not be subject to the provisions of subtitle IV of title 49, United States Code.".

LABOR PROTECTION

SEC. 108. (a) Section 701(d)(2) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 797(d)(2)) is amended by striking "the last day of the eighteen-month period beginning on".

(b)(1) Title VII of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 797 et seq.) is amended by adding at the end thereof the following section:

"PROTECTION AFTER SALE

"SEC. 715. After consummation of the sale of the interest of the United States in the common stock of the Corporation pursuant to the Secretary's Plan, any employee of Norfolk Southern Corporation, the Corporation, any rail affiliate of either company, and any transferee of the rail tracks, rights, and facilities divested in accordance with the Secretary's Plan, who is adversely affected in his employment by the implementation of the Secretary's Plan shall receive from his employer protection under the labor protective conditions set forth in New York Dock Railway—Control—Brooklyn Eastern District Terminal (354 ICC 399 (1978), modified upon further consideration, 360 ICC 60 (1979)). The arbitration provisions of section 4 of New York Dock shall apply to the formation of any implementing agreements that may be necessary in connection with the implementation of the Secretary's Plan, including any resulting coordinations.".

(2) The table of contents of the Regional Rail Reorganization Act of 1973 is amended by inserting immediately after the item relating to section 714 the following item:

"Sec. 715. Protection after sale.".

PREFERENTIAL HIRING

SEC. 109. Section 703 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 797b) is amended—

(1) by redesignating subsection (b) as subsection (c); and

(2) by inserting immediately after subsection (a) the following subsection:

"(b) IMPLEMENTATION OF SECRETARY'S PLAN.—Any employee of any railroad who is deprived of employment as a result of the implementation of the Secretary's Plan shall have the first right of hire for a vacancy for which he is qualified on any Norfolk Southern Corporation rail subsidiary, except where such vacancy is covered by (1) an affirmative action plan, or a hiring plan designated to eliminate discrimination, that is required by Federal or State statute, regulation, or Executive order, or by the order of a Federal court or agency, or (2) a permissible voluntary affirmative action plan. For purposes of this subsection, a railroad shall not be considered to be hiring new employees when it recalls any of its own furloughed employees.".

CROSS CRAFT EMPLOYMENT

SEC. 110. (a) Title VII of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 797 et seq.) is amended by inserting immediately after section 703 the following section:

"CROSS CRAFT EMPLOYMENT

"SEC. 703A. Any employee of Norfolk and Western Railway Company, Southern Railway Company, or the Corporation who is deprived of employment as a result of the implementation of the Secretary's Plan

shall have the first right of hire for any vacancy for which such employee is qualified at the entry level of any Norfolk Southern Corporation rail subsidiary, without regard to craft or class or the provisions of section 703 of this Act. Such employee shall retain his seniority rights to return to his original craft or class whenever a vacancy occurs. For purposes of this section, a railroad shall not be considered to be hiring new employees when it recalls any of its own furloughed employees.".

(b) The table of contents of the Regional Rail Reorganization Act of 1973 is amended by inserting immediately after the item relating to section 703 the following item:

"Sec. 703A. Cross craft employment.".

Subtitle B—Northeast Rail Service Act of 1981 Amendments

SPECIAL COURT JURISDICTION

SEC. 121. (a) Section 1152 of the Northeast Rail Service Act of 1981 (45 U.S.C. 1105) is amended—

(1) by inserting "or the Conrail Sale Amendments Act of 1985" immediately after "subtitle" wherever it appears;

(2) in subsection (a), by striking "or" at the end of paragraph (3), by striking the period at the end of paragraph (4) and inserting in lieu thereof a semicolon, and by adding at the end thereof the following paragraphs:

"(5) brought by the United States or any agency or instrumentality thereof seeking to enforce the Secretary's Plan or the Definitive Agreements;

"(6) brought by Norfolk Southern Corporation seeking to enforce the Secretary's Plan or the Definitive Agreements;

"(7) brought by a party who filed a complaint with the Secretary under subsection (e) of this section, and who is aggrieved by (A) a determination of the Secretary under paragraph (1) of such subsection that the party has not suffered direct economic injury, or (B) a decision of the Secretary under paragraph (2) of such subsection that a covenant has not been violated;

"(8) brought by a party which is a signatory to an ancillary agreement entered into in accordance with the Secretary's Plan or the Definitive Agreements and which is seeking to enforce such ancillary agreement; or

"(9) brought to determine the value of the interest of the employee stock ownership plan and related trusts, or of the beneficiaries thereof, in the preferred stock of the Conrail Equity Corporation.

For purposes of any action brought under paragraph (5) of this subsection, a violation of any covenant contained in the Secretary's Plan or the Definitive Agreements shall be deemed to constitute immediate and irreparable harm for purposes of awarding injunctive relief to the United States.".

(b) Section 1152 of the Northeast Rail Service Act of 1981 (45 U.S.C. 1105) is amended by adding at the end thereof the following subsection:

"(e)(1) Any party who suffers direct economic injury as a result of an alleged violation of a covenant contained in the Definitive Agreements may file a complaint with the Secretary seeking enforcement of such covenant. If the Secretary determines that the complainant has demonstrated to the Secretary that it has suffered direct economic injury, the Secretary shall investigate the complaint.

"(2) If the Secretary decides to investigate a complaint under paragraph (1) of this subsection, the Secretary shall give reasonable notice of such decision to investigate to the alleged violator of such covenant and the complainant, and shall make a final decision on such complaint within 60 days after the date on which it was filed.

"(3) If the Secretary finds that (A) the covenant in question has been violated, and (B) the complainant suffered direct economic injury as a result of such violation, the Secretary shall enter an order directing the violator of such covenant to comply with such covenant.

"(4) On appeal, any decision by the Secretary under this subsection shall be upheld, unless such decision is found to be arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law.".

APPLICABILITY OF OTHER LAWS

SEC. 122. Section 1168(a) of the Northeast Rail Service Act of 1981 (45 U.S.C. 1116(a)) is amended by striking "service transfers" and inserting in lieu thereof "sale of the interest of the United States in the common stock of Conrail or transfer of the rail properties and freight service responsibilities of Conrail".

Subtitle C—Employee Stock Ownership Plan

RESPONSIBILITY OF EMPLOYEE STOCK OWNERSHIP PLAN FIDUCIARIES

SEC. 131. (a) Section 216(f)(8)(A) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 726(f)(8)(A)) is amended—

(1) by striking "or" at the end of clause (ii);

(2) by striking the period at the end of clause (iii) and inserting in lieu thereof "; or"; and

(3) by adding at the end thereof the following clause:

"(iv) for or in connection with any action taken to implement the Secretary's Plan, including any sale, exchange, valuation, or disposition of the plan and related trust assets, or the assets of Conrail Equity Corporation, in connection with implementation of the Secretary's Plan and any determination of the terms on which any such sale, exchange, valuation, or disposition is effected.".

QUALIFICATION, REVIEW, AND VALUATION OF EMPLOYEE STOCK OWNERSHIP PLANS

SEC. 132. Section 216(f) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 726(f)) is amended by adding at the end thereof the following paragraphs:

"(11) The employee stock ownership plans of the Corporation and related trusts maintained, amended, or adopted in implementing the Secretary's Plan shall be deemed to meet the qualification requirements of sections 401 and 501, respectively, of the Internal Revenue Code of 1954, notwithstanding (A) that such plans may not meet the requirements of section 415 of the Internal Revenue Code of 1954, or (B) that participants in such plans may be entitled to withdraw a portion of the shares allocated to their accounts prior to the expiration of the period generally imposed by the Internal Revenue Service for qualified plans. Such qualification shall relate only to the contributions, allocations, and withdrawals of shares provided for in the Secretary's Plan with respect to the plans and related trusts maintained, amended, or adopted in implementing the Secretary's Plan. Such contributions and allocations shall in no event be treated as having exceeded the maximum annual addition permitted under section 415 of the Internal Revenue Code of 1954 (but not for purposes of applying section 404(j) of the Internal Revenue Code of 1954) for purposes of calculating any limitation under section 415 with respect to contributions and allocations not described in the Secretary's Plan, including contributions and allocations to plans and related trusts of the Corporation and any affiliated corporation. The continued qualification of such plans with respect to all other contributions, allocations, and withdrawals shall be subject to all provisions of existing law, as amended from time to time. No inference shall be drawn from this paragraph as to whether an amount is a contribution deductible under section 404 of the Internal Revenue Code of 1954 rather than a non-deductible capital expenditure.

"(12) Except as provided in section 1152 of the Northeast Rail Service Act of 1981 (45 U.S.C. 1105), the issuance and sale or contribution of securities by Norfolk Southern Corporation to fulfill arrangements with the Corporation's employees in implementing the Secretary's Plan and the distribution of shares from the Corporation's employee stock ownership plans and related trusts maintained, amended, or adopted in implementing the Secretary's Plan shall not be subject to the registration and prospectus delivery requirements of the Securities Act of 1933, any approval requirement under subtitle IV of title 49, United States Code, or the laws of any State with respect to the issuance and sale of securities.".

TITLE II—TECHNICAL AND CONFORMING AMENDMENTS

REGIONAL RAIL REORGANIZATION ACT OF 1973 AMENDMENTS AND REPEALS

SEC. 201. The following provisions of the Regional Rail Reorganization Act of 1973 are repealed or amended as specified:

(1) Subsections (a) and (b) of section 214 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 724 (a) and (b)) are repealed, and such section 214 is amended by striking "(c) ASSOCIATION.—".

(2) Subsection (f) of section 217 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 727(f)) is repealed, without prejudice to the continued availability of funds appropriated prior to the date of enactment of this Act pursuant to section 217(f)(1)(C) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 727(f)(1)(C)).

(3) Section 404 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 764), and the item relating to such section in the table of contents of such Act, are repealed.

(4) Section 405 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 765), and the item relating to such section in the table of contents of such Act, are repealed.

(5) Section 406 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 766), and the item relating to such section in the table of contents of such Act, are repealed.

(6) Section 407 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 767), and the item relating to such section in the table of contents of such Act, are repealed.

(7) Subsections (a) and (d) of section 408 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 768 (a) and (d)) are repealed.

(8) Section 409 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 769), and the item relating to such section in the table of contents of such Act, are repealed.

(9) Section 410 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 769a), and the item relating to such section in the table of contents of such Act, are repealed.

(10) Section 411 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 769b), and the item relating to such section in the table of contents of such Act, are repealed.

(11) Section 412 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 769c), and the item relating to such section in the table of contents of such Act, are repealed.

(12) Section 713 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 797l), and the item relating to such section in the table of contents of such Act, are repealed.

AMENDMENTS AND REPEALS OF OTHER RAIL LAWS

SEC. 202. The following provisions of law are repealed or amended as specified:

(1) Section 1154 of the Northeast Rail Service Act of 1981 (45 U.S.C. 1107), and the item relating to such section in the table of contents of such Act, are repealed.

(2) Section 1161 of the Northeast Rail Service Act of 1981 (45 U.S.C. 1110), and the item relating to such section in the table of contents of such Act, are repealed.

(3) Section 1166 of the Northeast Rail Service Act of 1981 (45 U.S.C. 1114), and the item relating to such section in the table of contents of such Act, are repealed.

(4) Subsection (c) of section 1167 of the Northeast Rail Service Act of 1981 (45 U.S.C. 1115(c)) is repealed.

(5) Subsection (b) of section 1168 of the Northeast Rail Service Act of 1981 (45 U.S.C. 1116(b)) is repealed.

(6) Section 501(8) of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 821(8)) is amended—

(A) by striking "(A)";

(B) by striking "(i)" and inserting in lieu thereof "(A)", and by striking "(ii)" and inserting in lieu thereof "(B)"; and

(C) by striking all after "utilization;".

(7) Section 505 of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 825) is amended—

(A) in subsection (a)(1), by striking all after "railroad" through "1981)"; and

(B) in subsection (b)(2)(C), by striking all after "costs" the second time it appears through "subsidy".

(8) Subsection (b)(1) of section 509 of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 829(b)(1)) is repealed.

(9) Section 511(e) of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 831(e)) is amended by striking "(1)", and by striking all after "time" and inserting in lieu thereof a period.

(10) Section 402 of the Rail Safety and Service Improvement Act of 1982 (45 U.S.C. 825a) is repealed.

(11) Section 1005(b)(1) of the Rail Passenger Service Act (45 U.S.C. 655(b)(1)) is amended by striking "the Consolidated Rail Corporation,".

(12) Section 10362(b)(7)(A) of title 49, United States Code, is amended by striking "by the Consolidated Rail Corporation or".

(13) Section 332(d) of title 49, United States Code, is amended by striking ", the Consolidated Rail Corporation,".

TITLE III—MISCELLANEOUS PROVISIONS

COMMON CARRIER STATUS OF CONRAIL AFTER SALE

SEC. 301. (a) Conrail's status as a common carrier by railroad under section 10102(4) of title 49, United States Code, shall not be affected by virtue of sale of the interest of the United States in Conrail's common stock. Purchase of Conrail stock shall not alone be the basis of a determination that the acquiring entity has become a common carrier by railroad under section 10102(4) of title 49, United States Code.

(b) The Definitive Agreements shall contain a binding commitment by Norfolk Southern Corporation to continue to operate Conrail in full compliance with the provisions of section 10731(e) of title 49, United States Code.

CONSUMMATION OF SALE

SEC. 302. The sale of the interest of the United States in the common stock of Conrail shall be deemed to be consummated on the date title to the common stock passes to Norfolk Southern Corporation and the United States receives the cash purchase price.

CONTRACTS

SEC. 303. (a) Except as provided in subsection (b) of this section, nothing in this Act shall affect—

(1) Conrail's obligation to carry out its transportation contracts and equipment leases, equipment trusts, and conditional sale agreements, in accordance with their terms; and

(2) the obligation of any transferee of divested assets to carry out transportation contracts and equipment leases, equipment trusts, and conditional sale agreements to which such assets are subject, in accordance with their terms.

(b) If a divestiture carried out pursuant to the Secretary's Plan precludes Conrail from providing a transportation service for which it has contracted without a right of termination that may be exercised in the event of the sale of the interest of the United States in the common stock of Conrail and the divestiture will result in a change or modification in the movement of the traffic involved, the transferee of the divested rights and properties and Conrail shall provide the contracted-for service on terms and conditions which, to the maximum extent possible, conform to the terms and conditions in the contract.

CONGRESSIONAL OVERSIGHT OF COMPLIANCE

SEC. 304. The Secretary shall, no later than January 31 of each year, submit to the Committee on Commerce, Science, and Transportation of the Senate and to the Committee on Energy and Commerce of the House of Representatives a report setting forth each certificate which Norfolk Southern Corporation and Conrail provided to the Secretary, during the preceding year, certifying compliance with the covenants contained in the Definitive Agreements.

SEPARABILITY

SEC. 305. If any provision of this Act or the application thereof to any person or circumstances is held invalid, the remainder of this Act and the application of such provision to other persons or circumstances shall not be affected thereby.

EFFECTIVE DATE

SEC. 306. (a) Except as provided in subsection (b) of this section, the provisions of and amendments made by this Act shall take effect on the date of enactment of this Act.

(b) Sections 108(a), 201 and 202 of this Act shall take effect on the date of consummation of the sale of the interest of the United States in the common stock of Conrail.

(c) Any provision of this Act which, pursuant to article I, section 7 of the Constitution, provides for raising revenue shall only be effective upon the enactment into law of a bill which has originated in the House of Representatives enacting such provision.

AMENDMENT NO. 1449

In lieu of the language proposed to be inserted, insert the following:

That this Act may be cited as the "Conrail Sale Amendments Act of 1985".

FINDINGS

SEC. 2. The Congress finds that—

(1) the Northeast Rail Service Act of 1981 (45 U.S.C. 1101 et seq.) provided for an orderly return of Conrail freight service to the private sector;

(2) the provisions of the Northeast Rail Service Act of 1981 were successful in removing Conrail's obligations beyond railroad freight service and in otherwise preparing Conrail for an orderly return to the private sector;

(3) acting under section 403 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 763), the Board of Directors of the United States Railway Association twice found Conrail to be a profitable corporation;

(4) acting under section 401 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 761), the Secretary engaged an investment banker and arranged, through open competitive bidding and negotiation, to sell the interest of the United States in the common stock of Conrail;

(5) the Secretary's Plan for the sale of Conrail provides for sale of the interest of the United States in the common stock of Conrail to Norfolk Southern Corporation;

(6) the Secretary found that sale of the interest of the United States in the common stock of Conrail to Norfolk Southern Corporation best meets the sale criteria of (A) leaving Conrail in the strongest financial position after the sale, (B) preserving patterns of service to shippers and communities in the region Conrail serves, and (C) maximizing return to the Federal Government consistent with the criteria specified in clauses (A) and (B);

(7) amendments to the Regional Rail Reorganization Act of 1973 (45 U.S.C. 701 et seq.) and related laws are needed to permit the sale of the interest of the United States in the common stock of Conrail to Norfolk Southern Corporation and to permit cancellation of the interest of the United States in Conrail debt and preferred stock; and

(8) the Secretary's Plan satisfies the requirements of the Northeast Rail Service Act of 1981, including the intent, goals, and objectives relating to the sale of the interest of the United States in the common stock of Conrail and the requirements of section 401(e) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 761(e)).

PURPOSE

SEC. 3. It is therefore declared to be the purpose of the Congress in this Act to return Conrail to the private sector by directing and facilitating implementation of the Secretary's Plan for the sale of the interest of the United States in the common stock of Conrail.

DEFINITIONS

SEC. 4. (a) In this Act, unless the context otherwise requires, the term—

(1) "Conrail" means the Consolidated Rail Corporation;

(2) "Definitive Agreements" means any and all agreements existing or to be developed between the United States and Norfolk Southern Corporation, including all representations and warranties made therein, to implement the Memorandum of Intent described in paragraph (4)(A);

(3) "Secretary" means the Secretary of Transportation; and

(4) "Secretary's Plan" means (A) the Memorandum of Intent between the United States and Norfolk Southern Corporation signed February 8, 1985, and (B) the divesti-

tures by the Norfolk Southern Corporation of certain rail tracks, rights, and facilities, and any transactions or agreements related or incidental to such divestitures, in connection with the implementation of attachment A to the letter from the Department of Justice attached to the Memorandum of Intent as exhibit E.

(b) Section 102 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 702) is amended—

(1) by redesignating paragraphs (6) through (18) as paragraphs (7) through (19), and paragraphs (19) through (21) as paragraphs (21) through (23), respectively;

(2) by inserting after paragraph (5) the following paragraph:

"(6) 'Definitive Agreements' means any and all agreements existing or to be developed between the United States and Norfolk Southern Corporation, including all representations and warranties made therein, to implement the Memorandum of Intent described in paragraph (20)(A);"; and

(3) by inserting after paragraph (19), as so redesignated, the following paragraph:

"(20) 'Secretary's Plan' means (A) the Memorandum of Intent between the United States and Norfolk Southern Corporation signed February 8, 1985, and (B) the divestitures by the Norfolk Southern Corporation of certain rail tracks, rights, and facilities, and any transactions or agreements related or incidental to such divestitures, in connection with the implementation of attachment A to the letter from the Department of Justice attached to the Memorandum of Intent as exhibit E;".

(c) Section 1135(a) of the Northeast Rail Service Act of 1981 (45 U.S.C. 1104(a)) is amended—

(1) by redesignating paragraphs (6), (7), and (8) as paragraphs (7), (8), and (10), respectively;

(2) by inserting after paragraph (5) the following paragraph:

"(6) 'Definitive Agreements' means any and all agreements existing or to be developed between the United States and Norfolk Southern Corporation, including all representations and warranties made therein, to implement the Memorandum of Intent described in paragraph (9)(A);"; and

(3) by inserting after paragraph (8), as so redesignated, the following paragraph:

"(9) 'Secretary's Plan' means (A) the Memorandum of Intent between the United States and Norfolk Southern Corporation signed February 8, 1985, but not including paragraph 6(e) of such Memorandum of Intent, and (B) the divestitures by the Norfolk Southern Corporation of certain rail tracks, rights, and facilities, and any transactions or agreements related or incidental to such divestitures, in connection with the implementation of attachment A to the letter from the Department of Justice attached to the Memorandum of Intent as exhibit E;".

TITLE I—AMENDMENTS TO THE REGIONAL RAIL REORGANIZATION ACT OF 1973 AND THE NORTHEAST RAIL SERVICE ACT OF 1981

Subtitle A—Regional Rail Reorganization Act of 1973 Amendments

LIMIT ON AUTHORITY TO PURCHASE STOCK

SEC. 101. Section 216(b) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 726(b)) is amended by adding at the end thereof the following paragraph:

"(5) The authority of the Association to purchase debentures or series A preferred stock of the Corporation under this section shall terminate upon the consummation of the sale of the interest of the United States in the common stock of the Corporation under the terms of the Secretary's Plan.".

RESPONSIBILITY OF CONRAIL DIRECTORS

SEC. 102. Section 301(i) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 741(i)) is amended by inserting immediately after "required by law" the following: ", taken to implement the Secretary's Plan,".

APPLICABILITY OF REGIONAL RAIL REORGANIZATION ACT OF 1973 TO CONRAIL AFTER SALE

SEC. 103. Section 301 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 741) is amended by adding at the end thereof the following subsection:

"(k) GOVERNING PROVISIONS AFTER SALE.—The provisions of this Act shall not apply to the Corporation and to activities and other actions and responsibilities of the Corporation and its directors after consummation of the sale of the interest of the United States in the common stock of the Corporation under the terms of the Conrail Sale Amendments Act of 1985, other than with regard to—

"(1) section 102 of this Act;

"(2) section 201(d) of this Act;

"(3) section 203 of this Act, but only with respect to information relating to proceedings before the special court established under section 209(b);

"(4) section 216(f)(8) of this Act, but only as such authority applies to activities related to the employee stock ownership plan and related trusts prior to or in connection with consummation of the sale of the interest of the United States in the common stock of the Corporation, including activities related to the sale, exchange, valuation, or disposition of the assets of the employee stock ownership plan and related trusts, or of Conrail Equity Corporation, in connection with the Secretary's Plan;

"(5) sections 216(f)(11) and 216(f)(12) of this Act, as amended by the Conrail Sale Amendments Act of 1985;

"(6) section 217(e) of this Act;

"(7) subsection (i) of this section, but only as such authority applies to service as a director of the Corporation prior to consummation or in connection with implementation of the sale of the interest of the United States in the common stock of the Corporation;

"(8) section 305 of this Act, but only as to the effect, and continuing administration, of supplemental transactions consummated prior to consummation of the sale of the interest of the United States in the common stock of the Corporation;

"(9) section 308 of this Act, but only in abandonment actions when such authority has been relied on to file a notice or notices of insufficent revenues prior to consummation of the sale of the interest of the United States in the common stock of the Corporation;

"(10) section 401(a) of this Act, as amended by the Conrail Sale Amendments Act of 1985;

"(11) section 402 of this Act, as amended by the Conrail Sale Amendments Act of 1985;

"(12) section 408(c) of this Act, as amended by the Conrail Sale Amendments Act of 1985;

"(13) section 701 of this Act, but only as may be necessary to identify employees eligible for benefits under agreements entered into under such section;

"(14) section 702(e) of this Act;

"(15) section 704(b) of this Act;

"(16) section 709 of this Act;

"(17) section 710(b)(1) of this Act;

"(18) section 711 of this Act;

"(19) section 714 of this Act, but only with regard to disputes or controversies specified in such section that arose prior to consummation of the sale of the interest of the United States in the common stock of the Corporation; and

"(20) section 715 of this Act, as amended by the Conrail Sale Amendments Act of 1985.".

IMPLEMENTATION OF THE SECRETARY'S PLAN

SEC. 104. (a) Section 401(a)(3) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 761(a)(3)) is amended to read as follows:

"(3) The Secretary is authorized and directed to implement the Secretary's Plan, in accordance with paragraph (4) of this subsection. Such implementation of the Secretary's Plan and the coordinated operation of the Corporation's properties with those of Norfolk Southern Corporation and its affiliates as a single rail system is deemed approved by the Commission under chapter 113 of title 49, United States Code.".

(b) Section 401(a) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 761(a)) is amended by adding at the end thereof the following paragraphs:

"(4) The Secretary shall implement the Secretary's Plan by negotiating, executing, delivering, and performing the Definitive Agreements, which shall conform to the Memorandum of Intent described in section 102(20)(A) of this Act. The Secretary shall, 45 calendar days before the date on which the Secretary anticipates that the interest of the United States in the common stock of the Corporation will be sold to Norfolk Southern Corporation, transmit to the Committee on Commerce, Science, and Transportation of the Senate and to the Committee on Energy and Commerce of the House of Representatives a notification of any alteration from the Memorandum of Intent described in section 102(20)(A) of this Act which will be made in the Definitive Agreements. After the date of such sale, the Secretary shall transmit to such Committees notification of any intent to waive compliance with any substantive covenant, agreement or obligation contained in the Definitive Agreements, and the Secretary may not waive such compliance until a period of 45 calendar days has expired after the date of such transmittal.

"(5) The Secretary shall not transfer the interest of the United States in the common stock of the Corporation except concurrently with a divestiture by Norfolk Southern Corporation of rail assets and rights approved by the Attorney General.

"(6) The sale of the interest of the United States in the common stock of the Corporation shall be deemed to be consummated at the date title to the common stock passes to Norfolk Southern Corporation and the United States receives the cash purchase price.".

RAILROAD PURCHASERS AND OFFER FOR SALE OF SHARES TO EMPLOYEES

SEC. 105. Subsections (d) and (e) of section 401 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 761(d) and (e)) are repealed.

CANCELLATION OF DEBT AND PREFERRED STOCK

SEC. 106. Section 402 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 762) is amended to read as follows:

"DEBT AND PREFERRED STOCK

"SEC. 402. (a) RECAPITALIZATION.—In connection with the sale of the interest of the United States in the common stock of the Corporation under section 401 of this Act, and consistent with the Secretary's Plan, the Secretary may take all action necessary to cause the Corporation to be recapitalized such that the interest of the United States, or any agent or instrumentality thereof, and all other commitments or obligations of the Corporation to the United States or any agent or instrumentality thereof arising out of such interest, in any debt (including accrued interest and contingent interest thereon) and preferred stock (including accrued and unpaid dividends thereon) of the Corporation shall be cancelled or retired, and contributed to the capital of the Corporation. The Secretary shall cause the recapitalization authorized by this section to be effective as of the consummation of the sale of the interest of the United States in the common stock of the Corporation.

"(b) BREACH OF REPRESENTATIONS.—(1) Norfolk Southern Corporation or any successor corporation thereto may bring suit for any breach of representations contained in paragraph 6(e) of the Memorandum of Intent described in section 102(20)(A) of this Act (hereinafter referred to as the 'Representations') in the United States Claims Court or a district court of the United States. If such an action is brought, the Claims Court or district court shall determine the amount by which the United States income tax (including interest and penalties whether or not such penalties are assessed as a tax under the Internal Revenue Code of 1954) assessable against the Corporation or against Norfolk Southern Corporation for any year exceeds the amount of such tax which would have been assessable for such year had such Representations not been breached (hereinafter referred to as the 'Offset Amount').

"(2) The Representations shall be considered breached and Norfolk Southern Corporation shall be entitled to bring suit upon the first occurrence of any of the following that is inconsistent with the Representations: (A) the issuance by the Internal Revenue Service of a statutory notice of deficiency (90-day letter), (B) the assessment of the United States income tax, or (C) any claim by the United States in a suit or other judicial proceeding against Norfolk Southern Corporation or the Corporation.

"(3) The right to bring suit pursuant to this section shall not be subject to any waiting period applicable to tax proceedings or to any requirements for payment of any tax as a condition to instituting any suit based on a breach of the Representations.

"(4) Any judgment for money damages relating to breach of the Representations shall only be awarded as an offset in any court or administrative proceeding against the tax liability of Norfolk Southern Corporation or the Corporation, or both, to which such breach relates; except that if any such tax liability resulting from such breach has been paid, the judgment shall to that extent be an offset against any United States income tax liability of the Norfolk Southern Corporation or the Corporation, or both. If any portion of the tax resulting from a breach of the Representations has been paid, then the Offset Amount shall include interest on such payment from the date paid at the rate from time to time specified in the Internal Revenue Code of 1954 for interest payable on refund claims.

"(5) It shall not be a defense to an action brought under this section that Norfolk Southern Corporation knew, or should have known, of the falsity of the Representations or that there exists no carryover basis procedure as contemplated by the last sentence of the Representations.

"(6) For purposes of this section, tax liability of Norfolk Southern Corporation shall include the tax liability of Norfolk Southern Corporation and its affiliated group, within the meaning of section 1504 of the Internal Revenue Code of 1954.".

APPLICABILITY OF CERTAIN LAWS TO SALE OF CONRAIL

SEC. 107. Section 408 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 768) is amended—

(1) by repealing subsection (b);

(2) by amending subsection (c) by striking "No transfer" and all that follows through "subject to" and inserting in lieu thereof "Except as provided in section 1152 of the Northeast Rail Service Act of 1981 (45 U.S.C. 1105), the Secretary's Plan and the Definitive Agreements and their negotiation, execution, and implementation shall not be subject to administrative or"; and

(3) by adding at the end of subsection (c) the following sentence: "The issuance in private placement of notes or other securities in accordance with exhibit B to the Memorandum of Intent (described in section 102(20)(A) of this Act) in the Secretary's Plan shall not be subject to the provisions of subtitle IV of title 49, United States Code.".

LABOR PROTECTION

SEC. 108. (a) Section 701(d)(2) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 797(d)(2)) is amended by striking "the last day of the eighteen-month period beginning on".

(b)(1) Title VII of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 797 et seq.) is amended by adding at the end thereof the following section:

"PROTECTION AFTER SALE

"SEC. 715. After consummation of the sale of the interest of the United States in the common stock of the Corporation pursuant to the Secretary's Plan, any employee of Norfolk Southern Corporation, the Corporation, any rail affiliate of either company, and any transferee of the rail tracks, rights, and facilities divested in accordance with the Secretary's Plan, who is adversely affected in his employment by the implementation of the Secretary's Plan shall receive from his employer protection under the labor protective conditions set forth in New York Dock Railway—Control—Brooklyn Eastern District Terminal (354 ICC 399 (1978), modified upon further consideration, 360 ICC 60 (1979)). The arbitration provisions of section 4 of New York Dock shall apply to the formation of any implementing agreements that may be necessary in connection with the implementation of the Secretary's Plan, including any resulting coordinations.".

(2) The table of contents of the Regional Rail Reorganization Act of 1973 is amended by inserting immediately after the item relating to section 714 the following item:

"Sec. 715. Protection after sale.".

PREFERENTIAL HIRING

SEC. 109. Section 703 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 797b) is amended—

(1) by redesignating subsection (b) as subsection (c); and

(2) by inserting immediately after subsection (a) the following subsection:

"(b) IMPLEMENTATION OF SECRETARY'S PLAN.—Any employee of any railroad who is deprived of employment as a result of the implementation of the Secretary's Plan shall have the first right of hire for a vacancy for which he is qualified on any Norfolk Southern Corporation rail subsidiary, except where such vacancy is covered by (1) an affirmative action plan, or a hiring plan designated to eliminate discrimination, that is required by Federal or State statute, regulation, or Executive order, or by the order of a Federal court or agency, or (2) a permissible voluntary affirmative action plan. For purposes of this subsection, a railroad shall not be considered to be hiring new employees when it recalls any of its own furloughed employees.".

CROSS CRAFT EMPLOYMENT

SEC. 110. (a) Title VII of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 797 et seq.) is amended by inserting immediately after section 703 the following section:

"CROSS CRAFT EMPLOYMENT

"SEC. 703A. Any employee of Norfolk and Western Railway Company, Southern Railway Company, or the Corporation who is deprived of employment as a result of the implementation of the Secretary's Plan shall have the first right of hire for any vacancy for which such employee is qualified at the entry level of any Norfolk Southern Corporation rail subsidiary, without regard to craft or class or the provisions of section 703 of this Act. Such employee shall retain his seniority rights to return to his original craft or class whenever a vacancy occurs. For purposes of this section, a railroad shall not be considered to be hiring new employees when it recalls any of its own furloughed employees.".

(b) The table of contents of the Regional Rail Reorganization Act of 1973 is amended by inserting immediately after the item relating to section 703 the following item:

"Sec. 703A. Cross craft employment.".

Subtitle B—Northeast Rail Service Act of 1981 Amendments

SPECIAL COURT JURISDICTION

SEC. 121. (a) Section 1152 of the Northeast Rail Service Act of 1981 (45 U.S.C. 1105) is amended—

(1) by inserting "or the Conrail Sale Amendments Act of 1985" immediately after "subtitle" wherever it appears;

(2) in subsection (a), by striking "or" at the end of paragraph (3), by striking the period at the end of paragraph (4) and inserting in lieu thereof a semicolon, and by adding at the end thereof the following paragraphs:

"(5) brought by the United States or any agency or instrumentality thereof seeking to enforce the Secretary's Plan or the Definitive Agreements;

"(6) brought by Norfolk Southern Corporation seeking to enforce the Secretary's Plan or the Definitive Agreements;

"(7) brought by a party who filed a complaint with the Secretary under subsection (e) of this section, and who is aggrieved by (A) a determination of the Secretary under paragraph (1) of such subsection that the party has not suffered direct economic injury, or (B) a decision of the Secretary under paragraph (2) of such subsection that a covenant has not been violated;

"(8) brought by a party which is a signatory to an ancillary agreement entered into in

accordance with the Secretary's Plan or the Definitive Agreements and which is seeking to enforce such ancillary agreement; or

"(9) brought to determine the value of the interest of the employee stock ownership plan and related trusts, or of the beneficiaries thereof, in the preferred stock of the Conrail Equity Corporation.

For purposes of any action brought under paragraph (5) of this subsection, a violation of any covenant contained in the Secretary's Plan or the Definitive Agreements shall be deemed to constitute immediate and irreparable harm for purposes of awarding injunctive relief to the United States.".

(b) Section 1152 of the Northeast Rail Service Act of 1981 (45 U.S.C. 1105) is amended by adding at the end thereof the following subsection:

"(e)(1) Any party who suffers direct economic injury as a result of an alleged violation of a covenant contained in the Definitive Agreements may file a complaint with the Secretary seeking enforcement of such covenant. If the Secretary determines that the complainant has demonstrated to the Secretary that it has suffered direct economic injury, the Secretary shall investigate the complaint.

"(2) If the Secretary decides to investigate a complaint under paragraph (1) of this subsection, the Secretary shall give reasonable notice of such decision to investigate to the alleged violator of such covenant and the complainant, and shall make a final decision on such complaint within 60 days after the date on which it was filed.

"(3) If the Secretary finds that (A) the covenant in question has been violated, and (B) the complainant suffered direct economic injury as a result of such violation, the Secretary shall enter an order directing the violator of such covenant to comply with such covenant.

"(4) On appeal, any decision by the Secretary under this subsection shall be upheld, unless such decision is found to be arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law.".

APPLICABILITY OF OTHER LAWS

SEC. 122. Section 1168(a) of the Northeast Rail Service Act of 1981 (45 U.S.C. 1116(a)) is amended by striking "service transfers" and inserting in lieu thereof "sale of the interest of the United States in the common stock of Conrail or transfer of the rail properties and freight service responsibilities of Conrail".

Subtitle C—Employee Stock Ownership Plan

RESPONSIBILITY OF EMPLOYEE STOCK OWNERSHIP PLAN FIDUCIARIES

SEC. 131. (a) Section 216(f)(8)(A) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 726(f)(8)(A)) is amended—

(1) by striking "or" at the end of clause (ii);

(2) by striking the period at the end of clause (iii) and inserting in lieu thereof "; or"; and

(3) by adding at the end thereof the following clause:

"(iv) for or in connection with any action taken to implement the Secretary's Plan, including any sale, exchange, valuation, or disposition of the plan and related trust assets, or the assets of Conrail Equity Corporation, in connection with implementation of the Secretary's Plan and any determination of the terms on which any such sale, exchange, valuation, or disposition is effected.".

QUALIFICATION, REVIEW, AND VALUATION OF EMPLOYEE STOCK OWNERSHIP PLANS

SEC. 132. Section 216(f) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 726(f)) is amended by adding at the end thereof the following paragraphs:

"(11) The employee stock ownership plans of the Corporation and related trusts maintained, amended, or adopted in implementing the Secretary's Plan shall be deemed to meet the qualification requirements of sections 401 and 501, respectively, of the Internal Revenue Code of 1954, notwithstanding (A) that such plans may not meet the requirements of section 415 of the Internal Revenue Code of 1954, or (B) that participants in such plans may be entitled to withdraw a portion of the shares allocated to their accounts prior to the expiration of the period generally imposed by the Internal Revenue Service for qualified plans. Such qualification shall relate only to the contributions, allocations, and withdrawals of shares provided for in the Secretary's Plan with respect to the plans and related trusts maintained, amended, or adopted in implementing the Secretary's Plan. Such contributions and allocations shall in no event be treated as having exceeded the maximum annual addition permitted under section 415 of the Internal Revenue Code of 1954 (but not for purposes of applying section 404(j) of the Internal Revenue Code of 1954) for purposes of calculating any limitation under section 415 with respect to contributions and allocations not described in the Secretary's Plan, including contributions and allocations to plans and related trusts of the Corporation and any affiliated corporation. The continued qualification of such plans with respect to all other contributions, allocations, and withdrawals shall be subject to all provisions of existing law, as amended from time to time. No inference shall be drawn from this paragraph as to whether an amount is a contribution deductible under section 404 of the Internal Revenue Code of 1954 rather than a non-deductible capital expenditure.

"(12) Except as provided in section 1152 of the Northeast Rail Service Act of 1981 (45 U.S.C. 1105), the issuance and sale or contribution of securities by Norfolk Southern Corporation to fulfill arrangements with the Corporation's employees in implementing the Secretary's Plan and the distribution of shares from the Corporation's employee stock ownership plans and related trusts maintained, amended, or adopted in implementing the Secretary's Plan shall not be subject to the registration and prospectus delivery requirements of the Securities Act of 1933, any approval requirement under subtitle IV of title 49, United States Code, or the laws of any State with respect to the issuance and sale of securities.".

TITLE II—TECHNICAL AND CONFORMING AMENDMENTS

REGIONAL RAIL REORGANIZATION ACT OF 1973 AMENDMENTS AND REPEALS

SEC. 201. The following provisions of the Regional Rail Reorganization Act of 1973 are repealed or amended as specified:

(1) Subsections (a) and (b) of section 214 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 724(a) and (b)) are repealed, and such section 214 is amended by striking "(c) ASSOCIATION.—".

(2) Subsection (f) of section 217 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 727(f)) is repealed, without prejudice to the continued availability of funds appropriated prior to the date of enactment of this Act pursuant to section 217(f)(1)(C) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 727(f)(1)(C)).

(3) Section 404 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 764), and the item relating to such section in the table of contents of such Act, are repealed.

(4) Section 405 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 765), and the item relating to such section in the table of contents of such Act, are repealed.

(5) Section 406 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 766), and the item relating to such section in the table of contents of such Act, are repealed.

(6) Section 407 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 767), and the item relating to such section in the table of contents of such Act, are repealed.

(7) Subsections (a) and (d) of section 408 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 768 (a) and (d)) are repealed.

(8) Section 409 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 769), and the item relating to such section in the table of contents of such Act, are repealed.

(9) Section 410 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 769a), and the item relating to such section in the table of contents of such Act, are repealed.

(10) Section 411 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 769b), and the item relating to such section in the table of contents of such Act, are repealed.

(11) Section 412 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 769c), and the item relating to such section in the table of contents of such Act, are repealed.

(12) Section 713 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 797l), and the item relating to such section in the table of contents of such Act, are repealed.

AMENDMENTS AND REPEALS OF OTHER RAIL LAWS

SEC. 202. The following provisions of law are repealed or amended as specified:

(1) Section 1154 of the Northeast Rail Service Act of 1981 (45 U.S.C. 1107), and the item relating to such section in the table of contents of such Act, are repealed.

(2) Section 1161 of the Northeast Rail Service Act of 1981 (45 U.S.C. 1110), and the item relating to such section in the table of contents of such Act, are repealed.

(3) Section 1166 of the Northeast Rail Service Act of 1981 (45 U.S.C. 1114), and the item relating to such section in the table of contents of such Act, are repealed.

(4) Subsection (c) of section 1167 of the Northeast Rail Service Act of 1981 (45 U.S.C. 1115(c)) is repealed.

(5) Subsection (b) of section 1168 of the Northeast Rail Service Act of 1981 (45 U.S.C. 1116(b)) is repealed.

(6) Section 501(8) of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 821(8)) is amended—

(A) by striking "(A)";

(B) by striking "(i)" and inserting in lieu thereof "(A)", and by striking "(ii)" and inserting in lieu thereof "(B)"; and

(C) by striking all after "utilization;".

(7) Section 505 of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 825) is amended—

(A) in subsection (a)(1), by striking all after "railroad" through "1981)"; and

(B) in subsection (b)(2)(C), by striking all after "costs" the second time it appears through "subsidy".

(8) Subsection (b)(1) of section 509 of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 829(b)(1)) is repealed.

(9) Section 511(e) of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 831(e)) is amended by striking "(1)", and by striking all after "time" and inserting in lieu thereof a period.

(10) Section 402 of the Rail Safety and Service Improvement Act of 1982 (45 U.S.C. 825a) is repealed.

(11) Section 1005(b)(1) of the Rail Passenger Service Act (45 U.S.C. 655(b)(1)) is amended by striking "the Consolidated Rail Corporation,".

(12) Section 10362(b)(7)(A) of title 49, United States Code, is amended by striking "by the Consolidated Rail Corporation or".

(13) Section 332(d) of title 49, United States Code, is amended by striking ", the Consolidated Rail Corporation,".

TITLE III—MISCELLANEOUS PROVISIONS

COMMON CARRIER STATUS OF CONRAIL AFTER SALE

SEC. 301. (a) Conrail's status as a common carrier by railroad under section 10102(4) of title 49, United States Code, shall not be affected by virtue of sale of the interest of the United States in Conrail's common stock. Purchase of Conrail stock shall not alone be the basis of a determination that the acquiring entity has become a common carrier by railroad under section 10102(4) of title 49, United States Code.

(b) The Definitive Agreements shall contain a binding commitment by Norfolk Southern Corporation to continue to operate Conrail in full compliance with the provisions of section 10731(e) of title 49, United States Code.

CONSUMMATION OF SALE

SEC. 302. The sale of the interest of the United States in the common stock of Conrail shall be deemed to be consummated on the date title to the common stock passes to Norfolk Southern Corporation and the United States receives the cash purchase price.

CONTRACTS

SEC. 303. (a) Except as provided in subsection (b) of this section, nothing in this Act shall affect—

(1) Conrail's obligation to carry out its transportation contracts and equipment leases, equipment trusts, and conditional sale agreements, in accordance with their terms; and

(2) the obligation of any transferee of divested assets to carry out transportation contracts and equipment leases, equipment trusts, and conditional sale agreements to which such assets are subject, in accordance with their terms.

(b) If a divestiture carried out pursuant to the Secretary's Plan precludes Conrail from providing a transportation service for which it has contracted without a right of termination that may be exercised in the event of the sale of the interest of the United States in the common stock of Conrail and the divestiture will result in a change or modification in the movement of the traffic involved, the transferee of the divested rights and properties and Conrail shall provide the contracted-for service on terms and conditions which, to the maximum extent possible, conform to the terms and conditions in the contract.

CONGRESSIONAL OVERSIGHT OF COMPLIANCE

SEC. 304. The Secretary shall, no later than January 31 of each year, submit to the Committee on Commerce, Science, and Transportation of the Senate and to the Committee on Energy and Commerce of the House of Representatives a report setting forth each certificate which Norfolk Southern Corporation and Conrail provided to the Secretary, during the preceding year, certifying compliance with the covenants contained in the Definitive Agreements.

SEPARABILITY

SEC. 305. If any provision of this Act or the application thereof to any person or circumstances is held invalid, the remainder of this Act and the application of such provision to other persons or circumstances shall not be affected thereby.

EFFECTIVE DATE

SEC. 306. (a) Except as provided in subsection (b) of this section, the provisions of and amendments made by this Act shall take effect on the date of enactment of this Act.

(b) Sections 108(a), 201 and 202 of this Act shall take effect on the date of consummation of the sale of the interest of the United States in the common stock of Conrail.

(c) Any provision of this Act which, pursuant to Article I, section 7 of the Constitution, provides for raising revenue shall only be effective upon the enactment into law of a bill which has originated in the House of Representatives enacting such provision.

AMENDMENT No. 1450

In lieu of the language proposed to be inserted, insert the following:

That this Act may be cited as the "Conrail Sale Amendments Act of 1985".

FINDINGS

SEC. 2. The Congress finds that—

(1) the Northeast Rail Service Act of 1981 (45 U.S.C. 1101 et seq.) provided for an orderly return of Conrail freight service to the private sector;

(2) the provisions of the Northeast Rail Service Act of 1981 were successful in removing Conrail's obligations beyond railroad freight service and in otherwise preparing Conrail for an orderly return to the private sector;

(3) acting under section 403 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 763), the Board of Directors of the United States Railway Association twice found Conrail to be a profitable corporation;

(4) acting under section 401 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 761), the Secretary engaged an investment banker and arranged, through open competitive bidding and negotiation, to sell the interest of the United States in the common stock of Conrail;

(5) the Secretary's Plan for the sale of Conrail provides for sale of the interest of the United States in the common stock of Conrail to Norfolk Southern Corporation;

(6) the Secretary found that sale of the interest of the United States in the common stock of Conrail to Norfolk Southern Corporation best meets the sale criteria of (A) leaving Conrail in the strongest financial position after the sale, (B) preserving patterns of service to shippers and communities in the region Conrail serves, and (C) maximizing return to the Federal Government consistent with the criteria specified in clauses (A) and (B);

(7) amendments to the Regional Rail Reorganization Act of 1973 (45 U.S.C. 701 et seq.) and related laws are needed to permit the sale of the interest of the United States in the common stock of Conrail to Norfolk Southern Corporation and to permit cancellation of the interest of the United States in Conrail debt and preferred stock; and

(8) the Secretary's Plan satisfies the requirements of the Northeast Rail Service Act of 1981, including the intent, goals, and objectives relating to the sale of the interest of the United States in the common stock of Conrail and the requirements of section 401(e) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 761(e)).

PURPOSE

SEC. 3. It is therefore declared to be the purpose of the Congress in this Act to return Conrail to the private sector by directing and facilitating implementation of the Secretary's Plan for the sale of the interest of the United States in the common stock of Conrail.

DEFINITIONS

SEC. 4. (a) In this Act, unless the context otherwise requires, the term—

(1) "Conrail" means the Consolidated Rail Corporation;

(2) "Definitive Agreements" means any and all agreements existing or to be developed between the United States and Norfolk Southern Corporation, including all representations and warranties made therein, to implement the Memorandum of Intent described in paragraph (4)(A);

(3) "Secretary" means the Secretary of Transportation; and

(4) "Secretary's Plan" means (A) the Memorandum of Intent between the United States and Norfolk Southern Corporation signed February 8, 1985, and (B) the divestitures by the Norfolk Southern Corporation of certain rail tracks, rights, and facilities, and any transactions or agreements related or incidental to such divestitures, in connection with the implementation of attachment A to the letter from the Department of Justice attached to the Memorandum of Intent as exhibit E.

(b) Section 102 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 702) is amended—

(1) by redesignating paragraphs (6) through (18) as paragraphs (7) through (19), and paragraphs (19) through (21) as paragraphs (21) through (23), respectively;

(2) by inserting after paragraph (5) the following paragraph:

"(6) 'Definitive Agreements' means any and all agreements existing or to be developed between the United States and Norfolk Southern Corporation, including all representations and warranties made therein, to implement the Memorandum of Intent described in paragraph (20)(A);"; and

(3) by inserting after paragraph (19), as so redesignated, the following paragraph:

"(20) 'Secretary's Plan' means (A) the Memorandum of Intent between the United States and Norfolk Southern Corporation signed February 8, 1985, but not including paragraph 6(e) of such Memorandum of Intent, and (B) the divestitures by the Norfolk Southern Corporation of certain rail tracks, rights, and facilities, and any transactions or agreements related or incidental to such divestitures, in connection with the implementation of attachment A to the letter from the Department of Justice attached to the Memorandum of Intent as exhibit E;".

(c) Section 1135(a) of the Northeast Rail Service Act of 1981 (45 U.S.C. 1104(a)) is amended—

(1) by redesignating paragraphs (6), (7), and (8) as paragraphs (7), (8), and (10), respectively;

(2) by inserting after paragraph (5) the following paragraph:

"(6) 'Definitive Agreements' means any and all agreements existing or to be developed between the United States and Norfolk Southern Corporation, including all representations and warranties made therein, to implement the Memorandum of Intent described in paragraph (9)(A);"; and

(3) by inserting after paragraph (8), as so redesignated, the following paragraph:

"(9) 'Secretary's Plan' means (A) the Memorandum of Intent between the United States and Norfolk Southern Corporation signed February 8, 1985, and (B) the divestitures by the Norfolk Southern Corporation of certain rail tracks, rights, and facilities, and any transactions or agreements related or incidental to such divestitures, in connection with the implementation of attachment A to the letter from the Department of Justice attached to the Memorandum of Intent as exhibit E;".

TITLE I—AMENDMENTS TO THE REGIONAL RAIL REORGANIZATION ACT OF 1973 AND THE NORTHEAST RAIL SERVICE ACT OF 1981

Subtitle A—Regional Rail Reorganization Act of 1973 Amendments

LIMIT ON AUTHORITY TO PURCHASE STOCK

SEC. 101. Section 216(b) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 726(b)) is amended by adding at the end thereof the following paragraph:

"(5) The authority of the Association to purchase debentures or series A preferred stock of the Corporation under this section shall terminate upon the consummation of the sale of the interest of the United States in the common stock of the Corporation under the terms of the Secretary's Plan.".

RESPONSIBILITY OF CONRAIL DIRECTORS

SEC. 102. Section 301(i) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 741(i)) is amended by inserting immediately after "required by law" the following: ", taken to implement the Secretary's Plan,".

APPLICABILITY OF REGIONAL RAIL REORGANIZATION ACT OF 1973 TO CONRAIL AFTER SALE

SEC. 103. Section 301 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 741) is amended by adding at the end thereof the following subsection:

"(k) GOVERNING PROVISIONS AFTER SALE.—The provisions of this Act shall not apply to the Corporation and to activities and other actions and responsibilities of the Corporation and its directors after consummation of the sale of the interest of the United States in the common stock of the Corporation under the terms of the Conrail Sale Amendments Act of 1985, other than with regard to—

"(1) section 102 of this Act;

"(2) section 201(d) of this Act;

"(3) section 203 of this Act, but only with respect to information relating to proceedings before the special court established under section 209(b);

"(4) section 216(f)(8) of this Act, but only as such authority applies to activities related to the employee stock ownership plan and related trusts prior to or in connection with consummation of the sale of the interest of the United States in the common stock of the Corporation, including activities related to the sale, exchange, valuation, or disposition of the assets of the employee stock ownership plan and related trusts, or of Conrail Equity Corporation, in connection with the Secretary's Plan;

"(5) sections 216(f)(11) and 216(f)(12) of this Act, as amended by the Conrail Sale Amendments Act of 1985;

"(6) section 217(e) of this Act;

"(7) subsection (i) of this section, but only as such authority applies to service as a director of the Corporation prior to consummation or in connection with implementation of the sale of the interest of the United States in the common stock of the Corporation;

"(8) section 305 of this Act, but only as to the effect, and continuing administration, of supplemental transactions consummated prior to consummation of the sale of the interest of the United States in the common stock of the Corporation;

"(9) section 308 of this Act, but only in abandonment actions when such authority has been relied on to file a notice or notices of insufficent revenues prior to consummation of the sale of the interest of the United States in the common stock of the Corporation;

"(10) section 401(a) of this Act, as amended by the Conrail Sale Amendments Act of 1985;

"(11) section 402 of this Act, as amended by the Conrail Sale Amendments Act of 1985;

"(12) section 408(c) of this Act, as amended by the Conrail Sale Amendments Act of 1985;

"(13) section 701 of this Act, but only as may be necessary to identify employees eligible for benefits under agreements entered into under such section;

"(14) section 702(e) of this Act;

"(15) section 704(b) of this Act;

"(16) section 709 of this Act;

"(17) section 710(b)(1) of this Act;

"(18) section 711 of this Act;

"(19) section 714 of this Act, but only with regard to disputes or controversies specified in such section that arose prior to consummation of the sale of the interest of the United States in the common stock of the Corporation; and

"(20) section 715 of this Act, as amended by the Conrail Sale Amendments Act of 1985.".

IMPLEMENTATION OF THE SECRETARY'S PLAN

SEC. 104. (a) Section 401(a)(3) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 761(a)(3)) is amended to read as follows:

"(3) The Secretary is authorized and directed to implement the Secretary's Plan, in accordance with paragraph (4) of this subsection. Such implementation of the Secretary's Plan and the coordinated operation of the Corporation's properties with those of Norfolk Southern Corporation and its affiliates as a single rail system is deemed approved by the Commission under chapter 113 of title 49, United States Code.".

(b) Section 401(a) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 761(a)) is amended by adding at the end thereof the following paragraphs:

"(4) The Secretary shall implement the Secretary's Plan by negotiating, executing, delivering, and performing the Definitive Agreements, which shall conform to the Memorandum of Intent described in section 102(20)(A) of this Act. The Secretary shall, 45 calendar days before the date on which the Secretary anticipates that the interest of the United States in the common stock of the Corporation will be sold to Norfolk Southern Corporation, transmit to the Committee on Commerce, Science, and Transportation of the Senate and to the Committee on Energy and Commerce of the House of Representatives a notification of any alteration from the Memorandum of Intent described in section 102(20)(A) of this Act which will be made in the Definitive Agreements. After the date of such sale, the Secretary shall transmit to such Committees notification of any intent to waive compliance with any substantive covenant, agreement or obligation contained in the Definitive Agreements, and the Secretary may not waive such compliance until a period of 45 calendar days has expired after the date of such transmittal.

"(5) The Secretary shall not transfer the interest of the United States in the common stock of the Corporation except concurrently with a divestiture by Norfolk Southern Corporation of rail assets and rights approved by the Attorney General.

"(6) The sale of the interest of the United States in the common stock of the Corporation shall be deemed to be consummated at the date title to the common stock passes to Norfolk Southern Corporation and the United States receives the cash purchase price.".

RAILROAD PURCHASERS AND OFFER FOR SALE OF SHARES TO EMPLOYEES

SEC. 105. Subsections (d) and (e) of section 401 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 761 (d) and (e)) are repealed.

CANCELLATION OF DEBT AND PREFERRED STOCK

SEC. 106. Section 402 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 762) is amended to read as follows:

"DEBT AND PREFERRED STOCK

"SEC. 402. (a) RECAPITALIZATION.—In connection with the sale of the interest of the United States in the common stock of the Corporation under section 401 of this Act, and consistent with the Secretary's Plan, the Secretary may take all action necessary to cause the Corporation to be recapitalized such that the interest of the United States, or any agent or instrumentality thereof, and all other commitments or obligations of the Corporation to the United States or any agent or instrumentality thereof arising out of such interest, in any debt (including accrued interest and contingent interest thereon) and preferred stock (including accrued and unpaid dividends thereon) of the Corporation shall be cancelled or retired, and contributed to the capital of the Corporation. The Secretary shall cause the recapitalization authorized by this section to be effective as of the consummation of the sale of the interest of the United States in the common stock of the Corporation.

"(b) BREACH OF REPRESENTATIONS.—(1) Norfolk Southern Corporation or any successor corporation thereto may bring suit for any breach of representations contained in paragraph 6(e) of the Memorandum of Intent described in section 102(20)(A) of this Act (hereinafter referred to as the 'Representations') in the United States Claims Court or a district court of the United States. If such an action is brought, the Claims Court or district court shall determine the amount by which the United States income tax (including interest and penalties whether or not such penalties are assessed as a tax under the Internal Revenue Code of 1954) assessable against the Corporation or against Norfolk Southern Corporation for any year exceeds the amount of such tax which would have been assessable for such year had such Representations not been breached (hereinafter referred to as the 'Offset Amount').

"(2) The Representations shall be considered breached and Norfolk Southern Corporation shall be entitled to bring suit upon

the first occurrence of any of the following that is inconsistent with the Representations: (A) the issuance by the Internal Revenue Service of a statutory notice of deficiency (90-day letter), (B) the assessment of the United States income tax, or (C) any claim by the United States in a suit or other judicial proceeding against Norfolk Southern Corporation or the Corporation.

"(3) The right to bring suit pursuant to this section shall not be subject to any waiting period applicable to tax proceedings or to any requirements for payment of any tax as a condition to instituting any suit based on a breach of the Representations.

"(4) Any judgment for money damages relating to breach of the Representations shall only be awarded as an offset in any court or administrative proceeding against the tax liability of Norfolk Southern Corporation or the Corporation, or both, to which such breach relates; except that if any such tax liability resulting from such breach has been paid, the judgment shall to that extent be an offset against any United States income tax liability of the Norfolk Southern Corporation or the Corporation, or both. If any portion of the tax resulting from a breach of the Representations has been paid, then the Offset Amount shall include interest on such payment from the date paid at the rate from time to time specified in the Internal Revenue Code of 1954 for interest payable on refund claims.

"(5) It shall not be a defense to an action brought under this section that Norfolk Southern Corporation knew, or should have known, of the falsity of the Representations or that there exists no carryover basis procedure as contemplated by the last sentence of the Representations.

"(6) For purposes of this section, tax liability of Norfolk Southern Corporation shall include the tax liability of Norfolk Southern Corporation and its affiliated group, within the meaning of section 1504 of the Internal Revenue Code of 1954.".

APPLICABILITY OF CERTAIN LAWS TO SALE OF CONRAIL

SEC. 107. Section 408 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 768) is amended—

(1) by repealing subsection (b);

(2) by amending subsection (c) by striking "No transfer" and all that follows through "subject to" and inserting in lieu thereof "Except as provided in section 1152 of the Northeast Rail Service Act of 1981 (45 U.S.C. 1105), the Secretary's Plan and the Definitive Agreements and their negotiation, execution, and implementation shall not be subject to administrative or"; and

(3) by adding at the end of subsection (c) the following sentence: "The issuance in private placement of notes or other securities in accordance with exhibit B to the Memorandum of Intent (described in section 102(20)(A) of this Act) in the Secretary's Plan shall not be subject to the provisions of subtitle IV of title 49, United States Code.".

LABOR PROTECTION

SEC. 108. (a) Section 701(d)(2) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 797(d)(2)) is amended by striking "the last day of the eighteen-month period beginning on".

(b)(1) Title VII of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 797 et seq.) is amended by adding at the end thereof the following section:

"PROTECTION AFTER SALE

"SEC. 715. After consummation of the sale of the interest of the United States in the common stock of the Corporation pursuant to the Secretary's Plan, any employee of Norfolk Southern Corporation, the Corporation, any rail affiliate of either company, and any transferee of the rail tracks, rights, and facilities divested in accordance with the Secretary's Plan, who is adversely affected in his employment by the implementation of the Secretary's Plan shall receive from his employer protection under the labor protective conditions set forth in New York Dock Railway—Control—Brooklyn Eastern District Terminal (354 ICC 399 (1978), modified upon further consideration, 360 ICC 60 (1979)). The arbitration provisions of section 4 of New York Dock shall apply to the formation of any implementing agreements that may be necessary in connection with the implementation of the Secretary's Plan, including any resulting coordinations.".

(2) The table of contents of the Regional Rail Reorganization Act of 1973 is amended by inserting immediately after the item relating to section 714 the following item:

"Sec. 715. Protection after sale.".

PREFERENTIAL HIRING

SEC. 109. Section 703 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 797b) is amended—

(1) by redesignating subsection (b) as subsection (c); and

(2) by inserting immediately after subsection (a) the following subsection:

"(b) IMPLEMENTATION OF SECRETARY'S PLAN.—Any employee of any railroad who is deprived of employment as a result of the implementation of the Secretary's Plan shall have the first right of hire for a vacancy for which he is qualified on any Norfolk Southern Corporation rail subsidiary, except where such vacancy is covered by (1) an affirmative action plan, or a hiring plan designated to eliminate discrimination, that is required by Federal or State statute, regulation, or Executive order, or by the order of a Federal court or agency, or (2) a permissible voluntary affirmative action plan. For purposes of this subsection, a railroad shall not be considered to be hiring new employees when it recalls any of its own furloughed employees.".

CROSS CRAFT EMPLOYMENT

SEC. 110. (a) Title VII of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 797 et seq.) is amended by inserting immediately after section 703 the following section:

"CROSS CRAFT EMPLOYMENT

"SEC. 703A. Any employee of Norfolk and Western Railway Company, Southern Railway Company, or the Corporation who is deprived of employment as a result of the implementation of the Secretary's Plan shall have the first right of hire for any vacancy for which such employee is qualified at the entry level of any Norfolk Southern Corporation rail subsidiary, without regard to craft or class or the provisions of section 703 of this Act. Such employee shall retain his seniority rights to return to his original craft or class whenever a vacancy occurs. For purposes of this section, a railroad shall not be considered to be hiring new employees when it recalls any of its own furloughed employees.".

(b) The table of contents of the Regional Rail Reorganization Act of 1973 is amended by inserting immediately after the item relating to section 703 the following item:

"Sec. 703A. Cross craft employment.".

Subtitle B—Northeast Rail Service Act of 1981 Amendments

SPECIAL COURT JURISDICTION

SEC. 121. (a) Section 1152 of the Northeast Rail Service Act of 1981 (45 U.S.C. 1105) is amended—

(1) by inserting "or the Conrail Sale Amendments Act of 1985" immediately after "subtitle" wherever it appears;

(2) in subsection (a), by striking "or" at the end of paragraph (3), by striking the period at the end of paragraph (4) and inserting in lieu thereof a semicolon, and by adding at the end thereof the following paragraphs:

"(5) brought by the United States or any agency or instrumentality thereof seeking to enforce the Secretary's Plan or the Definitive Agreements;

"(6) brought by Norfolk Southern Corporation seeking to enforce the Secretary's Plan or the Definitive Agreements;

"(7) brought by a party who filed a complaint with the Secretary under subsection (e) of this section, and who is aggrieved by (A) a determination of the Secretary under paragraph (1) of such subsection that the party has not suffered direct economic injury, or (B) a decision of the Secretary under paragraph (2) of such subsection that a covenant has not been violated;

"(8) brought by a party which is a signatory to an ancillary agreement entered into in accordance with the Secretary's Plan or the Definitive Agreements and which is seeking to enforce such ancillary agreement; or

"(9) brought to determine the value of the interest of the employee stock ownership plan and related trusts, or of the beneficiaries thereof, in the preferred stock of the Conrail Equity Corporation.

For purposes of any action brought under paragraph (5) of this subsection, a violation of any covenant contained in the Secretary's Plan or the Definitive Agreements shall be deemed to constitute immediate and irreparable harm for purposes of awarding injunctive relief to the United States.".

(b) Section 1152 of the Northeast Rail Service Act of 1981 (45 U.S.C. 1105) is amended by adding at the end thereof the following subsection:

"(e)(1) Any party who suffers direct economic injury as a result of an alleged violation of a covenant contained in the Definitive Agreements may file a complaint with the Secretary seeking enforcement of such covenant. If the Secretary determines that the complainant has demonstrated to the Secretary that it has suffered direct economic injury, the Secretary shall investigate the complaint.

"(2) If the Secretary decides to investigate a complaint under paragraph (1) of this subsection, the Secretary shall give reasonable notice of such decision to investigate to the alleged violator of such covenant and the complainant, and shall make a final decision on such complaint within 60 days after the date on which it was filed.

"(3) If the Secretary finds that (A) the covenant in question has been violated, and (B) the complainant suffered direct economic injury as a result of such violation, the Secretary shall enter an order directing the violator of such covenant to comply with such covenant.

"(4) On appeal, any decision by the Secretary under this subsection shall be upheld, unless such decision is found to be arbitrary,

capricious, an abuse of discretion, or otherwise not in accordance with law.".

APPLICABILITY OF OTHER LAWS

SEC. 122. Section 1168(a) of the Northeast Rail Service Act of 1981 (45 U.S.C. 1116(a)) is amended by striking "service transfers" and inserting in lieu thereof "sale of the interest of the United States in the common stock of Conrail or transfer of the rail properties and freight service responsibilities of Conrail".

Subtitle C—Employee Stock Ownership Plan

RESPONSIBILITY OF EMPLOYEE STOCK OWNERSHIP PLAN FIDUCIARIES

SEC. 131. (a) Section 216(f)(8)(A) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 726(f)(8)(A)) is amended—

(1) by striking "or" at the end of clause (ii);

(2) by striking the period at the end of clause (iii) and inserting in lieu thereof "; or"; and

(3) by adding at the end thereof the following clause:

"(iv) for or in connection with any action taken to implement the Secretary's Plan, including any sale, exchange, valuation, or disposition of the plan and related trust assets, or the assets of Conrail Equity Corporation, in connection with implementation of the Secretary's Plan and any determination of the terms on which any such sale, exchange, valuation, or disposition is effected.".

QUALIFICATION, REVIEW, AND VALUATION OF EMPLOYEE STOCK OWNERSHIP PLANS

SEC. 132. Section 216(f) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 726(f)) is amended by adding at the end thereof the following paragraphs:

"(11) The employee stock ownership plans of the Corporation and related trusts maintained, amended, or adopted in implementing the Secretary's Plan shall be deemed to meet the qualification requirements of sections 401 and 501, respectively, of the Internal Revenue Code of 1954, notwithstanding (A) that such plans may not meet the requirements of section 415 of the Internal Revenue Code of 1954, or (B) that participants in such plans may be entitled to withdraw a portion of the shares allocated to their accounts prior to the expiration of the period generally imposed by the Internal Revenue Service for qualified plans. Such qualification shall relate only to the contributions, allocations, and withdrawals of shares provided for in the Secretary's Plan with respect to the plans and related trusts maintained, amended, or adopted in implementing the Secretary's Plan. Such contributions and allocations shall in no event be treated as having exceeded the maximum annual addition permitted under section 415 of the Internal Revenue Code of 1954 (but not for purposes of applying section 404(j) of the Internal Revenue Code of 1954) for purposes of calculating any limitation under section 415 with respect to contributions and allocations not described in the Secretary's Plan, including contributions and allocations to plans and related trusts of the Corporation and any affiliated corporation. The continued qualification of such plans with respect to all other contributions, allocations, and withdrawals shall be subject to all provisions of existing law, as amended from time to time. No inference shall be drawn from this paragraph as to whether an amount is a contribution deductible under section 404 of the Internal Revenue Code of 1954 rather than a non-deductible capital expenditure.

"(12) Except as provided in section 1152 of the Northeast Rail Service Act of 1981 (45 U.S.C. 1105), the issuance and sale or contribution of securities by Norfolk Southern Corporation to fulfill arrangements with the Corporation's employees in implementing the Secretary's Plan and the distribution of shares from the Corporation's employee stock ownership plans and related trusts maintained, amended, or adopted in implementing the Secretary's Plan shall not be subject to the registration and prospectus delivery requirements of the Securities Act of 1933, any approval requirement under subtitle IV of title 49, United States Code, or the laws of any State with respect to the issuance and sale of securities.".

TITLE II—TECHNICAL AND CONFORMING AMENDMENTS

REGIONAL RAIL REORGANIZATION ACT OF 1973 AMENDMENTS AND REPEALS

SEC. 201. The following provisions of the Regional Rail Reorganization Act of 1973 are repealed or amended as specified:

(1) Subsections (a) and (b) of section 214 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 724(a) and (b)) are repealed, and such section 214 is amended by striking "(c) ASSOCIATION.—".

(2) Subsection (f) of section 217 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 727(f)) is repealed, without prejudice to the continued availability of funds appropriated prior to the date of enactment of this Act pursuant to section 217(f)(1)(C) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 727(f)(1)(C)).

(3) Section 404 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 764), and the item relating to such section in the table of contents of such Act, are repealed.

(4) Section 405 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 765), and the item relating to such section in the table of contents of such Act, are repealed.

(5) Section 406 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 766), and the item relating to such section in the table of contents of such Act, are repealed.

(6) Section 407 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 767), and the item relating to such section in the table of contents of such Act, are repealed.

(7) Subsections (a) and (d) of section 408 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 768 (a) and (d)) are repealed.

(8) Section 409 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 769), and the item relating to such section in the table of contents of such Act, are repealed.

(9) Section 410 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 769a), and the item relating to such section in the table of contents of such Act, are repealed.

(10) Section 411 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 769b), and the item relating to such section in the table of contents of such Act, are repealed.

(11) Section 412 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 769c), and the item relating to such section in the table of contents of such Act, are repealed.

(12) Section 713 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 797l), and the item relating to such section in the table of contents of such Act, are repealed.

AMENDMENTS AND REPEALS OF OTHER RAIL LAWS

SEC. 202. The following provisions of law are repealed or amended as specified:

(1) Section 1154 of the Northeast Rail Service Act of 1981 (45 U.S.C. 1107), and the item relating to such section in the table of contents of such Act, are repealed.

(2) Section 1161 of the Northeast Rail Service Act of 1981 (45 U.S.C. 1110), and the item relating to such section in the table of contents of such Act, are repealed.

(3) Section 1166 of the Northeast Rail Service Act of 1981 (45 U.S.C. 1114), and the item relating to such section in the table of contents of such Act, are repealed.

(4) Subsection (c) of section 1167 of the Northeast Rail Service Act of 1981 (45 U.S.C. 1115(c)) is repealed.

(5) Subsection (b) of section 1168 of the Northeast Rail Service Act of 1981 (45 U.S.C. 1116(b)) is repealed.

(6) Section 501(8) of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 821(8)) is amended—

(A) by striking "(A)";

(B) by striking "(i)" and inserting in lieu thereof "(A)", and by striking "(ii)" and inserting in lieu thereof "(B)"; and

(C) by striking all after "utilization;".

(7) Section 505 of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 825) is amended—

(A) in subsection (a)(1), by striking all after "railroad" through 1981)"; and

(B) in subsection (b)(2)(C), by striking all after "costs" the second time it appears through "subsidy".

(8) Subsection (b)(1) of section 509 of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 829(b)(1)) is repealed.

(9) Section 511(e) of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 831(e)) is amended by striking "(1)", and by striking all after "time" and inserting in lieu thereof a period.

(10) Section 402 of the Rail Safety and Service Improvement Act of 1982 (45 U.S.C. 825a) is repealed.

(11) Section 1005(b)(1) of the Rail Passenger Service Act (45 U.S.C. 655(b)(1)) is amended by striking "the Consolidated Rail Corporation,".

(12) Section 10362(b)(7)(A) of title 49, United States Code, is amended by striking "by the Consolidated Rail Corporation or".

(13) Section 332(d) of title 49, United States Code, is amended by striking ", the Consolidated Rail Corporation,".

TITLE III—MISCELLANEOUS PROVISIONS

COMMON CARRIER STATUS OF CONRAIL AFTER SALE

SEC. 301. (a) Conrail's status as a common carrier by railroad under section 10102(4) of title 49, United States Code, shall not be affected by virtue of sale of the interest of the United States in Conrail's common stock. Purchase of Conrail stock shall not alone be the basis of a determination that the acquiring entity has become a common carrier by railroad under section 10102(4) of title 49, United States Code.

(b) The Definitive Agreements shall contain a binding commitment by Norfolk Southern Corporation to continue to operate Conrail in full compliance with the provisions of section 10731(e) of title 49, United States Code.

CONSUMMATION OF SALE

SEC. 302. The sale of the interest of the United States in the common stock of Conrail shall be deemed to be consummated on the date title to the common stock passes to Norfolk Southern Corporation and the United States receives the cash purchase price.

CONTRACTS

SEC. 303. (a) Except as provided in subsection (b) of this section, nothing in this Act shall affect—

(1) Conrail's obligation to carry out its transportation contracts and equipment leases, equipment trusts, and conditional sale agreements, in accordance with their terms; and

(2) the obligation of any transferee of divested assets to carry out transportation contracts and equipment leases, equipment trusts, and conditional sale agreements to which such assets are subject, in accordance with their terms.

(b) If a divestiture carried out pursuant to the Secretary's Plan precludes Conrail from providing a transportation service for which it has contracted without a right of termination that may be exercised in the event of the sale of the interest of the United States in the common stock of Conrail and the divestiture will result in a change or modification in the movement of the traffic involved, the transferee of the divested rights and properties and Conrail shall provide the contracted-for service on terms and conditions which, to the maximum extent possible, conform to the terms and conditions in the contract.

CONGRESSIONAL OVERSIGHT OF COMPLIANCE

SEC. 304. The Secretary shall, no later than January 31 of each year, submit to the Committee on Commerce, Science, and Transportation of the Senate and to the Committee on Energy and Commerce of the House of Representatives a report setting forth each certificate which Norfolk Southern Corporation and Conrail provided to the Secretary, during the preceding year, certifying compliance with the covenants contained in the Definitive Agreements.

SEPARABILITY

SEC. 305. If any provision of this Act or the application thereof to any person or circumstances is held invalid, the remainder of this Act and the application of such provision to other persons or circumstances shall not be affected thereby.

EFFECTIVE DATE

SEC. 306. (a) Except as provided in subsection (b) of this section, the provisions of and amendments made by this Act shall take effect on the date of enactment of this Act.

(b) Sections 108(a), 201 and 202 of this Act shall take effect on the date of consummation of the sale of the interest of the United States in the common stock of Conrail.

(c) Any provision of this Act which, pursuant to Article I, Section 7 of the Constitution, provides for raising revenue shall only be effective upon the enactment into law of a bill which has originated in the House of Representatives enacting such provision.

AMENDMENT NO. 1451

On page 4, line 19, immediately after the second comma insert the following new language: "but not including paragraph 6(e) of such Memorandum of Intent,".

AMENDMENT NO. 1452

On page 5, line 19, immediately after the second comma insert the following new language: "but not including paragraph 6(e) of such Memorandum of Intent,".

AMENDMENT NO. 1453

On page 6, line 19, immediately after the second comma insert the following new language: "but not including paragraph 6(e) of such Memorandum of Intent,".

AMENDMENT NO. 1454

On page 4, line 19, immediately after the second comma insert the following new language: "but not including paragraph 6(e) of such Memorandum of Intent,".

AMENDMENT NO. 1455

On page 5, line 19, immediately after the second comma insert the following new language: "but not including paragraph 6(e) of such Memorandum of Intent,".

AMENDMENT NO. 1456

On page 6, line 19, immediately after the second comma insert the following new language: "but not including paragraph 6(e) of such Memorandum of Intent,".

AMENDMENT NO. 1457

In lieu of the language proposed to be inserted, insert the following:

That this Act may be cited as the "Conrail Sale Amendments Act of 1985".

FINDINGS

SEC. 2. The Congress finds that—

(1) the Northeast Rail Service Act of 1981 (45 U.S.C. 1101 et seq.) provided for an orderly return of Conrail freight service to the private sector;

(2) the provisions of the Northeast Rail Service Act of 1981 were successful in removing Conrail's obligations beyond railroad freight service and in otherwise preparing Conrail for an orderly return to the private sector;

(3) acting under section 403 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 763), the Board of Directors of the United States Railway Association twice found Conrail to be a profitable corporation;

(4) acting under section 401 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 761), the Secretary engaged an investment banker and arranged, through open competitive bidding and negotiation, to sell the interest of the United States in the common stock of Conrail;

(5) the Secretary's Plan for the sale of Conrail provides for sale of the interest of the United States in the common stock of Conrail to Norfolk Southern Corporation;

(6) the Secretary found that sale of the interest of the United States in the common stock of Conrail to Norfolk Southern Corporation best meets the sale criteria of (A) leaving Conrail in the strongest financial position after the sale, (B) preserving patterns of service to shippers and communities in the region Conrail serves, and (C) maximizing return to the Federal Government consistent with the criteria specified in clauses (A) and (B);

(7) amendments to the Regional Rail Reorganization Act of 1973 (45 U.S.C. 701 et seq.) and related laws are needed to permit the sale of the interest of the United States in the common stock of Conrail to Norfolk Southern Corporation and to permit cancellation of the interest of the United States in Conrail debt and preferred stock; and

(8) the Secretary's Plan satisfies the requirements of the Northeast Rail Service Act of 1981, including the intent, goals, and objectives relating to the sale of the interest of the United States in the common stock of Conrail and the requirements of section 401(e) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 761(e)).

PURPOSE

SEC. 3. It is therefore declared to be the purpose of the Congress in this Act to return Conrail to the private sector by directing and facilitating implementation of the Secretary's Plan for the sale of the interest of the United States in the common stock of Conrail.

DEFINITIONS

SEC. 4. (a) In this Act, unless the context otherwise requires, the term—

(1) "Conrail" means the Consolidated Rail Corporation;

(2) "Definitive Agreements" means any and all agreements existing or to be developed between the United States and Norfolk Southern Corporation, including all representations and warranties made therein, to implement the Memorandum of Intent described in paragraph (4)(A);

(3) "Secretary" means the Secretary of Transportation; and

(4) "Secretary's Plan" means (A) the Memorandum of Intent between the United States and Norfolk Southern Corporation signed February 8, 1985, but not including paragraph 9(d)(iii) of such Memorandum of Intent, and (B) the divestitures by the Norfolk Southern Corporation of certain rail tracks, rights, and facilities, and any transactions or agreements related or incidental to such divestitures, in connection with the implementation of attachment A to the letter from the Department of Justice attached to the Memorandum of Intent as exhibit E.

(b) Section 102 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 702) is amended—

(1) by redesignating paragraphs (6) through (18) as paragraphs (7) through (19), and paragraphs (19) through (21) as paragraphs (21) through (23), respectively;

(2) by inserting after paragraph (5) the following paragraph:

"(6) 'Definitive Agreements' means any and all agreements existing or to be developed between the United States and Norfolk Southern Corporation, including all representations and warranties made therein, to implement the Memorandum of Intent described in paragraph (20)(A);"; and

(3) by inserting after paragraph (19), as so redesignated, the following paragraph:

"(20) 'Secretary's Plan' means (A) the Memorandum of Intent between the United States and Norfolk Southern Corporation signed February 8, 1985, but not including paragraph 9(d)(iii) of such Memorandum of Intent, and (B) the divestitures by the Norfolk Southern Corporation of certain rail tracks, rights, and facilities, and any transactions or agreements related or incidental to such divestitures, in connection with the implementation of attachment A to the letter from the Department of Justice attached to the Memorandum of Intent as exhibit E;".

(c) Section 1135(a) of the Northeast Rail Service Act of 1981 (45 U.S.C. 1104(a)) is amended—

(1) by redesignating paragraphs (6), (7), and (8) as paragraphs (7), (8), and (10), respectively;

(2) by inserting after paragraph (5) the following paragraph:

"(6) 'Definitive Agreements' means any and all agreements existing or to be developed between the United States and Norfolk Southern Corporation, including all representations and warranties made therein, to implement the Memorandum of Intent described in paragraph (9)(A);"; and

(3) by inserting after paragraph (8), as so redesignated, the following paragraph:

"(9) 'Secretary's Plan' means (A) the Memorandum of Intent between the United States and Norfolk Southern Corporation signed February 8, 1985, and (B) the divestitures by the Norfolk Southern Corporation of certain rail tracks, rights, and facilities, and any transactions or agreements related or incidental to such divestitures, in connection with the implementation of attachment A to the letter from the Department of Justice attached to the Memorandum of Intent as exhibit E;".

TITLE I—AMENDMENTS TO THE REGIONAL RAIL REORGANIZATION ACT OF 1973 AND THE NORTHEAST RAIL SERVICE ACT OF 1981

Subtitle A—Regional Rail Reorganization Act of 1973 Amendments

LIMIT ON AUTHORITY TO PURCHASE STOCK

SEC. 101. Section 216(b) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 726(b)) is amended by adding at the end thereof the following paragraph:

"(5) The authority of the Association to purchase debentures or series A preferred stock of the Corporation under this section shall terminate upon the consummation of the sale of the interest of the United States in the common stock of the Corporation under the terms of the Secretary's Plan.".

RESPONSIBILITY OF CONRAIL DIRECTORS

SEC. 102. Section 301(i) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 741(i)) is amended by inserting immediately after "required by law" the following: ", taken to implement the Secretary's Plan,".

APPLICABILITY OF REGIONAL RAIL REORGANIZATION ACT OF 1973 TO CONRAIL AFTER SALE

SEC. 103. Section 301 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 741) is amended by adding at the end thereof the following subsection:

"(k) GOVERNING PROVISIONS AFTER SALE.—The provisions of this Act shall not apply to the Corporation and to activities and other actions and responsibilities of the Corporation and its directors after consummation of the sale of the interest of the United States in the common stock of the Corporation under the terms of the Conrail Sale Amendments Act of 1985, other than with regard to—

"(1) section 102 of this Act;

"(2) section 201(d) of this Act;

"(3) section 203 of this Act, but only with respect to information relating to proceedings before the special court established under section 209(b);

"(4) section 216(f)(8) of this Act, but only as such authority applies to activities related to the employee stock ownership plan and related trusts prior to or in connection with consummation of the sale of the interest of the United States in the common stock of the Corporation, including activities related to the sale, exchange, valuation, or disposition of the assets of the employee stock ownership plan and related trusts, or of Conrail Equity Corporation, in connection with the Secretary's Plan;

"(5) sections 216(f)(11) and 216(f)(12) of this Act, as amended by the Conrail Sale Amendments Act of 1985;

"(6) section 217(e) of this Act;

"(7) subsection (i) of this section, but only as such authority applies to service as a director of the Corporation prior to consummation or in connection with implementation of the sale of the interest of the United States in the common stock of the Corporation;

"(8) section 305 of this Act, but only as to the effect, and continuing administration, of supplemental transactions consummated prior to consummation of the sale of the interest of the United States in the common stock of the Corporation;

"(9) section 308 of this Act, but only in abandonment actions when such authority has been relied on to file a notice or notices of insufficent revenues prior to consummation of the sale of the interest of the United States in the common stock of the Corporation;

"(10) section 401(a) of this Act, as amended by the Conrail Sale Amendments Act of 1985;

"(11) section 402 of this Act, as amended by the Conrail Sale Amendments Act of 1985;

"(12) section 408(c) of this Act, as amended by the Conrail Sale Amendments Act of 1985;

"(13) section 701 of this Act, but only as may be necessary to identify employees eligible for benefits under agreements entered into under such section;

"(14) section 702(e) of this Act;

"(15) section 704(b) of this Act;

"(16) section 709 of this Act;

"(17) section 710(b)(1) of this Act;

"(18) section 711 of this Act;

"(19) section 714 of this Act, but only with regard to disputes or controversies specified in such section that arose prior to consummation of the sale of the interest of the United States in the common stock of the Corporation; and

"(20) section 715 of this Act, as amended by the Conrail Sale Amendments Act of 1985.".

IMPLEMENTATION OF THE SECRETARY'S PLAN

SEC. 104. (a) Section 401(a)(3) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 761(a)(3)) is amended to read as follows:

"(3) The Secretary is authorized and directed to implement the Secretary's Plan, in accordance with paragraph (4) of this subsection. Such implementation of the Secretary's Plan and the coordinated operation of the Corporation's properties with those of Norfolk Southern Corporation and its affiliates as a single rail system is deemed approved by the Commission under chapter 113 of title 49, United States Code.".

(b) Section 401(a) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 761(a)) is amended by adding at the end thereof the following paragraphs:

"(4) The Secretary shall implement the Secretary's Plan by negotiating, executing, delivering, and performing the Definitive Agreements, which shall conform to the Memorandum of Intent described in section 102(20)(A) of this Act. The Secretary shall, 45 calendar days before the date on which the Secretary anticipates that the interest of the United States in the common stock of the Corporation will be sold to Norfolk Southern Corporation, transmit to the Committee on Commerce, Science, and Transportation of the Senate and to the Committee on Energy and Commerce of the House of Representatives a notification of any alteration from the Memorandum of Intent described in section 102(20)(A) of this Act which will be made in the Definitive Agreements. After the date of such sale, the Secretary shall transmit to such Committees notification of any intent to waive compliance with any substantive covenant, agreement or obligation contained in the Definitive Agreements, and the Secretary may not waive such compliance until a period of 45 calendar days has expired after the date of such transmittal.

"(5) The Secretary shall not transfer the interest of the United States in the common stock of the Corporation except concurrently with a divestiture by Norfolk Southern Corporation of rail assets and rights approved by the Attorney General.

"(6) The sale of the interest of the United States in the common stock of the Corporation shall be deemed to be consummated at the date title to the common stock passes to Norfolk Southern Corporation and the United States receives the cash purchase price.".

RAILROAD PURCHASERS AND OFFER FOR SALE OF SHARES TO EMPLOYEES

SEC. 105. Subsections (d) and (e) of section 401 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 761(d) and (e)) are repealed.

CANCELLATION OF DEBT AND PREFERRED STOCK

SEC. 106. Section 402 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 762) is amended to read as follows:

"DEBT AND PREFERRED STOCK

"SEC. 402. (a) RECAPITALIZATION.—In connection with the sale of the interest of the United States in the common stock of the Corporation under section 401 of this Act, and consistent with the Secretary's Plan, the Secretary may take all action necessary to cause the Corporation to be recapitalized such that the interest of the United States, or any agent or instrumentality thereof, and all other commitments or obligations of the Corporation to the United States or any agent or instrumentality thereof arising out of such interest, in any debt (including accrued interest and contingent interest thereon) and preferred stock (including accrued and unpaid dividends thereon) of the Corporation shall be cancelled or retired, and contributed to the capital of the Corporation. The Secretary shall cause the recapitalization authorized by this section to be effective as of the consummation of the sale of the interest of the United States in the common stock of the Corporation.

"(b) BREACH OF REPRESENTATIONS.—(1) Norfolk Southern Corporation or any successor corporation thereto may bring suit for any breach of representations contained in paragraph 6(e) of the Memorandum of Intent described in section 102(20)(A) of this Act (hereinafter referred to as the 'Representations') in the United States Claims Court or a district court of the United States. If such an action is brought, the Claims Court or district court shall determine the amount by which the United States income tax (including interest and penalties whether or not such penalties are assessed as a tax under the Internal Revenue Code of 1954) assessable against the Corporation or against Norfolk Southern Corporation for any year exceeds the amount of such tax which would have been assessable for such year had such Representations not been breached (hereinafter referred to as the 'Offset Amount').

"(2) The Representations shall be considered breached and Norfolk Southern Corporation shall be entitled to bring suit upon the first occurrence of any of the following that is inconsistent with the Representations: (A) the issuance by the Internal Revenue Service of a statutory notice of deficiency (90-day letter), (B) the assessment of the United States income tax, or (C) any claim by the United States in a suit or other judicial proceeding against Norfolk Southern Corporation or the Corporation.

"(3) The right to bring suit pursuant to this section shall not be subject to any waiting period applicable to tax proceedings or to any requirements for payment of any tax as a condition to instituting any suit based on a breach of the Representations.

"(4) Any judgment for money damages relating to breach of the Representations shall only be awarded as an offset in any court or administrative proceeding against the tax liability of Norfolk Southern Corporation or the Corporation, or both, to which such breach relates; except that if any such tax liability resulting from such breach has been paid, the judgment shall to that extent be an offset against any United States income tax liability of the Norfolk Southern Corporation or the Corporation, or both. If any portion of the tax resulting from a breach of the Representations has been paid, then the Offset Amount shall include interest on such payment from the date paid at the rate from time to time specified in the Internal Revenue Code of 1954 for interest payable on refund claims.

"(5) It shall not be a defense to an action brought under this section that Norfolk Southern Corporation knew, or should have known, of the falsity of the Representations or that there exists no carryover basis procedure as contemplated by the last sentence of the Representations.

"(6) For purposes of this section, tax liability of Norfolk Southern Corporation shall include the tax liability of Norfolk Southern Corporation and its affiliated group, within the meaning of section 1504 of the Internal Revenue Code of 1954.".

APPLICABILITY OF CERTAIN LAWS TO SALE OF CONRAIL

SEC. 107. Section 408 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 768) is amended—

(1) by repealing subsection (b);

(2) by amending subsection (c) by striking "No transfer" and all that follows through "subject to" and inserting in lieu thereof "Except as provided in section 1152 of the Northeast Rail Service Act of 1981 (45 U.S.C. 1105), the Secretary's Plan and the Definitive Agreements and their negotiation, execution, and implementation shall not be subject to administrative or"; and

(3) by adding at the end of subsection (c) the following sentence: "The issuance in private placement of notes or other securities in accordance with exhibit B to the Memorandum of Intent (described in section 102(20)(A) of this Act) in the Secretary's Plan shall not be subject to the provisions of subtitle IV of title 49, United States Code.".

LABOR PROTECTION

SEC. 108. (a) Section 701(d)(2) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 797(d)(2)) is amended by striking "the last day of the eighteen-month period beginning on".

(b)(1) Title VII of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 797 et seq.) is amended by adding at the end thereof the following section:

"PROTECTION AFTER SALE

"SEC. 715. After consummation of the sale of the interest of the United States in the common stock of the Corporation pursuant to the Secretary's Plan, any employee of Norfolk Southern Corporation, the Corporation, any rail affiliate of either company, and any transferee of the rail tracks, rights, and facilities divested in accordance with the Secretary's Plan, who is adversely affected in his employment by the implementation of the Secretary's Plan shall receive from his employer protection under the labor protective conditions set forth in New York Dock Railway—Control—Brooklyn Eastern District Terminal (354 ICC 399 (1978), modified upon further consideration, 360 ICC 60 (1979)). The arbitration provisions of section 4 of New York Dock shall apply to the formation of any implementing agreements that may be necessary in connection with the implementation of the Secretary's Plan, including any resulting coordinations.".

(2) The table of contents of the Regional Rail Reorganization Act of 1973 is amended by inserting immediately after the item relating to section 714 the following item:

"Sec. 715. Protection after sale.".

PREFERENTIAL HIRING

SEC. 109. Section 703 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 797b) is amended—

(1) by redesignating subsection (b) as subsection (c); and

(2) by inserting immediately after subsection (a) the following subsection:

"(b) IMPLEMENTATION OF SECRETARY'S PLAN.—Any employee of any railroad who is deprived of employment as a result of the implementation of the Secretary's Plan shall have the first right of hire for a vacancy for which he is qualified on any Norfolk Southern Corporation rail subsidiary, except where such vacancy is covered by (1) an affirmative action plan, or a hiring plan designated to eliminate discrimination, that is required by Federal or State statute, regulation, or Executive order, or by the order of a Federal court or agency, or (2) a permissible voluntary affirmative action plan. For purposes of this subsection, a railroad shall not be considered to be hiring new employees when it recalls any of its own furloughed employees.".

CROSS CRAFT EMPLOYMENT

SEC. 110. (a) Title VII of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 797 et seq.) is amended by inserting immediately after section 703 the following section:

"CROSS CRAFT EMPLOYMENT

"SEC. 703A. Any employee of Norfolk and Western Railway Company, Southern Railway Company, or the Corporation who is deprived of employment as a result of the implementation of the Secretary's Plan shall have the first right of hire for any vacancy for which such employee is qualified at the entry level of any Norfolk Southern Corporation rail subsidiary, without regard to craft or class or the provisions of section 703 of this Act. Such employee shall retain his seniority rights to return to his original craft or class whenever a vacancy occurs. For purposes of this section, a railroad shall not be considered to be hiring new employees when it recalls any of its own furloughed employees.".

(b) The table of contents of the Regional Rail Reorganization Act of 1973 is amended by inserting immediately after the item relating to section 703 the following item:

"Sec. 703A. Cross craft employment.".

Subtitle B—Northeast Rail Service Act of 1981 Amendments

SPECIAL COURT JURISDICTION

SEC. 121. (a) Section 1152 of the Northeast Rail Service Act of 1981 (45 U.S.C. 1105) is amended—

(1) by inserting "or the Conrail Sale Amendments Act of 1985" immediately after "subtitle" wherever it appears;

(2) in subsection (a), by striking "or" at the end of paragraph (3), by striking the period at the end of paragraph (4) and inserting in lieu thereof a semicolon, and by adding at the end thereof the following paragraphs:

"(5) brought by the United States or any agency or instrumentality thereof seeking to enforce the Secretary's Plan or the Definitive Agreements;

"(6) brought by Norfolk Southern Corporation seeking to enforce the Secretary's Plan or the Definitive Agreements;

"(7) brought by a party who filed a complaint with the Secretary under subsection (e) of this section, and who is aggrieved by (A) a determination of the Secretary under paragraph (1) of such subsection that the party has not suffered direct economic injury, or (B) a decision of the Secretary under paragraph (2) of such subsection that a covenant has not been violated;

"(8) brought by a party which is a signatory to an ancillary agreement entered into in accordance with the Secretary's Plan or the Definitive Agreements and which is seeking to enforce such ancillary agreement; or

"(9) brought to determine the value of the interest of the employee stock ownership plan and related trusts, or of the beneficiaries thereof, in the preferred stock of the Conrail Equity Corporation.

For purposes of any action brought under paragraph (5) of this subsection, a violation of any covenant contained in the Secretary's Plan or the Definitive Agreements shall be deemed to constitute immediate and irreparable harm for purposes of awarding injunctive relief to the United States.".

(b) Section 1152 of the Northeast Rail Service Act of 1981 (45 U.S.C. 1105) is amended by adding at the end thereof the following subsection:

"(e)(1) Any party who suffers direct economic injury as a result of an alleged violation of a covenant contained in the Definitive Agreements may file a complaint with the Secretary seeking enforcement of such covenant. If the Secretary determines that the complainant has demonstrated to the Secretary that it has suffered direct economic injury, the Secretary shall investigate the complaint.

"(2) If the Secretary decides to investigate a complaint under paragraph (1) of this subsection, the Secretary shall give reasonable notice of such decision to investigate to the alleged violator of such covenant and the complainant, and shall make a final decision on such complaint within 60 days after the date on which it was filed.

"(3) If the Secretary finds that (A) the covenant in question has been violated, and (B) the complainant suffered direct economic injury as a result of such violation, the Secretary shall enter an order directing the violator of such covenant to comply with such covenant.

"(4) On appeal, any decision by the Secretary under this subsection shall be upheld, unless such decision is found to be arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law.".

APPLICABILITY OF OTHER LAWS

SEC. 122. Section 1168(a) of the Northeast Rail Service Act of 1981 (45 U.S.C. 1116(a)) is amended by striking "service transfers" and inserting in lieu thereof "sale of the interest of the United States in the common stock of Conrail or transfer of the rail properties and freight service responsibilities of Conrail".

Subtitle C—Employee Stock Ownership Plan

RESPONSIBILITY OF EMPLOYEE STOCK OWNERSHIP PLAN FIDUCIARIES

SEC. 131. (a) Section 216(f)(8)(A) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 726(f)(8)(A)) is amended—

(1) by striking "or" at the end of clause (ii);

(2) by striking the period at the end of clause (iii) and inserting in lieu thereof "; or"; and

(3) by adding at the end thereof the following clause:

"(iv) for or in connection with any action taken to implement the Secretary's Plan, including any sale, exchange, valuation, or disposition of the plan and related trust assets, or the assets of Conrail Equity Corporation, in connection with implementation of the Secretary's Plan and any determination of the terms on which any such sale, exchange, valuation, or disposition is effected.".

QUALIFICATION, REVIEW, AND VALUATION OF EMPLOYEE STOCK OWNERSHIP PLANS

SEC. 132. Section 216(f) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 726(f)) is amended by adding at the end thereof the following paragraphs:

"(11) The employee stock ownership plans of the Corporation and related trusts maintained, amended, or adopted in implementing the Secretary's Plan shall be deemed to meet the qualification requirements of sections 401 and 501, respectively, of the Internal Revenue Code of 1954, notwithstanding (A) that such plans may not meet the requirements of section 415 of the Internal Revenue Code of 1954, or (B) that participants in such plans may be entitled to withdraw a portion of the shares allocated to their accounts prior to the expiration of the period generally imposed by the Internal Revenue Service for qualified plans. Such qualification shall relate only to the contributions, allocations, and withdrawals of shares provided for in the Secretary's Plan with respect to the plans and related trusts maintained, amended, or adopted in implementing the Secretary's Plan. Such contributions and allocations shall in no event be treated as having exceeded the maximum annual addition permitted under section 415 of the Internal Revenue Code of 1954 (but not for purposes of applying section 404(j) of the Internal Revenue Code of 1954) for purposes of calculating any limitation under section 415 with respect to contributions and allocations not described in the Secretary's Plan, including contributions and allocations to plans and related trusts of the Corporation and any affiliated corporation. The continued qualification of such plans with respect to all other contributions, allocations, and withdrawals shall be subject to all provisions of existing law, as amended from time to time. No inference shall be drawn from this paragraph as to whether an amount is a contribution deductible under section 404 of the Internal Revenue Code of 1954 rather than a non-deductible capital expenditure.

"(12) Except as provided in section 1152 of the Northeast Rail Service Act of 1981 (45 U.S.C. 1105), the issuance and sale or contribution of securities by Norfolk Southern Corporation to fulfill arrangements with the Corporation's employees in implementing the Secretary's Plan and the distribution of shares from the Corporation's employee stock ownership plans and related trusts maintained, amended, or adopted in implementing the Secretary's Plan shall not be subject to the registration and prospectus delivery requirements of the Securities Act of 1933, any approval requirement under subtitle IV of title 49, United States Code, or the laws of any State with respect to the issuance and sale of securities.".

TITLE II—TECHNICAL AND CONFORMING AMENDMENTS

REGIONAL RAIL REORGANIZATION ACT OF 1973 AMENDMENTS AND REPEALS

SEC. 201. The following provisions of the Regional Rail Reorganization Act of 1973 are repealed or amended as specified:

(1) Subsections (a) and (b) of section 214 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 724 (a) and (b)) are repealed, and such section 214 is amended by striking "(c) ASSOCIATION.—".

(2) Subsection (f) of section 217 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 727(f)) is repealed, without prejudice to the continued availability of funds appropriated prior to the date of enactment of this Act pursuant to section 217(f)(1)(C) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 727(f)(1)(C)).

(3) Section 404 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 764), and the item relating to such section in the table of contents of such Act, are repealed.

(4) Section 405 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 765), and the item relating to such section in the table of contents of such Act, are repealed.

(5) Section 406 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 766), and the item relating to such section in the table of contents of such Act, are repealed.

(6) Section 407 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 767), and the item relating to such section in the table of contents of such Act, are repealed.

(7) Subsections (a) and (d) of section 408 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 768 (a) and (d)) are repealed.

(8) Section 409 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 769), and the item relating to such section in the table of contents of such Act, are repealed.

(9) Section 410 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 769a), and the item relating to such section in the table of contents of such Act, are repealed.

(10) Section 411 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 769b), and the item relating to such section in the table of contents of such Act, are repealed.

(11) Section 412 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 769c), and the item relating to such section in the table of contents of such Act, are repealed.

(12) Section 713 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 797l), and the item relating to such section in the table of contents of such Act, are repealed.

AMENDMENTS AND REPEALS OF OTHER RAIL LAWS

SEC. 202. The following provisions of law are repealed or amended as specified:

(1) Section 1154 of the Northeast Rail Service Act of 1981 (45 U.S.C. 1107), and the item relating to such section in the table of contents of such Act, are repealed.

(2) Section 1161 of the Northeast Rail Service Act of 1981 (45 U.S.C. 1110), and the item relating to such section in the table of contents of such Act, are repealed.

(3) Section 1166 of the Northeast Rail Service Act of 1981 (45 U.S.C. 1114), and the item relating to such section in the table of contents of such Act, are repealed.

(4) Subsection (c) of section 1167 of the Northeast Rail Service Act of 1981 (45 U.S.C. 1115(c)) is repealed.

(5) Subsection (b) of section 1168 of the Northeast Rail Service Act of 1981 (45 U.S.C. 1116(b)) is repealed.

(6) Section 501(8) of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 821(8)) is amended—

(A) by striking "(A)";

(B) by striking "(i)" and inserting in lieu thereof "(A)", and by striking "(ii)" and inserting in lieu thereof "(B)"; and

(C) by striking all after "utilization;".

(7) Section 505 of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 825) is amended—

(A) in subsection (a)(1), by striking all after "railroad" through 1981)"; and

(B) in subsection (b)(2)(C), by striking all after "costs" the second time it appears through "subsidy".

(8) Subsection (b)(1) of section 509 of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 829(b)(1)) is repealed.

(9) Section 511(e) of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 831(e)) is amended by striking "(1)", and by striking all after "time" and inserting in lieu thereof a period.

(10) Section 402 of the Rail Safety and Service Improvement Act of 1982 (45 U.S.C. 825a) is repealed.

(11) Section 1005(b)(1) of the Rail Passenger Service Act (45 U.S.C. 655(b)(1)) is amended by striking "the Consolidated Rail Corporation,".

(12) Section 10362(b)(7)(A) of title 49, United States Code, is amended by striking "by the Consolidated Rail Corporation or".

(13) Section 332(d) of title 49, United States Code, is amended by striking ", the Consolidated Rail Corporation,".

TITLE III—MISCELLANEOUS PROVISIONS

COMMON CARRIER STATUS OF CONRAIL AFTER SALE

SEC. 301. (a) Conrail's status as a common carrier by railroad under section 10102(4) of title 49, United States Code, shall not be affected by virtue of sale of the interest of the United States in Conrail's common stock. Purchase of Conrail stock shall not alone be the basis of a determination that the acquiring entity has become a common carrier by railroad under section 10102(4) of title 49, United States Code.

(b) The Definitive Agreements shall contain a binding commitment by Norfolk Southern Corporation to continue to operate Conrail in full compliance with the provisions of section 10731(e) of title 49, United States Code.

CONSUMMATION OF SALE

SEC. 302. The sale of the interest of the United States in the common stock of Conrail shall be deemed to be consummated on the date title to the common stock passes to Norfolk Southern Corporation and the United States receives the cash purchase price.

CONTRACTS

SEC. 303. (a) Except as provided in subsection (b) of this section, nothing in this Act shall affect—

(1) Conrail's obligation to carry out its transportation contracts and equipment leases, equipment trusts, and conditional sale agreements, in accordance with their terms; and

(2) the obligation of any transferee of divested assets to carry out transportation contracts and equipment leases, equipment trusts, and conditional sale agreements to which such assets are subject, in accordance with their terms.

(b) If a divestiture carried out pursuant to the Secretary's Plan precludes Conrail from providing a transportation service for which it has contracted without a right of termination that may be exercised in the event of the sale of the interest of the United States in the common stock of Conrail and the divestiture will result in a change or modification in the movement of the traffic involved, the transferee of the divested rights and properties and Conrail shall provide the contracted-for service on terms and conditions which, to the maximum extent possible, conform to the terms and conditions in the contract.

CONGRESSIONAL OVERSIGHT OF COMPLIANCE

SEC. 304. The Secretary shall, no later than January 31 of each year, submit to the Committee on Commerce, Science, and Transportation of the Senate and to the Committee on Energy and Commerce of the House of Representatives a report setting forth each certificate which Norfolk Southern Corporation and Conrail provided to the Secretary, during the preceding year, certifying compliance with the covenants contained in the Definitive Agreements.

SEPARABILITY

SEC. 305. If any provision of this Act or the application thereof to any person or circumstances is held invalid, the remainder of this Act and the application of such provision to other persons or circumstances shall not be affected thereby.

EFFECTIVE DATE

SEC. 306. (a) Except as provided in subsection (b) of this section, the provisions of and amendments made by this Act shall take effect on the date of enactment of this Act.

(b) Sections 108(a), 201 and 202 of this Act shall take effect on the date of consummation of the sale of the interest of the United States in the common stock of Conrail.

(c) Any provision of this Act which, pursuant to Article I, Section 7 of the Constitution, provides for raising revenue shall only be effective upon the enactment into law of a bill which has originated in the House of Representatives enacting such provision.

AMENDMENT NO. 1458

In lieu of the language proposed to be inserted, insert the following:

That this Act may be cited as the "Conrail Sale Amendments Act of 1985".

FINDINGS

SEC. 2. The Congress finds that—

(1) the Northeast Rail Service Act of 1981 (45 U.S.C. 1101 et seq.) provided for an orderly return of Conrail freight service to the private sector;

(2) the provisions of the Northeast Rail Service Act of 1981 were successful in removing Conrail's obligations beyond railroad freight service and in otherwise preparing Conrail for an orderly return to the private sector;

(3) acting under section 403 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 763), the Board of Directors of the United States Railway Association twice found Conrail to be a profitable corporation;

(4) acting under section 401 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 761), the Secretary engaged an investment banker and arranged, through open competitive bidding and negotiation, to sell the interest of the United States in the common stock of Conrail;

(5) the Secretary's Plan for the sale of Conrail provides for sale of the interest of the United States in the common stock of Conrail to Norfolk Southern Corporation;

(6) the Secretary found that sale of the interest of the United States in the common stock of Conrail to Norfolk Southern Corporation best meets the sale criteria of (A) leaving Conrail in the strongest financial position after the sale, (B) preserving patterns of service to shippers and communities in the region Conrail serves, and (C) maximizing return to the Federal Government consistent with the criteria specified in clauses (A) and (B);

(7) amendments to the Regional Rail Reorganization Act of 1973 (45 U.S.C. 701 et seq.) and related laws are needed to permit the sale of the interest of the United States in the common stock of Conrail to Norfolk Southern Corporation and to permit cancellation of the interest of the United States in Conrail debt and preferred stock; and

(8) the Secretary's Plan satisfies the requirements of the Northeast Rail Service Act of 1981, including the intent, goals, and objectives relating to the sale of the interest of the United States in the common stock of Conrail and the requirements of section 401(e) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 761(e)).

PURPOSE

SEC. 3. It is therefore declared to be the purpose of the Congress in this Act to return Conrail to the private sector by directing and facilitating implementation of the Secretary's Plan for the sale of the interest of the United States in the common stock of Conrail.

DEFINITIONS

SEC. 4. (a) In this Act, unless the context otherwise requires, the term—

(1) "Conrail" means the Consolidated Rail Corporation;

(2) "Definitive Agreements" means any and all agreements existing or to be developed between the United States and Norfolk Southern Corporation, including all representations and warranties made therein, to implement the Memorandum of Intent described in paragraph (4)(A);

(3) "Secretary" means the Secretary of Transportation; and

(4) "Secretary's Plan" means (A) the Memorandum of Intent between the United States and Norfolk Southern Corporation signed February 8, 1985, and (B) the divestitures by the Norfolk Southern Corporation of certain rail tracks, rights, and facilities, and any transactions or agreements related or incidental to such divestitures, in connection with the implementation of attachment A to the letter from the Department of Justice attached to the Memorandum of Intent as exhibit E.

(b) Section 102 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 702) is amended—

(1) by redesignating paragraphs (6) through (18) as paragraphs (7) through (19), and paragraphs (19) through (21) as paragraphs (21) through (23), respectively;

(2) by inserting after paragraph (5) the following paragraph:

"(6) 'Definitive Agreements' means any and all agreements existing or to be developed between the United States and Norfolk Southern Corporation, including all representations and warranties made therein, to implement the Memorandum of Intent described in paragraph (20)(A);"; and

(3) by inserting after paragraph (19), as so redesignated, the following paragraph:

"(20) 'Secretary's Plan' means (A) the Memorandum of Intent between the United States and Norfolk Southern Corporation signed February 8, 1985, and (B) the divestitures by the Norfolk Southern Corporation of certain rail tracks, rights, and facilities, and any transactions or agreements related or incidental to such divestitures, in connection with the implementation of attachment A to the letter from the Department of Justice attached to the Memorandum of Intent as exhibit E;".

(c) Section 1135(a) of the Northeast Rail Service Act of 1981 (45 U.S.C. 1104(a)) is amended—

(1) by redesignating paragraphs (6), (7), and (8) as paragraphs (7), (8), and (10), respectively;

(2) by inserting after paragraph (5) the following paragraph:

"(6) 'Definitive Agreements' means any and all agreements existing or to be developed between the United States and Norfolk Southern Corporation, including all representations and warranties made therein, to implement the Memorandum of Intent described in paragraph (9)(A);"; and

(3) by inserting after paragraph (8), as so redesignated, the following paragraph:

"(9) 'Secretary's Plan' means (A) the Memorandum of Intent between the United States and Norfolk Southern Corporation signed February 8, 1985, but not including paragraph 9(d)(iii) of such Memorandum of Intent, and (B) the divestitures by the Norfolk Southern Corporation of certain rail tracks, rights, and facilities, and any transactions or agreements related or incidental to such divestitures, in connection with the implementation of attachment A to the letter from the Department of Justice attached to the Memorandum of Intent as exhibit E;".

TITLE I—AMENDMENTS TO THE REGIONAL RAIL REORGANIZATION ACT OF 1973 AND THE NORTHEAST RAIL SERVICE ACT OF 1981

Subtitle A—Regional Rail Reorganization Act of 1973 Amendments

LIMIT ON AUTHORITY TO PURCHASE STOCK

SEC. 101. Section 216(b) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 726(b)) is amended by adding at the end thereof the following paragraph:

"(5) The authority of the Association to purchase debentures or series A preferred stock of the Corporation under this section shall terminate upon the consummation of the sale of the interest of the United States in the common stock of the Corporation under the terms of the Secretary's Plan.".

RESPONSIBILITY OF CONRAIL DIRECTORS

SEC. 102. Section 301(i) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 741(i)) is amended by inserting immediately after "required by law" the following: ", taken to implement the Secretary's Plan,".

APPLICABILITY OF REGIONAL RAIL REORGANIZATION ACT OF 1973 TO CONRAIL AFTER SALE

SEC. 103. Section 301 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 741) is amended by adding at the end thereof the following subsection:

"(k) GOVERNING PROVISIONS AFTER SALE.—The provisions of this Act shall not apply to the Corporation and to activities and other actions and responsibilities of the Corporation and its directors after consummation of

the sale of the interest of the United States in the common stock of the Corporation under the terms of the Conrail Sale Amendments Act of 1985, other than with regard to—

"(1) section 102 of this Act;

"(2) section 201(d) of this Act;

"(3) section 203 of this Act, but only with respect to information relating to proceedings before the special court established under section 209(b);

"(4) section 216(f)(8) of this Act, but only as such authority applies to activities related to the employee stock ownership plan and related trusts prior to or in connection with consummation of the sale of the interest of the United States in the common stock of the Corporation, including activities related to the sale, exchange, valuation, or disposition of the assets of the employee stock ownership plan and related trusts, or of Conrail Equity Corporation, in connection with the Secretary's Plan;

"(5) sections 216(f)(11) and 216(f)(12) of this Act, as amended by the Conrail Sale Amendments Act of 1985;

"(6) section 217(e) of this Act;

"(7) subsection (i) of this section, but only as such authority applies to service as a director of the Corporation prior to consummation or in connection with implementation of the sale of the interest of the United States in the common stock of the Corporation;

"(8) section 305 of this Act, but only as to the effect, and continuing administration, of supplemental transactions consummated prior to consummation of the sale of the interest of the United States in the common stock of the Corporation;

"(9) section 308 of this Act, but only in abandonment actions when such authority has been relied on to file a notice or notices of insufficent revenues prior to consummation of the sale of the interest of the United States in the common stock of the Corporation;

"(10) section 401(a) of this Act, as amended by the Conrail Sale Amendments Act of 1985;

"(11) section 402 of this Act, as amended by the Conrail Sale Amendments Act of 1985;

"(12) section 408(c) of this Act, as amended by the Conrail Sale Amendments Act of 1985;

"(13) section 701 of this Act, but only as may be necessary to identify employees eligible for benefits under agreements entered into under such section;

"(14) section 702(e) of this Act;

"(15) section 704(b) of this Act;

"(16) section 709 of this Act;

"(17) section 710(b)(1) of this Act;

"(18) section 711 of this Act;

"(19) section 714 of this Act, but only with regard to disputes or controversies specified in such section that arose prior to consummation of the sale of the interest of the United States in the common stock of the Corporation; and

"(20) section 715 of this Act, as amended by the Conrail Sale Amendments Act of 1985.".

IMPLEMENTATION OF THE SECRETARY'S PLAN

SEC. 104. (a) Section 401(a)(3) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 761(a)(3)) is amended to read as follows:

"(3) The Secretary is authorized and directed to implement the Secretary's Plan, in accordance with paragraph (4) of this subsection. Such implementation of the Secretary's Plan and the coordinated operation of the Corporation's properties with those of Norfolk Southern Corporation and its affiliates as a single rail system is deemed approved by the Commission under chapter 113 of title 49, United States Code.".

(b) Section 401(a) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 761(a)) is amended by adding at the end thereof the following paragraphs:

"(4) The Secretary shall implement the Secretary's Plan by negotiating, executing, delivering, and performing the Definitive Agreements, which shall conform to the Memorandum of Intent described in section 102(20)(A) of this Act. The Secretary shall, 45 calendar days before the date on which the Secretary anticipates that the interest of the United States in the common stock of the Corporation will be sold to Norfolk Southern Corporation, transmit to the Committee on Commerce, Science, and Transportation of the Senate and to the Committee on Energy and Commerce of the House of Representatives a notification of any alteration from the Memorandum of Intent described in section 102(20)(A) of this Act which will be made in the Definitive Agreements. After the date of such sale, the Secretary shall transmit to such Committees notification of any intent to waive compliance with any substantive covenant, agreement or obligation contained in the Definitive Agreements, and the Secretary may not waive such compliance until a period of 45 calendar days has expired after the date of such transmittal.

"(5) The Secretary shall not transfer the interest of the United States in the common stock of the Corporation except concurrently with a divestiture by Norfolk Southern Corporation of rail assets and rights approved by the Attorney General.

"(6) The sale of the interest of the United States in the common stock of the Corporation shall be deemed to be consummated at the date title to the common stock passes to Norfolk Southern Corporation and the United States receives the cash purchase price.".

RAILROAD PURCHASERS AND OFFER FOR SALE OF SHARES TO EMPLOYEES

SEC. 105. Subsections (d) and (e) of section 401 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 761(d) and (e)) are repealed.

CANCELLATION OF DEBT AND PREFERRED STOCK

SEC. 106. Section 402 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 762) is amended to read as follows:

"DEBT AND PREFERRED STOCK

"SEC. 402. (a) RECAPITALIZATION.—In connection with the sale of the interest of the United States in the common stock of the Corporation under section 401 of this Act, and consistent with the Secretary's Plan, the Secretary may take all action necessary to cause the Corporation to be recapitalized such that the interest of the United States, or any agent or instrumentality thereof, and all other commitments or obligations of the Corporation to the United States or any agent or instrumentality thereof arising out of such interest, in any debt (including accrued interest and contingent interest thereon) and preferred stock (including accrued and unpaid dividends thereon) of the Corporation shall be cancelled or retired, and contributed to the capital of the Corporation. The Secretary shall cause the recapitalization authorized by this section to be effective as of the consummation of the sale of the interest of the United States in the common stock of the Corporation.

"(b) BREACH OF REPRESENTATIONS.—(1) Norfolk Southern Corporation or any successor corporation thereto may bring suit for any breach of representations contained in paragraph 6(e) of the Memorandum of Intent described in section 102(20)(A) of this Act (hereinafter referred to as the 'Representations') in the United States Claims Court or a district court of the United States. If such an action is brought, the Claims Court or district court shall determine the amount by which the United States income tax (including interest and penalties whether or not such penalties are assessed as a tax under the Internal Revenue Code of 1954) assessable against the Corporation or against Norfolk Southern Corporation for any year exceeds the amount of such tax which would have been assessable for such year had such Representations not been breached (hereinafter referred to as the 'Offset Amount').

"(2) The Representations shall be considered breached and Norfolk Southern Corporation shall be entitled to bring suit upon the first occurrence of any of the following that is inconsistent with the Representations: (A) the issuance by the Internal Revenue Service of a statutory notice of deficiency (90-day letter), (B) the assessment of the United States income tax, or (C) any claim by the United States in a suit or other judicial proceeding against Norfolk Southern Corporation or the Corporation.

"(3) The right to bring suit pursuant to this section shall not be subject to any waiting period applicable to tax proceedings or to any requirements for payment of any tax as a condition to instituting any suit based on a breach of the Representations.

"(4) Any judgment for money damages relating to breach of the Representations shall only be awarded as an offset in any court or administrative proceeding against the tax liability of Norfolk Southern Corporation or the Corporation, or both, to which such breach relates; except that if any such tax liability resulting from such breach has been paid, the judgment shall to that extent be an offset against any United States income tax liability of the Norfolk Southern Corporation or the Corporation, or both. If any portion of the tax resulting from a breach of the Representations has been paid, then the Offset Amount shall include interest on such payment from the date paid at the rate from time to time specified in the Internal Revenue Code of 1954 for interest payable on refund claims.

"(5) It shall not be a defense to an action brought under this section that Norfolk Southern Corporation knew, or should have known, of the falsity of the Representations or that there exists no carryover basis procedure as contemplated by the last sentence of the Representations.

"(6) For purposes of this section, tax liability of Norfolk Southern Corporation shall include the tax liability of Norfolk Southern Corporation and its affiliated group, within the meaning of section 1504 of the Internal Revenue Code of 1954.".

APPLICABILITY OF CERTAIN LAWS TO SALE OF CONRAIL

SEC. 107. Section 408 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 768) is amended—

(1) by repealing subsection (b);

(2) by amending subsection (c) by striking "No transfer" and all that follows through "subject to" and inserting in lieu thereof "Except as provided in section 1152 of the Northeast Rail Service Act of 1981 (45

U.S.C. 1105), the Secretary's Plan and the Definitive Agreements and their negotiation, execution, and implementation shall not be subject to administrative or"; and

(3) by adding at the end of subsection (c) the following sentence: "The issuance in private placement of notes or other securities in accordance with exhibit B to the Memorandum of Intent (described in section 102(20)(A) of this Act) in the Secretary's Plan shall not be subject to the provisions of subtitle IV of title 49, United States Code.".

LABOR PROTECTION

SEC. 108. (a) Section 701(d)(2) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 797(d)(2)) is amended by striking "the last day of the eighteen-month period beginning on".

(b)(1) Title VII of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 797 et seq.) is amended by adding at the end thereof the following section:

"PROTECTION AFTER SALE

"SEC. 715. After consummation of the sale of the interest of the United States in the common stock of the Corporation pursuant to the Secretary's Plan, any employee of Norfolk Southern Corporation, the Corporation, any rail affiliate of either company, and any transferee of the rail tracks, rights, and facilities divested in accordance with the Secretary's Plan, who is adversely affected in his employment by the implementation of the Secretary's Plan shall receive from his employer protection under the labor protective conditions set forth in New York Dock Railway—Control—Brooklyn Eastern District Terminal (354 ICC 399 (1978), modified upon further consideration, 360 ICC 60 (1979)). The arbitration provisions of section 4 of New York Dock shall apply to the formation of any implementing agreements that may be necessary in connection with the implementation of the Secretary's Plan, including any resulting coordinations.".

(2) The table of contents of the Regional Rail Reorganization Act of 1973 is amended by inserting immediately after the item relating to section 714 the following item:

"Sec. 715. Protection after sale.".

PREFERENTIAL HIRING

SEC. 109. Section 703 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 797b) is amended—

(1) by redesignating subsection (b) as subsection (c); and

(2) by inserting immediately after subsection (a) the following subsection:

"(b) IMPLEMENTATION OF SECRETARY'S PLAN.—Any employee of any railroad who is deprived of employment as a result of the implementation of the Secretary's Plan shall have the first right of hire for a vacancy for which he is qualified on any Norfolk Southern Corporation rail subsidiary, except where such vacancy is covered by (1) an affirmative action plan, or a hiring plan designated to eliminate discrimination, that is required by Federal or State statute, regulation, or Executive order, or by the order of a Federal court or agency, or (2) a permissible voluntary affirmative action plan. For purposes of this subsection, a railroad shall not be considered to be hiring new employees when it recalls any of its own furloughed employees.".

CROSS CRAFT EMPLOYMENT

SEC. 110. (a) Title VII of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 797 et seq.) is amended by inserting immediately after section 703 the following section:

"CROSS CRAFT EMPLOYMENT

"SEC. 703A. Any employee of Norfolk and Western Railway Company, Southern Railway Company, or the Corporation who is deprived of employment as a result of the implementation of the Secretary's Plan shall have the first right of hire for any vacancy for which such employee is qualified at the entry level of any Norfolk Southern Corporation rail subsidiary, without regard to craft or class or the provisions of section 703 of this Act. Such employee shall retain his seniority rights to return to his original craft or class whenever a vacancy occurs. For purposes of this section, a railroad shall not be considered to be hiring new employees when it recalls any of its own furloughed employees.".

(b) The table of contents of the Regional Rail Reorganization Act of 1973 is amended by inserting immediately after the item relating to section 703 the following item:

"Sec. 703A. Cross craft employment.".

Subtitle B—Northeast Rail Service Act of 1981 Amendments

SPECIAL COURT JURISDICTION

SEC. 121. (a) Section 1152 of the Northeast Rail Service Act of 1981 (45 U.S.C. 1105) is amended—

(1) by inserting "or the Conrail Sale Amendments Act of 1985" immediately after "subtitle" wherever it appears;

(2) in subsection (a), by striking "or" at the end of paragraph (3), by striking the period at the end of paragraph (4) and inserting in lieu thereof a semicolon, and by adding at the end thereof the following paragraphs:

"(5) brought by the United States or any agency or instrumentality thereof seeking to enforce the Secretary's Plan or the Definitive Agreements;

"(6) brought by Norfolk Southern Corporation seeking to enforce the Secretary's Plan or the Definitive Agreements;

"(7) brought by a party who filed a complaint with the Secretary under subsection (e) of this section, and who is aggrieved by (A) a determination of the Secretary under paragraph (1) of such subsection that the party has not suffered direct economic injury, or (B) a decision of the Secretary under paragraph (2) of such subsection that a covenant has not been violated;

"(8) brought by a party which is a signatory to an ancillary agreement entered into in accordance with the Secretary's Plan or the Definitive Agreements and which is seeking to enforce such ancillary agreement; or

"(9) brought to determine the value of the interest of the employee stock ownership plan and related trusts, or of the beneficiaries thereof, in the preferred stock of the Conrail Equity Corporation.

For purposes of any action brought under paragraph (5) of this subsection, a violation of any covenant contained in the Secretary's Plan or the Definitive Agreements shall be deemed to constitute immediate and irreparable harm for purposes of awarding injunctive relief to the United States.".

(b) Section 1152 of the Northeast Rail Service Act of 1981 (45 U.S.C. 1105) is amended by adding at the end thereof the following subsection:

"(e)(1) Any party who suffers direct economic injury as a result of an alleged violation of a covenant contained in the Definitive Agreements may file a complaint with the Secretary seeking enforcement of such covenant. If the Secretary determines that the complainant has demonstrated to the Secretary that it has suffered direct economic injury, the Secretary shall investigate the complaint.

"(2) If the Secretary decides to investigate a complaint under paragraph (1) of this subsection, the Secretary shall give reasonable notice of such decision to investigate to the alleged violator of such covenant and the complainant, and shall make a final decision on such complaint within 60 days after the date on which it was filed.

"(3) If the Secretary finds that (A) the covenant in question has been violated, and (B) the complainant suffered direct economic injury as a result of such violation, the Secretary shall enter an order directing the violator of such covenant to comply with such covenant.

"(4) On appeal, any decision by the Secretary under this subsection shall be upheld, unless such decision is found to be arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law.".

APPLICABILITY OF OTHER LAWS

SEC. 122. Section 1168(a) of the Northeast Rail Service Act of 1981 (45 U.S.C. 1116(a)) is amended by striking "service transfers" and inserting in lieu thereof "sale of the interest of the United States in the common stock of Conrail or transfer of the rail properties and freight service responsibilities of Conrail".

Subtitle C—Employee Stock Ownership Plan

RESPONSIBILITY OF EMPLOYEE STOCK OWNERSHIP PLAN FIDUCIARIES

SEC. 131. (a) Section 216(f)(8)(A) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 726(f)(8)(A)) is amended—

(1) by striking "or" at the end of clause (ii);

(2) by striking the period at the end of clause (iii) and inserting in lieu thereof "; or"; and

(3) by adding at the end thereof the following clause:

"(iv) for or in connection with any action taken to implement the Secretary's Plan, including any sale, exchange, valuation, or disposition of the plan and related trust assets, or the assets of Conrail Equity Corporation, in connection with implementation of the Secretary's Plan and any determination of the terms on which any such sale, exchange, valuation, or disposition is effected.".

QUALIFICATION, REVIEW, AND VALUATION OF EMPLOYEE STOCK OWNERSHIP PLANS

SEC. 132. Section 216(f) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 726(f)) is amended by adding at the end thereof the following paragraphs:

"(11) The employee stock ownership plans of the Corporation and related trusts maintained, amended, or adopted in implementing the Secretary's Plan shall be deemed to meet the qualification requirements of sections 401 and 501, respectively, of the Internal Revenue Code of 1954, notwithstanding (A) that such plans may not meet the requirements of section 415 of the Internal Revenue Code of 1954, or (B) that participants in such plans may be entitled to withdraw a portion of the shares allocated to their accounts prior to the expiration of the period generally imposed by the Internal Revenue Service for qualified plans. Such qualification shall relate only to the contributions, allocations, and withdrawals of shares provided for in the Secretary's Plan with respect to the plans and related trusts

maintained, amended, or adopted in implementing the Secretary's Plan. Such contributions and allocations shall in no event be treated as having exceeded the maximum annual addition permitted under section 415 of the Internal Revenue Code of 1954 (but not for purposes of applying section 404(j) of the Internal Revenue Code of 1954) for purposes of calculating any limitation under section 415 with respect to contributions and allocations not described in the Secretary's Plan, including contributions and allocations to plans and related trusts of the Corporation and any affiliated corporation. The continued qualification of such plans with respect to all other contributions, allocations, and withdrawals shall be subject to all provisions of existing law, as amended from time to time. No inference shall be drawn from this paragraph as to whether an amount is a contribution deductible under section 404 of the Internal Revenue Code of 1954 rather than a non-deductible capital expenditure.

"(12) Except as provided in section 1152 of the Northeast Rail Service Act of 1981 (45 U.S.C. 1105), the issuance and sale or contribution of securities by Norfolk Southern Corporation to fulfill arrangements with the Corporation's employees in implementing the Secretary's Plan and the distribution of shares from the Corporation's employee stock ownership plans and related trusts maintained, amended, or adopted in implementing the Secretary's Plan shall not be subject to the registration and prospectus delivery requirements of the Securities Act of 1933, any approval requirement under subtitle IV of title 49, United States Code, or the laws of any State with respect to the issuance and sale of securities.".

TITLE II—TECHNICAL AND CONFORMING AMENDMENTS

REGIONAL RAIL REORGANIZATION ACT OF 1973 AMENDMENTS AND REPEALS

SEC. 201. The following provisions of the Regional Rail Reorganization Act of 1973 are repealed or amended as specified:

(1) Subsections (a) and (b) of section 214 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 724 (a) and (b)) are repealed, and such section 214 is amended by striking "(c) ASSOCIATION.—".

(2) Subsection (f) of section 217 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 727(f)) is repealed, without prejudice to the continued availability of funds appropriated prior to the date of enactment of this Act pursuant to section 217(f)(1)(C) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 727(f)(1)(C)).

(3) Section 404 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 764), and the item relating to such section in the table of contents of such Act, are repealed.

(4) Section 405 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 765), and the item relating to such section in the table of contents of such Act, are repealed.

(5) Section 406 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 766), and the item relating to such section in the table of contents of such Act, are repealed.

(6) Section 407 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 767), and the item relating to such section in the table of contents of such Act, are repealed.

(7) Subsections (a) and (d) of section 408 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 768 (a) and (d)) are repealed.

(8) Section 409 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 769), and the item relating to such section in the table of contents of such Act, are repealed.

(9) Section 410 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 769a), and the item relating to such section in the table of contents of such Act, are repealed.

(10) Section 411 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 769b), and the item relating to such section in the table of contents of such Act, are repealed.

(11) Section 412 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 769c), and the item relating to such section in the table of contents of such Act, are repealed.

(12) Section 713 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 797l), and the item relating to such section in the table of contents of such Act, are repealed.

AMENDMENTS AND REPEALS OF OTHER RAIL LAWS

SEC. 202. The following provisions of law are repealed or amended as specified:

(1) Section 1154 of the Northeast Rail Service Act of 1981 (45 U.S.C. 1107), and the item relating to such section in the table of contents of such Act, are repealed.

(2) Section 1161 of the Northeast Rail Service Act of 1981 (45 U.S.C. 1110), and the item relating to such section in the table of contents of such Act, are repealed.

(3) Section 1166 of the Northeast Rail Service Act of 1981 (45 U.S.C. 1114), and the item relating to such section in the table of contents of such Act, are repealed.

(4) Subsection (c) of section 1167 of the Northeast Rail Service Act of 1981 (45 U.S.C. 1115(c)) is repealed.

(5) Subsection (b) of section 1168 of the Northeast Rail Service Act of 1981 (45 U.S.C. 1116(b)) is repealed.

(6) Section 501(8) of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 821(8)) is amended—

(A) by striking "(A)";

(B) by striking "(i)" and inserting in lieu thereof "(A)", and by striking "(ii)" and inserting in lieu thereof "(B)"; and

(C) by striking all after "utilization;".

(7) Section 505 of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 825) is amended—

(A) in subsection (a)(1), by striking all after "railroad" through "1981)"; and

(B) in subsection (b)(2)(C), by striking all after "costs" the second time it appears through "subsidy".

(8) Subsection (b)(1) of section 509 of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 829(b)(1)) is repealed.

(9) Section 511(e) of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 831(e)) is amended by striking "(1)", and by striking all after "time" and inserting in lieu thereof a period.

(10) Section 402 of the Rail Safety and Service Improvement Act of 1982 (45 U.S.C. 825a) is repealed.

(11) Section 1005(b)(1) of the Rail Passenger Service Act (45 U.S.C. 655(b)(1)) is amended by striking "the Consolidated Rail Corporation,".

(12) Section 10362(b)(7)(A) of title 49, United States Code, is amended by striking "by the Consolidated Rail Corporation or".

(13) Section 332(d) of title 49, United States Code, is amended by striking ", the Consolidated Rail Corporation,".

TITLE III—MISCELLANEOUS PROVISIONS

COMMON CARRIER STATUS OF CONRAIL AFTER SALE

SEC. 301. (a) Conrail's status as a common carrier by railroad under section 10102(4) of title 49, United States Code, shall not be affected by virtue of sale of the interest of the United States in Conrail's common stock. Purchase of Conrail stock shall not alone be the basis of a determination that the acquiring entity has become a common carrier by railroad under section 10102(4) of title 49, United States Code.

(b) The Definitive Agreements shall contain a binding commitment by Norfolk Southern Corporation to continue to operate Conrail in full compliance with the provisions of section 10731(e) of title 49, United States Code.

CONSUMMATION OF SALE

SEC. 302. The sale of the interest of the United States in the common stock of Conrail shall be deemed to be consummated on the date title to the common stock passes to Norfolk Southern Corporation and the United States receives the cash purchase price.

CONTRACTS

SEC. 303. (a) Except as provided in subsection (b) of this section, nothing in this Act shall affect—

(1) Conrail's obligation to carry out its transportation contracts and equipment leases, equipment trusts, and conditional sale agreements, in accordance with their terms; and

(2) the obligation of any transferee of divested assets to carry out transportation contracts and equipment leases, equipment trusts, and conditional sale agreements to which such assets are subject, in accordance with their terms.

(b) If a divestiture carried out pursuant to the Secretary's Plan precludes Conrail from providing a transportation service for which it has contracted without a right of termination that may be exercised in the event of the sale of the interest of the United States in the common stock of Conrail and the divestiture will result in a change or modification in the movement of the traffic involved, the transferee of the divested rights and properties and Conrail shall provide the contracted-for service on terms and conditions which, to the maximum extent possible, conform to the terms and conditions in the contract.

CONGRESSIONAL OVERSIGHT OF COMPLIANCE

SEC. 304. The Secretary shall, no later than January 31 of each year, submit to the Committee on Commerce, Science, and Transportation of the Senate and to the Committee on Energy and Commerce of the House of Representatives a report setting forth each certificate which Norfolk Southern Corporation and Conrail provided to the Secretary, during the preceding year, certifying compliance with the covenants contained in the Definitive Agreements.

SEPARABILITY

SEC. 305. If any provision of this Act or the application thereof to any person or circumstances is held invalid, the remainder of this Act and the application of such provision to other persons or circumstances shall not be affected thereby.

EFFECTIVE DATE

SEC. 306. (a) Except as provided in subsection (b) of this section, the provisions of and amendments made by this Act shall take effect on the date of enactment of this Act.

(b) Sections 108(a), 201 and 202 of this Act shall take effect on the date of consummation of the sale of the interest of the United States in the common stock of Conrail.

(c) Any provision of this Act which, pursuant to Article I, Section 7 of the Constitution, provides for raising revenue shall only

be effective upon the enactment into law of a bill which has originated in the House of Representatives enacting such provision.

AMENDMENT No. 1459

In lieu of the language proposed to be inserted, insert the following:

That this Act may be cited as the "Conrail Sale Amendments Act of 1985".

FINDINGS

SEC. 2. The Congress finds that—

(1) the Northeast Rail Service Act of 1981 (45 U.S.C. 1101 et seq.) provided for an orderly return of Conrail freight service to the private sector;

(2) the provisions of the Northeast Rail Service Act of 1981 were successful in removing Conrail's obligations beyond railroad freight service and in otherwise preparing Conrail for an orderly return to the private sector;

(3) acting under section 403 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 763), the Board of Directors of the United States Railway Association twice found Conrail to be a profitable corporation;

(4) acting under section 401 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 761), the Secretary engaged an investment banker and arranged, through open competitive bidding and negotiation, to sell the interest of the United States in the common stock of Conrail;

(5) the Secretary's Plan for the sale of Conrail provides for sale of the interest of the United States in the common stock of Conrail to Norfolk Southern Corporation;

(6) the Secretary found that sale of the interest of the United States in the common stock of Conrail to Norfolk Southern Corporation best meets the sale criteria of (A) leaving Conrail in the strongest financial position after the sale, (B) preserving patterns of service to shippers and communities in the region Conrail serves, and (C) maximizing return to the Federal Government consistent with the criteria specified in clauses (A) and (B);

(7) amendments to the Regional Rail Reorganization Act of 1973 (45 U.S.C. 701 et seq.) and related laws are needed to permit the sale of the interest of the United States in the common stock of Conrail to Norfolk Southern Corporation and to permit cancellation of the interest of the United States in Conrail debt and preferred stock; and

(8) the Secretary's Plan satisfies the requirements of the Northeast Rail Service Act of 1981, including the intent, goals, and objectives relating to the sale of the interest of the United States in the common stock of Conrail and the requirements of section 401(e) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 761(e)).

PURPOSE

SEC. 3. It is therefore declared to be the purpose of the Congress in this Act to return Conrail to the private sector by directing and facilitating implementation of the Secretary's Plan for the sale of the interest of the United States in the common stock of Conrail.

DEFINITIONS

SEC. 4. (a) In this Act, unless the context otherwise requires, the term—

(1) "Conrail" means the Consolidated Rail Corporation;

(2) "Definitive Agreements" means any and all agreements existing or to be developed between the United States and Norfolk Southern Corporation, including all representations and warranties made therein, to implement the Memorandum of Intent described in paragraph (4)(A);

(3) "Secretary" means the Secretary of Transportation; and

(4) "Secretary's Plan" means (A) the Memorandum of Intent between the United States and Norfolk Southern Corporation signed February 8, 1985, and (B) the divestitures by the Norfolk Southern Corporation of certain rail tracks, rights, and facilities, and any transactions or agreements related or incidental to such divestitures, in connection with the implementation of attachment A to the letter from the Department of Justice attached to the Memorandum of Intent as exhibit E.

(b) Section 102 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 702) is amended—

(1) by redesignating paragraphs (6) through (18) as paragraphs (7) through (19), and paragraphs (19) through (21) as paragraphs (21) through (23), respectively;

(2) by inserting after paragraph (5) the following paragraph:

"(6) 'Definitive Agreements' means any and all agreements existing or to be developed between the United States and Norfolk Southern Corporation, including all representations and warranties made therein, to implement the Memorandum of Intent described in paragraph (20)(A);"; and

(3) by inserting after paragraph (19), as so redesignated, the following paragraph:

"(20) 'Secretary's Plan' means (A) the Memorandum of Intent between the United States and Norfolk Southern Corporation signed February 8, 1985, but not including paragraph 9(d)(iii) of such Memorandum of Intent, and (B) the divestitures by the Norfolk Southern Corporation of certain rail tracks, rights, and facilities, and any transactions or agreements related or incidental to such divestitures, in connection with the implementation of attachment A to the letter from the Department of Justice attached to the Memorandum of Intent as exhibit E;".

(c) Section 1135(a) of the Northeast Rail Service Act of 1981 (45 U.S.C. 1104(a)) is amended—

(1) by redesignating paragraphs (6), (7), and (8) as paragraphs (7), (8), and (10), respectively;

(2) by inserting after paragraph (5) the following paragraph:

"(6) 'Definitive Agreements' means any and all agreements existing or to be developed between the United States and Norfolk Southern Corporation, including all representations and warranties made therein, to implement the Memorandum of Intent described in paragraph (9)(A);"; and

(3) by inserting after paragraph (8), as so redesignated, the following paragraph:

"(9) 'Secretary's Plan' means (A) the Memorandum of Intent between the United States and Norfolk Southern Corporation signed February 8, 1985, and (B) the divestitures by the Norfolk Southern Corporation of certain rail tracks, rights, and facilities, and any transactions or agreements related or incidental to such divestitures, in connection with the implementation of attachment A to the letter from the Department of Justice attached to the Memorandum of Intent as exhibit E;".

TITLE I—AMENDMENTS TO THE REGIONAL RAIL REORGANIZATION ACT OF 1973 AND THE NORTHEAST RAIL SERVICE ACT OF 1981

Subtitle A—Regional Rail Reorganization Act of 1973 Amendments

LIMIT ON AUTHORITY TO PURCHASE STOCK

SEC. 101. Section 216(b) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 726(b)) is amended by adding at the end thereof the following paragraph:

"(5) The authority of the Association to purchase debentures or series A preferred stock of the Corporation under this section shall terminate upon the consummation of the sale of the interest of the United States in the common stock of the Corporation under the terms of the Secretary's Plan.".

RESPONSIBILITY OF CONRAIL DIRECTORS

SEC. 102. Section 301(i) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 741(i)) is amended by inserting immediately after "required by law" the following: ", taken to implement the Secretary's Plan,".

APPLICABILITY OF REGIONAL RAIL REORGANIZATION ACT OF 1973 TO CONRAIL AFTER SALE

SEC. 103. Section 301 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 741) is amended by adding at the end thereof the following subsection:

"(k) GOVERNING PROVISIONS AFTER SALE.—The provisions of this Act shall not apply to the Corporation and to activities and other actions and responsibilities of the Corporation and its directors after consummation of the sale of the interest of the United States in the common stock of the Corporation under the terms of the Conrail Sale Amendments Act of 1985, other than with regard to—

"(1) section 102 of this Act;

"(2) section 201(d) of this Act;

"(3) section 203 of this Act, but only with respect to information relating to proceedings before the special court established under section 209(b);

"(4) section 216(f)(8) of this Act, but only as such authority applies to activities related to the employee stock ownership plan and related trusts prior to or in connection with consummation of the sale of the interest of the United States in the common stock of the Corporation, including activities related to the sale, exchange, valuation, or disposition of the assets of the employee stock ownership plan and related trusts, or of Conrail Equity Corporation, in connection with the Secretary's Plan;

"(5) sections 216(f)(11) and 216(f)(12) of this Act, as amended by the Conrail Sale Amendments Act of 1985;

"(6) section 217(e) of this Act;

"(7) subsection (i) of this section, but only as such authority applies to service as a director of the Corporation prior to consummation or in connection with implementation of the sale of the interest of the United States in the common stock of the Corporation;

"(8) section 305 of this Act, but only as to the effect, and continuing administration, of supplemental transactions consummated prior to consummation of the sale of the interest of the United States in the common stock of the Corporation;

"(9) section 308 of this Act, but only in abandonment actions when such authority has been relied on to file a notice or notices of insufficent revenues prior to consummation of the sale of the interest of the United States in the common stock of the Corporation;

"(10) section 401(a) of this Act, as amended by the Conrail Sale Amendments Act of 1985;

"(11) section 402 of this Act, as amended by the Conrail Sale Amendments Act of 1985;

"(12) section 408(c) of this Act, as amended by the Conrail Sale Amendments Act of 1985;

"(13) section 701 of this Act, but only as may be necessary to identify employees eligible for benefits under agreements entered into under such section;

"(14) section 702(e) of this Act;

"(15) section 704(b) of this Act;

"(16) section 709 of this Act;

"(17) section 710(b)(1) of this Act;

"(18) section 711 of this Act;

"(19) section 714 of this Act, but only with regard to disputes or controversies specified in such section that arose prior to consummation of the sale of the interest of the United States in the common stock of the Corporation; and

"(20) section 715 of this Act, as amended by the Conrail Sale Amendments Act of 1985.".

IMPLEMENTATION OF THE SECRETARY'S PLAN

SEC. 104. (a) Section 401(a)(3) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 761(a)(3)) is amended to read as follows:

"(3) The Secretary is authorized and directed to implement the Secretary's Plan, in accordance with paragraph (4) of this subsection. Such implementation of the Secretary's Plan and the coordinated operation of the Corporation's properties with those of Norfolk Southern Corporation and its affiliates as a single rail system is deemed approved by the Commission under chapter 113 of title 49, United States Code.".

(b) Section 401(a) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 761(a)) is amended by adding at the end thereof the following paragraphs:

"(4) The Secretary shall implement the Secretary's Plan by negotiating, executing, delivering, and performing the Definitive Agreements, which shall conform to the Memorandum of Intent described in section 102(20)(A) of this Act. The Secretary shall, 45 calendar days before the date on which the Secretary anticipates that the interest of the United States in the common stock of the Corporation will be sold to Norfolk Southern Corporation, transmit to the Committee on Commerce, Science, and Transportation of the Senate and to the Committee on Energy and Commerce of the House of Representatives a notification of any alteration from the Memorandum of Intent described in section 102(20)(A) of this Act which will be made in the Definitive Agreements. After the date of such sale, the Secretary shall transmit to such Committees notification of any intent to waive compliance with any substantive covenant, agreement or obligation contained in the Definitive Agreements, and the Secretary may not waive such compliance until a period of 45 calendar days has expired after the date of such transmittal.

"(5) The Secretary shall not transfer the interest of the United States in the common stock of the Corporation except concurrently with a divestiture by Norfolk Southern Corporation of rail assets and rights approved by the Attorney General.

"(6) The sale of the interest of the United States in the common stock of the Corporation shall be deemed to be consummated at the date title to the common stock passes to Norfolk Southern Corporation and the United States receives the cash purchase price.".

RAILROAD PURCHASERS AND OFFER FOR SALE OF SHARES TO EMPLOYEES

SEC. 105. Subsections (d) and (e) of section 401 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 761(d) and (e)) are repealed.

CANCELLATION OF DEBT AND PREFERRED STOCK

SEC. 106. Section 402 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 762) is amended to read as follows:

"DEBT AND PREFERRED STOCK

"SEC. 402. (a) RECAPITALIZATION.—In connection with the sale of the interest of the United States in the common stock of the Corporation under section 401 of this Act, and consistent with the Secretary's Plan, the Secretary may take all action necessary to cause the Corporation to be recapitalized such that the interest of the United States, or any agent or instrumentality thereof, and all other commitments or obligations of the Corporation to the United States or any agent or instrumentality thereof arising out of such interest, in any debt (including accrued interest and contingent interest thereon) and preferred stock (including accrued and unpaid dividends thereon) of the Corporation shall be cancelled or retired, and contributed to the capital of the Corporation. The Secretary shall cause the recapitalization authorized by this section to be effective as of the consummation of the sale of the interest of the United States in the common stock of the Corporation.

"(b) BREACH OF REPRESENTATIONS.—(1) Norfolk Southern Corporation or any successor corporation thereto may bring suit for any breach of representations contained in paragraph 6(e) of the Memorandum of Intent described in section 102(20)(A) of this Act (hereinafter referred to as the 'Representations') in the United States Claims Court or a district court of the United States. If such an action is brought, the Claims Court or district court shall determine the amount by which the United States income tax (including interest and penalties whether or not such penalties are assessed as a tax under the Internal Revenue Code of 1954) assessable against the Corporation or against Norfolk Southern Corporation for any year exceeds the amount of such tax which would have been assessable for such year had such Representations not been breached (hereinafter referred to as the 'Offset Amount').

"(2) The Representations shall be considered breached and Norfolk Southern Corporation shall be entitled to bring suit upon the first occurrence of any of the following that is inconsistent with the Representations: (A) the issuance by the Internal Revenue Service of a statutory notice of deficiency (90-day letter), (B) the assessment of the United States income tax, or (C) any claim by the United States in a suit or other judicial proceeding against Norfolk Southern Corporation or the Corporation.

"(3) The right to bring suit pursuant to this section shall not be subject to any waiting period applicable to tax proceedings or to any requirements for payment of any tax as a condition to instituting any suit based on a breach of the Representations.

"(4) Any judgment for money damages relating to breach of the Representations shall only be awarded as an offset in any court or administrative proceeding against the tax liability of Norfolk Southern Corporation or the Corporation, or both, to which such breach relates; except that if any such tax liability resulting from such breach has been paid, the judgment shall to that extent be an offset against any United States income tax liability of the Norfolk Southern Corporation or the Corporation, or both. If any portion of the tax resulting from a breach of the Representations has been paid, then the Offset Amount shall include interest on such payment from the date paid at the rate from time to time specified in the Internal Revenue Code of 1954 for interest payable on refund claims.

"(5) It shall not be a defense to an action brought under this section that Norfolk Southern Corporation knew, or should have known, of the falsity of the Representations or that there exists no carryover basis procedure as contemplated by the last sentence of the Representations.

"(6) For purposes of this section, tax liability of Norfolk Southern Corporation shall include the tax liability of Norfolk Southern Corporation and its affiliated group, within the meaning of section 1504 of the Internal Revenue Code of 1954.".

APPLICABILITY OF CERTAIN LAWS TO SALE OF CONRAIL

SEC. 107. Section 408 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 768) is amended—

(1) by repealing subsection (b);

(2) by amending subsection (c) by striking "No transfer" and all that follows through "subject to" and inserting in lieu thereof "Except as provided in section 1152 of the Northeast Rail Service Act of 1981 (45 U.S.C. 1105), the Secretary's Plan and the Definitive Agreements and their negotiation, execution, and implementation shall not be subject to administrative or"; and

(3) by adding at the end of subsection (c) the following sentence: "The issuance in private placement of notes or other securities in accordance with exhibit B to the Memorandum of Intent (described in section 102(20)(A) of this Act) in the Secretary's Plan shall not be subject to the provisions of subtitle IV of title 49, United States Code.".

LABOR PROTECTION

SEC. 108. (a) Section 701(d)(2) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 797(d)(2)) is amended by striking "the last day of the eighteen-month period beginning on".

(b)(1) Title VII of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 797 et seq.) is amended by adding at the end thereof the following section:

"PROTECTION AFTER SALE

"SEC. 715. After consummation of the sale of the interest of the United States in the common stock of the Corporation pursuant to the Secretary's Plan, any employee of Norfolk Southern Corporation, the Corporation, any rail affiliate of either company, and any transferee of the rail tracks, rights, and facilities divested in accordance with the Secretary's Plan, who is adversely affected in his employment by the implementation of the Secretary's Plan shall receive from his employer protection under the labor protective conditions set forth in New York Dock Railway—Control—Brooklyn Eastern District Terminal (354 ICC 399 (1978), modified upon further consideration, 360 ICC 60 (1979)). The arbitration provisions of section 4 of New York Dock shall apply to the formation of any implementing agreements that may be necessary in connection with the implementation of the Sec-

retary's Plan, including any resulting coordinations.".

(2) The table of contents of the Regional Rail Reorganization Act of 1973 is amended by inserting immediately after the item relating to section 714 the following item:

"Sec. 715. Protection after sale.".

PREFERENTIAL HIRING

SEC. 109. Section 703 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 797b) is amended—

(1) by redesignating subsection (b) as subsection (c); and

(2) by inserting immediately after subsection (a) the following subsection:

"(b) IMPLEMENTATION OF SECRETARY'S PLAN.—Any employee of any railroad who is deprived of employment as a result of the implementation of the Secretary's Plan shall have the first right of hire for a vacancy for which he is qualified on any Norfolk Southern Corporation rail subsidiary, except where such vacancy is covered by (1) an affirmative action plan, or a hiring plan designated to eliminate discrimination, that is required by Federal or State statute, regulation, or Executive order, or by the order of a Federal court or agency, or (2) a permissible voluntary affirmative action plan. For purposes of this subsection, a railroad shall not be considered to be hiring new employees when it recalls any of its own furloughed employees.".

CROSS CRAFT EMPLOYMENT

SEC. 110. (a) Title VII of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 797 et seq.) is amended by inserting immediately after section 703 the following section:

"CROSS CRAFT EMPLOYMENT

"SEC. 703A. Any employee of Norfolk and Western Railway Company, Southern Railway Company, or the Corporation who is deprived of employment as a result of the implementation of the Secretary's Plan shall have the first right of hire for any vacancy for which such employee is qualified at the entry level of any Norfolk Southern Corporation rail subsidiary, without regard to craft or class or the provisions of section 703 of this Act. Such employee shall retain his seniority rights to return to his original craft or class whenever a vacancy occurs. For purposes of this section, a railroad shall not be considered to be hiring new employees when it recalls any of its own furloughed employees.".

(b) The table of contents of the Regional Rail Reorganization Act of 1973 is amended by inserting immediately after the item relating to section 703 the following item:

"Sec. 703A. Cross craft employment.".

Subtitle B—Northeast Rail Service Act of 1981 Amendments

SPECIAL COURT JURISDICTION

SEC. 121. (a) Section 1152 of the Northeast Rail Service Act of 1981 (45 U.S.C. 1105) is amended—

(1) by inserting "or the Conrail Sale Amendments Act of 1985" immediately after "subtitle" wherever it appears;

(2) in subsection (a), by striking "or" at the end of paragraph (3), by striking the period at the end of paragraph (4) and inserting in lieu thereof a semicolon, and by adding at the end thereof the following paragraphs:

"(5) brought by the United States or any agency or instrumentality thereof seeking to enforce the Secretary's Plan or the Definitive Agreements;

"(6) brought by Norfolk Southern Corporation seeking to enforce the Secretary's Plan or the Definitive Agreements;

"(7) brought by a party who filed a complaint with the Secretary under subsection (e) of this section, and who is aggrieved by (A) a determination of the Secretary under paragraph (1) of such subsection that the party has not suffered direct economic injury, or (B) a decision of the Secretary under paragraph (2) of such subsection that a covenant has not been violated;

"(8) brought by a party which is a signatory to an ancillary agreement entered into in accordance with the Secretary's Plan or the Definitive Agreements and which is seeking to enforce such ancillary agreement; or

"(9) brought to determine the value of the interest of the employee stock ownership plan and related trusts, or of the beneficiaries thereof, in the preferred stock of the Conrail Equity Corporation.

For purposes of any action brought under paragraph (5) of this subsection, a violation of any covenant contained in the Secretary's Plan or the Definitive Agreements shall be deemed to constitute immediate and irreparable harm for purposes of awarding injunctive relief to the United States.".

(b) Section 1152 of the Northeast Rail Service Act of 1981 (45 U.S.C. 1105) is amended by adding at the end thereof the following subsection:

"(e)(1) Any party who suffers direct economic injury as a result of an alleged violation of a covenant contained in the Definitive Agreements may file a complaint with the Secretary seeking enforcement of such covenant. If the Secretary determines that the complainant has demonstrated to the Secretary that it has suffered direct economic injury, the Secretary shall investigate the complaint.

"(2) If the Secretary decides to investigate a complaint under paragraph (1) of this subsection, the Secretary shall give reasonable notice of such decision to investigate to the alleged violator of such covenant and the complainant, and shall make a final decision on such complaint within 60 days after the date on which it was filed.

"(3) If the Secretary finds that (A) the covenant in question has been violated, and (B) the complainant suffered direct economic injury as a result of such violation, the Secretary shall enter an order directing the violator of such covenant to comply with such covenant.

"(4) On appeal, any decision by the Secretary under this subsection shall be upheld, unless such decision is found to be arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law.".

APPLICABILITY OF OTHER LAWS

SEC. 122. Section 1168(a) of the Northeast Rail Service Act of 1981 (45 U.S.C. 1116(a)) is amended by striking "service transfers" and inserting in lieu thereof "sale of the interest of the United States in the common stock of Conrail or transfer of the rail properties and freight service responsibilities of Conrail".

Subtitle C—Employee Stock Ownership Plan

RESPONSIBILITY OF EMPLOYEE STOCK OWNERSHIP PLAN FIDUCIARIES

SEC. 131. (a) Section 216(f)(8)(A) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 726(f)(8)(A)) is amended—

(1) by striking "or" at the end of clause (ii);

(2) by striking the period at the end of clause (iii) and inserting in lieu thereof "; or"; and

(3) by adding at the end thereof the following clause:

"(iv) for or in connection with any action taken to implement the Secretary's Plan, including any sale, exchange, valuation, or disposition of the plan and related trust assets, or the assets of Conrail Equity Corporation, in connection with implementation of the Secretary's Plan and any determination of the terms on which any such sale, exchange, valuation, or disposition is effected.".

QUALIFICATION, REVIEW, AND VALUATION OF EMPLOYEE STOCK OWNERSHIP PLANS

SEC. 132. Section 216(f) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 726(f)) is amended by adding at the end thereof the following paragraphs:

"(11) The employee stock ownership plans of the Corporation and related trusts maintained, amended, or adopted in implementing the Secretary's Plan shall be deemed to meet the qualification requirements of sections 401 and 501, respectively, of the Internal Revenue Code of 1954, notwithstanding (A) that such plans may not meet the requirements of section 415 of the Internal Revenue Code of 1954, or (B) that participants in such plans may be entitled to withdraw a portion of the shares allocated to their accounts prior to the expiration of the period generally imposed by the Internal Revenue Service for qualified plans. Such qualification shall relate only to the contributions, allocations, and withdrawals of shares provided for in the Secretary's Plan with respect to the plans and related trusts maintained, amended, or adopted in implementing the Secretary's Plan. Such contributions and allocations shall in no event be treated as having exceeded the maximum annual addition permitted under section 415 of the Internal Revenue Code of 1954 (but not for purposes of applying section 404(j) of the Internal Revenue Code of 1954) for purposes of calculating any limitation under section 415 with respect to contributions and allocations not described in the Secretary's Plan, including contributions and allocations to plans and related trusts of the Corporation and any affiliated corporation. The continued qualification of such plans with respect to all other contributions, allocations, and withdrawals shall be subject to all provisions of existing law, as amended from time to time. No inference shall be drawn from this paragraph as to whether an amount is a contribution deductible under section 404 of the Internal Revenue Code of 1954 rather than a non-deductible capital expenditure.

"(12) Except as provided in section 1152 of the Northeast Rail Service Act of 1981 (45 U.S.C. 1105), the issuance and sale or contribution of securities by Norfolk Southern Corporation to fulfill arrangements with the Corporation's employees in implementing the Secretary's Plan and the distribution of shares from the Corporation's employee stock ownership plans and related trusts maintained, amended, or adopted in implementing the Secretary's Plan shall not be subject to the registration and prospectus delivery requirements of the Securities Act of 1933, any approval requirement under subtitle IV of title 49, United States Code, or the laws of any State with respect to the issuance and sale of securities.".

TITLE II—TECHNICAL AND CONFORMING AMENDMENTS

REGIONAL RAIL REORGANIZATION ACT OF 1973 AMENDMENTS AND REPEALS

SEC. 201. The following provisions of the Regional Rail Reorganization Act of 1973 are repealed or amended as specified:

(1) Subsections (a) and (b) of section 214 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 724(a) and (b)) are repealed, and such section 214 is amended by striking "(c) ASSOCIATION.—".

(2) Subsection (f) of section 217 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 727(f)) is repealed, without prejudice to the continued availability of funds appropriated prior to the date of enactment of this Act pursuant to section 217(f)(1)(C) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 727(f)(1)(C)).

(3) Section 404 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 764), and the item relating to such section in the table of contents of such Act, are repealed.

(4) Section 405 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 765), and the item relating to such section in the table of contents of such Act, are repealed.

(5) Section 406 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 766), and the item relating to such section in the table of contents of such Act, are repealed.

(6) Section 407 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 767), and the item relating to such section in the table of contents of such Act, are repealed.

(7) Subsections (a) and (d) of section 408 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 768 (a) and (d)) are repealed.

(8) Section 409 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 769), and the item relating to such section in the table of contents of such Act, are repealed.

(9) Section 410 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 769a), and the item relating to such section in the table of contents of such Act, are repealed.

(10) Section 411 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 769b), and the item relating to such section in the table of contents of such Act, are repealed.

(11) Section 412 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 769c), and the item relating to such section in the table of contents of such Act, are repealed.

(12) Section 713 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 797l), and the item relating to such section in the table of contents of such Act, are repealed.

AMENDMENTS AND REPEALS OF OTHER RAIL LAWS

SEC. 202. The following provisions of law are repealed or amended as specified:

(1) Section 1154 of the Northeast Rail Service Act of 1981 (45 U.S.C. 1107), and the item relating to such section in the table of contents of such Act, are repealed.

(2) Section 1161 of the Northeast Rail Service Act of 1981 (45 U.S.C. 1110), and the item relating to such section in the table of contents of such Act, are repealed.

(3) Section 1166 of the Northeast Rail Service Act of 1981 (45 U.S.C. 1114), and the item relating to such section in the table of contents of such Act, are repealed.

(4) Subsection (c) of section 1167 of the Northeast Rail Service Act of 1981 (45 U.S.C. 1115(c)) is repealed.

(5) Subsection (b) of section 1168 of the Northeast Rail Service Act of 1981 (45 U.S.C. 1116(b)) is repealed.

(6) Section 501(8) of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 821(8)) is amended—

(A) by striking "(A)";

(B) by striking "(i)" and inserting in lieu thereof "(A)", and by striking "(ii)" and inserting in lieu thereof "(B)"; and

(C) by striking all after "utilization;".

(7) Section 505 of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 825) is amended—

(A) in subsection (a)(1), by striking all after "railroad" through "1981)"; and

(B) in subsection (b)(2)(C), by striking all after "costs" the second time it appears through "subsidy".

(8) Subsection (b)(1) of section 509 of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 829(b)(1)) is repealed.

(9) Section 511(e) of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 831(e)) is amended by striking "(1)", and by striking all after "time" and inserting in lieu thereof a period.

(10) Section 402 of the Rail Safety and Service Improvement Act of 1982 (45 U.S.C. 825a) is repealed.

(11) Section 1005(b)(1) of the Rail Passenger Service Act (45 U.S.C. 655(b)(1)) is amended by striking "the Consolidated Rail Corporation,".

(12) Section 10362(b)(7)(A) of title 49, United States Code, is amended by striking "by the Consolidated Rail Corporation or".

(13) Section 332(d) of title 49, United States Code, is amended by striking ", the Consolidated Rail Corporation,".

TITLE III—MISCELLANEOUS PROVISIONS

COMMON CARRIER STATUS OF CONRAIL AFTER SALE

SEC. 301. (a) Conrail's status as a common carrier by railroad under section 10102(4) of title 49, United States Code, shall not be affected by virtue of sale of the interest of the United States in Conrail's common stock. Purchase of Conrail stock shall not alone be the basis of a determination that the acquiring entity has become a common carrier by railroad under section 10102(4) of title 49, United States Code.

(b) The Definitive Agreements shall contain a binding commitment by Norfolk Southern Corporation to continue to operate Conrail in full compliance with the provisions of section 10731(e) of title 49, United States Code.

CONSUMMATION OF SALE

SEC. 302. The sale of the interest of the United States in the common stock of Conrail shall be deemed to be consummated on the date title to the common stock passes to Norfolk Southern Corporation and the United States receives the cash purchase price.

CONTRACTS

SEC. 303. (a) Except as provided in subsection (b) of this section, nothing in this Act shall affect—

(1) Conrail's obligation to carry out its transportation contracts and equipment leases, equipment trusts, and conditional sale agreements, in accordance with their terms; and

(2) the obligation of any transferee of divested assets to carry out transportation contracts and equipment leases, equipment trusts, and conditional sale agreements to which such assets are subject, in accordance with their terms.

(b) If a divestiture carried out pursuant to the Secretary's Plan precludes Conrail from providing a transportation service for which it has contracted without a right of termination that may be exercised in the event of the sale of the interest of the United States in the common stock of Conrail and the divestiture will result in a change or modification in the movement of the traffic involved, the transferee of the divested rights and properties and Conrail shall provide the contracted-for service on terms and conditions which, to the maximum extent possible, conform to the terms and conditions in the contract.

CONGRESSIONAL OVERSIGHT OF COMPLIANCE

SEC. 304. The Secretary shall, no later than January 31 of each year, submit to the Committee on Commerce, Science, and Transportation of the Senate and to the Committee on Energy and Commerce of the House of Representatives a report setting forth each certificate which Norfolk Southern Corporation and Conrail provided to the Secretary, during the preceding year, certifying compliance with the covenants contained in the Definitive Agreements.

SEPARABILITY

SEC. 305. If any provision of this Act or the application thereof to any person or circumstances is held invalid, the remainder of this Act and the application of such provision to other persons or circumstances shall not be affected thereby.

EFFECTIVE DATE

SEC. 306. (a) Except as provided in subsection (b) of this section, the provisions of and amendments made by this Act shall take effect on the date of enactment of this Act.

(b) Sections 108(a), 201 and 202 of this Act shall take effect on the date of consummation of the sale of the interest of the United States in the common stock of Conrail.

(c) Any provision of this Act which, pursuant to Article I, Section 7 of the Constitution, provides for raising revenue shall only be effective upon the enactment into law of a bill which has originated in the House of Representatives enacting such provision.

AMENDMENT No. 1460

In lieu of the language proposed to be inserted, insert the following:

That this Act may be cited as the "Conrail Sale Amendments Act of 1985".

FINDINGS

SEC. 2. The Congress finds that—

(1) the Northeast Rail Service Act of 1981 (45 U.S.C. 1101 et seq.) provided for an orderly return of Conrail freight service to the private sector;

(2) the provisions of the Northeast Rail Service Act of 1981 were successful in removing Conrail's obligations beyond railroad freight service and in otherwise preparing Conrail for an orderly return to the private sector;

(3) acting under section 403 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 763), the Board of Directors of the United States Railway Association twice found Conrail to be a profitable corporation;

(4) acting under section 401 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 761), the Secretary engaged an investment banker and arranged, through open competitive bidding and negotiation, to sell the interest of the United States in the common stock of Conrail;

(5) the Secretary's Plan for the sale of Conrail provides for sale of the interest of the United States in the common stock of Conrail to Norfolk Southern Corporation;

(6) the Secretary found that sale of the interest of the United States in the common

stock of Conrail to Norfolk Southern Corporation best meets the sale criteria of (A) leaving Conrail in the strongest financial position after the sale, (B) preserving patterns of service to shippers and communities in the region Conrail serves, and (C) maximizing return to the Federal Government consistent with the criteria specified in clauses (A) and (B);

(7) amendments to the Regional Rail Reorganization Act of 1973 (45 U.S.C. 701 et seq.) and related laws are needed to permit the sale of the interest of the United States in the common stock of Conrail to Norfolk Southern Corporation and to permit cancellation of the interest of the United States in Conrail debt and preferred stock; and

(8) the Secretary's Plan satisfies the requirements of the Northeast Rail Service Act of 1981, including the intent, goals, and objectives relating to the sale of the interest of the United States in the common stock of Conrail and the requirements of section 401(e) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 761(e)).

PURPOSE

SEC. 3. It is therefore declared to be the purpose of the Congress in this Act to return Conrail to the private sector by directing and facilitating implementation of the Secretary's Plan for the sale of the interest of the United States in the common stock of Conrail.

DEFINITIONS

SEC. 4. (a) In this Act, unless the context otherwise requires, the term—

(1) "Conrail" means the Consolidated Rail Corporation;

(2) "Definitive Agreements" means any and all agreements existing or to be developed between the United States and Norfolk Southern Corporation, including all representations and warranties made therein, to implement the Memorandum of Intent described in paragraph (4)(A);

(3) "Secretary" means the Secretary of Transportation; and

(4) "Secretary's Plan" means (A) the Memorandum of Intent between the United States and Norfolk Southern Corporation signed February 8, 1985, but not including paragraph 9(d)(iii) of such Memorandum of Intent, and (B) the divestitures by the Norfolk Southern Corporation of certain rail tracks, rights, and facilities, and any transactions or agreements related or incidental to such divestitures, in connection with the implementation of attachment A to the letter from the Department of Justice attached to the Memorandum of Intent as exhibit E.

(b) Section 102 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 702) is amended—

(1) by redesignating paragraphs (6) through (18) as paragraphs (7) through (19), and paragraphs (19) through (21) as paragraphs (21) through (23), respectively;

(2) by inserting after paragraph (5) the following paragraph:

"(6) 'Definitive Agreements' means any and all agreements existing or to be developed between the United States and Norfolk Southern Corporation, including all representations and warranties made therein, to implement the Memorandum of Intent described in paragraph (20)(A);"; and

(3) by inserting after paragraph (19), as so redesignated, the following paragraph:

"(20) 'Secretary's Plan' means (A) the Memorandum of Intent between the United States and Norfolk Southern Corporation signed February 8, 1985, and (B) the divestitures by the Norfolk Southern Corporation of certain rail tracks, rights, and facilities, and any transactions or agreements related or incidental to such divestitures, in connection with the implementation of attachment A to the letter from the Department of Justice attached to the Memorandum of Intent as exhibit E;".

(c) Section 1135(a) of the Northeast Rail Service Act of 1981 (45 U.S.C. 1104(a)) is amended—

(1) by redesignating paragraphs (6), (7), and (8) as paragraphs (7), (8), and (10), respectively;

(2) by inserting after paragraph (5) the following paragraph:

"(6) 'Definitive Agreements' means any and all agreements existing or to be developed between the United States and Norfolk Southern Corporation, including all representations and warranties made therein, to implement the Memorandum of Intent described in paragraph (9)(A);"; and

(3) by inserting after paragraph (8), as so redesignated, the following paragraph:

"(9) 'Secretary's Plan' means (A) the Memorandum of Intent between the United States and Norfolk Southern Corporation signed February 8, 1985, and (B) the divestitures by the Norfolk Southern Corporation of certain rail tracks, rights, and facilities, and any transactions or agreements related or incidental to such divestitures, in connection with the implementation of attachment A to the letter from the Department of Justice attached to the Memorandum of Intent as exhibit E;".

TITLE I—AMENDMENTS TO THE REGIONAL RAIL REORGANIZATION ACT OF 1973 AND THE NORTHEAST RAIL SERVICE ACT OF 1981

Subtitle A—Regional Rail Reorganization Act of 1973 Amendments

LIMIT ON AUTHORITY TO PURCHASE STOCK

SEC. 101. Section 216(b) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 726(b)) is amended by adding at the end thereof the following paragraph:

"(5) The authority of the Association to purchase debentures or series A preferred stock of the Corporation under this section shall terminate upon the consummation of the sale of the interest of the United States in the common stock of the Corporation under the terms of the Secretary's Plan.".

RESPONSIBILITY OF CONRAIL DIRECTORS

SEC. 102. Section 301(i) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 741(i)) is amended by inserting immediately after "required by law" the following: ", taken to implement the Secretary's Plan,".

APPLICABILITY OF REGIONAL RAIL REORGANIZATION ACT OF 1973 TO CONRAIL AFTER SALE

SEC. 103. Section 301 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 741) is amended by adding at the end thereof the following subsection:

"(k) GOVERNING PROVISIONS AFTER SALE.—The provisions of this Act shall not apply to the Corporation and to activities and other actions and responsibilities of the Corporation and its directors after consummation of the sale of the interest of the United States in the common stock of the Corporation under the terms of the Conrail Sale Amendments Act of 1985, other than with regard to—

"(1) section 102 of this Act;

"(2) section 201(d) of this Act;

"(3) section 203 of this Act, but only with respect to information relating to proceedings before the special court established under section 209(b);

"(4) section 216(f)(8) of this Act, but only as such authority applies to activities related to the employee stock ownership plan and related trusts prior to or in connection with consummation of the sale of the interest of the United States in the common stock of the Corporation, including activities related to the sale, exchange, valuation, or disposition of the assets of the employee stock ownership plan and related trusts, or of Conrail Equity Corporation, in connection with the Secretary's Plan;

"(5) sections 216(f)(11) and 216(f)(12) of this Act, as amended by the Conrail Sale Amendments Act of 1985;

"(6) section 217(e) of this Act;

"(7) subsection (i) of this section, but only as such authority applies to service as a director of the Corporation prior to consummation or in connection with implementation of the sale of the interest of the United States in the common stock of the Corporation;

"(8) section 305 of this Act, but only as to the effect, and continuing administration, of supplemental transactions consummated prior to consummation of the sale of the interest of the United States in the common stock of the Corporation;

"(9) section 308 of this Act, but only in abandonment actions when such authority has been relied on to file a notice or notices of insufficent revenues prior to consummation of the sale of the interest of the United States in the common stock of the Corporation;

"(10) section 401(a) of this Act, as amended by the Conrail Sale Amendments Act of 1985;

"(11) section 402 of this Act, as amended by the Conrail Sale Amendments Act of 1985;

"(12) section 408(c) of this Act, as amended by the Conrail Sale Amendments Act of 1985;

"(13) section 701 of this Act, but only as may be necessary to identify employees eligible for benefits under agreements entered into under such section;

"(14) section 702(e) of this Act;

"(15) section 704(b) of this Act;

"(16) section 709 of this Act;

"(17) section 710(b)(1) of this Act;

"(18) section 711 of this Act;

"(19) section 714 of this Act, but only with regard to disputes or controversies specified in such section that arose prior to consummation of the sale of the interest of the United States in the common stock of the Corporation; and

"(20) section 715 of this Act, as amended by the Conrail Sale Amendments Act of 1985.".

IMPLEMENTATION OF THE SECRETARY'S PLAN

SEC. 104. (a) Section 401(a)(3) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 761(a)(3)) is amended to read as follows:

"(3) The Secretary is authorized and directed to implement the Secretary's Plan, in accordance with paragraph (4) of this subsection. Such implementation of the Secretary's Plan and the coordinated operation of the Corporation's properties with those of Norfolk Southern Corporation and its affiliates as a single rail system is deemed approved by the Commission under chapter 113 of title 49, United States Code.".

(b) Section 401(a) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 761(a)) is amended by adding at the end thereof the following paragraphs:

"(4) The Secretary shall implement the Secretary's Plan by negotiating, executing, delivering, and performing the Definitive Agreements, which shall conform to the Memorandum of Intent described in section 102(20)(A) of this Act. The Secretary shall, 45 calendar days before the date on which the Secretary anticipates that the interest of the United States in the common stock of the Corporation will be sold to Norfolk Southern Corporation, transmit to the Committee on Commerce, Science, and Transportation of the Senate and to the Committee on Energy and Commerce of the House of Representatives a notification of any alteration from the Memorandum of Intent described in section 102(20)(A) of this Act which will be made in the Definitive Agreements. After the date of such sale, the Secretary shall transmit to such Committees notification of any intent to waive compliance with any substantive covenant, agreement or obligation contained in the Definitive Agreements, and the Secretary may not waive such compliance until a period of 45 calendar days has expired after the date of such transmittal.

"(5) The Secretary shall not transfer the interest of the United States in the common stock of the Corporation except concurrently with a divestiture by Norfolk Southern Corporation of rail assets and rights approved by the Attorney General.

"(6) The sale of the interest of the United States in the common stock of the Corporation shall be deemed to be consummated at the date title to the common stock passes to Norfolk Southern Corporation and the United States receives the cash purchase price.".

RAILROAD PURCHASERS AND OFFER FOR SALE OF SHARES TO EMPLOYEES

SEC. 105. Subsections (d) and (e) of section 401 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 761(d) and (e)) are repealed.

CANCELLATION OF DEBT AND PREFERRED STOCK

SEC. 106. Section 402 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 762) is amended to read as follows:

"DEBT AND PREFERRED STOCK

"SEC. 402. (a) RECAPITALIZATION.—In connection with the sale of the interest of the United States in the common stock of the Corporation under section 401 of this Act, and consistent with the Secretary's Plan, the Secretary may take all action necessary to cause the Corporation to be recapitalized such that the interest of the United States, or any agent or instrumentality thereof, and all other commitments or obligations of the Corporation to the United States or any agent or instrumentality thereof arising out of such interest, in any debt (including accrued interest and contingent interest thereon) and preferred stock (including accrued and unpaid dividends thereon) of the Corporation shall be cancelled or retired, and contributed to the capital of the Corporation. The Secretary shall cause the recapitalization authorized by this section to be effective as of the consummation of the sale of the interest of the United States in the common stock of the Corporation.

"(b) BREACH OF REPRESENTATIONS.—(1) Norfolk Southern Corporation or any successor corporation thereto may bring suit for any breach of representations contained in paragraph 6(e) of the Memorandum of Intent described in section 102(20)(A) of this Act (hereinafter referred to as the 'Representations') in the United States Claims Court or a district court of the United States. If such an action is brought, the Claims Court or district court shall determine the amount by which the United States income tax (including interest and penalties whether or not such penalties are assessed as a tax under the Internal Revenue Code of 1954) assessable against the Corporation or against Norfolk Southern Corporation for any year exceeds the amount of such tax which would have been assessable for such year had such Representations not been breached (hereinafter referred to as the 'Offset Amount').

"(2) The Representations shall be considered breached and Norfolk Southern Corporation shall be entitled to bring suit upon the first occurrence of any of the following that is inconsistent with the Representations: (A) the issuance by the Internal Revenue Service of a statutory notice of deficiency (90-day letter), (B) the assessment of the United States income tax, or (C) any claim by the United States in a suit or other judicial proceeding against Norfolk Southern Corporation or the Corporation.

"(3) The right to bring suit pursuant to this section shall not be subject to any waiting period applicable to tax proceedings or to any requirements for payment of any tax as a condition to instituting any suit based on a breach of the Representations.

"(4) Any judgment for money damages relating to breach of the Representations shall only be awarded as an offset in any court or administrative proceeding against the tax liability of Norfolk Southern Corporation or the Corporation, or both, to which such breach relates; except that if any such tax liability resulting from such breach has been paid, the judgment shall to that extent be an offset against any United States income tax liability of the Norfolk Southern Corporation or the Corporation, or both. If any portion of the tax resulting from a breach of the Representations has been paid, then the Offset Amount shall include interest on such payment from the date paid at the rate from time to time specified in the Internal Revenue Code of 1954 for interest payable on refund claims.

"(5) It shall not be a defense to an action brought under this section that Norfolk Southern Corporation knew, or should have known, of the falsity of the Representations or that there exists no carryover basis procedure as contemplated by the last sentence of the Representations.

"(6) For purposes of this section, tax liability of Norfolk Southern Corporation shall include the tax liability of Norfolk Southern Corporation and its affiliated group, within the meaning of section 1504 of the Internal Revenue Code of 1954.".

APPLICABILITY OF CERTAIN LAWS TO SALE OF CONRAIL

SEC. 107. Section 408 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 768) is amended—

(1) by repealing subsection (b);

(2) by amending subsection (c) by striking "No transfer" and all that follows through "subject to" and inserting in lieu thereof "Except as provided in section 1152 of the Northeast Rail Service Act of 1981 (45 U.S.C. 1105), the Secretary's Plan and the Definitive Agreements and their negotiation, execution, and implementation shall not be subject to administrative or"; and

(3) by adding at the end of subsection (c) the following sentence: "The issuance in private placement of notes or other securities in accordance with exhibit B to the Memorandum of Intent (described in section 102(20)(A) of this Act) in the Secretary's Plan shall not be subject to the provisions of subtitle IV of title 49, United States Code.".

LABOR PROTECTION

SEC. 108. (a) Section 701(d)(2) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 797(d)(2)) is amended by striking "the last day of the eighteen-month period beginning on".

(b)(1) Title VII of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 797 et seq.) is amended by adding at the end thereof the following section:

"PROTECTION AFTER SALE

"SEC. 715. After consummation of the sale of the interest of the United States in the common stock of the Corporation pursuant to the Secretary's Plan, any employee of Norfolk Southern Corporation, the Corporation, any rail affiliate of either company, and any transferee of the rail tracks, rights, and facilities divested in accordance with the Secretary's Plan, who is adversely affected in his employment by the implementation of the Secretary's Plan shall receive from his employer protection under the labor protective conditions set forth in New York Dock Railway—Control—Brooklyn Eastern District Terminal (354 ICC 399 (1978), modified upon further consideration, 360 ICC 60 (1979)). The arbitration provisions of section 4 of New York Dock shall apply to the formation of any implementing agreements that may be necessary in connection with the implementation of the Secretary's Plan, including any resulting coordinations.".

(2) The table of contents of the Regional Rail Reorganization Act of 1973 is amended by inserting immediately after the item relating to section 714 the following item:

"Sec. 715. Protection after sale.".

PREFERENTIAL HIRING

SEC. 109. Section 703 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 797b) is amended—

(1) by redesignating subsection (b) as subsection (c); and

(2) by inserting immediately after subsection (a) the following subsection:

"(b) IMPLEMENTATION OF SECRETARY'S PLAN.—Any employee of any railroad who is deprived of employment as a result of the implementation of the Secretary's Plan shall have the first right of hire for a vacancy for which he is qualified on any Norfolk Southern Corporation rail subsidiary, except where such vacancy is covered by (1) an affirmative action plan, or a hiring plan designated to eliminate discrimination, that is required by Federal or State statute, regulation, or Executive order, or by the order of a Federal court or agency, or (2) a permissible voluntary affirmative action plan. For purposes of this subsection, a railroad shall not be considered to be hiring new employees when it recalls any of its own furloughed employees.".

CROSS CRAFT EMPLOYMENT

SEC. 110. (a) Title VII of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 797 et seq.) is amended by inserting immediately after section 703 the following section:

"CROSS CRAFT EMPLOYMENT

"SEC. 703A. Any employee of Norfolk and Western Railway Company, Southern Railway Company, or the Corporation who is deprived of employment as a result of the implementation of the Secretary's Plan shall have the first right of hire for any vacancy for which such employee is qualified

at the entry level of any Norfolk Southern Corporation rail subsidiary, without regard to craft or class or the provisions of section 703 of this Act. Such employee shall retain his seniority rights to return to his original craft or class whenever a vacancy occurs. For purposes of this section, a railroad shall not be considered to be hiring new employees when it recalls any of its own furloughed employees.".

(b) The table of contents of the Regional Rail Reorganization Act of 1973 is amended by inserting immediately after the item relating to section 703 the following item:

"Sec. 703A. Cross craft employment.".

Subtitle B—Northeast Rail Service Act of 1981 Amendments

SPECIAL COURT JURISDICTION

SEC. 121. (a) Section 1152 of the Northeast Rail Service Act of 1981 (45 U.S.C. 1105) is amended—

(1) by inserting "or the Conrail Sale Amendments Act of 1985" immediately after "subtitle" wherever it appears;

(2) in subsection (a), by striking "or" at the end of paragraph (3), by striking the period at the end of paragraph (4) and inserting in lieu thereof a semicolon, and by adding at the end thereof the following paragraphs:

"(5) brought by the United States or any agency or instrumentality thereof seeking to enforce the Secretary's Plan or the Definitive Agreements;

"(6) brought by Norfolk Southern Corporation seeking to enforce the Secretary's Plan or the Definitive Agreements;

"(7) brought by a party who filed a complaint with the Secretary under subsection (e) of this section, and who is aggrieved by (A) a determination of the Secretary under paragraph (1) of such subsection that the party has not suffered direct economic injury, or (B) a decision of the Secretary under paragraph (2) of such subsection that a covenant has not been violated;

"(8) brought by a party which is a signatory to an ancillary agreement entered into in accordance with the Secretary's Plan or the Definitive Agreements and which is seeking to enforce such ancillary agreement; or

"(9) brought to determine the value of the interest of the employee stock ownership plan and related trusts, or of the beneficiaries thereof, in the preferred stock of the Conrail Equity Corporation.

For purposes of any action brought under paragraph (5) of this subsection, a violation of any covenant contained in the Secretary's Plan or the Definitive Agreements shall be deemed to constitute immediate and irreparable harm for purposes of awarding injunctive relief to the United States.".

(b) Section 1152 of the Northeast Rail Service Act of 1981 (45 U.S.C. 1105) is amended by adding at the end thereof the following subsection:

"(e)(1) Any party who suffers direct economic injury as a result of an alleged violation of a covenant contained in the Definitive Agreements may file a complaint with the Secretary seeking enforcement of such covenant. If the Secretary determines that the complainant has demonstrated to the Secretary that it has suffered direct economic injury, the Secretary shall investigate the complaint.

"(2) If the Secretary decides to investigate a complaint under paragraph (1) of this subsection, the Secretary shall give reasonable notice of such decision to investigate to the alleged violator of such covenant and the complainant, and shall make a final decision on such complaint within 60 days after the date on which it was filed.

"(3) If the Secretary finds that (A) the covenant in question has been violated, and (B) the complainant suffered direct economic injury as a result of such violation, the Secretary shall enter an order directing the violator of such covenant to comply with such covenant.

"(4) On appeal, any decision by the Secretary under this subsection shall be upheld, unless such decision is found to be arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law.".

APPLICABILITY OF OTHER LAWS

SEC. 122. Section 1168(a) of the Northeast Rail Service Act of 1981 (45 U.S.C. 1116(a)) is amended by striking "service transfers" and inserting in lieu thereof "sale of the interest of the United States in the common stock of Conrail or transfer of the rail properties and freight service responsibilities of Conrail".

Subtitle C—Employee Stock Ownership Plan

RESPONSIBILITY OF EMPLOYEE STOCK OWNERSHIP PLAN FIDUCIARIES

SEC. 131. (a) Section 216(f)(8)(A) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 726(f)(8)(A)) is amended—

(1) by striking "or" at the end of clause (ii);

(2) by striking the period at the end of clause (iii) and inserting in lieu thereof "; or"; and

(3) by adding at the end thereof the following clause:

"(iv) for or in connection with any action taken to implement the Secretary's Plan, including any sale, exchange, valuation, or disposition of the plan and related trust assets, or the assets of Conrail Equity Corporation, in connection with implementation of the Secretary's Plan and any determination of the terms on which any such sale, exchange, valuation, or disposition is effected.".

QUALIFICATION, REVIEW, AND VALUATION OF EMPLOYEE STOCK OWNERSHIP PLANS

SEC. 132. Section 216(f) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 726(f)) is amended by adding at the end thereof the following paragraphs:

"(11) The employee stock ownership plans of the Corporation and related trusts maintained, amended, or adopted in implementing the Secretary's Plan shall be deemed to meet the qualification requirements of sections 401 and 501, respectively, of the Internal Revenue Code of 1954, notwithstanding (A) that such plans may not meet the requirements of section 415 of the Internal Revenue Code of 1954, or (B) that participants in such plans may be entitled to withdraw a portion of the shares allocated to their accounts prior to the expiration of the period generally imposed by the Internal Revenue Service for qualified plans. Such qualification shall relate only to the contributions, allocations, and withdrawals of shares provided for in the Secretary's Plan with respect to the plans and related trusts maintained, amended, or adopted in implementing the Secretary's Plan. Such contributions and allocations shall in no event be treated as having exceeded the maximum annual addition permitted under section 415 of the Internal Revenue Code of 1954 (but not for purposes of applying section 404(j) of the Internal Revenue Code of 1954) for purposes of calculating any limitation under section 415 with respect to contributions and allocations not described in the Secretary's Plan, including contributions and allocations to plans and related trusts of the Corporation and any affiliated corporation. The continued qualification of such plans with respect to all other contributions, allocations, and withdrawals shall be subject to all provisions of existing law, as amended from time to time. No inference shall be drawn from this paragraph as to whether an amount is a contribution deductible under section 404 of the Internal Revenue Code of 1954 rather than a non-deductible capital expenditure.

"(12) Except as provided in section 1152 of the Northeast Rail Service Act of 1981 (45 U.S.C. 1105), the issuance and sale or contribution of securities by Norfolk Southern Corporation to fulfill arrangements with the Corporation's employees in implementing the Secretary's Plan and the distribution of shares from the Corporation's employee stock ownership plans and related trusts maintained, amended, or adopted in implementing the Secretary's Plan shall not be subject to the registration and prospectus delivery requirements of the Securities Act of 1933, any approval requirement under subtitle IV of title 49, United States Code, or the laws of any State with respect to the issuance and sale of securities.".

TITLE II—TECHNICAL AND CONFORMING AMENDMENTS

REGIONAL RAIL REORGANIZATION ACT OF 1973 AMENDMENTS AND REPEALS

SEC. 201. The following provisions of the Regional Rail Reorganization Act of 1973 are repealed or amended as specified:

(1) Subsections (a) and (b) of section 214 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 724(a) and (b)) are repealed, and such section 214 is amended by striking "(c) ASSOCIATION.—".

(2) Subsection (f) of section 217 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 727(f)) is repealed, without prejudice to the continued availability of funds appropriated prior to the date of enactment of this Act pursuant to section 217(f)(1)(C) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 727(f)(1)(C)).

(3) Section 404 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 764), and the item relating to such section in the table of contents of such Act, are repealed.

(4) Section 405 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 765), and the item relating to such section in the table of contents of such Act, are repealed.

(5) Section 406 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 766), and the item relating to such section in the table of contents of such Act, are repealed.

(6) Section 407 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 765), and the item relating to such section in the table of contents of such Act, are repealed.

(7) Subsections (a) and (d) of section 408 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 768 (a) and (d)) are repealed.

(8) Section 409 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 769), and the item relating to such section in the table of contents of such Act, are repealed.

(9) Section 410 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 769a), and the item relating to such section in the table of contents of such Act, are repealed.

(10) Section 411 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 769b), and the item relating to such section in the table of contents of such Act, are repealed.

(11) Section 412 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 769c),

and the item relating to such section in the table of contents of such Act, are repealed.

(12) Section 713 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 797l), and the item relating to such section in the table of contents of such Act, are repealed.

AMENDMENTS AND REPEALS OF OTHER RAIL LAWS

SEC. 202. The following provisions of law are repealed or amended as specified:

(1) Section 1154 of the Northeast Rail Service Act of 1981 (45 U.S.C. 1107), and the item relating to such section in the table of contents of such Act, are repealed.

(2) Section 1161 of the Northeast Rail Service Act of 1981 (45 U.S.C. 1110), and the item relating to such section in the table of contents of such Act, are repealed.

(3) Section 1166 of the Northeast Rail Service Act of 1981 (45 U.S.C. 1114), and the item relating to such section in the table of contents of such Act, are repealed.

(4) Subsection (c) of section 1167 of the Northeast Rail Service Act of 1981 (45 U.S.C. 1115(c)) is repealed.

(5) Subsection (b) of section 1168 of the Northeast Rail Service Act of 1981 (45 U.S.C. 1116(b)) is repealed.

(6) Section 501(8) of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 821(8)) is amended—

(A) by striking "(A)";

(B) by striking "(i)" and inserting in lieu thereof "(A)", and by striking "(ii)" and inserting in lieu thereof "(B)"; and

(C) by striking all after "utilization;".

(7) Section 505 of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 825) is amended—

(A) in subsection (a)(1), by striking all after "railroad" through "1981)"; and

(B) in subsection (b)(2)(C), by striking all after "costs" the second time it appears through "subsidy".

(8) Subsection (b)(1) of section 509 of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 829(b)(1)) is repealed.

(9) Section 511(e) of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 831(e)) is amended by striking "(1)", and by striking all after "time" and inserting in lieu thereof a period.

(10) Section 402 of the Rail Safety and Service Improvement Act of 1982 (45 U.S.C. 825a) is repealed.

(11) Section 1005(b)(1) of the Rail Passenger Service Act (45 U.S.C. 655(b)(1)) is amended by striking "the Consolidated Rail Corporation,".

(12) Section 10362(b)(7)(A) of title 49, United States Code, is amended by striking "by the Consolidated Rail Corporation or".

(13) Section 332(d) of title 49, United States Code, is amended by striking ", the Consolidated Rail Corporation,".

TITLE III—MISCELLANEOUS PROVISIONS

COMMON CARRIER STATUS OF CONRAIL AFTER SALE

SEC. 301. (a) Conrail's status as a common carrier by railroad under section 10102(4) of title 49, United States Code, shall not be affected by virtue of sale of the interest of the United States in Conrail's common stock. Purchase of Conrail stock shall not alone be the basis of a determination that the acquiring entity has become a common carrier by railroad under section 10102(4) of title 49, United States Code.

(b) The Definitive Agreements shall contain a binding commitment by Norfolk Southern Corporation to continue to operate Conrail in full compliance with the provisions of section 10731(e) of title 49, United States Code.

CONSUMMATION OF SALE

SEC. 302. The sale of the interest of the United States in the common stock of Conrail shall be deemed to be consummated on the date title to the common stock passes to Norfolk Southern Corporation and the United States receives the cash purchase price.

CONTRACTS

SEC. 303. (a) Except as provided in subsection (b) of this section, nothing in this Act shall affect—

(1) Conrail's obligation to carry out its transportation contracts and equipment leases, equipment trusts, and conditional sale agreements, in accordance with their terms; and

(2) the obligation of any transferee of divested assets to carry out transportation contracts and equipment leases, equipment trusts, and conditional sale agreements to which such assets are subject, in accordance with their terms.

(b) If a divestiture carried out pursuant to the Secretary's Plan precludes Conrail from providing a transportation service for which it has contracted without a right of termination that may be exercised in the event of the sale of the interest of the United States in the common stock of Conrail and the divestiture will result in a change or modification in the movement of the traffic involved, the transferee of the divested rights and properties and Conrail shall provide the contracted-for service on terms and conditions which, to the maximum extent possible, conform to the terms and conditions in the contract.

CONGRESSIONAL OVERSIGHT OF COMPLIANCE

SEC. 304. The Secretary shall, no later than January 31 of each year, submit to the Committee on Commerce, Science, and Transportation of the Senate and to the Committee on Energy and Commerce of the House of Representatives a report setting forth each certificate which Norfolk Southern Corporation and Conrail provided to the Secretary, during the preceding year, certifying compliance with the covenants contained in the Definitive Agreements.

SEPARABILITY

SEC. 305. If any provision of this Act or the application thereof to any person or circumstances is held invalid, the remainder of this Act and the application of such provision to other persons or circumstances shall not be affected thereby.

EFFECTIVE DATE

SEC. 306. (a) Except as provided in subsection (b) of this section, the provisions of and amendments made by this Act shall take effect on the date of enactment of this Act.

(b) Sections 108(a), 201 and 202 of this Act shall take effect on the date of consummation of the sale of the interest of the United States in the common stock of Conrail.

(c) Any provision of this Act which, pursuant to Article I, Section 7 of the Constitution, provides for raising revenue shall only be effective upon the enactment into law of a bill which has originated in the House of Representatives enacting such provision.

AMENDMENT NO. 1461

On page 4, line 19, immediately after the second comma insert the following new language: "but not including paragraph 9(d)(iii) of such Memorandum of Intent,".

AMENDMENT NO. 1462

On page 5, line 19, immediately after the second comma insert the following new language: "but not including paragraph 9(d)(iii) of such Memorandum of Intent,".

AMENDMENT NO. 1463

On page 6, line 19, immediately after the second comma insert the following new language: "but not including paragraph 9(d)(iii) of such Memorandum of Intent,".

AMENDMENT NO. 1464

On page 6, line 19, immediately after the second comma insert the following new language: "but not including paragraph 9(d)(iii) of such Memorandum of Intent,".

AMENDMENT NO. 1465

On page 5, line 19, immediately after the second comma insert the following new language: "but not including paragraph 9(d)(iii) of such Memorandum of Intent,".

AMENDMENT NO. 1466

On page 4, line 19, immediately after the second comma insert the following new language: "but not including paragraph 9(d)(iii) of such Memorandum of Intent,".

AMENDMENT NO. 1467

In lieu of the language proposed to be inserted, insert the following:

That this Act may be cited as the "Conrail Sale Amendments Act of 1985".

FINDINGS

SEC. 2. The Congress finds that—

(1) the Northeast Rail Service Act of 1981 (45 U.S.C. 1101 et seq.) provided for an orderly return of Conrail freight service to the private sector;

(2) the provisions of the Northeast Rail Service Act of 1981 were successful in removing Conrail's obligations beyond railroad freight service and in otherwise preparing Conrail for an orderly return to the private sector;

(3) acting under section 403 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 763), the Board of Directors of the United States Railway Association twice found Conrail to be a profitable corporation;

(4) acting under section 401 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 761), the Secretary engaged an investment banker and arranged, through open competitive bidding and negotiation, to sell the interest of the United States in the common stock of Conrail;

(5) the Secretary's Plan for the sale of Conrail provides for sale of the interest of the United States in the common stock of Conrail to Norfolk Southern Corporation;

(6) the Secretary found that sale of the interest of the United States in the common stock of Conrail to Norfolk Southern Corporation best meets the sale criteria of (A) leaving Conrail in the strongest financial position after the sale, (B) preserving patterns of service to shippers and communities in the region Conrail serves, and (C) maximizing return to the Federal Government consistent with the criteria specified in clauses (A) and (B);

(7) amendments to the Regional Rail Reorganization Act of 1973 (45 U.S.C. 701 et seq.) and related laws are needed to permit the sale of the interest of the United States in the common stock of Conrail to Norfolk Southern Corporation and to permit cancel-

lation of the interest of the United States in Conrail debt and preferred stock; and

(8) the Secretary's Plan satisfies the requirements of the Northeast Rail Service Act of 1981, including the intent, goals, and objectives relating to the sale of the interest of the United States in the common stock of Conrail and the requirements of section 401(e) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 761(e)).

PURPOSE

SEC. 3. It is therefore declared to be the purpose of the Congress in this Act to return Conrail to the private sector by directing and facilitating implementation of the Secretary's Plan for the sale of the interest of the United States in the common stock of Conrail.

DEFINITIONS

SEC. 4. (a) In this Act, unless the context otherwise requires, the term—

(1) "Conrail" means the Consolidated Rail Corporation;

(2) "Definitive Agreements" means any and all agreements existing or to be developed between the United States and Norfolk Southern Corporation, including all representations and warranties made therein, to implement the Memorandum of Intent described in paragraph (4)(A);

(3) "Secretary" means the Secretary of Transportation; and

(4) "Secretary's Plan" means (A) the Memorandum of Intent between the United States and Norfolk Southern Corporation signed February 8, 1985, and (B) the divestitures by the Norfolk Southern Corporation of certain rail tracks, rights, and facilities, and any transactions or agreements related or incidental to such divestitures, in connection with the implementation of attachment A to the letter from the Department of Justice attached to the Memorandum of Intent as exhibit E.

(b) Section 102 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 702) is amended—

(1) by redesignating paragraphs (6) through (18) as paragraphs (7) through (19), and paragraphs (19) through (21) as paragraphs (21) through (23), respectively;

(2) by inserting after paragraph (5) the following paragraph:

"(6) 'Definitive Agreements' means any and all agreements existing or to be developed between the United States and Norfolk Southern Corporation, including all representations and warranties made therein, to implement the Memorandum of Intent described in paragraph (20)(A);"; and

(3) by inserting after paragraph (19), as so redesignated, the following paragraph:

"(20) 'Secretary's Plan' means (A) the Memorandum of Intent between the United States and Norfolk Southern Corporation signed February 8, 1985, and (B) the divestitures by the Norfolk Southern Corporation of certain rail tracks, rights, and facilities, and any transactions or agreements related or incidental to such divestitures, in connection with the implementation of attachment A to the letter from the Department of Justice attached to the Memorandum of Intent as exhibit E;".

(c) Section 1135(a) of the Northeast Rail Service Act of 1981 (45 U.S.C. 1104(a)) is amended—

(1) by redesignating paragraphs (6), (7), and (8) as paragraphs (7), (8), and (10), respectively;

(2) by inserting after paragraph (5) the following paragraph:

"(6) 'Definitive Agreements' means any and all agreements existing or to be developed between the United States and Norfolk Southern Corporation, including all representations and warranties made therein, to implement the Memorandum of Intent described in paragraph (9)(A);"; and

(3) by inserting after paragraph (8), as so redesignated, the following paragraph:

"(9) 'Secretary's Plan' means (A) the Memorandum of Intent between the United States and Norfolk Southern Corporation signed February 8, 1985, and (B) the divestitures by the Norfolk Southern Corporation of certain rail tracks, rights, and facilities, and any transactions or agreements related or incidental to such divestitures, in connection with the implementation of attachment A to the letter from the Department of Justice attached to the Memorandum of Intent as exhibit E;".

TITLE I—AMENDMENTS TO THE REGIONAL RAIL REORGANIZATION ACT OF 1973 AND THE NORTHEAST RAIL SERVICE ACT OF 1981

Subtitle A—Regional Rail Reorganization Act of 1973 Amendments

LIMIT ON AUTHORITY TO PURCHASE STOCK

SEC. 101. Section 216(b) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 726(b)) is amended by adding at the end thereof the following paragraph:

"(5) The authority of the Association to purchase debentures or series A preferred stock of the Corporation under this section shall terminate upon the consummation of the sale of the interest of the United States in the common stock of the Corporation under the terms of the Secretary's Plan.".

RESPONSIBILITY OF CONRAIL DIRECTORS

SEC. 102. Section 301(i) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 741(i)) is amended by inserting immediately after "required by law" the following: ", taken to implement the Sccretary's Plan,".

APPLICABILITY OF REGIONAL RAIL REORGANIZATION ACT OF 1973 TO CONRAIL AFTER SALE

SEC. 103. Section 301 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 741) is amended by adding at the end thereof the following subsection:

"(k) GOVERNING PROVISIONS AFTER SALE.—The provisions of this Act shall not apply to the Corporation and to activities and other actions and responsibilities of the Corporation and its directors after consummation of the sale of the interest of the United States in the common stock of the Corporation under the terms of the Conrail Sale Amendments Act of 1985, other than with regard to—

"(1) section 102 of this Act;

"(2) section 201(d) of this Act;

"(3) section 203 of this Act, but only with respect to information relating to proceedings before the special court established under section 209(b);

"(4) section 216(f)(8) of this Act, but only as such authority applies to activities related to the employee stock ownership plan and related trusts prior to or in connection with consummation of the sale of the interest of the United States in the common stock of the Corporation, including activities related to the sale, exchange, valuation, or disposition of the assets of the employee stock ownership plan and related trusts, or of Conrail Equity Corporation, in connection with the Secretary's Plan;

"(5) sections 216(f)(11) and 216(f)(12) of this Act, as amended by the Conrail Sale Amendments Act of 1985;

"(6) section 217(e) of this Act;

"(7) subsection (i) of this section, but only as such authority applies to service as a director of the Corporation prior to consummation or in connection with implementation of the sale of the interest of the United States in the common stock of the Corporation;

"(8) section 305 of this Act, but only as to the effect, and continuing administration, of supplemental transactions consummated prior to consummation of the sale of the interest of the United States in the common stock of the Corporation;

"(9) section 308 of this Act, but only in abandonment actions when such authority has been relied on to file a notice or notices of insufficent revenues prior to consummation of the sale of the interest of the United States in the common stock of the Corporation;

"(10) section 401(a) of this Act, as amended by the Conrail Sale Amendments Act of 1985;

"(11) section 402 of this Act, as amended by the Conrail Sale Amendments Act of 1985;

"(12) section 408(c) of this Act, as amended by the Conrail Sale Amendments Act of 1985;

"(13) section 701 of this Act, but only as may be necessary to identify employees eligible for benefits under agreements entered into under such section;

"(14) section 702(e) of this Act;

"(15) section 704(b) of this Act;

"(16) section 709 of this Act;

"(17) section 710(b)(1) of this Act;

"(18) section 711 of this Act;

"(19) section 714 of this Act, but only with regard to disputes or controversies specified in such section that arose prior to consummation of the sale of the interest of the United States in the common stock of the Corporati on; and

"(20) section 715 of this Act, as amended by the Conrail Sale Amendments Act of 1985.".

IMPLEMENTATION OF THE SECRETARY'S PLAN

SEC. 104. (a) Section 401(a)(3) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 761(a)(3)) is amended to read as follows:

"(3) The Secretary is authorized and directed to implement the Secretary's Plan, in accordance with paragraph (4) of this subsection. Such implementation of the Secretary's Plan and the coordinated operation of the Corporation's properties with those of Norfolk Southern Corporation and its affiliates as a single rail system is deemed approved by the Commission under chapter 113 of title 49, United States Code.".

(b) Section 401(a) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 761(a)) is amended by adding at the end thereof the following paragraphs:

"(4) The Secretary shall implement the Secretary's Plan by negotiating, executing, delivering, and performing the Definitive Agreements, which shall conform to the Memorandum of Intent described in section 102(20)(A) of this Act. The Secretary shall, 45 calendar days before the date on which the Secretary anticipates that the interest of the United States in the common stock of the Corporation will be sold to Norfolk Southern Corporation, transmit to the Committee on Commerce, Science, and Transportation of the Senate and to the Committee on Energy and Commerce of the House of Representatives a notification of any alteration from the Memorandum of Intent described in section 102(20)(A) of this Act which will be made in the Definitive Agreements. After the date of such sale, the Sec-

retary shall transmit to such Committees notification of any intent to waive compliance with any substantive covenant, agreement or obligation contained in the Definitive Agreements, and the Secretary may not waive such compliance until a period of 45 calendar days has expired after the date of such transmittal.

"(5) The Secretary shall not transfer the interest of the United States in the common stock of the Corporation except concurrently with a divestiture by Norfolk Southern Corporation of rail assets and rights approved by the Attorney General.

"(6) The sale of the interest of the United States in the common stock of the Corporation shall be deemed to be consummated at the date title to the common stock passes to Norfolk Southern Corporation and the United States receives the cash purchase price.".

RAILROAD PURCHASERS AND OFFER FOR SALE OF SHARES TO EMPLOYEES

SEC. 105. Subsections (d) and (e) of section 401 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 761(d) and (e)) are repealed.

CANCELLATION OF DEBT AND PREFERRED STOCK

SEC. 106. Section 402 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 762) is amended to read as follows:

"DEBT AND PREFERRED STOCK

"SEC. 402. (a) RECAPITALIZATION.—In connection with the sale of the interest of the United States in the common stock of the Corporation under section 401 of this Act, and consistent with the Secretary's Plan, the Secretary may take all action necessary to cause the Corporation to be recapitalized such that the interest of the United States, or any agent or instrumentality thereof, and all other commitments or obligations of the Corporation to the United States or any agent or instrumentality thereof arising out of such interest, in any debt (including accrued interest and contingent interest thereon) and preferred stock (including accrued and unpaid dividends thereon) of the Corporation shall be cancelled or retired, and contributed to the capital of the Corporation. The Secretary shall cause the recapitalization authorized by this section to be effective as of the consummation of the sale of the interest of the United States in the common stock of the Corporation.

"(b) BREACH OF REPRESENTATIONS.—(1) Norfolk Southern Corporation or any successor corporation thereto may bring suit for any breach of representations contained in paragraph 6(e) of the Memorandum of Intent described in section 102(20)(A) of this Act (hereinafter referred to as the 'Representations') in the United States Claims Court or a district court of the United States. If such an action is brought, the Claims Court or district court shall determine the amount by which the United States income tax (including interest and penalties whether or not such penalties are assessed as a tax under the Internal Revenue Code of 1954) assessable against the Corporation or against Norfolk Southern Corporation for any year exceeds the amount of such tax which would have been assessable for such year had such Representations not been breached (hereinafter referred to as the 'Offset Amount').

"(2) The Representations shall be considered breached and Norfolk Southern Corporation shall be entitled to bring suit upon the first occurrence of any of the following that is inconsistent with the Representations: (A) the issuance by the Internal Revenue Service of a statutory notice of deficiency (90-day letter), (B) the assessment of the United States income tax, or (C) any claim by the United States in a suit or other judicial proceeding against Norfolk Southern Corporation or the Corporation.

"(3) The right to bring suit pursuant to this section shall not be subject to any waiting period applicable to tax proceedings or to any requirements for payment of any tax as a condition to instituting any suit based on a breach of the Representations.

"(4) Any judgment for money damages relating to breach of the Representations shall only be awarded as an offset in any court or administrative proceeding against the tax liability of Norfolk Southern Corporation or the Corporation, or both, to which such breach relates; except that if any such tax liability resulting from such breach has been paid, the judgment shall to that extent be an offset against any United States income tax liability of the Norfolk Southern Corporation or the Corporation, or both. If any portion of the tax resulting from a breach of the Representations has been paid, then the Offset Amount shall include interest on such payment from the date paid at the rate from time to time specified in the Internal Revenue Code of 1954 for interest payable on refund claims.

"(5) It shall not be a defense to an action brought under this section that Norfolk Southern Corporation knew, or should have known, of the falsity of the Representations or that there exists no carryover basis procedure as contemplated by the last sentence of the Representations.

"(6) For purposes of this section, tax liability of Norfolk Southern Corporation shall include the tax liability of Norfolk Southern Corporation and its affiliated group, within the meaning of section 1504 of the Internal Revenue Code of 1954.".

APPLICABILITY OF CERTAIN LAWS TO SALE OF CONRAIL

SEC. 107. Section 408 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 768) is amended—

(1) by repealing subsection (b);

(2) by amending subsection (c) by striking "No transfer" and all that follows through "subject to" and inserting in lieu thereof "Except as provided in section 1152 of the Northeast Rail Service Act of 1981 (45 U.S.C. 1105), the Secretary's Plan and the Definitive Agreements and their negotiation, execution, and implementation shall not be subject to administrative or"; and

(3) by adding at the end of subsection (c) the following sentence: "The issuance in private placement of notes or other securities in accordance with exhibit B to the Memorandum of Intent (described in section 102(20)(A) of this Act) in the Secretary's Plan shall not be subject to the provisions of subtitle IV of title 49, United States Code.".

LABOR PROTECTION

SEC. 108. (a) Section 701(d)(2) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 797(d)(2)) is amended by striking "the last day of the eighteen-month period beginning on".

(b)(1) Title VII of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 797 et seq.) is amended by adding at the end thereof the following section:

"PROTECTION AFTER SALE

"SEC. 715. After consummation of the sale of the interest of the United States in the common stock of the Corporation pursuant to the Secretary's Plan, any employee of Norfolk Southern Corporation, the Corporation, any rail affiliate of either company, and any transferee of the rail tracks, rights, and facilities divested in accordance with the Secretary's Plan, who is adversely affected in his employment by the implementation of the Secretary's Plan shall receive from his employer protection under the labor protective conditions set forth in New York Dock Railway—Control—Brooklyn Eastern District Terminal (354 ICC 399 (1978), modified upon further consideration, 360 ICC 60 (1979)). The arbitration provisions of section 4 of New York Dock shall apply to the formation of any implementing agreements that may be necessary in connection with the implementation of the Secretary's Plan, including any resulting coordinations.".

(2) The table of contents of the Regional Rail Reorganization Act of 1973 is amended by inserting immediately after the item relating to section 714 the following item:

"Sec. 715. Protection after sale.".

PREFERENTIAL HIRING

SEC. 109. Section 703 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 797b) is amended—

(1) by redesignating subsection (b) as subsection (c); and

(2) by inserting immediately after subsection (a) the following subsection:

"(b) IMPLEMENTATION OF SECRETARY'S PLAN.—Any employee of any railroad who is deprived of employment as a result of the implementation of the Secretary's Plan shall have the first right of hire for a vacancy for which he is qualified on any Norfolk Southern Corporation rail subsidiary, except where such vacancy is covered by (1) an affirmative action plan, or a hiring plan designated to eliminate discrimination, that is required by Federal or State statute, regulation, or Executive order, or by the order of a Federal court or agency, or (2) a permissible voluntary affirmative action plan. For purposes of this subsection, a railroad shall not be considered to be hiring new employees when it recalls any of its own furloughed employees.".

CROSS CRAFT EMPLOYMENT

SEC. 110. (a) Title VII of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 797 et seq.) is amended by inserting immediately after section 703 the following section:

"CROSS CRAFT EMPLOYMENT

"SEC. 703A. Any employee of Norfolk and Western Railway Company, Southern Railway Company, or the Corporation who is deprived of employment as a result of the implementation of the Secretary's Plan shall have the first right of hire for any vacancy for which such employee is qualified at the entry level of any Norfolk Southern Corporation rail subsidiary, without regard to craft or class or the provisions of section 703 of this Act. Such employee shall retain his seniority rights to return to his original craft or class whenever a vacancy occurs. For purposes of this section, a railroad shall not be considered to be hiring new employees when it recalls any of its own furloughed employees.".

(b) The table of contents of the Regional Rail Reorganization Act of 1973 is amended by inserting immediately after the item relating to section 703 the following item:

"Sec. 703A. Cross craft employment.".

Subtitle B—Northeast Rail Service Act of 1981 Amendments

SPECIAL COURT JURISDICTION

SEC. 121. (a) Section 1152 of the Northeast Rail Service Act of 1981 (45 U.S.C. 1105) is amended—

(1) by inserting "or the Conrail Sale Amendments Act of 1985" immediately after "subtitle" wherever it appears;

(2) in subsection (a), by striking "or" at the end of paragraph (3), by striking the period at the end of paragraph (4) and inserting in lieu thereof a semicolon, and by adding at the end thereof the following paragraphs:

"(5) brought by the United States or any agency or instrumentality thereof seeking to enforce the Secretary's Plan or the Definitive Agreements;

"(6) brought by Norfolk Southern Corporation seeking to enforce the Secretary's Plan or the Definitive Agreements;

"(7) brought by a party who filed a complaint with the Secretary under subsection (e) of this section, and who is aggrieved by (A) a determination of the Secretary under paragraph (1) of such subsection that the party has not suffered direct economic injury, or (B) a decision of the Secretary under paragraph (2) of such subsection that a covenant has not been violated;

"(8) brought by a party which is a signatory to an ancillary agreement entered into in accordance with the Secretary's Plan or the Definitive Agreements and which is seeking to enforce such ancillary agreement; or

"(9) brought to determine the value of the interest of the employee stock ownership plan and related trusts, or of the beneficiaries thereof, in the preferred stock of the Conrail Equity Corporation.

For purposes of any action brought under paragraph (5) of this subsection, a violation of any covenant contained in the Secretary's Plan or the Definitive Agreements shall be deemed to constitute immediate and irreparable harm for purposes of awarding injunctive relief to the United States.".

(b) Section 1152 of the Northeast Rail Service Act of 1981 (45 U.S.C. 1105) is amended by adding at the end thereof the following subsection:

"(e)(1) Any party who suffers direct economic injury as a result of an alleged violation of a covenant contained in the Definitive Agreements may file a complaint with the Secretary seeking enforcement of such covenant. If the Secretary determines that the complainant has demonstrated to the Secretary that it has suffered direct economic injury, the Secretary shall investigate the complaint.

"(2) If the Secretary decides to investigate a complaint under paragraph (1) of this subsection, the Secretary shall give reasonable notice of such decision to investigate to the alleged violator of such covenant and the complainant, and shall make a final decision on such complaint within 60 days after the date on which it was filed.

"(3) If the Secretary finds that (A) the covenant in question has been violated, and (B) the complainant suffered direct economic injury as a result of such violation, the Secretary shall enter an order directing the violator of such covenant to comply with such covenant.

"(4) On appeal, any decision by the Secretary under this subsection shall be upheld, unless such decision is found to be arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law.".

APPLICABILITY OF OTHER LAWS

SEC. 122. Section 1168(a) of the Northeast Rail Service Act of 1981 (45 U.S.C. 1116(a)) is amended by striking "service transfers" and inserting in lieu thereof "sale of the interest of the United States in the common stock of Conrail or transfer of the rail properties and freight service responsibilities of Conrail".

Subtitle C—Employee Stock Ownership Plan

RESPONSIBILITY OF EMPLOYEE STOCK OWNERSHIP PLAN FIDUCIARIES

SEC. 131. (a) Section 216(f)(8)(A) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 726(f)(8)(A)) is amended—

(1) by striking "or" at the end of clause (ii);

(2) by striking the period at the end of clause (iii) and inserting in lieu thereof "; or"; and

(3) by adding at the end thereof the following clause:

"(iv) for or in connection with any action taken to implement the Secretary's Plan, including any sale, exchange, valuation, or disposition of the plan and related trust assets, or the assets of Conrail Equity Corporation, in connection with implementation of the Secretary's Plan and any determination of the terms on which any such sale, exchange, valuation, or disposition is effected.".

QUALIFICATION, REVIEW, AND VALUATION OF EMPLOYEE STOCK OWNERSHIP PLANS

SEC. 132. Section 216(f) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 726(f)) is amended by adding at the end thereof the following paragraphs:

"(11) The employee stock ownership plans of the Corporation and related trusts maintained, amended, or adopted in implementing the Secretary's Plan shall be deemed to meet the qualification requirements of sections 401 and 501, respectively, of the Internal Revenue Code of 1954, notwithstanding (A) that such plans may not meet the requirements of section 415 of the Internal Revenue Code of 1954, or (B) that participants in such plans may be entitled to withdraw a portion of the shares allocated to their accounts prior to the expiration of the period generally imposed by the Internal Revenue Service for qualified plans. Such qualification shall relate only to the contributions, allocations, and withdrawals of shares provided for in the Secretary's Plan with respect to the plans and related trusts maintained, amended, or adopted in implementing the Secretary's Plan. Such contributions and allocations shall in no event be treated as having exceeded the maximum annual addition permitted under section 415 of the Internal Revenue Code of 1954 (but not for purposes of applying section 404(j) of the Internal Revenue Code of 1954) for purposes of calculating any limitation under section 415 with respect to contributions and allocations not described in the Secretary's Plan, including contributions and allocations to plans and related trusts of the Corporation and any affiliated corporation. The continued qualification of such plans with respect to all other contributions, allocations, and withdrawals shall be subject to all provisions of existing law, as amended from time to time. No inference shall be drawn from this paragraph as to whether an amount is a contribution deductible under section 404 of the Internal Revenue Code of 1954 rather than a non-deductible capital expenditure.

"(12) Except as provided in section 1152 of the Northeast Rail Service Act of 1981 (45 U.S.C. 1105), the issuance and sale or contribution of securities by Norfolk Southern Corporation to fulfill arrangements with the Corporation's employees in implementing the Secretary's Plan and the distribution of shares from the Corporation's employee stock ownership plans and related trusts maintained, amended, or adopted in implementing the Secretary's Plan shall not be subject to the registration and prospectus delivery requirements of the Securities Act of 1933, any approval requirement under subtitle IV of title 49, United States Code, or the laws of any State with respect to the issuance and sale of securities.".

TITLE II—TECHNICAL AND CONFORMING AMENDMENTS

REGIONAL RAIL REORGANIZATION ACT OF 1973 AMENDMENTS AND REPEALS

SEC. 201. The following provisions of the Regional Rail Reorganization Act of 1973 are repealed or amended as specified:

(1) Subsections (a) and (b) of section 214 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 724(a) and (b)) are repealed, and such section 214 is amended by striking "(c) ASSOCIATION.—".

(2) Subsection (f) of section 217 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 727(f)) is repealed, without prejudice to the continued availability of funds appropriated prior to the date of enactment of this Act pursuant to section 217(f)(1)(C) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 727(f)(1)(C)).

(3) Section 404 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 764), and the item relating to such section in the table of contents of such Act, are repealed.

(4) Section 405 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 765), and the item relating to such section in the table of contents of such Act, are repealed.

(5) Section 406 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 766), and the item relating to such section in the table of contents of such Act, are repealed.

(6) Section 407 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 767), and the item relating to such section in the table of contents of such Act, are repealed.

(7) Subsections (a) and (d) of section 408 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 768 (a) and (d)) are repealed.

(8) Section 409 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 769), and the item relating to such section in the table of contents of such Act, are repealed.

(9) Section 410 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 769a), and the item relating to such section in the table of contents of such Act, are repealed.

(10) Section 411 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 769b), and the item relating to such section in the table of contents of such Act, are repealed.

(11) Section 412 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 769c), and the item relating to such section in the table of contents of such Act, are repealed.

(12) Section 713 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 797l), and the item relating to such section in the table of contents of such Act, are repealed.

AMENDMENTS AND REPEALS OF OTHER RAIL LAWS

SEC. 202. The following provisions of law are repealed or amended as specified:

(1) Section 1154 of the Northeast Rail Service Act of 1981 (45 U.S.C. 1107), and the item relating to such section in the table of contents of such Act, are repealed.

(2) Section 1161 of the Northeast Rail Service Act of 1981 (45 U.S.C. 1110), and the item relating to such section in the table of contents of such Act, are repealed.

(3) Section 1166 of the Northeast Rail Service Act of 1981 (45 U.S.C. 1114), and the item relating to such section in the table of contents of such Act, are repealed.

(4) Subsection (c) of section 1167 of the Northeast Rail Service Act of 1981 (45 U.S.C. 1115(c)) is repealed.

(5) Subsection (b) of section 1168 of the Northeast Rail Service Act of 1981 (45 U.S.C. 1116(b)) is repealed.

(6) Section 501(8) of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 821(8)) is amended—

(A) by striking "(A)";

(B) by striking "(i)" and inserting in lieu thereof "(A)", and by striking "(ii)" and inserting in lieu thereof "(B)"; and

(C) by striking all after "utilization;".

(7) Section 505 of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 825) is amended—

(A) in subsection (a)(1), by striking all after "railroad" through "1981)"; and

(B) in subsection (b)(2)(C), by striking all after "costs" the second time it appears through "subsidy".

(8) Subsection (b)(1) of section 509 of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 829(b)(1)) is repealed.

(9) Section 511(e) of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 831(e)) is amended by striking "(1)", and by striking all after "time" and inserting in lieu thereof a period.

(10) Section 402 of the Rail Safety and Service Improvement Act of 1982 (45 U.S.C. 825a) is repealed.

(11) Section 1005(b)(1) of the Rail Passenger Service Act (45 U.S.C. 655(b)(1)) is amended by striking "the Consolidated Rail Corporation,".

(12) Section 10362(b)(7)(A) of title 49, United States Code, is amended by striking "by the Consolidated Rail Corporation or".

(13) Section 332(d) of title 49, United States Code, is amended by striking ", the Consolidated Rail Corporation,".

TITLE III—MISCELLANEOUS PROVISIONS

COMMON CARRIER STATUS OF CONRAIL AFTER SALE

SEC. 301. (a) Conrail's status as a common carrier by railroad under section 10102(4) of title 49, United States Code, shall not be affected by virtue of sale of the interest of the United States in Conrail's common stock. Purchase of Conrail stock shall not alone be the basis of a determination that the acquiring entity has become a common carrier by railroad under section 10102(4) of title 49, United States Code.

(b) The Definitive Agreements shall contain a binding commitment by Norfolk Southern Corporation to continue to operate Conrail in full compliance with the provisions of section 10731(e) of title 49, United States Code.

CONSUMMATION OF SALE

SEC. 302. The sale of the interest of the United States in the common stock of Conrail shall be deemed to be consummated on the date title to the common stock passes to Norfolk Southern Corporation and the United States receives the cash purchase price.

CONTRACTS

SEC. 303. (a) Except as provided in subsection (b) of this section, nothing in this Act shall affect—

(1) Conrail's obligation to carry out its transportation contracts and equipment leases, equipment trusts, and conditional sale agreements, in accordance with their terms; and

(2) the obligation of any transferee of divested assets to carry out transportation contracts and equipment leases, equipment trusts, and conditional sale agreements to which such assets are subject, in accordance with their terms.

(b) If a divestiture carried out pursuant to the Secretary's Plan precludes Conrail from providing a transportation service for which it has contracted without a right of termination that may be exercised in the event of the sale of the interest of the United States in the common stock of Conrail and the divestiture will result in a change or modification in the movement of the traffic involved, the transferee of the divested rights and properties and Conrail shall provide the contracted-for service on terms and conditions which, to the maximum extent possible, conform to the terms and conditions in the contract.

CONGRESSIONAL OVERSIGHT OF COMPLIANCE

SEC. 304. The Secretary shall, no later than January 31 of each year, submit to the Committee on Commerce, Science, and Transportation of the Senate and to the Committee on Energy and Commerce of the House of Representatives a report setting forth each certificate which Norfolk Southern Corporation and Conrail provided to the Secretary, during the preceding year, certifying compliance with the covenants contained in the Definitive Agreements.

SEPARABILITY

SEC. 305. If any provision of this Act or the application thereof to any person or circumstances is held invalid, the remainder of this Act and the application of such provision to other persons or circumstances shall not be affected thereby.

EFFECTIVE DATE

SEC. 306. (a) Except as provided in subsection (b) of this section, the provisions of and amendments made by this Act shall take effect on the date of enactment of this Act.

(b) Sections 108(a), 201 and 202 of this Act shall take effect on the date of consummation of the sale of the interest of the United States in the common stock of Conrail.

(c) Any provision of this Act which, pursuant to Article I, Section 7 of the Constitution, provides for raising revenue shall only be effective upon the enactment into law of a bill which has originated in the House of Representatives enacting such provision.

AMENDMENT No. 1468

On page 2, beginning on line 19, strike out ", through negotiation,".

AMENDMENT No. 1469

On page 2, line 19, beginning with the comma, strike out all through the comma on line 20.

AMENDMENT No. 1470

On page 2, line 19, immediately after the word "arranged" strike out all through the word "Conrail" on page 2, line 21 and insert in lieu thereof: ", through negotiation, to sell the interest of the United States in the common stock of Conrail".

AMENDMENT No. 1471

On page 1 of the amendment strike ", through negotiation,".

AMENDMENT No. 1472

On page 2, line 19, beginning with the comma, strike out all through the comma on line 20.

AMENDMENT No. 1473

On page 2, line 19, immediately after the word "arranged" strike out all through the word "Conrail" on page 2, line 21 and insert in lieu thereof: ", through negotiation, to sell the interest of the United States in the common stock of Conrail".

AMENDMENT No. 1474

On page 1 of the amendment strike ", through negotiation,".

AMENDMENT No. 1475

In lieu of the language proposed to be inserted, insert the following: That this Act may be cited as the "Conrail Sale Amendments Act of 1985".

FINDINGS

SEC. 2. The Congress finds that—

(1) the Northeast Rail Service Act of 1981 (45 U.S.C. 1101 et seq.) provided for an orderly return of Conrail freight service to the private sector;

(2) the provisions of the Northeast Rail Service Act of 1981 were successful in removing Conrail's obligations beyond railroad freight service and in otherwise preparing Conrail for an orderly return to the private sector;

(3) acting under section 403 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 763), the Board of Directors of the United States Railway Association twice found Conrail to be a profitable corporation;

(4) acting under section 401 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 761), the Secretary engaged an investment banker and arranged, through open competitive bidding and negotiation, to sell the interest of the United States in the common stock of Conrail;

(5) the Secretary's Plan for the sale of Conrail provides for sale of the interest of the United States in the common stock of Conrail to Norfolk Southern Corporation;

(6) the Secretary found that sale of the interest of the United States in the common stock of Conrail to Norfolk Southern Corporation best meets the sale criteria of (A) leaving Conrail in the strongest financial position after the sale, (B) preserving patterns of service to shippers and communities in the region Conrail serves, and (C) maximizing return to the Federal Government consistent with the criteria specified in clauses (A) and (B);

(7) amendments to the Regional Rail Reorganization Act of 1973 (45 U.S.C. 701 et seq.) and related laws are needed to permit the sale of the interest of the United States in the common stock of Conrail to Norfolk Southern Corporation and to permit cancellation of the interest of the United States in Conrail debt and preferred stock; and

(8) the Secretary's Plan satisfies the requirements of the Northeast Rail Service Act of 1981, including the intent, goals, and objectives relating to the sale of the interest of the United States in the common stock of Conrail and the requirements of section 401(e) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 761(e)).

PURPOSE

SEC. 3. It is therefore declared to be the purpose of the Congress in this Act to return Conrail to the private sector by directing and facilitating implementation of the Secretary's Plan for the sale of the interest of the United States in the common stock of Conrail.

DEFINITIONS

SEC. 4. (a) In this Act, unless the context otherwise requires, the term—

(1) "Conrail" means the Consolidated Rail Corporation;

(2) "Definitive Agreements" means any and all agreements existing or to be developed between the United States and Norfolk Southern Corporation, including all representations and warranties made therein, to implement the Memorandum of Intent described in paragraph (4)(A);

(3) "Secretary" means the Secretary of Transportation; and

(4) "Secretary's Plan" means (A) the Memorandum of Intent between the United States and Norfolk Southern Corporation signed February 8, 1985, but not including paragraph 2(i) of such Memorandum of Intent, and (B) the divestitures by the Norfolk Southern Corporation of certain rail tracks, rights, and facilities, and any transactions or agreements related or incidental to such divestitures, in connection with the implementation of attachment A to the letter from the Department of Justice attached to the Memorandum of Intent as exhibit E.

(b) Section 102 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 702) is amended—

(1) by redesignating paragraphs (6) through (18) as paragraphs (7) through (19), and paragraphs (19) through (21) as paragraphs (21) through (23), respectively;

(2) by inserting after paragraph (5) the following paragraph:

"(6) 'Definitive Agreements' means any and all agreements existing or to be developed between the United States and Norfolk Southern Corporation, including all representations and warranties made therein, to implement the Memorandum of Intent described in paragraph (20)(A);"; and

(3) by inserting after paragraph (19), as so redesignated, the following paragraph:

"(20) 'Secretary's Plan' means (A) the Memorandum of Intent between the United States and Norfolk Southern Corporation signed February 8, 1985, but not including paragraph 2(i) of such Memorandum of Intent, and (B) the divestitures by the Norfolk Southern Corporation of certain rail tracks, rights, and facilities, and any transactions or agreements related or incidental to such divestitures, in connection with the implementation of attachment A to the letter from the Department of Justice attached to the Memorandum of Intent as exhibit E;".

(c) Section 1135(a) of the Northeast Rail Service Act of 1981 (45 U.S.C. 1104(a)) is amended—

(1) by redesignating paragraphs (6), (7), and (8) as paragraphs (7), (8), and (10), respectively;

(2) by inserting after paragraph (5) the following paragraph:

"(6) 'Definitive Agreements' means any and all agreements existing or to be developed between the United States and Norfolk Southern Corporation, including all representations and warranties made therein, to implement the Memorandum of Intent described in paragraph (9)(A);"; and

(3) by inserting after paragraph (8), as so redesignated, the following paragraph:

"(9) 'Secretary's Plan' means (A) the Memorandum of Intent between the United States and Norfolk Southern Corporation signed February 8, 1985, but not including paragraph 2(i) of such Memorandum of Intent, and (B) the divestitures by the Norfolk Southern Corporation of certain rail tracks, rights, and facilities, and any transactions or agreements related or incidental to such divestitures, in connection with the implementation of attachment A to the letter from the Department of Justice attached to the Memorandum of Intent as exhibit E;".

TITLE I—AMENDMENTS TO THE REGIONAL RAIL REORGANIZATION ACT OF 1973 AND THE NORTHEAST RAIL SERVICE ACT OF 1981

Subtitle A—Regional Rail Reorganization Act of 1973 Amendments

LIMIT ON AUTHORITY TO PURCHASE STOCK

SEC. 101. Section 216(b) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 726(b)) is amended by adding at the end thereof the following paragraph:

"(5) The authority of the Association to purchase debentures or series A preferred stock of the Corporation under this section shall terminate upon the consummation of the sale of the interest of the United States in the common stock of the Corporation under the terms of the Secretary's Plan.".

RESPONSIBILITY OF CONRAIL DIRECTORS

SEC. 102. Section 301(i) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 741(i)) is amended by inserting immediately after "required by law" the following: ", taken to implement the Secretary's Plan,".

APPLICABILITY OF REGIONAL RAIL REORGANIZATION ACT OF 1973 TO CONRAIL AFTER SALE

SEC. 103. Section 301 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 741) is amended by adding at the end thereof the following subsection:

"(k) GOVERNING PROVISIONS AFTER SALE.—The provisions of this Act shall not apply to the Corporation and to activities and other actions and responsibilities of the Corporation and its directors after consummation of the sale of the interest of the United States in the common stock of the Corporation under the terms of the Conrail Sale Amendments Act of 1985, other than with regard to—

"(1) section 102 of this Act;

"(2) section 201(d) of this Act;

"(3) section 203 of this Act, but only with respect to information relating to proceedings before the special court established under section 209(b);

"(4) section 216(f)(8) of this Act, but only as such authority applies to activities related to the employee stock ownership plan and related trusts prior to or in connection with consummation of the sale of the interest of the United States in the common stock of the Corporation, including activities related to the sale, exchange, valuation, or disposition of the assets of the employee stock ownership plan and related trusts, or of Conrail Equity Corporation, in connection with the Secretary's Plan;

"(5) sections 216(f)(11) and 216(f)(12) of this Act, as amended by the Conrail Sale Amendments Act of 1985;

"(6) section 217(e) of this Act;

"(7) subsection (i) of this section, but only as such authority applies to service as a director of the Corporation prior to consummation or in connection with implementation of the sale of the interest of the United States in the common stock of the Corporation;

"(8) section 305 of this Act, but only as to the effect, and continuing administration, of supplemental transactions consummated prior to consummation of the sale of the interest of the United States in the common stock of the Corporation;

"(9) section 308 of this Act, but only in abandonment actions when such authority has been relied on to file a notice or notices of insufficent revenues prior to consummation of the sale of the interest of the United States in the common stock of the Corporation;

"(10) section 401(a) of this Act, as amended by the Conrail Sale Amendments Act of 1985;

"(11) section 402 of this Act, as amended by the Conrail Sale Amendments Act of 1985;

"(12) section 408(c) of this Act, as amended by the Conrail Sale Amendments Act of 1985;

"(13) section 701 of this Act, but only as may be necessary to identify employees eligible for benefits under agreements entered into under such section;

"(14) section 702(e) of this Act;

"(15) section 704(b) of this Act;

"(16) section 709 of this Act;

"(17) section 710(b)(1) of this Act;

"(18) section 711 of this Act;

"(19) section 714 of this Act, but only with regard to disputes or controversies specified in such section that arose prior to consummation of the sale of the interest of the United States in the common stock of the Corporation; and

"(20) section 715 of this Act, as amended by the Conrail Sale Amendments Act of 1985.".

IMPLEMENTATION OF THE SECRETARY'S PLAN

SEC. 104. (a) Section 401(a)(3) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 761(a)(3)) is amended to read as follows:

"(3) The Secretary is authorized and directed to implement the Secretary's Plan, in accordance with paragraph (4) of this subsection. Such implementation of the Secretary's Plan and the coordinated operation of the Corporation's properties with those of Norfolk Southern Corporation and its affiliates as a single rail system is deemed approved by the Commission under chapter 113 of title 49, United States Code.".

(b) Section 401(a) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 761(a)) is amended by adding at the end thereof the following paragraphs:

"(4) The Secretary shall implement the Secretary's Plan by negotiating, executing, delivering, and performing the Definitive Agreements, which shall conform to the Memorandum of Intent described in section 102(20)(A) of this Act. The Secretary shall, 45 calendar days before the date on which the Secretary anticipates that the interest of the United States in the common stock of the Corporation will be sold to Norfolk Southern Corporation, transmit to the Committee on Commerce, Science, and Transportation of the Senate and to the Committee on Energy and Commerce of the House of Representatives a notification of any alteration from the Memorandum of Intent described in section 102(20)(A) of this Act which will be made in the Definitive Agreements. After the date of such sale, the Secretary shall transmit to such Committees notification of any intent to waive compli-

ance with any substantive covenant, agreement or obligation contained in the Definitive Agreements, and the Secretary may not waive such compliance until a period of 45 calendar days has expired after the date of such transmittal.

"(5) The Secretary shall not transfer the interest of the United States in the common stock of the Corporation except concurrently with a divestiture by Norfolk Southern Corporation of rail assets and rights approved by the Attorney General.

"(6) The sale of the interest of the United States in the common stock of the Corporation shall be deemed to be consummated at the date title to the common stock passes to Norfolk Southern Corporation and the United States receives the cash purchase price.".

RAILROAD PURCHASERS AND OFFER FOR SALE OF SHARES TO EMPLOYEES

SEC. 105. Subsections (d) and (e) of section 401 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 761(d) and (e)) are repealed.

CANCELLATION OF DEBT AND PREFERRED STOCK

SEC. 106. Section 402 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 762) is amended to read as follows:

"DEBT AND PREFERRED STOCK

"SEC. 402. (a) RECAPITALIZATION.—In connection with the sale of the interest of the United States in the common stock of the Corporation under section 401 of this Act, and consistent with the Secretary's Plan, the Secretary may take all action necessary to cause the Corporation to be recapitalized such that the interest of the United States, or any agent or instrumentality thereof, and all other commitments or obligations of the Corporation to the United States or any agent or instrumentality thereof arising out of such interest, in any debt (including accrued interest and contingent interest thereon) and preferred stock (including accrued and unpaid dividends thereon) of the Corporation shall be cancelled or retired, and contributed to the capital of the Corporation. The Secretary shall cause the recapitalization authorized by this section to be effective as of the consummation of the sale of the interest of the United States in the common stock of the Corporation.

"(b) BREACH OF REPRESENTATIONS.—(1) Norfolk Southern Corporation or any successor corporation thereto may bring suit for any breach of representations contained in paragraph 6(e) of the Memorandum of Intent described in section 102(20)(A) of this Act (hereinafter referred to as the 'Representations') in the United States Claims Court or a district court of the United States. If such an action is brought, the Claims Court or district court shall determine the amount by which the United States income tax (including interest and penalties whether or not such penalties are assessed as a tax under the Internal Revenue Code of 1954) assessable against the Corporation or against Norfolk Southern Corporation for any year exceeds the amount of such tax which would have been assessable for such year had such Representations not been breached (hereinafter referred to as the 'Offset Amount').

"(2) The Representations shall be considered breached and Norfolk Southern Corporation shall be entitled to bring suit upon the first occurrence of any of the following that is inconsistent with the Representations: (A) the issuance by the Internal Revenue Service of a statutory notice of deficiency (90-day letter), (B) the assessment of the United States income tax, or (C) any claim by the United States in a suit or other judicial proceeding against Norfolk Southern Corporation or the Corporation.

"(3) The right to bring suit pursuant to this section shall not be subject to any waiting period applicable to tax proceedings or to any requirements for payment of any tax as a condition to instituting any suit based on a breach of the Representations.

"(4) Any judgment for money damages relating to breach of the Representations shall only be awarded as an offset in any court or administrative proceeding against the tax liability of Norfolk Southern Corporation or the Corporation, or both, to which such breach relates; except that if any such tax liability resulting from such breach has been paid, the judgment shall to that extent be an offset against any United States income tax liability of the Norfolk Southern Corporation or the Corporation, or both. If any portion of the tax resulting from a breach of the Representations has been paid, then the Offset Amount shall include interest on such payment from the date paid at the rate from time to time specified in the Internal Revenue Code of 1954 for interest payable on refund claims.

"(5) It shall not be a defense to an action brought under this section that Norfolk Southern Corporation knew, or should have known, of the falsity of the Representations or that there exists no carryover basis procedure as contemplated by the last sentence of the Representations.

"(6) For purposes of this section, tax liability of Norfolk Southern Corporation shall include the tax liability of Norfolk Southern Corporation and its affiliated group, within the meaning of section 1504 of the Internal Revenue Code of 1954.".

APPLICABILITY OF CERTAIN LAWS TO SALE OF CONRAIL

SEC. 107. Section 408 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 768) is amended—

(1) by repealing subsection (b);

(2) by amending subsection (c) by striking "No transfer" and all that follows through "subject to" and inserting in lieu thereof "Except as provided in section 1152 of the Northeast Rail Service Act of 1981 (45 U.S.C. 1105), the Secretary's Plan and the Definitive Agreements and their negotiation, execution, and implementation shall not be subject to administrative or"; and

(3) by adding at the end of subsection (c) the following sentence: "The issuance in private placement of notes or other securities in accordance with exhibit B to the Memorandum of Intent (described in section 102(20)(A) of this Act) in the Secretary's Plan shall not be subject to the provisions of subtitle IV of title 49, United States Code.".

LABOR PROTECTION

SEC. 108. (a) Section 701(d)(2) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 797(d)(2)) is amended by striking "the last day of the eighteen-month period beginning on".

(b)(1) Title VII of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 797 et seq.) is amended by adding at the end thereof the following section:

"PROTECTION AFTER SALE

"SEC. 715. After consummation of the sale of the interest of the United States in the common stock of the Corporation pursuant to the Secretary's Plan, any employee of Norfolk Southern Corporation, the Corporation, any rail affiliate of either company, and any transferee of the rail tracks, rights, and facilities divested in accordance with the Secretary's Plan, who is adversely affected in his employment by the implementation of the Secretary's Plan shall receive from his employer protection under the labor protective conditions set forth in New York Dock Railway—Control—Brooklyn Eastern District Terminal (354 ICC 399 (1978), modified upon further consideration, 360 ICC 60 (1979)). The arbitration provisions of section 4 of New York Dock shall apply to the formation of any implementing agreements that may be necessary in connection with the implementation of the Secretary's Plan, including any resulting coordinations.".

(2) The table of contents of the Regional Rail Reorganization Act of 1973 is amended by inserting immediately after the item relating to section 714 the following item:

"Sec. 715. Protection after sale.".

PREFERENTIAL HIRING

SEC. 109. Section 703 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 797b) is amended—

(1) by redesignating subsection (b) as subsection (c); and

(2) by inserting immediately after subsection (a) the following subsection:

"(b) IMPLEMENTATION OF SECRETARY'S PLAN.—Any employee of any railroad who is deprived of employment as a result of the implementation of the Secretary's Plan shall have the first right of hire for a vacancy for which he is qualified on any Norfolk Southern Corporation rail subsidiary, except where such vacancy is covered by (1) an affirmative action plan, or a hiring plan designated to eliminate discrimination, that is required by Federal or State statute, regulation, or Executive order, or by the order of a Federal court or agency, or (2) a permissible voluntary affirmative action plan. For purposes of this subsection, a railroad shall not be considered to be hiring new employees when it recalls any of its own furloughed employees.".

CROSS CRAFT EMPLOYMENT

SEC. 110. (a) Title VII of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 797 et seq.) is amended by inserting immediately after section 703 the following section:

"CROSS CRAFT EMPLOYMENT

"SEC. 703A. Any employee of Norfolk and Western Railway Company, Southern Railway Company, or the Corporation who is deprived of employment as a result of the implementation of the Secretary's Plan shall have the first right of hire for any vacancy for which such employee is qualified at the entry level of any Norfolk Southern Corporation rail subsidiary, without regard to craft or class or the provisions of section 703 of this Act. Such employee shall retain his seniority rights to return to his original craft or class whenever a vacancy occurs. For purposes of this section, a railroad shall not be considered to be hiring new employees when it recalls any of its own furloughed employees.".

(b) The table of contents of the Regional Rail Reorganization Act of 1973 is amended by inserting immediately after the item relating to section 703 the following item:

"Sec. 703A. Cross craft employment.".

Subtitle B—Northeast Rail Service Act of 1981 Amendments

SPECIAL COURT JURISDICTION

SEC. 121. (a) Section 1152 of the Northeast Rail Service Act of 1981 (45 U.S.C. 1105) is amended—

(1) by inserting "or the Conrail Sale Amendments Act of 1985" immediately after "subtitle" wherever it appears;

(2) in subsection (a), by striking "or" at the end of paragraph (3), by striking the period at the end of paragraph (4) and inserting in lieu thereof a semicolon, and by adding at the end thereof the following paragraphs:

"(5) brought by the United States or any agency or instrumentality thereof seeking to enforce the Secretary's Plan or the Definitive Agreements;

"(6) brought by Norfolk Southern Corporation seeking to enforce the Secretary's Plan or the Definitive Agreements;

"(7) brought by a party who filed a complaint with the Secretary under subsection (e) of this section, and who is aggrieved by (A) a determination of the Secretary under paragraph (1) of such subsection that the party has not suffered direct economic injury, or (B) a decision of the Secretary under paragraph (2) of such subsection that a covenant has not been violated;

"(8) brought by a party which is a signatory to an ancillary agreement entered into in accordance with the Secretary's Plan or the Definitive Agreements and which is seeking to enforce such ancillary agreement; or

"(9) brought to determine the value of the interest of the employee stock ownership plan and related trusts, or of the beneficiaries thereof, in the preferred stock of the Conrail Equity Corporation.

For purposes of any action brought under paragraph (5) of this subsection, a violation of any covenant contained in the Secretary's Plan or the Definitive Agreements shall be deemed to constitute immediate and irreparable harm for purposes of awarding injunctive relief to the United States.".

(b) Section 1152 of the Northeast Rail Service Act of 1981 (45 U.S.C. 1105) is amended by adding at the end thereof the following subsection:

"(e)(1) Any party who suffers direct economic injury as a result of an alleged violation of a covenant contained in the Definitive Agreements may file a complaint with the Secretary seeking enforcement of such covenant. If the Secretary determines that the complainant has demonstrated to the Secretary that it has suffered direct economic injury, the Secretary shall investigate the complaint.

"(2) If the Secretary decides to investigate a complaint under paragraph (1) of this subsection, the Secretary shall give reasonable notice of such decision to investigate to the alleged violator of such covenant and the complainant, and shall make a final decision on such complaint within 60 days after the date on which it was filed.

"(3) If the Secretary finds that (A) the covenant in question has been violated, and (B) the complainant suffered direct economic injury as a result of such violation, the Secretary shall enter an order directing the violator of such covenant to comply with such covenant.

"(4) On appeal, any decision by the Secretary under this subsection shall be upheld, unless such decision is found to be arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law.".

APPLICABILITY OF OTHER LAWS

SEC. 122. Section 1168(a) of the Northeast Rail Service Act of 1981 (45 U.S.C. 1116(a)) is amended by striking "service transfers" and inserting in lieu thereof "sale of the interest of the United States in the common stock of Conrail or transfer of the rail properties and freight service responsibilities of Conrail".

Subtitle C—Employee Stock Ownership Plan

RESPONSIBILITY OF EMPLOYEE STOCK OWNERSHIP PLAN FIDUCIARIES

SEC. 131. (a) Section 216(f)(8)(A) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 726(f)(8)(A)) is amended—

(1) by striking "or" at the end of clause (ii);

(2) by striking the period at the end of clause (iii) and inserting in lieu thereof "; or"; and

(3) by adding at the end thereof the following clause:

"(iv) for or in connection with any action taken to implement the Secretary's Plan, including any sale, exchange, valuation, or disposition of the plan and related trust assets, or the assets of Conrail Equity Corporation, in connection with implementation of the Secretary's Plan and any determination of the terms on which any such sale, exchange, valuation, or disposition is effected.".

QUALIFICATION, REVIEW, AND VALUATION OF EMPLOYEE STOCK OWNERSHIP PLANS

SEC. 132. Section 216(f) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 726(f)) is amended by adding at the end thereof the following paragraphs:

"(11) The employee stock ownership plans of the Corporation and related trusts maintained, amended, or adopted in implementing the Secretary's Plan shall be deemed to meet the qualification requirements of sections 401 and 501, respectively, of the Internal Revenue Code of 1954, notwithstanding (A) that such plans may not meet the requirements of section 415 of the Internal Revenue Code of 1954, or (B) that participants in such plans may be entitled to withdraw a portion of the shares allocated to their accounts prior to the expiration of the period generally imposed by the Internal Revenue Service for qualified plans. Such qualification shall relate only to the contributions, allocations, and withdrawals of shares provided for in the Secretary's Plan with respect to the plans and related trusts maintained, amended, or adopted in implementing the Secretary's Plan. Such contributions and allocations shall in no event be treated as having exceeded the maximum annual addition permitted under section 415 of the Internal Revenue Code of 1954 (but not for purposes of applying section 404(j) of the Internal Revenue Code of 1954) for purposes of calculating any limitation under section 415 with respect to contributions and allocations not described in the Secretary's Plan, including contributions and allocations to plans and related trusts of the Corporation and any affiliated corporation. The continued qualification of such plans with respect to all other contributions, allocations, and withdrawals shall be subject to all provisions of existing law, as amended from time to time. No inference shall be drawn from this paragraph as to whether an amount is a contribution deductible under section 404 of the Internal Revenue Code of 1954 rather than a non-deductible capital expenditure.

"(12) Except as provided in section 1152 of the Northeast Rail Service Act of 1981 (45 U.S.C. 1105), the issuance and sale or contribution of securities by Norfolk Southern Corporation to fulfill arrangements with the Corporation's employees in implementing the Secretary's Plan and the distribution of shares from the Corporation's employee stock ownership plans and related trusts maintained, amended, or adopted in implementing the Secretary's Plan shall not be subject to the registration and prospectus delivery requirements of the Securities Act of 1933, any approval requirement under subtitle IV of title 49, United States Code, or the laws of any State with respect to the issuance and sale of securities.".

TITLE II—TECHNICAL AND CONFORMING AMENDMENTS

REGIONAL RAIL REORGANIZATION ACT OF 1973 AMENDMENTS AND REPEALS

SEC. 201. The following provisions of the Regional Rail Reorganization Act of 1973 are repealed or amended as specified:

(1) Subsections (a) and (b) of section 214 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 724 (a) and (b)) are repealed, and such section 214 is amended by striking "(c) ASSOCIATION.—".

(2) Subsection (f) of section 217 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 727(f)) is repealed, without prejudice to the continued availability of funds appropriated prior to the date of enactment of this Act pursuant to section 217(f)(1)(C) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 727(f)(1)(C)).

(3) Section 404 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 764), and the item relating to such section in the table of contents of such Act, are repealed.

(4) Section 405 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 765), and the item relating to such section in the table of contents of such Act, are repealed.

(5) Section 406 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 766), and the item relating to such section in the table of contents of such Act, are repealed.

(6) Section 407 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 767), and the item relating to such section in the table of contents of such Act, are repealed.

(7) Subsections (a) and (d) of section 408 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 768 (a) and (d)) are repealed.

(8) Section 409 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 769), and the item relating to such section in the table of contents of such Act, are repealed.

(9) Section 410 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 769a), and the item relating to such section in the table of contents of such Act, are repealed.

(10) Section 411 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 769b), and the item relating to such section in the table of contents of such Act, are repealed.

(11) Section 412 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 769c), and the item relating to such section in the table of contents of such Act, are repealed.

(12) Section 713 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 797l), and the item relating to such section in the table of contents of such Act, are repealed.

AMENDMENTS AND REPEALS OF OTHER RAIL LAWS

SEC. 202. The following provisions of law are repealed or amended as specified:

(1) Section 1154 of the Northeast Rail Service Act of 1981 (45 U.S.C. 1107), and the

item relating to such section in the table of contents of such Act, are repealed.

(2) Section 1161 of the Northeast Rail Service Act of 1981 (45 U.S.C. 1110), and the item relating to such section in the table of contents of such Act, are repealed.

(3) Section 1166 of the Northeast Rail Service Act of 1981 (45 U.S.C. 1114), and the item relating to such section in the table of contents of such Act, are repealed.

(4) Subsection (c) of section 1167 of the Northeast Rail Service Act of 1981 (45 U.S.C. 1115(c)) is repealed.

(5) Subsection (b) of section 1168 of the Northeast Rail Service Act of 1981 (45 U.S.C. 1116(b)) is repealed.

(6) Section 501(8) of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 821(8)) is amended—

(A) by striking "(A)";

(B) by striking "(i)" and inserting in lieu thereof "(A)", and by striking "(ii)" and inserting in lieu thereof "(B)"; and

(C) by striking all after "utilization;".

(7) Section 505 of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 825) is amended—

(A) in subsection (a)(1), by striking all after "railroad" through "1981)"; and

(B) in subsection (b)(2)(C), by striking all after "costs" the second time it appears through "subsidy".

(8) Subsection (b)(1) of section 509 of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 829(b)(1)) is repealed.

(9) Section 511(e) of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 831(e)) is amended by striking "(1)", and by striking all after "time" and inserting in lieu thereof a period.

(10) Section 402 of the Rail Safety and Service Improvement Act of 1982 (45 U.S.C. 825a) is repealed.

(11) Section 1005(b)(1) of the Rail Passenger Service Act (45 U.S.C. 655(b)(1)) is amended by striking "the Consolidated Rail Corporation,".

(12) Section 10362(b)(7)(A) of title 49, United States Code, is amended by striking "by the Consolidated Rail Corporation or".

(13) Section 332(d) of title 49, United States Code, is amended by striking ", the Consolidated Rail Corporation,".

TITLE III—MISCELLANEOUS PROVISIONS

COMMON CARRIER STATUS OF CONRAIL AFTER SALE

SEC. 301. (a) Conrail's status as a common carrier by railroad under section 10102(4) of title 49, United States Code, shall not be affected by virtue of sale of the interest of the United States in Conrail's common stock. Purchase of Conrail stock shall not alone be the basis of a determination that the acquiring entity has become a common carrier by railroad under section 10102(4) of title 49, United States Code.

(b) The Definitive Agreements shall contain a binding commitment by Norfolk Southern Corporation to continue to operate Conrail in full compliance with the provisions of section 10731(e) of title 49, United States Code.

CONSUMMATION OF SALE

SEC. 302. The sale of the interest of the United States in the common stock of Conrail shall be deemed to be consummated on the date title to the common stock passes to Norfolk Southern Corporation and the United States receives the cash purchase price.

CONTRACTS

SEC. 303. (a) Except as provided in subsection (b) of this section, nothing in this Act shall affect—

(1) Conrail's obligation to carry out its transportation contracts and equipment leases, equipment trusts, and conditional sale agreements, in accordance with their terms; and

(2) the obligation of any transferee of divested assets to carry out transportation contracts and equipment leases, equipment trusts, and conditional sale agreements to which such assets are subject, in accordance with their terms.

(b) If a divestiture carried out pursuant to the Secretary's Plan precludes Conrail from providing a transportation service for which it has contracted without a right of termination that may be exercised in the event of the sale of the interest of the United States in the common stock of Conrail and the divestiture will result in a change or modification in the movement of the traffic involved, the transferee of the divested rights and properties and Conrail shall provide the contracted-for service on terms and conditions which, to the maximum extent possible, conform to the terms and conditions in the contract.

CONGRESSIONAL OVERSIGHT OF COMPLIANCE

SEC. 304. The Secretary shall, no later than January 31 of each year, submit to the Committee on Commerce, Science, and Transportation of the Senate and to the Committee on Energy and Commerce of the House of Representatives a report setting forth each certificate which Norfolk Southern Corporation and Conrail provided to the Secretary, during the preceding year, certifying compliance with the covenants contained in the Definitive Agreements.

SEPARABILITY

SEC. 305. If any provision of this Act or the application thereof to any person or circumstances is held invalid, the remainder of this Act and the application of such provision to other persons or circumstances shall not be affected thereby.

EFFECTIVE DATE

SEC. 306. (a) Except as provided in subsection (b) of this section, the provisions of and amendments made by this Act shall take effect on the date of enactment of this Act.

(b) Sections 108(a), 201 and 202 of this Act shall take effect on the date of consummation of the sale of the interest of the United States in the common stock of Conrail.

(c) Any provision of this Act which, pursuant to article I, section 7 of the Constitution, provides for raising revenue shall only be effective upon the enactment into law of a bill which has originated in the House of Representatives enacting such provision.

AMENDMENT No. 1476

In lieu of the language proposed to be inserted, insert the following:

That this Act may be cited as the "Conrail Sale Amendments Act of 1985".

FINDINGS

SEC. 2. The Congress finds that—

(1) the Northeast Rail Service Act of 1981 (45 U.S.C. 1101 et seq.) provided for an orderly return of Conrail freight service to the private sector;

(2) the provisions of the Northeast Rail Service Act of 1981 were successful in removing Conrail's obligations beyond railroad freight service and in otherwise preparing Conrail for an orderly return to the private sector;

(3) acting under section 403 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 763), the Board of Directors of the United States Railway Association twice found Conrail to be a profitable corporation;

(4) acting under section 401 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 761), the Secretary engaged an investment banker and arranged, through open competitive bidding and negotiation, to sell the interest of the United States in the common stock of Conrail;

(5) the Secretary's Plan for the sale of Conrail provides for sale of the interest of the United States in the common stock of Conrail to Norfolk Southern Corporation;

(6) the Secretary found that sale of the interest of the United States in the common stock of Conrail to Norfolk Southern Corporation best meets the sale criteria of (A) leaving Conrail in the strongest financial position after the sale, (B) preserving patterns of service to shippers and communities in the region Conrail serves, and (C) maximizing return to the Federal Government consistent with the criteria specified in clauses (A) and (B);

(7) amendments to the Regional Rail Reorganization Act of 1973 (45 U.S.C. 701 et seq.) and related laws are needed to permit the sale of the interest of the United States in the common stock of Conrail to Norfolk Southern Corporation and to permit cancellation of the interest of the United States in Conrail debt and preferred stock; and

(8) the Secretary's Plan satisfies the requirements of the Northeast Rail Service Act of 1981, including the intent, goals, and objectives relating to the sale of the interest of the United States in the common stock of Conrail and the requirements of section 401(e) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 761(e)).

PURPOSE

SEC. 3. It is therefore declared to be the purpose of the Congress in this Act to return Conrail to the private sector by directing and facilitating implementation of the Secretary's Plan for the sale of the interest of the United States in the common stock of Conrail.

DEFINITIONS

SEC. 4. (a) In this Act, unless the context otherwise requires, the term—

(1) "Conrail" means the Consolidated Rail Corporation;

(2) "Definitive Agreements" means any and all agreements existing or to be developed between the United States and Norfolk Southern Corporation, including all representations and warranties made therein, to implement the Memorandum of Intent described in paragraph (4)(A);

(3) "Secretary" means the Secretary of Transportation; and

(4) "Secretary's Plan" means (A) the Memorandum of Intent between the United States and Norfolk Southern Corporation signed February 8, 1985, but not including paragraph 2(i) of such Memorandum of Intent, and (B) the divestitures by the Norfolk Southern Corporation of certain rail tracks, rights, and facilities, and any transactions or agreements related or incidental to such divestitures, in connection with the implementation of attachment A to the letter from the Department of Justice attached to the Memorandum of Intent as exhibit E.

(b) Section 102 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 702) is amended—

(1) by redesignating paragraphs (6) through (18) as paragraphs (7) through (19), and paragraphs (19) through (21) as paragraphs (21) through (23), respectively;

(2) by inserting after paragraph (5) the following paragraph:

"(6) 'Definitive Agreements' means any and all agreements existing or to be developed between the United States and Norfolk Southern Corporation, including all representations and warranties made therein, to implement the Memorandum of Intent described in paragraph (20)(A);"; and

(3) by inserting after paragraph (19), as so redesignated, the following paragraph:

"(20) 'Secretary's Plan' means (A) the Memorandum of Intent between the United States and Norfolk Southern Corporation signed February 8, 1985, and (B) the divestitures by the Norfolk Southern Corporation of certain rail tracks, rights, and facilities, and any transactions or agreements related or incidental to such divestitures, in connection with the implementation of attachment A to the letter from the Department of Justice attached to the Memorandum of Intent as exhibit E;".

(c) Section 1135(a) of the Northeast Rail Service Act of 1981 (45 U.S.C. 1104(a)) is amended—

(1) by redesignating paragraphs (6), (7), and (8) as paragraphs (7), (8), and (10), respectively;

(2) by inserting after paragraph (5) the following paragraph:

"(6) 'Definitive Agreements' means any and all agreements existing or to be developed between the United States and Norfolk Southern Corporation, including all representations and warranties made therein, to implement the Memorandum of Intent described in paragraph (9)(A);"; and

(3) by inserting after paragraph (8), as so redesignated, the following paragraph:

"(9) 'Secretary's Plan' means (A) the Memorandum of Intent between the United States and Norfolk Southern Corporation signed February 8, 1985, and (B) the divestitures by the Norfolk Southern Corporation of certain rail tracks, rights, and facilities, and any transactions or agreements related or incidental to such divestitures, in connection with the implementation of attachment A to the letter from the Department of Justice attached to the Memorandum of Intent as exhibit E;".

TITLE I—AMENDMENTS TO THE REGIONAL RAIL REORGANIZATION ACT OF 1973 AND THE NORTHEAST RAIL SERVICE ACT OF 1981

Subtitle A—Regional Rail Reorganization Act of 1973 Amendments

LIMIT ON AUTHORITY TO PURCHASE STOCK

SEC. 101. Section 216(b) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 726(b)) is amended by adding at the end thereof the following paragraph:

"(5) The authority of the Association to purchase debentures or series A preferred stock of the Corporation under this section shall terminate upon the consummation of the sale of the interest of the United States in the common stock of the Corporation under the terms of the Secretary's Plan.".

RESPONSIBILITY OF CONRAIL DIRECTORS

SEC. 102. Section 301(i) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 741(i)) is amended by inserting immediately after "required by law" the following: ", taken to implement the Secretary's Plan,".

APPLICABILITY OF REGIONAL RAIL REORGANIZATION ACT OF 1973 TO CONRAIL AFTER SALE

SEC. 103. Section 301 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 741) is amended by adding at the end thereof the following subsection:

"(k) GOVERNING PROVISIONS AFTER SALE.—The provisions of this Act shall not apply to the Corporation and to activities and other actions and responsibilities of the Corporation and its directors after consummation of the sale of the interest of the United States in the common stock of the Corporation under the terms of the Conrail Sale Amendments Act of 1985, other than with regard to—

"(1) section 102 of this Act;

"(2) section 201(d) of this Act;

"(3) section 203 of this Act, but only with respect to information relating to proceedings before the special court established under section 209(b);

"(4) section 216(f)(8) of this Act, but only as such authority applies to activities related to the employee stock ownership plan and related trusts prior to or in connection with consummation of the sale of the interest of the United States in the common stock of the Corporation, including activities related to the sale, exchange, valuation, or disposition of the assets of the employee stock ownership plan and related trusts, or of Conrail Equity Corporation, in connection with the Secretary's Plan;

"(5) sections 216(f)(11) and 216(f)(12) of this Act, as amended by the Conrail Sale Amendments Act of 1985;

"(6) section 217(e) of this Act;

"(7) subsection (i) of this section, but only as such authority applies to service as a director of the Corporation prior to consummation or in connection with implementation of the sale of the interest of the United States in the common stock of the Corporation;

"(8) section 305 of this Act, but only as to the effect, and continuing administration, of supplemental transactions consummated prior to consummation of the sale of the interest of the United States in the common stock of the Corporation;

"(9) section 308 of this Act, but only in abandonment actions when such authority has been relied on to file a notice or notices of insufficent revenues prior to consummation of the sale of the interest of the United States in the common stock of the Corporation;

"(10) section 401(a) of this Act, as amended by the Conrail Sale Amendments Act of 1985;

"(11) section 402 of this Act, as amended by the Conrail Sale Amendments Act of 1985;

"(12) section 408(c) of this Act, as amended by the Conrail Sale Amendments Act of 1985;

"(13) section 701 of this Act, but only as may be necessary to identify employees eligible for benefits under agreements entered into under such section;

"(14) section 702(e) of this Act;

"(15) section 704(b) of this Act;

"(16) section 709 of this Act;

"(17) section 710(b)(1) of this Act;

"(18) section 711 of this Act;

"(19) section 714 of this Act, but only with regard to disputes or controversies specified in such section that arose prior to consummation of the sale of the interest of the United States in the common stock of the Corporation; and

"(20) section 715 of this Act, as amended by the Conrail Sale Amendments Act of 1985.".

IMPLEMENTATION OF THE SECRETARY'S PLAN

SEC. 104. (a) Section 401(a)(3) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 761(a)(3)) is amended to read as follows:

"(3) The Secretary is authorized and directed to implement the Secretary's Plan, in accordance with paragraph (4) of this subsection. Such implementation of the Secretary's Plan and the coordinated operation of the Corporation's properties with those of Norfolk Southern Corporation and its affiliates as a single rail system is deemed approved by the Commission under chapter 113 of title 49, United States Code.".

(b) Section 401(a) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 761(a)) is amended by adding at the end thereof the following paragraphs:

"(4) The Secretary shall implement the Secretary's Plan by negotiating, executing, delivering, and performing the Definitive Agreements, which shall conform to the Memorandum of Intent described in section 102(20)(A) of this Act. The Secretary shall, 45 calendar days before the date on which the Secretary anticipates that the interest of the United States in the common stock of the Corporation will be sold to Norfolk Southern Corporation, transmit to the Committee on Commerce, Science, and Transportation of the Senate and to the Committee on Energy and Commerce of the House of Representatives a notification of any alteration from the Memorandum of Intent described in section 102(20)(A) of this Act which will be made in the Definitive Agreements. After the date of such sale, the Secretary shall transmit to such Committees notification of any intent to waive compliance with any substantive covenant, agreement or obligation contained in the Definitive Agreements, and the Secretary may not waive such compliance until a period of 45 calendar days has expired after the date of such transmittal.

"(5) The Secretary shall not transfer the interest of the United States in the common stock of the Corporation except concurrently with a divestiture by Norfolk Southern Corporation of rail assets and rights approved by the Attorney General.

"(6) The sale of the interest of the United States in the common stock of the Corporation shall be deemed to be consummated at the date title to the common stock passes to Norfolk Southern Corporation and the United States receives the cash purchase price.".

RAILROAD PURCHASERS AND OFFER FOR SALE OF SHARES TO EMPLOYEES

SEC. 105. Subsections (d) and (e) of section 401 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 761(d) and (e)) are repealed.

CANCELLATION OF DEBT AND PREFERRED STOCK

SEC. 106. Section 402 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 762) is amended to read as follows:

"DEBT AND PREFERRED STOCK

"SEC. 402. (a) RECAPITALIZATION.—In connection with the sale of the interest of the United States in the common stock of the Corporation under section 401 of this Act, and consistent with the Secretary's Plan, the Secretary may take all action necessary to cause the Corporation to be recapitalized such that the interest of the United States, or any agent or instrumentality thereof, and

all other commitments or obligations of the Corporation to the United States or any agent or instrumentality thereof arising out of such interest, in any debt (including accrued interest and contingent interest thereon) and preferred stock (including accrued and unpaid dividends thereon) of the Corporation shall be cancelled or retired, and contributed to the capital of the Corporation. The Secretary shall cause the recapitalization authorized by this section to be effective as of the consummation of the sale of the interest of the United States in the common stock of the Corporation.

"(b) BREACH OF REPRESENTATIONS.—(1) Norfolk Southern Corporation or any successor corporation thereto may bring suit for any breach of representations contained in paragraph 6(e) of the Memorandum of Intent described in section 102(20)(A) of this Act (hereinafter referred to as the 'Representations') in the United States Claims Court or a district court of the United States. If such an action is brought, the Claims Court or district court shall determine the amount by which the United States income tax (including interest and penalties whether or not such penalties are assessed as a tax under the Internal Revenue Code of 1954) assessable against the Corporation or against Norfolk Southern Corporation for any year exceeds the amount of such tax which would have been assessable for such year had such Representations not been breached (hereinafter referred to as the 'Offset Amount').

"(2) The Representations shall be considered breached and Norfolk Southern Corporation shall be entitled to bring suit upon the first occurrence of any of the following that is inconsistent with the Representations: (A) the issuance by the Internal Revenue Service of a statutory notice of deficiency (90-day letter), (B) the assessment of the United States income tax, or (C) any claim by the United States in a suit or other judicial proceeding against Norfolk Southern Corporation or the Corporation.

"(3) The right to bring suit pursuant to this section shall not be subject to any waiting period applicable to tax proceedings or to any requirements for payment of any tax as a condition to instituting any suit based on a breach of the Representations.

"(4) Any judgment for money damages relating to breach of the Representations shall only be awarded as an offset in any court or administrative proceeding against the tax liability of Norfolk Southern Corporation or the Corporation, or both, to which such breach relates; except that if any such tax liability resulting from such breach has been paid, the judgment shall to that extent be an offset against any United States income tax liability of the Norfolk Southern Corporation or the Corporation, or both. If any portion of the tax resulting from a breach of the Representations has been paid, then the Offset Amount shall include interest on such payment from the date paid at the rate from time to time specified in the Internal Revenue Code of 1954 for interest payable on refund claims.

"(5) It shall not be a defense to an action brought under this section that Norfolk Southern Corporation knew, or should have known, of the falsity of the Representations or that there exists no carryover basis procedure as contemplated by the last sentence of the Representations.

"(6) For purposes of this section, tax liability of Norfolk Southern Corporation shall include the tax liability of Norfolk Southern Corporation and its affiliated group, within the meaning of section 1504 of the Internal Revenue Code of 1954.".

APPLICABILITY OF CERTAIN LAWS TO SALE OF CONRAIL

SEC. 107. Section 408 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 768) is amended—

(1) by repealing subsection (b);

(2) by amending subsection (c) by striking "No transfer" and all that follows through "subject to" and inserting in lieu thereof "Except as provided in section 1152 of the Northeast Rail Service Act of 1981 (45 U.S.C. 1105), the Secretary's Plan and the Definitive Agreements and their negotiation, execution, and implementation shall not be subject to administrative or"; and

(3) by adding at the end of subsection (c) the following sentence: "The issuance in private placement of notes or other securities in accordance with exhibit B to the Memorandum of Intent (described in section 102(20)(A) of this Act) in the Secretary's Plan shall not be subject to the provisions of subtitle IV of title 49, United States Code.".

LABOR PROTECTION

SEC. 108. (a) Section 701(d)(2) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 797(d)(2)) is amended by striking "the last day of the eighteen-month period beginning on".

(b)(1) Title VII of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 797 et seq.) is amended by adding at the end thereof the following section:

"PROTECTION AFTER SALE

"SEC. 715. After consummation of the sale of the interest of the United States in the common stock of the Corporation pursuant to the Secretary's Plan, any employee of Norfolk Southern Corporation, the Corporation, any rail affiliate of either company, and any transferee of the rail tracks, rights, and facilities divested in accordance with the Secretary's Plan, who is adversely affected in his employment by the implementation of the Secretary's Plan shall receive from his employer protection under the labor protective conditions set forth in New York Dock Railway—Control—Brooklyn Eastern District Terminal (354 ICC 399 (1978), modified upon further consideration, 360 ICC 60 (1979)). The arbitration provisions of section 4 of New York Dock shall apply to the formation of any implementing agreements that may be necessary in connection with the implementation of the Secretary's Plan, including any resulting coordinations.".

(2) The table of contents of the Regional Rail Reorganization Act of 1973 is amended by inserting immediately after the item relating to section 714 the following item:

"Sec. 715. Protection after sale.".

PREFERENTIAL HIRING

SEC. 109. Section 703 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 797b) is amended—

(1) by redesignating subsection (b) as subsection (c); and

(2) by inserting immediately after subsection (a) the following subsection:

"(b) IMPLEMENTATION OF SECRETARY'S PLAN.—Any employee of any railroad who is deprived of employment as a result of the implementation of the Secretary's Plan shall have the first right of hire for a vacancy for which he is qualified on any Norfolk Southern Corporation rail subsidiary, except where such vacancy is covered by (1) an affirmative action plan, or a hiring plan designated to eliminate discrimination, that is required by Federal or State statute, regulation, or Executive order, or by the order of a Federal court or agency, or (2) a permissible voluntary affirmative action plan. For purposes of this subsection, a railroad shall not be considered to be hiring new employees when it recalls any of its own furloughed employees.".

CROSS CRAFT EMPLOYMENT

SEC. 110. (a) Title VII of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 797 et seq.) is amended by inserting immediately after section 703 the following section:

"CROSS CRAFT EMPLOYMENT

"SEC. 703A. Any employee of Norfolk and Western Railway Company, Southern Railway Company, or the Corporation who is deprived of employment as a result of the implementation of the Secretary's Plan shall have the first right of hire for any vacancy for which such employee is qualified at the entry level of any Norfolk Southern Corporation rail subsidiary, without regard to craft or class or the provisions of section 703 of this Act. Such employee shall retain his seniority rights to return to his original craft or class whenever a vacancy occurs. For purposes of this section, a railroad shall not be considered to be hiring new employees when it recalls any of its own furloughed employees.".

(b) The table of contents of the Regional Rail Reorganization Act of 1973 is amended by inserting immediately after the item relating to section 703 the following item:

"Sec. 703A. Cross craft employment.".

Subtitle B—Northeast Rail Service Act of 1981 Amendments

SPECIAL COURT JURISDICTION

SEC. 121. (a) Section 1152 of the Northeast Rail Service Act of 1981 (45 U.S.C. 1105) is amended—

(1) by inserting "or the Conrail Sale Amendments Act of 1985" immediately after "subtitle" wherever it appears;

(2) in subsection (a), by striking "or" at the end of paragraph (3), by striking the period at the end of paragraph (4) and inserting in lieu thereof a semicolon, and by adding at the end thereof the following paragraphs:

"(5) brought by the United States or any agency or instrumentality thereof seeking to enforce the Secretary's Plan or the Definitive Agreements;

"(6) brought by Norfolk Southern Corporation seeking to enforce the Secretary's Plan or the Definitive Agreements;

"(7) brought by a party who filed a complaint with the Secretary under subsection (e) of this section, and who is aggrieved by (A) a determination of the Secretary under paragraph (1) of such subsection that the party has not suffered direct economic injury, or (B) a decision of the Secretary under paragraph (2) of such subsection that a covenant has not been violated;

"(8) brought by a party which is a signatory to an ancillary agreement entered into in accordance with the Secretary's Plan or the Definitive Agreements and which is seeking to enforce such ancillary agreement; or

"(9) brought to determine the value of the interest of the employee stock ownership plan and related trusts, or of the beneficiaries thereof, in the preferred stock of the Conrail Equity Corporation.

For purposes of any action brought under paragraph (5) of this subsection, a violation of any covenant contained in the Secre-

tary's Plan or the Definitive Agreements shall be deemed to constitute immediate and irreparable harm for purposes of awarding injunctive relief to the United States.".

(b) Section 1152 of the Northeast Rail Service Act of 1981 (45 U.S.C. 1105) is amended by adding at the end thereof the following subsection:

"(e)(1) Any party who suffers direct economic injury as a result of an alleged violation of a covenant contained in the Definitive Agreements may file a complaint with the Secretary seeking enforcement of such covenant. If the Secretary determines that the complainant has demonstrated to the Secretary that it has suffered direct economic injury, the Secretary shall investigate the complaint.

"(2) If the Secretary decides to investigate a complaint under paragraph (1) of this subsection, the Secretary shall give reasonable notice of such decision to investigate to the alleged violator of such covenant and the complainant, and shall make a final decision on such complaint within 60 days after the date on which it was filed.

"(3) If the Secretary finds that (A) the covenant in question has been violated, and (B) the complainant suffered direct economic injury as a result of such violation, the Secretary shall enter an order directing the violator of such covenant to comply with such covenant.

"(4) On appeal, any decision by the Secretary under this subsection shall be upheld, unless such decision is found to be arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law.".

APPLICABILITY OF OTHER LAWS

SEC. 122. Section 1168(a) of the Northeast Rail Service Act of 1981 (45 U.S.C. 1116(a)) is amended by striking "service transfers" and inserting in lieu thereof "sale of the interest of the United States in the common stock of Conrail or transfer of the rail properties and freight service responsibilities of Conrail".

Subtitle C—Employee Stock Ownership Plan

RESPONSIBILITY OF EMPLOYEE STOCK OWNERSHIP PLAN FIDUCIARIES

SEC. 131. (a) Section 216(f)(8)(A) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 726(f)(8)(A)) is amended—

(1) by striking "or" at the end of clause (ii);

(2) by striking the period at the end of clause (iii) and inserting in lieu thereof "; or"; and

(3) by adding at the end thereof the following clause:

"(iv) for or in connection with any action taken to implement the Secretary's Plan, including any sale, exchange, valuation, or disposition of the plan and related trust assets, or the assets of Conrail Equity Corporation, in connection with implementation of the Secretary's Plan and any determination of the terms on which any such sale, exchange, valuation, or disposition is effected.".

QUALIFICATION, REVIEW, AND VALUATION OF EMPLOYEE STOCK OWNERSHIP PLANS

SEC. 132. Section 216(f) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 726(f)) is amended by adding at the end thereof the following paragraphs:

"(11) The employee stock ownership plans of the Corporation and related trusts maintained, amended, or adopted in implementing the Secretary's Plan shall be deemed to meet the qualification requirements of sections 401 and 501, respectively, of the Internal Revenue Code of 1954, notwithstanding (A) that such plans may not meet the requirements of section 415 of the Internal Revenue Code of 1954, or (B) that participants in such plans may be entitled to withdraw a portion of the shares allocated to their accounts prior to the expiration of the period generally imposed by the Internal Revenue Service for qualified plans. Such qualification shall relate only to the contributions, allocations, and withdrawals of shares provided for in the Secretary's Plan with respect to the plans and related trusts maintained, amended, or adopted in implementing the Secretary's Plan. Such contributions and allocations shall in no event be treated as having exceeded the maximum annual addition permitted under section 415 of the Internal Revenue Code of 1954 (but not for purposes of applying section 404(j) of the Internal Revenue Code of 1954) for purposes of calculating any limitation under section 415 with respect to contributions and allocations not described in the Secretary's Plan, including contributions and allocations to plans and related trusts of the Corporation and any affiliated corporation. The continued qualification of such plans with respect to all other contributions, allocations, and withdrawals shall be subject to all provisions of existing law, as amended from time to time. No inference shall be drawn from this paragraph as to whether an amount is a contribution deductible under section 404 of the Internal Revenue Code of 1954 rather than a non-deductible capital expenditure.

"(12) Except as provided in section 1152 of the Northeast Rail Service Act of 1981 (45 U.S.C. 1105), the issuance and sale or contribution of securities by Norfolk Southern Corporation to fulfill arrangements with the Corporation's employees in implementing the Secretary's Plan and the distribution of shares from the Corporation's employee stock ownership plans and related trusts maintained, amended, or adopted in implementing the Secretary's Plan shall not be subject to the registration and prospectus delivery requirements of the Securities Act of 1933, any approval requirement under subtitle IV of title 49, United States Code, or the laws of any State with respect to the issuance and sale of securities.".

TITLE II—TECHNICAL AND CONFORMING AMENDMENTS

REGIONAL RAIL REORGANIZATION ACT OF 1973 AMENDMENTS AND REPEALS

SEC. 201. The following provisions of the Regional Rail Reorganization Act of 1973 are repealed or amended as specified:

(1) Subsections (a) and (b) of section 214 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 724(a) and (b)) are repealed, and such section 214 is amended by striking "(c) ASSOCIATION.—".

(2) Subsection (f) of section 217 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 727(f)) is repealed, without prejudice to the continued availability of funds appropriated prior to the date of enactment of this Act pursuant to section 217(f)(1)(C) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 727(f)(1)(C)).

(3) Section 404 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 764), and the item relating to such section in the table of contents of such Act, are repealed.

(4) Section 405 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 765), and the item relating to such section in the table of contents of such Act, are repealed.

(5) Section 406 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 766), and the item relating to such section in the table of contents of such Act, are repealed.

(6) Section 407 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 767), and the item relating to such section in the table of contents of such Act, are repealed.

(7) Subsections (a) and (d) of section 408 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 768 (a) and (d)) are repealed.

(8) Section 409 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 769), and the item relating to such section in the table of contents of such Act, are repealed.

(9) Section 410 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 769a), and the item relating to such section in the table of contents of such Act, are repealed.

(10) Section 411 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 769b), and the item relating to such section in the table of contents of such Act, are repealed.

(11) Section 412 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 769c), and the item relating to such section in the table of contents of such Act, are repealed.

(12) Section 713 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 797l), and the item relating to such section in the table of contents of such Act, are repealed.

AMENDMENTS AND REPEALS OF OTHER RAIL LAWS

SEC. 202. The following provisions of law are repealed or amended as specified:

(1) Section 1154 of the Northeast Rail Service Act of 1981 (45 U.S.C. 1107), and the item relating to such section in the table of contents of such Act, are repealed.

(2) Section 1161 of the Northeast Rail Service Act of 1981 (45 U.S.C. 1110), and the item relating to such section in the table of contents of such Act, are repealed.

(3) Section 1166 of the Northeast Rail Service Act of 1981 (45 U.S.C. 1114), and the item relating to such section in the table of contents of such Act, are repealed.

(4) Subsection (c) of section 1167 of the Northeast Rail Service Act of 1981 (45 U.S.C. 1115(c)) is repealed.

(5) Subsection (b) of section 1168 of the Northeast Rail Service Act of 1981 (45 U.S.C. 1116(b)) is repealed.

(6) Section 501(8) of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 821(8)) is amended—

(A) by striking "(A)";

(B) by striking "(i)" and inserting in lieu thereof "(A)", and by striking "(ii)" and inserting in lieu thereof "(B)"; and

(C) by striking all after "utilization;".

(7) Section 505 of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 825) is amended—

(A) in subsection (a)(1), by striking all after "railroad" through "1981)"; and

(B) in subsection (b)(2)(C), by striking all after "costs" the second time it appears through "subsidy".

(8) Subsection (b)(1) of section 509 of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 829(b)(1)) is repealed.

(9) Section 511(e) of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 831(e)) is amended by striking "(1)", and by striking all after "time" and inserting in lieu thereof a period.

(10) Section 402 of the Rail Safety and Service Improvement Act of 1982 (45 U.S.C. 825a) is repealed.

(11) Section 1005(b)(1) of the Rail Passenger Service Act (45 U.S.C. 655(b)(1)) is amended by striking "the Consolidated Rail Corporation,".

(12) Section 10362(b)(7)(A) of title 49, United States Code, is amended by striking "by the Consolidated Rail Corporation or".

(13) Section 332(d) of title 49, United States Code, is amended by striking ", the Consolidated Rail Corporation,".

TITLE III—MISCELLANEOUS PROVISIONS

COMMON CARRIER STATUS OF CONRAIL AFTER SALE

SEC. 301. (a) Conrail's status as a common carrier by railroad under section 10102(4) of title 49, United States Code, shall not be affected by virtue of sale of the interest of the United States in Conrail's common stock. Purchase of Conrail stock shall not alone be the basis of a determination that the acquiring entity has become a common carrier by railroad under section 10102(4) of title 49, United States Code.

(b) The Definitive Agreements shall contain a binding commitment by Norfolk Southern Corporation to continue to operate Conrail in full compliance with the provisions of section 10731(e) of title 49, United States Code.

CONSUMMATION OF SALE

SEC. 302. The sale of the interest of the United States in the common stock of Conrail shall be deemed to be consummated on the date title to the common stock passes to Norfolk Southern Corporation and the United States receives the cash purchase price.

CONTRACTS

SEC. 303. (a) Except as provided in subsection (b) of this section, nothing in this Act shall affect—

(1) Conrail's obligation to carry out its transportation contracts and equipment leases, equipment trusts, and conditional sale agreements, in accordance with their terms; and

(2) the obligation of any transferee of divested assets to carry out transportation contracts and equipment leases, equipment trusts, and conditional sale agreements to which such assets are subject, in accordance with their terms.

(b) If a divestiture carried out pursuant to the Secretary's Plan precludes Conrail from providing a transportation service for which it has contracted without a right of termination that may be exercised in the event of the sale of the interest of the United States in the common stock of Conrail and the divestiture will result in a change or modification in the movement of the traffic involved, the transferee of the divested rights and properties and Conrail shall provide the contracted-for service on terms and conditions which, to the maximum extent possible, conform to the terms and conditions in the contract.

CONGRESSIONAL OVERSIGHT OF COMPLIANCE

SEC. 304. The Secretary shall, no later than January 31 of each year, submit to the Committee on Commerce, Science, and Transportation of the Senate and to the Committee on Energy and Commerce of the House of Representatives a report setting forth each certificate which Norfolk Southern Corporation and Conrail provided to the Secretary, during the preceding year, certifying compliance with the covenants contained in the Definitive Agreements.

SEPARABILITY

SEC. 305. If any provision of this Act or the application thereof to any person or circumstances is held invalid, the remainder of this Act and the application of such provision to other persons or circumstances shall not be affected thereby.

EFFECTIVE DATE

SEC. 306. (a) Except as provided in subsection (b) of this section, the provisions of and amendments made by this Act shall take effect on the date of enactment of this Act.

(b) Sections 108(a), 201 and 202 of this Act shall take effect on the date of consummation of the sale of the interest of the United States in the common stock of Conrail.

(c) Any provision of this Act which, pursuant to Article I, Section 7 of the Constitution, provides for raising revenue shall only be effective upon the enactment into law of a bill which has originated in the House of Representatives enacting such provision.

AMENDMENT NO. 1477

In lieu of the language proposed to be inserted, insert the following:

That this Act may be cited as the "Conrail Sale Amendments Act of 1985".

FINDINGS

SEC. 2. The Congress finds that—

(1) the Northeast Rail Service Act of 1981 (45 U.S.C. 1101 et seq.) provided for an orderly return of Conrail freight service to the private sector;

(2) the provisions of the Northeast Rail Service Act of 1981 were successful in removing Conrail's obligations beyond railroad freight service and in otherwise preparing Conrail for an orderly return to the private sector;

(3) acting under section 403 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 763), the Board of Directors of the United States Railway Association twice found Conrail to be a profitable corporation;

(4) acting under section 401 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 761), the Secretary engaged an investment banker and arranged, through open competitive bidding and negotiation, to sell the interest of the United States in the common stock of Conrail;

(5) the Secretary's Plan for the sale of Conrail provides for sale of the interest of the United States in the common stock of Conrail to Norfolk Southern Corporation;

(6) the Secretary found that sale of the interest of the United States in the common stock of Conrail to Norfolk Southern Corporation best meets the sale criteria of (A) leaving Conrail in the strongest financial position after the sale, (B) preserving patterns of service to shippers and communities in the region Conrail serves, and (C) maximizing return to the Federal Government consistent with the criteria specified in clauses (A) and (B);

(7) amendments to the Regional Rail Reorganization Act of 1973 (45 U.S.C. 701 et seq.) and related laws are needed to permit the sale of the interest of the United States in the common stock of Conrail to Norfolk Southern Corporation and to permit cancellation of the interest of the United States in Conrail debt and preferred stock; and

(8) the Secretary's Plan satisfies the requirements of the Northeast Rail Service Act of 1981, including the intent, goals, and objectives relating to the sale of the interest of the United States in the common stock of Conrail and the requirements of section 401(e) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 761(e)).

PURPOSE

SEC. 3. It is therefore declared to be the purpose of the Congress in this Act to return Conrail to the private sector by directing and facilitating implementation of the Secretary's Plan for the sale of the interest of the United States in the common stock of Conrail.

DEFINITIONS

SEC. 4. (a) In this Act, unless the context otherwise requires, the term—

(1) "Conrail" means the Consolidated Rail Corporation;

(2) "Definitive Agreements" means any and all agreements existing or to be developed between the United States and Norfolk Southern Corporation, including all representations and warranties made therein, to implement the Memorandum of Intent described in paragraph (4)(A);

(3) "Secretary" means the Secretary of Transportation; and

(4) "Secretary's Plan" means (A) the Memorandum of Intent between the United States and Norfolk Southern Corporation signed February 8, 1985, and (B) the divestitures by the Norfolk Southern Corporation of certain rail tracks, rights, and facilities, and any transactions or agreements related or incidental to such divestitures, in connection with the implementation of attachment A to the letter from the Department of Justice attached to the Memorandum of Intent as exhibit E.

(b) Section 102 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 702) is amended—

(1) by redesignating paragraphs (6) through (18) as paragraphs (7) through (19), and paragraphs (19) through (21) as paragraphs (21) through (23), respectively;

(2) by inserting after paragraph (5) the following paragraph:

"(6) 'Definitive Agreements' means any and all agreements existing or to be developed between the United States and Norfolk Southern Corporation, including all representations and warranties made therein, to implement the Memorandum of Intent described in paragraph (20)(A);"; and

(3) by inserting after paragraph (19), as so redesignated, the following paragraph:

"(20) 'Secretary's Plan' means (A) the Memorandum of Intent between the United States and Norfolk Southern Corporation signed February 8, 1985, but not including paragraph 2(i) of such Memorandum of Intent, and (B) the divestitures by the Norfolk Southern Corporation of certain rail tracks, rights, and facilities, and any transactions or agreements related or incidental to such divestitures, in connection with the implementation of attachment A to the letter from the Department of Justice attached to the Memorandum of Intent as exhibit E;".

(c) Section 1135(a) of the Northeast Rail Service Act of 1981 (45 U.S.C. 1104(a)) is amended—

(1) by redesignating paragraphs (6), (7), and (8) as paragraphs (7), (8), and (10), respectively;

(2) by inserting after paragraph (5) the following paragraph:

"(6) 'Definitive Agreements' means any and all agreements existing or to be developed between the United States and Norfolk Southern Corporation, including all representations and warranties made therein, to implement the Memorandum of Intent described in paragraph (9)(A);"; and

(3) by inserting after paragraph (8), as so redesignated, the following paragraph:

"(9) 'Secretary's Plan' means (A) the Memorandum of Intent between the United States and Norfolk Southern Corporation

signed February 8, 1985, and (B) the divestitures by the Norfolk Southern Corporation of certain rail tracks, rights, and facilities, and any transactions or agreements related or incidental to such divestitures, in connection with the implementation of attachment A to the letter from the Department of Justice attached to the Memorandum of Intent as exhibit E;".

TITLE I—AMENDMENTS TO THE REGIONAL RAIL REORGANIZATION ACT OF 1973 AND THE NORTHEAST RAIL SERVICE ACT OF 1981

Subtitle A—Regional Rail Reorganization Act of 1973 Amendments

LIMIT ON AUTHORITY TO PURCHASE STOCK

SEC. 101. Section 216(b) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 726(b)) is amended by adding at the end thereof the following paragraph:

"(5) The authority of the Association to purchase debentures or series A preferred stock of the Corporation under this section shall terminate upon the consummation of the sale of the interest of the United States in the common stock of the Corporation under the terms of the Secretary's Plan.".

RESPONSIBILITY OF CONRAIL DIRECTORS

SEC. 102. Section 301(i) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 741(i)) is amended by inserting immediately after "required by law" the following: ", taken to implement the Secretary's Plan,".

APPLICABILITY OF REGIONAL RAIL REORGANIZATION ACT OF 1973 TO CONRAIL AFTER SALE

SEC. 103. Section 301 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 741) is amended by adding at the end thereof the following subsection:

"(k) GOVERNING PROVISIONS AFTER SALE.—The provisions of this Act shall not apply to the Corporation and to activities and other actions and responsibilities of the Corporation and its directors after consummation of the sale of the interest of the United States in the common stock of the Corporation under the terms of the Conrail Sale Amendments Act of 1985, other than with regard to—

"(1) section 102 of this Act;

"(2) section 201(d) of this Act;

"(3) section 203 of this Act, but only with respect to information relating to proceedings before the special court established under section 209(b);

"(4) section 216(f)(8) of this Act, but only as such authority applies to activities related to the employee stock ownership plan and related trusts prior to or in connection with consummation of the sale of the interest of the United States in the common stock of the Corporation, including activities related to the sale, exchange, valuation, or disposition of the assets of the employee stock ownership plan and related trusts, or of Conrail Equity Corporation, in connection with the Secretary's Plan;

"(5) sections 216(f)(11) and 216(f)(12) of this Act, as amended by the Conrail Sale Amendments Act of 1985;

"(6) section 217(e) of this Act;

"(7) subsection (i) of this section, but only as such authority applies to service as a director of the Corporation prior to consummation or in connection with implementation of the sale of the interest of the United States in the common stock of the Corporation;

"(8) section 305 of this Act, but only as to the effect, and continuing administration, of supplemental transactions consummated prior to consummation of the sale of the interest of the United States in the common stock of the Corporation;

"(9) section 308 of this Act, but only in abandonment actions when such authority has been relied on to file a notice or notices of insufficent revenues prior to consummation of the sale of the interest of the United States in the common stock of the Corporation;

"(10) section 401(a) of this Act, as amended by the Conrail Sale Amendments Act of 1985;

"(11) section 402 of this Act, as amended by the Conrail Sale Amendments Act of 1985;

"(12) section 408(c) of this Act, as amended by the Conrail Sale Amendments Act of 1985;

"(13) section 701 of this Act, but only as may be necessary to identify employees eligible for benefits under agreements entered into under such section;

"(14) section 702(e) of this Act;

"(15) section 704(b) of this Act;

"(16) section 709 of this Act;

"(17) section 710(b)(1) of this Act;

"(18) section 711 of this Act;

"(19) section 714 of this Act, but only with regard to disputes or controversies specified in such section that arose prior to consummation of the sale of the interest of the United States in the common stock of the Corporation; and

"(20) section 715 of this Act, as amended by the Conrail Sale Amendments Act of 1985.".

IMPLEMENTATION OF THE SECRETARY'S PLAN

SEC. 104. (a) Section 401(a)(3) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 761(a)(3)) is amended to read as follows:

"(3) The Secretary is authorized and directed to implement the Secretary's Plan, in accordance with paragraph (4) of this subsection. Such implementation of the Secretary's Plan and the coordinated operation of the Corporation's properties with those of Norfolk Southern Corporation and its affiliates as a single rail system is deemed approved by the Commission under chapter 113 of title 49, United States Code.".

(b) Section 401(a) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 761(a)) is amended by adding at the end thereof the following paragraphs:

"(4) The Secretary shall implement the Secretary's Plan by negotiating, executing, delivering, and performing the Definitive Agreements, which shall conform to the Memorandum of Intent described in section 102(20)(A) of this Act. The Secretary shall, 45 calendar days before the date on which the Secretary anticipates that the interest of the United States in the common stock of the Corporation will be sold to Norfolk Southern Corporation, transmit to the Committee on Commerce, Science, and Transportation of the Senate and to the Committee on Energy and Commerce of the House of Representatives a notification of any alteration from the Memorandum of Intent described in section 102(20)(A) of this Act which will be made in the Definitive Agreements. After the date of such sale, the Secretary shall transmit to such Committees notification of any intent to waive compliance with any substantive covenant, agreement or obligation contained in the Definitive Agreements, and the Secretary may not waive such compliance until a period of 45 calendar days has expired after the date of such transmittal.

"(5) The Secretary shall not transfer the interest of the United States in the common stock of the Corporation except concurrently with a divestiture by Norfolk Southern Corporation of rail assets and rights approved by the Attorney General.

"(6) The sale of the interest of the United States in the common stock of the Corporation shall be deemed to be consummated at the date title to the common stock passes to Norfolk Southern Corporation and the United States receives the cash purchase price.".

RAILROAD PURCHASERS AND OFFER FOR SALE OF SHARES TO EMPLOYEES

SEC. 105. Subsections (d) and (e) of section 401 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 761(d) and (e)) are repealed.

CANCELLATION OF DEBT AND PREFERRED STOCK

SEC. 106. Section 402 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 762) is amended to read as follows:

"DEBT AND PREFERRED STOCK

"SEC. 402. (a) RECAPITALIZATION.—In connection with the sale of the interest of the United States in the common stock of the Corporation under section 401 of this Act, and consistent with the Secretary's Plan, the Secretary may take all action necessary to cause the Corporation to be recapitalized such that the interest of the United States, or any agent or instrumentality thereof, and all other commitments or obligations of the Corporation to the United States or any agent or instrumentality thereof arising out of such interest, in any debt (including accrued interest and contingent interest thereon) and preferred stock (including accrued and unpaid dividends thereon) of the Corporation shall be cancelled or retired, and contributed to the capital of the Corporation. The Secretary shall cause the recapitalization authorized by this section to be effective as of the consummation of the sale of the interest of the United States in the common stock of the Corporation.

"(b) BREACH OF REPRESENTATIONS.—(1) Norfolk Southern Corporation or any successor corporation thereto may bring suit for any breach of representations contained in paragraph 6(e) of the Memorandum of Intent described in section 102(20)(A) of this Act (hereinafter referred to as the 'Representations') in the United States Claims Court or a district court of the United States. If such an action is brought, the Claims Court or district court shall determine the amount by which the United States income tax (including interest and penalties whether or not such penalties are assessed as a tax under the Internal Revenue Code of 1954) assessable against the Corporation or against Norfolk Southern Corporation for any year exceeds the amount of such tax which would have been assessable for such year had such Representations not been breached (hereinafter referred to as the 'Offset Amount').

"(2) The Representations shall be considered breached and Norfolk Southern Corporation shall be entitled to bring suit upon the first occurrence of any of the following that is inconsistent with the Representations: (A) the issuance by the Internal Revenue Service of a statutory notice of deficiency (90-day letter), (B) the assessment of the United States income tax, or (C) any claim by the United States in a suit or other judicial proceeding against Norfolk Southern Corporation or the Corporation.

"(3) The right to bring suit pursuant to this section shall not be subject to any waiting period applicable to tax proceedings or

to any requirements for payment of any tax as a condition to instituting any suit based on a breach of the Representations.

"(4) Any judgment for money damages relating to breach of the Representations shall only be awarded as an offset in any court or administrative proceeding against the tax liability of Norfolk Southern Corporation or the Corporation, or both, to which such breach relates; except that if any such tax liability resulting from such breach has been paid, the judgment shall to that extent be an offset against any United States income tax liability of the Norfolk Southern Corporation or the Corporation, or both. If any portion of the tax resulting from a breach of the Representations has been paid, then the Offset Amount shall include interest on such payment from the date paid at the rate from time to time specified in the Internal Revenue Code of 1954 for interest payable on refund claims.

"(5) It shall not be a defense to an action brought under this section that Norfolk Southern Corporation knew, or should have known, of the falsity of the Representations or that there exists no carryover basis procedure as contemplated by the last sentence of the Representations.

"(6) For purposes of this section, tax liability of Norfolk Southern Corporation shall include the tax liability of Norfolk Southern Corporation and its affiliated group, within the meaning of section 1504 of the Internal Revenue Code of 1954.".

APPLICABILITY OF CERTAIN LAWS TO SALE OF CONRAIL

SEC. 107. Section 408 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 768) is amended—

(1) by repealing subsection (b);

(2) by amending subsection (c) by striking "No transfer" and all that follows through "subject to" and inserting in lieu thereof "Except as provided in section 1152 of the Northeast Rail Service Act of 1981 (45 U.S.C. 1105), the Secretary's Plan and the Definitive Agreements and their negotiation, execution, and implementation shall not be subject to administrative or"; and

(3) by adding at the end of subsection (c) the following sentence: "The issuance in private placement of notes or other securities in accordance with exhibit B to the Memorandum of Intent (described in section 102(20)(A) of this Act) in the Secretary's Plan shall not be subject to the provisions of subtitle IV of title 49, United States Code.".

LABOR PROTECTION

SEC. 108. (a) Section 701(d)(2) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 797(d)(2)) is amended by striking "the last day of the eighteen-month period beginning on".

(b)(1) Title VII of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 797 et seq.) is amended by adding at the end thereof the following section:

"PROTECTION AFTER SALE

"SEC. 715. After consummation of the sale of the interest of the United States in the common stock of the Corporation pursuant to the Secretary's Plan, any employee of Norfolk Southern Corporation, the Corporation, any rail affiliate of either company, and any transferee of the rail tracks, rights, and facilities divested in accordance with the Secretary's Plan, who is adversely affected in his employment by the implementation of the Secretary's Plan shall receive from his employer protection under the labor protective conditions set forth in New York Dock Railway—Control—Brooklyn Eastern District Terminal (354 ICC 399 (1978), modified upon further consideration, 360 ICC 60 (1979)). The arbitration provisions of section 4 of New York Dock shall apply to the formation of any implementing agreements that may be necessary in connection with the implementation of the Secretary's Plan, including any resulting coordinations.".

(2) The table of contents of the Regional Rail Reorganization Act of 1973 is amended by inserting immediately after the item relating to section 714 the following item:

"Sec. 715. Protection after sale.".

PREFERENTIAL HIRING

SEC. 109. Section 703 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 797b) is amended—

(1) by redesignating subsection (b) as subsection (c); and

(2) by inserting immediately after subsection (a) the following subsection:

"(b) IMPLEMENTATION OF SECRETARY'S PLAN.—Any employee of any railroad who is deprived of employment as a result of the implementation of the Secretary's Plan shall have the first right of hire for a vacancy for which he is qualified on any Norfolk Southern Corporation rail subsidiary, except where such vacancy is covered by (1) an affirmative action plan, or a hiring plan designated to eliminate discrimination, that is required by Federal or State statute, regulation, or Executive order, or by the order of a Federal court or agency, or (2) a permissible voluntary affirmative action plan. For purposes of this subsection, a railroad shall not be considered to be hiring new employees when it recalls any of its own furloughed employees.".

CROSS CRAFT EMPLOYMENT

SEC. 110. (a) Title VII of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 797 et seq.) is amended by inserting immediately after section 703 the following section:

"CROSS CRAFT EMPLOYMENT

"SEC. 703A. Any employee of Norfolk and Western Railway Company, Southern Railway Company, or the Corporation who is deprived of employment as a result of the implementation of the Secretary's Plan shall have the first right of hire for any vacancy for which such employee is qualified at the entry level of any Norfolk Southern Corporation rail subsidiary, without regard to craft or class or the provisions of section 703 of this Act. Such employee shall retain his seniority rights to return to his original craft or class whenever a vacancy occurs. For purposes of this section, a railroad shall not be considered to be hiring new employees when it recalls any of its own furloughed employees.".

(b) The table of contents of the Regional Rail Reorganization Act of 1973 is amended by inserting immediately after the item relating to section 703 the following item:

"Sec. 703A. Cross craft employment.".

Subtitle B—Northeast Rail Service Act of 1981 Amendments

SPECIAL COURT JURISDICTION

SEC. 121. (a) Section 1152 of the Northeast Rail Service Act of 1981 (45 U.S.C. 1105) is amended—

(1) by inserting "or the Conrail Sale Amendments Act of 1985" immediately after "subtitle" wherever it appears;

(2) in subsection (a), by striking "or" at the end of paragraph (3), by striking the period at the end of paragraph (4) and inserting in lieu thereof a semicolon, and by adding at the end thereof the following paragraphs:

"(5) brought by the United States or any agency or instrumentality thereof seeking to enforce the Secretary's Plan or the Definitive Agreements;

"(6) brought by Norfolk Southern Corporation seeking to enforce the Secretary's Plan or the Definitive Agreements;

"(7) brought by a party who filed a complaint with the Secretary under subsection (e) of this section, and who is aggrieved by (A) a determination of the Secretary under paragraph (1) of such subsection that the party has not suffered direct economic injury, or (B) a decision of the Secretary under paragraph (2) of such subsection that a covenant has not been violated;

"(8) brought by a party which is a signatory to an ancillary agreement entered into in accordance with the Secretary's Plan or the Definitive Agreements and which is seeking to enforce such ancillary agreement; or

"(9) brought to determine the value of the interest of the employee stock ownership plan and related trusts, or of the beneficiaries thereof, in the preferred stock of the Conrail Equity Corporation.

For purposes of any action brought under paragraph (5) of this subsection, a violation of any covenant contained in the Secretary's Plan or the Definitive Agreements shall be deemed to constitute immediate and irreparable harm for purposes of awarding injunctive relief to the United States.".

(b) Section 1152 of the Northeast Rail Service Act of 1981 (45 U.S.C. 1105) is amended by adding at the end thereof the following subsection:

"(e)(1) Any party who suffers direct economic injury as a result of an alleged violation of a covenant contained in the Definitive Agreements may file a complaint with the Secretary seeking enforcement of such covenant. If the Secretary determines that the complainant has demonstrated to the Secretary that it has suffered direct economic injury, the Secretary shall investigate the complaint.

"(2) If the Secretary decides to investigate a complaint under paragraph (1) of this subsection, the Secretary shall give reasonable notice of such decision to investigate to the alleged violator of such covenant and the complainant, and shall make a final decision on such complaint within 60 days after the date on which it was filed.

"(3) If the Secretary finds that (A) the covenant in question has been violated, and (B) the complainant suffered direct economic injury as a result of such violation, the Secretary shall enter an order directing the violator of such covenant to comply with such covenant.

"(4) On appeal, any decision by the Secretary under this subsection shall be upheld, unless such decision is found to be arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law.".

APPLICABILITY OF OTHER LAWS

SEC. 122. Section 1168(a) of the Northeast Rail Service Act of 1981 (45 U.S.C. 1116(a)) is amended by striking "service transfers" and inserting in lieu thereof "sale of the interest of the United States in the common stock of Conrail or transfer of the rail properties and freight service responsibilities of Conrail".

Subtitle C—Employee Stock Ownership Plan

RESPONSIBILITY OF EMPLOYEE STOCK OWNERSHIP PLAN FIDUCIARIES

SEC. 131. (a) Section 216(f)(8)(A) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 726(f)(8)(A)) is amended—

(1) by striking "or" at the end of clause (ii);

(2) by striking the period at the end of clause (iii) and inserting in lieu thereof "; or"; and

(3) by adding at the end thereof the following clause:

"(iv) for or in connection with any action taken to implement the Secretary's Plan, including any sale, exchange, valuation, or disposition of the plan and related trust assets, or the assets of Conrail Equity Corporation, in connection with implementation of the Secretary's Plan and any determination of the terms on which any such sale, exchange, valuation, or disposition is effected.".

QUALIFICATION, REVIEW, AND VALUATION OF EMPLOYEE STOCK OWNERSHIP PLANS

SEC. 132. Section 216(f) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 726(f)) is amended by adding at the end thereof the following paragraphs:

"(11) The employee stock ownership plans of the Corporation and related trusts maintained, amended, or adopted in implementing the Secretary's Plan shall be deemed to meet the qualification requirements of sections 401 and 501, respectively, of the Internal Revenue Code of 1954, notwithstanding (A) that such plans may not meet the requirements of section 415 of the Internal Revenue Code of 1954, or (B) that participants in such plans may be entitled to withdraw a portion of the shares allocated to their accounts prior to the expiration of the period generally imposed by the Internal Revenue Service for qualified plans. Such qualification shall relate only to the contributions, allocations, and withdrawals of shares provided for in the Secretary's Plan with respect to the plans and related trusts maintained, amended, or adopted in implementing the Secretary's Plan. Such contributions and allocations shall in no event be treated as having exceeded the maximum annual addition permitted under section 415 of the Internal Revenue Code of 1954 (but not for purposes of applying section 404(j) of the Internal Revenue Code of 1954) for purposes of calculating any limitation under section 415 with respect to contributions and allocations not described in the Secretary's Plan, including contributions and allocations to plans and related trusts of the Corporation and any affiliated corporation. The continued qualification of such plans with respect to all other contributions, allocations, and withdrawals shall be subject to all provisions of existing law, as amended from time to time. No inference shall be drawn from this paragraph as to whether an amount is a contribution deductible under section 404 of the Internal Revenue Code of 1954 rather than a non-deductible capital expenditure.

"(12) Except as provided in section 1152 of the Northeast Rail Service Act of 1981 (45 U.S.C. 1105), the issuance and sale or contribution of securities by Norfolk Southern Corporation to fulfill arrangements with the Corporation's employees in implementing the Secretary's Plan and the distribution of shares from the Corporation's employee stock ownership plans and related trusts maintained, amended, or adopted in implementing the Secretary's Plan shall not be subject to the registration and prospectus delivery requirements of the Securities Act of 1933, any approval requirement under subtitle IV of title 49, United States Code, or the laws of any State with respect to the issuance and sale of securities.".

TITLE II—TECHNICAL AND CONFORMING AMENDMENTS

REGIONAL RAIL REORGANIZATION ACT OF 1973 AMENDMENTS AND REPEALS

SEC. 201. The following provisions of the Regional Rail Reorganization Act of 1973 are repealed or amended as specified:

(1) Subsections (a) and (b) of section 214 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 724 (a) and (b)) are repealed, and such section 214 is amended by striking "(c) ASSOCIATION.—".

(2) Subsection (f) of section 217 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 727(f)) is repealed, without prejudice to the continued availability of funds appropriated prior to the date of enactment of this Act pursuant to section 217(f)(1)(C) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 727(f)(1)(C)).

(3) Section 404 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 764), and the item relating to such section in the table of contents of such Act, are repealed.

(4) Section 405 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 765), and the item relating to such section in the table of contents of such Act, are repealed.

(5) Section 406 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 766), and the item relating to such section in the table of contents of such Act, are repealed.

(6) Section 407 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 767), and the item relating to such section in the table of contents of such Act, are repealed.

(7) Subsections (a) and (d) of section 408 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 768 (a) and (d)) are repealed.

(8) Section 409 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 769), and the item relating to such section in the table of contents of such Act, are repealed.

(9) Section 410 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 769a), and the item relating to such section in the table of contents of such Act, are repealed.

(10) Section 411 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 769b), and the item relating to such section in the table of contents of such Act, are repealed.

(11) Section 412 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 769c), and the item relating to such section in the table of contents of such Act, are repealed.

(12) Section 713 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 797l), and the item relating to such section in the table of contents of such Act, are repealed.

AMENDMENTS AND REPEALS OF OTHER RAIL LAWS

SEC. 202. The following provisions of law are repealed or amended as specified:

(1) Section 1154 of the Northeast Rail Service Act of 1981 (45 U.S.C. 1107), and the item relating to such section in the table of contents of such Act, are repealed.

(2) Section 1161 of the Northeast Rail Service Act of 1981 (45 U.S.C. 1110), and the item relating to such section in the table of contents of such Act, are repealed.

(3) Section 1166 of the Northeast Rail Service Act of 1981 (45 U.S.C. 1114), and the item relating to such section in the table of contents of such Act, are repealed.

(4) Subsection (c) of section 1167 of the Northeast Rail Service Act of 1981 (45 U.S.C. 1115(c)) is repealed.

(5) Subsection (b) of section 1168 of the Northeast Rail Service Act of 1981 (45 U.S.C. 1116(b)) is repealed.

(6) Section 501(8) of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 821(8)) is amended—

(A) by striking "(A)";

(B) by striking "(i)" and inserting in lieu thereof "(A)", and by striking "(ii)" and inserting in lieu thereof "(B)"; and

(C) by striking all after "utilization;".

(7) Section 505 of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 825) is amended—

(A) in subsection (a)(1), by striking all after "railroad" through 1981)"; and

(B) in subsection (b)(2)(C), by striking all after "costs" the second time it appears through "subsidy".

(8) Subsection (b)(1) of section 509 of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 829(b)(1)) is repealed.

(9) Section 511(e) of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 831(e)) is amended by striking "(1)", and by striking all after "time" and inserting in lieu thereof a period.

(10) Section 402 of the Rail Safety and Service Improvement Act of 1982 (45 U.S.C. 825a) is repealed.

(11) Section 1005(b)(1) of the Rail Passenger Service Act (45 U.S.C. 655(b)(1)) is amended by striking "the Consolidated Rail Corporation,".

(12) Section 10362(b)(7)(A) of title 49, United States Code, is amended by striking "by the Consolidated Rail Corporation or".

(13) Section 332(d) of title 49, United States Code, is amended by striking ", the Consolidated Rail Corporation,".

TITLE III—MISCELLANEOUS PROVISIONS

COMMON CARRIER STATUS OF CONRAIL AFTER SALE

SEC. 301. (a) Conrail's status as a common carrier by railroad under section 10102(4) of title 49, United States Code, shall not be affected by virtue of sale of the interest of the United States in Conrail's common stock. Purchase of Conrail stock shall not alone be the basis of a determination that the acquiring entity has become a common carrier by railroad under section 10102(4) of title 49, United States Code.

(b) The Definitive Agreements shall contain a binding commitment by Norfolk Southern Corporation to continue to operate Conrail in full compliance with the provisions of section 10731(e) of title 49, United States Code.

CONSUMMATION OF SALE

SEC. 302. The sale of the interest of the United States in the common stock of Conrail shall be deemed to be consummated on the date title to the common stock passes to Norfolk Southern Corporation and the United States receives the cash purchase price.

CONTRACTS

SEC. 303. (a) Except as provided in subsection (b) of this section, nothing in this Act shall affect—

(1) Conrail's obligation to carry out its transportation contracts and equipment leases, equipment trusts, and conditional sale agreements, in accordance with their terms; and

(2) the obligation of any transferee of divested assets to carry out transportation contracts and equipment leases, equipment trusts, and conditional sale agreements to which such assets are subject, in accordance with their terms.

(b) If a divestiture carried out pursuant to the Secretary's Plan precludes Conrail from providing a transportation service for which it has contracted without a right of termination that may be exercised in the event of the sale of the interest of the United States in the common stock of Conrail and the divestiture will result in a change or modification in the movement of the traffic involved, the transferee of the divested rights and properties and Conrail shall provide the contracted-for service on terms and conditions which, to the maximum extent possible, conform to the terms and conditions in the contract.

CONGRESSIONAL OVERSIGHT OF COMPLIANCE

SEC. 304. The Secretary shall, no later than January 31 of each year, submit to the Committee on Commerce, Science, and Transportation of the Senate and to the Committee on Energy and Commerce of the House of Representatives a report setting forth each certificate which Norfolk Southern Corporation and Conrail provided to the Secretary, during the preceding year, certifying compliance with the covenants contained in the Definitive Agreements.

SEPARABILITY

SEC. 305. If any provision of this Act or the application thereof to any person or circumstances is held invalid, the remainder of this Act and the application of such provision to other persons or circumstances shall not be affected thereby.

EFFECTIVE DATE

SEC. 306. (a) Except as provided in subsection (b) of this section, the provisions of and amendments made by this Act shall take effect on the date of enactment of this Act.

(b) Sections 108(a), 201 and 202 of this Act shall take effect on the date of consummation of the sale of the interest of the United States in the common stock of Conrail.

(c) Any provision of this Act which, pursuant to Article I, Section 7 of the Constitution, provides for raising revenue shall only be effective upon the enactment into law of a bill which has originated in the House of Representatives enacting such provision.

AMENDMENT NO. 1478

In lieu of the language proposed to be inserted, insert the following:

That this Act may be cited as the "Conrail Sale Amendments Act of 1985".

FINDINGS

SEC. 2. The Congress finds that—

(1) the Northeast Rail Service Act of 1981 (45 U.S.C. 1101 et seq.) provided for an orderly return of Conrail freight service to the private sector;

(2) the provisions of the Northeast Rail Service Act of 1981 were successful in removing Conrail's obligations beyond railroad freight service and in otherwise preparing Conrail for an orderly return to the private sector;

(3) acting under section 403 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 763), the Board of Directors of the United States Railway Association twice found Conrail to be a profitable corporation;

(4) acting under section 401 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 761), the Secretary engaged an investment banker and arranged, through open competitive bidding and negotiation, to sell the interest of the United States in the common stock of Conrail;

(5) the Secretary's Plan for the sale of Conrail provides for sale of the interest of the United States in the common stock of Conrail to Norfolk Southern Corporation;

(6) the Secretary found that sale of the interest of the United States in the common stock of Conrail to Norfolk Southern Corporation best meets the sale criteria of (A) leaving Conrail in the strongest financial position after the sale, (B) preserving patterns of service to shippers and communities in the region Conrail serves, and (C) maximizing return to the Federal Government consistent with the criteria specified in clauses (A) and (B);

(7) amendments to the Regional Rail Reorganization Act of 1973 (45 U.S.C. 701 et seq.) and related laws are needed to permit the sale of the interest of the United States in the common stock of Conrail to Norfolk Southern Corporation and to permit cancellation of the interest of the United States in Conrail debt and preferred stock; and

(8) the Secretary's Plan satisfies the requirements of the Northeast Rail Service Act of 1981, including the intent, goals, and objectives relating to the sale of the interest of the United States in the common stock of Conrail and the requirements of section 401(e) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 761(e)).

PURPOSE

SEC. 3. It is therefore declared to be the purpose of the Congress in this Act to return Conrail to the private sector by directing and facilitating implementation of the Secretary's Plan for the sale of the interest of the United States in the common stock of Conrail.

DEFINITIONS

SEC. 4. (a) In this Act, unless the context otherwise requires, the term—

(1) "Conrail" means the Consolidated Rail Corporation;

(2) "Definitive Agreements" means any and all agreements existing or to be developed between the United States and Norfolk Southern Corporation, including all representations and warranties made therein, to implement the Memorandum of Intent described in paragraph (4)(A);

(3) "Secretary" means the Secretary of Transportation; and

(4) "Secretary's Plan" means (A) the Memorandum of Intent between the United States and Norfolk Southern Corporation signed February 8, 1985, and (B) the divestitures by the Norfolk Southern Corporation of certain rail tracks, rights, and facilities, and any transactions or agreements related or incidental to such divestitures, in connection with the implementation of attachment A to the letter from the Department of Justice attached to the Memorandum of Intent as exhibit E.

(b) Section 102 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 702) is amended—

(1) by redesignating paragraphs (6) through (18) as paragraphs (7) through (19), and paragraphs (19) through (21) as paragraphs (21) through (23), respectively;

(2) by inserting after paragraph (5) the following paragraph:

"(6) 'Definitive Agreements' means any and all agreements existing or to be developed between the United States and Norfolk Southern Corporation, including all representations and warranties made therein, to implement the Memorandum of Intent described in paragraph (20)(A);"; and

(3) by inserting after paragraph (19), as so redesignated, the following paragraph:

"(20) 'Secretary's Plan' means (A) the Memorandum of Intent between the United States and Norfolk Southern Corporation signed February 8, 1985, and (B) the divestitures by the Norfolk Southern Corporation of certain rail tracks, rights, and facilities, and any transactions or agreements related or incidental to such divestitures, in connection with the implementation of attachment A to the letter from the Department of Justice attached to the Memorandum of Intent as exhibit E;".

(c) Section 1135(a) of the Northeast Rail Service Act of 1981 (45 U.S.C. 1104(a)) is amended—

(1) by redesignating paragraphs (6), (7), and (8) as paragraphs (7), (8), and (10), respectively;

(2) by inserting after paragraph (5) the following paragraph:

"(6) 'Definitive Agreements' means any and all agreements existing or to be developed between the United States and Norfolk Southern Corporation, including all representations and warranties made therein, to implement the Memorandum of Intent described in paragraph (9)(A);"; and

(3) by inserting after paragraph (8), as so redesignated, the following paragraph:

"(9) 'Secretary's Plan' means (A) the Memorandum of Intent between the United States and Norfolk Southern Corporation signed February 8, 1985, but not including paragraph 2(i) of such Memorandum of Intent, and (B) the divestitures by the Norfolk Southern Corporation of certain rail tracks, rights, and facilities, and any transactions or agreements related or incidental to such divestitures, in connection with the implementation of attachment A to the letter from the Department of Justice attached to the Memorandum of Intent as exhibit E;".

TITLE I—AMENDMENTS TO THE REGIONAL RAIL REORGANIZATION ACT OF 1973 AND THE NORTHEAST RAIL SERVICE ACT OF 1981

Subtitle A—Regional Rail Reorganization Act of 1973 Amendments

LIMIT ON AUTHORITY TO PURCHASE STOCK

SEC. 101. Section 216(b) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 726(b)) is amended by adding at the end thereof the following paragraph:

"(5) The authority of the Association to purchase debentures or series A preferred stock of the Corporation under this section shall terminate upon the consummation of the sale of the interest of the United States in the common stock of the Corporation under the terms of the Secretary's Plan.".

RESPONSIBILITY OF CONRAIL DIRECTORS

SEC. 102. Section 301(i) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 741(i)) is amended by inserting immediately after "required by law" the following: ", taken to implement the Secretary's Plan,".

APPLICABILITY OF REGIONAL RAIL REORGANIZATION ACT OF 1973 TO CONRAIL AFTER SALE

SEC. 103. Section 301 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 741) is amended by adding at the end thereof the following subsection:

"(k) GOVERNING PROVISIONS AFTER SALE.—The provisions of this Act shall not apply to the Corporation and to activities and other actions and responsibilities of the Corporation and its directors after consummation of

the sale of the interest of the United States in the common stock of the Corporation under the terms of the Conrail Sale Amendments Act of 1985, other than with regard to—

"(1) section 102 of this Act;

"(2) section 201(d) of this Act;

"(3) section 203 of this Act, but only with respect to information relating to proceedings before the special court established under section 209(b);

"(4) section 216(f)(8) of this Act, but only as such authority applies to activities related to the employee stock ownership plan and related trusts prior to or in connection with consummation of the sale of the interest of the United States in the common stock of the Corporation, including activities related to the sale, exchange, valuation, or disposition of the assets of the employee stock ownership plan and related trusts, or of Conrail Equity Corporation, in connection with the Secretary's Plan;

"(5) sections 216(f)(11) and 216(f)(12) of this Act, as amended by the Conrail Sale Amendments Act of 1985;

"(6) section 217(e) of this Act;

"(7) subsection (i) of this section, but only as such authority applies to service as a director of the Corporation prior to consummation or in connection with implementation of the sale of the interest of the United States in the common stock of the Corporation;

"(8) section 305 of this Act, but only as to the effect, and continuing administration, of supplemental transactions consummated prior to consummation of the sale of the interest of the United States in the common stock of the Corporation;

"(9) section 308 of this Act, but only in abandonment actions when such authority has been relied on to file a notice or notices of insufficent revenues prior to consummation of the sale of the interest of the United States in the common stock of the Corporation;

"(10) section 401(a) of this Act, as amended by the Conrail Sale Amendments Act of 1985;

"(11) section 402 of this Act, as amended by the Conrail Sale Amendments Act of 1985;

"(12) section 408(c) of this Act, as amended by the Conrail Sale Amendments Act of 1985;

"(13) section 701 of this Act, but only as may be necessary to identify employees eligible for benefits under agreements entered into under such section;

"(14) section 702(e) of this Act;

"(15) section 704(b) of this Act;

"(16) section 709 of this Act;

"(17) section 710(b)(1) of this Act;

"(18) section 711 of this Act;

"(19) section 714 of this Act, but only with regard to disputes or controversies specified in such section that arose prior to consummation of the sale of the interest of the United States in the common stock of the Corporation; and

"(20) section 715 of this Act, as amended by the Conrail Sale Amendments Act of 1985.".

IMPLEMENTATION OF THE SECRETARY'S PLAN

SEC. 104. (a) Section 401(a)(3) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 761(a)(3)) is amended to read as follows:

"(3) The Secretary is authorized and directed to implement the Secretary's Plan, in accordance with paragraph (4) of this subsection. Such implementation of the Secretary's Plan and the coordinated operation of the Corporation's properties with those of Norfolk Southern Corporation and its affiliates as a single rail system is deemed approved by the Commission under chapter 113 of title 49, United States Code.".

(b) Section 401(a) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 761(a)) is amended by adding at the end thereof the following paragraphs:

"(4) The Secretary shall implement the Secretary's Plan by negotiating, executing, delivering, and performing the Definitive Agreements, which shall conform to the Memorandum of Intent described in section 102(20)(A) of this Act. The Secretary shall, 45 calendar days before the date on which the Secretary anticipates that the interest of the United States in the common stock of the Corporation will be sold to Norfolk Southern Corporation, transmit to the Committee on Commerce, Science, and Transportation of the Senate and to the Committee on Energy and Commerce of the House of Representatives a notification of any alteration from the Memorandum of Intent described in section 102(20)(A) of this Act which will be made in the Definitive Agreements. After the date of such sale, the Secretary shall transmit to such Committees notification of any intent to waive compliance with any substantive covenant, agreement or obligation contained in the Definitive Agreements, and the Secretary may not waive such compliance until a period of 45 calendar days has expired after the date of such transmittal.

"(5) The Secretary shall not transfer the interest of the United States in the common stock of the Corporation except concurrently with a divestiture by Norfolk Southern Corporation of rail assets and rights approved by the Attorney General.

"(6) The sale of the interest of the United States in the common stock of the Corporation shall be deemed to be consummated at the date title to the common stock passes to Norfolk Southern Corporation and the United States receives the cash purchase price.".

RAILROAD PURCHASERS AND OFFER FOR SALE OF SHARES TO EMPLOYEES

SEC. 105. Subsections (d) and (e) of section 401 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 761(d) and (e)) are repealed.

CANCELLATION OF DEBT AND PREFERRED STOCK

SEC. 106. Section 402 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 762) is amended to read as follows:

"DEBT AND PREFERRED STOCK

"SEC. 402. (a) RECAPITALIZATION.—In connection with the sale of the interest of the United States in the common stock of the Corporation under section 401 of this Act, and consistent with the Secretary's Plan, the Secretary may take all action necessary to cause the Corporation to be recapitalized such that the interest of the United States, or any agent or instrumentality thereof, and all other commitments or obligations of the Corporation to the United States or any agent or instrumentality thereof arising out of such interest, in any debt (including accrued interest and contingent interest thereon) and preferred stock (including accrued and unpaid dividends thereon) of the Corporation shall be cancelled or retired, and contributed to the capital of the Corporation. The Secretary shall cause the recapitalization authorized by this section to be effective as of the consummation of the sale of the interest of the United States in the common stock of the Corporation.

"(b) BREACH OF REPRESENTATIONS.—(1) Norfolk Southern Corporation or any successor corporation thereto may bring suit for any breach of representations contained in paragraph 6(e) of the Memorandum of Intent described in section 102(20)(A) of this Act (hereinafter referred to as the 'Representations') in the United States Claims Court or a district court of the United States. If such an action is brought, the Claims Court or district court shall determine the amount by which the United States income tax (including interest and penalties whether or not such penalties are assessed as a tax under the Internal Revenue Code of 1954) assessable against the Corporation or against Norfolk Southern Corporation for any year exceeds the amount of such tax which would have been assessable for such year had such Representations not been breached (hereinafter referred to as the 'Offset Amount').

"(2) The Representations shall be considered breached and Norfolk Southern Corporation shall be entitled to bring suit upon the first occurrence of any of the following that is inconsistent with the Representations: (A) the issuance by the Internal Revenue Service of a statutory notice of deficiency (90-day letter), (B) the assessment of the United States income tax, or (C) any claim by the United States in a suit or other judicial proceeding against Norfolk Southern Corporation or the Corporation.

"(3) The right to bring suit pursuant to this section shall not be subject to any waiting period applicable to tax proceedings or to any requirements for payment of any tax as a condition to instituting any suit based on a breach of the Representations.

"(4) Any judgment for money damages relating to breach of the Representations shall only be awarded as an offset in any court or administrative proceeding against the tax liability of Norfolk Southern Corporation or the Corporation, or both, to which such breach relates; except that if any such tax liability resulting from such breach has been paid, the judgment shall to that extent be an offset against any United States income tax liability of the Norfolk Southern Corporation or the Corporation, or both. If any portion of the tax resulting from a breach of the Representations has been paid, then the Offset Amount shall include interest on such payment from the date paid at the rate from time to time specified in the Internal Revenue Code of 1954 for interest payable on refund claims.

"(5) It shall not be a defense to an action brought under this section that Norfolk Southern Corporation knew, or should have known, of the falsity of the Representations or that there exists no carryover basis procedure as contemplated by the last sentence of the Representations.

"(6) For purposes of this section, tax liability of Norfolk Southern Corporation shall include the tax liability of Norfolk Southern Corporation and its affiliated group, within the meaning of section 1504 of the Internal Revenue Code of 1954.".

APPLICABILITY OF CERTAIN LAWS TO SALE OF CONRAIL

SEC. 107. Section 408 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 768) is amended—

(1) by repealing subsection (b);

(2) by amending subsection (c) by striking "No transfer" and all that follows through "subject to" and inserting in lieu thereof "Except as provided in section 1152 of the Northeast Rail Service Act of 1981 (45

U.S.C. 1105), the Secretary's Plan and the Definitive Agreements and their negotiation, execution, and implementation shall not be subject to administrative or"; and

(3) by adding at the end of subsection (c) the following sentence: "The issuance in private placement of notes or other securities in accordance with exhibit B to the Memorandum of Intent (described in section 102(20)(A) of this Act) in the Secretary's Plan shall not be subject to the provisions of subtitle IV of title 49, United States Code.".

LABOR PROTECTION

SEC. 108. (a) Section 701(d)(2) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 797(d)(2)) is amended by striking "the last day of the eighteen-month period beginning on".

(b)(1) Title VII of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 797 et seq.) is amended by adding at the end thereof the following section:

"PROTECTION AFTER SALE

"SEC. 715. After consummation of the sale of the interest of the United States in the common stock of the Corporation pursuant to the Secretary's Plan, any employee of Norfolk Southern Corporation, the Corporation, any rail affiliate of either company, and any transferee of the rail tracks, rights, and facilities divested in accordance with the Secretary's Plan, who is adversely affected in his employment by the implementation of the Secretary's Plan shall receive from his employer protection under the labor protective conditions set forth in New York Dock Railway—Control—Brooklyn Eastern District Terminal (354 ICC 399 (1978), modified upon further consideration, 360 ICC 60 (1979)). The arbitration provisions of section 4 of New York Dock shall apply to the formation of any implementing agreements that may be necessary in connection with the implementation of the Secretary's Plan, including any resulting coordinations.".

(2) The table of contents of the Regional Rail Reorganization Act of 1973 is amended by inserting immediately after the item relating to section 714 the following item:

"Sec. 715. Protection after sale.".

PREFERENTIAL HIRING

SEC. 109. Section 703 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 797b) is amended—

(1) by redesignating subsection (b) as subsection (c); and

(2) by inserting immediately after subsection (a) the following subsection:

"(b) IMPLEMENTATION OF SECRETARY'S PLAN.—Any employee of any railroad who is deprived of employment as a result of the implementation of the Secretary's Plan shall have the first right of hire for a vacancy for which he is qualified on any Norfolk Southern Corporation rail subsidiary, except where such vacancy is covered by (1) an affirmative action plan, or a hiring plan designated to eliminate discrimination, that is required by Federal or State statute, regulation, or Executive order, or by the order of a Federal court or agency, or (2) a permissible voluntary affirmative action plan. For purposes of this subsection, a railroad shall not be considered to be hiring new employees when it recalls any of its own furloughed employees.".

CROSS CRAFT EMPLOYMENT

SEC. 110. (a) Title VII of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 797 et seq.) is amended by inserting immediately after section 703 the following section:

"CROSS CRAFT EMPLOYMENT

"SEC. 703A. Any employee of Norfolk and Western Railway Company, Southern Railway Company, or the Corporation who is deprived of employment as a result of the implementation of the Secretary's Plan shall have the first right of hire for any vacancy for which such employee is qualified at the entry level of any Norfolk Southern Corporation rail subsidiary, without regard to craft or class or the provisions of section 703 of this Act. Such employee shall retain his seniority rights to return to his original craft or class whenever a vacancy occurs. For purposes of this section, a railroad shall not be considered to be hiring new employees when it recalls any of its own furloughed employees.".

(b) The table of contents of the Regional Rail Reorganization Act of 1973 is amended by inserting immediately after the item relating to section 703 the following item:

"Sec. 703A. Cross craft employment.".

Subtitle B—Northeast Rail Service Act of 1981 Amendments

SPECIAL COURT JURISDICTION

SEC. 121. (a) Section 1152 of the Northeast Rail Service Act of 1981 (45 U.S.C. 1105) is amended—

(1) by inserting "or the Conrail Sale Amendments Act of 1985" immediately after "subtitle" wherever it appears;

(2) in subsection (a), by striking "or" at the end of paragraph (3), by striking the period at the end of paragraph (4) and inserting in lieu thereof a semicolon, and by adding at the end thereof the following paragraphs:

"(5) brought by the United States or any agency or instrumentality thereof seeking to enforce the Secretary's Plan or the Definitive Agreements;

"(6) brought by Norfolk Southern Corporation seeking to enforce the Secretary's Plan or the Definitive Agreements;

"(7) brought by a party who filed a complaint with the Secretary under subsection (e) of this section, and who is aggrieved by (A) a determination of the Secretary under paragraph (1) of such subsection that the party has not suffered direct economic injury, or (B) a decision of the Secretary under paragraph (2) of such subsection that a covenant has not been violated;

"(8) brought by a party which is a signatory to an ancillary agreement entered into in accordance with the Secretary's Plan or the Definitive Agreements and which is seeking to enforce such ancillary agreement; or

"(9) brought to determine the value of the interest of the employee stock ownership plan and related trusts, or of the beneficiaries thereof, in the preferred stock of the Conrail Equity Corporation.

For purposes of any action brought under paragraph (5) of this subsection, a violation of any covenant contained in the Secretary's Plan or the Definitive Agreements shall be deemed to constitute immediate and irreparable harm for purposes of awarding injunctive relief to the United States.".

(b) Section 1152 of the Northeast Rail Service Act of 1981 (45 U.S.C. 1105) is amended by adding at the end thereof the following subsection:

"(e)(1) Any party who suffers direct economic injury as a result of an alleged violation of a covenant contained in the Definitive Agreements may file a complaint with the Secretary seeking enforcement of such covenant. If the Secretary determines that the complainant has demonstrated to the Secretary that it has suffered direct economic injury, the Secretary shall investigate the complaint.

"(2) If the Secretary decides to investigate a complaint under paragraph (1) of this subsection, the Secretary shall give reasonable notice of such decision to investigate to the alleged violator of such covenant and the complainant, and shall make a final decision on such complaint within 60 days after the date on which it was filed.

"(3) If the Secretary finds that (A) the covenant in question has been violated, and (B) the complainant suffered direct economic injury as a result of such violation, the Secretary shall enter an order directing the violator of such covenant to comply with such covenant.

"(4) On appeal, any decision by the Secretary under this subsection shall be upheld, unless such decision is found to be arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law.".

APPLICABILITY OF OTHER LAWS

SEC. 122. Section 1168(a) of the Northeast Rail Service Act of 1981 (45 U.S.C. 1116(a)) is amended by striking "service transfers" and inserting in lieu thereof "sale of the interest of the United States in the common stock of Conrail or transfer of the rail properties and freight service responsibilities of Conrail".

Subtitle C—Employee Stock Ownership Plan

RESPONSIBILITY OF EMPLOYEE STOCK OWNERSHIP PLAN FIDUCIARIES

SEC. 131. (a) Section 216(f)(8)(A) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 726(f)(8)(A)) is amended—

(1) by striking "or" at the end of clause (ii);

(2) by striking the period at the end of clause (iii) and inserting in lieu thereof "; or"; and

(3) by adding at the end thereof the following clause:

"(iv) for or in connection with any action taken to implement the Secretary's Plan, including any sale, exchange, valuation, or disposition of the plan and related trust assets, or the assets of Conrail Equity Corporation, in connection with implementation of the Secretary's Plan and any determination of the terms on which any such sale, exchange, valuation, or disposition is effected.".

QUALIFICATION, REVIEW, AND VALUATION OF EMPLOYEE STOCK OWNERSHIP PLANS

SEC. 132. Section 216(f) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 726(f)) is amended by adding at the end thereof the following paragraphs:

"(11) The employee stock ownership plans of the Corporation and related trusts maintained, amended, or adopted in implementing the Secretary's Plan shall be deemed to meet the qualification requirements of sections 401 and 501, respectively, of the Internal Revenue Code of 1954, notwithstanding (A) that such plans may not meet the requirements of section 415 of the Internal Revenue Code of 1954, or (B) that participants in such plans may be entitled to withdraw a portion of the shares allocated to their accounts prior to the expiration of the period generally imposed by the Internal Revenue Service for qualified plans. Such qualification shall relate only to the contributions, allocations, and withdrawals of shares provided for in the Secretary's Plan with respect to the plans and related trusts

maintained, amended, or adopted in implementing the Secretary's Plan. Such contributions and allocations shall in no event be treated as having exceeded the maximum annual addition permitted under section 415 of the Internal Revenue Code of 1954 (but not for purposes of applying section 404(j) of the Internal Revenue Code of 1954) for purposes of calculating any limitation under section 415 with respect to contributions and allocations not described in the Secretary's Plan, including contributions and allocations to plans and related trusts of the Corporation and any affiliated corporation. The continued qualification of such plans with respect to all other contributions, allocations, and withdrawals shall be subject to all provisions of existing law, as amended from time to time. No inference shall be drawn from this paragraph as to whether an amount is a contribution deductible under section 404 of the Internal Revenue Code of 1954 rather than a non-deductible capital expenditure.

"(12) Except as provided in section 1152 of the Northeast Rail Service Act of 1981 (45 U.S.C. 1105), the issuance and sale or contribution of securities by Norfolk Southern Corporation to fulfill arrangements with the Corporation's employees in implementing the Secretary's Plan and the distribution of shares from the Corporation's employee stock ownership plans and related trusts maintained, amended, or adopted in implementing the Secretary's Plan shall not be subject to the registration and prospectus delivery requirements of the Securities Act of 1933, any approval requirement under subtitle IV of title 49, United States Code, or the laws of any State with respect to the issuance and sale of securities.".

TITLE II—TECHNICAL AND CONFORMING AMENDMENTS

REGIONAL RAIL REORGANIZATION ACT OF 1973 AMENDMENTS AND REPEALS

SEC. 201. The following provisions of the Regional Rail Reorganization Act of 1973 are repealed or amended as specified:

(1) Subsections (a) and (b) of section 214 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 724 (a) and (b)) are repealed, and such section 214 is amended by striking "(c) ASSOCIATION.—".

(2) Subsection (f) of section 217 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 727(f)) is repealed, without prejudice to the continued availability of funds appropriated prior to the date of enactment of this Act pursuant to section 217(f)(1)(C) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 727(f)(1)(C)).

(3) Section 404 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 764), and the item relating to such section in the table of contents of such Act, are repealed.

(4) Section 405 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 765), and the item relating to such section in the table of contents of such Act, are repealed.

(5) Section 406 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 766), and the item relating to such section in the table of contents of such Act, are repealed.

(6) Section 407 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 767), and the item relating to such section in the table of contents of such Act, are repealed.

(7) Subsections (a) and (d) of section 408 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 768 (a) and (d)) are repealed.

(8) Section 409 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 769), and the item relating to such section in the table of contents of such Act, are repealed.

(9) Section 410 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 769a), and the item relating to such section in the table of contents of such Act, are repealed.

(10) Section 411 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 769b), and the item relating to such section in the table of contents of such Act, are repealed.

(11) Section 412 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 769c), and the item relating to such section in the table of contents of such Act, are repealed.

(12) Section 713 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 797l), and the item relating to such section in the table of contents of such Act, are repealed.

AMENDMENTS AND REPEALS OF OTHER RAIL LAWS

SEC. 202. The following provisions of law are repealed or amended as specified:

(1) Section 1154 of the Northeast Rail Service Act of 1981 (45 U.S.C. 1107), and the item relating to such section in the table of contents of such Act, are repealed.

(2) Section 1161 of the Northeast Rail Service Act of 1981 (45 U.S.C. 1110), and the item relating to such section in the table of contents of such Act, are repealed.

(3) Section 1166 of the Northeast Rail Service Act of 1981 (45 U.S.C. 1114), and the item relating to such section in the table of contents of such Act, are repealed.

(4) Subsection (c) of section 1167 of the Northeast Rail Service Act of 1981 (45 U.S.C. 1115(c)) is repealed.

(5) Subsection (b) of section 1168 of the Northeast Rail Service Act of 1981 (45 U.S.C. 1116(b)) is repealed.

(6) Section 501(8) of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 821(8)) is amended—

(A) by striking "(A)";

(B) by striking "(i)" and inserting in lieu thereof "(A)", and by striking "(ii)" and inserting in lieu thereof "(B)"; and

(C) by striking all after "utilization;".

(7) Section 505 of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 825) is amended—

(A) in subsection (a)(1), by striking all after "railroad" through "1981)"; and

(B) in subsection (b)(2)(C), by striking all after "costs" the second time it appears through "subsidy".

(8) Subsection (b)(1) of section 509 of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 829(b)(1)) is repealed.

(9) Section 511(e) of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 831(e)) is amended by striking "(1)", and by striking all after "time" and inserting in lieu thereof a period.

(10) Section 402 of the Rail Safety and Service Improvement Act of 1982 (45 U.S.C. 825a) is repealed.

(11) Section 1005(b)(1) of the Rail Passenger Service Act (45 U.S.C. 655(b)(1)) is amended by striking "the Consolidated Rail Corporation,".

(12) Section 10362(b)(7)(A) of title 49, United States Code, is amended by striking "by the Consolidated Rail Corporation or".

(13) Section 332(d) of title 49, United States Code, is amended by striking ", the Consolidated Rail Corporation,".

TITLE III—MISCELLANEOUS PROVISIONS

COMMON CARRIER STATUS OF CONRAIL AFTER SALE

SEC. 301. (a) Conrail's status as a common carrier by railroad under section 10102(4) of title 49, United States Code, shall not be affected by virtue of sale of the interest of the United States in Conrail's common stock. Purchase of Conrail stock shall not alone be the basis of a determination that the acquiring entity has become a common carrier by railroad under section 10102(4) of title 49, United States Code.

(b) The Definitive Agreements shall contain a binding commitment by Norfolk Southern Corporation to continue to operate Conrail in full compliance with the provisions of section 10731(e) of title 49, United States Code.

CONSUMMATION OF SALE

SEC. 302. The sale of the interest of the United States in the common stock of Conrail shall be deemed to be consummated on the date title to the common stock passes to Norfolk Southern Corporation and the United States receives the cash purchase price.

CONTRACTS

SEC. 303. (a) Except as provided in subsection (b) of this section, nothing in this Act shall affect—

(1) Conrail's obligation to carry out its transportation contracts and equipment leases, equipment trusts, and conditional sale agreements, in accordance with their terms; and

(2) the obligation of any transferee of divested assets to carry out transportation contracts and equipment leases, equipment trusts, and conditional sale agreements to which such assets are subject, in accordance with their terms.

(b) If a divestiture carried out pursuant to the Secretary's Plan precludes Conrail from providing a transportation service for which it has contracted without a right of termination that may be exercised in the event of the sale of the interest of the United States in the common stock of Conrail and the divestiture will result in a change or modification in the movement of the traffic involved, the transferee of the divested rights and properties and Conrail shall provide the contracted-for service on terms and conditions which, to the maximum extent possible, conform to the terms and conditions in the contract.

CONGRESSIONAL OVERSIGHT OF COMPLIANCE

SEC. 304. The Secretary shall, no later than January 31 of each year, submit to the Committee on Commerce, Science, and Transportation of the Senate and to the Committee on Energy and Commerce of the House of Representatives a report setting forth each certificate which Norfolk Southern Corporation and Conrail provided to the Secretary, during the preceding year, certifying compliance with the covenants contained in the Definitive Agreements.

SEPARABILITY

SEC. 305. If any provision of this Act or the application thereof to any person or circumstances is held invalid, the remainder of this Act and the application of such provision to other persons or circumstances shall not be affected thereby.

EFFECTIVE DATE

SEC. 306. (a) Except as provided in subsection (b) of this section, the provisions of and amendments made by this Act shall take effect on the date of enactment of this Act.

(b) Sections 108(a), 201 and 202 of this Act shall take effect on the date of consummation of the sale of the interest of the United States in the common stock of Conrail.

(c) Any provision of this Act which, pursuant to article I, section 7 of the Constitution, provides for raising revenue shall only

be effective upon the enactment into law of a bill which has originated in the House of Representatives enacting such provision.

AMENDMENT No. 1479

On page 4, line 19, immediately after the second comma insert the following new language: "but not including paragraph 2(i) of such Memorandum of Intent,".

AMENDMENT No. 1480

On page 5, line 19, immediately after the second comma insert the following new language: "but not including paragraph 2(i) of such Memorandum of Intent,".

AMENDMENT No. 1481

On page 6, line 19, immediately after the second comma insert the following new language: "but not including paragraph 2(i) of such Memorandum of Intent,".

AMENDMENT No. 1482

On page 4, line 19, immediately after the second comma insert the following new language: "but not including paragraph 2(i) of such Memorandum of Intent,".

AMENDMENT No. 1483

On page 6, line 19, immediately after the second comma insert the following new language: "but not including paragraph 2(i) of such Memorandum of Intent,".

AMENDMENT No. 1484

On page 5, line 19, immediately after the second comma insert the following new language: "but not including paragraph 2(i) of such Memorandum of Intent,".

AMENDMENT No. 1485

In lieu of the language proposed to be inserted, insert the following:

That this Act may be cited as the "Conrail Sale Amendments Act of 1985".

FINDINGS

SEC. 2. The Congress finds that—

(1) the Northeast Rail Service Act of 1981 (45 U.S.C. 1101 et seq.) provided for an orderly return of Conrail freight service to the private sector;

(2) the provisions of the Northeast Rail Service Act of 1981 were successful in removing Conrail's obligations beyond railroad freight service and in otherwise preparing Conrail for an orderly return to the private sector;

(3) acting under section 403 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 763), the Board of Directors of the United States Railway Association twice found Conrail to be a profitable corporation;

(4) acting under section 401 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 761), the Secretary engaged an investment banker and arranged, through open competitive bidding and negotiation, to sell the interest of the United States in the common stock of Conrail;

(5) the Secretary's Plan for the sale of Conrail provides for sale of the interest of the United States in the common stock of Conrail to Norfolk Southern Corporation;

(6) the Secretary found that sale of the interest of the United States in the common stock of Conrail to Norfolk Southern Corporation best meets the sale criteria of (A) leaving Conrail in the strongest financial position after the sale, (B) preserving patterns of service to shippers and communities in the region Conrail serves, and (C) maximizing return to the Federal Government consistent with the criteria specified in clauses (A) and (B);

(7) amendments to the Regional Rail Reorganization Act of 1973 (45 U.S.C. 701 et seq.) and related laws are needed to permit the sale of the interest of the United States in the common stock of Conrail to Norfolk Southern Corporation and to permit cancellation of the interest of the United States in Conrail debt and preferred stock; and

(8) the Secretary's Plan satisfies the requirements of the Northeast Rail Service Act of 1981, including the intent, goals, and objectives relating to the sale of the interest of the United States in the common stock of Conrail and the requirements of section 401(e) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 761(e)).

PURPOSE

SEC. 3. It is therefore declared to be the purpose of the Congress in this Act to return Conrail to the private sector by directing and facilitating implementation of the Secretary's Plan for the sale of the interest of the United States in the common stock of Conrail.

DEFINITIONS

SEC. 4. (a) In this Act, unless the context otherwise requires, the term—

(1) "Conrail" means the Consolidated Rail Corporation;

(2) "Definitive Agreements" means any and all agreements existing or to be developed between the United States and Norfolk Southern Corporation, including all representations and warranties made therein, to implement the Memorandum of Intent described in paragraph (4)(A);

(3) "Secretary" means the Secretary of Transportation; and

(4) "Secretary's Plan" means (A) the Memorandum of Intent between the United States and Norfolk Southern Corporation signed February 8, 1985, but not including paragraph 3 of such Memorandum of Intent, and (B) the divestitures by the Norfolk Southern Corporation of certain rail tracks, rights, and facilities, and any transactions or agreements related or incidental to such divestitures, in connection with the implementation of attachment A to the letter from the Department of Justice attached to the Memorandum of Intent as exhibit E.

(b) Section 102 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 702) is amended—

(1) by redesignating paragraphs (6) through (18) as paragraphs (7) through (19), and paragraphs (19) through (21) as paragraphs (21) through (23), respectively;

(2) by inserting after paragraph (5) the following paragraph:

"(6) 'Definitive Agreements' means any and all agreements existing or to be developed between the United States and Norfolk Southern Corporation, including all representations and warranties made therein, to implement the Memorandum of Intent described in paragraph (20)(A);"; and

(3) by inserting after paragraph (19), as so redesignated, the following paragraph:

"(20) 'Secretary's Plan' means (A) the Memorandum of Intent between the United States and Norfolk Southern Corporation signed February 8, 1985, but not including paragraph 3 of such Memorandum of Intent, and (B) the divestitures by the Norfolk Southern Corporation of certain rail tracks, rights, and facilities, and any transactions or agreements related or incidental to such divestitures, in connection with the implementation of attachment A to the letter from the Department of Justice attached to the Memorandum of Intent as exhibit E;".

(c) Section 1135(a) of the Northeast Rail Service Act of 1981 (45 U.S.C. 1104(a)) is amended—

(1) by redesignating paragraphs (6), (7), and (8) as paragraphs (7), (8), and (10), respectively;

(2) by inserting after paragraph (5) the following paragraph:

"(6) 'Definitive Agreements' means any and all agreements existing or to be developed between the United States and Norfolk Southern Corporation, including all representations and warranties made therein, to implement the Memorandum of Intent described in paragraph (9)(A);"; and

(3) by inserting after paragraph (8), as so redesignated, the following paragraph:

"(9) 'Secretary's Plan' means (A) the Memorandum of Intent between the United States and Norfolk Southern Corporation signed February 8, 1985, but not including paragraph 3 of such Memorandum of Intent, and (B) the divestitures by the Norfolk Southern Corporation of certain rail tracks, rights, and facilities, and any transactions or agreements related or incidental to such divestitures, in connection with the implementation of attachment A to the letter from the Department of Justice attached to the Memorandum of Intent as exhibit E;".

TITLE I—AMENDMENTS TO THE REGIONAL RAIL REORGANIZATION ACT OF 1973 AND THE NORTHEAST RAIL SERVICE ACT OF 1981

Subtitle A—Regional Rail Reorganization Act of 1973 Amendments

LIMIT ON AUTHORITY TO PURCHASE STOCK

SEC. 101. Section 216(b) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 726(b)) is amended by adding at the end thereof the following paragraph:

"(5) The authority of the Association to purchase debentures or series A preferred stock of the Corporation under this section shall terminate upon the consummation of the sale of the interest of the United States in the common stock of the Corporation under the terms of the Secretary's Plan.".

RESPONSIBILITY OF CONRAIL DIRECTORS

SEC. 102. Section 301(i) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 741(i)) is amended by inserting immediately after "required by law" the following: ", taken to implement the Secretary's Plan,".

APPLICABILITY OF REGIONAL RAIL REORGANIZATION ACT OF 1973 TO CONRAIL AFTER SALE

SEC. 103. Section 301 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 741) is amended by adding at the end thereof the following subsection:

"(k) GOVERNING PROVISIONS AFTER SALE.—The provisions of this Act shall not apply to the Corporation and to activities and other actions and responsibilities of the Corporation and its directors after consummation of the sale of the interest of the United States in the common stock of the Corporation under the terms of the Conrail Sale Amendments Act of 1985, other than with regard to—

"(1) section 102 of this Act;

"(2) section 201(d) of this Act;

"(3) section 203 of this Act, but only with respect to information relating to proceedings before the special court established under section 209(b);

"(4) section 216(f)(8) of this Act, but only as such authority applies to activities related to the employee stock ownership plan and related trusts prior to or in connection with consummation of the sale of the interest of the United States in the common stock of the Corporation, including activities related to the sale, exchange, valuation, or disposition of the assets of the employee stock ownership plan and related trusts, or of Conrail Equity Corporation, in connection with the Secretary's Plan;

"(5) sections 216(f)(11) and 216(f)(12) of this Act, as amended by the Conrail Sale Amendments Act of 1985;

"(6) section 217(e) of this Act;

"(7) subsection (i) of this section, but only as such authority applies to service as a director of the Corporation prior to consummation or in connection with implementation of the sale of the interest of the United States in the common stock of the Corporation;

"(8) section 305 of this Act, but only as to the effect, and continuing administration, of supplemental transactions consummated prior to consummation of the sale of the interest of the United States in the common stock of the Corporation;

"(9) section 308 of this Act, but only in abandonment actions when such authority has been relied on to file a notice or notices of insufficent revenues prior to consummation of the sale of the interest of the United States in the common stock of the Corporation;

"(10) section 401(a) of this Act, as amended by the Conrail Sale Amendments Act of 1985;

"(11) section 402 of this Act, as amended by the Conrail Sale Amendments Act of 1985;

"(12) section 408(c) of this Act, as amended by the Conrail Sale Amendments Act of 1985;

"(13) section 701 of this Act, but only as may be necessary to identify employees eligible for benefits under agreements entered into under such section;

"(14) section 702(e) of this Act;

"(15) section 704(b) of this Act;

"(16) section 709 of this Act;

"(17) section 710(b)(1) of this Act;

"(18) section 711 of this Act;

"(19) section 714 of this Act, but only with regard to disputes or controversies specified in such section that arose prior to consummation of the sale of the interest of the United States in the common stock of the Corporation; and

"(20) section 715 of this Act, as amended by the Conrail Sale Amendments Act of 1985.".

IMPLEMENTATION OF THE SECRETARY'S PLAN

SEC. 104. (a) Section 401(a)(3) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 761(a)(3)) is amended to read as follows:

"(3) The Secretary is authorized and directed to implement the Secretary's Plan, in accordance with paragraph (4) of this subsection. Such implementation of the Secretary's Plan and the coordinated operation of the Corporation's properties with those of Norfolk Southern Corporation and its affiliates as a single rail system is deemed approved by the Commission under chapter 113 of title 49, United States Code.".

(b) Section 401(a) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 761(a)) is amended by adding at the end thereof the following paragraphs:

"(4) The Secretary shall implement the Secretary's Plan by negotiating, executing, delivering, and performing the Definitive Agreements, which shall conform to the Memorandum of Intent described in section 102(20)(A) of this Act. The Secretary shall, 45 calendar days before the date on which the Secretary anticipates that the interest of the United States in the common stock of the Corporation will be sold to Norfolk Southern Corporation, transmit to the Committee on Commerce, Science, and Transportation of the Senate and to the Committee on Energy and Commerce of the House of Representatives a notification of any alteration from the Memorandum of Intent described in section 102(20)(A) of this Act which will be made in the Definitive Agreements. After the date of such sale, the Secretary shall transmit to such Committees notification of any intent to waive compliance with any substantive covenant, agreement or obligation contained in the Definitive Agreements, and the Secretary may not waive such compliance until a period of 45 calendar days has expired after the date of such transmittal.

"(5) The Secretary shall not transfer the interest of the United States in the common stock of the Corporation except concurrently with a divestiture by Norfolk Southern Corporation of rail assets and rights approved by the Attorney General.

"(6) The sale of the interest of the United States in the common stock of the Corporation shall be deemed to be consummated at the date title to the common stock passes to Norfolk Southern Corporation and the United States receives the cash purchase price.".

RAILROAD PURCHASERS AND OFFER FOR SALE OF SHARES TO EMPLOYEES

SEC. 105. Subsections (d) and (e) of section 401 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 761(d) and (e)) are repealed.

CANCELLATION OF DEBT AND PREFERRED STOCK

SEC. 106. Section 402 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 762) is amended to read as follows:

"DEBT AND PREFERRED STOCK

"SEC. 402. (a) RECAPITALIZATION.—In connection with the sale of the interest of the United States in the common stock of the Corporation under section 401 of this Act, and consistent with the Secretary's Plan, the Secretary may take all action necessary to cause the Corporation to be recapitalized such that the interest of the United States, or any agent or instrumentality thereof, and all other commitments or obligations of the Corporation to the United States or any agent or instrumentality thereof arising out of such interest, in any debt (including accrued interest and contingent interest thereon) and preferred stock (including accrued and unpaid dividends thereon) of the Corporation shall be cancelled or retired, and contributed to the capital of the Corporation. The Secretary shall cause the recapitalization authorized by this section to be effective as of the consummation of the sale of the interest of the United States in the common stock of the Corporation.

"(b) BREACH OF REPRESENTATIONS.—(1) Norfolk Southern Corporation or any successor corporation thereto may bring suit for any breach of representations contained in paragraph 6(e) of the Memorandum of Intent described in section 102(20)(A) of this Act (hereinafter referred to as the 'Representations') in the United States Claims Court or a district court of the United States. If such an action is brought, the Claims Court or district court shall determine the amount by which the United States income tax (including interest and penalties whether or not such penalties are assessed as a tax under the Internal Revenue Code of 1954) assessable against the Corporation or against Norfolk Southern Corporation for any year exceeds the amount of such tax which would have been assessable for such year had such Representations not been breached (hereinafter referred to as the 'Offset Amount').

"(2) The Representations shall be considered breached and Norfolk Southern Corporation shall be entitled to bring suit upon the first occurrence of any of the following that is inconsistent with the Representations: (A) the issuance by the Internal Revenue Service of a statutory notice of deficiency (90-day letter), (B) the assessment of the United States income tax, or (C) any claim by the United States in a suit or other judicial proceeding against Norfolk Southern Corporation or the Corporation.

"(3) The right to bring suit pursuant to this section shall not be subject to any waiting period applicable to tax proceedings or to any requirements for payment of any tax as a condition to instituting any suit based on a breach of the Representations.

"(4) Any judgment for money damages relating to breach of the Representations shall only be awarded as an offset in any court or administrative proceeding against the tax liability of Norfolk Southern Corporation or the Corporation, or both, to which such breach relates; except that if any such tax liability resulting from such breach has been paid, the judgment shall to that extent be an offset against any United States income tax liability of the Norfolk Southern Corporation or the Corporation, or both. If any portion of the tax resulting from a breach of the Representations has been paid, then the Offset Amount shall include interest on such payment from the date paid at the rate from time to time specified in the Internal Revenue Code of 1954 for interest payable on refund claims.

"(5) It shall not be a defense to an action brought under this section that Norfolk Southern Corporation knew, or should have known, of the falsity of the Representations or that there exists no carryover basis procedure as contemplated by the last sentence of the Representations.

"(6) For purposes of this section, tax liability of Norfolk Southern Corporation shall include the tax liability of Norfolk Southern Corporation and its affiliated group, within the meaning of section 1504 of the Internal Revenue Code of 1954.".

APPLICABILITY OF CERTAIN LAWS TO SALE OF CONRAIL

SEC. 107. Section 408 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 768) is amended—

(1) by repealing subsection (b);

(2) by amending subsection (c) by striking "No transfer" and all that follows through "subject to" and inserting in lieu thereof "Except as provided in section 1152 of the Northeast Rail Service Act of 1981 (45 U.S.C. 1105), the Secretary's Plan and the Definitive Agreements and their negotiation, execution, and implementation shall not be subject to administrative or"; and

(3) by adding at the end of subsection (c) the following sentence: "The issuance in private placement of notes or other securities in accordance with exhibit B to the Memorandum of Intent (described in section 102(20)(A) of this Act) in the Secretary's Plan shall not be subject to the provisions

of subtitle IV of title 49, United States Code.".

LABOR PROTECTION

SEC. 108. (a) Section 701(d)(2) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 797(d)(2)) is amended by striking "the last day of the eighteen-month period beginning on".

(b)(1) Title VII of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 797 et seq.) is amended by adding at the end thereof the following section:

"PROTECTION AFTER SALE

"SEC. 715. After consummation of the sale of the interest of the United States in the common stock of the Corporation pursuant to the Secretary's Plan, any employee of Norfolk Southern Corporation, the Corporation, any rail affiliate of either company, and any transferee of the rail tracks, rights, and facilities divested in accordance with the Secretary's Plan, who is adversely affected in his employment by the implementation of the Secretary's Plan shall receive from his employer protection under the labor protective conditions set forth in New York Dock Railway—Control—Brooklyn Eastern District Terminal (354 ICC 399 (1978), modified upon further consideration, 360 ICC 60 (1979)). The arbitration provisions of section 4 of New York Dock shall apply to the formation of any implementing agreements that may be necessary in connection with the implementation of the Secretary's Plan, including any resulting coordinations.".

(2) The table of contents of the Regional Rail Reorganization Act of 1973 is amended by inserting immediately after the item relating to section 714 the following item:

"Sec. 715. Protection after sale.".

PREFERENTIAL HIRING

SEC. 109. Section 703 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 797b) is amended—

(1) by redesignating subsection (b) as subsection (c); and

(2) by inserting immediately after subsection (a) the following subsection:

"(b) IMPLEMENTATION OF SECRETARY'S PLAN.—Any employee of any railroad who is deprived of employment as a result of the implementation of the Secretary's Plan shall have the first right of hire for a vacancy for which he is qualified on any Norfolk Southern Corporation rail subsidiary, except where such vacancy is covered by (1) an affirmative action plan, or a hiring plan designated to eliminate discrimination, that is required by Federal or State statute, regulation, or Executive order, or by the order of a Federal court or agency, or (2) a permissible voluntary affirmative action plan. For purposes of this subsection, a railroad shall not be considered to be hiring new employees when it recalls any of its own furloughed employees.".

CROSS CRAFT EMPLOYMENT

SEC. 110. (a) Title VII of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 797 et seq.) is amended by inserting immediately after section 703 the following section:

"CROSS CRAFT EMPLOYMENT

"SEC. 703A. Any employee of Norfolk and Western Railway Company, Southern Railway Company, or the Corporation who is deprived of employment as a result of the implementation of the Secretary's Plan shall have the first right of hire for any vacancy for which such employee is qualified at the entry level of any Norfolk Southern Corporation rail subsidiary, without regard to craft or class or the provisions of section 703 of this Act. Such employee shall retain his seniority rights to return to his original craft or class whenever a vacancy occurs. For purposes of this section, a railroad shall not be considered to be hiring new employees when it recalls any of its own furloughed employees.".

(b) The table of contents of the Regional Rail Reorganization Act of 1973 is amended by inserting immediately after the item relating to section 703 the following item:

"Sec. 703A. Cross craft employment.".

Subtitle B—Northeast Rail Service Act of 1981 Amendments

SPECIAL COURT JURISDICTION

SEC. 121. (a) Section 1152 of the Northeast Rail Service Act of 1981 (45 U.S.C. 9105) is amended—

(1) by inserting "or the Conrail Sale Amendments Act of 1985" immediately after "subtitle" wherever it appears;

(2) in subsection (a), by striking "or" at the end of paragraph (3), by striking the period at the end of paragraph (4) and inserting in lieu thereof a semicolon, and by adding at the end thereof the following paragraphs:

"(5) brought by the United States or any agency or instrumentality thereof seeking to enforce the Secretary's Plan or the Definitive Agreements;

"(6) brought by Norfolk Southern Corporation seeking to enforce the Secretary's Plan or the Definitive Agreements;

"(7) brought by a party who filed a complaint with the Secretary under subsection (e) of this section, and who is aggrieved by (A) a determination of the Secretary under paragraph (1) of such subsection that the party has not suffered direct economic injury, or (B) a decision of the Secretary under paragraph (2) of such subsection that a covenant has not been violated;

"(8) brought by a party which is a signatory to an ancillary agreement entered into in accordance with the Secretary's Plan or the Definitive Agreements and which is seeking to enforce such ancillary agreement; or

"(9) brought to determine the value of the interest of the employee stock ownership plan and related trusts, or of the beneficiaries thereof, in the preferred stock of the Conrail Equity Corporation.

For purposes of any action brought under paragraph (5) of this subsection, a violation of any covenant contained in the Secretary's Plan or the Definitive Agreements shall be deemed to constitute immediate and irreparable harm for purposes of awarding injunctive relief to the United States.".

(b) Section 1152 of the Northeast Rail Service Act of 1981 (45 U.S.C. 1105) is amended by adding at the end thereof the following subsection:

"(e)(1) Any party who suffers direct economic injury as a result of an alleged violation of a covenant contained in the Definitive Agreements may file a complaint with the Secretary seeking enforcement of such covenant. If the Secretary determines that the complainant has demonstrated to the Secretary that it has suffered direct economic injury, the Secretary shall investigate the complaint.

"(2) If the Secretary decides to investigate a complaint under paragraph (1) of this subsection, the Secretary shall give reasonable notice of such decision to investigate to the alleged violator of such covenant and the complainant, and shall make a final decision on such complaint within 60 days after the date on which it was filed.

"(3) If the Secretary finds that (A) the covenant in question has been violated, and (B) the complainant suffered direct economic injury as a result of such violation, the Secretary shall enter an order directing the violator of such covenant to comply with such covenant.

"(4) On appeal, any decision by the Secretary under this subsection shall be upheld, unless such decision is found to be arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law.".

APPLICABILITY OF OTHER LAWS

SEC. 122. Section 1168(a) of the Northeast Rail Service Act of 1981 (45 U.S.C. 1116(a)) is amended by striking "service transfers" and inserting in lieu thereof "sale of the interest of the United States in the common stock of Conrail or transfer of the rail properties and freight service responsibilities of Conrail".

Subtitle C—Employee Stock Ownership Plan

RESPONSIBILITY OF EMPLOYEE STOCK OWNERSHIP PLAN FIDUCIARIES

SEC. 131. (a) Section 216(f)(8)(A) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 726(f)(8)(A)) is amended—

(1) by striking "or" at the end of clause (ii);

(2) by striking the period at the end of clause (iii) and inserting in lieu thereof "; or"; and

(3) by adding at the end thereof the following clause:

"(iv) for or in connection with any action taken to implement the Secretary's Plan, including any sale, exchange, valuation, or disposition of the plan and related trust assets, or the assets of Conrail Equity Corporation, in connection with implementation of the Secretary's Plan and any determination of the terms on which any such sale, exchange, valuation, or disposition is effected.".

QUALIFICATION, REVIEW, AND VALUATION OF EMPLOYEE STOCK OWNERSHIP PLANS

SEC. 132. Section 216(f) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 726(f)) is amended by adding at the end thereof the following paragraphs:

"(11) The employee stock ownership plans of the Corporation and related trusts maintained, amended, or adopted in implementing the Secretary's Plan shall be deemed to meet the qualification requirements of sections 401 and 501, respectively, of the Internal Revenue Code of 1954, notwithstanding (A) that such plans may not meet the requirements of section 415 of the Internal Revenue Code of 1954, or (B) that participants in such plans may be entitled to withdraw a portion of the shares allocated to their accounts prior to the expiration of the period generally imposed by the Internal Revenue Service for qualified plans. Such qualification shall relate only to the contributions, allocations, and withdrawals of shares provided for in the Secretary's Plan with respect to the plans and related trusts maintained, amended, or adopted in implementing the Secretary's Plan. Such contributions and allocations shall in no event be treated as having exceeded the maximum annual addition permitted under section 415 of the Internal Revenue Code of 1954 (but not for purposes of applying section 404(j) of the Internal Revenue Code of 1954) for purposes of calculating any limitation under section 415 with respect to contributions and allocations not described in the Secretary's Plan, including contributions and allocations to plans and related trusts of the

Corporation and any affiliated corporation. The continued qualification of such plans with respect to all other contributions, allocations, and withdrawals shall be subject to all provisions of existing law, as amended from time to time. No inference shall be drawn from this paragraph as to whether an amount is a contribution deductible under section 404 of the Internal Revenue Code of 1954 rather than a non-deductible capital expenditure.

"(12) Except as provided in section 1152 of the Northeast Rail Service Act of 1981 (45 U.S.C. 1105), the issuance and sale or contribution of securities by Norfolk Southern Corporation to fulfill arrangements with the Corporation's employees in implementing the Secretary's Plan and the distribution of shares from the Corporation's employee stock ownership plans and related trusts maintained, amended, or adopted in implementing the Secretary's Plan shall not be subject to the registration and prospectus delivery requirements of the Securities Act of 1933, any approval requirement under subtitle IV of title 49, United States Code, or the laws of any State with respect to the issuance and sale of securities.".

TITLE II—TECHNICAL AND CONFORMING AMENDMENTS

REGIONAL RAIL REORGANIZATION ACT OF 1973 AMENDMENTS AND REPEALS

SEC. 201. The following provisions of the Regional Rail Reorganization Act of 1973 are repealed or amended as specified:

(1) Subsections (a) and (b) of section 214 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 724(a) and (b)) are repealed, and such section 214 is amended by striking "(c) ASSOCIATION.—".

(2) Subsection (f) of section 217 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 727(f)) is repealed, without prejudice to the continued availability of funds appropriated prior to the date of enactment of this Act pursuant to section 217(f)(1)(C) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 727(f)(1)(C)).

(3) Section 404 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 764), and the item relating to such section in the table of contents of such Act, are repealed.

(4) Section 405 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 765), and the item relating to such section in the table of contents of such Act, are repealed.

(5) Section 406 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 766), and the item relating to such section in the table of contents of such Act, are repealed.

(6) Section 407 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 767), and the item relating to such section in the table of contents of such Act, are repealed.

(7) Subsections (a) and (d) of section 408 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 768 (a) and (d)) are repealed.

(8) Section 409 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 769), and the item relating to such section in the table of contents of such Act, are repealed.

(9) Section 410 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 769a), and the item relating to such section in the table of contents of such Act, are repealed.

(10) Section 411 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 769b), and the item relating to such section in the table of contents of such Act, are repealed.

(11) Section 412 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 769c), and the item relating to such section in the table of contents of such Act, are repealed.

(12) Section 713 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 797l), and the item relating to such section in the table of contents of such Act, are repealed.

AMENDMENTS AND REPEALS OF OTHER RAIL LAWS

SEC. 202. The following provisions of law are repealed or amended as specified:

(1) Section 1154 of the Northeast Rail Service Act of 1981 (45 U.S.C. 1107), and the item relating to such section in the table of contents of such Act, are repealed.

(2) Section 1161 of the Northeast Rail Service Act of 1981 (45 U.S.C. 1110), and the item relating to such section in the table of contents of such Act, are repealed.

(3) Section 1166 of the Northeast Rail Service Act of 1981 (45 U.S.C. 1114), and the item relating to such section in the table of contents of such Act, are repealed.

(4) Subsection (c) of section 1167 of the Northeast Rail Service Act of 1981 (45 U.S.C. 1115(c)) is repealed.

(5) Subsection (b) of section 1168 of the Northeast Rail Service Act of 1981 (45 U.S.C. 1116(b)) is repealed.

(6) Section 501(8) of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 821(8)) is amended—

(A) by striking "(A)";

(B) by striking "(i)" and inserting in lieu thereof "(A)", and by striking "(ii)" and inserting in lieu thereof "(B)"; and

(C) by striking all after "utilization;".

(7) Section 505 of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 825) is amended—

(A) in subsection (a)(1), by striking all after "railroad" through "1981)"; and

(B) in subsection (b)(2)(C), by striking all after "costs" the second time it appears through "subsidy".

(8) Subsection (b)(1) of section 509 of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 829(b)(1)) is repealed.

(9) Section 511(e) of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 831(e)) is amended by striking "(1)", and by striking all after "time" and inserting in lieu thereof a period.

(10) Section 402 of the Rail Safety and Service Improvement Act of 1982 (45 U.S.C. 825a) is repealed.

(11) Section 1005(b)(1) of the Rail Passenger Service Act (45 U.S.C. 655(b)(1)) is amended by striking "the Consolidated Rail Corporation,".

(12) Section 10362(b)(7)(A) of title 49, United States Code, is amended by striking "by the Consolidated Rail Corporation or".

(13) Section 332(d) of title 49, United States Code, is amended by striking ", the Consolidated Rail Corporation,".

TITLE III—MISCELLANEOUS PROVISIONS

COMMON CARRIER STATUS OF CONRAIL AFTER SALE

SEC. 301. (a) Conrail's status as a common carrier by railroad under section 10102(4) of title 49, United States Code, shall not be affected by virtue of sale of the interest of the United States in Conrail's common stock. Purchase of Conrail stock shall not alone be the basis of a determination that the acquiring entity has become a common carrier by railroad under section 10102(4) of title 49, United States Code.

(b) The Definitive Agreements shall contain a binding commitment by Norfolk Southern Corporation to continue to operate Conrail in full compliance with the provisions of section 10731(e) of title 49, United States Code.

CONSUMMATION OF SALE

SEC. 302. The sale of the interest of the United States in the common stock of Conrail shall be deemed to be consummated on the date title to the common stock passes to Norfolk Southern Corporation and the United States receives the cash purchase price.

CONTRACTS

SEC. 303. (a) Except as provided in subsection (b) of this section, nothing in this Act shall affect—

(1) Conrail's obligation to carry out its transportation contracts and equipment leases, equipment trusts, and conditional sale agreements, in accordance with their terms; and

(2) the obligation of any transferee of divested assets to carry out transportation contracts and equipment leases, equipment trusts, and conditional sale agreements to which such assets are subject, in accordance with their terms.

(b) If a divestiture carried out pursuant to the Secretary's Plan precludes Conrail from providing a transportation service for which it has contracted without a right of termination that may be exercised in the event of the sale of the interest of the United States in the common stock of Conrail and the divestiture will result in a change or modification in the movement of the traffic involved, the transferee of the divested rights and properties and Conrail shall provide the contracted-for service on terms and conditions which, to the maximum extent possible, conform to the terms and conditions in the contract.

CONGRESSIONAL OVERSIGHT OF COMPLIANCE

SEC. 304. The Secretary shall, no later than January 31 of each year, submit to the Committee on Commerce, Science, and Transportation of the Senate and to the Committee on Energy and Commerce of the House of Representatives a report setting forth each certificate which Norfolk Southern Corporation and Conrail provided to the Secretary, during the preceding year, certifying compliance with the covenants contained in the Definitive Agreements.

SEPARABILITY

SEC. 305. If any provision of this Act or the application thereof to any person or circumstances is held invalid, the remainder of this Act and the application of such provision to other persons or circumstances shall not be affected thereby.

EFFECTIVE DATE

SEC. 306. (a) Except as provided in subsection (b) of this section, the provisions of and amendments made by this Act shall take effect on the date of enactment of this Act.

(b) Sections 108(a), 201 and 202 of this Act shall take effect on the date of consummation of the sale of the interest of the United States in the common stock of Conrail.

(c) Any provision of this Act which, pursuant to Article I, Section 7 of the Constitution, provides for raising revenue shall only be effective upon the enactment into law of a bill which has originated in the House of Representatives enacting such provision.

AMENDMENT No. 1486

In lieu of the language proposed to be inserted, insert the following:

That this Act may be cited as the "Conrail Sale Amendments Act of 1985".

FINDINGS

SEC. 2. The Congress finds that—

(1) the Northeast Rail Service Act of 1981 (45 U.S.C. 1101 et seq.) provided for an orderly return of Conrail freight service to the private sector;

(2) the provisions of the Northeast Rail Service Act of 1981 were successful in removing Conrail's obligations beyond railroad freight service and in otherwise preparing Conrail for an orderly return to the private sector;

(3) acting under section 403 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 763), the Board of Directors of the United States Railway Association twice found Conrail to be a profitable corporation;

(4) acting under section 401 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 761), the Secretary engaged an investment banker and arranged, through open competitive bidding and negotiation, to sell the interest of the United States in the common stock of Conrail;

(5) the Secretary's Plan for the sale of Conrail provides for sale of the interest of the United States in the common stock of Conrail to Norfolk Southern Corporation;

(6) the Secretary found that sale of the interest of the United States in the common stock of Conrail to Norfolk Southern Corporation best meets the sale criteria of (A) leaving Conrail in the strongest financial position after the sale, (B) preserving patterns of service to shippers and communities in the region Conrail serves, and (C) maximizing return to the Federal Government consistent with the criteria specified in clauses (A) and (B);

(7) amendments to the Regional Rail Reorganization Act of 1973 (45 U.S.C. 701 et seq.) and related laws are needed to permit the sale of the interest of the United States in the common stock of Conrail to Norfolk Southern Corporation and to permit cancellation of the interest of the United States in Conrail debt and preferred stock; and

(8) the Secretary's Plan satisfies the requirements of the Northeast Rail Service Act of 1981, including the intent, goals, and objectives relating to the sale of the interest of the United States in the common stock of Conrail and the requirements of section 401(e) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 761(e)).

PURPOSE

SEC. 3. It is therefore declared to be the purpose of the Congress in this Act to return Conrail to the private sector by directing and facilitating implementation of the Secretary's Plan for the sale of the interest of the United States in the common stock of Conrail.

DEFINITIONS

SEC. 4. (a) In this Act, unless the context otherwise requires, the term—

(1) "Conrail" means the Consolidated Rail Corporation;

(2) "Definitive Agreements" means any and all agreements existing or to be developed between the United States and Norfolk Southern Corporation, including all representations and warranties made therein, to implement the Memorandum of Intent described in paragraph (4)(A);

(3) "Secretary" means the Secretary of Transportation; and

(4) "Secretary's Plan" means (A) the Memorandum of Intent between the United States and Norfolk Southern Corporation signed February 8, 1985, but not including paragraph 3 of such Memorandum of Intent, and (B) the divestitures by the Norfolk Southern Corporation of certain rail tracks, rights, and facilities, and any transactions or agreements related or incidental to such divestitures, in connection with the implementation of attachment A to the letter from the Department of Justice attached to the Memorandum of Intent as exhibit E.

(b) Section 102 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 702) is amended—

(1) by redesignating paragraphs (6) through (18) as paragraphs (7) through (19), and paragraphs (19) through (21) as paragraphs (21) through (23), respectively;

(2) by inserting after paragraph (5) the following paragraph:

"(6) 'Definitive Agreements' means any and all agreements existing or to be developed between the United States and Norfolk Southern Corporation, including all representations and warranties made therein, to implement the Memorandum of Intent described in paragraph (20)(A);"; and

(3) by inserting after paragraph (19), as so redesignated, the following paragraph:

"(20) 'Secretary's Plan' means (A) the Memorandum of Intent between the United States and Norfolk Southern Corporation signed February 8, 1985, and (B) the divestitures by the Norfolk Southern Corporation of certain rail tracks, rights, and facilities, and any transactions or agreements related or incidental to such divestitures, in connection with the implementation of attachment A to the letter from the Department of Justice attached to the Memorandum of Intent as exhibit E;".

(c) Section 1135(a) of the Northeast Rail Service Act of 1981 (45 U.S.C. 1104(a)) is amended—

(1) by redesignating paragraphs (6), (7), and (8) as paragraphs (7), (8), and (10), respectively;

(2) by inserting after paragraph (5) the following paragraph:

"(6) 'Definitive Agreements' means any and all agreements existing or to be developed between the United States and Norfolk Southern Corporation, including all representations and warranties made therein, to implement the Memorandum of Intent described in paragraph (9)(A);"; and

(3) by inserting after paragraph (8), as so redesignated, the following paragraph:

"(9) 'Secretary's Plan' means (A) the Memorandum of Intent between the United States and Norfolk Southern Corporation signed February 8, 1985, and (B) the divestitures by the Norfolk Southern Corporation of certain rail tracks, rights, and facilities, and any transactions or agreements related or incidental to such divestitures, in connection with the implementation of attachment A to the letter from the Department of Justice attached to the Memorandum of Intent as exhibit E;".

TITLE I—AMENDMENTS TO THE REGIONAL RAIL REORGANIZATION ACT OF 1973 AND THE NORTHEAST RAIL SERVICE ACT OF 1981

Subtitle A—Regional Rail Reorganization Act of 1973 Amendments

LIMIT ON AUTHORITY TO PURCHASE STOCK

SEC. 101. Section 216(b) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 726(b)) is amended by adding at the end thereof the following paragraph:

"(5) The authority of the Association to purchase debentures or series A preferred stock of the Corporation under this section shall terminate upon the consummation of the sale of the interest of the United States in the common stock of the Corporation under the terms of the Secretary's Plan.".

RESPONSIBILITY OF CONRAIL DIRECTORS

SEC. 102. Section 301(i) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 741(i)) is amended by inserting immediately after "required by law" the following: ", taken to implement the Secretary's Plan,".

APPLICABILITY OF REGIONAL RAIL REORGANIZATION ACT OF 1973 TO CONRAIL AFTER SALE

SEC. 103. Section 301 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 741) is amended by adding at the end thereof the following subsection:

"(k) GOVERNING PROVISIONS AFTER SALE.—The provisions of this Act shall not apply to the Corporation and to activities and other actions and responsibilities of the Corporation and its directors after consummation of the sale of the interest of the United States in the common stock of the Corporation under the terms of the Conrail Sale Amendments Act of 1985, other than with regard to—

"(1) section 102 of this Act;

"(2) section 201(d) of this Act;

"(3) section 203 of this Act, but only with respect to information relating to proceedings before the special court established under section 209(b);

"(4) section 216(f)(8) of this Act, but only as such authority applies to activities related to the employee stock ownership plan and related trusts prior to or in connection with consummation of the sale of the interest of the United States in the common stock of the Corporation, including activities related to the sale, exchange, valuation, or disposition of the assets of the employee stock ownership plan and related trusts, or of Conrail Equity Corporation, in connection with the Secretary's Plan;

"(5) sections 216(f)(11) and 216(f)(12) of this Act, as amended by the Conrail Sale Amendments Act of 1985;

"(6) section 217(e) of this Act;

"(7) subsection (i) of this section, but only as such authority applies to service as a director of the Corporation prior to consummation or in connection with implementation of the sale of the interest of the United States in the common stock of the Corporation;

"(8) section 305 of this Act, but only as to the effect, and continuing administration, of supplemental transactions consummated prior to consummation of the sale of the interest of the United States in the common stock of the Corporation;

"(9) section 308 of this Act, but only in abandonment actions when such authority has been relied on to file a notice or notices of insufficent revenues prior to consummation of the sale of the interest of the United States in the common stock of the Corporation;

"(10) section 401(a) of this Act, as amended by the Conrail Sale Amendments Act of 1985;

"(11) section 402 of this Act, as amended by the Conrail Sale Amendments Act of 1985;

"(12) section 408(c) of this Act, as amended by the Conrail Sale Amendments Act of 1985;

"(13) section 701 of this Act, but only as may be necessary to identify employees eligible for benefits under agreements entered into under such section;

"(14) section 702(e) of this Act;

"(15) section 704(b) of this Act;

"(16) section 709 of this Act;

"(17) section 710(b)(1) of this Act;

"(18) section 711 of this Act;

"(19) section 714 of this Act, but only with regard to disputes or controversies specified in such section that arose prior to consummation of the sale of the interest of the United States in the common stock of the Corporation; and

"(20) section 715 of this Act, as amended by the Conrail Sale Amendments Act of 1985.".

IMPLEMENTATION OF THE SECRETARY'S PLAN

SEC. 104. (a) Section 401(a)(3) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 761(a)(3)) is amended to read as follows:

"(3) The Secretary is authorized and directed to implement the Secretary's Plan, in accordance with paragraph (4) of this subsection. Such implementation of the Secretary's Plan and the coordinated operation of the Corporation's properties with those of Norfolk Southern Corporation and its affiliates as a single rail system is deemed approved by the Commission under chapter 113 of title 49, United States Code.".

(b) Section 401(a) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 761(a)) is amended by adding at the end thereof the following paragraphs:

"(4) The Secretary shall implement the Secretary's Plan by negotiating, executing, delivering, and performing the Definitive Agreements, which shall conform to the Memorandum of Intent described in section 102(20)(A) of this Act. The Secretary shall, 45 calendar days before the date on which the Secretary anticipates that the interest of the United States in the common stock of the Corporation will be sold to Norfolk Southern Corporation, transmit to the Committee on Commerce, Science, and Transportation of the Senate and to the Committee on Energy and Commerce of the House of Representatives a notification of any alteration from the Memorandum of Intent described in section 102(20)(A) of this Act which will be made in the Definitive Agreements. After the date of such sale, the Secretary shall transmit to such Committees notification of any intent to waive compliance with any substantive covenant, agreement or obligation contained in the Definitive Agreements, and the Secretary may not waive such compliance until a period of 45 calendar days has expired after the date of such transmittal.

"(5) The Secretary shall not transfer the interest of the United States in the common stock of the Corporation except concurrently with a divestiture by Norfolk Southern Corporation of rail assets and rights approved by the Attorney General.

"(6) The sale of the interest of the United States in the common stock of the Corporation shall be deemed to be consummated at the date title to the common stock passes to Norfolk Southern Corporation and the United States receives the cash purchase price.".

RAILROAD PURCHASERS AND OFFER FOR SALE OF SHARES TO EMPLOYEES

SEC. 105. Subsections (d) and (e) of section 401 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 761(d) and (e)) are repealed.

CANCELLATION OF DEBT AND PREFERRED STOCK

SEC. 106. Section 402 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 762) is amended to read as follows:

"DEBT AND PREFERRED STOCK

"SEC. 402. (a) RECAPITALIZATION.—In connection with the sale of the interest of the United States in the common stock of the Corporation under section 401 of this Act, and consistent with the Secretary's Plan, the Secretary may take all action necessary to cause the Corporation to be recapitalized such that the interest of the United States, or any agent or instrumentality thereof, and all other commitments or obligations of the Corporation to the United States or any agent or instrumentality thereof arising out of such interest, in any debt (including accrued interest and contingent interest thereon) and preferred stock (including accrued and unpaid dividends thereon) of the Corporation shall be cancelled or retired, and contributed to the capital of the Corporation. The Secretary shall cause the recapitalization authorized by this section to be effective as of the consummation of the sale of the interest of the United States in the common stock of the Corporation.

"(b) BREACH OF REPRESENTATIONS.—(1) Norfolk Southern Corporation or any successor corporation thereto may bring suit for any breach of representations contained in paragraph 6(e) of the Memorandum of Intent described in section 102(20)(A) of this Act (hereinafter referred to as the 'Representations') in the United States Claims Court or a district court of the United States. If such an action is brought, the Claims Court or district court shall determine the amount by which the United States income tax (including interest and penalties whether or not such penalties are assessed as a tax under the Internal Revenue Code of 1954) assessable against the Corporation or against Norfolk Southern Corporation for any year exceeds the amount of such tax which would have been assessable for such year had such Representations not been breached (hereinafter referred to as the 'Offset Amount').

"(2) The Representations shall be considered breached and Norfolk Southern Corporation shall be entitled to bring suit upon the first occurrence of any of the following that is inconsistent with the Representations: (A) the issuance by the Internal Revenue Service of a statutory notice of deficiency (90-day letter), (B) the assessment of the United States income tax, or (C) any claim by the United States in a suit or other judicial proceeding against Norfolk Southern Corporation or the Corporation.

"(3) The right to bring suit pursuant to this section shall not be subject to any waiting period applicable to tax proceedings or to any requirements for payment of any tax as a condition to instituting any suit based on a breach of the Representations.

"(4) Any judgment for money damages relating to breach of the Representations shall only be awarded as an offset in any court or administrative proceeding against the tax liability of Norfolk Southern Corporation or the Corporation, or both, to which such breach relates; except that if any such tax liability resulting from such breach has been paid, the judgment shall to that extent be an offset against any United States income tax liability of the Norfolk Southern Corporation or the Corporation, or both. If any portion of the tax resulting from a breach of the Representations has been paid, then the Offset Amount shall include interest on such payment from the date paid at the rate from time to time specified in the Internal Revenue Code of 1954 for interest payable on refund claims.

"(5) It shall not be a defense to an action brought under this section that Norfolk Southern Corporation knew, or should have known, of the falsity of the Representations or that there exists no carryover basis procedure as contemplated by the last sentence of the Representations.

"(6) For purposes of this section, tax liability of Norfolk Southern Corporation shall include the tax liability of Norfolk Southern Corporation and its affiliated group, within the meaning of section 1504 of the Internal Revenue Code of 1954.".

APPLICABILITY OF CERTAIN LAWS TO SALE OF CONRAIL

SEC. 107. Section 408 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 768) is amended—

(1) by repealing subsection (b);

(2) by amending subsection (c) by striking "No transfer" and all that follows through "subject to" and inserting in lieu thereof "Except as provided in section 1152 of the Northeast Rail Service Act of 1981 (45 U.S.C. 1105), the Secretary's Plan and the Definitive Agreements and their negotiation, execution, and implementation shall not be subject to administrative or"; and

(3) by adding at the end of subsection (c) the following sentence: "The issuance in private placement of notes or other securities in accordance with exhibit B to the Memorandum of Intent (described in section 102(20)(A) of this Act) in the Secretary's Plan shall not be subject to the provisions of subtitle IV of title 49, United States Code.".

LABOR PROTECTION

SEC. 108. (a) Section 701(d)(2) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 797(d)(2)) is amended by striking "the last day of the eighteen-month period beginning on".

(b)(1) Title VII of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 797 et seq.) is amended by adding at the end thereof the following section:

"PROTECTION AFTER SALE

"SEC. 715. After consummation of the sale of the interest of the United States in the common stock of the Corporation pursuant to the Secretary's Plan, any employee of Norfolk Southern Corporation, the Corporation, any rail affiliate of either company, and any transferee of the rail tracks, rights, and facilities divested in accordance with the Secretary's Plan, who is adversely affected in his employment by the implementation of the Secretary's Plan shall receive from his employer protection under the labor protective conditions set forth in New York Dock Railway—Control—Brooklyn Eastern District Terminal (354 ICC 399 (1978), modified upon further consideration, 360 ICC 60 (1979)). The arbitration provisions of section 4 of New York Dock shall apply to the formation of any implementing agreements that may be necessary in connection with the implementation of the Secretary's Plan, including any resulting coordinations.".

(2) The table of contents of the Regional Rail Reorganization Act of 1973 is amended by inserting immediately after the item relating to section 714 the following item:

"Sec. 715. Protection after sale.".

PREFERENTIAL HIRING

SEC. 109. Section 703 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 797b) is amended—

(1) by redesignating subsection (b) as subsection (c); and

(2) by inserting immediately after subsection (a) the following subsection:

"(b) IMPLEMENTATION OF SECRETARY'S PLAN.—Any employee of any railroad who is

deprived of employment as a result of the implementation of the Secretary's Plan shall have the first right of hire for a vacancy for which he is qualified on any Norfolk Southern Corporation rail subsidiary, except where such vacancy is covered by (1) an affirmative action plan, or a hiring plan designated to eliminate discrimination, that is required by Federal or State statute, regulation, or Executive order, or by the order of a Federal court or agency, or (2) a permissible voluntary affirmative action plan. For purposes of this subsection, a railroad shall not be considered to be hiring new employees when it recalls any of its own furloughed employees.".

CROSS CRAFT EMPLOYMENT

SEC. 110. (a) Title VII of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 797 et seq.) is amended by inserting immediately after section 703 the following section:

"CROSS CRAFT EMPLOYMENT

"SEC. 703A. Any employee of Norfolk and Western Railway Company, Southern Railway Company, or the Corporation who is deprived of employment as a result of the implementation of the Secretary's Plan shall have the first right of hire for any vacancy for which such employee is qualified at the entry level of any Norfolk Southern Corporation rail subsidiary, without regard to craft or class or the provisions of section 703 of this Act. Such employee shall retain his seniority rights to return to his original craft or class whenever a vacancy occurs. For purposes of this section, a railroad shall not be considered to be hiring new employees when it recalls any of its own furloughed employees.".

(b) The table of contents of the Regional Rail Reorganization Act of 1973 is amended by inserting immediately after the item relating to section 703 the following item:

"Sec. 703A. Cross craft employment.".

Subtitle B—Northeast Rail Service Act of 1981 Amendments

SPECIAL COURT JURISDICTION

SEC. 121. (a) Section 1152 of the Northeast Rail Service Act of 1981 (45 U.S.C. 1105) is amended—

(1) by inserting "or the Conrail Sale Amendments Act of 1985" immediately after "subtitle" wherever it appears;

(2) in subsection (a), by striking "or" at the end of paragraph (3), by striking the period at the end of paragraph (4) and inserting in lieu thereof a semicolon, and by adding at the end thereof the following paragraphs:

"(5) brought by the United States or any agency or instrumentality thereof seeking to enforce the Secretary's Plan or the Definitive Agreements;

"(6) brought by Norfolk Southern Corporation seeking to enforce the Secretary's Plan or the Definitive Agreements;

"(7) brought by a party who filed a complaint with the Secretary under subsection (e) of this section, and who is aggrieved by (A) a determination of the Secretary under paragraph (1) of such subsection that the party has not suffered direct economic injury, or (B) a decision of the Secretary under paragraph (2) of such subsection that a covenant has not been violated;

"(8) brought by a party which is a signatory to an ancillary agreement entered into in accordance with the Secretary's Plan or the Definitive Agreements and which is seeking to enforce such ancillary agreement; or

"(9) brought to determine the value of the interest of the employee stock ownership plan and related trusts, or of the beneficiaries thereof, in the preferred stock of the Conrail Equity Corporation.

For purposes of any action brought under paragraph (5) of this subsection, a violation of any covenant contained in the Secretary's Plan or the Definitive Agreements shall be deemed to constitute immediate and irreparable harm for purposes of awarding injunctive relief to the United States.".

(b) Section 1152 of the Northeast Rail Service Act of 1981 (45 U.S.C. 1105) is amended by adding at the end thereof the following subsection:

"(e)(1) Any party who suffers direct economic injury as a result of an alleged violation of a covenant contained in the Definitive Agreements may file a complaint with the Secretary seeking enforcement of such covenant. If the Secretary determines that the complainant has demonstrated to the Secretary that it has suffered direct economic injury, the Secretary shall investigate the complaint.

"(2) If the Secretary decides to investigate a complaint under paragraph (1) of this subsection, the Secretary shall give reasonable notice of such decision to investigate to the alleged violator of such covenant and the complainant, and shall make a final decision on such complaint within 60 days after the date on which it was filed.

"(3) If the Secretary finds that (A) the covenant in question has been violated, and (B) the complainant suffered direct economic injury as a result of such violation, the Secretary shall enter an order directing the violator of such covenant to comply with such covenant.

"(4) On appeal, any decision by the Secretary under this subsection shall be upheld, unless such decision is found to be arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law.".

APPLICABILITY OF OTHER LAWS

SEC. 122. Section 1168(a) of the Northeast Rail Service Act of 1981 (45 U.S.C. 1116(a)) is amended by striking "service transfers" and inserting in lieu thereof "sale of the interest of the United States in the common stock of Conrail or transfer of the rail properties and freight service responsibilities of Conrail".

Subtitle C—Employee Stock Ownership Plan

RESPONSIBILITY OF EMPLOYEE STOCK OWNERSHIP PLAN FIDUCIARIES

SEC. 131. (a) Section 216(f)(8)(A) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 726(f)(8)(A)) is amended—

(1) by striking "or" at the end of clause (ii);

(2) by striking the period at the end of clause (iii) and inserting in lieu thereof "; or"; and

(3) by adding at the end thereof the following clause:

"(iv) for or in connection with any action taken to implement the Secretary's Plan, including any sale, exchange, valuation, or disposition of the plan and related trust assets, or the assets of Conrail Equity Corporation, in connection with implementation of the Secretary's Plan and any determination of the terms on which any such sale, exchange, valuation, or disposition is effected.".

QUALIFICATION, REVIEW, AND VALUATION OF EMPLOYEE STOCK OWNERSHIP PLANS

SEC. 132. Section 216(f) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 726(f)) is amended by adding at the end thereof the following paragraphs:

"(11) The employee stock ownership plans of the Corporation and related trusts maintained, amended, or adopted in implementing the Secretary's Plan shall be deemed to meet the qualification requirements of sections 401 and 501, respectively, of the Internal Revenue Code of 1954, notwithstanding (A) that such plans may not meet the requirements of section 415 of the Internal Revenue Code of 1954, or (B) that participants in such plans may be entitled to withdraw a portion of the shares allocated to their accounts prior to the expiration of the period generally imposed by the Internal Revenue Service for qualified plans. Such qualification shall relate only to the contributions, allocations, and withdrawals of shares provided for in the Secretary's Plan with respect to the plans and related trusts maintained, amended, or adopted in implementing the Secretary's Plan. Such contributions and allocations shall in no event be treated as having exceeded the maximum annual addition permitted under section 415 of the Internal Revenue Code of 1954 (but not for purposes of applying section 404(j) of the Internal Revenue Code of 1954) for purposes of calculating any limitation under section 415 with respect to contributions and allocations not described in the Secretary's Plan, including contributions and allocations to plans and related trusts of the Corporation and any affiliated corporation. The continued qualification of such plans with respect to all other contributions, allocations, and withdrawals shall be subject to all provisions of existing law, as amended from time to time. No inference shall be drawn from this paragraph as to whether an amount is a contribution deductible under section 404 of the Internal Revenue Code of 1954 rather than a non-deductible capital expenditure.

"(12) Except as provided in section 1152 of the Northeast Rail Service Act of 1981 (45 U.S.C. 1105), the issuance and sale or contribution of securities by Norfolk Southern Corporation to fulfill arrangements with the Corporation's employees in implementing the Secretary's Plan and the distribution of shares from the Corporation's employee stock ownership plans and related trusts maintained, amended, or adopted in implementing the Secretary's Plan shall not be subject to the registration and prospectus delivery requirements of the Securities Act of 1933, any approval requirement under subtitle IV of title 49, United States Code, or the laws of any State with respect to the issuance and sale of securities.".

TITLE II—TECHNICAL AND CONFORMING AMENDMENTS

REGIONAL RAIL REORGANIZATION ACT OF 1973 AMENDMENTS AND REPEALS

SEC. 201. The following provisions of the Regional Rail Reorganization Act of 1973 are repealed or amended as specified:

(1) Subsections (a) and (b) of section 214 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 724(a) and (b)) are repealed, and such section 214 is amended by striking "(c) ASSOCIATION.—".

(2) Subsection (f) of section 217 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 727(f)) is repealed, without prejudice to the continued availability of funds appropriated prior to the date of enactment of this Act pursuant to section 217(f)(1)(C) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 727(f)(1)(C)).

(3) Section 404 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 764), and the item relating to such section in the table of contents of such Act, are repealed.

(4) Section 405 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 765), and the item relating to such section in the table of contents of such Act, are repealed.

(5) Section 406 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 766), and the item relating to such section in the table of contents of such Act, are repealed.

(6) Section 407 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 767), and the item relating to such section in the table of contents of such Act, are repealed.

(7) Subsections (a) and (d) of section 408 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 768 (a) and (d)) are repealed.

(8) Section 409 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 769), and the item relating to such section in the table of contents of such Act, are repealed.

(9) Section 410 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 769a), and the item relating to such section in the table of contents of such Act, are repealed.

(10) Section 411 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 769b), and the item relating to such section in the table of contents of such Act, are repealed.

(11) Section 412 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 769c), and the item relating to such section in the table of contents of such Act, are repealed.

(12) Section 713 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 797l), and the item relating to such section in the table of contents of such Act, are repealed.

AMENDMENTS AND REPEALS OF OTHER RAIL LAWS

SEC. 202. The following provisions of law are repealed or amended as specified:

(1) Section 1154 of the Northeast Rail Service Act of 1981 (45 U.S.C. 1107), and the item relating to such section in the table of contents of such Act, are repealed.

(2) Section 1161 of the Northeast Rail Service Act of 1981 (45 U.S.C. 1110), and the item relating to such section in the table of contents of such Act, are repealed.

(3) Section 1166 of the Northeast Rail Service Act of 1981 (45 U.S.C. 1114), and the item relating to such section in the table of contents of such Act, are repealed.

(4) Subsection (c) of section 1167 of the Northeast Rail Service Act of 1981 (45 U.S.C. 1115(c)) is repealed.

(5) Subsection (b) of section 1168 of the Northeast Rail Service Act of 1981 (45 U.S.C. 1116(b)) is repealed.

(6) Section 501(8) of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 821(8)) is amended—

(A) by striking "(A)";

(B) by striking "(i)" and inserting in lieu thereof "(A)", and by striking "(ii)" and inserting in lieu thereof "(B)"; and

(C) by striking all after "utilization;".

(7) Section 505 of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 825) is amended—

(A) in subsection (a)(1), by striking all after "railroad" through "1981)"; and

(B) in subsection (b)(2)(C), by striking all after "costs" the second time it appears through "subsidy".

(8) Subsection (b)(1) of section 509 of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 829(b)(1)) is repealed.

(9) Section 511(e) of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 831(e)) is amended by striking "(1)", and by striking all after "time" and inserting in lieu thereof a period.

(10) Section 402 of the Rail Safety and Service Improvement Act of 1982 (45 U.S.C. 825a) is repealed.

(11) Section 1005(b)(1) of the Rail Passenger Service Act (45 U.S.C. 655(b)(1)) is amended by striking "the Consolidated Rail Corporation,".

(12) Section 10362(b)(7)(A) of title 49, United States Code, is amended by striking "by the Consolidated Rail Corporation or".

(13) Section 332(d) of title 49, United States Code, is amended by striking ", the Consolidated Rail Corporation,".

TITLE III—MISCELLANEOUS PROVISIONS

COMMON CARRIER STATUS OF CONRAIL AFTER SALE

SEC. 301. (a) Conrail's status as a common carrier by railroad under section 10102(4) of title 49, United States Code, shall not be affected by virtue of sale of the interest of the United States in Conrail's common stock. Purchase of Conrail stock shall not alone be the basis of a determination that the acquiring entity has become a common carrier by railroad under section 10102(4) of title 49, United States Code.

(b) The Definitive Agreements shall contain a binding commitment by Norfolk Southern Corporation to continue to operate Conrail in full compliance with the provisions of section 10731(e) of title 49, United States Code.

CONSUMMATION OF SALE

SEC. 302. The sale of the interest of the United States in the common stock of Conrail shall be deemed to be consummated on the date title to the common stock passes to Norfolk Southern Corporation and the United States receives the cash purchase price.

CONTRACTS

SEC. 303. (a) Except as provided in subsection (b) of this section, nothing in this Act shall affect—

(1) Conrail's obligation to carry out its transportation contracts and equipment leases, equipment trusts, and conditional sale agreements, in accordance with their terms; and

(2) the obligation of any transferee of divested assets to carry out transportation contracts and equipment leases, equipment trusts, and conditional sale agreements to which such assets are subject, in accordance with their terms.

(b) If a divestiture carried out pursuant to the Secretary's Plan precludes Conrail from providing a transportation service for which it has contracted without a right of termination that may be exercised in the event of the sale of the interest of the United States in the common stock of Conrail and the divestiture will result in a change or modification in the movement of the traffic involved, the transferee of the divested rights and properties and Conrail shall provide the contracted-for service on terms and conditions which, to the maximum extent possible, conform to the terms and conditions in the contract.

CONGRESSIONAL OVERSIGHT OF COMPLIANCE

SEC. 304. The Secretary shall, no later than January 31 of each year, submit to the Committee on Commerce, Science, and Transportation of the Senate and to the Committee on Energy and Commerce of the House of Representatives a report setting forth each certificate which Norfolk Southern Corporation and Conrail provided to the Secretary, during the preceding year, certifying compliance with the covenants contained in the Definitive Agreements.

SEPARABILITY

SEC. 305. If any provision of this Act or the application thereof to any person or circumstances is held invalid, the remainder of this Act and the application of such provision to other persons or circumstances shall not be affected thereby.

EFFECTIVE DATE

SEC. 306. (a) Except as provided in subsection (b) of this section, the provisions of and amendments made by this Act shall take effect on the date of enactment of this Act.

(b) Sections 108(a), 201 and 202 of this Act shall take effect on the date of consummation of the sale of the interest of the United States in the common stock of Conrail.

(c) Any provision of this Act which, pursuant to Article I, Section 7 of the Constitution, provides for raising revenue shall only be effective upon the enactment into law of a bill which has originated in the House of Representatives enacting such provision.

AMENDMENT No. 1487

In lieu of the language proposed to be inserted, insert the following:

That this Act may be cited as the "Conrail Sale Amendments Act of 1985".

FINDINGS

SEC. 2. The Congress finds that—

(1) the Northeast Rail Service Act of 1981 (45 U.S.C. 1101 et seq.) provided for an orderly return of Conrail freight service to the private sector;

(2) the provisions of the Northeast Rail Service Act of 1981 were successful in removing Conrail's obligations beyond railroad freight service and in otherwise preparing Conrail for an orderly return to the private sector;

(3) acting under section 403 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 763), the Board of Directors of the United States Railway Association twice found Conrail to be a profitable corporation;

(4) acting under section 401 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 761), the Secretary engaged an investment banker and arranged, through open competitive bidding and negotiation, to sell the interest of the United States in the common stock of Conrail;

(5) the Secretary's Plan for the sale of Conrail provides for sale of the interest of the United States in the common stock of Conrail to Norfolk Southern Corporation;

(6) the Secretary found that sale of the interest of the United States in the common stock of Conrail to Norfolk Southern Corporation best meets the sale criteria of (A) leaving Conrail in the strongest financial position after the sale, (B) preserving patterns of service to shippers and communities in the region Conrail serves, and (C) maximizing return to the Federal Government consistent with the criteria specified in clauses (A) and (B);

(7) amendments to the Regional Rail Reorganization Act of 1973 (45 U.S.C. 701 et seq.) and related laws are needed to permit the sale of the interest of the United States in the common stock of Conrail to Norfolk Southern Corporation and to permit cancellation of the interest of the United States in Conrail debt and preferred stock; and

(8) the Secretary's Plan satisfies the requirements of the Northeast Rail Service Act of 1981, including the intent, goals, and objectives relating to the sale of the interest of the United States in the common stock of Conrail and the requirements of section

401(e) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 761(e)).

PURPOSE

SEC. 3. It is therefore declared to be the purpose of the Congress in this Act to return Conrail to the private sector by directing and facilitating implementation of the Secretary's Plan for the sale of the interest of the United States in the common stock of Conrail.

DEFINITIONS

SEC. 4. (a) In this Act, unless the context otherwise requires, the term—

(1) "Conrail" means the Consolidated Rail Corporation;

(2) "Definitive Agreements" means any and all agreements existing or to be developed between the United States and Norfolk Southern Corporation, including all representations and warranties made therein, to implement the Memorandum of Intent described in paragraph (4)(A);

(3) "Secretary" means the Secretary of Transportation; and

(4) "Secretary's Plan" means (A) the Memorandum of Intent between the United States and Norfolk Southern Corporation signed February 8, 1985, and (B) the divestitures by the Norfolk Southern Corporation of certain rail tracks, rights, and facilities, and any transactions or agreements related or incidental to such divestitures, in connection with the implementation of attachment A to the letter from the Department of Justice attached to the Memorandum of Intent as exhibit E.

(b) Section 102 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 702) is amended—

(1) by redesignating paragraphs (6) through (18) as paragraphs (7) through (19), and paragraphs (19) through (21) as paragraphs (21) through (23), respectively;

(2) by inserting after paragraph (5) the following paragraph:

"(6) 'Definitive Agreements' means any and all agreements existing or to be developed between the United States and Norfolk Southern Corporation, including all representations and warranties made therein, to implement the Memorandum of Intent described in paragraph (20)(A);"; and

(3) by inserting after paragraph (19), as so redesignated, the following paragraph:

"(20) 'Secretary's Plan' means (A) the Memorandum of Intent between the United States and Norfolk Southern Corporation signed February 8, 1985, and (B) the divestitures by the Norfolk Southern Corporation of certain rail tracks, rights, and facilities, and any transactions or agreements related or incidental to such divestitures, in connection with the implementation of attachment A to the letter from the Department of Justice attached to the Memorandum of Intent as exhibit E;".

(c) Section 1135(a) of the Northeast Rail Service Act of 1981 (45 U.S.C. 1104(a)) is amended—

(1) by redesignating paragraphs (6), (7), and (8) as paragraphs (7), (8), and (10), respectively;

(2) by inserting after paragraph (5) the following paragraph:

"(6) 'Definitive Agreements' means any and all agreements existing or to be developed between the United States and Norfolk Southern Corporation, including all representations and warranties made therein, to implement the Memorandum of Intent described in paragraph (9)(A);"; and

(3) by inserting after paragraph (8), as so redesignated, the following paragraph:

"(9) 'Secretary's Plan' means (A) the Memorandum of Intent between the United States and Norfolk Southern Corporation signed February 8, 1985, but not including paragraph 3 of such Memorandum of Intent, and (B) the divestitures by the Norfolk Southern Corporation of certain rail tracks, rights, and facilities, and any transactions or agreements related or incidental to such divestitures, in connection with the implementation of attachment A to the letter from the Department of Justice attached to the Memorandum of Intent as exhibit E;".

TITLE I—AMENDMENTS TO THE REGIONAL RAIL REORGANIZATION ACT OF 1973 AND THE NORTHEAST RAIL SERVICE ACT OF 1981

Subtitle A—Regional Rail Reorganization Act of 1973 Amendments

LIMIT ON AUTHORITY TO PURCHASE STOCK

SEC. 101. Section 216(b) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 726(b)) is amended by adding at the end thereof the following paragraph:

"(5) The authority of the Association to purchase debentures or series A preferred stock of the Corporation under this section shall terminate upon the consummation of the sale of the interest of the United States in the common stock of the Corporation under the terms of the Secretary's Plan.".

RESPONSIBILITY OF CONRAIL DIRECTORS

SEC. 102. Section 301(i) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 741(i)) is amended by inserting immediately after "required by law" the following: ", taken to implement the Secretary's Plan,".

APPLICABILITY OF REGIONAL RAIL REORGANIZATION ACT OF 1973 TO CONRAIL AFTER SALE

SEC. 103. Section 301 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 741) is amended by adding at the end thereof the following subsection:

"(k) GOVERNING PROVISIONS AFTER SALE.—The provisions of this Act shall not apply to the Corporation and to activities and other actions and responsibilities of the Corporation and its directors after consummation of the sale of the interest of the United States in the common stock of the Corporation under the terms of the Conrail Sale Amendments Act of 1985, other than with regard to—

"(1) section 102 of this Act;

"(2) section 201(d) of this Act;

"(3) section 203 of this Act, but only with respect to information relating to proceedings before the special court established under section 209(b);

"(4) section 216(f)(8) of this Act, but only as such authority applies to activities related to the employee stock ownership plan and related trusts prior to or in connection with consummation of the sale of the interest of the United States in the common stock of the Corporation, including activities related to the sale, exchange, valuation, or disposition of the assets of the employee stock ownership plan and related trusts, or of Conrail Equity Corporation, in connection with the Secretary's Plan;

"(5) sections 216(f)(11) and 216(f)(12) of this Act, as amended by the Conrail Sale Amendments Act of 1985;

"(6) section 217(e) of this Act;

"(7) subsection (i) of this section, but only as such authority applies to service as a director of the Corporation prior to consummation or in connection with implementation of the sale of the interest of the United States in the common stock of the Corporation;

"(8) section 305 of this Act, but only as to the effect, and continuing administration, of supplemental transactions consummated prior to consummation of the sale of the interest of the United States in the common stock of the Corporation;

"(9) section 308 of this Act, but only in abandonment actions when such authority has been relied on to file a notice or notices of insufficent revenues prior to consummation of the sale of the interest of the United States in the common stock of the Corporation;

"(10) section 401(a) of this Act, as amended by the Conrail Sale Amendments Act of 1985;

"(11) section 402 of this Act, as amended by the Conrail Sale Amendments Act of 1985;

"(12) section 408(c) of this Act, as amended by the Conrail Sale Amendments Act of 1985;

"(13) section 701 of this Act, but only as may be necessary to identify employees eligible for benefits under agreements entered into under such section;

"(14) section 702(e) of this Act;

"(15) section 704(b) of this Act;

"(16) section 709 of this Act;

"(17) section 710(b)(1) of this Act;

"(18) section 711 of this Act;

"(19) section 714 of this Act, but only with regard to disputes or controversies specified in such section that arose prior to consummation of the sale of the interest of the United States in the common stock of the Corporation; and

"(20) section 715 of this Act, as amended by the Conrail Sale Amendments Act of 1985.".

IMPLEMENTATION OF THE SECRETARY'S PLAN

SEC. 104. (a) Section 401(a)(3) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 761(a)(3)) is amended to read as follows:

"(3) The Secretary is authorized and directed to implement the Secretary's Plan, in accordance with paragraph (4) of this subsection. Such implementation of the Secretary's Plan and the coordinated operation of the Corporation's properties with those of Norfolk Southern Corporation and its affiliates as a single rail system is deemed approved by the Commission under chapter 113 of title 49, United States Code.".

(b) Section 401(a) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 761(a)) is amended by adding at the end thereof the following paragraphs:

"(4) The Secretary shall implement the Secretary's Plan by negotiating, executing, delivering, and performing the Definitive Agreements, which shall conform to the Memorandum of Intent described in section 102(20)(A) of this Act. The Secretary shall, 45 calendar days before the date on which the Secretary anticipates that the interest of the United States in the common stock of the Corporation will be sold to Norfolk Southern Corporation, transmit to the Committee on Commerce, Science, and Transportation of the Senate and to the Committee on Energy and Commerce of the House of Representatives a notification of any alteration from the Memorandum of Intent described in section 102(20)(A) of this Act which will be made in the Definitive Agreements. After the date of such sale, the Secretary shall transmit to such Committees notification of any intent to waive compliance with any substantive covenant, agreement or obligation contained in the Definitive Agreements, and the Secretary may not

waive such compliance until a period of 45 calendar days has expired after the date of such transmittal.

"(5) The Secretary shall not transfer the interest of the United States in the common stock of the Corporation except concurrently with a divestiture by Norfolk Southern Corporation of rail assets and rights approved by the Attorney General.

"(6) The sale of the interest of the United States in the common stock of the Corporation shall be deemed to be consummated at the date title to the common stock passes to Norfolk Southern Corporation and the United States receives the cash purchase price.".

RAILROAD PURCHASERS AND OFFER FOR SALE OF SHARES TO EMPLOYEES

SEC. 105. Subsections (d) and (e) of section 401 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 761 (d) and (e)) are repealed.

CANCELLATION OF DEBT AND PREFERRED STOCK

SEC. 106. Section 402 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 762) is amended to read as follows:

"DEBT AND PREFERRED STOCK

"SEC. 402. (a) RECAPITALIZATION.—In connection with the sale of the interest of the United States in the common stock of the Corporation under section 401 of this Act, and consistent with the Secretary's Plan, the Secretary may take all action necessary to cause the Corporation to be recapitalized such that the interest of the United States, or any agent or instrumentality thereof, and all other commitments or obligations of the Corporation to the United States or any agent or instrumentality thereof arising out of such interest, in any debt (including accrued interest and contingent interest thereon) and preferred stock (including accrued and unpaid dividends thereon) of the Corporation shall be cancelled or retired, and contributed to the capital of the Corporation. The Secretary shall cause the recapitalization authorized by this section to be effective as of the consummation of the sale of the interest of the United States in the common stock of the Corporation.

"(b) BREACH OF REPRESENTATIONS.—(1) Norfolk Southern Corporation or any successor corporation thereto may bring suit for any breach of representations contained in paragraph 6(e) of the Memorandum of Intent described in section 102(20)(A) of this Act (hereinafter referred to as the 'Representations') in the United States Claims Court or a district court of the United States. If such an action is brought, the Claims Court or district court shall determine the amount by which the United States income tax (including interest and penalties whether or not such penalties are assessed as a tax under the Internal Revenue Code of 1954) assessable against the Corporation or against Norfolk Southern Corporation for any year exceeds the amount of such tax which would have been assessable for such year had such Representations not been breached (hereinafter referred to as the 'Offset Amount').

"(2) The Representations shall be considered breached and Norfolk Southern Corporation shall be entitled to bring suit upon the first occurrence of any of the following that is inconsistent with the Representations: (A) the issuance by the Internal Revenue Service of a statutory notice of deficiency (90-day letter), (B) the assessment of the United States income tax, or (C) any claim by the United States in a suit or other judicial proceeding against Norfolk Southern Corporation or the Corporation.

"(3) The right to bring suit pursuant to this section shall not be subject to any waiting period applicable to tax proceedings or to any requirements for payment of any tax as a condition to instituting any suit based on a breach of the Representations.

"(4) Any judgment for money damages relating to breach of the Representations shall only be awarded as an offset in any court or administrative proceeding against the tax liability of Norfolk Southern Corporation or the Corporation, or both, to which such breach relates; except that if any such tax liability resulting from such breach has been paid, the judgment shall to that extent be an offset against any United States income tax liability of the Norfolk Southern Corporation or the Corporation, or both. If any portion of the tax resulting from a breach of the Representations has been paid, then the Offset Amount shall include interest on such payment from the date paid at the rate from time to time specified in the Internal Revenue Code of 1954 for interest payable on refund claims.

"(5) It shall not be a defense to an action brought under this section that Norfolk Southern Corporation knew, or should have known, of the falsity of the Representations or that there exists no carryover basis procedure as contemplated by the last sentence of the Representations.

"(6) For purposes of this section, tax liability of Norfolk Southern Corporation shall include the tax liability of Norfolk Southern Corporation and its affiliated group, within the meaning of section 1504 of the Internal Revenue Code of 1954.".

APPLICABILITY OF CERTAIN LAWS TO SALE OF CONRAIL

SEC. 107. Section 408 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 768) is amended—

(1) by repealing subsection (b);

(2) by amending subsection (c) by striking "No transfer" and all that follows through "subject to" and inserting in lieu thereof "Except as provided in section 1152 of the Northeast Rail Service Act of 1981 (45 U.S.C. 1105), the Secretary's Plan and the Definitive Agreements and their negotiation, execution, and implementation shall not be subject to administrative or"; and

(3) by adding at the end of subsection (c) the following sentence: "The issuance in private placement of notes or other securities in accordance with exhibit B to the Memorandum of Intent (described in section 102(20)(A) of this Act) in the Secretary's Plan shall not be subject to the provisions of subtitle IV of title 49, United States Code.".

LABOR PROTECTION

SEC. 108. (a) Section 701(d)(2) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 797(d)(2)) is amended by striking "the last day of the eighteen-month period beginning on".

(b)(1) Title VII of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 797 et seq.) is amended by adding at the end thereof the following section:

"PROTECTION AFTER SALE

"SEC. 715. After consummation of the sale of the interest of the United States in the common stock of the Corporation pursuant to the Secretary's Plan, any employee of Norfolk Southern Corporation, the Corporation, any rail affiliate of either company, and any transferee of the rail tracks, rights, and facilities divested in accordance with the Secretary's Plan, who is adversely affected in his employment by the implementation of the Secretary's Plan shall receive from his employer protection under the labor protective conditions set forth in New York Dock Railway—Control—Brooklyn Eastern District Terminal (354 ICC 399 (1978), modified upon further consideration, 360 ICC 60 (1979)). The arbitration provisions of section 4 of New York Dock shall apply to the formation of any implementing agreements that may be necessary in connection with the implementation of the Secretary's Plan, including any resulting coordinations.".

(2) The table of contents of the Regional Rail Reorganization Act of 1973 is amended by inserting immediately after the item relating to section 714 the following item:

"Sec. 715. Protection after sale.".

PREFERENTIAL HIRING

SEC. 109. Section 703 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 797b) is amended—

(1) by redesignating subsection (b) as subsection (c); and

(2) by inserting immediately after subsection (a) the following subsection:

"(b) IMPLEMENTATION OF SECRETARY'S PLAN.—Any employee of any railroad who is deprived of employment as a result of the implementation of the Secretary's Plan shall have the first right of hire for a vacancy for which he is qualified on any Norfolk Southern Corporation rail subsidiary, except where such vacancy is covered by (1) an affirmative action plan, or a hiring plan designated to eliminate discrimination, that is required by Federal or State statute, regulation, or Executive order, or by the order of a Federal court or agency, or (2) a permissible voluntary affirmative action plan. For purposes of this subsection, a railroad shall not be considered to be hiring new employees when it recalls any of its own furloughed employees.".

CROSS CRAFT EMPLOYMENT

SEC. 110. (a) Title VII of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 797 et seq.) is amended by inserting immediately after section 703 the following section:

"CROSS CRAFT EMPLOYMENT

"SEC. 703A. Any employee of Norfolk and Western Railway Company, Southern Railway Company, or the Corporation who is deprived of employment as a result of the implementation of the Secretary's Plan shall have the first right of hire for any vacancy for which such employee is qualified at the entry level of any Norfolk Southern Corporation rail subsidiary, without regard to craft or class or the provisions of section 703 of this Act. Such employee shall retain his seniority rights to return to his original craft or class whenever a vacancy occurs. For purposes of this section, a railroad shall not be considered to be hiring new employees when it recalls any of its own furloughed employees.".

(b) The table of contents of the Regional Rail Reorganization Act of 1973 is amended by inserting immediately after the item relating to section 703 the following item:

"Sec. 703A. Cross craft employment.".

Subtitle B—Northeast Rail Service Act of 1981 Amendments

SPECIAL COURT JURISDICTION

SEC. 121. (a) Section 1152 of the Northeast Rail Service Act of 1981 (45 U.S.C. 1105) is amended—

(1) by inserting "or the Conrail Sale Amendments Act of 1985" immediately after "subtitle" wherever it appears;

(2) in subsection (a), by striking "or" at the end of paragraph (3), by striking the period at the end of paragraph (4) and inserting in lieu thereof a semicolon, and by adding at the end thereof the following paragraphs:

"(5) brought by the United States or any agency or instrumentality thereof seeking to enforce the Secretary's Plan or the Definitive Agreements;

"(6) brought by Norfolk Southern Corporation seeking to enforce the Secretary's Plan or the Definitive Agreements;

"(7) brought by a party who filed a complaint with the Secretary under subsection (e) of this section, and who is aggrieved by (A) a determination of the Secretary under paragraph (1) of such subsection that the party has not suffered direct economic injury, or (B) a decision of the Secretary under paragraph (2) of such subsection that a covenant has not been violated;

"(8) brought by a party which is a signatory to an ancillary agreement entered into in accordance with the Secretary's Plan or the Definitive Agreements and which is seeking to enforce such ancillary agreement; or

"(9) brought to determine the value of the interest of the employee stock ownership plan and related trusts, or of the beneficiaries thereof, in the preferred stock of the Conrail Equity Corporation.

For purposes of any action brought under paragraph (5) of this subsection, a violation of any covenant contained in the Secretary's Plan or the Definitive Agreements shall be deemed to constitute immediate and irreparable harm for purposes of awarding injunctive relief to the United States.".

(b) Section 1152 of the Northeast Rail Service Act of 1981 (45 U.S.C. 1105) is amended by adding at the end thereof the following subsection:

"(e)(1) Any party who suffers direct economic injury as a result of an alleged violation of a covenant contained in the Definitive Agreements may file a complaint with the Secretary seeking enforcement of such covenant. If the Secretary determines that the complainant has demonstrated to the Secretary that it has suffered direct economic injury, the Secretary shall investigate the complaint.

"(2) If the Secretary decides to investigate a complaint under paragraph (1) of this subsection, the Secretary shall give reasonable notice of such decision to investigate the alleged violator of such covenant and the complainant, and shall make a final decision on such complaint within 60 days after the date on which it was filed.

"(3) If the Secretary finds that (A) the covenant in question has been violated, and (B) the complainant suffered direct economic injury as a result of such violation, the Secretary shall enter an order directing the violator of such covenant to comply with such covenant.

"(4) On appeal, any decision by the Secretary under this subsection shall be upheld, unless such decision is found to be arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law.".

APPLICABILITY OF OTHER LAWS

SEC. 122. Section 1168(a) of the Northeast Rail Service Act of 1981 (45 U.S.C. 1116(a)) is amended by striking "service transfers" and inserting in lieu thereof "sale of the interest of the United States in the common stock of Conrail or transfer of the rail properties and freight service responsibilities of Conrail".

Subtitle C—Employee Stock Ownership Plan

RESPONSIBILITY OF EMPLOYEE STOCK OWNERSHIP PLAN FIDUCIARIES

SEC. 131. (a) Section 216(f)(8)(A) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 726(f)(8)(A)) is amended—

(1) by striking "or" at the end of clause (ii);

(2) by striking the period at the end of clause (iii) and inserting in lieu thereof "; or"; and

(3) by adding at the end thereof the following clause:

"(iv) for or in connection with any action taken to implement the Secretary's Plan, including any sale, exchange, valuation, or disposition of the plan and related trust assets, or the assets of Conrail Equity Corporation, in connection with implementation of the Secretary's Plan and any determination of the terms on which any such sale, exchange, valuation, or disposition is effected.".

QUALIFICATION, REVIEW, AND VALUATION OF EMPLOYEE STOCK OWNERSHIP PLANS

SEC. 132. Section 216(f) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 726(f)) is amended by adding at the end thereof the following paragraphs:

"(11) The employee stock ownership plans of the Corporation and related trusts maintained, amended, or adopted in implementing the Secretary's Plan shall be deemed to meet the qualification requirements of sections 401 and 501, respectively, of the Internal Revenue Code of 1954, notwithstanding (A) that such plans may not meet the requirements of section 415 of the Internal Revenue Code of 1954, or (B) that participants in such plans may be entitled to withdraw a portion of the shares allocated to their accounts prior to the expiration of the period generally imposed by the Internal Revenue Service for qualified plans. Such qualification shall relate only to the contributions, allocations, and withdrawals of shares provided for in the Secretary's Plan with respect to the plans and related trusts maintained, amended, or adopted in implementing the Secretary's Plan. Such contributions and allocations shall in no event be treated as having exceeded the maximum annual addition permitted under section 415 of the Internal Revenue Code of 1954 (but not for purposes of applying section 404(j) of the Internal Revenue Code of 1954) for purposes of calculating any limitation under section 415 with respect to contributions and allocations not described in the Secretary's Plan, including contributions and allocations to plans and related trusts of the Corporation and any affiliated corporation. The continued qualification of such plans with respect to all other contributions, allocations, and withdrawals shall be subject to all provisions of existing law, as amended from time to time. No inference shall be drawn from this paragraph as to whether an amount is a contribution deductible under section 404 of the Internal Revenue Code of 1954 rather than a non-deductible capital expenditure.

"(12) Except as provided in section 1152 of the Northeast Rail Service Act of 1981 (45 U.S.C. 1105), the issuance and sale or contribution of securities by Norfolk Southern Corporation to fulfill arrangements with the Corporation's employees in implementing the Secretary's Plan and the distribution of shares from the Corporation's employee stock ownership plans and related trusts maintained, amended, or adopted in implementing the Secretary's Plan shall not be subject to the registration and prospectus delivery requirements of the Securities Act of 1933, any approval requirement under subtitle IV of title 49, United States Code, or the laws of any State with respect to the issuance and sale of securities.".

TITLE II—TECHNICAL AND CONFORMING AMENDMENTS

REGIONAL RAIL REORGANIZATION ACT OF 1973 AMENDMENTS AND REPEALS

SEC. 201. The following provisions of the Regional Rail Reorganization Act of 1973 are repealed or amended as specified:

(1) Subsections (a) and (b) of section 214 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 724 (a) and (b)) are repealed, and such section 214 is amended by striking "(c) ASSOCIATION.—".

(2) Subsection (f) of section 217 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 727(f)) is repealed, without prejudice to the continued availability of funds appropriated prior to the date of enactment of this Act pursuant to section 217(f)(1)(C) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 727(f)(1)(C)).

(3) Section 404 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 764), and the item relating to such section in the table of contents of such Act, are repealed.

(4) Section 405 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 765), and the item relating to such section in the table of contents of such Act, are repealed.

(5) Section 406 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 766), and the item relating to such section in the table of contents of such Act, are repealed.

(6) Section 407 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 767), and the item relating to such section in the table of contents of such Act, are repealed.

(7) Subsections (a) and (d) of section 408 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 768 (a) and (d)) are repealed.

(8) Section 409 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 769), and the item relating to such section in the table of contents of such Act, are repealed.

(9) Section 410 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 769a), and the item relating to such section in the table of contents of such Act, are repealed.

(10) Section 411 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 769b), and the item relating to such section in the table of contents of such Act, are repealed.

(11) Section 412 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 769c), and the item relating to such section in the table of contents of such Act, are repealed.

(12) Section 713 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 797l), and the item relating to such section in the table of contents of such Act, are repealed.

AMENDMENTS AND REPEALS OF OTHER RAIL LAWS

SEC. 202. The following provisions of law are repealed or amended as specified:

(1) Section 1154 of the Northeast Rail Service Act of 1981 (45 U.S.C. 1107), and the item relating to such section in the table of contents of such Act, are repealed.

(2) Section 1161 of the Northeast Rail Service Act of 1981 (45 U.S.C. 1110), and the item relating to such section in the table of contents of such Act, are repealed.

(3) Section 1166 of the Northeast Rail Service Act of 1981 (45 U.S.C. 1114), and the

item relating to such section in the table of contents of such Act, are repealed.

(4) Subsection (c) of section 1167 of the Northeast Rail Service Act of 1981 (45 U.S.C. 1115(c)) is repealed.

(5) Subsection (b) of section 1168 of the Northeast Rail Service Act of 1981 (45 U.S.C. 1116(b)) is repealed.

(6) Section 501(8) of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 821(8)) is amended—

(A) by striking "(A)";

(B) by striking "(i)" and inserting in lieu thereof "(A)", and by striking "(ii)" and inserting in lieu thereof "(B)"; and

(C) by striking all after "utilization;".

(7) Section 505 of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 825) is amended—

(A) in subsection (a)(1), by striking all after "railroad" through "1981)"; and

(B) in subsection (b)(2)(C), by striking all after "costs" the second time it appears through "subsidy".

(8) Subsection (b)(1) of section 509 of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 829(b)(1)) is repealed.

(9) Section 511(e) of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 831(e)) is amended by striking "(1)", and by striking all after "time" and inserting in lieu thereof a period.

(10) Section 402 of the Rail Safety and Service Improvement Act of 1982 (45 U.S.C. 825a) is repealed.

(11) Section 1005(b)(1) of the Rail Passenger Service Act (45 U.S.C. 655(b)(1)) is amended by striking "the Consolidated Rail Corporation,".

(12) Section 10362(b)(7)(A) of title 49, United States Code, is amended by striking "by the Consolidated Rail Corporation or".

(13) Section 332(d) of title 49, United States Code, is amended by striking ", the Consolidated Rail Corporation,".

TITLE III—MISCELLANEOUS PROVISIONS

COMMON CARRIER STATUS OF CONRAIL AFTER SALE

SEC. 301. (a) Conrail's status as a common carrier by railroad under section 10102(4) of title 49, United States Code, shall not be affected by virtue of sale of the interest of the United States in Conrail's common stock. Purchase of Conrail stock shall not alone be the basis of a determination that the acquiring entity has become a common carrier by railroad under section 10102(4) of title 49, United States Code.

(b) The Definitive Agreements shall contain a binding commitment by Norfolk Southern Corporation to continue to operate Conrail in full compliance with the provisions of section 10731(e) of title 49, United States Code.

CONSUMMATION OF SALE

SEC. 302. The sale of the interest of the United States in the common stock of Conrail shall be deemed to be consummated on the date title to the common stock passes to Norfolk Southern Corporation and the United States receives the cash purchase price.

CONTRACTS

SEC. 303. (a) Except as provided in subsection (b) of this section, nothing in this Act shall affect—

(1) Conrail's obligation to carry out its transportation contracts and equipment leases, equipment trusts, and conditional sale agreements, in accordance with their terms; and

(2) the obligation of any transferee of divested assets to carry out transportation contracts and equipment leases, equipment trusts, and conditional sale agreements to which such assets are subject, in accordance with their terms.

(b) If a divestiture carried out pursuant to the Secretary's Plan precludes Conrail from providing a transportation service for which it has contracted without a right of termination that may be exercised in the event of the sale of the interest of the United States in the common stock of Conrail and the divestiture will result in a change or modification in the movement of the traffic involved, the transferee of the divested rights and properties and Conrail shall provide the contracted-for service on terms and conditions which, to the maximum extent possible, conform to the terms and conditions in the contract.

CONGRESSIONAL OVERSIGHT OF COMPLIANCE

SEC. 304. The Secretary shall, no later than January 31 of each year, submit to the Committee on Commerce, Science, and Transportation of the Senate and to the Committee on Energy and Commerce of the House of Representatives a report setting forth each certificate which Norfolk Southern Corporation and Conrail provided to the Secretary, during the preceding year, certifying compliance with the covenants contained in the Definitive Agreements.

SEPARABILITY

SEC. 305. If any provision of this Act or the application thereof to any person or circumstances is held invalid, the remainder of this Act and the application of such provision to other persons or circumstances shall not be affected thereby.

EFFECTIVE DATE

SEC. 306. (a) Except as provided in subsection (b) of this section, the provisions of and amendments made by this Act shall take effect on the date of enactment of this Act.

(b) Sections 108(a), 201 and 202 of this Act shall take effect on the date of consummation of the sale of the interest of the United States in the common stock of Conrail.

(c) Any provision of this Act which, pursuant to Article I, Section 7 of the Constitution, provides for raising revenue shall only be effective upon the enactment into law of a bill which has originated in the House of Representatives enacting such provision.

AMENDMENT No. 1488

In lieu of the language proposed to be inserted, insert the following:

That this Act may be cited as the "Conrail Sale Amendments Act of 1985".

FINDINGS

SEC. 2. The Congress finds that—

(1) the Northeast Rail Service Act of 1981 (45 U.S.C. 1101 et seq.) provided for an orderly return of Conrail freight service to the private sector;

(2) the provisions of the Northeast Rail Service Act of 1981 were successful in removing Conrail's obligations beyond railroad freight service and in otherwise preparing Conrail for an orderly return to the private sector;

(3) acting under section 403 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 763), the Board of Directors of the United States Railway Association twice found Conrail to be a profitable corporation;

(4) acting under section 401 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 761), the Secretary engaged an investment banker and arranged, through open competitive bidding and negotiation, to sell the interest of the United States in the common stock of Conrail;

(5) the Secretary's Plan for the sale of Conrail provides for sale of the interest of the United States in the common stock of Conrail to Norfolk Southern Corporation;

(6) the Secretary found that sale of the interest of the United States in the common stock of Conrail to Norfolk Southern Corporation best meets the sale criteria of (A) leaving Conrail in the strongest financial position after the sale, (B) preserving patterns of service to shippers and communities in the region Conrail serves, and (C) maximizing return to the Federal Government consistent with the criteria specified in clauses (A) and (B);

(7) amendments to the Regional Rail Reorganization Act of 1973 (45 U.S.C. 701 et seq.) and related laws are needed to permit the sale of the interest of the United States in the common stock of Conrail to Norfolk Southern Corporation and to permit cancellation of the interest of the United States in Conrail debt and preferred stock; and

(8) the Secretary's Plan satisfies the requirements of the Northeast Rail Service Act of 1981, including the intent, goals, and objectives relating to the sale of the interest of the United States in the common stock of Conrail and the requirements of section 401(e) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 761(e)).

PURPOSE

SEC. 3. It is therefore declared to be the purpose of the Congress in this Act to return Conrail to the private sector by directing and facilitating implementation of the Secretary's Plan for the sale of the interest of the United States in the common stock of Conrail.

DEFINITIONS

SEC. 4. (a) In this Act, unless the context otherwise requires, the term—

(1) "Conrail" means the Consolidated Rail Corporation;

(2) "Definitive Agreements" means any and all agreements existing or to be developed between the United States and Norfolk Southern Corporation, including all representations and warranties made therein, to implement the Memorandum of Intent described in paragraph (4)(A);

(3) "Secretary" means the Secretary of Transportation; and

(4) "Secretary's Plan" means (A) the Memorandum of Intent between the United States and Norfolk Southern Corporation signed February 8, 1985, and (B) the divestitures by the Norfolk Southern Corporation of certain rail tracks, rights, and facilities, and any transactions or agreements related or incidental to such divestitures, in connection with the implementation of attachment A to the letter from the Department of Justice attached to the Memorandum of Intent as exhibit E.

(b) Section 102 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 702) is amended—

(1) by redesignating paragraphs (6) through (18) as paragraphs (7) through (19), and paragraphs (19) through (21) as paragraphs (21) through (23), respectively;

(2) by inserting after paragraph (5) the following paragraph:

"(6) 'Definitive Agreements' means any and all agreements existing or to be developed between the United States and Norfolk Southern Corporation, including all representations and warranties made therein, to

implement the Memorandum of Intent described in paragraph (20)(A);"; and

(3) by inserting after paragraph (19), as so redesignated, the following paragraph:

"(20) 'Secretary's Plan' means (A) the Memorandum of Intent between the United States and Norfolk Southern Corporation signed February 8, 1985, but not including paragraph 3 of such Memorandum of Intent, and (B) the divestitures by the Norfolk Southern Corporation of certain rail tracks, rights, and facilities, and any transactions or agreements related or incidental to such divestitures, in connection with the implementation of attachment A to the letter from the Department of Justice attached to the Memorandum of Intent as exhibit E;".

(c) Section 1135(a) of the Northeast Rail Service Act of 1981 (45 U.S.C. 1104(a)) is amended—

(1) by redesignating paragraphs (6), (7), and (8) as paragraphs (7), (8), and (10), respectively;

(2) by inserting after paragraph (5) the following paragraph:

"(6) 'Definitive Agreements' means any and all agreements existing or to be developed between the United States and Norfolk Southern Corporation, including all representations and warranties made therein, to implement the Memorandum of Intent described in paragraph (9)(A);"; and

(3) by inserting after paragraph (8), as so redesignated, the following paragraph:

"(9) 'Secretary's Plan' means (A) the Memorandum of Intent between the United States and Norfolk Southern Corporation signed February 8, 1985, and (B) the divestitures by the Norfolk Southern Corporation of certain rail tracks, rights, and facilities, and any transactions or agreements related or incidental to such divestitures, in connection with the implementation of attachment A to the letter from the Department of Justice attached to the Memorandum of Intent as exhibit E;".

TITLE I—AMENDMENTS TO THE REGIONAL RAIL REORGANIZATION ACT OF 1973 AND THE NORTHEAST RAIL SERVICE ACT OF 1981

Subtitle A—Regional Rail Reorganization Act of 1973 Amendments

LIMIT ON AUTHORITY TO PURCHASE STOCK

SEC. 101. Section 216(b) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 726(b)) is amended by adding at the end thereof the following paragraph:

"(5) The authority of the Association to purchase debentures or series A preferred stock of the Corporation under this section shall terminate upon the consummation of the sale of the interest of the United States in the common stock of the Corporation under the terms of the Secretary's Plan.".

RESPONSIBILITY OF CONRAIL DIRECTORS

SEC. 102. Section 301(i) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 741(i)) is amended by inserting immediately after "required by law" the following: ", taken to implement the Secretary's Plan,".

APPLICABILITY OF REGIONAL RAIL REORGANIZATION ACT OF 1973 TO CONRAIL AFTER SALE

SEC. 103. Section 301 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 741) is amended by adding at the end thereof the following subsection:

"(k) GOVERNING PROVISIONS AFTER SALE.—The provisions of this Act shall not apply to the Corporation and to activities and other actions and responsibilities of the Corporation and its directors after consummation of the sale of the interest of the United States in the common stock of the Corporation under the terms of the Conrail Sale Amendments Act of 1985, other than with regard to—

"(1) section 102 of this Act;

"(2) section 201(d) of this Act;

"(3) section 203 of this Act, but only with respect to information relating to proceedings before the special court established under section 209(b);

"(4) section 216(f)(8) of this Act, but only as such authority applies to activities related to the employee stock ownership plan and related trusts prior to or in connection with consummation of the sale of the interest of the United States in the common stock of the Corporation, including activities related to the sale, exchange, valuation, or disposition of the assets of the employee stock ownership plan and related trusts, or of Conrail Equity Corporation, in connection with the Secretary's Plan;

"(5) sections 216(f)(11) and 216(f)(12) of this Act, as amended by the Conrail Sale Amendments Act of 1985;

"(6) section 217(e) of this Act;

"(7) subsection (i) of this section, but only as such authority applies to service as a director of the Corporation prior to consummation or in connection with implementation of the sale of the interest of the United States in the common stock of the Corporation;

"(8) section 305 of this Act, but only as to the effect, and continuing administration, of supplemental transactions consummated prior to consummation of the sale of the interest of the United States in the common stock of the Corporation;

"(9) section 308 of this Act, but only in abandonment actions when such authority has been relied on to file a notice or notices of insufficient revenues prior to consummation of the sale of the interest of the United States in the common stock of the Corporation;

"(10) section 401(a) of this Act, as amended by the Conrail Sale Amendments Act of 1985;

"(11) section 402 of this Act, as amended by the Conrail Sale Amendments Act of 1985;

"(12) section 408(c) of this Act, as amended by the Conrail Sale Amendments Act of 1985;

"(13) section 701 of this Act, but only as may be necessary to identify employees eligible for benefits under agreements entered into under such section;

"(14) section 702(e) of this Act;

"(15) section 704(b) of this Act;

"(16) section 709 of this Act;

"(17) section 710(b)(1) of this Act;

"(18) section 711 of this Act;

"(19) section 714 of this Act, but only with regard to disputes or controversies specified in such section that arose prior to consummation of the sale of the interest of the United States in the common stock of the Corporation; and

"(20) section 715 of this Act, as amended by the Conrail Sale Amendments Act of 1985.".

IMPLEMENTATION OF THE SECRETARY'S PLAN

SEC. 104. (a) Section 401(a)(3) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 761(a)(3)) is amended to read as follows:

"(3) The Secretary is authorized and directed to implement the Secretary's Plan, in accordance with paragraph (4) of this subsection. Such implementation of the Secretary's Plan and the coordinated operation of the Corporation's properties with those of Norfolk Southern Corporation and its affiliates as a single rail system is deemed approved by the Commission under chapter 113 of title 49, United States Code.".

(b) Section 401(a) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 761(a)) is amended by adding at the end thereof the following paragraphs:

"(4) The Secretary shall implement the Secretary's Plan by negotiating, executing, delivering, and performing the Definitive Agreements, which shall conform to the Memorandum of Intent described in section 102(20)(A) of this Act. The Secretary shall, 45 calendar days before the date on which the Secretary anticipates that the interest of the United States in the common stock of the Corporation will be sold to Norfolk Southern Corporation, transmit to the Committee on Commerce, Science, and Transportation of the Senate and to the Committee on Energy and Commerce of the House of Representatives a notification of any alteration from the Memorandum of Intent described in section 102(20)(A) of this Act which will be made in the Definitive Agreements. After the date of such sale, the Secretary shall transmit to such Committees notification of any intent to waive compliance with any substantive covenant, agreement or obligation contained in the Definitive Agreements, and the Secretary may not waive such compliance until a period of 45 calendar days has expired after the date of such transmittal.

"(5) The Secretary shall not transfer the interest of the United States in the common stock of the Corporation except concurrently with a divestiture by Norfolk Southern Corporation of rail assets and rights approved by the Attorney General.

"(6) The sale of the interest of the United States in the common stock of the Corporation shall be deemed to be consummated at the date title to the common stock passes to Norfolk Southern Corporation and the United States receives the cash purchase price.".

RAILROAD PURCHASERS AND OFFER FOR SALE OF SHARES TO EMPLOYEES

SEC. 105. Subsections (d) and (e) of section 401 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 761 (d) and (e)) are repealed.

CANCELLATION OF DEBT AND PREFERRED STOCK

SEC. 106. Section 402 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 762) is amended to read as follows:

"DEBT AND PREFERRED STOCK

"SEC. 402. (a) RECAPITALIZATION.—In connection with the sale of the interest of the United States in the common stock of the Corporation under section 401 of this Act, and consistent with the Secretary's Plan, the Secretary may take all action necessary to cause the Corporation to be recapitalized such that the interest of the United States, or any agent or instrumentality thereof, and all other commitments or obligations of the Corporation to the United States or any agent or instrumentality thereof arising out of such interest, in any debt (including accrued interest and contingent interest thereon) and preferred stock (including accrued and unpaid dividends thereon) of the Corporation shall be cancelled or retired, and contributed to the capital of the Corporation. The Secretary shall cause the recapitalization authorized by this section to be effective as of the consummation of the sale of

the interest of the United States in the common stock of the Corporation.

"(b) BREACH OF REPRESENTATIONS.—(1) Norfolk Southern Corporation or any successor corporation thereto may bring suit for any breach of representations contained in paragraph 6(e) of the Memorandum of Intent described in section 102(20)(A) of this Act (hereinafter referred to as the 'Representations') in the United States Claims Court or a district court of the United States. If such an action is brought, the Claims Court or district court shall determine the amount by which the United States income tax (including interest and penalties whether or not such penalties are assessed as a tax under the Internal Revenue Code of 1954) assessable against the Corporation or against Norfolk Southern Corporation for any year exceeds the amount of such tax which would have been assessable for such year had such Representations not been breached (hereinafter referred to as the 'Offset Amount').

"(2) The Representations shall be considered breached and Norfolk Southern Corporation shall be entitled to bring suit upon the first occurrence of any of the following that is inconsistent with the Representations: (A) the issuance by the Internal Revenue Service of a statutory notice of deficiency (90-day letter), (B) the assessment of the United States income tax, or (C) any claim by the United States in a suit or other judicial proceeding against Norfolk Southern Corporation or the Corporation.

"(3) The right to bring suit pursuant to this section shall not be subject to any waiting period applicable to tax proceedings or to any requirements for payment of any tax as a condition to instituting any suit based on a breach of the Representations.

"(4) Any judgment for money damages relating to breach of the Representations shall only be awarded as an offset in any court or administrative proceeding against the tax liability of Norfolk Southern Corporation or the Corporation, or both, to which such breach relates; except that if any such tax liability resulting from such breach has been paid, the judgment shall to that extent be an offset against any United States income tax liability of the Norfolk Southern Corporation or the Corporation, or both. If any portion of the tax resulting from a breach of the Representations has been paid, then the Offset Amount shall include interest on such payment from the date paid at the rate from time to time specified in the Internal Revenue Code of 1954 for interest payable on refund claims.

"(5) It shall not be a defense to an action brought under this section that Norfolk Southern Corporation knew, or should have known, of the falsity of the Representations or that there exists no carryover basis procedure as contemplated by the last sentence of the Representations.

"(6) For purposes of this section, tax liability of Norfolk Southern Corporation shall include the tax liability of Norfolk Southern Corporation and its affiliated group, within the meaning of section 1504 of the Internal Revenue Code of 1954.".

APPLICABILITY OF CERTAIN LAWS TO SALE OF CONRAIL

SEC. 107. Section 408 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 768) is amended—

(1) by repealing subsection (b);

(2) by amending subsection (c) by striking "No transfer" and all that follows through "subject to" and inserting in lieu thereof "Except as provided in section 1152 of the Northeast Rail Service Act of 1981 (45 U.S.C. 1105), the Secretary's Plan and the Definitive Agreements and their negotiation, execution, and implementation shall not be subject to administrative or"; and

(3) by adding at the end of subsection (c) the following sentence: "The issuance in private placement of notes or other securities in accordance with exhibit B to the Memorandum of Intent (described in section 102(20)(A) of this Act) in the Secretary's Plan shall not be subject to the provisions of subtitle IV of title 49, United States Code.".

LABOR PROTECTION

SEC. 108. (a) Section 701(d)(2) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 797(d)(2)) is amended by striking "the last day of the eighteen-month period beginning on".

(b)(1) Title VII of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 797 et seq.) is amended by adding at the end thereof the following section:

"PROTECTION AFTER SALE

"SEC. 715. After consummation of the sale of the interest of the United States in the common stock of the Corporation pursuant to the Secretary's Plan, any employee of Norfolk Southern Corporation, the Corporation, any rail affiliate of either company, and any transferee of the rail tracks, rights, and facilities divested in accordance with the Secretary's Plan, who is adversely affected in his employment by the implementation of the Secretary's Plan shall receive from his employer protection under the labor protective conditions set forth in New York Dock Railway—Control—Brooklyn Eastern District Terminal (354 ICC 399 (1978), modified upon further consideration, 360 ICC 60 (1979)). The arbitration provisions of section 4 of New York Dock shall apply to the formation of any implementing agreements that may be necessary in connection with the implementation of the Secretary's Plan, including any resulting coordinations.".

(2) The table of contents of the Regional Rail Reorganization Act of 1973 is amended by inserting immediately after the item relating to section 714 the following item:

"Sec. 715. Protection after sale.".

PREFERENTIAL HIRING

SEC. 109. Section 703 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 797b) is amended—

(1) by redesignating subsection (b) as subsection (c); and

(2) by inserting immediately after subsection (a) the following subsection:

"(b) IMPLEMENTATION OF SECRETARY'S PLAN.—Any employee of any railroad who is deprived of employment as a result of the implementation of the Secretary's Plan shall have the first right of hire for a vacancy for which he is qualified on any Norfolk Southern Corporation rail subsidiary, except where such vacancy is covered by (1) an affirmative action plan, or a hiring plan designated to eliminate discrimination, that is required by Federal or State statute, regulation, or Executive order, or by the order of a Federal court or agency, or (2) a permissible voluntary affirmative action plan. For purposes of this subsection, a railroad shall not be considered to be hiring new employees when it recalls any of its own furloughed employees.".

CROSS CRAFT EMPLOYMENT

SEC. 110. (a) Title VII of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 797 et seq.) is amended by inserting immediately after section 703 the following section:

"CROSS CRAFT EMPLOYMENT

"SEC. 703A. Any employee of Norfolk and Western Railway Company, Southern Railway Company, or the Corporation who is deprived of employment as a result of the implementation of the Secretary's Plan shall have the first right of hire for any vacancy for which such employee is qualified at the entry level of any Norfolk Southern Corporation rail subsidiary, without regard to craft or class or the provisions of section 703 of this Act. Such employee shall retain his seniority rights to return to his original craft or class whenever a vacancy occurs. For purposes of this section, a railroad shall not be considered to be hiring new employees when it recalls any of its own furloughed employees.".

(b) The table of contents of the Regional Rail Reorganization Act of 1973 is amended by inserting immediately after the item relating to section 703 the following item:

"Sec. 703A. Cross craft employment.".

Subtitle B—Northeast Rail Service Act of 1981 Amendments

SPECIAL COURT JURISDICTION

SEC. 121. (a) Section 1152 of the Northeast Rail Service Act of 1981 (45 U.S.C. 1105) is amended—

(1) by inserting "or the Conrail Sale Amendments Act of 1985" immediately after "subtitle" wherever it appears;

(2) in subsection (a), by striking "or" at the end of paragraph (3), by striking the period at the end of paragraph (4) and inserting in lieu thereof a semicolon, and by adding at the end thereof the following paragraphs:

"(5) brought by the United States or any agency or instrumentality thereof seeking to enforce the Secretary's Plan or the Definitive Agreements;

"(6) brought by Norfolk Southern Corporation seeking to enforce the Secretary's Plan or the Definitive Agreements;

"(7) brought by a party who filed a complaint with the Secretary under subsection (e) of this section, and who is aggrieved by (A) a determination of the Secretary under paragraph (1) of such subsection that the party has not suffered direct economic injury, or (B) a decision of the Secretary under paragraph (2) of such subsection that a covenant has not been violated;

"(8) brought by a party which is a signatory to an ancillary agreement entered into in accordance with the Secretary's Plan or the Definitive Agreements and which is seeking to enforce such ancillary agreement; or

"(9) brought to determine the value of the interest of the employee stock ownership plan and related trusts, or of the beneficiaries thereof, in the preferred stock of the Conrail Equity Corporation.

For purposes of any action brought under paragraph (5) of this subsection, a violation of any covenant contained in the Secretary's Plan or the Definitive Agreements shall be deemed to constitute immediate and irreparable harm for purposes of awarding injunctive relief to the United States.".

(b) Section 1152 of the Northeast Rail Service Act of 1981 (45 U.S.C. 1105) is amended by adding at the end thereof the following subsection:

"(e)(1) Any party who suffers direct economic injury as a result of an alleged violation of a covenant contained in the Definitive Agreements may file a complaint with the Secretary seeking enforcement of such

covenant. If the Secretary determines that the complainant has demonstrated to the Secretary that it has suffered direct economic injury, the Secretary shall investigate the complaint.

"(2) If the Secretary decides to investigate a complaint under paragraph (1) of this subsection, the Secretary shall give reasonable notice of such decision to investigate to the alleged violator of such covenant and the complainant, and shall make a final decision on such complaint within 60 days after the date on which it was filed.

"(3) If the Secretary finds that (A) the covenant in question has been violated, and (B) the complainant suffered direct economic injury as a result of such violation, the Secretary shall enter an order directing the violator of such covenant to comply with such covenant.

"(4) On appeal, any decision by the Secretary under this subsection shall be upheld, unless such decision is found to be arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law.".

APPLICABILITY OF OTHER LAWS

SEC. 122. Section 1168(a) of the Northeast Rail Service Act of 1981 (45 U.S.C. 1116(a)) is amended by striking "service transfers" and inserting in lieu thereof "sale of the interest of the United States in the common stock of Conrail or transfer of the rail properties and freight service responsibilities of Conrail".

Subtitle C—Employee Stock Ownership Plan

RESPONSIBILITY OF EMPLOYEE STOCK OWNERSHIP PLAN FIDUCIARIES

SEC. 131. (a) Section 216(f)(8)(A) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 726(f)(8)(A)) is amended—

(1) by striking "or" at the end of clause (ii);

(2) by striking the period at the end of clause (iii) and inserting in lieu thereof "; or"; and

(3) by adding at the end thereof the following clause:

"(iv) for or in connection with any action taken to implement the Secretary's Plan, including any sale, exchange, valuation, or disposition of the plan and related trust assets, or the assets of Conrail Equity Corporation, in connection with implementation of the Secretary's Plan and any determination of the terms on which any such sale, exchange, valuation, or disposition is effected.".

QUALIFICATION, REVIEW, AND VALUATION OF EMPLOYEE STOCK OWNERSHIP PLANS

SEC. 132. Section 216(f) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 726(f)) is amended by adding at the end thereof the following paragraphs:

"(11) The employee stock ownership plans of the Corporation and related trusts maintained, amended, or adopted in implementing the Secretary's Plan shall be deemed to meet the qualification requirements of sections 401 and 501, respectively, of the Internal Revenue Code of 1954, notwithstanding (A) that such plans may not meet the requirements of section 415 of the Internal Revenue Code of 1954, or (B) that participants in such plans may be entitled to withdraw a portion of the shares allocated to their accounts prior to the expiration of the period generally imposed by the Internal Revenue Service for qualified plans. Such qualification shall relate only to the contributions, allocations, and withdrawals of shares provided for in the Secretary's Plan with respect to the plans and related trusts maintained, amended, or adopted in implementing the Secretary's Plan. Such contributions and allocations shall in no event be treated as having exceeded the maximum annual addition permitted under section 415 of the Internal Revenue Code of 1954 (but not for purposes of applying section 404(j) of the Internal Revenue Code of 1954) for purposes of calculating any limitation under section 415 with respect to contributions and allocations not described in the Secretary's Plan, including contributions and allocations to plans and related trusts of the Corporation and any affiliated corporation. The continued qualification of such plans with respect to all other contributions, allocations, and withdrawals shall be subject to all provisions of existing law, as amended from time to time. No inference shall be drawn from this paragraph as to whether an amount is a contribution deductible under section 404 of the Internal Revenue Code of 1954 rather than a non-deductible capital expenditure.

"(12) Except as provided in section 1152 of the Northeast Rail Service Act of 1981 (45 U.S.C. 1105), the issuance and sale or contribution of securities by Norfolk Southern Corporation to fulfill arrangements with the Corporation's employees in implementing the Secretary's Plan and the distribution of shares from the Corporation's employee stock ownership plans and related trusts maintained, amended, or adopted in implementing the Secretary's Plan shall not be subject to the registration and prospectus delivery requirements of the Securities Act of 1933, any approval requirement under subtitle IV of title 49, United States Code, or the laws of any State with respect to the issuance and sale of securities.".

TITLE II—TECHNICAL AND CONFORMING AMENDMENTS

REGIONAL RAIL REORGANIZATION ACT OF 1973 AMENDMENTS AND REPEALS

SEC. 201. The following provisions of the Regional Rail Reorganization Act of 1973 are repealed or amended as specified:

(1) Subsections (a) and (b) of section 214 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 724 (a) and (b)) are repealed, and such section 214 is amended by striking "(c) ASSOCIATION.—".

(2) Subsection (f) of section 217 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 727(f)) is repealed, without prejudice to the continued availability of funds appropriated prior to the date of enactment of this Act pursuant to section 217(f)(1)(C) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 727(f)(1)(C)).

(3) Section 404 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 764), and the item relating to such section in the table of contents of such Act, are repealed.

(4) Section 405 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 765), and the item relating to such section in the table of contents of such Act, are repealed.

(5) Section 406 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 766), and the item relating to such section in the table of contents of such Act, are repealed.

(6) Section 407 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 767), and the item relating to such section in the table of contents of such Act, are repealed.

(7) Subsections (a) and (d) of section 408 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 768 (a) and (d)) are repealed.

(8) Section 409 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 769), and the item relating to such section in the table of contents of such Act, are repealed.

(9) Section 410 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 769a), and the item relating to such section in the table of contents of such Act, are repealed.

(10) Section 411 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 769b), and the item relating to such section in the table of contents of such Act, are repealed.

(11) Section 412 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 769c), and the item relating to such section in the table of contents of such Act, are repealed.

(12) Section 713 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 797l), and the item relating to such section in the table of contents of such Act, are repealed.

AMENDMENTS AND REPEALS OF OTHER RAIL LAWS

SEC. 202. The following provisions of law are repealed or amended as specified:

(1) Section 1154 of the Northeast Rail Service Act of 1981 (45 U.S.C. 1107), and the item relating to such section in the table of contents of such Act, are repealed.

(2) Section 1161 of the Northeast Rail Service Act of 1981 (45 U.S.C. 1110), and the item relating to such section in the table of contents of such Act, are repealed.

(3) Section 1166 of the Northeast Rail Service Act of 1981 (45 U.S.C. 1114), and the item relating to such section in the table of contents of such Act, are repealed.

(4) Subsection (c) of section 1167 of the Northeast Rail Service Act of 1981 (45 U.S.C. 1115(c)) is repealed.

(5) Subsection (b) of section 1168 of the Northeast Rail Service Act of 1981 (45 U.S.C. 1116(b)) is repealed.

(6) Section 501(8) of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 821(8)) is amended—

(A) by striking "(A)";

(B) by striking "(i)" and inserting in lieu thereof "(A)", and by striking "(ii)" and inserting in lieu thereof "(B)"; and

(C) by striking all after "utilization;".

(7) Section 505 of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 825) is amended—

(A) in subsection (a)(1), by striking all after "railroad" through "1981)"; and

(B) in subsection (b)(2)(C), by striking all after "costs" the second time it appears through "subsidy".

(8) Subsection (b)(1) of section 509 of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 829(b)(1)) is repealed.

(9) Section 511(e) of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 831(e)) is amended by striking "(1)", and by striking all after "time" and inserting in lieu thereof a period.

(10) Section 402 of the Rail Safety and Service Improvement Act of 1982 (45 U.S.C. 825a) is repealed.

(11) Section 1005(b)(1) of the Rail Passenger Service Act (45 U.S.C. 655(b)(1)) is amended by striking "the Consolidated Rail Corporation,".

(12) Section 10362(b)(7)(A) of title 49, United States Code, is amended by striking "by the Consolidated Rail Corporation or".

(13) Section 332(d) of title 49, United States Code, is amended by striking ", the Consolidated Rail Corporation,".

TITLE III—MISCELLANEOUS PROVISIONS

COMMON CARRIER STATUS OF CONRAIL AFTER SALE

SEC. 301. (a) Conrail's status as a common carrier by railroad under section 10102(4) of title 49, United States Code, shall not be af-

fected by virtue of sale of the interest of the United States in Conrail's common stock. Purchase of Conrail stock shall not alone be the basis of a determination that the acquiring entity has become a common carrier by railroad under section 10102(4) of title 49, United States Code.

(b) The Definitive Agreements shall contain a binding commitment by Norfolk Southern Corporation to continue to operate Conrail in full compliance with the provisions of section 10731(e) of title 49, United States Code.

CONSUMMATION OF SALE

SEC. 302. The sale of the interest of the United States in the common stock of Conrail shall be deemed to be consummated on the date title to the common stock passes to Norfolk Southern Corporation and the United States receives the cash purchase price.

CONTRACTS

SEC. 303. (a) Except as provided in subsection (b) of this section, nothing in this Act shall affect—

(1) Conrail's obligation to carry out its transportation contracts and equipment leases, equipment trusts, and conditional sale agreements, in accordance with their terms; and

(2) the obligation of any transferee of divested assets to carry out transportation contracts and equipment leases, equipment trusts, and conditional sale agreements to which such assets are subject, in accordance with their terms.

(b) If a divestiture carried out pursuant to the Secretary's Plan precludes Conrail from providing a transportation service for which it has contracted without a right of termination that may be exercised in the event of the sale of the interest of the United States in the common stock of Conrail and the divestiture will result in a change or modification in the movement of the traffic involved, the transferee of the divested rights and properties and Conrail shall provide the contracted-for service on terms and conditions which, to the maximum extent possible, conform to the terms and conditions in the contract.

CONGRESSIONAL OVERSIGHT OF COMPLIANCE

SEC. 304. The Secretary shall, no later than January 31 of each year, submit to the Committee on Commerce, Science, and Transportation of the Senate and to the Committee on Energy and Commerce of the House of Representatives a report setting forth each certificate which Norfolk Southern Corporation and Conrail provided to the Secretary, during the preceding year, certifying compliance with the covenants contained in the Definitive Agreements.

SEPARABILITY

SEC. 305. If any provision of this Act or the application thereof to any person or circumstances is held invalid, the remainder of this Act and the application of such provision to other persons or circumstances shall not be affected thereby.

EFFECTIVE DATE

SEC. 306. (a) Except as provided in subsection (b) of this section, the provisions of and amendments made by this Act shall take effect on the date of enactment of this Act.

(b) Sections 108(a), 201 and 202 of this Act shall take effect on the date of consummation of the sale of the interest of the United States in the common stock of Conrail.

(c) Any provision of this Act which, pursuant to Article I, Section 7 of the Constitution, provides for raising revenue shall only be effective upon the enactment into law of a bill which has originated in the House of Representatives enacting such provision.

AMENDMENT No. 1489

On page 5, line 19, immediately after the second comma insert the following new language: "but not including paragraph 3 of such Memorandum of Intent,".

AMENDMENT No. 1490

On page 6, line 19, immediately after the second comma insert the following new language: "but not including paragraph 3 of such Memorandum of Intent,".

AMENDMENT No. 1491

In lieu of the language proposed to be inserted, insert the following:

That this Act may be cited as the "Conrail Sale Amendments Act of 1985".

FINDINGS

SEC. 2. The Congress finds that—

(1) the Northeast Rail Service Act of 1981 (45 U.S.C. 1101 et seq.) provided for an orderly return of Conrail freight service to the private sector;

(2) the provisions of the Northeast Rail Service Act of 1981 were successful in removing Conrail's obligations beyond railroad freight service and in otherwise preparing Conrail for an orderly return to the private sector;

(3) acting under section 403 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 763), the Board of Directors of the United States Railway Association twice found Conrail to be a profitable corporation;

(4) acting under section 401 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 761), the Secretary engaged an investment banker and arranged, through open competitive bidding and negotiation, to sell the interest of the United States in the common stock of Conrail;

(5) the Secretary's Plan for the sale of Conrail provides for sale of the interest of the United States in the common stock of Conrail to Norfolk Southern Corporation;

(6) the Secretary found that sale of the interest of the United States in the common stock of Conrail to Norfolk Southern Corporation best meets the sale criteria of (A) leaving Conrail in the strongest financial position after the sale, (B) preserving patterns of service to shippers and communities in the region Conrail serves, and (C) maximizing return to the Federal Government consistent with the criteria specified in clauses (A) and (B);

(7) amendments to the Regional Rail Reorganization Act of 1973 (45 U.S.C. 701 et seq.) and related laws are needed to permit the sale of the interest of the United States in the common stock of Conrail to Norfolk Southern Corporation and to permit cancellation of the interest of the United States in Conrail debt and preferred stock; and

(8) the Secretary's Plan satisfies the requirements of the Northeast Rail Service Act of 1981, including the intent, goals, and objectives relating to the sale of the interest of the United States in the common stock of Conrail and the requirements of section 401(e) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 761(e)).

PURPOSE

SEC. 3. It is therefore declared to be the purpose of the Congress in this Act to return Conrail to the private sector by directing and facilitating implementation of the Secretary's Plan for the sale of the interest of the United States in the common stock of Conrail.

DEFINITIONS

SEC. 4. (a) In this Act, unless the context otherwise requires, the term—

(1) "Conrail" means the Consolidated Rail Corporation;

(2) "Definitive Agreements" means any and all agreements existing or to be developed between the United States and Norfolk Southern Corporation, including all representations and warranties made therein, to implement the Memorandum of Intent described in paragraph (4)(A);

(3) "Secretary" means the Secretary of Transportation; and

(4) "Secretary's Plan" means (A) the Memorandum of Intent between the United States and Norfolk Southern Corporation signed February 8, 1985, and (B) the divestitures by the Norfolk Southern Corporation of certain rail tracks, rights, and facilities, and any transactions or agreements related or incidental to such divestitures, in connection with the implementation of attachment A to the letter from the Department of Justice attached to the Memorandum of Intent as exhibit E.

(b) Section 102 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 702) is amended—

(1) by redesignating paragraphs (6) through (18) as paragraphs (7) through (19), and paragraphs (19) through (21) as paragraphs (21) through (23), respectively;

(2) by inserting after paragraph (5) the following paragraph:

"(6) 'Definitive Agreements' means any and all agreements existing or to be developed between the United States and Norfolk Southern Corporation, including all representations and warranties made therein, to implement the Memorandum of Intent described in paragraph (20)(A);"; and

(3) by inserting after paragraph (19), as so redesignated, the following paragraph:

"(20) 'Secretary's Plan' means (A) the Memorandum of Intent between the United States and Norfolk Southern Corporation signed February 8, 1985, and (B) the divestitures by the Norfolk Southern Corporation of certain rail tracks, rights, and facilities, and any transactions or agreements related or incidental to such divestitures, in connection with the implementation of attachment A to the letter from the Department of Justice attached to the Memorandum of Intent as exhibit E;".

(c) Section 1135(a) of the Northeast Rail Service Act of 1981 (45 U.S.C. 1104(a)) is amended—

(1) by redesignating paragraphs (6), (7), and (8) as paragraphs (7), (8), and (10), respectively;

(2) by inserting after paragraph (5) the following paragraph:

"(6) 'Definitive Agreements' means any and all agreements existing or to be developed between the United States and Norfolk Southern Corporation, including all representations and warranties made therein, to implement the Memorandum of Intent described in paragraph (9)(A);"; and

(3) by inserting after paragraph (8), as so redesignated, the following paragraph:

"(9) 'Secretary's Plan' means (A) the Memorandum of Intent between the United States and Norfolk Southern Corporation signed February 8, 1985, and (B) the divestitures by the Norfolk Southern Corporation of certain rail tracks, rights, and facilities, and any transactions or agreements related

or incidental to such divestitures, in connection with the implementation of attachment A to the letter from the Department of Justice attached to the Memorandum of Intent as exhibit E;".

TITLE I—AMENDMENTS TO THE REGIONAL RAIL REORGANIZATION ACT OF 1973 AND THE NORTHEAST RAIL SERVICE ACT OF 1981

Subtitle A—Regional Rail Reorganization Act of 1973 Amendments

LIMIT ON AUTHORITY TO PURCHASE STOCK

SEC. 101. Section 216(b) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 726(b)) is amended by adding at the end thereof the following paragraph:

"(5) The authority of the Association to purchase debentures or series A preferred stock of the Corporation under this section shall terminate upon the consummation of the sale of the interest of the United States in the common stock of the Corporation under the terms of the Secretary's Plan.".

RESPONSIBILITY OF CONRAIL DIRECTORS

SEC. 102. Section 301(i) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 741(i)) is amended by inserting immediately after "required by law" the following: ", taken to implement the Secretary's Plan,".

APPLICABILITY OF REGIONAL RAIL REORGANIZATION ACT OF 1973 TO CONRAIL AFTER SALE

SEC. 103. Section 301 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 741) is amended by adding at the end thereof the following subsection:

"(k) GOVERNING PROVISIONS AFTER SALE.—The provisions of this Act shall not apply to the Corporation and to activities and other actions and responsibilities of the Corporation and its directors after consummation of the sale of the interest of the United States in the common stock of the Corporation under the terms of the Conrail Sale Amendments Act of 1985, other than with regard to—

"(1) section 102 of this Act;

"(2) section 201(d) of this Act;

"(3) section 203 of this Act, but only with respect to information relating to proceedings before the special court established under section 209(b);

"(4) section 216(f)(8) of this Act, but only as such authority applies to activities related to the employee stock ownership plan and related trusts prior to or in connection with consummation of the sale of the interest of the United States in the common stock of the Corporation, including activities related to the sale, exchange, valuation, or disposition of the assets of the employee stock ownership plan and related trusts, or of Conrail Equity Corporation, in connection with the Secretary's Plan;

"(5) sections 216(f)(11) and 216(f)(12) of this Act, as amended by the Conrail Sale Amendments Act of 1985;

"(6) section 217(e) of this Act;

"(7) subsection (i) of this section, but only as such authority applies to service as a director of the Corporation prior to consummation or in connection with implementation of the sale of the interest of the United States in the common stock of the Corporation;

"(8) section 305 of this Act, but only as to the effect, and continuing administration, of supplemental transactions consummated prior to consummation of the sale of the interest of the United States in the common stock of the Corporation;

"(9) section 308 of this Act, but only in abandonment actions when such authority has been relied on to file a notice or notices of insufficient revenues prior to consummation of the sale of the interest of the United States in the common stock of the Corporation;

"(10) section 401(a) of this Act, as amended by the Conrail Sale Amendments Act of 1985;

"(11) section 402 of this Act, as amended by the Conrail Sale Amendments Act of 1985;

"(12) section 408(c) of this Act, as amended by the Conrail Sale Amendments Act of 1985;

"(13) section 701 of this Act, but only as may be necessary to identify employees eligible for benefits under agreements entered into under such section;

"(14) section 702(e) of this Act;

"(15) section 704(b) of this Act;

"(16) section 709 of this Act;

"(17) section 710(b)(1) of this Act;

"(18) section 711 of this Act;

"(19) section 714 of this Act, but only with regard to disputes or controversies specified in such section that arose prior to consummation of the sale of the interest of the United States in the common stock of the Corporation; and

"(20) section 715 of this Act, as amended by the Conrail Sale Amendments Act of 1985.".

IMPLEMENTATION OF THE SECRETARY'S PLAN

SEC. 104. (a) Section 401(a)(3) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 761(a)(3)) is amended to read as follows:

"(3) The Secretary is authorized and directed to implement the Secretary's Plan, in accordance with paragraph (4) of this subsection.".

(b) Section 401(a) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 761(a)) is amended by adding at the end thereof the following paragraphs:

"(4) The Secretary shall implement the Secretary's Plan by negotiating, executing, delivering, and performing the Definitive Agreements, which shall conform to the Memorandum of Intent described in section 102(20)(A) of this Act. The Secretary shall, 45 calendar days before the date on which the Secretary anticipates that the interest of the United States in the common stock of the Corporation will be sold to Norfolk Southern Corporation, transmit to the Committee on Commerce, Science, and Transportation of the Senate and to the Committee on Energy and Commerce of the House of Representatives a notification of any alteration from the Memorandum of Intent described in section 102(20)(A) of this Act which will be made in the Definitive Agreements. After the date of such sale, the Secretary shall transmit to such Committees notification of any intent to waive compliance with any substantive covenant, agreement or obligation contained in the Definitive Agreements, and the Secretary may not waive such compliance until a period of 45 calendar days has expired after the date of such transmittal.

"(5) The Secretary shall not transfer the interest of the United States in the common stock of the Corporation except concurrently with a divestiture by Norfolk Southern Corporation of rail assets and rights approved by the Attorney General.

"(6) The sale of the interest of the United States in the common stock of the Corporation shall be deemed to be consummated at the date title to the common stock passes to Norfolk Southern Corporation and the United States receives the cash purchase price.".

RAILROAD PURCHASERS AND OFFER FOR SALE OF SHARES TO EMPLOYEES

SEC. 105. Subsections (d) and (e) of section 401 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 761 (d) and (e)) are repealed.

CANCELLATION OF DEBT AND PREFERRED STOCK

SEC. 106. Section 402 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 762) is amended to read as follows:

"DEBT AND PREFERRED STOCK

"SEC. 402. (a) RECAPITALIZATION.—In connection with the sale of the interest of the United States in the common stock of the Corporation under section 401 of this Act, and consistent with the Secretary's Plan, the Secretary may take all action necessary to cause the Corporation to be recapitalized such that the interest of the United States, or any agent or instrumentality thereof, and all other commitments or obligations of the Corporation to the United States or any agent or instrumentality thereof arising out of such interest, in any debt (including accrued interest and contingent interest thereon) and preferred stock (including accrued and unpaid dividends thereon) of the Corporation shall be cancelled or retired, and contributed to the capital of the Corporation. The Secretary shall cause the recapitalization authorized by this section to be effective as of the consummation of the sale of the interest of the United States in the common stock of the Corporation.

"(b) BREACH OF REPRESENTATIONS.—(1) Norfolk Southern Corporation or any successor corporation thereto may bring suit for any breach of representations contained in paragraph 6(e) of the Memorandum of Intent described in section 102(20)(A) of this Act (hereinafter referred to as the 'Representations') in the United States Claims Court or a district court of the United States. If such an action is brought, the Claims Court or district court shall determine the amount by which the United States income tax (including interest and penalties whether or not such penalties are assessed as a tax under the Internal Revenue Code of 1954) assessable against the Corporation or against Norfolk Southern Corporation for any year exceeds the amount of such tax which would have been assessable for such year had such Representations not been breached (hereinafter referred to as the 'Offset Amount').

"(2) The Representations shall be considered breached and Norfolk Southern Corporation shall be entitled to bring suit upon the first occurrence of any of the following that is inconsistent with the Representations: (A) the issuance by the Internal Revenue Service of a statutory notice of deficiency (90-day letter), (B) the assessment of the United States income tax, or (C) any claim by the United States in a suit or other judicial proceeding against Norfolk Southern Corporation or the Corporation.

"(3) The right to bring suit pursuant to this section shall not be subject to any waiting period applicable to tax proceedings or to any requirements for payment of any tax as a condition to instituting any suit based on a breach of the Representations.

"(4) Any judgment for money damages relating to breach of the Representations shall only be awarded as an offset in any court or administrative proceeding against the tax liability of Norfolk Southern Corporation or the Corporation, or both, to which

such breach relates; except that if any such tax liability resulting from such breach has been paid, the judgment shall to that extent be an offset against any United States income tax liability of the Norfolk Southern Corporation or the Corporation, or both. If any portion of the tax resulting from a breach of the Representations has been paid, then the Offset Amount shall include interest on such payment from the date paid at the rate from time to time specified in the Internal Revenue Code of 1954 for interest payable on refund claims.

"(5) It shall not be a defense to an action brought under this section that Norfolk Southern Corporation knew, or should have known, of the falsity of the Representations or that there exists no carryover basis procedure as contemplated by the last sentence of the Representations.

"(6) For purposes of this section, tax liability of Norfolk Southern Corporation shall include the tax liability of Norfolk Southern Corporation and its affiliated group, within the meaning of section 1504 of the Internal Revenue Code of 1954.".

APPLICABILITY OF CERTAIN LAWS TO SALE OF CONRAIL

SEC. 107. Section 408 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 768) is amended—

(1) by repealing subsection (b);

(2) by amending subsection (c) by striking "No transfer" and all that follows through "subject to" and inserting in lieu thereof "Except as provided in section 1152 of the Northeast Rail Service Act of 1981 (45 U.S.C. 1105), the Secretary's Plan and the Definitive Agreements and their negotiation, execution, and implementation shall not be subject to administrative or"; and

(3) by adding at the end of subsection (c) the following sentence: "The issuance in private placement of notes or other securities in accordance with exhibit B to the Memorandum of Intent (described in section 102(20)(A) of this Act) in the Secretary's Plan shall not be subject to the provisions of subtitle IV of title 49, United States Code.".

LABOR PROTECTION

SEC. 108. (a) Section 701(d)(2) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 797(d)(2)) is amended by striking "the last day of the eighteen-month period beginning on".

(b)(1) Title VII of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 797 et seq.) is amended by adding at the end thereof the following section:

"PROTECTION AFTER SALE

"SEC. 715. After consummation of the sale of the interest of the United States in the common stock of the Corporation pursuant to the Secretary's Plan, any employee of Norfolk Southern Corporation, the Corporation, any rail affiliate of either company, and any transferee of the rail tracks, rights, and facilities divested in accordance with the Secretary's Plan, who is adversely affected in his employment by the implementation of the Secretary's Plan shall receive from his employer protection under the labor protective conditions set forth in New York Dock Railway—Control—Brooklyn Eastern District Terminal (354 ICC 399 (1978), modified upon further consideration, 360 ICC 60 (1979)). The arbitration provisions of section 4 of New York Dock shall apply to the formation of any implementing agreements that may be necessary in connection with the implementation of the Secretary's Plan, including any resulting coordinations.".

(2) The table of contents of the Regional Rail Reorganization Act of 1973 is amended by inserting immediately after the item relating to section 714 the following item:

"Sec. 715. Protection after sale.".

PREFERENTIAL HIRING

SEC. 109. Section 703 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 797b) is amended—

(1) by redesignating subsection (b) as subsection (c); and

(2) by inserting immediately after subsection (a) the following subsection:

"(b) IMPLEMENTATION OF SECRETARY'S PLAN.—Any employee of any railroad who is deprived of employment as a result of the implementation of the Secretary's Plan shall have the first right of hire for a vacancy for which he is qualified on any Norfolk Southern Corporation rail subsidiary, except where such vacancy is covered by (1) an affirmative action plan, or a hiring plan designated to eliminate discrimination, that is required by Federal or State statute, regulation, or Executive order, or by the order of a Federal court or agency, or (2) a permissible voluntary affirmative action plan. For purposes of this subsection, a railroad shall not be considered to be hiring new employees when it recalls any of its own furloughed employees.".

CROSS CRAFT EMPLOYMENT

SEC. 110. (a) Title VII of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 797 et seq.) is amended by inserting immediately after section 703 the following section:

"CROSS CRAFT EMPLOYMENT

"SEC. 703A. Any employee of Norfolk and Western Railway Company, Southern Railway Company, or the Corporation who is deprived of employment as a result of the implementation of the Secretary's Plan shall have the first right of hire for any vacancy for which such employee is qualified at the entry level of any Norfolk Southern Corporation rail subsidiary, without regard to craft or class or the provisions of section 703 of this Act. Such employee shall retain his seniority rights to return to his original craft or class whenever a vacancy occurs. For purposes of this section, a railroad shall not be considered to be hiring new employees when it recalls any of its own furloughed employees.".

(b) The table of contents of the Regional Rail Reorganization Act of 1973 is amended by inserting immediately after the item relating to section 703 the following item:

"Sec. 703A. Cross craft employment.".

Subtitle B—Northeast Rail Service Act of 1981 Amendments

SPECIAL COURT JURISDICTION

SEC. 121. (a) Section 1152 of the Northeast Rail Service Act of 1981 (45 U.S.C. 1105) is amended—

(1) by inserting "or the Conrail Sale Amendments Act of 1985" immediately after "subtitle" wherever it appears;

(2) in subsection (a), by striking "or" at the end of paragraph (3), by striking the period at the end of paragraph (4) and inserting in lieu thereof a semicolon, and by adding at the end thereof the following paragraphs:

"(5) brought by the United States or any agency or instrumentality thereof seeking to enforce the Secretary's Plan or the Definitive Agreements;

"(6) brought by Norfolk Southern Corporation seeking to enforce the Secretary's Plan or the Definitive Agreements;

"(7) brought by a party who filed a complaint with the Secretary under subsection (e) of this section, and who is aggrieved by (A) a determination of the Secretary under paragraph (1) of such subsection that the party has not suffered direct economic injury, or (B) a decision of the Secretary under paragraph (2) of such subsection that a covenant has not been violated;

"(8) brought by a party which is a signatory to an ancillary agreement entered into in accordance with the Secretary's Plan or the Definitive Agreements and which is seeking to enforce such ancillary agreement; or

"(9) brought to determine the value of the interest of the employee stock ownership plan and related trusts, or of the beneficiaries thereof, in the preferred stock of the Conrail Equity Corporation.

For purposes of any action brought under paragraph (5) of this subsection, a violation of any covenant contained in the Secretary's Plan or the Definitive Agreements shall be deemed to constitute immediate and irreparable harm for purposes of awarding injunctive relief to the United States.".

(b) Section 1152 of the Northeast Rail Service Act of 1981 (45 U.S.C. 1105) is amended by adding at the end thereof the following subsection:

"(e)(1) Any party who suffers direct economic injury as a result of an alleged violation of a covenant contained in the Definitive Agreements may file a complaint with the Secretary seeking enforcement of such covenant. If the Secretary determines that the complainant has demonstrated to the Secretary that it has suffered direct economic injury, the Secretary shall investigate the complaint.

"(2) If the Secretary decides to investigate a complaint under paragraph (1) of this subsection, the Secretary shall give reasonable notice of such decision to investigate to the alleged violator of such covenant and the complainant, and shall make a final decision on such complaint within 60 days after the date on which it was filed.

"(3) If the Secretary finds that (A) the covenant in question has been violated, and (B) the complainant suffered direct economic injury as a result of such violation, the Secretary shall enter an order directing the violator of such covenant to comply with such covenant.

"(4) On appeal, any decision by the Secretary under this subsection shall be upheld, unless such decision is found to be arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law.".

APPLICABILITY OF OTHER LAWS

SEC. 122. Section 1168(a) of the Northeast Rail Service Act of 1981 (45 U.S.C. 1116(a)) is amended by striking "service transfers" and inserting in lieu thereof "sale of the interest of the United States in the common stock of Conrail or transfer of the rail properties and freight service responsibilities of Conrail".

Subtitle C—Employee Stock Ownership Plan

RESPONSIBILITY OF EMPLOYEE STOCK OWNERSHIP PLAN FIDUCIARIES

SEC. 131. (a) Section 216(f)(8)(A) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 726(f)(8)(A)) is amended—

(1) by striking "or" at the end of clause (ii);

(2) by striking the period at the end of clause (iii) and inserting in lieu thereof "; or"; and

(3) by adding at the end thereof the following clause:

"(iv) for or in connection with any action taken to implement the Secretary's Plan, including any sale, exchange, valuation, or disposition of the plan and related trust assets, or the assets of Conrail Equity Corporation, in connection with implementation of the Secretary's Plan and any determination of the terms on which any such sale, exchange, valuation, or disposition is effected.".

QUALIFICATION, REVIEW, AND VALUATION OF EMPLOYEE STOCK OWNERSHIP PLANS

SEC. 132. Section 216(f) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 726(f)) is amended by adding at the end thereof the following paragraphs:

"(11) The employee stock ownership plans of the Corporation and related trusts maintained, amended, or adopted in implementing the Secretary's Plan shall be deemed to meet the qualification requirements of sections 401 and 501, respectively, of the Internal Revenue Code of 1954, notwithstanding (A) that such plans may not meet the requirements of section 415 of the Internal Revenue Code of 1954, or (B) that participants in such plans may be entitled to withdraw a portion of the shares allocated to their accounts prior to the expiration of the period generally imposed by the Internal Revenue Service for qualified plans. Such qualification shall relate only to the contributions, allocations, and withdrawals of shares provided for in the Secretary's Plan with respect to the plans and related trusts maintained, amended, or adopted in implementing the Secretary's Plan. Such contributions and allocations shall in no event be treated as having exceeded the maximum annual addition permitted under section 415 of the Internal Revenue Code of 1954 (but not for purposes of applying section 404(j) of the Internal Revenue Code of 1954) for purposes of calculating any limitation under section 415 with respect to contributions and allocations not described in the Secretary's Plan, including contributions and allocations to plans and related trusts of the Corporation and any affiliated corporation. The continued qualification of such plans with respect to all other contributions, allocations, and withdrawals shall be subject to all provisions of existing law, as amended from time to time. No inference shall be drawn from this paragraph as to whether an amount is a contribution deductible under section 404 of the Internal Revenue Code of 1954 rather than a non-deductible capital expenditure.

"(12) Except as provided in section 1152 of the Northeast Rail Service Act of 1981 (45 U.S.C. 1105), the issuance and sale or contribution of securities by Norfolk Southern Corporation to fulfill arrangements with the Corporation's employees in implementing the Secretary's Plan and the distribution of shares from the Corporation's employee stock ownership plans and related trusts maintained, amended, or adopted in implementing the Secretary's Plan shall not be subject to the registration and prospectus delivery requirements of the Securities Act of 1933, any approval requirement under subtitle IV of title 49, United States Code, or the laws of any State with respect to the issuance and sale of securities.".

TITLE II—TECHNICAL AND CONFORMING AMENDMENTS

REGIONAL RAIL REORGANIZATION ACT OF 1973 AMENDMENTS AND REPEALS

SEC. 201. The following provisions of the Regional Rail Reorganization Act of 1973 are repealed or amended as specified:

(1) Subsections (a) and (b) of section 214 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 724 (a) and (b)) are repealed, and such section 214 is amended by striking "(c) ASSOCIATION.—".

(2) Subsection (f) of section 217 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 727(f)) is repealed, without prejudice to the continued availability of funds appropriated prior to the date of enactment of this Act pursuant to section 217(f)(1)(C) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 727(f)(1)(C)).

(3) Section 404 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 764), and the item relating to such section in the table of contents of such Act, are repealed.

(4) Section 405 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 765), and the item relating to such section in the table of contents of such Act, are repealed.

(5) Section 406 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 766), and the item relating to such section in the table of contents of such Act, are repealed.

(6) Section 407 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 767), and the item relating to such section in the table of contents of such Act, are repealed.

(7) Subsections (a) and (d) of section 408 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 768 (a) and (d)) are repealed.

(8) Section 409 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 769), and the item relating to such section in the table of contents of such Act, are repealed.

(9) Section 410 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 769a), and the item relating to such section in the table of contents of such Act, are repealed.

(10) Section 411 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 769b), and the item relating to such section in the table of contents of such Act, are repealed.

(11) Section 412 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 769c), and the item relating to such section in the table of contents of such Act, are repealed.

(12) Section 713 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 797l), and the item relating to such section in the table of contents of such Act, are repealed.

AMENDMENTS AND REPEALS OF OTHER RAIL LAWS

SEC. 202. The following provisions of law are repealed or amended as specified:

(1) Section 1154 of the Northeast Rail Service Act of 1981 (45 U.S.C. 1107), and the item relating to such section in the table of contents of such Act, are repealed.

(2) Section 1161 of the Northeast Rail Service Act of 1981 (45 U.S.C. 1110), and the item relating to such section in the table of contents of such Act, are repealed.

(3) Section 1166 of the Northeast Rail Service Act of 1981 (45 U.S.C. 1114), and the item relating to such section in the table of contents of such Act, are repealed.

(4) Subsection (c) of section 1167 of the Northeast Rail Service Act of 1981 (45 U.S.C. 1115(c)) is repealed.

(5) Subsection (b) of section 1168 of the Northeast Rail Service Act of 1981 (45 U.S.C. 1116(b)) is repealed.

(6) Section 501(8) of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 821(8)) is amended—

(A) by striking "(A)";

(B) by striking "(i)" and inserting in lieu thereof "(A)", and by striking "(ii)" and inserting in lieu thereof "(B)"; and

(C) by striking all after "utilization;".

(7) Section 505 of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 825) is amended—

(A) in subsection (a)(1), by striking all after "railroad" through "1981)"; and

(B) in subsection (b)(2)(C), by striking all after "costs" the second time it appears through "subsidy".

(8) Subsection (b)(1) of section 509 of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 829(b)(1)) is repealed.

(9) Section 511(e) of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 831(e)) is amended by striking "(1)", and by striking all after "time" and inserting in lieu thereof a period.

(10) Section 402 of the Rail Safety and Service Improvement Act of 1982 (45 U.S.C. 825a) is repealed.

(11) Section 1005(b)(1) of the Rail Passenger Service Act (45 U.S.C. 655(b)(1)) is amended by striking "the Consolidated Rail Corporation,".

(12) Section 10362(b)(7)(A) of title 49, United States Code, is amended by striking "by the Consolidated Rail Corporation or".

(13) Section 332(d) of title 49, United States Code, is amended by striking ", the Consolidated Rail Corporation,".

TITLE III—MISCELLANEOUS PROVISIONS

COMMON CARRIER STATUS OF CONRAIL AFTER SALE

SEC. 301. (a) Conrail's status as a common carrier by railroad under section 10102(4) of title 49, United States Code, shall not be affected by virtue of sale of the interest of the United States in Conrail's common stock. Purchase of Conrail stock shall not alone be the basis of a determination that the acquiring entity has become a common carrier by railroad under section 10102(4) of title 49, United States Code.

(b) The Definitive Agreements shall contain a binding commitment by Norfolk Southern Corporation to continue to operate Conrail in full compliance with the provisions of section 10731(e) of title 49, United States Code.

CONSUMMATION OF SALE

SEC. 302. The sale of the interest of the United States in the common stock of Conrail shall be deemed to be consummated on the date title to the common stock passes to Norfolk Southern Corporation and the United States receives the cash purchase price.

CONTRACTS

SEC. 303. (a) Except as provided in subsection (b) of this section, nothing in this Act shall affect—

(1) Conrail's obligation to carry out its transportation contracts and equipment leases, equipment trusts, and conditional sale agreements, in accordance with their terms; and

(2) the obligation of any transferee of divested assets to carry out transportation contracts and equipment leases, equipment trusts, and conditional sale agreements to which such assets are subject, in accordance with their terms.

(b) If a divestiture carried out pursuant to the Secretary's Plan precludes Conrail from providing a transportation service for which it has contracted without a right of termina-

tion that may be exercised in the event of the sale of the interest of the United States in the common stock of Conrail and the divestiture will result in a change or modification in the movement of the traffic involved, the transferee of the divested rights and properties and Conrail shall provide the contracted-for service on terms and conditions which, to the maximum extent possible, conform to the terms and conditions in the contract.

CONGRESSIONAL OVERSIGHT OF COMPLIANCE

SEC. 304. The Secretary shall, no later than January 31 of each year, submit to the Committee on Commerce, Science, and Transportation of the Senate and to the Committee on Energy and Commerce of the House of Representatives a report setting forth each certificate which Norfolk Southern Corporation and Conrail provided to the Secretary, during the preceding year, certifying compliance with the covenants contained in the Definitive Agreements.

SEPARABILITY

SEC. 305. If any provision of this Act or the application thereof to any person or circumstances is held invalid, the remainder of this Act and the application of such provision to other persons or circumstances shall not be affected thereby.

EFFECTIVE DATE

SEC. 306. (a) Except as provided in subsection (b) of this section, the provisions of and amendments made by this Act shall take effect on the date of enactment of this Act.

(b) Sections 108(a), 201 and 202 of this Act shall take effect on the date of consummation of the sale of the interest of the United States in the common stock of Conrail.

(c) Any provision of this Act which, pursuant to Article I, Section 7 of the Constitution, provides for raising revenue shall only be effective upon the enactment into law of a bill which has originated in the House of Representatives enacting such provision.

AMENDMENT NO. 1492

On page 4, line 19, immediately after the second comma insert the following new language: "but not including paragraph 3 of such Memorandum of Intent,".

AMENDMENT NO. 1493

On page 5, line 19, immediately after the second comma insert the following new language: "but not including paragraph 3 of such Memorandum of Intent,".

AMENDMENT NO. 1494

On page 4, line 19, immediately after the second comma insert the following new language: "but not including paragraph 3 of such Memorandum of Intent,".

AMENDMENT NO. 1495

On page 6, line 19, immediately after the second comma insert the following new language: "but not including paragraph 3 of such Memorandum of Intent,".

AMENDMENT NO. 1496

In lieu of the language proposed to be inserted, insert the following:

That this Act may be cited as the "Conrail Sale Amendments Act of 1985".

FINDINGS

SEC. 2. The Congress finds that—

(1) the Northeast Rail Service Act of 1981 (45 U.S.C. 1101 et seq.) provided for an orderly return of Conrail freight service to the private sector;

(2) the provisions of the Northeast Rail Service Act of 1981 were successful in removing Conrail's obligations beyond railroad freight service and in otherwise preparing Conrail for an orderly return to the private sector;

(3) acting under section 403 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 763), the Board of Directors of the United States Railway Association twice found Conrail to be a profitable corporation;

(4) acting under section 401 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 761), the Secretary engaged an investment banker and arranged, through open competitive bidding and negotiation, to sell the interest of the United States in the common stock of Conrail;

(5) the Secretary's Plan for the sale of Conrail provides for sale of the interest of the United States in the common stock of Conrail to Norfolk Southern Corporation;

(6) the Secretary found that sale of the interest of the United States in the common stock of Conrail to Norfolk Southern Corporation best meets the sale criteria of (A) leaving Conrail in the strongest financial position after the sale, (B) preserving patterns of service to shippers and communities in the region Conrail serves, and (C) maximizing return to the Federal Government consistent with the criteria specified in clauses (A) and (B);

(7) amendments to the Regional Rail Reorganization Act of 1973 (45 U.S.C. 701 et seq.) and related laws are needed to permit the sale of the interest of the United States in the common stock of Conrail to Norfolk Southern Corporation and to permit cancellation of the interest of the United States in Conrail debt and preferred stock; and

(8) the Secretary's Plan satisfies the requirements of the Northeast Rail Service Act of 1981, including the intent, goals, and objectives relating to the sale of the interest of the United States in the common stock of Conrail and the requirements of section 401(e) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 761(e)).

PURPOSE

SEC. 3. It is therefore declared to be the purpose of the Congress in this Act to return Conrail to the private sector by directing and facilitating implementation of the Secretary's Plan for the sale of the interest of the United States in the common stock of Conrail.

DEFINITIONS

SEC. 4. (a) In this Act, unless the context otherwise requires, the term—

(1) "Conrail" means the Consolidated Rail Corporation;

(2) "Definitive Agreements" means any and all agreements existing or to be developed between the United States and Norfolk Southern Corporation, including all representations and warranties made therein, to implement the Memorandum of Intent described in paragraph (4)(A);

(3) "Secretary" means the Secretary of Transportation; and

(4) "Secretary's Plan" means (A) the Memorandum of Intent between the United States and Norfolk Southern Corporation signed February 8, 1985, and (B) the divestitures by the Norfolk Southern Corporation of certain rail tracks, rights, and facilities, and any transactions or agreements related or incidental to such divestitures, in connection with the implementation of attachment A to the letter from the Department of Justice attached to the Memorandum of Intent as exhibit E.

(b) Section 102 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 702) is amended—

(1) by redesignating paragraphs (6) through (18) as paragraphs (7) through (19), and paragraphs (19) through (21) as paragraphs (21) through (23), respectively;

(2) by inserting after paragraph (5) the following paragraph:

"(6) 'Definitive Agreements' means any and all agreements existing or to be developed between the United States and Norfolk Southern Corporation, including all representations and warranties made therein, to implement the Memorandum of Intent described in paragraph (20)(A);"; and

(3) by inserting after paragraph (19), as so redesignated, the following paragraph:

"(20) 'Secretary's Plan' means (A) the Memorandum of Intent between the United States and Norfolk Southern Corporation signed February 8, 1985, and (B) the divestitures by the Norfolk Southern Corporation of certain rail tracks, rights, and facilities, and any transactions or agreements related or incidental to such divestitures, in connection with the implementation of attachment A to the letter from the Department of Justice attached to the Memorandum of Intent as exhibit E;".

(c) Section 1135(a) of the Northeast Rail Service Act of 1981 (45 U.S.C. 1104(a)) is amended—

(1) by redesignating paragraphs (6), (7), and (8) as paragraphs (7), (8), and (10), respectively;

(2) by inserting after paragraph (5) the following paragraph:

"(6) 'Definitive Agreements' means any and all agreements existing or to be developed between the United States and Norfolk Southern Corporation, including all representations and warranties made therein, to implement the Memorandum of Intent described in paragraph (9)(A);"; and

(3) by inserting after paragraph (8), as so redesignated, the following paragraph:

"(9) 'Secretary's Plan' means (A) the Memorandum of Intent between the United States and Norfolk Southern Corporation signed February 8, 1985, and (B) the divestitures by the Norfolk Southern Corporation of certain rail tracks, rights, and facilities, and any transactions or agreements related or incidental to such divestitures, in connection with the implementation of attachment A to the letter from the Department of Justice attached to the Memorandum of Intent as exhibit E;".

TITLE I—AMENDMENTS TO THE REGIONAL RAIL REORGANIZATION ACT OF 1973 AND THE NORTHEAST RAIL SERVICE ACT OF 1981

Subtitle A—Regional Rail Reorganization Act of 1973 Amendments

LIMIT ON AUTHORITY TO PURCHASE STOCK

SEC. 101. Section 216(b) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 726(b)) is amended by adding at the end thereof the following paragraph:

"(5) The authority of the Association to purchase debentures or series A preferred stock of the Corporation under this section shall terminate upon the consummation of the sale of the interest of the United States in the common stock of the Corporation under the terms of the Secretary's Plan.".

RESPONSIBILITY OF CONRAIL DIRECTORS

SEC. 102. Section 301(i) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 741(i)) is amended by inserting immediately

after "required by law" the following: ", taken to implement the Secretary's Plan,".

APPLICABILITY OF REGIONAL RAIL REORGANIZATION ACT OF 1973 TO CONRAIL AFTER SALE

SEC. 103. Section 301 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 741) is amended by adding at the end thereof the following subsection:

"(k) GOVERNING PROVISIONS AFTER SALE.—The provisions of this Act shall not apply to the Corporation and to activities and other actions and responsibilities of the Corporation and its directors after consummation of the sale of the interest of the United States in the common stock of the Corporation under the terms of the Conrail Sale Amendments Act of 1985, other than with regard to—

"(1) section 102 of this Act;

"(2) section 201(d) of this Act;

"(3) section 203 of this Act, but only with respect to information relating to proceedings before the special court established under section 209(b);

"(4) section 216(f)(8) of this Act, but only as such authority applies to activities related to the employee stock ownership plan and related trusts prior to or in connection with consummation of the sale of the interest of the United States in the common stock of the Corporation, including activities related to the sale, exchange, valuation, or disposition of the assets of the employee stock ownership plan and related trusts, or of Conrail Equity Corporation, in connection with the Secretary's Plan;

"(5) sections 216(f)(11) and 216(f)(12) of this Act, as amended by the Conrail Sale Amendments Act of 1985;

"(6) section 217(e) of this Act;

"(7) subsection (i) of this section, but only as such authority applies to service as a director of the Corporation prior to consummation or in connection with implementation of the sale of the interest of the United States in the common stock of the Corporation;

"(8) section 305 of this Act, but only as to the effect, and continuing administration, of supplemental transactions consummated prior to consummation of the sale of the interest of the United States in the common stock of the Corporation;

"(9) section 308 of this Act, but only in abandonment actions when such authority has been relied on to file a notice or notices of insufficient revenues prior to consummation of the sale of the interest of the United States in the common stock of the Corporation;

"(10) section 401(a) of this Act, as amended by the Conrail Sale Amendments Act of 1985;

"(11) section 402 of this Act, as amended by the Conrail Sale Amendments Act of 1985;

"(12) section 408(c) of this Act, as amended by the Conrail Sale Amendments Act of 1985;

"(13) section 701 of this Act, but only as may be necessary to identify employees eligible for benefits under agreements entered into under such section;

"(14) section 702(e) of this Act;

"(15) section 704(b) of this Act;

"(16) section 709 of this Act;

"(17) section 710(b)(1) of this Act;

"(18) section 711 of this Act;

"(19) section 714 of this Act, but only with regard to disputes or controversies specified in such section that arose prior to consummation of the sale of the interest of the United States in the common stock of the Corporation; and

"(20) section 715 of this Act, as amended by the Conrail Sale Amendments Act of 1985.".

IMPLEMENTATION OF THE SECRETARY'S PLAN

SEC. 104. (a) Section 401(a)(3) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 761(a)(3)) is amended to read as follows:

"(3) The Secretary is authorized and directed to implement the Secretary's Plan, in accordance with paragraph (4) of this subsection. Such implementation of the Secretary's Plan and the coordinated operation of the Corporation's properties with those of Norfolk Southern Corporation and its affiliates as a single rail system is deemed approved by the Commission under chapter 113 of title 49, United States Code.".

(b) Section 401(a) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 761(a)) is amended by adding at the end thereof the following paragraphs:

"(4) The Secretary shall implement the Secretary's Plan by negotiating, executing, delivering, and performing the Definitive Agreements, which shall conform to the Memorandum of Intent described in section 102(20)(A) of this Act. The Secretary shall, 45 calendar days before the date on which the Secretary anticipates that the interest of the United States in the common stock of the Corporation will be sold to Norfolk Southern Corporation, transmit to the Committee on Commerce, Science, and Transportation of the Senate and to the Committee on Energy and Commerce of the House of Representatives a notification of any alteration from the Memorandum of Intent described in section 102(20)(A) of this Act which will be made in the Definitive Agreements. After the date of such sale, the Secretary shall transmit to such Committees notification of any intent to waive compliance with any substantive covenant, agreement or obligation contained in the Definitive Agreements, and the Secretary may not waive such compliance until a period of 45 calendar days has expired after the date of such transmittal.

"(5) The Secretary shall not transfer the interest of the United States in the common stock of the Corporation except concurrently with a divestiture by Norfolk Southern Corporation of rail assets and rights approved by the Attorney General.

"(6) The sale of the interest of the United States in the common stock of the Corporation shall be deemed to be consummated at the date title to the common stock passes to Norfolk Southern Corporation and the United States receives the cash purchase price.".

RAILROAD PURCHASERS AND OFFER FOR SALE OF SHARES TO EMPLOYEES

SEC. 105. Subsections (d) and (e) of section 401 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 761(d) and (e)) are repealed.

"(b) BREACH OF REPRESENTATIONS.—(1) Norfolk Southern Corporation or any successor corporation thereto may bring suit for any breach of representations contained in paragraph 6(e) of the Memorandum of Intent described in section 102(20)(A) of this Act (hereinafter referred to as the 'Representations') in the United States Claims Court or a district court of the United States. If such an action is brought, the Claims Court or district court shall determine the amount by which the United States income tax (including interest and penalties whether or not such penalties are assessed as a tax under the Internal Revenue Code of 1954) assessable against the Corporation or against Norfolk Southern Corporation for any year exceeds the amount of such tax which would have been assessable for such year had such Representations not been breached (hereinafter referred to as the 'Offset Amount').

"(2) The Representations shall be considered breached and Norfolk Southern Corporation shall be entitled to bring suit upon the first occurrence of any of the following that is inconsistent with the Representations: (A) the issuance by the Internal Revenue Service of a statutory notice of deficiency (90-day letter), (B) the assessment of the United States income tax, or (C) any claim by the United States in a suit or other judicial proceeding against Norfolk Southern Corporation or the Corporation.

"(3) The right to bring suit pursuant to this section shall not be subject to any waiting period applicable to tax proceedings or to any requirements for payment of any tax as a condition to instituting any suit based on a breach of the Representations.

"(4) Any judgment for money damages relating to breach of the Representations shall only be awarded as an offset in any court or administrative proceeding against the tax liability of Norfolk Southern Corporation or the Corporation, or both, to which such breach relates; except that if any such tax liability resulting from such breach has been paid, the judgment shall to that extent be an offset against any United States income tax liability of the Norfolk Southern Corporation or the Corporation, or both. If any portion of the tax resulting from a breach of the Representations has been paid, then the Offset Amount shall include interest on such payment from the date paid at the rate from time to time specified in the Internal Revenue Code of 1954 for interest payable on refund claims.

"(5) It shall not be a defense to an action brought under this section that Norfolk Southern Corporation knew, or should have known, of the falsity of the Representations or that there exists no carryover basis procedure as contemplated by the last sentence of the Representations.

"(6) For purposes of this section, tax liability of Norfolk Southern Corporation shall include the tax liability of Norfolk Southern Corporation and its affiliated group, within the meaning of section 1504 of the Internal Revenue Code of 1954.".

APPLICABILITY OF CERTAIN LAWS TO SALE OF CONRAIL

SEC. 107. Section 408 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 768) is amended—

(1) by repealing subsection (b);

(2) by amending subsection (c) by striking "No transfer" and all that follows through "subject to" and inserting in lieu thereof "Except as provided in section 1152 of the Northeast Rail Service Act of 1981 (45 U.S.C. 1105), the Secretary's Plan and the Definitive Agreements and their negotiation, execution, and implementation shall not be subject to administrative or"; and

(3) by adding at the end of subsection (c) the following sentence: "The issuance in private placement of notes or other securities in accordance with exhibit B to the Memorandum of Intent (described in section 102(20)(A) of this Act) in the Secretary's Plan shall not be subject to the provisions of subtitle IV of title 49, United States Code.".

LABOR PROTECTION

SEC. 108. (a) Section 701(d)(2) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 797(d)(2)) is amended by striking "the last day of the eighteen-month period beginning on".

(b)(1) Title VII of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 797 et seq.) is amended by adding at the end thereof the following section:

"PROTECTION AFTER SALE

"SEC. 715. After consummation of the sale of the interest of the United States in the common stock of the Corporation pursuant to the Secretary's Plan, any employee of Norfolk Southern Corporation, the Corporation, any rail affiliate of either company, and any transferee of the rail tracks, rights, and facilities divested in accordance with the Secretary's Plan, who is adversely affected in his employment by the implementation of the Secretary's Plan shall receive from his employer protection under the labor protective conditions set forth in New York Dock Railway—Control—Brooklyn Eastern District Terminal (354 ICC 399 (1978), modified upon further consideration, 360 ICC 60 (1979)). The arbitration provisions of section 4 of New York Dock shall apply to the formation of any implementing agreements that may be necessary in connection with the implementation of the Secretary's Plan, including any resulting coordinations.".

(2) The table of contents of the Regional Rail Reorganization Act of 1973 is amended by inserting immediately after the item relating to section 714 the following item:

"Sec. 715. Protection after sale.".

PREFERENTIAL HIRING

SEC. 109. Section 703 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 797b) is amended—

(1) by redesignating subsection (b) as subsection (c); and

(2) by inserting immediately after subsection (a) the following subsection:

"(b) IMPLEMENTATION OF SECRETARY'S PLAN.—Any employee of any railroad who is deprived of employment as a result of the implementation of the Secretary's Plan shall have the first right of hire for a vacancy for which he is qualified on any Norfolk Southern Corporation rail subsidiary, except where such vacancy is covered by (1) an affirmative action plan, or a hiring plan designated to eliminate discrimination, that is required by Federal or State statute, regulation, or Executive order, or by the order of a Federal court or agency, or (2) a permissible voluntary affirmative action plan. For purposes of this subsection, a railroad shall not be considered to be hiring new employees when it recalls any of its own furloughed employees.".

CROSS CRAFT EMPLOYMENT

SEC. 110. (a) Title VII of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 797 et seq.) is amended by inserting immediately after section 703 the following section:

"CROSS CRAFT EMPLOYMENT

"SEC. 703A. Any employee of Norfolk and Western Railway Company, Southern Railway Company, or the Corporation who is deprived of employment as a result of the implementation of the Secretary's Plan shall have the first right of hire for any vacancy for which such employee is qualified at the entry level of any Norfolk Southern Corporation rail subsidiary, without regard to craft or class or the provisions of section 703 of this Act. Such employee shall retain his seniority rights to return to his original craft or class whenever a vacancy occurs. For purposes of this section, a railroad shall not be considered to be hiring new employees when it recalls any of its own furloughed employees.".

(b) The table of contents of the Regional Rail Reorganization Act of 1973 is amended by inserting immediately after the item relating to section 703 the following item:

"Sec. 703A. Cross craft employment.".

Subtitle B—Northeast Rail Service Act of 1981 Amendments

SPECIAL COURT JURISDICTION

SEC. 121. (a) Section 1152 of the Northeast Rail Service Act of 1981 (45 U.S.C. 1105) is amended—

(1) by inserting "or the Conrail Sale Amendments Act of 1985" immediately after "subtitle" wherever it appears;

(2) in subsection (a), by striking "or" at the end of paragraph (3), by striking the period at the end of paragraph (4) and inserting in lieu thereof a semicolon, and by adding at the end thereof the following paragraphs:

"(5) brought by the United States or any agency or instrumentality thereof seeking to enforce the Secretary's Plan or the Definitive Agreements;

"(6) brought by Norfolk Southern Corporation seeking to enforce the Secretary's Plan or the Definitive Agreements;

"(7) brought by a party who filed a complaint with the Secretary under subsection (e) of this section, and who is aggrieved by (A) a determination of the Secretary under paragraph (1) of such subsection that the party has not suffered direct economic injury, or (B) a decision of the Secretary under paragraph (2) of such subsection that a covenant has not been violated;

"(8) brought by a party which is a signatory to an ancillary agreement entered into in accordance with the Secretary's Plan or the Definitive Agreements and which is seeking to enforce such ancillary agreement; or

"(9) brought to determine the value of the interest of the employee stock ownership plan and related trusts, or of the beneficiaries thereof, in the preferred stock of the Conrail Equity Corporation.

For purposes of any action brought under paragraph (5) of this subsection, a violation of any covenant contained in the Secretary's Plan or the Definitive Agreements shall be deemed to constitute immediate and irreparable harm for purposes of awarding injunctive relief to the United States.".

(b) Section 1152 of the Northeast Rail Service Act of 1981 (45 U.S.C. 1105) is amended by adding at the end thereof the following subsection:

"(e)(1) Any party who suffers direct economic injury as a result of an alleged violation of a covenant contained in the Definitive Agreements may file a complaint with the Secretary seeking enforcement of such covenant. If the Secretary determines that the complainant has demonstrated to the Secretary that it has suffered direct economic injury, the Secretary shall investigate the complaint.

"(2) If the Secretary decides to investigate a complaint under paragraph (1) of this subsection, the Secretary shall give reasonable notice of such decision to investigate to the alleged violator of such covenant and the complainant, and shall make a final decision on such complaint within 60 days after the date on which it was filed.

"(3) If the Secretary finds that (A) the covenant in question has been violated, and (B) the complainant suffered direct economic injury as a result of such violation, the Secretary shall enter an order directing the violator of such covenant to comply with such covenant.

"(4) On appeal, any decision by the Secretary under this subsection shall be upheld, unless such decision is found to be arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law.".

APPLICABILITY OF OTHER LAWS

SEC. 122. Section 1168(a) of the Northeast Rail Service Act of 1981 (45 U.S.C. 1116(a)) is amended by striking "service transfers" and inserting in lieu thereof "sale of the interest of the United States in the common stock of Conrail or transfer of the rail properties and freight service responsibilities of Conrail".

Subtitle C—Employee Stock Ownership Plan

RESPONSIBILITY OF EMPLOYEE STOCK OWNERSHIP PLAN FIDUCIARIES

SEC. 131. (a) Section 216(f)(8)(A) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 726(f)(8)(A)) is amended—

(1) by striking "or" at the end of clause (ii);

(2) by striking the period at the end of clause (iii) and inserting in lieu thereof "; or"; and

(3) by adding at the end thereof the following clause:

"(iv) for or in connection with any action taken to implement the Secretary's Plan, including any sale, exchange, valuation, or disposition of the plan and related trust assets, or the assets of Conrail Equity Corporation, in connection with implementation of the Secretary's Plan and any determination of the terms on which any such sale, exchange, valuation, or disposition is effected.".

QUALIFICATION, REVIEW, AND VALUATION OF EMPLOYEE STOCK OWNERSHIP PLANS

SEC. 132. Section 216(f) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 726(f)) is amended by adding at the end thereof the following paragraphs:

"(11) The employee stock ownership plans of the Corporation and related trusts maintained, amended, or adopted in implementing the Secretary's Plan shall be deemed to meet the qualification requirements of sections 401 and 501, respectively, of the Internal Revenue Code of 1954, notwithstanding (A) that such plans may not meet the requirements of section 415 of the Internal Revenue Code of 1954, or (B) that participants in such plans may be entitled to withdraw a portion of the shares allocated to their accounts prior to the expiration of the period generally imposed by the Internal Revenue Service for qualified plans. Such qualification shall relate only to the contributions, allocations, and withdrawals of shares provided for in the Secretary's Plan with respect to the plans and related trusts maintained, amended, or adopted in implementing the Secretary's Plan. Such contributions and allocations shall in no event be treated as having exceeded the maximum annual addition permitted under section 415 of the Internal Revenue Code of 1954 (but not for purposes of applying section 404(j) of the Internal Revenue Code of 1954) for purposes of calculating any limitation under section 415 with respect to contributions and allocations not described in the Secretary's Plan, including contributions and allocations to plans and related trusts of the Corporation and any affiliated corporation. The continued qualification of such plans

with respect to all other contributions, allocations, and withdrawals shall be subject to all provisions of existing law, as amended from time to time. No inference shall be drawn from this paragraph as to whether an amount is a contribution deductible under section 404 of the Internal Revenue Code of 1954 rather than a non-deductible capital expenditure.

"(12) Except as provided in section 1152 of the Northeast Rail Service Act of 1981 (45 U.S.C. 1105), the issuance and sale or contribution of securities by Norfolk Southern Corporation to fulfill arrangements with the Corporation's employees in implementing the Secretary's Plan and the distribution of shares from the Corporation's employee stock ownership plans and related trusts maintained, amended, or adopted in implementing the Secretary's Plan shall not be subject to the registration and prospectus delivery requirements of the Securities Act of 1933, any approval requirement under subtitle IV of title 49, United States Code, or the laws of any State with respect to the issuance and sale of securities.".

TITLE II—TECHNICAL AND CONFORMING AMENDMENTS

REGIONAL RAIL REORGANIZATION ACT OF 1973 AMENDMENTS AND REPEALS

SEC. 201. The following provisions of the Regional Rail Reorganization Act of 1973 are repealed or amended as specified:

(1) Subsections (a) and (b) of section 214 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 724(a) and (b)) are repealed, and such section 214 is amended by striking "(c) ASSOCIATION.—".

(2) Subsection (f) of section 217 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 727(f)) is repealed, without prejudice to the continued availability of funds appropriated prior to the date of enactment of this Act pursuant to section 217(f)(1)(C) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 727(f)(1)(C)).

(3) Section 404 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 764), and the item relating to such section in the table of contents of such Act, are repealed.

(4) Section 405 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 765), and the item relating to such section in the table of contents of such Act, are repealed.

(5) Section 406 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 766), and the item relating to such section in the table of contents of such Act, are repealed.

(6) Section 407 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 767), and the item relating to such section in the table of contents of such Act, are repealed.

(7) Subsections (a) and (d) of section 408 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 768 (a) and (d)) are repealed.

(8) Section 409 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 769), and the item relating to such section in the table of contents of such Act, are repealed.

(9) Section 410 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 769a), and the item relating to such section in the table of contents of such Act, are repealed.

(10) Section 411 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 769b), and the item relating to such section in the table of contents of such Act, are repealed.

(11) Section 412 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 769c), and the item relating to such section in the table of contents of such Act, are repealed.

(12) Section 713 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 797l), and the item relating to such section in the table of contents of such Act, are repealed.

AMENDMENTS AND REPEALS OF OTHER RAIL LAWS

SEC. 202. The following provisions of law are repealed or amended as specified:

(1) Section 1154 of the Northeast Rail Service Act of 1981 (45 U.S.C. 1107), and the item relating to such section in the table of contents of such Act, are repealed.

(2) Section 1161 of the Northeast Rail Service Act of 1981 (45 U.S.C. 1110), and the item relating to such section in the table of contents of such Act, are repealed.

(3) Section 1166 of the Northeast Rail Service Act of 1981 (45 U.S.C. 1114), and the item relating to such section in the table of contents of such Act, are repealed.

(4) Subsection (c) of section 1167 of the Northeast Rail Service Act of 1981 (45 U.S.C. 1115(c)) is repealed.

(5) Subsection (b) of section 1168 of the Northeast Rail Service Act of 1981 (45 U.S.C. 1116(b)) is repealed.

(6) Section 501(8) of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 821(8)) is amended—

(A) by striking "(A)";

(B) by striking "(i)" and inserting in lieu thereof "(A)", and by striking "(ii)" and inserting in lieu thereof "(B)"; and

(C) by striking all after "utilization;".

(7) Section 505 of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 825) is amended—

(A) in subsection (a)(1), by striking all after "railroad" through "1981)"; and

(B) in subsection (b)(2)(C), by striking all after "costs" the second time it appears through "subsidy".

(8) Subsection (b)(1) of section 509 of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 829(b)(1)) is repealed.

(9) Section 511(e) of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 831(e)) is amended by striking "(1)", and by striking all after "time" and inserting in lieu thereof a period.

(10) Section 402 of the Rail Safety and Service Improvement Act of 1982 (45 U.S.C. 825a) is repealed.

(11) Section 1005(b)(1) of the Rail Passenger Service Act (45 U.S.C. 655(b)(1)) is amended by striking "the Consolidated Rail Corporation,".

(12) Section 10362(b)(7)(A) of title 49, United States Code, is amended by striking "by the Consolidated Rail Corporation or".

(13) Section 332(d) of title 49, United States Code, is amended by striking ", the Consolidated Rail Corporation,".

TITLE III—MISCELLANEOUS PROVISIONS

COMMON CARRIER STATUS OF CONRAIL AFTER SALE

SEC. 301. (a) Conrail's status as a common carrier by railroad under section 10102(4) of title 49, United States Code, shall not be affected by virtue of sale of the interest of the United States in Conrail's common stock. Purchase of Conrail stock shall not alone be the basis of a determination that the acquiring entity has become a common carrier by railroad under section 10102(4) of title 49, United States Code.

(b) The Definitive Agreements shall contain a binding commitment by Norfolk Southern Corporation to continue to operate Conrail in full compliance with the provisions of section 10731(e) of title 49, United States Code.

CONSUMMATION OF SALE

SEC. 302. The sale of the interest of the United States in the common stock of Conrail shall be deemed to be consummated on the date title to the common stock passes to Norfolk Southern Corporation and the United States receives the cash purchase price.

CONTRACTS

SEC. 303. (a) Except as provided in subsection (b) of this section, nothing in this Act shall affect—

(1) Conrail's obligation to carry out its transportation contracts and equipment leases, equipment trusts, and conditional sale agreements, in accordance with their terms; and

(2) the obligation of any transferee of divested assets to carry out transportation contracts and equipment leases, equipment trusts, and conditional sale agreements to which such assets are subject, in accordance with their terms.

(b) If a divestiture carried out pursuant to the Secretary's Plan precludes Conrail from providing a transportation service for which it has contracted without a right of termination that may be exercised in the event of the sale of the interest of the United States in the common stock of Conrail and the divestiture will result in a change or modification in the movement of the traffic involved, the transferee of the divested rights and properties and Conrail shall provide the contracted-for service on terms and conditions which, to the maximum extent possible, conform to the terms and conditions in the contract.

CONGRESSIONAL OVERSIGHT OF COMPLIANCE

SEC. 304. The Secretary shall, no later than January 31 of each year, submit to the Committee on Commerce, Science, and Transportation of the Senate and to the Committee on Energy and Commerce of the House of Representatives a report setting forth each certificate which Norfolk Southern Corporation and Conrail provided to the Secretary, during the preceding year, certifying compliance with the covenants contained in the Definitive Agreements.

SEPARABILITY

SEC. 305. If any provision of this Act or the application thereof to any person or circumstances is held invalid, the remainder of this Act and the application of such provision to other persons or circumstances shall not be affected thereby.

EFFECTIVE DATE

SEC. 306. (a) Except as provided in subsection (b) of this section, the provisions of and amendments made by this Act shall take effect on the date of enactment of this Act.

(b) Sections 108(a), 201 and 202 of this Act shall take effect on the date of consummation of the sale of the interest of the United States in the common stock of Conrail.

(c) Any provision of this Act which, pursuant to Article I, Section 7 of the Constitution, provides for raising revenue shall only be effective upon the enactment into law of a bill which has originated in the House of Representatives enacting such provision.

AMENDMENT No. 1497

In lieu of the language proposed to be inserted, insert the following:

That this Act may be cited as the "Conrail Sale Amendments Act of 1985".

FINDINGS

SEC. 2. The Congress finds that—

(1) the Northeast Rail Service Act of 1981 (45 U.S.C. 1101 et seq.) provided for an orderly return of Conrail freight service to the private sector;

(2) the provisions of the Northeast Rail Service Act of 1981 were successful in removing Conrail's obligations beyond railroad freight service and in otherwise preparing Conrail for an orderly return to the private sector;

(3) acting under section 403 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 763), the Board of Directors of the United States Railway Association twice found Conrail to be a profitable corporation;

(4) acting under section 401 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 761), the Secretary engaged an investment banker and arranged, through open competitive bidding and negotiation, to sell the interest of the United States in the common stock of Conrail;

(5) the Secretary's Plan for the sale of Conrail provides for sale of the interest of the United States in the common stock of Conrail to Norfolk Southern Corporation;

(6) the Secretary found that sale of the interest of the United States in the common stock of Conrail to Norfolk Southern Corporation best meets the sale criteria of (A) leaving Conrail in the strongest financial position after the sale, (B) preserving patterns of service to shippers and communities in the region Conrail serves, and (C) maximizing return to the Federal Government consistent with the criteria specified in clauses (A) and (B);

(7) amendments to the Regional Rail Reorganization Act of 1973 (45 U.S.C. 701 et seq.) and related laws are needed to permit the sale of the interest of the United States in the common stock of Conrail to Norfolk Southern Corporation and to permit cancellation of the interest of the United States in Conrail debt and preferred stock; and

(8) the Secretary's Plan satisfies the requirements of the Northeast Rail Service Act of 1981, including the intent, goals, and objectives relating to the sale of the interest of the United States in the common stock of Conrail and the requirements of section 401(e) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 761(e)).

PURPOSE

SEC. 3. It is therefore declared to be the purpose of the Congress in this Act to return Conrail to the private sector by directing and facilitating implementation of the Secretary's Plan for the sale of the interest of the United States in the common stock of Conrail.

DEFINITIONS

SEC. 4. (a) In this Act, unless the context otherwise requires, the term—

(1) "Conrail" means the Consolidated Rail Corporation;

(2) "Definitive Agreements" means any and all agreements existing or to be developed between the United States and Norfolk Southern Corporation, including all representations and warranties made therein, to implement the Memorandum of Intent described in paragraph (4)(A);

(3) "Secretary" means the Secretary of Transportation; and

(4) "Secretary's Plan" means (A) the Memorandum of Intent between the United States and Norfolk Southern Corporation signed February 8, 1985, and (B) the divestitures by the Norfolk Southern Corporation of certain rail tracks, rights, and facilities, and any transactions or agreements related or incidental to such divestitures, in connection with the implementation of attachment A to the letter from the Department of Justice attached to the Memorandum of Intent as exhibit E.

(b) Section 102 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 702) is amended—

(1) by redesignating paragraphs (6) through (18) as paragraphs (7) through (19), and paragraphs (19) through (21) as paragraphs (21) through (23), respectively;

(2) by inserting after paragraph (5) the following paragraph:

"(6) 'Definitive Agreements' means any and all agreements existing or to be developed between the United States and Norfolk Southern Corporation, including all representations and warranties made therein, to implement the Memorandum of Intent described in paragraph (20)(A);"; and

(3) by inserting after paragraph (19), as so redesignated, the following paragraph:

"(20) 'Secretary's Plan' means (A) the Memorandum of Intent between the United States and Norfolk Southern Corporation signed February 8, 1985, and (B) the divestitures by the Norfolk Southern Corporation of certain rail tracks, rights, and facilities, and any transactions or agreements related or incidental to such divestitures, in connection with the implementation of attachment A to the letter from the Department of Justice attached to the Memorandum of Intent as exhibit E;".

(c) Section 1135(a) of the Northeast Rail Service Act of 1981 (45 U.S.C. 1104(a)) is amended—

(1) by redesignating paragraphs (6), (7), and (8) as paragraphs (7), (8), and (10), respectively;

(2) by inserting after paragraph (5) the following paragraph:

"(6) 'Definitive Agreements' means any and all agreements existing or to be developed between the United States and Norfolk Southern Corporation, including all representations and warranties made therein, to implement the Memorandum of Intent described in paragraph (9)(A);"; and

(3) by inserting after paragraph (8), as so redesignated, the following paragraph:

"(9) 'Secretary's Plan' means (A) the Memorandum of Intent between the United States and Norfolk Southern Corporation signed February 8, 1985, and (B) the divestitures by the Norfolk Southern Corporation of certain rail tracks, rights, and facilities, and any transactions or agreements related or incidental to such divestitures, in connection with the implementation of attachment A to the letter from the Department of Justice attached to the Memorandum of Intent as exhibit E;".

TITLE I—AMENDMENTS TO THE REGIONAL RAIL REORGANIZATION ACT OF 1973 AND THE NORTHEAST RAIL SERVICE ACT OF 1981

Subtitle A—Regional Rail Reorganization Act of 1973 Amendments

LIMIT ON AUTHORITY TO PURCHASE STOCK

SEC. 101. Section 216(b) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 726(b)) is amended by adding at the end thereof the following paragraph:

"(5) The authority of the Association to purchase debentures or series A preferred stock of the Corporation under this section shall terminate upon the consummation of the sale of the interest of the United States in the common stock of the Corporation under the terms of the Secretary's Plan.".

RESPONSIBILITY OF CONRAIL DIRECTORS

SEC. 102. Section 301(i) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 741(i)) is amended by inserting immediately after "required by law" the following: ", taken to implement the Secretary's Plan,".

APPLICABILITY OF REGIONAL RAIL REORGANIZATION ACT OF 1973 TO CONRAIL AFTER SALE

SEC. 103. Section 301 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 741) is amended by adding at the end thereof the following subsection:

"(k) GOVERNING PROVISIONS AFTER SALE.—The provisions of this Act shall not apply to the Corporation and to activities and other actions and responsibilities of the Corporation and its directors after consummation of the sale of the interest of the United States in the common stock of the Corporation under the terms of the Conrail Sale Amendments Act of 1985, other than with regard to—

"(1) section 102 of this Act;

"(2) section 201(d) of this Act;

"(3) section 203 of this Act, but only with respect to information relating to proceedings before the special court established under section 209(b);

"(4) section 216(f)(8) of this Act, but only as such authority applies to activities related to the employee stock ownership plan and related trusts prior to or in connection with consummation of the sale of the interest of the United States in the common stock of the Corporation, including activities related to the sale, exchange, valuation, or disposition of the assets of the employee stock ownership plan and related trusts, or of Conrail Equity Corporation, in connection with the Secretary's Plan;

"(5) sections 216(f)(11) and 216(f)(12) of this Act, as amended by the Conrail Sale Amendments Act of 1985;

"(6) section 217(e) of this Act;

"(7) subsection (i) of this section, but only as such authority applies to service as a director of the Corporation prior to consummation or in connection with implementation of the sale of the interest of the United States in the common stock of the Corporation;

"(8) section 305 of this Act, but only as to the effect, and continuing administration, of supplemental transactions consummated prior to consummation of the sale of the interest of the United States in the common stock of the Corporation;

"(9) section 308 of this Act, but only in abandonment actions when such authority has been relied on to file a notice or notices of insufficent revenues prior to consummation of the sale of the interest of the United States in the common stock of the Corporation;

"(10) section 401(a) of this Act, as amended by the Conrail Sale Amendments Act of 1985;

"(11) section 402 of this Act, as amended by the Conrail Sale Amendments Act of 1985;

"(12) section 408(c) of this Act, as amended by the Conrail Sale Amendments Act of 1985;

"(13) section 701 of this Act, but only as may be necessary to identify employees eligible for benefits under agreements entered into under such section;

"(14) section 702(e) of this Act;

"(15) section 704(b) of this Act;

"(16) section 709 of this Act;

"(17) section 710(b)(1) of this Act;

"(18) section 711 of this Act;

"(19) section 714 of this Act, but only with regard to disputes or controversies specified in such section that arose prior to consummation of the sale of the interest of the United States in the common stock of the Corporation; and

"(20) section 715 of this Act, as amended by the Conrail Sale Amendments Act of 1985.".

IMPLEMENTATION OF THE SECRETARY'S PLAN

SEC. 104. (a) Section 401(a)(3) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 761(a)(3)) is amended to read as follows:

"(3) The Secretary is authorized and directed to implement the Secretary's Plan, in accordance with paragraph (4) of this subsection. Such implementation of the Secretary's Plan and the coordinated operation of the Corporation's properties with those of Norfolk Southern Corporation and its affiliates as a single rail system is deemed approved by the Commission under chapter 113 of title 49, United States Code.".

(b) Section 401(a) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 761(a)) is amended by adding at the end thereof the following paragraphs:

"(4) The Secretary shall implement the Secretary's Plan by negotiating, executing, delivering, and performing the Definitive Agreements, which shall conform to the Memorandum of Intent described in section 102(20)(A) of this Act. The Secretary shall, 45 calendar days before the date on which the Secretary anticipates that the interest of the United States in the common stock of the Corporation will be sold to Norfolk Southern Corporation, transmit to the Committee on Commerce, Science, and Transportation of the Senate and to the Committee on Energy and Commerce of the House of Representatives a notification of any alteration from the Memorandum of Intent described in section 102(20)(A) of this Act which will be made in the Definitive Agreements. After the date of such sale, the Secretary shall transmit to such Committees notification of any intent to waive compliance with any substantive covenant, agreement or obligation contained in the Definitive Agreements, and the Secretary may not waive such compliance until a period of 45 calendar days has expired after the date of such transmittal.

"(5) The Secretary shall not transfer the interest of the United States in the common stock of the Corporation except concurrently with a divestiture by Norfolk Southern Corporation of rail assets and rights approved by the Attorney General.

"(6) The sale of the interest of the United States in the common stock of the Corporation shall be deemed to be consummated at the date title to the common stock passes to Norfolk Southern Corporation and the United States receives the cash purchase price.".

RAILROAD PURCHASERS AND OFFER FOR SALE OF SHARES TO EMPLOYEES

SEC. 105. Subsections (d) and (e) of section 401 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 761(d) and (e)) are repealed.

APPLICABILITY OF CERTAIN LAWS TO SALE OF CONRAIL

SEC. 107. Section 408 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 768) is amended—

(1) by repealing subsection (b);

(2) by amending subsection (c) by striking "No transfer" and all that follows through "subject to" and inserting in lieu thereof "Except as provided in section 1152 of the Northeast Rail Service Act of 1981 (45 U.S.C. 1105), the Secretary's Plan and the Definitive Agreements and their negotiation, execution, and implementation shall not be subject to administrative or"; and

(3) by adding at the end of subsection (c) the following sentence: "The issuance in private placement of notes or other securities in accordance with exhibit B to the Memorandum of Intent (described in section 102(20)(A) of this Act) in the Secretary's Plan shall not be subject to the provisions of subtitle IV of title 49, United States Code.".

LABOR PROTECTION

SEC. 108. (a) Section 701(d)(2) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 797(d)(2)) is amended by striking "the last day of the eighteen-month period beginning on".

(b)(1) Title VII of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 797 et seq.) is amended by adding at the end thereof the following section:

"PROTECTION AFTER SALE

"SEC. 715. After consummation of the sale of the interest of the United States in the common stock of the Corporation pursuant to the Secretary's Plan, any employee of Norfolk Southern Corporation, the Corporation, any rail affiliate of either company, and any transferee of the rail tracks, rights, and facilities divested in accordance with the Secretary's Plan, who is adversely affected in his employment by the implementation of the Secretary's Plan shall receive from his employer protection under the labor protective conditions set forth in New York Dock Railway—Control—Brooklyn Eastern District Terminal (354 ICC 399 (1978), modified upon further consideration, 360 ICC 60 (1979)). The arbitration provisions of section 4 of New York Dock shall apply to the formation of any implementing agreements that may be necessary in connection with the implementation of the Secretary's Plan, including any resulting coordinations.".

(2) The table of contents of the Regional Rail Reorganization Act of 1973 is amended by inserting immediately after the item relating to section 714 the following item:

"Sec. 715. Protection after sale.".

PREFERENTIAL HIRING

SEC. 109. Section 703 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 797b) is amended—

(1) by redesignating subsection (b) as subsection (c); and

(2) by inserting immediately after subsection (a) the following subsection:

"(b) IMPLEMENTATION OF SECRETARY'S PLAN.—Any employee of any railroad who is deprived of employment as a result of the implementation of the Secretary's Plan shall have the first right of hire for a vacancy for which he is qualified on any Norfolk Southern Corporation rail subsidiary, except where such vacancy is covered by (1) an affirmative action plan, or a hiring plan designated to eliminate discrimination, that is required by Federal or State statute, regulation, or Executive order, or by the order of a Federal court or agency, or (2) a permissible voluntary affirmative action plan. For purposes of this subsection, a railroad shall not be considered to be hiring new employees when it recalls any of its own furloughed employees.".

CROSS CRAFT EMPLOYMENT

SEC. 110. (a) Title VII of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 797 et seq.) is amended by inserting immediately after section 703 the following section:

"CROSS CRAFT EMPLOYMENT

"SEC. 703A. Any employee of Norfolk and Western Railway Company, Southern Railway Company, or the Corporation who is deprived of employment as a result of the implementation of the Secretary's Plan shall have the first right of hire for any vacancy for which such employee is qualified at the entry level of any Norfolk Southern Corporation rail subsidiary, without regard to craft or class or the provisions of section 703 of this Act. Such employee shall retain his seniority rights to return to his original craft or class whenever a vacancy occurs. For purposes of this section, a railroad shall not be considered to be hiring new employees when it recalls any of its own furloughed employees.".

(b) The table of contents of the Regional Rail Reorganization Act of 1973 is amended by inserting immediately after the item relating to section 703 the following item:

"Sec. 703A. Cross craft employment.".

Subtitle B—Northeast Rail Service Act of 1981 Amendments

SPECIAL COURT JURISDICTION

SEC. 121. (a) Section 1152 of the Northeast Rail Service Act of 1981 (45 U.S.C. 1105) is amended—

(1) by inserting "or the Conrail Sale Amendments Act of 1985" immediately after "subtitle" wherever it appears;

(2) in subsection (a), by striking "or" at the end of paragraph (3), by striking the period at the end of paragraph (4) and inserting in lieu thereof a semicolon, and by adding at the end thereof the following paragraphs:

"(5) brought by the United States or any agency or instrumentality thereof seeking to enforce the Secretary's Plan or the Definitive Agreements;

"(6) brought by Norfolk Southern Corporation seeking to enforce the Secretary's Plan or the Definitive Agreements;

"(7) brought by a party who filed a complaint with the Secretary under subsection (e) of this section, and who is aggrieved by (A) a determination of the Secretary under paragraph (1) of such subsection that the party has not suffered direct economic injury, or (B) a decision of the Secretary under paragraph (2) of such subsection that a covenant has not been violated;

"(8) brought by a party which is a signatory to an ancillary agreement entered into in accordance with the Secretary's Plan or the Definitive Agreements and which is seeking to enforce such ancillary agreement; or

"(9) brought to determine the value of the interest of the employee stock ownership plan and related trusts, or of the beneficiaries thereof, in the preferred stock of the Conrail Equity Corporation.

For purposes of any action brought under paragraph (5) of this subsection, a violation of any covenant contained in the Secretary's Plan or the Definitive Agreements shall be deemed to constitute immediate and irreparable harm for purposes of awarding injunctive relief to the United States.".

(b) Section 1152 of the Northeast Rail Service Act of 1981 (45 U.S.C. 1105) is amended by adding at the end thereof the following subsection:

"(e)(1) Any party who suffers direct economic injury as a result of an alleged viola-

tion of a covenant contained in the Definitive Agreements may file a complaint with the Secretary seeking enforcement of such covenant. If the Secretary determines that the complainant has demonstrated to the Secretary that it has suffered direct economic injury, the Secretary shall investigate the complaint.

"(2) If the Secretary decides to investigate a complaint under paragraph (1) of this subsection, the Secretary shall give reasonable notice of such decision to investigate to the alleged violator of such covenant and the complainant, and shall make a final decision on such complaint within 60 days after the date on which it was filed.

"(3) If the Secretary finds that (A) the covenant in question has been violated, and (B) the complainant suffered direct economic injury as a result of such violation, the Secretary shall enter an order directing the violator of such covenant to comply with such covenant.

"(4) On appeal, any decision by the Secretary under this subsection shall be upheld, unless such decision is found to be arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law.".

APPLICABILITY OF OTHER LAWS

SEC. 122. Section 1168(a) of the Northeast Rail Service Act of 1981 (45 U.S.C. 1116(a)) is amended by striking "service transfers" and inserting in lieu thereof "sale of the interest of the United States in the common stock of Conrail or transfer of the rail properties and freight service responsibilities of Conrail".

Subtitle C—Employee Stock Ownership Plan

RESPONSIBILITY OF EMPLOYEE STOCK OWNERSHIP PLAN FIDUCIARIES

SEC. 131. (a) Section 216(f)(8)(A) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 726(f)(8)(A)) is amended—

(1) by striking "or" at the end of clause (ii);

(2) by striking the period at the end of clause (iii) and inserting in lieu thereof "; or"; and

(3) by adding at the end thereof the following clause:

"(iv) for or in connection with any action taken to implement the Secretary's Plan, including any sale, exchange, valuation, or disposition of the plan and related trust assets, or the assets of Conrail Equity Corporation, in connection with implementation of the Secretary's Plan and any determination of the terms on which any such sale, exchange, valuation, or disposition is effected.".

QUALIFICATION, REVIEW, AND VALUATION OF EMPLOYEE STOCK OWNERSHIP PLANS

SEC. 132. Section 216(f) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 726(f)) is amended by adding at the end thereof the following paragraphs:

"(11) The employee stock ownership plans of the Corporation and related trusts maintained, amended, or adopted in implementing the Secretary's Plan shall be deemed to meet the qualification requirements of sections 401 and 501, respectively, of the Internal Revenue Code of 1954, notwithstanding (A) that such plans may not meet the requirements of section 415 of the Internal Revenue Code of 1954, or (B) that participants in such plans may be entitled to withdraw a portion of the shares allocated to their accounts prior to the expiration of the period generally imposed by the Internal Revenue Service for qualified plans. Such qualification shall relate only to the contributions, allocations, and withdrawals of shares provided for in the Secretary's Plan with respect to the plans and related trusts maintained, amended, or adopted in implementing the Secretary's Plan. Such contributions and allocations shall in no event be treated as having exceeded the maximum annual addition permitted under section 415 of the Internal Revenue Code of 1954 (but not for purposes of applying section 404(j) of the Internal Revenue Code of 1954) for purposes of calculating any limitation under section 415 with respect to contributions and allocations not described in the Secretary's Plan, including contributions and allocations to plans and related trusts of the Corporation and any affiliated corporation. The continued qualification of such plans with respect to all other contributions, allocations, and withdrawals shall be subject to all provisions of existing law, as amended from time to time. No inference shall be drawn from this paragraph as to whether an amount is a contribution deductible under section 404 of the Internal Revenue Code of 1954 rather than a non-deductible capital expenditure.

"(12) Except as provided in section 1152 of the Northeast Rail Service Act of 1981 (45 U.S.C. 1105), the issuance and sale or contribution of securities by Norfolk Southern Corporation to fulfill arrangements with the Corporation's employees in implementing the Secretary's Plan and the distribution of shares from the Corporation's employee stock ownership plans and related trusts maintained, amended, or adopted in implementing the Secretary's Plan shall not be subject to the registration and prospectus delivery requirements of the Securities Act of 1933, any approval requirement under subtitle IV of title 49, United States Code, or the laws of any State with respect to the issuance and sale of securities.".

TITLE II—TECHNICAL AND CONFORMING AMENDMENTS

REGIONAL RAIL REORGANIZATION ACT OF 1973 AMENDMENTS AND REPEALS

SEC. 201. The following provisions of the Regional Rail Reorganization Act of 1973 are repealed or amended as specified:

(1) Subsections (a) and (b) of section 214 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 724(a) and (b)) are repealed, and such section 214 is amended by striking "(c) ASSOCIATION.—".

(2) Subsection (f) of section 217 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 727(f)) is repealed, without prejudice to the continued availability of funds appropriated prior to the date of enactment of this Act pursuant to section 217(f)(1)(C) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 727(f)(1)(C)).

(3) Section 404 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 764), and the item relating to such section in the table of contents of such Act, are repealed.

(4) Section 405 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 765), and the item relating to such section in the table of contents of such Act, are repealed.

(5) Section 406 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 766), and the item relating to such section in the table of contents of such Act, are repealed.

(6) Section 407 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 767), and the item relating to such section in the table of contents of such Act, are repealed.

(7) Subsections (a) and (d) of section 408 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 768 (a) and (d)) are repealed.

(8) Section 409 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 769), and the item relating to such section in the table of contents of such Act, are repealed.

(9) Section 410 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 769a), and the item relating to such section in the table of contents of such Act, are repealed.

(10) Section 411 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 769b), and the item relating to such section in the table of contents of such Act, are repealed.

(11) Section 412 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 769c), and the item relating to such section in the table of contents of such Act, are repealed.

(12) Section 713 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 797l), and the item relating to such section in the table of contents of such Act, are repealed.

AMENDMENTS AND REPEALS OF OTHER RAIL LAWS

SEC. 202. The following provisions of law are repealed or amended as specified:

(1) Section 1154 of the Northeast Rail Service Act of 1981 (45 U.S.C. 1107), and the item relating to such section in the table of contents of such Act, are repealed.

(2) Section 1161 of the Northeast Rail Service Act of 1981 (45 U.S.C. 1110), and the item relating to such section in the table of contents of such Act, are repealed.

(3) Section 1166 of the Northeast Rail Service Act of 1981 (45 U.S.C. 1114), and the item relating to such section in the table of contents of such Act, are repealed.

(4) Subsection (c) of section 1167 of the Northeast Rail Service Act of 1981 (45 U.S.C. 1115(c)) is repealed.

(5) Subsection (b) of section 1168 of the Northeast Rail Service Act of 1981 (45 U.S.C. 1116(b)) is repealed.

(6) Section 501(8) of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 821(8)) is amended—

(A) by striking "(A)";

(B) by striking "(i)" and inserting in lieu thereof "(A)", and by striking "(ii)" and inserting in lieu thereof "(B)"; and

(C) by striking all after "utilization;".

(7) Section 505 of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 825) is amended—

(A) in subsection (a)(1), by striking all after "railroad" through "1981)"; and

(B) in subsection (b)(2)(C), by striking all after "costs" the second time it appears through "subsidy".

(8) Subsection (b)(1) of section 509 of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 829(b)(1)) is repealed.

(9) Section 511(e) of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 831(e)) is amended by striking "(1)", and by striking all after "time" and inserting in lieu thereof a period.

(10) Section 402 of the Rail Safety and Service Improvement Act of 1982 (45 U.S.C. 825a) is repealed.

(11) Section 1005(b)(1) of the Rail Passenger Service Act (45 U.S.C. 655(b)(1)) is amended by striking "the Consolidated Rail Corporation,".

(12) Section 10362(b)(7)(A) of title 49, United States Code, is amended by striking "by the Consolidated Rail Corporation or".

(13) Section 332(d) of title 49, United States Code, is amended by striking ", the Consolidated Rail Corporation,".

TITLE III—MISCELLANEOUS PROVISIONS

COMMON CARRIER STATUS OF CONRAIL AFTER SALE

SEC. 301. (a) Conrail's status as a common carrier by railroad under section 10102(4) of title 49, United States Code, shall not be affected by virtue of sale of the interest of the United States in Conrail's common stock. Purchase of Conrail stock shall not alone be the basis of a determination that the acquiring entity has become a common carrier by railroad under section 10102(4) of title 49, United States Code.

(b) The Definitive Agreements shall contain a binding commitment by Norfolk Southern Corporation to continue to operate Conrail in full compliance with the provisions of section 10731(e) of title 49, United States Code.

CONSUMMATION OF SALE

SEC. 302. The sale of the interest of the United States in the common stock of Conrail shall be deemed to be consummated on the date title to the common stock passes to Norfolk Southern Corporation and the United States receives the cash purchase price.

CONTRACTS

SEC. 303. (a) Except as provided in subsection (b) of this section, nothing in this Act shall affect—

(1) Conrail's obligation to carry out its transportation contracts and equipment leases, equipment trusts, and conditional sale agreements, in accordance with their terms; and

(2) the obligation of any transferee of divested assets to carry out transportation contracts and equipment leases, equipment trusts, and conditional sale agreements to which such assets are subject, in accordance with their terms.

(b) If a divestiture carried out pursuant to the Secretary's Plan precludes Conrail from providing a transportation service for which it has contracted without a right of termination that may be exercised in the event of the sale of the interest of the United States in the common stock of Conrail and the divestiture will result in a change or modification in the movement of the traffic involved, the transferee of the divested rights and properties and Conrail shall provide the contracted-for service on terms and conditions which, to the maximum extent possible, conform to the terms and conditions in the contract.

CONGRESSIONAL OVERSIGHT OF COMPLIANCE

SEC. 304. The Secretary shall, no later than January 31 of each year, submit to the Committee on Commerce, Science, and Transportation of the Senate and to the Committee on Energy and Commerce of the House of Representatives a report setting forth each certificate which Norfolk Southern Corporation and Conrail provided to the Secretary, during the preceding year, certifying compliance with the covenants contained in the Definitive Agreements.

SEPARABILITY

SEC. 305. If any provision of this Act or the application thereof to any person or circumstances is held invalid, the remainder of this Act and the application of such provision to other persons or circumstances shall not be affected thereby.

EFFECTIVE DATE

SEC. 306. (a) Except as provided in subsection (b) of this section, the provisions of and amendments made by this Act shall take effect on the date of enactment of this Act.

(b) Sections 108(a), 201 and 202 of this Act shall take effect on the date of consummation of the sale of the interest of the United States in the common stock of Conrail.

(c) Any provision of this Act which, pursuant to Article I, Section 7 of the Constitution, provides for raising revenue shall only be effective upon the enactment into law of a bill which has originated in the House of Representatives enacting such provision.

AMENDMENT No. 1498

Beginning on page 13, line 10, strike out all through page 15, line 13.

AMENDMENT No. 1499

Beginning on page 12, line 14, strike all through line 9 on page 13.

AMENDMENT No. 1500

Beginning on page 13, line 10, strike out all through page 15, line 13.

AMENDMENT No. 1501

Beginning on page 12, line 14, strike all through line 9 on page 13.

AMENDMENT No. 1502

In lieu of the language proposed to be inserted, insert the following:

That this Act may be cited as the "Conrail Sale Amendments Act of 1985".

FINDINGS

SEC. 2. The Congress finds that—

(1) the Northeast Rail Service Act of 1981 (45 U.S.C. 1101 et seq.) provided for an orderly return of Conrail freight service to the private sector;

(2) the provisions of the Northeast Rail Service Act of 1981 were successful in removing Conrail's obligations beyond railroad freight service and in otherwise preparing Conrail for an orderly return to the private sector;

(3) acting under section 403 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 763), the Board of Directors of the United States Railway Association twice found Conrail to be a profitable corporation;

(4) acting under section 401 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 761), the Secretary engaged an investment banker and arranged, through open competitive bidding and negotiation, to sell the interest of the United States in the common stock of Conrail;

(5) the Secretary's Plan for the sale of Conrail provides for sale of the interest of the United States in the common stock of Conrail to Norfolk Southern Corporation;

(6) the Secretary found that sale of the interest of the United States in the common stock of Conrail to Norfolk Southern Corporation best meets the sale criteria of (A) leaving Conrail in the strongest financial position after the sale, (B) preserving patterns of service to shippers and communities in the region Conrail serves, and (C) maximizing return to the Federal Government consistent with the criteria specified in clauses (A) and (B);

(7) amendments to the Regional Rail Reorganization Act of 1973 (45 U.S.C. 701 et seq.) and related laws are needed to permit the sale of the interest of the United States in the common stock of Conrail to Norfolk Southern Corporation and to permit cancellation of the interest of the United States in Conrail debt and preferred stock; and

(8) the Secretary's Plan satisfies the requirements of the Northeast Rail Service Act of 1981, including the intent, goals, and objectives relating to the sale of the interest of the United States in the common stock of Conrail and the requirements of section 401(e) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 761(e)).

PURPOSE

SEC. 3. It is therefore declared to be the purpose of the Congress in this Act to return Conrail to the private sector by directing and facilitating implementation of the Secretary's Plan for the sale of the interest of the United States in the common stock of Conrail.

DEFINITIONS

SEC. 4. (a) In this Act, unless the context otherwise requires, the term—

(1) "Conrail" means the Consolidated Rail Corporation;

(2) "Definitive Agreements" means any and all agreements existing or to be developed between the United States and Norfolk Southern Corporation, including all representations and warranties made therein, to implement the Memorandum of Intent described in paragraph (4)(A);

(3) "Secretary" means the Secretary of Transportation; and

(4) "Secretary's Plan" means (A) the Memorandum of Intent between the United States and Norfolk Southern Corporation signed February 8, 1985, but not including paragraph 9(d)(ix) of such Memorandum of Intent, and (B) the divestitures by the Norfolk Southern Corporation of certain rail tracks, rights, and facilities, and any transactions or agreements related or incidental to such divestitures, in connection with the implementation of attachment A to the letter from the Department of Justice attached to the Memorandum of Intent as exhibit E.

(b) Section 102 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 702) is amended—

(1) by redesignating paragraphs (6) through (18) as paragraphs (7) through (19), and paragraphs (19) through (21) as paragraphs (21) through (23), respectively;

(2) by inserting after paragraph (5) the following paragraph:

"(6) 'Definitive Agreements' means any and all agreements existing or to be developed between the United States and Norfolk Southern Corporation, including all representations and warranties made therein, to implement the Memorandum of Intent described in paragraph (20)(A);"; and

(3) by inserting after paragraph (19), as so redesignated, the following paragraph:

"(20) 'Secretary's Plan' means (A) the Memorandum of Intent between the United States and Norfolk Southern Corporation signed February 8, 1985, but not including paragraph 9(d)(ix) of such Memorandum of Intent, and (B) the divestitures by the Norfolk Southern Corporation of certain rail tracks, rights, and facilities, and any transactions or agreements related or incidental to such divestitures, in connection with the implementation of attachment A to the letter from the Department of Justice attached to the Memorandum of Intent as exhibit E;".

(c) Section 1135(a) of the Northeast Rail Service Act of 1981 (45 U.S.C. 1104(a)) is amended—

(1) by redesignating paragraphs (6), (7), and (8) as paragraphs (7), (8), and (10), respectively;

(2) by inserting after paragraph (5) the following paragraph:

"(6) 'Definitive Agreements' means any and all agreements existing or to be developed between the United States and Norfolk Southern Corporation, including all representations and warranties made therein, to implement the Memorandum of Intent described in paragraph (9)(A);"; and

(3) by inserting after paragraph (8), as so redesignated, the following paragraph:

"(9) 'Secretary's Plan' means (A) the Memorandum of Intent between the United States and Norfolk Southern Corporation signed February 8, 1985, but not including paragraph 9(d)(ix) of such Memorandum of Intent, and (B) the divestitures by the Norfolk Southern Corporation of certain rail tracks, rights, and facilities, and any transactions or agreements related or incidental to such divestitures, in connection with the implementation of attachment A to the letter from the Department of Justice attached to the Memorandum of Intent as exhibit E;".

TITLE I—AMENDMENTS TO THE REGIONAL RAIL REORGANIZATION ACT OF 1973 AND THE NORTHEAST RAIL SERVICE ACT OF 1981

Subtitle A—Regional Rail Reorganization Act of 1973 Amendments

LIMIT ON AUTHORITY TO PURCHASE STOCK

SEC. 101. Section 216(b) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 726(b)) is amended by adding at the end thereof the following paragraph:

"(5) The authority of the Association to purchase debentures or series A preferred stock of the Corporation under this section shall terminate upon the consummation of the sale of the interest of the United States in the common stock of the Corporation under the terms of the Secretary's Plan.".

RESPONSIBILITY OF CONRAIL DIRECTORS

SEC. 102. Section 301(i) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 741(i)) is amended by inserting immediately after "required by law" the following: ", taken to implement the Secretary's Plan,".

APPLICABILITY OF REGIONAL RAIL REORGANIZATION ACT OF 1973 TO CONRAIL AFTER SALE

SEC. 103. Section 301 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 741) is amended by adding at the end thereof the following subsection:

"(k) GOVERNING PROVISIONS AFTER SALE.—The provisions of this Act shall not apply to the Corporation and to activities and other actions and responsibilities of the Corporation and its directors after consummation of the sale of the interest of the United States in the common stock of the Corporation under the terms of the Conrail Sale Amendments Act of 1985, other than with regard to—

"(1) section 102 of this Act;

"(2) section 201(d) of this Act;

"(3) section 203 of this Act, but only with respect to information relating to proceedings before the special court established under section 209(b);

"(4) section 216(f)(8) of this Act, but only as such authority applies to activities related to the employee stock ownership plan and related trusts prior to or in connection with consummation of the sale of the interest of the United States in the common stock of the Corporation, including activities related to the sale, exchange, valuation, or disposition of the assets of the employee stock ownership plan and related trusts, or of Conrail Equity Corporation, in connection with the Secretary's Plan;

"(5) sections 216(f)(11) and 216(f)(12) of this Act, as amended by the Conrail Sale Amendments Act of 1985;

"(6) section 217(e) of this Act;

"(7) subsection (i) of this section, but only as such authority applies to service as a director of the Corporation prior to consummation or in connection with implementation of the sale of the interest of the United States in the common stock of the Corporation;

"(8) section 305 of this Act, but only as to the effect, and continuing administration, of supplemental transactions consummated prior to consummation of the sale of the interest of the United States in the common stock of the Corporation;

"(9) section 308 of this Act, but only in abandonment actions when such authority has been relied on to file a notice or notices of insufficent revenues prior to consummation of the sale of the interest of the United States in the common stock of the Corporation;

"(10) section 401(a) of this Act, as amended by the Conrail Sale Amendments Act of 1985;

"(11) section 402 of this Act, as amended by the Conrail Sale Amendments Act of 1985;

"(12) section 408(c) of this Act, as amended by the Conrail Sale Amendments Act of 1985;

"(13) section 701 of this Act, but only as may be necessary to identify employees eligible for benefits under agreements entered into under such section;

"(14) section 702(e) of this Act;

"(15) section 704(b) of this Act;

"(16) section 709 of this Act;

"(17) section 710(b)(1) of this Act;

"(18) section 711 of this Act;

"(19) section 714 of this Act, but only with regard to disputes or controversies specified in such section that arose prior to consummation of the sale of the interest of the United States in the common stock of the Corporation; and

"(20) section 715 of this Act, as amended by the Conrail Sale Amendments Act of 1985.".

IMPLEMENTATION OF THE SECRETARY'S PLAN

SEC. 104. (a) Section 401(a)(3) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 761(a)(3)) is amended to read as follows:

"(3) The Secretary is authorized and directed to implement the Secretary's Plan, in accordance with paragraph (4) of this subsection. Such implementation of the Secretary's Plan and the coordinated operation of the Corporation's properties with those of Norfolk Southern Corporation and its affiliates as a single rail system is deemed approved by the Commission under chapter 113 of title 49, United States Code.".

(b) Section 401(a) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 761(a)) is amended by adding at the end thereof the following paragraphs:

"(4) The Secretary shall implement the Secretary's Plan by negotiating, executing, delivering, and performing the Definitive Agreements, which shall conform to the Memorandum of Intent described in section 102(20)(A) of this Act. The Secretary shall, 45 calendar days before the date on which the Secretary anticipates that the interest of the United States in the common stock of the Corporation will be sold to Norfolk Southern Corporation, transmit to the Committee on Commerce, Science, and Transportation of the Senate and to the Committee on Energy and Commerce of the House of Representatives a notification of any alteration from the Memorandum of Intent described in section 102(20)(A) of this Act which will be made in the Definitive Agreements. After the date of such sale, the Secretary shall transmit to such Committees notification of any intent to waive compliance with any substantive covenant, agreement or obligation contained in the Definitive Agreements, and the Secretary may not waive such compliance until a period of 45 calendar days has expired after the date of such transmittal.

"(5) The Secretary shall not transfer the interest of the United States in the common stock of the Corporation except concurrently with a divestiture by Norfolk Southern Corporation of rail assets and rights approved by the Attorney General.

"(6) The sale of the interest of the United States in the common stock of the Corporation shall be deemed to be consummated at the date title to the common stock passes to Norfolk Southern Corporation and the United States receives the cash purchase price.".

RAILROAD PURCHASERS AND OFFER FOR SALE OF SHARES TO EMPLOYEES

SEC. 105. Subsections (d) and (e) of section 401 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 761 (d) and (e)) are repealed.

CANCELLATION OF DEBT AND PREFERRED STOCK

SEC. 106. Section 402 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 762) is amended to read as follows:

"DEBT AND PREFERRED STOCK

"SEC. 402. (a) RECAPITALIZATION.—In connection with the sale of the interest of the United States in the common stock of the Corporation under section 401 of this Act, and consistent with the Secretary's Plan, the Secretary may take all action necessary to cause the Corporation to be recapitalized such that the interest of the United States, or any agent or instrumentality thereof, and all other commitments or obligations of the Corporation to the United States or any agent or instrumentality thereof arising out of such interest, in any debt (including accrued interest and contingent interest thereon) and preferred stock (including accrued and unpaid dividends thereon) of the Corporation shall be cancelled or retired, and contributed to the capital of the Corporation. The Secretary shall cause the recapitalization authorized by this section to be effective as of the consummation of the sale of the interest of the United States in the common stock of the Corporation.

"(b) BREACH OF REPRESENTATIONS.—(1) Norfolk Southern Corporation or any successor corporation thereto may bring suit for any breach of representations contained in paragraph 6(e) of the Memorandum of Intent described in section 102(20)(A) of this Act (hereinafter referred to as the 'Representations') in the United States Claims Court or a district court of the United States. If such an action is brought, the Claims Court or district court shall determine the amount by which the United States income tax (including interest and penalties whether or not such penalties are assessed as a tax under the Internal Revenue Code of 1954) assessable against the Corporation or against Norfolk Southern Corporation for any year exceeds the amount of such tax which would have been assessable for such year had such Representations not been breached (hereinafter referred to as the 'Offset Amount').

"(2) The Representations shall be considered breached and Norfolk Southern Corporation shall be entitled to bring suit upon the first occurrence of any of the following that is inconsistent with the Representations: (A) the issuance by the Internal Revenue Service of a statutory notice of deficiency (90-day letter), (B) the assessment of the United States income tax, or (C) any claim by the United States in a suit or other judicial proceeding against Norfolk Southern Corporation or the Corporation.

"(3) The right to bring suit pursuant to this section shall not be subject to any waiting period applicable to tax proceedings or to any requirements for payment of any tax as a condition to instituting any suit based on a breach of the Representations.

"(4) Any judgment for money damages relating to breach of the Representations shall only be awarded as an offset in any court or administrative proceeding against the tax liability of Norfolk Southern Corporation or the Corporation, or both, to which such breach relates; except that if any such tax liability resulting from such breach has been paid, the judgment shall to that extent be an offset against any United States income tax liability of the Norfolk Southern Corporation or the Corporation, or both. If any portion of the tax resulting from a breach of the Representations has been paid, then the Offset Amount shall include interest on such payment from the date paid at the rate from time to time specified in the Internal Revenue Code of 1954 for interest payable on refund claims.

"(5) It shall not be a defense to an action brought under this section that Norfolk Southern Corporation knew, or should have known, of the falsity of the Representations or that there exists no carryover basis procedure as contemplated by the last sentence of the Representations.

"(6) For purposes of this section, tax liability of Norfolk Southern Corporation shall include the tax liability of Norfolk Southern Corporation and its affiliated group, within the meaning of section 1504 of the Internal Revenue Code of 1954.".

APPLICABILITY OF CERTAIN LAWS TO SALE OF CONRAIL

SEC. 107. Section 408 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 768) is amended—

(1) by repealing subsection (b);

(2) by amending subsection (c) by striking "No transfer" and all that follows through "subject to" and inserting in lieu thereof "Except as provided in section 1152 of the Northeast Rail Service Act of 1981 (45 U.S.C. 1105), the Secretary's Plan and the Definitive Agreements and their negotiation, execution, and implementation shall not be subject to administrative or"; and

(3) by adding at the end of subsection (c) the following sentence: "The issuance in private placement of notes or other securities in accordance with exhibit B to the Memorandum of Intent (described in section 102(20)(A) of this Act) in the Secretary's Plan shall not be subject to the provisions of subtitle IV of title 49, United States Code.".

LABOR PROTECTION

SEC. 108. (a) Section 701(d)(2) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 797(d)(2)) is amended by striking "the last day of the eighteen-month period beginning on".

(b)(1) Title VII of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 797 et seq.) is amended by adding at the end thereof the following section:

"PROTECTION AFTER SALE

"SEC. 715. After consummation of the sale of the interest of the United States in the common stock of the Corporation pursuant to the Secretary's Plan, any employee of Norfolk Southern Corporation, the Corporation, any rail affiliate of either company, and any transferee of the rail tracks, rights, and facilities divested in accordance with the Secretary's Plan, who is adversely affected in his employment by the implementation of the Secretary's Plan shall receive from his employer protection under the labor protective conditions set forth in New York Dock Railway—Control—Brooklyn Eastern District Terminal (354 ICC 399 (1978), modified upon further consideration, 360 ICC 60 (1979)). The arbitration provisions of section 4 of New York Dock shall apply to the formation of any implementing agreements that may be necessary in connection with the implementation of the Secretary's Plan, including any resulting coordinations.".

(2) The table of contents of the Regional Rail Reorganization Act of 1973 is amended by inserting immediately after the item relating to section 714 the following item:

"Sec. 715. Protection after sale.".

PREFERENTIAL HIRING

SEC. 109. Section 703 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 797b) is amended—

(1) by redesignating subsection (b) as subsection (c); and

(2) by inserting immediately after subsection (a) the following subsection:

"(b) IMPLEMENTATION OF SECRETARY'S PLAN.—Any employee of any railroad who is deprived of employment as a result of the implementation of the Secretary's Plan shall have the first right of hire for a vacancy for which he is qualified on any Norfolk Southern Corporation rail subsidiary, except where such vacancy is covered by (1) an affirmative action plan, or a hiring plan designated to eliminate discrimination, that is required by Federal or State statute, regulation, or Executive order, or by the order of a Federal court or agency, or (2) a permissible voluntary affirmative action plan. For purposes of this subsection, a railroad shall not be considered to be hiring new employees when it recalls any of its own furloughed employees.".

CROSS CRAFT EMPLOYMENT

SEC. 110. (a) Title VII of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 797 et seq.) is amended by inserting immediately after section 703 the following section:

"CROSS CRAFT EMPLOYMENT

"SEC. 703A. Any employee of Norfolk and Western Railway Company, Southern Railway Company, or the Corporation who is deprived of employment as a result of the implementation of the Secretary's Plan shall have the first right of hire for any vacancy for which such employee is qualified at the entry level of any Norfolk Southern Corporation rail subsidiary, without regard to craft or class or the provisions of section 703 of this Act. Such employee shall retain his seniority rights to return to his original craft or class whenever a vacancy occurs. For purposes of this section, a railroad shall not be considered to be hiring new employees when it recalls any of its own furloughed employees.".

(b) The table of contents of the Regional Rail Reorganization Act of 1973 is amended by inserting immediately after the item relating to section 703 the following item:

"Sec. 703A. Cross craft employment.".

Subtitle B—Northeast Rail Service Act of 1981 Amendments

SPECIAL COURT JURISDICTION

SEC. 121. (a) Section 1152 of the Northeast Rail Service Act of 1981 (45 U.S.C. 1105) is amended—

(1) by inserting "or the Conrail Sale Amendments Act of 1985" immediately after "subtitle" wherever it appears;

(2) in subsection (a), by striking "or" at the end of paragraph (3), by striking the period at the end of paragraph (4) and inserting in lieu thereof a semicolon, and by adding at the end thereof the following paragraphs:

"(5) brought by the United States or any agency or instrumentality thereof seeking to enforce the Secretary's Plan or the Definitive Agreements;

"(6) brought by Norfolk Southern Corporation seeking to enforce the Secretary's Plan or the Definitive Agreements;

"(7) brought by a party who filed a complaint with the Secretary under subsection (e) of this section, and who is aggrieved by (A) a determination of the Secretary under paragraph (1) of such subsection that the party has not suffered direct economic injury, or (B) a decision of the Secretary under paragraph (2) of such subsection that a covenant has not been violated;

"(8) brought by a party which is a signatory to an ancillary agreement entered into in accordance with the Secretary's Plan or the Definitive Agreements and which is seeking to enforce such ancillary agreement; or

"(9) brought to determine the value of the interest of the employee stock ownership plan and related trusts, or of the beneficiaries thereof, in the preferred stock of the Conrail Equity Corporation.

For purposes of any action brought under paragraph (5) of this subsection, a violation of any covenant contained in the Secretary's Plan or the Definitive Agreements shall be deemed to constitute immediate and irreparable harm for purposes of awarding injunctive relief to the United States.".

(b) Section 1152 of the Northeast Rail Service Act of 1981 (45 U.S.C. 1105) is amended by adding at the end thereof the following subsection:

"(e)(1) Any party who suffers direct economic injury as a result of an alleged violation of a covenant contained in the Definitive Agreements may file a complaint with the Secretary seeking enforcement of such covenant. If the Secretary determines that the complainant has demonstrated to the Secretary that it has suffered direct economic injury, the Secretary shall investigate the complaint.

"(2) If the Secretary decides to investigate a complaint under paragraph (1) of this subsection, the Secretary shall give reasonable notice of such decision to investigate to the alleged violator of such covenant and the complainant, and shall make a final decision on such complaint within 60 days after the date on which it was filed.

"(3) If the Secretary finds that (A) the covenant in question has been violated, and (B) the complainant suffered direct economic injury as a result of such violation, the Secretary shall enter an order directing the violator of such covenant to comply with such covenant.

"(4) On appeal, any decision by the Secretary under this subsection shall be upheld, unless such decision is found to be arbitrary,

capricious, an abuse of discretion, or otherwise not in accordance with law.".

APPLICABILITY OF OTHER LAWS

SEC. 122. Section 1168(a) of the Northeast Rail Service Act of 1981 (45 U.S.C. 1116(a)) is amended by striking "service transfers" and inserting in lieu thereof "sale of the interest of the United States in the common stock of Conrail or transfer of the rail properties and freight service responsibilities of Conrail".

Subtitle C—Employee Stock Ownership Plan

RESPONSIBILITY OF EMPLOYEE STOCK OWNERSHIP PLAN FIDUCIARIES

SEC. 131. (a) Section 216(f)(8)(A) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 726(f)(8)(A)) is amended—

(1) by striking "or" at the end of clause (ii);

(2) by striking the period at the end of clause (iii) and inserting in lieu thereof "; or"; and

(3) by adding at the end thereof the following clause:

"(iv) for or in connection with any action taken to implement the Secretary's Plan, including any sale, exchange, valuation, or disposition of the plan and related trust assets, or the assets of Conrail Equity Corporation, in connection with implementation of the Secretary's Plan and any determination of the terms on which any such sale, exchange, valuation, or disposition is effected.".

QUALIFICATION, REVIEW, AND VALUATION OF EMPLOYEE STOCK OWNERSHIP PLANS

SEC. 132. Section 216(f) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 726(f)) is amended by adding at the end thereof the following paragraphs:

"(11) The employee stock ownership plans of the Corporation and related trusts maintained, amended, or adopted in implementing the Secretary's Plan shall be deemed to meet the qualification requirements of sections 401 and 501, respectively, of the Internal Revenue Code of 1954, notwithstanding (A) that such plans may not meet the requirements of section 415 of the Internal Revenue Code of 1954, or (B) that participants in such plans may be entitled to withdraw a portion of the shares allocated to their accounts prior to the expiration of the period generally imposed by the Internal Revenue Service for qualified plans. Such qualification shall relate only to the contributions, allocations, and withdrawals of shares provided for in the Secretary's Plan with respect to the plans and related trusts maintained, amended, or adopted in implementing the Secretary's Plan. Such contributions and allocations shall in no event be treated as having exceeded the maximum annual addition permitted under section 415 of the Internal Revenue Code of 1954 (but not for purposes of applying section 404(j) of the Internal Revenue Code of 1954) for purposes of calculating any limitation under section 415 with respect to contributions and allocations not described in the Secretary's Plan, including contributions and allocations to plans and related trusts of the Corporation and any affiliated corporation. The continued qualification of such plans with respect to all other contributions, allocations, and withdrawals shall be subject to all provisions of existing law, as amended from time to time. No inference shall be drawn from this paragraph as to whether an amount is a contribution deductible under section 404 of the Internal Revenue Code of 1954 rather than a non-deductible capital expenditure.

"(12) Except as provided in section 1152 of the Northeast Rail Service Act of 1981 (45 U.S.C. 1105), the issuance and sale or contribution of securities by Norfolk Southern Corporation to fulfill arrangements with the Corporation's employees in implementing the Secretary's Plan and the distribution of shares from the Corporation's employee stock ownership plans and related trusts maintained, amended, or adopted in implementing the Secretary's Plan shall not be subject to the registration and prospectus delivery requirements of the Securities Act of 1933, any approval requirement under subtitle IV of title 49, United States Code, or the laws of any State with respect to the issuance and sale of securities.".

TITLE II—TECHNICAL AND CONFORMING AMENDMENTS

REGIONAL RAIL REORGANIZATION ACT OF 1973 AMENDMENTS AND REPEALS

SEC. 201. The following provisions of the Regional Rail Reorganization Act of 1973 are repealed or amended as specified:

(1) Subsections (a) and (b) of section 214 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 724(a) and (b)) are repealed, and such section 214 is amended by striking "(c) ASSOCIATION.—".

(2) Subsection (f) of section 217 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 727(f)) is repealed, without prejudice to the continued availability of funds appropriated prior to the date of enactment of this Act pursuant to section 217(f)(1)(C) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 727(f)(1)(C)).

(3) Section 404 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 764), and the item relating to such section in the table of contents of such Act, are repealed.

(4) Section 405 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 765), and the item relating to such section in the table of contents of such Act, are repealed.

(5) Section 406 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 766), and the item relating to such section in the table of contents of such Act, are repealed.

(6) Section 407 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 767), and the item relating to such section in the table of contents of such Act, are repealed.

(7) Subsections (a) and (d) of section 408 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 768 (a) and (d)) are repealed.

(8) Section 409 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 769), and the item relating to such section in the table of contents of such Act, are repealed.

(9) Section 410 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 769a), and the item relating to such section in the table of contents of such Act, are repealed.

(10) Section 411 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 769b), and the item relating to such section in the table of contents of such Act, are repealed.

(11) Section 412 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 769c), and the item relating to such section in the table of contents of such Act, are repealed.

(12) Section 713 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 797l), and the item relating to such section in the table of contents of such Act, are repealed.

AMENDMENTS AND REPEALS OF OTHER RAIL LAWS

SEC. 202. The following provisions of law are repealed or amended as specified:

(1) Section 1154 of the Northeast Rail Service Act of 1981 (45 U.S.C. 1107), and the item relating to such section in the table of contents of such Act, are repealed.

(2) Section 1161 of the Northeast Rail Service Act of 1981 (45 U.S.C. 1110), and the item relating to such section in the table of contents of such Act, are repealed.

(3) Section 1166 of the Northeast Rail Service Act of 1981 (45 U.S.C. 1114), and the item relating to such section in the table of contents of such Act, are repealed.

(4) Subsection (c) of section 1167 of the Northeast Rail Service Act of 1981 (45 U.S.C. 1115(c)) is repealed.

(5) Subsection (b) of section 1168 of the Northeast Rail Service Act of 1981 (45 U.S.C. 1116(b)) is repealed.

(6) Section 501(8) of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 821(8)) is amended—

(A) by striking "(A)";

(B) by striking "(i)" and inserting in lieu thereof "(A)", and by striking "(ii)" and inserting in lieu thereof "(B)"; and

(C) by striking all after "utilization;".

(7) Section 505 of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 825) is amended—

(A) in subsection (a)(1), by striking all after "railroad" through "1981)"; and

(B) in subsection (b)(2)(C), by striking all after "costs" the second time it appears through "subsidy".

(8) Subsection (b)(1) of section 509 of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 829(b)(1)) is repealed.

(9) Section 511(e) of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 831(e)) is amended by striking "(1)", and by striking all after "time" and inserting in lieu thereof a period.

(10) Section 402 of the Rail Safety and Service Improvement Act of 1982 (45 U.S.C. 825a) is repealed.

(11) Section 1005(b)(1) of the Rail Passenger Service Act (45 U.S.C. 655(b)(1)) is amended by striking "the Consolidated Rail Corporation,".

(12) Section 10362(b)(7)(A) of title 49, United States Code, is amended by striking "by the Consolidated Rail Corporation or".

(13) Section 332(d) of title 49, United States Code, is amended by striking ", the Consolidated Rail Corporation,".

TITLE III—MISCELLANEOUS PROVISIONS

COMMON CARRIER STATUS OF CONRAIL AFTER SALE

SEC. 301. (a) Conrail's status as a common carrier by railroad under section 10102(4) of title 49, United States Code, shall not be affected by virtue of sale of the interest of the United States in Conrail's common stock. Purchase of Conrail stock shall not alone be the basis of a determination that the acquiring entity has become a common carrier by railroad under section 10102(4) of title 49, United States Code.

(b) The Definitive Agreements shall contain a binding commitment by Norfolk Southern Corporation to continue to operate Conrail in full compliance with the provisions of section 10731(e) of title 49, United States Code.

CONSUMMATION OF SALE

SEC. 302. The sale of the interest of the United States in the common stock of Conrail shall be deemed to be consummated on the date title to the common stock passes to Norfolk Southern Corporation and the United States receives the cash purchase price.

CONTRACTS

SEC. 303. (a) Except as provided in subsection (b) of this section, nothing in this Act shall affect—

(1) Conrail's obligation to carry out its transportation contracts and equipment leases, equipment trusts, and conditional sale agreements, in accordance with their terms; and

(2) the obligation of any transferee of divested assets to carry out transportation contracts and equipment leases, equipment trusts, and conditional sale agreements to which such assets are subject, in accordance with their terms.

(b) If a divestiture carried out pursuant to the Secretary's Plan precludes Conrail from providing a transportation service for which it has contracted without a right of termination that may be exercised in the event of the sale of the interest of the United States in the common stock of Conrail and the divestiture will result in a change or modification in the movement of the traffic involved, the transferee of the divested rights and properties and Conrail shall provide the contracted-for service on terms and conditions which, to the maximum extent possible, conform to the terms and conditions in the contract.

CONGRESSIONAL OVERSIGHT OF COMPLIANCE

SEC. 304. The Secretary shall, no later than January 31 of each year, submit to the Committee on Commerce, Science, and Transportation of the Senate and to the Committee on Energy and Commerce of the House of Representatives a report setting forth each certificate which Norfolk Southern Corporation and Conrail provided to the Secretary, during the preceding year, certifying compliance with the covenants contained in the Definitive Agreements.

SEPARABILITY

SEC. 305. If any provision of this Act or the application thereof to any person or circumstances is held invalid, the remainder of this Act and the application of such provision to other persons or circumstances shall not be affected thereby.

EFFECTIVE DATE

SEC. 306. (a) Except as provided in subsection (b) of this section, the provisions of and amendments made by this Act shall take effect on the date of enactment of this Act.

(b) Sections 108(a), 201 and 202 of this Act shall take effect on the date of consummation of the sale of the interest of the United States in the common stock of Conrail.

(c) Any provision of this Act which, pursuant to Article I, Section 7 of the Constitution, provides for raising revenue shall only be effective upon the enactment into law of a bill which has originated in the House of Representatives enacting such provision.

AMENDMENT NO. 1503

In lieu of the language proposed to be inserted, insert the following:

That this Act may be cited as the "Conrail Sale Amendments Act of 1985".

FINDINGS

SEC. 2. The Congress finds that—

(1) the Northeast Rail Service Act of 1981 (45 U.S.C. 1101 et seq.) provided for an orderly return of Conrail freight service to the private sector;

(2) the provisions of the Northeast Rail Service Act of 1981 were successful in removing Conrail's obligations beyond railroad freight service and in otherwise preparing Conrail for an orderly return to the private sector;

(3) acting under section 403 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 763), the Board of Directors of the United States Railway Association twice found Conrail to be a profitable corporation;

(4) acting under section 401 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 761), the Secretary engaged an investment banker and arranged, through open competitive bidding and negotiation, to sell the interest of the United States in the common stock of Conrail;

(5) the Secretary's Plan for the sale of Conrail provides for sale of the interest of the United States in the common stock of Conrail to Norfolk Southern Corporation;

(6) the Secretary found that sale of the interest of the United States in the common stock of Conrail to Norfolk Southern Corporation best meets the sale criteria of (A) leaving Conrail in the strongest financial position after the sale, (B) preserving patterns of service to shippers and communities in the region Conrail serves, and (C) maximizing return to the Federal Government consistent with the criteria specified in clauses (A) and (B);

(7) amendments to the Regional Rail Reorganization Act of 1973 (45 U.S.C. 701 et seq.) and related laws are needed to permit the sale of the interest of the United States in the common stock of Conrail to Norfolk Southern Corporation and to permit cancellation of the interest of the United States in Conrail debt and preferred stock; and

(8) the Secretary's Plan satisfies the requirements of the Northeast Rail Service Act of 1981, including the intent, goals, and objectives relating to the sale of the interest of the United States in the common stock of Conrail and the requirements of section 401(e) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 761(e)).

PURPOSE

SEC. 3. It is therefore declared to be the purpose of the Congress in this Act to return Conrail to the private sector by directing and facilitating implementation of the Secretary's Plan for the sale of the interest of the United States in the common stock of Conrail.

DEFINITIONS

SEC. 4. (a) In this Act, unless the context otherwise requires, the term—

(1) "Conrail" means the Consolidated Rail Corporation;

(2) "Definitive Agreements" means any and all agreements existing or to be developed between the United States and Norfolk Southern Corporation, including all representations and warranties made therein, to implement the Memorandum of Intent described in paragraph (4)(A);

(3) "Secretary" means the Secretary of Transportation; and

(4) "Secretary's Plan" means (A) the Memorandum of Intent between the United States and Norfolk Southern Corporation signed February 8, 1985, and (B) the divestitures by the Norfolk Southern Corporation of certain rail tracks, rights, and facilities, and any transactions or agreements related or incidental to such divestitures, in connection with the implementation of attachment A to the letter from the Department of Justice attached to the Memorandum of Intent as exhibit E.

(b) Section 102 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 702) is amended—

(1) by redesignating paragraphs (6) through (18) as paragraphs (7) through (19), and paragraphs (19) through (21) as paragraphs (21) through (23), respectively;

(2) by inserting after paragraph (5) the following paragraph:

"(6) 'Definitive Agreements' means any and all agreements existing or to be developed between the United States and Norfolk Southern Corporation, including all representations and warranties made therein, to implement the Memorandum of Intent described in paragraph (20)(A);"; and

(3) by inserting after paragraph (19), as so redesignated, the following paragraph:

"(20) 'Secretary's Plan' means (A) the Memorandum of Intent between the United States and Norfolk Southern Corporation signed February 8, 1985, and (B) the divestitures by the Norfolk Southern Corporation of certain rail tracks, rights, and facilities, and any transactions or agreements related or incidental to such divestitures, in connection with the implementation of attachment A to the letter from the Department of Justice attached to the Memorandum of Intent as exhibit E;".

(c) Section 1135(a) of the Northeast Rail Service Act of 1981 (45 U.S.C. 1104(a)) is amended—

(1) by redesignating paragraphs (6), (7), and (8) as paragraphs (7), (8), and (10), respectively;

(2) by inserting after paragraph (5) the following paragraph:

"(6) 'Definitive Agreements' means any and all agreements existing or to be developed between the United States and Norfolk Southern Corporation, including all representations and warranties made therein, to implement the Memorandum of Intent described in paragraph (9)(A);"; and

(3) by inserting after paragraph (8), as so redesignated, the following paragraph:

"(9) 'Secretary's Plan' means (A) the Memorandum of Intent between the United States and Norfolk Southern Corporation signed February 8, 1985, but not including paragraph 9(d)(ix) of such Memorandum of Intent, and (B) the divestitures by the Norfolk Southern Corporation of certain rail tracks, rights, and facilities, and any transactions or agreements related or incidental to such divestitures, in connection with the implementation of attachment A to the letter from the Department of Justice attached to the Memorandum of Intent as exhibit E;".

TITLE I—AMENDMENTS TO THE REGIONAL RAIL REORGANIZATION ACT OF 1973 AND THE NORTHEAST RAIL SERVICE ACT OF 1981

Subtitle A—Regional Rail Reorganization Act of 1973 Amendments

LIMIT ON AUTHORITY TO PURCHASE STOCK

SEC. 101. Section 216(b) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 726(b)) is amended by adding at the end thereof the following paragraph:

"(5) The authority of the Association to purchase debentures or series A preferred stock of the Corporation under this section shall terminate upon the consummation of the sale of the interest of the United States in the common stock of the Corporation under the terms of the Secretary's Plan.".

RESPONSIBILITY OF CONRAIL DIRECTORS

SEC. 102. Section 301(i) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 741(i)) is amended by inserting immediately after "required by law" the following: ", taken to implement the Secretary's Plan,".

APPLICABILITY OF REGIONAL RAIL REORGANIZATION ACT OF 1973 TO CONRAIL AFTER SALE

SEC. 103. Section 301 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 741) is amended by adding at the end thereof the following subsection:

"(k) GOVERNING PROVISIONS AFTER SALE.—The provisions of this Act shall not apply to the Corporation and to activities and other actions and responsibilities of the Corporation and its directors after consummation of the sale of the interest of the United States in the common stock of the Corporation under the terms of the Conrail Sale Amendments Act of 1985, other than with regard to—

"(1) section 102 of this Act;

"(2) section 201(d) of this Act;

"(3) section 203 of this Act, but only with respect to information relating to proceedings before the special court established under section 209(b);

"(4) section 216(f)(8) of this Act, but only as such authority applies to activities related to the employee stock ownership plan and related trusts prior to or in connection with consummation of the sale of the interest of the United States in the common stock of the Corporation, including activities related to the sale, exchange, valuation, or disposition of the assets of the employee stock ownership plan and related trusts, or of Conrail Equity Corporation, in connection with the Secretary's Plan;

"(5) sections 216(f)(11) and 216(f)(12) of this Act, as amended by the Conrail Sale Amendments Act of 1985;

"(6) section 217(e) of this Act;

"(7) subsection (i) of this section, but only as such authority applies to service as a director of the Corporation prior to consummation or in connection with implementation of the sale of the interest of the United States in the common stock of the Corporation;

"(8) section 305 of this Act, but only as to the effect, and continuing administration, of supplemental transactions consummated prior to consummation of the sale of the interest of the United States in the common stock of the Corporation;

"(9) section 308 of this Act, but only in abandonment actions when such authority has been relied on to file a notice or notices of insufficent revenues prior to consummation of the sale of the interest of the United States in the common stock of the Corporation;

"(10) section 401(a) of this Act, as amended by the Conrail Sale Amendments Act of 1985;

"(11) section 402 of this Act, as amended by the Conrail Sale Amendments Act of 1985;

"(12) section 408(c) of this Act, as amended by the Conrail Sale Amendments Act of 1985;

"(13) section 701 of this Act, but only as may be necessary to identify employees eligible for benefits under agreements entered into under such section;

"(14) section 702(e) of this Act;

"(15) section 704(b) of this Act;

"(16) section 709 of this Act;

"(17) section 710(b)(1) of this Act;

"(18) section 711 of this Act;

"(19) section 714 of this Act, but only with regard to disputes or controversies specified in such section that arose prior to consummation of the sale of the interest of the United States in the common stock of the Corporation; and

"(20) section 715 of this Act, as amended by the Conrail Sale Amendments Act of 1985.".

IMPLEMENTATION OF THE SECRETARY'S PLAN

SEC. 104. (a) Section 401(a)(3) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 761(a)(3)) is amended to read as follows:

"(3) The Secretary is authorized and directed to implement the Secretary's Plan, in accordance with paragraph (4) of this subsection. Such implementation of the Secretary's Plan and the coordinated operation of the Corporation's properties with those of Norfolk Southern Corporation and its affiliates as a single rail system is deemed approved by the Commission under chapter 113 of title 49, United States Code.".

(b) Section 401(a) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 761(a)) is amended by adding at the end thereof the following paragraphs:

"(4) The Secretary shall implement the Secretary's Plan by negotiating, executing, delivering, and performing the Definitive Agreements, which shall conform to the Memorandum of Intent described in section 102(20)(A) of this Act. The Secretary shall, 45 calendar days before the date on which the Secretary anticipates that the interest of the United States in the common stock of the Corporation will be sold to Norfolk Southern Corporation, transmit to the Committee on Commerce, Science, and Transportation of the Senate and to the Committee on Energy and Commerce of the House of Representatives a notification of any alteration from the Memorandum of Intent described in section 102(20)(A) of this Act which will be made in the Definitive Agreements. After the date of such sale, the Secretary shall transmit to such Committees notification of any intent to waive compliance with any substantive covenant, agreement or obligation contained in the Definitive Agreements, and the Secretary may not waive such compliance until a period of 45 calendar days has expired after the date of such transmittal.

"(5) The Secretary shall not transfer the interest of the United States in the common stock of the Corporation except concurrently with a divestiture by Norfolk Southern Corporation of rail assets and rights approved by the Attorney General.

"(6) The sale of the interest of the United States in the common stock of the Corporation shall be deemed to be consummated at the date title to the common stock passes to Norfolk Southern Corporation and the United States receives the cash purchase price.".

RAILROAD PURCHASERS AND OFFER FOR SALE OF SHARES TO EMPLOYEES

SEC. 105. Subsections (d) and (e) of section 401 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 761(d) and (e)) are repealed.

CANCELLATION OF DEBT AND PREFERRED STOCK

SEC. 106. Section 402 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 762) is amended to read as follows:

"DEBT AND PREFERRED STOCK

"SEC. 402. (a) RECAPITALIZATION.—In connection with the sale of the interest of the United States in the common stock of the Corporation under section 401 of this Act, and consistent with the Secretary's Plan, the Secretary may take all action necessary to cause the Corporation to be recapitalized such that the interest of the United States, or any agent or instrumentality thereof, and all other commitments or obligations of the Corporation to the United States or any agent or instrumentality thereof arising out of such interest, in any debt (including accrued interest and contingent interest thereon) and preferred stock (including accrued and unpaid dividends thereon) of the Corporation shall be cancelled or retired, and contributed to the capital of the Corporation. The Secretary shall cause the recapitalization authorized by this section to be effective as of the consummation of the sale of the interest of the United States in the common stock of the Corporation.

"(b) BREACH OF REPRESENTATIONS.—(1) Norfolk Southern Corporation or any successor corporation thereto may bring suit for any breach of representations contained in paragraph 6(e) of the Memorandum of Intent described in section 102(20)(A) of this Act (hereinafter referred to as the 'Representations') in the United States Claims Court or a district court of the United States. If such an action is brought, the Claims Court or district court shall determine the amount by which the United States income tax (including interest and penalties whether or not such penalties are assessed as a tax under the Internal Revenue Code of 1954) assessable against the Corporation or against Norfolk Southern Corporation for any year exceeds the amount of such tax which would have been assessable for such year had such Representations not been breached (hereinafter referred to as the 'Offset Amount').

"(2) The Representations shall be considered breached and Norfolk Southern Corporation shall be entitled to bring suit upon the first occurrence of any of the following that is inconsistent with the Representations: (A) the issuance by the Internal Revenue Service of a statutory notice of deficiency (90-day letter), (B) the assessment of the United States income tax, or (C) any claim by the United States in a suit or other judicial proceeding against Norfolk Southern Corporation or the Corporation.

"(3) The right to bring suit pursuant to this section shall not be subject to any waiting period applicable to tax proceedings or to any requirements for payment of any tax as a condition to instituting any suit based on a breach of the Representations.

"(4) Any judgment for money damages relating to breach of the Representations shall only be awarded as an offset in any court or administrative proceeding against the tax liability of Norfolk Southern Corporation or the Corporation, or both, to which such breach relates; except that if any such tax liability resulting from such breach has been paid, the judgment shall to that extent be an offset against any United States income tax liability of the Norfolk Southern Corporation or the Corporation, or both. If any portion of the tax resulting from a breach of the Representations has been paid, then the Offset Amount shall include interest on such payment from the date paid at the rate from time to time specified in the Internal Revenue Code of 1954 for interest payable on refund claims.

"(5) It shall not be a defense to an action brought under this section that Norfolk Southern Corporation knew, or should have known, of the falsity of the Representations or that there exists no carryover basis procedure as contemplated by the last sentence of the Representations.

"(6) For purposes of this section, tax liability of Norfolk Southern Corporation shall include the tax liability of Norfolk Southern Corporation and its affiliated

group, within the meaning of section 1504 of the Internal Revenue Code of 1954.".

APPLICABILITY OF CERTAIN LAWS TO SALE OF CONRAIL

SEC. 107. Section 408 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 768) is amended—

(1) by repealing subsection (b);

(2) by amending subsection (c) by striking "No transfer" and all that follows through "subject to" and inserting in lieu thereof "Except as provided in section 1152 of the Northeast Rail Service Act of 1981 (45 U.S.C. 1105), the Secretary's Plan and the Definitive Agreements and their negotiation, execution, and implementation shall not be subject to administrative or"; and

(3) by adding at the end of subsection (c) the following sentence: "The issuance in private placement of notes or other securities in accordance with exhibit B to the Memorandum of Intent (described in section 102(20)(A) of this Act) in the Secretary's Plan shall not be subject to the provisions of subtitle IV of title 49, United States Code.".

LABOR PROTECTION

SEC. 108. (a) Section 701(d)(2) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 797(d)(2)) is amended by striking "the last day of the eighteen-month period beginning on".

(b)(1) Title VII of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 797 et seq.) is amended by adding at the end thereof the following section:

"PROTECTION AFTER SALE

"SEC. 715. After consummation of the sale of the interest of the United States in the common stock of the Corporation pursuant to the Secretary's Plan, any employee of Norfolk Southern Corporation, the Corporation, any rail affiliate of either company, and any transferee of the rail tracks, rights, and facilities divested in accordance with the Secretary's Plan, who is adversely affected in his employment by the implementation of the Secretary's Plan shall receive from his employer protection under the labor protective conditions set forth in New York Dock Railway—Control—Brooklyn Eastern District Terminal (354 ICC 399 (1978), modified upon further consideration, 360 ICC 60 (1979)). The arbitration provisions of section 4 of New York Dock shall apply to the formation of any implementing agreements that may be necessary in connection with the implementation of the Secretary's Plan, including any resulting coordinations.".

(2) The table of contents of the Regional Rail Reorganization Act of 1973 is amended by inserting immediately after the item relating to section 714 the following item:

"Sec. 715. Protection after sale.".

PREFERENTIAL HIRING

SEC. 109. Section 703 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 797b) is amended—

(1) by redesignating subsection (b) as subsection (c); and

(2) by inserting immediately after subsection (a) the following subsection:

"(b) IMPLEMENTATION OF SECRETARY'S PLAN.—Any employee of any railroad who is deprived of employment as a result of the implementation of the Secretary's Plan shall have the first right of hire for a vacancy for which he is qualified on any Norfolk Southern Corporation rail subsidiary, except where such vacancy is covered by (1) an affirmative action plan, or a hiring plan designated to eliminate discrimination, that is required by Federal or State statute, regulation, or Executive order, or by the order of a Federal court or agency, or (2) a permissible voluntary affirmative action plan. For purposes of this subsection, a railroad shall not be considered to be hiring new employees when it recalls any of its own furloughed employees.".

CROSS CRAFT EMPLOYMENT

SEC. 110. (a) Title VII of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 797 et seq.) is amended by inserting immediately after section 703 the following section:

"CROSS CRAFT EMPLOYMENT

"SEC. 703A. Any employee of Norfolk and Western Railway Company, Southern Railway Company, or the Corporation who is deprived of employment as a result of the implementation of the Secretary's Plan shall have the first right of hire for any vacancy for which such employee is qualified at the entry level of any Norfolk Southern Corporation rail subsidiary, without regard to craft or class or the provisions of section 703 of this Act. Such employee shall retain his seniority rights to return to his original craft or class whenever a vacancy occurs. For purposes of this section, a railroad shall not be considered to be hiring new employees when it recalls any of its own furloughed employees.".

(b) The table of contents of the Regional Rail Reorganization Act of 1973 is amended by inserting immediately after the item relating to section 703 the following item:

"Sec. 703A. Cross craft employment.".

Subtitle B—Northeast Rail Service Act of 1981 Amendments

SPECIAL COURT JURISDICTION

SEC. 121. (a) Section 1152 of the Northeast Rail Service Act of 1981 (45 U.S.C. 1105) is amended—

(1) by inserting "or the Conrail Sale Amendments Act of 1985" immediately after "subtitle" wherever it appears;

(2) in subsection (a), by striking "or" at the end of paragraph (3), by striking the period at the end of paragraph (4) and inserting in lieu thereof a semicolon, and by adding at the end thereof the following paragraphs:

"(5) brought by the United States or any agency or instrumentality thereof seeking to enforce the Secretary's Plan or the Definitive Agreements;

"(6) brought by Norfolk Southern Corporation seeking to enforce the Secretary's Plan or the Definitive Agreements;

"(7) brought by a party who filed a complaint with the Secretary under subsection (e) of this section, and who is aggrieved by (A) a determination of the Secretary under paragraph (1) of such subsection that the party has not suffered direct economic injury, or (B) a decision of the Secretary under paragraph (2) of such subsection that a covenant has not been violated;

"(8) brought by a party which is a signatory to an ancillary agreement entered into in accordance with the Secretary's Plan or the Definitive Agreements and which is seeking to enforce such ancillary agreement; or

"(9) brought to determine the value of the interest of the employee stock ownership plan and related trusts, or of the beneficiaries thereof, in the preferred stock of the Conrail Equity Corporation.

For purposes of any action brought under paragraph (5) of this subsection, a violation of any covenant contained in the Secretary's Plan or the Definitive Agreements shall be deemed to constitute immediate and irreparable harm for purposes of awarding injunctive relief to the United States.".

(b) Section 1152 of the Northeast Rail Service Act of 1981 (45 U.S.C. 1105) is amended by adding at the end thereof the following subsection:

"(e)(1) Any party who suffers direct economic injury as a result of an alleged violation of a covenant contained in the Definitive Agreements may file a complaint with the Secretary seeking enforcement of such covenant. If the Secretary determines that the complainant has demonstrated to the Secretary that it has suffered direct economic injury, the Secretary shall investigate the complaint.

"(2) If the Secretary decides to investigate a complaint under paragraph (1) of this subsection, the Secretary shall give reasonable notice of such decision to investigate to the alleged violator of such covenant and the complainant, and shall make a final decision on such complaint within 60 days after the date on which it was filed.

"(3) If the Secretary finds that (A) the covenant in question has been violated, and (B) the complainant suffered direct economic injury as a result of such violation, the Secretary shall enter an order directing the violator of such covenant to comply with such covenant.

"(4) On appeal, any decision by the Secretary under this subsection shall be upheld, unless such decision is found to be arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law.".

APPLICABILITY OF OTHER LAWS

SEC. 122. Section 1168(a) of the Northeast Rail Service Act of 1981 (45 U.S.C. 1116(a)) is amended by striking "service transfers" and inserting in lieu thereof "sale of the interest of the United States in the common stock of Conrail or transfer of the rail properties and freight service responsibilities of Conrail".

Subtitle C—Employee Stock Ownership Plan

RESPONSIBILITY OF EMPLOYEE STOCK OWNERSHIP PLAN FIDUCIARIES

SEC. 131. (a) Section 216(f)(8)(A) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 726(f)(8)(A)) is amended—

(1) by striking "or" at the end of clause (ii);

(2) by striking the period at the end of clause (iii) and inserting in lieu thereof "; or"; and

(3) by adding at the end thereof the following clause:

"(iv) for or in connection with any action taken to implement the Secretary's Plan, including any sale, exchange, valuation, or disposition of the plan and related trust assets, or the assets of Conrail Equity Corporation, in connection with implementation of the Secretary's Plan and any determination of the terms on which any such sale, exchange, valuation, or disposition is effected.".

QUALIFICATION, REVIEW, AND VALUATION OF EMPLOYEE STOCK OWNERSHIP PLANS

SEC. 132. Section 216(f) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 726(f)) is amended by adding at the end thereof the following paragraphs:

"(11) The employee stock ownership plans of the Corporation and related trusts maintained, amended, or adopted in implementing the Secretary's Plan shall be deemed to meet the qualification requirements of sections 401 and 501, respectively, of the Inter-

nal Revenue Code of 1954, notwithstanding (A) that such plans may not meet the requirements of section 415 of the Internal Revenue Code of 1954, or (B) that participants in such plans may be entitled to withdraw a portion of the shares allocated to their accounts prior to the expiration of the period generally imposed by the Internal Revenue Service for qualified plans. Such qualification shall relate only to the contributions, allocations, and withdrawals of shares provided for in the Secretary's Plan with respect to the plans and related trusts maintained, amended, or adopted in implementing the Secretary's Plan. Such contributions and allocations shall in no event be treated as having exceeded the maximum annual addition permitted under section 415 of the Internal Revenue Code of 1954 (but not for purposes of applying section 404(j) of the Internal Revenue Code of 1954) for purposes of calculating any limitation under section 415 with respect to contributions and allocations not described in the Secretary's Plan, including contributions and allocations to plans and related trusts of the Corporation and any affiliated corporation. The continued qualification of such plans with respect to all other contributions, allocations, and withdrawals shall be subject to all provisions of existing law, as amended from time to time. No inference shall be drawn from this paragraph as to whether an amount is a contribution deductible under section 404 of the Internal Revenue Code of 1954 rather than a non-deductible capital expenditure.

"(12) Except as provided in section 1152 of the Northeast Rail Service Act of 1981 (45 U.S.C. 1105), the issuance and sale or contribution of securities by Norfolk Southern Corporation to fulfill arrangements with the Corporation's employees in implementing the Secretary's Plan and the distribution of shares from the Corporation's employee stock ownership plans and related trusts maintained, amended, or adopted in implementing the Secretary's Plan shall not be subject to the registration and prospectus delivery requirements of the Securities Act of 1933, any approval requirement under subtitle IV of title 49, United States Code, or the laws of any State with respect to the issuance and sale of securities.".

TITLE II—TECHNICAL AND CONFORMING AMENDMENTS

REGIONAL RAIL REORGANIZATION ACT OF 1973 AMENDMENTS AND REPEALS

SEC. 201. The following provisions of the Regional Rail Reorganization Act of 1973 are repealed or amended as specified:

(1) Subsections (a) and (b) of section 214 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 724(a) and (b)) are repealed, and such section 214 is amended by striking "(c) ASSOCIATION.—".

(2) Subsection (f) of section 217 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 727(f)) is repealed, without prejudice to the continued availability of funds appropriated prior to the date of enactment of this Act pursuant to section 217(f)(1)(C) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 727(f)(1)(C)).

(3) Section 404 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 764), and the item relating to such section in the table of contents of such Act, are repealed.

(4) Section 405 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 765), and the item relating to such section in the table of contents of such Act, are repealed.

(5) Section 406 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 766), and the item relating to such section in the table of contents of such Act, are repealed.

(6) Section 407 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 767), and the item relating to such section in the table of contents of such Act, are repealed.

(7) Subsections (a) and (d) of section 408 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 768 (a) and (d)) are repealed.

(8) Section 409 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 769), and the item relating to such section in the table of contents of such Act, are repealed.

(9) Section 410 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 769a), and the item relating to such section in the table of contents of such Act, are repealed.

(10) Section 411 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 769b), and the item relating to such section in the table of contents of such Act, are repealed.

(11) Section 412 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 769c), and the item relating to such section in the table of contents of such Act, are repealed.

(12) Section 713 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 797l), and the item relating to such section in the table of contents of such Act, are repealed.

AMENDMENTS AND REPEALS OF OTHER RAIL LAWS

SEC. 202. The following provisions of law are repealed or amended as specified:

(1) Section 1154 of the Northeast Rail Service Act of 1981 (45 U.S.C. 1107), and the item relating to such section in the table of contents of such Act, are repealed.

(2) Section 1161 of the Northeast Rail Service Act of 1981 (45 U.S.C. 1110), and the item relating to such section in the table of contents of such Act, are repealed.

(3) Section 1166 of the Northeast Rail Service Act of 1981 (45 U.S.C. 1114), and the item relating to such section in the table of contents of such Act, are repealed.

(4) Subsection (c) of section 1167 of the Northeast Rail Service Act of 1981 (45 U.S.C. 1115(c)) is repealed.

(5) Subsection (b) of section 1168 of the Northeast Rail Service Act of 1981 (45 U.S.C. 1116(b)) is repealed.

(6) Section 501(8) of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 821(8)) is amended—

(A) by striking "(A)";

(B) by striking "(i)" and inserting in lieu thereof "(A)", and by striking "(ii)" and inserting in lieu thereof "(B)"; and

(C) by striking all after "utilization;".

(7) Section 505 of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 825) is amended—

(A) in subsection (a)(1), by striking all after "railroad" through "1981)"; and

(B) in subsection (b)(2)(C), by striking all after "costs" the second time it appears through "subsidy".

(8) Subsection (b)(1) of section 509 of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 829(b)(1)) is repealed.

(9) Section 511(e) of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 831(e)) is amended by striking "(1)", and by striking all after "time" and inserting in lieu thereof a period.

(10) Section 402 of the Rail Safety and Service Improvement Act of 1982 (45 U.S.C. 825a) is repealed.

(11) Section 1005(b)(1) of the Rail Passenger Service Act (45 U.S.C. 655(b)(1)) is amended by striking "the Consolidated Rail Corporation,".

(12) Section 10362(b)(7)(A) of title 49, United States Code, is amended by striking "by the Consolidated Rail Corporation or".

(13) Section 332(d) of title 49, United States Code, is amended by striking ", the Consolidated Rail Corporation,".

TITLE III—MISCELLANEOUS PROVISIONS

COMMON CARRIER STATUS OF CONRAIL AFTER SALE

SEC. 301. (a) Conrail's status as a common carrier by railroad under section 10102(4) of title 49, United States Code, shall not be affected by virtue of sale of the interest of the United States in Conrail's common stock. Purchase of Conrail stock shall not alone be the basis of a determination that the acquiring entity has become a common carrier by railroad under section 10102(4) of title 49, United States Code.

(b) The Definitive Agreements shall contain a binding commitment by Norfolk Southern Corporation to continue to operate Conrail in full compliance with the provisions of section 10731(e) of title 49, United States Code.

CONSUMMATION OF SALE

SEC. 302. The sale of the interest of the United States in the common stock of Conrail shall be deemed to be consummated on the date title to the common stock passes to Norfolk Southern Corporation and the United States receives the cash purchase price.

CONTRACTS

SEC. 303. (a) Except as provided in subsection (b) of this section, nothing in this Act shall affect—

(1) Conrail's obligation to carry out its transportation contracts and equipment leases, equipment trusts, and conditional sale agreements, in accordance with their terms; and

(2) the obligation of any transferee of divested assets to carry out transportation contracts and equipment leases, equipment trusts, and conditional sale agreements to which such assets are subject, in accordance with their terms.

(b) If a divestiture carried out pursuant to the Secretary's Plan precludes Conrail from providing a transportation service for which it has contracted without a right of termination that may be exercised in the event of the sale of the interest of the United States in the common stock of Conrail and the divestiture will result in a change or modification in the movement of the traffic involved, the transferee of the divested rights and properties and Conrail shall provide the contracted-for service on terms and conditions which, to the maximum extent possible, conform to the terms and conditions in the contract.

CONGRESSIONAL OVERSIGHT OF COMPLIANCE

SEC. 304. The Secretary shall, no later than January 31 of each year, submit to the Committee on Commerce, Science, and Transportation of the Senate and to the Committee on Energy and Commerce of the House of Representatives a report setting forth each certificate which Norfolk Southern Corporation and Conrail provided to the Secretary, during the preceding year, certifying compliance with the covenants contained in the Definitive Agreements.

SEPARABILITY

SEC. 305. If any provision of this Act or the application thereof to any person or circumstances is held invalid, the remainder of this Act and the application of such provi-

sion to other persons or circumstances shall not be affected thereby.

EFFECTIVE DATE

SEC. 306. (a) Except as provided in subsection (b) of this section, the provisions of and amendments made by this Act shall take effect on the date of enactment of this Act.

(b) Sections 108(a), 201 and 202 of this Act shall take effect on the date of consummation of the sale of the interest of the United States in the common stock of Conrail.

(c) Any provision of this Act which, pursuant to Article I, Section 7 of the Constitution, provides for raising revenue shall only be effective upon the enactment into law of a bill which has originated in the House of Representatives enacting such provision.

AMENDMENT NO. 1504

In lieu of the language proposed to be inserted, insert the following:

That this Act may be cited as the "Conrail Sale Amendments Act of 1985".

FINDINGS

SEC. 2. The Congress finds that—

(1) the Northeast Rail Service Act of 1981 (45 U.S.C. 1101 et seq.) provided for an orderly return of Conrail freight service to the private sector;

(2) the provisions of the Northeast Rail Service Act of 1981 were successful in removing Conrail's obligations beyond railroad freight service and in otherwise preparing Conrail for an orderly return to the private sector;

(3) acting under section 403 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 763), the Board of Directors of the United States Railway Association twice found Conrail to be a profitable corporation;

(4) acting under section 401 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 761), the Secretary engaged an investment banker and arranged, through open competitive bidding and negotiation, to sell the interest of the United States in the common stock of Conrail;

(5) the Secretary's Plan for the sale of Conrail provides for sale of the interest of the United States in the common stock of Conrail to Norfolk Southern Corporation;

(6) the Secretary found that sale of the interest of the United States in the common stock of Conrail to Norfolk Southern Corporation best meets the sale criteria of (A) leaving Conrail in the strongest financial position after the sale, (B) preserving patterns of service to shippers and communities in the region Conrail serves, and (C) maximizing return to the Federal Government consistent with the criteria specified in clauses (A) and (B);

(7) amendments to the Regional Rail Reorganization Act of 1973 (45 U.S.C. 701 et seq.) and related laws are needed to permit the sale of the interest of the United States in the common stock of Conrail to Norfolk Southern Corporation and to permit cancellation of the interest of the United States in Conrail debt and preferred stock; and

(8) the Secretary's Plan satisfies the requirements of the Northeast Rail Service Act of 1981, including the intent, goals, and objectives relating to the sale of the interest of the United States in the common stock of Conrail and the requirements of section 401(e) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 761(e)).

PURPOSE

SEC. 3. It is therefore declared to be the purpose of the Congress in this Act to return Conrail to the private sector by directing and facilitating implementation of the Secretary's Plan for the sale of the interest of the United States in the common stock of Conrail.

DEFINITIONS

SEC. 4. (a) In this Act, unless the context otherwise requires, the term—

(1) "Conrail" means the Consolidated Rail Corporation;

(2) "Definitive Agreements" means any and all agreements existing or to be developed between the United States and Norfolk Southern Corporation, including all representations and warranties made therein, to implement the Memorandum of Intent described in paragraph (4)(A);

(3) "Secretary" means the Secretary of Transportation; and

(4) "Secretary's Plan" means (A) the Memorandum of Intent between the United States and Norfolk Southern Corporation signed February 8, 1985, but not including paragraph 9(d) of such Memorandum of Intent, and (B) the divestitures by the Norfolk Southern Corporation of certain rail tracks, rights, and facilities, and any transactions or agreements related or incidental to such divestitures, in connection with the implementation of attachment A to the letter from the Department of Justice attached to the Memorandum of Intent as exhibit E.

(b) Section 102 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 702) is amended—

(1) by redesignating paragraphs (6) through (18) as paragraphs (7) through (19), and paragraphs (19) through (21) as paragraphs (21) through (23), respectively;

(2) by inserting after paragraph (5) the following paragraph:

"(6) 'Definitive Agreements' means any and all agreements existing or to be developed between the United States and Norfolk Southern Corporation, including all representations and warranties made therein, to implement the Memorandum of Intent described in paragraph (20)(A);"; and

(3) by inserting after paragraph (19), as so redesignated, the following paragraph:

"(20) 'Secretary's Plan' means (A) the Memorandum of Intent between the United States and Norfolk Southern Corporation signed February 8, 1985, and (B) the divestitures by the Norfolk Southern Corporation of certain rail tracks, rights, and facilities, and any transactions or agreements related or incidental to such divestitures, in connection with the implementation of attachment A to the letter from the Department of Justice attached to the Memorandum of Intent as exhibit E;".

(c) Section 1135(a) of the Northeast Rail Service Act of 1981 (45 U.S.C. 1104(a)) is amended—

(1) by redesignating paragraphs (6), (7), and (8) as paragraphs (7), (8), and (10), respectively;

(2) by inserting after paragraph (5) the following paragraph:

"(6) 'Definitive Agreements' means any and all agreements existing or to be developed between the United States and Norfolk Southern Corporation, including all representations and warranties made therein, to implement the Memorandum of Intent described in paragraph (9)(A);"; and

(3) by inserting after paragraph (8), as so redesignated, the following paragraph:

"(9) 'Secretary's Plan' means (A) the Memorandum of Intent between the United States and Norfolk Southern Corporation signed February 8, 1985, and (B) the divestitures by the Norfolk Southern Corporation of certain rail tracks, rights, and facilities, and any transactions or agreements related or incidental to such divestitures, in connection with the implementation of attachment A to the letter from the Department of Justice attached to the Memorandum of Intent as exhibit E;".

TITLE I—AMENDMENTS TO THE REGIONAL RAIL REORGANIZATION ACT OF 1973 AND THE NORTHEAST RAIL SERVICE ACT OF 1981

Subtitle A—Regional Rail Reorganization Act of 1973 Amendments

LIMIT ON AUTHORITY TO PURCHASE STOCK

SEC. 101. Section 216(b) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 726(b)) is amended by adding at the end thereof the following paragraph:

"(5) The authority of the Association to purchase debentures or series A preferred stock of the Corporation under this section shall terminate upon the consummation of the sale of the interest of the United States in the common stock of the Corporation under the terms of the Secretary's Plan.".

RESPONSIBILITY OF CONRAIL DIRECTORS

SEC. 102. Section 301(i) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 741(i)) is amended by inserting immediately after "required by law" the following: ", taken to implement the Secretary's Plan,".

APPLICABILITY OF REGIONAL RAIL REORGANIZATION ACT OF 1973 TO CONRAIL AFTER SALE

SEC. 103. Section 301 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 741) is amended by adding at the end thereof the following subsection:

"(k) GOVERNING PROVISIONS AFTER SALE.—The provisions of this Act shall not apply to the Corporation and to activities and other actions and responsibilities of the Corporation and its directors after consummation of the sale of the interest of the United States in the common stock of the Corporation under the terms of the Conrail Sale Amendments Act of 1985, other than with regard to—

"(1) section 102 of this Act;

"(2) section 201(d) of this Act;

"(3) section 203 of this Act, but only with respect to information relating to proceedings before the special court established under section 209(b);

"(4) section 216(f)(8) of this Act, but only as such authority applies to activities related to the employee stock ownership plan and related trusts prior to or in connection with consummation of the sale of the interest of the United States in the common stock of the Corporation, including activities related to the sale, exchange, valuation, or disposition of the assets of the employee stock ownership plan and related trusts, or of Conrail Equity Corporation, in connection with the Secretary's Plan;

"(5) sections 216(f)(11) and 216(f)(12) of this Act, as amended by the Conrail Sale Amendments Act of 1985;

"(6) section 217(e) of this Act;

"(7) subsection (i) of this section, but only as such authority applies to service as a director of the Corporation prior to consummation or in connection with implementation of the sale of the interest of the United States in the common stock of the Corporation;

"(8) section 305 of this Act, but only as to the effect, and continuing administration, of supplemental transactions consummated prior to consummation of the sale of the in-

terest of the United States in the common stock of the Corporation;

"(9) section 308 of this Act, but only in abandonment actions when such authority has been relied on to file a notice or notices of insufficent revenues prior to consummation of the sale of the interest of the United States in the common stock of the Corporation;

"(10) section 401(a) of this Act, as amended by the Conrail Sale Amendments Act of 1985;

"(11) section 402 of this Act, as amended by the Conrail Sale Amendments Act of 1985;

"(12) section 408(c) of this Act, as amended by the Conrail Sale Amendments Act of 1985;

"(13) section 701 of this Act, but only as may be necessary to identify employees eligible for benefits under agreements entered into under such section;

"(14) section 702(e) of this Act;

"(15) section 704(b) of this Act;

"(16) section 709 of this Act;

"(17) section 710(b)(1) of this Act;

"(18) section 711 of this Act;

"(19) section 714 of this Act, but only with regard to disputes or controversies specified in such section that arose prior to consummation of the sale of the interest of the United States in the common stock of the Corporation; and

"(20) section 715 of this Act, as amended by the Conrail Sale Amendments Act of 1985.".

IMPLEMENTATION OF THE SECRETARY'S PLAN

SEC. 104. (a) Section 401(a)(3) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 761(a)(3)) is amended to read as follows:

"(3) The Secretary is authorized and directed to implement the Secretary's Plan, in accordance with paragraph (4) of this subsection. Such implementation of the Secretary's Plan and the coordinated operation of the Corporation's properties with those of Norfolk Southern Corporation and its affiliates as a single rail system is deemed approved by the Commission under chapter 113 of title 49, United States Code.".

(b) Section 401(a) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 761(a)) is amended by adding at the end thereof the following paragraphs:

"(4) The Secretary shall implement the Secretary's Plan by negotiating, executing, delivering, and performing the Definitive Agreements, which shall conform to the Memorandum of Intent described in section 102(20)(A) of this Act. The Secretary shall, 45 calendar days before the date on which the Secretary anticipates that the interest of the United States in the common stock of the Corporation will be sold to Norfolk Southern Corporation, transmit to the Committee on Commerce, Science, and Transportation of the Senate and to the Committee on Energy and Commerce of the House of Representatives a notification of any alteration from the Memorandum of Intent described in section 102(20)(A) of this Act which will be made in the Definitive Agreements. After the date of such sale, the Secretary shall transmit to such Committees notification of any intent to waive compliance with any substantive covenant, agreement or obligation contained in the Definitive Agreements, and the Secretary may not waive such compliance until a period of 45 calendar days has expired after the date of such transmittal.

"(5) The Secretary shall not transfer the interest of the United States in the common stock of the Corporation except concurrently with a divestiture by Norfolk Southern Corporation of rail assets and rights approved by the Attorney General.

"(6) The sale of the interest of the United States in the common stock of the Corporation shall be deemed to be consummated at the date title to the common stock passes to Norfolk Southern Corporation and the United States receives the cash purchase price.".

RAILROAD PURCHASERS AND OFFER FOR SALE OF SHARES TO EMPLOYEES

SEC. 105. Subsections (d) and (e) of section 401 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 761(d) and (e)) are repealed.

CANCELLATION OF DEBT AND PREFERRED STOCK

SEC. 106. Section 402 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 762) is amended to read as follows:

"DEBT AND PREFERRED STOCK

"SEC. 402. (a) RECAPITALIZATION.—In connection with the sale of the interest of the United States in the common stock of the Corporation under section 401 of this Act, and consistent with the Secretary's Plan, the Secretary may take all action necessary to cause the Corporation to be recapitalized such that the interest of the United States, or any agent or instrumentality thereof, and all other commitments or obligations of the Corporation to the United States or any agent or instrumentality thereof arising out of such interest, in any debt (including accrued interest and contingent interest thereon) and preferred stock (including accrued and unpaid dividends thereon) of the Corporation shall be cancelled or retired, and contributed to the capital of the Corporation. The Secretary shall cause the recapitalization authorized by this section to be effective as of the consummation of the sale of the interest of the United States in the common stock of the Corporation.

"(b) BREACH OF REPRESENTATIONS.—(1) Norfolk Southern Corporation or any successor corporation thereto may bring suit for any breach of representations contained in paragraph 6(e) of the Memorandum of Intent described in section 102(20)(A) of this Act (hereinafter referred to as the 'Representations') in the United States Claims Court or a district court of the United States. If such an action is brought, the Claims Court or district court shall determine the amount by which the United States income tax (including interest and penalties whether or not such penalties are assessed as a tax under the Internal Revenue Code of 1954) assessable against the Corporation or against Norfolk Southern Corporation for any year exceeds the amount of such tax which would have been assessable for such year had such Representations not been breached (hereinafter referred to as the 'Offset Amount').

"(2) The Representations shall be considered breached and Norfolk Southern Corporation shall be entitled to bring suit upon the first occurrence of any of the following that is inconsistent with the Representations: (A) the issuance by the Internal Revenue Service of a statutory notice of deficiency (90-day letter), (B) the assessment of the United States income tax, or (C) any claim by the United States in a suit or other judicial proceeding against Norfolk Southern Corporation or the Corporation.

"(3) The right to bring suit pursuant to this section shall not be subject to any waiting period applicable to tax proceedings or to any requirements for payment of any tax as a condition to instituting any suit based on a breach of the Representations.

"(4) Any judgment for money damages relating to breach of the Representations shall only be awarded as an offset in any court or administrative proceeding against the tax liability of Norfolk Southern Corporation or the Corporation, or both, to which such breach relates; except that if any such tax liability resulting from such breach has been paid, the judgment shall to that extent be an offset against any United States income tax liability of the Norfolk Southern Corporation or the Corporation, or both. If any portion of the tax resulting from a breach of the Representations has been paid, then the Offset Amount shall include interest on such payment from the date paid at the rate from time to time specified in the Internal Revenue Code of 1954 for interest payable on refund claims.

"(5) It shall not be a defense to an action brought under this section that Norfolk Southern Corporation knew, or should have known, of the falsity of the Representations or that there exists no carryover basis procedure as contemplated by the last sentence of the Representations.

"(6) For purposes of this section, tax liability of Norfolk Southern Corporation shall include the tax liability of Norfolk Southern Corporation and its affiliated group, within the meaning of section 1504 of the Internal Revenue Code of 1954.".

APPLICABILITY OF CERTAIN LAWS TO SALE OF CONRAIL

SEC. 107. Section 408 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 768) is amended—

(1) by repealing subsection (b);

(2) by amending subsection (c) by striking "No transfer" and all that follows through "subject to" and inserting in lieu thereof "Except as provided in section 1152 of the Northeast Rail Service Act of 1981 (45 U.S.C. 1105), the Secretary's Plan and the Definitive Agreements and their negotiation, execution, and implementation shall not be subject to administrative or"; and

(3) by adding at the end of subsection (c) the following sentence: "The issuance in private placement of notes or other securities in accordance with exhibit B to the Memorandum of Intent (described in section 102(20)(A) of this Act) in the Secretary's Plan shall not be subject to the provisions of subtitle IV of title 49, United States Code.".

LABOR PROTECTION

SEC. 108. (a) Section 701(d)(2) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 797(d)(2)) is amended by striking "the last day of the eighteen-month period beginning on".

(b)(1) Title VII of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 797 et seq.) is amended by adding at the end thereof the following section:

"PROTECTION AFTER SALE

"SEC. 715. After consummation of the sale of the interest of the United States in the common stock of the Corporation pursuant to the Secretary's Plan, any employee of Norfolk Southern Corporation, the Corporation, any rail affiliate of either company, and any transferee of the rail tracks, rights, and facilities divested in accordance with the Secretary's Plan, who is adversely affected in his employment by the implementation of the Secretary's Plan shall receive from his employer protection under the labor protective conditions set forth in New

York Dock Railway—Control—Brooklyn Eastern District Terminal (354 ICC 399 (1978), modified upon further consideration, 360 ICC 60 (1979)). The arbitration provisions of section 4 of New York Dock shall apply to the formation of any implementing agreements that may be necessary in connection with the implementation of the Secretary's Plan, including any resulting coordinations.".

(2) The table of contents of the Regional Rail Reorganization Act of 1973 is amended by inserting immediately after the item relating to section 714 the following item:

"Sec. 715. Protection after sale.".

PREFERENTIAL HIRING

SEC. 109. Section 703 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 797b) is amended—

(1) by redesignating subsection (b) as subsection (c); and

(2) by inserting immediately after subsection (a) the following subsection:

"(b) IMPLEMENTATION OF SECRETARY'S PLAN.—Any employee of any railroad who is deprived of employment as a result of the implementation of the Secretary's Plan shall have the first right of hire for a vacancy for which he is qualified on any Norfolk Southern Corporation rail subsidiary, except where such vacancy is covered by (1) an affirmative action plan, or a hiring plan designated to eliminate discrimination, that is required by Federal or State statute, regulation, or Executive order, or by the order of a Federal court or agency, or (2) a permissible voluntary affirmative action plan. For purposes of this subsection, a railroad shall not be considered to be hiring new employees when it recalls any of its own furloughed employees.".

CROSS CRAFT EMPLOYMENT

SEC. 110. (a) Title VII of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 797 et seq.) is amended by inserting immediately after section 703 the following section:

"CROSS CRAFT EMPLOYMENT

"SEC. 703A. Any employee of Norfolk and Western Railway Company, Southern Railway Company, or the Corporation who is deprived of employment as a result of the implementation of the Secretary's Plan shall have the first right of hire for any vacancy for which such employee is qualified at the entry level of any Norfolk Southern Corporation rail subsidiary, without regard to craft or class or the provisions of section 703 of this Act. Such employee shall retain his seniority rights to return to his original craft or class whenever a vacancy occurs. For purposes of this section, a railroad shall not be considered to be hiring new employees when it recalls any of its own furloughed employees.".

(b) The table of contents of the Regional Rail Reorganization Act of 1973 is amended by inserting immediately after the item relating to section 703 the following item:

"Sec. 703A. Cross craft employment.".

Subtitle B—Northeast Rail Service Act of 1981 Amendments

SPECIAL COURT JURISDICTION

SEC. 121. (a) Section 1152 of the Northeast Rail Service Act of 1981 (45 U.S.C. 1105) is amended—

(1) by inserting "or the Conrail Sale Amendments Act of 1985" immediately after "subtitle" wherever it appears;

(2) in subsection (a), by striking "or" at the end of paragraph (3), by striking the period at the end of paragraph (4) and inserting in lieu thereof a semicolon, and by adding at the end thereof the following paragraphs:

"(5) brought by the United States or any agency or instrumentality thereof seeking to enforce the Secretary's Plan or the Definitive Agreements;

"(6) brought by Norfolk Southern Corporation seeking to enforce the Secretary's Plan or the Definitive Agreements;

"(7) brought by a party who filed a complaint with the Secretary under subsection (e) of this section, and who is aggrieved by (A) a determination of the Secretary under paragraph (1) of such subsection that the party has not suffered direct economic injury, or (B) a decision of the Secretary under paragraph (2) of such subsection that a covenant has not been violated;

"(8) brought by a party which is a signatory to an ancillary agreement entered into in accordance with the Secretary's Plan or the Definitive Agreements and which is seeking to enforce such ancillary agreement; or

"(9) brought to determine the value of the interest of the employee stock ownership plan and related trusts, or of the beneficiaries thereof, in the preferred stock of the Conrail Equity Corporation.

For purposes of any action brought under paragraph (5) of this subsection, a violation of any covenant contained in the Secretary's Plan or the Definitive Agreements shall be deemed to constitute immediate and irreparable harm for purposes of awarding injunctive relief to the United States.".

(b) Section 1152 of the Northeast Rail Service Act of 1981 (45 U.S.C. 1105) is amended by adding at the end thereof the following subsection:

"(e)(1) Any party who suffers direct economic injury as a result of an alleged violation of a covenant contained in the Definitive Agreements may file a complaint with the Secretary seeking enforcement of such covenant. If the Secretary determines that the complainant has demonstrated to the Secretary that it has suffered direct economic injury, the Secretary shall investigate the complaint.

"(2) If the Secretary decides to investigate a complaint under paragraph (1) of this subsection, the Secretary shall give reasonable notice of such decision to investigate to the alleged violator of such covenant and the complainant, and shall make a final decision on such complaint within 60 days after the date on which it was filed.

"(3) If the Secretary finds that (A) the covenant in question has been violated, and (B) the complainant suffered direct economic injury as a result of such violation, the Secretary shall enter an order directing the violator of such covenant to comply with such covenant.

"(4) On appeal, any decision by the Secretary under this subsection shall be upheld, unless such decision is found to be arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law.".

APPLICABILITY OF OTHER LAWS

SEC. 122. Section 1168(a) of the Northeast Rail Service Act of 1981 (45 U.S.C. 1116(a)) is amended by striking "service transfers" and inserting in lieu thereof "sale of the interest of the United States in the common stock of Conrail or transfer of the rail properties and freight service responsibilities of Conrail".

Subtitle C—Employee Stock Ownership Plan

RESPONSIBILITY OF EMPLOYEE STOCK OWNERSHIP PLAN FIDUCIARIES

SEC. 131. (a) Section 216(f)(8)(A) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 726(f)(8)(A)) is amended—

(1) by striking "or" at the end of clause (ii);

(2) by striking the period at the end of clause (iii) and inserting in lieu thereof "; or"; and

(3) by adding at the end thereof the following clause:

"(iv) for or in connection with any action taken to implement the Secretary's Plan, including any sale, exchange, valuation, or disposition of the plan and related trust assets, or the assets of Conrail Equity Corporation, in connection with implementation of the Secretary's Plan and any determination of the terms on which any such sale, exchange, valuation, or disposition is effected.".

QUALIFICATION, REVIEW, AND VALUATION OF EMPLOYEE STOCK OWNERSHIP PLANS

SEC. 132. Section 216(f) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 726(f)) is amended by adding at the end thereof the following paragraphs:

"(11) The employee stock ownership plans of the Corporation and related trusts maintained, amended, or adopted in implementing the Secretary's Plan shall be deemed to meet the qualification requirements of sections 401 and 501, respectively, of the Internal Revenue Code of 1954, notwithstanding (A) that such plans may not meet the requirements of section 415 of the Internal Revenue Code of 1954, or (B) that participants in such plans may be entitled to withdraw a portion of the shares allocated to their accounts prior to the expiration of the period generally imposed by the Internal Revenue Service for qualified plans. Such qualification shall relate only to the contributions, allocations, and withdrawals of shares provided for in the Secretary's Plan with respect to the plans and related trusts maintained, amended, or adopted in implementing the Secretary's Plan. Such contributions and allocations shall in no event be treated as having exceeded the maximum annual addition permitted under section 415 of the Internal Revenue Code of 1954 (but not for purposes of applying section 404(j) of the Internal Revenue Code of 1954) for purposes of calculating any limitation under section 415 with respect to contributions and allocations not described in the Secretary's Plan, including contributions and allocations to plans and related trusts of the Corporation and any affiliated corporation. The continued qualification of such plans with respect to all other contributions, allocations, and withdrawals shall be subject to all provisions of existing law, as amended from time to time. No inference shall be drawn from this paragraph as to whether an amount is a contribution deductible under section 404 of the Internal Revenue Code of 1954 rather than a non-deductible capital expenditure.

"(12) Except as provided in section 1152 of the Northeast Rail Service Act of 1981 (45 U.S.C. 1105), the issuance and sale or contribution of securities by Norfolk Southern Corporation to fulfill arrangements with the Corporation's employees in implementing the Secretary's Plan and the distribution of shares from the Corporation's employee stock ownership plans and related trusts maintained, amended, or adopted in

implementing the Secretary's Plan shall not be subject to the registration and prospectus delivery requirements of the Securities Act of 1933, any approval requirement under subtitle IV of title 49, United States Code, or the laws of any State with respect to the issuance and sale of securities.".

TITLE II—TECHNICAL AND CONFORMING AMENDMENTS

REGIONAL RAIL REORGANIZATION ACT OF 1973 AMENDMENTS AND REPEALS

SEC. 201. The following provisions of the Regional Rail Reorganization Act of 1973 are repealed or amended as specified:

(1) Subsections (a) and (b) of section 214 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 724(a) and (b)) are repealed, and such section 214 is amended by striking "(c) ASSOCIATION.—".

(2) Subsection (f) of section 217 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 727(f)) is repealed, without prejudice to the continued availability of funds appropriated prior to the date of enactment of this Act pursuant to section 217(f)(1)(C) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 727(f)(1)(C)).

(3) Section 404 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 764), and the item relating to such section in the table of contents of such Act, are repealed.

(4) Section 405 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 765), and the item relating to such section in the table of contents of such Act, are repealed.

(5) Section 406 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 766), and the item relating to such section in the table of contents of such Act, are repealed.

(6) Section 407 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 767), and the item relating to such section in the table of contents of such Act, are repealed.

(7) Subsections (a) and (d) of section 408 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 768 (a) and (d)) are repealed.

(8) Section 409 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 769), and the item relating to such section in the table of contents of such Act, are repealed.

(9) Section 410 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 769a), and the item relating to such section in the table of contents of such Act, are repealed.

(10) Section 411 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 769b), and the item relating to such section in the table of contents of such Act, are repealed.

(11) Section 412 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 769c), and the item relating to such section in the table of contents of such Act, are repealed.

(12) Section 713 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 797l), and the item relating to such section in the table of contents of such Act, are repealed.

AMENDMENTS AND REPEALS OF OTHER RAIL LAWS

SEC. 202. The following provisions of law are repealed or amended as specified:

(1) Section 1154 of the Northeast Rail Service Act of 1981 (45 U.S.C. 1107), and the item relating to such section in the table of contents of such Act, are repealed.

(2) Section 1161 of the Northeast Rail Service Act of 1981 (45 U.S.C. 1110), and the item relating to such section in the table of contents of such Act, are repealed.

(3) Section 1166 of the Northeast Rail Service Act of 1981 (45 U.S.C. 1114), and the item relating to such section in the table of contents of such Act, are repealed.

(4) Subsection (c) of section 1167 of the Northeast Rail Service Act of 1981 (45 U.S.C. 1115(c)) is repealed.

(5) Subsection (b) of section 1168 of the Northeast Rail Service Act of 1981 (45 U.S.C. 1116(b)) is repealed.

(6) Section 501(8) of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 821(8)) is amended—

(A) by striking "(A)";

(B) by striking "(i)" and inserting in lieu thereof "(A)", and by striking "(ii)" and inserting in lieu thereof "(B)"; and

(C) by striking all after "utilization;".

(7) Section 505 of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 825) is amended—

(A) in subsection (a)(1), by striking all after "railroad" through "1981)"; and

(B) in subsection (b)(2)(C), by striking all after "costs" the second time it appears through "subsidy".

(8) Subsection (b)(1) of section 509 of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 829(b)(1)) is repealed.

(9) Section 511(e) of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 831(e)) is amended by striking "(1)", and by striking all after "time" and inserting in lieu thereof a period.

(10) Section 402 of the Rail Safety and Service Improvement Act of 1982 (45 U.S.C. 825a) is repealed.

(11) Section 1005(b)(1) of the Rail Passenger Service Act (45 U.S.C. 655(b)(1)) is amended by striking "the Consolidated Rail Corporation,".

(12) Section 10362(b)(7)(A) of title 49, United States Code, is amended by striking "by the Consolidated Rail Corporation or".

(13) Section 332(d) of title 49, United States Code, is amended by striking ", the Consolidated Rail Corporation,".

TITLE III—MISCELLANEOUS PROVISIONS

COMMON CARRIER STATUS OF CONRAIL AFTER SALE

SEC. 301. (a) Conrail's status as a common carrier by railroad under section 10102(4) of title 49, United States Code, shall not be affected by virtue of sale of the interest of the United States in Conrail's common stock. Purchase of Conrail stock shall not alone be the basis of a determination that the acquiring entity has become a common carrier by railroad under section 10102(4) of title 49, United States Code.

(b) The Definitive Agreements shall contain a binding commitment by Norfolk Southern Corporation to continue to operate Conrail in full compliance with the provisions of section 10731(e) of title 49, United States Code.

CONSUMMATION OF SALE

SEC. 302. The sale of the interest of the United States in the common stock of Conrail shall be deemed to be consummated on the date title to the common stock passes to Norfolk Southern Corporation and the United States receives the cash purchase price.

CONTRACTS

SEC. 303. (a) Except as provided in subsection (b) of this section, nothing in this Act shall affect—

(1) Conrail's obligation to carry out its transportation contracts and equipment leases, equipment trusts, and conditional sale agreements, in accordance with their terms; and

(2) the obligation of any transferee of divested assets to carry out transportation contracts and equipment leases, equipment trusts, and conditional sale agreements to which such assets are subject, in accordance with their terms.

(b) If a divestiture carried out pursuant to the Secretary's Plan precludes Conrail from providing a transportation service for which it has contracted without a right of termination that may be exercised in the event of the sale of the interest of the United States in the common stock of Conrail and the divestiture will result in a change or modification in the movement of the traffic involved, the transferee of the divested rights and properties and Conrail shall provide the contracted-for service on terms and conditions which, to the maximum extent possible, conform to the terms and conditions in the contract.

CONGRESSIONAL OVERSIGHT OF COMPLIANCE

SEC. 304. The Secretary shall, no later than January 31 of each year, submit to the Committee on Commerce, Science, and Transportation of the Senate and to the Committee on Energy and Commerce of the House of Representatives a report setting forth each certificate which Norfolk Southern Corporation and Conrail provided to the Secretary, during the preceding year, certifying compliance with the covenants contained in the Definitive Agreements.

SEPARABILITY

SEC. 305. If any provision of this Act or the application thereof to any person or circumstances is held invalid, the remainder of this Act and the application of such provision to other persons or circumstances shall not be affected thereby.

EFFECTIVE DATE

SEC. 306. (a) Except as provided in subsection (b) of this section, the provisions of and amendments made by this Act shall take effect on the date of enactment of this Act.

(b) Sections 108(a), 201 and 202 of this Act shall take effect on the date of consummation of the sale of the interest of the United States in the common stock of Conrail.

(c) Any provision of this Act which, pursuant to Article I, Section 7 of the Constitution, provides for raising revenue shall only be effective upon the enactment into law of a bill which has originated in the House of Representatives enacting such provision.

AMENDMENT NO. 1505

In lieu of the language proposed to be inserted, insert the following:

That this Act may be cited as the "Conrail Sale Amendments Act of 1985".

FINDINGS

SEC. 2. The Congress finds that—

(1) the Northeast Rail Service Act of 1981 (45 U.S.C. 1101 et seq.) provided for an orderly return of Conrail freight service to the private sector;

(2) the provisions of the Northeast Rail Service Act of 1981 were successful in removing Conrail's obligations beyond railroad freight service and in otherwise preparing Conrail for an orderly return to the private sector;

(3) acting under section 403 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 763), the Board of Directors of the United States Railway Association twice found Conrail to be a profitable corporation;

(4) acting under section 401 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 761), the Secretary engaged an investment banker and arranged, through

open competitive bidding and negotiation, to sell the interest of the United States in the common stock of Conrail;

(5) the Secretary's Plan for the sale of Conrail provides for sale of the interest of the United States in the common stock of Conrail to Norfolk Southern Corporation;

(6) the Secretary found that sale of the interest of the United States in the common stock of Conrail to Norfolk Southern Corporation best meets the sale criteria of (A) leaving Conrail in the strongest financial position after the sale, (B) preserving patterns of service to shippers and communities in the region Conrail serves, and (C) maximizing return to the Federal Government consistent with the criteria specified in clauses (A) and (B);

(7) amendments to the Regional Rail Reorganization Act of 1973 (45 U.S.C. 701 et seq.) and related laws are needed to permit the sale of the interest of the United States in the common stock of Conrail to Norfolk Southern Corporation and to permit cancellation of the interest of the United States in Conrail debt and preferred stock; and

(8) the Secretary's Plan satisfies the requirements of the Northeast Rail Service Act of 1981, including the intent, goals, and objectives relating to the sale of the interest of the United States in the common stock of Conrail and the requirements of section 401(e) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 761(e)).

PURPOSE

SEC. 3. It is therefore declared to be the purpose of the Congress in this Act to return Conrail to the private sector by directing and facilitating implementation of the Secretary's Plan for the sale of the interest of the United States in the common stock of Conrail.

DEFINITIONS

SEC. 4. (a) In this Act, unless the context otherwise requires, the term—

(1) "Conrail" means the Consolidated Rail Corporation;

(2) "Definitive Agreements" means any and all agreements existing or to be developed between the United States and Norfolk Southern Corporation, including all representations and warranties made therein, to implement the Memorandum of Intent described in paragraph (4)(A);

(3) "Secretary" means the Secretary of Transportation; and

(4) "Secretary's Plan" means (A) the Memorandum of Intent between the United States and Norfolk Southern Corporation signed February 8, 1985, and (B) the divestitures by the Norfolk Southern Corporation of certain rail tracks, rights, and facilities, and any transactions or agreements related or incidental to such divestitures, in connection with the implementation of attachment A to the letter from the Department of Justice attached to the Memorandum of Intent as exhibit E.

(b) Section 102 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 702) is amended—

(1) by redesignating paragraphs (6) through (18) as paragraphs (7) through (19), and paragraphs (19) through (21) as paragraphs (21) through (23), respectively;

(2) by inserting after paragraph (5) the following paragraph:

"(6) 'Definitive Agreements' means any and all agreements existing or to be developed between the United States and Norfolk Southern Corporation, including all representations and warranties made therein, to implement the Memorandum of Intent described in paragraph (20)(A);"; and

(3) by inserting after paragraph (19), as so redesignated, the following paragraph:

"(20) 'Secretary's Plan' means (A) the Memorandum of Intent between the United States and Norfolk Southern Corporation signed February 8, 1985, but not including paragraph 9(d)(ix) of such Memorandum of Intent, and (B) the divestitures by the Norfolk Southern Corporation of certain rail tracks, rights, and facilities, and any transactions or agreements related or incidental to such divestitures, in connection with the implementation of attachment A to the letter from the Department of Justice attached to the Memorandum of Intent as exhibit E;".

(c) Section 1135(a) of the Northeast Rail Service Act of 1981 (45 U.S.C. 1104(a)) is amended—

(1) by redesignating paragraphs (6), (7), and (8) as paragraphs (7), (8), and (10), respectively;

(2) by inserting after paragraph (5) the following paragraph:

"(6) 'Definitive Agreements' means any and all agreements existing or to be developed between the United States and Norfolk Southern Corporation, including all representations and warranties made therein, to implement the Memorandum of Intent described in paragraph (9)(A);"; and

(3) by inserting after paragraph (8), as so redesignated, the following paragraph:

"(9) 'Secretary's Plan' means (A) the Memorandum of Intent between the United States and Norfolk Southern Corporation signed February 8, 1985, and (B) the divestitures by the Norfolk Southern Corporation of certain rail tracks, rights, and facilities, and any transactions or agreements related or incidental to such divestitures, in connection with the implementation of attachment A to the letter from the Department of Justice attached to the Memorandum of Intent as exhibit E;".

TITLE I—AMENDMENTS TO THE REGIONAL RAIL REORGANIZATION ACT OF 1973 AND THE NORTHEAST RAIL SERVICE ACT OF 1981

Subtitle A—Regional Rail Reorganization Act of 1973 Amendments

LIMIT ON AUTHORITY TO PURCHASE STOCK

SEC. 101. Section 216(b) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 726(b)) is amended by adding at the end thereof the following paragraph:

"(5) The authority of the Association to purchase debentures or series A preferred stock of the Corporation under this section shall terminate upon the consummation of the sale of the interest of the United States in the common stock of the Corporation under the terms of the Secretary's Plan.".

RESPONSIBILITY OF CONRAIL DIRECTORS

SEC. 102. Section 301(i) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 741(i)) is amended by inserting immediately after "required by law" the following: ", taken to implement the Secretary's Plan,".

APPLICABILITY OF REGIONAL RAIL REORGANIZATION ACT OF 1973 TO CONRAIL AFTER SALE

SEC. 103. Section 301 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 741) is amended by adding at the end thereof the following subsection:

"(k) GOVERNING PROVISIONS AFTER SALE.—The provisions of this Act shall not apply to the Corporation and to activities and other actions and responsibilities of the Corporation and its directors after consummation of the sale of the interest of the United States in the common stock of the Corporation under the terms of the Conrail Sale Amendments Act of 1985, other than with regard to—

"(1) section 102 of this Act;

"(2) section 201(d) of this Act;

"(3) section 203 of this Act, but only with respect to information relating to proceedings before the special court established under section 209(b);

"(4) section 216(f)(8) of this Act, but only as such authority applies to activities related to the employee stock ownership plan and related trusts prior to or in connection with consummation of the sale of the interest of the United States in the common stock of the Corporation, including activities related to the sale, exchange, valuation, or disposition of the assets of the employee stock ownership plan and related trusts, or of Conrail Equity Corporation, in connection with the Secretary's Plan;

"(5) sections 216(f)(11) and 216(f)(12) of this Act, as amended by the Conrail Sale Amendments Act of 1985;

"(6) section 217(e) of this Act;

"(7) subsection (i) of this section, but only as such authority applies to service as a director of the Corporation prior to consummation or in connection with implementation of the sale of the interest of the United States in the common stock of the Corporation;

"(8) section 305 of this Act, but only as to the effect, and continuing administration, of supplemental transactions consummated prior to consummation of the sale of the interest of the United States in the common stock of the Corporation;

"(9) section 308 of this Act, but only in abandonment actions when such authority has been relied on to file a notice or notices of insufficent revenues prior to consummation of the sale of the interest of the United States in the common stock of the Corporation;

"(10) section 401(a) of this Act, as amended by the Conrail Sale Amendments Act of 1985;

"(11) section 402 of this Act, as amended by the Conrail Sale Amendments Act of 1985;

"(12) section 408(c) of this Act, as amended by the Conrail Sale Amendments Act of 1985;

"(13) section 701 of this Act, but only as may be necessary to identify employees eligible for benefits under agreements entered into under such section;

"(14) section 702(e) of this Act;

"(15) section 704(b) of this Act;

"(16) section 709 of this Act;

"(17) section 710(b)(1) of this Act;

"(18) section 711 of this Act;

"(19) section 714 of this Act, but only with regard to disputes or controversies specified in such section that arose prior to consummation of the sale of the interest of the United States in the common stock of the Corporation; and

"(20) section 715 of this Act, as amended by the Conrail Sale Amendments Act of 1985.".

IMPLEMENTATION OF THE SECRETARY'S PLAN

SEC. 104. (a) Section 401(a)(3) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 761(a)(3)) is amended to read as follows:

"(3) The Secretary is authorized and directed to implement the Secretary's Plan, in accordance with paragraph (4) of this subsection. Such implementation of the Secretary's Plan and the coordinated operation of the Corporation's properties with those of

Norfolk Southern Corporation and its affiliates as a single rail system is deemed approved by the Commission under chapter 113 of title 49, United States Code.".

(b) Section 401(a) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 761(a)) is amended by adding at the end thereof the following paragraphs:

"(4) The Secretary shall implement the Secretary's Plan by negotiating, executing, delivering, and performing the Definitive Agreements, which shall conform to the Memorandum of Intent described in section 102(20)(A) of this Act. The Secretary shall, 45 calendar days before the date on which the Secretary anticipates that the interest of the United States in the common stock of the Corporation will be sold to Norfolk Southern Corporation, transmit to the Committee on Commerce, Science, and Transportation of the Senate and to the Committee on Energy and Commerce of the House of Representatives a notification of any alteration from the Memorandum of Intent described in section 102(20)(A) of this Act which will be made in the Definitive Agreements. After the date of such sale, the Secretary shall transmit to such Committees notification of any intent to waive compliance with any substantive covenant, agreement or obligation contained in the Definitive Agreements, and the Secretary may not waive such compliance until a period of 45 calendar days has expired after the date of such transmittal.

"(5) The Secretary shall not transfer the interest of the United States in the common stock of the Corporation except concurrently with a divestiture by Norfolk Southern Corporation of rail assets and rights approved by the Attorney General.

"(6) The sale of the interest of the United States in the common stock of the Corporation shall be deemed to be consummated at the date title to the common stock passes to Norfolk Southern Corporation and the United States receives the cash purchase price.".

RAILROAD PURCHASERS AND OFFER FOR SALE OF SHARES TO EMPLOYEES

SEC. 105. Subsections (d) and (e) of section 401 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 761(d) and (e)) are repealed.

CANCELLATION OF DEBT AND PREFERRED STOCK

SEC. 106. Section 402 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 762) is amended to read as follows:

"DEBT AND PREFERRED STOCK

"SEC. 402. (a) RECAPITALIZATION.—In connection with the sale of the interest of the United States in the common stock of the Corporation under section 401 of this Act, and consistent with the Secretary's Plan, the Secretary may take all action necessary to cause the Corporation to be recapitalized such that the interest of the United States, or any agent or instrumentality thereof, and all other commitments or obligations of the Corporation to the United States or any agent or instrumentality thereof arising out of such interest, in any debt (including accrued interest and contingent interest thereon) and preferred stock (including accrued and unpaid dividends thereon) of the Corporation shall be cancelled or retired, and contributed to the capital of the Corporation. The Secretary shall cause the recapitalization authorized by this section to be effective as of the consummation of the sale of the interest of the United States in the common stock of the Corporation.

"(b) BREACH OF REPRESENTATIONS.—(1) Norfolk Southern Corporation or any successor corporation thereto may bring suit for any breach of representations contained in paragraph 6(e) of the Memorandum of Intent described in section 102(20)(A) of this Act (hereinafter referred to as the 'Representations') in the United States Claims Court or a district court of the United States. If such an action is brought, the Claims Court or district court shall determine the amount by which the United States income tax (including interest and penalties whether or not such penalties are assessed as a tax under the Internal Revenue Code of 1954) assessable against the Corporation or against Norfolk Southern Corporation for any year exceeds the amount of such tax which would have been assessable for such year had such Representations not been breached (hereinafter referred to as the 'Offset Amount').

"(2) The Representations shall be considered breached and Norfolk Southern Corporation shall be entitled to bring suit upon the first occurrence of any of the following that is inconsistent with the Representations: (A) the issuance by the Internal Revenue Service of a statutory notice of deficiency (90-day letter), (B) the assessment of the United States income tax, or (C) any claim by the United States in a suit or other judicial proceeding against Norfolk Southern Corporation or the Corporation.

"(3) The right to bring suit pursuant to this section shall not be subject to any waiting period applicable to tax proceedings or to any requirements for payment of any tax as a condition to instituting any suit based on a breach of the Representations.

"(4) Any judgment for money damages relating to breach of the Representations shall only be awarded as an offset in any court or administrative proceeding against the tax liability of Norfolk Southern Corporation or the Corporation, or both, to which such breach relates; except that if any such tax liability resulting from such breach has been paid, the judgment shall to that extent be an offset against any United States income tax liability of the Norfolk Southern Corporation or the Corporation, or both. If any portion of the tax resulting from a breach of the Representations has been paid, then the Offset Amount shall include interest on such payment from the date paid at the rate from time to time specified in the Internal Revenue Code of 1954 for interest payable on refund claims.

"(5) It shall not be a defense to an action brought under this section that Norfolk Southern Corporation knew, or should have known, of the falsity of the Representations or that there exists no carryover basis procedure as contemplated by the last sentence of the Representations.

"(6) For purposes of this section, tax liability of Norfolk Southern Corporation shall include the tax liability of Norfolk Southern Corporation and its affiliated group, within the meaning of section 1504 of the Internal Revenue Code of 1954.".

APPLICABILITY OF CERTAIN LAWS TO SALE OF CONRAIL

SEC. 107. Section 408 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 768) is amended—

(1) by repealing subsection (b);

(2) by amending subsection (c) by striking "No transfer" and all that follows through "subject to" and inserting in lieu thereof "Except as provided in section 1152 of the Northeast Rail Service Act of 1981 (45 U.S.C. 1105), the Secretary's Plan and the Definitive Agreements and their negotiation, execution, and implementation shall not be subject to administrative or"; and

(3) by adding at the end of subsection (c) the following sentence: "The issuance in private placement of notes or other securities in accordance with exhibit B to the Memorandum of Intent (described in section 102(20)(A) of this Act) in the Secretary's Plan shall not be subject to the provisions of subtitle IV of title 49, United States Code.".

LABOR PROTECTION

SEC. 108. (a) Section 701(d)(2) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 797(d)(2)) is amended by striking "the last day of the eighteen-month period beginning on".

(b)(1) Title VII of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 797 et seq.) is amended by adding at the end thereof the following section:

"PROTECTION AFTER SALE

"SEC. 715. After consummation of the sale of the interest of the United States in the common stock of the Corporation pursuant to the Secretary's Plan, any employee of Norfolk Southern Corporation, the Corporation, any rail affiliate of either company, and any transferee of the rail tracks, rights, and facilities divested in accordance with the Secretary's Plan, who is adversely affected in his employment by the implementation of the Secretary's Plan shall receive from his employer protection under the labor protective conditions set forth in New York Dock Railway—Control—Brooklyn Eastern District Terminal (354 ICC 399 (1978), modified upon further consideration, 360 ICC 60 (1979)). The arbitration provisions of section 4 of New York Dock shall apply to the formation of any implementing agreements that may be necessary in connection with the implementation of the Secretary's Plan, including any resulting coordinations.".

(2) The table of contents of the Regional Rail Reorganization Act of 1973 is amended by inserting immediately after the item relating to section 714 the following item:

"Sec. 715. Protection after sale.".

PREFERENTIAL HIRING

SEC. 109. Section 703 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 797b) is amended—

(1) by redesignating subsection (b) as subsection (c); and

(2) by inserting immediately after subsection (a) the following subsection:

"(b) IMPLEMENTATION OF SECRETARY'S PLAN.—Any employee of any railroad who is deprived of employment as a result of the implementation of the Secretary's Plan shall have the first right of hire for a vacancy for which he is qualified on any Norfolk Southern Corporation rail subsidiary, except where such vacancy is covered by (1) an affirmative action plan, or a hiring plan designated to eliminate discrimination, that is required by Federal or State statute, regulation, or Executive order, or by the order of a Federal court or agency, or (2) a permissible voluntary affirmative action plan. For purposes of this subsection, a railroad shall not be considered to be hiring new employees when it recalls any of its own furloughed employees.".

CROSS CRAFT EMPLOYMENT

SEC. 110. (a) Title VII of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 797 et

seq.) is amended by inserting immediately after section 703 the following section:

"CROSS CRAFT EMPLOYMENT

"SEC. 703A. Any employee of Norfolk and Western Railway Company, Southern Railway Company, or the Corporation who is deprived of employment as a result of the implementation of the Secretary's Plan shall have the first right of hire for any vacancy for which such employee is qualified at the entry level of any Norfolk Southern Corporation rail subsidiary, without regard to craft or class or the provisions of section 703 of this Act. Such employee shall retain his seniority rights to return to his original craft or class whenever a vacancy occurs. For purposes of this section, a railroad shall not be considered to be hiring new employees when it recalls any of its own furloughed employees.".

(b) The table of contents of the Regional Rail Reorganization Act of 1973 is amended by inserting immediately after the item relating to section 703 the following item:

"Sec. 703A. Cross craft employment.".

Subtitle B—Northeast Rail Service Act of 1981 Amendments

SPECIAL COURT JURISDICTION

SEC. 121. (a) Section 1152 of the Northeast Rail Service Act of 1981 (45 U.S.C. 1105) is amended—

(1) by inserting "or the Conrail Sale Amendments Act of 1985" immediately after "subtitle" wherever it appears;

(2) in subsection (a), by striking "or" at the end of paragraph (3), by striking the period at the end of paragraph (4) and inserting in lieu thereof a semicolon, and by adding at the end thereof the following paragraphs:

"(5) brought by the United States or any agency or instrumentality thereof seeking to enforce the Secretary's Plan or the Definitive Agreements;

"(6) brought by Norfolk Southern Corporation seeking to enforce the Secretary's Plan or the Definitive Agreements;

"(7) brought by a party who filed a complaint with the Secretary under subsection (e) of this section, and who is aggrieved by (A) a determination of the Secretary under paragraph (1) of such subsection that the party has not suffered direct economic injury, or (B) a decision of the Secretary under paragraph (2) of such subsection that a covenant has not been violated;

"(8) brought by a party which is a signatory to an ancillary agreement entered into in accordance with the Secretary's Plan or the Definitive Agreements and which is seeking to enforce such ancillary agreement; or

"(9) brought to determine the value of the interest of the employee stock ownership plan and related trusts, or of the beneficiaries thereof, in the preferred stock of the Conrail Equity Corporation.

For purposes of any action brought under paragraph (5) of this subsection, a violation of any covenant contained in the Secretary's Plan or the Definitive Agreements shall be deemed to constitute immediate and irreparable harm for purposes of awarding injunctive relief to the United States.".

(b) Section 1152 of the Northeast Rail Service Act of 1981 (45 U.S.C. 1105) is amended by adding at the end thereof the following subsection:

"(e)(1) Any party who suffers direct economic injury as a result of an alleged violation of a covenant contained in the Definitive Agreements may file a complaint with the Secretary seeking enforcement of such covenant. If the Secretary determines that the complainant has demonstrated to the Secretary that it has suffered direct economic injury, the Secretary shall investigate the complaint.

"(2) If the Secretary decides to investigate a complaint under paragraph (1) of this subsection, the Secretary shall give reasonable notice of such decision to investigate to the alleged violator of such covenant and the complainant, and shall make a final decision on such complaint within 60 days after the date on which it was filed.

"(3) If the Secretary finds that (A) the covenant in question has been violated, and (B) the complainant suffered direct economic injury as a result of such violation, the Secretary shall enter an order directing the violator of such covenant to comply with such covenant.

"(4) On appeal, any decision by the Secretary under this subsection shall be upheld, unless such decision is found to be arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law.".

APPLICABILITY OF OTHER LAWS

SEC. 122. Section 1168(a) of the Northeast Rail Service Act of 1981 (45 U.S.C. 1116(a)) is amended by striking "service transfers" and inserting in lieu thereof "sale of the interest of the United States in the common stock of Conrail or transfer of the rail properties and freight service responsibilities of Conrail".

Subtitle C—Employee Stock Ownership Plan

RESPONSIBILITY OF EMPLOYEE STOCK OWNERSHIP PLAN FIDUCIARIES

SEC. 131. (a) Section 216(f)(8)(A) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 726(f)(8)(A)) is amended—

(1) by striking "or" at the end of clause (ii);

(2) by striking the period at the end of clause (iii) and inserting in lieu thereof "; or"; and

(3) by adding at the end thereof the following clause:

"(iv) for or in connection with any action taken to implement the Secretary's Plan, including any sale, exchange, valuation, or disposition of the plan and related trust assets, or the assets of Conrail Equity Corporation, in connection with implementation of the Secretary's Plan and any determination of the terms on which any such sale, exchange, valuation, or disposition is effected.".

QUALIFICATION, REVIEW, AND VALUATION OF EMPLOYEE STOCK OWNERSHIP PLANS

SEC. 132. Section 216(f) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 726(f)) is amended by adding at the end thereof the following paragraphs:

"(11) The employee stock ownership plans of the Corporation and related trusts maintained, amended, or adopted in implementing the Secretary's Plan shall be deemed to meet the qualification requirements of sections 401 and 501, respectively, of the Internal Revenue Code of 1954, notwithstanding (A) that such plans may not meet the requirements of section 415 of the Internal Revenue Code of 1954, or (B) that participants in such plans may be entitled to withdraw a portion of the shares allocated to their accounts prior to the expiration of the period generally imposed by the Internal Revenue Service for qualified plans. Such qualification shall relate only to the contributions, allocations, and withdrawals of shares provided for in the Secretary's Plan with respect to the plans and related trusts maintained, amended, or adopted in implementing the Secretary's Plan. Such contributions and allocations shall in no event be treated as having exceeded the maximum annual addition permitted under section 415 of the Internal Revenue Code of 1954 (but not for purposes of applying section 404(j) of the Internal Revenue Code of 1954) for purposes of calculating any limitation under section 415 with respect to contributions and allocations not described in the Secretary's Plan, including contributions and allocations to plans and related trusts of the Corporation and any affiliated corporation. The continued qualification of such plans with respect to all other contributions, allocations, and withdrawals shall be subject to all provisions of existing law, as amended from time to time. No inference shall be drawn from this paragraph as to whether an amount is a contribution deductible under section 404 of the Internal Revenue Code of 1954 rather than a non-deductible capital expenditure.

"(12) Except as provided in section 1152 of the Northeast Rail Service Act of 1981 (45 U.S.C. 1105), the issuance and sale or contribution of securities by Norfolk Southern Corporation to fulfill arrangements with the Corporation's employees in implementing the Secretary's Plan and the distribution of shares from the Corporation's employee stock ownership plans and related trusts maintained, amended, or adopted in implementing the Secretary's Plan shall not be subject to the registration and prospectus delivery requirements of the Securities Act of 1933, any approval requirement under subtitle IV of title 49, United States Code, or the laws of any State with respect to the issuance and sale of securities.".

TITLE II—TECHNICAL AND CONFORMING AMENDMENTS

REGIONAL RAIL REORGANIZATION ACT OF 1973 AMENDMENTS AND REPEALS

SEC. 201. The following provisions of the Regional Rail Reorganization Act of 1973 are repealed or amended as specified:

(1) Subsections (a) and (b) of section 214 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 724(a) and (b)) are repealed, and such section 214 is amended by striking "(c) ASSOCIATION.—".

(2) Subsection (f) of section 217 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 727(f)) is repealed, without prejudice to the continued availability of funds appropriated prior to the date of enactment of this Act pursuant to section 217(f)(1)(C) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 727(f)(1)(C)).

(3) Section 404 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 764), and the item relating to such section in the table of contents of such Act, are repealed.

(4) Section 405 of the Regional Rail Reoroganization Act of 1973 (45 U.S.C. 765), and the item relating to such section in the table of contents of such Act, are repealed.

(5) Section 406 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 766), and the item relating to such section in the table of contents of such Act, are repealed.

(6) Section 407 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 767), and the item relating to such section in the table of contents of such Act, are repealed.

(7) Subsections (a) and (d) of section 408 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 768 (a) and (d)) are repealed.

(8) Section 409 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 769), and the item relating to such section in the table of contents of such Act, are repealed.

(9) Section 410 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 769a), and the item relating to such section in the table of contents of such Act, are repealed.

(10) Section 411 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 769b), and the item relating to such section in the table of contents of such Act, are repealed.

(11) Section 412 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 769c), and the item relating to such section in the table of contents of such Act, are repealed.

(12) Section 713 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 797l), and the item relating to such section in the table of contents of such Act, are repealed.

AMENDMENTS AND REPEALS OF OTHER RAIL LAWS

SEC. 202. The following provisions of law are repealed or amended as specified:

(1) Section 1154 of the Northeast Rail Service Act of 1981 (45 U.S.C. 1107), and the item relating to such section in the table of contents of such Act, are repealed.

(2) Section 1161 of the Northeast Rail Service Act of 1981 (45 U.S.C. 1110), and the item relating to such section in the table of contents of such Act, are repealed.

(3) Section 1166 of the Northeast Rail Service Act of 1981 (45 U.S.C. 1114), and the item relating to such section in the table of contents of such Act, are repealed.

(4) Subsection (c) of section 1167 of the Northeast Rail Service Act of 1981 (45 U.S.C. 1115(c)) is repealed.

(5) Subsection (b) of section 1168 of the Northeast Rail Service Act of 1981 (45 U.S.C. 1116(b)) is repealed.

(6) Section 501(8) of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 821(8)) is amended—

(A) by striking "(A)";

(B) by striking "(i)" and inserting in lieu thereof "(A)", and by striking "(ii)" and inserting in lieu thereof "(B)"; and

(C) by striking all after "utilization;".

(7) Section 505 of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 825) is amended—

(A) in subsection (a)(1), by striking all after "railroad" through "1981)"; and

(B) in subsection (b)(2)(C), by striking all after "costs" the second time it appears through "subsidy".

(8) Subsection (b)(1) of section 509 of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 829(b)(1)) is repealed.

(9) Section 511(e) of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 831(e)) is amended by striking "(1)", and by striking all after "time" and inserting in lieu thereof a period.

(10) Section 402 of the Rail Safety and Service Improvement Act of 1982 (45 U.S.C. 825a) is repealed.

(11) Section 1005(b)(1) of the Rail Passenger Service Act (45 U.S.C. 655(b)(1)) is amended by striking "the Consolidated Rail Corporation,".

(12) Section 10362(b)(7)(A) of title 49, United States Code, is amended by striking "by the Consolidated Rail Corporation or".

(13) Section 332(d) of title 49, United States Code, is amended by striking ", the Consolidated Rail Corporation,".

TITLE III—MISCELLANEOUS PROVISIONS

COMMON CARRIER STATUS OF CONRAIL AFTER SALE

SEC. 301. (a) Conrail's status as a common carrier by railroad under section 10102(4) of title 49, United States Code, shall not be affected by virtue of sale of the interest of the United States in Conrail's common stock. Purchase of Conrail stock shall not alone be the basis of a determination that the acquiring entity has become a common carrier by railroad under section 10102(4) of title 49, United States Code.

(b) The Definitive Agreements shall contain a binding commitment by Norfolk Southern Corporation to continue to operate Conrail in full compliance with the provisions of section 10731(e) of title 49, United States Code.

CONSUMMATION OF SALE

SEC. 302. The sale of the interest of the United States in the common stock of Conrail shall be deemed to be consummated on the date title to the common stock passes to Norfolk Southern Corporation and the United States receives the cash purchase price.

CONTRACTS

SEC. 303. (a) Except as provided in subsection (b) of this section, nothing in this Act shall affect—

(1) Conrail's obligation to carry out its transportation contracts and equipment leases, equipment trusts, and conditional sale agreements, in accordance with their terms; and

(2) the obligation of any transferee of divested assets to carry out transportation contracts and equipment leases, equipment trusts, and conditional sale agreements to which such assets are subject, in accordance with their terms.

(b) If a divestiture carried out pursuant to the Secretary's Plan precludes Conrail from providing a transportation service for which it has contracted without a right of termination that may be exercised in the event of the sale of the interest of the United States in the common stock of Conrail and the divestiture will result in a change or modification in the movement of the traffic involved, the transferee of the divested rights and properties and Conrail shall provide the contracted-for service on terms and conditions which, to the maximum extent possible, conform to the terms and conditions in the contract.

CONGRESSIONAL OVERSIGHT OF COMPLIANCE

SEC. 304. The Secretary shall, no later than January 31 of each year, submit to the Committee on Commerce, Science, and Transportation of the Senate and to the Committee on Energy and Commerce of the House of Representatives a report setting forth each certificate which Norfolk Southern Corporation and Conrail provided to the Secretary, during the preceding year, certifying compliance with the covenants contained in the Definitive Agreements.

SEPARABILITY

SEC. 305. If any provision of this Act or the application thereof to any person or circumstances is held invalid, the remainder of this Act and the application of such provision to other persons or circumstances shall not be affected thereby.

EFFECTIVE DATE

SEC. 306. (a) Except as provided in subsection (b) of this section, the provisions of and amendments made by this Act shall take effect on the date of enactment of this Act.

(b) Sections 108(a), 201 and 202 of this Act shall take effect on the date of consummation of the sale of the interest of the United States in the common stock of Conrail.

(c) Any provision of this Act which, pursuant to Article I, Section 7 of the Constitution, provides for raising revenue shall only be effective upon the enactment into law of a bill which has originated in the House of Representatives enacting such provision.

AMENDMENT NO. 1506

On page 4, line 19, immediately after the second comma, insert the following new language: "but not including paragraph 9(d)(ix) of such Memorandum of Intent,".

AMENDMENT NO. 1507

On page 5, line 19, immediately after the second comma, insert the following new language: "but not including paragraph 9(d)(ix) of such Memorandum of Intent,".

AMENDMENT NO. 1508

On page 6, line 19, immediately after the second comma, insert the following new language: "but not including paragraph 9(d)(ix) of such Memorandum of Intent,".

AMENDMENT NO. 1509

On page 4, line 19, immediately after the second comma, insert the following new language: "but not including paragraph 9(d)(ix) of such Memorandum of Intent,".

AMENDMENT NO. 1510

On page 5, line 19, immediately after the second comma, insert the following new language: "but not including paragraph 9(d)(ix) of such Memorandum of Intent,".

AMENDMENT NO. 1511

On page 6, line 19, immediately after the second comma, insert the following new language: "but not including paragraph 9(d)(ix) of such Memorandum of Intent,".

AMENDMENT NO. 1512

In lieu of the language proposed to be inserted, insert the following:

That this Act may be cited as the "Conrail Sale Amendments Act of 1985".

FINDINGS

SEC. 2. The Congress finds that—

(1) the Northeast Rail Service Act of 1981 (45 U.S.C. 1101 et seq.) provided for an orderly return of Conrail freight service to the private sector;

(2) the provisions of the Northeast Rail Service Act of 1981 were successful in removing Conrail's obligations beyond railroad freight service and in otherwise preparing Conrail for an orderly return to the private sector;

(3) acting under section 403 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 763), the Board of Directors of the United States Railway Association twice found Conrail to be a profitable corporation;

(4) acting under section 401 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 761), the Secretary engaged an investment banker and arranged, through open competitive bidding and negotiation, to sell the interest of the United States in the common stock of Conrail;

(5) the Secretary's Plan for the sale of Conrail provides for sale of the interest of the United States in the common stock of Conrail to Norfolk Southern Corporation;

(6) the Secretary found that sale of the interest of the United States in the common stock of Conrail to Norfolk Southern Corporation best meets the sale criteria of (A) leaving Conrail in the strongest financial position after the sale, (B) preserving patterns of service to shippers and communities in the region Conrail serves, and (C) maxi-

mizing return to the Federal Government consistent with the criteria specified in clauses (A) and (B);

(7) amendments to the Regional Rail Reorganization Act of 1973 (45 U.S.C. 701 et seq.) and related laws are needed to permit the sale of the interest of the United States in the common stock of Conrail to Norfolk Southern Corporation and to permit cancellation of the interest of the United States in Conrail debt and preferred stock; and

(8) the Secretary's Plan satisfies the requirements of the Northeast Rail Service Act of 1981, including the intent, goals, and objectives relating to the sale of the interest of the United States in the common stock of Conrail and the requirements of section 401(e) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 761(e)).

PURPOSE

SEC. 3. It is therefore declared to be the purpose of the Congress in this Act to return Conrail to the private sector by directing and facilitating implementation of the Secretary's Plan for the sale of the interest of the United States in the common stock of Conrail.

DEFINITIONS

SEC. 4. (a) In this Act, unless the context otherwise requires, the term—

(1) "Conrail" means the Consolidated Rail Corporation;

(2) "Definitive Agreements" means any and all agreements existing or to be developed between the United States and Norfolk Southern Corporation, including all representations and warranties made therein, to implement the Memorandum of Intent described in paragraph (4)(A);

(3) "Secretary" means the Secretary of Transportation; and

(4) "Secretary's Plan" means (A) the Memorandum of Intent between the United States and Norfolk Southern Corporation signed February 8, 1985, but not including paragraph 9(d)(viii) of such Memorandum of Intent, and (B) the divestitures by the Norfolk Southern Corporation of certain rail tracks, rights, and facilities, and any transactions or agreements related or incidental to such divestitures, in connection with the implementation of attachment A to the letter from the Department of Justice attached to the Memorandum of Intent as exhibit E.

(b) Section 102 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 702) is amended—

(1) by redesignating paragraphs (6) through (18) as paragraphs (7) through (19), and paragraphs (19) through (21) as paragraphs (21) through (23), respectively;

(2) by inserting after paragraph (5) the following paragraph:

"(6) 'Definitive Agreements' means any and all agreements existing or to be developed between the United States and Norfolk Southern Corporation, including all representations and warranties made therein, to implement the Memorandum of Intent described in paragraph (20)(A);"; and

(3) by inserting after paragraph (19), as so redesignated, the following paragraph:

"(20) 'Secretary's Plan' means (A) the Memorandum of Intent between the United States and Norfolk Southern Corporation signed February 8, 1985, and (B) the divestitures by the Norfolk Southern Corporation of certain rail tracks, rights, and facilities, and any transactions or agreements related or incidental to such divestitures, in connection with the implementation of attachment A to the letter from the Department of Justice attached to the Memorandum of Intent as exhibit E;".

(c) Section 1135(a) of the Northeast Rail Service Act of 1981 (45 U.S.C. 1104(a)) is amended—

(1) by redesignating paragraphs (6), (7), and (8) as paragraphs (7), (8), and (10), respectively;

(2) by inserting after paragraph (5) the following paragraph:

"(6) 'Definitive Agreements' means any and all agreements existing or to be developed between the United States and Norfolk Southern Corporation, including all representations and warranties made therein, to implement the Memorandum of Intent described in paragraph (9)(A);"; and

(3) by inserting after paragraph (8), as so redesignated, the following paragraph:

"(9) 'Secretary's Plan' means (A) the Memorandum of Intent between the United States and Norfolk Southern Corporation signed February 8, 1985, and (B) the divestitures by the Norfolk Southern Corporation of certain rail tracks, rights, and facilities, and any transactions or agreements related or incidental to such divestitures, in connection with the implementation of attachment A to the letter from the Department of Justice attached to the Memorandum of Intent as exhibit E;".

TITLE I—AMENDMENTS TO THE REGIONAL RAIL REORGANIZATION ACT OF 1973 AND THE NORTHEAST RAIL SERVICE ACT OF 1981

Subtitle A—Regional Rail Reorganization Act of 1973 Amendments

LIMIT ON AUTHORITY TO PURCHASE STOCK

SEC. 101. Section 216(b) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 726(b)) is amended by adding at the end thereof the following paragraph:

"(5) The authority of the Association to purchase debentures or series A preferred stock of the Corporation under this section shall terminate upon the consummation of the sale of the interest of the United States in the common stock of the Corporation under the terms of the Secretary's Plan.".

RESPONSIBILITY OF CONRAIL DIRECTORS

SEC. 102. Section 301(i) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 741(i)) is amended by inserting immediately after "required by law" the following: ", taken to implement the Secretary's Plan,".

APPLICABILITY OF REGIONAL RAIL REORGANIZATION ACT OF 1973 TO CONRAIL AFTER SALE

SEC. 103. Section 301 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 741) is amended by adding at the end thereof the following subsection:

"(k) GOVERNING PROVISIONS AFTER SALE.—The provisions of this Act shall not apply to the Corporation and to activities and other actions and responsibilities of the Corporation and its directors after consummation of the sale of the interest of the United States in the common stock of the Corporation under the terms of the Conrail Sale Amendments Act of 1985, other than with regard to—

"(1) section 102 of this Act;

"(2) section 201(d) of this Act;

"(3) section 203 of this Act, but only with respect to information relating to proceedings before the special court established under section 209(b);

"(4) section 216(f)(8) of this Act, but only as such authority applies to activities related to the employee stock ownership plan and related trusts prior to or in connection with consummation of the sale of the interest of the United States in the common stock of the Corporation, including activities related to the sale, exchange, valuation, or disposition of the assets of the employee stock ownership plan and related trusts, or of Conrail Equity Corporation, in connection with the Secretary's Plan;

"(5) sections 216(f)(11) and 216(f)(12) of this Act, as amended by the Conrail Sale Amendments Act of 1985;

"(6) section 217(e) of this Act;

"(7) subsection (i) of this section, but only as such authority applies to service as a director of the Corporation prior to consummation or in connection with implementation of the sale of the interest of the United States in the common stock of the Corporation;

"(8) section 305 of this Act, but only as to the effect, and continuing administration, of supplemental transactions consummated prior to consummation of the sale of the interest of the United States in the common stock of the Corporation;

"(9) section 308 of this Act, but only in abandonment actions when such authority has been relied on to file a notice or notices of insufficient revenues prior to consummation of the sale of the interest of the United States in the common stock of the Corporation;

"(10) section 401(a) of this Act, as amended by the Conrail Sale Amendments Act of 1985;

"(11) section 402 of this Act, as amended by the Conrail Sale Amendments Act of 1985;

"(12) section 408(c) of this Act, as amended by the Conrail Sale Amendments Act of 1985;

"(13) section 701 of this Act, but only as may be necessary to identify employees eligible for benefits under agreements entered into under such section;

"(14) section 702(e) of this Act;

"(15) section 704(b) of this Act;

"(16) section 709 of this Act;

"(17) section 710(b)(1) of this Act;

"(18) section 711 of this Act;

"(19) section 714 of this Act, but only with regard to disputes or controversies specified in such section that arose prior to consummation of the sale of the interest of the United States in the common stock of the Corporation; and

"(20) section 715 of this Act, as amended by the Conrail Sale Amendments Act of 1985.".

IMPLEMENTATION OF THE SECRETARY'S PLAN

SEC. 104. (a) Section 401(a)(3) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 761(a)(3)) is amended to read as follows:

"(3) The Secretary is authorized and directed to implement the Secretary's Plan, in accordance with paragraph (4) of this subsection. Such implementation of the Secretary's Plan and the coordinated operation of the Corporation's properties with those of Norfolk Southern Corporation and its affiliates as a single rail system is deemed approved by the Commission under chapter 113 of title 49, United States Code.".

(b) Section 401(a) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 761(a)) is amended by adding at the end thereof the following paragraphs:

"(4) The Secretary shall implement the Secretary's Plan by negotiating, executing, delivering, and performing the Definitive Agreements, which shall conform to the Memorandum of Intent described in section 102(20)(A) of this Act. The Secretary shall,

45 calendar days before the date on which the Secretary anticipates that the interest of the United States in the common stock of the Corporation will be sold to Norfolk Southern Corporation, transmit to the Committee on Commerce, Science, and Transportation of the Senate and to the Committee on Energy and Commerce of the House of Representatives a notification of any alteration from the Memorandum of Intent described in section 102(20)(A) of this Act which will be made in the Definitive Agreements. After the date of such sale, the Secretary shall transmit to such Committees notification of any intent to waive compliance with any substantive covenant, agreement or obligation contained in the Definitive Agreements, and the Secretary may not waive such compliance until a period of 45 calendar days has expired after the date of such transmittal.

"(5) The Secretary shall not transfer the interest of the United States in the common stock of the Corporation except concurrently with a divestiture by Norfolk Southern Corporation of rail assets and rights approved by the Attorney General.

"(6) The sale of the interest of the United States in the common stock of the Corporation shall be deemed to be consummated at the date title to the common stock passes to Norfolk Southern Corporation and the United States receives the cash purchase price.".

RAILROAD PURCHASERS AND OFFER FOR SALE OF SHARES TO EMPLOYEES

SEC. 105. Subsections (d) and (e) of section 401 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 761 (d) and (e)) are repealed.

CANCELLATION OF DEBT AND PREFERRED STOCK

SEC. 106. Section 402 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 762) is amended to read as follows:

"DEBT AND PREFERRED STOCK

"SEC. 402. (a) RECAPITALIZATION.—In connection with the sale of the interest of the United States in the common stock of the Corporation under section 401 of this Act, and consistent with the Secretary's Plan, the Secretary may take all action necessary to cause the Corporation to be recapitalized such that the interest of the United States, or any agent or instrumentality thereof, and all other commitments or obligations of the Corporation to the United States or any agent or instrumentality thereof arising out of such interest, in any debt (including accrued interest and contingent interest thereon) and preferred stock (including accrued and unpaid dividends thereon) of the Corporation shall be cancelled or retired, and contributed to the capital of the Corporation. The Secretary shall cause the recapitalization authorized by this section to be effective as of the consummation of the sale of the interest of the United States in the common stock of the Corporation.

"(b) BREACH OF REPRESENTATIONS.—(1) Norfolk Southern Corporation or any successor corporation thereto may bring suit for any breach of representations contained in paragraph 6(e) of the Memorandum of Intent described in section 102(20)(A) of this Act (hereinafter referred to as the 'Representations') in the United States Claims Court or a district court of the United States. If such an action is brought, the Claims Court or district court shall determine the amount by which the United States income tax (including interest and penalties whether or not such penalties are assessed as a tax under the Internal Revenue Code of 1954) assessable against the Corporation or against Norfolk Southern Corporation for any year exceeds the amount of such tax which would have been assessable for such year had such Representations not been breached (hereinafter referred to as the 'Offset Amount').

"(2) The Representations shall be considered breached and Norfolk Southern Corporation shall be entitled to bring suit upon the first occurrence of any of the following that is inconsistent with the Representations: (A) the issuance by the Internal Revenue Service of a statutory notice of deficiency (90-day letter), (B) the assessment of the United States income tax, or (C) any claim by the United States in a suit or other judicial proceeding against Norfolk Southern Corporation or the Corporation.

"(3) The right to bring suit pursuant to this section shall not be subject to any waiting period applicable to tax proceedings or to any requirements for payment of any tax as a condition to instituting any suit based on a breach of the Representations.

"(4) Any judgment for money damages relating to breach of the Representations shall only be awarded as an offset in any court or administrative proceeding against the tax liability of Norfolk Southern Corporation or the Corporation, or both, to which such breach relates; except that if any such tax liability resulting from such breach has been paid, the judgment shall to that extent be an offset against any United States income tax liability of the Norfolk Southern Corporation or the Corporation, or both. If any portion of the tax resulting from a breach of the Representations has been paid, then the Offset Amount shall include interest on such payment from the date paid at the rate from time to time specified in the Internal Revenue Code of 1954 for interest payable on refund claims.

"(5) It shall not be a defense to an action brought under this section that Norfolk Southern Corporation knew, or should have known, of the falsity of the Representations or that there exists no carryover basis procedure as contemplated by the last sentence of the Representations.

"(6) For purposes of this section, tax liability of Norfolk Southern Corporation shall include the tax liability of Norfolk Southern Corporation and its affiliated group, within the meaning of section 1504 of the Internal Revenue Code of 1954.".

APPLICABILITY OF CERTAIN LAWS TO SALE OF CONRAIL

SEC. 107. Section 408 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 768) is amended—

(1) by repealing subsection (b);

(2) by amending subsection (c) by striking "No transfer" and all that follows through "subject to" and inserting in lieu thereof "Except as provided in section 1152 of the Northeast Rail Service Act of 1981 (45 U.S.C. 1105), the Secretary's Plan and the Definitive Agreements and their negotiation, execution, and implementation shall not be subject to administrative or"; and

(3) by adding at the end of subsection (c) the following sentence: "The issuance in private placement of notes or other securities in accordance with exhibit B to the Memorandum of Intent (described in section 102(20)(A) of this Act) in the Secretary's Plan shall not be subject to the provisions of subtitle IV of title 49, United States Code.".

LABOR PROTECTION

SEC. 108. (a) Section 701(d)(2) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 797(d)(2)) is amended by striking "the last day of the eighteen-month period beginning on".

(b)(1) Title VII of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 797 et seq.) is amended by adding at the end thereof the following section:

"PROTECTION AFTER SALE

"SEC. 715. After consummation of the sale of the interest of the United States in the common stock of the Corporation pursuant to the Secretary's Plan, any employee of Norfolk Southern Corporation, the Corporation, any rail affiliate of either company, and any transferee of the rail tracks, rights, and facilities divested in accordance with the Secretary's Plan, who is adversely affected in his employment by the implementation of the Secretary's Plan shall receive from his employer protection under the labor protective conditions set forth in New York Dock Railway—Control—Brooklyn Eastern District Terminal (354 ICC 399 (1978), modified upon further consideration, 360 ICC 60 (1979)). The arbitration provisions of section 4 of New York Dock shall apply to the formation of any implementing agreements that may be necessary in connection with the implementation of the Secretary's Plan, including any resulting coordinations.".

(2) The table of contents of the Regional Rail Reorganization Act of 1973 is amended by inserting immediately after the item relating to section 714 the following item:

"Sec. 715. Protection after sale.".

PREFERENTIAL HIRING

SEC. 109. Section 703 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 797b) is amended—

(1) by redesignating subsection (b) as subsection (c); and

(2) by inserting immediately after subsection (a) the following subsection:

"(b) IMPLEMENTATION OF SECRETARY'S PLAN.—Any employee of any railroad who is deprived of employment as a result of the implementation of the Secretary's Plan shall have the first right of hire for a vacancy for which he is qualified on any Norfolk Southern Corporation rail subsidiary, except where such vacancy is covered by (1) an affirmative action plan, or a hiring plan designated to eliminate discrimination, that is required by Federal or State statute, regulation, or Executive order, or by the order of a Federal court or agency, or (2) a permissible voluntary affirmative action plan. For purposes of this subsection, a railroad shall not be considered to be hiring new employees when it recalls any of its own furloughed employees.".

CROSS CRAFT EMPLOYMENT

SEC. 110. (a) Title VII of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 797 et seq.) is amended by inserting immediately after section 703 the following section:

"CROSS CRAFT EMPLOYMENT

"SEC. 703A. Any employee of Norfolk and Western Railway Company, Southern Railway Company, or the Corporation who is deprived of employment as a result of the implementation of the Secretary's Plan shall have the first right of hire for any vacancy for which such employee is qualified at the entry level of any Norfolk Southern Corporation rail subsidiary, without regard to craft or class or the provisions of section 703 of this Act. Such employee shall retain his seniority rights to return to his original craft or class whenever a vacancy occurs.

For purposes of this section, a railroad shall not be considered to be hiring new employees when it recalls any of its own furloughed employees.".

(b) The table of contents of the Regional Rail Reorganization Act of 1973 is amended by inserting immediately after the item relating to section 703 the following item:

"Sec. 703A. Cross craft employment.".

Subtitle B—Northeast Rail Service Act of 1981 Amendments

SPECIAL COURT JURISDICTION

SEC. 121. (a) Section 1152 of the Northeast Rail Service Act of 1981 (45 U.S.C. 1105) is amended—

(1) by inserting "or the Conrail Sale Amendments Act of 1985" immediately after "subtitle" wherever it appears;

(2) in subsection (a), by striking "or" at the end of paragraph (3), by striking the period at the end of paragraph (4) and inserting in lieu thereof a semicolon, and by adding at the end thereof the following paragraphs:

"(5) brought by the United States or any agency or instrumentality thereof seeking to enforce the Secretary's Plan or the Definitive Agreements;

"(6) brought by Norfolk Southern Corporation seeking to enforce the Secretary's Plan or the Definitive Agreements;

"(7) brought by a party who filed a complaint with the Secretary under subsection (e) of this section, and who is aggrieved by (A) a determination of the Secretary under paragraph (1) of such subsection that the party has not suffered direct economic injury, or (B) a decision of the Secretary under paragraph (2) of such subsection that a covenant has not been violated;

"(8) brought by a party which is a signatory to an ancillary agreement entered into in accordance with the Secretary's Plan or the Definitive Agreements and which is seeking to enforce such ancillary agreement; or

"(9) brought to determine the value of the interest of the employee stock ownership plan and related trusts, or of the beneficiaries thereof, in the preferred stock of the Conrail Equity Corporation.

For purposes of any action brought under paragraph (5) of this subsection, a violation of any covenant contained in the Secretary's Plan or the Definitive Agreements shall be deemed to constitute immediate and irreparable harm for purposes of awarding injunctive relief to the United States.".

(b) Section 1152 of the Northeast Rail Service Act of 1981 (45 U.S.C. 1105) is amended by adding at the end thereof the following subsection:

"(e)(1) Any party who suffers direct economic injury as a result of an alleged violation of a covenant contained in the Definitive Agreements may file a complaint with the Secretary seeking enforcement of such covenant. If the Secretary determines that the complainant has demonstrated to the Secretary that it has suffered direct economic injury, the Secretary shall investigate the complaint.

"(2) If the Secretary decides to investigate a complaint under paragraph (1) of this subsection, the Secretary shall give reasonable notice of such decision to investigate to the alleged violator of such covenant and the complainant, and shall make a final decision on such complaint within 60 days after the date on which it was filed.

"(3) If the Secretary finds that (A) the covenant in question has been violated, and (B) the complainant suffered direct economic injury as a result of such violation, the Secretary shall enter an order directing the violator of such covenant to comply with such covenant.

"(4) On appeal, any decision by the Secretary under this subsection shall be upheld, unless such decision is found to be arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law.".

APPLICABILITY OF OTHER LAWS

SEC. 122. Section 1168(a) of the Northeast Rail Service Act of 1981 (45 U.S.C. 1116(a)) is amended by striking "service transfers" and inserting in lieu thereof "sale of the interest of the United States in the common stock of Conrail or transfer of the rail properties and freight service responsibilities of Conrail".

Subtitle C—Employee Stock Ownership Plan

RESPONSIBILITY OF EMPLOYEE STOCK OWNERSHIP PLAN FIDUCIARIES

SEC. 131. (a) Section 216(f)(8)(A) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 726(f)(8)(A)) is amended—

(1) by striking "or" at the end of clause (ii);

(2) by striking the period at the end of clause (iii) and inserting in lieu thereof "; or"; and

(3) by adding at the end thereof the following clause:

"(iv) for or in connection with any action taken to implement the Secretary's Plan, including any sale, exchange, valuation, or disposition of the plan and related trust assets, or the assets of Conrail Equity Corporation, in connection with implementation of the Secretary's Plan and any determination of the terms on which any such sale, exchange, valuation, or disposition is effected.".

QUALIFICATION, REVIEW, AND VALUATION OF EMPLOYEE STOCK OWNERSHIP PLANS

SEC. 132. Section 216(f) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 726(f)) is amended by adding at the end thereof the following paragraphs:

"(11) The employee stock ownership plans of the Corporation and related trusts maintained, amended, or adopted in implementing the Secretary's Plan shall be deemed to meet the qualification requirements of sections 401 and 501, respectively, of the Internal Revenue Code of 1954, notwithstanding (A) that such plans may not meet the requirements of section 415 of the Internal Revenue Code of 1954, or (B) that participants in such plans may be entitled to withdraw a portion of the shares allocated to their accounts prior to the expiration of the period generally imposed by the Internal Revenue Service for qualified plans. Such qualification shall relate only to the contributions, allocations, and withdrawals of shares provided for in the Secretary's Plan with respect to the plans and related trusts maintained, amended, or adopted in implementing the Secretary's Plan. Such contributions and allocations shall in no event be treated as having exceeded the maximum annual addition permitted under section 415 of the Internal Revenue Code of 1954 (but not for purposes of applying section 404(j) of the Internal Revenue Code of 1954) for purposes of calculating any limitation under section 415 with respect to contributions and allocations not described in the Secretary's Plan, including contributions and allocations to plans and related trusts of the Corporation and any affiliated corporation. The continued qualification of such plans with respect to all other contributions, allocations, and withdrawals shall be subject to all provisions of existing law, as amended from time to time. No inference shall be drawn from this paragraph as to whether an amount is a contribution deductible under section 404 of the Internal Revenue Code of 1954 rather than a non-deductible capital expenditure.

"(12) Except as provided in section 1152 of the Northeast Rail Service Act of 1981 (45 U.S.C. 1105), the issuance and sale or contribution of securities by Norfolk Southern Corporation to fulfill arrangements with the Corporation's employees in implementing the Secretary's Plan and the distribution of shares from the Corporation's employee stock ownership plans and related trusts maintained, amended, or adopted in implementing the Secretary's Plan shall not be subject to the registration and prospectus delivery requirements of the Securities Act of 1933, any approval requirement under subtitle IV of title 49, United States Code, or the laws of any State with respect to the issuance and sale of securities.".

TITLE II—TECHNICAL AND CONFORMING AMENDMENTS

REGIONAL RAIL REORGANIZATION ACT OF 1973 AMENDMENTS AND REPEALS

SEC. 201. The following provisions of the Regional Rail Reorganization Act of 1973 are repealed or amended as specified:

(1) Subsections (a) and (b) of section 214 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 724(a) and (b)) are repealed, and such section 214 is amended by striking "(c) ASSOCIATION.—".

(2) Subsection (f) of section 217 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 727(f)) is repealed, without prejudice to the continued availability of funds appropriated prior to the date of enactment of this Act pursuant to section 217(f)(1)(C) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 727(f)(1)(C)).

(3) Section 404 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 764), and the item relating to such section in the table of contents of such Act, are repealed.

(4) Section 405 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 765), and the item relating to such section in the table of contents of such Act, are repealed.

(5) Section 406 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 766), and the item relating to such section in the table of contents of such Act, are repealed.

(6) Section 407 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 767), and the item relating to such section in the table of contents of such Act, are repealed.

(7) Subsections (a) and (d) of section 408 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 768 (a) and (d)) are repealed.

(8) Section 409 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 769), and the item relating to such section in the table of contents of such Act, are repealed.

(9) Section 410 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 769a), and the item relating to such section in the table of contents of such Act, are repealed.

(10) Section 411 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 769b), and the item relating to such section in the table of contents of such Act, are repealed.

(11) Section 412 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 769c), and the item relating to such section in the table of contents of such Act, are repealed.

(12) Section 713 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 797l), and the item relating to such section in the table of contents of such Act, are repealed.

AMENDMENTS AND REPEALS OF OTHER RAIL LAWS

SEC. 202. The following provisions of law are repealed or amended as specified:

(1) Section 1154 of the Northeast Rail Service Act of 1981 (45 U.S.C. 1107), and the item relating to such section in the table of contents of such Act, are repealed.

(2) Section 1161 of the Northeast Rail Service Act of 1981 (45 U.S.C. 1110), and the item relating to such section in the table of contents of such Act, are repealed.

(3) Section 1166 of the Northeast Rail Service Act of 1981 (45 U.S.C. 1114), and the item relating to such section in the table of contents of such Act, are repealed.

(4) Subsection (c) of section 1167 of the Northeast Rail Service Act of 1981 (45 U.S.C. 1115(c)) is repealed.

(5) Subsection (b) of section 1168 of the Northeast Rail Service Act of 1981 (45 U.S.C. 1116(b)) is repealed.

(6) Section 501(8) of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 821(8)) is amended—

(A) by striking "(A)";

(B) by striking "(i)" and inserting in lieu thereof "(A)", and by striking "(ii)" and inserting in lieu thereof "(B)"; and

(C) by striking all after "utilization;".

(7) Section 505 of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 825) is amended—

(A) in subsection (a)(1), by striking all after "railroad" through "1981)"; and

(B) in subsection (b)(2)(C), by striking all after "costs" the second time it appears through "subsidy".

(8) Subsection (b)(1) of section 509 of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 829(b)(1)) is repealed.

(9) Section 511(e) of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 831(e)) is amended by striking "(1)", and by striking all after "time" and inserting in lieu thereof a period.

(10) Section 402 of the Rail Safety and Service Improvement Act of 1982 (45 U.S.C. 825a) is repealed.

(11) Section 1005(b)(1) of the Rail Passenger Service Act (45 U.S.C. 655(b)(1)) is amended by striking "the Consolidated Rail Corporation,".

(12) Section 10362(b)(7)(A) of title 49, United States Code, is amended by striking "by the Consolidated Rail Corporation or".

(13) Section 332(d) of title 49, United States Code, is amended by striking ", the Consolidated Rail Corporation,".

TITLE III—MISCELLANEOUS PROVISIONS

COMMON CARRIER STATUS OF CONRAIL AFTER SALE

SEC. 301. (a) Conrail's status as a common carrier by railroad under section 10102(4) of title 49, United States Code, shall not be affected by virtue of sale of the interest of the United States in Conrail's common stock. Purchase of Conrail stock shall not alone be the basis of a determination that the acquiring entity has become a common carrier by railroad under section 10102(4) of title 49, United States Code.

(b) The Definitive Agreements shall contain a binding commitment by Norfolk Southern Corporation to continue to operate Conrail in full compliance with the provisions of section 10731(e) of title 49, United States Code.

CONSUMMATION OF SALE

SEC. 302. The sale of the interest of the United States in the common stock of Conrail shall be deemed to be consummated on the date title to the common stock passes to Norfolk Southern Corporation and the United States receives the cash purchase price.

CONTRACTS

SEC. 303. (a) Except as provided in subsection (b) of this section, nothing in this Act shall affect—

(1) Conrail's obligation to carry out its transportation contracts and equipment leases, equipment trusts, and conditional sale agreements, in accordance with their terms; and

(2) the obligation of any transferee of divested assets to carry out transportation contracts and equipment leases, equipment trusts, and conditional sale agreements to which such assets are subject, in accordance with their terms.

(b) If a divestiture carried out pursuant to the Secretary's Plan precludes Conrail from providing a transportation service for which it has contracted without a right of termination that may be exercised in the event of the sale of the interest of the United States in the common stock of Conrail and the divestiture will result in a change or modification in the movement of the traffic involved, the transferee of the divested rights and properties and Conrail shall provide the contracted-for service on terms and conditions which, to the maximum extent possible, conform to the terms and conditions in the contract.

CONGRESSIONAL OVERSIGHT OF COMPLIANCE

SEC. 304. The Secretary shall, no later than January 31 of each year, submit to the Committee on Commerce, Science, and Transportation of the Senate and to the Committee on Energy and Commerce of the House of Representatives a report setting forth each certificate which Norfolk Southern Corporation and Conrail provided to the Secretary, during the preceding year, certifying compliance with the covenants contained in the Definitive Agreements.

SEPARABILITY

SEC. 305. If any provision of this Act or the application thereof to any person or circumstances is held invalid, the remainder of this Act and the application of such provision to other persons or circumstances shall not be affected thereby.

EFFECTIVE DATE

SEC. 306. (a) Except as provided in subsection (b) of this section, the provisions of and amendments made by this Act shall take effect on the date of enactment of this Act.

(b) Sections 108(a), 201 and 202 of this Act shall take effect on the date of consummation of the sale of the interest of the United States in the common stock of Conrail.

(c) Any provision of this Act which, pursuant to Article I, Section 7 of the Constitution, provides for raising revenue shall only be effective upon the enactment into law of a bill which has originated in the House of Representatives enacting such provision.

AMENDMENT NO. 1513

In lieu of the language proposed to be inserted, insert the following:

That this Act may be cited as the "Conrail Sale Amendments Act of 1985".

FINDINGS

SEC. 2. The Congress finds that—

(1) the Northeast Rail Service Act of 1981 (45 U.S.C. 1101 et seq.) provided for an orderly return of Conrail freight service to the private sector;

(2) the provisions of the Northeast Rail Service Act of 1981 were successful in removing Conrail's obligations beyond railroad freight service and in otherwise preparing Conrail for an orderly return to the private sector;

(3) acting under section 403 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 763), the Board of Directors of the United States Railway Association twice found Conrail to be a profitable corporation;

(4) acting under section 401 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 761), the Secretary engaged an investment banker and arranged, through open competitive bidding and negotiation, to sell the interest of the United States in the common stock of Conrail;

(5) the Secretary's Plan for the sale of Conrail provides for sale of the interest of the United States in the common stock of Conrail to Norfolk Southern Corporation;

(6) the Secretary found that sale of the interest of the United States in the common stock of Conrail to Norfolk Southern Corporation best meets the sale criteria of (A) leaving Conrail in the strongest financial position after the sale, (B) preserving patterns of service to shippers and communities in the region Conrail serves, and (C) maximizing return to the Federal Government consistent with the criteria specified in clauses (A) and (B);

(7) amendments to the Regional Rail Reorganization Act of 1973 (45 U.S.C. 701 et seq.) and related laws are needed to permit the sale of the interest of the United States in the common stock of Conrail to Norfolk Southern Corporation and to permit cancellation of the interest of the United States in Conrail debt and preferred stock; and

(8) the Secretary's Plan satisfies the requirements of the Northeast Rail Service Act of 1981, including the intent, goals, and objectives relating to the sale of the interest of the United States in the common stock of Conrail and the requirements of section 401(e) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 761(e)).

PURPOSE

SEC. 3. It is therefore declared to be the purpose of the Congress in this Act to return Conrail to the private sector by directing and facilitating implementation of the Secretary's Plan for the sale of the interest of the United States in the common stock of Conrail.

DEFINITIONS

SEC. 4. (a) In this Act, unless the context otherwise requires, the term—

(1) "Conrail" means the Consolidated Rail Corporation;

(2) "Definitive Agreements" means any and all agreements existing or to be developed between the United States and Norfolk Southern Corporation, including all representations and warranties made therein, to implement the Memorandum of Intent described in paragraph (4)(A);

(3) "Secretary" means the Secretary of Transportation; and

(4) "Secretary's Plan" means (A) the Memorandum of Intent between the United States and Norfolk Southern Corporation signed February 8, 1985, and (B) the divestitures by the Norfolk Southern Corporation of certain rail tracks, rights, and facilities, and any transactions or agreements related or incidental to such divestitures, in connection with the implementation of attachment A to the letter from the Department of Justice attached to the Memorandum of Intent as exhibit E.

(b) Section 102 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 702) is amended—

(1) by redesignating paragraphs (6) through (18) as paragraphs (7) through (19), and paragraphs (19) through (21) as paragraphs (21) through (23), respectively;

(2) by inserting after paragraph (5) the following paragraph:

"(6) 'Definitive Agreements' means any and all agreements existing or to be developed between the United States and Norfolk Southern Corporation, including all representations and warranties made therein, to implement the Memorandum of Intent described in paragraph (20)(A);"; and

(3) by inserting after paragraph (19), as so redesignated, the following paragraph:

"(20) 'Secretary's Plan' means (A) the Memorandum of Intent between the United States and Norfolk Southern Corporation signed February 8, 1985, but not including paragraph 9(d)(viii) of such Memorandum of Intent, and (B) the divestitures by the Norfolk Southern Corporation of certain rail tracks, rights, and facilities, and any transactions or agreements related or incidental to such divestitures, in connection with the implementation of attachment A to the letter from the Department of Justice attached to the Memorandum of Intent as exhibit E;".

(c) Section 1135(a) of the Northeast Rail Service Act of 1981 (45 U.S.C. 1104(a)) is amended—

(1) by redesignating paragraphs (6), (7), and (8) as paragraphs (7), (8), and (10), respectively;

(2) by inserting after paragraph (5) the following paragraph:

"(6) 'Definitive Agreements' means any and all agreements existing or to be developed between the United States and Norfolk Southern Corporation, including all representations and warranties made therein, to implement the Memorandum of Intent described in paragraph (9)(A);"; and

(3) by inserting after paragraph (8), as so redesignated, the following paragraph:

"(9) 'Secretary's Plan' means (A) the Memorandum of Intent between the United States and Norfolk Southern Corporation signed February 8, 1985, and (B) the divestitures by the Norfolk Southern Corporation of certain rail tracks, rights, and facilities, and any transactions or agreements related or incidental to such divestitures, in connection with the implementation of attachment A to the letter from the Department of Justice attached to the Memorandum of Intent as exhibit E;".

TITLE I—AMENDMENTS TO THE REGIONAL RAIL REORGANIZATION ACT OF 1973 AND THE NORTHEAST RAIL SERVICE ACT OF 1981

Subtitle A—Regional Rail Reorganization Act of 1973 Amendments

LIMIT ON AUTHORITY TO PURCHASE STOCK

SEC. 101. Section 216(b) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 726(b)) is amended by adding at the end thereof the following paragraph:

"(5) The authority of the Association to purchase debentures or series A preferred stock of the Corporation under this section shall terminate upon the consummation of the sale of the interest of the United States in the common stock of the Corporation under the terms of the Secretary's Plan.".

RESPONSIBILITY OF CONRAIL DIRECTORS

SEC. 102. Section 301(i) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 741(i)) is amended by inserting immediately after "required by law" the following: ", taken to implement the Secretary's Plan,".

APPLICABILITY OF REGIONAL RAIL REORGANIZATION ACT OF 1973 TO CONRAIL AFTER SALE

SEC. 103. Section 301 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 741) is amended by adding at the end thereof the following subsection:

"(k) GOVERNING PROVISIONS AFTER SALE.—The provisions of this Act shall not apply to the Corporation and to activities and other actions and responsibilities of the Corporation and its directors after consummation of the sale of the interest of the United States in the common stock of the Corporation under the terms of the Conrail Sale Amendments Act of 1985, other than with regard to—

"(1) section 102 of this Act;

"(2) section 201(d) of this Act;

"(3) section 203 of this Act, but only with respect to information relating to proceedings before the special court established under section 209(b);

"(4) section 216(f)(8) of this Act, but only as such authority applies to activities related to the employee stock ownership plan and related trusts prior to or in connection with consummation of the sale of the interest of the United States in the common stock of the Corporation, including activities related to the sale, exchange, valuation, or disposition of the assets of the employee stock ownership plan and related trusts, or of Conrail Equity Corporation, in connection with the Secretary's Plan;

"(5) sections 216(f)(11) and 216(f)(12) of this Act, as amended by the Conrail Sale Amendments Act of 1985;

"(6) section 217(e) of this Act;

"(7) subsection (i) of this section, but only as such authority applies to service as a director of the Corporation prior to consummation or in connection with implementation of the sale of the interest of the United States in the common stock of the Corporation;

"(8) section 305 of this Act, but only as to the effect, and continuing administration, of supplemental transactions consummated prior to consummation of the sale of the interest of the United States in the common stock of the Corporation;

"(9) section 308 of this Act, but only in abandonment actions when such authority has been relied on to file a notice or notices of insufficient revenues prior to consummation of the sale of the interest of the United States in the common stock of the Corporation;

"(10) section 401(a) of this Act, as amended by the Conrail Sale Amendments Act of 1985;

"(11) section 402 of this Act, as amended by the Conrail Sale Amendments Act of 1985;

"(12) section 408(c) of this Act, as amended by the Conrail Sale Amendments Act of 1985;

"(13) section 701 of this Act, but only as may be necessary to identify employees eligible for benefits under agreements entered into under such section;

"(14) section 702(e) of this Act;

"(15) section 704(b) of this Act;

"(16) section 709 of this Act;

"(17) section 710(b)(1) of this Act;

"(18) section 711 of this Act;

"(19) section 714 of this Act, but only with regard to disputes or controversies specified in such section that arose prior to consummation of the sale of the interest of the United States in the common stock of the Corporation; and

"(20) section 715 of this Act, as amended by the Conrail Sale Amendments Act of 1985.".

IMPLEMENTATION OF THE SECRETARY'S PLAN

SEC. 104. (a) Section 401(a)(3) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 761(a)(3)) is amended to read as follows:

"(3) The Secretary is authorized and directed to implement the Secretary's Plan, in accordance with paragraph (4) of this subsection. Such implementation of the Secretary's Plan and the coordinated operation of the Corporation's properties with those of Norfolk Southern Corporation and its affiliates as a single rail system is deemed approved by the Commission under chapter 113 of title 49, United States Code.".

(b) Section 401(a) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 761(a)) is amended by adding at the end thereof the following paragraphs:

"(4) The Secretary shall implement the Secretary's Plan by negotiating, executing, delivering, and performing the Definitive Agreements, which shall conform to the Memorandum of Intent described in section 102(20)(A) of this Act. The Secretary shall, 45 calendar days before the date on which the Secretary anticipates that the interest of the United States in the common stock of the Corporation will be sold to Norfolk Southern Corporation, transmit to the Committee on Commerce, Science, and Transportation of the Senate and to the Committee on Energy and Commerce of the House of Representatives a notification of any alteration from the Memorandum of Intent described in section 102(20)(A) of this Act which will be made in the Definitive Agreements. After the date of such sale, the Secretary shall transmit to such Committees notification of any intent to waive compliance with any substantive covenant, agreement or obligation contained in the Definitive Agreements, and the Secretary may not waive such compliance until a period of 45 calendar days has expired after the date of such transmittal.

"(5) The Secretary shall not transfer the interest of the United States in the common stock of the Corporation except concurrently with a divestiture by Norfolk Southern Corporation of rail assets and rights approved by the Attorney General.

"(6) The sale of the interest of the United States in the common stock of the Corporation shall be deemed to be consummated at the date title to the common stock passes to Norfolk Southern Corporation and the United States receives the cash purchase price.".

RAILROAD PURCHASERS AND OFFER FOR SALE OF SHARES TO EMPLOYEES

SEC. 105. Subsections (d) and (e) of section 401 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 761(d) and (e)) are repealed.

CANCELLATION OF DEBT AND PREFERRED STOCK

SEC. 106. Section 402 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 762) is amended to read as follows:

"DEBT AND PREFERRED STOCK

"SEC. 402. (a) RECAPITALIZATION.—In connection with the sale of the interest of the United States in the common stock of the Corporation under section 401 of this Act, and consistent with the Secretary's Plan, the Secretary may take all action necessary to cause the Corporation to be recapitalized such that the interest of the United States, or any agent or instrumentality thereof, and

all other commitments or obligations of the Corporation to the United States or any agent or instrumentality thereof arising out of such interest, in any debt (including accrued interest and contingent interest thereon) and preferred stock (including accrued and unpaid dividends thereon) of the Corporation shall be cancelled or retired, and contributed to the capital of the Corporation. The Secretary shall cause the recapitalization authorized by this section to be effective as of the consummation of the sale of the interest of the United States in the common stock of the Corporation.

"(b) BREACH OF REPRESENTATIONS.—(1) Norfolk Southern Corporation or any successor corporation thereto may bring suit for any breach of representations contained in paragraph 6(e) of the Memorandum of Intent described in section 102(20)(A) of this Act (hereinafter referred to as the 'Representations') in the United States Claims Court or a district court of the United States. If such an action is brought, the Claims Court or district court shall determine the amount by which the United States income tax (including interest and penalties whether or not such penalties are assessed as a tax under the Internal Revenue Code of 1954) assessable against the Corporation or against Norfolk Southern Corporation for any year exceeds the amount of such tax which would have been assessable for such year had such Representations not been breached (hereinafter referred to as the 'Offset Amount').

"(2) The Representations shall be considered breached and Norfolk Southern Corporation shall be entitled to bring suit upon the first occurrence of any of the following that is inconsistent with the Representations: (A) the issuance by the Internal Revenue Service of a statutory notice of deficiency (90-day letter), (B) the assessment of the United States income tax, or (C) any claim by the United States in a suit or other judicial proceeding against Norfolk Southern Corporation or the Corporation.

"(3) The right to bring suit pursuant to this section shall not be subject to any waiting period applicable to tax proceedings or to any requirements for payment of any tax as a condition to instituting any suit based on a breach of the Representations.

"(4) Any judgment for money damages relating to breach of the Representations shall only be awarded as an offset in any court or administrative proceeding against the tax liability of Norfolk Southern Corporation or the Corporation, or both, to which such breach relates; except that if any such tax liability resulting from such breach has been paid, the judgment shall to that extent be an offset against any United States income tax liability of the Norfolk Southern Corporation or the Corporation, or both. If any portion of the tax resulting from a breach of the Representations has been paid, then the Offset Amount shall include interest on such payment from the date paid at the rate from time to time specified in the Internal Revenue Code of 1954 for interest payable on refund claims.

"(5) It shall not be a defense to an action brought under this section that Norfolk Southern Corporation knew, or should have known, of the falsity of the Representations or that there exists no carryover basis procedure as contemplated by the last sentence of the Representations.

"(6) For purposes of this section, tax liability of Norfolk Southern Corporation shall include the tax liability of Norfolk Southern Corporation and its affiliated group, within the meaning of section 1504 of the Internal Revenue Code of 1954.".

APPLICABILITY OF CERTAIN LAWS TO SALE OF CONRAIL

SEC. 107. Section 408 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 768) is amended—

(1) by repealing subsection (b);

(2) by amending subsection (c) by striking "No transfer" and all that follows through "subject to" and inserting in lieu thereof "Except as provided in section 1152 of the Northeast Rail Service Act of 1981 (45 U.S.C. 1105), the Secretary's Plan and the Definitive Agreements and their negotiation, execution, and implementation shall not be subject to administrative or"; and

(3) by adding at the end of subsection (c) the following sentence: "The issuance in private placement of notes or other securities in accordance with exhibit B to the Memorandum of Intent (described in section 102(20)(A) of this Act) in the Secretary's Plan shall not be subject to the provisions of subtitle IV of title 49, United States Code.".

LABOR PROTECTION

SEC. 108. (a) Section 701(d)(2) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 797(d)(2)) is amended by striking "the last day of the eighteen-month period beginning on".

(b)(1) Title VII of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 797 et seq.) is amended by adding at the end thereof the following section:

"PROTECTION AFTER SALE

"SEC. 715. After consummation of the sale of the interest of the United States in the common stock of the Corporation pursuant to the Secretary's Plan, any employee of Norfolk Southern Corporation, the Corporation, any rail affiliate of either company, and any transferee of the rail tracks, rights, and facilities divested in accordance with the Secretary's Plan, who is adversely affected in his employment by the implementation of the Secretary's Plan shall receive from his employer protection under the labor protective conditions set forth in New York Dock Railway—Control—Brooklyn Eastern District Terminal (354 ICC 399 (1978), modified upon further consideration, 360 ICC 60 (1979)). The arbitration provisions of section 4 of New York Dock shall apply to the formation of any implementing agreements that may be necessary in connection with the implementation of the Secretary's Plan, including any resulting coordinations.".

(2) The table of contents of the Regional Rail Reorganization Act of 1973 is amended by inserting immediately after the item relating to section 714 the following item:

"Sec. 715. Protection after sale.".

PREFERENTIAL HIRING

SEC. 109. Section 703 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 797b) is amended—

(1) by redesignating subsection (b) as subsection (c); and

(2) by inserting immediately after subsection (a) the following subsection:

"(b) IMPLEMENTATION OF SECRETARY'S PLAN.—Any employee of any railroad who is deprived of employment as a result of the implementation of the Secretary's Plan shall have the first right of hire for a vacancy for which he is qualified on any Norfolk Southern Corporation rail subsidiary, except where such vacancy is covered by (1) an affirmative action plan, or a hiring plan designated to eliminate discrimination, that is required by Federal or State statute, regulation, or Executive order, or by the order of a Federal court or agency, or (2) a permissible voluntary affirmative action plan. For purposes of this subsection, a railroad shall not be considered to be hiring new employees when it recalls any of its own furloughed employees.".

CROSS CRAFT EMPLOYMENT

SEC. 110. (a) Title VII of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 797 et seq.) is amended by inserting immediately after section 703 the following section:

"CROSS CRAFT EMPLOYMENT

"SEC. 703A. Any employee of Norfolk and Western Railway Company, Southern Railway Company, or the Corporation who is deprived of employment as a result of the implementation of the Secretary's Plan shall have the first right of hire for any vacancy for which such employee is qualified at the entry level of any Norfolk Southern Corporation rail subsidiary, without regard to craft or class or the provisions of section 703 of this Act. Such employee shall retain his seniority rights to return to his original craft or class whenever a vacancy occurs. For purposes of this section, a railroad shall not be considered to be hiring new employees when it recalls any of its own furloughed employees.".

(b) The table of contents of the Regional Rail Reorganization Act of 1973 is amended by inserting immediately after the item relating to section 703 the following item:

"Sec. 703A. Cross craft employment.".

Subtitle B—Northeast Rail Service Act of 1981 Amendments

SPECIAL COURT JURISDICTION

SEC. 121. (a) Section 1152 of the Northeast Rail Service Act of 1981 (45 U.S.C. 1105) is amended—

(1) by inserting "or the Conrail Sale Amendments Act of 1985" immediately after "subtitle" wherever it appears;

(2) in subsection (a), by striking "or" at the end of paragraph (3), by striking the period at the end of paragraph (4) and inserting in lieu thereof a semicolon, and by adding at the end thereof the following paragraphs:

"(5) brought by the United States or any agency or instrumentality thereof seeking to enforce the Secretary's Plan or the Definitive Agreements;

"(6) brought by Norfolk Southern Corporation seeking to enforce the Secretary's Plan or the Definitive Agreements;

"(7) brought by a party who filed a complaint with the Secretary under subsection (e) of this section, and who is aggrieved by (A) a determination of the Secretary under paragraph (1) of such subsection that the party has not suffered direct economic injury, or (B) a decision of the Secretary under paragraph (2) of such subsection that a covenant has not been violated;

"(8) brought by a party which is a signatory to an ancillary agreement entered into in accordance with the Secretary's Plan or the Definitive Agreements and which is seeking to enforce such ancillary agreement; or

"(9) brought to determine the value of the interest of the employee stock ownership plan and related trusts, or of the beneficiaries thereof, in the preferred stock of the Conrail Equity Corporation.

For purposes of any action brought under paragraph (5) of this subsection, a violation of any covenant contained in the Secre-

tary's Plan or the Definitive Agreements shall be deemed to constitute immediate and irreparable harm for purposes of awarding injunctive relief to the United States.".

(b) Section 1152 of the Northeast Rail Service Act of 1981 (45 U.S.C. 1105) is amended by adding at the end thereof the following subsection:

"(e)(1) Any party who suffers direct economic injury as a result of an alleged violation of a covenant contained in the Definitive Agreements may file a complaint with the Secretary seeking enforcement of such covenant. If the Secretary determines that the complainant has demonstrated to the Secretary that it has suffered direct economic injury, the Secretary shall investigate the complaint.

"(2) If the Secretary decides to investigate a complaint under paragraph (1) of this subsection, the Secretary shall give reasonable notice of such decision to investigate to the alleged violator of such covenant and the complainant, and shall make a final decision on such complaint within 60 days after the date on which it was filed.

"(3) If the Secretary finds that (A) the covenant in question has been violated, and (B) the complainant suffered direct economic injury as a result of such violation, the Secretary shall enter an order directing the violator of such covenant to comply with such covenant.

"(4) On appeal, any decision by the Secretary under this subsection shall be upheld, unless such decision is found to be arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law.".

APPLICABILITY OF OTHER LAWS

SEC. 122. Section 1168(a) of the Northeast Rail Service Act of 1981 (45 U.S.C. 1116(a)) is amended by striking "service transfers" and inserting in lieu thereof "sale of the interest of the United States in the common stock of Conrail or transfer of the rail properties and freight service responsibilities of Conrail".

Subtitle C—Employee Stock Ownership Plan

RESPONSIBILITY OF EMPLOYEE STOCK OWNERSHIP PLAN FIDUCIARIES

SEC. 131. (a) Section 216(f)(8)(A) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 726(f)(8)(A)) is amended—

(1) by striking "or" at the end of clause (ii);

(2) by striking the period at the end of clause (iii) and inserting in lieu thereof "; or"; and

(3) by adding at the end thereof the following clause:

"(iv) for or in connection with any action taken to implement the Secretary's Plan, including any sale, exchange, valuation, or disposition of the plan and related trust assets, or the assets of Conrail Equity Corporation, in connection with implementation of the Secretary's Plan and any determination of the terms on which any such sale, exchange, valuation, or disposition is effected.".

QUALIFICATION, REVIEW, AND VALUATION OF EMPLOYEE STOCK OWNERSHIP PLANS

SEC. 132. Section 216(f) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 726(f)) is amended by adding at the end thereof the following paragraphs:

"(11) The employee stock ownership plans of the Corporation and related trusts maintained, amended, or adopted in implementing the Secretary's Plan shall be deemed to meet the qualification requirements of sections 401 and 501, respectively, of the Internal Revenue Code of 1954, notwithstanding (A) that such plans may not meet the requirements of section 415 of the Internal Revenue Code of 1954, or (B) that participants in such plans may be entitled to withdraw a portion of the shares allocated to their accounts prior to the expiration of the period generally imposed by the Internal Revenue Service for qualified plans. Such qualification shall relate only to the contributions, allocations, and withdrawals of shares provided for in the Secretary's Plan with respect to the plans and related trusts maintained, amended, or adopted in implementing the Secretary's Plan. Such contributions and allocations shall in no event be treated as having exceeded the maximum annual addition permitted under section 415 of the Internal Revenue Code of 1954 (but not for purposes of applying section 404(j) of the Internal Revenue Code of 1954) for purposes of calculating any limitation under section 415 with respect to contributions and allocations not described in the Secretary's Plan, including contributions and allocations to plans and related trusts of the Corporation and any affiliated corporation. The continued qualification of such plans with respect to all other contributions, allocations, and withdrawals shall be subject to all provisions of existing law, as amended from time to time. No inference shall be drawn from this paragraph as to whether an amount is a contribution deductible under section 404 of the Internal Revenue Code of 1954 rather than a non-deductible capital expenditure.

"(12) Except as provided in section 1152 of the Northeast Rail Service Act of 1981 (45 U.S.C. 1105), the issuance and sale or contribution of securities by Norfolk Southern Corporation to fulfill arrangements with the Corporation's employees in implementing the Secretary's Plan and the distribution of shares from the Corporation's employee stock ownership plans and related trusts maintained, amended, or adopted in implementing the Secretary's Plan shall not be subject to the registration and prospectus delivery requirements of the Securities Act of 1933, any approval requirement under subtitle IV of title 49, United States Code, or the laws of any State with respect to the issuance and sale of securities.".

TITLE II—TECHNICAL AND CONFORMING AMENDMENTS

REGIONAL RAIL REORGANIZATION ACT OF 1973 AMENDMENTS AND REPEALS

SEC. 201. The following provisions of the Regional Rail Reorganization Act of 1973 are repealed or amended as specified:

(1) Subsections (a) and (b) of section 214 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 724(a) and (b)) are repealed, and such section 214 is amended by striking "(c) ASSOCIATION.—".

(2) Subsection (f) of section 217 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 727(f)) is repealed, without prejudice to the continued availability of funds appropriated prior to the date of enactment of this Act pursuant to section 217(f)(1)(C) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 727(f)(1)(C)).

(3) Section 404 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 764), and the item relating to such section in the table of contents of such Act, are repealed.

(4) Section 405 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 765), and the item relating to such section in the table of contents of such Act, are repealed.

(5) Section 406 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 766), and the item relating to such section in the table of contents of such Act, are repealed.

(6) Section 407 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 767), and the item relating to such section in the table of contents of such Act, are repealed.

(7) Subsections (a) and (d) of section 408 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 768 (a) and (d)) are repealed.

(8) Section 409 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 769), and the item relating to such section in the table of contents of such Act, are repealed.

(9) Section 410 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 769a), and the item relating to such section in the table of contents of such Act, are repealed.

(10) Section 411 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 769b), and the item relating to such section in the table of contents of such Act, are repealed.

(11) Section 412 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 769c), and the item relating to such section in the table of contents of such Act, are repealed.

(12) Section 713 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 797l), and the item relating to such section in the table of contents of such Act, are repealed.

AMENDMENTS AND REPEALS OF OTHER RAIL LAWS

SEC. 202. The following provisions of law are repealed or amended as specified:

(1) Section 1154 of the Northeast Rail Service Act of 1981 (45 U.S.C. 1107), and the item relating to such section in the table of contents of such Act, are repealed.

(2) Section 1161 of the Northeast Rail Service Act of 1981 (45 U.S.C. 1110), and the item relating to such section in the table of contents of such Act, are repealed.

(3) Section 1166 of the Northeast Rail Service Act of 1981 (45 U.S.C. 1114), and the item relating to such section in the table of contents of such Act, are repealed.

(4) Subsection (c) of section 1167 of the Northeast Rail Service Act of 1981 (45 U.S.C. 1115(c)) is repealed.

(5) Subsection (b) of section 1168 of the Northeast Rail Service Act of 1981 (45 U.S.C. 1116(b)) is repealed.

(6) Section 501(8) of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 821(8)) is amended—

(A) by striking "(A)";

(B) by striking "(i)" and inserting in lieu thereof "(A)", and by striking "(ii)" and inserting in lieu thereof "(B)"; and

(C) by striking all after "utilization;".

(7) Section 505 of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 825) is amended—

(A) in subsection (a)(1), by striking all after "railroad" through "1981)"; and

(B) in subsection (b)(2)(C), by striking all after "costs" the second time it appears through "subsidy".

(8) Subsection (b)(1) of section 509 of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 829(b)(1)) is repealed.

(9) Section 511(e) of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 831(e)) is amended by striking "(1)", and by striking all after "time" and inserting in lieu thereof a period.

(10) Section 402 of the Rail Safety and Service Improvement Act of 1982 (45 U.S.C. 825a) is repealed.

(11) Section 1005(b)(1) of the Rail Passenger Service Act (45 U.S.C. 655(b)(1)) is amended by striking "the Consolidated Rail Corporation,".

(12) Section 10362(b)(7)(A) of title 49, United States Code, is amended by striking "by the Consolidated Rail Corporation or".

(13) Section 332(d) of title 49, United States Code, is amended by striking ", the Consolidated Rail Corporation,".

TITLE III—MISCELLANEOUS PROVISIONS

COMMON CARRIER STATUS OF CONRAIL AFTER SALE

SEC. 301. (a) Conrail's status as a common carrier by railroad under section 10102(4) of title 49, United States Code, shall not be affected by virtue of sale of the interest of the United States in Conrail's common stock. Purchase of Conrail stock shall not alone be the basis of a determination that the acquiring entity has become a common carrier by railroad under section 10102(4) of title 49, United States Code.

(b) The Definitive Agreements shall contain a binding commitment by Norfolk Southern Corporation to continue to operate Conrail in full compliance with the provisions of section 10731(e) of title 49, United States Code.

CONSUMMATION OF SALE

SEC. 302. The sale of the interest of the United States in the common stock of Conrail shall be deemed to be consummated on the date title to the common stock passes to Norfolk Southern Corporation and the United States receives the cash purchase price.

CONTRACTS

SEC. 303. (a) Except as provided in subsection (b) of this section, nothing in this Act shall affect—

(1) Conrail's obligation to carry out its transportation contracts and equipment leases, equipment trusts, and conditional sale agreements, in accordance with their terms; and

(2) the obligation of any transferee of divested assets to carry out transportation contracts and equipment leases, equipment trusts, and conditional sale agreements to which such assets are subject, in accordance with their terms.

(b) If a divestiture carried out pursuant to the Secretary's Plan precludes Conrail from providing a transportation service for which it has contracted without a right of termination that may be exercised in the event of the sale of the interest of the United States in the common stock of Conrail and the divestiture will result in a change or modification in the movement of the traffic involved, the transferee of the divested rights and properties and Conrail shall provide the contracted-for service on terms and conditions which, to the maximum extent possible, conform to the terms and conditions in the contract.

CONGRESSIONAL OVERSIGHT OF COMPLIANCE

SEC. 304. The Secretary shall, no later than January 31 of each year, submit to the Committee on Commerce, Science, and Transportation of the Senate and to the Committee on Energy and Commerce of the House of Representatives a report setting forth each certificate which Norfolk Southern Corporation and Conrail provided to the Secretary, during the preceding year, certifying compliance with the covenants contained in the Definitive Agreements.

SEPARABILITY

SEC. 305. If any provision of this Act or the application thereof to any person or circumstances is held invalid, the remainder of this Act and the application of such provision to other persons or circumstances shall not be affected thereby.

EFFECTIVE DATE

SEC. 306. (a) Except as provided in subsection (b) of this section, the provisions of and amendments made by this Act shall take effect on the date of enactment of this Act.

(b) Sections 108(a), 201 and 202 of this Act shall take effect on the date of consummation of the sale of the interest of the United States in the common stock of Conrail.

(c) Any provision of this Act which, pursuant to Article I, Section 7 of the Constitution, provides for raising revenue shall only be effective upon the enactment into law of a bill which has originated in the House of Representatives enacting such provision.

AMENDMENT No. 1514

In lieu of the language proposed to be inserted, insert the following:

That this Act may be cited as the "Conrail Sale Amendments Act of 1985".

FINDINGS

SEC. 2. The Congress finds that—

(1) the Northeast Rail Service Act of 1981 (45 U.S.C. 1101 et seq.) provided for an orderly return of Conrail freight service to the private sector;

(2) the provisions of the Northeast Rail Service Act of 1981 were successful in removing Conrail's obligations beyond railroad freight service and in otherwise preparing Conrail for an orderly return to the private sector;

(3) acting under section 403 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 763), the Board of Directors of the United States Railway Association twice found Conrail to be a profitable corporation;

(4) acting under section 401 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 761), the Secretary engaged an investment banker and arranged, through open competitive bidding and negotiation, to sell the interest of the United States in the common stock of Conrail;

(5) the Secretary's Plan for the sale of Conrail provides for sale of the interest of the United States in the common stock of Conrail to Norfolk Southern Corporation;

(6) the Secretary found that sale of the interest of the United States in the common stock of Conrail to Norfolk Southern Corporation best meets the sale criteria of (A) leaving Conrail in the strongest financial position after the sale, (B) preserving patterns of service to shippers and communities in the region Conrail serves, and (C) maximizing return to the Federal Government consistent with the criteria specified in clauses (A) and (B);

(7) amendments to the Regional Rail Reorganization Act of 1973 (45 U.S.C. 701 et seq.) and related laws are needed to permit the sale of the interest of the United States in the common stock of Conrail to Norfolk Southern Corporation and to permit cancellation of the interest of the United States in Conrail debt and preferred stock; and

(8) the Secretary's Plan satisfies the requirements of the Northeast Rail Service Act of 1981, including the intent, goals, and objectives relating to the sale of the interest of the United States in the common stock of Conrail and the requirements of section 401(e) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 761(e)).

PURPOSE

SEC. 3. It is therefore declared to be the purpose of the Congress in this Act to return Conrail to the private sector by directing and facilitating implementation of the Secretary's Plan for the sale of the interest of the United States in the common stock of Conrail.

DEFINITIONS

SEC. 4. (a) In this Act, unless the context otherwise requires, the term—

(1) "Conrail" means the Consolidated Rail Corporation;

(2) "Definitive Agreements" means any and all agreements existing or to be developed between the United States and Norfolk Southern Corporation, including all representations and warranties made therein, to implement the Memorandum of Intent described in paragraph (4)(A);

(3) "Secretary" means the Secretary of Transportation; and

(4) "Secretary's Plan" means (A) the Memorandum of Intent between the United States and Norfolk Southern Corporation signed February 8, 1985, and (B) the divestitures by the Norfolk Southern Corporation of certain rail tracks, rights, and facilities, and any transactions or agreements related or incidental to such divestitures, in connection with the implementation of attachment A to the letter from the Department of Justice attached to the Memorandum of Intent as exhibit E.

(b) Section 102 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 702) is amended—

(1) by redesignating paragraphs (6) through (18) as paragraphs (7) through (19), and paragraphs (19) through (21) as paragraphs (21) through (23), respectively;

(2) by inserting after paragraph (5) the following paragraph:

"(6) 'Definitive Agreements' means any and all agreements existing or to be developed between the United States and Norfolk Southern Corporation, including all representations and warranties made therein, to implement the Memorandum of Intent described in paragraph (20)(A);"; and

(3) by inserting after paragraph (19), as so redesignated, the following paragraph:

"(20) 'Secretary's Plan' means (A) the Memorandum of Intent between the United States and Norfolk Southern Corporation signed February 8, 1985, and (B) the divestitures by the Norfolk Southern Corporation of certain rail tracks, rights, and facilities, and any transactions or agreements related or incidental to such divestitures, in connection with the implementation of attachment A to the letter from the Department of Justice attached to the Memorandum of Intent as exhibit E;".

(c) Section 1135(a) of the Northeast Rail Service Act of 1981 (45 U.S.C. 1104(a)) is amended—

(1) by redesignating paragraphs (6), (7), and (8) as paragraphs (7), (8), and (10), respectively;

(2) by inserting after paragraph (5) the following paragraph:

"(6) 'Definitive Agreements' means any and all agreements existing or to be developed between the United States and Norfolk Southern Corporation, including all representations and warranties made therein, to implement the Memorandum of Intent described in paragraph (9)(A);"; and

(3) by inserting after paragraph (8), as so redesignated, the following paragraph:

"(9) 'Secretary's Plan' means (A) the Memorandum of Intent between the United States and Norfolk Southern Corporation signed February 8, 1985, but not including paragraph 9(d)(viii) of such Memorandum

of Intent, and (B) the divestitures by the Norfolk Southern Corporation of certain rail tracks, rights, and facilities, and any transactions or agreements related or incidental to such divestitures, in connection with the implementation of attachment A to the letter from the Department of Justice attached to the Memorandum of Intent as exhibit E;".

TITLE I—AMENDMENTS TO THE REGIONAL RAIL REORGANIZATION ACT OF 1973 AND THE NORTHEAST RAIL SERVICE ACT OF 1981

Subtitle A—Regional Rail Reorganization Act of 1973 Amendments

LIMIT ON AUTHORITY TO PURCHASE STOCK

SEC. 101. Section 216(b) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 726(b)) is amended by adding at the end thereof the following paragraph:

"(5) The authority of the Association to purchase debentures or series A preferred stock of the Corporation under this section shall terminate upon the consummation of the sale of the interest of the United States in the common stock of the Corporation under the terms of the Secretary's Plan.".

RESPONSIBILITY OF CONRAIL DIRECTORS

SEC. 102. Section 301(i) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 741(i)) is amended by inserting immediately after "required by law" the following: ", taken to implement the Secretary's Plan,".

APPLICABILITY OF REGIONAL RAIL REORGANIZATION ACT OF 1973 TO CONRAIL AFTER SALE

SEC. 103. Section 301 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 741) is amended by adding at the end thereof the following subsection:

"(k) GOVERNING PROVISIONS AFTER SALE.—The provisions of this Act shall not apply to the Corporation and to activities and other actions and responsibilities of the Corporation and its directors after consummation of the sale of the interest of the United States in the common stock of the Corporation under the terms of the Conrail Sale Amendments Act of 1985, other than with regard to—

"(1) section 102 of this Act;

"(2) section 201(d) of this Act;

"(3) section 203 of this Act, but only with respect to information relating to proceedings before the special court established under section 209(b);

"(4) section 216(f)(8) of this Act, but only as such authority applies to activities related to the employee stock ownership plan and related trusts prior to or in connection with consummation of the sale of the interest of the United States in the common stock of the Corporation, including activities related to the sale, exchange, valuation, or disposition of the assets of the employee stock ownership plan and related trusts, or of Conrail Equity Corporation, in connection with the Secretary's Plan;

"(5) sections 216(f)(11) and 216(f)(12) of this Act, as amended by the Conrail Sale Amendments Act of 1985;

"(6) section 217(e) of this Act;

"(7) subsection (i) of this section, but only as such authority applies to service as a director of the Corporation prior to consummation or in connection with implementation of the sale of the interest of the United States in the common stock of the Corporation;

"(8) section 305 of this Act, but only as to the effect, and continuing administration, of supplemental transactions consummated prior to consummation of the sale of the interest of the United States in the common stock of the Corporation;

"(9) section 308 of this Act, but only in abandonment actions when such authority has been relied on to file a notice or notices of insufficient revenues prior to consummation of the sale of the interest of the United States in the common stock of the Corporation;

"(10) section 401(a) of this Act, as amended by the Conrail Sale Amendments Act of 1985;

"(11) section 402 of this Act, as amended by the Conrail Sale Amendments Act of 1985;

"(12) section 408(c) of this Act, as amended by the Conrail Sale Amendments Act of 1985;

"(13) section 701 of this Act, but only as may be necessary to identify employees eligible for benefits under agreements entered into under such section;

"(14) section 702(e) of this Act;

"(15) section 704(b) of this Act;

"(16) section 709 of this Act;

"(17) section 710(b)(1) of this Act;

"(18) section 711 of this Act;

"(19) section 714 of this Act, but only with regard to disputes or controversies specified in such section that arose prior to consummation of the sale of the interest of the United States in the common stock of the Corporation; and

"(20) section 715 of this Act, as amended by the Conrail Sale Amendments Act of 1985.".

IMPLEMENTATION OF THE SECRETARY'S PLAN

SEC. 104. (a) Section 401(a)(3) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 761(a)(3)) is amended to read as follows:

"(3) The Secretary is authorized and directed to implement the Secretary's Plan, in accordance with paragraph (4) of this subsection. Such implementation of the Secretary's Plan and the coordinated operation of the Corporation's properties with those of Norfolk Southern Corporation and its affiliates as a single rail system is deemed approved by the Commission under chapter 113 of title 49, United States Code.".

(b) Section 401(a) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 761(a)) is amended by adding at the end thereof the following paragraphs:

"(4) The Secretary shall implement the Secretary's Plan by negotiating, executing, delivering, and performing the Definitive Agreements, which shall conform to the Memorandum of Intent described in section 102(20)(A) of this Act. The Secretary shall, 45 calendar days before the date on which the Secretary anticipates that the interest of the United States in the common stock of the Corporation will be sold to Norfolk Southern Corporation, transmit to the Committee on Commerce, Science, and Transportation of the Senate and to the Committee on Energy and Commerce of the House of Representatives a notification of any alteration from the Memorandum of Intent described in section 102(20)(A) of this Act which will be made in the Definitive Agreements. After the date of such sale, the Secretary shall transmit to such Committees notification of any intent to waive compliance with any substantive covenant, agreement or obligation contained in the Definitive Agreements, and the Secretary may not waive such compliance until a period of 45 calendar days has expired after the date of such transmittal.

"(5) The Secretary shall not transfer the interest of the United States in the common stock of the Corporation except concurrently with a divestiture by Norfolk Southern Corporation of rail assets and rights approved by the Attorney General.

"(6) The sale of the interest of the United States in the common stock of the Corporation shall be deemed to be consummated at the date title to the common stock passes to Norfolk Southern Corporation and the United States receives the cash purchase price.".

RAILROAD PURCHASERS AND OFFER FOR SALE OF SHARES TO EMPLOYEES

SEC. 105. Subsections (d) and (e) of section 401 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 761 (d) and (e)) are repealed.

CANCELLATION OF DEBT AND PREFERRED STOCK

SEC. 106. Section 402 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 762) is amended to read as follows:

"DEBT AND PREFERRED STOCK

"SEC. 402. (a) RECAPITALIZATION.—In connection with the sale of the interest of the United States in the common stock of the Corporation under section 401 of this Act, and consistent with the Secretary's Plan, the Secretary may take all action necessary to cause the Corporation to be recapitalized such that the interest of the United States, or any agent or instrumentality thereof, and all other commitments or obligations of the Corporation to the United States or any agent or instrumentality thereof arising out of such interest, in any debt (including accrued interest and contingent interest thereon) and preferred stock (including accrued and unpaid dividends thereon) of the Corporation shall be cancelled or retired, and contributed to the capital of the Corporation. The Secretary shall cause the recapitalization authorized by this section to be effective as of the consummation of the sale of the interest of the United States in the common stock of the Corporation.

"(b) BREACH OF REPRESENTATIONS.—(1) Norfolk Southern Corporation or any successor corporation thereto may bring suit for any breach of representations contained in paragraph 6(e) of the Memorandum of Intent described in section 102(20)(A) of this Act (hereinafter referred to as the 'Representations') in the United States Claims Court or a district court of the United States. If such an action is brought, the Claims Court or district court shall determine the amount by which the United States income tax (including interest and penalties whether or not such penalties are assessed as a tax under the Internal Revenue Code of 1954) assessable against the Corporation or against Norfolk Southern Corporation for any year exceeds the amount of such tax which would have been assessable for such year had such Representations not been breached (hereinafter referred to as the 'Offset Amount').

"(2) The Representations shall be considered breached and Norfolk Southern Corporation shall be entitled to bring suit upon the first occurrence of any of the following that is inconsistent with the Representations: (A) the issuance by the Internal Revenue Service of a statutory notice of deficiency (90-day letter), (B) the assessment of the United States income tax, or (C) any claim by the United States in a suit or other judicial proceeding against Norfolk Southern Corporation or the Corporation.

"(3) The right to bring suit pursuant to this section shall not be subject to any waiting period applicable to tax proceedings or

to any requirements for payment of any tax as a condition to instituting any suit based on a breach of the Representations.

"(4) Any judgment for money damages relating to breach of the Representations shall only be awarded as an offset in any court or administrative proceeding against the tax liability of Norfolk Southern Corporation or the Corporation, or both, to which such breach relates; except that if any such tax liability resulting from such breach has been paid, the judgment shall to that extent be an offset against any United States income tax liability of the Norfolk Southern Corporation or the Corporation, or both. If any portion of the tax resulting from a breach of the Representations has been paid, then the Offset Amount shall include interest on such payment from the date paid at the rate from time to time specified in the Internal Revenue Code of 1954 for interest payable on refund claims.

"(5) It shall not be a defense to an action brought under this section that Norfolk Southern Corporation knew, or should have known, of the falsity of the Representations or that there exists no carryover basis procedure as contemplated by the last sentence of the Representations.

"(6) For purposes of this section, tax liability of Norfolk Southern Corporation shall include the tax liability of Norfolk Southern Corporation and its affiliated group, within the meaning of section 1504 of the Internal Revenue Code of 1954.".

APPLICABILITY OF CERTAIN LAWS TO SALE OF CONRAIL

SEC. 107. Section 408 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 768) is amended—

(1) by repealing subsection (b);

(2) by amending subsection (c) by striking "No transfer" and all that follows through "subject to" and inserting in lieu thereof "Except as provided in section 1152 of the Northeast Rail Service Act of 1981 (45 U.S.C. 1105), the Secretary's Plan and the Definitive Agreements and their negotiation, execution, and implementation shall not be subject to administrative or"; and

(3) by adding at the end of subsection (c) the following sentence: "The issuance in private placement of notes or other securities in accordance with exhibit B to the Memorandum of Intent (described in section 102(20)(A) of this Act) in the Secretary's Plan shall not be subject to the provisions of subtitle IV of title 49, United States Code.".

LABOR PROTECTION

SEC. 108. (a) Section 701(d)(2) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 797(d)(2)) is amended by striking "the last day of the eighteen-month period beginning on".

(b)(1) Title VII of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 797 et seq.) is amended by adding at the end thereof the following section:

"PROTECTION AFTER SALE

"SEC. 715. After consummation of the sale of the interest of the United States in the common stock of the Corporation pursuant to the Secretary's Plan, any employee of Norfolk Southern Corporation, the Corporation, any rail affiliate of either company, and any transferee of the rail tracks, rights, and facilities divested in accordance with the Secretary's Plan, who is adversely affected in his employment by the implementation of the Secretary's Plan shall receive from his employer protection under the labor protective conditions set forth in New York Dock Railway—Control—Brooklyn Eastern District Terminal (354 ICC 399 (1978), modified upon further consideration, 360 ICC 60 (1979)). The arbitration provisions of section 4 of New York Dock shall apply to the formation of any implementing agreements that may be necessary in connection with the implementation of the Secretary's Plan, including any resulting coordinations.".

(2) The table of contents of the Regional Rail Reorganization Act of 1973 is amended by inserting immediately after the item relating to section 714 the following item:

"Sec. 715. Protection after sale.".

PREFERENTIAL HIRING

SEC. 109. Section 703 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 797b) is amended—

(1) by redesignating subsection (b) as subsection (c); and

(2) by inserting immediately after subsection (a) the following subsection:

"(b) IMPLEMENTATION OF SECRETARY'S PLAN.—Any employee of any railroad who is deprived of employment as a result of the implementation of the Secretary's Plan shall have the first right of hire for a vacancy for which he is qualified on any Norfolk Southern Corporation rail subsidiary, except where such vacancy is covered by (1) an affirmative action plan, or a hiring plan designated to eliminate discrimination, that is required by Federal or State statute, regulation, or Executive order, or by the order of a Federal court or agency, or (2) a permissible voluntary affirmative action plan. For purposes of this subsection, a railroad shall not be considered to be hiring new employees when it recalls any of its own furloughed employees.".

CROSS CRAFT EMPLOYMENT

SEC. 110. (a) Title VII of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 797 et seq.) is amended by inserting immediately after section 703 the following section:

"CROSS CRAFT EMPLOYMENT

"SEC. 703A. Any employee of Norfolk and Western Railway Company, Southern Railway Company, or the Corporation who is deprived of employment as a result of the implementation of the Secretary's Plan shall have the first right of hire for any vacancy for which such employee is qualified at the entry level of any Norfolk Southern Corporation rail subsidiary, without regard to craft or class or the provisions of section 703 of this Act. Such employee shall retain his seniority rights to return to his original craft or class whenever a vacancy occurs. For purposes of this section, a railroad shall not be considered to be hiring new employees when it recalls any of its own furloughed employees.".

(b) The table of contents of the Regional Rail Reorganization Act of 1973 is amended by inserting immediately after the item relating to section 703 the following item:

"Sec. 703A. Cross craft employment.".

Subtitle B—Northeast Rail Service Act of 1981 Amendments

SPECIAL COURT JURISDICTION

SEC. 121. (a) Section 1152 of the Northeast Rail Service Act of 1981 (45 U.S.C. 1105) is amended—

(1) by inserting "or the Conrail Sale Amendments Act of 1985" immediately after "subtitle" wherever it appears;

(2) in subsection (a), by striking "or" at the end of paragraph (3), by striking the period at the end of paragraph (4) and inserting in lieu thereof a semicolon, and by adding at the end thereof the following paragraphs:

"(5) brought by the United States or any agency or instrumentality thereof seeking to enforce the Secretary's Plan or the Definitive Agreements;

"(6) brought by Norfolk Southern Corporation seeking to enforce the Secretary's Plan or the Definitive Agreements;

"(7) brought by a party who filed a complaint with the Secretary under subsection (e) of this section, and who is aggrieved by (A) a determination of the Secretary under paragraph (1) of such subsection that the party has not suffered direct economic injury, or (B) a decision of the Secretary under paragraph (2) of such subsection that a covenant has not been violated;

"(8) brought by a party which is a signatory to an ancillary agreement entered into in accordance with the Secretary's Plan or the Definitive Agreements and which is seeking to enforce such ancillary agreement; or

"(9) brought to determine the value of the interest of the employee stock ownership plan and related trusts, or of the beneficiaries thereof, in the preferred stock of the Conrail Equity Corporation.

For purposes of any action brought under paragraph (5) of this subsection, a violation of any covenant contained in the Secretary's Plan or the Definitive Agreements shall be deemed to constitute immediate and irreparable harm for purposes of awarding injunctive relief to the United States.".

(b) Section 1152 of the Northeast Rail Service Act of 1981 (45 U.S.C. 1105) is amended by adding at the end thereof the following subsection:

"(e)(1) Any party who suffers direct economic injury as a result of an alleged violation of a covenant contained in the Definitive Agreements may file a complaint with the Secretary seeking enforcement of such covenant. If the Secretary determines that the complainant has demonstrated to the Secretary that it has suffered direct economic injury, the Secretary shall investigate the complaint.

"(2) If the Secretary decides to investigate a complaint under paragraph (1) of this subsection, the Secretary shall give reasonable notice of such decision to investigate to the alleged violator of such covenant and the complainant, and shall make a final decision on such complaint within 60 days after the date on which it was filed.

"(3) If the Secretary finds that (A) the covenant in question has been violated, and (B) the complainant suffered direct economic injury as a result of such violation, the Secretary shall enter an order directing the violator of such covenant to comply with such covenant.

"(4) On appeal, any decision by the Secretary under this subsection shall be upheld, unless such decision is found to be arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law.".

APPLICABILITY OF OTHER LAWS

SEC. 122. Section 1168(a) of the Northeast Rail Service Act of 1981 (45 U.S.C. 1116(a)) is amended by striking "service transfers" and inserting in lieu thereof "sale of the interest of the United States in the common stock of Conrail or transfer of the rail properties and freight service responsibilities of Conrail".

Subtitle C—Employee Stock Ownership Plan

RESPONSIBILITY OF EMPLOYEE STOCK OWNERSHIP PLAN FIDUCIARIES

SEC. 131. (a) Section 216(f)(8)(A) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 726(f)(8)(A)) is amended—

(1) by striking "or" at the end of clause (ii);

(2) by striking the period at the end of clause (iii) and inserting in lieu thereof "; or"; and

(3) by adding at the end thereof the following clause:

"(iv) for or in connection with any action taken to implement the Secretary's Plan, including any sale, exchange, valuation, or disposition of the plan and related trust assets, or the assets of Conrail Equity Corporation, in connection with implementation of the Secretary's Plan and any determination of the terms on which any such sale, exchange, valuation, or disposition is effected.".

QUALIFICATION, REVIEW, AND VALUATION OF EMPLOYEE STOCK OWNERSHIP PLANS

SEC. 132. Section 216(f) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 726(f)) is amended by adding at the end thereof the following paragraphs:

"(11) The employee stock ownership plans of the Corporation and related trusts maintained, amended, or adopted in implementing the Secretary's Plan shall be deemed to meet the qualification requirements of sections 401 and 501, respectively, of the Internal Revenue Code of 1954, notwithstanding (A) that such plans may not meet the requirements of section 415 of the Internal Revenue Code of 1954, or (B) that participants in such plans may be entitled to withdraw a portion of the shares allocated to their accounts prior to the expiration of the period generally imposed by the Internal Revenue Service for qualified plans. Such qualification shall relate only to the contributions, allocations, and withdrawals of shares provided for in the Secretary's Plan with respect to the plans and related trusts maintained, amended, or adopted in implementing the Secretary's Plan. Such contributions and allocations shall in no event be treated as having exceeded the maximum annual addition permitted under section 415 of the Internal Revenue Code of 1954 (but not for purposes of applying section 404(j) of the Internal Revenue Code of 1954) for purposes of calculating any limitation under section 415 with respect to contributions and allocations not described in the Secretary's Plan, including contributions and allocations to plans and related trusts of the Corporation and any affiliated corporation. The continued qualification of such plans with respect to all other contributions, allocations, and withdrawals shall be subject to all provisions of existing law, as amended from time to time. No inference shall be drawn from this paragraph as to whether an amount is a contribution deductible under section 404 of the Internal Revenue Code of 1954 rather than a non-deductible capital expenditure.

"(12) Except as provided in section 1152 of the Northeast Rail Service Act of 1981 (45 U.S.C. 1105), the issuance and sale or contribution of securities by Norfolk Southern Corporation to fulfill arrangements with the Corporation's employees in implementing the Secretary's Plan and the distribution of shares from the Corporation's employee stock ownership plans and related trusts maintained, amended, or adopted in implementing the Secretary's Plan shall not be subject to the registration and prospectus delivery requirements of the Securities Act of 1933, any approval requirement under subtitle IV of title 49, United States Code, or the laws of any State with respect to the issuance and sale of securities.".

TITLE II—TECHNICAL AND CONFORMING AMENDMENTS

REGIONAL RAIL REORGANIZATION ACT OF 1973 AMENDMENTS AND REPEALS

SEC. 201. The following provisions of the Regional Rail Reorganization Act of 1973 are repealed or amended as specified:

(1) Subsections (a) and (b) of section 214 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 724 (a) and (b)) are repealed, and such section 214 is amended by striking "(c) ASSOCIATION.—".

(2) Subsection (f) of section 217 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 727(f)) is repealed, without prejudice to the continued availability of funds appropriated prior to the date of enactment of this Act pursuant to section 217(f)(1)(C) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 727(f)(1)(C)).

(3) Section 404 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 764), and the item relating to such section in the table of contents of such Act, are repealed.

(4) Section 405 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 765), and the item relating to such section in the table of contents of such Act, are repealed.

(5) Section 406 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 766), and the item relating to such section in the table of contents of such Act, are repealed.

(6) Section 407 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 767), and the item relating to such section in the table of contents of such Act, are repealed.

(7) Subsections (a) and (d) of section 408 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 768 (a) and (d)) are repealed.

(8) Section 409 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 769), and the item relating to such section in the table of contents of such Act, are repealed.

(9) Section 410 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 769a), and the item relating to such section in the table of contents of such Act, are repealed.

(10) Section 411 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 769b), and the item relating to such section in the table of contents of such Act, are repealed.

(11) Section 412 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 769c), and the item relating to such section in the table of contents of such Act, are repealed.

(12) Section 713 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 797l), and the item relating to such section in the table of contents of such Act, are repealed.

AMENDMENTS AND REPEALS OF OTHER RAIL LAWS

SEC. 202. The following provisions of law are repealed or amended as specified:

(1) Section 1154 of the Northeast Rail Service Act of 1981 (45 U.S.C. 1107), and the item relating to such section in the table of contents of such Act, are repealed.

(2) Section 1161 of the Northeast Rail Service Act of 1981 (45 U.S.C. 1110), and the item relating to such section in the table of contents of such Act, are repealed.

(3) Section 1166 of the Northeast Rail Service Act of 1981 (45 U.S.C. 1114), and the item relating to such section in the table of contents of such Act, are repealed.

(4) Subsection (c) of section 1167 of the Northeast Rail Service Act of 1981 (45 U.S.C. 1115(c)) is repealed.

(5) Subsection (b) of section 1168 of the Northeast Rail Service Act of 1981 (45 U.S.C. 1116(b)) is repealed.

(6) Section 501(8) of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 821(8)) is amended—

(A) by striking "(A)";

(B) by striking "(i)" and inserting in lieu thereof "(A)", and by striking "(ii)" and inserting in lieu thereof "(B)"; and

(C) by striking all after "utilization;".

(7) Section 505 of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 825) is amended—

(A) in subsection (a)(1), by striking all after "railroad" through "1981)"; and

(B) in subsection (b)(2)(C), by striking all after "costs" the second time it appears through "subsidy".

(8) Subsection (b)(1) of section 509 of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 829(b)(1)) is repealed.

(9) Section 511(e) of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 831(e)) is amended by striking "(1)", and by striking all after "time" and inserting in lieu thereof a period.

(10) Section 402 of the Rail Safety and Service Improvement Act of 1982 (45 U.S.C. 825a) is repealed.

(11) Section 1005(b)(1) of the Rail Passenger Service Act (45 U.S.C. 655(b)(1)) is amended by striking "the Consolidated Rail Corporation,".

(12) Section 10362(b)(7)(A) of title 49, United States Code, is amended by striking "by the Consolidated Rail Corporation or".

(13) Section 332(d) of title 49, United States Code, is amended by striking ", the Consolidated Rail Corporation,".

TITLE III—MISCELLANEOUS PROVISIONS

COMMON CARRIER STATUS OF CONRAIL AFTER SALE

SEC. 301. (a) Conrail's status as a common carrier by railroad under section 10102(4) of title 49, United States Code, shall not be affected by virtue of sale of the interest of the United States in Conrail's common stock. Purchase of Conrail stock shall not alone be the basis of a determination that the acquiring entity has become a common carrier by railroad under section 10102(4) of title 49, United States Code.

(b) The Definitive Agreements shall contain a binding commitment by Norfolk Southern Corporation to continue to operate Conrail in full compliance with the provisions of section 10731(e) of title 49, United States Code.

CONSUMMATION OF SALE

SEC. 302. The sale of the interest of the United States in the common stock of Conrail shall be deemed to be consummated on the date title to the common stock passes to Norfolk Southern Corporation and the United States receives the cash purchase price.

CONTRACTS

SEC. 303. (a) Except as provided in subsection (b) of this section, nothing in this Act shall affect—

(1) Conrail's obligation to carry out its transportation contracts and equipment leases, equipment trusts, and conditional sale agreements, in accordance with their terms; and

(2) the obligation of any transferee of divested assets to carry out transportation contracts and equipment leases, equipment trusts, and conditional sale agreements to

which such assets are subject, in accordance with their terms.

(b) If a divestiture carried out pursuant to the Secretary's Plan precludes Conrail from providing a transportation service for which it has contracted without a right of termination that may be exercised in the event of the sale of the interest of the United States in the common stock of Conrail and the divestiture will result in a change or modification in the movement of the traffic involved, the transferee of the divested rights and properties and Conrail shall provide the contracted-for service on terms and conditions which, to the maximum extent possible, conform to the terms and conditions in the contract.

CONGRESSIONAL OVERSIGHT OF COMPLIANCE

SEC. 304. The Secretary shall, no later than January 31 of each year, submit to the Committee on Commerce, Science, and Transportation of the Senate and to the Committee on Energy and Commerce of the House of Representatives a report setting forth each certificate which Norfolk Southern Corporation and Conrail provided to the Secretary, during the preceding year, certifying compliance with the covenants contained in the Definitive Agreements.

SEPARABILITY

SEC. 305. If any provision of this Act or the application thereof to any person or circumstances is held invalid, the remainder of this Act and the application of such provision to other persons or circumstances shall not be affected thereby.

EFFECTIVE DATE

SEC. 306. (a) Except as provided in subsection (b) of this section, the provisions of and amendments made by this Act shall take effect on the date of enactment of this Act.

(b) Sections 108(a), 201 and 202 of this Act shall take effect on the date of consummation of the sale of the interest of the United States in the common stock of Conrail.

(c) Any provision of this Act which, pursuant to Article I, Section 7 of the Constitution, provides for raising revenue shall only be effective upon the enactment into law of a bill which has originated in the House of Representatives enacting such provision.

AMENDMENT NO. 1515

On page 6, line 19, immediately after the second comma insert the following new language: "but not including paragraph 9(d)(viii) of such Memorandum of Intent,".

AMENDMENT NO. 1516

On page 5, line 19, immediately after the second comma insert the following new language: "but not including paragraph 9(d)(viii) of such Memorandum of Intent,".

AMENDMENT NO. 1517

On page 4, line 19, immediately after the second comma insert the following new language: "but not including paragraph 9(d)(viii) of such Memorandum of Intent,".

AMENDMENT NO. 1518

On page 4, line 19, immediately after the second comma insert the following new language: "but not including paragraph 9(d)(viii) of such Memorandum of Intent,".

AMENDMENT NO. 1519

On page 5, line 19, immediately after the second comma insert the following new language: "but not including paragraph 9(d)(viii) of such Memorandum of Intent,".

AMENDMENT NO. 1520

On page 6, line 19, immediately after the second comma insert the following new language: "but not including Paragraph 9(d)(viii) of such Memorandum of Intent,".

AMENDMENT NO. 1521

In lieu of the language proposed to be inserted, insert the following:

That this Act may be cited as the "Conrail Sale Amendments Act of 1985".

FINDINGS

SEC. 2. The Congress finds that—

(1) the Northeast Rail Service Act of 1981 (45 U.S.C. 1101 et seq.) provided for an orderly return of Conrail freight service to the private sector;

(2) the provisions of the Northeast Rail Service Act of 1981 were successful in removing Conrail's obligations beyond railroad freight service and in otherwise preparing Conrail for an orderly return to the private sector;

(3) acting under section 403 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 763), the Board of Directors of the United States Railway Association twice found Conrail to be a profitable corporation;

(4) acting under section 401 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 761), the Secretary engaged an investment banker and arranged, through open competitive bidding and negotiation, to sell the interest of the United States in the common stock of Conrail;

(5) the Secretary's Plan for the sale of Conrail provides for sale of the interest of the United States in the common stock of Conrail to Norfolk Southern Corporation;

(6) the Secretary found that sale of the interest of the United States in the common stock of Conrail to Norfolk Southern Corporation best meets the sale criteria of (A) leaving Conrail in the strongest financial position after the sale, (B) preserving patterns of service to shippers and communities in the region Conrail serves, and (C) maximizing return to the Federal Government consistent with the criteria specified in clauses (A) and (B);

(7) amendments to the Regional Rail Reorganization Act of 1973 (45 U.S.C. 701 et seq.) and related laws are needed to permit the sale of the interest of the United States in the common stock of Conrail to Norfolk Southern Corporation and to permit cancellation of the interest of the United States in Conrail debt and preferred stock; and

(8) the Secretary's Plan satisfies the requirements of the Northeast Rail Service Act of 1981, including the intent, goals, and objectives relating to the sale of the interest of the United States in the common stock of Conrail and the requirements of section 401(e) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 761(e)).

PURPOSE

SEC. 3. It is therefore declared to be the purpose of the Congress in this Act to return Conrail to the private sector by directing and facilitating implementation of the Secretary's Plan for the sale of the interest of the United States in the common stock of Conrail.

DEFINITIONS

SEC. 4. (a) In this Act, unless the context otherwise requires, the term—

(1) "Conrail" means the Consolidated Rail Corporation;

(2) "Definitive Agreements" means any and all agreements existing or to be developed between the United States and Norfolk Southern Corporation, including all representations and warranties made therein, to implement the Memorandum of Intent described in paragraph (4)(A);

(3) "Secretary" means the Secretary of Transportation; and

(4) "Secretary's Plan" means (A) the Memorandum of Intent between the United States and Norfolk Southern Corporation signed February 8, 1985, and (B) the divestitures by the Norfolk Southern Corporation of certain rail tracks, rights, and facilities, and any transactions or agreements related or incidental to such divestitures, in connection with the implementation of attachment A to the letter from the Department of Justice attached to the Memorandum of Intent as exhibit E.

(b) Section 102 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 702) is amended—

(1) by redesignating paragraphs (6) through (18) as paragraphs (7) through (19), and paragraphs (19) through (21) as paragraphs (21) through (23), respectively;

(2) by inserting after paragraph (5) the following paragraph:

"(6) 'Definitive Agreements' means any and all agreements existing or to be developed between the United States and Norfolk Southern Corporation, including all representations and warranties made therein, to implement the Memorandum of Intent described in paragraph (20)(A);"; and

(3) by inserting after paragraph (19), as so redesignated, the following paragraph:

"(20) 'Secretary's Plan' means (A) the Memorandum of Intent between the United States and Norfolk Southern Corporation signed February 8, 1985, and (B) the divestitures by the Norfolk Southern Corporation of certain rail tracks, rights, and facilities, and any transactions or agreements related or incidental to such divestitures, in connection with the implementation of attachment A to the letter from the Department of Justice attached to the Memorandum of Intent as exhibit E;".

(c) Section 1135(a) of the Northeast Rail Service Act of 1981 (45 U.S.C. 1104(a)) is amended—

(1) by redesignating paragraphs (6), (7), and (8) as paragraphs (7), (8), and (10), respectively;

(2) by inserting after paragraph (5) the following paragraph:

"(6) 'Definitive Agreements' means any and all agreements existing or to be developed between the United States and Norfolk Southern Corporation, including all representations and warranties made therein, to implement the Memorandum of Intent described in paragraph (9)(A);"; and

(3) by inserting after paragraph (8), as so redesignated, the following paragraph:

"(9) 'Secretary's Plan' means (A) the Memorandum of Intent between the United States and Norfolk Southern Corporation signed February 8, 1985, and (B) the divestitures by the Norfolk Southern Corporation of certain rail tracks, rights, and facilities, and any transactions or agreements related or incidental to such divestitures, in connection with the implementation of attachment A to the letter from the Department of Justice attached to the Memorandum of Intent as exhibit E;".

TITLE I—AMENDMENTS TO THE REGIONAL RAIL REORGANIZATION ACT OF 1973 AND THE NORTHEAST RAIL SERVICE ACT OF 1981

Subtitle A—Regional Rail Reorganization Act of 1973 Amendments

LIMIT ON AUTHORITY TO PURCHASE STOCK

SEC. 101. Section 216(b) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 726(b)) is amended by adding at the end thereof the following paragraph:

"(5) The authority of the Association to purchase debentures or series A preferred stock of the Corporation under this section shall terminate upon the consummation of the sale of the interest of the United States in the common stock of the Corporation under the terms of the Secretary's Plan.".

RESPONSIBILITY OF CONRAIL DIRECTORS

SEC. 102. Section 301(i) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 741(i)) is amended by inserting immediately after "required by law" the following: ", taken to implement the Secretary's Plan,".

APPLICABILITY OF REGIONAL RAIL REORGANIZATION ACT OF 1973 TO CONRAIL AFTER SALE

SEC. 103. Section 301 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 741) is amended by adding at the end thereof the following subsection:

"(k) GOVERNING PROVISIONS AFTER SALE.—The provisions of this Act shall not apply to the Corporation and to activities and other actions and responsibilities of the Corporation and its directors after consummation of the sale of the interest of the United States in the common stock of the Corporation under the terms of the Conrail Sale Amendments Act of 1985, other than with regard to—

"(1) section 102 of this Act;

"(2) section 201(d) of this Act;

"(3) section 203 of this Act, but only with respect to information relating to proceedings before the special court established under section 209(b);

"(4) section 216(f)(8) of this Act, but only as such authority applies to activities related to the employee stock ownership plan and related trusts prior to or in connection with consummation of the sale of the interest of the United States in the common stock of the Corporation, including activities related to the sale, exchange, valuation, or disposition of the assets of the employee stock ownership plan and related trusts, or of Conrail Equity Corporation, in connection with the Secretary's Plan;

"(5) sections 216(f)(11) and 216(f)(12) of this Act, as amended by the Conrail Sale Amendments Act of 1985;

"(6) section 217(e) of this Act;

"(7) subsection (i) of this section, but only as such authority applies to service as a director of the Corporation prior to consummation or in connection with implementation of the sale of the interest of the United States in the common stock of the Corporation;

"(8) section 305 of this Act, but only as to the effect, and continuing administration, of supplemental transactions consummated prior to consummation of the sale of the interest of the United States in the common stock of the Corporation;

"(9) section 308 of this Act, but only in abandonment actions when such authority has been relied on to file a notice or notices of insufficient revenues prior to consummation of the sale of the interest of the United States in the common stock of the Corporation;

"(10) section 401(a) of this Act, as amended by the Conrail Sale Amendments Act of 1985;

"(11) section 402 of this Act, as amended by the Conrail Sale Amendments Act of 1985;

"(12) section 408(c) of this Act, as amended by the Conrail Sale Amendments Act of 1985;

"(13) section 701 of this Act, but only as may be necessary to identify employees eligible for benefits under agreements entered into under such section;

"(14) section 702(e) of this Act;

"(15) section 704(b) of this Act;

"(16) section 709 of this Act;

"(17) section 710(b)(1) of this Act;

"(18) section 711 of this Act;

"(19) section 714 of this Act, but only with regard to disputes or controversies specified in such section that arose prior to consummation of the sale of the interest of the United States in the common stock of the Corporation; and

"(20) section 715 of this Act, as amended by the Conrail Sale Amendments Act of 1985.".

IMPLEMENTATION OF THE SECRETARY'S PLAN

SEC. 104. (a) Section 401(a)(3) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 761(a)(3)) is amended to read as follows:

"(3) The Secretary is authorized and directed to implement the Secretary's Plan, in accordance with paragraph (4) of this subsection. Such implementation of the Secretary's Plan and the coordinated operation of the Corporation's properties with those of Norfolk Southern Corporation and its affiliates as a single rail system is deemed approved by the Commission under chapter 113 of title 49, United States Code.".

(b) Section 401(a) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 761(a)) is amended by adding at the end thereof the following paragraphs:

"(4) The Secretary shall implement the Secretary's Plan by negotiating, executing, delivering, and performing the Definitive Agreements, which shall conform to the Memorandum of Intent described in section 102(20)(A) of this Act. The Secretary shall, 45 calendar days before the date on which the Secretary anticipates that the interest of the United States in the common stock of the Corporation will be sold to Norfolk Southern Corporation, transmit to the Committee on Commerce, Science, and Transportation of the Senate and to the Committee on Energy and Commerce of the House of Representatives a notification of any alteration from the Memorandum of Intent described in section 102(20)(A) of this Act which will be made in the Definitive Agreements. After the date of such sale, the Secretary shall transmit to such Committees notification of any intent to waive compliance with any substantive covenant, agreement or obligation contained in the Definitive Agreements, and the Secretary may not waive such compliance until a period of 45 calendar days has expired after the date of such transmittal.

"(5) The Secretary shall not transfer the interest of the United States in the common stock of the Corporation except concurrently with a divestiture by Norfolk Southern Corporation of rail assets and rights approved by the Attorney General.

"(6) The sale of the interest of the United States in the common stock of the Corporation shall be deemed to be consummated at the date title to the common stock passes to Norfolk Southern Corporation and the United States receives the cash purchase price.".

RAILROAD PURCHASERS AND OFFER FOR SALE OF SHARES TO EMPLOYEES

SEC. 105. Subsections (d) and (e) of section 401 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 761 (d) and (e)) are repealed.

CANCELLATION OF DEBT AND PREFERRED STOCK

SEC. 106. Section 402 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 762) is amended to read as follows:

"DEBT AND PREFERRED STOCK

"SEC. 402. (a) RECAPITALIZATION.—In connection with the sale of the interest of the United States in the common stock of the Corporation under section 401 of this Act, and consistent with the Secretary's Plan, the Secretary may take all action necessary to cause the Corporation to be recapitalized such that the interest of the United States, or any agent or instrumentality thereof, and all other commitments or obligations of the Corporation to the United States or any agent or instrumentality thereof arising out of such interest, in any debt (including accrued interest and contingent interest thereon) and preferred stock (including accrued and unpaid dividends thereon) of the Corporation shall be cancelled or retired, and contributed to the capital of the Corporation. The Secretary shall cause the recapitalization authorized by this section to be effective as of the consummation of the sale of the interest of the United States in the common stock of the Corporation.

"(b) BREACH OF REPRESENTATIONS.—(1) Norfolk Southern Corporation or any successor corporation thereto may bring suit for any breach of representations contained in paragraph 6(e) of the Memorandum of Intent described in section 102(20)(A) of this Act (hereinafter referred to as the 'Representations') in the United States Claims Court or a district court of the United States. If such an action is brought, the Claims Court or district court shall determine the amount by which the United States income tax (including interest and penalties whether or not such penalties are assessed as a tax under the Internal Revenue Code of 1954) assessable against the Corporation or against Norfolk Southern Corporation for any year exceeds the amount of such tax which would have been assessable for such year had such Representations not been breached (hereinafter referred to as the 'Offset Amount').

"(2) The Representations shall be considered breached and Norfolk Southern Corporation shall be entitled to bring suit upon the first occurrence of any of the following that is inconsistent with the Representations: (A) the issuance by the Internal Revenue Service of a statutory notice of deficiency (90-day letter), (B) the assessment of the United States income tax, or (C) any claim by the United States in a suit or other judicial proceeding against Norfolk Southern Corporation or the Corporation.

"(3) The right to bring suit pursuant to this section shall not be subject to any waiting period applicable to tax proceedings or to any requirements for payment of any tax as a condition to instituting any suit based on a breach of the Representations.

"(4) Any judgment for money damages relating to breach of the Representations shall only be awarded as an offset in any court or administrative proceeding against the tax liability of Norfolk Southern Corporation or the Corporation, or both, to which

such breach relates; except that if any such tax liability resulting from such breach has been paid, the judgment shall to that extent be an offset against any United States income tax liability of the Norfolk Southern Corporation or the Corporation, or both. If any portion of the tax resulting from a breach of the Representations has been paid, then the Offset Amount shall include interest on such payment from the date paid at the rate from time to time specified in the Internal Revenue Code of 1954 for interest payable on refund claims.

"(5) It shall not be a defense to an action brought under this section that Norfolk Southern Corporation knew, or should have known, of the falsity of the Representations or that there exists no carryover basis procedure as contemplated by the last sentence of the Representations.

"(6) For purposes of this section, tax liability of Norfolk Southern Corporation shall include the tax liability of Norfolk Southern Corporation and its affiliated group, within the meaning of section 1504 of the Internal Revenue Code of 1954.".

APPLICABILITY OF CERTAIN LAWS TO SALE OF CONRAIL

SEC. 107. Section 408 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 768) is amended—

(1) by repealing subsection (b);

(2) by amending subsection (c) by striking "No transfer" and all that follows through "subject to" and inserting in lieu thereof "Except as provided in section 1152 of the Northeast Rail Service Act of 1981 (45 U.S.C. 1105), the Secretary's Plan and the Definitive Agreements and their negotiation, execution, and implementation shall not be subject to administrative or"; and

(3) by adding at the end of subsection (c) the following sentence: "The issuance in private placement of notes or other securities in accordance with exhibit B to the Memorandum of Intent (described in section 102(20)(A) of this Act) in the Secretary's Plan shall not be subject to the provisions of subtitle IV of title 49, United States Code.".

LABOR PROTECTION

SEC. 108. (a) Section 701(d)(2) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 797(d)(2)) is amended by striking "the last day of the eighteen-month period beginning on".

(b)(1) Title VII of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 797 et seq.) is amended by adding at the end thereof the following section:

"PROTECTION AFTER SALE

"SEC. 715. After consummation of the sale of the interest of the United States in the common stock of the Corporation pursuant to the Secretary's Plan, any employee of Norfolk Southern Corporation, the Corporation, any rail affiliate of either company, and any transferee of the rail tracks, rights, and facilities divested in accordance with the Secretary's Plan, who is adversely affected in his employment by the implementation of the Secretary's Plan shall receive from Norfolk Southern Corporation protection under the labor protective conditions set forth in New York Dock Railway—Control—Brooklyn Eastern District Terminal (354 ICC 399 (1978), modified upon further consideration, 360 ICC 60 (1979)). The arbitration provisions of section 4 of New York Dock shall apply to the formation of any implementing agreements that may be necessary in connection with the implementation of the Secretary's Plan, including any resulting coordinations.".

(2) The table of contents of the Regional Rail Reorganization Act of 1973 is amended by inserting immediately after the item relating to section 714 the following item:

"Sec. 715. Protection after sale.".

PREFERENTIAL HIRING

SEC. 109. Section 703 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 797b) is amended—

(1) by redesignating subsection (b) as subsection (c); and

(2) by inserting immediately after subsection (a) the following subsection:

"(b) IMPLEMENTATION OF SECRETARY'S PLAN.—Any employee of any railroad who is deprived of employment as a result of the implementation of the Secretary's Plan shall have the first right of hire for a vacancy for which he is qualified on any Norfolk Southern Corporation rail subsidiary, except where such vacancy is covered by (1) an affirmative action plan, or a hiring plan designated to eliminate discrimination, that is required by Federal or State statute, regulation, or Executive order, or by the order of a Federal court or agency, or (2) a permissible voluntary affirmative action plan. For purposes of this subsection, a railroad shall not be considered to be hiring new employees when it recalls any of its own furloughed employees.".

CROSS CRAFT EMPLOYMENT

SEC. 110. (a) Title VII of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 797 et seq.) is amended by inserting immediately after section 703 the following section:

"CROSS CRAFT EMPLOYMENT

"SEC. 703A. Any employee of Norfolk and Western Railway Company, Southern Railway Company, or the Corporation who is deprived of employment as a result of the implementation of the Secretary's Plan shall have the first right of hire for any vacancy for which such employee is qualified at the entry level of any Norfolk Southern Corporation rail subsidiary, without regard to craft or class or the provisions of section 703 of this Act. Such employee shall retain his seniority rights to return to his original craft or class whenever a vacancy occurs. For purposes of this section, a railroad shall not be considered to be hiring new employees when it recalls any of its own furloughed employees.".

(b) The table of contents of the Regional Rail Reorganization Act of 1973 is amended by inserting immediately after the item relating to section 703 the following item:

"Sec. 703A. Cross craft employment.".

Subtitle B—Northeast Rail Service Act of 1981 Amendments

SPECIAL COURT JURISDICTION

SEC. 121. (a) Section 1152 of the Northeast Rail Service Act of 1981 (45 U.S.C. 1105) is amended—

(1) by inserting "or the Conrail Sale Amendments Act of 1985" immediately after "subtitle" wherever it appears;

(2) in subsection (a), by striking "or" at the end of paragraph (3), by striking the period at the end of paragraph (4) and inserting in lieu thereof a semicolon, and by adding at the end thereof the following paragraphs:

"(5) brought by the United States or any agency or instrumentality thereof seeking to enforce the Secretary's Plan or the Definitive Agreements;

"(6) brought by Norfolk Southern Corporation seeking to enforce the Secretary's Plan or the Definitive Agreements;

"(7) brought by a party who filed a complaint with the Secretary under subsection (e) of this section, and who is aggrieved by (A) a determination of the Secretary under paragraph (1) of such subsection that the party has not suffered direct economic injury, or (B) a decision of the Secretary under paragraph (2) of such subsection that a covenant has not been violated;

"(8) brought by a party which is a signatory to an ancillary agreement entered into in accordance with the Secretary's Plan or the Definitive Agreements and which is seeking to enforce such ancillary agreement; or

"(9) brought to determine the value of the interest of the employee stock ownership plan and related trusts, or of the beneficiaries thereof, in the preferred stock of the Conrail Equity Corporation.

For purposes of any action brought under paragraph (5) of this subsection, a violation of any covenant contained in the Secretary's Plan or the Definitive Agreements shall be deemed to constitute immediate and irreparable harm for purposes of awarding injunctive relief to the United States.".

(b) Section 1152 of the Northeast Rail Service Act of 1981 (45 U.S.C. 1105) is amended by adding at the end thereof the following subsection:

"(e)(1) Any party who suffers direct economic injury as a result of an alleged violation of a covenant contained in the Definitive Agreements may file a complaint with the Secretary seeking enforcement of such covenant. If the Secretary determines that the complainant has demonstrated to the Secretary that it has suffered direct economic injury, the Secretary shall investigate the complaint.

"(2) If the Secretary decides to investigate a complaint under paragraph (1) of this subsection, the Secretary shall give reasonable notice of such decision to investigate to the alleged violator of such covenant and the complainant, and shall make a final decision on such complaint within 60 days after the date on which it was filed.

"(3) If the Secretary finds that (A) the covenant in question has been violated, and (B) the complainant suffered direct economic injury as a result of such violation, the Secretary shall enter an order directing the violator of such covenant to comply with such covenant.

"(4) On appeal, any decision by the Secretary under this subsection shall be upheld, unless such decision is found to be arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law.".

APPLICABILITY OF OTHER LAWS

SEC. 122. Section 1168(a) of the Northeast Rail Service Act of 1981 (45 U.S.C. 1116(a)) is amended by striking "service transfers" and inserting in lieu thereof "sale of the interest of the United States in the common stock of Conrail or transfer of the rail properties and freight service responsibilities of Conrail".

Subtitle C—Employee Stock Ownership Plan

RESPONSIBILITY OF EMPLOYEE STOCK OWNERSHIP PLAN FIDUCIARIES

SEC. 131. (a) Section 216(f)(8)(A) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 726(f)(8)(A)) is amended—

(1) by striking "or" at the end of clause (ii);

(2) by striking the period at the end of clause (iii) and inserting in lieu thereof "; or"; and

(3) by adding at the end thereof the following clause:

"(iv) for or in connection with any action taken to implement the Secretary's Plan, including any sale, exchange, valuation, or disposition of the plan and related trust assets, or the assets of Conrail Equity Corporation, in connection with implementation of the Secretary's Plan and any determination of the terms on which any such sale, exchange, valuation, or disposition is effected.".

QUALIFICATION, REVIEW, AND VALUATION OF EMPLOYEE STOCK OWNERSHIP PLANS

SEC. 132. Section 216(f) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 726(f)) is amended by adding at the end thereof the following paragraphs:

"(11) The employee stock ownership plans of the Corporation and related trusts maintained, amended, or adopted in implementing the Secretary's Plan shall be deemed to meet the qualification requirements of sections 401 and 501, respectively, of the Internal Revenue Code of 1954, notwithstanding (A) that such plans may not meet the requirements of section 415 of the Internal Revenue Code of 1954, or (B) that participants in such plans may be entitled to withdraw a portion of the shares allocated to their accounts prior to the expiration of the period generally imposed by the Internal Revenue Service for qualified plans. Such qualification shall relate only to the contributions, allocations, and withdrawals of shares provided for in the Secretary's Plan with respect to the plans and related trusts maintained, amended, or adopted in implementing the Secretary's Plan. Such contributions and allocations shall in no event be treated as having exceeded the maximum annual addition permitted under section 415 of the Internal Revenue Code of 1954 (but not for purposes of applying section 404(j) of the Internal Revenue Code of 1954) for purposes of calculating any limitation under section 415 with respect to contributions and allocations not described in the Secretary's Plan, including contributions and allocations to plans and related trusts of the Corporation and any affiliated corporation. The continued qualification of such plans with respect to all other contributions, allocations, and withdrawals shall be subject to all provisions of existing law, as amended from time to time. No inference shall be drawn from this paragraph as to whether an amount is a contribution deductible under section 404 of the Internal Revenue Code of 1954 rather than a non-deductible capital expenditure.

"(12) Except as provided in section 1152 of the Northeast Rail Service Act of 1981 (45 U.S.C. 1105), the issuance and sale or contribution of securities by Norfolk Southern Corporation to fulfill arrangements with the Corporation's employees in implementing the Secretary's Plan and the distribution of shares from the Corporation's employee stock ownership plans and related trusts maintained, amended, or adopted in implementing the Secretary's Plan shall not be subject to the registration and prospectus delivery requirements of the Securities Act of 1933, any approval requirement under subtitle IV of title 49, United States Code, or the laws of any State with respect to the issuance and sale of securities.".

TITLE II—TECHNICAL AND CONFORMING AMENDMENTS

REGIONAL RAIL REORGANIZATION ACT OF 1973 AMENDMENTS AND REPEALS

SEC. 201. The following provisions of the Regional Rail Reorganization Act of 1973 are repealed or amended as specified:

(1) Subsections (a) and (b) of section 214 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 724(a) and (b)) are repealed, and such section 214 is amended by striking "(c) ASSOCIATION.—".

(2) Subsection (f) of section 217 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 727(f)) is repealed, without prejudice to the continued availability of funds appropriated prior to the date of enactment of this Act pursuant to section 217(f)(1)(C) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 727(f)(1)(C)).

(3) Section 404 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 764), and the item relating to such section in the table of contents of such Act, are repealed.

(4) Section 405 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 765), and the item relating to such section in the table of contents of such Act, are repealed.

(5) Section 406 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 766), and the item relating to such section in the table of contents of such Act, are repealed.

(6) Section 407 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 767), and the item relating to such section in the table of contents of such Act, are repealed.

(7) Subsections (a) and (d) of section 408 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 768 (a) and (d)) are repealed.

(8) Section 409 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 769), and the item relating to such section in the table of contents of such Act, are repealed.

(9) Section 410 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 769a), and the item relating to such section in the table of contents of such Act, are repealed.

(10) Section 411 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 769b), and the item relating to such section in the table of contents of such Act, are repealed.

(11) Section 412 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 769c), and the item relating to such section in the table of contents of such Act, are repealed.

(12) Section 713 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 797l), and the item relating to such section in the table of contents of such Act, are repealed.

AMENDMENTS AND REPEALS OF OTHER RAIL LAWS

SEC. 202. The following provisions of law are repealed or amended as specified:

(1) Section 1154 of the Northeast Rail Service Act of 1981 (45 U.S.C. 1107), and the item relating to such section in the table of contents of such Act, are repealed.

(2) Section 1161 of the Northeast Rail Service Act of 1981 (45 U.S.C. 1110), and the item relating to such section in the table of contents of such Act, are repealed.

(3) Section 1166 of the Northeast Rail Service Act of 1981 (45 U.S.C. 1114), and the item relating to such section in the table of contents of such Act, are repealed.

(4) Subsection (c) of section 1167 of the Northeast Rail Service Act of 1981 (45 U.S.C. 1115(c)) is repealed.

(5) Subsection (b) of section 1168 of the Northeast Rail Service Act of 1981 (45 U.S.C. 1116(b)) is repealed.

(6) Section 501(8) of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 821(8)) is amended—

(A) by striking "(A)";

(B) by striking "(i)" and inserting in lieu thereof "(A)", and by striking "(ii)" and inserting in lieu thereof "(B)"; and

(C) by striking all after "utilization;".

(7) Section 505 of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 825) is amended—

(A) in subsection (a)(1), by striking all after "railroad" through "1981)"; and

(B) in subsection (b)(2)(C), by striking all after "costs" the second time it appears through "subsidy".

(8) Subsection (b)(1) of section 509 of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 829(b)(1)) is repealed.

(9) Section 511(e) of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 831(e)) is amended by striking "(1)", and by striking all after "time" and inserting in lieu thereof a period.

(10) Section 402 of the Rail Safety and Service Improvement Act of 1982 (45 U.S.C. 825a) is repealed.

(11) Section 1005(b)(1) of the Rail Passenger Service Act (45 U.S.C. 655(b)(1)) is amended by striking "the Consolidated Rail Corporation,".

(12) Section 10362(b)(7)(A) of title 49, United States Code, is amended by striking "by the Consolidated Rail Corporation or".

(13) Section 332(d) of title 49, United States Code, is amended by striking ", the Consolidated Rail Corporation,".

TITLE III—MISCELLANEOUS PROVISIONS

COMMON CARRIER STATUS OF CONRAIL AFTER SALE

SEC. 301. (a) Conrail's status as a common carrier by railroad under section 10102(4) of title 49, United States Code, shall not be affected by virtue of sale of the interest of the United States in Conrail's common stock. Purchase of Conrail stock shall not alone be the basis of a determination that the acquiring entity has become a common carrier by railroad under section 10102(4) of title 49, United States Code.

(b) The Definitive Agreements shall contain a binding commitment by Norfolk Southern Corporation to continue to operate Conrail in full compliance with the provisions of section 10731(e) of title 49, United States Code.

CONSUMMATION OF SALE

SEC. 302. The sale of the interest of the United States in the common stock of Conrail shall be deemed to be consummated on the date title to the common stock passes to Norfolk Southern Corporation and the United States receives the cash purchase price.

CONTRACTS

SEC. 303. (a) Except as provided in subsection (b) of this section, nothing in this Act shall affect—

(1) Conrail's obligation to carry out its transportation contracts and equipment leases, equipment trusts, and conditional sale agreements, in accordance with their terms; and

(2) the obligation of any transferee of divested assets to carry out transportation contracts and equipment leases, equipment trusts, and conditional sale agreements to which such assets are subject, in accordance with their terms.

(b) If a divestiture carried out pursuant to the Secretary's Plan precludes Conrail from providing a transportation service for which it has contracted without a right of termina-

tion that may be exercised in the event of the sale of the interest of the United States in the common stock of Conrail and the divestiture will result in a change or modification in the movement of the traffic involved, the transferee of the divested rights and properties and Conrail shall provide the contracted-for service on terms and conditions which, to the maximum extent possible, conform to the terms and conditions in the contract.

CONGRESSIONAL OVERSIGHT OF COMPLIANCE

SEC. 304. The Secretary shall, no later than January 31 of each year, submit to the Committee on Commerce, Science, and Transportation of the Senate and to the Committee on Energy and Commerce of the House of Representatives a report setting forth each certificate which Norfolk Southern Corporation and Conrail provided to the Secretary, during the preceding year, certifying compliance with the covenants contained in the Definitive Agreements.

SEPARABILITY

SEC. 305. If any provision of this Act or the application thereof to any person or circumstances is held invalid, the remainder of this Act and the application of such provision to other persons or circumstances shall not be affected thereby.

EFFECTIVE DATE

SEC. 306. (a) Except as provided in subsection (b) of this section, the provisions of and amendments made by this Act shall take effect on the date of enactment of this Act.

(b) Sections 108(a), 201 and 202 of this Act shall take effect on the date of consummation of the sale of the interest of the United States in the common stock of Conrail.

(c) Any provision of this Act which, pursuant to Article I, Section 7 of the Constitution, provides for raising revenue shall only be effective upon the enactment into law of a bill which has originated in the House of Representatives enacting such provision.

AMENDMENT NO. 1522

In lieu of the language proposed to be inserted, insert the following:

That this Act may be cited as the "Conrail Sale Amendments Act of 1985".

FINDINGS

SEC. 2. The Congress finds that—

(1) the Northeast Rail Service Act of 1981 (45 U.S.C. 1101 et seq.) provided for an orderly return of Conrail freight service to the private sector;

(2) the provisions of the Northeast Rail Service Act of 1981 were successful in removing Conrail's obligations beyond railroad freight service and in otherwise preparing Conrail for an orderly return to the private sector;

(3) acting under section 403 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 763), the Board of Directors of the United States Railway Association twice found Conrail to be a profitable corporation;

(4) acting under section 401 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 761), the Secretary engaged an investment banker and arranged, through open competitive bidding and negotiation, to sell the interest of the United States in the common stock of Conrail;

(5) the Secretary's Plan for the sale of Conrail provides for sale of the interest of the United States in the common stock of Conrail to Norfolk Southern Corporation;

(6) the Secretary found that sale of the interest of the United States in the common stock of Conrail to Norfolk Southern Corporation best meets the sale criteria of (A) leaving Conrail in the strongest financial position after the sale, (B) preserving patterns of service to shippers and communities in the region Conrail serves, and (C) maximizing return to the Federal Government consistent with the criteria specified in clauses (A) and (B);

(7) amendments to the Regional Rail Reorganization Act of 1973 (45 U.S.C. 701 et seq.) and related laws are needed to permit the sale of the interest of the United States in the common stock of Conrail to Norfolk Southern Corporation and to permit cancellation of the interest of the United States in Conrail debt and preferred stock; and

(8) the Secretary's Plan satisfies the requirements of the Northeast Rail Service Act of 1981, including the intent, goals, and objectives relating to the sale of the interest of the United States in the common stock of Conrail and the requirements of section 401(e) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 761(e)).

PURPOSE

SEC. 3. It is therefore declared to be the purpose of the Congress in this Act to return Conrail to the private sector by directing and facilitating implementation of the Secretary's Plan for the sale of the interest of the United States in the common stock of Conrail.

DEFINITIONS

SEC. 4. (a) In this Act, unless the context otherwise requires, the term—

(1) "Conrail" means the Consolidated Rail Corporation;

(2) "Definitive Agreements" means any and all agreements existing or to be developed between the United States and Norfolk Southern Corporation, including all representations and warranties made therein, to implement the Memorandum of Intent described in paragraph (4)(A);

(3) "Secretary" means the Secretary of Transportation; and

(4) "Secretary's Plan" means (A) the Memorandum of Intent between the United States and Norfolk Southern Corporation signed February 8, 1985, and (B) the divestitures by the Norfolk Southern Corporation of certain rail tracks, rights, and facilities, and any transactions or agreements related or incidental to such divestitures, in connection with the implementation of attachment A to the letter from the Department of Justice attached to the Memorandum of Intent as exhibit E.

(b) Section 102 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 702) is amended—

(1) by redesignating paragraphs (6) through (18) as paragraphs (7) through (19), and paragraphs (19) through (21) as paragraphs (21) through (23), respectively;

(2) by inserting after paragraph (5) the following paragraph:

"(6) 'Definitive Agreements' means any and all agreements existing or to be developed between the United States and Norfolk Southern Corporation, including all representations and warranties made therein, to implement the Memorandum of Intent described in paragraph (20)(A);"; and

(3) by inserting after paragraph (19), as so redesignated, the following paragraph:

"(20) 'Secretary's Plan' means (A) the Memorandum of Intent between the United States and Norfolk Southern Corporation signed February 8, 1985, and (B) the divestitures by the Norfolk Southern Corporation of certain rail tracks, rights, and facilities, and any transactions or agreements related or incidental to such divestitures, in connection with the implementation of attachment A to the letter from the Department of Justice attached to the Memorandum of Intent as exhibit E;".

(c) Section 1135(a) of the Northeast Rail Service Act of 1981 (45 U.S.C. 1104(a)) is amended—

(1) by redesignating paragraphs (6), (7), and (8) as paragraphs (7), (8), and (10), respectively;

(2) by inserting after paragraph (5) the following paragraph:

"(6) 'Definitive Agreements' means any and all agreements existing or to be developed between the United States and Norfolk Southern Corporation, including all representations and warranties made therein, to implement the Memorandum of Intent described in paragraph (9)(A);"; and

(3) by inserting after paragraph (8), as so redesignated, the following paragraph:

"(9) 'Secretary's Plan' means (A) the Memorandum of Intent between the United States and Norfolk Southern Corporation signed February 8, 1985, and (B) the divestitures by the Norfolk Southern Corporation of certain rail tracks, rights, and facilities, and any transactions or agreements related or incidental to such divestitures, in connection with the implementation of attachment A to the letter from the Department of Justice attached to the Memorandum of Intent as exhibit E;".

TITLE I—AMENDMENTS TO THE REGIONAL RAIL REORGANIZATION ACT OF 1973 AND THE NORTHEAST RAIL SERVICE ACT OF 1981

Subtitle A—Regional Rail Reorganization Act of 1973 Amendments

LIMIT ON AUTHORITY TO PURCHASE STOCK

SEC. 101. Section 216(b) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 726(b)) is amended by adding at the end thereof the following paragraph:

"(5) The authority of the Association to purchase debentures or series A preferred stock of the Corporation under this section shall terminate upon the consummation of the sale of the interest of the United States in the common stock of the Corporation under the terms of the Secretary's Plan.".

RESPONSIBILITY OF CONRAIL DIRECTORS

SEC. 102. Section 301(i) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 741(i)) is amended by inserting immediately after "required by law" the following: ", taken to implement the Secretary's Plan,".

APPLICABILITY OF REGIONAL RAIL REORGANIZATION ACT OF 1973 TO CONRAIL AFTER SALE

SEC. 103. Section 301 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 741) is amended by adding at the end thereof the following subsection:

"(k) GOVERNING PROVISIONS AFTER SALE.—The provisions of this Act shall not apply to the Corporation and to activities and other actions and responsibilities of the Corporation and its directors after consummation of the sale of the interest of the United States in the common stock of the Corporation under the terms of the Conrail Sale Amendments Act of 1985, other than with regard to—

"(1) section 102 of this Act;

"(2) section 201(d) of this Act;

"(3) section 203 of this Act, but only with respect to information relating to proceedings before the special court established under section 209(b);

"(4) section 216(f)(8) of this Act, but only as such authority applies to activities related to the employee stock ownership plan and related trusts prior to or in connection with consummation of the sale of the interest of the United States in the common stock of the Corporation, including activities related to the sale, exchange, valuation, or disposition of the assets of the employee stock ownership plan and related trusts, or of Conrail Equity Corporation, in connection with the Secretary's Plan;

"(5) sections 216(f)(11) and 216(f)(12) of this Act, as amended by the Conrail Sale Amendments Act of 1985;

"(6) section 217(e) of this Act;

"(7) subsection (i) of this section, but only as such authority applies to service as a director of the Corporation prior to consummation or in connection with implementation of the sale of the interest of the United States in the common stock of the Corporation;

"(8) section 305 of this Act, but only as to the effect, and continuing administration, of supplemental transactions consummated prior to consummation of the sale of the interest of the United States in the common stock of the Corporation;

"(9) section 308 of this Act, but only in abandonment actions when such authority has been relied on to file a notice or notices of insufficient revenues prior to consummation of the sale of the interest of the United States in the common stock of the Corporation;

"(10) section 401(a) of this Act, as amended by the Conrail Sale Amendments Act of 1985;

"(11) section 402 of this Act, as amended by the Conrail Sale Amendments Act of 1985;

"(12) section 408(c) of this Act, as amended by the Conrail Sale Amendments Act of 1985;

"(13) section 701 of this Act, but only as may be necessary to identify employees eligible for benefits under agreements entered into under such section;

"(14) section 702(e) of this Act;

"(15) section 704(b) of this Act;

"(16) section 709 of this Act;

"(17) section 710(b)(1) of this Act;

"(18) section 711 of this Act;

"(19) section 714 of this Act, but only with regard to disputes or controversies specified in such section that arose prior to consummation of the sale of the interest of the United States in the common stock of the Corporation; and

"(20) section 715 of this Act, as amended by the Conrail Sale Amendments Act of 1985.".

IMPLEMENTATION OF THE SECRETARY'S PLAN

SEC. 104. (a) Section 401(a)(3) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 761(a)(3)) is amended to read as follows:

"(3) The Secretary is authorized and directed to implement the Secretary's Plan, in accordance with paragraph (4) of this subsection. Such implementation of the Secretary's Plan and the coordinated operation of the Corporation's properties with those of Norfolk Southern Corporation and its affiliates as a single rail system is deemed approved by the Commission under chapter 113 of title 49, United States Code.".

(b) Section 401(a) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 761(a)) is amended by adding at the end thereof the following paragraphs:

"(4) The Secretary shall implement the Secretary's Plan by negotiating, executing, delivering, and performing the Definitive Agreements, which shall conform to the Memorandum of Intent described in section 102(20)(A) of this Act. The Secretary shall, 45 calendar days before the date on which the Secretary anticipates that the interest of the United States in the common stock of the Corporation will be sold to Norfolk Southern Corporation, transmit to the Committee on Commerce, Science, and Transportation of the Senate and to the Committee on Energy and Commerce of the House of Representatives a notification of any alteration from the Memorandum of Intent described in section 102(20)(A) of this Act which will be made in the Definitive Agreements. After the date of such sale, the Secretary shall transmit to such Committees notification of any intent to waive compliance with any substantive covenant, agreement or obligation contained in the Definitive Agreements, and the Secretary may not waive such compliance until a period of 45 calendar days has expired after the date of such transmittal.

"(5) The Secretary shall not transfer the interest of the United States in the common stock of the Corporation except concurrently with a divestiture by Norfolk Southern Corporation of rail assets and rights approved by the Attorney General.

"(6) The sale of the interest of the United States in the common stock of the Corporation shall be deemed to be consummated at the date title to the common stock passes to Norfolk Southern Corporation and the United States receives the cash purchase price.".

RAILROAD PURCHASERS AND OFFER FOR SALE OF SHARES TO EMPLOYEES

SEC. 105. Subsections (d) and (e) of section 401 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 761 (d) and (e)) are repealed.

CANCELLATION OF DEBT AND PREFERRED STOCK

SEC. 106. Section 402 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 762) is amended to read as follows:

"DEBT AND PREFERRED STOCK

"SEC. 402. (a) RECAPITALIZATION.—In connection with the sale of the interest of the United States in the common stock of the Corporation under section 401 of this Act, and consistent with the Secretary's Plan, the Secretary may take all action necessary to cause the Corporation to be recapitalized such that the interest of the United States, or any agent or instrumentality thereof, and all other commitments or obligations of the Corporation to the United States or any agent or instrumentality thereof arising out of such interest, in any debt (including accrued interest and contingent interest thereon) and preferred stock (including accrued and unpaid dividends thereon) of the Corporation shall be cancelled or retired, and contributed to the capital of the Corporation. The Secretary shall cause the recapitalization authorized by this section to be effective as of the consummation of the sale of the interest of the United States in the common stock of the Corporation.

"(b) BREACH OF REPRESENTATIONS.—(1) Norfolk Southern Corporation or any successor corporation thereto may bring suit for any breach of representations contained in paragraph 6(e) of the Memorandum of Intent described in section 102(20)(A) of this Act (hereinafter referred to as the 'Representations') in the United States Claims Court or a district court of the United States. If such an action is brought, the Claims Court or district court shall determine the amount by which the United States income tax (including interest and penalties whether or not such penalties are assessed as a tax under the Internal Revenue Code of 1954) assessable against the Corporation or against Norfolk Southern Corporation for any year exceeds the amount of such tax which would have been assessable for such year had such Representations not been breached (hereinafter referred to as the 'Offset Amount').

"(2) The Representations shall be considered breached and Norfolk Southern Corporation shall be entitled to bring suit upon the first occurrence of any of the following that is inconsistent with the Representations: (A) the issuance by the Internal Revenue Service of a statutory notice of deficiency (90-day letter), (B) the assessment of the United States income tax, or (C) any claim by the United States in a suit or other judicial 'proceeding against Norfolk Southern Corporation or the Corporation.

"(3) The right to bring suit pursuant to this section shall not be subject to any waiting period applicable to tax proceedings or to any requirements for payment of any tax as a condition to instituting any suit based on a breach of the Representations.

"(4) Any judgment for money damages relating to breach of the Representations shall only be awarded as an offset in any court or administrative proceeding against the tax liability of Norfolk Southern Corporation or the Corporation, or both, to which such breach relates; except that if any such tax liability resulting from such breach has been paid, the judgment shall to that extent be an offset against any United States income tax liability of the Norfolk Southern Corporation or the Corporation, or both. If any portion of the tax resulting from a breach of the Representations has been paid, then the Offset Amount shall include interest on such payment from the date paid at the rate from time to time specified in the Internal Revenue Code of 1954 for interest payable on refund claims.

"(5) It shall not be a defense to an action brought under this section that Norfolk Southern Corporation knew, or should have known, of the falsity of the Representations or that there exists no carryover basis procedure as contemplated by the last sentence of the Representations.

"(6) For purposes of this section, tax liability of Norfolk Southern Corporation shall include the tax liability of Norfolk Southern Corporation and its affiliated group, within the meaning of section 1504 of the Internal Revenue Code of 1954.".

APPLICABILITY OF CERTAIN LAWS TO SALE OF CONRAIL

SEC. 107. Section 408 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 768) is amended—

(1) by repealing subsection (b);

(2) by amending subsection (c) by striking "No transfer" and all that follows through "subject to" and inserting in lieu thereof "Except as provided in section 1152 of the Northeast Rail Service Act of 1981 (45 U.S.C. 1105), the Secretary's Plan and the Definitive Agreements and their negotiation, execution, and implementation shall not be subject to administrative or"; and

(3) by adding at the end of subsection (c) the following sentence: "The issuance in private placement of notes or other securities in accordance with exhibit B to the Memorandum of Intent (described in section 102(20)(A) of this Act) in the Secretary's Plan shall not be subject to the provisions

of subtitle IV of title 49, United States Code.".

LABOR PROTECTION

SEC. 108. (a) Section 701(d)(2) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 797(d)(2)) is amended by striking "the last day of the eighteen-month period beginning on".

(b)(1) Title VII of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 797 et seq.) is amended by adding at the end thereof the following section:

"PROTECTION AFTER SALE

"SEC. 715. After consummation of the sale of the interest of the United States in the common stock of the Corporation pursuant to the Secretary's Plan, any employee of Norfolk Southern Corporation, the Corporation, any rail affiliate of either company, and any transferee of the rail tracks, rights, and facilities divested in accordance with the Secretary's Plan, who is adversely affected in his employment by the implementation of the Secretary's Plan shall receive from Norfolk and Western Railway Company protection under the labor protective conditions set forth in New York Dock Railway—Control—Brooklyn Eastern District Terminal (354 ICC 399 (1978), modified upon further consideration, 360 ICC 60 (1979)). The arbitration provisions of section 4 of New York Dock shall apply to the formation of any implementing agreements that may be necessary in connection with the implementation of the Secretary's Plan, including any resulting coordinations.".

(2) The table of contents of the Regional Rail Reorganization Act of 1973 is amended by inserting immediately after the item relating to section 714 the following item:

"Sec. 715. Protection after sale.".

PREFERENTIAL HIRING

SEC. 109. Section 703 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 797b) is amended—

(1) by redesignating subsection (b) as subsection (c); and

(2) by inserting immediately after subsection (a) the following subsection:

"(b) IMPLEMENTATION OF SECRETARY'S PLAN.—Any employee of any railroad who is deprived of employment as a result of the implementation of the Secretary's Plan shall have the first right of hire for a vacancy for which he is qualified on any Norfolk Southern Corporation rail subsidiary, except where such vacancy is covered by (1) an affirmative action plan, or a hiring plan designated to eliminate discrimination, that is required by Federal or State statute, regulation, or Executive order, or by the order of a Federal court or agency, or (2) a permissible voluntary affirmative action plan. For purposes of this subsection, a railroad shall not be considered to be hiring new employees when it recalls any of its own furloughed employees.".

CROSS CRAFT EMPLOYMENT

SEC. 110. (a) Title VII of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 797 et seq.) is amended by inserting immediately after section 703 the following section:

"CROSS CRAFT EMPLOYMENT

"SEC. 703A. Any employee of Norfolk and Western Railway Company, Southern Railway Company, or the Corporation who is deprived of employment as a result of the implementation of the Secretary's Plan shall have the first right of hire for any vacancy for which such employee is qualified at the entry level of any Norfolk Southern Corporation rail subsidiary, without regard to craft or class or the provisions of section 703 of this Act. Such employee shall retain his seniority rights to return to his original craft or class whenever a vacancy occurs. For purposes of this section, a railroad shall not be considered to be hiring new employees when it recalls any of its own furloughed employees.".

(b) The table of contents of the Regional Rail Reorganization Act of 1973 is amended by inserting immediately after the item relating to section 703 the following item:

"Sec. 703A. Cross craft employment.".

Subtitle B—Northeast Rail Service Act of 1981 Amendments

SPECIAL COURT JURISDICTION

SEC. 121. (a) Section 1152 of the Northeast Rail Service Act of 1981 (45 U.S.C. 1105) is amended—

(1) by inserting "or the Conrail Sale Amendments Act of 1985" immediately after "subtitle" wherever it appears;

(2) in subsection (a), by striking "or" at the end of paragraph (3), by striking the period at the end of paragraph (4) and inserting in lieu thereof a semicolon, and by adding at the end thereof the following paragraphs:

"(5) brought by the United States or any agency or instrumentality thereof seeking to enforce the Secretary's Plan or the Definitive Agreements;

"(6) brought by Norfolk Southern Corporation seeking to enforce the Secretary's Plan or the Definitive Agreements;

"(7) brought by a party who filed a complaint with the Secretary under subsection (e) of this section, and who is aggrieved by (A) a determination of the Secretary under paragraph (1) of such subsection that the party has not suffered direct economic injury, or (B) a decision of the Secretary under paragraph (2) of such subsection that a covenant has not been violated;

"(8) brought by a party which is a signatory to an ancillary agreement entered into in accordance with the Secretary's Plan or the Definitive Agreements and which is seeking to enforce such ancillary agreement; or

"(9) brought to determine the value of the interest of the employee stock ownership plan and related trusts, or of the beneficiaries thereof, in the preferred stock of the Conrail Equity Corporation.

For purposes of any action brought under paragraph (5) of this subsection, a violation of any covenant contained in the Secretary's Plan or the Definitive Agreements shall be deemed to constitute immediate and irreparable harm for purposes of awarding injunctive relief to the United States.".

(b) Section 1152 of the Northeast Rail Service Act of 1981 (45 U.S.C. 1105) is amended by adding at the end thereof the following subsection:

"(e)(1) Any party who suffers direct economic injury as a result of an alleged violation of a covenant contained in the Definitive Agreements may file a complaint with the Secretary seeking enforcement of such covenant. If the Secretary determines that the complainant has demonstrated to the Secretary that it has suffered direct economic injury, the Secretary shall investigate the complaint.

"(2) If the Secretary decides to investigate a complaint under paragraph (1) of this subsection, the Secretary shall give reasonable notice of such decision to investigate to the alleged violator of such covenant and the complainant, and shall make a final decision on such complaint within 60 days after the date on which it was filed.

"(3) If the Secretary finds that (A) the covenant in question has been violated, and (B) the complainant suffered direct economic injury as a result of such violation, the Secretary shall enter an order directing the violator of such covenant to comply with such covenant.

"(4) On appeal, any decision by the Secretary under this subsection shall be upheld, unless such decision is found to be arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law.".

APPLICABILITY OF OTHER LAWS

SEC. 122. Section 1168(a) of the Northeast Rail Service Act of 1981 (45 U.S.C. 1116(a)) is amended by striking "service transfers" and inserting in lieu thereof "sale of the interest of the United States in the common stock of Conrail or transfer of the rail properties and freight service responsibilities of Conrail".

Subtitle C—Employee Stock Ownership Plan

RESPONSIBILITY OF EMPLOYEE STOCK OWNERSHIP PLAN FIDUCIARIES

SEC. 131. (a) Section 216(f)(8)(A) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 726(f)(8)(A)) is amended—

(1) by striking "or" at the end of clause (ii);

(2) by striking the period at the end of clause (iii) and inserting in lieu thereof "; or"; and

(3) by adding at the end thereof the following clause:

"(iv) for or in connection with any action taken to implement the Secretary's Plan, including any sale, exchange, valuation, or disposition of the plan and related trust assets, or the assets of Conrail Equity Corporation, in connection with implementation of the Secretary's Plan and any determination of the terms on which any such sale, exchange, valuation, or disposition is effected.".

QUALIFICATION, REVIEW, AND VALUATION OF EMPLOYEE STOCK OWNERSHIP PLANS

SEC. 132. Section 216(f) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 726(f)) is amended by adding at the end thereof the following paragraphs:

"(11) The employee stock ownership plans of the Corporation and related trusts maintained, amended, or adopted in implementing the Secretary's Plan shall be deemed to meet the qualification requirements of sections 401 and 501, respectively, of the Internal Revenue Code of 1954, notwithstanding (A) that such plans may not meet the requirements of section 415 of the Internal Revenue Code of 1954, or (B) that participants in such plans may be entitled to withdraw a portion of the shares allocated to their accounts prior to the expiration of the period generally imposed by the Internal Revenue Service for qualified plans. Such qualification shall relate only to the contributions, allocations, and withdrawals of shares provided for in the Secretary's Plan with respect to the plans and related trusts maintained, amended, or adopted in implementing the Secretary's Plan. Such contributions and allocations shall in no event be treated as having exceeded the maximum annual addition permitted under section 415 of the Internal Revenue Code of 1954 (but not for purposes of applying section 404(j) of the Internal Revenue Code of 1954) for purposes of calculating any limitation under section 415 with respect to contributions and allocations not described in the Secretary's Plan, including contributions and al-

locations to plans and related trusts of the Corporation and any affiliated corporation. The continued qualification of such plans with respect to all other contributions, allocations, and withdrawals shall be subject to all provisions of existing law, as amended from time to time. No inference shall be drawn from this paragraph as to whether an amount is a contribution deductible under section 404 of the Internal Revenue Code of 1954 rather than a non-deductible capital expenditure.

"(12) Except as provided in section 1152 of the Northeast Rail Service Act of 1981 (45 U.S.C. 1105), the issuance and sale or contribution of securities by Norfolk Southern Corporation to fulfill arrangements with the Corporation's employees in implementing the Secretary's Plan and the distribution of shares from the Corporation's employee stock ownership plans and related trusts maintained, amended, or adopted in implementing the Secretary's Plan shall not be subject to the registration and prospectus delivery requirements of the Securities Act of 1933, any approval requirement under subtitle IV of title 49, United States Code, or the laws of any State with respect to the issuance and sale of securities.".

TITLE II—TECHNICAL AND CONFORMING AMENDMENTS

REGIONAL RAIL REORGANIZATION ACT OF 1973 AMENDMENTS AND REPEALS

SEC. 201. The following provisions of the Regional Rail Reorganization Act of 1973 are repealed or amended as specified:

(1) Subsections (a) and (b) of section 214 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 724 (a) and (b)) are repealed, and such section 214 is amended by striking "(c) ASSOCIATION.—".

(2) Subsection (f) of section 217 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 727(f)) is repealed, without prejudice to the continued availability of funds appropriated prior to the date of enactment of this Act pursuant to section 217(f)(1)(C) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 727(f)(1)(C)).

(3) Section 404 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 764), and the item relating to such section in the table of contents of such Act, are repealed.

(4) Section 405 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 765), and the item relating to such section in the table of contents of such Act, are repealed.

(5) Section 406 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 766), and the item relating to such section in the table of contents of such Act, are repealed.

(6) Section 407 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 767), and the item relating to such section in the table of contents of such Act, are repealed.

(7) Subsections (a) and (d) of section 408 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 768 (a) and (d)) are repealed.

(8) Section 409 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 769), and the item relating to such section in the table of contents of such Act, are repealed.

(9) Section 410 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 769a), and the item relating to such section in the table of contents of such Act, are repealed.

(10) Section 411 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 769b), and the item relating to such section in the table of contents of such Act, are repealed.

(11) Section 412 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 769c), and the item relating to such section in the table of contents of such Act, are repealed.

(12) Section 713 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 797l), and the item relating to such section in the table of contents of such Act, are repealed.

AMENDMENTS AND REPEALS OF OTHER RAIL LAWS

SEC. 202. The following provisions of law are repealed or amended as specified:

(1) Section 1154 of the Northeast Rail Service Act of 1981 (45 U.S.C. 1107), and the item relating to such section in the table of contents of such Act, are repealed.

(2) Section 1161 of the Northeast Rail Service Act of 1981 (45 U.S.C. 1110), and the item relating to such section in the table of contents of such Act, are repealed.

(3) Section 1166 of the Northeast Rail Service Act of 1981 (45 U.S.C. 1114), and the item relating to such section in the table of contents of such Act, are repealed.

(4) Subsection (c) of section 1167 of the Northeast Rail Service Act of 1981 (45 U.S.C. 1115(c)) is repealed.

(5) Subsection (b) of section 1168 of the Northeast Rail Service Act of 1981 (45 U.S.C. 1116(b)) is repealed.

(6) Section 501(8) of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 821(8)) is amended—

(A) by striking "(A)";

(B) by striking "(i)" and inserting in lieu thereof "(A)", and by striking "(ii)" and inserting in lieu thereof "(B)"; and

(C) by striking all after "utilization;".

(7) Section 505 of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 825) is amended—

(A) in subsection (a)(1), by striking all after "railroad" through "1981)"; and

(B) in subsection (b)(2)(C), by striking all after "costs" the second time it appears through "subsidy".

(8) Subsection (b)(1) of section 509 of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 829(b)(1)) is repealed.

(9) Section 511(e) of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 831(e)) is amended by striking "(1)", and by striking all after "time" and inserting in lieu thereof a period.

(10) Section 402 of the Rail Safety and Service Improvement Act of 1982 (45 U.S.C. 825a) is repealed.

(11) Section 1005(b)(1) of the Rail Passenger Service Act (45 U.S.C. 655(b)(1)) is amended by striking "the Consolidated Rail Corporation,".

(12) Section 10362(b)(7)(A) of title 49, United States Code, is amended by striking "by the Consolidated Rail Corporation or".

(13) Section 332(d) of title 49, United States Code, is amended by striking ", the Consolidated Rail Corporation,".

TITLE III—MISCELLANEOUS PROVISIONS

COMMON CARRIER STATUS OF CONRAIL AFTER SALE

SEC. 301. (a) Conrail's status as a common carrier by railroad under section 10102(4) of title 49, United States Code, shall not be affected by virtue of sale of the interest of the United States in Conrail's common stock. Purchase of Conrail stock shall not alone be the basis of a determination that the acquiring entity has become a common carrier by railroad under section 10102(4) of title 49, United States Code.

(b) The Definitive Agreements shall contain a binding commitment by Norfolk Southern Corporation to continue to operate Conrail in full compliance with the provisions of section 10731(e) of title 49, United States Code.

CONSUMMATION OF SALE

SEC. 302. The sale of the interest of the United States in the common stock of Conrail shall be deemed to be consummated on the date title to the common stock passes to Norfolk Southern Corporation and the United States receives the cash purchase price.

CONTRACTS

SEC. 303. (a) Except as provided in subsection (b) of this section, nothing in this Act shall affect—

(1) Conrail's obligation to carry out its transportation contracts and equipment leases, equipment trusts, and conditional sale agreements, in accordance with their terms; and

(2) the obligation of any transferee of divested assets to carry out transportation contracts and equipment leases, equipment trusts, and conditional sale agreements to which such assets are subject, in accordance with their terms.

(b) If a divestiture carried out pursuant to the Secretary's Plan precludes Conrail from providing a transportation service for which it has contracted without a right of termination that may be exercised in the event of the sale of the interest of the United States in the common stock of Conrail and the divestiture will result in a change or modification in the movement of the traffic involved, the transferee of the divested rights and properties and Conrail shall provide the contracted-for service on terms and conditions which, to the maximum extent possible, conform to the terms and conditions in the contract.

CONGRESSIONAL OVERSIGHT OF COMPLIANCE

SEC. 304. The Secretary shall, no later than January 31 of each year, submit to the Committee on Commerce, Science, and Transportation of the Senate and to the Committee on Energy and Commerce of the House of Representatives a report setting forth each certificate which Norfolk Southern Corporation and Conrail provided to the Secretary, during the preceding year, certifying compliance with the covenants contained in the Definitive Agreements.

SEPARABILITY

SEC. 305. If any provision of this Act or the application thereof to any person or circumstances is held invalid, the remainder of this Act and the application of such provision to other persons or circumstances shall not be affected thereby.

EFFECTIVE DATE

SEC. 306. (a) Except as provided in subsection (b) of this section, the provisions of and amendments made by this Act shall take effect on the date of enactment of this Act.

(b) Sections 108(a), 201 and 202 of this Act shall take effect on the date of consummation of the sale of the interest of the United States in the common stock of Conrail.

(c) Any provision of this Act which, pursuant to Article I, Section 7 of the Constitution, provides for raising revenue shall only be effective upon the enactment into law of a bill which has originated in the House of Representatives enacting such provision.

AMENDMENT NO. 1523

On page 16, line 25, strike out "Norfolk Southern Corporation" and insert in lieu thereof: "Norfolk and Western Railway Company".

AMENDMENT No. 1524

On page 16, line 25, strike out "his employer" and insert in lieu thereof "Norfolk Southern Corporation".

AMENDMENT No. 1525

On page 1 of the amendment, strike the words "Norfolk Southern Corporation" and insert in lieu thereof: "Norfolk and Western Railway Company".

AMENDMENT No. 1526

On page 16, line 25, strike out "his employer" and insert in lieu thereof "Norfolk Southern Corporation".

AMENDMENT No. 1527

On page 1 of the amendment, strike the words "Norfolk Southern Corporation" and insert in lieu thereof "Norfolk and Western Railway Company".

AMENDMENT No. 1528

In lieu of the language proposed to be inserted, insert the following:

That this Act may be cited as the "Conrail Sale Amendments Act of 1985".

FINDINGS

SEC. 2. The Congress finds that—

(1) the Northeast Rail Service Act of 1981 (45 U.S.C. 1101 et seq.) provided for an orderly return of Conrail freight service to the private sector;

(2) the provisions of the Northeast Rail Service Act of 1981 were successful in removing Conrail's obligations beyond railroad freight service and in otherwise preparing Conrail for an orderly return to the private sector;

(3) acting under section 403 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 763), the Board of Directors of the United States Railway Association twice found Conrail to be a profitable corporation;

(4) acting under section 401 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 761), the Secretary engaged an investment banker and arranged, through open competitive bidding and negotiation, to sell the interest of the United States in the common stock of Conrail;

(5) the Secretary's Plan for the sale of Conrail provides for sale of the interest of the United States in the common stock of Conrail to Norfolk Southern Corporation;

(6) the Secretary found that sale of the interest of the United States in the common stock of Conrail to Norfolk Southern Corporation best meets the sale criteria of (A) leaving Conrail in the strongest financial position after the sale, (B) preserving patterns of service to shippers and communities in the region Conrail serves, and (C) maximizing return to the Federal Government consistent with the criteria specified in clauses (A) and (B);

(7) amendments to the Regional Rail Reorganization Act of 1973 (45 U.S.C. 701 et seq.) and related laws are needed to permit the sale of the interest of the United States in the common stock of Conrail to Norfolk Southern Corporation and to permit cancellation of the interest of the United States in Conrail debt and preferred stock; and

(8) the Secretary's Plan satisfies the requirements of the Northeast Rail Service Act of 1981, including the intent, goals, and objectives relating to the sale of the interest of the United States in the common stock of Conrail and the requirements of section 401(e) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 761(e)).

PURPOSE

SEC. 3. It is therefore declared to be the purpose of the Congress in this Act to return Conrail to the private sector by directing and facilitating implementation of the Secretary's Plan for the sale of the interest of the United States in the common stock of Conrail.

DEFINITIONS

SEC. 4. (a) In this Act, unless the context otherwise requires, the term—

(1) "Conrail" means the Consolidated Rail Corporation;

(2) "Definitive Agreements" means any and all agreements existing or to be developed between the United States and Norfolk Southern Corporation, including all representations and warranties made therein, to implement the Memorandum of Intent described in paragraph (4)(A);

(3) "Secretary" means the Secretary of Transportation; and

(4) "Secretary's Plan" means (A) the Memorandum of Intent between the United States and Norfolk Southern Corporation signed February 8, 1985, and (B) the divestitures by the Norfolk Southern Corporation of certain rail tracks, rights, and facilities, and any transactions or agreements related or incidental to such divestitures, in connection with the implementation of attachment A to the letter from the Department of Justice attached to the Memorandum of Intent as exhibit E.

(b) Section 102 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 702) is amended—

(1) by redesignating paragraphs (6) through (18) as paragraphs (7) through (19), and paragraphs (19) through (21) as paragraphs (21) through (23), respectively;

(2) by inserting after paragraph (5) the following paragraph:

"(6) 'Definitive Agreements' means any and all agreements existing or to be developed between the United States and Norfolk Southern Corporation, including all representations and warranties made therein, to implement the Memorandum of Intent described in paragraph (20)(A);"; and

(3) by inserting after paragraph (19), as so redesignated, the following paragraph:

"(20) 'Secretary's Plan' means (A) the Memorandum of Intent between the United States and Norfolk Southern Corporation signed February 8, 1985, and (B) the divestitures by the Norfolk Southern Corporation of certain rail tracks, rights, and facilities, and any transactions or agreements related or incidental to such divestitures, in connection with the implementation of attachment A to the letter from the Department of Justice attached to the Memorandum of Intent as exhibit E;".

(c) Section 1135(a) of the Northeast Rail Service Act of 1981 (45 U.S.C. 1104(a)) is amended—

(1) by redesignating paragraphs (6), (7), and (8) as paragraphs (7), (8), and (10), respectively;

(2) by inserting after paragraph (5) the following paragraph:

"(6) 'Definitive Agreements' means any and all agreements existing or to be developed between the United States and Norfolk Southern Corporation, including all representations and warranties made therein, to implement the Memorandum of Intent described in paragraph (9)(A);"; and

(3) by inserting after paragraph (8), as so redesignated, the following paragraph:

"(9) 'Secretary's Plan' means (A) the Memorandum of Intent between the United States and Norfolk Southern Corporation signed February 8, 1985, and (B) the divestitures by the Norfolk Southern Corporation of certain rail tracks, rights, and facilities, and any transactions or agreements related or incidental to such divestitures, in connection with the implementation of attachment A to the letter from the Department of Justice attached to the Memorandum of Intent as exhibit E;".

TITLE I—AMENDMENTS TO THE REGIONAL RAIL REORGANIZATION ACT OF 1973 AND THE NORTHEAST RAIL SERVICE ACT OF 1981

Subtitle A—Regional Rail Reorganization Act of 1973 Amendments

LIMIT ON AUTHORITY TO PURCHASE STOCK

SEC. 101. Section 216(b) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 726(b)) is amended by adding at the end thereof the following paragraph:

"(5) The authority of the Association to purchase debentures or series A preferred stock of the Corporation under this section shall terminate upon the consummation of the sale of the interest of the United States in the common stock of the Corporation under the terms of the Secretary's Plan.".

RESPONSIBILITY OF CONRAIL DIRECTORS

SEC. 102. Section 301(i) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 741(i)) is amended by inserting immediately after "required by law" the following: ", taken to implement the Secretary's Plan,".

APPLICABILITY OF REGIONAL RAIL REORGANIZATION ACT OF 1973 TO CONRAIL AFTER SALE

SEC. 103. Section 301 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 741) is amended by adding at the end thereof the following subsection:

"(k) GOVERNING PROVISIONS AFTER SALE.—The provisions of this Act shall not apply to the Corporation and to activities and other actions and responsibilities of the Corporation and its directors after consummation of the sale of the interest of the United States in the common stock of the Corporation under the terms of the Conrail Sale Amendments Act of 1985, other than with regard to—

"(1) section 102 of this Act;

"(2) section 201(d) of this Act;

"(3) section 203 of this Act, but only with respect to information relating to proceedings before the special court established under section 209(b);

"(4) section 216(f)(8) of this Act, but only as such authority applies to activities related to the employee stock ownership plan and related trusts prior to or in connection with consummation of the sale of the interest of the United States in the common stock of the Corporation, including activities related to the sale, exchange, valuation, or disposition of the assets of the employee stock ownership plan and related trusts, or of Conrail Equity Corporation, in connection with the Secretary's Plan;

"(6) section 217(e) of this Act;

"(7) subsection (i) of this section, but only as such authority applies to service as a director of the Corporation prior to consummation or in connection with implementation of the sale of the interest of the United States in the common stock of the Corporation;

"(8) section 305 of this Act, but only as to the effect, and continuing administration, of supplemental transactions consummated prior to consummation of the sale of the interest of the United States in the common stock of the Corporation;

"(9) section 308 of this Act, but only in abandonment actions when such authority has been relied on to file a notice or notices of insufficent revenues prior to consummation of the sale of the interest of the United States in the common stock of the Corporation;

"(10) section 401(a) of this Act, as amended by the Conrail Sale Amendments Act of 1985;

"(11) section 402 of this Act, as amended by the Conrail Sale Amendments Act of 1985;

"(12) section 408(c) of this Act, as amended by the Conrail Sale Amendments Act of 1985;

"(13) section 701 of this Act, but only as may be necessary to identify employees eligible for benefits under agreements entered into under such section;

"(14) section 702(e) of this Act;

"(15) section 704(b) of this Act;

"(16) section 709 of this Act;

"(17) section 710(b)(1) of this Act;

"(18) section 711 of this Act;

"(19) section 714 of this Act, but only with regard to disputes or controversies specified in such section that arose prior to consummation of the sale of the interest of the United States in the common stock of the Corporation; and

"(20) section 715 of this Act, as amended by the Conrail Sale Amendments Act of 1985.".

IMPLEMENTATION OF THE SECRETARY'S PLAN

SEC. 104. (a) Section 401(a)(3) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 761(a)(3)) is amended to read as follows:

"(3) The Secretary is authorized and directed to implement the Secretary's Plan, in accordance with paragraph (4) of this subsection. Such implementation of the Secretary's Plan and the coordinated operation of the Corporation's properties with those of Norfolk Southern Corporation and its affiliates as a single rail system is deemed approved by the Commission under chapter 113 of title 49, United States Code.".

(b) Section 401(a) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 761(a)) is amended by adding at the end thereof the following paragraphs:

"(4) The Secretary shall implement the Secretary's Plan by negotiating, executing, delivering, and performing the Definitive Agreements, which shall conform to the Memorandum of Intent described in section 102(20)(A) of this Act. The Secretary shall, 45 calendar days before the date on which the Secretary anticipates that the interest of the United States in the common stock of the Corporation will be sold to Norfolk Southern Corporation, transmit to the Committee on Commerce, Science, and Transportation of the Senate and to the Committee on Energy and Commerce of the House of Representatives a notification of any alteration from the Memorandum of Intent described in section 102(20)(A) of this Act which will be made in the Definitive Agreements. After the date of such sale, the Secretary shall transmit to such Committees notification of any intent to waive compliance with any substantive covenant, agreement or obligation contained in the Definitive Agreements, and the Secretary may not waive such compliance until a period of 45 calendar days has expired after the date of such transmittal.

"(5) The Secretary shall not transfer the interest of the United States in the common stock of the Corporation except concurrently with a divestiture by Norfolk Southern Corporation of rail assets and rights approved by the Attorney General.

"(6) The sale of the interest of the United States in the common stock of the Corporation shall be deemed to be consummated at the date title to the common stock passes to Norfolk Southern Corporation and the United States receives the cash purchase price.".

RAILROAD PURCHASERS AND OFFER FOR SALE OF SHARES TO EMPLOYEES

SEC. 105. Subsections (d) and (e) of section 401 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 761 (d) and (e)) are repealed.

CANCELLATION OF DEBT AND PREFERRED STOCK

SEC. 106. Section 402 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 762) is amended to read as follows:

"DEBT AND PREFERRED STOCK

"SEC. 402. (a) RECAPITALIZATION.—In connection with the sale of the interest of the United States in the common stock of the Corporation under section 401 of this Act, and consistent with the Secretary's Plan, the Secretary may take all action necessary to cause the Corporation to be recapitalized such that the interest of the United States, or any agent or instrumentality thereof, and all other commitments or obligations of the Corporation to the United States or any agent or instrumentality thereof arising out of such interest, in any debt (including accrued interest and contingent interest thereon) and preferred stock (including accrued and unpaid dividends thereon) of the Corporation shall be cancelled or retired, and contributed to the capital of the Corporation. The Secretary shall cause the recapitalization authorized by this section to be effective as of the consummation of the sale of the interest of the United States in the common stock of the Corporation.

"(b) BREACH OF REPRESENTATIONS.—(1) Norfolk Southern Corporation or any successor corporation thereto may bring suit for any breach of representations contained in paragraph 6(e) of the Memorandum of Intent described in section 102(20)(A) of this Act (hereinafter referred to as the 'Representations') in the United States Claims Court or a district court of the United States. If such an action is brought, the Claims Court or district court shall determine the amount by which the United States income tax (including interest and penalties whether or not such penalties are assessed as a tax under the Internal Revenue Code of 1954) assessable against the Corporation or against Norfolk Southern Corporation for any year exceeds the amount of such tax which would have been assessable for such year had such Representations not been breached (hereinafter referred to as the 'Offset Amount').

"(2) The Representations shall be considered breached and Norfolk Southern Corporation shall be entitled to bring suit upon the first occurrence of any of the following that is inconsistent with the Representations: (A) the issuance by the Internal Revenue Service of a statutory notice of deficiency (90-day letter), (B) the assessment of the United States income tax, or (C) any claim by the United States in a suit or other judicial proceeding against Norfolk Southern Corporation or the Corporation.

"(3) The right to bring suit pursuant to this section shall not be subject to any waiting period applicable to tax proceedings or to any requirements for payment of any tax as a condition to instituting any suit based on a breach of the Representations.

"(4) Any judgment for money damages relating to breach of the Representations shall only be awarded as an offset in any court or administrative proceeding against the tax liability of Norfolk Southern Corporation or the Corporation, or both, to which such breach relates; except that if any such tax liability resulting from such breach has been paid, the judgment shall to that extent be an offset against any United States income tax liability of the Norfolk Southern Corporation or the Corporation, or both. If any portion of the tax resulting from a breach of the Representations has been paid, then the Offset Amount shall include interest on such payment from the date paid at the rate from time to time specified in the Internal Revenue Code of 1954 for interest payable on refund claims.

"(5) It shall not be a defense to an action brought under this section that Norfolk Southern Corporation knew, or should have known, of the falsity of the Representations or that there exists no carryover basis procedure as contemplated by the last sentence of the Representations.

"(6) For purposes of this section, tax liability of Norfolk Southern Corporation shall include the tax liability of Norfolk Southern Corporation and its affiliated group, within the meaning of section 1504 of the Internal Revenue Code of 1954.".

APPLICABILITY OF CERTAIN LAWS TO SALE OF CONRAIL

SEC. 107. Section 408 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 768) is amended—

(1) by repealing subsection (b);

(2) by amending subsection (c) by striking "No transfer" and all that follows through "subject to" and inserting in lieu thereof "Except as provided in section 1152 of the Northeast Rail Service Act of 1981 (45 U.S.C. 1105), the Secretary's Plan and the Definitive Agreements and their negotiation, execution, and implementation shall not be subject to administrative or"; and

(3) by adding at the end of subsection (c) the following sentence: "The issuance in private placement of notes or other securities in accordance with exhibit B to the Memorandum of Intent (described in section 102(20)(A) of this Act) in the Secretary's Plan shall not be subject to the provisions of subtitle IV of title 49, United States Code.".

LABOR PROTECTION

SEC. 108. (a) Section 701(d)(2) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 797(d)(2)) is amended by striking "the last day of the eighteen-month period beginning on".

(b)(1) Title VII of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 797 et seq.) is amended by adding at the end thereof the following section:

"PROTECTION AFTER SALE

"SEC. 715. After consummation of the sale of the interest of the United States in the common stock of the Corporation pursuant to the Secretary's Plan, any employee of Norfolk Southern Corporation, the Corporation, any rail affiliate of either company, and any transferee of the rail tracks, rights, and facilities divested in accordance with the Secretary's Plan, who is adversely affected in his employment by the implementation of the Secretary's Plan shall receive from his employer protection under the labor protective conditions set forth in New York Dock Railway—Control—Brooklyn Eastern District Terminal (354 ICC 399

(1978), modified upon further consideration, 360 ICC 60 (1979)). The arbitration provisions of section 4 of New York Dock shall apply to the formation of any implementing agreements that may be necessary in connection with the implementation of the Secretary's Plan, including any resulting coordinations.".

(2) The table of contents of the Regional Rail Reorganization Act of 1973 is amended by inserting immediately after the item relating to section 714 the following item:

"Sec. 715. Protection after sale.".

PREFERENTIAL HIRING

SEC. 109. Section 703 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 797b) is amended—

(1) by redesignating subsection (b) as subsection (c); and

(2) by inserting immediately after subsection (a) the following subsection:

"(b) IMPLEMENTATION OF SECRETARY'S PLAN.—Any employee of any railroad who is deprived of employment as a result of the implementation of the Secretary's Plan shall have the first right of hire for a vacancy for which he is qualified on any Norfolk Southern Corporation rail subsidiary, except where such vacancy is covered by (1) an affirmative action plan, or a hiring plan designated to eliminate discrimination, that is required by Federal or State statute, regulation, or Executive order, or by the order of a Federal court or agency, or (2) a permissible voluntary affirmative action plan. For purposes of this subsection, a railroad shall not be considered to be hiring new employees when it recalls any of its own furloughed employees.".

CROSS CRAFT EMPLOYMENT

SEC. 110. (a) Title VII of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 797 et seq.) is amended by inserting immediately after section 703 the following section:

"CROSS CRAFT EMPLOYMENT

"SEC. 703A. Any employee of Norfolk and Western Railway Company, Southern Railway Company, or the Corporation who is deprived of employment as a result of the implementation of the Secretary's Plan shall have the first right of hire for any vacancy for which such employee is qualified at the entry level of any Norfolk Southern Corporation rail subsidiary, without regard to craft or class or the provisions of section 703 of this Act. Such employee shall retain his seniority rights to return to his original craft or class whenever a vacancy occurs. For purposes of this section, a railroad shall not be considered to be hiring new employees when it recalls any of its own furloughed employees.".

(b) The table of contents of the Regional Rail Reorganization Act of 1973 is amended by inserting immediately after the item relating to section 703 the following item:

"Sec. 703A. Cross craft employment.".

Subtitle B—Northeast Rail Service Act of 1981 Amendments

SPECIAL COURT JURISDICTION

SEC. 121. (a) Section 1152 of the Northeast Rail Service Act of 1981 (45 U.S.C. 1105) is amended—

(1) by inserting "or the Conrail Sale Amendments Act of 1985" immediately after "subtitle" wherever it appears;

(2) in subsection (a), by striking "or" at the end of paragraph (3), by striking the period at the end of paragraph (4) and inserting in lieu thereof a semicolon, and by adding at the end thereof the following paragraphs:

"(5) brought by the United States or any agency or instrumentality thereof seeking to enforce the Secretary's Plan or the Definitive Agreements;

"(6) brought by Norfolk Southern Corporation seeking to enforce the Secretary's Plan or the Definitive Agreements;

"(7) brought by a party who filed a complaint with the Secretary under subsection (e) of this section, and who is aggrieved by (A) a determination of the Secretary under paragraph (1) of such subsection that the party has not suffered direct economic injury, or (B) a decision of the Secretary under paragraph (2) of such subsection that a covenant has not been violated;

"(8) brought by a party which is a signatory to an ancillary agreement entered into in accordance with the Secretary's Plan or the Definitive Agreements and which is seeking to enforce such ancillary agreement; or

"(9) brought to determine the value of the interest of the employee stock ownership plan and related trusts, or of the beneficiaries thereof, in the preferred stock of the Conrail Equity Corporation.

For purposes of any action brought under paragraph (5) of this subsection, a violation of any covenant contained in the Secretary's Plan or the Definitive Agreements shall be deemed to constitute immediate and irreparable harm for purposes of awarding injunctive relief to the United States.".

(b) Section 1152 of the Northeast Rail Service Act of 1981 (45 U.S.C. 1105) is amended by adding at the end thereof the following subsection:

"(e)(1) Any party who suffers direct economic injury as a result of an alleged violation of a covenant contained in the Definitive Agreements may file a complaint with the Secretary seeking enforcement of such covenant. If the Secretary determines that the complainant has demonstrated to the Secretary that it has suffered direct economic injury, the Secretary shall investigate the complaint.

"(2) If the Secretary decides to investigate a complaint under paragraph (1) of this subsection, the Secretary shall give reasonable notice of such decision to investigate to the alleged violator of such covenant and the complainant, and shall make a final decision on such complaint within 60 days after the date on which it was filed.

"(3) If the Secretary finds that (A) the covenant in question has been violated, and (B) the complainant suffered direct economic injury as a result of such violation, the Secretary shall enter an order directing the violator of such covenant to comply with such covenant.

"(4) On appeal, any decision by the Secretary under this subsection shall be upheld, unless such decision is found to be arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law.".

APPLICABILITY OF OTHER LAWS

SEC. 122. Section 1168(a) of the Northeast Rail Service Act of 1981 (45 U.S.C. 1116(a)) is amended by striking "service transfers" and inserting in lieu thereof "sale of the interest of the United States in the common stock of Conrail or transfer of the rail properties and freight service responsibilities of Conrail".

Subtitle C—Employee Stock Ownership Plan

RESPONSIBILITY OF EMPLOYEE STOCK OWNERSHIP PLAN FIDUCIARIES

SEC. 131. (a) Section 216(f)(8)(A) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 726(f)(8)(A)) is amended—

(1) by striking "or" at the end of clause (ii);

(2) by striking the period at the end of clause (iii) and inserting in lieu thereof "; or"; and

(3) by adding at the end thereof the following clause:

"(iv) for or in connection with any action taken to implement the Secretary's Plan, including any sale, exchange, valuation, or disposition of the plan and related trust assets, or the assets of Conrail Equity Corporation, in connection with implementation of the Secretary's Plan and any determination of the terms on which any such sale, exchange, valuation, or disposition is effected.".

QUALIFICATION, REVIEW, AND VALUATION OF EMPLOYEE STOCK OWNERSHIP PLANS

SEC. 132. Section 216(f) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 726(f)) is amended by adding at the end thereof the following paragraphs:

"(11) The employee stock ownership plans of the Corporation and related trusts maintained, amended, or adopted in implementing the Secretary's Plan shall be deemed to meet the qualification requirements of sections 401 and 501, respectively, of the Internal Revenue Code of 1954, notwithstanding (A) that such plans may not meet the requirements of section 415 of the Internal Revenue Code of 1954, or (B) that participants in such plans may be entitled to withdraw a portion of the shares allocated to their accounts prior to the expiration of the period generally imposed by the Internal Revenue Service for qualified plans. Such qualification shall relate only to the contributions, allocations, and withdrawals of shares provided for in the Secretary's Plan with respect to the plans and related trusts maintained, amended, or adopted in implementing the Secretary's Plan. Such contributions and allocations shall in no event be treated as having exceeded the maximum annual addition permitted under section 415 of the Internal Revenue Code of 1954 (but not for purposes of applying section 404(j) of the Internal Revenue Code of 1954) for purposes of calculating any limitation under section 415 with respect to contributions and allocations not described in the Secretary's Plan, including contributions and allocations to plans and related trusts of the Corporation and any affiliated corporation. The continued qualification of such plans with respect to all other contributions, allocations, and withdrawals shall be subject to all provisions of existing law, as amended from time to time. No inference shall be drawn from this paragraph as to whether an amount is a contribution deductible under section 404 of the Internal Revenue Code of 1954 rather than a non-deductible capital expenditure.

"(12) Except as provided in section 1152 of the Northeast Rail Service Act of 1981 (45 U.S.C. 1105), the issuance and sale or contribution of securities by Norfolk Southern Corporation to fulfill arrangements with the Corporation's employees in implementing the Secretary's Plan and the distribution of shares from the Corporation's employee stock ownership plans and related trusts maintained, amended, or adopted in implementing the Secretary's Plan shall not be subject to the registration and prospectus delivery requirements of the Securities Act of 1933, any approval requirement under subtitle IV of title 49, United States Code, or the laws of any State with respect to the issuance and sale of securities.".

TITLE II—TECHNICAL AND CONFORMING AMENDMENTS

REGIONAL RAIL REORGANIZATION ACT OF 1973 AMENDMENTS AND REPEALS

SEC. 201. The following provisions of the Regional Rail Reorganization Act of 1973 are repealed or amended as specified:

(1) Subsections (a) and (b) of section 214 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 724(a) and (b)) are repealed, and such section 214 is amended by striking "(c) ASSOCIATION.—".

(2) Subsection (f) of section 217 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 727(f)) is repealed, without prejudice to the continued availability of funds appropriated prior to the date of enactment of this Act pursuant to section 217(f)(1)(C) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 727(f)(1)(C)).

(3) Section 404 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 764), and the item relating to such section in the table of contents of such Act, are repealed.

(4) Section 405 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 765), and the item relating to such section in the table of contents of such Act, are repealed.

(5) Section 406 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 766), and the item relating to such section in the table of contents of such Act, are repealed.

(6) Section 407 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 767), and the item relating to such section in the table of contents of such Act, are repealed.

(7) Subsections (a) and (d) of section 408 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 768 (a) and (d)) are repealed.

(8) Section 409 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 769), and the item relating to such section in the table of contents of such Act, are repealed.

(9) Section 410 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 769a), and the item relating to such section in the table of contents of such Act, are repealed.

(10) Section 411 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 769b), and the item relating to such section in the table of contents of such Act, are repealed.

(11) Section 412 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 769c), and the item relating to such section in the table of contents of such Act, are repealed.

(12) Section 713 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 797l), and the item relating to such section in the table of contents of such Act, are repealed.

AMENDMENTS AND REPEALS OF OTHER RAIL LAWS

SEC. 202. The following provisions of law are repealed or amended as specified:

(1) Section 1154 of the Northeast Rail Service Act of 1981 (45 U.S.C. 1107), and the item relating to such section in the table of contents of such Act, are repealed.

(2) Section 1161 of the Northeast Rail Service Act of 1981 (45 U.S.C. 1110), and the item relating to such section in the table of contents of such Act, are repealed.

(3) Section 1166 of the Northeast Rail Service Act of 1981 (45 U.S.C. 1114), and the item relating to such section in the table of contents of such Act, are repealed.

(4) Subsection (c) of section 1167 of the Northeast Rail Service Act of 1981 (45 U.S.C. 1115(c)) is repealed.

(5) Subsection (b) of section 1168 of the Northeast Rail Service Act of 1981 (45 U.S.C. 1116(b)) is repealed.

(6) Section 501(8) of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 821(8)) is amended—

(A) by striking "(A)";

(B) by striking "(i)" and inserting in lieu thereof "(A)", and by striking "(ii)" and inserting in lieu thereof "(B)"; and

(C) by striking all after "utilization;".

(7) Section 505 of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 825) is amended—

(A) in subsection (a)(1), by striking all after "railroad" through "1981)"; and

(B) in subsection (b)(2)(C), by striking all after "costs" the second time it appears through "subsidy".

(8) Subsection (b)(1) of section 509 of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 829(b)(1)) is repealed.

(9) Section 511(e) of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 831(e)) is amended by striking "(1)", and by striking all after "time" and inserting in lieu thereof a period.

(10) Section 402 of the Rail Safety and Service Improvement Act of 1982 (45 U.S.C. 825a) is repealed.

(11) Section 1005(b)(1) of the Rail Passenger Service Act (45 U.S.C. 655(b)(1)) is amended by striking "the Consolidated Rail Corporation,".

(12) Section 10362(b)(7)(A) of title 49, United States Code, is amended by striking "by the Consolidated Rail Corporation or".

(13) Section 332(d) of title 49, United States Code, is amended by striking ", the Consolidated Rail Corporation,".

TITLE III—MISCELLANEOUS PROVISIONS

COMMON CARRIER STATUS OF CONRAIL AFTER SALE

SEC. 301. (a) Conrail's status as a common carrier by railroad under section 10102(4) of title 49, United States Code, shall not be affected by virtue of sale of the interest of the United States in Conrail's common stock. Purchase of Conrail stock shall not alone be the basis of a determination that the acquiring entity has become a common carrier by railroad under section 10102(4) of title 49, United States Code.

(b) The Definitive Agreements shall contain a binding commitment by Norfolk Southern Corporation to continue to operate Conrail in full compliance with the provisions of section 10731(e) of title 49, United States Code.

CONSUMMATION OF SALE

SEC. 302. The sale of the interest of the United States in the common stock of Conrail shall be deemed to be consummated on the date title to the common stock passes to Norfolk Southern Corporation and the United States receives the cash purchase price.

CONTRACTS

SEC. 303. (a) Except as provided in subsection (b) of this section, nothing in this Act shall affect—

(1) Conrail's obligation to carry out its transportation contracts and equipment leases, equipment trusts, and conditional sale agreements, in accordance with their terms; and

(2) the obligation of any transferee of divested assets to carry out transportation contracts and equipment leases, equipment trusts, and conditional sale agreements to which such assets are subject, in accordance with their terms.

(b) If a divestiture carried out pursuant to the Secretary's Plan precludes Conrail from providing a transportation service for which it has contracted without a right of termination that may be exercised in the event of the sale of the interest of the United States in the common stock of Conrail and the divestiture will result in a change or modification in the movement of the traffic involved, the transferee of the divested rights and properties and Conrail shall provide the contracted-for service on terms and conditions which, to the maximum extent possible, conform to the terms and conditions in the contract.

CONGRESSIONAL OVERSIGHT OF COMPLIANCE

SEC. 304. The Secretary shall, no later than January 31 of each year, submit to the Committee on Commerce, Science, and Transportation of the Senate and to the Committee on Energy and Commerce of the House of Representatives a report setting forth each certificate which Norfolk Southern Corporation and Conrail provided to the Secretary, during the preceding year, certifying compliance with the covenants contained in the Definitive Agreements.

SEPARABILITY

SEC. 305. If any provision of this Act or the application thereof to any person or circumstances is held invalid, the remainder of this Act and the application of such provision to other persons or circumstances shall not be affected thereby.

EFFECTIVE DATE

SEC. 306. (a) Except as provided in subsection (b) of this section, the provisions of and amendments made by this Act shall take effect on the date of enactment of this Act.

(b) Sections 108(a), 201 and 202 of this Act shall take effect on the date of consummation of the sale of the interest of the United States in the common stock of Conrail.

(c) Any provision of this Act which, pursuant to Article I, Section 7 of the Constitution, provides for raising revenue shall only be effective upon the enactment into law of a bill which has originated in the House of Representatives enacting such provision.

AMENDMENT No. 1529

On page 8, strike out lines 23 through 25.

AMENDMENT No. 1530

On page 8, strike out lines 23 through 25.

AMENDMENT No. 1531

In lieu of the language proposed to be inserted, insert the following:

That this Act may be cited as the "Conrail Sale Amendments Act of 1985".

FINDINGS

SEC. 2. The Congress finds that—

(1) the Northeast Rail Service Act of 1981 (45 U.S.C. 1101 et seq.) provided for an orderly return of Conrail freight service to the private sector;

(2) the provisions of the Northeast Rail Service Act of 1981 were successful in removing Conrail's obligations beyond railroad freight service and in otherwise preparing Conrail for an orderly return to the private sector;

(3) acting under section 403 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 763), the Board of Directors of the United States Railway Association twice found Conrail to be a profitable corporation;

(4) acting under section 401 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 761), the Secretary engaged an investment banker and arranged, through open competitive bidding and negotiation, to sell the interest of the United States in the common stock of Conrail;

(5) the Secretary's Plan for the sale of Conrail provides for sale of the interest of the United States in the common stock of Conrail to Norfolk Southern Corporation;

(6) the Secretary found that sale of the interest of the United States in the common stock of Conrail to Norfolk Southern Corporation best meets the sale criteria of (A) leaving Conrail in the strongest financial position after the sale, (B) preserving patterns of service to shippers and communities in the region Conrail serves, and (C) maximizing return to the Federal Government consistent with the criteria specified in clauses (A) and (B);

(7) amendments to the Regional Rail Reorganization Act of 1973 (45 U.S.C. 701 et seq.) and related laws are needed to permit the sale of the interest of the United States in the common stock of Conrail to Norfolk Southern Corporation and to permit cancellation of the interest of the United States in Conrail debt and preferred stock; and

(8) the Secretary's Plan satisfies the requirements of the Northeast Rail Service Act of 1981, including the intent, goals, and objectives relating to the sale of the interest of the United States in the common stock of Conrail and the requirements of section 401(e) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 761(e)).

PURPOSE

SEC. 3. It is therefore declared to be the purpose of the Congress in this Act to return Conrail to the private sector by directing and facilitating implementation of the Secretary's Plan for the sale of the interest of the United States in the common stock of Conrail.

DEFINITIONS

SEC. 4. (a) In this Act, unless the context otherwise requires, the term—

(1) "Conrail" means the Consolidated Rail Corporation;

(2) "Definitive Agreements" means any and all agreements existing or to be developed between the United States and Norfolk Southern Corporation, including all representations and warranties made therein, to implement the Memorandum of Intent described in paragraph (4)(A);

(3) "Secretary" means the Secretary of Transportation; and

(4) "Secretary's Plan" means (A) the Memorandum of Intent between the United States and Norfolk Southern Corporation signed February 8, 1985, and (B) the divestitures by the Norfolk Southern Corporation of certain rail tracks, rights, and facilities, and any transactions or agreements related or incidental to such divestitures, in connection with the implementation of attachment A to the letter from the Department of Justice attached to the Memorandum of Intent as exhibit E.

(b) Section 102 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 702) is amended—

(1) by redesignating paragraphs (6) through (18) as paragraphs (7) through (19), and paragraphs (19) through (21) as paragraphs (21) through (23), respectively;

(2) by inserting after paragraph (5) the following paragraph:

"(6) 'Definitive Agreements' means any and all agreements existing or to be developed between the United States and Norfolk Southern Corporation, including all representations and warranties made therein, to implement the Memorandum of Intent described in paragraph (20)(A);"; and

(3) by inserting after paragraph (19), as so redesignated, the following paragraph:

"(20) 'Secretary's Plan' means (A) the Memorandum of Intent between the United States and Norfolk Southern Corporation signed February 8, 1985, and (B) the divestitures by the Norfolk Southern Corporation of certain rail tracks, rights, and facilities, and any transactions or agreements related or incidental to such divestitures, in connection with the implementation of attachment A to the letter from the Department of Justice attached to the Memorandum of Intent as exhibit E;".

(c) Section 1135(a) of the Northeast Rail Service Act of 1981 (45 U.S.C. 1104(a)) is amended—

(1) by redesignating paragraphs (6), (7), and (8) as paragraphs (7), (8), and (10), respectively;

(2) by inserting after paragraph (5) the following paragraph:

"(6) 'Definitive Agreements' means any and all agreements existing or to be developed between the United States and Norfolk Southern Corporation, including all representations and warranties made therein, to implement the Memorandum of Intent described in paragraph (9)(A);"; and

(3) by inserting after paragraph (8), as so redesignated, the following paragraph:

"(9) 'Secretary's Plan' means (A) the Memorandum of Intent between the United States and Norfolk Southern Corporation signed February 8, 1985, and (B) the divestitures by the Norfolk Southern Corporation of certain rail tracks, rights, and facilities, and any transactions or agreements related or incidental to such divestitures, in connection with the implementation of attachment A to the letter from the Department of Justice attached to the Memorandum of Intent as exhibit E;".

TITLE I—AMENDMENTS TO THE REGIONAL RAIL REORGANIZATION ACT OF 1973 AND THE NORTHEAST RAIL SERVICE ACT OF 1981

Subtitle A—Regional Rail Reorganization Act of 1973 Amendments

LIMIT ON AUTHORITY TO PURCHASE STOCK

SEC. 101. Section 216(b) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 726(b)) is amended by adding at the end thereof the following paragraph:

"(5) The authority of the Association to purchase debentures or series A preferred stock of the Corporation under this section shall terminate upon the consummation of the sale of the interest of the United States in the common stock of the Corporation under the terms of the Secretary's Plan.".

RESPONSIBILITY OF CONRAIL DIRECTORS

SEC. 102. Section 301(i) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 741(i)) is amended by inserting immediately after "required by law" the following: ", taken to implement the Secretary's Plan,".

APPLICABILITY OF REGIONAL RAIL REORGANIZATION ACT OF 1973 TO CONRAIL AFTER SALE

SEC. 103. Section 301 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 741) is amended by adding at the end thereof the following subsection:

"(k) GOVERNING PROVISIONS AFTER SALE.—The provisions of this Act shall not apply to the Corporation and to activities and other actions and responsibilities of the Corporation and its directors after consummation of the sale of the interest of the United States in the common stock of the Corporation under the terms of the Conrail Sale Amendments Act of 1985, other than with regard to—

"(1) section 102 of this Act;

"(2) section 201(d) of this Act;

"(3) section 203 of this Act, but only with respect to information relating to proceedings before the special court established under section 209(b);

"(4) section 216(f)(8) of this Act, but only as such authority applies to activities related to the employee stock ownership plan and related trusts prior to or in connection with consummation of the sale of the interest of the United States in the common stock of the Corporation, including activities related to the sale, exchange, valuation, or disposition of the assets of the employee stock ownership plan and related trusts, or of Conrail Equity Corporation, in connection with the Secretary's Plan;

"(5) sections 216(f)(11) and 216(f)(12) of this Act, as amended by the Conrail Sale Amendments Act of 1985;

"(6) section 217(e) of this Act;

"(7) subsection (i) of this section, but only as such authority applies to service as a director of the Corporation prior to consummation or in connection with implementation of the sale of the interest of the United States in the common stock of the Corporation;

"(8) section 305 of this Act, but only as to the effect, and continuing administration, of supplemental transactions consummated prior to consummation of the sale of the interest of the United States in the common stock of the Corporation;

"(9) section 308 of this Act, but only in abandonment actions when such authority has been relied on to file a notice or notices of insufficent revenues prior to consummation of the sale of the interest of the United States in the common stock of the Corporation;

"(10) section 401(a) of this Act, as amended by the Conrail Sale Amendments Act of 1985;

"(11) section 402 of this Act, as amended by the Conrail Sale Amendments Act of 1985;

"(12) section 408(c) of this Act, as amended by the Conrail Sale Amendments Act of 1985;

"(13) section 701 of this Act, but only as may be necessary to identify employees eligible for benefits under agreements entered into under such section;

"(14) section 702(e) of this Act;

"(15) section 704(b) of this Act;

"(16) section 709 of this Act;

"(17) section 710(b)(1) of this Act;

"(18) section 711 of this Act;

"(19) section 714 of this Act, but only with regard to disputes or controversies specified in such section that arose prior to consummation of the sale of the interest of the United States in the common stock of the Corporation; and

"(20) section 715 of this Act, as amended by the Conrail Sale Amendments Act of 1985.".

IMPLEMENTATION OF THE SECRETARY'S PLAN

SEC. 104. (a) Section 401(a)(3) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 761(a)(3)) is amended to read as follows:

"(3) The Secretary is authorized and directed to implement the Secretary's Plan, in accordance with paragraph (4) of this subsection. Such implementation of the Secretary's Plan and the coordinated operation of the Corporation's properties with those of Norfolk Southern Corporation and its affiliates as a single rail system is deemed approved by the Commission under chapter 113 of title 49, United States Code.".

(b) Section 401(a) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 761(a)) is amended by adding at the end thereof the following paragraphs:

"(4) The Secretary shall implement the Secretary's Plan by negotiating, executing, delivering, and performing the Definitive Agreements, which shall conform to the Memorandum of Intent described in section 102(20)(A) of this Act. The Secretary shall, 45 calendar days before the date on which the Secretary anticipates that the interest of the United States in the common stock of the Corporation will be sold to Norfolk Southern Corporation, transmit to the Committee on Commerce, Science, and Transportation of the Senate and to the Committee on Energy and Commerce of the House of Representatives a notification of any alteration from the Memorandum of Intent described in section 102(20)(A) of this Act which will be made in the Definitive Agreements. After the date of such sale, the Secretary shall transmit to such Committees notification of any intent to waive compliance with any substantive covenant, agreement or obligation contained in the Definitive Agreements, and the Secretary may not waive such compliance until a period of 45 calendar days has expired after the date of such transmittal.

"(5) The Secretary shall not transfer the interest of the United States in the common stock of the Corporation except concurrently with a divestiture by Norfolk Southern Corporation of rail assets and rights approved by the Attorney General.

"(6) The sale of the interest of the United States in the common stock of the Corporation shall be deemed to be consummated at the date title to the common stock passes to Norfolk Southern Corporation and the United States receives the cash purchase price.".

RAILROAD PURCHASERS AND OFFER FOR SALE OF SHARES TO EMPLOYEES

SEC. 105. Subsections (d) and (e) of section 401 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 761(d) and (e)) are repealed.

CANCELLATION OF DEBT AND PREFERRED STOCK

SEC. 106. Section 402 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 762) is amended to read as follows:

"DEBT AND PREFERRED STOCK

"SEC. 402. (a) RECAPITALIZATION.—In connection with the sale of the interest of the United States in the common stock of the Corporation under section 401 of this Act, and consistent with the Secretary's Plan, the Secretary may take all action necessary to cause the Corporation to be recapitalized such that the interest of the United States, or any agent or instrumentality thereof, and all other commitments or obligations of the Corporation to the United States or any agent or instrumentality thereof arising out of such interest, in any debt (including accrued interest and contingent interest thereon) and preferred stock (including accrued and unpaid dividends thereon) of the Corporation shall be cancelled or retired, and contributed to the capital of the Corporation. The Secretary shall cause the recapitalization authorized by this section to be effective as of the consummation of the sale of the interest of the United States in the common stock of the Corporation.

"(b) BREACH OF REPRESENTATIONS.—(1) Norfolk Southern Corporation or any successor corporation thereto may bring suit for any breach of representations contained in paragraph 6(e) of the Memorandum of Intent described in section 102(20)(A) of this Act (hereinafter referred to as the 'Representations') in the United States Claims Court or a district court of the United States. If such an action is brought, the Claims Court or district court shall determine the amount by which the United States income tax (including interest and penalties whether or not such penalties are assessed as a tax under the Internal Revenue Code of 1954) assessable against the Corporation or against Norfolk Southern Corporation for any year exceeds the amount of such tax which would have been assessable for such year had such Representations not been breached (hereinafter referred to as the 'Offset Amount').

"(2) The Representations shall be considered breached and Norfolk Southern Corporation shall be entitled to bring suit upon the first occurrence of any of the following that is inconsistent with the Representations: (A) the issuance by the Internal Revenue Service of a statutory notice of deficiency (90-day letter), (B) the assessment of the United States income tax, or (C) any claim by the United States in a suit or other judicial proceeding against Norfolk Southern Corporation or the Corporation.

"(3) The right to bring suit pursuant to this section shall not be subject to any waiting period applicable to tax proceedings or to any requirements for payment of any tax as a condition to instituting any suit based on a breach of the Representations.

"(4) Any judgment for money damages relating to breach of the Representations shall only be awarded as an offset in any court or administrative proceeding against the tax liability of Norfolk Southern Corporation or the Corporation, or both, to which such breach relates; except that if any such tax liability resulting from such breach has been paid, the judgment shall to that extent be an offset against any United States income tax liability of the Norfolk Southern Corporation or the Corporation, or both. If any portion of the tax resulting from a breach of the Representations has been paid, then the Offset Amount shall include interest on such payment from the date paid at the rate from time to time specified in the Internal Revenue Code of 1954 for interest payable on refund claims.

"(5) It shall not be a defense to an action brought under this section that Norfolk Southern Corporation knew, or should have known, of the falsity of the Representations or that there exists no carryover basis procedure as contemplated by the last sentence of the Representations.

"(6) For purposes of this section, tax liability of Norfolk Southern Corporation shall include the tax liability of Norfolk Southern Corporation and its affiliated group, within the meaning of section 1504 of the Internal Revenue Code of 1954.".

APPLICABILITY OF CERTAIN LAWS TO SALE OF CONRAIL

SEC. 107. Section 408 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 768) is amended—

(1) by repealing subsection (b);

(2) by amending subsection (c) by striking "No transfer" and all that follows through "subject to" and inserting in lieu thereof "Except as provided in section 1152 of the Northeast Rail Service Act of 1981 (45 U.S.C. 1105), the Secretary's Plan and the Definitive Agreements and their negotiation, execution, and implementation shall not be subject to administrative or"; and

(3) by adding at the end of subsection (c) the following sentence: "The issuance in private placement of notes or other securities in accordance with exhibit B to the Memorandum of Intent (described in section 102(20)(A) of this Act) in the Secretary's Plan shall not be subject to the provisions of subtitle IV of title 49, United States Code.".

LABOR PROTECTION

SEC. 108. (a) Section 701(d)(2) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 797(d)(2)) is amended by striking "the last day of the eighteen-month period beginning on".

(b)(1) Title VII of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 797 et seq.) is amended by adding at the end thereof the following section:

"PROTECTION AFTER SALE

"SEC. 715. After consummation of the sale of the interest of the United States in the common stock of the Corporation pursuant to the Secretary's Plan, any employee of Norfolk Southern Corporation, the Corporation, any rail affiliate of either company, and any transferee of the rail tracks, rights, and facilities divested in accordance with the Secretary's Plan, who is adversely affected in his employment by the implementation of the Secretary's Plan shall receive from his employer protection under the labor protective conditions set forth in New York Dock Railway—Control—Brooklyn Eastern District Terminal (354 ICC 399 (1978), modified upon further consideration, 360 ICC 60 (1979)). The arbitration provisions of section 4 of New York Dock shall apply to the formation of any implementing agreements that may be necessary in connection with the implementation of the Secretary's Plan, including any resulting coordinations.".

(2) The table of contents of the Regional Rail Reorganization Act of 1973 is amended by inserting immediately after the item relating to section 714 the following item:

"Sec. 715. Protection after sale.".

PREFERENTIAL HIRING

SEC. 109. Section 703 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 797b) is amended—

(1) by redesignating subsection (b) as subsection (c); and

(2) by inserting immediately after subsection (a) the following subsection:

"(b) IMPLEMENTATION OF SECRETARY'S PLAN.—Any employee of any railroad who is deprived of employment as a result of the implementation of the Secretary's Plan shall have the first right of hire for a vacancy for which he is qualified on any Norfolk Southern Corporation rail subsidiary, except where such vacancy is covered by (1) an affirmative action plan, or a hiring plan designated to eliminate discrimination, that is required by Federal or State statute, regulation, or Executive order, or by the order of a Federal court or agency, or (2) a permissible voluntary affirmative action plan. For purposes of this subsection, a railroad shall not be considered to be hiring new employees when it recalls any of its own furloughed employees.".

CROSS CRAFT EMPLOYMENT

SEC. 110. (a) Title VII of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 797 et seq.) is amended by inserting immediately after section 703 the following section:

"CROSS CRAFT EMPLOYMENT

"SEC. 703A. Any employee of Norfolk and Western Railway Company, Southern Railway Company, or the Corporation who is

deprived of employment as a result of the implementation of the Secretary's Plan shall have the first right of hire for any vacancy for which such employee is qualified at the entry level of any Norfolk Southern Corporation rail subsidiary, without regard to craft or class or the provisions of section 703 of this Act. Such employee shall retain his seniority rights to return to his original craft or class whenever a vacancy occurs. For purposes of this section, a railroad shall not be considered to be hiring new employees when it recalls any of its own furloughed employees.".

(b) The table of contents of the Regional Rail Reorganization Act of 1973 is amended by inserting immediately after the item relating to section 703 the following item:

"Sec. 703A. Cross craft employment.".

Subtitle B—Northeast Rail Service Act of 1981 Amendments

SPECIAL COURT JURISDICTION

SEC. 121. (a) Section 1152 of the Northeast Rail Service Act of 1981 (45 U.S.C. 1105) is amended—

(1) by inserting "or the Conrail Sale Amendments Act of 1985" immediately after "subtitle" wherever it appears;

(2) in subsection (a), by striking "or" at the end of paragraph (3), by striking the period at the end of paragraph (4) and inserting in lieu thereof a semicolon, and by adding at the end thereof the following paragraphs:

"(5) brought by the United States or any agency or instrumentality thereof seeking to enforce the Secretary's Plan or the Definitive Agreements;

"(6) brought by Norfolk Southern Corporation seeking to enforce the Secretary's Plan or the Definitive Agreements;

"(7) brought by a party who filed a complaint with the Secretary under subsection (e) of this section, and who is aggrieved by (A) a determination of the Secretary under paragraph (1) of such subsection that the party has not suffered direct economic injury, or (B) a decision of the Secretary under paragraph (2) of such subsection that a covenant has not been violated;

"(8) brought by a party which is a signatory to an ancillary agreement entered into in accordance with the Secretary's Plan or the Definitive Agreements and which is seeking to enforce such ancillary agreement; or

"(9) brought to determine the value of the interest of the employee stock ownership plan and related trusts, or of the beneficiaries thereof, in the preferred stock of the Conrail Equity Corporation.

For purposes of any action brought under paragraph (5) of this subsection, a violation of any covenant contained in the Secretary's Plan or the Definitive Agreements shall be deemed to constitute immediate and irreparable harm for purposes of awarding injunctive relief to the United States.".

(b) Section 1152 of the Northeast Rail Service Act of 1981 (45 U.S.C. 1105) is amended by adding at the end thereof the following subsection:

"(e)(1) Any party who suffers direct economic injury as a result of an alleged violation of a covenant contained in the Definitive Agreements may file a complaint with the Secretary seeking enforcement of such covenant. If the Secretary determines that the complainant has demonstrated to the Secretary that it has suffered direct economic injury, the Secretary shall investigate the complaint.

"(2) If the Secretary decides to investigate a complaint under paragraph (1) of this subsection, the Secretary shall give reasonable notice of such decision to investigate to the alleged violator of such covenant and the complainant, and shall make a final decision on such complaint within 60 days after the date on which it was filed.

"(3) If the Secretary finds that (A) the covenant in question has been violated, and (B) the complainant suffered direct economic injury as a result of such violation, the Secretary shall enter an order directing the violator of such covenant to comply with such covenant.

"(4) On appeal, any decision by the Secretary under this subsection shall be upheld, unless such decision is found to be arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law.".

APPLICABILITY OF OTHER LAWS

SEC. 122. Section 1168(a) of the Northeast Rail Service Act of 1981 (45 U.S.C. 1116(a)) is amended by striking "service transfers" and inserting in lieu thereof "sale of the interest of the United States in the common stock of Conrail or transfer of the rail properties and freight service responsibilities of Conrail".

QUALIFICATION, REVIEW, AND VALUATION OF EMPLOYEE STOCK OWNERSHIP PLANS

SEC. 132. Section 216(f) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 726(f)) is amended by adding at the end thereof the following paragraphs:

"(11) The employee stock ownership plans of the Corporation and related trusts maintained, amended, or adopted in implementing the Secretary's Plan shall be deemed to meet the qualification requirements of sections 401 and 501, respectively, of the Internal Revenue Code of 1954, notwithstanding (A) that such plans may not meet the requirements of section 415 of the Internal Revenue Code of 1954, or (B) that participants in such plans may be entitled to withdraw a portion of the shares allocated to their accounts prior to the expiration of the period generally imposed by the Internal Revenue Service for qualified plans. Such qualification shall relate only to the contributions, allocations, and withdrawals of shares provided for in the Secretary's Plan with respect to the plans and related trusts maintained, amended, or adopted in implementing the Secretary's Plan. Such contributions and allocations shall in no event be treated as having exceeded the maximum annual addition permitted under section 415 of the Internal Revenue Code of 1954 (but not for purposes of applying section 404(j) of the Internal Revenue Code of 1954) for purposes of calculating any limitation under section 415 with respect to contributions and allocations not described in the Secretary's Plan, including contributions and allocations to plans and related trusts of the Corporation and any affiliated corporation. The continued qualification of such plans with respect to all other contributions, allocations, and withdrawals shall be subject to all provisions of existing law, as amended from time to time. No inference shall be drawn from this paragraph as to whether an amount is a contribution deductible under section 404 of the Internal Revenue Code of 1954 rather than a non-deductible capital expenditure.

"(12) Except as provided in section 1152 of the Northeast Rail Service Act of 1981 (45 U.S.C. 1105), the issuance and sale or contribution of securities by Norfolk Southern Corporation to fulfill arrangements with the Corporation's employees in implementing the Secretary's Plan and the distribution of shares from the Corporation's employee stock ownership plans and related trusts maintained, amended, or adopted in implementing the Secretary's Plan shall not be subject to the registration and prospectus delivery requirements of the Securities Act of 1933, any approval requirement under subtitle IV of title 49, United States Code, or the laws of any State with respect to the issuance and sale of securities.".

TITLE II—TECHNICAL AND CONFORMING AMENDMENTS

REGIONAL RAIL REORGANIZATION ACT OF 1973 AMENDMENTS AND REPEALS

SEC. 201. The following provisions of the Regional Rail Reorganization Act of 1973 are repealed or amended as specified:

(1) Subsections (a) and (b) of section 214 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 724(a) and (b)) are repealed, and such section 214 is amended by striking "(c) ASSOCIATION.—".

(2) Subsection (f) of section 217 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 727(f)) is repealed, without prejudice to the continued availability of funds appropriated prior to the date of enactment of this Act pursuant to section 217(f)(1)(C) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 727(f)(1)(C)).

(3) Section 404 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 764), and the item relating to such section in the table of contents of such Act, are repealed.

(4) Section 405 of the Regional Rail Reoroganization Act of 1973 (45 U.S.C. 765), and the item relating to such section in the table of contents of such Act, are repealed.

(5) Section 406 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 766), and the item relating to such section in the table of contents of such Act, are repealed.

(6) Section 407 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 767), and the item relating to such section in the table of contents of such Act, are repealed.

(7) Subsections (a) and (d) of section 408 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 768 (a) and (d)) are repealed.

(8) Section 409 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 769), and the item relating to such section in the table of contents of such Act, are repealed.

(9) Section 410 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 769a), and the item relating to such section in the table of contents of such Act, are repealed.

(10) Section 411 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 769b), and the item relating to such section in the table of contents of such Act, are repealed.

(11) Section 412 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 769c), and the item relating to such section in the table of contents of such Act, are repealed.

(12) Section 713 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 797l), and the item relating to such section in the table of contents of such Act, are repealed.

AMENDMENTS AND REPEALS OF OTHER RAIL LAWS

SEC. 202. The following provisions of law are repealed or amended as specified:

(1) Section 1154 of the Northeast Rail Service Act of 1981 (45 U.S.C. 1107), and the item relating to such section in the table of contents of such Act, are repealed.

(2) Section 1161 of the Northeast Rail Service Act of 1981 (45 U.S.C. 1110), and the item relating to such section in the table of contents of such Act, are repealed.

(3) Section 1166 of the Northeast Rail Service Act of 1981 (45 U.S.C. 1114), and the

item relating to such section in the table of contents of such Act, are repealed.

(4) Subsection (c) of section 1167 of the Northeast Rail Service Act of 1981 (45 U.S.C. 1115(c)) is repealed.

(5) Subsection (b) of section 1168 of the Northeast Rail Service Act of 1981 (45 U.S.C. 1116(b)) is repealed.

(6) Section 501(8) of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 821(8)) is amended—

(A) by striking "(A)";

(B) by striking "(i)" and inserting in lieu thereof "(A)", and by striking "(ii)" and inserting in lieu thereof "(B)"; and

(C) by striking all after "utilization;".

(7) Section 505 of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 825) is amended—

(A) in subsection (a)(1), by striking all after "railroad" through "1981)"; and

(B) in subsection (b)(2)(C), by striking all after "costs" the second time it appears through "subsidy".

(8) Subsection (b)(1) of section 509 of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 829(b)(1)) is repealed.

(9) Section 511(e) of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 831(e)) is amended by striking "(1)", and by striking all after "time" and inserting in lieu thereof a period.

(10) Section 402 of the Rail Safety and Service Improvement Act of 1982 (45 U.S.C. 825a) is repealed.

(11) Section 1005(b)(1) of the Rail Passenger Service Act (45 U.S.C. 655(b)(1)) is amended by striking "the Consolidated Rail Corporation,".

(12) Section 10362(b)(7)(A) of title 49, United States Code, is amended by striking "by the Consolidated Rail Corporation or".

(13) Section 332(d) of title 49, United States Code, is amended by striking ", the Consolidated Rail Corporation,".

TITLE III—MISCELLANEOUS PROVISIONS

COMMON CARRIER STATUS OF CONRAIL AFTER SALE

SEC. 301. (a) Conrail's status as a common carrier by railroad under section 10102(4) of title 49, United States Code, shall not be affected by virtue of sale of the interest of the United States in Conrail's common stock. Purchase of Conrail stock shall not alone be the basis of a determination that the acquiring entity has become a common carrier by railroad under section 10102(4) of title 49, United States Code.

(b) The Definitive Agreements shall contain a binding commitment by Norfolk Southern Corporation to continue to operate Conrail in full compliance with the provisions of section 10731(e) of title 49, United States Code.

CONSUMMATION OF SALE

SEC. 302. The sale of the interest of the United States in the common stock of Conrail shall be deemed to be consummated on the date title to the common stock passes to Norfolk Southern Corporation and the United States receives the cash purchase price.

CONTRACTS

SEC. 303. (a) Except as provided in subsection (b) of this section, nothing in this Act shall affect—

(1) Conrail's obligation to carry out its transportation contracts and equipment leases, equipment trusts, and conditional sale agreements, in accordance with their terms; and

(2) the obligation of any transferee of divested assets to carry out transportation contracts and equipment leases, equipment trusts, and conditional sale agreements to which such assets are subject, in accordance with their terms.

(b) If a divestiture carried out pursuant to the Secretary's Plan precludes Conrail from providing a transportation service for which it has contracted without a right of termination that may be exercised in the event of the sale of the interest of the United States in the common stock of Conrail and the divestiture will result in a change or modification in the movement of the traffic involved, the transferee of the divested rights and properties and Conrail shall provide the contracted-for service on terms and conditions which, to the maximum extent possible, conform to the terms and conditions in the contract.

CONGRESSIONAL OVERSIGHT OF COMPLIANCE

SEC. 304. The Secretary shall, no later than January 31 of each year, submit to the Committee on Commerce, Science, and Transportation of the Senate and to the Committee on Energy and Commerce of the House of Representatives a report setting forth each certificate which Norfolk Southern Corporation and Conrail provided to the Secretary, during the preceding year, certifying compliance with the covenants contained in the Definitive Agreements.

SEPARABILITY

SEC. 305. If any provision of this Act or the application thereof to any person or circumstances is held invalid, the remainder of this Act and the application of such provision to other persons or circumstances shall not be affected thereby.

EFFECTIVE DATE

SEC. 306. (a) Except as provided in subsection (b) of this section, the provisions of and amendments made by this Act shall take effect on the date of enactment of this Act.

(b) Sections 108(a), 201 and 202 of this Act shall take effect on the date of consummation of the sale of the interest of the United States in the common stock of Conrail.

(c) Any provision of this Act which, pursuant to Article I, Section 7 of the Constitution, provides for raising revenue shall only be effective upon the enactment into law of a bill which has originated in the House of Representatives enacting such provision.

AMENDMENT NO. 1532

In lieu of the language proposed to be inserted, insert the following:

That this Act may be cited as the "Conrail Sale Amendments Act of 1985".

FINDINGS

SEC. 2. The Congress finds that—

(1) the Northeast Rail Service Act of 1981 (45 U.S.C. 1101 et seq.) provided for an orderly return of Conrail freight service to the private sector;

(2) the provisions of the Northeast Rail Service Act of 1981 were successful in removing Conrail's obligations beyond railroad freight service and in otherwise preparing Conrail for an orderly return to the private sector;

(3) acting under section 403 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 763), the Board of Directors of the United States Railway Association twice found Conrail to be a profitable corporation;

(4) acting under section 401 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 761), the Secretary engaged an investment banker and arranged, through open competitive bidding and negotiation, to sell the interest of the United States in the common stock of Conrail;

(5) the Secretary's Plan for the sale of Conrail provides for sale of the interest of the United States in the common stock of Conrail to Norfolk Southern Corporation;

(6) the Secretary found that sale of the interest of the United States in the common stock of Conrail to Norfolk Southern Corporation best meets the sale criteria of (A) leaving Conrail in the strongest financial position after the sale, (B) preserving patterns of service to shippers and communities in the region Conrail serves, and (C) maximizing return to the Federal Government consistent with the criteria specified in clauses (A) and (B);

(7) amendments to the Regional Rail Reorganization Act of 1973 (45 U.S.C. 701 et seq.) and related laws are needed to permit the sale of the interest of the United States in the common stock of Conrail to Norfolk Southern Corporation and to permit cancellation of the interest of the United States in Conrail debt and preferred stock; and

(8) the Secretary's Plan satisfies the requirements of the Northeast Rail Service Act of 1981, including the intent, goals, and objectives relating to the sale of the interest of the United States in the common stock of Conrail and the requirements of section 401(e) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 761(e)).

PURPOSE

SEC. 3. It is therefore declared to be the purpose of the Congress in this Act to return Conrail to the private sector by directing and facilitating implementation of the Secretary's Plan for the sale of the interest of the United States in the common stock of Conrail.

DEFINITIONS

SEC. 4. (a) In this Act, unless the context otherwise requires, the term—

(1) "Conrail" means the Consolidated Rail Corporation;

(2) "Definitive Agreements" means any and all agreements existing or to be developed between the United States and Norfolk Southern Corporation, including all representations and warranties made therein, to implement the Memorandum of Intent described in paragraph (4)(A);

(3) "Secretary" means the Secretary of Transportation; and

(4) "Secretary's Plan" means (A) the Memorandum of Intent between the United States and Norfolk Southern Corporation signed February 8, 1985, and (B) the divestitures by the Norfolk Southern Corporation of certain rail tracks, rights, and facilities, and any transactions or agreements related or incidental to such divestitures, in connection with the implementation of attachment A to the letter from the Department of Justice attached to the Memorandum of Intent as exhibit E.

(b) Section 102 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 702) is amended—

(1) by redesignating paragraphs (6) through (18) as paragraphs (7) through (19), and paragraphs (19) through (21) as paragraphs (21) through (23), respectively;

(2) by inserting after paragraph (5) the following paragraph:

"(6) 'Definitive Agreements' means any and all agreements existing or to be developed between the United States and Norfolk Southern Corporation, including all representations and warranties made therein, to

implement the Memorandum of Intent described in paragraph (20)(A);"; and

(3) by inserting after paragraph (19), as so redesignated, the following paragraph:

"(20) 'Secretary's Plan' means (A) the Memorandum of Intent between the United States and Norfolk Southern Corporation signed February 8, 1985, and (B) the divestitures by the Norfolk Southern Corporation of certain rail tracks, rights, and facilities, and any transactions or agreements related or incidental to such divestitures, in connection with the implementation of attachment A to the letter from the Department of Justice attached to the Memorandum of Intent as exhibit E;".

(c) Section 1135(a) of the Northeast Rail Service Act of 1981 (45 U.S.C. 1104(a)) is amended—

(1) by redesignating paragraphs (6), (7), and (8) as paragraphs (7), (8), and (10), respectively;

(2) by inserting after paragraph (5) the following paragraph:

"(6) 'Definitive Agreements' means any and all agreements existing or to be developed between the United States and Norfolk Southern Corporation, including all representations and warranties made therein, to implement the Memorandum of Intent described in paragraph (9)(A);"; and

(3) by inserting after paragraph (8), as so redesignated, the following paragraph:

"(9) 'Secretary's Plan' means (A) the Memorandum of Intent between the United States and Norfolk Southern Corporation signed February 8, 1985, and (B) the divestitures by the Norfolk Southern Corporation of certain rail tracks, rights, and facilities, and any transactions or agreements related or incidental to such divestitures, in connection with the implementation of attachment A to the letter from the Department of Justice attached to the Memorandum of Intent as exhibit E;".

TITLE I—AMENDMENTS TO THE REGIONAL RAIL REORGANIZATION ACT OF 1973 AND THE NORTHEAST RAIL SERVICE ACT OF 1981

Subtitle A—Regional Rail Reorganization Act of 1973 Amendments

LIMIT ON AUTHORITY TO PURCHASE STOCK

SEC. 101. Section 216(b) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 726(b)) is amended by adding at the end thereof the following paragraph:

"(5) The authority of the Association to purchase debentures or series A preferred stock of the Corporation under this section shall terminate upon the consummation of the sale of the interest of the United States in the common stock of the Corporation under the terms of the Secretary's Plan.".

RESPONSIBILITY OF CONRAIL DIRECTORS

SEC. 102. Section 301(i) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 741(i)) is amended by inserting immediately after "required by law" the following: ", taken to implement the Secretary's Plan,".

APPLICABILITY OF REGIONAL RAIL REORGANIZATION ACT OF 1973 TO CONRAIL AFTER SALE

SEC. 103. Section 301 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 741) is amended by adding at the end thereof the following subsection:

"(k) GOVERNING PROVISIONS AFTER SALE.—The provisions of this Act shall not apply to the Corporation and to activities and other actions and responsibilities of the Corporation and its directors after consummation of the sale of the interest of the United States in the common stock of the Corporation under the terms of the Conrail Sale Amendments Act of 1985, other than with regard to—

"(1) section 102 of this Act;

"(2) section 201(d) of this Act;

"(3) section 203 of this Act, but only with respect to information relating to proceedings before the special court established under section 209(b);

"(4) section 216(f)(8) of this Act, but only as such authority applies to activities related to the employee stock ownership plan and related trusts prior to or in connection with consummation of the sale of the interest of the United States in the common stock of the Corporation, including activities related to the sale, exchange, valuation, or disposition of the assets of the employee stock ownership plan and related trusts, or of Conrail Equity Corporation, in connection with the Secretary's Plan;

"(5) sections 216(f)(11) and 216(f)(12) of this Act, as amended by the Conrail Sale Amendments Act of 1985;

"(6) section 217(e) of this Act;

"(7) subsection (i) of this section, but only as such authority applies to service as a director of the Corporation prior to consummation or in connection with implementation of the sale of the interest of the United States in the common stock of the Corporation;

"(8) section 305 of this Act, but only as to the effect, and continuing administration, of supplemental transactions consummated prior to consummation of the sale of the interest of the United States in the common stock of the Corporation;

"(9) section 308 of this Act, but only in abandonment actions when such authority has been relied on to file a notice or notices of insufficent revenues prior to consummation of the sale of the interest of the United States in the common stock of the Corporation;

"(10) section 401(a) of this Act, as amended by the Conrail Sale Amendments Act of 1985;

"(11) section 402 of this Act, as amended by the Conrail Sale Amendments Act of 1985;

"(12) section 408(c) of this Act, as amended by the Conrail Sale Amendments Act of 1985;

"(13) section 701 of this Act, but only as may be necessary to identify employees eligible for benefits under agreements entered into under such section;

"(14) section 702(e) of this Act;

"(15) section 704(b) of this Act;

"(16) section 709 of this Act;

"(17) section 710(b)(1) of this Act;

"(18) section 711 of this Act;

"(19) section 714 of this Act, but only with regard to disputes or controversies specified in such section that arose prior to consummation of the sale of the interest of the United States in the common stock of the Corporation; and

"(20) section 715 of this Act, as amended by the Conrail Sale Amendments Act of 1985.".

IMPLEMENTATION OF THE SECRETARY'S PLAN

SEC. 104. (a) Section 401(a)(3) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 761(a)(3)) is amended to read as follows:

"(3) The Secretary is authorized and directed to implement the Secretary's Plan, in accordance with paragraph (4) of this subsection. Such implementation of the Secretary's Plan and the coordinated operation of the Corporation's properties with those of Norfolk Southern Corporation and its affiliates as a single rail system is deemed approved by the Commission under chapter 113 of title 49, United States Code.".

(b) Section 401(a) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 761(a)) is amended by adding at the end thereof the following paragraphs:

"(4) The Secretary shall implement the Secretary's Plan by negotiating, executing, delivering, and performing the Definitive Agreements, which shall conform to the Memorandum of Intent described in section 102(20)(A) of this Act. The Secretary shall, 45 calendar days before the date on which the Secretary anticipates that the interest of the United States in the common stock of the Corporation will be sold to Norfolk Southern Corporation, transmit to the Committee on Commerce, Science, and Transportation of the Senate and to the Committee on Energy and Commerce of the House of Representatives a notification of any alteration from the Memorandum of Intent described in section 102(20)(A) of this Act which will be made in the Definitive Agreements. After the date of such sale, the Secretary shall transmit to such Committees notification of any intent to waive compliance with any substantive covenant, agreement or obligation contained in the Definitive Agreements, and the Secretary may not waive such compliance until a period of 45 calendar days has expired after the date of such transmittal.

"(5) The Secretary shall not transfer the interest of the United States in the common stock of the Corporation except concurrently with a divestiture by Norfolk Southern Corporation of rail assets and rights approved by the Attorney General.

"(6) The sale of the interest of the United States in the common stock of the Corporation shall be deemed to be consummated at the date title to the common stock passes to Norfolk Southern Corporation and the United States receives the cash purchase price.".

RAILROAD PURCHASERS AND OFFER FOR SALE OF SHARES TO EMPLOYEES

SEC. 105. Subsections (d) and (e) of section 401 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 761 (d) and (e)) are repealed.

CANCELLATION OF DEBT AND PREFERRED STOCK

SEC. 106. Section 402 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 762) is amended to read as follows:

"DEBT AND PREFERRED STOCK

"SEC. 402. (a) RECAPITALIZATION.—In connection with the sale of the interest of the United States in the common stock of the Corporation under section 401 of this Act, and consistent with the Secretary's Plan, the Secretary may take all action necessary to cause the Corporation to be recapitalized such that the interest of the United States, or any agent or instrumentality thereof, and all other commitments or obligations of the Corporation to the United States or any agent or instrumentality thereof arising out of such interest, in any debt (including accrued interest and contingent interest thereon) and preferred stock (including accrued and unpaid dividends thereon) of the Corporation shall be cancelled or retired, and contributed to the capital of the Corporation. The Secretary shall cause the recapitalization authorized by this section to be effective as of the consummation of the sale of the interest of the United States in the common stock of the Corporation.

"(b) BREACH OF REPRESENTATIONS.—(1) Norfolk Southern Corporation or any successor corporation thereto may bring suit for any breach of representations contained in paragraph 6(e) of the Memorandum of Intent described in section 102(20)(A) of this Act (hereinafter referred to as the 'Representations') in the United States Claims Court or a district court of the United States. If such an action is brought, the Claims Court or district court shall determine the amount by which the United States income tax (including interest and penalties whether or not such penalties are assessed as a tax under the Internal Revenue Code of 1954) assessable against the Corporation or against Norfolk Southern Corporation for any year exceeds the amount of such tax which would have been assessable for such year had such Representations not been breached (hereinafter referred to as the 'Offset Amount').

"(2) The Representations shall be considered breached and Norfolk Southern Corporation shall be entitled to bring suit upon the first occurrence of any of the following that is inconsistent with the Representations: (A) the issuance by the Internal Revenue Service of a statutory notice of deficiency (90-day letter), (B) the assessment of the United States income tax, or (C) any claim by the United States in a suit or other judicial proceeding against Norfolk Southern Corporation or the Corporation.

"(3) The right to bring suit pursuant to this section shall not be subject to any waiting period applicable to tax proceedings or to any requirements for payment of any tax as a condition to instituting any suit based on a breach of the Representations.

"(4) Any judgment for money damages relating to breach of the Representations shall only be awarded as an offset in any court or administrative proceeding against the tax liability of Norfolk Southern Corporation or the Corporation, or both, to which such breach relates; except that if any such tax liability resulting from such breach has been paid, the judgment shall to that extent be an offset against any United States income tax liability of the Norfolk Southern Corporation or the Corporation, or both. If any portion of the tax resulting from a breach of the Representations has been paid, then the Offset Amount shall include interest on such payment from the date paid at the rate from time to time specified in the Internal Revenue Code of 1954 for interest payable on refund claims.

"(5) It shall not be a defense to an action brought under this section that Norfolk Southern Corporation knew, or should have known, of the falsity of the Representations or that there exists no carryover basis procedure as contemplated by the last sentence of the Representations.

"(6) For purposes of this section, tax liability of Norfolk Southern Corporation shall include the tax liability of Norfolk Southern Corporation and its affiliated group, within the meaning of section 1504 of the Internal Revenue Code of 1954.".

APPLICABILITY OF CERTAIN LAWS TO SALE OF CONRAIL

SEC. 107. Section 408 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 768) is amended—

(1) by repealing subsection (b);

(2) by amending subsection (c) by striking "No transfer" and all that follows through "subject to" and inserting in lieu thereof "Except as provided in section 1152 of the Northeast Rail Service Act of 1981 (45 U.S.C. 1105), the Secretary's Plan and the Definitive Agreements and their negotiation, execution, and implementation shall not be subject to administrative or"; and

(3) by adding at the end of subsection (c) the following sentence: "The issuance in private placement of notes or other securities in accordance with exhibit B to the Memorandum of Intent (described in section 102(20)(A) of this Act) in the Secretary's Plan shall not be subject to the provisions of subtitle IV of title 49, United States Code.".

LABOR PROTECTION

SEC. 108. (a) Section 701(d)(2) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 797(d)(2)) is amended by striking "the last day of the eighteen-month period beginning on".

(b)(1) Title VII of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 797 et seq.) is amended by adding at the end thereof the following section:

"PROTECTION AFTER SALE

"SEC. 715. After consummation of the sale of the interest of the United States in the common stock of the Corporation pursuant to the Secretary's Plan, any employee of Norfolk Southern Corporation, the Corporation, any rail affiliate of either company, and any transferee of the rail tracks, rights, and facilities divested in accordance with the Secretary's Plan, who is adversely affected in his employment by the implementation of the Secretary's Plan shall receive from his employer protection under the labor protective conditions set forth in New York Dock Railway—Control—Brooklyn Eastern District Terminal (354 ICC 399 (1978), modified upon further consideration, 360 ICC 60 (1979)). The arbitration provisions of section 4 of New York Dock shall apply to the formation of any implementing agreements that may be necessary in connection with the implementation of the Secretary's Plan, including any resulting coordinations.".

(2) The table of contents of the Regional Rail Reorganization Act of 1973 is amended by inserting immediately after the item relating to section 714 the following item:

"Sec. 715. Protection after sale.".

PREFERENTIAL HIRING

SEC. 109. Section 703 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 797b) is amended—

(1) by redesignating subsection (b) as subsection (c); and

(2) by inserting immediately after subsection (a) the following subsection:

"(b) IMPLEMENTATION OF SECRETARY'S PLAN.—Any employee of any railroad who is deprived of employment as a result of the implementation of the Secretary's Plan shall have the first right of hire for a vacancy for which he is qualified on any Norfolk Southern Corporation rail subsidiary, except where such vacancy is covered by (1) an affirmative action plan, or a hiring plan designated to eliminate discrimination, that is required by Federal or State statute, regulation, or Executive order, or by the order of a Federal court or agency, or (2) a permissible voluntary affirmative action plan. For purposes of this subsection, a railroad shall not be considered to be hiring new employees when it recalls any of its own furloughed employees.".

CROSS CRAFT EMPLOYMENT

SEC. 110. (a) Title VII of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 797 et seq.) is amended by inserting immediately after section 703 the following section:

"CROSS CRAFT EMPLOYMENT

"SEC. 703A. Any employee of Norfolk and Western Railway Company, Southern Railway Company, or the Corporation who is deprived of employment as a result of the implementation of the Secretary's Plan shall have the first right of hire for any vacancy for which such employee is qualified at the entry level of any Norfolk Southern Corporation rail subsidiary, without regard to craft or class or the provisions of section 703 of this Act. Such employee shall retain his seniority rights to return to his original craft or class whenever a vacancy occurs. For purposes of this section, a railroad shall not be considered to be hiring new employees when it recalls any of its own furloughed employees.".

(b) The table of contents of the Regional Rail Reorganization Act of 1973 is amended by inserting immediately after the item relating to section 703 the following item:

"Sec. 703A. Cross craft employment.".

Subtitle B—Northeast Rail Service Act of 1981 Amendments

SPECIAL COURT JURISDICTION

SEC. 121. (a) Section 1152 of the Northeast Rail Service Act of 1981 (45 U.S.C. 1105) is amended—

(1) by inserting "or the Conrail Sale Amendments Act of 1985" immediately after "subtitle" wherever it appears;

(2) in subsection (a), by striking "or" at the end of paragraph (3), by striking the period at the end of paragraph (4) and inserting in lieu thereof a semicolon, and by adding at the end thereof the following paragraphs:

"(5) brought by the United States or any agency or instrumentality thereof seeking to enforce the Secretary's Plan or the Definitive Agreements;

"(6) brought by Norfolk Southern Corporation seeking to enforce the Secretary's Plan or the Definitive Agreements;

"(7) brought by a party who filed a complaint with the Secretary under subsection (e) of this section, and who is aggrieved by (A) a determination of the Secretary under paragraph (1) of such subsection that the party has not suffered direct economic injury, or (B) a decision of the Secretary under paragraph (2) of such subsection that a covenant has not been violated;

"(8) brought by a party which is a signatory to an ancillary agreement entered into in accordance with the Secretary's Plan or the Definitive Agreements and which is seeking to enforce such ancillary agreement; or

"(9) brought to determine the value of the interest of the employee stock ownership plan and related trusts, or of the beneficiaries thereof, in the preferred stock of the Conrail Equity Corporation.

For purposes of any action brought under paragraph (5) of this subsection, a violation of any covenant contained in the Secretary's Plan or the Definitive Agreements shall be deemed to constitute immediate and irreparable harm for purposes of awarding injunctive relief to the United States.".

(b) Section 1152 of the Northeast Rail Service Act of 1981 (45 U.S.C. 1105) is amended by adding at the end thereof the following subsection:

"(e)(1) Any party who suffers direct economic injury as a result of an alleged violation of a covenant contained in the Definitive Agreements may file a complaint with the Secretary seeking enforcement of such covenant. If the Secretary determines that the complainant has demonstrated to the

Secretary that it has suffered direct economic injury, the Secretary shall investigate the complaint.

"(2) If the Secretary decides to investigate a complaint under paragraph (1) of this subsection, the Secretary shall give reasonable notice of such decision to investigate to the alleged violator of such covenant and the complainant, and shall make a final decision on such complaint within 60 days after the date on which it was filed.

"(3) If the Secretary finds that (A) the covenant in question has been violated, and (B) the complainant suffered direct economic injury as a result of such violation, the Secretary shall enter an order directing the violator of such covenant to comply with such covenant.

"(4) On appeal, any decision by the Secretary under this subsection shall be upheld, unless such decision is found to be arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law.".

APPLICABILITY OF OTHER LAWS

SEC. 122. Section 1168(a) of the Northeast Rail Service Act of 1981 (45 U.S.C. 1116(a)) is amended by striking "service transfers" and inserting in lieu thereof "sale of the interest of the United States in the common stock of Conrail or transfer of the rail properties and freight service responsibilities of Conrail".

TITLE II—TECHNICAL AND CONFORMING AMENDMENTS

REGIONAL RAIL REORGANIZATION ACT OF 1973 AMENDMENTS AND REPEALS

SEC. 201. The following provisions of the Regional Rail Reorganization Act of 1973 are repealed or amended as specified:

(1) Subsections (a) and (b) of section 214 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 724(a) and (b)) are repealed, and such section 214 is amended by striking "(c) ASSOCIATION.—".

(2) Subsection (f) of section 217 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 727(f)) is repealed, without prejudice to the continued availability of funds appropriated prior to the date of enactment of this Act pursuant to section 217(f)(1)(C) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 727(f)(1)(C)).

(3) Section 404 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 764), and the item relating to such section in the table of contents of such Act, are repealed.

(4) Section 405 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 765), and the item relating to such section in the table of contents of such Act, are repealed.

(5) Section 406 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 766), and the item relating to such section in the table of contents of such Act, are repealed.

(6) Section 407 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 767), and the item relating to such section in the table of contents of such Act, are repealed.

(7) Subsections (a) and (d) of section 408 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 768 (a) and (d)) are repealed.

(8) Section 409 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 769), and the item relating to such section in the table of contents of such Act, are repealed.

(9) Section 410 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 769a), and the item relating to such section in the table of contents of such Act, are repealed.

(10) Section 411 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 769b), and the item relating to such section in the table of contents of such Act, are repealed.

(11) Section 412 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 769c), and the item relating to such section in the table of contents of such Act, are repealed.

(12) Section 713 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 797l), and the item relating to such section in the table of contents of such Act, are repealed.

AMENDMENTS AND REPEALS OF OTHER RAIL LAWS

SEC. 202. The following provisions of law are repealed or amended as specified:

(1) Section 1154 of the Northeast Rail Service Act of 1981 (45 U.S.C. 1107), and the item relating to such section in the table of contents of such Act, are repealed.

(2) Section 1161 of the Northeast Rail Service Act of 1981 (45 U.S.C. 1110), and the item relating to such section in the table of contents of such Act, are repealed.

(3) Section 1166 of the Northeast Rail Service Act of 1981 (45 U.S.C. 1114), and the item relating to such section in the table of contents of such Act, are repealed.

(4) Subsection (c) of section 1167 of the Northeast Rail Service Act of 1981 (45 U.S.C. 1115(c)) is repealed.

(5) Subsection (b) of section 1168 of the Northeast Rail Service Act of 1981 (45 U.S.C. 1116(b)) is repealed.

(6) Section 501(8) of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 821(8)) is amended—

(A) by striking "(A)";

(B) by striking "(i)" and inserting in lieu thereof "(A)", and by striking "(ii)" and inserting in lieu thereof "(B)"; and

(C) by striking all after "utilization;".

(7) Section 505 of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 825) is amended—

(A) in subsection (a)(1), by striking all after "railroad" through "1981)"; and

(B) in subsection (b)(2)(C), by striking all after "costs" the second time it appears through "subsidy".

(8) Subsection (b)(1) of section 509 of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 829(b)(1)) is repealed.

(9) Section 511(e) of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 831(e)) is amended by striking "(1)", and by striking all after "time" and inserting in lieu thereof a period.

(10) Section 402 of the Rail Safety and Service Improvement Act of 1982 (45 U.S.C. 825a) is repealed.

(11) Section 1005(b)(1) of the Rail Passenger Service Act (45 U.S.C. 655(b)(1)) is amended by striking "the Consolidated Rail Corporation,".

(12) Section 10362(b)(7)(A) of title 49, United States Code, is amended by striking "by the Consolidated Rail Corporation or".

(13) Section 332(d) of title 49, United States Code, is amended by striking ", the Consolidated Rail Corporation,".

TITLE III—MISCELLANEOUS PROVISIONS

COMMON CARRIER STATUS OF CONRAIL AFTER SALE

SEC. 301. (a) Conrail's status as a common carrier by railroad under section 10102(4) of title 49, United States Code, shall not be affected by virtue of sale of the interest of the United States in Conrail's common stock. Purchase of Conrail stock shall not alone be the basis of a determination that the acquiring entity has become a common carrier by railroad under section 10102(4) of title 49, United States Code.

(b) The Definitive Agreements shall contain a binding commitment by Norfolk Southern Corporation to continue to operate Conrail in full compliance with the provisions of section 10731(e) of title 49, United States Code.

CONSUMMATION OF SALE

SEC. 302. The sale of the interest of the United States in the common stock of Conrail shall be deemed to be consummated on the date title to the common stock passes to Norfolk Southern Corporation and the United States receives the cash purchase price.

CONTRACTS

SEC. 303. (a) Except as provided in subsection (b) of this section, nothing in this Act shall affect—

(1) Conrail's obligation to carry out its transportation contracts and equipment leases, equipment trusts, and conditional sale agreements, in accordance with their terms; and

(2) the obligation of any transferee of divested assets to carry out transportation contracts and equipment leases, equipment trusts, and conditional sale agreements to which such assets are subject, in accordance with their terms.

(b) If a divestiture carried out pursuant to the Secretary's Plan precludes Conrail from providing a transportation service for which it has contracted without a right of termination that may be exercised in the event of the sale of the interest of the United States in the common stock of Conrail and the divestiture will result in a change or modification in the movement of the traffic involved, the transferee of the divested rights and properties and Conrail shall provide the contracted-for service on terms and conditions which, to the maximum extent possible, conform to the terms and conditions in the contract.

CONGRESSIONAL OVERSIGHT OF COMPLIANCE

SEC. 304. The Secretary shall, no later than January 31 of each year, submit to the Committee on Commerce, Science, and Transportation of the Senate and to the Committee on Energy and Commerce of the House of Representatives a report setting forth each certificate which Norfolk Southern Corporation and Conrail provided to the Secretary, during the preceding year, certifying compliance with the covenants contained in the Definitive Agreements.

SEPARABILITY

SEC. 305. If any provision of this Act or the application thereof to any person or circumstances is held invalid, the remainder of this Act and the application of such provision to other persons or circumstances shall not be affected thereby.

EFFECTIVE DATE

SEC. 306. (a) Except as provided in subsection (b) of this section, the provisions of and amendments made by this Act shall take effect on the date of enactment of this Act.

(b) Sections 108(a), 201 and 202 of this Act shall take effect on the date of consummation of the sale of the interest of the United States in the common stock of Conrail.

(c) Any provision of this Act which, pursuant to Article I, Section 7 of the Constitution, provides for raising revenue shall only be effective upon the enactment into law of a bill which has originated in the House of Representatives enacting such provision.

AMENDMENT NO. 1533

Beginning on page 22, line 21, strike out all through line 19 on page 24.

AMENDMENT NO. 1534

On page 22, beginning with line 21, strike out all through line 19 on page 24.

AMENDMENT NO. 1535

On page 22, beginning with line 1, strike out all through line 19 on page 24.

AMENDMENT NO. 1536

On page 22, beginning with line 1, strike out all through line 20.

AMENDMENT NO. 1537

On page 22, beginning with line 21, strike out all through line 19 on page 24.

AMENDMENT NO. 1538

On page 22, line 1, strike out all through line 19 on page 24.

AMENDMENT NO. 1539

On page 22, beginning with line 1, strike out all through line 20.

AMENDMENT NO. 1540

In lieu of the language proposed to be inserted, insert the following:

That this Act may be cited as the "Conrail Sale Amendments Act of 1985".

FINDINGS

SEC. 2. The Congress finds that—

(1) the Northeast Rail Service Act of 1981 (45 U.S.C. 1101 et seq.) provided for an orderly return of Conrail freight service to the private sector;

(2) the provisions of the Northeast Rail Service Act of 1981 were successful in removing Conrail's obligations beyond railroad freight service and in otherwise preparing Conrail for an orderly return to the private sector;

(3) acting under section 403 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 763), the Board of Directors of the United States Railway Association twice found Conrail to be a profitable corporation;

(4) acting under section 401 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 761), the Secretary engaged an investment banker and arranged, through open competitive bidding and negotiation, to sell the interest of the United States in the common stock of Conrail;

(5) the Secretary's Plan for the sale of Conrail provides for sale of the interest of the United States in the common stock of Conrail to Norfolk Southern Corporation;

(6) the Secretary found that sale of the interest of the United States in the common stock of Conrail to Norfolk Southern Corporation best meets the sale criteria of (A) leaving Conrail in the strongest financial position after the sale, (B) preserving patterns of service to shippers and communities in the region Conrail serves, and (C) maximizing return to the Federal Government consistent with the criteria specified in clauses (A) and (B);

(7) amendments to the Regional Rail Reorganization Act of 1973 (45 U.S.C. 701 et seq.) and related laws are needed to permit the sale of the interest of the United States in the common stock of Conrail to Norfolk Southern Corporation and to permit cancellation of the interest of the United States in Conrail debt and preferred stock.

PURPOSE

SEC. 3. It is therefore declared to be the purpose of the Congress in this Act to return Conrail to the private sector by directing and facilitating implementation of the Secretary's Plan for the sale of the interest of the United States in the common stock of Conrail.

DEFINITIONS

SEC. 4. (a) In this Act, unless the context otherwise requires, the term—

(1) "Conrail" means the Consolidated Rail Corporation;

(2) "Definitive Agreements" means any and all agreements existing or to be developed between the United States and Norfolk Southern Corporation, including all representations and warranties made therein, to implement the Memorandum of Intent described in paragraph (4)(A);

(3) "Secretary" means the Secretary of Transportation; and

(4) "Secretary's Plan" means (A) the Memorandum of Intent between the United States and Norfolk Southern Corporation signed February 8, 1985, and (B) the divestitures by the Norfolk Southern Corporation of certain rail tracks, rights, and facilities, and any transactions or agreements related or incidental to such divestitures, in connection with the implementation of attachment A to the letter from the Department of Justice attached to the Memorandum of Intent as exhibit E.

(b) Section 102 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 702) is amended—

(1) by redesignating paragraphs (6) through (18) as paragraphs (7) through (19), and paragraphs (19) through (21) as paragraphs (21) through (23), respectively;

(2) by inserting after paragraph (5) the following paragraph:

"(6) 'Definitive Agreements' means any and all agreements existing or to be developed between the United States and Norfolk Southern Corporation, including all representations and warranties made therein, to implement the Memorandum of Intent described in paragraph (20)(A);"; and

(3) by inserting after paragraph (19), as so redesignated, the following paragraph:

"(20) 'Secretary's Plan' means (A) the Memorandum of Intent between the United States and Norfolk Southern Corporation signed February 8, 1985, and (B) the divestitures by the Norfolk Southern Corporation of certain rail tracks, rights, and facilities, and any transactions or agreements related or incidental to such divestitures, in connection with the implementation of attachment A to the letter from the Department of Justice attached to the Memorandum of Intent as exhibit E;".

(c) Section 1135(a) of the Northeast Rail Service Act of 1981 (45 U.S.C. 1104(a)) is amended—

(1) by redesignating paragraphs (6), (7), and (8) as paragraphs (7), (8), and (10), respectively;

(2) by inserting after paragraph (5) the following paragraph:

"(6) 'Definitive Agreements' means any and all agreements existing or to be developed between the United States and Norfolk Southern Corporation, including all representations and warranties made therein, to implement the Memorandum of Intent described in paragraph (9)(A);"; and

(3) by inserting after paragraph (8), as so redesignated, the following paragraph:

"(9) 'Secretary's Plan' means (A) the Memorandum of Intent between the United States and Norfolk Southern Corporation signed February 8, 1985, and (B) the divestitures by the Norfolk Southern Corporation of certain rail tracks, rights, and facilities, and any transactions or agreements related or incidental to such divestitures, in connection with the implementation of attachment A to the letter from the Department of Justice attached to the Memorandum of Intent as exhibit E;".

TITLE I—AMENDMENTS TO THE REGIONAL RAIL REORGANIZATION ACT OF 1973 AND THE NORTHEAST RAIL SERVICE ACT OF 1981

Subtitle A—Regional Rail Reorganization Act of 1973 Amendments

LIMIT ON AUTHORITY TO PURCHASE STOCK

SEC. 101. Section 216(b) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 726(b)) is amended by adding at the end thereof the following paragraph:

"(5) The authority of the Association to purchase debentures or series A preferred stock of the Corporation under this section shall terminate upon the consummation of the sale of the interest of the United States in the common stock of the Corporation under the terms of the Secretary's Plan.".

RESPONSIBILITY OF CONRAIL DIRECTORS

SEC. 102. Section 301(i) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 741(i)) is amended by inserting immediately after "required by law" the following: ", taken to implement the Secretary's Plan,".

APPLICABILITY OF REGIONAL RAIL REORGANIZATION ACT OF 1973 TO CONRAIL AFTER SALE

SEC. 103. Section 301 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 741) is amended by adding at the end thereof the following subsection:

"(k) GOVERNING PROVISIONS AFTER SALE.—The provisions of this Act shall not apply to the Corporation and to activities and other actions and responsibilities of the Corporation and its directors after consummation of the sale of the interest of the United States in the common stock of the Corporation under the terms of the Conrail Sale Amendments Act of 1985, other than with regard to—

"(1) section 102 of this Act;

"(2) section 201(d) of this Act;

"(3) section 203 of this Act, but only with respect to information relating to proceedings before the special court established under section 209(b);

"(4) section 216(f)(8) of this Act, but only as such authority applies to activities related to the employee stock ownership plan and related trusts prior to or in connection with consummation of the sale of the interest of the United States in the common stock of the Corporation, including activities related to the sale, exchange, valuation, or disposition of the assets of the employee stock ownership plan and related trusts, or of Conrail Equity Corporation, in connection with the Secretary's Plan;

"(5) sections 216(f)(11) and 216(f)(12) of this Act, as amended by the Conrail Sale Amendments Act of 1985;

"(6) section 217(e) of this Act;

"(7) subsection (i) of this section, but only as such authority applies to service as a director of the Corporation prior to consummation or in connection with implementation of the sale of the interest of the United States in the common stock of the Corporation;

"(8) section 305 of this Act, but only as to the effect, and continuing administration, of supplemental transactions consummated prior to consummation of the sale of the interest of the United States in the common stock of the Corporation;

"(9) section 308 of this Act, but only in abandonment actions when such authority

has been relied on to file a notice or notices of insufficent revenues prior to consummation of the sale of the interest of the United States in the common stock of the Corporation;

"(10) section 401(a) of this Act, as amended by the Conrail Sale Amendments Act of 1985;

"(11) section 402 of this Act, as amended by the Conrail Sale Amendments Act of 1985;

"(12) section 408(c) of this Act, as amended by the Conrail Sale Amendments Act of 1985;

"(13) section 701 of this Act, but only as may be necessary to identify employees eligible for benefits under agreements entered into under such section;

"(14) section 702(e) of this Act;

"(15) section 704(b) of this Act;

"(16) section 709 of this Act;

"(17) section 710(b)(1) of this Act;

"(18) section 711 of this Act;

"(19) section 714 of this Act, but only with regard to disputes or controversies specified in such section that arose prior to consummation of the sale of the interest of the United States in the common stock of the Corporation; and

"(20) section 715 of this Act, as amended by the Conrail Sale Amendments Act of 1985.".

IMPLEMENTATION OF THE SECRETARY'S PLAN

SEC. 104. (a) Section 401(a)(3) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 761(a)(3)) is amended to read as follows:

"(3) The Secretary is authorized and directed to implement the Secretary's Plan, in accordance with paragraph (4) of this subsection. Such implementation of the Secretary's Plan and the coordinated operation of the Corporation's properties with those of Norfolk Southern Corporation and its affiliates as a single rail system is deemed approved by the Commission under chapter 113 of title 49, United States Code.".

(b) Section 401(a) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 761(a)) is amended by adding at the end thereof the following paragraphs:

"(4) The Secretary shall implement the Secretary's Plan by negotiating, executing, delivering, and performing the Definitive Agreements, which shall conform to the Memorandum of Intent described in section 102(20)(A) of this Act. The Secretary shall, 45 calendar days before the date on which the Secretary anticipates that the interest of the United States in the common stock of the Corporation will be sold to Norfolk Southern Corporation, transmit to the Committee on Commerce, Science, and Transportation of the Senate and to the Committee on Energy and Commerce of the House of Representatives a notification of any alteration from the Memorandum of Intent described in section 102(20)(A) of this Act which will be made in the Definitive Agreements. After the date of such sale, the Secretary shall transmit to such Committees notification of any intent to waive compliance with any substantive covenant, agreement or obligation contained in the Definitive Agreements, and the Secretary may not waive such compliance until a period of 45 calendar days has expired after the date of such transmittal.

"(5) The Secretary shall not transfer the interest of the United States in the common stock of the Corporation except concurrently with a divestiture by Norfolk Southern Corporation of rail assets and rights approved by the Attorney General.

"(6) The sale of the interest of the United States in the common stock of the Corporation shall be deemed to be consummated at the date title to the common stock passes to Norfolk Southern Corporation and the United States receives the cash purchase price.".

RAILROAD PURCHASERS AND OFFER FOR SALE OF SHARES TO EMPLOYEES

SEC. 105. Subsections (d) and (e) of section 401 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 761(d) and (e)) are repealed.

CANCELLATION OF DEBT AND PREFERRED STOCK

SEC. 106. Section 402 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 762) is amended to read as follows:

"DEBT AND PREFERRED STOCK

"SEC. 402. (a) RECAPITALIZATION.—In connection with the sale of the interest of the United States in the common stock of the Corporation under section 401 of this Act, and consistent with the Secretary's Plan, the Secretary may take all action necessary to cause the Corporation to be recapitalized such that the interest of the United States, or any agent or instrumentality thereof, and all other commitments or obligations of the Corporation to the United States or any agent or instrumentality thereof arising out of such interest, in any debt (including accrued interest and contingent interest thereon) and preferred stock (including accrued and unpaid dividends thereon) of the Corporation shall be cancelled or retired, and contributed to the capital of the Corporation. The Secretary shall cause the recapitalization authorized by this section to be effective as of the consummation of the sale of the interest of the United States in the common stock of the Corporation.

"(b) BREACH OF REPRESENTATIONS.—(1) Norfolk Southern Corporation or any successor corporation thereto may bring suit for any breach of representations contained in paragraph 6(e) of the Memorandum of Intent described in section 102(20)(A) of this Act (hereinafter referred to as the 'Representations') in the United States Claims Court or a district court of the United States. If such an action is brought, the Claims Court or district court shall determine the amount by which the United States income tax (including interest and penalties whether or not such penalties are assessed as a tax under the Internal Revenue Code of 1954) assessable against the Corporation or against Norfolk Southern Corporation for any year exceeds the amount of such tax which would have been assessable for such year had such Representations not been breached (hereinafter referred to as the 'Offset Amount').

"(2) The Representations shall be considered breached and Norfolk Southern Corporation shall be entitled to bring suit upon the first occurrence of any of the following that is inconsistent with the Representations: (A) the issuance by the Internal Revenue Service of a statutory notice of deficiency (90-day letter), (B) the assessment of the United States income tax, or (C) any claim by the United States in a suit or other judicial proceeding against Norfolk Southern Corporation or the Corporation.

"(3) The right to bring suit pursuant to this section shall not be subject to any waiting period applicable to tax proceedings or to any requirements for payment of any tax as a condition to instituting any suit based on a breach of the Representations.

"(4) Any judgment for money damages relating to breach of the Representations shall only be awarded as an offset in any court or administrative proceeding against the tax liability of Norfolk Southern Corporation or the Corporation, or both, to which such breach relates; except that if any such tax liability resulting from such breach has been paid, the judgment shall to that extent be an offset against any United States income tax liability of the Norfolk Southern Corporation or the Corporation, or both. If any portion of the tax resulting from a breach of the Representations has been paid, then the Offset Amount shall include interest on such payment from the date paid at the rate from time to time specified in the Internal Revenue Code of 1954 for interest payable on refund claims.

"(5) It shall not be a defense to an action brought under this section that Norfolk Southern Corporation knew, or should have known, of the falsity of the Representations or that there exists no carryover basis procedure as contemplated by the last sentence of the Representations.

"(6) For purposes of this section, tax liability of Norfolk Southern Corporation shall include the tax liability of Norfolk Southern Corporation and its affiliated group, within the meaning of section 1504 of the Internal Revenue Code of 1954.".

APPLICABILITY OF CERTAIN LAWS TO SALE OF CONRAIL

SEC. 107. Section 408 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 768) is amended—

(1) by repealing subsection (b);

(2) by amending subsection (c) by striking "No transfer" and all that follows through "subject to" and inserting in lieu thereof "Except as provided in section 1152 of the Northeast Rail Service Act of 1981 (45 U.S.C. 1105), the Secretary's Plan and the Definitive Agreements and their negotiation, execution, and implementation shall not be subject to administrative or"; and

(3) by adding at the end of subsection (c) the following sentence: "The issuance in private placement of notes or other securities in accordance with exhibit B to the Memorandum of Intent (described in section 102(20)(A) of this Act) in the Secretary's Plan shall not be subject to the provisions of subtitle IV of title 49, United States Code.".

LABOR PROTECTION

SEC. 108. (a) Section 701(d)(2) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 797(d)(2)) is amended by striking "the last day of the eighteen-month period beginning on".

(b)(1) Title VII of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 797 et seq.) is amended by adding at the end thereof the following section:

"PROTECTION AFTER SALE

"SEC. 715. After consummation of the sale of the interest of the United States in the common stock of the Corporation pursuant to the Secretary's Plan, any employee of Norfolk Southern Corporation, the Corporation, any rail affiliate of either company, and any transferee of the rail tracks, rights, and facilities divested in accordance with the Secretary's Plan, who is adversely affected in his employment by the implementation of the Secretary's Plan shall receive from his employer protection under the labor protective conditions set forth in New York Dock Railway—Control—Brooklyn Eastern District Terminal (354 ICC 399 (1978), modified upon further consideration, 360 ICC 60 (1979)). The arbitration provi-

sions of section 4 of New York Dock shall apply to the formation of any implementing agreements that may be necessary in connection with the implementation of the Secretary's Plan, including any resulting coordinations.".

(2) The table of contents of the Regional Rail Reorganization Act of 1973 is amended by inserting immediately after the item relating to section 714 the following item:

"Sec. 715. Protection after sale.".

PREFERENTIAL HIRING

SEC. 109. Section 703 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 797b) is amended—

(1) by redesignating subsection (b) as subsection (c); and

(2) by inserting immediately after subsection (a) the following subsection:

"(b) IMPLEMENTATION OF SECRETARY'S PLAN.—Any employee of any railroad who is deprived of employment as a result of the implementation of the Secretary's Plan shall have the first right of hire for a vacancy for which he is qualified on any Norfolk Southern Corporation rail subsidiary, except where such vacancy is covered by (1) an affirmative action plan, or a hiring plan designated to eliminate discrimination, that is required by Federal or State statute, regulation, or Executive order, or by the order of a Federal court or agency, or (2) a permissible voluntary affirmative action plan. For purposes of this subsection, a railroad shall not be considered to be hiring new employees when it recalls any of its own furloughed employees.".

CROSS CRAFT EMPLOYMENT

SEC. 110. (a) Title VII of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 797 et seq.) is amended by inserting immediately after section 703 the following section:

"CROSS CRAFT EMPLOYMENT

"SEC. 703A. Any employee of Norfolk and Western Railway Company, Southern Railway Company, or the Corporation who is deprived of employment as a result of the implementation of the Secretary's Plan shall have the first right of hire for any vacancy for which such employee is qualified at the entry level of any Norfolk Southern Corporation rail subsidiary, without regard to craft or class or the provisions of section 703 of this Act. Such employee shall retain his seniority rights to return to his original craft or class whenever a vacancy occurs. For purposes of this section, a railroad shall not be considered to be hiring new employees when it recalls any of its own furloughed employees.".

(b) The table of contents of the Regional Rail Reorganization Act of 1973 is amended by inserting immediately after the item relating to section 703 the following item:

"Sec. 703A. Cross craft employment.".

Subtitle B—Northeast Rail Service Act of 1981 Amendments

SPECIAL COURT JURISDICTION

SEC. 121. (a) Section 1152 of the Northeast Rail Service Act of 1981 (45 U.S.C. 1105) is amended—

(1) by inserting "or the Conrail Sale Amendments Act of 1985" immediately after "subtitle" wherever it appears;

(2) in subsection (a), by striking "or" at the end of paragraph (3), by striking the period at the end of paragraph (4) and inserting in lieu thereof a semicolon, and by adding at the end thereof the following paragraphs:

"(5) brought by the United States or any agency or instrumentality thereof seeking to enforce the Secretary's Plan or the Definitive Agreements;

"(6) brought by Norfolk Southern Corporation seeking to enforce the Secretary's Plan or the Definitive Agreements;

"(7) brought by a party who filed a complaint with the Secretary under subsection (e) of this section, and who is aggrieved by (A) a determination of the Secretary under paragraph (1) of such subsection that the party has not suffered direct economic injury, or (B) a decision of the Secretary under paragraph (2) of such subsection that a covenant has not been violated;

"(8) brought by a party which is a signatory to an ancillary agreement entered into in accordance with the Secretary's Plan or the Definitive Agreements and which is seeking to enforce such ancillary agreement; or

"(9) brought to determine the value of the interest of the employee stock ownership plan and related trusts, or of the beneficiaries thereof, in the preferred stock of the Conrail Equity Corporation.

For purposes of any action brought under paragraph (5) of this subsection, a violation of any covenant contained in the Secretary's Plan or the Definitive Agreements shall be deemed to constitute immediate and irreparable harm for purposes of awarding injunctive relief to the United States.".

(b) Section 1152 of the Northeast Rail Service Act of 1981 (45 U.S.C. 1105) is amended by adding at the end thereof the following subsection:

"(e)(1) Any party who suffers direct economic injury as a result of an alleged violation of a covenant contained in the Definitive Agreements may file a complaint with the Secretary seeking enforcement of such covenant. If the Secretary determines that the complainant has demonstrated to the Secretary that it has suffered direct economic injury, the Secretary shall investigate the complaint.

"(2) If the Secretary decides to investigate a complaint under paragraph (1) of this subsection, the Secretary shall give reasonable notice of such decision to investigate to the alleged violator of such covenant and the complainant, and shall make a final decision on such complaint within 60 days after the date on which it was filed.

"(3) If the Secretary finds that (A) the covenant in question has been violated, and (B) the complainant suffered direct economic injury as a result of such violation, the Secretary shall enter an order directing the violator of such covenant to comply with such covenant.

"(4) On appeal, any decision by the Secretary under this subsection shall be upheld, unless such decision is found to be arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law.".

APPLICABILITY OF OTHER LAWS

SEC. 122. Section 1168(a) of the Northeast Rail Service Act of 1981 (45 U.S.C. 1116(a)) is amended by striking "service transfers" and inserting in lieu thereof "sale of the interest of the United States in the common stock of Conrail or transfer of the rail properties and freight service responsibilities of Conrail".

Subtitle C—Employee Stock Ownership Plan

RESPONSIBILITY OF EMPLOYEE STOCK OWNERSHIP PLAN FIDUCIARIES

SEC. 131. (a) Section 216(f)(8)(A) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 726(f)(8)(A)) is amended—

(1) by striking "or" at the end of clause (ii);

(2) by striking the period at the end of clause (iii) and inserting in lieu thereof "; or"; and

(3) by adding at the end thereof the following clause:

"(iv) for or in connection with any action taken to implement the Secretary's Plan, including any sale, exchange, valuation, or disposition of the plan and related trust assets, or the assets of Conrail Equity Corporation, in connection with implementation of the Secretary's Plan and any determination of the terms on which any such sale, exchange, valuation, or disposition is effected.".

QUALIFICATION, REVIEW, AND VALUATION OF EMPLOYEE STOCK OWNERSHIP PLANS

SEC. 132. Section 216(f) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 726(f)) is amended by adding at the end thereof the following paragraphs:

"(11) The employee stock ownership plans of the Corporation and related trusts maintained, amended, or adopted in implementing the Secretary's Plan shall be deemed to meet the qualification requirements of sections 401 and 501, respectively, of the Internal Revenue Code of 1954, notwithstanding (A) that such plans may not meet the requirements of section 415 of the Internal Revenue Code of 1954, or (B) that participants in such plans may be entitled to withdraw a portion of the shares allocated to their accounts prior to the expiration of the period generally imposed by the Internal Revenue Service for qualified plans. Such qualification shall relate only to the contributions, allocations, and withdrawals of shares provided for in the Secretary's Plan with respect to the plans and related trusts maintained, amended, or adopted in implementing the Secretary's Plan. Such contributions and allocations shall in no event be treated as having exceeded the maximum annual addition permitted under section 415 of the Internal Revenue Code of 1954 (but not for purposes of applying section 404(j) of the Internal Revenue Code of 1954) for purposes of calculating any limitation under section 415 with respect to contributions and allocations not described in the Secretary's Plan, including contributions and allocations to plans and related trusts of the Corporation and any affiliated corporation. The continued qualification of such plans with respect to all other contributions, allocations, and withdrawals shall be subject to all provisions of existing law, as amended from time to time. No inference shall be drawn from this paragraph as to whether an amount is a contribution deductible under section 404 of the Internal Revenue Code of 1954 rather than a non-deductible capital expenditure.

"(12) Except as provided in section 1152 of the Northeast Rail Service Act of 1981 (45 U.S.C. 1105), the issuance and sale or contribution of securities by Norfolk Southern Corporation to fulfill arrangements with the Corporation's employees in implementing the Secretary's Plan and the distribution of shares from the Corporation's employee stock ownership plans and related trusts maintained, amended, or adopted in implementing the Secretary's Plan shall not be subject to the registration and prospectus delivery requirements of the Securities Act of 1933, any approval requirement under subtitle IV of title 49, United States Code, or the laws of any State with respect to the issuance and sale of securities.".

TITLE II—TECHNICAL AND CONFORMING AMENDMENTS

REGIONAL RAIL REORGANIZATION ACT OF 1973 AMENDMENTS AND REPEALS

SEC. 201. The following provisions of the Regional Rail Reorganization Act of 1973 are repealed or amended as specified:

(1) Subsections (a) and (b) of section 214 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 724(a) and (b)) are repealed, and such section 214 is amended by striking "(c) ASSOCIATION.—".

(2) Subsection (f) of section 217 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 727(f)) is repealed, without prejudice to the continued availability of funds appropriated prior to the date of enactment of this Act pursuant to section 217(f)(1)(C) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 727(f)(1)(C)).

(3) Section 404 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 764), and the item relating to such section in the table of contents of such Act, are repealed.

(4) Section 405 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 765), and the item relating to such section in the table of contents of such Act, are repealed.

(5) Section 406 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 766), and the item relating to such section in the table of contents of such Act, are repealed.

(6) Section 407 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 767), and the item relating to such section in the table of contents of such Act, are repealed.

(7) Subsections (a) and (d) of section 408 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 768 (a) and (d)) are repealed.

(8) Section 409 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 769), and the item relating to such section in the table of contents of such Act, are repealed.

(9) Section 410 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 769a), and the item relating to such section in the table of contents of such Act, are repealed.

(10) Section 411 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 769b), and the item relating to such section in the table of contents of such Act, are repealed.

(11) Section 412 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 769c), and the item relating to such section in the table of contents of such Act, are repealed.

(12) Section 713 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 797l), and the item relating to such section in the table of contents of such Act, are repealed.

AMENDMENTS AND REPEALS OF OTHER RAIL LAWS

SEC. 202. The following provisions of law are repealed or amended as specified:

(1) Section 1154 of the Northeast Rail Service Act of 1981 (45 U.S.C. 1107), and the item relating to such section in the table of contents of such Act, are repealed.

(2) Section 1161 of the Northeast Rail Service Act of 1981 (45 U.S.C. 1110), and the item relating to such section in the table of contents of such Act, are repealed.

(3) Section 1166 of the Northeast Rail Service Act of 1981 (45 U.S.C. 1114), and the item relating to such section in the table of contents of such Act, are repealed.

(4) Subsection (c) of section 1167 of the Northeast Rail Service Act of 1981 (45 U.S.C. 1115(c)) is repealed.

(5) Subsection (b) of section 1168 of the Northeast Rail Service Act of 1981 (45 U.S.C. 1116(b)) is repealed.

(6) Section 501(8) of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 821(8)) is amended—

(A) by striking "(A)";

(B) by striking "(i)" and inserting in lieu thereof "(A)", and by striking "(ii)" and inserting in lieu thereof "(B)"; and

(C) by striking all after "utilization;".

(7) Section 505 of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 825) is amended—

(A) in subsection (a)(1), by striking all after "railroad" through "1981)"; and

(B) in subsection (b)(2)(C), by striking all after "costs" the second time it appears through "subsidy".

(8) Subsection (b)(1) of section 509 of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 829(b)(1)) is repealed.

(9) Section 511(e) of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 831(e)) is amended by striking "(1)", and by striking all after "time" and inserting in lieu thereof a period.

(10) Section 402 of the Rail Safety and Service Improvement Act of 1982 (45 U.S.C. 825a) is repealed.

(11) Section 1005(b)(1) of the Rail Passenger Service Act (45 U.S.C. 655(b)(1)) is amended by striking "the Consolidated Rail Corporation,".

(12) Section 10362(b)(7)(A) of title 49, United States Code, is amended by striking "by the Consolidated Rail Corporation or".

(13) Section 332(d) of title 49, United States Code, is amended by striking ", the Consolidated Rail Corporation,".

TITLE III—MISCELLANEOUS PROVISIONS

COMMON CARRIER STATUS OF CONRAIL AFTER SALE

SEC. 301. (a) Conrail's status as a common carrier by railroad under section 10102(4) of title 49, United States Code, shall not be affected by virtue of sale of the interest of the United States in Conrail's common stock. Purchase of Conrail stock shall not alone be the basis of a determination that the acquiring entity has become a common carrier by railroad under section 10102(4) of title 49, United States Code.

(b) The Definitive Agreements shall contain a binding commitment by Norfolk Southern Corporation to continue to operate Conrail in full compliance with the provisions of section 10731(e) of title 49, United States Code.

CONSUMMATION OF SALE

SEC. 302. The sale of the interest of the United States in the common stock of Conrail shall be deemed to be consummated on the date title to the common stock passes to Norfolk Southern Corporation and the United States receives the cash purchase price.

CONTRACTS

SEC. 303. (a) Except as provided in subsection (o) of this section, nothing in this Act shall affect—

(1) Conrail's obligation to carry out its transportation contracts and equipment leases, equipment trusts, and conditional sale agreements, in accordance with their terms; and

(2) the obligation of any transferee of divested assets to carry out transportation contracts and equipment leases, equipment trusts, and conditional sale agreements to which such assets are subject, in accordance with their terms.

(b) If a divestiture carried out pursuant to the Secretary's Plan precludes Conrail from providing a transportation service for which it has contracted without a right of termination that may be exercised in the event of the sale of the interest of the United States in the common stock of Conrail and the divestiture will result in a change or modification in the movement of the traffic involved, the transferee of the divested rights and properties and Conrail shall provide the contracted-for service on terms and conditions which, to the maximum extent possible, conform to the terms and conditions in the contract.

CONGRESSIONAL OVERSIGHT OF COMPLIANCE

SEC. 304. The Secretary shall, no later than January 31 of each year, submit to the Committee on Commerce, Science, and Transportation of the Senate and to the Committee on Energy and Commerce of the House of Representatives a report setting forth each certificate which Norfolk Southern Corporation and Conrail provided to the Secretary, during the preceding year, certifying compliance with the covenants contained in the Definitive Agreements.

SEPARABILITY

SEC. 305. If any provision of this Act or the application thereof to any person or circumstances is held invalid, the remainder of this Act and the application of such provision to other persons or circumstances shall not be affected thereby.

EFFECTIVE DATE

SEC. 306. (a) Except as provided in subsection (b) of this section, the provisions of and amendments made by this Act shall take effect on the date of enactment of this Act.

(b) Sections 108(a), 201 and 202 of this Act shall take effect on the date of consummation of the sale of the interest of the United States in the common stock of Conrail.

(c) Any provision of this Act which, pursuant to Article I, Section 7 of the Constitution, provides for raising revenue shall only be effective upon the enactment into law of a bill which has originated in the House of Representatives enacting such provision.

AMENDMENT NO. 1541

On page 3, line 16, immediately after the word "stock" strike out through line 23, and insert in lieu thereof a period.

AMENDMENT NO. 1542

On page 3, line 16, immediately after the word "stock" strike out through line 23, and insert in lieu thereof a period.

AMENDMENT NO. 1543

In lieu of the language proposed to be inserted, insert the following:

That this Act may be cited as the "Conrail Sale Amendments Act of 1985".

FINDINGS

SEC. 2. The Congress finds that—

(1) the Northeast Rail Service Act of 1981 (45 U.S.C. 1101 et seq.) provided for an orderly return of Conrail freight service to the private sector;

(2) the provisions of the Northeast Rail Service Act of 1981 were successful in removing Conrail's obligations beyond railroad freight service and in otherwise preparing Conrail for an orderly return to the private sector;

(3) acting under section 403 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 763), the Board of Directors of the United States Railway Association twice found Conrail to be a profitable corporation;

(4) acting under section 401 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 761), the Secretary engaged an in-

vestment banker and arranged, through open competitive bidding and negotiation, to sell the interest of the United States in the common stock of Conrail;

(5) the Secretary's Plan for the sale of Conrail provides for sale of the interest of the United States in the common stock of Conrail to Norfolk Southern Corporation;

(6) the Secretary found that sale of the interest of the United States in the common stock of Conrail to Norfolk Southern Corporation best meets the sale criteria of (A) leaving Conrail in the strongest financial position after the sale, (B) preserving patterns of service to shippers and communities in the region Conrail serves, and (C) maximizing return to the Federal Government consistent with the criteria specified in clauses (A) and (B);

(7) amendments to the Regional Rail Reorganization Act of 1973 (45 U.S.C. 701 et seq.) and related laws are needed to permit the sale of the interest of the United States in the common stock of Conrail to Norfolk Southern Corporation and to permit cancellation of the interest of the United States in Conrail preferred stock; and

(8) the Secretary's Plan satisfies the requirements of the Northeast Rail Service Act of 1981, including the intent, goals, and objectives relating to the sale of the interest of the United States in the common stock of Conrail and the requirements of section 401(e) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 761(e)).

PURPOSE

SEC. 3. It is therefore declared to be the purpose of the Congress in this Act to return Conrail to the private sector by directing and facilitating implementation of the Secretary's Plan for the sale of the interest of the United States in the common stock of Conrail.

DEFINITIONS

SEC. 4. (a) In this Act, unless the context otherwise requires, the term—

(1) "Conrail" means the Consolidated Rail Corporation;

(2) "Definitive Agreements" means any and all agreements existing or to be developed between the United States and Norfolk Southern Corporation, including all representations and warranties made therein, to implement the Memorandum of Intent described in paragraph (4)(A);

(3) "Secretary" means the Secretary of Transportation; and

(4) "Secretary's Plan" means (A) the Memorandum of Intent between the United States and Norfolk Southern Corporation signed February 8, 1985, and (B) the divestitures by the Norfolk Southern Corporation of certain rail tracks, rights, and facilities, and any transactions or agreements related or incidental to such divestitures, in connection with the implementation of attachment A to the letter from the Department of Justice attached to the Memorandum of Intent as exhibit E.

(b) Section 102 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 702) is amended—

(1) by redesignating paragraphs (6) through (18) as paragraphs (7) through (19), and paragraphs (19) through (21) as paragraphs (21) through (23), respectively;

(2) by inserting after paragraph (5) the following paragraph:

"(6) 'Definitive Agreements' means any and all agreements existing or to be developed between the United States and Norfolk Southern Corporation, including all representations and warranties made therein, to implement the Memorandum of Intent described in paragraph (20)(A);"; and

(3) by inserting after paragraph (19), as so redesignated, the following paragraph:

"(20) 'Secretary's Plan' means (A) the Memorandum of Intent between the United States and Norfolk Southern Corporation signed February 8, 1985, and (B) the divestitures by the Norfolk Southern Corporation of certain rail tracks, rights, and facilities, and any transactions or agreements related or incidental to such divestitures, in connection with the implementation of attachment A to the letter from the Department of Justice attached to the Memorandum of Intent as exhibit E;".

(c) Section 1135(a) of the Northeast Rail Service Act of 1981 (45 U.S.C. 1104(a)) is amended—

(1) by redesignating paragraphs (6), (7), and (8) as paragraphs (7), (8), and (10), respectively;

(2) by inserting after paragraph (5) the following paragraph:

"(6) 'Definitive Agreements' means any and all agreements existing or to be developed between the United States and Norfolk Southern Corporation, including all representations and warranties made therein, to implement the Memorandum of Intent described in paragraph (9)(A);"; and

(3) by inserting after paragraph (8), as so redesignated, the following paragraph:

"(9) 'Secretary's Plan' means (A) the Memorandum of Intent between the United States and Norfolk Southern Corporation signed February 8, 1985, and (B) the divestitures by the Norfolk Southern Corporation of certain rail tracks, rights, and facilities, and any transactions or agreements related or incidental to such divestitures, in connection with the implementation of attachment A to the letter from the Department of Justice attached to the Memorandum of Intent as exhibit E;".

TITLE I—AMENDMENTS TO THE REGIONAL RAIL REORGANIZATION ACT OF 1973 AND THE NORTHEAST RAIL SERVICE ACT OF 1981

Subtitle A—Regional Rail Reorganization Act of 1973 Amendments

LIMIT ON AUTHORITY TO PURCHASE STOCK

SEC. 101. Section 216(b) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 726(b)) is amended by adding at the end thereof the following paragraph:

"(5) The authority of the Association to purchase debentures or series A preferred stock of the Corporation under this section shall terminate upon the consummation of the sale of the interest of the United States in the common stock of the Corporation under the terms of the Secretary's Plan.".

RESPONSIBILITY OF CONRAIL DIRECTORS

SEC. 102. Section 301(i) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 741(i)) is amended by inserting immediately after "required by law" the following: ", taken to implement the Secretary's Plan,".

APPLICABILITY OF REGIONAL RAIL REORGANIZATION ACT OF 1973 TO CONRAIL AFTER SALE

SEC. 103. Section 301 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 741) is amended by adding at the end thereof the following subsection:

"(k) GOVERNING PROVISIONS AFTER SALE.—The provisions of this Act shall not apply to the Corporation and to activities and other actions and responsibilities of the Corporation and its directors after consummation of the sale of the interest of the United States in the common stock of the Corporation under the terms of the Conrail Sale Amendments Act of 1985, other than with regard to—

"(1) section 102 of this Act;

"(2) section 201(d) of this Act;

"(3) section 203 of this Act, but only with respect to information relating to proceedings before the special court established under section 209(b);

"(4) section 216(f)(8) of this Act, but only as such authority applies to activities related to the employee stock ownership plan and related trusts prior to or in connection with consummation of the sale of the interest of the United States in the common stock of the Corporation, including activities related to the sale, exchange, valuation, or disposition of the assets of the employee stock ownership plan and related trusts, or of Conrail Equity Corporation, in connection with the Secretary's Plan;

"(5) sections 216(f)(11) and 216(f)(12) of this Act, as amended by the Conrail Sale Amendments Act of 1985;

"(6) section 217(e) of this Act;

"(7) subsection (i) of this section, but only as such authority applies to service as a director of the Corporation prior to consummation or in connection with implementation of the sale of the interest of the United States in the common stock of the Corporation;

"(8) section 305 of this Act, but only as to the effect, and continuing administration, of supplemental transactions consummated prior to consummation of the sale of the interest of the United States in the common stock of the Corporation;

"(9) section 308 of this Act, but only in abandonment actions when such authority has been relied on to file a notice or notices of insufficent revenues prior to consummation of the sale of the interest of the United States in the common stock of the Corporation;

"(10) section 401(a) of this Act, as amended by the Conrail Sale Amendments Act of 1985;

"(11) section 402 of this Act, as amended by the Conrail Sale Amendments Act of 1985;

"(12) section 408(c) of this Act, as amended by the Conrail Sale Amendments Act of 1985;

"(13) section 701 of this Act, but only as may be necessary to identify employees eligible for benefits under agreements entered into under such section;

"(14) section 702(e) of this Act;

"(15) section 704(b) of this Act;

"(16) section 709 of this Act;

"(17) section 710(b)(1) of this Act;

"(18) section 711 of this Act;

"(19) section 714 of this Act, but only with regard to disputes or controversies specified in such section that arose prior to consummation of the sale of the interest of the United States in the common stock of the Corporation; and

"(20) section 715 of this Act, as amended by the Conrail Sale Amendments Act of 1985.".

IMPLEMENTATION OF THE SECRETARY'S PLAN

SEC. 104. (a) Section 401(a)(3) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 761(a)(3)) is amended to read as follows:

"(3) The Secretary is authorized and directed to implement the Secretary's Plan, in accordance with paragraph (4) of this subsection. Such implementation of the Secretary's Plan and the coordinated operation of the Corporation's properties with those of

Norfolk Southern Corporation and its affiliates as a single rail system is deemed approved by the Commission under chapter 113 of title 49, United States Code.".

(b) Section 401(a) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 761(a)) is amended by adding at the end thereof the following paragraphs:

"(4) The Secretary shall implement the Secretary's Plan by negotiating, executing, delivering, and performing the Definitive Agreements, which shall conform to the Memorandum of Intent described in section 102(20)(A) of this Act. The Secretary shall, 45 calendar days before the date on which the Secretary anticipates that the interest of the United States in the common stock of the Corporation will be sold to Norfolk Southern Corporation, transmit to the Committee on Commerce, Science, and Transportation of the Senate and to the Committee on Energy and Commerce of the House of Representatives a notification of any alteration from the Memorandum of Intent described in section 102(20)(A) of this Act which will be made in the Definitive Agreements. After the date of such sale, the Secretary shall transmit to such Committees notification of any intent to waive compliance with any substantive covenant, agreement or obligation contained in the Definitive Agreements, and the Secretary may not waive such compliance until a period of 45 calendar days has expired after the date of such transmittal.

"(5) The Secretary shall not transfer the interest of the United States in the common stock of the Corporation except concurrently with a divestiture by Norfolk Southern Corporation of rail assets and rights approved by the Attorney General.

"(6) The sale of the interest of the United States in the common stock of the Corporation shall be deemed to be consummated at the date title to the common stock passes to Norfolk Southern Corporation and the United States receives the cash purchase price.".

RAILROAD PURCHASERS AND OFFER FOR SALE OF SHARES TO EMPLOYEES

SEC. 105. Subsections (d) and (e) of section 401 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 761(d) and (e)) are repealed.

CANCELLATION OF DEBT AND PREFERRED STOCK

SEC. 106. Section 402 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 762) is amended to read as follows:

"DEBT AND PREFERRED STOCK

"SEC. 402. (a) RECAPITALIZATION.—In connection with the sale of the interest of the United States in the common stock of the Corporation under section 401 of this Act, and consistent with the Secretary's Plan, the Secretary may take all action necessary to cause the Corporation to be recapitalized such that the interest of the United States, or any agent or instrumentality thereof, and all other commitments or obligations of the Corporation to the United States or any agent or instrumentality thereof arising out of such interest, in any debt (including accrued interest and contingent interest thereon) and preferred stock (including accrued and unpaid dividends thereon) of the Corporation shall be cancelled or retired, and contributed to the capital of the Corporation. The Secretary shall cause the recapitalization authorized by this section to be effective as of the consummation of the sale of the interest of the United States in the common stock of the Corporation.

"(b) BREACH OF REPRESENTATIONS.—(1) Norfolk Southern Corporation or any successor corporation thereto may bring suit for any breach of representations contained in paragraph 6(e) of the Memorandum of Intent described in section 102(20)(A) of this Act (hereinafter referred to as the 'Representations') in the United States Claims Court or a district court of the United States. If such an action is brought, the Claims Court or district court shall determine the amount by which the United States income tax (including interest and penalties whether or not such penalties are assessed as a tax under the Internal Revenue Code of 1954) assessable against the Corporation or against Norfolk Southern Corporation for any year exceeds the amount of such tax which would have been assessable for such year had such Representations not been breached (hereinafter referred to as the 'Offset Amount').

"(2) The Representations shall be considered breached and Norfolk Southern Corporation shall be entitled to bring suit upon the first occurrence of any of the following that is inconsistent with the Representations: (A) the issuance by the Internal Revenue Service of a statutory notice of deficiency (90-day letter), (B) the assessment of the United States income tax, or (C) any claim by the United States in a suit or other judicial proceeding against Norfolk Southern Corporation or the Corporation.

"(3) The right to bring suit pursuant to this section shall not be subject to any waiting period applicable to tax proceedings or to any requirements for payment of any tax as a condition to instituting any suit based on a breach of the Representations.

"(4) Any judgment for money damages relating to breach of the Representations shall only be awarded as an offset in any court or administrative proceeding against the tax liability of Norfolk Southern Corporation or the Corporation, or both, to which such breach relates; except that if any such tax liability resulting from such breach has been paid, the judgment shall to that extent be an offset against any United States income tax liability of the Norfolk Southern Corporation or the Corporation, or both. If any portion of the tax resulting from a breach of the Representations has been paid, then the Offset Amount shall include interest on such payment from the date paid at the rate from time to time specified in the Internal Revenue Code of 1954 for interest payable on refund claims.

"(5) It shall not be a defense to an action brought under this section that Norfolk Southern Corporation knew, or should have known, of the falsity of the Representations or that there exists no carryover basis procedure as contemplated by the last sentence of the Representations.

"(6) For purposes of this section, tax liability of Norfolk Southern Corporation shall include the tax liability of Norfolk Southern Corporation and its affiliated group, within the meaning of section 1504 of the Internal Revenue Code of 1954.".

APPLICABILITY OF CERTAIN LAWS TO SALE OF CONRAIL

SEC. 107. Section 408 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 768) is amended—

(1) by repealing subsection (b);

(2) by amending subsection (c) by striking "No transfer" and all that follows through "subject to" and inserting in lieu thereof "Except as provided in section 1152 of the Northeast Rail Service Act of 1981 (45 U.S.C. 1105), the Secretary's Plan and the Definitive Agreements and their negotiation, execution, and implementation shall not be subject to administrative or"; and

(3) by adding at the end of subsection (c) the following sentence: "The issuance in private placement of notes or other securities in accordance with exhibit B to the Memorandum of Intent (described in section 102(20)(A) of this Act) in the Secretary's Plan shall not be subject to the provisions of subtitle IV of title 49, United States Code.".

LABOR PROTECTION

SEC. 108. (a) Section 701(d)(2) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 797(d)(2)) is amended by striking "the last day of the eighteen-month period beginning on".

(b)(1) Title VII of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 797 et seq.) is amended by adding at the end thereof the following section:

"PROTECTION AFTER SALE

"SEC. 715. After consummation of the sale of the interest of the United States in the common stock of the Corporation pursuant to the Secretary's Plan, any employee of Norfolk Southern Corporation, the Corporation, any rail affiliate of either company, and any transferee of the rail tracks, rights, and facilities divested in accordance with the Secretary's Plan, who is adversely affected in his employment by the implementation of the Secretary's Plan shall receive from his employer protection under the labor protective conditions set forth in New York Dock Railway—Control—Brooklyn Eastern District Terminal (354 ICC 399 (1978), modified upon further consideration, 360 ICC 60 (1979)). The arbitration provisions of section 4 of New York Dock shall apply to the formation of any implementing agreements that may be necessary in connection with the implementation of the Secretary's Plan, including any resulting coordinations.".

(2) The table of contents of the Regional Rail Reorganization Act of 1973 is amended by inserting immediately after the item relating to section 714 the following item:

"Sec. 715. Protection after sale.".

PREFERENTIAL HIRING

SEC. 109. Section 703 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 797b) is amended—

(1) by redesignating subsection (b) as subsection (c); and

(2) by inserting immediately after subsection (a) the following subsection:

"(b) IMPLEMENTATION OF SECRETARY'S PLAN.—Any employee of any railroad who is deprived of employment as a result of the implementation of the Secretary's Plan shall have the first right of hire for a vacancy for which he is qualified on any Norfolk Southern Corporation rail subsidiary, except where such vacancy is covered by (1) an affirmative action plan, or a hiring plan designated to eliminate discrimination, that is required by Federal or State statute, regulation, or Executive order, or by the order of a Federal court or agency, or (2) a permissible voluntary affirmative action plan. For purposes of this subsection, a railroad shall not be considered to be hiring new employees when it recalls any of its own furloughed employees.".

CROSS CRAFT EMPLOYMENT

SEC. 110. (a) Title VII of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 797 et

seq.) is amended by inserting immediately after section 703 the following section:

"CROSS CRAFT EMPLOYMENT

"SEC. 703A. Any employee of Norfolk and Western Railway Company, Southern Railway Company, or the Corporation who is deprived of employment as a result of the implementation of the Secretary's Plan shall have the first right of hire for any vacancy for which such employee is qualified at the entry level of any Norfolk Southern Corporation rail subsidiary, without regard to craft or class or the provisions of section 703 of this Act. Such employee shall retain his seniority rights to return to his original craft or class whenever a vacancy occurs. For purposes of this section, a railroad shall not be considered to be hiring new employees when it recalls any of its own furloughed employees.".

(b) The table of contents of the Regional Rail Reorganization Act of 1973 is amended by inserting immediately after the item relating to section 703 the following item:

"Sec. 703A. Cross craft employment.".

Subtitle B—Northeast Rail Service Act of 1981 Amendments

SPECIAL COURT JURISDICTION

SEC. 121. (a) Section 1152 of the Northeast Rail Service Act of 1981 (45 U.S.C. 1105) is amended—

(1) by inserting "or the Conrail Sale Amendments Act of 1985" immediately after "subtitle" wherever it appears;

(2) in subsection (a), by striking "or" at the end of paragraph (3), by striking the period at the end of paragraph (4) and inserting in lieu thereof a semicolon, and by adding at the end thereof the following paragraphs:

"(5) brought by the United States or any agency or instrumentality thereof seeking to enforce the Secretary's Plan or the Definitive Agreements;

"(6) brought by Norfolk Southern Corporation seeking to enforce the Secretary's Plan or the Definitive Agreements;

"(7) brought by a party who filed a complaint with the Secretary under subsection (e) of this section, and who is aggrieved by (A) a determination of the Secretary under paragraph (1) of such subsection that the party has not suffered direct economic injury, or (B) a decision of the Secretary under paragraph (2) of such subsection that a covenant has not been violated;

"(8) brought by a party which is a signatory to an ancillary agreement entered into in accordance with the Secretary's Plan or the Definitive Agreements and which is seeking to enforce such ancillary agreement; or

"(9) brought to determine the value of the interest of the employee stock ownership plan and related trusts, or of the beneficiaries thereof, in the preferred stock of the Conrail Equity Corporation.

For purposes of any action brought under paragraph (5) of this subsection, a violation of any covenant contained in the Secretary's Plan or the Definitive Agreements shall be deemed to constitute immediate and irreparable harm for purposes of awarding injunctive relief to the United States.".

(b) Section 1152 of the Northeast Rail Service Act of 1981 (45 U.S.C. 1105) is amended by adding at the end thereof the following subsection:

"(e)(1) Any party who suffers direct economic injury as a result of an alleged violation of a covenant contained in the Definitive Agreements may file a complaint with the Secretary seeking enforcement of such covenant. If the Secretary determines that the complainant has demonstrated to the Secretary that it has suffered direct economic injury, the Secretary shall investigate the complaint.

"(2) If the Secretary decides to investigate a complaint under paragraph (1) of this subsection, the Secretary shall give reasonable notice of such decision to investigate to the alleged violator of such covenant and the complainant, and shall make a final decision on such complaint within 60 days after the date on which it was filed.

"(3) If the Secretary finds that (A) the covenant in question has been violated, and (B) the complainant suffered direct economic injury as a result of such violation, the Secretary shall enter an order directing the violator of such covenant to comply with such covenant.

"(4) On appeal, any decision by the Secretary under this subsection shall be upheld, unless such decision is found to be arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law.".

APPLICABILITY OF OTHER LAWS

SEC. 122. Section 1168(a) of the Northeast Rail Service Act of 1981 (45 U.S.C. 1116(a)) is amended by striking "service transfers" and inserting in lieu thereof "sale of the interest of the United States in the common stock of Conrail or transfer of the rail properties and freight service responsibilities of Conrail".

Subtitle C—Employee Stock Ownership Plan

RESPONSIBILITY OF EMPLOYEE STOCK OWNERSHIP PLAN FIDUCIARIES

SEC. 131. (a) Section 216(f)(8)(A) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 726(f)(8)(A)) is amended—

(1) by striking "or" at the end of clause (ii);

(2) by striking the period at the end of clause (iii) and inserting in lieu thereof "; or"; and

(3) by adding at the end thereof the following clause:

"(iv) for or in connection with any action taken to implement the Secretary's Plan, including any sale, exchange, valuation, or disposition of the plan and related trust assets, or the assets of Conrail Equity Corporation, in connection with implementation of the Secretary's Plan and any determination of the terms on which any such sale, exchange, valuation, or disposition is effected.".

QUALIFICATION, REVIEW, AND VALUATION OF EMPLOYEE STOCK OWNERSHIP PLANS

SEC. 132. Section 216(f) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 726(f)) is amended by adding at the end thereof the following paragraphs:

"(11) The employee stock ownership plans of the Corporation and related trusts maintained, amended, or adopted in implementing the Secretary's Plan shall be deemed to meet the qualification requirements of sections 401 and 501, respectively, of the Internal Revenue Code of 1954, notwithstanding (A) that such plans may not meet the requirements of section 415 of the Internal Revenue Code of 1954, or (B) that participants in such plans may be entitled to withdraw a portion of the shares allocated to their accounts prior to the expiration of the period generally imposed by the Internal Revenue Service for qualified plans. Such qualification shall relate only to the contributions, allocations, and withdrawals of shares provided for in the Secretary's Plan with respect to the plans and related trusts maintained, amended, or adopted in implementing the Secretary's Plan. Such contributions and allocations shall in no event be treated as having exceeded the maximum annual addition permitted under section 415 of the Internal Revenue Code of 1954 (but not for purposes of applying section 404(j) of the Internal Revenue Code of 1954) for purposes of calculating any limitation under section 415 with respect to contributions and allocations not described in the Secretary's Plan, including contributions and allocations to plans and related trusts of the Corporation and any affiliated corporation. The continued qualification of such plans with respect to all other contributions, allocations, and withdrawals shall be subject to all provisions of existing law, as amended from time to time. No inference shall be drawn from this paragraph as to whether an amount is a contribution deductible under section 404 of the Internal Revenue Code of 1954 rather than a non-deductible capital expenditure.

"(12) Except as provided in section 1152 of the Northeast Rail Service Act of 1981 (45 U.S.C. 1105), the issuance and sale or contribution of securities by Norfolk Southern Corporation to fulfill arrangements with the Corporation's employees in implementing the Secretary's Plan and the distribution of shares from the Corporation's employee stock ownership plans and related trusts maintained, amended, or adopted in implementing the Secretary's Plan shall not be subject to the registration and prospectus delivery requirements of the Securities Act of 1933, any approval requirement under subtitle IV of title 49, United States Code, or the laws of any State with respect to the issuance and sale of securities.".

TITLE II—TECHNICAL AND CONFORMING AMENDMENTS

REGIONAL RAIL REORGANIZATION ACT OF 1973 AMENDMENTS AND REPEALS

SEC. 201. The following provisions of the Regional Rail Reorganization Act of 1973 are repealed or amended as specified:

(1) Subsections (a) and (b) of section 214 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 724(a) and (b)) are repealed, and such section 214 is amended by striking "(c) ASSOCIATION.—".

(2) Subsection (f) of section 217 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 727(f)) is repealed, without prejudice to the continued availability of funds appropriated prior to the date of enactment of this Act pursuant to section 217(f)(1)(C) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 727(f)(1)(C)).

(3) Section 404 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 764), and the item relating to such section in the table of contents of such Act, are repealed.

(4) Section 405 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 765), and the item relating to such section in the table of contents of such Act, are repealed.

(5) Section 406 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 766), and the item relating to such section in the table of contents of such Act, are repealed.

(6) Section 407 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 767), and the item relating to such section in the table of contents of such Act, are repealed.

(7) Subsections (a) and (d) of section 408 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 768 (a) and (d)) are repealed.

(8) Section 409 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 769), and the item relating to such section in the table of contents of such Act, are repealed.

(9) Section 410 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 769a), and the item relating to such section in the table of contents of such Act, are repealed.

(10) Section 411 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 769b), and the item relating to such section in the table of contents of such Act, are repealed.

(11) Section 412 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 769c), and the item relating to such section in the table of contents of such Act, are repealed.

(12) Section 713 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 797l), and the item relating to such section in the table of contents of such Act, are repealed.

AMENDMENTS AND REPEALS OF OTHER RAIL LAWS

SEC. 202. The following provisions of law are repealed or amended as specified:

(1) Section 1154 of the Northeast Rail Service Act of 1981 (45 U.S.C. 1107), and the item relating to such section in the table of contents of such Act, are repealed.

(2) Section 1161 of the Northeast Rail Service Act of 1981 (45 U.S.C. 1110), and the item relating to such section in the table of contents of such Act, are repealed.

(3) Section 1166 of the Northeast Rail Service Act of 1981 (45 U.S.C. 1114), and the item relating to such section in the table of contents of such Act, are repealed.

(4) Subsection (c) of section 1167 of the Northeast Rail Service Act of 1981 (45 U.S.C. 1115(c)) is repealed.

(5) Subsection (b) of section 1168 of the Northeast Rail Service Act of 1981 (45 U.S.C. 1116(b)) is repealed.

(6) Section 501(8) of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 821(8)) is amended—

(A) by striking "(A)";

(B) by striking "(i)" and inserting in lieu thereof "(A)", and by striking "(ii)" and inserting in lieu thereof "(B)"; and

(C) by striking all after "utilization;".

(7) Section 505 of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 825) is amended—

(A) in subsection (a)(1), by striking all after "railroad" through "1981)"; and

(B) in subsection (b)(2)(C), by striking all after "costs" the second time it appears through "subsidy".

(8) Subsection (b)(1) of section 509 of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 829(b)(1)) is repealed.

(9) Section 511(e) of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 831(e)) is amended by striking "(1)", and by striking all after "time" and inserting in lieu thereof a period.

(10) Section 402 of the Rail Safety and Service Improvement Act of 1982 (45 U.S.C. 825a) is repealed.

(11) Section 1005(b)(1) of the Rail Passenger Service Act (45 U.S.C. 655(b)(1)) is amended by striking "the Consolidated Rail Corporation,".

(12) Section 10362(b)(7)(A) of title 49, United States Code, is amended by striking "by the Consolidated Rail Corporation or".

(13) Section 332(d) of title 49, United States Code, is amended by striking ", the Consolidated Rail Corporation,".

TITLE III—MISCELLANEOUS PROVISIONS

COMMON CARRIER STATUS OF CONRAIL AFTER SALE

SEC. 301. (a) Conrail's status as a common carrier by railroad under section 10102(4) of title 49, United States Code, shall not be affected by virtue of sale of the interest of the United States in Conrail's common stock. Purchase of Conrail stock shall not alone be the basis of a determination that the acquiring entity has become a common carrier by railroad under section 10102(4) of title 49, United States Code.

(b) The Definitive Agreements shall contain a binding commitment by Norfolk Southern Corporation to continue to operate Conrail in full compliance with the provisions of section 10731(e) of title 49, United States Code.

CONSUMMATION OF SALE

SEC. 302. The sale of the interest of the United States in the common stock of Conrail shall be deemed to be consummated on the date title to the common stock passes to Norfolk Southern Corporation and the United States receives the cash purchase price.

CONTRACTS

SEC. 303. (a) Except as provided in subsection (b) of this section, nothing in this Act shall affect—

(1) Conrail's obligation to carry out its transportation contracts and equipment leases, equipment trusts, and conditional sale agreements, in accordance with their terms; and

(2) the obligation of any transferee of divested assets to carry out transportation contracts and equipment leases, equipment trusts, and conditional sale agreements to which such assets are subject, in accordance with their terms.

(b) If a divestiture carried out pursuant to the Secretary's Plan precludes Conrail from providing a transportation service for which it has contracted without a right of termination that may be exercised in the event of the sale of the interest of the United States in the common stock of Conrail and the divestiture will result in a change or modification in the movement of the traffic involved, the transferee of the divested rights and properties and Conrail shall provide the contracted-for service on terms and conditions which, to the maximum extent possible, conform to the terms and conditions in the contract.

CONGRESSIONAL OVERSIGHT OF COMPLIANCE

SEC. 304. The Secretary shall, no later than January 31 of each year, submit to the Committee on Commerce, Science, and Transportation of the Senate and to the Committee on Energy and Commerce of the House of Representatives a report setting forth each certificate which Norfolk Southern Corporation and Conrail provided to the Secretary, during the preceding year, certifying compliance with the covenants contained in the Definitive Agreements.

SEPARABILITY

SEC. 305. If any provision of this Act or the application thereof to any person or circumstances is held invalid, the remainder of this Act and the application of such provision to other persons or circumstances shall not be affected thereby.

EFFECTIVE DATE

SEC. 306. (a) Except as provided in subsection (b) of this section, the provisions of and amendments made by this Act shall take effect on the date of enactment of this Act.

(b) Sections 108(a), 201 and 202 of this Act shall take effect on the date of consummation of the sale of the interest of the United States in the common stock of Conrail.

(c) Any provision of this Act which, pursuant to Article I, Section 7 of the Constitution, provides for raising revenue shall only be effective upon the enactment into law of a bill which has originated in the House of Representatives enacting such provision.

AMENDMENT No. 1544

On page 3, line 15, beginning with "debt", strike out all through the first "and" on line 16.

AMENDMENT No. 1545

On page 3, line 15, beginning with "debt", strike out all through the first "and" on line 16.

AMENDMENT No. 1546

In lieu of the language proposed to be inserted, insert the following:

That this Act may be cited as the "Conrail Sale Amendments Act of 1985".

FINDINGS

SEC. 2. The Congress finds that—

(1) the Northeast Rail Service Act of 1981 (45 U.S.C. 1101 et seq.) provided for an orderly return of Conrail freight service to the private sector;

(2) the provisions of the Northeast Rail Service Act of 1981 were successful in removing Conrail's obligations beyond railroad freight service and in otherwise preparing Conrail for an orderly return to the private sector;

(3) acting under section 403 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 763), the Board of Directors of the United States Railway Association twice found Conrail to be a profitable corporation;

(4) acting under section 401 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 761), the Secretary engaged an investment banker and arranged, through open competitive bidding and negotiation, to sell the interest of the United States in the common stock of Conrail;

(5) the Secretary's Plan for the sale of Conrail provides for sale of the interest of the United States in the common stock of Conrail to Norfolk Southern Corporation;

(6) the Secretary found that sale of the interest of the United States in the common stock of Conrail to Norfolk Southern Corporation best meets the sale criteria of (A) leaving Conrail in the strongest financial position after the sale, (B) preserving patterns of service to shippers and communities in the region Conrail serves, and (C) maximizing return to the Federal Government consistent with the criteria specified in clauses (A) and (B);

(7) amendments to the Regional Rail Reorganization Act of 1973 (45 U.S.C. 701 et seq.) and related laws are needed to permit the sale of the interest of the United States in the common stock of Conrail to Norfolk Southern Corporation and to permit cancellation of the interest of the United States in Conrail debt and preferred stock; and

(8) the Secretary's Plan satisfies the requirements of the Northeast Rail Service Act of 1981, including the intent, goals, and objectives relating to the sale of the interest of the United States in the common stock of Conrail and the requirements of section 401(e) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 761(e)).

PURPOSE

SEC. 3. It is therefore declared to be the purpose of the Congress in this Act to return Conrail to the private sector by directing and facilitating implementation of the Secretary's Plan for the sale of the interest of the United States in the common stock of Conrail.

DEFINITIONS

SEC. 4. (a) In this Act, unless the context otherwise requires, the term—

(1) "Conrail" means the Consolidated Rail Corporation;

(2) "Definitive Agreements" means any and all agreements existing or to be developed between the United States and Norfolk Southern Corporation, including all representations and warranties made therein, to implement the Memorandum of Intent described in paragraph (4)(A);

(3) "Secretary" means the Secretary of Transportation; and

(4) "Secretary's Plan" means (A) the Memorandum of Intent between the United States and Norfolk Southern Corporation signed February 8, 1985, and (B) the divestitures by the Norfolk Southern Corporation of certain rail tracks, rights, and facilities, and any transactions or agreements related or incidental to such divestitures, in connection with the implementation of attachment A to the letter from the Department of Justice attached to the Memorandum of Intent as exhibit E.

(b) Section 102 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 702) is amended—

(1) by redesignating paragraphs (6) through (18) as paragraphs (7) through (19), and paragraphs (19) through (21) as paragraphs (21) through (23), respectively;

(2) by inserting after paragraph (5) the following paragraph:

"(6) 'Definitive Agreements' means any and all agreements existing or to be developed between the United States and Norfolk Southern Corporation, including all representations and warranties made therein, to implement the Memorandum of Intent described in paragraph (20)(A);"; and

(3) by inserting after paragraph (19), as so redesignated, the following paragraph:

"(20) 'Secretary's Plan' means (A) the Memorandum of Intent between the United States and Norfolk Southern Corporation signed February 8, 1985, and (B) the divestitures by the Norfolk Southern Corporation of certain rail tracks, rights, and facilities, and any transactions or agreements related or incidental to such divestitures, in connection with the implementation of attachment A to the letter from the Department of Justice attached to the Memorandum of Intent as exhibit E;".

(c) Section 1135(a) of the Northeast Rail Service Act of 1981 (45 U.S.C. 1104(a)) is amended—

(1) by redesignating paragraphs (6), (7), and (8) as paragraphs (7), (8), and (10), respectively;

(2) by inserting after paragraph (5) the following paragraph:

"(6) 'Definitive Agreements' means any and all agreements existing or to be developed between the United States and Norfolk Southern Corporation, including all representations and warranties made therein, to implement the Memorandum of Intent described in paragraph (9)(A);"; and

(3) by inserting after paragraph (8), as so redesignated, the following paragraph:

"(9) 'Secretary's Plan' means (A) the Memorandum of Intent between the United States and Norfolk Southern Corporation signed February 8, 1985, and (B) the divestitures by the Norfolk Southern Corporation of certain rail tracks, rights, and facilities, and any transactions or agreements related or incidental to such divestitures, in connection with the implementation of attachment A to the letter from the Department of Justice attached to the Memorandum of Intent as exhibit E;".

TITLE I—AMENDMENTS TO THE REGIONAL RAIL REORGANIZATION ACT OF 1973 AND THE NORTHEAST RAIL SERVICE ACT OF 1981

Subtitle A—Regional Rail Reorganization Act of 1973 Amendments

LIMIT ON AUTHORITY TO PURCHASE STOCK

SEC. 101. Section 216(b) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 726(b)) is amended by adding at the end thereof the following paragraph:

"(5) The authority of the Association to purchase debentures or series A preferred stock of the Corporation under this section shall terminate upon the consummation of the sale of the interest of the United States in the common stock of the Corporation under the terms of the Secretary's Plan.".

RESPONSIBILITY OF CONRAIL DIRECTORS

SEC. 102. Section 301(i) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 741(i)) is amended by inserting immediately after "required by law" the following: ", taken to implement the Secretary's Plan,".

APPLICABILITY OF REGIONAL RAIL REORGANIZATION ACT OF 1973 TO CONRAIL AFTER SALE

SEC. 103. Section 301 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 741) is amended by adding at the end thereof the following subsection:

"(k) GOVERNING PROVISIONS AFTER SALE.—The provisions of this Act shall not apply to the Corporation and to activities and other actions and responsibilities of the Corporation and its directors after consummation of the sale of the interest of the United States in the common stock of the Corporation under the terms of the Conrail Sale Amendments Act of 1985, other than with regard to—

"(1) section 102 of this Act;

"(2) section 201(d) of this Act;

"(3) section 203 of this Act, but only with respect to information relating to proceedings before the special court established under section 209(b);

"(4) section 216(f)(8) of this Act, but only as such authority applies to activities related to the employee stock ownership plan and related trusts prior to or in connection with consummation of the sale of the interest of the United States in the common stock of the Corporation, including activities related to the sale, exchange, valuation, or disposition of the assets of the employee stock ownership plan and related trusts, or of Conrail Equity Corporation, in connection with the Secretary's Plan;

"(5) sections 216(f)(11) and 216(f)(12) of this Act, as amended by the Conrail Sale Amendments Act of 1985;

"(6) section 217(e) of this Act;

"(7) subsection (i) of this section, but only as such authority applies to service as a director of the Corporation prior to consummation or in connection with implementation of the sale of the interest of the United States in the common stock of the Corporation;

"(8) section 305 of this Act, but only as to the effect, and continuing administration, of supplemental transactions consummated prior to consummation of the sale of the interest of the United States in the common stock of the Corporation;

"(9) section 308 of this Act, but only in abandonment actions when such authority has been relied on to file a notice or notices of insufficent revenues prior to consummation of the sale of the interest of the United States in the common stock of the Corporation;

"(10) section 401(a) of this Act, as amended by the Conrail Sale Amendments Act of 1985;

"(11) section 402 of this Act, as amended by the Conrail Sale Amendments Act of 1985;

"(12) section 408(c) of this Act, as amended by the Conrail Sale Amendments Act of 1985;

"(13) section 701 of this Act, but only as may be necessary to identify employees eligible for benefits under agreements entered into under such section;

"(14) section 702(e) of this Act;

"(15) section 704(b) of this Act;

"(16) section 709 of this Act;

"(17) section 710(b)(1) of this Act;

"(18) section 711 of this Act;

"(19) section 714 of this Act, but only with regard to disputes or controversies specified in such section that arose prior to consummation of the sale of the interest of the United States in the common stock of the Corporation; and

"(20) section 715 of this Act, as amended by the Conrail Sale Amendments Act of 1985.".

IMPLEMENTATION OF THE SECRETARY'S PLAN

SEC. 104. (a) Section 401(a)(3) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 761(a)(3)) is amended to read as follows:

"(3) The Secretary is authorized and directed to implement the Secretary's Plan, in accordance with paragraph (4) of this subsection. Such implementation of the Secretary's Plan and the coordinated operation of the Corporation's properties with those of Norfolk Southern Corporation and its affiliates as a single rail system is deemed approved by the Commission under chapter 113 of title 49, United States Code.".

(b) Section 401(a) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 761(a)) is amended by adding at the end thereof the following paragraphs:

"(4) The Secretary shall implement the Secretary's Plan by negotiating, executing, delivering, and performing the Definitive Agreements, which shall conform to the Memorandum of Intent described in section 102(20)(A) of this Act. The Secretary shall, 45 calendar days before the date on which the Secretary anticipates that the interest of the United States in the common stock of the Corporation will be sold to Norfolk Southern Corporation, transmit to the Committee on Commerce, Science, and Transportation of the Senate and to the Committee on Energy and Commerce of the House of Representatives a notification of any alteration from the Memorandum of Intent described in section 102(20)(A) of this Act which will be made in the Definitive Agreements. After the date of such sale, the Secretary shall transmit to such Committees notification of any intent to waive compliance with any substantive covenant, agreement or obligation contained in the Definitive Agreements, and the Secretary may not waive such compliance until a period of 45 calendar days has expired after the date of such transmittal.

"(5) The Secretary shall not transfer the interest of the United States in the common stock of the Corporation except concurrently with a divestiture by Norfolk Southern Corporation of rail assets and rights approved by the Attorney General.

"(6) The sale of the interest of the United States in the common stock of the Corpora-

tion shall be deemed to be consummated at the date title to the common stock passes to Norfolk Southern Corporation and the United States receives the cash purchase price.".

RAILROAD PURCHASERS AND OFFER FOR SALE OF SHARES TO EMPLOYEES

SEC. 105. Subsection (d) of section 401 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 761(d) is repealed.

CANCELLATION OF DEBT AND PREFERRED STOCK

SEC. 106. Section 402 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 762) is amended to read as follows:

"DEBT AND PREFERRED STOCK

"SEC. 402. (a) RECAPITALIZATION.—In connection with the sale of the interest of the United States in the common stock of the Corporation under section 401 of this Act, and consistent with the Secretary's Plan, the Secretary may take all action necessary to cause the Corporation to be recapitalized such that the interest of the United States, or any agent or instrumentality thereof, and all other commitments or obligations of the Corporation to the United States or any agent or instrumentality thereof arising out of such interest, in any debt (including accrued interest and contingent interest thereon) and preferred stock (including accrued and unpaid dividends thereon) of the Corporation shall be cancelled or retired, and contributed to the capital of the Corporation. The Secretary shall cause the recapitalization authorized by this section to be effective as of the consummation of the sale of the interest of the United States in the common stock of the Corporation.

"(b) BREACH OF REPRESENTATIONS.—(1) Norfolk Southern Corporation or any successor corporation thereto may bring suit for any breach of representations contained in paragraph 6(e) of the Memorandum of Intent described in section 102(20)(A) of this Act (hereinafter referred to as the 'Representations') in the United States Claims Court or a district court of the United States. If such an action is brought, the Claims Court or district court shall determine the amount by which the United States income tax (including interest and penalties whether or not such penalties are assessed as a tax under the Internal Revenue Code of 1954) assessable against the Corporation or against Norfolk Southern Corporation for any year exceeds the amount of such tax which would have been assessable for such year had such Representations not been breached (hereinafter referred to as the 'Offset Amount').

"(2) The Representations shall be considered breached and Norfolk Southern Corporation shall be entitled to bring suit upon the first occurrence of any of the following that is inconsistent with the Representations: (A) the issuance by the Internal Revenue Service of a statutory notice of deficiency (90-day letter), (B) the assessment of the United States income tax, or (C) any claim by the United States in a suit or other judicial proceeding against Norfolk Southern Corporation or the Corporation.

"(3) The right to bring suit pursuant to this section shall not be subject to any waiting period applicable to tax proceedings or to any requirements for payment of any tax as a condition to instituting any suit based on a breach of the Representations.

"(4) Any judgment for money damages relating to breach of the Representations shall only be awarded as an offset in any court or administrative proceeding against the tax liability of Norfolk Southern Corporation or the Corporation, or both, to which such breach relates; except that if any such tax liability resulting from such breach has been paid, the judgment shall to that extent be an offset against any United States income tax liability of the Norfolk Southern Corporation or the Corporation, or both. If any portion of the tax resulting from a breach of the Representations has been paid, then the Offset Amount shall include interest on such payment from the date paid at the rate from time to time specified in the Internal Revenue Code of 1954 for interest payable on refund claims.

"(5) It shall not be a defense to an action brought under this section that Norfolk Southern Corporation knew, or should have known, of the falsity of the Representations or that there exists no carryover basis procedure as contemplated by the last sentence of the Representations.

"(6) For purposes of this section, tax liability of Norfolk Southern Corporation shall include the tax liability of Norfolk Southern Corporation and its affiliated group, within the meaning of section 1504 of the Internal Revenue Code of 1954.".

APPLICABILITY OF CERTAIN LAWS TO SALE OF CONRAIL

SEC. 107. Section 408 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 768) is amended—

(1) by repealing subsection (b);

(2) by amending subsection (c) by striking "No transfer" and all that follows through "subject to" and inserting in lieu thereof "Except as provided in section 1152 of the Northeast Rail Service Act of 1981 (45 U.S.C. 1105), the Secretary's Plan and the Definitive Agreements and their negotiation, execution, and implementation shall not be subject to administrative or"; and

(3) by adding at the end of subsection (c) the following sentence: "The issuance in private placement of notes or other securities in accordance with exhibit B to the Memorandum of Intent (described in section 102(20)(A) of this Act) in the Secretary's Plan shall not be subject to the provisions of subtitle IV of title 49, United States Code.".

LABOR PROTECTION

SEC. 108. (a) Section 701(d)(2) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 797(d)(2)) is amended by striking "the last day of the eighteen-month period beginning on".

(b)(1) Title VII of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 797 et seq.) is amended by adding at the end thereof the following section:

"PROTECTION AFTER SALE

"SEC. 715. After consummation of the sale of the interest of the United States in the common stock of the Corporation pursuant to the Secretary's Plan, any employee of Norfolk Southern Corporation, the Corporation, any rail affiliate of either company, and any transferee of the rail tracks, rights, and facilities divested in accordance with the Secretary's Plan, who is adversely affected in his employment by the implementation of the Secretary's Plan shall receive from his employer protection under the labor protective conditions set forth in New York Dock Railway—Control—Brooklyn Eastern District Terminal (354 ICC 399 (1978), modified upon further consideration, 360 ICC 60 (1979)). The arbitration provisions of section 4 of New York Dock shall apply to the formation of any implementing agreements that may be necessary in connection with the implementation of the Secretary's Plan, including any resulting coordinations.".

(2) The table of contents of the Regional Rail Reorganization Act of 1973 is amended by inserting immediately after the item relating to section 714 the following item:

"Sec. 715. Protection after sale.".

PREFERENTIAL HIRING

SEC. 109. Section 703 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 797b) is amended—

(1) by redesignating subsection (b) as subsection (c); and

(2) by inserting immediately after subsection (a) the following subsection:

"(b) IMPLEMENTATION OF SECRETARY'S PLAN.—Any employee of any railroad who is deprived of employment as a result of the implementation of the Secretary's Plan shall have the first right of hire for a vacancy for which he is qualified on any Norfolk Southern Corporation rail subsidiary, except where such vacancy is covered by (1) an affirmative action plan, or a hiring plan designated to eliminate discrimination, that is required by Federal or State statute, regulation, or Executive order, or by the order of a Federal court or agency, or (2) a permissible voluntary affirmative action plan. For purposes of this subsection, a railroad shall not be considered to be hiring new employees when it recalls any of its own furloughed employees.".

CROSS CRAFT EMPLOYMENT

SEC. 110. (a) Title VII of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 797 et seq.) is amended by inserting immediately after section 703 the following section:

"CROSS CRAFT EMPLOYMENT

"SEC. 703A. Any employee of Norfolk and Western Railway Company, Southern Railway Company, or the Corporation who is deprived of employment as a result of the implementation of the Secretary's Plan shall have the first right of hire for any vacancy for which such employee is qualified at the entry level of any Norfolk Southern Corporation rail subsidiary, without regard to craft or class or the provisions of section 703 of this Act. Such employee shall retain his seniority rights to return to his original craft or class whenever a vacancy occurs. For purposes of this section, a railroad shall not be considered to be hiring new employees when it recalls any of its own furloughed employees.".

(b) The table of contents of the Regional Rail Reorganization Act of 1973 is amended by inserting immediately after the item relating to section 703 the following item:

"Sec. 703A. Cross craft employment.".

Subtitle B—Northeast Rail Service Act of 1981 Amendments

SPECIAL COURT JURISDICTION

SEC. 121. (a) Section 1152 of the Northeast Rail Service Act of 1981 (45 U.S.C. 1105) is amended—

(1) by inserting "or the Conrail Sale Amendments Act of 1985" immediately after "subtitle" wherever it appears;

(2) in subsection (a), by striking "or" at the end of paragraph (3), by striking the period at the end of paragraph (4) and inserting in lieu thereof a semicolon, and by adding at the end thereof the following paragraphs:

"(5) brought by the United States or any agency or instrumentality thereof seeking to enforce the Secretary's Plan or the Definitive Agreements;

"(6) brought by Norfolk Southern Corporation seeking to enforce the Secretary's Plan or the Definitive Agreements;

"(7) brought by a party who filed a complaint with the Secretary under subsection (e) of this section, and who is aggrieved by (A) a determination of the Secretary under paragraph (1) of such subsection that the party has not suffered direct economic injury, or (B) a decision of the Secretary under paragraph (2) of such subsection that a covenant has not been violated;

"(8) brought by a party which is a signatory to an ancillary agreement entered into in accordance with the Secretary's Plan or the Definitive Agreements and which is seeking to enforce such ancillary agreement; or

"(9) brought to determine the value of the interest of the employee stock ownership plan and related trusts, or of the beneficiaries thereof, in the preferred stock of the Conrail Equity Corporation.

For purposes of any action brought under paragraph (5) of this subsection, a violation of any covenant contained in the Secretary's Plan or the Definitive Agreements shall be deemed to constitute immediate and irreparable harm for purposes of awarding injunctive relief to the United States.".

(b) Section 1152 of the Northeast Rail Service Act of 1981 (45 U.S.C. 1105) is amended by adding at the end thereof the following subsection:

"(e)(1) Any party who suffers direct economic injury as a result of an alleged violation of a covenant contained in the Definitive Agreements may file a complaint with the Secretary seeking enforcement of such covenant. If the Secretary determines that the complainant has demonstrated to the Secretary that it has suffered direct economic injury, the Secretary shall investigate the complaint.

"(2) If the Secretary decides to investigate a complaint under paragraph (1) of this subsection, the Secretary shall give reasonable notice of such decision to investigate to the alleged violator of such covenant and the complainant, and shall make a final decision on such complaint within 60 days after the date on which it was filed.

"(3) If the Secretary finds that (A) the covenant in question has been violated, and (B) the complainant suffered direct economic injury as a result of such violation, the Secretary shall enter an order directing the violator of such covenant to comply with such covenant.

"(4) On appeal, any decision by the Secretary under this subsection shall be upheld, unless such decision is found to be arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law.".

APPLICABILITY OF OTHER LAWS

SEC. 122. Section 1168(a) of the Northeast Rail Service Act of 1981 (45 U.S.C. 1116(a)) is amended by striking "service transfers" and inserting in lieu thereof "sale of the interest of the United States in the common stock of Conrail or transfer of the rail properties and freight service responsibilities of Conrail".

Subtitle C—Employee Stock Ownership Plan

RESPONSIBILITY OF EMPLOYEE STOCK OWNERSHIP PLAN FIDUCIARIES

SEC. 131. (a) Section 216(f)(8)(A) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 726(f)(8)(A)) is amended—

(1) by striking "or" at the end of clause (ii);

(2) by striking the period at the end of clause (iii) and inserting in lieu thereof "; or"; and

(3) by adding at the end thereof the following clause:

"(iv) for or in connection with any action taken to implement the Secretary's Plan, including any sale, exchange, valuation, or disposition of the plan and related trust assets, or the assets of Conrail Equity Corporation, in connection with implementation of the Secretary's Plan and any determination of the terms on which any such sale, exchange, valuation, or disposition is effected.".

QUALIFICATION, REVIEW, AND VALUATION OF EMPLOYEE STOCK OWNERSHIP PLANS

SEC. 132. Section 216(f) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 726(f)) is amended by adding at the end thereof the following paragraphs:

"(11) The employee stock ownership plans of the Corporation and related trusts maintained, amended, or adopted in implementing the Secretary's Plan shall be deemed to meet the qualification requirements of sections 401 and 501, respectively, of the Internal Revenue Code of 1954, notwithstanding (A) that such plans may not meet the requirements of section 415 of the Internal Revenue Code of 1954, or (B) that participants in such pants may be entitled to withdraw a portion of the shares allocated to their accounts prior to the expiration of the period generally imposed by the Internal Revenue Service for qualified plans. Such qualification shall relate only to the contributions, allocations, and withdrawals of shares provided for in the Secretary's Plan with respect to the plans and related trusts maintained, amended, or adopted in implementing the Secretary's Plan. Such contributions and allocations shall in no event be treated as having exceeded the maximum annual addition permitted under section 415 of the Internal Revenue Code of 1954 (but not for purposes of applying section 404(j) of the Internal Revenue Code of 1954) for purposes of calculating any limitation under section 415 with respect to contributions and allocations not described in the Secretary's Plan, including contributions and allocations to plans and related trusts of the Corporation and any affiliated corporation. The continued qualification of such plans with respect to all other contributions, allocations, and withdrawals shall be subject to all provisions of existing law, as amended from time to time. No inference shall be drawn from this paragraph as to whether an amount is a contribution deductible under section 404 of the Internal Revenue Code of 1954 rather than a non-deductible capital expenditure.

"(12) Except as provided in section 1152 of the Northeast Rail Service Act of 1981 (45 U.S.C. 1105), the issuance and sale or contribution of securities by Norfolk Southern Corporation to fulfill arrangements with the Corporation's employees in implementing the Secretary's Plan and the distribution of shares from the Corporation's employee stock ownership plans and related trusts maintained, amended, or adopted in implementing the Secretary's Plan shall not be subject to the registration and prospectus delivery requirements of the Securities Act of 1933, any approval requirement under subtitle IV of title 49, United States Code, or the laws of any State with respect to the issuance and sale of securities.".

TITLE II—TECHNICAL AND CONFORMING AMENDMENTS

REGIONAL RAIL REORGANIZATION ACT OF 1973 AMENDMENTS AND REPEALS

SEC. 201. The following provisions of the Regional Rail Reorganization Act of 1973 are repealed or amended as specified:

(1) Subsections (a) and (b) of section 214 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 724(a) and (b)) are repealed, and such section 214 is amended by striking "(c) ASSOCIATION.—".

(2) Subsection (f) of section 217 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 727(f)) is repealed, without prejudice to the continued availability of funds appropriated prior to the date of enactment of this Act pursuant to section 217(f)(1)(C) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 727(f)(1)(C)).

(3) Section 404 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 764), and the item relating to such section in the table of contents of such Act, are repealed.

(4) Section 405 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 765), and the item relating to such section in the table of contents of such Act, are repealed.

(5) Section 406 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 766), and the item relating to such section in the table of contents of such Act, are repealed.

(6) Section 407 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 767), and the item relating to such section in the table of contents of such Act, are repealed.

(7) Subsections (a) and (d) of section 408 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 768 (a) and (d)) are repealed.

(8) Section 409 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 769), and the item relating to such section in the table of contents of such Act, are repealed.

(9) Section 410 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 769a), and the item relating to such section in the table of contents of such Act, are repealed.

(10) Section 411 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 769b), and the item relating to such section in the table of contents of such Act, are repealed.

(11) Section 412 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 769c), and the item relating to such section in the table of contents of such Act, are repealed.

(12) Section 713 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 797l), and the item relating to such section in the table of contents of such Act, are repealed.

AMENDMENTS AND REPEALS OF OTHER RAIL LAWS

SEC. 202. The following provisions of law are repealed or amended as specified:

(1) Section 1154 of the Northeast Rail Service Act of 1981 (45 U.S.C. 1107), and the item relating to such section in the table of contents of such Act, are repealed.

(2) Section 1161 of the Northeast Rail Service Act of 1981 (45 U.S.C. 1110), and the item relating to such section in the table of contents of such Act, are repealed.

(3) Section 1166 of the Northeast Rail Service Act of 1981 (45 U.S.C. 1114), and the item relating to such section in the table of contents of such Act, are repealed.

(4) Subsection (c) of section 1167 of the Northeast Rail Service Act of 1981 (45 U.S.C. 1115(c)) is repealed.

(5) Subsection (b) of section 1168 of the Northeast Rail Service Act of 1981 (45 U.S.C. 1116(b)) is repealed.

(6) Section 501(8) of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 821(8)) is amended—

(A) by striking "(A)";

(B) by striking "(i)" and inserting in lieu thereof "(A)", and by striking "(ii)" and inserting in lieu thereof "(B)"; and

(C) by striking all after "utilization;".

(7) Section 505 of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 825) is amended—

(A) in subsection (a)(1), by striking all after "railroad" through "1981)"; and

(B) in subsection (b)(2)(C), by striking all after "costs" the second time it appears through "subsidy".

(8) Subsection (b)(1) of section 509 of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 829(b)(1)) is repealed.

(9) Section 511(e) of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 831(e)) is amended by striking "(1)", and by striking all after "time" and inserting in lieu thereof a period.

(10) Section 402 of the Rail Safety and Service Improvement Act of 1982 (45 U.S.C. 825a) is repealed.

(11) Section 1005(b)(1) of the Rail Passenger Service Act (45 U.S.C. 655(b)(1)) is amended by striking "the Consolidated Rail Corporation,".

(12) Section 10362(b)(7)(A) of title 49, United States Code, is amended by striking "by the Consolidated Rail Corporation or".

(13) Section 332(d) of title 49, United States Code, is amended by striking ", the Consolidated Rail Corporation,".

TITLE III—MISCELLANEOUS PROVISIONS

COMMON CARRIER STATUS OF CONRAIL AFTER SALE

SEC. 301. (a) Conrail's status as a common carrier by railroad under section 10102(4) of title 49, United States Code, shall not be affected by virtue of sale of the interest of the United States in Conrail's common stock. Purchase of Conrail stock shall not alone be the basis of a determination that the acquiring entity has become a common carrier by railroad under section 10102(4) of title 49, United States Code.

(b) The Definitive Agreements shall contain a binding commitment by Norfolk Southern Corporation to continue to operate Conrail in full compliance with the provisions of section 10731(e) of title 49, United States Code.

CONSUMMATION OF SALE

SEC. 302. The sale of the interest of the United States in the common stock of Conrail shall be deemed to be consummated on the date title to the common stock passes to Norfolk Southern Corporation and the United States receives the cash purchase price.

CONTRACTS

SEC. 303. (a) Except as provided in subsection (b) of this section, nothing in this Act shall affect—

(1) Conrail's obligation to carry out its transportation contracts and equipment leases, equipment trusts, and conditional sale agreements, in accordance with their terms; and

(2) the obligation of any transferee of divested assets to carry out transportation contracts and equipment leases, equipment trusts, and conditional sale agreements to which such assets are subject, in accordance with their terms.

(b) If a divestiture carried out pursuant to the Secretary's Plan precludes Conrail from providing a transportation service for which it has contracted without a right of termination that may be exercised in the event of the sale of the interest of the United States in the common stock of Conrail and the divestiture will result in a change or modification in the movement of the traffic involved, the transferee of the divested rights and properties and Conrail shall provide the contracted-for service on terms and conditions which, to the maximum extent possible, conform to the terms and conditions in the contract.

CONGRESSIONAL OVERSIGHT OF COMPLIANCE

SEC. 304. The Secretary shall, no later than January 31 of each year, submit to the Committee on Commerce, Science, and Transportation of the Senate and to the Committee on Energy and Commerce of the House of Representatives a report setting forth each certificate which Norfolk Southern Corporation and Conrail provided to the Secretary, during the preceding year, certifying compliance with the covenants contained in the Definitive Agreements.

SEPARABILITY

SEC. 305. If any provision of this Act or the application thereof to any person or circumstances is held invalid, the remainder of this Act and the application of such provision to other persons or circumstances shall not be affected thereby.

EFFECTIVE DATE

SEC. 306. (a) Except as provided in subsection (b) of this section, the provisions of and amendments made by this Act shall take effect on the date of enactment of this Act.

(b) Sections 108(a), 201 and 202 of this Act shall take effect on the date of consummation of the sale of the interest of the United States in the common stock of Conrail.

(c) Any provision of this Act which, pursuant to Article I, Section 7 of the Constitution, provides for raising revenue shall only be effective upon the enactment into law of a bill which has originated in the House of Representatives enacting such provision.

AMENDMENT NO. 1547

In lieu of the language proposed to be inserted, insert the following:

That this Act may be cited as the "Conrail Sale Amendments Act of 1985".

FINDINGS

SEC. 2. The Congress finds that—

(1) the Northeast Rail Service Act of 1981 (45 U.S.C. 1101 et seq.) provided for an orderly return of Conrail freight service to the private sector;

(2) the provisions of the Northeast Rail Service Act of 1981 were successful in removing Conrail's obligations beyond railroad freight service and in otherwise preparing Conrail for an orderly return to the private sector;

(3) acting under section 403 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 763), the Board of Directors of the United States Railway Association twice found Conrail to be a profitable corporation;

(4) acting under section 401 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 761), the Secretary engaged an investment banker and arranged, through open competitive bidding and negotiation, to sell the interest of the United States in the common stock of Conrail;

(5) the Secretary's Plan for the sale of Conrail provides for sale of the interest of the United States in the common stock of Conrail to Norfolk Southern Corporation;

(6) the Secretary found that sale of the interest of the United States in the common stock of Conrail to Norfolk Southern Corporation best meets the sale criteria of (A) leaving Conrail in the strongest financial position after the sale, (B) preserving patterns of service to shippers and communities in the region Conrail serves, and (C) maximizing return to the Federal Government consistent with the criteria specified in clauses (A) and (B);

(7) amendments to the Regional Rail Reorganization Act of 1973 (45 U.S.C. 701 et seq.) and related laws are needed to permit the sale of the interest of the United States in the common stock of Conrail to Norfolk Southern Corporation and to permit cancellation of the interest of the United States in Conrail debt and preferred stock; and

(8) the Secretary's Plan satisfies the requirements of the Northeast Rail Service Act of 1981, including the intent, goals, and objectives relating to the sale of the interest of the United States in the common stock of Conrail and the requirements of section 401(e) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 761(e)).

PURPOSE

SEC. 3. It is therefore declared to be the purpose of the Congress in this Act to return Conrail to the private sector by directing and facilitating implementation of the Secretary's Plan for the sale of the interest of the United States in the common stock of Conrail.

DEFINITIONS

SEC. 4. (a) In this Act, unless the context otherwise requires, the term—

(1) "Conrail" means the Consolidated Rail Corporation;

(2) "Definitive Agreements" means any and all agreements existing or to be developed between the United States and Norfolk Southern Corporation, including all representations and warranties made therein, to implement the Memorandum of Intent described in paragraph (4)(A);

(3) "Secretary" means the Secretary of Transportation; and

(4) "Secretary's Plan" means (A) the Memorandum of Intent between the United States and Norfolk Southern Corporation signed February 8, 1985, and (B) the divestitures by the Norfolk Southern Corporation of certain rail tracks, rights, and facilities, and any transactions or agreements related or incidental to such divestitures, in connection with the implementation of attachment A to the letter from the Department of Justice attached to the Memorandum of Intent as exhibit E.

(b) Section 102 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 702) is amended—

(1) by redesignating paragraphs (6) through (18) as paragraphs (7) through (19), and paragraphs (19) through (21) as paragraphs (21) through (23), respectively;

(2) by inserting after paragraph (5) the following paragraph:

"(6) 'Definitive Agreements' means any and all agreements existing or to be developed between the United States and Norfolk Southern Corporation, including all representations and warranties made therein, to implement the Memorandum of Intent described in paragraph (20)(A);"; and

(3) by inserting after paragraph (19), as so redesignated, the following paragraph:

"(20) 'Secretary's Plan' means (A) the Memorandum of Intent between the United States and Norfolk Southern Corporation signed February 8, 1985, and (B) the divestitures by the Norfolk Southern Corporation of certain rail tracks, rights, and facilities, and any transactions or agreements related

or incidental to such divestitures, in connection with the implementation of attachment A to the letter from the Department of Justice attached to the Memorandum of Intent as exhibit E;".

(c) Section 1135(a) of the Northeast Rail Service Act of 1981 (45 U.S.C. 1104(a)) is amended—

(1) by redesignating paragraphs (6), (7), and (8) as paragraphs (7), (8), and (10), respectively;

(2) by inserting after paragraph (5) the following paragraph:

"(6) 'Definitive Agreements' means any and all agreements existing or to be developed between the United States and Norfolk Southern Corporation, including all representations and warranties made therein, to implement the Memorandum of Intent described in paragraph (9)(A);"; and

(3) by inserting after paragraph (8), as so redesignated, the following paragraph:

"(9) 'Secretary's Plan' means (A) the Memorandum of Intent between the United States and Norfolk Southern Corporation signed February 8, 1985, and (B) the divestitures by the Norfolk Southern Corporation of certain rail tracks, rights, and facilities, and any transactions or agreements related or incidental to such divestitures, in connection with the implementation of attachment A to the letter from the Department of Justice attached to the Memorandum of Intent as exhibit E;".

TITLE I—AMENDMENTS TO THE REGIONAL RAIL REORGANIZATION ACT OF 1973 AND THE NORTHEAST RAIL SERVICE ACT OF 1981

Subtitle A—Regional Rail Reorganization Act of 1973 Amendments

LIMIT ON AUTHORITY TO PURCHASE STOCK

SEC. 101. Section 216(b) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 726(b)) is amended by adding at the end thereof the following paragraph:

"(5) The authority of the Association to purchase debentures or series A preferred stock of the Corporation under this section shall terminate upon the consummation of the sale of the interest of the United States in the common stock of the Corporation under the terms of the Secretary's Plan.".

RESPONSIBILITY OF CONRAIL DIRECTORS

SEC. 102. Section 301(i) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 741(i)) is amended by inserting immediately after "required by law" the following: ", taken to implement the Secretary's Plan,".

APPLICABILITY OF REGIONAL RAIL REORGANIZATION ACT OF 1973 TO CONRAIL AFTER SALE

SEC. 103. Section 301 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 741) is amended by adding at the end thereof the following subsection:

"(k) GOVERNING PROVISIONS AFTER SALE.—The provisions of this Act shall not apply to the Corporation and to activities and other actions and responsibilities of the Corporation and its directors after consummation of the sale of the interest of the United States in the common stock of the Corporation under the terms of the Conrail Sale Amendments Act of 1985, other than with regard to—

"(1) section 102 of this Act;

"(2) section 201(d) of this Act;

"(3) section 203 of this Act, but only with respect to information relating to proceedings before the special court established under section 209(b);

"(4) section 216(f)(8) of this Act, but only as such authority applies to activities related to the employee stock ownership plan and related trusts prior to or in connection with consummation of the sale of the interest of the United States in the common stock of the Corporation, including activities related to the sale, exchange, valuation, or disposition of the assets of the employee stock ownership plan and related trusts, or of Conrail Equity Corporation, in connection with the Secretary's Plan;

"(5) sections 216(f)(11) and 216(f)(12) of this Act, as amended by the Conrail Sale Amendments Act of 1985;

"(6) section 217(e) of this Act;

"(7) subsection (i) of this section, but only as such authority applies to service as a director of the Corporation prior to consummation or in connection with implementation of the sale of the interest of the United States in the common stock of the Corporation;

"(8) section 305 of this Act, but only as to the effect, and continuing administration, of supplemental transactions consummated prior to consummation of the sale of the interest of the United States in the common stock of the Corporation;

"(9) section 308 of this Act, but only in abandonment actions when such authority has been relied on to file a notice or notices of insufficent revenues prior to consummation of the sale of the interest of the United States in the common stock of the Corporation;

"(10) section 401(a) of this Act, as amended by the Conrail Sale Amendments Act of 1985;

"(11) section 402 of this Act, as amended by the Conrail Sale Amendments Act of 1985;

"(12) section 408(c) of this Act, as amended by the Conrail Sale Amendments Act of 1985;

"(13) section 701 of this Act, but only as may be necessary to identify employees eligible for benefits under agreements entered into under such section;

"(14) section 702(e) of this Act;

"(15) section 704(b) of this Act;

"(16) section 709 of this Act;

"(17) section 710(b)(1) of this Act;

"(18) section 711 of this Act;

"(19) section 714 of this Act, but only with regard to disputes or controversies specified in such section that arose prior to consummation of the sale of the interest of the United States in the common stock of the Corporation; and

"(20) section 715 of this Act, as amended by the Conrail Sale Amendments Act of 1985.".

IMPLEMENTATION OF THE SECRETARY'S PLAN

SEC. 104. (a) Section 401(a)(3) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 761(a)(3)) is amended to read as follows:

"(3) The Secretary is authorized and directed to implement the Secretary's Plan, in accordance with paragraph (4) of this subsection. Such implementation of the Secretary's Plan and the coordinated operation of the Corporation's properties with those of Norfolk Southern Corporation and its affiliates as a single rail system is deemed approved by the Commission under chapter 113 of title 49, United States Code.".

(b) Section 401(a) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 761(a)) is amended by adding at the end thereof the following paragraphs:

"(4) The Secretary shall implement the Secretary's Plan by negotiating, executing, delivering, and performing the Definitive Agreements, which shall conform to the Memorandum of Intent described in section 102(20)(A) of this Act. The Secretary shall, 45 calendar days before the date on which the Secretary anticipates that the interest of the United States in the common stock of the Corporation will be sold to Norfolk Southern Corporation, transmit to the Committee on Commerce, Science, and Transportation of the Senate and to the Committee on Energy and Commerce of the House of Representatives a notification of any alteration from the Memorandum of Intent described in section 102(20)(A) of this Act which will be made in the Definitive Agreements. After the date of such sale, the Secretary shall transmit to such Committees notification of any intent to waive compliance with any substantive covenant, agreement or obligation contained in the Definitive Agreements, and the Secretary may not waive such compliance until a period of 45 calendar days has expired after the date of such transmittal.

"(5) The Secretary shall not transfer the interest of the United States in the common stock of the Corporation except concurrently with a divestiture by Norfolk Southern Corporation of rail assets and rights approved by the Attorney General.

"(6) The sale of the interest of the United States in the common stock of the Corporation shall be deemed to be consummated at the date title to the common stock passes to Norfolk Southern Corporation and the United States receives the cash purchase price.".

RAILROAD PURCHASERS AND OFFER FOR SALE OF SHARES TO EMPLOYEES

SEC. 105. Subsection (d) of section 401 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 761(d)) is repealed.

APPLICABILITY OF CERTAIN LAWS TO SALE OF CONRAIL

SEC. 107. Section 408 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 768) is amended—

(1) by repealing subsection (b);

(2) by amending subsection (c) by striking "No transfer" and all that follows through "subject to" and inserting in lieu thereof "Except as provided in section 1152 of the Northeast Rail Service Act of 1981 (45 U.S.C. 1105), the Secretary's Plan and the Definitive Agreements and their negotiation, execution, and implementation shall not be subject to administrative or"; and

(3) by adding at the end of subsection (c) the following sentence: "The issuance in private placement of notes or other securities in accordance with exhibit B to the Memorandum of Intent (described in section 102(20)(A) of this Act) in the Secretary's Plan shall not be subject to the provisions of subtitle IV of title 49, United States Code.".

LABOR PROTECTION

SEC. 108. (a) Section 701(d)(2) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 797(d)(2)) is amended by striking "the last day of the eighteen-month period beginning on".

(b)(1) Title VII of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 797 et seq.) is amended by adding at the end thereof the following section:

"PROTECTION AFTER SALE

"SEC. 715. After consummation of the sale of the interest of the United States in the common stock of the Corporation pursuant to the Secretary's Plan, any employee of Norfolk Southern Corporation, the Corporation, any rail affiliate of either company,

and any transferee of the rail tracks, rights, and facilities divested in accordance with the Secretary's Plan, who is adversely affected in his employment by the implementation of the Secretary's Plan shall receive from his employer protection under the labor protective conditions set forth in New York Dock Railway—Control—Brooklyn Eastern District Terminal (354 ICC 399 (1978), modified upon further consideration, 360 ICC 60 (1979)). The arbitration provisions of section 4 of New York Dock shall apply to the formation of any implementing agreements that may be necessary in connection with the implementation of the Secretary's Plan, including any resulting coordinations.".

(2) The table of contents of the Regional Rail Reorganization Act of 1973 is amended by inserting immediately after the item relating to section 714 the following item:

"Sec. 715. Protection after sale.".

PREFERENTIAL HIRING

SEC. 109. Section 703 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 797b) is amended—

(1) by redesignating subsection (b) as subsection (c); and

(2) by inserting immediately after subsection (a) the following subsection:

"(b) IMPLEMENTATION OF SECRETARY'S PLAN.—Any employee of any railroad who is deprived of employment as a result of the implementation of the Secretary's Plan shall have the first right of hire for a vacancy for which he is qualified on any Norfolk Southern Corporation rail subsidiary, except where such vacancy is covered by (1) an affirmative action plan, or a hiring plan designated to eliminate discrimination, that is required by Federal or State statute, regulation, or Executive order, or by the order of a Federal court or agency, or (2) a permissible voluntary affirmative action plan. For purposes of this subsection, a railroad shall not be considered to be hiring new employees when it recalls any of its own furloughed employees.".

CROSS CRAFT EMPLOYMENT

SEC. 110. (a) Title VII of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 797 et seq.) is amended by inserting immediately after section 703 the following section:

"CROSS CRAFT EMPLOYMENT

"SEC. 703A. Any employee of Norfolk and Western Railway Company, Southern Railway Company, or the Corporation who is deprived of employment as a result of the implementation of the Secretary's Plan shall have the first right of hire for any vacancy for which such employee is qualified at the entry level of any Norfolk Southern Corporation rail subsidiary, without regard to craft or class or the provisions of section 703 of this Act. Such employee shall retain his seniority rights to return to his original craft or class whenever a vacancy occurs. For purposes of this section, a railroad shall not be considered to be hiring new employees when it recalls any of its own furloughed employees.".

(b) The table of contents of the Regional Rail Reorganization Act of 1973 is amended by inserting immediately after the item relating to section 703 the following item:

"Sec. 703A. Cross craft employment.".

Subtitle B—Northeast Rail Service Act of 1981 Amendments

SPECIAL COURT JURISDICTION

SEC. 121. (a) Section 1152 of the Northeast Rail Service Act of 1981 (45 U.S.C. 1105) is amended—

(1) by inserting "or the Conrail Sale Amendments Act of 1985" immediately after "subtitle" wherever it appears;

(2) in subsection (a), by striking "or" at the end of paragraph (3), by striking the period at the end of paragraph (4) and inserting in lieu thereof a semicolon, and by adding at the end thereof the following paragraphs:

"(5) brought by the United States or any agency or instrumentality thereof seeking to enforce the Secretary's Plan or the Definitive Agreements;

"(6) brought by Norfolk Southern Corporation seeking to enforce the Secretary's Plan or the Definitive Agreements;

"(7) brought by a party who filed a complaint with the Secretary under subsection (e) of this section, and who is aggrieved by (A) a determination of the Secretary under paragraph (1) of such subsection that the party has not suffered direct economic injury, or (B) a decision of the Secretary under paragraph (2) of such subsection that a covenant has not been violated;

"(8) brought by a party which is a signatory to an ancillary agreement entered into in accordance with the Secretary's Plan or the Definitive Agreements and which is seeking to enforce such ancillary agreement; or

"(9) brought to determine the value of the interest of the employee stock ownership plan and related trusts, or of the beneficiaries thereof, in the preferred stock of the Conrail Equity Corporation.

For purposes of any action brought under paragraph (5) of this subsection, a violation of any covenant contained in the Secretary's Plan or the Definitive Agreements shall be deemed to constitute immediate and irreparable harm for purposes of awarding injunctive relief to the United States.".

(b) Section 1152 of the Northeast Rail Service Act of 1981 (45 U.S.C. 1105) is amended by adding at the end thereof the following subsection:

"(e)(1) Any party who suffers direct economic injury as a result of an alleged violation of a covenant contained in the Definitive Agreements may file a complaint with the Secretary seeking enforcement of such covenant. If the Secretary determines that the complainant has demonstrated to the Secretary that it has suffered direct economic injury, the Secretary shall investigate the complaint.

"(2) If the Secretary decides to investigate a complaint under paragraph (1) of this subsection, the Secretary shall give reasonable notice of such decision to investigate to the alleged violator of such covenant and the complainant, and shall make a final decision on such complaint within 60 days after the date on which it was filed.

"(3) If the Secretary finds that (A) the covenant in question has been violated, and (B) the complainant suffered direct economic injury as a result of such violation, the Secretary shall enter an order directing the violator of such covenant to comply with such covenant.

"(4) On appeal, any decision by the Secretary under this subsection shall be upheld, unless such decision is found to be arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law.".

APPLICABILITY OF OTHER LAWS

SEC. 122. Section 1168(a) of the Northeast Rail Service Act of 1981 (45 U.S.C. 1116(a)) is amended by striking "service transfers" and inserting in lieu thereof "sale of the interest of the United States in the common stock of Conrail or transfer of the rail properties and freight service responsibilities of Conrail".

Subtitle C—Employee Stock Ownership Plan

RESPONSIBILITY OF EMPLOYEE STOCK OWNERSHIP PLAN FIDUCIARIES

SEC. 131. (a) Section 216(f)(8)(A) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 726(f)(8)(A)) is amended—

(1) by striking "or" at the end of clause (ii);

(2) by striking the period at the end of clause (iii) and inserting in lieu thereof "; or"; and

(3) by adding at the end thereof the following clause:

"(iv) for or in connection with any action taken to implement the Secretary's Plan, including any sale, exchange, valuation, or disposition of the plan and related trust assets, or the assets of Conrail Equity Corporation, in connection with implementation of the Secretary's Plan and any determination of the terms on which any such sale, exchange, valuation, or disposition is effected.".

QUALIFICATION, REVIEW, AND VALUATION OF EMPLOYEE STOCK OWNERSHIP PLANS

SEC. 132. Section 216(f) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 726(f)) is amended by adding at the end thereof the following paragraphs:

"(11) The employee stock ownership plans of the Corporation and related trusts maintained, amended, or adopted in implementing the Secretary's Plan shall be deemed to meet the qualification requirements of sections 401 and 501, respectively, of the Internal Revenue Code of 1954, notwithstanding (A) that such plans may not meet the requirements of section 415 of the Internal Revenue Code of 1954, or (B) that participates in such plans may be entitled to withdraw a portion of the shares allocated to their accounts prior to the expiration of the period generally imposed by the Internal Revenue Service for qualified plans. Such qualification shall relate only to the contributions, allocations, and withdrawals of shares provided for in the Secretary's Plan with respect to the plans and related trusts maintained, amended, or adopted in implementing the Secretary's Plan. Such contributions and allocations shall in no event be treated as having exceeded the maximum annual addition permitted under section 415 of the Internal Revenue Code of 1954 (but not for purposes of applying section 404(j) of the Internal Revenue Code of 1954) for purposes of calculating any limitation under section 415 with respect to contributions and allocations not described in the Secretary's Plan, including contributions and allocations to plans and related trusts of the Corporation and any affiliated corporation. The continued qualification of such plans with respect to all other contributions, allocations, and withdrawals shall be subject to all provisions of existing law, as amended from time to time. No inference shall be drawn from this paragraph as to whether an amount is a contribution deductible under section 404 of the Internal Revenue Code of 1954 rather than a non-deductible capital expenditure.

"(12) Except as provided in section 1152 of the Northeast Rail Service Act of 1981 (45 U.S.C. 1105), the issuance and sale or contribution of securities by Norfolk Southern Corporation to fulfill arrangements with the Corporation's employees in implementing the Secretary's Plan and the distribu-

tion of shares from the Corporation's employee stock ownership plans and related trusts maintained, amended, or adopted in implementing the Secretary's Plan shall not be subject to the registration and prospectus delivery requirements of the Securities Act of 1933, any approval requirement under subtitle IV of title 49, United States Code, or the laws of any State with respect to the issuance and sale of securities.".

TITLE II—TECHNICAL AND CONFORMING AMENDMENTS

REGIONAL RAIL REORGANIZATION ACT OF 1973 AMENDMENTS AND REPEALS

SEC. 201. The following provisions of the Regional Rail Reorganization Act of 1973 are repealed or amended as specified:

(1) Subsections (a) and (b) of section 214 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 724 (a) and (b)) are repealed, and such section 214 is amended by striking "(c) ASSOCIATION.—".

(2) Subsection (f) of section 217 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 727(f)) is repealed, without prejudice to the continued availability of funds appropriated prior to the date of enactment of this Act pursuant to section 217(f)(1)(C) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 727(f)(1)(C)).

(3) Section 404 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 764), and the item relating to such section in the table of contents of such Act, are repealed.

(4) Section 405 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 765), and the item relating to such section in the table of contents of such Act, are repealed.

(5) Section 406 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 766), and the item relating to such section in the table of contents of such Act, are repealed.

(6) Section 407 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 767), and the item relating to such section in the table of contents of such Act, are repealed.

(7) Subsections (a) and (d) of section 408 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 768 (a) and (d)) are repealed.

(8) Section 409 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 769), and the item relating to such section in the table of contents of such Act, are repealed.

(9) Section 410 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 769a), and the item relating to such section in the table of contents of such Act, are repealed.

(10) Section 411 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 769b), and the item relating to such section in the table of contents of such Act, are repealed.

(11) Section 412 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 769c), and the item relating to such section in the table of contents of such Act, are repealed.

(12) Section 713 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 797l), and the item relating to such section in the table of contents of such Act, are repealed.

AMENDMENTS AND REPEALS OF OTHER RAIL LAWS

SEC. 202. The following provisions of law are repealed or amended as specified:

(1) Section 1154 of the Northeast Rail Service Act of 1981 (45 U.S.C. 1107), and the item relating to such section in the table of contents of such Act, are repealed.

(2) Section 1161 of the Northeast Rail Service Act of 1981 (45 U.S.C. 1110), and the item relating to such section in the table of contents of such Act, are repealed.

(3) Section 1166 of the Northeast Rail Service Act of 1981 (45 U.S.C. 1114), and the item relating to such section in the table of contents of such Act, are repealed.

(4) Subsection (c) of section 1167 of the Northeast Rail Service Act of 1981 (45 U.S.C. 1115(c)) is repealed.

(5) Subsection (b) of section 1168 of the Northeast Rail Service Act of 1981 (45 U.S.C. 1116(b)) is repealed.

(6) Section 501(8) of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 821(8)) is amended—

(A) by striking "(A)";

(B) by striking "(i)" and inserting in lieu thereof "(A)", and by striking "(ii)" and inserting in lieu thereof "(B)"; and

(C) by striking all after "utilization;".

(7) Section 505 of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 825) is amended—

(A) in subsection (a)(1), by striking all after "railroad" through "1981)"; and

(B) in subsection (b)(2)(C), by striking all after "costs" the second time it appears through "subsidy".

(8) Subsection (b)(1) of section 509 of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 829(b)(1)) is repealed.

(9) Section 511(e) of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 831(e)) is amended by striking "(1)", and by striking all after "time" and inserting in lieu thereof a period.

(10) Section 402 of the Rail Safety and Service Improvement Act of 1982 (45 U.S.C. 825a) is repealed.

(11) Section 1005(b)(1) of the Rail Passenger Service Act (45 U.S.C. 655(b)(1)) is amended by striking "the Consolidated Rail Corporation,".

(12) Section 10362(b)(7)(A) of title 49, United States Code, is amended by striking "by the Consolidated Rail Corporation or".

(13) Section 332(d) of title 49, United States Code, is amended by striking ", the Consolidated Rail Corporation,".

TITLE III—MISCELLANEOUS PROVISIONS

COMMON CARRIER STATUS OF CONRAIL AFTER SALE

SEC. 301. (a) Conrail's status as a common carrier by railroad under section 10102(4) of title 49, United States Code, shall not be affected by virtue of sale of the interest of the United States in Conrail's common stock. Purchase of Conrail stock shall not alone be the basis of a determination that the acquiring entity has become a common carrier by railroad under section 10102(4) of title 49, United States Code.

(b) The Definitive Agreements shall contain a binding commitment by Norfolk Southern Corporation to continue to operate Conrail in full compliance with the provisions of section 10731(e) of title 49, United States Code.

CONSUMMATION OF SALE

SEC. 302. The sale of the interest of the United States in the common stock of Conrail shall be deemed to be consummated on the date title to the common stock passes to Norfolk Southern Corporation and the United States receives the cash purchase price.

CONTRACTS

SEC. 303. (a) Except as provided in subsection (b) of this section, nothing in this Act shall affect—

(1) Conrail's obligation to carry out its transportation contracts and equipment leases, equipment trusts, and conditional sale agreements, in accordance with their terms; and

(2) the obligation of any transferee of divested assets to carry out transportation contracts and equipment leases, equipment trusts, and conditional sale agreements to which such assets are subject, in accordance with their terms.

(b) If a divestiture carried out pursuant to the Secretary's Plan precludes Conrail from providing a transportation service for which it has contracted without a right of termination that may be exercised in the event of the sale of the interest of the United States in the common stock of Conrail and the divestiture will result in a change or modification in the movement of the traffic involved, the transferee of the divested rights and properties and Conrail shall provide the contracted-for service on terms and conditions which, to the maximum extent possible, conform to the terms and conditions in the contract.

CONGRESSIONAL OVERSIGHT OF COMPLIANCE

SEC. 304. The Secretary shall, no later than January 31 of each year, submit to the Committee on Commerce, Science, and Transportation of the Senate and to the Committee on Energy and Commerce of the House of Representatives a report setting forth each certificate which Norfolk Southern Corporation and Conrail provided to the Secretary, during the preceding year, certifying compliance with the covenants contained in the Definitive Agreements.

SEPARABILITY

SEC. 305. If any provision of this Act or the application thereof to any person or circumstances is held invalid, the remainder of this Act and the application of such provision to other persons or circumstances shall not be affected thereby.

EFFECTIVE DATE

SEC. 306. (a) Except as provided in subsection (b) of this section, the provisions of and amendments made by this Act shall take effect on the date of enactment of this Act.

(b) Sections 108(a), 201 and 202 of this Act shall take effect on the date of consummation of the sale of the interest of the United States in the common stock of Conrail.

(c) Any provision of this Act which, pursuant to Article I, Section 7 of the Constitution, provides for raising revenue shall only be effective upon the enactment into law of a bill which has originated in the House of Representatives enacting such provision.

AMENDMENT NO. 1548

Strike out everything beginning on page 12, line 14, through line 13 on page 15.

AMENDMENT NO. 1549

On page 12, beginning with line 11, strike out all through line 13 and insert in lieu thereof the following:

"SEC. 105. Subsection (d) of section 401 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 761(d)) is repealed.".

AMENDMENT NO. 1550

On page 12, beginning with line 11, strike out all through line 13 and insert in lieu thereof the following:

"SEC. 105. Subsection (d) of section 401 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 761(d)) is repealed.".

AMENDMENT NO. 1551

In lieu of the language proposed to be inserted, insert the following:

That this Act may be cited as the "Conrail Sale Amendments Act of 1985".

FINDINGS

SEC. 2. The Congress finds that—

(1) the Northeast Rail Service Act of 1981 (45 U.S.C. 1101 et seq.) provided for an orderly return of Conrail freight service to the private sector;

(2) the provisions of the Northeast Rail Service Act of 1981 were successful in removing Conrail's obligations beyond railroad freight service and in otherwise preparing Conrail for an orderly return to the private sector;

(3) acting under section 403 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 763), the Board of Directors of the United States Railway Association twice found Conrail to be a profitable corporation;

(4) acting under section 401 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 761), the Secretary engaged an investment banker and arranged, through open competitive bidding and negotiation, to sell the interest of the United States in the common stock of Conrail;

(5) the Secretary's Plan for the sale of Conrail provides for sale of the interest of the United States in the common stock of Conrail to Norfolk Southern Corporation;

(6) the Secretary found that sale of the interest of the United States in the common stock of Conrail to Norfolk Southern Corporation best meets the sale criteria of (A) leaving Conrail in the strongest financial position after the sale, (B) preserving patterns of service to shippers and communities in the region Conrail serves, and (C) maximizing return to the Federal Government consistent with the criteria specified in clauses (A) and (B);

(7) amendments to the Regional Rail Reorganization Act of 1973 (45 U.S.C. 701 et seq.) and related laws are needed to permit the sale of the interest of the United States in the common stock of Conrail to Norfolk Southern Corporation and to permit cancellation of the interest of the United States in Conrail debt and preferred stock; and

(8) the Secretary's Plan satisfies the requirements of the Northeast Rail Service Act of 1981, including the intent, goals, and objectives relating to the sale of the interest of the United States in the common stock of Conrail and the requirements of section 401(e) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 761(e)).

PURPOSE

SEC. 3. It is therefore declared to be the purpose of the Congress in this Act to return Conrail to the private sector by directing and facilitating implementation of the Secretary's Plan for the sale of the interest of the United States in the common stock of Conrail.

DEFINITIONS

SEC. 4. (a) In this Act, unless the context otherwise requires, the term—

(1) "Conrail" means the Consolidated Rail Corporation;

(2) "Definitive Agreements" means any and all agreements existing or to be developed between the United States and Norfolk Southern Corporation, including all representations and warranties made therein, to implement the Memorandum of Intent described in paragraph (4)(A);

(3) "Secretary" means the Secretary of Transportation; and

(4) "Secretary's Plan" means (A) the Memorandum of Intent between the United States and Norfolk Southern Corporation signed February 8, 1985, and (B) the divestitures by the Norfolk Southern Corporation of certain rail tracks, rights, and facilities, and any transactions or agreements related or incidental to such divestitures, in connection with the implementation of attachment A to the letter from the Department of Justice attached to the Memorandum of Intent as exhibit E.

(b) Section 102 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 702) is amended—

(1) by redesignating paragraphs (6) through (18) as paragraphs (7) through (19), and paragraphs (19) through (21) as paragraphs (21) through (23), respectively;

(2) by inserting after paragraph (5) the following paragraph:

"(6) 'Definitive Agreements' means any and all agreements existing or to be developed between the United States and Norfolk Southern Corporation, including all representations and warranties made therein, to implement the Memorandum of Intent described in paragraph (20)(A);"; and

(3) by inserting after paragraph (19), as so redesignated, the following paragraph:

"(20) 'Secretary's Plan' means (A) the Memorandum of Intent between the United States and Norfolk Southern Corporation signed February 8, 1985, and (B) the divestitures by the Norfolk Southern Corporation of certain rail tracks, rights, and facilities, and any transactions or agreements related or incidental to such divestitures, in connection with the implementation of attachment A to the letter from the Department of Justice attached to the Memorandum of Intent as exhibit E;".

(c) Section 1135(a) of the Northeast Rail Service Act of 1981 (45 U.S.C. 1104(a)) is amended—

(1) by redesignating paragraphs (6), (7), and (8) as paragraphs (7), (8), and (10), respectively;

(2) by inserting after paragraph (5) the following paragraph:

"(6) 'Definitive Agreements' means any and all agreements existing or to be developed between the United States and Norfolk Southern Corporation, including all representations and warranties made therein, to implement the Memorandum of Intent described in paragraph (9)(A);"; and

(3) by inserting after paragraph (8), as so redesignated, the following paragraph:

"(9) 'Secretary's Plan' means (A) the Memorandum of Intent between the United States and Norfolk Southern Corporation signed February 8, 1985, and (B) the divestitures by the Norfolk Southern Corporation of certain rail tracks, rights, and facilities, and any transactions or agreements related or incidental to such divestitures, in connection with the implementation of attachment A to the letter from the Department of Justice attached to the Memorandum of Intent as exhibit E;".

TITLE I—AMENDMENTS TO THE REGIONAL RAIL REORGANIZATION ACT OF 1973 AND THE NORTHEAST RAIL SERVICE ACT OF 1981

Subtitle A—Regional Rail Reorganization Act of 1973 Amendments

LIMIT ON AUTHORITY TO PURCHASE STOCK

SEC. 101. Section 216(b) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 726(b)) is amended by adding at the end thereof the following paragraph:

"(5) The authority of the Association to purchase debentures or series A preferred stock of the Corporation under this section shall terminate upon the consummation of the sale of the interest of the United States in the common stock of the Corporation under the terms of the Secretary's Plan.".

RESPONSIBILITY OF CONRAIL DIRECTORS

SEC. 102. Section 301(i) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 741(i)) is amended by inserting immediately after "required by law" the following: ", taken to implement the Secretary's Plan,".

APPLICABILITY OF REGIONAL RAIL REORGANIZATION ACT OF 1973 TO CONRAIL AFTER SALE

SEC. 103. Section 301 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 741) is amended by adding at the end thereof the following subsection:

"(k) GOVERNING PROVISIONS AFTER SALE.—The provisions of this Act shall not apply to the Corporation and to activities and other actions and responsibilities of the Corporation and its directors after consummation of the sale of the interest of the United States in the common stock of the Corporation under the terms of the Conrail Sale Amendments Act of 1985, other than with regard to—

"(1) section 102 of this Act;

"(2) section 201(d) of this Act;

"(3) section 203 of this Act, but only with respect to information relating to proceedings before the special court established under section 209(b);

"(4) section 216(f)(8) of this Act, but only as such authority applies to activities related to the employee stock ownership plan and related trusts prior to or in connection with consummation of the sale of the interest of the United States in the common stock of the Corporation, including activities related to the sale, exchange, valuation, or disposition of the assets of the employee stock ownership plan and related trusts, or of Conrail Equity Corporation, in connection with the Secretary's Plan;

"(5) sections 216(f)(11) and 216(f)(12) of this Act, as amended by the Conrail Sale Amendments Act of 1985;

"(6) section 217(e) of this Act;

"(7) subsection (i) of this section, but only as such authority applies to service as a director of the Corporation prior to consummation or in connection with implementation of the sale of the interest of the United States in the common stock of the Corporation;

"(8) section 305 of this Act, but only as to the effect, and continuing administration, of supplemental transactions consummated prior to consummation of the sale of the interest of the United States in the common stock of the Corporation;

"(9) section 308 of this Act, but only in abandonment actions when such authority has been relied on to file a notice or notices of insufficent revenues prior to consummation of the sale of the interest of the United States in the common stock of the Corporation;

"(10) section 401(a) of this Act, as amended by the Conrail Sale Amendments Act of 1985;

"(11) section 402 of this Act, as amended by the Conrail Sale Amendments Act of 1985;

"(12) section 408(c) of this Act, as amended by the Conrail Sale Amendments Act of 1985;

"(13) section 701 of this Act, but only as may be necessary to identify employees eligible for benefits under agreements entered into under such section;

"(14) section 702(e) of this Act;

"(15) section 704(b) of this Act;

"(16) section 709 of this Act;

"(17) section 710(b)(1) of this Act;

"(18) section 711 of this Act;

"(19) section 714 of this Act, but only with regard to disputes or controversies specified in such section that arose prior to consummation of the sale of the interest of the United States in the common stock of the Corporation; and

"(20) section 715 of this Act, as amended by the Conrail Sale Amendments Act of 1985.".

IMPLEMENTATION OF THE SECRETARY'S PLAN

SEC. 104. (a) Section 401(a)(3) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 761(a)(3)) is amended to read as follows:

"(3) The Secretary is authorized and directed to implement the Secretary's Plan, in accordance with paragraph (4) of this subsection. Such implementation of the Secretary's Plan and the coordinated operation of the Corporation's properties with those of Norfolk Southern Corporation and its affiliates as a single rail system is deemed approved by the Commission under chapter 113 of title 49, United States Code.".

(b) Section 401(a) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 761(a)) is amended by adding at the end thereof the following paragraphs:

"(4) The Secretary shall implement the Secretary's Plan by negotiating, executing, delivering, and performing the Definitive Agreements, which shall conform to the Memorandum of Intent described in section 102(20)(A) of this Act. The Secretary shall, 45 calendar days before the date on which the Secretary anticipates that the interest of the United States in the common stock of the Corporation will be sold to Norfolk Southern Corporation, transmit to the Committee on Commerce, Science, and Transportation of the Senate and to the Committee on Energy and Commerce of the House of Representatives a notification of any alteration from the Memorandum of Intent described in section 102(20)(A) of this Act which will be made in the Definitive Agreements. After the date of such sale, the Secretary shall transmit to such Committees notification of any intent to waive compliance with any substantive covenant, agreement or obligation contained in the Definitive Agreements, and the Secretary may not waive such compliance until a period of 45 calendar days has expired after the date of such transmittal.

"(5) The Secretary shall not transfer the interest of the United States in the common stock of the Corporation except concurrently with a divestiture by Norfolk Southern Corporation of rail assets and rights approved by the Attorney General.

"(6) The sale of the interest of the United States in the common stock of the Corporation shall be deemed to be consummated at the date title to the common stock passes to Norfolk Southern Corporation and the United States receives the cash purchase price.".

RAILROAD PURCHASERS AND OFFER FOR SALE OF SHARES TO EMPLOYEES

SEC. 105. Subsections (d) and (e) of section 401 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 761(d) and (e)) are repealed.

CANCELLATION OF DEBT AND PREFERRED STOCK

SEC. 106. Section 402 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 762) is amended to read as follows:

"DEBT AND PREFERRED STOCK

"SEC. 402. (a) RECAPITALIZATION.—In connection with the sale of the interest of the United States in the common stock of the Corporation under section 401 of this Act, and consistent with the Secretary's Plan, the Secretary may take all action necessary to cause the Corporation to be recapitalized such that the interest of the United States, or any agent or instrumentality thereof, and all other commitments or obligations of the Corporation to the United States or any agent or instrumentality thereof arising out of such interest, in any debt (including accrued interest and contingent interest thereon) and preferred stock (including accrued and unpaid dividends thereon) of the Corporation shall be canceled or retired, and contributed to the capital of the Corporation. The Secretary shall cause the recapitalization authorized by this section to be effective as of the consummation of the sale of the interest of the United States in the common stock of the Corporation.

"(b) BREACH OF REPRESENTATIONS.—(1) Norfolk Southern Corporation or any successor corporation thereto may bring suit for any breach of representations contained in paragraph 6(e) of the Memorandum of Intent described in section 102(20)(A) of this Act (hereinafter referred to as the 'Representations') in the United States Claims Court or a district court of the United States.

APPLICABILITY OF CERTAIN LAWS TO SALE OF CONRAIL

SEC. 107. Section 408 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 768) is amended—

(1) by repealing subsection (b);

(2) by amending subsection (c) by striking "No transfer" and all that follows through "subject to" and inserting in lieu thereof "Except as provided in section 1152 of the Northeast Rail Service Act of 1981 (45 U.S.C. 1105), the Secretary's Plan and the Definitive Agreements and their negotiation, execution, and implementation shall not be subject to administrative or"; and

(3) by adding at the end of subsection (c) the following sentence: "The issuance in private placement of notes or other securities in accordance with exhibit B to the Memorandum of Intent (described in section 102(20)(A) of this Act) in the Secretary's Plan shall not be subject to the provisions of subtitle IV of title 49, United States Code.".

LABOR PROTECTION

SEC. 108. (a) Section 701(d)(2) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 797(d)(2)) is amended by striking "the last day of the eighteen-month period beginning on".

(b)(1) Title VII of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 797 et seq.) is amended by adding at the end thereof the following section:

"PROTECTION AFTER SALE

"SEC. 715. After consummation of the sale of the interest of the United States in the common stock of the Corporation pursuant to the Secretary's Plan, any employee of Norfolk Southern Corporation, the Corporation, any rail affiliate of either company, and any transferee of the rail tracks, rights, and facilities divested in accordance with the Secretary's Plan, who is adversely affected in his employment by the implementation of the Secretary's Plan shall receive from his employer protection under the labor protective conditions set forth in New York Dock Railway—Control—Brooklyn Eastern District Terminal (354 ICC 399 (1978), modified upon further consideration, 360 ICC 60 (1979)). The arbitration provisions of section 4 of New York Dock shall apply to the formation of any implementing agreements that may be necessary in connection with the implementation of the Secretary's Plan, including any resulting coordinations.".

(2) The table of contents of the Regional Rail Reorganization Act of 1973 is amended by inserting immediately after the item relating to section 714 the following item:

"Sec. 715. Protection after sale.".

PREFERENTIAL HIRING

SEC. 109. Section 703 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 797b) is amended—

(1) by redesignating subsection (b) as subsection (c); and

(2) by inserting immediately after subsection (a) the following subsection:

"(b) IMPLEMENTATION OF SECRETARY'S PLAN.—Any employee of any railroad who is deprived of employment as a result of the implementation of the Secretary's Plan shall have the first right of hire for a vacancy for which he is qualified on any Norfolk Southern Corporation rail subsidiary, except where such vacancy is covered by (1) an affirmative action plan, or a hiring plan designated to eliminate discrimination, that is required by Federal or State statute, regulation, or Executive order, or by the order of a Federal court or agency, or (2) a permissible voluntary affirmative action plan. For purposes of this subsection, a railroad shall not be considered to be hiring new employees when it recalls any of its own furloughed employees.".

CROSS CRAFT EMPLOYMENT

SEC. 110. (a) Title VII of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 797 et seq.) is amended by inserting immediately after section 703 the following section:

"CROSS CRAFT EMPLOYMENT

"SEC. 703A. Any employee of Norfolk and Western Railway Company, Southern Railway Company, or the Corporation who is deprived of employment as a result of the implementation of the Secretary's Plan shall have the first right of hire for any vacancy for which such employee is qualified at the entry level of any Norfolk Southern Corporation rail subsidiary, without regard to craft or class or the provisions of section 703 of this Act. Such employee shall retain his seniority rights to return to his original craft or class whenever a vacancy occurs. For purposes of this section, a railroad shall not be considered to be hiring new employees when it recalls any of its own furloughed employees.".

(b) The table of contents of the Regional Rail Reorganization Act of 1973 is amended by inserting immediately after the item relating to section 703 the following item:

"Sec. 703A. Cross craft employment.".

Subtitle B—Northeast Rail Service Act of 1981 Amendments

SPECIAL COURT JURISDICTION

SEC. 121. (a) Section 1152 of the Northeast Rail Service Act of 1981 (45 U.S.C. 1105) is amended—

(1) by inserting "or the Conrail Sale Amendments Act of 1985" immediately after "subtitle" wherever it appears;

(2) in subsection (a), by striking "or" at the end of paragraph (3), by striking the period at the end of paragraph (4) and inserting in lieu thereof a semicolon, and by adding at the end thereof the following paragraphs:

"(5) brought by the United States or any agency or instrumentality thereof seeking

to enforce the Secretary's Plan or the Definitive Agreements;

"(6) brought by Norfolk Southern Corporation seeking to enforce the Secretary's Plan or the Definitive Agreements;

"(7) brought by a party who filed a complaint with the Secretary under subsection (e) of this section, and who is aggrieved by (A) a determination of the Secretary under paragraph (1) of such subsection that the party has not suffered direct economic injury, or (B) a decision of the Secretary under paragraph (2) of such subsection that a covenant has not been violated;

"(8) brought by a party which is a signatory to an ancillary agreement entered into in accordance with the Secretary's Plan or the Definitive Agreements and which is seeking to enforce such ancillary agreement; or

"(9) brought to determine the value of the interest of the employee stock ownership plan and related trusts, or of the beneficiaries thereof, in the preferred stock of the Conrail Equity Corporation.

For purposes of any action brought under paragraph (5) of this subsection, a violation of any covenant contained in the Secretary's Plan or the Definitive Agreements shall be deemed to constitute immediate and irreparable harm for purposes of awarding injunctive relief to the United States.".

(b) Section 1152 of the Northeast Rail Service Act of 1981 (45 U.S.C. 1105) is amended by adding at the end thereof the following subsection:

"(e)(1) Any party who suffers direct economic injury as a result of an alleged violation of a covenant contained in the Definitive Agreements may file a complaint with the Secretary seeking enforcement of such covenant. If the Secretary determines that the complainant has demonstrated to the Secretary that it has suffered direct economic injury, the Secretary shall investigate the complaint.

"(2) If the Secretary decides to investigate a complaint under paragraph (1) of this subsection, the Secretary shall give reasonable notice of such decision to investigate to the alleged violator of such covenant and the complainant, and shall make a final decision on such complaint within 60 days after the date on which it was filed.

"(3) If the Secretary finds that (A) the covenant in question has been violated, and (B) the complainant suffered direct economic injury as a result of such violation, the Secretary shall enter an order directing the violator of such covenant to comply with such covenant.

"(4) On appeal, any decision by the Secretary under this subsection shall be upheld, unless such decision is found to be arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law.".

APPLICABILITY OF OTHER LAWS

SEC. 122. Section 1168(a) of the Northeast Rail Service Act of 1981 (45 U.S.C. 1116(a)) is amended by striking "service transfers" and inserting in lieu thereof "sale of the interest of the United States in the common stock of Conrail or transfer of the rail properties and freight service responsibilities of Conrail".

Subtitle C—Employee Stock Ownership Plan

RESPONSIBILITY OF EMPLOYEE STOCK OWNERSHIP PLAN FIDUCIARIES

SEC. 131. (a) Section 216(f)(8)(A) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 726(f)(8)(A)) is amended—

(1) by striking "or" at the end of clause (ii);

(2) by striking the period at the end of clause (iii) and inserting in lieu thereof "; or"; and

(3) by adding at the end thereof the following clause:

"(iv) for or in connection with any action taken to implement the Secretary's Plan, including any sale, exchange, valuation, or disposition of the plan and related trust assets, or the assets of Conrail Equity Corporation, in connection with implementation of the Secretary's Plan and any determination of the terms on which any such sale, exchange, valuation, or disposition is effected.".

QUALIFICATION, REVIEW, AND VALUATION OF EMPLOYEE STOCK OWNERSHIP PLANS

SEC. 132. Section 216(f) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 726(f)) is amended by adding at the end thereof the following paragraphs:

"(11) The employee stock ownership plans of the Corporation and related trusts maintained, amended, or adopted in implementing the Secretary's Plan shall be deemed to meet the qualification requirements of sections 401 and 501, respectively, of the Internal Revenue Code of 1954, notwithstanding (A) that such plans may not meet the requirements of section 415 of the Internal Revenue Code of 1954, or (B) that participants in such plans may be entitled to withdraw a portion of the shares allocated to their accounts prior to the expiration of the period generally imposed by the Internal Revenue Service for qualified plans. Such qualification shall relate only to the contributions, allocations, and withdrawals of shares provided for in the Secretary's Plan with respect to the plans and related trusts maintained, amended, or adopted in implementing the Secretary's Plan. Such contributions and allocations shall in no event be treated as having exceeded the maximum annual addition permitted under section 415 of the Internal Revenue Code of 1954 (but not for purposes of applying section 404(j) of the Internal Revenue Code of 1954) for purposes of calculating any limitation under section 415 with respect to contributions and allocations not described in the Secretary's Plan, including contributions and allocations to plans and related trusts of the Corporation and any affiliated corporation. The continued qualification of such plans with respect to all other contributions, allocations, and withdrawals shall be subject to all provisions of existing law, as amended from time to time. No inference shall be drawn from this paragraph as to whether an amount is a contribution deductible under section 404 of the Internal Revenue Code of 1954 rather than a non-deductible capital expenditure.

"(12) Except as provided in section 1152 of the Northeast Rail Service Act of 1981 (45 U.S.C. 1105), the issuance and sale or contribution of securities by Norfolk Southern Corporation to fulfill arrangements with the Corporation's employees in implementing the Secretary's Plan and the distribution of shares from the Corporation's employee stock ownership plans and related trusts maintained, amended, or adopted in implementing the Secretary's Plan shall not be subject to the registration and prospectus delivery requirements of the Securities Act of 1933, any approval requirement under subtitle IV of title 49, United States Code, or the laws of any State with respect to the issuance and sale of securities.".

TITLE II—TECHNICAL AND CONFORMING AMENDMENTS

REGIONAL RAIL REORGANIZATION ACT OF 1973 AMENDMENTS AND REPEALS

SEC. 201. The following provisions of the Regional Rail Reorganization Act of 1973 are repealed or amended as specified:

(1) Subsections (a) and (b) of section 214 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 724 (a) and (b)) are repealed, and such section 214 is amended by striking "(c) ASSOCIATION.—".

(2) Subsection (f) of section 217 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 727(f)) is repealed, without prejudice to the continued availability of funds appropriated prior to the date of enactment of this Act pursuant to section 217(f)(1)(C) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 727(f)(1)(C)).

(3) Section 404 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 764), and the item relating to such section in the table of contents of such Act, are repealed.

(4) Section 405 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 765), and the item relating to such section in the table of contents of such Act, are repealed.

(5) Section 406 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 766), and the item relating to such section in the table of contents of such Act, are repealed.

(6) Section 407 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 767), and the item relating to such section in the table of contents of such Act, are repealed.

(7) Subsections (a) and (d) of section 408 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 768 (a) and (d)) are repealed.

(8) Section 409 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 769), and the item relating to such section in the table of contents of such Act, are repealed.

(9) Section 410 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 769a), and the item relating to such section in the table of contents of such Act, are repealed.

(10) Section 411 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 769b), and the item relating to such section in the table of contents of such Act, are repealed.

(11) Section 412 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 769c), and the item relating to such section in the table of contents of such Act, are repealed.

(12) Section 713 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 797l), and the item relating to such section in the table of contents of such Act, are repealed.

AMENDMENTS AND REPEALS OF OTHER RAIL LAWS

SEC. 202. The following provisions of law are repealed or amended as specified:

(1) Section 1154 of the Northeast Rail Service Act of 1981 (45 U.S.C. 1107), and the item relating to such section in the table of contents of such Act, are repealed.

(2) Section 1161 of the Northeast Rail Service Act of 1981 (45 U.S.C. 1110), and the item relating to such section in the table of contents of such Act, are repealed.

(3) Section 1166 of the Northeast Rail Service Act of 1981 (45 U.S.C. 1114), and the item relating to such section in the table of contents of such Act, are repealed.

(4) Subsection (c) of section 1167 of the Northeast Rail Service Act of 1981 (45 U.S.C. 1115(c)) is repealed.

(5) Subsection (b) of section 1168 of the Northeast Rail Service Act of 1981 (45 U.S.C. 1116(b)) is repealed.

(6) Section 501(8) of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 821(8)) is amended—

(A) by striking "(A)";

(B) by striking "(i)" and inserting in lieu thereof "(A)", and by striking "(ii)" and inserting in lieu thereof "(B)"; and

(C) by striking all after "utilization;".

(7) Section 505 of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 825) is amended—

(A) in subsection (a)(1), by striking all after "railroad" through "1981)"; and

(B) in subsection (b)(2)(C), by striking all after "costs" the second time it appears through "subsidy".

(8) Subsection (b)(1) of section 509 of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 829(b)(1)) is repealed.

(9) Section 511(e) of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 831(e)) is amended by striking "(1)", and by striking all after "time" and inserting in lieu thereof a period.

(10) Section 402 of the Rail Safety and Service Improvement Act of 1982 (45 U.S.C. 825a) is repealed.

(11) Section 1005(b)(1) of the Rail Passenger Service Act (45 U.S.C. 655(b)(1)) is amended by striking "the Consolidated Rail Corporation,".

(12) Section 10362(b)(7)(A) of title 49, United States Code, is amended by striking "by the Consolidated Rail Corporation or".

(13) Section 332(d) of title 49, United States Code, is amended by striking ", the Consolidated Rail Corporation,".

TITLE III—MISCELLANEOUS PROVISIONS

COMMON CARRIER STATUS OF CONRAIL AFTER SALE

SEC. 301. (a) Conrail's status as a common carrier by railroad under section 10102(4) of title 49, United States Code, shall not be affected by virtue of sale of the interest of the United States in Conrail's common stock. Purchase of Conrail stock shall not alone be the basis of a determination that the acquiring entity has become a common carrier by railroad under section 10102(4) of title 49, United States Code.

(b) The Definitive Agreements shall contain a binding commitment by Norfolk Southern Corporation to continue to operate Conrail in full compliance with the provisions of section 10731(e) of title 49, United States Code.

CONSUMMATION OF SALE

SEC. 302. The sale of the interest of the United States in the common stock of Conrail shall be deemed to be consummated on the date title to the common stock passes to Norfolk Southern Corporation and the United States receives the cash purchase price.

CONTRACTS

SEC. 303. (a) Except as provided in subsection (b) of this section, nothing in this Act shall affect—

(1) Conrail's obligation to carry out its transportation contracts and equipment leases, equipment trusts, and conditional sale agreements, in accordance with their terms; and

(2) the obligation of any transferee of divested assets to carry out transportation contracts and equipment leases, equipment trusts, and conditional sale agreements to which such assets are subject, in accordance with their terms.

(b) If a divestiture carried out pursuant to the Secretary's Plan precludes Conrail from providing a transportation service for which it has contracted without a right of termination that may be exercised in the event of the sale of the interest of the United States in the common stock of Conrail and the divestiture will result in a change or modification in the movement of the traffic involved, the transferee of the divested rights and properties and Conrail shall provide the contracted-for service on terms and conditions which, to the maximum extent possible, conform to the terms and conditions in the contract.

CONGRESSIONAL OVERSIGHT OF COMPLIANCE

SEC. 304. The Secretary shall, no later than January 31 of each year, submit to the Committee on Commerce, Science, and Transportation of the Senate and to the Committee on Energy and Commerce of the House of Representatives a report setting forth each certificate which Norfolk Southern Corporation and Conrail provided to the Secretary, during the preceding year, certifying compliance with the covenants contained in the Definitive Agreements.

SEPARABILITY

SEC. 305. If any provision of this Act or the application thereof to any person or circumstances is held invalid, the remainder of this Act and the application of such provision to other persons or circumstances shall not be affected thereby.

EFFECTIVE DATE

SEC. 306. (a) Except as provided in subsection (b) of this section, the provisions of and amendments made by this Act shall take effect on the date of enactment of this Act.

(b) Sections 108(a), 201 and 202 of this Act shall take effect on the date of consummation of the sale of the interest of the United States in the common stock of Conrail.

(c) Any provision of this Act which, pursuant to Article I, Section 7 of the Constitution, provides for raising revenue shall only be effective upon the enactment into law of a bill which has originated in the House of Representatives enacting such provision.

AMENDMENT NO. 1552

In lieu of the language proposed to be inserted, insert the following:

FINDINGS

SEC. 2. The Congress finds that—

(1) the Northeast Rail Service Act of 1981 (45 U.S.C. 1101 et seq.) provided for an orderly return of Conrail freight service to the private sector;

(2) the provisions of the Northeast Rail Service Act of 1981 were successful in removing Conrail's obligations beyond railroad freight service and in otherwise preparing Conrail for an orderly return to the private sector;

(3) acting under section 403 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 763), the Board of Directors of the United States Railway Association twice found Conrail to be a profitable corporation;

(4) acting under section 401 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 761), the Secretary engaged an investment banker and arranged, through open competitive bidding and negotiation, to sell the interest of the United States in the common stock of Conrail;

(5) the Secretary's Plan for the sale of Conrail provides for sale of the interest of the United States in the common stock of Conrail to Norfolk Southern Corporation;

(6) the Secretary found that sale of the interest of the United States in the common stock of Conrail to Norfolk Southern Corporation best meets the sale criteria of (A) leaving Conrail in the strongest financial position after the sale, (B) preserving patterns of service to shippers and communities in the region Conrail serves, and (C) maximizing return to the Federal Government consistent with the criteria specified in clauses (A) and (B);

(7) amendments to the Regional Rail Reorganization Act of 1973 (45 U.S.C. 701 et seq.) and related laws are needed to permit the sale of the interest of the United States in the common stock of Conrail to Norfolk Southern Corporation and to permit cancellation of the interest of the United States in Conrail debt and preferred stock; and

(8) the Secretary's Plan satisfies the requirements of the Northeast Rail Service Act of 1981, including the intent, goals, and objectives relating to the sale of the interest of the United States in the common stock of Conrail and the requirements of section 401(e) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 761(e)).

PURPOSE

SEC. 3. It is therefore declared to be the purpose of the Congress in this Act to return Conrail to the private sector by directing and facilitating implementation of the Secretary's Plan for the sale of the interest of the United States in the common stock of Conrail.

DEFINITIONS

SEC. 4. (a) In this Act, unless the context otherwise requires, the term—

(1) "Conrail" means the Consolidated Rail Corporation;

(2) "Definitive Agreements" means any and all agreements existing or to be developed between the United States and Norfolk Southern Corporation, including all representations and warranties made therein, to implement the Memorandum of Intent described in paragraph (4)(A);

(3) "Secretary" means the Secretary of Transportation; and

(4) "Secretary's Plan" means (A) the Memorandum of Intent between the United States and Norfolk Southern Corporation signed February 8, 1985, and (B) the divestitures by the Norfolk Southern Corporation of certain rail tracks, rights, and facilities, and any transactions or agreements related or incidental to such divestitures, in connection with the implementation of attachment A to the letter from the Department of Justice attached to the Memorandum of Intent as exhibit E.

(b) Section 102 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 702) is amended—

(1) by redesignating paragraphs (6) through (18) as paragraphs (7) through (19), and paragraphs (19) through (21) as paragraphs (21) through (23), respectively;

(2) by inserting after paragraph (5) the following paragraph:

"(6) 'Definitive Agreements' means any and all agreements existing or to be developed between the United States and Norfolk Southern Corporation, including all representations and warranties made therein, to implement the Memorandum of Intent described in paragraph (20)(A);"; and

(3) by inserting after paragraph (19), as so redesignated, the following paragraph:

"(20) 'Secretary's Plan' means (A) the Memorandum of Intent between the United States and Norfolk Southern Corporation signed February 8, 1985, and (B) the divestitures by the Norfolk Southern Corporation of certain rail tracks, rights, and facilities, and any transactions or agreements related or incidental to such divestitures, in connection with the implementation of attachment

A to the letter from the Department of Justice attached to the Memorandum of Intent as exhibit E;".

(c) Section 1135(a) of the Northeast Rail Service Act of 1981 (45 U.S.C. 1104(a)) is amended—

(1) by redesignating paragraphs (6), (7), and (8) as paragraphs (7), (8), and (10), respectively;

(2) by inserting after paragraph (5) the following paragraph:

"(6) 'Definitive Agreements' means any and all agreements existing or to be developed between the United States and Norfolk Southern Corporation, including all representations and warranties made therein, to implement the Memorandum of Intent described in paragraph (9)(A);"; and

(3) by inserting after paragraph (8), as so redesignated, the following paragraph:

"(9) 'Secretary's Plan' means (A) the Memorandum of Intent between the United States and Norfolk Southern Corporation signed February 8, 1985, and (B) the divestitures by the Norfolk Southern Corporation of certain rail tracks, rights, and facilities, and any transactions or agreements related or incidental to such divestitures, in connection with the implementation of attachment A to the letter from the Department of Justice attached to the Memorandum of Intent as exhibit E;".

TITLE I—AMENDMENTS TO THE REGIONAL RAIL REORGANIZATION ACT OF 1973 AND THE NORTHEAST RAIL SERVICE ACT OF 1981

Subtitle A—Regional Rail Reorganization Act of 1973 Amendments

LIMIT ON AUTHORITY TO PURCHASE STOCK

SEC. 101. Section 216(b) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 726(b)) is amended by adding at the end thereof the following paragraph:

"(5) The authority of the Association to purchase debentures or series A preferred stock of the Corporation under this section shall terminate upon the consummation of the sale of the interest of the United States in the common stock of the Corporation under the terms of the Secretary's Plan.".

RESPONSIBILITY OF CONRAIL DIRECTORS

SEC. 102. Section 301(i) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 741(i)) is amended by inserting immediately after "required by law" the following: ", taken to implement the Secretary's Plan,".

APPLICABILITY OF REGIONAL RAIL REORGANIZATION ACT OF 1973 TO CONRAIL AFTER SALE

SEC. 103. Section 301 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 741) is amended by adding at the end thereof the following subsection:

"(k) GOVERNING PROVISIONS AFTER SALE.—The provisions of this Act shall not apply to the Corporation and to activities and other actions and responsibilities of the Corporation and its directors after consummation of the sale of the interest of the United States in the common stock of the Corporation under the terms of the Conrail Sale Amendments Act of 1985, other than with regard to—

"(1) section 102 of this Act;

"(2) section 201(d) of this Act;

"(3) section 203 of this Act, but only with respect to information relating to proceedings before the special court established under section 209(b);

"(4) section 216(f)(8) of this Act, but only as such authority applies to activities related to the employee stock ownership plan and related trusts prior to or in connection with consummation of the sale of the interest of the United States in the common stock of the Corporation, including activities related to the sale, exchange, valuation, or disposition of the assets of the employee stock ownership plan and related trusts, or of Conrail Equity Corporation, in connection with the Secretary's Plan;

"(5) sections 216(f)(11) and 216(f)(12) of this Act, as amended by the Conrail Sale Amendments Act of 1985;

"(6) section 217(e) of this Act;

"(7) subsection (i) of this section, but only as such authority applies to service as a director of the Corporation prior to consummation or in connection with implementation of the sale of the interest of the United States in the common stock of the Corporation;

"(8) section 305 of this Act, but only as to the effect, and continuing administration, of supplemental transactions consummated prior to consummation of the sale of the interest of the United States in the common stock of the Corporation;

"(9) section 308 of this Act, but only in abandonment actions when such authority has been relied on to file a notice or notices of insufficient revenues prior to consummation of the sale of the interest of the United States in the common stock of the Corporation;

"(10) section 401(a) of this Act, as amended by the Conrail Sale Amendments Act of 1985;

"(11) section 402 of this Act, as amended by the Conrail Sale Amendments Act of 1985;

"(12) section 408(c) of this Act, as amended by the Conrail Sale Amendments Act of 1985;

"(13) section 701 of this Act, but only as may be necessary to identify employees eligible for benefits under agreements entered into under such section;

"(14) section 702(e) of this Act;

"(15) section 704(b) of this Act;

"(16) section 709 of this Act;

"(17) section 710(b)(1) of this Act;

"(18) section 711 of this Act;

"(19) section 714 of this Act, but only with regard to disputes or controversies specified in such section that arose prior to consummation of the sale of the interest of the United States in the common stock of the Corporation; and

"(20) section 715 of this Act, as amended by the Conrail Sale Amendments Act of 1985.".

IMPLEMENTATION OF THE SECRETARY'S PLAN

SEC. 104. (a) Section 401(a)(3) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 761(a)(3)) is amended to read as follows:

"(3) The Secretary is authorized and directed to implement the Secretary's Plan, in accordance with paragraph (4) of this subsection. Such implementation of the Secretary's Plan and the coordinated operation of the Corporation's properties with those of Norfolk Southern Corporation and its affiliates as a single rail system is deemed approved by the Commission under chapter 113 of title 49, United States Code.".

(b) Section 401(a) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 761(a)) is amended by adding at the end thereof the following paragraphs:

"(4) The Secretary shall implement the Secretary's Plan by negotiating, executing, delivering, and performing the Definitive Agreements, which shall conform to the Memorandum of Intent described in section 102(20)(A) of this Act. The Secretary shall, 45 calendar days before the date on which the Secretary anticipates that the interest of the United States in the common stock of the Corporation will be sold to Norfolk Southern Corporation, transmit to the Committee on Commerce, Science, and Transportation of the Senate and to the Committee on Energy and Commerce of the House of Representatives a notification of any alteration from the Memorandum of Intent described in section 102(20)(A) of this Act which will be made in the Definitive Agreements. After the date of such sale, the Secretary shall transmit to such Committees notification of any intent to waive compliance with any substantive covenant, agreement or obligation contained in the Definitive Agreements, and the Secretary may not waive such compliance until a period of 45 calendar days has expired after the date of such transmittal.

"(5) The Secretary shall not transfer the interest of the United States in the common stock of the Corporation except concurrently with a divestiture by Norfolk Southern Corporation of rail assets and rights approved by the Attorney General.

"(6) The sale of the interest of the United States in the common stock of the Corporation shall be deemed to be consummated at the date title to the common stock passes to Norfolk Southern Corporation and the United States receives the cash purchase price.".

RAILROAD PURCHASERS AND OFFER FOR SALE OF SHARES TO EMPLOYEES

SEC. 105. Subsections (d) and (e) of section 401 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 761(d) and (e)) are repealed.

CANCELLATION OF DEBT AND PREFERRED STOCK

SEC. 106. Section 402 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 762) is amended to read as follows:

"DEBT AND PREFERRED STOCK

"SEC. 402. (a) RECAPITALIZATION.—In connection with the sale of the interest of the United States in the common stock of the Corporation under section 401 of this Act, and consistent with the Secretary's Plan, the Secretary may take all action necessary to cause the Corporation to be recapitalized such that the interest of the United States, or any agent or instrumentality thereof, and all other commitments or obligations of the Corporation to the United States or any agent or instrumentality thereof arising out of such interest, in any debt (including accrued interest and contingent interest thereon) and preferred stock (including accrued and unpaid dividends thereon) of the Corporation shall be cancelled or retired, and contributed to the capital of the Corporation. The Secretary shall cause the recapitalization authorized by this section to be effective as of the consummation of the sale of the interest of the United States in the common stock of the Corporation.

APPLICABILITY OF CERTAIN LAWS TO SALE OF CONRAIL

SEC. 107. Section 408 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 768) is amended—

(1) by repealing subsection (b);

(2) by amending subsection (c) by striking "No transfer" and all that follows through "subject to" and inserting in lieu thereof "Except as provided in section 1152 of the Northeast Rail Service Act of 1981 (45 U.S.C. 1105), the Secretary's Plan and the Definitive Agreements and their negotia-

tion, execution, and implementation shall not be subject to administrative or"; and

(3) by adding at the end of subsection (c) the following sentence: "The issuance in private placement of notes or other securities in accordance with exhibit B to the Memorandum of Intent (described in section 102(20)(A) of this Act) in the Secretary's Plan shall not be subject to the provisions of subtitle IV of title 49, United States Code.".

LABOR PROTECTION

SEC. 108. (a) Section 701(d)(2) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 797(d)(2)) is amended by striking "the last day of the eighteen-month period beginning on".

(b)(1) Title VII of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 797 et seq.) is amended by adding at the end thereof the following section:

"PROTECTION AFTER SALE

"SEC. 715. After consummation of the sale of the interest of the United States in the common stock of the Corporation pursuant to the Secretary's Plan, any employee of Norfolk Southern Corporation, the Corporation, any rail affiliate of either company, and any transferee of the rail tracks, rights, and facilities divested in accordance with the Secretary's Plan, who is adversely affected in his employment by the implementation of the Secretary's Plan shall receive from his employer protection under the labor protective conditions set forth in New York Dock Railway—Control—Brooklyn Eastern District Terminal (354 ICC 399 (1978), modified upon further consideration, 360 ICC 60 (1979)). The arbitration provisions of section 4 of New York Dock shall apply to the formation of any implementing agreements that may be necessary in connection with the implementation of the Secretary's Plan, including any resulting coordinations.".

(2) The table of contents of the Regional Rail Reorganization Act of 1973 is amended by inserting immediately after the item relating to section 714 the following item:

"Sec. 715. Protection after sale.".

PREFERENTIAL HIRING

SEC. 109. Section 703 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 797b) is amended—

(1) by redesignating subsection (b) as subsection (c); and

(2) by inserting immediately after subsection (a) the following subsection:

"(b) IMPLEMENTATION OF SECRETARY'S PLAN.—Any employee of any railroad who is deprived of employment as a result of the implementation of the Secretary's Plan shall have the first right of hire for a vacancy for which he is qualified on any Norfolk Southern Corporation rail subsidiary, except where such vacancy is covered by (1) an affirmative action plan, or a hiring plan designated to eliminate discrimination, that is required by Federal or State statute, regulation, or Executive order, or by the order of a Federal court or agency, or (2) a permissible voluntary affirmative action plan. For purposes of this subsection, a railroad shall not be considered to be hiring new employees when it recalls any of its own furloughed employees.".

CROSS CRAFT EMPLOYMENT

SEC. 110. (a) Title VII of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 797 et seq.) is amended by inserting immediately after section 703 the following section:

"CROSS CRAFT EMPLOYMENT

"SEC. 703A. Any employee of Norfolk and Western Railway Company, Southern Railway Company, or the Corporation who is deprived of employment as a result of the implementation of the Secretary's Plan shall have the first right of hire for any vacancy for which such employee is qualified at the entry level of any Norfolk Southern Corporation rail subsidiary, without regard to craft or class or the provisions of section 703 of this Act. Such employee shall retain his seniority rights to return to his original craft or class whenever a vacancy occurs. For purposes of this section, a railroad shall not be considered to be hiring new employees when it recalls any of its own furloughed employees.".

(b) The table of contents of the Regional Rail Reorganization Act of 1973 is amended by inserting immediately after the item relating to section 703 the following item:

"Sec. 703A. Cross craft employment.".

Subtitle B—Northeast Rail Service Act of 1981 Amendments

SPECIAL COURT JURISDICTION

SEC. 121. (a) Section 1152 of the Northeast Rail Service Act of 1981 (45 U.S.C. 1105) is amended—

(1) by inserting "or the Conrail Sale Amendments Act of 1985" immediately after "subtitle" wherever it appears;

(2) in subsection (a), by striking "or" at the end of paragraph (3), by striking the period at the end of paragraph (4) and inserting in lieu thereof a semicolon, and by adding at the end thereof the following paragraphs:

"(5) brought by the United States or any agency or instrumentality thereof seeking to enforce the Secretary's Plan or the Definitive Agreements;

"(6) brought by Norfolk Southern Corporation seeking to enforce the Secretary's Plan or the Definitive Agreements;

"(7) brought by a party who filed a complaint with the Secretary under subsection (e) of this section, and who is aggrieved by (A) a determination of the Secretary under paragraph (1) of such subsection that the party has not suffered direct economic injury, or (B) a decision of the Secretary under paragraph (2) of such subsection that a covenant has not been violated;

"(8) brought by a party which is a signatory to an ancillary agreement entered into in accordance with the Secretary's Plan or the Definitive Agreements and which is seeking to enforce such ancillary agreement; or

"(9) brought to determine the value of the interest of the employee stock ownership plan and related trusts, or of the beneficiaries thereof, in the preferred stock of the Conrail Equity Corporation.

For purposes of any action brought under paragraph (5) of this subsection, a violation of any covenant contained in the Secretary's Plan or the Definitive Agreements shall be deemed to constitute immediate and irreparable harm for purposes of awarding injunctive relief to the United States.".

(b) Section 1152 of the Northeast Rail Service Act of 1981 (45 U.S.C. 1105) is amended by adding at the end thereof the following subsection:

"(e)(1) Any party who suffers direct economic injury as a result of an alleged violation of a covenant contained in the Definitive Agreements may file a complaint with the Secretary seeking enforcement of such covenant. If the Secretary determines that the complainant has demonstrated to the Secretary that it has suffered direct economic injury, the Secretary shall investigate the complaint.

"(2) If the Secretary decides to investigate a complaint under paragraph (1) of this subsection, the Secretary shall give reasonable notice of such decision to investigate to the alleged violator of such covenant and the complainant, and shall make a final decision on such complaint within 60 days after the date on which it was filed.

"(3) If the Secretary finds that (A) the covenant in question has been violated, and (B) the complainant suffered direct economic injury as a result of such violation, the Secretary shall enter an order directing the violator of such covenant to comply with such covenant.

"(4) On appeal, any decision by the Secretary under this subsection shall be upheld, unless such decision is found to be arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law.".

APPLICABILITY OF OTHER LAWS

SEC. 122. Section 1168(a) of the Northeast Rail Service Act of 1981 (45 U.S.C. 1116(a)) is amended by striking "service transfers" and inserting in lieu thereof "sale of the interest of the United States in the common stock of Conrail or transfer of the rail properties and freight service responsibilities of Conrail".

Subtitle C—Employee Stock Ownership Plan

RESPONSIBILITY OF EMPLOYEE STOCK OWNERSHIP PLAN FIDUCIARIES

SEC. 131. (a) Section 216(f)(8)(A) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 726(f)(8)(A)) is amended—

(1) by striking "or" at the end of clause (ii);

(2) by striking the period at the end of clause (iii) and inserting in lieu thereof "; or"; and

(3) by adding at the end thereof the following clause:

"(iv) for or in connection with any action taken to implement the Secretary's Plan, including any sale, exchange, valuation, or disposition of the plan and related trust assets, or the assets of Conrail Equity Corporation, in connection with implementation of the Secretary's Plan and any determination of the terms on which any such sale, exchange, valuation, or disposition is effected.".

QUALIFICATION, REVIEW, AND VALUATION OF EMPLOYEE STOCK OWNERSHIP PLANS

SEC. 132. Section 216(f) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 726(f)) is amended by adding at the end thereof the following paragraphs:

"(11) The employee stock ownership plans of the Corporation and related trusts maintained, amended, or adopted in implementing the Secretary's Plan shall be deemed to meet the qualification requirements of sections 401 and 501, respectively, of the Internal Revenue Code of 1954, notwithstanding (A) that such plans may not meet the requirements of section 415 of the Internal Revenue Code of 1954, or (B) that participants in such plans may be entitled to withdraw a portion of the shares allocated to their accounts prior to the expiration of the period generally imposed by the Internal Revenue Service for qualified plans. Such qualification shall relate only to the contributions, allocations, and withdrawals of shares provided for in the Secretary's Plan with respect to the plans and related trusts maintained, amended, or adopted in implementing the Secretary's Plan. Such contributions and allocations shall in no event be

treated as having exceeded the maximum annual addition permitted under section 415 of the Internal Revenue Code of 1954 (but not for purposes of applying section 404(j) of the Internal Revenue Code of 1954) for purposes of calculating any limitation under section 415 with respect to contributions and allocations not described in the Secretary's Plan, including contributions and allocations to plans and related trusts of the Corporation and any affiliated corporation. The continued qualification of such plans with respect to all other contributions, allocations, and withdrawals shall be subject to all provisions of existing law, as amended from time to time. No inference shall be drawn from this paragraph as to whether an amount is a contribution deductible under section 404 of the Internal Revenue Code of 1954 rather than a non-deductible capital expenditure.

"(12) Except as provided in section 1152 of the Northeast Rail Service Act of 1981 (45 U.S.C. 1105), the issuance and sale or contribution of securities by Norfolk Southern Corporation to fulfill arrangements with the Corporation's employees in implementing the Secretary's Plan and the distribution of shares from the Corporation's employee stock ownership plans and related trusts maintained, amended, or adopted in implementing the Secretary's Plan shall not be subject to the registration and prospectus delivery requirements of the Securities Act of 1933, any approval requirement under subtitle IV of title 49, United States Code, or the laws of any State with respect to the issuance and sale of securities.".

TITLE II—TECHNICAL AND CONFORMING AMENDMENTS

REGIONAL RAIL REORGANIZATION ACT OF 1973 AMENDMENTS AND REPEALS

SEC. 201. The following provisions of the Regional Rail Reorganization Act of 1973 are repealed or amended as specified:

(1) Subsections (a) and (b) of section 214 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 724(a) and (b)) are repealed, and such section 214 is amended by striking "(c) ASSOCIATION.—".

(2) Subsection (f) of section 217 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 727(f)) is repealed, without prejudice to the continued availability of funds appropriated prior to the date of enactment of this Act pursuant to section 217(f)(1)(C) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 727(f)(1)(C)).

(3) Section 404 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 764), and the item relating to such section in the table of contents of such Act, are repealed.

(4) Section 405 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 765), and the item relating to such section in the table of contents of such Act, are repealed.

(5) Section 406 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 766), and the item relating to such section in the table of contents of such Act, are repealed.

(6) Section 407 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 767), and the item relating to such section in the table of contents of such Act, are repealed.

(7) Subsections (a) and (d) of section 408 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 768 (a) and (d)) are repealed.

(8) Section 409 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 769), and the item relating to such section in the table of contents of such Act, are repealed.

(9) Section 410 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 769a), and the item relating to such section in the table of contents of such Act, are repealed.

(10) Section 411 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 769b), and the item relating to such section in the table of contents of such Act, are repealed.

(11) Section 412 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 769c), and the item relating to such section in the table of contents of such Act, are repealed.

(12) Section 713 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 797l), and the item relating to such section in the table of contents of such Act, are repealed.

AMENDMENTS AND REPEALS OF OTHER RAIL LAWS

SEC. 202. The following provisions of law are repealed or amended as specified:

(1) Section 1154 of the Northeast Rail Service Act of 1981 (45 U.S.C. 1107), and the item relating to such section in the table of contents of such Act, are repealed.

(2) Section 1161 of the Northeast Rail Service Act of 1981 (45 U.S.C. 1110), and the item relating to such section in the table of contents of such Act, are repealed.

(3) Section 1166 of the Northeast Rail Service Act of 1981 (45 U.S.C. 1114), and the item relating to such section in the table of contents of such Act, are repealed.

(4) Subsection (c) of section 1167 of the Northeast Rail Service Act of 1981 (45 U.S.C. 1115(c)) is repealed.

(5) Subsection (b) of section 1168 of the Northeast Rail Service Act of 1981 (45 U.S.C. 1116(b)) is repealed.

(6) Section 501(8) of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 821(8)) is amended—

(A) by striking "(A)";

(B) by striking "(i)" and inserting in lieu thereof "(A)", and by striking "(ii)" and inserting in lieu thereof "(B)"; and

(C) by striking all after "utilization;".

(7) Section 505 of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 825) is amended—

(A) in subsection (a)(1), by striking all after "railroad" through "1981)"; and

(B) in subsection (b)(2)(C), by striking all after "costs" the second time it appears through "subsidy".

(8) Subsection (b)(1) of section 509 of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 829(b)(1)) is repealed.

(9) Section 511(e) of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 831(e)) is amended by striking "(1)", and by striking all after "time" and inserting in lieu thereof a period.

(10) Section 402 of the Rail Safety and Service Improvement Act of 1982 (45 U.S.C. 825a) is repealed.

(11) Section 1005(b)(1) of the Rail Passenger Service Act (45 U.S.C. 655(b)(1)) is amended by striking "the Consolidated Rail Corporation,".

(12) Section 10362(b)(7)(A) of title 49, United States Code, is amended by striking "by the Consolidated Rail Corporation or".

(13) Section 332(d) of title 49, United States Code, is amended by striking ", the Consolidated Rail Corporation,".

TITLE III—MISCELLANEOUS PROVISIONS

COMMON CARRIER STATUS OF CONRAIL AFTER SALE

SEC. 301. (a) Conrail's status as a common carrier by railroad under section 10102(4) of title 49, United States Code, shall not be affected by virtue of sale of the interest of the United States in Conrail's common stock. Purchase of Conrail stock shall not alone be the basis of a determination that the acquiring entity has become a common carrier by railroad under section 10102(4) of title 49, United States Code.

(b) The Definitive Agreements shall contain a binding commitment by Norfolk Southern Corporation to continue to operate Conrail in full compliance with the provisions of section 10731(e) of title 49, United States Code.

CONSUMMATION OF SALE

SEC. 302. The sale of the interest of the United States in the common stock of Conrail shall be deemed to be consummated on the date title to the common stock passes to Norfolk Southern Corporation and the United States receives the cash purchase price.

CONTRACTS

SEC. 303. (a) Except as provided in subsection (b) of this section, nothing in this Act shall affect—

(1) Conrail's obligation to carry out its transportation contracts and equipment leases, equipment trusts, and conditional sale agreements, in accordance with their terms; and

(2) the obligation of any transferee of divested assets to carry out transportation contracts and equipment leases, equipment trusts, and conditional sale agreements to which such assets are subject, in accordance with their terms.

(b) If a divestiture carried out pursuant to the Secretary's Plan precludes Conrail from providing a transportation service for which it has contracted without a right of termination that may be exercised in the event of the sale of the interest of the United States in the common stock of Conrail and the divestiture will result in a change or modification in the movement of the traffic involved, the transferee of the divested rights and properties and Conrail shall provide the contracted-for service on terms and conditions which, to the maximum extent possible, conform to the terms and conditions in the contract.

CONGRESSIONAL OVERSIGHT OF COMPLIANCE

SEC. 304. The Secretary shall, no later than January 31 of each year, submit to the Committee on Commerce, Science, and Transportation of the Senate and to the Committee on Energy and Commerce of the House of Representatives a report setting forth each certificate which Norfolk Southern Corporation and Conrail provided to the Secretary, during the preceding year, certifying compliance with the covenants contained in the Definitive Agreements.

SEPARABILITY

SEC. 305. If any provision of this Act or the application thereof to any person or circumstances is held invalid, the remainder of this Act and the application of such provision to other persons or circumstances shall not be affected thereby.

EFFECTIVE DATE

SEC. 306. (a) Except as provided in subsection (b) of this section, the provisions of and amendments made by this Act shall take effect on the date of enactment of this Act.

(b) Sections 108(a), 201 and 202 of this Act shall take effect on the date of consummation of the sale of the interest of the United States in the common stock of Conrail.

(c) Any provision of this Act which, pursuant to Article I, Section 7 of the Constitution, provides for raising revenue shall only be effective upon the enactment into law of

a bill which has originated in the House of Representatives enacting such provision.

AMENDMENT No. 1553

Beginning on page 13, line 16, immediately after the period strike out all through line 13 on page 15.

AMENDMENT No. 1554

Beginning on page 13, line 16, immediately after the period strike out all through line 13 on page 15.

DIXON AMENDMENT NOS. 1555 THROUGH 1557

(Ordered to lie on the table.)

Mr. DIXON submitted three amendments intended to be proposed by him to amendment No. 1437 proposed by Mr. DANFORTH to the bill S. 638, supra; as follows:

AMENDMENT No. 1555

On page 10, line 19, beginning with "Such", strike out all through line 24.

AMENDMENT No. 1556

On page 10, line 19, beginning with "Such", strike out all through line 25 on page 15 and insert in lieu thereof quotation marks and a period and the following:

(b) Section 401(a) of the Regional Rail Reorganization Act of 1973 (45 U.S.C 761(a)) is amended by adding at the end thereof the following paragraphs:

"(4) The Secretary shall implement the Secretary's Plan by negotiating, executing, delivering, and performing the Definitive Agreements, which shall conform to the Memorandum of Intent described in section 102(20)(A) of this Act. The Secretary shall, 45 calendar days before the date on which the Secretary anticipates that the interest of the United States in the common stock of the Corporation will be sold to Norfolk Southern Corporation, transmit to the Committee on Commerce, Science, and Transportation of the Senate and to the Committee on Energy and Commerce of the House of Representatives a notification of any alteration from Memorandum of Intent described in sectin 102(20)(A) of this Act which will be made in the Definitive Agreements. After the date of such sale, the Secreatry shall transmit to such Committees notification of any intent to waive compliance with any substantive covenant, agreement or obligation contained in the Definitive Agreements, and the Secretary may not waive such compliance until a period of 45 calendar days has expired after the date of such transmittal.

"(5) The Secretary shall not transfer the interest of the United States in the common stock of the Corporation except concurrently with a divestiture by Norfolk Southern Corporation of rail assets and rights approved by the Attorney General.

"(6) The sale of the interest of the United States in the common stock of the Corporation shall be deemed to be consummated at the date title to the common stock passes to Norfolk Southern Corporation and the United States receives the cash purchase price.".

RAILROAD PURCHASERS AND OFFER FOR SALE OF SHARES TO EMPLOYEES

SEC. 105. Subsections (d) and (e) of section 401 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 761(d) and (e)) are repealed.

CANCELLATION OF DEBT AND PREFERRED STOCK

SEC. 106. Section 402 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 762) is amended to read as follows:

"DEBT AND PREFERRED STOCK

"SEC. 402. (a) RECAPITALIZATION.—In connection with the sale of the interest of the United States in the common stock of the Corporation under section 401 of this Act, and consistent with the Secretary's Plan, the Secretary may take all action necessary to cause the Corporation to be recapitalized such that the interest of the United States, or any agent or instrumentality thereof, and all other commitments or obligations of the Corporation to the United States or any agent or instrumentality thereof arising out of such interest, in any debt (including accrued interest and contingent interest thereon) and preferred stock (including accrued and unpaid dividends thereon) of the Corporation shall be cancelled or retired, and contributed to the capital of the Corporation. The Secretary shall cause the recapitalization authorized by this section to be effective as of the consummation of the sale of the interest of the United States in the common stock of the Corporation.

"(b) BREACH OF REPRESENTATIONS.—(1) Norfolk Southern Corporation or any successor corporation thereto may bring suit for any breach of representations contained in paragraph 6(e) of the Memorandum of Intent described in section 102(20)(A) of this Act (hereinafter referred to as the 'Representations') in the United States Claims Court or a district court of the United States. If such an action is brought, the Claims Court or district court shall determine the amount by which the United States income tax (including interest and penalties whether or not such penalties are assessed as a tax under the Internal Revenue Code of 1954) assessable against the Corporation or against Norfolk Southern Corporation for any year exceeds the amount of such tax which would have been assessable for such year had such Representations not been breached (hereinafter referred to as the 'Offset Amount').

"(2) The Representations shall be considered breached and Norfolk Southern Corporation shall be entitled to bring suit upon the first occurrence of any of the following that is inconsistent with the Representations: (A) the issuance by the Internal Revenue Service of a statutory notice of deficiency (90-day letter), (B) the assessment of the United States income tax, or (C) any claim by the United States in a suit or other judicial proceeding against Norfolk Southern Corporation or the Corporation.

"(3) The right to bring suit pursuant to this section shall not be subject to any waiting period applicable to tax proceedings or to any requirements for payment of any tax as a condition to instituting any suit based on a breach of the Representations.

"(4) Any judgment for money damages relating to breach of the Representations shall only be awarded as an offset in any court or administrative proceeding against the tax liability of Norfolk Southern Corporation or the Corporation, or both, to which such breach relates; except that if any such tax liability resulting from such breach has been paid, the judgment shall to that extent be an offset against any United States income tax liability of the Norfolk Southern Corporation or the Corporation, or both. If any portion of the tax resulting from a breach of the Representations has been paid, then the Offset Amount shall include interest on such payment from the date paid at the rate from time to time specified in the Internal Revenue Code of 1954 for interest payable on refund claims.

"(5) It shall not be a defense to an action brought under this section that Norfolk Southern Corporation knew, or should have known, of the falsity of the Representations or that there exists no carryover basis procedure as contemplated by the last sentence of the Representations.

"(6) For purposes of this section, tax liability of Norfolk Southern Corporation shall include the tax liability of Norfolk Southern Corporation and its affiliated group, within the meaning of section 1504 of the Internal Revenue Code of 1954.".

APPLICABILITY OF CERTAIN LAWS TO SALE OF CONRAIL

SEC. 107. Section 408 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 768) is amended—

(1) by repealing subsection (b);

(2) by amending subsection (c) by striking "No transfer" and all that follows through "subject to"; and

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AMENDMENT No. 1557

On page 10, line 19, beginning with "Such", strike out all through line 25 on page 15 and insert in lieu thereof quotation marks and a period and the following:

(b) Section 401(a) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 761(a)) is amended by adding at the end thereof the following paragraphs:

"(4) The Secretary shall implement the Secretary's Plan by negotiating, executing, delivering, and performing the Definitive Agreements, which shall conform to the Memorandum of Intent described in section 102(20)(A) of this Act. The Secretary shall, 45 calendar days before the date on which the Secretary anticipates that the interest of the United States in the common stock of the Corporation will be sold to Norfolk Southern Corporation, transmit to the Committee on Commerce, Science, and Transportation of the Senate and to the Committee on Energy and Commerce of the House of Representatives a notification of any alteration from Memorandum of Intent described in section 102(20(A) of this Act which will be made in the Definitive Agreements. After the date of such sale, the Secretary shall transmit to such Committees notification of any intent to waive compliance with any substantive covenant, agreement or obligation contained in the Definitive Agreements, and the Secretary may not waive such compliance until a period of 45 calendar days has expired after the date of such transmittal.

"(5) The Secretary shall not transfer the interest of the United States in the common stock of the Corporation except concurrently with a divestiture by Norfolk Southern Corporation of rail assets and rights approved by the Attorney General.

"(6) The sale of the interest of the United States in the common stock of the Corporation shall be deemed to be consummated at the date title to the common stock passes to Norfolk Southern Corporation and the United States receives the cash purchase price.".

RAILROAD PURCHASERS AND OFFER FOR SALE OF SHARES TO EMPLOYEES

SEC. 105. Subsections (d) and (e) of section 401 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 761(d) and (e)) are repealed.

CANCELLATION OF DEBT AND PREFERRED STOCK

SEC. 106. Section 402 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 762) is amended to read as follows:

"DEBT AND PREFERRED STOCK

"SEC. 402. (a) RECAPITALIZATION.—In connection with the sale of the interest of the United States in the common stock of the Corporation under section 401 of this Act, and consistent with the Secretary's Plan, the Secretary may take all action necessary to cause the Corporation to be recapitalized such that the interest of the United States, or any agent or instrumentality thereof, and all other commitments or obligations of the Corporation to the United States or any agent or instrumentality thereof arising out of such interest, in any debt (including accrued interest and contingent interest thereon) and preferred stock (including accrued and unpaid dividends thereon) of the Corporation shall be cancelled or retired, and contributed to the capital of the Corporation. The Secretary shall cause the recapitalization authorized by this section to be effective as of the consummation of the sale of the interest of the United States in the common stock of the Corporation.

"(b) BREACH OF REPRESENTATIONS.—(1) Norfolk Southern Corporation or any successor corporation thereto may bring suit for any breach of representations contained in paragraph 6(e) of the Memorandum of Intent described in section 102(20)(A) of this Act (hereinafter referred to as the 'Representations') in the United States Claims Court or a district court of the United States. If such an action is brought, the Claims Court or district court shall determine the amount by which the United States income tax (including interest and penalties whether or not such penalties are assessed as a tax under the Internal Revenue Code of 1954) assessable against the Corporation or against Norfolk Southern Corporation for any year exceeds the amount of such tax which would have been assessable for such year had such Representations not been breached (hereinafter referred to as the 'Offset Amount').

"(2) The Representations shall be considered breached and Norfolk Southern Corporation shall be entitled to bring suit upon the first occurrence of any of the following that is inconsistent with the Representations: (A) the issuance by the Internal Revenue Service of a statutory notice of deficiency (90-day letter), (B) the assessment of the United States income tax, or (C) any claim by the United States in a suit or other judicial proceeding against Norfolk Southern Corporation or the Corporation.

"(3) The right to bring suit pursuant to this section shall not be subject to any waiting period applicable to tax proceedings or to any requirements for payment of any tax as a condition to instituting any suit based on a breach of the Representations.

"(4) Any judgment for money damages relating to breach of the Representations shall only be awarded as an offset in any court or administrative proceeding against the tax liability of Norfolk Southern Corporation or the Corporation, or both, to which such breach relates; except that if any such tax liability resulting from such breach has been paid, the judgment shall to that extent be an offset against any United States income tax liability of the Norfolk Southern Corporation or the Corporation, or both. If any portion of the tax resulting from a breach of the Representations has been paid, then the Offset Amount shall include interest on such payment from the date paid at the rate from time to time specified in the Internal Revenue Code of 1954 for interest payable on refund claims.

"(5) It shall not be a defense to an action brought under this section that Norfolk Southern Corporation knew, or should have known, of the falsity of the Representations or that there exists no carryover basis procedure as contemplated by the last sentence of the Representations.

"(6) For purposes of this section, tax liability of Norfolk Southern Corporation shall include the tax liability of Norfolk Southern Corporation and its affiliated group, within the meaning of section 1504 of the Internal Revenue Code of 1954.".

APPLICABILITY OF CERTAIN LAWS TO SALE OF CONRAIL

SEC. 107. Section 408 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 768) is amended—

(1) by repealing subsection (b);

(2) by amending subsection (c) by striking "No transfer" and all that follows through "subject to" and inserting in lieu thereof "The Secretary's Plan and the Definitive Agreements and their negotiation, execution, and implementation shall be subject to administrative or"; and

SPECTER (AND OTHERS) AMENDMENT NO. 1558

(Ordered to lie on the table.)

Mr. SPECTER (for himself, Mr. DIXON, Mr. HEINZ, Mr. EXON, Mr. MCCONNELL, Mr. SIMON, Mr. ZORINSKY, Mr. ROCKEFELLER, and Mr. PRESSLER) submitted an amendment intended to be proposed by them to the bill S. 638, supra; as follows:

AMENDMENT No. 1558

In lieu of the matter proposed to be inserted, insert the following:

That this Act may be cited as the "Conrail Public Sale Act of 1985".

FINDINGS

SEC. 2. The Congress finds that—

(1) the Northeast Rail Service Act of 1981 (45 U.S.C. 1101 et seq.) provided for an orderly return of Conrail freight service to the private sector;

(2) the provisions of the Northeast Rail Service Act of 1981 were successful in removing Conrail's obligations beyond railroad freight service and in otherwise preparing Conrail for an orderly return to the private sector;

(3) the Board of Directors of the United States Railway Association twice found Conrail to be a profitable corporation under section 403 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 763);

(4) Morgan Stanley and Company, Incorporated developed a firm proposal on behalf of a diverse group of private investors to purchase the interest of the United States in the common stock of Conrail and to return Conrail to broad private ownership through one or more public stock offerings;

(5) the sale proposal of the investor group organized by Morgan Stanley and Company, Incorporated best meets the objectives of (A) leaving Conrail in the strongest financial position after the sale, (B) preserving patterns of service to shippers and communities in the region that Conrail now serves by continuing Conrail as an independent railroad, and (C) maximizing the return of the United States on its investment consistent with the objectives set forth in subparagraphs (A) and (B);

(6) the sale proposal of the investor group organized by Morgan Stanley and Company, Incorporated satisfies the requirements of the Northeast Rail Service Act of 1981, including the intent, goals, and objectives relating to the sale of the interest of the United States in the common stock of Conrail and the requirements of section 401(e) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 761(e)); and

(7) amendments to the Regional Rail Reorganization Act of 1973 and related laws are needed to permit the sale of the interest of the United States in the common stock of Conrail to the investor group organized by Morgan Stanley and Company, Incorporated and to permit cancellation of the interest of the United States in Conrail debt and preferred stock.

PURPOSE

SEC. 3. It is the purpose of the Congress in this Act to return Conrail to the private sector by directing and facilitating the sale of the interest of the United States in the common stock of Conrail to the investor group organized by Morgan Stanley and Company, Incorporated.

DEFINITIONS

SEC. 4. In this Act, unless the context otherwise requires, the term—

(1) "closing date" means the date that the interest of the United States in the common stock of Conrail is transferred pursuant to the Purchase Agreements;

(2) "Conrail" means the Consolidated Rail Corporation;

(3) "Purchase Agreements" means the agreements between the Purchasers and the Secretary in the form filed with the Committee on Commerce, Science and Transportation of the Senate;

(4) "Purchasers" means the investor group organized by Morgan Stanley and Company, Incorporated to purchase the interest of the United States in the common stock of Conrail as identified in the Shareholders' Agreement;

(5) "Secretary" means the Secretary of Transportation; and

(6) "Shareholders' Agreement" means the agreement among the Purchasers, Conrail and Morgan Stanley and Company, Incorporated in the form filed with the Committee on Commerce, Science and Transportation of the Senate.

TITLE I—AMENDMENTS TO THE REGIONAL RAIL REORGANIZATION ACT OF 1973 AND THE NORTHEAST RAIL SERVICE ACT OF 1981

LIMIT ON AUTHORITY TO PURCHASE STOCK

SEC. 101. Section 216(b) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 726(b)) is amended by adding at the end thereof the following new paragraph:

"(5) The authority of the Association to purchase debentures or series A preferred stock of the Corporation shall terminate upon the closing date.".

RESPONSIBILITY OF CONRAIL DIRECTORS

SEC. 102. Section 301(i) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 741(i)) is amended by inserting immediately after "required by law" the following: ", taken to implement the sale of the interest of the United States in the common stock of the Corporation to the Purchasers,".

APPLICABILITY OF REGIONAL RAIL REORGANIZATION ACT OF 1973 TO CONRAIL AFTER SALE

SEC. 103. Section 301 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 741) is

amended by adding at the end thereof the following new subsection:

"(k) GOVERNING PROVISIONS AFTER SALE.—The provisions of this Act shall not apply to the Corporation and to activities and other actions and responsibilities of the Corporation and its directors after the closing date, other than with regard to—

"(1) section 102;

"(2) section 201(d);

"(3) section 203, but only with respect to information relating to proceedings before the special court established under section 209(b);

"(4) section 216(f)(8), but only as such authority applies to activities related to the ESOP and related trusts before the closing date;

"(5) section 217(e);

"(6) subsection (b) of this section, but only with respect to matters covered by the last sentence of such subsection;

"(7) subsection (i) of this section, but only as such authority applies to service as a director of the Corporation before, or in connection with the implementation of, the sale of the interest of the United States in the common stock of the Corporation;

"(8) section 305, but only as to the effect, and continuing administration, of supplemental transactions consummated before the closing date;

"(9) section 308, but only in abandonment actions when such authority has been relied on to file a notice or notices of insufficient revenues before the closing date;

"(10) section 401;

"(11) section 402;

"(12) section 404;

"(13) section 408;

"(14) section 701, but only as may be necessary to identify employees eligible for benefits prescribed under that section and as provided in section 108 of the Conrail Public Sale Act of 1985;

"(15) section 702(e);

"(16) section 704(b);

"(17) section 709;

"(18) section 710(b)(1);

"(19) section 711; and

"(20) section 714, but only with regard to disputes or controversies specified in such section that arose before the closing date.".

IMPLEMENTATION OF SALE

SEC. 104. (a) Section 401 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 761) is amended to read as follows:

"SALE OF THE CORPORATION

"SEC. 401. (a) PURCHASE AGREEMENT.—As soon as practicable, but not later than 10 days following the date of enactment of the Conrail Public Sale Act of 1985, the Secretary shall execute and deliver on behalf of the United State the Purchase Agreements. The Secretary shall transfer the interest of the United States in the common stock of the Corporation to the Purchasers in accordance with such Agreements.

"(b) CONDITIONS OF SALE.—In addition to the terms and conditions of the Purchase Agreements, the transfer of the interest of the United States in the common stock of the Corporation shall be subject to, and governed by, the terms and conditions of the Shareholders' Agreement and the Conrail Agreement, which shall be executed concurrently with the Purchase Agreements.

"(c) RAILROAD PURCHASERS.—Any railroad which purchases common stock of the Corporation shall vote such stock in the same proportion as all other common stock of the Corporation is voted unless the Commission determines that such railroad has purchased a controlling interest. As used in this subsection, the term 'railroad' shall include any entity controlling, controlled by, or under common control with any railroad (other than the Corporation or its subsidiaries).

"(d) ANTI-TAKEOVER RESTRICTION.—Except as may be provided in the Purchase Agreements with respect to the initial allocation of shares among the Purchasers, no person (with the exception of the ESOP), affiliated group of persons, of group of persons acting in concert may, for a period of five years beginning on the closing date, hold or acquire more than 10 per centum of the outstanding shares of any class of the voting stock of the Corporation.".

(b) The item in the table of contents of the Regional Rail Reorganization Act of 1973 relating to section 401 is amended to read as follows:

"Sec. 401. Sale of the Corporation.".

CANCELLATION OF DEBT AND PREFERRED STOCK

SEC. 105. Section 402 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 762) is amended to read as follows:

"DEBT AND PREFERRED STOCK

"SEC. 402. (a) RECAPITALIZATION.—In connection with the sale of the interest of the United States in the common stock of the Corporation under section 401, and consistent with the Purchase Agreements, the Secretary shall take such action as may be necessary to cause the corporation to be recapitalized to assure that the interest of the United States, or any agent or instrumentality thereof, and all other commitments or obligations of the Corporation to the United States or any agent or instrumentality thereof arising out of such interest, in any debt (including accrued interest and contingent interest thereon) and preferred stock (including accrued and unpaid dividends thereon) of the Corporation shall be canceled or retired and contributed to the capital of the Corporation. The Secretary shall cause the recapitalization authorized by this section to be effective as of the closing date.

"(b) EFFECT.—For purposes of regulation by the Commission and State public utility regulation, the recapitalization authorized by this section, the sale of the interest of the Untied States in the common stock of the Corporation, and the value of the consideration received therefor by the United States shall not reduce the Corporation's investment net of depreciation in any of its assets and shall not affect the calculation of the Corporation's stock or asset values, expenses, costs, returns, profits, or revenues, or otherwise affect or be the basis for a change in the regulation of any railroad service, rate, or practice of the Corporation, including any service, rate or practice provided or established by the Corporation in connection with other carriers,".

PUBLIC INTEREST COVENANTS

SEC. 106. (a) Section 404 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 764) is amended to read as follows:

"PUBLIC INTEREST COVENANTS

"SEC. 404. (a) DEFINITIONS.—For purposes of this section, the term—

"(1) 'affiliate' means, with respect to any person, any other person directly or indirectly controlling, controlled by, or under common control with, such person (for which purpose the term 'control' when used with respect to any person means the possession, directly or indirectly, of power to direct or cause the direction of the management and policies of such person) and, without limiting the generality of the foregoing, includes any officer of such person or of any affiliate of such person;

"(2) 'capital expenditures' means all amounts expended by the Corporation and its subsidiaries for replacement or rehabilitation of, or enhancements to, the railroad plant, property, trackage, and equipment of the Corporation and its subsidiaries, all as determined in accordance with generally accepted accounting principles: *Provided, however,* That no amount spent upon normal repair, maintenance and upkeep of such railroad plant, property, trackage, and equipment in the ordinary course of business shall constitute capital expenditures;

"(3) 'cumulative net income' means, for any period, the net income of the Corporation and its consolidated subsidiaries (after provision for income taxes) properly attributable to the conduct of the business of the Corporation and its consolidated subsidiaries before provision for any preferred stock payments;

"(4) 'debt' means (A) indebtedness, whether or not represented by bonds, debentures, notes, or other securities, for the repayment of money borrowed, (B) all deferred indebtedness for the payment of the purchase price of property or assets purchased, (C) all guaranties, endorsements, assumptions, and other contingent obligations in respect of, or to purchase or to otherwise acquire, indebtedness of others, and (D) all indebtedness secured by any mortgage pledge or lien existing on property owned, subject to such mortgage pledge or lien, whether or not indebtedness secured thereby shall have been assumed;

"(5) 'net additional debt' means, at any time, an amount equal to the difference between the Corporation's consolidated debt outstanding at such time and its consolidated debt outstanding immediately after the closing date;

"(6) 'net additional preferred stock' means, at any time, an amount equal to the fair market value of the consideration received by the Corporation for the issuance of outstanding preferred stock issued subsequent to the closing date;

"(7) 'non-required capital expenditures' means the amount, if any, by which capital expenditures for any fiscal year exceeds the greater of (A) an amount equal to depreciation of the Corporation for financial reporting purposes for such year or (B) $500,000,000;

"(8) 'person' means an individual, corporation, partnership, association, trust, or other entity or organization, including a government or political subdivision thereof or a governmental body;

"(9) 'preferred stock' means any class or series of preferred stock, and any class or series of common stock having liquidation and dividend rights and preferences superior to the common stock acquired by the Purchasers from the Secretary on the closing date; and

"(10) 'subsidiary' means any corporation more than 50 per centum of whose outstanding voting securities are directly or indirectly owned by the Corporation.

"(b) AFFIRMATIVE COVENANTS.—During a period of five years commencing on the closing date:

"(1) The Corporation shall furnish to the Secretary its audited consolidated financial statements within 90 days after the end of each fiscal year of the Corporation and its unaudited interim financial statements within 45 days after the end of each quarter (except the fourth quarter). Such interim fi-

nancial statements shall have received such limited review by the Corporation's independent certified public accountants as such accountants normally accord to interim financial statements of publicly held companies.

"(2) The Corporation and each railroad subsidiary shall continue in the railroad business substantially as such business was being conducted by the Corporation as of February 8, 1985, and such railroad subsidiary and (subject to permitted abandonments and service alterations in accordance with applicable law and the normal procedures and regulations of the Commission) to maintain rail freight services throughout its system that are economically justifiable: *Provided, however,* That expedited abandonment proceedings commenced pursuant to section 308 of this Act before the closing date may be continued, but no new filings of notices of insufficient revenues may be made pursuant to such section. The Corporation shall maintain its corporate existence and its material licenses and franchises.

"(3) Notwithstanding any repeal of section 308 of this Act, the Corporation shall continue its practice of offering any line for which an abandonment certificate is issued by the Commission to a purchaser who agrees to provide interconnecting rail service. Such offer shall last for the 120-day period following the date of issuance of the abandonment certificate and the price for such abandoned line shall be equal to 75 per centum of net liquidation value as determined by the Commission.

"(4) The Corporation and each of its subsidiaries shall maintain, preserve, protect, and keep their respective properties in good repair, working order, and condition, and shall not permit deferred maintenance, in order to provide and maintain rail service as required by paragraph (2) of this subsection.

"(5) The Corporation and each of its subsidiaries shall maintain insurance against loss or damage of the kinds customarily insured against by corporations similarly situated.

"(6) The Corporation shall spend in each fiscal year the greater of (A) an amount equal to the Corporation's depreciation for financial reporting purposes for such year or (B) $500,000,000, in capital expenditures: *Provided, however,* That in any year, the Corporation's Board of Directors may reduce the required capital expenditures for such year to an amount which the Board determines is justified by prudent business and engineering practices: *And further provided,* That in any event, the Corporation's cumulative capital expenditures subsequent to the closing date shall not be less than: $350,000,000 on the first anniversary of the closing date, $700,000,000 on the second anniversary of the closing date, $1,050,000,000 on the third anniversary of the closing date, $1,400,000,000 on the fourth anniversary of the closing date, and $1,750,000,000 on the fifth anniversary of the closing date.

"(7) The Corporation and each of its subsidiaries shall pay all debt promptly when due and payable.

"(8) The Corporation and each of its subsidiaries shall keep proper books and records in which full, true, and correct entires of all transactions will be made in accordance with generally accepted accounting principales (as applicable to companies subject to the reporting requirements of the Securities Exchange Act of 1934) applied on a consistent basis.

"(9) The Corporation shall continue to operate from its headquarter in Philadelphia, Pennsylvania, and to retain its locomotive shop and car repair shop in Altoona, Pennsylvania;

"(10) The Corporation shall continue to maintain or reestablish, with the small eastern rail carriers of less than $300,000,000 annual operating revenues, reasonably efficient routes of major importance at the request of any such rail carriers.

"(11) The Corporation shall continue its affirmative action program, including its minority vendor program, substantially as such program was being conducted by the Corporation as of February 8, 1985, subject to any provisions of applicable law.

"(12)(A) Within 45 days after the close of each fiscal quarter of the Corporation and promptly following the declaration of any common or preferred stock payment described in paragraph (5) or (6) of subsection (c) of this section by the Board of Directors of the Corporation, but not later than 10 days before making such payment, the Corporation shall deliver to the Secretary a certificate executed by an executive officer or representative of the Corporation which shall (i) certify that as of such date, and, in the case of any such certificate delivered in connection with such payment, after giving effect thereto, the Corporation shall have complied, and, after giving effect to such payment, shall then be in compliance with, all of the covenants set forth in this section and that no default exists, or after giving effect to such payment, would exist, with respect to any such covenant, and (ii) set forth all computations necessary to evidence compliance with all of the covenants set forth in this section at the date of such certificate, and in the case of any such certificate delivered in connection with such payment on a pro forma basis after giving effect to such payment.

"(B) The Secretary shall, not later than January 31 of each year, submit to the Committee on Energy and Commerce of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a reporting listing the certificates required under subparagraph (A) that were submitted by the Corporation during the preceding calendar year.

"(13) The Corporation shall give prompt notice to the Secretary and to each of the signatories to the Shareholder's Agreement of any default under way of the covenants set forth in subsection (b) or (c) of this section.

"(c) NEGATIVE COVENANTS.—During a period of 5 years commencing on the closing date:

"(1) The Corporation shall not, absent insolvency, liquidate, wind-up, dissolve, or file for voluntary reorganization under title 11 of the United States Code or any other law relating to bankruptcy, insolvency, or relief of debtors.

"(2) The Corporation shall not permit to occur any transaction or series of transactions (other than in the ordinary course of business of the Corporation and its subsidiaries) whereby all or any substantial part of the railroad assets and business of the Corporation and its subsidiaries taken as a whole are sold, leased, transferred, or otherwise disposed of to any corporation or entity other than to a wholly-owned subsidiary of the Corporation.

"(3) The Corporation shall not merge or consolidate with or into any corporation or any other entity. The Corporation shall not permit any subsidiary to merge or consolidate with or into any other entity unless, after giving effect to such merger or consolidation—

"(A) the Corporation shall be fully in compliance with all of the convenants enumerated in this section;

"(B) all of the covenants enumerated in this section shall continue to apply to the surviving or resulting entity of such merger or consolidation fully and to the same extent as they applied to the Corporation or to its subsidiaries (as the case may be) immediately prior to such merger or consolidation; and

"(C) such merger or consolidation shall not have violated any of the provisions of paragraph (8) of this subsection.

"(4) In connection with the financing of the purchase price of the common stock of the Corporation sold pursuant to the purchase agreements, (A) the Corporation shall not use its cash or cash equivalents on hand, other than in connection with the transactions which employees contemplated by such agreement and (B) the Corporation shall not subject its or its subsidiaries' assets to any pledge, lien, mortgage, or other security interest.

"(5)(A) Except as otherwise provided under subparagraph (B), the Corporation shall not at any time, in respect of any shares of any class or series of the common stock of the Corporation—

"(i) declare or pay any dividends in cash, property, or other assets (other than dividends payable solely in shares of any class or series of the common stock of the Corporation) thereon;

"(ii) apply any of its property or assets to the purchase, redemption, or other acquisition or retirement thereof;

"(iii) set apart any sum for the purchase, redemption, or other acquisition or retirement thereof, or

"(iv) make any other distribution, by reduction of capital or otherwise.

Any action described in clause (i), (ii), (iii), or (iv) with respect to the Corporation's common stock is hereinafter in this section referred to as a common stock payment.

"(B) No such common stock payment shall be made except to the extent that each of the conditions set forth below shall have been satisfied:

"(i) Such common stock payment is entirely in cash and the Corporation shall, after giving effect to such common stock payment, be fully in compliance with all of the covenants enumerated in this section.

"(ii) Immediately after giving effect to such common stock payment, the cumulative amount of all common stock payments made subsequent to the closing date shall not exceed (I) 40 per centum of the cumulative net income of the Corporation accrued subsequent to the closing date minus (II) the cumulative amount of all preferred stock payments (as defined in paragraph (6) of this subsection) made subsequent to the closing date.

"(iii) Immediately after giving effect to such common stock payment, the Corporation shall have cash and cash equivalents on hand at such time not less than the greater of: (I) $500,000,000, or (II) the sum of $500,000,000, net additional debt, and net additional preferred stock (the 'formula'): *Provided, however,* that the formula shall be reduced by an amount equal to cumulative nonrequired capital expenditures made by the Corporation subsequent to the closing date.

"(6)(A) Except as provided under paragraph (B), the Corporation shall not in respect of any shares of any class or series of preferred stock of the Corporation—

"(i) declare or pay any dividends in cash, property, or other assets thereon;

"(ii) apply any of its property or assets to the purchase, redemption, or other acquisition or retirement thereof;

"(iii) set apart any sum for the purchase, redemption, or other acquisition or retirement thereof; or

"(iv) make any other distribution, by reduction of capital or otherwise.

Any action described in clause (i), (ii), (iii), or (iv) with respect to the Corporation's preferred stock is hereinafter in this paragraph referred to as a 'preferred stock payment'.

"(B) No such preferred stock payment shall be made except to the extent that each of the conditions set forth below shall have been satisfied:

"(i) Such preferred stock payment is entirely in cash and the Corporation shall, after giving effect to such preferred stock payment, be fully in compliance with all of the covenants enumerated in paragraphs (6) and (7) of subsection (b), and paragraphs (2), (3), (5), and (6) of subsection (c), of this section.

"(ii) Immediately after giving effect to such preferred stock payment, the cumulative amount of all common stock payments and all preferred stock payments made subsequent to the closing date shall not exceed the cumulative net income of the Corporation accrued subsequent to the closing date.

"(iii) Immediately after giving effect to such preferred stock payment, the Corporation shall have cash and cash equivalents on hand at such time not less than $500,000,000.

"(7) Notwithstanding paragraph (5) of this subsection, if the Corporation is in default in making capital expenditures pursuant to subsection (b)(6) of this section, common stock payments may not be made until the Corporation is again in compliance with such subsection (b)(6).

"(8)(A) The Corporation shall, and shall permit its subsidiaries to, enter into transactions with the Purchasers and their affiliates only if such transactions are (i) in the aggregate fair to the Corporation and its subsidiaries, and (ii) similar in kind and nature to, and documented, recorded, and accounted for in the same manner as, transactions between the Corporation and other persons not affiliated with the Corporation or with any of the Purchasers.

"(B) Except in the implementation of the transactions contemplated by the Conrail Sale Agreements, the Corporation and its subsidiaries shall not engage in any of the following transactions with any Purchaser or its affiliates;

"(i) transfer, by merger, assumption, or otherwise, of any obligation of any Purchaser or its affiliates to the Corporation or any subsidiary in an amount greater than the value of the transferee of such merger, assumption, or other transaction;

"(ii) loans or advances by the Corporation or any subsidiary to any Purchaser or its affiliates; purchases or other acquisitions by the Corporation or any subsidiary of any capital stock, obligations, or securities of any Purchaser or its affiliates; capital contributions to or investments in or guarantees of any debt or obligation of any Purchaser or its affiliates by the Corporation or any subsidiary; and

"(iii) assignments of any right to receive income for a consideration of less value than such right by the Corporation or any subsidiary to any Purchaser or its affiliates.

"(C) Nothing in this paragraph shall prohibit transactions between the Corporation and any of its subsidiaries or among any of such subsidiaries.

"(9) In no event shall the Corporation obtain a reversion of any excess assets held in the trust or a successor trust maintained with the Corporation's supplemental pension plan or any successor plan. The Corporation shall not terminate its supplemental pension plan.

"(10) The Corporation shall not amend, modify, rescind, or revoke any provision of the Corporation's restated articles of incorporation relating to the relative rights, preferences, and limitations of any series or class of capital stock of the Corporation held by the Purchasers immediately after the closing date.

"(d) ACCOUNTING TERMS AND DETERMINATIONS.—(1) Unless otherwise specified in this section, all accounting terms used in this section shall be interpreted, all accounting determinations shall be made, and all financial statements required to be delivered shall be prepared, in accordance with generally accepted accounting principles as in effect from time to time in the United States, applied on a basis consistent (except for changes approved by the Corporation's independent public accountants) with the most recent audited consolidated financial statements of the Corporation.

"(2) For the purpose of calculations under paragraphs (5) and (6) of subsection (c), the transactions by which the Purchasers assumed ownership of the Corporation's common stock shall be accounted for as a recapitalization of the Corporation with a 100 per centum revaluation of the Corporation's assets and liabilities based on the fair value of the new capital structure.

"(e) ADMINISTRATION.—(1) The Secretary may, upon application by the Corporation, waive (in whole or in part) any provision of this section if the Secretary determines in writing that such waiver would not impair continued rail service by the Corporation and its railroad subsidiaries or result in a material reduction in the financial strength of the Corporation and its subsidiaries taken as a whole.

"(2) The Secretary shall transmit to the Committee on Energy and Commerce of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate any determination under paragraph (1).

"(3) No waiver shall be effective under this subsection until after the expiration of 45 calendar days after the transmittal required by paragraph (2).".

(b) The item in the table of contents of the Regional Rail Reorganization Act of 1973 relating to section 404 is amended to read as follows:

"Sec. 404. Public interest covenants.".

APPLICABILITY OF CERTAIN LAWS TO THE SALE OF CONRAIL

SEC. 107. (a) Section 408 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 768) is amended to read as follows:

"REVIEW

"SEC. 408. (a) AGREEMENTS.—Except as provided in section 1152 of the Northeast Rail Service Act of 1981 (45 U.S.C. 1105), the Conrail Sale Agreements and their negotiation, execution, and implementation shall not be subject to administrative or judicial review or to review by the Commission.

"(b) WARRANTS.—Warrants issued to the Secretary under the Conrail Agreement, and any shares of stock issued upon the exercise of such warrants, shall be deemed to have been issued and approved under section 1130(b) of title 49, United States Code.".

(b) The item in the table of contents of the Regional Rail Reorganization Act of 1973 relating to section 408 is amended to read as follows:

"Sec. 408. Review.".

LABOR PROTECTION

SEC. 108. (a) Notwithstanding any other provision of law, the benefit schedule prescribed by the Secretary of Labor under section 701(a)(2) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 797(a)(2)) shall continue in force and effect until superseded by an agreement between Conrail and the representatives of the various classes and crafts of employees of Conrail providing for protection for employees of Conrail.

(b) Conrail shall be responsible for funding all benefits under subsection (a) after the closing date, and the United States shall not be liable for any such benefits after that date.

SPECIAL COURT JURISDICTION

SEC. 109. Section 1152 of the Northeast Rail Service Act of 1981 (45 U.S.C. 1105) is amended—

(1) by inserting "or the Conrail Public Sale Act of 1985" immediately after "subtitle" each place it appears;

(2) in the second sentence of subsection (c), by inserting ", as the case may be," after the insertion made by paragraph (1) of this section;

(3) in subsection (a), by striking out "or" at the end of paragraph (3), by striking out the period at the end of paragraph (4) and inserting in lieu thereof a semicolon, and by adding at the end thereof the following:

"(5) brought by the United States to enforce section 401 or 404 of the Regional Rail Reorganization Act of 1973 or any term or condition of the Conrail Sale Agreements entered into under such section 401;

"(6) brought by one or more of the Purchasers to enforce any obligation of the United States (or any agency or instrumentality thereof) under the Conrail Sale Agreement entered into under section 401 of the Regional Rail Reorganization Act of 1973; or

"(7) brought by the Corporation to enforce section 401 of the Regional Rail Reorganization Act of 1973.

For purposes of any action brought under paragraph (5) of this subsection, a violation of any provision of subsection (b) or (c) of section 404 of the Regional Rail Reorganization Act of 1973 shall be deemed to constitute immediate and irreparable harm for purposes of awarding injunctive relief to the United States."; and

(4) by adding at the end the following new subsection:

"(e) Any person who suffers direct economic injury as a result of an alleged violation by Conrail of any provision of subsection (b) or (c) of section 404 of the Regional Rail Reorganization Act of 1973 may petition the Secretary to seek enforcement of such provision. If the Secretary determines that a petitioner has demonstrated that it has suffered direct economic injury as a result of such a violation, the United States shall bring an action under subsection (a)(5) to require Conrail to comply with such provision.".

APPLICABILITY OF OTHER LAWS

SEC. 110. (a) Section 1168(a) of the Northeast Rail Service Act of 1981 (45 U.S.C. 1116(a)) is amended by striking out "imple-

menting service transfers" and inserting in lieu thereof "implementing the sale of the interest of the United States in the common stock of Conrail".

(b) Section 16(b) of the Securities Exchange Act of 1934 (15 U.S.C. 78p(b)) shall not apply to any public sale of Conrail common stock by the Purchasers for a period of seven months beginning on the closing date.

TITLE II—TECHNICAL AND CONFORMING AMENDMENTS AND REPEALS

SEC. 201. The following provisions of the Regional Rail Reorganization Act of 1973 are repealed or amended as follows:

(1) Section 102 (45 U.S.C. 702) is amended—

(A) by inserting after paragraph (1) the following new paragraph:

"(1A) 'closing date' means the date that the interest of the United States in the common stock of the Corporation is transferred pursuant to the Purchase Agreements;";

(B) by inserting after paragraph (4) the following new paragraphs:

"(4A) 'Conrail Agreement' means the agreement between the Corporation and the Secretary in the form filed with the Committee on Commerce, Science and Transportation of the Senate;

"(4B) Conrail Sale Agreements' means the Conrail Agreement, the Purchase Agreements, and the Shareholders' Agreement;";

(C) by inserting after paragraph (7) the following new paragraph:

"(7A) 'ESOP' means the Consolidated Rail Corporation Employee Stock Ownership Plan adopted July 25, 1980, as amended, and the trust created in connection therewith;";

(D) by inserting after paragraph (13) the following new paragraphs:

"(13A) 'Purchase Agreements' means the agreements between the Purchasers and the Secretary in the form filed with the Committee on Commerce, Science and Transportation of the Senate;

"(13B) 'Purchasers' means the investor group organized by Morgan Stanley and Company, Incorporated to purchase the interest of the United States in the common stock of the Corporation as identified in the Shareholders' Agreement;"; and

(E) by inserting after paragraph (18) the following new paragraph:

"(18A) 'Shareholders' Agreement' means the agreement among the Purchasers, the Corporation, and Morgan Stanley and Company, Incorporated in the form filed with the Committee on Commerce, Science and Transportation of the Senate;".

(2) Subsections (a) and (b) of section 214 (45 U.S.C. 724(a) and (b)), are repealed, and such section 214 is amended by striking out "(c) ASSOCIATION.—".

(3) The following provisions of the Regional Rail Reorganization Act of 1973 (together with the item relating to each such provision contained in the table of contents of such Act) are repealed:

(A) Section 405 (45 U.S.C. 765).
(B) Section 406 (45 U.S.C. 766).
(C) Section 407 (45 U.S.C. 767).
(D) Section 409 (45 U.S.C. 769).
(E) Section 410 (45 U.S.C. 769a).
(F) Section 411 (45 U.S.C. 769b).
(G) Section 412 (45 U.S.C. 769c).
(H) Section 713 (45 U.S.C. 797l).

AMENDMENTS AND REPEALS OF OTHER RAIL LAWS

SEC. 202. (a) The following provisions of the Northeast Rail Service Act of 1981 are amended as follows:

(1) Section 1135(a) (45 U.S.C. 1104(a)) is amended by inserting after paragraph (5) the following new paragraphs:

"(5A) 'Conrail Agreement' means the agreement between Conrail and the Secretary in the form filed with the Committee on Commerce, Science and Transportation of the Senate;

"(5B) 'Conrail Sale Agreements' means the Conrail Agreement, the Purchase Agreements, and the Shareholders' Agreement.

"(5C) 'Purchase Agreements' means the agreements between the Purchasers and the Secretary in the form filed with the Committee on Commerce, Science and Transportation of the Senate;

"(5D) 'Purchasers' means the investor group organized by Morgan Stanley and Company, Incorporated to purchase the interest of the United States in the common stock of Conrail as identified in the Shareholders' Agreement."; and

(2) by inserting after paragraph (7) the following new paragraph:

"(7A) 'Shareholders' Agreement' means the agreement among the Purchasers, Conrail, and Morgan Stanley & Co. Incorporated in the form filed with the Committee on Commerce, Science and Transportation of the Senate;

(b)(1) The following provisions of the Northeast Rail Service Act of 1981 are repealed:

(A) Section 1154 (45 U.S.C. 1107).
(B) Section 1161 (45 U.S.C. 1110).
(C) Section 1166 (45 U.S.C. 1114).
(D) Subsection (c) of section 1167 (45 U.S.C. 1115).

(2) The items relating to such sections 1154, 1161, and 1166 in the table of contents of such Act are repealed.

(c) Section 501(8) of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 821(8)) is amended by striking out "(A)" and by striking out all that follows "improved asset utilization;".

(d) Section 505 of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 825) is amended—

(1) in subsection (a)(1), by striking out all after "railroad" through "1981)"; and

(2) in subsection (b)(2)(C), by striking out all after "costs" the second time it appears through "subsidy".

(e) Subsection (b)(1) of section 509 of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 829) is repealed.

(f) Section 511(e) of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 831(e)) is amended—

(1) by striking out "(1)" in the first paragraph;

(2) by striking all that follows "time" in the first paragraph and inserting in lieu thereof a period; and

(3) by striking out paragraph (2).

(g) Section 402 of the Rail Safety and Service Improvement Act of 1982 (45 U.S.C. 825a) is repealed.

(h) Section 1005(b)(1) of the Rail Passenger Service Act (45 U.S.C. 655(b)(1)) is amended by striking out "the Consolidated Rail Corporation,".

(i) Section 10362(b)(7)(A) of title 49, United States Code, is amended by striking out "by the Consolidated Rail Corporation or".

(j) Section 332(d) of title 49, United States Code, is amended by striking out ", the Consolidated Rail Corporation,".

EFFECT OF REPEALS

SEC. 203. All repeals under this Act of provisions authorizing the appropriation of funds are made without prejudice to the continued availability of funds appropriated under such provisions before the effective date of such repeal.

TITLE III—REVENUE PROVISIONS

TAX TREATMENT

SEC. 301. (a) GENERAL RULE.—Except as provided in subsection (b), nothing in this title (or in any amendment made by this title) shall affect the Federal tax treatment of Conrail (or of any affiliated group of which it is a member).

(b) MODIFICATION AND CLARIFICATION OF TAX TREATMENT.—For purposes of the Internal Revenue Code of 1954—

(1) CONRAIL CARRYFORWARDS MAY NOT BE CARRIED FORWARD.—No Conrail net operating loss, capital loss, or credit under the Internal Revenue Code of 1954 attributable to any period before the closing date may be carried forward to any period after the closing date.

(2) NO INCOME FROM CANCELLATION OF DEBT OR PREFERRED STOCK.—No amount shall be included in the gross income of any person (and no basis adjustment in the assets of Conrail shall be made) by reason of any cancellation of any obligation (or preferred stock) of Conrail in connection with the Conrail Sale Agreements.

(3) ADJUSTED BASIS.—The adjusted basis of Conrail's assets shall not be increased by any adjustment relating to any period prior to the closing date.

(4) EARNINGS AND PROFITS.—For purposes of section 316 of the Internal Revenue Act of 1954, Conrail shall be deemed to have accumulated earnings and profits of $500,000,000 as of the closing date.

(5) WAIVER OF CERTAIN EMPLOYEE STOCK OWNERSHIP PLAN PROVISIONS.—For purposes of determining whether the employee stock ownership plans of Conrail meet the qualifications of sections 401 and 501 of the Internal Revenue Code of 1954 the limits of section 415 of such Code (relating to limitations on benefits and contributions under qualified plans) shall not apply with respect to interests in stock transferred pursuant to a law heretofore enacted.

(6) TAXABLE YEAR OF CONRAIL.—The taxable year of Conrail shall close as of the closing date.

DEFINITIONS

SEC. 302. For purposes of this title—

(1) CONRAIL.—The term "Conrail" includes any corporation which was a subsidiary of Conrail immediately before the closing date.

(2) CONRAIL SALE AGREEMENTS.—The term "Conrail Sale Agreements" has the same meaning such term is given in paragraph (4B) of section 102 of the Regional Rail Reorganization Act of 1973, and includes all representations and warranties made in such agreements, entered into to implement this Act.

TITLE IV—MISCELLANEOUS PROVISIONS

COMMON CARRIER STATUS OF CONRAIL AFTER SALE

SEC. 401. Conrail shall be a common carrier by railroad under section 10102(4) of title 49, United States Code, notwithstanding this Act. Purchase of Conrail stock shall not be the sole basis of a determination that any Purchaser has become a common carrier by railroad under section 10102(4) of title 49, United States Code.

SEPARABILITY

SEC. 402. If any provision of this Act or the application thereof to any person or cir-

cumstance is held invalid, the remainder of this Act and the application of such provision to other persons or circumstances shall not be affected thereby.

EFFECT ON CONTRACTS

SEC. 403. Nothing in this Act shall affect any obligation of Conrail to carry out its transportation contracts and equipment leases, equipment trusts, and conditional sales agreements, in accordance with their terms.

EFFECTIVE DATES

SEC. 404. (a) Except as provided in subsection (b), the provisions of this Act, and amendments made by such provisions, shall take effect on the date of enactment of this Act.

(b) Sections 108, 201, and 202 of this Act shall take effect on the closing date, except that subsection (a) of each of sections 201 and 202 shall take effect on the date of enactment of this Act.

(c) Any provision of this Act which, pursuant to Article I, Section 7 of the Constitution, provides for raising revenue shall only be effective upon the enactment into law of a bill which has originated in the House of Representatives enacting such provision.

LONG AMENDMENT NO. 1559

(Ordered to lie on the table.)

Mr. LONG submitted an amendment intended to be proposed by him to amendment No. 1437 proposed by Mr. DANFORTH to the bill S. 638, supra; as follows:

AMENDMENT NO. 1559

On page 22, strike all from line 2 through line 19 on page 24, and insert in lieu thereof the following:

RESPONSIBILITY OF EMPLOYEE STOCK OWNERSHIP PLAN FIDUCIARIES

SEC. 131. (a) Section 216(f)(8)(A) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 726(f)(8)(A)) is amended—

(1) by striking "or" at the end of clause (ii);

(2) by striking the period at the end of clause (iii) and inserting in lieu therof "; or"; and

(3) by adding at the end thereof the following clause:

"(iv) for or in connection with any action taken to implement the Secretary's Plan or the valuation and payment procedures set forth in paragraph (13) of this subsection, including any sale, exchange, valuation, or disposition of plan and related trust assets or the assets of ConRail Equity Corporation and any determination of the terms on which any such sale, exchange, valuation, or disposition is effected.".

(b) Section 218(f)(8)(C) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 726(f)(8)(C)) is amended—

(1) by inserting "Norfolk Southern Corporation," immediately after "the Association," in clause (i); and

(2) by inserting ", of Norfolk Southern Corporation" immediately after "Association" in clause (ii).

INDEMNITY OBLIGATION

SEC. 132. Section 216(f)(9) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 726(f)(9)) is amended by inserting ", other than Norfolk Southern Corporation, its directors, officers, employees and agents, and any of their successors and assigns," immediately after "(8)(C) of this subsection".

QUALIFICATION, REVIEW, AND EVALUATION OF EMPLOYEE STOCK OWNERSHIP PLANS

SEC. 133. Section 216(f) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 726(f)) is amended by adding at the end thereof the following paragraphs:

"(11)(A) The employee stock ownership plans of the Corporation and related trusts maintained, amended, or adopted in implementing the Secretary's Plan shall not be deemed to fail to satisfy the qualification requirements of sections 401 and 501 of the Internal Revenue Code of 1954 merely because (i) contributions and allocations with respect to such plans may not meet the requirements of section 415 of the Internal Revenue Code of 1954, (ii) participants in such plans may be entitled to withdraw all or part of the amounts allocated to their accounts prior to the expiration of the period generally imposed by the Internal Revenue Service for for qualified plans, and (iii) distributions and withdrawals from such plans may be required to be made in cash, rather than in shares of stock.

"(B) The qualification deemed under subparagraph (A) of this paragraph shall relate only to contributions, allocations, withdrawals, and distributions that fulfill arrangements with or for the Corporation's employees in implementing the Secretary's Plan. All contributions and allocations provided for in such arrangements shall in no event be treated as exceeding the maximum annual addition permitted under section 415 of the Internal Revenue Code of 1954 (but not for purposes of applying section 404(j) of the Internal Revenue Code of 1954) for purposes of calculating any limitation under section 415 with respect to contributions, allocations, and benefits not described in the Secretary's Plan, including contributions, allocations, and benefits under any other employee benefit plans and related trusts of the Corporation and any affiliated corporation.

"(C) The continued compliance of the employee benefit plans of the Corporation and any affiliated corporation and any related trust with the qualification requirements of the Internal Revenue Code with respect to all contributions, allocations, withdrawals, and distributions that do not fulfill arrangements with or for the Corporation's employees in implementing the Secretary's Plan shall be subject to all provisions of existing law, as amended from time to time. Nothing in this paragraph or in paragraphs (12) and (13) of this subsection shall be construed to permit the transfer of assets from any employee benefit plan subject to the qualification requirements of the Internal Revenue Code to any other plan or the Corporation or any affiliated corporation without full compliance with all applicable requirements of existing law, as amended from time to time. No inference shall be drawn from this paragraph or paragraphs (12) or (13) of this subsection as to whether an amount is a contribution deductible under section 404 of the Internal Revenue Code of 1954 or a nondeductible capital expenditure.

"(12) Except as provided in section 1152 of the Northeast Rail Service Act of 1981 (45 U.S.C. 1105), the issuance and sale or contribution of securities by Norfolk Southern Corporation or the Corporation for the benefit of the Corporation's employees as part of arrangements to implement the Secretary's Plan and the distribution of shares from the Corporation's employee stock ownership plans and related trusts maintained, amended, or adopted in implementing the Secretary's Plan shall not be subject to the registration and prospectus delivery requirements of the Securities Act of 1933, any approval requirement under subtitle IV of title 49, United States Code, or the laws of any State with respect to the issuance and sale of securities.

"(13)(A) Effective upon consummation of the sale of all of the interest of the United States in the common stock of the Corporation, the Consolidated Rail Corporation Employee Stock Ownership Plan (hereinafter in this paragraph referred to as the 'ESOP') shall be amended—

"(i) to provide that the amount that would otherwise be contributed to the ESOP for the then current Plan Year (as such term is defined in the ESOP) shall be adjusted in proportion to the ratio of the number of full calendar months in the Plan Year before the consummation of the sale to twelve months;

"(ii) to provide for the contribution to the ESOP immediately following the sale (if not already made) of all shares of ConRail Equity Corporation's preferred stock representing the contribution for the then current Plan Year (as adjusted in accordance with clause (i)) and all prior Plan Years;

"(iii) to permit no additional contributions to the ESOP other than the contributions referred to in clause (ii);

"(iv) to provide that the contribution for the then current Plan Year (as adjusted in accordance with clause (i)) shall be allocated among participants as of the date on which the sale is consummated based on the hours of service of such participants as of such date and that, for purposes of such allocation, the 1,000 hours-of-service requirement with respect to the then current Plan Year shall be adjusted in proportion to the ratio of the number of full calendar months in the Plan Year before the consummation of the sale to twelve months;

"(v) to terminate and extinguish any and all rights of the ESOP and its beneficiaries in respect of shares of the Corporation's common stock held by ConRail Equity Corporation (which shares may then be cancelled by the Corporation) and in respect of future contributions of ConRail Equity Corporation's preferred stock; and

"(vi) to provide for the withdrawal of each participant's account balance in the ESOP as soon as practicable after such account is reduced to cash or securities pursuant to subparagraph (B) of this paragraph.

"(B)(i) Each present and former participant in the ESOP and each designated beneficiary of a deceased participant in the ESOP having shares of ConRail Equity Corporation's preferred stock allocated to his account pursuant to the ESOP (hereinafter in this paragraph referred to as the 'vested participant') shall be provided by the Corporation or Norfolk Southern Corporation with notice as promptly as possible, but in no event later than sixty days following the effective date of the Conrail Sale Amendments Act of 1985, that each vested participant must irrevocably elect, before or within forty-five days after the date the sale is consummated, either the payment alternative (as described in clause (ii)) or the appraisal alternative (as described in clause (iii)).

"(ii) Upon a valid election of the payment alternative by a vested participant and upon consummation of the sale of the interest of the United States in the common stock of the Corporation, (I) such vested participant's ESOP account shall be credited with an amount equal to $48.00 per share of ConRail Equity Corporation preferred stock al-

located to his account, which amount shall be paid in cash (or Norfolk Southern Corporation common stock of equivalent value pursuant to clause (iv)) to ConRail Equity Corporation by Norfolk Southern Corporation or the Corporation from funds committed by them for the benefit of the Corporation's employees as part of arrangements to implement the Secretary's Plan, deposited by ConRail Equity Corporation in the ESOP, and distributed in accordance with the terms of the ESOP as amended pursuant to subparagraph (A) of this paragraph; (II) Norfolk Southern Corporation shall offer to employees electing the payment alternative the option of receiving Norfolk Southern Corporation common stock of equivalent value (valued at its closing price on the date the sale is consummated) and, as to employees so electing, such stock plus cash for any fractional rights shall be credited, paid in, deposited, and distributed as provided in this clause in lieu of cash; and (III) the shares of ConRail Equity Corporation preferred stock in such vested participant's account shall be transferred by the ESOP to ConRail Equity Corporation for cancellation.

"(iii) Upon election of the appraisal alternative by a vested participant and upon consummation of the sale of the interest of the United States in the common stock of the Corporation, (I) the shares of ConRail Equity Corporation preferred stock allocated to such vested participant's account under the ESOP shall be transferred by the ESOP to ConRail Equity Corporation and cancelled; (II) the fair value of the shares of ConRail Equity Corporation preferred stock allocated to such vested participant's account under the ESOP together with all other rights, if any, of such vested participant under the ESOP shall be determined pursuant to subparagraph (C) of this paragraph by the special court established under section 209 of this Act; (III) such fair value (together with interest accrued from the date of sale to the date of payment and calculated at the rate in effect under section 6621(b) of the Internal Revenue Code of 1954 on the date the sale is consummated; plus any dividends) shall be paid to the ESOP from funds committed by the Corporation or Norfolk Southern Corporation for the benefit of the Corporation's employees as part of arrangements to implement the Secretary's Plan, plus interest and dividends accrued thereon from the date of the sale; (IV) the United States shall not be liable to any vested participant for any part of such fair value or accrued interest; and (V) such fair value and accrued interest shall be allocated to such vested participant's account under the ESOP in cash and distributed in accordance with the terms of ESOP, as amended pursuant to subparagraph (A) of this paragraph.

"(iv) The notice given to each vested participant shall include, among other things, statements indicating that the election to be made is irrevocable, that vested participants who elect the appraisal alternative must bear the costs of the valuation proceeding and their own legal expenses, and that, under the appraisal alternative, the fair value of each share of ConRail Equity Corporation preferred stock and all other rights (if any) under the ESOP will be determined by the special court taking into account the factors set forth in subparagraph (D) of this paragraph and such value may be more or less than $48.00 per share and may, in fact, be determined to be zero.

"(v) In the event neither the payment alternative nor the appraisal alternative is elected by a vested participant for any reason, such vested participant shall be deemed to have elected the payment alternative.

"(C)(i) Exclusive jurisdiction to hear all cases concerning appraisal of the ESOP shall be in the special court, and all such cases shall be considered by the special court on an expedited basis.

"(ii) Immediately following expiration of the forty-five-day election period set forth in the notice required by subparagraph (B)(i) of this paragraph, if any vested participant shall have elected the appraisal alternative, the Corporation shall commence an action in the special court to determine the fair value, as of the date immediately preceding the date of consummation of the sale, of the preferred stock of ConRail Equity Corporation allocated to such vested participant's account in the ESOP (including any shares contributed in accordance with subparagraph (A)(ii) of this paragraph) together with all other rights, if any, of such vested participant under the ESOP.

"(iii) The special court shall give notice of the time and place fixed for the hearing of such appraisal proceeding, in a form to be approved by the special court, to the Corporation, Norfolk Southern Corporation and each vested participant who has elected the appraisal alternative, affording them the opportunity to present evidence on the appropriate valuation in the proceeding instituted pursuant to clause (ii) of this subparagraph.

"(iv) As provided in section 209(e)(3) of this Act (45 U.S.C. 719(e)(3)), the final judgment of the special court shall be reviewable only upon petition for a writ of certiorari to the Supreme Court of the United States.

"(v) Subject to review as provided in clause (iv) of this subparagraph, a final judgment in the proceeding instituted pursuant to clause (ii) of this subparagraph shall be binding upon all parties with an interest in the ESOP.

"(vi) Court costs of the appraisal proceeding commenced pursuant to clause (ii) of this subparagraph, including the fees and expenses of experts appointed by the special court, shall be borne by the vested participants who elect the appraisal alternative in proportion to the shares of ConRail Equity Corporation preferred stock allocated to their accounts under the ESOP or in such other proportion as the special court shall determine. Vested participants who elect the appraisal alternative shall bear their own legal expenses and any other expenses that they may incur in connection with the appraisal alternative.

"(D) The value of the preferred stock of ConRail Equity Corporation allocated to each vested participant's account in the ESOP shall be based upon the following factors:

"(i) the fair market value of the common stock of the Corporation on a going-concern basis, as determined by (I) the purchase price paid by Norfolk Southern Corporation, including the $1.2 billion cash purchase price, the net present value to the Corporation of the surrender of the Corporation's net operating loss carryforwards and other carryforwards (including investment tax credit carryforwards), and any excess cash (as defined in the Secretary's Plan), as consideration for all of the interest of the United States in the common stock of the Corporation after cancellation of any debt of the Corporation (including accrued interest and contingent interest thereon) and preferred stock of the Corporation (including accrued and unpaid dividends thereon) owned by the United States or any agent or instrumentality thereof, and (II) a comparison of the historic and projected earnings of the Corporation (as adjusted to reflect its return to the private sector) with other companies engaged in the railroad business, but such determination shall not consider the effect, if any, of the restrictive covenants contained in the Secretary's Plan; and

"(ii) adjustments to the fair market value of the common stock of the Corporation as determined in accordance with clause (i) of this subparagraph, consisting of excluding the benefit of the cancellation of any debt of the Corporation (including accrued interest and contingent interest thereon) and preferred stock of the Corporation (including accrued and unpaid dividends thereon) owned by the United States or any agent or instrumentality thereof, and applying a discount rate equal to the applicable Federal rate, as determined under section 1274(d) of the Internal Revenue Code of 1954 for an obligation issued as of the consummation of the sale and due January 1, 1991 (the date on which the vested participants' account balances in the ESOP would otherwise have been distributed), for purposes of determining the present value of the preferred stock's right to be exchanged for the common stock of the Corporation.".

EFFECTIVE DATE OF REVENUE RAISING PROVISIONS

SEC. 134. Any provision of any amendment made by this subtitle which, pursuant to article I, Section 7 of the Constitution, provides for raising revenue shall only be effective upon the enactment into law of a bill which has originated in the House of Representatives enacting such provision.

HEINZ AMENDMENT NOS. 1560 THROUGH 1565

(Ordered to lie on the table.)

Mr. HEINZ submitted six amendments intended to be proposed by him to the bill S. 638, supra; as follows:

AMENDMENT NO. 1560

On page 4, line 14, insert after "paragraph (4)(A)" the following: "except that such term shall not include any agreements unless there is a binding and restrictive agreement with Norfolk Southern Corporation that—

"(A) such Corporation's ability to utilize Conrail's built-in losses (determined presumptively by an allocation among Conrail's tangible and intangible assets of the cash price paid for the Conrail stock, plus remaining Conrail liabilities, less Conrail cash, marketable securities, inventory, and the value of its excess pension assets) shall be restricted in a manner consistent with existing Federal tax law and regulations and with the Secretary's understanding that Norfolk Southern Corporation shall abide by, and remain subject to, the limitations set forth in Income Tax Regulations section 1.1502-15 and other related provisions of the Federal Income Tax Regulations, and

"(B) such Corporation will not directly or indirectly utilize Conrail's built-in losses by any means or through any device or method (including, but not limited to, stock or property transfers, or other capital or operating arrangements, having the effect of shifting taxable income to Conrail) having the effect of reducing the Federal tax liability of Nor-

folk Southern Corporation's affiliated group (other than Conrail and its existing subsidiaries).".

AMENDMENT No. 1561

At the appropriate place, insert the following: "except that the term 'definitive agreements' shall not include any agreements unless there is a binding and restrictive agreement with Norfolk Southern Corporation that—

"(A) such Corporation's ability to utilize Conrail's built-in losses (determined presumptively by an allocation among Conrail's tangible and intangible assets of the cash price for the Conrail stock, plus remaining Conrail liabilities, less Conrail cash, marketable securities, inventory, and the value of its excess pension assets) shall be restricted in a manner consistent with existing Federal tax law and regulations and with the Secretary's understanding that Norfolk Southern Corporation shall abide by, and remain subject to, the limitations set forth in Income Tax Regulations section 1.1502-15 and other related provisions of the Federal Income Tax Regulations, and

"(B) such Corporation will not directly or indirectly utilize Conrail's built-in losses by any means or through any device or method (including, but not limited to, stock or property transfers, or other capital or operating arrangements, having the effect of shifting taxable income to Conrail) having the effect of reducing the Federal tax liability of Norfolk Southern Corporation's affiliated group (other than Conrail and its existing subsidiaries).".

AMENDMENT No. 1562

On page 6, line 9, insert after "paragraph (9)(A)" the following: "except that such term shall not include any agreements unless there is a binding and restrictive agreement with Norfolk Southern Corporation that—

"(A) such Corporation's ability to utilize Conrail's built-in losses (determined presumptively by an allocation among Conrail's tangible and intangible assets of the cash price paid for the Conrail stock, plus remaining Conrail liabilities, less Conrail cash, marketable securities, inventory, and the value of its excess pension assets) shall be restricted in a manner consistent with existing Federal tax law and regulations and with the Secretary's understanding that Norfolk Southern Corporation shall abide by, and remain subject to, the limitations set forth in Income Tax Regulations, section 1.1502-15 and other related provisions of the Federal Income Tax Regulations, and

"(B) such Corporation will not directly or indirectly utilize Conrail's built-n losses by any means or through any device or method (including, but not limited to, stock or property transfers, or other capital or operating arrangements, having the effect of shifting taxable income to Conrail) having the effect of reducing the Federal tax liability of Norfolk Southern Corporation's affiliated group (other than Conrail and its existing subsidiaries).".

AMENDMENT No. 1563

On page 31, between lines 16 and 17, insert the following new section:

CLARIFICATION OF TAX TREATMENT

SEC. 305. (a) For purposes of applying the consolidated return regulations of the Internal Revenue Code of 1954 and other provisions of such Code relating to such regulations—

(1) the fair market value of any asset of Conrail as of the sale date shall not exceed the allocable adjusted purchase price of such asset,

(2) the built-in deductions of Conrail for any taxable year ending after the sale date shall include (but not be limited to) the amounts described in subsection (b), and

(3) the computation of income or loss of Conrail for any taxable year ending after the sale date shall be subject to the provisions of subsection (c).

(b) The following amounts shall be treated as built-in deductions for purposes of subsection (a)(2):

(1) That portion of the amount allowable as a deduction for depreciation or amortization for any taxable year with respect to any asset held by Conrail immediately before the sale date which bears the same ratio to the total amount so allowable as—

(A) the adjusted basis of such asset as of the sale date, reduced by the allocable adjusted purchase price of such asset, bears to

(B) the adjusted basis of such asset as of the sale date.

(2) The excess (if any) of—

(A) any deduction for accrued rent under any safe-harbor lease agreement to which the provisions of section 168(f)(8) of the Internal Revenue Code of 1954 (as in effect before the amendments made by the Tax Equity and Fiscal Responsibility Act of 1982) apply, over

(B) any interest income under such agreement.

(3)(A) Any deduction for any amount paid to any current or former employee of Conrail with respect to any claim for additional compensation for services performed before the sale date.

(B) Subparagraph (A) shall not apply if Norfolk Southern Corporation agrees, at such time and in such manner as the Secretary may prescribe, to pay to current or former employees of Conrail the amount of any reduction in the Federal income tax liability of Conrail or Norfolk Southern Corporation which would result if subparagraph (A) did not apply.

(c)(1) For purposes of subsection (a)(3), income or loss of Conrail for any taxable year ending after the sale date shall be computed without regard to any of the following amounts:

(A) In the case of any transaction between Conrail and Norfolk Southern Corporation—

(i) any increase in the amount paid by Norfolk Southern Corporation to Conrail, or

(ii) any decrease in the amount paid by Conrail to Norfolk Southern Corporation,

when compared with the amount so paid for such transaction (or a similar transaction) on the sale date. For purposes of the preceding sentence, the amount paid on the sale date shall be adjusted for any increase or decrease in the amount charged directly (or indirectly through rates) to an unrelated person for any similar transaction.

(B) Any net income attributable to property transferred to Conrail by Norfolk Southern Corporation.

(C)(i) Any net income directly or indirectly attributable to—

(I) the commencement or expansion after the sale date of any business activity, or

(II) any property (other than replacement property) purchased or leased after the sale date,

by Conrail or by a partnership or joint venture in which Conrail is a partner or a participant.

(ii) Clause (i) shall—

(I) not apply to the extent any activity or property was included in the five-year plan of Conrail released in June, 1985, and

(II) apply only to the extent such activity or property could have been carried on, or operated by, Norfolk Southern Corporation.

(D) Any net income from transportation services related to freight movements over Conrail's rail lines to the extent such movements could have been made more directly over Norfolk Southern Corporation's rail lines, as in existence before the sale date.

(E) Any net increase in Conrail's income (or any net reduction in Conrail's expenses) resulting directly or indirectly from—

(1) a merger or other reorganization between Conrail and Norfolk Southern Corporation.

(ii) any transfer of property from Conrail to Norfolk Southern Corporation, or

(iii) any abandonment or retirement of property by Conrail or Norfolk Southern Corporation for the purpose of reducing a number of duplicate or redundant properties on the combined rail systems of Conrail and Norfolk Southern Corporation.

(F) Any income attributable to any increase after the sale date in any of Conrail's rates or charges for transportation or other services (other than any adjustment for inflation or deflation) to the extent such increase results from any market advantage of Conrail as a result of its relationship at Norfolk Southern Corporation.

(G) Any other item of income, gain, expense, or loss which the Secretary determines resulted directly or indirectly from a direct or indirect effort or device by Norfolk Southen Corporation to increase Conrail's income for any purpose.

(2) The Secretary shall prescribe, for purposes of the Internal Revenue Code of 1954, the allocation of any item to which paragraph (1) applies to Norfolk Southern Corporation or to such other person, as the Secretary determines appropriate.

(c)(1) For purposes of this section, the term "allocable adjusted purchase price" means, with respect to any asset, the amount which bears the same ratio to the adjusted purchase price as—

(A) the fair market value of such asset as of the sale date, bears to

(B) the aggregate fair market value of all assets of Conrail as of such date.

(2)(A) For purposes of this section, the term "adjusted purchase price" means the amount paid for the sale of the interest of the United States in the common stock of Conrail pursuant to the Secretary's plan, reduced by—

(i) the cash, marketable securities, and inventory of Conrail immediately before the sale date,

(ii) the accounts receivable of Conrail immediately before the sale date (reduced by an experience-rated bad debt reserve), and

(iii) any surplus assets in any pension plan of Conrail as of the sale date (detemined on the basis of termination value).

(B) For purposes of subparagraph (A), the amount paid under the Secretary's plan—

(i) shall not include any wage concession payments, and

(ii) shall be increased by the amount of any indebtedness or accrued liability of Conrail as of the sale date, other than any indebtedness which is canceled in connection with the sale.

(e)(1) Any determination by the Secretary of the amount of any built-in deduction under subsection (b), or the amount or allocation of income under subsection (c), shall

be presumed to be correct unless established otherwise by clear and convincing evidence.

(2) The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this section.

(3) For purposes of this section, the term "Norfolk Southern Corporation" includes any member of a controlled group of corporations (within the meaning of section 1563(a) of the Internal Revenue Code of 1954) of which Norfolk Southern Corporation is a member, but does not include Conrail.

(4) For purposes of this section, the term "sale date" means the date on which the sale of the interest of the United States in the common stock of Conrail is consummated under the Secretary's plan.

(5) For purposes of this section, except in the case of a reference to the Secretary's plan, the term "Secretary" means the Secretary of the Treasury of his delegate.

AMENDMENT No. 1564

On page 30, insert the following immediately after line 10:

TRANSPORTATION OF BULK COMMODITIES

SEC. 303. (a)(1) Within five years after the date of consummation of the sale of the interest of the United States in the common stock of Conrail to Norfolk Southern Corporation, any shipper or receiver of bulk commodities which meets the requirements of paragraph (2) of this subsection may petition the Interstate Commerce Commission to institute a proceeding under this section.

(2) A shipper or receiver of bulk commodities may submit a petition under this subsection if, after such date the rate for transportation of such commodities by Norfolk Southern Corporation is increased to more than 110 percent of the rate for such transportation, as adjusted by the rail cost adjustment factor currently utilized by the Commission, which was in effect on the day before such date.

(b)(1) The Commission shall commence a proceeding under this section to determine the validity of the allegations of a shipper or receiver contained in a petition submitted under this section. In making such a determination, the Commission may consider such other factors as it considers appropriate, including whether any such increase in rates was attributable to reasons of efficiency based on sound managerial practices, or to inter-modal competition.

(2) Within forty-five days after such a petition is submitted, the Commission shall determine that such allegations are valid, unless Norfolk Southern Corporation demonstrates by clear and convincing evidence that such rates have not been increased by the amount specified in subsection (a)(2) of this section or that efficiencies based on sound managerial practices, or inter-modal competition were the basis for such increase in rates.

(3) If the Commission determines that such allegations are valid, the Commission shall issue an order directing that Norfolk Southern Corporation adjust such rates to an amount which is reasonable and which reflects what would be the rate for such transportation in a fully competitive market.

(c) Any order issued under this section shall be subject to judicial review in the same manner and to the same extent as orders issued by the Commission under chapter 113 of title 49, United States Code.

AMENDMENT No. 1565

On page 5, line 14, insert after "paragraph (20)(A)" the following: "except that such term shall not include any agreements unless there is a binding and restrictive agreement with Norfolk Southern Corporation that—

"(A) such Corporation's ability to utilize Conrail's built-in losses (determined presumptively by an allocation among Conrail's tangible and intangible assets of the cash price paid for the Conrail stock, plus remaining Conrail liabilities, less Conrail cash, marketable securities, inventory, and the value of its excess pension assets) shall be restricted in a manner consistent with existing Federal tax law and regulations and with the Secretary's understanding that Norfolk Southern Corporation shall abide by, and remain subject to, the limitations set forth in Income Tax Regulations, section 1.1502-15 and other related provisions of the Federal Income Tax Regulations, and

"(B) such Corporation will not directly or indirectly utilize Conrail's built-in losses by any means or through any device or method (including, but not limited to, stock or property transfers, or other capital or operating arrangements, having the effect of shifting taxable income to Conrail) having the effect of reducing the Federal tax liability of Norfolk Southern Corporation's affiliated group (other than Conrail and its existing subsidiaries).".

LAUTENBERG AMENDMENT NO. 1566

(Ordered to lie on the table.)

Mr. LAUTENBERG submitted an amendment intended to be proposed by him to the bill S. 638, supra; as follows:

AMENDMENT No. 1566

On page 19, insert before line 1 the following new section:

SEC. 111. (a) The Regional Rail Reorganization Act of 1973 is amended by adding at the end thereof the following new title:

"TITLE VIII—PROTECTION OF AFFECTED REGIONS AFTER IMPLEMENTATION OF THE SECRETARY'S PLAN

"DEFINITIONS

"SEC. 801. (a) For purposes of this title—

"(1) the term 'affected region' means any State, county, port or port district in which any dominant railroad is the only railroad—

"(A) owning or controlling trackage rights into such region; or

"(B) carrying in excess of 80 percent of the total interstate rail freight in such region;

"(2) the term 'alternative railroad' means any railroad that desires and is capable of providing railroad transportation in an affected region, but lacks necessary trackage rights;

"(3) the term 'dominent railroad' means—

"(A) the Corporation or Norfolk Southern Corporation after the date of implementation of the Secretary's Plan pursuant to section 401(a)(4) of this Act and the sale of the interest of the United States in the common stock of the Corporation to Norfolk Southern Corporation pursuant to section 401(a)(5) of this Act; or

"(B) any corporation created by Norfolk Southern Corporation as a result of such implementation and such sale,

which, acting jointly or severally, operates as a railroad in an affected region, and owns or controls all trackage rights into such region or carries in excess of 80 percent of the total interstate rail freight in such region; and

"(4) the term 'governmental authority of any affected region' means any governmental authority authorized by appropriate State law, Federal law, or agreements between or among States to maintain legal actions on behalf of an affected State, county, port or port district.

"PROTECTION OF AFFECTED REGIONS

"SEC. 802. (a)(1) The governmental authority of any affected region may file a complaint in the United States district court for any district in which such affected region is located, seeking an order granting trackage rights into such region for any specified alternative railroad. All relevant dominant railroads shall be named as defendants in such complaint.

"(2) The court may grant the relief sought by the complaint if the plaintiff governmental authority establishes, by a preponderance of the evidence that—

"(A) the specified alternative railroad sought in good faith to negotiate an agreement with the defendant dominant railroad pursuant to section 11343(a)(6) of title 49, United States Code;

"(B) such negotiations were not successful; and

"(C) granting of the trackage rights sought in the complaint is practical and will not unreasonably impair the operations of the defendant dominant railroad over the affected rail lines.

"(3) If the court determines that the plaintiff governmental authority has met its burden under subparagraphs (2) (A) and (B) of this subsection, but not with respect to subparagraph (2)(C), the court shall prescribe such lesser amount of trackage rights, if any, that plaintiff by preponderance of the evidence establishes is practical and will not unreasonably impair the operations of the defendant dominant railroad over the affected rail lines.

"(b) The court shall establish the terms of any traffic rights ordered under subsection (a). The terms shall include such payment to the defendant dominant railroad by the specified alternative railroad that provides adequate compensation for the use of the affected rail lines. Adequate compensation shall include a fair contribution to the profits of the defendant dominant railroad.

"(c)(1) Operations by any specified alternative railroad pursuant to the grant of trackage rights under subsection (a) are contingent upon the execution by the defendant dominant railroad and any specified alternative railroad of an agreement embodying all the terms established by the court under subsection (b). The court shall order the defendant dominant railroad to execute such agreement.

"(2) The agreement referred to in paragraph (1) of this subsection, upon execution by the dominant railroad and a specified alternative railroad, shall be exempt from the antitrust laws and from all other laws, including State and municipal law, as necessary to allow the parties to implement the agreement, in the same manner as an agreement made pursuant to section 11341 of title 49, United States Code.

"(3) The court which orders the grant of trackage rights shall have exclusive jurisdiction to resolve any disputes arising under the executed agreement referred to in paragraph (1) of this subsection.

"(d) The remedies provided for in this section shall not preclude any action or relief

pursuant to the Sherman Act (15 U.S.C. 1 et seq.).".

(b) The table of contents of the Regional Rail Reorganization Act of 1973 is amended by adding at the end thereof the following:

"TITLE VIII—PROTECTION OF AFFECTED REGIONS AFTER IMPLEMENTATION OF THE SECRETARY'S PLAN

"Sec. 801. Definitions.
"Sec. 802. Protection of affected regions.".

DIXON (AND OTHERS) AMENDMENT NO. 1567

(Ordered to lie on the table.)

Mr. DIXON (for himself, Mr. PRESSLER, Mr. ANDREWS, Mr. EXON, Mr. HEINZ, Mr. ROCKEFELLER, Mr. SPECTER, Mr. SIMON, AND Mr. ZORINSKY) submitted an amendment intended to be proposed by them to amendment No. 1437 proposed by Mr. DANFORTH to the bill S. 638, supra; as follows:

On page 10, line 19, beginning with "Such", strike out all through the first period on line 24.

On page 15, strike out lines 18 through 25 and insert in lieu thereof:

"(2) by amending subsection (c) to read as follows:

"(c) Except as provided in section 1152 of the Northeast Rail Service Act of 1981 (45 U.S.C. 1105), the Secretary's Plan and the Definitive Agreements and their negotiation, execution, and implementation shall not be subject to administrative review by the Commission, to other administrative review, or to judicial review; provided, however, that issues arising under the antitrust laws of the United States shall be subject to judicial review."

On page 19, line 9, immediately after the comma, insert the following: by inserting ", except for causes of action arising under the antitrust laws of the United States," immediately after "Notwithstanding any other provision of law,".

DECONCINI AMENDMENT NO. 1568

(Ordered to lie on the table.)

Mr. DECONCINI submitted an amendment intended to be proposed by him to amendment No. 1437 proposed by Mr. DANFORTH to the bill S. 638, supra; as follows:

At the end of the pending amendment, add the following:

SEC. .(a) The Senate finds that—

(1) The government and people of the United States have a longstanding friendship with the Philippines based on democratic principles and institutions;

(2) The United States has a strategic interest in the preservation of two military bases in the Philippines for the security of the Pacific region;

(3) The current unrest in the Philippines threatens to undermine the continuation of a stable, democratic government in that nation;

(4) Congress has stated that restoration of democratic institutions in the Philippines is the most effective means of defeating the proliferating communist insurgency;

(5) President Marcos has announced his intention that presidential elections be held within the Philippines to end speculation by foreign nations as to his popular support;

(6) Officials of the Government of the Philippines as well as leaders of the opposition have indicated their willingness to cooperate with a delegation of international observers * * * of the election;

(7) President Marcos has stated that it would be impossible "in a free society" to control or keep out observers and there would be no attempt to prevent any such group from entering the Philippines to monitor the election;

(8) A decision to limit access to polling places by international observers would seriously impair the ability of observer teams to verify the fairness and validity of the elections and could jeopardize continued United States economic assistance to that nation; and

(9) It has been the experience that international observers to the elections of 1982 and 1984 in El Salvador and more recently, Guatemala, were not limited access to polling places and greatly increased the fairness and credibility of those elections.

(b) The Senate hereby—

(1) Reaffirms its support for genuine, free, and fair elections in the Philippines scheduled for February 7, 1986;

(2) Stresses the importance of the presence of international observers at such elections;

(3) Urges the Philippine Government to permit clear access to the polling places for such international observers; and

(4) Intends to consider the manner in which Philippine elections are conducted in determining future aid requests.

Mr. DECONCINI. Mr. President, having just returned from the Philippines, I am more convinced than ever that free and fair elections on February 7, 1986, are crucial to the preservation of democracy in that nation and to the long-term strategic interests of the United States and its allies. The recently announced decision to restrict foreign observers from the polling places impairs the prospects for honest elections. This resolution expresses the Senate's belief, based upon the latest electoral accomplishments in El Salvador, Honduras, Panama, and Guatemala, that observers with direct access to polling places are essential in assuring free and fair democratic elections.

Until the late 1960's, the Philippines had a working democratic system. Unfortunately, this growth of democracy in the Philippines has been stunted in recent years—not by a lack of interest in its continued growth by a majority of Filipinos, but by the increasingly arbitrary actions of President Marcos. Since declaring martial law 13 years ago, President Marcos has circumscribed the freedom of the press, limited the freedoms of speech and assembly, and prevented economic and military reforms. His displays of favoritism and cronyism toward members of his family and a tight circle of intimates are notorious. While it is not and should not be the intent of this Government to interfere in or influence the outcome of the elections in the Philippines, it is in our interest to make every attempt to ensure that they are conducted in a free and open manner and that the results truly represent the choice of the Filipino people. And, of greatest concern to me, and, I am certain, a majority of Americans, is the flagrant disregard the Marcos regime has displayed for human and civil rights. Practices such as these are reminiscent of certain other nations, but not of a democracy. We must make it clear to both President Marcos and the opposition candidates that the restoration of democratic institutions is crucial for continued good relations with the United States.

To that end, I am reiterating the need for international observers to monitor the fairness and impartiality of the Presidential elections and that they must have open access to polling places. Based on the positive experiences of this nation with similar observer teams being sent to monitor the general elections in El Salvador in 1982 and 1984, and recently in Guatemala and Honduras, it is my belief that observers could only help to further the interests of the people of the Philippines and the growth of democracy. In cooperating with NAMFREL and COMELEC the observers could verify the absence of coercion, intimidation, and illegal balloting procedures as well as encourage a full discussion of the issues by the candidates. Not only will this reflect positively on the Nation as a whole, it will ensure that the winner of the election has the popular support needed to govern and a mandate to implement the necessary democratic changes for the enhancement of the Filipino people.

I must include a cautionary note, however, that the outcome of these elections cannot solve every problem facing the Philippines. President Marcos has a long history of breaking his promises. For this reason, I am including a provision in this resolution that future foreign aid to the Philippines be made contingent on the international observers determination that open and fair elections have indeed occurred. I attempted to reduce military aid to the Philippines during the Foreign Operations Subcommittee's markup of the fiscal year 1986 foreign aid bill this fall and will pursue this option, if required. This seems to me to be the only way to convince the Filipino people that the United States is dedicated to their economic recovery and committed to their political freedom.

I am hopeful that such a contingency need not occur. I have faith in the good judgment of the Filipino people and their respect for democratic institutions. If these elections are fair, they can help stem the tide of the Communist insurgency, revitalize the democratic process within that nation, and strengthen the positive relationship between our two nations. Whatever the outcome of the elections, it is

in the best interests of this Nation to pursue a new, strengthened push to resuscitate the now stagnant flow of pluralism and dialog within the Philippines and improve the prospects for democracy. Despite the recent revelations and accusations regarding President Marcos and his alleged U.S. investments and falsified war record, I am primarily concerned with the resurgence of democratic elections. If these elections are conducted fairly and the results are reflective of the Filipino electorate, I can live with Mr. Marcos or Mrs. Aquino as President of the Philippines. Our Nation, and this Congress, should pledge itself, through this resolution, to continue to work with the people of the Philippines on issues of mutual interest and shared democratic ideals.

NOTICES OF HEARINGS

SUBCOMMITTEE ON EMPLOYMENT AND PRODUCTIVITY

Mr. QUAYLE. Mr. President, the Subcommittee on Employment and Productivity will hold hearings on S. 1990, the Employment and Training Partnership Act, on February 19 and 25, 1986.

Since 1982, Congress has revised laws that govern job training, vocational education, and the Employment Service to improve State and local administration. The rationale for this reform was to make these programs more responsive to our Nation's labor market needs by increasing the involvement of the private sector and by promoting coordination among related activities.

Now I am turning to an examination of the administrative structure that carriers out the Federal role in the labor market. Is it desirable to improve coordination among Federal agencies with related responsibilities and increase private sector involvement at the Federal level? Also, as we move into an increasingly competitive world economy, is there a need to enhance and consolidate national leadership to focus attention on the development of our human resources to meet that international challenge?

To meet these objectives, S. 1990 establishes an independent agency in the executive branch of the Federal Government called the Education and Training Partnership. The partnership will administer the Job Training Partnership Act, the Wagner-Peyser Act, which authorizes the Employment Service, and the Carl D. Perkins Vocational Education Act.

Interested parties may want to refer to statements I made on this proposal last year on April 3 and December 19, which appear in the RECORD for those dates.

On February 19, at 10 a.m., the subcommittee will receive testimony from the Secretary of Labor, William E. Brock III, and the Secretary of Education, William J. Bennett. On February 25, starting at 9 a.m., the public will have an opportunity to testify.

Persons desiring to testify on February 25 should submit written requests to the Subcommittee on Employment and Productivity, SD-428, Dirksen Senate Office Building, Washington, DC 20510; attention: Renee Coe. For further details Ms. Coe may be reached at (202) 224-6306. Written testimony will be accepted from persons who cannot be scheduled for oral presentation. Requests to testify must be received by February 14.

SELECT COMMITTEE ON INDIAN AFFAIRS

Mr. ANDREWS. Mr. President, I would like to announce for the information of the public that the Select Committee on Indian Affairs has scheduled a field hearing on February 10, 1986, in Flandreau, SD, to be held at the Flandreau Indian School Auditorium, commencing at 9 a.m., regarding the Bureau of Indian Affairs dormitory standards. Those wishing additional information should contact Mary Jane Wrenn of the committee at 224-2251.

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. McCLURE. Mr. President, I would like to announce for the information of the Senate and the public the scheduling of a closed hearing before the Committee on Energy and Natural Resources to receive a briefing with respect to negotiations on Micronesian status.

The hearing will take place Thursday, February 27, at 10 a.m. in room SD-366 of the Dirksen Senate Office Building in Washington, DC.

For further information, please contact Jim Beirne at (202) 224-2564.

AUTHORITY FOR COMMITTEE TO MEET

COMMITTEE ON ARMED SERVICES

Mr. DANFORTH. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet during the session of the Senate on Wednesday, January 29, 1986, in closed executive session in order to receive a worldwide intelligence briefing from the CIA.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

GRAMM-RUDMAN

● Mr. GOLDWATER. Mr. President, many words, pro and con, have been said on and off this floor discussing the virtues or lack of them of the Gramm-Rudman Act. As chairman of the Armed Services Committee, I have not made my voice heard, but now I think it is time that something should be said by me in that capacity.

I do not fear Gramm-Rudman with respect to the military budget. I think the military budget can survive; I do not think the American people want to see this country in a weakened military position, and I think their voice will prevail should the test come. What Gramm-Rudman is all about is the first real threat or push we have had to stop our lazy, fearsome ways, and get rid of the deficit and attempt to balance the budget. If the act works, fine; if it does not work, it is also fine; it will force the President to offer a realistic, attainable budget, and it will force Members of this body and the other body to stop being primarily concerned about what is going on in their backyard and remember their pledge on their day of admission to the Congress to defend and protect the Constitution of the United States, which in itself means to defend and protect the country that we represent.

I think it is becoming increasingly evident that many votes are going to be called for that will not be popular at home, that might even lose legislators a vote or two in their attempts to get reelected. However, the important thing to keep in mind is, will this country survive the continued spending of money that we do not have? Will it continue to survive the uncontrollable obsession that some of the leaders of our agencies have relative to telling Americans how to live their lives? In other words, I look on Gramm-Rudman as a tough, realistic way to force the President and the Congress to do what the American people have been begging us to do, get our house in order. This can be done without hurting any needed welfare programs; it can be done without hurting any needed programs.

The matter that we are on right now is a good example. The railroad that this country as a country does not need to run is Conrail, a money-losing proposition. Let's get rid of it; let's cut down every unnecessary cent that we can in our budget. I repeat, it is not going to be easy, but it is going to take something we in the West, and I guess in the East, call guts. Let's see if we have it.●

S. 1567: THE ADMINISTRATION STATES ITS POSITION

● Mr. STAFFORD. Mr. President, within a few weeks, the Senate will, I hope, debate S. 1567, the Water Resources Development Act.

This is important legislation.

To guide our deliberations, the administration last week issued a policy statement on this bill.

I ask that a copy of that statement be printed in the RECORD.

The statement follows:

S. 1567—WATER RESOURCES DEVELOPMENT ACT OF 1985

The Administration supports enactment of S. 1567 as reported, and particularly commends the provisions which would:

Impose comprehensive new cost-sharing to increase the local share of the costs of Army Corps of Engineers' water resource projects, which should help weed out new projects (and separable elements of existing projects) that are not economically justified;

Establish a new port user fee equal to .04 percent of the value of cargo loaded/unloaded at U.S. ports, to offset 40 percent of Corps of Engineers' harbor operations and maintenance costs; and

Double the existing inland waterway fuel tax over ten years beginning in FY 1988, to help pay for Corps of Engineers' construction and rehabilitation costs of the nation's inland waterway system.

However, the inclusion of any new or expanded water resources programs, erosion of the cost-sharing and navigation user fees in S. 1567 as reported, or exemption of major water projects or geographic regions from enhanced cost-sharing requirements would seriously jeopardize the bill's acceptability to the President.

In addition, there are several other issues that require further consideration, and we anticipate working with the conference to make necessary changes.●

JCS REFORM

● Mr. GOLDWATER. Mr. President, continuing the practice I started several days ago, I wish to insert in the RECORD an interesting and challenging article by Mr. William Lind, who has served Senator HART as a military adviser for a good number of years.

His title is "JCS Reform: Can Congress Take On a Tough One?"

This will point up, again, some of the challenging reasons the Armed Services Committee is proposing changes in the organizational structure of our military. I ask that the article be inserted in the RECORD.

The article follows:

[From Air University Review]

JCS REFORM: CAN CONGRESS TAKE ON A TOUGH ONE?

(By William S. Lind)

One of the most important requirements for victory in combat is a competent high command. History is replete with examples of good armies being defeated because of bad leadership at the highest level, from Carthage in the Second Punic War through the British in the American Revolution and the Confederacy in the Civil War to the Germans in World War II.

Do we have highly competent military leadership today from the Joint Chiefs of Staff (JCS), our most senior military council? Many observers think we do not. The last really brilliant American military action was the Inchon landing during the Korean War. The JCS opposed it. During the Vietnam War, the JCS consistently failed to provide good advice. In his autobiography, General William C. Westmoreland said that "no commander could ever hope for greater support than I received from . . . General Wheeler and the other members of the Joint Chiefs." The support was, of course, for a strategy that failed. The JCS blessed the plan for the Iran raid, a plan so complex that failure was inevitable. The hallmark of JCS action has become, not competent planning, but "pie dividing"—ensuring that each service gets a piece of the action. Grenada was the most recent case. The original plan called for just the Navy and the Marines to participate. But the JCS insisted that the Army and Air Force be brought in also, so they could get their share of the glory.

The root problem is that not only the JCS but virtually all the upper echelons of our military structure have become bureaucracies. In a bureaucratic organization, the overall goals and purposes of the institution—what it is supposed to accomplish in the outside world—are broken down into ever-smaller units until they constitute something one person can do, a job. The job is precisely defined and in most cases narrowly circumscribed. A variety of formal and (usually more powerful) informal sanctions work to keep the individual's effort focused within the "box" that is his job.

In theory, all the boxes are linked in a great chain which ensures that every job supports the institution's external goals and purposes. But, in fact, something different usually happens. The people in the institution must have some set of values in order, if nothing else, to prioritize their time and effort. They cannot focus on the institution's external goals and purposes; if they do, they quickly find themselves overstepping the bounds of their job description and getting slapped down. Faced with this unpleasant prospect, they tend to adopt two basic values. The first is personal career success. The second is a tendency to see as most important those things which take most of their time.

What is the effect of these two values on the way an institution functions? The decisionmaking process comes to be dominated not by questions relating to effectiveness in the external, competitive world but by intra-institutional considerations.

Why is this so? Because intra-institutional issues—the office upstairs, the office downstairs, the competing program, branch, or service, etc.—take most of most people's time. As people come (usually unconsciously) to identify as most important the things that take most of their time, these issues, not the external world, become the bases of their decisions. And since internal matters are also the most important concerns of their superiors, they can best advance their personal careers by putting these matters first and working hardest on them. Ultimately, they become accustomed to subordinating external effectiveness to pleasing their superiors with reference to internal matters. Those who don't do so pay the price in terms of career failure.

Both tendencies—careerism and seeing as most important the matters that take the most time—are accentuated in institutions where there is no lateral entry (i.e., where the people at the top have spent three or four decades behaving this way) and where there is no regular calling to account by an annual balance sheet. Both characteristics typify military services.

The JCS is a microcosm of the overall military bureaucracy, but it is a very intense microcosm. It is specifically designed to be an arena where the services log-roll their parochial interests. The dual-hatting of service chiefs as members of the Joint Chiefs, the requirement for unanimous decisions, a joint staff made of officers who must return to their parent services—all these things not only perpetuate but intensify bureaucratic behavior. That the decisions and recommendations from such a body are frequently of little use in the outside world should not be surprising. The focus on intra-institutional concerns is built into the system.

JCS reform is now being discussed both in Congress and in the press. Two of the most important reasons are the disquiet of some members of Congress with deficiencies in recent military operations and calls for reform from two former JCS members, former Chairman of the JCS, Air Force General David Jones, and former Chief of Staff of the Army, General Edward "Shy" Meyer. Within the last several years, these two officers have made some sharp, public criticisms of the way the JCS functions. General Jones has said:

"The corporate advice provided by the Joint Chiefs of Staff is not crisp, timely, very useful, or very influential. And that advice is often watered down and issues are papered over in the interest of achieving unanimity. . . . Individual service interests too often dominate JCS recommendations and actions at the expense of broader defense interests."

What must be done to give reasonable assurance of a competent high command? The only adequate step is the replacement of the entire Joint Staff system with a Prussian-model general staff.

Some have attempted to portray a general staff as a system that vests all power in one individual. But that is not what the Prussian general staff was all about. That did occur under General Erich von Ludendorff in the 1916-18 period, but it was a result of a vacuum at the top caused by the personal weakness of Kaiser Wilhelm II (it has well been said that Hitler listened to his generals too little; the Kaiser to his too much).

To understand the essence of the Prussian general staff, it is necessary to look at its origin in the Scharnhorst reforms that followed Prussia's disastrous defeat by Napolean in 1806. Scharnhorst and his fellow military reformers—who were political liberals, not reactionary Junkers—were faced with the task of creating enduring military excellence within the framework of civilian control of the military, in the person of the King of Prussia. They attempted to create, not a new command structure for the Prussian army, but a system to provide the best possible military *advice* to commanders at all levels. The general staff was an advisory system, not a command system. That is, of course, exactly what we need from any replacement for the Joint Staff system: the best possible advice to the civilians who hold the ultimate military authority, the President and the Secretary of Defense.

The Prussian general staff was that is called a "socialized," rather than a bureaucratic, organization. Its socialization centered on three characteristics. The first was very careful selection and education of staff officers. General staff officers were selected young, usually at the rank of captain, before the bureaucratic mindset had time to develop. The selection process was extremely rigorous, with only about 1 percent of those who attempted to become general staff officers finally making the grade. The general staff was kept very small to ensure quality and prevent bureaucracy: even at the Wehrmacht's peak strength in World War II, there were fewer than 1000 general staff officers. The education process was long and thorough, with emphasis on how to think, not what to think, and on the military art, not management and formats.

General staff officers also periodically returned to field units to ensure that they did not forget the realities of the field.

The second major characteristic of the Prussian general staff was that once an officer was accepted by the general staff, he was a general staff officer for life. His promotion was controlled by the general staff, not by the branch from which he came. This situation gave him license to be objective. It contrasts strongly with the JCS system, where the officer must return from Joint Staff duty to his service and branch, which has sample opportunity to destroy his career if he was not perceived as a faithful "water carrier" in his Joint Staff job. Only permanent general staff status can protect the officer who dares to cross the service's parochial interests.

The third major characteristic of the general staff was an internal atmosphere that stressed frankness, imagination, and innovation. Prussian general staff officers were generally men of strong character, and if this meant that a good number of them were also somewhat eccentric, that was no handicap. At one point, General Helmuth von Moltke actually directed recruitment of eccentrics and oddballs on the grounds that they usually came up with the best ideas. The emphasis on frankness was very strong. A general staff officer had not only a right but a duty to be direct with his superiors. He was expected to give them his full and honest opinions and advice, whether they asked for them or not. In a bureaucratic system such as JCS, frankness is frowned on, because it reveals all the comfortable intra-institutional tradeoffs for what they usually are: detriments to national security.

It is these three characteristics that made the Prussian general staff so effective, and they are what those who want a general staff here seek to emulate. Naturally, an American general staff would not be an exact copy of the Prussian. The Prussian/German general staff was exclusively an army staff, and, at least in World War II, did not extend to the highest command level. An American general staff would be all-service and would extend to the highest level. The German general staff was oriented exclusively toward tactics and operations, leaving German strategy and grand strategy disastrously adrift in both world wars. Our general staff would also have responsibilities at the strategic and grand strategic levels.

What are the chances of replacing the Joint Chiefs of Staff with a general staff? The administration has shown no interest in JCS reform, so if anything is to be done, it will have to be done by Congress. Last year the House passed a JCS reform bill, but unfortunately it focused on changing the relationships among the Chairman, the other members of the JCS, and the Secretary of Defense, not on improving the quality of decisions and advice from the JCS. However, the Senate Armed Services Committee is currently doing a major study of JCS reform, and it appears as if that study will address the deficiencies within the JCS itself and suggest possible remedies, to include consideration of a general staff system. Despite major behind-the-scenes efforts by the Navy to derail the study, both the committee chairman, Senator Barry Goldwater, and the ranking Democrat, Senator Sam Nunn, appear determined to do a thorough job. If the Senate study presents an accurate picture of a general staff system and its potential advantages, it may at least lift the debate over a general staff out of the mythology of "Prussian militarism" in which it was imbedded by Allied propaganda during the world wars.

On the tactical and operational levels where it operated, the Prussian general staff did a remarkable job of producing military excellence for almost 150 years. If we are to break the pattern of failure that has characterized our military actions for the last thirty years, we need to do what the Prussians did: institutionalize military excellence. That can only be done by adopting a structure for our high command that reflects the basic characteristics of the Prussian general staff. It is time to give a general staff system the serious and objective consideration it merits.●

PROPOSED ARMS SALES

● Mr. LUGAR. Mr. President, section 36(b) of the Arms Export Control Act requires that Congress receive advance notification of proposed arms sales under that act in excess of $50 million or, in the case of major defense equipment as defined in the act, those in excess of $14 million. Upon such notification, the Congress has 30 calendar days during which the sale may be reviewed. The provision stipulates that, in the Senate, the notification of proposed sales be sent to the chairman of the Foreign Relations Committee.

In keeping with my intention to see that such information is available to the full Senate, I ask to have printed in the RECORD at this point the notification I have received.

The notification follows:

DEFENSE SECURITY ASSISTANCE AGENCY,
Washington, DC, January 24, 1986.

In reply refer to: I-19072/85ct

Hon. RICHARD C. LUGAR,
Chairman, Committee on Foreign Relations, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: Pursuant to the reporting requirements of Section 36(b)(1) of the Arms Export Control Act, we are forwarding herewith Transmittal No. 86-22, concerning the Department of the Army's proposed Letter(s) of Offer to Norway for defense articles and services estimated to cost $26 million. Shortly after this letter is delivered to your office, we plan to notify the news media.

Sincerely,

PHILIP C. GAST, *Director, Lieutenant General, USAF.*

Attachments.

Transmittal No. 86-22

NOTICE OF PROPOSED ISSUANCE OF LETTER OF OFFER PURSUANT TO SECTION 36(b)(1) OF THE ARMS EXPORT CONTROL ACT

(i) *Prospective Purchaser:* Norway.

(ii) *Total Estimated Value:*

Major defense equipment*.	$15,000,000
Other	11,000,000
Total	26,000,000

* As defined in section 47(6) of the Arms Export Control Act.

(iii) *Description of Articles or Services Offered:* Thirty-six M48A5 tanks with associated support equipment, tool sets and concurrent spare parts.

(iv) *Military Department:* Army (VGX).

(v) *Sales Commission, Fee, etc., Paid, Offered, or Agreed to be Paid:* None.

(vi) *Sensitivity of Technology Contained in the Defense Articles or Defense Services Proposed to be Sold:* None.

(vii) *Section 28 Report:* Case not included in Section 28 report.

(viii) *Date Report Delivered to Congress:* January 24, 1986.

POLICY JUSTIFICATION

Norway—M48A5 Tanks

The Government of Norway has requested the purchase of 36 M48A5 tanks with associated support equipment, tool sets and concurrent spare parts. The estimated cost is $26 million.

This sale will contribute to the foreign policy and national security objectives of the United States by improving the military capabilities of Norway; furthering NATO rationalization, standardization, and interoperability; and enhancing the defense of the Western Alliance.

The M48A5 tanks will be used to modernize and upgrade the Norwegian armor capability. Norway will have no difficulty absorbing these tanks into its armed forces.

The sale of this equipment and support will not affect the basic military balance in the region.

No prime contractor will be involved in this sale as these are rebuilt tanks that will be taken from inventory.

Implementation of this sale will require the assignment of six additional U.S. Government personnel to Norway for three weeks.

There will be no adverse impact on U.S. defense readiness as a result of this sale.●

U.S. MILITARY REFORM

● Mr. GOLDWATER. Mr. President, in keeping with my decision to make available to my colleagues writings from people other than in the Senate concerning the need for reform of our military structure, I am once again submitting for the RECORD out of the Air University Review of September-October of 1985, a very deep and penetrating study of this whole matter of military reform, written by Gregory D. Foster, who is a graduate of the military academy. He is a well-recognized consultant on national security affairs, civil military relations, and future research.

This is one of the most thoughtful articles I have come across relative to this subject and I am sure my colleagues will enjoy reading it.

I ask that it be inserted at this point in my remarks.

The article follows:

[From the Air University Review, September-October 1985]

CONFLICT TO THE YEAR 2000: THE CHALLENGE FOR MILITARY REFORM

(By Gregory D. Foster)

The noted inventor and philanthropist Charles Franklin Kettering once observed: "We should all be concerned about the future because we will have to spend the rest of our lives there." How embarrassing that such a statement of the obvious should embody a degree of wisdom lost on most of us, for the future holds far too many secrets to warrant the sanguine indifference with which it is typically faced.

The strategic environment of tomorrow promises to be vastly more complex and demanding than anything that has confronted the United States during its brief history. This will necessitate a degree of foresight and planning sadly absent in recent years. Foresight and planning will be for nought, however, if not matched by a commensurate degree of institutional adaptation. Such change is especially necessary within the American military establishment, which repeatedly has shown itself better equipped—both psychologically and physically—to fight the last war than to fight the next one.

To those who seek from within to ready the American military to perform its myriad mission—Pentagon planners and decision makers—and, no less, to those who seek from without to change the institution—the so-called military reformers—the future should be a concern of fundamental importance. Just as our visions of the future influence, and perhaps even determine, the policies and programs of the present, so too do today's decisions affect the course of tomorrow. The leading question that begs our attention, therefore, is the following: What form will wars of the future take? In a more inclusive sense, what will be the overall nature of the conflict environment confronting the United States and its military establishment?

In framing this inquiry and attempting to answer it, the author accepts the premise that conflict in various forms is inevitable, although war as traditionally defined is not. Therefore, military planning and reform must be directed at accommodating a wide range of contingencies that fall outside the legalistic definitional bounds of warfare, per se. Of no less importance is the recognition that ostensibly discrete and isolated events have assumed an unprecedented degree of interrelatedness in today's world—moot tribute perhaps to Hegel's Axiom of Internal Relations.[1] Thus, the context within which planning and reform take place must go beyond purely military and international considerations and deal as well with things both nonmilitary (e.g., political and economic) and domestic. Finally, the year 2000 is considered here an appropriate forecasting time horizon—near enough to afford reasonable projections, yet far enough out to permit requisite policy and program planning.

Any undertaking of this nature, especially one constrained by printed-page limitations, must be accompanied by the acknowledgement that gauging the future accurately is inherently difficult. To begin with, the methodological state of the art is woefully inadequate for predictive purposes. Despite the pretentious claims of econometricians, operations researchers, and others of their persuasion, futurology qualifies as little more than pre-science—an order of thought more rigorous than the reading of animal entrails, to be sure, but only slightly more reassuring than astrological ruminations. The pseudoscientific approaches employed to date by various authorities have tended to provide shallow cover for underlying policy preferences, value premises, and assumptions. It is no linguistic fluke, therefore, that purists have preferred the semantic robustness of *forecasting* and even *strategic planning* to *prediction*. This tenuous claim to scientific legitimacy explains in large measure why the most popular and widely embraced descriptions of the future (namely, those of Herman Kahn and Alvin Toffler) tend to be based on intuitive speculation, in which the fertility of the author's imagination, rather than the method employed, is the criterion by which others judge the quality of the vision.

Similarly, there is a common tendency to treat the future as if it were merely an extension of the present and past. The validity of this approach remains as contentious today as it has been for centuries. For one thing, it is virtually impossible to identify all of the relevant historical variables surrounding a particular event or set of circumstances, much less to establish causation. Therefore, "historical literacy" may produce little more than self-delusion. For another thing, the more we *know* about something, the less we seem to *understand* it. Consequently, the accumulation of facts over time may breed a degree of entropy that makes reliance on chance, by comparison, a preferred course of action.

The decelerating effects of bureaucratic inertia, political conflict, and intellectual flaccidity constitute a third obstacle to describing the future with any certainty. However prescient a given prognosis may seem at the moment, the rate of realization rarely is as rapid as anticipated. Were it otherwise, we might expect to be living today under the dystopian conditions described in Orwell's *1984* or Huxley's *Brave New World*, about to enter into the era of world government envisioned by idealistic futurists, or engaged in one of the unthinkable nuclear conflagrations that the late Herman Kahn made so convincingly plausible. Moreover, it seems highly unlikely that these mitigating factors within the bureaucracy, the political sphere, and the intellectual community will manifest themselves any less pervasively and effectively in the years ahead. Thus, one must seek consolation in the fact that what at first may seem but a frustrating impediment to progress actually may be a blessing in disguise.

What then are the intellectual scope and exploratory parameters of the "prognosis" presented here? Namely,

To define a reasoned, plausible future that represents a synthesis of historical experience and emerging trends, while also incorporating selected speculations of a conservatively imaginative nature that fall somewhere outside the bounds of mainstream thought;

To describe what the prospects for and the nature of the conflict *will* be, rather than what they *should* be—thereby establishing the bounds within which planning and reform will be forced to operate, while conceding that certain features of the external environment will remain beyond the ability of particular policies and programs to influence;

To present what Kahn would have called a surprise-free projection, by subordinating the less probable, exceptional occurrences that provide the most pronounced stimuli to change but also offer the least useful guidance for policy and program formulation; and

For the most part, to avoid vague prescriptions based on "alternative futures," in favor of a more parsimonious definition of the future, which, in providing greater clarity and certitude, also runs a higher risk of proving wrong.

THE FUTURE GLOBAL ENVIRONMENT

Certain general features of tomorrow's international environment seem almost assured. The world itself promises to become a polycentric armed camp with frequently changing centers of power. The order and symmetry that ushered in the century will have metamorphosed into a cacophonous din of national and subnational voices, each clamoring for rights and perquisites unfettered by the burdens of responsibility to any higher order. Contributing to this state of affairs will be greatly accelerated rates of change, increasing levels of complexity and uncertainty, transient loyalties, and heightened demands for a more equitable distribution of global wealth and power. Collectively, these conditions will lower the threshold of crisis decisionmaking so that previously routine matters will assume crisis proportions and thus necessitate greater responsiveness from governments and their supporting institutions (e.g., the military).

Beyond this level of generality, the future of conflict will be greatly influenced not only by purely military developments but by political, economic, technological, and demographic developments as well. The interactions of these developments will provide the stimuli for conflict and establish its parameters. Equally important will be those purely domestic developments that ultimately will dictate the nature and extent of U.S. response.

Military developments

Militarily, there will be a continued scramble for advanced military technology, particularly among so-called developing nations. This demand will reflect the insatiable thirst of most emergent states for prestige and quick-fix modernization that is less painful and time-consuming than political and economic development. Although global arms purchases have leveled off and may even be on the decline, the factors that have contributed to this very recent trend are not likely to continue. First, the slowdown in petrodollars brought on by the current oil glut may well be superseded by new revenue-stimulating crises caused by other critical resource and commodity maldistributions around the globe. Second, Third World debt burdens, which have both resulted from and further inhibited arms purchases, may be disregarded by both arms buyers willing to sacrifice domestic investment and sellers whose yearning for influence rivals the buyers' eagerness for the weapons. Third, the market saturation that purportedly has filled arsenals and sated weapons appetites is likely to be overcome by the eventual obsolescence of current weapons inventories, which will create new demand; by the pervasiveness of conflict, which, through combat attrition, will create other new demands; and by enhanced capacities for technological assimilation.

Accompanying this resurgence of arsenal building will be an expansion of military budgets and forces, most notably among developing countries that control critical resources. Similarly, the 49 percent of the world's developing states now under military rule will be joined (or replaced) in the years ahead by other states in search of instant power or unable to maintain internal social and political cohesion.

The spread of nuclear weapons also will continue unabated, with perhaps as many as thirty-one states possessing this capability by the turn of the century. A sizable number of these new possessor nations will be worrisome because of their propensities for conflict, their geographic vulnerability, or their potential for internal instability. While this troubling trend may increase the potential for nuclear blackmail by these incipient demipowers, the weight of historical

[1] Footnotes at end of article.

evidence suggests that it actually may induce more responsible behavior.[2]

Finally, despite the current negotiating impasse, domestic and international pressures will lead almost certainly to a theater and/or strategic nuclear arms agreement between the United States and the Soviet Union. This step will give new hope and temporary self-congratulatory pause to anti-nuclear activists, while also sending a strong nonproliferation signal to the so-called have-not nations. On the other hand, given the fragmentation of the arms control process, there will be strong incentives for both superpowers to divert military spending into other areas of comparative military advantage (e.g., conventional force modernization and expansion), thereby fostering renewed doubt about the extent to which the risks of war actually have been reduced.

Political developments

Future political developments will provide a particularly fertile breeding ground for conflict. A proliferation of new international actors—multinational enterprises, international agencies, and newly sovereign states—will contribute to the emergence of new power blocs built primarily around the possession of critical resources or short-term, shared security interests. Heightened nationalism in the developing world will be met by declining nationalism among the developed states.

The next fifteen years and beyond will be a period of floating coalitions in which bilateral relationships focused on specific issues predominate. Traditional alliance structures will weaken appreciably and in some cases disappear. The so-called nonaligned movement will grow in power, if not in stature. As it expands beyond its current membership of 101 nations, it will become more unwieldy, cumbersome, and strife-riven as a collective body, although its visibility and the stridency of selected individual members will provide a rallying point and constraining counterweight to great power intervention and exploitation.

NATO will remain an operating alliance in name and appearance only. Rather than openly fracturing, it will gradually drift apart as member nations increasingly pursue narrow national interests and diverge on fundamental economic, political, and military principles. As the Europeans continue to look inward and the center of gravity of U.S. foreign policy shifts toward the Pacific Basin, the trends of recent years will magnify.[3]

A related development will be the continued weakening and eventual substantive dismantling of the United Nations. Although, as with NATO, the structure will remain, its legitimacy as a unifying body for nations to seek common global objectives and its influence in resolving international problems, which may have been vested in the organization during some periods in the past, will diminish significantly.[4]

Floating coalitions and crumbling international organizations will be merely the most civilized manifestations of a deeper underlying discontent among the poor, unempowered, and disenfranchised of the world. The plethoric crises of unfulfilled expectations that result will produce an increasingly widespread ideological disaffection among the masses and, in response, intensified authoritarian and totalitarian repression by ruling elites. Political dogma that once coalesced both revolutionary and reactionary fervor will give way to a near-universal utilitarian morality, bred of cynicism but tempered by hope, the colloquial verbalization of which will be, "what works, works." Juxtaposed against this ethic will be concentrated pockets of religious extremism—especially in the Moslem world—involving zealous minorities that practice a refined form of exploitative mob psychology.

Economic developments

If ever there were an iron law of international relations, it is that economic vitality and strategic success go hand in hand. The course of the future will be so much a function of this tenet that defense planners will rue the day they neglected the strategic ramifications of the international marketplace. This title of a recent book—*The Real World War: The Coming Battle for the New Global Economy and Why We Are in Danger of Losing*—captures the essence of the situation facing the United States. Authors Hunter Lewis and Donald Allison note:

"If there is a single great fact of our era, it is not the continuing rivalry between Russia and the West. Instead, it is the emergence of the first truly international industrial marketplace and the struggle between the leading trading nations and blocs—the United States, Western Europe, Japan, Singapore-Taiwan-Hong Kong-Korea, Mexico-Brazil, and, potentially, China—to control this new global economy." [5]

The years ahead will produce the full maturation of this global economy and the attendant manifestations of financial, industrial, resource, and trade independence. As never before, the health of the U.S. domestic economy and the turbulent international economy will be inextricably intertwined—a circumstance that will be most startlingly clear in the relationship of the U.S. budget deficit to international exchange rates, trade and Third World debt—any and all of which could precipitate major crises.[6]

Given the character of the American political system, it is unlikely that the budget deficit will diminish appreciably, if at all.[7] Furthermore, increased competition for global markets, continued reliance on overseas resources and commodities, and the further obsolescence of key industrial sectors will contribute to severe trade imbalances for the United States and for other nations as well. The near-term solution for many nations will be expanded protectionist measures that easily could lead to a new wave of trade wars, even involving the physical interdiction of goods and traffic. Such possibilities signal a radical departure from the longheld idealistic notion that commerce is the handmaiden of peace. As argued by one proponent of a neomercantilist strategy: "International trade is not harmonious. It is competitive, and the stakes are very high. . . . Interdependence leads to intervention."[8]

Equally alarming is the looming threat of debt crises and defaults. Generally speaking, the year 2000 will signal little change in the distribution of global wealth: less-developed countries will hold 80 percent of the world population but probably no more than 24 percent of world GNP. Large-scale borrowing will remain the shortcut to temporary pecuniary satisfaction. But the inability or unwillingness of even a few debtor nations to repay loans could produce trauma in the world financial system leading to domestic retrenchment and, possibly, to pressures from the U.S. banking community for the physical seizure of foreign assets.

Much of what happens in the world economy will depend on whether or not another energy crisis occurs. The prospects for such an occurrence are considerable, and the consequences are likely to be more debilitating than in the past, due to the increased share of GNP now devoted by Western economies to energy expenditures.[9] Similar potential exists for a critical materials crisis, given the continuing dependency of the United States and its allies on foreign sources of supply. A seedbed of crisis potential rests in the vulnerability of key land and sea lines of resource flow to disruption by even minor threats.

Technological developments

Technology will carry most of our brightest hopes and darkest fears for the future. Properly developed and used, it will provide an effective antidote to greed, hate, ignorance, and xenophobia. Improperly developed and used, it will merely accentuate such tendencies.

Absent rigorous criteria based on necessity and sufficiency, the centrifugal tendencies of technological momentum will intensify the incessant quest of all military establishments for increased speed, range, accuracy, lethality, reliability, endurance, and survivability of the instruments of war. Thus, weapon system costs and the self-perpetuating dynamics of international arms competition will continue to escalate.

The most discernible advances in military technology between now and the end of the century will be in the areas of computerization, telecommunications, surveillance and target acquisition (the search for global transparency), stealth technology (the countervailing search for global opaqueness), navigation and guidance (including the leap from smart to brilliant weapons), and transportation. Worldwide satellite communications will both improve the chances of overcoming social and cultural barriers and afford vast propaganda potential. Teleconferencing will enhance the potential for face-to-face dialogue with wayward allies and resolute adversaries alike. Dramatic medical advances in preventive treatment, diagnostics, and catastrophic surgery will compensate, to some extent, for the increased lethality and destructiveness of modern weaponry.

Some of the most dramatic impacts on military operations will come from emerging technologies that will not be fully operational until the twenty-first century. These include artificial intelligence (and its progeny, expert systems), bionics/cyborgization, genetic engineering, parapsychology, robotics, weather modification, and "natural" disaster manipulation. Such exotic technologies could change not only the face of traditional combat but also the very nature of power relations among nations. At the most plausible, attainable level are those developments that range from fully automated tanks and aircraft to super computers that evaluate options and make nuclear attack and retaliation decisions. Somewhat further removed are those advances in bionics and genetic engineering that eventually could result in the replacement of humans in combat by indestructible humanoid clones. At the most esoteric extreme, full exploitation of psychic phenomena could lead to the human ability to read enemy documents from a distance, track and predict enemy locations and movements, cause the instant death of adversaries, mold the thoughts of enemy leaders, or even disabled enemy weapons and equipment. For the foreseeable future, such advances seem hardly likely to overcome the stigmatic embrace of what has come to be called the "giggle factor."

Demographic developments

Emerging demographic conditions will figure significantly as both precipitant and constraint in the future of conflict. There will be an unprecedented surge in global population, particularly in the Third World where 92 percent of the 1.5 billion increase between now and the year 2000 will occur. Significant increases in urban crowding will lead to heightened tensions and a greater likelihood of urban violence.

There will be an acceleration of migration patterns from east to west and from south to north, with legal and illegal immigration into the United States alone expected to reach at least 450,000 annually. The resultant increases in ethnic diversity and intermixture will lead to improved cross-cultural understanding but also may contribute to political destabilization, especially in those recipient nations where individual liberties are less sanctified and class boundaries more pronounced than in the United States.

Minorities will come to constitute ever larger percentages of the American population. The effects of this will range from the altered racial composition of the U.S. Armed Forces—and all that portends for civic consciousness, social equity, and military effectiveness—to the more volatile possibility of ethnic factionalism in the country. There will be increased potential for another Mariel boatlift-like "dumping" of culturally unassimilable aliens onto American shores by Castro and other like-minded despots, as well as greater likelihood of an upsurge in domestic violence involving ethnic concentrations with links to terrorism (e.g., Puerto Ricans and Armenians). Such ethnic factionalism may artificially impede or accelerate U.S. interventionist tendencies, especially within the Western Hemisphere. (It is interesting to speculate, for instance, what different effects the sizable Mexican-American and Cuban-American populations in this country might have on U.S. decisions to intervene in Mexico and Cuba respectively.)

Western populations, on the whole, will age appreciably, while age distributions in the Third World will remain relatively unchanged.[10] Because these trends will affect the size and composition of the military forces fielded by individual states, they will have significant implications for the future of conflict, particularly insofar as they influence the abilities of advanced and developing nations respectively to wage various forms of manpower-intensive, low-intensity conflict.

Both NATO and the Warsaw Pact will experience a declining pool of young military manpower (seventeen to thirty years of age).[11] For NATO, this decrease could portend, among other things, greater use of women and civilians in both traditional and nontraditional military roles. For the Warsaw Pact, it will affect the composition of Soviet armed forces (up to 30 percent of Soviet military personnel will come from the Central Asian and Moslem populations by 1999) and may influence the degree to which the Soviets will need to rely on their allies.

Domestic developments

Domestically, much of what happens will depend on the prevailing public values and attitudes of the moment. Although recent trends suggest greater public confidence in public institutions, renewed patriotism, and a tempering of the narcissistic orientation of the 1970s, these attributes are hardly immutable, enduring features of the contemporary American character. Assuming that crisis decisionmaking will be the future norm, that government will show itself increasingly incapable of handling crises, and that the United States will be confronted by a rash of highly ambiguous international situations in which interests and objectives are equally vague, the following conditions seem likely:

Continued skepticism toward governing institutions and national leaders.

Less ethnocentrism, leading to greater acceptance of ethnic and cultural differences and perhaps to decreased patriotism (relative to that of earlier generations).

Declining acceptance of the utility of military force, yet increasing concern about the powerlessness of the United States, particularly in the face of "pygmy tyrants."

Continued individual narcissim, simultaneously producing less willingness to sacrifice for collective goals, yet more thirst for adventuristic self-gratification. (This will reflect a pragmatic reassertion of individual over collective rights, rather than a form of untethered hedonism.)

Pronounced levels of alienation, anomie, and cynicism, leading to a largely unfulfilled search for moral anchoring.

The final demise of the hero in American culture and with it the further diminution of the military as a source of societal role models.

Heightened emphasis on credentialism and the success ethic, thus continuing the trend in favor of vicarious experience rather than lived experience as a primary basis for public policy.[12]

Accompanying these characteristics will be a continued loss of U.S. prestige in the international arena. Collectively, these factors will feed the emergency of more (and more vocal) single-interest constituencies intent on asserting themselves and gaining publicity under the guise of "restoring the nation to greatness." Increased public scrutiny of defense will lead to justifiable demands for the rationalization of defense organization and spending, while further confounding policy and strategy.

Congress will expand its involvement in the formulation and conduct of foreign and defense policy; the military establishment will become increasingly politicized and civilianized; and there will be a further usurpation of military advice by adademic strategists. One of the most identifiable results of all these shifts will be a reinforcement of the pronounced centrist tendency that has mainifested itself in all recent presidential administrations.[13]

Recent events foreshadow the almost certain election of a woman or minority president by the end of the century. The election of a woman may well lead to hostile testing of U.S. resolve, which, in turn, could prompt a female president to take extraordinary measures to demonstrate her toughness. The election of a minority president could have any of a number of important consequences, depending on the personality of the electee. These might include changes in traditional alliance structures, in relations with the Third World. and even in the acceptable racial composition of the U.S. Armed Forces.

Depending on precisely how these various development concatenate, the future may follow any of a number of paths. The actual course taken will depend on a number of factors, including the number of independent actors on the world stage; the nature of the resultant interactions (i.e., cooperation born of interdependence versus competition born of dependence or coercion); the degree of integration or assimilation; the existence or nonexistence of universally accepted standards of behavior, as reflected in world opinion, treaty ratification, etc.; and the occurrence or nonoccurrence of catalytic crises that precipitate chain reactions. Nevertheless, the likelhoood of various future courses and outcomes seems clear, based on current circumtances and past history.

The most likely path of the future will be a gradual drift toward global anarchy that will not reach its zenith until the post-2000 period. This will reflect a continuous, though not drastic, accentuation of the condition of disequilibrium that existed at the start of the Reagan administration.

The next most likely path will be more pronounced shift toward global anarchy precipitated by a confluence of unexpected events and conditions. This will culminate, by the year 2000, in a condition of general global chaos and disorder that existing governing structures and processes will be ill-equipped to handle.

A dynamic equilibrium (balance of power) situation created by the natural checks and balances of the international system is a third possible course for the future. Historical precedent would accord a higher probability to this alternative. However, there is mounting evidence that such inherent systemic stabilizing features as presently exist will obsolesce rapidly in the face of accelerating rates of change. Absent appropriate adaptations, the "muddling through" that has characterized most global interactions to date seems unlikely to keep anarchic tendencies within tolerable limits.

A fourth, and even less likely, occurrence would be the imposition of a world empire by one or more of the major powers in the aftermath of a precipitous shift toward global anarchy. There seems little prospect that circumstances would deteriorate so drastically or that authority could be imposed so extensively as to make this a plausible scenario.

The least likely future path for mankind is that leading to a world community or world government that results from the voluntary association, or compliance, of all or most of the world's independent actors. Such willing devolution of power is, and will remain for the foreseeable future, totally out of character with the behavior of most established nation-states, large and small.[14]

AN ARRAY OF THREATS

Arrayed against these environmental developments will be a profusion of potential threats to the United States, each possessing its own distinguishable characteristics and capabilities. The importance of identifying these threats is captured by the words of Princeton University's Klaus Knorr: "Threat perception is not only concerned with whether or not a threat exists, but also with its character, especially the quality and magnitude of the implied peril." [15]

Ideally, a country or force constitutes a threat only to the extent that it threatens specific interests and objectives. Realistically, however, the vagueness of most interests and objectives, the practical difficulties of establishing priorities among them, the unpredictability of the growing environment, and the need for a measure of continuity in planning combine to make it more appropriate to define threats in terms of the extent to which they hold fundamentally incompatible values and/or pursue a *range* of incompatible interests and objectives vis-à-vis the United States.

Judged against these criteria, a number of prospective threats present themselves. For planning purposes, these threats can be ordered on the basis of two considerations: the threat's overall power potential (i.e., the size and capability of its military establishment, its access to sustaining resources, and the strength of its economic and social infrastructure) and the perceived probability that crises involving the threat will occur.

For the time being, the Soviet Union and the People's Republic of China will remain the only first-order threats confronting the United States.[16] On the whole, the Soviets will be guided by the same foreign policy goals that have energized their conduct in recent years: avoiding direct military confrontation with the United States; promoting control and consolidation of Eastern Europe; benefiting from scientific, technological, and economic intercourse with the West; forestalling "encirclement" by Japan, China, and the developed West; improving relations with the European members of NATO; simultaneously pursuing arms control and arms buildup; and exploiting Third World political crises and power vacuums without incurring undue costs or risks.[17]

The Soviets will continue to reserve their most aggressive behavior for the peripheral areas of the world, where they will expand the use of arms sales, proxies, and advisers. Relations with the West will be characterized by the concurrent pursuit of competition and détente. They will assiduously avoid direct confrontation, seeking accommodation and conciliation where it is to their advantage, while also engaging in the frequent use of active measures (disinformation, forgery, press manipulation, agents of influence, and, under carefully orchestrated conditions, assassination and kidnapping as well).

Other developments of note will include the following:

With Konstantin Chernenko's passing, a power struggle may develop, particularly if successor Mikhail Gorbachev's policies do not coincide with those of more conservative members of the Politburo or the military. This could cause temporary fits and starts, but no fundamental change, in U.S.-Soviet relations.

Expansion and modernization of Soviet military forces will continue (even if a marginally reduced rates). Although the resultant deprivation of various domestic sectors will attest to the further deterioration of the Soviet economy, this will have little appreciable effect on the resilience of the ruling regime or the larger society.

Soviet involvement in Afghanistan may well last until the end of the century, although without severe political or military repercussions.

Finally, the cohesion of the Warsaw Pact alliance will be weakened materially by growing disenchantment of bloc members with Soviet leadership and forced economic interdependence, by improved ties between East and West Germany, by the emergence of various independent movements (including peace groups) throughout Eastern Europe, and by other circumstances. While sorely testing Soviet insecurity, this growing divergence within the alliance is likely to be met by political repression rather than by military intervention.

China will achieve increased stature beyond that already ascribed to it by one sinologist: "For the first time in over 100 years, China stands squarely on the world state as an emergent international power. . . . [This] has irrevocably altered the world power equation."[18] The country's concerted commitment to achieve modernization will be exceeded only by its obsession with reunification of the mainland with Taiwan, Hong Kong, and Macao. Although current plans call for military modernization ostensibly to take a back seat to agricultural, industrial, and scientific and technological modernization, the ultimate effect of any modernization will be to increase overall power potential, thereby making the P.R.C. a force to reckon with throughout Asia.

The U.S. desire to cement high-technology commercial ties with the P.R.C. as a means of leveraging the U.S.S.R. is more likely to play into China's hands than to achieve its intended result. Possessed of the world's largest force under arms and, thanks to geographically circumscribed strategic objectives, possessed as well of superior interior lines, the P.R.C. can afford a patient military modernization effort. By continuing to play the United States and the Soviet Union off against each other, it will buy itself time until the late 1990s when, with the cessation of British rule in Hong Kong, it will be in a much stronger position—militarily, economically, and politically—to attempt to regain its other lost territories (most notably Taiwan). Depending on the course of U.S.-P.R.C. relations, the coming decade may bear witness to what previously would have been impossible: an exchange of overtures, and perhaps the initiation of a more formal relationship, between Taiwan and the Soviet Union.

Second-order threats will come in a variety of forms. First will be those states with incipient nuclear capabilities whose behavior is sufficiently unstable or provocative as to make the use or threatened use of nuclear weapons for purposes of intimidation or coercion a distinct possibility. These states include India, Pakistan, Argentina, Iran, Iraq, Libya, and possibly even South Africa. Second will be those states with inordinately large and active military establishments whose behavior toward the United States and its allies is demonstrably hostile and likely to continue to be so. These include Cuba, North Korea, Syria, and Vietnam. Third will be those newly industrialized countries whose newfound economic prowess, competitive trade position, or possession of vital resources could produce acute economic tensions that might spill over into military confrontation. This group of states includes Brazil, Mexico, Chile, and, depending on extant circumstances, Taiwan. Fourth will be "stable" allies in whose countries the United States maintains key military facilities that could become increasingly vulnerable to persistent political unrest. These allies include Greece, Turkey, the Philippines, and Spain.

Third-order threats will warrant relatively less concern and preparation but should receive at least a modicum of attention. These will include not only the remainder of the Third World—where variegated forms of interstate and intrastate conflicts can erupt almost instantaneously—but also nonstate actors with newly possessed military capabilities (e.g., private armies sponsored by multinational corporations). Most important, however, third-order threats may include any of a number of current U.S. "allies" who, by virtue of their established positions of independence vis-à-vis the United States, could act unilaterally in a manner that is deleterious, and even hostile, to vital American interests. France, Japan, Israel, and Saudi Arabia fall into this category.

In the final analysis, any attempt to identify the entire range of possible threats to U.S. security, however desirable, is doomed to futility. I would be just as logical, for example, to include in the list of possible threats the likes of Nicaragua, Angola, Laos, the Yemens, or any number of other states. Transient allegiances and the floating nature of coalitions will produce numerous changes in friends and adversaries between now and the year 2000. Ultimately, leadership succession will determine who is friend and who is foe, especially where charismatic leaders are involved; who can say with any confidence what will happen when Castro, Khomeini, Qaddafi, Marcos, and King Hussein pass from the scene? Moreover, even where shared technology or doctrine produces similarities among threats, unique social, cultural, and historical factors will dictate that each threat be dealt with on its own terms.

THE NATURE OF CONFLICT

The exact course of the future will be neither totally determinate nor indeterminate. Much will depend on how the United States responds to evolving circumstances and whether or not these responses are anticipatative or reactive. On the other hand, much of what happens will be more or less independent of U.S. action or inaction. The peculiar interactions of seemingly unrelated events may sometimes assume the random characteristics of colliding subatomic particles. And other state and nonstate actors, sometimes in pursuit of their perceived self-interest, sometimes accidentally, will do things that defy American influence. For example, can it be said with any certainty that even drastic (and largely unpalatable) measures by the United States could influence the idiosyncratic behavior of a Khomeini or a Qaddafi? Or can we predict confidently that the Soviet economy will be responsive to external market forces?

Nonetheless, the confluence of particular threats and environmental conditions will create situations that contain the seeds of conflict. The extent and manner of involvement of various actors will dictate both the form and intensity of the conflicts that emerge. Figure 1 provides a framework for identifying the general dimensions of conflict as a function of the actors involved.

[Figure 1 not reproduced in the RECORD.]

Situations involving two or more first-order powers promise to be global in potential scope—high-intensity conflagrations that could involve theater and/or strategic nuclear exchanges.[19] Not only is the number of such possibilities small to begin with, but the magnitude of associated costs and risks is so high that confrontations at this level will be repressed and supplanted by less direct, less provocative forms of competition. Direct confrontation between any two elements of the so-called bigpower triangle—the United States, the Soviet Union, and the People's Republic of China—will remain a remote possibility, not because of any rapprochement (such as some have seen emerging from the ephemeral warming of Chinese attitudes toward both the United States and the Soviet Union), but because of a mutual recognition by all parties that any such conflict could result only in a level of devastation that would leave the uninvolved member of the triangle at a distinct strategic advantage.[20] Thus, the relationship will continue to be characterized by fluctuating periods of wary antagonism and manipulative seduction. Only marginally more likely

will be a conflict between the Soviet Union and Japan. Even if relations between the United States and Japan were to deteriorate markedly, innate Soviet caution would mitigate the temptation to undertake anything more aggressive than the threats and intimidation in which the Soviets now engage.

Situations involving first-order and second-order powers or, more likely, two or more second-order powers probably will be mid-to high-intensity affairs involving advanced military technology but containable within local or regional bounds. In the former instances, it is highly improbable that the Soviets will risk engaging a strong second-order possessing modern technology unless an accidental, catalytic situation draws them in. In contrast, the P.R.C. could be involved in any number of conflicts with Vietnam, India, Taiwan, or even Hong Kong. To the extent that the Chinese succeed in lulling the United States into a false sense of calm, due to the atmosphere of bilateral cordiality that is emerging, U.S. leaders will be neutralized by their own sense of contradiction over such seemingly inscrutable behavior.

Considerably more likely to occur will be situations involving third-order powers. Such situations will be mid-to low-intensity affairs at the conventional and subconventional levels. Because of the large number of third-order powers in the world, as well as the wide array of interactions possible at this level, this genre of conflict will remain extremely prevalent—continuing a trend that has been in evidence throughout the post-World War II era.

Finally, internal and prevalent form of conflict, due to the ease with which such affairs can be initiated, their containability and immense variety of forms and the fact that their conduct does not depend on a large sustaining resource base.

For the most part, there will be no identifiabel geographical pattern to these conflicts that would allow the United States to focus its responses. Outside of Europe, which maintains a degree of uniqueness because of the array of military forces deployed there, the propensities for conflict will be distributed across Asia, Africa, Latin America, and the Middle East. Considering that America's vital interests, though differing in content, command more or less equivalent priority in each of these regions, there will be a confounding of the already intractable policy dilemma of how best to correlate U.S. capabilities and commitments. As a result, conflicts will, of necessity, continue to be dealt with on a case-by-case basis as they occur.

Beyond these basic conflict patterns, it is instructive to look at the specific types or levels of conflict that will emerge in terms of their *probability of occurrence and their criticality* (i.e., the associated social, psychological, political, military, and economic costs and benefits).

A well-recognized problem confronting military planners is whether preparedness should be a function primarily of the prevalence or the potential impact of a particular type of conflict. One respected authority who has acknowledged the problem is former Under Secretary of Defense Robert W. Komer, who reflects the propensity of most planners today:

"The more likely contingencies are in the volatile Third World, . . . but it is risky to fall prey to this "likelihood fallacy." By the same token, nuclear conflict is the least likely contingency of all; should we therefore not bother to maintain strong nuclear deterrent capabilities? Just because the likelihood of direct threats to our most vital interests is relatively low is no reason for not continuing to invest heavily in keeping them low."[21]

A comparison between current levels of U.S. preparedness and the expected nature of future conflict (Figure 2) highlights some startling asymmetries in this regard that could have telling consequences.

[Figure 2 not reproduced in the RECORD]

Strategic nuclear conflict

Strategic nuclear conflict is highly unlikely to occur before the end of the century, notwithstanding the protestations of nuclear freeze advocates and others. On the whole, Americans have continued, throughout the postwar period, to subscribe to the belief that nuclear war will not occur, although the size of the majority having that opinion has dwindled in recent years.[22] Public opinion on this issue derives largely from understandable emotional factors that tend to obscure rational assessment. Leading British military historian Professor Michael Howard has offered the following contrasting judgment:

"I think that the development of nuclear weapons has given us a chance for the indefinite future of preventing the outbreak of major war, at least between powers armed with nuclear forces. One can't say, of course, that it will never happen. But I think that the possibilities of major war are far more remote as a result of the existence of nuclear weapons than they ever were in the past." [23]

Unquestionably, because of the social, psychological, and economic costs involved, strategic nuclear warfare is the most critical level of conflict. The near-universal agreement that exists on this point has produced a necessary degree of caution and safeguards by those who possess nuclear weapons, so that the probabilities that such conflict will occur have been effectively mitigated. As Harlan Cleveland has noted: "The U.S.-USSR strategic standoff . . . is paradoxically the most stable element in world politics." [24]

Relative to the probability that strategic nuclear conflict will occur, the United States is overprepared, although relative to the criticality of the phenomenon, overpreparedness is a meaningless term. It is difficult to support the argument, however, that greater preparedness would make conflict at this level any less likely or, conversely, that a marginal degradation would materially increase its likelihood.

Theater nuclear conflict

Conflict is only slightly more likely at the theater nuclear level, especially if one thinks primarily in terms of a NATO-Warsaw Pact crisis in Europe. However, the spread of nuclear weapons and the prospects for mid- to high-intensity interstate conflicts in other parts of the world create numerous possibilities elsewhere. Little has happened to change so-called expert opinion since a group of eminent scholars convened in late 1975 to address the question, "Nuclear War by 1999?" During the course of that discussion, George Rathjens of MIT speculated that

". . . if there is to be nuclear war, it will begin with one of the emerging nuclear powers, where command and control systems may not be as refined or the government as stable, as ours. . . . My guess is that the first one will be relatively limited, begun by a country with a fairly small population using nuclear weapons probably against its neighbors." [25]

Similarly, this level of conflict is only slightly less critical than strategic nuclear conflict. The essence of the debate, of course, revolves around the question of whether a theater nuclear engagement can be contained and limited. The most convincing logic suggests that the first use of nuclear weapons *outside the European theater* (by far, the most plausible scenario) would be such a significant precedent that it would mobilize counteraction sufficiently strong (e.g., the United States and the Soviet Union acting in temporary concert) to ensure containment.

Here, too, the United States is overprepared relative to the probability of occurrence. The greater U.S. preparedeness at this level than at the strategic nuclear level is attributable to the considerable overlap that exists between forces, weapons, and doctrine having dual conventional-theater nuclear uses.

Conventional conflict

Conventional conflict is significantly more likely to occur than nuclear conflict, not only because of the amount of conventional armaments around the globe but also because it is the traditional form of warfare. The pervasiveness of conventional conflict reflects the growing size and sophistication of military forces possessed by second- and third-order powers with a demonstrated propensity for interstate conflict.

At this level, criticality and probability of occurrence first come into balance. The psychological "firebreak" that separates conventional from nuclear conflict—to say nothing of the ultimate destructive potential of the latter—produces a measurable decrease in criticality. Others argue, however, that this distinction has dimmed considerably. British military historian John Keegan, for one, notes:

"What is not generally perceived is how much the effects of conventional war now overlap with those of nuclear war. A high-intensity conventional war and a low-intensity nuclear war might inflict very much the same level of damage on any given piece of inhabited landscape." [26]

Nonetheless, the tacit recognition by most authorities that the use of even one nuclear weapon would be an act of extraordinary psychological dimensions reinforces the already ingrained bureaucratic propensity to prepare for the war we want rather than for the one we will get. The preponderance of U.S. forces and weapons, therefore, are conventional. It is the only level of conflict for which we have a fully codified and viable (albeit controversial) doctrine. In short, the United States is very much overprepared for conventional conflict. Those who argue otherwise (including proponents of the "no-first-use" nuclear policy) assume a NATO-Warsaw Pact confrontation—a low-likelihood contingency for which our principal objective is to deter rather than to fight. our experience to date in this regard has been a successful one, from which the future is unlikely to deviate.[27]

Subconventional conflict

This level of conflict—which includes everything from shows of force to insurgencies to terrorism—is by far the most likely to occur, for it is within this domain that the relatively weak can test, and attempt to gain concessions from, the strong.

Shows of force will continue to be a major, low-risk option for demonstrating power, especially by the first-order powers. Such tacit threat-making, having become a fully institutionalized instrument of power

politics in the nuclear era, will be even more prevalent in the future than in the past.

Insurgency will remain the principal vehicle for growing revolutionary movements, particularly those with the patience to endure a protracted struggle. Whatever may be the actual motives that animate individual insurgent movements, the continued existence of unpopular regimes in politically unstable and economically maldeveloped societies will provide a necessary pretext for the sustainment of such conflicts.

Terrorism will stand alone as the predominant form of conflict over the next two decades. The accelerating trends of recent years do not begin to capture the magnitude of what lies ahead; if anything, these trends have merely provided a sharp stimulus to more frequent and more violent acts of terrorism. The growing appeal of this "warfare on the cheap" is its high return on investment, for invariably the impact of most terrorist acts is disproportionate to the effort required by their militarily insignificant perpetrators. Lebanon in 1983, where only four individual terrorists killed 349 "infidels" (including 264 Americans), is a startling case in point.

Generally speaking, terrorism of the future will be characterized by four major attributes:

It will be increasingly violent and concentrated against human targets. American diplomats, businessmen, and military personnel stationed overseas will be especially vulnerable.

It will be directed more against Americans and become more prevalent within the United States. In the words of journalist Claire Sterling: "I am sure that the United States will, as always, be the principal target of terrorism, because it is the most powerful country in the Western world. And that is the one, in the end, that they're all after."

It will come increasingly under state sponsorship, thereby lending credence to the observation of DePaul University Professor M. Cherif Bassiouni: "The battleground between superpowers has shifted from major military confrontations to low-level violence strategies." [28]

Largely as a function of the access to resources provided by state sponsorship, the first bona fide instance of terrorism involving the use, or threatened use, of weapons of mass destruction (nuclear, chemical, or biological) will occur.

Two factors in particular will hamper efforts to deal effectively with terrorism. The first will the sheer number of terrorist groups to be identified, monitored, and countered—a much more formidable task than dealing with formal states and their traditional military establishments. The hundreds of guerrilla and terrorist groups involved in thousands of acts of violence in the last two decades alone portend a dramatic rise in the number of parties willing to resort to such violence to achieve their ends.

A second inhibiting factor will be the growing fanaticism of many groups, thus making it less likely that traditional sanctions will have the desired effects. Typical is the rhetoric of one radical Moslem leader: "We are willing to be killed in the name of God and in defense of our country and of our dignity."

Finally, the link that has emerged between illicit drug traffic terrorism will be strengthened. This dangerous trend holds two major implications. For one thing, the methods, routes, and support infrastructure for terrorism and drug trafficking will become increasingly congruent, thereby producing a degree of coordinated efficiency that will demand equally well-coordinated countermeasures. On a more ominous note, illegal drugs seem likely to assume more significance as a mainstream weapon of terrorism, especially where political upheaval and social disintegraton are sought. There is a great danger that others will follow in Castro's recent footsteps by encouraging the smuggling of drugs into the United States to "create mayhem" and to raise funds for revolutionary movements.[29]

Judged only on the individual incidents, subconventional conflict is appreciably less critical than other levels of conflict; however, in their totality, given a degree of orchestration by hostile powers, such incidents may have an utterly debilitating effect on the U.S. strategic posture. It is the cumulative effect of extraordinarily large numbers of incidents over time that produces a degree of comparative hypercriticality.

It is no secret that the United States is woefully ill-prepared to wage subconventional conflict effectively. While we have a clear measure of proficiency in the use of shows of force, two factors—the widespread availability of the most sophisticated military technologies, and the "fishbowl effects" of media saturation—have produced a vulnerability that has virtually negated the efficacy of gunboat diplomacy. Our failed experience in Vietnam was irrefutable proof of our lack of affinity for insurgency or counterinsurgency, and the American military's subsequent disregard of the lessons of that conflict has only reinforced this much-neglected operational dimension. Similarly, in the counterterrorism arena, recent events have demonstrated rather conclusively a less-than-impressive capability. The findings of the Long Commission, appointed by Secretary of Defense Caspar Weinberger to investigate the October 1983 terrorist truck bomb attack that claimed the lives of 241 U.S. Marines at Beirut airport, is a telling indictment:

"The United States, and specifically the Department of Defense, is inadequately prepared to deal with this threat. Much needs to be done, on an urgent basis, to prepare U.S. military forces to defend against and counter terrorist warfare."[30]

Conflict in space

Space will be the strategic arena of the twenty-first century, at least for the advanced industrial nations, for whom it will represent a welcome respite from the nettlesome frustrations of terrorism. Despite the surfeit of publicity generated over the Reagan administration's so-called Star Wars initiative and the early rush by both the United States and the Soviet Union to fill the phantom, "ASAT (antisatellite) gap," sufficient technological capabilities will not be fielded in time for space to be an identifiable theater of conflict before the end of the century.

In the near term, therefore, the emphasis will be on the attainment of marginal ASAT advantages, the intent and the effect being to hinder satellite reconnaissance, early warning, and navigation capabilities, particularly as they contribute to the nuclear balance. The first quarter of the twenty-first century will produce beam-energy weapons, which, if properly employed *and publicized,* will be perceived as tendering nuclear weapons obsolete over time. In the longer term, we shall witness fuller exploitation of space: lunar (and perhaps other planetary) development, the eventual emplacement of permanent space colonies, and true Star Wars technologies such as ultrapowerful directed-energy weapons that can destroy targets at distances of thousands of miles, hypersonic aircraft, and even gravity-collapser beams that can turn entire cities into black holes.

For the Soviets, space will provide the ideal arena for exercising their propensity for strategic indirection. For the United States, it will provide a pristine "battlefield" far removed from the inhibiting collateral effects that produce significant sociopolitical repercussions in traditional warfare. The virtual elimination of the human element from this type of conflict will make space a highly desirable—and thus prevalent—arena for exercising power and resolving disputes on earth. The result will be a futuristic reversion to the gladiatorial duals of the distant past.

IMPLICATIONS FOR MILITARY REFORM

The future offers both difficulties and challenges for the United States. Clearly conflict, in all its guises and colorations, is here to stay—at least for the foreseeable future. We are a long way, in fact, from achieving what Kenneth Boulding has called a "stable peace." But the situation is far from hopeless, nor is it beyond influence. We might take succor from the aplomb (or at least the rhetoric) of French General Ferdinand Foch, in a September 1914 message to Marshal Joseph Joffre during the first of the battles of the Marne: "Hard pressed on my right. My center is yielding. Impossible to maneuver. Situation excellent. I am attacking."

The implications of such a future for military reform—and, more generally, for reform of the larger national security establishment—are many. At the most fundamental level, we must undertake a serious reevaluation of some of our most cherished values to determine how appropriate they are in the face of emerging global conditions and threats. For example, are out traditional attitudes toward growth, plenty, and even stability relevant to a future of increasing global interdependence that arguably may turn out to be the era of limits that some have feared? Even more difficult is the question of whether our attitudes toward sacrifice, the value of human life, and civil liberties equip us to deal effectively with the horrors of terrorism. Are our only choices either to turn the other check in moral rectitude or to turn the country into a police state?

No less important is the need to consider certain adjustments in our overall strategic orientation. We must make more sophisticated use of the many elements of power at our disposal (diplomatic, economic, and even moral) to support and complement the application of military force, aknowledging the utility of force under particular circumstances but recognizing that power often can be employed effectively without resort to force. We must be more sensitive to the dynamics of deterrence, particularly as deterrence constitutes an effective response to the more critical, but less likely, forms of conflict that confront us. We must appreciate that some conceptual notions, though ostensibly esoteric, have significant practical implications: (1) that deterrence, to be totally effective, must be operative at all levels of potential conflict; (2) that the selective application of force at lower levels of conflict actually may enhance deterrence at higher levels; and (3) that what contributes

to combat effectiveness, or one's war-fighting capacity, may not necessarily contribute to improved deterrence. We also must improve our ability to "manage" public perceptions, both domestic and foreign, so as to exploit the symbolic aspects of power. Finally, we must formulate and be prepared to execute a strategy that is sufficiently robust to accommodate the need for selective engagement or disengagement from various alliance relationships. No longer will we be able to expect bona fide alliance burden-sharing in the absence of an effective coalition strategy, but we must be chary about overdependence on coalitions as the foundation of our strategy.

There are issues of organizational effectiveness and efficiency that also demand our attention. Briefly stated, we need greater executive-legislative, interagency, and interservice cooperation and coordination so as to provide more coherent policy and to eliminate wasteful redundancy and competition. The most obvious vehicles for effecting such changes are structural (e.g., the elevation of the president's assistant for national security affairs to cabinet rank or the complete reorganization of the armed services along functional lines). The less obvious, more difficult, and more time-consuming intermediate step is the intellectual adjustment that must be made by all parties concerned if we are to overcome the hidebound parochialism that has impeded such measures to date.

At the operational level, a number of changes merit more detailed examination. We need more flexible, adaptable force structures designed for a broad range of conflict environments—creative alternatives, in other words, that will alleviate the necessity of having to choose between heavy forces that can function effectively only against an armor-intensive threat or light forces that can survive only against insurgents and terrorists. This flexibility will require the concurrent formulation of a more dynamic, comprehensive doctrine that accommodates all levels of conflict in integrated fashion. It also suggests the need to build these force structures around mixed technologies (in lieu of sole reliance on advanced technologies) appropriate to specific threats and missions. A related need, given the potentially volatile and hostile environment facing the United States in the years ahead, is for enhanced force projection capabilities that will allow us more effectively to exercise global "presence" without undue reliance on potentially vunerable overseas bases.

We must also rethink our approach to threat assessment. Although the Soviet Union will remain our most formidable adversary, we must disabuse ourselves of the notion that we face a monolithic threat orchestrated out of Moscow. We must instead recognize the nature and magnitude of a growing number of independent threats, which, if not dealt with effectively on their own terms, surely will create conditions that the Soviets can exploit to our strategic disadvantage. Likewise, in an age where expectations and avenues of fulfillment remain frustratingly incommensurate for many, we must be more sensitive to the near-inevitability of various revolutionary movements. The lessons of Iran and Nicaragua are a sobering reminder that repressive incumbent regimes, even if staunchly anti-Communist or anti-Soviet, may not provide the strongest anchors for the United States in a sea of unrest. We therefore must be better attuned to emerging social and political developments and be willing to shift our priorities (and, if necessary, our loyalties) accordingly to ensure the attainment of broader strategic goals. To do so, we must, among other things, place increased emphasis on further enhancing our human intelligence collection capabilities and markedly expanding our store of foreign area expertise through accelerated programs of language and cultural training.

These ideas bear no stamp of originality, nor do they penetrate beyond the veneer of generalization. To do otherwise would be inconsistent with, and unsupportable by, the necessarily abbreviated nature of this *tour d'horizon* of the future. However, the future can be met successfully only if fundamental principles, such as these, first are agreed to before we embark on the more concrete, utilitarian measures that have tended to set the terms of debate over military reform thus far.

FOOTNOTES

[1] Hegel's Axiom of Internal Relations states that the relations by which terms are related are an integral part of the terms they relate. Systems theorists and cyberneticians have extended this to mean that (within limits) everything is related to everything else. See Stafford Beer, *Decision and Control* (New York: Wiley, 1966), p. 242.

[2] The potentially stabilizing effects of nuclear proliferation are discussed by Kenneth Waltz, *The Spread of Nuclear Weapons: More May Be Better*, Adelphi Papers, No. 171. (London: International Institute for Strategic Studies, Autumn 1981.)

[3] This view is shared by such incongruous bedfellows as Richard Barnet and Irving Kristo, who have asserted respectively that "the NATO allies are drifting apart" (*Bulletin of the Atomic Scientists*, January 1984, p. 8) and "The Atlantic Alliance . . . is gradually emptying itself of all meaning" (*Reader's Digest*, February 1984), p. 165.

[4] Contributing to the United Nations' demise will be three major factors: its inbuilt lack of juridical authority; a continuation of the voting patterns of recent years, in which the United States voted with the majority of the General Assembly only about one-fourth of the time; and general public disaffection with the institution's inability to get things done.

[5] Hunter Lewis and Donald Allison, *The Real World War: The Coming Battle For the New Global Economy and Why We Are in Danger of Losing* (New York: Coward, McCann, and Geoghegan, 1982), p. 9.

[6] U.S. influence on the world financial market, for example, is overwhelming. Every country in the world measures its currency against the dollar. Some 55 percent of world trade is invoiced in dollars. Around 80 percent of all international bank loans are denominated in dollars. Central banks hold about 75 percent of their foreign-currency reserves as dollars. Because U.S. financial markets are the freest and biggest, what happens to its interest rates, share prices, etc., has an irresistible pull on the rest of the world. (*The Economist*, 24 September 1983, p. 58.)

[7] Martin Anderson, former domestic policy adviser to President Reagan, has observed that those with the power to make such decisions have collectively decided that "the political consequences of adopting policies to bring spending in line with revenue are more painful than the policies they now follow." ("Why the Budget Doesn't Balance," *Washington Times*, 15 December 1983, p. 1C.)

[8] William R. Hawkins, "Neomercantilism: Is There a Case for Tariffs?" *National Review*, 6 April 1984, pp. 25-39.

[9] There is a self-deluding tendency, especially in the United States, to view the current oil glut, the disarray within OPEC, and the continuing dependency of states (Mexico, Nigeria, and others) on oil revenues as setting the tone for the future. However, given the volatility of the oil market, the low likelihood of large-scale conversion to alternative energy sources by the year 2000, and the declining tolerance for sacrifice within prosperous, advanced societies, it is not difficult to imagine any of a variety of circumstances (e.g., terrorist incidents, unexpected regime changes, interstate conflicts between oil-producing states, Soviet adventurism, or merely petulant behavior by oil producers bent on high-stakes international arm twisting) percipitating future (seemingly irrational) oil-related crises. For two brief, but authoritative, arguments in support of this contention, see Frank Zarb, "True or False: Energy Planning Is Possible," *Washington Post*, 25 August 1983, p. A21; and Daniel Yergin, "2 Views on Oil," *Washington Post*, 29 April 1984, p. E21.

[10] Forty-four percent of the American population will be in the forty or older bracket by the year 2000. South Korea's median age will not reach thirty until sometime between 2000 and 2010, while Brazil's median age will be only about twenty-seven as late as 2025.

[11] The problem will be much worse in the United States (a drop of 25 percent) than in the Soviet Union (a drop of 16 percent); still worse will be the situation in Britain and West Germany, where available manpower is expected to fall 50 percent by 1990.

[12] Increasingly, in other words, policy formulation (especially within the military sphere) will become the preserve of individuals whose expertise derives principally from academic credentials rather than from "the sting of battle." The result could be a pervasive degree of emotional disengagement that produces unrealistic, historically unsound, culturally insensitive, and even socially divisive policies.

[13] In the words of Herbert Stein, chief economic adviser to Presidents Nixon and Ford: "The radical conservative revolution is the dream of conservatives out office, but not the practice of conservatives in office." (The Reagan Revolt That Wasn't," Harper's, February 1984, pp. 46-53). The same will be no less true of liberals when they return to office. For a contrasting view, see Charles Krauthammer, "What Ever Became of the American Center?" *Time*, 19 December 1983, pp. 89-90.

[14] For a fuller discussion of the prospects for world government, see Gregory D. Foster, "Wilsonian Political Thought and the Prospects for World Government in the Century Ahead," in *Politics and Administration: Woodrow Wilson and American Public Administration, edited by Jack Rabin and James S. Bowman (New York: Marcel Dekker, 1984), pp. 277-95.*

[15] Klaus Knorr, "Threat Perception," in *Historical Dimensions of National Security Problems*, edited by Klaus Knorr (Lawrence, Kansas: University Press of Kansas, 1976), pp. 78-119.

[16] If a coordinated international terrorist network were to emerge, as some have posited (e.g., Claire Sterling, author of *The Terror Network* and other works on the subject), it would pose a first-order threat because of its damage/disruption potential and its supporting resource base. However, petty jealousies, conflicting objectives, and ethnic, cultural, and linguistic barriers are likely to preclude this amalgamation.

[17] This list is adapted from a similar list of Soviet foreign policy objectives provided by Alexander Dallin, "The Soviet Union: The Making of Foreign Policy," *Bulletin of the Atomic Scientists*, August-September 1983, pp. 27-31.

[18] Charles D. McFetridge, "Some Implications of China's Emergence as a Great Power," *RUSI Journal*, September 1983, pp. 40-43.

[19] For purposes of this analysis, first-order powers are considered to be the member states of the NATO and Warsaw Pact alliances, Japan, the P.R.C., and Australia. Second-order powers include the various second-order threats identified previously, as well as such others as Israel, South Korea, and Thailand. Obviously, any such scheme of this nature suffers from inherent flaws, but these should not detract from the otherwise helpful insights that can be gained from such constructs.

[20] For an alternative perspective, see Edward N. Luttwak, *The Grand Strategy of the Soviet Empire* (New York: St. Martin's Press, 1983), who postulates (not very compellingly) that considerable potential exists for the Soviets to launch an attack against the P.R.C. in the not-too-distant future.

[21] Robert W. Komer, "Maritime Strategy vs. Coalition Defense," *Foreign Affairs*, Summer 1982, pp. 1124-44.

[22] The measure of public uncertainty and ambivalence on this issue is reflected in polls taken before and after the November 1983 showing of the ABC television drama "The Day After." Before the show, 65 percent of viewers felt that a nuclear war between the United States and the Soviet Union was very or somewhat likely by the year 2000. After the show, *63* percent felt the same way! ("Fallout from a TV Attack," *Time*, 5 December 1983, p. 39.

[23] Interview with Michael Howard, "Nuclear Arms Make Chance of War 'Far More Remote'," *U.S. News and World Report*, 9 April 1984, pp. 37-38.

[24] Harlan Cleveland, "Defining Security: A sober 'Threat Analysis'," *The InterDependent*, November/December 1983, p. 3.

[25] "Nuclear War by 1999?" *Washington Post*, 4 January 1976, pp. F1, F4.

[26] John Keegan, "The Specter of Conventional War," *Harper's*, July 1983, pp. 8-14.

[27] As contentious as this claim is, it is shared even within the NATO alliance. For example, West Germany's "White Book 1983 on the Security of the FRG" contended that, despite unfavorable developments for the West in the military balance of forces, at the moment it can be assumed that the danger of a war in Europe "is not present."

[28] The precise role of the Soviet Union will continue to be a source of serious contention between those who argue that the Soviets "mastermind" or exercise central direction over global terrorism; those who maintain that they merely provide support in the form of weapons, training, finance, and propaganda; and those who see little clear evidence of Soviet control. For one side of this debate, see Ray S. Cline and Yonah Alexander, *Terrorism: The Soviet Connection* (New York: Crane, Russak, 1984).

[29] Of the 125,000 Cuban immigrants who came ashore in the 1980 Mariel boatlift, up to 40,000 reportedly were veterans of Castro's jails and mental hospital, while another 10,000 were considered highly dangerous or criminally insane. Additionally, some assessments have suggested, up to 3,000 were secret agents sent to spy on fellow exiles and to run a vast underground network for addicting Americans to drugs; as many as 400 apparently were assigned solely to narcotics trafficking. (*U.S. News and World Report*, 16 January 1984, pp. 22-30).

[30] *Report of the DOD Commission on Beirut International Airport Terrorist Act, October 23, 1983* (Washington: Government Printing Office, 20 December 1983), p. 4.●

DR. KING BRINGS OUT THE BEST IN US

● Mr. SIMON. Mr. President, recently our Nation celebrated the first national holiday honoring Martin Luther King, Jr. There was much debate over the merits of another Federal holiday and its cost. But I believe the services and activities held to honor Dr. King's memory made it an unqualified success. Schoolchildren born after Dr. King's death are learning about a day when whites and blacks could not sit together at a lunch counter for a simple hamburger. They are learning about Dr. King's dream for a just and opportunity-filled society. We have come a long way, but we have much yet to accomplish in our own country and also in the pressure we put on the white government in South Africa. In a column I write for newspapers in my State, I have related a personal experience with Dr. King during the second anniversary of the bus boycott in Montgomery, AL. I ask that the column be reprinted in the RECORD.

The column follows:

KING BRINGS OUT THE BEST IN US

(By U.S. Senator Paul Simon of Illinois)

The United States is a much different nation—and a much better nation—because the man whose birthday we just celebrated, Martin Luther King Jr., walked among us.

He did not change the nation alone, and we still have much to accomplish, but he set a moral tone. He led. He forced us to re-examine practices taken for granted that were gross denials of the rights of our fellow citizens.

He and I were only two months apart in age.

I first met Martin Luther King, when I was a young legislator. He asked me to speak at the second anniversary of the bus boycott in Montgomery, Ala., at a meeting held in his home church, the Dexter Avenue Baptist Church.

He had a speaking engagement in Chicago the day before I was scheduled to speak in Montgomery. We met at the St. Louis airport and then flew together to Altanta, where he met some members of his family, and then went to Montgomery.

A little thing happened at the airport that says something about the times and the man.

After our plane landed at the Atlanta airport, Dr. King and I decided to use the rest room. I suddenly found myself facing signs: "Colored Men's Room" and "White Men's Room." I hesitated for an instance and Dr. King laughed and said, "This is not the issue to fight over."

I went into the white men's room, but felt dirty. Cheap. In a small way I was participating in something I knew was wrong.

I spent two days in Montgomery with Dr. King and others who were struggling for such elemental things as the right of all citizens to vote.

Martin Luther King lived long enough to see that battle won, as well as the battle to sit anywhere on a bus, to enter any restaurant or hotel, to be treated with simple dignity. He was still fighting battles when he was killed, but he saw some great victories.

We have made progress as a nation, and part of that progress is because of this unusual leader who labored among us, and we have made progress because he received support from Americans of all races and religions and national backgrounds.

But didn't he have flaws? Of course he did. So did George Washington and Abraham Lincoln. Sometimes heroes who are in our midst do not seem like real heroes because we still retain this image that they must be saints, people with no imperfections. There aren't such creatures around!

There are, however, a few people who bring out the best in us. Martin Luther King was one of those.

How should we honor him today?

By continuing to fight for the less fortunate.

It is easy for society to ignore them, just as it was a few decades ago.

There are people who need jobs, who need a quality education, who need dentures but can't afford them—people all around us with a host of needs.

Generally they do not want us simply to hand them things, but they do want justice and an opportunity.

That's what Martin Luther King fought for: A just and opportunity-filled society.●

PROTECTION OF TROPICAL FORESTS AND BIOLOGICAL DIVERSITY IN DEVELOPING COUNTRIES

● Mr. KERRY. Mr. President, I want to express my support for S. 1747 and S. 1748, which propose to amend the Foreign Assistance Act of 1961 in order to protect tropical forests and biological diversity in developing countries. I am pleased to be a cosponsor of both measures which I believe address two very important global environmental issues.

Forests account for over 40 percent of the terrestrial ecosystems in tropical regions of the world and occupy an area of approximately 2 billion hectares. Slightly less than 1 billion hectares are open or dry forests while the remaining are closed or wet forests. Tropical forests are highly productive ecological systems. Either directly or indirectly they are responsible for providing life's necessities such as food, fuel, and building materials for the approximately 2 billion people who live in the tropics. They contain very high diversity of plant and animal species and are intricately related to soil, water, and biological resources.

Rapidly expanding human populations have placed intense pressure upon the natural resource base of tropical regions. Annual growth rates in these countries generally range from 2.0 to 3.5 percent which means that these populations are doubling every 20 to 35 years. According to a recent study by the Food and Agriculture Organization [FAO] of the United Nations, a loss in excess of 11 million hectares of tropical forests occurs each year. This loss is equivalent to an area five times the size of the Commonwealth of Massachusetts. Other studies, which include less than complete deforestation, project forest destruction at up to 20 million hectares per year. The primary reason for forest degradation is related to the everpresent need to provide sufficient food for the increasing numbers of humans and has resulted in the conversion of forest systems to agricultural and grazing areas. The high demand for fuel wood and timber products also accounts for significant resource degradation and destruction. In general, when tropical forests are cleared, the loss of natural vegetative cover leads to reduction of soil nutrients, erosion, increased runoff and flooding, siltation of surrounding freshwater ecosystems, and the loss of necessary habitat for plant and animal species. These conditions have been found throughout the forested tropical regions of the world.

Biological diversity refers to the number of different species of living organisms within a particular area. In general, high species diversity is indicative of complex, stable ecosystems while low species diversity is characteristic of simplified, less stable systems. Tropical forests traditionally represent highly productive, highly diverse ecological habitats. On a worldwide basis approximately 1.7 million species of plants and animals have been formally identified and classified. Most scientists working in the field of taxonomy believe that up to 10 times his number may exist with the majority residing in tropical forests. Organisms found in tropical regions tend to be very specialized in their ecological

requirements because the constancy of environmental conditions allows for a decrease in niche size. Because of this specialization, these organisms generally do not adapt well when their habitats are disturbed. The degradation and destruction of tropical forests are believed to be responsible for the extinction of up to a thousand species per year.

From an ecological standpoint, the stable but delicate relationships in these systems are now changing. From a practical standpoint, the potential genetic reservior for new food crops, pharmaceuticals, and other valuable products is rapidly decreasing. The loss of biological diversity in these regions is occurring at an uprecendented rate and, according to most scientists, reaching critical proportions.

Forest degradation and subsequent loss of biological diversity are prevalent throughout regions of Africa where approximately 40 percent of the world's tropical forests are located. As a member of the Committee on Foreign Relations Subcommittee on African Affairs, I am particularly concerned about these conditions. Africa's population growth rate is the highest of any of the continents in the Earth's history. According to projections of the United Nations, if Africa continues along its present course of increase, its population will triple in approximately 50 years. The problems faced on this continent are critical and need immediate attention. The rain forests of West Africa, along the Atlantic coast, are decreasing at more than 5 percent annually. There is evidence that these forests play a vital role in recycling moisture that provides the base for rainfall in the sub-Saharan region which has experienced below average precipitation for the past 17 years. Increase in desertification is also accelerating at unprecedented levels south from the Saharan regions. Although the problem of deforestation in Africa is well known, programs of forest protection and reforestation are not keeping pace with the loss. A recent FAO study showed that the total area of deforestation exceeded that of purposeful reforestation by a 29-to-1 ratio.

Last fall, Lester Brown, Director of Worldwatch Institute and senior author of "Reversing Africa's Decline," testified before our subcommittee on the ecological deterioration and economic decline throughout most of the African continent. He contended that "reversing Africa's decline" could take place only by utilizing resource-based strategies. According to Mr. Brown, "beneath the urgent work of providing food and aid and resettling families displaced by famine, a long-term strategy of environmental restoration is essential to reversing recent trends." S. 1747 and S. 1748 work toward accomplishing this restoration.

These two important bills provide encouragement and support for programs and projects that protect tropical forests and biological diversity in developing countries. They require that U.S. sponsored activities under the Foreign Assistance Act are based upon careful analysis of their impact upon these resources and call for the denial of programs and projects that degrade these resources. They also require annual reports on the implementation of these sections of the Act. I am convinced that S. 1747 and S. 1748 provide the mechanisms necessary to make progress on the protection of tropical forests and biological diversity in developing countries.●

DEATH OF AUDREY WOOD

● Mr. MOYNIHAN. Mr. President, the death of Audrey Wood, the distinguished New York theatrical agent, was a sad event for so many who knew her and admired her work. She was loved and widely respected in the theater world of New York and indeed across the Nation.

Mr. President, The New York Times recently printed a very moving profile of Audrey Wood's life and death. I commend ths article to the attention of the Senate, and ask that it be printed in the RECORD along with her obituary of December 28 1885.

The material follows:

[From the New York Times, Dec. 28, 1985]

AUDREY WOOD IS DEAD AT 80; A LEADING THEATRICAL AGENT

(By Herbert Mitgang

Audrey Wood, the doyenne of theatrical agents who represented many of Americans' leading playwrights, died Friday at the Carrolton Nursing Home in Fairfield, Conn. She was 80 years old and had been in a coma since suffering a stroke in 1981.

As head of the drama department of international Creative Management, the artists' and authors' agency, Miss Wood represented dozens of playwrights, including Robert Anderson, Brian Friel, Arthur Kopit, Eve Merrian and Murray Schisgal. She also handled the theatrical estates of William Inge, Preston Jones, Carson McCullers and Yukio Mishima. She represented Tennessee Williams for most of his career.

The title of her 1981 autobiography, "Represented by Audrey Wood," written with Max Wilk, reflected her oft-expressed attitude toward her work. Miss Wood, who exuded an air of quiet dignity and confidence, considered the word "agent" somewhat commercial and undignified, and her devotion to clients and her tirelessness in their behalf were legendary.

BORN INTO THEATRICAL FAMILY

She suffered the stroke on April 30, 1981, outside the Royalton Hotel on West 44th Street, which had been her Manhattan home since the mid-1930's. She also had a house in Westport, Conn.

Miss Wood was born in New York into a theatrical family. Her father, William H. Wood, was the first manager of the Palace Theater. Even before graduating from George Washington High School in upper Manhattan, she began reading plays for her father.

Joining the Century Play Company in her early 20' she rose to become head of its play department. In 1937, she opened her own agency and continued her lifetime search for talented play wrights.

In 1937, Miss Wood joined the successful actors' agent, William Liebling, in their own firm. They were married in 1938. The Liebling-Wood agency became a strong force in the theater and in films, with Miss Wood representing playwrights and Mr. Liebling, actors and directors.

OPEN TO NEW IDEAS

The first play they represented jointly was in 1937 hit farce "Room Service," written by Jack Murray and Allen Boretz and directed by George Abbott.

Liebling-Wood was bought by the Music Corporation of America in 1954, and Miss Wood continued to represent playwrights under the firm's new name, International Creative Management.

Her reputation continued to grow among producers, playwrights and actors; she was open to new ideas and forms on and off Broadway and in the regional theater. It was said that if Miss Wood recommended a play to a producer, half the battle was over. An admiring producer once said, "Hell, you can't do business with her, she's too honest."

Among her playwrights, her style was legendary. She called some of them by their last names, as if not wishing to intrude on their privacy. Reporting good news, she would say, "Are you sitting down, darling?" But she could also inquire quietly, "How are you fixed for money?"

HONORED AT KENNEDY CENTER

Miss Wood served on the board of the American National Theater and Academy, the American Theater Wing and the New Dramatists Committee. She conducted a course in playwriting at Wesleyan University and workshops on several other campuses.

Although unable to be present, she received the Richard L. Coe award at the Kennedy Center in Washington in October 1981 for her contributions to the theater.

Other honors came her way in recent years. A scholarship fund for aspiring dramatists was established in her name at the Yale School of Drama and Repertory Theater in 1982. And in October 1984, a stage at the Jack Lawrence Theater at 359 West 48th Street was dedicated as the Audrey Wood Theater.

Mr. Liebling died in 1969. The couple did not have any children.

A memorial service is being planned.

[From the New York Times, Dec. 31, 1985]

THE LIFE AND DEATH OF AN AGENT

(By Samuel G. Freedman)

The last act of Audrey Wood's life was long, ambiguous and wholly dissatisfying, the sort of thing the legendary agent never would have countenanced in a play. But life did not imitate art in Audrey Wood's case and her death last Friday at the age of 80, after more than four years in a coma, left friends, colleagues and clients with a mixture of relief and unfocused rage.

All of them threw bouguets, too, to the indomitable little woman who called grown authors "young man" and always wore a hat. They remembered her for tenacity and tact, for devotion to dramatists like Tennessee Williams and William Inge.

"Oliver Garrett, a playwright, once said, 'Audrey is small, but you can't knock her down,'" recalled Max Wilk, the co-author of Miss Wood's autobiography, "Represented by Audrey Wood," "That's the obituary I think she would've wanted."

SUPPORTED RIGHT TO DIE

Such sweet memories, though, were recounted amid the frustration of friends who knew that one of Miss Wood's few passions outside of the theater was the right-to-die issue, who knew that she belonged to the Euthanasia Society. Her long demise in a Fairfield, Conn., nursing home was, for them, the bitterest of ironies.

"One feels grief at her passing, but it's mostly a relief and a kind of anger that this could've gone on so long," said Arthur Kopit, one of her clients. "This woman was so clear about what she wanted. No one was more explicit."

Morton Gottlieb, the producer, was one of many friends who made the passage from hope to despair in the years after Miss Wood suffered a stroke on April 30, 1981. "I used to go and visit her when she was in the coma," he recalled, "and in her first year I always believed she'd come out of it. I'd tell her all the news, because I believed she was taking it in. But in the past few years, people told me, Forget it.'"

EMBODIED BROADWAY'S HEYDAY

A memorial service for Miss Wood has been scheduled for 11:30 A.M. on Jan. 15 at the Shubert Theater, and what will be mourned, what is already being mourned, is not only Audrey Wood the person but also a Broadway heyday that she helped to embody. At a time when new American playwrights could make their careers on Broadway, Miss Wood found, shaped and delivered many of the finest—Williams, Inge, Kopit, Carson McCullers, Robert Anderson, Murray Schisgal and Preston Jones.

"Audrey represented a whole world of playwrights, a whole world of theater," Mr. Anderson said. "She was a condition of our life for so many years."

Miss Wood was almost literally a child of the theater. The daughter of William H. Wood, the manager of the Palace Theater, she grew up back-stage and as a teen-ager began reading plays for her father. By the late 1930's, she had founded an agency with her husband to be, William Liebling. Soon after, she signed a little-known author named Thomas Lanier Williams.

"She was a divining rod for talent," said Eli Wallach, the actor. "Unlike a lot of agents, she never boasted about who she discovered. She just found someone and coddled and nursed and nurtured their talent."

Miss Wood was an editor, a sounding board and at times a surrogate mother for her clients. "It all boils down to caring," said Flora Roberts, a prominent agent for playwrights and authors and a protegee of Miss Wood. "Audrey taught me that you have to go with your faith in a writer, because it's faith in yourself for choosing them."

FASCINATION WITH LIFE

Miss Wood had fallings-out with her clients. Inge and Williams both left her, blaming her for their flagging fortunes. Although Williams's departure wounded her, the agent Milton Goldman recalls, Miss Wood helped the playwright find another representative. And Williams acknowledged his debt to Miss Wood even after their parting.

But until her stroke, Miss Wood never lost her fascination with life, whether it meant crossing the country in search of a new playwright or maintaining a first-date excitement in her marriage to Mr. Liebling.

"I remember a dress rehearsal of 'The Mundy Scheme' at the Royale," Mr. Gottlieb said. "It was 1969, about three weeks before Mr. Liebling died. And in the break between scenes, there they were, hugging and kissing in the dark, like teen-agers in the balcony of the movie theater. You could burst out in tears in just remembering."●

THE REDEVELOPMENT OF UNION STATION MOVES FORWARD

● Mr. STAFFORD. Mr. President, during the recess, the Department of Transportation entered into a development agreement with Union Station Venture. This agreement will provide for the reconstruction of Union Station at the edge of Capitol Hill here in Washington, DC.

This is grand news.

I congratulate Secretary Dole, as well as Keith Kelly, the president of the Union Station Redevelopment Corp.

The work to revive Union Station is important to the Capitol Hill area, to the city of Washington, and to the Northeast rail corridor. It will hold great importance for the tens of thousands of Americans who come to visit their Capitol each month, offering new restaurants and shops.

I look forward to the early awarding of the construction contract.

To give my colleagues a better idea of the project, I ask that information on the work that has occurred, an outline of the redevelopment contract, and a recent article from the Washington Post be printed at this point in the RECORD.

The material follows:

MILESTONES BY UNION STATION REDEVELOPMENT CORP., IN ADMINISTERING THE UNION STATION REDEVELOPMENT ACT OF 1981

Corporation staffed—February 1984.

Preferred developer selected—Union Station Venture August 1984.

Architect selected Harry Weese & Associates—August 1984.

Construction manager selected Gilbane/Smoot Joint Venture—November 1984.

Emergency repairs in Union Station A. A. Beiro Contractor—$1,000,000—completed—November 1984.

Schematic Design for Union Station approved—February 1985.

Initial design reviews before NCPC, Fine Arts Commission, D.C. Historic Preservation Board completed—May 1985.

Finding of no significant impact by FRA—August 1985.

Asbestos removal completed—October 1985.

Negotiations with preferred developer on development agreement and sublease concluded—October 1985.

Sent to Secretary of Department of Transportation for signature.

Demolition contractor selected O'Rourke—November 1985.

Demolition Work Began—December 2, 1985.

Architectural, structural, mechanical and electrical drawings and specifications 50 percent—completed—November 15, 1985.

Estimate of construction costs underway by construction manager.

Total cost to date—$5,800,000 out of $70,000,000 available. Corporate expenses: $800,000; professional services: $3,600,000; building repairs/asbestos removal: $1,400,000.

Estimated completion date—Early 1988.

SUMMARY OF SUBLEASE AND NEGOTIATIONS WITH UNION STATION VENTURE

USV, a joint venture of LaSalle Partners, Inc., Equity Associates, Inc., Williams Jackson Ewing and Ben Thompson Associates was designated as the "preferred developer" on August 28, 1984, following a developer competition. On March 14, 1985, general agreement was reached on business terms and on the outline of the proposed sublease. The terms of agreement were reported to the USRC Board June 3, 1985, and the President of USRC was authorized to conclude negotiations with USV for the sublease and development agreement to be signed by the Secretary of Transportation. During the summer and early fall of 1985, USRC and USV negotiated a sublease which has been signed by USRC and USV and a development agreement which has been signed by Secretary Dole and USV.

The major points covered in the two documents are:

1. Union Station Venture is designated as the developer of the commercial portions of the station.

2. USV will lease the Union Station, the historic concourse, the new train concourse and adjacent land. They do not lease the parking structure or the air rights over the tracks.

3. The term of the lease is 29 years fixed with five 14-year options. Rent adjustment is provided at each portion option period.

4. The Base Rent is $1,000,000 per annum net with a CPI inflator beginning in the third year of 40% of the increase in the CPI on an annual basis. In addition, USRC will receive Participation Rent equal to 50% of all "Project Cash Flow" as defined in the agreement.

5. USRC is to restore and renovate the historic structure and to make certain improvements for USV which will allow them to complete their physical improvements. USRC construction costs are estimated to be about $57,000,000 not including contingencies. USV expects to spend about $31,000,000 in total development costs.

6. USV will develop approximately 200,000 square feet of specialty retail space on three levels and will lease 80-85,000 square feet of office space to Amtrak.

7. Amtrak will have new facilities in the central portion of the historic concourse and waiting areas in the train concourse.

8. USV proposes to finance $28,000,000 of debt and raise $3,000,000 in Equity. USRC has the right to review and approve financing and may provide alternate sources of finance if not satisfied with the USV financing. Because we share equally in cash flow, it is in our mutual interest to secure the best possible financing.

9. USV agrees to meet USRC goals for minority participation including women in all phases of the development.

10. USRC retains rights of design approval on store fronts and will monitor that the project will be operated in a first class manner.

11. These are other usual and normal terms and conditions for a project of this complexity.

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5 YEARS AFTER CLOSE, UNION STATION WORK STARTS

(By Stephen J. Lynton)

The vacant halls of Washington's cavernous Union Station echo with the clang, scrape and rumble of crowbars, shovels and bulldozer-like loading machines that scoop debris into dump trucks. The air is thick with plaster dust and permeated by the acrid smell of cutting torches.

For the first time since the once-splendid railroad terminal was closed as a hazard five years ago, major reconstruction work is under way. Behind padlocked doors and barricades, demolition crews are ripping out obsolete fixtures, pipes and wiring. Soon, officials say, restoration will begin.

Under federal plans, the massive, decaying granite edifice, built in 1907 within sight of the Capitol, is to be renovated at a cost of nearly $140 million in federal and private funds.

The building, scheduled to reopen in 1987 or early 1988, will house a refurbished train station along with restaurants, movie theaters and shops.

Last week, federal officials announced an agreement designed to end government spending on the station after it reopens. Under the accord, private developers will pay the government at least $1 million a year in rent—enough, officials said, to pay all outstanding debts and other costs.

During a stroll through the dim, chilly hallways one recent afternoon, Keith Kelly, who heads a nonprofit group overseeing the restoration, turned to William E. DuVall, a key construction official. "You can't believe the difference, Bill, with all of the junk out of here," Kelly said.

As the two men eyed the rubble-strewn passageways, they predicted a grant metamorphosis. "That is the mezzanine area where there will be a restaurant," said DuVall, pointing to a sooty chamber filled with dangling wires, ripped insulation and debris. Said Kelly, "It'll have tables looking right over here."

The gourmet restaurant planned at Union Station's southwest end would overlook the Capitol and fountains in Columbus Plaza. Today this prospective dining salon is marked by a warning sign: "Warning trash chute overhead." Through the chute, discarded hunks of metal and plaster are dumped.

The demolition work inside the building began early last month and is expected to be completed by March or April.

The $1.8 million job is being carried out by O'Rourke Construction Co., a major Cincinnati-based wrecking outfit.

Officials plan to hire a general contractor to start the renovation work by June.

Union Station was ordered shut in 1981 because of leaks in its roof and other deterioration. Officials termed the building unsafe.

Since then, railroad passengers have had to walk around the three-block-long structure to a separate terminal erected behind it.

At the time, the government already had invested $117 million in the project, stirring widespread controversy and criticism.

The monumental station had been converted into a National Visitor Center with a large slide-show pit in its main waiting room.

Two years ago, Secretary of Transportation Elizabeth Hanford Dole announced plans to restore the structure as a "vibrant" showpiece.

Planners say they hope to recreate the bustling atmosphere and elegance the terminal had in its heyday. Workers also are completing a long-unfinished parking garage behind it.

The building's stately, colonnaded exterior is to be preserved. In the interior, officials said, care has been taken to prevent damage to any historic ornaments, columns, marble floors and other structures during the demolition and reconstruction work.

"One of the things we've done is disassemble the old clock," said DuVall, who heads a construction team formed by Gilbane Building Co. and Sherman R. Smoot Co. to manage the project.

The elaborate clock has been removed from a wall and locked in the terminal's ornate Presidential Suite to ensure its safety.

Kelly, executive director-president of the Union Station Redevelopment Corp., the federally backed agency overseeing the renovation, gased at the building's gilded arches, where new lighting and air ducts were being tested.

None of these fixtures seemed suitable, he said, and others must be devised.

Workers, wearing masks as a safeguard against the dust-filled air, largely have finished clearing debris from the building's upper stories, where a series of offices is planned beneath broad skylights.

Crews are removing unwanted dry wall coverings on the main floor to reveal old granite columns.

In the central hall, the controversial pit was heaped with a jumble of twisted metal.

Soon, officials said, the pit will be hidden beneath concrete and covered with a white and red marble floor designed to match the station's historic decor.

UNION STATION CHRONOLOGY

October 1907—Union Station opens.

May 16, 1967—A commission headed by Rep. Kenneth L. Gray (D. Ill.) announces plan to transform Union Station into a National Visitor Center at a cost of up to $20 million.

March 12, 1968—President Johnson signs legislation to create the National Visitor Center, saying it "will assure that in the future, visitors to Washington will be given a proper welcome."

June 4, 1976—Constructiopn of a parking garage for the National Visitor Center is ordered suspended by the Interior Department because of a $4.9 million cost overrun.

July 4, 1976—The National Visitor Center, estimated to have cost $42 million, opens after a three-month delay, drawing praise from many of the 20,000 bicentennial visitors.

Sept. 28, 1976—Federal officials announce a proposal to convert part of the National Visitor Center back to a railroad station.

Feb. 23, 1981—Federal officials close the National Visitor Center, declaring the building unsafe because of leaks and other deterioration.

March 2, 1983—Secretary of Transportation Elizabeth Hanford Dole announces a plan to renovate and reopen the building as a "vibrant" railroad terminal with restaurants and shops.

March 22, 1984—D.C. and federal officials announce the awarding of a $24.8 million contract to complete the parking garage.

Dec. 2, 1985—Demolition begins inside the building to prepare for renovation, expected to be completed in late 1987 or early 1988.●

GRAMM-RUDMAN-HOLLINGS

● Mr. SIMON. Mr. President, in my 11 years—now starting my 12th—in the U.S. Congress, I do not remember any single piece of legislation that has been as badly misunderstood as the Gramm-Rudman-Hollings proposal. Nationally circulated periodicals that usually are accurate contain misinformation.

Groups have been told every kind of wild story about what will happen to their programs as a result of the passage of Gramm-Rudman-Hollings.

One of my favorite columnists is Tom Wicker of the New York Times. I rarely disagree with him. His contributions have been significant, not only in national economic affairs but in the area of penal reform, a responsible U.S. role in international affairs, and in many other areas too numerous to mention.

He has had several columns on Gramm-Rudman-Hollings on which I differ.

I am submitting for the RECORD one of his columns and my letter to him about that column.

Let me add that for those who say "we have to balance the budget, but let us not use the Gramm-Rudman mechanism," there is nothing to prevent using other mechanisms. The Gramm-Rudman-Hollings is there only if all other mechanisms fail. Those of us who voted for Gramm-Rudman generally do not favor the across-the-board cut that it could cause, but we recognize that we cannot indefinitely continue our present course without jeopardizing everything we believe in.

I ask that the Tom Wicker column plus my response to him be printed in the RECORD.

The material follows:

[From the New York Times]

WORSE THAN DEFICITS

(By Tom Wecker)

"Something has to be done about the deficit," say those who support the Gramm-Rudman-Hollings budget-balancing bill already passed by the Senate. But some things are worse than the deficit, and Gramm-Rudman-Hollings is one of them.

This ill-disguised flight from Congressional responsibility would force $36 billion reductions in the deficit in each of five fiscal years ending in 1991, ostensibly achieving a balanced budget by then. If the President and Congress fail to make such deficit cuts in the conventional manner, the President would be required to impose the necessary reductions, exempting only Social Security benefits, contracts already agreed to, and debt service.

Aside from the expansion of Presidential power that might result, Gramm-Rudman-Hollings is a "cure" worse than the malady for at least the following reasons:

It could increase the 1986 deficit. To avoid painful votes by members of Congress running for re-election next year, Gramm-Rudman-Hollings sets a 1986 deficit target of $180 billion, $5 billion *more* than the Congressional Budget Office is currently estimating. It also adds an escape clause allowing the 1986 deficit to *exceed* even the $180 billion figure by 7 percent (up to about $192 billion) before any mandated reduction would be required. Clever, these politicians.

It ignores the need for added revenues. This legislation would not force Ronald Reagan, if he had to make mandatory deficit reductions, to request new taxes—and those who think he would do so voluntarily need only look at his resistance (he's threatening a veto) even to keeping the cigarette excise tax at 16 cents rather than reducing it to 8 cents, as scheduled years ago.

Nor would Gramm-Rudman-Hollings close tax loopholes, another major deficit villian. Philip M. Stern has pointed out in The Washington Post that such tax breaks, many benefiting special interests only, cost the Government over $400 billion a year. The Joint Economic Committee estimates that the loss will *increase* by $40 billion each year—$4 billion more than the mandated annual deficit reductions—until 1991.

It muddles the military spending issue. If the deficits were too large, President Reagan would have to cut military as well as non-military spending. Intent on his military build-up, he clearly doesn't want to be forced to make such cuts; and Caspar Weinberger, the implacable Secretary of Defense, already has said that the President "would have to retain the authority to request the amounts" that he considers vital to national security.

Here are the seeds of a dangerous and unnecessary constitutional conflict—one that Congress might not win. If Mr. Reagan evaded congressionally mandated military cuts on grounds of national security, would the courts force him to comply? In the past, they've shown themselves reluctant to interfere with a President's exercise of his powers as Commander in Chief. Better that Congress, if it sees the need, should cut military spending straightforwardly.

It's bad economics. Very bad. In 1986, economic growth is estimated at 3 percent or more. Such a growth here would be a good time to reduce the deficit; but as explained before, no reduction will be required in 1986. In the future, however, there could be a succession of stagnant or recession years. To force $36 billion spending cuts in such years would be precisely the wrong economic medicine.

Worse, the basis for doing so would be extremely shaky. The size of the deficit for a given year can't be pinpointed months in advance; it depends on too many such variables as the rate of economic growth. Estimated deficits would be the basis upon which it would, or would not, become necessary for the President to order the mandated deficit reductions. An actual deficit could prove so much smaller than the projection that harsh mandated budget cuts would turn out to have been unnecessary; but the cuts and their economic effects would already be in place.

Besides, to place such a heavy burden on estimated deficits, as Rudolph Penner of the Congressional Budget Office has pointed out, would yield too much power to the unelected bureaucrats who make the estimates—one more way in which Gramm-Rudman-Hollings is the opposite of Congressional responsibility.

U.S. SENATE,
Washington, DC, November 24, 1985.

Mr. TOM WICKER,
New York Times, 229 West 43rd Street, New York, NY.

DEAR TOM: I read your column on the Gramm-Rudman-Hollings bill, and this is one of those rare occasions when I disagree with you.

I'm enclosing a column I wrote on the subject which may interest you.

On the points that you raise, let me comment briefly.

1. "It could raise the 1986 deficit." The reality is that it accepts the 1986 deficit. I would prefer the House approach to moving on that deficit now, but I don't think the Gramm-Rudman-Hollings bill changes the present reality.

2. "It ignores the need for added revenues." Here you will find that almost all of us who are Democrats who voted for it did so in part because we think it will force the Administration to face up to the revenue reality. I was one of those "foolish" people who, during my campaign, said we had to have additional revenue. I was attacked in TV commercials by my opponent for having said that. Clearly, we have to increase revenue and do it significantly. This bill is the only way I know to force the Administration to do that.

3. "It muddles the military spending issue." I'm not sure it muddles it because the steepest cuts would come in defense spending. For that reason, Secretary Weinberger opposes the proposal and wants the President to veto it. Tom Wicker and Cap Weinberger are on the same side on this one! As a matter of fact, if for some reason the courts should rule that the military spending cuts are not constitutional, the bill is set up so that the entire bill then is null and void.

4. "It's bad economics." That's a matter of judgment, and I can't prove you're wrong, though there are a great many economists who believe that the drop in interest rates resulting from Gramm-Rudman-Hollings would be healthy. What is clear is that we cannot continue the kind of growth and interest expenditures without doing two things: first, we ultimately threaten the economy of the country; second, we create a decreasingly progressive society because more and more of the national income will have to go for interest. The interest expenditure this year (approximately $181 billion) is the most massive redistribution of wealth in modern history. It takes from the poor and middle income people and gives to those who are wealthy.

Interest is now the third largest expenditure in the federal budget, after defense and Social Security. By fiscal year 1991, if we do not change our habits, interest will be #1. It will then double every four years.

Between fiscal year 1980 and the current fiscal year, we have had the following increases in outlays: Defense, 88%; entitlements, 56%; discretionary non-defense, 20%; interest, 240%. Obviously, we can't keep that up very long.

For those of us who favor doing more on problems of education and health care and other needs in our society, it is increasingly clear that we cannot continue to let the cancer of deficits and interest payments grow.

Gramm-Rudman-Hollings is not a perfect bill, but it will force the Administration to face up to revenue needs, and it will force Congress to face up to the deficit.

Cordially,

PAUL SIMON,
U.S. Senator. ●

THE 38TH BIRTHDAY OF ANATOLY SHCHARANSKY

● Mr. LEVIN. Mr. President, on January 20, we honored the memory of a great fighter for justice and human rights, the Reverend Martin Luther King, Jr. It so happened that that same day marked the 38th birthday of another brave champion of human rights, Anatoly Shcharansky, the Soviet dissident. Mr. Shcharansky is serving a 13-year prison term because of his outspoken defense of fundamental human freedoms.

Shcharansky had become the unofficial spokesman of the Jewish emigration movement in the U.S.S.R. when he was arrested on March 15, 1977, and charged with treason. Held incommunicado for 16 months, he was tried for alleged anti-Soviet agitation and spying for the CIA in April 1978. In July of that year, he received a sentence of 3 years in prison and 10 years of forced labor.

After surviving the first part of his punishment—a 3-year stint in the notorious Chistopol Prison—he was transferred to the Perm Labor Camp where he continued to suffer official abuse. At Perm in 1981 Shcharansky was subjected to 185 days in a punishment cell (where prisoners are fed once every 2 days) for a series of "infractions," including attempts to practice his religion. This maltreatment culminated in October 1981 when a three-man kangaroo court decreed that in retaliation for refusing to "admit his guilt," Shcharansky be sent back to Chistopol Prison for another 3 years.

To protest the cutting off of all communication with his family, Shcharansky went on a prolonged hunger strike in 1982. As a result of this hunger strike and the generally deplorable conditions of his confinement, he has suffered serious health problems.

Shcharansky is back in Perm Labor Camp now, and his health continues to deteriorate. Information received by his wife early this year indicates that he has been given an additional 5-month sentence to be served in an isolation cell within the labor camp. The fact that he is still being punished for "infractions" seems to indicate that his spirit has not been broken. The circumstances Shcharansky has faced over the past 9 years would have destroyed many other people. He is indeed an individual of rare courage and strength of conviction.

Anatoly Shcharansky's only desire is to be allowed to join his wife Avital in Israel. Since his imprisonment, count-

less pleas for Shcharansky's release on humanitarian grounds have been ignored by the Soviets. President Reagan's meeting with Secretary-General Gorbachev last November raised hopes that perhpas the Soviets would consider releasing Shcharansky, among others, as a "goodwill" gesture. That these hopes did not materialize indicates that the Soviets have a long way to go to achieve even minimal compliance with the Helsinki accords and other human rights treaties they have signed.

The Soviets may continue to put Shcharansky in isolation; they may continue to refuse him visitors or to confiscate his mail. But they will not succeed in cutting the ties that bind him to all those who cherish freedom. For those of us who have shared his ordeal, Shcharansky will not disappear into the obscurity of a Soviet labor camp. He will remain in our hearts and in our minds. And we will continue to pressure the Soviets to release Shcharansky and the other Prisoners of Conscience.●

FOR A BETTER UNDERSTANDING BETWEEN AMERICAN JEWS AND GERMANS

● Mr. SIMON. Mr. President, recently when I was in the Chicago area, someone handed me a copy of der Monat, a German-American monthly publication published in that city.

I was favorably impressed by it, but I was particularly interested in an article by Dr. Juergen Goldschmidt under the title, "For a Better Understanding Between American Jews and Germans."

The author, Dr. Goldschmidt, is not identified, and I don't know what his background may be.

But the article is a sensitive article calling for greater understanding between two people.

The cause of the misunderstanding is massive and cannot be underestimated.

But the more understanding we can have between, people, whatever their background and whatever the past wrongs and misunderstandings, the better the world we can build tomorrow for our children.

I ask that the article be printed in the RECORD.

The article follows:

FOR A BETTER UNDERSTANDING BETWEEN AMERICAN JEWS AND GERMANS

(By Dr. Juergen Goldschmidt)

On May 8th of this year, 40 years after the German capitulation, the President of the Federal Republic of Germany, Richard Freiherrvon Weizsäcker, held a discourse that was later to be pronounced by the Israeli ambassador to have been a "moment of glory" in West German-Israelities. The Bundespresseamt (Federal Press Agency) printed 250,000 copies of this speech and distributed them to schools and individuals. It has since then appeared on discs and tapes in copies of more than 10,000 each. More reprints were necessary, as the original issues were reapidly sold out. Thousands and thousands of letters of approval from all levels of German society still inundate the President's office in Bonn and although his staff works late into the night, only a fraction of them can be answered, the rest is to be compiled in history archives.

What happened to launch this universal acclaim?

A few days after the visit to Bitburg of the U.S. President and the Chancellor of the Federal Republic of Germany were they laid down a wreath at the tombs of German soldiers and members of the Waffen-SS—an act that gave rise to a heated discussion in the American media—President Richard von Weizsäcker, with the authority of this position and with a frankness and outspokenness hitherto unexperienced at this high level before the German Parliament challenged some postures adopted by members of a certain generation, postures that sometimes served to half unveil and half camouflage Germany's recent history or, as the *New York Times* put it: "Momentarily Weizsäcker had cleared the air of a seamy self-pitying revisionism, banishing a half articulated wish among some older Germans that Reagan's gesture at Bitburg might be some final act of absolution, a ritual cleansing of Germany's past". It has to be added, however, that the visit at Bitburg was never intended to symbolize a "ritual cleansing" but rather "to commemorate the injustice and human suffering, to recall liberty regained and to make the reconciliation of nations" as President von Weizsäcker put it in the evening of May 5 on the occasion of a dinner given for the American President.

What exactly are those contentions still widely held in a certain generation of my compatriots that again and again are barring reconcilatory efforts between a new democratic Germany and especially American Jews? In parenthesis we should add that it sometimes appears as if comprehension of each other's position for various reasons has advanced more between Germans and Israelis than between Germans and American Jews. In Israel it is known and widely acknowledged that for the first time in the history of Jews, a genuine effort had been undertaken to idemnify the survivors of a pogrom for material damages. Prominent Jews readily admitted that the payment of ca. $30 billion from the post-war years until now to both the State of Israel and individuals ranks among the outstanding accomplishments morally as well as materially of the young Federal Republic of Germany.

If we examine more closely the doubtful postures mentioned above, we find that perhaps the most widespread contention that often serves as an excuse for not acknowledging liability for the holocaust constitutes the fact that the murderous acts were executed in utmost secrecy, thus allowing one to state "that one did not know what was actually happening". To this President von Weizsäcker said: "It (the holocaust) was concealed from the eyes of the public, but every German was able to experience what his Jewish compatriots had to suffer, ranging from plain apathy and hidden intolerance to outright hatred. Who could remain unsuspecting after the burning of synagogues, the plundering, the stigmatization with the Star of David, the depriviation of rights, the ceaseless violation of human dignity? Whoever opened his eyes and ears and sought information could not fail to notice that Jews were being deported. The nature and scope of the destruction may have exceeded human imagination, but in reality there was, apart from the crime itself, the attempt by too many people, including those of my generation, who were young and were not involved in planning the events and carrying them out, not to take note of what was happening. There were many ways of not burdening one's conscience, of shunning responsibility, looking away, keeping mum. When the unspeakable truth of the holocaust then became known at the end of the war, all too many of us claimed that they had not known anything about it nor even suspected anything."

Another argument readily evoked especially by younger and middle-aged Germans is the contention that they are simply too young to have "anything to do" with the holocaust. This argument confounds guilt (culpa) with responsibility and liability, an error, at which the first President of the Federal Republic of Germany, Professor Theodor Heuss, already had hinted. Although this confusion of mind is alien to judicial argumentation, one must, however, not forget that we are not in a law classroom but in the sphere of political argumentation about a highly sensitive matter. Once again von Weizacker cleared the air when he said "There is no such thing as the guilt or innocence of an entire nation. Guilt is, like innocence, not collective, but personal. There is discovered or concealed individual guilt. There is guilt which people acknowledge or deny. Everyone who directly experienced that era should today quietly ask himself about his involvement then.

"The vast majority of today's population were either children then or had not been born. They cannot profess a guilt of their own for crimes that they did not commit. No discerning person can expect them to wear a penitential robe simply because they are Germans. But their forefathers have left them a grave legacy. All of us, whether guilty or nor, whether old or young, must accept the past. We are all affected by its consequences and liable for it. The young and old generation must and can help each other to understand why it is vital to keep alive memories. It is not a case of coming to terms with the past. That is not possible. It cannot be subsequently modified or made not to have happened. However, anyone who closes his eyes to the past is blind to the present. Whoever refuses to remember the inhumanity is prone to new risks of infection."

II

The Bitburg experience was painful for any German living in America. The idea to visit a war cemetery was born out of the best intentions, and my country has proven for more than 30 years that it had found its way back into the family of nations, sharing the basic democratic and humanitarian values with our Western Allies and leading an active peace policy with our Eastern neighbors. Therefore the outcry about Bitburg was unexpected but it can help to redefine positions and like a lightning bolt it showed us, Germans and American Jews alike, for a fraction of a moment where we really stand. The event might have shattered illusions, but this is good because it helps us to tackle the problem of reconciliation between Germans and American Jews from a more realistic point of view. Remembrance is a burden as far as the holocaust, the persecution of Jews is concerned, but remembrance can be an opportunity when it is directed to a facet of Jewish-German rela-

tionship that proved highly fertile intellectually throughout long periods of history. Remembrance plays an important role in Jewish life. Let me quote President von Weizsäcker again:

"The Jewish nation remembers and will always remember. We seek reconciliation. Precisely for this reason we must understand that there can be no reconciliation without remembrance. The experience of millionfold death is part of the very being of every Jew in the world, not only because people cannot forget such atrocities, but also because remembrance is part of the Jewish faith.

"Seeking to forget makes exile all the longer. The secret of redemption lies in remembrance.' This oft-quoted Jewish adage surely expresses the idea that faith in God is faith in the work of God in history. Remembrance is experience of the work of God in history. It is the source of faith in redemption. This experience creates hope, creates faith in redemption, in reunification of the divided, in reconciliation. Whoever forgets this experience loses his faith.

"If we for our part sought to forget what has occurred, instead of remembering it, this would not only be inhuman. We would also impinge upon the faith of the Jews who survived and destroy the basis of reconciliation. We must erect a memorial to thoughts and feelings in our own hearts."

But the Jewish people are also the object of remembrance. It is an ethno-psychological phenomenon that the Jews as a people were held liable for centuries for the death of Jesus Christ. St. Augustin (354-430) in De Citate Dei expressed the opinion that God had kept the Jews alive in the Diaspora to demonstrate the triumph of Christendom over Jewry. Pogroms and antisemitism have their origins in this belief, logically incomprehensible but nonetheless real, from the persecution of Jews in the Rhineland during the crusades to the Oberammergau Passion Play, still the discussion goes on whether allusion shall be made to the Jews as the murderers of Jesus Christ. If collective responsibility is held against the Jews for two thousand years, how can we Germans expect to escape the same fate in one or two generations?

For generations if not for centuries the Germans have to live with the remembrance of the holocaust, and one can raise the question whether history thus once again has not made us akin to Jewry as so often before. My colleague von Utamann after a term in Tel Aviv has given a vivid description of this relationship in his book: *"Doppelgänger, du bleicher Geselle"* (Double, pale mate that you are).

Remembrance can also be understood as a chance. As Julius Guttmann in an article that appeared 1939 in the Judische Wochenumschau in Jerusalem explained, the German Jewry during the 19th Century held the intellectual leadership of Jewish life in Middle and Eastern Europe and hence in America. One reason was the overwhelming number of Jews in Germany and Austria-hungaria compared to England, France, and Italy. Another was the fact that the end of the 18th and beginning of the 19th century was a period of great intellectual movement in Germany, the time of Lessing (Nathan der Weise) Kant, Hegel, Fichte, Herder, and their Jewish counterpart Moses Mendelssohn, as well as Goethe and Schiller—to name but a few. Their ideas challenged the Jewry who then after the emancipation (1812 in Prussia)—more and more chose the path of assimilation and thus had to redefine the role of their Jewishdom. The fundamental debates both about the religious mainstreams (liberalism versus modern orthodoxy, historianism in between) and about the question of Zionism versus assimilation were for the first time, most deeply and most radically debated within the ranks of German Jewry. As these different intellectual positions are still nowadays relevant among American Jews, it only seems natural to me that we remember its roots and the intellectual background that first gave rise to these discussions.

III

Despite and because of this burden we shall undertake every conceivable effort to look for ways and means to get to know each other closer. Out of this closer knowledge gradually an improved understanding might emerge. The simple fact that more than one whole generation of Germans grew up without any intellectual contact to Jewishdom and especially its Ashkenazian version is often overlooked. As a direct consequence of the Holocaust, the overwhelming majority of Germans never met Jews, has no knowledge of the Jewish Holidays, the Jewish Family festivities and the Jewish way of life in general. Whereas more than half a million Jews lived in Germany before World War II, there are nowadays only 25,000, too few to hold up the torch of intellectual brilliance that once characterized the Jewish contribution to Germany's intellectual life as demonstrated by the great number of Jewish Nobel Prize winners of German nationality before 1933 whereas the proportion of Jews in the German population was well under 1 percent. After the Bitburg visit, the Ambassador of the Federal Republic of Germany, Guenther van Well, held a speech at the Annual Meeting of the Board of Governors of B'nai B'rith International and pointed out, that we were determined "to further what B'nai B'rith has always stood for: sound intercultural and interfaith relations." The Ambassador indicated further that B'nai B'rith itself began in Berlin in 1881 and "saw its peak in 1924, when district 8 (Germany) with over 15,000 members was the most populous district of the Order, surpassing even the largest American district . . ." To increase the knowledge of each other, a first exchange of 30 American Jews and German youth took place this year.

More institutional steps were also recently taken to foster the understanding between American Jewry and Germans. "German American Committee on Learning and Remembrance" was established under the presidency of Elie Wiesel, known for his Holocaust Memorial Council, German members are interalia Peter Petersen (Member of Parliament, CDU) Klaus Schütz (Mayor of Berlin 1967-1977 and Ambassador to Israel). The American members are Rabbi Asher, Tempel Emanuel, San Francisco, Professor Raul Hilberg (Contemporary Historian, Univeristy of Vermont), Franklin Littell (Temple University, Philadelphia), Sigmund Strochlitz (former president of the Friends of the University of Haifa), and Bayard Rustin (of the A. Philip Randolph Institute, New York and a former close collaborator of Martin Luther King Jr.) A final working program has not yet been defined but activities will concentrate on lectures and exhibiitions. Also very recently the American Jewish Congress announced the establishment of the "Weisse Rose" Foundation. Weisse Rose (white rose) was a codeword of a group of young students resisting Nazi terror at the Munich University. Hans and Sophie Scholl gave their lives at the age of 24 and 21 for their noble goal. The foundation aims at preserving the remembrance of this "other Germany" by working for a better understanding between American Jews and Germans.

Knowledge of each others uniqueness as individuals, as a group and as a people creates trust and hopefully understanding and perhaps finally reconciliation. We have chosen this itinerary and it is with great pleasure that we feel that American Jews here in Chicago will meet us half-way. On November 7 of this year, the Chicago Chapter of the American Jewish Committee will bestow its Community Service Award on the Robert Bosch Corporation and chief executive officer for service rendered for the sake of American Jewish-German understanding. The award will be accepted by Mr. Stahl, President of the Robert Bosch Corporation on the occasion of the dinner given at the Palmer House which will be attended by some hundred guests. This token of good will is a pleasant surprise for all Germans in Chicago for its gives us the courage not to lessen our efforts in the strife for a better understanding between American Jews and Germans.●

IMPACT OF DELAYING THE TEACHING OF ENGLISH

● Mr. D'AMATO. Mr. President, I rise today to express my concern about the proposal being developed that would delay the teaching of English in public schools in Puerto Rico. In Puerto Rico, both the English and Spanish languages have been taught in grades 1 through 12 since the 1940's. Children have been able to learn both languages during their formative years. This new proposal could adversely affect the future of our children.

The secretary of education of the Commonwealth of Puerto Rico, Ms. Awilda Aponte Roque, has proposed, as part of a comprehensive educational reform, to delay for 3 years the teaching of English in the public school system. This proposal is contrary to the educational system that has been in place in Puerto Rico for decades; it could diminish opportunities for thousands of children. In fact, there is a lack of evidence to show the benefits of this proposal for American children, especially those who resettle in mainland United States.

Puerto Ricans are American citizens. They move freely, like all other American citizens, from the island to the U.S. mainland. At present, there are approximately 1.9 million Puerto Ricans living in the U.S. mainland. Approximately 800,000 live in the State of New York. Without a thorough understanding of English, many of them would find it difficult to move freely from the island to mainland United States. Children resettling from Puerto Rico in New York and in other areas of the country would become less proficient in English.

Recently, I met with Mayor Baltasar Corrada del Rio, the mayor of San Juan, to discuss the impact of this

reform. I agree with Mayor Corrada and a host of citizens who feel that more English, not less, is needed. Following are some letters expressing this viewpoint, which I ask to have printed in the RECORD

The letters follow:

[From the San Juan Star, Jan. 24, 1986]

TEACHING IN ENGLISH

This letter is for Education Secretary Awilda Aponte Roque.

Regarding educational reform, there is a question to which I would definitely like an answer. Would you please inform the people of Puerto Rico what schools senator's and representatives children go to. I am sure they're not public schools.

I feel that when government officials feel unsure of their future, they might think that probably with poor educated people they can perpetuate their existence. I would definitely like to know what the real intentions are behind this scheme.

I urge every one to be fierce, courageous and willing to fight for what you believe and defend your rights to what degree is necessary. Speak up and let's defend the right to give our children the education we want them to have.

Like Ann Landers would probably say, Awilda, wake up and smell the coffee.

NEREIDA R. DE GARCIA,
Carparra Heights.

This letter is for Governor Hernandez Colon.

I am a grandmother who studied in Puerto Rico's public schools.

I was taught English from the first grade on. I owe my ability to English to this early teaching and to advanced teaching required in the curriculum. I progressed in English by reading which was taught to me in school. At no time did I experience the confusion of languages on which you base your attempt to eliminate English from the first three grades and make it an optional (not required) subject from the fourth grade on.

I am sure that your sons, those of José Ronaldo (in English: "Rony") Jarabo, Miguel, Awilda, etc., studied or are studying now in private schools, where the teaching quality is better and where English is emphasized.

That way the sons of low income families are deterred from learning English because their parents cannot pay a private school, much less send them to study in the United States.

What you must do is employ competent teachers in both languages. This will ensure better quality in Spanish and English.

Let me inform you that I, and (I am very certain) a large number of Puerto Rican parents are opposed to the elimination of English in the first three grades.

CARMEN M. BUSÓ,
Hato Rey.

READERS' VIEWPOINT

I can't understand how people related to education want to avoid the teaching of English in elementary school in the 1st, 2nd, and 3rd grades. I think, with this attitude, instead of solving a problem a bigger one will be created.

Our children love American customs. They like to dress in American styles; they also like American music, dances, movies, etc. But they don't like to speak English. Most of the time they say they don't like English, but it is because they don't understand it.

In elementary school, English is not emphasized as as it should be. When the students reach junior high school their problem with English really begins.

In secondary schools (grades 7-12) they are taking English as an independent subject, that is with a teacher who teaches only English as in 4th through 6th grades in most of the elementary schools. But differently from the first three grades in elementary school where most of the time they have English with the same teacher who teaches the other subjects. This teacher is not prepared with a concentration in English; enough time is not dedicated to the teaching of English. Consequently the learning of English is not the best and the students won't get enough knowledge of what they need to learn: English.

We all know that the younger a child is, the better he will learn a language. The more you practice a language, the better will be the results.

The solution is not to stop the teaching of English in elementary school. What is needed is to improve the environment to teach English since the early grades. Everyday we can see the importance of knowing English: to understand it and communicate it with others.

It is necessary to emphasize the skills according to the grade, in teaching English in elementary school, so that children will be ready to continue studying and learning more English in secondary school.

In private elementary school children take classes in English. How is English going to be avoided in our public elementary schools?

Most of us had the privilege of studying in public schools where classes were carried on in English and it wasn't as necessary as it is today.

Why is it that many parents send their children to study in the states where everything is taught in English?

Let's help this young generation and don't give them another problem. A complete education is the only ownership that nobody can take away from someone.

TERESA ALLENDE DE PASTOR,
Bayamon.

Mr. President, children are our most precious resource, they are the innocent future of this great country. They deserve the best education possible, nothing less. Those who suggest that American children do not need to understand English are denying our children great opportunities.

The Congress, while focusing attention on the issue of child development, has stressed the importance of academic excellence and proficiency, in many instances, we have been joined by the collaborative effort between families and the private sector. Now is not the time to stop seeking excellence. It is crucial that more parents, communities, employers, and agencies serving our youth begin to address the problems facing our children. Congress has taken an active part by including funding for various educational programs for our children.

For example, in Puerto Rico there are approximately 680,000 children enrolled in the public school system. Puerto Rico receives millions of dollars in Federal funds each year. In 1984 they received $108,737,312 for chapter 1 and $8,259,237 for chapter 2; in 1985 they received $112,192,229 for chapter 1 and $9,163,539 for chapter 2. These funds are to expand the horizons of our children, not to restrict them.

We must continue to increase awareness of the needs of our school-aged children; we must maximize our efforts on behalf of the young and vulnerable; we must give our children the best possible education.

Mr. President, I firmly believe that our children must be taught English as well as the other skills necessary for them to be the best that they can be. For many years, American children, and this includes those raised in Puerto Rico, have been taught English at an early age. English is spoken on the island and in mainland United States. It has been the key to success for many. Thus, an attempt to reduce our citizenry's proficiency in English is not only absurd, but also an attack on the American dream.●

FIFTEEN YEARS OF SOVIET PSYCHIATRIC ABUSE

● Mr. LEAHY. Mr. President, on January 29, 1971, Soviet dissident, Vladimir Bukovsky, compiled 150 pages of documentation on Soviet abuse of psychiatry and sent the material to Western psychiatrists. Bukovsky put this question: "Do the above-mentioned reports contain enough scientifically based evidence to indicate the necessity of completely isolating these people from society through internment?" Bukovsky eventually received thoughtful responses from the World Federation for Mental Health, and medical groups in Britain, the United States, France, Switzerland, and Holland. Although the World Psychiatric Association [WPA] initially was silent, pressure against Soviet psychiatric abuse finally forced the Soviet Union to withdraw from the WPA in 1983.

Why does the Soviet Government persist in the practice of abusing psychiatry for political purposes? It is a brutally effective way to silence and demoralize political opponents. It is a coldly practical way to hide the scope of repression from the outside world since often even the accused is not present at trials. It is the ultimate expression of a conformist society in which anyone who does not agree or acquiesce in official policies must be mad and treated as such. It is also the ultimate expression of a totalitarian system in which the individual is subjected to the will of the state.

Who are the typical victims of Soviet psychiatric abuse? It is difficult to give a definitive answer to that question due to the secrecy of the Soviet penal system. Two noted Western specialists, Peter Reddaway and Sidney Bloch, provide some answers in

their book, "Soviet Psychiatric Abuse." Based on a sample of over 500 cases from 1962 until 1983, they conclude there are 5 basic categories of victims: Human rights activitists, 50 percent; nationalists, 10 percent; would-be emigrants, 20 percent; religious believers, 15 percent; and citizens who are inconvenient to the authorities, 5 percent.

Fifteen years ago, Bukovsky presented the West with accurate reports of Soviet psychiatric abuse. Today, due to world protest, Soviet authorities seem to be somewhat more careful in committing Soviet dissidents to psychiatric hospitals. As the following cases of six long-term victims of Soviet psychiatric abuse show, however, this deplorable practice is still very much alive in the U.S.S.R. today.

Viktor Rafalsky, Ukrainian historian, born in 1919, has spent 15 years in Soviet psychiatric hospitals. Imprisoned from 1954 until 1959 for "Marxist deviation," Rafalsky was subjected to repeated psychiatric examinations. In 1962, Rafalsky was committed to a psychiatric clinic for 2 years for writing "anti-Soviet" literature. Charged with owning a "nationalist, anti-Soviet" novel, Rafalsky was arrested in 1968 and sent to the notorious Dneepropetrovsk Special Psychiatric Hospital [SPH]. Although Rafalsky escaped from a Moscow psychiatric hospital in August 1983, he was soon captured and sent to the Lvov Psychiatric Hospital. In a 1983 smuggled appeal, Rafalsky writes he cannot hold out much longer.

Dr. Algirdas Statkevicius, born in 1923, is a Lithuanian physician now in the Chernyakhovsk SPH. In 1951, he was given a 25-year term for his Lithuanian resistance work; he served 9 years. In 1970, Statkevicius was arrested for his writings; he spent over 2 years in a psychiatric hospital. Statkevicius later joined the Lithuanian Helsinki Group. He also signed the 1979 Baltic memorandum denouncing the Molotov-Ribbentrop Pact which "legalized" Soviet annexation of the Baltic States. Statkevicius was arrested on February 14, 1980. Ruled nonaccountable for his actions in August 1980, Statkevicius was sent to the Chernyakhovsk SPH. A few days later, Statkevicius protested his closed trial, asking permission to emigrate to the United States where his sister lives.

Vladimir Gershuni, born in 1930, a bricklayer, is the grandson of Grigori Gershuni, founder of the Social Revolutionary Party. First arrested in 1949 for belonging to an anti-Stalinist student group, Gershuni spent 10 years in the camps. Arrested for samizdat, Gershuni was arrested on October 18, 1969 for "anti-Soviet slander." Ruled "chronically schizophrenic," he spent 4 years in the Orel SPH. In the mid-1970's, Gershuni was an editor of Poiski and was active in the Free Interprofessional Union of Workers [SMOT]. Charged with "anti-Soviet slander", Gershuni was arrested on June 17, 1982, and ruled "schizophrenic" at the infamous Serbsky Institute. After a closed trial on April 12, 1983, Gershuni was sent to the Alma-Ata SPH where he is to this day.

Egor Volkov, Russian worker, born in 1927, has been in the Blagoveshchensk SPH since 1968. Volkov was first imprisoned for a few months in 1943 in a POW camp. In 1948, Volkov was found guilty of insubordination—for protesting refusal to grant home leave to visit his dying father; he spent 2 years in an army disciplinary battalion. Volkov was sentenced to another 2 year camp term in 1963, allegedly for "hooliganism," actually for listening to foreign radio broadcasts. Volkov was arrested for "anti-Soviet slander" in 1967—he had led a strike to protest meager wages for his construction crew in Nakhodka. Ruled a "paranoid schizophrenic," Volkov has been at Blagoveshchensk ever since.

Anna Chertkova, a Russian Baptist born in 1927, has been in psychiatric hospital since 1973. For several years before her incarceration, Chertkova was denied living accommodation in Alma Ata and was harrased in other ways. Accused of "anti-Soviet slander", she was arrested in 1973, ruled nonaccountable due to so-called "sluggish schizophrenia." The official court finding is that Chertkova "made antistate expressions on the basis of her religious belief." Ever since that time, Chertkova has undergone forcible drug treatments in the Kazan and Tashkent SPH's.

Father Iosif Mikhailov, a Russian Orthodox priest from Ufa, was born in 1934. He has been held in the Kazan SPH since 1971. Mikhailov was arrested in 1971 for sending a letter to the United Nations to protest Soviet state interference in church life. During his years in the Kazan SPH, Mikhailov has been subjected to constant forcible drug treatments. He has been told that these treatments will end only when he renounces his faith; Mikhailov has remained steadfast in his belief. In late 1983. Mikhailov was transferred to an ordinary psychiatric hospital in an unknown location.

These six cases reveal the human dimensions of the Soviet abuse of psychiatry. These six men and women have also been subjected to debilitating drug treatments in vain efforts to make them give up their beliefs. There are hundreds of sane men and women known to be in Soviet psychiatric hsopitals today. Probably the actual number of victims of psychiatric abuse ranges into the thousands. It is difficult to comprehend why the Soviet authorities persist in this brutal perversion of their responsibility toward their citizens. One answer is the Kremlin's chronic fear of truly Soviet independent men and women.●

HIGHER EDUCATION AND THE NATION'S FUTURE

● Mr. KERRY. Mr. President, The reputation of Massachusetts for educational excellence continues as a result of the extraordinary people who continue to provide the ideas that allow our institutions to grow and prosper. Lesley College, which has grown dramatically in the last 75 years that it has been educating young men and women in Cambridge, recently inaugurated Margaret A. McKenna as its third president. In her speech following her inaugaration. Ms. McKenna proved eloquently that her tenure as President will bring to Lesley and our educational community an energy and interest in innovation that will serve to continue Massachusetts' reputation for leading the Nation in the field of education. I wish Ms. McKenna well in her new position and I know that she will make us all proud in the coming years.

I ask that Ms. McKenna's speech be printed in the RECORD.

The speech follows:

SHAPING THE CHANGE: HIGHER EDUCATION AND THE NATION'S FUTURE

(By Margaret A. McKenna)

Members of the Lesley Community, visiting delegates, colleagues, family and friends, I am delighted that you are here to join in this inaugural ceremony. It is a special day and a time of grest excitement and expectation.

Some ceremonies derive their significance from their place in a rite of passage. New Years' celebrations, births, commencements, weddings—are all threshold experiences, recalling the past even as they usher in the future.

The investiture ceremony just conducted symbolizes the passing of an era and the coming of another. The charter and seal just presented to me—not only represent this college's proud past, reminding us of the traditions which have given rise to the present; they also embody living principles—steering orders which will help chart Lesley's future in the years ahead.

These proceedings are at the end of a year-long celebration of the College's first 75 years. Almost fifty years of the college's history are represented by Alumni in the Academic procession today. Founded in 1909 as one of the earliest training grounds for the then experimental institution, the kindergarten, Lesley has continued to be linked to innovation in education.

Lesley's dedication to a practical and humanisitic blend of field-based education and rigorous academic work assured that through the years the "reality test" of the workplace informed all its teaching and learning.

Curricula and programs at Lesley demonstrate a responsiveness that is rare among institutions of higher learning today. It's longstanding commitment to the education of women continues in its undergraduate college for women and in the importance it places on truly co-equal education in its Graduate School and PMBI. As a graduate

of a women's college, I know how special it is to be involved with such an institution, especially in this era where opportunities for women are unparalleled. I stand here today as a witness to that fact.

This is truly an exciting legacy to inherit, and I am grateful to the many individuals—trustees, administrators, faculty and students—who over the years have worked to preserve and enhance it. I am also deeply honored by their faith in selecting me to help carry on the Lesley "tradition of excellence and innovation."

The ritual surrounding this installation—the symbols; the testimonials; the title, President—could turn one's head or, at least, increase one's hat size. However, I am blessed with a reality-bound and scrupulously honest five year old. My son Michael, in telling his friend, Reif, about my new job, related with some pride that his mom was now a College President. Reif did not seem impressed and went on playing with his latest transformer. Michael, like his mother, not one to give up, explained that mom was now the boss of a whole school. Now that did impress Reif who started to ask a number of questions. After a few minutes, Michael felt this had gone on long enough, and said, "Listen, it's really not that great. She's the boss of a school, but the school doesn't have any kids."

While we do not have any kids, we have a fine tradition of being responsive to the needs of children and adults.

It was in the spirit of that tradition that yesterday Dean Patricia Graham and President Daniel Perlman discussed the challenges facing higher education, and later Rosabeth Moss Kanter shared her view of "The Challenge of Change," for our nation's corporations.

I enter into this rite of passage hoping to share with you some of my views of the challenges facing our colleges and our nation.

America's resources are enormous. The richness of our people, our industries, our technologies; the strengths and diversity of our institutions of higher learning are enviable. Yet, as great as these are, America faces some tough new realities.

The post-war period of unchallenged American economic dynamism has ended. America no longer stands far ahead and alone as a nation.

Whether we are talking of reversing trade balances, limiting our vulnerability to oil producing countries, combatting terrorists of all stripes, or reducing the number of weapons and the potential for super-power conflict—we do so with the knowledge that there has been some erosion of national power; and Americans feel it deeply.

On the domestic side, we face equal challenges—the growing national deficit, slow growth economy, productivity declines, and falling educational achievement.

I am convinced that we have the resources to face and deal with our problems. We are a strong nation and a strong people, but to remain so, we cannot continue just to reaffirm inappropriate priorities, simply tinker with present policies, and offer more of the same.

There have been dramatic changes in our society. We look different as a people. Today the fastest growing segment of the population are those over 85. By the year 2000, fifteen short years from now, there will be more people over 21 than under, and over 30% of us will be from minority groups.

Our institutions and their roles have changed. Most family policy is based on the definition of a family of working father, mother at home, and two children. Only 7% of families now mirror this definition.

The influx of women in the workforce in the last decade has been dramatic. Over 52% of women are working full time, including over half, or 20 million mothers with children under age six. At the turn of the Century, about 3% of College students were women. The general reaction to their presence ranged from skepticism to hostility. David Starr Jordan, President of Stanford, responded to critics by stating, "If the college woman is a mistake, nature will eliminate her." By 1960, 25% of college graduates were women and today over half of all college students are women.

Demographic data can be a powerful tool; but powerful only if we choose to use its predictive capacity.

The data revealing ebb and flow of birth rates are a case in point. It was clear several years ago that the baby boom, which buoyed enrollments in higher education throughout the sixties and seventies, would in the eighties and nineties become a baby bust. Yet education's response to changing constituencies has been slow and federal planning, including student loan programs, is based on traditional full-time college students.

We are now beginning to see and will continue to be affected by a mini-boomlet in pre-school and early primary grades. Yet, this September, there were shortages of elementary teachers in almost every major city in the United States. Federal programs like Head Start have been level funded or cut, and over 2½ million children who are eligible for such programs are denied access.

The number of families where both parents work is increasing. In less than five years, 18 million more children will live in households where both parents work full-time. Over half the children born this year will live in a single parent family before reaching 18. Availability and quality of day care should be a top priority, yet the nation's response is fragmented and uncoordinated. Standards and licensing are inconsistent, insurance coverage has become a significant problem and over ⅔ of all day care workers are paid poverty level wages.

From 1979 to 1983, the number of children in poverty grew by 3.7 million; almost half of the poor in the U.S. are children. The feminization of poverty and the significant growth of poor in the ranks of senior citizens are facts. Since proverty is centered in the very young and the very old, we must also accept the fact that human service and educational needs increase as the inevitable consequence of poverty.

The sad fact is, as a nation we have all but chosen to ignore the obvious consequences of these changes. The guilty secret of our nation's current economic prosperity is that it is purchased at the cost of both a spiralling national debt and a retreat from the kinds of programs and planning which would enable us to address NEEDS before they become major national CRISES.

I have been a member of the audience at two recent presentations where issues of poverty were discussed. The response of the majority of the audience was glazed eyed indifference: "We're doing OK." The fact of the matter is that the line between a livable income and poverty is SLIGHT. A major illness, a disease, a plant closing—move families across that line. Two out of ten families live in poverty at least one year in ten. Some of these are students and some of these are our own alumni.

Blacks are twice as likely to be poor as whites. Enforcement of our civil rights laws has slackened, racism is still pervasive and the gap between median income of whites and blacks continues to grow.

In fact, the per capita income in the U.S. has dropped to fifth in the world, and productivity, or lack of it, has become a popular topic in corporate board rooms. As a result, new philosophies of management are being analyzed and tried as corporations seek new methods and means.

Such changes in the economic, social, and demographic fiber of our nation suggest additional future challenges for higher education. During the coming years, not only more, but different kinds of teachers, human service professionals, and managers will be necessary.

Of course, more engineers, computer programmers and scientists will be required, but it is a mistake to see the solution to all our challenges in terms of some high tech panacea.

By 1990 we will need two times as many new elementary teachers as computer programmers. Yet, 1984 was the last year the supply of new teacher graduates met the nation's demand. In the fall of 1986 we will need 165,000 new teachers—only 144,000 will be ready to enter the classroom. If present interest in teaching remains constant, in just over 5 years, when the country will be looking for one million new elementary teachers, there will be a shortage of almost 350,000.

The picture is the same in dozens of fields within human services and counseling where growing shortages of qualified professionals are running up against a demand that is increasing geometrically as the demographic shifts *we can predict today,* continue to unfold.

A similar picture merges in the corporate world where there is a growing recognition that future managers will require entirely new skills and preparation. Here, the demand for innovation is critical, the STATUS QUO fatal.

All of our resources, including women and people of color, must be utilized because it is right and because we need them.

Whether or not outside funding and support is adequate, luke warm, or deplorable—colleges have a responsibility to provide the quantity and quality of programs necessary to respond to these changes. How we respond, what kind of educational vision we define, how innovative and flexible we can become—will determine not only our own success but our nation's as well.

Those who ignore this responsibility misconstrue the essential and reciprocal relationship between higher learning and the nation. As Carnegie Foundation president, Ernest L. Boyer has recently observed,

"To regard American education as somehow unrelated to national concerns is as grievious as it is dangerous in a complex, interrelated world. To fail to provide students with a perspective beyond self-interest is to fail the nation?

In addition to providing appropriate programs, we must find ways to attract bright and committed students to them. The young woman from Dorchester who wants to return to her neighborhood to run the day care center as well as the returning mature student who has learned through his experience as a volunteer hot line worker that his abilities lie in counseling, provide resources to society surely as important as the computer scientists or the lawyer. They must be

given educational opportunities that are both flexible and affordable.

Off-site, weekend learning, self paced, and pedagogically innovative programs must be available. Society must do more to underscore the importance of contributions in the fields of education and human services through greater recognition and rewards. If we value our children and our parents, we should value those who teach and care for them. Access to and funding of higher education need thoughtful reanalysis and redefinition.

In the name of debt reduction, there exists today a serious threat to our nation's higher education loan program. But all of our Federal loan and scholarship programs combined would not pay the interest of the federal deficit for one week. Our priorities must be re-evaluated.

The Talented Teacher Act passed by Congress last year would provide $5,000-a-year scholarships to talented high school graduates in exchange for a commitment to teach two years for each year of federal support. That program remains unfunded. Not only is its authorization an urgent concern, but state and local governments, as well as our industries and corporations, must assume greater responsibility by instituting scholarships and tuition forgiveness programs in these areas of critical need.

We in higher education must respond not only to the developing needs of society, we also must become constructive agents actively involved in shaping change through the kinds and quality of the graduates we produce.

Put another way, we too must become change masters. Our students, whether prepared for teaching, counseling, business, law, or engineering, must be prepared for a life in which change will be the norm.

In this light, the current debate over curricula of our post-secondary institutions is misguided. Cloaking themselves in the rhetoric of quality and excellence, traditionalists have drawn themselves into a Liberal Arts camp, while those espousing practically-oriented and technically-based programs have established an opposing professional education camp. Their positions mirror an ideological fault line, often based on social class. It is a disservice to students and society.

Liberal arts and professional education are not opposites but complimentary elements of a total curriculum that educates for the future. Our graduates must not only be broadly educated critical thinkers, but pragmatic do-ers who are also imaginative dreamers.

We, in the academy, in our sometimes too comfortable environments, must resist becoming the high mandarins of the status quo. We have an obligation to be not merely the conservators of academic tradition, but the catalysts of progressive societal transformation.

We must make absolutely certain that our graduates are socially aware and responsible citizens. To ensure this, we need to be more than a mirror of the societies which nurture us. We must strive to be a model of a just community.

We should be places where people of color, people from diverse socio-economic backgrounds, ethnic groups, cultures, and creeds are seen as assets to enrich our understanding and our lives. We should be places where the only intolerance that exists is an intolerance of ignorance, prejudice, and stereotypes. We should be places where feminism flourishes; places where people are seen as human beings, then male and female; places where people may speak in "a different voice" and be heard; places where women and men can choose lifestyles of work, relationships, and parenting with the community's support.

Our task is by no means an easy one. Nearly 20 years ago, Robert Kennedy spoke to the dilemma of a society struggling to create a coherent image of its future in the midst of widespread social upheaval: "We will not find answers." Kennedy said, "in old dogmas, [or] by repeating outworn slogans, or fighting on ancient battlegrounds against fading enemies after the real struggle has moved on. We must re-think all our old ideas and beliefs before they capture and destroy us." His words have grown, if anything, more haunting, and more urgent. Have we grown enough in wisdom, yet, to heed them?

It may be undue opimism, but I believe we have. Faith, indeed, sometimes triumphs experience. And, thus, the future takes form composing itself through vision, experience and struggle.

At another inauguration, thirty-five years ago, the poet Archibald Macleish expressed the view that ". . . to educate at all is to profess a faith in the future of the world of the most explicit kind, since . . . education, by its nature, assumes a future."

In its first seventy-five years, Lesley College has demonstrated repeatedly, a singular ability to keep the faith, assume the future, and thereby shape the change. It is a college that has been a consistent innovator and proving ground for new curricula, pedagogies, and delivery systems for an ever growing and diverse number of students in our undergraduate school, graduate school and PMBI.

The college's capacity to innovate and grow to meet the changing needs of society and its students is one of its great strengths. In the coming years, that strength, as well as the wisdom and the optimism to face the future and shape the change, will be essential.

Nan Keohane, President of Wellesly College, incorporating the ideas of one of her predecesors, Mildred McAfee Horton, described a vision of a college as "a community as nearly ideal as possible, rising above all lines of discrimination, built upon cooperation and understanding sympathy as a bond between individuals." "Such a community would supply the rest of the world with an example of the joy of living in a rational social system."

I am convinced we can do this and more as together we create a new age for Lesley College.●

THE GRAZING FEE FORMULA

● Mr. DECONCINI. Mr. President, I read with great interest an article which appeared in the Washington Post Tuesday, January 28, 1986, reporting that the Office of Management and Budget is recommending that the current formula for the grazing of cattle on Bureau of Land Management and Forest Service lands be extended for the calendar year at current levels. This is one of those rare occasions, Mr. President, when I find myself in agreement with OMB. I was one of those 28 Senators who wrote a letter to the President urging him to maintain the existing grazing fee formula for BLM and Forest Service lands which expired December 31, 1985.

These are difficult times for agriculture in the United States, Mr. President. The times are no less difficult for those who depend on livestock production to earn their living. Retaining the present fee formula for ranchers who utilize Federal rangelands could mean the difference between making a living or going broke. In Western States, in particular, where large percentages of the total land base is in the hands of the Federal Government, there is very little opportunity for ranchers to utilize private lands. In addition, the condition of rangelands in arid regions of the Southwest are very different than the private grazing regions of the East and the Midwest. Normally, a larger land area is necessary to sustain the needs of one livestock. Additionally, there are costs unique to grazing on public lands that are not present on private rangelands for grazing has been an important force in promoting the stability of family farms and ranchers.

The present grazing fee formula was established by the Public Rangelands Improvement Act of 1978 and was the result of many years of study and negotiation involving agricultural interests, environmental groups, the executive branch, and the Congress. That formula has worked well over the years and should be continued without change.

The present formula utilizes a base value of $1.23 per animal unit month (an AUM is the amount of forage required to feed one cow or five sheep for 1 month). The base value was established as the fair market value of public grazing lands in a 1966 survey. In order to arrive at a fee which represents the current economic value of the land to the user, this base value is adjusted each year by two factors:

One. Annual changes in the lease rate for private grazing lands, and

Two. Annual fluctuations in the costs of beef production and the prices received for beef.

As I mentioned earlier, this grazing fee formula expired December 31, 1985. The President has the authority to extend the formula or make modifications unless the Congress acts. It is my hope that the President will act to continue the existing fee formula. Any increases could have a disastrous economic impact on the ranching industry in the West.●

NOTICE OF DETERMINATION BY THE SELECT COMMITTEE ON ETHICS

● Mr. RUDMAN. Mr. President, it is required by paragraph 4 of rule 35 that I place in the CONGRESSIONAL RECORD notices of Senate employees who participate in programs, the prin-

cipal objective of which is educational, sponsored by a foreign government or a foreign educational or charitable organization involving travel to a foreign country paid for by that foreign government or organization.

The select committee received a request for a determination under rule 35 for Ms. Regina Genton, a member of the staff of Senator ALAN CRANSTON, to participate in a program in Taiwan, sponsored by the Chinese Culture University, which took place from December 31, 1985 to January 8, 1986, and to participate in a program in the People's Republic of China, sponsored by the Chinese People's Institute of Foreign Affairs and organzied by the United States-China Friendship Program, which took place from January 9-11, 1986.

The committee has determined that participation by Ms. Genton in the program in Taiwan, at the expense of the Chinese Culture University, and the program in the People's Republic of China, at the expense of the Chinese People's Institute of Foreign Affairs, was in the interest of the Senate and the United States.

The select committee has received a request for a determination under rule 35 which would permit Mr. Daryl Owen, a member of the staff of Senator J. BENNETT JOHNSON, to participate in a program in Taiwan, sponsored by the Chinese Culture University, from January 1-10, 1986.

The committee has determined that participation by Mr. Owen in the program in Taiwan, at the expense of the Chinese Culture University, was in the interest of the Senate and the United States.

The select committee has received a request for a determination under rule 35 which would permit Ms. Caroline Hooper Haynes (January 5-12, 1986) and Mr. Brent Erickson (December 31, 1985 through January 8, 1986), members of the staff of Senator ALAN SIMPSON, and Ms. Geraldine D. Hardy, (January 9-17, 1986), a staff member of the Committee on Energy and Natural Resources, to participate in a program in Taiwan, sponsored by the Chinese Culture University.

The committee has determined that participation by Ms. Haynes, Ms. Hardy, and Mr. Erickson in the program in Taiwan, at the expense of the Chinese Culture University, was in the interest of the Senate and the United States.

The select committee has received a request for a determination under rule 35, for Senator WILLIAM V. ROTH, Jr., to participate in a program in Taiwan, sponsored by the Chinese National Association of Industry and Commerce, from January 13-18, 1986.

The committee has determined that participation by Senator ROTH in the program in Taiwan, at the expense of the Chinese National Association of Industry and Commerce, was in the interest of the Senate and the United States.

The select committee has received a request for a determination under rule 35, for Mr. John Ritch and Mr. Peter Galbraith, members of the Senate Foreign Relations Committee staff, to participate in a program in Taiwan, sponsored by the Chinese National Association of Industry and Commerce, from January 10-17, 1986.

The committee has determined that participation by Messrs. Ritch and Galbraith in the program in Taiwan, at the expense of the Chinese National Association of Industry and Commerce, was in the interest of the Senate and the United States.

The select committee has received a request for a determination under rule 35, for Mr. Ronald R. Mierzejewski, a member of the staff of Senator FRANK MURKOWSKI, to participate in a program in Taiwan, sponsored by the Chinese National Association of Industry and Commerce, from January 8-21, 1986.

The committee has determined that participation by Mr. Mierzejewski in the program in Taiwan, at the expense of the Chinese National Association of Industry and Commerce, was in the interest of the Senate and the United States.

The select committee has received a request for a determination under rule 35, for Ms. Karen Kollmansperger, a member of the staff of Senator ERNEST HOLLINGS, to participate in a program in Taiwan, sponsored by the Chinese National Association of Industry and Commerce, From January 9-17, 1986.

The committee has determined that participation by Ms. Kollmansperger in the program in Taiwan, at the expense of the Chinese National Association of Industry and Commerce, was in the interest of the Senate and the United States.

The select committee has received a request for a determination under rule 35, for Mr. Donald L. Hardy, a member of the staff of Senator ALAN SIMPSON, to participate in a program in Taiwan, sponsored by the Chinese National Association of Industry and Commerce, from January 9-17, 1986.

The committee has determined that participation by Mr. Hardy in the program in Taiwan, at the expense of the Chinese National Association of Industry and Commerce, was in the interest of the Senate and the United States.

The Select committee has received a request for a determination under rule 35 which would permit Mr. Craig Higgins, of the staff of Senator MARK O. HATFIELD, to participate in a program in Taiwan, sponsored by the Chinese National Association of Industry and Commerce, from January 9-17, 1986.

The committee has determined that participation by Mr. Higgins in the program, in Taiwan, at the expense of the Chinese National Association of Industry and Commerce, was in the interest of the Senate and the United States.●

ORDERS FOR THURSDAY

RECESS UNTIL TOMORROW AT 9:30 A.M.

Mr. DANFORTH. Mr. President, I ask unanimous consent that once the Senate completes its business today, it stand in recess until the hour of 9:30 a.m. on Thursday, January 30, 1986.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECOGNITION OF SENATOR PROXMIRE

Mr. DANFORTH. Mr. President, I further ask unanimous consent that following the recognition of the two leaders under the standing order, there be a special order in favor of the Senator from Wisconsin [Mr. PROXMIRE] for not to exceed 15 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

ROUTINE MORNING BUSINESS

Mr. DANFORTH. Mr. President, following the special order just identified, I ask unanimous consent that there be a period for the transaction of routine morning business, not to extend beyond the hour of 10 a.m., with Senators permitted to speak therein for not more than 5 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER TO RESUME CONSIDERATION OF S. 638

Mr. DANFORTH. Mr. President, at 10 a.m., the Senate will resume consideration of S. 638, the Conrail bill. The Senate will begin a series of amendments to the Danforth (committee substitute) amendment. Therefore rollcall votes can be expected.

Mr. BYRD. Mr. President, will the distinguished acting Republican leader get an order of the Senate to return to the consideration of the Conrail legislation at 10 a.m.? It will do that depending upon the closing of morning business and so on, but who knows? Even though the order says morning business cannot continue beyond that, it might.

Mr. DANFORTH. Mr. President, I ask unanimous consent that, at 10 o'clock tomorrow morning, the Senate turn to consideration of S. 638, the Conrail sale amendments bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. Mr. President, I thank the Senator.

H.R. 4027 HELD AT DESK

Mr. DANFORTH. Mr. President, I ask unanimous consent that H.R. 4027, dealing with the D.C. Revenue Bond

Act, be held at the desk pending further disposition.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECESS UNTIL TOMORROW AT 9:30 A.M.

Mr. DANFORTH. Mr. President, I move, in accordance with the previous order, that the Senate stand in recess until 9:30 a.m. tomorrow morning.

The motion was agreed to and, at 7:50 p.m., the Senate recessed until tomorrow, Thursday, January 30, 1986, at 9:30 a.m.

NOMINATIONS

Executive nominations received by the Senate January 29, 1986:

THE JUDICIARY

Danny J. Boggs, of Kentucky, to be U.S. Circuit Judge for the Sixth Circuit, vice a new position created by Public Law 98-353, approved July 10, 1984.

Jefferson B. Sessions III, of Alabama, to be U.S. District Judge for the Southern District of Alabama, vice a new position created by Public Law 98-353, approved July 10, 1984.

Walter J. Gex III, of Mississippi, to be U.S. District Judge for the Southern District of Mississippi, vice a new position created by Public Law 98-353, approved July 10, 1984.

Thomas J. McAvoy, of New York, to be U.S. District Judge for the Northern District of New York, vice a new position created by Public Law 98-353, approved July 10, 1984.

Sidney A. Fitzwater, of Texas, to be U.S. District Judge for the Northern District of Texas, vice Robert M. Hill, elevated.

IN THE AIR FORCE

The following persons for Reserve of the Air Force appointment, in grade indicated, under the provisions of section 593, title 10, United States Code, with a view to designation under the provisions of section 8067, title 10, United States Code, to perform the duties indicated.

IN THE MEDICAL CORPS

To be lieutenant colonel

Roy J. Barnes, xxx-xx-xxxx
Steven E. Liston, xxx-xx-xxxx
Juan A. Mujica, xxx-xx-xxxx
John R. Norman, xxx-xx-xxxx
James J. Stanton, xxx-xx-xxxx

The following officer for Reserve of the Air Force (non-ead) promotion in the grade indicated, under the provisions of section 8371, title 10, United States Code.

LINE

To be colonel

Harold Yaskovich, xxx-xx-xxxx

IN THE ARMY

The following-named officer for promotion in the Reserve of the Army of the United States, under the provisions of title 10, U.S.C. section 3383:

ARMY PROMOTION LIST

To be colonel

Horita, Gilbert M., xxx-xx-xxxx

The following-named officers for promotion in the Reserve of the Army of the United States, under the provisions of title 10, U.S.C. section 3366:

ARMY PROMOTION LIST

To be lieutenant colonel

Acuff, James N., xxx-xx-xxxx
Adair, Rufus L., xxx-xx-xxxx
Adams, John A., II, xxx-xx-xxxx
Adcox, Charles A., xxx-xx-xxxx
Addington, Ronald P., xxx-xx-xxxx
Adkins, Benny R., xxx-xx-xxxx
Adkins, Oscar, xxx-xx-xxxx
Adolph, Ulysses S., xxx-xx-xxxx
Ady, John R., xxx-xx-xxxx
Akers, William T., Jr., xxx-xx-xxxx
Akin, Kenneth A., xxx-xx-xxxx
Alderson, Norris E., xxx-xx-xxxx
Alesia, Pasquale A., xxx-xx-xxxx
Alexander, Ronald E., xxx-xx-xxxx
Alitto, Samuel P., xxx-xx-xxxx
Allan, Jimmy C., xxx-xx-xxxx
Allen, Thomas P., xxx-xx-xxxx
Allen, William R., xxx-xx-xxxx
Allwine, Lawrence D., xxx-xx-xxxx
Alm, Arthur T., xxx-xx-xxxx
Alston, Andrew A., xxx-xx-xxxx
Alwine, James B., xxx-xx-xxxx
Anjewierden, Bernar, xxx-xx-xxxx
Anzalone, Anthony J., xxx-xx-xxxx
Appling, Richard R., xxx-xx-xxxx
Arcuri, Edward L., II, xxx-xx-xxxx
Arehart, William M., xxx-xx-xxxx
Armstrong, Gregory, xxx-xx-xxxx
Arnold, James R., xxx-xx-xxxx
Arrington, Arthur J., xxx-xx-xxxx
Arroyowalker, Felix, xxx-xx-xxxx
Ashing, Thomas E., xxx-xx-xxxx
Ashworth, Donald J., xxx-xx-xxxx
Asserson, Francis E., xxx-xx-xxxx
August, Terry J., xxx-xx-xxxx
Austin, Michael, xxx-xx-xxxx
Avenick, Michael J., xxx-xx-xxxx
Ayers, Ronald, W., xxx-xx-xxxx
Babas, Robert G., xxx-xx-xxxx
Babb, William E., xxx-xx-xxxx
Backman, Dorn B., xxx-xx-xxxx
Bacon, Larry D., xxx-xx-xxxx
Badger, Philip O., II, xxx-xx-xxxx
Bagley, James C., xxx-xx-xxxx
Bahan, George M., xxx-xx-xxxx
Bailey, Donald E., xxx-xx-xxxx
Bailey, Larry A., xxx-xx-xxxx
Baker, Lynn D., xxx-xx-xxxx
Baker, Paul, xxx-xx-xxxx
Baker, Ronald A., xxx-xx-xxxx
Baker, Timothy L., xxx-xx-xxxx
Balazik, Joseph C., xxx-xx-xxxx
Baldwin, Charles R., xxx-xx-xxxx
Ballard, Marshall H., xxx-xx-xxxx
Banks, Willie, Jr., xxx-xx-xxxx
Bannon, Michael J., xxx-xx-xxxx
Barkins, Philip N., xxx-xx-xxxx
Barlow, Brian A., xxx-xx-xxxx
Barlow, Dennis C., xxx-xx-xxxx
Barnes, David J., xxx-xx-xxxx
Barnes, Grover E., xxx-xx-xxxx
Baron, Anthony S., xxx-xx-xxxx
Barr, Lewis S., xxx-xx-xxxx
Barrager, Raymond P., xxx-xx-xxxx
Barsky, Phillip, xxx-xx-xxxx
Bartruff, David A., xxx-xx-xxxx
Baskind, Francis R., xxx-xx-xxxx
Bass, Louis R., xxx-xx-xxxx
Batch, Nicholas C., xxx-xx-xxxx
Bateman, Billy B., xxx-xx-xxxx
Battaglia, Guy S., xxx-xx-xxxx
Bauccio, Fedele T., xxx-xx-xxxx
Bauer, Logan P., xxx-xx-xxxx
Baumann, Roger M., xxx-xx-xxxx
Bazurto, Everett E., xxx-xx-xxxx
Beach, Tyrone L., xxx-xx-xxxx
Beachell, Leo C., xxx-xx-xxxx
Beard, James Loyd J., xxx-xx-xxxx
Beaver, William C., xxx-xx-xxxx
Bejarano, Rodolfo C., xxx-xx-xxxx
Belasco, Steven G., xxx-xx-xxxx
Belcher, Melvin H., xxx-xx-xxxx
Belin, George R., Jr., xxx-xx-xxxx
Bell, Charles A., xxx-xx-xxxx
Bellows, Jerry L., xxx-xx-xxxx
Belyea, Byard C., Jr., xxx-xx-xxxx
Belzer, Wayne L., xxx-xx-xxxx
Bender, Theodore E., xxx-xx-xxxx
Benevelli, Paul C., xxx-xx-xxxx
Bennett, Alfred A., xxx-xx-xxxx
Bennett, Earl H., xxx-xx-xxxx
Bennett, Robert, xxx-xx-xxxx
Bennett, Wayne B., xxx-xx-xxxx
Benson, Lawrence A., xxx-xx-xxxx
Bent, Michael J., xxx-xx-xxxx
Berg, William J., xxx-xx-xxxx
Berry, Page E., xxx-xx-xxxx
Bertsch, James B., xxx-xx-xxxx
Besanceney, Girard, xxx-xx-xxxx
Best, Shannon I., xxx-xx-xxxx
Betancourt, Philip, xxx-xx-xxxx
Bevan, James A., xxx-xx-xxxx
Bigelow, John G., xxx-xx-xxxx
Bigler, Richard W., xxx-xx-xxxx
Bird, John C., xxx-xx-xxxx
Bird, Lawrence M., xxx-xx-xxxx
Birkes, Sherman W., xxx-xx-xxxx
Biscomb, David A., xxx-xx-xxxx
Bishop, Alexius O., xxx-xx-xxxx
Bissell, Shelton O., xxx-xx-xxxx
Bissey, Trevor E., xxx-xx-xxxx
Bitts, Anthony K., xxx-xx-xxxx
Black, William G., xxx-xx-xxxx
Blackerby, Cliff B., xxx-xx-xxxx
Blackmon, Kenneth A., xxx-xx-xxxx
Blanchard, John C., xxx-xx-xxxx
Blanchard, Robert E., xxx-xx-xxxx
Blazek, Edward L., xxx-xx-xxxx
Blenkle, John D., xxx-xx-xxxx
Block, Edwin K., xxx-xx-xxxx
Blodgett, David B., xxx-xx-xxxx
Boak, Stephen H., xxx-xx-xxxx
Boatman, Ralph A., xxx-xx-xxxx
Boatright, Clifford, xxx-xx-xxxx
Boccia, Donald J., xxx-xx-xxxx
Boddy, George W., xxx-xx-xxxx
Bode, Robert L., xxx-xx-xxxx
Bodner, William S., xxx-xx-xxxx
Boesch, George R., xxx-xx-xxxx
Bohn, Joseph P., xxx-xx-xxxx
Bohorfoush, Louis C., xxx-xx-xxxx
Boland, Thomas F., xxx-xx-xxxx
Bonaparte, Charles, xxx-xx-xxxx
Bone, Charles E., xxx-xx-xxxx
Bong, Thomas O., xxx-xx-xxxx
Booher, Samuel W., xxx-xx-xxxx
Bostick, William A., xxx-xx-xxxx
Boudreaux, David E., xxx-xx-xxxx
Bowe, Robert J., xxx-xx-xxxx
Bowen, Cotton W., xxx-xx-xxxx
Bower, Ronald J. xxx-xx-xxxx
Boyd, Paul B., xxx-xx-xxxx
Bracken, Charles H., xxx-xx-xxxx
Bradford, James T., xxx-xx-xxxx
Bradish, Marcus P., xxx-xx-xxxx
Bradley, Richard L., xxx-xx-xxxx
Brady, James E., xxx-xx-xxxx
Brady, Joseph C., xxx-xx-xxxx
Brady, Robert P., xxx-xx-xxxx
Brand, Terrance R., xxx-xx-xxxx
Brandon, Gerald T., xxx-xx-xxxx
Brandon, John D., xxx-xx-xxxx
Brandt, John R., xxx-xx-xxxx
Branton, William S., xxx-xx-xxxx
Breithaupt, Richard, xxx-xx-xxxx
Brent, Leslie W., xxx-xx-xxxx
Brewer, Thomas C., xxx-xx-xxxx
Bria, Carmen J., xxx-xx-xxxx
Bridgeman, William, xxx-xx-xxxx
Brillhart, Marjorie, xxx-xx-xxxx
Brinkley, Harley L., xxx-xx-xxxx
Brister, Ernest L., xxx-xx-xxxx
Brittsan, Jerry B., xxx-xx-xxxx
Brock, Billy B., xxx-xx-xxxx
Brock, Stephen G., xxx-xx-xxxx
Brockman, Joseph L., xxx-xx-xxxx

Brodie, Joe S., xxx-xx-xxxx
Browder, William R., xxx-xx-xxxx
Brown, James M., xxx-xx-xxxx
Brown, James P., xxx-xx-xxxx
Brown, Maxwell N., xxx-xx-xxxx
Brown, Millard D., xxx-xx-xxxx
Brown, Stephen W., xxx-xx-xxxx
Brown, Theron S., xxx-xx-xxxx
Brown, Thomas E., xxx-xx-xxxx
Brown, Timothy W., xxx-xx-xxxx
Browne, David P., xxx-xx-xxxx
Brownlow, Robert B., xxx-xx-xxxx
Brucker, Wallace B., xxx-xx-xxxx
Bruegger, Robert D., xxx-xx-xxxx
Bruno, John I., xxx-xx-xxxx
Brush, John B., xxx-xx-xxxx
Bryant, Toby A., xxx-xx-xxxx
Buchheister, James, xxx-xx-xxxx
Bugbee, Roger A., xxx-xx-xxxx
Burch, Marvin M., xxx-xx-xxxx
Burdick, Charles D., xxx-xx-xxxx
Burgess, John R., xxx-xx-xxxx
Burke, Robert J., xxx-xx-xxxx
Burke, William J., xxx-xx-xxxx
Burnett, Thomas R., xxx-xx-xxxx
Burns, Philip J., xxx-xx-xxxx
Burns, Philip W., xxx-xx-xxxx
Burris, Manford N., xxx-xx-xxxx
Burwell, Stan A., xxx-xx-xxxx
Butch, Edmund R., Jr., xxx-xx-xxxx
Butcher, James D., xxx-xx-xxxx
Byers, Ronald W., xxx-xx-xxxx
Byrnes, Joseph F., xxx-xx-xxxx
Cacek, Ronald D., xxx-xx-xxxx
Caden, John L., xxx-xx-xxxx
Call, William R., xxx-xx-xxxx
Calnan, James A., xxx-xx-xxxx
Calpini, John R., xxx-xx-xxxx
Campbell, Charles E., xxx-xx-xxxx
Campbell, Charles O., xxx-xx-xxxx
Campbell, Dennis B., xxx-xx-xxxx
Cannon, Wesley D., xxx-xx-xxxx
Cantrell, James K., xxx-xx-xxxx
Capitman, Michael R., xxx-xx-xxxx
Carawan, Virginia K., xxx-xx-xxxx
Carbonaro, Salvator, xxx-xx-xxxx
Carey, Donald A., xxx-xx-xxxx
Carey, Stephen W., xxx-xx-xxxx
Carl, David L., xxx-xx-xxxx
Carmichael, Earl W., xxx-xx-xxxx
Carmichael, Roger E., xxx-xx-xxxx
Carmody, Frank T., xxx-xx-xxxx
Carpenter, Norman M., xxx-xx-xxxx
Carr, Melvin A., xxx-xx-xxxx
Carrington, Thomas, xxx-xx-xxxx
Carroll, Frederick, xxx-xx-xxxx
Carter, Ernest M., xxx-xx-xxxx
Carter, Gary D., xxx-xx-xxxx
Carter, Kenis M., xxx-xx-xxxx
Carter, Ralph F., xxx-xx-xxxx
Cash, Paul A. J., xxx-xx-xxxx
Cassell, Paul B., xxx-xx-xxxx
Cassidy, Eugene W., xxx-xx-xxxx
Castillo, Raul A., xxx-xx-xxxx
Cates, James E., xxx-xx-xxxx
Causseaux, Stephen, xxx-xx-xxxx
Cavanaugh, Patrick, xxx-xx-xxxx
Cavasos, Gary E., xxx-xx-xxxx
Cedusky, Daniel K., xxx-xx-xxxx
Chagnon, Kathleen E., xxx-xx-xxxx
Chandler, Clarence, xxx-xx-xxxx
Chandler, Ernest V., xxx-xx-xxxx
Chandler, Thomas W., xxx-xx-xxxx
Chapman, John W., xxx-xx-xxxx
Charles, Louis R., xxx-xx-xxxx
Chastain, David K., xxx-xx-xxxx
Chervenak, Jan, xxx-xx-xxxx
Christner, Jere J., xxx-xx-xxxx
Christo, Dennis V., xxx-xx-xxxx
Chubb, James M., xxx-xx-xxxx
Ciborowski, Dennis, xxx-xx-xxxx
Claeson, Robert S., xxx-xx-xxxx
Clark, Alfred T., xxx-xx-xxxx
Clark, Charles C., xxx-xx-xxxx
Clark, David N., xxx-xx-xxxx
Clark, Michael A., xxx-xx-xxxx
Clark, Paul L., xxx-xx-xxxx
Clark, Ronnie F., xxx-xx-xxxx
Clarke, Jeffrey J., xxx-xx-xxxx
Clarke, William E., xxx-xx-xxxx
Cleland, James E., xxx-xx-xxxx
Clement, Robert N., xxx-xx-xxxx
Clemmer, Wayne C., xxx-xx-xxxx
Clemons, Marvin M., xxx-xx-xxxx
Cliburn, Phillip G., xxx-xx-xxxx
Cline, William E., xxx-xx-xxxx
Clinton, Everett L., xxx-xx-xxxx
Clontz, Billy J., xxx-xx-xxxx
Clyde, Harry M., xxx-xx-xxxx
Cobb, Jerald M., xxx-xx-xxxx
Coffman, Fayne G., xxx-xx-xxxx
Cole, Terry W., xxx-xx-xxxx
Colemen, Byers W., xxx-xx-xxxx
Coleman, James P., xxx-xx-xxxx
Collier, Thomas H., xxx-xx-xxxx
Collier, William C., xxx-xx-xxxx
Collins, Dennis D., xxx-xx-xxxx
Collyer, Douglas C., xxx-xx-xxxx
Condon, George W., Jr., xxx-xx-xxxx
Cone, Frederick W., xxx-xx-xxxx
Conover, Gerald D., xxx-xx-xxxx
Cook, David J., xxx-xx-xxxx
Cook, Henry J., xxx-xx-xxxx
Cook, Joseph S., xxx-xx-xxxx
Cook, Richard R., xxx-xx-xxxx
Cooley, David K., xxx-xx-xxxx
Coonfield, Hugh A., xxx-xx-xxxx
Cooper, James L., xxx-xx-xxxx
Cornfoot, James L., xxx-xx-xxxx
Corradini, Richard, xxx-xx-xxxx
Cotterill, Gary W., xxx-xx-xxxx
Cox, John C., xxx-xx-xxxx
Cox, Lawrence R., xxx-xx-xxxx
Coyle, Jackson W., xxx-xx-xxxx
Craft, John F., xxx-xx-xxxx
Craig, Nevin J., xxx-xx-xxxx
Cramer, David J., xxx-xx-xxxx
Crawford, George W., xxx-xx-xxxx
Crawshaw, Philip I., xxx-xx-xxxx
Creekmore, Oliver D., xxx-xx-xxxx
Crewe, William S., xxx-xx-xxxx
Crews, Barney E., Jr., xxx-xx-xxxx
Crisafulli, Philip, xxx-xx-xxxx
Crist, William R., xxx-xx-xxxx
Croft, William J., xxx-xx-xxxx
Crow, Bobby S., xxx-xx-xxxx
Crowley, William R., xxx-xx-xxxx
Crowley, William V., xxx-xx-xxxx
Crupe, William S., xxx-xx-xxxx
Crust, Ronald R., xxx-xx-xxxx
Cummins, Floyd W., xxx-xx-xxxx
Cummins, Richard A., xxx-xx-xxxx
Cumper, James W., xxx-xx-xxxx
Cunningham, Ben D., xxx-xx-xxxx
Cunningham, Harry B., xxx-xx-xxxx
Cunningham, Mickey, xxx-xx-xxxx
Curd, Warren J., xxx-xx-xxxx
Curtis, Garry E., xxx-xx-xxxx
Cyrus, Abe F., xxx-xx-xxxx
Czarnik, Anthony W., xxx-xx-xxxx
Czech, Joseph F., xxx-xx-xxxx
Dahoney, Richard H., xxx-xx-xxxx
Dalessandro, Ralph, xxx-xx-xxxx
Daley, Arthur P., xxx-xx-xxxx
Dallow, Richard S., xxx-xx-xxxx
Dandridge, Robert J., xxx-xx-xxxx
Danielson, Joan D., xxx-xx-xxxx
Darden, John T., xxx-xx-xxxx
Darragh, Shaun M., xxx-xx-xxxx
Darwin, David, xxx-xx-xxxx
Datema, Sally S., xxx-xx-xxxx
Davidson, Hugh T., xxx-xx-xxxx
Davis, Alan V., xxx-xx-xxxx
Davis, Chester C., xxx-xx-xxxx
Davis, Gerald N., xxx-xx-xxxx
Davis, James M., xxx-xx-xxxx
Davis, Leslie A., xxx-xx-xxxx
Davis, Rexford W., xxx-xx-xxxx
Davis, Silas B., xxx-xx-xxxx
Davis, Theodore D., xxx-xx-xxxx
Davis, Thomas B., III, xxx-xx-xxxx
Davis, Thomas R., xxx-xx-xxxx
Davis, William R., xxx-xx-xxxx
Davy, Douglas C., xxx-xx-xxxx
Dawson, Larry C., xxx-xx-xxxx
Dean, John M., Jr., xxx-xx-xxxx
Dean, Robert E., xxx-xx-xxxx
Deasy, Kevin B., xxx-xx-xxxx
Dehaven, Thomas R., xxx-xx-xxxx
Deitz, Robert T., xxx-xx-xxxx
Delaney, James W., xxx-xx-xxxx
Delvecchio, Joseph, xxx-xx-xxxx
Dempsey, Peter C., xxx-xx-xxxx
Dense, Martin J., xxx-xx-xxxx
Derk, Ronald L., xxx-xx-xxxx
Derobbio, Robert A., xxx-xx-xxxx
Detrevill, John R., xxx-xx-xxxx
Deupree, William J., xxx-xx-xxxx
Devito, James L., xxx-xx-xxxx
Devlin, John P., xxx-xx-xxxx
Devlin, Thomas J., xxx-xx-xxxx
Dew, Roy W., xxx-xx-xxxx
Dicerbo, Nicholas G., xxx-xx-xxxx
Dickey, Richard M., xxx-xx-xxxx
Dickinson, Earl L., xxx-xx-xxxx
Dickinson, William, xxx-xx-xxxx
Diggs, Dennis L., xxx-xx-xxxx
Digirolamo, Anthony, xxx-xx-xxxx
Dillard, Richard A., xxx-xx-xxxx
Dinsmore, William J., xxx-xx-xxxx
Dittmar, Glenn W., xxx-xx-xxxx
Dixon, Vivienne E., xxx-xx-xxxx
Dodds, Steven C., xxx-xx-xxxx
Dolan, James B., xxx-xx-xxxx
Dolan, Ronald W., xxx-xx-xxxx
Doll, Donald A., xxx-xx-xxxx
Domas, George J., xxx-xx-xxxx
Donaghe, Robert E., xxx-xx-xxxx
Donolli, Joseph D., xxx-xx-xxxx
Doolin, Jerry R., xxx-xx-xxxx
Dorn, John W., xxx-xx-xxxx
Dorsey, John J., xxx-xx-xxxx
Dotson, David T., xxx-xx-xxxx
Doucette, Theodore, xxx-xx-xxxx
Dougherty, Joe M., xxx-xx-xxxx
Douglass, Walter B., xxx-xx-xxxx
Dowgiewicz, Thomas, xxx-xx-xxxx
Downer, Wilbur D., xxx-xx-xxxx
Downing, John L., III, xxx-xx-xxxx
Doyel, James R., xxx-xx-xxxx
Doyle, Earl L., Jr., xxx-xx-xxxx
Doyle, Spencer B., xxx-xx-xxxx
Drexler, Arthur J., xxx-xx-xxxx
Dreyfus, Irwin S., xxx-xx-xxxx
Driscoll, Robert D., xxx-xx-xxxx
Dudley, Howard H., xxx-xx-xxxx
Duffner, Robert W., xxx-xx-xxxx
Duggan, Mark A., xxx-xx-xxxx
Dulbe, Vigo J., xxx-xx-xxxx
Dunaway, Richard H., xxx-xx-xxxx
Dunham, Mary R., xxx-xx-xxxx
Dunne, Martin F., xxx-xx-xxxx
Durand, Jack L., xxx-xx-xxxx
Dyer, Richard W., xxx-xx-xxxx
Dziekiewicz, Robert, xxx-xx-xxxx
Earl, Don L., xxx-xx-xxxx
Easterly, Richard V., xxx-xx-xxxx
Eberly, Robert L., xxx-xx-xxxx
Eddie, Laird P., xxx-xx-xxxx
Edens, Francis A., xxx-xx-xxxx
Edgerton, Eric R., xxx-xx-xxxx
Edmiston, Calvin B., xxx-xx-xxxx
Edmiston, Katherine, xxx-xx-xxxx
Edmondson, William, xxx-xx-xxxx
Edstrom, Paul T., xxx-xx-xxxx
Edwards, Emory H., II, xxx-xx-xxxx
Eister, Allen T., xxx-xx-xxxx
Elam, Otis J., xxx-xx-xxxx
Elder, James H., xxx-xx-xxxx
Ellert, Roger T., Jr., xxx-xx-xxxx
Ellis, Gary D., xxx-xx-xxxx
Ellis, Hiram R., xxx-xx-xxxx

Ellis, Sidney J., xxx-xx-xxxx
Ellison, Gary H. A., xxx-xx-xxxx
Ellison, Jimmy E., xxx-xx-xxxx
Elmore, Edward B., xxx-xx-xxxx
Elza, James D., xxx-xx-xxxx
Emberton, Daniel W., xxx-xx-xxxx
Enabnit, David B., xxx-xx-xxxx
Enault, James E., xxx-xx-xxxx
Epp, Stephen L., xxx-xx-xxxx
Evans, James H., xxx-xx-xxxx
Evans, Ralph J. C., xxx-xx-xxxx
Fair, Lyle M., xxx-xx-xxxx
Fairchild, Robert S., xxx-xx-xxxx
Fairfield, Robert, xxx-xx-xxxx
Fannoney, Abraham C., xxx-xx-xxxx
Farmer, Noland M., xxx-xx-xxxx
Farr, William E., xxx-xx-xxxx
Fauth, Kenneth G., xxx-xx-xxxx
Feague, Robert C., xxx-xx-xxxx
Feener, Timothy W., xxx-xx-xxxx
Fegenbush, James W., xxx-xx-xxxx
Feggins, Morris E., xxx-xx-xxxx
Fernandez, Frank A., xxx-xx-xxxx
Ferrara, Michael, xxx-xx-xxxx
Ferrari, James R., xxx-xx-xxxx
Fiala, Anthony J., xxx-xx-xxxx
Finch, Gaylord L., xxx-xx-xxxx
Fisher, Allan R., xxx-xx-xxxx
Fisher, Edwin K., xxx-xx-xxxx
Fisher, Joseph P., xxx-xx-xxxx
Fisher, William D., xxx-xx-xxxx
Fishpaw, Edward R., xxx-xx-xxxx
Fitzgerald, Danny R., xxx-xx-xxxx
Fitzgerald, Martin, xxx-xx-xxxx
Fitzgerald, Michael, xxx-xx-xxxx
Fitzgerald, Michael, xxx-xx-xxxx
Fivian, James A., xxx-xx-xxxx
Fletcher, James R., xxx-xx-xxxx
Fletter, Wolfgang A., xxx-xx-xxxx
Flickinger, Michael, xxx-xx-xxxx
Flynn, David J., xxx-xx-xxxx
Flynn, Eugene P., xxx-xx-xxxx
Foisy, William A., xxx-xx-xxxx
Forbes, Albert L., xxx-xx-xxxx
Forbes, Terry R., xxx-xx-xxxx
Ford, Dean C., xxx-xx-xxxx
Foret, Kenneth A., xxx-xx-xxxx
Forinash, James D., xxx-xx-xxxx
Fornshell, William, xxx-xx-xxxx
Foulkrod, Howard R., xxx-xx-xxxx
Fox, Michael G., xxx-xx-xxxx
Fox, Robert L., Jr., xxx-xx-xxxx
Francis, Roger J., xxx-xx-xxxx
Francis, Roy C., xxx-xx-xxxx
Frank, Neil A., xxx-xx-xxxx
Frazier, David C., xxx-xx-xxxx
Freas, Raymond L., xxx-xx-xxxx
Freeland, Albert W., xxx-xx-xxxx
Frega, John J., xxx-xx-xxxx
Frick, Robert H., xxx-xx-xxxx
Frizzell, Richard, xxx-xx-xxxx
Frost, Michael R., xxx-xx-xxxx
Fuentes, Jose M., xxx-xx-xxxx
Funk, Roger A., xxx-xx-xxxx
Funk, Steven L., xxx-xx-xxxx
Fusarini, Robert C., xxx-xx-xxxx
Gadach, Charles S., xxx-xx-xxxx
Gadd, Earnest C., xxx-xx-xxxx
Galarza, Mario, xxx-xx-xxxx
Galaty, Michael J., xxx-xx-xxxx
Gallagher, Charles, xxx-xx-xxxx
Galster, Robert W., xxx-xx-xxxx
Gamboa, Anthony H., xxx-xx-xxxx
Gann, Bruce I., xxx-xx-xxxx
Gannon, John, xxx-xx-xxxx
Garcia, Dennie P., xxx-xx-xxxx
Garner, Gary J., xxx-xx-xxxx
Garofolo, James J., xxx-xx-xxxx
Garrison, Gary G., xxx-xx-xxxx
Garza, Gustavo A., Jr., xxx-xx-xxxx
Gathman, Bruce G., xxx-xx-xxxx
Gaulin, Edward H., xxx-xx-xxxx
Gault, Compton J., xxx-xx-xxxx
Gawronski, Elizabet, xxx-xx-xxxx
Gayler, William H., xxx-xx-xxxx
Geho, Floyd E., Jr., xxx-xx-xxxx
Gehrke, Delbert E., xxx-xx-xxxx
Geiger, Wallace E., xxx-xx-xxxx
Geis, Thomas A., xxx-xx-xxxx
Gell, Alan E., xxx-xx-xxxx
Gemmill, John W., xxx-xx-xxxx
Gendry, Thomas W., xxx-xx-xxxx
Gentili, E., Robert, xxx-xx-xxxx
Gerdeman, James L., xxx-xx-xxxx
Gesell, Laurence E., xxx-xx-xxxx
Gibson, Douglas L., xxx-xx-xxxx
Gilley, Alfonsa, xxx-xx-xxxx
Gilson, Allen S., xxx-xx-xxxx
Ginnetti, Baron J., xxx-xx-xxxx
Glaeser, Michael E., xxx-xx-xxxx
Glaser, James C., xxx-xx-xxxx
Glaze, Johnny E., xxx-xx-xxxx
Gleason, Fred L., xxx-xx-xxxx
Globus, Gary L., xxx-xx-xxxx
Goebel, Robert, xxx-xx-xxxx
Goin, Willoughby S., xxx-xx-xxxx
Golaszewski, Duclan, xxx-xx-xxxx
Golden, Jack N., xxx-xx-xxxx
Golinski, Ronald F., xxx-xx-xxxx
Gonzales, Manuel M., xxx-xx-xxxx
Gonzalez, Hector J., xxx-xx-xxxx
Gooch, James G., xxx-xx-xxxx
Gooch, Johnnie R., xxx-xx-xxxx
Goodenough, James D., xxx-xx-xxxx
Goodman, Michael S., xxx-xx-xxxx
Gordon, James V., xxx-xx-xxxx
Gore, Ronald H., xxx-xx-xxxx
Gottschalk, Dempsey, xxx-xx-xxxx
Gowaskie, Joseph M., xxx-xx-xxxx
Grabfelder, John P., xxx-xx-xxxx
Grace, Robert A., xxx-xx-xxxx
Graef, U. Daniel, xxx-xx-xxxx
Graffius, Earl R., xxx-xx-xxxx
Graham, Jane E., xxx-xx-xxxx
Graham, Larry G., xxx-xx-xxxx
Graham, William D., xxx-xx-xxxx
Grandstaff, James D., xxx-xx-xxxx
Granthan, Synklyer, xxx-xx-xxxx
Grasso, Carl T., xxx-xx-xxxx
Graves, Patrick H., xxx-xx-xxxx
Graves, Robert S., xxx-xx-xxxx
Gray, James R., xxx-xx-xxxx
Gray, Jan M., xxx-xx-xxxx
Gray, Thomas F., xxx-xx-xxxx
Gray, Waldo E., xxx-xx-xxxx
Gray, William O., xxx-xx-xxxx
Green, Jimmy L., xxx-xx-xxxx
Green, Russell L., xxx-xx-xxxx
Greenberg, Harold S., xxx-xx-xxxx
Greene, Linwood G., xxx-xx-xxxx
Greer, Fred A., xxx-xx-xxxx
Gribbons, Thomas R., xxx-xx-xxxx
Grieve, William G., xxx-xx-xxxx
Griffin, David J., xxx-xx-xxxx
Griffith, Michael C., xxx-xx-xxxx
Griggs, Harold W., xxx-xx-xxxx
Grilli, Leonard A., xxx-xx-xxxx
Grim, Thomas H., xxx-xx-xxxx
Grimball, John B., xxx-xx-xxxx
Grindle, David K., xxx-xx-xxxx
Grisham, Jerret R., xxx-xx-xxxx
Grissom, Jonas N., xxx-xx-xxxx
Grossmann, Lawrence, xxx-xx-xxxx
Grundborg, Robert B., xxx-xx-xxxx
Grundel, Edward J., xxx-xx-xxxx
Grygiel, Michael L., xxx-xx-xxxx
Guarinello, Norman, xxx-xx-xxxx
Gueldner, John M., xxx-xx-xxxx
Guidroz, Byron J., xxx-xx-xxxx
Guillemette, Henry, xxx-xx-xxxx
Guillette, Richard, xxx-xx-xxxx
Gullotta, Joseph D., xxx-xx-xxxx
Gulsby, James G., xxx-xx-xxxx
Gunderson, David E., xxx-xx-xxxx
Gundy, John M., xxx-xx-xxxx
Gunnerson, Earl H., xxx-xx-xxxx
Haas, Joseph R., xxx-xx-xxxx
Hadarits, Philip S., xxx-xx-xxxx
Hadcock, Walter J., xxx-xx-xxxx
Hadley, Roland S., xxx-xx-xxxx
Hagen, Robert D., xxx-xx-xxxx
Hager, Douglas M., xxx-xx-xxxx
Hager, James R., xxx-xx-xxxx
Haggerty, Edward D., xxx-xx-xxxx
Haines, Harry C., xxx-xx-xxxx
Hale, James J., xxx-xx-xxxx
Hall, Duane F., xxx-xx-xxxx
Hall, Robert L., xxx-xx-xxxx
Hall, Roland C., xxx-xx-xxxx
Hall, Thomas E., xxx-xx-xxxx
Halverson, Robert L., xxx-xx-xxxx
Halvorson, Michael, xxx-xx-xxxx
Hamilton, Charles L., xxx-xx-xxxx
Hamilton, Victor A., xxx-xx-xxxx
Hammett, Allen W., xxx-xx-xxxx
Hammons, Charles M., xxx-xx-xxxx
Hammons, Jerry L., xxx-xx-xxxx
Hampl, Joseph J., xxx-xx-xxxx
Hampton, Dolores H., xxx-xx-xxxx
Hampton, Steven W., xxx-xx-xxxx
Hannigan, Patrick A., xxx-xx-xxxx
Hannon, Roy E., xxx-xx-xxxx
Hanold, Larry B., xxx-xx-xxxx
Hansen, Don A., xxx-xx-xxxx
Hanson, Theodore C., xxx-xx-xxxx
Harbour, Jerry W., xxx-xx-xxxx
Hardin, Billy V., xxx-xx-xxxx
Hardink, John W., xxx-xx-xxxx
Hardy, John T. J., xxx-xx-xxxx
Hargis, Charles L., xxx-xx-xxxx
Hargrove, William D., xxx-xx-xxxx
Harmon, David W., xxx-xx-xxxx
Harnden, Lynn H., xxx-xx-xxxx
Harper, Travis L., xxx-xx-xxxx
Harrell, John L., xxx-xx-xxxx
Harrell, Louis B., xxx-xx-xxxx
Harris, Charles T., xxx-xx-xxxx
Harris, Claude, Jr., xxx-xx-xxxx
Harris, John R., xxx-xx-xxxx
Harris, Robert E., xxx-xx-xxxx
Harris, Robert E., xxx-xx-xxxx
Harris, William R., xxx-xx-xxxx
Hart, John V., xxx-xx-xxxx
Hartz, James A., xxx-xx-xxxx
Harvey, Chester C., xxx-xx-xxxx
Hashimoto, Stanley, xxx-xx-xxxx
Hasson, Preston L., xxx-xx-xxxx
Hatfield, Jon C., xxx-xx-xxxx
Hatton, Edward T., xxx-xx-xxxx
Hauser, Eric A., xxx-xx-xxxx
Hausman, Robert E., xxx-xx-xxxx
Havener, Stephen F., xxx-xx-xxxx
Hawes, William J., xxx-xx-xxxx
Hawkins, David S., xxx-xx-xxxx
Hayes, Hargis R., xxx-xx-xxxx
Hayes, John J., xxx-xx-xxxx
Haynes, Charles H., xxx-xx-xxxx
Headen, John W., xxx-xx-xxxx
Heard, Michael R., xxx-xx-xxxx
Heatherly, Charles, xxx-xx-xxxx
Heavey, John D., xxx-xx-xxxx
Heffernan, Charles, xxx-xx-xxxx
Heffner, Kenneth A., xxx-xx-xxxx
Heffron, William G., xxx-xx-xxxx
Heid, George J., III, xxx-xx-xxxx
Heiser, Edward A., xxx-xx-xxxx
Held, Gilbert, xxx-xx-xxxx
Helmus, Leslie R., xxx-xx-xxxx
Helton, Edward E., xxx-xx-xxxx
Henderson, Gary F., xxx-xx-xxxx
Henderson, Isaiah J., xxx-xx-xxxx
Hendren, Robert E., xxx-xx-xxxx
Hendrickson, Dennis, xxx-xx-xxxx
Hennessey, Charles, xxx-xx-xxxx
Henning, Edward S., xxx-xx-xxxx
Henry, Jeffrey S., xxx-xx-xxxx
Hergen, James G., xxx-xx-xxxx
Hermann, Stephen L., xxx-xx-xxxx
Hernandez, John S., xxx-xx-xxxx
Herrnstein, David F., xxx-xx-xxxx
Hess, Hunter C., xxx-xx-xxxx
Hesse, August H., xxx-xx-xxxx

Heverin, Thomas B., xxx-xx-xxxx
Hickman, John T., xxx-xx-xxxx
Higdon, James H., xxx-xx-xxxx
Higgins, John J., III, xxx-xx-xxxx
Hill, James R., xxx-xx-xxxx
Hillhouse, Joe W., xxx-xx-xxxx
Hilsher, Francis E., xxx-xx-xxxx
Himmelsbach, David xxx-xx-xxxx
Hines, Herbert L., xxx-xx-xxxx
Hinsch, William H., xxx-xx-xxxx
Hitt, John C., xxx-xx-xxxx
Hodgson, Hubert T., xxx-xx-xxxx
Hoffman, Richard L., xxx-xx-xxxx
Hogan, Charles J., xxx-xx-xxxx
Holaday, Howard R., xxx-xx-xxxx
Holberg, Larry W., xxx-xx-xxxx
Holberton, James E., xxx-xx-xxxx
Holderness, Jerome xxx-xx-xxxx
Holland, Charles L., xxx-xx-xxxx
Holland, David S., xxx-xx-xxxx
Hollenbeck, Neil A., xxx-xx-xxxx
Holliman, Jack L., xxx-xx-xxxx
Holloway, Robert E., xxx-xx-xxxx
Holman, William D., xxx-xx-xxxx
Holstein, John C., xxx-xx-xxxx
Holterman, Gordon C., xxx-xx-xxxx
Holzgrefe, Paul W., xxx-xx-xxxx
Honaker, Richard L., xxx-xx-xxxx
Hopkins, Bruce L., xxx-xx-xxxx
Hoppe, Gordon E., xxx-xx-xxxx
Hoppes, Robert E., Jr., xxx-xx-xxxx
Horn, Anthoney V., xxx-xx-xxxx
Horton, James R., xxx-xx-xxxx
Horton, Jerry L., xxx-xx-xxxx
Hostetler, Harold R., xxx-xx-xxxx
Hostler, Dorsey D., xxx-xx-xxxx
Houdek, Roger J., xxx-xx-xxxx
Houk, Paul E., xxx-xx-xxxx
Houston, Charles R., xxx-xx-xxxx
Hovde, Jon K., xxx-xx-xxxx
Howard, Clarence E., xxx-xx-xxxx
Howe, Benjamin M., xxx-xx-xxxx
Howe, James R., xxx-xx-xxxx
Howerton, Guy E., xxx-xx-xxxx
Hoyal, James G., xxx-xx-xxxx
Hretz, John, xxx-xx-xxxx
Hubbard, Arthur A., xxx-xx-xxxx
Hubbell, Nicholas W., xxx-xx-xxxx
Hulen, Charles M., xxx-xx-xxxx
Hull, James S., xxx-xx-xxxx
Humes, Frederic D., xxx-xx-xxxx
Hunn, John J., xxx-xx-xxxx
Hunter, Douglas A., xxx-xx-xxxx
Hunter, Hal E., III, xxx-xx-xxxx
Huntley, Edward G., xxx-xx-xxxx
Hurd, John E., xxx-xx-xxxx
Husing, David E., xxx-xx-xxxx
Husmann, Melvin G., xxx-xx-xxxx
Hustad, James P., xxx-xx-xxxx
Hydrick, Augustus S., xxx-xx-xxxx
Hyle, Thomas P., xxx-xx-xxxx
Iacobucci, Robert T., xxx-xx-xxxx
Ide, Richard R., xxx-xx-xxxx
Ingle, William P., xxx-xx-xxxx
Ingram, Earl, II, xxx-xx-xxxx
Insani, Peter J., xxx-xx-xxxx
Irvine, Michael D., xxx-xx-xxxx
Irving, James A., xxx-xx-xxxx
Jackowski, William, xxx-xx-xxxx
Jackson, Cecil E., xxx-xx-xxxx
Jackson, Charles L., xxx-xx-xxxx
Jackson, Charles W., xxx-xx-xxxx
Jackson, James C., xxx-xx-xxxx
Jackson, Richard H., xxx-xx-xxxx
Jackson, Wiley T., xxx-xx-xxxx
Jaffe, Reid S., xxx-xx-xxxx
Jagodinsky, Gregory, xxx-xx-xxxx
Jamerson, Broadus J., xxx-xx-xxxx
James, Michael W., xxx-xx-xxxx
Jamieson, John D., xxx-xx-xxxx
Janco, Paul J., xxx-xx-xxxx
Jarratt, David A., xxx-xx-xxxx
Jatnieks, Girts U., xxx-xx-xxxx
Jaussaud, Michael P., xxx-xx-xxxx
Jennings, Fred O., xxx-xx-xxxx
Jensen, Arnold W., xxx-xx-xxxx
Jewell, Dennis K., xxx-xx-xxxx
Jewell, Kent J., xxx-xx-xxxx
Johns, Jerry xxx-xx-xxxx
Johnson, Brian A., xxx-xx-xxxx
Johnson, Charles, Jr., xxx-xx-xxxx
Johnson, Charles S., xxx-xx-xxxx
Johnson, Charles S., xxx-xx-xxxx
Johnson, Craig F., xxx-xx-xxxx
Johnson, Dean, L., xxx-xx-xxxx
Johnson, Donald D., xxx-xx-xxxx
Johnson, Donaldson, xxx-xx-xxxx
Johnson, Harvey M., xxx-xx-xxxx
Johnson, James H., xxx-xx-xxxx
Johnson, Kenneth N., xxx-xx-xxxx
Johnson, Kurt A., xxx-xx-xxxx
Johnson, Roger I., xxx-xx-xxxx
Johnson, Trig A., xxx-xx-xxxx
Johnson, Wiley H., Jr., xxx-xx-xxxx
Johnson, William E., xxx-xx-xxxx
Johnstone, John B., xxx-xx-xxxx
Joiner, Bernard V., xxx-xx-xxxx
Jones, Albert M., xxx-xx-xxxx
Jones, Arthur J., xxx-xx-xxxx
Jones David H., xxx-xx-xxxx
Jones David T., xxx-xx-xxxx
Jones, Gary A., xxx-xx-xxxx
Jones, Gary C., xxx-xx-xxxx
Jones, Hugh S., xxx-xx-xxxx
Jones, James A., xxx-xx-xxxx
Jones, Paul R., xxx-xx-xxxx
Jones, Philip A., xxx-xx-xxxx
Jones, Robert A., xxx-xx-xxxx
Jones, Robert L., xxx-xx-xxxx
Jones, Roy H., xxx-xx-xxxx
Jones, Stanley O., xxx-xx-xxxx
Jones, Steven F., xxx-xx-xxxx
Jorgenson, Larry G., xxx-xx-xxxx
Joyner, Charles T., xxx-xx-xxxx
Joyner, Shelia K., xxx-xx-xxxx
Jung, Raymond R., xxx-xx-xxxx
Juve, Richard G., xxx-xx-xxxx
Kaiser, Dennis M., xxx-xx-xxxx
Kaiser, Peter B., xxx-xx-xxxx
Kammen, Craig F., xxx-xx-xxxx
Kane, James R., xxx-xx-xxxx
Kane, Mark A., xxx-xx-xxxx
Kane, Michael R., xxx-xx-xxxx
Kania, Richard R., xxx-xx-xxxx
Kant, Paul W., xxx-xx-xxxx
Karpinsky, Jaroslaw, xxx-xx-xxxx
Kaufmann, Richard B., xxx-xx-xxxx
Kavanaugh, John W., xxx-xx-xxxx
Keane, Leonard M., Jr., xxx-xx-xxxx
Keaton, Dickie G., xxx-xx-xxxx
Keig, Robert W., xxx-xx-xxxx
Keith, David S., xxx-xx-xxxx
Kell, Donald L., xxx-xx-xxxx
Kelleher, Jerome W., xxx-xx-xxxx
Kelley, Darwyn E., xxx-xx-xxxx
Kelley, Henry L., xxx-xx-xxxx
Kelley, Michael A., xxx-xx-xxxx
Kelley, Rodney L., xxx-xx-xxxx
Kellogg, David H., xxx-xx-xxxx
Kelly, Robert M., xxx-xx-xxxx
Kennedy, Condon P., xxx-xx-xxxx
Kenny, George R., xxx-xx-xxxx
Kent, Jonathan H., xxx-xx-xxxx
Kerkow, Richard B., xxx-xx-xxxx
Kerstiens, Frederic, xxx-xx-xxxx
Kessel, Philip W., xxx-xx-xxxx
Kester, Riley R., xxx-xx-xxxx
Keyes, Joseph E., xxx-xx-xxxx
Kidd, John C., II, xxx-xx-xxxx
Kiefer, William N., xxx-xx-xxxx
Kietzman, William C., xxx-xx-xxxx
Kilcawley, Eugene T., xxx-xx-xxxx
Kimberly, Richard M., xxx-xx-xxxx
Kimbro, Stephen C., xxx-xx-xxxx
Kimmitt, Robert M., xxx-xx-xxxx
Kinch, Marvin N., xxx-xx-xxxx
Kinder, Carl Jr., xxx-xx-xxxx
Kindla, Anthony J., xxx-xx-xxxx
King, Glendon N., xxx-xx-xxxx
King, Michael F., xxx-xx-xxxx
King, William H., III, xxx-xx-xxxx
Kingdom, Jeffrey H., xxx-xx-xxxx
Kingsbury, Oliver O., xxx-xx-xxxx
Kirk, Chester A., xxx-xx-xxxx
Kirk, Pierre D., xxx-xx-xxxx
Kirkpatrick, Wilbur, xxx-xx-xxxx
Kishiyama, Michael, xxx-xx-xxxx
Kitts, Charles W., xxx-xx-xxxx
Kizer, Gerald J., xxx-xx-xxxx
Kjose, Nordon R., xxx-xx-xxxx
Klender, Richard W., xxx-xx-xxxx
Klevan, Jacob B., xxx-xx-xxxx
Kliska, John J., xxx-xx-xxxx
Klynstra, James A., xxx-xx-xxxx
Knack, Fredrick H., xxx-xx-xxxx
Knight, Clarence E., xxx-xx-xxxx
Knight, Richmond H., xxx-xx-xxxx
Knopf, William J., xxx-xx-xxxx
Knutson, Alton F., xxx-xx-xxxx
Koch, Frederic B., xxx-xx-xxxx
Koch, William H., xxx-xx-xxxx
Koenig, Teddie S., xxx-xx-xxxx
Koettel, Gary R., xxx-xx-xxxx
Kopecky, Kenneth W., xxx-xx-xxxx
Koplau, Robert D., xxx-xx-xxxx
Korbal, Thomas J., xxx-xx-xxxx
Kosolapoff, Michael, xxx-xx-xxxx
Kotlarchuk, Ihor O., xxx-xx-xxxx
Kowalewski, Edward, xxx-xx-xxxx
Koyle, Lynn M., xxx-xx-xxxx
Kragness, Ronald D., xxx-xx-xxxx
Krebs, William D., xxx-xx-xxxx
Kreiner, Raymond F., xxx-xx-xxxx
Krisanda, Paul S., xxx-xx-xxxx
Krizan, Adolph C., xxx-xx-xxxx
Krukonis, Kenneth A., xxx-xx-xxxx
Krumwiede, David H., xxx-xx-xxxx
Kulavic, Jerome, xxx-xx-xxxx
Kusenberger, John W., xxx-xx-xxxx
Kympton, Howard W., xxx-xx-xxxx
Labombard, Stephen, xxx-xx-xxxx
Ladow, Sidney L., xxx-xx-xxxx
Laflin, Donald L., xxx-xx-xxxx
Lagimoniere, Ernest, xxx-xx-xxxx
Lahman, Larry D., xxx-xx-xxxx
Landikusic, Tomisla, xxx-xx-xxxx
Lane, Ronald A., xxx-xx-xxxx
Lange, Charles W., xxx-xx-xxxx
Lanka, Kenneth E., xxx-xx-xxxx
Lantzky, Ingvar E., xxx-xx-xxxx
Lapete, George J., xxx-xx-xxxx
Larrow, Timothy L., xxx-xx-xxxx
Law, Timothy F., xxx-xx-xxxx
Lawrence, Wilbert H., xxx-xx-xxxx
Lawson, Michael E., xxx-xx-xxxx
Lea, Alfred L., xxx-xx-xxxx
Leaptrott, William, xxx-xx-xxxx
Leaumont, Richard J., xxx-xx-xxxx
Leblanc, Robert W., xxx-xx-xxxx
Leclair, Louis M., xxx-xx-xxxx
Lee, Dennis V., xxx-xx-xxxx
Lee, James E., xxx-xx-xxxx
Lehnis, Martin L., xxx-xx-xxxx
Lehrke, Roderick A., xxx-xx-xxxx
Lenske, Stephen A., xxx-xx-xxxx
Letts, Clifford E., xxx-xx-xxxx
Levine, Seymour L., xxx-xx-xxxx
Liebentritt, George, xxx-xx-xxxx
Liljefelt, James A., xxx-xx-xxxx
Lincoln, Arthur F., xxx-xx-xxxx
Lindman, Alan A., xxx-xx-xxxx
Lininger, Richard L., xxx-xx-xxxx
Linker, Sidney J., xxx-xx-xxxx
Linn, Charles M., xxx-xx-xxxx
Lipnick, Alan J., xxx-xx-xxxx
Lippert, Giles J., xxx-xx-xxxx
Litney, Dale J., xxx-xx-xxxx
Little, Lawrence F., xxx-xx-xxxx
Little, Oland B., xxx-xx-xxxx
Littrell, William R., xxx-xx-xxxx
Logeais, Richard L., xxx-xx-xxxx
Long, Daniel E., Jr., xxx-xx-xxxx

Long, Duane D., xxx-xx-xxxx
Long, Gerald R., xxx-xx-xxxx
Lonsberry, Michael, xxx-xx-xxxx
Loomis, Loren S., xxx-xx-xxxx
Lorenz, Monte T., xxx-xx-xxxx
Lorenz, Robert R., xxx-xx-xxxx
Lovas, James W., xxx-xx-xxxx
Lovelace, William P., xxx-xx-xxxx
Lucas, Andrew E., xxx-xx-xxxx
Lucas, James T., xxx-xx-xxxx
Lund, Jack P., xxx-xx-xxxx
Lundstedt, Scott W., xxx-xx-xxxx
Luzwick, Eugene G., xxx-xx-xxxx
Lyczkowski, Walter, xxx-xx-xxxx
Lynch, Harold C., xxx-xx-xxxx
Lynch, Robert T., Jr., xxx-xx-xxxx
Mabry, John C., xxx-xx-xxxx
Mace, Robert W., xxx-xx-xxxx
Macnamara, Gary L., xxx-xx-xxxx
Mader, Kenneth C., xxx-xx-xxxx
Magnuson, Robert V., xxx-xx-xxxx
Maguire, Robert W., xxx-xx-xxxx
Mahoney, Robert N., xxx-xx-xxxx
Main, Charles A., xxx-xx-xxxx
Main, Robert, xxx-xx-xxxx
Maindelle, Richard, xxx-xx-xxxx
Maldonado, Frank R., xxx-xx-xxxx
Mallon, Francis R., xxx-xx-xxxx
Malone, Wiletta, xxx-xx-xxxx
Malovos, Andrew J., xxx-xx-xxxx
Mangan, Anthony J., xxx-xx-xxxx
Mangum, Harvey L., xxx-xx-xxxx
Mangum, Ronald S., xxx-xx-xxxx
Manning, Kenneth R., xxx-xx-xxxx
Marcum, Frank E., xxx-xx-xxxx
Maringonzalez, Edga, xxx-xx-xxxx
Markham, Fred D., xxx-xx-xxxx
Marquarot, Rex J., xxx-xx-xxxx
Marrocco, Richard L., xxx-xx-xxxx
Marshall, Donald M., xxx-xx-xxxx
Marshall, Larry K., xxx-xx-xxxx
Marshall, Richard M., xxx-xx-xxxx
Martin, Charles E., xxx-xx-xxxx
Martin, Duane N., xxx-xx-xxxx
Martin, Frank L., xxx-xx-xxxx
Martin, James B., xxx-xx-xxxx
Martin, Phillip G., xxx-xx-xxxx
Martinek, Albert D., xxx-xx-xxxx
Nasi, Anthony F., xxx-xx-xxxx
Maskiell, Joseph, Jr., xxx-xx-xxxx
Mason, David V. N., xxx-xx-xxxx
Mason, William L., xxx-xx-xxxx
Massengale, Billy W., xxx-xx-xxxx
Massey, Earl R., Jr., xxx-xx-xxxx
Mathis, James H., xxx-xx-xxxx
Matlak, Richard E., xxx-xx-xxxx
Matthews, Robert E., xxx-xx-xxxx
Mattson, Paul R., xxx-xx-xxxx
Maughan, Franklin D., xxx-xx-xxxx
Maurer, Frank J., xxx-xx-xxxx
Maxey, Berle E., xxx-xx-xxxx
May, Herman L., Jr., xxx-xx-xxxx
May, Paul T., Jr., xxx-xx-xxxx
May, Wiley D., Jr., xxx-xx-xxxx
Mazik, Peter D., xxx-xx-xxxx
Mazzotta, Salvatore, xxx-xx-xxxx
McCabe, Danny D., xxx-xx-xxxx
McCarthy, John F., Jr., xxx-xx-xxxx
McCarthy, Thomas A., xxx-xx-xxxx
McClellan, John L., xxx-xx-xxxx
McClintock, Rhea S., xxx-xx-xxxx
McConkey, James W., xxx-xx-xxxx
McConnell, Robert M., xxx-xx-xxxx
McCorkle, David W., xxx-xx-xxxx
McCormick, Virgil P., xxx-xx-xxxx
McCoy, Thomas M., xxx-xx-xxxx
McCrocklin, Robert, xxx-xx-xxxx
McCrystal, Stephen, xxx-xx-xxxx
McDevitt, Paul J., xxx-xx-xxxx
McDonald, William L., xxx-xx-xxxx
McDowell, Charles P., xxx-xx-xxxx
McDowell, Terry A., xxx-xx-xxxx
McFall, Dana F., xxx-xx-xxxx
McGee, John W., xxx-xx-xxxx
McGeehan, John J., xxx-xx-xxxx
McGill, Brian J., xxx-xx-xxxx
McGovern, Monte D., xxx-xx-xxxx
McGowen, Sammy H., xxx-xx-xxxx
McGrath, Jeffrey A., xxx-xx-xxxx
McGrath, John W., xxx-xx-xxxx
McGraw, William G., xxx-xx-xxxx
McGruder, John L., xxx-xx-xxxx
McIntosh, William E., xxx-xx-xxxx
McKay, Karen L., xxx-xx-xxxx
McKenna, Eugene F., xxx-xx-xxxx
McKenzie, Frederick, xxx-xx-xxxx
McKeon, Michael J., xxx-xx-xxxx
McKeown, Don P., xxx-xx-xxxx
McKinnie, Richard D., xxx-xx-xxxx
McKinnon, Donald J., xxx-xx-xxxx
McLouth, George D., xxx-xx-xxxx
McMackin, Paul J., xxx-xx-xxxx
McMahon, Richard H., xxx-xx-xxxx
McMakin, Sue Ann W., xxx-xx-xxxx
McMenamin, Donald C., xxx-xx-xxxx
McPhillips, Gary E., xxx-xx-xxxx
McWhorter, Steven F., xxx-xx-xxxx
Meddings, William T., xxx-xx-xxxx
Medford, Robert J., xxx-xx-xxxx
Medigovich, Wm. M., xxx-xx-xxxx
Medley, Bertram W., xxx-xx-xxxx
Medlock, Ray F., xxx-xx-xxxx
Meger, James P., xxx-xx-xxxx
Meinershagen, James, xxx-xx-xxxx
Mekdsy, Norman, xxx-xx-xxxx
Mellgren, John., Jr., xxx-xx-xxxx
Membrino, Dennis H., xxx-xx-xxxx
Menning, Bruce W., xxx-xx-xxxx
Merkel, James A., xxx-xx-xxxx
Merrill, Robert H., xxx-xx-xxxx
Merritt, Lyle W., xxx-xx-xxxx
Merwin, Linda L., xxx-xx-xxxx
Messer, John D., xxx-xx-xxxx
Metz, Mark L., xxx-xx-xxxx
Meyer, Clemons A., xxx-xx-xxxx
Meyer, Gary W., xxx-xx-xxxx
Micelli, Thomas M., xxx-xx-xxxx
Mickam, John B., xxx-xx-xxxx
Micklitz, Hans W., xxx-xx-xxxx
Mier, Manuel P., xxx-xx-xxxx
Migyanka, Charles J., xxx-xx-xxxx
Mikiel, Vincent, xxx-xx-xxxx
Miles, Kenneth G., xxx-xx-xxxx
Millan, Stanley A., xxx-xx-xxxx
Miller, David E., xxx-xx-xxxx
Miller, Glenn H., xxx-xx-xxxx
Miller, Harold K., xxx-xx-xxxx
Miller, Jack T., xxx-xx-xxxx
Miller, Lawrence M., xxx-xx-xxxx
Miller, Merle P., xxx-xx-xxxx
Miller, Orville J., xxx-xx-xxxx
Miller, Richard N., xxx-xx-xxxx
Miller, William E., xxx-xx-xxxx
Miller, William H., xxx-xx-xxxx
Millett, John A., xxx-xx-xxxx
Millner, Jon M., xxx-xx-xxxx
Mills, Thomas K., xxx-xx-xxxx
Millson, Charles D., xxx-xx-xxxx
Miskie, Gary R., xxx-xx-xxxx
Missimer, Harold A., xxx-xx-xxxx
Mitchell, Gary R., xxx-xx-xxxx
Mitchell, Kim I., xxx-xx-xxxx
Mitchell, Richard S., xxx-xx-xxxx
Mitchell, Samuel S., xxx-xx-xxxx
Mitroff, George B., xxx-xx-xxxx
Mitsko, Wayne E., xxx-xx-xxxx
Moeckel, George E., xxx-xx-xxxx
Molish, Michael, II, xxx-xx-xxxx
Montgomery, James I., xxx-xx-xxxx
Montgomery, Willie., xxx-xx-xxxx
Moore, Charles R., xxx-xx-xxxx
Moran, James R., xxx-xx-xxxx
Morgan, Terry B., xxx-xx-xxxx
Mork, Kenneth R., xxx-xx-xxxx
Morosky, Walter N., xxx-xx-xxxx
Morris, Charles M., xxx-xx-xxxx
Morrow, Will D., xxx-xx-xxxx
Mosena, Jerry L., xxx-xx-xxxx
Moser, Donald M., xxx-xx-xxxx
Mosley, Kenneth R., xxx-xx-xxxx
Moss, Raymond L., xxx-xx-xxxx
Moss, Robert L., xxx-xx-xxxx
Motichka, Ronald J., xxx-xx-xxxx
Mouro, George J., xxx-xx-xxxx
Mueller, Chris J., xxx-xx-xxxx
Mueller, David C., xxx-xx-xxxx
Mueller, Nelson E., xxx-xx-xxxx
Mueller, Robert L., xxx-xx-xxxx
Mulholland, Raymond, xxx-xx-xxxx
Mullen, Robert, xxx-xx-xxxx
Mulligan, Michael J., xxx-xx-xxxx
Mullin, Peter J., xxx-xx-xxxx
Mulroy, Robert J., xxx-xx-xxxx
Munnel, Kenneth J., xxx-xx-xxxx
Munson, Harold I., xxx-xx-xxxx
Munson, Michael G., xxx-xx-xxxx
Murdaugh, Arthur L., xxx-xx-xxxx
Murdock, Margaret T., xxx-xx-xxxx
Murphy, Brendan T., xxx-xx-xxxx
Murphy, Daniel A., xxx-xx-xxxx
Murphy, John D., xxx-xx-xxxx
Murphy, John L., Jr., xxx-xx-xxxx
Murphy, John M., xxx-xx-xxxx
Murphy, Michael J., xxx-xx-xxxx
Musick, Robert L., xxx-xx-xxxx
Musotto, Mario J., xxx-xx-xxxx
Muth, James E., xxx-xx-xxxx
Myers, Girard J., xxx-xx-xxxx
Myers, John W., xxx-xx-xxxx
Myers, Stanley W., xxx-xx-xxxx
Mynatt, William L., xxx-xx-xxxx
Mynk, Terry L., xxx-xx-xxxx
Nagel, William E., xxx-xx-xxxx
Nagle, Thomas E., xxx-xx-xxxx
Napoli, Richard J., xxx-xx-xxxx
Nardo, James L., xxx-xx-xxxx
Nash, Albert L., xxx-xx-xxxx
Naujokaitis, Gedimi, xxx-xx-xxxx
Naurot, John W., xxx-xx-xxxx
Neely, Herbert C., xxx-xx-xxxx
Neely, Kenneth G., xxx-xx-xxxx
Neese, Perry W., xxx-xx-xxxx
Neff, Michael E., xxx-xx-xxxx
Negron, Ramon A., xxx-xx-xxxx
Neiford, Douglas A., xxx-xx-xxxx
Neill, William A., xxx-xx-xxxx
Nelson, Grant O., xxx-xx-xxxx
Nelson, John R., xxx-xx-xxxx
Nelson, Rodney R., xxx-xx-xxxx
Nemeth, Ronald B., xxx-xx-xxxx
Nenninger, Glennon, xxx-xx-xxxx
Neppl, Roger E., xxx-xx-xxxx
Nerney, Dennis M., xxx-xx-xxxx
Nesbitt, Thomas D., xxx-xx-xxxx
Nevens, Langdon G., xxx-xx-xxxx
Newby, Thomas D., xxx-xx-xxxx
Newdorf, Martin B., xxx-xx-xxxx
Nichols, Robert L., xxx-xx-xxxx
Nicholson, Michael, xxx-xx-xxxx
Nicholson, Robert T., xxx-xx-xxxx
Niedzialek, David J., xxx-xx-xxxx
Niemczuk, John N., xxx-xx-xxxx
Nix, Virgil W., xxx-xx-xxxx
Noble, Joseph W., xxx-xx-xxxx
Noirot, George V., xxx-xx-xxxx
Nolin, Carl L., xxx-xx-xxxx
Norman, Eric J., xxx-xx-xxxx
Norman, Richard D., xxx-xx-xxxx
Norris, Jerry G., xxx-xx-xxxx
Norris, Warren E., xxx-xx-xxxx
Norris, Warren E., xxx-xx-xxxx
Norton, James R., xxx-xx-xxxx
Nugent, William G., xxx-xx-xxxx
Null, Patsy D., xxx-xx-xxxx
Nunn, William A., xxx-xx-xxxx
Nunnally, Robert A., xxx-xx-xxxx
Nussbaum, Jack G., xxx-xx-xxxx
Obiajulu, Attahjun, xxx-xx-xxxx
O'Brien, Daniel W., xxx-xx-xxxx
O'Brien, Larry D., xxx-xx-xxxx
O'Cain, James M., xxx-xx-xxxx
Odom, Robert A., xxx-xx-xxxx

Oehmann, Andrew F., xxx-xx-xxxx
O'Hara, John E., xxx-xx-xxxx
Okamoto, William A., xxx-xx-xxxx
O'Kane, David D., xxx-xx-xxxx
Olson, John V., xxx-xx-xxxx
O'Meara, Richard M., xxx-xx-xxxx
Omweg, John W., xxx-xx-xxxx
Ondich, Gregory G., xxx-xx-xxxx
O'Neil, Dean F., xxx-xx-xxxx
O'Neill, John J., xxx-xx-xxxx
Onstot, Richard H., xxx-xx-xxxx
Ormond, Dennis J., xxx-xx-xxxx
Orndorff, Christoph, xxx-xx-xxxx
Ortiz, Luis, xxx-xx-xxxx
Ortimayer, William, xxx-xx-xxxx
Osburn, Gene A., xxx-xx-xxxx
Ose, William C., xxx-xx-xxxx
Osgood, John R., xxx-xx-xxxx
Overbee, Mark G., xxx-xx-xxxx
Overstreet, Bill E., xxx-xx-xxxx
Overton, Charles D., xxx-xx-xxxx
Owen, James L., xxx-xx-xxxx
Owen, Robert V., xxx-xx-xxxx
Ozeki, Melvin S. M., xxx-xx-xxxx
Pace, Carl J., xxx-xx-xxxx
Pace, Joseph V., III, xxx-xx-xxxx
Pagoria, Richard J., xxx-xx-xxxx
Palmer, William R., xxx-xx-xxxx
Panee, Eli D., xxx-xx-xxxx
Paraska, Nicholas I., xxx-xx-xxxx
Parent, Richard K., xxx-xx-xxxx
Parkas, Christ C., xxx-xx-xxxx
Parks, Kenneth C., xxx-xx-xxxx
Parris, James M., xxx-xx-xxxx
Partin, John G., xxx-xx-xxxx
Pate, Wilbur L., Jr., xxx-xx-xxxx
Pearman, John B., xxx-xx-xxxx
Pearre, Charles M., xxx-xx-xxxx
Peca, Peter S., Jr., xxx-xx-xxxx
Pech, Bernard J., xxx-xx-xxxx
Peck, James C., xxx-xx-xxxx
Pendergrass, Dennie, xxx-xx-xxxx
Perks, Richard E., xxx-xx-xxxx
Peroe, Robert F., xxx-xx-xxxx
Perry, Jackie L., xxx-xx-xxxx
Perry, James H., xxx-xx-xxxx
Perry, James L., xxx-xx-xxxx
Perry, William A., xxx-xx-xxxx
Persky, Marshall L., xxx-xx-xxxx
Peterson, Bruce A., xxx-xx-xxxx
Peterson, John D., xxx-xx-xxxx
Petty, George W., xxx-xx-xxxx
Pfeiff, William P., xxx-xx-xxxx
Pfister, William C., xxx-xx-xxxx
Phillips, Alan V., xxx-xx-xxxx
Phillips, James P., xxx-xx-xxxx
Pickering, Michael, xxx-xx-xxxx
Pickman, Mitchell S., xxx-xx-xxxx
Pidgeon, Robert D., xxx-xx-xxxx
Pierce, Michael, xxx-xx-xxxx
Pierce, Roy E., xxx-xx-xxxx
Pikul, Walter J., xxx-xx-xxxx
Pinto, Roy, xxx-xx-xxxx
Piper, John D., xxx-xx-xxxx
Pisane, Randolph, xxx-xx-xxxx
Pitt, Roger W., xxx-xx-xxxx
Pitts, Richard M., xxx-xx-xxxx
Pittson, Eugene R., xxx-xx-xxxx
Ploeger, Ralph E., xxx-xx-xxxx
Plowman, Larry D., xxx-xx-xxxx
Pohl, William F., Jr., xxx-xx-xxxx
Pokorny, Jeffrey, xxx-xx-xxxx
Poland, Robert C., xxx-xx-xxxx
Poland, William H., xxx-xx-xxxx
Poletti, Peter J., xxx-xx-xxxx
Pollard, Joseph L., xxx-xx-xxxx
Poole, Phillip L., xxx-xx-xxxx
Porter, Gary F., xxx-xx-xxxx
Posey, Charles R., xxx-xx-xxxx
Postelnic, William, xxx-xx-xxxx
Potter, David L., xxx-xx-xxxx
Potter, Donald L., xxx-xx-xxxx
Potter, Herbert W., xxx-xx-xxxx
Preece, Daniel J., xxx-xx-xxxx
Prestegaard, Dougla, xxx-xx-xxxx
Price, Bruce W., xxx-xx-xxxx
Prior, Henry M., xxx-xx-xxxx
Pritchett, Robert E., xxx-xx-xxxx
Pruitt, Joseph A., xxx-xx-xxxx
Puckett, Joe D., xxx-xx-xxxx
Pufahl, Lyle E., xxx-xx-xxxx
Puleo, Vincent S., xxx-xx-xxxx
Pulliam, Asa W., xxx-xx-xxxx
Pulliam, Joseph H., xxx-xx-xxxx
Pulver, Robert J., xxx-xx-xxxx
Purvis, James P., xxx-xx-xxxx
Quigg, Gerald L., xxx-xx-xxxx
Quigley, Michael N., xxx-xx-xxxx
Quinones, Hector R., xxx-xx-xxxx
Raab, David H., xxx-xx-xxxx
Raattama, Henry H., xxx-xx-xxxx
Race, Jeffrey, xxx-xx-xxxx
Racioppi, Ralph R., xxx-xx-xxxx
Raddatz, John D., xxx-xx-xxxx
Rae, Vernon W., Jr., xxx-xx-xxxx
Rahkola, William A., xxx-xx-xxxx
Raisor, Gregory F., xxx-xx-xxxx
Ralston, Larry L., xxx-xx-xxxx
Ramirez, William A., xxx-xx-xxxx
Ramoncruz, Aristide, xxx-xx-xxxx
Rancourt, Maurice J., xxx-xx-xxxx
Randol, George D., xxx-xx-xxxx
Rasch, Albert J., xxx-xx-xxxx
Raschke, John S., xxx-xx-xxxx
Rasile, Donald E., xxx-xx-xxxx
Rasmussen, John L., xxx-xx-xxxx
Rathbun, Gregory R., xxx-xx-xxxx
Rathje, David F., xxx-xx-xxxx
Ratigan, Thomas B., xxx-xx-xxxx
Rauber, Brian J., xxx-xx-xxxx
Rawson, Davis S., xxx-xx-xxxx
Ray, Eric D., xxx-xx-xxxx
Ray, Max A., xxx-xx-xxxx
Ray, Mernie A., xxx-xx-xxxx
Ray, Richard H., xxx-xx-xxxx
Reader, Robert E., xxx-xx-xxxx
Reay, Edward S., xxx-xx-xxxx
Reber, Charles K., xxx-xx-xxxx
Rebman, Billy W., xxx-xx-xxxx
Rebsamen, Donald R., xxx-xx-xxxx
Reda, John F., xxx-xx-xxxx
Reece, Lewis H., xxx-xx-xxxx
Reed, Walter R., xxx-xx-xxxx
Reeder, Dennis H., xxx-xx-xxxx
Rees, William C., xxx-xx-xxxx
Reese, William L., Jr., xxx-xx-xxxx
Reeves, Dwight H., xxx-xx-xxxx
Reffett, William M., xxx-xx-xxxx
Requa, William V., xxx-xx-xxxx
Reres, Matt, xxx-xx-xxxx
Retherford, Stephen, xxx-xx-xxxx
Revie, Charles D., xxx-xx-xxxx
Reynolds, Patrick M., xxx-xx-xxxx
Rhodes, James F., xxx-xx-xxxx
Rhodes, Thomas B., xxx-xx-xxxx
Rhyne, Jerry G., xxx-xx-xxxx
Rice, George E., Jr., xxx-xx-xxxx
Rice, William J., xxx-xx-xxxx
Richardson, Thomas, xxx-xx-xxxx
Rickerd, Thomas J., xxx-xx-xxxx
Rideout, Franklin E., xxx-xx-xxxx
Rieske, Terence E., xxx-xx-xxxx
Ring, Edward L., xxx-xx-xxxx
Ringland, Robert P., xxx-xx-xxxx
Ringler, John M., xxx-xx-xxxx
Ritt, James W., xxx-xx-xxxx
Ritterby, Karl G., xxx-xx-xxxx
Robb, Douglas W., xxx-xx-xxxx
Roberts, Roy L., Jr., xxx-xx-xxxx
Robertson, Rodney C., xxx-xx-xxxx
Robinson, David B., xxx-xx-xxxx
Robison, Arthur C., xxx-xx-xxxx
Robitaille, Ronald, xxx-xx-xxxx
Rodgers, James W., II, xxx-xx-xxxx
Rodriguez, Erasmo, xxx-xx-xxxx
Rodriguez, Juan M., xxx-xx-xxxx
Roe, Gordon A., xxx-xx-xxxx
Roemer, Steven F., xxx-xx-xxxx
Rogers, Charles B., xxx-xx-xxxx
Rogers, Jimmy F., xxx-xx-xxxx
Rogers, Joseph W., xxx-xx-xxxx
Rogers, Thomas L., xxx-xx-xxxx
Rogler, Francis E., xxx-xx-xxxx
Rohm, John H., xxx-xx-xxxx
Rose, Robert O., xxx-xx-xxxx
Rosenquist, Carl J., xxx-xx-xxxx
Ross, Jerry D., xxx-xx-xxxx
Rossi, Alfred T., xxx-xx-xxxx
Rosten, Clyde D., xxx-xx-xxxx
Rots, Paul L., xxx-xx-xxxx
Roussel, William A., xxx-xx-xxxx
Rowan, Edmond M., xxx-xx-xxxx
Rowatt, Richard L., xxx-xx-xxxx
Rowley, Sandra A., xxx-xx-xxxx
Roy, Louis F., xxx-xx-xxxx
Royston, Perry E., xxx-xx-xxxx
Rubel, William L., xxx-xx-xxxx
Rubino, Albert A., xxx-xx-xxxx
Ruchti, Larry D., xxx-xx-xxxx
Ruiz, Ricardo, xxx-xx-xxxx
Rupacz, Richard W., xxx-xx-xxxx
Rushing, Thomas H., xxx-xx-xxxx
Rutledge, Willard D., xxx-xx-xxxx
Ruvelson, Alan K., xxx-xx-xxxx
Ryan, Anthony F., xxx-xx-xxxx
Rybarczyk, James J., xxx-xx-xxxx
Rynd, John P., xxx-xx-xxxx
Sachse, David K., xxx-xx-xxxx
Sack, Lawrence A., xxx-xx-xxxx
Sage, William S., xxx-xx-xxxx
Sager, Wayne K., xxx-xx-xxxx
Saiff, Robert L., xxx-xx-xxxx
Salgado, Eduardo A., xxx-xx-xxxx
Sampson, Ernest A., xxx-xx-xxxx
Sams, Malcolm R., xxx-xx-xxxx
Sanchez, Richard C., xxx-xx-xxxx
Sancheznegron, Ivan, xxx-xx-xxxx
Sanders, Frederick, xxx-xx-xxxx
Sanders, James L., xxx-xx-xxxx
Sarabia, Pablo, Jr., xxx-xx-xxxx
Sartorio, Louis P., xxx-xx-xxxx
Sassman, Shirley O., xxx-xx-xxxx
Satterfield, Willia, xxx-xx-xxxx
Saulter, Terry W., xxx-xx-xxxx
Saunders, Thomas M., xxx-xx-xxxx
Savage, Maurice M., xxx-xx-xxxx
Savarese, Gabriel M., xxx-xx-xxxx
Sayers, Robert H., xxx-xx-xxxx
Scales, Robert C., xxx-xx-xxxx
Scalice, Vincent J., xxx-xx-xxxx
Scarnati, James T., xxx-xx-xxxx
Schad, Michael B., xxx-xx-xxxx
Schade, Walter A., xxx-xx-xxxx
Schaefer, Dennis W., xxx-xx-xxxx
Schamburg, John H., xxx-xx-xxxx
Schlotterbeck, Kurt, xxx-xx-xxxx
Schmittendorff, Jame, xxx-xx-xxxx
Schneider, Robert T., xxx-xx-xxxx
Schoenberg, Alan, xxx-xx-xxxx
Schoenleben, Thomas, xxx-xx-xxxx
Schriber, William R., xxx-xx-xxxx
Schryver, William H., xxx-xx-xxxx
Schuette, Daniel J., xxx-xx-xxxx
Schulze, William E., xxx-xx-xxxx
Schwartz, Garry D., xxx-xx-xxxx
Schwartz, Karl O., xxx-xx-xxxx
Schwarzkopf, George, xxx-xx-xxxx
Schweitzer, Adam A., xxx-xx-xxxx
Schwoerke, Frederic, xxx-xx-xxxx
Sciacca, John J., xxx-xx-xxxx
Seamann, Lawrence R., xxx-xx-xxxx
Sedgley, David C., xxx-xx-xxxx
Seese, Fredrick D., xxx-xx-xxxx
Segars, William M., xxx-xx-xxxx
Seigler, Robert L., xxx-xx-xxxx
Sennabaum, David L., xxx-xx-xxxx
Sepe, Alan M., xxx-xx-xxxx
Serassio, James, Jr., xxx-xx-xxxx
Sexton, William W., xxx-xx-xxxx
Seybt, Wyatt A., xxx-xx-xxxx
Shakespeare, Dennis, xxx-xx-xxxx
Shanley, Richard A., xxx-xx-xxxx

Shannon, Donald V., xxx-xx-xxxx
Sharp, John L., xxx-xx-xxxx
Sharp, Richard G., xxx-xx-xxxx
Shea, Dennis J., xxx-xx-xxxx
Sheaffer, Martin K., xxx-xx-xxxx
Sheddy, William E., xxx-xx-xxxx
Sheek, James K., III, xxx-xx-xxxx
Shellabarger, L.H., xxx-xx-xxxx
Shephero, Jack L., xxx-xx-xxxx
Sheridan, Harold L., xxx-xx-xxxx
Sheriff, Jimmy D., xxx-xx-xxxx
Sherman, Frank W., xxx-xx-xxxx
Shipman, Samuel A., xxx-xx-xxxx
Shipp, Ernest L., xxx-xx-xxxx
Shrieves, William H., xxx-xx-xxxx
Shroyer, Don G., xxx-xx-xxxx
Shull, John C., xxx-xx-xxxx
Siegel, Martin J., xxx-xx-xxxx
Sigl, James F., xxx-xx-xxxx
Silio, Charles B., Jr., xxx-xx-xxxx
Silva, John J., xxx-xx-xxxx
Silverio, Felino M., xxx-xx-xxxx
Simmons, Raymond H., xxx-xx-xxxx
Simpson, Darwin H., xxx-xx-xxxx
Simpson, John L., xxx-xx-xxxx
Simpson, Kent T., xxx-xx-xxxx
Sims, Roger D., xxx-xx-xxxx
Singer, George D., xxx-xx-xxxx
Sisco, Bertus L., xxx-xx-xxxx
Sjodin, Ronald R., xxx-xx-xxxx
Skaggs, Alfred M., xxx-xx-xxxx
Skinders, Aigars, xxx-xx-xxxx
Sligh, Louie, H., xxx-xx-xxxx
Slipka, Kenneth J., xxx-xx-xxxx
Slocum, Melvin D., xxx-xx-xxxx
Smalley, William E., xxx-xx-xxxx
Smarzinski, Gary L., xxx-xx-xxxx
Smathers, William T., xxx-xx-xxxx
Smith, Charles W., xxx-xx-xxxx
Smith, David T., xxx-xx-xxxx
Smith, Douglas J., xxx-xx-xxxx
Smith, Eugene C., xxx-xx-xxxx
Smith, Fredrick J., xxx-xx-xxxx
Smith, Gary M., xxx-xx-xxxx
Smith, Gerald L., xxx-xx-xxxx
Smith, James M., xxx-xx-xxxx
Smith, Kenneth L., xxx-xx-xxxx
Smith, Lawrence A., xxx-xx-xxxx
Smith, Lewis J., xxx-xx-xxxx
Smith, Paul M., xxx-xx-xxxx
Smith, Richard T., xxx-xx-xxxx
Smith, Rickey H., xxx-xx-xxxx
Smith, Robert D., xxx-xx-xxxx
Smith, Robert K., xxx-xx-xxxx
Smith, Robert W. III, xxx-xx-xxxx
Smith, Thomas B., xxx-xx-xxxx
Smith, Wendell I., xxx-xx-xxxx
Smith, William C., xxx-xx-xxxx
Smith, William H., Jr., xxx-xx-xxxx
Smith, William L., xxx-xx-xxxx
Smoke, Clark T., xxx-xx-xxxx
Snellgrove, Robert, xxx-xx-xxxx
Snyder, Bernard J., xxx-xx-xxxx
Snyder, Gary D., xxx-xx-xxxx
Snyder, James W., xxx-xx-xxxx
Sodetani, Lloyd K., xxx-xx-xxxx
Sofia, Charles R., xxx-xx-xxxx
Soldani, Robert W., xxx-xx-xxxx
Solesha, Ronald S., xxx-xx-xxxx
Sonnenberg, WM. B., xxx-xx-xxxx
Souder, Robert W., xxx-xx-xxxx
Spackman, James R., xxx-xx-xxxx
Spann, James S., xxx-xx-xxxx
Sparks, Charles E., xxx-xx-xxxx
Spearly, David J., xxx-xx-xxxx
Speigner, Oscar C., xxx-xx-xxxx
Spence, George W., xxx-xx-xxxx
Spencer, Peter, xxx-xx-xxxx
Spickelmier, John P., xxx-xx-xxxx
Spier, Michael L., xxx-xx-xxxx
Spinelli, David F., xxx-xx-xxxx
Sprout, David I., xxx-xx-xxxx
Squires, Melvin R., xxx-xx-xxxx
Stacy, Robert D., xxx-xx-xxxx
Stafford, Billy W., xxx-xx-xxxx
Stahl, Curtis O., xxx-xx-xxxx
Stanley, Arthur M., xxx-xx-xxxx
Starke, James R., xxx-xx-xxxx
Stavish, John P., Jr., xxx-xx-xxxx
Stawski, Edmund J., xxx-xx-xxxx
Stearns, James C., xxx-xx-xxxx
Steer, Robert L., xxx-xx-xxxx
Stegall, Joseph, xxx-xx-xxxx
Stenger, Thomas M., xxx-xx-xxxx
Stephens, Duncan M., xxx-xx-xxxx
Stephens, Louis B., xxx-xx-xxxx
Stevens, Phillip D., xxx-xx-xxxx
Stevenson, Craig L., xxx-xx-xxxx
Stewart, Charles B., xxx-xx-xxxx
Stewart, John B., xxx-xx-xxxx
Stewart, Larry N., xxx-xx-xxxx
Stewart, Richard B., xxx-xx-xxxx
Steward, Robert H., xxx-xx-xxxx
Stewart, Robert R., xxx-xx-xxxx
Stieler, George A., xxx-xx-xxxx
Stillman, Roberto, xxx-xx-xxxx
Stock, James L., xxx-xx-xxxx
Stoddard, Chadwick, xxx-xx-xxxx
Stoma, Robert M., xxx-xx-xxxx
Stone, Alan E., xxx-xx-xxxx
Stone, Athel A., xxx-xx-xxxx
Stone, James L., xxx-xx-xxxx
Stone, John M., xxx-xx-xxxx
Stookey, David L., xxx-xx-xxxx
Story, James E., xxx-xx-xxxx
Stotts, Kenneth L., xxx-xx-xxxx
Stout, Richard G, xxx-xx-xxxx
Stover, Robert P., xxx-xx-xxxx
Stowers, James D., xxx-xx-xxxx
Strassburger, Gusta, xxx-xx-xxxx
Strebeck, Guenter W., xxx-xx-xxxx
Strouse, Franklin H., xxx-xx-xxxx
Studerus, Kenneth J., xxx-xx-xxxx
Sucher, George J., xxx-xx-xxxx
Suchy, Robert H., xxx-xx-xxxx
Sullivan, Eugene R., xxx-xx-xxxx
Sumisaki, Roy M., xxx-xx-xxxx
Sunseri, Kenneth T., xxx-xx-xxxx
Suydam, Martin J., xxx-xx-xxxx
Svetich, Ralph R., xxx-xx-xxxx
Svoboda, Robert J., xxx-xx-xxxx
Swank, Laurence C., xxx-xx-xxxx
Swanke, James A., xxx-xx-xxxx
Swartz, Alan P., xxx-xx-xxxx
Swinehart, Keith B., xxx-xx-xxxx
Sykes, John O., xxx-xx-xxxx
Szczesniak, Edward, xxx-xx-xxxx
Szigethy, Robert E., xxx-xx-xxxx
Tahara, Richard K., xxx-xx-xxxx
Tallent, Terry N., xxx-xx-xxxx
Taylor, Max G., xxx-xx-xxxx
Taylor, Robert E., xxx-xx-xxxx
Taylor, Robert H., xxx-xx-xxxx
Taylor, Samuel W., xxx-xx-xxxx
Taylor, William E., xxx-xx-xxxx
Tazik, Cyril M., xxx-xx-xxxx
Teague, George F., xxx-xx-xxxx
Terrile, Albert J., xxx-xx-xxxx
Testa, Joseph P., xxx-xx-xxxx
Thibault, Frederick, xxx-xx-xxxx
Thomas, Eric E., xxx-xx-xxxx
Thomas, Reese D., xxx-xx-xxxx
Thomas, Richard K., xxx-xx-xxxx
Thomas, Stephen A., xxx-xx-xxxx
Thomasson, Bobby D., xxx-xx-xxxx
Thompson, Jonathan, xxx-xx-xxxx
Thompson, Rodney E., xxx-xx-xxxx
Thomson, James B., xxx-xx-xxxx
Thornton, Thomas L., xxx-xx-xxxx
Tillman, Bobby M., xxx-xx-xxxx
Timmons, John B., xxx-xx-xxxx
Timmons, Leon R., xxx-xx-xxxx
Timperley, William, xxx-xx-xxxx
Tindall, John R., xxx-xx-xxxx
Tingstrom, Raymond, xxx-xx-xxxx
Tipton, Edward N., xxx-xx-xxxx
Titsworth, James E., xxx-xx-xxxx
Tobias, Walter A., xxx-xx-xxxx
Tocalis, Richard J., xxx-xx-xxxx
Tomcik, Dennis C., xxx-xx-xxxx
Tomko, John S., xxx-xx-xxxx
Tonkin, Albert C., xxx-xx-xxxx
Torra, Robert J., xxx-xx-xxxx
Tousey, Robert F., xxx-xx-xxxx
Townes, Richard R., xxx-xx-xxxx
Tracy, William P., xxx-xx-xxxx
Travis, James O., xxx-xx-xxxx
Treinen, Michael D., xxx-xx-xxxx
Trenoweth, Roy W., Jr., xxx-xx-xxxx
Trexler, Herbert J., xxx-xx-xxxx
Trimble, Richard S., xxx-xx-xxxx
Tripp, Russell E., xxx-xx-xxxx
Trotter, Frederick, xxx-xx-xxxx
Trudell, David P., xxx-xx-xxxx
Tsang, Joseph J., xxx-xx-xxxx
Tucci, Mark S., xxx-xx-xxxx
Tuitman, Raymond R., xxx-xx-xxxx
Turk, William G., xxx-xx-xxxx
Turner, Robert R., xxx-xx-xxxx
Twomey, Michael B., xxx-xx-xxxx
Uhrich, Dwight G., xxx-xx-xxxx
Ulm, Richard F., xxx-xx-xxxx
Ulmer, Charles D., xxx-xx-xxxx
Underwood, Gary R., xxx-xx-xxxx
Underwood, Marvin M., xxx-xx-xxxx
Underwood, Richard, xxx-xx-xxxx
Upton, Roger K., xxx-xx-xxxx
Vaitkunas, James A., xxx-xx-xxxx
Valeska, Donald G., xxx-xx-xxxx
Vandine, Hooward L., xxx-xx-xxxx
Vandyck, Ronald D., xxx-xx-xxxx
Vanheuvel, Alex P., xxx-xx-xxxx
Vanhoose, John J., xxx-xx-xxxx
Vehlow, Charles A., xxx-xx-xxxx
Veresink, Theodore, xxx-xx-xxxx
Verga, Charles F., xxx-xx-xxxx
Verriere, Leon L., xxx-xx-xxxx
Vezey, Edward L., xxx-xx-xxxx
Vezzoli, Gary C., xxx-xx-xxxx
Vick, Harold R., xxx-xx-xxxx
Vogel, Alan A., xxx-xx-xxxx
Vogt, Raymond E., xxx-xx-xxxx
Volkman, Henry C., xxx-xx-xxxx
Vollintine, James R., xxx-xx-xxxx
Waddel, William W., xxx-xx-xxxx
Waddell, John S., xxx-xx-xxxx
Wadham, Thomas A., xxx-xx-xxxx
Wadsworth, Henry H., xxx-xx-xxxx
Wagner, Hugh B., xxx-xx-xxxx
Wahus, David J., xxx-xx-xxxx
Walden, Glenn E., xxx-xx-xxxx
Walden, Lonnie D., xxx-xx-xxxx
Waldron, Gary H., xxx-xx-xxxx
Walker, Conley E., xxx-xx-xxxx
Walkley, Stephen C., xxx-xx-xxxx
Wall, Charles I., xxx-xx-xxxx
Wall, Jesse S., xxx-xx-xxxx
Wall, Matthias R., xxx-xx-xxxx
Wallace, Edmund F., xxx-xx-xxxx
Walsh, Richard R., xxx-xx-xxxx
Walter, Rudolf R., xxx-xx-xxxx
Walters, John W., xxx-xx-xxxx
Warlick, James G., xxx-xx-xxxx
Warner, Albert T., xxx-xx-xxxx
Warner, James A., xxx-xx-xxxx
Warner, Jerry W., xxx-xx-xxxx
Warren, Joe W., xxx-xx-xxxx
Waters, Samuel C., xxx-xx-xxxx
Watkins, David L., xxx-xx-xxxx
Watson, Albert J., xxx-xx-xxxx
Weatherhead, Donald, xxx-xx-xxxx
Weatherholtz, Ruben, xxx-xx-xxxx
Webb, John C., xxx-xx-xxxx
Webb, Steve M., xxx-xx-xxxx
Webb, William F., xxx-xx-xxxx
Webber, David J., xxx-xx-xxxx
Webster, Charles D., xxx-xx-xxxx
Wehn, Samuel L., xxx-xx-xxxx
Wehner, Richard J., xxx-xx-xxxx
Wehsels, Gary E., xxx-xx-xxxx
Weidinger, Thomas H., xxx-xx-xxxx
Weigel, Richard A., xxx-xx-xxxx

Weil, Ronald E., xxx-xx-xxxx
Weinberg, Herman R., xxx-xx-xxxx
Weir, William F., xxx-xx-xxxx
Weiss, John P., xxx-xx-xxxx
Weitzel, Robert J., xxx-xx-xxxx
Weitzenberg, Richard, xxx-xx-xxxx
Welch, Arthur J., xxx-xx-xxxx
Welch, Harold R., xxx-xx-xxxx
Welch, Norman A., Jr., xxx-xx-xxxx
Welker, Judith A., xxx-xx-xxxx
Wenzel, Thomas J., xxx-xx-xxxx
Wermuth, Michael A., xxx-xx-xxxx
Wernert, Joseph G., xxx-xx-xxxx
West, James E., xxx-xx-xxxx
West, Joseph D., xxx-xx-xxxx
West, Stephen A., xxx-xx-xxxx
West, Thomas E., xxx-xx-xxxx
Westall, Michael H., xxx-xx-xxxx
Westbrooke, James W., xxx-xx-xxxx
Westerhoff, John H., xxx-xx-xxxx
Westervelt, Ronald, xxx-xx-xxxx
Westmoreland, Robert, xxx-xx-xxxx
Wetjen, Jeffrey H., xxx-xx-xxxx
Wetzler, James H., xxx-xx-xxxx
Whelehan, William J., xxx-xx-xxxx
White, Benjamin H., xxx-xx-xxxx
White, Gary W., xxx-xx-xxxx
White, Hubert M., xxx-xx-xxxx
Whitmore, Alden W., xxx-xx-xxxx
Whitney, Richard G., xxx-xx-xxxx
Whomes, Gilbert C., xxx-xx-xxxx
Wiant, Fredrik W., xxx-xx-xxxx
Wiesenberg, Seymour, xxx-xx-xxxx
Wigeri, Vanedema E., xxx-xx-xxxx
Wilburn, Donald L., xxx-xx-xxxx
Wiles, Joseph E., xxx-xx-xxxx
Wiley, David D., xxx-xx-xxxx
Wilkes, Craig R., xxx-xx-xxxx
Will, Larry H., xxx-xx-xxxx
Williams, Alan E., xxx-xx-xxxx
Williams, David R., xxx-xx-xxxx
Williams, Harvey J., xxx-xx-xxxx
Williams, James S., xxx-xx-xxxx
Williams, Jesse R., xxx-xx-xxxx
Williams, Richard A., xxx-xx-xxxx
Williams, Roger S., xxx-xx-xxxx
Williams, Winfield, xxx-xx-xxxx
Williamson, Kenneth, xxx-xx-xxxx
Williamson, Morris, xxx-xx-xxxx
Williford, Thomas R., xxx-xx-xxxx
Wilson, Daniel E., xxx-xx-xxxx
Wilson, Errol D., xxx-xx-xxxx
Wilson, Harold W., xxx-xx-xxxx
Wilson, John L., xxx-xx-xxxx
Wilson, John R., xxx-xx-xxxx
Wilson, Robert C., Jr., xxx-xx-xxxx
Wilson, William H., xxx-xx-xxxx
Windsor, Richard D., xxx-xx-xxxx
Windus, Robert L., xxx-xx-xxxx
Winebrenner, Steven, xxx-xx-xxxx
Wirsing, Philip B., xxx-xx-xxxx
Wisely, Daniel E., xxx-xx-xxxx
Witsken, Roger L., xxx-xx-xxxx
Wolfe, Marshall R., xxx-xx-xxxx
Wolfe, Thomas A., Sr., xxx-xx-xxxx
Wood, Chester H., xxx-xx-xxxx
Wood, Richard R., xxx-xx-xxxx
Wood, Roger H., xxx-xx-xxxx
Woodard, Donald E., xxx-xx-xxxx
Woodburn, Terry L., xxx-xx-xxxx
Woods, Dan A., xxx-xx-xxxx
Woodson, Jesse, Jr., xxx-xx-xxxx
Woodworth, Michael, xxx-xx-xxxx
Worley, Robert W., Jr., xxx-xx-xxxx
Wresche, Dee V., xxx-xx-xxxx
Wright, Langdon G., xxx-xx-xxxx
Wyne, Guy F., xxx-xx-xxxx
Wynn, Thomas H., xxx-xx-xxxx
Yacka, John D., xxx-xx-xxxx
Yale, Robert J., xxx-xx-xxxx
Yamashita, Roy H., xxx-xx-xxxx
Yates, Victor P., xxx-xx-xxxx
Yelk, Ronald B., xxx-xx-xxxx
Yeo, James R., xxx-xx-xxxx
Yetman, William J., xxx-xx-xxxx
Yielding, Jackson M., xxx-xx-xxxx
York, Larry A., xxx-xx-xxxx
Young, Dana M., xxx-xx-xxxx
Young, Rudolph V., xxx-xx-xxxx
Zangwill, Steven L., xxx-xx-xxxx
Zarkin, Stephen, xxx-xx-xxxx
Zeller, Paul G., xxx-xx-xxxx
Zimmerman, Edward A., xxx-xx-xxxx
Zinsmeister, Hubert, xxx-xx-xxxx

EXTENSIONS OF REMARKS

A COURAGEOUS CALL FOR ACTION TO STOP THE ANTI-HOUSING ELITISTS

HON. FERNAND J. ST GERMAIN

OF RHODE ISLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 29, 1986

Mr. ST GERMAIN. Mr. Speaker, housing programs are under the most concerted attack since the Federal Government accepted a role in helping to provide decent shelter for all Americans.

With these programs under siege and with the very future of housing and community development at risk, it is vital that people knowledgeable about the Nation's needs in this area speak up.

That is why, Mr. Speaker, I was so impressed by the gutsy remarks delivered by David O. Maxwell, Chairman and Chief Executive Officer of the Federal National Mortgage Association [Fannie Mae] to the board of directors of the National Association of Home Builders in Dallas on January 18.

Citing some of the outlandish proposals for cutting housing programs, the Fannie Mae chief lays it on the line in very clear language:

What the elitists seek to do is to put into law their antihousing bias under the cover of the deficit reduction package. That way, they can avoid careful consideration of these radical changes in housing policy in open forums established for this purpose, such as the Senate and House banking committees.

Mr. Maxwell went on to tell the NAHB:

As keepers of the American housing dream, we together must stop the ideological assault on homeownership. The halls of Congress should rock with our protest on behalf of half a century of bringing homeownership to Americans.

Mr. Speaker, I place in the RECORD the text of Mr. Maxwell's remarks in Dallas and commend them to anyone truly interested in preserving the Nation's commitment to decent housing for all Americans:

THE ATTACK ON MRS. BAKER'S HOUSING DREAM

(Remarks by David O. Maxwell, Chairman and Chief Executive Officer, the Federal National Mortgage Association)

It feels mighty good to get out of that stewpot called Washington to visit with friends.

Yes, America's home builders and Fannie Mae are good friends. Through good times and bad, we have stood up for each other. The result has been a standard of homeownership in America that is the envy of the world.

Like all good friends, we don't always agree completely on every issue. In fact, a lender friend of mine said to me that other day: "Your new underwriting standards must make speaking at the NAHB like Daniel in the lion's den." I don't believe that at all. I don't feel the need for divine intervention to get out of here alive. If I did, I'd have a long and very uncomfortable wait.

No, my friends, I feel more like Joshua than Daniel this morning. In the words of the spiritual, I want to command the children to shout and bring tumbling down the walls of those in Washington, who would, if we let them, destroy every vestige of support for the American dream of homeownership.

I want to make sure you leave here knowing what these elitists have in mind. Make no mistake about it, they are cold-bloodedly determined to drive the American home buyer into a ruinous competition for mortgage money with Wall Street merger maniacs and the tentacled, multinational octupi of the world. They will succeed—if we do not have the courage and determination to stop them.

Now, let me observe right up front that these are not issues affecting the federal budget deficit. The attack to which I refer is on the public-private partnership in support of housing that doesn't cost the taxpayers of this nation a penny. The attack is motivated solely by an ideological hostility to governmental support of any kind—on or off the budget—to give the low-, moderate- and middle-income home buyers of this country a chance to compete for capital.

These people are cleverly disguising their attack by wrapping it in the flag of deficit reduction—a national priority we all support. By using such camouflage, they do the President a great disservice.

I've never heard President Reagan say he wanted to tear down all the supports that have made us a nation of homeowners. I've never heard him advocate destruction of institutions that help low- and moderate-income Americans buy homes without a penny's cost to the taxpayers. But that's what they would like to accomplish.

I don't have to tell you Fannie Mae is a major target of the conspiracy in Washington against home buyers of modest means. But I should tell you, as good friends, how disheartening this assault is to us. We have worked for five years to turn our company around. We have not burdened the Administration, or the American people, with the need for some kind of expensive bail-out.

Our turnaround strategy is well on the road to success. From a company that was losing $1 million every working day in 1981, we have earned a solid profit in 1985. And we look to the future with optimism.

I know this achievement is of special interest to you because we have weathered the hard times of the 1980s together. I will always be proud that so many home builders told us after the recession of 1981-82 that without Fannie Mae they would not have made it through. My friends, without you, we would not have made it through either.

And now that Fannie Mae is back on her feet, you can be certain she'll always be there when you need her.

Obviously someone needed us in 1985. Our business volumes set a record for us. We purchased $21 billion of mortgages for our portfolio. We issued $24 billion of Mortgage-Backed Securities. That $45 billion translates into more than 900,000 home mortgages for Americans in 1985 alone. We will be just as aggressive in the marketplace in 1986.

We will be equally conscious of quality. We intend to stick to the basic changes we made last year in our underwriting standards and mortgage credit criteria, because we believe they are right. We did not make those changes because of the foreclosure losses from loans made in the recession of 1981-82. That cat is out of the bag. We have learned to live with all the unwanted kittens she has produced. And that's a lot of unwanted kittens. Rather, we made our underwriting changes for two fundamental reasons:

First: The current economic evironment is radically different from the 1970's. Housing price inflation will no longer make up for underwriting mistakes. It would be foolhardy for us to do business as if nothing had changed.

Second: Our experience clearly shows that certain loan products and features lead with near certainty to foreclosure for many borrowers. It would be irresponsible for us to continue to offer those products and features.

To continue to accept high levels of foreclosures from loans we're making now could undermine the integrity of the home mortgage as a sound investment. Investors without faith in the underlying quality of their investment would not continue to invest. Our industry would soon have trouble raising the capital to finance future housing needs. So our changes were an important step to maintain investors' faith in the home mortgage.

Mixed with our business decision to make the changes was an overriding moral concern. Our industry doesn't want to see people buy homes they can't keep. Owning a home should be an experience to treasure, not regret. It is better for a family to postpone the purchase of a home until they can meet the monthly payments. It is better for a family to lower their expectations of how much house they can afford than to get in over their heads. It is better for a family to forego purchase of a home than to go through the agony of foreclosure.

What has been the reaction to our underwriting changes? Generally speaking, highly favorable. Naturally we could not fully satisfy every player in the marketplace and still effectively reduce credit risk. At the same time, we realize that no such changes are perfect. So, we continue to monitor them in response to customers' concerns. Where we can respond to those concerns without reopening the door to undue exposure to credit risk, we will do so.

I want to thank John Koelemij and Kent Colton for presenting NAHB's own reservations and suggestions to us candidly and forcefully. In our several meetings with John and Kent, we reviewed the underwriting rules and their effects in great detail. As a result, effective immediately, we are making several refinements in our new rules. I appreciate the opportunity to make

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● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

the first public announcement of these refinements here at the NAHB's Board meeting today.

First, we will lift our prohibition on seller contributions to adjustable-rate mortgages with less than ten percent down. A seller will be allowed to pay closing or financing costs of these loans up a maximum of two percent of the sales price or appraised value, whichever is less.

Second, the current six percent limitation on contributions to fixed- and adjustable-rate mortgages with 25 percent or more down will be increased to nine percent of the sale price or appraised value, whichever is less.

Third, points on unplanned permanent buydowns will not be limited if they are incurred solely as a result of shifts in interest rates between the time of signing a sales contract and closing the loan.

Fourth, if an immediate family member makes a gift of at least 20 percent of the sales price, we will waive our requirement that a borrower must make a five percent downpayment in cash.

Fifth, our current definition of long-term debt, which includes all installment and revolving debt, will be changed to include only that installment and revolving debt that extends beyond ten months.

Sixth, we will streamline our documentation requirements to speed up approvals for loans with low loan-to-value ratios—loans that represent a more significant portion of our builder business than many of you might imagine.

In new lender guides Fannie Mae will distribute this month, we are including these refinements and clearing up misunderstandings, including one that has caused home builders concern: our 25/33 percent income standard for fixed-rate mortgages above the 90 percent loan-to-value ratio. Some have said this standard is set in concrete. It isn't. And it never was.

Let me repeat: We will allow lenders to go as high as 28/36 percent if there is sound justification for doing so. We want to buy high ratio loans of good quality.

We're also including in the guides a clarified appraisal policy. We have stood with NAHB in rejecting the mechanistic and unrealistic approach of "cash equivalent" appraisals. Fannie Mae will require appraisers to report sales concessions for comparables where the information is reasonably available. They then should adjust values based on the actual effect such concessions have on those values.

We believe these refinements, taken together, substantially address the concerns expressed to us by NAHB and others without sacrificing, in any way, our commitment to loan quality. Of course, Fannie Mae will keep its doors open for further discussion with you. You are true friends. You came to our side in last year's user fee battle, and helped to win that fight. That battle was part of a much larger war against governmental support for housing. It is led by those elitists I mentioned earlier. Their command post is the Office of Management and Budget.

The scope of their attack in recent years has been epitomized by their treatment of HUD's budget.

HUD's budget, including federally assisted housing, has been cut 65 percent since 1981.

None of us would argue that these programs should not bear their fair share of budget cuts. But 65 percent?

If other federal spending had been cut so deeply, there would be no deficit today.

Although their final 1987 budget proposals have not been formally released, it's well known what these anti-housing zealots aim to do next. And I know the NAHB shares my deep shock at what we have heard.

They want to double the downpayment required for FHA and VA mortgages.

They want to cap the income level to qualify for an FHA loan at $40,000.

They want to limit Ginnie Mae's guarantee to only 80 percent, instead of 100 percent, of a loan.

They want to further cut HUD's budget for low-income housing assistance.

They want to gut rural housing.

They want to impose a confiscatory tax on government sponsored housing enterprises, a tax that would hit especially hard at Fannie Mae.

They even had the audacity to float the idea of selling FHA, which is the same thing as abolishing it. Fortunately, that balloon was quickly popped. But don't think you've heard the last of that FHA proposal. These people are tenacious. Even though we defeated their housing tax proposal last year, they are right back with an even more destructive housing tax this year.

The consequences of their attack, if successful, would be disastrous for millions of potential home buyers.

By capping the income requirement at $40,000 for FHA buyers, they would eliminate about one-third of the people who bought homes through FHA last year.

By reducing the Ginnie Mae guarantee to 80 percent, they would—in the words of Warren Lasko, one of the most knowledgeable experts on Ginnie Mae in this country: "absolutely pull the rug out from under the Ginnie Mae program."

And who would be hurt by the tax on Fannie Mae? Not a rich home buyer. No buyers of $200,000 homes need worry. The average size of the home loans we purchased in 1985 was about $50,000. The average size of a loan in our portfolio and in MBS pools is about $40,000. Those are not the mortgages of rich people. They are the mortgages of American families Fannie Mae was created to serve.

What would happen to these families if this tax were enacted?

OMB itself admits this tax would cost Fannie Mae more than $1 billion over the next five years. Whether we pass that cost on or not, this would signal the end of Fannie Mae's ability to provide affordable mortgage money to home buyers.

Why are these OMB bureaucrats making such reckless proposals? Fannie Mae and Freddie Mac are not part of the federal budget. These enterprises cost the taxpayer nothing.

No, what the elitists seek to do is to put into law their antihousing bias under cover of the deficit reduction package. That way, they can avoid careful consideration of these radical changes in housing policy in open forums established for this purpose, such as the Senate and House banking committees.

The OMB assault against housing is so bitter and so farreaching, one is tempted to ask:

Where do these elitists live?

Have they never had to buy a house through FHA, or VA, or a Fannie Mae approved lender?

Obviously, they have not driven a nail, used a mason's trowel, or spliced a joint. Nor have they stood with you in a barren field with the blueprints for homes to be built for Americans because there is an FHA, a VA, a Ginnie May, a Fannie Mae.

I would wager that none of them would be moved by a passage from Russell Baker's book, "Growing Up," in which he simply and eloquently sums up what the dream of a home is all about. He writes:

"I'd never seen my mother more radiantly happy than the day we moved in. The house was on Marydell Road in the Irvington section of Baltimore. For my mother it was that 'home of our own' she had talked about from my earliest memory. It was the place of permanence, the permanence embodied for her in the word 'home.' She was to live there for the next 35 years."

That's what our business is all about—giving Americans a chance to fulfill one of the most important parts of the American dream. No other part of that dream is shared so widely by Americans. From the first wave of immigrants who came to industrialize America, to the new generation of Americans that is computerizing her, the common dream was and is that of Mrs. Baker: "to have a home of our own, a place of permanence."

In this country, as nowhere else in the world, we have shaped our political will to make certain that the opportunity for homeownership is not just for a privileged few. We have forged a public-private partnership to put homeownership within reach of most Americans. It has transformed a nation of immigrants into a nation of homeowners.

Before the partnership was formed, only 44 percent of American families could claim homeownership, out of a population of 130 million. Now—only 50 years later—65 percent claim that homeownership, out of a population of 235 million.

And it is not just the fact that they own a home, it's the kind of home they own. Its size, its amenities, its materials—all those things that you—the builders—put into the American home to make it the envy of the world.

As keepers of the American housing dream, we together must stop the ideological assault on homeownership. The halls of Congress should rock with our protest on behalf of half a century of bringing homeownership to Americans.

BUDGET HYSTERIA: A COLOSSAL MYTHOLOGY

HON. G. WILLIAM WHITEHURST

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 29, 1986

Mr. WHITEHURST. Mr. Speaker, so much has been written and said about budget deficits and how to reduce them that I am sure few, if any, Americans are sure of just what is the best way to proceed.

It is for this reason that I am pleased to share with my colleagues at this point in the RECORD the column by Robert J. Samuelson which appeared in the Wednesday, January 29, 1986, Washington Post. His restraint and lucidity are refreshing, especially in contrast to much of the rhetoric which has assailed us from all sides in recent months.

I commend Mr. Samuelson's commentary to my colleagues, and hope that his cogent views will be given the careful consideration they deserve.

Thank you, Mr. Speaker.

THE MYTHOLOGY OF DEFICITS

It's budget time again. Washington has resumed its obsession with budget deficits. You will hear much that is confusing and wrong. The foremost myth is this: Closing the deficits requires a massive retrenchment of government or huge tax increases. Don't believe it. The truth is that a combination of modes tax increases, selective cutbacks in domestic spending and a further slowdown of the defense buildup would shrink the deficits quickly.

Deficits have become a stubborn political problem only because we have made them so. Deflating the deficits involves paying a little more, receiving a little less. It's a thunderstorm, not a typhoon. You never would know it from Washington's clamor and clatter. Deficits have created a high-pitched political schizophrenia. Closing them is essential, but doing so would be unbearably painful. Debate over Gramm-Rudman-Hollings—the law that supposedly requires a balanced budget by 1991—simply has raised the rhetorical hysteria to new heights.

Politics is about conflict and choice. The conflicts and choices engaged by the deficits are relatively ordinary. Compare them with some landmark legislative events of our era: passage of the Civil Rights Act (1964), Medicare (1965) and the environmental legislation of the 1970s. All these involved basic changes in the ways the nation conducts its affairs. Can the same be said of trimming guaranteed student college loans—to cite one proposed spending cut—or raising taxes 6 percent?

From the outset, budget deficits have inspired a colossal mythology. Consider:

Myth. President Reagan created the deficits by cutting taxes and raising defense spending.

Reality. Any president would have faced unpopular choices. By the late 1970s, the budget had reached a political impasse. In 1979, defense spending was the lowest proportion of gross national product since 1948. Taxes were at postwar highs. Interest expenses on the federal debt were held down by undesirably low—inflationary—interest rates. An aging population and high health care costs were raising Social Security and Medicare spending automatically. The consensus was to raise defense spending and reduce inflation. President Reagan's agenda sharpened the conflicts, but he did not create them. Even with his tax cut, the tax burden in 1985 equaled the 1970s' average.

Myth. High budget deficits caused high interest rates, leading to the dollar's high exchange rate and the huge trade deficit.

Reality. The 1980's high interest rates mainly reflect a deliberate decision by the Federal Reserve to raise rates to halt the 1970s' inflation. Rates rose well before large deficits emerged. A study by economist Frederic Mishkin of Columbia University attributes most of the rate rise to Federal Reserve policy. Economists Lawrence Summers of Harvard University and Olivier Blanchard of the Massachusetts Institute of Technology found that the Federal Reserve triggered the higher rates, although deficits played a role after 1982. Reducing budget deficits might provide some rate relief, but relatively high interest rates may be a necessary antidote to inflation.

Myth. Cutting the deficits requires draconian tax increases or spending cuts.

Reality. They would be draconian only if spending cuts or tax increases absorbed the full burden of deficit reduction. By contrast, consider a combination. A 25-cent-a-gallon oil excise tax would raise about $50 billion; the tax increase would be between 5 and 7 percent, and—with oil prices falling—might not raise retail prices. Higher cigarette and alcohol taxes could yield $5 billion. Another $30 billion could be saved by eliminating less important domestic programs (examples: Amtrack, the Small Business Administration), imposing user fees for some government services and freezing for a year the cost-of-living adjustments for Social Security and other retirement programs. A defense slowdown could produce between $20 billion and $30 billion in savings.

Any packages of more than $100 billion of spending cuts and tax increases actually would yield larger deficit reductions. Why? First, it would lower government borrowing and interest expenses. And second, taxes already are increasing slightly faster than spending. No one pretends the necessary changes are painless, but bipartisan posturing has exaggerated the pain. Reagan portrays any tax increase as a catastrophe. Congressional Democrats wildly accuse the president of trying to gut all social legislation since the New Deal.

Common sense is the main reason for dealing with the deficits. They are no way to run a government. Their evils are long term, and they are as much political as economic. Uncorrected, deficits become worse as interest expenses accumulate. The longer this continues, the more wrenching the political decisions necessary to reduce the deficits. The political stalemate erodes public esteem for government. And, sooner or later, persistent deficits risk either reduced investment or, because the Federal Reserve would create money to cover the deficits, renewed inflation.

But it matters how deficits are reduced. Mindless spending cuts, as ordained by Gramm-Rudman-Hollings, could cripple many worthy government programs. No spending cuts could result in crippling tax increases. Deficits are not unmanageable, but the first step to managing them is to regain perspective. They are more than a molehill, but a lot less than a mountain.

SALT II ENHANCES PROSPECTS FOR ARMS CONTROL

HON. DANTE B. FASCELL

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 29, 1986

Mr. FASCELL. Mr. Speaker, last month I sent a letter to the President encouraging his continued adherence to SALT II in 1986 beyond the expiration date of December 31, 1985.

Yesterday I received a formal and positive response from the Department of State which I would like to share with my colleagues.

In this letter the administration wisely reiterates the President's view that success in Geneva is enhanced by continued adherence by both superpowers to existing strategic arms agreements.

Furthermore, in stating that "Our position on SALT II is * * * we will live under its agreements and not violate them," the administration has wisely rejected the ill-advised counsel of the Department of Defense to respond to Soviet violations of SALT II with United States violations of that treaty.

Earlier this month, our distinguished colleague, Congressman LEE HAMILTON, wrote a very important editorial which appeared in the January 16 Christian Science Monitor on the need to preserve U.S. adherence to the SALT II Treaty. Representative HAMILTON points out that while official U.S. policy is not to undercut the SALT II agreement, there are elements in the administration pushing to "scrap" the treaty.

He goes on to explain a number of reasons why continued adherence to the treaty is our interest, including the fact that the treaty establishes equal limits on bombers and missiles, freezes the number of allowed warheads per missile and restricts Soviet land-based missiles which are of most concern to the United States.

Representative HAMILTON reminds us that charges of Soviet noncompliance with the treaty are best dealt with through private diplomatic channels such as the Standing Consultative Commission [SCC] which was designed for this very purpose. Based on his analysis of the issue, Representative HAMILTON concludes that while the Soviets have pushed the SALT II Treaty to the limits, their actions "do not constitute massive violations that suggest a Soviet effort to break out of the treaty."

I would agree with my colleague that without SALT II we would face an accelerated arms race and increased tensions between the superpowers. We also are much more likely to reach an agreement with the Soviet Union in the ongoing arms control negotiations in Geneva if we maintain our adherence to SALT II and build off that important agreement.

The text of the letter from the Department of State and Representative HAMILTON'S editorial follow.

U.S. DEPARTMENT OF STATE,
Washington, DC, January 28, 1986.

Hon. DANTE B. FASCELL,
Chairman, Committee on Foreign Relations, House of Representatives.

DEAR MR. CHAIRMAN: I am writing you as a follow-up to Mr. Oglesby's letter on SALT II of January 2, 1986. First let me add the Department's thanks for your support of the President's decision of last June. There is no question that the wise and constructive leadership you have demonstrated as Chairman is vital to the effective conduct of our country's foreign affairs, including our arms control policies.

As you know, the President determined last June that it is in our interest to work toward the establishment of an interim framework of truly mutual restraint on strategic offensive arms as we pursue at Geneva our goal of real reductions in nuclear arsenals. The United States will continue to refrain from undercutting existing strategic arms agreements to the extent that the Soviet Union exercises comparable restraint and provided that the Soviet Union actively pursues arms reduction agreements in Geneva. This remains our policy.

The United States cannot establish this framework alone. We have called upon the Soviet Union to take concrete, positive steps to correct their noncompliance with existing arms control agreements, and halt or substantially reduce their massive military buildup. We will reserve the right to take appropriate and proportionate responses to Soviet noncompliance as necessary in order to deny the military benefits of these viola-

tions to the Soviet Union and assure the national security of the U.S. and our Allies.

Our position on SALT II is that we have indicated we will live under its agreements and not violate them. Until we say differently, the policy remains the same. The December 31, 1985, date for the expiring of SALT II had no effect on this policy.

With best wishes,

Sincerely,

WILLIAM L. BALL III,
Assistant Secretary, Legislative and Intergovernmental Affairs.

WHY U.S. SHOULD CONTINUE TO ADHERE TO SALT II

(By Lee H. Hamilton)

The future of the unratified SALT II Treaty, which has limited United States and Soviet nuclear forces since 1979, is unclear. The Reagan administration is divided. Some officials want to scrap SALT II, but the President announced last June that the US would follow a "no undercut" policy of adhering to treaty limits so long as the Soviet Union "exercise comparable restraint." This is still official policy.

The President also said that the US would study "proportionate responses" to what it views as the military consequences of Soviet violations of arms agreements. With the expiration of SALT II on Dec. 31, 1985, the US may decide to pursue arms programs that breach treaty limits. Such a decision could end all restraints on US and Soviet nuclear forces.

There are several reasons the US should continue to adhere to the terms of SALT II. This conclusion is shared by a recent study by the Arms Control Association, "Countdown on SALT II."

First, SALT II establishes equal limits on bombers and missiles and freezes the number of allowed warheads per missile. It establishes restrictive sublimits on Soviet land-based missiles, which concern the US the most. Every time the Soviets introduce a new missile, they are obligated under SALT to retire one as well. According to the Arms Control Association, the Soviet Union removed 1,007 land-based missiles and 233 sea-based missiles from its active force and dismantled 13 submarines during 1972-85 to comply with SALT II limits. Past Soviet practices suggest that without SALT II much of this hardware would still be in operation.

Second, SALT II is in the US interests because Soviet missile production lines remain open. According to open testimony by the Central Intelligence Agency, the Soviets could add 12,000 new warheads by the mid-1990s—more than doubling their present force—if they broke out of SALT II. The Soviets could also put up to 20 or 30 warheads on each "heavy" missile, giving them a much greater capacity to attack US targets. It is unlikely that the US could keep pace without enormous spending increases.

Third, the end of SALT II and a renewed missile race would likely eliminate the possibility of developing a successful US space-based missile defense. This is the conclusion of the congressional Office of Technology Assessment. The Reagan administration implicitly acknowledges this in its proposal for deep missile cuts as part of its proposal for the Strategic Defense Initiative (SDI). Without missile limits, SDI cannot work; without SALT II there would be none.

Fourth, the end of SALT II would free the Soviets to adopt camouflage and deception techniques, now prohibited under SALT, to hide military activities.

Finally, serious political consequences are likely if SALT II is abandoned. The Geneva talks would suffer a big setback. So would the broader US-Soviet relationship. The end of SALT II would be deeply divisive in Congress and would lead to serious differences within NATO, strengthening Soviet efforts to split the alliance.

The crux of the argument against SALT II focuses on alleged Soviet violations of the treaty. First, the US contends that the Soviets have introduced two new types of land-based missiles, the SS-24 and SS-25, whereas SALT II permits only one. The Soviets declare that the SS-25 is a permitted modernization of the SS-13. The US disputes this, charging that the Soviets have violated SALT II by concealing SS-25 tests. This question is unresolved.

Second, the US accuses the Soviets of encoding missile test-flight data necessary for verification purposes. This charge is certainly true, but the US has refused to specify the missile test data it needs for verification, fearing possible compromise of intelligence sources and methods. This violation is, therefore, less than clear cut.

Third, a new US charge is that the Soviets have deployed launchers in excess of SALT II limits. Others question this, since the US has delayed working out agreed procedures under SALT II for dismantling Soviet bombers. A further US charge, concerning the banned SS-16 missile, has been downgraded in view of Soviet steps that seem to have resolved the issue.

It is my belief that the Soviets have pushed the SALT II Treaty to the limit. Charges of Soviet noncompliance are serious matters concerning gray areas of treaty interpretation, but they do not constitute massive violations that suggest a Soviet effort to break out of the treaty. Our response should not be to renounce SALT II but to draft more careful treaty language in the future and to press our present concerns through the private diplomatic channels of the Standing Consultative Commission created for this purpose. We should pursue our complaints in a manner that keeps the treaty intact. Compliance issues must be handled with accuracy and care, because, if exaggerated, they will destroy any prospects for a new agreement and undermine all existing agreements.

Sticking with SALT II serves US interests, as the current debate demonstrates. Without SALT II, we are likely to experience an accelerated arms race, greater uncertainty about Soviet intentions, and an escalation of tension between the superpowers. We will be less secure. With SALT II, we will be able to preserve important constraints on Soviet weapons, improve our ability to resolve questions about Soviet compliance, and increase prospects for future arms agreements at Geneva. Few choices are so clear cut.

A GOAL IS NOT A QUOTA

HON. THOMAS J. DOWNEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 29, 1986

Mr. DOWNEY of New York. Mr. Speaker, there has been much confusion of late with regard to the Federal Government's affirmative action policy. News reports indicate that Attorney General Meese is quarrelling with other high ranking administration officials over Executive Order 11246. Mr. Meese implies that the Federal Government's current policy somehow involves the use of quotas when employing minority contractors and businesses doing work for the Government. Is Mr. Meese correct?

I would like to bring to my colleagues' attention an article by the Washington representative of the American Jewish Committee, Mr. Hyman Bookbinder. Mr. Bookbinder lays to rest some of the misconceptions surrounding Executive Order 11246. This article appeared in the January 27 Washington Times. Apparently the Washington Times is part of President Reagan's daily reading. Let's hope he did not miss this perceptive piece.

The article follows:

IS THE REAL ISSUE QUOTAS?

(By Hyman Bookbinder)

Confusion continues to surround the issue of affirmative action—especially the issue of goals and quotas. President Reagan soon may act on a proposal before him which could have a major impact on where this nation goes in its commitment to equal opportunity. His decision, if based on facts rather than fears and distortions, should be rejection of the proposal.

The proposal, urged by Attorney General Edwin Meese, is to change an executive order supported by every president and secretary of labor and attorney general in the past 25 years—and that includes Republican presidents Richard Nixon and Gerald Ford. The executive order was based on a simple but critical premise: federal contractors and federal agencies should set an example for all American society by taking approriate action to assure equality of opportunity in employment regardless of race, creed, color, or national origin—and, subsequently, sex.

In 1971, Mr. Nixon's secretary of labor, George Shultz—currently Mr. Reagan's secretary of state—determined that among "appropriate" actions was the setting of "goals and timetables" for contractors doing business with the federal government. Because of the widespread misinterpretations and confusion about this concept—including the piece by Victor Riesel on Jan. 21—it is important to study carefully the precise language of the regulation issued under the executive order during the Nixon-Shultz administration:

"The goals and timetables developed by *the contractor* should be attainable in terms of the contractor's analysis of its deficiencies and its entire affirmative action program. . . . The contractor should consider the results which could reasonably be expected from its putting forth every good faith effort to make its overall affirmative action work. . . ."

And to make sure that contractors understand these requirements, the regulation goes on to state unambiguously:

"Goals may not be rigid and inflexible quotas which must be met, but must be targets reasonably attainable by means of applying every good faith effort. . . ."

In the years prior to this 1971 mandating of *goals*—not *quotas*—affirmative action had come to mean primarily programs directed at improved training and retraining, at more effective recruitment procedures, at evaluation of testing methods, and encouragement of nondiscriminatory policies. While these have brought about some positive results, a consensus developed in both government circles and in the civil rights community that more progress was both needed and

possible—and that such progress required the setting of reasonable, realistic targets.

Such targets would serve twin purposes: (1) as a measuring rod for goals set by *the employer* based upon careful analysis of the available labor market, and (2) thereby as a prod for recalcitrant or indifferent labor managers.

That this system of goals and timetables has not become a de facto quota system—i.e., one in which given numbers or percentages of workers of a given racial or other group *must* be hired—is perhaps most forcefully demonstrated in the fact that in the last five years only two cases have resulted in contractors being punished for failing to meet their goals. In the overwhelming majority of cases, in fact, the goals were not reached, but did serve to improve past performance. Good faith effort is the criterion for compliance.

There have been tens of thousands of "goals" programs administered by contractors and also by public agencies. It would be absurd to argue that never in all these cases has a goal been distorted into a de facto quota. I surely do not. Either out of ignorance or defiance or overzealousness, here and there a hiring officer will in effect be engaged in a quota operation. What major program—tax collection, defense costs, environmental laws—is entirely free of abuse?

The answer to such abuse is more rigid administration, and punishment of the abusers. The answer is not to throw the proverbial baby out with the bathwater.

I have testified on numerous occasions on this question before congressional bodies. Each time I have challenged critics of the goals program to cite reliable studies to sustain the charge that goals have generally become quotas. There is no such study.

There is a quota issue with which the courts are now dealing. There are some cases where the courts have made findings of conscious discrimination—primarily affecting employees of local jurisdictions—and have approved the use of quotas to correct such proved discrimination.

But the present argument over the attorney general's plans to change the executive order is not about quotas. That order now prohibits such quotas. The proposed change would ban goals, and thus set back the cause of affirmative action seriously.

Small wonder then that a most impressive array of opponents of Mr. Meese's proposal has developed. Small wonder that the White House has delayed action—given the size and the nature of the opposition:

Sixty-nine U.S. senators and more than 200 representatives have asked the president not to change the order—including Senate Majority Leader Robert Dole and House Minority Leader Robert H. Michel.

Labor Secretary William Brock and Secretary of State George Shultz, plus at least five other Cabinet members, say "no" to the proposed change.

The National Association of Manufacturers, the Business roundtable, and the New York Chamber of Commerce are spearheading a business effort against the Meese proposal.

Finally, and closed to home, a word about the American Jewish community. Perhaps no other segment in American life is more opposed to quotas. We have suffered too much from them in the past. But despite the one organization cited by Victor Riesel, the Jewish community is overwhelmingly united in support of affirmative action, including the judicious and prudent use of goals and timetable—the present system.

WITH THE CONTRAS

HON. TED WEISS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 29, 1986

Mr. WEISS. Mr. Speaker, even in the era of Gramm-Rudman, some would like to spend fresh millions to subsidize the depredations of the "Contras" in Nicaragua. Before we vote to appropriate another dollar for this purpose, we should take a hard look at what our funds have purchased so far. It is a grim record indeed, as Christopher Dickey's book, "With the Contras: A Reporter in the Wilds of Nicaragua," amply demonstrates.

Abraham Brumberg's review of Mr. Dickey's book was published in the New York Times Book Review for January 26, 1986. I commend it to the attention of all Members of the House.

CLIMATE OF AN UNDECLARED WAR

(By Abraham Brumberg)

The story of the anti-Sandinista guerrillas, the so-called contras, once a rag-tag band of 500 survivors of Anastasio Debayle Somoza's notorious National Guard of Nicaragua, now a force of more than 15,000 men—well-equipped, professionally trained and energetically looked after by its foreign patrons—is well worth telling. Until about two years ago the Sandinistas, keen on depriving their enemies of any claim to legitimacy, were apt to dismiss the contras as either mercenaries or diehard "Somocistas." Champions of the contras, on the other hand, above all President Reagan, often consider them lineal descendants of America's Founding Fathers, valiant freedom fighters determined to deliver their countrymen from the tyrannical reign of Communist totalitarianism. While few people give credence to the Sandinista version—and indeed while the Sandinistas themselves have become increasingly realistic in their assessment of the rebels—the far more extravagant claims for them of the Reagan Administration continue to flourish.

Christopher Dickey, a reporter who covered Central America for The Washington Post from January 1980 to September 1983, set out to provide an account of the contras that would steer clear of the tendentious images fostered by their friends and adversaries alike. For nearly six years he collected firsthand evidence from the insurgents in the jungles of Nicaragua, Honduras and Costa Rica, and from their spokesmen in Miami. He interviewed American officials, as well as representatives of the Sandinista National Liberation Front, Nicaragua's ruling party. And he spent several dangerous and grueling weeks in the spring of 1983 with one of the rebel groups in northern Nicaragua.

For some reason—I might as well register my objection at the outset—Mr. Dickey chose to present his findings in the form neither of a straightforward narrative nor of a thematically organized essay, but rather in the vein of a grade-B thriller, replete with the mannerisms characteristic of the genre—abrupt and bewildering cuts from one incident to another; lurid passages; far-fetched similes and metaphors ("He could strike chords of abandonment, tune her passion for revenge," and the like)—all of it odd for a writer whose prose I have always found lucid and elegant.

Yet it would be a mistake to dismiss the book because of its stylistic solecisms. With all its flaws, it succeeds better than any account I have seen in capturing the sordid climate of the undeclared war in which thus far nearly 12,000 Nicaraguans have lost their lives, and in tracing its bloody, convoluted history. (All of his sources are scrupulously listed, chapter by chapter.) Mr. Dickey's views will not necessarily please the Sandinistas, but they will also certainly provide no comfort to their foes, either in Central America or in the United States. The contra commanders, he writes—many of them former "Somocistas," others blood relations of former National Guardsmen—are men addicted to violence. Their brutality is indiscriminate—their victims include Government officials (health workers, agricultural specialists, teachers, all carefully selected targets for torture, rape and murder), rank-and-file soldiers in the Sandinista armed forces, few of them lucky enough to remain alive when taken prisoner, and local campesinos suspected of sympathizing with the Sandinistas. Though the rebel groups have been brought together into one organization (UNO, an acronym for United Nicaraguan Opposition), they remain for all intents and purposes semi-independent, each one headed by a minor caudillo bent on exacting total loyalty from his disciples (including many women) and prone to bouts of murderous fury at the slightest sign of insubordination.

Mr. Dickey's portraits of these men, "who loved to kill," many of them bearing grim noms de guerre ("Suicida," "Cancer," "El Muerto"), reveal a world where political commitment is indistinguishable from the need to flaunt one's *machismo*, and where personal jealousies among the various commanders often erupt into bloody vendettas. Many Nicaraguans, including former Sandinistas, have joined the contras—some under coercion, others out of conviction, some because of rumbling stomachs, other who feared the expropriation of their farms, and some who wanted to escape a political climate that increasingly blurs the distinction between counterrevolution and legitimate dissent. They soon find themselves swept into the "freedom fighters" vortex of mayhem and corruption. Many decide to stay. Yet those who want to leave find it nearly impossible: the penalties for attempted desertion are savage. Mr. Dickey's description of some of these incidents (including a particularly sickening description of El Muerto cutting the throat of a 13-year-old "deserter") is often based on the testimony of those few who have managed to escape, but it is altogether in keeping with the reports of various human rights organizations on the subject. (See, for instance, the Americas Watch Report, "Human Rights in Nicaragua," New York, July 1985.)

Are the leaders of the contras—in Honduras, Miami or Washington—aware of these atrocities? Mr. Dickey's book leaves no doubt about it. The manual "Psychological Operations in Guerrilla Warfare," prepared at the behest of the Central Intelligence Agency for use by the contras—to which Mr. Dickey devotes several pages—was produced, in Mr. Dickey's words, "to keep 'implicit and explicit terror' under control." Killings are discussed in the sections of the manual dealing with advice about the way the rebels can best "neutralize carefully selected and planned targets," which clearly refers to assassinations or executions of civilians, and in the section on the creation of "a 'martyr' for the cause" (in the English translation

published by Vintage Books, 1985). The most prominent contra military leader who openly proclaimed his revulsion for these practices, and who has refused to make common cause with the "Somocista" leaders of the Nicaraguan Democratic Force (F.D.N.—the largest of the contra groups) is Edén Pastora Gómez, one of the heroes of the 1979 uprising. Unfortunately, Mr. Pastora, for all his hatred of the former Guardsmen, emerges from Mr. Dickey's description as little better than his right-wing competitors—boastful, eager for personal power and glory, ready to be financed by the C.I.A., only to be abandoned by it when he could no longer provide the promised army to overthrow his former comrades and refused to merge his guerrillas with those of the Democratic Force. Mr. Dickey does not discuss extensively the role of Arturo Cruz, former Nicaraguan Ambassador to the United States under the Sandinistas. Mr. Cruz, whom he calls one of "the best minds of the revolution," once worked with Mr. Pastora and denounced the extreme behavior of the Democratic Force. Today, Mr. Cruz is one of the principal leaders and spokesmen of UNO, the rebel guerrillas' umbrella organization. On the other hand, as Mr. Dickey points out, a former contra leader, Edgar Chamorro, a member of the Democratic Force Directorate, has quit the contras in disgust over the atrocities and cynical manipulations of the C.I.A.

Mr. Dickey's book is most valuable on the American role in organizing, directing and selling the not-so-secret "secret war" to Congress and the American public. At first managed by a small collection of men drawn from several Government agencies and known as the Core Group (composed, as one of its members told Mr. Dickey with unconscious irony, exclusively of "hardliners" and "ideologues"), the war's handling was eventually turned over entirely to the C.I.A. Operatives of the C.I.A., with plenty of cash available, fanned out to Honduras and Costa Rica to train rebel forces in the use of sophisticated weapons (at first with the help of the Argentine military before the Falklands War) and to bribe scores of local newspaper reporters and radio broadcasters into praising the virtues of the contras and calling for the overthrow of the Nicaraguan Government. As Mr. Dickey shows, when the rebels proved unequal to the task, the C.I.A. began to stage its own operations, using Latin American employees known as "unilaterally controlled Latino assets." Once these operations—attacks on Nicaraguan ports and oil refineries, and the mining of several harbors in January 1984—had been executed, the Democratic Force would be "instructed" to claim responsibility, though it had not even been informed of the C.I.A.'s plans beforehand.

What emerges most starkly from Mr. Dickey's account is that, despite the reservations of some American officials, Mr. Reagan and his closest advisers (including the head of the C.I.A., William Casey) were from the very start determined to pursue policies aimed at overthrowing the Nicaraguan Government. Claims that the purpose of providing funds to the rebels was to interdict the flow of weapons to the Salvadoran insurgents (for which, as Mr. Dickey notes, no persuasive evidence has been produced since 1981) were unalloyed lies. So were the declarations, repeatedly made to Congress, that the contras were to be used merely to wrest political concessions from the Sandinistas. As one C.I.A. "briefer" told Mr. Dickey: "Nobody wanted to say they [the contras] were going to overthrow them. But obviously that was the idea."

Now into its fifth year, the war goes on, and no end is in sight. Though the rebels have been unable to capture and hold a single slice of Nicaraguan territory—apparently much to the dismay of the C.I.A., whose scenario envisioned the establishment of a provisional government on Nicaraguan soil, which would be promptly recognized by the United States and openly provided with massive military aid—the Administration shows no sign of abandoning its long-term objective. And while some members of Congress would prefer to call a halt to the war and explore a diplomatic solution to the conflict, their views are stymied by most of their colleagues, who seem to want it both ways—not to provide the contras with lethal aid, but to keep them well supplied with food, clothing and medicine. It is a compromise that will clearly bring neither peace nor a military victory.

In the meantime, the Sandinista reign, as Mr. Dickey points out, is becoming "ever more onerous." The state of emergency, which—as he notes—was introduced in March 1982 only after the first serious attacks by the contras and which was noticeably relaxed on the eve of the November 1984 elections—has recently been strengthened again. A draft law passed in 1983 has driven many young men into the arms of the contras. The conflict with the Roman Catholic hierarchy (much of which openly sympathizes with the cause of the contras) is escalating. Tens of thousands of independent farmers in northern Nicaragua have been forcibly relocated. The country's economy is tottering and popular dissatisfaction is growing. Whether the Sandinistas would have become more oppressive anyway is a moot—and unanswerable—question. Like any other species of determinism—Hegelianism, Marxism, or the once fashionable domino theory—the assumption that the Sandinistas are bound to become totalitarian rests on ideological dogma than on verifiable evidence. What is undisputable, however, is that the Reagan Administration fully understands that its policy contributes to the spiral of repression and violence. Mr. Dickey paraphrases the mood of official Washington: "In Nicaragua, if the C.I.A.'s operations meant the Sandinistas became more radical, more oppressive and more Soviet-allied, that was all to the good."

GUATEMALA: THE WINDS OF CHANGE

HON. GERRY E. STUDDS

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 29, 1986

Mr. STUDDS. Mr. Speaker, 2 weeks ago, on January 14, the Central American nation of Guatemala celebrated the inauguration of Vinicio Cerezo as its first democratically elected civilian President in almost 30 years.

This event should be welcomed by all Americans, in the broadest sense of that term, for it represents a triumph both of the democratic process and of the personal courage of one man.

Political moderation, the safest course in much of the world, has frequently proven fatal in Guatemala. In recent decades, violence has robbed hundreds of thousands of people of their homes and tens of thousands of their lives. Social, economic, and political injustice led to the creation of a small armed opposition; which provoked, in turn, intense military terror; generating even greater desperation among Guatemala's poor majority; leading by the early 1980's to virtual civil war.

Guatemala's political extremes owe much to each other. They have provided the rationale for each other's violence; they respond to each other's rhetoric; and together they all but eliminated, geographically and politically, Guatemala's middle ground.

The election of Vinicio Cerezo is an indication that Guatemala can change, and demonstration, as well, that social and political reform can at least begin—even in Guatemala—through democratic means. Following several attempts on his life, Vinicio Cerezo had every excuse to leave Guatemala; he had every excuse to quit politics; he had every reason—out of desperation—to adopt violent means of inducing political change. Instead, Cerezo stayed; vowing with his party never to resort to violence, and never to be destroyed by violence.

Below is the English language text of the extraordinary address presented by President Cerezo on that most extraordinary of occasions, the inauguration in Guatemala of a civilian President. I urge all Members of Congress to read this speech, to consider what it has to say about past and present events, and to join with Cerezo in helping to make the democratic process in his country a success.

INAUGURAL SPEECH BY LICENCIADO MARCO VINICIO CEREZO AZREVALO, PRESIDENT OF THE REPUBLIC OF GUATEMALA

Fellow Guatemalans, the Honorable President of Congress, the Honorable Presidents of our fellow nations; Distinguished representatives of other allied countries; Distinguished representatives of International Organizations; Friends from around the world who visit us on this occasion. . . .

I address you today as a friend who is among his friends, as a brother among his brothers, as someone who shares the joy of those around him because today marks the day on which we Guatemalans have come home.

It is not Vinicio Cerezo who is being sworn into office as President of Guatemala. That is a technicality. The fundamental importance of this moment is that the citizenry of Guatemala as a whole is taking office and regaining control of its government.

We had been cast out of our own home as a result of painful and even absurd historical forces. Today is the occasion of our return to it.

For years we were forbidden free speech, and many of us were persecuted for speaking out. But now we have our freedom of speech again.

It became traditional for us to be told what to do and how to do it, and it never occurred to anyone in power to ask if we favored or opposed what the government decided—whether it was consistent with the culture of our community, our village, our region, our organizations, and compatible with our outlook and goals, our historic social traditions or our beliefs. Today we have recovered the right to be part of the political process.

Many of us came to feel like foreigners in our own nation. But now we can call this land ours once more.

Now that we have come home; now that we know that each group, each community, and each of us individually has recovered his rightful role in the political process; now that, as members of a democracy, we have again assumed our responsibility for taking part in shaping our national policies; now that each of us has become aware that he has recovered his right to influence events and be one more voice in a vibrant chorus of diverse opinions; to summarize, upon finding that each and every one of us is assuming, through the ballot box, a role in guiding the nation's future . . .

What do we find? What shape is our house in? In what condition is the land being returned to us? How is it reflected through the implacable yardstick of history? How should we tally—today, here and now—our sorrows and our hopes? What is the real face of our beloved Guatemala as it is being turned over once more to its people?

Undertaking together a thoughtful and sober analysis of the situation is essential, for an accurate understanding of our circumstances and our needs is a must, in order to develop and implement realistic solutions.

There are two aspects to the diagnosis we must develop. We must strive to understand Guatemala on the one hand with our heads and at the same time with our hearts.

Clearly we cannot dispense with a thorough technical analysis of what had been happening to us, what is happening to us now, and what could happen to us as a people, as a nation and as a region in the absence of drastic corrective steps.

Although the picture which the facts reveal is a painful one, making all Guatemalans understand exactly where we stand is important.

Our present crisis occurred in part because of general lack of information on the state of the country—a situation which, far from being coincidental, was the result of a carefully mounted campaign of deception and concealment.

There are other reasons we must share our information with all Guatemalans. One is that all of us have much to say to each other; there is much we have to learn from each other. And it is because of this that I say we also have to view and understand Guatemala with our hearts—because our only chance of overcoming this terrible crisis is by joining hands—by coming together with a spirit of optimism and a willingness to work, with mutual openness and respect, with a genuine desire to overcome the terrible legacy of distrust and fear burdening us now.

One thing is certain. No incoming head of state has ever had the country turned over to him in worse conditions.

With regard to the governmental process, we find that violence has become the accepted replacement for the traditional procedure of negotiation and compromise. Some Guatemalans, unable to resolve their differences through dialogue, mutual understanding and negotiated agreements, resorted to the absurd and primitive language of physical force and armed reprisal. On thousands of occasions our Guatemalan family found itself in mourning as a result of senseless and cruel violence coming from all sides of the political spectrum.

Some people's resource to violence was an individual decision to turn their backs on the legal process, for they argued that only in this way could they defend their ancestral privileges and prerogatives. Others took up violence because they could find no other way to vindicate themselves and defend their rights. Others who joined in the violence did so arguing that it was necessary for purposes of maintaining security and order. Finally there were some in powerful positions who resorted to it because in their situation the abuse of power was temptingly easy. Thus they swelled the ranks of the criminals who never respected the right of Guatemalans of all persuasions to live peacefully side by side.

For one reason or another, thousands of Guatemalan lives have been lost in this terrible vortex of fraticidal violence, and hundreds of thousands of us have suffered in one way or another the effects of this general climate of abuse.

At this time, I want to pay tribute to all Guatemalans who became victims of the government policy based on intolerance, desperation and abuse. Our national conscience as a democratic nation owes a debt to those thousands who sacrificed their lives.

At the same time, at this moment when we are united as Guatemalans and look to the future with hope, I also want to render homage to the living, to the long-suffering citizens of Guatemala who have had to bear the principal brunt of the economic and social crisis.

There is no need to go into the international aspects of our crisis in this context. Other experts from both Guatemala and other Latin American countries have written excellent descriptions of the economic injustice from which countries such as ours suffer, and of the devastation caused to our weak economies by the international recession.

Our internal situation, however, we must describe. While the international crisis has indeed, and for reasons we are all aware of, hurt our economy badly, it is also true that the actions of certain Guatemalans have added to the scope of the disaster.

Our economy has suffered from shortsighted decisions, lack of progress, the absence of coherent policies and a clear legal framework. There have been actions motivated by selfishness rather than an interest in bringing the greatest benefits to the largest number of people. At the same time, the administration of government has suffered from the incompetence of some of the men responsible for it.

But these have not been the only problems. Lack of understanding and intolerance have also been present in significant doses. Above all, the absence of morals and principals appears to have become all-pervasive, bringing about wide-spread corruption and encouraging the habitual solution of problems through the abuse of power.

The treasury being turned over to us is empty as a consequence of the mishandling of the nation's finances by previous administrations, and of corruption.

What is being turned over to us is an economic disaster without precedent. Economic activity has fallen, causing a serious balance of payments problem and a significant budget deficit. Savings and investment have decreased, and we have few resources at our disposal to redress these imbalances and be able to adopt a correct economic policy.

No funds are available for developing new government projects, and indeed our revenues are inadequate even for covering the routine expenses of the government.

Our external debt is four times greater than our annual revenue from exports. The commitments we have undertaken in connection with the payment of this debt are mortgaging the future of our children and grandchildren: already each Guatemalan citizen owes $320 as his share of the debt.

Too many of our people are jobless. At the same time, Guatemalans with a regular income have watched with helpless anguish as its purchasing power has gradually decreased. Even salary increases have not changed the fact that Guatemalans are able to buy less every day because the value of the currency has progressively dropped and the price of goods increased.

A cold and cruel statistical analysis indicates that, if we divide our national earnings by the number of Guatemalan citizens, each Guatemalan has an average daily income of one Quetzal, with which he must take care of his nutritional, health and housing needs, and pay for education and transportation.

But in real life the situation is even harsher than this picture indicates, for we know that a few Guatemalans have a lot, and many others have nothing.

We are eight million people. Five million of our brothers live in poverty. Even today many of our children die at birth, and only one of every three survivers does not qualify as being legally undernourished. The other two are condemned to poor diet which will not allow their brain to develop to its full potential or their having the minimum strength required to hold a job and go to school. They will be unable to avoid the stigma of being called dumb and lazy by other Guatemalans later in life. Similarly they will be criticized for the lack of hygenic practices to which they never had access, and the standards of behavior and education by which they will be measured were never within their reach.

My fellow Guatemalans, let's look around us to see how many of our sons and daughters have had the opportunity to go to school for the first time this year, and how many of these have been lucky enough to leave their homes with a notebook and a pencil in their hands.

And if the majority of our people live under at best precarious conditions, crueler still is the fact that their right to organize, to express their concerns and defend jointly their rights has been denied to them in recent times. Both the freedom of citizens to come together and the organization which represented them were banned, and many leaders and spokesmen of our people met death or were forced into exile.

Guatemalans: this is the picture of the country being handed back to us today. Such is the home to which we return and which we must now put in order. We have become administrators of bankruptcy and misery.

Our recent history has been characterized by suffering and sacrifice; from it true heroes have emerged. These must be recognized if we are to pay due tribute to the memory of our dead and particularly to the spirit of self-denial of the survivors of the crisis. The heroes I refer to are the Guatemalans who live in poverty, forgotten and, although physically alive, suffering the slow death which neglect inexhorably brings. I want to pay tribute, too, to the many citizens compelled by outside forces to leave their homes—some even to emigrate to foreign territories. Men and women who have suffered the inexpressible pain of seeing loved ones fall deserve special mention as well.

We feel the deepest respect and concern for those who have borne the brunt of the economic crisis, to those anonymous individuals who swell the statistics of hunger, mal-

nutrition, ignorance and unemployment. To that vast majority of our brothers, in summary, who have suffered the bulk of the sacrifices so that the rest of us could live better, and who have had to bear so much suffering in this country—as much theirs as ours—of such abundance.

That is the debt which, now that we have become a democracy, we must pay back. We can best acknowledge their heroism and integrity by pledging to change conditions so that each Guatemalan may have a genuine opportunity to participate in a democratic decision-making process, and above all so that he may have a claim to a share of the benefits of that development.

Today, when we come back to our home, we grab the challenge of this new opportunity; we see our country with our heads and with our hearts; we study our country with scientific tools as well as with our conscience; we gain insight into our country with admiration and love, we thank our country and we imagine our country rising with enthusiasm and without bitterness; we dream our country with hope and courage, elbow to elbow, all of us together in the free flight of our democratic choice, wanting to build rather than to destroy; to contribute rather than to demand; to give each other a chance rather than to call to judgment; to allow us the opportunity to rectify more than to resort to revenge.

We come back to our home to refurbish it, to improve it, to set it straight, to make sure that even if we have too many things to do, we will do it together.

That even if the efforts awaiting for us are enormous, we will face them together.

That however much austerity and sacrifice the road before us may exact, we will walk the road together.

Then, even if we have almost nothing, the little that we have will be truly for everyone to share.

And that those of us who have been favored with the privileges and advantages of our uneven growth, will be willing to accept as fair, the load that is ours.

This is the kind of development that we must foster: a joint effort aimed not merely at increasing the availability of goods and services and not only at increasing production. All that is necessary and will be properly encouraged, but is not enough. That may very will be economic growth but it is not development.

We must foster a kind of development that will improve the living conditions of the people, making it possible to earn the resources to provide for themselves and bringing this about through projects which show respect for the values and aspirations of the community. A kind of development whose cornerstone will be man, not as an isolated individual but as human being.

Let's not make the mistake of thinking that building our country means only filling it with roads, buildings, factories and houses. Building our country should also include the search for our unity in our diversity, the rediscovery and knowledge of our rich ethnic heritage, the strengthening of our character, the improvement of our moral values and our cultural level. For us, putting our house in order must necessarily include winning a war against poverty, providing dignified employment to men and women, and feeding our children; it must also include wiping out intolerance and establishing clear and precise rules for the path we are to follow. To summarize, it should mean viewing development from a social point of view, and sustaining above all the principles of welfare of the whole and respect for human dignity.

WHICH IS OUR GREAT CHALLENGE?

Above all, we have a country to be built. The project before us is nothing less than the creation of a nation. And the magnitude and complexity of the problems, far from frightening us, stimulate us and increase our enthusiasm. Because there is much before us to be discovered, and much before us to do.

In this context, democracy means an effort of collective creativity. In this situation, all of us are actors and makers of this newness.

What can we count on? What resources are at our disposal as we go down this path? What are our chances for success? What is ahead of us?

There is a political project to undertake the developing of the country. A project that belongs to all and must count on all. There is a team of leaders selected by the people to represent them, but who will never be able to carry out the task alone. These leaders are taking office now to lead and supervise the work of all the people. We have selected among ourselves the men who must exercise the needed authority to lead the nation.

In this context, democracy means a collective exercise of responsibility. Because the authority of the government leaders does not carry over into areas outside the policies endorsed by the voters. Authority is not power; the two concepts are different. Power has to be subordinated to authority, because in the absence of responsible authority, it becomes tyranny. Precisely many of the men who have held this office before me appear not to have known or wanted to acknowledge the difference.

Because of the collective responsibility we must rightfully bear, and at the same time because of the deep crisis we are in, democracy, in this time and place, means a collective commitment to austerity. Only an effort by all sectors of the country, at all levels, with each trying to achieve much with as little as possible, and with all of us monitoring, as it is our civic responsibility to do, the use of public funds, will bring us prosperity.

This means as well an effort of generosity and self-sacrifice. But the burdens must be distributed among our citizens according to their means. We cannot ask those who have already given everything they had to increase their generosity in the future. Those of us who still have much and who have received much have the responsibility of sharing and contributing, even if the contribution be nothing more than complying honestly with what the law requires of us.

Democracy also implies an effort of collective justice, because of the serious unfairness of our national family. We will do everything possible to encourage that effort and create the proper legislative and administrative vehicles so that each Guatemalan will truly enjoy the protection of his constitutional rights, and justice will be accessible to all equally, rather than being determined by threats, bribes, or personal influence.

But today, more than ever, democracy should mean for us a deep effort of collective respect and affection because of the abandonment of so many for so long. Guatemala has a historic destiny before it, and a role to play both toward its own citizens and toward the community of nations. But the basis for such a role is achieving internal solidarity as a people, cherishing and respecting every community, every ethnic group, and respecting deeply the human rights of all our people.

Examining the situation from this perspective helps us in identifying and maximizing the use of resources which, in addition to those already mentioned, are available to us.

The first of these is the broad-based popular support which exists for our policies; there is an embryionic organizational structure which we must encourage; communications structures, some shattered, others uneven, underutilized the most, which must come to play a role in participation and national conciliation.

There is a productive structure which can generate wealth for the country if it faces the task with willingness, creativity and a sense of responsibility, and is given clear and constant game rules.

There is a structure of military power which backs our policies, supports the government and backs the Guatemalan people whom the leaders stand for.

Willingness to help Guatemala exists on the international level as well.

At this time we must extend our gratitude as a nation to the friendly governments and international organizations, but above all, to the ordinary citizens of those foreign lands who with their work, their productivity and their taxes have made available to us resources which have done so much good in Guatemala.

We warmly acknowledge these gestures of generosity and solidarity, and we pledge in return that we will simultaneously strive to strengthen our democratic experience with work and self-sacrifice, so that the contributions of other nations, some of which face serious economic problems themselves, will have been worthwhile.

Being fully aware that the home to which we return has been devastated, we are quite conscious of the role we must play in the international community, in a region suffering from the most serious international political crisis in its history, when together with our own internal problems, we find the conflicts of the superpowers which have chosen to play out the proxy war that they do not dare play in their own.

We must take an energetic stand in advocating our commitment to peace through participatory democracy. We should reaffirm with vehemence our desire to achieve internal solidarity and our intention to defend the ingrests of our nation and our region above all interests.

For that reason we reaffirm our complete support for Contadora and for any other sincere effort to bring peace to Central America.

But at the same time that we back these projects, and we are genuinely grateful for them, we are also conscious of our regional responsibilities, and we wish to make known that we announce our enthusiastic willingness, based on brotherly concerns, to serve as mediators, should events require it. At the same time, we reaffirm our desire to extend our hospitality to all Central American Heads of State. In our country you will always have a home. And we look forward to recieve you shortly in Esquipulas, a historic town whose sanctuary is a point of pilgrimage for Central Americans and which marks the convergence of the frontiers of three countries.

Our attitude and the suggestion we offer are nothing more than the direct reflection of our commitment to the democratic process internally, and of our dream of political unity existing someday in Central America.

That and only that has been our intention in suggesting the creation of a Central American Parliament where we can work jointly with our brothers in developing common rules for our peaceful coexistence and our socio-economic development.

Consistent with this, we also emphasize our willingness to give our strongest support to all organizations aimed at increasing Central American integration.

And while we are expressing our deep desire for peace and our gratitude for the solidarity of the international community, we would like to transmit a special message to the Caribbean, a region with which we hold so many ties. We hope that our ties of friendship will increase, and that the proper channels will be found so that our common desire to bring about peace and solidarity can foster greater understanding and permanent collaboration.

Fellow Guatemalans: Friends from around the world who are here sharing this momento with us.

As we take up the path of building a democracy, of creating a country—our nation—we need your help and your respect. In return, we offer you our generosity, and undertake a commitment to behave with dignity and modesty.

Our homecoming—a landmark in our history—makes me recall the story that the gods of our ancestors, after various unsuccessful attempts to find the best substance to put under the skin of man, CHOSE CORN.

I would like for us to see a reflection of ourselves in that vegetable—so simple and yet so marvelous. Each of its grains rests next to the other, and each row of kernels is linked to all the others in a web of interlocking nuggets which, as they develop on the plant, point to the sky. The individual kernels, linked by bonds as strong as granite, start near the ground but rise progressively, one over the other, aiming toward the heights and the light, and hoping to provide the nourishment out of the substances it extracts from the richness of the soil to the generous hands which nurtured its existence.

Guatemala—land of the men of corn, of poor hands but courageous hearts. We know that the greatness of civilizations, as one of our countrymen has said, is measured not only by its material output, but by the courage and stoicism with which its men face adversity.

Guatemalans: we have suffered so much. We have more than adequately prove that we can overcome adversity. Let us seize this opportunity to go forward together, united in a common effort like the corn which the gods put in our veins. Let us go down the road together, pausing only now and whenever it becomes necessary, to ask humbly and from the depth of our hearts, for the blessing of God our Lord.

MEDICARE BENEFICIARY PROTECTION ACT OF 1986

HON. EDWARD R. ROYBAL

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 29, 1986

Mr. ROYBAL. Mr. Speaker, today I rise to introduce the "Medicare Beneficiary Protection Act of 1986." This bill will continue the current waiver of liability presumption for home health agencies and skilled nursing facilities under the Medicare Program—a provision that the administration is proposing to eliminate.

The waiver of liability provision gives limited financial protection to health care providers who accept patients they have good reason to believe are eligible for Medicare coverage, but whose claims are subsequently denied.

The battle on the waiver issue began last February (1985). When draft regulations were issued by the Health Care Financing Administation [HCFA] revoking the waiver for nursing home and home health providers. HCFA's actions were strongly opposed by Members of the Congress and by provider groups on the grounds that what the administration says is a cut for providers will, in fact, be passed directly on to the beneficiary. Nursing home providers themselves admit that it is the beneficiary, not the provider, who will feel the sting if the waiver is dropped. Hence, the title of this bill, "The Medicare Beneficiary Protection Act."

How will beneficiaries be hurt if the waiver is dropped? In the case of most nursing home providers, for example, Medicare is a very small portion of their revenues. Removing the small amount of protection that the waiver of liability affords will only encourage these providers to pull out of the Medicare Program altogether. For both nursing home an home health care, putting providers at total financial risk will also result in more and more elderly patients being turned away whenever there is a question of Medicare coverage—even if they are rightfully eligible. This is not a provider issue. This is an issue of whether or not people who are in need and rightly eligible for continuing care services under Medicare will be able to get that care.

Both of these effects—providers dropping out of the Medicare Program and turning questionable beneficiaries away—will seriously limit the elderly's access to needed nursing home and home health care. It is this very type of care that the elderly need now more than ever with the move toward earlier discharges—the "sooner and sicker" phenomenon—under DRG's. The soundness of this argument was confirmed through testimony presented to the House Select Committee on Aging, which I chair, at its July hearing on long-term care cost containment.

In response to widespread opposition, then Health and Human Services [HHS] Secretary Margaret Heckler convened an internal task force to reconsider their proposal to drop the waiver. While we have yet to learn the results of task force deliberations, we understand that final regulations are currently being drafted that would eliminate the waiver provision—despite the sense of the Congress to the contrary.

The "Sense" of Congress is explicit in the language on the waiver issue agreed to by House and Senate conferees in the "Consolidated Omnibus Reconciliation Act of 1985" that has yet to be passed by the Congress. The conference agreement extends the 2.5-percent waiver of liability policy for home health agencies from enactment until 12 months after the consolidation of claims processing for home health agencies. Similarly, the agreement extends the 5-percent favorable presumption for skilled nursing facilities until 30 months after enactment.

The language in the bill I am introducing today is identical to that of the conference agreement. My intention in offering a separate bill should not be misread as doubt about whether the reconciliation bill will be passed this year. To the contrary, as expressed in my joint letter as chairman of the House Select Committee on Aging with FORTNEY H. (PETE STARK), chairman of the Ways and Means Health Subcommittee, to HHS Secretary Otis Bowen and OMB Director James Miller, there is every indication that a reconciliation bill will be passed this year with the waiver of liability provision intact.

Rather, the intent in introducing the "Medicare Beneficiary Protection Act of 1986" today is to send a clear and timely message to the administration that the Congress will not permit the medicare waiver of liability to be dropped. I urge the Congress to demonstrate its commitment to protecting beneficiaries from unreasonable cost containment measures by supporting this legislation. While we all agree that spiraling health care costs must be controlled, the Congress must remain true to its resolve that program cuts not be at the expense of the elderly's rightful access to quality care.

I ask, Mr. Speaker, that the "Medicare Beneficiary Protection Act of 1986" and the letters cosigned by the Honorable FORTNEY H. (PETE) STARK and myself to Otis Bowen and James Miller be printed in the RECORD.

NICK CENAIKO: BIG-TIME PROMOTER AND SOFT TOUCH

HON. GERRY SIKORSKI

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 29, 1986

Mr. SIKORSKI. Mr. Speaker, this recent story by Ellen Foley in the Minneapolis Star and Tribune eloquently illustrates the many fine qualities of Anoka County Commissioner Nick Cenaiko, whose generosity and hard work are helping to transform the northern suburbs of the Twin Cities. America is a Nation of immigrants, and the sixth district of Minnesota has benefited, as has the rest of the country, from the energy and industry of men like Nick Cenaiko.

COON RAPIDS' CENAIKO: A BIG-TIME PROMOTER AND A SOFT TOUCH

(By Ellen Foley)

Anoka County Commissioner Nick Cenaiko has trouble sitting still.

He calls it nervous energy. Friends call it drive.

Whatever it is, it brought him to Anoka County 20 years ago. And he hopes that during the next 20 years it will help him transform the developing county into the best place to live and work in the metro area.

Cenaiko, 53, is a promoter. During the past 25 years he has sold vacuum cleaners door to door and worked concessions at county fairs. Now he produces big-city shows such as the Sportsmen's Boat, Camping and Vacation Show and the Minnesota Home Improvement and Patio Show, both held at the St. Paul Civic Center.

He is a wheeler-dealer, but friends say that everyone in Coon Rapids knows that if you're in trouble, Nick Cenaiko will give you a loan or find you a job.

"I know that he has given money to those who were down and out. He has given jobs to people when he had to look around for a job. When something needs to be done, he'll find a way to do it. And he doesn't brag about it," said Bob Lewis, Cenaiko's good friend and the mayor of Coon Rapids.

He is the son of Ukrainian immigrants who settled on a farm in Canada. Cenaiko immigrated to the United States in the 1950s with little more than a mortgaged car to his name.

He speaks with a thick accent and his conversations are accompanied by effusive gestures. His speech is punctuated with an infectious laugh and the phrase. "Put it 'dis way."

He puts a large, knotted hand over his mouth and then throws it in the air.

"Put it 'dis way. When someone says it can't be done, I like to prove them wrong."

Cenaiko started his own business in the 1960s. He and his wife traveled to 140 county fairs a year in the Midwest with a computerized handwriting analysis concession. Money was so tight that they often had to sleep in a pup tent, he said.

In 1964 he decided to try producing a show and secured the backing of a fraternal group in the area of Fargo, N.D. for his first sportsmen's show.

He netted only $300, but it launched his career in promotion.

This year he will produce eight shows in six states, including sportsmen's shows to Fargo, South Sioux City, Neb.; Sioux Falls, S.D.; Grand Forks, N.D.; Rock Island, Ill., and St. Paul.

He oversees five companies, Cenaiko Productions, which runs the sportsmen's shows; CEI Displays, a convention services firm: Nicholas C. Properties, a real estate firm: Chase Limousine Service, and Chase Securities Corp.

Cenaiko said that he has little to worry about financially these days, but that he will never forget the old days. The memory of a poor childhood and his days on the road keeps his purse open to those less fortunate.

"I think you have to have been broke," he said. "When you've lived in a tent because you couldn't afford a motel room, when you've eaten pork until you can't stand it because you can't afford beef, you understand.

Cenaiko, who became a citizen in 1980, said he likes hard work because he knows that in the United States he will have the opportunity to succeed even if he has failures along the way.

Carolyn Voss, a Coon Rapids City Council member, said many feel that Cenaiko's immigrant past motivated him to run for office.

"I think he's appreciative of the country (in which) he's made such a success of himself," she said. "He's paying it back."

Cenaiko's public involvement began in the early 1970s when he teamed with the late Henry Hammer on the Anoka County Fair Board to revamp the fair. Under their leadership it became one of the largest in the state.

Cenaiko said his County Board career began at the breakfast table in a Coon Rapids restaurant where friends meet several times a week to talk politics. A friendly argument about county politics ended with the statement, "Why don't you run for county commissioner?"

So Cenaiko did. He was elected in 1982 and reelected in 1984. Now he's vice chairman of the board.

"Nick loves people and people love him," said Al Kordiak, the chairman. "There's just no beating Nick Cenaiko."

Cenaiko said he'll never retire. In fact, the fast-talking, chain-smoking promoter is looking for new frontiers. He said that there may be a movie in his future and that he's learning the secrets of videotape production.

He said his restlessness won't move him away from Coon Rapids. How could he leave the area that he considers to be the next boom town of the metro area?

"It's starting to come right now!" he said, waving his hands around his head.

Residents of the fast-growing southern suburbs might not agree. But if Anoka County isn't the metro areas's next hot spot, it won't be because Cenaiko didn't try.

TEXAS WILL MISS SAM WHITTEN

HON. JOHN BRYANT

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 29, 1986

Mr. BRYANT. Mr. Speaker, just a few days ago—early in the Lone Star State's sesquicentennial year—a student of Texas, its literature, its people, and its politics in the broadest and best sense died.

Sam Whitten, a remarkable Texan, is gone and will be sorely missed not only by his family, but also by all those who discovered through him the wonder of books and whose lives he touched in other ways.

He read, he thought, he taught, he loved and collected books. He and his wife Virginia and their children for many years hosted "First Friday," lively monthly gatherings of some of Texas' most interesting thinkers and doers.

Sam Whitten is eloquently and fondly remembered in a tribute by Dallas Times Herald columnist Molly Ivins that I would like to share with my colleagues.

[From the Dallas Times Herald, Jan. 23, 1986]

WHITTEN WOULD HAVE LOVED PFORZHEIMER COLLECTION

(By Molly Ivins)

AUSTIN.—Two things happened Tuesday involving books and book people.

The University of Texas announced its acquisition of a stunning collection of early English literature. The Pforzheimer Collection, which is a staggering group of rare books and manuscripts, was acquired for the university by H. Ross Perot for $15 million. The school now will raise the money to repay Perot, who will charge no interest. It was one of those deals where the collection came on the market and the university did not have the cash, so Perot stepped in and bought it for UT on a loan basis.

We are talking about the earliest books ever printed in English, first editions of Chaucer, Spenser, Shakespeare, Jonson, Bacon, Donne, Milton, Bunyan, Izaak Walton, Hobbes, Locke. There are eight Caxtons in the collection—William Caxton having been the first English printer—as well as a Coverdale Bible, the first complete English Bible. There are manuscript letters from Donne and others. Perot correctly described the collection as "top of the tree."

The university held a press conference to announce this coup, and I wish you could have been there. Among the scholars and intellectuals expressing their pleasure over this landmark bibliographical event were Gov. Mark White, the pride of Baylor U., and House Speaker Gibson D. Lewis, a man who has perpetrated innumerable atrocities upon the English language.

I must confess that the prospect of Lewis commenting on this motherlode of English literature filled me with unholy glee, but I am proud to report that, as the speaker himself would put it, he extinguished himself just fine. We were once more grateful for Bill Hobby's sense of brevity: The man had the taste to acquit himself gracefully in a single sentence. Hobby is known to read—for pleasure. This is a habit shared by about .0013 percent of all other Texas politicians.

Perot is rather endearing on these occasions. He described how he first had been called in the course of a busy day and told that the Pforzheimer Collection was for sale: He asked how much it cost, said, "It's too much," and hung up. Later that day, he reports, he thought he should find out what was in the collection. He was persuaded to buy it when Decherd Turner, the director of the Humanities Research Center, told Perot that he would consider it "the epitome of my career just to be allowed to look at the Pforzheimer Collection."

The other thing that happened Tuesday was that Sam Whitten died. He was by title associate professor in the Graduate School of Library and Information Science at UT, but to my way of thinking, Sam Whitten was just about the perfect Texas bookman. He was not only a librarian and teacher of librarians but a true bibliophile, a book lover. He collected books—in a way, just like Ross Perot.

Whitten's collection of Texana is not exhaustive, but it is notable. he collected fiction with a Texas setting and had some real jewels—for example, books about Texas by Brits who never had been here and caused their Texans to flee across the prairie wearing plimsolls. Whitten, unlike some collectors, had read all the books in his collection. He spent his savings—what others would have put into a retirement home—on his own library, a small converted garage in the backyard where he had installed a book preservation system with the correct temperature controls and all.

I think Whitten's two most distinguishing characteristics were his extraordinary intelligence and his cussedness. He was a crotchety man and little inclined to put up with much of the world's nonsense. For example, he never became a full professor because he refused to get a Ph.D. In his opinion, a Ph.D. in library science would have been a waste of time and he was not responsible for the stupid rules for advancement others made up.

Whitten became a book lover by way of a poor background in Bogata, Texas (that's another one you neo-natives need to learn to pronounce), a couple of gifted English teachers and the U.S. Navy. This route seems to yield a crustier variety of book lover than normally comes from a middle-class home and Ivy League Schools. The only books in the Whitten home in Bogata were an old set of the Book of Knowledge, and he could still tell you stuff from it 50 years later.

He remembered the name of every English teacher who ever read aloud to his class

and what she read. So here, once more, is a salute to all the Enid Bagwells in all the improbable towns in this state, still trying to read Keats to a class filled with know-nothing kids.

The Navy did its share in World War II by boring a 17-year-old Whitten into the embrace of the Modern Library, then $1.25 for a hardback book of just about everything important that ever has been written. He read them all. It denigrates no one to suggest that Whitten believed the Modern Library was a more significant contribution to learning than the Pforzheimer Collection. It makes me happy to think of all the librarians around this state trained by Sam Whitten—don't be surprised if one up and tells you some time to quit wasting your time on the trash you are about to check out and gives you a book you really will love.

I got to thinking about this wonderful collection of books at UT and about Whitten's life—all those books and all those words. In the end, there was one word. Sam Whitten was blessed with a wonderful family, and they all hung around during his last illness. He woke up after several days in a coma: He could not talk because the doctors had all these tubes down his throat, but he wanted to communicate. He gestured for paper and pencil, and the kids rushed to get them.

He tried to write, but he was so weak all that came out was little chicken scratches. So his son Jeff stayed up that night and made a big alphabet chart so that Sam could pick out letters. First thing he asked the next day was, "Who is this doctor?" They "talked" with him some through the chart, but then he got weaker and tired, and finally his hand shook as he picked out a last word. He found the L and then the O. And then the V and then the E.

A CONCERNED FARMER'S SUGGESTIONS

HON. CARROLL HUBBARD, JR.

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 29, 1986

Mr. HUBBARD. Mr. Speaker, on December 20, 1985, the House Banking, Finance and Urban Affairs Committee's Subcommittee on General Oversight and Investigations, which I chair, convened in my hometown of Mayfield, KY, to hear testimony relative to the farm credit crisis and the problems of farmers.

Our subcommittee heard from nearly 40 witnesses including farmers, bankers, government officials, and representatives from the Farm Credit System. However, one of the highlights of our hearing was the impromptu testimony of Laura Anderson of Route 2, Mayfield. Laura and her husband Tom are both 1971 graduates from the University of Kentucky College of Engineering. This outstanding couple has chosen farming as a livelihood, yet it continues to be necessary for Laura to work in management for South Central Bell in order to complement their farming income.

Laura recently sent me a letter which further details her thoughts about possible solutions to the problems facing the agricultural sector.

I encourage my colleagues to read and consider Laura Anderson's concerns and suggestions. Her excellent letter follows:

MAYFIELD, KY.
December 30, 1985.

Hon. CARROLL HUBBARD,
Rayburn House Office Building,
Washington, DC.

DEAR CONGRESSMAN: We certainly appreciate your public hearing in Mayfield. It is difficult to testify at such a hearing without emotion. I do not know if you are aware of at least one farm debt related suicide locally. In spring, 1985, Bobby Knight, a farmer in north Graves County, shot himself. This fall his home, farm and machinery were sold at auction.

I spoke at the hearing, totally unprepared, but emotionally driven to add to the record. I spoke of the tools we use to aid our marketing decisions. Enclosed is some of the information my husband and I gather and study throughout the year. You will note one thought about the farm bill stands out clearly in all the reports. The market prices for the 1986 new crop will be lower than the current prices, worsening our situation. Like other American businessmen we want to raise our crops and sell our products in an open market. We do not want government subsidies, deficiency payments or loan programs.

We have all thought about solutions to the farm crisis. I offer three solutions to the three most troublesome areas.

1. INCREASED EXPORTS

We will have a very difficult time recovering from Carter's grain embargo. Argentina, Brazil, and other countries had idle land cleared and planted with crops by entrepreneurs from all over the world. A real surplus of grain exists. Why don't we send foreign aid in food rather than dollars? The Federal Government could buy the food on an open market. Our dollars, (that we don't have?) are used for weapons, and more likely than not fall into the hands of a few for their own personal use.

2. LOWERED INTEREST RATES

The banks and savings and loans across the country seemed to have made great profits in the past few years. New elaborate buildings, consolidation, buy outs, advertising all point to profitable times. Please note the enclosed AP news article. Farmers have checkoffs to support the American Soybean Association and also participate in holding funds for insurance against failure of grain elevators. Why can't the banks and savings and loans participate in a checkoff plan whereby a percentage (one-fourth, 1 percent) of profits establishes a fund for the PCA's and Federal Land Banks to draw upon for farm loans. The PCA's and FLB's could borrow money from this fund at a low interest rate and in return provide a low interest rate to the farm crop producers. Within time the banks would see loans repaid and even farmer savings accounts!

3. RESPECTABLE MARKETING SYSTEM

The management of the Chicago Board of Trade is the main culprit here. Most of the grain bought and sold is by people, corporations who never put out a crop, never take delivery or know much about the agribusiness. They sell when the market makes them a profit and buy when grain is cheap, driving prices lower. These moneychangers manipulate the market on their terms while the farmer must plant in the spring and harvest in the fall. Can we not restrict the manipulation of the market by registering farm producers and legitimate grain buyers as the participants in this game? The crop producers are easily identifiable through ASCS, PCA, FLB. The grain buyers must have taken delivery of grain either a specified number of times or a percentage of the grain they bought.

My answers are simplistic, I know. However, often we justify not trying by saying it can't be done. While the new farm bill sends a glimmer of light from Washington, it is not the answer. For one who wants to till the soil, the prospect of setting aside good productive land and accepting money for doing nothing is unacceptable. No, I don't want to spend federal tax dollars to support the farmer.

Again, thank you for your effort. I do hope Congress continues to look for ways to save the American farmer. Allowing farmers to retain investment credit will help!

Yours truly,

LAURA ANDERSON.

DISMANTLING THE MILITARY-CONGRESSIONAL COMPLEX: THE FIRST LEGISLATIVE STEPS

HON. JIM COURTER

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 29, 1986

Mr. COURTER. Mr. Speaker, we are all familiar with the wry saying: "Everybody complains about the weather but nobody does anything about it." The same might be said for military reform. Many Senators and Congressmen, including myself, have been working hard in this area for several years now, but I still have a nagging sense that we have failed to get to the root causes of many of our military difficulties.

I am today introducing two bills which, in my view, represent the first steps toward the eventual dismantlement of what has been called the "military-congressional complex"; that is, the collection of interconnected executive branch and congressional national security entities which, to a large extent, dictates how America will be defended. The following is an overview of the problems caused by the "complex" and an explanation of how my legislation would attack the problem.

Over the last two decades, we have witnessed a well-intentioned series of efforts to reform our military apparatus and increase its combat effectiveness and peacetime efficiency. Some of these reforms have succeeded; others have not. The cumulative result, however, has been the creation of a huge bureaucracy that is slow, cumbersome, inefficient, and frequently unaccountable to political control. In the realm of defense procurement, the disturbing examples of overpriced items result not from perturbations in the procurement system, but, paradoxically, from the system functioning according to plan. When simple procurement decisions are made by dozens of Government officials in different agencies, we should not be surprised when long delays and exorbitant costs are the common result.

The bureaucratic proliferation has occurred on both sides of the Potomac. For its part, the Congress has vastly expanded its Pentagon oversight activities since shortly after the Vietnam war. Congressional military oversight panels have ballooned from four committees

and their subcommittees in 1975 to more than 40 such bodies today. These entities and the relevant personal staffs conduct over 400 hearings, request over 400 reports, and generate more than 120,000 letters and 600,000 phone calls to the Pentagon in a typical year.

While all this oversight activity is not a priori undesirable, we need to understand that this level of involvement in defense matters contributes to difficulties in military procurement and deployment decisions. In the case of procurement, Congress frequently alters weapons systems production rates rather than terminating the programs outright. For example, Tomahawk cruise missile production rates dropped from 1,082 to 251 units in 1 year. As any businessman in your district will tell you, this can lead to uneconomical production rates and unnecessary costs for even relatively simple weapons systems. In the force deployment area, Congress recently attempted to block the strategic homeporting naval fleet dispersal plans, largely out of parochial concern for the present naval port areas.

In addition to the sheer volume of congressional military oversight, there is the inordinate amount of time required to complete these activities. Since the consideration of the fiscal year 1947 defense budget, the Congress has managed on only two occasions to have its Defense Appropriation bill on the President's desk prior to the beginning of the new fiscal year. Since 1977, defense Appropriations bills have been an average of 45 days late and, more often than not, we must resort to continuing resolutions to keep the Defense Department running. There is no reason for all matters military to be considered and debated more than once in a given fiscal year, particularly when congressional history shows that the Appropriations Committees were only created to hold the line on spending and were not intended to revisit every issue that had already been settled by the authorizing committees. Duplication of this kind increases production costs and times, clogs up the funding mechanism in the Congress, and impedes rapid decisionmaking which is necessary for national security.

In the Defense Department, the root causes of many of our procurement problems are overlooked, in favor of Band-Aid solutions which are simple, appealing, and ineffective. In my view, many of these causes are structural. The Congress, with the passage of the 1958 Defense Reorganization Act, permitted the Secretary of Defense to create centralized Defense agencies to handle many requirements which appeared to be common to all the military Services. This approach to defense management was very much in vogue in the 1960's under former Secretary of Defense Robert McNamara. But the Defense agencies now have grown to at least 11 in number, and they employ almost 135,000 servicemen and approximately 85,000 civil servants. Unfortunately, because they are headed by senior civil servants or military officers, these agencies are not directly accountable to the politically appointed, congressionally confirmed service Secretaries and the Secretary of Defense.

The largest such agency, the Defense Logistics Agency, employs 50,000 people and was responsible for the $700 toilet seat, the $110 diodes, and the $200 ejector seat straps. The Defense Contract Audit Agency, the central audit body, generally takes anywhere from 60 to 100 days to complete more than 40 percent of its audits of weapons systems and other military procurement contracts.

Perhaps most disturbing is the fact that both Agencies were created to handle functions performed by the military services, and these functions are still being performed by the services. In my view, it would be preferable for the politically accountable service Secretaries to be responsible for all the procurement actions and contract audits for their departments. Under such an arrangement, heads would roll as punishment for outrageous defense expenditures; right now, it is virtually unheard of for a senior civil servant or military officer to take the heat for errors of this kind.

I have only illuminated a small number of congressional and Defense Department problems which require attention, but we need to start now and take bold steps to enact structural reforms on both sides of the Potomac. Accordingly, one of my bills would merge the House defense authorization and appropriations responsibilities into the House Armed Services Committee and restrict House defense oversight functions to the Armed Services Committee and the Budget Committee. This action would greatly reduce the time and effort required to draft and pass defense funding legislation in the Congress, and it would reduce by about seven the number of committees and subcommittees exercising oversight responsibilities for the Defense Department. The net result would be more efficient legislative activity and less congressional micromanagement of the Pentagon.

My second bill would eliminate the Defense Logistics Agency and the Defense Contract Audit Agency and return their functions to the military services, from which they originated. As a practical matter, civil service "bumping" privileges will permit many of the DLA and DCAA personnel to burrow into other DOD offices, but we still will have achieved the dismantlement of two centralized bureaucracies and the elimination of a large number of high salary civil service billets. Most importantly, we will have improved the accountability and efficiency of the defense procurement bureaucracy, and provided insurance against future procurement scandals.

I recognize that these bills are strong medicine. But we face grave challenges from the enormous budget deficit and a centrally planned Soviet military machine which is able to turn out large numbers of advanced weapons systems like sausages. I hope to be able to do more in this area in the months ahead, but for how we should take these first steps toward creating a defense establishment free of the bureaucratic tangles which have called our most important military capabilities into question.

TELEPHONE DEREGULATION: CAUSES AND CONSEQUENCES

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 29, 1986

Mr. HAMILTON. Mr. Speaker, I would like to insert my Washington Report for Wednesday, January 29, 1986 into the CONGRESSIONAL RECORD:

TELEPHONE DEREGULATION: CAUSES AND CONSEQUENCES

It has been two years since a court decision ended American Telephone and Telegraph's (AT&T) eroding monopoly on long-distance telephone service. The decision, and the economic forces behind it, began a new era in telecommunications. Although economists and consumers are still unsure if divesting AT&T of its local companies was wise, the breakup brought about changes that are here to stay. For consumers, owning a phone is a more complicated and expensive proposition.

Complexity: Each part of telephone service is now a separate industry. Long distance service is supplied by competing companies, equipment by competing manufacturers. Local service remains a regulated utility. Once handled by one bill, these services now require up to three separate bills, or three parts of the same bill.

Long distance: AT&T is still preeminent in long distance. Until recently, competitors like GTE Sprint and MCI had to make do with inferior hookups to local customers while AT&T enjoyed clear connections. As more areas offer equal access to all long distance companies, consumers will be able to choose their long distance carrier. Users can then dial long distance calls direct, without extra numbers and with any type of phone, no matter which carrier is used.

Local service: The court divided AT&T's 22 local operating companies among seven regional companies. These companies began with no product other than a dial tone. Their main business is local service, beginning at the wall outlet and ending where long distance begins.

Equipment: The biggest savings for consumers is in equipment. Though consumers are now responsible for repairs on their phones, buying rather than renting a phone is one way they can save money in the new telephone market.

Cost: Rates are also changing. Before the breakup, part of the price of long distance calls helped pay for local service, making it affordable to more families. With long distance separate from local service, the price of each must begin to match its cost. Increased competition brought long-distance rates down, but for most people the drop has not been enough to offset increased local rates. Phone companies and state regulators are experimenting with new billing schemes that trade cuts in service for cost savings. "Measured service", one such plan, charges by frequency and length of calls, time of day, and distance covered. For example, Continental Telephone has asked the Public Service Commission to permit measured service in Corydon and Huntingburg.

There are also new charges for two services that were once free: access to long distance and operator assistance. "Access fees" are not really a cost of access to long dis-

tance. Their purpose is to bring the price of local service up to equal its cost. The Federal Communications Commission (FCC), a government regulator, added these fees to local rates nationwide. People who use no long distance service and do not need access still have to pay for it.

Another new fee is for operator assistance. When local companies knew that a directory call usually accompanied a money-making long-distance call, they gladly footed the bill. With long distance and local service separate, the cost falls to the consumer. In most areas two directory calls are free, with a small charge for each subsequent call.

Many in Congress fear that high costs may push people off the telephone system. Of special concern are the disabled, the elderly, and others who rely on the telephone for companionship and help in emergencies. One proposal in Congress would require state agencies to set an adjusted "lifeline" rate for low-income persons.

Outlook: Current trends give a glimpse of the future telephone industry. One trend is the decline in the number of long distance companies. Once filled with small companies, the long distance market is becoming a place where only the large survive. The merger of U.S. Telecom and GTE Sprint put the lion's share of the market in the hands of just three companies; GTE, MCI, and AT&T.

Another trend is diversification. Though local service is still 95 percent of their trade, the seven regional companies are quickly diversifying. Ameritech, the parent company of Indiana Bell, has invested in computers, radio telephones, Tailand's yellow pages, and others. Some state regulators worry that an investment failure could mean higher rates. Though no action is being considered, state regulators will keep a close eye on local telephone companies as they diversify.

Perhaps the most ominous trend is "bypass." Large companies are increasingly setting up their own telephone networks, costing local companies a large share of their most profitable business. A 1984 study showed that if Indiana Bell's top 40 customers bypassed local systems, $33 million would be lost, meaning higher rates for remaining customers. Local companies are asking regulators for a freer hand to compete with bypassers by offering cheaper rates to large business users, but this problem is likely to persist.

U.S. equipment makers will face competition from foreign manufactures. Divestiture opened the telephone equipment market and allowed the entry of foreign phones and equipment. Other countries, however, have closed telecommunications markets. U.S. firms have shown they can compete when allowed to: a U.S. company will supply the phone system for the 1988 Seoul Olympics.

My judgment is that govenment will have less say in the management of the telephone industry. Congress has taken few steps to change the result of the court's decision. The FCC will probably play a less important role in future actions than state public service commissions. Under present circumstances, my chief concern is to maintain "universal service", the principle of providing basic affordable telephone service to everyone. In the shuffle of changing technologies, this founding principle should not be lost.

CHICAGO MAYOR HAROLD WASHINGTON AND GRAMM-RUDMAN

HON. CHARLES A. HAYES

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 29, 1986

Mr. HAYES. Mr. Speaker, on Wednesday, January 22, city of Chicago Mayor Harold Washington appeared as a witness before the House Budget Committee. At that time Mayor Washington made two predictions. The first was of a humorous nature and concerned sports; he predicted that the city of Chicago would be home of the soon-to-be-crowned Super Bowl champions, those Monsters of the Midway, the Chicago Bears. His second prediction was as dire as the first was pleasant; he spoke regarding the budget-cutting methods of the Federal Government on the city of Chicago. He said, "The President's recommendations and Gramm-Rudman would tear the guts out of our local government." He lists many services and programs which would have to be eliminated due to budget reductions.

The great cities of our Nation have contributed—and continue to contribute—much to the history, culture, vitality, and tax revenues of our Nation. We must deal with the Federal deficit, but we must deal with it in a way that is equitable, fair, and ensures the survival of our Nation's cities. I would like to enter the entire text of the mayor's remarks into the record. If his second prophecy is as accurate as his first, and many of us expect that it will be, perhaps we should reconsider Gramm-Rudman, and instead institute deficit-reduction methods that are as equitable as they are meaningful.

The statement follows:

MAYOR HAROLD WASHINGTON'S STATEMENT BEFORE HOUSE BUDGET COMMITTEE—JANUARY 22, 1986

Distinguished Congressman: The City of Chicago budget office has calculated that Chicago stands to lose as much as $155 million in federal funding in 1986, as a result of specific program cuts and the across-the-board cutbacks mandated by Gramm-Rudman.

Such a loss, amounting to nearly 8 percent of the city's budget, would be devastating, particularly when combined with cutbacks we have undergone in the past several years.

And the impact would be far larger than appear by numbers alone. What would have to be eliminated first is the creative, life-giving, forward-looking piece of city government—the programs that cost relatively little and train our youth, feed our hungry, build low-income housing for our underemployed, and encourage our teenage mothers to feed their babies properly.

We are talking about our programs that take relatively small amounts of dollars and leverage them with private dollars, and with community sweat and commitment.

We are talking about the $2.6 million spent on our new anti-gang program in 1985—dollars that funded 81 community-based non-profit agencies to run youth programs with volunteer help from the community. In 1985 this anti-gang program served over 12,000 youth and helped us reduce gang-related murders by 20%.

We can only estimate what the much larger Gramm-Rudman cuts expected in 1987 and further would do to the fabric of city life.

The President's recommendations and Gramm-Rudman would tear the guts out of local government. In Chicago, we would be left with essential services only: Police, Fire, Sanitation, Health and bare social services. Our development agencies—Housing, Economic Development and Planning—would face elimination.

The elimination of Revenue Sharing alone, which provided us $67 million last year, would mean that a dozen city departments would lose about one-third of their funding—severely affecting health care, garbage pick-up, emergency services, services to the elderly, and consumer programs.

The one-third cut of $37 million we anticipate in the Community Development Block Grant program this year will force cuts in literally dozens of programs, including elimination of a major neighborhood health center, the end to our home-delivered meal program for seniors, cuts in day care centers, food packages, and so on.

We estimate that $100 million in private sector funds and as many as 7,400 jobs will be lost with the elimination of UDAG.

Elimination of $24 million in housing funds will devastate our creative housing programs, which are beginning to turn around the decline of Chicago's older housing stock. Elimination of the Rental Rehab program alone will result in the loss of $20 million in private funding and a loss of 550 rehabilitated housing units.

The list goes on and on. You know the general framework. Between 1981 and 1986, the Community Development Block Grant budget has dropped 20 percent, while the defense budget has more than doubled. This does not constitute equity to me.

Less than 10 percent of the federal budget goes to programs assisting low-income people. Yet one-third of the budget cuts come from prorams that serve these people. That also is not equity.

Another way to underscore the inequities in federal policy is to consider this startling comparison: in 1977, for every dollar that was committed to defense, twenty-six cents was committed to low-income housing; in 1980, that housing figure dropped to 19 cents; in 1984, it was one and one-half cents. In the President's FY '86 budget, the President's latest proposal, it was less than one cent.

We all recognize the need for a balanced federal budget—but it must not be balanced on the backs of our urban centers.

In Chicago we have worked hard over the past two and a half years to eliminate our city's budget deficit. We have cut our workforce by one-seventh, or 6,500 employees. We have done our utmost to cut waste and improve services. But we cannot cut much further without damaging the quality of life in Chicago.

The federal funding cuts would not only be hard on Chicago. They would also be unfair.

Already Illinois ranks 48th among states in the amount of money returned to this area from tax dollars sent to Washington.

The great, older cities of America have contributed much to its history and its culture, as well as in federal tax dollars. But the cities cannot continue to give and give and continue to get back less and less in return.

What is at stake here is not just federal programs, but the future of our cities. It is

imperative that those of us who cherish our cities, and value the people that live within them, do everything we can to ensure the survival of our great urban centers.

ANDREI SAKHAROV

HON. THOMAS A. DASCHLE

OF SOUTH DAKOTA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 21, 1986

Mr. DASCHLE. Mr. Speaker, I am pleased to join my colleagues in commemorating the sixth anniversary of the exile of Dr. Andrei Sakharov. I thank the gentleman from Massachusetts, Mr. FRANK, for calling attention, once again, to the tragic situation that continues to find Dr. Sakharov and Dr. Yelena Bonner banished to the isolated city of Gorky. This unjust treatment of Dr. Sakharov and Dr. Bonner violates the Universal Declaration of Human Rights, the Helsinki Final Act, the International Covenant on Civil and Political Rights, and other Soviet-endorsed international agreements.

Before their exile, Andrei Sakharov and Yelena Bonner were clear voices in the struggle for global peace and human rights. Now, in exile, they have been silenced through physical isolation, but they continue to lead the struggle, for the world knows and respects their thoughts, their efforts, and their spirit. Their rights have clearly been violated, and as we must speak out wherever there is injustice, we must call upon the Soviet Union to end its wrongful treatment of Dr. Sakharov and Dr. Bonner.

While we can be pleased and encouraged by the Soviet extension of a temporary visa to Dr. Bonner for medical reasons, it would be naive of us to view this gesture as the long-awaited promise of improved human rights in the Soviet Union. As soon as Dr. Bonner's medical treatment is over, she will return to exile in Gorky. She will return to the restricted, oppressive life common to so many independent thinkers, Jews, Baptists, and others who have been irrationally and inhumanely persecuted by the Soviet Government.

I am pleased to cosponsor and lend my full support to House Concurrent Resolution 269, which specifically calls upon the Soviet Union to allow Dr. Sakharov and Dr. Bonner to exercise their rights of movement and expression. As Dr. Sakharov begins his 6th year in exile, it is appropriate for us to express our support for these courageous individuals. It is also fitting that we take this opportunity to show our support for all Soviet citizens suffering political, intellectual, and religious persecution.

H.R. 3521 HARMFUL TO COPYRIGHT

HON. THOMAS J. DOWNEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 29, 1986

Mr. DOWNEY of New York. Mr. Speaker, I would like to bring to my colleagues' attention the harmful impact on our copyright system of legislation which has recently been introduced regarding music and syndicated television programs. This bill, H.R. 3521, would seriously harm creators of music, program producers, and those who look to the royalty system for their livelihood. The following article from the December 28, 1985, issue of TV Guide provides excellent arguments in opposition to the bill.

SONGWRITERS HEAR A SOUR NOTE FROM TV

(By Walter H. Annenberg)

The men and women who write the music that moves and inspires us, bringing so much joy to our lives, deserve our admiration and respect. That is why we deplore current efforts to deny these gifted people the fruits of their labor.

Broadcasters seem determined to end the present agreements that cover the way they pay for the music that is an essential element in all television programs. The courts have ruled these agreements are enforceable despite the fact that broadcasters have tried and failed, in repeated lengthy and expensive court procedures, to change the method and amount of payment. Now they have turned to Congress. A bill they have caused to be introduced would upset the carefully negotiated system of payments for music rights that has been working smoothly for the past 40 years. This bill, which bears the names of Rep. Frederick C. Boucher (D-Va.) and Rep. Henry J. Hyde (R-Ill.), could reduce payments to songwriters for use of their music on television to a pittance. And if past experience is any criterion, we can now expect the full force of the powerful broadcasting lobby to be brought to bear on members of Congress to persuade them to pass the bill and help the television stations at the expense of songwriters and program producers.

The present arrangement provides for a "blanket" performance-license fee to be paid by each station for access to virtually all copyrighted music. this music performance fee amounts to something less than one per cent of a station's gross revenue. Aside from the stations, producers of programs pay a one-time "synchronization" fee for recording the music, and the three commercial networks pay a blanket yearly fee that is negotiated. These blanket fees are turned over to the performance-rights organizations that represent nearly all songwriters and publishers: ASCAP (American Society of Composers, Authors and Publishers) and BMI (Broadcast Music Inc.). The organizations also collect all performance royalties for American music played throughout the world and distribute the money to songwriters and their publishers according to the number of times their music was performed.

Stations that do not wish to pay blanket license fees have a number of alternatives available to them:

1. A station can obtain "per program" licenses from ASCAP or BMI, paying a music royalty for each individual broadcast.

2. The agreements ASCAP and BMI have with their membes are nonexclusive, leaving stations free to negotiate license fees directly with the composers and publishers instead of with their performance-rights organizations.

3. Since some songwriters do not belong to ASCAP or BMI, the stations can buy rights directly from these composers.

4. Broadcasters can require producers of the programs they broadcast to pay the performance-rights fees, thereby relieving stations of that responsibility. The Boucher-Hyde bill makes this mandatory for their syndicated programs.

While stations obviously would prefer having producers assume performance-license fee payments, the producers have so far rejected that option and the stations have paid the blanket fee. This is certainly the most cost-efficient and easily administered system, and it permits the stations to broadcast just about any music they choose without keeping records.

It has proved to be a fair and inexpensive way to compensate the artists who write the music that is so vital to television and adds so much to its audience appeal. The courts have ruled that the blanket license is legal. The amount of the blanket fee, incidentally, has been negotiated downward from 2.5 per cent of a station's revenue in 1949 to the present less than one per cent.

Under the Boucher-Hyde bill the stations would not be required to pay performance-license fees for the music in the syndicated programs and commercials they buy and that payment would have to be assumed by the producers of programs. As for the background music in their news shows and local originations, the stations would negotiate with the composers and publishers to arrive at a license fee. Certainly administering such a system would be a nightmare. It also would be unfair to producers of syndicated shows, who are among the biggest risk-takers in the television business and can hardly stand the additional burden of paying for performance rights on programs that might or might not succeed. They feel they should continue paying their relatively small one-time "synchronization" fees because they are not "performing" the mustic, merely "recording" it.

What the stations were unable to win via the courts, they now seek to win from Congress with a bill that could be disastrous for the songwriters.

In the opinion of Hal David, president of ASCAP (and, ironically, the lyricist who wrote "What the World Needs Now is Love, Sweet Love"): "Passage of the bill would end a basic right that authors and composers have always had—the right to have continuous payment for continuous use of our music. The producers would simply buy the music on a one-time basis." Adds David: "That would be like buying a new car, filling it with gasoline and never having to buy gas again."

Last year ASCAP distributed some $169 million and BMI about $115 million to their songwriters and composers. According to ASCAP, the royalties under the proposed legislation would be considerably lower. Actually, they could be negligible since the producers now pay their one-time recording fee before the true value of the music is established. The producers of M*A*S*H for example, paid the standard one-time recording fee for the music in each episode. The value of M*A*S*H skyrocketed when the show went into syndication, but the required one-time fee had been paid. If the stations had not been responsible for performance-rights fees—and under the Boucher-Hyde bill they would not have been—the songwriters would have been denied the increased royalties enjoyed by nearly everyone else connected with the show.

It is evident that the proposed unwarranted and unfair legislation would harm those who write the music heard on television and

the producers who invest in programs in the hope that they will succeed. It would be unconscionable for the Congress to go along with this attempt to exploit the talents of some of the most creative members of our society.

THE "CHALLENGER" TRAGEDY

HON. DAVID DREIER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 29, 1986

Mr. DREIER of California. Mr. Speaker, words fail us at times like these as we contemplate the tragic and unexpected loss of life from the *Challenger* mishap. We have come to take for granted the magic of the American Space Program—moments like these make us realize our humanity.

After our shock subsides, we in Congress will no doubt do some soul-searching about the direction and purpose of the Space Program. Indeed, our first responsibility to the American people is to see that this awful accident is thoroughly explained and a repeat avoided.

What took place 10 miles above the Earth yesterday may never be fully explained, and it may be some time before we are clear on how this accident will affect our ongoing exploration of space. However, I am hopeful that our mission to explore our universe will not be a permanent victim.

Most of us admittedly lack the technical knowledge to solve problems like these as blithely as we offer our insight into more earthly matters. We must not lack the vision, however, that has compelled us since the days of sputnik to reach out to space.

As we grieve for those lost yesterday, let us pause for a moment to consider the safety record of the Space Program in general and the Shuttle Program in particular. Before today, 24 missions were flown by U.S. space shuttles without a mishap, including 9 by *Challenger*. Before the shuttle, 10 Apollo crews safely returned from space, as did 3 Skylab crews. Even in the Space Program's infancy, 14 manned Mercury and Gemini Missions were flown without a loss.

The only other time that our Nation has faced a tragedy of this sort was on a January day 19 years and 1 day ago when fire took the lives of three astronauts on the launch pad. The ill-fated Apollo 1 mission led to a long delay and complete redesign of the Apollo Program, and I would expect the Shuttle Program to be similarly reassessed now.

The shuttle's fate will soon rest on arguments over lost payload, whether future flights should be unmanned, and what role the military will play. I hope such questions, as crucial as they are, do not obscure our vision of all that we have yet to learn in space.

One thing is certain, however: Our next step in space, whether it is taken in a shuttle or some other craft, will not be taken for granted.

COMMITTEE ON APPROPRIATIONS HEARING SCHEDULE

HON. SIDNEY R. YATES

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 29, 1986

Mr. YATES. Mr. Speaker, I include the following for the RECORD:

FISCAL YEAR 1986 HEARING SCHEDULE COMMITTEE ON APPROPRIATIONS SUBCOMMITTEE ON INTERIOR AND RELATED AGENCIES

FEBRUARY 1986

Wed., Feb. 4: 10:00 Navajo-Hopi Relocation Comm., 1:30 Same as above.

Tues., Feb. 18: 1:00 Synthetic Fuels Corporation, 2:00 Pennsylvania Avenue Development Corp.

Wed., Feb. 19: 10:00 Secretary of the Interior, 1:30 Same as above.

Thurs., Feb. 20: 10:00 Secretary of Energy, 1:30 Same as above.

Mon., Feb. 24: 1:00 FDR Memorial Commission, 1:15 Commission of Fine Arts, 1:45 National Gallery of Art, 2:45 Nat'l Capt'l Planning Comm.

Tues., Feb. 25: 10:00 Outside Witnesses: DOE; GS; OSM; MMS; BOM, 1:30 Same as above.

Wed., Feb. 26: 10:00 Indian Health Service, 1:30 Same as above.

Thurs., Feb. 27: 10:00 Outside Witnesses: Natural Resources (NPS; F&WS; BLM; Smithsonian; and Forest Service), 1;30 Same as above.

Fri., Feb. 28: 10:00 Outside Witnesses: Natural Resources, (If Necessary).

MARCH 1986

Mon., Mar. 3: 1:00 Energy Information Admin., 2:00 Economic Regulatory Admin., 3:00 Emergency Preparedness.

Tues., Mar. 4: 10:00 National Endowment for the Arts, 1:30 Same as above.

Wed., Mar. 5: 10:00 Office of Surface Mining, 1:30 Same as above.

Thurs., Mar. 6: 10:00 Outside Witnesses: Indian programs, 1:30 Same as above.

Fri., Mar. 7: 10:00 Outside Witnesses: Indian programs, (If Necessary).

Mon., Mar. 10: 1:00 Strategic Petroleum Reserve; Naval Petroleum Reserve; and Federal Inspector for the Alaska Gas Pipeline.

Tues., Mar. 11: 10:00 Fossil Energy, 1:30 Same as above.

Wed., Mar. 12: 10:00 National Park Service, 1:30 Same as above.

Thurs., Mar. 13: 10:00 National Park Service, 1:30 Same as above.

Mon., Mar. 17: 1:00 Bureau of Mines.

Tues., Mar. 18: 10:00 Energy Conservation, 1:30 Same as above.

Wed., Mar. 19: 10:00 Outside Witnesses: NEA; NEH; and IMS, 1:30 Same as above.

Thurs., Mar. 20: 10:00 Smithsonian Institution, 1:30 Same as above.

Fri., Mar. 21: 10:00 Smithsonian Institution (If Necessary).

Mon., Mar. 24: 1:00 Holocaust Council, 2:00 Woodrow Wilson, 3:00 Advisory Council on Historic Preservation.

APRIL 1986

Mon., Apr. 7: 1:00 Bureau of Indian Affairs.

Tues., Apr. 8: 10:00 Bureau of Indian Affairs, 1:30 Same as above.

Wed., Apr. 9: 10:00 Fish and Wildlife Service, 1:30 Same as above.

Thurs., Apr. 10: 10:00 Geological Survey, 1:30 Same as above.

Mon., Apr. 14: 1:00 Institute of Museum Services, 2:00 Indian Education.

Tues., Apr. 15: 10:00 Minerals Management Service, 1:30 Same as above.

Wed., Apr. 16: 10:00 National Endowment for the Humanities, 1:30 Same as above.

Thurs., Apr. 17: 10:00 Members of Congress, 1:30 Same as above.

Mon., Apr. 21: 1:00 Forest Service.

Tues., Apr. 22: 10:00 Forest Service 1:30 Same as above.

Wed., Apr. 23: 10:00 Navajo-Hopi Relocation Commission.

Mon., Apr. 28: 1:00 Office of the Secretary/Inspector General/Office of the Solicitor.

Tues., Apr. 29: 10:00 Office of Territorial Affairs (Agency & territorial witnesses), 1:30 Same as above.

Wed., Apr. 30: 10:00 Same as above.

MAY 1986

Thurs., May 1: 10:00 Bureau of Land Management, 1:30 Same as above.

TODAY'S HOLOCAUST

HON. TOBY ROTH

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 29, 1986

Mr. ROTH. Mr. Speaker, I commend to my colleagues the leading editorial which appeared in yesterday's Wall Street Journal entitled "Today's Holocaust." Finally one newspaper has the courage to apply the appropriate terminology to describe the horror of what is happening in Ethiopia. The Ethiopian Government is incarcerating in excess of 1.8 million people in what only can be described as concentration camps. Mortality rates are horrifying—10 times greater than was witnessed during the height of Ethiopia's famine.

This week I will be introducing a comprehensive sanctions bill against Ethiopia's Mengistu regime. The Western public has an urgent responsibility to do something now. I urge my colleagues to join me in this effort.

The article follows:

[From the Wall Street Journal, Jan. 27, 1986]

TODAY'S HOLOCAUST

The word is finally out that the second government-organized group murder in a decade is under way, this time in Ethiopia. The Western public response is showing that the pattern of denial that greeted first reports of the Nazi Holocaust wasn't a fluke. A widespread refusal to believe that the worst could actually happen clears the way for its realization.

French relief workers were touring Washington last week with awful news that had already been reported by eyewitnesses from the U.S. Agency for International Development. The Ethiopian government's year-old "relocation program," now greatly stepped up the military Dergue, or junta, and its Russian patrons, has already claimed the lives of 20 percent of its targets, a death toll of some 100,000. It shapes up as a mass extermination on the order of the Khmer Rouge killing fields and the deportation of Armenians in 1915, with the added horror that it wouldn't have been possible without the aid and silence of Western famine relief.

Now, however, the big relief agencies have to explain why they have been holding their

tongues. Administration critics like U.S. Rep. Howard Wolpe who have been whitewashing the Dergue may have to admit that President Reagan's officials haven't just been making anti-Marxist propaganda. Warnings from people like AID administrator M. Peter McPherson have indeed been the awful truth.

The extracts alongside show how ghastly things have really been. They come from a summary of interviews Swiss citizen Peter Niggli conducted with escapees from the Ethiopian relocation camps. Refugee interviews have been available for a long time. (See our editorial "Death in Asosa," Feb. 20, 1985). But the West has hardly listened, let alone reacted.

Indeed, the Addis Ababa regime has found the famine and the Western response to be a stroke of great fortune. Contrary to the government's lies to gullible, or cynical, Westerners, the relocations have nothing to do with fighting hunger. They are part of Ethiopia's civil war with at least five ethnically based guerrilla groups. They were planned as early as 1981, a former Ethiopian general told the head of a Swiss humanitarian group, after the failure of Lt. Col. Mengistu's "Red Star" offensive in the rebel-dominated northeastern provinces of Eritrea and Tigre. According to the government's own maps, the bulk of the conscripts for resettlement come from the strategic corridor connecting Addis Ababa to the coast. The program is directed, not by the regime's Relief and Rehabilitation Commission, but by its "Office for the Nationality Problem," complete with 25 Russian advisers.

To the Tigre and Wollo rebel movements, whose constituents bear the brunt of the relocations, the Mengistu regime's ultimate aim is simply to exterminate their rural base. There is nothing in the conditions of the forced move or the ultimate site to contradict these fears. The "empty fertile lowland" that the Dergue claims to be developing is relatively empty because it is infested by malaria, water parasites and even, at some relocation sites, the deadly tsetse fly. The relocated northerners come from temperate highlands and lack the immunities of the indigenous peoples (who themselves are being forced from their lands). AID's Mr. McPherson began his public condemnations last month after several of his staff managed an unescorted visit to the Pawe relocation camp in the northwest and discovered a continuing death rate from disease of seven to 15 people per 10,000 a day.

Famine relief has helped support "relocation." Its trucks have been diverted to move people, while grain rots at the ports. The roundups have disrupted harvests and forced abandonment of whole herds of livestock. Grain has been taken from famine areas and sent south to maintain the concentration camps. In the meantime, Lt. Col. Mengistu's army has launched its biggest offensive ever into the heart of the famine regions, drawing logistical support from the relief stockpiles while burning the rebels' crops.

The U.S. government deserves credit for its diplomatic resistance to the relocation program, but Western allies have been breaking a previously united front. Italy, with its own memories of Ethiopia, has promised $190 million for a particularly harebrained project at the headwaters of the Blue Nile. Canada and Australia are said to be letting their food aid be diverted. The United Nations World Food Program has buried internal reports that confirm the high death rate.

Denial of the holocaust by Westerners is symptomatic of the larger problem, an unwillingness to do the hard things necessary to stop it. Relief workers kept quiet too long but perhaps can be excused considering the lack of any hard-fisted political action by the governments they represent. At the very least and based on what is now known, relief should be suspended. Then it will be time for the U.S. and Europe to look at what further steps should be taken against Lt. Col. Mengistu and his friends for having so cynically and grossly abused the world's humanitarian impulses.

HELPING FARMERS WITH DEBT

HON. VIN WEBER

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 29, 1986

Mr. WEBER. Mr. Speaker, today I am introducing a bill that will help farmers who face foreclosure or debt restructuring, situations that have become increasingly prevalent as the rural economy has continued to deteriorate. I am pleased to have COOPER EVANS, BERKLEY BEDELL, TOM COLEMAN, TOM TAUKE, and ARLAN STANGELAND join me as original cosponsors of this bill.

The tax treatments of capital gains and debt forgiveness have made it very difficult for farmers to deal with their debt situation. In the case of capital gains, it has often added a cruel irony to the pain of foreclosure. As a farmer is forced to leave a farm or home that may have been in his family for generations, he often leaves with a big tax bill from the government.

This anomaly stems from the rapid rise and fall of land values over the last 10 years. A farmer who has to sell his farm may face a big tax bill on his capital gains, which is based largely on depreciated machinery and land he owned before the inflation of the 1970's. But if he bought some land just before the recent and drastic drop in rural land values, the present value of his entire farm may not be enough to secure his loans at the bank. In other words, he could face both foreclosure and a large tax liability.

For those who still have the opportunity to stay on their farms, another tax contingency has made it difficult to negotiate any kind of debt restructuring with their banks. Many bankers are willing to forgive part of a loan as an element of a "workout" plan. The move is in the banker's interest, because it prevents the loss that comes with a foreclosure and often keeps a good farmer on the land. For the farmer, it puts him in a position where he's better able to manage his debt.

However, the IRS treats any loan forgiveness as straight income. As a result, many workout plans leave a farmer with an unmanageable tax liability. Because the resulting taxes would be so high, we will often forgo the whole restructuring package. As a result, many farmers have not been able to restructure their debt and have had to continue their slide toward foreclosure.

My bill brings some flexibility to these situations by giving farmers tax relief in carefully circumscribed areas. First, a farmer would be able to exclude from gross income any capital again, wihch is often only a "paper" gain, that comes from a foreclosure sale. The exclusion would only apply to farmers who are insolvent and are selling off at leat 80 percent of the fair market value of their assets.

Second, my bill would bring greater flexibility to farmers who face a debt restructuring situation. Farmers who are able to negotiate a discharge of indebtedness from their lender would not have to declare it as income. This exemption would be limited to farmers who have a debt to asset ratio of a least 70 percent before debt restructuring.

The unmanageable debt burden of rural America threatens not only agriculture but the rest of the economy as well. This bill will give farmers greater flexibilty in dealing with their debt burden, and it will facilitate the process of debt restructuring that must take place.

FAIR TRADE FOR THE FILM TRADE

HON. BILL RICHARDSON

OF NEW MEXICO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 29, 1986

Mr. RICHARDSON. Mr. Speaker, our trade deficit and unfair trade practices by foreign governments are extremely serious issues.

Jack Valenti, president of the Motion Picture Association of America, has written an outstanding article elucidating this serious problem in his industry.

I commend it to the attention of my colleagues.

The article follows:

[From The Los Angeles Times, Jan. 19, 1986]

FAIR TRADE FOR THE FILM TRADE

(By Jack Valenti)

Congressional issues blow in and out of the capital, and few of them leave an impression on the life of the nation more durable than the tracings of dry leaves in the wind. But there is one issue that has a legitimate claim to both longevity and urgency: "fair trade"—or, rather, the lack of it.

During the last session of Congress, there were more than 300 trade bills pending. Many of them were wrapped in generalities, and many of them will likely re-emerge next session to ricochet noisily in the congressional corridors. But some go to the anxious heart of the problem, which is the maintenance of a fair trading level for those American products that want to compete in the world market but are faced with unscalable walls of non-tariff trade barriers.

One need not go into the details of the bleak state of our trading position, which can best be described as miserable. Our trade deficit is like a rampant tumor that may be incurable unless we tend to first priorities: shrinking the value of the dollar, increasing American productivity and demolishing trade barriers in other lands.

The first two of the priorities are difficult and long-term goals. The third is attainable now. This means throwing down a spiked gauntlet to all nations that roam our marketplace with freedom and profit but construct the most ingenious hedgerows barring their marketplace to Americans who want to trade there. Unless these obstacles are dismantled. Americans will be feebly

and imperfectly represented in foreign markets, no matter how emaciated the dollar becomes.

By no means does this define "protectionism." Protectionism throws up sandbags of tariffs and quotas to protect native industries.

"Fair trade" is different. Fair trade affirms that the hospitality and lack of restrictions that foreign business interests find so seductive in our country should be visible and active in theirs.

The American film and television industry is a prime example of a home-grown enterprise that asks for no special privileges—no tariffs, no quotas, no barriers in this country—and wants no more than the right to compete fairly and energetically in those countries that are afforded a notably attractive welcome here.

The American film and television industry has a global reach. We return to this country more than $1 billion in surplus balance of trade each year. By whatever gauge you use, this is an asset of considerable worth. It ought to be preserved. That is, it ought not be barred or constructed or diminished in foreign countries for reasons other than lack of customers.

If movies and television programs are the U.S.A's most-wanted exports, it is not because of government subsidy, or because we have a secret that we yearn to shield, or because our product is cheaper to make (in fact, our movie and television production costs are the highest in the world). We have succeeded because we create a special magic that citizens in other lands find bewitching. The stories that we tell on film or tape are sought-after because we tell stories better than most.

Because of our success, a number of friendly nations are affronted. They believe that if they can restrict American films, their film industries will spring up full-blown, flourish and spread. That the theory is spurious makes it no less alluring to government officials.

In Taiwan, for instance, there are no effective copyright laws. Pirates who steal our creative material have full and free rein. Bulky restrictions are inflicted on our films in the form of import quotas, stern limits on the number of films that we can re-release in the country, a large and discriminatory fee imposed on each film, a squeeze on our distribution offices to force us to move our films through Taiwanese distributors, and a hefty box-office tax that is levied only on foreign films. All this from a country with an anticipated trade surplus in 1985 of $13 billion.

In Columbia, we are saddled with onerous taxes and burdened with quotas of all kinds. In Canada, U.S. television programs are snatched from the air by Canadian cable systems with zero payment to those who own the programs. In Quebec, regulations are pending that would effectively seal off the theatrical marketplace to U.S. film distributors in that province. In Spain, in Indonesia, in India, barriers stand guard against us. And the list goes on and on.

In short, one of America's most precious trade assets is endangered. However, if we demonstrate, without hesitation, that our country will insist on fair trading principles, "competitive marketplace" will become more than a phrase; it will be a reality.

LT. COL. ELLISON S. ONIZUKA

HON. NORMAN Y. MINETA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 29, 1986

Mr. MINETA. Mr. Speaker, today the National Air and Space Museum of the Smithsonian Institution honored the crew members who perished in the horrible tragedy which destroyed the space shuttle *Challenger* on January 28, 1986. A plague was unveiled at the National Air and Space Museum by several Senators and Members of the House of Representatives and the Secretary of Education. The plaque has been placed in front of the Museum's model of the space shuttle and will serve as a reminder to all who come to celebrate the marvels of air and space that men and women have given their lives so that the quest for knowledge may go on for the benefit of all mankind.

I would like to have my own comments on this sad occasion printed for the record.

My comments follow:

As a Regent of the Smithsonian Institution, which has captured, in its Air and Space Museum, the excitement of the exploration of space, I am proud to be at this solemn ceremony.

We are here to salute seven brave Americans. We will miss them not only because they were talented experts, but because they touched our hearts.

One of these brave Americans, Ellison Onizuka, was a personal friend of my wife May, my children, and myself. We met with him many times and have come to care for him a great deal.

As the first American of Japanese ancestry to become an astronaut, he was a hero to the Japanese American community. He attained a dream that many thought was once out of the realm of possibility.

Even to Ellison Onizuka, it sometimes seemed impossible. He told me that though he dreamed all his life of being a pilot, he still found it hard to believe that he achieved—and surpassed—that dream.

Because if him, such achievements seem impossible no more.

He and I share this feeling as Americans of Japanese ancestry; the excitement and disbelief of reaching a goal our parents never thought attainable.

He is an outstanding example of how far Americans of Asian ancestry have progressed, and how they are recognized for their many scientific contributions.

He is a genuine American hero.

We were so very proud of him when he was selected as the first Asian-American astronaut. And he was proud to be a part of such a fine crew.

We are here today to honor this crew in this building which records so many brave deeds and heroic acts.

These seven will always be remembered as pioneers. It is fitting that out salute to them is here, surrounded by their companions in discovery—people like the Wrights, Lindbergh, Earhart, and others who have given their lives in the quest for reaching the sky.

A TRIBUTE TO LOUISE GRAHAM

HON. C.W. BILL YOUNG

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 29, 1986

Mr. YOUNG of Florida. Mr. Speaker, the people of St. Petersburg, FL, suffered a great loss Saturday night with the death of Louise Graham.

Mrs. Graham moved to St. Petersburg in 1927 and in the following 59 years became a very close friend to many people in our community. Throughout her life, she gave freely of her time through thousands of hours of volunteer work.

Much of her time was spent working with handicapped and retarded children and adults. She founded the St. Petersburg's Florence Nightingale Circle more than 30 years ago. During the early 1960's she opened the Louise Graham Shelter workshop in her garage. The workshop, which provided help and care to learning disabled children, moved to several different locations throughout the years before arriving at its permanent site in the former Glenoak Elementary School.

Providing tender loving care was Mrs. Graham's secret to success during her 83 years. In return, she received the love and respect of her friends and neighbors in recognition of her selfless service to better the lives of countless children and adults over her lifetime.

Louise Graham was a long-time friend and I share with her family the loss of this wonderful woman, as well as a great American, whose love was felt by so many people. I am fortunate to have been one of those who was touched by the warmth of her abundant love. We will miss Louise Graham.

BUDGET LAW IS CRUEL CHARADE

HON. LANE EVANS

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 29, 1986

Mr. EVANS of Illinois. Mr. Speaker, communities throughout the west central Illinois district I represent are taking strong local action to promote economic development and new jobs. These efforts deserve continued Federal encouragement and support. The irresponsible Gramm-Rudman approach to buget cutting will severely reduce or eliminate these valuable Federal programs, doing further damage to our hard-pressed Farm Belt communities.

Mark W. Schwiebert, a member of the Rock Island City Council, expressed his justifiable outrage over the local effects of Gramm-Rudman in the following column from the January 10, 1986 issue of the Quad City (Davenport) Times. I commend his clear-eyed view of the folly of Gramm-Rudman to all of its reluctant supporters.

The article follows:

BUDGET LAW IS CRUEL CHARADE

(By Mark W. Schwiebert)

Congress has passed and President Reagan has signed the Gramm-Rudman act. This legislation, which even its chief sponsor called "a substitute for guts," is our current national government's way of dealing with the grave problem of our national deficit.

The president and Congress, having given us a deficit in the last five years greater than the one accumulated in the prior 200, has whipsawed in the opposite direction by approving what one of Reagan's senior economists labeled "one of the most irresponsible bills ever considered by Congress."

What this sample of national folly will do is radical and dangerous. While protecting a few select programs that consume most of the national budget—such as defense contract spending and entitlement programs—Gramm-Rudman requires that the budget be cut radically in each of the next five years. The effect will be to eliminate virtually every other federal domestic program within the next 24 months.

As someone involved in local government for the last half decade, I have seen firsthand the hardship and severe problems caused by the farm economy depression. Massive unemployment, dwindling benefits, frustration and its byproducts of domestic violence and despair have all reared their ugly heads in these times.

Conscious of these hardships, we have tried to hold the line on local taxes to prevent an added burden on those already hard hit. As a result, virtually all of our local tax dollars are committed to basic services that the city must provide—services like police, fire, water, and sewer and a few amenities such as library and parks that make an area livable.

This means that we have had to look elsewhere for money to pay for critical economic development efforts to create new jobs. Thus, such programs as the Rock Island Economic Growth Corp. and City Revolving Loan Fund, which allow us to promote our area to new industries and provide incentives to businesses to locate here, have all been funded with dollars received from Washington.

Without these efforts we are without the tools we need to compete with Sunbelt communities already prospering from the benefits of warmer climates, lower tax rates and lucrative defense contract handouts from the federal government.

Those of us who live here should be aware of these things. And we should be outraged. For what Washington has one with Gramm-Rudman is either to increase our state and local property and other taxes or to eliminate nearly all of the programs we have to create new jobs and reduce suffering. Neither alternative is acceptable.

In a day when $600 toilet seats and $50 bolts are commonplace in certain parts of Washington and when Illinois already ranks at the bottom of the list in federal tax dollars that return here, this new proposal to the struggling and historic breadbasket of America is obscene.

Let cuts be made in federal spending, but let them be made intelligently and not expediently. We should ask no less of any of our elected leaders than imagination and courage. Both are urgently needed in the nation's capital now.

A LIVING LEGEND

HON. MARY ROSE OAKAR

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 29, 1986

Ms. OAKAR. Mr. Speaker, I am pleased to submit for the record an article that appeared recently in the Washington Post, about Mr. Ahmet Ertegun who is regarded by many in the music industry as a "legend in his own time."

As founder and CEO of Atlantic Records, Ahmet Ertegun has continued to play a leadership role in the creation, development, and promotion of the American recording industry.

Approximately 40 years ago, Ahmet Ertegun began a small independent company motivated by his own love of music, particularly black music, and by his personal ideals of fairness and equal opportunity for all persons with musical talents, regardless of their racial or ethnic backgrounds

Throughout the years Ahmet Ertegan has been in the forefront of a movement to promote rock and roll, rhythm and blues, and jazz throughout the world as our true American art forms.

Today, Mr. Speaker, American rock and roll is the most popular and most emulated art form in the world. The impact of the music industry has been felt not only in the music we hear on the radio, but in what we wear, and in helping to shape our social conscience.

Mr. Speaker on January 23, 1986, Mr. Ahmet Ertegun, as chairman of the Rock and Roll Hall of Fame Foundation, and other pillars of the recording industry inducted 13 people into the Rock and Roll Hall of Fame. Among those inducted were the following legendary recording artists whose music has entertained millions since the 1950's: Chuck Berry, Elvis Presley, Jerry Lee Lewis, James Brown, Fats Domino, Ray Charles, Sam Cooke, Buddy Holly, Little Richard, and the Everly Brothers. Also honored were two men whose contributions to the industry were production, promotion, and playing of those records: Sun Records founder, Sam Phillips, and the late broadcaster Alan Freed from Cleveland, OH, my own district where rock and roll was born.

Mr. Speaker, I would also like to pay tribute to Mr. John Hammond who received a special lifetime achievement award. Mr. Hammond's production and talent scouting credits include, Billie Holliday, Count Basie, Bob Dylan and Bruce Springsteen. John Hammond, like Ahmet Ertegun, has made historic musical and civil rights contributions to the music industry.

I would again like to commend Ahmet Ertegun for his important contributions to the American recording industry.

Thank you, Mr. Speaker.

THE ROCK OF ATLANTIC

(By Richard Harrington)

NEW YORK.—The long halls leading to Ahmet Ertegun's office are lined with gold and platinum albums, but the office itself is spared that brashness. What dominates is the *music;* a long row of unplated (and therefore playable) records, piles of demo tapes with dreams attached, pictures of artists, pictures from artists, the occasional awards plaque and a stereo system capable of blasting out the sounds that define Atlantic Records' past, present and future.

On this weekday afternoon, Ertegun is fielding the tapes that come to him as chairman of the board of Atlantic. Over four decades, he has transformed this once-tiny rhythm and blues label into a major link in the conglomerate chain known as Warner/Elektra/Atlantic. Fueled by the success of such artists as Phil Collins, Stevie Nicks, Twisted Sister, Pete Townshend and several monster sound tracks, Atlantic is having its best year ever for sales volume. W/E/A will do close to $600 million worth of business, with Atlantic probably accounting for a third of that.

Trim, dapper, debonair, his grayng goatee anchoring a head that has been bald since he was 17, Ertegun is the quintessential CEO. He and his wife Mica, a well-known decorator, are fixtures at the ritziest social events and parties on several continents. Ertegun is a lender of Russian Constructivist and American abstract paintings to some of the world's most prestigious museums, a one-time president of the New York Cosmos soccer team, a multimillionaire mover and shaker.

"I'm an old-timer, I still call them sides," Ertegun says in the clipped aristocratic cadence that reveals his cosmopolitan roots. His father, Mehmet Munir Ertegun, was Turkey's ambassador in Washington from 1934 until 1944.

Ahmet Ertegun is no stranger to recorded revelations. The music sought out back in the late '40s and early '50s was rhythm and blues, and the Atlantic Sound—in the form of Joe Turner, Ruth Brown, Ray Charles, the Coasters, Clovers and Drifters, LaVern Baker and others—was as popular and influential as the Motown Sound would be a decade later. It also helped set the stage for rock 'n' roll.

Ertegun is very much in the mold of the old movie men such as Louis B. Mayer and Sam Goldwyn, self-made tycoons. There were others like him—Marshall Chess, Lew Chudd at Imperial, Art Rupe at Specialty—tough entrepreneures who tapped into the emerging black pop music known as rhythm and blues. They all came up in the late '40s and early '50s. By the '60s, they'd either folded or curtailed their activities.

Only Atlantic survived and prospered, and only Ertegun managed to turn a minor label into a major. Not bad for a man who used to have to go to the bank before every recording session to see if he could afford it. In 1967, the Ertegun brothers and Jerry Wexler, the company's principal stockholder, sold control of Atlantic to Warner Bros.-Seven Arts in exchange for $17 million in stock. His older brother Nesuhi, who has been with the company since 1955, is president of W/E/A International. Ahmet Ertegun, 61, has remained as chairman of the board at Atlantic, a position with such historical impact that he's been dubbed "The Greatest Rock 'n' Roll Mogul in the World."

How Ahmet Ertegun came to his moguldom may be the most unusual story in American music.

"I was born in Istanbul, but left at 2, and I never really spent any time there," he says. His father had ambassadorial stints in Bern, Geneva, Paris and London, but "if anybody asks me where I'm from, my first inclination is to say Washington, because that's where I grew up *meaningfully.*"

Like his older brother Nesuhi, Ahmet Ertegun went to local schools. He prepped,

first at St. Albans and then at Landon, went to college in Annapolis (at St. John's, graduating at 20 near the top of his class).

His father was the senior ambassador in Washington during World War II, an immensely popular and powerful figure. When he died in 1944, President Roosevelt dispatched his body home aboard the USS Missouri. Had the father lived, it's probable the son wouldn't have entered the record business.

"He would have pushed us to return to Turkey and go into civil service," Ertegun says. "My father's father was a judge, and my mother's father was an admiral in the navy and my father was a diplomat and public servant. It was a tradition. . . . My brother and I decided to stay in America because we wanted to live in America, and we chose the business that we love because we loved American music."

The Erteguns loved the music made by the black Americans in particular, a passion that had been instilled when Ahmet was still in short pants.

"The first time I heard a black orchestra was Cab Calloway at the Palladium in London," he says fondly. "I must have been around 9 or 10 years old. There was just the dazzling *presence* of these black gentlemen—I hadn't seen many black people at that time—in their white, shining suits . . . the brass instruments shining . . . the rhythm and the excitement of the music."

By the time the brothers came to Washington in 1934, they were already inveterate jazz collectors. "We had to go hunting in used-record shops and also go from house to house in the black sections of not only Washington but neighboring towns in Virginia and Maryland, asking people if they had old records for sale. Most of those jazz records were released as part of what they used to call "race" series and that was the only place you could find them. In those days, there were no reissues, so you *had* to look for the originals."

Eventually the Erteguns amassed 25,000 blues and jazz records, all catalogued and indexed, with personnel written on jacket sleeves. "I realize now we must have had one of the biggest collections in the world," Ertegun says ruefully. When they left the embassy, they had to sell off most of it.

The young Erteguns' passion for the music wasn't confined to 78s, either. They promoted some of the earliest jazz concerts in Washington during the '30s, at the Jewish Community Center, the National Press Club, Turner's Arena. And on Sundays, they turned the Turkish Embassy into an open house for visiting jazz musicians.

"We'd invite people to have lunch at the embassy—Ellington, the Basie band, Lester Young—and then there were informal jam sessions in the afternoon. It was fun for them, there was no obligation for them to do anything but come and have a good time."

And of course there was the Howard Theatre, the mecca for black entertainment. "I went there almost every week, because every week there was a great band there and I didn't want to miss any of them. I got my education in music at the Howard."

After his father's death, Ertegun's family returned to Turkey, while he remained in graduate school at Georgetown studying philosophy. "But I loved the music, and I knew many of the musicians and singers personally," he says, "so I thought it would be really fun to make some records."

Ertegun had been a regular at Max Silverman's Quality Music Shop at Seventh and T streets, and it was there that Atlantic was previewed.

"Aside from the fact that I bought records there many years before when it was a used-record business, we'd become very good friends. It was the hot record shop in Washington, so I used to just hang around there a lot in the afternoon. At one point we formed a label, Quality Records, and recorded two or three sessions, which turned out quite well but did not do well. That somehow folded right away.

"But I was intent on going on with it. I had a friend, my dentist in Washington, who decided he would invest $10,000, and Herb Abramson [a fellow record collector and executive with National Records] came in and put up a little money, and we started Atlantic Records."

Atlantic started in New York, even though Ertegun's move there was gradual. He was still going to school at Georgetown, living on Q Street and "coming to New York on long week-ends. I slept more hours on the train between Washington and New York than I did in my own bed."

For the first few years, Atlantic had only minor hits. Ironically, for a label that would eventually be lauded for its stable of great singers, those first records tended to be instrumentals. But Ertegun wasn't worried.

"For me it was so much fun just to go up to Harlem and hang out at the various clubs' amateur shows where you could hear new talent. Frankly, I never thought we were going to have a big record company. I thought we were just passing a little time, doing this to add a little bit of money to my student allowance, which wasn't very big."

Neither was Atlantic, but like a number of other small, independent labels, it was tuned in to the new currents in popular music emerging after World War II. Rhythm and blues was at first a catchall phrase encompassing black swing bands, harmony groups, blues shouters, funky jazz combos, boogie-woogie pianists—all kinds of music that the major record companies despised.

"In the early days there was a great camaraderie between the various independent record companies," Ertegun recalls. "We made records that the majors would not make, and we made music that the majors actually fought against. Variety and RCA started a big campaign against the product of independent labels, records with 'obscene' lyrics—until they signed up Elvis Presley. Then suddenly the campaign against this kind of music and those kind of lyrics stopped."

One thing that set Atlantic apart from many of its competitors was its reputation for paying its artists the royalties they deserved. Unlike some of the independent bosses, opportunists who had little interest in the music or the musicians, Ertegun was a genuine fan, not just an entrepreneur.

"Frankly it never occurred to me not to pay royalties to artists," Ertegun says. "We treated our artists as stars because we were all fans . . . I think that's what made Atlantic survive where some of the others didn't. We kept our artists for many years. They developed and became stars and stayed with us."

Atlantic prospered also because Ertegun and his partners (notably Wexler) began, as producers, to fuse a northern sophistication with a gutsy southern blues sensibility, achieving a cleaner, brighter sound than rhythm and blues had known.

"What we were trying to do was to make rhythm and blues records that would sell to a black audience but also had the potential of crossing over. A lot of our records did cross over, successfully enough to make big white artists cover them."

Ertegun suggests a context of radio in the '50s that sounds remarkably like radio in the '80s. "There was a definite Jim Crow attitude on the part of the broadcasting industry, and there were very few disc jockeys on white stations who would play any black music except for pop singers like Nat King Cole or the Mills Brothers. They wouldn't play Joe Turner or Ruth Brown or Ray Charles. As a result, when their songs started to have some white sales based on white audiences listening to black stations, white artists would cover the song, use our arrangements and immediately get on radio. That happened many times, but the worst was the Chords' 'Sh-Boom,' which the Crewcuts covered. If they hadn't we would have sold a couple of million. As it was we sold six or seven hundred thousand."

At that point, Ertegun and Wexler were producing all of Atlantic's releases, even singing backup when it was needed (that's Ertegun on the chorus of Joe Turner's "Shake, Rattle and Roll"). And then there was the sudden emergence of a new songwriter on such raucous hits as Joe Turner's "Sweet Sixteen," Ray Charles' "Mess Around," the Drifters' "Watcha Gonna Do?," Ruth Brown's "Wild Wild Young Men" and a half dozen hits by the Clovers. His name was A. Nugetre, which looked suspiciously like Ertegun spelled backwards.

"We had a tough time finding good material," Ertegun explains with a smile. "The publishers were not sending us material to record. They *never* sent companies our size good material.

"So there was only one thing to do. I tried to write very *funky* songs because we had to sell records in the South—that was our biggest market—and to do that we had to have really *funky* music. The artists we had were sophisticated, urban artists who looked down on the blues, so I had to write songs that were *so* funky that there was no other way for them to sing it than to get *down* with it. I never considered myself a great songwriter but I had to get some hits to survive."

Ertegun's Washington connection is more than just an emotional one. Among the first acts signed to Atlantic were two discovered here: Ruth Brown and the Clovers. The process would be repeated in the early '70s with Roberta Flack and Donny Hathaway and in the early '80s with Stacy Lattisaw and Johnny Gill. Earlier this year, Ertegun made a quick trip to Washington to check out local recording studios, and some felt, to check out the go-go scene. Critics pointed out that Atlantic, which had once been on the cutting edge of black pop, had totally missed the rap and hip hop explosions and might be seeking to reestablish its connections to black currents.

From the '60s on, the history of Atlantic is that of an extremely successful company. It can be told in terms of sales figures and critical successes and special moments and special relationships. Or it can be defined in the great distance between the first cramped offices at 56th and Broadway and the current ones at 75 Rockefeller Plaza.

Thirty years ago, Ahmet Ertegun considered letting the company go on while he went to Turkey for a couple of years. "But I couldn't leave it for two weeks because we had so much competition, and we had to keep the thing going. I still don't feel like we're anywhere safe because you don't know

when your 10 top artists are going to suddenly stop selling records. So you've got to have 20 new ones coming up to take their place."

As 1985 comes to a close, Ertegun seems to be coming to terms with his company's place in the history of American popular culture. Atlantic has just released a 14-record collection that confirms the label's eminence in the pop field, particularly in the '50s, and again in the mid-'60s with such soul stylists as Aretha Franklin, Otis Redding, Wilson Pickett and the Stax-Volt stable.

Ertegun has also been spearheading the drive to establish a legitimate Rock 'n Roll Hall of Fame (the first 10 inductees will be honored at a New York dinner in early January, though a permanent site for the museum has not yet been chosen).

Our aim is to, in a dignified manner, recognize the people who created the music which has become the most popular music of all time in the world," he explains. "Rock 'n' roll is a form of music which has been vilified and looked down on; however, it's a very vibrant and important American music."

You can't help feeling that, without Atlantic, the music might have been vibrant, but it wouldn't have been the same. The new collection certainly reinforces that.

"We did a thorough search on which were the bestselling records, the historically important records of various artists, records which, if they weren't big sellers, were an influence on other records that were made after that," Ertegun says.

"I'm very proud of that collection because it is the history of this company and of many years of my life."

Clearly, the man who built Atlantic Records has every right to be proud. But later, watching him listen to the rough playback of Charelle, his eyes closed in concentration, the barest hint of a satisfied smile edging from his mouth, you suspect Ahmet Ertegun is still a fan—and that he wouldn't have it any other way.

ISSUES BEHIND TERRORISM

HON. NICK JOE RAHALL II

OF WEST VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 29, 1986

Mr. RAHALL. Mr. Speaker, I would like to bring to the attention of my colleagues an editorial from my hometown newspaper, the Register/Herald of Beckley, WV, January 13, 1986. In it, Walter Massey, the editor, provides a thoughtful insight into the underlying issues of the Middle East controversy. While I have always contended that there are more sides to the dispute in the Middle East than are on a Rubik's Cube, I feel that Mr. Massey takes a good look at the underlying causes of terrorism and some possible steps that might be taken to prevent such heinous acts in the future. I urge all of my colleagues to read it.

ISSUES BEHIND TERRORISM

America would be better able to settle Palestinian grievances if the blame, as Palestinians see it, were against America directly. But it is not. It is against Israel.

Israel has a case for occupying the area which now is the Jewish state. After all, the area is the ancient homeland of the Jewish people, who were driven out centuries ago by ancestors of those who now call themselves Palestinians.

World War II, with its holocaust, brought into sharp focus for the Jewish people their longing to reclaim for themselves the terrority of their ancestors. Thus, accomplished by the Zionist movement, Jews did return, following World War II, to the Mideast and did reclaim their land.

However, in the process of reestablishing the state of Israel, the Jews drove out of Palestine people who had lived there for centuries.

Since then, many Palestinians have chosen to live as permanent refugees rather than to settle in any other land and concede to Israel territory which they owned until some 40 years ago.

The current terrorism stems from a quarrel that has not been settled, despite several wars and countless acts of violence.

The Arab states are virtually united in opposition to Israel. The Arabs, whose religious roots are intertwined with those of Israel, share the Semitic heritage of the Jews. But they do not recoginze the Jewish claim to Israel based on the holy scriptures of the Jewish faith.

If one reads the Old Testament, it's evident that the people of Israel quarreled with their neighbors beginning as long ago as 10,000 years. The modern Mideast quarrel is but a blinking of the eye compared to the duration of the hostilities in what often is called the Holy Land.

Can this quarrel be settled? Is it within the powers of human reason to render decisions which all will recognize as just?

America in modern times has attempted to serve as a broker for peace, even while guaranteeing the survival of Israel. Some in the Arab world might argue that America cannot do both, but that's another story.

The real question is whether American leaders or anyone else can satisfy the Palestinian people, as columnist Mary McGrory suggests should be done, while Israel continues to exist in security.

Some Palestinians are absolutists. They will settle for nothing less than the destruction of Israel. Thus, America cannot oblige them.

Other Palestinians are more moderate. Some wish accommodation with Israel which exchanges their recognition of the Jewish state for territory, perhaps the captured West Bank of the Jordan River.

But some Israelis can be just as intransigent as some Palestinians. Hard-line Israeli leaders have refused even to talk to Palestinian leaders. To the Israeli hard-liners, all Palestinians are terrorists.

Trust is mutually lacking. Hatreds are rampant, both on the part of many Israelis and many Arabs.

When two peoples both believe they legitmately own the same land, and when these peoples hate and distrust each other, obviously this is not a quarrel easily solved. Negotiations could take generations.

The effort to achieve peace should be ceaseless, and America should do what it can to further the process.

But America cannot unilaterally devise a solution and impose it on any of the parties involved. The parties must come to accord of their choosing.

A starting point would be face-to-face talks between Israel and leaders of the Palestinians and contiguous Arab states.

The U.S. should pressure Israel to agree in principle to such talks.

Meanwhile, however, America must protect itself from Islamic terrorism. Despite McGrory's good intentions, our country can't depend on negotiations which may take a lifetime to protect Americans in European airports today.

The problem is more immediate. There may be no substitute for force.

A TRIBUTE TO MARYANNE LEHRER

HON. NORMAN F. LENT

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 29, 1986

Mr. LENT. Mr. Speaker, it is my privilege to bring to the attention of my colleagues that on Sunday, February 2, 1986, Mrs. Maryanne Lehrer will be honored as the Oceanside Free School District's "Woman of the Year" at the annual brotherhood breakfast sponsored by the Rocky Marciano Lodge No. 2226 O.S.I.A. and the Trophy Lodge No. 2059 B'nai B'rith. Maryanne is a constituent of mine from Oceanside, NY, and has worked with diligence and love for the betterment of the children of her community.

A member of the Oceanside Board of Education since 1977, Maryanne was selected by her fellow board members to serve two terms as vice president and two terms as president of the board. In addition, she serves as chairman of the Board's legislative committee.

Maryanne has widened the scope of her activities on behalf of education beyond the Oceanside School District through her participation as a member of the executive board and legislative committee of the Nassau/Suffolk School Board Association. She also serves as liaison from the Fourth Congressional District to the Federal Relations Network of the National School Board Association. Her active involvement with countywide and national organizations has allowed Maryanne to provide insights into State and Federal legislation to her colleagues on the board of education and better serve the parents and children of the Oceanside School District.

A leader in many civil and youth-oriented programs, Maryanne has received much-deserved praise for her activities. She has been elected to Kappa Delta Phi and is a lifetime member not only of the New York Parent Teachers Association, but the national PTA as well. She is the founder of the Long Island Food and Hunger Awareness Program, and is active in the Nassau/Suffolk Autistic Society, the Epilepsy Foundation, the Women's American ORT, and the American Cancer Society.

I would like to offer my warmest congratulations to Maryanne on being selected as Woman of the Year, and on behalf of the people of the Fourth Congressional District, I'd like to extend my best wishes for her continued efforts benefiting the children and the entire Oceanside community.

A TRIBUTE TO THE MARSHALL PHILHARMONIC ORCHESTRA

HON. E. THOMAS COLEMAN

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 29, 1986

Mr. COLEMAN of Missouri. Mr. Speaker, the Marshall Philharmonic Orchestra has brought great pride and pleasure to North Missourians for the past 23 years. On December 30, the symphony played to its largest audience to date—nearly 20 million people nationwide tuned in to NBC's "American Alamanac" which featured the symphony and its founder/director, Harold Lickey of Marshall, MO.

The Marshall Philharmonic performs all the classics from Bach to Beethoven, as well as the modern classics. Its sound has been compared to the National Symphony Orchestra and other renown orchestras in America, yet the Marshall Philharmonic has a distinguished feature: the conductor and his orchestra are not musicians by trade; they are, simply, members of the community who love music and bringing its joy to their family, friends and neighbors who attend the symphony's concerts each year.

Harold Lickey cofounded the symphony 23 years ago when he was chairman of the Marshall High School music department. Today, people from across North Missouri belong to the orchestra. They range from all ages and positions in life, from a sixth-grade cellist to an 83-year-old bassoonist. They meet for rehearsals on Sunday afternoons at the high school and hold three or four performances a year at Bueker Middle School. Most of the support for the orchestra comes from voluntary contributions. To further help the group, the town established an endowment fund this year.

I'm proud to represent in Congress these talented Americans who have brought enrichment to their communities, and to bring to your attention the town of Marshall, MO which has received the national acclaim it has earned for being the smallest town in the United States to have a symphony orchestra.

AMERICAN CIVIL LIBERTIES UNION OFFERS TO BUY THE U.S. JUSTICE DEPARTMENT

HON. TED WEISS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 29, 1986

Mr. WEISS. Mr. Speaker, Washington is a town of political fads, and one of the most popular fads of the Reagan administration is the selling of public agencies to the private sector. Even a new word, "privatization," has been created to describe the phenomenon, which is underpinned by the belief that Government management is cumbersome and wasteful, while private sector management is smooth and efficient.

True to its doctrine that all Federal agencies, except for the Defense Department, are grossly mismanaged, the Reagan administration's Department of Justice has been working tirelessly to obstruct the cause of justice and equality in America. Recognizing that the Department is fast approaching bankruptcy, on December 17 the American Civil Liberties Union [ACLU] made a formal offer to Attorney General Edwin Meese to purchase the entire Justice Department, or alternately, its Civil Rights Division. It is an offer that I hope Attorney General Meese, along with my colleagues in the House and Senate, will think about carefully.

The text of the ACLU press release follows:

ACLU Offers To Buy the Justice Department

The American Civil Liberties Union, in a move unanticipated on Wall Street, today offered to buy the United States Justice Department.

The offer came in a letter to Attorney General Edwin Meese only days after President Reagan had proposed to sell the Federal Housing Administration to private interests, on the ground that they could do a better job than the government.

"We think the same the same can be said about the Justice Department," said Ira Glasser, ACLU Executive Director. "Civil rights and civil liberties organizations are already doing much of the work that should be done by the Justice Department, and particularly by its Civil Rights Division," Glasser said. "Civil rights lawyers are increasingly functioning as 'private attorneys-general,' enforcing laws that the Justice Department is failing to enforce," he said. "We might as well go all the way."

Just as President Reagan proposed to sell the Federal Housing Administration, including all its assets and liabilities, Glasser said the ACLU was "prepared to take over the entire Justice Department, including its assets and liabilities, which are many."

The leveraged buyout of the Justice Department, Wall Street insiders said, would be the largest in history, dwarfing the recent purchase by General Electric of RCA. But Glasser said that it wouldn't cost as much as anticipated because "the net worth of the Department has plummeted since Mr. Meese became Attorney General, and investors have lost confidence in top management."

"Indeed," said Glasser, "those with a long-term investment in justice believe that the Department is now nearly bankrupt. An examination by our auditors of the balance sheet of its key unit, the Civil Rights Division, shows liabilities exceeding assets to an alarming degree."

It was not immediately clear how the offer would be received in Washington, but Mr. Meese was undoubtedly consulting the Federalist Papers in an attempt to find what the framers' original intentions were with respect to such an offer.

Meanwhile, Glasser said the ACLU would be willing to consider purchasing only the Civil Rights Division, if Mr. Meese found that offer more acceptable. "That part of the company is potentially its most valuable asset," said Glasser, "and the one that the government seems the least interested in developing."

ADMIRAL FARRAGUT ACADEMY CELEBRATES 40TH ANNIVERSARY

HON. C.W. BILL YOUNG

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 29, 1986

Mr. YOUNG of Florida. Mr. Speaker, the Admiral Farragut Academy, which has become a St. Petersburg, FL, landmark, celebrates its 40th anniversary this year.

With almost 300 students, the school is one of only 52 preparatory military academies left in the United States. Capt. Richard Wheeler has been the academy's headmaster for the past 10 years and has continued the school's reputation of providing an outstanding education to students planning to continue their studies at colleges and universities throughout our Nation.

Admiral Farragut students have earned the respect and are a welcome part of the St. Petersburg community. I have had the opportunity to participate in their commencement excercises and have watched with pride their full dress parades and drills.

Millie Moyer, whose husband was an early executive director of the school, dedicated 35 years to the academy in many roles, including social director. She and her husband lived on campus and their son was a academy graduate. The Moyers are representative of the hundreds of faculty members and students who have contributed to the history of the Admiral Farragut Academy. They are a part of a St. Petersburg tradition that has instilled discipline, enhanced the education, and touched the lives of students for the past four decades.

THE DRUG PROBLEM HITS ALL AREAS OF SOCIETY

HON. JAMES A. TRAFICANT, JR.

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 29, 1986

Mr. TRAFICANT. Mr. Speaker, this past Sunday America watched yet another Super Bowl. As we watched the Chicago Bears rout the New England Patriots, in what has become a national tradition, heroes were created and new legends were born. Professional athletes hold a special place in our society—they are respected and loved by fans and admired by young children.

While we all sat back and enjoyed the game and watched as the Bears celebrated their victory, another story—an ugly, disturbing story surfaced. Today it has been revealed that the New England Patriots have a serious drug problem and they have become the first team in the National Football League to agree to undergo voluntary drug testing.

This unfortunate incident simply underscores the alarming pervasiveness of the drug problem in this country. In my view, it is a national tragedy when our sports heroes openly admit that they have serious problems with drug abuse. First it was baseball this past

summer. Now this scandal in the wake of our cherished Super Bowl and all the tradition surrounding football. As a former drug counselor, I am all too well aware of the enormous dangers of substance abuse and how substance abuse can ruin a person's life and tear apart families.

A nation is shocked over the pronouncements by the New England Patriots—but let us not be fooled. Drug abuse is a problem, not of the rich, not of the privileged, but of society as a whole. Recent polls have shown that many Americans rank drug abuse as one this Nation's greatest problems. I agree. While many people are concerned over the drug problem, the do not know how to adequately confront it.

As a former drug counselor I recognize the vital importance of educating our young people—and their parents—about the whole spectrum of substance abuse. Such education should begin at an early age and should continue through high school. Many schools across the country have already undertaken excellent programs in substance abuse. But, unfortunately, many have not. Parents need to get more involved and informed about substance abuse. Substance abuse education programs are not uniform and vary greatly from school to school, and State to State.

I have introduced legislation, H.R. 3769, the "National Substance Abuse Education Act," that I feel would be an important first step in getting all school districts to adopt sound substance abuse education programs for students and parents. The bill would establish a wide range of guidelines for State educational agencies to follow in developing a substance abuse education program to become a mandatory part of the curriculum for grades 4 through 12. States that do not, after 2 years, develop a program satisfactory to the Secretary of Education, would lose 30 percent of the Federal funds provided under chapter 2 of the Education Consolidation and Improvement Act of 1981. States financially unable to meet the requirements set forth in the bill could adopt an alternative program that does not require that substance abuse education courses become a mandatory part of the curriculum.

Both programs under the bill emphasize both student and parent education about the full range of topics involving substance abuse. The important thing to note is that the bill sets clear and uniform guidelines for State educational agencies to follow in developing education programs in substance abuse. Of course States would have the leeway to develop programs tailored to existing needs. Schools that already have in place substance abuse education programs can use the guidelines to build upon and improve their programs. Other schools that have yet to make substance abuse education priority, would have an excellent guide in developing a viable program.

The recent drug problem announced by the New England Patriots is a national tragedy. It underlines the need for America to face up to its problem with drugs—as the Patriots have done. We must recognize this problem as one that affects all of our lives. Aggressive education efforts can make a difference. Enactment of H.R. 3769 would be an important first step in addressing this national problem.

SCIENTIFIC INNOVATIONS AT BATTELLE

HON. SID MORRISON

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 29, 1986

Mr. MORRISON of Washington. Mr. Speaker, I would like to share with my colleagues the recognition that has recently been extended to Battelle's Pacific Northwest Laboratories and several of its scientists for scientific innovations.

Science Digest surveyed over 1,200 corporations, universities, colleges, science and engineering associations, nonprofit institutions, and government agencies for nominations of significant innovations in science. I am pleased to report that of the 100 scientific accomplishments, 2 had their springboard at Battlelle. According to Science Digest, the men and women whose innovations are recognized as the top 100 in the United States are the vanguard of America's scientific revolution. "They are the inventors and innovators, responsible for creating our vision of the future. They deserve recognition."

Dr. Richard Smith of Battelle was recognized for developing a process for forming fine powder substances of uniform particle size. The powders are finer than those made by grinding. Fine coatings can be sprayed on delicate surfaces such as optical lenses and microelectric components.

Science Digest also recognized Dr. Richard Douthart and a team of Battelle researchers for the development of a computer aided design system for genetic engineering. This system uses genetic information and DNA sequence information to produce hypothetical designs of genetic structures that have many potential biotechnological applications including food and agriculture, petroleum, pharmaceuticals, and the chemical engineering industries.

Mr. Speaker, these scientists at Battelle, as well as the other individuals who were recognized by Science Digest, deserve our recognition. If this country is to regain its former position as being the world's leading practitioner of using science to preserve our position in the world's competitive marketplace, we must create an environment where scientific accomplishments are applauded.

As a member of the Science and Technology Committee I have a deep sense of appreciation of what our science and engineering resources can do to solve technical problems and create new products and processes. I would like to recognize just two examples of scientific progress, conducted by my constituents, that will continue to help the United States maintain its role in the technology marketplace. My congratulations to Battelle for doing its part.

TRIBUTE TO JAMES CROWLEY

HON. JOSEPH M. McDADE

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 29, 1986

Mr. McDADE. Mr. Speaker, Jim Crowley, a resident of my congressional district and a legend of the sports world, died recently. His football expertise and his ability to lead and serve will be greatly missed. Jim was a mentor to many young people who later went on to successful careers, and they will miss his counsel and guidance as well.

Jim was the last living member of the famous Four Horsemen of Notre Dame. In 1924, the Four Horsemen pushed Knute Rockne's team to a 9–0 regular-season record and 17–10 Rose Bowl upset over Stanford.

It was during that successful 1924 season that Jim Crowley and Don Miller, covering the halfback positions, Harry Stuhldreher, the fearless quarterback, and Elmer Layden, fullback, were nicknamed the Four Horsemen.

Grantland Rice, sportswriter for the New York Times, holds the honor for naming the Notre Dame backfield the Four Horsemen. He wrote, after Notre Dame's 13–7 victory over Army on October 18, 1924:

> Outlined against a blue, gray October sky the Four Horsemen rode again. In dramatic lore they are known as famine, pestilence, destruction and death. These are only aliases. Their real names are: Stuhldreher, Miller, Crowley and Layden. They formed the crest of the South Bend cyclone before which another fighting Army team was swept over the precipice at the Polo Grounds this afternoon as 55,000 spectators peered down upon the bewildering panorama spread out upon the green plain below.

As a Notre Dame alumnus, I remember the aura of the Four Horsemen and I am sure it will live on forever throughout the halls of the fighting Irish.

Jim was a member of the National Football Foundation Hall of Fame, and the 1924 All-American Team. After graduation from Notre Dame in 1925, Jim went on to briefly play football for the Green Bay Packers and the Providence Steam Rollers.

Jim was also well known for his coaching abilities at the University of Georgia, Michigan State University, and Fordham University. He took Fordham to two bowl games.

Jim's mark on college football will be felt for many years. He was instrumental in the design of the Heisman Trophy, awarded annually to college football's most outstanding player.

Jim will be missed by many, but the legend that he created lives on to inspire countless others.

TO A NEW LEADER, BISHOP EDMOND BROWNING

HON. DANIEL K. AKAKA

OF HAWAII

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 29, 1986

Mr. AKAKA. Mr. Speaker, I look forward to joining with my colleagues in celebration of a great new leader, Edmond Lee Browning.

On January 11, here in Washington, DC, the Most Reverend Edmond Browning was installed as the 24th presiding bishop of the American Episcopalian Church. Having served with distinction as the bishop of my home State of Hawaii for the past 11 years, Bishop Browning now looks forward to serving a 12-year term as head of the American church. He is a singularly distinguished choice. In Bishop Browning, Hawaii's loss is truly the whole country's gain. For, in Bishop Browning, we have a man with a spirit of compassion, honor, and justice.

Bishop Browning has wasted no time in making clear to us his very real knowledge and understanding of our modern world in his address on the occasion of his installation. Recognizing the elements which alarm many, if not all of us, Bishop Browning spoke of the pain which exists around us. "There are tears of despair which we refuse to see," he said. "There are cries for help which we do not hear. There are those reaching out to be embraced whom we will not touch," he stressed.

In a world where "super powers posture over arms agreements while the lives of our children hang in the balance"; where "unjust governments deny basic human rights while inflicting torture and suffering upon millions of its citizens"; while "we live in an age where we have the technology to feed the world, and instead, millions are hungry and thousands die every day," Bishop Browning calls upon us, the "faithful politicians," to speak out against injustice such as the evil of apartheid and to stand up for the principles we value as people.

Bishop Browning further reminds us of the words of a great leader, John Kennedy, who called us to a vision 25 years ago, a vision where the "strong are just, the weak are secure and the peace preserved."

In Bishop Browning, I am certain that words such as these shall lose neither their significance, nor their direction. I extend my most sincere good wishes to this wonderful new leader.

TERRI FRANCIS JACKSON: SONGSTRESS AND HUMANITARIAN

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 29, 1986

Mr. GILMAN. Mr. Speaker, I wish to call to the attention of our colleagues the outstanding career and personal journey of Terri Francis Jackson.

Ms. Jackson was born 60 years ago in New York City, but was raised in Hillburn, NY, in Rockland County. She began singing in church choirs when she was only 4, and became a professional blues artist as a protege of the late great tenor saxaphonist, Gene Ammons. Throughout her career as a jazz/blues singer, she had worked in 42 States and made USO tours in Europe and Asia. She was particularly appreciated by resort audiences in southeastern New York, who compared her unique voice to Della Reese and Carmen McRae.

Tragedy struck Terri Francis Jackson in 1974, by way of a massive heart attack. A year later, she was declared legally blind. She subsequently became crippled by arthritis and has fought an ongoing battle against cancer and diabetes. Terri Francis Jackson suffered blows of fate which would have justly led others to withdraw from life.

Such was not the case with Terri Francis Jackson. Declaring, "I am not handicapped, I am handicapable," Ms. Jackson devoted her beautiful voice and her life to helping others. She has performed in and sponsored many benefit concerts to raise funds for scholarships for minority and handicapped students, for the Easter Seals Society, and the Handi-Van and Horton Memorial Hospital in Middletown, NY.

Not only did Terri not allow her physical problems to interfere with her work for others, she pursued her own educational goals, obtaining an associate of applied science degree in human services from Schenectady County Community College at the age of 55, and completing the requirements for a bachelors degree from Empire State College.

A reporter once wrote:

At the drop of a hat, Terri will manage to get herself and her wheelchair anywhere she can make music for the benefit of others. She will sing to raise money, she sings to bring pleasure to hospital patients, she sings for the joy of singing.

Mr. Speaker, on February 9, John Moultrie Productions Co., with the cooperation of the Arts Council of Orange Country, NY, will present a benefit concert honoring Terri Francis Jackson. Some of the leading figures of show buisness and in public life in the mid-Hudson region will come together to pay tribute to this unique, distinguished individual, whose life and accomplishments have been an inspiration to us all.

Mr. Speaker, I invite our colleagues to join in paying tribute to the remarkable Terri Francis Jackson.

A TRIBUTE TO RAUL VELASCO

HON. SOLOMON P. ORTIZ

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 29, 1986

Mr. ORTIZ. Mr. Speaker, I rise today to commend and pay tribute to Mr. Raul Velasco, host of the "Siempre en Domingo" television show, for his efforts in promoting Charro Days activities and his leadership in the Hispanic community.

Charro Days, which originated as a prelenten festival, is a 4-day celebration in which the United States and Mexico are joined in celebration of the cultures of these neighboring countries. During this time, there are a series of parades, dances, and parties to demonstrate the goodwill of both countries. It is a well-planned, major function which is enjoyed and eagerly anticipated by south Texans as well as our winter visitors.

Every year the city of Brownsville, represented by the Mr. Amigo Association, travels to Mexico City to select a new Mr. Amigo to serve as honored guest of Charro Days. This person is selected on the basis of his contribution to international friendship and development of mutual understanding and cooperation between the two nations.

Mr. Velasco was honored with the Mr. Amigo Award 13 years ago. He has since demonstrated his support for the Charro Days Association and the city of Brownsville by televising and promoting Charro Days activities on his television program "Siempre en Domingo." His program is viewed by over 130 million viewers weekly in such faraway countries as France, Italy, Holland, Japan, Korea, Panama, Venezuela, Equador, and Chile to name a few. Mr. Velasco strives to use his television show as an effective vehicle to educate and acquaint his viewing audience with the history and diversity of the Mexican culture. His presentation of the cross section of the many Hispanic cultures, which includes singers and movie stars and various talent acts, is viewed by Latin American countries all over the world.

Mr. Velasco has given so much of his time and effort on behalf of the Charro Days Association, and the Mr. Amigo Association as well. It is only befitting to pay such a high tribute to him for all his contributions to the Hispanic society. Without Mr. Velasco's contributions, in the way of his time, energy, and enthusiasm that he has given to promoting the Charro Days festivities, the yearly celebration would not be as widely known and enjoyed. I would like to express my deep appreciation for all he has contributed to making Charro Days a truly international event.

SUPERVISOR ROBERT O. TOWNSEND RETIRES FROM BOARD JANUARY 29, 1986

HON. JERRY LEWIS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 29, 1986

Mr. LEWIS of California. Mr. Speaker, I rise today to pay tribute to a long-time friend and colleague, Mr. Robert O. Townsend. Since 1974, Bob Townsend has served on the San Bernardino County Board of Supervisors and has had the honor of chairing the board for 4 of those 11 years. Upon his retirement, the board, and the county, will lose a dedicated servant.

Bob demonstrates all that a public official can hope to be. He is a man of integrity; his first priority being the citizens of San Bernardino County. His administrative talents are many, reflected in his terms as chairman of the board. Bob's dedication to the county is far reaching; his involvement in public affairs extends much further than the board of supervisors.

Through the years, Bob Townsend has been a driving force in the county. His leadership has manifested itself in various appointments to community groups. He was the project leader for San Bernardino County and commissioner of the California Public/Private Partnership Commission. Bob has served on the mayor's and President's Policy Committee, the San Bernardino County Public Improvements Authority, and the San Bernardino County Building Authority, to name just a few.

Bob has proven himself invaluable to the county on issues such as transportation, flood control, and power. His concern for the citizens of this valley have been demonstrated countless times through his involvement in organizations such as the Tri-County Council on Criminal Justice, the County Emergency Medical Authority, the Inland Manpower Association, the County Disaster Council, and the Air Pollution Control District Board.

I have always been able to rely on Bob during my years in Sacramento and in our Nation's capital. He is a warm, receptive man, and my respect for him as a public servant is immense. Together, the members of the board of supervisors provide a positive government for the county of San Bernardino. It has been both an honor and a privilege to work with the board, and especially Bob Townsend, in providing effective representation to the citizens of San Bernardino County.

Mr. Speaker, I ask you and my colleagues here in the House of Representatives, to join with me, family, and friends in wishing Supervisor Bob Townsend a healthy happy retirement. We'll miss you, Bob.

SUPPORT FOR A STRONG SYNTHETIC FUELS PROGRAM

HON. KEN KRAMER

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 29, 1986

Mr. KRAMER. Mr. Speaker, I have long been a supporter of a strong synthetic fuels program. During my first term in Congress, I was honored to be the only Republican Representative from the Rocky Mountain States asked to serve on the joint House-Senate Energy Committee, which developed the legislation that set up the Synthetic Fuels Corporation.

Following a commitment from the Federal Government, western Colorado invested substantial time and money in an infrastructure which would support the needs of the Union and Cathedrahl Bluffs oil shale projects.

Last month, the Government broke its promise to these Coloradans.

I would like to share with you an article from the Dallas Morning News which accurately reflects my sentiment in support of synthetic fuels and the hard work of the SFC Chairman Ed Noble. I ask that this information be printed in the CONGRESSIONAL RECORD:

[From the Dallas Morning News, Jan. 15, 1986]

SYNTHETIC FUELS ENDEAVOR LEAVES UNDETERMINED LEGACY

(By Jim Landers)

WASHINGTON.—Like a great elephant repeatedly wounded by hunters, Synthetic Fuel Corp. stayed on its feet for a long time before a final javelin blow from Congress last month brought it down.

The corporation was born in the 1980 Iranian oil crisis and killed five years later by a Congress more worried by budget deficits than oil imports. It may take another five years to discover how much of a contribution the corporation made to the country's energy security by backing four projects with about $1.5 billion in federal funds, because that contribution is dependent on the future course of oil prices.

If oil prices keep falling, the synthetic fuels campaign of the 1980s will seem like a waste of taxpayer money. The Reagan administration under the urging of Energy Secretary James Herrington, adopted this view at a December Cabinet meeting.

"The administration no longer believes continued funding of the Synthetic Fuels Corp. serves any useful purpose," Budget Director James Miller wrote Congress on Dec. 12. The letter doomed the efforts of some senators to keep the corporation alive.

If oil prices soar, then the four projects backed by the corporation could provide energy companies with a quick means of developing plants that turn coal and shale into oil and gas. Project sponsors and the outgoing directors of the corporation have taken this view and expect the country's gratitude will be apparent in another 10 years.

Together, the four projects backed by the corporation are designed to add the equivalent of 22,000 barrels a day of oil production (current domestic projection is 8.9 million barrels a day) to the nation's energy base.

The corporation spent far less money and backed far fewer projects than its supporters envisioned. Six years ago, Congress and the Carter administration talked of an $88 billion synthetic fuels effort. About $19 billion actually was appropriated by Congress, and the corporation was given $15.3 billion of that.

Synthetic Fuels Corp. chairman Edward Noble acknowledged that falling prices undermined the corporation, particularly the initial congressional mandate to finance 500,000 barrels per day of synthetic fuels production by 1987 and 2 million barrels per day by 1992.

But Noble said the corporation was able to provide the country with a "national security insurance policy" by fostering synthetic fuels technologies.

One of those technologies is coal gasification. When Synthetic Fuels Corp. was started, gas derived from coal was attractive because of pessimism about U.S. natural gas reserves. Now that the pessimism about gas reserves has dissipated, the technology used in coal gasification is being viewed as a possible solution for acid rain.

And after Congress and the Reagan administration last month decided the federal government had no business spending billions of dollars on synthetic fuels, a top presidential adviser last week recommended a $5 billion, five-year federal effort to develop technologies to reduce acid rain that have many similarities to the synthetic fuels effort.

Former Transportation Secretary Drew Lewis, President Reagan's special representative on acid rain, made the recommendation on Jan. 9 at the conclusion of a yearlong U.S.-Canadian study of the problem.

Two of the four projects funded by Synthetic Fuels Corp. are designed to transform coal into energy-rich gas that can be burned with a fraction of the air pollution generated by coal-fired boilers.

Dow Chemical Co. in Louisiana and a collection of firms in California led by Southern California Edison Co. received $740 million in Synthetic Fuels Corp. price guarantees for two coal gasification projects. The Dow Syngas project is expected to start operation in 1987, while Southern California Edison's Cool Water project has been turning coal into gas—and then gas into electricity—for 18 months.

"Cool Water is demonstrating the cleanest way yet devised for burning coal," Noble said. Several utilities have approached the Cool Water consortium about licensing their technology for other plants, he noted.

In the bill that killed Synthetic Fuels Corp., Congress saved $400 million for clean coal technologies development by the Energy Department while eliminating nearly $7 billion in spending authority.

"We got about two-thirds of the job done." Noble said. "We still lack projects to show us how to use Eastern coals and tar sands, and we could have done more on shale oil. If we'd had those other two or three plants, we could have added all our coal and oil shale to the nation's petroleum reserves—five times the oil reserves of the Middle East. As it is, we should be able to add two or three times all the reserves in the Middle East."

John Howard, President of Greenwich Oil Co. of Dallas, said the $60 million in loan and price guarantees awarded to his company by Synthetic Fuels Corp. in September could add 10 billion barrels of thick, tarry oil to the nation's useful oil reserves.

Greenwich Oil injects oxygen into a deep, sandy oil formation in Wood County, Texas, to produce an underground "fire flood" that makes the oil fluid enough to pump to the surface. The company hopes to produce about 1,600 barrels a day of useful crude oil extracted with fire flooding.

Synthetic Fuels Corp. agreed to guarantee Greenwich $40 per barrel for the first half million barrels of oil lifted from the field by fire flooding. The price guarantee is $22 per barrel more than the current market price for such heavy oil. But withoug the financial assistance, Howard said, Greenwich's Forest Hill heavy oil project probably would limp along for several years, waiting for prices to rise, without ever demonstrating the commercial feasibility of fire flooding.

"I believe the day will come in the not-too-distant future when we'll be back in a similar situation to what we went through in the 1970s and 1980," Howard said. "By 1990 or so, the United States once again will find itself a massive importer of crude oil, vulnerable to offshore disruptions. Our technology will be available then to anybody who wants it."

Noble and Cantrell Exploration Co., a Dallas oil firm competing with Greenwich for heavy oil development, wrote Synthetic Fuels Corp. objecting to the Greenwich's use of federal finances, but Howard called Forest Hill "the best project ever brought to the Synthetic Fuels Corp."

"This is an insurance policy and nothing else," Noble said. "If we don't need it, we didn't spend that much money on it."

NATIONAL READING IS FUN WEEK

HON. SILVIO O. CONTE

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 29, 1986

Mr. CONTE. Mr. Speaker, I was pleased yesterday to introduce a joint resolution designating the week of April 20 as "National Reading Is Fun Week." It is my hope that enactment of this resolution will call attention to the problems of illiteracy in our Nation while at the same time pointing out to America that reading is fun.

Mr. Speaker, 1986 marks the 20th anniversary of the founding of Reading is Fundamental, popularly known as RIF, a nationwide, nonprofit program which successfully motivates millions of children and young adults to read. RIF works for a literate America while preventing illiteracy—a problem that affects far too many of our citizens. As a nation, we all pay the price of illiteracy.

It is difficult to determine the exact number of Americans who are illiterate—a problem made more difficult because of the lack of a precise definition of the word. Generally, literacy studies use two definitions: functional illiteracy and the conventional definition. Functional illiteracy is generally used to describe persons who are incapable of understanding written instructions necessary to accomplish specific tasks or functions needed to lead a productive life. In the early 1970's, the University of Texas studied reading and writing competencies that were related to adult economic and educational success in contemporary American society. This adult performance level [APL] study estimated that 20 percent of Americans function as below a marginal level.

Other literacy studies—often conducted by the Census Bureau—have used a standard of conventional literacy: Individuals aged 14 years or over who are unable to read and write English at all. In 1985, the Census Bureau published an estimate of adult illiteracy for 1980, showing a rate of 0.5 percent.

Regardless of what studies are used, our Nation has made great strides to improve literacy in America. In 1870, the illiteracy rate using the conventional definition was 20 percent. As noted, it is now just 0.5 percent. Still, more needs to be done, and public-private partnerships can fill that role.

As the senior Republican on the House Appropriations Committee and its Subcommittee on Labor/Health and Human Services/Education, I worked to insure a funding level of $102 million for the Adult Education Act [AEA] for fiscal year 1986. The AEA is currently the major Federal program that provides basic education and literacy skills for adults. In addition, the subcommittee provided $5 million for library literacy programs—a new program never before funded.

Reading is Fundamental, is an outstanding example of private initiatives to combat illiteracy. The organization reaches young people early, helping them to become readers. In the last 20 years, RIF has brought more than 70 million books into American homes, opening up a world of reading to millions of children.

Mr. Speaker, reading is fun, and I am pleased to introduce this joint resolution commemorating Reading Is Fun Week, April 20 to 26, 1986. During this week, most of RIF's 100,000 volunteers, in every State in the Nation, will reach young people with activities to motivate reading and the opportunity to choose and keep books that speak to their interests and their dreams. I urge my colleagues to cosponsor this resolution.

THE ABORTION DEBATE

HON. DENNY SMITH

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 29, 1986

Mr. DENNY SMITH. Mr. Speaker, January 22, 1986, marked the 13th anniversary of the Supreme Court decisions legalizing abortion-on-demand in the United States. In solemn observance of these decisions, tens of thousands of concerned citizens gathered in Washington, DC, to express their support for the right to life for all in our Nation. Many of the marchers came great distances at their own expense, and should be commended for their dedication.

I would like to take this opportunity to express my opposition to abortion.

In 1973, the Supreme Court went far beyond its constitutional role of judicial review, and began establishing—in effect legislating—the Government's policy on abortion. The controversial Supreme Court decisions, Roe versus Wade and Doe versus Bolton, overturned antiabortion statutes in all 50 States. In the 13 years since these decisions, no legislature—State or Federal—has affirmed the right to an abortion.

Many constitutional scholars claim that the Justices first had to find—some say fabricate—the right to privacy in the 14th amendment in order to justify legalized abortion.

I would like to point out some of the obvious flaws in their argument justifying abortion. First, the right of privacy does not extend to all acts committed in private. Parents who abuse their children usually do so in private, but no one would argue that they have a constitutional right to carry out such assaults.

Second, the freedom of choice doesn't apply to all choices made. Someone may choose to rob a bank, but he certainly doesn't have a right to that choice.

The Constitution states that our Government was established, among other reasons, to ensure justice. Therefore, the Government must move to secure and protect the rights of minorities, at times in the face of opposition from the majority. Proabortionists claim that polls show a majority of Americans favor legalized abortion. Without debating the accuracy of these polls, I would like to point out that during other eras in our Nation's history and majority have favored such things as slavery and racial segregation, which we now view as abhorrent.

As a Member of Congress, I have a constitutional obligation to protect the right of life for all Americans, regardless of their age or condition of dependency. I hold this view in light of the overwhelming medical evidence that the fetus is indeed a living human being. After all, the fetus is most assuredly alive, or an abortion wouldn't be necessary to kill it. And if it isn't human, what is it? A dog? A cow?

By resorting to Orwellian double-speak, proabortionists have tried to discredit the humanity of the unborn child. Referring to the unborn as "tissue" or the "products of conception," they hope to hide the fact that abortion involves the taking of another human life.

The 16 million unborn children aborted since 1973 aren't the only victims of abortion, however. Women themselves have been victimized by this multibillion dollar industry. Witness the establishment of groups such as Women Exploited by Abortion [WEBA], an organization whose membership grew by over 10,000 in less than 2 years. All the members are women who have been traumatized as a result of having had an abortion.

The handicapped have also been the Court's victims. In the 1973 decision Roe versus Wade, Justice Blackmun set forth the dangerous "meaningful life" argument. Increased infanticide has been the result. Just as tragic, those who espouse this utilitarian, quality-of-life argument are telling the handicapped, the aged, and the infirm in our society that they are an inconvenience to others and are leading a life not really worth living. We should, instead, uphold the dignity of all individuals in our society.

Abortion is not a women's issue, but an issue of great concern for all Americans. That is why I support efforts to adopt a human life constitutional amendment, to affirm the right to life for all of us.

Unless the right to life is secure for all—born and unborn—it is secure for none. After all, in order to have the unalienable rights of liberty and the pursuit of happiness, one must first have life.

A TRIBUTE TO CARL WALKER

HON. BART GORDON

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 29, 1986

Mr. GORDON. Mr. Speaker, I rise to pay tribute to an outstanding public servant, Mr. Carl Walker, who retired on January 3 from the Social Security Administration after nearly 42 years of dedicated service.

Mr. Walker joined the Social Security Administration in 1945 soon after it was established by the Congress and was assigned to its Nashville office. His career as a public servant took him throughout the United States—he served in branch offices in South Carolina, Florida, Alabama, Tennessee, and Georgia. He was always known as the man you could count on to get the job done, whether it was unraveling bureaucratic redtape to get a check for a retired person or reinstating someone's disability pension.

His expertise within the Social Security Administration was well recognized by his superiors and in 1973 he was assigned the task of opening a branch office in Gallatin where he served as its manager until his retirement. Mr. Walker has become a symbol of effective Government service in Gallatin. Many times

my staff and I have called upon him for guidance in resolving my constituents' problems.

All of us in Tennessee will miss his guidance, but we wish him and his family many rewarding years ahead. Carl is married to Novice Houchen and they have three children and six grandchildren.

FEDERAL HIGHWAY AID AND MASS TRANSIT AID

HON. MARIO BIAGGI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 29, 1986

Mr. BIAGGI. Mr. Speaker, I have introduced legislation to oppose a Department of Treasury proposal that would have a catastrophic effect on our Nation's mass transit system. This legislation, House Concurrent Resolution 271, expresses opposition to the Department of Transportation proposal to consolidate Federal highway aid and mass transit aid into a single urban mobility block grant.

Our Nation's public transit system currently serves over 8 billion riders per year in 733 urbanized areas. This transportation system is used by citizens in all 50 States. A consolidation of funding would result in a 40-percent reduction in the approximately $4 billion provided in mass transit aid. A reduction of this magnitude would begin a massive and unavoidable decline in public transit. It is estimated that 15 percent of our mass transit services would experience an immediate shutdown.

I believe this represents a gross injustice to our Nation's communities and many citizens who depend so heavily upon our mass transit system. Mass transit is essential to any effective inter-city and inner-city transportation system and these cuts would severely limit, and in many cases curtail, travel opportunities. In addition, it is important to remember that public transportation provides the most accessibility to the elderly, the disabled, and the young.

A consolidation of funding for Federal highway and mass transit aid would have a debilitating effect on employees and businesses affiliated with our mass transit system. More than 137,600 jobs and $5,056,000,000 in business revenues would be lost as a result of this reduction in funding. It is clear that these proposed cuts would be counterproductive in terms of national economic stability and growth.

While deficit reduction certainly deserves our serious and immediate attention, the two most basic principles that should guide this effort are equity and fairness. Mass transit has already made a substantial contribution—nearly $1 billion directly and $2 billion indirectly since 1981. It is imperative that we maintain and preserve a strong and balanced Federal commitment to public transportation and oppose any efforts to further reduce funding for mass transit. At this time, I wish to insert the full text of my resolution into the RECORD for the benefit of my colleagues. In addition, I wish to call to your attention a recent article that appeared in the New York Times addressing this very issue.

TEXT OF HOUSE CONCURRENT RESOLUTION 271

To express opposition to the Department of Transportation proposal to consolidate federal highway aid and mass transit aid into a single urban mobility block grant.

Whereas draft legislation proposed by the Department of Transportation would consolidate federal highway aid and mass transit aid into a single urban mobility block grant;

Whereas this consolidation would be accompanied by a 40 percent reduction in the approximately $4 billion provided in mass transit aid;

Whereas mass transit now serves over 8 billion riders per year in 733 urbanized areas in all 50 States;

Whereas a 40 percent reduction in mass transit funding would result in a loss of support for more than 137,600 jobs and $5,056,000,000 in business revenues;

Whereas a 40 percent reduction in public transit funding would result in an unavoidable, catastropic and massive decline which could result in an immediate shutdown of 15% of mass transit services;

Now, therefore, be it

Resolved by the House of Representatives (the Senate concurring), That the Congress hereby expresses its opposition to this urban mobility block grant proposal and urges that federal highway and mass transit funding remain separate and adequately funded to ensure the continued effectiveness of each program.

REAGAN SEEKS CUT OF 40 PERCENT IN FUNDS FOR MASS TRANSIT

SINGLE GRANT PROPOSED—DRAFT PLAN COMBINES AID FOR ROADS, SUBWAYS AND BUSES BUT TOTAL IS SMALLER

(By Robert Pear)

WASHINGTON, January 4.—Transportation officials say President Reagan, as part of his budget for the fiscal year 1987, will propose combining Federal aid to highways and mass transit in a single grant with reduced funds.

Under the proposal, city and state officials could use the money for highways, subways or buses, depending on local needs, but the total amount of Federal money available for mass transit—$4.1 billion last year—would be reduced by 40 percent or more.

The proposal, which is subject to approval by Congress, is set forth in a "concept paper" and in draft legislation prepared by the Department of Transportation. Administration officials gave additional details in interviews this week, saying the new consolidated grant would be the major source of Federal aid to mass transit. But there would still be other sources of highway funds, probably more than $9 billion, independent of the block grant, the officials added.

PROSPECTS IN CONGRESS

Congress has rebuffed many of President Reagan's earlier efforts to reduce spending for transportation, including his proposal to eliminate Federal operating assistance for local mass transit systems. Congressional aides said Congress was more likely to cut mass transit funds this year, though not as much as Mr. Reagan wanted.

In a recent speech to transit officials, Ralph L. Stanley head of the Federal Urban Mass Transportation Administration, said: "We are proposing an urban mobility block grant that would combine Federal highway and transit capital funds in large urban areas. The funds could be used for any highway or transit capital project."

Capital expenses include the construction, purchase and improvement of transit facilities and equipment such as subway cars, tracks, signal systems, buses and bus depots.

DISTORTIONS AND FIASCOES

Mr. Stanley's deputy, Alfred A. Delli-Bovi, said the current Federal programs "distort the priorities" of local officials, who often design transportation projects simply to get Federal money, not to meet genuine local needs. As a result, he said, "we have had fiascoes such as tunnels to nowhere in New York and People Movers in Detroit."

The long-delayed 63d Street subway tunnel in New York City was to have included a second, lower level for Long Island Rail Road trains, but the project has never been completed because of financial constraints. The People Mover, an elevated transit line under construction in Detroit, faces far higher costs than originally projected.

Officials in New York and other cities said the additional flexibility of a block grant was desirable, but they expressed concern about the possible cuts in funds.

Preliminary Federal calculations show that aid to the New York Metropolitan Transportation Authority, about $550 million this year, would be cut roughly in half under the proposal.

President Reagan's budget for the fiscal year 1987, which begins Oct. 1, is to be sent to Congress early next month. White House officials said the cuts in mass transit assistance were part of a package of $50 billion in savings that must be achieved in 1987 to comply with a new Federal law that seeks to balance the budget by 1991.

Leonard S. Simon, assistant executive director of the United States Conference of Mayors, said mayors "would welcome the additional flexibility, but would be extremely concerned about any major cuts" in Federal support for mass transit.

The Federal Government provided $4.1 billion in aid for mass transit in the last fiscal year, and Congress has appropriated $3.7 billion in the current fiscal year, 1986. In each of the two years, about $1.1 billion comes from the Federal Highway Trust Fund; the rest comes from general revenue.

Administration officials said Mr. Reagan would propose slashing, or perhaps eliminating, the general revenue contribution, which now accounts for 70 percent of all mass transit aid. Some, but not all, of this loss could be made up by switching Federal funds from highway programs to mass transit. That decision would be up to local officials under the block-grant proposal.

IDEAL PLACE TO CUT

Bonnie B. Whyte, a spokesman for the Federal Urban Mass Transportation Administration, said Federal officials regarded mass transit as "an ideal place to cut" because it was "primarily a local function." In addition, she said, the officials believe that mass transit should have "a dedicated source of revenue" earmarked for the purpose.

There is a specific source of revenue for the $1.1 billion in mass transit assistance derived from the Highway Trust Fund. That represents one penny of the 9-cent-a-gallon Federal excise tax on gasoline. But there is no special source of revenue for the other Federal aid to mass transit. The general revenue contribution is more likely to be cut becaue it is not earmarked for transportation, officials said.

Officials at the Transportation Department said Ray A. Barnhart, head of the Federal Highway Administration, had insist-

ed that Federal money for the construction, repair and maintenance of interstate highways be kept out of the new block grant. Such highways have long been a concern of the Federal Government because of their role in interstate commerce and national defense.

Federal aid for highways totals $12.8 billion this year. Of this, Congress has authorized $4 billion for construction and $3.1 billion for resurfacing and major repairs on interstate highways.

Originally, in the proposal submitted to the Office of Management and Budget by Transportation Secretary Elizabeth Hanford Dole, only a portion of Federal mass transit money was to be merged into the block grant. But budget officials said they had decided to pare Federal aid to mass transit and put most of the remaining funds into the block grant.

The block grant account, they said, would consist of roughly $1.1 billion in mass transit money and $1 billion to $2 billion in highway money. The exact amounts have not yet been determined.

A document prepared for submission to Congress with the President's budget says: "The Administration believes that urban mobility issues should be addressed at the local level, and that local officials should determine whether to make highway or transit investments based on local transportation needs rather than the source of Federal funds."

ROSEMONT, ILLINOIS' 30TH BIRTHDAY

HON. HENRY J. HYDE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 29, 1986

Mr. HYDE. Mr. Speaker, on Monday, January 20, 1986, the village of Rosemont, IL, officially observed 30 years of incorporation as a village: three decades of phenomenal growth and progress that has helped Illinois become an important center of business and tourism.

The village of Rosemont is a textbook example of a spirited community working together to create a town run like our country's most successful businesses: efficient operation, steady growth, team effort toward clearly delineated goals.

Rosemont's wide variety of operations run efficiently and profitably because of the total involvement of village residents. Through the years, each resident has contributed his or her own time and talents to the continued progress of the village.

We salute Mayor Donald E. Stephens and the people of village hall: Trustees Lorraine Clemmensen, Anthony D. Esposito, Hubert Langer, Emmett Michaels, Steven Minale, and Leslie Scott, and Village Clerk Irene Kolaski. Other dedicated personnel at Rosemont Village Hall include Deputy Mayor Donald E. Stephens II, Finance Officer Ray Gold, Deputy Clerk Frances Stevens, Finance Clerk Lee Doberton, Purchasing Coordinator August Sansone, Health and License Officer Joe Rizzo, Executive Secretary Gail Stephens, Clerk Rosalie Lennstrom and Receptionist Isabelle Seib.

At Rosemont/O'Hare Exposition Center, Managing Director James Freeman and Peter Lombardi, executve director of the Rosemont/O'Hare Convention Bureau, bring important, income-producing trade shows to Rosemont. With the help of Jeff Mahnke of Rosemont Catering Services, and David Houston, president/general manager of Rosemont Exposition Services, exposition managers and business travelers receive top-drawer attention.

Rosemont's Public Safety Department helps maintain order and safety for the 18,000 business people and tourists who visit Rosemont each day. Jack Hasselberger, director and chief of patrol; Gary Hopkins, deputy director and fire chief,; and Mel Ramones, captain in charge of special services, coordinate these efforts. Tom Clinger, captain in charge of patrol division and Lt. Roy Evans of the services division, lend their talents. Rosemont's considerable traffic and crowds are controlled by the Rosemont Public Safety Auxiliary Department, under Lt. Jack Green. Vito Corriero directs a public works department that keeps Rosemont streets clean and clear for visitors.

In serving its visitors, Rosemont does not forget its residents. Rosemont is a town that reveres its senior citizens and school children. Residents enjoy a park district that provides activities for young and old throughout the year, under the leadership of Robert Thompson and Robert Koehler. Dr. Frank Tavano, superintendent of Rosemont Elementary School, heads a staff of dedicated professionals who provide Rosemont school children with the tools for tomorrow.

But Rosemont refuses to sit on its laurels. Not content with already outstanding accomplishments in business, tourism and civics, the village of Rosemont presses on in realizing the potential of this tiny parcel of land adjacent to the world's busiest airport, O'Hare International.

Late last year, Mayor Donald Stephens and the Village trustees announced a half-billion dollar, 100-acre redevelopment project for Rosemont.

The program includes 10 major construction projects scheduled for completion in 1987. Among these projects are nine office buildings—comprising 9 million square feet—four world-class hotels; a unique 7,000 linear-foot Skybridge System, which will be the first of its kind in the Nation to connect a major exposition center with fine hotels and parking facilities; a performing arts theater; a 4,458-car parking garage; a new church; a new 12,000 square-foot firestation; and a 100,000 square-foot addition to the Rosemont/O'Hare Exposition Center. This addition will bring the Expo Center's total square footage to 450,000 square-feet on two levels, making the center the 11th largest exposition facility in the Nation.

This construction further solidifies Rosemont's position as the premier location for business, meetings and conventions, and travel. Rosemont already is home to nine of the world's most prestigious hotels; the Rosemont Horizon, a 19,000-seat sports, music and entertainment venue; the spacious Rosemont/O'Hare Exposition Center; and the versatile meeting facility, the Rosemont/O'Hare Conference Center.

Mr. Speaker, it is not often that we can point to a communitiy so alive with dreams and the vitality to reach them. We commend Mayor Donald E. Stephens and the residents of Rosemont. Their self-sufficiency and creativity is a symbol of America at its most industrious. We of the House of Representatives congratulate Rosemont for 30 years of success, and we wish them a bright future.

NICHOLAS JOHN LOUNTZIS

HON. GUS YATRON

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 29, 1986

Mr. YATRON. Mr. Speaker, it is my great honor today to recognize the outstanding accomplishments of my good friend, Mr. Nicholas John Lountzis. Nick, best known in the Reading, PA, area, as owner of Nick's Chat-a-While Inn, will be celebrating his 92d birthday on February 17, 1986. Nick's accomplishments form a real-life Horatio Alger "rags-to-riches" story and his success personifies the American dream for countless immigrants who have become a part of our great Nation.

Nick was born in Vousdre, Greece. He spent his early years as a shepherd, and at the age of 17, he emigrated to the United States with $25 in his pocket and knowing only one word of English—"Boston." He spent the next few years working in several businesses in Boston, Maine, Detroit, and Chicago. In 1918, Nick joined the infantry, nearly arriving in France for the armistice. He was stationed in Texas where he earned the rank of corporal.

The early 1920's were a time of hardship for Nick, but, through much dedicated hard work and perseverance, he was able to get back on his feet and eventually bought a luncheonette—the Alps—in New York City. After several years in New York, he returned to Chicago where he met his future wife, Anna Allushuski, a coal miner's daughter from Girardville, PA. They married in 1930 and had a son, Nicholas, Jr., in 1932. Nick and his family came to Reading, PA, in 1934 and permanently settled in the area.

Nick started out in Reading at the historic Crystal Restaurant where he was a highly acclaimed and popular mixmaster. At this time, Nick and Anna were blessed with the birth of their second son, William. Nick was instrumental in many innovations which helped make the Crystal into Reading's most popular restaurant. After years of success at the Crystal, he was ready to operate his own establishment and purchased the Chat-a-While Inn on February 17, 1947—his wedding anniversary. His past achievements were repeated at the Chat-a-While as it became established as one of the finest restaurants in the area. Nick used his entrepreneurial skill to help set up two other restaurants—the Riveredge and the Valley Inn. He still greets guests at the Chat-a-While with the congeniality and friendliness for which he has been known for years. His two sons and grandson have continued this fine tradition.

In addition to his business activities, Nick has been involved in a number of community organizations. He has arranged for more than a half-dozen family members and friends to come to the United States from Greece. He

also remains active in St. Matthew's Greek Orthodox Church where he has served a 5-year term as president. Nick has also served as treasurer of AHEPA and has been involved with the Masonic Blue Lodge, the Shriners, the American Legion, the National Restaurant Association and the Greek Democratic Club.

Nick's career forms a shining example of what can be accomplished in this Nation through hard work, dedication and perseverance. Nick Lountzis has made a significant contribution to this country and the Reading area and has brought countless joy into the lives of his family and his many friends and admirers. For my own part, I feel honored to count Nick as a friend and it gives me great pleasure to recognize him on this occasion. I know that my colleagues will join me in wishing Nick Lountzis a very happy 92d birthday and continued success in the years to come.

H.R. 4057 WILL REACTIVATE COLA'S

HON. ROBERT W. DAVIS

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 29, 1986

Mr. DAVIS. Mr. Speaker, yesterday I introduced a bill to correct an injustice. Is it fair that not all senior citizens will receive their COLA's this year? In the push to pass Gramm-Rudman, many Members may not have realized that all COLA's for senior citizens were not protected. Sure we granted the COLA for veterans and for Social Security recipients, but there is a significant population of senior citizens who will not get a COLA—yet their incomes are just as fixed.

As you know, Federal retirees, military retirees, and a number of other groups lost their 1986 COLA under Gramm-Rudman. H.R. 4057 would restore those COLA's without jeopardizing the effort to meet Gramm-Rudman deficit reduction targets.

The key word in the title is "fairness." Congress has decided that Social Security and veterans compensation programs should receive COLAS's. These other retirement programs should too. One Federal retiree who recently wrote me put it best, "I am a senior citizen, too."

While I have just begun the process of briefing the appropriate organizations on this legislation, I am pleased to report that the initial response has been good. Already two groups—the Non-Commissioned Officers Association and the Association for Retirement Equity—have lent their support, and I expect many more will follow in the days ahead.

Reinstating the COLA's to all of the below mentioned retirement programs will cost $994 million. To insure revenue neutrality, each agency or department will be asked to absorb a proportional share of the $994 million. That share will be determined by the size of the agency's budget in relation to the total Federal budget. Each agency will have the discretion to make its own internal reductions. Estimates of two agency shares are $4 million for the Department of State and $145,000 for the FCC. These examples show that each agency will not have an unreasonable share to absorb.

The following retirement programs would receive COLA's—retroactive to January 1—with this legislation:

(1) Civil service retirement and disability fund.
(2) Military retirement fund.
(3) Coast Guard retirement pay.
(4) Railroad retirement (Tier II).
(5) Comptroller General retirement system.
(6) NOAA retirement.
(7) CIA retirement and disability fund.
(8) Retirement pay for commissioned PHS officers.
(9) Foreign Service retirement and disability fund.
(10) Special benefits, FECA.

Certainly some would argue for a permanent change to avoid fighting the COLA battle every year. However, in light of current fall out over Gramm-Rudman, it is unlikely that Congress would agree to a permanent guarantee of these COLA's. I see this 1-year change as a compromise that will buy time to negotiate a long-term solution to this inequity.

I urge my colleagues to join me in correcting this injustice by cosponsoring H.R. 4057.

SKIP SHINES FOR GUAM

HON. BEN GARRIDO BLAZ

OF GUAM

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 29, 1986

Mr. BLAZ. Mr. Speaker, a large part of our effort here is to inform and enlighten our colleagues and the public about the communities we represent. I am pleased to report I recently had spirited help with that responsibility from a group of young ambassadors of goodwill.

A group of talented children from the territory of Guam made a national tour in December to help better acquaint our fellow Americans on the mainland with the people and culture of our community and the role we play in the American family. Led by Mrs. Teri Lee Knapp, the organization—the Sunshine Kids in Production [SKIP]—presented several shows, culminating with a performance at the John F. Kennedy Center for the Performing Arts during the Christmas holidays.

SKIP is an experienced and entertaining troupe of singers, dancers, actors, and actresses, made up of about 20 children, ranging in age from 5 to 14. The youngsters have been performing for several years and have made a significant contribution through charity performances within the territory as well as educational and artistic exchanges outside Guam.

Their performance at the Holiday Festival, a special Christmas presentation composed of groups from around the Nation, capped a very successful tour across the Nation. They provided Washington and audiences across the country with an entertaining introduction to Guam.

I was pleased to be able to provide a tour of the Capitol for SKIP and cohost with the Guam Society a reception for the group which was well attended by members of the Guam community and their friends in the Washington area.

The children, their sponsors and leaders should be commended for their fine effort in behalf of Guam. Through their dance and song, they conducted their own version of the People-to-People Program in a truly enjoyable and meaningful way.

COMMEMORATION OF THE COMMUNITY BROTHERHOOD AWARDS BANQUET DAY

HON. DOUGLAS APPLEGATE

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 29, 1986

Mr. APPLEGATE. Mr. Speaker, I am privileged today to bring to the attention of my esteemed colleagues in the Congress the First Annual Community Brotherhood Awards Banquet Day, which will take place on February 22, 1986, and will be hosted by the Quinn Memorial A.M.E. Church in Steubenville, OH. Since 1926, Brotherhood has been a traditional theme of the month of February and February 22, 1986 has been proclaimed as Brotherhood Day by Mayor Dave Hinderman of Steubenville, OH and by Mayor Frank Laymen of Winterville, OH.

This ecumenical celebration is being organized with the cooperation of all church denominations and is supported by the Inter Faith Ministerial Alliance to promote the idea of service to the community and to humanity. The banquet will recognize people who have made significant contributions in public, civic, and religious affairs and who have worked in some way toward better relations in their community. Five awards will be given to those people who have demonstrated brotherhood in a service area in their respective fields. By looking at these outstanding individuals as models to aspire to, the community can reflect upon the goals and objectives of brotherhood in their everyday living.

Mr. Speaker, I am pleased to have this opportunity to express my support of the Quinn Memorial First Annual Community Brotherhood Awards Banquet, honoring the spirit, importance, and significance of brotherhood and to congratulate those exemplary individuals who have helped their community grow in a meaningful way. It takes committed community members, such as those who will receive awards at the banquet, to serve as examples of how we can work toward a more perfect and peaceful society.

THE WORLD CHAMPION CHICAGO BEARS

HON. CHARLES A. HAYES

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 29, 1986

Mr. HAYES. Mr. Speaker, after the most lopsided victory in Super Bowl history, there is no doubt about who is No. 1. The Chicago Bears are now the undisputed football champions of the world. But the way in which the Bears won this championship should not be misunderstood. By winning 18 games with just 1 loss, they have tied for the most victories ever by an NFL team. Along the way, they

created a video and a song, "The Super Bowl Shuffle," which is helping to raise thousands of dollars for the homeless and the hungry in the great city of Chicago. They have created great, memorable entertainment for millions around the world. They have put together a defensive team that should make the Pentagon take notice—no hammers for $435 or toilet seats for $554—just good, solid defense. And what a team. Not a team of superstars, but a team of characters that the entire city can identify with; from the irrascible Jim McMahon to the immovable William "The Refrigerator" Perry; from Yale graduate Gary Fencik to Walter Payton "Sweetness" himself, the NFL's all-time leading running back.

Among all of the hoopla and victory celebrations, one of the moments that stood out most in my mind was watching the interview with Richard Dent immediately after the game. When the Super Bowl MVP was asked about his view of why the Bears did so well, he replied that he himself was especially inspired. "You know, Dr. King's Birthday was last week." he said. "That was pretty special to me."

Of course, Dr. King did not dream about Super Bowl championships for Chicago. But he did dream about results like those which the Super Bowl has produced. People all over the city of Chicago, from the northside to the southside, from the lakefront to the westside, from suburbia to the central city, all Chicagoans are proud of what the Bears have done, for themselves, and for their city.

PERHAPS KIDS MEETING KIDS CAN MAKE A DIFFERENCE

HON. TED WEISS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 29, 1986

Mr. WEISS. Mr. Speaker, I would like to bring to the attention of my colleagues an organization called Perhaps Kids Meeting Kids Can Make a Difference. Cofounded in 1982 by Mary and Marvin Sochet, residents of the 17th Congressional District of New York, which I am priviledged to represent, Kids Meeting Kids seeks to cut through international tensions by developing friendship between American and Soviet children.

President Reagan's recent summit meeting in Geneva was deemed a success for its significant proposals for increased people-to-people contact between United States and U.S.S.R. During the last 3 years Kids Meeting Kids has been progressing quite successfully toward that very same goal.

Through Kids Meeting Kids, Mary and Marvin Sochet have organized correspondence between more than 40,000 American and 40,000 Soviet children. They also sponsored a "summit conference" held on December 11, 1985 by eight American and eight Soviet kids ages 7 to 14. The conference was one of the first unhindered exchanges between United States and Soviet children in the United States.

As their next project, the Sochets are organizing the first summer-camp exchanges of young students between the two countries. The summertime exchanges are to be followed by school-year exchanges. The goal of Kids Meeting Kids is to organize the exchange of 250,000 American children in the U.S.S.R. and the same number in our country throughout the entire year.

I believe that the presence of thousands of children can help to reduce the suspicions and mistrust that have let us to acquire mountains of strategic weapons. The organized exchange of letters and the recent kids "summit conference" remind us that American youngsters and their Soviet counterparts recognize the urgency of achieving world peace. A summer exchange program would seem to be the logical extensions of their efforts.

I commend Mary and Marvin Sochet for their leadership in Kids Meeting Kids and applaud their efforts to further friendship and peace between the United States and the Soviet Union.

A TRIBUTE TO MAYOR MARGE BOON OF GRAND HAVEN

HON. GUY VANDER JAGT

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 29, 1986

Mr. VANDER JAGT. Mr. Speaker, I would like to ask you and our distinguished colleagues to join me in saluting a remarkable woman, an outstanding community leader and a dear, personal friend, Mayor Marge Boon of Grand Haven.

The Muskegon Sunday Chronicle recently ran a feature article on Mayor Boon's contributions and her efforts to make life better for all the people of Grand Haven. I'm not at all surprised by this recognition as Marge Boon deserves the praise that this article affords her for her exemplary record of exceptional accomplishments in public service. I am grateful for the opportunity to commend this article to my colleague's attention.

[From the Sunday Chronicle, Dec. 29, 1985]

SHE'S A BOON—NOT EVERYONE AGREES WITH HER, BUT SHE IS THE MAYOR OF GRAND HAVEN

(By Susan E. Harrison)

She is a woman in power.

That alone makes her subject to stereotype.

She also is first in her field.

Add that to the power she wields, and the combination assures her of public scrutiny at every turn.

And brings up the subject of double standards.

A woman doing a man's job: Can she be judged on her own merit?

Then there is the issue of her personality.

This woman is strong, aggressive, competent, straightforward.

Or should that be hard, brash, brusque and pushy?

The description depends on the day, and the crowd.

Like many "firsts," Majorie A. Boon, has discovered the barometer that measures her public personality and political career is not always the same as the one used to assess her male counterparts.

But such discrepancies come with the territory of being the first woman mayor in the city of Grand Haven's 151-year history.

It is not easy ground to break.

If Mrs. Boon were a man doing the things she does, making the public impression she does, would she be described as brash? Or pushy?

"My answer is going to be no," says city manager Larry Deetjen.

Or are those words only used to describe women in power?

And are they shaded with negative implications?

"I think we are over the issue of gender," Deetjen says, "even in Grand Haven."

But Mrs. Boon, the woman who has hurdled political barriers and erased gender gaps in Grand Haven since the year 1970, knows all too well the trials of being the first woman in one of the last bastions of male dominance.

"Honey," she says, "I know how Jackie Robinson felt."

The list of credits behind Marge Boon's name goes on forever.

First woman appointed to Grand Haven's planning commission in 1970.

First woman elected to Grand Haven City Council in '71.

First woman to run for mayor of Grand Haven, in '79 (she was defeated).

First woman elected as mayor of Grand Haven in '81.

And that's just for starters.

In 1983, she ran unopposed for the mayor's office.

In September 1985, she was elected president of Michigan Municipal League—an organization representing the city managers, clerks, mayors, attorneys and staffs of 500 Michigan cities.

Mrs. Boon is only the second woman in the league's 90-year history to hold the position.

"I think they're finally seeing that I'm serious," Mrs. Boon says. "Today, I can call people up and have them believe what I'm saying. Is that power? I don't know. I do know it's respect."

But when the votes were tallied in Grand Haven on election night—Nov. 5, 1985—Mrs. Boon escaped defeat by only 126 votes over her opponent James Cook.

"When you've got a strong candidate who moves fast and gets things done, it's always easy for an opponent to criticize and be negative," says Deetjen. "When you take a stand, you're going to get more opposition. It's the name of the game."

At issue during the campaign, according to Cook, were a "communications" imbalance between city hall and city council—and a too-optimistic view of the last few years' economic recovery in Grand Haven.

Mrs. Boon doesn't talk much—as a matter of public record, at least—about her near-defeat in November.

She does, however, continue to sound the call for teamwork: a favorite rallying cry of hers during the election and throughout her term of office.

"I don't like arguments (among city council members), especially in public meetings," says Mrs. Boon "I don't want anybody badmouthing anybody."

It is the council's job to "set policy," she says, not to "interfere with the administration of the city.

"It's so important for the council and city manager to work as a team and to move in one direction," she says.

The 55-year-old Mrs. Boon learned the value of teamwork—and a tight adherence to protocol—as a member of the Tri-Cities League of Women Voters long before she entered the political arena.

"The League was an outlet for my energies when I was diapering and taking care of my children, " she says.

Those children—Cristine, Dennis and Amy—are all in their 20s now; and off on careers of their own, leaving their mother free to work in politics and their father, Maurice, extra time to give his job as a sixth-grade teacher in Grand Haven school system.

Mrs. Boon started her career as a science teacher in Grand Haven, right after graduation from Hope College. She married at age 26.

"In those days, you were basically told they'd see you after your last kid was out of high school," she says.

So Mrs. Boon settled down to the job of raising kids, and she joined the League of Women Voters.

It was the League, all those years ago, that taught her the most basic of rules that she's taken into politics—study the problem long and hard before speaking publicly.

"It's going to sound so trite, you know what they say about women: 'She does her homework,' I could kill "em, wring men's necks when they say that," says Mrs. Boon. "But the League teaches you don't speak up until you know."

It was because of the League, indirectly, that she entered politics. In 1970, when Grand Haven City Council members cast about for new planning commissioners, they remembered the name of League member Marge Boon. The League—and Mrs. Boon—had impressed council members with their studies and programs.

Until then, Mrs. Boon and politics had been separate entities.

Having grown up in Grand Rapids, Mrs. Boon was breaking new ground in college during the 1950s as a woman majoring in sciences.

She always had been on the edge of tradition, she says—taller than most women at 5-feet, 9-inches; a female science teacher in the 1950s; married at 26—comparatively late, at the time; Grand Haven's first woman mayor even though she's not active in party-line politics, and even though she didn't have training in politics early on.

Mrs. Boon credits the league as the first place that taught her to be a team player.

"That was something women in my age group did not learn how to do. We did not have the arena for that process of learning," She says.

The spirit of teamwork is something she insists on projecting, even though she is the one most usually in the public spotlight—not the other council members or city staff.

"Very honestly, it's been wonderful, but I'm saying it's not just the mayor; it's the whole team—the council and the administration that does everything to get you successful," Mrs. Boon says.

Her focus since Day One of her administration, and the issue that has garnered her the greatest publicity, has been on economic recovery.

When she became mayor in 1981, Grand Haven had lost two of its biggest employers: Cooper Industries and Oldberg Manufacturing.

"And Eagle-Ottawa was very edgy," she says, "and we almost lost Bastian-Blessing."

Her Honor, the Mayor, took matters into her own hands.

"We came down on them like thunder to stay here," she says. "As the mayor, I had to step forward and let those people know we care about them and that we wanted them to stay in Grand Haven."

With that single move—taking the initiative, although there was no precedent for city politicians to call on industry—Mrs. Boon became one of Grand Haven's most public mayors.

"It was just a thrilling experience, no, that's too femmy of a word," she says, stopping herself. "It was a super experience to go into these factories and see what pride these blue collar workers have in their jobs."

Jobs—and more jobs—always have been Mrs. Boon's political focus.

"The council told Larry (Deetjen) that we'd back him up, we'd do anything he wants, as long as he's creating jobs," she says.

When she took office, Mrs. Boon says, Grand Haven had lost about 900 jobs with the closing of Cooper and Oldberg. Since that time, she says, 900-plus new industrial jobs and 400 new commercial and office jobs have been created.

But Mrs. Boon was criticized during the '85 election by opponents who asked for proof of that many jobs—and they questioned how well-paying the replacements are in comparison to the old ones.

"I'm sick and tired, dammit, of hearing how do I know we have this many new jobs," Mrs. Boon responds. "I went out and counted them."

Grand Haven's industry is more "diversified," she says, than it was in 1981—with new companies springing up, new companies that might have to start at a lower wage base than the older ones.

"Very honestly, it's none of my business what a CEO pays his people," she says.

The statement is typical Marge Boon.

"Look, I can't make things happen on my own," she says. "I can call people. I can work hard. I can talk to people, but that's all."

She lets the mistake slip by once.

But she can't let it go a second time.

"May I correct the city clerk?" Mayor Boon asks mid-meeting.

All eyes turn toward the mayor.

Grand Haven City Council chambers are sparsely populated this evening, just two days before Christmas. The agenda is short and until now, the meeting has moved rather quickly, spurred on by holiday obligations and good cheer.

The meeting grinds to a halt.

Mrs. Boon turns to city clerk Lynne Oleszczuk who has twice called the roll call vote incorrectly.

"The mayor always votes last," advises Mrs. Boon.

The city clerk takes notice.

The roll call continues.

This time, Mrs. Boon's name is last.

As mayor, Marge Boon not only sits at the center of things at the council table; she *is* the center of Grand Haven council politics.

She runs a tight ship, allowing little room for inefficiency in the running of meetings, putting up with no slips of protocol in city business.

"I've sat too long at meetings that are run ineffectively," she says, "where they've lost their audience and the reason for them being there. We don't want that in Grand Haven."

That is Marge Boon, mayor behind the scenes.

But she doesn't stay there long.

Mrs. Boon keeps a high profile.

During her administration, she has played host to former President Gerald Ford during his 1984 visit to Grand Haven. She christened the Coast Guard Cutter Escanaba in Middletown, R.I., in August.

And just last week, she waited for—but was eventually stood up by—Vice President George Bush, who was to inspect the Grand Haven shoreline eaten away by erosion.

Her highly visible approach to the mayor's position—both on a local and state level—has earned her both criticism and compliments from her constituents.

But whether supporter or detractor of this mayor named Marge Boon, the people of Grand Haven know who she is.

"She was an outsider to the network when she came into politics, and that made it more difficult," says Deetjen. "She's had to be aggressive. And yet, she is also very personable, warm and loves her family. She is playing a role here in City Hall, just as I am. Here, I'm aggressive, but I also have a family and am human."

Since taking office, however, Mrs. Boon's public image—and personality—have become as much an issue in Grand Haven as her accomplishments in office.

"The thing I like least is being misunderstood," says Mrs. Boon. "My hide is not tough enough. I'm still a 'wuss' inside."

When she reads her political gaffes quoted on the front page of newspapers throughout western Michigan, or finds herself at odds with reporters or council members, she says "she dies a thousands deaths."

"I think: I've done it again," Mrs. Boon says. "I sound so hard and, and—so strong."

Her public image is a complex, intricate combination of events and personality quirks—which onlookers discover can be a contradiction in terms.

Her private side presumably is just as complicated.

She is a mayor who makes "whistlestop" visits to grocery stores to check out the public's mood because she doesn't "have time to coffee klatsch," a mayor whose language can be earthy in private conversation, a mayor who still has lunch ready for a grown son and his wife most workdays because they are coming to the family home at noon.

She is a many-faceted public official.

On the one hand, it was Mrs. Boon's idea to give gifts to the families of the men serving on the Grand Haven-based Coast Guard cutter U.S.S. Acacia—in Sturgeon Bay, Wis., for repairs at Thanksgiving—because the men would not be home.

"We needed to do something for them to let them know we cared," she says.

On the other hand, when asked a question she doesn't like, she'll visibly bristle.

"Tell me," she challenges, "Why would you ask?"

And the conversation ends before it even begins.

She believes in being in control during council meetings as well as in private conversations. She has no tolerance for the games people sometimes have had to play.

"I'm old enough to be able to say, 'Hey, I don't need that tradition,' " Mrs. Boon says. "I am 55 years old. If I'm ever going to arrive, it's now."

PERSONAL EXPLANATION

HON. WILLIAM F. CLINGER, JR.

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 29, 1986

Mr. CLINGER. Mr. Speaker, I was absent from the floor of the House of Representa-

tives on January 23, 1986, as I was back in the 23d Congressional District on official business. Had I been present, I would have voted in the following fashion:

Rollcall No. 2: Journal—the House approved the Journal of Wednesday, January 22, "yea";

Rollcall No. 3: H.R. 2443—Expedited Funds Availability, the House agreed to the rule (H. Res. 357) under which the bill was considered, "yea";

Rollcall No. 5: H.R. 2443—Expedited Funds Availability, the House rejected the Wylie amendment that sought to clarify the regulatory responsibility of the Federal Reserve Board to preserve the soundness of and prevent abuses of the payments systems, "noe";

Rollcall No. 6: H.R. 2443—Expedited Funds Availability, the House agreed to the Bartlett amendment, as amended by the Shumway amendment that allows depository institutions to exempt checks from the availability schedules when the institution has reason to doubt the collectability of funds on a check, and provides notification of such action no later than the close of the next business day, "aye";

Rollcall No. 7: H.R. 2443—Expedited Funds Availability, the House rejected the Shumway amendment in the nature of a substitute that sought to replace the temporary and permanent schedules with a requirement that the Federal Reserve Board issue regulations to improve the check clearing and notification systems, "noe"; and

Rollcall No. 8: 2443—Expedited Funds Availability, the House passed the measure to limit the number of days a depository institution may restrict the availability of funds which are deposited in any account, "aye."

NEW CASTLE COACH HONORED

HON. JOE KOLTER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 29, 1986

Mr. KOLTER. Mr. Speaker, I rise to ask my colleagues to join with me in recognizing the outstanding service of New Castle Red Hurricane coach Lindy Lauro. Coach Lauro has just completed his 25th year of coaching at New Castle High School in Lawrence County, in my Fourth Congressional District of Pennsylvania.

Coach Lauro, in over a half century, has touched all phases in the world of football from junior high to the professional ranks as a player and coach. In 1961 he became head coach at his alma mater, New Castle High School.

His record at New Castle is 184 wins, 70 losses, and 13 ties. He has led undefeated teams in 1962, 1967, 1970, 1975, and 1984. Under his leadership the Red Hurricanes won three W.P.I.A.L. Championships, in 1967, 1973, and 1975.

Coach Lauro has dedicated his entire adult life to building confidence, character, and sportsmanship in youth of all ages. He is responsible for scores of boys advancing their education though college, who may otherwise have been denied were it not for their football experience.

Lindy Lauro is a fine example of the character of the people of New Castle. His dedication to the community has helped make New Castle a better place to live. And that is why I rise today, to call attention to Coach Lindy Lauro, before the full U.S. House of Representatives.

BEARS SUPERBOWL VICTORY IS AWESOME

HON. JOHN EDWARD PORTER

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 29, 1986

Mr. PORTER. Mr. Speaker, picking the Patriots to win Superbowl XX, Mr. Speaker, was akin to picking TIP O'NEILL to win the U.S. Open. The Patriots, a good team, never had a chance against the Chicago Bears, a great team—an awesome team.

The Bears didn't just shuffle, Mr. Speaker, they romped and stomped your Patriots all over the field, holding them to just one first down and negative yardage in the first half. In fact, it was only when the Bears let the first team rest that the Patriots could move the ball at all. If New England quarterback Tony Eason was sick prior to the game, he became terminal after the first 15 minutes. The Bear defense sacked him and his successor, Steve Grogan, a record-tying seven times.

Mr. Speaker, after your prediction that the Patriots would win the Superbowl, all of us on this side of the aisle look forward to your next prediction that you Democrats will pick up seats in this fall's elections!

TRIBUTE TO MARVIN LEWIS

HON. BARBARA BOXER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 29, 1986

Mrs. BOXER. Mr. Speaker, I would like to take this opportunity to pay tribute to a man who has done so much for the people of the San Francisco Bay area, Marvin E. Lewis.

As President of the Bay Area Rapid Transit Commission from 1949 to 1954, Marvin Lewis carried out his duties with such zeal and dedication that he has been bestowed with the title "The Father of BART."

As many of you know, BART, the Bay Area Rapid Transit, has been providing mass transportation to the ever-increasing population of the San Francisco Bay area for close to 10 years. As the "Father of BART," Marvin Lewis has made a substantial contribution to improving the quality of life for many bay area citizens.

The city of San Francisco is honoring Marvin Lewis with a day in his honor on February 6, 1986. Because BART could not have been created without substantial interaction between local and Federal Government, I think it is appropriate that I stand here today in the House of Representatives to salute Marvin Lewis' accomplishments and to thank him for all that he has done for the people of the San Francisco Bay area.

BILL INTRODUCED TO RESTORE COLA'S

HON. STAN PARRIS

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 29, 1986

Mr. PARRIS. Mr. Speaker, many of my colleagues are aware that cost-of-living adjustments for civil service, military, and railroad retirees are once again targeted—this time for elimination—under the Gramm-Rudman-Hollings budget balancing legislation. And while it is still too early to determine what additional cuts will be mandated for retirees by this law over the next 6 years, we already know that one of the first casualties of Gramm-Rudman was the 3.1-percent increase scheduled for 1986.

Although I strongly support a balanced budget, I also support a fair and balanced legislative remedy to our deficit problem. Once again, Government retirees are unfairly singled out for deficit reduction, while other groups are totally exempt. Gramm-Rudman, which claims across-the-board automatic spending cuts, actually spares three-fourths of the Government's programs and leaves retired Federal, military, railroad employees, and a few other groups to absorb the cuts.

In response to this legislative discrimination, I am introducing on behalf of Mr. WHITEHURST, Mr. BATEMAN, Mr. HOYER, and myself a bill to restore COLA's to retired civil servants, military personnel, and railroad employees. This bill, scheduled to take effect September 30, 1986, would exempt these groups for the proposed life of the Balanced Budget and Emergency Deficit Control Act of 1985. Like Social Security, the Federal military, and railroad retirees would have a COLA placed off-limits from automatic reductions. Unlike Social Security, these groups would have a COLA which, for the first time in years, would not be delayed, cut-in-half, or at the last minute eliminated.

Mr. Speaker, I voted against Gramm-Rudman because of its unbalanced approach to deficit reduction. Since its adoption, I know a number of my colleagues share my concern with regard to the Federal, military, and railroad COLA. I encourage those Members, whether they voted for Gramm-Rudman or not, to support my bipartisan bill and similar measures. Fairness is the only way we can achieve a balanced budget while honoring our original promise to maintain an adequate retirement system for this country's public servants.

TIMOTHY MENGEL RECEIVES EAGLE SCOUT AWARD

HON. GEORGE W. GEKAS

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 29, 1986

Mr. GEKAS. Mr. Speaker, it is my pleasure to bring to the attention of the Members of the House of Representatives the accomplishments of a young man from Selinsgrove, PA.

Mr. Timothy Mengel will be receiving the Boy Scout of America's highest award—the Eagle Scout—on Sunday, February 2, 1986, in Selingsgrove.

Timothy has been an exemplary Scout since he first joined as a Cub Scout where he received the Arrow of Light Award. Cub Scout's highest award. As a member of Boy Scout Troop 419, Timothy has held leadership positions of patrol leader, assistant patrol leader, chaplain's aide, and junior assistant scoutmaster. In 1985 he was honored as Troop 419 Scout of the Year. In addition, Timothy attended the Boy Scout National Jamboree in 1985 at Camp A.P. Hill in Virginia where he was chaplain's aide and an assistant patrol leader for the council troop.

In working toward his Eagle Scout Award, Timothy planned and completed a landscaping project for Wesley United Methodist Church and community. As part of this project he planted trees, painted and constructed signs, and, with the permission of the Pennsylvania Department of Transportation, placed street signs around the church to direct people to the church.

As if all this were not enough Timothy is also an emergency medical technician for an ambulance service in the Selinsgrove area and is an active member of the Selinsgrove High School Band.

Timothy Mengel should not only be congratulated on completing the requirements for the Eagle Scout but commended and thanked for his work in the Selinsgrove community. Congratulations Timothy and good luck in the future.

OVERSIGHT HEARINGS ON THE NATION'S CAPITAL TAXI SERVICE APPLAUDED

HON. RONALD V. DELLUMS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 29, 1986

Mr. DELLUMS. Mr. Speaker, I want to take this opportunity to congratulate Congressman MICHAEL D. BARNES, chairman of the Subcommittee on Government Operations and Metropolitan Affairs of the House District of Columbia Committee for his work and interest in conducting oversight hearings on the quality of taxi service in the Nation's Capital.

Over the years, I have received numerous complaints from residents, friends, colleagues, and family regarding the quality of service. Members of the Congressional Black Caucus have experienced such infractions as refusal to transport. The unfortunate experience of my wife last year with a rude taxi driver has given me more illustration of the nature and extent of the problem.

The House District of Columbia Committee has through the years maintained a continuing interest in taxi service and has conducted studies and held hearings on the taxicab industry in the city. The committee has intervened with problems at Union Station and National Airport in the past. We have to our distress reviewed the 1957 House District of Columbia Committee hearing record and found that the same questions were raised of the then Commissioner-form of government in the city and taxi industry representatives. Questions concerning the following were raised in 1957: limitations on the number of drivers; the use of zones versus the meter taxis; the then Revocation and Review Board's role in regulating the industry; and whether or not the entire control of taxicabs should be centralized in one agency.

It is my hope that as a result of this congressional hearing that we discover ways to remove impediments and insure decent responsible taxi service at a fair and equitable rate so that at long last these questions will be resolved and that the Nation's Capital will have the taxi service it deserves.

SOCIAL SECURITY TRUST FUNDS SAFEGUARD ACT OF 1986

HON. WILLIAM F. CLINGER, Jr.

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 29, 1986

Mr. CLINGER. Mr. Speaker, you may recall that last year when Congress could not agree on raising the debt ceiling, the Government teetered on the brink of default. It then dipped into the Social Security Trust Funds as a way of keeping the Government from going broke. In the process, the Social Security Trust Funds lost millions of dollars in interest that it would otherwise have collected. If the Government had actually gone into default, millions of our senior citizens would have been unable to cash their checks. This is not only wrong—it is absurd! The Nation's debts were not caused by Social Security, and I see no reason why Social Security Trust Funds should be used to bail the Government out of its fiscal mess.

The bill I am introducing today will forever protect the Social Security Trust Funds from being raided by the Government to pay its bills or help reduce the deficit. This legislation would make the Social Security Trust Funds truly separate from the U.S. Treasury, prohibiting any outside organization, including the Federal Government from tampering with it. Also, my bill would allow the Social Security Trust Funds to invest in federally guaranteed private bonds. The Board of Trustees would submit an annual investment plan to Congress for review and possible revision. These measures would ensure that there would always be money available to pay Social Security benefits to our senior citizens if the Government were unable to do so because of a fiscal emergency such as we saw happen late last year.

Our senior citizens deserve nothing less than the assurance that they will always be able to cash their benefit checks. We should not be trying to balance the budget on the backs of the elderly, and my bill would see to it that this never happens.

NATIONAL BOWHUNTER'S WEEK

HON. THOMAS N. KINDNESS

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 29, 1986

Mr. KINDNESS. Mr. Speaker, today I am introducing legislation which designates the week of July 7, 1986 through July 13, 1986 as "National Bowhunter's Week".

This resolution is meant to recognize the importance of bowhunting in our Nation's early history, as well as the growth of bowhunting as a sport nationwide. Nowhere is this growth and interest in bowhunting and American archery more evident than in Ohio's Eighth Congressional District, home to the International Bowhunting Organization and 1984 Olympic gold medalist in archery, Darrell O. Pace.

We are proud, in the Eighth Congressional District and throughout the State of Ohio, of the positive influence of sportsmen and women in teaching an appreciation for our history, environment and the American spirit of competition. Indeed, these efforts are to be commended.

In recognition of the contribution of bowhunting to the livelihood of our earliest Americans and its increasing popularity, I urge my colleagues to cosponsor the resolution.

ENTERPRISE ZONES GET RESULTS

HON. ROBERT GARCIA

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 29, 1986

Mr. GARCIA. Mr. Speaker, study after study show the effectiveness of enterprise zones in retaining small firms and stimulating new business and private investment, especially in high unemployment and below-median income areas. State after State has used enterprise zones to bring new life to neglected neighborhoods. For 5 years now I have worked to establish a Federal enterprise zone program. We now have plenty of tangible evidence on how zones run and their benefits.

Yet another study, by the Small Business Administration, recently examined enterprise zones in eight States and has confirmed the success of these zones in revitalizing city areas. Particular attention was paid to Pennsylvania's program, because it is an administrative rather than a legislative program. Though there is an annual appropriation of funds for the program, no State law has ever been enacted to set it up. Even so, in Philadelphia's American Street Zone, one of three zones in Philadelphia and in existence since 1983, 27 firms have sprung up in response to the incentives. The zone has attracted private investment of $7.48 million in its 2-year history, and 1,426 jobs have been created.

The continued message we get from the States that have tried enterprise zones is that they work. Not only are jobs created, but these jobs tend to go to the long-term unemployed. Businesses are expanding and new

ones are entering these zones, reversing a long trend of business decline and closings.

Enterprise zones are efficient in other important ways. They require virtually no new Federal bureaucracy. They provide incentives for private sector investment and job creation automatically rather than through lengthy grant application procedures. Highly important is the fact that should an enterprise zone fail to induce business activity, then it will not cost the taxpayer a cent. If tax credits are claimed, it is because people have been hired and a business has been formed or expanded.

So far, business, States, and local government have embraced enterprise zones enthusiastically. If Congress fails to follow up on the experience the States are now providing us, we will have missed a golden opportunity to help get jobs and to help our cities.

IN RECOGNITION OF NEW YORK STATE SENATOR RICHARD SCHERMERHORN

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 29, 1986

Mr. GILMAN. Mr. Speaker, I wish to associate myself with the remarks of my distinguished colleague from New York [Mr. FISH] who has called to our attention the outstanding public service performed over the past 16 years by New York State Senator Richard E. Schermerhorn.

Dick Schermerhorn, who resides in the city of Newburgh, NY, represents an area which straddles both my congressional district and that of our colleague [Mr. FISH]. Since his first election in 1970, Dick has become closely identified with a number of crucial issues, inlcuding fairer insurance laws, improved mass transortation for our area, and a better life for our police, our firefighters, and our veterans. The american Legion recently became one of many groups to honor Senator Schermerhorn for his service in public office and for his Americanism.

Senator Schermerhorn serves as chairman of the State senate transportation committee. His role on behalf of our youth has earned him recognition as the first recipient of the distinguished service award presented by the New York State Youth Bureau.

Mr. Speaker, it has not only been gratifying to work with Senator Schermerhorn, it is an honor to be able to refer to Dick as a friend.

In a few weeks, at its annual Lincoln day Dinner, the town of Newburgh, NY Republican Committee will present Senator Dick Schermerhorn with an award as "Republican Man of the Year." This award is not only fully earned, it is long overdue.

I invite our colleagues to join with us in saluting New York State Senator Richard Schermerhorn for a job well done.

MECHTILDE LAUER

HON. MATTHEW G. MARTINEZ

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 29, 1986

Mr. MARTINEZ. Mr. Speaker, I ask my colleagues to join me in saluting Mechtilde Lauer. Sister Mechtilde is being honored today, January 29, 1986, by the Catholic Commission on Aging of the Archdiocese of Los Angeles, for her outstanding endeavors helping the aging.

Sister Mechtilde has made many contributions to the people of Los Angeles. In 1968, after retiring from a long career as a high school and English as a second language teacher, she channeled her skills and energies into the new field of gerontology. Her first such efforts were with retired sisters in the Immaculate Heart Community, to which she belongs. She also became actively involved in the Hollywood-Wilshire Committee on Aging, the Affiliated Committees on Aging, and the Education Committee of the Los Angeles County Area Agency on Aging Advisory Council. Sister Mechtilde effectively dedicated hundreds of hours in planning, holding various offices, and volunteering. For 3 years she was editor of a fine newsletter for the Southern California Interfaith Coalition on Aging.

Sister Mechtilde has helped many senior citizens on a personal basis as well. She has taken communion and offered spiritual consolation and friendship to the sick and frail elderly in their own homes and in convalescent hospitals. Her personal contact shows her care and concern for the individual dignity of the elderly as well as her interest in the general problems of aging.

Sister Mechtilde continually participates in workshops, seminars, and classes to update her knowledge of gerontology and current events. She actively supports programs for Guiding Eyes, Inc., and helps provide reading materials for prison inmates.

Mr. Speaker, this Congress continually faces difficult decisions regarding Social Security, Medicare, and other bills that affect the elderly. We know how important are the actions that we take in this area. It is helpful to be reminded that our efforts on the national level are complemented by the dedicated and talented contributions of individuals such as Mechtilde Lauer.

A TRIBUTE TO NORMAN WOLLMANN

HON. JIM COURTER

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 29, 1986

Mr. COURTER. Mr. Speaker, it is my pleasure to recognize Mr. Norman Wollmann, a driver with Permacel Tape, North Brunswick, NJ, who was recently elected District Driver of the Year by Ryder Truck Rental, Inc.

Norman's meticulous driving has earned him an outstanding reputation in the transportation field. He was chosen to represent the New Brunswick District because he has achieved, among other things, over 1 million accident-free miles. His safety record is impeccable, his knowledge of and attitude toward his work are unflawed and his dedication to his job is second to none. Additionally, he takes extra care in the operation of his equipment.

On this occasion of his award, I extend my congratulations to Norman and wish him continued success on the road and best wishes for the future.

THE 60TH ANNIVERSARY OF BOY SCOUT TROOP NO. 103 OF FLORENCE, MA

HON. SILVIO O. CONTE

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 29, 1986

Mr. CONTE. Mr. Speaker, I would like to take this opportunity to recognize Boy Scout Troop 103 of Florence, MA, which on March 31, 1985 celebrated its 60th anniversary. Troop 103, sponsored by Our Lady of the Annunciation Church, holds the unique distinction of being the longest continuously active Catholic troop in the Springfield diocese.

Since its conception in 1925, Troop 103 has had only two scoutmasters. The first 20 years were served by William Dunphy. The last 40 years have been under the guidance of George McDonald, who continues to this day.

These are obviously two unselfish and caring men. The fact that they have dedicated their service to the young men and boys of this troop for such an extended period of time, lends itself to the importance of this organization. It is refreshing in these time of faddism to honor such men and such a long-lasting organization as the Boy Scouts of America. Boys that are tomorrow's men learn the meaning of responsibility, duty, and commitment.

I am sure that many of you here today were once members of the Boy Scouts and remember the lessons in responsibility, comradery, and fun that you learned from your scoutmasters and fellow scouts.

This is an organization that we can all be proud of. The opportunity it gives young men and boys is a very important part of their education. Boy Scouts learn the value of working toward a goal through the merit badge system. They learn to earn what they want. While belonging to Troop 103, 120 scouts have received the highest award possible in Scouting, the eagle badge.

This kind of contribution to young people's lives, their communities, and this country is unmeasurable. It is an honor and a privilege for me and my constituents to have such a group of young men as Troop 103 in our district.

On February 8, 1986, Troop 103 will formally celebrate its 60th anniversary with a liturgical mass and dinner party. It is my hope that this will be a most memorable occasion as all involved should be proud. Let me extend my sincere congratulations and hope for their future.

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MEMORIAL TO SOLDIERS WHO DIED IN NEWFOUNDLAND

HON. IKE SKELTON

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 29, 1986

Mr. SKELTON. Mr. Speaker, last month, I attended the 101st Division memorial service at Fort Campbell, KY, which was held in memory of the soldiers who died in Newfoundland. During that ceremony, the commanding officer of the division, Maj. Gen. Burton D. Patrick, made a very moving address. I place it in the RECORD for all the Members to read:

"Fellow soldiers and members of the finest combat division assembled in this century. We have come together on this field to honor—albeit bitter cold—to pay our lasting respect to your friends and mine who have made their final "rendezvous with destiny." It's only fitting that we have snow today. This division seems to unite under these conditions as it did 41 years ago today at Bastogne—when the battle raged there.

As your commander it is my solemn duty to call you here under these tragic and difficult circumstances. I wish with all my heart it could be otherwise—and I know that each of you feel the same way. The airplane tragedy which has taken the lives of our fellow soldiers has cast a dark cloud over Fort Campbell, and the homes of other families throughout the land. We have suffered a loss of indescribable proportions—a loss that cuts across the entire division and the nation and its territories.

Our hearts go out to the families and loved ones of those brave soldiers who lost their lives in Newfoundland while on their way home from peacekeeping duties in the Sinai. A mission that they had done so efficiently, effectively and quietly that the general public didn't even realize that they were there. Our courageous peacekeepers have departed our midst suddenly, and they have ascended to heights where even eagles can't fly. They will be missed in so many ways, and their service and sacrifice, like our fallen eagles of the past, will remain in our memories forever.

The single and very bright ray of sunshine that has made its way through our dark cloud occurred yesterday morning when the remaining flights of our task force touched down safely at Campbell Army Airfield. Heavy hearts were lifted somewhat then as those of us who were there know so well. Welcome home task force 3-502 and job well done!

It is with heavy hearts that we welcome you home, each of you know that the fiber of Fort Campbell and the screaming eagles is strong—and the cohesion and comradeship of our people is like still water—it runs deep. It is with these words that I tell you that we must now look to the future and the promise of happier days. I know that these past eight days have been trying and hectic and that you haven't had sufficient time to regroup and mourn your dead. I promise you that time. As I've said previously—we will lick our wounds, help those families in grief, reconstitute our forces and continue the mission. I'll need your total support as always—as will those families personally affected by our tragedy.

Speaking of families—I have just received this message from Mr. and Mrs. Estol Banks, parents of SP4 Bobby L. Banks, HHC, 3-502: "While we cannot be at Fort Campbell, we are with you in mind, heart, and spirit. We grieve with and for you. In our mutual sorrow we remember our son, and your loss; and their brave, courageous service to peace in our world, be strong. Be proud. We pray for you; pray for us."

I think that this message expresses the true feelings of families who have lost sons and daughters all across the country. I know they are mine.

LENNIE ROBERTS—SAN MATEO COUNTY'S ENVIRONMENTAL ADVOCATE

HON. TOM LANTOS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 29, 1986

Mr. LANTOS. Mr. Speaker, on Sunday afternoon the Committee for Green Foothills, a leading environmental organization on the San Francisco Peninsula, will honor Lennie Roberts at a special reception. She is most deserving of this significant honor.

Mr. Speaker, I would like to call your attention and to the attention of this House to some of the accomplishments of this remarkable woman. Her lifelong concern has been to protect and preserve the special environment of the bay area. Though we on the peninsula have a special affection and claim upon her, she has served the entire San Francisco Bay area.

Lennie's energy has been quite remarkable throughout her highly active life. Originally an art major at Stanford University, she threw herself into the conservation movement wholeheartedly. Her involvement has ranged from local garden clubs and the Sierra Club, to the Committee for Green Foothills and the California Coastal Commission. Her efforts have helped educate a generation of bay area residents to the delights and benefits of our environment.

There are many active environmentalists who owe their love of nature to Lennie, and who have themselves become deeply involved in the conservation movement. This dedicated network of people has become a major force in the bay area and we now see many important programs and laws adopted directly through their efforts.

Mr. Speaker, I am delighted to join my friends and neighbors on the peninsula in paying this richly deserved tribute to Lennie Roberts. I only hope that she will continue her outstanding work. All of us in the bay area need her. Thanks to her untiring efforts, we all can pass on this precious legacy of our environment to our children and grandchildren.

HON. TED SHAW STEPS DOWN AS ICA PRESIDENT

HON. CARLOS J. MOORHEAD

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 29, 1986

Mr. MOORHEAD. Mr. Speaker, at the February 20, 1986 Independent Cities Association [ICA] general membership meeting, Hon. Ted Shaw, councilman for the city of South Pasadena, will step down as president of the association.

Ted Shaw has served the cities of the county of Los Angeles and the 22d Congressional District in an exemplary manner. His high standards, his productivity, his efficiency have all been recognized and praised by the ICA board of directors.

His tenure with the association has mirrored his approach to his personal, religious, and business activities. He is an advocate of the creed that if you are going to do something, you do it well and with energy and enthusiasm.

Mr. Shaw has a lifetime of commitment and involvement. He has served on the South Pasadena City Council since 1978, during which time he served three terms as mayor. He has been active in the ICA from 1982 to the present. He has simultaneously been involved in a host of civil activities.

Mr. Speaker, on behalf of the residents and communities of the 22d Congressional District, I would like to express my gratitude to Ted Shaw for all of his efforts on our behalf and to congratulate him for an effective and laudable tenure as president of the ICA.

GLENN ANDERSON—A PROFILE IN COURAGE

HON. MARIO BIAGGI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 29, 1986

Mr. BIAGGI. Mr. Speaker, I wish to relate to my colleagues a remarkable story about one of our most able colleagues, the gentleman from the 32d District in California, GLENN ANDERSON. It is a story involving great personal courage in the face of danger. It is a story which thankfully has a happy ending but might not have.

The date was December 30, the time about 11:45 a.m. GLENN ANDERSON had gone to the First Interstate Bank in the town of Wilmington, part of his district. GLENN had planned, as he had planned so many other days in his district on a full schedule of events, meetings, and activities. But this day was to be a great deal different than any other day of his life. He was carrying his briefcase and as he was leaning over to unlock his car door he was accosted by a "big man," the man demanded that GLENN give him his briefcase. According to a dramatic account of the incident published by the Press-Telegram of Long Beach:

ANDERSON refused to let go of the briefcase and he said he and the man were "tussling" over it when according to ANDERSON, "I felt a gun, I thought he was kidding and he shot me. I thought he had hit me."

The story continues. GLENN did relinquish his briefcase, but in doing so he startled the bandit by shoving the briefcase at him. Again in GLENNS's words:

It kept him busy and gave me a chance to run around the car. I wanted to get the car between him and me."

By this time, GLENN had realized the bullet fired had only torn through his trousers, be-

tween the thigh and knee, leaving three holes as it miraculouly passed through a crease.

As the robber ran off with the briefcase, GLENN ran from car to car in the parking lot and asked people to call the police. Further demonstrating a great sense of mind and bearing, he grabbed an envelope from his pocket, borrowed a pencil, and wrote down the license plate of the white getaway van, driven by a second man.

According to GLENN, one car unsuccessfully did try to block the path of the van as it left the parking lot, and another driver did follow the vehicle. Ultimately, after police were notified, they did capture the suspects. After a frenzied and perilous pursuit using police cars and helicopters.

GLENN ANDERSON was carrying his briefcase, a normal everyday occurrence for many of us in our line of work. Yet, the importance of the briefcase to GLENN was reflected in the first words he spoke to the bandits who tried to rob him of it: "No its mine, all my work is in there." Indeed it was, inside his briefcase were important Government documents, including constituent cases, problems, and other issues GLENN had brought home with him to read. It is a reflection on the character of our friend GLENN ANDERSON that he would take such effort, and display such courage, to protect his briefcase and the work that he was doing on behalf of his constituents.

In a sense, these criminals seeing a well-dressed man carrying a briefcase felt he was easy prey. Yet, they obviously picked on the wrong man. They don't serve with and know GLENN ANDERSON the way we his colleagues do. These criminals made the mistake of tussling with a former infantry sergeant and a man who takes great pride in his physical condition. They picked on a man who fought back, and ultimately won.

It is obvious that lady luck was with our friend GLENN ANDERSON in that bank parking lot. He is shot practically at pointblank range with the bullet traveling harmlessly through his pant leg. To quote GLENN from the same news article:

If I'd been standing up straight, it would have been in the front and out the back. The bullet went down and dug a big hole in the concrete.

GLENN ANDERSON and I share something in common. We were both elected for the first time to the 91st Congress in 1968. It has been my distinct pleasure to have worked very closely with GLENN these past 17 years. We have served together on the House Merchant Marine and Fisheries Committee. I know him to be an outstanding and effective legislator and a tireless worker for the people of the 32d District in California. Yet, I also know GLENN as a great friend and wonderful human being. He has all of these virtues and more. This experience displays but another fine attribute, courage.

I am certain that my colleagues join with me in breathing a great sigh of relief for our friend GLENN ANDERSON. Each of us should take a moment to express our thoughts to GLENN on his ordeal and how happy we are that he triumphed.

In order that my colleagues might better understand the full details of the harrowing experience endured by our friend and colleague GLENN ANDERSON, I am inserting at this point in the RECORD the full article from the Press-Telegram entitled "Police Hold 2 Suspects in Glenn Anderson Robbery, Shooting Try—Anderson Feels 'Grateful' After Brush With Bandits."

[From the Long Beach (CA) Press-Telegraph, Jan. 1, 1986]

POLICE HOLD 2 SUSPECTS IN GLENN ANDERSON ROBBERY, SHOOTING TRY—ANDERSON FEELS 'GRATEFUL' AFTER BRUSH WITH BANDITS

(By Susan Pack)

The briefcase contained just about everything—personal papers, government documents, even the keys to his Washington, DC, office.

"I always say my brains are in my briefcase," said Rep. Glenn Anderson, D-Long Beach.

So when a robber tried to grab the briefcase as Anderson left a Wilmington bank Monday, he held on tight.

"I said, 'No, it's mine,'" Anderson recalled Tuesday. "I need it. All my work is in there."

The 72-year-old congressman didn't let go until the assailant shot at him, blasting three holes in his trousers but missing his leg.

One day after the harrowing encounter, Anderson said he felt "very grateful and lucky and thankful."

"I was impressed by two things: the unbelievable speedy and professional work of the Los Angeles Police Department and the help of the people in the parking lot," he said. "I had more help than I knew what to do with."

As Anderson recounted his experience Tuesday, detectives in the police department's Harbor Division were contacting other law enforcement agencies to determine whether the two suspects were responsible for similar crimes elsewhere.

Lt. John Hopkins said there is no evidence that the robbery and shooting were politically motivated.

"There is nothing to indicate that it was anything other than a citizen being robbed," he said.

The two men—Darrel Borders, 25, of Pomona and James Lawson, 22, of Los Angeles—are expected to be arraigned Thursday in San Pedro Municipal Court on charges of robbery and attempted murder. They are being held without bail at the Harbor Division jail.

Hopkins said the pair apparently have criminal records, and Lawson may be using an alias. He said the getaway vehicle had been stolen.

Anderson said he went to First Interstate Bank at 1234 N. Avalon Blvd. at 11 a.m. Monday to discuss his MasterCard account with a Los Angeles bank executive who met him at the local branch because it was more convenient. Many of his travel expenses are charged on his MasterCard, he said, and he wanted to do a year-end review of the account.

He left the bank at 11:45 a.m. and walked to his station wagon, which was parked in a lot next to the bank and a shopping center.

Because he had half a dozen other appointments later in the day, he was wearing a suit and tie. He believes his attire and the briefcase caught the attention of the robbers, who assumed the case was full of cash.

"They saw a moderately well-dressed businessman carrying a briefcase out of the bank, and to them, that looked like money," he said.

He said he was leaning over to unlock his car door when "all of a sudden, this big man—he looked towering to me—said, "Give me your briefcase!"

The man was swarthy, he recalled, and he was wearing dark glasses and a hat. He spoke in a sort of growl.

Anderson refused to let go of the briefcase, and he said he and the man were "tussling" over it when "I felt a gun. I thought he was kidding, and he shot me."

At that point, Anderson yelled, "Hey, take it!" and shoved the briefcase at the assailant.

"It kept him busy and gave me a chance to run around the car," he said. "I wanted to get the car between him and me."

The bullet tore through Anderson's trousers between his thigh and his knee, leaving three holes as it apparently passed through a crease.

"If I'd been standing up straight, it would have been in the front and out the back," he said, "The bullet went down and dug a big hole in the concrete."

As soon as the robber ran off with the briefcase, Anderson said he dashed from car to car yelling, "Help, call the police! I've been held up!" He then grabbed an envelope from his pocket, borrowed a pencil and wrote down the license number of the white getaway van, which was driven by a second man.

Anderson said one car unsuccessfully tried to block the path of the van as it sped out of the parking lot, and another driver followed the vehicle. Less than a mile away, that driver flagged down a police car, which then took over the chase.

The suspects crashed the van into a car waiting at a signal at 106th Street and Normandie Avenue in an unincorporated area of Los Angeles county, Hopkins said. Borders was arrested there, but the other suspect escaped and crawled under a house at 1315 W. 107th St., the officer said.

That house and several others were evacuated, and the SWAT team was called in, Hopkins said. Police used tear gas to flush the suspect from his hiding place, and he surrendered shortly after 2 p.m.

Police recovered the briefcase, which was still full, and returned it to Anderson, who said it may have contained $20 or $30 in "emergency money" in addition to his papers.

Anderson said the incident didn't really change him or his views on criminals. He said he's always been a strong supporter of "use a gun, go to jail" legislation, and he believes the men who accosted him should serve time.

SPACE SHUTTLE TRIBUTE

HON. THOMAS J. DOWNEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 29, 1986

Mr. DOWNEY of New York. Mr. Speaker, it is with great sadness that I rise today to pay tribute to the seven crewmembers of the space shuttle *Challenger,* who tragically perished yesterday morning when their craft blew up soon after takeoff.

I think that we were all the more shocked by yesterday's accident because of the complacency that we felt, living in a high-technology world that has witnessed 56 successful

American space flights over the last two decades. While we are used to hearing about weather delays and minor technical glitches holding up shuttle flights, no one could have expected a mishap of the magnitude of yesterday's tragedy. As we learned, though, space flight is not something to be taken for granted.

The seven crew members spent long, hard hours preparing for their flight. They volunteered for the rigorous Astronaut Program, and Ms. Sharon Christa McAuliffe competed against hundreds of other teachers from around the country for the privilege of flying in the space shuttle. Their dedication and sacrifice must not be lost.

I join with my colleagues in sending my heartfelt grief to the families and friends of the men and women who died in the service of their country yesterday. They will not be forgotten.

A TRIBUTE TO HAROLD M. RYAN

HON. DENNIS M. HERTEL

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 29, 1986

Mr. HERTEL of Michigan. Mr. Speaker, it is with great pride that I rise to pay tribute to a man who has selflessly dedicated the majority of this life to public service, former Congressman Harold M. Ryan.

On February 6, his many friends in the community will hold a long overdue testimonial dinner in honor of Mr. Ryan. In choosing to salute him, they no doubt took, into consideration Mr. Ryan's unceasing commitment to public welfare, as seen in his exemplary career, which spans back to 1944. At that time, he was assistant prosecuting attorney for Wayne County, MI. From 1949–1961, Mr. Ryan represented Michigan's First Congressional District in the Michigan Senate. Between 1961 and 1964, he served the 14th Congressional District of Michigan in the U.S. House of Representatives. For the next 14 years, Mr. Ryan engaged in the private practice of law. In 1978, he was elected to the Wayne County circuit bench, a position he held until his retirement last year. To each of these positions, Harold Ryan brought a rare blend of intelligence, compassion, integrity, and involvement.

Harold Ryan's many accomplishments extend beyond the political realms to the community, where he continues his longtime commitment to the well-being of others. Mr. Ryan is also known as a generous and loving family man and friend.

As he is honored by his friends and family, Mr. Ryan can reflect with pride on his many contributions to the residents of Michigan. I would like to join them in extending my warmest congratulations to Harold Ryan, his lovely wife, Lillian Wargnier-Ryan and his five children, Kathleen, Harold, Jr., Nancy, Theresa, and John on this meritous occasion.

REPEAL GRAMM-RUDMAN-HOLLINGS

HON. JIM MOODY

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 29, 1986

Mr. MOODY. Mr. Speaker, today, I am introducing legislation to repeal recently passed Gramm-Rudman-Hollings legislation.

I fully support deficit reduction, and I have introduced and supported various items of legislation to make real deficit cuts. But Gramm-Rudman-Hollings is not a rational or reasonable way for Congress to proceed.

First, it allows Congress and the President to avoid difficult choices in favor of a mindless formula—a gross abdication of congressional responsibility which may well be unconstitutional. Second, it is flawed economically because it requires a larger deficit cut when the economy is weaker and a smaller deficit cut when the economy is stronger—a result which exacerbates rather than softens fluctuations in the business cycle.

I voted against Gramm-Rudman-Hollings. I later joined 11 congressional colleagues in challenging its constitutionality in court. And though our suit is still pending, I am now introducing legislation that will allow us to restore the basic congressionally directed budget process which this country has used for 200 years.

Gramm-Rudman-Hollings was a mistake that we will surely come to regret. I hope that we can muster the political courage to admit our error, repeal the measure, and confront the important task of responsible deficit reduction.

COMMENDS APPRAISERS

HON. JAMES A. TRAFICANT, JR.

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 29, 1986

Mr. TRAFICANT. Mr. Speaker, I rise today to express my support for H.R. 202, which commends the Society of Real Estate Appraisers on the occasion of its golden anniversary, and to thank my colleague from Illinois, Representative CARDISS COLLINS for introducing it.

Although the Society of Real Estate Appraisers has chapters all over the world, I am pleased also to recognize today the Mahoning Valley No. 63 Chapter whose President is S. Martin Oyer, SRPA, of 3710 Mahoning Avenue, Youngstown, Ohio 44515. The Mahoning Valley Chapter encompasses Mahoning, Trumbull, and Columbiana Counties in my district.

Members of the Society of Real Estate Appraisers are employed by financial institutions, corporations, Federal, State, and local governments, and they also practice as independent fee appraisers. Their commitment to professionalism is exemplified by their extensive educational system of seminars and courses directed toward the advancement of the profession which are attended by approximately 8,000 people every year, members and nonmembers alike.

Mr. Speaker, the Society of Real Estate Appraisers has for 50 years promoted professional standards for all real estate appraisers. The need for sound, unbiased real estate appraisals continues to be as important today as it was when the Society of Real Estate Appraisers was first founded. I ask my colleagues to join with me in passing H.R. 202 commending the Society of Real Estate Appraisers for 50 years of service.

ALDEN AAROE, CELEBRATING 30 YEARS OF BROADCASTING

HON. THOMAS J. BLILEY, JR.

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 29, 1986

Mr. BLILEY. Mr. Speaker, January 31, 1986, marks an important milestone for my friend Alden Aaroe of Richmond, VA. For 30 years Richmonders have been waking up to Alden's special brand of humor and information as the announcer of WRVA Radio's morning program. More than once, Alden's wit and wisdom have gotten me off to a fresh start in the morning. I miss hearing him when I'm in Washington, and I look forward to the mornings I'm in Richmond where I can be sure of an entertaining and informative start on the day.

On January 31, Alden will be celebrating his 30th year with Richmond and WRVA Radio. On behalf of his loyal fans, friends, and coworkers, I would like to say. "Thank you, Alden and may you be a part of our mornings for another 30 years."

TRIBUTE TO DR. JEAN HOLLISTER AND JOHN HARRISON

HON. MARCY KAPTUR

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 29, 1986

Ms. KAPTUR. Mr. Speaker, shortly before Christmas last month, my district suffered a great tragedy. A Life Flight air ambulance helicopter from St. Vincent Medical Center in Toledo crashed on its way to pick up a traffic accident victim. The pilot, John Harrison and a flight physician Dr. Jean Hollister were killed while on a mission of mercy.

Our community has always been blessed with courageous people, who have been willing to put their lives on the line in order to save the lives of others. We are very proud of the work done by the Life Flight team. They have saved lives—the ultimate contribution to society.

The grief over their deaths has been shared by our entire region. Though St. Vincent Michael Medical Center's Life Flight Program has rebounded with great strength and professionalism, the sorrow will always be felt. But even in tragedy their can be solace. Because Dr. Jean Hollister and John Harrison will always be remembered, their courage and willingness to give of themselves so that

others may benefit will serve as a shining example of that great spirit of community which the French writer Alexis de Toqueville found so exciting on his visit to America a century and a half ago. Dr. Jean Hollister and John Harrison epitomized what is best in America.

For myself and my colleagues in the U.S. House of Representatives, I offer my deepest condolences to the families of Dr. Jean Hollister and John Harrison. Thank you for letting them be part of our lives as well as yours. May the respect and admiration that they enjoyed in life somehow ease the pain of their death.

WILLIAM OVERMEER HONORED

HON. MATTHEW G. MARTINEZ

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 29, 1986

Mr. MARTINEZ. Mr. Speaker, I would like to take this opportuntiy to bring to the attention of my colleagues the distinguished career of William Overmeer.

For the past decade William "Bill" Overmeer has demonstrated outstanding service to our community, as well as many adjoining areas, with meritorious achievement. During 10 years with the West San Gabriel Valley Consortium, Bill gave careful adherence to the fiduciary responsibilities of his position. Being a stickler for organization and thoroughness, Bill implemented high standards, reduced costs, and maximized the number of local residents trained. In addition to his work with the consortium, Mr. Overmeer spent 6 years with United Community Efforts Inc. in East Los Angeles. In the private sector, he performed outstandingly as an assistant controller for two different public accounting firms.

Perhaps the greatest example of this man's philanthropy is the 5 years he spent in the Royal Dutch underground serving to eliminate tyrannies in Germany and Holland. Here we find the intensity of this great American as he stood tall to fight the terror of oppression and represent the principles of freedom and justice.

Without hesitation and with much admiration I salute a public servant; an man of great moral character; and a man willing to uphold qualities which separate the humane from the inhumane. I salute William Overmeer.

AMERICANS FOR PRESIDENT REAGAN'S FOREIGN POLICY

HON. WILLIAM W. COBEY, JR.

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 29, 1986

Mr. COBEY. Mr. Speaker, Americans for President Reagan's Foreign Policy have called to my attention three articles from The Truth, a New Hampshire newspaper officializing in foreign affairs matters. All Americans are affected for better or worse by U.S. foreign policy decisions. I believe that we all need to be well informed about these policies in order to protect not only our Nation, but our individual lives and property from the costs and personal dangers generated by the Soviet Union's expansions and Soviet sponsored terrorism.

Over the last 5 years, the Reagan administration has demonstrated that it is committed to turning back the Soviet-takeover tide in Central America, Afghanistan, and southern Africa. I believe the two great foreign policy problems confronting President Reagan today are the Soviet efforts to expand their influence in the world and the Soviet strategy enunciated by late Soviet leader Krushchev, who said "* * * our aim is to gain control of the two great treasure houses on which the West depends * * * oil from the Persian Gulf and strategic minerals from southern Africa."

Today we are seeing this dream become a reality. Currently, there are around 35,000 Cuban troops occupying Angola on behalf of the Soviet Union. These troops not only control the Soviet-puppet government, but they also support the Soviet backed terrorist group known as the Southwest African People Organization [SWAPO]. This organization uses Soviet military equipment under the guidance of Soviet military advisers in a campaign of violence to gain control of the country of Namibia before the recently formed Namibian Government can achieve internationally accepted independence.

Within the broad framework of U.N. Resolution 435, the people of Namibia have chosen their own political leaders and have established the Transitional Government of National Unity. This democratic government assures all powers of local self-determination by successfully negotiating a transfer of total local governing authority to the Namibian people from South Africa.

I believe the United States should lend political and economic support to this new government in Namibia because it offers a responsible anti-Soviet Government, supported by the people of Namibia, as a democratic alternative to a puppet-state set up by SWAPO.

I recommend the following articles to my colleagues and other Americans who have an interest in the foreign policy of the United States.

[From The Truth, Winter 1986]

STATE DEPARTMENT UNDER FIRE FOR NAMIBIA POLICY

OPPOSES SELF-GOVERNMENT

WASHINGTON, DC.—The U.S. State Department has come under direct attack by two respected forces regarding its handling of Namibia, an African country larger than Texas immediately south of Angola. Senator Steve Symms (R-ID) and Carl Shipley, President of the U.S.-South West Africa/Namibia Trade and Cultural Council, both lambast the State Department as "architects of disaster" for their "head in the sand" thinking regarding Namibia.

In articles below, they present the true picture of this virtually important, sparsely populated country, whose people desire their own government, free of the Communist influence which threatens them through SWAPO (South West Angola Peoples Organization), backed by the Soviets and the United Nations.

While the State Department encourages U.S. business to locate in Communist Angola, entrance into Namibia is discouraged. The State Department is still seeking to effect U.N. Resolution 435, under which the U.N. would supervise an election of an assembly in Namibia. However, control of this assembly would be seized by SWAPO, with its U.N. backing. Shipley points out that it is a blueprint for U.N. sponsorship of a Soviet-puppet SWAPO government in Namibia.

FURTHERS RED AIMS IN SOUTHERN AFRICA

(By Senator Steve Symms)

As a member of the Senate Subcommittee on Economic Resources, Competitiveness and Security Economics, I have long been concerned with the fact that since 1970 the U.S. Department of State has discouraged investment in Namibia, at a time when political leaders within that Territory have been trying to negotiate their independence from South Africa.

Namibia has been administered for the past 65 years under a 1920 League of Nations Mandate as a former German territory conquered by the British (using South African colonial forces) in World War I. On June 17 of this year, the Multi-Party Conference of Namibia's internal political leaders, all of whom have been elected or designated by their political parties and their various population groups to represent their interests, persuaded the Government of South Africa to transfer to the MPC all legislative, judicial and executive functions theretofore exercise in the territory by the Administrator-General appointed by South Africa.

The South African government voluntarily, and on the basis of non-violent and honest negotiations, agreed to the MPC request. Thus, the people of Namibia now enjoy all powers of local self-government (except foreign relations and defense, which they voluntarily left in South African hands because of their own lack of capacity in these areas) for the first time since the original German colonization of South West Africa in the 1800's.

However, the same type of head-in-the-sand thinking that seems to be a congential affliction of bureaucrats in the U.S. Department of State, and which has given us such catastrophic diplomatic losses as North Korea, East Germany, the Berlin Wall, Soviet occupied Vietnam, Soviet occupied Afghanistan, and Soviet-puppet governments in Angola, Ethiopa, Mozambique and North Yemen, now turns a blind eye on the TGNU (Transitional Government of National Unity) in Namibia.

Thus, our State Department is once again lending its indirect support to Soviet empire expansionism in Africa by opposing recognition of the political reality of the TGNU, opposing the right of self government of the people of Namibia, and closing its eyes to the fact that the United Nations, the U.N. Council for Namibia, and its subordinate agencies all strongly support, both financially and politically, the Soviet-backed terrorist forces seeking to seize control of Namibia and bring it under the domination of the Kremlin before that Territory can achieve internationally acceptable independence.

H.R. 2589 would apparently subject all Americans, individual as well as corporate, to five years in jail and fines ranging from $50,000 to $1 million for using or dealing in any product which might contain a "natural resource" originating in Namibia without permission of the U.N. Council of Namibia. This proposal to transfer a part of the Nation's sovereignty to SWAPO's chief support in the United Nations would, if it were

not so well intentioned, come under the heading of treason.

For years committees of the Congress, as well as the Congressional Budget Office, have emphasized the 100 percent import dependence of the U.S. on certain strategic minerals found in the free world only in southern Africa, many of which are found in Namibia. In 1973, former Soviet leader Brezhnev announced to the world the Soviet goal of gaining control of the two great treasure houses—the oil in the Persian gulf and the minerals in Southern Africa—on which the industrial West depends.

Shortly thereafter, Soviet-backed "liberation groups" shot their way into power in Ethiopia, Angola, and Mozambique, as implementation of the Brezhnev policy got underway. Namibia is the next target.

Namibia, on the southwest coast of the African continent, like Mozambique on the eastern coast and Angola, on the western coast, is another keystone in Soviet strategy. Once Namibia is in the Soviet bloc, or behind the "iron curtain," then the Soviets can at the very least subject the U.S. to diplomatic blackmail, and under more severe conditions cut off our access as well as the access of NATO countries of Europe, to the minerals and oil on which the West depends.

One does not have to have a very good memory to recall that in the Soviet-sponsored compaign to seize control of what is now Zimbabwe, sanctions played a part. Rhodesia, as it was then known, sold its chrome on which we are 100 percent dependent, to the Russians, who then sold it to the U.S. and the rest of the world at more than twice the price. That is how sanctions and Soviet diplomacy work.

NAMIBIA: U.S. POLICY'S "FAILED MISSION"

(By Carl Shipley)

Shortly after the Reagan Administration assumed responsibility for U.S. foreign relations upon entering office in 1981, President Reagan's United Nations Ambassador Jeane Kirkpatrick outlined U.S. policy for Namibia, formerly known as South West Africa, as follows:

"Our principal goal . . . is independence for Namibia . . . Namibia has the largest known uranium deposits in the world, and a second goal we have is to prevent this mineral-rich territory from being permitted to slide into the Soviet sphere of influence, which has expanded markedly in Africa. A related strategic goal is to keep the vital waterways around Namibia out of hostile hands . . . Our goals are complicated by the presence of more than 30,000 Cuban troops in neighboring Angola."

Five years later, the State Department architects of disaster who are charged with implementing President Reagan's policy for Namibia have produced a tattered and shredded shambles.

During these five Reagan years, the U.S. Export-Import Bank has extended loans of at least $500 million to the Marxist government of Angola, which seized power with Soviet backing in 1976, while withholding aid and discouraging investment in pro-West, South West Africa (Namibia).

These loans have enabled Angola's Soviet-puppet government to entrench itself against its own citizens led by Jonas Savimbi and his UNITA forces. Indeed, the U.S. Department of State continues to urge President Reagan to withhold humanitarian and military aid for Savimbi's UNITA freedom fighters—the result is indirect support of Angola's Soviet-controlled government.

During these five years, the number of Cuban combat troops occupying Angola has doubled from 20,000 to 40,000. There have been massive infusions of Soviet military equipment, including MIG Soviet fighter planes, the deadly Soviet helicopter gunships, Soviet tanks, Soviet-antiaircraft weapons and rocket launchers, a quadrupling of Soviet and Soviet bloc military advisors, MIG and gunship pilots, and support forces.

In addition to heavy equipment, Cuban combat soldiers, and Soviet military personnel, the Soviets are supplying enormous quantities of AK47 rifles, ammunition and land mines. Angola is technically incapable of producing a single piece of military hardware, or a single aircraft or vehicle—the Soviets supply it all.

The disaster architects at the State Department are intelligent men and women, but their self-designed Namibia policy is a "failed mission." It is time to recognize that no progress can be made without participation of Namibia's Multi Party Conference political leaders.

Angola continues to help the Soviets equip, train and finance the SWAPO terrorists who operate from bases in southern Angola in a campaign of "landmine" murder and abduction of school children to intimidate the black civilian population of northern Namibia into accepting a SWAPO government.

UNITY PARTY A REALITY

The disaster architects at the State Department persist in opposing any U.S. investment in Namibia, despite the fact Namibia has the only successful multi-racial, multi-party government with a black majority in southern Africa.

They turn a blind eye on United Nations pro-SWAPO partiality, and have opposed both economic and disaster aid to the people of Namibia in the devastating drought of recent years, while funneling aid to the Marxist governments in Angola, Mozambique, and elsewhere in Africa.

They stubbornly refuse to acknowledge the existence, muchless the reality, that on June 17, 1985, the Multi-Party Conference of Namibian political leaders successfully negotiated a complete transfer of all governmental powers over the Territory from South Africa's Administrator-General, who had governed Namibia since 1920.

Today the people of Namibia, as a result of their own efforts and despite U.S. State Department opposition, have more democratic freedom and the only peacefully negotiated multi-racial, multi-party national unity government than any former colonial area of Africa.

Some observers think the failed mission in Namibia is a result of the State Department's blind adherence to United Nations Security Council Resolution 435 of 1978—the Carter Administration's independence plan cooked up by his later-dismissed U.N. Ambassador Andrew Young and his deputy, Donald McHenry. Under this resolution, the U.N. would supervise an election of a constituent assembly in Namibia to write an independence constitution.

U.N. DESIGNATED SWAPO

The fatal flaw in Resolution 435 is the fact that at the time the Carter Administration "architected" it, the U.N. had already designated Soviet-backed SWAPO as the "sole authentic" representative of the Namibian people, conferred permanent observer status on SWAPO and established a U.N. agency known as the Council for Namibia through which the U.N. channels millions of dollars a year to finance SWAPO propaganda, offices and meetings throughout the world. It is a blueprint for the U.N. sponsorship of a Soviet-puppet SWAPO Government in Namibia.

So here we have President Reagan's policy as articulated by Jeane Kirkpatrick held hostage to a Carter Administration blueprint to deliver the people and political leaders of Namibia to the tender mercies of SWAPO.

Having some familiarity with such well known Soviet and Soviet bloc techniques to persuade the recalcitrant as the "Gulag" peninsula, the salt mines, the insane asylum or a mind-bending session in a brain-washing facility, the people of Namibia are understandably inclined to prefer internationally acceptable independence within the parameters of the Resolution 435 plan under the supervision of an international agency not having pre-picked the winner of an independence election, and one without its thumb on the scales for one party as against all others.

TGNU, REAGAN'S BEST HOPE

The Namibian Transitional Government of National Unity, now providing interim local self-government in a commonwealth relationship with South Africa, is the Reagan Administration's last best hope of saving President Reagan's failed mission in Namibia. The TGNU is flexible, pro-West broadly supported by the people of Namibia, includes all major political parties and ethnic groups, and invites SWAPO to join in national unity. Above all it has successfully and peacefuly negotiated a transfer of power from the RSA to its own multi-racial, black majority Multi-Party Conference, something the disaster architects of the State Department have failed to accomplish after seven years of defeated struggle.

And yet the State Department, thumbs in its ears, hands over its eyes, pursues its deaf, dumb and blind policy of pretending the Namibian TGNU does not exist. The predictable result is a "failed mission" for the Reagan Administration unless the foggy bottom strategists start implementing the Reagan policy instead of thwarting it.

SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee—of the time, place, and purpose of the meetings, when scheduled, and any cancellations or changes in the meetings as they occur.

As an additional procedure along with the computerization of this information, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Any changes in committee scheduling will be indicated by placement of

an asterisk to the left of the name of the unit conducting such meetings.

Meetings scheduled for Thursday, January 30, 1986, may be found in the Daily Digest of today's RECORD.

MEETINGS SCHEDULED

JANUARY 31

9:30 a.m.
Finance
Taxation and Debt Management Subcommittee
To hold hearings on S. 1959, to clarify the tax treatment of certain mortgage related securities, and to authorize the ownership of certain mortgage loans in multiple class arrangements, S. 1978, to clarify the taxation of certain asset backed securities in multiple class arrangements, and S. 1839, to provide that certain deductions and credits not be allowed for expenditures within an environmental zone.
SD-215

10:00 a.m.
Labor and Human Resources
To hold hearings on the nomination of Lois Shepard, of Maryland, to be Director of the Institute of Museum Services.
SD-430

FEBRUARY 3

9:30 a.m.
Commerce, Science, and Transportation
Aviation Subcommittee
To hold oversight hearings on the impact of debt ceiling legislation on aviation funding and safety.
SR-253

2:30 p.m.
Rules and Administration
To hold hearings on Senate committee resolutions requesting funds for operating expenses for 1986.
SR-301

FEBRUARY 4

9:00 a.m.
Finance
To hold hearings on the nomination of Michael A. Samuels, of the District of Columbia, to be a Deputy United States Trade Representative, with the rank of Ambassador.
SD-215

9:30 a.m.
Armed Services
To hold hearings on U.S. military posture in review of the fiscal year 1987 Department of Defense military authorization request.
SR-325

Finance
To resume hearings on H.R. 3838, proposed Tax Reform Act of 1986.
SD-215

Labor and Human Resources
Handicapped Subcommittee
To hold hearings on proposed legislation authorizing funds for education of the handicapped, focusing on discretionary programs.
SD-430

9:50 a.m.
Rules and Administration
To hold hearings on Senate committee resolutions requesting funds for operating expenses for 1986.
SR-301

10:00 a.m.
Judiciary
Administrative Practice and Procedure Subcommittee
To hold hearings on proposed legislation authorizing funds for the Administrative Conference of the United States.
SD-226

FEBRUARY 5

9:30 a.m.
Finance
To continue hearings on H.R. 3838, proposed Tax Reform Act of 1986.
SD-215

Rules and Administration
To continue hearings on Senate committee resolutions requesting funds for operating expenses for 1986.
SR-301

Select on Intelligence
To hold closed hearings on intelligence matters.
SH-219

10:00 a.m.
Energy and Natural Resources
To hold oversight hearings to review those programs which fall within the jurisdiction of the committee as contained in the President's proposed budget for fiscal year 1987, focusing on the Department of the Interior.
SD-366

Judiciary
Immigration and Refugee Policy Subcommittee
To hold hearings to review issues surrounding the attempted defection of Miroslav Medvid and the Administration's procedures regarding East bloc defectors.
SD-226

Labor and Human Resources
Aging Subcommittee
To hold hearings on the 3% set aside for older workers in the Job Training Partnership Act.
SD-430

Joint Economic
To resume hearings in preparation of its forthcoming annual report, focusing on the economic outlook for 1986.
Room to be announced

1:30 p.m.
Energy and Natural Resources
To continue oversight hearings to review those programs which fall within the jurisdiction of the committee as contained in the President's proposed budget for fiscal year 1987, focusing on Forest Service programs of the Department of Agriculture.
SD-366

2:00 p.m.
Judiciary
To hold hearings on pending nominations.
SD-226

FEBRUARY 6

9:30 a.m.
Commerce, Science, and Transportation
Aviation Subcommittee
To hold hearings on S. 1966, to provide for efficient and equitable use of operating rights at certain congested airports.
SR-253

Finance
To continue hearings on H.R. 3838, proposed Tax Reform Act of 1986.
SD-215

Small Business
To hold hearings on the impact of tax reform and simplification proposals on small business.
SR-428A

10:00 a.m.
Energy and Natural Resources
To continue oversight hearings to review those programs which fall within the jurisdiction of the committee as contained in the President's proposed budget for fiscal year 1987, focusing on the Federal Energy Regulatory Commission.
SD-366

Labor and Human Resources
Cildren, Family, Drugs, and Alcoholism Subcommittee
To hold hearings on proposed legislation authorizing funds for ACTION.
SD-430

1:00 p.m.
Energy and Natural Resources
To continue oversight hearings to review those programs which fall within the jurisdiction of the committee as contained in the President's proposed budget for fiscal year 1987, focusing on the Department of Energy.
SD-366

4:00 p.m.
Select on Intelligence
To hold a closed briefing on intelligence matters.
SH-219

FEBRUARY 7

9:30 a.m.
Joint Economic
To hold hearings on the employment/unemployment situation for January.
Room to be announced

FEBRUARY 18

10:00 a.m.
Appropriations
HUD-Independent Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1987 for the American Battle Monuments Commission, Army cemeterial expenses, Office of Consumer Affairs (Department of Commerce), Consumer Information Center, and the Consumer Product Safety Commission.
SD-124

Energy and Natural Resources
To hold hearings on the nomination of Jed Dean Christensen, of Virginia, to be Director of the Office of Surface Mining Reclamation and Enforcement.
SD-366

Select on Indian Affairs
To hold hearings on those programs which fall within the jurisdiction of the committee as contained in the President's budget requests for fiscal year 1987.
SD-628

FEBRUARY 19

9:30 a.m.
Select on Intelligence
To hold closed hearings on proposed legislation authorizing funds for fiscal year 1987 for the intelligence community.
SH-219

10:00 a.m.
Appropriations
Transportation and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1987 for the Department of Transportation.
SD-138
Labor and Human Resources
Employment and Productivity Subcommittee
To hold hearings on S. 1990, to establish an Education and Training Partnership to administer the Job Training Partnership Act, the Wagner-Peyser Act, and the Carl D. Perkins Vocational Education Act.
SD-430

1:30 p.m.
Appropriations
To hold hearings to review the President's proposed budget for fiscal year 1987.
SD-192

FEBRUARY 20

10:00 a.m.
Appropriations
HUD-Independent Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1987 for the Council on Environmental Quality, Selective Service System, Federal Home Loan Bank Board, Neighborhood Reinvestment Corporation, and the National Institute of Building Sciences.
SD-124
Labor and Human Resources
Children, Family, Drugs, and Alcoholism Subcommittee
To hold hearings on proposed legislation authorizing funds for the National Institute on Drug Abuse and the National Institute on Alcohol Abuse and Alcoholism.
SD-430

4:00 p.m.
Select on Intelligence
To continue closed hearings on proposed legislation authorizing funds for fiscal year 1987 for the intelligence community.
SH-219

FEBRUARY 21

9:30 a.m.
Finance
Health Subcommittee
To hold hearings to review hospital income under the Medicare prospective payment system.
SD-215
Labor and Human Resources
Handicapped Subcommittee
To resume hearings on proposed legislation authorizing funds for education of the handicapped, focusing on discretionary programs.
SD-430

FEBRUARY 24

10:00 a.m.
Energy and Natural Resources
Energy Research and Development Subcommittee
To hold hearings on S. 1686, to implement a research program regarding specified aspects of fuel cell technology, and S. 1687, to develop a national policy for the utilization of fuel cell technology.
SD-366

FEBRUARY 25

9:00 a.m.
Labor and Human Resources
Employment and Productivity Subcommittee
To resume hearings on S. 1990, to establish an Education and Training Partnership to administer the Job Training Partnership Act, the Wagner-Peyser Act, and the Carl D. Perkins Vocational Education Act.
SD-430

10:00 a.m.
Appropriations
HUD-Independent Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1987 for the National Credit Union Administration, Office of Revenue Sharing (Department of the Treasury), and the Office of Science and Technology Policy.
SD-124
Appropriations
Labor, Health and Human Services, Education, and Related Agencies Subcommittee
To hold hearings on proposEd budget estimates for fiscal year 1987 for the Office of the Secretary of Labor and the Employment and Training Administration, Department of Labor.
SD-116
Energy and Natural Resources
Business meeting, to consider pending calendar business.
SD-366

FEBRUARY 26

9:30 a.m.
Appropriations
Labor, Health and Human Services, Education, and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1987 for the Labor-Management Services Administration, Employment Standards Administration, and Bureau of Labor Statistics, all of the Department of Labor, and the Pension Benefit Guaranty Corporation.
SD-116
Select on Intelligence
To resume closed hearings on proposed legislation authorizing funds for fiscal year 1987 for the intelligence community.
SH-219

10:00 a.m.
Appropriations
Transportation and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1987 for the Research and Special Programs Administration and the Office of Inspector General, Department of Transportation.
SD-138
Energy and Natural Resources
Business meeting, to consider pending calendar business.
SD-366

1:30 a.m.
Appropriations
To hold hearings to review the President's proposed budget for fiscal year 1987.
SD-192

FEBRUARY 27

9:30 a.m.
Appropriations
Labor, Health and Human, Services, Education, and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1987 for Departmental Management, Occupational Safety and Health Administration, and the Mine Safety and Health Administraion, all of the Department of Labor.
SD-116

10:00 a.m.
Energy and Natural Resources
To hold closed hearings on the status of Micronesia.
SH-219
Labor and Human Resources
Children, Family, Drugs, and Alcoholism Subcommittee
To hold hearings on proposed legislation authorizing funds for Head Start.
SD-430

4:00 p.m.
Select on Intelligence
To continue closed hearings on proposed legislation authorizing funds for fiscal year 1987 for the intelligence community.
SH-219

MARCH 4

9:30 a.m.
Appropriations
Labor, Health and Human Services, Education, and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1987 for the Office of the Secretary of Health and Human Services.
SD-116

MARCH 5

9:30 a.m.
Appropriations
Labor, Health and Human Services, Education, and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1987 for the National Institutes of Health, Department of Health and Human Services.
SD-116
Select on Intelligence
To resume closed hearings on proposed legislation authorizing funds for fiscal year 1987 for the intelligence community.
SH-219

10:00 a.m.
Appropriations
HUD-Independent Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1987 for the National Science Foundation, and the Federal Emergency Management Agency.
SD-124
Appropriations
Transportation and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1987 for the Federal Highway Administration and the National Highway Traffic Safety Administration, Department of Transportation.
SD-138

Governmental Affairs
Governmental Efficiency and the District of Columbia Subcommittee
To hold oversight hearings on the District of Columbia courts.
SD-342

MARCH 6

9:30 a.m.
Appropriations
Labor, Health and Human Services, Education, and Related Agencies Subcommittee
To continue hearings on proposed budget estimates for fiscal year 1987 for the National Institutes of Health, Department of Health and Human Services.
SD-116

4:00 p.m.
Select on Intelligence
To continue closed hearings on proposed legislation authorizing funds for fiscal year 1987 for the intelligence community.
SH-219

MARCH 11

9:00 a.m.
Labor and Human Resources
Employment and Productivity Subcommittee
To hold hearings on proposed legislation authorizing funds for job training programs.
SD-430

9:30 a.m.
Appropriations
Labor, Health and Human Services, Education, and Related Agencies Subcommittee
To resume hearings on proposed budget estimates for fiscal year 1987 for the National Institutes of Health, Department of Health and Human Services.
SD-116

MARCH 12

9:30 a.m.
Appropriations
Labor, Health and Human Services, Education, and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1987 for the Health Resources and Services Administration and the Office of the Assistant Secretary for Health, both of the Department of Health and Human Services.
SD-116

Select on Intelligence
To resume closed hearings on proposed legislation authorizing funds for fiscal year 1987 for the intelligence community.
SH-219

10:00 a.m.
Appropriations
HUD-Independent Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1987 for the Environmental Protection Agency.
SD-124

Appropriations
Transportation and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1987 for the St. Lawrence Seaway Development Corporation, Department of Transportation, and the Panama Canal Commission.
SD-138

MARCH 13

9:00 a.m.
Labor and Human Resources
Employment and Productivity Subcommittee
To resume hearings on proposed legislation authorizing funds for job training programs.
SD-430

9:30 a.m.
Appropriations
Labor, Health and Human Services, Education, and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1987 for the Centers for Disease Control, Alcohol, Drug Abuse and Mental Health Administration, Office of Inspector General, and Office of Civil Rights, all of the Department of Health and Human Services.
SD-116

4:00 p.m.
Select on Intelligence
To continue closed hearings on proposed legislation authorizing funds for fiscal year 1987 for the intelligence community.
SH-219

MARCH 18

9:30 a.m.
Appropriations
Labor, Health and Human Services, Education, and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1987 for the Health Care Financing Administration, Social Security Administration, Office of Child Support Enforcement, and refugee programs, all of the Department of Health and Human Services.
SD-116

MARCH 19

9:30 a.m.
Appropriations
Labor, Health and Human Services, Education, and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1987 for Human Development Services, Office of Community Services, Departmental Management (salaries and expenses), and Policy Research, all of the Department of Health and Human Services.
SD-116

Select on Intelligence
To resume closed hearings on proposed legislation authorizing funds for fiscal year 1987 for the intelligence community.
SH-219

10:00 a.m.
Appropriations
HUD-Independent Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1987 for the Veterans Administration.
SD-124

Appropriations
Transportation and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1987 for the National Transportation Safety Board, Department of Transportation, and the Architectural and Transportation Barriers Compliance Board.
SD-138

MARCH 20

9:30 a.m.
Labor and Human Resources
Handicapped Subcommittee
To hold hearings on proposed legislation authorizing funds for rehabilitation programs.
SD-430

4:00 p.m.
Select on Intelligence
To continue closed hearings on proposed legislation authorizing funds for fiscal year 1987 for the intelligence community.
SH-219

MARCH 25

9:30 a.m.
Labor and Human Resources
Handicapped Subcommittee
To resume hearings on proposed legislation authorizing funds for rehabilitation programs.
SD-430

MARCH 26

10:00 a.m.
Appropriations
Transportation and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1987 for Interstate Commerce Commission and the Office of the Secretary of Transportation.
SD-138

APRIL 9

9:30 a.m.
Appropriations
Labor, Health and Human Services, Education, and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1987 for the Office of the Secretary of Education, Departmental Management (salaries and expenses), Office for Civil Rights, and Office of Inspector General, all of the Department of Education.
SD-116

10:00 a.m.
Appropriations
HUD-Independent Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1986 for the Department of Housing and Urban Development.
SD-124

Appropriations
Transportation and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1987 for the Federal Railroad Administration, Department of Transportation, and the National Railroad Passenger Corporation (AMTRAK).
SD-138

APRIL 10

9:30 a.m.
Appropriations
Labor, Health and Human Services, Education, and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1987 for the Department of Education, including elementary and secondary education, education block grants, and impact aid.
SD-116

APRIL 15

9:30 a.m.
Appropriations
Labor, Health and Human Services, Education, and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1987 for the Department of Education, including education for the handicapped, rehabilitation services and handicapped research, and special institutions (including Howard University).
SD-116

APRIL 16

9:30 a.m.
Appropriations
Labor, Health and Human Services, Educaton, and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1987 for the Department of Education, including student financial assistance, guaranteed student loans, higher and continuing education, higher education facilities loans and insurance, college housing loans, and educational research and training.
SD-116

10:00 a.m.
Appropriations
HUD-Independent Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1987 for the National Aeronautics and Space Administration.
SD-124
Appropriations
Transportation and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1987 for the U.S. Coast Guard, Department of Transportation.
SD-138

APRIL 17

9:30 a.m.
Appropriations
Labor, Health and Human Services, Education, and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1987 for the Department of Education, including bilingual education, vocational and adult education, education statistics, libraries, and the National Institute of Education.
SD-116

APRIL 22

9:30 a.m.
Appropriations
Labor, Health and Human Services, Education, and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1987 for the Soldiers' and Airmen's Home, Prospective Payment Commission, Railroad Retirement Board, National Labor Relations Board, National Mediation Board, Occupational Safety and Health Review Commission, Federal Mediation and Conciliation Service, and the United States Institute of Peace.
SD-116

APRIL 23

9:30 a.m.
Appropriations
Labor, Health and Human Services, Education, and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1987 for ACTION (domestic programs), Corporation for Public Broadcasting, National Council on the Handicapped, Mine Safety and Health Review Commission, National Commission on Libraries and Information Science, and National Center for the Study of Afro-American History and Culture.
SD-116

10:00 a.m.
Appropriations
Transportation and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1987 for the United States Railway Association and Conrail.
SD-138

APRIL 24

9:30 a.m.
Appropriations
Labor, Health and Human Services, Education, and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1987 for the Departments of Labor, Health and Human Services, and Education, and certain related agencies.
SD-116

APRIL 29

9:30 a.m.
Appropriations
Labor, Health and Human Services, Education, and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1987 for the Departments of Labor, Health and Human Services, and Education, and certain related agencies.
SD-116

10:00 a.m.
Appropriations
HUD-Independent Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1987 for the Department of Housing and Urban Development and certain independent agencies.
SD-124

APRIL 30

10:00 a.m.
Appropriations
HUD-Independent Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1987 for the Department of Housing and Urban Development and certain independent agencies.
SD-124
Appropriations
Transportation and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1987 for the Federal Aviation Administration, Department of Transportation.
SD-138

MAY 1

9:30 a.m.
Appropriations
Labor, Health and Human Services, Education, and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1987 for the Departments of Labor, Health and Human Services, and Education, and certain related agencies.
SD-116

MAY 6

9:30 a.m.
Appropriations
Labor, Health and Human Services, Education, and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1987 for the Departments of Labor, Health and Human Services, and Education, and certain related agencies.
SD-116

MAY 7

10:00 a.m.
Appropriations
Transportation and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1987 for the Urban Mass Transportation Administration, Department of Transportation, and the Washington Metropolitan Area Transit Authority.
SD-138

MAY 8

9:30 a.m.
Appropriations
Labor, Health and Human Services, Education, and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1987 for the Departments of Labor, Health and Human Services, and Education, and certain related agencies.
SD-116

MAY 13

9:30 a.m.
Appropriations
Labor, Health and Human Services, Education, and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1987 for the Departments of Labor, Health and

Human Services, and Education, and certain related agencies.

SD-116

MAY 14

10:00 a.m.

Appropriations
Transportation and Related Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1987 for the Departments of Transportation and certain related agencies.

SD-138

MAY 15

9:30 a.m.

Appropriations
Labor, Health and Human Services, Education, and Related Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1987 for the Departments of Labor, Health and Human Services, and Education, and certain related agencies.

SD-116

HOUSE OF REPRESENTATIVES—*Thursday, January 30, 1986*

The House met at 11 a.m.

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

We give thanks, O God, for the feeling of unity that brings us together as one people. As we all share our creation as the gift of Your hand, so let us live in ways that express this heritage of life and recognize each other as sisters and brothers in need of each other's encouragement and support. May we live and work in the way of unity and peace and so reflect the brightness of Your love to us. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

INTRODUCTION OF LEGISLATION OPPOSING THE PROPOSED URBAN MOBILITY BLOCK GRANT

(Mr. BIAGGI asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BIAGGI. Mr. Speaker, I have introduced legislation which should interest all Members who get Federal aid for mass transit in their districts. It is a resolution opposing the proposed urban mobility block grant—expected to be unveiled as part of the administration's fiscal year 1987 budget.

Under this plan Federal aid to highways and to mass transit would be consolidated into this single grant. It sounds simple enough. Yet there is far more to it than first meets the eye.

It would be accompanied by as much as a 40-percent reduction in the present $4 billion provided for mass transit. A cut of this size would be felt in each of the 733 urbanized areas in the United States where mass transit is provided. At least 15 percent of these programs could be shut down, ending service for more than 1 billion riders. Close to 100,000 jobs could be lost.

For my home city of New York, this block grant could be the death knell for mass transit. It could slash Federal aid by 50 percent. The metropolitan transit authority which operates our buses and subways already has a $500 million budget deficit. Bus and subway fares were just raised to $1. Any reduction in aid will increase that fare. A 50-percent reduction would cause an astronomical fare hike.

This ludicrous plan must and will be fought. This is not a policy of give and take—it is take and take more from those least able to give more.

APPRECIATION EXPRESSED FOR INFANT DONOR SEARCH

(Mr. SAXTON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SAXTON. Mr. Speaker, I stood before you last November and I asked you to help aid in the search for a liver for an infant in my district, Andrea Shimer of Hainesport, NJ.

I appreciate the response I received from many of you who were kind enough to appeal—in your home districts—for a liver for Andrea. And I know Andrea's parents would want me to convey their deep gratitude for all who aided in the search.

I'm happy to report that Andrea's liver search was a success. On December 29 Andrea underwent a 13-hour liver transplant at Children's Hospital of Pittsburgh. And I received word yesterday that her condition has been upgraded from critical to serious.

Andrea is an example of the lifegiving potential of transplantation, and its ability to bring some hope out of the darkness of death.

Again, I thank you and commend your efforts on Andrea's behalf.

CONGRATULATIONS, MIKE DITKA

(Mr. TRAFICANT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TRAFICANT. Mr. Speaker, in 1960, I had the distinct honor of being a teammate and a close personal friend of Mike Ditka at the University of Pittsburgh. Mike was a tenacious defender, a premier receiver who became a consensual All-American.

Mike Ditka was then drafted by George Halas and the Bears and became an impact player overnight, earning Rookie of the Year honors in 1961. As many people know, in 1963, prior to the recent Super Bowl victory, he led the Bears to the NFL championship over a great Giant team that had Y.A. Tittle and Frank Gifford among others on that club.

Ditka is now a legend, he is strong and spirited just like the people of Aliquippa, PA, his hometown, who suffer such tough economic times.

Now, as his old college quarterback, I am very proud to be on the floor of Congress to congratulate Mike as a great coach whose achievements and accomplishments will be remembered in the years to come with the names of Halas, Al Davis, Paul Brown, Tom Landry, Vince Lombardi, Chuck Noll, Don Shula, and many others.

God bless you, Mike—your old teammates are all proud of you and the great Bear team you have developed, and also of the spirit and attitude you share with the people of western Pennsylvania, who are experiencing the toughest economic times of their lives—but like you, they'll never give up.

OIL PRICE BLUES

(Mr. DANNEMEYER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DANNEMEYER. Mr. Speaker, in 1974, the price of oil was a little over $10 a barrel. When it quadrupled in 1979, we blamed it on the greed and malice of the producers. In the 1980's, it is the other shoe that pinches. As the price of oil is falling to the $15 level, we blame it on the oversupply and inelastic demand. Clearly, these explanations are inconsistent. Both the price explosion of the seventies, and the price implosion of the eighties, are the effects of the very same cause: the unstable value of the dollar. Oil is just as important and useful in 1986 as it was in 1979. The difference is that the name of the game in 1979 was inflation, and today it is deflation.

But inflation and deflation are not simple mirror images of one another. It is much easier to climb into a hole than it is to climb out of it. Likewise, inflation can be relatively painless, while deflation is always excruciatingly painful. If the price of oil falls to $10, we shall not be back at square one. We shall be much worse off, as our banking system will be topheavy with illiquid, unsalable, bad assets, and the world will no longer be able to carry the debt burden it has contracted in the heady inflationary phase.

Yet there is a ray of hope. Prices can be stabilized, and the world debt can be consolidated, under a gold standard, if the executive branch is willing to reassume the monetary leadership which it abandoned in 1968, and the

□ This symbol represents the time of day during the House proceedings, e.g., □ 1407 is 2:07 p.m.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

Congress is willing to reclaim its monetary powers that it abdicated in 1971.

THE COLD-BLOODED, SELFISH DuVALIER REGIME

(Mr. OWENS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. OWENS. Mr. Speaker, last night new riots erupted in Haiti. It is part of an escalating pattern where there have been bloody riots over the last few months, and among the numerous people who have been killed, there have been six schoolchildren killed. The dictator of Haiti, Jean-Claude DuValier, has seen it necessary to close down the schools in order to defend himself against his own children.

Haiti is ruled by a group of cold-blooded, selfish people who have plundered, over the years, the resources of the country. They have wrecked the economy. There is no hope as long as the DuValier dictatorship remains. We can participate in a peaceful or a more peaceful transition to a new government in Haiti merely by exerting the kind of leverage we have in this country through peaceful means. By refusing to give the $8 million that remains in the State Department, that $8 million is being held presently by the Secretary of State, due to the fact that Haiti has not met human rights requirements.

□ 1110

We should not only continue to hold that, we should publicize the reason we are holding it, and we should bring other peaceful sanctions to bear on Haiti and try to get a transition to a new democratic government that represents all the people of Haiti and give the people of Haiti an opportunity to make a decision about the kind of government they have.

Haiti is just 90 miles by air away from the coast of Florida, from Miami. Haiti is in this hemisphere. It is our responsibility. We have as much responsibility for Haiti as we have for any other part of the hemisphere, and we should, through peaceful means, exert the maximum amount of pressure to rid the people of Haiti of the repressive dictatorship they have now and give them a democratic government.

IMPROVED RAILROAD SERVICE IS GOAL OF NEW VERSION OF CONSUMER RAIL EQUITY ACT

(Mr. TAUZIN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TAUZIN. Mr. Speaker, in 1980, Congress enacted the Staggers Rail Act with the goal of deregulating railroad rates and practices where competition exists.

The Staggers Act has worked well where competition exists. However, the ICC has failed to assure that "captive shippers"—those shippers that are subject to railroad monopoly power—are protected against unreasonable rates and has further failed to prevent railroad practices that reduce a shipper's alternatives. The result has been unreasonably high rates and reduced bargaining power for certain shippers and consumers, including electric rate payers, farmers, agricultural shippers, and manufacturers of captive products.

Mr. Speaker, I am introducing a new, improved version of the Consumer Rail Equity Act that was first introduced in February. This legislation addresses three areas of problems that are being experienced under the present law: protection against unreasonable rates for captive shippers, assurance that the opportunities for competition between railroads is maximized, and protection against unnecessary abandonment of so-called uneconomic railroad facilities.

We believe this legislation will assure that our present law governing railroads is not only sound, but fair to shippers, consumers, and local communities that depend on railroad service.

IN SUPPORT OF FEDERAL REVENUE SHARING

(Mr. MAZZOLI asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MAZZOLI. Mr. Speaker, I rise today in support of the Federal Revenue Sharing Program and would like to urge my colleagues to join me in cosponsoring H.R. 1400, introduced by the distinguished gentleman from New York [Mr. WEISS] which seeks to extend the Revenue Sharing Program past its September 1986 scheduled expiration.

General revenue sharing is an efficient, cost effective and flexible program which should be reauthorized and spared the full thrust of the Gramm-Rudman deficit-cutting knife.

Less than 2 percent of revenue sharing costs go for administration of the program. It carries no bloated, top-heavy bureaucracy. It is lean and trim and delivers dollars to local officials with the least possible overhead and with the maximum possible flexibility and latitude in meeting local needs.

It should also be noted that funding for revenue sharing has been frozen at the same $4.6 billion figure since 1980. Therefore, it is not a villian in the Federal deficit drama.

Last week—through the courtesy of Louisville Mayor Jerry Abramson—I was permitted to attend a meeting of the National Conference of Mayors and to participate in a special workshop on revenue sharing.

The picture nationally mirrors ours in Louisville and Jefferson Counties. The cities, counties, the municipalities have taken hard budget cuts since 1981. Revenue sharing funds—by their flexibility—have enabled local government to fill holes and tears made in the "safety net" by these cuts. Take away revenue sharing and the safety net springs holes too large to fill.

President Reagan was correct in 1983 when he praised the Federal Revenue Sharing Program, saying then that "the Federal Government never spent money more wisely."

This is still true today and I hope Congress acts quickly to extend this vital and necessary program.

THE VANISHING FAMILY: CRISIS IN BLACK AMERICA

(Mr. COATS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. COATS. Mr. Speaker, last Saturday evening CBS ran a powerful special entitled "The Vanishing Family: Crisis in Black America," hosted by Bill Moyers. Bill Moyers is known to most as a television commentator, but those who are politically involved probably also remember him as a key promoter of the Great Society programs of the 1960's.

As Moyers surveyed the wreckage of the unintended consequences of all the well-intentioned programs of the Great Society, he has laid the groundwork for some larger questions that must be addressed if we are to look beyond simplistic cliches and the failed solutions of the past 20 years.

While those interviewed on this special did not advocate the sudden abolition of programs designed to aid the poor, they also frankly acknowledged a seemingly obvious truth: that the "solutions" of the past have simply not worked as intended.

It astounds me that the reaction of some recognized national leaders is to continue to deny that the problem is anything less than simply an unlimited Government checkbook. In doing so, they ignore the reality of what was so well documented in the CBS special. These critics' reaction is the classic case of—"When you don't like the message, kill the messenger."

However, Mr. Speaker, we cannot continue to ignore the message. The erosion of values and the breakup of the family is having a tragic impact on our society, and strong families are essential to the future of this country.

PRESIDENTIAL MEDAL OF FREEDOM FOR "CHALLENGER" CREW MEMBERS

(Mr. LELAND asked and was given permission to address the House for 1 minute.)

Mr. LELAND. Mr. Speaker, Tuesday's tragic space shuttle accident stunned the entire world. The success of the Space Shuttle Program has blinded many of us to the brilliance and complications involved with these flights. The seven men and women who died Tuesday, however, were not blinded to the risks of their participation. They knew the dangers, yet chose to continue for the advancement of humankind. These seven men and women are real heros, who died serving our country and the world. Their courage, dedication, and contributions will never be forgotten.

Today I intend to introduce a bill calling on the President to posthumously award the Presidential Medal of Freedom to the astronauts of the space shuttle *Challenger*. It is the least we can do for our fallen heroes. I urge all my colleagues to join me in this effort.

SAVE HOUSING FROM FURTHER BUDGET CUTS

(Mr. MANTON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MANTON. Mr. Speaker, last year President Reagan requested a 2-year moratorium on all new funding for assisted housing. Recognizing the serious housing problems that continue to face this Nation, Congress rejected the administration's request and appropriated roughly $14 billion for housing and community development programs.

Next week the President will submit to Congress his budget for fiscal year 1987. The President's budget proposes to defer or rescind more than half of the funds appropriated for housing and community development in fiscal year 1986.

Apparently President Reagan failed to get the message that Congress does not intend to abandon those Americans who are in desperate need of safe, decent affordable housing.

Mr. Speaker, there is no doubt that we must all tighten our belts in order to reduce the Federal deficit. But during the past 5 years, assisted housing programs have already been cut by more than 60 percent. Enough is enough. The homeless and families who cannot afford safe housing have sacrificed enough for deficit reduction.

I urge my colleagues to further resist President Reagan's efforts to dismantle Federal housing and community development programs.

UDAG PROGRAM PROVES ITSELF A SUCCESS

(Mr. KANJORSKI asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. KANJORSKI. Mr. Speaker, I rise today to voice my strenuous objections to the administration's announced deferral of $200 million in fiscal year 1986 urban development action grant funds and $500 million in community development block grant funds.

These funds were appropriated by Congress to assist distressed areas in their effort to stimulate economic development, renovate downtowns, and create new employment opportunities. The only conclusion I can reach from this deferral is that the administration believes unemployment rates of 10 percent and poverty levels of 15 percent are acceptable in some parts of this country.

The UDAG Program has been one of the most successful Federal programs for stimulating development in distressed areas. Since 1977, $3.9 billion of Federal funds have leveraged almost $24 billion in private investment and created 513,000 new permanent jobs. In my congressional district in 1984, $3 million of UDAG funds leveraged some $20 million in private investment and created 500 new jobs.

I urge my colleagues to join me in objecting to this deferral. Undermining the continued redevelopment of our Nation's distressed areas is penny wise and pound foolish.

11TH DISTRICT UDAG PROJECTS—1984

Project	UDAG	Total	New jobs
Magee Industries	$1,280,000	$8,000,000	200
Henry (Martz)	358,000	7,000,000	140
Berwick Forge	1,000,000	5,000,000	100
West Pittston	238,000	1,000,000	30

□ 1120

EEC RETALIATION

(Mr. SCHULZE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SCHULZE. Mr. Speaker, I would like to express my dismay over the recent decision of the EEC to restrict U.S. exports of fertilizer, coded paper and animal fats from our country in response to the limits our country placed on semifinished steel imports from the EEC.

We recently negotiated a fair and equitable steel agreement with the European Community, which took months of difficult negotiations. The EEC was granted a relatively large 5.5-percent share of the U.S. market.

Their action is shocking particularly because the majority of limited products are farm related. The EEC has one of the most—if not the most—protected agricultural markets in the world. These new restrictions will adversely affect the delicate trade relations between our country and Europe.

I would like the EEC to know that the U.S. Congress stands firmly behind the U.S. Government's position on the decision to limit U.S. imports of semifinished steel from the EEC. I hope the EEC will reconsider this recent protective action.

HIGH TRADE DEFICITS

(Mr. BONKER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BONKER. Mr. Speaker, the Department of Commerce today is announcing the trade deficit statistics for the past month and the previous year. I am afraid that the statistics for 1985 will bear out our worst expectations about the staggering trade deficit that faces this country. We had hoped that it would not reach $150 billion, but apparently it is very close to that figure. More disturbingly, the trade deficit for December is the highest recorded trade deficit in this country's history.

We have averaged about $12 billion for each month of 1985.

U.S. imports are up considerably and U.S. exports are down. Obviously, all of us in this Chamber are aware of the profound implications of this trade deficit. Everywhere you look across the economic landscape of this country you will see plant closures and people out of work and communities suffering.

President Reagan announced in September his trade initiative to deal effectively with the problem; but despite all those initiatives, we have not seen anything that will result in a lower trade deficit. His war chest apparently is going nowhere to deal with mixed credit problems. The strike force has been compromised in part by former White House aides who are now on contract with foreign companies and their firms.

The dollar has dropped, due in part to Secretary Baker's meeting in New York of last September, but if the administration cannot put forth policies that will effectively deal with the problem and bring down our trade deficit, then the House and the Senate will have no choice but to take up this issue and try to come forth with proposals that are necessary to bring down that trade deficit and get our economy moving again.

STRONG SUPPORT FOR NEW VERSION OF CONSUMER RAIL EQUITY ACT

(Mr. ROGERS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ROGERS. Mr. Speaker, I rise today with my colleagues in strong support for the new version of the Consumer Rail Equity Act.

We've honed the bill down, simplifying some overly complex provisions. And I can tell my colleagues that we've trimmed it down to fighting weight and are ready to move it forward.

In our new lean, mean form, we've kept the support of our original coalition of consumer, utility, coal, and agricultural groups. But over the past months, we've been building up steam and are winning the support of many new groups and industries.

The word is out. The Staggers Act is in need of fixing. And captive shippers are turning to the Consumer Rail Equity Act as the best way to do the job.

My good friend from Louisiana, [Mr. TAUZIN], will be placing a detailed description of this new version of the bill in today's RECORD. I urge my colleagues to look it over and add their names as cosponsors of this important legislation.

OVERRIDE DEFERRAL OF UDAG PROGRAM

(Mr. RIDGE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. RIDGE. Mr. Speaker, just yesterday, a UDAG grant was approved for my district which will open the door for a new industry, provide financing for further economic development projects, and given opportunity to 102 workers who will occupy the new jobs there in September.

As you may already know, when President Reagan's budget is submitted next week, it will contain a deferral for about $200 million in the UDAG Program. The deferral to be offered would represent a total cut of over 70 percent in this program in a 1-year period after it already endured a 25 percent cut last year. In my home area, like other parts of the country, we have been successful in using the UDAG Program effectively, to help minimize the effects of long-term high unemployment.

In past years, as the administation has annually sought to zero out the program, the Congress has repeatedly shown its supprt. The UDAG Program has cost the Federal Government a total of $3.9 billion over the last 9 years while leveraging $23.7 billion in private funding for economic development. It has also been responsible for creating 513,000 new jobs, helping to retain 124,000 jobs, and providing 429,000 construction jobs. We must show our support again. We must act within 30 days to override the referral.

We don't have much time, because HUD has announced that it will not process grant applications from small cities that have just been submitted. One of the small cities in my district had just completed and submitted an application, only to read in the newspaper that HUD would refuse to consider it, in light of the pending deferral of funds. I would point out to my colleagues that most small cities with limited staff and resources make a tremendous commitment in staff time and consultants' fees just to plan a project and submit the extensive application.

Shortly, I'll be introducing a resolution to override the deferral, and I ask for the support of my colleagues.

PROTECTION AND ADVOCACY FOR MENTALLY ILL INDIVIDUALS ACT OF 1985

Mr. BEILENSON. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 360 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 360

Resolved, That at any time after the adoption of this resolution the Speaker may, pursuant to clause 1(b) of rule XXIII, declare the House resolved into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 4055) to assist the States to establish and operate protection and advocacy systems for mentaly ill individuals and to promote family support groups for Alzheimer's disease patients and their families, and the first reading of the bill shall be dispensed with. All points of order against the consideration of the bill for failure to comply with the provisions of section 402(a) of the Congressional Budget Act of 1974 (Public Law 93-344) are hereby waived. After general debate, which shall be confined to the bill and shall continue not to exceed one hour, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Energy and Commerce, the bill shall be considered for amendment under the five-minute rule by titles instead of by sections, and each title shall be considered as having been read. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and the previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except on motion to recommit. After the passage of H.R. 4055, the Committee on Energy and Commerce shall be discharged from the further consideration of the bill S. 974, and it shall then be in order in the House to move to strike out all after the enacting clause of the said Senate bill and to insert in lieu thereof the provisions contained in H.R. 4055 as passed by the House.

The SPEAKER pro tempore (Mr. MAZZOLI). The gentleman from California [Mr. BEILENSON] is recognized for 1 hour.

Mr. BEILENSON. Mr. Speaker, I yield the customary 30 minutes for purposes of debate only to the gentleman from Mississippi [Mr. LOTT] and pending that I yield myself such time as I may consume.

Mr. Speaker, House Resolution 360 is the rule providing for consideration of H.R. 4055, a bill to assist the States in establishing and operating protection advocacy systems for mentally ill individuals and to promote support groups for Alzheimer's disease patients and their families.

House Resolution 360 is an open rule, providing for 1 hour of general debate to be equally divided between the chairman and the ranking minority member from the Committee on Energy and Commerce.

The rule also provides for consideration of the bill for amendment by titles rather than sections.

The rule provides for one motion to recommit. It provides for a motion to strike the contents of S. 974, a similar bill passed by the Senate, and insert in lieu thereof the provisions of H.R. 4055, as passed by the House.

Finally, the rule would waive section 402(a) of the Congressional Budget Act. Section 402(a) prohibits consideration of legislation authorizing enactment of new budget authority if that legislation has not been reported by May 15, preceding the start of the fiscal year in which it becomes effective.

Because H.R. 4055 is an authorization for fiscal year 1986, it also, I should say, covers fiscal years 1987 and 1988, it requires a section 402(a) waiver.

I would like to point out, Mr. Speaker, that the waiver is technical in nature, because Congress has already voted to repeal the section 402(a) authorization reporting requirement.

The point of order against consideration of authorizations which have not been reported by May 15 was repealed by the Balanced Budget and Emergency Deficit Control Act of 1985, but its effective date was delayed until February 2, next week. Because it was anticipated that this bill would be considered by the House before February 2, the Rules Committee included the section 402(a) waiver in the rule.

The bill for which the Rules Committee has recommended this rule addresses the very serious problem of abuse affecting the mentally ill. H.R. 4055 would provide for the same kind of assistance for institutionalized mentally ill patients as that which is now available for mentally disabled patients. It would do that by expanding the mandate of State protection and

advocacy agencies to include services for the mentally ill.

Very modest funding for the expansion has already been appropriated for fiscal year 1986.

In addition, H.R. 4055 establishes family support groups for Alzheimer's patients and their families. It creates a national network for coordination and the exchange of information among them.

Mr. Speaker, I urge the adoption of House Resolution 360.

Mr. LOTT. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this rule makes in order the consideration of H.R. 4055, a bill to assist the States in establishing and operating protection and advocacy systems for the mentally ill, and to promote family support groups for Alzheimer's disease patients and their families.

The bill made in order by this rule is not the same bill which was reported by the Energy and Commerce Committee, H.R. 3492. However, the text is the same except for technical corrections to eliminate an entitlement feature of the bill which would have violated the Budget Act. The original bill unintentionally would have entitled States to these funds, regardless of appropriations levels. This was called to the attention of the Energy and Commerce Committee by the Budget Committee, and the new bill, H.R. 4055, was introduced on January 27 to remedy that budgetary defect.

This rule does waive section 402(a) of the Budget Act against consideration of the bill. Section 402(a) prohibits the consideration of legislation not reported by May 15 preceding the start of the fiscal year in which it takes effect. Since H.R. 4055 would take effect in the current fiscal year and obviously was not reported prior to last May 15, the waiver is necessary to even consider the bill.

Why is it necessary to waive section 402(a) of the Budget Act against this bill? Didn't we repeal the May 15 reporting deadline for authorizations in Gramm-Rudman?

Yes, Gramm-Rudman repeals the present section 402(a) May 15 reporting deadline, but the effective date for that repeal is February 1, 1986 which is 2 days away. So this waiver is still necessary this week.

There are other features of this rule which I want to call to the attention of my colleagues. First, the rule provides for 1-hour of general debate. Second, the bill will be read for amendment by titles rather than by sections under the 5-minute rule. Third, this is a completely open rule, and any and all germane amendments may be considered. Fourth, the regular motion to recommit is provided for. And finally, the rule provides for a hookup with the Senate companion bill, S. 974, following passage, to facilitate going to conference.

Mr. Speaker, H.R. 4055 authorizes approximately $33 million over 3 years to assist States in establishing protection and advocacy programs for mentally ill individuals, comparable to the services already provided the mentally retarded. This legislation is the result of committee findings that the mentally ill have been subjected to serious abuse and neglect in institutions, including physical, emotional and sexual abuse.

While States would not be required to establish such programs, the bill would take away their existing alcohol, drug abuse, and mental health block grant funds if they do not. And States which already have such advocacy and protection programs for the mentally ill could only use the money authorized by this bill to supplement, not supplant, State moneys.

Mr. Speaker, the nearly identical bill, H.R. 3492, was reported from the Energy and Commerce Committee by a vote of 17 to 7. There are dissenting views by 11 members objecting to the creation of a new, $33-million program.

Notwithstanding this opposition, however, and the opposition of the administration, a representative of the minority testified in support of an open rule so that there will be an opportunity to perfect this piece of legislation. Since this is a completely open rule, I know of no opposition to proceeding to the consideration of the bill itself, and therefore urge adoption of the rule.

Mr. Speaker, I yield 2 minutes to the gentleman from Pennsylvania [Mr. WALKER].

□ 1135

Mr. WALKER. Mr. Speaker, the two gentlemen who have spoken on this rule have made a point of telling the House that we are, in fact, waiving the Budget Act again. Now you would think that after going through the exercise at the end of last year where we were attempting to impose discipline on the House of Representatives with regard to our budgeting practices that someone might think that the House had reformed its way a little bit. But here we come with the first spending bill of the new session, and what do we have? We have a rule before us that waives the Budget Act.

Oh, now, there are all kinds of explanations as to why this waiver is in there. It is in there only because as of 2 days from now we are going to throw out that section of the rules anyhow, so what does it hurt to have a little bit of budget waiver right now?

Well, here is the problem with this one: What we are waiving is the Budget Act as relates to a brand new program. We are not talking about something here where we have already got spending within the budget, and we have got authorization in the budget. We have a brand new program here. Here is one more add-on program, and what we are doing is waiving the Budget Act in order to get to the new program.

What does our illustrious Budget Committee think about this, the protectors of our budget? Here is a letter from the chairman of the Budget Committee where he indicates that a poll of the members of the Budget Committee indicates that a majority would support a waiver of section 402(a) of the Budget Act in order to permit consideration of H.R. 4055, this brand new program.

That is the problem. We simply do not have any discipline in this body. There simply is not any desire whatsoever to stop spending money.

We said at the end of last year that we want to move on a trend toward a balanced budget. That was a great policy statement, evidently, that very few of the majority of the Members who voted for that particular provision really believe in, because when it comes now to spending more money we are waiving the Budget Act and bringing the spending to the floor.

I would submit that this rule should be turned down because of the Budget Act waiver in it. I would submit that we ought to make certain that the program that we are about to consider, if this rule is approved, complies with what we committed ourselves to last year, and that is movement toward a balanced budget. To do less would be a travesty.

Mr. LOTT. Mr. Speaker, I have no further requests for time, and I reserve the balance of my time.

Mr. BEILENSON. Mr. Speaker, I yield such time as he may consume to the gentleman from Pennsylvania [Mr. GAYDOS] for a unanimous-consent request.

REPORT PROVIDING AMOUNTS FROM CONTINGENT FUND OF HOUSE FOR EXPENSES OF INVESTIGATIONS AND STUDIES BY STANDING AND SELECT COMMITTEES IN SECOND SESSION OF 99TH CONGRESS

Mr. GAYDOS, from the Committee on House Administration, submitted a privileged report (Rept. No. 99-467) providing amounts from the contingent fund of the House for the expenses of investigations and studies by standing and select committees of the House in the 2d session of the 99th Congress, which was referred to the House Calendar and ordered to be printed.

Mr. BEILENSON. Mr. Speaker, I yield myself such time as I may consume to conclude my remarks on this rule, if the gentleman has no further requests for time.

I think I would like, if I might, to take a minute or two to just repsond very briefly to the comments of the

gentleman from Pennsylvania [Mr. WALKER]. I think the Members of the House deserve to hear a response to the point that the gentleman from Pennsylvania has made.

We, in fact, are waiving section or propose to waive section 402(a). We have done that on a good many other earlier occasions, and as we pointed out, both the gentleman from Mississippi [Mr. LOTT], and myself, that particular purpose of section 402 has been amended out by the Gramm-Rudman legislation, so it will not be before us again.

But I think it useful just to spend a moment or two, as I have suggested, to speak to the Members of the House about this particular matter.

Section 402(a) point of order which we did propose to waive in this particular rule was never a budget control to begin with. There is no way that waiving it can be in any way construed to be breaking the budget.

Section 402(a) point of order was included in the Congressional Budget Act of 1974 as a way of encouraging earlier action on the authorization bills so that appropriation bills could be considered more expeditiously. Authorization bills, of course, do not directly affect the budget because they only authorize the spending that must be approved later on through the appropriation process.

I would like to point out to the gentleman from Pennsylvania, to whom I will yield in just a moment or two, that money for this particular program already has been appropriated, already is in an approved appropriations bill by this House.

I might mention at this point that repeal of section 402(a) which was included in the balanced budget legislation at the recommendation of members of the Rules Committee and other committees was intended to promote consideration of authorization bills well in advance of the fiscal year for which they first would be effective. We felt that the May 15 reporting date, and deadline which has been in effect now for about 11 years, had actually become counterproductive to having authorization bills considered on the floor early in the year, prior to appropriation bills being taken up. So over the years members of the Rules Committee and others have observed that authorizing committees tended to wait until the May 15 reporting deadline to report the bulk of their bills, and then at that time there is very little time left to act on those authorizations prior to the consideration of appropriation bills as is ordinarily required by the Rules of the House of Representatives.

The House Rules Committee anticipates that as the House becomes accustomed to the new strict deadline for passage of appropriation bills which is included again at the behest of the Rules Committee in the Gramm-Rudman legislation, passed by both Houses and signed into law by the President just a couple of months ago, that authorization committees will find it is in their own best interest to report their bills as early in the year as possible in order to ensure that there will be adequate time to consider them on the floor prior to May and June, when under the new rules, and the new schedule, the appropriation bills are required to be taken up.

For the sake of orderly scheduling and to avoid the need to waive House rules prohibiting consideration of unauthorized appropriations, the Rules Committee strongly urges that authorization committees comply with the spirit of the new budget timetable by reporting as early in the year as possible their bills, and that means well in advance of the May 15 deadline, which unfortunately, has become the date at which most authorization bills are being reported, and that was too late to take them up in the proper course.

But I would say again to my friend from Pennsylvania that this has nothing to do with overspending, this has nothing to do with breaking the budget. There was the waiving of a deadline, of a deadline rule.

But with respect to the spending the gentleman quite properly refers to, this Member would assure his friend from Pennslyvania that really that has no relevance.

Mr. WALKER. Mr. Speaker, will the gentleman yield?

Mr. BEILENSON. I am happy to yield to the gentleman from Pennsylvania.

Mr. WALKER. I thank the gentleman for yielding and I think that it is an interesting interpretation of the Budget Act as it now stands. It differs a little from my own.

First of all, obviously we do not take this bill up if we do not have the waiver, so, therefore, it does have impact on the budget, because you could not authorize the spending that, therefore, could be appropriated if you did not have the waiver. So you do prevent spending from taking place if you do not grant the waiver.

Second, I would say to the gentleman that the reason for the May 15 date was somewhat broader than what he suggested, and that the intent was to assure that authorization bills were in place before we completed the budget process so that we would know those things that were likely to come up as a part of the legislative schedule so that the budget process could reflect everything that was potentially authorized. That does, in fact, relate directly to the budget process, and it is something that we have regularly waived.

Yes, indeed, the gentleman is absolutely correct in suggesting that the authorizing committees have failed to meet that deadline and have attempted to push the deadline. The gentleman is absolutely right. Why have they done that? Because they knew doggone well when they went to the Rules Committee they were going to get a waiver, and it is amazing to me that the waiver was never really a point until I and some other Members started to come to this floor and raise the point that a budget waiver was a problem and we ought not to be waiving the Budget Act. But all of a sudden, then we had to find some way to repeal it. So in the dark corners of the deliberations of Gramm/Rudman, one of the disciplinary tools that they took out was to take out this particular provision because it had become a problem on the House floor for Members to have to stand up and defend why they were waiving the Budget Act. So we got rid of that particular one.

I would suggest to the gentleman that it was not an important feature. It is one that I regret is being dropped, but the fact is that we are losing one more way of trying to discipline spending around here and continuing the spending practices of this place that have driven us to $200 billion deficits.

I thank the gentleman very much for yielding.

Mr. LOTT. Mr. Speaker, I yield 2 minutes to the gentleman from Georgia [Mr. GINGRICH].

Mr. GINGRICH. Mr. Speaker, I just wanted to reaffirm and strengthen what my friend from Pennsylvania [Mr. WALKER] said. We just finished a very successful and very important meeting of the House Administration Committee where, in fact, we took the Gramm-Rudman process very seriously, and I hope that the chairman and the ranking member will be bringing that report to the floor next week.

I think it is important to recognize that there are people in this place who are actually going through the difficult process of controlling spending. I think it is important to recognize that Members are now dealing with their own budget for their offices, for their personnel, and are actually cutting spending and trying to move toward a balanced budget.

□ 1145

It is particularly important, then, that we somehow get the message across to the Rules Committee that it ought to quit writing rules that are designed to obfuscate and confuse the process. To get up and say that authorizations really do not matter when you get to Appropriations and that the procedure really does not matter, and that somehow if you vote yes on this it does not mean anything later on, and then turn later and say, "Gosh, I don't know how we got this large deficit. I don't fully understand

all those things that Appropriations put in the supplemental or the continuing. I didn't really appreciate all these things, and I can't quite tell you who was doing that, but it all happened somewhere;" is exactly what is wrong with the congressional process.

We Members at large in the Committee of the Whole and on the floor of the House are going to have to spend all year disciplining our committees, because every committee has a tendency to protect its turf and its interests.

Unfortunately, the Committee on Rules is going to be used time after time to write obscure rules with complex provisions that mean in effect, "Here's one more place to get wiggle room."

So I would urge Members to vote no; I think it is appropriate to insist on rules that cease to waive the Budget Act; I think it is important that we enforce the Budget Act; and if there are systematic problems with the Budget Act, then let us change the Budget Act.

But to again and again and again let a handful of people in the smallest committee room on the Hill, hidden away in an obscure part of the Capitol decide once again to write paragraphs that do not quite make sense to the average Member is just the wrong way to start this year.

I appreciate the distinguished member of the Rules Committee yielding me this time.

Mr. LOTT. Mr. Speaker, I have no further requests for time.

Mr. BEILENSON. Mr. Speaker, I have no further requests for time, and I move the previous question on the resolution.

The previous question was ordered.

The SPEAKER pro tempore. The question is on the resolution.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. WALKER. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point that a quorum is not present.

The SPEAKER pro tempore. evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 240, nays 134, not voting 60, as follows:

[Roll No. 10]

YEAS—240

Akaka	Bennett	Boucher
Anderson	Bereuter	Boxer
Andrews	Berman	Breaux
Annunzio	Bevill	Broomfield
Anthony	Biaggi	Brown (CA)
Applegate	Boehlert	Bruce
Aspin	Boggs	Bryant
Atkins	Boland	Bustamante
AuCoin	Boner (TN)	Byron
Barnes	Bonior (MI)	Carper
Bates	Bonker	Carr
Bedell	Borski	Chandler
Beilenson	Bosco	Chapman
Clay	Jacobs	Price
Clinger	Jeffords	Pursell
Coelho	Jenkins	Rahall
Coleman (TX)	Johnson	Rangel
Conte	Jones (NC)	Reid
Cooper	Kanjorski	Richardson
Courter	Kaptur	Ridge
Coyne	Kastenmeier	Rinaldo
Daniel	Kennelly	Robinson
Darden	Kildee	Rodino
Daschle	Kleczka	Rose
Davis	Kolter	Roukema
de la Garza	Kostmayer	Rowland (CT)
Dellums	Lantos	Rowland (GA)
Dicks	Leach (IA)	Roybal
Dingell	Lehman (CA)	Sabo
DioGuardi	Lehman (FL)	Scheuer
Dorgan (ND)	Leland	Schneider
Dowdy	Levin (MI)	Schroeder
Downey	Levine (CA)	Schumer
Durbin	Lipinski	Sharp
Dwyer	Lowry (WA)	Shelby
Dymally	Luken	Sikorski
Dyson	Lundine	Sisisky
Eckart (OH)	MacKay	Slattery
Edgar	Manton	Smith (FL)
Edwards (CA)	Markey	Smith (NJ)
English	Martin (NY)	Snowe
Erdreich	Martinez	Solarz
Evans (IA)	Matsui	Spratt
Evans (IL)	Mavroules	St Germain
Fascell	Mazzoli	Stark
Fazio	McCain	Stokes
Feighan	McCloskey	Stratton
Foglietta	McCurdy	Studds
Foley	McGrath	Swift
Ford (MI)	McHugh	Synar
Ford (TN)	McKinney	Tallon
Frank	Mica	Tauzin
Franklin	Mikulski	Thomas (GA)
Frost	Miller (CA)	Torres
Fuqua	Mineta	Towns
Garcia	Mitchell	Traficant
Gaydos	Moakley	Traxler
Gephardt	Mollohan	Udall
Gibbons	Montgomery	Valentine
Gilman	Moore	Vento
Glickman	Morrison (CT)	Visclosky
Gonzalez	Morrison (WA)	Volkmer
Gordon	Mrazek	Walgren
Gray (PA)	Murphy	Watkins
Green	Murtha	Waxman
Guarini	Natcher	Weaver
Hall (OH)	Neal	Weiss
Hall, Ralph	Nelson	Wheat
Hamilton	Nichols	Whitley
Hawkins	Nowak	Whitten
Hayes	Oakar	Wilson
Hefner	Oberstar	Wirth
Henry	Ortiz	Wolpe
Hertel	Owens	Wright
Horton	Panetta	Wyden
Howard	Pease	Yates
Hoyer	Penny	Yatron
Hubbard	Pepper	Young (AK)
Huckaby	Perkins	Young (FL)
Hutto	Pickle	Young (MO)

NAYS—134

Archer	DeLay	Hyde
Armey	DeWine	Ireland
Badham	Dornan (CA)	Kasich
Barnard	Dreier	Kemp
Bartlett	Duncan	Kindness
Barton	Edwards (OK)	Kolbe
Bateman	Emerson	Kramer
Bentley	Fawell	Lagomarsino
Bilirakis	Fiedler	Latta
Bliley	Fields	Leath (TX)
Boulter	Fish	Lent
Brown (CO)	Frenzel	Lewis (FL)
Broyhill	Gallo	Lightfoot
Burton (IN)	Gingrich	Livingston
Callahan	Goodling	Lloyd
Campbell	Gradison	Lott
Carney	Gregg	Lowery (CA)
Chappie	Gunderson	Lujan
Cheney	Hammerschmidt	Lungren
Coats	Hansen	Mack
Cobey	Hartnett	Madigan
Coble	Hendon	Martin (IL)
Combest	Hiler	McCandless
Coughlin	Hillis	McCollum
Dannemeyer	Hopkins	McKernan
Daub	Hughes	McMillan
Meyers	Saxton	Stenholm
Michel	Schaefer	Strang
Miller (WA)	Schuette	Stump
Molinari	Schulze	Sundquist
Monson	Sensenbrenner	Sweeney
Myers	Shaw	Swindall
Nielson	Shumway	Tauke
Olin	Shuster	Taylor
Oxley	Siljander	Vander Jagt
Packard	Skeen	Vucanovich
Parris	Skelton	Walker
Pashayan	Slaughter	Weber
Petri	Smith (NE)	Whitehurst
Porter	Smith, Denny (OR)	Whittaker
Ray	Smith, Robert (NH)	Wolf
Regula	Solomon	Wortley
Ritter	Spence	Wylie
Roberts	Stallings	Zschau
Rogers		
Rudd		

NOT VOTING—60

Ackerman	Gejdenson	Obey
Addabbo	Gekas	Quillen
Alexander	Gray (IL)	Roe
Brooks	Grotberg	Roemer
Burton (CA)	Hatcher	Rostenkowski
Chappell	Heftel	Roth
Coleman (MO)	Holt	Russo
Collins	Hunter	Savage
Conyers	Jones (OK)	Seiberling
Craig	Jones (TN)	Smith (IA)
Crane	LaFalce	Smith, Robert (OR)
Crockett	Lewis (CA)	Snyder
Derrick	Loeffler	Staggers
Dickinson	Long	Stangeland
Dixon	Marlenee	Thomas (CA)
Donnelly	McDade	Torricelli
Early	McEwen	Williams
Eckert (NY)	Miller (OH)	Wise
Flippo	Moody	
Florio	Moorhead	
Fowler	O'Brien	

□ 1205

Mr. LEATH of Texas changed his vote from "yea" to "nay."

Mr. MAZZOLI and Mr. McKINNEY changed their votes from "nay" to "yea."

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

The SPEAKER pro tempore (Mr. MAZZOLI). Pursuant to House Resolution 360 and rule XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 4055.

□ 1209

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 4055) to assist the States to establish and operate protection and advocacy systems for mentally ill individuals and to promote family support groups for Alzheimer's disease patients and their families, with Mr. HUGHES in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. Pursuant to the rule, the first reading of the bill is dispensed with.

Under the rule, the gentleman from California [Mr. WAXMAN] will be recognized for 30 minutes and the gentleman from California [Mr. DANNE-

MEYER] will be recognized for 30 minutes.

The Chair recognizes the gentleman from California [Mr. WAXMAN].

Mr. WAXMAN. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, let me begin by clarifying the bill that is before us. Last week, the Committee on the Budget contacted the Commerce Committee staff to alert us to a technical error in the bill H.R. 3492. As drafted, that bill would have given States an entitlement to Federal funds, regardless of appropriations levels. Clearly this was not the intent of anyone on the Commerce Committee.

The bill, H.R. 4055, which is before us today is the exact text of H.R. 3492, with the technical corrections needed to prevent the creation of an entitlement. No substantive changes have been made. The legislative history and report of H.R. 3492 are clearly intended to be used in connection with this bill, and that is the Commerce Committee's understanding and intent.

Now if I may, I would like to describe the substance of the bill.

Last year, the Subcommittee on the Handicapped of the Senate Labor and Human Resources Committee conducted an investigation and a series of hearings revealing startling and serious abuse and neglect of mentally ill people in institutions. It is a difficult topic, one that most people would rather not consider. But physical abuse, sexual assault, and simple neglect occur in public and private settings, in good hospitals and in poor ones.

Such situations are made worse by the nature of mental illness. Seriously mentally ill people are often unable to protect themselves from even the most severe abuse. Sometimes their illness prevents them from looking after their own safety.

Similar problems have existed in the treatment of the mentally retarded, but for 10 years now, the Federal and State Governments have sponsored a program for the protection and advocacy of these disabled people. This program has been successful and well-received. It has been widely accepted and used by disabled people, their families, and service providers, and has been well-reviewed by the States, the GAO, and the Reagan administration.

The bill before us today would expand the mandate of the protection and advocacy agencies beyond their current services to the mentally retarded to include services for the mentally ill. Similar legislation has already passed the Senate. The very modest funding for this expansion was included in the appropriations act (Public Law 99-178) for this year, pending approval of this authorization, and is within the approved budget ceiling for this function.

The bill also includes a provision offered by my colleague from Florida, Mr. BILIRAKIS, to give the Secretary of HHS specific authority to promote the establishment of family support groups for family members of people with Alzheimer's disease. This is a particular devastating illness—for both family and patient—and I believe that such support services can give assistance that no other groups are providing.

Mr. DANNEMEYER. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, in 1981 the country embarked on a new means of establishing a provision in our law for health care for the people of this country. We inaugurated a program for block grants, whereby the Federal Government would, through the medium of block grants, establish authority for a State to use Federal dollars for such needs in the States as were deemed appropriate by the States.

We believe that program has worked very well. Nearly 40 small Federal public health programs, similar to the one now being considered by the House, were consolidated into block grants.

Consistent with that philosophy, in 1984, by an act of this body, we specifically authorized the States to develop programs for protecting the status of mentally ill people located in the States of the Union. Five States to date have acted pursuant to that legislation and have programs in place: Michigan, Rhode Island, Maryland, North Carolina, and New York. Those States believe that individuals in their States deserve the type of protection this legislation affords. Any yet what does this bill do? It creates a new Federal program at variance with the whole thrust of the Block Grant Program which has been a part of the Reagan administration's philosophy in dealing with health care matters and essentially says, "We the Federal Government believe that this need is so important that we are going to authorize $33 million over 3 years for this new program."

This program, the new one that is presented in this bill, raises a very simple question for all of us to consider: How high must the annual deficit reach, or how big must the national debt get, before somebody in this place stops trying to add new programs?

Apparently in the eyes of the proponents of this legislation, a national deficit of $200 billion is not high enough and a national debt of $1.8 trillion is not big enough to deter them. I again ask the question: How high must the annual deficit get before they stop adding new programs?

Since we are dealing with the subject of mentally ill people, I cannot help but observe that somebody watching this process must question at times the mental health of the people involved in the legislative process who would seriously consider adding a new program, costing $11 million a year, in the face of a $200 billion deficit.

We are engaged today in a very serious debate in this House as to where we can find $11.7 billion of reductions in fiscal year 1986 in order to comply with Gramm-Rudman. Yet notwithstanding that quest of reducing spending by that modest amount, this bill proposes to add a new program on top of everything that exists. Some of us believe that this new program does, in fact serve a noble purpose. Who can be against improving the status of the mentally ill and the mental health facilities of America? I am not against that. It certainly would improve their lives because I am sure some of them, somewhere, are being abused. But I think if we have learned one thing about the expansion of the liberal welfare state in this country, we have learned that we cannot correct every evil in America through the medium of Federal tax dollars because if we seek to do that we are goig to put ourselves right into bankruptcy. And here again is an example of those who really have no concern about where this drive for national bankruptcy is leading us through the medium of adding yet another new program.

Mr. Chairman, I reserve the balance of my time.

Mr. WAXMAN. Mr. Chairman, I yield 2 minutes to the gentleman from Florida [Mr. PEPPER], the very distinguished chairman of the Committee on Rules.

Mr. PEPPER. Mr. Chairman, I would like to commend my distinguished colleague, the Honorable HENRY A. WAXMAN, for bringing to the floor H.R. 4055, a bill to assist the States in establishing protection and advocacy systems for mentally ill individuals. The measure would also require that the Department of Health and Human Services promote the establishment of family support groups to help Alzheimer's patients and their families.

Mr. WAXMAN and I agree that, while the bill certainly recognizes the devastating burden borne by the families of those afflicted by Alzheimer's disease, it will not attempt to demonstrate how the Nation might begin to treat the Alzheimer's patient in a cost-effective and humane manner. I have introduced legislation, H.R. 524, which would accomplish that objective and which, during the consideration of the rule on H.R. 4055, Mr. WAXMAN assured me would get full and fair consideration by his subcommittee at the earliest possible time.

I would also like to commend Mr. WAXMAN for joining me as one of the principal cosponsors of H.R. 524, a bill to establish 20 regional centers for the treatment of Alzheimer's disease and related disorders. The bill also enjoys the support of 160 Members of the House of Representatives, including the ranking minority member of our Subcommittee on Health and Long-Term Care, the Honorable RALPH REGULA; the ranking minority member of the Subcommittee on Health and the Environment, Committee on Energy and Commerce, the Honorable EDWARD R. MADIGAN; the chairman of the Committee on Ways and Means' Subcommittee on Health, the Honorable FORTNEY H. (PETE) STARK; the chairman of the House Select Committee on Aging, the Honorable EDWARD R. ROYBAL; the ranking minority member of the House Select Committee on Aging, the Honorable MATTHEW J. RINALDO; the chairman of the Aging Committee's Subcommittee on Human Services, the Honorable MARIO BIAGGI; the chairman of the Aging Committee's Subcommittee on Housing and Consumer Interests, the Honorable DON BONKER; and the ranking minority member of the Aging Committee's Subcommittee on Housing and Consumer Interests, the Honorable JOHN PAUL HAMMERSCHMIDT. A companion measure, S. 174, has been introduced in the Senate by the Honorable ALBERT GORE, JR.

Alzheimer's disease was barely known outside medical circles 20 years ago, but today we recognize it as one of the cruelest and most widespread of illnesses. In 1983, my Subcommittee on Health and Long-Term Care held the first congressional hearing on Alzheimer's, that terrible monster which depersonalizes its victims, robbing them of their humanity, their emotions, and their ability to think. In that hearings, we were shocked to discover that most of the burden of the disease, financial as well as emotional, is borne by the families of those afflicted. Nowhere else in our society are individual citizens left so unassisted and exposed to the hazards of a catastrophic illness. Subsequent hearings, in Washington and around the country, have confirmed that sad fact, revealing that Federal coverage under Medicare and veterans' health programs is minimal, and private assistance and other health insurance policies are practically nonexistent. After our hearings, I determined that the Federal Government needed to take the lead in assisting the 1.2 to 4 million Americans suffering with Alzheimer's, and to establish a model for appropriate, compassionate and cost-effective treatment. The broad bipartisan support of H.R. 524 indicates that my House colleagues share this view.

In effect, H.R. 524 would not create a new benefit or entitlement under the Medicare Program. Rather, it calls for the continued research and testing of a new approach in the treatment of Alzheimer's patients at 20 centers throughout the United States. These centers would utilize existing sources of funds available under Medicare and Medicaid and other health programs for Alzheimer's disease and demonstrate the cost effectiveness of maintaining the Alzheimer's victim in the home, thereby delaying more costly institutionalization.

I commend Chairman WAXMAN for his tireless effort to assist mentally ill individuals, who are so sorely in need of protection and advocacy. H.R. 4055 is indeed a landmark provision worthy of the support of the Congress, and I am pleased that the chairman has included in that bill a provision for Alzheimer's support groups in his package.

I know that Mr. WAXMAN believes, as I do, that the time has come to recognize and begin to address the enormous problem of Alzheimer's disease. I sincerely hope that we can move forward to add 20 regional centers for Alzheimer's disease, as they will provide invaluable information on requirements for treatment of this illness and enable us to save considerable resources by postponing institutionalization.

Mr. DANNEMEYER. Mr. Chairman, I yield 3 minutes to the gentleman from Connecticut [Mr. MCKINNEY].

Mr. MCKINNEY. Mr. Chairman, I rise in strong support of the measure currently before us, the Protection and Advocacy for Mentally Ill Persons Act. I commend my friend and colleague, Senator LOWELL WEICKER for conducting a 9-month investigation in his Subcommittee on the Handicapped which resulted in a bill to stop the abuse and neglect of mentally ill persons. I also commend my colleagues, Mr. WAXMAN and Mr. BILIRAKIS, for holding hearings on this issue and producing a fine bill for the House to consider.

The bill before us today establishes a long overdue protection and advocacy system to prevent the abuse and neglect of the mentally ill. For years I have been saying that public policy on the chronic mentally ill has gone awry, resulting in a homeless population of which 30 to 50 percent are chronic mentally ill persons. As a result, I have continually offered legislation aimed at preventing the reckless dumping of patients out of institutions and onto our streets with no followup care or treatment. It is because of my years of work with mental health advocates that I later will be offering an amendment to today's bill which serves to fine-tune a good measure.

H.R. 3492 correctly recognizes that the "failure to establish or carry out an appropriate individual program plan or treatment or discharge plan for a mentally ill individual," is neglect. While this definition of neglect has merit, it needs to be fine tuned. I have worked for years with mental health advocates to establish the term "optimum therapeutic setting" when determining the most appropriate treatment or discharge plan for each individual patient. Current treatment and discharge plans too often are based solely on "least restrictive setting" criteria which does not take into consideration a patient's individual needs.

In its report the committee stated that it was "especially concerned that the State Protection and Advocacy agencies protect mentally ill persons against unplanned or unsuccessful discharge or dumping." My amendment would insure this by clarifying once and for all that the "optimum therapeutic setting" allows a patient's clinical and individual needs to determine the best rehabilitative environment. Without my amendment the "appropriate individual program plan" under H.R. 3492 may follow in the current interpretation of "least restrictive setting" and the problem of dumping would continue.

Mr. Chairman, for many, sleeping on the streets isn't a choice, it is a circumstance imposed upon them by public policy which has failed. It is my hope that this bill and my amendment will serve to close the legal loophole that allows mentally ill patients to fall through the cracks in our mental health system and wind up homeless. Once again, I commend the sponsors of this much-needed legislation for their fine efforts and urge your support of my amendment to make a good bill even better.

□ 1220

Mr. WAXMAN. Mr. Chairman, I yield 5 minutes to the gentleman from New York [Mr. BIAGGI].

Mr. BIAGGI. I thank the gentleman for yielding me this time.

Mr. Chairman, I rise in very strong support of H.R. 3492, the protection and advocacy for Mentally Ill Individuals Act. I commend the Subcommittee on Health which produced this important legislation and especially its distinguished chairman, HENRY WAXMAN and the esteemed gentleman from Florida [Mr. BILIRAKIS]. I believe passage of H.R. 3492 will mark an important and progressive step forward as we intervene on behalf of two of our society's more vulnerable groups—the mentally ill in institutions—and the families of victims of Alzheimer's disease.

This bill has two separate and distinct parts, both of which I support. The first and main part of this legislation would authorize a total of $33 million for a program to help States establish protection and advocacy sys-

tems for mentally ill individuals who have been institutionalized. This is not only essential—it is terribly long overdue.

I have a deep, longstanding and abiding interest in this issue. It goes back to my early days in Congress. The year was 1971. Together with a then highly respected local news reporter, Geraldo Rivera, we uncovered serious abuses of mentally ill and retarded persons at the Willowbrook Facility on Staten Island and the Letchworth Village in Rockland County. The horrors of mistreatment, abuse and neglect shocked the New York community. It did produce some basic reforms in the way individuals were treated; but it also led to a process by which these institutions were more closely monitored by State officials, as well as advocates, which lies behind what is in this bill today.

Several years later, as an attorney, I went to court to fight pro bond for the rights of a young institutionalized woman by the name of Adrienne Renelli. Once again, the issue was abuse and neglect of a mentally ill person in an institution. We emerged from court with a basic and new bill of rights for the institutionalized mentally ill.

Yet the harsh reality of the situation is this. If we were treating our mentally ill in institutions as they should be—there would be no need for us to be here working on this legislation. It is obvious that in too many places, we have seen the mentally ill relegated into second class citizenry status. It is obvious that in too many States in our Nation, we find wholescale warehousing of mentally ill individuals in institutions. In too many States, the cries and appeals of mistreated mentally ill persons go unheeded, or run up against an unsympathetic bureaucracy.

What I consider to be a critical feature of this legislation is the provision that says States are required to certify that they have, or will establish, a protection and advocacy program in order to continue to receive alcohol, drug abuse, and mental health administration block grant funds. It is the height of crudeness for the Federal Government to provide funds to States which do not even have this minimum program of protection and advocacy for its mentally ill. To continue to provide funds is tantamount to subsidizing continued abuse.

The bill does not impose on States any difficult procedure to implement these programs. It states clearly that the protection and advocacy system established by States under the Developmental Disabilities Assistance and Bill of Rights Act should be used for this purpose. It further would allow the few States that have an existing State mental health protection and advocacy system to use any such system for this purpose. In other words—there is no excuse for States not to put these reforms in order.

It is vitally important that, under this bill, in order for a State to be eligible to receive funds under this bill, a State system must have authority to investigate abuse and neglect—and to pursue remedies on behalf of mentally ill persons. The system must be independent of agencies that provide treatment. The system must have access to records, and issue an annual report.

In light of the fact that the Senate has already passed a similar bill, it is essential that we act today and pass H.R. 3492. Consider what even 1 day of delay means. In that 1 day there are mentally ill persons being abused and neglected in institutions. The question is how long do we want to wait before we act. This is a vote of conscience—and a vote to curb the unconscionable mistreatment of mentally ill persons in institutions.

Mr. DANNEMEYER. Mr. Chairman, I yield 7 minutes to the gentleman from Flordia [Mr. BILIRAKIS].

Mr. BILIRAKIS. I thank the gentleman for yielding me this time.

Mr. Chairman, I also wanted to take a few minutes today to draw the attention of my colleagues to the importance of the bill before us. Simply stated, H.R. 4055 addresses assistance and protection for people who often cannot protect or help themselves.

H.R. 4055, the Protection and Advocacy for Mentally Ill Individuals Act of 1985, sponsored by Chairman WAXMAN and myself, is supported by the American Psychiatric Association, the American Psychological Association, the Association for Retarded Citizens, the National Alliance for the Mentally Ill, the National Mental Health Association, the United Cerebral Palsy Association, as well as a number of other professional patient and family organizations. Its purposes are to: First, assist States to establish and operate protection and advocacy systems for mentally ill persons; and second, promote family support groups for Alzheimer's disease patients and their families.

Recent studies have uncovered alarming statistics of significant abuse and neglect of the mentally ill in residential facilities throughout the Nation. As a member of the Energy and Commerce Committee, I have personally heard witnesses, some former patients themselves, attest their experience or familiarity with the abuse—physical, emotional, and sexual—and neglect of mentally ill persons in institutions, and those recently discharged from institutions.

No one recognizes the constraints of our deficit situation more than I, nor more strongly feels that every appropriate and conceivable effort be made to reduce it. However, certain problems, especially those in the health area, transgress budgetary concerns and require immediate attention and compassion. This is especially true in the area of protection and advocacy services, for there is no doubt but they are needed in order to investigate and prevent further instances of abuse and neglect from occurring.

P&A services already exist for the developmentally disabled. They have been a condition of a State's receipt of funds under the Developmental Disabilities Assistance and Bill of Rights Act since 1975. This program has been widely accepted and used by disabled people, their families, and service providers. It has also been well reviewed by the States, the GAO, as well as by the Reagan administration. H.R. 4055 would provide modest increases in authorizations to expand the mandate of these existing protection and advocacy services for the mentally ill as well.

Senator WEICKER has sponsored similar legislation, S. 974, which passed the Senate by voice vote. Funding for this program is already included in the appropriations act for this year that was signed by the President on December 12. Furthermore, the funding is within the approved budget ceiling for this function.

H.R. 4055 requires States to certify, by the beginning of fiscal year 1987, that an advocacy program has been established or that one will be established in order to continue to receive an allocation from the Alcohol, Drug Abuse and Mental Health Administration [ADAMHA] block grant funds. I urge my colleagues to support the protection and advocacy services of H.R. 4055 and thereby speak for those who are unable to speak or defend themselves from the abuse and neglect of others.

The second purpose of H.R. 4055 is to promote the establishment of family support groups for victims of Alzheimer's disease and their families. We all know about the horrors of Alzheimer's disease and how it suddenly grips a normal and productive life and ravages it until there is neither personality, mentality, nor humanity left in its victim, Although there is little we can do to help victims of this deadly disease as it progresses, we can provide the necessary emotional hand to victims in the early stages and, especially, to the families who are forced to watch a loved one literally deteriorate in mind and spirit.

Support groups have already proven successful and beneficial on the private level, as demonstrated by the pioneer work of the Alzheimer's Disease and Related Disorders Association [ADRDA], because they offer the victim and his family the opportunity to talk with others who are going through the same unfortunate experiences with Alzheimer's disease.

H.R. 4055 calls upon the Secretary of Health and Human Services [HHS]

to promote the establishment of a national network of family support groups in university medical centers and in other appropriate health care facilities receiving Federal funds from the Secretary. These support groups will provide, without cost, educational, emotional, and practical support to help individuals cope with the deadly disorder. ADRDA has already done much fine work with support groups, and it is my hope that the Secretary of HHS will also consult with this organization on the establishment of the support groups called for in H.R. 4055.

In summation, then, H.R. 4055 provides for mechanisms which will protect a vulnerable population of citizens against mistreatment. No one in our society should have to be subjected to any unethical or inhumane treatment, least of all patients who are in mental health facilities to receive professional care and attention, and the expansion of protection and advocacy services to cover the mentally ill will help ensure against instances of abuse and neglect in the future.

Finally H.R. 4055 contains provisions which will assist yet another vulnerable population—the 2.5 million victims of Alzheimer's disease and the family members who are often victimized as much as the patient himself. The support groups which this legislation proposes will help this group of unfortunate victims come to grips with the reality of the disease with which they or their loved one has been afflicted. Nothing can compare with the emotional trauma such people go through, and the support group will offer them the opportunity to share with others who have been there and understand while simultaneously offering them practical information and advice on the disease known as Alzheimer's. The support groups which H.R. 4055 proposes will offer invaluable services while doing nothing to add to our deficit situation since the support groups will be established in facilities already receiving Federal HHS funds. I might remind my colleagues at this time, that the bill was reported out of the Health and Environment Subcommittee by a vote of 12 to 1 and out of the full committee of Energy and Commerce by a vote of 17 to 7. I hope all my colleagues will support passage of H.R. 4055 and help both groups of vulnerable victims.

□ 1230

Mr. WAXMAN. Mr. Chairman, I am pleased to yield 3 minutes to a very important member of our subcommittee, the distinguished gentleman from Ohio [Mr. LUKEN].

Mr. LUKEN. Mr. Chairman, I join in the applause for the gentleman from California [Mr. WAXMAN] for successfully advocating and steering this bill to its culmination here on the House floor, and I rise in enthusiastic support of this badly needed legislation.

I share the concerns which have been expressed for the plight of the mentally ill and the urgency of providing them with a program for advocacy and protection against abuse and neglect from their caretakers and from society as a whole. While we pride ourselves as a nation dedicated to the principle of individual freedom and opportunity for those less fortunate than us, it is almost daily that we hear of abuse to the elderly, to children, and to those who are least able to stand up for their own rights.

Fortunately, in my State of Ohio we have in place a very competent agency, the Ohio Legal Rights Service, which has helped uncover some disturbing cases of mismanagement and abuse in State-funded group homes. However, this same agency is also responsible for serving those with developmental disabilities and the mentally retarded, all on a shrinking budget.

The legislation before us today is a step in the right direction, as it will provide additional funds for this agency so that it can better focus its resources and staff on the problems of the mentally ill in my State and other States. Moreover, this legislation will enable those advocacy programs to pursue administrative, legal, and other remedies.

Gramm-Rudman has put the pressure on all Members of Congress to cut spending, but this program is essential and is worthy of our vote. As I mentioned, the Ohio Legal Rights Service is an independent agency to advocate the rights of persons who are mentally disabled and/or mentally ill, but more than half of that agency's budget, all of the OLRS Federal funds, comes from a bill on which this bill was modeled, the Developmentally Disabled Assistance and Bill of Rights Act of 1978.

As our committee report indicates, the protection and advocacy system is anticipated to lower unnecessary use of expensive institutional services, as well as to reduce the need for medical care required by persons who are victims of neglect and physical or sexual abuse.

I intend to offer an amendment to correct the effects of an amendment which was adopted by the committee. This amendment adopted by the committee would further discriminate and limit the protection and advocacy system's ability to advocate for some of the most vulnerable persons termed mentally ill, those who have custodians or trustees. I believe that this protection should be restored. It has been requested by the rights groups in my State. I will offer an amendment to that effect, and I urge support of the bill.

Mr. DANNEMEYER. Mr. Chairman, we have no further requests for time.

Mr. WAXMAN. Mr. Chairman, I am pleased to yield 3 minutes to the distinguished gentleman from Ohio [Mr. TRAFICANT].

Mr. TRAFICANT. Mr. Chairman, I would like to begin by commending the gentleman from California [Mr. WAXMAN] and the gentleman from Florida [Mr. BILIRAKIS] for their efforts in the subcommittee and the committee for its efforts in bringing this legislation forward. I believe the gentleman from California [Mr. WAXMAN] has identified himself as an individual who is not only a strong advocate but a learned advocate and one who has made a tremendous impact in this particular field.

My particular background has included work with the mentally ill in my tasks. In 10½ years, in fact, I worked serving drug abusers and also served in the capacity of helping and aiding and abetting those involved with institutionalized problems and those who are mentally ill.

This legislation is basically that. It protects the mentally ill from physical abuse and from sexual abuse and neglect. It will also require States to establish an advocacy program, and certainly that is something that is needed.

I would like to point out to the Members of Congress that the mentally ill whom this affects cannot be here today, and they do not have any powerful lobbies that can be here today on their behalf. We have become their lobbyists, and when I hear individuals talk about a new program and the cost of this program, I look back to a date last year when a $14 billion foreign aid bill passed the House of Representatives on a voice vote.

□ 1240

I am not questioning your vote on that. I am now questioning, though, your priorities.

We today are the lobbyists for those mentally ill who cry out from institution for our support. I think our support should be there.

So I think it is a good program, perhaps, but one that is overdue and one that Congress should put the stamp of approval on and we should endorse and approve here today H.R. 4055 and I commend those Members who brought it forward.

Mr. FIELDS. Mr. Chairman, I rise in opposition to the piece of legislation currently before this body, H.R. 4055, Protection and Advocacy for Mentally Ill Individuals.

Today, the United States is faced with one of the most serious domestic economic crisis with which we have had to deal in many a year—the soaring Federal budget deficit. Current estimates peg the deficit at more than $220 billion, an estimate which has increased by more than $48 billion since the passage of the Gramm-Rudman-Hollings Balanced Budget Act. Certainly in the face of this

budget crisis, new Federal programs, new Federal spending are not in order.

While I recognize that abuse and neglect of the mentally ill is a serious problem and merits attention, I strongly feel that the Federal Government cannot afford new programs nor the precedent of establishing new programs at this time. Furthermore, the last thing we need to do is to continue to foster dependence by the States on Federal funds.

Although I realize that any Federal funds distributed under this act are to supplement, not supplant, State funds for protection and advocacy services, we do a disservice to States and individuals by promising, through precedent, something which we will not be able to deliver. We should only encourage States to establish programs which they can afford to fund themselves.

Supporters of H.R. 4055 might defend their plea for this new spending by saying that funding for this function, for this year, already is appropriated. This fact coupled with a relatively low level of fund sequestering under Gramm-Rudman for fiscal year 1986 may lead some to believe that authorization of this new program is not such a bad idea.

But, my friends, I ask you to look at this again. What happens in 1987? 1988? and on down the line? I'll tell you what happens. If this bill passes and is signed into law, a new program will not just be authorized, but also initially funded. The precedent will be set; States' expectations for their programs will rise.

The solution is to not establish a new program at all because we cannot afford it. A 3-year authorization of $33 million may seem like small potatoes when we speak of a $220 billion deficit. But as we are all aware, millions add up to billions and we might as well cut our losses now.

Moreover, Congress soon will be faced with budget cuts of from $40 to $70 billion. Colleagues, that's a lot of money. If we don't do it, Gramm-Rudman will take effect, as we all know. Each year for the next 4 years, we must scale down the level of Federal involvement in domestic programs. That is inevitable. Let us not mislead ourselves, nor the country, that we can do anything otherwise. For if we continue to authorize new programs, we may grow complacent about the task at hand.

The solution also is to not establish another program which fosters State dependence on Federal funds. Federal funds for State functions will only decrease, not increase, at least for the next several years. Offering up new Federal funding to induce States to start new programs which they may not be able to afford alone is a cruel joke and a hoax.

Furthermore, as had been noted before, States are taking initiative to remedy the situations which lead to neglect and abuse of the mentally ill. I believe that the message should be clear from Washington: States, you are going to have to fully fund any new and necessary programs, therefore you should adopt the appropriate solutions tailored to your particular problems.

I know that supporters of this bill would say, "Abuse and neglect of the mentally ill truly is a national problem. Let's look at the merits of this bill." Well, the merits are there. But it is my firm belief that past focus on merits without enough attention to program cost is what has brought us to the point of holding the gun to our own heads. We must not fail in our fiscal responsibility any longer.

Mr. WAXMAN. Mr. Chairman, we have no further requests for time, and I yield back the balance of our time.

Mr. DANNEMEYER. Mr. Chairman, we yield back the balance of our time.

The CHAIRMAN. Pursuant to the rule, the bill will be considered under the 5-minute rule by titles, and each title will be considered as having been read.

The Clerk will designate title I.

Mr. WAXMAN. Mr. Chairman, I ask unanimous consent that the bill be printed in the RECORD and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

There was no objection.

The text of the bill is as follows:

H.R. 4055

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

TITLE I—MENTAL HEALTH ADVOCACY

SECTION 101. SHORT TITLE.

This title may be cited as the "Protection and Advocacy for Mentally Ill Individuals Act of 1985".

SEC. 102. DEFINITIONS.

For purposes of this title—

(1) The term "abuse" means an act or failure to act by an employee of a hospital, nursing home, board and care home, or community facility for mentally ill individuals which was performed, or was not performed, in a knowing, reckless, or intentional manner, and which caused, or may have caused, injury to a mentally ill individual, and includes—

(A) the rape or sexual assault of a mentally ill individual;

(B) the striking of a mentally ill individual;

(C) the use of excessive force when placing a mentally ill individual in bodily restraints; and

(D) the use of bodily or chemical restraints on a mentally ill individual which is not in compliance with Federal and State laws and regulations.

(2) The term "eligible system" means the system established in a State under part C of the Developmental Disabilities Assistance and Bill of Rights Act to protect and advocate the rights of individuals with developmental disabilities or, if the Governor of the State designates a State mental health protecton and advocacy system as the eligible system for the State, such designated State system. The Governor of a State may designate a State mental health protection and advocacy system as an eligible system under this Act if the State system is in effect within 90 days of the date of the enactment of this Act, provides services throughout the State, meets the requirements of section 103(b), and is principally supported by State funds which have been appropriated by October 1, 1985, for the provision of mental health protection and advocacy services by such systems.

(3) The term "mentally ill individual" means an individual—

(A) for whom a diagnosis of mental illness has been made by a mental health professional qualified under the laws of a State;

(B) who is an inpatient in a hospital or nursing home or a resident in a board and care home or a community facility for mentally ill individuals; and

(C) for whom a legal guardian, conservator, or other legal representative has not been appointed or who is not an inpatient in a State which has in effect a protection and advocacy system similar to the system for which assistance is provided by section 3.

In the case of individuals in a State in which the Governor has made a designation described in paragraph (2), such term means an individual described in only subparagraphs (A) and (B).

(4) The term "neglect" means a negligent act or omission by any person responsible for providing services in a hospital, mursing home, board and care home, or community facility for mentally ill individuals which caused or may have caused injury to a mentally ill individual or which placed a mentally ill individual at risk of injury, and includes the failure—

(A) to establish or carry out an appropriate individual program plan or treatment or discharge plan for a mentally ill individual,

(B) to provide adequate nutrition, clothing, or health care for a mentally ill individual, or

(C) to provide a safe environment for a mentally ill individual.

(5) The term "Secretary" means the Secretary of Health and Human Services.

(6) The term "State" means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, the Commonwealth of the Northern Mariana Islands, American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands.

(7) The term "board and care home" means a facility licensed or regulated by a State under section 1616(e) of the Social Security Act.

SEC. 103. PROTECTION AND ADVOCACY SYSTEM.

(a) ALLOTMENTS.—

(1) The Secretary shall make allotments to eligible systems to establish and administer a system—

(A) which meets the requirements of subsection (b), and

(B) which is designed to protect and advocate the rights of mentally ill individuals and investigate incidents of abuse and neglect of mentally ill individuals.

(2) An eligible system which receives funds under an allotment under paragraph (1) may use such funds to enter into contracts with entities for activities under the allotment but may not use such funds to contract with entities which—

(A) provide treatment or services (other than advocacy services) to mentally ill individuals, or

(B) are not public or nonprofit private entities.

(3) If an eligible system which receives an allotment under paragraph (1) is an agency of a State, other agencies of such State may not use more than a total of 5 percent of any such allotment for any fiscal year for administrative expenses related to the system established under the allotment.

(b) SYSTEM REQUIREMENTS.—

(1) A system established in a State under an allotment under subsection (a)(1) to protect and advocate the rights of mentally ill individuals shall—

(A) have the authority to—

(i) investigate incidents of abuse and neglect of mentally ill individuals;

(ii) pursue administrative, legal, and other appropriate remedies to ensure the protection of mentally ill individuals who are inpatients in hospitals, or nursing homes in the State or are residents of board and care homes or community facilities in the State for mentally ill individuals; and

(iii) pursue administrative, legal, and other appropriate remedies on behalf of individuals who were mentally ill individuals and who are residents of the State;

(B) be independent of any agency in the State which provides treatment or services (other than advocacy services) to mentally ill individuals;

(C) have access to hospitals, nursing homes, and board and care homes and community facilities for mentally ill individuals in the State;

(D) have access to all records of—

(i) any individual who is a client of the system if such individual or the guardian of such individual has authorized the system to have such access; and

(ii) any person—

(I) who by reason of the mental or physical condition of such individual is unable to authorize the system to have such access;

(II) who does not have a legal guardian or for whom the legal guardian is the State; and

(III) with respect to whom a complaint has been received by the system or with respect to whom there is reason to believe that such individual has been subject to abuse and neglect;

(E) establish a board—

(i) which will advise the system on policies and priorities to be carried out in protecting and advocating the rights of mentally ill individuals, and

(ii) which shall include attorneys, mental health professionals, individuals from the public who are knowledgeable about mental illness, a provider of mental health services, individuals who have received or are receiving mental health services, and family members of such individuals and at least one-half of the membership of which shall be comprised of individuals who have received or are receiving mental health services or are family members of such individuals;

(F) have an arrangement with the agency of the State which administers the State plan under title XIX of the Social Security Act for the furnishing of the information required by subsection (c); and

(G) on January 1, 1987, and January 1 of each succeeding year, prepare and transmit to the Secretary and the head of the State mental health agency of the State in which the system is located a report describing the activities, accomplishments, and expenditures of the system during the most recently completed fiscal year.

(2) In the case of individuals who were mentally ill individuals, a system may pursue remedies under paragraph (1)(A)(iii) on behalf of such individuals only with respect to matters which occur within 90 days of the date of the discharge of such individual from a hospital, nursing home, board and care home, or community facility for mentally ill individuals.

(3) A system which has access to records which, under Federal or State law, are required to be maintained in a confidential manner by a provider of mental health services, shall, except as provided in paragraph (4), maintain the confidentiality of such records to the same extent as is required of the provider of such services.

(4)(A) Except as provided in subparagraph (B), a system which has access to records under paragraph (1)(D) may not disclose information from such records to the individual who is the subject of the information if the mental health professional responsible for supervising the provision of mental health services to such individual has provided the system with a written determination that disclosure of such information to such individual would be detrimental to such person's health.

(B) An individual to whom disclosure of information has been denied under subparagraph (A) may select, or the system, acting on behalf of such person, may select, another mental health professional to review such information and to determine if disclosure of such information would be detrimental to such person's health. If such mental health professional determines, based on professional judgment, that disclosure of such information would not be detrimental to the health of such person, the system may disclose it to such person.

(c) INFORMATION FOR SYSTEMS.—The Secretary and the agency of a State which administers its State plan under title XIX of the Social Security Act shall provide the system in the State established under an allotment under subsection (a) with a copy of each annual survey report and plan of corrections for cited deficiencies made pursuant to titles XVIII and XIX of the Social Security Act with respect to any hospital, nursing home, board and care home or community facility for mentally ill individuals in the State in which such system is located. A report or plan shall be made available within 30 days after the completion of the report or plan.

SEC. 101. ADMINISTRATION OF ALLOTMENTS.

(a) FORMULA.—

(1) Except as provided in paragraph (2) and subject to the availability of appropriations under section 105, the Secretary shall allot the amounts available for allotment under section 105 for a fiscal year on the basis of a formula prescribed by the Secretary which is based equally—

(A) on the population of each State in which there is an eligible system, and

(B) on the population of each such State weighted by its relative per capita income.

For purposes of subparagraph (B), the term "relative per capita income" means the quotient of the per capita income of the United States and the per capita income of the State, except that if the State is Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, the Trust Territory of the Pacific Islands or the Virgin Islands, the quotient shall be considered to be one.

(2) Notwithstanding the formula for allotments prescribed by paragraph (1) and subject to the availability of appropriations under section 105—

(A) the amount of the allotment of an eligible system in each of the several States, the District of Columbia, and the Commonwealth of Puerto Rico shall not be less than $125,000; and

(B) the amount of the allotment of an eligible system in Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, the Trust Territory of the Pacific Islands, or the Virgin Islands shall not be less than $67,000.

(b) REALLOTMENT.—

(1) To the extent that all the funds appropriated under section 105 for a year and available for allotment in such fiscal year are not allotted to eligible systems because—

(A) one or more eligible systems have not submitted an application for an allotment for such fiscal year, or

(B) one or more eligible systems have notified the Secretary that they do not intend to use the full amount of their allotment,

the amount which is not so allotted shall be reallotted among the remaining eligible systems.

(2) The amount of an allotment to an eligible system for a fiscal year which the Secretary determines will not be required by the system during the period for which it is available shall be available for reallotment by the Secretary to other eligible systems with respect to which such a determination has not been made.

(3) The Secretary shall make reallotments under paragraphs (1) and (2) on such date or dates as the Secretary may fix (but not earlier than 30 days after the Secretary has published notice of the intention of the Secretary to make such reallotment in the Federal Register). A reallotment to an eligible system shall be made in proportion to the original allotment of such system for such fiscal year, but with such proportionate amount for such system being reduced to the extent it exceeds the sum the Secretary estimates such system needs and will be able to use during such period. The total of such reductions shall be similarly reallotted among eligible systems whose proportionate amounts were not so reduced. Any amount so reallotted to an eligible system for a fiscal year shall be deemed to be a part of its allotment under subsection (a) for such fiscal year.

(c) APPLICATION.—No allotment may be made to an eligible system unless an application therefor is submitted to the Secretary. Each such application shall contain—

(1) assurances that amounts paid to such system from an allotment under section 103 will be used to supplement and not to supplant the level of non-Federal funds available to the system to protect and advocate the rights of mentally ill individuals;

(2) assurances that the eligible system for which the application is submitted will have a staff which is trained or being trained to provide advocacy services to mentally ill individuals; and

(3) such other information as the Secretary may by regulation prescribe.

(d) PAYMENTS.—For each fiscal year, the Secretary shall make payments to each eligible system from its allotment under section 103. Any amount paid to an eligible system for a fiscal year and remaining unobligated at the end of such year shall remain available to such system for the purposes for which it was made for the next fiscal year.

(e) REPORT.—The Secretary shall include in each report required under section 107(c) of the Developmental Disabilities Assistance and Bill of Rights Act a separate statement—

(1) describing the activities, accomplishments, and expenditures of systems to protect and advocate the rights of mentally ill individuals supported with payments from allotments under section 103, including—

(A) a specification of the total number of mentally ill individuals served by such systems;

(B) a description of the types of activities undertaken by such systems;

(C) a description of the types of residential facilities for mentally ill individuals

with respect to which such activities are undertaken;

(D) a description of the manner in which such activities are initiated; and

(E) a description of the accomplishments resulting from such activities;

(2) describing—

(A) systems to protect and advocate the established rights of mentally ill individuals supported with payments from allotments under this section;

(B) activities conducted by States to protect and advocate such rights;

(C) mechanisms established by residential facilities for mentally ill individuals to protect and advocate such rights; and

(D) the coordination among such systems, activities, and mechanisms; and

(3) making recommendations for activities and services to improve the protection and advocacy of the rights of mentally ill individuals and a description of needs for such activities and services which have not been met by systems established under allotments under section 103.

In preparing the statement required by this subsection, the Secretary shall use and include information submitted to the Secretary in the reports required under section 103(b)(1)(G).

(f) OTHER ASSISTANCE.—The Secretary shall provide training, technical assistance, and evaluation services to eligible systems with respect to activities carried out under an allotment under section 103. In any fiscal year, the Secretary shall obligate for assistance under this subsection an amount equal to 5 percent of the amount appropriated for such fiscal year under section 105.

(g) ADMINISTERING AGENCY.—The Secretary shall carry out this title through the Administrator of the Alcohol, Drug Abuse, and Mental Health Administration.

SEC. 105. AUTHORIZATIONS.

For allotments under section 103 and assistance under section 104(f), there are authorized to be appropriated $10,500,000 for fiscal year 1986, $11,000,000 for fiscal year 1987, and $11,525,000 for fiscal year 1988.

SEC. 106. OTHER ALLOTMENTS.

(a) SECTION 1916.—Section 1916(c) of the Public Health Service Act (42 U.S.C. 300x-4) is amended by adding at the end the following:

"(16) There is in the State a protection and advocacy system for mentally ill individuals which meets the requirements of section 103(b) of the Protection and Advocacy for Mentally Ill Individuals Act of 1985.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect October 1, 1986.

TITLE II—FAMILY SUPPORT GROUPS

SEC. 201. ALZHEIMER'S DISEASE.

(a) FAMILY SUPPORT GROUPS.—The Secretary of Health and Human Services (hereinafter in this section referred to as the "Secretary"), acting through the National Institute of Mental Health, the National Institutes on Health, the National Institute on Aging, and the Administration on Aging, shall promote the establishment of family support groups to provide, without charge, educational, emotional, and practical support to assist individuals with Alzheimer's disease or a related memory disorder and members of the families of such individuals. Such groups shall be established in university medical centers and in other appropriate health care facilities which receive Federal funds from the Secretary and which conduct research on Alzheimer's disease or provide services to individuals with such disease.

(b) NATIONAL NETWORK.—The Secretary shall provide for the establishment of a national network to coordinate the family support groups described in subsection (a).

(c) REPORT.—The Secretary shall report to Congress, not later than one year after the date of the enactment of this section, on family support groups and the network of such groups established pursuant to this section.

AMENDMENT OFFERED BY MR. WAXMAN

Mr. WAXMAN. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. WAXMAN: Page 3, line 19, insert after "pointed" the following: "unless the legal guardian, conservator, or other legal representative requests the eligible system for the jurisdiction in which such individual is located to treat the individual as a mentally ill individual".

Mr. WAXMAN (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. WAXMAN. Mr. Chairman, during the debate on this bill in the Commerce Committee, an amendment was added to prohibit protection and advocacy agencies from acting on behalf of a person who has a court-appointed guardian with full responsibility for the mentally ill person. It was the goal of that amendment to avoid overlapping responsibilities and interference with a guardian who is already overseen by the court.

That amendment was drafted so broadly, however, that it prevents the guardian himself or herself from asking the protective services for help in caring for the mentally ill person. It is a very strange position in which guardians who actively want to assist their wards are not allowed to use the agencies designed to protect people from abuse and neglect.

My amendment would clarify that a guardian can request assistance from the protective services agency on behalf of the mentally ill person. My amendment does not remove the basic amendment itself from the bill.

Mr. DANNEMEYER. Mr. Chairman, we have no objection to this amendment. We believe it is reasonable. It gives the guardian the ability to ask for the assistance if it is needed. I think it leaves the responsibility with the guardian where it belongs.

The CHAIRMAN. The question is on the amendment offered by the gentleman from California [Mr. WAXMAN].

The amendment was agreed to.

AMENDMENT OFFERED BY MR. LUKEN

Mr. LUKEN. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. LUKEN: Page 2, beginning in line 20 strike out "or" and all that follows through "system" in line 7 on page 3.

Page 3, beginning in line 19 strike out "or" and all that follows through "(B)" in line 2 on page 4.

Mr. LUKEN (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Ohio?

There was no objection.

Mr. LUKEN. Mr. Chairman, I mentioned this amendment in the statement in general debate.

During the Commerce Committee discussion of the State's designation of agencies to protect the mentally ill a series of amendments were offered. One has just been covered. That would allow the Governor of a State to recognize an existing State-run advocacy system.

This amendment, offered by the gentleman from California [Mr. DANNEMEYER], denies funds for inpatient services to a State that has such a similar system.

The effect of these amendments at best is confused. Since the time the bill was reported, State governments and Governors, the Ohio Legal Rights Services, have contacted us and have been calling to see if they could immediately establish or eliminate any of these restrictions, so as not to eliminate these advocacy services in their States.

This amendment would eliminate the central one. This section prevents the protection advocacy not only from representing those who have a legal guardian, but the important part of this amendment is that it prohibits States which have such a system from receiving the protection and advocacy funds under the bill.

The Ohio Legal Rights Services believes that this amendment should be dropped.

I believe this action should be done so that the funds can be restored and that those who are at a disadvantage, those who are least able to protect themselves, will be afforded the protections under this bill.

Mr. Chairman, I urge adoption of the amendment.

Mr. WAXMAN. Mr. Chairman, will the gentleman yield to me?

Mr. LUKEN. I yield to the gentleman from California.

Mr. WAXMAN. Mr. Chairman, I thank the gentleman for yielding.

I rise in support of the amendment. There are at least six States that have protection and advocacy systems that they have set in place, some within the developmental disability system, some not. What we want to make sure is that they do not have to establish

another protection and advocacy system under the law that we would pass should this legislation become law.

We have State-run systems. What this amendment would do is that the State could have that flexibility to use its existing developmental disability system and have it be recognized as fitting within this legislation.

We should stick to the clear principle of the bill and use existing protective services structures. Not to do so would lead to great confusion as to which States are eligible for funds and which are not.

There was a question raised in the committee whether a State that had a protection and advocacy system might well then use Federal dollars to supplant State dollars. Well, we make very clear in this legislation that that would not be permitted. Without the Luken amendment, States would face confusion as they look at this legislation.

This amendment is a needed one to eliminate that confusion and I join in supporting the amendment.

Mr. DANNEMEYER. Mr. Chairman, I rise in opposition to the amendment.

Under existing law, any State that wants to set up a program to assist the mentally ill may do so under the block grant authority which Congress authorized in 1984. Six States, as has been indicated by the Chairman, have set up such a program.

Under the bill before the committee right now, those six States would be allowed to continue those existing programs and could obtain funding from the block grants now available from the Federal Government.

The amendment offered by the gentleman from Ohio [Mr. LUKEN] would in effect create an alternative; admittedly a tempting alternative, because it would provide a new access, a new tap route into the Federal Treasury for a new program. Most State Governors, I suspect when asked if they would have an opportunity of allocating money under a block grant to fund the program or where they could get a new tap route into the Treasury, would probably opt for the latter. It is only human nature; but the problem is that we have run out of funds to be tapped.

As indicated earlier, we have a deficit today of over $200 billion. There is no money at the end of that tap.

So I think this amendment should be defeated. The bill should be considered by the committee and by the House in the form that it is now before us.

I think it is a modest change; but it does indicate to those States that have the programs that they are going to have to get the funding for them out of the existing block grants. They will not be able to access a new tap route into the Federal Treasury.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Ohio [Mr. LUKEN]

The question was taken; and the Chairman announced that the ayes appeared to have it.

Mr. DANNEMEYER. Mr. Chairman, I demand a recorded vote, and pending that, I make the point of order that a quorum is not present.

The CHAIRMAN. Evidently a quorum is not present. Pursuant to the provisions of clause 2, rule XXIII, the Chair announces that he will reduce to a minimum of 5 minutes the period of time within which a vote by electronic device, if ordered, will be taken on the pending question following the quorum call. Members will record their presence by electronic device.

The call was taken by electronic device.

The following Members responded to their names:

[Roll No. 11]

Akaka	Coleman (TX)	Gibbons
Anderson	Combest	Gilman
Andrews	Conte	Gingrich
Annunzio	Cooper	Glickman
Anthony	Coughlin	Gonzalez
Applegate	Courter	Goodling
Armey	Coyne	Gordon
Aspin	Craig	Gradison
Atkins	Crockett	Gray (PA)
AuCoin	Daniel	Green
Badham	Dannemeyer	Gregg
Barnard	Darden	Guarini
Bartlett	Daschle	Gunderson
Barton	Daub	Hall (OH)
Bates	Davis	Hall, Ralph
Bedell	de la Garza	Hamilton
Beilenson	DeLay	Hammerschmidt
Bennett	Dellums	Hansen
Bentley	DeWine	Hartnett
Bereuter	Dickinson	Hawkins
Berman	Dicks	Hayes
Bevill	DioGuardi	Hefner
Biaggi	Dorgan (ND)	Hendon
Bilirakis	Dornan (CA)	Henry
Bliley	Dowdy	Hertel
Boehlert	Downey	Hiler
Boggs	Dreier	Hillis
Boland	Duncan	Hopkins
Boner (TN)	Durbin	Horton
Bonior (MI)	Dwyer	Howard
Borski	Dymally	Hoyer
Bosco	Dyson	Hubbard
Boucher	Eckart (OH)	Huckaby
Boulter	Edwards (CA)	Hughes
Boxer	Edwards (OK)	Hunter
Breaux	Emerson	Hutto
Brooks	English	Hyde
Broomfield	Erdreich	Ireland
Brown (CA)	Evans (IA)	Jacobs
Brown (CO)	Evans (IL)	Jeffords
Broyhill	Fascell	Jenkins
Bruce	Fawell	Johnson
Bryant	Fazio	Jones (NC)
Burton (IN)	Feighan	Kanjorski
Bustamante	Fiedler	Kaptur
Byron	Fields	Kasich
Callahan	Fish	Kastenmeier
Campbell	Flippo	Kemp
Carney	Florio	Kennelly
Carper	Foglietta	Kildee
Carr	Foley	Kindness
Chandler	Ford (MI)	Kleczka
Chapman	Ford (TN)	Kolbe
Chappell	Frank	Kolter
Chappie	Franklin	Kostmayer
Cheney	Frenzel	Kramer
Clay	Fuqua	Lagomarsino
Clinger	Gallo	Lantos
Coats	Garcia	Latta
Cobey	Gaydos	Leath (TX)
Coble	Gejdenson	Lehman (CA)
Coelho	Gephardt	Lehman (FL)
Lent	Olin	Smith, Robert (NH)
Levin (MI)	Ortiz	Snowe
Levine (CA)	Owens	Solomon
Lewis (FL)	Oxley	Spence
Lightfoot	Packard	Spratt
Lipinski	Panetta	Stallings
Livingston	Parris	Stangeland
Lloyd	Pashayan	Stark
Lott	Pease	Stenholm
Lowery (CA)	Penny	Stokes
Lowry (WA)	Pepper	Strang
Lujan	Perkins	Stratton
Luken	Petri	Studds
Lundine	Pickle	Stump
Lungren	Porter	Sundquist
Mack	Price	Swift
MacKay	Pursell	Swindall
Madigan	Rahall	Synar
Manton	Rangel	Tallon
Markey	Ray	Tauke
Martin (IL)	Regula	Tauzin
Martin (NY)	Reid	Thomas (CA)
Martinez	Richardson	Thomas (GA)
Mavroules	Ridge	Torres
Mazzoli	Rinaldo	Towns
McCain	Ritter	Traficant
McCandless	Roberts	Traxler
McCollum	Robinson	Udall
McCurdy	Rodino	Valentine
McEwen	Rose	Vander Jagt
McGrath	Roukema	Vento
McHugh	Rowland (CT)	Visclosky
McKernan	Rowland (GA)	Volkmer
McKinney	Roybal	Vucanovich
McMillan	Rudd	Walgren
Meyers	Sabo	Walker
Mica	Saxton	Watkins
Michel	Schaefer	Waxman
Mikulski	Scheuer	Weaver
Miller (CA)	Schneider	Weber
Miller (WA)	Schroeder	Weiss
Mineta	Schuette	Wheat
Mitchell	Schulze	Whitehurst
Moakley	Schumer	Whitley
Molinari	Sensenbrenner	Whittaker
Mollohan	Sharp	Whitten
Monson	Shaw	Wilson
Montgomery	Shelby	Wirth
Moore	Shumway	Wise
Moorhead	Shuster	Wolf
Morrison (CT)	Sikorski	Wolpe
Morrison (WA)	Siljander	Wortley
Mrazek	Sisisky	Wright
Murphy	Skeen	Wyden
Myers	Skelton	Wylie
Natcher	Slattery	Yates
Neal	Slaughter	Yatron
Nelson	Smith (FL)	Young (AK)
Nielson	Smith (NE)	Young (FL)
Nowak	Smith (NJ)	Young (MO)
Oakar	Smith, Denny (OR)	Zschau
Oberstar		

□ 1305

The CHAIRMAN. Three hundred seventy Members have answered to their names, a quorum is present, and the Committee will resume its business.

RECORDED VOTE

The CHAIRMAN. The pending business is the demand of the gentleman from California [Mr. DANNEMEYER] for a recorded vote.

Does the gentleman from California [Mr. DANNEMEYER] insist upon his request?

Mr. DANNEMEYER. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 280, noes 90, not voting 64, as follows:

[Roll No. 12]

AYES—280

Akaka	Annunzio	Aspin
Anderson	Anthony	Atkins
Andrews	Applegate	AuCoin

Barnard
Bartlett
Bates
Bedell
Beilenson
Bennett
Bentley
Bereuter
Berman
Biaggi
Bilirakis
Boehlert
Boggs
Boland
Boner (TN)
Bonior (MI)
Borski
Bosco
Boucher
Boulter
Boxer
Breaux
Brooks
Brown (CA)
Broyhill
Bruce
Bryant
Bustamante
Byron
Callahan
Campbell
Carney
Carper
Carr
Chandler
Chapman
Chappell
Clay
Cobey
Coble
Coelho
Coleman (TX)
Combest
Conte
Cooper
Courter
Coyne
Crockett
Darden
Daschle
Davis
de la Garza
Dellums
DeWine
Dicks
DioGuardi
Dorgan (ND)
Dowdy
Downey
Durbin
Dwyer
Dymally
Dyson
Eckart (OH)
Edwards (CA)
Emerson
English
Erdreich
Evans (IL)
Fascell
Fazio
Feighan
Fish
Flippo
Florio
Foglietta
Foley
Ford (MI)
Ford (TN)
Frank
Frenzel
Fuqua
Gallo
Garcia
Gaydos
Gejdenson
Gephardt
Gibbons
Gilman
Glickman
Gonzalez
Gordon
Gradison
Gray (PA)
Green
Hall (OH)
Hall, Ralph
Hamilton
Hawkins
Hayes
Hefner
Hendon
Henry
Hertel
Horton
Howard
Hoyer
Huckaby
Hutto
Jacobs
Jeffords
Jenkins
Jones (NC)
Kanjorski
Kaptur
Kasich
Kastenmeier
Kemp
Kennelly
Kildee
Kindness
Kleczka
Kolter
Kostmayer
Lantos
Lehman (CA)
Lehman (FL)
Leland
Lent
Levin (MI)
Levine (CA)
Lewis (FL)
Lightfoot
Lipinski
Lloyd
Lowery (CA)
Lowry (WA)
Lujan
Luken
Lundine
MacKay
Manton
Markey
Martin (NY)
Martinez
Matsui
Mavroules
Mazzoli
McCain
McCloskey
McCollum
McCurdy
McEwen
McGrath
McHugh
McKernan
McKinney
McMillan
Mica
Mikulski
Miller (CA)
Miller (WA)
Mineta
Mitchell
Moakley
Molinari
Mollohan
Morrison (CT)
Morrison (WA)
Murphy
Natcher
Neal
Nelson
Nielson
Nowak
Oakar
Oberstar
Olin
Ortiz
Owens
Packard
Panetta
Pashayan
Pease
Penny
Pepper
Perkins
Pickle
Porter
Price
Pursell
Rahall
Rangel
Regula
Reid
Richardson
Ridge
Rinaldo
Robinson
Rodino
Rose
Roukema
Rowland (CT)
Rowland (GA)
Roybal
Sabo
Saxton
Scheuer
Schneider
Schroeder
Schuette
Schumer
Sharp
Shaw
Shelby
Shuster
Sikorski
Siljander
Sisisky
Skeen
Skelton
Slattery
Smith (FL)
Smith (NJ)
Snowe
Solarz
Spence
Spratt
Stangeland
Stark
Stokes
Stratton
Studds
Swift
Synar
Tallon
Tauke
Tauzin
Thomas (CA)
Thomas (GA)
Torres
Towns
Traficant
Traxler
Udall
Valentine
Vento
Visclosky
Volkmer
Vucanovich
Walgren
Watkins
Waxman
Weaver
Weiss
Wheat
Whitley
Whitten
Wilson
Wirth
Wise
Wolpe
Wortley
Wright
Wyden
Wylie
Yates
Yatron
Young (AK)
Young (FL)
Young (MO)

NOES—90

Archer
Armey
Badham
Barton
Bliley
Broomfield
Brown (CO)
Burton (IN)
Chappie
Cheney
Clinger
Coats
Coughlin
Craig
Daniel
Dannemeyer
Daub
DeLay
Dickinson
Dornan (CA)
Dreier
Duncan
Edwards (OK)
Evans (IA)
Fawell
Fiedler
Fields
Franklin
Gingrich
Goodling
Gregg
Gunderson
Hammerschmidt
Hansen
Hartnett
Hiler
Hillis
Hopkins
Hubbard
Hughes
Hunter
Hyde
Ireland
Johnson
Kolbe
Kramer
Lagomarsino
Latta
Leath (TX)
Livingston
Lott
Lungren
Mack
Madigan
Martin (IL)
McCandless
Meyers
Michel
Monson
Montgomery
Moore
Moorhead
Myers
Nichols
Oxley
Parris
Petri
Ray
Ritter
Roberts
Rudd
Schaefer
Schulze
Sensenbrenner
Shumway
Slaughter
Smith (NE)
Smith, Denny (OR)
Smith, Robert (NH)
Stenholm
Strang
Stump
Sundquist
Swindall
Walker
Weber
Whitehurst
Whittaker
Wolf
Zschau

NOT VOTING—64

Ackerman
Addabbo
Alexander
Barnes
Bateman
Bevill
Bonker
Burton (CA)
Coleman (MO)
Collins
Conyers
Crane
Derrick
Dingell
Dixon
Donnelly
Early
Eckert (NY)
Edgar
Fowler
Frost
Gekas
Gray (IL)
Grotberg
Guarini
Hatcher
Heftel
Holt
Jones (OK)
Jones (TN)
LaFalce
Leach (IA)
Lewis (CA)
Loeffler
Long
Marlenee
McDade
Miller (OH)
Moody
Mrazek
Murtha
O'Brien
Obey
Quillen
Roe
Roemer
Rogers
Rostenkowski
Roth
Russo
Savage
Seiberling
Smith (IA)
Smith, Robert (OR)
Snyder
Solomon
St Germain
Staggers
Stallings
Sweeney
Taylor
Torricelli
Vander Jagt
Williams

□ 1315

Mr. HYDE changed his vote from "aye" to "no."

So the amendment was agreed to.

The result of the vote was announced as above recorded.

AMENDMENT OFFERED BY MR. BIAGGI

Mr. BIAGGI. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. BIAGGI: Page 17, line 23, insert after "disease" the following: "and in community based programs which receive funds from the Administration on Aging."

Mr. BIAGGI. Mr. Chairman, I rise to offer a technical but important amendment to title II—family support groups, of H.R. 4055. Title II would allow the Secretary of Health and Human Services to promote the establishment of family support groups for those families of victims of Alzheimer's disease.

My amendment has been accepted by both the esteemed chairman and my good friend from Florida, Mr. BILIRAKIS, who has done so much work on behalf of this title. My amendment would expand those programs eligible to establish these Alzheimer's family support groups by including "community based programs which receive funds from the Administration on Aging."

I offer this amendment as a means of both recognizing and assisting the work that is already under way in States and localities with respect to family support groups for Alzheimer's victims. A numer of the newest ones are being funded by the Older Americans Act which is run by the Administration on Aging. This is largely due to the provisions of language which I authored, together with my distinguished colleague from Maine, OLYMPIA SNOWE, to the 1984 Older Americans Act.

Under our language, a priority in the use of funds under title III-B supportive services would be provided to those programs providing support services for families of Alzheimer's disease victims. Now, almost 2 years later, these programs have been established by some of the more than 50 State agencies on aging and 660 area agencies on aging who administer the Older Americans Act at the local level. By including them among programs eligible for support under title II of this bill, we compliment their efforts.

It is important to note that the language in title II already calls upon the Secretary of Health and Human Services to act through the NIH and the NIA, as well as AOA, in the promotion and establishment of these family support groups. My amendment would ensure greater coordination in this process by including existing support programs administered by the Administration on Aging through funds under the OAA, specifically titles III and IV.

One such community based program that I know does exist is in my home city of New York. The New York City Alzheimer's Resource Center was established in March of 1984. It is the first municipally sponsored, comprehensive information, referral and counseling service in the Nation. It is operated and funded with both public and private funds. It is operated under the auspices of the New York City Department for the Aging which is an area agency on aging funded by the Older Americans Act. The resource center has as its main goal to link Alzheimer's patients, their families and the service community at large with appropriate programs and services in New York City that can assist those whose lives are affected by Alzheimer's disease. Among its services are guidance to families and caregivers on entitlement programs, residential and institutional placement, alternate housing arrangements, home care services and conducts seminars, including an annual city-wide conference that I have been proud to participate in during the past 3 years.

The fact is—it is imperative that we adopt this legislation to allow for the establishment of these family support groups. Alzheimer's disease today affects more than 2.5 million persons. These are the actual victims of the disease. Yet, there are millions of other Americans who are ravaged by the disease, the families and loved ones of these victims. Both groups are victims and deserve our compassion and our support. We give them both with the adoption of this amendment as well as the entire bill.

Mr. WAXMAN. Mr. Chairman, will the gentleman yield?

Mr. BIAGGI. I yield to the gentleman from California.

Mr. WAXMAN. I thank the gentleman for yielding.

Mr. Chairman, I want the gentleman from New York [Mr. BIAGGI] to know, and I want my colleagues to know as well, that this is a technical amendment and it is a worthwhile amendment. We urge passage of the amendment.

Mr. DANNEMEYER. Mr. Chairman, I reserve a point of order on the amendment.

The CHAIRMAN. The Chair would advise the gentleman from California that he is too late to reserve a point of order, debate having begun on the amendment. The gentleman did not rise to make a point of order in a timely fashion.

Mr. DANNEMEYER. Mr. Chairman, I move to strike the last word.

Mr. Chairman, one of the bewildering aspects of working in the House of Representatives as a Member is to try to understand how the bureaucracy grows and has reached the point that is has today. Well, this bill and the provision that it has in it is an example of how this growth takes place. The bill started out as a plan to establish a new categorical program by the Federal Government for providing what, in effect, is ombudsman service for the mentally ill people in this country. In committee there was a provision added that addressed a very profound problem, namely, Alzheimer's disease.

Members should bear in mind that we have previously adopted a law which says we will have 10 research centers around the country to, hopefully, mitigate suffering from Alzheimer's disease. The funding for those 10 centers is in excess of $50 million per year.

Now this bill contains yet a new effort to mitigate the suffering of Alzheimer's disease, and in the form that it is before us it says that the Secretary of Health and Human Services, acting through the NIH, shall promote the establishment of family support groups, and then it goes on to say, "Such groups shall be established at university medical centers and appropriate health care facilities." This amendment comes along and says, "Well, we also need to have these support groups established in community-based programs which receive funding from the Administration on Aging."

Actually, the reason this Member from California sought to offer a point of order to the offering of the amendment is that in the form that it is before us it proposes to add the language at line 23 after the word "disease." I think it properly belongs, if it is to belong at all, on line 22 after the word "disease."

In the manner that it is offered to the committee, it does not make any sense.

But the point that I seek to establish and share with my colleagues is that we are going to establish these support groups in university medical centers, in appropriate health care facilities, and we are also going to have them, with this amendment, in community-based programs. Now instead of having two agencies competing for this effort we will have a third one. And we know what is going to happen: These three agencies rather than two are going to compete for the development of the program to mitigate suffering from Alzheimer's disease, and of course the three are going to be fighting over what facilities are available, and they will find there is not enough. So the next step in the process that will be added is more funding to provide a bigger pie for these three agencies to fight over rather than just two, all in the name of reducing suffering from Alzheimer's disease, which has been added to a bill dealing with the mentally ill, which is added to a deficit of some $200 billion.

And you wonder just who is mentally ill.

So I think this amendment should be defeated. It is unnecessary. It lays the foundation for more bureaucracy. It duplicates the 10 centers that previously had been authorized to mitigate Alzheimer's disease.

Mr. BIAGGI. Mr. Chairman, will the gentleman yield?

Mr. DANNEMEYER. I yield to my friend, the gentleman from New York [Mr. BIAGGI].

Mr. BIAGGI. I thank the gentleman for yielding.

I think the picture should be made straight. I understand the objection of the gentleman. He is talking about additional bureaucracy. That seems to be the basis for his objection to the bill itself, anything that deals with responding to human needs at this point seems to be met with some objection by the gentleman. And that is his prerogative, of course.

But my amendment deals with the bill itself. Clearly the bill deals with the institutions. My amendment broadens it to deal with family support groups that are in existence now as a result of an amendment that I offered to the Older Americans Act which put in place the need for support service for the families of victims of Alzheimer's. It seems to be inconsistent not to have the family group support services included in this bill.

Mr. WAXMAN. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the amendment.

Mr. Chairman, I would like to engage my colleague from California [Mr. DANNEMEYER] in some colloquy on this amendment.

Now I understand that the gentleman is against the bill. He does not think we ought to have the Federal Government setting up protection and advocacy systems to protect the mentally ill. I know he is against that part that says we ought to have support groups for Alzheimer's victims and their families. I disagree, but I could respect his point of view, and I understand that he is going to vote against final passage. But this Biaggi amendment is a technical amendment only. It says if you are going to have support groups for Alzheimer's victims and their families that the Secretary can act through the Administration on Aging as well as the National Institute of Mental Health in helping to establish family support groups.

I am at a loss, Mr. Chairman, to understand why the gentleman would oppose this technical amendment.

Mr. DANNEMEYER. Mr. Chairman, would the gentleman yield?

Mr. WAXMAN. I yield to the gentleman.

Mr. DANNEMEYER. I thank the gentleman from yielding.

On line 20 of the bill these groups are to be formed in university medical centers, and then again on line 20 they are to be formed in appropriate health care facilities, and this amendment says they are going to be formed also in community-based programs. In other words, the addition of yet another source of where this group is to be formed is, in this Member's opinion, a redundancy.

Mr. WAXMAN. If I may reclaim my time, it does not say it must be done. It is permissive to form an advisory community-based program at these institutions as well. Why would the gentleman object to that, to allowing that to be permitted for an Alzheimer's support group?

Now if you object to Alzheimer's support groups, I understand; vote against the bill. But why be against a technical amendment that is permissive?

Mr. DANNEMEYER. Mr. Chairman, would the gentleman yield?

Mr. WAXMAN. Yes, I yield to the gentleman from California.

Mr. DANNEMEYER. I thank the gentleman for yielding.

It is just to simply state to the committee that if we wonder how the bureaucracy grows this is an excellent means of demonstrating just how it happens. The bill in the form before us has two groups where this can be formed, university medical centers and appropriate health care facilities. If we accept the amendment by the gentleman from New York we add another group of people who can get into this process of influencing public policy, community-based programs. It is just another example of how a bureaucracy grows and grows and grows.

Mr. WAXMAN. If I may reclaim my time, Mr. Chairman, I would hope Members will support this amendment. These are programs already established under the Older Americans Act. It is a technical amendment, and we ought to adopt it.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New York [Mr. BIAGGI].

The amendment was agreed to.

AMENDMENT OFFERED BY MR. MC KINNEY

Mr. McKINNEY. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. McKINNEY: Page 4, strike out lines 10 through 12 and insert in lieu thereof the following:

"(A)(i) in the case of individuals who need to be placed in inpatient mental health facilities, to place such individuals in optimum therapeutic settings and to provide mental health treatment and related support services appropriate to such individuals' level of functioning,

"(ii) in the case of residents of public inpatient mental health facilities who have been inappropriately placed in such facilities, to discharge such residents, and, to the extent appropriate, to place them in optimum therapeutic setting and to provide mental health treatment and related support services appropriate to such individuals' level of functioning,

"(iii) in the case of individuals who are discharged from, or are in need of placement in, inpatient mental health facilities, to inform them of available community-based facilities and programs providing mental health treatment and related support services and to provide them access to a sufficient number of adequately staffed and adequately funded community-based facilities and programs providing mental health and related support services, and

"(iv) to otherwise establish or carry out an appropriate individual program plan or treatment or discharge plan for a mentally ill individual,

Page 4, insert after line 21 the following:

For purposes of clauses (i) and (ii) of subparagraph (A), the term "optimum therapeutic setting" means the environment that is least restrictive of an individual's personal liberty and where the care, treatment, habilitation, or rehabilitation is particularly suited to the level of services necessary to properly implement an individual's treatment, habilitation, and rehabilitation. The optimum therapeutic setting for an individual may be a licensed and properly operated State hospital or other public residential care facility.

Mr. McKINNEY (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Connecticut?

There was no objection.

Mr. DANNEMEYER. Mr. Chairman, I reserve a point of order on the amendment.

The CHAIRMAN. The gentleman from California reserves a point of order on the amendment.

Mr. McKINNEY. I will be brief.

Mr. Chairman, the amendment I am offering is one that I trust my colleagues will find simple and in keeping with the intent of the committee's work. Under the committee bill, one definition of neglect is "the failure to establish an appropriate individual program plan or treatment, or discharge plan for a mentally ill individual." While this definition recognizes the problem of dumping patients out of institutions with no consideration of care and treatment, it should be fine tuned.

My amendment would replace the committee's definition of neglect by stating that the failure to place an individual: be he an inpatient, or an outpatient, in a "optimum therapeutic setting" would be neglect.

Since 1981, I have worked with mental health groups in trying to craft language that would prevent States from discharging patients without providing followup care. It was decided that an "optimum therapeutic setting" definition would make clear to States that the medical community's input must be used along with a person's civil rights when care, treatment and discharge plans are devised. My concern with the committee's language is that "an appropriate individual program plan" still is too vague a concept and does not require the medical input now needed.

This is not a measure that will keep people in institutions, quite the contrary. If a doctor, patient, or family feels an institution is inappropriate, a case can be made to States that a more therapeutic setting must be developed.

My intention is to fine tune the committee's work to ensure that no one can fall through the cracks. Thank you, Mr. Chairman.

□ 1330

Mr. MITCHELL. Mr. Chairman, will the gentleman yield?

Mr. McKINNEY. I yield to the gentleman from Maryland.

Mr. MITCHELL. I thank the gentleman for yielding, and I rise to commend him for his amendment.

Those who are dumped into our streets and are homeless represent one of the real tragedies of this Nation, and I think the gentleman's amendment will begin to address at least a part of that problem. I am very happy to support the amendment as fully as I can.

Mr. McKINNEY. I thank the gentleman.

Mr. WAXMAN. Mr. Chairman, will the gentleman yield?

Mr. McKINNEY. I yield to the chairman.

Mr. WAXMAN. I thank the gentleman for yielding.

Mr. Chairman, this amendment, as I understand it, defines "neglect" to include the failure to place patients in the most appropriate setting and seeks to guarantee patients their legal rights and their best placement. It is an antidumping amendment. It is an elaboration of the purposes of this legislation and will help those people who need placement to get it and help those who should be discharged be discharged. I join in support of this amendment.

Mr. McKINNEY. I thank the gentleman.

POINT OF ORDER

The CHAIRMAN. Does the gentleman from California [Mr. DANNEMEYER] persist in his point of order?

Mr. DANNEMEYER. I do, Mr. Chairman.

The CHAIRMAN. The gentleman will state his point of order.

Mr. DANNEMEYER. Mr. Chairman, the bill in the form before us deals with people in mental health facilities in the States of the Union, people who are already there. This amendment, offered by the gentleman from Connecticut [Mr. McKINNEY], deals with people who are not in mental health facilities but people who may be eligible to be there, a completely different subject. The discussion of whether or not somebody should be in a mental health facility is a subject and an issue that is separate and distinct from the status and the custody and the care of those who are already located in a mental health facility. It is on that distinction that I think the amendment of the gentleman from Connecticut is subject to a point of order which should be sustained.

The CHAIRMAN. Does the gentleman from Connecticut [Mr. McKINNEY] desire to be heard on his point of order?

Mr. McKINNEY. Yes, Mr. Chairman.

The CHAIRMAN. The gentleman may be heard.

Mr. McKINNEY. Mr. Chairman, speaking on the point of order, I would suggest that in fact my amendment simply changes some language in the existing bill and that I very appropriately state that optimum therapeutic care is as important for the person on the sidewalk as it is for the person in the institution. In fact, in an institution right here, and the only mental institution outside of the military run by the U.S. Government, we had a

man fried to death, literally, in a room of St. Elizabeth's Hospital a week ago, and I think that my amendment is clearly part of the bill and simply changes the wording in the existing bill.

The CHAIRMAN [Mr. HUGHES]. The Chair is prepared to rule.

The Chair, in reviewing the amendment offered by the gentleman from Connecticut [Mr. MCKINNEY], would observe that, basically, the gentleman's effort is to broaden the definition of "neglect" and to make that somewhat more elaborate.

It still pertains to persons needing inpatient mental health facilities, in any event.

So the Chair would have to conclude that the amendment only covers a class already covered by the bill as a whole and that the amendment is germane.

The question is on the amendment offered by the gentleman from Connecticut [Mr. MCKINNEY].

The amendment was agreed to.

Mr. BLILEY. Mr. Chairman, I move to strike the last word.

Mr. CONTE. Mr. Chairman, will the gentleman yield?

Mr. BLILEY. I yield to the gentleman from Massachusetts.

Mr. CONTE. Mr. Chairman, I rise in support of this legislation to authorize protection and advocacy programs for mentally ill individuals. The chairman of the Health Subcommittee, Mr. WAXMAN, deserves a great deal of credit for bringing this important bill to the floor.

I want to take a few seconds to clarify the concerns that some Members have with the very modest cost of this legislation. The bill authorizes $10 million for these programs in fiscal year 1986. This $10 million level is within the budget ceiling for this function. The Subcommittee on Labor/Health and Human Services/Education Appropriations, where I'm the ranking Republican, appropriated this money in the fiscal year 1986 funding bill. Those funds are being withheld pending enactment of this authorization bill, which the Senate has already passed, but the money is available.

What the legislation does is establish needed programs to protect mentally ill individuals. It authorizes State agencies to advocate on behalf of those unfortunate individuals who cannot defend themselves. Read some of the stories in the House and Senate reports on this bill about the abuse and neglect of the mentally ill. These programs are small, but important, first steps.

I also want to commend the gentleman from Florida, Mr. BILIRAKIS, for his amendment in committee with respect to families of Alzheimer's disease patients. This provision authorizes the Department of HHS to set up and coordinate a nationwide network of family support groups for the families of these patients. The groups would provide emotional, educational, and practical support as patients and their families try to deal with the devastating effects of this terrible disease.

Whether it's providing funds for research through the National Institutes of Health or other legislation, I've long been out in front on the issue of care for Alzheimer's disease patients. It's a disease with no known cause or cure, but with our hope and our help, the day for a cure will come.

For the past two Congresses, I've introduced legislation to provide a 30-percent tax credit for expenses that families incur to care for Alzheimer's victims. This important bill moved forward a little bit this year when the Ways and Means Committee considered adding it to the tax reform bill. It wasn't added because of the revenue loss—and even though I disagreed with the revenue estimates, we're working to streamline this bill and get it added in the other body.

These are the type of things we need to do—support for the mentally ill and their families. Support this modest legislation.

Mr. BLILEY. Mr. Chairman, I rise in opposition to H.R. 4055. I will say at the outset that my opposition is somewhat reluctant because the programs authorized and set up by this legislation are certainly well intentioned. There is some evidence of a need for some form of oversight for mental health services. I will also say that this bill does not impose a new layer of Federal bureaucracy for its implementation, but relies on mental health support and advocacy groups already in existance. It is quite refreshing to note that there is a growing awareness that the old theory that all good things come from Washington and that only a host of Federal employees can be responsive to our citizens is finally dying out.

My opposition to H.R. 4055 is based on the financial plight and budgetary crisis that we all acknowledge we are facing. While this proposal only authorizes $33 million over the next 3 years and the first year funds are already available, the fact remains that this is money that we simply do not have. The first year funds that have been appropriated could be saved and could help protect some other existing program that we know is beneficial. I will follow a policy this year of opposing any new spending or authorizations except under the most extraordinary circumstances. This bill does not meet that criteria.

Mr. Chairman, I would also like to say that I fully support the McKinney amendment that will be offered later. The gentleman from Connecticut and I have long agreed that a good portion of the homeless people we hear so much about are on the street because of the "least restrictive environment" criteria that does not adequately deal with the individual abilities and needs of people. I will vote for the McKinney because it will improve H.R. 4055. I believe that we should pass H.R. 1479, but adding its definition to H.R. 4055 is better than nothing.

AMENDMENT OFFERED BY MR. DANNEMEYER

Mr. DANNEMEYER. Mr. Chairman, I offer an amendment.

Mr. WAXMAN. Mr. Chairman, I reserve a point of order on the amendment.

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

Amendment offered by Mr. DANNEMEYER: Page 18, insert after line 7 the following:

TITLE III—MISCELLANEOUS

SEC. 301. PUBLIC BATHS.

That no city, town, or other political jurisdiction may receive Federal revenue sharing funds under chapter 67 of title 31, United States Code, if it permits the operation of any public bath which is owned or operated by an individual who knows or has reason to know that the bath is hazardous to the public health or who knows or has reason to know is used for sexual relations between males.

Mr. DANNEMEYER (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from California.

There was no objection .

Mr. GILMAN. Mr. Chairman, will the gentleman yield?

Mr. DANNEMEYER. I yield to the gentleman from New York.

Mr. GILMAN. I thank the gentleman for yielding.

Mr. Chairman, I rise in support of H.R. 3492, legislation to authorize a new 3-year program to protect and advocate for mentally ill individuals. At this time, I would like to extend thanks to the gentleman from California [Mr. WAXMAN], and the gentleman from Florida [Mr. BILIRAKIS], for having explored at length the need for a more thorough network of services for the mentally disabled.

I am sure that we are all very aware of the budgetary constraints imposed by the Federal deficit. I am not advocating exorbitant spending, but urging that we pay closer attention to our Nation's widespread health problems which will only worsen if we do not act upon our good judgment in this matter. Who is able to ignore, for instance, current statistics which reveal that a staggering 31 to 41 million Americans suffer from clearly diagnosable mental disorders?

The members are, indeed, large, but what strikes me as even more disconcerting is the unfortunate shortage of programs to monitor the effectiveness of our mental health services. At a

time when scientific knowledge is providing the means to treat and cure so many diseases, we still are confronted with insufficient protection of the mentally ill patient's rights. The argument in support of improving protection and advocacy programs is no more compelling than in the case of the mentally ill. Recent congressional hearings point to serious instances of abuse and neglect of institutionalized, and recently deinstitutionalized, mentally ill patients.

Enactment of the Developmental Disabilities Assistance and Bill of Rights Act in 1975 included the establishment of certain protection and advocacy services which have won the approval of both committee members and participants. H.R. 3942 builds upon this already successful program by extending the authority of the P&A agencies to properly monitor, evaluate, and comment on the development and implementation of Federal, State, and local laws, policies, and programs affecting the mentally disabled. In addition, H.R. 3492 addresses the problems of mentally ill persons who have been discharged from a hospital, nursing home, or community facility, recognizing that a mental disability is not necessarily cured the minute that the individual is released from a health care facility.

In addition to the benefits which are awarded to the mentally disabled, H.R. 3492 contains language to establish family support groups to provide, without charge, educational, emotional and practical support to victims of Alzheimer's disease and their families. I feel that the committee has done a superb job in addressing the inadequacies of Alzheimer's-related services which are not sufficiently covered under most private health insurance programs as well as under Medicare and Medicaid. Indeed, families must, to a large extent, research the disease on their own; a task which would discourage even the most persistent and motivated individual. This measure would serve to eliminate this troublesome situation by providing access to necessary information and emotional assistance to families confronting the disease.

I can speak with confidence that the mental health establishment in my congressional district will benefit enormously from enactment of H.R. 3492. Indeed, State program and advocacy agencies across the country will be able to enlarge the scope of their work, thus ensuring that those who are stricken by a mental disease or by Alzheimer's will receive excellent medical care which is now afforded to the victims of most other physical disorders. In an age of rapid medical advancement, it only seems logical that the mentally ill are also beneficiaries of this technological progress.

It is with these thoughts, then, that I appeal to my colleagues today, hopeful that you will offer your strong support for this measure and confident that the lives of so many Americans can be improved and indeed, sustained, by enacting H.R. 3492, the protection and advocacy for mentally ill individuals.

Mr. DANNEMEYER. Mr. Chairman and Members, in the opinion of the American people, a public health menace of severe proportions is now facing the country, namely, the AIDS crisis. In a recent poll, the AIDS epidemic in America ranks very close to being the No. 1 public health problem in the Nation. This amendment seeks to address one of the policy options that we can take in Congress to deal with diminishing the transmission of this fatal disease, namely, by saying to any city in America that chooses to continue to receive its revenue-sharing funds that it is going to have to shut down its bathhouses.

These AIDS factories exist essentially in three cities of the country: Los Angeles, San Francisco, and New York. Those three cities combined produce about two-thirds of the AIDS cases, some 16,000, so far, in the Nation, half of whom have died.

In my State of California we have close to 100 bathhouses now operating. We created this bathhouse culture in this country in 1975 in the State of California through the medium of repealing the law proscribing sodomy, and bathhouses proliferated after that time when our culture said to the people of the State of California, condoning sodomy and such activities, that that is where the bathhouse culture came.

Medical experts tell us that AIDS, a fatal disease for which no cure has yet been developed, is transmitted sexually by anal intercourse, and we know that that is what is going on at bathhouses. There was a time in this country when you went to a bathhouse to get a bath. But that is a very limited activity that goes on at bathhouses today, and we all know it.

This just says, very simply, in order to reduce the incidence of this fatal disease, we will shut down the bathhouses in the country. This Member from California has introduced five bills. One of them relates to this subject matter. It has been assigned to a committee. In writing, I have asked the chairman of this committee, the Committee on Government Operations, to give a hearing on the bill, but we are still waiting for when the hearing will take place. Indeed, this Member from California is still waiting for a response when a hearing will take place.

So I have no other alternative except to watch for a health care vehicle being processed through the House of Representatives so that I will have an opportunity of offering an amendment to such a bill, to give my colleagues an opportunity of voting on a matter on which I know they yearn to vote, because every Member in this House, of course, is interested in reducing the incidence of a fatal disease and improving the health of the American people. I cannot think of a better way to do both of those objectives than to adopt this amendment.

POINT OF ORDER

The CHAIRMAN. Does the gentleman from California [Mr. WAXMAN] press his point of order?

Mr. WAXMAN. Mr. Chairman, I do assert my point of order.

The CHAIRMAN. The gentleman will state his point of order.

Mr. WAXMAN. The amendment is a prohibition for the expenditures of revenues under the Revenue Sharing Act. It is not germane to the legislation before us.

The CHAIRMAN. Does the gentleman from California [Mr. DANNEMEYER] wish to be heard on the point of order?

Mr. DANNEMEYER. Yes, I do, Mr. Chairman.

Mr. Chairman, since the bill before us now relates to a new program relating to the expenditure of funds to reduce the suffering and improve the care of the mentally ill, does it not seem logical that we would add an amendment that would reduce the incidence of a disease that is fatal?

The CHAIRMAN [Mr. HUGHES]. The Chair is prepared to rule on the point of order.

General revenue sharing is a matter that is within the jurisdiction of the Committee on Government Operations. The bill in question deals with mental health, not all public health.

For the reasons advanced by the gentleman from California [Mr. WAXMAN], the point of order is well taken and is sustained.

Mr. WYLIE. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I rise in support of this legislation which would provide for the protection and advocacy of mentally ill persons. During recent hearings before Congress, the very serious problems of abuse and neglect of those individuals who have been institutionalized for mental illness and those individuals who have been recently released from institutions were brought to light. The inadequacies in the present internal and volunteer patient representative programs were outlined in detail by witnesses. These inadequacies make it imperative that we, in this body, support legislation calling for the protection and improved advocacy services for the mentally ill.

We, in Congress, last addressed this issue through enactment of the Developmental Disabilities Assistance Bill

of Rights Act over 10 years ago. This act established State programs and advocacy agencies that have won near unanimous support from all over the country.

H.R. 3492 also would authorize family support groups and a national network for victims of Alzheimer's disease and related memory disorders, which affect the lives of nearly 2.5 million middle-aged and elderly Americans. Victims of Alzheimer's, who ultimately suffer the deterioration and loss of memory attention, span and judgment, ultimately must rely entirely on others in order to function in their daily lives.

Currently, little coverage for Alzheimer's related services is provided by private health insurance, Medicare or Medicaid. We can act today to help bridge this gap that blocks Alzheimer's victims from enjoying a more normal life.

Under the provisions of H.R. 3492, which has been outlined earlier on the floor, funds would be provided to program advocacy agencies to administer a new program intended to protect and advocate for mentally ill individuals, who in most cases cannot protect or fend for themselves.

Perhaps even more tragic than a lack of support for our mentally ill and victims of Alzheimers is the abuse and benign neglect often associated with the care of these individuals.

I wish we in good conscience could state that abuse and neglect did not occur. But the preponderance of frightful evidence to the contrary demands our immediate attention.

By authorizing programs to monitor, evaluate, and comment on the development and implementation of these programs, we can have a positive impact on the treatment received by our mentally ill and our victims of Alzheimer's disease.

The development and implementation of the aforementioned programs will require new outlays authorized by this body. And in the present austerity mood of Congress, we must in fact closely examine where any new expenditures originate.

Yet to permit further abuse of our mentally ill, to permit overt neglect of Alzheimer's disease, and to permit this tragic lack of support for those individuals to continue would be as cruel as the pain and suffering we allow by not taking action to help them.

In conclusion, Mr. Chairman, I strongly urge the Members of this body to think about the positive impact this bill would have on the lives of our mentally ill and Alzheimer's victims. By voting in favor of H.R. 3492, we take an important first step forward toward the protection and advocacy of these individuals.

AMENDMENT OFFERED BY MR. WALKER

Mr. WALKER. Mr. Chairman, I offer an amendment.

Mr. WAXMAN. Mr. Chairman, I reserve a point of order on the amendment.

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

Amendment offered by Mr. WALKER: On page 18, after line 7, add the following new title:

"TITLE III

"Nothing in this Act shall be construed as superceding any of the balanced budget provisions set forth in section 201(a)(7) of Public Law 99-177."

□ 1345

Mr. WALKER. Mr. Chairman, what this particular amendment says is that we have to make this bill comply with what we have set forth in Gramm-Rudman. In Gramm-Rudman what we said was that we were going to have a declining series of deficit numbers over a period of years until we get to a balanced budget in 1991.

Under the provisions of this amendment, we would simply assure that this particular bill complies with that goal that we have set for ourselves. It seems to me that it is important as we establish a new program here that we understand that new spending has to fit into that which we have already committed ourselves to. We committed ourselves to something by fairly wide numbers; now it comes time for specifics. In this case, what we are doing is matching the specifics with what we have committed ourselves to in policy.

This particular amendment says that those balanced budget provisions that we are now engaged in trying to attain will be also the focus of this particular piece of legislation. That none of the spending that is done under this bill will be done in violation of the commitments that we have made toward getting to a balanced budget in 1991.

It seems to me that it is an entirely technical amendment because what it seeks to do is assure that that which we have already put in law is complied to within this particular bill. I would hope that we can get an approval of the amendment.

Mr. WAXMAN. Mr. Chairman, will the gentleman yield?

Mr. WALKER. I yield to the gentleman from California.

Mr. WAXMAN. I thank the gentleman for yielding to me.

Mr. Chairman, I cannot understand why this amendment is necessary; I do not see how anyone could interpret this legislation as superseding the legislation known as Gramm-Rudman-Hollings. I cannot see any reason to object to the amendment or any reason to support the amendment.

Mr. Chairman, I withdraw my point of order.

Mr. WALKER. I thank the gentleman.

Mr. Chairman, if I understand what the gentleman is saying to me, it is that he does not object to the amendment. I assure the gentleman that under interpretations that I have had given to me, that there may be some need under these programs, to assure in instance after instance that what we do is comply the specifics of authorization to the commitment we have made in policy. That is all this amendment seeks to do. It seems to me that it is entirely in line with what the House decided to do in December.

Mr. DANNEMEYER. Mr. Chairman, will the gentleman yield?

Mr. WALKER. I yield to the gentleman from California.

Mr. DANNEMEYER. I thank the gentleman for yielding.

Mr. Chairman, the amendment being offered by my colleague relates to what bill?

Mr. WALKER. This particular act that is before us; H.R. 3492, and the public law to which I refer in 99-177 is the Debt Limit Extension Act that we passed last year that included Gramm-Rudman.

Section 201(a)7, under that particular bill, is that section of the bill that commits us to declining deficit numbers over a period of years.

Mr. DANNEMEYER. If the gentleman will yield, the bill being considered by the House right now is H.R. 4055, and I would suggest that my colleague from Pennsylvania make a unanimous-consent request to amend his amendment to make it applicable to H.R. 4055.

Mr. WALKER. I apologize to the gentleman.

Mr. Chairman, I ask unanimous consent that my amendment be made applicable to H.R. 4055.

The CHAIRMAN. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

Mr. WALKER. Mr. Chairman, I had the earlier bill number as reported from the gentleman's committee, of course.

Mr. DANNEMEYER. It is possible that there was no objection because the amendment was to another bill. I thank my colleague.

Mr. WALKER. I thank the gentleman, and I appreciate him pointing out this gentleman's mistake.

The bill is as is stated. It is an attempt to make this particular bill comply with our balanced budget.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Pennsylvania [Mr. WALKER].

The amendment was agreed to.

Mr. McCURDY. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in support of this legislation. I wanted to, at some point, ask a question of the chairman

of the subcommittee to clarify certain provisions or concerns that I may have.

I would just point out to the body, some people may question whether I have a conflict of interest in dealing with a piece of legislation like this, since my wife is a psychiatrist and I used to be an attorney for the State Mental Health Department of the State of Oklahoma.

I would submit that this particular legislation is of great interest and of great value, not only across the board in the country, but to individual States. My experience in this area is working with the State mental health departments of a particular State indicates that there is a need within those mental hospitals and those institutions to provide the institutional framework for the advocacy of those patients' rights.

Some States have gone and taken steps forward to provide that. For instance, the State of Oklahoma actually had funds for an attorney in those State hospitals to do just that. I understand the conflict is and the concern that the committee has is that the State provides the funding and actually signs the checks for that person. Now, I think that the establishment of an independent source or an agency or body, entity, whatever you want to call it, would go a long way to provide greater independence for those.

The question I would like to ask the chairman is whether or not the institutionalization of this or the implementation of this provision would mandate or require early release. Are we establishing a system that is going to require the early release of patients? For instance, if they do not meet the clear standard of danger to themselves or others. Is that a policy objective of this legislation?

I yield to the gentleman from California [Mr. WAXMAN] for his response.

Mr. WAXMAN. I thank the gentleman.

I think the more appropriate way to look at the policy perspective of this legislation is to recognize this protection and advocacy agency as acting on behalf of the patient, most likely within an institution, to be sure that patient is not abused or neglected. I think for the most part we are talking about patients that will remain in an institution, but we want to be sure that the appropriate care is given to that patient.

Mr. McCURDY. I thank the gentleman for that clarification and I think that is important for the record.

Mr. Chairman, I would just conclude by saying it is important that we recognize that during the early 1960's and early 1970's that the trend in mental health was to seek the release of all institutionalized patients or those that did not present a clear and present danger to others or even to themselves. But what we see today in this country is that many of the homeless that are sleeping on the grates here in Washington, DC, and other States are those very people that were released from the mental health institutions. It is us, until the States have developed some kind of infrastructure, to provide for those and care for those. We have a crisis in the mental health system.

I appreciate the chairman's comments, and I rise in support of the legislation.

Mr. NIELSON of Utah. Mr. Chairman, will the gentleman yield?

Mr. McCURDY. I yield to the gentleman.

Mr. NIELSON of Utah. I thank the gentleman.

If the gentleman will turn to page 8 of the bill, since he is an attorney who has worked with mental health programs and your wife is a psychiatrist, provision 2 on page 8 calls for a board which shall include attorneys, mental health professionals, individuals of the public who are knowledgeable about mental illness, a provider of mental health services, and then individuals who have received or who are receiving mental health services or family members of such individuals.

The second part of that says that at least half of the membership shall be comprised of individuals who are receiving or have received mental health services or family members of such individuals. In your opinion, does this restriction that over half the board has to be those who have had mental illness or members of their families, will that restrict the board in your opinion, or do you think this last phrase is necessary?

Mr. McCURDY. Let me yield to the chairman. I would be interested to hear what his response is because this is the first time I have seen that particular provision, and I would be glad to comment afterward.

I yield to the gentleman from California [Mr. WAXMAN].

The CHAIRMAN. The time of the gentleman from Oklahoma [Mr. McCURDY] has expired.

(On request of Mr. WAXMAN and by unanimous consent, Mr. McCURDY was allowed to proceed for 1 additional minute.)

□ 1355

Mr. WAXMAN. Mr. Chairman, will the gentleman yield further?

Mr. McCURDY. I yield to the gentleman from California.

Mr. WAXMAN. Mr. Chairman, this is an advisory committee.

Mr. NIELSON of Utah. Let me state again that that is page 8, lines 9 through 14.

Mr. WAXMAN. It is an advisory committee wholly to advise the protection and advocacy agency on how to represent the mentally ill. They are acting in an advisory role.

Mr. McCURDY. Mr. Chairman, I thank the gentleman.

I would submit to my colleague, the gentleman from Utah, that if it is strictly an advisory committee, I do not see it merely as policy that it would not be an onerous burden. As a matter of fact, it probably would be helpful, as much respect as I have for attorneys, and it probably would not hurt to have someone who has been in the system at some point in time to have a better understanding as to actually what happens on a day-to-day basis in those institutions.

Mr. NIELSON of Utah. Mr. Chairman, will the gentleman yield further?

Mr. McCURDY. I yield to the gentleman from Utah.

Mr. NIELSON of Utah. I do not object to the language that says that individuals who have received or are receiving mental health services and family members of such individuals should be on the board.

What I do wonder is, why should the board be at least half of that type? The board would have to be very large if you are going to have attorneys, mental health professionals, individuals from the public who are knowledgeable about mental illness, and providers of mental health services. In addition to over half of that, you will have a very large and cumbersome board, and I wonder if you felt that that last phrase, from line 9 to line 14, was really needed in order to get that representation.

Mr. McCURDY. Well, I think that this legislation, as well as much of the legislation that comes on this floor, is probably imperfect, but I do not think that particular provision destroys or in any way undermines the general intent and purpose of the legislation.

Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. Are there further amendments to the bill?

There being no further amendments, under the rule, the Committee rises.

Accordingly the Committee rose; and the Speaker pro tempore [Mr. AUCOIN] having assumed the chair, Mr. HUGHES, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 4055) to assist the States to establish and operate protection and advocacy systems for mentally ill individuals and to promote family support groups for Alzheimer's disease patients and their families pursuant to House Resolution 360, he reported the bill back to the House with sundry amendments adopted by the Committee of the Whole.

71-059 O-87-34 (Pt. 1)

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment? If not, the Chair will put them en gros.

The amendments were agreed to.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER pro tempore. The question is on the passage of the bill.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. DANNEMEYER. Mr. Speaker, I object to the vote on the ground that a quorum is not present, and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 290, nays 84, not voting 60, as follows:

[Roll No. 13]

YEAS—290

Akaka	Coughlin	Gray (PA)
Anderson	Courter	Green
Andrews	Coyne	Guarini
Annunzio	Crockett	Gunderson
Anthony	Darden	Hall (OH)
Applegate	Daschle	Hall, Ralph
Aspin	Davis	Hamilton
Atkins	de la Garza	Hammerschmidt
AuCoin	Dellums	Hawkins
Bateman	DeWine	Hayes
Bates	Dicks	Hefner
Bedell	Dingell	Hendon
Beilenson	DioGuardi	Henry
Bennett	Dorgan (ND)	Hertel
Bentley	Dowdy	Hillis
Bereuter	Downey	Hopkins
Berman	Duncan	Horton
Bevill	Durbin	Howard
Biaggi	Dwyer	Hoyer
Bilirakis	Dymally	Hughes
Boehlert	Dyson	Hunter
Boggs	Eckart (OH)	Hutto
Boland	Edwards (CA)	Ireland
Boner (TN)	Emerson	Jacobs
Bonior (MI)	English	Jeffords
Bonker	Erdreich	Jenkins
Borski	Evans (IA)	Johnson
Bosco	Evans (IL)	Jones (NC)
Boucher	Fascell	Kanjorski
Boxer	Fazio	Kaptur
Breaux	Feighan	Kasich
Brooks	Fish	Kastenmeier
Broomfield	Flippo	Kennelly
Brown (CA)	Florio	Kildee
Bruce	Foglietta	Kleczka
Bryant	Foley	Kolter
Burton (IN)	Ford (MI)	Kostmayer
Bustamante	Ford (TN)	Lagomarsino
Byron	Frank	Lantos
Callahan	Frenzel	Leach (IA)
Campbell	Frost	Lehman (CA)
Carney	Fuqua	Lehman (FL)
Carper	Gallo	Leland
Carr	Garcia	Lent
Chandler	Gaydos	Levin (MI)
Chapman	Gejdenson	Levine (CA)
Chappell	Gekas	Lewis (FL)
Clay	Gephardt	Lightfoot
Clinger	Gibbons	Lipinski
Coelho	Gilman	Lowery (CA)
Coleman (TX)	Gonzalez	Lowry (WA)
Conte	Goodling	Luken
Conyers	Gordon	Lundine
Cooper	Gradison	Mack
MacKay	Pepper	Stallings
Manton	Perkins	Stangeland
Markey	Pickle	Stokes
Martin (NY)	Price	Strang
Martinez	Pursell	Stratton
Matsui	Rahall	Studds
Mavroules	Rangel	Swift
McCain	Regula	Synar
McCloskey	Reid	Tallon
McCollum	Richardson	Tauke
McCurdy	Ridge	Tauzin
McGrath	Rinaldo	Thomas (CA)
McHugh	Robinson	Thomas (GA)
McKernan	Rodino	Torres
McKinney	Rogers	Towns
Mica	Rose	Traficant
Michel	Roukema	Traxler
Mikulski	Rowland (CT)	Udall
Miller (CA)	Rowland (GA)	Valentine
Miller (WA)	Roybal	Vander Jagt
Mineta	Sabo	Vento
Mitchell	Saxton	Visclosky
Moakley	Scheuer	Volkmer
Molinari	Schneider	Walgren
Mollohan	Schroeder	Watkins
Morrison (CT)	Schuette	Waxman
Morrison (WA)	Schulze	Weiss
Mrazek	Schumer	Wheat
Murphy	Sharp	Whitley
Myers	Shaw	Whitten
Natcher	Shelby	Wilson
Neal	Sikorski	Wirth
Nelson	Sisisky	Wise
Nowak	Slaughter	Wolf
Oakar	Smith (FL)	Wolpe
Oberstar	Smith (NJ)	Wortley
Ortiz	Smith, Denny (OR)	Wyden
Owens	Snowe	Wylie
Oxley	Solarz	Yates
Panetta	Spence	Yatron
Parris	Spratt	Young (AK)
Pashayan	St Germain	Young (FL)
Pease		Young (MO)

NAYS—84

Archer	Glickman	Penny
Armey	Gregg	Petri
Badham	Hansen	Ray
Bartlett	Hartnett	Ritter
Barton	Hiler	Roberts
Bliley	Hubbard	Rudd
Boulter	Hyde	Schaefer
Brown (CO)	Kolbe	Sensenbrenner
Broyhill	Kramer	Shumway
Chappie	Latta	Shuster
Cheney	Leath (TX)	Siljander
Coats	Livingston	Skeen
Cobey	Lott	Skelton
Coble	Lujan	Slattery
Combest	Lungren	Smith (NE)
Craig	Madigan	Smith, Robert (NH)
Daniel	Mazzoli	Stenholm
Dannemeyer	McCandless	Stump
Daub	McEwen	Sweeney
DeLay	McMillan	Swindall
Dickinson	Meyers	Vucanovich
Dornan (CA)	Monson	Walker
Dreier	Montgomery	Weber
Edwards (OK)	Moore	Whitehurst
Fawell	Moorhead	Whittaker
Fiedler	Nichols	Zschau
Fields	Nielson	
Franklin	Olin	
Gingrich	Packard	

NOT VOTING—60

Ackerman	Huckaby	Roemer
Addabbo	Jones (OK)	Rostenkowski
Alexander	Jones (TN)	Roth
Barnard	Kemp	Russo
Barnes	Kindness	Savage
Burton (CA)	LaFalce	Seiberling
Coleman (MO)	Lewis (CA)	Smith (IA)
Collins	Lloyd	Smith, Robert (OR)
Crane	Loeffler	Snyder
Derrick	Long	Solomon
Dixon	Marlenee	Staggers
Donnelly	Martin (IL)	Stark
Early	McDade	Sundquist
Eckert (NY)	Miller (OH)	Taylor
Edgar	Moody	Torricelli
Fowler	Murtha	Weaver
Gray (IL)	O'Brien	Williams
Grotberg	Obey	Wright
Hatcher	Porter	
Heftel	Quillen	
Holt	Roe	

□ 1405

Mr. GINGRICH changed his vote from "yea" to "nay."

Mr. LIGHTFOOT changed his vote from "nay" to "yea."

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

The SPEAKER pro tempore (Mr. UDALL). Pursuant to the provisions of House Resolution 360, the Committee on Energy and Commerce is discharged from further consideration of the Senate bill (S. 974) to provide for protection and advocacy for mentally ill persons.

The Clerk read the title of the Senate bill.

MOTION OFFERED BY MR. WAXMAN

Mr. WAXMAN. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. WAXMAN moves to strike out all after the enacting clause of the Senate bill, S. 974, and to insert in lieu thereof the text of H.R. 4055, as follows:

TITLE I—MENTAL HEALTH ADVOCACY

SECTION 101. SHORT TITLE.

This title may be cited as the "Protection and Advocacy for Mentally Ill Individuals Act of 1985".

SEC. 102. DEFINITIONS.

For purposes of this title—

(1) The term "abuse" means any act or failure to act by an employee of a hospital, nursing home, board and care home, or community facility for mentally ill individuals which was performed, or was not performed, in a knowing, reckless, or intentional manner, and which caused, or may have caused, injury to a mentally ill individual, and includes—

(A) the rape or sexual assault of a mentally ill individual;

(B) the striking of a mentally ill individual;

(C) the use of excessive force when placing a mentally ill individual in bodily restraints; and

(D) the use of bodily or chemical restraints on a mentally ill individual which is not in compliance with Federal and State laws and regulations.

(2) The term "eligible system" means the system established in a State under part C of the Developmental Disabilities Assistance and Bill of Rights Act to protect and advocate the rights of individuals with developmental disabilities.

(3) The term "mentally ill individual" means an individual—

(A) for whom a diagnosis of mental illness has been made by a mental health professional qualified under the laws of a State;

(B) who is an inpatient in a hospital or nursing home or a resident in a board and care home or a community facility for mentally ill individuals; and

(C) for whom a legal guardian, conservator, or other legal representative has not been appointed, unless the legal guardian, conservator, or other legal representative requests the eligible system for the jurisdiction in which such individual is located to treat the individual as a mentally ill individual.

(4) The term "neglect" means a negligent act or omission by any person responsible for providing services in a hospital, nursing home, board and care home, or community facility for mentally ill individuals which caused or may have caused injury to a mentally ill individual or which placed a mentally ill individual at risk of injury, and includes the failure—

"(A)(i) in the case of individuals who need to be placed in inpatient mental facilities, to place such individuals in optimum therapeutic settings and to provide mental health treatment and related support services appropriate to such individuals' level of functioning,

"(ii) in the case of residents of public inpatient mental health facilities who have been inappropriately placed in such facilities, to discharge such residents, and, to the extent appropriate, to place them in optimum therapeutic settings and to provide mental health treatment and related support services appropriate to such individuals' level of functioning,

"(iii) in the case of individuals who are discharged from, or are in need of placement in, inpatient mental health facilities, to inform them of available community-based facilities and programs providing mental health treatment and related support services and to provide them access to a sufficient number of adequately staffed and adequately funded community-based facilities and programs providing mental health and related support services, and

"(iv) to otherwise establish or carry out an appropriate individual program plan or treatment or discharge plan for a mentally ill individual,

(B) to provide adequate nutrition, clothing, or health care for a mentally ill individual, or

(C) to provide a safe environment for a mentally ill individual.

For purposes of clauses (i) and (ii) of subparagraph (A), the term "optimum therapeutic setting" means the environment that is least restrictive of an individual's personal liberty and where the care, treatment, habilitation, or rehabilitation is particularly suited to the level of services necessary to properly implement an individual's treatment, habilitation, and rehabilitation. The optimum therapeutic setting for an individual may be a licensed and properly operated State hospital or other public residential care facility.

(5) The term "Secretary" means the Secretary of Health and Human Services.

(6) The term "State" means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, the Commonwealth of the Northern Mariana Islands, American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands.

(7) The term "board and care home" means a facility licensed or regulated by a State under section 1616(e) of the Social Security Act.

SEC. 103. PROTECTION AND ADVOCACY SYSTEM.

(a) ALLOTMENTS.—

(1) The Secretary shall make allotments to eligible systems to establish and administer a system—

(A) which meets the requirements of subsection (b), and

(B) which is designed to protect and advocate the rights of mentally ill individuals and investigate incidents of abuse and neglect of mentally ill individuals.

(2) An eligible system which receives funds under an allotment under paragraph (1) may use such funds to enter into contracts with entities for activities under the allotment but may not use such funds to contract with entities which—

(A) provide treatment or services (other than advocacy services) to mentally ill individuals, or

(B) are not public or nonprofit private entities.

(3) If an eligible system which receives an allotment under paragraph (1) is an agency of a State, other agencies of such State may not use more than a total of 5 percent of any such allotment for any fiscal year for administrative expenses related to the system established under the allotment.

(b) SYSTEM REQUIREMENTS.—

(1) A system established in a State under an allotment under subsection (a)(1) to protect and advocate the rights of mentally ill individuals shall—

(A) have the authority to—

(i) investigate incidents of abuse and neglect of mentally ill individuals;

(ii) pursue administrative, legal, and other appropriate remedies to ensure the protection of mentally ill individuals who are inpatients in hospitals, or nursing homes in the State or are residents of board and care homes or community facilities in the State for mentally ill individuals; and

(iii) pursue administrative, legal, and other appropriate remedies on behalf of individuals who were mentally ill individuals and who are residents of the State;

(B) be independent of any agency in the State which provides treatment or services (other than advocacy services) to mentally ill individuals;

(C) have access to hospitals, nursing homes, and board and care homes and community facilities for mentally ill individuals in the State;

(D) have access to all records of—

(i) any individual who is a client of the system if such individual or the guardian of such individual has authorized the system to have access; and

(ii) any person—

(I) who by reason of the mental or physical condition of such individual is unable to authorize the system to have such access;

(II) who does not have a legal guardian or for whom the legal guardian is the State; and

(III) with respect to whom a complaint has been received by the system or with respect to whom there is reason to believe that such individual has been subject to abuse and neglect;

(E) establish a board—

(i) which will advise the system on policies and priorities to be carried out in protecting and advocating the rights of mentally ill individuals, and

(ii) which shall include attorneys, mental health professionals, individuals from the public who are knowledgeable about mental illness, a provider of mental health services, individuals who have received or are receiving mental health services, and family members of such individuals and at least one-half the membership of which shall be comprised of individuals who have received or are receiving mental health services or are family members of such individuals;

(F) have an arrangement with the agency of the State which administers the State plan under title XIX of the Social Security Act for the furnishing of the information required by subsection (c); and

(G) on January 1, 1987, and January 1 of each succeeding year, prepare and transmit to the Secretary and the head of the State mental health agency of the State in which the system is located a report describing the activities, accomplishments, and expenditures of the system during the most recently completed fiscal year.

(2) In the case of individuals who were mentally ill individuals, a system may pursue remedies under paragraph (1)(A)(iii) on behalf of such individuals only with respect to matters which occur within 90 days of the date of the discharge of such individual from a hospital, nursing home, board and care home, or community facility for mentally ill individuals.

(3) A system which has access to records which, under Federal or State law, are required to be maintained in a confidential manner by a provider of mental health services, shall, except as provided in paragraph (4), maintain the confidentiality of such records to the same extent as is required of the provider of such services.

(4)(A) Except as provided in subparagraph (B), a system which has access to records under paragraph (1)(D) may not disclose information from such records to the individual who is the subject of the information if the mental health professional responsible for supervising the provision of mental health services to such individual has provided the system with a written determination that disclosure of such information to such individual would be detrimental to such person's health.

(B) An individual to whom disclosure of information has been denied under subparagraph (A) may select, or the system, acting on behalf of such person, may select, another mental health professional to review such information and to determine if disclosure of such information would be detrimental to such person's health. If such mental health professional determines, based on professional judgment, that disclosure of such information would not be detrimental to the health of such person, the system may disclose it to such person.

(c) INFORMATION FOR SYSTEMS.—The Secretary and the agency of a State which administers its State plan under title XIX of the Social Security Act shall provide the system in the State established under an allotment under subsection (a) with a copy of each annual survey report and plan of corrections for cited deficiencies made pursuant to titles XVIII and XIX of the Social Security Act with respect to any hospital, nursing home, board and care home or community facility for mentally ill individuals in the state in which such system is located. A report or plan shall be made available within 30 days after the completion of the report or plan.

SEC. 104. ADMINISTRATION OF ALLOTMENTS.

(a) FORMULA.—

(1) Except as provided in paragraph (2) and subject to the availability of appropriations under section 105, the Secretary shall allot the amounts available for allotment under section 105 for a fiscal year on the basis of a formula prescribed by the Secretary which is based equally—

(A) on the population of each State in which there is a eligible system, and

(B) on the population of each such State weighted by its relative per capita income.

For purposes of subparagraph (B), the term "relative per capita income" means the quotient of the per capita income of the United States and the per capita income of the State, except that if the State is Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, the Trust Terri-

tory of the Pacific Islands, or the Virgin Islands, the quotient shall be considered to be one.

(2) Notwithstanding the formula for allotments prescribed by paragraph (1) and subject to the availability of appropriations under section 105—

(A) the amount of the allotment of an eligible system in each of the several States, the District of Columbia, and the Commonwealth of Puerto Rico shall not be less than $125,000; and

(B) the amount of the allotment of an eligible system in Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, the Trust Territory of the Pacific Islands, or the Virgin Islands shall not be less than $67,000.

(b) REALLOTMENT.—

(1) To the extent that all the funds appropriated under section 105 for a year and available for allotment in such fiscal year are not allotted to eligible systems because—

(A) one or more eligible systems have not submitted an application for an allotment for such fiscal year, or

(B) one or more eligible systems have notified the Secretary that they do not intend to use the full amount of their allotment.

the amount which is not so allotted shall be reallotted among the remaining eligible systems.

(2) The amount of an allotment to an eligible system for a fiscal year which the Secretary determines will not be required by the system during the period for which it is available shall be available for reallotment by the Secretary to other eligible systems with respect to which such a determination has not been made.

(3) The Secretary shall make reallotments under paragraphs (1) and (2) on such date or dates as the Secretary may fix (but not earlier than 30 days after the Secretary has published notice of the intention of the Secretary to make such reallotment in the Federal Register). A reallotment to an eligible system shall be made in proportion to the original allotment of such system for such fiscal year, but with such proportionate amount for such system being reduced to the extent it exceeds the sum the Secretary estimates such system needs and will be able to use during such period. The total of such reductions shall be similarly reallotted among eligible systems whose proportionate amounts were not so reduced. Any amount so reallotted to an eligible system for a fiscal year shall be deemed to be a part of its allotment under subsection (a) for such fiscal year.

(c) APPLICATION.—No allotment may be made to an eligible system unless an application therefor is submitted to the Secretary. Each such application shall contain—

(1) assurances that amounts paid to such system from an allotment under section 103 will be used to supplement and not to supplant the level of non-Federal funds available to the system to protect and advocate the rights of mentally ill individuals;

(2) assurances that the eligible system for which the application is submitted will have a staff which is trained or being trained to provide advocacy services to mentally ill individuals; and

(3) such other information as the Secretary may by regulation prescribe.

(d) PAYMENTS.—For each fiscal year, the Secretary shall make payments to each eligible system from its allotment under section 103. Any amount paid to an eligible system for a fiscal year and remaining unobligated at the end of such year shall remain available to such system for the purposes for which it was made for the next fiscal year.

(e) REPORT.—The Secretary shall include in each report required under section 107(c) of the Developmental Disabilities Assistance and Bill of Rights Act a separate statement—

(1) describing the activities, accomplishments, and expenditures of systems to protect and advocate the rights of mentally ill individuals supported with payments from allotments under section 103, including—

(A) a specification of the total number of mentally ill individuals served by such systems;

(B) a description of the types of activities undertaken by such systems;

(C) a description of the types of residential facilities for mentally ill individuals with respect to which such activities are undertaken;

(D) a description of the manner in which such activites are intitiated; and

(E) a description of the accomplishments resulting from such activities;

(2) describing—

(A) systems to protect and advocate the established rights of mentally ill individuals supported with payments from allotments under this section;

(B) activities conducted by States to protect and advocate such rights;

(C) mechanisms established by residential facilities for mentally ill individuals to protect and advocate such rights; and

(D) the coordination among such systems, activites, and mechanisms: and

(3) making recommendations for activities and services to improve the protection and advocacy of the rights of mentally ill individuals and a description of needs for such activities and services which have not been met by systems established under allotments under section 103.

In preparing the statement required by this subsection, the Secretary shall use and include information submitted to the Secretary in the reports required under section 103(b)(1)(G).

(f) OTHER ASSISTANCE.—The Secretary shall provide training, technical assistance, and evaluation services to eligible systems with respect to activities carried out under an allotment under section 103. In any fiscal year, the Secretary shall obligate for assistance under this subsection an amount equal to 5 percent of the amount appropriated for such fiscal year under section 105.

(g) ADMINISTERING AGENCY.—The Secretary shall carry out this title through the Administrator of the Alcohol, Drug Abuse, and Mental Health Administration.

SEC. 105. AUTHORIZATIONS.

For allotments under section 103 and assistance under section 104(f), there are authorized to be appropriated $10,500,000 for fiscal year 1986, $11,000,000 for fiscal year 1987, and $11,525,000 for fiscal year 1988.

SEC. 106. OTHER ALLOTMENTS.

(a) SECTION 1916.—Section 1916(c) of the Public Health Service Act (42 U.S.C. 300x-4) is amended by adding at the end the following:

"(16) There is in the State a protection and advocacy system for mentally ill individuals which meets the requirements of section 103(b) of the Protection and Advocacy for Mentally Ill Individuals Act of 1985.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect October 1, 1986.

TITLE II—FAMILY SUPPORT GROUPS

Sec. 201. ALZHEIMER'S DISEASE.

(a) FAMILY SUPPORT GROUPS.—The Secretary of Health and Human Services (hereinafter in this section referred to as the "Secretary"), acting through the National Institute of Mental Health, the National Institutes on Health, the National Institute on Aging, and the Administration on Aging, shall promote the establishment of family support groups to provide, without charge, educational, emotional, and practical support to assist individuals with Alzheimer's disease or a related memory disorder and members of the families of such individuals. Such groups shall be established in university medical centers and in other appropriate health care facilities which receive Federal funds from the Secretary and which conduct research on Alzheimer's disease or provide services to individuals with such disease and in community based programs which receive funds from the Administration on Aging.

(b) NATIONAL NETWORK.—The Secretary shall provide for the establishment of a national network to coordinate the family support groups described in subsection (a).

(c) REPORT.—The Secretary shall report to Congress, not later than one year after the date of the enactment of this section, on family support groups and the network of such groups established pursuant to this section.

TITLE III

Nothing in this Act shall be construed as superseding any of the balanced budget provisions set forth in section 201(a)(7) of Public Law 99-177.

The motion was agreed to.

The Senate bill was ordered to be read a third time, was read the third time, and passed.

The title of the Senate bill was amended so as to read: "An Act to assist the States to establish and operate protection and advocacy systems for mentally ill individuals and to promote family support groups for Alzheimer's disease patients and their families."

A motion to reconsider was laid on the table.

A similar House bill, H.R. 4055, was laid on the table.

H.R. 3492 was laid on the table.

APPOINTMENT AS MEMBERS OF COMMITTEE TO ATTEND MEMORIAL SERVICE FOR CREW MEMBERS OF "CHALLENGER" SHUTTLE MISSION IN HOUSTON, TX

The SPEAKER. Pursuant to House Resolution 364, the Chair appoints as members of the committee to attend the memorial service for the crew members of the *Challenger* shuttle mission in Houston, TX, the following Members on the part of the House:

Mr. FUQUA of Florida;
Mr. WRIGHT of Texas;
Mr. MICHEL of Illinois;
Mr. BOLAND of Massachusetts;
Mr. GREEN of New York;
Mr. PRICE of Illinois;
Mr. BROOKS of Texas;

Mr. BROOMFIELD of Michigan;
Mr. CONTE of Massachusetts;
Mr. HORTON of New York;
Mr. PICKLE of Texas;
Mr. DUNCAN of Tennessee;
Mr. ALEXANDER of Arkansas;
Mr. YOUNG of Florida;
Mr. GILMAN of New York;
Mrs. BOGGS of Louisiana;
Mr. LAGOMARSINO of California;
Mr. MINETA of California;
Mr. AKAKA of Hawaii;
Mr. HEFTEL of Hawaii;
Mr. PANETTA of California;
Mr. VOLKMER of Missouri;
Mr. WALGREN of Pennsylvania;
Mr. WALKER of Pennsylvania;
Mr. YOUNG of Missouri;
Mr. BONER of Tennessee;
Mr. LELAND of Texas;
Mr. LEWIS of California;
Mr. NELSON of Florida;
Mr. SENSENBRENNER of Wisconsin;
Mr. COATS of Indiana;
Mr. EMERSON of Missouri;
Mr. FIELDS of Texas;
Mr. GREGG of New Hampshire;
Mr. HANSEN of Utah;
Mr. LOWERY of California;
Mrs. MARTIN of Illinois;
Mr. MCEWEN of Ohio;
Mr. MORRISON of Washington;
Mr. HOYER of Maryland;
Mr. OXLEY of Ohio;
Mr. ANDREWS of Texas;
Mr. BOSCO of California;
Mr. DURBIN of Illinois;
Mr. LEWIS of Florida;
Mr. PACKARD of California;
Mr. TALLON of South Carolina;
Mr. DORNAN of California;
Mr. BARTON of Texas;
Mr. CALLAHAN of Alabama;
Mr. COBEY of North Carolina;
Mr. DELAY of Texas;
Mr. KOLBE of Arizona;
Mr. MONSON of Utah; and
Mr. SMITH of New Hampshire.

□ 1420

PERSONAL EXPLANATION

Mr. WEAVER. Mr. Speaker, I was coming from a subcommittee meeting and missed the vote on H.R. 4055, the bill just passed. Had I been able to hear the bells, I would have attended the House session and voted "aye."

LEGISLATIVE PROGRAM

(Mr. LOTT asked and was given permission to address the House for 1 minute.)

Mr. LOTT. Mr. Speaker, I ask for this time for the purpose of receiving the schedule for the balance of today and next week. I will be happy to yield to the distinguished gentleman from Washington [Mr. FOLEY], the majority whip, for that purpose.

Mr. FOLEY. I thank the gentleman for yielding.

Mr. Speaker, this completes the legislative action for this week.

The House will meet at noon on Monday to consider three bills under suspension of the rules:

S. 1831, the Arms Export Control Act amendments;

S. 1574, the smokeless tobacco education bill; and

H.R. 4061, Federal Employees Benefits Improvement Act of 1986.

Recorded votes on suspensions, if ordered, will be postponed until Tuesday, February 4, when the House will meet at noon. There are no suspension bills currently listed for Tuesday, but recorded votes on any suspensions taken on Monday will be taken on Tuesday.

The House will also consider H.R. 3010, Health Planning Amendments of 1985, an open rule, 1 hour of debate.

The House will then recess until 7:30 p.m., when it will reconvene to receive the President of the United States at 8 p.m. for his State of the Union Address. I would like to underline that the original schedule of 9 o'clock for the President's State of the Union Address has, by his request, and the concurrence of both sides of the aisle, of course, and the other body, been rescheduled for 8 p.m. on Tuesday evening. Consequently, the House will reconvene at 7:30 rather than 8:30 as originally scheduled.

Mr. LOTT. At this point, I suppose that would take a resolution?

Mr. FOLEY. I will offer a unanimous consent request to amend the present resolution at the conclusion of our colloquy.

Mr. LOTT. I thank the gentleman.

Mr. FOLEY. On Wednesday and the balance of the week, February 5, 6, and 7, the House will meet at 3 p.m. on Wednesday and 11 a.m. for the balance of the week. On Wednesday and the balance of the week the House will consider H.R. 3456, consumer product safety amendments, subject to a rule being granted; and H.R. 2418, Health Services Amendments of 1985, an open rule, 1 hour of debate.

It is not anticipated, if we complete this schedule, that there will be a session on Friday, February 7. But the announcement is made subject to the usual reservation that conference reports may be brought up at any time, and a further program may be announced later.

Mr. LOTT. I thank the gentleman for that information.

Just one request. It had been indicated that perhaps House Joint Resolution 3, the comprehensive test ban resolution, might be scheduled sometime soon. Does the gentleman have any information on that?

Mr. FOLEY. I think it is anticipated that there will be a scheduling of H.R. 3. It has not yet been set for action by the House, but I think that it should be anticipated that the bill will be rescheduled for consideration in the near future.

Mr. LOTT. Which would probably mean that it could not come up now before the week of February 18, is that correct?

Mr. FOLEY. That is correct.

Mr. LOTT. At the earliest.

Mr. FOLEY. It will not be scheduled for next week.

Mr. LOTT. I thank the distinguished whip.

CHANGE OF TIME FOR JOINT SESSION OF CONGRESS—STATE OF THE UNION ADDRESS

Mr. FOLEY. Mr. Speaker, I ask unanimous consent that, notwithstanding the provisions of House Concurrent Resolution 274, the two Houses of Congress shall assemble in the Hall of the House of Representatives at 8 p.m. instead of 9 p.m. on Tuesday, February 4, 1986, to receive a message from the President on the State of the Union.

The SPEAKER pro tempore (Mr. UDALL). Is there objection to the request of the gentleman from Washington?

There was no objection.

ADJOURNMENT TO MONDAY, FEBRUARY 3, 1986

Mr. FOLEY. Mr. Speaker, I ask unanimous consent that when the House adjourns today, it adjourn to meet at 12 noon on Monday next.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Washington?

There was no objection.

DISPENSING WITH CALENDAR WEDNESDAY BUSINESS ON WEDNESDAY NEXT

Mr. FOLEY. Mr. Speaker, I ask unanimous consent that the business in order under the Calendar Wednesday rule shall be dispensed with on Wednesday next.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Washington?

There was no objection.

CLOSING LOOPHOLES FOR DUTY-FREE ETHANOL

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois [Mr. MICHEL] is recognized for 5 minutes.

Mr. MICHEL. Mr. Speaker, I am today introducing legislation which is designed to close all the loopholes which allow ethanol imports to enter the United States duty-free.

Several years ago, Congress enacted legislation which recognized the need to assist our developing domestic ethanol industry by establishing a 60-cent-per-gallon duty on ethanol imports.

Since then, however, foreign nations, particularly Brazil, have been searching out and utilizing a variety of different methods by which to avoid payment of the 60-cent duty.

One such method was to mix ethanol with another compound and have it avoid the duty by being declared an ethanol mixture. We were able to get the Customs Service to close that door last fall, but this bill goes a step further by writing that regulation into law. That will prevent the Customs Service from reversing itself at any future date.

The Brazilians are now mixing ethanol with another compound called benzenoid. Because benzenoid is on the Generalized System of Preferences list, it is allowed into this country duty-free.

The result is that ethanol, under the guise of a benzenoid mixture, is being allowed into this country without payment of the duty. My bill closes that loophole and imposes the duty on such a mixture.

Under current law, a product from a Caribbean nation is allowed into this country duty-free if as little as 35 percent is added to the value of a product. Brazil is shipping ethanol through Jamaica, where 35 percent is ostensibly being added to its value, and it is then coming into this country duty-free.

Similarly, our insular possessions, such as the Virgin Islands, are allowed under the law to ship foreign products into this country duty-free if as little as 30 percent is added to the value of the product. We understand that the Virgin Islands are gearing up to ship foreign ethanol into the United States under this guise.

This bill closes both of these loopholes and allows ethanol to be imported duty-free only if it is 100 percent produced in our possessions or the Caribbean nations.

Ethanol is an important industry in central Illinois, not only for the jobs it provides in the ethanol manufacturing plants, but also for the market it provides for corn farmers. The more corn that is sold for ethanol production, the more we help the overall farm economy and lower the cost to the Government.

This bill represents a comprehensive effort to protect our domestic ethanol industry and our farmers from unfair foreign competition, and I hope it will be considered at the earliest opportunity.

□ 1430

THE SHUTTLE TRAGEDY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York [Mr. WEISS] is recognized for 5 minutes.

Mr. WEISS. Mr. Speaker, I rise with profound sorrow in the wake of the first in-flight tragedy of the space program, involving the space shuttle *Challenger* and its crew of Francis R. Scobee, Michael J. Smith, Judith A. Resnik, Ronald E. McNair, Ellison S. Onizuka, Gregory Jarvis, and S. Christa McAuliffe.

The deaths of these seven exceptional individuals is especially poignant because we were all represented among them: Mothers and fathers, teachers and engineers, blacks, whites, Asians, Christians, and Jews. As Americans, we all feel that we have lost a part of ourselves.

Children across the country, prepared for a lesson in space exploration, were instead thrust into an exploration of self, a lesson in mortality. We must reach out to these children, and to each other. We grieve together in this national tragedy.

To the families and friends of these seven courageous and dedicated Americans, I offer my deepest condolences. We will not forget your loved ones, as we will not forget you.

A 1-YEAR MORATORIUM ON SPENDING INCREASES

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Colorado [Mr. BROWN] is recognized for 5 minutes.

Mr. BROWN of Colorado. Mr. Speaker, today I am introducing a resolution which will call for a 1-year moratorium on spending increases. I would like to share with the Members and with people from my district the philosophy that is behind this budget resolution.

The reality is, since 1980, that we have talked and talked and talked about cutting spending, but spending this year will be 68 percent higher than it was in 1980. The reality is there has not been a single year in which we have cut spending. We have consistently increased spending.

How often have we heard that the reason for the massive deficits are the cuts in taxes? The reality there is also startling: Tax revenue this year will be 50 percent higher than it was in 1980. That is right; not a cut, but an enormous increase in taxes over the last 5 years.

The truth is, Mr. Speaker, that this Nation's leadership has not stood up to the horrible dilemma we face with the deficit, and the reality is that we continue to consume the savings of working men and women of this country within the Federal deficit.

What we have done is take the seed corn that can be reinvested to make America competitive in the world market, and consume it in Federal spending. Sadly, much of that Federal spending is wasted.

We now face a dilemma under Gramm-Rudman. We face some enforcement procedures that are going to push us to face up to that problem. How do we face up to it?

I think one way we can face up to it is by simply not increasing Federal spending for 1 year. If we will simply go 1 year without increases across the board, we can meet the Gramm-Rudman targets. So often we hear today of the Draconian cuts that Gramm-Rudman is going to cost, but the truth is, it does not need Draconian cuts. The truth is, we can do it by a simple, modest restraint of not increasing spending and be more than within the target.

So the resolution we have introduced today simply says we are not going to increase spending. It does allow for an increase in the numbers of people who will now participate in the entitlement programs, and it makes up for that very modest increase in spending by reducing foreign aid. It reduces foreign aid in outlays back to $14 billion, that is roughly the level it was 2 years ago.

The truth is, foreign aid has gone up perhaps as fast as almost any part of the budget. Foreign aid today is almost double what it was in 1980, so the modest reduction that takes place in foreign aid is enough to take care of the adjustments that we will have in the entitlement programs.

Again, we are not increasing or giving a COLA to anyone; that is not easy, but I believe the American people will respond. I think the American people will feel that everyone is doing their part, and they will stand up to do theirs.

Where we have run into problems in the past is, we, as a Congress, have been unwilling to share the burden evenly. We have asked people to accept huge cuts while others get huge increases. The reality is, no one wants to do that; but if we will be evenhanded, I think we will find the American people behind us.

This resolution offers a budget alternative that is realistic, that meets the Gramm-Rudman targets, and it can bring about true and long-lasting prosperity for our country.

AN AMERICAN TRAGEDY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York [Mr. LAFALCE] is recognized for 5 minutes.

Mr. LAFALCE. Mr. Speaker, the explosion of the space shuttle *Challenger* was both a human and a national tragedy. The wound will heal, but we will always bear its scar in the remembrance of our grief at the death of *Challenger*'s crew.

The loss of the crew's seven members was felt personally by all Americans, probably because television made their lives and deaths seem so close and personal. We sympathized with their relatives, sharing their horror as they watched *Challenger* disappear in a fireball,

leaving nothing but white contrails streaming silently down the depthless blue sky, a signal of the death of their loved ones.

We Americans feel a special attachment to our astronauts. They are some of the best among us, excelling in their character, strength, intelligence, and courage, quietly dedicated to our country's historic task of space exploration. But the *Challenger* crew seemed especially close to us because it included Christa McAuliffe, the first teacher in space, a civilian, like all of us. She was to share the excitement and wonder of space travel not only with children, but with all of us other private citizens for whom space travel remains, as it once was for her, only a distant dream. In a sense, she was our representative. Her loss, with the six other astronauts, was especially poignant and shocking.

Challenger's explosion also was a national tragedy in another sense. It struck, perhaps harder than any other blow since the assassination of Martin Luther King, at the aspirational soul of America. This soul lives in the American people, guiding our unique history. It is the soul that strives for human progress, to perfect the world's most vital democracy, to create in a cruel and chaotic world a civilization of justice, liberty, enlightenment, and happiness. Its spirit of purposeful adventure established our Nation in a new world, then pushed back the frontier of civilization to the Great Lakes, to the Pacific, and on past the Moon to the far reaches of the solar system.

The ideals of the American soul are universal; its great victories have been won not against other peoples, but over injustice, ignorance, and poverty. For this the world respects America, and shares a measure of pride in our achievements. We planted the American flag on the Moon, but we also left a marker there with our solemn declaration to the cosmos: "We came in peace for all mankind."

Human progress is not won without costs, though. Its triumphant achievements are paid for by tragic losses. The tragedy should always be minimized, and may sometimes be deferred, but it cannot be avoided. *Challenger*'s destruction reminds us that although our triumphs far outweigh our tragedies, our Nation's commitment to human progress is a sometimes burdensome glory.

Challenger's seven astronauts gave their lives in pursuit of the highest purposes of their country and their humanity. To surrender those purposes would be to trivialize their sacrifice. Instead, their brave example should anneal our will to join in the enterprise they can no longer continue. We will modify the space shuttle, we will resume its missions, and we will continue to pursue knowledge of the universe just as we continue to pursue our civilization's other great ideals.

Dick Scobee, Michael Smith, Judith Resnik, Ronald McNair, Ellison Onizuka, Gregory Jarvis, and Christa McAuliffe: All represented what is deepest and greatest about America. When I think of them, I shall remember the words of Stephen Spender:

Near the snow, near the sun, in the highest fields,
See how those names are feted by the waving grass,
And by the streamers of white cloud,
And whispers of wind in the listening sky;
The names of those who in their lives fought for life,
Who wore at their hearts the fire's center.
Born of the sun they traveled a short while towards the sun,
And left the vivid air signed with their honor.

PERSONAL EXPLANATION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Wisconsin [Mr. KLECZKA] is recognized for 5 minutes.

Mr. KLECZKA. Mr. Speaker, due to conflicting official business, I was unable to be present for certain votes taken by the House on Thursday, January 23.

Had I been present for consideration of H.R. 357, the rule on H.R. 2443, the Expedited Funds Availability Act, I would have voted "aye."

On rollcall No. 5, the Wylie amendment to H.R. 2443, I would have voted "nay."

On rollcall No. 6, the Shumway amendment to the Bartlett amendment, I would have voted "nay."

On rollcall No. 7, the Shumway substitute to H.R. 2443, I would have voted "nay."

On rollcall No. 8, the vote on final passage of H.R. 2443, I would have voted "aye."

COMPETING WITH RUSSIA: THE NUCLEAR CHALLENGE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Massachusetts [Mr. STUDDS] is recognized for 5 minutes.

Mr. STUDDS. Mr. Speaker, because the Soviet Government has the capacity to blow us up, our relationship with Russia is different—and more important—than our dealings with any other country.

Because of the brutal and repressive nature of the Soviet political system, our country could never surrender to Russian policies and still be true to ourselves.

Our Nation must compete with the U.S.S.R. if our rights and interests, and those of our friends, are to be preserved. For this reason, choosing wisely when, where, and how best to engage in this competition is fundamental to the success or failure of American foreign policy.

But these choices are not always easy to make, for the process of competing implies the existence of a goal, and the specific objectives of the United States-Soviet competition have not always been clear.

Military conquest, after all, is unobtainable; nuclear weapons have ruled that out.

Political victories in the international arena tend to be short-lived, limited by the modern attention span, and by the proven ability of both superpowers to absorb and overcome diplomatic setbacks of major consequence.

Economic competition is restricted by the inability of either country to affect the base of natural resources and manpower upon which the material prosperity of the other depends.

Some in both countries still believe that we are engaged in an historically predestined ideological clash which will soon result in a clear and complete triumph of one over the other. It is very human to think in those terms, but history lends little support to this pretentious notion.

As competitors in search of a competitive goal, we must, then, lower our sights. This is no short-term struggle, and victories achieved along the way will be both uncommon and incomplete. We are not playing football; no global poll is about to decide who is No. 1; and although the field of competition is broad, not every battle will be of equal importance. Doing better than the Russians in the Olympics is hardly as significant as having a stronger economy or possessing a more coherent and effective policy toward the developing world.

But although the importance of some aspects of the United States-Soviet competition may be obscure, the most vital American objective is not: To assume and maintain a leadership role, in cooperation with our allies, for the purpose of pursuing and obtaining a more stable, less threatening balance of nuclear arms. Unfortunately, it is in precisely this area that we are competing least well.

This is true, in part, because of our own policies, and in part because the Soviet Union may be better led today than at any time in the past 20 years. Party Secretary Mikhail Gorbachev seems ready and willing to play a role on the world stage in Russia's behalf that has not, in recent memory, been capably performed. He is the first Soviet leader to demonstrate a grasp of modern public relations and the uses of the international media. His presence in the Kremlin should cause the United States to throw off any feeling of complacency that may have developed during the past decade of aging and ailing Soviet leaders, for Gorbachev is likely to be around for a long, long time.

From the day he took office, Secretary Gorbachev has sold Russia to the international press as the initiator of proposals to reduced the level and danger of nuclear arms. Although many of these initiatives have been sloppily presented and transparent in their goals, the record of recent Soviet public statements and commitments in the field of arms control cannot be lightly dismissed.

Unfortunately, the Reagan administration has thus far failed to effectively test the intentions of the Soviet leadership. If Gorbachev is sincere, we have not capitalized on that sincerity; if Gorbachev is bluffing, we have not called that bluff. We are not, in short, competing very well.

Consider yourself, for example, an observer in Europe concerned about nuclear weapons, and with a consequent interest in arms control.

What do you see? Gorbachev calling for a moratorium on all nuclear testing; Reagan vowing to continue tests of new weapons. Gorbachev calling for a halt to the testing of antisatellite weapons; Reagan insisting on more such tests. Gorbachev reiterating support for deterrence; Reagan seeking to make

the United States invulnerable to Soviet attack. Gorbachev calling for a 50-percent reduction in offensive nuclear arms in return for limits on star wars; Reagan refusing to compromise. Gorbachev supporting a nuclear freeze; Reagan denouncing it. Gorbachev pledging never to be the first to use nuclear weapons; Reagan refusing to make the same pledge. Gorbachev urging continued support for the Antiballistic Missile Treaty; Reagan developing a "new legal interpretation" that would render the treaty without meaning. Finally, and most dramatically, Gorbachev outlining a plan to eliminate all nuclear weapons from the Earth over the next 15 years; Reagan caught by surprise, able only, weeks later, to provide a feeble and unhelpful response.

President Reagan recognizes the political and diplomatic complications that will arise if the Soviets are able to portray themselves as being more committed to arms limitations and world peace than is the United States. Such a perception could divide NATO, and weaken the allied response to the Soviets on a wide range of issues, including military and diplomatic matters, and human rights.

I do not believe that any citizen of this planet should ever doubt the commitment of the United States to peace, but the fact is that Gorbachev has been making public relations mincemeat out of President Reagan on the subject of nuclear arms.

The administration response to the Soviet strategy has been slow, weak, misguided, and characterized by a lack of unity within the executive branch. But the underlying problem has been the President's insistence that the credibility of the United States—on this most vital of competitive issues—should rest almost solely on the illusion that star wars is the key to future world peace.

The irony is that the President's strategy could ultimately produce benefits for the United States, but only if and when it is abandoned. The star wars program can be useful only as a "bargaining chip"; only if the United States is willing to accept limits on nuclear defensive systems in return for Soviet reductions in offensive arms. But if the President means what he has been saying, and fails to compromise on star wars, arms control will never progress, and, for this failure, the United States will be blamed.

The reason is simple. The premise of star wars is that the world will be safer if both superpowers are completely shielded from nuclear attack. Thus, both sides are encouraged to develop systems that will shoot down the missiles of the other. This will, in the President's words, "render nuclear weapons obsolete." To embrace this concept, one must abandon the notion that peace is best maintained by a strategy of mutually assured destruction—the guarantee that any nation launching a nuclear attack will itself be destroyed.

No doctrine can guarantee that nuclear weapons will never be used. But the fact is that we have lived with them for 40 years. During this period, the conviction that these weapons could not be used successfully to achieve a military or political objective has gained strength in the United States, in the Soviet Union, and around the world. Each superpower holds hostage the entire population of the other. It is not pleasant, but we have survived, and anyone who disrupts this fragile standoff had better have something both superior and substantial to put in its place.

But star wars, in the sense envisioned by the President, is a fantasy. No one with serious scientific or military credentials, and I emphasize no one, believes the United States can be shielded completely from hostile nuclear attack. Even the most ardent supporters of the star wars program concede it could not protect against attack from bombers or low-flying cruise missiles. Moreover, the cost of building our star wars program will exceed by far the cost to the Russians of building new offensive weapons that could overwhelm or outwit that system.

Beyond the technical problems are the limitations of diplomacy. Even the theoretical viability of star wars depends—utterly and completely—on the successful negotiation of an arms control agreement that would require levels of mutual understanding, trust, verification, and technical difficulty unprecedented in the history of United States-Soviet relations.

This is so because it will be many times more difficult to reach an agreement regulating the development and deployment of defensive weapons than it would be simply to limit the number of offensive weapons each side may possess. And if there is no agreement to regulate defensive systems, neither side will feel secure enough to limit the missiles and bombers it may ultimately need to overwhelm whatever defense the other may have.

Secretary of Defense Weinberger admitted this when he wrote recently that "even a probable (Soviet) defense would require us to increase the number of our offensive forces and their ability to penetrate Soviet defenses." The Russians will use the same logic to enhance their offensive capabilities if the United States begins building a defensive system.

This means that a doctrine of reliance on national defensive systems is not now, and may never be, a realistic alternative to our traditional dependence on offsetting offensive power. But it is the policy of the U.S. Government at this point to deny this plain truth, to denounce the deterrence doctrine as immoral, and to sacrifice progress in limiting offensive arms to preserve full freedom to pursue the star wars dream. This is folly; it will fuel the arms race; and it will both embarrass the United States and undermine our security.

The administration position is so weak that some star wars supporters other than the President have begun to argue that defensive systems will strengthen, rather than weaken, the traditional notion of mutual assured destruction. They support building antimissile systems that would shield offensive missiles rather than people. But this approach also has many problems, and it is, in any event, directly counter to the administration's overriding goal of relying on defensive systems for protection against nuclear war. This is the theme which dominates the President's rhetoric and which now dictates the American approach to arms control.

It is administration policy not to sacrifice star wars even to achieve what ought to be our primary goal in negotiations with the Soviet Union—reducing the number of offensive missiles targeted on the United States and Europe. What's more, the insistence that we test star wars technology means the United States will not agree to a ban on the testing of antisatellite weapons, even though Soviet antisatellite weapons could ultimately threaten America's ability to detect a nuclear attack. This same reasoning has caused President Reagan to refuse Soviet offers for a moratorium on testing weapons through underground explosions.

We are not competing successfully or intelligently with the Soviet Union in the area of nuclear arms. The President has proposed a dramatic change in the basis upon which the nuclear peace has four decades been maintained, but he has provided no clear blueprint through which this new basis can be achieved. His commitment to star wars is so strong he seems willing to ignore a chance to limit the number and restrict the type of offensive weapons available to each side. In so doing, he is making it easy for the Soviet Union to portray itself as more committed to arms control than is the United States, and he is reducting the likelihood of an agreement that would be in the best interests of our country.

This policy must change. I suggest three steps:

First, the President should cease attacking the doctrine of deterrence, and instead reaffirm America's belief that neither superpower can realistically expect either to defend against or "win" a nuclear war.

Second, barring a complete weapons freeze, American military and arms control strategy should be designed to strengthen deterrence through:

Mutual reductions in existing offensive weapons; and

Limiting new weapons development to systems suited for responding to, rather than initiating, a nuclear attack—the single warhead Midgetman missile, for example, instead of the MX.

Third, the United States should challenge the Soviets to agree to even more rapid reductions in offensive weapons than has thus far been proposed, to a prohibition—or, at least, far stricter limits—on future nuclear tests, and to a complete ban on testing during this century of antisatellite and other space weapons. Above all, our Government should stop talking about the obstacles to meaningful arms control, and start detailing, instead, exactly how we believe such agreements can be achieved.

This strategy will only work if President Reagan is willing to cash in the star wars bargaining chip now. By agreeing to ban star wars testing through the year 2000, we would place enormous pressure on Russia to live up to Gorbachev's rhetoric, and to reduce offensive arms of the type and in the quantity needed to protect America's security. And because such an agreement need not affect pure research on star wars, it would preserve the possibility that we might, at some future time, find a constructive role for limited nuclear defense.

This approach could yield substantial political and military benefits for the United States:

First, it would strengthen the doctrine of deterrence, upon which we must inevitably rely for protection against nuclear war.

Second, it would underline America's commitment to nuclear stability and peace, thereby thwarting Russian efforts to divide our country from our friends abroad; and

Third, it would dramatically decrease the cost of building and maintaining nuclear weapons, thereby making scarce Federal funds available for other important defense and nondefense needs.

The time has come for the President to cast off his negative and unproductive attitude toward the control of nuclear arms. In a competition that affects all of Earth's inhabitants, our country should have a strategy—not a fantasy—with which to calm the fears and rally the hopes of humankind.

EFFORTS TO ACHIEVE A BALANCED BUDGET

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Georgia [Mr. GINGRICH] is recognized for 60 minutes.

Mr. GINGRICH. Mr. Speaker, I want to talk today about our constituents controlling spending and balancing the budget, and I want to do so because, like virtually every Member of this House, I have had a number of questions from both constituents at home and from the members of the news media about the effort to achieve a balanced budget, about the process by which we are trying to control spending, about what will happen over the next few months.

I think that it is important, first of all, to put all of that in context. For example, a local editor, Bill Knight of Griffin, asked me last week: How would the March 1 sequestering affect Griffin, Spalding County, the Sixth District of Georgia?

My first instinct was to focus immediately on specific line-by-line cuts, to get involved in, "What will happen to this program and that program?" I stopped myself, because I realized that to talk about controlling spending in isolation is like discussing chemotherapy with a patient before discussing cancer. To talk specifically only about how the negative side of this process will work, is to be as one-sided and as lopsided as a surgeon who approaches you and says, "How would you like to lose your right leg?" No one in your right mind wants to lose their right leg.

By definition, it is human to want everything to go on the way it is now because we are used to it being the way it is now. So the question then becomes: "Oh, then why would you go through all these changes?" The answer is, first of all I think to look at the large picture.

The fact is that the United States cannot possibly sustain $200 billion a year deficits for year after year after year. The fact is that the large, liberal welfare state that we inherited, that came to us through the last 30 years of adding more bureaucracy, more offices in Washington, more transfer payments, cannot possibly be sustained.

The fact is, as Bill Moyers indicated in a 2-hour special on CBS Saturday night, that the welfare system has led to the collapse of the family in large parts of America; that in some groups, 61 percent of our children are being born outside of marriage, that that is a real problem that has to be addressed.

The fact is that if you look out into the nineties, and you look at a Japan that is economically more competitive, a West Germany that is economically more competitive, a Soviet Union that is militarily more competitive, you say to yourself: What kind of America am I going to give to my children and my grandchildren?

The No. 1 thing you know is that at the rate we are going, having doubled the deficit from a trillion dollars in 1980 to $2 trillion in 1986, we cannot possibly continue to go down the same road.

So the first point to make about this process of getting to a balanced budget is, what would America be like in 1991? I said to Bill Knight of Griffin: Griffin will have lower interest rates, young people in Griffin will have a better chance to buy a house; the dollar will be a more appropriate value and will be more competitive for the textile industry, which is in Griffin; we will have a better chance to invest our resources in new jobs and new factories; we will have a better chance to have a stable dollar to fight inflation so we will not see a tremendous debt leading to tremendous inflation, wiping out our savings, wiping out our hope for the future.

I said: We will have made the basic change back to an underlying American value. You know, it used to be that we paid off the mortgage and we left our children the farm.

□ 1440

However, in recent years we have been borrowing more and more and more money, we have been running a deficit every year since 1969. In effect, we are selling off the farm and planning to leave our children the mortgage. By moving to a balanced budget by 1991 we will fundamentally get back, I think, to basic, traditional American values, to a belief in a world in which you get what you pay for and in which you expect to do your fair share to make the world better for your children and for your grandchildren.

In that setting I think there are three basic problems with the way in which some news media personnel and some politicians have been approaching the whole issue of getting to a balanced budget. The first is the argument about whether or not the Gramm-Rudman bill in its current form is unconstitutional.

Let me suggest that historically one of the defenses of the old order in every period of reform is to rush to the old order Supreme Court to get new ideas thrown out.

Anyone who has studied Franklin Roosevelt and the New Deal knows that in bill after bill, in idea after idea, in the 1930's, they were thrown out by the Supreme Court. The Agricultural Adjustment Administration was thrown out, the National Recovery Act was thrown out. What was the answer? The answer was not to give up the New Deal. The answer was not to quit the experiment. The answer was not to say, "Well, the Supreme Court saved us from ourselves, let's not worry about it." The answer was to write the laws more carefully, to find a more creative solution, to figure out what the Supreme Court meant, and to keep working at it. So the first step, I would say to every American who wants a balanced budget, to every American who wants to fight inflation, to every American who cares about lower interest rates, the first answer has to be: Whatever the Supreme Court may decide about this particular version of our effort to balance the budget and control spending, if necessary, we will pass a better-crafted, a better-written, a more effective bill, but we are going to keep moving to a balanced budget.

Second, there is a serious effort, it would seem, on the part of some politicians, particularly those who believe in the liberal welfare state and in the last 20 years of doing business, people believe that higher taxes, bigger bureaucracy, more welfare programs, there is an effort almost gloatingly to focus on this stupid side of the Gramm-Rudman approach. Let me say, I have said it over and over again, the Gramm-Rudman approach in its worst case, which is sequestering, proves that we are willing to balance the budget in the worst way possible. But that sequestering process is there only as a last resort. We do not have to sequester if in fact Congress is willing to do its job. Now sequestering is a big word. What it basically means is that a group of technocrats, bureaucrats, would systematically go through the budget, apply a mathematical formula, and cut spending; it is foolish because it is the equivalent of a family that finds itself suddenly without enough income, cutting 12 percent out of its beer budget and 12 percent out of its medicine budget.

Now clearly you have to be pretty dumb to cut 12 percent off the medicine that keeps you alive and 12 percent off of alcohol or 12 percent off of vacations or 12 percent off of fancy

clothing. The fact is of course a family faced with a tighter budget sits down and sets priorities and says, "Well, we have to buy clothes for the kids to go to school, we have to buy gasoline to get to work, we have to buy medicine so that grandmother will be all right, we are not going to cut out any essentials. What is it we can give up?"

I think we in the Congress must recognize that those who would wait and rely on sequestering, those who would wait and rely on a purely mathematical system to stupidly and arbitrarily cut spending are almost hoping that the sheer fear of the Frankenstein monster, this meat grinder chewing up everything will get us to somehow waive or vacate or get away from moving to a balanced budget.

The burden, I would suggest, is on all of us to rise above partisanship, to rise above the mere opportunity of scoring a few points and, instead, to say it is the responsibility of the House and the other body to work together to produce a budget which meets the targets that this Congress adopted in December. It is the job of Congress to set choices, to decide on priorities; that in fact we should precisely choose between one more bureaucracy and making sure that everyone gets enough health care, between one more program that is not essential and making sure that handicapped Americans have adequate educational opportunity. It is precisely the job of Congress to decide how to set priorities, and the challenge to us should be to say to our constituents, "What are the priorities that matter?" and to recognize that while some people will be very angry because you are cutting off their particular access to Government money, that 95 or 98 percent of all Americans are very, very supportive of a program which moves us toward a balanced budget, which fights inflation, which will bring about lower interest rates, and which lays the base for a prosperous 1990's.

Let me go back and reinforce this because I think the Gramm-Rudman balanced budget process seen in isolation does not make sense. It only makes sense in the larger picture. I recently had a number of retired Federal employees who came to me who were very upset because they were not getting their cost-of-living increase. They were saying, "Why are we being picked on? Why just us?" And only when I talked to them about the larger picture: "Do you really want us to keep borrowing money from your grandchildren?" Do they really want a $3 trillion or $4 trillion debt? Are they really willing to look at the 1990's when, if America suddenly cannot pay its bills, the Japanese and the Europeans decide to withdraw their money from our bond market. If we suddenly face a true liquidity crisis, what in the 19th century would have been called a financial panic, is that really the 1990's in which they want to live?

Instead, I said, imagine a 1990's in which we actually keep the faith. America in the 1990's in which we control spending. Imagine the 1990's in which in 1991 we have a balanced budget and in 1992 and 1993 and 1994 or 1995 we run a little bit of a surplus and begin to pay down the debt. Imagine getting back to what were the historic interest rates in the United States, 3 percent and 4 percent prime rates. Imagine a setting in which your grandchildren have a good job, the factory has invested in new machinery to compete with Japan or Germany, and we are in a position where they can actually afford to go out and buy a house.

I said to them, "Now if you are willing to tell me you are going to run the risk, you are going to take the burden of saying, 'Give me my extra 3 percent, I do not care what happens to my grandchildren,' fine, then we will have one message. But if you are willing for me to control spending, trying to balance the budget, to get to the kind of future where your children and your grandchildren have a better life, then tell me, do you want to raise taxes on your children who are working? Or will you let me control spending?"

The answer I got almost universally was if I would control spending across the board, if everybody was involved, then they wanted to be part of getting America to a balanced budget; that as long as we were controlling inflation and keeping prices down, as long as what we were requesting was reasonable, we were not going back to the Jimmy Carter liberal welfare state kind of inflation, where you had 13-percent inflation per year, 22-percent interest rates, and the world seemed to be falling apart, as long as we would do what we could to keep prices down to a reasonable level, they were willing for an anti-inflation, probalanced budget effort to do their fair share.

But there is a third zone, because again I think there is a tendency to say, "What are you going to cut? Show me your list of pain. Show me how you are going to raise taxes." I think there is a third area we need to explore. Not only do we need to find a constitutional way to continue the process of getting to a balanced budget; not only do we need to be responsible here in the Congress and set priorities and be willing to stand up and be counted about what we want to pay for; but, third, we have got to look at new ideas. We have to be willing to take more positive, more dynamic approaches. Let me give you an example. The Heritage Foundation just produced a brand new report entitled "Slashing The Deficit—Fiscal 1987."

It is well worth looking at because it is, as they call it, a $122 billion savings strategy to avoid the Gramm-Rudman ax.

Notice here, Heritage, the most conservative major foundation in this city, is not saying, "Wow, won't it be exciting if we can get to a time when the Gramm-Rudman sequestering process goes into effect and we dry up spending?" They are saying just the opposite; they are saying, "Look, there is no reason to ever have that October 1 sequestering go into effect. If the Congress will do its job we will then be in a position to avoid any kind of automatic mathematical cuts in Government programs." The specific suggestions they focus on are, first of all, privatizing Federal spending. They make an argument, and it is one I want to go into at some length today, that if we would look at getting the private sector to do certain things it will be both more efficient, more effective, and in some cases pay for itself, that in fact there are things we want to do, that we want the Federal Government to provide for getting them done but then have the private sector do them.

Second, they suggest that we target program benefits more efficiently.

Third, they propose consolidating overlapping Federal programs.

Fourth, they require that in some cases those who benefit from the programs should pay a greater share of the cost of the program.

Fifth, they want to eliminate business subsidies.

Sixth, they want to move some program responsibilities back to the State and local governments.

This is a comprehensive six-point, $122 billion program.

Now I am not going to stand here and say everything that Heritage is suggesting in this book which is, after all, some 112 pages long, is the right thing. What I am going to say is that when somebody walks in and shows you $122 billion in savings, let us make sure we look at every one of them before we talk about tax increases. When they show you $122 billion of possible changes and you do not need to get more than about a third of that to make sure that you stay on the right track this year, we ought to be able to find a number in here that we can agree on, a number of things we are able to do.

They suggest some very specific examples that are pretty dramatic and pretty new. I want to talk about one that relates to my particular committee, the Committee on Public Works and Transportation, because I think it is in the right direction.

The U.S. Government currently runs two major airports, Washington National Airport and Washington Dulles International Airport. The point which the Heritage Foundation makes is why does the U.S. Government spend $35 million a year running two

airports that are commerical airports that are run by commercial airlines, and how much have we invested in those airports, and what could we get for those airports?

Economist Robert Poole estimated that the Federal Government could earn an estimated $2.3 billion from the sale of National and Dulles Airports, that they are in fact commodities we have invested in.

The taxpayers all across America have built these two airports. They are used by private aviation and by airlines on a regular commerical basis. They are worth something to somebody. What we ought to do is recognize they are ongoing operations and go ahead and sell them, and at a minimum you save $35 million, and at a minimum you get a 1-year gain of $2.3 billion. That is not exactly chickenfeed even by the standards of the Federal Government.

Amtrak is probably the most commonly focused-on example of a subsidy that does not make sense. It has been estimated, for example, that Amtrak in 1983 the average passenger got 24 cents in subsidy from the taxpayers for every mile they rode. By contrast, if you happen to be in an airport or a bus, you are getting one-tenth of 1 cent per mile in subsidies from the Federal Government. That is, there were 240 times as big a subsidy if you rode a train.

I happen to have a train which comes to Atlanta. I am willing to say quite candidly that train is so expensive that it would probably be cheaper for the Federal Government to give every person who walked up to buy an Amtrak ticket a free airline ticket or a free bus ticket to get to Washington for free rather than paying for the train.

Obviously you would not want to do that very long because you would have people, being pretty smart, they would learn to show up for their free airline ticket.

But the point is, you and I as taxpayers, at a time when we do not have the money, are in effect subsidizing long-distance train travel by such a large margin that it would be cheaper in most cases to give people an airline ticket not to go take the train than it is to run the train.

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Now, that is long-distance travel. There is an area where we badly need Amtrak. I am a very strong believer in train service between Washington and Boston, I believe strongly in train service to get people from the suburbs into the big city, certainly in a place like New York City or Chicago the trains serve a very important function. However, I do not think it is very fair to say to the taxpayers of Carrollton, GA, or Jonesboro, GA, "You are going to pay to make sure that it is easier for somebody from Long Island to get into New York City, you are going to subsidize an area that in fact could pay for itself because the people who are primarily riding Amtrak are in fact precisely the upper and middle-class taxpayers who are able to pay for the ticket."

This is not, after all, a program for homeless. This is not a program for the very poor. Very few people on food stamps get up at 6 o'clock in the morning in Long Island to ride into New York City to work in Manhattan. What we have here is an example of the classic subsidies for the upper middle class and the middle class, and it is a cross subsidy, that is, we tax the very people to hire the bureaucrats to give back the money to subsidize the ride of the people who pay the taxes. It does not make sense.

Let me suggest that in urban mass transit, an area where I do have a direct interest because of MARTA, and because the Metropolitan Atlanta Rail Transportation is important, that the fact is that while Atlanta is doing a very good job, Atlanta is paying 50 percent of the cost of building MARTA through a local tax; that in all too many parts of America as much as 85 percent of the cost of the new system is being paid for by the Federal Government; that there is a reason that the Golden Fleece Award for waste in government was given to the Urban Mass Transit Administration; that if you look at things like the people mover in Detroit, it boggles the mind how we could have thrown money away without getting the job done; that when you realize that by privatizing, that is, by allowing a private company to run the local mass transit, Norfolk, VA, for example, went to a privately contracted route and saved the per passenger subsidy by 64 percent. That is, by using a private contractor, they cut by 64 percent the subsidy per passenger.

The Southern California Rapid Transit District figures it will save $5 million annually by turning over its express bus service to private contractors. Phoenix adopted a similar strategy for Sunday service and reduced taxpayers' cost by over 50 percent.

To quote the Heritage study, "In none of these cases was service curtailed. It merely was turned over to more efficient providers."

The point I am making is that we need to look carefully at every aspect of the Federal Government, we need to ask ourselves why we are doing certain things, and we need to decide not as something that would be fun if you had the extra money—after all, if you have a little bit of money and the choice is to go to Disney World or to go in for a major operation, you would pick the major operation. If you have a modest amount of money and the choice is to go to the movies or to buy dinner, you probably would buy dinner. Now, if you have all the money in the world and you want to buy dinner and you want to go to the movies and you want to go to Disney World and you want to take care of your health care needs, you can afford it. The central underlying message of trying to get to a balanced budget is that we cannot afford the scale of government we currently have, so we have to make choices.

Let me give another example of the kind of choices we should look at. In the Bureau of the Census, the Heritage Foundation is suggesting saving $25 million. How do they suggest that? One, they encourage the greater use of automated data processing and, two, they eliminate the collection of demographic statistics which are collected solely for the benefit of private business.

Let me give you their rationale, and I am quoting from the Heritage report:

> Grace Commission cost studies of the 1980 Census revealed that the Census Bureau has squandered over a billion dollars in taxpayer money. Eighty-eight million questionnaires were processed manually by 37,000 clerks, for instance, at a cost of $50 million, 45 percent over budget. Using automatic data processing capabilities would have saved millions of dollars, the Commission concluded. The 1980 Census also collects an array of data which cost the government millions of dollars to collect and publish but which is of interest almost exclusively to private business. Businesses should at least be required to help defray the government's cost of collecting and processing such statistics. Better yet, the business community should perform many of these surveys themselves.

Now, my point would be twofold: First of all, if we can do it more efficiently, let us cut through the redtape, buy the computerized equipment and get the job done. The reality is that right now, under certain very redtape oriented procurement laws, it literally takes longer to decide what computer you want, fill out the forms to ask people to bid, process the bids, make the decision, get the money and buy the computer and get it installed. That long cycle takes longer than the lifetime of the computer, the lifetime in the sense that we are currently buying obsolete equipment because new equipment is invented between the time we define we want to buy and the time we buy it. Literally, the life cycle of brand new computer equipment is shorter than the procurement process of the Federal Government.

Furthermore, the civil service laws encourage a rigid, highly structured system which does not change.

I come from a district which has airlines which are changing. Eastern Airlines is going through changes, Republic Airlines, which is now becoming part of Northwest. Republic used to be Southern. I have tremendous changes

going on. Delta, Air Atlanta, a lot of different things happening. My airline employees understand that they have got to change to be flexible to meet the new deregulated environment.

My district has textile workers. Those textile workers have to change to meet the challenge of foreign imports.

I have automobile workers. They have been through 7 years of changes to meet the challenge of foreign imports.

I have the largest record plant in the world, CBS Records of Carrollton, GA, and that record plant, because of change in technology, faces an enormous challenge from counterfeiters because the cost of counterfeiting has dropped dramatically and you can now make a cassette tape much cheaper than you used to. Again and again and again, as I go back home and as I talk to people, they tell me about the changes they are going through.

Then we went into a Federal Civil Service law so rigid, so bureaucratic, so mindlessly strict in its construction that it is impossible for the Federal Government to have the kind of fluid, task force oriented ad hoc kinds of structures that are necessary in the information age to modernize and improve and use computers intelligently.

So the first step with the Census Bureau would be to simply modernize the way in which we handle information. That would save a great deal of money.

The second step, though, is to ask about specific government functions that are done for a market. Let us say that there are a thousand businesses in America that want some kind of data from the Census Bureau, data that those businesses come and see their Congressman and they say to their Congressman, "I am in favor of that kind of information, and I think the Federal Government should get it."

My answer, frankly, is that "I am willing to have the Federal Government get that information if you are willing to pay for it. If you collectively, the thousand businesses that want that information, think it is best done by the Federal Government, I am willing to consider that. But do not ask me to tax everybody else to give you specialized information. We will set up a user fee and we will have that particular part of the Census Bureau paid for by the people who want to use it."

And there are times and places when I think that the Government does do things better than other agencies would do them or does things, frankly, that other agencies could not do at all, that could not be done purely in the private sector.

However, having charged the user fee to have the Government do it, I would then also look and ask the question: Is this a project we can get done better by contracting out and by having a private enterprise, highly efficient, profit-oriented system do it, because they have an incentive to do it efficiently, to do it quickly, to do it on time and to do it as rapidly as possible.

The point I want to make to my colleagues and to my constituents is that we are going to have to look at a lot of new approaches. We in the Congress need to approach this whole process of getting to a balanced budget, of fighting inflation, of creating the framework for a prosperous and secure 1990's by starting with this assertion: One, it really does matter, we really do want to control spending, we really want to year by year meet the targets, we want to be able to say to our children and to our grandchildren that we did the job necessary to put America in shape so that you can have a good competitive job, you can buy a house at a low interest rate, you can have a reasonable future.

Two, we really want to set priorities. We want to recognize that over the last 30 years in the liberal welfare state we have added more and more and more programs. And let me say, flatly, as a conservative Republican, I want to set priorities in the Defense Department just as much as I want to set priorities everywhere else in Government. I want us to look with the same fine-toothed comb at every military base, at every office, at every piece of redtape, at every part of the bureaucracy in the Pentagon, just as we look everywhere else. Just because waste wears a uniform does not make it less wasteful. Just because an unnecessary project happens to be under the Defense Department does not mean you are a hawk if you are willing to waste money and squander resources, as long as it is called defense.

We need a lean, efficient defense just as strongly as we need any other part of the Federal budget to be lean and efficient.

But, second, having made the determination that we are going to in fact follow this path to a balanced budget, we need to make sure that in every part of the government we make sure we set our priorities and we do first what is necessary and we ask whether the things that are desirable have to be done if we do not have the money.

Third, whenever possible we need to look at new ideas, at privatization, at contracting out, at new technology, at new approaches. We need to do everything we can to make sure that we are moving into the 21st century, not retrenching back into the 19th.

Only after we have set priorities, cut out the waste and brought in the new ideas should we even start to talk about new revenues. And when we talk about new revenues, I want to talk about them in terms of user fees and new approaches to using Federal resources, not in terms of raising taxes.

Congressman WALKER, of Pennsylvania, of the Science and Technology Committee, has been working, for example, on a specific proposal. It turns out that as we move toward fiber optics as a way of carrying information—fiber optics is a system where you use light to carry information instead of using electricity, it apparently produces a much higher amount of information flow in the same sized cable, and it is apparently being explored by AT&T, Sprint, and MCI and IBM and a variety of other information companies as the primary way of handling information flow in the 21st century. Well, it turns out that the best place, the easiest place to lay those fiber optic cables may be the median strip of Federal highways. We already have an interstate highway system across the country that has a section right down the middle that we could put the fiber optics in.

Now, some people are suggesting that the Federal Government ought to give the right-of-way for those fiber optics. I do not think so. I think we ought to go to those giant corporations and we ought to say to them, "What will it be worth to you in rent every year to be able to rent this Federal right-of-way, to be able to put your fiber optic system in, so you make money but you pay the Government money?"

Now, if in 1990, for example, we could be earning—and I am just pulling a number out of the air—$2 billion a year renting the middle of Federal highways to have fiber optics underground, having AT&T and MCI and Sprint and IBM and other companies pay their Government for the right to use that right-of-way, then as far as I am concerned that is $2 billion in revenue without raising taxes. I am very willing to get all the new revenue we can get without raising taxes. And I say this because it is the process of setting priorities first, cutting out waste second, getting in new ideas, third, find new techniques of revenue that use high technology and that open up new opportunities. Those are the first four steps of moving to a balanced budget while still having a viable and effective government.

Only after we have taken those four steps and thoroughly walked through the entire process, only then should we consider raising taxes.

And in closing let me say to my colleagues that I think it is very, very possible that if we forget partisanship, we forget ideology, we focus on the broader question, "What am I willing to give up?—and I am frankly willing to look at a wide range of things that normally would not be considered on the table for a conservative—what are liberals willing to give up, what are Republicans willing to do, what are Democrats willing to do, that collec-

tively we in this House can move quickly, we can avoid ever having sequestered anything, we can adopt intelligent changes that raise the revenues that in fact bring about the kind of balanced budget that our country wants that provides for our children and our grandchildren a stable, healthy economy that fights inflation, provides the resources necessary to build the new factories, to create the new opportunities.

I think the 1990's could be a time of great prosperity, a time of a tremendous growth in American productivity, a time when we compete handily with Japan and Germany, when we are militarily strong enough to stave off the Soviets without any serious threat to our security.

Or, as I said in the beginning, the 1990's could be the time the chickens come home to roost. The 1990's could be the time when we failed to balance the budget, the debt grew to $3 trillion or $4 trillion, interest on the debt by itself took 40 or 41 cents out of every income tax dollar, the debt became the second largest item in the budget just paying the annual interest, and we found ourselves in desperate trouble.

It is vital that this year we determine as a Congress to act responsibly to make the real decisions ourselves to move toward that balanced budget without ever letting the sequestration process go into effect. We can do the job, we can pass the bills, we can work it out with the President so that before October 1 we have put into place the kind of sound, defensible, realistic programs that in fact the country deserves, that the Congress owes them.

CONSUMER RAIL EQUITY ACT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Louisiana [Mr. TAUZIN] is recognized for 5 minutes.

Mr. TAUZIN. Mr. Speaker, on behalf of my colleague from West Virginia, Mr. RAHALL, my colleague from Kentucky, Mr. ROGERS, my colleague from Iowa, Mr. TAUKE, and myself, I am introducing a new, improved version of the Consumer Rail Equity Act that was first introduced in February. We are joined in our sponsorship by a host of distinguished Members who represent districts across the Nation.

We encourage all of our colleagues to join us in cosponsoring this legislation, as it addresses many problems the shippers and consumers of this Nation are now suffering.

Mr. Speaker, many of our shipper and consumer constituents have complained to us for some time that the railroads are gaining market power which is being used against their shipper customers. Moreover, they have complained that the provisions of the Staggers Rail Act of 1980—which were intended to prevent railroad monopoly power abuse—are not working—primarily because of the Interstate Commerce Commission's biased, and, in some cases, inconsistent and incomplete implementation of the act.

The Commission has done a miserable job of implementing the shipper and consumer protections established by Congress. At a hearing this fall in the Fossil Fuels Subcommittee of the House Energy and Commerce Committee, it became clear that the ICC has adopted a unique set of principles and concepts to implement the Staggers Act—concepts different from those used by any other regulatory commission. Shippers and consumers that are captive—or without competitive alternatives—complain that their rates are unreasonable. Other shippers, including grain shippers, manufacturers and the ports in my State and others, have complained that the railroads are using their market power to prevent competition, thus making them captive, and the ICC will do nothing to stop them. Finally, many communities and rural areas complain the Commission allows wholesale abandonments of railroad facilities without regard to whether the facilities are economic or the facility is essential to the local economy.

In 1980, Congress provided a mechanism in the Staggers Act which was intended to assure that captive shippers would not be forced to pay "unreasonable rates." Mechanisms were also established to prevent competition, and thereby create more captive shippers, and could not abandon railroad facilities unless the facility is in economic and the abandonment is in the public interest. Those mechanisms were entrusted to the ICC for implementation.

But currently, we in the Congress are being pressed by the Secretary of Transportation to sell Conrail to the Norfolk Southern Co.—a result that could, according to many shippers and consumers, increase the railroad monopoly power of Norfolk Southern Co. The ICC is also considering the proposed merger of the Santa Fe and Southern Pacific Railroads, a result which would leave several Southwestern States served by only one railroad. In addition, the administration has announced that it would like to abolish the ICC altogether. Exactly how and where the shipper provisions of the Staggers Rail Act would then be enforced has not been made clear.

But amid the complaints by consumers and shippers that the ICC has yet to find a rate unreasonable, that competition is being prevented and that abandonments are occurring with increasing frequency, the ICC has responded by saying its actions are necessary because the railroads are not making enough money. The railroads say their rate of return is too low. The ICC has said that the railroads are not financially healthy or "revenue adequate." In fact, the Commission says no railroad in this country—not a single one—is revenue adequate, not even Norfolk Southern which the Secretary of Transportation says has "deep pockets," is "highly profitable" and should buy Conrail for $1.2 billion—in cash. The ICC, however, has found Norfolk Southern to be financially unhealthy.

Mr. Speaker, during this period of ICC concern for their financial health, our Nation's "revenue inadequate" and financially unhealthy railroads have been on a buying spree. To quote just a few examples:

The Burlington Northern, a so-called revenue inadequate railroad, purchased the El Paso Natural Gas Co. for $1.3 billion in 1983 and in 1985 purchased the Southland Royalties Co. for $600 million.

The CSX Corp., another so-called revenue inadequate railroad that was unsuccessful in its effort to be selected for the purchase of Conrail, spent more than $1 billion 2 years ago to buy the Texas Gas Transmission Co. and its largest barge line competitor.

The Norfolk Southern, in addition to its proposed purchase of Conrail for $1.2 billion, has purchased North American Van Lines for more than $300 million, has purchased 20 percent of Piedmont Air Lines and has made a number of additional investments in the banking business.

Mr. Speaker, we have a real problem in our Nation concerning the growing concentration of market power in the hands of a few railroads. A New York Times editorial of December 23 addresses that problem and calls upon Congress to act. We have a responsibility to assure the Staggers Act is being enforced in the manner Congress intended. The Staggers Act—which was designed to enhance competition and prevent monopoly power abuses—clearly is not working and is actually creating greater problems.

Under the pressure of the pending Consumer Rail Equity Act, other legislative proposals and consumer complaints that have become legion, the Commission undertook a very public examination of its actions last year. What resulted? Virtually nothing. Still no captive shipper has achieved a rate reduction from the Commission, the Commission still continues to do virtually nothing to assure maximum competition between the railroads.

Mr. Speaker, if the problems at the Commission are to be corrected and if the Congress is to assure that the Staggers Act is implemented properly, we must act legislatively. The Consumer Rail Equity Act directs the ICC or its successor agency on a proper course of implementation, while maintaining the fundamentals of the Staggers Rail Act. Specifically, our legislation will:

Assure that the ICC makes a fair assessment of railroad financial health, by directing that the ICC apply to the railroads the same test that public service commissions apply to electric utilities;

Assure that when the ICC is determining whether a railroad shipment from a coal mine, grain elevators or other organization is "captive" to a single railroad, the ICC will consider the captivity of that originator rather than simply consider the captivity of the receiver of the shipment:

Direct the ICC to adopt a more accurate test for rate reasonableness than the present test of "stand alone costs"—which is what it would cost a shipper or group of shippers to provide their own transportation alternative;

Shift to the railroad the burden of proving that a captive shipper rate is reasonable, after the shipper first proves he is captive;

Make mandatory the ICC's present discretionary authority to prevent railroads from using their facilities to obstruct competition; and,

Make three procedural changes that will assure that abandonment proceedings are conducted fairly and in a balanced fashion by the ICC.

Mr. Speaker, our shipper and consumer constituents are extremely concerned about the increased monopoly power of our Nation's railroads. We must respond to the their concerns by assuring that the law we enacted in 1980, the Staggers Rail Act, is implemented in the balanced fashion Congress intended. We who are the sponsors of this legislation invite and welcome our colleagues to join us in this important effort.

Mr. Speaker, I ask that the following items be printed in the RECORD, with my statement: The New York Times editorial of December 23, a section-by-section analysis of the Consumer Rail Equity Act and a list of the companies and groups that are publicly supporting our legislation.

CONSUMER RAIL EQUITY ACT—SECTION-BY-SECTION ANALYSIS

INTRODUCTION AND OVERVIEW

The Consumer Rail Equity Act is a mid-course adjustment in the operation and implementation of the Staggers Rail Act of 1980. The purpose of this legislation is to reaffirm the balance that was carefully struck in the Staggers Rail Act of 1980 between the needs of large and small railroads, shippers, receivers and consumers, while preserving the fundamental structure and premises of the current law. The legislation's goal is to continue and enhance the Staggers Act's emphasis on permitting competitive market forces to govern the terms and conditions of rail freight service wherever possible, while providing a measure of practical protection for those shippers who remain subject to railroad monopoly power—as Congress also intended in enacting the Staggers Act.

The bill does not change the present statutory threshold for Interstate Commerce Commission jurisdiction over maximum rail rates, and thus does not seek to extend regulatory authority to any rates that are not subject to Commission review under present law. This legislation does not extend regulation to rates that are below the Commission's present jurisdictional threshold and continues the deregulation of contract rates that was established by the Staggers Act.

The most significant changes from present Commission practice and law that are proposed in the bill include a more realistic test of railroad revenue adequacy than the test being employed by the Commission, the codification and clarification of the Commission's July 31 market dominance test, a shifting of the burden of proof with respect to rate reasonableness from the captive shipper to the railroad, and directing the Commission to adopt a rate reasonableness test that will assure that those shippers, receivers and consumers who must bear most of the burden of helping the railroads achieve revenue adequacy are treated equitably.

The bill also enhances the availability of competitive rail opportunities for shippers and receivers, and makes several procedural improvements, including improvements in abandonment proceedings and the standard for ICC review of State commission rulings on intrastate rail rates. Finally, the bill assures that the national rail transportation policy which is embodied in the Staggers Act is consistent with other national goals of assuring competitive transportation rates for domestic commodities.

Section 1—Short Title

This section provides that the bill may be cited as "The Consumer Rail Equity Act."

Section 2—Purpose

This section reaffirms the goals of the Railroad Revitalization and Regulatory Reform Act of 1976 (the 4R Act) and the Staggers Rail Act of 1980, and declares the intent of Congress that this bill shall assure that the previous two Acts are administered in a balanced manner that both provides adequate protection for those subject to railroad monopoly pricing power and maximizes the opportunities for intramodal competition.

Section 3—Market dominance

Under the Staggers Act, the ICC has jurisdiction to determine the reasonableness of only those rates that are charged to "captive shippers". The act defines a "captive shipper" as a shipper that (1) is paying a rate that exceeds the jurisdictional threshold established in the Act and (2) is subject to railroad "market dominance".

On July 31, 1985, the Commission adopted a new "market dominance" test under which the shipper must prove that it has no transportation alternatives, but the railroad could allege and prove that the shipper has a "product" or "geographic" alternative. These "product" alternatives might be the use of fuel oil instead of coal in the case of a utility or one type of grain instead of a second type of grain in the case of a bakery or feed lot. These "geographic" alternatives might be Pennsylvania coal instead of West Virginia coal or eastern coal instead of western coal in the case of a utility or midwestern grain instead of North Dakota gain in the case of a bakery or feed lot. Shifting the burden of proving the existence of "product" and "geographic", competition is a substantial improvement in the Commission's market dominance test. It should be emphasized that in codifying this improvement, the legislation intends that the railroad bear the burden of proving not just that product or geographic competition exists, but also that such competition effectively constrains the railroad's ability to charge high rates.

Second, the Commission for the first time, on July 31, stated that it would analyze the captivity at the origin of the shipment as well as the capitivity at the destination of the shipment. This is also a substantial improvement over prior Commission action. Previously, a country grain elevator or a coal mine could be completely captive, but be denied access to the Commission because the ICC focused only on captivity at the destination. This bill will clarify the unsettled point in the July 31 ruling concerning whether the ICC would consider "product" and "geographic" competition at the origin. Applying these concepts to an originating coal mine, grain elevator or manufacturing facility would be inappropriate. Therefore, the amendment in the nature of a substitute provides that "product" and "geographic" competition will not be considered in determining captivity at the origin.

Section 4—Rate reasonableness

A persistent complaint about the present administration and interpretation of the law has been the Interstate Commerce Commission's standard for determining the reasonableness of a rate that is being charged a captive shipper. The Commission has embraced a philosophy of maximum rate reasonableness based almost entirely on demand for rail freight service, rendering the cost to the railroad of providing the transportation nearly irrelevant as a ratemaking consideration. No other regulated industry enjoys such freedom from cost scrutiny. In almost all other instances in which a company possesses monopoly power—and Congress recognized in the Staggers Act that railroads continue to possess monopoly power with regard to captive shippers—some consideration of cost is included in the disciplining of abuses of that monopoly power.

The legislation will not impose utility-type rate of return-based regulation upon market dominant carriers. The conclusive presumption that no market dominance can be found for a rate yielding revenues between 170 and 180 percent of variable cost, which precludes the Commission from even entertaining a complaint about a rate below that level, represents a fundamental policy judgment of the Staggers Rail Act that some shippers and receivers will be required to pay a greater share of the revenues needed to develop and sustain a sound national rail transportation system.

This bill does not revisit that policy decision of the Congress. This legislation does not quarrel with the jurisdictional threshold of the Staggers Act or with the judgment that some shippers and receivers, and by extension some consumers, should pay more than others for rail transportation. Section 4 of the bill does, however, alter the method by which the Commission has been reviewing the reasonableness of rates of carriers possessing monopoly power. The Consumer Rail Equity Act requires the Commission to give careful attention to the railroads' costs and revenue needs.

On September 3, 1985, the ICC adopted the Coal Rate Guidelines which contain the rate reasonableness standards for captive coal. The Commission has indicated strongly in several pending cases that all or part of the coal rate guidelines will apply to other captive commodities, including: aluminum (Anaconda v. Burlington Northern, Docket 37550 and other cases), wheat and barley (McCartney Farms v. Burlington Northern, Docket 37809), phosphates (Mobil Chemical v. Seaboard Coast Line, Docket 37583 and other cases), soda ash (Allied Chemical v. Ann Arbor, Docket 38412S), sugar (Amstar v. Alabama Great Southern, Docket 37478), clay (International Minerals & Chemicals v. Burlington Northern, Docket 38084), pulpwood and wood chips (Consolidated Papers v. Chicago & North Western, Docket 37626), magnesium ingots (Aluminum Co. of America v. Burlington Northern, Docket 37699), and spent nuclear fuel (United States Department of Energy v. Aberdeen & Rockfish, Docket 38376 and other cases).

In the pending ICC proceeding McCarty Farms, Inc. V. Burlington Northern Inc. (Docket Nos. 37809 and 37809 (Sub-No. 1)), the ICC asked for comments on whether it should apply the coal rate guidelines to captive grain. On November 10, 1983, in its answer, Burlington Northern stated:

"There is no conceptual or legal justification for regulating market dominant coal traffic differently than other market dominant traffic under the statutory scheme of the Interstate Commerce Act. The Congress has chosen to make no distinction between maximum rate regulation on coal as compared with grain, as it has done, for example with recyclables. Thus, the defendant

sees no economic or legal justification for finding these grain rates unreasonable."

The final coal rate guidelines provide three alternative "constraints" for captive coal rates. Under all three, the captive shipper has the burden of proof. (A fourth "constraint," phasing, is so ill defined at present as to be of little practical use.) First, if the railroad is revenue adequate, the coal transportation rate is constrained in some unspecified fashion. However, in light of the ICC's failure to reform its revenue adequacy test, this type of constraint has little significance. This is particularly true since the ICC has indicated that this constraint—which is not defined will apply only after the rail carrier has been revenue adequate for several years.

Second, according to the ICC, proof that a carrier's revenue inadequacy is due entirely to management inefficiency will constrain the rate. This imposes an unprecedented burden of proof on the shipper, especially in light of the magnitude of overstatement of revenue need built into the ICC's current revenue adequacy test. Thus, even if the ICC keeps its promise to allow adequate discovery to the shipper, it is still unlikely that shippers will attempt this approach to rate relief.

Third, the new guidelines retain "stand along cost" as an upper limit on rates. Stand alone cost is the cost to a shipper or group of shippers of building and operating their own railroad at today's prices. In other words, if a shipper thinks the quoted rate is unreasonably high, the ICC requires the shipper to demonstrate the cost to build and operate a substitute transportation facility at current prices. While the Commission appears to have clarified some ambiguities in its initial proposal, many important questions concerning the application and implementation of the stand alone cost constraint are left unanswered.

No matter how these questions are resolved, however, two things are clear. First, only a very few shippers will ever be able to afford to attempt the application of stand alone cost. Second, even for those few who can afford it, only those who are moving tremendous volumes of traffic over densely traveled rail corridors will have any hope of success. In short, the Commission's final coal rate guidelines do not constitute a fair and workable standard of rate reasonableness for captive coal traffic or for any other commodity.

This legislation provides that the Commission, within one year after the enactment of the Act, must adopt a rate reasonableness test that applies to all captive commodities (except recyclables that are subject to a statutory rate test). The new test must consider, among other factors, the railroad's need for revenues, the relationship of the rate to the railroad's cost of providing the service (including, where relevant, the fact that the shipper is helping to relieve the railroad's cost burden by supplying cars, paying for loading facilities or the like), and whether and to what extent the railroad's revenue needs require captive shippers to pay rates that exceed the jurisdictional threshold. The test adopted by the Commission cannot, however, be "stand alone cost" which was adopted in the September 3 Coal Rate Guidelines. This legislation also requires that the Commission affirmatively inquire into and make affirmative findings respecting the Long-Cannon factors. Thus, the Commission can no longer avoid implementing the factors, either by suggesting that the complainant has to show that the railroad would be revenue adequate but for its inefficiencies before a rate reduction will be ordered, or by ignoring the third factor altogether.

Section 5—Amendments to rail transportation policy

The Consumer Rail Equity Act expands one of the fifteen national goals to be achieved in the implementation of the Staggers Rail Act of 1980, to provide that the Commission must consider the competitive positions of domestically produced coal and other commodities. This legislation also clarifies another of the national goals to ensure that rates must be reasonable even if a railroad is revenue inadequate.

Section 6—Inflation based rate adjustments

The Rail Cost Adjustment Factor that is used by the Commission today does not reflect cost and productivity gains, but reflects only increases in the prices paid by the railroads for goods and services. The index operates to increase tariff rates when the index increases, but does not operate to decrease tariff rates when the index decreases. This legislation will require the index to reflect cost, increases in actual costs, not just prices, and productivity gains and will adjust tariff rates down when the index declines as well as up when the index increases.

Section 7—Standards and procedures for determining revenue adequacy

A critical goal of both the Railroad Revitalization and Regulatory Reform Act of 1976 and the Staggers Rail Act of 1980 was the attainment, by our nation's railroads, of "revenue adequacy." Section 10704 thus directs the Interstate Commerce Commission to determine regularly which carriers are receiving adequate revenues, that is, revenues that are sufficient "under honest, economical, and efficient management," to recover operating expenses, including depreciation and the replacement of obsolete assets, together with a "reasonable and economic profit or return (or both) on capital employed in the business."

The administrative standard now used to determine whether a railroad is revenue adequate—the current cost of capital measured against the railroad's investment base—does not realistically measure the true financial condition of a railroad, and tends to materially understate the "adequacy" of the railroad's revenues. The perhaps inevitable result is that the Commission currently finds all major railroads to be revenue inadequate, including some railroads which by other, more realistic measures and by the recent acquisition history of their holding companies appear to be financially secure. This is a matter of substantial concern to captive shippers since a judgment of the Congress in the Staggers Act was that a railroad's captive traffic must make the total contribution to the attainment of revenue adequacy that a railroad's competitive traffic cannot realistically make.

Accordingly, this section of the bill seeks to assure that revenue adequacy determinations are based upon realistic measurements of a railroad's financial health. This very well may be the most important element in the Consumer Rail Equity Act because this analysis will determine the extra burden that must be carried by captive shippers. This is accomplished by requiring the Commission to use the same kind of analysis used by public service commissions in regulating investor-owned utilities.

In making revenue adequacy determinations and applying them in administrating the law, the Commission shall identify revenues, expenses and the investment base reasonably related to providing rail service, and place railroads on the same footing as any other industry by valuing assets at original cost reduced by straight line depreciation. In determining the cost of capital, the Commission shall use actual or embedded cost of debt (rather than the present practice of using current cost of debt, which gives a railroad a windfall for all of its debt for which it is paying less than the current rate) and reasonable estimates of the cost of equity, based on the kinds of measurements applied by public service commissions.

The revenue adequacy determination is to be made annually and shall allow for adequate public comment on the nonproprietary information submitted by the railroads.

The first two Long-Cannon factors are to be applied in making revenue adequacy determinations. If a railroad is pricing an excess of its traffic inefficiently, the revenue shortfall attributable to that practice should not be considered in deciding whether the carrier is otherwise revenue adequate.

These broader inquiries do not dictate any particular outcome, but they should assist in producing more complete assessments of revenue adequacy.

Section 8—Exemptive authority

The Commission is directed in 49 USC § 10505 to pursue exemptions from regulation where the regulation is not necessary to carry out the transportation policy set out in section 10101a and is either (a) of limited scope or (b) no longer needed to protect shippers from abuse of railroad market power. This section would provide that an exemption "may" be issued if the Commission finds there is no market dominance (within the meaning of section 10709, as **amended by section 3 of the bill) over the** transportation involved in the exemption. This section also provides that the Commission should consider whether persons other than shippers (including receivers and consumers) require protection from abuse of railroad market power sufficiently to deny issuance of an exemption.

These changes are intended to prevent the use of the exemption power in circumstances where competitive forces do not exist to discipline railroad monopoly power effectively.

Section 9—Enhancement of competition

A sound national rail transportation system involves a great amount of interdependence among carriers. The majority of rail freight shipments travel over the lines of at least two carriers, and thus require some interchange of switching arrangement between the participating carriers. The carriers also have a variety of methods of quoting one single rate—called a joint rate, with individual rates for each carrier's share of the movement.

In many major metropolitan areas or terminal areas, two (or more) carriers with long haul lines into the area can serve shippers on each other's lines if they agree to allow one another access to each other's lines in the area or if one carrier otherwise agrees to act as a switching agent for the other carrier. Thus, the carriers can enter into a reciprocal switching agreement, allowing mutual access to each other's shippers, or a terminal facilities agreement, where the carriers are permitted to operate on other carriers' lines to reach shippers located throughout the terminal area.

The widest possible use of these various inter-railroad practices is essential to pro-

viding shippers and receivers with competitive alternatives and is essential to the maintenance of efficiency. Current law contains several provisions to assure that rail carriers do not cancel or refuse to enter into these arrangements for anticompetitive reasons. This section of the Consumer Rail Equity Act would strengthen these provisions.

This section would amend 49 USC 10705 to provide that, on request of a connecting railroad or a shipper or receiver, a railroad shall quote a competitive joint rate or proportional rate if interchange of the traffic is practicable. The quoted rate will be deemed conclusively to meet the "competitive" standard of the carrier's revenue to variable cost ratio for the quoted rate is no greater than the ratio for the carrier's existing joint rate or single line rate. Neither the intention nor the effect will be to force any carrier to carry traffic at non-compensatory rates, because section 10705a permits a carrier to unilaterally cancel or surcharge any non-compensatory joint rate. Rather, the intent and effect will be to assure that carriers do not use pricing techniques such as cancelling a joint rate or refusing to quote a joint rate to close off a competitive alternative to the shipper or receiver.

This section would also modify existing law regarding reciprocal switching and use of terminal facilities. The Commission's current discretion to order such arrangements is changed to a mandatory direction that the Commission shall order such arrangements when it finds they would be either practicable and in the public interest, or necessary to provide competitive rail service. The effect on competition should be salutary, giving a shipper or receiver in a major metropolitan or terminal area the option of choosing between two or more carriers providing line haul service.

Section 10—Abandonment procedure

A railroad line (or other facility) that is proposed to be abandoned is typically a line that is of little interest to the abandoning carrier, perhaps because the line is not profitable. However, the facility to be abandoned is often of great importance to the shippers and communities served by the line. Because the impact on a community and its economy can be devastating, an abandonment decision deserves the most careful consideration.

The changes in this section make no change in substantive law. The railroad must continue to carry the burden of proving that the line to be abandoned in (1) uneconomic and (2) that the abandonment is in the public interest. This section is intended to give the Interstate Commerce Commission the most accurate record on which to base its abandonment decision, consistent with the obvious need to permit railroads to discontinue service expeditiously on truly money-losing facilities that lack commitment from the affected communities.

Three procedural changes are made. First, in order to clarify the abandonment proceedings are not to be instruments in a war of attrition, a railroad must wait one year after denial of an abandonment application before refiling to abandon the same facility, unless it can show that circumstances have materially changed since the unsuccessful application was denied. Second, if the abandonment is contested, the Commission must allow a hearing on the impact of the proposed abandonment on community or rural development (the standard set by current law) in one or more of the communities affected. The Commission may contract with outside parties to preside at the hearing, and the railroad proposing the abandonment must pay the expenses of the hearing. Third, the financial data used in deciding whether to permit the abandonment must be based on the revenues from and cost of operating the facility at issue, rather than system-wide or industry-wide averages.

Section 11—State authority

This section will streamline procedures respecting State jurisdiction over intrastate rail transportation. The fundamental goal of present law is unchanged: a state commission exercising regulatory jurisdiction over intrastate rail transportation pursuant to state law must do so consistently with the provisions of federal law governing interstate rail transportation. This section would simplify the achievement of this goal by eliminating the time-consuming process of Interstate Commerce Commission certification that a state's law, rules and practice are consistent with the federal law. Instead, this section eliminates bureaucratic delays and protects the dignity of the state process by relying upon ICC review of state decisions to assure uniformity of implementation. The ICC's review is limited to an appellate function analogous to that of a court reviewing an administrative agency decision under the Administrative Procedure Act, including a provision for remand of any inconsistent decision to the state agency. The ICC is given 120 days to dispose of any appeal from a state agency decision, thus assuring prompt and effective review.

Section 12—Transitional provisions

This section addresses one transitional issue. Section 229 of the Staggers Rail Act provides that any rate not challenged within 180 days after enactment of the Act, or any rate so challenged and found by the Commission to be either reasonable or not subject to market dominance, would be deemed forever lawful and not subject to challenge. Over 800 so-called "Section 229" challenges were filed, very few if any of them successfully, and some rates were not challenged because they were covered by a contract entered into or in effect during the 180 day period. This section will not affect any railroad contract covering the tariff in question. However, many of these contracts are expiring and, under present law, many of these tariffs would become operative again. Any rate not challenged under section 229 because of a contract can be reviewed under this bill's standards. The contract itself and the rates under the contract are to remain in full force and effect; only the underlying rate which will apply on expiration of the contract is subject to challenge.

SUPPORTERS OF THE NEW CONSUMER RAIL EQUITY ACT—JANUARY 28, 1986

(Sponsored by Senators Mark Andrews, Russell Long, Ted Stevens, Wendell Ford, and Representatives Billy Tauzin, Nick Rahall, Harold Rogers, and Tom Tauke)

Alabama By-Products Corp.
Alabama Coal Association.
Alabama Electric Cooperative, Inc.
Algona Municipal Utilities.
Allegheny Power System, Inc.
Amax, Inc.
Amca Resources, Inc.
American Bakers Association.
American Electric Power Company.
American Public Power Association.
Arizona Electric Power Cooperative.
Arkansas Electric Cooperative Corporation.
Arkansas River Power Authority.
Association of Illinios Electric Cooperatives.
Association of Louisiana Electric Co-ops.
Atlantic City Electric Company.
Arizona Agricultural Chemicals Association.
Baltimore Gas & Electric Company.
Bennett Tree Farms, Inc.
Blue Diamond Coal Company.
Carbon Coal Company.
Carolina Power and Light Company.
Cedar Falls Utilities.
Central Illinois Light Company.
Central Louisiana Electric Company, Inc.
Central Power and Light Company.
City of Austin Electric Utility.
City of Lakeland, Florida.
City Public Service Board of San Antonio.
Cleveland Electric Illuminating Company.
Coal Exporters Association of the United States, Inc.
Colorado Rural Electric Association.
Consolidation Coal Company.
Consumer Energy Council of America.
Consumer Federation of America.
Cooperative Power Association.
Cyprus Coal Company.
Dairyland Power Cooperative.
Dayton Power and Light Company.
Delta Coals, Inc.
Department of Utilities, City of Colorado Springs.
Dixie Fuel Company.
Drummond Coal Company.
East Kentucky Power Cooperatives, Inc.
Eastern Coal Transportation Conference.
Edison Electric Institute.
Electric Fuels Corporation.
Electric Power Associations of Mississippi, Inc.
Elk River Resources, Inc.
Ethyl Corporation.
Eugene F. Burrill Lumber Company.
Florida Phosphate Council.
Grand River Dam Authority.
Gulf Ports Association.
Heartland Consumers Power District.
Houston Lighting & Power Company.
Houston Port Bureau, Inc.
Illinois Farmers Union.
Illinois Power Company.
Indian Electric Cooperatives, Inc.
Indiana Municipal Electric Association.
Indiana Statewide Association of Rural Electric Cooperatives, Inc.
Indianapolis Power & Light Company.
International Minerals & Chemical Corporation.
Iowa Public Service Company.
Iowa-Illinois Gas and Electric Company.
Jim Walter Corporation.
Kansas City Power and Light Company.
Kansas Electric Cooperative, Inc.
Kansas Gas and Electric Company.
Los Angeles Department of Water & Power.
Louisiana Department of Natural Resources.
Louisiana Municipal Association.
Louisiana Police Jury Association.
Lower Colorado River Authority.
Madison Gas and Electric Company.
Metropolitan Edison Company.
Mining and Reclamation Council of America.
Minnesota Power and Light Company.
Missouri Public Service Company.
Municipal Electric Systems of Oklahoma.
National Association of Regulatory Utility Commissoners.
National Association of State Utility Consumer Advocates.
National Coal Association.

National Consumers League.
National Council of Farmer Cooperatives.
National Farmers Organization.
National Farmers Union.
National Grange.
National League of Cities.
National Rural Electric Cooperative Association.
Nebraska Public Power District.
NERCO Coal Company.
Nevada Attorney General Consumer Advocate.
North Dakota Public Service Commission.
North Dakota Rural Electric Cooperative.
North Dakota Wheat Commission.
Ohio Consumers Association.
Ohio Edison Company.
Ohio Rural Electric Cooperative, Inc.
Oklahoma Gas and Electric Company.
Omaha Public Power District.
Orlando Public Utilities Commission.
Otter Tail Power Company.
Pacific Northwest Waterway Operators.
Peabody Holding Company.
Pennsylvania Power and Light Company.
Pennsylvania Rural Electric Association.
Petit Jean Electric Cooperative Corporation.
Platte River Power Authority.
Portland General Electric Company.
Potomac Electric Power Company.
Public Service Company of Oklahoma.
Public Service Electric & Gas Company.
Randall Fuel Company, Inc.
Riley Whittle Inc.
Rocky Mountain Farmers Union.
Royal Fuel Company.
Salt River Project.
Savannah Electric & Power Company.
Shannopin Mining Company.
Siskiyou Shippers Association.
South Carolina Electric & Gas Company.
South Carolina Public Service Authority.
South Mississippi Electric and Power Association.
Southern California Edison Company.
Southern Company.
Southern Indiana Gas & Electric Company.
Sunkist Growers, Inc.
Surface Mining Research Library.
Tampa Electric Company.
Tennessee Valley Public Power Association.
The Rail Action Corporation (TRAC).
Transco Coal Company.
Union Electric Company.
United Auto Workers.
United Small Coal Operators, Inc.
United Steelworkers of America.
Universal Forest Products, Inc.
U.S. Conference of Mayors.
Utilities Department, City of Lafayette, Louisiana.
Virginia Electric and Power Company.
Western Farmers Electric Cooperative.
Western Coal Traffic League.
West Virginia Surface Mining & Reclamation Association.
Wisconsin Electric Power Company.
Wisconsin Power & Light Company.
Wisconsin Public Service Corporation.
Women Involved in Farm Economics.
Youth for Energy Independence.

[From the New York Times, Dec. 23, 1985]

NEXT STEPS IN RAIL DEREGULATION

When Congress relaxed price controls for freight railroads in 1980, it sought an artful balance. It wanted to give railroads incentives to rebuild their collapsing systems. But it wanted also to protect shippers from being gouged by rail monopolies. Some of these shippers now complain that the balance has tilted in favor of railroads, and they make a good case. If deregulation is to work for everyone, the reforms of 1980 need fine tuning.

Most cargo shipping is vigorously competitive. In setting prices, truckers and airlines must keep a close eye on the competition. Railroads, too, are held in check for some products in some regions. If they try to overcharge the large manufacturers of high-value products like machinery or auto parts, they risk losing the business to another railroad or an enterprising trucker.

But railroads exert great market power in carrying bulk commodities on underserved routes. So Congress put some limits on the railroads' freedom to set their own rates. Where a shipper can show that a rail company dominates a transporation market, the Interstate Commerce Commission is empowered to intervene. And if the commission finds a railroad's total revenues to be adequate and its prices unreasonable, the shipper can be granted rate relief.

By and large, this partial deregulation has worked well. Railroads are posting good profits. More important, they are investing billions to modernize their systems. And many shippers are getting better service for the same old rates. But some shippers, notably power companies buying coal from Western mines, have been seriously overcharged. And the I.C.C. has so far denied them relief. The commission, it appears, clings to the outdated rationale that the railroads need every last penny to stay in business.

A coalition of commodity shippers, electric utilities, labor unions and consumer groups urges legislation, to reduce the I.C.C.'s discretion, forcing it to come down harder on strong railroads. Things may have to come to that if the commission refuses to tighten its guidelines for rate relief. But the dreary history of price regulation makes very clear that prices set by regulators can never be entirely fair or efficient.

The long-term goal of reform should be to keep easing off regulation by making the shipping industry ever more competititive. At least three steps could be taken toward that end:

Congress should authorize construction of pipelines to carry mixtures of pulverized coal and water from mines to power plants. Such coal slurry pipelines have been blocked at state level by railroad lobbying. If Congress pre-empts authority over pipelines, the mere threat of their construction would discourage rail overcharges.

The I.C.C. or Congress, if necessary, should halt rail mergers that reduce the number of carriers serving shippers of bulk commodities.

Congress should explore ways to stimulate more competition among existing rail systems. For example, it might require rail companies to lease their tracks and terminals to competitors at reasonable rates.

The first goal of rail deregulation—a more productive, financially stable system—has been achieved. The next goal should be insuring that railroads share the benefits with consumers.

Mr. RAHALL. Mr. Speaker, I am pleased to join my colleagues in the introduction of legislation to amend the Staggers Rail Act of 1980. This bill represents an effort to insure that railroad rates on commodities which are captive to a single carrier—that is, which enjoy no alternative means of transportation other than one railroad—are afforded the protections originally bestowed upon them by the Congress in the 1980 statute.

With this legislation, we are seeking to provide the Interstate Commerce Commission with policies which it cannot misinterpret and that will govern railroad rates on captive shippers thereby maintaining these rates at reasonable levels.

The bill being introduced today is a revised version of H.R. 1190, the "Consumer Rail Equity Act," which we introduced during February of 1985 and is premised upon legislation which I sponsored during the 98th Congress. This revised bill represents an effort among several of its sponsors to reflect recent rulings made by the ICC in the areas of market dominance determinations and the final Coal Rate Guidelines Nationwide.

I must state, however, that I do not fully agree with all of the changes incorporated into this new bill and reserve my right to continue working toward the favorable consideration of several amendments which I find to be of particular interest to coal shippers, especially those coal movements from my State of West Virginia.

Mr. Speaker, today a barrier exists between coal producers and their markets, both domestic and foreign. A barrier exists which contributes to higher rates on consumers of coal-generated electricity, increased unemployment in the Nation's coalfields and the promotion of monopolistic pricing and transportation practices. A barrier exists which is causing U.S. coal exporters to lose their share of the international coal market. A barrier exists which is giving rise to the infiltration of foreign coal into the continental United States.

That barrier, Mr. Speaker, is the refusal of America's major railroads to provide competitive rates and services to the coal industry. Regardless of how competitive coal is at the minemouth and notwithstanding the great strides in industry productivity, the high cost of domestic railroad transportation and the market monopolies most of them enjoy are causing the delivered price of coal to be excessive and unreasonable when given the actual cost of providing the transportation service.

In the Staggers Rail Act of 1980, a piece of legislation in which I was intimately involved, the Congress sought to provide suitable protections to shippers where the railroads held market dominance. In situations such as this, the ICC would examine railroad rates to determine their reasonableness. Instead, after more than 5 years experience with the Commission's implementation of this law, we have found a wholesale abdication of this responsibility among the ICC Commissioners which has given rise to a situation faced by shippers today where no rate no matter how excessive will be found by the ICC to be unreasonable.

The bill we are introducing today does not seek reregulation of the railroad industry. It does strive to eliminate much of the discretion the ICC currently has in formulating market dominance and maximum rate reasonableness policies, among other areas.

As such, this bill represents a midcourse adjustment grounded upon the experience of shippers in dealing with the ICC over these last few years. The legislation incorporates the

balance struck in the Staggers Act between the financial interests of the railroads and the monopoly situation faced by captive shippers. It does not harm to the original concept of the Staggers Rail Act of 1980 and its predecessor, the "4R" Act of 1977.

Above all else, this legislation seeks to provide a policy governing maximum rate reasonableness in market dominant situations based on realistic and widely held concepts and considerations. For example, one of the most important matters in this procedure is whether a railroad is earning adequate revenues. A determination by the ICC that a railroad is revenue inadequate under Commission policy effectively prohibits any finding that a rate is unreasonable. And in fact, the ICC today has determined that no major railroad is revenue adequate. Under these circumstances, no rate can be found unreasonable no matter how excessive it is and despite the actual cost of the service provided.

This policy is not reflective of real world situations in the railroad industry. These very same railroads, which are revenue inadequate according to the ICC, are nontheless healthy enough to diversify into other industries. They have the cash and ability to purchase natural resource companies, barge lines and other railroads. In fact, the Norfolk Southern Co., which is sitting on more than $1 billion in cash and which has been chosen by the Secretary of Transportation as a "deep pocket" buyer of Conrail, is, in the view of the ICC, revenue inadequate.

Mr. Speaker, it is time we bring equity to the manner in which market dominant movements and the rates imposed on such movements are determined. It is time we correct the deficiencies of the ICC's interpretation and implementation of the Staggers Rail Act of 1980. It is time we strike a blow for fairness and competition. These are the ideals contained in the legislation we introduce today.

Mr. TAUKE. Mr. Speaker, I rise today to offer my strong support for a bill being introduced today that would permit a "mid-course adjustment" to the implementation of the Staggers Rail Act of 1980.

While the Staggers Act has achieved many of its goals and dramatically improved the financial condition of the railroad industry, it clearly has not worked as anticipated in some important respects. Specifically, the Staggers Rail Act, as implemented by the Interstate Commerce Commission [ICC], has not assured reasonable rates in rail transportation where there is an absence of effective competition. Thus, the protection afforded the "captive shipper" by the Staggers Act has not worked as Congress intended.

In an effort to address those concerns, our colleague, BILLY TAUZIN, introduced the Consumer Rail Equity Act, H.R. 1190, early in 1985. Although I was sympathetic to the cause, I could not support the bill. However, after much discussion, Congressman TAUZIN has agreed to make several important changes in this legislation.

As a result of these changes, I have joined Congressman TAUZIN as a cosponsor of a new bill which is being introduced today. This simplified revision continues to embrace the balance between diverse railroad, shipper, and consumer interests that is embodied in the Staggers Act. Competitive market forces will continue to govern the costs and terms of freight service wherever effective competition exists, however, at the same time, this bill will afford captive shippers reasonable protection from abuses in market power by railroads enjoying monopolistic conditions. In short, it reaffirms the original intentions of Congress as contained in the Staggers Act.

I encourage you to give this issue and the revised Consumer Rail Equity Act your closest attention with a view toward joining us as a cosponsor of this important legislation.

LEAVE OF ABSENCE

By unanimous consent leave of absence was granted to:

Mr. ECKERT of New York (at the request of Mr. MICHEL), for today, on account of a death in the family.

Mr. GROTBERG (at the request of Mr. MICHEL), for today, on account of illness.

Mr. OBEY (at the request of Mr. WRIGHT), for today, on account of illness.

Mr. MILLER of Ohio (at the request of Mr. MICHEL), for today, on account of illness in the family.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. LIGHTFOOT) to revise and extend their remarks and include extraneous material:)

Mr. MICHEL, for 5 minutes, today.

Mr. BROWN of Colorado, for 5 minutes, today.

(The following Members (at the request of Mr. WEISS) to revise and extend their remarks and include extraneous material:)

Mr. WEISS, for 5 minutes, today.

Mr. LAFALCE, for 5 minutes, today.

Mr. ANNUNZIO, for 5 minutes, today.

Mr. KLECZKA, for 5 minutes, today.

Mr. MICA, for 5 minutes, today.

Mr. STUDDS, for 5 minutes, today.

(The following Member (at the request of Mr. GINGRICH) to revise and extend his remarks and include extraneous material:)

Mr. TAUZIN, for 5 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mr. LIGHTFOOT) and to include extraneous matter:)

Mr. HUNTER.

Mr. LIGHTFOOT.

Mr. MCKINNEY.

Mr. COBLE.

Mrs. SCHNEIDER.

Mr. CONTE.

Mr. ROWLAND of Connecticut.

Mr. GEKAS.

Mr. HYDE.

Mr. STUMP.

Mr. LEWIS of Florida.

(The following Members (at the request of Mr. WEISS) and to include extraneous matter:)

Mr. FEIGHAN.

Mr. FASCELL.

Mr. NEAL.

Mr. CARR.

Mrs. SCHROEDER in two instances.

Mr. FORD of Michigan in two instances.

Mr. LEHMAN of Florida.

Mr. LEVINE of California.

Mr. COELHO.

Mr. EDGAR.

Mr. ST GERMAIN in two instances.

Mr. ANDREWS.

Mrs. KENNELLY.

Mr. HOYER.

ADJOURNMENT

Mr. GINGRICH. Mr. Speaker I move that the House do now adjourn.

The motion was agreed to; accordingly (at 3 o'clock and 10 minutes p.m.), under its previous order, the House adjourned until Monday, February 3, 1986, at 12 o'clock noon.

EXECUTIVE COMMUNICATIONS ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

2613. Under clause 2 of rule XXIV, a letter from the Comptroller General of the United States, transmitting a review of the reports submitted by the Directors of the Office of Management and Budget and the Congressional Budget Office, pursuant to Public Law 99-177, section 251(f) (H. Doc. No. 99-155), was taken from the Speaker's table and referred jointly, to the Committee on Government Operations and Appropriations and ordered to be printed.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. GAYDOS: Committee on House Administration. House Resolution 368. Resolution providing amounts from the contingent fund of the House for the expenses of investigations, and studies by standing and select committees of the House in the 2d session of the 99th Congress. (Rept. 99-467). Referred to the House Calendar.

Mr. DINGELL: Committee on Energy and Commerce. H.R. 3777. A bill to give the Nation's performance in international trade appropriately greater importance in the formulation of Government policy, to modern-

ize the remedies available to U.S. producers regarding unfair and injurious foreign trade practices, and for other purposes; with amendments (Rept. 99-468 Pt. 1). Ordered to be printed.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. WORTLEY (for himself, Mr. COYNE, Mr. HANSEN, Mr. JENKINS, Mr. PURSELL, Mr. SPENCE, and Mr. WHITEHURST):

H.R. 4082. A bill to amend the Ethics in Government Act of 1978 to require legislative branch employees who are cleared for access to classified information to file an annual financial disclosure statement; to the Committee on Rules.

By Mr. HOWARD (for himself, Mr. CLINGER, Mr. LIPINSKI, Mr. FLORIO, Mr. DURBIN, Mr. GOODLING, Mr. BARNES, Mr. PORTER, Mr. LANTOS, Mrs. MARTIN of Illinois, and Mr. PARRIS):

H.R. 4083. A bill to amend section 158 of title 23, United States Code, to make permanent the penalty for failure to comply with the national minimum drinking age, and for other purposes; to the Committee on Public Works and Transportation.

By Mr. DE LA GARZA (for himself, Mr. MADIGAN, Mr. STENHOLM, Mr. MARLENEE, Mr. ROBERTS, and Mr. EMERSON):

H.R. 4084. A bill to make technical corrections in the provisions of law for commodity and related programs under the Food Security Act of 1985; to the Committee on Agriculture.

By Mr. McEWEN (for himself, Mr. CONYERS, and Mr. VISCLOSKY):

H.R. 4085. A bill to create a fiscal safety net program for needy communities; to the Committee on Government Operations.

By Mrs. BOXER (for herself, Mr. LEVINE of California, Mr. DENNY SMITH, Mr. NEAL, Mr. RIDGE, Mr. PORTER, and Mr. EVANS of Illinois):

H.R. 4086. A bill to establish an alternative procedure for the review of bid protests under the Competition in Contracting Act, and for other purposes; to the Committee on Government Operations.

By Mr. GREGG (for himself, Mr. AKAKA, Mr. CONTE, Mr. JONES of North Carolina, Mr. HOYER, Mr. TALLON, Mr. GILMAN, Mr. SMITH of New Hampshire, Ms. OAKAR, Mr. ANNUNZIO, Mr. MINETA, Mr. WRIGHT, Mr. WALKER, and Mr. FUQUA):

H.R. 4087. A bill authorizing the President to present gold medals to the families of the crew members of mission 51-L of the space shuttle *Challenger;* to the Committee on Banking, Finance and Urban Affairs.

By Mr. HENDON (for himself, Mr. COBEY, Mr. WHITLEY, Mr. VALENTINE, Mr. DANIEL, Mr. SWINDALL, Mr. ROWLAND of Georgia, Mr. JENKINS, and Mr. SLAUGHTER):

H.R. 4088. A bill to amend the Nuclear Waste Policy Act of 1982 to prohibit the development of a repository in proximity to a monitored retrievable storage facility; jointly, to the Committees on Energy and Commerce and Interior and Insular Affairs.

By Mr. LEHMAN of California:

H.R. 4089. A bill to prohibit the construction of dams within national parks and monuments; to the Committee on Interior and Insular Affairs.

By Mr. LEWIS of Florida:

H.R. 4090. A bill to establish the Big Cypress National Preserve Addition in the State of Florida, and other purposes; to the Committee on Interior and Insular Affairs.

By Mr. LOTT:

H.R. 4091. A bill to amend the Wild and Scenic Rivers Act by designating a segment of the Black Creek in Mississippi as a component of the National Wild and Scenic Rivers System; to the Committee on Interior and Insular Affairs.

By Mr. McKINNEY (for himself, Mr. MORRISON of Connecticut, Mrs. JOHNSON, Mr. ROWLAND of Connecticut, Mrs. KENNELLY, and Mr. GEJDENSON):

H.R. 4092. A bill to amend title 28, United States Code, to provide for the appointment of one additional district judge for the District of Connecticut; to the Committee on the Judiciary.

By Mr. MICA (for himself, Mr. MACKAY, Mr. SMITH, of Florida, and Mr. THOMAS of Georgia):

H.R. 4093. A bill to promote economic growth and trade expansion, to amend the Trade Act of 1974 to open foreign markets, to enhance the competitiveness of U.S. firms, and for other purposes; jointly, to the Committees on Ways and Means; Banking, Finance and Urban Affairs; Foreign Affairs; Agriculture; the Judiciary; and Energy and Commerce.

By Mr. MICHEL:

H.R. 4094. A bill to ensure payment of the additional duty on ethyl alcohol used as a fuel or in making gasoline, and to exclude from eligibility for certain tariff preferences ethyl alcohol which is not wholly fermented and distilled in the country or area to which such preferences extend; to the Committee on Ways and Means.

By Mr. ROWLAND of Georgia (for himself and Mr. BARNARD):

H.R. 4095. A bill to amend title 28, United States Code, to make changes in the judicial divisions in the Southern District of Georgia; to the Committee on the Judiciary.

By Mr. TAUZIN (for himself, Mr. RAHALL, Mr. ROGERS, Mr. TAUKE, Mr. STENHOLM, Mr. BEVILL, Mr. MURTHA, Mr. PICKLE, Mr. BOUCHER, Mr. KINDNESS, Mr. YOUNG of Missouri, Mr. ANDREWS, Mr. BUSTAMANTE, Mr. FUQUA, Mr. WILSON, Mr. DE LA GARZA, Mr. GRAY of Illinois, Ms. KAPTUR, Mrs. BENTLEY, Mr. MOLLOHAN, Mr. PERKINS, Mr. STOKES, Mr. WALGREN, Mr. COELHO, Mr. MARLENEE, Mr. McCAIN, Mr. McHUGH, Mr. BREAUX, Mr. WEBER, Mrs. BOGGS, Mr. ORTIZ, Mr. BEDELL, Mr. PENNY, Mr. JACOBS, Mr. HUBBARD, Mr. BOSCO, and Mr. HUCKABY):

H.R. 4096. A bill to enhance rail competition and to ensure reasonable rail rates where there is an absence of effective competition; to the Committee on Energy and Commerce.

By Mr. TORRES (for himself and Mr. MITCHELL):

H.R. 4097. A bill to amend title 15 of the Small Business Act; to the Committee on Small Business.

By Mr. WHITTAKER:

H.R. 4098. A bill to amend title 23 of the United States Code relating to toll roads, bridges, and tunnels; to the Committee on Public Works and Transportation.

By Mr. FROST:

H.J. Res. 507. Joint resolution to designate March 4, 1986, as "National Electronics Technicians Day"; to the Committee on Post Office and Civil Service.

By Mr. NELSON of Florida:

H.J. Res. 508. Joint resolution to request, on behalf of the American people, that the Working Group for Planetary System Nomenclature of the International Astronomical Union designate seven of the moons recently discovered orbiting the planet Uranus in the names of the crew members of the space shuttle *Challenger*; to the Committee on Science and Technology.

By Mr. ST GERMAIN:

H.J. Res. 509. Joint resolution to amend the Constitution of the United States to protect the right to life; to the Committee on the Judiciary.

By Mr. BROWN of Colorado (for himself and Mr. CRAIG):

H. Con. Res. 275. Concurrent resolution calling for a 1-year moratorium on Federal spending increases; to the Committee on Rules.

By Mr. LELAND (for himself, Mr. NELSON of Florida, Mr. WHITTEN, Mr. PICKLE, Mr. HOPKINS, Mr. STUMP, Mr. FLIPPO, Mr. NICHOLS, Mr. SLATTERY, Mr. BLILEY, Mr. HARTNETT, Mrs. MARTIN of Illinois, Mr. MACK Mr. NIELSON of Utah, Mr. LIGHTFOOT, Mr. MYERS of Indiana, Mr. HUNTER, Mr. WILSON, Mr. DREIER of California, Mr. LOWERY of California, Mr. BOULTER, Mr. SOLOMON, Mr. ROBERTS, Mr. LUNGREN, Mr. HYDE, Mrs. SCHNEIDER, Mr. SMITH of New Hampshire, Mr. ARMEY, Mr. GILMAN, Mr. DANNEMEYER, Mr. SHUMWAY, Mr. ANDERSON, Mr. OXLEY, Mr. STRATTON, Mr. AUCOIN, Mr. JACOBS, Mr. SLAUGHTER, Mr. UDALL, Mr. FAZIO, Ms. OAKAR, Mr. FORD of Michigan, Mr. YOUNG of Missouri, Mr. HENDON, Mr. MORRISON of Connecticut, Mr. FOLEY, Mr. GARCIA, Mr. COELHO, Mr. HOWARD, Mr. PRICE, Mr. BENNETT, Mr. BIAGGI, Mr. RODINO, Mr. DURBIN, Mr. COLEMAN of Texas, Mr. SIKORSKI, Mr. WAXMAN, Mr. DORNAN of California, Mr. McMILLAN, Mr. WOLF, Mr. EMERSON, Mr. BADHAM, Mr. MOORHEAD, Mr. MITCHELL, Mr. DORGAN of North Dakota, Mr. CHAPMAN, Mr. TALLON, Mr. FIELDS, Mr. STOKES, Mr. RANGEL, Mr. SABO, Mr. MURPHY, Mr. KANJORSKI, Mr. BORSKI, Mr. KOLTER, Mr. COYNE, Mr. LIPINSKI, Mr. COATS, Mr. ECKART of Ohio, Mr. COOPER, Mr. LANTOS, Mr. JONES of North Carolina, Mr. TRAFICANT, Mr. HAYES, Mr. TOWNS, Mr. TAUZIN, Mr. MARKEY, Mr. NATCHER, Mr. BARTON of Texas, Mr. WALKER, Mr. BROWN of Colorado, Mr. STRANG, Mr. RAHALL, Mr. CARR, Mr. RUDD, Mr. EDWARDS of Oklahoma, Mr. MONTGOMERY, Mr. GLICKMAN, Mr. OLIN, Mr. HEFNER, Mr. ROSE, Mr. BEVILL, Mr. DE LA GARZA, Mr. DELLUMS, Mr. BOLAND, Mr. SCHUMER, Mr. LEHMAN of California, Mr. McCURDY, Mr. WHITLEY, Mr. EDWARDS of California, Mrs. JOHNSON, Mr. ROBINSON, Mr. WIRTH, Mr. MICA, Mr. EVANS of Illinois, Mr. SCHAEFER, Mr. SAXTON, Mr. GRAY of Pennsylvania, Mr. LEHMAN of Florida, Mr. KRAMER Mr. AKAKA, Ms. SNOWE, Mrs. ROUKEMA, Mr. HUTTO, Mr. DAVIS, Mr. HOYER, Mr. McEWEN, Ms. KAPTUR, Mr. BATES, Mr. TORRES, Mr. RICHARDSON,

Mr. BONKER, Mr. MOLLOHAN, Mr. BONIOR of Michigan, Mr. MINETA, Mr. GEPHARDT, Mr. OBERSTAR, Mr. BARTLETT, Mr. SMITH of Florida, Mr. SWIFT, Mr. DOWDY of Mississippi, Mr. DYSON, Mr. SHAW, Mr. ROGERS, Mr. GORDON, and Mr. VOLKMER):

H. Res. 369. Resolution expressing the sense of the House of Representatives that the President should award the Presidential Medal of Freedom posthumously to Michael J. Smith, Francis R. Scobee, Ronald E. McNair, Ellison S. Onizuka, Sharon Christa McAuliffe, Gregory B. Jarvis, and Judith A. Resnick, all of whom died in the explosion of the space shuttle *Challenger*; to the Committee on Post Office and Civil Service.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII,

Mr. BOSCO introduced a bill (H.R. 4099) for the relief of Margarito Vicuna-Quitero; to the Committee on the Judiciary.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 604: Mr. SWINDALL, Mr. RINALDO, and Mr. SCHEUER.

H.R. 615: Mr. LENT and Mr. PURSELL.

H.R. 1875: Mr. RICHARDSON, Mr. SUNIA, Mr. MONSON, Mr. FUSTER, Mr. TRAFICANT, and Mr. BOSCO.

H.R. 1946: Mr. JONES of North Carolina.

H.R. 2504: Mr. AKAKA.

H.R. 2659: Mr. LEWIS of Florida.

H.R. 2840: Mr. BREAUX.

H.R. 3084: Mr. LEWIS of Florida.

H.R. 3465: Mr. HENRY, Mr. DYSON, Mr. NATCHER, Mr. VOLKMER, Mr. WEAVER, Mr. BEDELL, Mr. KINDNESS, and Mr. SABO.

H.R. 3487: Mr. RAHALL.

H.R. 3505: Mr. SUNIA and Mr. COMBEST.

H.R. 3654: Mr. DOWNEY of New York and Mr. FASCELL.

H.R. 3663: Mr. ADDABBO, Mr. BARNES, Mr. BATEMAN, Mrs. BENTLEY, Mr. BLAZ, Mr. BONER of Tennessee, Mr. BONIOR of Michigan, Mr. BOUCHER, Mrs. BURTON of California, Mr. BRYANT, Mr. CARNEY, Mr. COELHO, Mr. CONTE, Mr. COYNE, Mr. DANIEL, Mr. DAUB, Mr. DE LA GARZA, Mr. DELLUMS, Mr. DORNAN of California, Mr. EDWARDS of Oklahoma, Mr. EMERSON, Mr. FOLEY, Mr. FUSTER, Mr. GARCIA, Mr. GINGRICH, Mr. GONZALEZ, Mr. GRAY of Illinios, Mr. HATCHER, Mr. HERTEL of Michigan, Mr. HORTON, Mr. HOWARD, Mr. HOYER, Mr. HUGHES, Ms. KAPTUR, Mr. KASTENMEIER, Mr. KLECZKA, Mr. KOLBE, Mr. KOLTER, Mr. KOSTMAYER, Mr. LAGOMARSINO, Mr. LANTOS, Mr. LEHMAN of Florida, Mrs. LLOYD, Mrs. LONG, Mr. MANTON, Mr. MARTINEZ, Mr. MATSUI, Ms. MIKULSKI, Mr. MINETA, Mr. MITCHELL, Mr. MURPHY, Ms. OAKAR, Mr. PANETTA, Mr. PRICE, Mr. RAHALL, Mr. SCHULZE, Mr. SMITH of Florida, Mr. STALLINGS, Mr. STENHOLM, Mr. STUMP, Mr. THOMAS of Georgia, Mr. TORRES, Mr. VOLKMER, Mr. WORTLEY, Mr. YATRON, and Mr. YOUNG of Missouri.

H.R. 3742: Mr. GINGRICH, Mr. DANNEMEYER, Mr. EDWARDS of Oklahoma, Mr. HORTON, Mr. MCHUGH, Mr. GARCIA, Mr. HUGHES, Mr. TOWNS, and Mr. CLINGER.

H.R. 3767: Mr. BURTON of Indiana, Mr. HORTON, Mr. MCHUGH, Mrs. LLOYD, and Mr. FUQUA.

H.R. 3798: Mr. MARTINEZ.

H.R. 3822: Mr. TOWNS and Mr. MARTINEZ.

H.R. 3842: Mrs. LONG, Mr. PORTER, Mr. WEISS, Mr. WOLPE, Mr. RALPH M. HALL, Mr. FUQUA, Mr. MINETA, and Mr. STRANG.

H.R. 3889: Mr. HUTTO.

H.R. 4033: Mr. COELHO, Mr. EDGAR, Mr. SAVAGE, Mr. YATRON, Mr. BATES, Mr. MARTINEZ, Ms. OAKAR, Mr. WIRTH, Mr. FAUNTROY, Mr. JACOBS, Mr. MORRISON of Connecticut, Mr. RAHALL, Mr. SMITH of Florida, Mr. WEISS, Ms. MIKULSKI, Mr. BERMAN, Mr. ROSE, Mr. BRYANT, Mr. KLECZKA, and Mr. DAUB.

H.R. 4034: Mr. HORTON, Mr. NICHOLS, Mr. BOLAND, Mr. RICHARDSON, Mr. EVANS of Illinois, Mr. YATRON, Mr. COLEMAN of Texas, Mr. SAVAGE, Mr. MURPHY, Mr. MURTHA, Mr. HAYES, Mr. MRAZEK, Mr. MAVROULES, Mr. RIDGE, Mr. PRICE, Mr. KINDNESS, Mr. WHEAT, Mr. RAHALL, and Mr. COUGHLIN.

H.R. 4055: Mr. MCGRATH, Mr. LOWERY of California, and Mr. RAHALL.

H.R. 4060: Mr. MURPHY, Mr. COLEMAN of Texas, Mr. YOUNG of Alaska, Mr. MAVROULES, Mr. ANDERSON, Mr. BORSKI, Mr. KANJORSKI, Mr. MORRISON of Connecticut, Mr. NOWAK, Mr. SMITH of Florida, Mr. DYSON, Mr. APPLEGATE, Mr. RINALDO, Mr. YOUNG of Missouri, Mr. FAUNTROY, Mr. MANTON, and Mr. KLECZKA.

H.R. 4061: Mr. YATRON, Mr. HAMILTON, Mr. ROWLAND of Georgia, Mr. AKAKA, Mr. COELHO, Mr. DYSON, Mr. EDGAR, Mr. MATSUI, Mr. FAZIO, Mr. GEJDENSON, Mr. ACKERMAN, and Mr. DICKS.

H.J. Res. 87: Mr. GUNDERSON.

H.J. Res. 131: Mr. ANDREWS, Mr. HAMMERSCHMIDT, Mr. DEWINE, Mr. FRENZEL, Mr. BRYANT, Mr. REID, Mr. LOTT, Mr. LEACH of Iowa, Mr. NICHOLS, Mr. MILLER of Washington, Mrs. MEYERS of Kansas, Mr. MORRISON of Washington, Mr. SYNAR, Mr. CAMPBELL, Mr. ENGLISH, Mr. YOUNG of Florida, and Mr. LAFALCE.

H.J. Res. 147: Mr. PETRI and Mr. STALLINGS.

H.J. Res. 368: Mr. WAXMAN and Mr. WOLF.

H.J. Res. 426: Mr. SILJANDER, Mr. BARNES, Mr. SAVAGE, Mr. SABO, Mr. DWYER of New Jersey, Mr. DARDEN, Mr. OWENS, Mr. CONTE, Mr. FEIGHAN, Mr. NATCHER, Mr. FISH, Mr. LANTOS, Mr. KOLTER, Mr. MURPHY, Mr. SUNIA, Mr. YOUNG of Missouri, Mr. HORTON, Mr. HAMMERSCHMIDT, Mr. HAYES, Mr. HEFNER, Mr. HOYER, Mr. KEMP, Mrs. BURTON of California, Mr. CHAPPIE, Mr. CONYERS, Mr. DEWINE, Mr. DIXON, Mr. DYMALLY, Mr. FAUNTROY, Mr. FOLEY, Mr. KOSTMAYER, Mr. SCHEUER, Mr. MATSUI, Mr. STOKES, Mr. GUARINI, Mrs. COLLINS, Mr. BUSTAMANTE, Mr. LEVINE of California, Mr. WORTLEY, Mr. MCDADE, Mr. MAVROULES, Mr. MOAKLEY, Mr. MORRISON of Connecticut, Mr. NEAL, Ms. OAKAR, Mr. ORTIZ, Mr. SCHUMER, Mr. SKELTON, Mr. TALLON, Mr. VENTO, Mr. WALGREN, Mr. WOLPE, Mr. DASCHLE, Mr. ANTHONY, Mr. GRAY of Illinois, Mr. CALLAHAN, Mr. O'BRIEN, Mr. HUGHES, Mr. RALPH M. HALL, Mr. LELAND, Mrs. BOXER, Mr. FUSTER, Mr. CARNEY, Mr. DIOGUARDI, Mr. DOWDY of Mississippi, Mr. CHAPMAN, Mr. ERDREICH, Mr. DORGAN of North Dakota, Mr. CARPER, Mr. RAHALL, Mr. REID, Mr. BORSKI, Mr. FROST, Mr. HENRY, Mr. GINGRICH, Mrs. HOLT, Mr. HOWARD, Mr. WEISS, Mr. LAFALCE, Mr. MANTON, Mr. CROCKETT, Mr. WYDEN, Mr. DE LA GARZA, Mr. LEACH of Iowa, Mr. LENT, Mr. LEWIS of California, Mr. MARKEY, Mr. MOORHEAD, Mr. MARTINEZ, Ms. KAPTUR, Mr. PURSELL, Mr. ROBERTS, Mr. TRAXLER, Mr. SMITH of Florida, Mr. ROSE, Mr. ROE, Mr. KILDEE, Mr. WILSON, Mr. FAZIO, Mr. MADIGAN, Ms. MIKULSKI, Mr. BONIOR of Michigan, Mr. HYDE, Mr. MINETA, Mr. YATES, Mr. ACKERMAN, Mr. MCHUGH, Mr. SOLARZ, Mr. COOPER, Mr. GILMAN, Mr. COELHO, Mr. DELLUMS, Mr. DYSON, Mr. YATRON, Mr. MARTIN of New York, Mr. NIELSON of Utah, Mr. TORRICELLI, Mr. TOWNS, Mr. RICHARDSON, Mr. RANGEL, Mr. HERTEL of Michigan, Mr. MONSON, Mr. BEDELL, Mr. COYNE, Mr. BENNETT, Mr. FOGLIETTA, Mr. ANDERSON, Mr. DANIEL, Mr. LEHMAN of California, Mr. HATCHER, Mr. WAXMAN, Mr. HEFTEL of Hawaii, Mr. EVANS of Illinois, Mr. BOUCHER, Mr. MONTGOMERY, Mr. GARCIA, Mrs. BENTLEY, Mr. HALL of Ohio, Mr. JONES of North Carolina, Mr. BERMAN, Mr. FUQUA, Mr. MOORE, Mr. NICHOLS, Mr. JACOBS, Mr. RODINO, Mr. FRANKLIN, Mr. ROBERT F. SMITH, Mr. EDGAR, Mr. PANETTA, and Mr. MCCLOSKEY.

H.J. Res. 462: Mr. ALEXANDER.

H.J. Res. 484: Mr. RICHARDSON.

H.J. Res. 499: Mr. BUSTAMANTE, Mrs. VUCANOVICH, Mr. COYNE, Mr. GORDON, Mr. WYDEN, Mr. CONTE, Mr. SABO, Mr. BERMAN, Mr. FLORIO, Mr. BEILENSON, Mr. HATCHER, Mrs. BYRON, Mr. BEVILL, Mr. BENNETT, Mr. COELHO, Mr. WOLF, Mr. O'BRIEN, Mr. AKAKA, Mr. SMITH of Iowa, Mr. JEFFORDS, Mr. PEPPER, Mr. CHAPPIE, Mr. PANETTA, Mr. BONIOR of Michigan, Mr. BROWN of California, Mrs. BOGGS, Mr. OBERSTAR, Mr. GONZALEZ, Mr. YATRON, Mr. DARDEN, Mr. WORTLEY, Mr. GARCIA, Mr. THOMAS of Georgia, Mr. NICHOLS, Mr. HANSEN, Mr. MARKEY, Mr. BROOKS, Mr. CLINGER, Mr. ORTIZ, Mr. SCHUMER, Mr. BORSKI, Mr. TOWNS, Mr. DE LA GARZA, Mr. LUNDINE, Mr. KILDEE, Mr. FEIGHAN, Mr. DYSON, Mr. ERDREICH, Mr. DONNELLY, Mr. TRAXLER, Mr. SNYDER, Mr. GALLO, Mr. MURTHA, Mr. CARPER, Mr. FAUNTROY, Mr. MAVROULES, Mr. HYDE, Mr. LEHMAN of Florida, Mr. RAY, Mr. MAZZOLI, Mr. DANIEL, Mr. DE LUGO, Mr. BATES, Mr. JONES of North Carolina, Mr. MOAKLEY, Mr. SUNIA, Mr. LEACH of Iowa, Mr. MCDADE, Mr. TALLON, Mr. SKELTON, Mr. SOLARZ, Mr. MURPHY, Mr. GILMAN, Mr. BATEMAN, Mr. LEHMAN of California, Mr. YOUNG of Missouri, Mr. ROSE, Mr. LOWRY of Washington, Mr. SISISKY, Mr. WALGREN, Mrs. LLOYD, Mr. STARK, Mr. TORRICELLI, Mr. FOLEY, Mr. COLEMAN of Texas, Mr. WYLIE, and Mr. STOKES.

H. Con. Res. 129: Mr. IRELAND, Mr. TAUKE, Mr. MITCHELL, Mr. NELSON of Florida, and Mr. VOLKMER.

H. Con. Res. 175: Mr. MOLLOHAN.

H. Con. Res. 210: Mr. SMITH of Florida.

H. Con. Res. 225: Mr. ADDABBO, Mr. ANNUNZIO, Mr. BARNARD, Mr. BATEMAN, Mr. BARNES, Mr. BENNETT, Mrs. BENTLEY, Mr. BEVILL, Mr. BIAGGI, Mr. BLAZ, Mr. BLILEY, Mr. BONER of Tennessee, Mr. BONIOR of Michigan, Mr. BOUCHER, Mrs. BURTON of California, Mr. BRYANT, Mr. CHAPPIE, Mr. COELHO, Mr. CONTE, Mr. COYNE, Mr. CROCKETT, Mr. DANIEL, Mr. DAUB, Mr. DE LA GARZA, Mr. DELLUMS, Mr. DE LUGO, Mr. DORNAN of California, Mr. EMERSON, Mr. FASCELL, Mr. FAUNTROY, Mr. FAZIO, Mr. FOLEY, Mr. FROST, Mr. FUQUA, Mr. FUSTER, Mr. GARCIA, Mr. GINGRICH, Mr. GONZALEZ, Mr. GRAY of Illinois, Mr. HARTNETT, Mr. HATCHER, Mr. HAYES, Mr. HENRY, Mr. HERTEL of Michigan, Mrs. HOLT, Mr. HORTON, Mr. HOYER, Mr. HUGHES, Mr. JENKINS, Ms. KAPTUR, Mrs. KENNELLY, Mr. KOLTER, Mr. KOSTMAYER, Mr. LAGOMARSINO, Mr. LANTOS, Mr. LEHMAN of Florida, Mr. LEVIN of Michigan, Mr. LEWIS of California, Mrs. LONG, Mr. MANTON, Mr. MARTINEZ, Mr. MATSUI, Mrs. MEYERS of Kansas, Ms. MIKULSKI, Mr. MITCHELL, Mr. MOAKLEY, Mr. MONTGOMERY, Mr. MOORE, Mr. MOORHEAD, Mr. MRAZEK, Mr. MURPHY, Ms. OAKAR, Mr. ORTIZ, Mr. OWENS, Mr. PANETTA, Mr. PEPPER, Mr. PICKLE, Mr. PORTER,

Mr. PRICE, Mr. RAHALL, Mr. RANGEL, Mr. ROE, Mr. SKELTON, Mr. SMITH of Florida, Mr. STALLINGS, Mr. STENHOLM, Mr. THOMAS of Georgia, Mr. TORRES, Mr. TORRICELLI, Mr. VANDER JAGT, Mr. VENTO, Mr. VOLKMER, Mr. WAXMAN, Mr. WEISS, Mr. WILSON, Mr. WOLF, Mr. WORTLEY, Mr. YATRON, and Mr. YOUNG of Missouri.

H. Res. 258: Mr. MARTINEZ, Mr. HUGHES, Mr. WILLIAMS, Mr. LAFALCE, Mr. CLINGER, Ms. MIKULSKI, Mr. ROE, Mr. EDWARDS of Oklahoma, Mr. TRAFICANT, Mr. TORRICELLI, Mr. FUSTER, and Mr. MONSON.

H. Res. 315: Mr. LUNDINE and Mr. PORTER.

PETITIONS, ETC.

Under clause 1 of rule XXII,

268. The SPEAKER presented a petition of the City Clerk's Office, Buffalo, NY, relative to an honorary American citizenship for Paderewski; which was referred to the Committee on the Judiciary.

REGULATION OF LOBBYING ACT

In compliance with Public Law 601, 79th Congress, title III, Regulation of Lobbying Act, section 308(b), which provides as follows:

(b) All information required to be filed under the provisions of this section with the Clerk of the House of Representatives and the Secretary of the Senate shall be compiled by said Clerk and Secretary, acting jointly, as soon as practicable after the close of the calendar quarter with respect to which such information is filed and shall be printed in the CONGRESSIONAL RECORD.

The Clerk of the House of Representatives and the Secretary of the Senate jointly submit their report of the compilation required by said law and have included all registrations and quarterly reports received.

REGISTRATIONS

The following registrations were submitted for the fourth calendar quarter 1985:

(NOTE.—The form used for report is reproduced below. In the interest of economy in the RECORD, questions are not repeated, only the essential answers are printed, and are indicated by their respective headings.)

FILE ONE COPY WITH THE SECRETARY OF THE SENATE AND FILE TWO COPIES WITH THE CLERK OF THE HOUSE OF REPRESENTATIVES:

This page (page 1) is designed to supply identifying data; and page 2 (on the back of this page) deals with financial data.

PLACE AN "X" BELOW THE APPROPRIATE LETTER OR FIGURE IN THE BOX AT THE RIGHT OF THE "REPORT" HEADING BELOW:

"PRELIMINARY" REPORT ("Registration"): To "register," place an "X" below the letter "P" and fill out page 1 only.

"QUARTERLY" REPORT: To indicate which one of the four calendar quarters is covered by this Report, place an "X" below the appropriate figure. Fill out both page 1 and page 2 and as many additional pages as may be required. The first additional page should be numbered as page "3," and the rest of such pages should be "4," "5," "6," etc. Preparation and filing in accordance with instructions will accomplish compliance with all quarterly reporting requirements of the Act.

Year: 19.....

REPORT

PURSUANT TO FEDERAL REGULATION OF LOBBYING ACT

P	QUARTER			
	1st	2d	3d	4th
(Mark one square only)				

NOTE ON ITEM "A".—(a) IN GENERAL. This "Report" form may be used by either an organization or an individual, as follows:
(i) "Employee".—To file as an "employee", state (in Item "B") the name, address, and nature of business of the "employer". (If the "employee" is a firm [such as a law firm or public relations firm], partners and salaried staff members of such firm may join in filing a Report as an "employee".)
(ii) "Employer".—To file as an "employer", write "None" in answer to Item "B".
(b) SEPARATE REPORTS. An agent or employee should not attempt to combine his Report with the employer's Report:
(i) Employers subject to the Act must file separate Reports and are not relieved of this requirement merely because Reports are filed by their agents or employees.
(ii) Employees subject to the Act must file separate Reports and are not relieved of this requirement merely because Reports are filed by their employers.

A. ORGANIZATION OR INDIVIDUAL FILING:
1. State name, address, and nature of business.

2. If this Report is for an Employer, list names of agents or employees who will file Reports for this Quarter.

NOTE ON ITEM "B".—*Reports by Agents or Employees.* An employee is to file, each quarter, as many Reports as he has employers, except that: (*a*) If a particular undertaking is jointly financed by a group of employers, the group is to be considered as one employer, but all members of the group are to be named, and the contribution of each member is to be specified; (*b*) if the work is done in the interest of one person but payment therefor is made by another, a single Report—naming both persons as "employers"—is to be filed each quarter.

B. EMPLOYER.—State name, address, and nature of business. If there is no employer, write "None."

NOTE ON ITEM "C".—(*a*) The expression "in connection with legislative interests," as used in this Report, means "in connection with attempting, directly or indirectly, to influence the passage or defeat of legislation." "The term 'legislation' means bills, resolutions, amendments, nominations, and other matters pending or proposed in either House of Congress, and includes any other matter which may be the subject of action by either House"—§302(e).
(*b*) Before undertaking any activities in connection with legislative interests, organizations and individuals subject to the Lobbying Act are required to file a "Preliminary" Report (Registration).
(*c*) After beginning such activities, they must file a "Quarterly" Report at the end of each calendar quarter in which they have either received or expended anything of value in connection with legislative interests.

C. LEGISLATIVE INTERESTS, AND PUBLICATIONS in connection therewith:

1. State approximately how long legislative interests are to continue. If receipts and expenditures in connection with legislative interests have terminated, place an "X" in the box at the left, so that this Office will no longer expect to receive Reports. ☐

2. State the general legislative interests of the person filing and set forth the *specific* legislative interests by reciting: (*a*) Short titles of statutes and bills; (*b*) House and Senate numbers of bills, where known; (*c*) citations of statutes, where known; (*d*) whether for or against such statutes and bills.

3. In the case of those publications which the person filing has caused to be issued or distributed in connection with legislative interests, set forth: (*a*) Description, (*b*) quantity distributed; (*c*) date of distribution, (*d*) name of printer or publisher (if publications were paid for by person filing) or name of donor (if publications were received as a gift).

(Answer items 1, 2, and 3 in the space below. Attach additional pages if more space is needed)

4. If this is a "Preliminary" Report (Registration) rather than a "Quarterly" Report, state below what the nature and amount of anticipated expenses will be; and if for an agent or employee, state also what the daily, monthly, or annual rate of compensation is to be. If this is a "Quarterly" Report, disregard this item "C4" and fill out items "D" and "E" on the back of this page. Do not attempt to combine a "Preliminary" Report (Registration) with a "Quarterly" Report.

AFFIDAVIT

[Omitted in printing]

PAGE 1

Organization or Individual Filing	Employer/Client
ABLONDI & FOSTER, P.C., 1776 K STREET, NW, #606 WASHINGTON DC 20006	TAIWAN TEXTILE FEDERATION
AKIN GUMP STRAUSS HAUER & FELD, 1333 NEW HAMPSHIRE AVE., NW, #400 WASHINGTON DC 20036	FARM CREDIT BANKS OF SPRINGFIELD
Do	PETER KIEWIT SONS', INC
Do	NORTH COUNTY RESOURCE RECOVERY ASSN
WILLIAM E. ALBERS, ALBERS BEQUAI & GERRITY 499 SOUTH CAPITOL ST., SW, #407 WASHINGTON DC 20003	COALITION TO PROMOTE SAFETY & LOWER PRICES
C. EDDIE ALDRETE, P.O. BOX 9527 AUSTIN TX 78766	TEXAS AGRICULTURAL COOPERATIVE COUNCIL
DONALD C. ALEXANDER, CADWALADER WICKERSHAM & TAFT 1333 NEW HAMPSHIRE AVE., NW WASHINGTON DC 20036	PEPSICO
Do	SCOTT PAPER CO
ROGER N. ALLBEE, P.O. BOX 141 SPRINGFIELD MA 01102	FARM CREDIT BANKS OF SPRINGFIELD
AMERICAN INTRAOCULAR IMPLANT SOCIETY, 3700 PENDER DRIVE, #108 FAIRFAX VA 22030	
AMERICAN SOC FOR THE PREVENTION OF CRUELTY TO ANIMALS, 441 E. 92ND STREET NEW YORK NY 10128	
AMERICANS FOR TAX REFORM, 1800 M STREET, NW, #475 WASHINGTON DC 20036	
GREGORY B. ANDREWS, 1000 CONNECTICUT AVE., NW, #304 WASHINGTON DC 20036	SMITH DAWSON ASSOCIATES, INC
PHILIP H. ANNS, 1101 VERMONT AVENUE, NW, #405 WASHINGTON DC 20005	A. H. ROBINS CO
ARENT FOX KINTNER PLOTKIN & KAHN, 1050 CONNECTICUT AVENUE, NW WASHINGTON DC 20036	AMERITECH
Do	WASHINGTON NATIONAL ARENA LIMITED PARTNERSHIP
ASSOCIATED SATELLITE TELEVISION RECEIVER OWNERS, INC, 2530 S. PARKER ROAD, #600 AURORA CO 80014	
ASSOCIATION FOR THE ADVANCEMENT OF HISTORICAL RESEARCH, P.O. BOX 15232 WASHINGTON DC 20003	
LLOYD G. ATOR JR., 1801 K ST., NW, #700 WASHINGTON DC 20006	PRICE WATERHOUSE (FOR: SECURITY PACIFIC NATIONAL BANK)
ROBERT A. BACHA, 1111 14TH STREET, NW WASHINGTON DC 20005	COOK AND BACHA (FOR: CONTRACTORS LIABILITY & INDEMNIFICATION ALLIANCE)
Do	COOK AND BACHA (FOR: WESTINGHOUSE ELECTRIC CORP)
JOHN P. BAILEY, 618 S. ALFRED STREET ALEXANDRIA VA 22314	NATIONAL ASSN OF MEDICAL EQUIPMENT SUPPLIERS
BAKER & MCKENZIE, 815 CONNECTICUT AVE., NW WASHINGTON DC 20006	DUKE POWER CO
Do	ELECTROGRAPHIC CORP
Do	FLORIDA POWER & LIGHT CO
Do	SOUTHERN COMPANY SERVICES
Do	STEIN ROE & FARNHAM
PATRICIA A. BALDI, 645 PENNSYLVANIA AVE., SE WASHINGTON DC 20003	NATIONAL AUDUBON SOCIETY
BARNES RICHARDSON & COLBURN, 1819 H ST., NW, #400 WASHINGTON DC 20006	RUKERT MARINE CORP
DENISE BELL, 777 14TH STREET, NW WASHINGTON DC 20005	NATIONAL ASSN OF REALTORS
PETER A. A. BERLE, 950 THIRD AVENUE NEW YORK NY 10022	NATIONAL AUDUBON SOCIETY
WILLARD M. BERRY, 900 17TH STREET, NW, #514 WASHINGTON DC 20006	NATIONAL FOREIGN TRADE COUNCIL
BLACK MANAFORT STONE & KELLY, P.C., 324 NORTH FAIRFAX STREET ALEXANDRIA VA 22314	AMERICAN HEALTH CARE ASSN
Do	CHRYSLER - MITSUBISHI JOINT VENTURE
Do	DERECKTOR SHIPYARDS
Do	PUROLATOR COURIER
Do	U.N.I.T.A.
Do	U.S. LINES
BLUM NASH & RAILSBACK, 1133 15TH STREET, NW, #1100 WASHINGTON DC 20005	DIRECT MARKETING ASSN
Do	DISCLOSURE, INC
LARRY J. BOCCAROSSA, 460 TWIN CITY BANK BLDG. ONE RIVERFRONT PLACE NORTH LITTLE ROCK AR 72114	AMERICAN PETROLEUM INSTITUTE
BOGLE AND GATES, ONE THOMAS CIRCLE, NW, #900 WASHINGTON DC 20005	ALASKAN FACTORY TRAWLERS ASSN
WILLIAM F. BOLGER, THE POWER HOUSE 3255 GRACE STREET, NW WASHINGTON DC 20007	GRAY & CO PUBLIC COMMUNICATIONS INT'L, INC (FOR: KINGDOM OF MOROCCO)
M. L. BOSWELL, 1235 JEFFERSON DAVIS HIGHWAY, #500 ARLINGTON VA 22202	ITALIAN ADVANCED INDUSTRIES, INC
JAMES G. BOURIE, 4647 FORBES BOULEVARD LANHAM MD 20706	AMVETS
BRACEWELL & PATTERSON, 1825 EYE STREET, NW, #1200 WASHINGTON DC 20006	AMERICAN GAS ASSN
Do	GALLAGHER & BEAUMONT
WILLIAM C. BRASHARES, MINTZ LEVIN COHN FERRIS GLOVSKY & POPEO 1825 EYE ST., NW, #1201 WASHINGTON DC 20006	SMITH BARNEY HARRIS UPHAM & CO, INC
BREED ABBOTT & MORGAN, 1875 EYE ST., NW, #1000 WASHINGTON DC 20006	EMPIRE BLUE CROSS & BLUE SHIELD
BROADHURST BROOK MANGHAM & HARDY, 1730 PENNSYLVANIA AVE., NW, #300 WASHINGTON DC 20006	GNB, INC
BROOK ASSOCIATES, INC, 605 14TH STREET, NW, #405 WASHINGTON DC 20005	NORTHERN TEXTILE ASSN
BRYAN CAVE MCPHEETERS & MCROBERTS, 1015 15TH STREET, NW, #1000 WASHINGTON DC 20005	MILLER & CHEVALIER CHTD (FOR WESTERN SAVINGS & LOAN ASSN...)
BURSON-MARSTELLER, 1825 EYE ST., NW, #950 WASHINGTON DC 20006	BLUE CROSS BLUE SHIELD ASSN
Do	PENNSYLVANIA ECONOMIC DEVELOPMENT ASSN
Do	TEMPLE UNIVERSITY
CADES SCHUTTE FLEMING & WRIGHT, 740 WASHINGTON PARK BUILDING 1001 22ND STREET, NW WASHINGTON DC 20037	HAWAIIAN SUGAR PLANTERS' ASSN
THOMAS D. CAMPBELL & ASSOCIATES, INC, 517 QUEEN STREET ALEXANDRIA VA 22314	CYPRUS MINERALS CO
H. SPOFFORD CANFIELD, 1015 15TH STREET, NW, #900 WASHINGTON DC 20005	HNG/INTERNORTH
CAPITOL ASSOCIATES, INC, 1156 15TH STREET, NW, #1102 WASHINGTON DC 20005	NATIONAL ASSN OF PEDIATRIC NURSE ASSOCIATES & PRACTITIONERS
CAPLIN & DRYSDALE, CHTD, 1101 17TH ST., NW WASHINGTON DC 20036	GREGORY GOVERNMENT SECURITIES, INC
CASSIDY AND ASSOCIATES, INC, METROPOLITAN SQUARE 655 15TH ST., NW, #1100 WASHINGTON DC 20005	MOUNT SINAI MEDICAL CENTER
Do	O'CONNELL MANAGEMENT CO
Do	PYRAMID COMPANIES
Do	UNIVERSITY OF ALABAMA IN HUNTSVILLE
MARK A. CASSO, 1015 15TH STREET, NW, #802 WASHINGTON DC 20005	AMERICAN CONSULTING ENGINEERS COUNCIL
CHADBOURNE & PARKE, 1101 VERMONT AVENUE, NW WASHINGTON DC 20005	CATALYST ENERGY DEVELOPMENT CORP
Do	LAWSON MARDON GROUP LIMITED
MARK G. CHALPIN, 1735 NEW YORK AVENUE, NW WASHINGTON DC 20006	AMERICAN INSTITUTE OF ARCHITECTS
JOSEPH R. CHILD, 3328 GLENMORE DRIVE FALLS CHURCH VA 22041	ROBERT SCHNEIDER ASSOCIATES
CHWAT/WEIGEND ASSOCIATES, 400 FIRST STREET, NW, #816 WASHINGTON DC 20001	AMERICAN PIPE & ACCESSORIES LEAGUE (APAL)
CHARISSE VICTORIA CIAMBRONE, 2029 GRIFFITH AVENUE LAS VEGAS NV 89104	
DONALD D. CLANCY, 6507 LEEDS LANE CINCINNATI OH 45215	GROCERY MANUFACTURERS OF AMERICA, INC
MICHAEL R. CLEARY, P.O. BOX 23973 FT. LAUDERDALE FL 33307	
JACQUELINE W. CLEMENTS, 1015 15TH STREET, NW, #900 WASHINGTON DC 20005	HNG/INTERNORTH
CLIFFORD & WARNKE, 815 CONNECTICUT AVE., NW WASHINGTON DC 20006	J. C. MAXTONE-MAILER
Do	PROPRIETARY ASSOCIATION
COALITION FOR ALTERNATIVES IN NUTRITION & HEALTHCARE, INC, P.O. BOX B-12 RICHLANDTOWN PA 18955	
COLLIER SHANNON RILL & SCOTT, 1055 THOMAS JEFFERSON ST., NW, #308 WASHINGTON DC 20007	INLAND STEEL CO
Do	KAISER STEEL CORP
RICHARD CONTI, 15 COMPUTER DRIVE WEST ALBANY NY 12205	HOSPITAL ASSN OF NYS
PETER W. COOGAN, FOLEY HOAG & ELIOT ONE POST OFFICE SQUARE BOSTON MA 02109	MUTUAL SAVINGS CENTRAL FUND, INC
HOWARD LEE COOK JR., 1111 14TH STREET, NW WASHINGTON DC 20005	COOK AND BACHA (FOR: CONTRACTORS LIABILITY & INDEMNIFICATION ALLIANCE)
Do	COOK AND BACHA (FOR: METCOR, INC)
COORDINATING COMM FOR RAIL COMPETITION, 1511 K STREET, NW, #643 WASHINGTON DC 20005	
JOSEPH L. COPPOLA, 3600 S. YOSEMITE, #830 DENVER CO 80237	PUBLIC EMPLOYEES RETIREMENT ASSN OF COLORADO
Do	PURGATOIRE RIVER WATER CONSERVANCY DISTRICT
Do	UPPER YAMPA WATER CONSERVATION DISTRICT
JOHN J. CORBETT, SPIEGEL & MCDIARMID 1350 NEW YROK AVE., NW WASHINGTON DC 20005	COMMITTEE FOR FINANCING PUBLIC TRANSPORTATION FACILITIES
WILLIAM M. CORCORAN, 1100 15TH STREET, NW, #900 WASHINGTON DC 20005	PHARMACEUTICAL MANUFACTURERS ASSN
CORMAN LAW OFFICES, 1420 16TH STREET, NW WASHINGTON DC 20036	REPUBLIC NATIONAL BANK OF NEW YORK
CRAMER HABER & LUKIS, P.C., 818 CONNECTICUT AVE., NW WASHINGTON DC 20036	CITY OF MIAMI BEACH
Do	DEPARTMENT OF EDUCATION, STATE OF FLORIDA
WILLIAM C. CRAMER, 818 CONNECTICUT AVE., NW WASHINGTON DC 20006	CRAMER HABER & LUKIS, P.C. (FOR: CITY OF MIAMI BEACH)
Do	CRAMER HABER & LUKIS, P.C. (FOR: DEPARTMENT OF EDUCATION, STATE OF FLORIDA)
RICHARD C. CREIGHTON, 1331 PENNSYLVANIA AVE., NW, #910 WASHINGTON DC 20004	AMERICAN CEMENT TRADE ALLIANCE, INC
ANNE CRICHTON CREWS, 8787 STEMMONS FREEWAY DALLAS TX 75247	MARY KAY COSMETICS
CROWELL & MORING, 1100 CONNECTICUT AVE., NW WASHINGTON DC 20036	CENTRAL NEBRASKA PUBLIC POWER & IRRIGATION DISTRICT
Do	EMERY WORLDWIDE
Do	NEBRASKA PUBLIC POWER DISTRICT
CUMMINGS AND KERSHAW, P.C., ONE THOMAS CIRCLE, NW, #350 WASHINGTON DC 20005	LTV CORPORATION
NORMAN E. D'AMOURS, 1809 MELBOURNE DRIVE MCLEAN VA 22101	ALCALDE HENDERSON O'BANNON & ROUSSELOT
Do	CREDIT UNION NATIONAL ASSN, INC
Do	MARINE MIDLAND BANKS, INC
WILLIAM K. DABAGHI, ARTER & HADDEN 1919 PENNSYLVANIA AVE., NW, #400 WASHINGTON DC 20006	FARM CREDIT COUNCIL
STEPHEN J. DAIGLER, 1601 DUKE STREET ALEXANDRIA VA 22314	SOCIETY OF AMERICAN FLORISTS
LEWIS I. DALE, 1660 L STREET, NW, #401 WASHINGTON DC 20036	GENERAL MOTORS CORP
ROBERT C. DALY, 919 18TH STREET, NW, #600 WASHINGTON DC 20006	TOYOTA MOTOR SALES, USA, INC
JAMES H. DAVIDSON & ASSOCIATES, INC, 1250 CONNECTICUT AVE, NW, #650 WASHINGTON DC 20036	MAGAZINE PUBLISHERS ASSN
Do	NATIONAL ASSN OF INDUSTRIAL AND OFFICE PARKS
Do	ROUSE COMPANY
DAVIS & HARMAN, 655 15TH STREET, NW WASHINGTON DC 20005	BANKERS TRUST
Do	HILL COUNTRY LIFE INSURANCE CO
Do	LINCOLN LIFE IMPROVED HOUSING, INC

Organization or Individual Filing	Employer/Client
Do	NATIONAL ASSN OF LIFE COMPANIES
Do	SUNRISE COMPANY
DAVIS WRIGHT TODD RIESE & JONES, 1752 N ST., NW, #800 WASHINGTON DC 20036	GROCERY MANUFACTURERS OF AMERICA
DECHERT PRICE & RHOADS, 1730 PENNSYLVANIA AVENUE, NW, #1100 WASHINGTON DC 20006	TEMPLETON GROWTH FUND, LTD
DELANEY MIGDAIL & YOUNG, CHTD, 1629 K STREET, NW, #1000 WASHINGTON DC 20006	TRANSAMERICA INSURANCE SERVICES
RENE F. DEMARCO, 1511 K STREET, NW, #923 WASHINGTON DC 20005	SPORTS FANS OF AMERICA
WILLARD L. DEMORY, THE POWER HOUSE 3255 GRACE STREET, NW WASHINGTON DC 20007	GRAY & CO PUBLIC COMMUNICATIONS INT'L, INC (FOR: UNITED AIRLINES)
DEWEY BALLANTINE BUSHBY PALMER & WOOD, 1775 PENNSYLVANIA AVE., NW WASHINGTON DC 20006	CHRYSLER CORP
Do	HANSCHELL INNISS, LTD
Do	NATIONAL ASSN FOR HOME CARE
DICKINSON WRIGHT MOON VAN DUSEN & FREEMAN, 1901 L ST., NW, #801 WASHINGTON DC 20036	GARRETT CORP
DISTRICT OF COLUMBIA HOSPITAL ASSN, 1250 EYE STREET, NW, #700 WASHINGTON DC 20005	
PAUL M. DONOVAN, LAROE WINN & MOERMAN 1120 G STREET, NW, #800 WASHINGTON DC 20005	COORDINATING COMM FOR RAIL COMPETITION
DOW LOHNES & ALBERTSON, 1255 23RD ST., NW WASHINGTON DC 20037	BEEMAN AND GOULD
Do	ONTARIO MINISTRY OF INDUSTRY TRADE & TECHNOLOGY
MARGARET A. DURBIN, 1850 K STREET, NW WASHINGTON DC 20006	AMERICAN COUNCIL OF LIFE INSURANCE, INC
DAVID DURHAM, 777 14TH STREET, NW WASHINGTON DC 20005	NATIONAL ASSN OF REALTORS
DUTKO & ASSOCIATES, 412 FIRST ST., SE, #214 WASHINGTON DC 20003	MIGUEL H. AGOSTO
Do	AMERICAN CONSUMER TRADE COUNCIL
Do	SOUTHLAND CORP
DUNCAN DWELLE, ESPRIT 900 MINNESOTA AVENUE SAN FRANCISCO CA 94107	AMERICAN FAIR TRADE COUNCIL
ANDREAS W. EVANS, 2300 S. 9TH STREET, #104 ARLINGTON VA 22204	FEDERAL MANAGERS ASSN
MARCUS G. FAUST, 2121 K ST., NW, #880 WASHINGTON DC 20037	SIERRA PACIFIC POWER CO
JAMES L. FEELY, 1225 JEFFERSON DAVIS HIGHWAY ARLINGTON VA 22202	MCDONNELL DOUGLAS CORP
KENNETH E. FELTMAN, 1660 L STREET, NW, #715 WASHINGTON DC 20036	EMPLOYERS COUNCIL ON FLEXIBLE COMPENSATION
RANDOLPH FENNINGER, 10,000 FALLS ROAD, #306 POTOMAC MD 20854	AMERICAN GASTROENTEROLOGICAL ASSN
Do	AMERICAN SOC FOR GASTROINTESTINAL ENDOSCOPY
Do	AMERICAN UROLOGICAL ASSN/AMER ASSN OF CLINICAL UROLOGISTS
FENSTERWALD ALCORN & BOWMAN, P.C., 1000 WILSON BLVD., #900 ARLINGTON VA 22209	FRIENDS OF ANIMALS
FINLEY KUMBLE WAGNER HEINE UNDERBERG MANLEY & CASEY, 1120 CONNECTICUT AVE., NW, #465 WASHINGTON DC 20036	GROUP HOSPITALIZATION & MEDICAL SERVICES, INC
Do	TEL-OPTIK, LTD
DANIEL V. FLANAGAN JR., 12 THIRD STREET, NE WASHINGTON DC 20002	FLANAGAN & ASSOCIATES, INC (FOR: MEMORIAL SLOAN-KETTERING CANCER CENTER)
FLEISHMAN-HILLARD, INC, 1225 CONNECTICUT AVE., NW, #303 WASHINGTON DC 20036	ABILITY INFORMATION SYSTEMS--COMPUTER SOFTWARE
FOREMAN AND COMPANY, 1826 JEFFERSON PLACE, NW, #201 WASHINGTON DC 20036	AUDIO RECORDING RIGHTS COALITION
ALLAN M. FOX, 1575 I STREET, NW, #1150 WASHINGTON DC 20005	KAYE SCHOLER FIERMAN HAYS & HANDLER (FOR: NATIONAL COALITION FOR CANCER RESEARCH)
JAY A. FREDERICKSEN, ITT RAYONIER P.O. BOX C68967 SEATTLE WA 98188	ITT CORP
RONNA FREIBERG, THE POWER HOUSE 3255 GRACE STREET, NW WASHINGTON DC 20007	GRAY & CO PUBLIC COMMUNICATIONS INT'L, INC (FOR: KINGDOM OF MOROCCO)
Do	GRAY & CO PUBLIC COMMUNICATIONS INT'L, INC (FOR: TRANSIT AMERICA)
FRENCH & COMPANY, 1317 F ST., NW, #307 WASHINGTON DC 20004	ARTERY ORGANIZATION, INC
ANN LAKIN GARVER, 1101 CONNECTICUT AVE., NW, #300 WASHINGTON DC 20036	AMERICAN TEXTILE MANUFACTURERS INSTITUTE, INC
BRUCE A. GATES, 201 PARK WASHINGTON COURT FALLS CHURCH VA 22046	NATIONAL-AMERICAN WHOLESALE GROCERS' ASSN
FRED GEBLER, 1331 PENNSYLVANIA AVE., NW, #1300 WASHINGTON DC 20004	ELECTRONIC DATA SYSTEMS
GEOTHERMAL RESOURCES ASSN, 649 SOUTH OLIVE STREET, #500 LOS ANGELES CA 90014	
GERARD BYLER & ASSOCIATES, INC, 1100 17TH STREET, NW WASHINGTON DC 20036	SAN CARLOS APACHE TRIBE
GIBSON DUNN & CRUTCHER, 1050 CONNECTICUT AVENUE, NW WASHINGTON DC 20036	WHEELING-PITTSBURGH STEEL CORP
MARY ANN GILLEECE, 1713 MAPLE HILL PLACE ALEXANDRIA VA 22302	ALLIED DEFENSE INDUSTRIES
GINN EDINGTON MOORE & WADE, 803 PRINCE STREET ALEXANDRIA VA 22314	WATKINS ASSOCIATED INDUSTRIES, INC
DONNA GLEASON, 2000 L STREET, NW, #810 WASHINGTON DC 20036	SPERRY CORP
JEAN C. GODWIN, LAROE WINN & MOERMAN 1120 G STREET, NW, #800 WASHINGTON DC 20005	COORDINATING COMM FOR RAIL COMPETITION
GOLD & LIEBENGOOD, INC, 1050 CONNECTICUT AVENUE, NW, #980 WASHINGTON DC 20036	ALIGNPAC
Do	E.M. WARBURG, PINCUS & CO, INC
DAVID R. GOODE, 8 N. JEFFERSON STREET ROANOKE VA 24042	NORFOLK SOUTHERN CORP
ALAN W. GRANWELL, CADWALADER WICKERSHAM & TAFT 1333 NEW HAMPSHIRE AVE., NW WASHINGTON DC 20036	SQUIBB CORPORATION
NORMAN E. GRIMM JR., 8111 GATEHOUSE ROAD FALLS CHURCH VA 22047	AAA POTOMAC
JAMES N. GRONINGER, 777 14TH STREET, NW WASHINGTON DC 20005	NATIONAL ASSN OF REALTORS
GROOM & NORDBERG, CHTD, 1775 PENNSYLVANIA AVENUE, NW, #700 WASHINGTON DC 20006	AMERICAN PETROLEUM INSTITUTE
Do	PHYSICIANS MUTUAL INSURANCE CO
MARY SCOTT GUEST, 1919 PENNSYLVANIA AVE., NW, #800 WASHINGTON DC 20006	SOUTH CAROLINA STATE FAMILY FARM DEVELOPMENT AUTHORITY
DAN A. GUNDERSON, MINNESOTA PETROLEUM COUNCIL 386 N. WABASHA ST., #1025 ST. PAUL MN 55102	AMERICAN PETROLEUM INSTITUTE
HALE AND DORR, 1201 PENNSYLVANIA AVE., NW, #807 WASHINGTON DC 20004	FOOTWEAR INDUSTRIES OF AMERICA
GEORGE W. HALEY, 1511 K STREET, NW, #940 WASHINGTON DC 20005	GROCERY MANUFACTURERS OF AMERICA, INC
MICHAEL L. HALL, 1015 15TH STREET, NW, #201 WASHINGTON DC 20005	NATIONAL CORN GROWERS ASSN
PATRICIA L. HARMENING, 316 PENNSYLVANIA AVE., SE, #301 WASHINGTON DC 20003	SAN DIEGO GAS & ELECTRIC
JAMES N. HAUG, 55 E. ERIE STREET CHICAGO IL 60611	AMERICAN COLLEGE OF SURGEONS
BILL HECHT AND ASSOCIATES, INC, 499 SOUTH CAPITOL STREET, SE, #501 WASHINGTON DC 20003	AMERICAN GAS ASSN
Do	FOOTWEAR RETAILERS OF AMERICA
Do	GOVERNMENT OF THE REPUBLIC OF PANAMA
Do	HONG KONG TRADE DEVELOPMENT COUNCIL
HERON BURCHETTE RUCKERT & ROTHWELL, 1025 THOMAS JEFFERSON ST., NW, #700 WASHINGTON DC 20007	AEROJET GENERAL CORP
Do	CELLULAR TELECOMMUNICATIONS INDUSTRY ASSN
Do	G.C. SERVICES CORP
Do	GSF ENERGY, INC
Do	NTEC - NORTHEAST TEXAS ELECTRIC COOPERATIVE, INC
Do	PIEDMONT AVIATION, INC
Do	RICE GROWERS ASSN OF CALIFORNIA
Do	SAFECARD SERVICES, INC
Do	TIME ENERGY SYSTEMS, INC
Do	TRI/VALLEY GROWERS
Do	U.S. TELEPHONE ASSN
Do	WESTLANDS WATER DISTRICT
CAROL A. HIGGINS, 1600 M STREET, NW WASHINGTON DC 20036	INVESTMENT COMPANY INSTITUTE
VERN F. HIGHLEY, 1735 I STREET, NW, #716 WASHINGTON DC 20006	HIGHLEY DOLPHIN & BROCK (FOR: DOLPHIN GROUP AND DONALD E. BROCK)
WILLIAM H. HIGHSMITH JR., 1620 EYE STREET, NW WASHINGTON DC 20006	TONYA, INC (FOR: CITY OF PHILADELPHIA, PA AND CITY OF BIRMINGHAM, AL)
HEIDI A. HILTGEN, 1957 E STREET, NW WASHINGTON DC 20006	ASSOCIATED GENERAL CONTRACTORS OF AMERICA
STANLEY E. HILTON, LAROE WINN & MOERMAN 1120 G STREET, NW, #800 WASHINGTON DC 20005	COORDINATING COMM FOR RAIL COMPETITION
HOBBS STRAUS DEAN & WILDER, 1819 H ST., NW, #800 WASHINGTON DC 20006	MAKAH INDIAN TRIBE
HOGAN & HARTSON, 815 CONNECTICUT AVE., NW WASHINGTON DC 20006	INTERNATIONAL COMM OF PASSENGER LINES (ICPL)
NIELS C. HOLCH, THE POWER HOUSE 3255 GRACE STREET, NW WASHINGTON DC 20007	GRAY & CO PUBLIC COMMUNICATIONS INT'L, INC (FOR: KINGDOM OF MOROCCO)
HOLDEN KIDWELL HAHN & CRAPO, P.O. BOX 129 IDAHO FALLS ID 83402	BLAINE LARSEN, R. LAVON WALKER, MARTIN BROS PRODUCE, ET AL
HOLLAND & KNIGHT, 888 17TH ST., NW WASHINGTON DC 20006	FLORIDA DOWNTOWN DEVELOPMENT ASSN
DIANE S. HOLMES, 410 FIRST STREET, SE WASHINGTON DC 20003	AMERICAN NUCLEAR ENERGY COUNCIL
HUGHES HUBBARD & REED, 1201 PENNSYLVANIA AVE., NW, #300 WASHINGTON DC 20004	VIACOM INTERNATIONAL, INC
D. ERIC HULTMAN, VAN NESS FELDMAN SUTCLIFFE & CURTIS 1050 THOMAS JEFFERSON ST., NW, 7TH FL. WASHINGTON DC 20007	RECORDING INDUSTRY OF AMERICA
MILTON F. HUNTINGTON, MAINE PETROLEUM ASSN 283 WATER ST. AUGUSTA ME 04330	AMERICAN PETROLEUM INSTITUTE
HUNTON & WILLIAMS, 2000 PENNSYLVANIA AVE., NW WASHINGTON DC 20006	BERNSTEIN CARTER & DEYO
TOM IMESON, 920 S.W. SIXTH AVENUE 1400 PSB PORTLAND OR 97204	PACIFIC POWER & LIGHT CO
IVINS PHILLIPS & BARKER, CHTD, 1700 PENNSYLVANIA AVENUE, NW WASHINGTON DC 20006	SIR JAMES GOLDSMITH
Do	XEROX CORP
E. A. JAENKE & ASSOCIATES, INC, 777 14TH ST., NW, #666 WASHINGTON DC 20005	AGRICULTURAL EXPORT INITIATIVES
Do	FARM CREDIT COUNCIL
DANIEL L. JAFFE, 1725 K STREET, NW, #601 WASHINGTON DC 20006	ASSOCIATION OF NATIONAL ADVERTISERS
BRUCE JOHNSON, LAW OFFICES OF BRUCE JOHNSON 1718 CONNECTICUT AVE., NW WASHINGTON DC 20009	FIRST BOSTON CORP
PAUL W. JOHNSON, 1225 CONNECTICUT AVE., NW, #303 WASHINGTON DC 20036	FLEISHMAN-HILLARD, INC (FOR: ABILITY INFORMATION SYSTEMS--COMPUTER SOFTWARE)
JONES & WINBURN, 50 E STREET, SE WASHINGTON DC 20003	E&J GALLO WINERY
Do	R.J. REYNOLDS TOBACCO CO
ANTHONY L. JONES, 1620 EYE STREET, NW WAHSINGTON DC 20006	TONYA, INC (FOR: CITY OF PHILADELPHIA, PA AND CITY OF BIRMINGHAM, AL)
JONES DAY REAVIS & POGUE, 655 15TH ST., NW WASHINGTON DC 20005	EMBASSY OF THE PEOPLE'S REPUBLIC OF CHINA
Do	WESTINGHOUSE ELECTRIC CORP
JTL ENTERPRISES, LTD, 1101 KING STREET, #700 ALEXANDRIA VA 22314	
DENNIS R. KANIN, FOLEY HOAG & ELIOT ONE POST OFFICE SQUARE BOSTON MA 02109	MUTUAL SAVINGS CENTRAL FUND, INC
KAYE SCHOLER FIERMAN HAYS & HANDLER, 1575 I STREET, NW, #1150 WASHINGTON DC 20005	INTERNATIONAL MEDICAL CENTERS
Do	ITT CORPORATION

Organization or Individual Filing	Employer/Client
Do	LDX NET, INC
Do	NATIONAL COALITION FOR CANCER RESEARCH
BRIEN E. KEHOE, HILL BETTS & NASH 1818 N STREET, NW, #700 WASHINGTON DC 20036	WATERMAN STEAMSHIP CORP
KELEHER & MCLEOD, P.C., ONE THOMAS CIRCLE, NW, #325 WASHINGTON DC 20005	A&C BUILDING & INDUSTRIAL MAINTENANCE
Do	ALLIANCE OF AMERICAN INSURERS
Do	BEAR STEARNS & CO
Do	CHAMBERS ASSOCIATES, INC
Do	COALITION FOR JOBS GROWTH & INT'L COMPETITIVENESS
Do	CONTINENTAL HEALTH AFFILIATES
Do	CHARLIE CROWDER
Do	INTERNATIONAL RAW MATERIALS, LTD
Do	PENNZOIL CO
Do	PUBLIC SERVICE CO OF NEW MEXICO
G. CHANDLER KEYS III, 1301 PENNSYLVANIA AVENUE, NW, #300 WASHINGTON DC 20004	NATIONAL CATTLEMEN'S ASSN
KILPATRICK & CODY, SUITE 500 2501 M ST., NW WASHINGTON DC 20037	CHEMICAL FUELS CORP
Do	FURNITURE RENTAL ASSN OF AMERICA
ROBERTA D. KIMBALL, 729 15TH STREET, NW WASHINGTON DC 20005	ASSOCIATED BUILDERS & CONTRACTORS, INC
KING & SPALDING, 1730 PENNSYLVANIA AVE., NW, #1200 WASHINGTON DC 20006	ALABAMA STATE DOCKS DEPARTMENT
Do	DORCHESTER PARTNERS
Do	MATRA-US, INC
Do	MILLIKEN & CO
Do	ROBERT W. WOODRUFF ESTATE
JANIE A. KINNEY, BLUM NASH & RAILSBACK 1133 15TH STREET, NW, #1100 WASHINGTON DC 20005	DISCLOSURE, INC
KIRKLAND & ELLIS, 655 15TH STREET, NW WASHINGTON DC 20005	AMALGAMATED SUGAR CO
Do	KEYSTONE CONSOLIDATED INDUSTRIES, INC
Do	T.I.M.E.-DC, INC
KENNETH KLEIN, CADWALADER WICKERSHAM & TAFT 1333 NEW HAMPSHIRE AVE., NW WASHINGTON DC 20036	FEDERATION OF AMERICAN CONTROLLED SHIPPING
KNIGHTS OF COLUMBUS, COLUMBUS PLAZA NEW HAVEN CT 06507	
RAYMOND P. KOGOVSEK, 3600 S. YOSEMITE, #830 DENVER CO 80237	COLORADO-UTE ELECTRIC ASSN, INC
Do	PUBLIC EMPLOYEES RETIREMENT ASSN OF COLORADO
Do	PURGATOIRE RIVER WATER CONSERVANCY DISTRICT
Do	UPPER YAMPA WATER CONSERVANCY DISTRICT
RONALD W. KOSH, 8111 GATEHOUSE ROAD FALLS CHURCH VA 22047	AAA POTOMAC
MOON LANDRIEU, 717 GIROD STREET NEW ORLEANS LA 70130	MAINSTREETS COALITION
LEACH BIESTY & MCGREEVY, 1919 PENNSYLVANIA AVE., NW WASHINGTON DC 20006	WASHINGTON PSYCHIATRIC SOCIETY
LEBOEUF LAMB LEIBY & MACRAE, 1333 NEW HAMPSHIRE AVE., NW, #1100 WASHINGTON DC 20036	GENERAL CONF OF THE 7TH DAY ADVENTIST CHURCH RISK MGT SVCS
GERARD LAVERY LEDERER, 1620 EYE STREET, NW WASHINGTON DC 20006	TONYA, INC (FOR: CITY OF PHILADELPHIA, PA AND CITY OF BIRMINGHAM, AL)
LEFF & MASON, 1700 PENNSYLVANIA AVE., NW, #450 WASHINGTON DC 20006	COUNTY OF ORANGE
Do	ORANGE COUNTY TRANSPORTATION COMMISSION
Do	ORANGE COUNTY WATER DISTRICT
Do	SANTA ANA RIVER FLOOD PROTECTION AGENCY
PETER A. LEFKIN, 1025 CONNECTICUT AVENUE, NW, #415 WASHINGTON DC 20036	AMERICAN INSURANCE ASSN
LESLIE A. LEHMANN, 111 SW COLUMBIA, #800 PORTLAND OR 97201	NERCO, INC
LEHRFELD & HENZKE, P.C., 1301 PENNSYLVANIA AVE., NW, #1110 WASHINGTON DC 20004	KNIGHTS OF COLUMBUS
DAVID A. LEWIS, 1601 CONNECTICUT AVE., NW, #800 WASHINGTON DC 20009	PHYSICIANS FOR SOCIAL RESPONSIBILITY
LUKENS, INC, 50 SOUTH FIRST AVENUE COATESVILLE PA 19320	
SYLVESTER LUKIS, 818 CONNECTICUT AVE., NW WASHINGTON DC 20006	CRAMER HABER & LUKIS, P.C. (FOR: CITY OF MIAMI BEACH)
Do	CRAMER HABER & LUKIS, P.C. (FOR: DEPARTMENT OF EDUCATION, STATE OF FLORIDA)
MICHAEL L. LUNCEFORD, 8787 STEMMONS FREEWAY DALLAS TX 75247	MARY KAY COSMETICS, INC
LYNG AND LESHER, INC, 517 C STREET, NE WASHINGTON DC 20002	FARM CREDIT COUNCIL
JAMES N. MAGILL, 200 MARYLAND AVENUE, NE WASHINGTON DC 20002	VETERANS OF FOREIGN WARS OF THE U.S.
DANIEL C. MALDONADO, 10000 FALLS RD., #306 POTOMAC MD 20854	NATIONAL HEMOPHILIA FOUNDATION
MANATT PHELPS ROTHENBERG TUNNEY & EVANS, 1200 NEW HAMPSHIRE AVE., NW, #200 WASHINGTON DC 20036	EMPIRE BLUE CROSS & BLUE SHIELD
MARLOWE & COMPANY, 655 15TH STREET, NW, #300 WASHINGTON DC 20005	UNION CARBIDE CORP
HOWARD MARLOWE, 655 15TH STREET, NW, #300 WASHINGTON DC 20005	GRAPHIC COMMUNICATIONS INT'L UNION
DONALD F. MASSEY, THE POWER HOUSE 3255 GRACE STREET, NW WASHINGTON DC 20007	GRAY & CO PUBLIC COMMUNICATIONS INTL, INC (FOR: REPUBLIC OF KOREA)
DAWSON MATHIS & ASSOCIATES, 1800 M STREET, NW, #950 NORTH WASHINGTON DC 20036	CONSUMERS POWER CO
DAWSON MATHIS, 1800 M STREET, NW, #950 NORTH WASHINGTON DC 20036	DAWSON MATHIS & ASSOCIATES (FOR: CONSUMERS POWER CO)
MAYER BROWN & PLATT, 2000 PENNSYLVANIA AVENUE, NW, #6500 WASHINGTON DC 20006	BANK OF AMERICA
Do	CHEMICAL BANK
Do	CITIBANK, N.A.
Do	CONTINENTAL ILLINOIS NAT'L BANK & TRUST CO
Do	COPELAND COMPANIES
Do	LASALLE PARTNERS, INC
Do	NATIONAL ASSN OF BROADCAST EMPLOYEES & TECHNICIANS
JULIE P. MCCAHILL, 1101 16TH STREET, NW WASHINGTON DC 20036	NATIONAL SOFT DRINK ASSN
JOHN D. MCCALLUM, 1900 PENNSYLVANIA AVE., NW WASHINGTON DC 20068	POTOMAC ELECTRIC POWER CO
HUGH T. MCCORMICK, 520 MADISON AVENUE NEW YORK NY 10022	GENERAL CONF OF THE 7TH DAY ADVENTISTS CHURCH RISK MGT SVCS
MCDERMOTT WILL & EMERY, 1850 K ST., NW, #500 WASHINGTON DC 20006	BANKS OF IOWA
Do	BERRY HOLDING CO
JAMES E. MCINERNEY JR., 122 C STREET, NW, #740 WASHINGTON DC 20001	AMERICAN LEAGUE FOR EXPORTS & SECURITY ASSISTANCE, INC
NEIL T. MESSICK, 1331 PENNSYLVANIA AVE., NW WASHINGTON DC 20004	GENERAL ELECTRIC CO
LARRY D. MEYERS, 412 FIRST STREET, SE WASHINGTON DC 20003	AMERICAN BEEKEEPING FEDERATION
Do	TEXAS PRODUCTION CREDIT ASSN
HARRIS MILLER & ASSOCIATES, 1655 N. FORT MYER DR., #700 ARLINGTON VA 22209	EQUITY GROUP
MARYE T. MILLER, 114 3RD STREET, SE WASHINGTON DC 20003	RAY F. BRAGG, INC (FOR: AMERICAN INDEPENDENT REFINERS ASSN)
JOSEPH G. MINISH, 66 SHERIDAN AVENUE WEST ORANGE NJ 07052	BAYAMON FEDERAL SAVINGS
Do	CHRYSLER CORPORATION
JUDITH MOREHOUSE, 1700 N. MOORE STREET ROSSLYN VA 22209	BOEING COMPANY
MORGAN LEWIS & BOCKIUS, SUITE 800 NORTH 1800 M ST., NW WASHINGTON DC 20036	ARTERY ORGANIZATION, INC
LORETTA C. MORRIS, 1725 K STREET, NW, #814 WASHINGTON DC 20006	MARCH OF DIMES BIRTH DEFECTS FOUNDATION
MORRISON & FOERSTER, 2000 PENNSYLVANIA AVE., NW WASHINGTON DC 20006	COMMUNITY REDEVELOPMENT AGENCIES ASSN
COLLEEN T. MORROW, 676 FOURTH STREET, NE WASHINGTON DC 20002	AMERICANS FOR TAX REFORM
DANIEL J. MURPHY, THE POWER HOUSE 3255 GRACE STREET, NW WASHINGTON DC 20007	GRAY & CO PUBLIC COMMUNICATIONS INT'L, INC (FOR: KINGDOM OF MOROCCO)
MURRAY & SCHEER, 2550 M ST., NW, #695 WASHINGTON DC 20037	SHUBERT ORGANIZATION, INC
NATIONAL CORN GROWERS ASSN, 1015 15TH STREET, NW, #201 WASHINGTON DC 20005	
NATIONAL DISHOWNERS ASSN, 4107 MORGAN ROAD CERES CA 95307	
NATIONAL STRATEGIES & MARKETING GROUP, 1919 PENNSYLVANIA AVE., NW, #704 WASHINGTON DC 20006	ALLIANCE FOR CAPITAL ACCESS
NEILL & COMPANY, INC, 900 17TH ST., NW, #400 WASHINGTON DC 20006	REPUBLIC OF GABON
NEILL MULLENHOLZ SHAW & SEEGER, 900 17TH ST., NW, #400 WASHINGTON DC 20006	SOO LINE CORPORATION
DOUGLAS J. NEILSON, 8111 GATEHOUSE ROAD FALLS CHURCH VA 22047	AAA POTOMAC
MARK NESTLEN, 1616 H STREET, NW WASHINGTON DC 20006	NATIONAL GRANGE
DAVID F. NORCROSS, 2201 STATE HIGHWAY 38 CHERRY HILL NJ 08002	PITTSBURGH & LAKE ERIE RAILROAD CO
GROVER G. NORQUIST, 718 NORTH CAROLINA AVE., SE WASHINGTON DC 20003	AMERICANS FOR TAX REFORM
O'CONNOR & HANNAN, 1919 PENNSYLVANIA AVE., NW, #800 WASHINGTON DC 20006	EASTERN MICHIGAN UNIVERSITY
Do	EMPLOYERS COUNCIL ON FLEXIBLE COMPENSATION
Do	KAWASAKI KISEN KAISHA, LTD
BARTLEY M. O'HARA, 1919 PENNSYLVANIA AVE., NW, #300 WASHINGTON DC 20006	GROCERY MANUFACTURERS OF AMERICA, INC
MICHAEL A. O'MALLEY, 4647 FORBES BOULEVARD LANHAM MD 20706	AMVETS
WAYNE OWENS, 800 KENNECOTT BUILDING SALT LAKE CITY UT 84133	CHARTER NATIONAL LIFE INSURANCE CO
Do	UTAH POWER & LIGHT CO
PAGONIS & DONNELLY GROUP, 1120 CONNECTICUT AVE., NW, #335 WASHINGTON DC 20036	ALGOMA STEEL CORP, LTD, ET AL
Do	BROWN BOVERI CORP
Do	DOW CHEMICAL U.S.A.
Do	HARRAH'S
Do	HOLIDAY CORP
Do	NORD RESOURCES CORP
CINDY GRANT PALLATINO, 1101 VERMONT AVENUE, NW, #405 WASHINGTON DC 20005	A. H. ROBINS CO
JULEY R. PARA, 3238 WYNFORD DRIVE FAIRFAX VA 22031	U.S. DEFENSE COMMITTEE
NANCY L. PARKE, 729 15TH STREET, NW WASHINGTON DC 20005	ASSOCIATED BUILDERS & CONTRACTORS, INC
DAVID N. PARKER, 1111 19TH STREET, NW WASHINGTON DC 20036	EDISON ELECTRIC INSTITUTE
JOSEPH R. PARROTT JR., ITT RAYONIER, INC 5526-D OLD NATIONAL HIGHWAY COLLEGE PARK GA 30349	ITT CORP
JOHN V. PARZIALE, 1800 M STREET, NW WASHINGTON DC 20036	MARATHON OIL CO

Organization or Individual Filing	Employer/Client
RONALD W. PATES, 1625 MASSACHUSETTS AVE., NW, #202 WASHINGTON DC 20036	INDEPENDENT BANKERS ASSN OF AMERICA
PATTON BOGGS & BLOW, 2550 M ST., NW, #800 WASHINGTON DC 20037	AIR PRODUCTS & CHEMICALS, INC
Do	ALUMINUM COMPANY OF AMERICA
Do	AT&T
Do	FIDELITY INVESTORS
Do	FORD MOTOR CO
Do	GTE CORP
Do	JOHNSON & JOHNSON
Do	SHELL OIL CO
Do	SMOKELESS TOBACCO COUNCIL
Do	UNION CAMP CORP
Do	UNION PACIFIC CORPORATION
PAUL WEISS RIFKIND WHARTON & GARRISON, 1615 L STREET, NW WASHINGTON DC 20036	KOREA IRON & STEEL ASSN
ENDICOTT PEABODY LAW OFFICES, 71 SPIT BROOK ROAD NASHUA NH 03060	WALKER/URQUHART
PEARSON AND PIPKIN, INC, 422 FIRST STREET, SE, #208 WASHINGTON DC 20003	EMBASSY OF SOUTH AFRICA
RONALD PEARSON, 422 FIRST STREET, SE, #208 WASHINGTON DC 20003	EMBASSY OF SOUTH AFRICA
PEOPLE FOR THE AMERICAN WAY ACTION FUND, 1424 16TH STREET, NW, #601 WASHINGTON DC 20036	
PEYSER ASSOCIATES, INC, 1000 POTOMAC STREET, NW WASHINGTON DC 20007	BASIX CORP
Do	DEPARTMENT OF PUBLIC PROPERTY
Do	METROPOLITAN TOLEDO CONSORTIUM
Do	METROPOLITAN TRANSIT AUTHORITY
Do	METRO
Do	REGIONAL TRANSIT AUTHORITY
Do	SACRAMENTO REGIONAL TRANSIT
Do	SOUTHEASTERN PENNSYLVANIA TRANSIT AUTHORITY
PIERSON BALL & DOWD, 1200 18TH ST., NW WASHINGTON DC 20036	STEWART & STEVENSON SERVICES, INC
PILLSBURY MADISON & SUTRO, 1667 K ST., NW, #1100 WASHINGTON DC 20006	PFIZER, INC
ROBERT PIPKIN, 422 FIRST STREET, SE, #208 WASHINGTON DC 20003	EMBASSY OF SOUTH AFRICA
REUBEN C. PLANTICO, 111 SW COLUMBIA, #800 PORTLAND OR 97201	NERCO, INC
RONALD L. PLESSER, BLUM NASH & RAILSBACK 1015 18TH ST., NW, #408 WASHINGTON DC 20036	DIRECT MARKETING ASSN
Do	DISCLOSURE, INC
JOHN A. POINDEXTER, 3805 WEST ALABAMA HOUSTON TX 77027	COLUMBIA GULF TRANSMISSION CO
MARC R. POIRIER, SPIEGEL & MCDIARMID 1350 NEW YORK AVE., NW WASHINGTON DC 20005	NORTHERN CALIFORNIA POWER AGENCY, ET AL.
JEAN S. POLATSEK, 1919 PENNSYLVANIA AVE., NW, #300 WASHINGTON DC 20006	AMERICAN COLLEGE OF SURGEONS
CAROL JEAN POULOS, 122 C STREET, NW, #800 WASHINGTON DC 20001	CONCERNED WOMEN FOR AMERICA
POWELL GOLDSTEIN FRAZER & MURPHY, 1110 VERMONT AVE., NW, #1050 WASHINGTON DC 20005	JACQUES BOREL ENTERPRISES, INC
PRESTON THORGRIMSON ELLIS & HOLMAN, 1735 NEW YORK AVENUE, NW, #500 WASHINGTON DC 20006	GLEN FREIE
SUE P. PURVIS, P.O. BOX 14042(D2B) ST. PETERSBURG FL 33733	FLORIDA PROGRESS CORP
ROBERT H. QUINN, QUINN AND MORRIS ONE STATE STREET BOSTON MA 02109	PHILLIPS PETROLEUM
W. A. RADZIEWICZ, 400 FIRST STREET, NW WASHINGTON DC 20001	BROTHERHOOD OF RAILROAD SIGNALMEN
MAGGY H. RALBOVSKY, 1101 15TH STREET, NW, #400 WASHINGTON DC 20005	NATIONAL COUNCIL OF SAVINGS INSTITUTIONS
REID & PRIEST, 1111 19TH STREET, NW WASHINGTON DC 20036	PEOPLE EXPRESS AIRLINES, INC
KATHLEEN REINBURG, 2000 P STREET, NW, #305 WASHINGTON DC 20036	FORESIGHT SCIENCE & TECHNOLOGY, INC (FOR: SOCIETY FOR AMERICAN ARCHAEOLOGY)
DAVID M. REPASS, 1801 K STREET, NW, #700 WASHINGTON DC 20006	PRICE WATERHOUSE (FOR: EAGLE-PICHER INDUSTRIES, INC)
MARY ANNE REYNOLDS, 8111 GATEHOUSE ROAD FALLS CHURCH VA 22047	AAA POTOMAC
GERALD L. RICHMAN, LAROE WINN & MOERMAN 1120 G STREET, NW, #800 WASHINGTON DC 20005	COORDINATING COMM FOR RAIL COMPETITION
RIDDELL HOLROYD & BUTLER, 1331 PENNSYLVANIA AVENUE, NW, #1215 WASHINGTON DC 20004	H. F. AHMANSON & CO
JOHN F. RING, 25 LOUISIANA AVENUE, NW WASHINGTON DC 20001	INTERNATIONAL BROTHERHOOD OF TEAMSTERS
RIVKIN RADLER DUNNE & BAYH, 1575 I STREET, NW, #1025 WASHINGTON DC 20005	ALC COMMUNICATIONS CORP
LIZ ROBBINS ASSOCIATES, 132 D STREET, SE WASHINGTON DC 20003	COMMITTEE FOR FINANCING PUBLIC TRANSPORTATION FACILITIES
Do	MABON NUGENT & CO
Do	NEDERLANDER ORGANIZATION
Do	THOMSON MCKINNON SECURITIES, INC
ROGERS & WELLS, 1737 H STREET, NW WASHINGTON DC 20006	ASSOCIATED PRESS
Do	CANDLE CORP
Do	MERRILL LYNCH & CO, INC
Do	RUTGERS, THE STATE UNIV OF NEW JERSEY
MICHAEL F. ROSANIO, 1620 I STREET, NW, #1000 WASHINGTON DC 20006	MOTOR VEHICLE MANUFACTURERS ASSN OF THE U.S., INC
RAOUL L. ROSENBERG, 1601 CONNECTICUT AVE., NW, #800 WASHINGTON DC 20009	PHYSICIANS FOR SOCIAL RESPONSIBILITY
RUSSO WATTS ROLLINS & PLATT, INC, 1033 N. FAIRFAX STREET, #205 ALEXANDRIA VA 22314	LOUIS F. BEECHREL JR.
Do	RUSS BERRIE & CO, INC
Do	SEARS ROEBUCK & CO
Do	U.C. CONSULTANTS, INC
PAUL R. SACIA, SUITE 202, WEST WING 600 MARYLAND AVENUE, SW WASHINGTON DC 20024	FARMERS' EDUCATIONAL & CO-OPERATIVE UNION OF AMERICA
JOHN K. SAGE, ONE POST STREET, #3275 SAN FRANCISCO CA 94104	MCKESSON CORP
DAVID W. SANASACK, 2300 S. 9TH ST., #104 ARLINGTON VA 22204	FEDERAL MANAGERS ASSN
ROBERT V. SCHNEIDER, 3328 GLENMORE DRIVE FALLS CHURCH VA 22041	TELESCIENCES CORP
LEONARD SCHNEIDMAN, FOLEY HOAG & ELIOT ONE POST OFFICE SQUARE BOSTON MA 02109	MUTUAL SAVINGS CENTRAL FUND, INC
PAUL SCHOELLHAMER, 888 17TH STREET, NW WASHINGTON DC 20003	REPUBLIC AIRLINES
NANCY L. SCHOENIG, 25 LOUISIANA AVENUE, NW WASHINGTON DC 20001	INTERNATIONAL BROTHERHOOD OF TEAMSTERS
SCHWABE WILLIAMSON WYATT MOORE & ROBERTS, SUITE 302 1000 POTOMAC ST., NW WASHINGTON DC 20007	PUBLIC GENERATING POOL
ALAN R. SCHWARTZ, BLUM NASH & RAILSBACK 1133 15TH STREET, NW, #1100 WASHINGTON DC 20005	DISCLOSURE, INC
JAMES L. SCOTT, 1919 PENNSYLVANIA AVE., NW, #703 WASHINGTON DC 20006	AMERICAN HEALTHCARE INSTITUTE
SCRIVENS GOLDSTONE & CO, 5857 S. GESSNER, #287 HOUSTON TX 77036	
GEORGE H. SEIDEL JR., ASSOCIATED PETROLEUM INDUSTRIES OF PA P.O. BOX 925 HARRISBURG PA 17108	AMERICAN PETROLEUM INSTITUTE
BERNRAD M. SHAPIRO, 1801 K STREET,NW, #700 WASHINGTON DC 20006	PRICE WATERHOUSE (FOR: EAGLE-PICHER INDUSTRIES, INC)
DANIEL E. SHAUGHNESSY, 1008 N. RANDOLPH ST., #206 ARLINGTON VA 22201	
SHAW PITTMAN POTTS & TROWBRIDGE, 1800 M ST., NW, #900-S WASHINGTON DC 20036	AMERICANS FOR TAX REFORM
Do	KNIGHTS OF COLUMBUS
SHEA & GOULD, 1627 K ST., NW WASHINGTON DC 20006	MARS, INC
JOHN TERRY SHIVELY, BOX 101758 ANCHORAGE AK 99510	ALASKA FED OF NATIVES
WILLIAM A. SIGNER, 444 NO. CAPITOL ST., NW, #711, WASHINGTON DC 20001	KEEFE CO (FOR: COMMITTEE FOR EMPLOYMENT OPPORTUNITIES)
Do	KEEFE CO (FOR: SECURITIES INDUSTRY ASSN OF PUERTO RICO)
STEVE SILVER, ROBERTSON MONAGLE EASTAUGH & BRADLEY 21 DUPONT CIRCLE, NW WASHINGTON DC 20036	BOLLINGER MACHINE SHOP & SHIPYARD, INC
Do	BRISTOL BAY NATIVE CORP
MARSHA J. SIMON, 1334 G ST., NW, 3RD FL. WASHINGTON DC 20005	VILLERS ADVOCACY ASSOCIATES (PHILIPPE VILLERS)
SKADDEN ARPS SLATE MEAGHER & FLOM, 919 18TH STREET, NW WASHINGTON DC 20006	REVLON, INC
ROBERT G. SLAUGHTER, 2501 M ST., NW, #540 WASHINGTON DC 20037	AMOCO CORPORATION
SMITH DAWSON ASSOCIATES, INC, 1000 CONNECTICUT AVE., NW, #304 WASHINGTON DC 20036	CITY OF EUGENE, OREGON
Do	COLORADO DEPT OF LABOR
Do	POWER PACKAGING, INC
JOHN M. SNYDER, 600 PENNSYLVANIA AVE., S.E. SUITE 205 WASHINGTON DC 20003	CITIZENS COMM FOR THE RIGHT TO KEEP & BEAR ARMS
WALLACE S. SNYDER, 1400 K STREET, NW, #1000 WASHINGTON DC 20005	AMERICAN ADVERTISING FEDERATION
ALAN C. SOBBA, 1301 PENNSYLVANIA AVE., NW, #300 WASHINGTON DC 20004	NATIONAL CATTLEMEN'S ASSN
ROBERTA LEE SORENSEN, 1101 VERMONT AVE., NW, #604 WASHINGTON DC 20000	COLLEGE OF AMERICAN PATHOLOGISTS
RAMONA C. STELFORD, 1818 N STREET, NW WASHINGTON DC 20036	DGA INTERNATIONAL, INC (FOR: SOCIETE NATIONALE D'ETUDE ET DE CONSTRUCTION DE MOTEURS...)
STROOCK & STROOCK & LAVAN, 1150 17TH ST., NW WASHINGTON DC 20036	U S WEST, INC
RICHARD J. SULLIVAN, 1225 CONNECTICUT AVE., NW, #303 WASHINGTON DC 20036	FLEISHMAN-HILLARD, INC (FOR: ABILITY INFORMATION SYSTEMS--COMPUTER SOFTWARE)
SUTHERLAND ASBILL & BRENNAN, 1666 K STREET, NW, #800 WASHINGTON DC 20006	AMERICAN BAR ENDOWMENT
Do	CRUM & FORSTER
JOSEPH B. SWANNER & ASSOCIATES, 500 SOUTH CONGRESS, #118 AUSTIN TX 78704	
ALAN TANK, 1015 15TH STREET, NW, #201 WASHINGTON DC 20005	NATIONAL CORN GROWERS ASSN
MARGARET J. TAYLOR, 1050 CONNECTICUT AVE., NW WASHINGTON DC 20036	BURLINGTON NORTHERN, INC
TECHLAW - AICA, 12030 SUNRISE VALLEY DRIVE, #200 RESTON VA 22091	
THACHER PROFFITT & WOOD, SUITE 512 1140 CONNECTICUT AVE., NW WASHINGTON DC 20036	ENSIGN SAVINGS BANK
ELLEN DOWD THOMPSON, 1010 WISCONSIN AVENUE WASHINGTON DC 20007	GROCERY MANUFACTURERS OF AMERICA, INC
MARILYN A. BERRY THOMPSON, 444 NORTH CAPITOL STREET, #711 WASHINGTON DC 20001	KEEFE COMPANY (FOR: AMERICAN BUSINESS COALITION)
Do	KEEFE COMPANY (FOR: CARTERET SAVINGS & LOAN)
Do	KEEFE COMPANY (FOR: CORDISH & EMBRY ASSOCIATES)
Do	KEEFE COMPANY (FOR: ESSEX COMPANY)
Do	KEEFE COMPANY (FOR: MUTUAL BENEFIT INSURANCE CO)
Do	KEEFE COMPANY (FOR: NEW YORK UNIVERSITY)

Organization or Individual Filing	Employer/Client
Do	PRECISION CONVERSION & RECOVERY/ENVIROCARE
Do	KEEFE COMPANY (FOR: UNIVERSITY OF MEDICINE & DENTISTRY OF NEW JERSEY)
MARGARET A. THOMSON, 1730 K STREET, NW, #700 WASHINGTON DC 20006	ECONOMICS LABORATORY, INC
G. WAYNE TINGLE, 1725 JEFFERSON DAVIS HIGHWAY, #900 ARLINGTON VA 22202	LTV AEROSPACE & DEFENSE CO
FRANCIS M. TIVNAN, MASSACHUSETTS PETROLEUM COUNCIL 11 BEACON STREET BOSTON MA 02108	AMERICAN PETROLEUM INSTITUTE
TONYA, INC, 1620 EYE STREET, NW WASHINGTON DC 20006	CITY OF PHILADELPHIA, PA AND CITY OF BIRMINGHAM, AL
JEFFREY B. TRAMMELL, 3255 GRACE STREET, NW WASHINGTON DC 20007	GRAY & CO PUBLIC COMMUNICATIONS INT'L, INC (FOR: KINGDOM OF MOROCCO)
PAUL E. TSONGAS, FOLEY HOAG & ELIOT ONE POST OFFICE SQUARE BOSTON MA 02109	HUMANE SOC OF THE U.S. AND M.S.P.C.A.
Do	MUTUAL SAVINGS CENTRAL FUND, INC
S. DIANE TURPIN, 1919 PENNSYLVANIA AVE., NW, #300 WASHINGTON DC 20006	AMERICAN COLLEGE OF SURGEONS
VAN NESS FELDMAN SUTCLIFFE & CURTIS, P.C., 7TH FLOOR 1050 THOMAS JEFFERSON ST., NW WASHINGTON DC 20007	CLEAN ENERGY COALITION
Do	STATE OF LOUISIANA - DEPT OF NATURAL RESOURCES
Do	TRANQUILLITY IRRIGATION DISTRICT
KARL VANVEEN, 1957 E STREET, NW WASHINGTON DC 20006	ASSOCIATED GENERAL CONTRACTORS OF AMERICA
VARIABLE ANNUITY LIFE INS CO, 2929 ALLEN PARKWAY HOUSTON TX 77019	
VERNER LIIPFERT BERNHARD MCPHERSON & HAND, CHTD, 1660 L STREET, NW, #1000 WASHINGTON DC 20036	ASSOCIATED FERRARI DEALERS OF NORTH AMERICA
JOHN VERONIKAS, P.O. BOX 888, UNIT E ASHLAND KY 41101	NEW GENERATION LOBBY
Do	
VINSON & ELKINS, 1101 CONNECTICUT AVE., NW, #900 WASHINGTON DC 20036	CANADIAN BANK NOTE CO, LTD
Do	CONWOOD CORP
Do	GLENDINNING COMPANIES OF CONNECTICUT, INC
Do	GUARDIAN SAVINGS & LOAN
Do	MERRILL LYNCH & CO, INC
Do	PACIFIC TEXAS PIPELINE TRANSPORTATION CO
Do	SHEARSON LEHMAN/AMERICAN EXPRESS, INC
JESSE S. VOGTLE, 600 NORTH 18TH STREET BIRMINGHAM AL 35291	ALABAMA POWER CO
HENRY SCOTT WALLACE, 1815 H STREET, NW, #550 WASHINGTON DC 20006	NATIONAL ASSN OF CRIMINAL DEFENSE LAWYERS
KEVIN WALSH, P.O. BOX 15232 WASHINGTON DC 20003	ASSOCIATION FOR THE ADVANCEMENT OF HISTORICAL RESEARCH
WASHINGTON RESOURCES AND STRATEGY, INC, 220 EYE STREET, NE WASHINGTON DC 20002	AMERICAN NUCLEAR ENERGY COUNCIL
JOHN L. WATSON III, ONE WORLD TRADE CENTER, #4511 NEW YORK NY 10048	NATIONAL SECURITY TRADERS ASSN
WEBSTER & SHEFFIELD, 1200 NEW HAMPSHIRE AVE., NW, #350 WASHINGTON DC 20036	MAZDA MOTOR MANUFACTURING (USA) CORP
WEIL GOTSHAL & MANGES, 1101 14TH ST., NW WASHINGTON DC 20005	ALL-INDUSTRY COMMITTEE
PAUL S. WELLER JR., AGRI/WASHINGOTN 1629 K ST., NW, #1100 WASHINGTON DC 20006	AMERICAN SOC OF COMPOSERS AUTHORS & PUBLISHERS
WELLFORD WEGMAN KRULWICH & HOFF, 1775 PENNSYLVANIA AVE., NW, #450 WASHINGTON DC 20006	COALITION TO SAVE REVENUE SHARING
Do	LONG LAKE ENERGY CORP
WEXLER REYNOLDS HARRISON & SCHULE, INC, SUITE 600 1317 F STREET, NW WASHINGTON DC 20004	BLUE CROSS & BLUE SHIELD ASSN
SAM WHITE, 412 FIRST STREET, SE WASHINGTON DC 20003	AMERICAN BEEKEEPING FEDERATION
Do	TEXAS PRODUCTION CREDIT ASSN
WILLIAM R. WHITE, BRICKER & ECKLER 888 17TH STREET, NW, #1050 WASHINGTON DC 20006	COUNCIL FOR LABOR MANAGEMENT COOPERATION
ANDREW F. WIESSNER, 3600 SOUTH YOSEMITE, #830 DENVER CO 80237	KOGOVSEK & ASSOCIATES
WILKINSON BARKER KNAUER & QUINN, 1735 NEW YORK AVE., NW WASHINGTON DC 20006	METROPOLITAN LIFE & AFFILIATED COMPANIES
J. MICHAEL WILLARD, WILLARD & ARNOLD COMMUNICATIONS 405 CAPITOL ST., #809 CHARLESTON WV 25301	NORFOLK SOUTHERN CORP
HARDING DEC WILLIAMS, 1101 15TH STREET, NW, #400 WASHINGTON DC 20005	NATIONAL COUNCIL OF SAVINGS INSTITUTIONS
WILLKIE FARR & GALLAGHER, 818 CONNECTICUT AVENUE, NW WASHINGTON DC 20036	U S WEST, INC
WINSTON & STRAWN, #500 2550 M ST., NW WASHINGTON DC 20037	INTERNATIONAL BOUTIQUE, INC
WINTHROP STIMSON PUTNAM & ROBERTS, 1155 CONNECTICUT AVE., NW, #1000 WASHINGTON DC 20036	SINGER CO
ROBERT V. WITECK, THE POWER HOUSE 3255 GRACE STREET, NW WASHINGTON DC 20007	GRAY & CO PUBLIC COMMUNICATIONS INT'L, INC (FOR: KINGDOM OF MOROCCO)
S.R. WOJDAK AND ASSOCIATES, INC, 1401 WALNUT ST., #1000 PHILADELPHIA PA 19102	HEALTH AMERICA CORP
BERNARD WOLFMAN, C/O FOLEY HOAG & ELIOT ONE POST OFFICE SQUARE BOSTON MA 02109	MUTUAL SAVINGS CENTRAL FUND, INC
STEVEN M. WORTH, 3255 GRACE ST., NW THE POWER HOUSE WASHINGTON DC 20007	GRAY & CO PUBLIC COMMUNICATIONS INT'L, INC (FOR: KINGDOM OF MOROCCO)
THANE YOUNG, THE FERGUSON COMPANY 1875 EYE STREET, NW WASHINGTON DC 20006	CITY OF ALHAMBRA
Do	CITY OF BALDWIN PARK
Do	CITY OF INGLEWOOD
Do	CITY OF NORWALK
Do	CITY OF OCEANSIDE
Do	CITY OF PROVO
Do	CITY OF REDONDO BEACH
Do	CITY OF SOUTH SALT LAKE
Do	IMPERIAL IRRIGATION DISTRICT
Do	IRVINE COMPANY
Do	LONG BEACH TRANSIT
Do	MARITIME CENTER AT NORWALK
Do	SANTA CRUZ PROPERTIES, INC
ZANECKI LALLY & MCDONOUGH, 8100 PROFESSIONAL PL., #113 LANDOVER MD 20785	JTL ENTERPRISES, LTD

QUARTERLY REPORTS*

*All alphanumeric characters and monetary amounts refer to receipts and expenditures on page 2, paragraphs D and E of the Quarterly Report Form.

The following quarterly reports were submitted for the fourth calendar quarter 1985:

(NOTE.—The form used for reporting is reproduced below. In the interest of economy in the RECORD, questions are not repeated, only the essential answers are printed, and are indicated by their respective headings.)

FILE ONE COPY WITH THE SECRETARY OF THE SENATE AND FILE TWO COPIES WITH THE CLERK OF THE HOUSE OF REPRESENTATIVES:

This page (page 1) is designed to supply identifying data; and page 2 (on the back of this page) deals with financial data.

PLACE AN "X" BELOW THE APPROPRIATE LETTER OR FIGURE IN THE BOX AT THE RIGHT OF THE "REPORT" HEADING BELOW:

"PRELIMINARY" REPORT ("Registration"): To "register," place an "X" below the letter "P" and fill out page 1 only.

"QUARTERLY" REPORT: To indicate which one of the four calendar quarters is covered by this Report, place an "X" below the appropriate figure. Fill out both page 1 and page 2 and as many additional pages as may be required. The first additional page should be numbered as page "3," and the rest of such pages should be "4," "5," "6," etc. Preparation and filing in accordance with instructions will accomplish compliance with all quarterly reporting requirements of the Act.

Year: 19.....

REPORT

PURSUANT TO FEDERAL REGULATION OF LOBBYING ACT

P	QUARTER			
	1st	2d	3d	4th
(Mark one square only)				

NOTE ON ITEM "A".—(a) IN GENERAL. This "Report" form may be used by either an organization or an individual, as follows:
(i) "Employee".—To file as an "employee", state (in Item "B") the name, address, and nature of business of the "employer". (If the "employee" is a firm [such as a law firm or public relations firm], partners and salaried staff members of such firm may join in filing a Report as an "employee".)
(ii) "Employer".—To file as an "employer", write "None" in answer to Item "B".
(b) SEPARATE REPORTS. An agent or employee should not attempt to combine his Report with the employer's Report:
(i) Employers subject to the Act must file separate Reports and are not relieved of this requirement merely because Reports are filed by their agents or employees.
(ii) Employees subject to the Act must file separate Reports and are not relieved of this requirement merely because Reports are filed by their employers.

A. ORGANIZATION OR INDIVIDUAL FILING:
1. State name, address, and nature of business.

2. If this Report is for an Employer, list names of agents or employees who will file Reports for this Quarter.

NOTE ON ITEM "B".—*Reports by Agents or Employees.* An employee is to file, each quarter, as many Reports as he has employers, except that: (*a*) If a particular undertaking is jointly financed by a group of employers, the group is to be considered as one employer, but all members of the group are to be named, and the contribution of each member is to be specified; (*b*) if the work is done in the interest of one person but payment therefor is made by another, a single Report—naming both persons as "employers"—is to be filed each quarter.

B. EMPLOYER.—State name, address, and nature of business. If there is no employer, write "None."

NOTE ON ITEM "C".—(*a*) The expression "in connection with legislative interests," as used in this Report, means "in connection with attempting, directly or indirectly, to influence the passage or defeat of legislation." "The term 'legislation' means bills, resolutions, amendments, nominations, and other matters pending or proposed in either House of Congress, and includes any other matter which may be the subject of action by either House"—§ 302(e).
(*b*) Before undertaking any activities in connection with legislative interests, organizations and individuals subject to the Lobbying Act are required to file a "Preliminary" Report (Registration).
(*c*) After beginning such activities, they must file a "Quarterly" Report at the end of each calendar quarter in which they have either received or expended anything of value in connection with legislative interests.

C. LEGISLATIVE INTERESTS, AND PUBLICATIONS in connection therewith:

1. State approximately how long legislative interests are to continue. If receipts and expenditures in connection with legislative interests have terminated, ☐ place an "X" in the box at the left, so that this Office will no longer expect to receive Reports.

2. State the general legislative interests of the person filing and set forth the *specific* legislative interests by reciting: (*a*) Short titles of statutes and bills; (*b*) House and Senate numbers of bills, where known; (*c*) citations of statutes, where known; (*d*) whether for or against such statutes and bills.

3. In the case of those publications which the person filing has caused to be issued or distributed in connection with legislative interests, set forth: (*a*) Description, (*b*) quantity distributed; (*c*) date of distribution, (*d*) name of printer or publisher (if publications were paid for by person filing) or name of donor (if publications were received as a gift).

(Answer items 1, 2, and 3 in the space below. Attach additional pages if more space is needed)

4. If this is a "Preliminary" Report (Registration) rather than a "Quarterly" Report, state below what the nature and amount of anticipated expenses will be; and if for an agent or employee, state also what the daily, monthly, or annual rate of compensation is to be. If this is a "Quarterly" Report, disregard this item "C4" and fill out items "D" and "E" on the back of this page. Do not attempt to combine a "Preliminary" Report (Registration) with a "Quarterly" Report.

AFFIDAVIT

[Omitted in printing]

PAGE 1

NOTE ON ITEM "D."—(a) *In General.* The term "contribution" includes *anything of value.* When an organization or individual uses printed or duplicated matter in a campaign attempting to influence legislation, money received by such organization or individual—for such printed or duplicated matter—is a "contribution." "The term 'contribution' includes a gift, subscription, loan, advance, or deposit of money, or anything of value, and includes a contract, promise, or agreement, whether or not legally enforceable, to make a contribution"—Section 302(a) of the Lobbying Act.

(b) IF THIS REPORT IS FOR AN EMPLOYER.—(i) *In General.* Item "D" is designed for the reporting of all receipts from which expenditures are made, or will be made, in accordance with legislative interests.

(ii) *Receipts of Business Firms and Individuals.*—A business firm (or individual) which is subject to the Lobbying Act by reason of expenditures which it makes in attempting to influence legislation—but which has no funds to expend except those which are available in the ordinary course of operating a business not connected in any way with the influencing of legislation—will have no receipts to report, even though it does have expenditures to report.

(iii) *Receipts of Multipurpose Organizations.*—Some organizations do not receive any funds which are to be expended solely for the purpose of attempting to influence legislation. Such organizations make such expenditures out of a general fund raised by dues, assessments, or other contributions. The percentage of the general fund which is used for such expenditures indicates the percentage of dues, assessments, or other contributions which may be considered to have been paid for that purpose. Therefore, in reporting receipts, such organizations may specify what that percentage is, and report their dues, assessments, and other contributions on that basis. However, each contributor of $500 or more is to be listed, regardless of whether the contribution was made solely for legislative purposes.

(c) IF THIS REPORT IS FOR AN AGENT OR EMPLOYEE.—(i) *In General.* In the case of many employees, all receipts will come under Items "D 5" (received for services) and "D 12" (expense money and reimbursements). In the absence of a clear statement to the contrary, it will be presumed that your employer is to reimburse you for all expenditures which you make in connection with legislative interests.

(ii) *Employer as Contributor of $500 or More.*—When your contribution from your employer (in the form of salary, fee, etc.) amounts to $500 or more, it is not necessary to report such contribution under "D 13" and "D 14," since the amount has already been reported under "D 5," and the name of the "employer" has been given under Item "B" on page 1 of this report.

D. RECEIPTS (INCLUDING CONTRIBUTIONS AND LOANS):

Fill in every blank. If the answer to any numbered item is "None," write "None" in the space following the number.

Receipts (other than loans)

1. $.....Dues and assessments
2. $.....Gifts of money or anything of value
3. $.....Printed or duplicated matter received as a gift
4. $.....Receipts from sale of printed or duplicated matter
5. $.....Received for services (e.g., salary, fee, etc.)
6. $.....TOTAL for this Quarter (Add items "1" through "5")
7. $.....Received during previous Quarters of calendar year
8. $.....TOTAL from Jan. 1 through this Quarter (Add "6" and "7")

Loans Received

"The term 'contribution' includes a . . . *loan* . . ."—Sec. 302(a).

9. $.....TOTAL now owed to others on account of loans
10. $.....Borrowed from others during this Quarter
11. $.....Repaid to others during this Quarter

12. $.....Expense money" and Reimbursements received this Quarter

Contributors of $500 or more
(from Jan. 1 through this Quarter)

13. Have there been such contributors?

Please answer "yes" or "no": .....

14. In the case of each contributor whose contributions (including loans) during the "period" from January 1 through the last days of this Quarter total $500 or more:

Attach hereto plain sheets of paper, approximately the size of this page, tabulate data under the headings "Amount" and "Name and Address of Contributor"; and indicate whether the last day of the period is March 31, June 30, September 30, or December 31. Prepare such tabulation in accordance with the following example:

Amount	*Name and address of Contributor*
	(*"Period"* from Jan. 1 through....., 19.....)
$1,500.00	John Doe, 1621 Blank Bldg., New York, N.Y.
$1,785.00	The Roe Corporation, 2511 Doe Bldg., Chicago, Ill.
$3,285.00	TOTAL

NOTE ON ITEM "E".—(a) *In General.* "The term 'expenditure' includes a payment, distribution, loan, advance, deposit, or gift of money or anything of value, and includes a contract, promise, or agreement, whether or not legally enforceable, to make an expenditure"—Section 302(b) of the Lobbying Act.

(b) IF THIS REPORT IS FOR AN AGENT OR EMPLOYEE. In the case of many employees, all expenditures will come under telephone and telegraph (Item "E 6") and travel, food, lodging, and entertainment (Item "E 7").

E. EXPENDITURES (INCLUDING LOANS) in connection with legislative interests:

Fill in every blank. If the answer to any numbered item is "None," write "None" in the spaces following the number.

Expenditures (other than loans)

1. $.....Public relations and advertising services
2. $.....Wages, salaries, fees, commissions (other than item "1")
3. $.....Gifts or contributions made during Quarter
4. $.....Printed or duplicated matter, including distribution cost
5. $.....Office overhead (rent, supplies, utilities, etc.)
6. $.....Telephone and telegraph
7. $.....Travel, food, lodging, and entertainment
8. $.....All other expenditures
9. $.....TOTAL for this Quarter (Add "1" through "8")
10. $.....Expended during previous Quarters of calendar year
11. $.....TOTAL from January 1 through this Quarter (Add "9" and "10")

Loans Made to Others

"The term 'expenditure' includes a . . . *loan* . . ."—Sec. 302(b).

12. $.....TOTAL now owed to person filing
13. $.....Lent to others during this Quarter
14. $.....Repayment received during this Quarter

15. Recipients of Expenditures of $10 or More

In the case of expenditures made during this Quarter by, or on behalf of the person filing: Attach plain sheets of paper approximately the size of this page and tabulate data as to expenditures under the following heading: "Amount," "Date or Dates," "Name and Address of Recipient," "Purpose." Prepare such tabulation in accordance with the following example:

Amount	*Date or Dates—Name and Address of Recipient—Purpose*
$1,750.00	7-11: Roe Printing Co., 3214 Blank Ave., St. Louis, Mo.—Printing and mailing circulars on the "Marshbanks Bill."
$2,400.00	7-15, 8-15, 9-15: Britten & Blaten, 3127 Gremlin Bldg., Washington, D.C.—Public relations service at $800.00 per month.
$4,150.00	TOTAL

Organization or Individual Filing	Employer/Client	Receipts	Expenditures
ROBERT J. AAGRE, 1615 H STREET, NW WASHINGTON DC 20062	CHAMBER OF COMMERCE OF THE U.S.	115.00	24.00
JULIE ABBOT, 2030 M STREET, NW WASHINGTON DC 20036	COMMON CAUSE	5,375.04	568.50
PAUL C. ABENANTE, 3RD FLOOR 1111 14TH ST., NW WASHINGTON DC 20005	AMERICAN BAKERS ASSN	314.03	2.00
THOMAS G. ABERNETHY SR., 3973 STUART PLACE JACKSON MS 39211	U.S. CANE SUGAR REFINERS' ASSN	166.66	161.16
ABLONDI & FOSTER, P.C., 1776 K STREET, NW, #606 WASHINGTON DC 20006	TAIWAN TEXTILE FEDERATION	14,000.00	2,658.29
ELAINE ACEVEDO, 1601 DUKE STREET ALEXANDRIA VA 22314	SOCIETY OF AMERICAN FLORISTS	8,000.00	
ACTION FOR CHILDREN'S TELEVISION, 46 AUSTIN ST. NEWTONVILLE MA 02160		49,818.45	447.06
ACTION, INC, 333 PENNSYLVANIA AVE., SE WASHINGTON DC 20003	AMERICAN INDIAN HIGHER EDUCATION CONSORTIUM		
JOHN J. ADAMS, 2000 PENNSYLVANIA AVE., NW, #900 WASHINGTON DC 20006	ETHYL CORPORATION	920.00	
Do	VEPCO		
ADAMS QUACKENBUSH HERRING & STUART, P.O. BOX 394 COLUMBIA SC 29202	U.S. CAPITAL CORP	1,000.10	47.60
SAM ADAMS, 600 MARYLAND AVE., SW, #700 WASHINGTON DC 20024	NATIONAL FED OF INDEPENDENT BUSINESS	375.57	200.00
THOMAS L. ADAMS JR., 1201 PENNSYLVANIA AVE., NW WASHINGTON DC 20004	AMERICAN SOCIETY OF ANESTHESIOLOGISTS	990.00	
HOBSON H. ADCOCK, 700 ANDERSON HILL RD. PURCHASE NY 10577	PEPSICO, INC		
ROBERT O. ADERS, 1750 K STREET, NW WASHINGTON DC 20006	FOOD MARKETING INSTITUTE	200.00	
TERRANCE M. ADLHOCK, 1111 19TH ST., NW, #303 WASHINGTON DC 20036	SOUTHERN CALIFORNIA EDISON CO	2,000.00	1,500.00
AEROSPACE INDUSTRIES ASSN OF AMERICA, INC, 1725 DESALES ST., NW WASHINGTON DC 20036		16,910.34	16,910.34
AGENDAS INTERNATIONAL, 820 SECOND AVENUE, #1302 NEW YORK NY 10017	MINISTERIO DEL EXTERIOR, REPUBLIC OF NICARAGUA		
SAMUEL J. AGGER, 1818 N STREET, NW WASHINGTON DC 20036	DGA INTERNATIONAL, INC (FOR: SNECMA)		
ROBERT S. AGMAN, 100 INDIANA AVE., NW WASHINGTON DC 20001	LABOR MANAGEMENT MARITIME COMMITTEE, INC	1,436.00	111.66
CREIGH H. AGNEW, 1625 EYE STREET, NW, #902 WASHINGTON DC 20006	WEYERHAEUSER COMPANY		
DAVID J. AHO, 1090 VERMONT AVENUE, NW WASHINGTON DC 20005	AMERICAN HOSPITAL SUPPLY CORP	2,000.00	170.00
HERBERT ALLEN AILSWORTH, 1615 L STREET, NW, #420 WASHINGTON DC 20036	SANDOZ, INC		62.00
AIR CONDITIONING & REFRIGERATION INSTITUTE, 1501 WILSON BLVD. ARLINGTON VA 22209			1,700.86
AIR PRODUCTS & CHEMICALS, INC, 1730 PENNSYLVANIA AVE., NW, #265 WASHINGTON DC 20006			
AIR TRAFFIC CONTROL ASSN, INC, 2020 NORTH 14TH STREET, #410 ARLINGTON VA 22201			
RANDOLF H. AIRES, 633 PENNSYLVANIA AVENUE, NW, #600 WASHINGTON DC 20004	SEARS ROEBUCK & CO	3,000.00	17.00
MICHAEL A. AISENBERG, 1331 PENNSYLVANIA AVE., NW, #600 WASHINGTON DC 20004	DIGITAL EQUIPMENT CORPORATION	13,750.00	
AKER ASSOCIATES, INC, 1341 G STREET, NW, #202 WASHINGTON DC 20005	INDEPENDENT REFINERS COALITION	4,146.00	1,394.38
DONNA A. AKERS, 1800 M STREET, NW, #700 SOUTH WASHINGTON DC 20036	DOW CHEMICAL CO		
AKIN GUMP STRAUSS HAUER & FELD, 1333 NEW HAMPSHIRE AVE., NW, #400 WASHINGTON DC 20036	ADLER & SHAYKIN	450.00	
Do	AIR FREIGHT ASSOCIATION		
Do	AMERADA HESS CORPORATION	575.00	10.00
Do	AMERICAN INTERNATIONAL GROUP, INC		
Do	AMERICAN TELEPHONE & TELEGRAPH CO	900.00	19.00
Do	ARCHER DANIELS MIDLAND COMPANY	1,500.00	38.00
Do	ATCOR, INC		
Do	BENEFICIAL CORPORATION	1,000.00	19.00
Do	CAPITAL MARKETS GROUP	12,500.00	240.00
Do	CELANESE CORPORATION	5,650.00	114.00
Do	COALITION OF SERVICE INDUSTRIES, INC	475.00	
Do	COMMITTEE AGAINST NETWORK DOMINANCE		
Do	CONTINENTAL AIRLINES		
Do	E & J GALLO WINERY	2,260.00	38.00
Do	EMBASSY OF PEOPLE'S REPUBLIC OF CHINA	400.00	
Do	FAIR MARKETING COALITION	650.00	
Do	FARM CREDIT BANKS OF SPRINGFIELD	12,853.00	240.00
Do	FRUPAC INTERNATIONAL CORP		
Do	GEICO CORPORATION	450.00	
Do	GENERAL MOTORS CORP	4,900.00	95.00
Do	GOLDMAN SACHS & CO		
Do	GULF & WESTERN INDUSTRIES, INC	3,650.00	76.00
Do	INTERNATIONAL ASSN OF AUDITORIUM MANAGERS	950.00	19.00
Do	INTERNATIONAL TAXI ASSN	80.00	
Do	PETER KIEWIT SONS', INC	1,200.00	19.00
Do	KOHLBERG KRAVIS ROBERTS & CO	1,425.00	19.00
Do	LEVI STRAUSS & CO	6,150.00	114.00
Do	LONE STAR INDUSTRIES, INC		
Do	LONE STAR STEEL CO	1,550.00	38.00
Do	MARRIOTT CORP		
Do	MESA PETROLEUM CO	1,900.00	38.00
Do	METROPOLITAN TRANSIT AUTHORITY OF HARRIS COUNTY	6,300.00	114.00
Do	MILITARY ACCESSORIES SERVICE ASSN, INC		
Do	MORGAN STANLEY & CO, INC	23,250.00	430.00
Do	MOTION PICTURE ASSN OF AMERICA, INC	4,375.00	76.00
Do	NATIONAL FOOTBALL LEAGUE	12,300.00	228.00
Do	NEDERLANDER THEATRES	1,400.00	19.00
Do	NEW YORK AIR		
Do	NORTH COUNTY RESOURCE RECOVERY ASSN	600.00	19.00
Do	PRAIRIE PRODUCING CO	800.00	19.00
Do	PUROLATOR, INC	3,400.00	57.00
Do	RAUSCHER PIERCE REFSNES, INC		
Do	RINGLING BROS BARNUM & BAILEY COMBINED SHOWS, INC		
Do	SOUTHERN CALIFORNIA EDISON CO	4,200.00	76.00
Do	TEXACO, INC		
Do	TEXAS AIR CORPORATION	1,100.00	19.00
Do	TIPPERARY CORP		
Do	WEBER HALL SALE & ASSOCIATES, INC		
Do	WERTHEIM & CO	800.00	
Do	WESTERN GOVERNORS POLICY OFFICE	450.00	
Do	ZALE CORPORATION		
ALASKA PULP CORP, C/O JAMES F. CLARK 240 MAIN ST., #800 BOX 1211 JUNEAU AK 99802			2,600.00
JAMES J. ALBERTINE, 1575 EYE STREET, NW WASHINGTON DC 20005	AMERICAN SOC OF ASSN EXECUTIVES	300.00	
FREDERICK K. ALDERSON, 1730 M STREET, NW, #607 WASHINGTON DC 20036	ARIZONA PUBLIC SERVICE COMPANY	750.00	655.10
C. EDDIE ALDRETE, P.O. BOX 9527 AUSTIN TX 78766	TEXAS AGRICULTURAL COOPERATIVE COUNCIL		
DONALD C. ALEXANDER, CADWALADER WICKERSHAM & TAFT 1333 NEW HAMPSHIRE AVE., NW WASHINGTON DC 20036	AIR TRANSPORT ASSN OF AMERICA	25.00	
Do	ALIGNPAC	187.50	
Do	AMERICAN FINANCIAL CORP		
Do	BALDWIN-UNITED CORPORATION		
Do	BECHTEL GROUP, INC		
Do	DISABLED AMERICAN VETERANS		
Do	EASTERN AIR LINES, INC		
Do	GETTY SYNTHETIC FUELS, INC	50.00	
Do	PEPSICO	12.50	
Do	SCOTT PAPER CO	37.50	
KAREN D. ALEXANDER, 1615 H STREET, NW WASHINGTON DC 20062	CHAMBER OF COMMERCE OF THE U.S.	815.00	
ROGER N. ALLBEE, P O BOX 141, SPRINGFIELD, MA 01102	FARM CREDIT BANKS OF SPRINGFIELD	1,200.00	800.00
MAXTON ALLCOX, 400 FIRST ST., NW, RM 801 WASHINGTON DC 20001	BROTHERHOOD OF MAINTENANCE OF WAY EMPLOYES	14,373.81	
DOROTHY D. ALLEN, 1615 H STREET, NW WASHINGTON DC 20062	CHAMBER OF COMMERCE OF THE U.S.	25.00	
ROBERT G. ALLEN, 511 C STREET, NE WASHINGTON DC 20002	C.A.R.E.		
ALLIANCE AGAINST HANDGUNS, P.O. BOX 75700 WASHINGTON DC 20013			
ALLIANCE OF AMERICAN INSURERS, 1501 WOODFIELD ROAD, #400 WEST SCHAUMBURG IL 60195			10,682.40
ALLIANCE TO SAVE ENERGY, 1925 K STREET, NW, #507 WASHINGTON DC 20006			552.79
ALLTEL CORPORATION, 100 EXECUTIVE PARKWAY HUDSON OH 44236			768.00
JOSEPH C. ALLWARDEN, 220 DANIEL WEBSTER HWY SOUTH MERRIMACK NH 03054	KOLLSMAN INSTRUMENT CO		
HARVEY ALTER, 1615 H STREET, NW WASHINGTON DC 20062	U.S. CHAMBER OF COMMERCE	3,200.00	
MICHAEL J. ALTIER, 1000 CONNECTICUT AVENUE, NW WASHINGTON DC 20036	NATIONAL RETAIL MERCHANTS ASSN	200.00	20.00
THOMAS H. ALTMEYER, 1575 I STREET, NW, #525 WASHINGTON DC 20005	MINING & RECLAMATION COUNCIL OF AMERICA	3,000.00	25.00
RICARDO R. ALVARADO, 2550 M STREET, NW, #600 WASHINGTON DC 20037	SIGNAL COMPANIES, INC	2,883.71	
SUSAN E. ALVARADO, 1771 N STREET, NW WASHINGTON DC 20036	NATIONAL ASSN OF BROADCASTERS	1,500.00	2,750.30
AMALGAMATED TRANSIT UNION, AFL-CIO, 5025 WISCONSIN AVENUE, NW WASHINGTON DC 20016			8,000.00
AMALGAMATED TRANSIT UNION, NATL CAP DIV. 689, 2001 9TH STREET, NW, #300 WASHINGTON DC 20001			
ROBERT P. AMBROSE, 14615 LONE OAK ROAD EDEN PRAIRIE MN 55344	COOPERATIVE POWER ASSOCIATION	3,000.00	781.88

Organization or Individual Filing	Employer/Client	Receipts	Expenditures
AMERICAN ACADEMY OF FAMILY PHYSICIANS, 1740 WEST 92ND ST. KANSAS CITY MO 64114		12,978.83	12,978.83
AMERICAN ADVERTISING FEDERATION, 1400 K STREET, NW, #1000 WASHINGTON DC 20005			2,511.50
AMERICAN ASSN FOR COUNSELING AND DEVELOPMENT, 5999 STEVENSON AVENUE ALEXANDRIA VA 22304		37,460.67	24,154.60
AMERICAN ASSN OF EQUIPMENT LESSORS, 1300 NORTH 17TH ST., #1010 ARLINGTON VA 22209			
AMERICAN ASSN OF MEAT PROCESSORS, P.O. BOX 269 ELIZABETHTOWN PA 17022		684.45	89.75
AMERICAN ASSN OF PORT AUTHORITIES, INC, 1010 DUKE ST. ALEXANDRIA VA 22314			12,000.00
AMERICAN AUTOMOBILE ASSN, 8111 GATEHOUSE RD. FALLS CHURCH VA 22047			
AMERICAN BANKERS ASSN, 1120 CONNECTICUT AVENUE, NW WASHINGTON DC 20036		44,501.24	44,501.24
AMERICAN CAMPING ASSOCIATION, BRADFORD WOODS MARTINSVILLE IN 46151		5,511.17	5,540.65
AMERICAN COUNCIL FOR CAPITAL FORMATION, 1850 K STREET, NW, #520 WASHINGTON DC 20006		1,928.00	5,278.00
AMERICAN COUNCIL OF LIFE INSURANCE, INC, 1850 K ST., NW WASHINGTON DC 20006			16,044.61
AMERICAN FARM BUREAU FED, 225 TOUHY AVE PARK RIDGE IL 60068		107,385.00	107,385.00
AMERICAN FED OF LABOR & CONGRESS OF INDUSTRIAL ORGANIZATIONS, 815 16TH ST., NW WASHINGTON DC 20006			139,939.53
AMERICAN FEED INDUSTRY ASSN, 1701 N. FT. MYER DR. ARLINGTON VA 22209		3,240.00	3,240.00
AMERICAN FINANCIAL SERVICES ASSN, 1101 14TH ST., NW WASHINGTON DC 20005			1,625.00
AMERICAN FROZEN FOOD INST, 1700 OLD MEADOW RD., #100 MCLEAN VA 22102		6,000.00	6,000.00
AMERICAN HEALTH CARE ASSN, 1200 15TH STREET, NW WASHINGTON DC 20005		212,098.20	40,424.77
AMERICAN HELLENIC INSTITUTE PUBLIC AFFAIRS COMMITTEE, 1730 K ST., NW WASHINGTON DC 20006			
AMERICAN HONEY PRODUCERS ASSN, P.O. BOX 368 MINCO OK 73059		4,480.00	8,318.75
AMERICAN HOSPITAL ASSN, 840 N. LAKE SHORE DR. CHICAGO IL 60611		34,162.83	34,162.83
AMERICAN HOTEL & MOTEL ASSN, 888 SEVENTH AVE. NEW YORK NY 10019		20,970.93	12,827.15
AMERICAN INSTITUTE OF MERCHANT SHIPPING, 1000 16TH STREET, NW, #511 WASHINGTON DC 20036			
AMERICAN INSURANCE ASSN, 85 JOHN ST. NEW YORK NY 10038		5,994.00	5,994.00
AMERICAN ISRAEL PUBLIC AFFAIRS COMM, 500 N. CAPITOL ST., NW, #300 WASHINGTON DC 20001		123,343.00	119,606.63
AMERICAN LAND TITLE ASSN, 1828 L ST., NW WASHINGTON DC 20036			4,253.00
AMERICAN LEAGUE FOR EXPORTS & SECURITY ASSISTANCE, 122 C ST., NW, #740 WASHINGTON DC 20001		8,000.00	7,976.39
AMERICAN LIBRARY ASSN, 50 E. HURON ST. CHICAGO IL 60611		4,590.90	6,216.82
AMERICAN LOGISTICS ASSOCIATION, 1133 15TH STREET, NW, #500 WASHINGTON DC 20005			500.00
AMERICAN MALTING BARLEY ASSN, INC, 735 NORTH WATER STREET, #908 MILWAUKEE WI 53202			
AMERICAN MEAT INSTITUTE, PO BOX 3556 WASHINGTON DC 20007			6,500.00
AMERICAN MEDICAL ASSN, 535 NORTH DEARBORN ST. CHICAGO IL 60610		1,045.00	49,628.90
AMERICAN MEDICAL CARE & REVIEW ASSN, 5410 GROSVENOR LANE, #210 BETHESDA MD 20814			
AMERICAN MEDICAL PEER REVIEW ASSN, 440 FIRST STREET, NW, #510 WASHINGTON DC 20001			
AMERICAN METAL DETECTOR MANUFACTURERS' ASSN, 2814 NATIONAL DR. GARLAND TX 75401			
AMERICAN MOVERS CONFERENCE, 2200 MILL ROAD ALEXANDRIA VA 22314			2,734.00
AMERICAN NEWSPAPER PUBLISHERS ASSN, BOX 17407 DULLES INTERNATIONAL AIRPORT WASHINGTON DC 20041		5,420.69	5,420.69
AMERICAN NUCLEAR ENERGY COUNCIL, 410 1ST ST., SE WASHINGTON DC 20003		12,634.71	60,383.39
AMERICAN NURSES' ASSN, 2420 PERSHING RD KANSAS CITY MO 64108		27,806.52	27,806.52
AMERICAN OPTOMETRIC ASSN, C/O DR. JOHN D. TUMBLIN 600 MARYLAND AVENUE, SW, #400E WASHINGTON DC 20024		129.76	997.16
AMERICAN ORTHOTIC AND PROSTHETIC ASSN, 717 PENDLETON ST. ALEXANDRIA VA 22314			
AMERICAN PAPER INSTITUTE, INC, 260 MADISON AVE. NEW YORK NY 10016			8,247.74
AMERICAN PETROLEUM INSTITUTE, 1220 L ST., NW WASHINGTON DC 20037		265,806.92	346,604.41
AMERICAN PHYSICAL THERAPY ASSN, 1111 N. FAIRFAX ST. ALEXANDRIA VA 22314		5,700.49	5,700.49
AMERICAN PODIATRIC MEDICAL ASSN, 20 CHEVY CHASE CIRCLE WASHINGTON DC 20015			19,532.95
AMERICAN POSTAL WORKERS UNION, AFL-CIO, 817 14TH ST., NW WASHINGTON DC 20005		86,559.95	100,400.25
AMERICAN PUBLIC TRANSIT ASSN, 1225 CONNECTICUT AVE., NW WASHINGTON DC 20036		71,142.00	71,142.00
AMERICAN PULPWOOD ASSN, 1025 VERMONT AVENUE, NW WASHINGTON DC 20005			
AMERICAN RETREADERS' ASSN, P.O. BOX 17203 LOUISVILLE KY 40217		1,000.00	1,000.00
AMERICAN SEED TRADE ASSN, 1030 15TH STREET, NW, #964 WASHINGTON DC 20005			11,350.00
AMERICAN SHORT LINE RAILROAD ASSN, 2000 MASSACHUSETTS AVE., NW WASHINGTON DC 20036			
AMERICAN SOC OF ANESTHESIOLOGISTS, 1201 PENNSYLVANIA AVENUE, NW WASHINGTON DC 20004			9,125.71
AMERICAN SOYBEAN ASSOCIATION, 600 MARYLAND AVENUE, SW, #510 WASHINGTON DC 20024		9,720.00	6,177.03
AMERICAN TEXTILE MACHINERY ASSN, 7297 N. LEE HWY. FALLS CHURCH VA 22042		250.00	250.00
AMERICAN TEXTILE MANUFACTURERS INSTITUTE, INC, 1101 CONNECTICUT AVENUE, NW, #300 WASHINGTON DC 20036		48,131.24	48,131.24
AMERICAN VETERANS OF WORLD WAR II, KOREA & VIETNAM (AMVETS), 4647 FORBES BOULEVARD LANHAM MD 20706		6,950.47	6,950.47
AMERICAN VETERINARY MEDICAL ASSN, 1522 K STREET, NW, #828 WASHINGTON DC 20005			
AMERICAN WATERWAYS OPERATORS, INC, 1600 WILSON BOULEVARD, #1000 ARLINGTON VA 22209		171,693.27	212.15
AMERICAN WOOD PRESERVERS INSTITUTE, 1945 GALLOWS ROAD, #405 VIENNA VA 22180			10,500.69
AMERICAN-EUROPEAN ACID RAIN PROHIBITION, 11573 EMBERS COURT RESTON VA 22091			
AMERICANS FOR TAX REFORM, 1800 M STREET, NW, #475 WASHINGTON DC 20036		39,400.00	25,871.19
MORRIS J. AMITAY, P.C., 444 N. CAPITOL STREET, NW, #712 WASHINGTON DC 20001	NATHAN LEWIN (FOR 47TH STREET PHOTO)	7,500.00	
Do	NORTHROP CORP	3,000.00	
Do	PAN AMERICAN WORLD AIRWAYS, INC	4,500.00	
Do	SOLAR ENERGY INDUSTRIES ASSN	4,000.00	
Do	THOMPSON MEDICAL	3,000.00	
JOEL E. AMKRAUT, P.O. BOX 2247 SANTA CRUZ CA 95063	NATIONAL RIGHT TO MAIL COMMITTEE		
JOANNE M. AMOROSI, 1228 17TH STREET, NW WASHINGTON DC 20036	AIR CONDITIONING CONTRACTORS OF AMERICA		
JAN S. AMUNDSON, 1776 F STREET, NW WASHINGTON DC 20006	NATIONAL ASSN OF MANUFACTURERS		
EDWARD ANDERSEN, 1616 H ST., NW WASHINGTON DC 20006	NATIONAL GRANGE	8,450.00	
BYRON ANDERSON, 777 14TH ST., NW WASHINGTON DC 20005	NATIONAL ASSN OF REALTORS	2,500.00	91.67
DESIREE C. ANDERSON, 1250 CONNECTICUT AVE., NW, #620 WASHINGTON DC 20036	NATIONAL MULTI HOUSING COUNCIL		
H. KIM ANDERSON, VIRGINIA PETROLEUM COUNCIL 1809 STAPLES MILL ROAD RICHMOND VA 23230	AMERICAN PETROLEUM INSTITUTE	2,150.00	1,746.26
J. LEM ANDERSON, 4111 FRANCONIA RD. ALEXANDRIA VA 22310	TEMPLE-INLAND	250.00	
Do	TIME, INC		
JAMES A. ANDERSON JR., 1725 K STREET, NW, #710 WASHINGTON DC 20006	NATIONAL ASSN OF WHOLESALER-DISTRIBUTORS		
ROBERT L. ANDERSON, JOHN DEERE RD. MOLINE IL 61265	DEERE & COMPANY		
ROMILDA R. ANDERSON, 10 WESTPORT ROAD WILTON CT 06897	RICHARDSON-VICKS	10,500.00	2,001.11
STEVEN C. ANDERSON, 1700 OLD MEADOW RD. MCLEAN VA 22102	AMERICAN FROZEN FOOD INSTITUTE	5,000.00	
WAYNE C. ANDERSON, P.O. BOX 1933 E. HANOVER NJ 07936	NABISCO BRANDS, INC	10,000.00	3,971.83
WILLIAM C. ANDERSON, 1101 16TH ST., NW WASHINGTON DC 20036	INDEPENDENT PETROLEUM ASSN OF AMERICA		95.00
LEWIS D. ANDREWS JR., 1825 EYE STREET, NW, #400 WASHINGTON DC 20006	COMMITTEE FOR EQUITABLE COMPENSATION	6,000.00	432.00
LISA ANDREWS, 51 LOUISIANA AVENUE, NW WASHINGTON DC 20001	ACACIA MUTUAL LIFE INSURANCE CO	1,000.00	131.57
ROBERT B. ANDREWS, 1100 CONNECTICUT AVENUE, NW, #620 WASHINGTON DC 20036	MOBIL OIL CORP	500.00	
JACK R. ANGELL, 1101 17TH STREET, NW, #704 WASHINGTON DC 20036	UNITED GAS PIPE LINE CO		
ANGLO AMERICAN AUTO AUCTIONS, INC, 2 INTERNATIONAL PLAZA DR., #600 NASHVILLE TN 37217			
J. DONALD ANNETT, 1050 17TH ST., NW, #500 WASHINGTON DC 20036	TEXACO, INC	1,000.00	
REYNOLD V. ANSELMO, 460 W. 42ND STREET, 4TH FL NEW YORK NY 10036	PAN AMERICAN SATELLITE CORP		
TOBIAS ANTHONY, 1819 H STREET, NW, #510, WASHINGTON DC 20006	AMERICAN COAL ASH ASSN, INC		
PATRICK S. ANTRIM, 1800 K STREET, NW WASHINGTON DC 20006	BANKAMERICA CORPORATION	820.00	96.28
APARTMENT & OFFICE BUILDING ASSN OF METROPOLITAN WASH, DC, 1413 K STREET, NW, #600 WASHINGTON DC 20005			
DAVID APTER ASSOCIATES, 1625 K ST., NW, #102 WASHINGTON DC 20006	WEST AFRICAN REPUBLIC OF TOGO		
MARC APTER, DAVID APTER & ASSOCIATES 1625 K STREET, NW WASHINGTON DC 20006	GOVERNMENT OF THE REPUBLIC OF TOGO		
JOHN D. AQUILINO JR., 1600 RHODE ISLAND AVE., NW WASHINGTON DC 20036	NATIONAL RIFLE ASSN OF AMER		
PAUL W. ARCARI, 201 N. WASHINGTON STREET ALEXANDRIA VA 22314	RETIRED OFFICERS ASSN	2,356.00	
JOHN CHRISTIAN ARCHER, 1730 RHODE ISLAND AVE., NW, #213 WASHINGTON DC 20036	BROWN & ROOT, INC		
JOHN ARCHER, 8111 GATEHOUSE RD. FALLS CHURCH VA 22047	AMERICAN AUTOMOBILE ASSN		
R. M. JULIE ARCHULETA, 1747 PENNSYLVANIA AVENUE, NW, 3RD FL. WASHINGTON DC 20006	OCCIDENTAL CHEMICAL CORP	300.00	
ARENT FOX KINTNER PLOTKIN & KAHN, 1050 CONNECTICUT AVENUE, NW WASHINGTON DC 20036	AMERICAN SOC OF TRAVEL AGENTS; SITMAR CRUISES, INC		4,270.66
Do	AMERITECH		33.00
Do	BREED CORPORATION	5,000.00	6.90
Do	CENTRAL STATES SE & SW AREAS HEALTH, WELFARE & PENSION FUNDS	97,305.68	714.27
Do	GUARDIAN LIFE INSURANCE CO OF AMERICA	29,310.04	265.49
Do	HOESCH ROHR AG	33,031.50	7,383.34
Do	HOESCH TUBULAR PRODUCTS CO		
Do	INSURANCE SERVICING & INFORMATION SYSTEMS CORP		555.43
Do	MOTOR AND EQUIPMENT MANUFACTURERS ASSOCIATION		
Do	TOSHIBA AMERICA, INC	10,713.50	185.58
Do	TOYOTA MOTOR CORPORATION		9.60
Do	TUBULAR CORP OF AMERICA, INC	19,200.07	272.66
Do	TVW PAPER MACHINES, INC	3,432.50	79.21
ARKANSAS ASSN OF BANK HOLDING COMPANIES, 2121 K ST., NW, #830 WASHINGTON DC 20037			
R. G. ARMISTEAD, 8613 JANET LANE VIENNA VA 22180			
G. RAY ARNETT, 1600 RHODE ISLAND AVENUE, NW WASHINGTON DC 20036	NATIONAL RIFLE ASSN OF AMERICA	3,750.00	

Organization or Individual Filing	Employer/Client	Receipts	Expenditures
ARNOLD & PORTER, 1200 NEW HAMPSHIRE AVE., NW WASHINGTON DC 20036	AMERICAN ASSN OF EXPORTERS & IMPORTERS (AAEI)	600.00	
Do	CANADIAN FOREST INDUSTRIES COUNCIL	2,410.00	325.07
Do	CONSEJO EMPRESARIAL MEXICANO PARA ASUNTOS INTERNACIONALES	5,020.00	23.70
Do	CSX CORPORATION	25.00	
Do	FLUOR CORPORATION	160.00	
Do	RECORDING INDUSTRY ASSN OF AMER, INC	1,181.25	18.55
Do	SACRAMENTO PUBLIC UTILITY DISTRICT, ET AL	18,453.33	578.59
Do	VENEZOLANA DE CEMENTOS CA	306.25	766.50
CARL F. ARNOLD, 1100 CONNECTICUT AVE., NW WASHINGTON DC 20036	AMERICAN IRON & STEEL INSTITUTE	1,000.00	
Do	CORPORATE PROPERTY INVESTORS	750.00	
Do	MEAD CORPORATION	1,620.00	
Do	QUINTANA PETROLEUM CORP	1,875.00	
JULIE L. ARNOLD, 1667 K ST., NW, #710 WASHINGTON DC 20006	TRAVENOL LABORATORIES, INC		
SANDY ARNOLD, 2020 K ST., NW, #200 WASHINGTON DC 20006	NATIONAL FED OF FEDERAL EMPLOYEES		
NAN ARON, 600 NEW JERSEY AVENUE, NW WASHINGTON DC 20001	ALLIANCE FOR JUSTICE	97.22	
ASBILL & JUNKIN, 1607 NEW HAMPSHIRE AVE., NW WASHINGTON DC 20009	COALITION ON SMOKING OR HEALTH	27,300.00	14,397.45
LUD ASHLEY, P.C., 1735 NEW YORK AVENUE, NW, 6TH FL. WASHINGTON DC 20006	AMERICAN INTERNATIONAL GROUP, INC	2,815.00	
Do	FEDERAL HOME LOAN MORTGAGE CORP	20,000.00	
Do	IRVING TRUST CO	25,000.00	
Do	ISFA CORPORATION	6,860.00	
Do	MANVILLE CORPORATION	17,775.00	
Do	MERRILL LYNCH & CO, INC		
Do	NATIONAL ASSN OF STATE SAVINGS & LOAN SUPERVISORS	10,000.00	
Do	J.C. PENNEY CO, INC	35,980.00	
JOSEPH ASHOOH, 1957 E ST., NW WASHINGTON DC 20006	ASSOCIATED GENERAL CONTRACTORS OF AMERICA		
ASIAN PACIFIC ECONOMIC EDUCATIONAL CULTURAL ORGANIZATION, P.O. BOX 891 MANILA, PHILIPPINE			
ASPHALT ROOFING MANUFACTURERS ASSOCIATION, 6288 MONTROSE ROAD ROCKVILLE MD 20852			
ASSOCIATED BUILDERS & CONTRACTORS, INC, 729 15TH ST., NW WASHINGTON DC 20005		7,500.00	
ASSOCIATED CREDIT BUREAUS, INC, P.O. BOX 218300 16211 PARK 10 PLACE HOUSTON TX 77084		1,500.00	
ASSOCIATED EMPLOYERS, INC, 1222 N. MAIN, #315A SAN ANTONIO TX 78212			
ASSOCIATED GENERAL CONTRACTORS OF AMERICA, 1957 E ST., NW WASHINGTON DC 20006			
ASSOCIATED SATELLITE TELEVISION RECEIVER OWNERS, INC, 2530 S. PARKER ROAD, #600 AURORA CO 80014			
ASSOCIATION FOR A BETTER NEW YORK, 355 LEXINGTON AVENUE NEW YORK NY 10017		567,500.00	334,611.56
ASSOCIATION FOR DEVELOPMENT POLICY RESEARCH, 1309 L STREET, NW WASHINGTON DC 20005		73.39	137.54
ASSOCIATION FOR THE IMPROVEMENT OF THE MISSISSIPPI RIVER, 10 BROADWAY ST. LOUIS MO 63102			
ASSOCIATION OF AMERICAN FOREIGN SERVICE WOMEN, P.O. BOX 8068 WASHINGTON DC 20024			
ASSOCIATION OF AMERICAN PUBLISHERS, 2005 MASSACHUSETTS AVE., NW WASHINGTON DC 20036		7,505.86	7,505.86
ASSOCIATION OF AMERICAN RAILROADS, AMERICAN RAILROADS BUILDING 50 F STREET, NW WASHINGTON DC 20001		88,447.93	88,447.93
ASSOCIATION OF AMERICAN VETERINARY MEDICAL COLLEGES, 1522 K STREET, NW, #828 WASHINGTON DC 20005			
ASSOCIATION OF DATA PROCESSING SERVICE ORGANIZATIONS, 1300 NORTH 17TH STREET, #300 ARLINGTON VA 22209			65.00
ASSOCIATION OF GOVERNMENT ACCOUNTANTS, 727 SOUTH 23RD STREET, #100 ARLINGTON VA 22202			
ASSOCIATION OF TRIAL LAWYERS OF AMERICA, 1050 31ST ST., NW WASHINGTON DC 20007		9,687.50	9,687.50
ASSOCIATION OF URBAN UNIVERSITIES, 1225 CONNECTICUT AVE., NW, #300 WASHINGTON DC 20036		30,000.00	6,509.14
GEORGE J. ASTE, 1825 K ST., NW, #607 WASHINGTON DC 20006	UNITED AIRLINES	500.00	
ATLANTIC RICHFIELD CO, 515 SOUTH FLOWER STREET LOS ANGELES CA 90071			1,799.14
LLOYD G. ATOR JR., 1801 K ST., NW, #700 WASHINGTON DC 20006	PRICE WATERHOUSE (FOR: SECURITY PACIFIC NATIONAL BANK)	600.00	
FRITZ E. ATTAWAY, 1600 EYE ST., NW WASHINGTON DC 20006	MOTION PICTURE ASSN OF AMERICA, INC		
JOHN J. AUCIELLO, P.O. BOX 269 ELIZABETHTOWN PA 17022	AMERICAN ASSN OF MEAT PROCESSORS		
AUDIO RECORDING RIGHTS COALITION, P.O. BOX 33705 WASHINGTON DC 20033		170,000.00	143,063.71
CLAIRE H. AUSTIN, 214 MASSACHUSETTS AVE, NE, #350 WASHINGTON DC 20002	RUSSELL CORPORATION	1,000.00	3,025.00
JOHN D. AUSTIN JR., 1920 N STREET, N.W. WASHINGTON DC 20036	AMERICAN MINING CONGRESS		
AUTOMOTIVE PARTS REBUILDERS ASSN, 6849 OLD DOMINION DRIVE MCLEAN VA 22101			
JOHN S. AUTRY, 2000 L STREET, NW, #810 WASHINGTON DC 20036	SPERRY CORPORATION	2,000.00	2,500.00
AVON PRODUCTS, INC, 9 WEST 57TH ST. NEW YORK NY 10019			
GEORGE C. AXTELL, 122 C ST., NW, #740 WASHINGTON DC 20001	AMERICAN LEAGUE FOR EXPORTS & SECURITY ASSISTANCE	3,000.00	
WILLIAM H AXTMAN, 950 N. GLEBE RD., RM. 160 ARLINGTON VA 22203	AMERICAN BOILER MANUFACTURERS ASSN, INC		
PAMELA AYCOCK, AYCOCK ASSOCIATES 1899 L STREET, NW, #605 WASHINGTON DC 20036	EDISON ELECTRIC INSTITUTE	1,200.00	471.77
CRAIG H. BAAB, 1800 M ST., NW WASHINGTON DC 20036	AMERICAN BAR ASSN	400.00	49.35
HOPE M. BABCOCK, 645 PENNSYLVANIA AVENUE, SE WASHINGTON DC 20003	NATIONAL AUDUBON SOCIETY		
DALE R. BABIONE, 1700 N. MOORE ST. ROSSLYN VA 22209	BOEING COMPANY	1,690.00	
ROBERT A. BACHA, 1111 14TH STREET, NW WASHINGTON DC 20005	COOK AND BACHA (FOR: CONTRACTORS LIABILITY & INDEMNIFICATION ALLIANCE)		
Do	COOK AND BACHA (FOR: WESTINGHOUSE ELECTRIC CORP)	3,100.00	155.60
CARL E. BAGGE, COAL BUILDING WASHINGTON DC 20036	NATIONAL COAL ASSN	3,185.00	1,075.00
JOAN N. BAGGETT, 815 15TH ST., NW WASHINGTON DC 20005	INTERNATIONAL UNION OF BRICKLAYERS & ALLIED CRAFTSMEN	10,000.00	56.00
BRENT A. BAGLIEN, 725 15TH STREET, NW WASHINGTON DC 20005	NATIONAL GRAIN & FEED ASSN		
GEORGE F. BAILEY JR., P.O. BOX 21 MONTGOMERY AL 36101	ALABAMA RAILROAD ASSN	369.87	845.38
PAUL C. BAILEY JR., 108 COLUMBUS ST. ARLINGTON VA 22204	SOUTHERN COMPANY SERVICES, INC	575.45	740.11
WILLIAM W. BAILEY, 1050 17TH STREET, NW, #650 WASHINGTON DC 20036	MERCK & CO, INC	2,000.00	625.55
JUDITH L. BAIRD, 1333 NEW HAMPSHIRE AVE., NW WASHINGTON DC 20036	ATLANTIC RICHFIELD CO	150.00	
JOHN BAIZE, CAPITOL GALLERY BLDG., #510 600 MARYLAND AVENUE, SW WASHINGTON DC 20024	AMERICAN SOYBEAN ASSOCIATION	1,995.00	230.50
EDWARD R. BAJER, 1015 15TH ST., NW, #802 WASHINGTON DC 20005	AMERICAN CONSULTING ENGINEERS COUNCIL	450.00	
BAKER & BOTTS, 1701 PENNSYLVANIA AVE., NW WASHINGTON DC 20006	HOUSTON LIGHTING & POWER COMPANY		
BAKER & HOSTETLER, 1050 CONNECTICUT AVE., NW WASHINGTON DC 20036	CLEVELAND INSTITUTE OF ELECTRONICS		
BAKER & MCKENZIE, 815 CONNECTICUT AVE., NW WASHINGTON DC 20006	COMMONWEALTH EDISON CO		
Do	DUKE POWER CO		
Do	FLORIDA POWER & LIGHT CO		
Do	SOUTHERN COMPANY SERVICES		
DAVID BAKER, 530 7TH ST., SE WASHINGTON DC 20003	LEAGUE OF WOMEN VOTERS OF THE U.S.	3,558.45	133.60
EMIL F. BAKER, 1303 NEW HAMPSHIRE AVE., NW WASHINGTON DC 20036	FLEET RESERVE ASSN		
GERALD E. BAKER, 1625 MASSACHUSETTS AVENUE, NW WASHINGTON DC 20036	AIR LINE PILOTS ASSN	5,250.00	760.16
JAMES JAY BAKER, 1600 RHODE ISLAND AVE., NW WASHINGTON DC 20036	NATIONAL RIFLE ASSN OF AMERICA	962.50	189.31
BAKER WORTHINGTON CROSSLEY STANSBERRY & WOOLF, P.O. BOX 2866 NASHVILLE TN 37219	CONWOOD CORPORATION	15,914.61	914.61
S. EASON BALCH JR., P.O. BOX 306 BIRMINGHAM AL 35201	BALCH & BINGHAM (FOR: SOUTHERN COMPANY SERVICES, INC)		
S. EASON BALCH, P.O. BOX 306 BIRMINGHAM AL 35201	BALCH & BINGHAM (FOR: SOUTHERN COMPANY SERVICES, INC)	4,500.00	414.67
PATRICIA A. BALDI, 645 PENNSYLVANIA AVE., SE WASHINGTON DC 20003	NATIONAL AUDUBON SOCIETY	2,160.00	435.15
H. R. BALIKOV, 333 THORNALL ST. EDISON NJ 08818	J. M. HUBER CORP		50.00
CATHERINE A. BALL, 2300 S. 9TH ST., #104 ARLINGTON VA 22204	FEDERAL MANAGERS ASSN	2,667.00	1,100.00
CHRISTIAN BALLANTYNE, 214 N. HENRY STREET, #203 MADISON WI 53703	SIERRA CLUB	3,149.25	2,676.50
BALLARD SPAHR ANDREWS & INGERSOLL, 1850 K STREET, NW, #1100 WASHINGTON DC 20006	ARTHUR ANDERSEN & CO		
Do	DELAWARE RIVER PORT AUTHORITY		
Do	U.S. COMMITTEE FOR UNICEF		
THOMAS M. BALMER, 888 16TH STREET, NW WASHINGTON DC 20006	MILK INDUSTRY FOUNDATION/INT'L ASSN OF ICE CREAM MFRS		
MICHAEL BALY III, 1515 WILSON BLVD. ARLINGTON VA 22209	AMERICAN GAS ASSN	4,000.00	380.61
PHILIP A. BANGERT, 1010 WISCONSIN AVENUE, NW, #800 WASHINGTON DC 20007	GROCERY MANUFACTURERS OF AMERICA, INC		
CHARLES E. BANGERT, P.C., 1825 EYE STREET, NW, #300 WASHINGTON DC 20006	BUSINESS ROUNDTABLE		
BANK OF BOSTON CORPORATION, 100 FEDERAL ST. BOSTON MA 02110			
JAMES T. BANKS, 1155 CONNECTICUT AVE., NW, #800 WASHINGTON DC 20036	WASTE MANAGEMENT, INC	5,000.00	1,056.76
SAMUEL J. BAPTISTA, 1101 14TH ST., NW WASHINGTON DC 20005	AMERICAN FINANCIAL SERVICES ASSN	250.00	
E. W. BARAGAR, 1700 NORTH MOORE ST., 20TH FL. ROSSLYN VA 22209	BOEING COMPANY	950.53	1,318.97
DAVID J. BARDIN, 1050 CONNECTICUT AVENUE, NW WASHINGTON DC 20036	SOLMECS CORPORATION		
ROBERT O. BARKER, 801 NORTHLAND TOWERS WEST SOUTHFIELD MI 48075	NATIONAL ASSN OF MANUFACTURERS	1,500.00	36.00
THOMAS H. BARKSDALE JR., 1220 L ST., NW WASHINGTON DC 20036	AMERICAN PETROLEUM INST	5,500.00	522.37
WILLIAM J. BARNDS, 1000 CONNECTICUT AVENUE, NW WASHINGTON DC 20036	JAPAN ECONOMIC INSTITUTE OF AMERICA	500.00	
BARNES RICHARDSON & COLBURN, 1819 H ST., NW, #400 WASHINGTON DC 20006	RUKERT MARINE CORP	1,402.50	14.91
Do	STRATTON HATS, INC	10,000.00	7.71
Do	TEXAS CITRUS AND VEGETABLE IMPORT ASSOCIATION		25.15
BARNETT & ALAGIA, 1000 THOMAS JEFFERSON STREET, NW, #900 WASHINGTON DC 20007	CUBAN AMERICAN PUBLIC AFFAIRS COUNCIL		
BARNETT SIVON SCHOTT & SHAY, P.C., 1090 VERMONT AVE., NW, #810 WASHINGTON DC 20005	CITIBANK, N.A	2,220.00	36.00
NEIL D. BARON, BOOTH & BARON 122 EAST 42ND ST. NEW YORK NY 10168	STANDARD & POOR'S CORPORATION		
JAMES C. BARR, 1840 WILSON BLVD ARLINGTON VA 22201	NATIONAL MILK PRODUCERS FEDERATION	3,300.00	68.70
RICHARD L. BARR, P.O. BOX 834 DES MOINES IA 50304	IOWA RAILWAY ASSN		
DAVID M. BARRETT, BARRETT HANNA DAILY & GASPAR 2555 M STREET, NW, #100 WASHINGTON DC 20037	ALLIED TUBE & CONDUIT CORP	2,782.80	914.77
Do	ENERGY CONSUMERS & PRODUCERS ASSN	4,500.00	924.02

Organization or Individual Filing	Employer/Client	Receipts	Expenditures
Do	NATIONAL MEDICAL ENTERPRISES, INC		
ROBERT W. BARRIE, 1331 PENNSYLVANIA AVENUE, NW WASHINGTON DC 20004	GENERAL ELECTRIC CO	2,000.00	
DAVID S. BARROWS, 1201 S. W. 12TH, #200 PORTLAND OR 97205	ASSOCIATION OF OREGON & CALIFORNIA LAND GRANT COUNTIES		
ROGER V. BARTH, 1735 EYE ST., NW, #715 WASHINGTON DC 20006	AMERICAN ASSN FOR CLINICAL CHEMISTRY INC		
LINDA L. BARTLETT, 1100 17TH STREET, NW, #601 WASHINGTON DC 20036	KRAFT, INC	750.00	
JAMES E. BARTLEY, 1090 VERMONT AVENUE, NW, #410 WASHINGTON DC 20005	NATIONAL INDUSTRIAL TRANSPORTATION LEAGUE	6,000.00	26.25
Do	PROCOMPETITIVE RETAIL STEERING COMM		18.87
R. WILLIAM BARTON, 1000 POTOMAC STREET, NW, #302 WASHINGTON DC 20007	FEDERATION EMPLOYMENT & GUIDANCE SERVICE		
DIANE BATEMAN, 1015 18TH STREET, NW WASHINGTON DC 20036	FERTILIZER INSTITUTE	15,000.00	2,567.19
ROBERT E. BATES JR., 1100 CONNECTICUT AVE, NW WASHINGTON DC 20036	MOBIL OIL CORP	1,125.00	
LAURIE C. BATTLE, 1709 NEW YORK AVE., NW, #801 WASHINGTON DC 20006	U.S. LEAGUE OF SAVINGS ASSOCIATIONS	1,875.00	
JOHN F. BATTLES, MASSACHUSETTS PETROLEUM COUNCIL 11 BEACON ST., #515 BOSTON MA 02108	AMERICAN PETROLEUM INSTITUTE	3,000.00	777.00
JOHN L. BAUER JR., 1667 K ST., NW, #650 WASHINGTON DC 20006	ARMCO	2,400.00	625.41
ROBERT J. BAUGHMAN, 717 PENDLETON ST. ALEXANDRIA VA 22314	AMERICAN ORTHOTIC AND PROSTHETIC ASSN		
BARBARA BAUMAN, 1990 M STREET, NW, #480 WASHINGTON DC 20036	DETROIT EDISON COMPANY	450.00	35.00
BARRY H. BAUMAN, 1615 H ST., NW WASHINGTON DC 20062	U.S. CHAMBER OF COMMERCE	1,600.00	
JAMES R. BAXTER, 2033 K ST., NW, #200 WASHINGTON DC 20006	NATIONAL CONSTRUCTION EMPLOYERS COUNCIL		
TINA MARTS BEACH, 1331 PENNSYLVANIA AVENUE, NW, #700 WASHINGTON DC 20004	GENERAL ELECTRIC CO	372.00	
BRUCE A. BEAM, 1667 K ST., NW, #450 WASHINGTON DC 20006	AMERICAN ELECTRIC POWER SERVICE CORP	192.64	75.00
BEAR WEST COMPANY, INC, 9 EXCHANGE PLACE, #1000 SALT LAKE CITY UT 84111	ROCKY MOUNTAIN ENERGY CO	1,512.50	567.19
MICHAEL K. BEARD, 100 MARYLAND AVE., NE WASHINGTON DC 20002	NATIONAL COALITION TO BAN HANDGUNS		
DONALD S. BEATTIE, 400 FIRST ST., NW WASHINGTON DC 20001	RAILWAY LABOR EXECUTIVES' ASSN	2,914.91	
BARBARA F. BEATTY, 729 15TH STREET, NW WASHINGTON DC 20005	ASSOCIATED BUILDERS & CONTRACTORS, INC	2,500.00	
CHRISTINE T. BEATTY, 1627 K STREET, NW, #200 WASHINGTON DC 20006	ST. JOE MINERALS CORP	7,500.00	
HUBERT BEATTY, 1957 E ST., NW WASHINGTON DC 20006	ASSOCIATED GENERAL CONTRACTORS OF AMERICA		
LAURA L. BEATY, 806 N. JEFFERSON ST. ARLINGTON VA 22205	NATIONAL PARKS & CONSERVATION ASSOCIATION	149.38	1.60
ORREN BEATY JR., 700 JEFFERSON BUILDING 1225 19TH STREET, NW WASHINGTON DC 20036	WESTERN FUELS ASSOCIATION, INC	7,700.00	777.94
EDWARD A. BECK III, 1220 L STREET, NW WASHINGTON DC 20005	AMERICAN PETROLEUM INSTITUTE	7,159.50	348.50
ROBERT J. BECKER, 800 E. NORTHWEST HWY., #101 MT. PROSPECT IL 60056	JOINT COUNCIL OF ALLERGY & IMMUNOLOGY		
STEVEN M. BECKMAN, 1757 N STREET, NW WASHINGTON DC 20036	INT'L UNION, UNITED AUTO AEROSPACE & AGRIC IMPLEMENT WORKERS	7,538.60	1.60
WILLIAM W. BEDDOW, 1101 15TH ST., NW WASHINGTON DC 20005	NATIONAL CONSTRUCTORS ASSOCIATION	1,600.00	
JON CHARLES BEDNERIK, 11 EMBARCADERO WEST, #202 OAKLAND CA 94607	WESTERN INDEPENDENT BANKERS	500.00	
RONALD L. BEEBER, 1660 L STREET, NW WASHINGTON DC 20036	GENERAL MOTORS CORP	2,500.00	636.20
ROBERT M. BEERS, 2101 E STREET, NW WASHINGTON DC 20037	AMERICAN FOREIGN SERVICE ASSN	5,923.39	1,926.44
EDWIN L. BEHRENS, 801 18TH STREET, NW, #400 WASHINGTON DC 20006	PROCTER & GAMBLE MANUFACTURING CO	45.00	
JAMES BEIZER, 1920 N ST., NW WASHINGTON DC 20036	AMERICAN MINING CONGRESS		
MARK BELANGER, 805 THIRD AVENUE NEW YORK NY 10022	MAJOR LEAGUE BASEBALL PLAYERS ASSN		
HOWARD H. BELL, 1400 K ST., NW, #1000 WASHINGTON DC 20036	AMERICAN ADVERTISING FEDERATION		
WINSTON EVERETT BELL, P.O. BOX 26543 LAS VEGAS NV 89126			
MARY K. BELLAMY, 1600 M ST., NW WASHINGTON DC 20036	INVESTMENT CO INSTITUTE		
JAMES P. BELLIS, 1629 K ST., NW, #1100 WASHINGTON DC 20006	PALUMBO & CERRELL, INC (FOR: AMERICAN SOC OF COMPOSERS AUTHORS & PUBLISHERS).	9,600.00	
Do	PALUMBO & CERRELL, INC (FOR: NATIONAL SCHOOL TRANSPORTATION ASSN)		
Do	PALUMBO & CERRELL, INC (FOR: G. D. SEARLE)	9,600.00	
Do	PALUMBO & CERRELL, INC (FOR: SOUTHERN CALIFORNIA RAPID TRANSIT DISTRICT).	9,600.00	
BENDIXEN & LAW, 1029 VERMONT AVENUE, NW, #505 WASHINGTON DC 20005	PANAMSAT		
CLEVE BENEDICT, 1012 PENNSYLVANIA AVE., SE WASHINGTON DC 20003	R/S/M, INC	7,400.00	3,385.00
BRUCE BENEFIELD, 1000 WILSON BLVD., #2600 ARLINGTON VA 22209	TRW, INC	550.00	
BENNER BURNETT & COLEMAN, 1401 NEW YORK AVENUE, NW WASHINGTON DC 20005	MESSERSCHMITT BOLKOW-BLOHM GMBH	125.00	125.00
Do	OMNINET CORPORATION		
Do	SCHNITZER STEEL PRODUCTS CO	181.25	181.25
DANIEL BENNET, 729 15TH STREET, NW WASHINGTON DC 20005	ASSOCIATED BUILDERS & CONTRACTORS, INC	2,500.00	
BEVERLY L. BENNETT, 1850 K STREET, NW WASHINGTON DC 20006	AMERICAN COUNCIL OF LIFE INSURANCE, INC		175.00
DOUGLAS P. BENNETT, 3238 PROSPECT ST., NW WASHINGTON DC 20007	ASSOCIATION OF EXECUTIVE RECRUITING CONSULTANTS, INC		
JOHN C. BENNISON, 4400 MACARTHUR BLVD., NW WASHINGTON DC 20007	AMERICAN SOC OF TRAVEL AGENTS	8,000.00	
BENOIT SMITH & LAUGHLIN, 2001 JEFFERSON DAVIS HIGHWAY, #501 ARLINGTON VA 22202	ECONOPURE		
Do	HUGHES AIRCRAFT COMPANY		
FREDERICK S. BENSON III, 1625 EYE STREET, NW, #902 WASHINGTON DC 20006	WEYERHAEUSER COMPANY	150.00	32.00
NANCY C. BENSON, 1575 EYE ST., NW, #220 WASHINGTON DC 20005	AMERICAN CYANAMID CO	240.00	178.30
TOM BENSON, 501 UNION STREET, #506 NASHVILLE TN 37219	TENNESSEE RAILROAD ASSN		
JAMES E. BENTON, N. J. PETROLEUM COUNCIL 170 W. STATE ST. TRENTON NJ 08608	AMERICAN PETROLEUM INSTITUTE	325.00	1,372.58
REBECCA J. BERG, 900 17TH STREET, NW, #1100 WASHINGTON DC 20006	SEA-LAND CORPORATION	450.00	
RICHARD SCOTT BERG, 1619 MASSACHUSETTS AVE., NW WASHINGTON DC 20036	NATIONAL FOREST PRODUCTS ASSN		
O. M. BERGE, 12050 WOODWARD AVE. DETROIT MI 48203	BROTHERHOOD OF MAINTENANCE OF WAY EMPLOYES		
BOB BERGLAND, 1800 MASSACHUSETTS AVENUE, NW WASHINGTON DC 20036	NATIONAL RURAL ELECTRIC COOPERATIVE ASSN	135.00	35.00
EDWIN M. BERGSMARK, THREE SEAGATE, TOLEDO, OH 43603	TOLEDO TRUST CO		
JANE W. BERGWIN, 1050 17TH STREET, NW, #490 WASHINGTON DC 20036	CONSUMERS POWER CO	3,448.00	1,266.00
PETER A. A. BERLE, 950 THIRD AVENUE NEW YORK NY 10022	NATIONAL AUDUBON SOCIETY	1,000.00	150.00
ELLEN BERMAN, 2000 L ST., NW, #320 WASHINGTON DC 20036	CONSUMER ENERGY COUNCIL OF AMERICA		
JASON S. BERMAN, 1133 21ST STREET, NW, #400 WASHINGTON DC 20036	WARNER COMMUNICATIONS, INC	15,000.00	10,400.00
JAY HARRIS BERMAN, 400 N. WASHINGTON ST. ALEXANDRIA VA 22314	PROFESSIONAL INSURANCE AGENTS		
WILLIAM R. BERMAN, 8111 GATEHOUSE RD. FALLS CHURCH VA 22047	AMERICAN AUTOMOBILE ASSN		
MARY E. BERNHARD, 1090 VERMONT AVENUE, NW, #500 WASHINGTON DC 20005	FLEXIBLE PACKAGING ASSOCIATION		
CHARLES BERNHARDT, 2020 K ST., NW, #200 WASHINGTON DC 20006	NATIONAL FEDERATION OF FEDERAL EMPLOYEES		444.84
ZALMAN C. BERNSTEIN, SANFORD C. BERNSTEIN & CO, INC 767 FIFTH AVENUE NEW YORK NY 10153	AMERICAN IMPORTERS MEAT PRODUCTS GROUP		
MAX N. BERRY, 3213 O ST., NW WASHINGTON DC 20007	CENTRE NATIONAL INTERPROFESSIONNEL DE L'ECONOMIC LAITIERE		
Do	COMMITTEE TO ASSURE THE AVAILABILITY OF CASEIN		262.01
Do	FEDERATION DES EXPORTATEURS DE VINS & SPIRITUEUX DE FRANCE		
Do	NATIONAL FED OF FEDERAL EMPLOYEES		
EVE BERTON, 2020 K STREET, NW, #200 WASHINGTON DC 20006	AM GENERAL CORPORATION	1,925.00	
FRANK S. BESSON III, 1725 JEFFERSON DAVIS HWY, #900 ARLINGTON VA 22202	ASSOCIATION OF BANK HOLDING COMPANIES	1,000.00	65.00
JOHN F. BETAR, 730 15TH STREET, NW WASHINGTON DC 20005	ROBERT BETZ ASSOCIATES, INC (FOR: ALABAMA HOSPITAL ASSOCIATION)	5,250.00	232.73
ROBERT BETZ, 1101 14TH STREET, NW, #1100 WASHINGTON DC 20005			25,374.75
BEVERLY ENTERPRISES, INC, 1901 N. FORT MYER DRIVE, #302 ROSSLYN VA 22209	AMERICAN HEALTH CARE ASSN	2,755.00	299.00
CHERYL BEVERSDORF, 1200 15TH STREET, NW WASHINGTON DC 20005	CONSOLIDATED EDISON CO OF NEW YORK		
LEONARD BICKWIT JR., MILLER & CHEVALIER, CHTD. 655 15TH STREET, NW WASHINGTON DC 20005	GENERAL PUBLIC UTILITIES CORP	17,460.00	250.27
Do	LINCOLN SAVINGS & LOAN ASSN	5,662.00	879.22
Do	BRUNSWICK CORP		
RALPH A. BIEDERMANN, ONE BRUNSWICK PLAZA SKOKIE IL 60077	INTERNATIONAL MINERALS & CHEMICAL CORP	1,200.00	680.11
JOAN T. BIER, 1726 M STREET, NW, #701 WASHINGTON DC 20036	FOLEY LARNDER HOLLABAUGH & JACOBS (FOR: VGS CORPORATION)		
JAMES N. BIERMAN, 1775 PENNSYLVANIA AVE., NW WASHINGTON DC 20006	BARBER BLUE SEA LINE		
BILLIG SHER & JONES, P.C., 2033 K ST., NW, #300 WASHINGTON DC 20006	HAPAG-LLOYD, A.G.		
Do	MAERSK LINE		
Do	NEDLLOYD LINES		
Do	PORT USERS	10,000.00	400.00
Do	PRIVATE TRUCK COUNCIL OF AMERICA, INC		
Do	SOUTH DAKOTA DEPT. OF TRANSPORTATION, DIV. OF RAILROADS		
KEVIN W. BILLINGS, 410 FIRST STREET, SE WASHINGTON DC 20003	AMERICAN NUCLEAR ENERGY COUNCIL	2,775.00	421.76
LEON G. BILLINGS, INC, 1660 L ST., NW, #713 WASHINGTON DC 20036	IRVINE COMPANY	28,933.29	5,557.05
Do	STATE OF MONTANA	10,800.00	
VITINA BIONDO, 1050 17TH STREET, NW, #770 WASHINGTON DC 20036	AMERICAN ASSN OF HOMES FOR THE AGING	244.00	
BIRCH HORTON BITTNER PESTINGER & ANDERSON, 12TH FLOOR 1155 CONNECTICUT AVE., NW WASHINGTON DC 20036	ALASCOM, INC		
Do	ALASKA POWER AUTHORITY		
Do	ALASKA TEAMSTERS-EMPLOYER PENSION TRUST		
Do	ALASKA TEAMSTERS-EMPLOYER WELFARE TRUST		
Do	AMERADA HESS		
Do	CALISTA CORP		
Do	CITY OF ST. GEORGE		
Do	CP NATIONAL		
Do	FIRST FEDERAL BANK OF ALASKA, S.B.		
Do	HOUSTON METROPOLITAN TRANSIT AUTHORITY		

Organization or Individual Filing	Employer/Client	Receipts	Expenditures
Do	SEALASKA CORP		
Do	ST. GEORGE TANAQ CORP		
Do	TEAMSTERS LOCAL 959		
Do	WESTINGHOUSE ELECTRIC CORP		
Do	YUKON PACIFIC CORP		
CHARLES O. BISHOP, 1225 CONNECTICUT AVE., NW WASHINGTON DC 20036	AMERICAN PUBLIC TRANSIT ASSN	6,365.00	83.00
H. RADFORD BISHOP II , P.O. BOX 946 HOLLY HILL FL 32017	NATIONAL HEALTH CARE FINANCING ASSN		
BISHOP LIBERMAN COOK PURCELL & REYNOLDS, 1200 17TH STREET, NW, 7TH FL. WASHINGTON DC 20036	ETHYL CORPORATION		
Do	FIRST COLONY LIFE INSURANCE		
Do	KILPATRICK LIFE INSURANCE COMPANY		
Do	MANUFACTURERS HANOVER BANK		
Do	MONUMENTAL LIFE INSURANCE COMPANY		
Do	PIPE LINE EQUITY ACT COALITION	25,786.25	
Do	RIO GRANDE INDUSTRIES	4,256.75	
DENNIS A. BITZ, P.O. BOX 3965 SAN FRANCISCO CA 94119	BECHTEL POWER CORP		
GERRIE BJORNSON, 1800 K ST., NW, #929 WASHINGTON DC 20006	B.F. GOODRICH CO	100.00	
BLACK MANAFORT STONE & KELLY, P.C., 324 NORTH FAIRFAX STREET ALEXANDRIA VA 22314	AMERICAN HEALTH CARE ASSN	18,750.00	356.76
Do	BETHLEHEM STEEL	7,500.00	498.24
Do	CHICAGO RTA	9,000.00	2,289.49
Do	CHRYSLER - MITSUBISHI JOINT VENTURE	30,000.00	75.36
Do	DERECKTOR SHIPYARDS	7,500.00	575.00
Do	DOMINICAN REPUBLIC	15,000.00	903.60
Do	FINA OIL & CHEMICAL CO	3,000.00	410.41
Do	FOOTWEAR INDUSTRIES OF AMERICA	12,000.00	67.76
Do	GOVERNMENT OF ST. LUCIA	2,100.00	129.35
Do	GOVERNMENT OF THE BAHAMAS	45,000.00	
Do	INTERNATIONAL MEDICAL CENTERS	4,500.00	222.02
Do	JOHNSON & JOHNSON	30,000.00	756.46
Do	KAMAN AEROSPACE	24,000.00	522.30
Do	NATURAL GAS SUPPLY ASSN	11,250.00	332.29
Do	PUROLATOR COURIER	3,125.00	160.12
Do	SALOMON BROTHERS, INC	18,000.00	1,285.63
Do	SIGNAL COMPANIES	22,500.00	1,218.42
Do	SOLAR ENERGY INDUSTRY ASSN		
Do	TOBACCO INSTITUTE	7,500.00	202.87
Do	TRANS WORLD AIRLINES	6,000.00	285.86
Do	U.N.I.T.A.	21,000.00	1,535.63
Do	U.S. LINES	6,250.00	49.11
Do	UNION PACIFIC	16,000.00	638.88
JOSEPH W. BLACKBURN, P.O. BOX 55727 2222 ARLINGTON AVE., SO. BIRMINGHAM AL 35255	SIROTE PERMUTT FRIEND FRIEDMAN HELD & APOLINSKY, P.C. (FOR: NORWOOD CLINIC, INC. ET AL.).	7,000.00	500.00
ROBERT J. BLACKWELL, 1025 CONNECTICUT AVE., NW, #1014 WASHINGTON DC 20036	AMERICAN TRADING TRANSPORTATION CO, INC		
Do	COVE MARITIME COMPANIES		
Do	CREST TANKERS, INC		
Do	EQUITY CARRIERS I, INC		
Do	EQUITY CARRIERS III, INC		
Do	FALCON TANKERS, INC		
Do	KEYSTONE SHIPPING CO		
Do	SUN TRANSPORT, INC		
Do	TRINIDAD CORPORATION		
Do	VICTORY CARRIERS, INC		
BEV D. BLACKWOOD, 1899 L STREET, NW, #1100 WASHINGTON DC 20036	EXXON CORPORATION		
BARBARA S. BLAINE, 910 16TH STRETE, NW WASHINGTON DC 20006	MILLER & CHEVALIER, CHTD	1,250.00	10.10
BOWEN BLAIR JR., 519 S.W. THIRD AVE., #810 PORTLAND OR 97204	FRIENDS OF THE COLUMBIA GORGE	270.00	
DAVID A. BLAIR, 1000 16TH STREET, NW, #800 WASHINGTON DC 20036	BETHLEHEM STEEL CORPORTAION	74.25	
NEAL B. BLAIR, SUITE J 11244 WAPLES MILL RD. FAIRFAX VA 22030	FREE THE EAGLE & TARGET, INC	19,504.28	
MICHAEL D. BLANCHARD, P.O. BOX 2943 FORT WORTH TX 76113	TEXAS-NEW MEXICO POWER CO		
HELEN BLANK, 122 C STREET, NW WASHINGTON DC 20001	CHILDREN'S DEFENSE FUND	324.75	
DOUGLAS J. BLASS, 1600 M STREET, NW WASHINGTON DC 20036	INVESTMENT COMPANY INSTITUTE		
DONALD T. BLISS, 1800 M STREET, NW WASHINGTON DC 20036	O'MELVENY & MYERS (FOR: SANTA FE INTERNATIONAL CORP)		
VIRGINIA B. BLISS, 1725 K STREET, NW WASHINGTON DC 20006	COURTNEY MCCAMANT & TURNEY	300.00	
JERALD BLIZIN, 1201 PENNSYLVANIA AVENUE, NW, #700 WASHINGTON DC 20004	HILL & KNOWLTON, INC		
L. THOMAS BLOCK, ONE WALL STREET NEW YORK NY 10015	IRVING TRUST CO	4,000.00	1,500.00
PETER L. BLOCKLIN, 1120 CONNECTICUT AVE., NW WASHINGTON DC 20036	AMERICAN BANKERS ASSN	3,000.00	
HOLTON E. BLOMGREN, 1015 15TH STREET, NW, #1220 WASHINGTON DC 20005	NATIONAL MANUFACTURED HOUSING FEDERATION	25,000.00	
DOUGLAS M. BLOOMFIELD, 500 N. CAPITOL ST., NW, #300 WASHINGTON DC 20001	AMERICAN ISRAEL PUBLIC AFFAIRS COMM	18,250.02	305.75
MARK BLOOMFIELD, 1850 K ST., NW, #520 WASHINGTON DC 20006	AMERICAN COUNCIL FOR CAPITAL FORMATION	1,838.00	
ROBERT A. BLUM, THREE EMBARCADERO CENTER 28TH FLOOR SAN FRANCISCO CA 94111	MCCUTCHEN DOYLE BROWN & ENERSEN (FOR: PERMANENTE MEDICAL GROUP, INC).		774.00
MILLY S. BLUMEL, 1050 CONNECTICUT AVENUE, NW, #760 WASHINGTON DC 20036	UNION OIL COMPANY OF CALIFORNIA		539.58
CHARLES R. BLUMENFELD, BOGLE & GATES 2100 THE BANK OF CALIFORNIA CENTER SEATTLE WA 98164	PACIFIC SEAFOOD PROCESSORS ASSN		
SAMUEL D. BLUNT, 444 N. CAPITOL STREET, #828 WASHINGTON DC 20001	RADIO OFFICERS UNION	1,657.38	
WILLIAM J. BOARMAN, P.O. BOX 157 COLORADO SPRINGS CO 80901	INTERNATIONAL TYPOGRAPHICAL UNION		
BOAT OWNERS ASSOCIATION OF THE U.S., 880 S. PICKETT ST. ALEXANDRIA VA 22304		20,000.00	55,125.00
LARRY J. BOCCAROSSA, 460 TWIN CITY BANK BLDG. ONE RIVERFRONT PLACE NORTH LITTLE ROCK AR 72114	AMERICAN PETROLEUM INSTITUTE	674.20	1,100.06
SETH M. BODNER, 386 PARK AVENUE SOUTH NEW YORK NY 10016	NATIONAL KNITWEAR & SPORTSWEAR ASSN	1,250.00	
HAROLD BOEL, 444 N. CAPITOL STREET, NW, #718 WASHINGTON DC 20001	PACIFIC TELESIS GROUP	12,000.00	
LARRY A. BOGGS, 1920 N ST., NW WASHINGTON DC 20036	AMERICAN MINING CONGRESS		
TIMOTHY A. BOGGS, 1133 21ST STREET, NW, #400 WASHINGTON DC 20036	WARNER COMMUNICATIONS, INC	14,400.00	8,038.65
BOGLE AND GATES, ONE THOMAS CIRCLE, NW, #900 WASHINGTON DC 20005	ALASKAN FACTORY TRAWLERS ASSN	2,000.00	
Do	ALLIANCE FOR FAIR TRADE	35,000.00	
Do	AMERICAN FAIR TRADE COUNCIL		
Do	COALITION FOR CLEAN WATER	1,000.00	
Do	NORTHWEST APPAREL & TEXTILE ASSN		
Do	PACIFIC SEAFOOD PROCESSORS ASSN	300.00	
ROBERT Z. BOHAN, 1101 16TH ST., NW WASHINGTON DC 20036	NATIONAL SOFT DRINK ASSN		
PATRICIA BOINSKI, 1333 NEW HAMPSHIRE AVE., NW WASHINGTON DC 20036	ATLANTIC RICHFIELD CO	25.00	
MARK P. BOLDUC, 600 MARYLAND AVE., SW, #700 WASHINGTON DC 20024	NATIONAL FED OF INDEPENDENT BUSINESS	2,250.00	200.00
WILLIAM F. BOLGER, THE POWER HOUSE 3255 GRACE STREET, NW WASHINGTON DC 20007	GRAY & CO PUBLIC COMMUNICATIONS INT'L, INC (FOR: KINGDOM OF MOROCCO)	875.00	
Do	GRAY & CO PUBLIC COMMUNICATIONS INT'L, INC (FOR: REPUBLIC OF TURKEY)		
BERNADETTE BOLTON, 400 FIRST STREET, NW, #800 WASHINGTON DC 20001	BROTHERHOOD OF RAILROAD SIGNALMEN	300.00	
SHARON E. BOMER, 727 N. WASHINGTON STREET ALEXANDRIA VA 22314	UNITED FRESH FRUIT & VEGETABLE ASSN	980.00	322.28
JOSEPH G. BONANNO, JR., 1785 HACIENDA DR, CAMPBELL, CA 95008			
A. DEWEY BOND, P.O. BOX 3556 WASHINGTON DC 20007	AMERICAN MEAT INSTITUTE	500.00	
RUSSELL F. BONHAM III, P.O. BOX 38 HUNTSVILLE TX 77344			
JOHN E. BONITT, 1050 CONNECTICUT AVE., NW, #800 WASHINGTON DC 20036	ALLIED CORPORATION	975.00	85.00
SHARON LEE BONITT, 1025 CONNECTICUT AVE., NW, #200 WASHINGTON DC 20036	SHELL OIL CO	500.00	
BONSIB, INC, BOX 1807, WASHINGTON, DC 20013			
GAYLON B. BOOKER, 1918 N. PARKWAY MEMPHIS TN 38112	NATIONAL COTTON COUNCIL OF AMER	5,769.23	64.85
W. DAN BOONE, 345 PARK AVE. NEW YORK NY 10154	UNION PACIFIC CORP AND ALLIANCE FOR CLEAN ENERGY		
JOHN K. BOOTH, 1850 K STREET, NW WASHINGTON DC 20006	AMERICAN COUNCIL OF LIFE INSURANCE, INC	100.00	
DIANE BORATYN, 1230 31ST ST., NW, #5 WASHINGTON DC 20007	D BORATYN, LTD		
EDWARD T. BORDA, 1625 EYE ST., NW, #1023 WASHINGTON DC 20006	ASSOCIATION OF GENERAL MERCHANDISE CHAINS	4,000.00	
RICHARD H. BORNEMANN, 410 FIRST STREET, SE WASHINGTON DC 20003	AMERICAN NUCLEAR ENERGY COUNCIL	1,876.43	290.53
LAURENCE D. BORY, 1015 15TH ST., NW, #802 WASHINGTON DC 20005	AMERICAN CONSULTING ENGINEERS COUNCIL	875.00	
G. STEWART BOSWELL, 1611 NORTH KENT ST., #800 ARLINGTON VA 22209	AMERICAN APPAREL MANUFACTURERS ASSN, INC	1,900.00	85.00
M. L. BOSWELL, 1235 JEFFERSON DAVIS HIGHWAY, #500 ARLINGTON VA 22202	ITALIAN ADVANCED INDUSTRIES, INC	612.00	70.00
CHARLES G. BOTSFORD, 1730 M ST., NW, #515 WASHINGTON DC 20036		1,500.00	152.00
JOHN E. BOUCHARD, 1667 K STREET, NW, #350 WASHINGTON DC 20036	MOLLER STEAMSHIP COMPANY, INC		
ALBERT D. BOURLAND, 1615 H STREET, NW WASHINGTON DC 20062	CHAMBER OF COMMERCE OF THE U.S.	160.00	88.38
FRANK J. BOWDEN JR., ASSOCIATED PETROLEUM INDUSTRIES OF PA P.O. BOX 925 HARRISBURG PA 17108	AMERICAN PETROLEUM INSTITUTE	1,260.00	1,200.86
JAMES J. BOWE, 4 WORLD TRADE CENTER NEW YORK NY 10048	COFFEE SUGAR & COCOA EXCHANGE, INC		
ROBERT R. BOWERS, WEST VIRGINIA PETROLEUM COUNCIL SUITE 714 ATLAS BLDG. CHARLESTON WV 25301	AMERICAN PETROLEUM INSTITUTE	1,620.00	1,094.57

Organization or Individual Filing	Employer/Client	Receipts	Expenditures
DOUG B. BOWLES, 205 SPRING HILL TERRACE ROSWELL GA 30075	GEORGIA POWER CO	9,193.50	18,443.94
RICHARD P. BOWLING, 1020 PRINCESS STREET ALEXANDRIA VA 22314	TRUCK TRAILER MANUFACTURERS ASSN	1,000.00	
BOWMER COURTNEY BURLESON PEMBERTON & NORMAND, P.O. BOX 844 TEMPLE TX 76503	TRIBAL COUNCIL OF THE COUSHATTA TRIBE OF LOUISIANA		6,936.49
JIM D. BOWMER, P.O. BOX 844 TEMPLE TX 76503	TRIBAL COUNCIL OF THE COUSHATTA TRIBE OF LOUISIANA		
JOAN COSTAIN BOWYER, 1015 15TH ST., NW WASHINGTON DC 20005	PHELPS DODGE CORP	150.00	
JOHN G. BOYD, 1801 K ST., NW WASHINGTON DC 20006	INTERNATIONAL BUSINESS MACHINES CORP	1,028.50	423.55
ROBERT K. BOYD, 1515 WILSON BLVD. ARLINGTON VA 22209	AMERICAN GAS ASSN	3,000.00	1,920.16
BRACEWELL & PATTERSON, 1825 EYE STREET, NW, #1200 WASHINGTON DC 20006	AMERICAN COUNCIL ON EDUCATION		
Do	AMERICAN GAS ASSN	875.00	349.13
Do	APPALACHIAN ENERGY GROUP	1,750.00	698.25
Do	AUSTRIAN LANCE & STEWART, P.C.		
Do	CHEMICAL MANUFACTURERS ASSN	3,500.00	1,396.50
Do	DRESSER INDUSTRIES, INC		
Do	HNG-INTERNORTH	2,625.00	1,047.38
Do	LIBERTY BANK & TRUST OF NEW JERSEY	525.00	209.48
Do	LOUISIANA LAND & EXPLORATION CO	2,625.00	1,047.38
Do	PENNSYLVANIA NATURAL GAS ASSOCIATES		
Do	RALSTON PURINA CO		
Do	SOUTHDOWN/PELTO OIL COMPANY	875.00	349.12
Do	U.S. TUNA FOUNDATION	525.00	399.00
Do	VALERO ENERGY CORPORATION	3,150.00	1,256.85
BRACY WILLIAMS & COMPANY, 1000 CONNECTICUT AVENUE, NW, #304 WASHINGTON DC 20036	AMERICAN SOUTHWEST FINANCIAL CO	30,000.00	840.00
Do	CALIFORNIA NICKEL CORP	2,000.00	110.00
Do	CITY OF TUCSON	7,000.00	190.00
Do	CSX CORPORATION	20,000.00	875.00
Do	DAYLIGHT SAVING TIME COALITION	5,000.00	145.00
Do	ENERGY ABSORPTION SYSTEMS, INC	8,000.00	145.00
Do	ESTES COMPANY	3,000.00	150.00
Do	PRATT & WHITNEY AIRCRAFT GROUP	5,000.00	145.00
Do	SINGAPORE AIRLINES, LTD	12,000.00	355.00
Do	SOUTHERN ARIZONA WATER RESOURCES ASSOCIATION	3,000.00	250.00
FRANK W. BRADLEY, 1700 K ST., NW WASHINGTON DC 20006	CHEVRON USA, INC	2,400.00	
WAYNE W. BRADLEY, 1101 VERMONT AVE., NW WASHINGTON DC 20005	AMERICAN MEDICAL ASSN	500.00	
DENNIS M. BRADSHAW, 1957 E ST., NW WASHINGTON DC 20006	ASSOCIATED GENERAL CONTRACTORS OF AMERICA		
CHARLES N. BRADY, 8111 GATEHOUSE RD. FALLS CHURCH VA 22047	AMERICAN AUTOMOBILE ASSN		
CHARLES G. BRAGG, P.O. BOX 12285 MEMPHIS TN 38182	NATIONAL COTTON COUNCIL OF AMERICA	3,118.50	273.55
RAYMOND F. BRAGG JR., 114 THIRD STREET, SE WASHINGTON DC 20003	AMERICAN PETROLEUM REFINERS ASSN	300.00	
BRAND & LOWELL, 923 15TH STREET, NW, FIFTH FL. WASHINGTON DC 20005	COALITION ON BEVERAGE ISSUES	459.00	95.89
Do	GENERAL DYNAMICS		
Do	METROPOLITAN TRANSPORTATION AUTHORITY		
Do	ZENITH RADIO CORP		
ROBERT M. BRANDON, 1300 CONNECTICUT AVE., NW, #401 WASHINGTON DC 20036	CITIZEN ACTION	3,000.00	
RICHARD D. BRANNICK, P.O. BOX 550 DEXTER NY 13634	NATIONAL BORDER PATROL COUNCIL	428.40	872.90
WILLIAM C. BRASHARES, MINTZ LEVIN COHN FERRIS GLOVSKY & POPEO 1825 EYE ST., NW, #1201 WASHINGTON DC 20006.	SMITH BARNEY HARRIS UPHAM & CO, INC	7,275.00	
CHRISTIAN N. BRAUNLICH, 1776 F STREET, NW WASHINGTON DC 20006	NATIONAL ASSN OF MANUFACTURERS	125.00	
ROY BRAUNSTEIN, 817 14TH ST., NW WASHINGTON DC 20005	AMERICAN POSTAL WORKERS UNION, AFL-CIO	11,997.60	
BUN B. BRAY JR., 2300 S. 9TH ST., #104 ARLINGTON VA 22204	FEDERAL MANAGERS ASSN	2,811.00	650.00
DONALD H. BRAZIER, P.O. BOX 12266 SEATTLE WA 98102	DOLLAR SAVINGS BANK, ET AL		
HAROLD E. BRAZIL, 1900 PENNSYLVANIA AVENUE, NW WASHINGTON DC 20068	POTOMAC ELECTRIC POWER CO	33.08	
NOEL BRAZIL, 600 MARYLAND AVENUE, SW, #400 WASHINGTON DC 20024	AMERICAN OPTOMETRIC ASSN		
H. ANTHONY BREARD JR., P.O. BOX 3151 HOUSTON TX 77253	CECOS INTERNATIONAL		
ROY S. BREDDER, 1111 14TH ST., NW, #1200 WASHINGTON DC 20005	AMERICAN DENTAL ASSN	1,000.00	121.86
BREED ABBOTT & MORGAN, 1875 EYE ST., NW, #1000 WASHINGTON DC 20006	EMPIRE BLUE CROSS & BLUE SHIELD		350.00
BREGMAN ABELL KAY & SIMON, 1156 15TH ST., NW, #1212 WASHINGTON DC 20005	AIR TRANSPORT ASSN OF AMERICA		
Do	AMERICAN CAR RENTAL ASSN	1,500.00	
Do	AMERICAN FED OF LABOR & CONGRESS OF INDUSTRIAL ORGANIZATIONS		
Do	COMMITTEE FOR TAX EQUITY	2,000.00	
Do	NATIONAL CAR RENTAL SYSTEM, INC		
Do	NORFOLK SOUTHERN CORP		
Do	RYDER SYSTEMS, INC		
Do	TRANS WORLD AIRLINES, INC		
Do	TRUCK RENTING & LEASING ASSN	3,000.00	
JAMES PATRICK BRENNAN, 5999 STEVENSON AVENUE ALEXANDRIA VA 22304	AMERICAN ASSN FOR COUNSELING & DEVELOPMENT	5,327.00	156.89
PETER E. BRERETON, 900 EUCLID AVENUE CLEVELAND OH 44101	AMERITRUST CO, NAT'L ASSN	673.00	1,308.05
THOMAS M. BRESNAHAN III, 1700 K STREET, NW, #1204 WASHINGTON DC 20006	CHEVRON U.S.A., INC	400.00	
ALBERT E. BREWSTER, 1000 WILSON BLVD., #2300 ARLINGTON VA 22209	NORTHROP CORP		174.00
BELVA B. BRISSETT, 1771 N ST., NW WASHINGTON DC 20036	NATIONAL ASSN OF BROADCASTERS	1,500.00	2,645.16
ELIZABETH Y. BRITTON, 2550 M STREET, NW WASHINGTON DC 20037	RJR INDUSTRIES, INC	196.08	203.67
MARTHA M. BROAD, 1350 NEW YORK AVE., NW, #300 WASHINGTON DC 20005	NATURAL RESOURCES DEFENSE COUNCIL, INC	6,250.00	30.00
STEPHEN W. BROADIE, 1629 K STREET, NW WASHINGTON DC 20006	ALLIANCE OF AMERICAN INSURERS	1,500.00	43.80
MARINA L. BROCKMANN, 1025 CONNECTICUT AVE., NW WASHINGTON DC 20036	SOCIETY OF THE PLASTICS INDUSTRY		
WILLIAM M. BRODHEAD, 900 MARQUETTE BUILDING DETROIT MI 48226	PLUNKETT COONEY RUTT WATTERS STANCZYK & PEDERSEN (FOR: BRACY WILLIAMS & COMPANY).	7,500.00	999.60
Do	PLUNKETT COONEY RUTT WATTERS STANCZYK & PEDERSEN, P.C. (FOR: CITY OF DETROIT, MICHIGAN).	7,500.00	524.76
Do	PLUNKETT COONEY RUTT WATTERS STANCZYK & PEDERSEN (FOR: DETROIT EDUCATIONAL TV FOUNDATION)	1,470.00	31.50
Do	PLUNKETT COONEY RUTT WATTERS STANCZYK & PEDERSEN, P.C. (FOR: MICHIGAN CONSOLIDATED GAS CO).	12,007.50	4,176.07
Do	PLUNKETT COONEY RUTT WATTERS STANCZYK & PEDERSEN (FOR: NATIONAL BANK OF DETROIT).	1,785.00	630.02
DAVID A. BRODY, 1640 RHODE ISLAND AVE., NW WASHINGTON DC 20036	ANTI-DEFAMATION LEAGUE OF B'NAI B'RITH	3,700.00	
PHILLIP J. BROMAN, 919 18TH STREET, NW, #600 WASHINGTON DC 20006	TOYOTA MOTOR SALES, USA, INC		
MICHAEL D. BROMBERG, 1111 19TH ST., NW, #402 WASHINGTON DC 20036	FEDERATION OF AMERICAN HOSPITALS	4,500.00	
BROOK ASSOCIATES, INC, 605 14TH STREET, NW, #405 WASHINGTON DC 20005	NORTHERN TEXTILE ASSN	6,000.00	600.00
MARY E. BROOKS, 1730 M STREET, NW WASHINGTON DC 20036	LEAGUE OF WOMEN VOTERS OF THE U.S	3,928.34	113.75
PHILIP A. BROOKS, 1125 15TH STREET, NW WASHINGTON DC 20005	MORTGAGE BANKERS ASSN OF AMERICA	600.00	
DAVID W. BROOME, 1726 M STREET, NW, #401 WASHINGTON DC 20036	BURLINGTON INDUSTRIES, INC	8,755.00	575.00
DANIEL T. BROSS, P.O. BOX 1478 HOUSTON TX 77001	UNITED GAS PIPE LINE CO		
BROTHERHOOD OF RAILWAY AIRLINE & STEAMSHIP CLERKS, 815 16TH STREET, NW WASHINGTON DC 20006		21,100.00	38,290.63
DONALD G. BROTZMAN, 1400 K ST., NW WASHINGTON DC 20005	RUBBER MFGRS ASSN	10,000.00	
BROWN & FINN, 1920 N STREET, NW, #510 WASHINGTON DC 20036	SATELLITE TELEVISION INDUSTRY ASSN/S.P.A.C.E.		
Do	SATELLITE TV VIEWING RIGHTS SUPERFUND, INC	29,594.50	
BROWN & SEYMOUR, 100 PARK AVENUE, #2606 NEW YORK NY 10017	GRAY PANTHERS		
CHARLES T. BROWN, P.O. BOX 100 MIAMI AZ 85539	PINTO VALLEY COPPER CORPORATION		
DAVID S. J. BROWN, 1101 17TH ST., NW, #604 WASHINGTON DC 20036	MONSANTO CO	700.00	440.53
DIANE R. BROWN, 1515 WILSON BOULEVARD ARLINGTON VA 22209	AMERICAN GAS ASSN	4,500.00	879.32
DOREEN L. BROWN, 1001 CONNECTICUT AVE., NW WASHINGTON DC 20036	CONSUMERS FOR WORLD TRADE		
ELLEN B. BROWN, 1615 H STREET, NW WASHINGTON DC 20062	CHAMBER OF COMMERCE OF THE U.S.	2,400.00	530.59
GEORGE L. BROWN, 1000 WILSON BOULEVARD ARLINGTON VA 22209	GRUMMAN CORP	1,250.00	828.14
JAMES P. BROWN, BROWN & ASSOCIATES 301 SOVEREIGN COURT, #102 ST. LOUIS MO 63011	CITY OF ST. LOUIS - CITY HALL		
JESSE P. BROWN JR., 1918 N. PARKWAY MEMPHIS TN 38112	NATIONAL COTTON COUNCIL OF AMER	2,062.50	
RALPH BROWN, SUITE 107 701 S. 22ND STREET OMAHA NB 68102	M.O.A.A.I.O.A. & SUBS, INC		
BROWN ROADY BONVILLIAN & GOLD, 1300 19TH STREET, NW, #300 WASHINGTON DC 20036	WESTERN RIVER GUIDES ASSN		
S. M. HENRY BROWN JR., 411 FAYETTEVILLE STREET MALL, #2035 RALEIGH NC 27601	CAROLINA POWER & LIGHT CO	886.53	1,732.84
BROWN TODD & HEYBURN, 1600 CITIZENS PLAZA LOUISVILLE KY 40202	BROWN & WILLIAMSON TOBACCO CORP	58.00	
VINCENT D. BROWN, NEBRASKA PETROLEUM COUNCIL P.O. BOX 95063 LINCOLN NB 68509	AMERICAN PETROLEUM INSTITUTE	8,000.00	3,530.43
VIRGINIA BROWN, 15TH & M STREETS, NW WASHINGTON DC 20005	NATIONAL ASSN OF HOME BUILDERS OF THE U.S.		
WILLIAM E. BROWN, 815 CONNECTICUT AVE., NW WASHINGTON DC 20006	FORD MOTOR CO	256.50	180.17
WILLIAM R. BROWN, 122 C STREET, NW, #200 WASHINGTON DC 20001	COUNCIL OF STATE CHAMBERS OF COMMERCE	270.00	
WILLIAM Y. BROWN, 1155 CONNECTICUT AVE., NW, #800 WASHINGTON DC 20036	WASTE MANAGEMENT, INC	5,000.00	1,056.76
DONALD T. BROWNE, 205 EAST 42ND STREET NEW YORK NY 10017	RISK & INSURANCE MANAGEMENT SOCIETY, INC		

Organization or Individual Filing	Employer/Client	Receipts	Expenditures
BROWNSTEIN ZEIDMAN & SCHOMER, 1401 NEW YORK AVE., NW, #900 WASHINGTON DC 20005	CANADIAN FINANCIAL CORPORATION		
Do	MORTGAGE GUARANTY INSURANCE CORP		
Do	NATIONAL CORPORATION FOR HOUSING PARTNERSHIPS		
Do	NATIONAL HOUSING REHABILITATION ASSN		
Do	NEW YORK CITY HOUSING DEVELOPMENT CORP	2,484.45	
Do	NEW YORK STATE MORTGAGE LOAN ENFORCEMENT & ADMIN CORP	18,476.50	
Do	NEW YORK STATE URBAN DEVELOPMENT CORP		
Do	SCHOCHET ASSOCIATES		
GARY W. BRUNER, P.O. BOX 2159 DALLAS TX 75221	AMERICAN PETROFINA, INC		
KATHRYNE M. BRUNER, 1025 CONNECTICUT AVE., NW WASHINGTON DC 20036	GA TECHNOLOGIES, INC	750.00	50.00
MICHAEL E. BRUNNER, 2626 PENNSYLVANIA AVENUE, NW WASHINGTON DC 20037	NATIONAL TELEPHONE COOPERATIVE ASSN	1,000.00	78.80
J. CHARLES BRUSE, 633 PENNSYLVANIA AVE., NW, #600 WASHINGTON DC 20004	ALLSTATE INSURANCE GROUP	400.00	168.75
DAWN M. BRYDON, 888 16TH STREET, NW WASHINGTON DC 20006	MILK INDUSTRY FOUNDATION/INT'L ASSN OF ICE CREAM MFRS		
BUCHANAN INGERSOLL, P.C., 1667 K STREET, NW, 9TH FL WASHINGTON DC 20006	FEDERATION OF APPAREL MANUFACTURERS		
Do	NORFOLK SOUTHERN CORP		
LANA BUCK, 1319 F STREET, NW WASHINGTON DC 20004	NATIONAL ASSN OF PRIVATE PSYCHIATRIC HOSPITALS	120.00	
PRISCILLA R. BUDEIRI, 215 PENNSYLVANIA AVE., SE WASHINGTON DC 20003	CONGRESS WATCH	4,749.96	
G. N. BUFFINGTON, 2230 CALIFORNIA STREET, NW WASHINGTON DC 20008	NATIONAL ASSN OF REAL ESTATE INVESTMENT TRUSTS	9,832.50	13.65
BUILDING OWNERS & MANAGERS ASSN INTERNATIONAL, 1250 EYE ST., NW, #200 WASHINGTON DC 20005			6,514.00
DOUGLAS W. BULCAO, 1101 CONNECTICUT AVE., NW, #300 WASHINGTON DC 20036	AMERICAN TEXTILE MANUFACTURERS INSTITUTE, INC	5,400.00	60.80
LINDA KNELL BUMBALO, 1125 15TH STREET, NW WASHINGTON DC 20005	MORTGAGE BANKERS ASSN OF AMERICA	5,850.00	44.00
DARREL D. BUNGE, MINNESOTA PETROLEUM COUNCIL 386 N. WABASHA ST., #1025 ST. PAUL MN 55102	AMERICAN PETROLEUM INSTITUTE	3,488.00	3,274.15
DAVID A. BUNN, 1211 CONNECTICUT AVENUE, NW, #406 WASHINGTON DC 20036	HEARST CORPORATION	900.00	
Do	MAGAZINE PUBLISHERS ASSN, INC	4,000.00	
Do	PARCEL SHIPPERS ASSN	1,000.00	
NORMAN D. BURCH, 1101 VERMONT AVE., NW, #401 WASHINGTON DC 20005	COLLEGE OF AMER PATHOLOGISTS	5,200.00	107.30
BARBARA G. BURCHETT, 1201 PENNSYLVANIA AVENUE, NW, #210 WASHINGTON DC 20004	HALLMARK CARDS, INC		
DAVID G. BURDEN, 200 E. RANDOLPH DR. CHICAGO IL 60601	AMOCO CORP		
PAUL F. BURDETT, SUITE 700 SOUTH 1800 M STREET, NW WASHINGTON DC 20036	MERRELL DOW PHARMACEUTICALS, INC		71.60
CLAIR W. BURGENER, P.O. BOX 8186 RANCH SANTA FE CA 92067	G A TECHNOLOGIES, INC	9,000.00	2,148.66
KEVIN BURKE, 1771 N STREET, NW WASHINGTON DC 20036	NATIONAL ASSN OF BROADCASTERS	1,500.00	629.44
SALLY J. BURKE, SCOTT HARRISON & MCLEOD 2501 M STREET, NW WASHINGTON DC 20037	AMERICAN ASSN OF CROP INSURERS	135.00	
Do	UNITED EGG PRODUCERS	787.50	
BURLEY & DARK LEAF TOBACCO EXPORT ASSN, 1100 17TH ST., NW WASHINGTON DC 20036		43,078.50	900.00
BILL D. BURLISON, 499 SOUTH CAPITOL STREET, SE, #103 WASHINGTON DC 20003	MCDONNELL DOUGLAS CORPORATION	2,000.00	550.00
CHARLES S. BURNS, 1015 15TH ST., NW WASHINGTON DC 20005	PHELPS DODGE CORP	1,200.00	
TIMOTHY F. BURNS, 2501 M ST., NW WASHINGTON DC 20037	CHEMICAL MANUFACTURERS ASSN, INC	2,000.00	196.00
BURR PEASE & KURTZ, INC, 810 N ST. ANCHORAGE AK 99501	EKLUTNA, INC		
BURSON-MARSTELLER, 1825 EYE ST., NW, #950 WASHINGTON DC 20006	CBS, INC	150.00	
Do	CITY OF PHILADELPHIA	325.00	25.00
Do	MORGAN STANLEY & CO, INC	5,725.00	160.00
Do	PENNSYLVANIA ECONOMIC DEVELOPMENT ASSN		
Do	PHILADELPHIA PORT CORP	65.00	10.00
Do	SEARS ROEBUCK & CO		
Do	SOUTH JERSEY PORT CORP		
Do	TEMPLE UNIVERSITY	97.50	10.00
FRANK BURTNETT, 5999 STEVENSON AVENUE ALEXANDRIA VA 22304	AMERICAN ASSN FOR COUNSELING & DEVELOPMENT	1,041.87	
BUSBY REHM AND LEONARD, P.C., 1330 CONNECTICUT AVE., NW, #200 WASHINGTON DC 20036	EUROPEAN CONFEDERATION OF THE FOOTWEAR INDUSTRY	6,600.00	79.00
Do	TIMEX CORP	500.00	45.35
Do	UNIVERSAL LEAF TOBACCO CO, INC		
BARBARA L. BUSH, 1220 L ST., NW WASHINGTON DC 20005	AMERICAN PETROLEUM INSTITUTE	200.00	
E. PHILIP BUSH, 300 LINCOLN PLAZA, LB-5 DALLAS TX 75201	TAYLOR & MIZELL		
BUTLER & BINION, 1747 PENNSYLVANIA AVE., NW WASHINGTON DC 20006	PENNZOIL COMPANY		
Do	TELEFLEX, INC		
HELEN C. BUTLER, 1630 CONNECTICUT AVENUE, NW, #202 WASHINGTON DC 20009	GOVERNMENT OF THE REPUBLIC OF HAITI		
Do	TAIWAN POWER CO	4,500.00	
WILLIAM A. BUTLER, 645 PENNSYLVANIA AVENUE, SE WASHINGTON DC 20003	NATIONAL AUDUBON SOCIETY	5,000.00	150.00
C.A.R.E., 511 C STREET, NE WASHINGTON DC 20002			
CADWALADER WICKERSHAM & TAFT, 7TH FLOOR 1333 NEW HAMPSHIRE AVE., NW WASHINGTON DC 20036	ASPHALT ROOFING MANUFACTURERS ASSN		
Do	GENERAL DYNAMICS CORPORATION		
Do	KWAJALEIN ATOLL CORP	190.00	
Do	SHELL OIL CO		
JOHN R. CADY, 1711 KING STREET ALEXANDRIA VA 22314	POTATO CHIP/SNACK FOOD ASSN		
ANDREW A. CAFFEY, 1025 CONNECTICUT AVENUE, NW, #707 WASHINGTON DC 20036	INTERNATIONAL FRANCHISE ASSN		
ROY C. CAHOON, 6100 KNOLLWOOD DR. FALLS CHURCH VA 22041	NATIONAL AUTOMATIC MERCHANDISING ASSN		
MORRISON G. CAIN, 1625 I ST., NW, #1023 WASHINGTON DC 20006	ASSOCIATION OF GENERAL MERCHANDISE CHAINS	6,250.00	
ALAN CALDWELL, 2550 M STREET, NW, #770 WASHINGTON DC 20037	RJR INDUSTRIES, INC	1,200.00	34.00
CHARLES D. CALHOUN, 30 MONTGOMERY STREET JERSEY CITY NJ 07302	RADIO OFFICERS UNION	2,133.62	
FRANK W. CALHOUN, 3400 TEXAS COMMERCE TOWER HOUSTON TX 77002	HOUSTON ENDOWMENT, INC		
PETER E. CALLANAN, 1100 CONNECTICUT AVE., NW WASHINGTON DC 20036	HONEYWELL, INC	200.00	425.00
JOHN C. CALLIHAN, 299 PARK AVENUE NEW YORK NY 10171	WESTVACO CORP		414.25
GORDON L. CALVERT, BOX 34-531 BETHESDA MD 20817	COMMERICIAL LAW LEAGUE OF AMER, COMM COLL. AGENCY SECTION		
DONALD L. CALVIN, 11 WALL ST, NEW YORK, NY	NEW YORK STOCK EXCHANGE		
CAMBRIDGE INTERNATIONAL, INC, 1600 WILSON BOULEVARD, #713 ARLINGTON VA 22209	AVCO LYCOMING	200.00	
Do	FMC CORPORATION	175.00	
Do	FORD AEROSPACE & COMMUNICATIONS CORP	175.00	
Do	GENERAL DYNAMICS LAND SYSTEMS	200.00	
Do	LOCKHEED-GEORGIA CO	150.00	
Do	NORDEN SYSTEMS, INC	150.00	
ARTHUR E. CAMERON, 316 PENNSYLVANIA AVE., SE, #402 WASHINGTON DC 20003	AMERACE CORPORATION, ET AL	5,321.00	
Do	AMERICAN GREYHOUND TRACK OPERATORS ASSN	4,500.00	
Do	SAFETRAN SYSTEMS CORPORATION	6,900.00	
Do	SIGNAL COMMUNICATIONS		
NANCY CAMM, 1800 K STREET, NW, #900 WASHINGTON DC 20006	BANKAMERICA CORP	66.35	26.31
THOMAS D. CAMPBELL & ASSOCIATES, INC, 517 QUEEN STREET ALEXANDRIA VA 22314	CYPRUS MINERALS CO	5,000.00	530.42
C. R. CAMPBELL JR., 1120 CONNECTICUT AVENUE, NW, #900 WASHINGTON DC 20036	GTE CORP		
CARL C. CAMPBELL, 1030 15TH ST., NW, SUITE 700 WASHINGTON DC 20005	NATIONAL COTTON COUNCIL OF AMERICA	400.00	
CHARLES ARGYLL CAMPBELL, 1776 F STREET, NW WASHINGTON DC 20006	NATIONAL ASSN OF MANUFACTURERS		
CHARLES O. CAMPBELL, 1745 JEFFERSON DAVIS HIGHWAY, #511 ARLINGTON VA 22202	MANUFACTURED HOUSING INSTITUTE	900.00	100.00
JEANNE CAMPBELL, CAMPBELL-RAUPE ASSOCIATES, INC 1015 15TH STREET, NW, #907 WASHINGTON DC 20005	ALGONQUIN GAS TRANSMISSION		
Do	AMERICAN NUCLEAR ENERGY COUNCIL		
Do	INVEST TO COMPETE ALLIANCE		
Do	LTV AEROSPACE & DEFENSE CO		
Do	NEW ENGLAND LIFE		
Do	PITNEY BOWES		
Do	RIFFE PETROLEUM CO		
Do	TEXAS AIR CORP		
Do	TEXAS UTILITIES SERVICE		
Do	WESTINGHOUSE CORP		
JERRY L. CAMPBELL, 1201 CHESTNUT ST. CHATTANOOGA TN 37402	TENNESSEE VALLEY PUBLIC POWER ASSN		
CANADIAN COALITION ON ACID RAIN, 112 ST. CLAIR AVENUE, #504 TORONTO, ONTARIO CANADA M4V 2Y3		11,510.00	1,527.71
SHARON M. CANAVAN, 1125 15TH ST., NW WASHINGTON DC 20005	MORTGAGE BANKERS ASSN OF AMERICA	8,160.00	344.00
CANDLELIGHTERS, 123 C ST., SE WASHINGTON DC 20003			
ANNE C. CANFIELD, 1331 PENNSYLVANIA AVENUE, NW WASHINGTON DC 20004	GENERAL ELECTRIC CREDIT CORP	400.00	
H. SPOFFORD CANFIELD, 1015 15TH STREET, NW, #900 WASHINGTON DC 20005	HNG/INTERNORTH	2,000.00	
DAVE CANNARD, 113 W. 1ST VANCOUVER WA 98660	FRIENDS OF THE COLUMBIA GORGE		
SHARON F. CANNER, 1776 F STREET, NW WASHINGTON DC 20006	NATIONAL ASSN OF MANUFACTURERS	131.44	
W. DEAN CANNON JR , 9800 S. SEPULVEDA BLVD., #500 LOS ANGELES CA 90045	CALIFORNIA LEAGUE OF SAVINGS INSTITUTIONS		
DAVID L. CANTOR, 1133 15TH STREET, NW, #1200 WASHINGTON DC 20005	PORTER WRIGHT MORRIS & ARTHUR (FOR: COALITION FOR ENVIRONMENTAL ENERGY BALANCE (CEEB)).	38.70	
RICHARD A. CANTOR, P.O. BOX 8293 WASHINGTON DC 20024	OIL INVESTMENT INSTITUTE		
GARY CAPISTRANT, 1200 15TH STREET, NW WASHINGTON DC 20005	AMERICAN HEALTH CARE ASSN	3,602.50	291.70
CAPITOL ASSOCIATES, INC, 1156 15TH STREET, NW, #1102 WASHINGTON DC 20005	CITIZENS COMM FOR MEDICAL RESEARCH & HEALTH EDUCATION	825.00	

Organization or Individual Filing	Employer/Client	Receipts	Expenditures
Do	EMORY UNIVERSITY MEDICAL SCHOOL	781.25	
Do	ENDOCRINE SOCIETY	350.00	
Do	NATIONAL MULTIPLE SCHLEROSIS SOCIETY	525.00	
Do	REHABILITATION INSTITUTE OF CHICAGO	687.50	
Do	TERRI GOTTHELF LUPUS RESEARCH INSTITUTE	350.00	
Do	WORCESTER BUSINESS DEVELOPMENT CORP		
CAPITOL GROUP, INC, 2550 M STREET, NW, #650 WASHINGTON DC 20037	APPLIED ENERGY SERVICES, INC		
CONSTANTINE G. CARAS, 2828 PENNSYLVANIA AVENUE, NW, #205 WASHINGTON DC 20007	OGDEN CORPORATION		
NORVAL E. CAREY, 1025 CONNECTICUT AVE., NW #704 WASHINGTON DC 20036	GULF OIL CORP (FOR GA TECHNOLOGIES, INC)	5,890.00	1,209.51
ROBERT B. CARLESON, 1201 PENNSYLVANIA AVE., NW WASHINGTON DC 20004	KMG MAIN HURDMAN, CPA'S (FOR: MERCEDES BENZ OF NORTH AMERICA)		
EDWARD J. CARLOUGH, 1750 NEW YORK AVENUE, NW WASHINGTON DC 20006	SHEET METAL WORKERS' INTERNATIONAL ASSN	25,987.00	
ANNE E. CARLSON, 1620 EYE STREET, NW, #1000 WASHINGTON DC 20006	MOTOR VEHICLE MANUFACTURERS ASSN OF THE U.S., INC	200.00	
ROBERT E. CARLSTROM JR., 1627 K STREET, NW, #200 WASHINGTON DC 20006	ST. JOE MINERALS CORPORATION	6,000.00	146.76
BERTRAM W. CARP, 1724 MASSACHUSETTS AVENUE, NW WASHINGTON DC 20036	NATIONAL CABLE TELEVISION ASSN	3,625.00	
CY CARPENTER, 12025 E 45TH AVE. DENVER CO 80251	FARMERS' EDUCATIONAL & CO-OPERATIVE UNION OF AMERICA	8,750.00	344.68
GEORGE D. CARPENTER, 6110 CENTER HILL ROAD CINCINNATI OH 45224	PROCTER & GAMBLE MANUFACTURING CO	82.64	
SUSAN CARR, 1709 NEW YORK AVENUE, NW, #801 WASHINGTON DC 20006	U.S. LEAGUE OF SAVINGS INSTITUTIONS	1,000.00	
JOHN R. CARSON, 20 CHEVY CHASE CIRCLE WASHINGTON DC 20015	AMERICAN PODIATRIC MEDICAL ASSN	16,000.00	
JOHN R. CARTER, 1000 WILSON BLVD., #2600 ARLINGTON VA 22209	TRW, INC	260.00	
JOSEPH L. CARTER JR., 412 FIRST ST., SE, #200 WASHINGTON DC 20003	ASSOCIATION OF AMERICAN RAILROADS	736.17	99.71
TERRIE M. CARTER, 1667 K STREET, NW, #370 WASHINGTON DC 20006	DEERE & CO	68.75	
JAMES P. CARTY, 1776 F ST., NW WASHINGTON DC 20006	NATIONAL ASSN OF MANUFACTURERS	500.00	
SUSAN B. CARVER, 1130 17TH STREET, NW WASHINGTON DC 20036	NATIONAL COAL ASSN	525.00	1,713.58
ALLEN R. CASKIE, 1850 K STREET, NW WASHINGTON DC 20006	AMERICAN COUNCIL OF LIFE INSURANCE, INC		
EUGENE I. CASRAISS JR., 1757 N ST., NW WASHINGTON DC 20036	UNITED AUTO AEROSPACE & AGRICULTURAL IMPLEMENT WORKERS	14,638.46	79.60
CASSIDY AND ASSOCIATES, INC, METROPOLITAN SQUARE 655 15TH ST., NW, #1100 WASHINGTON DC 20005	ALEXANDER GRAHAM BELL ASSN	100.00	23.00
Do	ANATOLIA COLLEGE BOARD OF TRUSTEES	200.00	
Do	ATLANTA UNIVERSITY	400.00	65.55
Do	BARRY UNIVERSITY	700.00	
Do	BOSTON COLLEGE	200.00	23.00
Do	BOSTON UNIVERSITY		
Do	BROADHEAD INVESTMENTS, INC		
Do	BROWN UNIVERSITY	450.00	40.75
Do	CATHOLIC UNIVERSITY OF AMERICA		
Do	CENTEX COMMUNICATIONS, INC		
Do	COLUMBIA UNIVERSITY	100.00	43.70
Do	COMMAND CONTROL & COMMUNICATIONS CORP		
Do	COMMUNITY CARE SYSTEMS, INC		
Do	DREXEL UNIVERSITY	300.00	148.45
Do	INDIANA UNIVERSITY	500.00	47.20
Do	MOUNT SINAI MEDICAL CENTER		
Do	NEORX		
Do	NEW ENGLAND COLLEGE OF OPTOMETRY		
Do	NORTHWESTERN UNIVERSITY		
Do	O'CONNELL MANAGEMENT CO	1,000.00	35.00
Do	OCEAN SPRAY CRANBERRIES, INC	1,200.00	93.00
Do	OCEANIC INSTITUTE	100.00	6.00
Do	PIRELLI CABLE CORPORATION	1,050.00	199.46
Do	POLYTECHNIC INSTITUTE OF NEW YORK	100.00	25.15
Do	PYRAMID COMPANIES	200.00	
Do	ROCHESTER INSTITUTE OF TECHNOLOGY	1,200.00	152.90
Do	ROCKY MOUNTAIN ENERGY		
Do	U.S. REPEATING ARMS	250.00	31.90
Do	UNITED HOSPITALS	100.00	35.00
Do	UNIVERSITY OF ALABAMA IN HUNTSVILLE		
Do	UNIVERSITY OF BRIDGEPORT	400.00	39.00
Do	UNIVERSITY OF SOUTHERN MISSISSIPPI	300.00	
J. WARREN CASSIDY, 1600 RHODE ISLAND AVENUE, NW WASHINGTON DC 20036	NATIONAL RIFLE ASSN OF AMER	1,937.50	
LAWRENCE J. CASSIDY, 1750 NEW YORK AVENUE, NW WASHINGTON DC 20006	SHEET METAL WORKERS' INTERNATIONAL ASSN	13,929.00	
JOHN J. CASTELLANI, 27TH FLOOR 1000 WILSON BLVD. ARLINGTON VA 22209	TRW, INC	6,000.00	
RITA L. CASTLE, 100 NE ADAMS PEORIA IL 61629	CATERPILLAR TRACTOR CO	5,000.00	669.50
MICHAEL CAUDELL-FEAGAN, 215 PENNSYLVANIA AVE., SE WASHINGTON DC 20003	U.S. PUBLIC INTEREST RESEARCH GROUP	1,375.00	
JOSEPH E. CAVANAGH, 1125 15TH ST., NW WASHINGTON DC 20005	INTERNATIONAL BROTHERHOOD OF ELECTRICAL WORKERS, AFL-CIO-CLC	6,000.00	81.90
RED CAVANEY, 260 MADISON AVENUE NEW YORK NY 10016	AMERICAN PAPER INSTITUTE, INC	3,200.00	
NICHOLAS G. CAVAROCCHI, 6TH FLOOR 2010 MASSACHUSETTS AVENUE, NW WASHINGTON DC 20036			
CELLULAR TELECOMMUNICATIONS INDUSTRY ASSN, 1150 17TH ST., NW, #607 WASHINGTON DC 20036			1,000.00
CF INDUSTRIES, INC, SALEM LAKE DR. LONG GROVE IL 60047	EAST BAY REGIONAL PARK DISTRICT		
PHILIP CHABOT, 1317 F STREET, NW WASHINGTON DC 20004	AMERICAN PAPER INSTITUTE		
CHADBOURNE & PARKE, 1101 VERMONT AVENUE, NW WASHINGTON DC 20005	APPLIED ENERGY SERVICES, INC		
Do	CATALYST ENERGY DEVELOPMENT CORP	16,000.00	56.00
Do			
Do	INDEPENDENT POWER SYSTEMS INTERNATIONAL, INC	12,000.00	150.00
Do	LAWSON MARDON GROUP LIMITED		48.00
Do	NAPP CHEMICALS, INC	200.00	
DURWOOD CHALKER, P.O. BOX 660164 DALLAS TX 75266	CENTRAL AND SOUTH WEST CORP		
MARK G. CHALPIN, 1735 NEW YORK AVENUE, NW WASHINGTON DC 20006	AMERICAN INSTITUTE OF ARCHITECTS		
CHARLES E. CHAMBERLAIN, 1747 PENNSYLVANIA AVENUE, N.W. WASHINGTON DC 20006	COMMITTEE FOR 806.30 AND 807, INC		
TERRY M. CHAMBERLAIN, 1957 E STREET, NW WASHINGTON DC 20006	ASSOCIATED GENERAL CONTRACTORS OF AMERICA		
ED CHANDLER, 7901 WESTPARK DRIVE MCLEAN VA 22102	NATIONAL MACHINE TOOL BUILDERS' ASSN	9,653.00	500.00
WILLIAM C. CHAPMAN, 1660 L ST., NW WASHINGTON DC 20036	GENERAL MOTORS CORP	3,000.00	4,699.88
JOHN E. CHAPOTON, 1100 CONNECTICUT AVE., NW WASHINGTON DC 20036	PARIBAS ASSET MANAGEMENT, INC		
RICHARD M. CHARLTON, 600 MARYLAND AVE., SE, #700 WASHINGTON DC 20024	ELECTRONIC DATA SYSTEMS CORPORATION	224.00	247.00
PEGGY CHARREN, 971 MEMORIAL DRIVE, #504 CAMBRIDGE MA 02138	ACTION FOR CHILDREN'S TELEVISION		
LESLIE CHEEK III, 1025 CONNECTICUT AVENUE, NW, #414 WASHINGTON DC 20036	CRUM & FOSTER CORP	26,000.00	998.25
CHEMICAL SPECIALTIES MANUFACTURERS ASSN, 1001 CONNECTICUT AVENUE, NW, #1120 WASHINGTON DC 20036			498.93
WILLIAM B. CHERKASKY, 1025 CONNECTICUT AVENUE, NW, #707 WASHINGTON DC 20036	INTERNATIONAL FRANCHISE ASSN		
CHESEBROUGH-POND'S INC, NYALA FARM ROAD WESTPORT CT 06881			6,214.05
MARLANA CHICKOS, 1101 14TH STREET, NW, #804 WASHINGTON DC 20005	NATIONAL APARTMENT ASSN	9,500.00	52.30
JOSEPH R. CHILD, 3328 GLENMORE DRIVE FALLS CHURCH VA 22041	ROBERT SCHNEIDER ASSOCIATES		
BLAIR G. CHILDS, P.O. BOX 7610, BF STATION WASHINGTON DC 20044	SENIOR EXECUTIVES ASSN	1,000.00	500.00
MICHAEL W. CHINWORTH, 1000 CONNECTICUT AVENUE, NW WASHINGTON DC 20036	JAPAN ECONOMIC INSTITUTE OF AMERICA		
ROBERT A. CHLOPAK, 1201 PENNSYLVANIA AVE., NW, #807 WASHINGTON DC 20004	COALITION AGAINST DOUBLE TAXATION, INC	12,000.00	2,048.08
CHLORINE INSTITUTE, INC, 70 WEST 40TH STREET NEW YORK NY 10018		30,682.76	30,682.76
LESLIE CHRISTENSEN, 600 MARYLAND AVE., SW, #700 WASHINGTON DC 20024	NATIONAL FED OF INDEPENDENT BUSINESS	368.56	200.00
WILLIAM T. CHRISTIAN, 2211 CONGRESS STREET PORTLAND ME 04122	UNION MUTUAL LIFE INSURANCE CO		
JAMES T. CHRISTY, 1730 PENNSYLVANIA AVE., NW, #265 WASHINGTON DC 20006	AIR PRODUCTS & CHEMICALS, INC	1,650.00	50.86
CHUGACH ELECTRIC ASSN, INC, POUCH 6300 ANCHORAGE AK 99502			664.67
DONALD T. CHUNN, ROUTE 2, BOX 89 COLUMBIA TN 38401	TITLE ASSOCIATES, INC		
CHWAT/WEIGEND ASSOCIATES, 400 FIRST STREET, NW, #816 WASHINGTON DC 20001	AMERICAN HOME SEWING ASSN, INC	500.00	500.00
Do	ASSOCIATED LOCKSMITHS OF AMERICA	975.00	975.00
Do	NATIONAL ASSN OF COMPANION SITTER AGENCIES & REFERRAL SERV	375.00	375.00
Do	NATIONAL ASSN OF TOBACCO DISTRIBUTORS	2,000.00	2,000.00
Do	NATIONAL CONFERENCE OF STATE LIQUOR ADMINISTRATORS		
Do	NATIONAL LICENSED BEVERAGE ASSN	2,000.00	2,000.00
Do	NATIONAL WEATHER SERVICE EMPLOYEES ORGANIZATION	300.00	300.00
Do	RETAIL TOBACCO DEALERS OF AMERICA, INC	300.00	300.00
Do	WHOLESALE BEER DISTRIBUTORS OF TEXAS	1,500.00	1,500.00
CIGAR ASSN OF AMERICA, INC, 1100 17TH STREET, NW, #1201 WASHINGTON DC 20036			493.25
CITIZEN ACTION, 1300 CONNECTICUT AVE., NW, #401 WASHINGTON DC 20036		4,000.00	9,000.00
CITIZEN/LABOR ENERGY COALITION, 1300 CONNECTICUT AVENUE, NW, RM. 401 WASHINGTON DC 20036			
CITIZENS COMM FOR THE RIGHT TO KEEP & BEAR ARMS, LIBERTY PARK, 12500 NE TENTH PLACE BELLEVUE WA 98005		328,516.70	100,527.00
CITIZENS POLITICAL ACTION COMMITTEE, P.O. BOX 645 228 SOUTH A STREET, #2 OXNARD CA 93032			

Organization or Individual Filing	Employer/Client	Receipts	Expenditures
DONALD D. CLANCY, 6507 LEEDS LANE CINCINNATI OH 45215	GROCERY MANUFACTURERS OF AMERICA, INC	7,800.00	565.05
PATRICIA T. CLAREY, 1025 CONNECTICUT AVENUE, NW, #507 WASHINGTON DC 20036	ASHLAND OIL, INC	2,000.00	
BOB CLARK, SUITE 1908 400 MADISON ST. ALEXANDRIA VA 22314	RYDER SYSTEMS, INC		
JAMES F. CLARK, ROBERTSON, MONAGLE, EASTAUGH & BRADLEY 240 MAIN ST., # 800, PO BOX 1211 JUNEAU AK 99802	ALASKA PULP CORP	1,900.00	
JAMES W. CLARK JR , 600 MARYLAND AVENUE, SW, #400 WASHINGTON DC 20024	AMERICAN OPTOMETRIC ASSN	129.76	309.60
JORDAN CLARK, 15TH & M STREETS, NW WASHINGTON DC 20005	NATIONAL ASSN OF HOME BUILDERS OF THE U.S.		
JOSEPH J. F. CLARK, 1725 K ST., NW, #1111 WASHINGTON DC 20006	EATON ASSOCIATES, INC		
PHILLIP A. CLARK, 1050 17TH ST., NW, #700 WASHINGTON DC 20036	NATIONAL OCEAN INDUSTRIES ASSN	4,050.00	
ROBERT A. CLARK, 2033 M STREET, NW, #900 WASHINGTON DC 20036	NATIONAL ASSN OF ARAB AMERICANS	2,425.33	
RUDY I. CLARK, 5342 WOODBURY WOODS LANE FAIRFAX VA 22032	AIR FORCE SERGEANTS ASSN, INC		
VERNON A. CLARK, 1899 L ST., NW, #403 WASHINGTON DC 20036	OUTDOOR ADVERTISING ASSN OF AMERICA, INC	2,438.00	1,427.00
WADE P. CLARKE JR , JOHN DEERE RD MOLINE IL 61265	DEERE & COMPANY		
SCOTT CHARLES CLARKSON, 1155 CONNECTICUT AVE., NW, #800 WASHINGTON DC 20036	WASTE MANAGEMENT, INC	2,000.00	1,253.86
JOAN CLAYBROOK, 2000 P STREET, NW, #605 WASHINGTON DC 20036	PUBLIC CITIZEN, INC	1,000.00	
CLAYMARK CORPORATION, INC, C/O MILBANK TWEED HADLEY & MCCLOY 30 ROCKEFELLER PLAZA, RM. 5600 NEW YORK NY 10112.			
CLEARY GOTTLIEB STEEN & HAMILTON, 1752 N STREET, NW WASHINGTON DC 20036	BEAR STEARNS & CO		
Do	LONZA, INC	625.00	1.70
Do	PUBLIC SECURITIES ASSN		13.75
Do	SYNTHETIC ORGANIC CHEMICAL MANUFACTURERS ASSN, INC	20.40	
RONALD D. CLEMENTS, 1111 19TH ST., NW, 9TH FLOOR WASHINGTON DC 20036	EDISON ELECTRIC INSTITUTE	2,715.00	336.44
CLEVELAND ELECTRIC ILLUMINATING CO, 55 PUBLIC SQUARE P.O. BOX 5000 CLEVELAND OH 44113			505.00
CLIFFORD & WARNKE, 815 CONNECTICUT AVE., NW WASHINGTON DC 20006	AUSTRALIAN MEAT & LIVE-STOCK CORP	1,200.00	418.50
Do	JOINT CORPORATE COMM ON CUBAN CLAIMS	600.00	180.00
Do	J. C. MAXTONE-MAILER	600.00	263.27
Do	PROPRIETARY ASSOCIATION	2,100.00	707.00
DEXANNE CLOHAN, 1101 VERMONT AVE., NW WASHINGTON DC 20005	AMERICAN MEDICAL ASSN	3,769.00	
STANLEY A. CMICH, 1700 GATEWAY BOULEVARD, SE CANTON OH 44707	FISCAL ASSOCIATES, INC		
Do	GIBBONS & GRABLE CO		
Do	TIMKEN CO		
Do	WHITE ENGINES, INC		
COALITION AGAINST DOUBLE TAXATION, INC, C/O KIERNAN O'BRIEN & LAROCCA 1050 THOMAS JEFFERSON ST., NW, 6TH FL. WASHINGTON DC 20007.		320,325.02	317,356.97
COALITION FOR ALTERNATIVES IN NUTRITION & HEALTHCARE, INC, P.O. BOX B-12 RICHLANDTOWN PA 18955		2,240.00	1,792.30
COALITION TO KEEP ALASKA OIL, AFL-CIO BUILDING 815 16TH STREET, NW, #309 WASHINGTON DC 20006		2,175.94	2,175.94
COAN COUTURE LYONS & MOORHEAD, 1625 EYE ST., NW, #1015 WASHINGTON DC 20006	A - C VALLEY CORPORATION		
Do	VIETNAM VETERANS OF AMERICA		
Do	WESTINGHOUSE ELECTRIC CORPORATION		
COASTAL PROPERTIES INSTITUTE, INC, 66 SURFWATCH DRIVE JOHNS ISLAND SC 29455			
RICHARD B. COBB, PETROLEUM COUNCIL OF GA 230 PEACHTREE ST., NW, #1500 ATLANTA GA 30303	AMERICAN PETROLEUM INSTITUTE	2,500.00	4,305.83
COFFEE SUGAR & COCOA EXCHANGE, INC, 4 WORLD TRADE CENTER, 8TH FL NEW YORK NY 10048			
JOHN J. COFFEY, 1700 K STREET, NW, #1204 WASHINGTON DC 20006	CHEVRON USA, INC	900.00	
DON V. COGMAN, 1100 CONNECTICUT AVENUE, NW, #820 WASHINGTON DC 20036	MAPCO, INC	4,750.00	70.00
DANIEL L. COHEN, 1050 31ST STREET, NW WASHINGTON DC 20007	ASSOCIATION OF TRIAL LAWYERS OF AMERICA	2,000.00	100.00
HERBERT B. COHN, MORGAN, LEWIS & BOCKIUS 1800 M ST., NW WASHINGTON DC 20036	COMMITTEE FOR CAP FORMATION THROUGH DIVIDEND REINVESTMENT		
COLBY BAILEY WERNER & ASSOCIATES, 2550 M STREET, NW, #450 WASHINGTON DC 20037	ROYAL THAI EMBASSY	9,000.00	7,550.00
COLE & CORETTE, P.C., 1100 VERMONT AVENUE, NW, #900 WASHINGTON DC 20005	AD HOC SKI FOOTWEAR COMMITTEE		57.21
Do	JAMES D. & LOIS M. LAROSA AND JAMES D. LAROSA		
Do	LOTUS DEVELOPMENT CORP		
Do	MEDTRONIC, INC		
Do	WORLD ZIONIST ORGANIZATION JERUSALEM, ISRAEL	1,160.00	49.80
E. WILLIAM COLE, 1050 CONNECTICUT AVENUE, NW, #760 WASHINGTON DC 20036	UNION OIL CO OF CALIFORNIA	700.00	62.00
KEN W. COLE, 1050 CONNECTIUCT AVE., NW, #800 WASHINGTON DC 20036	ALLIED-SIGNAL, INC		
RANDALL I. COLE, 1050 CONNECTICUT AVENUE, NW, #200 WASHINGTON DC 20036	EL PASO NATURAL GAS CO	1,000.00	1,383.66
STACEY W. COLE, NEW HAMPSHIRE PETROLEUM COUNCIL 23 SCHOOL ST. CONCORD NH 03301	AMERICAN PETROLEUM INSTITUTE		
JOHN M. COLLIER, 4436 PERRIER ST. NEW ORLEANS LA 70115	SOUTHERN FOREST PRODUCTS ASSN	14,079.31	
COLLIER SHANNON RILL & SCOTT, 1055 THOMAS JEFFERSON ST., NW, #308 WASHINGTON DC 20007	AMERICAN FROZEN FOOD INST		
Do	AMERICAN MEAT INSTITUTE		
Do	AMERICAN TEXTILE MACHINERY ASSN		
Do	BICYCLE MFGRS ASSN OF AMER, INC	750.00	750.00
Do	CROP INSURANCE RESEARCH BUREAU		
Do	CYLINDER MANUFACTURERS ASSOCIATION		
Do	FERROS SCRAP CONSUMERS COALITION		
Do	FOOD MARKETING INSTITUTE		
Do	HUFFY CORPORATION		
Do	INDEPENDENT LUBRICANT MANUFACTURERS ASSN	1,550.00	1,550.00
Do	INLAND STEEL CO	3,150.00	3,150.00
Do	KAISER STEEL CORP	15,000.00	15,000.00
Do	NATIONAL ASSN OF CONVENIENCE STORES	1,050.00	1,050.00
Do	NATIONAL BROILER COUNCIL		
Do	NATIONAL HAIRDRESSERS & COSMETOLOGISTS ASSN		
Do	NORRIS INDUSTRIES		
Do	OUTDOOR POWER EQUIPMENT INSTITUTE		
Do	PITTSBURGH CORNING CORPORATION		
Do	SMOKELESS TOBACCO COUNCIL	6,000.00	6,000.00
Do	SOCIETY OF INDEPENDENT GASOLINE MARKETERS OF AMERICA	4,550.00	4,550.00
Do	SPECIALTY STEEL INDUSTRY OF THE UNITED STATES		
PAUL EDWARD MICHAEL COLLIN, P.O. BOX 6093 HUNTINGTON BEACH CA 92615	PAUL EDWARD MICHAEL COLLIN		
TERESE COLLING, 2062 N. 14TH ST. ARLINGTON VA 22201	MEDIA GENERAL, INC	3,360.00	356.37
EILEEN M. COLLINS, 444 NORTH CAPITOL STREET, NW WASHINGTON DC 20001	AMERICAN HOSPITAL ASSN	384.88	
MARY M. COLLINS, 1120 20TH STREET, NW, #600 SOUTH WASHINGTON DC 20036	UNION PACIFIC CORP	1,500.00	
MICHAEL A. COLLINS, 13106 IVY DRIVE BELTSVILLE MD 20705	UNITED ASSN OF JNYMEN & APPREN OF PLMBG & PIPEFTG INDUSTRY	6,000.00	140.15
STEPHEN J. COLLINS, 1620 EYE ST., NW, #1000 WASHINGTON DC 20006	MOTOR VEHICLE MANUFACTURERS ASSN OF THE U.S., INC		
DOMINIQUE COLON, 2000 L STREET, NW WASHINGTON DC 20036	MEDTRONIC, INC	40.00	64.40
COLORADO SKI COUNTRY USA, INC., SUITE A-201 1410 GRANT STREET DENVER CO 80203			
KENT W. COLTON, 15TH & M STREETS, NW WASHINGTON DC 20005	NATIONAL ASSN OF HOME BUILDERS OF THE U.S.		
TIM COLTON, P.O. BOX 498 CHESTER PA 19016	PENNSYLVANIA SHIPBUILDING CO	1,350.00	
CAROL A. COLZA, ROGER B. SCHAGRIN, P.C. 1112 16TH ST., NW, #1000 WASHINGTON DC 20036	COMMITTEE ON PIPE & TUBE IMPORTS	68,525.00	
COMMITTEE FOR A RESPONSIBLE TAX POLICY, INC, 1750 PENNSYLVANIA AVE., NW, #1201 WASHINGTON DC 20006			
COMMITTEE FOR CAP FORMATION THROUGH DIVIDEND REINVESTMENT, C/O HERBERT COHN 1800 M ST., NW, #800 NORTH WASHINGTON DC 20036.		485.90	485.90
COMMITTEE FOR CONSTITUTIONAL INTEGRITY, 1156 15TH ST., NW, #1212 WASHINGTON DC 20005			
COMMITTEE FOR DO-IT-YOURSELF HOUSEHOLD MOVING, 1725 K ST., NW, #401 WASHINGTON DC 20005			
COMMITTEE FOR EQUALITY OF CITIZENS BEFORE THE COURTS, 2762 N. CLYBOURNE AVENUE CHICAGO IL 60614			
COMMITTEE FOR HUMANE LEGISLATION, INC, 11 WEST 60TH ST. NEW YORK NY 10023		5,595.41	6,097.00
COMMITTEE FOR PROPOSITION THIRTY, P O BOX 915, HARTSELLE, AL 35640			
COMMITTEE FOR REASONABLE INVENTORY ACCOUNTING RULES, 1700 PENNSYLVANIA AVE., NW, #600 WASHINGTON DC 20006.			
COMMITTEE FOR THE ELECTRIC CONSUMERS PROTECTION ACT, 1000 POTOMAC STREET, NW, #401 WASHINGTON DC 20007.			
COMMITTEE TO ASSURE THE AVAILABILITY OF CASEIN, 3213 O ST., NW WASHINGTON DC 20007		2,000.00	4,492.35
COMMON CAUSE, 2030 M ST., NW WASHINGTON DC 20036		2,526,797.00	473,198.09
COMMUNITY NUTRITION INSTITUTE, 2001 S ST., NW, #530 WASHINGTON DC 20009			
LANCE COMPA, 1411 K ST., NW, #410 WASHINGTON DC 20005	UNITED ELECTRICAL RADIO & MACHINE WORKERS OF AMERICA	6,252.00	
COMPUTER & COMMUNICATIONS INDUSTRY ASSOCIATION, 1500 WILSON BLVD., #512 ARLINGTON VA 22209			
STEPHEN R. CONAFAY, 1700 PENNSYLVANIA AVE., NW WASHINGTON DC 20006	PFIZER, INC	3,500.00	1,985.63
BERT M. CONCKLIN, 1500 PLANNING RESEARCH DRIVE MCLEAN VA 22102	PLANNING RESEARCH CORPORATION		616.09
EDWARD C. CONE JR., P.O. BOX 1788 FOREST PARK GA 30051	SOUTHEASTERN LUMBER MANUFACTURERS ASSN		
CONGRESS WATCH, 215 PENNSYLVANIA AVE., SE WASHINGTON DC 20003		62,811.29	71,297.84
RAYMOND F. CONKLING, 1600 S. LYNN STREET ARLINGTON VA 22202	DIAMOND SHAMROCK CORP	500.00	
JEANNE K. CONNELLY, 1875 EYE ST., NW, #540 WASHINGTON DC 20006	CHAMPION INTERNATIONAL CORP		
STEPHEN N. CONNER, ROUTE 1, BOX 506 EASTON MD 21601	FOREIGN MINISTRY OF KINGDOM OF SAUDI ARABIA		642.64
SUSAN CONNOLLY, 1615 H ST., N.W. WASHINGTON DC 20061	CHAMBER OF COMMERCE OF THE U.S.	5,117.75	

Organization or Individual Filing	Employer/Client	Receipts	Expenditures
BRIAN L. CONNOR, 1420 KING STREET ALEXANDRIA VA 22314	NATIONAL SOCIETY OF PROFESSIONAL ENGINEERS	2,000.00	
CATHERINE CONNOR, 1015 15TH STREET, NW, #802 WASHINGTON DC 20005	AMERICAN CONSULTING ENGINEERS COUNCIL	400.00	
RICHARD J. CONNOR JR., 1201 PENNSYLVANIA AVENUE, NW, #220 WASHINGTON DC 20004	JOSEPH E. SEAGRAM & SONS, INC	562.50	
JERRY C. CONNORS, 1745 JEFFERSON DAVIS HIGHWAY, #511 ARLINGTON VA 22202	MANUFACTURED HOUSING INST	1,000.00	100.00
GREGORY E. CONRAD, 1920 N ST., NW WASHINGTON DC 20036	AMERICAN MINING CONGRESS		
KATHY P. CONRAD, 1420 KING ST. ALEXANDRIA VA 22314	NATIONAL SOCIETY OF PROFESSIONAL ENGINEERS	1,250.00	
LORI C. CONSADORI, 1615 H STREET, NW WASHINGTON DC 20062	CHAMBER OF COMMERCE OF THE U.S.	100.00	71.48
SHEILA A. CONSAUL, 1020 19TH ST., NW WASHINGTON DC 20036	BALCOR/AMERICAN EXPRESS, INC	6,500.00	7,579.71
CONSOLIDATED RAIL CORPORATION, P.O. BOX 23451 WASHINGTON DC 20026			15,624.00
CONSUMER ENERGY COUNCIL OF AMERICA, 2000 L ST., NW, #320 WASHINGTON DC 20036		16,150.00	20,969.85
CONSUMERS FOR WORLD TRADE, 1001 CONNECTICUT AVE., NW WASHINGTON DC 20036			6,990.00
CONSUMERS UNION OF U.S., INC., 256 WASHINGTON ST. MOUNT VERNON NY 10550	TEXTILE RENTAL SERVICES ASSN OF AMERICA		
JOHN J. CONTNEY, 1250 E. HOLLANDALE BEACH BLVD. HOLLANDALE FL 33009	NATIONAL EDUCATION ASSN		
JOHN A. CONWAY, 1201 16TH STREET, NW WASHINGTON DC 20036	DOW CHEMICAL CO		
EMERY S. CONYERS, P.O. BOX 1706 MIDLAND MI 48640	MUTUAL SAVINGS CENTRAL FUND, INC		
PETER W. COOGAN, FOLEY HOAG & ELIOT ONE POST OFFICE SQUARE BOSTON MA 02109	ELECTRONIC DATA SYSTEMS CORPORATION	182.00	93.00
ALEXANDRA W. COOK, 600 MARYLAND AVE., SE, #700 WASHINGTON DC 20024	AMERICAN PETROLEUM INSTITUTE	750.00	
FREDERICK N. COOK, VERMONT PETROLEUM ASSOCIATION P.O. BOX 566 MONTPELIER VT 05602	NATIONAL WATERWAYS CONFERENCE, INC		
HARRY N. COOK, 1130 17TH ST., NW WASHINGTON DC 20036	COOK AND BACHA (FOR: CONTRACTORS LIABILITY & INDEMNIFICATION ALLIANCE)		
HOWARD LEE COOK JR., 1111 14TH STREET, NW WASHINGTON DC 20005	COOK AND BACHA (FOR: METCOR, INC)	2,100.00	205.80
Do	GENERAL ELECTRIC CO	350.00	
K. RICHARD COOK, 1331 PENNSYLVANIA AVENUE, NW WASHINGTON DC 20004	NATIONAL CATTLEMEN'S ASSN	1,000.00	
THOMAS M. COOK, 1301 PENNSYLVANIA AVE., NW, #300 WASHINGTON DC 20004	AMERICAN LIBRARY ASSN	1,440.00	
EILEEN D. COOKE, 110 MARYLAND AVE., NE, SUITE 101, BOX 54 WASHINGTON DC 20002	MORTGAGE BANKERS ASSN OF AMERICA	6,600.00	299.00
BRIAN D. COONEY, 1125 15TH STREET, NW WASHINGTON DC 20005	PRINTING INDUSTRIES OF AMERICA, INC	8,500.00	
BENJAMIN Y. COOPER JR., 1730 NORTH LYNN ST. ARLINGTON VA 22209	ROCKY MOUNTAIN OIL & GAS ASSN	2,600.00	48.18
JESSE D. COOPER, 345 PETROLEUM BLDG DENVER CO 80202	AMERICAN PAPER INSTITUTE, INC		
JOSEPHINE S. COOPER, 1619 MASSACHUSETTS AVE., NW WASHINGTON DC 20036	CHEVRON USA, INC	100.00	
KATHY J. COOPER, 1700 K ST., NW, #1204 WASHINGTON DC 20006	FOOTWEAR DIV, RUBBER MFGRS ASSN	15,750.00	221.80
MITCHELL J. COOPER, 1001 CONNECTICUT AVE., NW WASHINGTON DC 20036	NATIONAL ASSN OF INDEPENDENT INSURERS	2,000.00	918.00
DARRELL COOVER, 499 SOUTH CAPITOL ST., SW, #401 WASHINGTON DC 20003	WOOD LUCKSINGER & EPSTEIN (FOR: CHAD THERAPEUTICS, INC)		
CURTIS B. COPELAND, 2000 M STREET, NW, #500 WASHINGTON DC 20036	COLLINS AND AIKMAN CORP	9,375.00	6,378.68
MICHAEL J. COPPS, 1660 L ST., NW, #1000 WASHINGTON DC 20036	COMMITTEE FOR FINANCING PUBLIC TRANSPORTATION FACILITIES		
JOHN J. CORBETT, SPIEGEL & MCDIARMID 1350 NEW YROK AVE., NW WASHINGTON DC 20005	ASSOCIATION OF OIL PIPELINES		
PATRICK H. CORCORAN, 1725 K ST., NW, #1205 WASHINGTON DC 20006	PHARMACEUTICAL MANUFACTURERS ASSN	4,000.00	47.40
WILLIAM M. CORCORAN, 1100 15TH STREET, NW, #900 WASHINGTON DC 20005	BUFFALO BROADCASTING CO, INC		
ALFRED C. CORDON, 1920 N ST., NW WASHINGTON DC 20036	AMERICAN BAKERS ASSN		
CORMAN LAW OFFICES, 1420 16TH STREET, NW WASHINGTON DC 20036	BAITY & JOSEPH	21,250.00	
Do	BANK AMERILEASE GROUP	300.00	
Do	CALIFORNIA VISION SERVICE PLAN		
Do	CARGILL LEASING CORP	300.00	
Do	CCS AUTOMATION SYSTEMS, INC	1,600.00	
Do	CONNELL FINANCE CO, INC	300.00	
Do	DOMINION PROPERTY COMPANY	12,150.00	
Do	EDS FINANCIAL CORPORATION	300.00	
Do	FIRST CHICAGO LEASING CORP	300.00	
Do	FIRST NATIONAL BANK OF BOSTON	300.00	
Do	FIRST NATIONAL BANK OF MINNEAPOLIS	300.00	
Do	GATX CORPORATION	6,250.00	
Do	GATX LEASING CORP	300.00	
Do	GENERAL ELECTRIC CREDIT CORP	300.00	
Do	JAY GOLDINGER	100.00	
Do	KELSO & COMPANY	4,600.00	
Do	MANUFACTURERS HANOVER LEASING CORP	300.00	
Do	MUSIC CORP OF AMERICA, INC	33,300.00	
Do	PETERSEN PUBLISHING COMPANY	13,450.00	
Do	REPUBLIC NATIONAL BANK OF NEW YORK	3,300.00	
Do	STATE OF MICHIGAN	500.00	
Do	SYSTEMS & APPLIED SCIENCES CORP TECHNOLOGIES		
Do	SYSTEMS AND APPLIED SCIENCES CORP	2,250.00	
Do	TEXAS AIR CORP	2,100.00	
Do	U.S. LEAGUE OF SAVINGS INSTITUTIONS	1,450.00	
Do	UNITED ENERGY CORP	10,350.00	
BENNETT J. CORN, FOUR WORLD TRADE CENTER NEW YORK NY 10048	COFFEE SUGAR & COCOA EXCHANGE, INC		
CORN REFINERS ASSOCIATION, INC, 1001 CONNECTICUT AVE., NW WASHINGTON DC 20036		4,317.00	2,759.00
ERNEST J. CORRADO, 1000 16TH ST., NW, #511 WASHINGTON DC 20036	AMERICAN INST OF MERCHANT SHIPPING		
MARY MARCOTTE CORRIGAN, 1600 RHODE ISLAND AVE., NW WASHINGTON DC 20036	NATIONAL RIFLE ASSN OF AMERICA		
RICHARD L. CORRIGAN, 1201 PENNSYLVANIA AVENUE, NW, #250 WASHINGTON DC 20004	CH2M HILL, INC	2,000.00	
ALLAN D. CORS, 1800 K ST., NW, SUITE 1104 WASHINGTON DC 20006	CORNING GLASS WORKS	2,000.00	
WILLIAM R. CORSON, 1707 H ST., NW WASHINGTON DC 20006	PENTHOUSE INTL LTD		
PHILIP S. CORWIN, 1120 CONNECTICUT AVE., NW WASHINGTON DC 20036	INDEPENDENT BANKERS ASSN OF AMERICA	1,500.00	
R. H. CORY, 1005 CONGRESS AVENUE, #795 AUSTIN TX 78701	CENTRAL AND SOUTH WEST SERVICES, INC	7,200.00	2,672.96
TOM COSGROVE, 37 TRUMBULL STREET NEW HAVEN CT 06511	SIERRA CLUB	3,105.00	1,750.14
COSMETIC TOILETRY & FRAGRANCE ASSN, INC, 1110 VERMONT AVE., NW, #800 WASHINGTON DC 20005			
J. DANIEL COSTELLO, 1615 H ST., NW SILVER SPRING MD 20062	U.S. CHAMBER OF COMMERCE	2,700.00	
MICHAEL E. COSTELLO, 1090 VERMONT AVENUE, NW, #600 WASHINGTON DC 20005	TEXAS EASTERN TRANSMISSION CORP		345.13
MARY ALICE COTTER, 410 FIRST STREET, SE WASHINGTON DC 20003	AMERICAN NUCLEAR ENERGY COUNCIL	937.50	18.46
COUNCIL FOR LANGUAGES AND OTHER INT'L STUDIES, 20 F STREET, NW, 4TH F. WASHINGTON DC 20001		10,843.75	11,193.98
COUNCIL FOR RURAL HOUSING AND DEVELOPMENT, 2300 M ST., NW WASHINGTON DC 20036		4,000.00	4,000.00
COUNCIL OF INDUSTRIAL BOILER OWNERS, 11222 SILVERLEAF DR. FAIRFAX STATION VA 22039			
COUNCIL OF STATE CHAMBERS OF COMMERCE, 122 C ST., NW, #200 WASHINGTON DC 20001		199.98	884.40
COUNCIL ON SYNTHETIC FUELS, 1301 PENNSYLVANIA AVE., NW, #325 WASHINGTON DC 20006			
WILLIAM R. COURTNEY, P.O. BOX 844 TEMPLE TX 76503	TRIBAL COUNCIL OF THE COUSHATTA TRIBE OF LOUISIANA		
JOHN F. COVE, 918 16TH ST., NW, #702 WASHINGTON DC 20006	COVE ASSOCIATES, INC (FOR: ASSOCIATION OF U.S. NIGHT VISION MANUFACTURERS).		
COVINGTON & BURLING, 1201 PENNSYLVANIA AVENUE, NW P.O. BOX 7566 WASHINGTON DC 20044	AMERICAN ASSN OF ORAL & MAXILLOFACIAL SURGEONS		
Do	AMERICAN WATCH ASSN	11,000.00	80.00
Do	ASSOCIATION OF MAXIMUM SERVICE TELECASTERS, INC		
Do	COALITION TO PRESERVE THE INTEGRITY OF AMERICAN TRADEMARKS		
Do	COMMONWEALTH OF PUERTO RICO	2,160.00	8.00
Do	GEORGE ROWE, JR. (FOR: ESTATE OF EDMUND G. MONELL)	13,500.00	
Do	INVESTMENT COMPANY INSTITUTE	2,500.00	44.63
Do	LUTHERAN BROTHERHOOD		12.00
Do	MIDWEST TELEVISION, INC		
Do	NATIONAL FOOTBALL LEAGUE	4,500.00	8.10
Do	NORFOLK SOUTHERN CORP	8,755.00	6.00
Do	PACIFIC STOCK EXCHANGE, INC		
Do	POST-NEWSWEEK STATIONS, INC		
Do	SUN LIFE ASSURANCE CO OF CANADA (U.S.)	1,850.00	288.20
Do	TELOCATOR NETWORK OF AMERICA		
EUGENE S. COWEN, 1150 17TH ST., NW WASHINGTON DC 20036	WESLEYAN UNIVERSITY, AMHERST COLLEGE, ET AL		71.08
C. DEMING COWLES, 6TH FLOOR 1050 THOMAS JEFFERSON STREET, NW WASHINGTON DC 20007	AMERICAN BROADCASTING CO, INC	175.50	
Do	BERING SEA FISHERMEN'S ASSN		
Do	MUNICIPALITY OF ANCHORAGE	6,800.00	1,402.44
ARCHIBALD COX, 2030 M ST., NW WASHINGTON DC 20036	UNITED FISHERMEN OF ALASKA	1,900.00	172.40
C. BRYAN COX, PO BOX 139 KANSAS CITY MO 64141	COMMON CAUSE	5,350.02	753.96
JEFFREY T. COX, 1420 KING ST. ALEXANDRIA VA 22314	KANSAS CITY LIFE INSURANCE CO		
TAMARA COX, THE POWER HOUSE 3255 GRACE STREET, NW WASHINGTON DC 20007	NATIONAL SOCIETY OF PROFESSIONAL ENGINEERS	1,250.00	
	GRAY & CO PUBLIC COMMUNICATIONS INT'L, INC (FOR: AGRICULTURE FOR MARKET ORIENTED POLICIES).		
Do	GRAY & CO PUBLIC COMMUNICATIONS INT'L, INC (FOR: IOWA PORK PRODUCERS ASSN).		

Organization or Individual Filing	Employer/Client	Receipts	Expenditures
JOHN COZART, THE POWER HOUSE 3255 GRACE STREET, NW WASHINGTON DC 20007	GRAY & CO PUBLIC COMMUNICATIONS INT'L, INC (FOR: AGRICULTURE FOR MARKET ORIENTED POLICIES).		
Do	GRAY & CO PUBLIC COMMUNICATIONS INT'L, INC (FOR: IOWA PORK PRODUCERS ASSN).	880.00	
DONALD FORSYTH CRAIB III, 633 PENNSYLVANIA AVENUE, NW, #600 WASHINGTON DC 20004	SEARS ROEBUCK & CO	200.00	
CRAMER HABER & LUKIS, P.C., 818 CONNECTICUT AVE., NW WASHINGTON DC 20036	CANAVERAL PORT AUTHORITY	6,750.00	
Do	CITY OF MIAMI BEACH	17,500.00	1,621.31
Do	CITY OF MIAMI	11,200.00	724.38
Do	DADE COUNTY INTERNATIONAL AIRPORT		
Do	DADE COUNTY	13,200.00	
Do	DEPARTMENT OF EDUCATION, STATE OF FLORIDA	5,000.00	
WILLIAM C. CRAMER, 818 CONNECTICUT AVE., NW WASHINGTON DC 20006	CRAMER HABER & LUKIS, P.C. (FOR: CANAVERAL PORT AUTHORITY)		
Do	CRAMER HABER & LUKIS, P.C. (FOR: CITY OF MIAMI BEACH)		
Do	CRAMER HABER & LUKIS, P.C. (FOR: CITY OF MIAMI)		
Do	CRAMER HABER & LUKIS, P.C. (FOR: DADE COUNTY INTERNATIONAL AIRPORT)		
Do	CRAMER HABER & LUKIS, P.C. (FOR: DADE COUNTY)		
Do	CRAMER HABER & LUKIS, P.C. (FOR: DEPARTMENT OF EDUCATION, STATE OF FLORIDA).		
WILLIAM D. CRAWFORD, 400 FIRST ST., NW WASHINGTON DC 20001	BROTHERHOOD OF RAILWAY CARMEN OF THE U.S. & CANADA	2,032.53	
JOHN P. CREGAN, 1000 CONNECTICUT AVENUE, NW, #1200 WASHINGTON DC 20036	U.S. BUSINESS & INDUSTRIAL COUNCIL	8,000.00	
KEN A. CRERAR, 1611 NO. KENT STREET, #900 ARLINGTON VA 22209	FOOTWEAR INDUSTRIES OF AMERICA	3,000.00	17,345.23
JOSEPH M. CRIBBEN, 6900 VALLEY BROOK DR. FALLS CHURCH VA 22042	UNITED ASSN OF JNYMEN & APPREN. OF PLMBG & PIPEFTG INDUSTRY	1,750.00	
P. H. CROFT, 2000 MASSACHUSETTS AVE., NW WASHINGTON DC 20036	AMERICAN SHORT LINE RAILROAD ASSN		
ROBERT W. CROMARTIE, 1800 MASSACHUSETTS AVE., NW WASHINGTON DC 20036	NATIONAL RURAL ELECTRIC COOPERATIVE ASSN	150.00	
CHARLES H. CROMWELL, INC, 6709 GEORGIA ST. CHEVY CHASE MD 20815	GENERAL ELECTRIC CO		
Do	MCDONNELL DOUGLAS HELICOPTERS		
Do	NORTHROP CORP		
RAE E. CRONMILLER, 1800 MASSACHUSETTS AVENUE, NW WASHINGTON DC 20036	NATIONAL RURAL ELECTRIC COOPERATIVE ASSN	120.00	
JOHN M. CROSS, 1201 PENNSYLVANIA AVE., NW, #700 WASHINGTON DC 20004	HILL & KNOWLTON, INC		
COLLEEN CROSSLAND, 444 N. CAPITOL STREET, NW, #718 WASHINGTON DC 20001	PACIFIC TELESIS GROUP	15,450.00	
BOBBY E. CROW, 3805 W. ALABAMA HOUSTON TX 77027	COLUMBIA GULF TRANSMISSION CO		
CROWELL & MORING, 1100 CONNECTICUT AVE., NW WASHINGTON DC 20036	ASARCO INC		
Do	ASSOCIATED GAS DISTRIBUTORS		
Do	AVON PRODUCTS, INC		10.00
Do	BROOKLYN UNION GAS CO		86.79
Do	BURLINGTON NORTHERN		
Do	CENTRAL NEBRASKA PUBLIC POWER & IRRIGATION DISTRICT		
Do	COMMUNICATIONS SATELLITE CORP		
Do	CONTRACTORS LIABILITY & INDEMNIFICATION ALLIANCE	270.00	4.00
Do	CONTROL DATA CORPORATION		
Do	COOK INLET REGION, INC		
Do	ELI LILLY AND COMPANY	843.75	10.00
Do	EMERY WORLDWIDE		10.00
Do	NATIONAL ASSN OF WHOLESALER-DISTRIBUTORS	2,376.25	10.00
Do	NEBRASKA PUBLIC POWER DISTRICT	175.63	5.00
Do	PAN AMERICAN WORLD AIRWAYS, INC; PAN AM WORLD SERVICES	2,782.50	50.00
Do	REGIONAL AIRLINE ASSOCIATION		
Do	TIFFANY & CO		
Do	TRUST FOR PUBLIC LANDS	4,562.90	67.50
Do	WESTERN GOVERNORS' ASSN		
CUBA CLAIMS ASSOCIATION, PO BOX 014004 MIAMI FL 33101			
WILLIAM E. CUMBERLAND, 1125 15TH ST., NW WASHINGTON DC 20005	MORTGAGE BANKERS ASSN OF AMERICA	9,560.00	278.00
CUMMINGS AND KERSHAW, P.C., ONE THOMAS CIRCLE, NW, #350 WASHINGTON DC 20005	LTV CORPORATION	300.00	
DIANE BROWN CUNNINGHAM, 1620 EYE ST., NW, #700 WASHINGTON DC 20006	INTERNATIONAL PAPER CO	1,000.00	1,550.00
SCOTT S. CUNNINGHAM, 1100 15TH STREET, NW WASHINGTON DC 20005	UNION CARBIDE CORP		
MARY BETH CURRY, 1050 17TH STREET, NW, #770 WASHINGTON DC 20036	AMERICAN ASSN OF HOMES FOR THE AGING	262.00	7.03
EDWARD P. CURTIS JR., GENESEE PUBLIC AFFAIRS, INC 36 W. MAIN STREET ROCHESTER NY 14614	LAKE ONTARIO CEMENT LIMITED		
M. RUPERT CUTLER, 1325 G ST., NW, #103 WASHINGTON DC 20005	ENVIRONMENTAL FUND		
EVERETT E. CUTTER, 620 SW FIFTH AVENUE BLDG., SUITE 912 PORTLAND OR 97204	OREGON RAILROAD ASSN		
D L ASSOCIATES, INC, 1730 RHODE ISLAND AVENUE, NW, #210 WASHINGTON DC 20036	BRIGGS & STRATTON	250.00	
Do	GENERAL DYNAMICS CORP	500.00	
Do	SCIENCE APPLICATIONS, INC	250.00	
RUDOLPH N. D'AGARIS, 4708 NORBECK RD. ROCKVILLE MD 20853			
D'AMICO LUEDTKE DEMAREST & GOLDEN, 1920 N STREET, NW, #400 WASHINGTON DC 20036	CENERGY EXPLORATION CO		
Do	MITCHELL ENERGY & DEVELOPMENT CORP		
Do	MURCHISON OIL & GAS, INC		
Do	PITTS ENERGY GROUP		
Do	SOUTHLAND CORPORATION	481.25	
Do	TEXAS OIL & GAS CORP		
Do	US TELECOM, INC		
Do	WESSELY ENERGY CORP		
NORMAN E. D'AMOURS, 1809 MELBOURNE DRIVE MCLEAN VA 22101	ALCALDE HENDERSON O'BANNON & ROUSSELOT	16,000.00	
Do	CREDIT UNION NATIONAL ASSN, INC	4,000.00	
Do	MARINE MIDLAND BANKS, INC	18,000.00	
WILLIAM D. D'ONOFRIO, 1800 W. 8TH ST. WILMINGTON DE 19805	NATIONAL ASSN FOR NEIGHBORHOOD SCHOOLS, INC		
WILLIAM K. DABAGHI, ARTER & HADDEN 1919 PENNSYLVANIA AVE., NW, #400 WASHINGTON DC 20006	A.S. NEMIR ASSOCIATES (FOR SUGAR & ALCOHOL INSTITUTE)		
Do	AGRICULTURAL BANKING INSTITUTE		
Do	COALITION FOR REGIONAL BANKING & ECONOMIC DEVELOPMENT	4,477.50	1,674.60
Do	FARM CREDIT COUNCIL	18,460.00	1,900.82
Do	HOUSTON CLEARING HOUSE ASSN		
DAEDALUS ENTERPRISES, INC, P.O. BOX 1869 ANN ARBOR MI 48106			
STEPHEN J. DAIGLER, 1601 DUKE STREET ALEXANDRIA VA 22314	SOCIETY OF AMERICAN FLORISTS		
WILLIAM KAY DAINES, 1616 H ST., NW WASHINGTON DC 20006	AMERICAN RETAIL FEDERATION	800.00	230.00
LEWIS I. DALE, 1660 L STREET, NW, #401 WASHINGTON DC 20036	GENERAL MOTORS CORP	3,000.00	2,759.24
DONALD W. DALRYMPLE, 1575 I ST., NW WASHINGTON DC 20005	AMERICAN CYNAMID COMPANY (FOR: LEDERLE LABORATORIES)	3,440.00	1,176.78
JAMES G. DALTON, 1420 KING ST. ALEXANDRIA VA 22314	NATIONAL SOCIETY OF PROFESSIONAL ENGINEERS		
ROBERT C. DALY, 919 18TH STREET, NW, #600 WASHINGTON DC 20006	TOYOTA MOTOR SALES, USA, INC		
JOHN M. DAMGARD, 1825 EYE STREET, NW, #1040 WASHINGTON DC 20006	FUTURES INDUSTRY ASSN, INC		
JOHN E. DANIEL, 1133 15TH STREET, NW, #1200 WASHINGTON DC 20005	OHIO EDISON CO		
DAVID C. DANIELS, 1608 K STREET, NW WASHINGTON DC 20006	AMERICAN LEGION	5,424.00	45.50
DAVID S. DANIELSON, 600 MARYLAND AVENUE, SW, #400-E WASHINGTON DC 20024	AMERICAN OPTOMETRIC ASSN		
DAN DANNER, 1667 K ST., NW, #650 WASHINGTON DC 20006	ARMCO, INC	1,700.00	525.35
CHARLES FRANKLIN DAOUST, P.O. BOX 12910 CHARLESTON SC 29412	KIAWAH ISLAND CO LTD		
DIANE DAVENNY DARNEILLE, 1726 M ST., NW, #300 WASHINGTON DC 20036	SCHERING-PLOUGH CORP	1,840.00	2,393.00
CRAIG D. DART, 1957 E STREET, NW WASHINGTON DC 20006	ASSOCIATED GENERAL CONTRACTORS OF AMERICA		
JOHN B. DAVENPORT JR., 1800 MASSACHUSETTS AVE., NW WASHINGTON DC 20036	NATIONAL RURAL ELECTRIC COOPERATIVE ASSN	115.00	
THEODORE S. J. DAVI, 371-106 BURGUNDY LN. LONGWOOD FL 32779			
EARL F. DAVID, 1825 K ST., NW, #1107 WASHINGTON DC 20006	PHILLIPS PETROLEUM COMPANY	1,000.00	
DANIEL I. DAVIDSON, 1350 NEW YORK AVE., NW WASHINGTON DC 20005	SPIEGEL & MCDIARMID (FOR: NORTHERN CALIFORNIA POWER AGENCY)		
DAVIS & HARMAN, 655 15TH STREET, NW WASHINGTON DC 20005	AMERICAN GENERAL LIFE INSURANCE CO	500.00	6,092.05
Do	AMERICAN HORSE COUNCIL	3,000.00	
Do	BANKERS TRUST		
Do	BETHLEHEM STEEL	4,800.00	69.40
Do	CAPITOL HOLDING CORP		
Do	CHICAGO BOARD OF TRADE	5,000.00	21.67
Do	CNA INSURANCE	1,500.00	54.34
Do	COMMITTEE OF ANNUITY INSURERS		
Do	FLORIDA POWER & LIGHT	1,000.00	10.29
Do	FLORIDA SUGAR CANE LEAGUE	2,500.00	
Do	HILL COUNTRY LIFE INSURANCE CO	1,200.00	
Do	JACKSONVILLE ELECTRIC AUTHORITY	400.00	
Do	LINCOLN LIFE IMPROVED HOUSING, INC	150.00	
Do	LINCOLN NATIONAL LIFE INSURANCE CO		

Organization or Individual Filing	Employer/Client	Receipts	Expenditures
Do	NATIONAL ASSN OF LIFE COMPANIES	375.00	
Do	NATIONAL CATTLEMEN'S ASSN	1,500.00	48.20
Do	PROPERTY/CASUALTY GROUP	8,500.00	
Do	STOCK INFORMATION GROUP	1,120.00	
Do	SUNRISE COMPANY	3,500.00	343.35
Do	WINTHROP FINANCIAL ASSN	5,000.00	83.48
Do	WOODSTREAM CORPORATION		
BRENDA S. DAVIS, 1050 CONNECTICUT AVE., NW, #800 WASHINGTON DC 20036	ALLIED-SIGNAL, INC		10.00
DAVID R. DAVIS, INDIANA PETROLEUM COUNCIL 714 HARRISON BLDG. INDIANAPOLIS IN 46204	AMERICAN PETROLEUM INSTITUTE	2,167.34	1,613.17
DREW M DAVIS, 1101 16TH ST., NW WASHINGTON DC 20036	NATIONAL SOFT DRINK ASSN	103.86	41.00
EDWARD M. DAVIS, 410 FIRST ST., SE WASHINGTON DC 20003	AMERICAN NUCLEAR ENERGY COUNCIL	5,500.00	791.94
FRED G. DAVIS, 1111 19TH STREET, N.W. WASHINGTON DC 20036	EDISON ELECTRIC INSTITUTE	2,987.83	392.35
DAVIS GRAHAM & STUBBS, 1001 22ND ST., NW, #500 WASHINGTON DC 20037	MUNICIPAL SUBDISTRICT, NO. COLORADO WATER CONSERVANCY DIST	67.90	67.90
Do	NORTHERN COLORADO WATER CONSERVANCY DISTRICT	4,862.50	4,862.70
Do	SNYDER OIL COMPANY		
DAVIS HOCKENBERG WINE BROWN & KOEHN, 2300 FINANCIAL CENTER DES MOINES IA 50309	NORTHWESTERN BELL (IOWA DIV)	50.00	
KENNETH E. DAVIS, SUITE 1210 1667 K ST., NW WASHINGTON DC 20006	ROHM & HAAS CO	500.00	151.10
OVID R. DAVIS, P.O. DRAWER 1734 ATLANTA GA 30301	COCA-COLA COMPANY		
DAVIS POLK & WARDWELL, 1575 EYE ST., NW WASHINGTON DC 20005	ERNST & WHINNEY	1,260.00	85.50
Do	MANVILLE CORP		
Do	NORWEST CORP		
Do	U.S. TRUST CORP		
ROBERT DAVIS, 815 CONNECTICUT AVE., NW WASHINGTON DC 20006	FORD MOTOR CO	780.00	774.00
W. KENNETH DAVIS, P.O. BOX 3965 SAN FRANCISCO CA 94119	BECHTEL GROUP, INC		
DONALD S. DAWSON, 1220 L ST., NW, #310 WASHINGTON DC 20005	OPTICIANS ASSN OF AMERICA		
Do	VIRGIN ISLANDS GIFT & FASHION SHOP ASSN		
Do	VIRGIN ISLANDS MERCHANTS ASSOCIATION		
HARRY F. DAY, 1800 K STREET, NW, #1100 WASHINGTON DC 20006	NEW YORK STOCK EXCHANGE, INC		
GASTON DE BEARN, 1050 CONNECTICUT AVENUE, NW, #401 WASHINGTON DC 20036	HOFFMANN-LA ROCHE INC		
RALPH DE LA CRUZ, 1225 CONNECTICUT AVENUE, NW WASHINGTON DC 20036	AMERICAN PUBLIC TRANSIT ASSN	2,790.00	
O. MARK DE MICHELE, 411 NORTH CENTRAL AVENUE P.O. BOX 21666 PHOENIX AZ 85014	ARIZONA PUBLIC SERVICE COMPANY		
DEALER BANK ASSN, 1800 K ST., NW, #1014 WASHINGTON DC 20006			
JOHN RUSSELL DEANE III, 1607 NEW HAMPSHIRE AVE., NW WASHINGTON DC 20009	AMERICAN METAL DETECTORS MANUFACTURERS, INC		
Do	AUTO INTERNATIONAL ASSN		
Do	COALITION OF AUTOMOTIVE ASSNS		
Do	SPECIALTY EQUIPMENT MARKET ASSN		
MICHAEL K. DEAVER AND ASSOCIATES, INC, 1025 THOMAS JEFFERSON ST., NW, #800 WASHINGTON DC 20007	CBS, INC		
Do	TRANS WORLD AIRLINES, INC	1,050.00	
RANDY R. DEBENHAM, P.O. BOX 4267 TOPEKA KS 66604	KANSAS ELECTRIC COOPERATIVES	6,250.00	89.72
DEBEVOISE & PLIMPTON, 1777 F ST., NW WASHINGTON DC 20006	SONY CORP OF AMERICA	20,483.00	4.00
Do	STATUE OF LIBERTY-ELLIS ISLAND FOUNDATION, INC		216.85
DECHERT PRICE & RHOADS, 1730 PENNSYLVANIA AVENUE, NW, #1100 WASHINGTON DC 20006	CENTER FOR CIVIC EDUCATION	1,000.00	35.00
Do	CONSITUTIONAL RIGHTS FOUNDATION	6,997.27	78.65
Do	YONKERS RACING CORP	1,131.25	28.53
MARK O. DECKER, 1120 VERMONT AVE., NW, #1130 WASHINGTON DC 20005	NATIONAL ASSN OF REAL ESTATE INVESTMENT TRUSTS, INC	3,600.00	
WINSTON M. DECKER, 1522 K ST., NW, #828 WASHINGTON DC 20005	AMERICAN VETERINARY MEDICAL ASSN		
Do	ASSOCIATION OF AMERICAN VETERINARY MEDICAL COLLEGES		
RICHARD A. DEEM, 1101 VERMONT AVENUE, NW WASHINGTON DC 20005	AMERICAN MEDICAL ASSN	25.00	
BRIAN DEERY, 1957 E ST., NW WASHINGTON DC 20006	ASSOCIATED GENERAL CONTRACTORS OF AMERICA		
DONALD H. DEFOE, 100 N.E. ADAMS STREET PEORIA IL 61629	CATERPILLAR TRACTOR CO		
JAMES U. DEFRANCIS, 1025 CONNECTICUT AVE., NW, #1014 WASHINGTON DC 20036	ENSERCH CORP	2,000.00	484.90
MARY ELISE DEGONIA, 600 MARYLAND AVENUE, SW WEST WING, SUITE 300 WASHINGTON DC 20024	70001 LTD	500.00	20.00
GENE A. DEL POLITO, 1341 G STREET, NW, #500 WASHINGTON DC 20005	THIRD CLASS MAIL ASSN	600.00	
STEPHEN T. DELAMATER, 2600 SOUTHLAND CENTER 400 N. OLIVE ST. DALLAS TX 75201	HALLIBURTON CO		
JOHN W. DELANEY, 100 FEDERAL ST. BOSTON MA 02110	BANK OF BOSTON CORPORATION		
Do	FIRST NATIONAL BANK OF BOSTON		
DELANEY MIGDAIL & YOUNG, CHTD, 1629 K STREET, NW, #1000 WASHINGTON DC 20006	GOVERNMENT EMPLOYEES INSURANCE CO	15,000.00	309.62
Do	NATIONAL ASSN OF INDEPENDENT INSURERS	10,000.00	1,294.91
THOMAS J. DELANEY, 1111 NORTH 19TH STREET, #700 ARLINGTON VA 22209	NATIONAL ASSN OF FEDERAL CREDIT UNIONS	1,500.00	54.20
JOHN L. DELANO, 7 EDWARDS - BOX 1172 HELENA MT 59624	MONTANA RAILROAD ASSN		
ROBERT B. DELANO, 225 TOUHY AVE. PARK RIDGE IL 60068	AMERICAN FARM BUREAU FED	3,125.00	
GEORGIA L. DELYANNIS, 1730 K STREET, NW, #903 WASHINGTON DC 20006	AMERICAN HELLENIC INSTITUTE PUBLIC AFFAIRS COMMITTEE		
ELIZABETH C. DEMATO, 5210 AUTH WAY CAMP SPRINGS MD 20746	SEAFARERS INTERNATIONAL UNION	3,000.00	131.04
TANIA DEMCHUK, 499 SOUTH CAPITOL ST., SW, #401 WASHINGTON DC 20003	NATIONAL ASSN OF INDEPENDENT INSURERS	100.00	
WILLARD L. DEMORY, THE POWER HOUSE 3255 GRACE STREET, NW WASHINGTON DC 20007	GRAY & CO PUBLIC COMMUNICATIONS INT'L, INC (FOR: BELL ATLANTIC MANAGEMENT SERVICES).		
Do	GRAY & CO PUBLIC COMMUNICATIONS INT'L, INC (FOR: UNITED AIRLINES)		
PERRY COMO DENBY, ELLIS 1, ROUTE 6 HUNTSVILLE TX 77343			
GEORGE H. DENISON, 4801 MASSACHUSETTS AVE., NW, #400 WASHINGTON DC 20016	CRUISE AMERICA LINE, INC		
Do	NATIONAL OFFICE PRODUCTS ASSN		
Do	WESTINGHOUSE ELECTRIC CORP	825.00	
JOHN H. DENMAN, MISSOURI OIL COUNCIL 428 E. CAPITAL ST., #203 JEFFERSON CITY MO 65101	AMERICAN PETROLEUM INSTITUTE	1,568.00	2,443.10
ROBERT A. DENMAN, 600 MARYLAND AVENUE, SW, #202W WASHINGTON DC 20024	FARMERS' EDUCATIONAL & CO-OPERATIVE UNION OF AMERICA	4,152.96	125.33
THOMAS J. DENNIS SR., 1667 K ST., NW, #450 WASHINGTON DC 20006	AMERICAN ELECTRIC POWER SERVICE CORP		
WELLS DENYES, 1919 PENNSYLVANIA AVE., NW WASHINGTON DC 20006	EASTMAN CHEMICALS DIVISION	1,050.00	44.10
DEPARTMENT FOR PROFESSIONAL EMPLOYEES, AFL-CIO, 815 16TH ST., NW WASHINGTON DC 20006		7,707.54	7,707.54
MARTIN L. DEPOY, 777 14TH ST., NW WASHINGTON DC 20005	NATIONAL ASSN OF REALTORS	2,500.00	134.59
GREGORY L. DEPRIEST, 1735 DESALES STREET, NW WASHINGTON DC 20036	ASSOCIATION OF MAXIMUM SERVICE TELECASTERS, INC		
ALPHONSE DEROSSO, 1899 L ST., NW, #1100 WASHINGTON DC 20036	EXXON CORPORATION	250.00	167.37
LLOYD J. DERRICKSON, 1828 L ST., NW, #906 WASHINGTON DC 20036	MERRILL LYNCH & CO, INC	6,500.00	
MICHAEL DESANTO, 11436 SCHUYKILL RD. ROCKVILLE MD 20852	GREATER WASHINGTON/MARYLAND SERVICE STATION ASSN	1,000.00	
JAMES T. DEVINE, LEONARD & MCGUAN, P.C. 900 17TH ST., NW, #1020 WASHINGTON DC 20006	BOWLING PROPRIETORS ASSN OF AMER		
SAMUEL L. DEVINE, 888 17TH ST., NW WASHINGTON DC 20006	GROCERY MANUFACTURERS OF AMERICA, INC	10,575.00	2,557.15
DEWEY BALLANTINE BUSHBY PALMER & WOOD, 1775 PENNSYLVANIA AVE., NW WASHINGTON DC 20006	AMAX, INC		
Do	AMERICAN CAN CO	787.50	
Do	AMERICAN STOCK EXCHANGE, INC		
Do	BENEFECIAL CORP	225.00	5.00
Do	BROWNING-FERRIS INDUSTRIES, INC	225.00	10.00
Do	CHASE MANHATTAN CORP	742.50	
Do	CHRYSLER CORP	115.00	
Do	COMMITTEE FOR FUTURE INVESTMENT IN AMERICA'S PAST	345.00	
Do	DIGITAL EQUIPMENT CORP		
Do	FEDERAL NATIONAL MORTGAGE ASSN		
Do	FEDERATION OF AMERICAN HOSPITALS	1,610.00	
Do	GENERAL ELECTRIC PENSION TRUST		
Do	GTE SERVICE CORP		
Do	HANSCHELL INNISS, LTD		
Do	HERSHEY FOODS CORP		
Do	INTEGRATED RESOURCES, INC	1,265.00	
Do	LABOR-INDUSTRY COALITION FOR INTERNATIONAL TRADE	360.00	
Do	WARNER LEROY		
Do	MARRIOTT CORPORATION	920.00	
Do	NYNEX CORPORATION		
Do	PHIBRO-SALOMON, INC		
Do	JOSEPH E. SEAGRAM & SONS, INC	1,265.00	
Do	SEMICONDUCTOR INDUSTRY ASSOCIATION		
Do	SHEET METAL WORKERS' INT'L ASSN		
Do	TEACHERS INSURANCE AND ANNUITY ASSN OF AMERICA		
Do	U.S. COALITION FOR FAIR LUMBER IMPORTS	6,080.00	1,125.00
DORIS J. DEWTON, 1025 CONNECTICUT AVE., NW, #507 WASHINGTON DC 20036	ASHLAND OIL, INC	2,000.00	
DGA INTERNATIONAL, INC, 1818 N STREET, NW WASHINGTON DC 20036	DIR INTL AFF OF THE GEN DEL FOR ARMEMENTS		
Do	SOCIETE NATIONALE D'ETUDE ET DE CONST. DE MOTEURS D'AVIATION	891.00	100.06
Do	SOFREAVIA	660.00	141.36

Organization or Individual Filing	Employer/Client	Receipts	Expenditures
DIAMOND SHAMROCK CORPORATION, 717 N. HARWOOD STREET DALLAS TX 75201			
CHARLES J. DIBONA, 1220 L ST., NW WASHINGTON DC 20005	AMERICAN PETROLEUM INSTITUTE	1,875.00	
JOHN M. DICKERMAN, 1015 15TH ST., NW, #700 WASHINGTON DC 20005	NATIONAL LUMBER & BUILDING MATERIAL DEALERS ASSN		
CHESTER T. DICKERSON JR., 1101 17TH ST., NW, #604 WASHINGTON DC 20036	MONSANTO CO		1,274.32
ELAINE DICKINSON, 880 S. PICKETT STREET ALEXANDRIA VA 22304	BOAT OWNERS ASSN OF THE U.S.	4,000.00	
GARY ALAN DICKINSON, 2 INTERNATIONAL PLAZA DR., #600 NASHVILLE TN 37217	ANGLO AMERICAN AUTO AUCTIONS, INC		
WILLIAM E. DICKINSON, 206 N. WASHINGTON ST., #300 ALEXANDRIA VA 22314	SALT INSTITUTE	250.00	250.00
DICKINSON WRIGHT MOON VAN DUSEN & FREEMAN, 1901 L ST., NW, #801 WASHINGTON DC 20036	DETROIT MADISON COMPANY		
Do	GENERAL MOTORS CORP	6,450.00	
DICKSTEIN SHAPIRO & MORIN, 2101 L ST., NW WASHINGTON DC 20037	AMERICAN GREYHOUND TRACK OPERATORS ASSN	17,673.33	
Do	BEAR STEARNS & CO		
Do	BOUNDARY GAS, INC	281.25	
Do	CAR AUDIO SPECIALISTS ASSN (CASA)		
Do	CHILDREN'S HOSPITAL		
Do	FEDERATED CASH MANAGEMENT SYSTEMS		
Do	HERBALIFE INTERNATIONAL		
Do	MARINE ENGINEERS' BENEFICIAL ASSN	656.25	
Do	MCDONNELL DOUGLAS CORP		
Do	NATIONAL ASSN OF GOV'T GUARANTEED LENDERS, INC		
Do	NATIONAL FEDERATION OF SOCIETIES FOR CLINICAL SOCIAL WORK	4,000.00	
Do	PAULUCCI ENTERPRISES	1,560.00	
Do	PROVIDENCE HOSPITAL	2,480.58	
Do	SACO DEFENSE, INC	125.00	
Do	STATES OF ARKANSAS DELAWARE IOWA LOUISIANA, ET AL	1,400.00	
Do	UNIVERSAL HOVERCRAFT	481.25	
RICK DIEGEL, 1125 15TH STREET, NW WASHINGTON DC 20005	INTERNATIONAL BROTHERHOD OF ELECTRICAL WORKERS, ALF-CIO-CLC	2,281.25	150.00
GEORGE DILLARD, 5128 SAUER, SUITE A HOUSTON TX 77004	KALEIDOSCOPE RESEARCH & MARKETING GROUP		
TIMOTHY V. A. DILLON, 1331 PENNSYLVANIA AVE., NW, #905 WASHINGTON DC 20004	SACRAMENTO MUNICIPAL UTILITY DISTRICT	3,600.00	179.58
Do	WESTLANDS WATER DISTRICT	3,000.00	312.17
THOMAS A. DINE, 444 NORTH CAPITOL ST. NW, #412 WASHINGTON DC 20001	AMERICAN ISRAEL PUBLIC AFFAIRS COMM	15,937.50	1,425.67
MICHAEL F. DINEEN, 600 PENNSYLVANIA AVE., SE, #206 WASHINGTON DC 20003	LUMBERMENS MUTUAL CASUALTY CO (FOR: FEDERAL KEMPER LIFE ASSURANCE CO).	134.34	24.60
Do	LUMBERMENS MUTUAL CASUALTY CO (FOR: KEMPER FINANCIAL SERVICES, INC)	59.05	4.00
Do	LUMBERMENS MUTUAL CASUALTY CO (FOR: KEMPER INVESTORS LIFE INSURANCE CO).	87.10	13.24
Do	LUMBERMENS MUTUAL CASUALTY COMPANY	1,800.00	106.43
MARGARET R. DIPAULA, 1700 K STREET, NW, #1204 WASHINGTON DC 20006	CHEVRON USA, INC	125.00	
HARLEY M. DIRKS, 400 FIRST STREET, NW, #712 WASHINGTON DC 20002	HEALTH & MEDICINE COUNSEL OF WASHINGTON		
Do	PROFESSIONAL SERVICES COUNCIL		
DISTRICT OF COLUMBIA HOSPITAL ASSN, 1250 EYE STREET, NW, #700 WASHINGTON DC 20005			
PATSY B. DIX, 1201 16TH ST., NW WASHINGTON DC 20036	NATIONAL EDUCATION ASSN	2,517.00	105.00
BARBARA A. DIXON, 1600 EYE STREET, NW WASHINGTON DC 20006	MOTION PICTURE ASSN OF AMERICA, INC		
STEVEN P. DOEHLER, 1725 K ST., NW, #1405 WASHINGTON DC 20006	MORTGAGE INSURANCE COMPANIES OF AMERICA		210.00
JULIE DOMENICK DOERR, 1600 M ST., NW WASHINGTON DC 20036	INVESTMENT COMPANY INSTITUTE	171.00	48.50
JOHN D. DOHERTY JR., 900 17TH STREET, NW, #706 WASHINGTON DC 20006	CHASE MANHATTAN BANK, N.A.	196.00	
JAMES M. DOLAN JR., 220 EYE STREET, NE, #210 WASHINGTON DC 20002	PATLEX CORP	5,150.00	2,105.61
DOMESTIC PETROLEUM COUNCIL TRADE ASSOCIATION, 1627 K STREET, NW, #910 WASHINGTON DC 20006			
JOHN F. DONELAN, DONELAN CLEARY WOOD & MASER, P.C. 1275 K ST., NW, #850 WASHINGTON DC 20005	PROCOMPETITIVE RAIL STEERING COMMITTEE	3,085.50	44.34
ANDREW J. DONELSON, 1101 15TH STREET, NW WASHINGTON DC 20005	MINNESOTA MINING & MANUFACTURING CO (3M)	2,500.00	
THOMAS E. DONLEY, 1615 H ST., NW, WASHINGTON DC 20062	U.S. CHAMBER OF COMMERCE		
KEVIN J. DONNELLAN, 1909 K STREET, NW WASHINGTON DC 20049	AMERICAN ASSN OF RETIRED PERSONS	1,305.00	74.80
SALLY S. DONNER, 4TH FL. 1710 RHODE ISLAND AVE., NW WASHINGTON DC 20036	GENERAL FOODS CORPORATION	1,016.75	
MARY K. DONNY, 1828 L STREET, NW WASHINGTON DC 20036	NATIONAL COOPERATIVE BUSINESS ASSN	858.00	
PAUL M. DONOVAN, LAROE WINN & MOERMAN 1120 G STREET, NW, #800 WASHINGTON DC 20005	CHLORINE INSTITUTE, INC	26,525.00	4,157.76
WILLIAM DONOVAN, 1111 N. 19TH ST, #700 ARLINGTON VA 22209	NATIONAL ASSN OF FEDERAL CREDIT UNIONS	2,500.00	178.03
FRANCIS X. DOOLEY, 525 SCHOOL ST., SW WASHINGTON DC 20024	AMERICAN ROAD & TRANSPORTATION BLDRS ASSN	7,500.00	285.00
IRA DORFMAN, 3RD FLOOR 1111 14TH ST., NW WASHINGTON DC 20005	AMERICAN BAKERS ASSN	526.93	3.00
JAMES A. DORSCH, 1750 K ST., NW WASHINGTON DC 20006	HEALTH INSURANCE ASSN OF AMERICA, INC	17.00	5.00
DEAN R. DORT II , 1667 K STREET, NW, #370 WASHINGTON DC 20006	DEERE & COMPANY	1,732.50	
SALLY L. DOUGLAS, 600 MARYLAND AVE., SW, #700 WASHINGTON DC 20024	NATIONAL FEDERATION OF INDEPENDENT BUSINESS	587.50	200.00
CHARLES P. DOWNER, 7901 WESTPARK DRIVE MCLEAN VA 22102	NATIONAL MACHINE TOOL BUILDERS' ASSN	1,125.00	250.00
JANE LIND DOWNEY, 2200 MILL RD ALEXANDRIA VA 22314	AMERICAN MOVERS CONFERENCE	785.00	
CONNIE M. DOWNS, 1800 K STREET, NW WASHINGTON DC 20006	BANK OF AMERICA, NT & SA		
JOHN H. DOWNS JR., 1101 16TH STREET, NW WASHINGTON DC 20036	NATIONAL SOFT DRINK ASSN		348.60
JOHN P. DOYLE JR., 8600 BOUNDBROOK LANE ALEXANDRIA VA 22309	J.P. DOYLE ENTERPRISES, INC	1,500.00	
WILLIAM A. DOYLE, 2346 S. ROLFE STREET ARLINGTON VA 22202	HARRIS CORP	2,850.00	1,318.75
NANCY DRABBLE, 215 PENNSYLVANIA AVE., SE WASHINGTON DC 20003	CONGRESS WATCH	8,499.96	
DAVID P. DRAKE, 1747 PENNSYLVANIA AVE., NW, #700 WASHINGTON DC 20006	CIBA-GEIGY CORP	3,000.00	743.48
JAMES E. DRAKE, 1101 VERMONT AVE., NW WASHINGTON DC 20005	AMERICAN MEDICAL ASSN	5,272.00	
JOAN ALBERT DREUX, 600 PENNSYLVANIA AVENUE, SE, #211 WASHINGTON DC 20003	NATIONAL ASSN OF CASUALTY & SURETY AGENTS	2,400.00	1,085.33
JEROME L. DREYER, 1300 N. 17TH ST. SUITE 300 ARLINGTON VA 22209	ASSOCIATION OF DATA PROCESSING SERVICE ORGANIZATIONS		
STEPHEN D. DRIESLER, 1250 CONNECTICUT AVE., NW, #620 WASHINGTON DC 20036	NATIONAL MULTI HOUSING COUNCIL	2,375.00	551.48
WILLIAM B. DRIGGERS, 1745 JEFFERSON DAVIS HIGHWAY, #605 ARLINGTON VA 22202	TEXAS INSTRUMENTS, INC		
JOHN P. DRING, 1331 PENNSYLVANIA AVE., NW, #565 WASHINGTON DC 20004	TEXAS GAS TRANSMISSION CORP	1,500.00	197.04
KEVIN J. DRISCOLL, 1800 M ST., NW WASHINGTON DC 20036	AMERICAN BAR ASSN	400.00	50.00
EDWIN JASON DRYER, 1775 PENNSYLVANIA AVENUE, NW WASHINGTON DC 20006	FOLEY LARDNER HOLLABAUGH & JACOBS (FOR: VGS CORPORATION)		
FRAN DU MELLE, 1101 VERMONT AVENUE, NW, #402 WASHINGTON DC 20005	AMERICAN LUNG ASSN	2,890.00	947.00
EVELYN DUBROW, 1710 BROADWAY NEW YORK NY 10019	INTERNATIONAL LADIES' GARMENT WORKERS UNION	12,173.78	3,138.25
MORGAN D. DURROW, 1800 MASSACHUSETTS AVE., NW WASHINGTON DC 20036	NATIONAL RURAL ELECTRIC COOPERATIVE ASSN	150.00	
TIM DUDGEON, 1250 EYE STREET, NW, #900 WASHINGTON DC 20005	DISTILLED SPIRITS COUNCIL OF THE U.S.	2,000.00	200.00
JANE MCPIKE DUDLEY, 1101 15TH STREET, N.W. WASHINGTON DC 20005	NATIONAL CONSTRUCTORS ASSOCIATION	1,050.00	
ANN ANDERSON DUFF, 1776 F ST., NW WASHINGTON DC 20006	NATIONAL ASSN OF MANUFACTURERS	1,200.00	
MICHAEL F. DUFFY, 1920 N ST. NW WASHINGTON DC 20036	AMERICAN MINING CONGRESS		
JOSEPH R. DUGAN, 888 16TH STREET, NW WASHINGTON DC 20006	MILK INDUSTRY FOUNDATION/INT'L ASSN OF ICE CREAM MFGRS		
C. R. DUGGAN, 815 16TH ST., NW WASHINGTON DC 20006	BROTHERHOOD OF RAILWAY AIRLINE & STEAMSHIP CLERKS	3,500.00	3,500.00
FRANCIS J. DUGGAN, 412 FIRST ST., SE, #200 WASHINGTON DC 20003	ASSOCIATION OF AMERICAN RAILROADS	941.45	370.57
EVELYN DUKOVIC, 475 RIVERSIDE DRIVE, #239 NEW YORK NY 10115	MORALITY IN MEDIA, INC		
MERVIN E. DULLUM, 1629 K ST., NW, #204 WASHINGTON DC 20006	DELTA AIR LINES, INC	200.00	91.80
DON R. DUNCAN, 1825 K ST.,NW SUITE 1107 WASHINGTON DC 20006	PHILLIPS PETROLEUM COMPANY	4,500.00	202.71
LESLIE DELONG DUNCAN, 1925 K STREET, NW, #206 WASHINGTON DC 20006	ALLIANCE TO SAVE ENERGY	60.00	
DUNCAN WEINBERG & MILLER, P.C., 1775 PENNSYLVANIA AVE., NW, #1200 WASHINGTON DC 20006	GUAM POWER AUTHORITY		
Do	MID WEST ELECTRIC CONSUMERS' ASSN, INC		
Do	STATE OF NEVADA		
Do	STATE OF NORTH DAKOTA		
Do	WESTERN FUELS ASSOCIATION, INC		
WILLIAM C. DUNCAN, 1050 17TH STREET, NW, #410 WASHINGTON DC 20036	JAPAN AUTOMOBILE MANUFACTURERS ASSN	1,800.00	75.00
MARI LEE DUNN, 1850 K ST., NW, #520 WASHINGTON DC 20006	AMERICAN COUNCIL FOR CAPITAL FORMATION		
PATRICK W. DUNN, 4400 SEATTLE FIRST NATIONAL BANK BLDG. SEATTLE WA 98154	RIDDELL WILLIAMS BULLITT & WALKINSHAW (FOR: FRIENDS OF THE COLUMBIA RIVER GORGE).	767.00	
JAMES A. DUPREE, 815 CONNECTICUT AVE., NW WASHINGTON DC 20006	FORD MOTOR CO	3,937.00	1,483.35
JOSEPH L. DURAN, 100 FEDERAL ST. BOSTON MA 02110	FIRST NATIONAL BANK OF BOSTON		
JUDY C. DURAND, 1120 20TH STREET, NW, #600S WASHINGTON DC 20036	UNION PACIFIC CORPORATION	666.00	883.41
MARGARET A. DURBIN, 1850 K STREET, NW WASHINGTON DC 20006	AMERICAN COUNCIL OF LIFE INSURANCE, INC	500.00	
B. J. DURHAM, P.O. BOX 2121 CORPUS CHRISTI TX 78403	CENTRAL POWER AND LIGHT COMPANY	552.00	2,572.60
ED DURKIN, 101 CONSTITUTION AVENUE, NW WASHINGTON DC 20001	UNITED BROTHERHOOD OF CARPENTERS & JOINERS OF AMERICA		
DURYEA MURPHY DAVENPORT & VAN WINKLE, 711 CAPITOL WAY OLYMPIA WA 98501	STATE OF NEVADA, NUCLEAR WASTE PROJECT OFFICE	10,320.00	4,812.52
DUTKO & ASSOCIATES, 412 FIRST ST., SE, #214 WASHINGTON DC 20003	ANCHOR INDUSTRIES, INC	187.50	
Do	ASSOCIATES OF NORTH AMERICA		
Do	BILL'S COAL CO		
Do	CENERGY EXPLORATION CO	11,980.00	
Do	CHEROKEE COAL CO		
Do	COALITION AGAINST DOUBLE TAXATION	10,000.00	
Do	D & B WHOLESALE COSMETICS, INC	4,068.75	

Organization or Individual Filing	Employer/Client	Receipts	Expenditures
Do	DSC COMMUNICATIONS	17,193.75	
Do	GRANGER ASSOCIATES		
Do	GULF & WESTERN INDUSTRIES, INC	22,500.00	
Do	MITCHELL ENERGY & DEVELOPMENT CORP	648.75	
Do	OKLAHOMA STATE UNIVERSITY	4,000.00	
Do	PATCH COAL CO		
Do	PITTS ENERGY GROUP	648.75	
Do	SMOKELESS TOBACCO COUNCIL, INC	22,500.00	
Do	M. STEVENS COSMETICS CO	4,131.25	
Do	SWEETWATER COAL CO		
Do	TEXAS OIL & GAS CORP (TXO)	648.75	
Do	TRADE MAX, INC	1,872.08	
Do	UNITED TELECOM COMMUNICATIONS, INC	14,775.00	
Do	WESSELY ENERGY CORP		
L. L. DUXBURY, 210 7TH STREET, SE. #517 WASHINGTON DC 20003	RAILROAD RETIREMENT ASSN		655.40
PEGGY L. DUXBURY, 1776 F STREET, NW WASHINGTON DC 20006	NATIONAL ASSN OF MANUFACTURERS		
HENRY I. DWORSHAK, 1920 N ST. NW WASHINGTON DC 20036	AMERICAN MINING CONGRESS		
DENIS J. DWYER, 700 NORTH FAIRFAX ST. ALEXANDRIA VA 22314	RAILWAY PROGRESS INSTITUTE	475.00	
RODERICK T. DWYER, 1920 N STREET, NW WASHINGTON DC 20036	AMERICAN MINING CONGRESS		
MICHAEL J. DYER, 1331 PENNSYLVANIA AVENUE, NW, #905 WASHINGTON DC 20004	NATIONAL COALITION FOR EMERGENCY MEDICAL SERVICES		
DYNALECTRON CORPORATION, 1313 DOLLEY MADISON BLVD. MCLEAN VA 22101			
TALIS DZENITIS, 633 PENNSYLVANIA AVENUE, NW, #600 WASHINGTON DC 20004	SEARS ROEBUCK & CO	500.00	
DENNIS J. EARHART, 2001 WISCONSIN AVE., #100 WASHINGTON DC 20007	BEAR WEST CO, INC (FOR ROCKY MOUNTAIN ENERGY CO)	567.19	
JACK D. EARLY, 1155 15TH ST., NW, #514 WASHINGTON DC 20005	NATIONAL AGRICULTURAL CHEMICALS ASSN	50.00	
CATHERINE EAST, 1275 K STREET, NW, #750 WASHINGTON DC 20005	NATIONAL WOMEN'S POLITICAL CAUCUS	1,998.98	
GEORGE H. EATMAN, 1800 CONNECTICUT AVE., NW WASHINGTON DC 20009	SLURRY TECHNOLOGY ASSN	1,000.00	
EATON ASSOCIATES, INC, 1725 K ST., NW, #1111 WASHINGTON DC 20006			
CHARLES H. EATON, 1725 K ST., NW, #1111 WASHINGTON DC 20006	EATON ASSOCIATES, INC		
ROBERT E. L. EATON, 1725 K ST., NW, #1111 WASHINGTON DC 20006	EATON ASSOCIATES, INC		
ROBERT E. EBEL, 1025 CONNECTICUT AVE., NW, #1014 WASHINGTON DC 20036	ENSERCH CORPORATION	1,450.00	1,071.00
N. BOYD ECKER, 1100 CONNECTICUT AVE., NW WASHINGTON DC 20036	MOBIL OIL CORP	1,500.00	58.75
ROBERT C. ECKHARDT, 1750 PENNSYLVANIA AVE., NW, #1105 WASHINGTON DC 20006	CERTAIN TEXAS CLAIMANTS LAWYERS	5,000.00	
Do	INVESTMENT COMPANY INSTITUTE	5,000.01	
Do	STATE OF TEXAS		
Do	WESTERN FUELS ASSOCIATION, INC	5,333.33	
PATRICIA K. ECONOMOS, 15TH & M STREETS, NW WASHINGTON DC 20005	NATIONAL ASSN OF HOME BUILDERS OF THE U.S.		
MITCHELL H. EDELSTEIN, 1411 K ST., NW, #850 WASHINGTON DC 20005	AMERICANS FOR DEMOCRATIC ACTION	3,531.84	110.60
WILLIAM R. EDGAR, 1620 EYE ST., NW, #501 WASHINGTON DC 20006	GATES LEARJET CORPORATION		
HELEN H. EDGE, 700 N. FAIRFAX ST. ALEXANDRIA VA 22314	RAILWAY PROGRESS INSTITUTE	462.50	
ARTHUR B. EDGEWORTH JR., 1709 NEW YORK AVE., NW, #801 WASHINGTON DC 20006	U.S. LEAGUE OF SAVINGS INSTITUTIONS	3,125.00	
V. ANNE EDLUND, 1620 EYE ST., NW, #1000 WASHINGTON DC 20006	MOTOR VEHICLE MANUFACTURERS ASSN OF THE U.S., INC		
ED EDMONDSON, BOX 11 MUSKOGEE OK 74401	AMERICAN INLAND WATERWAYS COMMITTEE		
Do	CHEROKEE NATION		
Do	DOSS AVIATION, INC		
Do	IU INTERNATIONAL MANAGEMENT CORP		
Do	OKLAHOMA ASSN OF ELECTRIC COOPS		
Do	U.S. MARITIME COMMITTEE, INC		
JOHN M. EDSALL, 1120 20TH STREET, NW, #600S WASHINGTON DC 20036	UNION PACIFIC CORPORATION	218.00	1,488.20
CHRISTINE A. EDWARDS, 633 PENNSYLVANIA AVE., NW, #600 WASHINGTON DC 20004	SEARS ROEBUCK & CO	868.75	43.30
J. RODNEY EDWARDS, 260 MADISON AVE. NEW YORK NY 10016	AMERICAN PAPER INSTITUTE, INC		
MICHAEL D. EDWARDS, 1201 16TH STREET, NW WASHINGTON DC 20036	NATIONAL EDUCATION ASSN		
WILLIAM A. EDWARDS, 1111 19TH STREET, NW WASHINGTON DC 20036	EDISON ELECTRIC INSTITUTE	5,607.69	526.90
PAUL S. EGAN, 1608 K ST., NW WASHINGTON DC 20006	AMERICAN LEGION	9,188.00	100.25
KAREN EHRNMAN, 1522 K STREET, NW, #1120 WASHINGTON DC 20005	AMERICAN COLLEGE OF NURSE-MIDWIVES		
YVONNE B. EIDER, 400 FIRST STREET, NW, #800 WASHINGTON DC 20001	FRIENDS OF ANIMALS, INC		586.72
ROBERT F. EISEN, 111 WEST 40TH STREET NEW YORK NY 10018	GREENWOOD MILLS MARKETING CO		3,748.00
ALBERT C. EISENBERG, 1735 NEW YORK AVENUE, NW WASHINGTON DC 20006	AMERICAN INST OF ARCHITECTS	9,000.00	
ADELAIDE K. EISENMANN, 607 G ST., SW WASHINGTON DC 20024	PANAMANIAN COMM FOR HUMAN RIGHTS		
RICHARD EISENMANN, 607 G ST., SW WASHINGTON DC 20024	PANAMANIAN COMM FOR HUMAN RIGHTS		
LINDA S. EISNAUGLE, 225 W. 34 STREET NEW YORK NY 10001	NATIONAL COMMERCIAL FINANCE ASSN	10,000.00	1,003.00
H. J. ELAM III, 1201 MAPLE ST. GREENSBORO NC 27405	CONE MILLS CORPORATION	26,000.00	7,928.00
JANE ELDER, 214 N. HENRY ST., #203 MADISON WI 53703	SIERRA CLUB	4,425.00	5,040.86
TIMOTHY L. ELDER, 1730 PENNSYLVANIA AVE., NW, #450 WASHINGTON DC 20006	CATERPILLAR TRACTOR CO	2,500.00	368.60
ELECTRONIC DATA CORPORATION, 1331 PENNSYLVANIA AVE., NW, #1300 WASHINGTON DC 20004			2,084.00
GEORGE K. ELIADES, 7297 LEE HIGHWAY FALLS CHURCH VA 22042	SOCIETY OF AMERICAN WOOD PRESERVERS, INC	400.00	795.00
J. BURTON ELLER JR., 1301 PENNSYLVANIA AVE., NW, #300 WASHINGTON DC 20004	NATIONAL CATTLEMEN'S ASSN	1,000.00	
CHARLES W. ELLIOTT, WISCONSIN PETROLEUM COUNCIL 25 W. MAIN ST., #703 MADISON WI 53703	AMERICAN PETROLEUM INSTITUTE	1,845.95	2,776.86
JOHN M. ELLIS, 1120 FAIRFIELD AVENUE ROSEVILLE CA 95678	NOR-CAL FEDERAL COALITION		
EMERGENCY COMMITTEE FOR AMERICAN TRADE, 1211 CONNECTICUT AVE. WASHINGTON DC 20036		79,868.96	59,473.97
EMERSON ELECTRIC CO, 8000 FLORISSANT ST. LOUIS MO 63136			695.65
EMPLOYERS COUNCIL ON FLEXIBLE COMPENSATION, 1660 L STREET, NW, #715 WASHINGTON DC 20036		106,093.17	
IRENE R. EMSELLEM, 1800 M STREET, NW WASHINGTON DC 20036	AMERICAN BAR ASSN	400.00	50.00
LOWELL J. ENDAHL, 1800 MASSACHUSETTS AVE., NW WASHINGTON DC 20036	NATIONAL RURAL ELECTRIC COOPERATIVE ASSN		
ENERGY CONSUMERS & PRODUCERS ASSN, BOX 1726 PETROLEUM PLAZA SEMINOLE OK 74868		17,745.00	1,792.41
RALPH ENGEL, 1001 CONNECTICUT AVE., NW, #1120 WASHINGTON DC 20036	CHEMICAL SPECIALTIES MFGRS ASSN		
PATRICIA A. ENGLISH, 777 14TH ST., NW WASHINGTON DC 20005	NATIONAL ASSN OF REALTORS		
CHRISTOPHER ENGQUIST, 1957 E ST., NW WASHINGTON DC 20006	ASSOCIATED GENERAL CONTRACTORS OF AMERICA		
CLINTON W. ENSIGN, 2600 VIRGINIA AVENUE, NW, #901 WASHINGTON DC 20037	SINCLAIR OIL CORPORATION	500.00	103.36
ENVIRONMENTAL FUND, 1325 G ST., NW #1003 WASHINGTON DC 20005			1,160.00
EPSTEIN BECKER BORSODY & GREEN, 1140 19TH ST., NW, #900 WASHINGTON DC 20036	NATIONAL CABLE TELEVISION ASSN, INC	27,021.00	
KIMBERLY NEILSEN EPSTEIN, 2626 PENNSYLVANIA AVENUE, NW WASHINGTON DC 20037	NATIONAL TELEPHONE COOPERATIVE ASSN	1,862.50	149.37
JOHN M. ERSKINE JR., 1122 COLORADO, SUITE 208 AUSTIN TX 78701	AMOCO CORP		
INGOLF G. ESDERS, 815 16TH STREET, NW WASHINGTON DC 20006	INTERNATIONAL LONGSHOREMEN'S ASSOCIATION, AFL-CIO	5,431.25	
JOHN T. ESTES, 2550 M ST., NW, #770 WASHINGTON DC 20037	RJR INDUSTRIES, INC	500.00	240.00
STEPHEN E. EURE, 1711 KING STREET ALEXANDRIA VA 22314	POTATO CHIP/SNACK FOOD ASSN	10,500.00	10,500.00
EUROPEAN TRAVEL COMMISSION, 630 FIFTH AVENUE NEW YORK NY 10111			
DONALD C. EVANS JR., 655 15TH ST., NW, #310 WASHINGTON DC 20005	AMERICAN FAMILY CORPORATION		
Do	AMERICAN HOECHST CORP		
Do	FREIGHT FORWARDERS INSTITUTE		
Do	OLYMPIA & YORK DEVELOPMENTS LTD		
Do	OLYMPIA & YORK EQUITY CORP		
Do	STEPAN CORPORATION		
JOSEPH O. EVANS, APARTMENT 21 4401 LEE HWY. ARLINGTON VA 22207			
RAE FORKER EVANS, 1201 PENNSYLVANIA AVE., NW, #210 WASHINGTON DC 20004	HALLMARK CARDS, INC		
ROBERT B. EVANS, 1101 14TH STREET, NW WASHINGTON DC 20005	AMERICAN FINANCIAL SERVICES ASSN	1,375.00	
ROBERT D. EVANS, 1800 M ST., NW WASHINGTON DC 20036	AMERICAN BAR ASSN	400.00	50.00
ROBERT J. EVANS, 2060 CANTERBURY ROAD KINGSPORT TN 37660			
FAWN K. EVENSON, 1611 N. KENT ST., #900 ARLINGTON VA 22209	FOOTWEAR INDUSTRIES OF AMERICA	9,000.00	318.65
J. BALLARD EVERETT, 1125 15TH STREET, NW, #700 WASHINGTON DC 20001	MORTGAGE BANKERS ASSN OF AMERICA	1,060.00	63.00
ELLEN E. EVES, NEW MURPHY RD. AND CONCORD PIKE WILMINGTON DE 19897	ICI AMERICAS, INC		
KY P. EWING JR., 1101 CONNECTICUT AVENUE, NW WASHINGTON DC 20036	VINSON & ELKINS (FOR: FEDERAL LAND BANK ASSNS OF TEXAS STOCKHOLDERS' DEFENSE FUND)	165,981.52	11,910.37
Do	VINSON & ELKINS (FOR: ALFRED C. GLASSELL JR.)	17,731.64	596.12
Do	VINSON & ELKINS (FOR: PUBLIC SERVICE BOARD OF THE CITY OF EL PASO, TX)	5,028.99	1.20
Do	VINSON & ELKINS (FOR: TRAVELERS INSURANCE CO)	140,058.05	1,886.66
WAYNE S. EWING, ASSOCIATED PETROLEUM INDUSTRIES OF PA P.O. BOX 925 HARRISBURG PA 17108	AMERICAN PETROLEUM INSTITUTE		
ROBBIE G. EXLEY, 2020 K ST., NW, #200 WASHINGTON DC 20006	NATIONAL FEDERATION OF FEDERAL EMPLOYEES		
PAUL K. EYER, 122 C STREET, NW, #875 WASHINGTON DC 20001	AMERICAN OSTEOPATHIC ASSN	1,400.00	
F/P RESEARCH ASSOCIATES, 1700 K ST., NW, #303 WASHINGTON DC 20006	NATIONAL CABLE TELEVISION ASSN, INC	500.00	
MICHAEL W. FABER, REID & PRIEST 1111 19TH STREET, NW, #1100 WASHINGTON DC 20036	COMMITTEE OF CORPORATE TELECOMMUNICATIONS USERS		
ROBERT R. FAHS, 1101 15TH ST., NW, #205 WASHINGTON DC 20005	CARGILL INC	2,500.00	
DALE W. FALLAT, P.O. BOX 119 MAUMEE OH 43537	ANDERSONS		
F. S. FALLON JR., P.O. BOX 888-HB ASHLAND KY 41101			

Organization or Individual Filing	Employer/Client	Receipts	Expenditures
PETER M. FANNON, 1818 N STREET, NW, #410 WASHINGTON DC 20036	NATIONAL ASSN OF PUBLIC TELEVISION STATIONS	600.00	150.00
THOMAS B. FARLEY II , 1220 L ST., NW WASHINGTON DC 20005	AMERICAN PETROLEUM INSTITUTE	6,250.00	134.25
DAVID M. FARMER, 1629 K STREET, NW, #1010 WASHINGTON DC 20006	ALLIANCE OF AMERICAN INSURERS	1,450.00	
FARMERS' EDUCATIONAL & CO-OPERATIVE UNION OF AMERICA, 600 MARYLAND AVE., SW, #202W WASHINGTON DC 20025.		133,751.25	63,188.92
JOHN W. FARQUHAR, 1750 K ST., NW WASHINGTON DC 20006	FOOD MARKETING INSTITUTE	300.00	
ROBERT M. FARQUHAR, P.O. BOX 130 LEVIS, QUEBEC, CANADA G6V 6N7	VERSATILE DAVIE INC		
DAGMAR T. FARR, 1750 K STREET, N.W. WASHINGTON DC 20006	FOOD MARKETING INSTITUTE	450.00	
CHRISTOPHER G. FARRAND, 1120 20TH STREET, NW, #720 WASHINGTON DC 20036	PEABODY HOLDING COMPANY, INC		52.10
MICHAEL FARRAR, 1619 MASSACHUSETTS AVE., NW WASHINGTON DC 20036	AMERICAN PAPER INSTITUTE, INC	200.00	
JOSEPH A. FARRELL, 1600 WILSON BOULEVARD, #1000 ARLINGTON VA 22209	AMERICAN WATERWAYS OPERATORS, INC		
MARCUS G. FAUST, 2121 K ST., NW, #880 WASHINGTON DC 20037	SIERRA PACIFIC POWER CO	19,026.25	1,309.97
Do	STANDARD OIL CO (OHIO)	11,250.00	
JANE FAWCETT-HOOVER, 801 18TH ST., NW, #400 WASHINGTON DC 20006	PROCTER & GAMBLE MANUFACTURING CO	167.93	
WILLIAM D. FAY, 1130 17TH STREET, NW WASHINGTON DC 20036	NATIONAL COAL ASSN	6,125.00	6,247.86
FEDERAL MANAGERS ASSN, 2300 S. 9TH ST., #104 ARLINGTON VA 22204		9,000.00	9,000.00
FEDERATION EMPLOYMENT & GUIDANCE SERVICE, 114 FIFTH AVENUE, NEW YORK, NY 10011			
FEDERATION FOR AMERICAN AFGHAN ACTION, 236 MASSACHUSETTS AVENUE, NE WASHINGTON DC 20002			4,616.25
FEDERATION OF AIDS-RELATED ORGANIZATIONS/AIDS ACTION COUNCIL, 729 8TH STREET, SE, #200 WASHINGTON DC 20003.		84,525.00	57,759.99
FEDERATION OF AMERICAN CONTROLLED SHIPPING, 50 BROADWAY NEW YORK NY 10004		1,997.47	1,997.47
FEDERATION OF AMERICAN HOSPITALS, 1111 19TH ST., NW, #402 WASHINGTON DC 20036		22,610.00	22,610.00
FEDERATION OF AMERICAN SCIENTISTS, 307 MASSACHUSETTS AVE., NE WASHINGTON DC 20002			2,408.82
FEDERATION OF BEHAVIORAL PSYCHOLOGICAL & COGNITIVE SCIENCES , 1200 17TH STREET, NW WASHINGTON DC 20036		217.00	217.00
DONALD M. FEHR, 805 THIRD AVE. NEW YORK NY 10022	MAJOR LEAGUE BASEBALL PLAYERS ASSN		
BRUCE E. FEIN, THE POWER HOUSE 3255 GRACE STREET, NW WASHINGTON DC 20007	GRAY & CO PUBLIC COMMUNICATIONS INT'L, INC (FOR: BELL ATLANTIC MANAGEMENT SERVICES).		
Do	GRAY & CO PUBLIC COMMUNICATIONS INT'L, INC (FOR: REPUBLIC OF TURKEY)		
CLAUDIA FELLER, 1200 17TH STREET, NW WASHINGTON DC 20036	FEDERATION OF BEHAVIORAL PSYCHOLOGICAL & COGNITIVE SCIENCES	26.00	
RANDOLPH FENNINGER, 10,000 FALLS ROAD, #306 POTOMAC MD 20854	AMERICAN SOCIETY OF ANESTHESIOLOGISTS		
JUDITH W. FENSTERER, 242 E. 80TH STREET NEW YORK NY 10021	GENERIC PHARMACEUTICAL INDUSTRY ASSN	159.00	91.25
FENSTERWALD ALCORN & BOWMAN, P.C., 1000 WILSON BLVD., #900 ARLINGTON VA 22209	EQUITY FOR NATIONAL GUARD TECHNICIANS	1,282.50	166.74
Do	NATIONAL NUTRITIONAL FOODS ASSN	5,654.51	253.55
EDWARD T. FERGUS, 100 GOLD ST. NEW YORK NY 10292	PRUDENTIAL-BACHE SECURITIES INC	750.00	
JOHN L. FESTA, 1619 MASSACHUSETTS AVE., NW WASHINGTON DC 20036	AMERICAN PAPER INSTITUTE, INC		
FIBER FABRIC & APPAREL COALITION FOR TRADE, 1800 M ST., NW, #950 NORTH WASHINGTON DC 20036		604,244.12	762,482.62
FRED C. FIELDING, 1725 JEFFERSON DAVIS HWY, #900 ARLINGTON VA 22202	AM GENERAL CORPORATION	3,800.00	62.00
HERBERT A. FIERST, 610 RING BLDG. 1200 18TH ST., NW WASHINGTON DC 20036	COUNCIL OF FOREST INDUSTRIES OF B.C.	31,251.00	2,195.00
MARSHALL S. FILLER, 2033 M STREET, NW, #700 WASHINGTON DC 20006	AIR TRANSPORT ASSN OF AMERICA	480.00	
LAWRENCE A. FINERAN, 1776 F STREET, NW WASHINGTON DC 20006	NATIONAL ASSN OF MANUFACTURERS	125.00	
WILLIAM A. FINERFROCK, 1117 N. 19TH STREET, #300 ARLINGTON VA 22209	AMERICAN ACADEMY OF PHYSICIAN ASSISTANTS	8,875.00	3,310.80
MATTHEW P. FINK, 1600 M ST., NW WASHINGTON DC 20036	INVESTMENT COMPANY INSTITUTE		
FINLEY KUMBLE WAGNER HEINE UNDERBERG MANLEY & CASEY, 1120 CONNECTICUT AVE., NW, #465 WASHINGTON DC 20036.	AMERICAN COLLEGE OF NEUROPSYCHOPHARMACOLOGY	1,000.00	30.00
Do	AMERICAN PROTESTANT HEALTH ASSN	4,000.00	200.00
Do	ASSOCIATION OF BRITISH INSURERS		
Do	COMMITTEE ON PROBLEMS OF DRUG DEPENDENCE, INC	333.00	20.00
Do	DEVELOPMENT CORP FOR ISRAEL	1,842.00	
Do	DIRECT BROADCAST SATELLITE CORP		
Do	GENERAL DYNAMICS CORP		
Do	GOLDEN NUGGET, INC		
Do	GOVERNMENT OF ANTIGUA & BARBUDA		
Do	GROUP HOSPITALIZATION & MEDICAL SERVICES, INC		
Do	HOME INSURANCE CO		
Do	JOHNSON & JOHNSON		
Do	MUTUAL PROTECTION TRUST COOPERATIVE OF AMERICAN PHSYICANS	19,938.00	
Do	NATIONAL ASSN OF ALCOHOLISM TREATMENT PROGRAMS, INC	1,000.00	50.00
Do	NORFOLK SOUTHERN CORP	1,930.00	
Do	OCCIDENTAL PETROLEUM CORP	16,845.00	
Do	POPULATION CRISIS COMMITTEE	2,569.50	28.10
Do	RCA		
Do	SAVOY INDUSTRIES	4,005.00	
Do	STATE OF MARYLAND	6,329.50	11.45
Do	TDI WINSTON NETWORK, INC		
Do	TEL-OPTIK, LTD		
Do	TRANSIT ADVERTISING ASSN, INC		
Do	TRT TELECOMMUNICATIONS CORP		
Do	TURNER BROADCASTING SYSTEM, INC		
Do	UNITED SATELLITE ACTION		
STEPHEN A. FINN, P.O. BOX 520783 - GENERAL MAIL FACILITY MIAMI FL 33152	BURGER KING CORP		
FINNEGAN HENDERSON FARABOW GARRETT & DUNNER, 1775 K STREET, NW WASHINGTON DC 20006	INTERNATIONAL COMMUNICATIONS ASSN		
THOMAS D. FINNIGAN, 1100 15TH STREET, NW, 10TH FL. WASHINGTON DC 20005	UNION CARBIDE CORP		
M. J. FIOCCO, 1090 VERMONT AVE., NW WASHINGTON DC 20005	NATIONAL INDUSTRIAL TRANSPORTATION LEAGUE	4,625.00	44.00
FIRST DATA RESOURCES, 1900 N. BEAUREGARD ST., #110 ALEXANDRIA VA 22311			
FIRST NATIONAL BANK OF BOSTON, 100 FEDERAL ST. BOSTON MA 02110			23,782.41
RICHARD L. FISCHER, 1615 M ST., NW, #200 WASHINGTON DC 20036	AMOCO CORPORATION		
MADELINE FISHEL, 1400 EYE STREET, NW, WASHINGTON DC 20005	WILDERNESS SOCIETY	651.02	
DONALD W. FISHER, 3814 IVANHOE LANE ALEXANDRIA VA 22310	AMERICAN GROUP PRACTICE ASSN, INC	198.00	
DWIGHT R. FISHER, 600 MARYLAND AVENUE, SW, #700 WASHINGTON DC 20024	NATIONAL FED OF INDEPENDENT BUSINESS	700.00	100.00
JANET S. FISHER, 1333 NEW HAMPSHIRE AVENUE, NW WASHINGTON DC 20036	ATLANTIC RICHFIELD CO	325.00	
CHARLES L. FISHMAN, P.C., 1717 K STREET, NW, #502 WASHINGTON DC 20036	CAROLINA POWER & LIGHT CO		
Do	CONSOLIDATED EDISON CO OF NEW YORK		
Do	STONE & WEBSTER ENGINEERING CORP		
Do	WESTINGHOUSE ELECTRIC CORP		
LAURI J. FITZ, THE POWER HOUSE 3255 GRACE STREET, NW WASHINGTON DC 20007	GRAY & CO PUBLIC COMMUNICATIONS INT'L, INC (FOR: REPUBLIC OF HAITI)	550.00	
THOMAS H. FITZPATRICK, 410 ASYLUM STREET HARTFORD CT 06103	AMERICAN PETROLEUM INSTITUTE	1,000.00	504.11
HILLIARD J. FJORD, 602 MAIN ST., #600 CINCINNATI OH 45202	OHIO RIVER CO	3,000.00	452.50
SUSAN G. FLACK, 1825 K ST., NW, #603 WASHINGTON DC 20006	BATUS D.C.	2,000.00	10.00
DANIEL V. FLANAGAN, JR, FLANAGAN & ASSOCIATES, INC 12 THIRD STREET, NE, WASHINGTON, DC 20002	MEMORIAL SLOAN-KETTERING CANCER CENTER	1,500.00	150.00
Do	VIRGINIA POWER	10,000.00	7,912.82
JAMES J. FLANAGAN, 25 RESEARCH DR. WESTBOROUGH MA 01581	NEW ENGLAND POWER SERVICE CO	1,018.50	229.40
FLEISHMAN-HILLARD, INC, 1225 CONNECTICUT AVE., NW, #303 WASHINGTON DC 20036	ABILITY INFORMATION SYSTEMS--COMPUTER SOFTWARE		
MICHAEL FLEMING, 1300 17TH ST., #1010 ARLINGTON VA 22209	AMERICAN ASSN OF EQUIPMENT LESSORS		
DELORES A. FLOWERS, 517 C STREET, NE WASHINGTON DC 20002	LYNG AND LESHER, INC		
VERONICA M. FLOYD, 2001 S. JEFF DAVIS HIGHWAY, #1107 ARLINGTON VA 22202	BRUNSWICK CORP	5,700.00	768.16
RICHARD A. FLYE, MCKENNA CONNER & CUNEO 1575 EYE STREET, NW WASHINGTON DC 20005	FERTILIZER INSTITUTE	2,520.00	
DAVID H. FOERSTER, 1201 16TH ST., NW WASHINGTON DC 20036	NATIONAL EDUCATION ASSN		
HOWARD W. FOGT, FOLEY, LARDNER, HOLLABAUGH & JACOBS 1775 PENNSYLVANIA AVE., NW, SUITE 1000 WASHINGTON DC 20006.	PHOSPHATE ROCK EXPORT ASSOCIATION		
FOLEY & LARDNER, 1775 PENNSYLVANIA AVE., NW WASHINGTON DC 20006	PHOSPHATE ROCK EXPORT ASSOCIATION	1,005.00	49.34
Do	VGS CORPORATION		
R. D. FOLSOM, 1317 F STREET, NW, #400 WASHINGTON DC 20004	R. DUFFY WALL & ASSOCIATES, INC (FOR: AD HOC COMM ON COAL TAXATION)	300.00	
Do	R. DUFFY WALL & ASSOCIATES, INC (FOR: BRINKS, INC)		
Do	R. DUFFY WALL & ASSOCIATES, INC (FOR: FOOTWEAR RETAILERS OF AMERICA)	300.00	
Do	R. DUFFY WAYY & ASSOCIATES, INC (FOR: HONG KONG TRADE DEVELOPMENT COUNCIL).	300.00	
Do	R. DUFFY WALL & ASSOCIATES, INC (FOR: LIFE OF VIRGINIA)	300.00	
Do	R. DUFFY WALL & ASSOCIATES, INC (FOR: MORGAN GUARANTY TRUST CO)	300.00	
Do	R. DUFFY WALL & ASSOCIATES, INC (FOR: PHARMACEUTICAL MANUFACTURERS ASSN).	300.00	
Do	R. DUFFY WALL & ASSOCIATES, INC (FOR: TORCHMARK CORPORATION)	300.00	
Do	R. DUFFY WALL & ASSOCIATES, INC (FOR: WINE & SPIRITS WHOLESALERS OF AMERICA).	300.00	

Organization or Individual Filing	Employer/Client	Receipts	Expenditures
FOOD & ALLIED SERVICE TRADES DEPT, AFL-CIO, 815 16TH ST., NW WASHINGTON DC 20006		16,491.00	16,491.00
FOOD MARKETING INSTITUTE, 1750 K ST., NW WASHINGTON DC 20006			11,784.75
FOOD RESEARCH & ACTION CENTER, 1319 F STREET, NW WASHINGTON DC 20004		12,000.00	7,991.64
FOODSERVICE & LODGING INST, 1919 PENNSYLVANIA AVE., NW WASHINGTON DC 20006			
JAMES E. FORD, 1333 NEW HAMPSHIRE AVENUE, NW WASHINGTON DC 20036	ATLANTIC RICHFIELD CO	325.00	
LAURENCE S. FORDHAM, FORDHAM & STARRETT TWO OLIVER STREET BOSTON MA 02109	C & S WHOLESALE GROCERS, INC		
DONALD D. FOREMAN, 200 E. RANDOLPH DR. CHICAGO IL 60601	AMOCO CORPORATION		
FORESIGHT SCIENCE & TECHNOLOGY, INC, 2000 P ST., NW, #305 WASHINGTON DC 20036	NATIONAL COALITION FOR SCIENCE & TECHNOLOGY	675.00	878.26
Do	SOCIETY FOR AMERICAN ARCHAEOLOGY	3,238.00	2,474.50
FOREST FARMERS ASSOCIATION, P.O. BOX 95385 ATLANTA GA 30347			
MARK A. FORMAN, 345 PARK AVE., 31ST FL NEW YORK NY 10154	UNION PACIFIC CORP	625.00	73.18
MARTI FORMAN, 2400 E. COMMERCIAL BLVD., #500 FT. LAUDERDALE FL 33308	AMERISERV, INC		2,150.50
SALLIE H. FORMAN, 1825 K ST., NW WASHINGTON DC 20006	NATIONAL BROADCASTING CO, INC	1,650.00	81.10
LUISE FORSETH, 3055 OLD HIGHWAY 8 P.O. BOX 1453 MINNEAPOLIS MN 55440	MEDTRONIC, INC		
D. LEE FORSGREN, 1625 K STREET, NW, #1000 WASHINGTON DC 20006	AMERICAN INSTITUTE OF MERCHANT SHIPPING		
RICHARD C. FORTUNA, 2916 STEPHENSON PL., NW WASHINGTON DC 20015	HAZARDOUS WASTE TREATMENT COUNCIL	1,500.00	1,500.00
EBERT E. FOURNACE, 3706 EATON RD., NW CANTON OH 44708	AMERICAN ELECTRIC POWER SERVICE CORP		
CONRAD M. FOWLER, BOX 71 WEST POINT GA 31833	WEST POINT PEPPERELL	6,798.00	15,843.00
ALLAN M. FOX, 1575 I STREET, NW, #1150 WASHINGTON DC 20005	AMERICAN MEAT INSTITUTE		
ERIC R. FOX, 1700 PENNSYLVANIA AVE., NW WASHINGTON DC 20006	APPLE COMPUTER CORP		
FOX GROUP, USA LTD, P.O. BOX 1831 CHARLESTON SC 29402	CAMP CARMOUCHE BARSH... (FOR SEARS ROEBUCK & CO)	4,500.00	
DONALD FRAHER, 633 E STREET, NW WASHINGTON DC 20004	AMERICAN SYMPHONY ORCHESTRA LEAGUE	9,274.98	206.75
FRANCIS & MCGINNIS ASSOCIATES, INC, 1000 POTOMAC ST., NW, #401 WASHINGTON DC 20007	NATIONAL PASSENGER TRAFFIC ASSN		
FRANCES E. FRANCIS, SPIEGEL & MCDIARMID 1350 NEW YORK AVE., NW WASHINGTON DC 20037	NORTHERN CALIFORNIA POWER AGENCY, ET AL		
LESLIE C. FRANCIS, 1000 POTOMAC ST., NW, #401 WASHINGTON DC 20007	NATIONAL PASSENGER TRAFFIC ASSN		
DOUGLAS L. FRANCISCO, 1101 16TH ST., NW WASHINGTON DC 20036	INDEPENDENT PETROLEUM ASSN OF AMERICA		92.50
PETER M. FRANK, 1667 K ST., NW, #250 WASHINGTON DC 20006	KERR-MCGEE CORP	2,500.00	2,727.11
DAVID C. FRANKIL, 918 16TH STREET, NW, #402 WASHINGTON DC 20006	AMERICAN FURNITURE MANUFACTURERS ASSN	750.00	551.91
WALTER L. FRANKLAND JR., 1717 K ST., NW WASHINGTON DC 20006	SILVER USERS ASSN, INC	1,590.40	4.32
ELLIS B. FRANKLIN, 5025 WISCONSIN AVE., NW WASHINGTON DC 20016	AMALGAMATED TRANSIT UNION, AFL-CIO		
JAMES R. FRANKLIN, 1185 AVENUE OF THE AMERICAS NEW YORK NY 10036	J.P. STEVENS & CO, INC		6,498.54
JOHN B. FRANZ, P.O. BOX 10568 POMPANO BEACH FL 33061			
MARIAN C. FRANZ, 2121 DECATUR PLACE, NW WASHINGTON DC 20008	NATIONAL COUNCIL FOR A PEACE TAX FUND	645.00	154.00
CHARLES L. FRAZIER, 475 L'ENFANT PLAZA, SW, #2250 WASHINGTON DC 20024	NATIONAL FARMERS ORGANIZATION	4,708.00	4,234.76
GREGORY W. FRAZIER, P.O. BOX 427 ENGLEWOOD CO 80151	INTERNATIONAL ENERGY BROKERS, INC		
ROBERT M. FREDERICK, 1616 H ST., NW WASHINGTON DC 20006	NATIONAL GRANGE	5,000.00	
FREDERICK SERVICE GROUP, 102 W. CHURCH STREET FREDERICK MD 21701			
JAY A. FREDERICKSEN, ITT RAYONIER P.O. BOX C58967 SEATTLE WA 98188	ITT CORP	6,000.00	13,633.25
ANN TODD FREE, 1120 CONNECTICUT AVENUE, NW WASHINGTON DC 20036	AMERICAN BANKERS ASSN	500.00	
FREE THE EAGLE NATIONAL CITIZEN'S LOBBY, 11244 WAPLES MILL RD., SUITE J FAIRFAX VA 22030		31,644.00	234,547.88
D. MICHAL FREEDMAN, 2030 M STREET, NW WASHINGTON DC 20036	COMMON CAUSE	8,022.00	56.50
JOEL FREEDMAN, 1600 M ST., NW, 5TH FLOOR WASHINGTON DC 20036	HARTFORD FIRE INSURANCE CO	5,000.00	
JAMES O. FREEMAN, 1709 NEW YORK AVE., NW, #801 WASHINGTON DC 20006	U.S. LEAGUE OF SAVINGS INSTITUTIONS	6,120.00	
LEWIS R. FREEMAN JR., 1025 CONNECTICUT AVE., NW, #409 WASHINGTON DC 20036	SOCIETY OF THE PLASTICS INDUSTRY		
MARY ANN FREEMAN, 1331 PENNSYLVANIA AVE, NW WASHINGTON DC 20005	GENERAL ELECTRIC CO	231.00	
PAULA A. FREER, 1800 M ST., NW, #975 WASHINGTON DC 20036	MARATHON OIL CO		
RONNA FREIBERG, THE POWER HOUSE 3255 GRACE STREET, NW WASHINGTON DC 20007	GRAY & CO PUBLIC COMMUNICATIONS INT'L, INC (FOR: BROWNING-FERRIS INDUSTRIES, INC).		
Do	GRAY & CO PUBLIC COMMUNICATIONS INT'L, INC (FOR: BUDD COMPANY)	150.00	
Do	GRAY & CO PUBLIC COMMUNICATIONS INT'L, INC (FOR: JOINT MARITIME CONGRESS).		
Do	GRAY & CO PUBLIC COMMUNICATIONS INT'L, INC (FOR: KINGDOM OF MOROCCO)	750.00	
Do	GRAY & CO PUBLIC COMMUNICATIONS INT'L, INC (FOR: NATIONAL BROADCASTING COMPANY).		
Do	GRAY & CO PUBLIC COMMUNICATIONS INT'L, INC (FOR: REPUBLIC OF TURKEY)		
Do	GRAY & CO PUBLIC COMMUNICATIONS INT'L, INC (FOR: SANTA FE CORP)		
Do	GRAY & CO PUBLIC COMMUNICATIONS INT'L, INC (FOR: SHAKLEE CORPORATION)		
Do	GRAY & CO PUBLIC COMMUNICATIONS INT'L, INC (FOR: SHIRCO INFRARED SYSTEMS, INC).		
Do	GRAY & CO PUBLIC COMMUNICATIONS INT'L, INC (FOR: STROH BREWERY CO)	300.00	
Do	GRAY & CO PUBLIC COMMUNICATIONS INT'L, INC (FOR: TITLE INSURANCE INDUSTRY COALITION).	300.00	
Do	GRAY & CO PUBLIC COMMUNICATIONS INT'L, INC (FOR: TOBACCO INSTITUTE)		
Do	GRAY & CO PUBLIC COMMUNICATIONS INT'L, INC (FOR: TRANSIT AMERICA)	600.00	
Do	GRAY & CO PUBLIC COMMUNICATIONS INT'L, INC (FOR: WARNER COMMUNICATIONS).		
FRENCH & COMPANY, 1317 F ST., NW, #307 WASHINGTON DC 20004	NATIONAL RETAIL MERCHANTS ASSN		
VERRICK O. FRENCH, FRENCH & COMPANY 1317 F STREET, NW WASHINGTON DC 20004	HONG KONG TRADE DEVELOPMENT COUNCIL	3,185.00	
SARA HAMRIC FREUND, 260 MADISON AVE. NEW YORK NY 10016	AMERICAN PAPER INSTITUTE, INC		
ANNETTE P. FRIBOURG, 3900 WISCONSIN AVE., NW WASHINGTON DC 20016	FEDERAL NATIONAL MORTGAGE ASSN	17,750.00	1,693.00
FRIED FRANK HARRIS SHRIVER & JACOBSON, 600 NEW HAMPSHIRE AVE., NW, #1000 WASHINGTON DC 20037	AMERICAN INDIAN NATIONAL BANK		
Do	ASSINIBOINE TRIBE		
Do	DOYON, LIMITED		
Do	KLAMATH TRIBE		
JAMES M. FRIEDMAN, 1100 CITIZENS BLDG. CLEVELAND OH 44114	CLEVELAND ELECTRIC ILLUMINATING CO	10,132.00	1,118.19
Do	COALITION FOR ENVIRONMENTAL-ENERGY BALANCE	3,323.22	324.25
GAY H. FRIEDMANN, 1150 CONNECTICUT AVE., NW, #717 WASHINGTON DC 20036	SOUTHERN CALIFORNIA GAS CO	9,000.00	
FRIENDS OF ANIMALS, INC, 400 FIRST STREET, NW, #800 WASHINGTON DC 20001		5,000.00	5,045.20
FRIENDS OF THE COLUMBIA GORGE, 519 SW THIRD, #810 PORTLAND OR 97204		508.61	5,848.63
OWEN V. FRISBY, 900 17TH ST., NW WASHINGTON DC 20006	CHASE MANHATTAN BANK, N.A.	690.00	147.89
SUSAN T. FRITSCHLER, 1111 19TH STREET, NW WASHINGTON DC 20036	EDISON ELECTRIC INSTITUTE	982.20	491.53
WILLIAM D. FRITTS JR., 1025 CONNECTICUT AVE., NW WASHINGTON DC 20036	HEALTH INSURANCE ASSN OF AMERICA, INC		
CHARLES H. FRITZEL, 499 S. CAPITOL ST., SE, #401 WASHINGTON DC 20003	NATIONAL ASSN OF INDEPENDENT INSURERS	300.00	310.00
JEFFREY FRITZLEN, 1120 20TH STREET, NW, #600-S WASHINGTON DC 20036	UNION PACIFIC CORP	2,000.00	
CATHERINE J. FROMPOVICH, P.O. BOX B-12 RICHLANDTOWN PA 18955	COALITION FOR ALTERNATIVES IN NUTRITION & HEALTHCARE, INC		613.36
MARCY STEPHENS FROSH, 2030 M STREET, NW WASHINGTON DC 20036	COMMON CAUSE	7,587.54	62.45
ALBERT E. FRY, 1615 L STREET, NW, #1350 WASHINGTON DC 20036	BUSINESS ROUNDTABLE	1,600.00	
FULBRIGHT & JAWORSKI, 1150 CONNECTICUT AVE., NW, #400 WASHINGTON DC 20036	CRYSTAL OIL COMPANY		
FULL EMPLOYMENT ACTION COUNCIL, 815 16TH STREET, NW WASHINGTON DC 20006		9,458.00	2,137.73
CLAUDIA R. FUQUAY, 727 NORTH WASHINGTON STREET ALEXANDRIA VA 22314	NATIONAL FOOD PROCESSORS ASSN	500.00	11.40
Do	UNITED FRESH FRUIT & VEGETABLE ASSN	410.00	40.00
FUTURES INDUSTRY ASSN, INC, 1825 EYE STREET, NW, #1040 WASHINGTON DC 20006			
GA ASSN OF PETROLEUM RETAILERS, INC, 900 N. HAIRSTON ROAD, SUITE D STONE MOUNTAIN GA 30083			1,564.68
MARC P. GABOR, 5025 WISCONSIN AVENUE, NW WASHINGTON DC 20016	AMALGAMATED TRANSIT UNION, AFL-CIO	3,000.00	816.36
TERRY GABRIELSON, 490 L'ENFANT PLAZA, SW, #3202 WASHINGTON DC 20024	TRANSCO ENERGY CO		
JAMES E. GAFFIGAN, 1899 L ST., NW, #607 WASHINGTON DC 20036	TRAVEL & TOURISM GOVERNMENT AFFAIRS POLICY COUNCIL	1,875.00	
NORMAN S. GAINES, 2550 M ST., NW, #770 WASHINGTON DC 20037	RJR INDUSTRIES, INC	2,200.00	499.59
JOE H. GALIS, P.O. BOX 221 RAIFORD FL 32083			
KARL GALLANT, 8001 BRADDOCK ROAD SPRINGFIELD VA 22160	NATIONAL RIGHT TO WORK COMM	3,000.00	294.85
MARK GALLANT, 1619 MASSACHUSETTS AVENUE, NW WASHINGTON DC 20036	NATIONAL FOREST PRODUCTS ASSN	1,600.00	
WILLIAM R. GANSER JR., 4804 FOLSE DR. METAIRIE LA 70002	SOUTHERN FOREST PRODUCTS ASSN	2,986.22	
NICOLE GARA, 1117 NORTH 19TH STREET, NW, #300 ARLINGTON VA 22209	AMERICAN ACADEMY OF PHYSICIAN ASSISTANTS		
GARDNER CARTON & DOUGLAS, 1875 I ST., NW WASHINGTON DC 20006	MIDCON CORP		
SHERWIN GARDNER, 1010 WISCONSIN AVE., NW, #800 WASHINGTON DC 20007	GROCERY MANUFACTURERS OF AMERICA, INC		
NANCY GARLAND, 600 MARYLAND AVENUE, SW, #400 WASHINGTON DC 20024	AMERICAN OPTOMETRIC ASSN		
EDWARD A. GARMATZ, 2210 LAKE AVE. BALTIMORE MD 21213	BALTIMORE GAS & ELECTRIC CO		
GARRETT & COMPANY, 1630 CONNECTICUT AVENUE, NW, #202 WASHINGTON DC 20009	GOVERNMENT OF THE REPUBLIC OF HAITI		
Do	TAIWAN POWER COMPANY	3,000.00	4,500.00
JOHN C. GARTLAND, 214 MASS. AVE., NE, #210 WASHINGTON DC 20002	AMWAY CORP		
GARVEY SCHUBERT ADAMS & BARER, 1000 POTOMAC ST., NW WASHINGTON DC 20006	CONTRACTORS BONDING & INSURANCE CO		
Do	CSX CORPORATION	12,519.00	
Do	GTE SERVICE CORP	125.00	
Do	JAPAN FISHERIES ASSOCIATION	1,872.50	

Organization or Individual Filing	Employer/Client	Receipts	Expenditures
Do	NORTHWEST MARINE IRON WORKS	4,672.50	
Do	PACCAR, INC		
Do	PACIFIC RIM TRADE ASSN		
Do	PORT OF TILLAMOOK BAY & TILLAMOOK COUNTY	1,512.00	
Do	SONATRACH	1,000.00	
Do	TOTEM; OCEAN TRAILER EXPRESS, INC	1,225.00	
Do	TRAILWAYS, INC		
Do	TRANS WORLD AIRLINES, INC		
Do	WASHINGTON CITIZENS FOR WORLD TRADE		
E. JUNE GARVIN, OHIO PETROLEUM COUNCIL 88 E. BROAD, #1960 COLUMBUS OH 43215	AMERICAN PETROLEUM INSTITUTE	3,000.00	4,468.10
W. BRADFORD GARY, 1050 17TH STREET, NW, #1126 WASHINGTON DC 20036	TRAVENOL LABORATORIES, INC		
MARY A. GARZA, P.O. BOX 152777, 5B-7 IRVING TX 75015	ZALE CORP	2,429.16	4,367.62
GAS APPLIANCE MANUFACTURERS ASSN, INC, 1901 NORTH FORT MYER DR. ARLINGTON VA 22209			
VERNON GASAWAY, 191 SANDS STREET, APT. 5J BROOKLYN NY 11201			
FRANK T. GASPER, 8104 RIVER FALLS DRIVE POTOMAC MD 20854	MOOG, INC		
PHILIP GASTEYER, 1709 NEW YORK AVE., NW, #801 WASHINGTON DC 20006	U.S. LEAGUE OF SAVINGS INSTITUTIONS	3,250.00	
FRED GEBLER, 1331 PENNSYLVANIA AVE., NW, #1300 WASHINGTON DC 20004	ELECTRONIC DATA SYSTEMS		
MARGARET L. GEHRES, 1828 L STREET, NW, #402 WASHINGTON DC 20036	BUSINESS ROUNDTABLE	2,500.00	40.00
RUTHANN GEIB, 1156 15TH STREET, NW, #1020 WASHINGTON DC 20005	AMERICAN SUGARBEET GROWERS ASSN		
RONALD L. GEIGLE, 1030 15TH STREET, NW, #1100 WASHINGTON DC 20005	HEALTH INDUSTRY MANUFACTURERS ASSOCIATION		
CAROLE SONNENFELD GEITHNER, 2030 M STREET, NW WASHINGTON DC 20036	COMMON CAUSE	3,800.02	
MORTON A. GELLER, 100 FEDERAL ST. BOSTON MA 02110	FIRST NATIONAL BANK OF BOSTON	1,170.00	547.18
GENERAL AVIATION MANUFACTURERS ASSOCIATION, 1400 K STREET, NW, #801 WASHINGTON DC 20005			4,982.00
GENERAL INSTRUMENT CORPORATION, 767 5TH AVE. NEW YORK NY 10153		600.00	27.40
GENERIC PHARMACEUTICAL INDUSTRY ASSN, 200 MADISON AVE., #2404 NEW YORK NY 10016			
JOHN GENTILLE, 1957 E ST., NW WASHINGTON DC 20006	ASSOCIATED GENERAL CONTRACTORS OF AMERICA		
NANCY WHORTON GEORGE, 499 SOUTH CAPITOL STREET, SW, #400 WASHINGTON DC 20003	HOUSTON NATURAL GAS	3,000.00	280.19
Do	TRANSCO, INC	1,000.00	
GEORGE W. GEPHART, P.O. BOX 1475 BALTIMORE MD 21203	BALTIMORE GAS & ELECTRIC CO		
JOSEPH G. GERARD, 918 16TH ST., NW, #402 WASHINGTON DC 20006	AMERICAN FURNITURE MANUFACTURERS ASSN	1,500.00	1,195.35
LOUIS GERBER, 1925 K ST., NW WASHINGTON DC 20006	COMMUNICATIONS WORKERS OF AMERICA	6,227.52	135.75
DANIEL R. GERKIN, 1575 I STREET, NW, #525 WASHINGTON DC 20005	MINING & RECLAMATION COUNCIL OF AMERICA	500.00	
PHYLLIS H. GERSTELL, 1850 K ST., NW WASHINGTON DC 20006	AMERICAN COUNCIL OF LIFE INSURANCE, INC		
DAVID TROY SAXTON GETTY, P.O. BOX 7000-A, BOX 639 TEXARKANA TX 75501			
DOROTHY F. GEVINSON, 801 18TH STREET, NW, #400 WASHINGTON DC 20006	PROCTER & GAMBLE MANUFACTURING CO	83.99	
GFE, LTD, 1701 K STREET, NW, #705 WASHINGTON DC 20006	CONSEJO EMPRESARIAL MEXICANO PARA ASUNTOS INTERNACIONALES		5,642.58
DANNY GHORBANI, 10506 CAVALCADE STREET GREAT FALLS VA 22066	ASSOCIATION FOR REGULATORY REFORM	3,000.00	260.00
ROBERT N. GIAIMO, 1140 19TH ST., NW, #600 WASHINGTON DC 20036	AETNA LIFE & CASUALTY	9,375.00	
Do	INSURANCE ASSOCIATION OF CONNECTICUT	3,750.00	
WILLIAM C. GIBB, 1050 THOMAS JEFFERSON ST., NW, 6TH FL WASHINGTON DC 20007			
WILLIAM T. GIBB, 1850 K ST., NW WASHINGTON DC 20006	AMERICAN COUNCIL OF LIFE INSURANCE, INC		
WAYNE GIBBENS, 1919 PENNSYLVANIA AVE., NW, #503 WASHINGTON DC 20006	MID-CONTINENT OIL & GAS ASSN	20,000.00	154.00
ANNE MARIE GIBBONS, THIRD FLOOR 2301 M STREET, NW WASHINGTON DC 20037	AMERICAN PUBLIC POWER ASSN	500.00	
GIBSON DUNN & CRUTCHER, 1050 CONNECTICUT AVENUE, NW WASHINGTON DC 20036	ASSOCIATED SPECIALTY CONTRACTORS, INC		
Do	FEDERATION OF APPAREL MANUFACTURERS		
Do	INSURANCE ASSN OF CONNECTICUT		
Do	MECHANICAL CONTRACTORS ASSN OF AMERICA, INC		
THERESA GIBSON, 1771 N STREET, NW WASHINGTON DC 20036	NATIONAL ASSN OF BROADCASTERS	1,500.00	496.77
WILLIAM G. GIERY, 1919 PENNSYLVANIA AVE., NW WASHINGTON DC 20006	FOODSERVICE & LODGING INSTITUTE		
WILLIAM L. GIFFORD, 100 INTERPACE PARKWAY PARSIPPANY NJ 07054	GPU NUCLEAR CORP		
PAMELA GILBERT, 215 PENNSYLVANIA AVENUE, SE WASHINGTON DC 20003	U.S. PUBLIC INTEREST RESEARCH GROUP	4,038.44	
RICHARD GILBERT, 1015 15TH STREET, NW WASHINGTON DC 20005	AMERICAN PUBLIC HEALTH ASSN	1,222.00	
JOHN E. GILES, 1600 EYE ST., NW WASHINGTON DC 20006	MOTION PICTURE ASSN OF AMERICA, INC	500.00	292.18
FLOYD H. GILKEY, 2111 HARBOR DRIVE ANNAPOLIS MD 21401	CHESAPEAKE INDUSTRIES, INC		
MARY ANN GILLEECE, 1713 MAPLE HILL PLACE ALEXANDRIA VA 22302	ALLIED DEFENSE INDUSTRIES	150.00	
NEAL P. GILLEN, 1725 K STREET, NW, #1210 WASHINGTON DC 20006	AMERICAN COTTON SHIPPERS ASSN	24,999.93	1,456.28
GINN EDINGTON MOORE & WADE, 803 PRINCE STREET ALEXANDRIA VA 22314	AMERICAN POLYGRAPH ASSN	9,000.00	55.02
Do	GARRETT CORPORATION	8,000.00	51.09
Do	GULFSTREAM AEROSPACE CORP	2,000.00	11.79
Do	HERCULES INC		
Do	LOCKHEED CORP	5,000.00	31.44
Do	LOCKHEED-GEORGIA COMPANY	8,000.00	47.16
Do	MECHANICAL TECHNOLOGY, INC	1,300.00	7.86
Do	PROFESSIONAL INSURANCE AGENTS	6,000.00	35.37
Do	ROCKWELL INTERNATIONAL CORP	10,000.00	62.88
Do	TEXAS INSTRUMENTS, INC	12,000.00	74.67
Do	TURNER BROADCASTING SYSTEM, INC	2,000.00	11.52
Do	U.S. CANE SUGAR REFINERS' ASSN	1,000.00	7.86
Do	WATKINS ASSOCIATED INDUSTRIES, INC	1,000.00	32.52
GERARD GIOVANIELLO, 777 14TH ST., NW WASHINGTON DC 20005	NATIONAL ASSN OF REALTORS	250.00	656.50
BRENDA M. GIRTON, 633 PENNSYLVANIA AVENUE, NW, #600 WASHINGTON DC 20004	SEARS ROEBUCK & CO	140.00	138.24
FRANCIS J. GIST, 1511 K STREET, NW, #809 WASHINGTON DC 20005			
MICHAEL J. GIUFFRIDA, 204 E STREET, NE WASHINGTON DC 20002	NATIONAL FROZEN FOOD ASSOCIATION	1,000.00	
SOL GLASNER, 2000 L ST., NW, #810 WASHINGTON DC 20036	SPERRY CORPORATION		
DONNA GLEASON, 2000 L STREET, NW, #810 WASHINGTON DC 20036	SPERRY CORP		
LAW OFFICES OF THOS GLEASON, 90 BROAD STREET, #600 NEW YORK NY 10004	INTERNATIONAL LONGSHOREMEN'S ASSOCIATION, AFL-CIO		
ROBERT GLEASON, 815 16TH STREET, NW WASHINGTON DC 20006	INTERNATIONAL LONGSHOREMEN'S ASSOCIATION, AFL-CIO	8,958.65	
DONALD R. GLENN, 1627 K STREET, NW, #200 WASHINGTON DC 20006	ENERGY RESEARCH CORP		
JERE W. GLOVER, 1725 K STREET, NW, #308 WASHINGTON DC 20006	NATIONAL COALITION OF PETROLEUM RETAILERS		
JAMES W. GODLOVE, 1825 K STREET, NW, #1107 WASHINGTON DC 20006	PHILLIPS PETROLEUM CO	990.00	27.10
RICHARD P. GODWIN, P.O. BOX 3965 SAN FRANCISCO CA 94119	BECHTEL CIVIL & MINERALS, INC		
JUDITH M. GOFF, 375 JACKSON STREET ST. PAUL MN 55101	FARM CREDIT SERVICES	600.00	906.14
JOSEPH GOFFMAN, 215 PENNSYLVANIA AVENUE, SE WASHINGTON DC 20003	CONGRESS WATCH	5,250.00	
GEORGE TIMOTHY GOJIO, 1730 RHODE ISLAND AVENUE, NW, #204 WASHINGTON DC 20036	JAPANESE AMERICAN CITIZENS LEAGUE		
A. JAMES GOLATO, 2300 M ST., NW, #800 WASHINGTON DC 20037	H&R BLOCK, INC		
GOLD & LIEBENGOOD, INC, 1050 CONNECTICUT AVENUE, NW, #980 WASHINGTON DC 20036	ALIGNPAC	6,150.00	1,477.00
Do	AMERICAN ACADEMY OF OPHTHALMOLOGY	6,000.00	1,698.00
Do	COLLEGE OF AMERICAN PATHOLOGISTS	24,999.00	2,231.00
Do	DOREMUS & CO	4,920.00	1,558.00
Do	E.M. WARBURG, PINCUS & CO, INC	6,812.00	1,581.00
Do	ELECTRONIC DATA SYSTEMS	31,275.00	1,950.00
Do	ENERGY RESEARCH CORP #200	12,000.00	1,703.00
Do	EQUITABLE LIFE ASSURANCE SOCIETY OF THE U.S	40,000.00	4,370.00
Do	EYE BANK ASSN OF AMERICA	6,000.00	2,109.00
Do	FEDERATED INVESTORS, INC	25,000.00	1,477.00
Do	FORD MOTOR CO	8,887.00	1,549.00
Do	FUND FOR ASSURING AN INDEPENDENT RETIREMENT		
Do	HANDGUN CONTROL, INC	8,853.00	1,582.00
Do	INTERNATIONAL GOLD CORP, LTD	16,325.00	
Do	INVESTMENT COMPANY INSTITUTE	2,412.00	1,658.00
Do	MARIOTT GROUP/MARRIOTT CORP	3,000.00	1,511.00
Do	MARIST COLLEGE	1,162.00	1,526.00
Do	MARTIN MARIETTA CORP	15,000.00	1,957.00
Do	MCI COMMUNICATIONS	25,500.00	1,946.00
Do	NATIONAL FOOTBALL LEAGUE	65,312.00	3,359.00
Do	NATIONAL SCHOOL TRANSPORTATION ASSN	5,000.00	1,575.00
Do	OUTDOOR ADVERTISING ASSN OF AMERICA		1,477.00
Do	PHILLIPS PETROLEUM CO	11,175.00	1,748.00
Do	PURGATORIE RIVER WATER CONSERVANCY DISTRICT		
Do	TEXAS CATTLEFEEDERS ASSN	12,912.00	2,047.00
Do	TICOR TITLE INSURANCE CO	39,212.00	1,897.00
Do	TIMES MIRROR	18,750.00	2,198.00
Do	TOBACCO INSTITUTE	60,000.00	3,401.00

Organization or Individual Filing	Employer/Client	Receipts	Expenditures
DONNA GOLD, 1201 16TH STREET, NW WASHINGTON DC 20036	NATIONAL EDUCATION ASSN	2,663.00	39.50
HARVEY S. GOLD, 8100 OAK STREET DUNN LORING VA 22027	NATIONAL PEST CONTROL ASSN		
STEPHEN V. GOLD, 1010 WISCONSIN AVENUE, NW, #800 WASHINGTON DC 20007	GROCERY MANUFACTURERS OF AMERICA		
JANE A. GOLDEN, 1775 PENNSYLVANIA AVE., NW WASHINGTON DC 20006	PHOSPHATE ROCK EXPORT ASSN		
RONALD L. GOLDFARB, GOLDFARB & SINGER 918 16TH STREET, NW, #503 WASHINGTON DC 20003	WASHINGTON INDEPENDENT WRITERS, INC		
PATRICIA R. GOLDMAN, 444 NORTH CAPITOL STREET, NW WASHINGTON DC 20001	AMERICAN HOSPITAL ASSN	2,574.35	62.50
ROBERT H. GOLDSBOROUGH, 5508 LOMBARDY PLACE BALTIMORE MD 21210	AMERICANS FOR IMMIGRATION CONTROL, INC	3,000.00	568.00
HELANE L. GOLDSTEIN, 2626 PENNSYLVANIA AVENUE, NW WASHINGTON DC 20037	NATIONAL TELEPHONE COOPERATIVE ASSN	1,862.50	154.53
JACK GOLODNER, 815 16TH ST., N.W. WASHINGTON DC 20006	DEPARTMENT FOR PROFESSIONAL EMPLOYEES, AFL-CIO	2,669.84	
RUTH M. GOLTZER, 1785 MASSACHUSETTS AVENUE, NW WASHINGTON DC 20036	NATIONAL TRUST FOR HISTORIC PRESERVATION		
JOHN GONELLA, 412 FIRST ST., SE, #200 WASHINGTON DC 20036	ASSOCIATION OF AMERICAN RAILROADS	733.70	455.81
RUTH GONZE, THIRD FLOOR 2301 M STREET, NW WASHINGTON DC 20037	AMERICAN PUBLIC POWER ASSN	500.00	
DAVID R. GOODE, 8 N. JEFFERSON STREET ROANOKE VA 24042	NORFOLK SOUTHERN CORP		1,198.82
CHARLES E. GOODELL, KING & SPALDING 1730 PENNSYLVANIA AVENUE, NW, #1200 WASHINGTON DC 20006	DGA INTERNATIONAL, INC (FOR SOFREAVIA)		
Do	DGA INTERNATIONAL, INC (FOR SNECMA)		
Do	THOMSON-CSF, INC	28,760.00	
ROBERT F. GOODWIN, 1850 K ST., NW, SUITE 275 WASHINGTON DC 20006	MEREDITH CORP	40.00	22.50
RANDALL C. GORDON, 725 15TH STREET, NW WASHINGTON DC 20005	NATIONAL GRAIN & FEED ASSN		
STEPHEN GORDON, 2020 K ST., NW, #200 WASHINGTON DC 20006	NATIONAL FED OF FEDERAL EMPLOYEES		
IRMGARD GORDOS, 5 CULP ST., BOX #40 INMAN SC 29349	AMERICAN SECURITY COUNCIL		
MILLICENT GORHAM, 600 MARYLAND AVE., SW, #400E WASHINGTON DC 20024	AMERICAN OPTOMETRIC ASSN		
JAMES D. GORMLEY, 1400 EYE ST., NW WASHINGTON DC 20005	GENERAL AVIATION MANUFACTURERS ASSOCIATION	1,917.00	
BARBARA DIANE GORRA, 1819 L STREET, NW, #820 WASHINGTON DC 20036	SANTA FE INTERNATIONAL CORP		
ANN M. GOSIER, 1920 N ST., NW WASHINGTON DC 20036	AMERICAN MINING CONGRESS		
JOHN T. GOULD JR., ONE CHAMPION PLAZA STAMFORD CT 06921	CHAMPION INTERNATIONAL CORP		
HUGH J. GOWNLEY, 1818 N ST., NW WASHINGTON DC 20036	DGA INTERNATIONAL, INC (FOR: SNECMA)		
EDMUND GRABER, 1957 E STREET, NW WASHINGTON DC 20006	ASSOCIATED GENERAL CONTRACTORS OF AMERICA	1,000.00	500.00
JOHN R. GRAFF, 1025 VERMONT AVE., NW, #330 WASHINGTON DC 20005	INTERNATIONAL ASSN OF AMUSEMENT PARKS AND ATTRACTIONS	210.00	203.85
DONALD E. GRAHAM, MCDERMOTT, WILL & EMERY 1850 K STREET, NW, #500 WASHINGTON DC 20006	NATIONAL COUNCIL OF FARMER COOPERATIVES		
ELAINE GRAHAM, 201 PARK WASHINGTON COURT FALLS CHURCH VA 22046	NATIONAL-AMERICAN WHOLESALE GROCERS' ASSN	3,000.00	
LAWRENCE T. GRAHAM, 1401 NEW YORK AVENUE, NW, #400 WASHINGTON DC 20005	NATIONAL FOOD PROCESSORS ASSN	500.00	27.50
FRANCES TURK GRANAHAN, 1090 VERMONT AVENUE, NW, #600 WASHINGTON DC 20005	TEXAS EASTERN TRANSMISSION CORP		503.95
WILLIAM W. GRANT, 1150 CONNECTICUT AVE., NW, #710 WASHINGTON DC 20036	UTAH INTL, INC		260.01
ALAN W. GRANWELL, CADWALADER WICKERSHAM & TAFT 1333 NEW HAMPSHIRE AVE., NW WASHINGTON DC 20036	SQUIBB CORPORATION	260.00	
GRASSROOTS, NAT'L ASSN OF FARM CREDIT SYSTEM STOCKHOLDERS, 501 ALABAMA STREET P.O. BOX 1070 JACKSONVILLE TX 75766.			
KARLA L. GRAUE, 1724 MASSACHUSETTS AVENUE, NW WASHINGTON DC 20036	NATIONAL CABLE TELEVISION ASSN, INC	892.00	
RUTH P. GRAVES, 600 MARYLAND AVE., SW, #500 WASHINGTON DC 20024	READING IS FUNDAMENTAL, INC		
THOMAS P. GRAVES, 1800 MASSACHUSETTS AVENUE, NW WASHINGTON DC 20036	NATIONAL RURAL ELECTRIC COOPERATIVE ASSN	125.00	
DAVID C. GRAY, 2939 VAN NESS STREET, NW, #108 WASHINGTON DC 20008	AMERICAN CAMPING ASSOCIATION	4,000.00	1,393.14
JAMES A. GRAY, 7901 WESTPARK DR. MCLEAN VA 22102	NATIONAL MACHINE TOOL BUILDERS' ASSN	890.00	25.00
NEIL A. GRAY, 6811 KENILWORTH AVE. RIVERDALE MD 20737	NATIONAL ASPHALT PAVEMENT ASSN	6,623.64	17.50
ROBERT K. GRAY, THE POWER HOUSE 3255 GRACE STREET, NW WASHINGTON DC 20007	GRAY & CO PUBLIC COMMUNICATIONS INT'L, INC (FOR: AGRICULTURE FOR MARKET ORIENTED POLICIES).	350.00	
Do	GRAY & CO PUBLIC COMMUNICATIONS INT'L, INC (FOR: AMERICAN MARITIME ASSN).		
Do	GRAY & CO PUBLIC COMMUNICATIONS INT'L, INC (FOR: ASARCO INC)		
Do	GRAY & CO PUBLIC COMMUNICATIONS INT'L, INC (FOR: BELL ATLANTIC MANAGEMENT SERVICES).		
Do	GRAY & CO PUBLIC COMMUNICATIONS INT'L, INC (FOR: BROWNING-FERRIS INDUSTRIES, INC).		
Do	GRAY & CO PUBLIC COMMUNICATIONS INT'L, INC (FOR: BUDD COMPANY)		
Do	GRAY & CO PUBLIC COMMUNICATIONS INT'L, INC (FOR: CANADIAN ASBESTOS INFORMATION CENTRE).		
Do	GRAY & CO PUBLIC COMMUNICATIONS INT'L, INC (FOR: ELECTRONIC INDUSTRIES ASSN OF JAPAN).		
Do	GRAY & CO PUBLIC COMMUNICATIONS INT'L, INC		
Do	GRAY & CO PUBLIC COMMUNICATIONS INT'L, INC (FOR: GRUMMAN CORPORATION)		
Do	GRAY & CO PUBLIC COMMUNICATIONS INT'L, INC (FOR: HRH PRINCE TALAL BIN ABDUL AZIZ AL SAUD).		
Do	GRAY & CO PUBLIC COMMUNICATIONS INT'L, INC (FOR: HTB CORPORATION)		
Do	GRAY & CO PUBLIC COMMUNICATIONS INT'L, INC (FOR: IOWA PORK PRODUCERS ASSN).		
Do	GRAY & CO PUBLIC COMMUNICATIONS INT'L, INC (FOR: JOINT MARITIME CONGRESS).		
Do	GRAY & CO PUBLIC COMMUNICATIONS INT'L, INC (FOR: MOTOROLA, INC)		
Do	GRAY & CO PUBLIC COMMUNICATIONS INT'L, INC (FOR: MUTUAL OF OMAHA)		
Do	GRAY & CO PUBLIC COMMUNICATIONS INT'L, INC (FOR: REPUBLIC OF TURKEY)		
Do	GRAY & CO PUBLIC COMMUNICATIONS INT'L, INC (FOR: SHAKLEE CORPORATION)		
Do	GRAY & CO PUBLIC COMMUNICATIONS INT'L, INC (FOR: STROH BREWERY CO)		
Do	GRAY & CO PUBLIC COMMUNICATIONS INT'L, INC (FOR: TITLE INSURANCE INDUSTRY COALITION).		
Do	GRAY & CO PUBLIC COMMUNICATIONS INT'L, INC (FOR: TOBACCO INSTITUTE)		
Do	GRAY & CO PUBLIC COMMUNICATIONS INT'L, INC (FOR: U.S. BANKNOTE)		
Do	GRAY & CO PUBLIC COMMUNICATIONS INT'L, INC (FOR: UNITED AIRLINES)		
MARK E. GRAYSON, 1201 PENNSYLVANIA AVE., NW, #700 WASHINGTON DC 20004	HILL & KNOWLTON, INC		
SAMUEL A. GRAYSON, P.O. BOX 1745 BOISE ID 83701	UNION PACIFIC RAILROAD		
MARY R. GREALY, 1111 19TH STREET, NW, #402 WASHINGTON DC 20036	FEDERATION OF AMERICAN HOSPITALS	1,500.00	
GREAT AMERICAN RESERVE INSURANCE CO, 2020 LIVE OAK P.O. BOX 388 DALLAS TX 75221			
GREATER WASHINGTON BOARD OF TRADE, 1129 20TH ST., NW WASHINGTON DC 20036			
GREATER WASHINGTON/MARYLAND SERVICE STATION ASSN, 9420 ANNAPOLIS RD., #307 LANHAM MD 20706		1,500.00	1,500.00
JAMES R. GRECO, P.O. BOX 3151 HOUSTON TX 77001	BROWNING-FERRIS INDUSTRIES, INC		
DONALD R. GREELEY, 1101 17TH ST., NW, #307 WASHINGTON DC 20036	CELANESE CORP	2,000.00	262.01
EDWARD M. GREEN, 1920 N ST., NW WASHINGTON DC 20036	AMERICAN MINING CONGRESS		
GEORGE R. GREEN, 1750 K ST., NW WASHINGTON DC 20006	FOOD MARKETING INSTITUTE	450.00	
ISIAH CARL GREEN, 8154 TALTON HOUSTON TX 77078			
JAMES W. GREEN, 1201 16TH ST., NW WASHINGTON DC 20036	NATIONAL EDUCATION ASSN		
KAYLENE H. GREEN, 555 NEW JERSEY AVE., NW, #880 WASHINGTON DC 20001	CONGOLEUM CORPORATION	300.00	264.80
LAURA MARIE GREEN, 8001 BRADDOCK ROAD SPRINGFIELD VA 22160	NATIONAL RIGHT TO WORK COMMITTEE	800.00	289.98
RANDY GREEN, 600 MARYLAND AVENUE, SW, #510 WASHINGTON DC 20024	AMERICAN SOYBEAN ASSN	2,225.00	308.00
ROY G. GREEN, 500 E. JOHN CARPENTER FREEWAY DALLAS/FT. WORTH TX 75261	FEDERAL HOME LOAN BANK OF DALLAS		
WAYNE GREEN, ENTERPRISES, INC ROUTE 202 NORTH PETERBOROUGH NH 03458	73 INC		
ALLEN GREENBERG, 2000 P ST., NW, #708 WASHINGTON DC 20036	HEALTH RESEARCH GROUP	21.00	
ELDON V. C. GREENBERG, GALLOWAY & GREENBERG 1835 K ST., NW, #801 WASHINGTON DC 20006	SOUTHEASTERN FISHERIES ASSN, INC	3,800.00	2,550.83
H. THOMAS GREENE, 412 1ST ST., SE WASHINGTON DC 20003	NATIONAL AUTOMOBILE DEALERS ASSN	7,500.00	
MARCI E. GREENSTEIN, 2626 PENNSYLVANIA AVENUE, NW WASHINGTON DC 20037	NATIONAL TELEPHONE COOPERATIVE ASSN	2,330.00	250.85
DALE W. GREENWOOD, 612 HOGE BLDG. SEATTLE WA 98104	WASHINGTON RAILROAD ASSN		
SARAH MASSENGALE GREGG, 1090 VERMONT AVENUE, NW WASHINGTON DC 20005	AMERICAN HOSPITAL SUPPLY CORP		
SAUNDERS GREGG, PO BOX 2628 HOUSTON TX 77252	ENTEX, INC		
CHELLIS O. GREGORY JR., 1201 PENNSYLVANIA AVE., NW WASHINGTON DC 20004	HILL AND KNOWLTON, INC (FOR: T. RAMIREZ AND COMPANY, INC)		
JOHN D. GREGORY, LEWIS BABCOCK GREGORY & PLEICONES P.O. BOX 11208 COLUMBIA SC 29211	CAMP CARMOUCHE HUNTER GRAY... (FOR SEARS ROEBUCK & CO)	2,475.00	123.21
WILLIAM G. GREIF, 1155 15TH ST., NW WASHINGTON DC 20005	BRISTOL-MYERS CO	25,000.00	
KAREN M. GREINER, 1300 NORTH 17TH STREET, #300 ARLINGTON VA 22209	ADAPSO		
GINNY GRENHAM, 2501 M STREET, NW WASHINGTON DC 20037	CHEMICAL MANUFACTURERS ASSN	280.00	305.47
ELLEN GRIFFEE, 1413 K STREET, NW, 10TH FL. WASHINGTON DC 20005	ASSOCIATION OF SCIENCE-TECHNOLOGY CENTERS	6,500.00	530.22
TOM W. GRIFFITH, 1448 DUKE ST., #100 ALEXANDRIA VA 22314	NATIONAL RURAL LETTER CARRIERS' ASSN	12,747.00	
MARK N. GRIFFITHS, SMITH BUCKLIN & ASSOCIATES 1101 CONNECTICUT AVE, NW, #700 WASHINGTON DC 20036	NATIONAL ASSN OF METAL FINISHERS	750.00	
JACK GRIMES, 8100 OAK STREET DUNN LORING VA 22027	NATIONAL PEST CONTROL ASSN		
NORMAN E. GRIMM JR., 8111 GATEHOUSE ROAD FALLS CHURCH VA 22047	AAA POTOMAC		
OLGA GRKAVAC, 1300 NORTH 17TH ST., #300 ARLINGTON VA 22209	ASSOCIATION OF DATA PROCESSING SERVICE ORGANIZATIONS		65.00
GROCERY MANUFACTURERS OF AMERICA, INC, 1010 WISCONSIN AVE., NW, #800 WASHINGTON DC 20007			655.54
JAMES J. GROGAN, P.O. BOX 19614 IRVINE CA 92714	LINCOLN SAVINGS & LOAN ASSN	10,000.00	23,690.94
GROOM & NORDBERG, CHTD, 1775 PENNSYLVANIA AVENUE, NW, #700 WASHINGTON DC 20006	ALUMINUM COMPANY OF AMERICA		

Organization or Individual Filing	Employer/Client	Receipts	Expenditures
Do	AMERICAN PETROLEUM INSTITUTE	400.00	50.00
Do	BANKERS LIFE COMPANY		
Do	BAXTER TRAVENOL LABORATORIES, INC		
Do	CHEVRON CORPORATION	250.00	25.00
Do	COLORADO-UTE	150.00	15.00
Do	CONNECTICUT GENERAL INSURANCE CO		
Do	ELI LILLY AND COMPANY	200.00	25.00
Do	EQUITABLE LIFE ASSURANCE SOCIETY OF THE U.S.		
Do	GOLDMAN SACHS & CO		
Do	JOHN HANCOCK MUTUAL LIFE INSURANCE CO		
Do	MINNESOTA MUTUAL LIFE INSURANCE COMPANY		
Do	MURPHY OIL U.S.A., INC		
Do	NEW YORK CITY TEACHERS RETIREMENT SYSTEM	200.00	25.00
Do	OCEAN DRILLING & EXPLORATION CO		
Do	PHILLIPS PETROLEUM COMPANY	250.00	35.00
Do	PHYSICIANS MUTUAL INSURANCE CO	200.00	20.00
Do	PRUDENTIAL INSURANCE COMPANY OF AMERICA	450.00	50.00
Do	PUERTO RICO, U.S.A. FOUNDATION	3,000.00	15,111.15
Do	READING & BATES CORPORATION	100.00	15.00
Do	SOUTHERN CALIFORNIA EDISON COMPANY	200.00	20.00
Do	UNION TEXAS PETROLEUM		
Do	WESTERN CONFERENCE OF TEAMSTERS PENSION TRUST FUND		
Do	WESTINGHOUSE ELECTRIC CORP		
DAVID B. GROSS, 100 PEOPLES BANK BLDG JACKSON MS 39201			
NINA G. GROSS, 1120 CONNECTICUT AVE., NW WASHINGTON DC 20036	AMERICAN BANKERS ASSN	1,500.00	968.04
ED GROSSWILER, 920 SW SIXTH AVENUE 1400 PUBLIC SERVICE BUILDING PORTLAND OR 97204	PACIFIC POWER & LIGHT CO	1,723.00	
WALTER B. GRUBBS, P.O. BOX 841 ABILENE TX 79604	WEST TEXAS UTILITIES CO		
JOHN T. GRUPENHOFF, 10,000 FALLS RD., #306 POTOMAC MD 20854	AMERICAN ACADEMY OF DERMATOLOGY	3,150.00	137.50
Do	AMERICAN ACADEMY OF OTOLARYNGOLOGY-HEAD & NECK SURGERY	400.00	121.20
Do	AMERICAN GASTROENTEROLOGICAL ASSN	1,200.00	187.00
Do	AMERICAN SOC FOR GASTROINTESTINAL ENDOSCOPY	1,200.00	187.00
Do	AMERICAN SOC OF CLINICAL ONCOLOGY	600.00	125.00
Do	AMERICAN UROLOGICAL ASSN/AMER ASSN OF CLINICAL UROLOGISTS	860.00	141.20
Do	ASSOCIATION OF AMERICAN CANCER INSTITUTES	1,110.00	191.40
Do	COOLEY'S ANEMIA FOUNDATION	200.00	111.20
Do	NATIONAL HEMOPHILIA FOUNDATION	360.00	119.20
KENNETH A. GUENTHER, 1625 MASSACHUAETTS AVE., #202 WASHINGTON DC 20036	INDEPENDENT BANKERS ASSN OF AMERICA		
MARY SCOTT GUEST, 1919 PENNSYLVANIA AVE., NW, #800 WASHINGTON DC 20006	DILLON REED & CO, INC	25,000.00	
Do	O'CONNOR & HANNAN	6,000.00	
CLARK J. GUILD JR., GUILD, HAGEN & CLARK, LTD. 102 ROFF WAY RENO NV 89505	MOTION PICTURE ASSN OF AMERICA, INC		
JAMES E. GUIRARD JR., 1730 RHODE ISLAND AVENUE, NW, #419 WASHINGTON DC 20036	BASF WYANDOTTE CORP		
Do	BELL AEROSPACE TEXTRON		
Do	KMS FUSION, INC	600.00	257.51
Do	TANO CORPORATION		
Do	WALK-HAYDEL, INC	2,000.00	144.95
JEROME R. GULAN, 1155 15TH ST., NW, #710 WASHINGTON DC 20005	NATIONAL SMALL BUSINESS ASSN	4,500.00	
JOHN E. GUNTHER, 1725 K STREET, NW, #1405 WASHINGTON DC 20006	MORTGAGE INSURANCE COS OF AMERICA		
DAVID GUSKY, 2020 K ST., NW, #200 WASHINGTON DC 20006	NATIONAL FEDERATION OF FEDERAL EMPLOYEES	1,153.36	
SUSAN L. GUSTAFSON, 8111 GATEHOUSE ROAD FALLS CHURCH VA 22047	AMERICAN AUTOMOBILE ASSN		
ROBERT F. GUTHRIE, 815 16TH ST., NW, #608 WASHINGTON DC 20006	DEPARTMENT FOR PROFESSIONAL EMPLOYEES, AFL-CIO	3,545.11	
ALVIN M. GUTTMAN, 818 CONNECTICUT AVE., NW, #300 WASHINGTON DC 20006	NATIONAL ASSN OF ATOMIC VETERANS	2,000.00	2,362.15
Do	TOWING & RECOVERY ASSN OF AMERICA, INC		
DANIEL GUTTMAN, SPIEGEL & MCDIARMID 1350 NEW YORK AVE., NW WASHINGTON DC 20005	SERVICE EMPLOYEES INTERNATIONAL UNION		
DALLAS E. GWYNN, BALCOR PLAZA 4849 GOLF ROAD SKOKIE IL 60077	BALCOR	20,200.00	8,737.55
JANE SCHERER HAAKE, 1667 K STREET, NW, #420 WASHINGTON DC 20006	MEAD CORPORATION	225.00	
DANA W. HAAS, 1920 N ST., NW, #720 WASHINGTON DC 20036	KANSAS CITY POWER & LIGHT CO, ET AL	2,812.50	5,125.09
GEORGE HACKER, 1501 16TH STREET, NW WASHINGTON DC 20036	CENTER FOR SCIENCE IN THE PUBLIC INTEREST	550.00	
CRAIG HACKLER, 412 FIRST ST., SE, #214 WASHINGTON DC 20003	BENEFICIAL MANAGEMENT CORP OF AMERICA		
Do	CADILLAC FAIRVIEW U.S., INC	9,000.00	
Do	INTERNATIONAL CHIROPRACTIC ASSN		
LOYD HACKLER, 1616 H ST., NW WASHINGTON DC 20006	AMERICAN RETAIL FEDERATION	2,000.00	49.50
CHARLES W. HACKNEY JR., 15TH & M STS., NW WASHINGTON DC 20005	NATIONAL ASSN OF HOME BUILDERS OF THE U.S.		
WILLIAM F. HADDAD, ROUTE 12, SEDGEWOOD CARMEL NY 10512	GENERIC PHARMACEUTICAL INDUSTRY ASSN		
THOMAS M. HAGAN, 1005 CONGRESS AVE., #795 AUSTIN TX 78701	CENTRAL AND SOUTH WEST SERVICES, INC	597.00	1,434.36
HAGEDORN-CANDO, INC, 1704 23RD ST., SO. ARLINGTON VA 22202	DAVY MCKEE CORP		
Do	HANSEN ENGINE CO	5,000.00	
Do	YANKEE ENERGY CO	8,600.00	
ANN HAGEMANN, 1735 DESALES ST., NW, #400 WASHINGTON DC 20036	ASSOCIATION OF MAXIMUM SERVICE TELECASTERS, INC		
BRUCE N. HAHN, 9300 LIVINGSTON RD. FT. WASHINGTON MD 20744	NATIONAL TOOLING & MACHINING ASSN	14,520.00	3,407.83
PETER H. HAHN, 1100 17TH ST., NW, #1000 WASHINGTON DC 20036	CHROMALLOY AMERICAN CORP	2,200.00	
THOMAS F. HAIRSTON, 1050 CONNECTICUT AVE., NW, #760 WASHINGTON DC 20036	UNION OIL CO OF CALIFORNIA	6,000.00	1,209.25
HALE AND DORR, 1201 PENNSYLVANIA AVE., NW, #807 WASHINGTON DC 20004	FOOTWEAR INDUSTRIES OF AMERICA		222.93
Do	INDIAN LAND CLAIM COMMITTEE		
Do	NORTHEASTERN UNIVERSITY	45,000.00	2,239.08
Do	TOWN OF GAY HEAD	7,798.05	506.29
Do	TOWN OF MASHPEE		
Do	VILLERS ADVOCACY FOUNDATION		21.72
Do	PHIL VILLERS		121.36
RANDOLPH M. HALE, 1776 F STREET, NW WASHINGTON DC 20006	NATIONAL ASSN OF MANUFACTURERS		
CHERYL A. HALEY, 444 NORTH CAPITOL ST., NW, #500 WASHINGTON DC 20001	AMERICAN HOSPITAL ASSN	2,081.12	219.18
MARTIN HALEY COMPANIES, INC, 1015 15TH ST., NW WASHINGTON DC 20005	M&M/MARS		
GEORGE W. HALEY, 1511 K STREET, NW, #940 WASHINGTON DC 20005	GROCERY MANUFACTURERS OF AMERICA, INC	4,980.00	90.00
DEBI HALL, 729 15TH STREET, NW WASHINGTON DC 20005	ASSOCIATED BUILDERS & CONTRACTORS, INC	2,500.00	
JOHN F. HALL, 1619 MASSACHUSETTS AVE., N.W. WASHINGTON DC 20036	NATIONAL FOREST PRODUCTS ASSN		
RICHARD F. HALL, 2501 M STREET, NW, #540 WASHINGTON DC 20037	PACIFIC RESOURCES, INC	500.00	
WILLIAM F. HALL, P.O. BOX 7658 CHICAGO IL 60680	WILLIAM HALL PUBLIC AFFAIRS-MANAGEMENT CONSULTING GROUP		
MARIAN HALL-CRAWFORD, 316 PENNSYLVANIA AVENUE, SE, #301 WASHINGTON DC 20003	SAN DIEGO GAS & ELECTRIC	1,275.00	2,946.55
PAUL HALLISAY, 1625 MASSACHUSETTS AVENUE, NW WASHINGTON DC 20036	AIR LINE PILOTS ASSN	3,551.60	651.57
JOSEPH HALOW, 1747 PENNSYLVANIA AVE., NW, #1175 WASHINGTON DC 20006	NORTH AMERICAN EXPORT GRAIN ASSN, INC		
MAURICE E. HALSEY, P.O. BOX 190 AURORA IL 60507	NORTHERN ILLINOIS GAS COMPANY		
J. PHILLIP HALSTEAD, P.O. BOX 24305 OAKLAND CA 94623	CLOROX COMPANY		
PAUL T. HALUZA, 1120 19TH ST., NW, #333 WASHINGTON DC 20036	MOTOR AND EQUIPMENT MANUFACTURERS ASSOCIATION	3,000.00	24.59
HAMEL & PARK, 888 16TH STREET, NW WASHINGTON DC 20006	BENEFICIAL FOUNDATION		
Do	ESTATE OF HELEN WODELL HALBACH	175.00	
Do	GRAEPER-VAN NOY-WAGNER, INC		
Do	GRAND TRUNK CORP	7,490.20	732.64
Do	SKYLINK CORPORATION, INC		
Do	TANDY CORPORATION		
J. LEE HAMILTON, 1776 F STREET, NW WASHINGTON DC 20006	NATIONAL ASSN OF MANUFACTURERS	212.00	
JAMES L. HAMILTON III, 818 CONNECTICUT AVE., NW WASHINGTON DC 20006	U.S. STEEL CORPORATION	382.75	6.25
PHILIP W. HAMILTON, 1825 K ST., NW WASHINGTON DC 20006	AMERICAN SOC OF MECHANICAL ENGINEERS		
STANLEY HAMILTON, 2200 MILL RD. ALEXANDRIA VA 22314	INTERSTATE CARRIERS CONFERENCE	500.00	150.00
VIOLET B. HAMILTON, 4-21 ASTORIA BLVD., #5B LONG ISLAND CITY NY 11102			450.00
SUSAN WOODWARD HAMLIN, 1957 E STREET, NW WASHINGTON DC 20006	ASSOCIATED GENERAL CONTRACTORS OF AMERICA		
AMY R. HAMMER, 1899 L ST., NW, #1100 WASHINGTON DC 20036	EXXON CORPORATION	1,615.00	494.32
ROBERT E. HAMPTON, NEW MURPHY ROAD & CONCORD PIKE WILMINGTON DE 19897	ICI AMERICAS, INC		
TIMOTHY A. HANAN, 1100 CONNECTICUT AVENUE, NW WASHINGTON DC 20036	MOBIL CORPORATION	1,500.00	
D. MICHAEL HANCOCK, 100 MARYLAND AVENUE, NE WASHINGTON DC 20002	NATIONAL COALITION TO BAN HANDGUNS		
NOLAN W. HANCOCK, 1126 16TH ST., NW WASHINGTON DC 20036	OIL CHEMICAL & ATOMIC WORKERS INTERNATIONAL UNION	5,549.00	
TED HANDEL, THIRD FLOOR 2301 M STREET, NW WASHINGTON DC 20037	AMERICAN PUBLIC POWER ASSN	4,000.00	
GEORGE J. HANKS JR., 1100 15TH ST., NW, 12TH FL. WASHINGTON DC 20005	UNION CARBIDE CORP		
ELISABETH HANLIN, 2000 L ST., NW, #810 WASHINGTON DC 20036	SPERRY CORPORATION		
HANNAFORD CO, INC, 655 15TH ST., NW, #200 WASHINGTON DC 20005	BHC, INC		

Organization or Individual Filing	Employer/Client	Receipts	Expenditures
Do	COMMITTEE FOR FAIR INSURANCE RATES		
Do	FIREMAN'S FUND INSURANCE COS		
Do	ROCKWELL INTERNATIONAL CORP		
Do	ROYAL EMBASSY OF SAUDI ARABIA		
Do	TRANS WORLD AIRLINES, INC		
HANSELL & POST, 1667 K ST., NW, #500 WASHINGTON DC 20006	CSX CORPORATION	3,130.00	8.50
Do	NATIONAL BROILER COUNCIL		
Do	ROCKWELL INTERNATIONAL CORP	6,000.00	19.33
Do	UNITED FAMILY LIFE INSURANCE CO	1,067.50	
ERLING HANSEN, 624 9TH ST., NW, 7TH FL. WASHINGTON DC 20001	GROUP HEALTH ASSN OF AMERICA, INC		
J. E. HANSEN, 400 1ST ST., NW WASHINGTON DC 20001	BROTHERHOOD OF RAILROAD SIGNALMEN	350.00	
HANSON BRIDGETT MARCUS & VLAHOS, 333 MARKET STREET, #2300 SAN FRANCISCO CA 94105	CALIFORNIA HOSPITAL ASSN	10,000.00	47.87
DANIEL J. HANSON SR., 525 SCHOOL ST., SW WASHINGTON DC 20024	AMERICAN ROAD & TRANSPORTATION BUILDERS ASSOCIATION	22,000.00	518.85
PETER J. HAPWORTH, 1015 15TH STREET, NW, #200 WASHINGTON DC 20005	NATIONAL PORK PRODUCERS COUNCIL	2,000.00	9.00
ROBERT N. HARBOR, 1050 CONNECTICUT AVENUE, NW, #200 WASHINGTON DC 20036	EL PASO NATURAL GAS CO		
CHARLES G. HARDIN ASSOCIATES, INC, 815 CONNECTICUT AVE., NW, #800 WASHINGTON DC 20006	ANDERSON HIBEY NAUHEIM & BLAIR	4,682.05	32.05
CHARLES G. HARDIN, 815 CONNECTICUT AVE., NW, #800 WASHINGTON DC 20006	MERCEDES-BENZ OF NORTH AMERICA, INC	9,000.00	
RALPH HARDING, SUITE 717 WATERGATE 2600 VIRGINIA AVENUE, NW WASHINGTON DC 20037	PHILIPPINE SUGAR COMMISSION	60,000.00	71,129.00
WILLIAM E. HARDMAN, 9300 LIVINGSTON ROAD FT. WASHINGTON MD 20744	NATIONAL TOOLING & MACHINING ASSN	27,023.05	33.75
EUGENE J. HARDY, 1100 17TH ST., NW, #1000 WASHINGTON DC 20036	GERBER PRODUCTS COMPANY	500.00	16.25
STUART B. HARDY, 1615 H STREET, NW WASHINGTON DC 20062	CHAMBER OF COMMERCE OF THE U.S.		
JON HARKAVY, 205 EAST 42ND STREET NEW YORK NY 10017	RISK & INSURANCE MANAGEMENT SOCIETY, INC		
CHARLES N. HARKEY, 453 NEW JERSEY AVENUE, SE WASHINGTON DC 20003	BENEFICIAL MANAGEMENT CORPORATION OF AMERICA	1,513.00	
WILLIAM G. HARLEY, 1235 JEFFERSON DAVIS HIGHWAY, #606 ARLINGTON VA 22202	NATIONAL UTILITY CONTRACTORS ASSN		
DAN R. HARLOW, 717 N. HARWOOD STREET DALLAS TX 75201	DIAMOND SHAMROCK CORPORATION	1,000.00	
WILEY C. HARRELL JR., 1211 CONNECTICUT AVE., NW, #502 WASHINGTON DC 20036	ANHEUSER-BUSCH COMPANIES, INC		
TONI HARRINGTON, 955 L'ENFANT PLAZA NORTH, SW, #905 WASHINGTON DC 20024	AMERICAN HONDA MOTOR CO, INC	200.00	41.32
HARRIS & BERG, 1101 30TH ST., NW, #103 WASHINGTON DC 20007	ASSOCIATION OF FOOD INDUSTRIES, INC	1,100.00	16.00
Do	CHEESE IMPORTERS ASSN OF AMERICA, INC	1,100.00	6.00
Do	COMMITTEE OF DOMESTIC STEEL WIRE ROPE & SPECIALTY CABLE MFRS		
Do	P. L. THOMAS & COMPANY, INC, ET AL		
CHRISTOPHER HARRIS, ZUCKERT SCOUTT RASENBERGER & JOHNSON 888 17TH STREET, NW, WASHINGTON DC 20006	J.M. HUBER CORPORATION	1,225.00	
Do	LITHIUM CORPORATION		
Do	NATIONAL OIL RECYCLERS ASSN	4,545.00	124.80
Do	ST. JOE MINERALS CORP		
Do	VELSICOL CHEMICAL CORP	5,751.38	93.24
CRANE B. HARRIS, 1735 NEW YORK AVENUE, NW WASHINGTON DC 20006	AMERICAN INSTITUTE OF ARCHITECTS		
MARILYN A. HARRIS, 818 CONNECTICUT AVENUE, NW WASHINGTON DC 20006	U.S. STEEL CORPORATION	875.00	109.00
RICHARD M. HARRIS, 525 SCHOOL ST., SW WASHINGTON DC 20024	AMERICAN ROAD & TRANSPORTATION BUILDERS ASSOCIATION	16,920.00	372.82
ROBERT L. HARRIS, 818 CONNECTICUT AVE., NW WASHINGTON DC 20006	ALUMINUM ASSN		50.00
SANDRA ZEUNE HARRIS, 1120 20TH STREET, NW, #700 WASHINGTON DC 20036	WILLIAMS COMPANIES	100.00	
JIM HARRISON, 1225 CONNECTICUT AVE., NW, 306 WASHINGTON DC 20036	ASSOCIATION OF URBAN UNIVERSITIES	5,625.00	
ANNE HARRISON-CLARK, 1707 H STREET, NW, #600 WSAHINGTON DC 20006	MARCH OF DIMES BIRTH DEFECTS FOUNDATION	4,125.00	63.82
WILLIAM H. HARSHA, 1102 DELF DRIVE MCLEAN VA 22101	WILLIAM H. HARSHA & ASSOCIATES, INC (FOR: NORFOLK SOUTHERN CORP)	7,500.00	239.21
JAYNE A. HART, 1101 VERMONT AVENUE, NW WASHINGTON DC 20005	AMERICAN MEDICAL ASSN	3,750.00	
LYNN S. HART, 1111 19TH ST., NW, #402 WASHINGTON DC 20036	FEDERATION OF AMERICAN HOSPITALS	3,000.00	
SUSAN P. HART, 1600 M STREET, NW WASHINGTON DC 20036	INVESTMENT COMPANY INSTITUTE		
HARTFORD FIRE INSURANCE CO, HARTFORD PLAZA HARTFORD CT 06115			30,100.00
GABRIEL A. HARTL, 2020 N. 14TH STREET, #410 ARLINGTON VA 22201	AIR TRAFFIC CONTROL ASSN, INC		
ARTHUR W. HARTMANN, 1800 MASSACHUSETTS AVENUE, NW WASHINGTON DC 20036	NATIONAL RURAL ELECTRIC COOPERATIVE ASSN		
EDWIN HAROLD HARVEY, 2020 K STREET, NW, #200 WASHINGTON DC 20006	NATIONAL FEDERATION OF FEDERAL EMPLOYEES		
JAY HARVEY, 815 16TH STREET, NW, #408 WASHINGTON DC 20006	FOOD & ALLIED SERVICE TRADES DEPT, AFL-CIO	1,911.00	59.00
HOLLY HASSETT, 2000 L STREET, NW, #200 WASHINGTON DC 20036	HERSHEY FOODS CORP		
JANET HATHAWAY, 215 PENNSYLVANIA AVENUE, SE WASHINGTON DC 20003	CONGRESS WATCH	6,000.00	
HOWARD M. HAUG, 100 EAST 42ND ST. NEW YORK NY 10017	NATIONAL FOREIGN TRADE COUNCIL, INC	16,000.00	1,897.09
BARBARA S. HAUGEN, 1401 NEW YORK AVE., NW, #720 WASHINGTON DC 20005	NATIONAL ASSN OF INSURANCE BROKERS		
MARILYN BETH HAUGEN, 1619 MASSACHUSETTS AVENUE, NW WASHINGTON DC 20036	AMERICAN PAPER INSTITUTE, INC		
BARBARA J. HAUGH, 1050 CONNECTICUT AVENUE, NW, #760 WASHINGTON DC 20036	UNION OIL CO OF CALIFORNIA		1,610.67
MARY W. HAUGHT, 1800 K ST., NW, #820 WASHINGTON DC 20006	SUN CO, INC	700.00	
CHARLES W. HAVENS III, 1333 NEW HAMPSHIRE AVENUE, NW WASHINGTON DC 20036	LEBOEUF LAMB LEIBY & MACRAE		
SIDNEY G. HAWKES, 1667 K ST., NW, #420 WASHINGTON DC 20006	MEAD CORPORATION	2,450.00	
CHARLES E. HAWKINS III, 729 15TH STREET, NW WASHINGTON DC 20005	ASSOCIATED BUILDERS & CONTRACTORS, INC	2,500.00	
JOHN H. HAWKINS JR., 600 N. 18TH ST. BIRMINGHAM AL 35291	ALABAMA POWER CO	15,114.00	
WESLEY F. HAYDEN, 5224 CHEROKEE AVE. ALEXANDRIA VA 22312	INTERNATIONAL ASSN OF FISH & WILDLIFE AGENCIES	8,639.55	202.97
DAVID J. HAYES, 815 CONNECTICUT AVE., NW WASHINGTON DC 20006	AMERICAN ELECTRONICS ASSN		55.30
Do	HOGAN & HARTSON (FOR: SEMICONDUCTOR INDUSTRY ASSN)		70.52
ROBERT G. HAYES, BOGLE AND GATES ONE THOMAS CIRCLE, NW, #900 WASHINGTON DC 20005	KALAMA CHEMICAL, INC	1,000.00	
ROBERT A. HAYNOS, 4711 HUNT CIRCLE HARRISBURG PA 17112	HARSCO CORPORATION	15,249.99	1,237.40
HOLLY ELISABETH HAZARD, 400 FIRST STREET, NW, #800 WASHINGTON DC 20001	COMMITTEE FOR HUMANE LEGISLATION		
Do	FRIENDS OF ANIMALS, INC	6,000.00	117.65
HEALTH INSURANCE ASSN OF AMERICA, INC, 1025 CONNECTICUT AVE., NW WASHINGTON DC 20036		46.45	46.45
HEALTH RESEARCH GROUP, 2000 P STREET, NW WASHINGTON DC 20036		159.10	
ROBERT L. HEALY, 1333 NEW HAMPSHIRE AVE., NW WASHINGTON DC 20036	ATLANTIC RICHFIELD CO	300.00	
KEITH HEARD, 1030 15TH ST., NW, #700 WASHINGTON DC 20005	NATIONAL COTTON COUNCIL OF AMERICA	9,625.00	372.00
CHARLES L. HEBNER, NEW MURPHY ROAD & CONCORD PIKE WILMINGTON DE 19897	ICI AMERICAS, INC		
HERBERT A. HEDDEN, 1350 NEW YORK AVE., NW, #900 WASHINGTON DC 20005	INTERNATIONAL FRANCHISE ASSN	20.00	12.50
JAY HEDLUND, 2030 M ST., NW WASHINGTON DC 20036	COMMON CAUSE	10,546.26	258.01
EDWARD D. HEFFERNAN, 1513 16TH ST., NW, 4TH FL. WASHINGTON DC 20036	CAMP CARMOUCHE BARSH HUNTER GRAY & HOFFMAN, P.C.	2,400.00	6.00
Do	CSX CORPORATION	11,375.00	14.04
Do	DUCTILE IRON PIPE RESEARCH ASSN		
Do	NATIONAL ASSN OF CRIMINAL DEFENSE LAWYERS		
Do	TRANSAMERICA INTERWAY, INC, ET AL	3,780.47	13.94
JOHN HEFFNER, 1957 E STREET, N.W. WASHINGTON DC 20006	ASSOCIATED GENERAL CONTRACTORS OF AMERICA		
ROBERT E. HEGGESTAD, 1827 PHELPS PLACE, NW WASHINGTON DC 20008	CASEY SCOTT & CANFIELD, P.C. (FOR UNIFICATION CHURCH)	450.00	22.50
ROBERT M. HEINE, 1701 PENNSYLVANIA AVENUE, NW WASHINGTON DC 20006	CONOCO, INC	1,000.00	
RICHARD L. HELLWEGE, 1911 JEFFERSON DAVIS HIGHWAY, #1002 ARLINGTON VA 22202	LEAR SIEGLER, INC		
THOMAS M. HELSCHER, 1101 17TH STREET, NW, #604 WASHINGTON DC 20036	MONSANTO CO	450.00	209.18
CAROL C. HENDERSON, 110 MARYLAND AVE., NE, #101, BOX 54 WASHINGTON DC 20002	AMERICAN LIBRARY ASSN	977.00	
KATHLEEN M. HENDERSON, 1025 CONNECTICUT AVE., NW, #500 WASHINGTON DC 20005	MILES LABORATORIES, INC		
CAROL DIANE HENDRICKS, 2601 PARK CENTER DRIVE, #C804 ALEXANDRIA VA 22302	AMERICAN MARITIME OFFICERS SERVICE		
DENNIS A. HENIGAN, 1775 PENNSYLVANIA AVE., NW WASHINGTON DC 20006	FOLEY LARDNER HOLLABAUGH & JACOBS (FOR: VGS CORPORATION)		
C. DAYLE HENINGTON, 2000 PENNSYLVANIA AVE., NW, #6200 WASHINGTON DC 20036	CHICAGO MERCANTILE EXCHANGE		
EDMUND P. HENNELLY, 150 E. 42ND ST. NEW YORK NY 10017	MOBIL OIL CORP	1,500.00	
HENNESSY ASSOCIATES, 152 WASHINGTON AVENUE ALBANY NY 12210		13,085.00	5,035.00
GEORGE F. HENNRIKUS JR., 201 N. WASHINGTON ST. ALEXANDRIA VA 22314	RETIRED OFFICERS ASSN	6,697.00	
LEANN HENSCHE, 2550 M ST., NW, #770 WASHINGTON DC 20037	RJR INDUSTRIES, INC	263.74	42.00
DAVID A. HENSON, 100 N.E. ADAMS STREET PEORIA IL 61629	CATERPILLAR TRACTOR CO		
BRUCE HEPPEN, 2020 K ST., NW, # 200 WASHINGTON DC 20006	NATIONAL FEDERATION OF FEDERAL EMPLOYEES		
GEORGE B. HERBERT SR., 6601 SOUTHPOINT DRIVE, #245 JACKSONVILLE FL 32216	J M FAMILY ENTERPRISES, INC	303.25	22.10
STEPHEN HERM, 2020 K ST., NW, #200 WASHINGTON DC 20006	NATIONAL FED OF FEDERAL EMPLOYEES		
WILLIAM HERMELIN, 1200 15TH STREET, NW WASHINGTON DC 20005	AMERICAN HEALTH CARE ASSN	4,687.50	180.70
HERON BURCHETTE RUCKERT & ROTHWELL, 1025 THOMAS JEFFERSON ST., NW, #700 WASHINGTON DC 20007	AMERICAN GRAPE GROWERS ALLIANCE FOR FAIR TRADE	56,308.28	7,167.80
Do	ASSOCIATION OF FLORAL IMPORTERS OF FLORIDA		
Do	AUTOMOBILE IMPORT COMPLIANCE ASSN	2,500.00	1,250.00
Do	BAY AREA RAPID TRANSIT DISTRICT	3,000.00	1,000.00
Do	CALIFORNIA ALMOND GROWERS EXCHANGE	10,778.13	7,270.92
Do	CELLULAR TELECOMMUNICATIONS INDUSTRY ASSN	5,272.50	803.12
Do	CHICAGO MERCANTILE EXCHANGE	4,864.24	8,001.55
Do	CONFEDERATED SALISH & KOOTENAI TRIBES OF THE FLATHEAD RESERV		
Do	FARM LABOR ALLIANCE	13,502.63	7,407.49
Do	GROCERY MANUFACTURERS OF AMERICA, INC	2,787.50	2,718.75
Do	INDEPENDENT CEMENT CORP		
Do	MASSPORT/COMMONWEALTH OF MASSACHUSETTS	2,400.00	800.00

Organization or Individual Filing	Employer/Client	Receipts	Expenditures
Do	NATIONAL ASSN OF INSURANCE COMMISSIONERS	6,250.00	2,083.33
Do	NATIONAL ASSN OF MANUFACTURERS	250.00	
Do	NATIONAL MEDICAL CARE	3,000.00	1,000.00
Do	NATIONAL POTATO COUNCIL	1,250.00	625.00
Do	ROYAL SILK, LTD	3,771.78	1,250.00
Do	SUN-DIAMOND GROWERS OF CALIFORNIA	15,608.83	6,250.00
Do	SUNKIST GROWERS, INC	25,600.00	18,974.35
Do	TEX-LA	53,682.80	2,771.87
Do	TIME ENERGY SYSTEMS, INC	125.00	1,423.12
Do	U.S. TELEPHONE ASSN	150.00	56.25
Do	UNIVERSITY OF NEVADA/LOS ANGELES	900.00	300.00
CATHERINE L. HERON, 1600 M ST., NW WASHINGTON DC 20036	INVESTMENT COMPANY INSTITUTE	248.08	20.75
HERRICK & SMITH, 100 FEDERAL STREET BOSTON MA 02110	SMITH COLLEGE		
CAROL M. HERRINGTON, 3881-B STEPPES COURT FALLS CHURCH VA 22041	SYSTEM DEVELOPMENT CORP		
WILLIAM G. HERROLD, 1111 19TH ST., NW, #608 WASHINGTON DC 20036	INSTITUTE OF ELECTRICAL & ELECTRONICS ENGINEERS		
FRED HERVEY, P.O. BOX 52084 PHOENIX AZ 85072	CIRCLE K CORPORATION		
TED ALLEN HEYDINGER, 311 FIRST STREET, NW, #500 WASHINGTON DC 20001	COMPUTER & BUSINESS EQUIPMENT MANUFACTURERS ASSN	1,838.00	698.75
G. BROCKWEL HEYLIN, 1957 E STREET, NW WASHINGTON DC 20006	ASSOCIATED GENERAL CONTRACTORS OF AMERICA		
ROBERT G. HIBBERT, P.O. BOX 3556 WASHINGTON DC 20007	AMERICAN MEAT INSTITUTE	1,000.00	
PAUL T. HICKS, RHODE ISLAND PETROLEUM ASSN 154 FRANCIS ST. PROVIDENCE RI 02903	AMERICAN PETROLEUM INSTITUTE	1,250.00	
EDWARD HIDALGO, 1828 L ST., NW, #1111 WASHINGTON DC 20036	NORFOLK SOUTHERN CORP	11,000.00	72.90
J. THOMAS HIGGINBOTHAM, ONE MELLON BANK CENTER, #2002 PITTSBURGH PA 15258	MELLON BANK N.A. AND MELLON NATIONAL CORP	2,000.00	96.00
CAROL A. HIGGINS, 1600 M STREET, NW WASHINGTON DC 20036	INVESTMENT COMPANY INSTITUTE	28.00	13.00
DAVID M. HIGGINS, 333 SOUTH GRAND AVE., #3930 LOS ANGELES CA 90071	STRUCTURED SETLEMENTS TRADE ASSN	71,050.00	49,972.03
SHARON L. HILDEBRANDT, 444 N. CAPITOL STREET, NW WASHINGTON DC 20001	AMERICAN HOSPITAL ASSN		
WILLIAM F. HILDENBRAND, GOLD & LIEBENGOOD, INC 1050 CONNECTICUT AVENUE, NW, #980 WASHINGTON DC 20036	CHEMICAL MANUFACTURERS ASSN	15,725.00	2,016.00
CLIFTON T. HILDERLEY JR., 1025 CONNECTICUT AVE., NW, #507 WASHINGTON DC 20036	ASHLAND OIL, INC	2,000.00	
GERALD 'JERRY' HILL, 6 EXECUTIVE PARK DRIVE ATLANTA GA 30329	AMOCO CORP		
J. ELDRED HILL JR., 600 MARYLAND AVE., SW, #603 WASHINGTON DC 20024	UBA, INC	2,000.00	
MORTON A. HILL, 475 RIVERSIDE DRIVE, #239 NEW YORK NY 10115	MORALITY IN MEDIA, INC		
PATRICIA HILL, 1619 MASSACHUSETTS AVENUE, NW WASHINGTON DC 20036	AMERICAN PAPER INSTITUTE, INC	437.50	48.40
ROBERT B. HILL, 2501 M STREET, N.W. WASHINGTON DC 20037	CHEMICAL MANUFACTURERS ASSN, INC	400.00	118.50
EDWARD JOSEPH HILLINGS, 1015 15TH ST., NW, #900 WASHINGTON DC 20005	HNG/INTERNORTH	7,500.00	
JOHN L. HILLS, RT. 1, BOX 645 PURCELLVILLE VA 22132	SUNDSTRAND CORPORATION	1,562.60	
FRED C. HIMES, P.O. BOX 3151 HOUSTON TX 77253	BROWNING-FERRIS INDUSTRIES (BFI)		
JOHN M. HIMMELBERG, SCOTT HARRISON & MCLEOD 2501 M STREET, NW, #400 WASHINGTON DC 20037	FLORIDA FRUIT & VEGETABLE ASSN	3,000.00	
Do	FLORIDA TOMATO EXCHANGE	1,500.00	
RICK HIND, 215 PENNSYLVANIA AVENUE, SE WASHINGTON DC 20003	U.S. PUBLIC INTEREST RESEARCH GROUP	4,846.10	
STEPHEN J. HINIKER, P.O. BOX 727 HARPERS FERRY WV 25425	SIERRA CLUB		2,405.86
STEPHEN HITCHNER, 2030 M STREET, NW WASHINGTON DC 20036	COMMON CAUSE	13,898.76	275.75
J. D. HITTLE, 3137 S. 14TH ST. ARLINGTON VA 22204	KMS INDUSTRIES, INC	1,200.00	
Do	LTV AERO-SPACE & DEFENSE CO	2,500.00	149.05
LAWRENCE S. HOBART, 2301 M ST., NW WASHINGTON DC 20037	AMERICAN PUBLIC POWER ASSN	500.00	
CLAUDE E. HOBBS, 1801 K ST., NW WASHINGTON DC 20006	WESTINGHOUSE ELECTRIC CORP	3,000.00	100.00
SCOTT HODES, 180 NORTH LA SALLE ST., #3800 CHICAGO IL 60601	ZALMAN C. BERNSTEIN		
Do	INVESTMENT COMPANY INSTITUTE	4,200.00	
HOWARD E. HOELTER, ILLINOIS PETROLEUM COUNCIL P.O. BOX 5034 SPRINGFIELD IL 62705	AMERICAN PETROLEUM INSTITUTE		
IRVIN A. HOFF, 20 N. LIVE OAK RD. HILTON HEAD ISLAND SC 29928	U.S. CANE SUGAR REFINERS' ASSN	1,250.00	324.24
ADONIS E. HOFFMAN, 3255 GRACE STREET, NW WASHINGTON DC 20007	GRAY & CO PUBLIC COMMUNICATIONS INT'L, INC (FOR: GOVERNMENT OF HAITI)		
Do	GRAY & CO PUBLIC COMMUNICATIONS INT'L, INC (FOR: REPUBLIC OF KOREA)		
Do	GRAY & CO PUBLIC COMMUNICATIONS INT'L, INC (FOR: REPUBLIC OF TURKEY)		
ELMO R. HOFFMAN, PARKER, JOHNSON, OWEN & MCGUIRE 108 EAST HILLCREST STREET P.O. BOX 2867 ORLANDO FL 32801.	GLOBAL EXPLORATION & DEVELOPMENT CORP		
THOMAS F. HOFFMAN, 1701 PENNSYLVANIA AVENUE, NW, #900 WASHINGTON DC 20006	CONSOLIDATION COAL CO	300.00	40.61
WILLIAM L. HOFFMAN, 516 FIRST ST., S.E. WASHINGTON DC 20003	AMERICAN UNIVERSITY OF BEIRUT	11,856.00	1,442.58
F. NORDY HOFFMANN AND ASSOC, INC, 400 N. CAPITOL ST., NW, #327 WASHINGTON DC 20001	ARCHER DANIELS MIDLAND COMPANY		
Do	INTERNATIONAL TELEPHONE & TELEGRAPH CORPORATION	1,000.00	
Do	MARINE ENGINEERS BENEFICIAL ASSN	1,000.00	
Do	O'CONNOR & HANNAN		
Do	PAGE AIRWAYS		
Do	WESTINGHOUSE ELECTRIC		
HOGAN & HARTSON, 815 CONNECTICUT AVE., NW WASHINGTON DC 20006	AMERICAN ELECTRONICS ASSN	655.00	
Do	CLEVELAND CLINIC FOUNDATION		
Do	COUNCIL OF EUROPEAN & JAPANESE NATIONAL SHIPOWNERS' ASSN		725.35
Do	ECONOMICS LABORATORY, INC	568.75	
Do	HOME HEALTH SERVICES & STAFFING ASSN		9.72
Do	INTERNATIONAL COMM OF PASSENGER LINES (ICPL)		725.35
Do	MAY DEPARTMENT STORES CO	9,378.75	10.50
Do	MEDTRONIC, INC		
Do	MEHARRY MEDICAL COLLEGE	3,338.08	20.57
Do	MERCEDES-BENZ OF NORTH AMERICA, INC	4,357.50	
Do	METHODIST HOSPITAL		
Do	MUTUAL LIFE INSURANCE CO OF NEW YORK	4,320.00	104.00
Do	NATIONAL HOSPICE ORGANIZATION	10,000.00	26.50
Do	NATIONAL SOFT DRINK ASSN		
Do	TOYOTA MOTOR SALES, U.S.A., INC	3,663.75	25.50
RICHARD F. HOHLT, 1709 NEW YORK AVE., NW, #801 WASHINGTON DC 20006	U.S. LEAGUE OF SAVINGS INSTITUTIONS	5,344.00	23.00
WALTER HOLAN, 20 NORTH WACKER DRIVE CHICAGO IL 60606	PROFIT SHARING COUNCIL OF AMERICA		
BRUCE E. HOLBEIN, 111 POWDERMILL RD. (B79) MAYNARD MA 01754	DIGITAL EQUIPMENT CORPORATION	16,000.00	
NIELS C. HOLCH, THE POWER HOUSE 3255 GRACE STREET, NW WASHINGTON DC 20007	GRAY & CO PUBLIC COMMUNICATIONS INT'L, INC (FOR: BROWNING-FERRIS INDUSTRIES, INC).		
Do	GRAY & CO PUBLIC COMMUNICATIONS INT'L, INC (FOR: HOOPA VALLEY INDIANS)		
Do	GRAY & CO PUBLIC COMMUNICATIONS INT'L, INC (FOR: KINGDOM OF MOROCCO)	300.00	
Do	GRAY & CO PUBLIC COMMUNICATIONS INT'L, INC (FOR: LANE INDUSTRIES)		
Do	GRAY & CO PUBLIC COMMUNICATIONS INT'L, INC (FOR: REPUBLIC OF TURKEY)	650.00	
Do	GRAY & CO PUBLIC COMMUNICATIONS INT'L, INC (FOR: SHAKLEE CORPORATION)		
Do	GRAY & CO PUBLIC COMMUNICATIONS INT'L, INC (FOR: TITLE INSURANCE INDUSTRY COALITION)	2,700.00	
Do	GRAY & CO PUBLIC COMMUNICATIONS INT'L, INC (FOR: TOBACCO INSTITUTE)		
Do	GRAY & CO PUBLIC COMMUNICATIONS INT'L, INC (FOR: U.S. BANKNOTE)		
HOLDEN GROUP, INC, 11365 WEST OLYMPIC BOULEVARD LOS ANGELES CA 90064			26,470.22
HOLDEN KIDWELL HAHN & CRAPO, P.O. BOX 129 IDAHO FALLS ID 83402	BLAINE LARSEN, R. LAVON WALKER, MARTIN BROS PRODUCE, ET AL		124.66
HOLIDAY INNS, INC, C/O TALCOTT MCCABE & ASSOCIATES 600 MARYLAND AVE., SW, 302 W. WING WASHINGTON DC 20024.			2,100.00
PHILIP C. HOLLADAY, 1025 CONNECTICUT AVENUE, NW, #200 WASHINGTON DC 20036	SHELL OIL COMPANY	500.00	
BRIGID A. HOLLERAN, 2550 M STREET, NW, #640 WASHINGTON DC 20037	CF INDUSTRIES, INC	500.00	50.00
THOMAS L. HOLLOWAY, 1920 N STREET, NW, #720 WASHINGTON DC 20036	UNION ELECTRIC CO, KANSAS CITY POWER & LIGHT CO, ET AL	2,345.00	4,475.40
DIANE S. HOLMES, 410 FIRST STREET, SE WASHINGTON DC 20003	AMERICAN NUCLEAR ENERGY COUNCIL	337.50	
E. Y. HOLT JR., 1111 NORTH 19TH ST., #700 ARLINGTON VA 22209	NATIONAL ASSN OF FEDERAL CREDIT UNIONS		
FRED H. HOLT, 119 ORONOCO STREET BOX 1417-D50 ALEXANDRIA VA 22313	ANIMAL HEALTH INSTITUTE	125.00	
JOHN F. HOLTZ, NJ PETROLEUM COUNCIL 150 WEST STATE STREET TRENTON NJ 08608	AMERICAN PETROLEUM INSTITUTE	160.00	
LOIS HOLWERDA-HOYT, 600 MARYLAND AVENUE, SW, #770 WASHINGTON DC 20024	AMERICAN ACADEMY OF FAMILY PHYSICIANS	1,937.50	352.39
HOME RECORDING RIGHTS COALITION, P.O. BOX 33576 WASHINGTON DC 20033		55,000.00	52,617.63
KAREN C. HONTZ, 1875 EYE ST., NW, #940 WASHINGTON DC 20006	GULF & WESTERN MANAGEMENT COMPANY	2,300.00	106.00
EDWIN M. HOOD, 1725 K STREET, NW, #1102 WASHINGTON DC 20006	NATIONAL STEEL & SHIPBUILDING CO	1,717.50	60.25
HOOG & ASSOCIATES, 1877 BROADWAY, #405 BOULDER CO 80302	DENELCOR, INC		
Do	NATIONAL ASSN OF BROADCASTERS		
CANDICE SHY HOOPER, 1025 CONNECTICUT AVE., NW, #1014 WASHINGTON DC 20036	ENSERCH CORPORATION	5,750.00	1,582.36
LILLIE E. HOOVER, P.O. BOX 1085 MARTINSBURG WV 25401	NATIONAL PEACH COUNCIL		
HOPKINS & SUTTER, THREE FIRST NATIONAL PLAZA, #4200 CHICAGO IL 60602	LAKE VIEW TRUST & SAVINGS BANK, ET AL		
MARIAN HOPKINS, 1615 H STREET, NW WASHINGTON DC 20062	CHAMBER OF COMMERCE OF THE U.S.	12,125.00	865.00
VIRGINIA E. HOPKINS, 1620 EYE ST., NW, #800 WASHINGTON DC 20006	TAFT STETTINIUS & HOLLISTER (FOR: KINGS ENTERTAINMENT CO)		
Do	TAFT STETTINIUS & HOLLISTER (FOR: TAFT BROADCASTING COMPANY)		

Organization or Individual Filing	Employer/Client	Receipts	Expenditures
Do	TAFT STETTINIUS & HOLLISTER (FOR: TELEPHONE & DATA SYSTEMS, INC)		
Do	TAFT STETTINIUS & HOLLISTER (FOR: WALD MANUFACTURING CO, INC)		
SHERI L. HOPTMAN, 1000 CONNECTICUT AVE., NW WASHINGTON DC 20036	JAPAN ECONOMIC INSTITUTE OF AMERICA	500.00	
ROBERT JACK HORN, 1990 M ST., NW, #480 WASHINGTON DC 20036	DETROIT EDISON COMPANY	750.00	35.00
STEVEN HORNBURG, 1050 17TH STREET, NW, #770 WASHINGTON DC 20036	AMERICAN ASSN OF HOMES FOR THE AGING	187.00	119.58
HOSPITAL CORP OF AMERICA, 2000 L STREET, NW, #200 WASHINGTON DC 20035			20,903.00
WILLIAM J. HOTES, 919 18TH ST., NW, #400 WASHINGTON DC 20006	DIAMOND SHAMROCK CORPORATION	1,000.00	127.37
HOUDAILLE INDUSTRIES, INC, ONE FINANCIAL PLAZA FORT LAUDERDALE FL 33394			
MARGARET A. HOULIHAN, 1620 I ST., NW, #703 WASHINGTON DC 20006	BECHTEL POWER CORPORATION		
THOMAS B. HOUSE, 1700 OLD MEADOW RD. MCLEAN VA 22102	AMERICAN FROZEN FOOD INSTITUTE	1,000.00	
HOUSLEY GOLDBERG & KANTARIAN, P.C., 2301 M ST., NW, #500 WASHINGTON DC 20037			
JACK W. HOUSTON, 900 N. HAIRSTON ROAD, SUITE D STONE MOUNTAIN GA 30083	GEORGIA ASSN OF PETROLEUM RETAILERS, INC		
MARY GREER HOUSTON, 1901 L ST., NW #804 WASHINGTON DC 20036	SIEGEL HOUSTON & ASSOC, INC (FOR: FARM LABOR RESEARCH COMM)		
HOVING GROUP, 910 17TH ST., NW, #318 WASHINGTON DC 20006	EAGLE-PICHER INDUSTRIES	500.00	
Do	WESTERN SOUTHERN	500.00	
JOHN HOWARD, 1615 H STREET, NW WASHINGTON DC 20062	CHAMBER OF COMMERCE OF THE U.S.		
ROBERT M. HOWARD, 815 CONNECTICUT AVENUE, NW WASHINGTON DC 20006	FORD MOTOR CO	1,670.40	1,396.80
SENGA HOWAT, 1604 K STREET, NW WASHINGTON DC 20006	NATIONAL SMALL BUSINESS ASSN	2,000.00	
GARY HOWELL, 1745 JEFFERSON DAVIS HIGHWAY, #1006 ARLINGTON VA 22202	TEXAS INSTRUMENTS, INC	300.00	
J. WILLIAM HOWELL, 1801 K ST., NW WASHINGTON DC 20006	INTERNATIONAL BUSINESS MACHINES CORP	183.00	
MARY LYNCH HOWELL, 1090 VERMONT AVE., NW, #1100 WASHINGTON DC 20005	TEXTRON, INC	1,500.00	280.00
JOHN B. HOWERTON, 1730 RHODE ISLAND AVE., NW, #209 WASHINGTON DC 20036	ASARCO INC	2,000.00	
JOHN A. HOWES, 1050 17TH ST., NW, #490 WASHINGTON DC 20036	CONSUMERS POWER CO	6,000.00	1,266.00
CLIFFORD T. HOWLETT JR., 1875 EYE ST., NW, #400 WASHINGTON DC 20006	GEORGIA-PACIFIC CORP	5,000.00	
PAUL R. HUARD, 1776 F STREET, NW WASHINGTON DC 20006	NATIONAL ASSN OF MANUFACTURERS	4,500.00	
HENRY W. HUBBARD, THE POWER HOUSE 3255 GRACE STREET, NW WASHINGTON DC 20007	GRAY & CO PUBLIC COMMUNICATIONS INT'L, INC (FOR: REPUBLIC OF TURKEY)	57.50	
TERRY D. HUDGINS, P.O. BOX 21666 PHOENIX AZ 85036	ARIZONA PUBLIC SERVICE COMPANY		
BETTY HUDSON, 1627 K STREET, NW, #200 WASHINGTON DC 20006	FLUOR CORPORATION	15,000.00	556.77
MARGARET RENKEN HUDSON, 600 MARYLAND AVENUE, SW, #695 WASHINGTON DC 20024	NATIONAL FED OF INDEPENDENT BUSINESS	2,250.00	200.00
DAVID EMERY HUGHES, 2211 CONGRESS ST. PORTLAND ME 04122	UNION MUTUAL LIFE INSURANCE CO		
GARY E. HUGHES, 1850 K ST., NW WASHINGTON DC 20006	AMERICAN COUNCIL OF LIFE INSURANCE, INC		
HUGHES HUBBARD & REED, 1201 PENNSYLVANIA AVE., NW, #300 WASHINGTON DC 20004	AMERICAN INSTITUTE OF CERTIFIED PUBLIC ACCOUNTANTS	750.00	9.00
Do	ANGLO AMERICAN AUTO AUCTIONS, INC	420.00	
Do	CONTINENTAL AIR LINES, INC		
Do	GROCERY MANUFACTURERS OF AMERICA, INC		
Do	TEXAS AIR CORP		
Do	VIACOM INTERNATIONAL, INC	545.00	6.80
Do	47TH STREET PHOTO		
RICHARD H. HUGHES, P.O. BOX 880 VALLEY FORGE PA 19482	AVTEX FIBERS, INC		
WILLIAM HUGHES, 1522 K ST., NW, #836 WASHINGTON DC 20005	NATIONAL ASSN OF FEDERAL VETERINARIANS	35.80	
EDWARD L. HUIE, WHEATON PLAZA NORTH, #415 WHEATON MD 20902	NATIONAL ASSN OF AIR TRAFFIC SPECIALISTS	5,379.84	1,316.49
CORDELL W. HULL, 50 BEALE ST., P O BOX 3965 SAN FRANCISCO CA 94119	BECHTEL POWER CORPORATION		
RANDALL K. HULME, 618 A STREET, SE, #25 WASHINGTON DC 20003	PETER FENN & ASSOCIATES, INC		
D. ERIC HULTMAN, VAN NESS FELDMAN SUTCLIFFE & CURTIS 1050 THOMAS JEFFERSON ST., NW, 7TH FL. WASHINGTON DC 20007.	RECORDING INDUSTRY OF AMERICA	1,225.00	15.00
GREGORY A. HUMPHREY, 555 NEW JERSEY AVE., NW WASHINGTON DC 20001	AMERICAN FED OF TEACHERS	14,148.36	60.00
MARGOT SMILEY HUMPHREY, 1150 CONNECTICUT AVENUE, NW WASHINGTON DC 20036	KOTEEN & NAFTALIN (FOR: ALASCOM, INC)		
Do	KOTEEN & NAFTALIN (FOR: TELEPHONE & DATA SYSTEMS, INC)		
FRANCIS M. HUNT, 1800 M STREET, NW, #700S WASHINGTON DC 20036	DOW CHEMICAL CO	550.00	304.00
HARRIET HUNT-BURGESS, 82 2ND ST. SAN FRANCISCO CA 94105	TRUST FOR PUBLIC LAND	4,320.00	2,042.00
JAMES C. HUNTER, 1747 PENNSYLVANIA AVENUE, NW, #300 WASHINGTON DC 20006	CITIES SERVICE OIL & GAS CORP	814.00	278.20
MICHAEL M. HUNTER, 1600 M ST., NW WASHINGTON DC 20036	INTERNATIONAL TELEPHONE & TELEGRAPH CORPORATION	1,650.00	46.00
MILTON F. HUNTINGTON, MAINE PETROLEUM ASSN 283 WATER ST. AUGUSTA ME 04330	AMERICAN PETROLEUM INSTITUTE	337.50	
HUNTON & WILLIAMS, 2000 PENNSYLVANIA AVE., NW WASHINGTON DC 20006	AMERICAN INSURANCE ASSN	2,791.25	257.98
Do	ASSOCIATION FOR THE PRESERV OF HISTORIC COASTAL PROPERTIES		
Do	EDISON ELECTRIC INSTITUTE	19,001.25	395.33
Do	LONG ISLAND LIGHTING CO		
ADELE M. HURLEY, 112 ST. CLAIR AVE., WEST, #504 TORONTO, ONTARIO CANADA M4V 2Y3	CANADIAN COALITION ON ACID RAIN		
RONALD A. HURST, 5410 GROSVENOR LANE, #210 BETHESDA MD 20814	AMERICAN MEDICAL CARE & REVIEW ASSN		
HURT RICHARDSON GARNER TODD & CADENHEAD, 1100 PEACHTREE CENTER HARRIS TOWER 233 PEACHTREE STREET, NE ATLANTA GA 30043.	NATIONAL ASSN OF PENSION CONSULTANTS & ADMINISTRATORS, INC		71.78
ROBERT R. HURT, 1050 17TH ST., NW, #650 WASHINGTON DC 20036	MERCK & CO, INC		
CATHY HURWIT, 1300 CONNECTICUT AVE., NW, #401 WASHINGTON DC 20036	CITIZEN ACTION	4,500.00	
Do	CITIZEN/LABOR ENERGY COALITION		
BENJAMIN MELVIN HURWITZ, 1925 K ST., NW, #200 WASHINGTON DC 20006	MITCHELL ENERGY & DEVELOPMENT CORP		60.00
GEOFFREY B. HURWITZ, 1667 K ST., NW, #1210 WASHINGTON DC 20006	ROHM AND HAAS COMPANY	500.00	
RAYMOND W. HUSSEY, 29400 LAKELAND BLVD. WICKLIFFE OH 44092	LUBRIZOL CORPORATION		
DEWEY M. HUTCHINS, 1919 PENNSYLVANIA AVE., NW, #705 WASHINGTON DC 20006	EASTMAN KODAK CO	500.00	136.00
PHILIP A. HUTCHINSON, 490 L'ENFANT PLAZA, #3210 WASHINGTON DC 20024	VOLKSWAGEN OF AMERICA, INC	250.00	
ROBERT E. HUTCHINSON, 1601 NORTH 7TH STREET PHOENIX AZ 85006	CIRCLE K CORPORATION		
JAMES L. HUTCHISON, 260 MADISON AVENUE NEW YORK NY 10016	AMERICAN PAPER INSTITUTE, INC		
JEAN HUTTER, 1730 M STREET, NW WASHINGTON DC 20036	LEAGUE OF WOMEN VOTERS OF THE U.S.	3,424.05	112.76
HELENA C. HUTTON, 1101 15TH STREET, NW WASHINGTON DC 20005	MINNESOTA MINING & MANUFACTURING CO (3M)	2,500.00	
RANDY HUWA, 2030 M ST., NW WASHINGTON DC 20036	COMMON CAUSE	8,415.95	34.55
B. F. HYDE, TENNESSEE PETROLEUM COUNCIL 211 7TH AVENUE, NORTH, 4TH FL. NASHVILLE TN 37219	AMERICAN PETROLEUM INSTITUTE	2,350.00	2,231.41
GARY HYMEL, THE POWER HOUSE 3255 GRACE STREET, NW WASHINGTON DC 20007	GRAY & CO PUBLIC COMMUNICATIONS INT'L, INC (FOR: AGRICULTURE FOR MARKET ORIENTED POLICIES).		
Do	GRAY & CO PUBLIC COMMUNICATIONS INT'L, INC (FOR: ASARCO INC)		
Do	GRAY & CO PUBLIC COMMUNICATIONS INT'L, INC (FOR: BROWNING-FERRIS INDUSTRIES, INC.).		
Do	GRAY & CO PUBLIC COMMUNICATIONS INT'L, INC (FOR: BUDD COMPANY)		
Do	GRAY & CO PUBLIC COMMUNICATIONS INT'L, INC (FOR: CANADIAN ASBESTOS INFORMATION CENTRE).		
Do	GRAY & CO PUBLIC COMMUNICATIONS INT'L, INC (FOR: HITACHI AMERICA, LTD)		
Do	GRAY & CO PUBLIC COMMUNICATIONS INT'L, INC (FOR: HTB CORPORATION)		
Do	GRAY & CO PUBLIC COMMUNICATIONS INT'L, INC (FOR: JOINT MARITIME CONGRESS).		
Do	GRAY & CO PUBLIC COMMUNICATIONS INT'L, INC (FOR: KINGDOM OF MOROCCO)	2,505.00	
Do	GRAY & CO PUBLIC COMMUNICATIONS INT'L, INC (FOR: LANE INDUSTRIES)		
Do	GRAY & CO PUBLIC COMMUNICATIONS INT'L, INC (FOR: MARTIN BAKER AIRCRAFT COMPANY LTD.).		
Do	GRAY & CO PUBLIC COMMUNICATIONS INT'L, INC (FOR: MOTOROLA, INC)		
Do	GRAY & CO PUBLIC COMMUNICATIONS INT'L, INC (FOR: MUTUAL OF OMAHA)	25.00	
Do	GRAY & CO PUBLIC COMMUNICATIONS INT'L, INC (FOR: NATIONAL BROADCASTING CO, INC).		
Do	GRAY & CO PUBLIC COMMUNICATIONS INT'L, INC (FOR: RAUSCHENBERG OVERSEAS CULTURAL INTERCHANGE).		
Do	GRAY & CO PUBLIC COMMUNICATIONS INT'L, INC (FOR: REPUBLIC OF KOREA)		
Do	GRAY & CO PUBLIC COMMUNICATIONS INT'L, INC (FOR: REPUBLIC OF TURKEY)	3,700.00	
Do	GRAY & CO PUBLIC COMMUNICATIONS INT'L, INC (FOR: SANTA FE INTERNATIONAL).		
Do	GRAY & CO PUBLIC COMMUNICATIONS INT'L, INC (FOR: SHAKLEE CORPORATION)		
Do	GRAY & CO PUBLIC COMMUNICATIONS INT'L, INC (FOR: SHIRCO INFRARED SYSTEMS, INC).		
Do	GRAY & CO PUBLIC COMMUNICATIONS INT'L, INC (FOR: STROH BREWERY CO)		
Do	GRAY & CO PUBLIC COMMUNICATIONS INT'L, INC (FOR: TITLE INSURANCE INDUSTRY COALITION).	3,150.00	
Do	GRAY & CO PUBLIC COMMUNICATIONS INT'L, INC (FOR: TOBACCO INSTITUTE)		
Do	GRAY & CO PUBLIC COMMUNICATIONS INT'L, INC (FOR: U.S. BANKNOTE)		
Do	GRAY & CO PUBLIC COMMUNICATIONS INT'L, INC (FOR: UNITED AIRLINES)		
ROBERT D. HYNES JR., 1825 K ST., NW, #807 WASHINGTON DC 20006	NATIONAL BROADCASTING CO, INC	500.00	222.46
RICHARD H. ICHORD, 499 S. CAPITOL ST., SW, #520 WASHINGTON DC 20003	AAI CORPORATION	446.25	
Do	EMERSON ELECTRIC CO	630.00	2,115.39

Organization or Individual Filing	Employer/Client	Receipts	Expenditures
Do	WASHINGTON INDUSTRIAL TEAM, INC	600.00	
RONALD K. IKEJIRI, 1000 POTOMAC STREET, NW, #401 WASHINGTON DC 20007	FRANCIS MCGINNIS AND REES		
CATHERINE L. IMUS, 1000 16TH STREET, NW, #800 WASHINGTON DC 20036	BETHLEHEM STEEL CORP	62.00	
INDEPENDENT CONSULTANTS, INC, 400 NORTH CAPITOL ST., NW, #320 WASHINGTON DC 20001	CADILLAC FAIRVIEW/CALIFORNIA, INC	5,000.00	
INDEPENDENT DATA COMMUNICATIONS MANUFACTURERS ASSN, C/O SQUIRE SANDERS & DEMPSEY 1201 PENNSYLVANIA AVE., NW WASHINGTON DC 20004		300.00	300.00
INDEPENDENT LUBRICANT MANUFACTURERS ASSN, 1055 THOMAS JEFFERSON STREET, NW WASHINGTON DC 20007		1,550.00	1,550.00
INDEPENDENT PRODUCERS GROUP, 240 PAGE COURT 220 W. DOUGLAS WICHITA KS 67202		12,884.85	9,313.40
INDIANA HI-RAIL CORPORATION, RR 1, BOX 242 CONNERSVILLE IN 47331			40.00
INDIANA RAILROAD ASSN, 143 W. MARKET STREET, #201 INDIANAPOLIS IN 46204			482.45
INDUSTRIAL BIOTECHNOLOGY ASSN, 2115 E. JEFFERSON ST. ROCKVILLE MD 20852		132.96	133.00
INDUSTRIAL UNION DEPARTMENT, AFL-CIO, 815 16TH ST., NW WASHINGTON DC 20006		21,787.26	21,787.26
CHARLES E. ING, 412 FIRST STREET, SE WASHINGTON DC 20003	NATIONAL AUTOMOBILE DEALERS ASSN	3,000.00	
ANDREA L. INNES, 1130 17TH STREET, NW WASHINGTON DC 20036	NATIONAL COAL ASSN	5,375.00	232.61
INSTITUTE OF FOREIGN BANKERS, SUITE 303 EAST, RM. 23 200 PARK AVE. NEW YORK NY 10017		1,957.50	1,957.50
INSTITUTE OF MAKERS OF EXPLOSIVES, 1575 EYE STREET, NW, #550 WASHINGTON DC 20005			
INSURANCE ECONOMICS SOCIETY OF AMERICA, 1700 PENNSYLVANIA AVE., NW, #590 WASHINGTON, DC 20006			
INTEGRATED RESOURCES, INC, 666 THIRD AVENUE, 4TH FL. NEW YORK NY 10017			6,265.00
INTERNATIONAL BROTHERHOOD OF TEAMSTERS, 25 LOUISIANA AVE., NW WASHINGTON DC 20001			81,124.55
INTERNATIONAL COMMUNICATIONS INDUSTRIES ASSN, 3150 SPRING ST. FAIRFAX VA 22031		15,230.05	4,201.66
INTERNATIONAL GOLD CORPORATION LIMITED, 900 THIRD AVENUE NEW YORK NY 10022			59,807.21
INTERNATIONAL LONGSHOREMEN'S ASSOCIATION, AFL-CIO, 17 BATTERY PLACE, #1500 NEW YORK NY 10004			45,640.53
INTERNATIONAL TAXICAB ASSOCIATION, 3849 FARRAGUT AVENUE KENSINGTON MD 20895			2,500.00
INTERNATIONAL UNION OF BRICKLAYERS & ALLIED CRAFTSMEN, 815 15TH ST., NW WASHINGTON DC 20005			16,056.00
INVESTMENT COMPANY INSTITUTE, 1600 M ST., NW WASHINGTON DC 20036			9,466.85
PETER IOVINO, KARALEKAS MCCAHILL WILSON & IOVINO 1250 CONNECTICUT AVE., NW, #318 WASHINGTON DC 20036	AMERICAN REF-FUEL		
CHARLES C. IRIONS, 2200 MILL RD. ALEXANDRIA VA 22314	AMERICAN MOVERS CONFERENCE	1,949.00	
THOMAS L. IRMEN, P.O. BOX 119 MAUMEE OH 43537	ANDERSONS		
IRON ORE LESSORS ASSN, INC, 1500 FIRST NATL BANK BLDG. SAINT PAUL MN 55101		7,494.52	13,659.26
ITEL CONTAINER CORP, 55 FRANCISCO STREET, 6TH FL SAN FRANCISCO CA 94133			90.00
IVINS PHILLIPS & BARKER, CHTD, 1700 PENNSYLVANIA AVENUE, NW WASHINGTON DC 20006	AMERICAN TEXTILE MANUFACTURERS INSTITUTE		
Do	BLOUNT, INC	2,756.25	
Do	COMMITTEE FOR REASONABLE INVENTORY ACCOUNTING RULES		
Do	EMPLOYEE RELOCATION COUNCIL		
Do	SIR JAMES GOLDSMITH		
Do	OBERLIN COLLEGE		
Do	PECHINEY CORPORATION	2,000.00	
Do	ROCHESTER TAX COUNCIL	743.75	
Do	XEROX CORP		
ROBERT A. JABLON, SPIEGEL & MCDIARMID 2600 VIRGINIA AVE., NW WASHINGTON DC 20037	FT. PIERCE UTILITIES AUTH OF THE CITY OF FT. PIERCE, ET AL		
CHARLES L. JACKSON, 1990 M ST., NW, #450 WASHINGTON DC 20036	SHOOSHAN & JACKSON, INC (FOR: ROGERS U.S. CABLESYSTEMS, INC)		
CHARLES R. JACKSON, 219 NORTH WASHINGTON STREET ALEXANDRIA VA 22314	NON COMMISSIONED OFFICERS ASSN OF THE USA	6,250.00	
GLENN JACKSON, 1660 L STREET, NW, #601 WASHINGTON DC 20036	INTERSTATE NATURAL GAS ASSN OF AMERICA	300.00	
NEAL A. JACKSON, 2000 M ST., NW WASHINGTON DC 20036	CAROLINAS COTTON GROWERS ASSN, INC	6,672.00	850.64
WILLIAM P. JACKSON JR., JACKSON & JESSUP, P.C. 3426 N. WASHINGTON BOULEVARD ARLINGTON VA 22201	OSBORNE TRUCK LINE, INC, ET AL	6,619.83	11,845.74
STEPHEN JACOBS, 1771 N STREET, NW WASHINGTON DC 20036	NATIONAL ASSN OF BROADCASTERS	1,500.00	575.37
WALTER K. JAENICKE, 1619 MASSACHUSETTS AVE., NW WASHINGTON DC 20036	NATIONAL FOREST PRODUCTS ASSN	4,500.00	
E. A. JAENKE & ASSOCIATES, INC, 777 14TH ST., NW, #666 WASHINGTON DC 20005	FARMLAND INDUSTRIES	500.00	
Do	UNIVERSITY OF KANSAS	250.00	
JAFFE SNIDER RAITT & HEUER, P.C., 1800 FIRST NATIONAL BUILDING DETROIT MI 48226			
DANIEL L. JAFFE, 1725 K STREET, NW, WASHINGTON DC 20006	ASSOCIATION OF NATIONAL ADVERTISERS		
EDWARD L. JAFFEE, 1730 RHODE ISLAND AVENUE, NW, #713 WASHINGTON DC 20036	PPG INDUSTRIES, INC		
JAPAN ECONOMIC INSTITUTE OF AMERICA, 1000 CONNECTICUT AVE., NW WASHINGTON DC 20036		1,405.16	1,405.16
JOSEPH J. JAQUAY, 5025 WISCONSIN AVE., NW WASHINGTON DC 20016	AMALGAMATED TRANSIT UNION, AFL-CIO		
EVELYN JARVIS-FERRIS, 444 MARKET STREET SAN FRANCISCO CA 94111	SHAKLEE CORPORATION		
JERRY J. JASINOWSKI, 1776 F STREET, N.W. WASHINGTON DC 20006	NATIONAL ASSN OF MANUFACTURERS		
JACOB K. JAVITS, 1211 AVENUE OF THE AMERICAS NEW YORK NY 10036	PARKER CHAPIN FLATTAU & KLIMPL (FOR: ASSOCIATION FOR A BETTER NEW YORK)		3,701.08
PHILIP F. JEHLE, 1150 CONNECTICUT AVE., NW, #310 WASHINGTON DC 20036	SMITHKLINE BECKMAN CORP	1,000.00	
JOSEPH S. JENCKES, SUITE 300 1710 RHODE ISLAND AVE., NW WASHINGTON DC 20036	ABBOTT LABORATORIES	5,000.00	
LINDA JENCKES, 1750 K ST., NW WASHINGTON DC 20006	HEALTH INSURANCE ASSN OF AMERICA, INC		
DAVID M. JENKINS II , 1025 VERMONT AVENUE, NW, #500 WASHINGTON DC 20005	MILES LABORATORIES, INC		
KEMPTON B. JENKINS, 1667 K ST., NW, #650 WASHINGTON DC 20006	ARMCO, INC	800.00	300.44
JENNER & BLOCK, 21 DUPONT CIRCLE, NW WASHINGTON DC 20036	ADHESIVE & SEALANT COUNCIL, INC		
Do	AMERICAN ASSN OF ELECTROMYOGRAPHY & ELECTRODIAGONOSTS		
Do	AMERICAN ASSN OF NURSE ANESTHETISTS		
Do	AMERICAN DENTAL ASSISTANTS ASSN		
Do	AMERICAN DENTAL TRADE ASSN		
Do	AMERICAN FILM MARKETING ASSN		
Do	AMERICAN PORTRAIT SOCIETY		
Do	AMERICAN SOC OF ASSN EXECUTIVES		
Do	AMERICAN SOCIETY FOR CATARACT & REFRACTIVE SURGERY		
Do	AMUSEMENT & MUSIC OPERATORS ASSN		
Do	ASSOCIATION OF OPERATING ROOM NURSES		
Do	AUTO GLASS INDUSTRY COMM		
Do	CABLE TV ADMIN & MARKETING SOCIETY, INC		
Do	DENTAL GOLD INSTITUTE		
Do	INTERNATIONAL SOC FOR HYBRID MICROELECTRONICS		
Do	INTRAOCULAR LENS MFRS ASSN		
Do	NATIONAL GLASS ASSN		
JAMES C. JENNINGS, 3255 GRACE ST., NW WASHINGTON DC 20007	GRAY & CO PUBLIC COMMUNICATIONS INT'L, INC		
JENNINGS STROUSS & SALMON, 111 WEST MONROE PHOENIX AZ 85003	SHAMROCK FOODS CO		
PATRICIA A. JENSEN, PILLSBURY CENTER M.S. 3771 MINNEAPOLIS MN 55402	PILLSBURY CO		
RUSTY L. JESSER, 1120 CONNECTICUT AVENUE, NW WASHINGTON DC 20036	AMERICAN BANKERS ASSN	1,000.00	
NANCY H. JESSICK, 1331 PENNSYLVANIA AVE., NW, #720 WASHINGTON DC 20004	HIRAM WALKER & SONS, INC		
GUY E. JESTER, 2150 KIENLEN AVE. ST. LOUIS MO 63121	ASSOCIATION FOR THE IMPROVEMENT OF THE MISSISSIPPI RIVER		
RONALD P. JOHNSEN, 1250 EYE ST., NW, #703 WASHINGTON DC 20005	COLUMBIA GAS SYSTEM SERVICE CORP	175.00	228.58
CARL T. JOHNSON, 1800 K ST., NW, #1104 WASHINGTON DC 20006	CORNING GLASS WORKS	600.00	
CLIFFORD T. JOHNSON, 1700 NORTH MOORE STREET ROSSLYN VA 22209	BOEING MILITARY AIRPLANE COMPANY		
JAMES A. JOHNSON, 2550 M ST., NW, #500 WASHINGTON DC 20037	SHEARSON LEHMAN BROTHERS; NORFOLK SOUTHERN RAILWAY	400.00	8.00
JESS JOHNSON JR., 1025 CONNECTICUT AVE., NW, #200 WASHINGTON DC 20036	SHELL OIL CO	500.00	
JOEL L. JOHNSON, 122 C ST., NW, #740 WASHINGTON DC 20001	AMERICAN LEAGUE FOR EXPORTS & SECURITY ASSISTANCE	4,000.00	216.39
JOHN B. JOHNSON, ALABAMA PETROLEUM COUNCIL P.O. BOX 4220 MONTGOMERY AL 36195	AMERICAN PETROLEUM INSTITUTE	4,165.01	4,129.64
JUSTIN W. JOHNSON, P.O. BOX 970 FT. WORTH TX 76101	TEXAS ELECTRIC SERVICE CO	20.00	
KAY JOHNSON, 122 C STREET, NW WASHINGTON DC 20001	CHILDREN'S DEFENSE FUND	600.00	
KENNETH A. JOHNSON, PILLSBURY CENTER MINNEAPOLIS MN 55402	PILLSBURY COMPANY	320.00	94.00
LARRY W. JOHNSON, P.O. BOX 3000 LEESBURG VA 22075	VOCATIONAL INDUSTRIAL CLUBS OF AMERICA, INC		
LINDA MEYER JOHNSON, 1575 EYE STREET, NW, #625 WASHINGTON DC 20005	ROLM CORPORATION		
MARK R. JOHNSON, 1667 K STREET, NW, #350 WASHINGTON DC 20036	MOLLER STEAMSHIP CO, INC		
NANCIE S. JOHNSON, 1701 PENNSYLVANIA AVENUE, NW, #900 WASHINGTON DC 20006	CONOCO, INC	1,100.00	
PAUL W. JOHNSON, 1225 CONNECTICUT AVE., NW, #303 WASHINGTON DC 20036	FLEISHMAN-HILLARD, INC (FOR: ABILITY INFORMATION SYSTEMS--COMPUTER SOFTWARE)		
RADY A. JOHNSON, 1000 16TH ST., NW, #500 WASHINGTON DC 20036	AMOCO CORP	800.00	
RICHARD W. JOHNSON JR., 219 N. WASHINGTON STREET ALEXANDRIA VA 22314	NON COMMISSIONED OFFICERS ASSN OF THE USA	5,955.04	156.66
SPENCER A. JOHNSON, 1101 VERMONT AVE., NW, #411 WASHINGTON DC 20005	PAPERBOARD PACKAGING COUNCIL		
STANLEY L. JOHNSON, 5344 29TH ST., NW WASHINGTON DC 20015	TEXACO, INC	50.00	
THOMAS G. JOHNSON, ONE SHELL PLAZA, #4868 P.O. BOX 2463 HOUSTON TX 77001	SHELL OIL COMPANY		
BARBARA W. JOHNSTON, 1150 CONNECTICUT AVE. NW #710 WASHINGTON DC 20036	UTAH INTERNATIONAL, INC		
DAVID JOHNSTON, 1957 E ST., NW WASHINGTON DC 20006	ASSOCIATED GENERAL CONTRACTORS OF AMERICA		
ERNEST JOHNSTON, 1825 K STREET, NW, #1107 WASHINGTON DC 20006	PHILLIPS PETROLEUM CO	1,075.00	
JAMES D. JOHNSTON, 1660 L ST., NW WASHINGTON DC 20036	GENERAL MOTORS CORP	3,600.00	5,979.20
JOINT CORPORATE COMM ON CUBAN CLAIMS, C/O LONE STAR INDUSTRIES, INC PO BOX 5050 GREENWICH CT 06830			180.00
JOINT TASK FORCE ON FED FINANCIAL ASSIST. FOR LAW STUDENTS, 11 DUPONT CIRCLE, NW WASHINGTON DC 20006			

Organization or Individual Filing	Employer/Client	Receipts	Expenditures
MARY K. JOLLY, 1600 RHODE ISLAND AVENUE, NW WASHINGTON DC 20036	NATIONAL RIFLE ASSN OF AMERICA	900.00	202.22
HERBERT A. JOLOVITZ, 900 17TH STREET, NW WASHINGTON DC 20006	OWENS-CORNING FIBERGLAS CORPORATION	1,337.00	
BEVERLY E. JONES, WICKWIRE GAVIN & GIBBS, P.C. 1133 L ST., NW, #500 WASHINGTON DC 20036	AMERICAN INDEPENDENT REFINERS ASSN	100.00	
Do	CONSOLIDATED NATURAL GAS CO	1,840.00	19.00
CHERYL L. JONES, 1331 PENNSYLVANIA AVE., NW, #565 WASHINGTON DC 20004	TEXAS GAS TRANSMISSION CORP		
JONES DAY REAVIS & POGUE, 655 15TH ST., NW WASHINGTON DC 20005	AUTOMOTIVE DISMANTLERS & RECYCLERS ASSN, INC		
Do	LOS ANGELES COUNTY		
Do	MISSISSIPPI CHEMICAL CORP		
Do	PFIZER, INC	7,500.00	500.00
Do	SCM CORPORATION		
ERNEST W. JONES, 1957 E ST., NW WASHINGTON DC 20006	ASSOCIATED GENERAL CONTRACTORS OF AMERICA		
JAMES E. JONES JR., 1629 K ST., NW, #1010 WASHINGTON DC 20006	ALLIANCE OF AMERICAN INSURERS	320.00	195.10
JAMES E. JONES, 40 FRANKLIN RD., SW P.O. BOX 2021 ROANOKE VA 24022	APPALACHIAN POWER COMPANY		
WILEY N. JONES, 1667 K ST., NW, #600 WASHINGTON DC 20006	SOUTHERN PACIFIC TRANSPORT CO	1,000.00	500.00
ALEXANDER H. JORDAN, 1201 PENNSYLVANIA AVENUE, NW, #730 WASHINGTON DC 20004	KIMBERLY-CLARK CORP		
DE SOTO JORDAN, 1331 PENNSYLVANIA AVE., NW, #1300 WASHINGTON DC 20004	ELECTRONIC DATA SYSTEMS CORPORATION	77.00	69.00
JAMES V. JORDAN III, PO BOX 2563 BIRMINGHAM AL 35202	SOUTHERN NATURAL GAS CO		
MARY LOU JOSEPH, 2025 M STREET, NW WASHINGTON DC 20036	NATIONAL PULBIC RADIO	1,700.48	413.48
JTL ENTERPRISES, LTD, 1101 KING STREET, #700 ALEXANDRIA VA 22314			4,631.25
ARDON B. JUDD JR., 1100 CONNECTICUT AVE., NW, #310 WASHINGTON DC 20036	DRESSER INDUSTRIES, INC		
ROBERT E. JULIANO, 1219 28TH ST., NW WASHINGTON DC 20007	HOTEL & RESTAURANT EMPLOYEES & BARTENDERS INTL UNION	16,238.64	2,771.19
THOMAS W. JURIKA JR., 649 MISSION STREET SAN FRANCISCO CA 94105	URS CORPORATION		
GEZA KADAR, 1750 K STREET, N.W. WASHINGTON DC 20006	HEALTH INSURANCE ASSN OF AMERICA, INC	29.45	25.00
SUZANNE KALFUS, 2020 K ST., NW, #200 WASHINGTON DC 20006	NATIONAL FED OF FEDERAL EMPLOYEES		
LINDA HELLER KAMM, 1775 PENNSYLVANIA AVE., NW, #1000 WASHINGTON DC 20006	FOLEY LARDNER HOLLABAUGH & JACOBS (FOR: VGS CORPORATION)		
JAMES L. KANE JR., 1315 VINCENT PLACE MCLEAN VA 22101			
DENNIS R. KANIN, FOLEY HOAG & ELIOT ONE POST OFFICE SQUARE BOSTON MA 02109	HUMANE SOCIETY OF THE U.S., ET AL	2,176.00	11.37
Do	LEADING EDGE PRODUCTS, INC	1,412.00	191.89
Do	MUTUAL SAVINGS CENTRAL FUND, INC	2,192.00	6,893.79
KAPLAN RUSSIN & VECCHI, 1218 16TH STREET, NW WASHINGTON DC 20036	AMERICAN CHAMBER OF COMMERCE OF THE DOMINICAN REPUBLIC	4,244.50	412.84
DAVID A. KARCHER, 3700 PENDER DRIVE, #108 FAIRFAX VA 22030	AMERICAN SOC OF CATARACT & REFRACTIVE SURGERY		
GENE KARPINSKI, 215 PENNSYLVANIA AVENUE, SE WASHINGTON DC 20003	U.S. PUBLIC INTEREST RESEARCH GROUP	5,250.00	
HOWARD C. KATZ, 4 WORLD TRADE CENTER NEW YORK NY 10048	J. ARON & CO (FOR: COFFEE SUGAR & COCOA EXCHANGE, INC)		
EVERETT E. KAVANAUGH, 1110 VERMONT AVE., NW, #800 WASHINGTON DC 20005	COSMETIC TOILETRY & FRAGRANCE ASSN, INC		
KAYE SCHOLER FIERMAN HAYS & HANDLER, 1575 I STREET, NW, #1150 WASHINGTON DC 20005	AMERICAN MEAT INSTITUTE		
Do	AMERICAN PSYCHOANALYTIC ASSOCIATION		
Do	AMERICAN SOCIAL HEALTH ASSN		
RICHARD F. KEATING, 1211 CONNECTICUT AVE., NW, #502 WASHINGTON DC 20036	ANHEUSER-BUSCH COMPANIES, INC		
ROBERT J. KEEFE, 444 N. CAPITOL STREET, #711 WASHINGTON DC 20001	KEEFE COMPANY (FOR: WESTINGHOUSE ELECTRIC CORP)		
VICKI R. KEENAN, 1015 15TH STREET, NW, #802 WASHINGTON DC 20005	AMERICAN CONSULTING ENGINEERS COUNCIL	700.00	
ROBERT C. KEENEY, 727 N. WASHINGTON ST. ALEXANDRIA VA 22314	UNITED FRESH FRUIT & VEGETABLE ASSN	2,006.00	299.78
ROBIN E. KEENEY, 1156 15TH STREET, NW, #1101 WASHINGTON DC 20005	NATIONAL ASSN OF SMALL BUSINESS INVESTMENT COS	2,000.00	
BRIEN E. KEHOE, HILL BETTS & NASH 1818 N STREET, NW, #700 WASHINGTON DC 20036	WATERMAN STEAMSHIP CORP		
KENDELL W. KEITH, 725 15TH STREET, NW WASHINGTON DC 20005	NATIONAL GRAIN & FEED ASSN	50.00	
KELEHER & MCLEOD, P.C., ONE THOMAS CIRCLE, NW, #325 WASHINGTON DC 20005	ALLIANCE OF AMERICAN INSURERS	2,445.00	
Do	BEAR STEARNS & CO	12,990.00	
Do	CHAMBERS ASSOCIATES, INC	9,495.00	
Do	COALITION FOR JOBS GROWTH & INT'L COMPETITIVENESS	26,000.00	73.70
Do	CHARLIE CROWDER	7,714.50	
Do	INTERNATIONAL RAW MATERIALS, LTD	5,251.00	43.72
Do	PENNZOIL CO	3,780.50	
Do	PUBLIC SERVICE CO OF NEW MEXICO	48,000.00	
WILLIAM D. KELLEHER, 1615 H STREET, NW WASHINGTON DC 20062	CHAMBER OF COMMERCE OF THE U.S.	7,500.00	
KELLER & HECKMAN, 1150 17TH STREET, NW, #1000 WASHINGTON DC 20036	SPECIALTY ADVERTISING ASSN INT'L		
CANDACE KELLER, 624 9TH ST., NW 7TH FLOOR WASHINGTON DC 20001	GROUP HEALTH ASSN OF AMERICA, INC		
PAUL J. KELLEY, 2727 NORTH CENTRAL AVE. PHOENIX AZ 85004	U-HAUL INTL, INC		
STEPHEN G. KELLISON, 1835 K ST., NW, #515 WASHINGTON DC 20006	AMERICAN ACADEMY OF ACTUARIES		
STEPHEN S. KELLNER, 1001 CONNECTICUT AVE., NW, #1120 WASHINGTON DC 20036	CHEMICAL SPECIALTIES MFGRS ASSN		
EDWARD L. KELLY, 1319 F STREET, NW, #1000 WASHINGTON DC 20004	NATIONAL ASSN OF PRIVATE PSYCHIATRIC HOSPITALS	80.00	
ERNEST B. KELLY III, 950 L'ENFANT PLAZA, SW WASHINGTON DC 20024	COMMUNICATIONS SATELLITE CORPORATION		
HAROLD V. KELLY, 1025 THOMAS JEFFERSON ST., NW, #511 W. WASHINGTON DC 20007	LTV CORP		
JAMES J. KELLY, P.O. BOX 23451 WASHINGTON DC 20026	CONSOLIDATED RAIL CORP	1,800.00	
JOHN F. KELLY, 1828 L STREET, NW # 906 WASHINGTON DC 20036	MERRILL LYNCH & CO, INC	2,000.00	
PETER M. KELLY, BELL BOYD & LLOYD 70 W. MADISON, #3200 CHICAGO IL 60602	BALCOR/AMERICAN EXPRESS, INC		1,491.52
MARK L. KEMMER, 1660 L STREET, N.W. WASHINGTON DC 20036	GENERAL MOTORS CORP	2,500.00	1,651.52
KENDALL & ASSOCIATES, INC, 50 E ST., SE WASHINGTON DC 20003	ANDERSON HIBEY NAUHEIM & BLAIR (FOR MARRIOTT CORP)		
Do	CARL M. FREEMAN ASSOCIATES, INC		
Do	HELLER EHRMAN WHITE & MCAULIFFE		
Do	HOGAN & HARTSON (FOR VOLUME SHOE CORP)	500.00	
Do	MANVILLE CORPORATION	500.00	
Do	TOYOTA MOTOR SALES, U.S.A	1,000.00	
Do	WILLIAMS TECHNOLOGIES, INC	250.00	
Do	WORLDWIDE INFORMATION RESOURCES, INC		
WILLIAM T. KENDALL, 50 E ST., SE WASHINGTON DC 20003	ALLIANCE FOR FREE ENTERPRISE		
JOSEPH W. KENNEBECK, 490 L'ENFANT PLAZA, SW, #3210 WASHINGTON DC 20024	VOLKSWAGEN OF AMERICA, INC	300.00	
ART KENNEDY, P.O. BOX 3576 ECB ANCHORAGE AK 99501	ALASKA RESOURCE ANALYSTS, INC		
Do	KONIAG, INC		
MICHAEL E. KENNEDY, 1957 E STREET, NW WASHINGTON DC 20006	ASSOCIATED GENERAL CONTRACTORS OF AMERICA		
EDWARD E. KENNEY & ASSOCIATES, INC, 499 S. CAPITOL ST., SW, #520 WASHINGTON DC 20003	LOCKHEED-GEORGIA CORPORATION		
JEREMIAH J. KENNEY JR., 12TH FL 1100 15TH ST., NW WASHINGTON DC 20005	UNION CARBIDE CORP		
BRENDAN KENNY, 1625 MASSACHUSETTS AVENUE, NW WASHINGTON DC 20036	AIR LINE PILOTS ASSN	4,200.00	760.16
J. H. KENT, KENT & O'CONNOR 1919 PENNSYLVANIA AVE., NW, #300 WASHINGTON DC 20006	AMERICAN DENTAL HYGIENISTS ASSN	9,617.01	5,635.13
Do	AMERICAN SOC OF PLASTIC & RECONSTRUCTIVE SURGERY	739.38	448.70
Do	AMERICAN SUPPLY ASSOCIATION	7,170.00	4,201.86
Do	AMERICAN WAREHOUSEMEN'S ASSOCIATION		
Do	CFS CONTINENTAL		
Do	GOULD, INC		
Do	LOS ANGELES ALLIANCE FOR EQUITABLE CUSTOMS STAFFING	1,378.06	815.82
Do	NATIONAL CUSTOMS BROKERS & FORWARDERS ASSN OF AMERICA	6,218.47	3,630.39
Do	TRANSPORTATION LAWYERS ASSN		
VYTAUTAS KERBELIS, 69 COTTAGE ST. BAR HARBOR ME 04609	ARAS		
PAUL T. KERRIGAN, 400 FIRST STREET, NW, #819 WASHINGTON DC 20001	BROTHERHOOD OF LOCOMOTIVE ENGINEERS	415.17	53.68
ROBERT M. KETCHEL, 1331 PENNSYLVANIA AVE., NW, #895 WASHINGTON DC 20004	GENERAL ELECTRIC CO		
DOROTHY A. KEVILLE, 2215 CONSTITUTION AVE., NW WASHINGTON DC 20037	AMERICAN PHARMACEUTICAL ASSN		251.69
GILBERT W. KEYES, P.O. BOX 3999 (MAIL STOP 8C-68) SEATTLE WA 98124	BOEING AEROSPACE CO	573.36	704.48
EARLINE A. KEYSER, 1620 I ST., NW, #703 WASHINGTON DC 20006	BECHTEL POWER CORPORATION		
KIAWAH ISLAND COMPANY, P.O. BOX 12910 CHARLESTON SC 29142			
RICHARD F. KIBBEN, 200 PARK AVE. NEW YORK NY 10166	BUSINESS ROUNDTABLE		
BRIAN D. KIDNEY, 444 N. CAPITOL STREET, NW, #718 WASHINGTON DC 20001	PACIFIC TELESIS GROUP	15,450.00	
WILLIAM S. KIES, 1750 K ST., NW WASHINGTON DC 20006	FOOD MARKETING INSTITUTE	200.00	
INGOLF N. KILAND JR., 1660 L STREET, NW WASHINGTON DC 20036	GENERAL MOTORS CORP	3,000.00	2,122.64
BRIAN M. KILBURY, 815 16TH STREET, NW WASHINGTON DC 20006	BROTHERHOOD OF RAILWAY AIRLINE & STEAMSHIP CLERKS	3,600.00	3,600.00
MARY K. KILLORIN, 1101 15TH STREET, NW WASHINGTON DC 20005	MINNESOTA MINING & MANUFACTURING CO (3M)	1,500.00	
KILPATRICK & CODY, SUITE 500 2501 M ST., NW WASHINGTON DC 20037	CHEMICAL FUELS CORP	8,000.00	808.37
Do	B. W. CROSWELL		
Do	FURNITURE RENTAL ASSN OF AMERICA	10,756.48	271.12
ROBERTA D. KIMBALL, 729 15TH STREET, NW WASHINGTON DC 20005	AMERICAN CONSULTING ENGINEERS COUNCIL	200.00	
RICHARD H. KIMBERLY, 1201 PENNSYLVANIA AVENUE, NW, #730 WASHINGTON DC 20004	KIMBERLY-CLARK CORP	2,644.00	313.20
KIMBERLY-CLARK CORP, 401 NORTH LAKE STREET NEENAH WI 54956			3,905.80
JAMES L. KIMBLE, 1025 CONNECTICUT AVE., NW, #415 WASHINGTON DC 20036	AMERICAN INSURANCE ASSN		
KING & SPALDING, 1730 PENNSYLVANIA AVE., NW, #1200 WASHINGTON DC 20006	ALABAMA STATE DOCKS DEPARTMENT		78.11
Do	ANTITRUST REMEDIES REFORM GROUP	11,956.55	5.73
Do	DAMSON OIL CORP		

Organization or Individual Filing	Employer/Client	Receipts	Expenditures
Do	GENERAL AVIATION MANUFACTURERS ASSN	4,175.00	21.30
Do	GENERAL ELECTRIC CREDIT CORP	2,090.00	39.27
Do			776.57
Do	LINCOLN PROPERTY CO	11,485.50	176.55
CHARLES L. KING, 1850 K ST., NW WASHINGTON DC 20006	AMERICAN COUNCIL OF LIFE INSURANCE, INC		
EDWARD H. KING, 200 WILMOT RD. DEERFIELD IL 60015	WALGREEN CO		
G. JACK KING, WASHINGTON NATIONAL AIRPORT WASHINGTON DC 20001	U.S. AIR, INC	1,000.00	
GARY V. KING, P.O. BOX 12148 ARLINGTON VA 22209	COTTAGE INDUSTRIES		
W. RUSSELL KING, 1730 RHODE ISLAND AVE., NW, #400 WASHINGTON DC 20036	FREEPORT MCMORAN, INC	500.00	100.00
RUBY KING-WILLIAMS, 1201 16TH STREET, NW WASHINGTON DC 20036	NATIONAL EDUCATION ASSN		
DANIEL T. KINGSLEY, 1655 N. FT. MYER DR., #700 ARLINGTON VA 22209	NATIONAL VENTURE CAPITAL ASSOCIATION	20,400.00	
ROGER P. KINGSLEY, 10801 ROCKVILLE PIKE ROCKVILLE MD 20852	AMERICAN SPEECH-LANGUAGE-HEARING ASSN		
MARCIA Y. KINTER, 1600 WILSON BOULEVARD, #1000 ARLINGTON VA 22209	AMERICAN WATERWAYS OPERATORS, INC		
CECILIA ANNE KIRBY, 1819 L STREET, NW, #600 WASHINGTON DC 20036	AMERICAN HOTEL & MOTEL ASSN	1,331.62	
ALAN G. KIRK II, 1900 PENNSYLVANIA AVE., NW WASHINGTON DC 20068	POTOMAC ELECTRIC POWER CO	21.51	
JOHN R. KIRK, BINGHAM, DANA & GOULD 100 FEDERAL ST. BOSTON MA 02110	FIRST NATIONAL BANK OF BOSTON		
KIRKPATRICK & LOCKHART, 1900 M ST., NW WASHINGTON DC 20036	COUNTY OF SUFFOLK, NEW YORK		
KIRLIN CAMPBELL & KEATING, 1150 CONNECTICUT AVE., NW, #800 WASHINGTON DC 20036	COUNCIL OF EUROPEAN & JAPANESE NATIONAL SHIPOWNERS' ASSN	17,663.35	499.38
ROBERT A. KIRSHNER, 1619 MASSACHUSETTS AVENUE, NW WASHINGTON DC 20036	NATIONAL FOREST PRODUCTS ASSN		
RICHARD L. KLASS, 1818 N ST., NW, #600 WASHINGTON DC 20036	DGA INTERNATIONAL, INC (FOR: DIR INTL AFF OF THE GEN DEL FOR ARMEMENTS)		
Do	DGA INTERNATIONAL, INC (FOR: SOCIETE NATIONALE D'ETUDE ET DE CONST DE MOTEURS D'AVIATION)		
RICHARD P. KLEEMAN, 2005 MASSACHUSETTS AVE., NW WASHINGTON DC 20036	ASSOCIATION OF AMERICAN PUBLISHERS		
JAMES A. KLEIN, 1615 H STREET, NW WASHINGTON DC 20062	CHAMBER OF COMMERCE OF THE U.S.	1,750.00	160.05
KENNETH KLEIN, CADWALADER WICKERSHAM & TAFT 1333 NEW HAMPSHIRE AVE., NW WASHINGTON DC 20036	FEDERATION OF AMERICAN CONTROLLED SHIPPING	87.50	
KLINE KNOPF & WOJDAK, INC, 355 N. 21ST STREET, #105 CAMP HILL PA 17011	GENERAL PUBLIC UTILITIES CORPORATION		
WILLIAM J. KLINEFELTER, 815 16TH ST., NW, #706 WASHINGTON DC 20006	UNITED STEELWORKERS OF AMERICA	9,522.85	
MICHAEL R. KLIPPER, 1600 I ST., NW WASHINGTON DC 20006	MOTION PICTURE ASSN OF AMERICA	583.25	201.50
DAVID M. KLUCSIK, 1415 WYCKOFF ROAD, P.O. BOX 1464 WALL NJ 07719	NEW JERSEY NATURAL GAS CO		
GLENN KNAPP, 773 DARTMOUTH AVE. SAN CARLOS CA 94070			
KNIGHTS OF COLUMBUS, COLUMBUS PLAZA NEW HAVEN CT 06507			209,995.00
KEITH R. KNOBLOCK, 1920 N ST., NW WASHINGTON DC 20036	AMERICAN MINING CONGRESS		
ALBERT B. KNOLL, 1800 K STREET, NW, #820 WASHINGTON DC 20006	SUN COMPANY, INC	1,500.00	282.35
ROBERT L. KNOUS JR., 1410 GRANT STREET, #A-201 DENVER CO 80203	COLORADO SKI COUNTRY USA		
MARK S. KNOUSE, 1825 K ST., NW, #603 WASHINGTON DC 20006	BATUS D.C.	2,000.00	15.00
RUTH E. KOBELL, 600 MARYLAND AVE., SW, #202 WASHINGTON DC 20024	FARMERS' EDUCATIONAL & CO-OPERATIVE UNION OF AMERICA	2,635.20	64.52
THOMAS G. KOBUS, 1112 16TH ST., NW, #2000 WASHINGTON DC 20036	NATIONAL PARKING ASSOCIATION	14,346.10	
BRADLEY R. KOCH, 1800 MASSACHUSETTS AVE., NW WASHINGTON DC 20036	NATIONAL RURAL ELECTRIC COOPERATIVE ASSN	136.36	
GEORGE W. KOCH, 1010 WISCONSIN AVE., NW, #800 WASHINGTON DC 20007	GROCERY MANUFACTURERS OF AMERICA, INC	430.83	
GARY J. KOHN, 1600 M STREET, NW WASHINGTON DC 20036	INVESTMENT COMPANY INSTITUTE	42.30	13.00
MICHAEL S. KOLEDA, 1301 PENNSYLVANIA AVE., NW, #325 WASHINGTON DC 20004	COUNCIL ON SYNTHETIC FUELS		
JOHN C. KOLOJESKI, LAROE WINN & MOERMAN 1120 G STREET, NW, #800 WASHINGTON DC 20005	CHLORINE INSTITUTE, INC	26,525.00	4,157.76
NICHOLAS KOMINUS, 1001 CONNECTICUT AVE., NW WASHINGTON DC 20036	U.S. CANE SUGAR REFINERS' ASSN	742.50	38.58
EUGENE P. KOPP, SUITE 600 SOUTH 1120 20TH STREET, NW WASHINGTON DC 20036	UNION PACIFIC CORP	1,250.00	
STEVEN KOPPERUD, 1701 N. FT. MYER DRIVE ARLINGTON VA 22209	AMERICAN FEED INDUSTRY ASSN	3,240.00	
HORACE R. KORNEGAY, 1875 I ST., NW, #800 WASHINGTON DC 20006	TOBACCO INSTITUTE		
KERRILL K. KORNEGAY, 1025 CONNECTICUT AVE., NW, #1014 WASHINGTON DC 20036	ENSERCH CORPORATION	1,875.00	1,450.69
RONALD W. KOSH, 8111 GATEHOUSE ROAD FALLS CHURCH VA 22047	AAA POTOMAC		
NICHOLAS P. KOSKORES, 1800 MASSACHUSETTS AVE., NW, #510 WASHINGTON DC 20036	NEW ENGLAND COUNCIL, INC		
BERNARD KOTEEN, 1150 CONNECTICUT AVENUE, NW WASHINGTON DC 20036	KOTEEN & NAFTALIN (FOR: STORER COMMUNICATIONS, INC)		
GERALD J. KOVACH, 1133 19TH STREET, NW WASHINGTON DC 20036	MCI COMMUNICATIONS CORP		
KENNETH S. KOVACK, 815 16TH ST., NW, #706 WASHINGTON DC 20006	UNITED STEELWORKERS OF AMERICA	9,522.85	
CHRIS KOYANAGI, 1702 WOODMAN DRIVE MCLEAN VA 22101	WASHINGTON ALTERNATIVES, INC	7,665.00	30.00
MYLIO S. KRAJA, 1608 K ST., NW WASHINGTON DC 20006	AMERICAN LEGION	3,088.02	99.75
JOSEPH H. KRAMER III, THE POWER HOUSE 3255 GRACE STREET, NW WASHINGTON DC 20007	GRAY & CO PUBLIC COMMUNICATIONS INT'L, INC (FOR: HTB CORPORATION)		
STEPHEN W. KRAUS, 1850 K ST., NW WASHINGTON DC 20006	AMERICAN COUNCIL OF LIFE INSURANCE, INC		
RAYMOND R. KRAUSE, PILLSBURY CENTER MS 3771 MINNEAPOLIS MN 55402	PILLSBURY COMPANY	1,500.00	580.00
JEFFREY KRAUSS, 1350 PICCARD DRIVE, #304 ROCKVILLE MD 20850	M/A-COM, INC	2,500.00	500.00
EARL R. KREHER, 1620 EYE STREET, NW, #1000 WASHINGTON DC 20006	MOTOR VEHICLE MANUFACTURERS ASSN OF THE U.S., INC	160.00	
KATHERINE KRELL, 1901 L ST., NW, #320 WASHINGTON DC 20036	OGILVY MATHER & WASHINGTON		
JAY KRIEGEL, KRIEGEL COMMUNICATIONS 437 MADISON AVENUE, 19TH FL. NEW YORK NY 10022	ASSOCIATION FOR A BETTER NEW YORK	40,000.00	3,792.94
KROGER COMPANY, 1014 VINE ST. CINCINNATI OH 45201			3,882.36
KEITH R. KRUEGER, 600 MARYLAND AVE., SW, #400 WASHINGTON DC 20024	AMERICAN OPTOMETRIC ASSN		
PAUL R. KRUSE, 1155 15TH ST., NW WASHINGTON DC 20005	PENNZOIL CO	625.00	
THOMAS A. KUBE, 8111 GATEHOUSE ROAD FALLS CHURCH VA 22047	AMERICAN AUTOMOBILE ASSN		
PHILIP KUGLER, 555 NEW JERSEY AVE., NW WASHINGTON DC 20001	AMERICAN FED OF TEACHERS		
LLOYD R. KUHN, 1725 DESALES ST., NW WASHINGTON DC 20036	AEROSPACE INDUSTRIES ASSN OF AMERICA, INC	15,348.00	
SARA E. KUHN, 1735 NEW YORK AVENUE, NW WASHINGTON DC 20006	AMERICAN INSTITUTE OF ARCHITECTS		
THOMAS R. KUHN, 1111 19TH STREET, NW WASHINGTON DC 20036	EDISON ELECTRIC INSTITUTE	2,947.79	303.72
D. ROMAN KULCHITSKY, 3238 WYNFORD DRIVE FAIRFAX VA 22031	U.S. DEFENSE COMMITTEE		
REBECCA L. KUPPER, 655 15TH STREET, NW 300 METROPOLITAN SQUARE WASHINGTON DC 20005	AMERICAN MEDICAL INTERNATIONAL	575.00	70.00
ESTER KURZ, 500 NORTH CAPITOL ST., NW, #300 WASHINGTON DC 20001	AMERICAN ISRAEL PUBLIC AFFAIRS COMM	13,562.52	49.85
JEFFREY KURZWEIL, HILL BETTS & NASH 1818 N ST., NW WASHINGTON DC 20036	MARRIOTT CORPORATION	4,484.83	479.16
KUTAK ROCK & CAMPBELL, 1101 CONNECTICUT AVENUE, NW WASHINGTON DC 20036	AMERICA FIRST FEDERALLY GUARANTEED MORTGAGE FUND II		17.20
Do	CITICORP INVESTMENT BANK		3,728.74
Do	DISTRICT HEATING DEVELOPMENT CO	5,000.00	
Do	HAYES, INC		
Do	NATIONAL ELECTRICAL MANUFACTURERS ASSN		159.41
Do	VALMONT INDUSTRIES, INC		19.40
KWAJALEIN ATOLL CORP, P.O. BOX 5220 KWAJALEIN EBEYE MARSHALL ISLAN			
LABOR BUREAU, INC, 1101 15TH STREET, NW, #1010 WASHINGTON DC 20005			
LABOR MANAGEMENT MARITIME COMMITTEE, INC, 100 INDIANA AVENUE, NW WASHINGTON DC 20001		8,931.00	6,854.00
JOSEPH L. LACH, 1025 CONNECTICUT AVENUE, NW, #214 WASHINGTON DC 20036	MANVILLE PRODUCTS CORP	500.00	
JOHN D. LACOPO, 1331 PENNSYLVANIA AVE., NW, #1300 WASHINGTON DC 20004	EDS CORPORATION	160.00	117.00
ROBERT A. LADIG, SCOTT PLAZA PHILADELPHIA PA 19113	SCOTT PAPER COMPANY	3,450.00	1,266.70
SANDRA L. LAFEVRE, 2500 RIVA ROAD, SE ANNAPOLIS MD 21401	NATIONWIDE INSURANCE CO		
JACK L. LAHR, 1775 PENNSYLVANIA AVE., NW WASHINGTON DC 20006	FOLEY LARDNER HOLLABAUGH & JACOBS (FOR: VOS CORPORATION)		
ROBERT LAMB, 1220 L STREET, NW WASHINGTON DC 20005	AMERICAN PETROLEUM INSTITUTE	5,000.00	70.27
DAVID F. LAMBERT III, 1401 NEW YORK AVE., NW, #720 WASHINGTON DC 20005	NATIONAL ASSN OF INSURANCE BROKERS	500.00	
DAVID M.F. LAMBERT, 1000 THOMAS JEFFERSON STREET, NW, #600 WASHINGTON, DC 20007	FEDERATION EMPLOYMENT & GUIDANCE SERVICE		
DAVID P. LAMBERT, 1800 K ST., NW WASHINGTON DC 20006	NEW YORK STOCK EXCHANGE, INC		
DAVID R. LAMBERT, 1030 15TH ST., NW, #964 WASHINGTON DC 20005	AMERICAN SEED TRADE ASSN	5,000.00	
JAMES E. LAMBLE, 1620 EYE STREET, NW, #703 WASHINGTON DC 20006	BECHTEL POWER CORP		
STEPHEN K. LAMBRIGHT, ONE BUSCH PLACE ST. LOUIS MO 63118	ANHEUSER-BUSCH COMPANIES, INC		
VIRGINIA B. LAMP, 1615 H STREET, NW WASHINGTON DC 20062	CHAMBER OF COMMERCE OF THE U.S.	2,400.00	398.37
VIRGINIA A. LAMPLEY, 1818 N ST., NW, #600 WASHINGTON DC 20036	DGA INTERNATIONAL, INC (FOR: SOCIETE NATIONALE D'ETUDE ET DE CONST. DE MOTEURS D'AVIATION).		
JOHN W. LAMPMANN, 2000 L STREET, NW, #810 WASHINGTON DC 20036	SPERRY CORP		
RAY H. LANCASTER, 1331 PENNSYLVANIA AVE., NW, #565 WASHINGTON DC 20004	TEXAS GAS TRANSMISSION CORP	3,000.00	201.59
L. CHARLES LANDGRAF, 1333 NEW HAMPSHIRE AVENUE, NW WASHINGTON DC 20036	LEBOEUF LAMB LEIBY & MACRAE		
THOMAS M. LANDIN, ONE FRANKLIN PLAZA PHILADELPHIA PA 19101	SMITHKLINE BECKMAN CORP		
LANDIS COHEN SINGMAN & RAUH, 1019 19TH ST., NW, #500 WASHINGTON DC 20036	AMERICAN SOC OF COMPOSERS AUTHORS & PUBLISHERS	10,000.00	
Do	NFL PLAYERS ASSOCIATION	4,000.00	
FREDERICK LANDMAN, 460 W. 42ND STREET, 4TH FL. NEW YORK NY 10036	PAN AMERICAN SATELLITE CORP		
MOON LANDRIEU, 717 GIROD STREET NEW ORLEANS LA 70130	MAINSTREETS COALITION	4,500.00	622.00
DAVID W. LANDSIDLE, 1710 RHODE ISLAND AVENUE, NW, #300 WASHINGTON DC 20036	ABBOTT LABORATORIES	2,000.00	
BRUCE ALAN LANDY, 2601 VIRGINIA AVE., NW WASHINGTON DC 20037	B.A.L. CO		
Do	CRYOGENIC VACUUM TECHNOLOGY CO		
Do			
LANE & EDSON, P.C., 2300 M STREET, NW WASHINGTON DC 20036	CITY OF BALTIMORE	600.00	
Do	COUNCIL FOR RURAL HOUSING AND DEVELOPMENT	4,000.00	
ALBERT E. LANE, P.O. BOX 37152 CINCINNATI OH 45222	MEDIA-INDEPENDENCE-COMPETITION-MEDCOM-MIC		
Do	PEOPLE OPPOSED TO ENERGY LOBBY - POTEL		

Organization or Individual Filing	Employer/Client	Receipts	Expenditures
RICHARD F. LANE, 1957 E STREET, NW WASHINGTON DC 20006	ASSOCIATED GENERAL CONTRACTORS OF AMERICA		
SCOTT H. LANE, 412 FIRST STREET, SE WASHINGTON DC 20003	NATIONAL AUTOMOBILE DEALERS ASSN	2,700.00	
JOSEPH L. LANG, 1121 L STREET, #1000 SACRAMENTO CA 95814	DAIRY FARMERS FOR RESPONSIBLE DAIRY POLICY	4,000.00	11,409.42
Do	WEST COAST FABRICATORS & STEEL INDUSTRY ASSOCIATION	5,000.00	11,409.42
ROBIN W. LANIER, 1000 CONNECTICUT AVE., NW WASHINGTON DC 20036	NATIONAL RETAIL MERCHANTS ASSN	200.00	20.00
WAYNE R. LAPIERRE JR., 1600 RHODE ISLAND AVE., NW WASHINGTON DC 20036	NATIONAL RIFLE ASSN OF AMERICA	1,187.50	1,500.00
CLIFFORD LAPLANTE, 1331 PENNSYLVANIA AVENUE, NW WASHINGTON DC 20004	GENERAL ELECTRIC CO	1,230.00	
J. STEPHEN LARKIN, 9225 KATY FREEWAY, #401 HOUSTON TX 77024	PETROLEUM EQUIPMENT SUPPLIERS ASSN	1,430.00	1,056.49
WILLIAM L. LARSEN, 1025 CONNECTICUT AVENUE, NW, #415 WASHINGTON DC 20036	AMERICAN INSURANCE ASSN		
REED E. LARSON, 8001 BRADDOCK ROAD, #600 SPRINGFIELD VA 22160	NATIONAL RIGHT TO WORK COMM		
JAMES LASALA, 5025 WISCONSIN AVENUE, NW WASHINGTON DC 20016	AMALGAMATED TRANSIT UNION, AFL-CIO		
MICHAEL LASHBROOK, 1600 RHODE ISLAND AVE., NW WASHINGTON DC 20036	NATIONAL RIFLE ASSN OF AMERICA	1,187.50	
WARREN LASKO, 1125 15TH STREET, NW WASHINGTON DC 20005	MORTGAGE BANKERS ASSN OF AMERICA		
LATHAM WATKINS & HILLS, 1333 NEW HAMPSHIRE AVE., NW, #1200 WASHINGTON DC 20036	AMERICAN DIETETIC ASSN		60.00
Do	DRIFTWOOD DAIRIES		
LOUIS F. LAUN, 260 MADISON AVE. NEW YORK NY 10016	AMERICAN PAPER INSTITUTE, INC		
LAVENTHOL & HORWATH, 1901 L STREET, NW WASHINGTON DC 20036	WORLD ZIONIST ORGANIZATION JERUSALEM, ISRAEL	13,539.00	1,611.00
JOAN H. LAVOR, 1957 E STREET, NW WASHINGTON DC 20006	ASSOCIATED GENERAL CONTRACTORS OF AMERICA		
DEBORAH A. LAWRENCE, P.O. BOX 12148 ARLINGTON VA 22209	COTTAGE INDUSTRIES		
JAMES R. LAWRENCE, 10004 MARKHAM STREET SILVER SPRING MD 20901	NATIONAL TREASURY EMPLOYEES	12,500.00	
ELIZABETH LAWSON, 1730 M STREET, NW WASHINGTON DC 20036	LEAGUE OF WOMEN VOTERS OF THE U.S.	3,932.07	66.75
JANIE L. LAWSON, 1025 CONNECTICUT AVENUE, NW, #200 WASHINGTON DC 20036	SHELL OIL COMPANY	500.00	
LAXALT CORPORATION, 214 MASSACHUSETTS AVE., NE, #380 WASHINGTON DC 20002	MESA PETROLEUM		
Do	MOTION PICTURE ASSN OF AMERICA, INC	1,500.00	
Do	PHILIP MORRIS INTERNATIONAL		
ERNEST M. LE SUEUR, 453 NEW JERSEY AVENUE, SE WASHINGTON DC 20003	BENEFICIAL MANAGEMENT CORP OF AMERICA		
LEACH BIESTY & MCGREEVY, 1919 PENNSYLVANIA AVE., NW WASHINGTON DC 20006	WASHINGTON PSYCHIATRIC SOCIETY		
LEAD-ZINC PRODUCERS COMMITTEE, 180 MAIDEN LANE NEW YORK NY 10038		118.22	7,019.39
LEAGUE OF WOMEN VOTERS OF THE U.S., 1730 M ST., NW WASHINGTON DC 20036		52,754.23	52,754.23
LEAGUE TO SAVE LAKE TAHOE, 2197 LAKE TAHOE BLVD. P.O. BOX 10110 SOUTH LAKE TAHOE CA 95731			8,000.00
THOMAS B. LEARY, HOGAN & HARTSON 815 CONNECTICUT AVENUE, NW WASHINGTON DC 20006	BUSINESS ROUNDTABLE	16,123.23	
RICHARD J. LEASE, 2145 BOISE DRIVE LAS CRUCES NM 88001			
LEBOEUF LAMB LEIBY & MACRAE, 1333 NEW HAMPSHIRE AVE., NW, #1100 WASHINGTON DC 20036	BRITISH INSURANCE ASSN		
Do	GENERAL CONF OF THE 7TH DAY ADVENTIST CHURCH RISK MGT SVCS	5,000.00	194.00
Do	UNDERWRITERS AT LLOYD'S LONDON		
THOMAS J. LEE JR., P.O. BOX 2628 HOUSTON TX 77252	ENTEX, INC		
PETER A. LEFKIN, 1025 CONNECTICUT AVENUE, NW, #415 WASHINGTON DC 20036	AMERICAN INSURANCE ASSN	80.00	5.80
A. B. VIRKLER LEGATE, 77 SYCAMORE CIRCLE ORMOND BEACH FL 32074	EAGLE ENGINEERING, INC	3,682.02	
Do	EMBRY-RIDDLE AERONAUTICAL UNIVERSITY	819.18	
LEHRFELD & HENZKE, P.C., 1301 PENNSYLVANIA AVE., NW, #1110 WASHINGTON DC 20004	KNIGHTS OF COLUMBUS	18,000.00	1,800.00
TERRY L. LEITZELL, BOGLE AND GATES ONE THOMAS CIRCLE, NW, #900 WASHINGTON DC 20005	AMERICAN SHRIMPBOAT ASSOCIATION		
Do	MARINE CONSTRUCTION & DESIGN CO		
Do	OCEANTRAWL CORPORATION		
Do	PORT OF SEATTLE	2,000.00	
JOSEPH L. LEITZINGER, 900 4TH AVE. SEATTLE WA 98164	SIMPSON TIMBER CO	330.00	111.60
LYNN H. LEMASTER, 1111 19TH STREET, NW WASHINGTON DC 20036	EDISON ELECTRIC INSTITUTE	1,652.74	475.36
ROBERT A. LEMBO, 1050 31ST STREET, NW WASHINGTON DC 20007	ASSOCIATION OF TRIAL LAWYERS OF AMERICA	2,000.00	100.00
LAVERNE STILL LEMEN, 1030 15TH ST., NW, #700 WASHINGTON DC 20005	NATIONAL COTTON COUNCIL OF AMERICA	481.25	17.58
LYNETTE LENARD, 1050 CONNECTICUT AVENUE, NW, #300 WASHINGTON DC 20036	NABISCO BRANDS, INC	2,500.00	1,063.78
THOMAS J. LENGYEL, 1625 K STREET, NW, #1000 WASHINGTON DC 20006	AMERICAN INSTITUTE OF MERCHANT SHIPPING		
LEONARD & MCGUAN, P.C., 900 17TH STREET, NW, #1020 WASHINGTON DC 20006	INTERNATIONAL UNION OF POLICE ASSNS, AFL-CIO		
Do	KANSAS CORPORATION COMMISSION		
Do	WISCONSIN DAIRIES		
BETTY JANE LEONARD, P.O. BOX 19109 GREENSBORO NC 27419	UNIFI, INC		111.94
BURLEIGH C. W. LEONARD, 2550 M STREET, NW, #770 WASHINGTON DC 20037	RJR INDUSTRIES, INC	600.00	642.02
EARL T. LEONARD JR., P.O. DRAWER 1734 ATLANTA GA 30301	COCA-COLA COMPANY	512.00	535.60
LLOYD LEONARD, 1730 M ST., NW WASHINGTON DC 20036	LEAGUE OF WOMEN VOTERS OF THE U.S.	5,122.15	171.91
RODNEY E. LEONARD, 2001 S STREET, NW, #530 WASHINGTON DC 20009	COMMUNITY NUTRITION INSTITUTE		
CHARLES LEPPERT JR., 801 18TH STREET, NW, #400 WASHINGTON DC 20006	PROCTER & GAMBLE MANUFACTURING CO	81.38	
RICHARD L. LESHER, 1615 H ST., NW WASHINGTON DC 20062	CHAMBER OF COMMERCE OF THE U.S.		
WILLIAM GENE LESHER, 517 C STREET, NE WASHINGTON DC 20002	LYNG AND LESHER, INC	4,650.00	
WILLIAM J. LESSARD JR., 1300 19TH STREET, NW, #310 WASHINGTON DC 20036	NATIONAL COMM TO PRESERVE SOCIAL SECURITY & MEDICARE	7,290.00	
DALE LESTINA, 1201 16TH ST., NW WASHINGTON DC 20036	NATIONAL EDUCATION ASSN	3,134.00	336.00
LEVA HAWES MASON & MARTIN, 1220 19TH ST., NW, #700 WASHINGTON DC 20036	FINNIGAN CORPORATION		
Do	SCIENTIFIC APPARATUS MAKERS ASSN		
MILTON LEVENSON, P.O. BOX 3965 SAN FRANCISCO CA 94119	BECHTEL POWER CORPORATION		
LEVENTHAL & SENTER, 1001 22ND STREET, NW, #550 WASHINGTON DC 20037	PAN AMERICAN SATELLITE CORP		
MORRIS J. LEVIN, 1050 17TH ST., NW WASHINGTON DC 20036	ASSOCIATION OF AMERICAN RAILROADS	2,500.00	
BARBARA W. LEVINE, 1015 15TH STREET, NW WASHINGTON DC 20005	AMERICAN PUBLIC HEALTH ASSN		
BERTRAM J. LEVINE, 1667 K STREET, NW, #410 WASHINGTON DC 20006	JOHNSON & JOHNSON	1,000.00	225.00
HARRY LEVINE JR., 1331 PENNSYLVANIA AVE., NW WASHINGTON DC 20004	GENERAL ELECTRIC CO	78.00	
KENNETH S. LEVINE, 1201 PENNSYLVANIA AVE., NW, #220 WASHINGTON DC 20004	JOSEPH SEAGRAM & SONS, INC	977.50	
LAWRENCE E. LEVINSON, 1875 EYE ST., NW, #940 WASHINGTON DC 20006	GULF & WESTERN INDUSTRIES, INC	3,500.00	500.00
DAVID LEVY, 7000 CENTRAL AVENUE, NE P.O. BOX 1453 MINNEAPOLIS MN 55432	MEDTRONIC, INC	20.00	380.28
JAMES F. LEVY, 2000 GREEN STREET COLUMBIA SC 29205	VISTA, INC		
LESLIE LEVY, 500 NORTH CAPITOL ST., NW, #300 WASHINGTON DC 20001	AMERICAN ISRAEL PUBLIC AFFAIRS COMM	9,375.00	589.87
MICHAEL R. LEWIS, 1133 15TH ST., NW, #640 WASHINGTON DC 20005	INTERNATIONAL LONGSHOREMEN'S & WAREHOUSEMEN'S UNION	10,150.00	1,391.12
RICHARD LEWIS, 1025 VERMONT AVE., NW WASHINGTON DC 20005	AMERICAN PULPWOOD ASSN		
JOHN F. LEYDEN, 815 16TH STREET, NW, #308 WASHINGTON DC 20006	PUBLIC EMPLOYEE DEPARTMENT, AFL-CIO	4,187.49	
WILLIAM J. LHOTA, 215 N. FRONT STREET COLUMBUS OH 43215	COLUMBUS AND SOUTHERN OHIO ELECTRIC CO	630.72	586.75
HERBERT LIEBENSON, 1604 K ST., NW WASHINGTON DC 20006	NATIONAL SMALL BUSINESS ASSN	5,625.00	
WILLIAM C. LIENESCH, 238 10TH ST., SE WASHINGTON DC 20003	NATIONAL PARKS & CONSERVATION ASSOCIATION	847.50	57.55
TERRY L. LIERMAN, 1156 15TH STREET, NW, #1102 WASHINGTON DC 20005	ALBERT AND DIANE KANEB		
ROSS W. LILLARD, 920 MAIN STREET KANSAS CITY MO 64105	STINSON MAG & FIZZELL (FOR: FARMLAND INDUSTRIES, INC)		
STEPHEN R. LINDAUER, 1957 E STREET, NW WASHINGTON DC 20515	ASSOCIATED GENERAL CONTRACTORS OF AMERICA		
KATHLEEN M. LINEHAN, 1875 EYE ST., NW, #500 WASHINGTON DC 20006	PHILIP MORRIS, INC	1,100.00	176.00
ELENA LINTHICUM, 1050 CONNECTICUT AVE., NW, #800 WASHINGTON DC 20036	ALLIED-SIGNAL, INC		
HERSHEL LIPOW, 1735 NEW YORK AVENUE, NW WASHINGTON DC 20006	AMERICAN INSTITUTE OF ARCHITECTS	3,625.00	26.06
LINDA A. LIPSEN, 2001 S STREET, NW, #520 WASHINGTON DC 20009	CONSUMERS UNION OF U.S., INC	2,160.00	
LISBOA ASSOCIATES, INC, 1317 F ST., NW, #400 WASHINGTON DC 20004		4,125.00	
JOHN M. LISON, 16100 SOUTH LATHROP AVENUE HARVEY IL 60426	ATCOR, INC	6,000.00	113.90
SUSAN LISS, 600 NEW JERSEY AVENUE, NW WASHINGTON DC 20001	JUDICIAL SELECTION PROJECT	31.72	
DAVID H. LISSY, 1 GULF & WESTERN PLAZA NEW YORK NY 10023	GULF & WESTERN INDUSTRIES, INC	1,000.00	500.00
BARBARA A. LITTLE, 1155 15TH ST., NW, #611 WASHINGTON DC 20005	ETHYL CORPORATION	1,000.00	
CHARLES B. LITTLE, 600 MARYLAND AVE., SW, #603 WASHINGTON DC 20024	UBA, INC	1,000.00	
THOMAS W. LITTLE, 1750 K STREET, NW WASHINGTON DC 20006	FOOD MARKETING INSTITUTE	750.00	
WILLIAM F. LITTLE, 815 CONNECTICUT AVE., NW WASHINGTON DC 20006	FORD MOTOR CO	487.00	472.43
ROY LITTLEFIELD, 15900 PINECROFT LANE BOWIE MD 20716	AMERICAN RETREADERS ASSN	1,000.00	
Do	GREATER WASHINGTON/MARYLAND SERVICE STATION ASSN	500.00	
E. GEOFFREY LITTLEHALE, 1100 15TH STREET, NW WASHINGTON DC 20005	PHARMACEUTICAL MANUFACTURERS ASSN	4,000.00	60.90
THEODORE M. LITTMAN, 2230 E. IMPERIAL AVE. EL SEGUNDO CA 90245	ROCKWELL INTERNATIONAL		
E.F. LIVAUDAIS JR , 1333 NEW HAMPSHIRE AVE., NW WASHINGTON DC 20036	ATLANTIC RICHFIELD CO	130.00	
ROBERT W. LIVELY, 1800 MASSACHUSETTS AVENUE, NW WASHINGTON DC 20036	NATIONAL RURAL ELECTRIC COOPERATIVE ASSN	115.00	
LIVESTOCK MARKETING ASSOCIATION, 301 E. ARMOUR BLVD. KANSAS CITY MO 64111			8,012.00
FRANCI LIVINGSTON, 215 PENNSYLVANIA AVENUE, SE WASHINGTON DC 20003	CONGRESS WATCH	4,749.96	
LOBEL NOVINS & LAMONT, 1275 K ST., NW, #770 WASHINGTON DC 20005	GENERIC PHARMACEUTICAL INDUSTRY ASSN	10,844.57	320.32
PAUL LOCIGNO, 25 LOUISIANA AVENUE, NW WASHINGTON DC 20001	INTERNATIONAL BROTHERHOOD OF TEAMSTERS	17,139.70	
ROBERT F. LOCKHART JR., 490 L'ENFANT PLAZA EAST, SW WASHINGTON DC 20024	TENNECO, INC		
KAREN LOCKWOOD, 444 NORTH CAPITOL ST., NW WASHINGTON DC 20001	AMERICAN HOSPITAL ASSN		84.99
ROBERT S. LONG, 919 18TH STREET, NW, #400 WASHINGTON DC 20006	DIAMOND SHAMROCK CORP	1,000.00	127.37
JOHN H. LONNQUIST, 1025 CONNECTICUT AVE., NW, #214 WASHINGTON DC 20036	MANVILLE CORPORATION	1,500.00	
LAURA LOOMIS, 1701 18TH ST., NW WASHINGTON DC 20009	NATIONAL PARKS & CONSERVATION ASSOCIATION		
LOOMIS OWEN FELLMAN & HOWE, 2020 K ST., NW WASHINGTON DC 20006	ASSOCIATION OF BITUMINOUS CONTRACTORS		

Organization or Individual Filing	Employer/Client	Receipts	Expenditures
Do	CLASSROOM PUBLISHERS ASSN		
Do	INDUSTRIAL DIAMOND ASSN		
Do	OPTICAL MANUFACTURERS ASSN		
Do	TEXTILE RENTAL SERVICES ASSN OF AMERICA		
SUSAN J. LOOMIS, 1957 E STREET, NW WASHINGTON DC 20006	ASSOCIATED GENERAL CONTRACTORS OF AMERICA	5,000.00	500.00
GERALD D. LORE, 1050 CONNECTICUT AVENUE, NW, #401 WASHINGTON DC 20036	HOFFMANN-LA ROCHE, INC		
PHILIP J. LOREE, 50 BROADWAY NEW YORK NY 10004	FEDERATION OF AMERICAN CONTROLLED SHIPPING	200.00	
ROBERT E. LOSCH, P.C., 1716 NEW HAMPSHIRE AVE., NW WASHINGTON DC 20009	AMERICAN DREDGING CO, ET AL	20,000.00	3,204.35
JAMES F. LOVETT, 1801 K ST., NW WASHINGTON DC 20006	WESTINGHOUSE ELECTRIC CORP	500.00	200.00
PAULA D. LUCAK, 815 16TH STREET, NW, #308 WASHINGTON DC 20006	PUBLIC EMPLOYEE DEPARTMENT, AFL-CIO	2,062.51	143.50
DANIEL P. LUCAS, 777 14TH ST., NW, WASHINGTON DC 20005	NATIONAL ASSN OF REALTORS		
JAMES D. LUCAS, 25 SOUTH CHARLES STREET BALTIMORE MD 21201	FIRST MARYLAND BANCORP		
Do	FIRST NATIONAL BANK OF MARYLAND		
MRS. FREDDIE H. LUCAS, 1660 L ST., NW WASHINGTON DC 20036	GENERAL MOTORS CORP	3,000.00	647.50
WILLIAM L. LUCAS, 2021 K STREET, NW, #300 WASHINGTON DC 20006	PRIMARK CORP	500.00	
LUKENS, INC, 50 SOUTH FIRST AVENUE COATESVILLE PA 19320			
SYLVESTER LUKIS, 818 CONNECTICUT AVE., NW WASHINGTON DC 20006	CRAMER HABER & LUKIS, P.C. (FOR: CANAVERAL PORT AUTHORITY)		
Do	CRAMER HABER & LUKIS, P.C. (FOR: CITY OF MIAMI BEACH)		
Do	CRAMER HABER & LUKIS, P.C. (FOR: CITY OF MIAMI)		
Do	CRAMER HABER & LUKIS, P.C. (FOR: DADE COUNTY INTERNATIONAL AIRPORT)		
Do	CRAMER HABER & LUKIS, P.C. (FOR: DADE COUNTY)		
Do	CRAMER HABER & LUKIS, P.C. (FOR: DEPARTMENT OF EDUCATION, STATE OF FLORIDA).		
LUMBERMENS MUTUAL CASUALTY COMPANY, LONG GROVE IL 60049			3,452.43
MILTON F. LUNCH, 1420 KING ST. ALEXANDRIA VA 22314	NATIONAL SOCIETY OF PROFESSIONAL ENGINEERS	1,000.00	
LUND & O'BRIEN, 1625 EYE ST., NW WASHINGTON DC 20006	FEDERATION OF AMERICAN CONTROLLED SHIPPING	900.00	139.90
Do	PENNSYLVANIA POWER & LIGHT CO	1,372.80	99.81
CHRISTIAN J. LUND, 1825 I STREET, NW, #700 WASHINGTON DC 20006	UNITED TECHNOLOGIES CORPORATION	15,750.00	
FRANCIS M. LUNNIE JR., 1776 F STREET, NW WASHINGTON DC 20006	NATIONAL ASSN OF MANUFACTURERS		100.00
DAVID C. LUTTRELL, 1422 W. PEACHTREE ST., NW, #612 ATLANTA GA 30309	NATIONAL ASSN OF MANUFACTURERS		
W. FLETCHER LUTZ, 727 SOUTH 23RD ST., #100 ARLINGTON VA 22202	ASSOCIATION OF GOVERNMENT ACCOUNTANTS		
TIMOTHY P. LYNCH, 1501 WILSON BOULEVARD, #910 ARLINGTON VA 22209	ROADWAY EXPRESS, INC	425.00	200.00
LYNG AND LESHER, INC, 517 C STREET, NE WASHINGTON DC 20002	FARM CREDIT COUNCIL	25,000.00	13,400.00
RICHARD E. LYNG, 517 C STREET, NE WASHINGTON DC 20002	LYNG AND LESHER, INC	4,650.00	
JOHN E. LYNN, 1735 NEW YORK AVENUE, NW WASHINGTON DC 20006	AMERICAN INSTITUTE OF ARCHITECTS	1,600.00	
WILLIAM T. LYONS, 1747 PENNSYLVANIA AVE., NW, #700 WASHINGTON DC 20006	CIBA-GEIGY CORP	5,057.00	3,424.00
M.O.A./AIOA & SUBS, INC, 701 S. 22ND, #107 OMAHA NB 68102			
M/A-COM, INC, 1350 PICCARD DRIVE, #304 ROCKVILLE MD 20850			4,900.00
JOSEPH H. MACAULAY, 300 METROPOLITAN SQUARE 655 15TH STREET, NW WASHINGTON DC 20005	U.S. SURGICAL CORP	960.00	40.00
TIMOTHY MACCARTHY, 1620 I STREET, NW, #1000 WASHINGTON DC 20006	MOTOR VEHICLE MANUFACTURERS ASSN OF THE U.S., INC	1,178.00	
ANTHONY R. MACCHIA, 4 WORLD TRADE CENTER NEW YORK NY 10048	COFFEE SUGAR & COCOA EXCHANGE, INC		
JACK A. MACDONALD, 1901 N. FORT MEYER DRIVE, #302 ROSSLYN VA 22209	BEVERLY ENTERPRISES, INC	6,250.00	75.00
MIRIAM A. MACDONALD, 1025 CONNECTICUT AVENUE, NW, #1010 WASHINGTON DC 20036	METROPOLITAN LIFE & AFFILIATED COS	1,000.00	
JAMES E. MACK, 9005 CONGRESSIONAL COURT POTOMAC MD 20854	NATIONAL ASSN OF MIRROR MANUFACTURERS		
Do	PEANUT BUTTER & NUT PROCESSORS ASSN	15,500.00	2,512.58
JAMES H. MACK, 7901 WESTPARK DR. MCLEAN VA 22102	NATIONAL MACHINE TOOL BUILDERS' ASSN	15,180.00	500.00
MACMEEKIN AND CUTLER, 1331 H STREET, NW, #901 WASHINGTON DC 20005	YANGTZEKIANG GARMENT MANUFACTURING CO, LTD	1,948.00	1,788.97
JOHN H. MADIGAN JR., 1575 EYE STREET, NW, #1025 WASHINGTON DC 20005	AMERICAN CANCER SOCIETY	15,000.00	250.00
CLIFF MADISON GOVERNMENT RELATIONS, INC, P.O. BOX 3482 GRANADA HILLS CA 91344	BURBANK-GLENDALE-PASADENA AIRPORT AUTHORITY	2,000.00	
Do	CITY OF AVALON	750.00	
Do	MARK AIR, INC	1,200.00	
Do	SOUTHERN CALIFORNIA RAPID TRANSIT DISTRICT	1,000.00	
SUSAN MAGAW, P.O. BOX 3556 WASHINGTON DC 20007	AMERICAN MEAT INSTITUTE	2,000.00	
A. JOHN MAGUIRE, 1030 15TH STREET, NW WASHINGTON DC 20005	NATIONAL COTTON COUNCIL OF AMERICA	16,000.00	2,562.98
CHARLES MAGUIRE, 3315 P STREET, NW, #906 WASHINGTON DC 20036	MERRILL LYNCH & CO, INC	1,200.00	
W. TERRY MAGUIRE, BOX 17407 DULLES INTERNATIONAL AIRPORT WASHINGTON DC 20041	AMERICAN NEWSPAPER PUBLISHERS ASSN	1,125.00	
JOHN F. MAHONEY, 1101 VERMONT AVE., NW WASHINGTON DC 20005	AMERICAN MEDICAL ASSN	5,378.00	
TERENCE P. MAHONY, 1825 K STREET, NW, #807 WASHINGTON DC 20006	NATIONAL BROADCASTING CO, INC	500.00	243.76
MICHAEL C. MAIBACH, 3065 BOWERS AVENUE SANTA CLARA CA 95051	INTEL CORPORATION	12,000.00	4,318.82
ROBERT L. MAIER, 900 17TH ST., NW, #1000 WASHINGTON DC 20006	KAISER ALUMINUM & CHEMICAL CORP	70.00	
STEVEN R. MAIMON, P.O. BOX 7579 WASHINGTON DC 20044			
MICHAL W. MAINWARING, 1730 RHODE ISLAND AVENUE, NW, #713 WASHINGTON DC 20036	PPG INDUSTRIES, INC		
ELLEN L. MAITLAND, 777 14TH STREET, NW WASHINGTON DC 20005	NATIONAL ASSN OF REALTORS		
MAJOR LEAGUE BASEBALL PLAYERS ASSN, 805 THIRD AVENUE NEW YORK NY 10022			
DAVID MALLINO, 815 16TH STREET, NW WASHINGTON DC 20006	INDUSTRIAL UNION DEPT, AFL-CIO	6,994.00	444.10
J. WILSON MALLOY JR., 1919 PENNSYLVANIA AVE., NW WASHINGTON DC 20006	EASTMAN CHEMICALS DIVISION	950.00	95.00
EUGENE J. MALONE, JR, 16002 EDGEWOOD DRIVE, DUMFRIES, VA 22026	CSX, INC		
ROBERT H. MALONEY, 490 L'ENFANT PLAZA EAST, SW WASHINGTON DC 20024	TENNECO, INC		
WILLIAM R. MALONI, 3900 WISCONSIN AVENUE, NW WASHINGTON DC 20016	FEDERAL NATIONAL MORTGAGE ASSN	22,500.00	2,991.32
MAN-MADE FIBER PRODUCERS ASSN, INC, 1150 17TH ST., NW, #310 WASHINGTON DC 20036		199,000.00	209,178.55
MANAGEMENT & GOVERNMENT RESOURCES, 1305 MT. HOLLY ROAD BURLINGTON NJ 08016	BURLINGTON COAT FACTORY	9,727.67	8,049.79
CARTER MANASCO, 5932 CHESTERBROOK RD. MCLEAN VA 22101	NATIONAL COAL ASSN	7,812.51	85.65
MANATT PHELPS ROTHENBERG TUNNEY & EVANS, 1200 NEW HAMPSHIRE AVE., NW, #200 WASHINGTON DC 20036	ALLIANCE FOR CAPITAL ACCESS	4,500.00	
Do	AMERICAN BANKERS ASSN	4,430.00	
Do	AMERICAN PETROFINA	565.00	
Do	AUTO IMPORTERS COMPLIANCE ASSOCIATION		
Do	BOEING CO	3,640.00	
Do	CHRONAR CORPORATION		
Do	CONNECTICUT NATIONAL BANK		
Do	EMPIRE BLUE CROSS & BLUE SHIELD	1,890.00	
Do	FIRST PENNSYLVANIA BANK		
Do	FLYING TIGER LINE, INC	210.00	
Do	GOVERNMENT OF CYPRUS	5,525.00	
Do	GOVERNMENT OF JAMAICA	1,000.00	
Do	HOUSING AMERICA FOUNDATION	12,277.50	
Do	JAMAICA BROADCASTING CORP		
Do	MANUFACTURERS HANOVER LEASING CORPORATION	1,365.00	
Do	MONEY STORE	1,240.00	
Do	NEW WORLD PICTURES		
Do	NORTHROP CORP	3,660.00	
Do	PYRAMID COMPANIES	10,150.00	
Do	RLC CORPORATION		
Do	ROLLINS ENVIRONMENTAL SERVICES	10,000.00	
Do	SECURITY FIRST GROUP	4,455.00	
Do	SOUTHERN CALIFORNIA RAPID TRANSIT DISTRICT	945.00	
Do	DONALD T. STERLING & ASSOCIATES		
MANCHESTER ASSOCIATES, LTD, 1155 15TH STREET, NW, #811 WASHINGTON DC 20005	TRAWEEK INVESTMENT CO, INC	5,680.00	
Do	CORPORACION NACIONAL DEL COBRE DE CHILE (CODELCO)	1,650.00	1,055.00
SUSAN MANES, 2030 M STREET, NW WASHINGTON DC 20036	NISSAN MOTOR COMPANY, LTD		
FRANK MANKIEWICZ, THE POWER HOUSE 3255 GRACE STREET, NW WASHINGTON DC 20007	COMMON CAUSE	10,500.00	101.85
Do	GRAY & CO PUBLIC COMMUNICATIONS INT'L, INC (FOR: AMERICAN EXPRESS CO)		
	GRAY & CO PUBLIC COMMUNICATIONS INT'L, INC (FOR: NATIONAL BROADCASTING CO).		
Do	GRAY & CO PUBLIC COMMUNICATIONS INT'L, INC (FOR: REPUBLIC OF TURKEY)	2,400.00	
Do	GRAY & CO PUBLIC COMMUNICATIONS INT'L, INC (FOR: TITLE INSURANCE INDUSTRY COALITION).		
DONALD W. MANN, 60-B FRANKLIN ST. TENAFLY NJ 07666	NEGATIVE POPULATION GROWTH, INC		
MANUFACTURED HOUSING INSTITUTE, 1745 JEFFERSON DAVIS HIGHWAY, #511 ARLINGTON VA 22202			4,900.00
MARCH FOR LIFE, INC, PO BOX 2950 WASHINGTON DC 20013		25,700.44	43,124.78
DAINE K. MARESCO, 1899 L STREET, NW, #403 WASHINGTON DC 20036	OUTDOOR ADVERTISING ASSN OF AMERICA, INC	338.00	269.00
R. V. MARIANI, 815 16TH ST., NW WASHINGTON DC 20006	BROTHERHOOD OF RAILWAY AIRLINE & STEAMSHIP CLERKS	4,300.00	4,300.00
DAN MARIOTT, 900 KENNECOTT BLDG, 10 E. SO. TEMPLE, SALT LAKE CITY, UT 84133	GUARDIAN LIFE INSURANCE CO OF AMERICA		
MARITIME INSTITUTE FOR RESEARCH & INDUSTRIAL DEVELOPMENT, 1133 15TH ST., NW, #600 WASHINGTON DC 20005			14,311.00

Organization or Individual Filing	Employer/Client	Receipts	Expenditures
RICHARD P. MARKEY, 729 15TH ST., NW WASHINGTON DC 20005	ASSOCIATED BUILDERS & CONTRACTORS, INC		
E. VERNON MARKHAM III, 2121 K STREET, NW, #830 WASHINGTON DC 20037	STEPHENS OVERSEAS SERVICES, INC		
LAWRENCE D. MARKLEY, P.O. BOX 196300 ANCHORAGE AK 99519	CHUGACH ELECTRIC ASSN, INC	570.00	94.67
RONALD ANTHONY MARKS, 10 WATERSIDE PLAZA, #2B NEW YORK NY 10010			
LUTHER A. MARKWART, 1156 15TH ST., NW, #1019 WASHINGTON DC 20005	AMERICAN SUGARBEET GROWERS ASSN		25.00
MARLOWE & COMPANY, 655 15TH STREET, NW, #300 WASHINGTON DC 20005	UNION CARBIDE CORP	5,000.00	21.48
HOWARD MARLOWE, 655 15TH STREET, NW, #300 WASHINGTON DC 20005	COALITION TO KEEP ALASKA OIL	2,125.00	50.94
Do	GRAPHIC COMMUNICATIONS INT'L UNION	1,612.50	44.00
CHALMERS H. MARQUIS, 1818 N ST., NW, #410 WASHINGTON DC 20036	NATIONAL ASSN OF PUBLIC TELEVISION STATIONS	600.00	150.00
LORI A. MARSDEN, 1015 15TH STREET, NW, #802 WASHINGTON DC 20005	AMERICAN CONSULTING ENGINEERS COUNCIL	200.00	
JOHN MARSH, 100 OAKVIEW DRIVE TRUMBULL CT 06611	RAYMARK CORPORATION		
THOMAS A. MARTENS, P.O. BOX 10110 SO. LAKE TAHOE CA 95731	LEAGUE TO SAVE LAKE TAHOE	8,000.00	
DANEA KEHOE MARTIN, 1922 F STREET, NW WASHINGTON DC 20006	NATIONAL ASSN OF LIFE UNDERWRITERS	215.00	
DAVID F. MARTIN, 2020 14TH STREET, NORTH ARLINGTON VA 22201	AMERICAN STANDARD INC	750.00	
DONALD N. MARTIN, DONALD N. MARTIN & COMPANY, INC 630 FIFTH AVE. NEW YORK NY 10111			
FRED J. MARTIN JR., 1800 K STREET, NW WASHINGTON DC 20006	BANKAMERICA CORPORATION	932.75	222.07
J. ROSS MARTIN, KANSAS PETROLEUM COUNCIL 1414 MERCHANTS NAT'L BANK BLDG. 8TH & JACKSON TOPEKA KS 66612	AMERICAN PETROLEUM INSTITUTE	1,350.00	1,284.64
JAMES D. MARTIN, 950 L'ENFANT PLAZA, SW WASHINGTON DC 20024	COMMUNICATIONS SATELLITE CORPORATION		
JOHN M. MARTIN JR., 1750 K STREET, NW WASHINGTON DC 20006	FOOD MARKETING INSTITUTE	100.00	
KATHERINE E. MARTIN, 412 FIRST ST., SE, #200 WASHINGTON DC 20003	ASSOCIATION OF AMERICAN RAILROADS	437.54	301.46
LARRY K. MARTIN, 1611 NORTH KENT STREET, #800 ARLINGTON VA 22209	AMERICAN APPAREL MANUFACTURERS ASSN, INC	1,500.00	50.00
ROBERT L. MARTIN, 1615 H STREET, NW WASHINGTON DC 20062	CHAMBER OF COMMERCE OF THE U.S.	7,500.00	
STEPHEN I. MARTIN, HARTFORD PLAZA HARTFORD CT 06115	HARTFORD FIRE INSURANCE CO		
JAMES C. MARTINELLI, 1025 CONNECTICUT AVENUE, NW, #300 WASHINGTON DC 20036	ENVIRONMENTAL MANAGEMENT CONSULTANTS, INC		
VILMA S. MARTINEZ, 612 S. FLOWER STREET, 5TH FLOOR LOS ANGELES CA 90017	MUNGER TOLLES & RICKERSHAUSER (FOR: SPANISH INTERNATIONAL COMMUNICATION CORP).	960.00	
ERNEST MARTY, 85 RIDGE ST. NORTH SIDNEY, NSW 2060 AUSTRALIA			
JUDITH MARTY, 85 RIDGE ST. NORTH SYDNEY, NSW 2060 AUSTRALIA			
MIKE M. MASAOKA, SUITE 520, THE FARRAGUT BLDG. 900 17TH ST., NW WASHINGTON DC 20006	AMERICAN JAPANESE TRADE COMM		
Do	JAPAN TELESCOPES MANUFACTURERS ASSN	200.00	
Do	NISEI LOBBY		
Do	TOYOTA MOTOR SALES, U.S.A., INC	750.00	
Do	WEST MEXICO VEGETABLE DISTRIBUTORS ASSN	500.00	
W. A. MASON, P.O. BOX 21106 SHREVEPORT LA 71156	SOUTHWESTERN ELECTRIC POWER CO		
NED W. MASSEE, 299 PARK AVENUE NEW YORK NY 10171	WESTVACO CORP	900.00	1,599.40
DONALD F. MASSEY, THE POWER HOUSE 3255 GRACE STREET, NW WASHINGTON DC 20007	GRAY & CO PUBLIC COMMUNICATIONS INT'L, INC (FOR: AGRICULTURE FOR MARKET ORIENTED POLICIES).	1,540.00	
Do	GRAY & CO PUBLIC COMMUNICATIONS INT'L, INC (FOR: ASARCO)		
Do	GRAY & CO PUBLIC COMMUNICATIONS INT'L, INC (FOR: CANADIAN ASBESTOS INFORMATION CENTRE).		
Do	GRAY & CO PUBLIC COMMUNICATIONS INT'L, INC (FOR: HITACHI AMERICA, LTD)	120.00	
Do	GRAY & CO PUBLIC COMMUNICATIONS INT'L, INC (FOR: HOOPA VALLEY INDIAN RESERVATION).	20.00	
Do	GRAY & CO PUBLIC COMMUNICATIONS INT'L, INC (FOR: JOINT MARITIME CONGRESS).	380.00	
Do	GRAY & CO PUBLIC COMMUNICATIONS INT'L, INC (FOR: KINGDOM OF MOROCCO)	240.00	
Do	GRAY & CO PUBLIC COMMUNICATIONS INT'L, INC (FOR: LANE INDUSTRIES, INC)		
Do	GRAY & CO PUBLIC COMMUNICATIONS INT'L, INC (FOR: MUTUAL OF OMAHA)	40.00	
Do	GRAY & CO PUBLIC COMMUNICATIONS INT'L, INC (FOR: RAUSCHENBERG OVERSEAS CULTURAL INTERCHANGE).	160.00	
Do	GRAY & CO PUBLIC COMMUNICATIONS INTL, INC (FOR: REPUBLIC OF KOREA)	60.00	
Do	GRAY & CO PUBLIC COMMUNICATIONS INT'L, INC (FOR: REPUBLIC OF TURKEY)	3,860.00	
Do	GRAY & CO PUBLIC COMMUNICATIONS INT'L, INC (FOR: TITLE INSURANCE INDUSTRY COALITION).	340.00	
Do	GRAY & CO PUBLIC COMMUNICATIONS INT'L, INC (FOR: UNITED AIRLINES)	80.00	
JAMES D. MASSIE, 1730 RHODE ISLAND AVENUE, NW, #400 WASHINGTON DC 20036	FREEPORT-MCMORAN, INC	300.00	337.00
DAWSON MATHIS & ASSOCIATES, 1800 M STREET, NW, #950 NORTH WASHINGTON DC 20036	CROWLEY MARITIME CORP	1,000.00	
Do	AMERICAN ELECTRONIC LABORATORIES, INC	1,000.00	
Do	MASSACHUSETTS MUTUAL LIFE INSURANCE CO	1,000.00	
Do	PACIFIC GAS & ELECTRIC	1,000.00	
Do	SOUTHEASTERN PEANUT ASSN	1,000.00	
Do	WESTINGHOUSE CORPORATION	1,000.00	
DAWSON MATHIS, 1800 M STREET, NW, #950 NORTH WASHINGTON DC 20036	DAWSON MATHIS & ASSOCIATES (FOR: AMERICAN ELECTRONIC LABORATORIES, INC).	1,000.00	
Do	COALITION AGAINST DOUBLE TAXATION, INC	1,000.00	
Do	JACK MCDONALD CO (FOR: COALITION FOR THE ADVANCEMENT OF INDUSTRIAL TECHNOLOGY).	2,030.30	
Do	DAWSON MATHIS & ASSOCIATES (FOR: CROWLEY MARITIME CORP)	1,000.00	
Do	JACK MCDONALD CO (FOR: FIBER FABRIC & APPAREL COALITION FOR TRADE)	1,500.00	
Do	DAWSON MATHIS & ASSOCIATES (FOR: MASSACHUSETTS MUTUAL LIFE INSURANCE CO).	1,000.00	
Do	DAWSON MATHIS & ASSOCIATES (FOR: PACIFIC GAS & ELECTRIC)	1,000.00	
Do	DAWSON MATHIS & ASSOCIATES (FOR: SOUTHEASTERN PEANUT ASSN)	1,000.00	
Do	DAWSON MATHIS & ASSOCIATES (FOR: WESTINGHOUSE CORPORATION)	1,000.00	
MARY HELEN MATHIS, 444 NORTH CAPITOL ST., #711 WASHINGTON DC 20001	KEEFE COMPANY (FOR: CARTERET SAVINGS & LOAN)	187.50	
Do	KEEFE COMPANY (FOR: CORDISH & EMBRY ASSOCIATES)	782.70	
Do	KEEFE COMPANY (FOR: ESSEX COUNTY)	973.17	
Do	KEEFE COMPANY (FOR: NEW YORK UNIVERSITY)	1,458.33	
Do	KEEFE COMPANY (FOR: PRECISION CONVERSION & RECOVERY)	166.67	
Do	KEEFE COMPANY (FOR: UNIVERSITY OF MEDICINE & DENTISTRY OF NEW JERSEY)	333.33	
CHARLES D. MATTHEWS, 1050 17TH ST., NW, #700 WASHINGTON DC 20036	NATIONAL OCEAN INDUSTRIES ASSN	2,084.51	
ROBERT A. MATTHEWS, 700 NORTH FAIRFAX ST. ALEXANDRIA VA 22314	RAILWAY PROGRESS INSTITUTE	1,021.88	
SUZETTE MATTHEWS, 2020 N. 14TH STREET, #410 ARLINGTON VA 22201	AIR TRAFFIC CONTROL ASSN, INC		
JOANNE E. MATTIACE, 633 PENNSYLVANIA AVENUE, NW, #600 WASHINGTON DC 20004	SEARS ROEBUCK & CO	120.00	67.70
JOSEPH M. MATTINGLY, 1901 NORTH MOORE STREET ARLINGTON VA 22209	GAS APPLIANCE MANUFACTURERS ASSN, INC		
MARSHALL L. MATZ, SCOTT HARRISON & MCLEOD 2501 M STREET, NW, 4TH FL. WASHINGTON DC 20037	AMERICAN SCHOOL FOOD SERVICE ASSN	9,000.00	331.41
Do	ELECTRONIC DATA SYSTEMS	6,000.00	227.30
C.V. & R.V. MAUDLIN, 1511 K STREET, NW, #535 WASHINGTON DC 20005	BRASS AND BRONZE INGOT INSTITUTE		
ANTHONY F. MAURIELLO, NEW YORK STATE PETROLEUM COUNCIL 150 STATE STREET ALBANY NY 12207	AMERICAN PETROLEUM INSTITUTE	2,873.56	2,441.29
MICHAEL MAWBY, 2030 M STREET, NW WASHINGTON DC 20036	COMMON CAUSE	9,250.02	262.70
THOMAS H. MAXEDON, KENTUCKY PETROLEUM COUNCIL 612-A SHELBY STREET FRANKFORT KY 40601	AMERICAN PETROLEUM INSTITUTE	1,467.48	1,394.17
WILLIAM A. MAXWELL, 311 FIRST STREET, NW, #500 WASHINGTON DC 20001	COMPUTER & BUSINESS EQUIPMENT MANUFACTURERS ASSN	1,400.00	37.57
WALTER R. MAY, 7004 PARK TERRACE DRIVE ALEXANDRIA VA 22307	YELLOW FREIGHT SYSTEM, INC	12,000.00	2,332.00
MAYBERRY AND LEIGHTON, 1667 K ST. NW, 9TH FL. WASHINGTON DC 20006	CLOROX COMPANY		
Do	EXPRESS FOODS CO, INC		
Do	GENERAL INSTRUMENT CORP		
Do	WHEY PRODUCTS INSTITUTE		
MAYER BROWN & PLATT, 2000 PENNSYLVANIA AVENUE, NW, #6500 WASHINGTON DC 20006	BANK OF AMERICA	40.00	
Do	BRUNSWICK CORP		
Do	CHEMICAL BANK	40.00	
Do	CITIBANK, N.A.	40.00	
Do	COMDISCO, INC		
Do	CONTINENTAL ILLINOIS NAT'L BANK & TRUST CO	40.00	
Do	COPELAND COMPANIES	168.75	
Do	GATX CORP		
Do	GOLDMAN SACHS & CO	225.00	
Do	INVEST TO COMPETE ALLIANCE	675.00	
Do	JMB REALTY CORP	450.00	
Do	LASALLE PARTNERS, INC		
Do	MERRILL LYNCH CAPITAL MARKETS		
Do	NATIONAL ASSN OF BROADCAST EMPLOYEES & TECHNICIANS	828.00	
Do	RTS CAPITAL CORP		
Do	SEARS ROEBUCK & CO		

Organization or Individual Filing	Employer/Client	Receipts	Expenditures
Do	UNION STATION VENTURE	450.00	
JEFFREY G. MAYS, 600 MARYLAND AVE., SW, #400E WASHINGTON DC 20024	AMERICAN OPTOMETRIC ASSN		
MICHAEL J. MCADAMS, 1015 18TH STREET, NW WASHINGTON DC 20036	FERTILIZER INSTITUTE	10,000.00	1,749.17
H. WESLEY MCADEN, 1155 15TH ST., NW, #504 WASHINGTON DC 20005	J. G. BOSWELL CO	3,000.00	
Do	NEW YORK COTTON EXCHANGE	2,000.00	
Do	SUPIMA ASSOCIATION OF AMERICA	2,000.00	
RICHARD G. MCALEE, 233 EAST REDWOOD STREET BALTIMORE MD 21202	GORDON FEINBLATT ROTHMAN HOFFBERGER & HOLLANDER (FOR: SINAI HOSPITAL OF BALTIMORE, INC).		
DOUGLAS E. MCALLISTER, 1920 N ST., NW WASHINGTON DC 20036	AMERICAN MINING CONGRESS		
ANN MCBRIDE, 2030 M ST., NW WASHINGTON DC 20036	COMMON CAUSE	14,148.78	257.50
R. G. MCBRIDE, MISSISSIPPI PETROLEUM COUNCIL P.O. BOX 42 JACKSON MS 39205	AMERICAN PETROLEUM INSTITUTE	2,500.00	3,143.92
STEPHEN C. MCCAFFREY, 1828 N. MERIDIAN STREET INDIANAPOLIS IN 46202	UNITED WAY OF INDIANAPOLIS		
JOHN A. MCCAHILL, 1250 CONNECTICUT AVE. NW WASHINGTON DC 20036	U.S. OLYMPIC COMMITTEE		
JOHN D. MCCALLUM, 1900 PENNSYLVANIA AVE., NW WASHINGTON DC 20068	POTOMAC ELECTRIC POWER CO		
KATHERINE S. MCCARTER, 1015 15TH STREET, NW WASHINGTON DC 20005	AMERICAN PUBLIC HEALTH ASSN	2,566.00	
CAROLYN KIM MCCARTHY, 7901 WESTPARK DRIVE MCLEAN VA 22102	NATIONAL MACHINE TOOL BUILDERS' ASSN	1,700.00	500.00
JAMES R. MCCARTHY, 1220 L STREET, NW WASHINGTON DC 20005	AMERICAN PETROLEUM INSTITUTE	200.00	
MCCARTY NOONE & WILLIAMS, 490 L'ENFANT PLAZA EAST, SW, #3306 WASHINGTON DC 20024	AMERICAN MEDICAL TECHNOLOGISTS	885.00	97.74
ROBIN W. MCCLUNG, 1667 K ST., NW, #1210 WASHINGTON DC 20006	ROHM AND HAAS CO	500.00	193.95
MCCLURE & TROTTER, 1100 CONNECTICUT AVE., NW, #600 WASHINGTON DC 20036	COCA-COLA COMPANY	5,402.25	498.50
Do	GULF & WESTERN INDUSTRIES, INC	5,965.76	427.08
Do	MOBIL OIL CORP	2,458.75	371.81
Do	NATIONAL ASSN OF SMALL BUSINESS INVESTMENT COS		
MARK L. MCCONAGHY, 1801 K ST., NW, #700 WASHINGTON DC 20006	PRICE WATERHOUSE (FOR: CEO TAX GROUP)	250.00	6.00
ROBERT S. MCCONNAUGHEY, 1850 K ST., NW WASHINGTON DC 20006	AMERICAN COUNCIL OF LIFE INSURANCE, INC		
JOHN L. MCCONNELL, 1800 K ST., NW, #1100 WASHINGTON DC 20006	NEW YORK STOCK EXCHANGE, INC		
HUGH T. MCCORMICK, 520 MADISON AVENUE NEW YORK NY 10022	GENERAL CONF OF THE 7TH DAY ADVENTISTS CHURCH RISK MGT SVCS	5,000.00	194.00
MARGARET M. MCCORMICK, 5017 FORBES AVENUE PITTSBURGH PA 15213	CARNEGIE-MELLON UNIVERSITY	4,416.39	4,827.92
ALVIN MCCOY, 2020 K ST., NW, #200 WASHINGTON DC 20006	NATIONAL FED OF FEDERAL EMPLOYEES		
DENNIS R. MCCOY, 1101 17TH STREET, NW WASHINGTON DC 20036	UNITED GAS PIPE LINE CO		
THOMAS MCCOY, 1771 N STREET, NW WASHINGTON DC 20036	NATIONAL ASSN OF BROADCASTERS		
DAVID F. MCDERMITT, 1235 JEFFERSON-DAVIS HIGHWAY, #606 ARLINGTON VA 22202	NATIONAL UTILITY CONTRACTORS ASSN		258.20
ALBERT L. MCDERMOTT, 1819 L STREET, NW, #600 WASHINGTON DC 20036	AMERICAN HOTEL & MOTEL ASSN	2,466.34	
MARIANNE MCDERMOTT, 1350 NEW YORK AVENUE, NW, #615 WASHINGTON DC 20005	GREETING CARD ASSN		
MARK T. MCDERMOTT, JOSEPH, POWELL, MCDERMOTT & REINER, P.C. 1300 19TH STREET, NW, #400 WASHINGTON DC 20036.	CIVIL PILOTS FOR REGULATORY REFORM		
MCDERMOTT WILL & EMERY, 1850 K ST., NW, #500 WASHINGTON DC 20006	BANKS OF IOWA	90.00	5.00
Do	BERRY HOLDING CO	350.00	10.60
Do	CATERPILLAR TRACTOR CO		
Do	FEDERAL KEMPER LIFE ASSURANCE COMPANY	121.50	2.00
Do	FEDERATION OF JAPAN SALMON FISHERIES COOPERATIVE ASSN		
Do	KEMPER INVESTORS LIFE INSURANCE CO	58.50	1.00
Do	LUMBERMAN MUTUAL CO		
Do	PUBLIC EMPLOYEES' RETIREMENT ASSN OF COLORADO	1,120.00	47.20
Do	TUNA RESEARCH FOUNDATION, INC		
E. T. MCDONALD, 815 16TH ST., NW WASHINGTON DC 20006	BROTHERHOOD OF RAILWAY AIRLINE & STEAMSHIP CLERKS	3,700.00	3,700.00
MICHAEL D. MCDONALD, MARYLAND PETROLEUM ASSN 60 WEST ST. ANNAPOLIS MD 21401	AMERICAN PETROLEUM INSTITUTE	2,400.00	372.41
PATRICK J. MCDONOUGH, 5999 STEVENSON AVENUE ALEXANDRIA VA 22304	AMERICAN ASSN FOR COUNSELING AND DEVELOPMENT		
MARIAN E. MCDOWELL, 1111 19TH STREET, NW WASHINGTON DC 20036	EDISON ELECTRIC INSTITUTE	2,402.32	508.84
DINAH D. MCELFRESH, 1255 23RD STREET, NW, #850 WASHINGTON DC 20037	HAUCK & ASSOCIATES (FOR: NATIONAL ASSN FOR CHILD CARE MANAGEMENT)		
RICK MCELHENY, 3255 GRACE STREET, NW WASHINGTON DC 20007	GRAY & CO PUBLIC COMMUNICATIONS INT'L, INC (FOR: INTERNATIONAL BROTHERHOOD OF TEAMSTERS).		
Do	GRAY & CO PUBLIC COMMUNICATIONS INT'L, INC (FOR: KINGDOM OF MOROCCO)	2,650.00	
ROBERT H. MCFADDEN, 1620 EYE STREET, NW, #1000 WASHINGTON DC 20006	MOTOR VEHICLE MANUFACTURERS ASSN OF THE U.S., INC		
PAUL J. MCGEADY, 27 HAMPTON PLACE NUTLEY NJ 07110	MORALITY IN MEDIA, INC		
DONNA LEE MCGEE, 1726 M ST., NW, #401 WASHINGTON DC 20036	BURLINGTON INDUSTRIES, INC	1,500.00	584.63
MICHAEL MCGEHEE, 1411 E. ABINGDON DRIVE ALEXANDRIA VA 22314	RESEARCH TO PREVENT BLINDNESS	4,187.50	812.50
P. ANNE MCGHEE, 1750 K ST., NW WASHINGTON DC 20006	FOOD MARKETING INSTITUTE	450.00	
PATRICIA G. MCGINNIS, FRANCIS MCGINNIS & REES 1000 POTOMAC ST., NW, #401 WASHINGTON DC 20007	NATIONAL PASSENGER TRAFFIC ASSN		
PHYLLIS M. MCGOVERN, 1875 EYE STREET, NW, #800 WASHINGTON DC 20006	TOBACCO INSTITUTE		
JEANNE H. MCGOWAN, 1025 CONNECTICUT AVENUE, NW, #415 WASHINGTON DC 20036	AMERICAN INSURANCE ASSN		
JEROME J. MCGRATH, 1660 L ST., NW, #601 WASHINGTON DC 20036	INTERSTATE NATURAL GAS ASSN OF AMERICA	500.00	
RICHARD L. MCGRAW, 950 L'ENFANT PLAZA, SW WASHINGTON DC 20024	COMMUNICATIONS SATELLITE CORP		
JOSEPH M. MCGUIRE, 1501 WILSON BLVD. ARLINGTON VA 22209	AIR CONDITIONING & REFRIGERATION INSTITUTE		
PETER E. MCGUIRE, 400 FIRST ST., NW WASHINGTON DC 20001	NATIONAL ASSN OF RETIRED & VETERAN RAILWAY EMPLOYEES	2,500.00	
MCGUIRE WOODS & BATTLE, ONE JAMES CENTER RICHMOND VA 23219	CSX CORP	2,592.00	51.00
Do	UNITED COAL CO	637.50	
MCHALE COOK & WELCH, P.C., 1122 CHAMBER OF COMMERCE BUILDING INDIANAPOLIS IN 46204	ESTATE OF MABEL R. LADD		
MCHENRY & STAFFIER, P.C., 1300 19TH ST., NW, #408 WASHINGTON DC 20036	FOOTHILLS PIPE LINES (YUKON) LTD		
Do	NOVA, AN ALBERTA CORP		
Do	NOVACOR CHEMICALS, LTD		
Do	PAN-ALBERTA GAS LTD		
CLARENCE M. MCINTOSH JR., 400 FIRST ST., NW WASHINGTON DC 20001	RAILWAY LABOR EXECUTIVES' ASSN	1,373.35	
DENNIS MCINTOSH, 1771 N STREET, NW WASHINGTON DC 20036	NATIONAL ASSN OF BROADCASTERS		
ROBERT MCINTYRE, 1313 L ST., NW WASHINGTON DC 20005	CITIZENS FOR TAX JUSTICE	7,641.04	15.00
JAN E. MCKENZIE, 1111 19TH ST., NW, #702 WASHINGTON DC 20036	EDISON ELECTRIC INSTITUTE	3,452.36	474.19
ROBERT T. MCKERNAN, 1619 MASSACHUSETTS AVE., NW WASHINGTON DC 20036	AMERICAN PAPER INSTITUTE, INC	250.00	
WILLIAM COLM MCKEVENY, 30 ROCKEFELLER PLAZA NEW YORK NY 10112	AMERICAN PULPWOOD ASSN		
C. A. 'MACK' MCKINNEY, 219 NORTH WASHINGTON STREET ALEXANDRIA VA 22314	NON COMMISSIONED OFFICERS ASSN OF THE USA	9,018.00	7,420.97
THOMAS I. MCKNEW JR., 1667 K ST., NW, #600 WASHINGTON DC 20006	SANTA FE SOUTHERN PACIFIC CORP	1,500.00	
JAMES D. MCLAUGHLIN, 1120 CONNECTICUT AVE., NW WASHINGTON DC 20036	AMERICAN BANKERS ASSN	450.00	
JAMES D. MCMILLAN, 1899 L ST., NW, #1100 WASHINGTON DC	EXXON CORPORATION	1,200.00	389.17
KURT CHARLES MCMILLAN, 1010 WISCONSIN AVENUE, NW, #800 WASHINGTON DC 20007	GROCERY MANUFACTURERS OF AMERICA, INC		
ROBERT R. MCMILLAN, 9 WEST 57TH STREET NEW YORK NY 10019	AVON PRODUCTS, INC		
MCNAIR GLENN KONDUROS CORLEY SINGLETARY PORTER & DIBBLE, 1155 15TH STREET, NW WASHINGTON DC 20005	AMERICAN PETROLEUM INSTITUTE		
Do	BRISTOL-MYERS CO		
Do	BUSINESS ROUNDTABLE		
Do	CBS, INC	2,100.00	200.00
Do	CHASE MANHATTAN BANK		
Do	COLT INDUSTRIES, INC	5,175.20	126.38
Do	CRS STIRRINE, INC		
Do	DART & KRAFT, INC		
Do	ENSERCH		
Do	ESPERANZA ENERGY CO		
Do	FOOD MARKETING INSTITUTE	3,500.00	
Do	GENERAL MILLS		
Do	GEORGIA PACIFIC CORP	7,800.00	
Do	GTE CORPORATION		
Do	GTE SPRINT COMMUNICATIONS	1,000.00	125.00
Do	INTELLECTUAL PROPERTY OWNERS, INC	600.00	100.00
Do	MESA PETROLEUM CO		
Do	MILLIKEN MILLS		
Do	NATIONAL ASSN OF REALTORS		
Do	NATIONAL CABLE TELEVISION ASSN		
Do	NATIONAL FOOTBALL LEAGUE		
Do	NORFOLK SOUTHERN CORP	12,000.00	1,000.00
Do	PHARMACEUTICAL MANUFACTURERS ASSN		
Do	SABINE CORPORATION		
Do	SONY CORP OF AMERICA	1,665.00	177.89
Do	TEXAS OIL & GAS CORP		
Do	WASTE MANAGEMENT, INC		
Do	WESSELY ENERGY CORP		
Do	WESTINGHOUSE ELECTRIC CORP	405.00	

Organization or Individual Filing	Employer/Client	Receipts	Expenditures
JOHN EDWARD MCNALLY, 11417 ORLEANS WAY KENSINGTON MD 20895			
KATHRYN M. MCNAMARA, 633 PENNSYLVANIA AVENUE, NW, #600 WASHINGTON DC 20004	SEARS ROEBUCK & CO	108.00	90.00
LARAMIE FAITH MCNAMARA, 1000 WILSON BLVD., #2700 ARLINGTON VA 22209	TRW, INC	1,000.00	
PATRICK H. MCNAMARA, 1800 M STREET, NW, #700 SOUTH WASHINGTON DC 20036	DOW CHEMICAL, U.S.A.		
MCNEILL & COMPANY, 1217 ELM STREET DENVER CO 80220			
PETER F. MCNEISH, 1156 15TH STREET, NW, #1101 WASHINGTON DC 20005	NATIONAL ASSN OF SMALL BUSINESS INVESTMENT COS	3,000.00	
MICHAEL J. MCSHANE, 1101 30TH STREET, NW, #500 WASHINGTON DC 20007	NATIONAL COMPUTER SYSTEMS		
RONALD E. MCWILLIAMS, 1700 N. MOORE ST. ROSSLYN VA 22209	BOEING MARINE SYSTEMS		
GEORGE G. MEAD, 1908 EDNOR ROAD CLOVERLY MD 20904	NORTH AMERICAN VAN LINES, INC	2,500.00	
JOSEPH F. MEADOW, 7100 BALTIMORE AVENUE COLLEGE PARK MD 20740	UNITED ACTION FOR ANIMALS, INC	1,350.00	
JOHN K. MEAGHER, 1025 THOMAS JEFFERSON STREET, NW WASHINGTON DC 20007	LTV CORPORATION	3,000.00	900.00
FRANCIS X. MEANEY, 1825 EYE STREET, NW WASHINGTON DC 20006	MINTZ LEVIN COHN FERRIS GLOVSKY & POPEO (FOR: REFUSE FUELS, INC)		
Do	MINTZ LEVIN COHN FERRIS GLOVSKY & POPEO (FOR: SCA SERVICES)		
JOSEPH J. MEDER, 1050 17TH ST., NW, #1100 WASHINGTON DC 20036	INTERLAKE, INC	10,500.00	
MEDTRONIC, INC, 3055 OLD HIGHWAY 8 P.O. BOX 1453 MINNEAPOLIS MN 55440			1,056.47
COLISE G. MEDVED, 1701 PENNSYLVANIA AVE., NW, #830 WASHINGTON DC 20006	PENN CENTRAL CORP		
WILLIAM H. MEGONNELL, 1111 19TH ST., NW, 9TH FLOOR WASHINGTON DC 20036	EDISON ELECTRIC INSTITUTE	653.85	87.64
RICHARD A. MEHLER, 1818 N STREET, NW, #200 WASHINGTON DC 20036	AUTOMOTIVE PARTS REBUILDERS ASSN		
LARRY MEHLHAFF, 23 N. SCOTT SHERIDAN WY 82801	SIERRA CLUB	6,500.00	3,544.88
MICHELLE MEIER, 2001 S STREET, NW, #520 WASHINGTON DC 20009	CONSUMERS UNION OF U.S., INC	1,000.00	
KENNETH F. MELLEY, 1201 16TH STREET, NW WASHINGTON DC 20036	NATIONAL EDUCATION ASSN		
MEMEL JACOBS PIERNO GERSH & ELLSWORTH, 1800 M STREET, NW, #1000-N WASHINGTON DC 20036	ALLIANCE FOR MEDICAL NUTRITION	2,000.00	1,750.00
MENDELSOHN ASSOCIATES, INC, 1826 JEFFERSON PLACE, NW, #101 WASHINGTON DC 20036	WOLF TRAP FOUNDATION FOR THE PERFORMING ARTS		
HOWARD A. MENELL, 1020 19TH ST., NW, #600 WASHINGTON DC 20036	AMERICAN EXPRESS CO		
EDWARD L. MENNING, 1522 K ST., NW, #836 WASHINGTON DC 20005	NATIONAL ASSN OF FEDERAL VETERINARIANS	32.16	
JANE MENTZINGER, 2030 M STREET, NW WASHINGTON DC 20036	COMMON CAUSE	5,225.04	
EDWARD A. MERLIS, 1724 MASSACHUSETTS AVENUE, NW WASHINGTON DC 20036	NATIONAL CABLE TELEVISION ASSN	2,925.00	
EDWARD L. MERRIGAN, 6000 CONNECTICUT AVE., NW WASHINGTON DC 20815	CENTRAL GULF LINES, INC	4,000.00	385.13
Do	NATIONAL ASSN OF RECYCLING INDUSTRIES, INC	7,500.00	254.44
Do	JOHN TUDOR		28.30
MERRILL LYNCH & CO, INC, 1828 L ST., NW, #906 WASHINGTON DC 20036			8,500.00
NANCY JO MERRILL, 1725 K ST., NW, #814 WASHINGTON DC 20006	MARCH OF DIMES BIRTH DEFECTS FOUNDATION	2,750.00	16.80
HAROLD E. MESIROW, 21 DUPONT CIRCLE, NW WASHINGTON DC 20036	WESTERN PIONEER, INC		
NEIL T. MESSICK, 1331 PENNSYLVANIA AVE., NW WASHINGTON DC 20004	GENERAL ELECTRIC CO	750.00	
JEAN L. MESTRES, 1747 PENNSYLVANIA AVENUE, NW, #300 WASHINGTON DC 20006	CITIES SERVICE OIL & GAS CORP	990.00	90.50
ANDREA L. METHVEN, 1050 17TH STREET, NW, #500 WASHINGTON DC 20036	TEXACO, INC	3.50	
M. BARRY MEYER, 818 CONNECTICUT AVE., NW WASHINGTON DC 20006	ALUMINUM ASSN	100.00	6.00
LARRY D. MEYERS, 412 FIRST STREET, SE WASHINGTON DC 20003	CPEX PACIFIC, INC		
Do	HUCHENG INTERNATIONAL CO		
Do	LEMA PROPERTIES, INC		
Do	NATIONAL PEANUT GROWERS GROUP	4,500.00	
Do	RICE BELT WAREHOUSE, INC	4,500.00	
Do	SAM KANE PACKING		
DAVID R. MICA, FLORIDA PETROLEUM INSTITUTE 325 JOHN KNOX RD., #F-210 TALLAHASSEE FL 32303	AMERICAN PETROLEUM INSTITUTE	1,742.30	2,465.50
JAMES G. MICHAUX, P.O. BOX 70297 WASHINGTON DC 20088	FEDERATED DEPT STORES, INC	500.00	
LAURIE MICHEL, 1850 K STREET, NW, #1100 WASHINGTON DC 20006	BALLARD SPAHR ANDREWS & INGERSOLL		
THOMAS A. MICHELETTI, 1111 19TH STREET, NW, #303 WASHINGTON DC 20036	SOUTHERN CALIFORNIA EDISON CO	3,750.00	1,500.00
KATHLEEN MICHELS, 1101 14TH STREET, NW, #200 WASHINGTON DC 20005	AMERICAN NURSES' ASSN	4,410.13	187.57
RONALD A. MICHIELI, 1301 PENNSYLVANIA AVE., NW, #300 WASHINGTON DC 20004	NATIONAL CATTLEMEN'S ASSN	1,000.00	
MID CONTINENT WILDCATTERS ASSN, 200 DOUGLAS BLDG. WICHITA KS 67202		5,000.00	
MID-CONTINENT OIL & GAS ASSN, 711 ADAMS OFFICE BLDG. TULSA OK 74103			
ROGER E. MIDDLETON, 1615 H STREET, NW WASHINGTON DC 20062	CHAMBER OF COMMERCE OF THE U.S.		
PAUL J. MIGNINI SR., 815 16TH STREET, NW, #310 WASHINGTON DC 20006	AMALGAMATED CLOTHING & TEXTILE WORKERS UNION	3,646.00	52.85
MIGRANT LEGAL ACTION PROGRAM, INC, 2001 S ST., NW, #310 WASHINGTON DC 20009			
MILBANK TWEED HADLEY & MCCLOY, 1825 EYE ST., NW WASHINTON DC 20006	CLAYMARK CORPORATION		
Do	JOINT TASK FORCE ON FEDERAL FINAN. ASSIST. FOR LAW STUDENTS		
MILES & STOCKBRIDGE, 1701 PENNSYLVANIA AVE., NW, #500 WASHINGTON DC 20006	BLACK AND DECKER MANUFACTURING COMPANY		100.00
Do	PEPSICO, INC		50.00
Do	PIZZA HUT, INC		375.00
HARRIS MILLER & ASSOCIATES, 1655 N. FORT MYER DR., #700 ARLINGTON VA 22209	AGRICULTURAL PRODUCERS	13,442.00	1,890.00
Do	FLORIDA FRUIT & VEGETABLE ASSN	600.00	85.00
Do	NATIONAL ASSN FOR FOREIGN STUDENT AFFAIRS	500.00	50.00
Do	U.S. ENGLISH	625.00	50.00
MILLER & CHEVALIER, CHTD, METROPOLITAN SQUARE 655 15TH STREET, NW WASHINGTON DC 20005	MOTOR VEHICLE MANUFACTURERS ASSN	11,206.87	10.10
Do	NATIONAL ASSN OF TEMPORARY SERVICES, INC		
MILLER CASSIDY LARROCA & LEWIN, 2555 M ST., NW, #500 WASHINGTON DC 20037	NATIONAL ASSN OF LIFE UNDERWRITERS, ET AL	1,125.00	
Do	47TH STREET PHOTO		
CLINTON R. MILLER, 5001 SEMINARY ROAD, #1330 ALEXANDRIA VA 22311	NATIONAL HEALTH FEDERATION	900.00	2,600.00
DALE MILLER, 4000 RENO ROAD, NW WASHINGTON DC 20008	TEXASGULF, INC	1,125.00	547.93
DAVID H. MILLER, 900 17TH STREET, NW WASHINGTON DC 20006	CHASE MANHATTAN BANK, N.A	166.25	40.56
DEBORAH IMLE MILLER, 15TH & M STS., NW WASHINGTON DC 20005	NATIONAL ASSN OF HOME BUILDERS OF THE U.S.		
GRANT MILLER, 1725 JEFFERSON DAVIS HIGHWAY, #900 ARLINGTON VA 22202	LTV AEROSPACE & DEFENSE CO	2,500.00	125.00
MILLER HAMILTON SNIDER & ODOM, P.O. BOX 46 MOBILE AL 36601	CAMP CARMOUCHE BARSH... (FOR SEARS ROEBUCK & CO)		1,285.86
Do	COLONIAL BANCGROUP, INC	4,730.00	3,385.67
HARRIS C. MILLER, 1747 PENNSYLVANIA AVENUE, #300 WASHINGTON DC 20006	OCCIDENTAL CHEMICAL CORP	840.00	
JEFFREY T. MILLER, P.O. BOX 1933 EAST HANOVER NJ 07936	NABISCO BRANDS, INC	516.00	50.00
JOSEPH E. MILLER JR., 1608 K STREET, NW WASHINGTON DC 20006	AMERICAN LEGION	7,054.00	44.75
NANCY A. MILLER, 1101 14TH STREET, NW WASHINGTON DC 20005	AMERICAN FINANCIAL SERVICES ASSN		
PAUL J. MILLER, 8000 SEARS TOWER CHICAGO IL 60606	INVESTMENT COUNSEL ASSN OF AMERICA, INC		
RICHARD G. MILLER, 1101 14TH STREET, NW, #200 WASHINGTON DC 20005	AMERICAN NURSES' ASSN	3,836.64	607.19
ROBERT H. MILLER, 490 L'ENFANT PLAZA EAST, SW, #2202 WASHINGTON DC 20024	TENNECO INC		35.00
ROBIN MILLER, 1925 K STREET, NW WASHINGTON DC 20006	ALLIANCE TO SAVE ENERGY		
STEVEN T. MILLER, 1607 NEW HAMPSHIRE AVENUE, NW WASHINGTON DC 20009	AMERICAN METAL DETECTORS MANUFACTURERS, INC		
Do	AUTO INTERNACIONAL ASSN		
Do	COALITION OF AUTOMOTIVE ASSNS		
Do	SPECIALTY EQUIPMENT MARKET ASSN		
JOHN C. MILLINER JR., P.O. BOX 1788 FOREST PARK GA 30051	SOUTHEASTERN LUMBER MANUFACTURERS ASSN		
AMY J. MILLMAN, 1875 EYE ST., NW, #500 WASHINGTON DC 20006	PHILIP MORRIS, INC	600.00	125.00
ROBERT G. MILLS, 3238 WYNFORD DRIVE FAIRFAX VA 22031	U.S. DEFENSE COMMITTEE	1,200.00	
RICHARD V. MINCK, 1850 K ST., NW WASHINGTON DC 20006	AMERICAN COUNCIL OF LIFE INSURANCE, INC	1,550.00	
JOHN H. MINER, ROOM 1414-SOUTH BUILDING, USDA WASHINGTON DC 20250	ORGANIZATION OF PROFESSIONAL EMPLOYEES OF USDA	750.00	
MINERALS EXPLORATION COALITION, INC, P.O. BOX 15638 DENVER CO 80215		461.15	351.60
MINING & RECLAMATION COUNCIL OF AMERICA, 1575 I STREET, NW, #525 WASHINGTON DC 20005			
JOSEPH G. MINISH, 66 SHERIDAN AVENUE WEST ORANGE NJ 07052	BAYAMON FEDERAL SAVINGS		
Do	CHRYSLER CORPORATION		
Do	U.S. LEAGUE OF SAVINGS INSTITUTIONS		
EDWARD F. MITCHELL, 1900 PENNSYLVANIA AVENUE, NW WASHINGTON DC 20068	POTOMAC ELECTRIC POWER CO	297.97	
JOANNE MITCHELL, 2020 K STREET, NW, #435 WASHINGTON DC 20006	COMMODITY EXCHANGE, INC	500.00	630.00
THOMAS F. MITCHELL, 1875 EYE ST., NW, #400 WASHINGTON DC 20006	GEORGIA-PACIFIC CORP		480.00
STACEY J. MOBLEY, 1701 PENNSYLVANIA AVENUE, NW, #900 WASHINGTON DC 20006	E. I. DU PONT DE NEMOURS & CO	55.00	
DAVID T. MODI, 1701 PENNSYLVANIA AVENUE, NW, #900 WASHINGTON DC 20006	E. I. DU PONT DE NEMOURS & CO	60.00	
ROBERT M. MOLITER, 1331 PENNSYLVANIA AVE., NW, #865 WASHINGTON DC 20004	GENERAL ELECTRIC CO		
JOHN V. MOLLER, 1155 15TH STREET, NW, #1010 WASHINGTON DC 20005	MANCHESTER ASSOCIATES (FOR: CORPORACION NACIONAL DEL COBRE DE CHILE (CODELCO))	528.00	25.00
Do	MANCHESTER ASSOCIATES, LTD (FOR: NISSAN MOTOR COMPANY, LTD)		
ROBERT A. MOLOFSKY, 5025 WISCONSIN AVENUE, NW WASHINGTON DC 20016	AMALGAMATED TRANSIT UNION, AFL-CIO	5,000.00	143.30
MICHAEL J. MOLONY, 1800 MASSACHUSETTS AVE., NW WASHINGTON DC 20036	NATIONAL RURAL ELECTRIC COOPERATIVE ASSN	60.00	
C. MANLY MOLPUS, P.O. BOX 3556 WASHINGTON DC 20007	AMERICAN MEAT INSTITUTE	1,000.00	
CHRISTOPHER MONEK, 1957 E ST., NW WASHINGTON DC 20006	ASSOCIATED GENERAL CONTRACTORS OF AMERICA		
MICHAEL MONRONEY, 1000 WILSON BLVD., #2700 ARLINGTON VA 22209	TRW, INC	1,000.00	
NANCY JACKS MONTGOMERY, 1601 DUKE STREET ALEXANDRIA VA 22314	SOCIETY OF AMERICAN FLORISTS		
STEVEN M. MOODIE, 910 16TH STREET, NW, RM. 402 WASHINGTON DC 20006	FEDERATION OF AMERICAN CONTROLLED SHIPPING	200.00	
JAMES P. MOONEY, 1724 MASSACHUSETTS AVE., NW WASHINGTON DC 20036	NATIONAL CABLE TELEVISION ASSN, INC	5,375.00	

Organization or Individual Filing	Employer/Client	Receipts	Expenditures
MARILYN MOONEY, 1701 PENNSYLVANIA AVENUE, NW, #900 WASHINGTON DC 20006	E. I. DU PONT DE NEMOURS & CO	207.90	
ALAN J. MOORE, 1667 K ST., NW, #600 WASHINGTON DC 20006	SANTA FE INDUSTRIES, INC	1,000.00	
CARLOS MOORE, 1101 CONNECTICUT AVENUE, NW, #300 WASHINGTON DC 20036	AMERICAN TEXTILE MANUFACTURERS INSTITUTE	2,628.10	114.00
FRANCIS B. MOORE, 3003 BUTTERFIELD ROAD OAK BROOK IL 60521	WASTE MANAGEMENT, INC	5,000.00	3,213.76
WALTER K. MOORE, 840 NORTH LAKE SHORE DRIVE CHICAGO IL 60611	AMERICAN HOSPITAL ASSN		315.86
WILLIAM D. MOORE, COMMERCE CENTER 30 EXCHANGE TERRACE PROVIDENCE RI 02903	GREATER PROVIDENCE CHAMBER OF COMMERCE		
MORALITY IN MEDIA, INC, 475 RIVERSIDE DR., #239 NEW YORK NY 10115			
VINCENT L. MORELLI, 555 NEW JERSEY AVE., NW, #880 WASHINGTON DC 20001	CONGOLEUM CORPORATION	2,000.00	412.77
DUDLEY DIGGES MORGAN III, 4900 BARONNE NEW ORLEANS LA 70115	SOUTHERN FOREST PRODUCTS ASSN	11,250.00	
E. JOYCE MORGAN, 1920 N ST., NW WASHINGTON DC 20036	AMERICAN MINING CONGRESS		
MORGAN LEWIS & BOCKIUS, SUITE 800 NORTH 1800 M ST., NW WASHINGTON DC 20036	ZALMAN C. BERNSTEIN	424.00	20.84
Do	COMMITTEE FOR CAP FORMATION THROUGH DIVIDEND REINVESTMENT		
ROBERT E. MORIN, 600 NEW HAMPSHIRE AVENUE, NW, #354 WASHINGTON DC 20037	SOCIETY OF REAL ESTATE APPRAISERS		
JAMES A. MORRILL, SCOTT PLAZA I PHILADELPHIA PA 19113	SCOTT PAPER COMPANY	2,250.00	43.52
GERALD D. MORRIS, 555 NEW JERSEY AVE., NW WASHINGTON DC 20001	AMERICAN FED OF TEACHERS	11,849.10	80.00
JANELLE MORRIS, 1828 L STREET, NW, #906 WASHINGTON DC 20036	MERRILL LYNCH & CO, INC		
MARTIN S. MORRIS, 1957 E STREET, NW WASHINGTON DC 20006	ASSOCIATED GENERAL CONTRACTORS OF AMERICA		
TESSA MORRIS, 1155 CONNECTICUT AVE., NW, #1130 WASHINGTON DC 20036	SECURITY PACIFIC NATIONAL BANK		
W. PATRICK MORRIS, 1110 VERMONT AVENUE, NW WASHINGTON DC 20005	SHIPBUILDERS COUNCIL OF AMERICA	1,000.00	
MORRISON & FOERSTER, 2000 PENNSYLVANIA AVE., NW WASHINGTON DC 20006	COMMUNITY REDEVELOPMENT AGENCIES ASSN		
Do	CONSOLIDATED FREIGHTWAYS		
Do	CROCKER NATIONAL BANK		
Do	NATIONAL ELECTRICAL MANUFACTURERS ASSN		
Do	ROSENBERG REAL ESTATE EQUITY FUND, INC		
WILLIAM C. MORRISON, 2001 NORTH ADAMS ST. ARLINGTON VA 22201	MEAT IMPORTERS COUNCIL OF AMERICA, INC	875.00	
COLLEEN T. MORROW, 676 FOURTH STREET, NE WASHINGTON DC 20002	AMERICANS FOR TAX REFORM	1,875.00	
VALERIE T. MORSE, 453 NEW JERSEY AVE., SE WASHINGTON DC 20003	BENEFICIAL MANAGEMENT CORP OF AMERICA	800.00	
FRANK D. MORUZZI, 1235 JEFFERSON DAVIS HIGHWAY, #500 ARLINGTON VA 22202	ITALIAN ADVANCED INDUSTRIES INC		
GEORGE R. MOSES, 1518 K ST., NW, #202 WASHINGTON DC 20005	M/A-COM, INC	2,400.00	
Do	TRW, INC	960.00	
RUSSELL N. MOSHER, 950 N. GLEBE RD., #160 ARLINGTON VA 22203	AMERICAN BOILER MANUFACTURERS ASSN, INC		
MOSS ASSOCIATES, INC, 2450 VIRGINIA AVE., NW WASHINGTON DC 20037	ASSOCIATION OF BANK HOLDING COS	900.00	
DOROTHY J. MOSS, 1101 VERMONT AVENUE, NW WASHINGTON DC 20005	AMERICAN MEDICAL ASSN	25.00	
GERALD J. MOSSINGHOFF, 1100 15TH STREET, NW, #900 WASHINGTON DC 20005	PHARMACUETICAL MANUFACTURERS ASSN	1,000.00	
BETH MOTEN, 2020 K STREET, NW, #200 WASHINGTON DC 20006	NATIONAL FED OF FEDERAL EMPLOYEES	6,630.00	
MOTION PICTURE ASSN OF AMERICA, INC, 1600 EYE STREET, NW WASHINGTON DC 20006		17,841.98	17,841.98
JOHN J. MOTLEY, 600 MARYLAND AVE., SW, #695 WASHINGTON DC 20024	NATIONAL FEDERATION OF INDEPENDENT BUSINESS	2,250.00	200.00
L. A. MOTLEY & CO, 1800 K STREET, NW, #1000 WASHINGTON DC 20006	ADICAL	45,000.00	1,200.00
MOTOR AND EQUIPMENT MANUFACTURERS ASSOCIATION, 1120 19TH ST., NW, #333 WASHINGTON DC 20036			3,024.59
MOTOR VEHICLE MANUFACTURERS ASSN OF THE U.S., INC, 300 NEW CENTER BLDG. DETROIT MI 48202		2,698.67	2,698.67
ROBERT N. MOTTICE, 1776 F STREET, NW WASHINGTON DC 20006	NATIONAL ASSN OF MANUFACTURERS	250.00	
MOUNTAIN WEST ASSOCIATES, 2121 K ST., NW, #880 WASHINGTON DC 20037	PUBLIC SERVICE COMPANY OF NEW MEXICO	11,512.50	686.67
MUDGE ROSE GUTHRIE ALEXANDER & FERNDON, 2121 K STREET, NW WASHINGTON DC 20037	BASIN ELECTRIC POWER COOPERATIVE		
Do	JAPAN LUMBER IMPROTERS ASSN		
ALBERT E. MULLIN JR., 111 POWDERMILL RD. (B79) MAYNARD MA 01754	DIGITAL EQUIPMENT CORPORATION	15,000.00	
TRACY MULLIN, 1000 CONNECTICUT AVE., NW, #700 WASHINGTON DC 20036	NATIONAL RETAIL MERCHANTS ASSN	250.00	25.00
ROBERT J. MULLINS, SUITE 202-W 600 MARYLAND AVENUE, SW WASHINGTON DC 20024	FARMERS' EDUCATIONAL & CO-OPERATIVE UNION OF AMERICA	8,064.00	
DONNA T. MUNDY, 2211 CONGRESS STREET PORTLAND ME 04122	UNION MUTUAL LIFE INSURANCE CO	250.00	1,699.56
DANIEL J. MURPHY, THE POWER HOUSE 3255 GRACE STREET, NW WASHINGTON DC 20007	GRAY & CO PUBLIC COMMUNICATIONS INT'L, INC (FOR: REPUBLIC OF TURKEY)		
LESTER L. MURPHY JR., P.O. BOX 4267 TOPEKA KS 66604	KANSAS ELECTRIC COOPERATIVES, INC		
PAUL T. MURPHY, 900 17TH ST., NW, #514 WASHINGTON DC 20006	NATIONAL FOREIGN TRADE COUNCIL, INC	5,000.00	482.00
RICHARD E. MURPHY, 1313 L ST., NW WASHINGTON DC 20005	SERVICE EMPLOYEES INTL UNION, AFL-CIO	1,000.00	164.22
MURRAY & SCHEER, 2550 M ST., NW, #695 WASHINGTON DC 20037	AMERICAN CYANAMID COMPANY	500.00	
Do	CHEMICAL MANUFACTURERS ASSN	200.00	
Do	CHICAGO, MILWAUKEE, ST. PAUL & PACIFIC RAILROADS	400.00	
Do	CLEVELAND CLIFFS IRON CO	250.00	
Do	CONNECTICUT MUTUAL LIFE INSURANCE CO	500.00	
Do	INDUSTRY COUNCIL FOR TANGIBLE ASSETS	450.00	
Do	IRON ORE LESSORS ASSN, INC	250.00	
Do	LTV CORPORATION	450.00	
Do	MASSACHUSETTS MUTUAL LIFE INSURANCE CO	500.00	
Do	MUTUAL BENEFIT LIFE	500.00	
Do	NATIONAL BUSINESS AIRCRAFT ASSN	500.00	
Do	NATIONAL COUNCIL OF COAL LESSORS	300.00	
Do	NEW ENGLAND MUTUAL LIFE INSURANCE CO	500.00	
Do	PENN MUTUAL LIFE INSURANCE CO	500.00	
Do	PROVIDENT MUTUAL LIFE INSURANCE CO OF PHILADELPHIA	500.00	
Do	SWAZILAND SUGAR ASSN	500.00	
DANIEL H. MURRAY, 1828 L STREET, NW WASHINGTON DC 20036	GTE SPRINT COMMUNICATIONS CORP		
GORDON L. MURRAY, 1911 JEFFERSON DAVIS HIGHWAY, #1002 ARLINGTON VA 22202	LEAR SIEGLER, INC/ENERGY PRODUCTS DIV	64.02	64.02
JAMES E. MURRAY, ONE FARRAGUT SQUARE SOUTH WASHINGTON DC 20006	BROWN WOOD IVEY MITCHELL & PETTY (FOR: NATIONAL ASSN OF SMALL BUSINESS INVESTMENT COS, ET AL.).		
MARGARET R. MURRAY, 600 NEW HAMPSHIRE AVENUE, NW, #626 WASHINGTON DC 20037	NATIONAL RURAL TELECOM ASSN	136.50	
ROBERT J. MUTH, 180 MAIDEN LN. NEW YORK NY 10038	ASARCO INC	200.00	
LAWRENCE P. MUTTER, 6849 OLD DOMINION DR. MCLEAN VA 22102	AUTOMOTIVE PARTS REBUILDERS ASSN		
FRED J. MUTZ, 1120 CONNECTICUT AVE., NW WASHINGTON DC 20036	AMERICAN BANKERS ASSN	2,000.00	
PAUL J. MYER, 1150 17TH ST., NW, 11TH FLOOR WASHINGTON DC 20036	AMERICAN BROADCASTING CO, INC		
GARY D. MYERS, 1015 18TH STREET, NW WASHINGTON DC 20036	FERTILIZER INSTITUTE	4,500.00	92.40
TIMOTHY D. NAEGELE & ASSOCIATES, 1850 K STREET, NW, #1280 WASHINGTON DC 20006	BAYBANKS, INC		
ALAN Y. NAFTALIN, 1150 CONNECTICUT AVENUE, NW WASHINGTON DC 20036	KOTEEN & NAFTALIN (FOR: ALASCOM, INC)		
Do	KOTEEN & NAFTALIN (FOR: TELEPHONE & DATA SYSTEMS, INC)		
STEPHEN M. NAGLER, 533 SOUTH AVENUE WEST WESTFIELD NJ 07090	PATLEX CORPORATION	15,000.05	68.84
PETER A. NALEWAIK, 4 WORLD TRADE CENTER NEW YORK NY 10048	COFFEE SUGAR & COCOA EXCHANGE, INC		
JOHN L. NAPIER, NAPIER AND JENNINGS P.O. DRAWER 995 BENNETTSVILLE SC 29512	NATIONAL BEER WHOLESALERS' ASSN OF AMERICA, INC		
Do	OREGON INLET COMMISSION	3,900.00	261.33
JOHN FRANCIS NASH JR., 214 MASSACHUSETTS AVE., NE, #420 WASHINGTON DC 20002	MILLIKEN & CO	5,000.00	2,600.00
FRANCES E. NATHAN, 455 FIFTH AVENUE NEW YORK NY 10016	NEW YORK PUBLIC LIBRARY	5,021.00	
HARDY L. NATHAN, 1750 K ST., NW WASHINGTON DC 20006	FOOD MARKETING INSTITUTE	750.00	
RAYMOND NATHAN, 4242 EAST-WEST HWY CHEVY CHASE MD 20815	AMERICAN ETHICAL UNION	800.00	394.78
NATIONAL AGRICULTURAL CHEMICALS ASSN, 1155 15TH ST., NW WASHINGTON DC 20005		6,849.88	6,849.88
NATIONAL AIR CARRIER ASSN, 1730 M ST., NW, #710 WASHINGTON DC 20036			
NATIONAL ASSN FOR BIOMEDICAL RESEARCH, 1275 K STREET, NW, #900 WASHINGTON DC 20005		73,600.00	12,159.11
NATIONAL ASSN FOR NEIGHBORHOOD SCHOOLS, INC, 335 LOCUST ST. PITTSBURGH PA 15218		1,115.52	1,308.83
NATIONAL ASSN FOR UNIFORMED SERVICES, 5535 HEMPSTEAD WAY SPRINGFIELD VA 22151		4,661.33	2,576.16
NATIONAL ASSN OF AIR TRAFFIC SPECIALISTS, WHEATON PLAZA NORTH, #415 WHEATON MD 20902			7,467.03
NATIONAL ASSN OF AIRCRAFT & COMMUNICATIONS SUPPLIERS, INC, 23871 MADISON TORRANCE CA 90505			2,820.27
NATIONAL ASSN OF FEDERAL VETERINARIANS, 1522 K ST., NW, #836 WASHINGTON DC 20005			67.96
NATIONAL ASSN OF HOMES FOR CHILDREN, C/O TALCOTT, MCCABE & ASSOCIATES 600 MARYLAND AVE., SW, 302 W. WING WASHINGTON DC 20024.			2,150.00
NATIONAL ASSN OF INSURANCE BROKERS, INC, 1401 NEW YORK AVE., NW, #720 WASHINGTON DC 20005			500.00
NATIONAL ASSN OF MANUFACTURERS, 1776 F ST., NW WASHINGTON DC 20006		97,398.16	97,398.16
NATIONAL ASSN OF MARGARINE MFGRS, 1625 I ST., NW, #1024-A WASHINGTON DC 20006		3,000.00	100.00
NATIONAL ASSN OF MUTUAL INSURANCE COS, 3707 WOODVIEW TRACE P.O. BOX 68700 INDIANAPOLIS IN 46268			
NATIONAL ASSN OF PENSION CONSULTANTS & ADMINISTRATORS, INC, 359 E. PACES FERRY RD., NE ATLANTA GA 30305		400.00	5,719.55
NATIONAL ASSN OF REAL ESTATE INVESTMENT TRUSTS, INC, 1101 17TH ST., NW, #700 WASHINGTON DC 20036			22,485.27
NATIONAL ASSN OF STEVEDORES, 2011 I STREET, NW, #601 WASHINGTON DC 20006		3,250.00	2,130.00
NATIONAL ASSN OF TEMPORARY SERVICES, INC, 119 SOUTH SAINT ASAPH STREET ALEXANDRIA VA 22314		27,000.00	
NATIONAL ASSN OF TRUCK STOP OPERATORS, INC, 1199 N. FAIRFAX STREET, #801 ALEXANDRIA VA 22314		650.00	650.00
NATIONAL AUTOMOBILE DEALERS ASSN, 8400 WESTPARK DRIVE MCLEAN VA 22102		10,000.00	17,375.00
NATIONAL BROILER COUNCIL, 1155 15TH ST., NW WASHINGTON DC 20005		2,750.00	2,750.00
NATIONAL BUSINESS AIRCRAFT ASSN, 1200 18TH ST., NW WASHINGTON DC 20036			
NATIONAL CABLE TELEVISION ASSN, INC, 1724 MASSACHUSETTS AVE., NW WASHINGTON DC 20036		30,656.24	30,656.24
NATIONAL CATTLEMEN'S ASSN, 1301 PENNSYLVANIA AVE., NW, #300 WASHINGTON DC 20004			4,000.00

Organization or Individual Filing	Employer/Client	Receipts	Expenditures
NATIONAL CITIZENS COMMUNICATIONS LOBBY, P.O. BOX 1876 IOWA CITY IA 52244			
NATIONAL COAL ASSN, 1130 17TH STREET, NW WASHINGTON DC 20036		851,250.83	14,858.93
NATIONAL COALITION FOR MARINE CONSERVATION, INC, P.O. BOX 23298 SAVANNAH GA 31403		27,245.00	18,185.49
NATIONAL COALITION TO BAN HANDGUNS, 100 MARYLAND AVE., NE WASHINGTON DC 20002			
NATIONAL COMM FOR CITIZENS IN EDUCATION, WILDE LAKE VILLAGE GREEN, #410 COLUMBIA MD 21044			
NATIONAL COMM TO PRESERVE SOCIAL SECURITY & MEDICARE, 1300 19TH STREET, NW, #310 WASHINGTON DC 20036		617,677.00	617,677.00
NATIONAL COMMERCIAL FINANCE ASSOCIATION, 225 W. 34TH ST. NEW YORK NY 10001		10,000.00	2,003.00
NATIONAL COTTON COUNCIL OF AMERICA, P.O. BOX 12285 MEMPHIS TN 38182		62,719.91	62,719.91
NATIONAL ELECTRICAL MFGRS ASSN, 2101 L ST., NW WASHINGTON DC 20037		2,373.89	2,373.89
NATIONAL FEDERATION OF FEDERAL EMPLOYEES, 2020 K ST., NW, #200 WASHINGTON DC 20006		20,319.76	20,319.76
NATIONAL FEDERATION OF INDEPENDENT BUSINESS, 150 W. 20TH AVE. SAN MATEO CA 94403		20,122.45	20,122.45
NATIONAL FERTILIZER SOLUTIONS ASSN, 10777 SUNSET OFFICE DRIVE, #10 ST. LOUIS MO 63127			
NATIONAL FOOD PROCESSORS ASSN, 1401 NEW YORK AVENUE, NW, #400 WASHINGTON DC 20005		1,226.40	1,226.40
NATIONAL FOREIGN TRADE COUNCIL, INC, 100 EAST 42ND ST. NEW YORK NY 10017		39,720.09	39,720.09
NATIONAL GRAIN & FEED ASSN, 725 15TH ST., NW WASHINGTON DC 20005			50.00
NATIONAL GRANGE, 1616 H ST., NW WASHINGTON DC 20006		20,700.00	20,700.00
NATIONAL GUARD ASSN OF THE U.S., ONE MASSACHUSETTS AVE., NW WASHINGTON DC 20001		96,192.00	1.12
NATIONAL HEALTH CARE FINANCING ASSN, P.O. BOX 946 HOLLY HILL FL 32017			
NATIONAL INDUSTRIAL TRANSPORTATION LEAGUE, 1090 VERMONT AVE., NW, #410 WASHINGTON DC 20005		12,000.00	11,485.25
NATIONAL KNITWEAR & SPORTSWEAR ASSN, 386 PARK AVENUE SOUTH NEW YORK NY 10016			15,237.00
NATIONAL LEAGUE OF POSTMASTERS OF THE U.S., 1023 NORTH ROYAL STREET ALEXANDRIA VA 22314			46,345.00
NATIONAL MILK PRODUCERS FED, 1840 WILSON BLVD. ARLINGTON VA 22201		12,718.32	12,718.32
NATIONAL MULTI HOUSING COUNCIL, 1250 CONNECTICUT AVE., NW, #620 WASHINGTON DC 20036			7,850.78
NATIONAL PARKING ASSOCIATION, 1112 16TH ST., NW WASHINGTON DC 20036			30,874.03
NATIONAL PEACH COUNCIL, P.O. BOX 1085 MARTINSBURG WV 25401			
NATIONAL PEST CONTROL ASSN, 8100 OAK ST. DUNN LORING VA 22027			
NATIONAL REALTY COMMITTEE, 1250 CONNECTICUT AVE., NW, #303 WASHINGTON DC 20036		2,753.19	2,753.19
NATIONAL REHABILITATION ASSN, 633 S. WASHINGTON ST. ALEXANDRIA VA 22314			4,500.00
NATIONAL RETAIL MERCHANTS ASSN, 1000 CONNECTICUT AVENUE, NW WASHINGTON DC 20036			3,265.00
NATIONAL RIGHT TO WORK COMM, 8001 BRADDOCK RD., #600 SPRINGFIELD VA 22160		7,123.75	7,123.75
NATIONAL RURAL ELECTRIC COOPERATIVE ASSN, 1800 MASSACHUSETTS AVE., NW WASHINGTON DC 20036			2,796.16
NATIONAL RURAL LETTER CARRIERS' ASSN, 1448 DUKE ST., #100 ALEXANDRIA VA 22314		17,223.00	18,892.00
NATIONAL SECURITY TRADERS ASSN, INC, ONE WORLD TRADE CENTER, #4511 NEW YORK NY 10048			4,375.00
NATIONAL SMALL BUSINESS ASSN, 1604 K ST., NW WASHINGTON DC 20006		5,000.00	1,690.57
NATIONAL SOCIETY OF PROFESSIONAL ENGINEERS, 1420 KING STREET ALEXANDRIA VA 22314		12,500.00	10,100.00
NATIONAL SOFT DRINK ASSN, 1101 16TH ST., NW WASHINGTON DC 20036			531.11
NATIONAL SOLID WASTES MANAGEMENT ASSN, 1730 RHODE ISLAND AVE., NW, 10TH FL. WASHINGTON DC 20036			
NATIONAL TELEPHONE COOPERATIVE ASSN, 2626 PENNSYLVANIA AVE., NW WASHINGTON DC 20037			13,139.68
NATIONAL VENTURE CAPITAL ASSOCIATION, 1655 N. FORT MEYER DR., #700 ARLINGTON VA 22209			2,000.00
NATIONAL-AMERICAN WHOLESALE GROCERS' ASSN, 201 PARK WASHINGTON COURT FALLS CHURCH VA 22046		6,000.00	6,000.00
MICHAEL W. NAYLOR, 1050 CONNECTICUT AVE., NW, #800 WASHINGTON DC 20036	ALLIED-SIGNAL, INC		
KAREN J. NEALE, 2501 M STREET N.W. WASHINGTON DC 20037	CHEMICAL MANUFACTURERS ASSN, INC	465.00	163.30
JEFFREY NEDELMAN, 1010 WISCONSIN AVENUE, NW, #800 WASHINGTON DC 20007	GROCERY MANUFACTURERS OF AMERICA, INC	116.35	
STANLEY NEHMER, 1320 19TH STREET, NW, #600 WASHINGTON DC 20036	LEAD-ZINC PRODUCERS COMMITTEE	500.00	350.00
NEIGHBORHOOD HOUSING SERVICES OF AMERICA, 1951 WEBSTER STREET OAKLAND CA 94612			
NEILL & COMPANY, INC, 900 17TH ST., NW, #400 WASHINGTON DC 20006	ARAB REPUBLIC OF EGYPT	180,000.00	4,600.00
Do	HASHEMITE KINGDOM OF JORDAN	55,000.00	1,000.00
Do	INTERNATIONAL TELECOMMUNICATIONS SATELLITE ORGANIZATION	8,000.00	1,350.00
Do	KINGDOM OF MOROCCO		1,150.00
NEILL MULLENHOLZ SHAW & SEEGER, 900 17TH ST., NW, #400 WASHINGTON DC 20006	HASHEMITE KINGDOM OF JORDAN		
Do	KINGDOM OF MOROCCO		
Do	NATIONAL COUNCIL SOCIAL SECURITY MANAGEMENT ASSNS, INC	2,000.00	600.00
Do	NATIONAL FARM & POWER EQUIPMENT DEALERS ASSN	1,500.00	
Do	PHH GROUP	3,454.00	
Do	SENIOR EXECUTIVES ASSN	5,000.00	250.00
Do	SOO LINE CORP	2,500.00	25.90
DOUGLAS J. NEILSON, 8111 GATEHOUSE ROAD FALLS CHURCH VA 22047	AAA POTOMAC		
NELSON & YUDIN, 1707 H ST., NW, #500 WASHINGTON DC 20006	BUS TRANSIT CAUCUS	1,921.25	55.33
CAROLYN B. NELSON, #2 METROPLEX DR., SUITE 500 BIRMINGHAM AL 35209	METROPOLITAN PROPERTIES, INC		
MARK D. NELSON, 1701 PENNSYLVANIA AVE., NW, #900 WASHINGTON DC 20036	E. I. DU PONT DE NEMOURS & CO		
SAMUEL B. NEMIROW, 1818 N STREET, NW WASHINGTON DC 20036	LYKES BROS. STEAMSHIP CO, INC		
MARK NESTLEN, 1616 H STREET, NW WASHINGTON DC 20006	NATIONAL GRANGE	4,500.00	
NETWORK, 806 RHODE ISLAND AVE., NE WASHINGTON DC 20018		26,458.48	29,696.43
E. JOHN NEUMANN, 1100 CONNECTICUT AVE., NW, #820 WASHINGTON DC 20036	BALTIMORE GAS & ELECTRIC CO	3,381.00	1,641.04
NEW YORK COMM OF INTL COMM OF PASSENGER LINES, 74 TRINITY PLACE NEW YORK NY 10006			
NEW YORK SHIPPING ASSN, INC, 80 BROAD STREET, 12TH FL. NEW YORK NY 10004			
LESLIE F. NEWCOMER, 226 W. RITTENHOUSE SQUARE PHILADELPHIA PA 19103	PHILADELPHIA NATIONAL BANK		
NEWMAN & HOLTZINGER, P.C., 1615 L ST., NW, #1000 WASHINGTON DC 20036	UTILITY NUCLEAR WASTE MANAGEMENT GROUP		
WILLIAM B. NEWMAN JR., P.O. BOX 23451 WASHINGTON DC 20024	CONSOLIDATED RAIL CORPORATION	4,150.00	
NICHOLAS JOHN NICHOLS, 1620 EYE ST., NW WASHINGTON DC 20006	AMERICAN INST OF CERTIFIED PUBLIC ACCOUNTANTS	1,000.00	14,095.70
THOMAS NICKELS, 1101 14TH STREET, NW, #200 WASHINGTON DC 20005	AMERICAN NURSES' ASSN	5,143.96	388.04
NICKERSON INGRAM VENTO & ASSOCIATES, 8508 MT. ZEPHYR DR. ALEXANDRIA VA 22309	FEDERAL LAW ENFORCEMENT OFFICERS ASSN		
Do	SYSTEMS CONTROL TECHNOLOGY, INC		
PATRICK J. NILAN, 817 14TH ST., NW WASHINGTON DC 20005	AMERICAN POSTAL WORKERS UNION, AFL-CIO	10,360.78	1,578.25
NISSAN MOTOR CORPORATION IN U.S.A., 1919 PENNSYLVANIA AVENUE, NW, #707 WASHINGTON DC 20006			
JOHN L. NOBLE, ONE AMERICAN PLAZA EVANSTON IL 60201	AMERICAN HOSPITAL SUPPLY CORP		
BARBARA D. NOCERA, 955 L'ENFANT PLAZA, SW, #905 WASHINGTON DC 20024	AMERICAN HONDA MOTOR CO, INC	200.00	
A. ALLAN NOE, 1828 L STREET, NW, #710 WASHINGTON DC 20036	CHESEBROUGH-POND'S INC	1,500.00	1,195.06
ROBERT W. NOLAN, 1303 NEW HAMPSHIRE AVE., NW WASHINGTON DC 20036	FLEET RESERVE ASSN	100.00	
WALKER F. NOLAN, 1111 19TH ST., NW, 9TH FL. WASHINGTON DC 20036	EDISON ELECTRIC INSTITUTE	11,264.02	749.01
H. CHRISTOPHER NOLDE, 2501 M ST., NW WASHINGTON DC 20037	CHEMICAL MANUFACTURERS ASSN, INC	750.00	181.50
CHARLES M. NOONE, 490 L'ENFANT PLAZA EAST, SW, #3306 WASHINGTON DC 20024	NATIONAL ASSN OF SMALL BUSINESS INVESTMENT COS	1,200.00	12.29
WILLIE ERVINE NORMAN, P.O. BOX 1000 SEAGSVILLE TX 75159			
GROVER G. NORQUIST, 718 NORTH CAROLINA AVE., SE WASHINGTON DC 20003	AMERICANS FOR TAX REFORM	3,750.00	
JULIA J. NORRELL, 1850 K ST., NW WASHINGTON DC 20006	AMERICAN COUNCIL OF LIFE INSURANCE, INC	5,325.00	119.61
NORTH AMERICAN EXPORT GRAIN ASSN, INC, 1747 PENNSYLVANIA AVE., NW, #1175 WASHINGTON DC 20006			
NORTH AMERICAN TELECOMMUNICATIONS ASSOCIATION, 2000 M ST., NW, #550 WASHINGTON DC 20036		20,100.00	20,100.00
EVANS W. NORTH, 1216 16TH STREET, NW WASHINGTON DC 20036			
NORTHEAST UTILITIES SERVICE CO, SELDEN ST. BERLIN CT 06037			1,453.73
NORTHERN TELECOM, INC, 600 MARYLAND AVENUE, SW, #605 WASHINGTON DC 20024			
MARY JANE NORVILLE, 600 MARYLAND AVENUE, SW, #695 WASHINGTON DC 20024	NATIONAL FED OF INDEPENDENT BUSINESS	2,250.00	200.00
MICHAEL NOVELLI, 3012 CAMBRIDGE PLACE, NW WASHINGTON DC 20007	PACIFIC POTOMAC SERVICES		
P. MICHAEL NUGENT, SUITE 1300, NORTH TOWER 1331 PENNSYLVANIA AVE., NW WASHINGTON DC 20004	ELECTRONIC DATA SYSTEMS CORPORATION	128.00	162.00
CYNTHIA H. NULL, 1200 17TH STREET, NW WASHINGTON DC 20036	FEDERATION OF BEHAVIORAL PSYCHOLOGICAL & COGNITIVE SCIENCES	34.00	
RALPH D. NURNBERGER, 500 NORTH CAPITOL STREET, NW, #300 WASHINGTON DC 20001	AMERICAN ISRAEL PUBLIC AFFAIRS COMM	11,763.48	688.74
C.D. NYBERG, P.O. BOX 800 AUSTIN MN 55912	GEO. A. HORMEL & CO		
HUBERT K. O'BANNON, P.O. BOX 23451 WASHINGTON DC 20026	CONSOLIDATED RAIL CORPORATION	2,130.00	
GEORGE O'BEA JR., 815 16TH STREET, NW, #701 WASHINGTON DC 20006	UNITED PAPERWORKERS INT'L UNION		
COLEMAN C. O'BRIEN, 1709 NEW YORK AVE., NW, #801 WASHINGTON DC 20006	U.S. LEAGUE OF SAVINGS INSTITUTIONS	9,125.00	12.75
JOHN F. O'BRIEN, CONNECTICUT PETROLEUM COUNCIL 410 ASYLUM ST. HARTFORD CT 06103	AMERICAN PETROLEUM INSTITUTE		
RAYMOND V. O'BRIEN, 1600 M ST., NW WASHINGTON DC 20036	INTERNATIONAL TELEPHONE & TELEGRAPH CORPORATION	800.00	105.00
ROSEMARY L. O'BRIEN, 2550 M ST., NW, #640 WASHINGTON DC 20037	CF INDUSTRIES, INC	500.00	
THOMAS H. O'BRIEN, 2600 VIRGINIA AVENUE, NW, #800 WASHINGTON DC 20037	HARRIS CORPORATION	2,500.00	1,445.25
DAVID S. O'BRYON, 7297 LEE HIGHWAY, UNIT N FALLS CHURCH VA 22042	AMERICAN TEXTILE MACHINERY ASSN	250.00	
SHANNON O'CHESTER, 122 C STREET, NW, #800 WASHINGTON DC 20001	CONCERNED WOMEN FOR AMERICA		
JAMES J. O'CONNELL, 1201 PENNSYLVANIA AVENUE, NW WASHINGTON DC 20004	CONTROL DATA CORPORATION	240.50	172.82
RICHARD T. O'CONNELL, RICHARD T. O'CONNELL & ASSOCIATES, INC 3208 TRAVELER STREET FAIRFAX VA 22030	CHOCOLATE MANUFACTURERS ASSN OF THE USA		5.25
Do	NATIONAL CONFECTIONERS ASSN OF THE U.S		5.25
TERRENCE M. O'CONNELL II , 444 N. CAPITOL STREET, #711 WASHINGTON DC 20001	KEEFE COMPANY (FOR: WESTINGHOUSE ELECTRIC CORP)		
WILLIAM B. O'CONNELL, 111 EAST WACKER DR. CHICAGO IL 60601	U.S. LEAGUE OF SAVINGS INSTITUTIONS	21,437.00	3,374.05
O'CONNOR & HANNAN, 1919 PENNSYLVANIA AVE., NW, #800 WASHINGTON DC 20006	ALLIANCE FOR CAPITAL ACCESS	2,000.00	
Do	AMERICAN BUS ASSN	19,928.43	
Do	AMERICAN CLINICAL LABORATORY ASSN	1,250.00	

Organization or Individual Filing	Employer/Client	Receipts	Expenditures
Do	AMERICAN FAMILY LIFE ASSURANCE CO		
Do	AMERICAN INST OF CERTIFIED PUBLIC ACCOUNTANTS	3,098.00	
Do	AMERICAN INSURANCE ASSN	12,521.00	
Do	AMERICAN SOC OF ASSOCIATION EXECUTIVES	8,118.60	
Do	AMERICAN TRUCKING ASSNS, INC		
Do	ARMCO, INC		
Do	ASSOCIATION OF INDEPENDENT TELEVISION STATIONS, INC	24,635.92	
Do	AUTOMOTIVE PARTS & ACCESSORIES ASSN		
Do	BALFOUR BEATTY LIMITED (BIIC)		
Do	CALIFORNIA STUDENT LOAN FINANCE CORP	2,275.83	
Do	CENTER FOR ENVIRONMENTAL EDUCATION	4,671.25	
Do	CHAMBER OF COMMERCE OF THE U.S.		
Do	CHEMWASTE	8,350.91	
Do	CITY OF MINNEAPOLIS	1,500.00	
Do	CNA INSURANCE	5,637.91	
Do	CONNAUGHT LABORATORIES, INC	13,144.10	
Do	CONSOLIDATED RAIL CORP	2,343.75	
Do	DIMENSIONS, INC	6,750.00	
Do	ELECTRONIC DATA SYSTEMS CORPORATION	1,000.00	
Do	EMBASSY OF ECUADOR		
Do	EMPLOYERS COUNCIL ON FLEXIBLE COMPENSATION		
Do	GLASS PACKAGING INSTITUTE		
Do	HEALTH CARE FINANCING STUDY GROUP	2,350.00	
Do	HENNEPIN COUNTY	1,500.00	
Do	HISTORIC LANDMARKS FOR LIVING	3,200.00	
Do	HULES MEXICANOS, S.A.		
Do	INDUSTRIAS NEGROMEX, S.A. DE C.V.	1,250.00	
Do	INSURANCE ASSN OF CONNECTICUT	1,900.00	
Do	INTERNATIONAL RACQUET SPORTS ASSN	9,209.95	
Do	INVESTMENT COMPANY INSTITUTE	1,000.00	
Do	J. C. PENNEY CO, INC	200.00	
Do	JOINT COMM OF KNITWEAR ASSOCIATIONS		
Do	KAWASAKI KISEN KAISHA, LTD		
Do	MERCEDES-BENZ OF NORTH AMERICA, INC	1,200.00	
Do	MERRILL LYNCH & CO, INC	2,030.00	
Do	MEXICAN CEMENT CHAMBER		
Do	MILLER & SCHROEDER MUNICIPALS, INC	7,500.00	
Do	NATIONAL APARTMENT ASSN	7,550.00	
Do	NATIONAL CLUB ASSN	5,034.00	
Do	OPTICAL COATING LABORATORY, INC	1,309.90	
Do	PACIFIC TELESIS GROUP	12,078.00	
Do	PRUDENTIAL INSURANCE COMPANY OF AMERICA	3,005.00	
Do	JOSEPH E. SEAGRAM & SONS, INC	887.26	
Do	SECURITIES INDUSTRY ASSN	14,075.00	
Do	SMITHKLINE BECKMAN CORP	26,061.65	
Do	U.S. TELECOMMUNICATIONS SUPPLIERS ASSN		
Do	U.S. TUNA FOUNDATION	10,000.00	
Do	WESTINGHOUSE ELECTRIC CORP	3,000.00	
CHARLES ALBERT O'CONNOR JR., 2300 S. 24TH ROAD, #533 ARLINGTON VA 22206			
GEORGE E. O'CONNOR, 600 NEW HAMPSHIRE AVENUE, NW WASHINGTON DC 20037	NEW YORK LIFE INSURANCE COMPANY	6,000.00	2,900.00
PATRICK C. O'CONNOR, KENT & O'CONNOR, INC 1919 PENNSYLVANIA AVE., NW, #300 WASHINGTON DC 20006	AMERICAN DENTAL HYGIENISTS ASSN		
Do	AMERICAN WAREHOUSEMEN'S ASSOCIATION		
Do	NATIONAL ASSN OF FLEET ADMINISTRATORS, INC		
Do	STEEL TANK INSTITUTE		
Do	TRANSPORTATION LAWYERS ASSOCIATION		
JOHN B. O'DAY, 1700 PENNSYLVANIA AVE., NW, #590 WASHINGTON DC 20006	INSURANCE ECONOMICS SOCIETY OF AMERICA		
PAUL T. O'DAY, 1150 17TH STREET, NW WASHINGTON DC 20036	MAN-MADE FIBER PRODUCERS ASSN, INC	2,500.00	
THOMAS A. O'DAY, 1629 K ST., NW, #1010 WASHINGTON DC 20006	ALLIANCE OF AMERICAN INSURERS	300.00	
ASHTON J. O'DONNELL, 50 BEALE ST., P.O. BOX 3965 SAN FRANCISCO CA 94119	BECHTEL NATIONAL, INC		
DANIEL J. O'GRADY, 815 16TH STREET, NW, #408 WASHINGTON DC 20006	FOOD & ALLIED SERVICE TRADES DEPT, AFL-CIO	458.00	
TERRI O'GRADY, 1600 RHODE ISLAND AVENUE, NW WASHINGTON DC 20036	NATIONAL RIFLE ASSN OF AMERICA	775.00	247.61
BARBARA E. O'HARA, 4400 MACARTHUR BLVD., NW WASHINGTON DC 20007	AMERICAN SOC OF TRAVEL AGENTS	100.00	
O'KEEFE ASHENDEN LYONS & WARD, ONE FIRST NATIONAL PLAZA - SUITE 5100 CHICAGO IL 60603	AMERICAN INVSCO CORPORATION		
KATHLEEN O'LEARY, 1250 EYE ST., NW, #703 WASHINGTON DC 20005	COLUMBIA GAS DISTRIBUTION COMPANIES	3,500.00	179.97
O'MELVENY & MYERS, 1800 M ST., NW WASHINGTON DC 20036	AIR TRANSPORT ASSN OF AMERICA		
Do	AMAX, INC	3,000.00	
Do	ASSOCIATION OF TELEPHONE TELEGRAPH & RELATED TELEMATICS INDS		552.69
Do	HOLDEN GROUP, INC (PUBLIC EMPLOYER BENEFITS COUNCIL)	23,050.00	2,694.89
Do	SANTA FE INTERNATIONAL CORP		
Do	WARNER COMMUNICATIONS, INC		
SARAH E. O'NEIL, 1600 M ST., NW WASHINGTON DC 20036	INVESTMENT COMPANY INSTITUTE		
O'NEILL AND HAASE, P.C., 1333 NEW HAMPSHIRE AVE., NW, #1110 WASHINGTON DC 20036	ALLEGHENY COUNTY COMMISSION		
Do	ASSOCIATION OF PROGRESIVE RENTAL ORGANIZATIONS		
Do	BANK OF NEW ENGLAND		
Do	BEER INDUSTRY ALLIANCE		
Do	BHC, INC		
Do	COMMERICAL UNION INSURANCE COMPANIES		
Do	CONNECTICUT BANK & TRUST CORP		
Do	CRUISE AMERICA LINE, INC		
Do	GLASS PACKAGING INSTITUTE		
Do	HOUSING AMERICA FOUNDATION	4,500.00	
Do	MARATHON MANUFACTURING CO		
Do	MARRIOTT CORPORATION		
Do	MASSACHUSETTS GENERAL HOSPITAL		
Do	MILK INDUSTRY FOUNDATION		
Do	NORTHWESTERN MUTUAL LIFE		
Do	SEARS ROEBUCK & CO	1,050.00	
Do	TEXAS UTILITIES SERVICES, INC		
Do	U.S. FOOTBALL LEAGUE		
Do	U.S. STEEL	2,700.00	
Do	WESTINGHOUSE ELECTRIC CORP		
DONALD K. O'NEILL, 1000 WILSON BLVD., #2600 ARLINGTON VA 22209	TRW, INC	350.00	
JOSEPH P. O'NEILL, 1616 H STREET, NW WASHINGTON DC 20006	AMERICAN RETAIL FEDERATION	1,600.00	143.50
J. DENIS O'TOOLE, 1120 CONNECTICUT AVE., NW WASHINGTON DC 20036	AMERICAN BANKERS ASSN	6,500.00	
PATRICIA M. O'TOOLE, 461 S. BOYLSTON STREET LOS ANGELES CA 90016	UNION OIL CO OF CALIFORNIA		
STEPHEN E. O'TOOLE, 1660 L ST., NW WASHINGTON DC 20036	GENERAL MOTORS CORP	3,000.00	2,000.44
JANA R. OAKLEY, 1776 F STREET, NW WASHINGTON DC 20006	NATIONAL ASSN OF MANUFACTURERS		
PAUL C. OAKLEY, 1920 L STREET, NW WASHINGTON DC 20036	ASSOCIATION OF AMERICAN RAILROADS	345.00	52.80
HARRY R. OBLEY, ONE MELLON BANK CENTER PITTSBURGH PA 15258	MELLON BANK N.A. AND MELLON NATIONAL CORP	2,000.00	1,716.46
LARRY A. ODAY, 2000 M ST., NW, #500 WASHINGTON DC 20036	WOOD LUCKSINGER & EPSTEIN (FOR: CHAD THERAPEUTICS, INC)		
THOMAS J. ODEN, 1840 WILSON BOULEVARD ARLINGTON VA 22201	NATIONAL MILK PRODUCERS FEDERATION	4,062.48	251.01
BRADFORD C. OELMAN, 900 17TH STREET, NW, #508 WASHINGTON DC 20006	OWENS-CORNING FIBERGLAS CORPORATION		
DONALD G. OGILVIE, 1120 CONNECTICUT AVE., NW WASHINGTON DC 20036	AMERICAN BANKERS ASSN	2,500.00	
OIL INVESTMENT INSTITUTE, PO BOX 8293 WASHINGTON DC 20024			
PHILIP M. OLA, 1919 PENNSYLVANIA AVENUE, NW, #400 WASHINGTON DC 20006	STEEL SERVICE CENTER INSTITUTE		
MICHAEL D. OLDAK, 1800 MASSACHUSETTS AVENUE, NW WASHINGTON DC 20036	NATIONAL RURAL ELECTRIC COOPERATIVE ASSN	100.00	
ALVIN E. OLIVER, 725 15TH ST., NW WASHINGTON DC 20005	NATIONAL GRAIN & FEED ASSN		
R. TEEL OLIVER, 1050 17TH STREET, NW, #650 WASHINGTON DC 20036	MERCK & CO, INC	687.50	500.00
GERALD L. OLSON, PILLSBURY CENTER, MS 3771 MINNEAPOLIS MN 55402	PILLSBURY COMPANY		
RICHARD C. OLSON, 1313 DOLLEY MADISON BLVD. MCLEAN VA 22101	DYNALECTRON CORPORATION		
ROY E. OLSON, 260 MADISON AVE. NEW YORK NY 10016	AMERICAN PAPER INSTITUTE, INC		
OLSSON AND FRANK, 1029 VERMONT AVENUE, NW, #400 WASHINGTON DC 20005	NATIONAL ASSN OF MARGARINE MANUFACTURERS		
PHILIP C. OLSSON, OLSSON AND FRANK 1029 VERMONT AVE., NW, #400 WASHINGTON DC 20005	NATIONAL ASSN OF MARGARINE MANUFACTURERS		

Organization or Individual Filing	Employer/Client	Receipts	Expenditures
CLARK ONSTAD, 1201 PENNSYLVANIA AVE., NW, #300 WASHINGTON DC 20004	TEXAS AIR CORP AND CONTINENTAL AIR LINES	4,500.00	1,906.00
PHILIP C. ONSTAD, P.O. BOX 7100 GREENWICH CT 06836	CONTROL DATA CORPORATION	200.00	
ORGAN. FOR PROTECTION & ADVANCEMENT OF SMALL TELEPHONE COS, 2301 M STREET, NW, #530 WASHINGTON DC 20037.		750.00	500.00
ORGANIZATION OF PROFESSIONAL EMPLOYEES OF USDA, RM. 1414 S. BUILDING U.S. DEPT OF AGRICULTURE WASHINGTON DC 20250.		7,723.13	1,598.88
ABRAHAM ORLOFSKY, 2020 K ST., NW, #200 WASHINGTON DC 20006	NATIONAL FEDERATION OF FEDERAL EMPLOYEES	1,217.84	
ELVIRA J. ORLY, 1050 CONNECTICUT AVE., NW, #800 WASHINGTON DC 20036	ALLIED-SIGNAL, INC	10.00	
DAVID S. OSTERHOUT, 1000 WILSON BOULEVARD ARLINGTON VA 22209	BENDIX AEROSPACE SECTOR	3,000.00	187.29
J. F. OTERO, 815 16TH STREET, NW WASHINGTON DC 20006	BROTHERHOOD OF RAILWAY AIRLINE & STEAMSHIP CLERKS	1,000.00	300.00
KEVIN D. OTT, 1776 F STREET, NW WASHINGTON DC 20006	NATIONAL ASSN OF MANUFACTURERS	285.00	
ROLAND A. OUELLETTE, 1660 L ST., NW, #501 WASHINGTON DC 20036	GENERAL MOTORS CORP	3,600.00	576.85
CLIFF OUSE, 1800 MASSACHUSETTS AVE., NW WASHINGTON DC 20036	NATIONAL RURAL ELECTRIC COOPERATIVE ASSN	25.00	
GENE E. OVERBECK, 1101 17TH STREET, NW WASHINGTON DC 20036	AMERICAN AIRLINES, INC	2,125.00	
CATHY E. OVERLY, 1730 K STREET, NW WASHINGTON DC 20006	NATIONAL TREASURY EMPLOYEES UNION	9,000.00	
JACK W. OWEN, 444 NORTH CAPITOL ST., NW, #500 WASHINGTON DC 20001	AMERICAN HOSPITAL ASSN	1,193.54	
THOMAS J. OWENS, P.O. BOX 12266 SEATTLE WA 98102	DOLLAR SAVINGS BANK, ET AL	25,718.75	10,724.94
WILLIAM H. OWENS JR., 1111 14TH ST., NW, #1200 WASHINGTON DC 20005	AMERICAN DENTAL ASSN	1,000.00	406.54
WILLIAM J. OWENS, 1745 JEFFERSON DAVIS HIGHWAY, #511 ARLINGTON VA 22202	MANUFACTURED HOUSING INSTITUTE	900.00	100.00
P/M CONSULTING, INC, 202 E ST., NE WASHINGTON DC 20002	SYSCON CORPORATION		
Do	TALLEY CORPORATION		
R. RAY PAABO, 1667 K ST., NW, #600 WASHINGTON DC 20006	SANTA FE SOUTHERN PACIFIC CORP	1,000.00	
PACIFIC MANAGEMENT DYNAMICS CORP, 910 FLOEIN RD., #107 SACRAMENTO CA 95831			
JOEL PACKER, 1201 16TH STREET, NW WASHINGTON DC 20036	NATIONAL EDUCATION ASSN	2,227.00	70.75
LEE W. PADEN, P.O. BOX 201 TULSA OK 74102	PUBLIC SERVICE COMPANY OF OKLAHOMA		
JOHN M. PALATIELLO, 210 LITTLE FALLS STREET FALLS CHURCH VA 22046	AMERICAN CONG. ON SURVEY. & MAPP./AMER SOC OF PHOTOGRAMMETRY	12,129.33	3,846.23
HENRY S. PALAU, 201 N WASHINGTON ST. ALEXANDRIA VA 22134	RETIRED OFFICERS ASSN		
PALUMBO & CERRELL, INC, 1629 K ST., NW WASHINGTON DC 20006	AMERICAN SOC OF COMPOSERS AUTHORS & PUBLISHERS	22,500.00	
Do	NATIONAL SCHOOL TRANSPORTATION ASSN		
Do	R.J. REYNOLDS TOBACCO CO	20,209.00	
Do	SOUTHERN CALIFORNIA RAPID TRANSIT DISTRICT	15,000.00	
BENJAMIN L. PALUMBO, 1629 K ST., NW WASHINGTON DC 20006	MARRIOTT CORPORATION	30,637.50	
Do	G. D. SEARLE	18,000.00	
PAN AMERICAN SATELLITE CORP, 460 W. 42ND STREET, 4TH FL. NEW YORK NY 10036			18,768.18
MARCIA PAPE-DANIELS, 1201 PENNSYLVANIA AVE., NW, #250 WASHINGTON DC 20004	CH2M HILL	750.00	
PAPERBOARD PACKAGING COUNCIL, 1101 VERMONT AVE., NW, #411 WASHINGTON DC 20005			
G. OLIVER PAPPS, N.J. PETROLEUM COUNCIL 170 W. STATE ST. TRENTON NJ 08608	AMERICAN PETROLEUM INSTITUTE		
STEPHEN J. PARADISE, 1800 K STREET, NW, #1100 WASHINGTON DC 20006	NEW YORK STOCK EXCHANGE, INC		
HERSCHELL E. PARENT, 460 TWIN CITY BANK ONE RIVERFRONT PLACE NORTH LITTLE ROCK AR 72114	AMERICAN PETROLEUM INSTITUTE	570.27	943.10
ALAN A. PARKER, 1050 31ST STREET, NW WASHINGTON DC 20007	ASSOCIATION OF TRIAL LAWYERS	5,000.00	100.00
PARKER CHAPIN FLATTAU & KLIMPL, 1211 AVENUE OF THE AMERICAS NEW YORK NY 10036	ASSOCIATION FOR A BETTER NEW YORK	20,000.00	4,103.99
JOHN N. PARKER, 1100 CONNECTICUT AVE., NW, #620 WASHINGTON DC 20036	MOBIL OIL CORP	375.00	
CARL M. PARKS, 633 PENNSYLVANIA AVENUE, NW, #600 WASHINGTON DC 20004	ALLSTATE INSURANCE GROUP	500.00	250.00
KEN PARMELEE, 1448 DUKE STREET ALEXANDRIA VA 22314	NATIONAL RURAL LETTER CARRIERS' ASSN	11,692.00	1,761.00
JOSEPH R. PARROTT JR., ITT RAYONIER, INC 5526-D OLD NATIONAL HIGHWAY COLLEGE PARK GA 30349	ITT CORP	6,000.00	6,346.00
CHARLES C. PARTRIDGE, 5535 HEMPSTEAD WAY SPRINGFIELD VA 22151	NATIONAL ASSN FOR UNIFORMED SERVICES	1,640.30	
JACK PARTRIDGE, 1014 VINE ST. CINCINNATI OH 45201	KROGER COMPANY	2,500.00	1,118.36
PASKUS GORDON & HYMAN, 2005 MASSACHUSETTS AVE., NW WASHINGTON DC 20036	NATIONAL MUSIC PUBLISHERS ASSN, INC		
DAVID J. PASSAMANECK, 4647 FORBES BOULEVARD LANHAM MD 20706	AMVETS		
KRIS PATHUIS, 8500 BYRON ROAD ZEELAND MI 49464	HERMAN MILLER, INC		
GARY B. PATTERSON, DELAWARE PETROLEUM COUNCIL P.O. BOX 1429 DOVER DE 19903	AMERICAN PETROLEUM INSTITUTE	111.54	82.69
JERRY M. PATTERSON, LEFF & MASON 1700 PENNSYLVANIA AVE., NW, #450 WASHINGTON DC 20006	HERON CORPORATION, LTD	2,500.00	
Do	PACIFIC MUTUAL LIFE INSURANCE CO	2,400.00	
Do	WESTERN FINANCIAL SAVINGS BANK	1,500.00	
RICHARD M. PATTERSON, 1800 M ST., NW, #700 SOUTH WASHINGTON DC 20036	DOW CHEMICAL CO	500.00	239.50
KENTON H. PATTIE, 3150 SPRING ST. FAIRFAX VA 22031	NATIONAL AUDIO-VISUAL ASSN, INC	3,687.50	
DAVID J. PATTISON, 1025 CONNECTICUT AVE., NW WASHINGTON DC 20036	HEALTH INSURANCE ASSN OF AMERICA, INC		
PATTON BOGGS & BLOW, 2550 M ST., NW, #800 WASHINGTON DC 20037	AIR PRODUCTS & CHEMICALS, INC	137.78	
Do	AIWA AMERICA, INC	335.57	.58
Do	AKAI AMERICA, LTD	335.57	.91
Do	ALUMINUM COMPANY OF AMERICA	137.78	
Do	AMERICAN BROADCASTING CO, INC		
Do	AMERICAN CONGRESS ON SURVEYING & MAPPING	115.00	
Do	AMERICAN EXPRESS CO		
Do	AMERICAN INSURANCE ASSOCIATION	300.00	
Do	AMERICAN INTERNATIONAL AUTOMOBILE DEALERS ASSN		
Do	AMERICAN MARITIME ASSN	285.00	
Do	AMERICAN PUBLIC POWER ASSN	40.56	
Do	ASSOCIATION OF PRIVATE PENSION & WELFARE PLANS	1,000.00	
Do	ASSOCIATION OF TRIAL LAWYERS OF AMERICA	187.50	243.70
Do	AT&T	137.78	
Do	BIOGEN		
Do	BROWNSVILLE SHRIMP ASSN	4,440.00	
Do	CALIFORNIA STATE UNIVERSITY	200.00	
Do	CARLSON COMPANIES, INC		
Do	CASTLE & COOKE, INC		
Do	CHAMPION INTERNATIONAL	1,125.00	
Do	CHICAGO BOARD OPTIONS EXCHANGE		
Do	CHRYSLER CORPORATION	250.00	
Do	CITY OF AZUSA	40.56	
Do	CITY OF BANNING	40.56	
Do	CITY OF COLTON	40.56	
Do	CITY OF RIVERSIDE	40.56	
Do	CITY OF SANTA CLARA	40.56	
Do	COALITION FOR NATIONAL AIRPORT	1,095.00	243.70
Do	COLUMBIA, INC	335.57	.09
Do	COMMITTEE OF RAILROAD SHIPPERS		
Do	COMPUTERLAND CORPORATION		
Do	CROWLEY MARITIME CORPORATION	1,400.00	280.23
Do	DEALER ACTION ASSOCIATION	177.50	775.56
Do	DREDGING INDUSTRY SIZE STANDARDS COMMITTEE (DISSC)	177.50	775.76
Do	DUTY FREE SHOPPERS, LTD		
Do	FIDELITY INVESTORS	4,347.50	
Do	FLINT INDUSTRIES		
Do	FORD MOTOR CO	137.78	
Do	FREEMAN		
Do	FUJI PHOTO FILM U.S.A., INC	335.57	1.98
Do	GTE CORP		
Do	HITACHI SALES CORP OF AMERICA	335.57	26.47
Do	E.F. HUTTON LIFE INSURANCE COMPANY	2,750.00	
Do	IC INDUSTRIES		
Do	INSTITUTE OF SCRAP IRON & STEEL, INC		
Do	INTERMEDICS, INC		
Do	INVESTMENT PARTNER ASSN	9,225.00	
Do	JOHNSON & JOHNSON	137.78	
Do	KAISER ALUMINUM & CHEMICAL CORP	600.00	
Do	KENWOOD U.S.A. CORPORATION	335.57	.58
Do	LAUNDRY CLEANING COUNCIL		
Do	LAZARD FRERE & CO	2,350.00	
Do	LIGGETT GROUP	3,725.00	
Do	LITTON INDUSTRIES, INC		
Do	LOAN AMERICA FINANCIAL CORP		
Do	LOOP, INC	1,000.00	

Organization or Individual Filing	Employer/Client	Receipts	Expenditures
Do	MARS, INC	1,342.50	573.50
Do	MATSON NAVIGATION CO		
Do	MATSUSHITA ELECTRIC CORP OF AMERICA	335.57	46.72
Do	MAXELL CORP OF AMERICA	335.57	3.61
Do	MCI TELECOMMUNICATIONS, INC	345.00	
Do	MITSUBISHI ELECTRIC SALES OF AMERICA, INC	335.57	9.73
Do	MOCATTA METALS CORP	247.50	
Do	NAKAMICHI U.S.A. CORP	335.57	.51
Do	NATIONAL ASSN OF CHAIN DRUG STORES		
Do	NATIONAL CABLE TELEVISION ASSN, INC	7,302.50	
Do	NATIONAL MARINE MFRS ASSN	1,300.00	
Do	NATIONAL SOFT DRINK ASSN		
Do	NEC ELECTRONICS (USA) INC	335.57	1.44
Do	NEW PROCESS CO		
Do	NORTHERN CALIFORNIA POWER AGENCY	40.56	
Do	OCEAN CATCH		
Do	ONKYO U.S.A. CORP	335.57	.31
Do	OSG BULK SHIPS, INC	897.00	85.37
Do	OVERSEAS MILITARY SALES GROUP		
Do	PAINE WEBBER, INC	1,000.00	
Do	PIONEER ELECTRONICS (U.S.A.) INC	335.57	.79
Do	PITTSTON COAL CO		
Do	PUBLIC UTILITIES DEPARTMENT	40.56	
Do	READER'S DIGEST ASSN, INC		
Do	REDWOOD INDUSTRY PARK COMM		
Do	REPUBLIQUE D'HAITI	825.00	
Do	RETAIL INDUSTRY TRADE ACTION COALITION	8,232.50	1,426.08
Do	RETAIL TAX COMMITTEE	3,780.00	328.23
Do	RICE MILLERS' ASSN		
Do	SACRAMENTO PUBLIC UTILITY DISTRICT	40.56	
Do	SANSUI ELECTRONICS CORP	335.57	.83
Do	SANYO ELECTRONICS, INC	335.57	22.75
Do	SHARP ELECTRONICS CORP	335.57	14.27
Do	SHELL OIL CO	137.78	
Do	SMOKELESS TOBACCO COUNCIL	806.25	
Do	SONY CORPORATION OF AMERICA	335.57	14.50
Do	SQUIBB CORP	767.50	
Do	STATE OF LA, DEPT OF CONSERVATION		
Do	SULTANTATE OF OMAN	375.00	
Do	TDK U.S.A. CORP	335.57	4.47
Do	TEAC CORP OF AMERICA	335.57	.70
Do	TOSHIBA AMERICAN, INC	335.57	8.64
Do	U.S. FISHERIES DEVELOPMENT ASSN		
Do	U.S. LIFESAVING MANUFACTURERS ASSN		
Do	U.S. TUNA FOUNDATION		
Do	UNION CAMP CORP	137.78	
Do	UNION PACIFIC CORPORATION	137.78	
Do	US JVC CORPORATION	335.57	15.84
Do	YAMAHA ELECTRONICS CORP, U.S.A.	335.57	21
ANDREW R. PAUL, 1875 EYE STREET, NW, #940 WASHINGTON DC 20006	GULF & WESTERN MANAGEMENT CO	5,500.00	211.35
PAUL HASTINGS JANOFSKY & WALKER, 6TH FLOOR 1050 THOMAS JEFFERSON ST., NW WASHINGTON DC 20007	ASPIRIN FOUNDATION OF AMERICA, INC	700.00	
Do	ASSOCIATED LIFE INS GROUP NAT'L POLICYHOLDER ADVISORY COMM	11,551.50	42.90
Do	CALMAT COMPANY	5,618.00	
Do	GAF CORPORATION		
Do	NATIONAL BUSINESS AIRCRAFT ASSN		
Do	OGLETHORPE POWER CORP		
Do	SECURITY LIFE OF DENVER	9,055.50	42.25
LARRY E. PAULICK, 2111 EISENHOWER AVENUE ALEXANDRIA VA 22314	NATIONAL SPA & POOL INSTITUTE		
RICHARD A. PAYSOR, 1415 ELBRIDGE PAYNE RD., #135 ST. LOUIS MO 63017	FIRST CAPITOL ASSOCIATES - GATEWAY, INC		
PEARSON AND PIPKIN, INC, 422 FIRST STREET, SE, #208 WASHINGTON DC 20003	EMBASSY OF SOUTH AFRICA	9,000.00	4.05
RONALD PEARSON, 422 FIRST STREET, SE, #208 WASHINGTON DC 20003	EMBASSY OF SOUTH AFRICA		
RUSSELL H. PEARSON, 1156 15TH STREET, NW, #1015 WASHINGTON DC 20005	J.C. PENNEY CO, INC		
JAMES M. PEIRCE JR., 2020 K ST., NW, #200 WASHINGTON DC 20006	NATIONAL FEDERATION OF FEDERAL EMPLOYEES	1,781.52	
LEEANN PELHAM, 2030 M STREET, NW WASHINGTON DC 20036	COMMON CAUSE	4,690.69	512.58
HUMBERTO R. PENA, 1155 15TH ST., NW WASHINGTON DC 20005	BRISTOL-MYERS CO	500.00	
CRISTSANDRA M. PENN, 1346 CHESTNUT, #800 PHILADELPHIA PA 19107	GREATER PHILADELPHIA CHAMBER OF COMMERCE		
JAMES C. PENNINGTON, 5535 HEMPSTEAD WAY SPRINGFIELD VA 22151	NATIONAL ASSN FOR UNIFORMED SERVICES	796.66	
PENNSYLVANIA POWER & LIGHT CO, 2 N. 9TH ST. ALLENTOWN PA 18101			1,472.61
DOMINIC V. PENSABENE, 1700 K ST., NW, #1204 WASHINGTON DC 20006	CHEVRON USA, INC	1,263.00	
GREGORY M. PENSABENE, 1667 K ST., NW, #600 WASHINGTON DC 20006	SANTA FE SOUTHERN PACIFIC CORP	2,700.00	
PENSION RIGHTS CENTER, 1346 CONNECTICUT AVE., NW WASHINGTON DC 20036			596.26
PEPPER & CORAZZINI, 1776 K ST., NW WASHINGTON DC 20006	SATELLITE SYNDICATED SYSTEMS, INC	605.50	93.78
VICTOR J. PERINI JR., 1776 MASSACHUSETTS AVE., NW WASHINGTON DC 20036	HIGHWAY USERS FEDERATION FOR SAFETY & MOBILITY		
PERKINS COIE, 1110 VERMONT AVE., NW, #1200 WASHINGTON DC 20005	AEROSPACE INDUSTRIES ASSN OF AMERICA, INC		
Do	BOEING CO		
Do	BURLINGTON NORTHERN, INC		
Do	KOOTZNOOWOO, INC		
Do	ORMAT SYSTEMS, INC		
GARY J. PERKINSON, 453 NEW JERSEY AVENUE, SE WASHINGTON DC 20003	BENEFICIAL MANAGEMENT CORP OF AMERICA	700.00	
ERNEST MICHAEL PERLEY, 112 ST CLAIR AVENUE WEST, #504 TORONTO, ONTARIO M4V 2Y3	CANADIAN COALITION ON ACID RAIN		
JEFFRY L. PERLMAN, 1615 H ST., NW WASHINGTON DC 20062	CHAMBER OF COMMERCE OF THE U.S.	2,400.00	527.80
LEONARD PERLMAN, 5999 STEVENSON AVENUE ALEXANDRIA VA 22304	AMERICAN ASSN FOR COUNSELING & DEVELOPMENT		
MARK PERMAR, P.O. BOX 12910 CHARLESTON SC 29142	KIAWAH ISLAND COMPANY, LTD		
KATE M. PERRY, 1785 MASSACHUSETTS AVENUE, NW WASHINGTON DC 20036	NATIONAL TRUST FOR HISTORIC PRESERVATION		
SUSAN PERRY, 1025 CONNECTICUT AVENUE, NW WASHINGTON DC 20036	AMERICAN BUS ASSN	2,687.50	75.00
THOMAS D. PESTORIUS, 1025 CONNECTICUT AVENUE, NW, #1014 WASHINGTON DC 20036	EBASCO SERVICES, INC		
PHILLIPS S. PETER, 1331 PENNSYLVANIA AVENUE, NW WASHINGTON DC 20004	GENERAL ELECTRIC CO	150.00	
PETERSON ENGBERG & PETERSON, 1730 M ST., NW, #907 WASHINGTON DC 20036	FEDERATED RESEARCH CORP	22,800.00	553.16
ESTHER PETERSON, 7714 13TH STREET, NW WASHINGTON DC 20012	INTERNATIONAL ORGANIZATION OF CONSUMERS UNIONS		5.00
GEOFFREY G. PETERSON, 1250 EYE ST., NW, #900 WASHINGTON DC 20004	DISTILLED SPIRITS COUNCIL OF THE U.S., INC	2,000.00	400.00
LARS E. PETERSON, 1750 K STREET, NW WASHINGTON DC 20006	FOOD MARKETING INSTITUTE	450.00	
MARY B. PETERSON, 1660 L ST., NW WASHINGTON DC 20036	GENERAL MOTORS CORP	3,000.00	2,028.47
MARY JO PETERSON, 1957 E STREET, NW WASHINGTON DC 20006	ASSOCIATED GENERAL CONTRACTORS OF AMERICA	1,000.00	500.00
SUSAN F. PETNIUNAS, 1025 CONNECTICUT AVE., NW, #214 WASHINGTON DC 20036	MANVILLE CORP	500.00	
MICHAEL J. PETRINA JR., 1110 VERMONT AVENUE, NW, #800 WASHINGTON DC 20005	COSMETIC TOILETRY & FRAGRANCE ASSN, INC		
BRIAN T. PETTY, 1901 L ST., NW, #702 WASHINGTON DC 20036	INTERNATIONAL ASSN OF DRILLING CONTRACTORS		
JAMES R. PHALEN, 1100 CONNECTICUT AVENUE, NW, #535 WASHINGTON DC 20036	MAPCO, INC	3,250.00	
PHARMACEUTICAL MANUFACTURERS ASSN, 1100 15TH STREET, NW WASHINGTON DC 20005		24,248.00	24,248.00
MARSHALL A. PHARR, 6103 ADIRONDACK AMARILLO TX 79106	SOUTHWESTERN PUBLIC SERVICE CO	4,209.75	105.80
DENNIS J. PHELAN, ONE THOMAS CIRCLE, NW, #900 WASHINGTON DC 20005	PACIFIC SEAFOOD PROCESSORS ASSN	7,500.00	580.00
WILLIAM C. PHELPS, 2929 ALLEN PARKWAY HOUSTON TX 77019	AMERICAN GENERAL CORPORATION	6,800.00	4,765.67
BARBARA PHILLIPS, 2000 M ST., NW, #230 WASHINGTON DC 20036	TELOCATOR NETWORK OF AMERICA	8,000.00	325.21
BERNARD R. PHILLIPS III, P.O. BOX 4267 TOPEKA KS 66604	KANSAS ELECTRIC COOPERATIVES, INC		
DEBORAH M. PHILLIPS, 2033 M ST., NW, #800 WASHINGTON DC 20036	GENERAL INSTRUMENT CORPORATION		
DEIRDRE B. PHILLIPS, 100 FEDERAL STREET BOSTON MA 02110	BANK OF BOSTON CORP		
Do	FIRST NATIONAL BANK OF BOSTON	534.00	1,112.78
WILLIAM G. PHILLIPS, 417 SIXTH STREET, SE WASHINGTON DC 20003	AIR QUALITY RESEARCH INTERNATIONAL, INC		
Do	ASSOCIATION OF UNIV PROGRAMS IN OCCUPATIONAL HEALTH & SAFETY	12,800.00	1,451.47
Do	ASSOCIATION OF UNIVERSITY ENVIRONMENTAL HEALTH CENTERS	4,500.00	513.68
Do	HARVARD SCHOOL OF PUBLIC HEALTH		
Do	METAL TRADES DEPARTMENT, AFL-CIO	6,150.00	795.24
PHOENIX ASSOCIATES, LTD, 1101 15TH ST., NW, #710 WASHINGTON DC 20005	NORFOLK SOUTHERN CORP	4,000.00	2,200.00
W.D. PICKETT, 400 FIRST ST. WASHINGTON DC 20001	BROTHERHOOD OF RAILROAD SIGNALMEN	350.00	

Organization or Individual Filing	Employer/Client	Receipts	Expenditures
PAULETTE C. PIDCOCK, 1100 CONNECTICUT AVENUE, NW, #530 WASHINGTON DC 20036	BALTIMORE GAS & ELECTRIC CO	325.00	51.90
ROBERT R. PIERCE, 1701 18TH ST., NW WASHINGTON DC 20036	NATIONAL PARKS & CONSERVATION ASSN	70.00	6.00
WAYNE PIERCE, 101 CONSTITUTION AVENUE, NW WASHINGTON DC 20001	UNITED BROTHERHOOD OF CARPENTERS & JOINERS OF AMERICA	21,125.00	210.00
PIERSON SEMMES & FINLEY, 1054 31ST STREET,NW WASHINGTON DC 20007	OKLAHOMA NATURAL GAS COMPANY	860.00	175.35
Do	SIX FLAGS CORPORATION		
STUART F. PIERSON, VERNER, LIIPFERT, BERNHARD, & MCPHERSON 1660 L ST., NW, #1100 WASHINGTON DC 20036	PAN AM, ET AL		
JOHN H. PILCHER, 1776 F STREET, NW WASHINGTON DC 20006	NATIONAL ASSN OF MANUFACTURERS	125.00	
DANIEL J. PILIERO II, P.C., 1750 PENNSYLVANIA AVENUE, NW WASHINGTON DC 20006	AD HOC COMM OF MUTUAL FUND MANAGERS	1,169.58	
Do	AMERICAN STOCK EXCHANGE	1,500.00	
Do	INTEGRATED RESOURCES, INC		
Do	INVESTMENT CO INSTITUTE	3,408.83	
Do	NL INDUSTRIES		
Do	PRUDENTIAL LINES, INC	2,125.00	
PILLSBURY MADISON & SUTRO, 1667 K ST., NW, #1100 WASHINGTON DC 20006	AMERICAN PETROLEUM INSTITUTE		
Do	DENTAL CARE OF AMERICA, INC; R.J. REYNOLDS DEVELOPMENT CORP	370.00	8.00
Do	PFIZER, INC	3,273.00	45.00
Do	QUADREX CORPORATION	3,313.00	180.00
Do	TEMIS RAMIRES DE ARELLANO	80.00	
Do	TRANSPACE CARRIERS, INC		
VALERIE F. PINSON, 1724 MASSACHUSETTS AVENUE, NW WASHINGTON DC 20036	NATIONAL CABLE TELEVISION ASSN, INC	1,113.00	
PIPER & MARBURY, 888 16TH STREET, NW WASHINGTON DC 20006	CONSOLIDATED RAIL CORPORATION		
Do	FIRST MARYLAND BANCORP		
Do	FIRST NATIONAL BANK OF MARYLAND		
ROBERT PIPKIN, 422 FIRST STREET, SE, #208 WASHINGTON DC 20003	EMBASSY OF SOUTH AFRICA		
VIRGINIA L. PITCHER, 2000 L ST., NW, #200 WASHINGTON DC 20036	AMERICAN COLLEGE OF EMERGENCY PHYSICIANS	2,915.00	27.00
PLAINS COTTON GROWERS, INC, PO BOX 3640 LUBBOCK TX 79452			
WYLL W. PLEGER, 1730 RHODE ISLAND AVE., NW, #213 WASHINGTON DC 20036	BROWN & ROOT, INC		
MICHAEL PODHORZER, 1300 CONNECTICUT AVE., NW, #401 WASHINGTON DC 20036	CITIZEN ACTION	1,500.00	
MARC R. POIRIER, SPIEGEL & MCDIARMID 1350 NEW YORK AVE., NW WASHINGTON DC 20005	NORTHERN CALIFORNIA POWER AGENCY, ET AL		
MICHAEL A. POLING, 1920 N ST., NW WASHINGTON DC 20036	AMERICAN MINING CONGRESS		
RICHARD J. POLLACK, 444 NORTH CAPITOL STREET, NW WASHINGTON DC 20001	AMERICAN HOSPITAL ASSN		716.31
FRANCES A. POLLAK, 1850 K ST., NW, #390 WASHINGTON DC 20006	UNION CAMP CORPORATION	1,000.00	40.00
ALFRED M. POLLARD, 1155 CONNECTICUT AVE., NW, #1130 WASHINGTON DC 20036	SECURITY PACIFIC NATIONAL BANK	3,881.26	
RAYMOND K. POPE, 2000 L STREET, NW, #200 WASHINGTON DC 20036	AMFAC, INC	3,437.49	276.88
EDWARD T. PORCARO, 1025 CONNECTICUT AVE., NW, #1010 WASHINGTON DC 20036	METROPOLITAN LIFE & AFFILIATED COMPANIES	1,000.00	
PAULA D. PORPILIA, 1120 CONNECTICUT AVE., NW, 7TH FL. WASHINGTON DC 20036	AMERICAN BANKERS ASSN	1,250.00	93.02
PORT OF SEATTLE, P.O. BOX 1209 SEATTLE WA 98111			2,064.02
CAROL ALICE PORTER, 1612 K ST., NW, #1101 WASHINGTON DC 20036	WILDLIFE LEGISLATIVE FUND OF AMERICA	4,524.00	
PORTER WRIGHT MORRIS & ARTHUR, 41 SOUTH HIGH STREET COLUMBUS OH 43215	COALITION FOR ENVIRONMENTAL-ENERGY BALANCE	25,262.50	2,018.62
CAROL JEAN POULOS, 122 C STREET, NW, #800 WASHINGTON DC 20001	CONCERNED WOMEN FOR AMERICA	1,000.00	
JOHN MICHAEL POWDERLY, 815 16TH ST., NW, #706 WASHINGTON DC 20006	UNITED STEELWORKERS OF AMERICA	9,522.85	
POWELL GOLDSTEIN FRAZER & MURPHY, 1110 VERMONT AVE., NW, #1050 WASHINGTON DC 20005	COUNCIL OF STATE HOUSING AGENCIES	313.00	
Do	FEDERAL NATIONAL MORTGAGE ASSN		
Do	MARYLAND SAVINGS-SHARE INSURANCE CORP		
Do	N & F DEVELOPMENT CORP, INC		
Do	NATIONAL INVESTMENT DEVELOPMENT CORP		
Do	NATIONAL MULTI HOUSING COUNCIL	1,063.00	
ROBERT D. POWELL, 1300 19TH ST., NW, #400 WASHINGTON DC 20036	NATIONAL BUSINESS AIRCRAFT ASSN		
FREDERICK W. POWERS III, 223 PERIMETER CENTER PARKWAY P.O. BOX 89000 ATLANTA GA 30338	SIEMENS-ALLIS, INC		
WILLIAM B. PRENDERGAST, 6215 KELLOGG DRIVE MCLEAN VA 22101	TOBACCO INSTITUTE	6,000.00	560.25
PRESTON THORGRIMSON ELLIS & HOLMAN, 1735 NEW YORK AVENUE, NW, #500 WASHINGTON DC 20006	ALASKA PULP CORP		
Do	ALLEGHANY CORPORATION		
Do	AMERICAN PRESIDENT LINES	1,917.00	
Do	BELLINGHAM COLD STORAGE		
Do	CALISTA CORP		
Do	COALITION FOR THE ADVANCEMENT OF INDUSTRIAL TECHNOLOGY	4,545.00	
Do	COUNCIL OF AMERICAN-FLAG SHIP OPERATORS	9,039.50	
Do	GLEN FREIE		
Do	GRANT COUNTY PUBLIC UTILITY DISTRICT		
Do	HUDSON WATERWAYS	1,143.00	
Do	INTELSAT		
Do	MOORE MCCORMACK RESOURCES, INC		
Do	NATIONAL ASSN OF STATE DIRECTORS OF COMMUN & JUNIOR COLLEGES		
Do	NATIONAL COUNCIL ON COMPENSATION INSURANCE		
Do	PORT OF SEATTLE		
Do	REINSURANCE ASSN OF AMERICA		
Do	SPOKANE COUNTY		
Do	SUNMAR SHIPPING, INC		
Do	TENNESSEE GAS PIPELINE CO		
Do	TRANSPORTATION INSTITUTE	4,400.00	
KEITH A. PRETTY, 322 W. OTTAWA LANSING MI 48933	AMOCO CORPORATION		
JAMES M. PRICE, P.O. BOX 11248 KNOXVILLE TN 37919	SIERRA CLUB	3,355.00	474.90
THOMAS J. PRICE, 410 FIRST STRET, SE WASHINGTON DC 20003	AMERICAN NUCLEAR ENERGY COUNCIL	4,262.50	378.92
PATRICIA PRIDE, 1129 20TH ST., NW WASHINGTON DC 20036	FINANCIAL ACCOUNTING FOUNDATION	343.08	47.19
SHARON D. PRINZ, 2121 K STREET, NW, #830 WASHINGTON DC 20037	STEPHENS OVERSEAS SERVICES, INC		
GWENYTH PRITCHARD, 600 MARYLAND AVE., NW, #700 WASHINGTON DC 20024	NATIONAL FEDERATION OF INDEPENDENT BUSINESS	2,250.00	200.00
JOEL PRITCHARD; BOGLE & GATES ONE THOMAS CIRCLE, NW, #900 WASHINGTON DC 20005	INTERNATIONAL TELECOMMUNICATIONS SATELLITE ORGANIZATION		
JERRY C. PRITCHETT, 5410 GROSVENOR LN., #120 BETHESDA MD 20814	MECHANICAL CONTRACTORS ASSN OF AMER, INC		
PRO-LIFE CDAC 12, P.O. BOX 7145 MENLO PARK CA 94025		112.50	361.95
SYDNEY PROBST, 1250 EYE STREET, NW, #900 WASHINGTON DC 20005	DISTILLED SPIRITS COUNCIL OF THE U.S.	2,000.00	200.00
PROCOMPETITIVE RAIL STEERING COMMITTEE, 1090 VERMONT AVENUE, NW, #410 WASHINGTON DC 20005			3,825.98
STUART E. PROCTOR JR., 2626 PENNSYLVANIA AVE., NW WASHINGTON DC 20037	NATIONAL TELEPHONE COOPERATIVE ASSN	5,000.00	451.13
PROFIT SHARING COUNCIL OF AMER, 20 N. WACKER DRIVE CHICAGO IL 60606			
PROPRIETARY ASSN, 1150 CONNECTICUT AVE., NW, #1200 WASHINGTON DC 20036			3,431.25
PRUDENTIAL-BACHE SECURITIES, INC, 100 GOLD ST. NEW YORK NY 10272			750.00
JAMES C. PRUITT, 1050 17TH ST., NW, #500 WASHINGTON DC 20036	TEXACO, INC	180.00	
PRYOR CASHMAN SHERMAN & FLYNN, 410 PARK AVENUE NEW YORK NY 10022	O. EDMUND CLUBB		13.06
Do	POPULATION CRISIS COMMITTEE	450.00	28.00
PUBLIC EMPLOYEE DEPARTMENT, AFL-CIO, 815 16TH ST., NW WASHINGTON DC 20006		53,046.15	15,037.68
PUBLIC EMPLOYER BENEFITS COUNCIL, 1800 M STREET, NW WASHINGTON DC 20036			
DAVID E. PULLEN, 1025 CONNECTICUT AVE., NW, #214 WASHINGTON DC 20036	MANVILLE CORP	1,000.00	
JOHN R. PURCELL, 204 E STREET, NE WASHINGTON DC 20002	NATIONAL FROZEN FOOD ASSN	500.00	
WILLIAM E. PURSLEY, 1025 CONNECTICUT AVENUE, NW WASHINGTON DC 20036	SHELL OIL COMPANY	500.00	
SUE P. PURVIS, P.O. BOX 14042(D2B) ST. PETERSBURG FL 33733	FLORIDA POWER CORP	2,000.00	533.00
Do	FLORIDA PROGRESS CORP	500.00	375.00
EARLE W. PUTNAM, 5025 WISCONSIN AVENUE, NW WASHINGTON DC 20016	AMALGAMATED TRANSIT UNION, AFL-CIO		
CASSANDRA WALKER PYE, 1750 K STREET, NW WASHINGTON DC 20006	FOOD MARKETING INSTITUTE	100.00	
HOWARD PYLE III, 4930 QUEBEC ST., NW WASHINGTON DC 20016	HOUSTON LIGHTING & POWER COMPANY	3,600.00	
ROBERT N. PYLE, 1701 K ST., NW, #1004 WASHINGTON DC 20007	ELKEM METALS COMPANY	4,350.00	400.00
Do	INDEPENDENT BAKERS ASSN	3,000.00	363.00
Do	INTERNATIONAL MEDICAL CENTERS	1,000.00	120.00
JOHN R. QUARLES JR., MORGAN LEWIS & BOCKIUS 1800 M ST., NW WASHINGTON DC 20036	NATIONAL ENVIRONMENTAL DEVELOPMENT ASSN CLEAN AIR ACT PROJ	1,000.00	
JAMES M. QUIGLEY, 1875 EYE ST., NW, #540 WASHINGTON DC 20006	CHAMPION INTERNATIONAL CORPORATION		
WILLIAM A. QUINLAN, 3045 RIVA RD. RIVA MD 21140	NATIONAL CANDY WHOLESALERS ASSN, INC		
Do	RETAIL BAKERS OF AMERICA		
R/R ASSOCIATES, 2 MARINE WAY, SUITE 217 JUNEAU AK 99801	CITY OF DILLINGHAM		
GEORGE GREGORY RAAB, 2000 L STREET, NW WASHINGTON DC 20036	MEDTRONIC, INC	20.00	31.79
CLIFFORD RABER, ONE MCDONALD'S PLAZA OAK BROOK IL 60521	MCDONALD'S CORP		
ALEX RADIN, 2301 M ST., NW WASHINGTON DC 20036	AMERICAN PUBLIC POWER ASSN	1,263.36	
W. A. RADZIEWICZ, 400 FIRST STREET, NW WASHINGTON DC 20001	BROTHERHOOD OF RAILROAD SIGNALMEN	350.00	
TESS A. RAE, 1850 K STREET, NW WASHINGTON DC 20006	AMERICAN COUNCIL OF LIFE INSURANCE, INC		
ROBERT A. RAGLAND, 1776 F STREET, NW WASHINGTON DC 20006	NATIONAL ASSN OF MANUFACTURERS	75.00	
TANYA A. RAHALL, 2033 M STREET, NW, #900 WASHINGTON DC 20036	NATIONAL ASSN OF ARAB AMERICANS	6,972.83	113.75

Organization or Individual Filing	Employer/Client	Receipts	Expenditures
RODERIC W. RAHE JR., 1015 15TH STREET, NW, #802 WASHINGTON DC 20005	AMERICAN CONSULTING ENGINEERS COUNCIL	700.00	
RAILROAD RETIREMENT ASSN, 210 7TH ST., SE, #517 WASHINGTON DC 20003		3,244.43	3,444.43
RAILWAY LABOR EXECUTIVES' ASSN, 400 FIRST ST., NW, #804 WASHINGTON DC 20001		76,800.00	136,471.25
RAILWAY PROGRESS INSTITUTE, 700 NORTH FAIRFAX ST. ALEXANDRIA VA 22314			
JOHN C. RAMIG, 1730 M STREET, NW, #900 WASHINGTON DC 20036	STOEL RIVES BOLEY FRASER & WYSE (FOR: ASSOCIATION OF O & C COUNTIES)	683.80	
Do	STOEL RIVES BOLEY FRASER & WYSE (FOR: PACIFICORP)	8,547.83	1,036.86
KATHLEEN MARIE RAMSEY, 1010 WISCONSIN AVENUE, NW, #800 WASHINGTON DC 20007	GROCERY MANUFACTURERS OF AMERICA, INC	25.00	
CRAIG J. RANCOURT, 2000 PENNSYLVANIA AVE., NW, #3700 WASHINGTON DC 20006	AMERICAN ASSN OF CLASSIFIED SCHOOL EMPLOYEES	13,479.13	13,479.13
JEANNETTE H. RANDALL, 2400 E. COMMERCIAL BLVD, #500 FORT LAUDERDALE FL 33306	AMERISERV, INC	5,000.00	512.65
DONALD A. RANDALL, P.C., 321 D STREET, NE WASHINGTON DC 20002	AUTOMOTIVE SERVICE COUNCILS, INC	550.00	
Do	NATIONAL INDEPENDENT DAIRY-FOODS ASSN	13,958.76	
RANDOLPH & TRUITT, 1752 N STREET, NW, #801 WASHINGTON DC 20036	TANADGUSIX CORPORATION		
JAMES D. RANGE, 1155 CONNECTICUT AVE., NW, #800 WASHINGTON DC 20036	WASTE MANAGEMENT, INC	5,000.00	6,090.10
TIM RANSDELL, 1000 POTOMAC ST., NW, #401 WASHINGTON DC 20007	FRANCIS MCGINNIS & REES		
Do	NATIONAL PASSENGER TRAFFIC ASSN		
D. MICHAEL RAPPOPORT, P.O. BOX 52025 PHOENIX AZ 85072	SALT RIVER PROJECT	1,680.00	4,453.62
CARL L. RASAK, 8301 FORT HUNT ROAD ALEXANDRIA VA 22308			
MAGDA RATAJSKI, P.O. BOX 3609 NORFOLK VA 23514	NORFOLK SOUTHERN CORPORATION		
CAROL L. RAULSTON, 1619 MASSACHUSETTS AVE., NW WASHINGTON DC 20036	AMERICAN PAPER INST, INC	2,075.00	12.00
CRAIG RAUPE, CAMPBELL-RAUPE ASSOCIATES, INC 1015 15TH STREET, NW, #907 WASHINGTON DC 20005	ALGONQUIN GAS TRANSMISSION		
Do	AMERICAN NUCLEAR ENERGY COUNCIL		
Do	INVEST TO COMPETE ALLIANCE		
Do	LTV AEROSPACE & DEFENSE CO		
Do	NEW ENGLAND LIFE		
Do	PITNEY BOWES		
Do	RIFFE PETROLEUM CO		
Do	TEXAS AIR CORP		
Do	TEXAS UTILITIES SERVICE		
Do	WESTINGHOUSE CORP		
G. DAVID RAVENCRAFT, 1025 CONNECTICUT AVE., NW, #507 WASHINGTON DC 20036	ASHLAND OIL, INC	2,000.00	
JOHN K. RAYBURN, 1801 K STREET, NW WASHINGTON DC 20006	WESTINGHOUSE ELECTRIC CORP	235.00	35.00
RAYMARK CORPORATION, 100 OAKVIEW DRIVE TRUMBULL CT 06611			
DAVID A. RAYMOND, 1025 CONNECTICUT AVE., NW, #1014 WASHINGTON DC 20036	ENSERCH CORPORATION	2,125.00	484.30
RICHARD J. RAZOOK, 200 SOUTH BISCAYNE BLVD. 4900 SOUTHEAST FINANCIAL CENTER MIAMI FL 33131	THOMSON ZEDER BOHRER WERTH ADORNO & RAZOOK (FOR: BURGER KING CORP)	445.00	
RBC ASSOCIATES, 324 FOURTH STREET, NE WASHINGTON DC 20003	BANGOR & AROOSTOOK RAILROAD	6,750.00	5,438.57
Do	CHICAGO & NORTH WESTERN TRANSPORTATION CORP	19,000.00	5,121.67
Do	DELAWARE OTSEGO SYSTEM	12,000.00	5,138.59
Do	GENESEE & WYOMING CORP	750.00	4,669.35
Do	PITTSBURG & SHAWMUT RAILROAD	2,100.00	4,669.35
JULIAN O. READ, 1005 CONGRESS AVENUE, #500 AUSTIN TX 78701	CENTRAL AND SOUTH WEST CORP		
READING IS FUNDAMENTAL, INC, 600 MARYLAND AVE., SW, #500 WASHINGTON DC 20560	READING IS FUNDAMENTAL, INC		
SYDNEY C. REAGAN, NO. 10 DUNCANNON CT. DALLAS TX 75225	SOUTHWESTERN PEANUT SHELLERS ASSN	1,180.63	1,030.63
RECON/OPTICAL, INC, 550 WEST NORTHWEST HIGHWAY BARRINGTON IL 60010			
JOHN M. RECTOR, 205 DAINGERFIELD RD. ALEXANDRIA VA 22314	NATIONAL ASSN OF RETAIL DRUGGISTS	700.00	150.00
MICHAEL L. REED, 1100 15TH STREET, NW, #900 WASHINGTON DC 20005	PHARMACEUTICAL MANUFACTURER'S ASSN	4,000.00	36.50
REED ROBERTS TAX CREDIT ASSISTANCE CORP, 55 CHARLES LINDBERGH BLVD., #CS-101 UNIONDALE NY 11553			
PAULINE B. REEPING, 1750 NEW YORK AVENUE, NW WASHINGTON DC 20006	NEW YORK SHIPPING ASSN, INC		
JOSEPH M. REES, FRANCIS MCGINNIS & REES, INC 1000 POTOMAC STREET, NW, #401 WASHINGTON DC 20007	DELTA DENTAL PLANS ASSOCIATION	4,000.00	
BENJAMIN F. REEVES, 1100 17TH STREET, NW WASHINGTON DC 20036	BURLEY & DARK LEAF TOBACCO EXPORT ASSN	900.00	
J. RONALD REEVES, WASHINGTON NATIONAL AIRPORT WASHINGTON DC 20001	U.S. AIR, INC	2,000.00	175.00
JOHN T. REGGITTS JR., 95 BOOTON AVE. P.O. BOX 470 BOONTON NJ 07005			
REICHLER & APPELBAUM, 888 17TH ST., NW, #1101 WASHINGTON DC 20006	PERMANENT MISSION OF THE REPUBLIC OF SEYCHELLES		
Do	REPUBLIC OF NICARAGUA	6,000.00	
REID & PRIEST, 1111 19TH STREET, NW WASHINGTON DC 20036	ASSOCIATED NATURAL GAS COMPANY, ET AL		
Do	BALTIMORE GAS & ELECTRIC CO, ET AL	350.00	21,000.00
Do	CITY OF PHILADELPHIA		
Do	DILLON READ & CO, INC	15,325.26	
Do	EDISON ELECTRIC INSTITUTE	289.00	9.50
Do	PENNSYLVANIA SHIPBUILDING CO	9,825.20	703.84
Do	PEOPLE EXPRESS AIRLINES, INC		
REID & RIEGE, P.C., ONE STATE STREET HARTFORD CT 06103	WESLEYAN UNIVERSITY	4,200.00	
CHARLOTTE REID, 2466 CHATHAM ROAD AURORA IL 60506	MOTOROLA, INC		
MICHAEL W. REID, 1925 K STREET, NW, #206 WASHINGTON DC 20006	ALLIANCE TO SAVE ENERGY		
MARY LYNN REILLY, 3805 ALTON PLACE, NW WASHINGTON DC 20016	NEIGHBORHOOD HOUSING SERVICES OF AMERICA		
HARRY O. REINSCH, 50 BEALE ST. P.O. BOX 3965 SAN FRANCISCO CA 94119	BECHTEL POWER CORPORATION		
ZEV M. REMBA, 1111 14TH STREET, NW WASHINGTON DC 20005	ACADEMY OF GENERAL DENTISTRY		
RENDON COMPANY, 1439 RHODE ISLAND AVE., NW WASHINGTON DC 20005			
JOHN W. RENDON JR., 1439 RHODE ISLAND AVE., NW WASHINGTON DC 20005	RENDON COMPANY		
SARAH M. RENFROE, 16805 WELD COUNTY RD. 19 1/2 PLATTEVILLE CO 80651	PUBLIC SERVICE CO OF COLORADO		
W. W. RENFROE, 69 FOUNTAIN PL. - P.O. BOX 417 FRANKFORT KY 40602	KENTUCKY RAILROAD ASSN		
STEPHEN M. RENNA, 777 14TH STREET, NW WASHINGTON DC 20005	NATIONAL ASSN OF REALTORS	1,750.00	289.27
DIANE RENNERT, 2005 MASSACHUSETTS AVENUE, NW WASHINGTON DC 20036	ASSOCIATION OF AMERICAN PUBLISHERS	4,300.00	307.16
DAVID M. REPASS, 1801 K STREET, NW, #700 WASHINGTON DC 20006	PRICE WATERHOUSE (FOR: EAGLE-PICHER INDUSTRIES, INC)	402.00	
RETIRED OFFICERS ASSN, 201 N. WASHINGTON ST. ALEXANDRIA VA 22314		11,403.00	
JOHN H. REURS, 74 TRINITY PLACE NEW YORK NY 10006	NEW YORK COMM OF INTL COMM OF PASSENGER LINES		
VINCENT P. REUSING, 1025 CONNECTICUT AVENUE, NW, #1010 WASHINGTON DC 20036	METROPOLITAN INSURANCE COS	1,000.00	
ALAN V. REUTHER, 1757 N STREET, NW WASHINGTON DC 20036	UNITED AUTO, AEROSPACE & AGRICULTURAL IMPLEMENT WORKERS	19,295.86	157.90
ALLAN R. REXINGER, 1150 CONNECTICUT AVE., NW, #1200 WASHINGTON DC 20036	PROPRIETARY ASSN	3,281.25	150.00
MARK E. REY, 1619 MASSACHUSETTS AVENUE, NW WASHINGTON DC 20036	NATIONAL FOREST PRODUCTS ASSN	1,500.00	
RENEE REYMOND, 1776 F STREET, NW WASHINGTON DC 20006	NATIONAL ASSN OF MANUFACTURERS		200.00
REYNOLDS ALLEN & COOK, 1667 K STREET, NW, #300 WASHINGTON DC 20006	GRANADA MANAGEMENT CORP		
MARY ANNE REYNOLDS, 8111 GATEHOUSE ROAD FALLS CHURCH VA 22047	AAA POTOMAC		
JOHN J. RHODES, HUNTON & WILLIAMS 2000 PENNSYLVANIA AVENUE, NW WASHINGTON DC 20006	ROCKY MOUNTAIN ENERGY, UNION PACIFIC RAILROAD	500.00	
Do	WESTERN SAVINGS & LOAN ASSN		
EDMUND B. RICE, 444 NORTH CAPITOL ST., NW, #500 WASHINGTON DC 20001	AMERICAN HOSPITAL ASSN	2,884.06	
RICE GENOCIDE RESEARCH, 3046 ROOSEVELT STREET DETROIT MI 48216			209.39
LOIS D. RICE, 1201 PENNSYLVANIA AVNEUE, NW WASHINGTON DC 20004	CONTROL DATA CORPORATION	147.00	
M. LEE RICE, 1110 VERMONT AVENUE, NW WASHINGTON DC 20005	SHIPBUILDERS COUNCIL OF AMERICA	1,500.00	
THERON J. RICE, 1700 PENNSYLVANIA AVE., NW, #900 WASHINGTON DC 20006	CONOCO, INC		
JAMES E. RICH JR., 1025 CONNECTICUT AVE., NW, #200 WASHINGTON DC 20036	SHELL OIL COMPANY	500.00	
HEATHER S. RICHARDS, 1010 WISCONSIN AVE., NW, #800 WASHINGTON DC 20007	GROCERY MANUFACTURERS OF AMERICA, INC		
RICHARD RICHARDS, LAW OFFICE OF RICHARD RICHARDS 1050 THOMAS JEFFERSON STREET, NW, 6TH FL WASHINGTON DC 20007.	ESQUEL ENTERPRISES LTD	10,000.00	127.00
Do	NATIONAL ARMORED CAR ASSN, INC		
Do	SIKORSKY AIRCRAFT	1,666.66	7.20
ALAN H. RICHARDSON, 2301 M ST., NW WASHINGTON DC 20037	AMERICAN PUBLIC POWER ASSN	7,500.00	
DONNA RICHARDSON, 1101 14TH STREET, NW, #200 WASHINGTON DC 20005	AMERICAN NURSES' ASSN	4,932.01	176.25
JOHN C. RICHARDSON, 520 MADISON AVENUE NEW YORK NY 10022	LEBOEUF LAMB LEIBY & MACRAE (FOR: BRITISH INSURANCE ASSN AND LLOYD'S OF LONDON).		
K. O. RICHARDSON, 815 16TH ST., NW WASHINGTON DC 20006	BROTHERHOOD OF RAILWAY, AIRLINE & STEAMSHIP CLERKS	3,000.00	117.35
LOIS RICHERSON, 1724 MASSACHUSETTS AVENUE, NW WASHINGTON DC 20036	NATIONAL CABLE TELEVISION ASSN, INC	981.00	
JUDY NOEL RIDDLE, 6630 W. BROAD ST. RICHMOND VA 23230	LAWYERS TITLE INSURANCE CORP		
LOWELL J. RIDGEWAY, NORTH DAKOTA PETROLEUM COUNCIL P.O. BOX 1395 BISMARCK ND 58502	AMERICAN PETROLEUM INST	632.00	
E. GEORGE RIEDEL, 1600 M STREET, NW WASHINGTON DC 20036	INTERNATIONAL TELEPHONE & TELEGRAPH CORPORATION	1,800.00	150.00
E. PHILIP RIGGIN, 1608 K ST., NW WASHINGTON DC 20006	AMERICAN LEGION	11,901.00	341.17
PAT RILEY, 2020 K ST., NW, #200 WASHINGTON DC 20006	NATIONAL FED OF FEDERAL EMPLOYEES		
SUSAN RILEY, 1250 CONNECTICUT AVE., NW, #620 WASHINGTON DC 20036	NATIONAL MULTI HOUSING COUNCIL	1,812.66	
JOHN F. RING, 25 LOUISIANA AVENUE, NW WASHINGTON DC 20001	INTERNATIONAL BROTHERHOOD OF TEAMSTERS		
DALE P. RIORDAN, 3900 WISCONSIN AVENUE, NW WASHINGTON DC 20016	FEDERAL NATIONAL MORTGAGE ASSN		
KEVIN J. RIORDAN, 1700 K ST., NW, #1204 WASHINGTON DC 20006	CHEVRON USA INC	300.00	195.00
JOHN S. RIPPEY, 730 15TH ST., NW WASHINGTON DC 20005	ASSOCIATION OF BANK HOLDING COS	1,187.50	37.00
RISELLI & PRESSLER, 2033 M STREET, NW, #504 WASHINGTON DC 20036	PROFESSIONAL MANAGERS' ASSN	833.78	10.63
CAROL A. RISHER, 2005 MASSACHUSETTS AVE., NW WASHINGTON DC 20036	ASSOCIATION OF AMERICAN PUBLISHERS	2,000.00	

Organization or Individual Filing	Employer/Client	Receipts	Expenditures
ROBIN RISSO, 511 C STREET, NE WASHINGTON DC 20002	CONTINENTAL ASSN OF RESOLUTE EMPLOYERS (C.A.R.E.)		
JAMES E. RITCHIE & ASSOCIATES, 499 S. CAPITOL ST., SW, #400 WASHINGTON DC 20003	GAMING INDUSTRY ASSN OF NEVADA, INC		
Do	GOLDEN NUGGET, INC		
Do	NATIONAL ASSN OF OFF-TRACK BETTING		
Do	NATIONAL ASSN OF OPTOMETRISTS & OPTICIANS, INC		
Do	NEVADA RESORT ASSN		
JEANNE M. RITCHIE, 1850 K STREET, NW WASHINGTON DC 20006	AMERICAN COUNCIL OF LIFE INSURANCE, INC		
STARK RITCHIE, 1220 L ST., NW WASHINGTON DC 20005	AMERICAN PETROLEUM INSTITUTE		
VALENTIN RIVA, 1957 E ST., NW WASHINGTON DC 20006	ASSOCIATED GENERAL CONTRACTORS OF AMERICA		
PHILLIP W. RIVERS, 1050 17TH ST., NW #500 WASHINGTON DC 20036	TEXACO INC	137.25	
RIVKIN RADLER DUNNE & BAYH, 1575 I STREET, NW, #1025 WASHINGTON DC 20005	AMERICAN CANCER SOCIETY	7,500.00	500.00
Do	BORG WARNER CORPORATION		150.00
Do	FOOD MARKETING INSTITUTE	2,784.75	
Do	LEXITEL CORPORATION	3,789.59	150.00
Do	NATIONAL BASKETBALL ASSN	11,024.22	165.00
Do	SUGAR USERS GROUP	21,603.31	600.00
RJR INDUSTRIES, INC, 1100 REYNOLDS BLVD. WINSTON-SALEM NC 27106			9,467.98
RAY ROBERTS & ASSOCIATES, 2224 PEMBROOKE DENTON TX 76201	J. W. BATESON & CO, INC	3,000.00	2,226.40
Do	TEXAS UTILITIES SERVICES, INC	3,000.00	1,246.32
BRADLEY H. ROBERTS, 1899 L STREET, NW WASHINGTON DC 20036	AMERICAN ASSN OF ADVERTISING AGENCIES	2,500.00	750.00
PATRICIA L. ROBERTS, 1825 K ST., NW, #1107 WASHINGTON DC 20006	PHILLIPS PETROLEUM COMPANY	600.00	27.00
PERRY A. ROBERTS, 8000 FLORISSANT ST. LOUIS MO 63136	EMERSON ELECTRIC CO		313.37
RICHARD R. ROBERTS, 1629 K STREET, NW, #500 WASHINGTON DC 20006	AMERICAN COUNCIL OF HIGHWAY ADVERTISERS	500.00	1,334.20
RICHARD W. ROBERTS, 100 EAST 42ND ST. NEW YORK NY 10017	NATIONAL FOREIGN TRADE COUNCIL, INC	500.00	
WILLIAM A. ROBERTS, 444 NORTH CAPITOL STREET, #711 WASHINGTON DC 20001	KEEFE COMPANY (FOR: WESTINGHOUSE ELECTRIC CORP)		
MARK ROBERTSON, THE POWER HOUSE 3255 GRACE STREET, NW WASHINGTON DC 20007	GRAY & CO PUBLIC COMMUNICATIONS INT'L, INC (FOR: AMERICAN EXPRESS CO)		
Do	GRAY & CO PUBLIC COMMUNICATIONS INT'L, INC (FOR: NATIONAL BROADCASTING CO).		
BETTY S. ROBINSON, 1757 N ST., NW WASHINGTON DC 20036	UNITED AUTO, AEROSPACE & AGRICULTURAL IMPLEMENT WORKERS	20,732.84	74.00
CHARLES A. ROBINSON JR., 1800 MASSACHUSETTS AVE., NW WASHINGTON DC 20036	NATIONAL RURAL ELECTRIC COOPERATIVE ASSN	124.41	
ERNESTINE S. ROBINSON, 1575 EYE STREET, NW WASHINGTON DC 20005	AMERICAN SOC OF ASSN EXECUTIVES	300.00	
KENNETH L. ROBINSON, 1111 N. 19TH STREET, #700 ARLINGTON VA 22209	NATIONAL ASSN OF FEDERAL CREDIT UNIONS	1,400.00	
ROBINSON SILVERMAN PEARCE ARONSOHN & BERMAN, 230 PARK AVE. NEW YORK NY 10169	NATIONAL REALTY COMMITTEE		
THOMAS E. ROBINSON, 1101 17TH ST., NW, #700 WASHINGTON DC 20036	NATIONAL ASSN OF REAL ESTATE INVESTMENT TRUSTS	3,000.00	
ANTOINETTE K. ROCHE, 1025 CONNECTICUT AVENUE, NW WASHINGTON DC 20036	GA TECHNOLOGIES, INC	2,000.00	350.00
JAMES ANTHONY ROCK, 1730 M STREET, NW, #607 WASHINGTON DC 20036	MONTANA POWER CO AND WASHINGTON WATER POWER CO	650.00	2,761.87
MICHAEL J. ROCK, 444 NORTH CAPITOL STREET, NW WASHINGTON DC 20001	AMERICAN HOSPITAL ASSN	1,228.90	55.62
DAVID W. RODERER, 3900 WISCONSIN AVENUE, NW WASHINGTON DC 20016	FEDERAL NATIONAL MORTGAGE ASSN		
QUINCY RODGERS, 2033 M STREET, NW, #800 WASHINGTON DC 20036	GENERAL INSTRUMENT CORPORATION	600.00	27.40
JOSE LUIS RODRIGUEZ, 1000 THOMAS JEFFERSON ST., NW WASHINGTON DC 20007			
ROGERS & WELLS, 1737 H STREET, NW WASHINGTON DC 20006	AMERICAN EXPRESS CO		184.42
Do	ASSOCIATED PRESS		613.38
Do	CANDLE CORP		346.34
Do	CEMENTOS ANAHUAC DEL GOLFO, S.A		
Do	LIZ CLAIBORNE, INC	2,000.00	538.34
Do	DESERT PALACE, INC		
Do	DREYFUS CORPORATION	15,000.00	338.68
Do	FRANZIA, FRED T. JOHN C. & JOSEPH S		44.00
Do	GROCERY MANUFACTURERS OF AMERICA		319.34
Do	WILLIAM ANTHONY HOGAN		
Do	INTERNOOR TRADE, INC		
Do	KAMEHAMEHA SCHOOLS/BERNICE P. BISHOP ESTATE		
Do	MERRILL LYNCH & CO, INC		
Do	MERRILL LYNCH EQUITY ACCESS		
Do	MERRILL LYNCH HUBBARD		
Do	MORRIS & GWENDOLYN CAFRITZ FOUNDATION		
Do	NATIONAL ASSN OF BEDDING MANUFACTURERS		
Do	PAN AMERICAN WORLD SERVICES		
Do	PARIBAS CORPORATION		
Do	PFIZER, INC		
Do	RUTGERS, THE STATE UNIV OF NEW JERSEY	6,130.67	195.86
Do	TEACHERS INSURANCE & ANNUITY ASSN/COLLEGE RET. EQUITIES FUND		
BRUCE N. ROGERS, 1660 L ST., NW WASHINGTON DC 20036	GENERAL MOTORS CORP	3,000.00	5,003.77
DONALD L. ROGERS, 730 15TH ST., NW WASHINGTON DC 20005	ASSOCIATION OF BANK HOLDING COS	2,106.25	
MARGARET ROGERS, 1025 CONNECTICUT AVE., NW, #409 WASHINGTON DC 20036	SOCIETY OF THE PLASTICS INDUSTRY, INC	2,500.00	
NANCY ROGERS, 815 16TH STREET, NW WASHINGTON DC 20006	INDUSTRIAL UNION DEPARTMENT, ALF-CIO	5,596.50	296.21
CAROLE M. ROGIN, 1255 23RD STREET, NW, #850 WASHINGTON DC 20037	HAUCK & ASSOCIATES, INC (FOR: HEARING INDUSTRIES ASSN)		
Do	HAUCK & ASSOCIATES, INC. (FOR: NATIONAL ASSN FOR CHILD CARE MANAGEMENT).		
RICHARD A. ROHRBACH, 1615 M STREET, NW, #570 WASHINGTON DC 20036	BOISE CASCADE CORP	22,250.00	246.16
JACK ROLLINS, 1201 16TH STREET, NW WASHINGTON DC 20036	OVERSEAS EDUCATION ASSN & NATIONAL EDUCATION ASSN		
JOHN F. ROLPH III, 1200 NEW HAMPSHIRE AVE., NW, #350 WASHINGTON DC 20036	CITIBANK, N.A	1,000.00	
KENNETH S. ROLSTON JR , 1025 VERMONT AVE., NW, #1020 WASHINGTON DC 20005	AMERICAN PULPWOOD ASSN, INC		
EMIL A. ROMAGNOLI, 180 MAIDEN LANE NEW YORK NY 10038	ASARCO INC	200.00	
MICHAEL J. ROMIG, 1850 K STREET, NW WASHINGTON DC 20006	AMERICAN COUNCIL OF LIFE INSURANCE, INC	3,000.00	
FRED B. ROONEY, 1050 CONNECTICUT AVE., NW, 12TH FL. WASHINGTON DC 20036	AMERICAN IRON & STEEL INSTITUTE	850.00	
Do	ASSOCIATION OF AMERICAN RAILROADS	950.00	
Do	CALMAT COMPANY	750.00	
Do	CRAWFORD FITTING CO	750.00	
Do	DENVER & RIO GRANDE WESTERN RAILROAD CO	800.00	
Do	LONE STAR INDUSTRIES, INC	750.00	
Do	M LIFE INSURANCE CO	950.00	
Do	PAUL, HASTINGS, JANOFSKY & WALKER (FOR: SECURITY LIFE OF DENVER)	850.00	
JOHN C. ROOTS, 1333 NEW HAMPSHIRE AVE., NW, #1001 WASHINGTON DC 20036	ATLANTIC RICHFIELD CO	193.54	
ROPES & GRAY, 1001 22ND ST., NW, #700 WASHINGTON DC 20037	AMHERST COLLEGE; WELLESLEY COLLEGE		
ROSE SCHMIDT CHAPMAN DUFF & HASLEY, 1825 EYE ST., NW, #300 WASHINGTON DC 20006	ANNUAL CHARGES POLICY GROUP	610.00	8.72
Do	CIGAR ASSN OF AMERICA		
BURT ROSEN, 1700 PENNSYLVANIA AVE., NW WASHINGTON DC 20006	PFIZER, INC	1,000.00	590.77
LESTER L. ROSEN, 1025 VERMONT AVENUE, NW, #500 WASHINGTON DC 20005	MILES LABORATORIES, INC		
RICHARD ROSEN, 5010 WISCONSIN AVE., NW, #118 WASHINGTON DC 20016			
DAVID B. ROSENAUER, 1317 F STREET, NW, #400 WASHINGTON DC 20004	R. DUFFY WALL & ASSOCIATES, INC (FOR: BALCOR COMPANY)	300.00	
Do	R. DUFFY WALL & ASSOCIATES, INC (FOR: CANTOR FITZGERALD & CO, INC)	300.00	
Do	R. DUFFY WALL & ASSOCIATES, INC (FOR: ESSLETE BUSINESS SYSTEMS, INC)	300.00	
Do	R. DUFFY WALL & ASSOCIATES, INC (FOR: FOOTWEAR RETAILERS OF AMERICA)	300.00	
Do	R. DUFFY WALL & ASSOCIATES, INC (FOR: JMB REALTY CORP)	300.00	
Do	R. DUFFY WALL & ASSOCIATES, INC (FOR: LIFE OF VIRGINIA)	300.00	
Do	R. DUFFY WALL & ASSOCIATES, INC (FOR: MORGAN GUARANTY TRUST CO)	300.00	
Do	R. DUFFY WALL & ASSOCIATES, INC (FOR: NEW YORK STATE BANKERS ASSN)	300.00	
Do	R. DUFFY WALL & ASSOCIATES, INC (FOR: PHARMACEUTICAL MANUFACTURERS ASSN).	300.00	
Do	R. DUFFY WALL & ASSOCIATES, INC (FOR: TORCHMARK CORPORATION)	300.00	
Do	R. DUFFY WALL & ASSOCIATES, INC (FOR: WINE & SPIRITS WHOLESALERS OF AMERICA, INC).	300.00	
RICHARD ROSENBAUM, 666 THIRD AVE., 4TH FL. NEW YORK NY 10017	COMMITTEE FOR A RESPONSIBLE TAX POLICY, INC		
Do	INTEGRATED RESOURCES, INC	5,000.00	250.00
SARA ROSENBAUM, 122 C STREET, NW WASHINGTON DC 20001	CHILDREN'S DEFENSE FUND	2,200.00	
ROGER C. ROSENTHAL, 2001 S ST., NW, #310 WASHINGTON DC 20009	MIGRANT LEGAL ACTION PROGRAN, INC		
GAIL E. ROSS, 918 16TH ST., NW, #503 WASHINGTON DC 20006	WASHINGTON INDEPENDENT WRITERS		
JOE ROSS, P.O. BOX 1582 LITTLE ROCK AR 72201			
WILLIAM F. ROSS, SOUTH CAROLINA PETROLEUM COUNCIL 716 KEENAN BLDG. COLUMBIA SC 29201	AMERICAN PETROLEUM INST	642.00	2,205.43
LESLEY A. ROSSE, 1220 L ST., NW, 5TH FL. WASHINGTON DC 20005	AMERICAN RESORT & RESIDENTIAL DEVELOPMENT ASSN		
ALAN J. ROTH, SPIEGEL & MCDIARMID 2600 VIRGINIA AVE., NW WASHINGTON DC 20037	FT. PIERCE UTILITIES AUTH OF THE CITY OF FT. PIERCE, ET AL		
BARRY N. ROTH, 1120 20TH STREET, NW, #700 WASHINGTON DC 20036	WILLIAMS COMPANIES	100.00	

Organization or Individual Filing	Employer/Client	Receipts	Expenditures
RHOND RUDOLPH ROTH, 1255 23RD STREET, NW WASHINGTON DC 20037	HAUCK & ASSOCIATES, INC	17,300.00	2,964.54
JOHN C. ROTHER, 1909 K STREET, NW WASHINGTON DC 20049	AMERICAN ASSN OF RETIRED PERSONS	942.31	
EDWIN ROTHSCHILD, 1300 CONNECTICUT AVE., NW, #401 WASHINGTON DC 20036	CITIZEN/LABOR ENERGY COALITION		
DONALD D. ROUNDS, SOUTH DAKOTA PETROLEUM COUNCIL P.O. BOX 669 PIERRE SD 57501	AMERICAN PETROLEUM INSTITUTE	840.00	
MICHAEL O. ROUSH, CAPITAL GALLERY EAST, #695 600 MARYLAND AVE. WASHINGTON DC 20024	NATIONAL FEDERATION OF INDEPENDENT BUSINESS	2,250.00	200.00
ANN M. ROWAN, ONE THOMAS CIRCLE, NW. #900 WASHINGTON DC 20005	NATIONAL COMM TO PRESERVE SOCIAL SECURITY & MEDICARE		
Do	OAKLAND COLISEUM		
Do	PORT OF OAKLAND		
EUGENE F. ROWAN, 2550 M STREET, NW WASHINGTON DC 20037	NATIONAL ASSN OF CHAIN DRUG STORES	131.00	
Do	REVCO D.S., INC		
CHARLES ROWTON, 1899 L STREET, NW. #1100 WASHINGTON DC 20036	EXXON CORP	1,200.00	133.05
ROXTON, INC, 2000 S. EADS STREET, #1003 ARLINGTON VA 22202	GLOBAL IDENTIFICATION CORP		
ROBERT S. ROYER, ROYER & SHACKNAI 1747 PENNSYLVANIA AVE., NW WASHINGTON DC 20006	AMERICAN MILITARY SALES		
Do	CHRYSLER MILITARY SALES CORP		
Do	CITY OF AKRON, OHIO		
Do	FORD RIFF & BURGESS		
Do	HARLEY-DAVIDSON MILITARY SALES		
Do	INTERNATIONAL FUTURES EXCHANGE		
Do	MICHIGAN TRADE EXCHANGE		
Do	MORGAN STANLEY & CO, INC		
Do	OVERSEAS MILITARY SALES GROUP		
Do	PHILLIPS PETROLEUM		
Do	SECURITIES INDUSTRY ASSOCIATION		
TOBI Z. ROZEN, 888 16TH ST., NW WASHINGTON DC 20006	MILK IND. FOUNDATION/INTL ASSN OF ICE CREAM MFRS		
EUGENE T. RUANE, 1325 G STREET, NW. #1003 WASHINGTON DC 20005	ENVIRONMENTAL FUND	850.00	10.00
ERIC M. RUBIN, RUBIN WINSTON & DIERCKS 1730 M ST., NW, #708 WASHINGTON DC 20036	COMMISSONER OF PUBLIC LANDS FOR STATE OF NEW MEXICO		
Do	OUTDOOR ADVERTISING ASSN OF AMERICA, INC		
BARBARA A. RUDOLPH, 1901 N. FORT MYER DRIVE, #302 ROSSLYN VA 22209	BEVERLY ENTERPRISES	3,375.00	190.00
CAMILLE KEARNS RUDY, 1346 CHESTNUT, #800 PHILADELPHIA PA 19107	GREATER PHILADELPHIA CHAMBER OF COMMERCE		
HENRY C. RUEMPLER, 1200 NEW HAMPSHIRE AVENUE, NW, #350 WASHINGTON DC 20036	CITIBANK, N.A	500.00	
NICHOLAS L. RUGGIERE, 1667 K STREET, NW, #410 WASHINGTON DC 20006	JOHNSON & JOHNSON	1,000.00	225.00
JOHN RUNYAN, 1730 NORTH LYNN ST., #409 ARLINGTON VA 22209	PRINTING INDUSTRIES OF AMERICA, INC	500.00	
MORGAN S. RUPH, 4647 FORBES BOULEVARD LANHAM MD 20706	AMVETS	6,800.00	150.47
ROBERT A. RUSBULDT, 1025 CONNECTICUT AVE., NW, #415 WASHINGTON DC 20036	AMERICAN INSURANCE ASSN	275.00	58.40
DOMENIC R. RUSCIO, 6TH FLOOR 2010 MASSACHUSETTS AVENUE, NW WASHINGTON DC 20036			
BARRY RUSSELL, 1101 16TH ST., NW WASHINGTON DC 20036	INDEPENDENT PETROLEUM ASSN OF AMERICA		40.00
DOROTHEA L. RUSSELL, 1120 VERMONT AVENUE, NW, #1120 WASHINGTON DC 20005	NATIONAL CANDY WHOLESALERS ASSN, INC		
NANCY RUSSELL, 4921 SW HEWETT BLVD. PORTLAND OR 97221	FRIENDS OF THE COLUMBIA GORGE		
RUSSO WATTS ROLLINS & PLATT, INC, 1033 N. FAIRFAX STREET, #205 ALEXANDRIA VA 22314	BAG BAZZAR LTD	250.00	
Do	CIC ENTERPRISES	500.00	
Do	HENRY--RICHARD COMPANY, INC	250.00	
Do	HOLIDAY FAIR, INC	250.00	
Do	MANAGEMENT INSIGHTS, INC	500.00	
Do	METROPOLITAN ANALYSIS & RETRIEVAL SYSTEMS, INC	500.00	
Do	NORFOLK SOUTHERN CORP	5,000.00	
Do	REED ROBERTS TAX CREDIT ASSISTANCE CORP	500.00	
Do	SARNE CORPORATION	250.00	
Do	SEARS ROEBUCK & CO	1,000.00	
Do	SERKO & SIMON	1,000.00	
Do	SIRCO INTERNATIONAL CORP	250.00	
Do	TRANSOHIO FINANCIAL CORP	500.00	
WALLY RUSTAD, 1800 MASSACHUSETTS AVE., NW WASHINGTON DC 20036	NATIONAL RURAL ELECTRIC COOPERATIVE ASSN	75.00	
HERMAN MAX RUTH, P.O. BOX 1000 OTISVILLE NY 10963			
J. T. RUTHERFORD & ASSOCIATES, INC., 1301 N. COURTHOUSE RD., #1802 ARLINGTON VA 22201	AMERICAN ASSN OF BIOANALYSTS/INTL SOC OF CLINICAL LAB TECHS		240.30
Do	AMERICAN COLLEGE OF RADIOLOGY		230.60
Do	AMERICAN OPTOMETRIC ASSN		280.10
Do	GTE/SPRINT COMMUNICATIONS		
MILLARD H. RUUD, ONE DUPONT CIRCLE, NW. #370 WASHINGTON DC 20036	ASSOCIATION OF AMERICAN LAW SCHOOLS		
ELLA MARICE RYAN, 1156 15TH ST., NW WASHINGTON DC 20005	J. C. PENNEY CO, INC	100.00	
FRANK T. RYAN, 1400 K STREET, NW WASHINGTON DC 20005	RUBBER MFGRS ASSN	2,500.00	
GEORGE J. RYAN, 915 ROCKEFELLER BUILDING CLEVELAND OH 44113	LAKE CARRIERS' ASSN		
JOHN F. RYAN, 1600 M STREET, NW WASHINGTON DC 20036	INTERNATIONAL TELEPHONE & TELEGRAPH CORPORATION	320.00	25.00
JOSEPH RYAN, 2033 M ST., NW, #800 WASHINGTON DC 20036	GENERAL INSTRUMENT CORPORATION		
DAVID J. SADD, 2033 M STREET, NW, #900 WASHINGTON DC 20036	NATIONAL ASSN OF ARAB AMERICANS	2,000.00	206.06
DEAN SAGAR, 1050 17TH STREET, NW, #770 WASHINGTON DC 20036	AMERICAN ASSN OF HOMES FOR THE AGING	341.00	10.25
JOHN K. SAGE, ONE POST STREET, #3275 SAN FRANCISCO CA 94104	MCKESSON CORP	200.00	
ANTHONY J. SAGGESE JR., 1050 17TH ST., NW, #500 WASHINGTON DC 20036	TEXACO, INC	250.00	
GREGORY A. SAHD, 2033 M STREET, NW WASHINGTON DC 20036	NATIONAL ASSN OF ARAB AMERICANS	1,666.67	
FRANK MAX SALINGER, 1101 14TH ST., NW WASHINGTON DC 20005	AMERICAN FINANCIAL SERVICES ASSN		
JAMES H. SAMMONS, 535 NORTH DEARBORN STREET CHICAGO IL 60610	AMERICAN MEDICAL ASSN	1,500.00	
SANDERS SCHNABEL & BRANDENBURG, P.C., 1110 VERMONT AVENUE, NW, #600 WASHINGTON DC 20005	AMERICAN SOC OF ASSN EXECUTIVES	2,770.00	
STEPHEN E. SANDHERR, 1957 E STREET, NW WASHINGTON DC 20006	ASSOCIATED GENERAL CONTRACTORS OF AMERICA		
MYRON G. SANDIFER III, 1800 M ST., NW, #950 NORTH WASHINGTON DC 20036	JACK MCDONALD CO (FOR: COALITION FOR THE ADVANCEMENT OF INDUSTRIAL TECHNOLOGY).		
Do	JACK MCDONALD CO (FOR: DOW CORNING CORP)		
Do	JACK MCDONALD CO (FOR: ROYAL ZENITH CORP)		
CHARLES E. SANDLER, 1220 L STREET, NW WASHINGTON DC 20005	AMERICAN PETROLEUM INST	6,000.00	
PETER G. SANDLUND, 1725 EYE ST., NW, #315 WASHINGTON DC 20006	COUNCIL OF EUROPEAN & JAPANESE NATIONAL SHIPOWNERS' ASSN	300.00	
BRUCE W. SANFORD, BAKER & HOSTETLER 818 CONNECTICUT AVENUE, NW WASHINGTON DC 20006	SOCIETY OF PROFESSIONAL JOURNALISTS, SIGMA DELTA CHI	1,500.00	124.76
DONALD E. SANTARELLI, SUITE 700 2033 M ST., NW WASHINGTON DC 20036	EMPRESA BRASILEIRA DE AERONAUTICA, S.A		
Do	STURM, RUGER COMPANY, INC		
CHARLES SAPP, 3500 TEXAS COMMERCE TOWER HOUSTON TX 77002	HOUSTON ENDOWMENT, INC		
KAREN SASAHARA, 2033 M STREET, NW, #900 WASHINGTON DC 20036	NATIONAL ASSN OF ARAB AMERICANS		
ALBERT C. SAUNDERS, 1100 15TH ST., NW #900 WASHINGTON DC 20005	PHARMACEUTICAL MANUFACTURERS ASSN	4,000.00	29.00
RICHARD N. SAWAYA, 1333 NEW HAMPSHIRE AVE., NW WASHINGTON DC 20036	ATLANTIC RICHFIELD CO	300.00	
THOMAS C. SAWYER, 1825 K STREET, NW WASHINGTON DC 20006	NATIONAL BROADCASTING CO	2,000.00	774.87
ROBERT WAYNE SAYER, 4545 42ND STREET, NW WASHINGTON DC 20016	GCA CORP		73.17
ROBERT H. SCARBOROUGH, 1700 PENNSYLVANIA AVE., NW, #600 WASHINGTON DC 20006	APPLE COMPUTER, INC	3,350.00	
LAURIE S. SCHAFFER, 1120 CONNECTICUT AVE., NW WASHINGTON DC 20036	AMERICAN BANKERS ASSN		
ROGER B. SCHAGRIN, SCHAGRIN ASSOCIATES 1112 16TH ST., NW, #1000 WASHINGTON DC 20036	COMMITTEE ON PIPE & TUBE IMPORTS	41,500.00	
JEROME D. SCHALLER, 1101 15TH ST., NW WASHINGTON DC 20005	MINNESOTA MINING & MANUFACTURING CO	10,000.00	241.14
WILLIAM T. SCHAPAUGH, 1030 15TH STREET, NW WASHINGTON DC 20005	AMERICAN SEED TRADE ASSN	4,000.00	
C. M. SCHAUERTE, P.O. BOX 3247 HOUSTON TX 77253	AMERICAN GENERAL CORPORATION		
JAY T. SCHECK JR., RT. 202-206 NORTH SOMERVILLE NJ 08876	AMERICAN HOECHST CORPORATION		
DALE E. SCHELL, 1919 PENNSYLVANIA AVE., NW, #300 WASHINGTON DC 20006	GATX CORP		
DAVID JOEL SCHLEIN, P.O. BOX 7708 WASHINGTON DC 20044	AMERICAN FED OF GOV'T EMPLOYEES, LOCAL 12		
KENNETH D. SCHLOMAN, 1600 RHODE ISLAND AVENUE, N.W. WASHINGTON DC 20036	NATIONAL RIFLE ASSOCIATION OF AMERICA	962.50	84.95
FOREST S. SCHMELING, 1515 WILSON BLVD. ARLINGTON VA 22209	AMERICAN GAS ASSN	1,000.00	257.70
RICHARD M. SCHMIDT JR., SUITE 600 1333 NEW HAMPSHIRE AVE., NW WASHINGTON DC 20036	ASSOCIATION OF AMERICAN PUBLISHERS	500.00	
SCHNADER HARRISON SEGAL & LEWIS, SUITE 1000 1111 19TH ST., NW WASHINGTON DC 20036	SAVIN CORPORATION		
Do	TOYOTA MOTOR CORPORATION	1,566.00	101.80
ROBERT V. SCHNEIDER, 3328 GLENMORE DRIVE FALLS CHURCH VA 22041	TELESCIENCES CORP	500.00	259.25
THERESA A. SCHNEIDER, 1575 EYE STREET, NW, #550 WASHINGTON DC 20005	INSTITUTE OF MAKERS OF EXPLOSIVES		
LEONARD SCHNEIDMAN, FOLEY HOAG & ELIOT ONE POST OFFICE SQUARE BOSTON MA 02109	MUTUAL SAVINGS CENTRAL FUND, INC		
ABRAHAM SCHNEIER, 600 MARYLAND AVE., SW, #700 WASHINGTON DC 20024	NATIONAL FED OF INDEPENDENT BUSINESS	565.25	200.00
FRANK SCHNELLER, 1957 E ST., NW WASHINGTON DC 20006	ASSOCIATED GENERAL CONTRACTORS OF AMERICA		
PAUL SCHOELLHAMER, 888 17TH STREET, NW WASHINGTON DC 20003	REPUBLIC AIRLINES	1,000.00	100.00
NANCY L. SCHOENIG, 25 LOUISIANA AVENUE, NW WASHINGTON DC 20001	INTERNATIONAL BROTHERHOOD OF TEAMSTERS		
JACK J. SCHRAMM, 1155 CONNECTICUT AVE., NW, #800 WASHINGTON DC 20036	WASTE MANAGEMENT, INC	5,000.00	1,056.76
MARSHA SCHRAMM, 1627 K ST., NW, #910 WASHINGTON DC 20006	DOMESTIC PETROLEUM COUNCIL, INC		
N. DONALD SCHROEDER, MARYLAND PETROLEUM COUNCIL 60 WEST ST., #403 ANNAPOLIS MD 21401	AMERICAN PETROLEUM INST	1,440.00	96.90
DEBRA L. SCHULTZ, 354 LONGACRE AVENUE WOODMERE NY 11598			
MARK SCHULTZ, 1615 H ST., NW WASHINGTON DC 20062	CHAMBER OF COMMERCE OF THE U.S.	5,000.00	36.30

Organization or Individual Filing	Employer/Client	Receipts	Expenditures
ROBERT L. SCHULZ, C/O IOWA PETROLEUM COUNCIL 1012 FLEMING BLDG. DES MOINES IA 50309	AMERICAN PETROLEUM INST	1,342.00	2,681.27
WALTER A. SCHUMANN III, 1511 NATALIE JOY LN. MCLEAN VA 22101	POTOMAC OVERLOOK ASSOCIATES		
NEIL D. SCHUSTER, SUITE #1000 1620 EYE ST., NW WASHINGTON DC 20006	MOTOR VEHICLE MANUFACTURERS ASSN OF THE U.S., INC		
JAMES H SCHUYLER, 15TH & M STS., NW WASHINGTON DC 20005	NATIONAL ASSN OF HOME BUILDERS OF THE U.S.		
DONALD H. SCHWAB, 200 MARYLAND AVE., NE WASHINGTON DC 20002	VETERANS OF FOREIGN WARS OF THE U.S.	12,750.00	227.40
ELINOR SCHWARTZ, 318 S. ABINGDON STREET ARLINGTON VA 22204	CALIFORNIA STATE LANDS COMMISSION	7,800.00	173.35
RICHARD SCHWARTZ, 880 S. PICKETT ST. ALEXANDRIA VA 22304	BOAT OWNERS ASSOCIATION OF THE U.S.	4,000.00	
RICHARD S. SCHWEIKER, 1850 K STREET, NW WASHINGTON DC 20006	AMERICAN COUNCIL OF LIFE INSURANCE, INC	2,625.00	
MICHAEL SCIULLA, 880 S. PICKETT ST. ALEXANDRIA VA 22304	BOAT OWNERS ASSOCIATION OF THE U.S.	6,000.00	
HAROLD B. SCOGGINS, 1101 16TH ST., NW WASHINGTON DC 20036	INDEPENDENT PETROLEUM ASSN OF AMERICA		47.25
SCOTT COMPANY, INC., 66 SURFWATCH DRIVE JOHNS ISLAND SC 29455	COASTAL PROPERTIES INSTITUTE, INC		
ELLEN SCOTT, 1750 NEW YORK AVENUE, NW WASHINGTON DC 20006	SHEET METAL WORKERS INT'L ASSN	6,325.00	
GREGORY R. SCOTT, 1875 EYE ST., NW, #500 WASHINGTON DC 20006	PHILIP MORRIS, INC	675.00	156.00
JAMES L. SCOTT, 1919 PENNSYLVANIA AVE., NW, #703 WASHINGTON DC 20006	AMERICAN HEALTHCARE INSTITUTE		10,037.00
JAMES M. SCOTT, 66 SURFWATCH DRIVE JOHNS ISLAND SC 29455	SCOTT COMPANY		
JOHN N. SCOTT, 1825 K STREET, NW, #1107 WASHINGTON DC 20006	PHILLIPS PETROLEUM COMPANY	222.00	200.43
SCRIBNER HALL & THOMPSON, SUITE 700 1875 EYE STREET, NW WASHINGTON DC 20006	CNA FINANCIAL CORP		18,215.65
Do	PROVIDENT LIFE & ACCIDENT INSURANCE CO		13.00
Do	SECURITY LIFE OF DENVER INSURANCE CO		
Do	ST. PAUL COMPANIES		
Do	TRANSAMERICA CORPORATION		
Do	TRANSAMERICA OCCIDENTAL LIFE INSURANCE CO		
SCRIVENS GOLDSTONE & CO, 5857 S. GESSNER, #287 HOUSTON TX 77036			
TIMOTHY SCULLY, 25 LOUISIANA AVENUE, NW WASHINGTON DC 20001	INTERNATIONAL BROTHERHOOD OF TEAMSTERS	9,755.02	
EARL W. SEARS, P.O. BOX 12285 MEMPHIS TN 38112	NATIONAL COTTON COUNCIL OF AMER	1,250.00	17.99
LAW OFFICES OF JOHN SEARS, 818 CONNECTICUT AVENUE, NW WASHINGTON DC 20006	EMBASSY OF THE REPUBLIC OF SOUTH AFRICA	15,000.00	514.36
PAMELA SEDERHOLM, 2828 N. HASKELL AVE. DALLAS TX 75204	SOUTHLAND CORPORATION		
MARIA MCCREA SEGAL, 2033 M STREET, NW, #900 WASHINGTON DC 20036	NATIONAL ASSN OF ARAB AMERICANS	7,173.75	62.75
J. PETER SEGALL, 3255 GRACE STREET, NW WASHINGTON DC 20007	GRAY & CO PUBLIC COMMUNICATIONS INT'L, INC (FOR: KINGDOM OF MOROCCO)	1,250.00	
H. RICHARD SEIBERT JR., 1776 F ST., NW WASHINGTON DC 20006	NATIONAL ASSN OF MANUFACTURERS	894.00	
GEORGE H. SEIDEL JR., ASSOCIATED PETROLEUM INDUSTRIES OF PA P.O. BOX 925 HARRISBURG PA 17108	AMERICAN PETROLEUM INSTITUTE	1,312.50	994.53
SEIDMAN & SEIDMAN/BDO, 15 COLUMBUS CIRCLE NEW YORK NY 10023			
M. FRANK SELLERS, 1615 H STREET, NW WASHINGTON DC 20062	U.S. CHAMBER OF COMMERCE (FOR: BUSINESS ALLIANCE ON GOVERNMENT COMPETITION)	5,000.00	103.27
RICHARD C. SEMACK, 17000 EXECUTIVE PLAZA DRIVE DEARBORN MI 48126	AUTOMOBILE CLUB OF MICHIGAN		
STANTON P. SENDER, 633 PENNSYLVANIA AVE., NW WASHINGTON DC 20004	SEARS ROEBUCK & CO	4,340.00	169.74
TERRY L. SERIE, 1619 MASSACHUSETTS AVE., NW WASHINGTON DC 20036	AMERICAN PAPER INSTITUTE, INC		
STUART D. SERKIN, 1800 CONNECTICUT AVENUE, NW WASHINGTON DC 20009	SLURRY TECHNOLOGY ASSN	1,000.00	
SERVICE MASTER INDUSTRIES, INC, C/O OF TALCOTT MCCABE & ASSOCIATES 600 MARYLAND AVE., SW, 302 W. WING WASHINGTON DC 20024			300.00
SEVEN MONTHS SESSION FOR CONGRESS, 4210 SPICEWOOD ROAD, #202 AUSTIN TX 78759			27.00
J. RICHARD SEWELL, 1111 19TH ST., NW, #1102 WASHINGTON DC 20036	FLORIDA POWER & LIGHT CO	900.00	456.79
SEYFARTH SHAW FAIRWEATHER & GERALDSON, 1111 19TH ST., NW WASHINGTON DC 20036	AGRICULTURAL PRODUCERS	49,913.17	
Do	AMERICAN SOC OF PENSION ACTUARIES	11,250.00	223.93
Do	FLXIBLE CORP	13,087.26	
Do	JOHNSON & HIGGINS	800.00	103.08
DONNA S. SHAFFER, DULLES INTERNATIONAL AIRPORT P.O. BOX 17309 WASHINGTON DC 20041	PRIDE AIR, INC		
VICTORIA MCKENZIE SHAIN, 1710 RHODE ISLAND AVENUE, NW, #300 WASHINGTON DC 20036	ABBOTT LABORATORIES	1,000.00	8.96
THOMAS A. SHALLOW, 1220 L STREET, NW WASHINGTON DC 20005	AMERICAN PETROLEUM INSTITUTE	200.00	
SHAMROCK FOODS CO., 2228 N. BLACK CANYON PHOENIX AZ 85009			
DEBORAH L. SHANNON, 1250 CONNECTICUT AVE., NW, #620 WASHINGTON DC 20036	NATIONAL MULTI HOUSING COUNCIL	1,250.00	53.68
JAMES M. SHANNON, HALE & DORR 60 STATE STREET BOSTON MA 02109	COALITION AGAINST DOUBLE TAXATION, INC		590.43
BERNRAD M. SHAPIRO, 1801 K STREET,NW, #700 WASHINGTON DC 20006	PRICE WATERHOUSE (FOR: EAGLE-PICHER INDUSTRIES, INC)	500.00	
GARY J. SHAPIRO, 2001 EYE STREET, NW WASHINGTON DC 20006	ELECTRONIC INDUSTRIES ASSN		2,000.00
NORMAN F. SHARP, 1100 17TH STREET, NW, #1201 WASHINGTON DC 20036	CIGAR ASSN OF AMERICA, INC		21.61
LUTHER W. SHAW, 1155 15TH ST., NW, #900 WASHINGTON DC 20005	NATIONAL AGRICULTURAL CHEMICALS ASSN	5,625.00	4.00
SHAW PITTMAN POTTS & TROWBRIDGE, 1800 M ST., NW, #900-S WASHINGTON DC 20036	AMERICANS FOR TAX REFORM	3,441.13	
Do	ASSOCIATION FOR THE IMPROVEMENT OF THE MISSISSIPPI RIVER		
Do	ATLAS MINERALS DIVISION	15,078.75	
Do	COMMITTEE FOR PRIVATE EDUCATION		
Do	EMERSON ELECTRIC CO	209.25	
Do	INSTITUTE OF FOREIGN BANKERS	1,957.50	
Do	INVESTMENT COMPANY INSTITUTE	900.00	
Do	INVESTMENT COUNSEL ASSN OF AMERICA, INC		
Do	KNIGHTS OF COLUMBUS	12,000.00	195.00
Do	MARRIOTT CORPORATION		
Do	NATIONAL AUTOMOBILE DEALERS ASSN		
Do	NATIONAL COMM ON SMALL ISSUE INDUSTRIAL DEVELOPMENT BONDS		
Do	UTILITY NUCLEAR WASTE MANAGEMENT GROUP		
DONALD B. SHEA, 1750 K STREET, NW WASHINGTON DC 20006	U.S. BREWERS ASSN, INC	3,190.31	3,054.00
JOHN J. SHEEHAN, 815 16TH ST., NW, #706 WASHINGTON DC 20006	UNITED STEELWORKERS OF AMERICA	12,279.19	
MONICA M. SHEEHAN, 840 NORTH LAKE SHORE DRIVE CHICAGO IL 60611	AMERICAN HOSPITAL ASSN		
PATRICIA Q. SHEEHAN, 1667 K STREET, NW, #410 WASHINGTON DC 20006	JOHNSON & JOHNSON	1,000.00	225.00
KATHLEEN SHEEKEY, 3RD FLOOR 2030 M STREET, NW WASHINGTON DC 20036	COMMON CAUSE	10,862.52	284.78
DEBORAH A. SHEIMAN, 1350 NEW YORK AVENUE, NW WASHINGTON DC 20005	NATURAL RESOURCES DEFENSE COUNCIL	332.00	
C. DOUGLAS SHELBY, FLORIDA PETROLEUM COUNCIL 325 JOHN KNOX RD., #F-210 TALLAHASSEE FL 32303	AMERICAN PETROLEUM INSTITUTE	2,853.90	3,210.40
JOHN J. SHEPPARD, 267 WESTERVELT PLACE ENGLEWOOD CLIFFS NJ 07632	C. A. SHEA & COMPANY, INC		
SEYMOUR SHERIFF, 1126 WOODWARD BLDG. WASHINGTON DC 20005	MAN-MADE FIBER PRODUCERS ASSN, INC		
VICTOR A. SHERLOCK, 1111 14TH STREET, NW, #300 WASHINGTON DC 20005	AMERICAN BAKERS ASSN	387.50	2.50
R. PHILIP SHIMER, SUITE 405 444 N. CAPITAL ST., NW WASHINGTON DC 20001	WESTERN GOVERNORS ASSOCIATION		
SHIPLEY SMOAK HENRY & HOLDGREIWE, 910 17TH STREET, NW, #320 WASHINGTON DC 20006	BLUEJAY OIL COMPANY		
Do	FORT SILL GARDENS, INC		
Do	STEADMAN MUTUAL FUNDS		
Do	STEADMAN SECURITY CORPORATION		
Do	WBNO RADIO AND WLKM RADIO		
HARVEY A. SHIPMAN, 1701 PENNSYLVANIA AVENUE, NW, #830 WASHINGTON DC 20006	PENN CENTRAL CORPORATION		
FRED B. SHIPPEE, 1611 N. KENT ST., #800 ARLINGTON VA 22209	AMERICAN APPAREL MANUFACTURERS ASSN, INC		
MARY FRANCES SHLAGEL, SUITE 760 1050 CONNECTICUT AVE., NW WASHINGTON DC 20036	UNION OIL CO OF CALIFORNIA		
ELAINE SHOCAS, 555 NEW JERSEY AVENUE, NW WASHINGTON DC 20001	AMERICAN FED OF TEACHERS	7,637.76	80.00
SHOOSHAN & JACKSON, INC., 1990 M ST., NW, #450 WASHINGTON DC 20036	ROGERS U.S. CABLESYSTEMS, INC		
HARRY M. SHOOSHAN III, 1990 M ST., NW, #450 WASHINGTON DC 20036	SHOOSHAN & JACKSON, INC (FOR: ROGERS U.S. CABLESYSTEMS, INC)		
SCOTT SHOTWELL, 1619 MASSACHUSETTS AVE., NW WASHINGTON DC 20036	NATIONAL FOREST PRODUCTS ASSN	2,475.00	
A. Z. SHOWS, RM 203 1801 COLUMBIA RD., NW WASHINGTON DC 20009			
FREDERICK L. SHREVES II , HILL BETTS & NASH 1818 N STREET, NW, #700 WASHINGTON DC 20036	DONOHOE CONSTRUCTION CO, INC		
JOHN SHUEY, P.O. BOX 3151 HOUSTON TX 77253	BROWNING-FERRIS INDUSTRIES, INC		
SIDLEY & AUSTIN, 1722 EYE STREET, NW WASHINGTON DC 20006	PEORIA JOURNAL STAR, INC	9,267.16	
Do	WHOLESALERS GORUP	16,364.48	
MARK A. SIEGEL & ASSOCIATES, SUITE 368 400 NORTH CAPITOL STREET, NW WASHINGTON DC 20001	ARCHER DANIELS MIDLAND COMPANY		
Do	COMMONWEALTH OF PUERTO RICO	11,941.50	1,765.50
Do	MONEY STORE		
Do	POWER AUTHORITY OF THE STATE OF NEW YORK		
LAWRENCE E. SIEGEL, 8283 GREENSBORO DRIVE MCLEAN VA 22102	SATELLITE BUSINESS SYSTEMS		
JAMES V. SIENA, 1735 NEW YORK AVENUE, NW WASHINGTON DC 20006	AMERICAN INSTITUTE OF ARCHITECTS	2,000.00	
WILLIAM A. SIGNER, 444 NORTH CAPITOL ST., NW, #711 WASHINGTON DC 20001	KEEFE COMPANY (FOR: CHAMBER OF COMMERCE OF PUERTO RICO)	325.00	
Do	KEEFE COMPANY (FOR: GREATER NEW YORK HOSPITAL ASSN)	1,875.00	202.60
Do	KEEFE COMPANY (FOR: MANAGEMENT INSIGHTS)	2,500.00	150.15
Do	KEEFE COMPANY (FOR: PUERTO RICO ECONOMIC DEVELOPMENT ADMINISTRATION)		24.00
Do	KEEFE COMPANY (FOR: SOLAR LOBBY)	1,062.50	
Do	KEEFE COMPANY (FOR: TARGETED MANAGEMENT CONSULTANTS)	2,625.00	
MARK SILBERGELD, 2001 S STREET, SW, #520 WASHINGTON DC 20009	CONSUMERS UNION OF U.S., INC	3,700.00	20.00
DAVID SILVER, 1600 M ST., NW WASHINGTON DC 20036	INVESTMENT COMPANY INSTITUTE	31.60	
STEVE SILVER, ROBERTSON MONAGLE EASTAUGH & BRADLEY 21 DUPONT CIRCLE, NW WASHINGTON DC 20036	ALASKA PULP CORP	700.00	
Do	APEX MARINE CORP	4,136.25	567.65

Organization or Individual Filing	Employer/Client	Receipts	Expenditures
Do	ARCO TRANSPORTATION CO		
Do	BOLLINGER MACHINE SHOP & SHIPYARD, INC		
Do	MOORE MCCORMAK BULK TRANSPORT, INC		
Do	NORANDA MINING, INC	10,950.00	1,195.50
		4,916.50	2,996.55
SILVER USERS ASSN, INC, 1717 K ST., NW WASHINGTON DC 20006			
SILVERSTEIN & MULLENS, 1776 K ST., NW WASHINGTON DC 20006	ASSOCIATION FOR ADVANCED LIFE UNDERWRITING	5,000.00	
Do	BRISTOL-MYERS CO		
Do	GATX CORP		
Do	MUSIC CORP OF AMERICA, INC		
Do	NATIONAL ASSN OF HOME BUILDERS OF THE U.S.		
M. P. SIMMONS, P.O. BOX 860 VALLEY FORGE PA 19482	CERTAINTEED CORP		
GARY D. SIMMS, 1835 K STREET, NW, #515 WASHINGTON DC 20006	AMERICAN ACADEMY OF ACTUARIES		
NEIL A. SIMON, 1350 NEW YORK AVE., NW, #900 WASHINGTON DC 20005	INTERNATIONAL FRANCHISE ASSN		
PHILIP SIMON, 2030 M STREET, NW WASHINGTON DC 20036	COMMON CAUSE	3,599.02	
STANLEY C. SIMON, GINSBERG & FORMAN 820 HARTFORD BUILDING DALLAS TX 75201	SOUTHLAND CORPORATION	20,000.00	6,693.92
TALMAGE E. SIMPKINS, 100 INDIANA AVE., NW WASHINGTON DC 20001	LABOR MANAGEMENT MARITIME COMMITTEE, INC	1,436.00	258.32
WILLIAM G. SIMPSON, 1155 15TH ST., NW WASHINGTON DC 20005	FIRST MISSISSIPPI CORPORATION	2,000.00	
Do	J.R. SCRIBNER EQUIPMENT	2,000.00	
Do	MISSISSIPPI POWER & LIGHT COMPANY	2,000.00	
Do	STATE OF MISSISSIPPI	4,000.00	
ALBERT M. SIMS, 1935 WILSON LANE, #204 MCLEAN VA 22102	PERFORMANCE ENGINEERING, INC		
IVAN E. SINCLAIR, 1000 WILSON BOULEVARD, #2700 ARLINGTON VA 22209	TRW, INC	1,000.00	
JAMES W. SINGER III, 1100 15TH STREET, NW WASHINGTON DC 20005	PHARMACEUTICAL MANUFACTURERS ASSN	4,000.00	24.20
RICHARD L. SINNOTT & CO, SUITE 900 ONE THOMAS CIRCLE, NW WASHINGTON DC 20005	OAKLAND COLISEUM	6,000.00	
Do	PORT OF OAKLAND	3,000.00	
Do			
RICHARD L. SINNOTT, ONE THOMAS CIRCLE, NW, #900 WASHINGTON DC 20005	NATIONAL COMM TO PRESERVE SOCIAL SECURITY & MEDICARE	9,000.00	
SKADDEN ARPS SLATE MEAGHER & FLOM, 919 18TH STREET, NW WASHINGTON DC 20006	AIR PRODUCTS & CHEMICALS, INC	1,500.00	
Do	CALIFORNIA STUDENT LOAN FINANCE CORP	300.00	
Do	CITIES SERVICE OIL & GAS CORP		
Do	DREXEL BURNHAM LAMBERT, INC	50,000.00	
Do	OCEAN THERMAL CORP		
Do	REVLON, INC	7,500.00	
Do	SEA-LAND CORP		
Do	TEXACO, INC		
Do	TRANSCO ENERGY COMPANY		
Do	TRICENTROL U.S., INC		
JAMES H. SKIDMORE, 1156 15TH ST., NW, #1201 WASHINGTON DC 20005	NCR CORPORATION		
CYNTHIA ELLIOT SKIFF, 8111 GATEHOUSE ROAD FALLS CHURCH VA 22047	AMERICAN AUTOMOBILE ASSN		
WILLIAM J. SKINNER, 815 15TH ST., NW WASHINGTON DC 20005	U.S. PHARMACOPEIAL CONVENTION, INC	1,292.84	33.16
BARNEY J. SKLADANY JR., 1100 CONNECTICUT AVE., NW, #620 WASHINGTON DC 20036	MOBIL OIL CORP	1,125.00	
RUTH L. SKY, 2211 CONGRESS ST. PORTLAND ME 04122	UNION MUTUAL LIFE INSURANCE CO		
F. SLATINSHEK & ASSOCIATES, INC, 1102 BELLE VISTA DR. ALEXANDRIA VA 20007	GRUMMAN AERO CORP; D.L. LYNCH & ASSOCS	300.00	
ROBERT G. SLAUGHTER, 2501 M ST., NW, #540 WASHINGTON DC 20037	AMOCO CORPORATION		
SCOTT L. SLESINGER, SUITE 804 1101 14TH ST., NW WASHINGTON DC 20005	NATIONAL APARTMENT ASSN		
BARRY S. SLEVIN, 1000 POTOMAC STREET, NW WASHINGTON DC 20007	SEIFMAN, SEMO, SLEVIN & MARCUS, P.C. (FOR: UNITED FOOD & COMMERCIAL WORKERS INT'L UNION).	2,250.00	520.01
WILLIAM T. SLIDER, 15TH & M STREETS, NW WASHINGTON DC 20005	NATIONAL ASSN OF HOME BUILDERS OF THE U.S.		
RONALD J. SLINN, 260 MADISON AVENUE NEW YORK NY 10016	AMERICAN PAPER INST, INC		
DEBORAH SLIZ, 2301 M STREET, NW WASHINGTON DC 20037	AMERICAN PUBLIC POWER ASSN	1,000.00	
CATHERINE REISS SLOAN, 1990 M ST., NW, #450 WASHINGTON DC 20036	SHOOSHAN & JACKSON, INC (FOR: ROGERS U.S. CABLESYSTEMS, INC)		
JOHN E. SLOAN JR., CAPITAL GALLERY EAST, #695 600 MARYLAND AVENUE, SW WASHINGTON DC 20024	NATIONAL FED OF INDEPENDENT BUSINESS	1,150.00	200.00
SLURRY TECHNOLOGY ASSN, 1800 CONNECTICUT AVE., NW WASHINGTON DC 20009		5,844.77	
SMALL BUSINESS COUNCIL OF AMERICA, INC, P.O. BOX 4299 COLUMBUS GA 31904		42,285.00	50,248.47
SMATHERS HICKEY & RILEY, SUITE 400 1700 K ST., NW WASHINGTON DC 20006	AMERICAN HORSE COUNCIL	3,666.00	
Do	FLORIDA EAST COAST RAILWAY CO	750.00	
Do	NATIONAL HOCKEY LEAGUE	1,500.00	
Do	PENNZOIL CO	6,000.00	
Do	REPUBLIC OF SOUTH AFRICA	7,500.00	300.00
SMC INTERNATIONAL, 1820 JEFFERSON PL., NW WASHINGTON DC 20036	GC SERVICES CORP		
Do	PIEDMONT AIRLINES, INC		
Do	SAFECARD SERVICES, INC		
ROBERT G. SMERKO, 1945 OLD GALLOWS ROAD, #405 VIENNA VA 22180	AMERICAN WOOD PRESERVERS INSTITUTE	3,000.00	289.45
DONALD E. SMILEY, 1899 L ST., NW, #1100 WASHINGTON DC 20036	EXXON CORPORATION	500.00	
JAMES R. SMIRCINA, P.O. BOX 5000 CLEVELAND OH 44101	CLEVELAND ELECTRIC ILLUMINATING CO	510.77	505.00
CHRISTINE M.B. SMITH, 2501 M STREET, NW, #540 WASHINGTON DC 20037	PACIFIC RESOURCES, INC	500.00	
DANIEL T. SMITH, P.O. BOX 660074 DALLAS TX 75266	INTERNATIONAL AIRLINE PASSENGERS ASSN, INC	600.00	100.00
DIANE E. SMITH, 8881 ROSEMONT DETROIT MI 48228	ARTISTS PRODUCTS CELEBRITY DEVELOPMENT	900.00	1,164.24
ELIZABETH M. SMITH, 815 16TH ST., NW, #310 WASHINGTON DC 20006	AMALGAMATED CLOTHING & TEXTILE WORKERS UNION	5,667.00	4,795.62
FREDERICK P. SMITH JR., 1575 EYE STREET, NW, #550 WASHINGTON DC 20005	INSTITUTE OF MAKERS OF EXPLOSIVES		
GORDON L. SMITH, 1201 PENNSYLVANIA AVE., NW, #700 WASHINGTON DC 20004	HILL & KNOWLTON, INC (FOR: FLORISTS' TRANSWORLD DELIVERY)	2,500.00	
HAROLD W. SMITH, 208 LAUREL DRIVE PEEKSKILL NY 10566	CITY MANAGER OF THE CITY OF YONKERS, NEW YORK		
JAMES P. SMITH, 2000 L STREET, NW, #200 WASHINGTON DC 20036	HOSPITAL CORP OF AMERICA	903.00	
JEFFREY A. SMITH, 1600 WILSON BOULEVARD, #1000 ARLINGTON VA 22209	AMERICAN WATERWAYS OPERATORS, INC		
JEFFREY A. SMITH, 919 18TH STREET, NW, #600 WASHINGTON DC 20006	TOYOTA MOTOR SALES, USA, INC	1,200.00	229.04
JENNIFER L. SMITH, 900 17TH STREET, NW, #520 WASHINGTON DC 20006	WEST MEXICO VEGETABLE DISTRIBUTORS ASSN	300.00	
JULIAN H. SMITH JR., 600 NORTH 18TH STREET BIRMINGHAM AL 35291	ALABAMA POWER CO	16,209.00	14,672.65
MICHAEL E. SMITH, 55 PUBLIC SQUARE, RM. 624 P.O. BOX 5000 CLEVELAND OH 44113	CLEVELAND ELECTRIC ILLUMINATING CO		
MICHAEL P. SMITH, 485 LEXINGTON AVE. NEW YORK NY 10017	NEW YORK STATE BANKERS ASSN	67,900.00	70.00
PATRICK F. SMITH JR., SUITE 1101 1730 K STREET, NW WASHINGTON DC 20006	NATIONAL TREASURY EMPLOYEES UNION	13,000.00	
RONALD E. SMITH, 2501 M STREET, NW WASHINGTON DC 20037	CHEMICAL MANUFACTURERS ASSN	5,000.00	67.44
SHALAH SMITH, 1130 17TH STREET, NW WASHINGTON DC 20036	NATIONAL COAL ASSN	2,360.00	314.98
SUSAN SNYDER SMITH, 7900 WESTPARK DRIVE, #514 MCLEAN VA 22102	CHOCOLATE MANUFACTURERS ASSN OF THE USA	750.00	461.55
WAYNE H. SMITHEY, 815 CONNECTICUT AVE., NW WASHINGTON DC 20006	FORD MOTOR CO	7,012.00	530.50
LARRY S. SNOWHITE, 1825 EYE ST., NW WASHINGTON DC 20006	ENVIRITE CORPORATION		
Do	GSX CORPORATION		
Do	LIBERTY MUTUAL INSURANCE CO	1,407.00	
Do	MINTZ LEVIN COHN FERRIS GLOVSKY & POPEO (FOR: LION LINES, LTD)		
Do	MINTZ LEVIN COHN FERRIS GLOVSKY & POPEO (FOR: MASS. CONSTRUCTION INDUS. COUNCIL TRUCK WEIGHT COMM).		
Do	MASSACHUSETTS EDUCATION LOAN AUTHORITY	1,617.50	
Do	NEW ENGLAND EDUCATION LOAN MARKETING CORP	3,129.00	
Do	MINTZ LEVIN COHN FERRIS GLOVSKY & POPEO (FOR: SECURITIES INDUSTRY ASSN)		
SNYDER BALL KRISER & ASSOC, INC, 499 S. CAPITOL ST., SW, #520 WASHINGTON DC 20003	GENERAL MOTORS CORP		
DAVID F. SNYDER, 1000 NATIONWIDE DR. HARRISBURG PA 17105	NATIONWIDE INSURANCE COMPANIES	600.00	1,051.00
J. R. SNYDER, 400 1ST ST., NW, #704 WASHINGTON DC 20001	UNITED TRANSPORTATION UNION		1,200.00
JOHN M. SNYDER, 600 PENNSYLVANIA AVE., S.E. SUITE 205 WASHINGTON DC 20003	CITIZENS COMM FOR THE RIGHT TO KEEP & BEAR ARMS	9,000.00	
WALLACE S. SNYDER, 1400 K STREET, NW, #1000 WASHINGTON DC 20005	AMERICAN ADVERTISING FEDERATION	1,992.30	
SOCIETY FOR ANIMAL PROTECTIVE LEGISLATION, P.O. BOX 3719 GEORGETOWN STATION WASHINGTON DC 20007		57,838.02	55,370.33
EDMUND T. SOMMER JR., 1627 K STREET, NW, #1200 WASHINGTON DC 20006	COUNCIL OF AMERICAN-FLAG SHIP OPERATORS	1,400.00	9.60
CHARLES R. SONNIER, SONNIER & HEBERT P.O. DRAWER 1040 ABBEVILLE LA 70511	COUSHATTA TRIBE OF LOUISIANA		
SONOSKY CHAMBERS AND SACHSE, 1050 31ST ST., NW WASHINGTON DC 20007	ASSINIBOINE AND SIOUX TRIBES		
Do	DEVILS LAKE SIOUX TRIBE		
Do	MACKENZIE TURNIPSEED		
Do	MULTI-HOUSING LAUNDRY ASSN, INC		
Do	STANDING ROCK SIOUX TRIBE		
E. RICHARD SOPER, 1957 E STREET, NW WASHINGTON DC 20006	ASSOCIATED GENERAL CONTRACTORS OF AMERICA		
WALTER LARKE SORG, 1625 EYE ST., NW, #204 WASHINGTON DC 20006	SOUTHEASTERN DREDGE OWNERS ASSN SIZE STANDARD APPEAL COMM	16,000.00	713.08
SOUTHWESTERN PEANUT SHELLERS ASSN, 10 DUNCANNON CT. DALLAS TX 75225		1,180.63	1,180.63
IAN D. SPATZ, 1785 MASSACHUSETTS AVENUE, NW WASHINGTON DC 20036	NATIONAL TRUST FOR HISTORIC PRESERVATION	1,070.43	
JOHN F. SPEER JR., 888 16TH STREET, NW WASHINGTON DC 20006	MILK INDUSTRY FOUNDATION/INT'L ASSN OF ICE CREAM MFRS		
WILLIAM C. SPENCE, 3805 W. ALABAMA HOUSTON TX 77027	COLUMBIA GULF TRANSMISSION CO		

Organization or Individual Filing	Employer/Client	Receipts	Expenditures
PHILIP SPESER, 2000 P ST., NW WASHINGTON DC 20036	FORESIGHT SCIENCE & TECHNOLOGY, INC (FOR: NATIONAL COALITION FOR SCIENCE & TECHNOLOGY).		
Do	FORESIGHT SCIENCE & TECHNOLOGY, INC (FOR: SOCIETY FOR AMERICAN ARCHAEOLOGY).	1,226.00	
SPIEGEL & MCDIARMID, 1350 NEW YORK AVE., NW WASHINGTON DC 20005	COMMITTEE FOR FINANCING PUBLIC TRANS FACILITIES, ET AL	7,150.00	
Do	FT. PIERCE UTILITIES AUTHORITY, ET AL	812.50	
Do	NORTHERN CALIFORNIA POWER AGENCY, ET AL	3,902.50	
Do	SERVICE EMPLOYEES INT'L UNION	2,100.00	
LARRY N. SPILLER, 1015 15TH ST., NW, #802 WASHINGTON DC 20005	AMERICAN CONSULTING ENGINEERS COUNCIL	900.00	
PETER A. SPINA, 150 EAST 42ND STREET NEW YORK NY 10017	MOBIL OIL CORP	900.00	
SPRIGGS BODE & HOLLINGSWORTH, 1015 15TH ST., NW WASHINGTON DC 20005	ENERGY CYCLE, INC		
EARL C. SPURRIER, THE MADISON BUILDING, #514 1155 15TH STREET, NW WASHINGTON DC 20005	NATIONAL AGRICULTURAL CHEMICALS ASSN	60.00	
SQUIRE SANDERS & DEMPSEY, 1201 PENNSYLVANIA AVE., NW WASHINGTON DC 20004	AMERICAN CEMENT TRADE ALLIANCE, INC		6.70
Do	AMERICAN CHAMBER OF COMMERCE IN GERMANY		
Do	AMERICAN SOC OF ANESTHESIOLOGISTS		
Do	ASSOCIATION OF DATA PROCESSING SERVICE ORGANIZATIONS		
Do	CAN-AM CORPORATION		
Do	INDEPENDENT DATA COMMUNICATIONS MANUFACTURERS ASSOCIATION	300.00	31.06
Do	MICROBAND CORP OF AMERICA		
Do	NATIONAL COLLEGIATE ATHLETIC ASSN		5.28
Do	PUBLIC SECURITIES ASSN		
Do	TYMNET, INC		
JOHN W. SROKA, 1957 E ST., NW WASHINGTON DC 20006	ASSOCIATED GENERAL CONTRACTORS OF AMERICA		
CARL F. ST. CIN, 1101 17TH STREET, NW, #604 WASHINGTON DC 20036	MONSANTO CO		
ROBERT P. ST. LOUIS, SUITE 880 555 NEW JERSEY AVE., NW WASHINGTON DC 20001	CONGOLEUM CORPORATION	1,000.00	574.08
CONNELL STAFFORD, P.O. DRAWER 1734 ATLANTA GA 30301	COCA-COLA COMPANY	332.20	1,116.61
DAVID E. STAHL, 1619 MASSACHUSETTS AVENUE, NW WASHINGTON DC 20036	NATIONAL FOREST PRODUCTS ASSN	3,500.00	
MELVIN R. STAHL, SUITE 1410 1235 JEFFERSON DAVIS HWY, ARLINGTON VA 22202	MOTORCYCLE INDUSTRY COUNCIL, INC		
ELVIS J. STAHR JR., 1815 H STREET, NW, #600 WASHINGTON DC 20006	CASSIDY & ASSOCIATES, INC		
Do	NATIONAL AUDUBON SOCIETY	100.00	2.20
TYRONE STALLWORTH, 220 NORTH DEVILLERS STREET PENSACOLA FL 32501			
DAVID P. STANG, P.C., SUITE 601 1629 K ST., NW WASHINGTON DC 20006	AMOCO CORP	1,323.79	
Do	COMMITTEE FOR CAPITAL FORMATION THROUGH DIV. REINVESTMENT	485.90	
Do	EMPLOYEE STOCK OWNERSHIP ASSN	2,093.32	
Do	MCDERMOTT INTERNATIONAL	1,351.56	
Do	NATIONAL ASSN OF ROYALTY OWNERS, INC	759.16	
Do	SMALL BUSINESS COUNCIL OF AMERICA, INC	623.20	
Do	SUN COMPANY, INC	37.88	
Do	ZOND SYSTEMS, INC	1,143.74	
MICHAEL J. STANTON, 1620 EYE STREET, NW, #1000 WASHINGTON DC 20006	MOTOR VEHICLE MANUFACTURERS ASSN OF THE U.S., INC	450.00	
MELVIN L. STARK, 1025 CONNECTICUT AVE., NW, #415 WASHINGTON DC 20036	AMERICAN INSURANCE ASSN	4,500.00	1,150.00
WALTER M. STARKE, P.O. BOX 2563 BIRMINGHAM AL 35202	SOUTHERN NATURAL GAS CO		
BETTE ANNE STARKEY, 1030 15TH STREET, NW, #1100 WASHINGTON DC 20005	HEALTH INDUSTRY MANUFACTURERS ASSN		
LOIS STARKEY, SUITE 511 1745 JEFFERSON DAVIS HWY ARLINGTON VA 22202	MANUFACTURED HOUSING INSTITUTE	900.00	100.00
RONALD W. STASCH, 205 E. 42ND STREET NEW YORK NY 10017	RISK & INSURANCE MANAGEMENT SOCIETY, INC		
JOHN F. STASIOWSKI, 5205 LEESBURG PIKE, #505 FALLS CHURCH VA 22041	NATIONAL BEER WHOLESALERS' ASSN		
FRANK M. STASZESKY JR., 1620 EYE ST., NW, #703 WASHINGTON DC 20006	BECHTEL POWER CORP		
SAMUEL E. STAVISKY & ASSOCIATES, INC, 1725 DESALES STREET, NW, #804 WASHINGTON DC 20036	BROADCAST MUSIC, INC	100.00	65.00
SAMUEL E. STAVISKY, 1725 DESALES STREET, NW, #804 WASHINGTON DC 20036	SAMUEL E. STAVISKY & ASSOCIATES, INC (FOR: BROADCAST MUSIC INC. (BMI))		40.00
RANDOLPH J. STAYIN, 1620 EYE ST., NW, #800 WASHINGTON DC 20006	TAFT STETTINIUS & HOLLISTER (FOR: EFFECTIVE SPRAY CONTROL ORGANIZATION)	688.75	520.46
Do	TAFT STETTINIUS & HOLLISTER (FOR: MACHINERY DEALERS NATIONAL ASSOCIATION).		11.39
Do	TAFT STETTINIUS & HOLLISTER (FOR: SPECIAL COMM FOR WORKPLACE PRODUCT LIABILITY REFORM).		
Do	TAFT STETTINIUS & HOLLISTER (FOR: WALD MANUFACTURING CO, INC)		
Do	TAFT STETTINIUS & HOLLISTER (FOR: JAMES GRAHAM BROWN FOUNDATION)		
JOHN HOWARD STECKER, 2020 LIVE OAK DALLAS TX 75221	GREAT AMERICAN RESERVE INSURANCE CO		
STEELE SIMMONS & FORNACIARI, 2020 K STREET, NW, #850 WASHINGTON DC 20006	K MART CORP	6,590.00	873.88
HENRY J. STEENSTRA JR., 1000 WILSON BOULEVARD, #2600 ARLINGTON VA 22209	TRW, INC	248.00	
RAMONA C. STELFORD, 1818 N STREET, NW WASHINGTON DC 20036	DGA INTERNATIONAL, INC (FOR: SOCIETE NATIONALE D'ETUDE ET DE CONSTRUCTION DE MOTEURS...).	324.00	
JACK L. STEMPLER, 1725 JEFFERSON DAVIS HIGHWAY, #900 ARLINGTON VA 22202	LTV AEROSPACE DEFENSE CO	2,500.00	75.00
STEPHENS OVERSEAS SERVICES, INC., 2121 K STREET, NW, #830 WASHINGTON DC 20037	NATIONAL OFFICE MACHINE DEALERS ASSN		
Do			
STEPHENS, INC, 2121 K ST., NW, #830 WASHINGTON DC 20037			
STEPHENSON CARPENTER CROUT & OLMSTED, P.O. BOX 669 SANTA FE NM 87504	HOMESTAKE MINING CO		
Do	UNITED NUCLEAR CORP		
VICTOR STEPSAY, 1750 NEW YORK AVENUE, NW WASHINGTON DC 20006	SHEET METAL WORKERS' INT'L ASSN	13,298.00	
STEPTOE & JOHNSON, CHTD, 1330 CONNECTICUT AVE., NW WASHINGTON DC 20036	ALLIANCE FOR CANNABIS THERAPEUTICS		
Do	ASSOCIATION OF PRIVATE PENSION & WELFARE PLANS, INC	4,526.25	415.87
Do	RULE OF LAW COMMITTE		
Do	TRAILWAYS, IANC		
RICHARD W. STERNBERG, 1800 MASSACHUSETTS AVE., NW WASHINGTON DC 20036	NATIONAL RURAL ELECTRIC COOPERATIVE ASSN	80.00	
MICHAEL E. STEWARD, 7957 REVENNA LANE SPRINGFIELD VA 22153	PUGET SOUND POWER & LIGHT CO	3,350.00	457.26
EUGENE L. STEWART, 1001 CONNECTICUT AVE., NW, #910 WASHINGTON DC 20036	ROSES, INC	200.00	35.26
H. DONALD STEWART, 188 W. MAIN STREET PENNS GROVE NJ 08069			
IMAGENE STEWART, 214 P STREET, NW WASHINGTON DC 20001	AMERICAN WOMEN'S CLERGY ASSN		
WALTER J. STEWART, SUITE 700 1100 15TH ST., NW WASHINGTON DC 20005	SONAT, INC		
WARREN E. STICKLE, SUITE 1120 1001 CONNECTICUT AVENUE, NW WASHINGTON DC 20036	CHEMICAL SPECIALTIES MFGRS ASSN	449.93	49.00
DON STILLMAN, 1757 N STREET, NW WASHINGTON DC 20036	INT'L UNION, UNITED AUTO AEROSPACE & AGRIC IMPLEMENT WORKERS	2,346.59	6.00
EDWARD W. STIMPSON, SUITE 801 1400 K ST., NW WASHINGTON DC 20005	GENERAL AVIATION MANUFACTURERS ASSOCIATION	3,065.00	
JOHN J. STOCKER, 1110 VERMONT AVENUE, NW WASHINGTON DC 20005	SHIPBUILDERS COUNCIL OF AMERICA	3,400.00	
STOCKHOLDERS OF AMERICA, INC., 1625 EYE ST., N.W. # 724A WASHINGTON DC 20006		4,575.00	461.19
STEVEN F. STOCKMEYER, 1800 M ST., NW, #950 NORTH WASHINGTON DC 20036	ALLNET COMMUNICATIONS SERVICES, INC	1,800.00	30.50
Do	JACK MCDONALD CO (FOR: COALITION FOR THE ADVANCEMENT OF INDUSTRIAL TECHNOLOGY).	1,000.00	
Do	JACK MCDONALD CO (FOR: FIBER FABRIC & APPAREL COALITION FOR TRADE)	2,499.00	
Do	MANVILLE CORP	4,425.00	
Do	VERNER LIIPFERT BERNHARD... (FOR NORFOLK SOUTHERN)	1,976.25	
Do	VERNER LIIPFERT BERNHARD... (FOR ICAHN & CO, INC)	1,402.50	
Do	VERNER LIIPFERT BERNHARD... (FOR TRAVELERS CORP)		
Do	VERNER LIIPFERT BERNHARD... (FOR TURNER BROADCASTING SYSTEM)	2,868.75	
JANE S. STONE, 1719 ROUTE 10 PARSIPPANY NJ 07054	NATIONAL ASSN OF MANUFACTURERS	600.00	
JAY STONE, JAY STONE AND ASSOCIATES, INC 412 FIRST STREET, SE, #50 WASHINGTON DC 20003	MASSACHUSETTS MUTUAL LIFE INSURANCE CO	2,000.00	
Do	MELAMINE CHEMICALS, INC	2,000.00	
MARTIN F. STONE, 1411 K STREET, NW, #850 WASHINGTON DC 20005	AMERICANS FOR DEMOCRATIC ACTION	3,692.16	254.10
FLOYD E. STONER, 1120 CONNECTICUT AVENUE, NW WASHINGTON DC 20036	AMERICAN BANKERS ASSN	1,000.00	
STEPHEN STORCH, 1800 K STREET, NW, #1100 WASHINGTON DC 20006	NEW YORK STOCK EXCHANGE, INC		
STOVALL SPRADLIN ARMSTRONG & ISRAEL, 1819 H STREET, NW, #700 WASHINGTON DC 20006	COMMISSION ON FUTURE POLITICAL STATUS & TRANSITION	10,000.00	57.00
WILLIAM M. STOVER, 2501 M ST., NW WASHINGTON DC 20037	CHEMICAL MANUFACTURERS ASSN, INC	1,000.00	
LUTHER J. STRANGE III, 1100 15TH STREET, NW, #700 WASHINGTON DC 20005	SONAT, INC		
TERRENCE D. STRAUB, 818 CONNECTICUT AVENUE, N.W. WASHINGTON DC 20006	U.S. STEEL CORPORATION	250.00	350.13
ROGER J. STROH, 727 N. WASHINGTON STREET ALEXANDRIA VA 22314	UNITED FRESH FRUIT & VEGETABLE ASSN		
GEORGE W. STRONG, 2242 BARTLETT HOUSTON TX 77098	HOUSTON NATURAL GAS CORP		
STROOCK & STROOCK & LAVAN, 1150 17TH ST., NW WASHINGTON DC 20036	CITY OF TUCSON	1,744.00	50.00
Do	DREYFUS CORPORATION		
Do	DREYFUS DOLLAR FUND		
Do	J. ARON & CO, INC		
Do	U S WEST, INC	252.00	16.90
GEORGE STRUMPF, 624 9TH ST., NW, 7TH FL. WASHINGTON DC 20001	GROUP HEALTH ASSN OF AMERICA, INC		
SUSAN STUEBING, 311 FIRST ST., NW, #500 WASHINGTON DC 20001	COMPUTER & BUSINESS EQUIPMENT MANUFACTURERS ASSN	1,350.00	26.82
WALTER B. STULTS, 1156 15TH STREET, NW, #1101 WASHINGTON DC 20005	NATIONAL ASSN OF SMALL BUSINESS INVESTMENT COS	4,000.00	
EUGENE F. STURGEON, 182 CRATER LANE KENSINGTON CT 06037	NORTHEAST UTILITIES SERVICE CO	980.97	472.76

Organization or Individual Filing	Employer/Client	Receipts	Expenditures
SULLIVAN & CROMWELL, 1775 PENNSYLVANIA AVE., NW WASHINGTON DC 20006	AMERICAN INTERNATIONAL GROUP, INC		187.21
Do	BP NORTH AMERICA, INC		
Do	ESSELTE BUSINESS SYSTEMS, INC		561.12
Do	GOLDMAN SACHS & CO		
Do	GRAND MET USA, INC		23.40
Do	KIDDER PEABODY & CO, INC		
Do	SECURITIES INDUSTRY ASSN		
AUSTIN P. SULLIVAN JR , P.O. BOX 1113 MINNEAPOLIS MN 55440	GENERAL MILLS, INC		
CHARLES S. SULLIVAN, 11 15TH STREET, NE, #6 WASHINGTON DC 20002	CITIZENS UNITED FOR REHABILITATION OF ERRANTS	5,331.50	2,365.34
GAEL M. SULLIVAN, 1025 THOMAS JEFFERSON ST., NW, #511 WASHINGTON DC 20005	LTV CORPORATION	2,344.00	755.40
HAROLD R. SULLIVAN, 1750 K ST., NW WASHINGTON DC 20006	FOOD MARKETING INSTITUTE	750.00	
JOHN H. SULLIVAN, 2924 COLUMBIA PIKE ARLINGTON VA 22204	DEVELOPMENT ASSOCIATES, INC (FOR: GOVERNMENT OF THE FEDERATED STATES OF MICRONESIA).	132.35	2.40
JUDY M. SULLIVAN, 1120 20TH STREET, NW, #700 WASHINGTON DC 20036	WILLIAMS COMPANIES		
MARGARET COX SULLIVAN, 1625 EYE ST., NW, #724A WASHINGTON DC 20006	STOCKHOLDERS OF AMERICA, INC		
MARTY R. SULLIVAN, P.O. BOX 970 FT. WORTH TX 76101	TEXAS ELECTRIC SERVICE CO	85.00	45.25
PATRICK J. SULLIVAN, 815 SIXTEENTH STREET, N.W. WASHINGTON DC 20006	INTERNATIONAL LONGSHOREMEN'S ASSOCIATION, AFL-CIO	10,094.45	840.05
PAULINE SULLIVAN, #11 15TH ST., NE, #6 WASHINGTON DC 20002	CITIZENS UNITED FOR REHABILITATION OF ERRANTS	300.00	
RICHARD J. SULLIVAN, 1225 CONNECTICUT AVE., NW, #303 WASHINGTON DC 20036	FLEISHMAN-HILLARD, INC (FOR: ABILITY INFORMATION SYSTEMS--COMPUTER SOFTWARE).		
FERN SUMMER, P.O. BOX 17402 DULLES INT'L AIRPORT WASHINGTON DC 20041	WATER & WASTEWATER EQUIPMENT MANUFACTURERS ASSN, INC		
JOHN B. SUMMERS, 1771 N STREET, NW WASHINGTON DC 20036	NATIONAL ASSN OF BROADCASTERS	1,500.00	217.50
IRIS SUNSHINE, 1710 BROADWAY NEW YORK NY 10019	INTERNATIONAL LADIES GARMENT WORKERS UNION	5,124.99	228.05
SURREY & MORSE, 1250 EYE STREET, NW WASHINGTON DC 20005	ALLNET COMMUNICATIONS SERVICES, INC	486.00	5.00
Do	EMBASSY OF THE PEOPLE'S REPUBLIC OF CHINA	31,010.50	25.00
Do	WESTINGHOUSE ELECTRIC CORP	762.00	15.00
SUTHERLAND ASBILL & BRENNAN, 1666 K STREET, NW, #800 WASHINGTON DC 20006	ASSOCIATION OF BUSINESSES ADVOCATING TARIFF EQUITY		
Do	COUNCIL OF INDUSTRIAL BOILER OWNERS		
Do	INDUSTRIAL OIL CONSUMERS GROUP		
Do	PROCESS GAS CONSUMERS GROUP		
WILLIAM F. SUTHERLAND, 1750 K STREET, NW WASHINGTON DC 20006	FOOD MARKETING INSTITUTE	150.00	
W. THOMAS SUTTLE, 1755 WILLARD ST., NW, #4 WASHINGTON DC 20009	INSTITUTE OF ELECTRICAL & ELECTRONICS ENGINEERS	2,566.00	680.00
WILLIAM W. SUTTLE, 1025 CONNECTICUT AVE., NW, #415 WASHINGTON DC 20036	AMERICAN INSURANCE ASSN	530.00	11.10
IRVING W. SWANSON, 11212 FARMLAND DRIVE ROCKVILLE MD 20852	HARRIS CORPORATION	19,200.00	2,407.03
DEBORAH SWARTZ, ECONOMIC CONSULTING SERVICES, INC 1320 19TH ST., NW WASHINGTON DC 20036	LUGGAGE & LEATHER GOODS MANUFACTURERS OF AMERICA, INC	500.00	350.00
Do	NATIONAL KNITWEAR & SPORTSWEAR ASSN	500.00	350.00
Do	NECKWEAR ASSN OF AMERICA, INC	500.00	350.00
DAVID A. SWEENEY, 25 LOUISIANA AVE., NW WASHINGTON DC 20001	INTERNATIONAL BROTHERHOOD OF TEAMSTERS	19,160.27	
ROSEMARIE SWEENEY, SUITE 770 600 MARYLAND AVE., SW WASHINGTON DC 20024	AMERICAN ACADEMY OF FAMILY PHYSICIANS	2,218.74	1,967.34
WILLIAM R. SWEENEY JR., 220 EYE ST., NE, #210 WASHINGTON DC 20002	NATIONAL INVESTMENT DEVELOPMENT CORP		362.56
ROBERT D. SWEZEY JR., 1133 19TH ST., NW WASHINGTON DC 20036	MCI COMMUNICATIONS CORP		
SWIDLER & BERLIN, CHTD, 1000 THOMAS JEFFERSON ST., NW #500 WASHINGTON DC 20007	AMERICAN ELECTRONICS ASSN		
Do	FINNIGAN CORP		
Do	NATIONAL COUNCIL OF COMMUNITY HOSPITALS	2,187.50	
Do	NORTHEASTERN UNIVERSITY		
TRICIA L. SWIFT, 1619 MASSACHUSETTS AVENUE, NW WASHINGTON DC 20036	NATIONAL FOREST PRODUCTS ASSN	1,200.00	
RICHARD P. SWIGART, 1010 WISCONSIN AVE., NW, #800 WASHINGTON DC 20007	GROCERY MANUFACTURERS OF AMERICA, INC		
RUSSELL A. SWINDELL, P.O. BOX 2635 RALEIGH NC 27602	NORTH CAROLINA RAILROAD ASSOCIATION		
RANDALL SWISHER, 2301 M STREET, NW WASHINGTON DC 20037	AMERICAN PUBLIC POWER ASSN	2,500.00	
RONALD G. SYKES, 1660 L STREET, NW WASHINGTON DC 20036	GENERAL MOTORS CORP	2,500.00	2,525.91
DAVID A. SYKUTA, ILLINOIS PETROLEUM COUNCIL P.O. BOX 5034 SPRINGFIELD IL 62705	AMERICAN PETROLEUM INSTITUTE	1,540.00	3,732.83
CHRISTOPHER U. SYLVESTER, 1831 BRIAR RIDGE COURT MCLEAN VA 22101	GARRISON DIVERSION CONSERVANCY DISTRICT	6,000.00	393.01
MERRIBEL SYMINGTON, SUITE 540 1875 EYE STREET, NW WASHINGTON DC 20006	CHAMPION INTERNATIONAL CORPORATION		
SYSTEMATICS, INC, 2121 K ST., NW, #830 WASHINGTON DC 20037			
Z. MICHAEL SZAZ, 6415 FRANCONIA COURT SPRINGFIELD VA 22150	AMERICAN HUNGARIAN FEDERATION	800.00	
Do	EMBASSY OF THE DEMOCRATIC REPUBLIC OF SOMALIA		
ROBERT TAFT JR., 1620 EYE ST., NW, #800 WASHINGTON DC 20006	TAFT, STETTINIUS & HOLLISTER (FOR: GROCERY MANUFACTURERS OF AMERICA, INC).		
Do	TAFT STETTINIUS & HOLLISTER (FOR: INMONT CORP)		
Do	TAFT STETTINIUS & HOLLISTER (FOR: JAMES GRAHAM BROWN FOUNDATION)		58.83
Do	TAFT STETTINIUS & HOLLISTER (FOR: KINGS ENTERTAINMENT CO)	500.00	
Do	TAFT STETTINIUS & HOLLISTER (FOR: MACHINERY DEALERS NATIONAL ASSOCIATION).		
Do	TAFT STETTINIUS & HOLLISTER (FOR: RCA GLOBAL COMMUNICATIONS, INC)		
Do	TAFT STETTINIUS & HOLLISTER (FOR: SPECIAL COMM FOR WORKPLACE PRODUCT LIABILITY REFORM).	721.00	60.90
Do	TAFT STETTINIUS & HOLLISTER (FOR: TAFT BROADCASTING COMPANY)	1,900.00	
Do	TAFT STETTINIUS & HOLLISTER (FOR: TELEPHONE & DATA SYSTEMS, INC)		
Do	TAFT STETTINIUS & HOLLISTER (FOR: WALD MANUFACTURING CO, INC)		
TAGGART & ASSOCIATES, INC, 1015 15TH STREET, NW, #200 WASHINGTON DC 20005	ANIMAL HEALTH INSTITUTE		
Do	ASSOCIATION OF AMERICAN RAILROADS		
Do	M&M/MARS, DIV OF MARS, INC		
Do	MARION LABORATORIES, INC		
Do	TELEPHONE & DATA SYSTEMS, INC		
WALTER G. TALAREK, SUITE 405 1945 GALLOWS RD. VIENNA VA 22180	AMERICAN WOOD PRESERVERS INSTITUTE	1,750.00	11.00
TALCOTT MCCABE & ASSOCIATES, SUITE 302, WEST WING 600 MARYLAND AVENUE, SW WASHINGTON DC 20024	HOLIDAY INNS, INC	2,100.00	
Do	NATIONAL ASSN OF HOMES FOR CHILDREN	2,150.00	
Do	SERVICEMASTER INDUSTRIES, INC	300.00	
DOYLE TALKINGTON, 1015 15TH STREET, NW, #200 WASHINGTON DC 20005	NATIONAL PORK PRODUCERS COUNCIL	1,000.00	9.00
TANAKA WALDERS & RITGER, 1919 PENNSYLVANIA AVE., NW WASHINGTON DC 20006	ELECTRONIC INDUSTRIES ASSN OF JAPAN		
Do	JAPAN AUTOMOBILE TIRE MANUFACTURERS ASSN (JATMA)		
SUSAN TANNENBAUM, 2030 M ST., NW WASHINGTON DC 20036	COMMON CAUSE	5,281.26	115.50
AUGUSTINE D. TANTILLO, 214 MASSACHUSETTS AVE., NE, #350 WASHINGTON DC 20002	RUSSELL CORP	3,500.00	3,025.00
TARGET, INC., 13924 BRADDOCK RD. P.O. BOX 881 CENTREVILLE VA 22020			13,500.00
LINDA TARR-WHELAN, 1201 16TH ST., NW WASHINGTON DC 20036	NATIONAL EDUCATION ASSN	1,749.00	13.50
JOHN F. TATE, 3238 WYNFORD DRIVE FAIRFAX VA 22031	U.S. DEFENSE COMMITTEE	2,400.00	
M. LOUISE TATE, 3238 WYNFORD DRIVE FAIRFAX VA 22031	U.S. DEFENSE COMMITTEE	900.00	
SUSAN TATUM, 1619 MASSACHUSETTS AVENUE, NW WASHINGTON DC 20036	NATIONAL FOREST PRODUCTS ASSN	1,600.00	
GRACA DA SILVA TAVARES, 17 PERKINS STREET WEST NEWTON MA 02165			
TAYLOR & MIZELL, 3000 LINCOLN PL., LB5 DALLAS TX 75201			
CHARLES A. TAYLOR III, 499 SOUTH CAPITOL ST., SW, #401 WASHINGTON DC 20003	NATIONAL ASSN OF INDEPENDENT INSURERS	1,000.00	
CHARLES E. TAYLOR, 1801 K STREET, NW, #1200 WASHINGTON DC 20006	IBM CORPORATION	2,500.00	1,400.00
MARGIE A. TAYLOR, P.O. BOX 21 MONTGOMERY AL 36101	ALABAMA RAILROAD ASSN	130.68	845.38
R. WILLIAM TAYLOR, 1575 EYE STREET, NW WASHINGTON DC 20005	AMERICAN SOC OF ASSN EXECUTIVES	300.00	
ROBERT C. TAYLOR, 3000 LINCOLN PLAZA, LB-5 DALLAS TX 75201	TAYLOR & MIZELL		
ELAYNE L. TEMPEL, 2020 K ST., NW, #200 WASHINGTON DC 20006	NATIONAL FEDERATION OF FEDERAL EMPLOYEES		
NORMAN J. TEMPLE, 155 DRESDEN AVENUE GARDINER ME 04345	MAINE YANKEE - CENTRAL MAINE POWER CO	880.00	1,833.88
PAUL M. TENDLER, 1110 VERMONT AVENUE, NW, #840 WASHINGTON DC 20005	TENDLER & BIGGINS (FOR: ADVANCED CELLULAR PHONE CO)		
Do	PAUL TENDLER ASSOCIATES, INC (FOR: AMERICAN LICENSED PRACTICAL NURSES ASSN).		
Do	PAUL TENDLER ASSOCIATES, INC (FOR: BASCOM, INC)		
Do	TENDLER & BIGGINS (FOR: GEODESCO)		
Do	PAUL TENDLER ASSOCIATES, INC (FOR: NATIONAL INSTITUTE OF TENANTS)		
Do	PAUL TENDLER ASSOCIATES, INC (FOR: RASCH ELEKTRONIK)		
Do	PAUL TENDLER ASSOCIATES, INC (FOR: SCHOENEMAN, INC)		
Do	TENDLER & BIGGINS (FOR: SOLARGISTICS CORP)		
Do	PAUL TENDLER ASSOCIATES, INC (FOR: SOUTHEASTERN EXPORTERS)		
TENNESSEE HOME MEDICAL PROVIDERS ASSN, INC, P.O. BOX 421 KNOXVILLE TN 37901			
BETTY-GRACE TERPSTRA, 918 16TH ST., NW, #402 WASHINGTON DC 20006	SCOTT PAPER CO	1,125.00	284.78
MICHELLE C. TESSIER, 1818 N STREET, NW, #410 WASHINGTON DC 20036	NATIONAL ASSN OF PUBLIC TELEVISION STATIONS	600.00	150.00
TEXANS FOR A RESPONSIBLE AMERICA, 1300 MAIN STREET, #2100 HOUSTON TX 77002		7,156.78	4,214.34
TEXTRON, INC, 40 WESTMINSTER ST. PROVIDENCE RI 02903		2,850.00	580.00
THACHER PROFFITT & WOOD, SUITE 512 1140 CONNECTICUT AVE., NW WASHINGTON DC 20036	AMOSKEAG SAVINGS BANK	41.00	73.45

Organization or Individual Filing	Employer/Client	Receipts	Expenditures
Do	BANK OF VERMONT	41.00	73.45
Do	ENSIGN SAVINGS BANK		100.00
Do	MAINE SAVINGS BANK	41.00	73.45
Do	MUTUAL SAVINGS CENTRAL FUND, INC	878.81	303.80
Do	NEW HAMPSHIRE SAVINGS BANK	41.00	73.45
Do	SALOMON BROTHERS, INC	11,213.00	329.80
Do	SAVINGS BANKS ASSN OF MASSACHUSETTS	1,035.05	303.80
KAREN E. THEIBERT, 1750 K STREET, NW WASHINGTON DC 20006	FOOD MARKETING INSTITUTE	200.00	
BRUCE D. THEVENOT, 1155 15TH ST., NW, WASHINGTON DC 20005	NATIONAL FED OF LICENSED PRACTICAL NURSES	2,500.00	
Do	OKLAHOMA STATE NURSING HOME ASSN	3,467.50	
ALAN J. THIEMANN, 1199 N. FAIRFAX STREET, #801 ALEXANDRIA VA 22314	NATIONAL ASSN OF TRUCK STOP OPERATORS	650.00	
DOUGLAS E. THIERWECHTER, 1800 M STREET, NW WASHINGTON DC 20036	MARATHON OIL CO		
THIRD CLASS MAIL ASSOCIATION, 1341 G ST., NW, #500 WASHINGTON DC 20005		600.00	600.00
EDLU J. THOM, 919 18TH STREET, NW, #400 WASHINGTON DC 20006	DIAMOND SHAMROCK CORP		
DIANE KAY THOMAS, 2727 29TH ST., NW, #634 WASHINGTON DC 20008	AMERICAN ASSN OF MINORITY ENTERPRISE SMALL BUS. INVEST COS	6,550.00	
DORIS I. THOMAS, 15TH & M STS., NW WASHINGTON DC 20005	NATIONAL ASSN OF HOME BUILDERS OF THE U.S.		
GORDON M. THOMAS, 1090 VERMONT AVENUE, NW, #1100 WASHINGTON DC 20005	TEXTRON, INC	600.00	150.00
JAMES M. THOMAS JR., 2001 9TH STREET, NW, #300 WASHINGTON DC 20001	AMALGAMATED TRANSIT UNION, NATL CAP LOCAL 689		
JOHN W. THOMAS, 119 ORONOCO STREET BOX 1417-D50 ALEXANDRIA VA 22313	ANIMAL HEALTH INSTITUTE	75.00	
PATRICIA THOMAS, 2020 K ST., NW, #200 WASHINGTON DC 20006	NATIONAL FEDERATION OF FEDERAL EMPLOYEES	9,448.40	
RANDI PARKS THOMAS, 1101 17TH STREET, NW, #603 WASHINGTON DC 20036	TUNA RESEARCH FOUNDATION, INC	850.01	
ROBERT L. THOMAS, 1319 F ST., NW WASHINGTON DC 20004	NATIONAL ASSN OF PRIVATE PSYCHIATRIC HOSPITALS	125.00	
THOMAS E. THOMASON, 1620 EYE STREET, NW, #703 WASHINGTON DC 20006	BECHTEL POWER CORP		
THOMPSON & MITCHELL, 1120 VERMONT AVENUE, NW, #1000 WASHINGTON DC 20005	COLD FINISHED STEEL BAR INSTITUTE	990.00	
Do	CONTACT LENS MANUFACTURERS ASSN	1,280.00	
BOYD THOMPSON, SUITE 210 5410 GROSVENOR LANE BETHESDA MD 20814	AMERICAN MEDICAL CARE & REVIEW ASSN		
THOMPSON HINE & FLORY, 1920 N ST., NW, #700 WASHINGTON DC 20036	ALLTEL CORPORATION	768.00	
KENNETH W. THOMPSON, 2021 K STREET, NW, #300 WASHINGTON DC 20006	PRIMARK CORPORATION	2,200.00	
THOMPSON MANN & HUTSON, 1730 PENNSYLVANIA AVE., NW, #1250 WASHINGTON DC 20006	CSX CORPORATION	357.50	
MARILYN A. BERRY THOMPSON, 444 NORTH CAPITOL STREET, #711 WASHINGTON DC 20001	KEEFE COMPANY (FOR: AMERICAN BUSINESS COALITION)	1,250.00	
Do	KEEFE COMPANY (FOR: CARTERET SAVINGS & LOAN)	375.00	
Do	KEEFE COMPANY (FOR: CORDISH & EMBRY ASSOCIATES)	1,565.40	
Do	KEEFE COMPANY (FOR: ESSEX COMPANY)	1,946.34	
Do	KEEFE COMPANY (FOR: MUTUAL BENEFIT INSURANCE CO)	4,687.50	
Do	KEEFE COMPANY (FOR: NEW YORK UNIVERSITY)	2,916.66	
Do	PRECISION CONVERSION & RECOVERY/ENVIROCARE	333.34	
Do	KEEFE COMPANY (FOR: UNIVERSITY OF MEDICINE & DENTISTRY OF NEW JERSEY)	666.66	
MICHAEL F. THOMPSON, 1745 JEFFERSON DAVIS HIGHWAY, #511 ARLINGTON VA 22202	MANUFACTURED HOUSING INSTITUTE	700.00	100.00
NANCY THOMPSON, 1600 EYE STREET, NW WASHINGTON DC 20006	MOTION PICTURE ASSN OF AMERICA, INC		
ROBERT L. THOMPSON JR., P.O. BOX 70 FORT MILL SC 29715	SPRINGS INDUSTRIES, INC		5,864.53
ROGER G. THOMPSON, 117 BELLEFONTE DRIVE ASHLAND KY 41101	KENTUCKY POWER CO	7,500.00	2,445.16
SAMUEL C. THOMPSON JR., SCHIFF HARDIN & WAITE 1101 CONNECTICUT AVENUE, NW, #600 WASHINGTON DC 20036	CHICAGO BOARD OPTIONS EXCHANGE, INC		
W. REID THOMPSON, 1900 PENNSYLVANIA AVE., NW WASHINGTON DC 20068	POTOMAC ELECTRIC POWER CO	262.63	
PARKER D. THOMSON, 200 SOUTH BISCAYNE BLVD. 4900 SOUTHEAST FINANCIAL CENTER MIAMI FL 33131	THOMSON ZEDER BOHRER WERTH ADORNO & RAZOOK (FOR: BURGER KING CORP)	13.00	
ROBERT N. THOMSON, ONE LANDMARK SQ. STAMFORD CT 06901	MOORE MCCORMACK RESOURCES, INC		
THOMSON ZEDER BOHRER WERTH ADORNO & RAZOOK, 200 SOUTH BISCAYNE BLVD. 4900 SOUTHEAST FINANCIAL CENTER MIAMI FL 33131.	BURGER KING CORP	31,615.00	11,282.00
JOHN A. THORNER, 1619 MASSACHUSETTS AVENUE, NW WASHINGTON DC 20036	NATIONAL FOREST PRODUCTS ASSN		
WILLIAM R. THORNHILL, P.O. BOX 2511 HOUSTON TX 77001	TENNESSEE GAS PIPELINE CO	19.71	78.56
MARGO THORNING, 1850 K ST., NW, #520 WASHINGTON DC 20006	AMERICAN COUNCIL FOR CAPITAL FORMATION	218.00	
HAROLD A. THORNTON & ASSOCIATES, 1120 CONNECTICUT AVE., NW, #940 WASHINGTON DC 20036	AMERICAN FED OF GOVERNMENT EMPLOYEES, LOCAL 2677		
Do	COMMITTEE TO IMPROVE PUBLIC SCHOOL LIBRARIES		
WALTER L. THREADGILL, 1155 CONNECTICUT AVE., NW, #900 WASHINGTON DC 20036	STORER COMMUNICATIONS, INC	250.00	
WALLACE TILLMAN, 1800 MASSACHUSETTS AVE., NW WASHINGTON DC 20036	NATIONAL RURAL ELECTRIC COOPERATIVE ASSN	150.00	
MARTIN R. TILSON JR., PO BOX 2563 BIRMINGHAM AL 35202	SOUTHERN NATURAL GAS CO	257.51	241.13
PATTI A. TILSON, SUITE 520 900 17TH STREET, NW WASHINGTON DC 20006	TOYOTA MOTOR SALES, U.S.A., INC	500.00	
C. H. TIMBERLAKE, 1825 K ST., NW, #1107 WASHINGTON DC 20006	PHILLIPS PETROLEUM COMPANY	975.00	141.55
TIMMONS & CO, INC, 1850 K ST., NW, #850 WASHINGTON DC 20006	AMERICAN BROADCASTING CO, INC	750.00	
Do	AMERICAN INLAND WATERWAYS COMMITTEE	902.50	
Do	AMERICAN PETROLEUM INST	950.00	
Do	AMOCO CORP	750.00	
Do	ANHEUSER-BUSCH COMPANIES, INC	1,150.00	
Do	ASSOCIATION OF TRIAL LAWYERS OF AMERICA		
Do	BOEING COMPANY	750.00	
Do	BROWN GROUP, INC	750.00	
Do	CAPITAL MARKETS GROUP	1,021.25	
Do	CHRYSLER CORPORATION	1,250.00	
Do	EASTERN AIR LINES, INC	552.50	
Do	G. D. SEARLE & CO	1,187.50	
Do	H. J. HEINZ CO	300.00	
Do	MAJOR LEAGUE BASEBALL	1,250.00	
Do	MIDDLE SOUTH SERVICES, INC	950.00	
Do	MORGAN STANLEY & CO, INC	913.75	
Do	NATIONAL RIFLE ASSN OF AMERICA	300.00	
Do	NORTHROP CORP		
GARY G. TIMMONS, 1201 16TH STREET, NW WASHINGTON DC 20036	NATIONAL EDUCATION ASSN	2,372.00	37.85
WILLIAM C. TINKLEPAUGH, 888 16TH STREET, NW WASHINGTON DC 20006	MILK IND FOUNDATION/INT'L ASSN OF ICE CREAM MFRS		498.50
CONSTANCE D. TIPTON, 888 16TH STREET, NW WASHINGTON DC 20006	MILK IND FOUNDATION/INT'L ASSN OF ICE CREAM MFRS		497.00
E. LINWOOD TIPTON, 888 16TH ST., NW WASHINGTON DC 20006	MILK IND FOUNDATION/INTL ASSN OF ICE CREAM MFRS		391.50
EBEN S. TISDALE, 1550 WILSON BLVD., #600 ARLINGTON VA 22209	HEWLETT-PACKARD CO	3,000.00	323.68
TITLE ASSOCIATES, INC., RT.2, BOX 89 COLUMBIA TN 38401			
FRANCIS M. TIVNAN, MASSACHUSETTS PETROLEUM COUNCIL 11 BEACON STREET BOSTON MA 02108	AMERICAN PETROLEUM INSTITUTE	1,000.00	445.50
TOBACCO ASSOCIATES, INC, SUITE 912 1101 17TH ST., NW WASHINGTON DC 20036			4,137.61
JAMES R. TOBIN, MACK CENTRE DR. PARAMUS NJ 07652	BECTON DICKINSON & CO	2,000.00	
ROBERT TOBIN, 1187 NATIONAL PRESS BLDG. WASHINGTON DC 20045	AD HOC COMM IN DEFENSE OF LIFE, INC	2,600.00	5,275.77
M. DOUGLAS TODD, SUITE 2300 1000 WILSON BOULEVARD ARLINGTON VA 22209	NORTHROP CORP		63.07
DAVID R. TOLL, 2121 K STREET, NW, #880 WASHINGTON DC 20037	PUBLIC SERVICE CO OF COLORADO	1,500.00	1,386.09
Do	WESTERN UTILITIES CLEAN AIR GROUP		
WILLIAM R. TOLLEY JR., PO BOX 37 MELBOURNE FL 32919	HARRIS CORPORATION		422.63
EDWARD TONAT, 6723 BRIGADOON DRIVE BETHESDA MD 20817	ROBERT GOFF & ASSOCIATES, INC		
WILLIAM D. TOOHEY, 1899 L ST., NW, #600 WASHINGTON DC 20036	TRAVEL INDUSTRY ASSN OF AMERICA		
PETER W. TOOKER, 1920 N STREET, NW WASHINGTON DC 20036	AMERICAN MINING CONGRESS		
JOHN G. TOTH, 2408 WANDA WAY RESTON VA 22091	RESTON ADVISER COMMITTEE		
FRANK V. TOTI JR., 600 MARYLAND AVE., SW, #700 WASHINGTON DC 20024	NATIONAL FED OF INDEPENDENT BUSINESS	375.57	200.00
GILBERT D. TOUGH, 70 NORTH MAIN ST. WILKES-BARRE PA 18711	BLUE CROSS OF N.E. PENNSYLVANIA		
WANDA TOWNSEND, 1724 MASSACHUSETTS AVE., NW WASHINGTON DC 20036	NATIONAL CABLE TELEVISION ASSN, INC	962.00	
RICHARD L. TRACHTMAN, SUITE 500 1101 VERMONT AVE. NW WASHINGTON DC 20005	AMERICAN SOC OF INTERNAL MEDICINE	2,747.29	133.40
JOSEPH P. TRAINOR, 815 16TH ST., NW WASHINGTON DC 20006	BROTHERHOOD OF RAILWAY, AIRLINE & STEAMSHIP CLERKS	2,000.00	673.28
JEFFREY B. TRAMMELL, 3255 GRACE STREET, NW WASHINGTON DC 20007	GRAY & CO PUBLIC COMMUNICATIONS INT'L, INC (FOR: BROWNING-FERRIS INDUSTRIES, INC).		
Do	GRAY & CO PUBLIC COMMUNICATIONS INT'L, INC (FOR: BUDD COMPANY)		
Do	GRAY & CO PUBLIC COMMUNICATIONS INT'L, INC (FOR: JOINT MARITIME CONGRESS).	115.00	
Do	GRAY & CO PUBLIC COMMUNICATIONS INT'L, INC (FOR: KINGDOM OF MOROCCO)	1,150.00	
Do	GRAY & CO PUBLIC COMMUNICATIONS INT'L, INC (FOR: MIAMI CHAMBER OF COMMERCE).	1,610.00	
Do	GRAY & CO PUBLIC COMMUNICATIONS INT'L, INC (FOR: MOTOROLA, INC)		
Do	GRAY & CO PUBLIC COMMUNICATIONS INT'L, INC (FOR: MUTUAL OF OMAHA)	460.00	
Do	GRAY & CO PUBLIC COMMUNICATIONS INT'L, INC (FOR: NATIONAL BROADCASTING CO, INC).		
Do	GRAY & CO PUBLIC COMMUNICATIONS INT'L, INC (FOR: REPUBLIC OF TURKEY)	1,380.00	
Do	GRAY & CO PUBLIC COMMUNICATIONS INT'L, INC (FOR: SANTA FE CORP)		
Do	GRAY & CO PUBLIC COMMUNICATIONS INT'L, INC (FOR: SHAKLEE CORPORATION)		

Organization or Individual Filing	Employer/Client	Receipts	Expenditures
Do	GRAY & CO PUBLIC COMMUNICATIONS INT'L, INC (FOR: TITLE INSURANCE INDUSTRY COALITION).	690.00	
HUBERT TRAVAILLE, SUITE 510 1090 VERMONT AVE., NW WASHINGTON DC 20005	POTLATCH CORPORATION	1,500.00	117.38
TRAVEL & TOURISM GOVERNMENT AFFAIRS POLICY COUNCIL, SUITE 607 1899 L STREET, NW WASHINGTON DC 20036		1,885.00	1,885.00
TRAVEL INDUSTRY ASSOCIATION OF AMERICA, 1899 L ST., NW WASHINGTON DC 20036			
ERNEST B. TREMMEL, INC, 5908 ROSSMORE DRIVE BETHESDA MD 20014	BURNS & ROE, INC		
SALLY A. TRIPLETT, 1725 DESALES STREET, NW, #804 WASHINGTON DC 20036	SAMUEL E. STAVISKY & ASSOCIATES, INC (FOR: BROADCAST MUSIC INC. (BMI))		25.00
EUGENE M. TRISKO, 9817 ROSENSTEEL AVENUE SILVER SPRING MD 20910	STERN BROS, INC		
MICHAEL G. TROOP, 1709 NEW YORK AVENUE, NW, #801 WASHINGTON DC 20006	U.S. LEAGUE OF SAVINGS INSTITUTIONS	2,100.00	8.00
GEORGE G. TROUTMAN, SUITE 1100 1090 VERMONT AVE., NW WASHINGTON DC 20005	BELL HELICOPTER TEXTRON, INC	150.00	
ALEXANDER B. TROWBRIDGE, 1776 F STREET, NW WASHINGTON DC 20006	NATIONAL ASSN OF MANUFACTURERS	1,375.00	
THOMAS L. TRUEBLOOD, 401 NORTH MICHIGAN AVE. CHICAGO IL 60611	INTERNATIONAL HARVESTER CO	1,000.00	850.36
TRUST FOR PUBLIC LAND, 82 SECOND ST. SAN FRANCISCO CA 94105			19,781.00
PAUL E. TSONGAS, FOLEY HOAG & ELIOT ONE POST OFFICE SQUARE BOSTON MA 02109	LEADING EDGE PRODUCTS, INC	225.00	
MOTOYUKI TSUTSUI, 919 18TH STREET, NW, #600 WASHINGTON DC 20006	TOYOTA MOTOR SALES U.S.A, INC		
TUCKER & VAUGHT, WESTERN FEDERAL SAVINGS BLDG., #1330 718 17TH ST. DENVER CO 80202	THE MANVILLE CORPORATION	2,000.00	
TUNA RESEARCH FOUNDATION, INC, 1101 17TH ST., NW WASHINGTON DC 20036		769.49	2,630.52
B. ELIZABETH TUNNEY, 124 SALEM CHURCH ROAD MECHANICSBURG PA 17055	RETAIL, WHOLESALE & DEPT STORE UNION (INT'L), ET AL	7,995.00	983.12
WILLIAM J. TURENNE, 1901 L STREET, NW WASHINGTON DC 20036	ELI LILLY AND COMPANY	3,000.00	68.25
BRIAN TURNER, 815 16TH STREET, NW WASHINGTON DC 20006	INDUSTRIAL UNION DEPARTMENT, AFL-CIO	7,521.26	
RICHARD F. TURNEY, 1725 K ST., NW WASHINGTON DC 20006	COURTNEY MCCAMANT & TURNEY	300.00	
TWENTIETH CENTURY ENTERPRISES, 3615 WISCONSIN AVENUE, NW WASHINGTON DC 20016			
U.S. CANE SUGAR REFINERS' ASSN, 1001 CONNECTICUT AVE., NW WASHINGTON DC 20036		3,992.48	3,983.14
U.S. DEFENSE COMMITTEE, 3238 WYNFORD DRIVE FAIRFAX VA 22031		9,860.88	9,860.88
U.S. LEAGUE OF SAVINGS INSTITUTIONS, 111 E. WACKER DR. CHICAGO IL 60601			117,072.01
U.S. OUT OF CENTRAL AMERICA, P.O. BOX 42404 WASHINGTON DC 20015			
U.S. PUBLIC INTEREST RESEARCH GROUP, 215 PENNSYLVANIA AVENUE WASHINGTON DC 20003		47,881.47	56,814.85
U.S. RECREATIONAL SKI ASSOCIATION, 221 WEST DYER ROAD SANTA ANA CA 92707			
JERRY G. UDELL, 1616 H ST., NW WASHINGTON DC 20006	AMERICAN RETAIL FEDERATION	300.00	90.50
KENJI UENO, 919 18TH STREET, NW, #600 WASHINGTON DC 20006	TOYOTA MOTOR SALES, U.S.A., INC		
PHILIP J. UFHOLZ, 1025 CONNECTICUT AVENUE, NW, #1010 WASHINGTON DC 20036	METROPOLITAN INSURANCE COS	1,000.00	
ROBERT D. UMPHREY JR., 1150 17TH STREET, NW WASHINGTON DC 20036	MAN-MADE FIBER PRODUCERS ASSN, INC	5,000.00	158.55
STEVEN W. UNGLESBEE, 729 15TH STREET, NW WASHINGTON DC 20005	ASSOCIATED BUILDERS & CONTRACTORS, INC	2,500.00	
UNIFI, INC., P.O. BOX 19109 GREENSBORO NC 27419			343.94
UNION MUTUAL LIFE INSURANCE CO, 2211 CONGRESS ST. PORTLAND ME 04122			
UNITED BROTHERHOOD OF CARPENTERS & JOINERS OF AMERICA, 101 CONSTITUTION AVE., NW WASHINGTON DC 20001			21,335.00
UNITED FRESH FRUIT & VEGETABLE ASSN, 727 N. WASHINGTON ST. ALEXANDRIA VA 22314		3,396.00	662.06
UNITED GAS PIPE LINE CO, PO BOX 1478 HOUSTON TX 77001			
UNITED INTERNATIONAL CONSULTANTS, 1800 DIAGONAL ROAD ALEXANDRIA VA 22314		90,000.00	
UNITED IRISH & AMERICAN SOCIETY OF ILLINOIS, BOX 219 3400 W. 111TH STREET CHICAGO IL 60655			
UNITED WAY OF INDIANAPOLIS, COMMUNITY SERVICE COUNCIL OF METRO INDIANAPOLIS 1828 N. MERIDIAN STREET INDIANAPOLIS IN 46202.			
LLOYD N. UNSELL, 1101 16TH ST., NW WASHINGTON DC 20036	INDEPENDENT PETROLEUM ASSOCIATION OF AMERICA		40.00
A. RUSSELL UPSHAW JR., 1030 15TH STREET, NW WASHINGTON DC 20005	EASTERN AIRLINES		135.00
MARIAN S. URNIKIS, 1120 CONNECTICUT AVENUE, NW WASHINGTON DC 20036	AMERICAN BANKERS ASSN	1,050.00	
UTILITY NUCLEAR WASTE MANAGEMENT GROUP, C/O EDISON ELECTRIC INSTITUTE 1111 19TH ST., NW WASHINGTON DC 20036.			
ANTHONY VALANZANO, 1850 K STREET, NW WASHINGTON DC 20006	AMERICAN COUNCIL OF LIFE INSURANCE, INC	2,650.00	
JACK J. VALENTI, 1600 EYE ST., NW WASHINGTON DC 20006	MOTION PICTURE ASSN OF AMERICA, INC	450.00	
VAN DYK ASSOCIATES, INC, 2550 M ST., NW, #300 WASHINGTON DC 20037	AMERICAN GAS ASSN	6,250.00	1,645.00
JULIANE H. VAN EGMOND, SUITE 220 1575 EYE STREET, NW WASHINGTON DC 20005	AMERICAN CYANAMID CO	2,401.20	520.55
VAN FLEET ASSOCIATES, INC, SUITE 102 499 SOUTH CAPITOL ST., SW WASHINGTON DC 20003	CADILLAC GAGE	11,250.00	
Do	FORD AEROSPACE & COMMUNICATIONS CORP	3,300.00	
Do	MARCONI ELECTRONICS	4,550.00	
NICK L. VAN NELSON, SUITE 540 1875 EYE STREET, NW WASHINGTON DC 20006	CHAMPION INTERNATIONAL CORPORATION		
VAN NESS FELDMAN SUTCLIFFE & CURTIS, P.C., 7TH FLOOR 1050 THOMAS JEFFERSON ST., NW WASHINGTON DC 20007	AMERICAN INST OF CERTIFIED PUBLIC ACCOUNTANTS	2,625.00	7.50
Do	AMERICAN PRESIDENT LINES	507.50	
Do	ARCTIC SLOPE REGIONAL CORP		
Do	BRAE CORPORATION		
Do	CASTLE & COOKE, INC		
Do	CENTRAL & SOUTH WEST CORP	1,050.00	
Do	CLEAN COAL TECHNOLOGY COALITION	87.50	
Do	CLEAN ENERGY COALITION	7,105.00	
Do	COMINCO ALASKA		
Do	CONSUMERS UNITED FOR RAIL EQUITY (C.U.R.E.)	13,125.00	164.70
Do	HAWAIIAN ELECTRIC COMPANY, INC		
Do	JACOBS ENGINEERING GROUP, INC		
Do	NATOMAS CO		
Do	NORTHWEST POWER CO	525.00	14.00
Do	PEABODY HOLDING CO, INC		
Do	REPUBLIC GEOTHERMAL, INC		
Do	REPUBLIC OF PALAU	350.00	213.77
Do	STATE OF ALASKA		
Do	STATE OF LOUISIANA - DEPT OF NATURAL RESOURCES		
Do	TEXAS AIR CORP	315.00	
Do	TRANQUILLITY IRRIGATION DISTRICT	175.00	
Do	UNION CARBIDE CORP		
DEBRA J. VANDERBEEK, 1575 EYE STREET, NW, #200 WASHINGTON DC 20005	AMERICAN CYANAMID CO	17.80	
MARTHA A. VANIER, 119 ORONOCO STREET P.O. BOX 1417-D50 ALEXANDRIA VA 22313	ANIMAL HEALTH INSTITUTE		
VARIABLE ANNUITY LIFE INS CO, 2929 ALLEN PARKWAY HOUSTON TX 77019			19,016.74
GEORGE F. VARY, 1667 K ST., NW WASHINGTON DC 20006	ARMCO, INC	600.00	278.65
JENNIFER VASILOFF, 1730 M STREET, NW WASHINGTON DC 20036	LEAGUE OF WOMEN VOTERS OF THE U.S.	3,176.77	85.23
DONALD R. VAUGHAN, P.O. BOX 1288 ASHEBORO NC 27204	STEDMAN CORP		
ROBYN E. VAUGHAN, 1600 M ST., NW WASHINGTON DC 20036	INVESTMENT COMPANY INSTITUTE	211.38	118.20
CHRISTINE L. VAUGHN, 1101 CONNECTICUT AVE., NW, #900 WASHINGTON DC 20036	PARIBAS ASSET MANAGEMENT, INC		
KRISTIN LEA VEHRS, 1110 VERMONT AVENUE, NW, #1160 WASHINGTON DC 20005	AMERICAN ASSN OF ZOOLOGICAL PARKS & AQUARIUMS	1,500.00	2,055.00
Do	TEXAS SHRIMP ASSN	2,400.00	2,991.70
JERRY T. VERKLER, 1660 L STREET, NW, #601 WASHINGTON DC 20036	INTERSTATE NATURAL GAS ASSOCIATION OF AMERICA	6,250.00	367.15
VERNER LIIPFERT BERNHARD MCPHERSON & HAND, CHTD, 1660 L STREET, NW, #1000 WASHINGTON DC 20036	CITY OF NEW ORLEANS		
FRANK VERRASTRO, 1155 15TH STREET, NW, #600 WASHINGTON DC 20005	PENNZOIL COMPANY	937.50	
LINDA VICKERS, 1706 23RD ST., SOUTH ARLINGTON VA 22202	COMMUNICATING FOR AGRICULTURE, INC	6,500.01	
Do	NATIONAL ASSN OF CROP INUSRANCE AGENTS	17,374.98	
MICHAEL F. VIGIL JR., 900 THIRD AVENUE NEW YORK NY 10022	INTERNATIONAL GOLD CORPORATION LIMITED		
ANNE L. VIGNOVIC, 1750 K STREET, NW WASHINGTON DC 20006	U.S. BREWERS ASSN, INC	3,190.31	2,574.50
RALPH VINOVICH, 1875 EYE STREET, NW, #800 WASHINGTON DC 20006	TOBACCO INSTITUTE	3,500.00	92.75
VINSON & ELKINS, 1101 CONNECTICUT AVE., NW, #900 WASHINGTON DC 20036	CANADIAN BANK NOTE CO, LTD		34.00
Do	CONWOOD CORP		5.00
Do	GLENDINNING COMPANIES OF CONNECTICUT, INC		1.71
Do	GUARDIAN SAVINGS & LOAN		
Do	MERRILL LYNCH & CO, INC	117.50	
Do	PACIFIC TEXAS PIPELINE TRANSPORTATION CO	242.25	
Do	PROVIDENT LIFE & ACCIDENT INSURANCE CO		
Do	SECTION 936 STEERING COMMITTEE	235.00	
Do	SHEARSON LEHMAN/AMERICAN EXPRESS, INC	470.00	
Do	WARBURG PINCUS CAPITAL CORP	235.00	
Do	WARNER AMEX CABLE COMMUNICATIONS, INC		
WALTER D. VINYARD JR., ZUCKERT, SCOUTT, RASENBERGER & JOHNSON 888 17TH ST., NW, 7TH FL. WASHINGTON DC 20006.	CONTINENTAL INSURANCE COMPANIES	15,000.00	
Do	NATIONAL FRATERNAL CONGRESS OF AMERICA	25,000.00	
VIRGINIA ASSOCIATION OF RAILWAY PATRONS, P.O.BOX 867 RICHMOND VA 23207		30.00	79.76
GEORGE A. VIVERETTE JR., 8111 GATEHOUSE ROAD FALLS CHURCH VA 22047	AMERICAN AUTOMOBILE ASSN		
JESSE S. VOGTLE, 600 NORTH 18TH STREET BIRMINGHAM AL 35291	ALABAMA POWER CO	55,376.86	5,353.30
NICK J. VOLCHEFF, 2509 E. SAN MIGUEL PHOENIX AZ 85016	AT&T		

Organization or Individual Filing	Employer/Client	Receipts	Expenditures
VOLKSWAGEN OF AMERICA, INC, 490 L'ENFANT PLAZA, SW, #3210 WASHINGTON DC 20024			600.00
DOUGLAS K. VOLLMER, 801 18TH ST., NW WASHINGTON DC 20006	PARALYZED VETERANS OF AMERICA	11,713.92	
VOLPE BOSKEY & LYONS, SUITE 602 918 16TH STREET, NW WASHINGTON DC 20006	AMERICAN ASSN OF EQUIPMENT LESSORS		
INGRID A. VOORHEES, 1957 E ST., NW WASHINGTON DC 20006	ASSOCIATED GENERAL CONTRACTORS OF AMERICA	2,000.00	500.00
KURT VORNDRAN, 2030 M STREET, NW WASHINGTON DC 20036	COMMON CAUSE	354.38	14.50
VORYS SATER SEYMOUR & PEASE, 1828 L STREET, NW, #1111 WASHINGTON DC 20036	GROCERY MANUFACTURERS OF AMERICA, INC.		
Do	NORFOLK SOUTHERN CORP	12,832.00	198.50
Do	SCM CORPORATION	3,000.00	
W.A.W. WAR AGAINST WOMEN, 1224 FREEMONT ROSEBURG OR 97470			
R. B. WACKERLE, 1000 WILSON BOULEVARD, #2300 ARLINGTON VA 22209	NORTHROP CORP		166.89
ROBERT J. WAGER, 3RD FLOOR 1111 14TH ST., NW WASHINGTON DC 20005	AMERICAN BAKERS ASSN	2,048.81	5.25
KERRI WAGNER, 1155 15TH STREET, NW WASHINGTON DC 20005	NATIONAL BROILER COUNCIL	1,250.00	
HOWARD W. WAHL, 15740 SHADY GROVE RD. GAITHERSBURG MD 20877	BECHTEL POWER CORPORATION		
CHRISTINE M. WAISANEN, NEW MURPHY ROAD & CONCORD PIKE WILMINGTON DE 19897	ICI AMERICAS, INC		
HERBERT R. WAITE, 100 FEDERAL ST. BOSTON MA 02110	BANK OF BOSTON CORPORATION		
Do	FIRST NATIONAL BANK OF BOSTON	10,250.00	10,168.45
WALD HARKRADER & ROSS, 1300 19TH ST., NW WASHINGTON DC 20036	EMPACADORA DEL NORTE, S.A.		
ANDREW B. WALDO, 1330 CONNECTICUT AVE., NW, #300 WASHINGTON DC 20036	SYNTHETIC ORGANIC CHEMICAL MANUFACTURERS ASSN	18,210.00	655.25
ANGELA S. WALDORF, N.C. PETROLEUM COUNCIL P.O. BOX 167 RALEIGH NC 27602	AMERICAN PETROLEUM INST		
ROBERT E. WALDRON, ASSOCIATED PETROLEUM INDUSTRIES OF MICHI 930 MICHIGAN NATL TOWER, PO BOX 10070 LANSING MI 48901.	AMERICAN PETROLEUM INSTITUTE	855.00	3,225.17
CHARLS E. WALKER ASSOCIATES, INC, 1730 PENNSYLVANIA AVE., NW WASHINGTON DC 20006	AGRICO CHEMICAL COMPANY, ET AL	5,000.00	
Do	ALABAMA POWER CO	6,000.00	
Do	ALUMINUM COMPANY OF AMERICA	750.00	
Do	AMERICAN TELEPHONE & TELEGRAPH CO	750.00	
Do	ARTHUR ANDERSON & CO	5,000.00	
Do	ANHEUSER-BUSCH COMPANIES, INC	1,500.00	
Do	CBS, INC	6,000.00	
Do	CHAMPION INTERNATIONAL CORP	750.00	
Do	COALITION FOR JOBS GROWTH & INT'L COMPETITIVENESS	7,500.00	
Do	DEALER BANK ASSN	5,650.01	
Do	DRESSER INDUSTRIES, INC	750.00	
Do	E. I. DU PONT DE NEMOURS & CO	750.00	
Do	FEDERAL NATIONAL MORTGAGE ASSN		
Do	FORD MOTOR CO	750.00	
Do	GOODYEAR TIRE & RUBBER CO	750.00	
Do	GTE CORPORATION	750.00	
Do	IBM		
Do	INDEPENDENT REFINERS COALITION	11,250.00	
Do	LONE STAR STEEL CO	3,125.00	
Do	NORTHVILLE INDUSTRIES CORP	6,000.00	
Do	NORTHWESTERN MUTUAL LIFE INSURANCE CO	3,125.00	
Do	OWENS-ILLINOIS	750.00	
Do	PROCTER & GAMBLE MANUFACTURING CO	750.00	
Do	PUBLIC SECURITIES ASSN	15,000.00	
Do	SCOTT PAPER CO		
Do	SIMULFLITE TRAINING INTERNATIONAL, INC	750.00	
Do	SONGWRITERS GUILD		
Do	UNION CARBIDE CORP	750.00	
Do	WEYERHAEUSER CO	750.00	
R. DUFFY WALL & ASSOCIATES, INC, 1317 F STREET, NW, #400 WASHINGTON DC 20004	AD HOC COMM ON COAL TAXATION	1,500.00	300.00
Do	BALCOR COMPANY	1,000.00	300.00
Do	BRINKS, INC		
Do	CANTOR FITZGERALD & CO, INC	1,000.00	300.00
Do	ESSELTE BUSINESS SYSTEMS, INC	1,500.00	300.00
Do	FOOTWEAR RETAILERS OF AMERICA	1,500.00	600.00
Do	HONG KONG TRADE DEVELOPMENT COUNCIL	1,500.00	300.00
Do	JMB REALTY CORP	1,000.00	300.00
Do	LIFE OF VIRGINIA	1,000.00	600.00
Do	MORGAN GUARANTY TRUST CO	1,500.00	600.00
Do	NEW YORK STATE BANKERS ASSN	1,500.00	300.00
Do	PHARMACEUTICAL MANUFACTURERS ASSN	1,500.00	600.00
Do	TORCHMARK CORPORATION	1,000.00	600.00
Do	WINE & SPIRITS WHOLESALERS OF AMERICA, INC	1,000.00	600.00
MARTIN A. WALL, 1025 VERMONT AVENUE, NW, #800 WASHINGTON DC 20005	AMERICAN OSTEOPATHIC HOSPITAL ASSN	2,225.00	565.00
WALLACE & EDWARDS, 1150 CONNECTICUT AVE., NW, #507 WASHINGTON DC 20036	ALABAMA FARM BUREAU FEDERATION	6,000.00	
Do	AMERICAN MEAT INSTITUTE	12,000.00	
Do	AMERICAN SUGAR CANE LEAGUE OF THE USA, INC	6,000.00	
Do	ARROW TRANSPORTATION CO		
Do	COTTON WAREHOUSE ASSN OF AMERICA	11,000.00	
Do	GROCERY MANUFACTURERS OF AMERICA, INC		
Do	MERCHANTS GRAIN & TRANSPORTATION, INC	2,200.00	
Do	NATIONAL COTTON COUNCIL OF AMERICA	7,500.00	
Do	NATIONAL WOOL GROWERS ASSN	3,750.00	
Do	SERVICE CORPORATION INTERNATIONAL	6,000.00	
HENRY SCOTT WALLACE, 1815 H STREET, NW, #550 WASHINGTON DC 20006	NATIONAL ASSN OF CRIMINAL DEFENSE LAWYERS	8,700.00	40.00
RAYMOND C. WALLACE, 5025 WISCONSIN AVENUE, NW WASHINGTON DC 20016	AMALGAMATED TRANSIT UNION, AFL-CIO		
LIONEL L. WALLENROD, 260 MADISON AVE. NEW YORK NY 10016	AMERICAN PAPER INSTITUTE, INC		
R. DOUGLAS WALLIN JR., 1235 JEFFERSON DAVIS HWY. ARLINGTON VA 22202	EMERSON ELECTRIC CO		173.03
CHARLES S. WALSH, FLEISCHMEN & WALSH 1725 N ST., NW WASHINGTON DC 20036	NATIONAL CABLE TELEVISION ASSN, INC		
JAMES P. WALSH, DAVIS WRIGHT TODD RIESE & JONES 1752 N ST., NW, #800 WASHINGTON DC 20036	AMERICAN TUNABOAT ASSN	1,200.00	
HENRY L. WALTHER, 3238 WYNFORD DRIVE FAIRFAX VA 22031	U.S. DEFENSE COMMITTEE	3,000.00	
JAMES K. WALTON, 1819 L STREET, NW, #820 WASHINGTON DC 20036	SANTA FE INTERNATIONAL CORP		
WILLIAM C. WAMPLER, 412 FIRST STREET, SE WASHINGTON DC 20003	AMERICAN MEAT INSTITUTE		
Do	AMERICAN PEANUT PRODUCT MANUFACTURERS, INC	9,000.00	
HERBERT C. WAMSLEY, 1255 23RD STREET, NW, #850 WASHINGTON DC 20037	INTELLECTUAL PROPERTY OWNERS, INC	17,539.00	
BONNIE B. WAN, 1201 PENNSYLVANIA AVENUE, #730 WASHINGTON DC 20004	KIMBERLY-CLARK CORP		
JOHN F. WANAMAKER, 201 N. WASHINGTON, ST. ALEXANDRIA VA 22314	RETIRED OFFICERS ASSN	2,350.00	
ALAN S. WARD, 1050 CONNECTICUT AVE., NW, #1100 WASHINGTON DC 20036	BAKER & HOSTETLER (FOR: SOAP & DETERGENT ASSN)		
JUSTIN R. WARD, 1350 NEW YORK AVENUE, NW, #300 WASHINGTON DC 20005	NATURAL RESOURCES DEFENSE COUNCIL, INC	221.25	10.00
STEPHEN E. WARD, 1919 PENNSYLVANIA AVENUE, NW, #503 WASHINGTON DC 20006	MID-CONTINENT OIL & GAS ASSN	7,752.40	211.75
THOMAS J. WARD, 70 N. MAIN STREET WILKES-BARRE PA 18711	BLUE CROSS OF NORTHEASTERN PENNSYLVANIA		
RICHARD D. WARDEN, 1757 N ST., NW WASHINGTON DC 20036	UNITED AUTO, AEROSPACE & AGRICULTURAL IMPLEMENT WORKERS	20,986.92	200.00
JACK WARE, 1220 L STREET, NW WASHINGTON DC 20005	AMERICAN PETROLEUM INSTITUTE	7,260.00	208.78
MICHAEL O. WARE, 1701 PENNSYLVANIA AVENUE, NW, #900 WASHINGTON DC 20006	CONOCO, INC	1,750.00	
PETER F. WARKER, SUITE 2700 1000 WILSON BOULEVARD ARLINGTON VA 22209	TRW, INC	1,250.00	
ERNEST R. WARNER JR., 1818 N ST., NW WASHINGTON DC 20036	DGA INTERNATIONAL, INC. (FOR: SNECMA)	567.00	100.06
Do	DGA INTERNATIONAL, INC. (FOR: SOFREAVIA)	660.00	141.36
WILLIAM H. WARNER, 1201 PENNSYLVANIA AVENUE, NW WASHINGTON DC 20004	CONTROL DATA CORP	500.00	
CHRISTINE M. WARNKE, SUITE 300 1101 CONNECTICUT AVENUE, NW WASHINGTON DC 20036	AMERICAN TEXTILE MANUFACTURERS INSTITUTE, INC	800.00	215.00
B. JACK WARREN, P.O. BOX 95385 ATLANTA GA 30347	FOREST FARMERS ASSN		
BARBARA J. WASHBURN, 1201 PENNSYLVANIA AVENUE, NW, #370 WASHINGTON DC 20004	CONTROL DATA CORPORATION	377.00	30.31
WASHINGTON INDEPENDENT WRITERS, INC, 1341 G ST., NW, #205 WASHINGTON DC 20005			
WASHINGTON INDUSTRIAL TEAM, INC, 499 S. CAPITOL ST., SW, #520 WASHINGTON DC 20003	BOEING COMPANY	900.00	430.49
Do	HUGHES AIRCRAFT COMPANY	1,500.00	703.17
Do	ROCKWELL INTL	1,500.00	703.17
WASHINGTON RESOURCES AND STRATEGY, INC, 220 EYE STREET, NE WASHINGTON DC 20002	AMERICAN NUCLEAR ENERGY COUNCIL	3,312.50	
Do	AMERICAN RESORT & RESIDENTIAL DEVELOPMENT ASSOCIATION	2,000.00	203.46
WATERBED MANUFACTURERS ASSN, 1411 WEST OLYMPIC BOULEVARD LOS ANGELES CA 90015			
MILLIE WATERMAN, 5656 CORDUROY ROAD MENTOR OH 44060	NATIONAL CONGRESS OF PARENTS & TEACHERS		1,536.56
RONALD D. WATERMAN, 4802 TABARD PLACE ANNANDALE VA 22003	MILWAUKEE COUNTY-INTERGOVERNMENTAL RELATIONS	9,375.00	545.60
Do	WISCONSIN COUNTIES ASSN	4,164.00	40.00
CLARKE R. WATSON, 655 BROADWAY, #425 DENVER CO 80203	WESTLAND COMPANIES, INC		

Organization or Individual Filing	Employer/Client	Receipts	Expenditures
JOHN L. WATSON III, ONE WORLD TRADE CENTER, #4511 NEW YORK NY 10048	NATIONAL SECURITY TRADERS ASSN	4,375.00	
LEROY WATSON, 1616 H STREET, NW WASHINGTON DC 20006	NATIONAL GRANGE	2,750.00	
STEPHEN L. WATSON, 143 W. MARKET ST., #201 INDIANAPOLIS IN 46204	INDIANA RAILROAD ASSN	300.00	182.45
CAROLYN HERR WATTS, 1800 MASSACHUSETTS AVE., NW WASHINGTON DC 20036	NATIONAL RURAL ELECTRIC COOPERATIVE ASSN	50.00	
DOUGLAS R. WATTS, 1724 MASSACHUSETTS AVENUE, NW WASHINGTON DC 20036	NATIONAL CABLE TELEVISION ASSN, INC	1,488.24	
GEORGE B. WATTS, 1155 15TH ST., NW WASHINGTON DC 20005	NATIONAL BROILER COUNCIL	1,500.00	
BRUCE H. WATZMAN, 1130 17TH STREET, N.W. WASHINGTON DC 20036	NATIONAL COAL ASSN	5,750.00	433.33
WILLIAM H. WEATHERSPOON, NORTH CAROLINA PETROLEUM COUNCIL PO BOX 167 RALEIGH NC 27602	AMERICAN PETROLEUM INSTITUTE	3,750.00	4,023.76
A. VERNON WEAVER, 2121 K STREET, NW, #830 WASHINGTON DC 20037	STEPHENS OVERSEAS SERVICES, INC		
MARY WEBB, 1050 17TH STREET, NW, #770 WASHINGTON DC 20036	AMERICAN ASSN OF HOMES FOR THE AGING	189.00	
ANDREW H. WEBBER, 440 FIRST STREET, NW, #510 WASHINGTON DC 20001	AMERICAN MEDICAL PEER REVIEW ASSN		
FREDERICK L. WEBBER, 1101 16TH STREET, NW WASHINGTON DC 20036	NATIONAL SOFT DRINK ASSN		37.65
WEBSTER & SHEFFIELD, 1200 NEW HAMPSHIRE AVE., NW, #350 WASHINGTON DC 20036	ASARCO CORPORATION		
Do	PINKERTON TOBACCO CO	400.00	
Do	POGO PRODUCING CO		
WEBSTER CHAMBERLAIN & BEAN, 1747 PENNSYLVANIA AVE., NW, #1000 WASHINGTON DC 20006	INTERNATIONAL TAXICAB ASSN	2,500.00	
Do	MILLER BREWING COMPANY	1,325.00	220.00
Do	WATERBED MANUFACTURERS ASSN		
DAVID F. WEEDA, OLSSON AND FRANK 1029 VERMONT AVE., NW, #400 WASHINGTON DC 20005	NATIONAL ASSN OF MARGARINE MANUFACTURERS		
CHARLES W. WEGNER JR., 600 PENNSYLVANIA AVENUE, SE, #203 WASHINGTON DC 20003	NATIONAL ASSN OF PROFESSIONAL INSURANCE AGENTS	500.00	6,545.00
STEVEN A. WEIN, 1090 VERMONT AVENUE, NW, #1100 WASHINGTON DC 20005	TEXTRON, INC	600.00	150.00
EILEEN J. WEINER, 233 EAST REDWOOD STREET BALTIMORE MD 21202	GORDON FEINBLATT ROTHMAN HOFFBERGER & HOLLANDER (FOR: SINAI HOSPITAL OF BALTIMORE, INC)		
WEINER MCCAFFREY BRODSKY & KAPLAN, P.C., 1350 NEW YORK AVE., NW, #800 WASHINGTON DC 20005	CHICAGO CENTRAL & PACIFIC RR	3,968.50	56.60
Do	COORDINATING COUNCIL ON MANUFACTURED HOUSING FINANCE	1,778.50	
Do	FOREMOST INSURANCE CO		
Do	GULF & MISSISSIPPI RAILROAD	3,090.00	61.20
Do	NATIONAL MANUFACTURED HOUSING FINANCE ASSN		
Do	TASK FORCE ON USURY LEGISLATION	6,930.00	615.15
DONALD G. WEINERT, 1420 KING ST. ALEXANDRIA VA 22314	NATIONAL SOCIETY OF PROFESSIONAL ENGINEERS	1,500.00	
ARTHUR E. WEISBERG, 2200 FIRST BANK PLACE EAST MINNEAPOLIS MN 55402	DORSEY & WHITNEY		
ARTHUR A. WEISS, 1800 FIRST NATIONAL BUILDING DETROIT MI 48226	JAFFE SNIDER RAITT & HEUER, P.C		
MORTON N. WEISS, SUITE 4511 ONE WORLD TRADE CENTER NEW YORK NY 10048	NATIONAL SECURITY TRADERS ASSN, INC		
DON WELCH, P.O. BOX 841 ABILENE TX 79604	WEST TEXAS UTILITIES CO		
KATHLEEN WELCH, 215 PENNSYLVANIA AVE., SE WASHINGTON DC 20003	U.S. PUBLIC INTEREST RESEARCH GROUP	3,769.22	
JERRY WELCOME, P.O. BOX 3556 WASHINGTON DC 20007	AMERICAN MEAT INSTITUTE	2,000.00	
PAUL S. WELLER JR., AGRI/WASHINGOTN 1629 K ST., NW, #1100 WASHINGTON DC 20006	AMERICAN SOC OF COMPOSERS AUTHORS & PUBLISHERS	4,000.00	
WELLFORD WEGMAN KRULWICH & HOFF, 1775 PENNSYLVANIA AVE., NW, #450 WASHINGTON DC 20006	CANADIAN EMBASSY	1,250.00	
Do	CBS, INC		
Do	COALITION AGAINST DOUBLE TAXATION, INC	54,489.64	
Do	COALITION TO SAVE REVENUE SHARING	2,500.00	
Do	DEPARTMENT OF NATURAL RESOURCES, PROVINCE OF MANITOBA	2,500.00	
Do	FAMILY SERVICE AMERICA		
Do	GRANTS & CONTRACTS PROJECTS, UNITED WAY OF AMERICA		
Do	LONG LAKE ENERGY CORP	3,750.00	
Do	LUKENS, INC	4,480.00	
Do	MANVILLE CORP	2,000.00	
Do	MINISTRY OF THE ENVIRONMENT	2,250.00	
Do	MITEX	2,000.00	
Do	NATIONAL CORP FOR HOUSING PARTNERSHIPS	1,000.00	
Do	PHARMAQUEST CORPORATION; OCLASSEN PHARMACEUTICALS, INC	810.00	
L. H. WELLS, SUITE 200 1025 CONNECTICUT AVENUE, NW WASHINGTON DC 20036	SHELL OIL CO	500.00	
FRED WERTHEIMER, 2030 M ST., NW WASHINGTON DC 20036	COMMON CAUSE	16,050.00	448.86
WEST AFRICAN REPUBLIC OF TOGO, 1625 K ST., NW, #102 WASHINGTON DC 20006			
CHARLES M. WEST, 205 DAINGERFIELD ROAD ALEXANDRIA VA 22314	NATIONAL ASSN OF RETAIL DRUGGISTS	1,500.00	300.00
WEST COAST FABRICATORS & STEEL INDUSTRY ASSN, 2324 NAVY DRIVE STOCKTON CA 95206		9,000.00	7,799.85
FORD B. WEST, 1015 18TH STREET, NW WASHINGTON DC 20036	FERTILIZER INSTITUTE	25,000.00	962.31
WEST TEXAS LAND & ROYALTY OWNERS ASSN, 4302 AIRPORT BLVD. AUSTIN TX 78722		30.50	
W. P. WEST 1629 K ST., NW ROOM 204 WASHINGTON DC 20006	DELTA AIR LINES, INC	273.00	152.62
HARRY H. WESTBAY III, 1615 H STREET, NW WASHINGTON DC 20062	CHAMBER OF COMMERCE OF THE U.S.	250.00	55.00
WESTERN FUELS ASSOCIATION, INC, 1625 M ST., NW WASHINGTON DC 20036			20,617.00
JOHN F. WETZEL JR., 412 FIRST ST., SE, #200 WASHINGTON DC 20003	ASSOCIATION OF AMERICAN RAILROADS	154.00	171.32
WILLIAM WEWER, 1300 19TH STREET, NW, #310 WASHINGTON DC 20036	NATIONAL COMM TO PRESERVE SOCIAL SECURITY	8,417.00	
WEXLER REYNOLDS HARRISON & SCHULE, INC, SUITE 600 1317 F STREET, NW WASHINGTON DC 20004	AETNA LIFE & CASUALTY	50.00	13.00
Do	ALLIED CORPORATION	1,440.00	130.50
Do	AMERICAN AIRLINES, INC	6,875.00	73.02
Do	AMERICAN CYANAMID CO	3,625.00	405.64
Do	AMERICAN LOW POWER TELEVISION ASSN		
Do	AMUSEMENT & MUSIC OPERATORS ASSN		
Do	COMMUNICATIONS SATELLITE CORP	645.00	10.00
Do	COOPERS & LYBRAND	2,045.00	39.00
Do	DEALER BANK ASSOCIATION		
Do	DYCO PETROLEUM CO	12.00	
Do	FOOTHILLS PIPE LINES (YUKON) LTD	562.50	
Do	GENERAL MOTORS CORP	2,925.00	
Do	MANVILLE CORPORATION	3,950.00	265.70
Do	MORGAN STANLEY & CO, INC	6,140.00	5,754.40
Do	MOTION PICTURE ASSN OF AMERICA, INC	3,900.00	1,069.52
Do	NATIONAL CABLE TELEVISION ASSN, INC	7,700.00	95.00
Do	NATIONAL RADIO BROADCASTERS ASSOCIATION		
Do	NEW ENGLAND ELECTRIC SYSTEM	300.00	
Do	NORTHWEST AIRLINES, INC	3,375.00	83.02
Do	NOVA, AN ALBERTA CORP		
Do	NOVACOR CHEMICALS, LTD	2,460.00	65.00
Do	SECURITY INVESTMENT CO		
Do	TURNER BROADCASTING SYSTEMS, INC		9,581.25
ROBERT G. WEYMUELLER, 1101 VERMONT AVENUE, NW, #402 WASHINGTON DC 20005	VIACOM INTERNATIONAL, INC	4,640.00	152.00
BRIAN B. WHALEN JR., 401 N. MICHIGAN AVE. CHICAGO IL 60611	AMERICAN LUNG ASSN	3,870.00	3,386.00
CURTIS E. WHALEN, 490 L'ENFANT PLAZA, SW, #3202 WASHINGTON DC 20024	INTERNATIONAL HARVESTER CO	1,250.00	920.66
ELLAN WHARTON, 1701 PENNSYLVANIA AVENUE, NW, #900 WASHINGTON DC 20006	TRANSCO ENERGY COMPANY	4,500.00	3,752.19
LEONARD P. WHEAT, 1111 14TH ST., NW, #1200 WASHINGTON DC 20005	E. I. DU PONT DE NEMOURS & CO, INC	170.00	
CHARLES W. WHEELER, 1120 CONNECTICUT AVENUE, NW WASHINGTON DC 20036	AMERICAN DENTAL ASSN	1,000.00	144.66
CLYDE A. WHEELER JR., BISHOP LIBERMAN COOK PURCELL & REYNOLDS 1200 17TH STREET, NW WASHINGTON DC 20036	AMERICAN BANKERS ASSN	1,500.00	774.41
JUNE M. WHELAN, SUITE 600 S 1120 20TH STREET, NW WASHINGTON DC 20036	AMERICAN PETROLEUM INSTITUTE	7,500.00	
DEBORAH A. WHITE, 1333 NEW HAMPSHIRE AVE., NW WASHINGTON DC 20036	UNION PACIFIC CORPORATION	1,250.00	
DIANE WHITE, 122 C ST., NW, #800 WASHINGTON DC 20001	ATLANTIC RICHFIELD CO	50.60	
DONALD F. WHITE, 1616 H ST., NW WASHINGTON DC 20006	CONCERNED WOMEN FOR AMERICA	3,600.00	
WHITE FINE & VERVILLE, SUITE 1100 1156 15TH ST., NW WASHINGTON DC 20005	AMERICAN RETAIL FEDERATION	1,500.00	90.00
Do	AMERICAN EDUCATORS OF ARKANSAS, INC, ET AL	20,000.00	
GEORGE E. WHITE JR., P.O. BOX 61000 NEW ORLEANS LA 70161	UNIVERSITY OF MARYLAND		
JOHN C. WHITE, 1899 L STREET, NW, #500 WASHINGTON DC 20036	MIDDLE SOUTH SERVICES, INC	2,423.04	1,345.90
Do	CAMP CARMOUCHE BARSH HUNTER GRAY HOFFMAN & GILL		
Do	COASTAL CORP & CHICAGO MERCANTILE EXCHANGE		
JOHN S. WHITE, 1800 M ST., NW, #975 WASHINGTON DC 20036	COMTRAN, LTD		
JOHN THOMAS WHITE II , SUITE 2202 490 L'ENFANT PLAZA EAST, SW WASHINGTON DC 20024	MARATHON OIL CO		
MARGITA E. WHITE, 1730 M STREET, NW, #407 WASHINGTON DC 20036	TENNECO INC		
SAM WHITE, 412 FIRST STREET, SE WASHINGTON DC 20003	TELEVISION OPERATORS CAUCUS, INC		
Do	INDEPENDENT CATTLEMEN'S ASSN		
Do	NATIONAL PEANUT GROWERS GROUP	7,500.00	
WILLIAM R. WHITE, BRICKER & ECKLER 888 17TH STREET, NW, #1050 WASHINGTON DC 20006	SAM KANE PACKING		
Do	CONSOLIDATED RAIL CORP		
Do	LINCOLN SAVINGS & LOAN ASSN		
	NATIONWIDE INSURANCE CO		

Organization or Individual Filing	Employer/Client	Receipts	Expenditures
DONALD W. WHITEHEAD, SUITE 335 1120 CONNECTICUT AVE., NW WASHINGTON DC 20036	EMERGENT TECHNOLOGIES INC.	1,500.00	
Do	WASHINGTON STATES REPRESENTATIVES	1,000.00	
RICHARD M. WHITING, 730 15TH STREET, NW WASHINGTON DC 20005	ASSOCIATION OF BANK HOLDING COS	1,000.00	
STEVEN C. WHITNEY, 14 W. WYATT AVE. ALEXANDRIA VA 22301	NATIONAL PARKS & CONSERVATION ASSN	510.00	75.00
WILLIAM F. WHITSITT, 1800 K ST., NW SUITE 820 WASHINGTON DC 20006	SUN CO, INC	1,200.00	334.81
WILLIAM E. WICKERT JR., 1000 16TH STREET, NW, #800 WASHINGTON DC 20036	BETHLEHEM STEEL CORPORATION	950.00	
WICKWIRE LEWIS GOLDMARK & SCHOOR, 500 MAYNARD BLDG. SEATTLE WA 98104	ARCTIC SLOPE REGIONAL CORP, ET AL		
MARY FRANCES WIDNER, 1620 EYE ST., NW WASHINGTON DC 20006	AMERICAN INST OF CERTIFIED PUBLIC ACCOUNTANTS	460.00	1,496.00
RICHARD J. WIECHMANN, 1619 MASSACHUSETTS AVE., NW WASHINGTON DC 20036	AMERICAN PAPER INSTITUTE, INC		
JUDY A. WIEDEMEIER, 1875 I STREET, NW, #800 WASHINGTON DC 20006	TOBACCO INSTITUTE		
PHILLIP R. WIEDMEYER, 600 NORTH 18TH STREET BIRMINGHAM AL 35291	ALABAMA POWER CO	13,180.06	14,049.21
W. SCOTT WILBER, 1101 VERMONT AVENUE, NW WASHINGTON DC 20005	AMERICAN MEDICAL ASSN	3,975.00	350.27
ROBERT E. WILBUR, 3000 LINCOLN PL., LB5 DALLAS TX 75201	TAYLOR & MIZELL		
THOMAS D. WILCOX, P.C., 2011 EYE STREET, NW, #601 WASHINGTON DC 20006	NATIONAL ASSN OF STEVEDORES	1,830.00	1,830.00
HARRY G. WILES II , 499 S. CAPITOL STREET, SW, #401 WASHINGTON DC 20003	NATIONAL ASSN OF INDEPENDENT INSURERS	1,500.00	318.00
WILEY & REIN, 1776 K STREET, NW WASHINGTON DC 20006	CBS, INC		
GUENTHER O. WILHELM, SUITE 1100 1899 L STREET, NW WASHINGTON DC 20036	EXXON CORPORATION		
CARL B. WILKERSON, 1850 K STREET, NW WASHINGTON DC 20006	AMERICAN COUNCIL OF LIFE INSURANCE, INC		
WILKINSON BARKER KNAUER & QUINN, 1735 NEW YORK AVE., NW WASHINGTON DC 20006	BONNEVILLE INTERNATIONAL CORP	11,810.00	103.72
Do	CONFEDERATED SALISH & KOOTENAI TRIBES OF THE FLATHEAD RES		
Do	MANVILLE CORPORATION	58,212.80	4,689.46
Do	METROPOLITAN LIFE & AFFILIATED COMPANIES	38,600.10	799.06
Do	MOUNTAIN STATES TELEPHONE & TELEGRAPH CO		
Do	NANA REGIONAL CORP, INC		
Do	NORTHWESTERN BELL TELEPHONE CO		
Do	PACIFIC NORTHWEST BELL TELEPHONE CO		
Do	J.C. PENNEY CO, INC	34,020.00	763.90
Do	SHEE ATIKA, INC		
Do	U.S. WEST, INC		
Do	UNITED AIRLINES, INC	11,253.85	3,517.43
PAUL R. WILLGING, 1200 15TH STREET, NW WASHINGTON DC 20005	AMERICAN HEALTH CARE ASSN	2,915.00	
RALPH E. WILLHAM, 1750 NEW YORK AVE., NW WASHINGTON DC 20006	SHEET METAL WORKERS' INTL ASSN	11,850.00	
WILLIAMS & CONNOLLY, 839 17TH ST., NW WASHINGTON DC 20006	NINA COHEN	1,852.50	2,455.50
F. LEE WILLIAMS, 1616 H ST., NW WASHINGTON DC 20006	AMERICAN RETAIL FEDERATION	1,600.00	
FLOYD L. WILLIAMS, 15TH & M STREETS, NW WASHINGTON DC 20005	NATIONAL ASSN OF HOME BUILDERS OF THE U.S.		
LEONARD B. WILLIAMS, 1000 16TH STREET, NW, #800 WASHINGTON DC 20036	BETHLEHEM STEEL CORPORATION	130.00	
LUCINDA L. WILLIAMS, 1111 19TH ST., NW, #402 ARLINGTON VA 20036	FEDERATION OF AMERICAN HOSPITALS	12,000.00	
WILLIAMS MYERS & QUIGGLE, 888 17TH ST., NW WASHINGTON DC 20006	CHURCH ALLIANCE FOR CLARIFICATION OF ERISA	41,116.06	1,324.81
ROBERT E. WILLIAMS, 1825 K ST., NW, #607 WASHINGTON DC 20006	UNITED AIRLINES	1,500.00	
STEVEN W. WILLIAMS, 3238 WYNFORD DRIVE FAIRFAX VA 22031	U.S. DEFENSE COMMITTEE	1,250.00	
THOMAS F. WILLIAMS, 6812 OLD KENT ROAD AMARILLO TX 79109	SOUTHWESTERN PUBLIC SERVICE CO	769.90	522.69
DAVID K. WILLIS, 1620 EYE STREET, NW, #1000 WASHINGTON DC 20006	MOTOR VEHICLE MANUFACTURERS ASSOCIATION OF THE U.S., INC		
WILLKIE FARR & GALLAGHER, 818 CONNECTICUT AVENUE, NW WASHINGTON DC 20036	AMERICAN RED CROSS RETIREMENT SYSTEM	695.00	30.29
Do	AMERICAN TRUCKING ASSN	3,242.50	251.49
Do	COMPTROLLER OF THE STATE OF NEW YORK	1,870.00	551.34
Do	NATIONAL VENTURE CAPITAL ASSN	12,077.50	338.68
Do	U S WEST, INC	7,875.00	39.60
CHARLOTTE M. WILMER, 1800 MASSACHUSETTS AVE., NW WASHINGTON DC 20036	NATIONAL RURAL ELECTRIC COOPERATIVE ASSN	130.00	
WILMER CUTLER & PICKERING, 1666 K ST., NW WASHINGTON DC 20006	AMERICAN CYANAMID CO	3,271.45	8.95
Do	APACHE CORPORATION		
Do	CAPITAL CITIES COMMUNICATIONS, INC		
Do	CBS, INC	205.00	6.66
Do	CITICORP		
Do	G-4 CHILDREN'S COALITION		14.50
Do	HANDGUN CONTROL, INC		192.15
Do	MOTOR VEHICLE MANUFACTURERS ASSOCIATION OF THE U.S., INC		
Do	PEOPLE OF ENEWETAK	107.50	3.80
DENA L. WILSON, SUITE 1000 1600 WILSON BLVD. ARLINGTON VA 22209	AMERICAN WATERWAYS OPERATORS, INC	4,000.00	212.15
DOROTHY WILSON, 4201 CATHEDRAL AVENUE, NW, #607-E WASHINGTON DC 20016	COALITION OF CONCERNED CHARITIES		
PATRICIA M. WILSON, 2910 3RD AVENUE NORTH BILLINGS MT 59103	THERMAL ENERGY CO		
REID WILSON, 215 PENNSYLVANIA AVENUE, SE WASHINGTON DC 20003	U.S. PUBLIC INTEREST RESEARCH GROUP	3,500.00	
ROBERT C. WILSON, 499 S. CAPITOL ST., SW, #520 WASHINGTON DC 20003	RMI, INC	380.00	
Do	WASHINGTON INDUSTRIAL TEAM, INC	600.00	
ROBERT GARY WILSON, 1730 RHODE ISLAND AVENUE, NW WASHINGTON DC 20036	PPG INDUSTRIES, INC	57.00	28.50
WINDELS MARX DAVIES & IVES, 51 W. 51ST STREET NEW YORK NY 10019	CHELSEA PROPERTY OWNERS		23.02
KATHLEEN J. WINN, 1155 15TH ST., NW SUITE 602 WASHINGTON DC 20006	PENNZOIL CO	475.00	
MARIE WINSLOW, 2020 K ST., NW, #200 WASHINGTON DC 20006	NATIONAL FED OF FEDERAL EMPLOYEES		
DAVID A. WINSTON, 1922 F STREET, NW WASHINGTON DC 20006	NATIONAL ASSN OF LIFE UNDERWRITERS	543.75	37.50
JAMES L. WINSTON, 1730 M STREET, NW, #708 WASHINGTON DC 20036	NATIONAL ASSN OF BLACK OWNED BROADCASTERS		
MARK E. WINTER, 1828 L ST., NW WASHINGTON DC 20036	AMERICAN LAND TITLE ASSN	3,223.00	
WINTHROP STIMSON PUTNAM & ROBERTS, 1155 CONNECTICUT AVE., NW, #1000 WASHINGTON DC 20036	ASEA, INC		636.60
Do	E.F. HUTTON, INC		
Do	SINGER CO		21.00
RONALD S. WISHART JR., 1100 15TH STREET, NW, #1200 WASHINGTON DC 20005	UNION CARBIDE CORP		
ROBERT V. WITECK, THE POWER HOUSE 3255 GRACE STREET, NW WASHINGTON DC 20007	GRAY & CO PUBLIC COMMUNICATIONS INT'L, INC (FOR: AGRICULTURE FOR MARKET ORIENTED POLICIES).	3,750.00	
Do	GRAY & CO PUBLIC COMMUNICATIONS INT'L, INC (FOR: AMERICAN EXPRESS CORP).		
Do	GRAY & CO PUBLIC COMMUNICATIONS INT'L, INC (FOR: AMERICAN FLAGSHIPS)		
Do	GRAY & CO PUBLIC COMMUNICATIONS INT'L, INC (FOR: CANADIAN ASBESTOS INFORMATION CENTRE).		
Do	GRAY & CO PUBLIC COMMUNICATIONS INT'L, INC (FOR: JOINT MARITIME CONGRESS).	2,250.00	
Do	GRAY & CO PUBLIC COMMUNICATIONS INT'L, INC (FOR: KINGDOM OF MOROCCO)	150.00	
Do	GRAY & CO PUBLIC COMMUNICATIONS INT'L, INC (FOR: LANE INDUSTRIES)		
Do	GRAY & CO PUBLIC COMMUNICATIONS INT'L, INC (FOR: MUTUAL OF OMAHA)		
Do	GRAY & CO PUBLIC COMMUNICATIONS INT'L, INC (FOR: NATIONAL BROADCASTING CO, INC).		
Do	GRAY & CO PUBLIC COMMUNICATIONS INT'L, INC (FOR: REPUBLIC OF TURKEY)		
Do	GRAY & CO PUBLIC COMMUNICATIONS INT'L, INC (FOR: UNITED AIRLINES)		
GLENN P. WITTE, 888 16TH ST., NW WASHINGTON DC 20006	MILK IND FOUNDATION/INT'L ASSN OF ICE CREAM MFRS		
ERNEST WITTENBERG ASSOCIATES, INC, 1616 H ST., NW WASHINGTON DC 20006	FEDERAL LAND BANK ASSNS OF TEXAS STOCKHOLDERS' DEFENSE FUND		
HERMAN C. WITTHAUS, 1660 L ST., NW WASHINGTON DC 20036	GENERAL MOTORS CORP	3,000.00	2,013.99
CLINTON WOLCOTT, 2020 K ST., NW, #200 WASHINGTON DC 20006	NATIONAL FED OF FEDERAL EMPLOYEES		
JAMES E. WOLF, 2020 14TH ST., NORTH ARLINGTON VA 22201	AMERICAN STANDARD INC	350.00	
JAMES WOLF, 1925 K ST., NW, #206 WASHINGTON DC 20006	ALLIANCE TO SAVE ENERGY	323.57	
SIDNEY M. WOLFE, 2000 P ST., NW, #708 WASHINGTON DC 20036	HEALTH RESEARCH GROUP	138.10	
THOMAS F. WOLFE, 1615 H STREET, NW WASHINGTON DC 20062	CHAMBER OF COMMERCE OF THE U.S.		
BERNARD WOLFMAN, C/O FOLEY HOAG & ELIOT ONE POST OFFICE SQUARE BOSTON MA 02109	MUTUAL SAVINGS CENTRAL FUND, INC	3,333.33	111.97
RONALD WOLSEY, P.O. BOX 507 BALTIMORE MD 21203	AMOCO CORPORATION		
DON WOMACK, SUITE 303 1825 K ST., NW WASHINGTON DC 20006	TEXAS UTILITIES SERVICES, INC	2,575.00	86.78
BURTON C. WOOD, 1125 15TH ST., NW WASHINGTON DC 20005	MORTGAGE BANKERS ASSOCIATION OF AMERICA	14,400.00	4,747.00
CHARLES A. WOOD, 10 LAFAYETTE SQUARE BUFFALO NY 14203	NATIONAL FUEL GAS DISTRIBUTION CORP, ET AL		
JOHN L. WOOD, 2121 SAN JACINTO ST. P.O. BOX 660164 DALLAS TX 75266	CENTRAL AND SOUTH WEST CORP		
WOOD LUCKSINGER & EPSTEIN, 2000 M STREET, NW, #500 WASHINGTON DC 20036	CHAD THERAPEUTICS, INC		
W. ALAN WOODFORD, 2501 M ST.,NW WASHINGTON DC 20037	CHEMICAL MANUFACTURERS ASSN, INC	46.62	
THOMAS C. WOODS, 1660 L STREET, NW WASHINGTON DC 20036	GENERAL MOTORS CORP	2,500.00	2,820.49
PERRY W. WOOFTER, SUITE 530 1800 K ST. NW WASHINGTON DC 20006	TESORO PETROLEUM CORP	3,000.00	
DAVID M. WOOLDRIDGE, 2222 ARLINGTON AVENUE SOUTH BIRMINGHAM AL 35205	EDMOND & VINES	6,534.47	
HOWARD E. WOOLLEY, 1771 N STREET, NW WASHINGTON DC 20036	NATIONAL ASSN OF BROADCASTERS	1,500.00	405.09
LINDA ANZALONE WOOLLEY, 1600 M ST., NW WASHINGTON DC 20036	INTERNATIONAL TELEPHONE & TELEGRAPH CORPORATION	7,119.24	268.40
DEE WORKMAN, 405 LEXINGTON AVE. NEW YORK NY 10017	MOBIL OIL CORP	18,750.00	1,600.00
WORLD ZIONIST ORGANIZATION - AMERICAN SECTOR, INC, 515 PARK AVENUE NEW YORK NY 10022	WORLD ZIONIST ORGANIZATION JERUSALEM, ISRAEL		150.00

Organization or Individual Filing	Employer/Client	Receipts	Expenditures
WORLDWIDE INFORMATION RESOURCES, LTD, 1717 K STREET, NW, #706 WASHINGTON DC 20006	EQUITABLE LIFE ASSURANCE SOCIETY OF THE U.S.		
Do	PAN AMERICAN WORLD AIRWAYS, INC		
Do	STATE OF MONTANA		
Do	TOYOTA MOTOR SALES U.S.A., INC		
W. ROBERT WORLEY, 1736 CREEK CROSSING ROAD VIENNA VA 22180	SOUTHERN COMPANY SERVICES, INC	1,311.00	5,865.93
STEVEN M. WORTH, 3255 GRACE ST., NW THE POWER HOUSE WASHINGTON DC 20007	GRAY & CO PUBLIC COMMUNICATIONS INT'L, INC (FOR: ELECTRONIC INDUSTRIES ASSN OF JAPAN).		
Do	GRAY & CO PUBLIC COMMUNICATIONS INT'L, INC (FOR: REPUBLIC OF KOREA)		
WORTHEN BANKING CORPORATION, 2121 K STREET, NW, #830 WASHINGTON DC 20037	TRW, INC	300.00	
BRENDA J. WRIGHT, SUITE 2600 1000 WILSON BLVD. ARLINGTON VA 22209	PEPSICO, INC		895.72
DAVID L. WRIGHT, ANDERSON HILL RD. PURCHASE NY 10577	BATUS D.C	2,000.00	10.00
WILSON W. WYATT JR., 1825 K ST., NW, #603 WASHINGTON DC 20006	FEDERATED STATES OF MICRONESIA		
FREDERICK S. WYLE, 235 MONTGOMERY STREET SAN FRANCISCO CA 94104	SUN COMPANY, INC		
THOMAS L. WYLIE, 1800 K STREET, NW, #820 WASHINGTON DC 20006	AMERICAN BOILER MANUFACTURERS ASSN, INC		
WYMAN BAUTZER ROTHMAN KUCHEL & SILBERT, SUITE 580 600 NEW HAMPSHIRE AVE., NW WASHINGTON DC 20037	AUTOMOTIVE DISMANTLERS & RECYCLERS ASSN		
Do	BRISTOL BAY NATIVE CORP		
Do	EKLUTNA, INC		
Do	FILMWAYS, INC		
Do	AMERICAN PAPER INSTITUTE, INC	405.00	1,619.84
MARC D. YACKER, 1619 MASSACHUSETTS AVENUE, NW WASHINGTON DC 20036	TOYOTA MOTOR SALES, U.S.A., INC	1,000.00	
T. ALBERT YAMADA, SUITE 520 900 17TH ST., NW WASHINGTON DC 20006	WEST MEXICO VEGETABLE DISTRIBUTORS ASSN	500.00	
Do	FOOD MARKETING INSTITUTE	200.00	
NANCY FOSTER YANISH, 1750 K STREET, NW WASHINGTON DC 20006	U S WEST, INC		
DEBRA T. YARBROUGH, 1819 L ST., NW, #900 WASHINGTON DC 20036	EDISON ELECTRIC INSTITUTE	491.32	15.64
EDWARD R. YAWN, 1111 19TH ST., NW WASHINGTON DC 20036	COMMON CAUSE	4,625.04	572.26
LINDA YELDEZIAN, 2030 M STREET, NW WASHINGTON DC 20036	AMERICANS UNITED FOR SEPARATION OF CHURCH AND STATE	8,739.49	42.24
KIM YELTON, 8120 FENTON ST. SILVER SPRING MD 20910	FLEET RESERVE ASSN		
JACK YELVERTON, 1303 NEW HAMPSHIRE AVE., NW WASHINGTON DC 20036	AMERICAN ASSN FOR COUNSELING AND DEVELOPMENT	6,408.50	403.36
RICHARD K. YEP, 5999 STEVENSON AVENUE ALEXANDRIA VA 22304	AMERICAN BANKERS ASSN	6,000.00	8.00
EDWARD L. YINGLING, 1120 CONNECTICUT AVE., NW WASHINGTON DC 20036	DELTA AIR LINES, INC	390.00	216.00
D. SCOTT YOHE, 1629 K ST., NW, #204 WASHINGTON DC 20006	AMERICAN PETROLEUM INSTITUTE	200.00	
ANDREW YOOD, 1220 L STREET, NW WASHINGTON DC 20005	MBANK EL PASO		
EDWARD A. YOPP, P.O. BOX 1072 EL PASO TX 79958	COASTAL CORPORATION		
JOHN ANDREW YOUNG, 1333 NEW HAMPSHIRE AVE., NW, #207 WASHINGTON DC 20036	NATIONAL ASSN OF REALTORS	1,500.00	254.26
JUDITH A. YOUNG, 777 14TH ST., NW WASHINGTON DC 20005	AMERICAN HOTEL & MOTEL ASSN	1,575.00	
THOMAS F. YOUNGBLOOD, 1819 L STREET, NW, #600 WASHINGTON DC 20036	AMERICAN PETROLEUM INSTITUTE	6,000.00	278.59
BETSY YOUNKINS, 1220 L STREET, NW, #1200 WASHINGTON DC 20005	FEDERATION OF AMERICAN CONTROLLED SHIPPING	200.00	
EUGENE A. YOURCH, 50 BROADWAY NEW YORK NY 10004	SUN COMPANY, INC	2,800.00	252.05
RALPH ZAAYENGA, 1800 K STREET, NW, #820 WASHINGTON DC 20006	ASHLAND OIL, INC	2,000.00	
HARRY M ZACHEM, 1025 CONNECTICUT AVE., #507 WASHINGTON DC 20036	JACK ECKERD CORPORATION		469.06
MICHAEL ZAGORAC JR., 8333 BRYAN DAIRY RD. P.O. BOX 4689 CLEARWATER FL 33518	GENERAL ELECTRIC CO	1,250.00	
LYNN ZAKUPOWSKY, 1331 PENNSYLVANIA AVE., NW WASHINGTON DC 20004	FAIR CONGRESSIONAL TASK FORCE, INC		
BARNABY W. ZALL, 1424 16TH STREET, NW, #707 WASHINGTON DC 20036	FEDERATION FOR AMERICAN IMMIGRATION REFORM	50.00	6.00
Do	JTL ENTERPRISES, LTD	3,620.00	45.25
ZANECKI LALLY & MCDONOUGH, 8100 PROFESSIONAL PL., #113 LANDOVER MD 20785	AMERICAN MEDICAL ASSN	4,900.00	
JOHN S. ZAPP, 1101 VERMONT AVE., NW WASHINGTON DC 20005	AVON PRODUCTS, INC		
JANICE ZARRO, SUITE 715-16 1660 L ST., NW WASHINGTON DC 20036	AMERICAN WOOD PRESERVERS INSTITUTE	1,353.85	463.69
SHARON G. ZEDD, 1945 OLD GALLOWS ROAD, #405 VIENNA VA 22180	BUILDING & CONSTRUCTION TRADES DEPT., AFL-CIO		
LEO C. ZEFERETTI, 9912 FORT HAMILTON PARKWAY BROOKLYN NY 11209	NEW YORK TELEPHONE		
Do	PRATT AND WHITNEY		
Do	TRANSPORTATION INSTITUTE		
DENIS R. ZEGAR, 201 PARK WASHINGTON COURT FALLS CHURCH VA 22046	NATIONAL-AMERICAN WHOLESALE GROCERS' ASSN	3,000.00	
PHILIP F. ZEIDMAN, 1401 NEW YORK AVE., NW, #900 WASHINGTON DC 20005	AMERICAN BUSINESS CONFERENCE, INC		
DON J. ZELLER, 1000 16TH ST., NW, #503 WASHINGTON DC 20036	AMOCO CORP	1,850.00	211.99
RONALD L. ZIEGLER, 1199 N. FAIRFAX STREET, #801 ALEXANDRIA VA 22314	NATIONAL ASSN OF TRUCK STOP OPERATORS, INC		
JUDITH ZIEWACZ, 1840 WILSON BOULEVARD ARLINGTON VA 22201	NATIONAL MILK PRODUCERS FEDERATION	1,650.00	
ZIONTZ PIRTLE MORRISSET ERNSTOFF & CHESTNUT, METROPOLITAN PARK, 16TH FLOOR 1100 OLIVE WAY SEATTLE WA 98101.	CONFEDERATED TRIBES OF THE COLVILLE INDIAN RESERVATION		
Do	HOOPA VALLEY TRIBE		
Do	INUPIAT COMMUNITY OF THE ARCTIC SLOPE		
Do	MAKAH INDIAN TRIBE		
Do	METLAKATLA INDIAN COMMUNITY		
Do	MILLE LACS BAND OF CHIPPEWA INDIANS		
Do	NORTHERN CHEYENNE INDIAN TRIBE		
Do	TULALIP INDIAN TRIBE		
ZUCKERT SCOUTT RASENBERGER & JOHNSON, 888 17TH ST., NW WASHINGTON DC 20006	BUSINESS ROUNDTABLE		
Do	DREYFUS CORPORATION	500.00	294.30
Do	INCENTIVE FEDERATION, INC	4,268.00	1,060.04
CHARLES O. ZUVER, 1120 CONNECTICUT AVE., NW WASHINGTON DC 20036	AMERICAN BANKERS ASSN	5,000.00	
KURT D. ZWIKL, 702 HAMILTON MALL ALLENTOWN PA 18101	MERCHANTS BANK	10,400.00	
23RD CONGRESSIONAL DISTRICT ACTION COMM., 575 CHARLES ST. ST. MARYS PA 15857			
31ST PRO LIFE CONGRESSIONAL DISTRICT ACTION COMM, 8654 BONVIEW TERRACE WILLIAMSVILLE NY 14221			

QUARTERLY REPORTS*

*All alphanumeric characters and monetary amounts refer to receipts and expenditures on page 2, paragraphs D and E of the Quarterly Report Form.

The following reports for the third calendar quarter of 1985 were received too late to be included in the published reports for that quarter:

(NOTE.—The form used for report is reproduced below. In the interest of economy in the RECORD, questions are not repeated, only the essential answers are printed, and are indicated by their respective headings.)

FILE ONE COPY WITH THE SECRETARY OF THE SENATE AND FILE TWO COPIES WITH THE CLERK OF THE HOUSE OF REPRESENTATIVES:

This page (page 1) is designed to supply identifying data; and page 2 (on the back of this page) deals with financial data.

PLACE AN "X" BELOW THE APPROPRIATE LETTER OR FIGURE IN THE BOX AT THE RIGHT OF THE "REPORT" HEADING BELOW:

"PRELIMINARY" REPORT ("Registration"): To "register," place an "X" below the letter "P" and fill out page 1 only.

"QUARTERLY" REPORT: To indicate which one of the four calendar quarters is covered by this Report, place an "X" below the appropriate figure. Fill out both page 1 and page 2 and as many additional pages as may be required. The first additional page should be numbered as page "3," and the rest of such pages should be "4," "5," "6," etc. Preparation and filing in accordance with instructions will accomplish compliance with all quarterly reporting requirements of the Act.

Year: 19.....

REPORT

PURSUANT TO FEDERAL REGULATION OF LOBBYING ACT

P	QUARTER			
	1st	2d	3d	4th
(Mark one square only)				

NOTE ON ITEM "A".—(a) IN GENERAL. This "Report" form may be used by either an organization or an individual, as follows:
(i) "Employee".—To file as an "employee", state (in Item "B") the name, address, and nature of business of the "employer". (If the "employee" is a firm [such as a law firm or public relations firm], partners and salaried staff members of such firm may join in filing a Report as an "employee".)
(ii) "Employer".—To file as an "employer", write "None" in answer to Item "B".
(b) SEPARATE REPORTS. An agent or employee should not attempt to combine his Report with the employer's Report:
(i) Employers subject to the Act must file separate Reports and are not relieved of this requirement merely because Reports are filed by their agents or employees.
(ii) Employees subject to the Act must file separate Reports and are not relieved of this requirement merely because Reports are filed by their employers.

A. ORGANIZATION OR INDIVIDUAL FILING:

1. State name, address, and nature of business.

2. If this Report is for an Employer, list names of agents or employees who will file Reports for this Quarter.

NOTE ON ITEM "B".—*Reports by Agents or Employees.* An employee is to file, each quarter, as many Reports as he has employers, except that: (a) If a particular undertaking is jointly financed by a group of employers, the group is to be considered as one employer, but all members of the group are to be named, and the contribution of each member is to be specified; (b) if the work is done in the interest of one person but payment therefor is made by another, a single Report—naming both persons as "employers"—is to be filed each quarter.

B. EMPLOYER.—State name, address, and nature of business. If there is no employer, write "None."

NOTE ON ITEM "C".—(a) The expression "in connection with legislative interests," as used in this Report, means "in connection with attempting, directly or indirectly, to influence the passage or defeat of legislation." "The term 'legislation' means bills, resolutions, amendments, nominations, and other matters pending or proposed in either House of Congress, and includes any other matter which may be the subject of action by either House"—§302(e).
(b) Before undertaking any activities in connection with legislative interests, organizations and individuals subject to the Lobbying Act are required to file a "Preliminary" Report (Registration).
(c) After beginning such activities, they must file a "Quarterly" Report at the end of each calendar quarter in which they have either received or expended anything of value in connection with legislative interests.

C. LEGISLATIVE INTERESTS, AND PUBLICATIONS in connection therewith:

1. State approximately how long legislative interests are to continue. If receipts and expenditures in connection with legislative interests have terminated, place an "X" in the box at the left, so that this Office will no longer expect to receive Reports. ☐

2. State the general legislative interests of the person filing and set forth the *specific* legislative interests by reciting: (a) Short titles of statutes and bills; (b) House and Senate numbers of bills, where known; (c) citations of statutes, where known; (d) whether for or against such statutes and bills.

3. In the case of those publications which the person filing has caused to be issued or distributed in connection with legislative interests, set forth: (a) Description, (b) quantity distributed; (c) date of distribution, (d) name of printer or publisher (if publications were paid for by person filing) or name of donor (if publications were received as a gift).

(Answer items 1, 2, and 3 in the space below. Attach additional pages if more space is needed)

4. If this is a "Preliminary" Report (Registration) rather than a "Quarterly" Report, state below what the nature and amount of anticipated expenses will be; and if for an agent or employee, state also what the daily, monthly, or annual rate of compensation is to be. If this is a "Quarterly" Report, disregard this item "C4" and fill out items "D" and "E" on the back of this page. Do not attempt to combine a "Preliminary" Report (Registration) with a "Quarterly" Report.

AFFIDAVIT

[Omitted in printing]

PAGE 1

NOTE ON ITEM "D."—(a) *In General.* The term "contribution" includes *anything of value.* When an organization or individual uses printed or duplicated matter in a campaign attempting to influence legislation, money received by such organization or individual—for such printed or duplicated matter—is a "contribution." "The term 'contribution' includes a gift, subscription, loan, advance, or deposit of money, or anything of value, and includes a contract, promise, or agreement, whether or not legally enforceable, to make a contribution"—Section 302(a) of the Lobbying Act.

(b) IF THIS REPORT IS FOR AN EMPLOYER.—(i) *In General.* Item "D" is designed for the reporting of all receipts from which expenditures are made, or will be made, in accordance with legislative interests.

(ii) *Receipts of Business Firms and Individuals.*—A business firm (or individual) which is subject to the Lobbying Act by reason of expenditures which it makes in attempting to influence legislation—but which has no funds to expend except those which are available in the ordinary course of operating a business not connected in any way with the influencing of legislation—will have no receipts to report, even though it does have expenditures to report.

(iii) *Receipts of Multipurpose Organizations.*—Some organizations do not receive any funds which are to be expended solely for the purpose of attempting to influence legislation. Such organizations make such expenditures out of a general fund raised by dues, assessments, or other contributions. The percentage of the general fund which is used for such expenditures indicates the percentage of dues, assessments, or other contributions which may be considered to have been paid for that purpose. Therefore, in reporting receipts, such organizations may specify what that percentage is, and report their dues, assessments, and other contributions on that basis. However, each contributor of $500 or more is to be listed, regardless of whether the contribution was made solely for legislative purposes.

(c) IF THIS REPORT IS FOR AN AGENT OR EMPLOYEE.—(i) *In General.* In the case of many employees, all receipts will come under Items "D 5" (received for services) and "D 12" (expense money and reimbursements). In the absence of a clear statement to the contrary, it will be presumed that your employer is to reimburse you for all expenditures which you make in connection with legislative interests.

(ii) *Employer as Contributor of $500 or More.*—When your contribution from your employer (in the form of salary, fee, etc.) amounts to $500 or more, it is not necessary to report such contribution under "D 13" and "D 14," since the amount has already been reported under "D 5," and the name of the "employer" has been given under Item "B" on page 1 of this report.

D. RECEIPTS (INCLUDING CONTRIBUTIONS AND LOANS):

Fill in every blank. If the answer to any numbered item is "None," write "None" in the space following the number.

Receipts (other than loans)

1. $.....Dues and assessments
2. $.....Gifts of money or anything of value
3. $.....Printed or duplicated matter received as a gift
4. $.....Receipts from sale of printed or duplicated matter
5. $.....Received for services (e.g., salary, fee, etc.)
6. $.....TOTAL for this Quarter (Add items "1" through "5")
7. $.....Received during previous Quarters of calendar year
8. $.....TOTAL from Jan. 1 through this Quarter (Add "6" and "7")

Loans Received

"The term 'contribution' includes a . . . *loan* . . ."—Sec. 302(a).

9. $.....TOTAL now owed to others on account of loans
10. $.....Borrowed from others during this Quarter
11. $.....Repaid to others during this Quarter

12. $.....Expense money" and Reimbursements received this Quarter

Contributors of $500 or more (from Jan. 1 through this Quarter)

13. Have there been such contributors?

Please answer "yes" or "no": .....

14. In the case of each contributor whose contributions (including loans) during the "period" from January 1 through the last days of this Quarter total $500 or more:

Attach hereto plain sheets of paper, approximately the size of this page, tabulate data under the headings "Amount" and "Name and Address of Contributor"; and indicate whether the last day of the period is March 31, June 30, September 30, or December 31. Prepare such tabulation in accordance with the following example:

Amount	*Name and address of Contributor* ("*Period*" from Jan. 1 through....., 19.....)
$1,500.00	John Doe, 1621 Blank Bldg., New York, N.Y.
$1,785.00	The Roe Corporation, 2511 Doe Bldg., Chicago, Ill.
$3,285.00	TOTAL

NOTE ON ITEM "E".—(a) *In General.* "The term 'expenditure' includes a payment, distribution, loan, advance, deposit, or gift of money or anything of value, and includes a contract, promise, or agreement, whether or not legally enforceable, to make an expenditure"—Section 302(b) of the Lobbying Act.

(b) IF THIS REPORT IS FOR AN AGENT OR EMPLOYEE. In the case of many employees, all expenditures will come under telephone and telegraph (Item "E 6") and travel, food, lodging, and entertainment (Item "E 7").

E. EXPENDITURES (INCLUDING LOANS) in connection with legislative interests:

Fill in every blank. If the answer to any numbered item is "None," write "None" in the spaces following the number.

Expenditures (other than loans)

1. $.....Public relations and advertising services
2. $.....Wages, salaries, fees, commissions (other than item "1")
3. $.....Gifts or contributions made during Quarter
4. $.....Printed or duplicated matter, including distribution cost
5. $.....Office overhead (rent, supplies, utilities, etc.)
6. $.....Telephone and telegraph
7. $.....Travel, food, lodging, and entertainment
8. $.....All other expenditures
9. $.....TOTAL for this Quarter (Add "1" through "8")
10. $.....Expended during previous Quarters of calendar year
11. $.....TOTAL from January 1 through this Quarter (Add "9" and "10")

Loans Made to Others

"The term 'expenditure' includes a . . . *loan* . . ."—Sec. 302(b).

12. $.....TOTAL now owed to person filing
13. $.....Lent to others during this Quarter
14. $.....Repayment received during this Quarter

15. Recipients of Expenditures of $10 or More

In the case of expenditures made during this Quarter by, or on behalf of the person filing: Attach plain sheets of paper approximately the size of this page and tabulate data as to expenditures under the following heading: "Amount," "Date or Dates," "Name and Address of Recipient," "Purpose." Prepare such tabulation in accordance with the following example:

Amount	*Date or Dates—Name and Address of Recipient—Purpose*
$1,750.00	7-11: Roe Printing Co., 3214 Blank Ave., St. Louis, Mo.—Printing and mailing circulars on the "Marshbanks Bill."
$2,400.00	7-15, 8-15, 9-15: Britten & Blaten, 3127 Gremlin Bldg., Washington, D.C.—Public relations service at $800.00 per month.
$4,150.00	TOTAL

Organization or Individual Filing	Employer/Client	Receipts	Expenditures
A-K ASSOCIATES, INC, 1225 8TH STREET, #590 SACRAMENTO CA 95814	COUNTY OF NAPA	6,100.00	11,939.10
Do	DIRECTOR OF TIMBER COUNTIES COALITION	13,749.00	11,966.62
Do	GOLDEN GATE BRIDGE HIGHWAY & TRANSPORTATION DISTRICT	6,000.00	11,741.90
Do	HEMET VALLEY FLYING SERVICE	6,000.00	12,110.58
Do	INTERNATIONAL FIRE MANAGEMENT		
Do	PATHOLOGIST PRACTICE ASSOCIATION	18,000.00	15,742.99
Do	STRATOS TANKER, INC		
LEANNE J. ABDNOR, 1899 L ST., NW, #1250 WASHINGTON DC 20036	VENNERS & CO, LTD (FOR: KOCH INDUSTRIES)		
CHARLES A. ACQUARD, 1400 K STREET, NW, #500 WASHINGTON DC 20005	HANDGUN CONTROL, INC	6,221.00	
V. J. ADDUCI, 1140 CONNECTICUT AVE., NW, #804 WASHINGTON DC 20036	MOTOR VEHICLE MANUFACTURERS ASSN OF THE U.S., INC		
AFL-CIO MARITIME COMMITTEE, 100 INDIANA AVE., NW WASHINGTON DC 20001		5,405.00	4,552.68
SAMUEL J. AGGER, 1818 N STREET, NW WASHINGTON DC 20036	DGA INTERNATIONAL, INC (FOR: SNECMA)		
ELIZABETH AGLE, 530 7TH ST., SE WASHINGTON DC 20003	NATIONAL CLEAN AIR COALITION, INC	8,300.36	92.18
KAREN D. ALEXANDER, 1615 H STREET, NW WASHINGTON DC 20062	CHAMBER OF COMMERCE OF THE U.S.	330.00	
SUSAN ALEXANDER, 1400 EYE ST., NW WASHINGTON DC 20005	WILDERNESS SOCIETY	1,245.25	851.69
DOROTHY D. ALLEN, 1615 H STREET, NW WASHINGTON DC 20062	CHAMBER OF COMMERCE OF THE U.S.	25.00	
ALLIANCE AGAINST HANDGUNS, P.O. BOX 75700 WASHINGTON DC 20013			
HARVEY ALTER, 1615 H STREET, NW WASHINGTON DC 20062	U.S. CHAMBER OF COMMERCE	320.00	
SUSAN E. ALVARADO, 1771 N STREET, NW WASHINGTON DC 20036	NATIONAL ASSN OF BROADCASTERS	1,500.00	1,949.28
ROBERT ALVAREZ, 218 D ST., SE WASHINGTON DC 20003	ENVIRONMENTAL POLICY INSTITUTE	326.59	
AMERICAN ACADEMY OF FAMILY PHYSICIANS, 1740 WEST 92ND ST. KANSAS CITY MO 64114		11,583.77	11,583.77
AMERICAN ASSN OF BLOOD BANKS, 1117 NORTH 19TH ST., #600 ARLINGTON VA 22209			
AMERICAN ASSN OF EXPORTERS & IMPORTERS, 11 WEST 42ND STREET, 30TH FL. NEW YORK NY 10036			633.00
AMERICAN ASSN OF PRESIDENTS OF INDEPENDENT COLLEGES & UNIVS , BOX 723 REXBURG ID 83440			282.64
AMERICAN ASSN OF UNIVERSITY WOMEN, 2401 VIRGINIA AVENUE, NW WASHINGTON DC 20037			88.89
AMERICAN CANCER SOCIETY, 90 PARK AVENUE NEW YORK NY 10016			23,250.00
AMERICAN CHAMBER OF COMMERCE OF THE DOMINICAN REPUBLIC, P.O. BOX 95-2 SANTO DOMINGO DOMINICAN REPUBLIC			
AMERICAN FED OF STATE COUNTY & MUNICIPAL EMPLOYEES, 1625 L ST., NW WASHINGTON DC 20036			76,939.91
AMERICAN FROZEN FOOD INST, 1700 OLD MEADOW RD., #100 MCLEAN VA 22102		6,000.00	6,000.00
AMERICAN MEDICAL STUDENT ASSN, 1910 ASSOCIATION DRIVE RESTON VA 22091			5,665.25
AMERICAN MOVERS CONFERENCE, 2200 MILL ROAD ALEXANDRIA VA 22314			2,690.00
AMERICAN PHYSICAL THERAPY ASSN, 1111 N. FAIRFAX ST. ALEXANDRIA VA 22314		4,335.24	4,335.24
AMERICAN PSYCHOLOGICAL ASSN, 1200 17TH STREET, NW WASHINGTON DC 20036		17,902.00	17,902.00
AMERICAN TEXTILE MACHINERY ASSN, 7297 N. LEE HWY, FALLS CHURCH VA 22042			
AMERICAN TEXTILE MANUFACTURERS INSTITUTE, INC, 1101 CONNECTICUT AVENUE, NW, #300 WASHINGTON DC 20036		47,514.60	47,514.60
AMERICAN TRUCKING ASSNS, INC, 2200 MILL ROAD ALEXANDRIA VA 22314		10,290.06	79,849.59
AMERICAN WOOD PRESERVERS INSTITUTE, 1945 GALLOWS ROAD, #405 VIENNA VA 22180			293.95
AMERICANS FOR THE HIGH FRONTIER, 1010 VERMONT AVE., NW, #1015 WASHINGTON DC 20005		36,934.56	30,759.09
AMERISERV, INC, THE PARAGON CENTER 2400 EAST COMMERCIAL BLVD., #500 FORT LAUDERDALE FL 33308			
STEPHEN O. ANDERSEN, 2000 L STREET, NW, #320 WASHINGTON DC 20036	CONSUMER ENERGY COUNCIL OF AMERICA		
ARNE ANDERSON, 1325 MASSACHUSETTS AVENUE, NW WASHINGTON DC 20005	AMERICAN FED OF GOVERNMENT EMPLOYEES	7,488.72	
ANDERSON HIBEY NAUHEIM & BLAIR, 1708 NEW HAMPSHIRE AVE., NW WASHINGTON DC 20009	ALAMO RENT-A-CAR, INC	930.80	29.24
Do	BAY AREA RAPID TRANSIT DISTRICT		
Do	COMMUNICATION INDUSTRIES ASSN OF JAPAN	30,000.00	1,895.76
Do	EARTH SATELLITE CORP		
Do	INSTITUTE OF FINANCIAL FISCAL STUDIES OF CURACAO, ET AL	1,520.00	44.39
Do	INSTITUTO BRASILEIRO DE SIDERURGIA	3,999.00	68.06
Do	MARRIOTT CORPORATION		105.26
Do	PROJECT ORBIS	2,711.00	352.55
SCOTT G. ANDERSON, 1050 CONNECTICUT AVE., NW WASHINGTON DC 20036	BURLINGTON NORTHERN, INC	1,900.00	2,011.12
STEVEN C. ANDERSON, 1700 OLD MEADOW RD. MCLEAN VA 22102	AMERICAN FROZEN FOOD INSTITUTE	5,000.00	
L. J. ANDOLSEK, 1533 NEW HAMPSHIRE AVENUE, NW WASHINGTON DC 20036	NATIONAL ASSN OF RETIRED FEDERAL EMPLOYEES	605.00	
JOHN CHRISTIAN ARCHER, 1730 RHODE ISLAND AVE., NW, #213 WASHINGTON DC 20036	BROWN & ROOT, INC		
ARKANSAS ASSN OF BANK HOLDING COMPANIES, 2121 K ST., NW, #830 WASHINGTON DC 20037			
R. G. ARMISTEAD, 8613 JANET LANE VIENNA VA 22180			
JOHN A. ARMSTRONG, C/O DOW LOHNES & ALBERTSON 1255 23RD STREET, NW WASHINGTON DC 20037	CANADIAN TUBULAR PRODUCERS ASSN		
Do	DOFASCO, INC		
ALVIN J. ARNETT, P.O. BOX 23451 WASHINGTON DC 20026	CONSOLIDATED RAIL CORP		
ARNOLD & PORTER, 1200 NEW HAMPSHIRE AVE., NW WASHINGTON DC 20036	BUILDING & CONSTRUCTION TRADES DEPT, AFL-CIO	236.25	
Do	NATIONAL COORDINATING COMM FOR MULTIEMPLOYER PLANS	17,500.00	3,930.73
Do	VENEZOLANA DE CEMENTOS CA		
ASSOCIATION FOR DEVELOPMENT POLICY RESEARCH, 1309 L STREET, NW WASHINGTON DC 20005		996.35	1,006.75
ASSOCIATION OF AMERICAN FOREIGN SERVICE WOMEN, P.O. BOX 8068 WASHINGTON DC 20024			
ASSOCIATION OF DATA PROCESSING SERVICE ORGANIZATIONS, 1300 NORTH 17TH STREET, #300 ARLINGTON VA 22209			
ASSOCIATION OF PRIVATE PENSION & WELFARE PLANS, INC, 1331 PENNSYLVANIA AVE., NW, #719 WASHINGTON DC 20004.		31,451.03	31,451.03
ASSOCIATION OF URBAN UNIVERSITIES, 1225 CONNECTICUT AVE., NW, #300 WASHINGTON DC 20036		3,000.00	6,817.85
KENNETH E. AUER, 1800 MASSACHUSETTS AVENUE, NW WASHINGTON DC 20036	FARM CREDIT COUNCIL		
JOE H. AUSLEY JR., 431 FIRST STREET, SE WASHINGTON DC 20003	AMES INDUSTRIAL CORP, ET AL	2,100.00	
CRAIG H. BAAB, 1800 M ST., NW WASHINGTON DC 20036	AMERICAN BAR ASSN	400.00	71.87
BAKER & MCKENZIE, 815 CONNECTICUT AVE., NW WASHINGTON DC 20006	NATIONAL BUILDING GRANITE QUARRIES ASSN	19,535.00	465.00
CATHERINE A. BALL, 2300 S. 9TH ST., #104 ARLINGTON VA 22204	FEDERAL MANAGERS ASSN	2,667.00	1,100.00
MICHAEL P. BALZANO JR., 444 NORTH CAPITOL ST., NW, #801 WASHINGTON DC 20001	JOINT MARITIME CONGRESS		
MAURICE A. BARBOZA, 1800 M STREET, NW WASHINGTON DC 20036	AMERICAN BAR ASSN	400.00	50.00
BARNETT & ALAGIA, 1000 THOMAS JEFFERSON STREET, NW, #900 WASHINGTON DC 20007	CUBAN AMERICAN PUBLIC AFFAIRS COUNCIL		
ROGER W. BARR JR., 815 16TH ST., NW WASHINGTON DC 20006	BROTHERHOOD OF RAILWAY AIRLINE & STEAMSHIP CLERKS	1,500.00	1,500.00
TERRY N. BARR, 1800 MASSACHUSETTS AVE., NW WASHINGTON DC 20036	NATIONAL COUNCIL OF FARMER COOPERATIVES		
DAVID M. BARRETT, BARRETT HANNA DAILY & GASPAR 2555 M STREET, NW, #100 WASHINGTON DC 20037	NATIONAL MEDICAL ENTERPRISES, INC		
BARRETT SMITH SCHAPIRO SIMON & ARMSTRONG, 1201 PENNSYLVANIA AVENUE, NW, #821 WASHINGTON DC 20004	COFFEE SUGAR & COCOA EXCHANGE, INC		
Do	HUGO NEU & SONS, INC		
Do	IRVING TRUST CO		
Do	METROPOLITAN TRANSPORTATION AUTHORITY		
WILLIAM N. BARTOLONE, 1612 K STREET, NW, #110 WASHINGTON DC 20006	AMERICAN ELECTRONICS ASSN		
WALTER F. BATCHELOR, 1200 17TH STREET, NW WASHINGTON DC 20036	AMERICAN PSYCHOLOGICAL ASSN	500.00	19.90
RICHARD 'SANDY' BEACH, 1730 RHODE ISLAND AVE., NW, #810 WASHINGTON DC 20036	CREDIT UNION NATIONAL ASSN, INC	300.00	51.00
BEAR WEST COMPANY, INC, 9 EXCHANGE PLACE, #1000 SALT LAKE CITY UT 84111	ROCKY MOUNTAIN ENERGY CO	1,175.00	440.63
ORREN BEATY JR., 700 JEFFERSON BUILDING 1225 19TH STREET, NW WASHINGTON DC 20036	WESTERN FUELS ASSOCIATION, INC	7,471.25	571.23
EDWIN L. BEHRENS, 801 18TH STREET, NW, #400 WASHINGTON DC 20006	PROCTER & GAMBLE MANUFACTURING CO	217.50	
BENCHMARK TECHNOLOGIES CORP, 1995 TREMAINSVILLE RD. TOLEDO OH 43613			
BRUCE BENEFIELD, 1000 WILSON BLVD., #2600 ARLINGTON VA 22209	TRW, INC	550.00	
CATHERINE BENNETT, 1700 PENNSYLVANIA AVE., NW, #730 WASHINGTON DC 20006	PFIZER, INC	650.00	259.91
GEORGE L. BERG JR., 600 MARYLAND AVENUE, SW WASHINGTON DC 20024	AMERICAN FARM BUREAU FEDERATION	5,062.50	70.30
REBECCA J. BERG, 900 17TH STREET, NW, #1100 WASHINGTON DC 20006	SEA-LAND CORPORATION	450.00	
DAVID BERICK, 218 D ST., SE WASHINGTON DC 20003	ENVIRONMENTAL POLICY INSTITUTE	2,099.49	
PETER A. A. BERLE, 950 THIRD AVENUE NEW YORK NY 10022	NATIONAL AUDUBON SOCIETY	1,000.00	
ELLEN BERMAN, 2000 L ST., NW, #320 WASHINGTON DC 20036	CONSUMER ENERGY COUNCIL OF AMERICA		
GEORGE K. BERNSTEIN, 1730 K ST., NW WASHINGTON DC 20006	AMERICAN INSURANCE ASSN	5,200.00	
ZALMAN C. BERNSTEIN, SANFORD C. BERNSTEIN & CO, INC 767 FIFTH AVENUE NEW YORK NY 10153			2,371.56
JOHN F. BETAR, 730 15TH STREET, NW WASHINGTON DC 20005	ASSOCIATION OF BANK HOLDING COMPANIES	333.33	36.00
LEONARD BICKWIT JR., MILLER & CHEVALIER, CHTD. 655 15TH STREET, NW WASHINGTON DC 20005	CONSOLIDATED EDISON CO OF NEW YORK		
Do	GENERAL PUBLIC UTILITIES CORP	10,800.00	1,011.29
Do	LINCOLN SAVINGS & LOAN ASSN	7,914.68	1,507.76
PAT BILLINGS, 624 9TH STREET, NW, #700 WASHINGTON DC 20001	GROUP HEALTH ASSN OF AMERICA, INC	2,500.00	
ROBERT BINGAMAN JR., 530 7TH STREET, SE WASHINGTON DC 20003	NATIONAL CLEAN AIR COALITION	5,618.48	126.65
ROBERT J. BIRD, 888 16TH STREET, NW WASHINGTON DC 20006	ZACHRY, INC		
BISHOP LIBERMAN COOK PURCELL & REYNOLDS, 1200 17TH STREET, NW, 7TH FL. WASHINGTON DC 20036	ETHYL CORPORATION		
Do	FIRST COLONY LIFE INSURANCE		
Do	KILPATRICK LIFE INSURANCE COMPANY		
Do	MANUFACTURERS HANOVER BANK		
Do	MONUMENTAL LIFE INSURANCE COMPANY		
Do	NATIONAL MASS RETAILING INSTITUTE	3,500.00	
Do	PIPE LINE EQUITY ACT COALITION	27,158.00	
Do	RIO GRANDE INDUSTRIES		

Organization or Individual Filing	Employer/Client	Receipts	Expenditures
FRANCES L. BLACKBURN, 509 C STREET, NE WASHINGTON DC 20002	ROISMAN RENO & CAVANAUGH (FOR: NATIONAL ASSN OF HOUSING COOPERATIVES).	635.00	
ROGER BLACKLOW, 100 INDIANA AVENUE, NW WASHINGTON DC 20001	NATIONAL ASSN OF LETTER CARRIERS	6,483.24	61.00
BRENT BLACKWELDER, 218 D ST., SE WASHINGTON DC 20003	ENVIRONMENTAL POLICY INSTITUTE	1,235.68	
BARBARA S. BLAINE, 910 16TH STRETE, NW WASHINGTON DC 20006	MILLER & CHEVALIER, CHTD	1,250.00	
KENNETH T. BLAYLOCK, 1325 MASSACHUSETTS AVE., NW WASHINGTON DC 20005	AMERICAN FED OF GOVERNMENT EMPLOYEES	18,729.06	5,320.66
RICHARD W. BLISS, 3242 GRACE STREET, NW WASHINGTON DC 20007	AMAX, INC	2,765.00	153.81
Do	ENVIRONMENTAL SCIENCE & ENGINEERING	125.00	16.75
Do	FLOUR CORPORATION	1,627.50	97.53
Do	NATIONAL PAINT & COATINGS ASSN	1,500.00	115.36
Do	PB-KBB, INC	125.00	16.65
Do	ST. JOE MINERALS CORPORATION	2,231.25	111.40
Do	VARIAN EMIMAC	708.75	90.96
JOHN B. BLOUNT JR., 777 14TH STREET, NW WASHINGTON DC 20005	NATIONAL ASSN OF REALTORS	2,500.00	420.38
DAVID A. BOCKORNY, 777 14TH ST., NW WASHINGTON DC 20005	NATIONAL ASSN OF REALTORS	2,500.00	173.78
JOHN E. BONITT, 1050 CONNECTICUT AVE., NW, #800 WASHINGTON DC 20036	ALLIED CORPORATION	490.00	70.00
DIANE BORATYN, 1230 31ST ST., NW, #5 WASHINGTON DC 20007	D BORATYN, LTD		
WAYNE A. BOUTWELL, 1800 MASSACHUSETTS AVENUE, NW WASHINGTON DC 20036	NATIONAL COUNCIL OF FARMER COOPERATIVES	825.00	
RODNEY A. BOWER, 818 ROEDER RD., #702 SILVER SPRING MD 20910	INTERNATIONAL FED OF PROFESSIONAL & TECHNICAL ENGINEERS		
BOWMAN CONNER TOUHEY & PETRILLO, 2828 PENNSYLVANIA AVENUE, NW, #203 WASHINGTON DC 20007	AMERICAN AUTOMAR CORP	1,300.00	498.43
Do	AMERICAN PETROFINA, INC	345.00	150.00
Do	COUNCIL OF AMERICAN FLAG SHIP OPERATORS	3,900.00	1,495.28
Do	NATIONAL ASSN OF AIRCRAFT & COMMUNICATIONS SUPPLIERS, INC	400.00	124.85
REBECCA G. BOWN, 1275 K ST., NW, #750 WASHINGTON DC 20005	NATIONAL WOMEN'S POLITICAL CAUCUS	1,406.25	7.30
BOYD VEIGEL & HANCE, P.C., 499 S. CAPITOL ST., SW, #412 WASHINGTON DC 20003	WHITEHALL CORPORATION		
ROBERT W. BRADFORD, 1101 JOHN A. DENIE ROAD MEMPHIS TN 38134			
CARREN BRAGG, 1901 L STREET, NW, #303 WASHINGTON DC 20036	COLT INDUSTRIES, INC		
STUART J. BRAHS, 1331 PENNSYLVANIA AVE., NW, #719 WASHINGTON DC 20004	ASSOCIATION OF PRIVATE PENSION & WELFARE PLANS, INC	584.15	
ROBERT M. BRANDON, 1300 CONNECTICUT AVE., NW, #401 WASHINGTON DC 20036	CITIZEN ACTION	500.00	
BUN B. BRAY JR., 2300 S. 9TH ST., #104 ARLINGTON VA 22204	FEDERAL MANAGERS ASSN	2,811.00	650.00
EDWARD T. BREATHITT, 1050 CONNECTICUT AVE., NW WASHINGTON DC 20036	NORFOLK SOUTHERN CORPORATION	1,000.00	
CAROLYN BRICKEY, 1319 F STREET, NW, #500 WASHINGTON DC 20004	FOOD RESEARCH & ACTION CENTER		
ROBERT J. BRINKMANN, 1627 K STREET, NW, #400 WASHINGTON DC 20006	NATIONAL NEWSPAPER ASSN	5,000.00	175.70
MARTHA M. BROAD, 1350 NEW YORK AVE., NW, #300 WASHINGTON DC 20005	NATURAL RESOURCES DEFENSE COUNCIL, INC	6,250.00	25.00
BROADHURST BROOK MANGHAM & HARDY, 1730 PENNSYLVANIA AVE., NW, #300 WASHINGTON DC 20006	AT-SEA INCINERATION, INC	1,612.50	51.00
Do	COLUMBIA GAS SYSTEM SERVICE CORP		
Do	CSX CORPORATION	8,475.00	1,212.07
Do	LOUISIANA INTRASTATE GAS CORP		
Do	NORTHWEST PIPELINE CORP		
Do	OVERSEAS VESSEL CONVERSION		
Do	PHILLIPS PETROLEUM CO		
Do	TEXAS GAS TRANSMISSION CO		
PHILIP A. BROOKS, 1125 15TH STREET, NW WASHINGTON DC 20005	MORTGAGE BANKERS ASSN OF AMERICA		
BROTHERHOOD OF RAILWAY AIRLINE & STEAMSHIP CLERKS, 815 16TH STREET, NW WASHINGTON DC 20006		30,000.00	55,941.00
DONALD K. BROWN, 1121 L ST., #810 SACRAMENTO CA 95814	CROWLEY MARITIME CORPORATION		
Do	SUMMA CORPORATION		
JAMES P. BROWN, BROWN & ASSOCIATES 301 SOVEREIGN COURT, #102 ST. LOUIS MO 63011	CITY OF ST. LOUIS - CITY HALL		
JOHN J. BROWN, 1125 17TH ST., NW WASHINGTON DC 20036	INTERNATIONAL UNION OF OPERATING ENGINEERS	8,500.00	375.00
MARGUERITE BRACY BROWN, 1625 L ST., NW WASHINGTON DC 20036	AMERICAN FED OF STATE COUNTY & MUNICIPAL EMPLOYEES	7,319.19	199.47
RALPH BROWN, SUITE 107 701 S. 22ND STREET OMAHA NB 68102	M.O.A.A.I.O.A. & SUBS, INC		
BROWN ROADY BONVILLIAN & GOLD, 1300 19TH STREET, NW, #300 WASHINGTON DC 20036	SECONDARY LEAD SMELTERS ASSN (SLSA)		
Do	WESTERN RIVER GUIDES ASSN		
WILLIAM R. BROWN, 122 C STREET, NW, #200 WASHINGTON DC 20001	COUNCIL OF STATE CHAMBERS OF COMMERCE	270.00	
BROWNSTEIN ZEIDMAN & SCHOMER, 1401 NEW YORK AVE., NW, #900 WASHINGTON DC 20005	CANADIAN FINANCIAL CORPORATION		
Do	MORTGAGE GUARANTY INSURANCE CORP		
Do	NATIONAL CORPORATION FOR HOUSING PARTNERSHIPS		
Do	NATIONAL HOUSING REHABILITATION ASSN		
Do	NEW YORK CITY HOUSING DEVELOPMENT CORP	2,234.70	
Do	NEW YORK STATE MORTGAGE LOAN ENFORCEMENT & ADMIN CORP	4,420.00	
Do	NEW YORK STATE URBAN DEVELOPMENT CORP		
Do	SCHOCHET ASSOCIATES		
JAMES W. BRUNER JR., 555 CAPITOL MALL, #1200 SACRAMENTO CA 95814	ORRICK HERRINGTON & SUTCLIFFE		
JANICE L. BURCH, 1050 CONNECTICUT AVENUE, NW, #980 WASHINGTON DC 20036	GOLD & LIEBENGOOD, INC		
DIANE B. BURKE, 1625 L STREET, NW WASHINGTON DC 20036	AMERICAN FED OF STATE COUNTY & MUNICIPAL EMPLOYEES, AFL-CIO	8,433.16	276.00
GERARD P. BURKE, 117 SPOTSWOOD DRIVE SILVER SPRING MD 20904	INTERNATIONAL AIR LEASES, INC		
J. J. BURKE JR., 40 E. BROADWAY BUTTE MT 59701	MONTANA POWER CO		
FRANCIS X. BURKHARDT, 1750 NEW YORK AVE., NW WASHINGTON DC 20006	INTERNATIONAL BROTHERHOOD OF PAINTERS & ALLIED TRADES		
DAVID G. BURNEY, 2033 M ST., NW, #628 WASHINGTON DC 20036	U.S. TUNA FOUNDATION	6,000.00	3,000.00
MICHAEL BURNS, 21 DUPONT CIRCLE, NW, #401 WASHINGTON DC 20036	BUSINESS EXECUTIVES FOR NATIONAL SECURITY	3,285.00	105.00
BUSBY REHM AND LEONARD, P.C., 1330 CONNECTICUT AVE., NW, #200 WASHINGTON DC 20036	AUTOMOBILE IMPORTERS OF AMERICA, INC	2,270.00	30.00
JAMES J. BUTERA, 4TH FLOOR 1101 15TH ST., NW WASHINGTON DC 20005	NATIONAL COUNCIL OF SAVINGS INSTITUTIONS	10,000.00	
BUTLER & BINION, 1747 PENNSYLVANIA AVE., NW WASHINGTON DC 20006	PENNSYLVANIA SHIPBUILDING CO		
Do	PHILADELPHIA PORT CORP		
PATRICK BUTLER, 1875 EYE STREET, NW, #1110 WASHINGTON DC 20006	TIMES MIRROR		
JAMES R. BYRON, 1627 K STREET, NW, #200 WASHINGTON DC 20006	FLUOR CORPORATION	6,000.00	500.00
CADWALADER WICKERSHAM & TAFT, 7TH FLOOR 1333 NEW HAMPSHIRE AVE., NW WASHINGTON DC 20036	ASPHALT ROOFING MANUFACTURERS ASSN		
JOHN R. CADY, 1711 KING STREET ALEXANDRIA VA 22314	POTATO CHIP/SNACK FOOD ASSN		
JOHN D. CAHILL, 444 N. CAPITOL STREET, NW WASHINGTON DC 20001	MASSACHUSETTS BAY TRANSPORTATION AUTHORITY	3,000.00	
Do	MASSACHUSETTS PORT AUTHORITY	11,625.00	
JAMES CALLAN, 1726 M STREET, NW, #1000 WASHINGTON DC 20036	ELECTRONIC FUNDS TRANSFER ASSN	375.00	
GORDON L. CALVERT, BOX 34-531 BETHESDA MD 20817	COMMERICIAL LAW LEAGUE OF AMER, COMM COLL. AGENCY SECTION	3,375.00	86.05
CAMP CARMOUCHE BARSH HUNTER GRAY HOFFMAN & GILL, 2550 M ST., NW, #275 WASHINGTON DC 20037	ALLIED-SIGNAL CORP		
Do	CHAMPLIN PETROLEUM COMPANY		
Do	GEORGIA PACIFIC CORP		
Do	NATURAL GAS SUPPLY ASSN	62.50	
Do	PENNZOIL CO		
Do	TEXACO, INC		
CAMPAIGN FOR COMMUNITY-BASED ECONOMIC DEVELOPMENT, 2025 EYE STREET, NW, #901 WASHINGTON DC 20006			
WILLIAM F. CANIS, 1730 PENNSYLVANIA AVENUE, NW, #450 WASHINGTON DC 20006	CATERPILLAR TRACTOR CO	2,500.00	207.59
LAURA VAN ETTEN CANNATA, 311 FIRST STREET, NW WASHINGTON DC 20001	NATIONAL RESTAURANT ASSN		821.68
ROSS CAPON, 236 MASSACHUSETTS AVE., NE, #603 WASHINGTON DC 20002	NATIONAL ASSN OF RAILROAD PASSENGERS	11,137.49	
DENISE A. CARDMAN, 1800 M ST., NW WASHINGTON DC 20036	AMERICAN BAR ASSN	400.00	50.00
PETER CARLSON, 218 D ST., SE WASHINGTON DC 20003	ENVIRONMENTAL POLICY INSTITUTE	710.04	
CHAPIN CARPENTER JR., 1211 CONNECTICUT AVENUE, NW, #406 WASHINGTON DC 20036	MAGAZINE PUBLISHERS ASSN, INC	1,500.00	
GEORGE D. CARPENTER, 6110 CENTER HILL ROAD CINCINNATI OH 45224	PROCTER & GAMBLE MANUFACTURING CO		
JOHN BENJAMIN CARROLL, 100 E. WASHINGTON ST., #206 SYRACUSE NY 13202	DAIRY FARMER DISTRIBUTORS OF AMERICA, INC		1,445.00
DAVID C. CARTER, 1156 15TH ST., NW, #1019 WASHINGTON DC 20005	U.S. BEET SUGAR ASSN		
G. THOMAS CATOR, 1050 17TH STREET, NW WASHINGTON DC 20036	NEECE CATOR & ASSOCIATES, INC (FOR: ASSOCIATION OF SMALL BUSINESS DEVELOPMENT CENTERS).		
Do	NEECE CATOR & ASSOCIATES, INC (FOR: SMALL BUSINESS UNITED)	1,700.00	1,700.00
GORDON CAVANAUGH, 509 C STREET, NE WASHINGTON DC 20002	ROISMAN RENO & CAVANAUGH (FOR: COUNCIL OF LARGE PUBLIC HOUSING AUTHORITIES).	11,618.73	688.51
NICHOLAS G. CAVAROCCHI, 6TH FLOOR 2010 MASSACHUSETTS AVENUE, NW WASHINGTON DC 20036			
CEDERBERG & ASSOCIATES, 7100 SUSSEX PLACE ALEXANDRIA VA 22307	MARTIN MARIETTA CORP	200.00	
CHAMBERS ASSOCIATES, INC, 1411 K STREET, NW, #500 WASHINGTON DC 20005	APACHE CORPORATION		
Do	COMMISSIONED OFFICERS ASSN OF THE PUBLIC HEALTH SERVICE		
Do	STATE OF IDAHO, DEPT OF EMPLOYMENT		
Do	U S WEST		
NANCY CHAPMAN, 1728 CHURCH STREET, NW WASHINGTON DC 20036	OLSSON & FRANK (FOR NATIONAL ASSN OF MARGARINE MFGRS)	3,000.00	100.00
STEPHAN E. CHERTOFF, 1709 NEW YORK AVENUE, NW, #303 WASHINGTON DC 20006	BLUE CROSS & BLUE SHIELD		
FRANK M. CHRISTENSEN, BOX 2030 HAMILTON, ONTARIO, CANADA	CANADIAN TUBULAR PRODUCERS ASSN		
LESLIE CHRISTENSEN, 600 MARYLAND AVE., SW, #700 WASHINGTON DC 20024	NATIONAL FED OF INDEPENDENT BUSINESS	368.56	200.00
CITIZEN ACTION, 1300 CONNECTICUT AVE., NW, #401 WASHINGTON DC 20036		8,000.00	6,000.00

Organization or Individual Filing	Employer/Client	Receipts	Expenditures
DENNIS B. CLARK, 311 FIRST STREET, NW WASHINGTON DC 20001	NATIONAL RESTAURANT ASSN		500.00
DONALD C. CLARK, 8224 OLD COURT HOUSE ROAD TYSONS CORNER VA 22180	SHEET METAL AIR CONDITIONING CONTRACTORS' NAT'L ASSN		
GILBERT CLARK, 1117 N. 19TH STREET, NW, #600 ARLINGTON VA 22209	AMERICAN ASSN OF BLOOD BANKS		
PHILLIP A. CLARK, 1050 17TH ST., NW, #700 WASHINGTON DC 20036	NATIONAL OCEAN INDUSTRIES ASSN	4,050.00	
CECIL D. CLAY, 1750 NEW YORK AVENUE, NW WASHINGTON DC 20006	SHEET METAL WORKERS' INT'L ASSN	23,908.00	
CHARLES M. CLUSEN, 1400 EYE ST., NW WASHINGTON DC 20005	WILDERNESS SOCIETY	1,067.04	
COALITION FOR FULL NUCLEAR ACCOUNTABILITY, 218 D ST., SE WASHINGTON DC 20003			
DEBORAH A. COHN, 2000 P STREET, NW, #305 WASHINGTON DC 20036	FORESIGHT SCIENCE & TECHNOLOGY, INC (FOR: NATIONAL COALITION FOR SCIENCE & TECHNOLOGY).		
COLBY BAILEY WERNER & ASSOCIATES, 2550 M STREET, NW, #450 WASHINGTON DC 20037	ROYAL THAI EMBASSY		
JOHN M. COLLIER, 4436 PERRIER ST. NEW ORLEANS LA 70115	SOUTHERN FOREST PRODUCTS ASSN	11,732.36	
COLLIER SHANNON RILL & SCOTT, 1055 THOMAS JEFFERSON ST., NW, #308 WASHINGTON DC 20007	AMERICAN FROZEN FOOD INST		
Do	AMERICAN TEXTILE MACHINERY ASSN		
Do	CROP INSURANCE RESEARCH BUREAU		
Do	FERROS SCRAP CONSUMERS COALITION		
Do	INDEPENDENT LUBRICANT MANUFACTURERS ASSN	600.00	600.00
Do	NATIONAL ASSN OF CONVENIENCE STORES	3,750.00	3,750.00
Do	PITTSBURGH CORNING CORPORATION		
Do	SMOKELESS TOBACCO COUNCIL	1,000.00	1,000.00
Do	SOCIETY OF INDEPENDENT GASOLINE MARKETERS OF AMERICA	7,000.00	7,000.00
Do	SPECIALTY STEEL INDUSTRY OF THE UNITED STATES		
STEPHEN J. COLLINS, 1620 EYE ST., NW, #1000 WASHINGTON DC 20006	MOTOR VEHICLE MANUFACTURERS ASSN OF THE U.S., INC		
TIM COLTON, P.O. BOX 498 CHESTER PA 19015	PENNSYLVANIA SHIPBUILDING CO	450.00	
CAROL A. COLZA, ROGER B. SCHAGRIN, P.C. 1112 16TH ST., NW, #1000 WASHINGTON DC 20036	COMMITTEE ON PIPE & TUBE IMPORTS	42,600.00	
COMMERCIAL UNION INSURANCE COMPANIES, ONE BEACON STREET BOSTON MA 02108			
COMMITTEE FOR A RESPONSIBLE TAX POLICY, INC, 1750 PENNSYLVANIA AVE., NW, #1201 WASHINGTON DC 20006			
COMMITTEE FOR DO-IT-YOURSELF HOUSEHOLD MOVING, 1725 K ST., NW, #401 WASHINGTON DC 20005			
COMMITTEE FOR PRIVATE EDUCATION, 1025 MICHIGAN AVENUE, NE WASHINGTON DC 20036			
COMMITTEE FOR THE ELECTRIC CONSUMERS PROTECTION ACT, 1000 POTOMAC STREET, NW, #401 WASHINGTON DC 20007.			
COMPETITIVE ENTERPRISE INSTITUTE, 2039 NEW HAMPSHIRE AVENUE, NW, #206 WASHINGTON DC 20009			
CONCERNED WOMEN FOR AMERICA, 122 C ST., NW, #800 WASHINGTON DC 20001		33,738.32	33,738.32
CONFERENCE OF STATE BANK SUPERVISORS, 1015 18TH ST., NW WASHINGTON DC 20036			4,770.30
GARY L. CONKLING, P.O. BOX 500, Y3-439 BEAVERTON OR 97077	TEKTRONIX, INC	3,375.00	4,978.24
JOHN J. CONNOLLY, 499 S. CAPITOL STREET, #501 WASHINGTON DC 20003	BILL HECHT AND ASSOCIATES, INC	2,000.00	
LORI C. CONSADORI, 1615 H STREET, NW WASHINGTON DC 20062	CHAMBER OF COMMERCE OF THE U.S.	100.00	96.38
CONSOLIDATED RAIL CORPORATION, P.O. BOX 23451 WASHINGTON DC 20026			18,660.00
CONSUMER ENERGY COUNCIL OF AMERICA, 2000 L ST., NW, #320 WASHINGTON DC 20036			
CONSUMER FEDERATION OF AMERICA, 1424 16TH ST., NW, #604 WASHINGTON DC 20036		113,608.00	119,965.00
CONTACT SYSTEMS CORP, 200 MADISON AVENUE, #1207 NEW YORK NY 10016			
RICHARD CONTI, 15 COMPUTER DRIVE WEST ALBANY NY 12205	HOSPITAL ASSN OF NYS	390.00	248.00
EDWARD COONEY, 1319 F ST., NW, #500 WASHINGTON DC 20004	FOOD RESEARCH & ACTION CENTER	4,115.92	
C. WILLIAM COOPER, 603 BROAD ST. SEWICKLEY PA 15143	UNITED DISTRIBUTION COMPANIES		
CHESTER L. COOPER, 1616 P ST., NW, #410 WASHINGTON DC 20036	AMERICAN ACADEMY OF ARTS & SCIENCES	10,000.00	170.00
MARK N. COOPER, 1424 16TH ST., NW, #604 WASHINGTON DC 20036	CONSUMER FEDERATION OF AMERICA	300.00	
PETER COPPELMAN, 1400 EYE ST., NW WASHINGTON DC 20005	WILDERNESS SOCIETY		
JOSEPH L. COPPOLA, 3600 S. YOSEMITE, #830 DENVER CO 80237	COLORADO-UTE ELECTRIC ASSN, INC	7,300.00	413.00
Do	UPPER YAMPA WATER CONSERVATION DISTRICT	7,300.00	117.00
JOHN F. CORCORAN, 1050 CONNECTICUT AVE., NW, #740 WASHINGTON DC 20036	NORFOLK SOUTHERN CORPORATION	1,000.00	
PATRICK H. CORCORAN, 1725 K ST., NW, #1205 WASHINGTON DC 20006	ASSOCIATION OF OIL PIPELINES		
COUNCIL FOR A LIVABLE WORLD, 20 PARK PLAZA BOSTON MA 02116			32,703.70
COUNCIL OF INDUSTRIAL BOILER OWNERS, 11222 SILVERLEAF DR. FAIRFAX STATION VA 22039			
JAMES COUSINS, 1101 15TH ST., NW, #400 WASHINGTON DC 20005	NATIONAL COUNCIL OF SAVINGS INSTITUTIONS	15,000.00	
ERIC COX, 418 7TH ST., SE WASHINGTON DC 20003	CAMPAIGN FOR U.N. REFORM-POLITICAL EDUCATION COMMITTEE	352.65	
KEN A. CRERAR, 1611 NO. KENT STREET, #900 ARLINGTON VA 22209	FOOTWEAR INDUSTRIES OF AMERICA	3,000.00	20,483.68
CHARLES H. CROMWELL, INC, 6709 GEORGIA ST. CHEVY CHASE MD 20815	MCDONNELL DOUGLAS HELICOPTERS		
CRS, P.O. BOX 118 COLD SPRING HARBOR NY 11724			
CUBAN AMERICAN PUBLIC AFFAIRS COUNCIL, 1000 THOMAS JEFFERSON ST., NW WASHINGTON DC 20007			
BARRY M. CULLEN, 1620 EYE ST., NW, #700 WASHINGTON DC 20006	INTERNATIONAL PAPER CO		
MICHAEL M. CUNNIFF, 815 16TH STREET, NW WASHINGTON DC 20006	BROTHERHOOD OF RAILWAY AIRLINE & STEAMSHIP CLERKS	1,500.00	1,500.00
DIANE BROWN CUNNINGHAM, 1620 EYE ST., NW, #700 WASHINGTON DC 20006	INTERNATIONAL PAPER CO	750.00	200.00
KATHLEEN L. CURRY, 122 C ST., NW, #750 WASHINGTON DC 20001	NATIONAL ASSN OF INDEPENDENT COLLEGES & UNIVERSITIES	3,281.00	456.00
MARY BETH CURRY, 1050 17TH STREET, NW, #770 WASHINGTON DC 20036	AMERICAN ASSN OF HOMES FOR THE AGING	262.00	7.50
JAY B. CUTLER, 1400 K STREET, NW WASHINGTON DC 20005	AMERICAN PSYCHIATRIC ASSN	5,548.00	696.36
RUDOLPH N. D'AGARIS, 4708 NORBECK RD. ROCKVILLE MD 20853			
NORMAN E. D'AMOURS, 1809 MELBOURNE DRIVE MCLEAN VA 22101	ALCALDE HENDERSON O'BANNON & ROUSSELOT	7,500.00	
Do	CREDIT UNION NATIONAL ASSN, INC	3,000.00	
Do	MARINE MIDLAND BANKS, INC	18,000.00	
LESLIE DACH, 645 PENNSYLVANIA AVENUE, SE WASHINGTON DC 20003	NATIONAL AUDUBON SOCIETY	8,125.00	3,479.54
DAEDALUS ENTERPRISES, INC, P.O. BOX 1869 ANN ARBOR MI 48106			
DAIRY-FARMER DISTRIBUTORS OF AMERICA, INC. * CHITTENANGO NY 13037			1,445.00
RICHARD C. DARLING, 1156 15TH ST., NW WASHINGTON DC 20005	J. C. PENNEY CO, INC	100.00	50.00
JOHN C. DATT, 600 MARYLAND AVE., SW WASHINGTON DC 20024	AMERICAN FARM BUREAU FEDERATION	10,250.01	
DAVENPORT & SEAY, ONE THOMAS CIRCLE, NW, #375 WASHINGTON DC 20005	CITY OF DETROIT		12,814.32
THEODORE S. J. DAVI, 371-106 BURGUNDY LN. LONGWOOD FL 32779			
CHERYL C. DAVIS, 510 C STREET, NE WASHINGTON DC 20002	INTERNATIONAL ASSN OF AMUSEMENT PARKS & ATTRACTIONS	150.00	
O. MARK DE MICHELE, 411 NORTH CENTRAL AVENUE P.O. BOX 21666 PHOENIX AZ 85014	ARIZONA PUBLIC SERVICE COMPANY		
ROBERT DEBRAGGA, 26 FLANDER RD. RFD #1, BOX 239 STONINGTON CT 06388	PROJECT CURE, INC		50.00
JOHN L. DELANO, 7 EDWARDS - BOX 1172 HELENA MT 59624	MONTANA RAILROAD ASSN		
DELOITTE HASKINS & SELLS, 655 15TH STREET, NW WASHINGTON DC 20005	ARKANSAS ELECTRIC COOPERATIVE CORP		
Do	HYDRIL CO		
Do	TEKTRONIX CORPORATION		
Do	TRIANGLE INDUSTRIES, INC		
Do	UNION PACIFIC CORP		
MICHAEL J. DELOOSE, 1015 18TH STREET, NW WASHINGTON DC 20036	CONFERENCE OF STATE BANK SUPERVISORS	645.00	
ELIZABETH C. DEMATO, 5210 AUTH WAY CAMP SPRINGS MD 20746	SEAFARERS INTERNATIONAL UNION	3,000.00	169.15
TANIA DEMCHUK, 499 SOUTH CAPITOL ST., SW, #401 WASHINGTON DC 20003	NATIONAL ASSN OF INDEPENDENT INSURERS	100.00	
PERRY COMO DENBY, ELLIS 1, ROUTE 6 HUNTSVILLE TX 77343			
DEPARTMENT FOR PROFESSIONAL EMPLOYEES, AFL-CIO, 815 16TH ST., NW WASHINGTON DC 20006		12,577.76	12,577.76
R. DANIEL DEVLIN, 1825 EYE STREET, NW, #350 WASHINGTON DC 20006	TRANS WORLD AIRLINES, INC	375.00	
KENDALL P. DEXTER, 9 COUNTRY CLUB ROAD MOBILE AL 36608	MACMILLAN BLOEDEL, INC	1,200.00	1,001.00
DGA INTERNATIONAL, INC, 1818 N STREET, NW WASHINGTON DC 20036	ARIANESPACE, S.A	570.00	63.64
Do	DIR INTL AFF OF THE GEN DEL FOR ARMEMENTS		
Do	SOCIETE NATIONALE D'ETUDE ET DE CONST. DE MOTEURS D'AVIATION	405.00	
Do	SOFREAVIA		
DICKINSON WRIGHT MOON VAN DUSEN & FREEMAN, 1901 L ST., NW, #801 WASHINGTON DC 20036	GENERAL MOTORS CORP	12,900.00	
MICHAEL F. DINEEN, 600 PENNSYLVANIA AVE., SE, #206 WASHINGTON DC 20003	LUMBERMENS MUTUAL CASUALTY CO (FOR: FEDERAL KEMPER LIFE ASSURANCE CO).	575.74	580.25
Do	LUMBERMENS MUTUAL CASUALTY CO (FOR: KEMPER FINANCIAL SERVICES, INC)	1,800.00	139.88
Do	LUMBERMENS MUTUAL CASUALTY CO (FOR: KEMPER INVESTORS LIFE INSURANCE CO).	310.01	312.44
CHARLES VERN DINGES IV , 1325 G STREET, NW, #1003 WASHINGTON DC 20005	ENVIRONMENTAL FUND		
DISTRICT OF COLUMBIA HOSPITAL ASSN, 1250 EYE STREET, NW, #700 WASHINGTON DC 20005			
JOHN D. DOHERTY JR., 900 17TH STREET, NW, #706 WASHINGTON DC 20006	CHASE MANHATTAN BANK, N.A.		
JAMES M. DOLAN JR., 220 EYE STREET, NE, #210 WASHINGTON DC 20002	PATLEX CORP	4,575.00	300.69
DOMESTIC WILDCATTERS ASSN, P.O. BOX 53660 HOUSTON TX 77052			
NANCY A. DONALDSON, 110 MARYLAND AVENUE, NE, #408 WASHINGTON DC 20002	WOMEN'S ACTION FOR NUCLEAR DISARMAMENT EDUCATION FUND, INC	1,593.58	
RICHARD M. DONALDSON, 1738 GUILDHALL BLDG. CLEVELAND OH 44115	STANDARD OIL CO (OHIO)		
THOMAS F. DONNELLY, 955 L'ENFANT PLAZA, SW, #1202 WASHINGTON DC 20024	NATIONAL WATER RESOURCES ASSN	3,125.00	
MARY K. DONNY, 1828 L STREET, NW WASHINGTON DC 20036	NATIONAL COOPERATIVE BUSINESS ASSN	220.00	
THOMAS J. DONOHUE, 2200 MILL ROAD ALEXANDRIA VA 22314	AMERICAN TRUCKING ASSNS, INC	11,000.00	
MAY DEL RIO DORFMAN, 380 SECOND AVENUE NEW YORK NY 10010	PLANNED PARENTHOOD OF NEW YORK CITY, INC	423.97	249.36
DOW LOHNES & ALBERTSON, 1255 23RD ST., NW WASHINGTON DC 20037	CHICAGO CITY COLLEGES	2,475.08	1,203.41

Organization or Individual Filing	Employer/Client	Receipts	Expenditures
JOHN P. DOWD, 815 16TH STREET, NW WASHINGTON DC 20006	BROTHERHOOD OF RAILWAY AIRLINE & STEAMSHIP CLERKS	1,500.00	1,500.00
JANE LIND DOWNEY, 2200 MILL RD ALEXANDRIA VA 22314	AMERICAN MOVERS CONFERENCE	834.00	
JOHN C. DOYLE JR., 218 D ST., SE WASHINGTON DC 20003	ENVIRONMENTAL POLICY INSTITUTE	416.31	
PAUL A. DRAZEK, 600 MARYLAND AVENUE, SW WASHINGTON DC 20024	AMERICAN FARM BUREAU FEDERATION	7,500.00	
JEROME L. DREYER, 1300 N. 17TH ST. SUITE 300 ARLINGTON VA 22209	ASSOCIATION OF DATA PROCESSING SERVICE ORGANIZATIONS		
EVELYN DUBROW, 1710 BROADWAY NEW YORK NY 10019	INTERNATIONAL LADIES' GARMENT WORKERS UNION	11,739.00	3,255.00
C. R. DUGGAN, 815 16TH ST., NW WASHINGTON DC 20006	BROTHERHOOD OF RAILWAY AIRLINE & STEAMSHIP CLERKS	2,100.00	2,100.00
LOUISE C. DUNLAP, 218 D ST., SE WASHINGTON DC 20003	ENVIRONMENTAL POLICY INSTITUTE	155.66	
JOHN H. DUNNE, 818 ROEDER RD., #702 SILVER SPRING MD 20910	INTERNATIONAL FED OF PROFESSIONAL & TECHNICAL ENGINEERS		
THOMAS J. DWYER, 815 16TH STREET, NW WASHINGTON DC 20006	BROTHERHOOD OF RAILWAY AIRLINE & STEAMSHIP CLERKS	1,500.00	1,500.00
DYKEMA GOSSETT SPENCER GOODNOW & TRIGG, 1752 N ST., NW, 6TH FL. WASHINGTON DC 20036	TOTAL PETROLEUM, INC		
DENNIS J. EARHART, 2001 WISCONSIN AVE., #100 WASHINGTON DC 20007	BEAR WEST CO, INC (FOR ROCKY MOUNTAIN ENERGY CO)	440.63	
CATHERINE EAST, 1275 K STREET, NW, #750 WASHINGTON DC 20005	NATIONAL WOMEN'S POLITICAL CAUCUS	1,998.98	
MITCHELL H. EDELSTEIN, 1411 K ST., NW, #850 WASHINGTON DC 20005	AMERICANS FOR DEMOCRATIC ACTION	3,531.84	74.00
TIMOTHY L. ELDER, 1730 PENNSYLVANIA AVE., NW, #450 WASHINGTON DC 20006	CATERPILLAR TRACTOR CO	2,500.00	1,022.49
ELECTRONIC FUNDS TRANSFER ASSN, 1726 M STREET, NW, #1000 WASHINGTON DC 20036			3,400.00
C. M. ELKINS ASSOCIATES, 1100 17TH ST., NW, #310 WASHINGTON DC 20036	PITTSBURGH & LAKE ERIE RAILROAD	20,000.00	2,850.00
KEITH H. ELLIS, 1015 18TH ST.,NW WASHINGTON DC 20036	CONFERENCE OF STATE BANK SUPERVISORS	3,800.00	325.30
DOROTHY A. ELLSWORTH, 1300 CONNECTICUT AVE., NW WASHINGTON DC 20036	INTERNATIONAL ASSN OF MACHINISTS & AEROSPACE WORKERS	13,968.24	132.20
EMPLOYEE RELOCATION COUNCIL, 1627 K ST., NW, #600 WASHINGTON DC 20006			2,799.39
EMPLOYERS COUNCIL ON FLEXIBLE COMPENSATION, 1660 L STREET, NW, #715 WASHINGTON DC 20036		247,812.78	
STEVEN L. ENGELBERG, 2033 M ST., NW, #404 WASHINGTON DC 20036	AMERICAN ASSN FOR MARRIAGE & FAMILY THERAPY		
PATRICIA A. ENGLISH, 777 14TH ST., NW WASHINGTON DC 20005	NATIONAL ASSN OF REALTORS		
J. BARRY EPPERSON, P.O. BOX 42464 HOUSTON TX 77242	ASSOCIATED WIRE ROPE FABRICATORS	500.00	4,216.91
ERISA INDUSTRY COMMITTEE, 1726 M STREET, NW WASHINGTON DC 20036		5,050.00	10,457.20
STEPHEN E. EURE, 1711 KING STREET ALEXANDRIA VA 22314	POTATO CHIP/SNACK FOOD ASSN	100.00	
FAWN K. EVENSON, 1611 N. KENT ST., #900 ARLINGTON VA 22209	FOOTWEAR INDUSTRIES OF AMERICA	9,000.00	275.60
GARY M. FALEY, 815 16TH STREET,NW WASHINGTON DC 20006	BROTHERHOOD OF RAILWAY AIRLINE & STEAMSHIP CLERKS	1,500.00	1,500.00
F. S. FALLON JR., P.O. BOX 888-HB ASHLAND KY 41101			
GEORGE W. FALLTRICK, 815 16TH ST., NW WASHINGTON DC 20006	BROTHERHOOD OF RAILWAY AIRLINE & STEAMSHIP CLERKS	1,500.00	1,500.00
MARCUS G. FAUST, 2121 K ST., NW, #880 WASHINGTON DC 20037	SIERRA PACIFIC POWER CO	13,906.25	1,555.82
Do	STANDARD OIL CO (OHIO)	11,250.00	
JANE FAWCETT-HOOVER, 801 18TH ST., NW, #400 WASHINGTON DC 20006	PROCTER & GAMBLE MANUFACTURING CO	43.75	
FREDERICK FEDELI, 1400 K ST., NW WASHINGTON DC 20006	AMERICAN PSYCHIATRIC ASSN	1,904.00	915.00
FEDERAL EXPRESS CORP, BOX 727 MEMPHIS TN 38194			11,487.89
FEDERAL JUDGES ASSOCIATION, 1355 MARKET STREET, #155 SAN FRANCISCO CA 94103		11,250.00	17,092.97
FEDERAL KEMPER LIFE ASSURANCE COMPANY, KEMPER BLDG. D-3 LONG GROVE IL 60049			1,335.32
FEDERAL MANAGERS ASSN, 2300 S. 9TH ST., #104 ARLINGTON VA 22204		9,000.00	9,000.00
FEDERATION OF AIDS-RELATED ORGANIZATIONS/AIDS ACTION COUNCIL, 729 8TH STREET, SE. #200 WASHINGTON DC 20003.		7,315.64	22,158.36
DENISE G. FERGUSON, 1020 19TH ST., NW, #600 WASHINGTON DC 20036	AMERICAN EXPRESS CO		
WILLIAM FERGUSON JR., 1875 EYE ST., NW, #1275 WASHINGTON DC 20006	CITY OF BALDWIN PARK	4,500.00	1,021.62
Do	CITY OF INGLEWOOD	6,249.99	
Do	CITY OF OCEANSIDE	3,189.00	
Do	CITY OF PROVO	9,375.00	30.00
Do	CITY OF REDONDO BEACH	3,000.00	
Do	CITY OF SOUTH SALT LAKE	4,999.98	
Do	IMPERIAL IRRIGATION DISTRICT	4,500.00	
Do	IRVINE COMPANY	5,312.50	226.90
Do	OCEANSIDE REDEVELOPMENT AGENCY	3,189.00	
Do	SANTA CRUZ PROPERTIES, INC	1,546.39	
C. H. FIELDS, 600 MARYLAND AVE., SW WASHINGTON DC 20024	AMERICAN FARM BUREAU FED	6,562.50	75.25
LOUIS F. FINCH, 1667 K ST., NW, #525 WASHINGTON DC 20006	INTERNATIONAL REQUIREMENTS CORP		
THEODORA FINE, 1400 K STREET, NW WASHINGTON DC 20005	AMERICAN PSYCHIATRIC ASSN	2,640.00	979.88
FINLEY KUMBLE WAGNER HEINE UNDERBERG MANLEY & CASEY, 1120 CONNECTICUT AVE., NW, #465 WASHINGTON DC 20036.	AMERICAN COLLEGE OF NEUROPSYCHOPHARMACOLOGY	333.00	30.00
Do	AMERICAN PROTESTANT HEALTH ASSN	4,000.00	200.00
Do	COMMITTEE ON PROBLEMS OF DRUG DEPENDENCE, INC	333.00	20.00
Do	DEVELOPMENT CORP FOR ISRAEL	1,842.00	
Do	JOHNSON & JOHNSON		
Do	NATIONAL ASSN OF ALCOHOLISM TREATMENT PROGRAMS, INC	2,000.00	50.00
Do	SAVOY INDUSTRIES	7,357.50	
Do	SOCIETY OF REAL ESTATE APPRAISERS		
Do	TRANSIT ADVERTISING ASSN, INC		
THOMAS D. FINNIGAN, 1100 15TH STREET, NW, 10TH FL. WASHINGTON DC 20005	UNION CARBIDE CORP		
FIRST DATA RESOURCES, 1900 N. BEAUREGARD ST., #110 ALEXANDRIA VA 22311			
FISHER & PHILLIPS, 3500 FIRST ATLANTA TOWER TWO PEACHTREE STREET, NW ATLANTA GA 30383	SAVANNAH-CHATHAM COUNTY BOARD OF EDUCATION		5,384.35
CHARLES L. FISHMAN, P.C., 1717 K STREET, NW, #502 WASHINGTON DC 20036	DUKE POWER CO		
Do	VIRGINIA ELECTRIC & POWER CO		
MARY CLARE FITZGERALD, 1025 THOMAS JEFFERSON ST., NW, #301 WASHINGTON DC 20007	GOLEMBE ASSOCIATES, INC		
ALAN M. FITZWATER, 3800 CONTINENTAL PLAZA 777 MAIN STREET FORT WORTH TX 76102	BURLINGTON NORTHERN RAILROAD	20,000.00	
BARRY FLAMM, 1400 EYE STREET, NW WASHINGTON DC 20005	WILDERNESS SOCIETY	448.79	28.60
DANIEL V. FLANAGAN JR., 12 THIRD STREET, NE WASHINGTON DC 20002	FLANAGAN & ASSOCIATES, INC (FOR: MEMORIAL SLOAN-KETTERING CANCER CENTER).	1,500.00	105.00
Do	VIRGINIA POWER CO	10,000.00	4,403.70
FLORIDA BUSINESS ASSOCIATES, 2000 L ST., NW, #200 WASHINGTON DC 20036	ETA SYSTEMS, INC	14,583.00	
Do	FLORIDA STATE UNIVERSITY		
Do	SEABOARD SYSTEM RAILROAD	4,993.00	
Do	WESTINGHOUSE ELECTRIC CORP	8,158.00	
DELORES A. FLOWERS, 517 C STREET, NE WASHINGTON DC 20002	LYNG AND LESHER, INC		
THOMAS H. FLOYD JR., DGA INTERNATIONAL, INC 1818 N STREET, NW WASHINGTON DC 20036	ARIANESPACE, S.A.	95.00	
JOHN J. FLYNN, 1125 17TH STREET, NW WASHINGTON DC 20036	INTERNATIONAL UNION OF OPERATING ENGINEERS	7,500.00	235.00
FOLEY & LARDNER, 1775 PENNSYLVANIA AVE., NW WASHINGTON DC 20006	PHOSPHATE ROCK EXPORT ASSOCIATION	1,335.00	10.18
FOOD RESEARCH & ACTION CENTER, 1319 F STREET, NW WASHINGTON DC 20004		12,000.00	9,392.40
FOODSERVICE & LODGING INST, 1919 PENNSYLVANIA AVE., NW WASHINGTON DC 20006			1,000.00
FOOTWEAR RETAILERS OF AMERICA, INC, 1319 F ST., NW, #700 WASHINGTON DC 20004			1,637.50
PAUL S. FORBES, 7700 LEESBURG PIKE FALLS CHURCH VA 22043	ROYAL SILK	15,000.00	3,762.48
FOREMAN AND COMPANY, 1826 JEFFERSON PLACE, NW, #201 WASHINGTON DC 20036	AUDIO RECORDING RIGHTS COALITION	225.00	25.00
Do	CAMP CARMOUCHE BARSH HUNTER GRAY & HOFFMAN, P.C.	2,500.00	1,157.16
Do	GREENE O'REILLY AGNEW & BROILLET		
FORESIGHT SCIENCE & TECHNOLOGY, INC, 2000 P ST., NW, #305 WASHINGTON DC 20036	NATIONAL COALITION FOR SCIENCE & TECHNOLOGY	675.00	992.33
Do	SOCIETY FOR AMERICAN ARCHAEOLOGY	3,076.00	2,374.06
FOREST FARMERS ASSOCIATION, P.O. BOX 95385 ATLANTA GA 30347			1,218.92
RICHARD C. FORTUNA, 2916 STEPHENSON PL., NW WASHINGTON DC 20015	HAZARDOUS WASTE TREATMENT COUNCIL	1,500.00	1,500.00
ALAN FOX, 1424 16TH STREET, NW, #604 WASHINGTON DC 20036	CONSUMER FEDERATION OF AMERICA	6,790.00	
CHUCK FOX, 218 D STREET, SE WASHINGTON DC 20003	ENVIRONMENTAL POLICY INSTITUTE	70.56	19.50
DAVID E. FRANASIAK, 1001 22ND STREET, #600 WASHINGTON DC 20037	STANDARD OIL CO (OHIO)	1,112.50	214.51
JOHN B. FRANZ, P.O. BOX 10568 POMPANO BEACH FL 33061			
LEWIS R. FREEMAN JR., 1025 CONNECTICUT AVE., NW, #409 WASHINGTON DC 20036	SOCIETY OF THE PLASTICS INDUSTRY		
FRIED FRANK HARRIS SHRIVER & JACOBSON, 600 NEW HAMPSHIRE AVE., NW, #1000 WASHINGTON DC 20037	GENERAL ELECTRIC CO	1,451.00	1.60
Do	SCHENLEY INDUSTRIES, INC		8.34
FRIENDS OF THE RURAL DEVELOPMENT LOAN FUND, 2025 I STREET, NW, #901 WASHINGTON DC 20006		3,500.00	3,500.00
OWEN V. FRISBY, 900 17TH ST., NW WASHINGTON DC 20006	CHASE MANHATTAN BANK, N.A.	230.00	26.72
ALBERT E. FRY, 1615 L STREET, NW, #1350 WASHINGTON DC 20036	BUSINESS ROUNDTABLE	2,400.00	
FULL EMPLOYMENT ACTION COUNCIL, 815 16TH STREET, NW WASHINGTON DC 20006		7,758.00	1,965.07
DAVID A. FULTON, P.O. BOX 7305, DEPT. 77 KANSAS CITY MO 64116	FARMLAND INDUSTRIES, INC		
NANCY H. FUSSELL, 1700 N. MOORE ST. ROSSLYN VA 22209	BOEING COMPANY	1,236.00	1,260.65
G-4 CHILDREN'S COALITION, 1666 K ST., NW, RM. 1100 WASHINGTON DC 20006		41,752.30	
HARRY GANDERSON, 2027 LAUDERDALE RD., #408 RICHMOND VA 23233	INTERNATIONAL TRADE SERVICES CORP		
WILLIAM R. GANSER JR., 4804 FOLSE DR. METAIRIE LA 70002	SOUTHERN FOREST PRODUCTS ASSN	2,775.00	
HARRY D. GARBER, 1285 AVENUE OF THE AMERICAS NEW YORK NY 10019	EQUITABLE LIFE ASSURANCE SOCIETY OF THE U.S.	1,200.00	10.00
SHELLEY ANN GARDNER, 20 BLACK OAK MEWS NEWTOWN PA 18940	ELECTRICAL ALLIANCE		
Do	PHILADELPHIA MARITIME EXCHANGE		

Organization or Individual Filing	Employer/Client	Receipts	Expenditures
JOHN C. GARTLAND, 214 MASS. AVE., NE, #210 WASHINGTON DC 20002	AMWAY CORP		
GARVEY SCHUBERT ADAMS & BARER, 1000 POTOMAC ST., NW WASHINGTON DC 20006	CONTRACTORS BONDING & INSURANCE CO.		
Do	CSX CORPORATION	6,675.00	
Do	GTE SERVICE CORP	250.00	
Do	JAPAN FISHERIES ASSOCIATION		
Do	NORTHWEST MARINE IRON WORKS	6,000.00	
Do	PACCAR, INC		
Do	PACIFIC RIM TRADE ASSN		
Do	PORT OF TILLAMOOK BAY & TILLAMOOK COUNTY		
Do	SONATRACH	250.00	
Do	TOTEM: OCEAN TRAILER EXPRESS, INC	175.00	
Do	TRAILWAYS, INC	375.00	
Do	TRANS WORLD AIRLINES, INC	125.00	
Do	WASHINGTON CITIZENS FOR WORLD TRADE	320.00	
LILLIAN B. GASKIN, 1800 M ST., NW WASHINGTON DC 20036	AMERICAN BAR ASSN	400.00	50.00
GAY RIGHTS NATIONAL LOBBY, INC, 750 7TH ST., SE WASHINGTON DC 20003		51,678.54	62,346.92
GARRY GEFFERT, 2001 S STREET, NW, #312 WASHINGTON DC 20009	FARMWORKER JUSTICE FUND, INC	1,780.20	
GERARD BYLER & ASSOCIATES, INC, 1100 17TH STREET, NW WASHINGTON DC 20036	AK CHIN INDIAN COMMUNITY		
Do	ALASKA FED OF NATIVES, INC		
Do	COLVILLE BUSINESS COUNCIL	1,054.00	
Do	COMMISSIONED OFFICERS ASSN OF THE U.S. PUBLIC HEALTH SERVICE	300.00	
Do	LEECH LAKE RESERVATION BUSINESS COMMITTEE	616.00	
Do	MINNESOTA CHIPPEWA TRIBE	394.00	
Do	PAPAGO TRIBE OF ARIZONA	899.00	
Do	TULALIP TRIBES		
Do	WHITE EARTH TRIBAL COUNCIL	1,090.00	
ALVIN J. GESKE, 1801 K ST., NW, #1109 WASHINGTON DC 20006	NATIONAL CATTLEMEN'S ASSN		
DAVID TROY SAXTON GETTY, P.O. BOX 7000-A, BOX 639 TEXARKANA TX 75501			
DOROTHY F. GEVINSON, 801 18TH STREET, NW, #400 WASHINGTON DC 20006	PROCTER & GAMBLE MANUFACTURING CO		
WILLIAM G. GIERY, 1919 PENNSYLVANIA AVE., NW WASHINGTON DC 20006	FOODSERVICE & LODGING INSTITUTE		
GERARD GIOVANIELLO, 777 14TH ST., NW WASHINGTON DC 20005	NATIONAL ASSN OF REALTORS	2,500.00	410.43
CLAUDE R. GLAZE, 815 16TH ST., NW WASHINGTON DC 20006	BROTHERHOOD OF RAILWAY AIRLINE & STEAMSHIP CLERKS		
ROBERT GLEASON, 815 16TH STREET, NW WASHINGTON DC 20006	INTERNATIONAL LONGSHOREMEN'S ASSOCIATION, AFL-CIO	8,339.40	24.00
JAMES T. GLENN, 1331 PENNSYLVANIA AVE., NW, #560 WASHINGTON DC 20004	CSX CORPORATION	3,000.00	679.80
ELMER G. GLESKE, 300 METROPOLITAN SQUARE 655 15TH STREET, NW WASHINGTON DC 20005	FLIGHT SAFETY INTL INC		
GODFREY ASSOC, INC, 918 16TH ST., NW, SUITE S-501 WASHINGTON DC 20006			
HORACE D. GODFREY, 918 16TH ST., NW, SUITE S-501 WASHINGTON DC 20006	GODFREY ASSOC, INC		
JANE A. GOLDEN, 1775 PENNSYLVANIA AVE., NW WASHINGTON DC 20006	FOLEY & LARDNER		
RONALD L. GOLDFARB, GOLDFARB & SINGER 918 16TH STREET, NW, #503 WASHINGTON DC 20003	WASHINGTON INDEPENDENT WRITERS, INC		
BENSON S. GOLDSTEIN, 1600 M STREET, NW WASHINGTON DC 20036	INVESTMENT COMPANY INSTITUTE		
JACK GOLODNER, 815 16TH ST., N.W. WASHINGTON DC 20006	DEPARTMENT FOR PROFESSIONAL EMPLOYEES, AFL-CIO	5,478.50	
LEE M. GOODWIN, WICKWIRE GAVIN & GIBBS, P.C. 1819 L STREET, NW, #700 WASHINGTON DC 20036	NATIONAL HYDROPOWER ASSN, ET AL		
PETER GOSSENS, 122 C STREET, NW, #750 WASHINGTON DC 20001	NATIONAL ASSN OF INDEPENDENT COLLEGES & UNIVERSITIES	6,720.00	420.00
GEORGE B. GOULD III, 100 INDIANA AVE., NW WASHINGTON DC 20001	NATIONAL ASSN OF LETTER CARRIERS	11,906.28	3,507.74
HUGH J. GOWNLEY, 1818 N ST., NW WASHINGTON DC 20036	DGA INTERNATIONAL, INC (FOR: SNECMA)		
JAMES L. GRANUM, 1050 CONNECTICUT AVE., NW WASHINGTON DC 20036	NORFOLK SOUTHERN CORPORATION	1,000.00	
NEIL A. GRAY, 6811 KENILWORTH AVE. RIVERDALE MD 20737	NATIONAL ASPHALT PAVEMENT ASSN	6,623.64	54.75
WAYNE GREEN, ENTERPRISES, INC ROUTE 202 NORTH PETERBOROUGH NH 03458	73 INC		
ELLEN F. GREENBERG, 1200 17TH STREET, NW WASHINGTON DC 20036	AMERICAN PSYCHOLOGICAL ASSN	1,620.00	19.90
PHYLLIS GREENBERGER, 1400 K STREET, NW WASHINGTON DC 20005	AMERICAN PSYCHIATRIC ASSN	1,904.00	1,157.53
ROBERT GREENSTEIN, 236 MASSACHUSETTS AVENUE, NE WASHINGTON DC 20002	CENTER ON BUDGET & POLICY PRIORITIES	2,264.40	75.00
JANICE M. GREGORY, 1726 M ST., #704 WASHINGTON DC 20036	ERISA INDUSTRY COUNCIL	5,250.00	196.75
MARY ELIZABETH GREGORY, 2075 S. ATLANTIC BLVD. COMMERCE CA 90040	AMERICAN SUN, INC	1,367.00	
KAREN M. GREINER, 1300 NORTH 17TH STREET, #300 ARLINGTON VA 22209	ADAPSO		
OLGA GRKAVAC, 1300 NORTH 17TH ST., #300 ARLINGTON VA 22209	ASSOCIATION OF DATA PROCESSING SERVICE ORGANIZATIONS		
JAMES J. GROGAN, P.O. BOX 19614 IRVINE CA 92714	LINCOLN SAVINGS & LOAN ASSN	10,000.00	8,387.40
GROOM & NORDBERG, CHTD, 1775 PENNSYLVANIA AVENUE, NW, #700 WASHINGTON DC 20006	PHYSICIANS MUTUAL INSURANCE CO	100.00	8.00
JEROME GROSSMAN, 20 PARK PLAZA BOSTON MA 02116	COUNCIL FOR A LIVABLE WORLD	4,114.38	
JOHN E. GUNTHER, 1725 K STREET, NW, #1405 WASHINGTON DC 20006	MORTGAGE INSURANCE COS OF AMERICA		
LELAND M. GUSTAFSON, 1726 M ST., NW WASHINGTON DC 20036	PACIFIC GAS & ELECTRIC CO	2,874.00	1,674.14
NED H. GUTHRIE, 209 HAYES AVENUE CHARLESTON WV 25314	AMERICAN FED OF MUSICIANS	3,635.00	3,712.99
ROBERT F. GUTHRIE, 815 16TH ST., NW, #608 WASHINGTON DC 20006	DEPARTMENT FOR PROFESSIONAL EMPLOYEES, AFL-CIO	5,734.32	
WILLIAM F. HADDAD, ROUTE 12, SEDGEWOOD CARMEL NY 10512	GENERIC PHARMACEUTICAL INDUSTRY ASSN		
HALE AND DORR, 1201 PENNSYLVANIA AVE., NW, #807 WASHINGTON DC 20004	FOOTWEAR INDUSTRIES OF AMERICA		285.89
HALE FOUNDATION, 422 FIRST STREET, SE, #208 WASHINGTON DC 20003		28,033.00	802.00
RICHARD F. HALL, 2501 M STREET, NW, #540 WASHINGTON DC 20037	PACIFIC RESOURCES, INC	500.00	
JERALD V. HALVORSEN, 2200 MILL ROAD ALEXANDRIA VA 22314	AMERICAN TRUCKING ASSNS, INC	15,000.00	3,479.40
VIOLET B. HAMILTON, 4-21 ASTORIA BLVD., #5B LONG ISLAND CITY NY 11102			
WILBUR H. HAMILTON III, 1010 MASSACHUSETTS AVE., NW WASHINGTON DC 20001	NATIONAL FOOD BROKERS ASSN	300.00	
D. MICHAEL HANCOCK, 100 MARYLAND AVENUE, NE WASHINGTON DC 20002	NATIONAL COALITION TO BAN HANDGUNS		
HANDGUN CONTROL, INC, 1400 K STREET, NW, #500 WASHINGTON DC 20005		644,798.00	119,292.00
DONALD K. HANES, 1800 MASSACHUSETTS AVE., NW WASHINGTON DC 20036	NATIONAL COUNCIL OF FARMER COOPERATIVES	184.75	
HANNAFORD CO, INC, 655 15TH ST., NW, #200 WASHINGTON DC 20005	ROYAL EMBASSY OF SAUDI ARABIA		
Do	TRANS WORLD AIRLINES, INC		
ARNITA HANNON, 218 D STREET, SE WASHINGTON DC 20003	ENVIRONMENTAL POLICY INSTITUTE	283.01	
HEIDI HANSON, 218 D STREET, SE WASHINGTON DC 20003	ENVIRONMENTAL POLICY INSTITUTE		
WILLIAM G. HARLEY, 1235 JEFFERSON DAVIS HIGHWAY, #606 ARLINGTON VA 22202	NATIONAL UTILITY CONTRACTORS ASSN		
LEON HARPER, 1909 K STREET, NW WASHINGTON DC 20049	AMERICAN ASSN OF RETIRED PERSONS	250.00	
JIM HARRISON, 1225 CONNECTICUT AVE., NW, 306 WASHINGTON DC 20036	ASSOCIATION OF URBAN UNIVERSITIES	5,625.00	
J. WILLIAM W. HARSCH, 1600 M ST., NW, #701 WASHINGTON DC 20036	SIGNAL COMPANIES		
Do	SOLV-EX CORPORATION		
HARTFORD FIRE INSURANCE CO, HARTFORD PLAZA HARTFORD CT 06115			14,100.00
CLIFFORD J. HARVISON, 2200 MILL RD. ALEXANDRIA VA 22314	NATIONAL TANK TRUCK CARRIERS, INC		
GARY R. HATTAL, 818 ROEDER RD., #702 SILVER SPRING MD 20910	INTERNATIONAL FED OF PROFESSIONAL & TECHNICAL ENGINEERS		
KATHRYN JOANN HAWES, 818 ROEDER RD., #702 SILVER SPRING MD 20910	INTERNATIONAL FED OF PROFESSIONAL & TECHNICAL ENGINEERS		
BILL HECHT AND ASSOCIATES, INC, 499 SOUTH CAPITOL STREET, SE, #501 WASHINGTON DC 20003	AMERICAN SECURITY COUNCIL	500.00	
Do	CIC ENTERPRISES	250.00	
Do	CROWLEY MARITIME CORP	1,000.00	
Do	FOOTWEAR RETAILERS OF AMERICA	1,000.00	
Do	IRVINE COMPANY	1,000.00	
Do	MANAGEMENT INSIGHTS, INC	150.00	
Do	METROPOLITAN ANALYSIS & RETRIEVAL SYSTEMS, INC	250.00	
Do	REED ROBERTS TAX CREDIT ASSISTANCE CORP	150.00	
Do	TRAWEEK INVESTMENT CO, INC	1,000.00	
Do	U.C. CONSULTANTS	150.00	
Do	WESTERN GROWERS ASSN	1,000.00	
BILL HECHT, 499 SOUTH CAPITOL STREET, SE, #501 WASHINGTON DC 20003	BROWN & WILLIAMSON TOBACCO CORP	2,000.00	
Do	LOS ANGELES RAIDERS	500.00	
Do	SOUTHERN CALIFORNIA RAPID TRANSIT DISTRICT	2,000.00	
JOAN A. HEFFERNAN, 1200 17TH STREET, NW WASHINGTON DC 20036	AMERICAN PSYCHOLOGICAL ASSN	2,018.00	19.90
ROSS J. HEIDE, 1001 22ND STREET, NW, #600 WASHINGTON DC 20037	STANDARD OIL CO (OHIO)		
HELICOPTER ASSN INTERNATIONAL, 1619 DUKE STREET ALEXANDRIA VA 22314			28,300.00
STEVEN B. HELLEM, 605 14TH ST., NW WASHINGTON DC 20005	E. BRUCE HARRISON CO, INC (FOR: NEDA/CAAP)		
SUZANNE C. HELMICK, ONE NATIONWIDE PLAZA COLUMBUS OH 43216	NATIONWIDE INSURANCE	600.00	
CRAIG R. HELSING, 499 S. CAPITOL ST., SW, #507 WASHINGTON DC 20005	BILL HECHT AND ASSOCIATES, INC	500.00	
DONALD E. HENDERSON, 130 E. WASHINGTON STREET INDIANAPOLIS IN 46204	INDIANA FARM BUREAU, INC	10,000.00	1,502.10
HERCULES, INC, HERCULES PLAZA WILMINGTON DE 19894			8,423.14
HERON BURCHETTE RUCKERT & ROTHWELL, 1025 THOMAS JEFFERSON ST., NW, #700 WASHINGTON DC 20007	AEROJET GENERAL CORP		
Do	AMERICAN GRAPE GROWERS ALLIANCE FOR FAIR TRADE	67,026.56	
Do	ASARCO, INC	4,185.00	
Do	ASSOCIATION OF FLORAL IMPORTERS OF FLORIDA		
Do	AUTOMOBILE IMPORT COMPLIANCE ASSN	37.50	
Do	BAY AREA RAPID TRANSIT DISTRICT	3,000.00	3,000.00

Organization or Individual Filing	Employer/Client	Receipts	Expenditures
Do	CALIFORNIA ALMOND GROWERS EXCHANGE	14,748.43	1,207.81
Do	CALIFORNIA STUDENT LOAN FINANCE CORP		
Do	CHICAGO MERCANTILE EXCHANGE	16,044.06	2,519.35
Do	CONFEDERATED SALISH & KOOTENAI TRIBES OF THE FLATHEAD RESERV	3,185.62	
Do	CPC INTERNATIONAL, INC	6,519.37	
Do	FARM LABOR ALLIANCE	11,420.56	9,031.26
Do	GROCERY MANUFACTURERS OF AMERICA, INC	1,846.56	
Do	INDEPENDENT CEMENT CORP		
Do	MASSPORT/COMMONWEALTH OF MASSACHUSETTS	1,600.00	800.00
Do	NATIONAL ASSN OF INSURANCE COMMISSIONERS	5,766.66	
Do	NATIONAL ASSN OF MANUFACTURERS	4,860.62	
Do	NATIONAL MEDICAL CARE	3,000.00	
Do	NATIONAL POTATO COUNCIL	8,750.00	625.00
Do	ROYAL SILK, LTD	2,500.00	1,250.00
Do	SOLID-TEK SYSTEMS, INC		
Do	SUN-DIAMOND GROWERS OF CALIFORNIA	28,523.50	3,823.37
Do	SUNKIST GROWERS, INC	52,481.87	3,845.32
Do	TEX-LA	48,674.06	12.50
Do	UNIVERSITY OF NEVADA/LOS ANGELES	600.00	300.00
Do	3M, INC	17,408.50	
HERRICK & SMITH, 100 FEDERAL STREET BOSTON MA 02110	HARD MINERALS CONSORTIUM		
Do	SMITH COLLEGE		
BARRY ALEXANDER HERRING, C/O DOW LOHNES & ALBERTSON 1255 23RD STREET, NW WASHINGTON DC 20037	LAUREL STEEL PRODUCTS LIMITED		
CAROL M. HERRINGTON, 3881-B STEPPES COURT FALLS CHURCH VA 22041	SYSTEM DEVELOPMENT CORP		
CAROL A. HIGGINS, 1600 M STREET, NW WASHINGTON DC 20036	AMERICAN FINANCIAL SERVICES ASSN		
J. D. HITTLE, 3137 S. 14TH ST. ARLINGTON VA 22204	KMS INDUSTRIES, INC	1,500.00	
Do	LTV AERO-SPACE & DEFENSE CO	2,500.00	150.25
SHEILA K. HIXSON, 1111 14TH STREET, NW WASHINGTON DC 20005	AMERICAN DENTAL ASSN	1,000.00	1,559.27
HOBBS STRAUS DEAN & WILDER, 1819 H ST., NW, #800 WASHINGTON DC 20006	BRISTOL BAY AREA HEALTH CORP		
Do	MENOMINEE INDIAN TRIBE		
Do	METLAKATLA INDIAN COMMUNITY		
Do	MICCOSUKEE TRIBE OF INDIANS OF FLORIDA	410.00	6.75
Do	NATIONAL CONGRESS OF AMERICAN INDIANS, INC		
Do	OGLALA SIOUX TRIBE		
Do	TANANA CHIEFS CONFERENCE, INC		
Do	THREE AFFILIATES TRIBES OF THE FORT BERTHOLD RESERVATION	300.00	
Do	UTE MOUNTAIN UTE TRIBE	5,300.00	86.00
GLEN D. HOFER, 1800 MASSACHUSETTS AVE., NW WASHINGTON DC 20036	NATIONAL COUNCIL OF FARMER COOPERATIVES	1,715.00	
HOGAN & HARTSON, 815 CONNECTICUT AVE., NW WASHINGTON DC 20006	AMERICAN ELECTRONICS ASSN	2,487.50	10.00
Do	COALITION FOR THE ADVANCEMENT OF INDUSTRIAL TECHNOLOGY	3,476.00	74.70
Do	COMPUTER & BUSINESS EQUIPMENT MANUFACTURERS ASSN	918.00	27.50
Do	MUTUAL LIFE INSURANCE CO OF NEW YORK		
Do	NATIONAL SOFT DRINK ASSN		
Do	SCIENTIFIC APPARATUS MAKERS ASSN		
Do	SEMICONDUCTOR INDUSTRY ASSOCIATION	1,500.00	440.00
WILLIAM J. HOLAYTER, 1300 CONNECTICUT AVENUE, NW WASHINGTON DC 20036	INTERNATIONAL ASSN OF MACHINISTS & AEROSPACE WORKERS	7,682.48	
HOLLAND & KNIGHT, 888 17TH ST., NW WASHINGTON DC 20006	PAN AMERICAN SATELLITE CORP		427.38
LOIS HOLWERDA-HOYT, 600 MARYLAND AVENUE, SW, #770 WASHINGTON DC 20024	AMERICAN ACADEMY OF FAMILY PHYSICIANS	1,937.50	425.90
PETE HOMER JR., 2653 A.S. WALTER REED DRIVE ARLINGTON VA 22206			
HARRY J. HORROCKS II , 40 IVY STREET, SE WASHINGTON DC 20003	NATIONAL LUMBER & BUILDING MATERIAL DEALERS ASSN	9,250.02	50.00
HOSPITAL ASSOCIATION OF NEW YORK STATE, 15 COMPUTER DRIVE WEST ALBANY NY 12205		1,271.00	1,271.00
THOMAS B. HOUSE, 1700 OLD MEADOW RD. MCLEAN VA 22102	AMERICAN FROZEN FOOD INSTITUTE	1,000.00	
EDWARD F. HOWARD, 1334 G STREET, 3RD FL. WASHINGTON DC 20005	VILLERS ADVOCACY ASSOCIATES	3,444.58	8.15
JOHN HOWARD, 1615 H STREET, NW WASHINGTON DC 20062	CHAMBER OF COMMERCE OF THE U.S.		
JAMES P. HOWELL, 1800 MASSACHUSETTS AVENUE, NW WASHINGTON DC 20036	NATIONAL COUNCIL OF FARMER COOPERATIVES	1,165.00	
SUSAN HOWLAND, 20 BLACK OAK MEWS NEWTOWN PA 18940	ELECTRICAL ALLIANCE		
Do	PHILADELPHIA MARITIME EXCHANGE		
TERRY D. HUDGINS, P.O. BOX 21666 PHOENIX AZ 85036	ARIZONA PUBLIC SERVICE COMPANY	2,000.00	1,425.67
TONY R. HUERTA, 100 INDIANA AVE., NW WASHINGTON DC 20001	NATIONAL ASSN OF LETTER CARRIERS	4,821.94	
STEVEN D. HUFF, 111 EAST WISCONSIN AVENUE, #1800 MILWAUKEE WI 53202	NATIONAL EMPLOYEE BENEFITS INSTITUTE		46.83
RICHARD H. HUGHES, P.O. BOX 880 VALLEY FORGE PA 19482	AVTEX FIBERS, INC		
GREGORY A. HUMPHREY, 555 NEW JERSEY AVE., NW WASHINGTON DC 20001	AMERICAN FED OF TEACHERS	14,148.36	60.00
ROBERT R. HUMPHREYS, HUMPHREYS & MITCHELL 1667 K STREET, NW, #500 WASHINGTON DC 20006	ARTHRITIS FOUNDATION	2,100.00	500.00
Do	HELEN KELLER NATIONAL CENTER		
GERARD F. HURLEY, 1625 I ST., NW, #609 WASHINGTON DC 20006	NATIONAL CLUB ASSOCIATION		
CATHY HURWIT, 1300 CONNECTICUT AVE., NW, #401 WASHINGTON DC 20036	CITIZEN ACTION	4,000.00	
FLOYD H. HYDE ASSOCIATES, 815 15TH ST., NW WASHINGTON DC 20005	CITY OF FRESNO, CITY OF SAN BERNARDINO, ET AL	8,606.99	3,551.00
INDEPENDENT LUBRICANT MANUFACTURERS ASSN, 1055 THOMAS JEFFERSON STREET, NW WASHINGTON DC 20007		600.00	600.00
INTERLAKE, INC, 2015 SPRING RD. OAK BROOK IL 60521			17,044.10
INTERNATIONAL ASSN OF MACHINISTS & AEROSPACE WORKERS, 1300 CONNECTICUT AVE., NW WASHINGTON DC 20036			28,350.74
INTERNATIONAL BROTHERHOOD OF PAINTERS & ALLIED TRADES, 1750 NEW YORK AVE., NW WASHINGTON DC 20006			
INTERNATIONAL BUSINESS & ECONOMIC RESEARCH CORP, 2121 K ST., NW, #700 WASHINGTON DC 20008	AMERICAN ASSN OF EXPORTERS & IMPORTERS/TEXTILE & APPAREL GRP		153.00
INTERNATIONAL UNION OF OPERATING ENGINEERS, 1125 17TH ST., NW WASHINGTON DC 20036		16,000.00	610.00
INVESTMENT COUNSEL ASSN OF AMERICA, INC, 50 BROAD ST. NEW YORK NY 10004			
CHARLES C. IRIONS, 2200 MILL RD. ALEXANDRIA VA 22314	AMERICAN MOVERS CONFERENCE	1,856.00	
JOHN ISAACS, 100 MARYLAND AVE., NE WASHINGTON DC 20002	COUNCIL FOR A LIVABLE WORLD	7,662.51	
IVINS PHILLIPS & BARKER, CHTD, 1700 PENNSYLVANIA AVENUE, NW WASHINGTON DC 20006	EMPLOYERS COUNCIL ON FLEXIBLE COMPENSATION		
BENJAMIN R. JACKSON, 12030 SUNRISE VALLEY DR., #201 RESTON VA 22091	NORMAN D. SHUTLER		
Do	TECHLAW	4,187.50	98.12
NEAL A. JACKSON, 2000 M ST., NW WASHINGTON DC 20036	CAROLINAS COTTON GROWERS ASSN, INC	8,560.75	474.45
E. A. JAENKE & ASSOCIATES, INC, 777 14TH ST., NW, #666 WASHINGTON DC 20005	FARMLAND INDUSTRIES	500.00	
Do	UNIVERSITY OF KANSAS	250.00	
PHILIP F. JEHLE, 1150 CONNECTICUT AVE., NW, #310 WASHINGTON DC 20036	SMITHKLINE BECKMAN CORP	1,000.00	
JENNINGS STROUSS & SALMON, 111 WEST MONROE PHOENIX AZ 85003	SHAMROCK FOODS CO		
JOHNSON & ASSOCIATES, 3240 N. ALBEMARLE STREET ARLINGTON VA 22207	FOREMOST DAIRIES-HAWAII		
Do	MEADOWGOLD DAIRIES-HAWAII		
BRUCE JOHNSON, LAW OFFICES OF BRUCE JOHNSON 1718 CONNECTICUT AVE., NW WASHINGTON DC 20009	AD-HOC MORTGAGE-BACKED SECURITIES LEGIS. & REGULATORY ASSN		669.70
NICHOLAS JOHNSON, BOX 1876 IOWA CITY IA 52244			
JOINT TASK FORCE ON FED FINANCIAL ASSIST. FOR LAW STUDENTS, 11 DUPONT CIRCLE, NW WASHINGTON DC 20006			
ALLAN R. JONES, 2200 MILL RD. ALEXANDRIA VA 22314	AMERICAN TRUCKING ASSNS, INC	9,000.00	1,370.55
BEVERLY E. JONES, WICKWIRE GAVIN & GIBBS, P.C. 1133 L ST., NW, #500 WASHINGTON DC 20036	CONSOLIDATED NATURAL GAS CO	360.00	
RANDALL T. JONES, 1800 MASSACHUSETTS AVE., NW WASHINGTON DC 20036	NATIONAL COUNCIL OF FARMER COOPERATIVES	2,000.00	
LAUREL B. KAMEN, 1020 19TH ST., NW, #600 WASHINGTON DC 20036	AMERICAN EXPRESS CO		
PATRICIA L. KATSON, 300 INDEPENDENCE AVE., SE WASHINGTON DC 20003	LIBERTY LOBBY	5,500.00	207.70
ROBERT A. KAY, C/O DOW LOHNES & ALBERTSON 1255 23RD STREET, NW WASHINGTON DC 20037	ARROWHEAD METALS, LTD		
KAYE SCHOLER FIERMAN HAYS & HANDLER, 1575 I STREET, NW, #1150 WASHINGTON DC 20005	BRISTOL-MYERS COMPANY		
Do	DRUMMOND COMPANY		
Do	PIONEER SYSTEMS, INC		47.00
Do	RAYMARK CORPORATION	2,834.00	812.50
Do	UNITED TELEVISION, INC		
Do	VENTURE DEVELOPMENT CORP		387.00
KECK MAHIN & CATE, 1730 PENNSYLVANIA AVENUE, NW, #350 WASHINGTON DC 20006	SCHWINN BICYCLE CO	1,254.50	
KEIKI KEHOE, 218 D ST., SE WASHINGTON DC 20003	ENVIRONMENTAL POLICY INSTITUTE	323.29	
SUELLEN KEINER, 218 D STREET, SE WASHINGTON DC 20003	ENVIRONMENTAL POLICY INSTITUTE		
PAUL J. KELLEY, 2727 NORTH CENTRAL AVE. PHOENIX AZ 85004	U-HAUL INTL, INC		
THOMAS F. KELLEY III, 311 FIRST STREET, NW WASHINGTON DC 20001	NATIONAL RESTAURANT ASSN		
STEPHEN G. KELLISON, 1835 K ST., NW, #515 WASHINGTON DC 20006	AMERICAN ACADEMY OF ACTUARIES		
DEBORAH MARQUIS KELLY, 1200 17TH STREET, NW WASHINGTON DC 20036	AMERICAN PSYCHOLOGICAL ASSN	2,100.00	19.90
JAMES J. KELLY, P.O. BOX 23451 WASHINGTON DC 20026	CONSOLIDATED RAIL CORP	1,800.00	
KEMPER FINANCIAL SERVICES, INC, 120 SOUTH LASALLE STREET CHICAGO IL 60603			712.08
KEMPER INVESTORS LIFE INSURANCE CO, 120 SOUTH LASALLE STREET CHICAGO IL 60603			
FRANCES ANN KENKEL, 1331 PENNSYLVANIA AVE., NW, #719 WASHINGTON DC 20004	ASSOCIATION OF PRIVATE PENSION & WELFARE PLANS, INC		
VYTAUTAS KERBELIS, 69 COTTAGE ST. BAR HARBOR ME 04609	ARAS		

Organization or Individual Filing	Employer/Client	Receipts	Expenditures
T. MICHAEL KERR, 1625 L ST., NW WASHINGTON DC 20036	AMERICAN FED OF STATE COUNTY & MUNICIPAL EMPLOYEES	10,815.00	138.62
DALE RODNEY KETCHAM, 1980 N. ATLANTIC AVE., #918 COCOA BEACH FL 32931			
BRIAN M. KILBURY, 815 16TH STREET, NW WASHINGTON DC 20006	BROTHERHOOD OF RAILWAY AIRLINE & STEAMSHIP CLERKS	2,400.00	2,400.00
GENE KIMMELMAN, 1424 16TH STREET, NW WASHINGTON DC 20036	CONSUMER FEDERATION OF AMERICA	8,900.00	
AUBREY C. KING, 1625 EYE STREET, NW, #609 WASHINGTON DC 20006	NATIONAL CLUB ASSOCIATION		
JANIE A. KINNEY, BLUM NASH & RAILSBACK 1133 15TH STREET, NW, #1100 WASHINGTON DC 20005	MERCK & CO, INC		
Do	WALT DISNEY PRODUCTIONS		
PETER C. KIRBY, 1400 EYE ST., NW WASHINGTON DC 20005	WILDERNESS SOCIETY	667.77	
KIRKPATRICK & LOCKHART, 1900 M ST., NW WASHINGTON DC 20036	COLUMBIA PICTURES INDUSTRIES, INC	580.00	
Do	GROCERY MANUFACTURERS OF AMERICA, INC		
Do	H. K. PORTER COMPANY, INC		
Do	WOLVERINE WORLD WIDE, INC	240.00	
DONALD R. KIRTLEY, HERCULES PLAZA WILMINGTON DE 19894	HERCULES INC		
CARLA KISH, 1400 EYE ST., NW WASHINGTON DC 20005	WILDERNESS SOCIETY	640.14	30.47
RICHARD L. KLASS, 1818 N ST., NW, #600 WASHINGTON DC 20036	DGA INTERNATIONAL, INC (FOR: DIR INTL AFF OF THE GEN DEL FOR ARMEMENTS)		
Do	DGA INTERNATIONAL, INC (FOR: SOCIETE NATIONALE D'ETUDE ET DE CONST DE MOTEURS D'AVIATION).		
PETER E. KNIGHT, 1101 15TH STREET, NW, #400 WASHINGTON DC 20005	NATIONAL COUNCIL OF SAVINGS INSTITUTIONS	8,000.00	
THOMAS G. KOBUS, 1112 16TH ST., NW, #2000 WASHINGTON DC 20036	NATIONAL PARKING ASSOCIATION	20,084.54	
PAUL E. KOHL, J.C. PENNY CO., INC. 1301 AVENUE OF THE AMERICAS NEW YORK NY 10019	18TH CONG DIST FOR PRO-LIFE ACTIVITIES		
KOJM ASSSOCIATES, 2906 S. GRANT STREET ARLINGTON VA 22202	TECHNICUM INT'L CORP AND PACIFIC-SIERRA RESEARCH CORP		
STANLEY E. KOLBE JR., 418 SOUTH CAPITOL STREET, SE WASHINGTON DC 20003	SHEET METAL & AIR CONDITIONING CONTRACTORS' NAT'L ASSN		
ALAN G. KRAUT, 1200 17TH STREET, NW WASHINGTON DC 20036	AMERICAN PSYCHOLOGICAL ASSN	4,000.00	140.29
LAWRENCE E. KREIDER, 1015 18TH ST., NW WASHINGTON DC 20036	CONFERENCE OF STATE BANK SUPERVISORS		
JAMES S. KRZYMINSKI, 1800 MASSACHUSETTS AVE., NW WASHINGTON DC 20036	NATIONAL COUNCIL OF FARMER COOPERATIVES	645.00	
PHILIP KUGLER, 555 NEW JERSEY AVE., NW WASHINGTON DC 20001	AMERICAN FED OF TEACHERS		
KUTAK ROCK & CAMPBELL, 1101 CONNECTICUT AVENUE, NW WASHINGTON DC 20036	HAYES, INC		
LABOR BUREAU, INC, 1101 15TH STREET, NW, #1010 WASHINGTON DC 20005			
JOHN LAGOMARCINO, 417 NEW JERSEY AVE., SE WASHINGTON DC 20003	NATIONAL ASSN OF RAILROAD PASSENGERS	6,500.00	
VIRGINIA A. LAMPLEY, 1818 N ST., NW, #600 WASHINGTON DC 20036	DGA INTERNATIONAL, INC (FOR: SOCIETE NATIONALE D'ETUDE ET DE CONST. DE MOTEURS D'AVIATION).		
LINDA L. LANAM, 1709 NEW YORK AVENUE, NW, #303 WASHINGTON DC 20006	BLUE CROSS & BLUE SHIELD ASSN		
LISA LAUSIER, 777 14TH STREET, NW WASHINGTON DC 20005	NATIONAL ASSN OF REALTORS		
LECHNER & BUTSAVAGE, P.C., 3101 SOUTH ST., NW WASHINGTON DC 20007	NATIONAL ASSN OF POLICE ORGANIZATIONS	13,750.00	10,579.67
ROBERT F. LEDERER, 1250 I STREET, NW, #500 WASHINGTON DC 20005	AMERICAN ASSN OF NURSERYMEN		
LEFEVERE LEFLER KENNEDY O'BRIEN & DRAWZ, 2000 FIRST BANK PLACE WEST 120 SOUTH 6TH STREET MINNEAPOLIS MN 55402.	CITY OF NEW BRIGHTON		
LEIGHTON LEMOV JACOBS & BUCKLEY, 2033 M ST., NW, #800 WASHINGTON DC 20036	NATIONAL GLASS ASSOCIATION		
MICHAEL R. LEMOV, 1319 F STREET, NW, #500 WASHINGTON DC 20004	FOOD RESEARCH & ACTION CENTER		
DONNA LENHOFF, 2000 P ST., NW, #400 WASHINGTON DC 20036	WOMEN'S LEGAL DEFENSE FUND	30.36	
S. R. LEVERING, ROUTE 2 ARARAT VA 24053	U.S. COMMITTEE FOR THE OCEANS		
BERTRAM J. LEVINE, 1667 K STREET, NW, #410 WASHINGTON DC 20006	JOHNSON & JOHNSON	1,000.00	225.00
JAMES F. LEVY, 2000 GREEN STREET COLUMBIA SC 29205	DENTAL MANAGEMENT SERVICES, INC		
JUDITH LICHTMAN, 2000 P ST., NW, #400 WASHINGTON DC 20036	WOMEN'S LEGAL DEFENSE FUND	1,040.11	325.15
ROSS W. LILLARD, 920 MAIN STREET KANSAS CITY MO 64105	STINSON MAG & FIZZELL (FOR: FARMLAND INDUSTRIES, INC)		
DONALD LINDSEY, 8213 S. RICHMOND CHICAGO IL 60652	BROTHERHOOD OF LOCOMOTIVE ENGINEERS		
ELENA LINTHICUM, 1050 CONNECTICUT AVE., NW, #800 WASHINGTON DC 20036	ALLIED-SIGNAL, INC		
LINTON MIELDS REISLER & COTTONE, 1015 18TH ST., NW, #200 WASHINGTON DC 20036	DENVER TECHNOLOGICAL CENTER		
Do	IOWA DEPARTMENT OF TRANSPORTATION	3,990.00	
Do	LAKE SUPERIOR DISTRICT POWER CO	477.00	
Do	MADISON GAS & ELECTRIC CO	746.00	
Do	METROPOLITAN SANITARY DISTRICT OF GREATER CHICAGO	4,831.00	
Do	MICHIGAN DEPT OF TRANSPORTATION	5,064.00	
Do	NORTHERN STATES POWER CO	1,248.00	
Do	OREGON DEPT OF TRANSPORTATION	3,000.00	
Do	STATE OF COLORADO, DEPT OF HIGHWAYS	2,970.00	
Do	STATE OF IL, DEPT OF TRANS, DIV OF WATER RES	5,244.00	
Do	STATE OF IL, DEPT OF TRANSPORTATION	5,820.00	
Do	SUPERIOR WATER, LIGHT & POWER CO	202.00	
Do	WISCONSIN ELECTRIC POWER CO	9,893.00	752.00
Do	WISCONSIN FUEL AND LIGHT CO	523.00	
Do	WISCONSIN NATURAL GAS CO	3,000.00	62.00
Do	WISCONSIN POWER & LIGHT CO	2,609.00	
Do	WISCONSIN PUBLIC SERVICE CORP	2,635.00	
JANICE C. LIPSEN, 900 17TH ST., NW, #504 WASHINGTON DC 20006	COUNSELORS FOR MANAGEMENT, INC (FOR: IMPRO)		
Do	COUNSELORS FOR MANAGEMENT, INC (FOR: INDEPENDENT ZINC ALLOYERS ASSN)		
E. GEOFFREY LITTLEHALE, 1100 15TH STREET, NW WASHINGTON DC 20005	AMERICAN FINANCIAL SERVICES ASSN		
DAVID A. LITVIN, SUITE 600 1001 22ND ST., NW WASHINGTON DC 20037	STANDARD OIL COMPANY (OHIO)	1,400.00	92.72
LIVESTOCK MARKETING ASSOCIATION, 301 E. ARMOUR BLVD. KANSAS CITY MO 64111			8,052.52
WILLIAM E. LONG, ONE NATIONWIDE PLAZA COLUMBUS OH 43216	NATIONWIDE INSURANCE COMPANY	9,360.00	
LOOMIS OWEN FELLMAN & HOWE, 2020 K ST., NW WASHINGTON DC 20006	CLASSROOM PUBLISHERS ASSN		
CHARLES M. LOVELESS, 1625 L STREET, NW WASHINGTON DC 20036	AMERICAN FED OF STATE COUNTY & MUNICIPAL EMPLOYEES	10,189.84	317.54
CHARLES EMMET LUCEY, MCDERMOTT, WILL & EMERY 1850 K STREET, NW, #500 WASHINGTON DC 20006	MCDERMOTT WILL & EMERY		
WILLIAM F. LUDLAM SR., P.O. BOX 5282 VIRGINIA BEACH VA 23455	ARBA LICENSEES ASSN	4,000.00	389.41
LUMBERMENS MUTUAL CASUALTY COMPANY, LONG GROVE IL 60049			3,443.57
JERRY R. LYMAN, 11300 ROCKVILLE PIKE ROCKVILLE MD 20852	RKO GENERAL, INC		
JAMES LYON, 218 D ST., SE WASHINGTON DC 20003	ENVIRONMENTAL POLICY INSTITUTE	117.55	
M.O.A./AIOA & SUBS, INC, 701 S. 22ND, #107 OMAHA NB 68102			
SAMUEL A. MABRY, 1800 K ST., NW WASHINGTON DC 20006	HERCULES INC	4,937.50	1,837.68
JOHN MACNAMARA, C/O DOW LOHNES & ALBERTSON 1255 23RD STREET, NW WASHINGTON DC 20037	ALGOMA STEEL CORP, LTD		
PETER T. MADIGAN, 777 14TH STREET, NW WASHINGTON DC 20005	NATIONAL ASSN OF REALTORS	2,500.00	356.57
JOAN A. MAHER, 1117 NORTH 19TH STREET, #600 ARLINGTON VA 22209	AMERICAN ASSN OF BLOOD BANKS		
MARY MAHON, 380 SECOND AVENUE NEW YORK NY 10010		132.75	443.90
MICHAEL C. MAIBACH, 3065 BOWERS AVENUE SANTA CLARA CA 95051	INTEL CORPORATION	12,000.00	818.95
MICHAL W. MAINWARING, 1730 RHODE ISLAND AVENUE, NW, #713 WASHINGTON DC 20036	PPG INDUSTRIES, INC		
JESSICA MAITZEN, 3900 WISCONSIN AVE., NW WASHINGTON DC 20016	NORWEST MORTGAGE, INC		
MANCHESTER ASSOCIATES, LTD, 1155 15TH STREET, NW, #811 WASHINGTON DC 20005	CORPORACION NACIONAL DEL COBRE DE CHILE (CODELCO)		
Do	NISSAN MOTOR COMPANY, LTD		
PETER T. MANGIONE, 1319 F STREET, NW, #700 WASHINGTON DC 20004	FOOTWEAR RETAILERS OF AMERICA, INC	37.50	
DONALD W. MANN, 60-B FRANKLIN ST. TENAFLY NJ 07666	NEGATIVE POPULATION GROWTH, INC		
CLAUDIA MANSFIELD, 1801 N. MOORE STREET ARLINGTON VA 22209	AMERICAN ASSN OF SCHOOL ADMINISTRATORS		36.75
JOHN V. MARANEY, 324 EAST CAPITOL ST., NE WASHINGTON DC 20003	NATIONAL STAR ROUTE MAIL CARRIERS' ASSN		
LOUIS T. MARCH ASSOCIATES, INC, 328 N. ROYAL STREET ALEXANDRIA VA 22314	AMERICANS FOR IMMIGRATION CONTROL		
JENNIFER MARCH, 218 D STREET, SE WASHINGTON DC 20003	ENVIRONMENTAL POLICY INSTITUTE	33.40	
R. V. MARIANI, 815 16TH ST., NW WASHINGTON DC 20006	BROTHERHOOD OF RAILWAY AIRLINE & STEAMSHIP CLERKS	3,300.00	3,300.00
PATRICIA MARKEY, 1899 L ST., NW, #505 WASHINGTON DC 20036	UNITED DISTRIBUTION COMPANIES	2,814.00	94.50
STEPHEN I. MARTIN, HARTFORD PLAZA HARTFORD CT 06115	HARTFORD FIRE INSURANCE CO		
ERNEST MARTY, 85 RIDGE ST. NORTH SIDNEY, NSW 2060 AUSTRALIA			
JUDITH MARTY, 85 RIDGE ST. NORTH SYDNEY, NSW 2060 AUSTRALIA			
MARK A. MASLYN, 600 MARYLAND AVENUE, SW WASHINGTON DC 20024	AMERICAN FARM BUREAU FEDERATION	5,200.50	60.75
JIM MATHESON, 218 D ST., SE WASHINGTON DC 20003	ENVIRONMENTAL POLICY INSTITUTE	625.09	
COLIN D. MATHEWS, 1101 CONNECTICUT AVENUE, NW WASHINGTON DC 20036	VINSON & ELKINS (FOR: ARCHIE BENNETT)		
Do	VINSON & ELKINS (FOR: NORTHVILLE INDUSTRIES)		
RICHARD D. MATHIAS, 1660 L ST., NW, #901 WASHINGTON DC 20036	PAN AMERICAN WORLD AIRWAYS, INC		
CHARLES D. MATTHEWS, 1050 17TH ST., NW, #700 WASHINGTON DC 20036	NATIONAL OCEAN INDUSTRIES ASSN	2,719.20	277.68
HERBERT S. MATTHEWS, RTE. 3, BOX 437 MECHANICSVILLE MD 20659	MARTIN-MARIETTA AEROSPACE	6,000.00	74.80
WILLIAM C. MATTOX, 1285 AVENUE OF THE AMERICAS NEW YORK NY 10019	EQUITABLE LIFE ASSURANCE SOCIETY OF THE U.S	800.00	5.00
ARNOLD MAYER, 1775 K ST., NW WASHINGTON DC 20006	UNITED FOOD & COMMERCIAL WORKERS INTL UNION	16,153.86	1,046.46
G. MARK MAYFIELD, P.O. BOX 7305, DEPT. 77 KANSAS CITY MO 64116	FARMLAND INDUSTRIES, INC		
H. WESLEY MCADEN, 1155 15TH ST., NW, #504 WASHINGTON DC 20005	J. G. BOSWELL CO	3,000.00	
Do	NEW YORK COTTON EXCHANGE	2,000.00	
Do	SUPIMA ASSOCIATION OF AMERICA	2,000.00	

Organization or Individual Filing	Employer/Client	Receipts	Expenditures
RICHARD G. MCALEE, 233 EAST REDWOOD STREET BALTIMORE MD 21202	GORDON FEINBLATT ROTHMAN HOFFBERGER & HOLLANDER (FOR: SINAI HOSPITAL OF BALTIMORE, INC).	1,771.00	27.67
ROSS L. MCCALL, 11510 GEORGIA AVENUE, #115 WHEATON MD 20902	ST ELLA LTD, INC		
JOHN L. MCCORMICK, 218 D ST., SE WASHINGTON DC 20003	ENVIRONMENTAL POLICY INSTITUTE	500.76	
MARGARET M. MCCORMICK, 5017 FORBES AVENUE PITTSBURGH PA 15213	CARNEGIE-MELLON UNIVERSITY	8,333.32	10,098.06
DAVID F. MCDERMITT, 1235 JEFFERSON-DAVIS HIGHWAY, #606 ARLINGTON VA 22202	NATIONAL UTILITY CONTRACTORS ASSN		232.23
E. T. MCDONALD, 815 16TH ST., NW WASHINGTON DC 20006	BROTHERHOOD OF RAILWAY AIRLINE & STEAMSHIP CLERKS	2,700.00	2,700.00
NORRIS MCDONALD, 218 D ST., SE WASHINGTON DC 20003	ENVIRONMENTAL POLICY INSTITUTE	384.77	
DINAH D. MCELFRESH, 1255 23RD STREET, NW, #850 WASHINGTON DC 20037	HAUCK & ASSOCIATES (FOR: NATIONAL ASSN FOR CHILD CARE MANAGEMENT)		
ROBERT MCINTYRE, 1313 L ST., NW WASHINGTON DC 20005	CITIZENS FOR TAX JUSTICE	9,575.00	
MICHAEL R. MCLEOD, SCOTT HARRISON & MCLEOD 2501 M ST., NW WASHINGTON DC 20037	AMERICAN ASSN OF CROP INSURERS	1,312.50	
Do	CHICAGO BOARD OF TRADE		
Do	UNITED EGG PRODUCERS	350.00	
JANE PIERSON MCMICHAEL, 1325 MASSACHUSETTS AVE., NW WASHINGTON DC 20005	AMERICAN FED OF GOVERNMENT EMPLOYEES	12,159.48	13,022.49
ROBERT R. MCMILLAN, 9 WEST 57TH STREET NEW YORK NY 10019	AVON PRODUCTS, INC		
MCNAIR GLENN KONDUROS CORLEY SINGLETARY PORTER & DIBBLE, 1155 15TH STREET, NW WASHINGTON DC 20005	METROPOLITAN INSURANCE	5,247.50	
Do	NORTHWESTERN MUTUAL LIFE INSURANCE CO		
LESLIE S. MEAD, 1800 MASSACHUSETTS AVENUE, NW WASHINGTON DC 20036	NATIONAL COUNCIL OF FARMER COOPERATIVES	76.25	
JOSEPH F. MEADOW, 7100 BALTIMORE AVENUE COLLEGE PARK MD 20740	UNITED ACTION FOR ANIMALS, INC	1,250.00	
FRANCIS X. MEANEY, 1825 EYE STREET, NW WASHINGTON DC 20006	MINTZ LEVIN COHN FERRIS GLOVSKY & POPEO (FOR: GOLDMAN SACHS & CO)		
Do	MINTZ LEVIN COHN FERRIS GLOVSKY & POPEO (FOR: NORTHERN ENERGY CORPORATION).		
Do	MINTZ LEVIN COHN FERRIS GLOVSKY & POPEO (FOR: REFUSE FUELS, INC)		
Do	MINTZ LEVIN COHN FERRIS GLOVSKY & POPEO (FOR: SCA SERVICES)		
Do	MINTZ LEVIN COHN FERRIS GLOVSKY & POPEO (FOR: SECURITIES INDUSTRY ASSN)	5,000.00	
NANINE MEIKLEJOHN, 1625 L ST., NW WASHINGTON DC 20036	AMERICAN FED OF STATE COUNTY & MUNICIPAL EMPLOYEES	6,583.20	43.00
JAMES T. MELVILLE, C/O DOW LOHNES & ALBERTSON 1255 23RD STREET, NW WASHINGTON DC 20037	ALGOMA STEEL CORP, LTD		
MEMEL JACOBS PIERNO GERSH & ELLSWORTH, 1800 M STREET, NW, #1000-N WASHINGTON DC 20036	CITY OF HOPE NAT'L MEDICAL & REHABILITATION HOSPITAL		
Do	ESKATON HEALTH CORP		
Do	NATIONAL ASSN OF PUBLIC HOSPITALS		250.00
THOMAS L. MESKAN, 777 14TH STREET, NW WASHINGTON DC 20005	NATIONAL ASSN OF REALTORS	1,250.00	2,230.59
JAMES G. MICHAUX, P.O. BOX 70297 WASHINGTON DC 20088	FEDERATED DEPT STORES, INC	500.00	
MILBANK TWEED HADLEY & MCCLOY, 1825 EYE ST., NW WASHINTON DC 20006	JOINT TASK FORCE ON FEDERAL FINAN. ASSIST. FOR LAW STUDENTS		
FRED MILLAR, 218 D ST., SE WASHINGTON DC 20003	ENVIRONMENTAL POLICY INSTITUTE	91.48	
MILLER & CHEVALIER, CHTD, METROPOLITAN SQUARE 655 15TH STREET, NW WASHINGTON DC 20005	MOTOR VEHICLE MANUFACTURERS ASSN	10,056.25	239.40
Do	NATURAL GAS SUPPLY ASSN		
Do	WESTERN SAVINGS & LOAN ASSN	38,265.00	8,999.12
MILLER CANFIELD PADDOCK & STONE, SUITE 1200 1015 15TH ST., NW WASHINGTON DC 20005	LEELANAU COUNTY ROAD COMMISSION	500.00	1,055.12
CLINTON R. MILLER, 5001 SEMINARY ROAD, #1330 ALEXANDRIA VA 22311	NATIONAL HEALTH FEDERATION	1,000.00	2,500.00
DAVID H. MILLER, 900 17TH STREET, NW WASHINGTON DC 20006	CHASE MANHATTAN BANK, N.A.	166.25	22.17
MILLER HAMILTON SNIDER & ODOM, P.O. BOX 46 MOBILE AL 36601	COLONIAL BANCGROUP, INC	11,070.00	4,380.65
JOHN R. MILLER, 1750 MIDLAND BUILDING CLEVELAND OH 44115	STANDARD OIL CO (OHIO)		
LINDA B. MILLER, 1625 EYE ST., NW, #810 WASHINGTON DC 20006	VOLUNTEER TRUSTEES OF NOT-FOR-PROFIT HOSPITALS	5,833.00	570.15
CHRISTINE TOPPING MILLIKEN, 122 C ST., NW, #750 WASHINGTON DC 20001	NATIONAL ASSN OF INDEPENDENT COLLEGES & UNIVERSITIES	2,530.00	190.00
JOHN H. MINER, ROOM 1414-SOUTH BUILDING, USDA WASHINGTON DC 20250	ORGANIZATION OF PROFESSIONAL EMPLOYEES OF USDA	750.00	
JOHN V. MOLLER, 1155 15TH STREET, NW, #1010 WASHINGTON DC 20005	MANCHESTER ASSOCIATES (FOR: CORPORACION NACIONAL DEL COBRE DE CHILE (CODELCO)).		
Do	MANCHESTER ASSOCIATES, LTD (FOR: NISSAN MOTOR COMPANY, LTD)		
JOAN MOODY, 1001 CONNECTICUT AVE., NW, #638 WASHINGTON DC 20036	SOLAR LOBBY	5,163.60	60.05
DUDLEY DIGGES MORGAN III, 4900 BARONNE NEW ORLEANS LA 70115	SOUTHERN FOREST PRODUCTS ASSN	12,634.00	
JOHN W. MORIARTY, 4400 COMPUTER DRIVE WESTBORO MA 01580	DATA GENERAL CORP	2,500.00	2,400.00
GERALD D. MORRIS, 555 NEW JERSEY AVE., NW WASHINGTON DC 20001	AMERICAN FED OF TEACHERS	11,849.10	80.00
MORRISON & FOERSTER, 2000 PENNSYLVANIA AVE., NW WASHINGTON DC 20006	CROCKER NATIONAL BANK		
MICHAEL L. MORTON, 918 16TH STREET, NW, #501 WASHINGTON DC 20006	GODFREY ASSOCIATES, INC		
MOUNTAIN WEST ASSOCIATES, 2121 K ST., NW, #880 WASHINGTON DC 20037	PUBLIC SERVICE COMPANY OF NEW MEXICO	10,037.50	306.06
MUDGE ROSE GUTHRIE ALEXANDER & FERNDON, 2121 K STREET, NW WASHINGTON DC 20037	AMERICAN ASSN OF EXPORTERS-IMPORTERS-TEXTILE & APPAREL GROUP		121.00
JAMES MULAR, 815 16TH ST., NW WASHINGTON DC 20006	BROTHERHOOD OF RAILWAY AIRLINE & STEAMSHIP CLERKS	1,500.00	1,500.00
JEANNE MARIE MURPHY, 1730 RHODE ISLAND AVENUE, NW, #810 WASHINGTON DC 20036	CREDIT UNION NATIONAL ASSN, INC	300.00	201.35
MARGARET R. MURRAY, 600 NEW HAMPSHIRE AVENUE, NW, #626 WASHINGTON DC 20037	NATIONAL RURAL TELECOM ASSN	277.90	
ROBERT J. MUTH, 180 MAIDEN LN. NEW YORK NY 10038	ASARCO INC	400.00	
KAREN J. NARDI, THREE EMBARCADERO CENTER SAN FRANCISCO CA 94111	MCCUTCHEN DOYLE BROWN & ENERSEN (FOR: ROHR INDUSTRIES)		
NATIONAL ASSN FOR STOCK CAR AUTO RACING, INC (NASCAR), 1801 SPEEDWAY BOULEVARD DAYTONA BEACH FL 32015			8,000.00
NATIONAL ASSN OF ENERGY SERVICE COMPANIES, 2330 M ST., NW WASHINGTON DC 20037			
NATIONAL ASSN OF HOME BUILDERS OF THE U.S., 15TH & M STS., NW WASHINGTON DC 20005		57,933.08	98,671.47
NATIONAL ASSN OF INDEPENDENT COLLEGES & UNIVERSITIES, 122 C ST., NW, #705 WASHINGTON DC 20001			54,906.00
NATIONAL ASSN OF LETTER CARRIERS, 100 INDIANA AVE., NW WASHINGTON DC 20001		4,592,929.60	250,070.11
NATIONAL ASSN OF MUTUAL INSURANCE COS, 3707 WOODVIEW TRACE P.O. BOX 68700 INDIANAPOLIS IN 46268			
NATIONAL ASSN OF RAILROAD PASSENGERS, 236 MASSACHUSETTS AVE., NE, #603 WASHINGTON DC 20002		44,163.08	45,179.26
NATIONAL ASSN OF REALTORS, 777 14TH ST., NW WASHINGTON DC 20005			93,516.45
NATIONAL ASSN OF RETIRED FEDERAL EMPLOYEES, 1533 NEW HAMPSHIRE AVE., NW WASHINGTON DC 20036		3,603.00	3,438.00
NATIONAL ASSN OF WHEAT GROWERS, 415 2ND ST., NE, #300 WASHINGTON DC 20002			14,154.08
NATIONAL AUTOMOBILE DEALERS ASSN, 8400 WESTPARK DRIVE MCLEAN VA 22102		10,000.00	16,175.00
NATIONAL CLEAN AIR COALITION, INC, 530 7TH ST., SE WASHINGTON DC 20003		22,099.08	34,478.49
NATIONAL CLUB ASSOCIATION, 1625 EYE ST., NW, #609 WASHINGTON DC 20006			
NATIONAL COALITION FOR MARINE CONSERVATION, INC, P.O. BOX 23298 SAVANNAH GA 31403		15,215.52	16,577.26
NATIONAL COMM AGAINST REPRESSIVE LEGISLATION, 201 MASSACHUSETTS AVE., NE WASHINGTON DC 20002		5,022.50	9,188.47
NATIONAL COMM FOR CITIZENS IN EDUCATION, WILDE LAKE VILLAGE GREEN, #410 COLUMBIA MD 21044			
NATIONAL COMM TO PRESERVE SOCIAL SECURITY & MEDICARE, 1300 19TH STREET, NW, #310 WASHINGTON DC 20036		570,851.00	570,851.00
NATIONAL COMMERCIAL FINANCE ASSOCIATION, 225 W. 34TH ST. NEW YORK NY 10001		10,000.00	808.00
NATIONAL COOPERATIVE BUSINESS ASSN, 1401 NEW YORK AVE., NW, #100 WASHINGTON DC 20005		173,729.35	1,702.26
NATIONAL COUNCIL OF FARMER COOPERATIVES, 1800 MASSACHUSETTS AVE., NW WASHINGTON DC 20036		18,968.10	8,309.33
NATIONAL COUNCIL OF SAVINGS INSTITUTIONS, 1101 15TH ST., NW, #400 WASHINGTON DC 20005		10,754.00	
NATIONAL COUNCIL OF TECHNICAL SERVICE INDUSTRIES, 1850 K ST., NW, #1190 WASHINGTON DC 20006		293.00	293.00
NATIONAL EMPLOYEE BENEFITS INSTITUTE, 2550 M ST., NW, #303 WASHINGTON DC 20037		442.50	3,005.56
NATIONAL FAMILY PLANNING & REPRODUCTIVE HEALTH ASSN, INC, 122 C ST., NW, #380 WASHINGTON DC 20001		110,773.00	2,432.00
NATIONAL FEDERATION OF BUSINESS & PROFESSIONAL WOMEN'S CLUBS, 2012 MASSACHUSETTS AVE., NW WASHINGTON DC 20036.		42,911.27	24,343.32
NATIONAL LEASED HOUSING ASSN, 2300 M ST., NW, #260 WASHINGTON DC 20037		900.00	900.00
NATIONAL MOTORSPORTS COMM OF ACCUS, 1500 SKOKIE BOULEVARD, #101 NORTHBROOK IL 60062		82,780.15	65,866.09
NATIONAL NEWSPAPER ASSN, 1627 K ST., NW, #400 WASHINGTON DC 20006		36,918.20	5,975.70
NATIONAL ORGANIZATION FOR WOMEN, 1401 NEW YORK AVE., NW, #800 WASHINGTON DC 20005			
NATIONAL PARKING ASSOCIATION, 1112 16TH ST., NW WASHINGTON DC 20036			34,800.90
NATIONAL PRINTING EQUIPMENT & SUPPLIES ASSN, INC, 6849 OLD DOMINION DRIVE, #200 MCLEAN VA 22101			
NATIONAL REHABILITATION ASSN, 633 S. WASHINGTON ST. ALEXANDRIA VA 22314			4,500.00
NATIONAL RIFLE ASSN OF AMERICA, 1600 RHODE ISLAND AVE., NW WASHINGTON DC 20036		154,278.56	164,752.49
NATIONAL RURAL HOUSING COALITION, 2001 S ST., NW, #500 WASHINGTON DC 20009		8,909.86	15,269.07
NATIONAL SMALL BUSINESS INDEX, R.R. #1 AITKIN MN 56431			
NATIONAL SOLID WASTES MANAGEMENT ASSN, 10TH FLOOR 1730 RHODE ISLAND AVE., NW WASHINGTON DC 20036			
NATIONAL TAX EQUALITY ASSN, 321 D ST., NE WASHINGTON DC 20002		2,560.50	2,474.91
NATIONAL TAX POLICY INSTITUTE FOR THE PUBLIC INTEREST, 933 PRESIDENT STREET BROOKLYN NY 11215			
NATIONAL TOUR ASSN, INC, 120 KENTUCKY AVE. LEXINGTON KY 40502		28,972.00	28,972.00
MICHAEL W. NAYLOR, 1050 CONNECTICUT AVE., NW, #800 WASHINGTON DC 20036	ALLIED-SIGNAL, INC		
ALLEN NEECE JR., 1050 17TH STREET, NW WASHINGTON DC 20036	NEECE CATOR & ASSOCIATES, INC (FOR: ASSOCIATION OF SMALL BUSINESS DEVELOPMENT CENTERS).		
Do	NEECE CATOR & ASSOCIATES, INC (FOR: NATIONAL VENTURE CAPITAL ASSOCIATION).		
Do	NEECE CATOR & ASSOCIATES, INC (FOR: SMALL BUSINESS UNITED)	1,700.00	1,700.00
NEECE CATOR & ASSOCIATES, INC, 1050 17TH STREET, NW WASHINGTON DC 20036	ASSOCIATION OF SMALL BUSINESS DEVELOPMENT CENTERS		
Do	NATIONAL ASSN OF DEVELOPMENT COMPANIES (NADCO)		
Do	NATIONAL ASSN OF SMALL BUSINESS INVESTMENT COS		
Do	NATIONAL VENTURE CAPITAL ASSOCIATION		
Do	SMALL BUSINESS UNITED	1,700.00	1,700.00
Do	SOUTHEASTERN LUMBER MANUFACTURERS ASSN (SLMA)	1,800.00	1,800.00

Organization or Individual Filing	Employer/Client	Receipts	Expenditures
MARY ELIZABETH NEESE, 1101 15TH ST., NW, #400 WASHINGTON DC 20005	NATIONAL COUNCIL OF SAVINGS INSTITUTIONS	2,000.00	71.12
LAURA C. NEHF, 1111 INDEPENDENCE AVE., SE WASHINGTON DC 20003	J. SAMUEL CHOATE, JR., P.C. (FOR: ASSOCIATION OF PROGRESSIVE RENTAL ORGANIZATIONS).		
STANLEY NEHMER, 1320 19TH STREET, NW, #600 WASHINGTON DC 20036	LEAD-ZINC PRODUCERS COMMITTEE	500.00	350.00
NEIGHBORHOOD HOUSING SERVICES OF AMERICA, 1951 WEBSTER STREET OAKLAND CA 94612			
NEILL MULLENHOLZ SHAW & SEEGER, 900 17TH ST., NW, #400 WASHINGTON DC 20006	HASHEMITE KINGDOM OF JORDAN		
Do	INSURANCE SERVING & INFORMATION SYSTEMS CORP	5,000.00	145.00
Do	KINGDOM OF MOROCCO		
Do	NATIONAL COUNCIL SOCIAL SECURITY MANAGEMENT ASSNS, INC	2,000.00	475.00
Do	NATIONAL FARM & POWER EQUIPMENT DEALERS ASSN	1,500.00	
Do	PHH GROUP	9,860.00	
Do	SENIOR EXECUTIVES ASSN	5,000.00	250.00
GAYLORD NELSON, 1400 EYE STREET, NW WASHINGTON DC 20005	WILDERNESS SOCIETY	399.25	12.50
FREDERICK H. NESBITT, 100 INDIANA AVENUE, NW WASHINGTON DC 20001	NATIONAL ASSN OF LETTER CARRIERS	7,749.72	258.51
NEW YORK SHIPPING ASSN, INC, 80 BROAD STREET, 12TH FL NEW YORK NY 10004			
WILLIAM B. NEWMAN JR., P.O. BOX 23451 WASHINGTON DC 20024	CONSOLIDATED RAIL CORPORATION	4,150.00	
NICKERSON INGRAM VENTO & ASSOCIATES, 8508 MT. ZEPHYR DR. ALEXANDRIA VA 22309	SYSTEMS CONTROL TECHNOLOGY, INC	5,000.00	
DIANE S. NINE, 1350 NEW YORK AVENUE, NW, #300 WASHINGTON DC 20005	NATURAL RESOURCES DEFENSE COUNCIL, INC	1,000.00	
NIXON HARGRAVE DEVANS & DOYLE, ONE THOMAS CIRCLE, NW, #800 WASHINGTON DC 20005	AMERICAN FREE TRADE ASSN, INC	4,850.50	
Do	BAUSCH & LOMB		
ROBERT I. NOOTER, 600 MARYLAND AVENUE, SW WASHINGTON DC 20024	AMERICAN FARM BUREAU FEDERATION	5,750.01	161.28
NORTHERN TELECOM, INC, 600 MARYLAND AVENUE, SW, #605 WASHINGTON DC 20024			
HUBERT K. O'BANNON, P.O. BOX 23451 WASHINGTON DC 20026	CONSOLIDATED RAIL CORPORATION	2,130.00	
O'CONNOR & HANNAN, 1919 PENNSYLVANIA AVE., NW, #800 WASHINGTON DC 20006	AMERICAN PETROFINA		
Do	ARMCO, INC		
Do	ASSOCIATION OF INDEPENDENT TELEVISION STATIONS, INC		
Do	BALFOUR BEATTY LIMITED (BIIC)		
Do	CENTURY MEDIA CORP		
Do	CHAMBER OF COMMERCE OF THE U.S.	3,591.19	
Do	CHRONAR CORPORATION		
Do	COMMITTEE FOR PRUDENT DEREGULATION		
Do	COMMUNICATIONS COUNSEL		
Do	FIRST PENNSYLVANIA BANK		
Do	GOVERNMENT OF CYPRUS		
Do	GOVERNMENT OF JAMAICA		
Do	ITEL CORPORATION		
Do	JAMAICAN BROADCASTING CORP		
Do	PYRAMID COMPANIES		
Do	RLC CORPORATION		
Do	ROLLINS ENVIRONMENTAL SERVICES		
Do	U.S. TELECOMMUNICATIONS SUPPLIERS ASSN		
CHARLES ALBERT O'CONNOR JR., 2300 S. 24TH ROAD, #533 ARLINGTON VA 22206			
EMILY O'CONNOR, 777 14TH STREET, NW WASHINGTON DC 20005	NATIONAL ASSN OF REALTORS		
IAN O'CONNOR, 711 EAST MAIN STREET EDGEWATER NJ 08807	CANADIAN TUBULAR PRODUCERS ASSN		
BARTLEY M. O'HARA, 1919 PENNSYLVANIA AVE., NW, #300 WASHINGTON DC 20006	COLORADO MUNICIPAL BOND DEALERS ASSN	1,905.02	
Do	INTERNATIONAL UNION OF BRICKLAYERS & ALLIED CRAFTSMEN	4,000.00	20.00
Do	NORFOLK SOUTHERN CORP	5,824.44	888.66
ANNE MARIE O'KEEFE, 1200 17TH STREET, NW WASHINGTON DC 20036	AMERICAN PSYCHOLOGICAL ASSN	1,000.00	19.90
PATRICIA M. O'TOOLE, 461 S. BOYLSTON STREET LOS ANGELES CA 90016	UNION OIL CO OF CALIFORNIA		
OPPENHEIMER WOLFF FOSTER SHEPARD & DONNELLY, 1317 F STREET, NW, #700 WASHINGTON DC 20004	KOREAN FOOTWEAR EXPORTERS ASSN		560.00
CHARLES J. ORASIN, 1400 K STREET, NW, #500 WASHINGTON DC 20005	HANDGUN CONTROL, INC	2,243.00	
ORGAN. FOR PROTECTION & ADVANCEMENT OF SMALL TELEPHONE COS, 2301 M STREET, NW, #530 WASHINGTON DC 20037.		1,275.00	250.00
ORGANIZATION OF PROFESSIONAL EMPLOYEES OF USDA, RM. 1414 S. BUILDING U.S. DEPT OF AGRICULTURE WASHINGTON DC 20250.		1,870.74	1,855.16
ORRICK HERRINGTON & SUTCLIFFE, 555 CAPITOL MALL, #1200 SACRAMENTO CA 95814	CONE MILLS CORP		
J. F. OTERO, 815 16TH STREET, NW WASHINGTON DC 20006	BROTHERHOOD OF RAILWAY AIRLINE & STEAMSHIP CLERKS	1,000.00	300.00
WILLIAM H. OWENS JR., 1111 14TH ST., NW, #1200 WASHINGTON DC 20005	AMERICAN DENTAL ASSN	1,000.00	2,002.00
P/M CONSULTING, INC, 202 E ST., NE WASHINGTON DC 20002	SYSCON CORPORATION		
Do	TALLEY CORPORATION		
ALLEN SCOTT PACK, C/O DOW LOHNES & ALBERTSON 1255 23RD STREET, NW WASHINGTON DC 20037	ALGOMA STEEL CORP, LTD, ET AL		
GEORGE G. PAGONIS, 1120 CONNECTICUT AVE., NW, #335 WASHINGTON DC 20036	STELCO, INC		
ANDREW PALMER, 218 D ST., SE WASHINGTON DC 20003	ENVIRONMENTAL POLICY INSTITUTE	149.56	
BRADLEY D. PALMER, 3238 WYNFORD DRIVE FAIRFAX VA 22031	U.S. DEFENSE COMMITTEE		
GERARD PAUL PANARO, WEBSTER CHAMBERLAIN & BEAN 1747 PENNSYLVANIA AVE., NW WASHINGTON DC 20006	RETAIL BAKERS ASSN	400.00	
PETER J. PANTUSO, 7900 WESTPARK DRIVE, #514 MCLEAN VA 22102	NATIONAL CONFECTIONERS ASSN OF THE U.S	4,000.00	784.12
JUDITH E. PARK, 1533 NEW HAMPSHIRE AVE., NW WASHINGTON DC 20036	NATIONAL ASSN OF RETIRED FEDERAL EMPLOYEES	13,529.00	
SARA LYNN PARKER, 1319 F ST., NW, #500 WASHINGTON DC 20004	FOOD RESEARCH & ACTION CENTER	342.99	
PRUDENCE H. PARKS, 1100 H STREET, NW WASHINGTON DC 20080	WASHINGTON GAS LIGHT CO	1,143.10	500.41
ENDICOTT PEABODY LAW OFFICES, 71 SPIT BROOK ROAD NASHUA NH 03060	OPPOSE - COLORADO PUBLIC EMPLOYEE RETIREMENT ASSN	1,000.00	1,985.40
PEACE POLITICAL ACTION COMMITTEE, 100 MARYLAND AVENUE, NE WASHINGTON DC 20002			3,266.70
ELIN PELTZ, 723 INVESTMENT BUILDING WASHINGTON DC 20005	HAWAIIAN SUGAR PLANTERS' ASSN	300.00	95.00
PEOPLE FOR THE AMERICAN WAY ACTION FUND, 1424 16TH STREET, NW, #601 WASHINGTON DC 20036		1,004,512.00	719,863.00
BARBARA K. PEQUET, 1311 QUINCY ST., NE WASHINGTON DC 20017	AMERICAN SOC FOR THE PREVENTION OF CRUELTY TO ANIMALS	6,250.00	410.00
ANTHONY D. PERL, 417 NEW JERSEY AVE., SE WASHINGTON DC 20003	NATIONAL ASSN OF RAILROAD PASSENGERS	2,250.00	
DAVID F. PERRY, 15 COMPUTER DRIVE, W. ALBANY NY 12205	HOSPITAL ASSN OF NEW YORK STATE	384.00	
ESTHER PETERSON, 7714 13TH STREET, NW WASHINGTON DC 20012	INTERNATIONAL ORGANIZATION OF CONSUMERS UNIONS		
RUSSELL W. PETERSON, 950 THIRD AVENUE NEW YORK NY 10022	NATIONAL AUDUBON SOCIETY		
CAROLINE PETTI, 218 D STREET, SE WASHINGTON DC 20003	ENVIRONMENTAL POLICY INSTITUTE	125.44	
WILLIAM C. PHELPS, 2929 ALLEN PARKWAY HOUSTON TX 77019	AMERICAN GENERAL CORPORATION	6,800.00	8,820.29
JOHN D. PHILLIPS, 122 C ST., NW, #750 WASHINGTON DC 20001	NATIONAL ASSN OF INDEPENDENT COLLEGES & UNIVERSITIES	2,756.00	485.00
PIERSON BALL & DOWD, 1200 18TH ST., NW WASHINGTON DC 20036	AMERICAN ACADEMY OF PEDIATRICS	11,878.98	
Do	DUN & BRADSTREET CORP		
Do	EL POMAR		
Do	GENENTECH	20,142.42	
Do	INFECTIOUS DISEASES SOCIETY OF AMERICA	2,050.52	
Do	INTERNATIONAL FUTURES EXCHANGE (BERMUDA) LTD		
Do	INTEX HOLDINGS (BERMUDA) LTD		
Do	NATIONAL ASSN FOR BIOMEDICAL RESEARCH	504.79	
Do	NATIONAL ASSN OF CASUALTY & SURETY AGENTS		
Do	SATELLITE BUSINESS SYSTEMS	2,500.00	
Do	SECURITIES INDUSTRY ASSN	2,750.00	
SUMNER PINGREE, 1400 EYE ST., NW WASHINGTON DC 20005	WILDERNESS SOCIETY		
PIPER & MARBURY, 888 16TH STREET, NW WASHINGTON DC 20006	CONSOLIDATED RAIL CORPORATION		
WYLL W. PLEGER, 1730 RHODE ISLAND AVE., NW, #213 WASHINGTON DC 20036	BROWN & ROOT, INC		
MICHAEL PODHORZER, 1300 CONNECTICUT AVE., NW, #401 WASHINGTON DC 20036	CITIZEN ACTION	1,500.00	
PORT OF SEATTLE, P.O. BOX 1209 SEATTLE WA 98111			22.00
PHILLIP PORTE & ASSOCS, INC, 3845 N. 26TH ST. ARLINGTON VA 22207	AMERICAN ASSN FOR RESPIRATORY THERAPY	10,000.00	
Do	AMERICAN MEDICAL RECORDS ASSN	2,500.00	
Do	NATIONAL ASSN OF MEDICAL DIRECTORS OF RESPIRATORY CARE	4,000.00	
CAROL ALICE PORTER, 1612 K ST., NW, #1101 WASHINGTON DC 20036	WILDLIFE LEGISLATIVE FUND OF AMERICA	4,524.00	
POWELL GOLDSTEIN FRAZER & MURPHY, 1110 VERMONT AVE., NW, #1050 WASHINGTON DC 20005	BEAR STEARNS & CO	3,000.00	
Do	COALITION FOR COMPETITION	2,488.00	
Do	COALITION FOR THE ADVANCEMENT OF INDUSTRIAL TECHNOLOGY	11,754.00	
Do	FLOOD CONTROL ADVISORY COMMITTEE	4,836.00	
Do	INTERNATIONAL TELECOMMUNICATIONS SATELLITE ORGANIZATION	67,621.00	
Do	WESTINGHOUSE ELECTRIC CORPORATION	27,820.00	
PRATHER SEEGER DOOLITTLE & FARMER, 1101 16TH ST., NW WASHINGTON DC 20036	BANKER'S ASSN FOR FOREIGN TRADE	2,000.00	160.00
WILLIAM B. PRENDERGAST, 6215 KELLOGG DRIVE MCLEAN VA 22101	TOBACCO INSTITUTE	6,000.00	620.25
PRESTON THORGRIMSON ELLIS & HOLMAN, 1735 NEW YORK AVENUE, NW, #500 WASHINGTON DC 20006	CH2M HILL	67.50	
WOODRUFF M. PRICE, 1331 PENNSYLVANIA AVE., NW, #560 WASHINGTON DC 20014	CSX CORPORATION	3,000.00	910.05
PROJECT ADVISORY GROUP, 1029 VERMONT AVE., NW, #860 WASHINGTON DC 20005			490.26
PROJECT CURE, INC, 2020 K STREET, NW, #350 WASHINGTON DC 20006		46,817.10	70,332.21

Organization or Individual Filing	Employer/Client	Receipts	Expenditures
DAVID P. PROSPERI, 1725 K STREET, NW, #909 WASHINGTON DC 20006	MOBIL OIL CORP		
PROTECT THE INNOCENT, INC, 451 SOUTH INDIANA STREET MOORESVILLE IN 46158	PROTECT THE INNOCENT, INC		365.10
WILLIAM A. QUINLAN, 3045 RIVA RD. RIVA MD 21140	NATIONAL CANDY WHOLESALERS ASSN, INC		
Do	RETAIL BAKERS OF AMERICA		
CLIFFORD RABER, ONE MCDONALD'S PLAZA OAK BROOK IL 60521	MCDONALD'S CORP		
THOMAS F. RAILSBACK, BLUM NASH & RAILSBACK 1133 15TH ST., NW, #1100 WASHINGTON DC 20005	CSX CORP	2,280.00	
Do	FEDERAL JUDGES ASSN	190.00	
Do	INSURANCE ASSN OF CONNECTICUT	3,230.00	
Do	WALT DISNEY PRODUCTIONS	4,845.00	
CRAIG J. RANCOURT, 2000 PENNSYLVANIA AVE., NW, #3700 WASHINGTON DC 20006	AMERICAN ASSN OF CLASSIFIED SCHOOL EMPLOYEES	15,320.56	15,320.56
ROBERT A. RAPOZA, 2001 S ST., NW, #500 WASHINGTON DC 20009	NATIONAL RURAL HOUSING COALITION	9,463.80	5,152.44
CRAIG RAUPE, CAMPBELL-RAUPE ASSOCIATES, INC 1015 15TH STREET, NW, #907 WASHINGTON DC 20005	ALGONQUIN GAS TRANSMISSION		
Do	BODINE'S INC FOOD PRODUCTS		
EILER C. RAVNHOLT, 723 INVESTMENT BLDG. WASHINGTON DC 20005	HAWAIIAN SUGAR PLANTERS' ASSN	660.00	420.00
JOHN DANIEL REAVES, 910 16TH STREET, NW WASHINGTON DC 20006	MILLER & CHEVALIER, CHTD	1,250.00	
RECON/OPTICAL, INC, 550 WEST NORTHWEST HIGHWAY BARRINGTON IL 60010			
RECORDING INDUSTRY ASSN OF AMERICA, INC, 888 SEVENTH AVENUE, 9TH FL. NEW YORK NY 10106		12,216.25	12,291.90
ROBERT S. REESE JR., 2200 MILL RD ALEXANDRIA VA 22314	AMERICAN TRUCKING ASSNS, INC	9,000.00	1,768.87
REID & PRIEST, 1111 19TH STREET, NW WASHINGTON DC 20036	HILATURAS LERMA, S.A., DE C.V. AND AMYTEX CORP		
CHARLOTTE REID, 2466 CHATHAM ROAD AURORA IL 60506	MOTOROLA, INC		
RENEWABLE FUELS ASSOCIATION, 499 S. CAPITOL ST., SW, #420 WASHINGTON DC 20003		25,786.36	3,997.34
SARAH M. RENFROE, 16805 WELD COUNTY RD. 19 1/2 PLATTEVILLE CO 80651	PUBLIC SERVICE CO OF COLORADO		
W. W. RENFROE, 69 FOUNTAIN PL. - P.O. BOX 417 FRANKFORT KY 40602	KENTUCKY RAILROAD ASSN		
RESERVE OFFICERS ASSN OF THE US, 1 CONSTITUTION AVE., NE WASHINGTON DC 20002		2,726.96	22,135.29
REYNOLDS ALLEN & COOK, 1667 K STREET, NW, #300 WASHINGTON DC 20006	GRANADA MANAGEMENT CORP	6,000.00	160.00
GRACE ELLEN RICE, 600 MARYLAND AVE., SW WASHINGTON DC 20024	AMERICAN FARM BUREAU FED	5,762.49	99.60
LOIS D. RICE, 1201 PENNSYLVANIA AVNEUE, NW WASHINGTON DC 20004	CONTROL DATA CORPORATION	122.50	
RICE PORTER & SEILLER, 2200 MEIDINGER TOWER LOUISVILLE KY 40202	KHA GROUP APPEAL LEGAL FUND		
JEANNE RICHARDS, 218 D STREET, SE WASHINGTON DC 20003	ENVIRONMENTAL POLICY INSTITUTE		
STACY RICHARDS, 1015 15TH ST., NW, #802 WASHINGTON DC 20005	AMERICAN CONSULTING ENGINEERS COUNCIL	375.00	
K. O. RICHARDSON, 815 16TH ST., NW WASHINGTON DC 20006	BROTHERHOOD OF RAILWAY, AIRLINE & STEAMSHIP CLERKS	3,000.00	155.09
LES RICHTER, 1801 SPEEDWAY BOULEVARD DAYTONA BEACH FL 32015	NATIONAL ASSN FOR STOCK CAR AUTO RACING, INC (NASCAR)	8,000.00	
Do	NATIONAL MOTORSPORTS COMMITTEE OF ACCUS, FIA, INC		19,189.22
LARRY D. RICKARDS, 1200 17TH STREET, NW WASHINGTON DC 20036	AMERICAN PSYCHOLOGICAL ASSN	1,000.00	197.90
RIDDELL HOLROYD & BUTLER, 1331 PENNSYLVANIA AVENUE, NW, #1215 WASHINGTON DC 20004	H. F. AHMANSON & CO		
Do	ASSOCIATES CORP OF NORTH AMERICA		
Do	BENEFICIAL CORP	6,500.00	
Do	C.I.T. FINANCIAL CORP		
Do	W. K. KELLOGG FOUNDATION		
RIVKIN RADLER DUNNE & BAYH, 1575 I STREET, NW, #1025 WASHINGTON DC 20005	SIMON & ASSOCIATES, INC		
LIZ ROBBINS ASSOCIATES, 132 D STREET, SE WASHINGTON DC 20003	ASSOCIATION OF LOCAL HOUSING FINANCE AGENICES (ALHFA)	5,337.21	
Do	COMMITTEE FOR FINANCING PUBLIC TRANSPORTATION FACILITIES	6,400.00	
Do	GOLDMAN SACHS	13,674.00	
Do	KIDDER PEABODY	2,929.53	
Do	MABON NUGENT & CO	2,250.00	
Do	NATIONAL COUNCIL OF COMMUNITY MENTAL HEALTH CENTERS	1,562.50	
Do	NATIONAL MUSIC PUBLISHERS ASSN, INC	8,345.00	
Do	NEDERLANDER ORGANIZATION	2,241.18	
Do	NEW YORK STATE HOUSING FINANCE AGENCY	1,364.92	
Do	PAINE WEBBER JACKSON & CURTIS, INC	1,090.00	
Do	PHOENIX HOUSE	1,000.00	
Do	SCHOLASTIC, INC	5,256.40	
Do	THOMSON MCKINNON SECURITIES, INC	5,000.00	
JOSE LUIS RODRIGUEZ, 1000 THOMAS JEFFERSON ST., NW WASHINGTON DC 20007			
DIANNE ROGERS, 815 16TH STREET, NW WASHINGTON DC 20006	BROTHERHOOD OF RAILWAY AIRLINE & STEAMSHIP CLERKS	1,500.00	1,500.00
MARGARET ROGERS, 1025 CONNECTICUT AVE., NW, #409 WASHINGTON DC 20036	SOCIETY OF THE PLASTICS INDUSTRY, INC	2,500.00	
NANCY ROGERS, 815 16TH STREET, NW WASHINGTON DC 20006	INDUSTRIAL UNION DEPARTMENT, ALF-CIO	5,595.50	168.28
TERRENCE L. ROGERS, 1325 MASSACHUSETTS AVE., NW WASHINGTON DC 20005	AMERICAN FED OF GOVERNMENT EMPLOYEES	9,192.06	124.65
PETER ROGOFF, 122 C STREET, NW, #750 WASHINGTON DC 20001	NATIONAL ASSN OF INDEPENDENT COLLEGES & UNIVERSITIES	2,806.00	92.00
EMIL A. ROMAGNOLI, 180 MAIDEN LANE NEW YORK NY 10038	ASARCO INC	200.00	
RAYMOND W. ROPER, 1601 DUKE STREET ALEXANDRIA VA 22314	SOCIETY OF AMERICAN FLORISTS		
LESLIE ROSE, 624 9TH STREET, NW, #700 WASHINGTON DC 20001	GROUP HEALTH ASSN OF AMERICA, INC	1,875.00	
LOUISE L. ROSEMAN, 1620 I ST., NW, #603 WASHINGTON DC 20006	VISA U.S.A., INC		
ALBERT B. ROSENBAUM III, 2200 MILL RD. ALEXANDRIA VA 22314	NATIONAL TANK TRUCK CARRIERS, INC		
RICHARD ROSENBAUM, 666 THIRD AVE., 4TH FL. NEW YORK NY 10017	COMMITTEE FOR A RESPONSIBLE TAX POLICY, INC		
GAIL E. ROSS, 918 16TH ST., NW, #503 WASHINGTON DC 20006	WASHINGTON INDEPENDENT WRITERS		
JOSEPH L. ROSSO, 2200 MILL ROAD ALEXANDRIA VA 22314	AMERICAN TRUCKING ASSNS, INC	9,000.00	2,086.32
MARCUS ROTH, 100 INDIANA AVE., NW WASHINGTON DC 20001	NATIONAL ASSN OF LETTER CARRIERS	4,500.34	
WILLIAM C. ROUNTREE, SUITE 600 1001 22ND ST., NW WASHINGTON DC 20037	STANDARD OIL CO (OHIO)		
JOHN H. ROUSSELOT, 1101 15TH ST., NW, #400 WASHINGTON DC 20005	NATIONAL COUNCIL OF SAVINGS INSTITUTIONS	10,000.00	
EUGENE F. ROWAN, 2550 M STREET, NW WASHINGTON DC 20037	J. C. PENNEY CO, INC		
ERIC M. RUBIN, RUBIN WINSTON & DIERCKS 1730 M ST., NW, #708 WASHINGTON DC 20036	COMMISSONER OF PUBLIC LANDS FOR STATE OF NEW MEXICO		
Do	OUTDOOR ADVERTISING ASSN OF AMERICA, INC		
NICHOLAS L. RUGGIERE, 1667 K STREET, NW, #410 WASHINGTON DC 20006	JOHNSON & JOHNSON	1,000.00	225.00
JOHN G. RYAN, 1700 K STREET, NW WASHINGTON DC 20006	SQUIBB CORP	1,000.00	
PATRICIA RYAN, 1400 K STREET, NW WASHINGTON DC 20005	AMERICAN PSYCHIATRIC ASSN	1,500.00	662.32
WILLIAM SAMUEL, 1325 MASSACHUSETTS AVENUE, NW WASHINGTON DC 20005	AMERICAN FED OF GOVERNMENT EMPLOYEES	7,246.98	239.85
DONALD E. SANTARELLI, SUITE 700 2033 M ST., NW WASHINGTON DC 20036	EMPRESA BRASILEIRA DE AERONAUTICA, S.A		
Do	SAFARI CLUB INTERNATIONAL		
Do	STURM, RUGER COMPANY, INC		
JOHN S. SATAGAJ, 1250 I STREET, NW, #500 WASHINGTON DC 20005	AMERICAN ASSN OF NURSERYMEN		
SAVE OUR SECURITY, SUITE 222 1201 16TH STREET, NW WASHINGTON DC 20036		15,774.21	18,445.75
MARK L. SCHAFFER, ASHCRAFT & GEREL 2000 L STREET, NW, #700 WASHINGTON DC 20036	AMERICAN FED OF LABOR & CONGRESS OF INDUSTRIAL ORGANIZATIONS		
JAY T. SCHECK JR., RT. 202-206 NORTH SOMERVILLE NJ 08876	AMERICAN HOECHST CORPORATION		
THOMAS G. SCHENDT, 111 EAST WISCONSIN AVE., #1800 MILWAUKEE WI 53202	NATIONAL EMPLOYEE BENEFITS INSTITUTE		26.54
JOSEPH SCHERER, 1801 NORTH MOORE ST. ARLINGTON VA 22209	AMERICAN ASSN OF SCHOOL ADMINISTRATORS		
DAVID JOEL SCHLEIN, P.O. BOX 7708 WASHINGTON DC 20044	AMERICAN FED OF GOV'T EMPLOYEES, LOCAL 12		
ROBERT RICHARD SCHMITT, 430 S. 20TH ST. OMAHA NB 68102			
MARK L. SCHNEIDER, 1001 22ND STREET, NW, #600 WASHINGTON DC 20037	STANDARD OIL CO (OHIO)		
WILLIAM B. SCHULTZ, SUITE 700 2000 P ST., NW WASHINGTON DC 20036	PUBLIC CITIZEN, INC		
RALPH D. SCHUMACK, 1800 M STREET, NW, #790 SOUTH WASHINGTON DC 20036	DOW CORNING CORP		8,690.40
SCHWABE WILLIAMSON WYATT MOORE & ROBERTS, SUITE 302 1000 POTOMAC ST., NW WASHINGTON DC 20007	PUBLIC GENERATING POOL	2,104.50	.90
STEVE AARON SCHWARTZ, 818 ROEDER RD., #702 SILVER SPRING MD 20910	INTERNATIONAL FED OF PROFESSIONAL & TECHNICAL ENGINEERS		
CARL F. SCHWENSEN, 415 2ND ST., NE, #300 WASHINGTON DC 20002	NATIONAL ASSN OF WHEAT GROWERS	8,892.27	
SCHWINN BICYCLE CO, 1856 NORTH KOSTNER AVENUE CHICAGO IL 60639			11,554.50
HAROLD B. SCOGGINS, 1101 16TH ST., NW WASHINGTON DC 20036	INDEPENDENT PETROLEUM ASSN OF AMERICA		26.50
DOUGLAS W. SCOTT, 730 POLK STREET SAN FRANCISCO CA 94108	SIERRA CLUB		
WALTER J. SCZUDLO, 1730 RHODE ISLAND AVENUE, NW WASHINGTON DC 20036	SCHRAMM & RADDUE (FOR: H&W DRILLING, INC)		
J. PETER SEGALL, 3255 GRACE STREET, NW WASHINGTON DC 20007	GRAY & CO PUBLIC COMMUNICATIONS INT'L, INC (FOR: INTERNATIONAL BROTHERHOOD OF TEAMSTERS).		
Do	GRAY & CO PUBLIC COMMUNICATIONS INT'L, INC (FOR: KINGDOM OF MOROCCO)		
SEIDMAN & SEIDMAN/BDO, 15 COLUMBUS CIRCLE NEW YORK NY 10023			
SARAH SETTON, 1511 K ST., NW WASHINGTON DC 20005	SUGAR ASSOCIATION, INC	150.00	8.00
SEWARD & KISSEL, 919 18TH ST., NW WASHINGTON DC 20006			
SHAMROCK FOODS CO., 2228 N. BLACK CANYON PHOENIX AZ 85009			
JAMES M. SHANNON, HALE & DORR 60 STATE STREET BOSTON MA 02109	COALITION AGAINST DOUBLE TAXATION, INC		3,029.86
SHAW PITTMAN POTTS & TROWBRIDGE, 1800 M ST., NW, #900-S WASHINGTON DC 20036	AMALGAMATED BANK OF NEW YORK		
Do	INVESTMENT COUNSEL ASSN OF AMERICA, INC		
SHEA & GOULD, 1627 K ST., NW WASHINGTON DC 20006	ELEANOR A. CLARK		
Do	HOSPITAL CORP OF AMERICA		
Do	NABISCO, INC		
Do	REPUBLIC OF HAITI		
SHEARMAN & STERLING, 153 EAST 53RD ST. NEW YORK NY 10005	BUSINESS ROUNDTABLE		

Organization or Individual Filing	Employer/Client	Receipts	Expenditures
PATRICIA Q. SHEEHAN, 1667 K STREET, NW, #410 WASHINGTON DC 20006	JOHNSON & JOHNSON	1,000.00	225.00
LOIS BURKE SHEPARD, 8602 HIDDEN HILL LN. POTOMAC MD 20854			
DALE SHERWIN, 1735 I ST., NW, #717 WASHINGTON DC 20006	A. E. STALEY MANUFACTURING CO	9,000.00	660.00
ROBERT M. SHERWOOD, 1700 PENNSYLVANIA AVENUE, NW WASHINGTON DC 20006	PFIZER, INC	1,500.00	244.66
NELSON T. SHIELDS, 1400 K ST., NW WASHINGTON DC 20015	HANDGUN CONTROL, INC	2,496.00	
RUSSELL L. SHIPLEY JR., 1120 VERMONT AVENUE, NW, #1120 WASHINGTON DC 20005	NATIONAL CANDY WHOLESALERS ASSN, INC	200.00	
FRED B. SHIPPEE, 1611 N. KENT ST., #800 ARLINGTON VA 22209	AMERICAN APPAREL MANUFACTURERS ASSN, INC		
ELAINE SHOCAS, 555 NEW JERSEY AVENUE, NW WASHINGTON DC 20001	AMERICAN FED OF TEACHERS	7,637.76	80.00
NORMAN D. SHUTLER, 1607 NEW HAMPSHIRE AVE., NW WASHINGTON DC 20006	CLAYTON MFRG CO		
SIERRA CLUB, 730 POLK STREET SAN FRANCISCO CA 94109		271,375.45	271,375.46
STEPHEN SILBIGER, 1625 L ST., NW WASHINGTON DC 20036	AMERICAN FED OF STATE COUNTY & MUNICIPAL EMPLOYEES	13,987.26	421.25
RONALD G. SILLS, 1105 NOB HILL COURT ROSEVILLE CA 95678			
STEVE SILVER, ROBERTSON MONAGLE EASTAUGH & BRADLEY 21 DUPONT CIRCLE, NW WASHINGTON DC 20036	APEX MARINE CORP		
MARSHA J. SIMON, 1334 G ST., NW, 3RD FL. WASHINGTON DC 20005	FOOD RESEARCH & ACTION CENTER	2,400.95	
WILLIAM DOUGLAS SIMON, C/O DOW LOHNES & ALBERTSON 1255 23RD STREET, NW WASHINGTON DC 20037	DOFASCO, INC	1,000.00	591.00
TALMAGE E. SIMPKINS, 100 INDIANA AVE., NW WASHINGTON DC 20001	AFL-CIO MARITIME COMMITTEE	300.00	837.95
WILLIAM G. SIMPSON, 1155 15TH ST., NW WASHINGTON DC 20005	FIRST MISSISSIPPI CORPORATION	2,000.00	
Do	J.R. SCRIBNER EQUIPMENT	2,000.00	
Do	MISSISSIPPI POWER & LIGHT COMPANY	2,000.00	
Do	STATE OF MISSISSIPPI	4,000.00	
JEAN SINDAB, 2480 16TH ST., NW, #610 WASHINGTON DC 20009	WASHINGTON OFFICE ON AFRICA	3,750.00	
MARCUS W. SISK JR., 2828 PENNSYLVANIA AVENUE, NW, #203 WASHINGTON DC 20037	TOSCO CORPORATION	3,267.00	
JAMES H. SKIDMORE, 1156 15TH ST., NW, #1201 WASHINGTON DC 20005	NCR CORPORATION		
SCOTT SKLAR, 1717 MASSACHUSETTS AVENUE, NW, #503 WASHINGTON DC 20036	SOLAR ENERGY INDUSTRIES ASSN	6,000.00	88,067.00
F. SLATINSHEK & ASSOCIATES, INC, 1102 BELLE VISTA DR. ALEXANDRIA VA 20007	GRUMMAN AERO CORP; D.L. LYNCH & ASSOCS	300.00	
ROBERT G. SLAUGHTER, 2501 M ST., NW, #540 WASHINGTON DC 20037	PACIFIC RESOURCES, INC	500.00	
WILLIAM T. SLIDER, 15TH & M STREETS, NW WASHINGTON DC 20005	NATIONAL ASSN OF HOME BUILDERS OF THE U.S.		
PETER B. SLONE, 1050 CONNECTICUT AVENUE, NW, #980 WASHINGTON DC 20036	GOLD & LIEBENGOOD, INC		
WILLIAM H. SMALL, 777 14TH STREET, NW WASHINGTON DC 20005	NATIONAL ASSN OF REALTORS		
SMC INTERNATIONAL, 1820 JEFFERSON PL., NW WASHINGTON DC 20036	GC SERVICES CORP	1,500.00	436.83
Do	PIEDMONT AIRLINES, INC	3,000.00	1,085.67
Do	SAFECARD SERVICES, INC	750.00	139.17
ELEANOR SMEAL & ASSOCIATES, 2401 VIRGINIA AVE., NW, #306 WASHINGTON DC 20037	NATIONAL ORGANIZATION FOR WOMEN		
ROBERT G. SMERKO, 1945 OLD GALLOWS ROAD, #405 VIENNA VA 22180	AMERICAN WOOD PRESERVERS INSTITUTE	250.00	43.95
CHRISTINE M.B. SMITH, 2501 M STREET, NW, #540 WASHINGTON DC 20037	PACIFIC RESOURCES, INC	500.00	
SMITH DAWSON ASSOCIATES, INC, 1000 CONNECTICUT AVE., NW, #304 WASHINGTON DC 20036	COLORADO DEPT OF LABOR	4,275.00	
Do	N.Y. METROPOLITAN TRANSPORTATION AGENCY	21,750.00	25,256.08
Do	SAN FRANCISCO P.V.C.	10,350.00	10,350.00
DON S. SMITH, BROADHURST BROOK MANGHAM HARDY & REED 1730 PENNSYLVANIA AVE., NW, #425 WASHINGTON DC 20006.			
JAMES A. SMITH, 1020 19TH ST., NW WASHINGTON DC 20036	U S WEST, INC		
PATRICIA SMITH, 2401 VIRGINIA AVENUE, NW WASHINGTON DC 20037	AMERICAN ASSN OF UNIVERSITY WOMEN	4,080.00	173.00
VELMA SMITH, 218 D STREET, SE WASHINGTON DC 20003	ENVIRONMENTAL POLICY INSTITUTE	363.43	
PETER LEIGH SNELL, DAVID VIENNA & ASSOCIATES 510 C ST., NE WASHINGTON DC 20002	INTERNATIONAL ASSN OF AMUSEMENT PARKS & ATTRACTIONS	1,350.00	
Do	NATIONAL ASSN OF CREDIT MANAGEMENT	600.00	
VINCENT R. SOMBROTTO, 100 INDIANA AVE., NW WASHINGTON DC 20001	NATIONAL ASSN OF LETTER CARRIERS	3,109.11	
BARRY SONSHINE, 111 RAYETTE ROAD CONCORD ONTARIO CANADA L4K 2E9	CANADIAN TUBULAR PRODUCERS ASSN		
SOUTHERN FOREST PRODUCTS ASSN, P.O. BOX 52468 NEW ORLEANS LA 70152		34,045.86	34,045.86
SPACE SERVICES, INC (SSI) OF AMERICA, 7015 GULF FREEWAY, #140 HOUSTON TX 77087			
JOHN B. SPEARS, 815 16TH STREET, NW WASHINGTON DC 20006	BROTHERHOOD OF RAILWAY AIRLINE & STEAMSHIP CLERKS	1,500.00	1,500.00
PHILIP SPESER, 2000 P ST., NW WASHINGTON DC 20036	FORESIGHT SCIENCE & TECHNOLOGY, INC (FOR: NATIONAL COALITION FOR SCIENCE & TECHNOLOGY).		
Do	FORESIGHT SCIENCE & TECHNOLOGY, INC (FOR: SOCIETY FOR AMERICAN ARCHAEOLOGY).	1,226.00	
LARRY N. SPILLER, 1015 15TH ST., NW, #802 WASHINGTON DC 20005	AMERICAN CONSULTING ENGINEERS COUNCIL	900.00	
SPRIGGS BODE & HOLLINGSWORTH, 1015 15TH ST., NW WASHINGTON DC 20005	UNR INDUSTRIES, INC		4,290.00
ELISABETH A. SQUEGLIA, BRICKER & ECKLER 888 11TH ST., NW WASHINGTON DC 20006	AMERICAN SMALL AND RURAL HOSPITAL ASSOCIATION, OHIO CHAPTER		
LINDA STAHELI, 100 MARYLAND AVENUE, NE WASHINGTON DC 20002	COUNCIL FOR A LIVABLE WORLD	2,507.25	
ELVIS J. STAHR JR., 1815 H STREET, NW, #600 WASHINGTON DC 20006	NATIONAL AUDUBON SOCIETY		
STANDARD OIL CO (OHIO), MIDLAND BLDG. CLEVELAND OH 44115			37,089.58
JOHN F. STASIOWSKI, 5205 LEESBURG PIKE, #505 FALLS CHURCH VA 22041	NATIONAL BEER WHOLESALERS' ASSN		
HENRY J. STEENSTRA JR., 1000 WILSON BOULEVARD, #2600 ARLINGTON VA 22209	TRW, INC	1,134.00	
KRISTIN STELCK, 2401 VIRGINIA AVENUE, NW WASHINGTON DC 20037	AMERICAN ASSN OF UNIVERSITY WOMEN	6,250.00	410.72
STEPHENS OVERSEAS SERVICES, INC., 2121 K STREET, NW, #830 WASHINGTON DC 20037	NATIONAL OFFICE MACHINE DEALERS ASSN		
STEPTOE & JOHNSON, CHTD, 1330 CONNECTICUT AVE., NW WASHINGTON DC 20036	ASSOCIATION OF PRIVATE PENSION & WELFARE PLANS, INC	27,444.00	2,884.00
H. DONALD STEWART, 188 W. MAIN STREET PENNS GROVE NJ 08069			
KENNETH F. STINGER, 2200 MILL RD ALEXANDRIA VA 22314	AMERICAN TRUCKING ASSNS, INC	9,000.00	1,932.47
JOHN J. STOCKER, 1110 VERMONT AVENUE, NW WASHINGTON DC 20005	SHIPBUILDERS COUNCIL OF AMERICA	17,000.00	
STEVEN F. STOCKMEYER, 1800 M ST., NW, #950 NORTH WASHINGTON DC 20036	JACK MCDONALD CO (FOR: COALITION FOR THE ADVANCEMENT OF INDUSTRIAL TECHNOLOGY).		
DENNIS C. STOLTE, 600 MARYLAND AVENUE, SW WASHINGTON DC 20024	AMERICAN FARM BUREAU FED	4,937.49	227.95
STOVALL SPRADLIN ARMSTRONG & ISRAEL, 1819 H STREET, NW, #700 WASHINGTON DC 20006	COMMISSION ON FUTURE POLITICAL STATUS & TRANSITION	10,000.00	73.00
RONALD J. STRECK, P.O. BOX 238 ALEXANDRIA VA 22313	NATIONAL WHOLESALE DRUGGISTS' ASSN		
W. MELVIN STREET, SUITE 400 1627 K STREET, NW WASHINGTON DC 20006	NATIONAL NEWSPAPER ASSN		
RICHARD H. STREETER, 1729 H STREET, NW WASHINGTON DC 20006	CAST NORTH AMERICA LTD		
DOROTHY E. STUCKE, 1004 DUKE STREET ALEXANDRIA VA 22314	AMERICAN SUBCONSTRACTORS ASSN		
SUBSCRIPTION TELEVISION ASSN, 1300 19TH ST., NW, #310 WASHINGTON DC 20036			
SULLIVAN & WORCESTER, 1025 CONNECTICUT AVE., NW WASHINGTON DC 20036	MARION LABORATORIES, INC		
IRIS SUNSHINE, 1710 BROADWAY NEW YORK NY 10019	INTERNATIONAL LADIES GARMENT WORKERS UNION	5,124.99	269.35
SUTHERLAND ASBILL & BRENNAN, 1666 K STREET, NW, #800 WASHINGTON DC 20006	HOWARD ROSE COMPANY		
ROSEMARIE SWEENEY, SUITE 770 600 MARYLAND AVE., SW WASHINGTON DC 20024	AMERICAN ACADEMY OF FAMILY PHYSICIANS	2,218.74	2,064.97
WILLIAM R. SWEENEY JR., 220 EYE ST., NE, #210 WASHINGTON DC 20002	NATIONAL INVESTMENT DEVELOPMENT CORP	10,000.00	170.63
SWIDLER & BERLIN, CHTD, 1000 THOMAS JEFFERSON ST., NW #500 WASHINGTON DC 20007	AMERICAN ELECTRONICS ASSN	2,735.69	
Do	FINNIGAN CORP		
SCOTT R. SWIRLING, SUITE 380 122 C ST., NW WASHINGTON DC 20001	NATIONAL FAMILY PLANNING & REPRODUCTIVE HEALTH ASSN, INC	1,092.00	22.00
SYSTEMATICS, INC, 2121 K ST., NW, #830 WASHINGTON DC 20037			
Z. MICHAEL SZAZ, 6415 FRANCONIA COURT SPRINGFIELD VA 22150	AMERICAN HUNGARIAN FEDERATION	2,000.00	
Do	EMBASSY OF THE DEMOCRATIC REPUBLIC OF SOMALIA		
KEITH TARR-WHELAN, 3626 N. KENSINGTON ST. ARLINGTON VA 22207	SAVE OUR SECURITY	8,700.00	
JOSEPH L. S. TERRELL, 1800 MASSACHUSETTS AVENUE, NW, #604 WASHINGTON DC 20036	FARM CREDIT COUNCIL		
MARY KAY THATCHER, 600 MARYLAND AVENUE, SW WASHINGTON DC 20024	AMERICAN FARM BUREAU FED	4,374.99	194.90
MARGARET P. THAXTON, 418 SOUTH CAPITOL STREET, SE WASHINGTON DC 20003	SHEET METAL & AIR CONDITIONING CONTRACTORS' NAT'L ASSN		
DIANE KAY THOMAS, 2727 29TH ST., NW, #634 WASHINGTON DC 20008	AMERICAN ASSN OF MINORITY ENTERPRISE SMALL BUS. INVEST COS	4,400.00	
BARBARA THOMPSON, 1828 L STREET, NW WASHINGTON DC 20036	NATIONAL COOPERATIVE BUSINESS ASSN	1,200.00	
DANA S. THOMPSON, 418 SOUTH CAPITOL STREET, SE WASHINGTON DC 20003	SHEET METAL & AIR CONDITIONING CONTRACTORS' NAT'L ASSN		
THOMPSON HINE & FLORY, 1920 N ST., NW, #700 WASHINGTON DC 20036	NATIONAL PORK PRODUCERS COUNCIL		21.95
LAW OFFICES OF FRED THOMPSON, 1919 PENNSYLVANIA AVENUE, NW, #850 WASHINGTON DC 20006	CENTRAL STATES SE & SW AREAS HEALTH, WELFARE & PENSION FUNDS	6,148.00	
Do	WESTINGHOUSE ELECTRIC CORP	1,967.50	
RICHARD L THOMPSON, 1700 K STREET, NW, #601 WASHINGTON DC 20006	SQUIBB CORPORATION	1,500.00	
MARGARET A. THOMSON, 1730 K STREET, NW, #700 WASHINGTON DC 20006	ECONOMICS LABORATORY, INC	100.00	
ROBERT N. THOMSON, ONE LANDMARK SQ. STAMFORD CT 06901	MOORE MCCORMACK RESOURCES, INC	2,000.00	840.00
TERENCE H. THORN, SUITE 919 1700 NORTH MOORE STREET ARLINGTON VA 22209	HNG/INTERNORTH	163.45	
MICHAEL L. TINER, 1775 K ST., NW WASHINGTON DC 20006	UNITED FOOD & COMMERCIAL WORKERS INTL UNION	9,807.72	461.84
ROBERT TOBIN, 1187 NATIONAL PRESS BLDG. WASHINGTON DC 20045	AD HOC COMM IN DEFENSE OF LIFE, INC	2,600.00	5,014.12
DAVID R. TOLL, 2121 K STREET, NW, #880 WASHINGTON DC 20037	PUBLIC SERVICE CO OF COLORADO	1,500.00	1,218.38
Do	WESTERN UTILITIES CLEAN AIR GROUP		
JAY C. TOWNLEY, 1856 NORTH KOSTNER AVENUE CHICAGO IL 60639	SCHWINN BICYCLE CO	300.00	
THOMAS J. TRABUCCO, 1533 NEW HAMPSHIRE AVENUE, NW WASHINGTON DC 20036	NATIONAL ASSN OF RETIRED FEDERAL EMPLOYEES	11,502.00	
RICHARD L. TRACHTMAN, SUITE 500 1101 VERMONT AVE. NW WASHINGTON DC 20005	AMERICAN SOC OF INTERNAL MEDICINE	2,495.44	270.44
JOSEPH P. TRAINOR, 815 16TH ST., NW WASHINGTON DC 20006	BROTHERHOOD OF RAILWAY, AIRLINE & STEAMSHIP CLERKS	2,000.00	486.85
HUBERT TRAVAILLE, SUITE 510 1090 VERMONT AVE., NW WASHINGTON DC 20005	POTLATCH CORPORATION	2,000.00	332.33
THOMAS TRUAX, 1200 15TH ST., NW WASHINGTON DC 20005	AMERICAN HEALTH CARE ASSN	3,300.00	
ANH TU, SUITE 860 1029 VERMONT AVE., NW WASHINGTON DC 20005	PROJECT ADVISORY GROUP	243.27	127.25

Organization or Individual Filing	Employer/Client	Receipts	Expenditures
JON R. TUMLER, 1110 VERMONT AVENUE, NW, #1075 WASHINGTON DC 20005	PUBLIC SECURITIES ASSN	7,875.00	24,555.13
B. ELIZABETH TUNNEY, 124 SALEM CHURCH ROAD MECHANICSBURG PA 17055	RETAIL, WHOLESALE & DEPT STORE UNION (INT'L), ET AL	7,995.00	850.85
WILLIAM J. TURENNE, 1901 L STREET, NW WASHINGTON DC 20036	ELI LILLY AND COMPANY	3,000.00	16.50
BRIAN TURNER, 815 16TH STREET, NW WASHINGTON DC 20006	INDUSTRIAL UNION DEPARTMENT, AFL-CIO	7,218.25	
J. C. TURNER, 1125 17TH STREET, NW WASHINGTON DC 20036	INTERNATIONAL UNION OF OPERATING ENGINEERS		
MAX TURNIPSEED, 1155 15TH STREET, NW, #611 WASHINGTON DC 20005	ETHYL CORP	1,470.00	208.99
W. GLENN TUSSEY, 600 MARYLAND AVE., SW WASHINGTON DC 20024	AMERICAN FARM BUREAU FED	7,291.66	56.30
ST. CLAIR J. TWEEDIE, SUITE 220 1575 EYE STREET, NW WASHINGTON DC 20005	AMERICAN CYANAMID CO	8,000.00	130.00
U.S. COMMITTEE FOR THE OCEANS, ROUTE 2 ARARAT VA 24053			
MARK J. UGORETZ, 1726 M STREET, NW WASHINGTON DC 20036	ERISA INDUSTRY COMMITTEE	2,125.00	
UNIQUE ATHLETES, INC. 3 WOODLAND AVENUE WESTHAMPTON BEACH NY 11978			
UNITED FOOD & COMMERCIAL WORKERS INTL UNION, 1775 K ST., NW WASHINGTON DC 20006		145,694.56	44,693.14
RONALD D. UTT, 1615 H STREET, NW WASHINGTON DC 20062	CHAMBER OF COMMERCE OF THE U.S.		61.26
MARY UYEDA, 1200 17TH STREET, NW WASHINGTON DC 20036	AMERICAN PSYCHOLOGICAL ASSN	2,018.00	140.84
R. THOMAS VAN ARSDALL, 1800 MASSACHUSETTS AVE., NW WASHINGTON DC 20036	NATIONAL COUNCIL OF FARMER COOPERATIVES	385.00	
RICHARD VAN DEUREN, 111 E. WISCONSIN AVENUE, NW, #1800 MILWAUKEE WI 53202	NATIONAL EMPLOYEE BENEFITS INSTITUTE		
H. B. VAN GIESON, 1700 NORTH MOORE STREET ROSSLYN VA 22209	BOEING COMPANY	933.90	333.75
JOHN A. VANCE, 1726 M ST., NW WASHINGTON DC 20036	PACIFIC GAS & ELECTRIC CO	4,368.00	2,649.09
VARIABLE ANNUITY LIFE INS CO, 2929 ALLEN PARKWAY HOUSTON TX 77019			148,480.50
KRISTIN LEA VEHRS, 1110 VERMONT AVENUE, NW, #1160 WASHINGTON DC 20005	AMERICAN ASSN OF ZOOLOGICAL PARKS & AQUARIUMS		
Do	TEXAS SHRIMP ASSN	2,400.00	3,223.29
VERNER LIIPFERT BERNHARD MCPHERSON & HAND, CHTD, 1660 L STREET, NW, #1000 WASHINGTON DC 20036	BROWN & ROOT, INC	800.00	
Do	ICAHN & COMPANY, INC	512.50	
Do	JOHN F. KENNEDY CENTER FOR THE PERFORMING ARTS		
Do	ORION SATELLITE CORP	562.50	
Do	RAYBURN COUNTRY ELECTRIC COOPERATIVE, INC	1,492.50	
Do	TRW		
Do	TURNER BROADCASTING SYSTEM, INC	2,025.00	
WALTER D. VINYARD JR., ZUCKERT, SCOUTT, RASENBERGER & JOHNSON 888 17TH ST., NW, 7TH FL. WASHINGTON DC 20006.	CONTINENTAL INSURANCE COMPANIES	20,000.00	
Do	ITT CORP		
Do	NATIONAL FRATERNAL CONGRESS OF AMERICA	10,000.00	
VOLUNTEERS TRUSTEES OF NOT-FOR-PROFIT HOSPITALS, 1625 EYE ST., NW WASHINGTON DC 20006		6,700.00	10,017.45
MARCOS VON GOHMAN, 1835 K ST., NW, #600 WASHINGTON DC 20006	GUYANA AIRWAYS CORP		
ABE J. VORON, 6204 WHITE OAK LANE TAMARAC FL 33319	NATIONAL RADIO BROADCASTERS ASSOCIATION	1,100.00	810.00
WAGNER & BARODDY, INC, 1100 17TH STREET, NW, #804 WASHINGTON DC 20036	AMERICAN BUSINESS PRESS	12,531.25	2,772.24
Do	CHICAGO AND NORTHWESTERN RAILROAD	687.50	574.31
Do	CSX CORPORATION	15,718.75	5,669.33
Do	DAEWOO INTERNATIONAL CORP	5,743.75	2,565.63
Do	JARTRAN, INC		
Do	LANIHAU CORPORATIONS		
Do	MOBIL CORP		
Do	NATIONAL BEER WHOLESALERS OF AMERICA	9,093.75	2,191.69
Do	NATIONAL DEBT REPAYMENT FOUNDATION	1,125.00	273.07
Do	NORTH AMERICAN BANCORPORATION	1,250.00	410.72
Do	UNITED NATIONS EDUCATIONAL SCIENTIFIC & CULTURAL ORGAN		
JOHN A. WAITS, 1800 MASSACHUSETTS AVENUE, NW WASHINGTON DC 20036	FARM CREDIT COUNCIL	825.00	
WALD HARKRADER & ROSS, 1300 19TH ST., NW WASHINGTON DC 20036	EMPACADORA DEL NORTE, S.A.		
Do	MATSUSHITA ELECTRIC INDUSTRIAL CO, LTD		
JAMES P. WALSH, DAVIS WRIGHT TODD RIESE & JONES 1752 N ST., NW, #800 WASHINGTON DC 20036	AMERICAN TUNABOAT ASSN	2,000.00	
WILLIAM C. WAMPLER, 412 FIRST STREET, SE WASHINGTON DC 20003	AMERICAN MEAT INSTITUTE		
Do	AMERICAN PEANUT PRODUCT MANUFACTURERS, INC	9,000.00	
WARNER AMEX CABLE COMMUNICATIONS, 75 ROCKEFELLER PLAZA NEW YORK NY 10019			
ERNEST R. WARNER JR., 1818 N ST., NW WASHINGTON DC 20036	ARIANESPACE, S.A.	475.00	63.64
Do	DGA INTERNATIONAL, INC. (FOR: SNECMA)		
Do	DGA INTERNATIONAL, INC. (FOR: SOFREAVIA)		
B. JACK WARREN, P.O. BOX 95385 ATLANTA GA 30347	FOREST FARMERS ASSN	458.30	760.62
WASHINGTON GAS LIGHT CO, 1100 H ST., NW WASHINGTON DC 20080			1,846.51
WASHINGTON OFFICE ON AFRICA, 110 MARYLAND AVE., NE WASHINGTON DC 20002		42,615.20	38,570.66
WASHINGTON RESOURCES AND STRATEGY, INC, 220 EYE STREET, NE WASHINGTON DC 20002	AMERICAN RESORT & RESIDENTIAL DEVELOPMENT ASSOCIATION	10,000.00	329.62
THEODORE F. WEIHE, 1800 MASSACHUSETTS AVENUE, NW WASHINGTON DC 20036	U.S. OVERSEAS COOPERATIVE DEVELOPMENT COMMITTEE	2,812.00	
WEIL GOTSHAL & MANGES, 1101 14TH ST., NW WASHINGTON DC 20005	NATIONAL VENTURE CAPITAL ASSN		
EILEEN J. WEINER, 233 EAST REDWOOD STREET BALTIMORE MD 21202	GORDON FEINBLATT ROTHMAN HOFFBERGER & HOLLANDER (FOR: SINAI HOSPITAL OF BALTIMORE, INC).	1,749.00	27.67
WILLIAM B. WELSH, 1625 L ST., NW WASHINGTON DC 20036	AMERICAN FED OF STATE COUNTY & MUNICIPAL EMPLOYEES	18,100.86	115.52
G. FRANKLIN WEST, 499 S. CAPITOL ST., SW, #507 WASHINGTON DC 20003	BILL HECHT & ASSOCIATES, INC	2,000.00	
PAMELA R. WEST, 1200 17TH STREET, NW WASHINGTON DC 20036	AMERICAN PSYCHOLOGICAL ASSN	1,962.00	112.97
HARRY H. WESTBAY III, 1615 H STREET, NW WASHINGTON DC 20062	CHAMBER OF COMMERCE OF THE U.S.	250.00	55.00
WESTERN FUELS ASSOCIATION, INC, 1625 M ST., NW WASHINGTON DC 20036			20,877.99
MARY LOUISE WESTMORELAND, 1400 K STREET, NW WASHINGTON DC 20005	HANDGUN CONTROL, INC	10,342.00	
WILLIAM WEWER, 1300 19TH STREET, NW, #310 WASHINGTON DC 20036	NATIONAL COMM TO PRESERVE SOCIAL SECURITY	3,100.00	
Do	SUBSCRIPTION TELEVISION ASSN		
ELLAN WHARTON, 1701 PENNSYLVANIA AVENUE, NW, #900 WASHINGTON DC 20006	E. I. DU PONT DE NEMOURS & CO, INC	165.00	
DON WHITE, 1200 17TH STREET, NW WASHINGTON DC 20036	AMERICAN PSYCHOLOGICAL ASSOCIATION	1,270.00	19.90
DONALD W. WHITEHEAD, SUITE 335 1120 CONNECTICUT AVE., NW WASHINGTON DC 20036	EMERGENT TECHNOLOGIES INC	1,500.00	
Do	WASHINGTON STATES REPRESENTATIVES	1,000.00	
ALTON W. WHITEHOUSE JR., 1750 MIDLAND BLDG. CLEVELAND OH 44115	STANDARD OIL CO (OHIO)		
MARSHALL E. WHITENTON, SUITE 600 1001 22ND ST., NW WASHINGTON DC 20037	STANDARD OIL CO (OHIO)	337.50	88.37
STEVEN C. WHITNEY, 14 W. WYATT AVE. ALEXANDRIA VA 22301	NATIONAL PARKS & CONSERVATION ASSN	1,538.40	75.00
WICKWIRE LEWIS GOLDMARK & SCHOOR, 500 MAYNARD BLDG. SEATTLE WA 98104	ARCTIC SLOPE REGIONAL CORP, ET AL	3,088.50	3,719.35
J. MICHAEL WILLARD, WILLARD & ARNOLD COMMUNICATIONS 405 CAPITOL ST., #809 CHARLESTON WV 25301	CAMP CARMOUCHE BARSH HUNTER GRAY HOFFMAN & GILL, P.C.	7,600.00	979.89
Do	NORFOLK SOUTHERN CORP	15,000.00	2,465.36
WILLIAMS & JENSEN, P.C., 1101 CONNECTICUT AVE., NW WASHINGTON DC 20036	ALAMO CEMENT COMPANY		
Do	AMERICAN HOME PRODUCTS	200.00	7.88
Do	AMERICAN HOSPITAL ASSN	5,480.00	219.29
Do	AMERICAN PHYSICAL THERAPY ASSN	190.00	31.53
Do	AMERICAN REAL ESTATE COMMITTEE	1,700.00	124.75
Do	CENTURY 21 REAL ESTATE CORP		
Do	CIGNA	1,505.00	27.58
Do	COMMITTEE FOR EMPLOYMENT OPPORTUNITIES		
Do	COMMITTEE FOR FAIRNESS IN REAL ESTATE TAXATION	687.50	31.53
Do	D'ANCONA & PFLAUM		
Do	DESIGN PROFESSIONALS COALITION		
Do	ESTEE LAUDER, INC		
Do	FEDERATION FOR AMERICAN IMMIGRATION REFORM		
Do	FIRST BOSTON CORP	8,287.50	15.76
Do	FIRST DATA		
Do	FREIGHT FORWARDERS INSTITUTE		
Do	GENERAL ELECTRIC CO		
Do	GENERAL PORTLAND, INC		
Do	GIFFORD-HILL & COMPANY, INC		
Do	GOLDOME FSB		31.53
Do	HIGHER EDUCATION ASSISTANCE FOUNDATION	62.50	
Do	HOUSTON ENDOWMENT, INC		
Do	IU INTERNATIONAL MANAGEMENT CORP	2,475.00	240.31
Do	KAISER CEMENT CORPORATION		
Do	KELLOGG COMPANY		
Do	KELLY APPLEMAN HART & HALLMAN		
Do	KRAUSE MILLING CO	125.00	15.76
Do	MONOLITH PORTLAND CEMENT COMPANY		
Do	MUSTANG FUEL CORPORATION		
Do	NATIONAL ASSN FOR HOME CARE	230.00	24.95
Do	NATIONAL ASSN OF WATER COS	1,000.00	78.79

Organization or Individual Filing	Employer/Client	Receipts	Expenditures
Do	NATIONAL CABLE TELEVISION ASSN, INC	1,812.50	63.06
Do	NATIONAL OFFICE MACHINE DEALERS ASSN		
Do	NATIONAL SOFT DRINK ASSN		
Do	NATIONWIDE INSURANCE COMPANIES		
Do	NORFOLK SOUTHERN CORP	3,150.00	203.54
Do	PARALYZED VETERANS OF AMERICA		
Do	PHARMACEUTICAL MANUFACTURERS ASSN	1,197.50	15.76
Do	RECORDING INDUSTRY OF AMERICA, INC	475.00	55.15
Do	SOUTHLAND ROYALTY CO		
Do	SOUTHWESTERN PORTLAND CEMENT COMPANY		
Do	STUDENT LOAN MARKETING ASSN	2,050.00	195.68
Do	TEXACO, INC	227.50	13.13
Do	TEXAS AIR CORP	1,030.00	93.24
Do	U.S. TELEPHONE COMMUNICATIONS, INC		19.70
Do	UNIVERSAL FOODS, INC		
Do	UNIVERSITY OF MICHIGAN HOSPITALS		
Do	USAA FINANCIAL SERVICE CO		
Do	WILKIE FARR & GALLAGHER		
BARRETT WILLIAMS, 417 NEW JERSEY AVE., SE WASHINGTON DC 20003	NATIONAL ASSN OF RAILROAD PASSENGERS	3,553.83	
MARGIE R. WILLIAMS, 415 2ND ST., NE SUITE 300 WASHINGTON DC 20002	NATIONAL ASSN OF WHEAT GROWERS	2,340.00	
WILMER CUTLER & PICKERING, 1666 K ST., NW WASHINGTON DC 20006	CAPITAL CITIES COMMUNICATIONS, INC		
H. GRAHAM WILSON, C/O DOW LOHNES & ALBERTSON 1255 23RD STREET, NW WASHINGTON DC 20037	DOFASCO, INC		
JOSEPH B. WINKELMANN, 777 14TH ST., NW WASHINGTON DC 20005	NATIONAL ASSN OF REALTORS	2,500.00	497.91
WINSTON & STRAWN, #500 2550 M ST., NW WASHINGTON DC 20037	ASSOCIATION OF SEAT LIFT MANUFACTURERS		
Do	BUILDING OWNERS & MANAGERS ASSN INTL	320.00	
Do	INTERNATIONAL COUNCIL OF SHOPPING CENTERS	1,910.00	7.00
Do	NATIONAL AUDUBON SOCIETY		
Do	QUEEN CITY HOME HEALTH CARE		
JAMES L. WINSTON, 1730 M STREET, NW, #708 WASHINGTON DC 20036	NATIONAL ASSN OF BLACK OWNED BROADCASTERS		
WALTER J. WITEK JR., 777 14TH ST., NW WASHINGTON DC 20005	NATIONAL ASSN OF REALTORS		
S.R. WOJDAK AND ASSOCIATES, INC. 1401 WALNUT ST., #1000 PHILADELPHIA PA 19102	HEALTH AMERICA CORP	3,675.00	207.30
Do	MEDICAL COLLEGE OF PENNSYLVANIA	4,500.00	1,017.45
Do	READING COMPANY		
Do	ST. CHRISTOPHER'S HOSPITAL FOR CHILDREN	10,500.00	358.30
WOOD LUCKSINGER & EPSTEIN, 2000 M STREET, NW, #500 WASHINGTON DC 20036	CHAD THERAPEUTICS, INC		
G. KENT WOODMAN, 818 CONNECTICUT AVE., NW WASHINGTON DC 20006	BASKIN & STEINGUT, P.C. (FOR: NORFOLK SOUTHERN CORP)	2,500.00	
DOUGLAS A. WOODWARD, C/O DOW LOHNES & ALBERTSON 1255 23RD STREET, NW WASHINGTON DC 20037	STELCO, INC	1,500.00	629.33
BRENDA J. WRIGHT, SUITE 2600 1000 WILSON BLVD. ARLINGTON VA 22209	TRW, INC	1,117.00	
WYATT & SALTZSTEIN, SUITE 802 1725 DESALES STREET, NW WASHINGTON DC 20036	ASSOCIATION OF BUSINESS PUBLISHERS		
DAVID V. YADEN, 111 SW COLUMBIA, #800 PORTLAND OR 97201	NERCO, INC	500.00	15.88
KENNETH P. YALE, 1111 14TH STREET, NW, #1200 WASHINGTON DC 20005	AMERICAN DENTAL ASSN	3,000.00	109.53
JUDITH A. YOUNG, 777 14TH ST., NW WASHINGTON DC 20005	NATIONAL ASSN OF REALTORS	1,500.00	68.40
THOMAS K. ZAUCHA, 1825 SAMUEL MORSE DRIVE RESTON VA 22090	NATIONAL GROCERS ASSN		
SHARON G. ZEDD, 1945 OLD GALLOWS ROAD, #405 VIENNA VA 22180	AMERICAN WOOD PRESERVERS INSTITUTE	84.62	23.70
PHILIP F. ZEIDMAN, 1401 NEW YORK AVE., NW, #900 WASHINGTON DC 20005	AMERICAN BUSINESS CONFERENCE, INC		

SENATE—*Thursday, January 30, 1986*

(Legislative day of Monday, January 27, 1986)

The Senate met at 9:30 a.m., on the expiration of the recess, and was called to order by the President pro tempore [Mr. THURMOND].

PRAYER

The Chaplain, the Reverend Richard C. Halverson, D.D., offered the following prayer:

Let us pray.

For what is your life? It is even a vapour that appeareth for a little while, and then vanisheth.—James 4:14.

Gracious God, Lord of life, 46 hours ago, cosmic tragedy galvanized America into one united family as seven valiant pioneers were taken from us. In profound silence, as though life was in suspension, millions watched in unbelief and waited transfixed, hoping against hope. For those unforgettable moments—perhaps hours—we were all one in shock and grief: all races, all ages, the high and mighty, the low and weak—all one in inexpressible agony, with an overwhelming sense of loss.

We thank You for the greatness of the American heart revealed in the strong and tender response of our leadership: the reassuring, healing message of the President, the instinctive resort to prayer of the Congress, the compassionate words of Senators and Representatives, the emerging conviction that the sacrifice of the heroes was not in vain but rather stimulus to national renewal of our commitment to space.

Thank You, Almighty God, for the seven heroes, their families, our leaders, the people of America, and the sensitive coverage by the news media. Praise God for America! Amen.

RECOGNITION OF THE MAJORITY LEADER

The PRESIDENT pro tempore. The distinguished majority leader is recognized.

SCHEDULE

Mr. DOLE. Mr. President, under the standing order, the leaders have 10 minutes each. Then there is a special order in favor of the Senator from Wisconsin [Mr. PROXMIRE].

There will be routine morning business, not to extend beyond 10 a.m., with Senators permitted to speak therein for not more than 5 minutes each.

At 10 a.m., the Senate will resume consideration of S. 638, the Conrail bill. Pending is the Dixon amendment No. 1567 to the Danforth amendment No. 1437.

Rollcall votes can be expected throughout the day and can be expected prior to 12 noon. In fact, I assume that there will be a vote around 11 o'clock on the Dixon amendment.

By unanimous consent, at 3 p.m. today, a cloture vote will occur on the Danforth committee substitute to S. 638.

Mr. President, it is my hope that we can conclude action on Conrail today. I know there is some indication that there may be an extended postcloture filibuster if cloture is invoked. Obviously, if cloture is not invoked, there will be another attempt to do that next week. But it is my hope that we can finish the bill today and then go to TV in the Senate next week, followed by the Genocide Convention.

I must indicate that if we have to spend a full week and come back after the recess on Conrail, it will probably displace one or both of those matters. So I hope we can conclude the Conrail bill. We have been on it for a second week. I think everybody understands the issues.

With reference to tomorrow, I think we will be able to say definitely after the cloture vote. Again, it may depend on whether or not we are able to complete action on the bill. I know there are a number of Senators on each side who desire to attend the memorial service in Houston tomorrow, and we hope to be able to accommodate them; but, again, we would like to finish action on this bill.

RECOGNITION OF THE DEMOCRATIC LEADER

The PRESIDENT pro tempore. The distinguished Democratic leader is recognized.

SENATOR STEVENS RECEIVES MINUTE MAN AWARD

Mr. BYRD. Mr. President, I should like to call to the attention of my colleagues that last evening, the Reserve Officers Association of the United States, at its 1986 National Council midwinter banquet, presented our distinguished colleague from Alaska [Mr. STEVENS] with the 1986 "Minute Man of the Year" award. This award is presented annually by the ROA to the citizen who has contributed most to national security in these times.

Mr. President, previous recipients of the ROA's annual Minute Man of the Year award include Presidents Ford and Reagan, Senators STENNIS, JACKSON, THURMOND, and NUNN.

Our distinguished colleague and esteemed friend from Alaska deserves our congratulations for this richly deserved recognition as ROA's "Minute Man of the Year."

Senator STEVENS, as a young reserve officer on duty in China during World War II, formed a strong conviction that the best way to prevent another world-wide conflict was to ensure that our Nation would always be ready to defend itself. More recently, Senator STEVENS has exerted strong leadership to this end as chairman of the Defense Subcommittee of the Senate Committee on Appropriations. His efforts have resulted in increased readiness of our Armed Forces, including substantially increased funding for Guard and Reserve programs.

Mr. President, I again offer my congratulations to the distinguished Defense Subcommittee chairman.

I ask unanimous consent to have printed in the RECORD the introductory remarks of Capt. David L. Woods, USNR, at last evening's presentation of the "Minute Man of the Year" award, along with two letters of congratulation, and a list of previous recipients of ROA's annual "Minute Man of the Year" award.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

REMARKS OF CAPT. DAVID L. WOODS, USNR

Senator STEVENS has had a close association with the military which spans more than four decades, from his World War II service in China as a first lieutenant with Gen. Claire Chennault to his current position as chairman of the Appropriations Defense Subcommittee.

In this latter capacity, he has demonstrated strong advocacy of military readiness from his position of great responsibility.

Without Senator STEVENS' strong leadership, this year's, Department of Defense budget would have failed to provide the readiness our Nation expects and requires.

Of particular interest to ROA has been his concern for the equipping and training of the Reserve components including the National Guard.

Senator STEVENS' strong leadership has insured that essential funding for the Reserve survived the long and arduous House-Senate conference process, and has become law.

We applaud his statesmanship in the Senate, and we are honored to recognize him.

● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

One of my most pleasant responsibilities as national president of ROA is to make this presentation.

Will Senator STEVENS please join me for the presentation of our Minute Man of the Year award.

I also want to take this opportunity to read aloud two letters of congratulations from two of your friends.

U.S. SENATE,
Washington, DC, January 24, 1986.

DEAR TED: Congratulations on your receipt of the 1986 "Minute Man of the Year" award from the Reserve Officers Association of the United States.

Your strong leadership as Chairman of the Defense Subcommittee of the Senate Committee on Appropriations has resulted in substantially increased funding for Guard and Reserve programs.

Your dedication and long association with a strong National Defense has been evident since your service with the renowned Flying Tigers in World War II.

Again, congratulations on this richly-deserved recognition as ROA's "Minute Man of the Year."

With warmest regards, I am

Sincerely yours,

ROBERT.

THE WHITE HOUSE,
Washington, January 21, 1986.

Hon. TED STEVENS,
U.S. Senate, Washington, DC.

DEAR TED: I am delighted and honored to congratulate you on your selection by the Reserve Officers Association of the United States as the 29th recipient of the "Minute Man of the Year" award.

You receive this well-deserved recognition for your consistent and dedicated commitment to the maintenance of a strong and fully prepared national defense. I take this opportunity to thank you personally for your consistent support in the United States Senate for our initiatives to keep this nation strong and free.

I commend the Reserve Officers Association of the United States for choosing you, and Nancy joins me in again congratulating you. God bless you.

Sincerely,

RONALD REAGAN.

PREVIOUS RECIPIENTS OF ROA'S ANNUAL MINUTE MAN OF THE YEAR AWARD

1958—Brig. Gen. David Sarnoff.
1959—Senator Richard B. Russell.
1960—Colonel Bryce N. Harlow.
1961—The Honorable Hugh M. Milton II.
1962—The Honorable Carl Vinson.
1963—The Honorable Dennis Chavez (posthumously).
1964—The Honorable Margaret Chase Smith.
1965—The Honorable L. Mendel Rivers.
1966—The Honorable John C. Stennis.
1967—The Honorable Robert L. F. Sikes.
1968—The Honorable F. Edward Hebert.
1968—Francis Cardinal Spellman (posthumously).
1969—The Honorable John W. McCormack.
1970—The Honorable Melvin L. Laird.
1971—The Honorable Strom Thurmond.
1972—The Honorable Carl Albert.
1973—The Honorable Henry M. (Scoop) Jackson.
1974—The Honorable George H. Mahon.
1975—The Honorable Gerald R. Ford.
1976—The Honorable John L. McClellan.
1977—The Honorable Bob Wilson.
1978—The Honorable Charles E. Bennett.
1979—The Honorable Milton R. Young.
1980—The Honorable Samuel S. Stratton.
1981—The Honorable John Goodwin Tower.
1982—The Honorable G. V. (Sonny) Montgomery.
1983—President Ronald W. Reagan.
1984—The Honorable Sam Nunn.
1985—The Honorable William L. Dickinson.

Mr. BYRD. Mr. President, I ask unanimous consent that I may reserve the remainder of my time throughout the rest of the day.

The PRESIDENT pro tempore. Without objection, it is so ordered.

RECOGNITION OF SENATOR PROXMIRE

The PRESIDENT pro tempore. Under the previous order, the Senator from Wisconsin [Mr. PROXMIRE] is recognized for not to exceed 15 minutes.

SHOULD SOVIET CHEATING END ARMS CONTROL?

Mr. PROXMIRE. Mr. President, the administration released a report just before Christmas charging a series of nuclear weapons treaty violations by the Soviet Union. Those charges should have surprised no one. The administration has made the same charges in generalities for years. Why? First, there have undoubtedly been violations of the treaties by both the Soviet Union and the United States. Some of those alleged violations have been the product of ambiguous language in a treaty. The accuser may construe the production or deployment of a particular missile as a violation because he construes the missile as a new weapon, although the treaty specifically forbade such a deployment. The accused claims it is not a new missile, but simply a follow on of an old missile with minor modifications. The administration also charges that the Soviets have nuclear weapons test explosions in excess of the 150-kiloton limit established by the 1974 treaty. The Russians argue that the difference in geologic formations between the two countries have distorted the interpretation of the volume of the explosion.

The second reason the administration has made these charges should be obvious. Here is an administration headed by a President of the United States who has a record of consistent opposition to every one of the arms control treaties which his administration claims are being violated. Wholesale Russian violations would justify the wisdom of his consistent opposition to the treaties. Here is a President who has not negotiated or come close to negotiating an arms control treaty for the 5 years he has occupied the Presidency. Poll after poll has demonstrated the overwhelming bipartisan support for arms control negotiations with the Soviet Union throughout the country.

What effect on the public attitude toward arms control can we expect from a series of charges by the administration and the President of the United States that the Soviets are violating arms control treaties? Can there be any doubt? The reaction should be simple and clear. As the charges continue, most Americans will believe their President. They will believe that the Soviets are violating the agreements. Why not? After all, we are Americans. We love our country. Sure, the Soviets deny that they have cheated. What do you expect? After all, the Soviets are the adversary. They are Communists.

And now comes, not a charge of a violation here or there, but an official report by the administration specifying a series of particular violations. Is that not likely to jar the confidence of the American public that we can and should enter into arms control treaties with the Soviet Union? Will millions of people not ask: "If the Soviet Union cheats on these agreements, what good are they? They cheat. We do not. So they advance their nuclear power. We do not. So they build up their nuclear arsenal. We fall behind." Result: If the administration chooses not to enter into a nuclear arms control treaty with the Soviet Union, and if it repudiates the ABM Treaty by building and deploying an ABM system with star wars, or SDI, and if it violates the SALT II Treaty under its policy of proportional response, that is matching our allegations of cheating against the Soviet Union with our own deliberate breach of the treaty, should that not win increasing public support as a logical response to protect the country against the cheating Communists?

Mr. President, the answer is that we should put this latest report by the administration, charging Soviet cheating, in perspective. Spurgeon Keeny is a loyal American. He is an expert on arms control. He has served as a Deputy Director of the U.S. Arms Control and Disarmament Agency. He is presently head of the Arms Control Association. Keeny charges that: "The report ignores the fact that, for the most part, the Soviet Union is clearly in compliance with existing agreements." Now, how about that, Mr. President? If the Soviet Union is, for the most part, in compliance, if the violations are about what you might expect in view of the ambiguities in the various arms control treaties, then is the important fact not whether in general the Soviets have complied or not complied?

How can we determine whether these violations put the United States at a serious, significant military disad-

vantage or not? Answer: That depends on whether the treaty violations would give the Soviets a significant military advantage. Does the report assess the consequence of these violations on the nuclear deterrent capability of the United States vis-a-vis the Soviet Union? No. Would it do so if the allegations did, in fact, add up to signficant shift in nuclear power? Of course it would. And, in fact, Michael Krepon's criticism of the report makes this especially clear. Who is Krepon? He is a verification specialist. He is also a senior associate of the Carnegie Endowment for International Peace. Krepon points out that the report fails to mention important, militarily significant steps the Soviets have taken to comply with arms control treaties, such as dismantling their SS-11 missile launchers and their bombers in line with treaty requirements.

Mr. President, the alternative to arms control is an unrestricted nuclear arms race. Some Americans, including some Senators and powerful administration figures, believe we can win such an arms race with our superior technology and our far more productive economy. Can we? The answer is a sure and certain "No." Why not? Because no one can win a nuclear arms race. Consider one simple fact. If both the United States and the Soviet Union forgo the ABM treaty and build a missile defense—an SDI—then, for the first time in the 40 years of the nuclear age, the advantage, and possibly the decisive advantage, shifts to the side that initiates a preemptive strike. Why? Because a first strike takes out a large proportion of the other side's offensive missiles and then relies on its protective missile defense to protect enough of its economy so that it would emerge terribly wounded but dominant in a world with only a single superpower.

Yes, indeed; arms control carries risks too. There may be cheating by the Soviets. Our job is to negotiate arms control treaties with the most thorough and comprehensive verification provisions. We must keep that verification alive by giving it every bit of technological support possible. We must take vigorous advantage of the Standing Consultative Commission so that we go to the mat with the Russians on any suspected violations. And we must use the obvious advantage of arms control for both superpowers to let the Russians know that we will renounce the treaty if they fail to comply.

MYTH THAT SAVIMBI IS A PRO-WESTERN DEMOCRAT

Mr. PROXMIRE. Mr. President, 2 days ago, when I finished speaking on the floor, another Senator rose and introduced a bill to assist the so-called freedom fighter Jonas Savimbi.

Jonas Savimbi is the man who is always characterized as a charismatic figure, and Jonas Savimbi is the man who is interested in overthrowing the present incumbent pro-Russian Marxist government in Angola.

But there are problems with Mr. Savimbi.

Mr. President, the myth of the day is that Jonas Savimbi is a freedom fighter and pro-Western democrat. This is the myth that many who wish to fund Savimbi's UNITA organization would have us believe. But it is a myth born of ignorance and wishful thinking.

Jonas Savimbi is a dynamic, controversial, charismatic and enigmatic leader. But to call him a democrat or a freedom fighter is a factual error. Here is a man who was trained by the People's Republic of China in the art of guerrilla warfare. He is, by his own words, a Maoist. He is a Socialist. He is a Marxist. He has cited Che Guevara as someone he emulates.

The UNITA organization, which Savimbi heads in Angola, has as one of its organizing principles the concept of nonalignment. It has an uncomfortable emphasis on racial tension—criticizing the central government for its integration of blacks, whites, and mestizos or mixed races. UNITA forces have killed Baptist church workers in Angola.

Any organization that today depends on the support of the South African regime can only be considered opportunistic. And an opportunistic regime can change its colors with each passing month.

Jonas Savimbi has given no indication that if he controlled the Government it would operate on any more democratic principles than the existing Marxist government. My best guess is that the people of the country would trade one form of dictatorship for another.

A freedom fighter? For whose freedom? A democrat? Where is the evidence? Pro-Western? Hardly. Just a Marxist taking advantage of the possibility of obtaining U.S. funding.

Yet the myth that Savimbi is a pro-Eastern democrat is one that many would have us believe.

Mr. President, as this year goes on, we are going to be asked to give millions of dollars, tens of millions of dollars to Savimbi in an attempt to overthrow the incumbent Government of Angola.

I would be happy if Mr. Santos, the pro-Russian dictator in Angola was replaced. The President in November said he favors covert aid to Savimbi to bring that about. This contradicts his previous policy in Angola.

I think we have to keep in mind that the present Marxist Government of Angola, under the Reagan administration, has been supported by the Export-Import Bank of the United States, that Bank, under the guidance of the Reagan White House, has provided over $200 million to a corporation which is 51-percent owned by the Angolan Government. I will shortly be introducing a bill that will make that impossible in the future under this administration. Gulf Oil Co., an American oil company, has paid royalties and taxes to the Angolan Government of $800 million a year, 60 percent of which goes to pay for Russian equipment and the presence of over 30,000 Cuban troops. The present Angolan Government could not stay in power without those Cuban troops.

In a change of heart, this President's State Departments has recently said that the Gulf Oil Co. should consider getting out of Angola. The administration should not be so mild. It ought to kick them out. The President can do that under the International Emergency Economic Powers Act [IEEPA] that we passed here and that he used in Libya. He can force the Gulf Oil Co. to get out of Angola and thereby stop aiding the present Communist regime.

If we want to act effectively to overthrow a Marxist Government in Angola, we can do it not by spending millions and millions of additional dollars in military aid to Savimbi. Rather, the President should just disconnect its economic support system. He can do it.

As I say, the principal support of Santos, the principal support of the present Marxist Government of Angola, comes from an American company paying royalties and taxes to the Angolan Government and from the Export-Import Bank of the Federal Government. That should not continue.

THE OTHER HOLOCAUST: POLAND AND THE GENOCIDE CONVENTION

Mr. PROXMIRE. Mr. President, this year marks the 45th anniversary of the beginning of the Nazi extermination policy at their concentration camp at Auschwitz. The persecution of Jews and Gypsies had been going on since 1933 within Germany, but 1941 marked the onset of the subjugation of yet another group: the Poles.

The invasion of Poland in 1939 did not resemble the acts of war later visited upon France, Great Britain, and the United States. That the Nazi war aim in this case was the extermination of the Poles as a national group became evident from the Nazi's particular fury against civilian targets, the effort to dehumanize the Polish people, and finally, the sterilization and extermination of millions of Poles in camps such as Auschwitz.

The Nazi effort to eliminate Poland's intellectual and religious leadership resulted in the systematic de-

struction of half of its educated classes, almost 3,000 Roman Catholic priests, and almost 70 percent of the Jewish population. Ultimately, this "Other" Holocaust claimed millions of Polish lives, as accepted concepts of decency and morality were reversed as the Nazi's institutionalized lawlessness.

Mr. President, has the impact of these crimes diminished over the span of four decades? Does the horror of the Holocaust occur to us only as a ghastly historical footnote? Mr. President, we live in a world today where violence and terrorism are daily threats to our standards of morality and decency. We can, however, take a major step to ensure that these values remain secure: let us ratify the Genocide Convention. This treaty prohibits the persecution of a group on the basis of its religious, ethnic, national, or racial identity. Why must we ignore warnings from our past, when constant reminders point out the urgency of the commitment to safeguard our future? Let us always remember the sacrifice of the Poles almost half a century ago; let us not forget the importance of the Genocide Convention today.

I yield the floor.

ROUTINE MORNING BUSINESS

The PRESIDENT pro tempore. Under the previous order there will now be a period for the transaction of routine morning business for not to extend beyond the hour of 10 a.m. with statements therein limited to 5 minutes each.

A TRIBUTE TO HELEN MURPHY

Mr. HEFLIN. Mr. President, prior to my election to the U.S. Senate, I spent many years engaged in the practice of law and 6 years as a judge. In each of these capacities, I gained an enormous amount of respect for our system of justice and all of its components.

Naturally, we are all familiar with the role played by the judge, whether at the trial or appellate level; we are all familiar with the roles of attorneys, whether prosecutor, plaintiff or defense; we are all also familiar with the role of the jury, a group of people selected from all walks of life to weigh the facts and testimony and evidence brought forth at a trial.

All too frequently, however, another important participant in the judicial process goes unrecognized, or even unnoticed, although their link in the chain which preserves civil liberty and civil peace alike is particularly critical. I speak, Mr. President, of the court reporter, an individual who sits, quietly attentive, throughout the trial, recording for posterity—or for the appellate court, in some cases—the questions, answers, and rulings upon which a trial verdict depends.

Recently, Mr. President, one of the finest, most dedicated court reporters whom I had ever had the privilege of working with retired after 42 years—39 years as reporter for the Lauderdale County Circuit Court, located in Florence, just a few short miles from my home in Tuscumbia, and 3 years prior to that for the law and equity court. During those decades, Helen Murphy always exhibited great ability, tremendous dedication, sincere understanding, and the fastest shorthand I have ever seen.

That last attribute is itself almost unique in today's court system, with the advent and popularization of the more familiar electric machines. When Helen Murphy began her career, shorthand was the best method for transcribing the testimony. As the use of the machines spread, she saw no reason to change the method with which she was already effective and confident.

Although she is slight of stature, Helen Murphy has never shirked from any of her duties. Oftentimes, the language in a trial will suddenly become heated, or a burst of profanity will turn the air blue. Even these words, unfamiliar as they might have been to this genteel southern lady, were recorded accurately.

Helen Murphy has been an outstanding public servant. Her work in the courts of northwest Alabama has made many tremendous contributions of justice. Speaking for all the lawyers who have ever worked with this fine young lady, I congratulate Helen Murphy on her years of dedicated service, and wish her best in her retirement.

Mr. President, I ask unanimous consent that an article and an editorial from the Florence Times-Tri-Cities Daily be printed in full in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Tri-Cities Daily, Jan. 5, 1986]

MURPHY'S CAREER

Sitting between a defendant and his constitutional right to a fair trial is not just the judge and a defense attorney. There is also the court reporter, upon whose accuracy, speed and skill a person's life can easily depend.

It is incumbent upon the court reporter to keep a running transcript of a trial. In considering whether a jury's verdict or a court decision is allowed to stand or whether it should be reversed, appellate courts have only one place to turn to review testimony: the trial transcript.

Helen Murphy took her job that seriously for 42 years—as court reporter for the Lauderdale County circuit court 39 years and three years in law and equity court. She said she was "always conscious of the fact that somebody's life, liberty or property may depend solely on my transcription of the proceedings."

Describing herself as "a self-made court reporter," she said she had never listened to a trial before going to work. Shorthand was her specialty. She never adopted the more familiar electric machines.

Most recently, she worked with Judge Leslie Johnson, and before that with Judge Robert M. Hill Sr., now retired. Until 1951 the 11th Circuit also included Colbert and Franklin counties.

Murphy retired effective Jan. 1. She left behind, in boxed shorthand pads pout in storage, decades of local history. But she took with her best wishes and warm thoughts of many friends and associates. Let the record show that hers was a career of devoted and special service.

[From the Tri-Cities Daily, Dec. 31, 1985]

COURT REPORTER MURPHY RETIRING AFTER 42 YEARS

(By Linda J. Quigley)

FLORENCE.—Helen Murphy is leaving the Lauderdale County Courthouse—but a lot of evidence that she's been there will remain.

Thousands of shorthand pads are boxed, labeled and stored. They are the original records of the trials she's recorded in her job as court reporter for the past 42 years.

Today is Murphy's last day as an official court reporter. She has served in that capacity in circuit court for the last 39 years—for the past nine years working with judge Leslie Johnson and before that with retired judge Robert M. Hill Sr. She worked in law and equity court for three years in the mid 1940s.

When she began her career, she had "never even listened to a trial." Now she has no idea how many she has listened to, recorded in shorthand, and transcribed on a typewriter.

"I'm just a self-made court reporter," she said. After graduating from Larimore Business College, she worked in a law office. During World War II, the court reporter for the old Law and Equity Court in Lauderdale County took a leave of absence to join her husband who was serving in the U.S. Navy.

Murphy filled in, and remained when the other reporter chose not to return.

After three years, she was hired by the circuit court.

Technology has brought machines to court reporting, but Murphy has always relied on shorthand. "Years ago, the closest place they were teaching the machines was in Texas," she said. "By the time the school opened in Gadsden—less than 20 years ago—I couldn't see quitting work for two years to learn a new method. I would have had to try to forget the shorthand, so I just stayed with it."

Many other changes have taken place over the years as well. Until around 1951, the 11th Circuit included not only Lauderdale, but also Colbert and Franklin counties.

Murphy and circuit solicitor W.L. Almon traveled with Judge Hill to the various county seats.

"There were no expense accounts then," she recalled. "We rotated cars to travel to the different courts so one of us wouldn't have all the expense."

Another change has been working in the modern Lauderdale County Courthouse.

She recalled that the old courthouse was not air-conditioned and trial testimony sometimes had to be halted because street noises through the open windows made hearing difficult.

For a court reporter, every word is critical. The transcript of a trial or other legal pro-

ceeding is the only testimony considered by the appellate courts in making a final decision to let a lower court ruling be reversed, remanded or allowed to stand.

"I'm always conscious of the fact that somebody's life, liberty or property may depend solely on my transcription of the proceedings," she said. "You're challenged every time you walk into the courtroom to do the very best that you can.

"I guess it's one of the most stressful jobs you can have," she said. "But I love the work and I love the people I work with. We've got some of the best judges and the best bar association anywhere. It's been a good life."

Although she'll no longer be an official court reporter, she's received her papers from the Alabama Supreme Court which make her a supernumerary court reporter.

"At one time that meant that anytime they called you to work, you'd have to come," she said. "But that's not true anymore."

Although she said she'd "miss coming to work, for a while anyway," she has plans to keep busy with cooking, sewing and handwork. "I look forward to spring and working in the yard. And I'm planning to do things when I want to instead of wedging them in between doing the things I have to do."

AMERICA'S SPACE PROGRAM

Mr. BENTSEN. Mr. President, I would like to express my heartfelt sympathy to the families of the courageous crew members of the space shuttle orbiter *Challenger.* Dick Scobee, Michael Smith, Judith Resnik, Ronald McNair, Ellison Onizuka, Gregory Jarvis and Christa McAuliffe—American men and women whose pioneer spirit of discovery and quest for the advancement of space science will be forever memorialized in the heavens.

My own home State of Texas, has been home for a major part of the space program and for many astronauts and ground control scientists and technicians who have spent many years away from their hometowns to train and work in the Houston area, near the Johnson Space Center. I join the many Texas families who have been and are the neighbors and friends of many of these NASA workers.

Like others who have died in the service of their country, we commend our fellow citizens who in giving to their country have given to us all. Space—the final frontier—reminds us of the vast unknown waiting to be explored. During the last 30 years America has made great strides in space, including landing a man on the Earth's Moon. The U.S. space program has had a remarkably safe record, with the exception of the 1967 accident which took the lives of Virgil Grissom, Edward White, and Rodger Chaffee. I, like all Americans, deeply regret the tragedy of the *Challenger,* however I remain firmly committed to the development and expansion of America's space program, which I believe is the most fitting tribute to the fine men and women lost in Tuesday's tragic accident.

THE EXPLORATION OF SPACE

Mr. GOLDWATER. Mr. President, the tragedy that engulfed the last space flight was something that stunned us, shocked us, and made us realize that undertakings like these are dangerous. What I am going to say does not in any way detract from the sorrow in my heart but I think it should be said. Already, I am hearing on television, reading in the newspapers, does the exploration of space, does the continuation of these flights really mean enough to continue them? Is not this loss so tragic that we should forget all advancements?

I am wondering how these people who are so quickly critical would have reacted had the first attempt by the Wright Brothers to fly an airplane resulted in death, and they were successful in having further explorations stopped? I am wondering what these same critics would have come up with had the first person who ever invented and drove an automobile been killed and their same, rather stupid demands had been met? Would we have had automobiles today?

Every advancement man makes, almost every advancement, is accompanied by tragedy. As much as we all hate and detest war, we have to admit that out of war have come some tremendous advances for mankind. Every step forward in the practice of medicine has resulted in pain or death, yet we have not stopped.

There is possible tragedy prevalent in almost every advancement that man makes, but man has overcome these realizations and gone on to achieve the great spot in history that we now recognize. Could those members of the crew who perished say anything, I am convinced they would have said, in essence, what I have just said.

So, Mr. President, I urge that Americans accept, along with their feeling of tragedy and sorrow, the understanding that progress is not always an easy thing.

THE DEFICIT

Mr. NICKLES. Mr. President, I am sure that the majority of Members of this body have expressed the desire to reduce the deficit. I think we all agree that the deficit is far too large and must be reduced.

For fiscal year 1985 the deficit set a record of $212 billion, which meant we spent $946.3 billion, and revenues were $734 billion. In 1984 the Federal Government spent $851.8 billion so the 1-year increase between 1984 and 1985 was $94.5 billion or an increase of 11.09 percent for that 1 year alone. Revenues increased from $666.5 billion in 1984 to $734 billion in 1985 for an increase of $67.5 billion for the year or a 10.12-percent increase between 1984 and 1985.

With inflation hovering around 3 percent the last couple of years, I think it is obvious the enormous increase in spending is the real culprit. There is no reason for Federal spending to be increasing at three or four times our annual inflation rate. I believe that most all Members agree that the deficit is a problem, but there is considerable debate as to the solution. I suggest the following:

First, we should enact a constitutional amendment to make us balance the budget. Oklahoma, like 38 other States, has such an amendment which mandates not only that the States balance the budget but also that the politicians must make the difficult decisions to do so.

Second, I also strongly urge Congress to enact the line-item veto. Last year offers a classic example where we passed a continuing resolution that totaled $378 billion alone and had seven appropriations bills thrown together and yet the President only had two options—to sign or to veto the entire package. This is certainly not the balance of power envisioned by our forefathers.

Last year when Congress passed Gramm-Rudman, we stated our shared objective to reduce the deficit over a 5-year period. For fiscal year 1986 we stated our minimum goal to reduce the projected deficit $11.7 billion, and the administration is currently preparing and implementing the sequestration process to begin. I strongly believe that Congress should enact the $11.7 billion in deficit reduction before March 1 of this year and not allow the sequestration process for 1986 to go forward. I believe that is true as well for 1987 through 1991. Congress should make these decisions.

An excellent place to begin in finding savings for 1986 and succeeding years would be to complete work on the stalled budget reconciliation bill, which nearly passed Congress before the Christmas recess. The reconciliation bill would have been able to reduce the deficit by about $75 billion over the next 3 years. While I understand there are a few provisions which are objectionable, such as Superfund, I recommend we drop the most controversial provisions and get as much of the other savings as possible. Countless hours and negotiation went into the reconciliation package and it seems to be ill-advised to let that effort go to waste.

I urge this body not to ignore its fiscal responsibility.

OIL EQUALIZATION TAX

Mr. NICKLES. Mr. President, there is considerable discussion today about

the wisdom of the so-called oil import fee. I stated to President Reagan on January 24 that I would hope he would reconsider his opposition to an oil import fee based on the premise that it is not a new tax but more an equalization tax.

We presently have on the books a tax known as the windfall profits tax, which is strictly on domestic production. It is not on oil imports. We are currently politically encouraging imports while discouraging domestic production.

The amount of windfall profits tax collected since passage in 1980 is as follows:

	1980	1981	1982	1983	1984	1985 estimate
Gross	6.9	23.4	18.5	12.2	9.17	6.4
Net	4.3	13.8	9.5	5.7	3.9	3.0

This represents an equivalent tax per barrel as indicated below:

1980	6.65
1981	9.03
1982	6.35
1983	4.25
1984	3.91

It seems to this Senator that if we are going to have an equity in our taxation of the oil industry we should repeal the windfall profits tax, and if that is not a political possibility we should as a minimum place an equal tax on imported oil and eliminate the competitive advantage we have given imported oil.

I also believe that timeliness is important, and given the considerable decline in oil prices, which have fallen by over $10 or about 36 percent since November, there should be little if any negative impact on consumers. The recent decline in oil prices has not been caused by the demise of OPEC but by the calculated strategy of the Saudis to discipline oil exporting companies to enable higher prices in the future.

Therefore, we don't see pure market principles at work but calculated maneuvers by Government entities to increase their control over world market forces. I believe it would be unwise for our Government to sit idly by and allow countless producers and refiners to go bankrupt while the Saudis are tightening the screws on OPEC. As a bare minimum, let us require that they pay at least the same tax that our domestic producers have been forced to pay since 1980. The windfall profits tax has averaged more than $5 per barrel since its passage in 1980.

Last Friday I urged President Reagan to support such an equalization tax, and I urge my colleagues to do the same as well. Senator BOREN has introduced legislation, which I believe would be an excellent starting point, and which I hope my colleagues will be able to support.

AFFIRMATIVE ACTION—MORE THAN GOALS OR QUOTAS

Mr. LEVIN. Mr. President, I recently read an important speech entitled, "Affirmative Action—More Than Goals or Quotas," by the always perceptive Hyman Bookbinder, director of the Washington office of the American Jewish Committee. The speech was delivered in conjunction with the celebration of Rev. Martin Luther King, Jr.'s birthday at the King Memorial Center in Atlanta, GA, on January 15, 1986. It is worthy of consideration by the widest possible audience, and I ask unanimous consent that it be inserted in the CONGRESSIONAL RECORD.

There being no objection, the speech was ordered to be printed in the RECORD, as follows:

SPEECH BY HYMAN BOOKBINDER

Even though we are so pressed for time, I must make this personal statement. Mrs. King, you won't remember this—why should you?—but on October 19, 1983, I was sitting right behind you in that reserved Senate Gallery when final action was being taken on the King Holiday bill. When the vote was announced—78 aye, 22 nay—the President having already indicated he would sign the legislation, we knew that final victory had come. You stood up, embraced members of your family, then your close colleagues sitting near you. Then you turned around and embraced me. That was not a personal embrace, I realized, though I cherish that moment personally. It was your way of saying: "This isn't just my holiday, just my people's holiday, it is also your holiday, it is America's holiday." And that's how I hope all America will indeed think of it.

Now to my assignment here today. Martin Luther King once spoke as eloquently as anyone ever had about what employment opportunities mean for those deprived of such opportunities. He said, "In our society, it is murder, psychologically, to deprive a man of a job or an income. You are in substance saying to that man that he has no right to exist."

In the years since he spoke those words, it is indeed possible to point to some progress. There are Blacks in some industries and professions once closed to them. There are "equal opportunity" employers and agencies trying to improve their employment record. If we point to some progress, however, we have a special obligation to insist that progress simply has not been good enough. Not when last week's official figures tell us that Black unemployment is 2½ times that of white; that Black youth unemployment is over 40 percent; when we know that Black average wages are about 60% of white . . .

Even as we were winning legal battles for fair employment, in the Fifties and Sixties, Dr. King and others were telling us that legal victories alone would not suffice, that "affirmative action" would be required to make a reality of the legal victories. The phrase "affirmative action" started to appear explicitly in presidential speeches and executive orders, in agency regulations, in civil rights advocacy. There has never been an official document which offered a clear and complete definition of the term. But it has come to cover a wide range of special efforts designed to overcome resistance to progress for excluded groups. It has meant improved training and retraining programs, critical review of testing and qualifying systems, changes in recruiting and advertising campaigns, better labor market information—better education and counseling and upgrading arrangements.

There were not always thought of as "affirmative action" programs. But as officials of the President's Task Force on Poverty 20 years ago, Carl Holman, Sargent Shriver, and I did think of programs like Head Start, and Job Corps, and Upward Bound as the most helpful and sophisticated kinds of affirmative action.

In time, affirmative action encompassed systems for setting realistic goals for equal employment—especially for government contractors and public bodies . . . Such numerical criteria served both to measure progress or lack thereof, and also to serve as a prod to quicker progress.

Overall, these programs did do good—though not as much as we'd have liked. There was uneven enforcement and there was stubborn resistance. Cases were brought to the courts—and in some cases the remedies included even the use of quotas to undo the effects of documented, deliberate discrimination. These court-ordered quotas did cause serious, agonizing, acrimonious debates, even among erstwhile allies. The courts have yet to render final judgment on such quotas.

But today's crisis is not over quotas. It is over the attempt by over-zealous ideologues to dismantle the whole system of goals and timetables and thus to weaken affirmative action generally. The civil rights community is as united as it's ever been on defeating this Meese-Reynolds assault on Executive Order 11246. Even as we meet here, the White House is still debating the issue. Mr. Meese last weekend wanted the impression to get around he'd won the battle. I cannot believe it—and neither should you. The President would have to reject the advice he's been getting from 69 Senators and over 200 Congressmen, including the top leadership in both houses and both parties, the advice from the National Association of Manufacturers and other key business institutions, advice from key Cabinet members including Secretary of Labor Brock and Secretary of State Shultz, from the whole range of racial, ethnic, women's and religious groups.

The battle over the Executive Order can still be won. And it must be won.

The unity which had been eroding for about 10 years is now restored. During those 10 years, unfortunately, the civil rights community had been needlessly divided over the quota issue because of the differences which surfaced in connection with several highly publicized court cases—Defunis, Bakke, Weber. Especially disturbing to many of us has been the impact on Black-Jewish relations. The Jewish community, it has been incorrectly asserted, was opposed to affirmative action.

But the present battle over the Executive Order has clarified things. Except in cases of court-ordered remedies following findings of discrimination, no significant elements in the civil rights community have advocated preferential quotas—and the Executive Order specifically prohibits such quotas. Goals-and-timetables are authorized, and with very few exceptions every part of the civil rights community supports them. It rejects the argument that goals and quotas are the same. I can state with assurance that the Jewish community overwhelmingly approves of this consensus. We continue to oppose rigid, inflexible, preferential quotas,

but we support with enthusiasm the use of goals.

But I believe that we must go beyond this issue. Preoccupation with the goals/quota issue to the exclusion of the other aspects of affirmative action is a disservice to the goal of equal opportunity. We have lost too much valuable time and engaged in too much acrimony. This confusion and conflict over the proper use of arithmetic standards has kept us from working as hard as we should for the so-called "noncontroversial" aspects of affirmative action.

Let us face up honestly to two equally valid premises:

1. If tomorrow morning, by some inexplicable miracle, every American company or institution were suddenly entirely free of any prejudice and were determined forever to end discrimination, it would still take a long time before our labor force would reflect the mix of our general population. Too many would simply be unprepared for the new opportunities. But equally true:

2. If tomorrow morning, by some inexplicable miracle, every American sub-group—Blacks, Hispanics, women, etc.—had the same range of qualified individuals for the whole range of employment opportunities, it would similarly take a long time before our labor force would reflect the mix of our general population. Too many Americans and American institutions, unfortunately, would still be unprepared to abandon their prejudices and habits.

We must work simultaneously on both of the fronts which these two premises require. The two premises are, of course, related. Discrimination leads to despair and hopelessness, which in turn leads to abandonment of education and training. And this failure to be properly prepared for employment only reinforces the prejudices of those who are resisting progress.

A real, full-fledged affirmative action program will require action on many fronts . . .

It will require special efforts which reflect the realities of current family disarray . . . of the epidemic of teenage pregnancies . . . of the drug culture . . . of the feminization of poverty . . .

It will require a hard look at our present education, training, and retraining programs, both public and private . . .

It will require an evaluation of current recruiting and selection and testing methods . . .

It will require the best possible understanding of developing labor market needs in a high-tech era . . .

It will require a new look at the whole challenge—to see it as more than numerical goals, important as those are. It will require a commitment and an allocation of resources—in both the public and private sectors—to match some of our greatest commitments of the past: the Marshall Plan, the Space program, the fight against cancer and heart disease, the National highway system. Surely, the social and economic integration of all of our Americans is as critical a challenge as any of those earlier challenges . . .

We operate today, of course, in the contest of huge budget deficits and Gramm-Rudman restrictions—but that cannot deter us from speaking the truth as we know it.

For me personally, today's challenge is a depressing deja vu. As we were putting together elements of the war on poverty 20 years ago, I was particularly struck with one statistic: half of all America's poor that year, we learned, had been poor from the day they'd been born. Breaking the cycle of poverty became our challenge.

Today, there is again a fact that we as a nation ignore at our peril. That fact is that every single day there are thousands—yes, thousands—of babies born into family and community situations who are quite likely to be poor and miserable for the rest of their lives. These are the babies—Black and White, but again disproportionately Black—who will never know more than one parent or ever have any working member in their immediate family, who will know only about welfare and food stamps for survival, who will drop out of schools before becoming functionally literate, who will be surrounded by drug and drinking and crime problems.

For these millions of babies born yesterday, today and tomorrow, the affirmative action they require must begin even before they are born. Neither quotas nor goals nor executive orders will be sufficient to make them ready for employment and independence if we do not pay attention now to their inevitable social disabilities.

So the task of affirmative action in employment is tremendous. It cannot be separated from the related tasks in housing, in health, in education, in family and community stability. It means concern for those born today, for those already dropped out of school, for those struggling in menial, minimal jobs, for those displaced by industrial change, and for the older workers not ready for secure retirement.

Our immediate task is to prevent scuttling of present affirmative action requirements. Let's win that one. But let's not ignore the broader challenges of affirmative action across the board. The Jewish community will be there, I can assure you, in a renewed and strengthened effort to make King's dream a reality.

MILITARY REFORM

Mr. GOLDWATER. Mr. President, this will be another insertion of an article from the "Air University Review" of September-October 1985. This one, however, should have specific and direct interest to Members of Congress.

It was written by the Honorable DENNY SMITH, who is a Member of the House, and gives very fine background reasoning for the subject of military reform. This is in keeping with my efforts to acquaint my colleagues of the varying points that will cover the introduction of legislation we hope, not later than the first week of February on this subject.

I ask unanimous consent that this article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Air University Review, September-October 1985]

THE ROOTS AND FUTURE OF MODERN-DAY MILITARY REFORM

(By the Honorable Denny Smith)

It was thirty-one years and thousands of flying hours ago that I climbed into an Aeronca Champ on a small dirt strip in Ontario, Oregon, for my first solo flight. It was a moment that I shall always remember, and it was the start of my flying career.

During the past three decades, I have flown scores of military and commercial aircraft, including the T-34, T-28, T-33, F-86L, F-89H, F-89J, F-84F, F-4B, F-4C, and F-4D in the Oregon Air National Guard and on active duty in the U.S. Air Force, as well as 707s for Pan American World Airways. If someone had told me as a young flyer that I would one day give up my flying career to enter the world of politics, I would have told them that they needed a head examination. However, I now find myself a member of the U.S. Congress, currently in my third term.

As a member of Congress from Oregon, I am considered a conservative by every measure on issues ranging from national defense to foreign and fiscal policy. Thus, as a member of the Budget Committee, for example, I am convinced that our federal government has spent far too much for far too many things for far too long. We need to reform our spending habits.

I also am cochairman of an organization in Congress known as the Military Reform Caucus (MRC), a caucus that seems to have received much attention during the recent debate about the defense budget. At last count, there were 133 members in the caucus, a group that includes 26 members of the Senate and 107 members of the House. The caucus is bipartisan and consists of an almost even split of Republicans and Democrats. We hold meetings on a regular basis in the Capitol. Ideologically, our members represent the political spectrum from the very liberal to the very conservative. The MRC was founded in 1980 under the direction and foresight of two Armed Services Committee members in Congress, Senator Gary Hart (D-Colorado) and Congressman William Whitehurst (R-Virginia).

Interestingly enough, the Military Reform Caucus has not and does not wade into the waters of foreign policy or into the swamps of nuclear strategic theory. It is my belief that it never should. While there are certain to be as many descriptions of the goal of the MRC as there are members in the caucus, I believe that every member of the organization would agree that some of our common goals are to generate and implement ideas and incentives that will strengthen our nation's defenses, to reform the military procurement process, and to provide a forum for discussing innovative ideas in military strategy and doctrine.

As the cochairman of the MRC, I believe that each of our legislative reform initiatives should always rest on two basic principles: we want military forces that can win when called upon; and we want the support of the American people for such forces, not for one or two years, but for the long haul—to the year 2000 and beyond. It is our strongly held belief within the caucus that the American people will not support the defense that this country needs unless they are reasonably convinced that they are getting their money's worth from the dollars they spend.

ORIGINS OF TODAY'S REFORM MOVEMENT: FIGHTER AIRCRAFT

I don't believe one can truly pinpoint a time or place in which the "military reform movement," as it is known inside Washington's circles, was born. Ever since the birth of the nation, people of conscience—both in and out of uniform—have bucked the tide as reformers trying to improve military effectiveness or curb gross waste. And ever since the birth of the nation, also, the military bureaucracy has usually responsed by trying to resist change while stifling the reformers. But we now know that any military organization that becomes rigid or stagnant in the

face of change dooms itself by its own nature. Successful military forces must be constantly adapting, changing, and "reforming," if they are to remain viable as the uncertain future unfolds. Our organized military forces have been in existence for almost 200 years and have certainly changed and reformed extensively during that period—albeit often too slowly and sometimes at great cost in the form of blood of American soldiers, sailors, and airmen.

But in my mind, there has coalesced in the last twenty years a clearly identifiable, progressive, and innovative movement advocating coherent reform of the "establishment" approach to tactics, strategy, training, and testing and procurement of our weapon systems.

The roots of today's movement can be traced to an informal alliance of former and active-duty fighter pilots of the U.S. Air Force and Navy with civilians in the Office of the Secretary of Defense (OSD), Congress, and the aerospace industry, who, in the 1962-65 period, launched a crusade to correct the growing deficiency in our nation's air-to-air combat capabilities.

The deficiency that these early reformers were addressing resulted from the fact that the USAF/DOD post-World War II leadership had embraced a nuclear-bombing-comes-first philosophy which swept aside most thoughts of air-to-air combat. The U.S. Air Force, even Tactical Air Command (TAC), embraced the nuclear "trip wire" posture in Europe and held little interest in conventional war problems. The nuclear influence on air combat was evidenced by the creation of North American Air Defense Command (NORAD) and Air (Aerospace) Defense Command hierarchies in Colorado Springs and the development of a successful USAF and USN all-weather air defense interceptors to down nuclear bombers that might threaten the continental United States or the fleet at sea. The airplanes, all designated "F" for fighter, included the F-101, F-102, F-106, and F-4. They had some common traits, such as radar missile armament, poor cockpit visibility, poor sustained rate of turn, no gun, very high cost, and very large size.

Consider Table I, which lists the USAF jet tactical fighters introduced by this time and gives their approximate weight, cost, and quantity procured. As the table indicates, our tactical fighter aircraft were approximately doubling in size as each new generation came along. The early fighter reformers also noted that for each new generation, although the top speed and range (at cruise speed) generally increased somewhat, fighter dogfight performance deteriorated significantly.

Despite the Korean War experience, Tactical Air Command moved farther and farther away from traditional fighter missions toward "deep nuclear strike," which, with the big-bang nuclear weapons, was to be performed even in the dark and in poor weather. TAC's effort to compete with Strategic Air Command spawned the single-purpose, deep-strike F-111—the follow-on to the existing TAC nuclear low-altitude bomber, the F-105. Despite the single-purpose nuclear bomber design of the F-111, the Air Force and DOD advertised it as a multipurpose fighter fully capable of air-to-air combat, all-weather interception, conventional bombing, and even close air support.

TABLE I.—USAF JET TACTICAL FIGHTERS (1944–74)

Fighter type	Years of entry into service	Quantity procured	Approximate weight [1]	Unit cost (thousands)
F-80	1944-49	1,435	16,800 lbs	$187
F-84	1945-54	4,008	15,000 lbs (F)	466
F-86	1947-53	5,890	14,500 lbs (E)	299
F-100	1952-58	2,249	30,000 lbs (D)	741
F-105	1954-63	833	38,000 lbs (D)	2500
F-111	1964-74	469	76,000 lbs (A)	10,200

[1] Approximate weights include internal fuel. Alpha characters in parentheses indicate specific fighter models.

But by 1965, the agony of the F-111, billed as our "next air superiority fighter," was clear, and the possibility of employing it effectively as an all-purpose aircraft had turned into a nightmare. The plan for 1200 F-111 fighters was cut back to less than 500. The aircraft's air superiority capability was known to be essentially nonexistent. Almost any fighter in the works would totally dominate the F-111 in air-to-air combat, even though the F-111 was at the time the world's most sophisticated, most complex, and by far the most costly fighter.

I do not want to imply that having a nuclear-strike capability is not justified, but I do want to illustrate the hazard of being less than honest about the purposes and capabilities of a major military program. Most of the influential people in Washington are relatively ignorant about combat aircraft. There are countless other concerns and tasks that they must see to. In any event, most tend to believe that if an airplane has an "F" designation, it must be a fighter, and they derive that "fact" from movies such as *The Blue Max* and *Dawn Patrol*. Furthermore, they believe that if they authorize $50 million or more for a *fighter*, then they must have bought their boys in blue a marvelous air-to-air combat machine.

The early task of the fighter reformers was to straighten out that misconception and get the U.S. Air Force and Navy back into the air combat business. It was far from easy.

Two of the early evangelists for small, agile, uncompromised air-to-air fighters were former USAF/USN combat/test pilot Chuck Myers and former USAF fighter pilot Jay Ray Donahue. With some help from the Lord, they stumbled upon powerful support from the work of Captain John Boyd, tactician and Korean War fighter pilot, and civilian analyst Tom Christie.

Between 1954 and 1960, Boyd had revolutionized the teaching of air-to-air tactics at the USAF Fighter Weapons School and Combat Crew Training Squadrons at Nellis AFB, Nevada—the Tactical Air Command's "doctorate-level" course in fighter tactics. While at Nellis, he conceived, developed, and wrote his famous *Aerial Attack Study*. (The brilliant new three-dimensional fighter maneuvers and the maneuver/countermaneuver logic developed by Boyd in this study are still the basis for the current fighter tactics of every modern air force in today's world.) After leaving the Fighter Weapons School in 1960 to get an engineering degree under Air Force sponsorship, Boyd moved to a tour at the Air Proving Grounds Center at Eglin AFB, Florida, where he, assisted by mathematician Tom Christie, spent most of his time developing what is now known as the "Energy Maneuverability Theory." As it turned out, this effort not only provided concise, quantitative aircraft maneuverability comparisons as a tool for tactics development but also created a new language for the pilot to use in talking with the aircraft designer. Boyd's work provided the tools needed to explain the character of aircraft maneuvering performance that was required to yield a superior air combat fighter.

Others who became involved in spreading the small, maneuverable fighter gospel included USAF pilots Everest Riccioni and Bob Dilger. By 1965, the early reformers had stirred up enough interest in USAF Headquarters and at TAC that Major General Arthur C. Agan, Jr., Assistant Deputy Chief of Staff for Plans and Operations, convened a special study group, which included several World War II and Korean War veteran fighter aces, to asses the situation. The fighter reformers received strong support from the resulting fighter study, and after an "assist" from the North Vietnamese in the form of MiG-17 attacks on F-105 bomber formations in April 1965, the issue of our air-to-air combat deficiencies was given recognition.

Early in 1966, the "Preliminary Concept for FX" was released by TAC. It was reasonably well oriented to the air-to-air problem but invited additional multipupose capabilities for night and poor weather air-to-ground capability. Shortly thereafter, the Navy (about to escape from the TFX/F-111B commonality net) created an operational requirement for the VFAX, a deep-strike, all-weather interceptor, dual-purpose nightmare of its own. Then entered OSD (DDR&E) with the suggestion that the Air Force and Navy combine their requirements to yield a new common "fighter."

Many from the old TFX/F-111 commonality camp climbed on board and rejuvenated the multipurpose/joint service theology which, until then, had been greatly weakened by the F-111 disaster. The fighter reformers managed to ward off the proponents of commonality, but just barely. Boeing, Lockheed, and North American received USAF contracts to establish a spectrum of designs for the FX. Their work, much influenced by the Aeronautical Systems Division bureaucracy at Wright-Patterson AFB, Ohio, produced a spectrum of mediocrity that was used by the Air Force Systems Command (AFSC) to prepare an FX Concept Formulation Package, which suggested an airplane ranging between 55,000 and 65,000 pounds takeoff weight—essentially as large as the F-111 and almost as unmaneuverable.

In the midst of all this, Boyd was ordered to the Pentagon to bail out the FX design. His pioneering and disciplined tradeoff work carved the FX down to 40,000 pounds while tremendously increasing its accelerating and turning performance. This was the first time that a U.S. fighter design specification had ever been based on any formal maneuvering requirements. The swing wing and two-man crew advocates were defeated. However, because of the airplane's inherent large size, which resulted from the demands for the useless high mach and very large radar (plus a myriad of other "specs" irrelevant to air-to-air combat), it was not practical to win the argument for one engine. The Office of the Secretary of Defense (DDR&E) further degraded the engine by insisting on commonality between the engine of the Air Force FX and that of the Navy VFX (initially called the VFAX). As a result, the Navy's influence raised the temperature, pressure, and by pass ratio of both engines. Although the Navy later abandoned its version of the engine (F401), it managed to leave an indelible mark on the Air Force engine. These commonality com-

promises contributed significantly to the problems associated with the F100 engine; they also caused serious reductions in the performance of the current F-15 and F-16.

In 1966, partway through the battle over the FX's size and air-to-air performance, Pierre Sprey, an aerospace engineer and analyst with a deep interest in combat history, joined OSD. He was quickly convinced by the logic of John Boyd's approach to fighter tactics and maneuverability and soon became a close collaborator and supporter of Boyd's efforts to increase the dogfight performance of the FX while diminishing its size. Sprey's experience in these early FX tradeoff battles stood him in good stead when, several years later, the Air Force asked him to play a major role in shaping a new, single-purpose, close air support airplane, the AX, which became the A-10.

The F-15 that AFSC produced after Boyd's innovative maneuverability tradeoffs and the associated bloody battles to eliminate specifications and requirements unnecessary to air-to-air combat was, unfortunately, a disappointment to the fighter reformers. The airplane's size was too big, its dogfight performance fell significantly short of what could have been achieved with greater design discipline, and the cost was so high as to preclude achieving an adequate fighter force size. No single group was at fault: OSD (DDR&E) contributed by demanding engine commonality and an oversized, overcomplex radar; TAC and AFSC headquarters added a laundry list of performance-robbing "goodies" and specifications ranging from a maintenance ladder to a combat-irrelevant requirement for mach 2.5 top speed that degraded performance in the combat critical transonic region. Ironically, the production F-15 failed to meet this mach 2.5 specification by a wide margin.

Interestingly enough, it was the disappointment with the final F-15 outcome in 1968 that led the fighter reformers—spearheaded by Boyd, Riccioni, and Sprey—to almost immediately begin the seemingly quixotic task of starting a genuinely "hot," small, and affordable fighter. This quest, with the help of Deputy Secretary of Defense David Packard's support for prototyping, soon turned into the reality of the Light-Weight Fighter Program and the YF-16/YF-17 competitive flyoff (the flyoff being another reformer-engineered idea). Just as the flyoff was taking place, James Schlesinger became Secretary of Defense and, convinced by the fighter reformers' case for a hotter fighter whose affordability would permit sizable increases in force structure, undertook a successful personal campaign to put the F-16 into large-scale production, despite the opposition of sizable portions of the USAF hierarchy.

At this point, let us step back from the details of fifteen years of battles over air-to-air capabilities in the Air Force. Today's military reform movement encompasses much wider aspects of warfare—land, sea, and air—than just air combat. Still, it is of more than passing interest that most of the leading thinkers in military reform today come out of the fighter business, that they coalesced during the sixties battles within the U.S. Air Force over the importance of air-to-air capabilities and the need for a hot, small, single-purpose fighter, and that their first highly visible success was the F-16. Put another way, had the Air Force in 1968 decided on a more austere, higher-performance F-15, there would almost certainly be no F-16 today and, perhaps, no military reform movement.

In my view, the attractive feature of the reform movement that began with these crusades to improve the war-fighting capability of the U.S. Air Force is that the goal was to improve the product of DOD and to extract more from our investment. It was during this time that increased competition, "fly before buy," competitive prototypes, flyoffs, highly lethal air-to-ground cannons, operational testing, and the concept of low-cost/high-effectiveness weapons all became words of the day, due to the efforts of the early reformers.

Today, these are all issues of vital concern to the Military Reform Caucus; and we have already successfully translated some of them into legislation to improve the way DOD does business, particularly in the areas of operational testing, competitive procurement and development, survivability testing, and the introduction of highly effective antitank air-to-ground cannons.

TODAY'S REFORMERS AND THE FUTURE

The reform movement has learned much and changed significantly since the early controversies over dogfighting. It has broadened its interest from shooting down airplanes to all the means required to win wars. The reformers have increased their knowledge of combat experience and combat history substantially. Based on recent combat experience and Boyd's remarkable new syntheses of tactics and strategy, the reform movement has deepened its understanding of war, particularly the most-important "people" side, as opposed to the often-overemphasized "hardware" aspects.

Despite the broadening of interests, the reform thinkers are still fierce advocates of tactical air power. They strongly believe that, given a major strengthening of our current gravely weak close air support assets, tactical air could be extraordinarily effective in determining the outcome of modern land combat. Another theme of continually growing importance in current reform efforts is the focus on the warrior rather than the manager, on leadership and unit cohesion, on innovative tactics and stressful "free-play" training. The emphases are on the "man in the loop" and his skills rather than on the mostly futile yearning to stand off from the battle, and on engaging and solving the problems of combat as they really exist rather than buying our way out with unsuitably complex technology that may ultimately fail in combat. We demand realistic testing of concepts and hardware, testing that ensures that our weapons work amid the chaos of the battlefield, that they work in the hands of typical troops, and that they continue to work even when opposed by the resourceful enemy. Personally, I am also naturally attracted by the reform movement's demonstrated contempt for rigid doctrine, along with the group's willingness to subject its own views to open debate and to change, based on new evidence and better ideas.

On the congressional side of reform, there has been a recent flurry of Military Reform Caucus amendments to the FY86 Defense Authorization Bill. Two of these amendments tell DOD what survivability testing to do, one defines and prohibits unacceptable conflict of interest, and several reflect disenchantment with the procurement track record of DOD and its industrial partners. How do these congressional reform actions relate to the reform movement within the Department of Defense and the services? It is easy to interpret these congressional actions as a lack of faith in the possibility of reform from within the system. On the contrary, I believe that reform without the dedicted participation of courageous people within DOD and the services is impossible.

However, I know that congressional action—particularly legislation that introduces incentives for such things as increases in real combat capabilities, decreases in costs, increases in competition, and more responsible, realistic testing—can go a long way toward creating the conditions that make it possible for dedicated reformers inside the system to achieve useful change. Thus, the Military Reform Caucus will continue to introduce legislation that changes fundamental DOD incentives and behavior until we see evidence that reform has become a self-sustaining process within the Department of Defense.

You may well ask what kind of evidence, what kind of change, would convince us that DOD and the services were well on the road to major improvements in the defense we get for the dollar. A detailed answer might require a book, but I think that I can outline a few litmus tests that would be very strong indicators that real, not cosmetic, reform is taking place.

On the most important front, the "people" front, I would look for:

Increased promotions for tacticians and trainers, as opposed to managers and acquisition types;

Major decreases in personnel turbulence within combat units and more career-long identification of individuals with a unit of some significant size (for example, a regiment, wing, or ship squardon); and

Major increases in training time, particularly in live shooting and in two-sided free-play combat exercises between units.

These three features are obviously far from a complete prescription for DOD personnel reform, but if we saw these three changes instituted, we would certainly know that DOD had abandoned "business as usual" in the people area.

On the ideas/doctrine/missions front, I would look for similarly simple indicators:

A Secretary of Defense initiative to institute constructive bureaucratic competition (i.e., plenty of "overlap and duplication") between the relevant services for every crucial military mission: for example, infantry, close air support naval mining, intertheater lift and rapid deployment, antisubmarine warfare search, air-to-air, etc.

In the Army, a major reduction, say 30 percent or more, in infantry and armor division weight/vehicle count/personnel strength to significantly increase unit agility and deployability; correspondingly, a major increase, perhaps a doubling, in the total number of high-mobility infantry and armor units.

In the Air Force, a major increase, perhaps a tripling, in the number of active-duty, dedicated close air support units, with each unit semipermanently assigned in peacetime to an Army maneuver unit for training. In concert with this, an A-10 replacement aircraft program at one-half the unit cost, incorporating better survivability and better cannon accuracy.

In the Navy, a major increase, say a doubling, of the submarine force structure, by augmenting our nuclear subs with modern diesel-electric subs. Also, initiation of a single-purpose, carrier-based air-to-air fighter and a close support aircraft—the two intended to double the naval air force structure.

In the Marine Corps, a major shift from World War II-type daytime frontal assault of defended beaches to nighttime infiltra-

tion accompanied by a mobility-increasing trimming of unit size/weight as in the Army, together with a major increase in infantry antitank capability.

Note that these four points are litmus tests of whether service doctrine changes (in each case away from attrition warfare and toward maneuver/blitzkreig-type concepts) are serious enough to impact force structure and budget.

And finally, on the hardware and acquisition front, a short list of indicators is quite adequate for determining whether our current procurement mess is really being reformed:

In procurement, when more than 50 percent of major weapon systems are bought from two or more competing contractors throughout the production period.

In R&D, when more than 50 percent of major weapons developments result in a competitive prototype flyoff or shootoff.

In testing, when operational tests always test the new system side-by-side with its predecessor in a realistically stressful combat setting.

Overall, when at least 50 percent of new major weapons programs come in at lower unit program costs and larger total production runs than the weapons they are replacing—something that technology is achieving every day in the civilian marketplace but which has been almost totally denied to us in the defense business.

Are we likely to see most of these indicators flash green in the next year or the year after? Not likely. But the military reform approach symbolized by this short list of litmus tests is a good deal more serious, more practical, and more likely to win wars than the let's-throw-money-at-the-problem approach that we have been practicing for far too long.—*Washington, D.C.* (Description of a "true type of natural soldier": Sane, cool, and monosyllabic, he would when the occasion demanded take enormous risks and, with an uncanny sensibility, carry them off. He was one of those rare individuals who seem to require the stimulus of danger to raise them to the highest pitch.—GUY CHAPMAN.)

RETIREMENT OF FORREST KILMER, EDITOR OF QUAD-CITY TIMES

Mr. DIXON. Mr. President, I would like to take this opportunity on behalf of Senator SIMON and myself, to call the Senate's attention to an individual who, after 46 years of reporting and journalistic leadership, is retiring.

I refer, Mr. President, to Mr. Forrest Kilmer, editor of the Quad-City Times, who is highly respected in our State for his commitment to excellence in journalism.

Forrest Kilmer's dedication to his profession and to his community have extended over his entire adult lifetime. He began as a cub reporter at the age of 18 on the staff of the Morning Democrat in Davenport, IA. In 1955 he became managing editor of the Morning Democrat. In 1964, he was named executive editor of the Times-Democrat, which resulted from a merger of the Morning Democrat and the Daily Times. In 1970, he became editor of the Times-Democrat, which later changed its name to the Quad-City Times.

For nearly half a century Forrest Kilmer has striven to improve the quality of journalism in Illinois. In his last assignment, as editor of the Quad-City Times, he established a bureau in the State capital to report on State government in a probing and insightful manner. His redesign of story layout led to numerous national awards and his courage and encouragement have resulted in several awards for investigative articles.

His dedication to his profession has also been matched by his dedication to his country and community. As a veteran of World War II he received the Bronze Star and is an active member of his Lutheran congregation.

Forrest Kilmer is a man of both personal and professional integrity. We will, indeed, miss his journalistic leadership, but his contributions to the profession will always serve as an example for all reporters and editors.

Mr. President, the Governor of Illinois has proclaimed January 31, 1986, as Forrest Kilmer Day in Illinois and Senator SIMON and I would like to join all Illinoisans in wishing him and his wife, Jeannette, all of the best in the future.

ANNUAL CONGRESSIONAL CONSULTATIONS ON REFUGEE ADMISSIONS: 1986

Mr. SIMPSON. Mr. President, I ask that the following materials be printed in the CONGRESSIONAL RECORD as the substance of the annual consultations between the representatives of the President and members of the Judiciary Committee on refugee admissions for fiscal year 1986, as mandated by section 207(d) of the Refugee Act of 1980.

Mr. President, in order to conserve the printing costs of the CONGRESSIONAL RECORD, I am submitting only relevant correspondence and selected excerpts from the much more detailed and lengthy hearing record compiled by the Senate Judiciary Committee's Subcommittee on Immigration and Refugee Policy entitled "Annual Refugee Consultation," September 17, 1985 (Senate Hearing 99-320). That record should be considered to be incorporated by reference in full in these remarks. Should any of my colleagues wish to read this, or should they have any questions about it, I would refer them either to the staff of the Subcommittee on Immigration and Refugee Policy, which I chair, or the Office of the U.S. Coordinator for Refugee Affairs, Department of State, Washington, DC.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

REFUGEE ADMISSIONS FOR FISCAL YEAR 1986

Mr. Chairman and distinguished members of the Committee, it is a pleasure to consult with you on the U.S. refugee admissions ceiling for fiscal year 1986. This annual consultation affords the Administration and the Congress an opportunity to discuss the refugee situation in the world and the humanitarian response to this situation by the United States.

Since the end of the Second World War, the United States has provided haven to literally millions of refugees. They have arrived in waves: first from Eastern Europe, then from Cuba, then in the 1970's, from the Soviet Union, and most recently, from the countries of Indochina. All of these countries and regions continue to produce refugees, and the United States accepts more of them than any other resettlement country. We are a nation founded by refugees, and our national life has been reinvigorated throughout our history by recurring waves of refugees. I think it is well that we remember this as we consider the question of how many refugees we should admit to the United States in the coming fiscal year.

This is the second consecutive year in which I have been privileged to present the President's refugee admissions proposal to the Congress. In doing so, I would again like to thank the members of this Committee for their continuing support for the U.S. refugee program—which includes both the admission of refugees to the United States, and the important overseas assistance efforts to which the United States contributes.

PROPOSED REFUGEE ADMISSIONS IN FISCAL YEAR 1986

Mr. Chairman, I turn now to the President's proposal for refugee admissions in fiscal year 1986. The President proposes to establish a ceiling of 70,000 for refugee admissions to the United States in the coming fiscal year. This total will be broken down into 3,000 for refugees from Africa; 40,000 for East Asia first asylum; 8,500 for the Orderly Departure Program from Vietnam; 9,500 for refugees from Eastern Europe and the Soviet Union; 3,000 for refugees from Latin America and the Caribbean; and 6,000 for refugees from the Near East and South Asia.

The President is proposing a ceiling of 3,000 for Latin America and the Caribbean in the hope that Cuba will end its suspension of the U.S.-Cuban Migration Agreement of December 1984. If, however, Cuba does not terminate its suspension of the migration agreement, a portion of the numbers will be transferred on a quarterly basis to other regional ceilings to accommodate unforeseen increased admissions needs. If these numbers are not needed elsewhere, they will be allowed to lapse.

As was the case last year, the President wishes to maintain a separate ceiling for admissions under the UNHCR's Orderly Departure Program (ODP) from Vietnam. This separate ceiling serves two purposes. It reassures the ASEAN countries that an expanding ODP will not mean a decrease in resettlement from the first asylum camps; and it sends a clear signal to Hanoi that the United States is prepared to make good on its offer to accept a large number of Amerasians and "re-education camp" prisoners.

Aside from the uncertainties connected with the Cuban and Vietnamese programs, the proposed regional admissions ceilings should be adequate to provide for refugee

resettlement needs during the coming fiscal year.

THE UNITED STATES AND THE WORLD REFUGEE SITUATION

Once again in 1985, the United States has played a major role in responding to urgent refugee needs—both through life-saving assistance overseas and through resettlement in the United States where necessary. Although this consultation is primarily concerned wtih refugee admissions, I would like to mention briefly the U.S. role in assisting refugees abroad.

The United States continues to provide the largest share of financial support for the office of the United Nations High Commissioner for Refugees (UNHCR)—some 30 per cent of its budget, or $107,000,000 in fiscal year 1985—as well as for other international relief organizations, such as the International Committtee of the Red Cross—over $26,000,000 in this fiscal year. The United States maintains its leading role in support of the U.N. Relief and Works Agency in the Near East (UNRWA)—initially providing $67 million in contributions for this fiscal year, and then an additional $8 million from the President's Emergency Fund to help UNRWA avoid a curtailment of services due to extraordinary budget problems. It is our hope that these international organizations will take an even more active role in providing assistance to refugees in the coming year.

The United States has been deeply involved during the past year in providing emergency assistance to refugees and others suffering from the effects of drought and civil conflict in Africa. The U.S. Government will have contributed almost $200 million for all aspects of refugee assistance in Africa this fiscal year alone. I would note, in particular, our rapid intervention in Sudan in response to requests for assistance from the UNHCR and the Government of Sudan which contributed to the saving of thousands of refugees' lives.

Other notable developments in the U.S. refugee program during the past year have been:

The continued expansion of the UNHCR's Orderly Departure Program from Vietnam. Some 12,000 refugees and immigrants will leave Vietnam under this program in fiscal year 1985 for new lives in the United States. Continued expansion of the ODP is essential to our goal of ending—or at least diminishing—the dangerous phenomenon of clandestine flight by sea from Vietnam.

Through our contributions to the U.N. Border Relief Operation (UNBRO) and other interatonal relief organizations, we have played a principal role in ensuring that Cambodians forced to flee to Thailand in order to escape Vietnamese armed attacks have been able to maintain some semblance of a normal life.

Elsewhere in Asia, U.S. contributions to refugee assistance in Pakistan have helped sustain the 2.5. million Afghan refugees there, and allowed them to pursue their lives while awaiting the day when they can finally return to their embattled homeland.

In Central America, the growing vitality of the Duarte government is attested to by the continuing return of Salvadoran refugees to their country from Honduras. The United States applauds this development and will continue to provide assistance, both through international organizations and bilaterally, to help those who return.

A major achievement of the past year was aborted when Fidel Castro announced the suspension of the U.S.-Cuban Migration Agreement just after the first Cuban ex-political prisoners had arrived in the United States on May 20. The United States is prepared to resume processing of refugees in Havana as soon as Cuba decides to reactivate the migration agreement.

THE INDOCHINESE REFUGEE SITUATION TODAY

Mr. Chairman, our large Indochinese resettlement program is at a transition point. The root cause of the refugee problem in Southeast Asia is clear. The outflow of refugees from Vietnam, Cambodia and Laos is a direct result of the imposition of Soviet-style oppression on the people of these countries. The United States has responded to this great human tragedy by offering new homes and the chance to live in freedom to hundreds of thousands of Indochinese refugees. The goal of the U.S. refugee program has been to treat these refugees from persecution in as humane a fashion as possible. I believe that history will pass a favorable judgment on our efforts.

Over the last ten years some 755,000 refugees have arrived in the United States from Indochina. About 52,000 of the 71,000 total refugee admissions in fiscal year 1984 came from Indochina. The same proportion is expected in fiscal year 1985. Even though current resettlement programs have declined dramatically from high levels of 1980–82, we believe they have been responsive to the true humanitarian needs for the region.

As with any program, however, we must continue to be sensitive to the need to balance refugee resettlement from Southeast Asia with other U.S. interests and concerns. Indochinese refugee resettlement must be balanced against other, regional solutions; balanced as a fair share of an international resettlement effort; balanced in terms of its budgetary implications; balanced in terms of other immigration and domestic policy considerations; and balanced against the need to provide resettlement to deserving refugees from other parts of the world.

To achieve this balance, the United States—working with the UNHCR and other nations— is pursuing measures to address the remaining refugee problems in Southeast Asia. There are two general categories of measures that either have been implemented or are being considered.

First, increasing emphasis is being placed on international and bilateral measures to reduce the number of persons arriving in first asylum countries who do not meet refugee criteria.

An example of this type of measure is the Lao screening program initiated on July 1, 1985, by the Thai government. This program, which is being monitored closely by the UNHRC, is designed to identify the true refugees as defined in international law. Essential to the successful operation of this program is agreement by Laos to allow the safe return of those found ineligible for refugee status. We are following the results of this program with great interest.

The second category of measures is aimed specifically at assuring that the U.S. refugee program fits the current situation in the region. Available evidence suggests that people leave the Indochinese countries today for a variety of reasons: to escape persecution, to seek a better standard of living, or to join family members who have previously fled. Our objective is to ensure that the U.S. refugee resettlement program is available exclusively to those who have been persecuted or have a well-founded fear of persecution if returned to their homelands, and who cannot reasonably expect to voluntarily repatriate or resettle in another country, returned to their homelands, and who cannot reasonably except to voluntarily repatriate or resettle in another country. Those who have left their homes primarily for reasons of family reunification should, to the degree possible, use normal immigration programs which have been established for that purpose. In this connection, we will continue to work on improving the availability and use of safe and orderly migration programs from the countries of origin.

In furtherance of this second approach, the relevant agencies have been studying the proper use of departure mechanisms for the future, including the increased use of normal immigration channels for the family reunification segment of the Indochinese resettlement program. Our intention is to take a regional approach to the use of immigration, as opposed to refugee admissions, and to include all ethnic groups within this approach.

I want to emphasize that, as we review the refugee situation as it exists in Southeast Asia today, we will continue to be guided by our bedrock concern for humanitarian principles. Furthermore, our national refugee policy will continue to be based on thorough consultations with the Congress, with the first asylum countries in the region, other primary resettlement countries and the UNHCR.

Nonresettlement solutions in Southeast Asia

While resettlement remains a necessary means for dealing with the refugee situation in Southeast Asia, solutions within the region must be pursued more vigorously. Such measures, in particular, the alternative of voluntary repatriation with appropriate safeguards and international monitoring—may require negotiation of agreements by the UNHCR with the states concerned.

The U.N. High Commissioner's Orderly Departure Program from Vietnam

In our consultations with the Congress last September, I announced, on behalf of President Reagan, two special initiatives for expanding the High Commissioner's Orderly Departure Program from Vietnam.

One of these initiatives called for the admission to the United States of all Amerasian children and close family members from Vietnam over the three fiscal years 1985 through 1987.

The second initiative called for the resettlement in the United States of political prisoners currently and previously confined in Vietnam's "re-education camp" prisons and their qualifying family members, totaling 10,000 persons over the two year period, 1984–86.

The United States presented these two Presidential initiatives to the Vietnamese in Geneva last October.

We have had success in nearly doubling the number of Amerasians released by the Vietnamese—almost 4,000 children and family members this year compared to 2,200 in fiscal year 1984—however, the Vietnamese failed to reach our goal of 5,000 for the first year.

We are, however, greatly disappointed that the Vietnamese have not as yet responded positively to our proposal for the "re-education camp" prisoners. After the initial presentation, the United States has twice proposed to Vietnam that we meet to continue discussions on this proposal, but so far the Vietnamese have not agreed. In unofficial conversations, Hanoi has indicated that it is backing off from its earlier announced willingness and commitment to

allow these people to be resettled in the United States.

Mr. Chairman, I would like to reaffirm again today that the United States is profoundly concerned about the continued imprisonment of these people and that we remain ready and willing to accept them—both former and present prisoners—and their families for resettlement in the United States as soon as the Vietnamese authorities will allow them to leave. This is a purely humanitarian matter and should not be made dependent on the settlement of the political differences that separate our two countries.

Next month, we will be meeting with Vietnamese representatives in Geneva, under UNHCR aegis, to discuss the operation of the Orderly Departure Program. Our goal remains the expansion of this vital international program. We will be seeking agreement by Vietnam to improvements in the operation of the ODP which will enable more American children and other persons of special humanitarian concern to the United States to leave Vietnam via this safe and humane route. We are prepared—as we were last year—to hold bilateral talks with the Vietmanese on our humanitarian initiative to resettle the former and present "re-education camp" prisoners.

It is our intention to continue to maximize the use of immigrant visas for family reunification within the ODP, thereby reserving refugee numbers for those who have no alternative but to leave as refugees.

Assistance to Cambodian border population in Thailand

Mr. Chairman, the large population of displaced Cambodians living in evacuation camps in Thailand is of intense concern to the United States. I had an opportunity during my visit to Thailand in July to meet and talk with some of these heroic people of Cambodia who have been driven from their homeland by Vietnamese armed attacks on their border encampments. The violence of the latest attacks—occurring over the period from November 1984 through April 1985—was such that the entire border population of over 225,000 people—men, women and children—was driven into Thailand. The government and people of Thailand and the U.N. Border Relief Operation (UNBRO) have responded magnificently to the plight of these victims of Vietnamese aggression. The United States will continue to provide support to this population and to the people of Thailand whose lives have been disrupted by the impact of Vietnam's attacks.

Mr. Chairman, we and the other resettlement countries support the policy of the Royal Thai Government that the evacuees from the border area should be provided all necessary assistance, but that resettlement abroad should not be viewed as the primary solution to their plight. However, we have decided, subject to Thai government approval, to initiate a limited program to unite close family members with relatives already in this country primarily through immigration-type channels. This program will include those eligible for immigrant visas, "Visas 93" for spouses and unmarried minor children, and selected use of humanitarian parole for close dependents in the two preceding categories.

Also of special concern to the United States are a group of Vietnamese who have fled overland to the Thai-Cambodian border and were evacuated into Thailand along with the Cambodian border population. Although the United States has previously accepted some of them for resettlement, approximately 4,500 remain under Red Cross protection at one of the evacuation sites, which also houses much larger numbers of Khmer border evacuees. Because of our concerns about the unique security problem of this small but especially vulnerable population, we are supporting a Red Cross initiative to obtain agreement to relocate the land Vietnamese to a separate and more secure location. Assuming that necessary security provisions and international cooperation can be obtained, the United States is prepared to initiate a limited program to resettle those with close family ties to the U.S. and those of particular humanitarian concern, such as former "re-education camp" inmates.

The United States is greatly concerned about the quality of life in the evacuation camps. We will be working with UNBRO and the Royal Thai Government to upgrade camp conditions and to ensure security for camp inhabitants. In addition, the Administration—and the Congress—is looking at ways that this large Cambodian community can be provided an opportunity for educating its young people so that they can be better prepared for the day when they can return to their homes on the other side of the border. The Royal Thai Government has also expressed an interest in the education of these Cambodian children. In consultation with the Congress, we will be working with the Thai and with various international organizations, and with the Cambodians themselves, to devise a program to repsond to this important need.

Completing resettlement processing for Cambodian refugees

The United States has been in the forefront of the effort to resettle qualified refugees from the population of Cambodians in UNHCR camps in Thailand. The approval rate for Cambodian refugees seeking resettlement in the United States has been over 90 per cent, one of the highest for any group of refugees. Since the beginning of Cambodian resettlement processing in 1975 the United States has taken 125,000 and other countries have resettled about 65,000. This is a record of which we can all be proud.

Recently, public and Congressional interest has been focused on the processing of remaining Cambodian refugees in Thailand for resettlement in the United States. The Subcommittee on Asian and Pacific Affairs of the House Committee on Foreign Affairs held a hearing on July 31 at which this subject received a thorough review. It should be clear to all concerned that the objective of the U.S. refugee program remains the fairest possible consideration of all applicants for refugee admission. However, where there are indications that a refugee applicant has participated in the persecution of others, he cannot — under U.S. law — be granted refugee status, unless he can prove that he has not participated in such activities. Determining whether or not someone engaged in the persecution of others during the period of Khmer Rouge atrocities in Cambodia is a difficult and time-consuming task. I believe that the U.S. Immigration Service, working closely with the Department of State and the concerned voluntary agency representatives, has reviewed the denied cases in a just and reasonable manner. The established review mechanism, which was formalized last February, remains in place to reconsider denied cases.

Refugee admissions from other regions

Mr. Chairman and members of the Committee, although we extend a strong and helping hand toward the refugees of Southeast Asia, we must not forget the needs of the millions of refugees in other regions of the world. In most cases these refugees do not require third country resettlement. They are being given long-term asylum in Pakistan, throughout Africa and in Central America. Our goal and the goal of the High Commissioner for Refugees is to assist these people to maintain themselves until they can return safely to their home countries. A certain number of them will continue to require resettlement in the United States, and we have made provision for their admission to this country in our proposed admissions ceilings for fiscal year 1986.

I would like to note in particular the need to address refugee admissions backlogs of Eastern Europeans, Iranians and Afghans. Our goal in the Near East is to continue to provide resettlement opportunities in the U.S. for those refugees with close ties to this country and for those of special concern, such as members of the persecuted Iranian religious minorities. We plan to continue to provide resettlement for a fair share of Eastern European refugees, who flee to Western Europe. Hopefully, the proposed ceilings will reduce the waiting time for these applicants.

Despite recent fluctuations in departure rates in recent months, there does not appear to have been any basic change in the Soviet policy of restricting emigration. As in past years, I will reiterate to the Soviet Foreign Minister when I meet with him later this month that the Soviet Union has an obligation, undertaken when it signed the Helsinki Accords, to permit those who wish to join their families abroad to do so.

As already mentioned in the discussion of our contingency plan to transfer unused numbers from the Latin American admissions ceiling to other regions in Fiscal Year 1986, the United States remains ready to reactivate the U.S.-Cuban Migration Agreement on short notice. When Fidel Castro suspended the agreement in May, some 1,800 ex-political prisoners and accompanying family members had been tentatively approved for refugee status. Our goal is to bring these and other former prisoners to the United States, along with their families. We hope that Castro will soon decide to drop his unilateral suspension of the migration agreement, making possible a continuation of our program for ex-political prisoners in Cuba.

Providing adequate funding for the refugee program

Refugees are an international responsibility, but traditionally the United States has been the leader in rallying support for assistance to the burgeoning world refugee population. Working through the UNHCR, the International Committee of the Red Cross and other organizations, the United States has made protection of those fleeing oppression a key component of its foreign policy. By assisting the persecuted we demonstrate our own attachment to the values of freedom and human dignity. It would be a severe blow to these values if, due to well-meant but misguided attempts to save money, the Congress sustained the large cuts in refugee program funding proposed by the House Appropriations Committee in July. These cuts—amounting to $45 million from an Administrative request of $338 million—when combined with $9 million in earmarks added by the Congress, would leave insufficient funds to operate a viable, worldwide refugee program.

At the funding level currently being proposed by the House Appropriations Committee, we would have to drastically reduce refugee admissions in fiscal year 1986. A sudden drop, from the fiscal year 1985 level of 70,000 admissions, would seriously threaten the preservation of first asylum for refugees in Southeast Asia and elsewhere in the world.

Similarly, the funds available for relief and assistance would be inadequate to maintain subsistence and survival for thousands of refugees in Southeast Asia, the Middle East, Pakistan and Latin America. Our African relief efforts would also be affected adversely.

All of us recognize the need to restrain expenditures in the coming years, but our foreign policy interests and humanitarian concern for refugees at home and abroad cannot be carried out if these budget cuts are sustained. The President's FY 1986 request for refugee programs already reflected the need for budget restraint.

CONCLUSION

In the twelve months since I last appeared before this Committee we have accomplished much on behalf of refugees. The President's initiatives in favor of Amerasian children and political prisoners in Vietnam remain at the top of our agenda of unfinished business. We will continue to pursue a solution to the other persistent and difficult refugee problems in Southeast Asia. In close consultation with Congress and our allies, we will examine new approaches to dealing with these problems. With the cooperation of the Congress, we will maintain our commitment to those refugees in need of life-sustaining assistance in Africa, Asia and Latin America. We must not forget that the great majority of refugees today are found in the poorest countries of the world and can only be helped through international efforts. With the support of Congress and the American people, we will keep our doors open to refugees of special concern who suffer persecution at the hands of tyrannical governments and for whom there are not effective and humane alternatives.

The cost of our refugee programs is small compared to the vast needs that they must address. To those of you on this Committee and to your colleagues elsewhere in the Congress who have given your active support to the President's refugee assistance budget request, I express my appreciation. This is a truly a non-partisan program and one that deserves your strong support.

Thank you.

HOUSE OF REPRESENTATIVES,
COMMITTEE ON THE JUDICIARY,
Washington, DC, September 23, 1985.

The PRESIDENT,
The White House,
Washington, DC.

DEAR MR. PRESIDENT: We have completed the consultative process mandated by P.L. 96-212, the Refugee Act of 1980, with regard to refugee admissions and allocations for FY 1986 as recommended by you in your memorandum dated September 10, 1985 to Ambassador H. Eugene Douglas, U.S. Coordinator for Refugee Affairs.

The proposal, as transmitted to us on the same date, provides for a ceiling of 70,000 refugees allocated as follows: 48,500 for East Asia; 9,500 for the Soviet Union/Eastern Europe; 6,000 for the Near East/South Asia; 3,000 for Africa and 3,000 for Latin America/Caribbean; and an additional 5,000 refugee admission numbers which shall be made available for the adjustment to permanent residence of certain qualified aliens.

We are pleased to advise you that we interpose no objections to the number and allocations as recommended.

We believe, however, that no reallocation of refugee numbers between regions should take place during the fiscal year without notifying the Committee on the Judiciary sufficiently in advance to permit an expression of an opinion should it be deemed advisable.

We are concerned about two financial aspects of the FY 1986 refugee admissions program: one, the proposed action to be taken (contrary to the position of the House of Representatives) regarding the Matching Grant Program administered by the Office of Refugee Resettlement of the Department of Health and Human Services; and two, the effect of the Appropriations Committee's action in cutting $45 million from the refugee resettlement program.

We urge that the reductions (per capita and total funding) in the Matching Grant Program as proposed by the Administration be suspended until completion of Congressional consideration of the refugee reauthorization legislation. The Judiciary Committee and the full House of Representatives have recognized the importance of this program and, as a result, recently recommended against any funding reduction (Sec. 7 of H.R. 1452, as passed by the House of Representatives on June 13, 1985).

With regard to the overall budget, we believe it is incumbent upon the Administration to take all necessary action to provide adequate funds to finance the refugee admissions program ultimately decided upon by you in consultation with the Congress. If adequate funding is not available through the regular appropriations process and if the reprogramming of funds is not a viable alternative, we would expect the Administration to submit to the Congress a supplemental budget request for any additional appropriations which may be necessary to fund the refugee admissions program which you determine for FY 1986.

As in the past, the Committee would appreciate being kept informed on a monthly basis with regard to the progress of the FY 1986 refugee admissions program.

We wish to convey our thanks to Secretary of State Shultz, the U.S. Coordinator for Refugees and the representatives of the Departments of State, Justice and Health and Human Services for their cooperation and assistance in this consultative process.

Sincerely,

HAMILTON FISH, Jr.,
Ranking Minority Member, Committee on the Judiciary.

PETER W. RODINO, Jr.,
Chairman, Committee on the Judiciary.

HOUSE OF REPRESENTATIVES,
COMMITTEE ON THE JUDICIARY,
Washington, DC, September 27, 1985.

The PRESIDENT,
The White House,
Washington, DC.

DEAR MR. PRESIDENT: This is to advise you of several of my deep concerns relating to the Administration's refugee admissions' proposal which was presented to the consultative members of the Committee on the Judiciary by the Secretary of State on September 19, 1985.

First of all, I do not believe the proposed 70,000 refugee numbers is consistent with the Administration's previously stated objective of "managing down" the Indochinese refugee program. Since the refugee situation in Indochina has not worsened over the past year and in view of the fact that the countries in the region are following a humane first asylum policy, I see no valid reason why admissions cannot be reduced for Fiscal Year 1986.

Second, there is a likelihood that the House will follow the lead of its Appropriations Committee and reduce the funding level for the refugee program. We were told that such an action could have the effect of reducing the refugee admissions' level to 53,000. I am not wedded to an admissions number, but 53,000 may be an appropriate admissions level in light of possible funding cuts and in light of the fact that many domestic programs for poor and underprivileged Americans have recently suffered drastic budget cuts.

As you know, I fought hard to maintain the Judiciary Committee's recommended funding for the domestic resettlement program during House floor consideration of the Refugee Reauthorization legislation. My efforts were unsuccessful. The recommendations of my Subcommittee which had been accepted by the full Judiciary Committee were flatly rejected by our colleagues. This underscores the need to deal realistically in setting admissions levels with likely funding reductions.

The United States should not admit any more refugees for resettlement than it is willing to properly finance. Accordingly, and in further light of the Administration's decision to terminate targeted assistance to communities heavily impacted by refugee admissions, I think the admissions numbers should be reduced.

Third, Mr. President, the State Department has failed to commit the necessary personnel and resources to monitoring the use of the millions of dollars it grants to the voluntary agencies to resettle refugees. I have brought this often to the attention of the Secretary of State, but I do not sense he shares my concerns in this regard. I continue to believe strongly that a greater commitment must be made to ensuring that the taxpayer is getting the most "bounce for the buck" in the cooperative agreements.

Fourth, the Departments of State and Health and Human Services should make every effort to expand the role of Mutual Assistance Associations (MAA's) in the resettlement process. A refugee's own countrymen and women, who have made the tough journey from refugee to productive U.S. citizen are often in the very best position to help that individual enter the mainstream promptly and with as little trauma as possible.

The House Refugee Reauthorization bill recognizes that MAA's are underutilized, and I would urge the Administration to take concrete steps to achieve a greater use of this resource administratively without awaiting Congressional passage of the Refugee bill.

Fifth, I am concerned that the State Department has not sufficiently pursued in Southeast Asia the preferred response to refugee problems, that is, voluntary repatriation. I do not feel the U.S. has actively pressed the U.N. High Commissioner for Refugees (UNHCR) to intensify its efforts to voluntarily repatriate refugees back to Vietnam, particularly unaccompanied minors in closed camps in Hong Kong. Nor, have we adequately pressed the Thai Government, the Laotian Government, and the UNHCR on the question of returning Laotians to Laos who are determined not to be refugees after requisite screening. Unless

these matters are addressed in an urgent fashion, I am convinced that a broad use of voluntary repatriation in suitable cases will never get off the ground.

Sixth, the second preferred approach to refugee problems—local settlement, i.e. allowing refugees to remain permanently in the country in which they sought asylum—has not been vigorously pursued by the State Department in Thailand. For many years the Committee has been told that "now is not the time to raise the issue" of local settlement of Laotian highlanders in Thailand. I think, instead, Mr. President, that the time has come to raise the issue with the Thai Government contemporaneously with announcing the refugee admission numbers for 1986. In addition to local settlement, U.S. officials should continue to press with Thai officials the sea piracy issue prior to committing our Government to resettling a specific number of refugees from Thailand.

Seventh, the fact that some 23,000 persons are already in the refugee pipeline makes the Executive-Legislative consultation process less a consultation than a cut-and-dried notice. To the extent that the U.S. has placed refugees in a Refugee Processing Center (like Bataan) the U.S. has agreed to admit the refugees. So in future years, I hope the Administration could note clearly and in a separate category the refugees in the "pipeline". Presented this way in the Administration's consultation documents, the Committee will be able to more accurately reach its decisions on refugee admission recommendations.

Finally, but certainly not the least important, is my serious concern that our admissions program is tilted too heavily toward Indochinese refugees. I believe we must have a better regional and nationality balance in our program. The Refugee Act of 1980 was intended to eliminate ideology and geography as the controlling factors in our refugee admissions program. We seem not to have accomplished this most important objective and a more balanced program would certainly be a step in the right direction.

I appreciate this opportunity to share with you my views and concerns on your admissions proposal and on the refugee program in general. I believe we have made great strides since the enactment of the Refugee Act and I look forward to discussing these matters further with your representatives in the Department of State, Justice and Health and Human Services.

Sincerely,

ROMANO L. MAZZOLI,
Chairman, Subcommittee on Immigration, Refugees and International Law.

HOUSE OF REPRESENTATIVES,
COMMITTEE ON THE JUDICIARY,
Washington, DC, September 30, 1985.

The PRESIDENT,
The White House,
Washington, DC.

DEAR MR. PRESIDENT: I am pleased to have been able to participate in the consultative process mandated by P.L. 96-212, the Refugee Act of 1980, with respect to refugee admissions and allocations for fiscal year 1986. While I am in general agreement with the Chairman of the Committee, Mr. Rodino, and the Ranking Minority Member, Mr. Fish, I do wish to make a couple of personal observations, some of which I brought up during the course of our meeting with Secretary of State George Shultz on September 19.

As the Ranking Republican on the Subcommittee on Immigration, Refugees, and International Law, I am sensitive to the need for the United States to assume a leadership role in the resettlement of refugees. But, as the consultative report correctly noted, we already carry the bulk of the responsibility for the support and resettlement of refugees worldwide. In recent years, we have been particularly generous.

Funds, though, are finite, and while I support and endorse the Administration's recommended ceiling of 70,000, I would hope that the necessary funding level could be achieved in ways other than enhanced Federal expenditures. For example, I mentioned to Secretary Shultz the possibility of reprogramming funds in such a way as to make up the difference between the Administration's request and the amount likely to be appropriated by the Congress. I think, too, that we should consider approaching allies, such as Japan, who, for internal political reasons, decline to resettle significant numbers of refugees. If such nations prefer not to accept their fair share of refugees, they should be willing to contribute to the expenses of those who do.

Lastly, I also want to emphasize, as I have in the past, the urgent need for effective and accelerated English training. Perhaps if there were more of an emphasis on such training in camps outside the United States, time there could be reduced and funds could be saved. If we are to reduce refugee welfare dependency, which is unacceptably high in our home State of California, then we must stress English training.

I join with my colleagues in expressing the hope that the Committee will be kept informed with regard to the process of the FY 1986 refugee admissions program, and I wish to express my appreciation to you and to your Administration for your help and cooperation throughout the consultative process.

Sincerely,

DANIEL E. LUNGREN,
Ranking Minority Member, Subcommittee on Immigration, Refugees and International Law.

U.S. SENATE,
COMMITTEE ON THE JUDICIARY,
Washington, DC, September 30, 1985.

The PRESIDENT,
The White House,
Washington, DC.

DEAR MR. PRESIDENT: The Committee on the Judiciary has now concluded its consultations with your representatives on the proposed refugee admissions for fiscal year 1985. We submit to you our response as the chairmen of the full Committee and of the Subcommittee on Immigration and Refugee Policy, respectively, on the proposed numbers of refugee admissions, together with our recommendations regarding the U.S. refugee program.

First, we do share your deep concern about the plight of refugees around the world, particularly those who are of "special humanitarian concern" to the United States. We also share your commitment to support the humanitarian traditions and programs of our nation to assist refugees and to provide resettlement opportunities to those in particular need.

However, we note that, for the first time since the Refugee Act of 1980 became law, the proposed admissions level has not been reduced. It would appear that the sustained high flow of refugees from Southeast Asia is becoming "institutionalized."

Since 1981 the State Department has assured the Congress, during the annual consultations, that the Southeast Asian refugee "emergency" was nearly over and with but another year or two of high admissions numbers, the problem could be described as "managed." Nonetheless, refugee admissions from Southeast Asia have continued at a high rate, and the proposed levels for fiscal year 1985 now continue that trend. Because the "emergency" is over, we believe it is important to continue a steady and meaningful reduction in Southeast Asian admissions. We do not consider a three percent reduction as being "meaningful."

Personal field investigations of refugee processing areas in Southeast Asia by the Subcommittee chairman, as well as other information available to the Committee, including evidence presented to the Committee by both refugee officials and members of the private sector involved in our refugee program, lead us to believe that the numbers proposed by the Administration can, and should be, appropriately reduced. Accordingly, we recommend that the refugee admissions' ceiling for 1986 be set at 60,000, a reduction of 10,000 from that proposed by the Administration.

We believe this reduction should be made in the proposed admissions from East Asia for the following reasons:

(1) There are few people remaining in Thailand who qualify as refugees of "special interest" to the United States. While there are several thousand Lao in Thailand, both Highlanders and Lowlanders, who do have a claim to refugee status in the United States as a result of their previous association with us, this group probably does not exceed 5,000 persons. We have nearly completed the processing of Khmer refugees and few, if any, numbers are required to conclude that large resettlement program. We must now resist the clear temptation to continue to consider third country resettlement as being the "only alternative" available for persons leaving their homelands in Southeast Asia. Refugees in the United States with family members in Southeast Asia must now begin to use our regular immigration laws in order to achieve family reunification.

(2) The Vietnamese Orderly Departure Program (ODP) does not warrant the admission levels proposed by the Administration. We recommend a most careful review and restructure of that program and a redefining of its purpose, and its accomplishments. In 1984, the Committee responded to the Administration's ODP proposals with the caveat: "We assume that these new Orderly Departure initiatives will contain controls sufficient to insure that the program will meet our American objectives rather than primarily those of the sending state." We believe the present program does not contain such controls.

Further, when Congress passed legislation—which we both worked hard to achieve—in 1982 providing special immigration procedures for Amerasian children, it did in no way contemplate that this legislation would result in admission of two family members—each taking a refugee number—for each Amerasian child. We do have a very "special interest" in certain Amerasians who need the care, support and new life they can receive only in America—but it is surely not at all as clear that we have a special interest in bringing all Amerasians and their families to the United States as refugees under ODP. They were given a different status under the legislation.

Until procedures can be negotiated with the Vietnamese authorities assuring that a majority of the people coming to the United States under the ODP are of special interest to us, such as prisoners in the "re-education camps," as opposed to those who the Vietnamese Government has only a "special interest" in expelling from their country, then our participation in the program should be reduced.

While recommending a level of refugee admissions which we believe more accurately reflects the existing international refugee situation, particularly that in East Asia, we state clearly that we stand ready to alertly respond—speedily, fully and effectively—in providing additional resettlement opportunities under the emergency provisions of the Refugee Act in the event of any unforeseen needs or developments. Without a very reasonable level of refugee admissions in times of no emergency, the American public may well be unwilling to respond generously when a time of emergency arises. We certainly wish to avoid this possibility.

Finally, we recommend a reduction in the admissions ceiling of only 10,000 acknowledging that there are a significant number of refugees in the East Asian "pipeline" at the end of the fiscal year, some 17,000 persons; however, we fully expect that a more significant reduction may be achieved in the next fiscal year when the "pipeline" numbers should be much reduced. The expressed intent of the Refugee Act is that overall refugee admissions will be maintained as closely as possible to the "normal flow" figure of 50,000. That is the number set by P.L. 96-212. We must also be certain to take into account the number of persons now being granted asylum in the United States—more than 10,000 in the last fiscal year. These, too, are refugees, and must be fully considered as we consult on refugee admissions.

Mr. President, we express our continued support of your efforts to join with others in the international community in response to the humanitarian needs of refugees—both political and those resulting from natural disasters.

With best personal regards,

Most sincerely,

STROM THURMOND,
Chairman, Committee on the Judiciary.
ALAN K. SIMPSON,
Chairman, Subcommittee on Immigration and Refugee Policy.

U.S. SENATE,
COMMITTEE ON THE JUDICIARY,
Washington, DC, September 30, 1985.

THE PRESIDENT,
The White House,
Washington, DC.

DEAR MR. PRESIDENT: The Committee on the Judiciary has concluded its hearings and consultations with your representatives on the admission of refugees to the United States for fiscal year 1986. As the ranking minority members of the full Committee and the Subcommittee on Immigration and Refugee Policy, respectively, we want to indicate strong support for your proposal to continue the refugee ceiling at 70,000 for another year.

We share your view that conditions in the field, particularly in Southeast Asia, justify maintaining a generous refugee admissions policy. Although we clearly support new initiatives to deal with the continuing flow of Southeast Asians—including voluntary repatriation and local settlement—we recognize that third country resettlement remains the only alternative for many refugees, particularly those with strong family or other ties to the United States. We also support the ear-marking of numbers for the Orderly Departure Program, and for the new efforts that have been announced to deal with Khmer refugees along the Thai border.

Although we agree that the regional allocation of refugee admission numbers proposed by the Department of State generally reflects the needs in the field, we wish to express concern, however, over the reduced numbers for Central and Latin America. Given the continuing conflict and persecution in many countries in the region, including Guatemala, El Salvador and Nicaragua, it seems to us that more than only a handful of refugees from these areas would be deemed of special humanitarian concern to the United States. Yet, despite a ceiling last year of 1,000 for Central and Latin America (down from 3,000 the year before), only 57 refugees have been admitted as of last month—and all of these were from Cuba. This is in sharp contrast to Canada and Australia who, together, admitted over 3,000 refugees from this region last year. We hope that during the coming year the Department of State will be far more vigilant and flexible in reviewing refugee cases in Central America.

Again, Mr. President, we wish to commend you for again proposing a generous refugee admissions program—a program which continues one of our Nation's proudest traditions of welcoming the homeless to our shores, even as we assist millions more overseas. If during the course of the coming year conditions in the field change and additional resettlement numbers are needed—as many in America's voluntary and church agencies believe will be the case—we hope you will utilize the emergency provisions of The Refugee Act of 1980 to respond to those needs.

With best wishes,

Sincerely,

EDWARD M. KENNEDY,
Ranking Minority Member, Subcommittee on Immigration and Refugee Policy.
JOSEPH R. BIDEN, Jr.,
Ranking Minority Member.

U.S. COORDINATOR FOR REFUGEE AFFAIRS,
Washington, DC, October 18, 1985.

Hon. ALAN K. SIMPSON,
Chairman, Subcommittee on Immigration Refugee Policy, U.S. Senate.

DEAR MR. CHAIRMAN: In accordance with the provisions of the Refugee Act of 1980 and after consulting with the Congress, the President has established the refugee ceiling for Fiscal Year 1986.

I have the honor of transmitting a copy of the Presidential Determination dated October 16, 1985.

Sincerely,

H. EUGENE DOUGLAS,
Ambassador at Large.

THE WHITE HOUSE,
Washington, October 16, 1985.

Presidential Determination No. 85-21.

Memorandum for Hon. H. Eugene Douglas, U.S. Coordinator for Refugee Affairs.

Subject: Fiscal year 1986 refugee ceilings.

In accordance with the relevant statutes and after appropriate consultations with the Congress, I have determined that:

The admission of up to 67,000 refugees to the United States during fiscal year 1986 is justified by humanitarian concerns or is otherwise in the national interest;

The 67,000 worldwide refugee admission ceiling shall be allocated among the regions of the world as follows: 37,000 for first asylum from East Asia and 8,500 for the East Asian Orderly Departure Program; 9,500 for Eastern Europe and the Soviet Union; 6,000 for the Near East and South Asia; 3,000 for Africa; and 3,000 for Latin America and the Caribbean.

An additional 5,000 refugee admissions numbers shall be made available for the adjustment to permanent resident status of aliens who have been granted asylum in the United States, as this is justified by humanitarian concerns or is otherwise in the national interest.

In accordance with provisions of the Immigration and Nationality Act and after appropriate consultations with the Congress, I specify that special circumstances exist such that, for the purposes of admission under the limits established above, the following persons, if they otherwise qualify for admission, may be considered refugees of special humanitarian concern to the United States even though they are still within their countries of nationality or habitual residence:

Persons in Vietnam with past or present ties to the United States, including Amerasian children; and

Present and former political prisoners, and persons in imminent danger of loss of life, and their family members, in countries of Latin America and the Caribbean.

This determination shall be transmitted to Congress immediately and shall be published in the Federal Register.

RONALD REAGAN.

RICH MAN'S TAX

Mr. MATTINGLY. Mr. President, as the liberal cry for revenue enhancement, fees, or some other newly coined word for a tax increase is discussed, I recommend for my colleagues the following article from the Wall Street Journal of January 28, 1986, which I ask unanimous consent to have printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

RICH MAN'S TAX

We are beginning to lose track of the number of commentators and editorialists calling for a big tax on gasoline. The last fellow we heard on the subject was demanding the immediate imposition of a 50-cents-a-gallon tax. Nothing would serve this country's interests more, the argument goes, than that we should all start paying $1.80 for a gallon of gas.

Many claims are made for the gas tax. Among the pains its prescribers promise to relieve are the deficit, the Arabs, commuters who clog the bridges across the Potomac, and congestion at 42nd and Broadway. Two questions:

First, can anyone find 10 people outside Washington, Manhattan or Chrysler's headquarters who actually want to start paying another 50 cents for their gas? More important, can anyone find a single politician south of the Hudson River who would propose such a thing to his or her constituents?

Let's look at the numbers on how America drives. According to Hertz, the average passenger vehicle used 549 gallons in 1984. The American Automobile Association's latest

survey puts the cost of regular unleaded gas at full-service pumps at $1.37 a gallon. Combining those figures produces an annual gasoline bill of about $752. Now add a new 50-cent tax and your bill rises to about $1,027, a one-year increase of about $275.

With that $275 figure in hand, it is possible to divide up the political world. In one group are people who say, "$275 won't hurt anyone." In the other group are people who say, "What!" Only people who live in the first group could propose such a tax.

The people in the first group are the kind of folks who have no clear idea from one week to the next whether gas costs $1.15 a gallon or $1.65 a gallon. Their idea of a small, fuel-efficient car is either a Subaru or a Mercedes 190. Buying gas is pulling up to the pump and handing something out the window that pays for it.

The people in the second group have two family cars that are in constant use. One is usually a station wagon full of small people. They know that the cost of filling a 15-gallon tank with $1.37 gas is about $20. And when the kid pumps the same amount of $1.87 gas into the tank and says that'll be $28, their eyes are going to pop out of their heads. They know that the tax's $550 hit on two cars will come out of the family budget. The last person who made people feel this bad at the gas pump was Jimmy Carter.

Many current advocates of jacking up gas taxes, however, make Jimmy Carter look like the angel of mercy. First, they'll say that with oil prices falling, the impact of higher gasoline taxes will be "lessened." And that means "we" can absorb other new taxes, too. They want: a $12-per-gallon fee on imported oil, or a tax increase included in the current income tax reform bill, or a national 5 percent value-added tax.

The advocates of these taxes believe that Congress just can't realistically be expected to make further significant cuts in its $950 billion budget. And so they think that their call for high, indirect taxes on people who already pay taxes is pragmatic and moderate. But there is no avoiding the fact that the gasoline tax, like these other extraordinarily regressive levies, is a rich man's tax. Only he won't much care when it's passed into law or when he pays it. For everyone else, each trip to the gas station will be a reminder that Washington has irresponsibly dumped its problems on them. Again.

CONTINUING TRADE CRISIS WITH JAPAN

Mr. DOLE. Mr. President, earlier this month this Senator commented on the continuing trade crisis with Japan, noting the extraordinary escalation in our trade imbalance and the failure of the Japanese to seriously address the issue.

The fact is, the trade deficit has continued to widen and most of the unfair barriers to fair trade with Japan remain in place. Today we have learned that in December we set a new record for a single month trade deficit with Japan of $5.5 billion. In fact, in the trade report issued today, Japan accounted for roughly one-third of the overall trade deficit. Imports from Japan exceeded exports by $49.7 billion in 1985, up from $37 billion the year before.

In December we experienced the single largest monthly trade deficit in our history—$17.4 billion—a whopping 27-percent increase over September, which had held the dubious distinction of being the highest in history.

Our total trade deficit for 1985 is now estimated at $148.5 billion, a substantial increase over the 1984 trade deficit of $123 billion.

Mr. President, although no one trading partner is to blame for this enormous increase in the trade deficit, once again, Japan accounts for a significant part of the problem. In 1985, the United States trade deficit with Japan will total $49.7 billion. It is a figure, I believe, cannot be sustained.

Before we adjourned in December, I addressed the Senate with my concerns about the continuing trade crisis with Japan. Today's dismal numbers only serve to buttress my disappointment with the timid progress that is being made toward closing the trade gap between our two countries.

Last summer, after I visited Japan with several of my colleagues, and after the Japanese had announced its so-called "action program," I had a sense of optimism. I thought that perhaps we were beginning, albeit slowly, to turn the corner—that the Japanese finally understood the severity of the situation and were willing to move forcefully to rectify it.

But the fact is, despite some recent indications from Prime Minister Nakasone that he and his Government recognize the problem has not eased, and despite actions to lower the value of the dollar in terms of the yen, the trade deficit continues to worsen.

Japan, however, is not the only country where we have increasing trade difficulties. The trade deficit with Western Europe was $27.4 billion in 1985; $22.2 billion with Canada, $13.1 billion with Taiwan, and $11.6 billion with the members of OPEC. In each case, those levels are much too high.

These horrendous figures, which threaten our economic well-being and cause individual hardship to the men and women who have lost and continue to lose their jobs, are further motivation for action in Congress.

In November, a bipartisan group of Senators introduced legislation that addressed a broad range of trade issues and attempted to beef up the means to strike down barriers to U.S. exports by enhancing retaliatory authority and establishing time limits for action by the Federal Government.

I intend to ask Senate Finance Committee Chairman PACKWOOD, and Senator DANFORTH, chairman of the Trade Subcommittee, to schedule hearings on S. 1860 at the earliest possible time.

Already on the Senate's calendar, however, are two bills dealing with Japan and trade. The Japanese unfair trade practice bill, would require the President to take all action necessary to eliminate Japanese trade barriers to United States goods or to offset the effects of trade barriers between the United States and Japan.

Another bill, S. 942, the "telecommunications bill," would require negotiating agreements to gain opportunities in foreign markets that are almost equivalent to opportunities available in U.S. markets for telecommunications products and services.

Mr. President, the trade deficit crisis has reached proportions that compel us to act. We can no longer ignore the damage that the burgeoning disparity between what we import and what we export has on our country and the lives of our people. I am prepared to call up these bills as soon as the calendar allows.

Approval of these bills is no cure-all. Our ultimate goal is free trade and legislation alone can not create that. But we can take steps to create more open, and accessible markets, through legislative means and continuing dialog with the Japanese and our other trading partners.

THE HARD ROAD TO PROGRESS IN NORTHERN IRELAND

Mr. PELL. Mr. President, 10 weeks ago the Governments of Ireland and the United Kingdom entered into a remarkable agreement pertaining to the future of Northern Ireland. In essence, the Anglo-Irish pact granted Dublin a consultative role in decisions affecting the North in exchange for a joint affirmation of the principle that no change will occur in the North's status without consent from a majority of its people. In so addressing the aspirations of the North's Catholic minority while reassuring Ulster's Prostestant majority, the accord embodied the essence of wisdom and statesmanship.

Regrettably, such qualities have not been apparent in the response of Ulster's Unionist leaders. Last week, the two Unionist parties, having denounced the agreement, contested the issue in a by-election they had precipitated by a mass resignation from the British Parliament. Fortunately, the election results demonstrated only limited public support for such obstructionism, as the Unionists actually lost 1 of their 15 seats. But while Irish, British, and Ulster moderates can take some encouragement from this outcome, the task of shaping a peaceful and just future for Northern Ireland clearly remains an enormous challenge.

Yesterday, two thoughtful contributions to public discussion of this contentious issue appeared in editorials in the Wall Street Journal and the New York Times, which I ask unanimous consent to have printed in the RECORD.

There being no objection, the editorials were ordered to be printed in the RECORD, as follows:

[From the Wall Street Journal, Jan. 29, 1986]

WILL ULSTER BE RIGHT?

Northern Ireland's two Unionist parties took their combined campaign against the Nov. 15 Anglo-Irish pact to the polls last week, running on a single platform: "Ulster Says No." These by-elections were sparked by the mass resignation of Ulster's 15 Unionist members of the British Parliament. They aimed for a de facto Northern Irish referendum on the accord. In the process, however, they lost one seat and exceeded their tally in the 1983 general elections by a scant 2,264 votes.

That Ulster's Unionists would say "no" to the accord came as no surprise. They have historically said no to every agreement that would give the Nationalist minority any say in running the province. The encouraging surprise was that a significant number of the Nationalist community said "yes" to the accord and a resounding "no" to the pro-violence political wing of the Irish Republican Army, Sinn Fein. The big gainer was John Hume, leader of the moderate Social and Democratic Labor Party, who had rejected a Sinn Fein offer of a political pact against the Unionists. His party's Seamus Mallon took away the one Unionist seat and some 12,000 votes from Sinn Fein. The final percentage breakdowns tell this story: combined Unionist, up 0.5%; SDLP,up 19%; Sinn Fein, down 24%.

What the next step is for the Unionists is hard to say. One of the victorious Protestant candidates. Harold McCusker, certainly did not soothe fears of a general strike or a refusal to pay taxes. "We have a mandate to withdraw the consent of our people to be governed, and that is what we shall be doing in the province," he was quoted as saying after the results were in. One possibility is a withdrawal from Westminister Parliament. This, ironically, would put the Unionist on the same level as Sinn Fein, which also refuses to be seated at Westminister.

Certainly the hostility with which the Anglo-Irish pact is held by the Unionist majority means that Unionist fears must be dealt with. At the same time, Unionists ought to take a closer look at the deal they are so busy denouncing as betrayal. In addition to promising stronger steps against the IRA, this deal also elicits Dublin's formal recognition that Northern Ireland will remain British so long as that is the preference of the majority there. This is hardly evidence of "betrayal."

Indeed, Unionist demonstrations against the Thatcher government are curious coming from a part of the United Kingdom that has always described itself as "loyalist." As the Unionists' threats to make their province ungovernable demonstrate, this loyalty is one-sided. Northern Ireland today is heavily subsidized by the British taxpayers, who fork over millions in defense and welfare payments and are growing weary of Unionist intransigence. Any true referendum on the Thatcher-FitzGerald accord would have to solicit their opinion as well.

The framers of the Anglo-Irish accord had two main aims: to siphon off Nationalist support for the IRA and to get Unionist politicians to share power in return for guarantees of their security. Clearly Thursday's by-elections show success for the former. It is now the Unionists' turn. Those who think they can make Margaret Thatcher crack with threats of civil disobedience and paramilitary activity ought to take a look at what happened when mainland miners went that route.

[From the New York Times, Jan. 29, 1986]

THE IRISH ACCORD HOLDS

Last week's election in Northern Ireland failed to scuttle the new British-Irish accord to seek a progressive resolution of the province's communal strife. It gave diehard Protestants the photo opportunity they craved—a chance to wave placards insisting that "Ulster Says No!" That was the intent of the 15 Unionist members of Britain's Parliament whose resignations forced the vote. The re-election of all but one only confirmed the reflexive parochialism of a community still trapped in the religious wars of the Reformation.

The Unionists' main grievance is that they were not a party to the agreement between Prime Minister Thatcher and Prime Minister Garret FitzGerald of Ireland. That is half true. The province's one million Protestants are British subjects who tirelessly defend majority rights—but only in Northern Ireland. The Parliament in which they sit gives overwhelming approval to the pact but they verge close to rebellion and compete in reviling their Government.

What they really oppose is the limited role the accord gives Ireland in addressing the grievances of Ulster's 600,000 Catholics. What they overlook is the provision that binds the Irish Republic to respect the North's right to remain British, so long as its majority desires.

There has been a surge of support for the agreement in Ireland and Britain. It has been endorsed unanimously by the U.S. Senate, with but a single dissent by the House, and by a 150-28 vote in the European Parliament.

The agreement has been a boon for Catholics who oppose violence and a setback for their rivals in the Irish Republican Army. The Social Democratic and Labor Party, which supports the agreement, increased its share of the Ulster vote by 20 percent and won one of the four seats it contested. That gain came at the expense of Sinn Fein, the I.R.A.'s political front, whose share fell by a fourth.

The Unionists predicted they would win 500,000 votes but could muster only 418,000. A consensus for sanity is beginning to develop in the troubled North. It deserves a chance to grow.

TRIBUTE TO A GREAT MAYOR

Mr. ANDREWS. Mr. President, one of the uniquely great mayors in America, Chet Reitan, has announced his retirement. He has been a good friend of mine, as he has of so many people across our State, but particularly of the citizens of the "Magic City" he has served so well. Fortunately, even though he is retiring as mayor, Chet will continue to serve them in our State senate.

His hometown paper, the Minot Daily News, carried an editorial today that is one of the most uniquely deserved tributes I have ever seen given to a public official.

I ask unanimous consent that it be printed in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

TRIBUTE TO A GREAT MAYOR

The 14-year performance of Chester Reiten as mayor of Minot will be a very hard act to follow. Well, "act" isn't quite the right word. It hardly covers 14 years of leading, inspiring, pushing, working, planning, pleading, inventing, expanding, lobbying and personally investing in the city he loves so dearly and has tried so hard to make flourish.

He has had an almost unbelievable talent for putting the finger on the right person to do the job that needed to be done and a gift for making the one selected feel honored at working days, weeks, and even months without pay for the good of the cause.

All with the help of his co-workers, of course, he seems to have succeeded in resolving the city's biggest problem, flood control; in bringing many new businesses into the city; in expanding facilities for handling tournaments, conventions fair visitors, and his own creation, the Hostfest, bringing throngs from a number of states and even abroad; in successfully coping with federal policy changes that would have been cirpping, if not fatal, to Minot's two hospitals; in keeping city government responsive to growth, service and in solid financial standing.

Few events of any consequence escaped the arrival of our omnipresent mayor, coming with an extended hand of friendship, a speech in his pocket or a ribbon-cutting pair of shears.

He answered his phone calls and his letters, never stayed out of touch to any who sought his attention to cope with city problems or worthy causes. He worried with answer-seeking committees, pacing the floor while listening to the reasoning. He sparred for answers. His face was a barometer of the way things were going.

While all this was occupying his time he managed to expand his own enterprise from part ownership of one television station and an AM radio station to network of TV stations at Minot, Bismarck, Williston and Dickinson as well as adding an FM radio station at Minot.

Now that he's leaving the job most of his constituents are agreed he has been the finest mayor Minot has had. Those who don't agree he was the finest, admit he was the hardest working.

He plans to continue serving his city and state as a state senator. That's a good deal easier than being mayor, Reiten points out. It certainly is if you go by the job description he outlined for himself as Minot's No. 1 citizen. Mange takk, Chet.

Mr. PROXMIRE. Mr. President, I suggest the absence of a quorum.

The PRESIDENT pro tempore. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. DIXON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. DANFORTH). Without objection, it is so ordered.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER (Mr. GORTON). Morning business is closed.

CONRAIL SALE AMENDMENTS ACT OF 1985

The PRESIDING OFFICER. The clerk will report the pending business.

The assistant legislative clerk read as follows:

A bill (S. 638) to amend the Regional Rail Reorganization Act of 1973 to provide for the transfer of ownership of the Consolidated Rail Corporation to the private sector, and for other purposes.

The Senate resumed consideration of the bill.

Pending:

(1) Danforth Amendment No. 1437, in the nature of a substitute.

(2) Dixon Amendment No. 1567 (to Amendment No. 1437), to provide for judicial antitrust review and to remove antitrust actions from the exclusive jurisdiction of the Special Court.

AMENDMENT NO. 1567 TO AMENDMENT NO. 1437

(Purpose: To provide for judicial antitrust review and to remove antitrust factions from the exclusive jurisdiction of the Special Court)

The PRESIDING OFFICER. The Senator from Illinois is recognized.

SALE OF CONRAIL TO NORFOLK SOUTHERN SHOULD BE SUBJECT TO THE ANTITRUST LAWS

Mr. DIXON. Mr. President, this amendment, which I am offering together with my distinguished colleagues, Senators PRESSLER, ANDREWS, EXON, HEINZ, ROCKEFELLER, SIMON, SPECTER, and ZORINSKY, is simple and straightforward. It makes the proposed sale of Conrail to the Norfolk Southern Railroad, as recommended by the Secretary of Transportation and contained in S. 638, subject to the antitrust laws, including the Clayton Act. The amendment would not delay consummation of the sale.

I want to stress for those who may be listening in their office. It would continue the current exemption in the Northeast Rail Service Act barring the Interstate Commerce Commission from reviewing the sale. The result of enactment of this amendment would be to allow shippers, railroads, ports, and other interested parties that are adversely affected by the creation of a Norfolk Southern-Conrail monopoly to file suit in Federal court—not the special court created to handle the valuation of the bankrupt railroads that were Conrail's predecessors—on antitrust grounds. The courts, if they found that the merger violated the antitrust laws, could then impose appropriate remedies.

This amendment is necessary because S. 638 does not provide any form of due process for those adversely affected by the anticompetitive aspects of the proposed sale.

Again, for those who may be listening, I want to stress that S. 638, the pending legislation, does not provide any form of due process for those adversely affected by the anticompetitive aspects of the proposed sale. Instead, the bill "deems" the sale approved by the Interstate Commerce Commission, and effectively ensures no impartial review of antitrust issues either administratively or in the courts.

S. 638's failure to provide an opportunity for independent review of antitrust issues is especially significant because of the inadequate consideration given those issues by the Department of Transportation and the Department of Justice. Their review produced almost none of the information commonly available in this kind of case. Further, the review process they did conduct was mostly in secret. Those who would be hurt the most had no way to review materials submitted to the Departments and no effective way to challenge assertions made by the Norfolk Southern.

I am deeply disappointed by the kind of review the Justice Department provided, Mr. President, because even the Justice Department admitted that the proposed Conrail-Norfolk Southern merger was anticompetitive.

For those listening in their offices, again let me stress. The Justice Department admitted that the proposed Conrail-Norfolk Southern merger was anticompetitive.

The Assistant Attorney General for Antitrust stated that the competitive problems were significant, so significant that "the Department of Justice would therefore oppose the proposed merger unless its competitive problems are remedied."

That is a direct quotation from the Department of Justice attorneys involved in the case.

Of course, Justice was not the only party that found competitive problems with a Norfolk Southern-Conrail merger. The staff of the Interstate Commerce Commission, the U.S. Railway Association, 25 State attorneys general, State departments of transportation, cities and other local governments, railroad labor, literally hundreds of shippers, ports, and railroads that connect and compete with Conrail and Norfolk Southern also found extremely serious antitrust problems.

Justice also reached this conclusion even though its analysis substantially underestimated the scope and extent of the competitive problems. The screening process the Department used eliminated over $500 million in revenues and corresponding tonnage that would be adversely affected by the proposed merger. Further, the Department virtually ignored the substantial diversions that would be suffered by railroads that connect and compete with Conrail and Norfolk Southern due to the monopoly power of the combined system. But even with these and numerous other deficiencies in its analysis, Justice concluded that the transaction would adversely affect about 19 million tons of freight and $527 million in revenues.

These figures demonstrate that a Norfolk Southern-Conrail merger is extremely uncompetitive. In fact, they justify total opposition to the Department of Transportation's recommended solution on antitrust grounds alone. Now some of my colleagues might argue that such a conclusion is unwarranted. In response to that argument, I can only point out that the Justice Department itself is now opposing a merger similar in size to the one now before the Senate—that is, the proposed Santa Fe-Southern Pacific merger—even though the Department's estimates of anticompetitive effects in that case are less than half as large as in this one. In fact, in the Santa Fe case, Justice is arguing that there is no package of remedies, including divestitures, that will remedy the competitive problems presented by that Merger.

So may I say again to my friends who may be listening in their office, think of it. On the only other pending proposition, the proposed merger of the Santa Fe-Southern Pacific, Justice is opposing the merger when the contemplated impact is less than half of what will be involved in the Conrail-Norfolk Southern situation.

The extent of the antitrust problems became apparent, Mr. President, despite the fact that this proposal is being handled differently than any previous merger between profitable railroads in modern times. Ordinarily, mergers are submitted to the Interstate Commerce Commission for review. The Commission now has up to 31 months to decide rail merger cases, including their antitrust aspects. The ICC process provides all interested parties with very complete information on the merger proposal and the operating and financial projections of the merging partners. It also provides a forum where this information can be challenged through cross-examination, and other information presented. In short, the ICC process provides full procedural safeguards for all parties. Further, any decision of the Commission is reviewable in Federal court, providing additional protection for those adversely affected by a merger proposal.

None of this protection has been provided in this case, however. Virtually none of the information normally available has been provided, and there has been no independent forum available for consideration of antitrust issues.

Now it may be said that conrail is a unique case—it is, after all, Government-owned—and that it should not be handled like other mergers. The fact

of Government ownership, however, means that the Government faces a real conflict of interest. Special care needs to be taken to ensure that Government's role as seller does not overshadow its responsibility to handle antitrust considerations fairly and objectively.

The process and protections provided by S. 638 and the Justice Department fall far short of that standard, Mr. President. They provide no assurance that the conflicting roles of the Federal Government have been properly handled. Justice, for example, has not played the kind of independent role in this case that it is playing in the Santa Fe case. Justice, instead of functioning as an independent antitrust advisor, has instead acted to do everything possible to help expedite the sale proposal of the Department of Transportation, and it is perhaps unreasonable to expect it to do anything else. It is, after all, part and parcel of the administration. What it is not is independent, which is why there needs to be independent judicial review as called for in my amendment.

There have been attempts to at least partially resolve the competitive problems this merger presents, Mr. President. Norfolk Southern has made three different divestiture proposals, each designed to meet the Justice Department's criteria.

The fact that Norfolk Southern has made three proposals is itself eloquent testimony to the inadequacy of the first two. In fact, the first proposal, which was the only one to receive any kind of independent analysis, was universally regarded as without merit. Norfolk Southern learned its lesson and provided substantially less opportunity for review of its second proposal, but the result was the same. Even the Department of Justice found it inadequate.

Justice found that the third proposal "appears on its face to address the competitive concerns that must be addressed before the Department can approve Norfolk Southern's acquisition." However, given the fact that the third proposal shares many of the major flaws of the first two, it is hard to understand Justice's change of position. Justice itself seems to understand its stand is indefensible. Although Justice has stated that it does not have sufficient in-house expertise to fully analyze the operational aspects of divestiture plans, and that it intended to quickly hire a consultant to review the third plan, it has not done so.

This is despite the fact that Justice had a consultant analyze the first plan, and that that consultant was prepared to analyze the third plan. One can only conclude Justice was afraid to hear the consultant's report. The consultant found the first plan inadequate; Justice evidently was in no mood to risk having the third plan also found wanting.

All three divestiture plans have a variety of flaws. They do nothing about many of the anticompetitive problems Justice identified. They do not address the diversion question at all. Most importantly, they depend on two railroads—Guilford and the Pittsburgh and Lake Erie—that can only be classified as extremely marginal, and which would likely continue to exist only at the sufferance of a combined Conrail-Norfolk Southern System.

I will not take the Senate's time, Mr. President, to analyze their financial condition in detail. I do believe, however, that if this were 1976 instead of 1986, we would not be discussing their ability to acquire trackage rights and lines from Conrail. Instead, we would be including them with the other bankrupt railroads that were merged into Conrail. The Department of Transportation argues that Conrail, with its slimmed-down, well-maintained route structure and its record of five straight years of increasing earnings and positive cash flow, cannot succeed on its own. I do not understand how the Department can take that position and simultaneously argue that Guilford and the P&LE, a fraction of Conrail's size, in great need of major rehabilitation, and with a history of losses, can provide effective, long-term competition with the even larger and more powerful combined Conrail-Norfolk Southern System. The White Queen in "Through the Looking Glass" pronounced herself able to believe six impossible things before breakfast. If the Senate accepts the view that Guilford and the P&LE are viable while Conrail is not, we will have become what most of the country already believes we are—residents of Alice's "wonderland."

Let me conclude by summarizing what this amendment does and does not require and what it will and will not do. It does not require the Senate to determine absolutely that the antitrust problems presented by the proposed Conrail-Norfolk Southern merger have not been resolved by the third divestiture plan. Enactment of this amendment would simply indicate the Senate's desire to ensure fair and thorough analysis of outstanding antitrust issues, and the Senate's understanding of the need to provide an independent forum where those most adversely affected by the proposed merger can present their case.

Mr. President, this amendment will not prevent the sale. It will provide an opportunity for judicial review, not the administrative and judicial review available for all other mergers between profitable railroads. The Justice Department and Norfolk Southern say the antitrust problems have been resolved. If they are correct, they should have nothing to fear from a judicial review of the antitrust implications of the merger and the third divestiture plan.

Mr. President, I urge my colleagues to support this fair, straightforward, simple but essential amendment that will only give to the courts the right to review the question of whether we are creating a monopoly, an anticompetitive railroad system in the bill now before us in the Senate.

Mr. President, I yield the remainder of my time.

Mr. DANFORTH. Mr. President, let me ask the Senator from Illinois, I do not think he meant to say he yielded the remainder of his time.

Mr. DIXON. Mr. President, I apologize to the distinguished manager of the bill. I meant to say I yield the floor. There is some time left for other proponents of the amendment and I thank the Senator for correcting my mistake.

Mr. SPECTER addressed the Chair.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. DANFORTH. Mr. President, may I ask, on whose time is the Senator from Pennsylvania speaking?

The PRESIDING OFFICER. There is no control of time.

Mr. DANFORTH. There is no time agreement on the hour?

The PRESIDING OFFICER. There is no time agreement on this amendment.

Mr. DIXON. Mr. President, may I say in clarification of that to the manager of the bill that it has been my understanding with him all through this that I would not consume the full half hour myself, which I have not done. I hope those who support my point of view will have in mind that we want to be as accommodating on the time as we can, because there are two other amendments we would like to give full opportunity to this morning. I think the distinguished Senator from Pennsylvania is supportive of my amendment.

Mr. SPECTER. Mr. President, the Chair has already announced there is no time agreement?

The PRESIDING OFFICER. There is no time agreement.

Mr. SPECTER. Mr. President, as I had started to say, the distinguished Senator from Illinois has eloquently articulated very strong reasons why any sale of Conrail to Norfolk Southern should not carry antitrust immunity and an antitrust exemption. These issues had been addressed by this Senator yesterday, and on January 21, in relation to earlier contentions that the proposed sale of Conrail to Norfolk Southern was not ripe for decision at this time.

I addressed that issue on the motion to proceed because of the outstanding antitrust questions and, as I addressed in some detail yesterday, on the issue

of the preferability of Morgan Stanley over Norfolk Southern because of these underlying antitrust issues. In those two floor statements, this Senator has incorporated into the RECORD the underlying documents which show these very serious antitrust issues, so it will only be necessary to allude to them briefly today and to make this argument in summary form.

The parameters of the antitrust issues were stated by the Department of Justice in the letter from Assistant Attorney General McGrath to Secretary of Transportation Elizabeth Dole on January 29, 1985, a letter which is in the RECORD and which, simply stated, declares that a Conrail-Norfolk Southern joinder would violate the antitrust laws unless there were adequate divestiture.

A subsequent letter from Assistant Attorney General Ginsburg to Secretary of Transportation Dole on September 25, 1985, again already a part of the RECORD and commented upon extensively, enumerated very substantial reasons why the proposed divestiture plans to Guilford or Pittsburgh-Lake Erie were totally insufficient to solve the antitrust problems.

Then came Norfolk Southern's statement that unless some action were to be taken by the end of 1985 it would withdraw its offer. Suddenly the third divestiture proposal, which was less than bare bones, submitted by Norfolk Southern on November 11, received prompt "preliminary approval" by the Department of Justice on November 19. Then followed a scheduled hearing by the Judiciary Committee, which was not a valid hearing because of the absence of the requisite notice.

There was an informal proceeding attended by Senator THURMOND and this Senator where Secretary Dole testified and where Assistant Attorney General Ginsburg testified and gave what I think, fairly stated, was a totally insufficient explanation of the very serious antitrust questions involved in this matter.

Following that informal proceeding, this Senator wrote to Assistant Attorney General Ginsburg by letter dated December 19 and asked about the details of the proposal so that there could be some evaluation of the third divestiture proposal. Because of the importance of this letter and its brevity, I ask unanimous consent that it be printed in the RECORD at this point.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
Washington, DC, December 19, 1985.

Hon. DOUGLAS H. GINSBURG,
Assistant Attorney General, U.S. Department of Justice, Washington, DC.

DEAR ASSISTANT ATTORNEY GENERAL GINSBURG: I remain extremely concerned about the unanswered questions surrounding the "preliminary approval" which the Department of Justice's Antitrust Division has given to the latest divestiture plan proposed by Norfolk Southern, Guilford Transportation Industries, and the Pittsburgh & Lake Erie Railroad.

I previously expressed this concern to you when you appeared before an "informal gathering" of the Senate Committee on the Judiciary regarding the sale of Conrail last month. At that time, you stated that the latest divestiture plan "appeared" to resolve Justice's concerns of anticompetitive effects resulting from the proposed merger of the Conrail and Norfolk Southern systems. You admitted during that meeting, however, that extensive documentation, including financial plans, revenue estimates, balance sheets, and operating schedules, would have to be submitted by the parties, and evaluated and verified by the Antitrust Division, as well as by an outside consultant, before any final approval could be given.

I would like to know whether the outside consultant has been chosen and whether any of the necessary documentation has been provided to you or your staff. Specifically what, if any, further action has been taken thus far by Justice with regard to analysis of this divestiture proposal? I would also appreciate it if you would provide me with a list of any remaining documents which must be supplied to you, when such documents are expected, and when you would reasonably expect review of the documents to be completed by both Justice and its outside consultant.

Thank you for your prompt attention to this very important matter.

Sincerely,

ARLEN SPECTER.

Mr. SPECTER. Mr. President, when no reply was received and the majority leader [Mr. DOLE] had scheduled Conrail for the first order of business on the resumption of the Senate session on January 21, this Senator wrote Attorney General Meese on January 9 asking that a prompt reply be given to the letter of December 19. Finally, on January 21, after this body had started to undertake this consideration, a reply was received. In the reply from Assistant Attorney General Ginsburg on January 21, 1986, there were enclosures of letters to Guilford and Pittsburgh & Lake Erie dated January 8, 1986, concerning some of the underlying questions on the proposed divestiture. I think it is obvious that the Department of Justice has been dragging its feet so that the details of the divestiture program would not be before the U.S. Senate as we considered this issue.

In the letter from the Justice Department to Pittsburgh & Lake Erie on January 8 there is a reference to the importance of a "major interest to Congress" on the specifics, from Pittsburgh & Lake Erie and Guilford. Yet we are being asked to pass on this proposal with an antitrust exemption without those materials being of record and before this body. In an effort to obtain the details, this Senator wrote to Guilford and to Pittsburgh & Lake Erie by letter dated January 9, 1986, and as of this date, 21 days later, no reply has been received.

Mr. President, I ask unanimous consent to have printed in the RECORD the letters from this Senator to the Attorney General dated January 9, 1986, the letters to Pittsburgh & Lake Erie and Guilford dated January 9, 1986, and the letter from Assistant Attorney General Ginsburg to this Senator dated January 21, 1986.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

U.S. SENATE,
Washington, DC, January 9, 1986.

Hon. EDWIN MEESE III,
Attorney General, Department of Justice, Washington, DC.

DEAR ED: By letter dated December 19, 1985, I wrote to Assistant Attorney General Ginsburg (copy enclosed) inquiring about the unanswered questions surrounding the "preliminary approval" which the Department of Justice's Antitrust Division has given to the latest divestiture plan proposed by Norfolk Southern, Guilford Transportation Industries, and the Pittsburgh & Lake Erie Railroad.

As of this date, I have received no reply. In order to be prepared on the subject when it comes before the Senate on January 21, 1986, our first day back, it is indispensible that we have a prompt response to the questions raised in the letter to Mr. Ginsburg.

I would appreciate your assistance in obtaining this information.

Sincerely,

ARLEN SPECTER.

U.S. SENATE,
Washington, DC, January 9, 1986.

Mr. GORDON NEUENSCHWANDER,
Executive Vice President, Pittsburgh & Lake Erie Railroad, Pittsburgh, PA.

DEAR MR. NEUENSCHWANDER: On November 11, 1985, the Pittsburgh & Lake Erie Railroad entered into an agreement with the Norfolk Southern Corporation and Guilford Transportation Industries regarding the divestiture of certain rail lines involved in the proposed merger of Conrail-Norfolk Southern.

The November 11 agreement is devoid of certain critical documents which are necessary for the evaluation of Pittsburgh & Lake Erie Railroad's role in this proposal. This extensive documentation includes financial plans, revenue estimates, balance sheets and operating schedules.

Assistant Attorney General Douglas H. Ginsburg, appearing before an "informal gathering" of the Senate Committee on the Judiciary last November, stated that these documents would be submitted to the Department of Justice, and evaluated and verified by the Antitrust Division, as well as by an outside consultant, before any final approval of the plan could be given.

I would like to know if the necessary documentation has been provided to Mr. Ginsburg's staff and, if so, I request that I be provided copies of these documents forthwith as the Senate is expected to consider the Conrail sale legislation when it reconvenes on January 21. If the materials have not yet been provided, I would like to know when they will be, and I would appreciate a list of the anticipated documents.

Thank you for our prompt attention to this extremely important matter.

Sincerely,

ARLEN SPECTER.

U.S. SENATE,
Washington, DC, January 9, 1986.

Mr. TIMOTHY MELLON,
Chairman and Chief Executive Officer, Guilford Transportation Industries, Inc., Boston, MA.

DEAR MR. MELLON: On November 11, 1985, Guilford Transportation Industries entered into an agreement with the Norfolk Southern Corporation and the Pittsburgh & Lake Erie Railroad regarding the divestiture of certain rail lines involved in the proposed merger of Conrail/Norfolk Southern.

The November 11 agreement is devoid of certain critical documents which are necessary for the evaluation of Guilford's role in this proposal. This extensive documentation includes financial plans, revenue estimates, balance sheets and operating schedules.

Assistant Attorney General Douglas H. Ginsburg, appearing before an "informal gathering" of the Senate Committee on the Judiciary last November, stated that these documents would be submitted to the Department of Justice, and evaluated and verified by the Antitrust Division, as well as by an outside consultant, before any final approval of the plan could be given.

I would like to know if the necessary documentation has been provided to Mr. Ginsburg's staff and, if so, I request that I be provided copies of these documents forthwith as the Senate is expected to consider the Conrail sale legislation when it reconvenes on January 21. If the materials have not yet been provided, I would like to know when they will be, and I would appreciate a list of the anticipated documents.

Thank you for your prompt attention to this extremely important matter.

Sincerely,

ARLEN SPECTER.

U.S. DEPARTMENT OF JUSTICE,
ANTITRUST DIVISION,
Washington, DC, January 21, 1986.

Hon. ARLEN SPECTER,
U.S. Senate,
Washington, DC.

DEAR SENATOR SPECTER: This letter responds to your letters of December 19, 1985 and January 9, 1986, concerning the proposed sale of Consolidated Rail Corporation ("Conrail") to Norfolk Southern Corporation ("NS"). You have asked what further action the Department of Justice has taken, since the informal meeting that Secretary Dole and I had with you and several other Senators on November 21, 1985, to analyze the divestiture proposal made by NS, Guilford Transportation Industries, Inc. ("GTI"), and the Pittsburgh & Lake Erie Railroad ("P&LE") in mid-November 1985. In particular, you have requested information concerning both the outside consultant that we will retain to assist us in our analysis and the documentation that we will receive from the parties to the proposed divestiture.

The Department has made significant progress in our preparations to review the divestiture proposal. First, we have given copies of the new divestiture proposal to transportation officials from all the States in the divestiture corridor, including Pennsylvania, and to several railroads and other interested parties, in order that we might obtain their views on the proposal at an early date. Second, the Department has nearly completed the process of selecting an outside consultant; we expect that the consultant will be selected, retained, and ready to begin work by January 31.

Third, the Department recently sent detailed information requests to GTI and P&LE: copies of the requests are enclosed. Similar requests will be sent next week to NS and Conrail. As the GTI and P&LE information requests state, we may find it necessary to seek additional information at a later date, as our analysis of the divestiture proposal progresses. In order to facilitate meaningful public comment about the divestiture proposal, we have advised GTI and P&LE that they should "disclose publicly all information that you provide to us about your plans and ability to operate the divested rail properties, except when the information is particularly sensitive. . . ."

If the parties meet the various deadlines contained in our information request letters, we should begin to receive specific information concerning the proposed divestiture from GTI and P&LE within the next two weeks and from NS and Conrail soon thereafter. We and our consultant will review that information and conduct a field investigation as quickly as possible. We hope to complete the process and make a recommendation to the Attorney General by late March or early April about whether the new divestiture proposal will do in fact what it appears to do on its face—provide long-term, viable, and competitive rail service to the areas identified in our January 29 and March 26, 1985, letters to Secretary Dole.

I trust that this letter has been responsive to your concerns about our analysis of the new divestiture proposal. I would be happy to discuss this issue with you in person if you wish.

Sincerely,

DOUGLAS H. GINSBURG,
Assistant Attorney General.

U.S. DEPARTMENT OF JUSTICE,
Washington, DC, January 8, 1986.

Hon. JOE SIMMS, *Esquire,*
Jones, Day, Reavis & Pogue,
Metropolitan Square, Washington, DC.

DEAR JOE: As you know, the Department of Justice has announced that it will proceed with the second phase of its analysis of the divestitures proposed in connection with the planned sale of Conrail to the Norfolk Southern Corporation. In this regard, we have reviewed the November 11 and November 19, 1985 joint documents of Norfolk Southern Corporation, Guilford Transportation Industries, Inc. and the Pittsburgh and Lake Erie Railroad Company. Although those documents have provided some information to help us determine whether the new divestiture plan will achieve long-term, viable, competitive rail service that will resolve the competitive problems we have identified, a substantial amount of additional information will be needed before we can make a final determination about the divestiture. Accordingly, I am enclosing an initial list of the types of additional information that we will need to receive from GTI to complete our analysis.

I wish to emphasize strongly that time is of the essence in complying with these information requests. The consulting firm that the Department selects to assist in our analysis must have information on all of the basic details of GTI's proposed post-divestiture plans before it can begin conducting its analysis. If there are delays in receiving that information, there will be delays in completing the analysis and corresponding delays in the final decision of the Attorney General. Accordingly, I have marked with an asterisk those requests for which we need complete responses as soon as possible and no later than January 24, 1986. We ask that you supply us with complete responses to those requests not marked by February 10, 1986. In order to facilitate this process, I would like to meet with you or other GTI representatives as soon as possible in order to answer any questions you may have about the scope of the requests.

As you know, it is possible under the Freedom of Information Act for the Justice Department to refuse to disclose publicly confidential commercial or financial information. Much of the information we are requesting in this letter could therefore be held in confidence by the Department, if you were to request that it be treated confidentially. However, the nature and viability of the rail service your client intends to provide on the divested properties is of major interest to Congress and the public. We believe, therefore, that it is appropriate to disclose publicly all information that you provide to us about your plans and ability to operate the divested rail properties, except when the information is particularly sensitive. Accordingly, we are asking that you designate information as confidential only if its public disclosure would be clearly unwarranted. In particular, we believe that the details of both your final agreement with Norfolk Southern and your operating plan should be available for public analysis, and that at least a general description of your financial structure and market analysis should be disclosed. In addition, you should realize that it will be necessary for us to disclose some or all of the information that you designate as confidential to the outside consultant who will be retained by the Department to assist in our analysis of the divestiture. Please let us know if you would like to have the consultant enter into a confidentiality agreement with GTI. In addition, we plan to request that Donaldson, Lufkin and Jenrette furnish us their firm's internal documents concerning GTI's proposed acquisition of the divestiture properties, and we are asking that you waive any claim of confidentiality that GTI may have concerning such documents.

Finally, I note that the attached request is preliminary and that in the future it will be necessary for us or our consultant to request additional material about the proposed purchase. Please note that whenever the term "GTI" is used in the attached information requests, we intend that the term include GTI's Rail Division and its corporate parent and subsidiaries, unless otherwise specified.

If you have any questions about this matter, please call me at (202) 724-6478.

Sincerely,

PAUL A. MAPES, *Attorney*
Antitrust Division.

APPENDIX A

I. Divestiture Agreement

1. A detailed description and a copy of the divestiture agreement reached between GTI and NS.

2. All documents in GTI's possession used in calculating the final purchase price.

3. A list of all locomotives, rail cars and maintenance-of-way equipment GTI intends to purchase or lease from NS, and the amount GTI will pay for such equipment.

4. A detailed description of all the terminal and yard arrangements between GTI and NS.

5. The specific number and type of employment positions that GTI will offer to NS/Conrail employees.

6. An estimate of the labor protection costs that GTI is likely to incur as a result of operating the divestiture properties.

7. To the extent not supplied in response to item 1, above:

a. A detailed description and a copy of all trackage rights agreements between GTI and NS and between P&LE and GTI;

b. A detailed description and a copy of all switching and haulage arrangements between GTI and NS and between P&LE and GTI;

c. A detailed description and a copy of any agreement between GTI and NS concerning the rescission or transfer of transportation contracts and a list of all NS or Conrail transportation contracts to be assumed by GTI;

d. A list and description of all rail properties to be purchased by GTI; and

e. A statement outlining in detail any interest GTI will acquire or will have the option of acquiring in any railroads or terminal carries and the anticiplated costs of such acquisition.

8. A statement of GTI's rationale for selecting each rail property in the sales agreement.

9. A description of the current operational capabilities of the tracks, yards and rights of way that GTI will be acquiring, together with a description of the effects on these properties of any deferred maintenance or delayed capital improvements, a time schedule and estimated costs of any planned rehabilitation or upgrading of the acquired properties, and any other plans for improving the operational capability of the acquired properties.

10. A description of the modifications and rehabilitation that will have to be done for any properties purchased or leased by GTI including estimates of the cost of such modifications and rehabilitation, and a copy of any agreement whereby NS will assist GTI with the modifications or rehabilitation work.

11. A description in detail of all interchange connections with all carriers, including the condition of the track, switches and signals and any anticipated modifications or rehabilitations of such connections.

II. Operations

An operating plan that shows the following for the next three years or until the operating plan goes fully into effect, whichever is longer:

1. A map indicating clearly, in separate colors, the acquired properties to be operated by GTI, interline connections, other rail lines in the territory, and the counties and the principal geographic points in the region traversed;

2. The pattern of service intended for the acquired properties, including proposed principal routes, proposed coordination of these routes with the services of other railroads and GTI's current operations, anticipated traffic density and general categories of traffic, service frequency and train schedules;

3. Anticipated equipment requirements for providing rail service on the acquired properties, plans for acquiring equipment not conveyed under the sales agreement, and plans for retiring equipment; and

4. A comparison between the services currently provided on the acquired properties by NS/Conrail and the services to be provided under GTI's operating plan.

III. Financial information

1. A description of the source, amount and all material conditions relating to any funds to be expended by GTI or any related entity to acquire, or rehabilitate or operate the acquired properties for the first three years of operation or until the operating plan is anticipated to go fully into effect, whichever is longer.

2. A pro forma balance sheet for GTI and any other related entities that will operate the acquired properties for the first three years of operation or until the operating plan is anticipated to go fully into effect, whichever is longer.

3. A pro forma income statement showing estimated revenues, expenses, net income and dividends for GTI and any related entities that will operate on the acquired properties for the first three years of operation or until the operating plan is anticipated to go fully into effect, whichever is longer.

4. A forecast of the source and application of funds for GTI and any other related entities that will operate the acquired properties for the first three years of operation or until the operating plan is anticipated to go fully into effect, whichever is longer.

5. A list and description of all the acquired properties subject to new or assumed encumberances, with a full description of each encumberance including maturity date, interest rate and other material terms and conditions, and a schedule of proposed asset dispositions for 1986.

6. Monthly balance sheets and income statements from January, 1985, through December, 1985, for the GTI Rail Division and 1985 quarterly balance sheets and income statements for GTI, and the 1985 consolidated financial statements for both GTI and GTI Rail Division.

7. The 1985 Budget and all existing Lines of Credit Agreements for GTI's parent corporation and GTI's Rail Division.

8. All loan agreements between the GTI Rail Division and GTI's parent corporation, and all loan agreements between GTI's parent corporation and Timothy Mellon, and/or between the GTI's Rail Division and Timothy Mellon.

9. All documents that contain plans or proposals for GTI to participate in third party lease arrangements.

10. A schedule of federal, state and/or local subsidies (grants) expected to be received by GTI for 1985-1987.

11. Documents detailing the status of renegotiations for Boston commuter train service, including net fees/bonuses for GTI or its Rail Division.

12. A statement describing and quantifying any expenses that are not reflected in GTI's financial statements, past or future, including but not limited to, pension contributions.

13. Cost estimates of overhead expenses expected to be incurred by GTI to coordinate its operations with the operations of NS/CR or lines where GTI will be granted trackage rights and/or car haulage arrangements.

14. Data used by GTI to estimate an additional 173,000 carloads of traffic annually and incremental annual revenues of $189 million.

15. A schedule estimating reciprocal switching, trackage rights and car haulage fees to be paid by GTI during the next three years or until the operating plan goes fully into effect, whichever is longer.

16. All documents concerning GTI's financial condition that GTI has provided since January 1985, to any person or financial institution for the purpose of obtaining a loan.

17. Any document that revises the August 20, 1985 comfort letter to GTI from Donaldson, Lufkin & Jenrette (DLJ or the firm).

18. All documents supplied by GTI to DLJ since GTI retained the firm to arrange financing.

19. All documents received from DLJ since GTI retained the firm to arrange financing.

20. All documents reflecting meetings concerning proposed financing of GTI's acquisition of the divestiture properties where representatives of DLJ were present.

21. A list of all potential investors and/or institutions who have been contacted by or who have contacted DLJ/GTI about financially participating in the divestiture to GTI, as well as materials provided by GTI and/or DLJ to the potential investors.

22. All documents prepared by GTI concerning future financing requirements for the entire GTI rail system, including:

a. amount of funds to be raised;

b. equity/debt position;

c. use of funds;

(1) working capital;

(2) acquisition;

(3) paydown of debt;

(4) rehabilitation;

(5) other.

IV. Market analysis

An economic analysis of the transportation markets to be served by GTI showing the following:

1. Maps and charts estimating for the next three years or until the operating plan is anticipated to go fully into effect whichever is longer. GTI's gross ton miles of freight moving in each direction on those segments of the acquired properties connecting major freight yards and terminals, including major intermodal and intramodal exchange points.

2. Revenue car load interchange data estimating for GTI for the next three years or until the operating plan is anticipated to go fully into effect whichever is longer: (1) all traffic received or delivered at any gateway located on the acquired lines, (2) the number of these car loads originating and terminating on the acquired properties, (3) the volume of overhead traffic moving on the acquired lines, and (4) the number of revenue carloads handled in local service on the acquired properties.

3. A narrative discussion identifying the transportation markets to be served or that could be served by GTI's operations on the acquired properties, the types of traffic expected to be generated or that could be generated, and levels of business anticipated on these properties.

4. A copy of all agreements and understandings between GTI or its Rail Division and other railroads (including NS) concerning traffic that could be moved over the acquired properties, including but not limited to agreements and understandings relating to:

a. joint-line rates, single-line rates, or divisions of revenues,

b. solicitation of shippers,

c. coordination of train schedules,

d. run-through trains, and

e. routing traffic through particular gateways.

5. A study estimating the volume of revenue freight cars that, as a result of NS's acquisition of Conrail, may be diverted to or from railroads currently operated by GTI and to or from any entity that GTI may use to provide rail service over the acquired properties.

V. Miscellaneous

1. All information that was requested but not provided to the Department of Justice in response to previous requests for information and that would still be relevant to the new divestiture proposal, including but not limited to Appendix A of September 13, 1985 report of R.L. Banks & Associates, which is attached to this letter.

2. All studies, analyses, and reports within the possession of GTI not otherwise requested that relate to the agreement to purchase or lease the acquired properties; development or implementation of an operating plan for the acquired properties; financing the purchase and operation of the acquired properties; estimating current or future revenues and expenses for operating the acquired properties; and estimating the current or future flow and volume of rail traffic on the acquired properties.

3. Traffic tapes showing 100 percent of traffic moved on each GTI railroad for calendar year 1984.

U.S. DEPARTMENT OF JUSTICE,
Washington, DC, January 8, 1986.

Mr. G.E. NEUENSCHWANDER,
Executive Vice President, Pittsburgh and Lake Erie Railroad Co., Commerce Court Building, Pittsburgh, PA.

DEAR GORDON: As you know, the Department of Justice has announced that it will proceed with the second phase of its analysis of the divestitures proposed in connection with the planned sale of Conrail to the Norfolk Southern Corporation. In this regard, we have reviewed the November 11 and November 19, 1985 joint documents of Norfolk Southern Corporation, Guilford Transportation Industries, Inc. and the Pittsburgh and Lake Erie Railroad Company. Although those documents and P&LE's preliminary business plan of November 13, have provided some information to help us determine whether the new divestitute plan will achieve a long-term, viable, competitive rail service that will resolve the competitive problems we have identified, a substantial amount of additional information will be needed before we can make a final determination about the divestiture. Accordingly, I am enclosing an initial list of the types of additional information that we will need to receive from P&LE to complete our analysis.

I wish to emphasize strongly that time is of the essence in complying with these information requests. The consulting firm that the Department selects to assist in our analysis must have information on all of the basic details of P&LE's proposed post-divestiture plans before it can begin conducting its analysis. If there are delays in receiving that information, there will be delays in completing the analysis and corresponding delays in the final decision of the Attorney General. Accordingly, I have marked with an asterik those requests for which we need complete responses as soon as possible and no later than January 24, 1986. We ask that you supply us with complete responses to those requests not marked by February 10, 1986. In order to facilitate this process, I would like to meet with you or any other GTI representative as soon as possible to answer any questions you may have about the scope of the requests.

As you may know, it is possible under the Freedom of Information Act for the Justice Department to refuse to disclose publicly confidential commercial or financial information. Much of the information we are requesting in this letter could therefore be held in confidence by the Department, if you were to request that it be treated confidentially. However, the nature and viability of the rail service P&LE intends to provide on the divested properties is of major interest to Congress and the public. We believe, therefore, that it is appropriate to disclose publicly all information that you provide to us about your plans and ability to operate the divested rail properties, except when the information is particularly sensitive. Accordingly, we are asking that you designate information as confidential only if its public disclosure would be clearly unwarranted. In particular, we believe that the details of both your final agreement with Norfolk Southern and your operating plan should be available for public analysis, and that at least a general description of your financial structure and market anlysis should be disclosed. In addition, you should realize that it will be necessary for us to disclose some or all of the information that you designate as confidential to the outside consultant who will be retained by the Department to assist in our analysis of the divestiture. Please let us know if you would like to have the consultant enter into a confidentiality agreement with P&LE. In addition, we plan to request that Dillion, Read & Co. Inc., furnish us that firm's internal documents concerning P&LE's financial condition and proposed acquisition of the divestiture properties and we are asking that you waive any claim of confidentiality that P&LE may have concerning such documents.

Finally, I note that the attached request is preliminary and that in the future it will be necessary for us or our consultant to request additional material about the proposed purchase.

If you have any questions about this matter, please call me at (202) 724-6478.

Sincerely,

PAUL A. MAPES,
Attorney,
Antitrust Division.

APPENDIX A

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1. A detailed description and a copy of the divestiture agreement reached between P&LE and NS.

2. All documents in P&LE's possession used in calculating the final purchase price.

3. A list of all locomotives, rail cars and maintenance-of-way equipment P&LE intends to purchase or lease from NS, and the amount P&LE will pay for such equipment.

4. A detailed description of all the terminal and yard arrangements between P&LE and NS.

5. The specific number and type of employment positions that P&LE will offer to NS/Conrail employees.

6. An estimate of the labor protection costs that P&LE is likely to incur as a result of operating divestiture properties.

7. To the extent not supplied in response to item 1, above:

a. A detailed description and a copy of all trackage rights agreements between P&LE and NS;

b. A detailed description and a copy of all switching and haulage arrangements between P&LE and NS and between P&LE and GTI;

c. A detailed description and a copy of any agreement between P&LE and NS concerning the rescission or transfer of transportation contracts and a list of all NS or Conrail transportation contracts to be assumed by P&LE;

d. A list and description of all rail properties to be purchased by P&LE; and

e. A statement outlining in detail any interest P&LE will acquire, or will have the option of acquiring, in any railroads or terminal carriers and the anticipated costs of such acquisition.

8. A statement of P&LE's rationale for selecting each rail property in the sales agreement.

9. A description of the current operational capabilities of the tracks, yards and rights of way that P&LE will be acquiring together with a description of the effects on these properties of any deferred maintenance or delayed capital improvements, a time schedule and estimated costs of any planned rehabilitation or upgrading of the acquired properties, and any other plans for improving the operational capability of the acquired properties.

10. A description of the modifications and rehabilitation that will have to be done for any properties purchased or leased by P&LE including estimates of the cost of such modifications and rehabilitation, and a copy of any agreement whereby NS will assist P&LE with the modifications or rehabilitation work.

11. A description in detail of all interchange connections with all carriers, including the condition of the track, switches and signals and any anticipated modifications or rehabilitations of such connections.

II. Operations:

An operating plan that shows the following for the next three years or until the operating plans goes fully into effect, whichever is longer:

1. A map indicating clearly, in separate colors, the acquired properties to be operated by P&LE, interline connections, other rail lines in the territory, and the counties and the principal geographic points in the region traversed;

2. The pattern of service intended for the acquired properties, including proposed principal routes, proposed coordination of these routes with the services of other railroads and P&LE's current operations, anticipated traffic density and general categories of traffic, service frequency and train schedules;

3. Anticipated equipment requirements for providing rail service on the acquired properties, plans for acquiring equipment not conveyed under the sales agreement, and plans for retiring equipment; and

4. A comparison between the services currently provided on the acquired properties by NS/Conrail and the services to be provided under P&LE's operating plan.

III. Financial Information:

1. A description of the source, amount, and all material conditions relating to any funds to be expended by P&LE or any related entity to acquire, rehabilitate or operate the acquired properties for the first three years of operation or until the operating plan is anticipated to go fully into effect, whichever is longer.

2. A pro forma balance sheet for P&LE and any other related entities that will operate the acquired properties for the first three years of operation or until the operating plan is anticipated to go fully into effect, whichever is longer.

3. A pro forma income statement showing estimated revenues, expenses, and net income for P&LE and any related entities that will operate on the acquired properties for the first three years of operation or until the operating plan is anticipated to go fully into effect, whichever is longer.

4. A forecast of the source and application of funds for P&LE and any other related

entities that will operate the acquired properties for the first three years of operation or until the operating plan is anticipated to go fully into effect, whichever is longer.

5. A list and description of all of the acquired properties subject to new or assumed encumberances, with a full description of each encumberance including maturity date, interest rate and other material terms and conditions.

6. A fiscal year 1985 consolidated financial statement.

7. Monthly income statements, balance sheets and Statements of Changes in Financial Position from October of 1984 through December of 1985.

8. A schedule of asset dispositions from FY 1983 through FY 1985, and a schedule of proposed asset dispositions for FY 1986.

9. A schedule of federal, state and/or local subsidies (grants) from FY 1983 through FY 1985, and a schedule of anticipated subsidies for FY 1986-FY 1987.

10. A statement describing and quantifying any expenses that are not reflected on the income statement, past or future, including but not limited to, pension contributions.

11. Data used by P&LE to estimate its additional post-divestiture traffic of 108,000 carloads and revenues of $51 million.

12. Cost estimates of new offices in Toledo, Chicago, and in eastern Ohio.

13. Cost estimates of overhead expenses expected to be incurred by P&LE to coordinate its operations with the operations of NS/CR and the operations of GTI on lines where P&LE will be granted trackage rights.

14. A schedule estimating reciprocal switching, lease, trackage rights, and car haulage fees to be paid by P&LE or a P&LE affiliate during the next three years.

15. All documents prepared to date on the incorporation of a P&LE affiliate that would acquire/lease the P&LE portion of the NS divestiture lines, including but not limited to the affiliate's capitalization, management, and anticipated inter-company transactions.

16. Any letters or other documents that revise the September 3, 1985 comfort letter to P&LE from Dillon, Read & Co. Inc.

17. All documents prepared by P&LE concerning future financing requirements for the entire P&LE rail system including:

a. Amount of funds to be raised;

b. Equity/debt position; and

c. Use of funds.

(1) Working capital;

(2) Acquisition of the divestiture properties;

(3) Pay down of debt;

(4) Rehabilitation and maintenance; and

(5) Other.

18. All documents given to, or received from, Dillon, Read & Co. Inc. including but not limited to:

a. Letters permitting Dillon, Read to contact possibie capital sources;

b. Letters permitting Dillon, Read to contact P&LE's current lenders;

c. Studies that evaluate P&LE's financing needs; and

d. Studies that evaluate P&LE's ability to raise either debt or equity funds.

19. Documents that describe the structure of the financing proposal by which P&LE is attempting to obtain financing for acquiring the divestiture properties, including but not limited to documents describing:

a. Equity/debt percentages; and

b. Covenants.

(1) Financial restrictions;

(2) Security agreements; and

(3) Ability to obtain additional equity/debt partners;

c. Management input, i.e. whether the financing individual(s) or firm(s) may/may not have a position on the board of directors/management team; and

d. Change in ownership.

20. All correspondence between P&LE and its banks since October 1, 1985, relating to requests by P&LE to obtain additional financing.

21. A list of all potential investors who have been contacted by, or who have contacted, Dillon, Read/P&LE, concerning financial participation in the acquisition of the divestiture properties. Please indicate the transaction proposed, and provide all the materials supplied by P&LE and/or Dillon, Read to the potential investors.

IV. Market Analysis:

An economic analysis of the transportation markets to be served by P&LE showing the following for the next three years or until the operating plan is anticipated to go fully into effect, whichever is longer:

1. Maps and charts estimating for the next three years P&LE's gross ton miles of freight moving in each direction on those segments of the acquired properties connecting major freight yeards and terminals, including major intermodal and intramodal exchange points.

2. Revenue car load interchange data estimating for P&LE for the next three years or until the operating plan is anticipated to go fully into effect, whichever is longer: (1) all traffic received or delivered at any gateway located on the acquired lines, (2) the number of these car loads originating and terminating on the acquired properties, (3) the volume of overhead traffic moving on the acquired lines, and (4) the number of revenue carloads handled in local service on the acquired properties.

3. A narrative discussion identifying the transportation markets to be served or that could be served by P&LE's operations on the acquired properties, the types of traffic expected to be generated or that could be generated, and levels of business anticipated on these properties.

4. A copy of all agreements and understandings between P&LE and other railroads (including NS) concerning traffic that could be moved over the acquired properties, including but not limited to agreements and understandings relating to:

a. Joint-line rates, single-line rates, or divisions of revenues,

b. Solicitation of shippers;

c. Coordination of train schedules;

d. Run-through trains; and

e. Routing traffic through particular gateways.

5. A study estimating the volume of revenue freight cars that, as a result of NS's acquisition of Conrail, may be diverted to or from P&LE and to or from any entity that P&LE may use to provide rail service over the acquired properties.

V. Miscellaneous:

1. All information that was requested but not provided to the Department of Justice in response to previous requests for information and that would still be relevant to the new divestiture proposal, including but not limited to Appendix A of September 13, 1985 report of R.L. Banks & Associates, which is attached to this letter.

2. All studies, analyses, and reports within the possession of P&LE not otherwise requested that relate to: the agreement to purchase or lease the acquired properties; development or implementation of an operating plan for the acquired properties; financing the purchase and operation of the acquired properties; estimating current or future revenues and expenses for operating the acquired properties; and estimating the current or future flow and volume of rail traffic on the acquired properties.

3. Traffic tapes showing 100 percent of traffic moved on P&LE for calendar year 1984.

Mr. SPECTER. Mr. President, the nub of the situation is that the Senate, absent the amendment by the distinguished Senator from Illinois, will be giving carte blanche approval to this giant merger without any judicial review or without any independent review. On the state of this record, I do not think it is inappropriate to say that such action would be unconscionable and irresponsible.

Here we have a merger of the 18,000-mile Norfolk Southern track and the 15,000-mile Conrail track, which creates a monopoly situation as illustrated on the major charts in the rear of the Chamber. This shows the destruction of competition on a wide swath of the United States, running from Kansas City and St. Louis through Detroit and Pittsburgh, and what is obviously an antitrust problem and, based on this Sentor's review of the underlying facts, an antitrust violation.

This Senator has had substantial experience in the private sector on the antitrust questions, and it is the judgment of this Senator that there is an antitrust violation. Whether this Senator is correct or the distinguished floor manager is correct in his assertion that there is no antitrust violation, at least there is a substantial controversy here, a controversy which should be left to the courts to decide.

Why should the American people be deprived of having an impartial arbiter decide this question? Can it be said, in any realistic or reasonable context, that the Department of Justice can provide an independent review?

Here we have a situation in which the Secretary of Transportation, on behalf of the administration, urges the sale of Conrail to Norfolk Southern. Here we have a situation in which the President urges the Senate to approve that sale. Here we have a situation in which the Attorney General of the United States, appointed by the President—essentially the President's lawyer—is being called upon to render an opinion in the face of vigorous advocacy by the Department of Transportation and vigorous advocacy by the President of the United States.

If this were in a criminal context, it would be a classic case for the appointment by the court of independent counsel to make the review. This is not a criminal matter, so the appointment of independent counsel or a special prosecutor would not be appropriate here, under provisions of law. But this

certainly is the kind of case in which the regular processes of law should be followed. Mr. President, we are a society which prides itself on the rule of law, the impartiality of Federal courts, and the availability of Federal courts to pass judgment on such issues.

Here, as alluded to by the distinguished Senator from Illinois, we have a similar merger by Southern Pacific and Santa Fe, which is pending before the Interstate Commerce Commission, in which the Department of Justice has taken the position that the merger violates the antitrust laws. How can anyone, in good conscience, who says that the Santa Fe-Southern Pacific merger violates antitrust laws not say that the joinder of Conrail and Norfolk Southern would not violate the antitrust laws? Certainly, the conclusion by the Department of Justice that the Santa Fe-Southern Pacific merger violates the antitrust laws a fortiori follows on this instance. The regular procedures of the Interstate Commerce Commission would be inapplicable unless the pending amendment is adopted.

Mr. President, if we take a look at the other charts which compare the revenues of the combined Conrail-Norfolk Southern with Guilford and Pittsburgh & Lake Erie, it is obvious that Guilford and Pittsburgh & Lake Erie cannot provide the requisite competition on divestiture.

If we look at the 1984 net income, again comparing Conrail and Norfolk Southern on a joinder with Guilford and Pittsburgh & Lake Erie, it is obvious that the divestiture proposed to fit to Guilford and Pittsburgh & Lake Erie cannot provide the requisite competition.

If we observe in even a perfunctory manner the large chart we have at the rear of the Chamber, on the overlapping lines between Conrail and Norfolk Southern, now providing competition for thousands of shippers and millions of people, it is obvious that that competition would be lessened and that there really is a violation of the antitrust laws of the United States.

In this context, I think it is just a basic matter of fairness that the regular processes of law be available; that any shipper who feels that this joinder violates the antitrust laws should have the opportunity to go into court, just as any citizen can on any right-angle automobile collision in this country, and assert his rights and have a court pass on the assertions of those rights.

The point made by the distinguished Senator from Illinois is undeniable—that this amendment would not eliminate the sale; that the sale could go ahead if it ultimately received approval by the body and the House of Representatives; that if the manager of this bill and if Norfolk Southern are confident that they satisfy the antitrust laws, let them take their chances in the American courts. It is not asking too much for anyone who asserts this kind of joinder to take its/his/her chances in the American courts.

For those reasons, I ask my colleagues to vote in favor of this amendment advanced by the distinguished Senator from Illinois.

Mr. DANFORTH. Mr. President, let me say at the outset that this truly is a killer amendment.

Yesterday, we made two decisions. First, we made the decision to proceed with the sale of Conrail. That was the meaning of the vote on the motion to waive the Budget Act. Then we made a decision last night that we would reject the Morgan Stanley alternative. That brings us to the question of selling the railroad to Norfolk Southern.

This amendment is a killer amendment.

In the Journal of Commerce from January 29, 1986, there is an article entitled "Antitrust Amendment Could Make NS Walk." The article quotes the chief executive officer of Norfolk Southern, Mr. Robert Claytor, as referring to this as one of the killer amendments, and Mr. Claytor was reported to say:

> If we are to stay in the game, the amendments weakening the sale will have to be defeated.

Mr. SPECTER. Mr. President, will the Senator yield for a question?

Mr. DANFORTH. I would be happy to. Because I know a lot of Senators are anxious to get on with votes and some have appointments, I wanted to get on with my remarks, and I know Senator THURMOND wanted to speak for about 10 minutes, and my hope was to get us to a vote by about 11 o'clock.

I am happy to yield for a question.

Mr. SPECTER. My question shall be brief. Why, if this is a killer amendment, should not the Norfolk transaction be killed? If there is really no antitrust violation, why should not the Norfolk Southern offer take its chances?

Mr. DANFORTH. I am delighted the Senator asked the question because it goes right to the heart of the remarks that I have planned.

Mr. President, I think the answer to the Senator's question is that Norfolk Southern believed that it was buying a railroad, not buying endless protracted litigation, and that is what this amendment would lead to.

It would lead to everyone who has a complaint—CSX, of course, being one of the complainers, railroads, any shipper who has a complaint—filing a lawsuit in any Federal court anywhere in the country. There could literally be hundreds of lawsuits filed. Maybe at some point they would be consolidated. I do not know. that would be up to the judge.

But I think everybody who has practiced law for any time knows that if you want to really get into the suit, get involved in antitrust litigation.

I am sure that there is antitrust litigation still going on in the State of Missouri that was going on when I was its attorney general 9 years ago. Antitrust litigation is the longest, most drawn out form of litigation there is. And that is what Norfolk Southern is concerned about.

It made an offer to buy a railroad in June of 1984 and nothing has come of it yet. And we are still debating it and now we say maybe sometime this year later on we will pass the legislation, but if this amendment is on it, that then triggers endless litigation.

Mr. President, it should be pointed out that the antitrust immunity that is provided in the bill only goes to the merger, only to the merger. No immunity is provided for any practices that occur subsequent to the merger.

That is, if Norfolk Southern or Conrail subsequent to the merger were to engage in predatory practices, price fixing, any other violations of the antitrust laws, cancellation of joint routes that may be in violation of the antitrust law, no such violations of the law would be protected by this immunity. The immunity that is provided in the bill goes only to the merger itself, not to anything after the merger.

Mr. President, if we remove that immunity from this merger, that will be a unique occurrence. It will be the only time in the history of railroad mergers that the antitrust laws of the United States have been applied to rail mergers, the only time, because rail mergers have been historically expressly exempted from the application of the antitrust laws.

The Interstate Commerce Act, the 3R Act which created Conrail in the first place, the Northeast Rail Services Act, which authorized the sale of Conrail, all of these provide for exemption from the antitrust laws.

Now, what NERSA did, Mr. President, is to say that the Department of Transportation in consultation with the Justice Department should put together the sale and then Congress should approve it. In other words, the Department of Transportation was to assume the role performed by the Interstate Commerce Commission in weighing the pros and cons of the sale.

In fact, the Justice Department turned out acting as much more than a consultant. The Justice Department conducted an exhaustive study of the competitive implications of the Norfolk Southern-Conrail transaction. Particular focus was given to the so-called problem area between Buffalo and Pittsburgh on the East and between Chicago and St. Louis on the West. In that area, the combined tonnage of Conrail and Norfolk Southern

is 38 percent of rail tonnage matter. Some might say 38 percent is hardly monopolistic; even if they were combined, 38 percent is hardly monopolistic. Well, it was of concern to the Department of Justice.

So the Department of Justice said, "We cannot approve this unless there is divestiture," and then the Department of Transportation worked out the divestiture with the Norfolk Southern, and now the Department of Justice has said that its concerns, it believes, have been met.

Mr. President, here is what the Department of Justice did in 1984. In 1984 the Justice Department conducted a 5-month study that included contacts with 200 shippers, dozens of State and local officials, other railroads, and countless other interested parties, and then in 1985, the Department of Justice spent most of the year analyzing the original and modified versions of the divestiture plan.

Douglas Ginsburg, the Assistant Attorney General in charge of the Antitrust Division, testified that the Department of Justice has—and this is a quote—"spent more time analyzing the needs that an appropriate divestiture in this deal would have than any other transaction in its history."

The Department of Justice spent more time analyzing the competitive effects of this acquisition than it spent on any other transaction in history.

In a normal rail merger, the ICC examines competitive effects, and that is one of a number of considerations that it weighs in coming up with a balanced analysis of whether to approve the merger.

Here, Mr. President, we have given the Department of Justice an absolute veto power over the merger. A lot of people said, "Well, we don't have all the studies in." That is correct. The Department of Justice is going to retain a consultant and the consultant is going to do such things as literally walk the track. It is very much like a closing in a real estate deal. You have to make sure all the facts are true. To verify the factual basis upon which the Department of Justice's conclusion was reached, a consultant will go over the deal and, as Assistant Attorney General Ginsburg put it, dot all the i's and cross all the t's.

Let us suppose that something unforeseen occurs. Let us suppose that we pass the bill. It goes through conference, and the Justice Department then says, "We are sorry. We are not satisfied." Then what?

Under this bill and under the memorandum of intent, as well, the Justice Department has an absolute veto. It can veto the deal.

So, Mr. President, this particular transaction has received more attention than any other similar transaction, any other competitive problem in the history of the antitrust laws, in the history of the Justice Department.

Now, Mr. President, as I pointed out, the courts have never had jurisdiction over antitrust matters relating to rail mergers. This would be a first if the amendment of the Senators from Illinois were agreed to.

Some people, I suppose, think that the courts should be in everything. Some people believe that the courts, the Federal courts, should be put in every possible situation; that the court's jurisdiction should not be contracted, it should be expanded. But we decided otherwise in all the other railroad legislation to date. We certainly decided otherwise in NERSA. We decided that this was a decision that was going to be made by the executive branch and by Congress, not by the courts. And I do not think this is the time to get the courts into an act which they have never been in before.

Mr. President, the controversy on the sale of Conrail has been going on since 1981 when we passed the Northeast Rail Services Act. The controversy has been going on in Congress for a year. It has been just a year now since the Secretary of Transportation recommended the sale to Norfolk Southern. The controversy has been going on in the Commerce Committee, it has been going on in the Judiciary Committee, and it has been raging on the floor of the Senate for over a week now. It has not even hit the House.

At sometime, Mr. President, there has to be an end to controversy. The issue before the Senate in this amendment is whether there can be an end to controversy. If we adopted this amendment, there would be no end to it. It would go on and on and on for year after year after year. And Norfolk Southern, as any business would, would just not put up with it.

So, Mr. President, I strongly urge the defeat of this amendment.

Mr. THURMOND. Mr. President, this amendment would make the acquisition of Conrail by Norfolk Southern subject to the antitrust laws. The amendment would remove the provision of the bill that extends the same antitrust protection to this merger as that given to railroad mergers approved by the Interstate Commerce Commission. This amendment would very likely cause Norfolk Southern to walk away from the acquisition, and that would be an unfortunate blow to transportation policy. Therefore, the amendment should be defeated.

This amendment would allow shippers and competitors to challenge this acquisition and tie it up in the courts for years. As I will explain, it is unnecessary and unwise to shackle this transaction in the proposed manner.

When the ICC approves rail mergers, the law confers limited antitrust immunity on the transaction. The purpose of that immunity is to avoid undermining a transaction that has been found to be beneficial to transportation policy and consistent with competition policy. Mergers approved by the ICC are consistent with competition policy because competition issues are taken into account in ICC analysis.

In the case of this merger, the Justice Department is reviewing the effects on competition and will require the merger to comply with antitrust law. There is no need for insurance that the Justice Department will fulfill its duty in this regard. Furthermore, the Justice Department's review of competition issues is more thorough than the ICC's review, which covers many different aspects of a rail merger.

The provision of S. 638 immunizing this merger from private antitrust challenge is not the grant of an extraordinary privilege. Remember that this merger cannot occur until the Justice Department says it complies with antitrust law. It is very rare for private parties to challenge—much less successfully challenge—a merger after it has been reviewed and brought into antitrust compliance by the Justice Department. If a merger has been modified and approved by the Justice Department, it almost certainly will be approved in court. But to permit private parties to tie this lawful merger up in court for years would certainly nullify all the hard work of the Secretary of Transportation to reach an agreement with Norfolk Southern.

Mr. President, let me now speak for a minute about the Justice Department's method of resolving those antitrust concerns. We have heard opponents of this proposal say, in our committee and elsewhere, that they are skeptical of both the process used by Justice to evaluate the merger and the ability of the divestiture plan to cure the anticompetitive effects. Comparisons have been made between the thoroughness of review of railroad mergers by the Interstate Commerce Commission and this review by the Justice Department. Information provided to the Judiciary Committee indicates that, contrary to the critics, the review of the competition features of this merger by the Justice Department has been much more thorough than that commonly done by the ICC in such cases. Furthermore, the quantity of information available to the Justice Department in the Conrail case has at least equaled, if not exceeded, that available to the ICC.

The Justice Department focused its analysis on markets in which competition from rail and other modes of transportation is insufficient to counterbalance any increase in Norfolk Southern's market power. The Justice Department's method for screening the areas affected by this merger has been consistent with the procedures

followed in any merger investigation. The Justice Department has looked at a wide variety of factors in its analysis. The Department has developed detailed information on such factors as the history of the rail lines involved, the identity of shippers being served on the line, the nature and volume of shipments, the routes preferred by shippers, and the freight rates being paid by those shippers.

The Justice Department had negotiated a divestiture plan to remedy the anticompetitive effects of the merger, and has placed great importance on the quality of the lines to be divested. Justice has made it clear from the outset that it will not give its approval to the merger unless the divested assets are good enough to enable the purchasers to be viable competitors in the affected region. The rail lines to be divested have been chosen through demanding negotiations between the Justice Department and Norfolk Southern. In its divestiture negotiations, Justice has looked at the current and projected traffic on the lines, the price to be paid, and the equipment and managerial skills possessed by the purchasers. The current divestiture package contains significant improvements over earlier proposals that did not satisfy the Justice Department.

The purpose of divestiture is to restore competition eliminated by the merger and to insure that shippers who lose one option will gain a new transportation option. The details of the proposal are best described in letters and statements from the Antitrust Division, and I ask unanimous consent for them to appear at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. THURMOND. Finally, the antitrust protection given to this merger and to ICC-approved mergers is limited only to the merger itself. It does not extend to predatory practices or monopolization by the merged company after the transaction, as some have implied.

Mr. President, no one is hiding the antitrust problems here. They have been laid out and scrutinized, and the Justice Department will faithfully resolve them. This amendment is unnecessary and mischievous, and should be defeated.

U.S. DEPARTMENT OF JUSTICE,
ANTITRUST DIVISION,
Washington, DC, September 25, 1985.

Hon. ELIZABETH HANFORD DOLE,
Secretary of Transportation,
Nassif Building, Washington, DC.

DEAR SECRETARY DOLE: This letter is to inform you of the status of the Department of Justice's review of the proposed divestiture of rail assets to Guilford Transportation Industries ("GTI") and Pittsburgh and Lake Erie Railroad ("P&LE"), in connection with the proposed sale of Consolidated Rail Corporation ("Conrail") to Norfolk Southern Corporation ("NS"). As you know, the Department has been reviewing those proposed divestitures in order to determine whether they meet the conditions that are described in former Assistant Attorney General J. Paul McGrath's letter to you dated January 29, 1985. As that letter indicates, those conditions must be met before we can conclude that a proposed divestiture eliminates, the competitive problems that would otherwise be created by NS' acquisition of Conrail.

In his January 29 letter, Assistant Attorney General McGrath indicated that given the magnitude of the competitive problems created by the sale of Conrail to NS, the Department could not approve the sale unless "its competitive problems are remedied through a prior or concurrent divestiture of assets that is approved by the Attorney General. Appropriate divestiture must include divestiture of Conrail and/or Norfolk Southern rail assets along the designated corridor to one or more independent acquirers, other than CSX or any entity owned or controlled by CSX, that would provide long-term, viable, and competitive rail service to locations along the corridor."

Based on the information we have obtained to date, including but not limited to the recent Preliminary Report of the Department's independent consultant, R. L. Banks and Associates, it does not appear that the proposed divestiture will establish a rail carrier in the designated corridor capable of providing long-term, viable competitive service.[1] In many locations the facilities that GTI proposes to acquire seem to be inadequate to provide rail service that could effectively compete with that provided by NS/Conrail. For example, it appears that it will take longer to provide service over GTI's proposed routes than over the routes available to CSX and NS/Conrail, thus making it difficult for GTI to compete for much of the intra-corridor traffic. In addition, our review indicates that GTI has underestimated the amount of capital required to rehabilitate the lines it would acquire and that GTI has not yet obtained a firm commitment for the financing necessary in order to acquire and rehabilitate the divested lines.[2] This raises serious questions as to GTI's financial viability.[3]

Also of great concern is the fact that GTI's operating plan provides no assurance that GTI will provide the sort of competition with the merged NS/Conrail that would be necessary in order to eliminate the problems created by the sale of Conrail to NS. Indeed, no more than $31 million of the annual revenues that GTI forecasts it will generate from operating over the divested lines would be derived from markets identified as "problems" in our January 29 and March 26 letters to you. That is less than ten percent of the more than $370 million in "problem" revenues in which NS/Conrail participated in 1983 and that our earlier letter requires to be resolved. Instead, GTI apparently contemplates generating a great deal of its revenue in other markets, particularly TOFC (trailer on flat car) traffic and traffic that originates or terminates in New England. While GTI's participation in that traffic might allow GTI to remain financially viable and even to earn a profit, it would not address the competitive problems created by the sale of Conrail to NS. From our standpoint, we must be satisfied that divestiture will create not just a railroad that will be viable in the long term but one that will be an effective competitor in the problem markets.

Second, there is nothing to suggest that the proposed divestitures would provide adequate connections either within the corridor or to independent carriers at the gateways, as required by the January 29 letter. As to intra-corridor connections, for example, there appears to have been little provision made for a good connection between P&LE and GTI; without such a connection, P&LE will not be able to provide service that is competitive with that provided by NS/Conrail. Similarly, the proposed arrangements at Toledo are totally inadequate to allow GTI to connect with independent railroads there. Indeed, the connections are so poor that GTI's current operating plan shows that GTI has no intention of providing a competitive alternative to shippers in Wayne and Washtenaw Counties in Michigan. Yet those two counties were identified in the January 29 letter as counties (a) that must be served by an independent carrier and (b) that generate a very large portion of the problem revenues identified in that letter.

In addition, our earlier letters also require that if the Attorney General approves a divestiture and Conrail is sold to NS, NS/Conrail must perform switching services for the acquirer(s) of the divested assets and shippers under certain terms and conditions. As of this time, we are aware of only one instance in which the parties have come close to finalizing a switching arrangement. While our earlier letters do not require the parties to enter into comprehensive switching agreements in every location prior to divestiture, we are seriously concerned by the fact that such agreements have been negotiated in only one market.

In closing, let me assure you that the Department of Justice agrees wholeheartedly with your desire to place Conrail in the private sector. I am sharing this assessment with you at this time to enable the Department of Transportation (DOT) to address the serious reservations that this Department now has with the current divestiture proposal. If the parties are able, either through a restructuring of the current divestitures or the development of a new divestiture, to cure the defects of the present proposals, my staff and I stand ready to analyze fairly and thoroughly any and all new information we are furnished in order to determine whether they meet the requirements of our earlier letters.

Sincerely,

DOUGLAS H. GINSBURG,
Assistant Attorney General.

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[1] Our analysis to date has identified a number of deficiencies in the proposed divestitures, some examples of which are discussed in this letter. The major problems that we have identified to date are listed in greater detail in Attachment A. Correction of these problems will be necessary for any divestiture proposal to meet the conditions set out in our letters of January 29 and March 26.

[2] Instead, GTI has obtained only a letter from an investment bank stating its opinion that GTI could obtain certain financing, conditioned upon unspecified covenants yet to be negotiated.

[3] It appears even less likely that P&LE could obtain the financing necessary to acquire and operate the assets necessary in order to provide truly competitive service.

LIST OF CURRENTLY IDENTIFIED MAJOR PROBLEMS WITH THE DIVESTITURE PROPOSAL

A. "[T]he acquirer or acquirers must demonstrate . . . that it possesses the managerial, operational, and financial capability necessary to compete effectively, and to remain a viable entity providing long-term rail service along the designated corridor."

(1) The GTI operating plan provides for little or no service to many of the "problem" markets (i.e., STCC/SPLC pairs) identified in the Department's January 29 and March 26, 1985 letters to Secretary Dole. For example:

(a) No significant service will be provided to Wayne or Washtenaw Counties, Michigan or to Blackford or Wabash Counties, Indiana.

(b) GTI's operating plan projects no more than $31 million in annual revenues for movements of all commodities in the "problem" markets; our letters identified over $370 million in problem revenues in which NS and Conrail participated in 1983 and that must be resolved by a divestiture or divestitures.

(2) In many locations, GTI will be acquiring facilities that are inferior to those retained by NS/Conrail, and GTI will have to rely on NS/Conrail for access to many potential customers. Accordingly, GTI will be at a substantial disadvantage in marketing its services, and its operating plan indicates that it does not expect to obtain a significant share of the identified problem markets. For example:

(a) GTI's proposed Delphos-St.Louis line is far inferior in quality to the two rival NS/Conrail lines to St. Louis, and incapable, in its current condition, of being used to provide service that is competitive with that provided by NS/Conrail.

(b) The Madison yard in East St. Louis, which GTI intends to acquire in order to serve St. Louis, is far inferior in quality to the NS/Conrail yards that serve St. Louis.

(3) Even assuming adequate rehabilitation of the tracks to be divested, GTI's operating plan proposes service that would be substantially slower and less frequent than that likely to be offered by NS/Conrail.

(4) While there are disputes concerning the amount of GTI's rehabilitation costs, our review indicates that GTI has underestimated those costs. Substantial questions also have been raised concerning the accuracy of GTI's estimates of its operating costs, as well as GTI's ability to obtain the revenues projected in its operating plan. To the extent that GTI does not realize its projections, there would be a serious adverse effect on GTI's ability to compete with NS/Conrail.

(5) While we need more information on this point, GTI appears to be so highly leveraged that it is questionable whether it can obtain the additional debt financing necessary to acquire, rehabilitate, and operate the divested assets in a competitive manner. In addition to being highly leveraged, GTI is unable to cover current debt with current assets. Although GTI did obtain an investment bank's opinion that financing for the purchase is obtainable, firm commitments and a number of other aspects of that financing (*e.g.*, restrictive covenants) are yet to be negotiated.

(6) P&LE's financial situation seems to be extremely serious in every respect. P&LE appears even less likely than GTI to be able to obtain the financing necessary to acquire and operate the assets necessary in order to provide truly competitive service.

B. "[T]he divestiture should provide the acquirer direct connections in Buffalo, Chicago, Toledo, and East St. Louis to one or more railroads other than the merged carrier or CSX Corporation or any railroad controlled by either of them."

(1) GTI and P&LE's Toledo gateway, as currently proposed, cannot be used for the time-sensitive movements to or from Wayne and Washtenaw Counties, Michigan. For example:

(a) GTI's proposed line from Toledo to Chicago goes east from Toledo before going west to Chicago; the route appears to be too circuitous to provide competitive service for time-sensitive movements.

(b) We have been advised by P&LE that GTI cannot provide competitive service on auto-related movements from Wayne and Washtenaw Counties to Chicago because GTI's proposed Toledo-Chicago line passes under a Conrail bridge at Toledo that does not allow sufficient clearance for automobile-related traffic.

C. "[I]n each of the designated counties in the east-west corridor, the merged Norfolk Southern/Conrail entity must switch cars between its tracks and facilities and the tracks and facilities of any shipper served by Norfolk Southern, Conrail, or Norfolk Southern/Conrail on customary terms and conditions whenever switching is practicable and necessary in order to provide a shipper with effective competitive access to the track and facilities of the acquirer."

Because the divestiture proposal contemplates that NS/Conrail would in most major markets retain the tracks providing direct access to shippers, it appears that GTI and P&LE will have to rely on their competitors for switching in almost every location. As of this time, however, we are aware of only one instance in which the parties have come close to finalizing a switching arrangement for service to any of the "problem" markets identified in our January 29 and March 26 letters.

STATEMENT OF DOUGLAS H. GINSBURG, ASSISTANT ATTORNEY GENERAL, ANTITRUST DIVISION

Mr. Chairman and members of the Committee, It is a pleasure to be here today before this Committee to discuss the Department of Transportation's proposal to sell the federal government's 85 percent share of Consolidated Rail Corporation (Conrail) to Norfolk Southern Corporation (NS). The Justice Department's role in this proposed sale began fourteen months ago when Secretrary Dole requested that the Antitrust Division conduct an analysis of the sale's likely effects on competition. The Antitrust Division then conducted an intensive four-month study and advised Secretary Dole in January 1985, that NS' acquisition of Conrail would be anticompetitive unless there was a substantial divestiture of rail properties in a five-state area stretching from Illinois in the West to New York in the East.

The methodology that the Antitrust Division used in conducting this analysis is set forth in detail in a letter of January 29, 1985, sent to Secretary Dole by my predecessor as Assistant Attorney General for Antitrust, J. Paul McGrath. Although I was not with the Justice Department during the period when the Antitrust Division conducted that analysis, I am familiar with the approach that was taken and with the Division's employees who participated in the project. I am confident that the staff's analysis met the highest professional standards.

As you know, the Justice Department's role in the proposed sale of Conrail has involved more than the competitive analysis we submitted to Secretary Dole in January. At the Antitrust Division's request, the Department of Transportation made any transfer of stock to NS contingent upon a finding by the Attorney General that NS has entered into divestiture agreements with one or more entities, other than CSX or any company controlled by CSX, that will provide long-term, viable, and competitive rail service in those rail corridors where substantial competition between Conrail and NS would otherwise be eliminated. NS has proposed to satisfy the divestiture condition by selling various rail properties and trackage rights to Pittsburgh and Lake Erie Railroad (P&LE) and to Guilford Transportation Industries (GTI), the parent corporation of the Maine Central, Boston and Maine, and Delaware and Hudson railroads.

NS first divestiture proposal was presented to the Antitrust Division late this spring and details were provided to us throughout the summer. In order to help us evaluate the proposal, we obtained information on a variety of relevant issues from Conrail, NS, GTI, and P&LE; retained a well-respected transportation consultant, R. L. Banks and Associates, to prepare a preliminary report on the proposed divestiture; consulted with local and state government officials from the areas most directly affected by the proposal; and travelled to Buffalo, Toledo, Canton, and Indianapolis to discuss the proposal with shippers, state and local government officials, and other concerned private parties in those cities.

Our analysis focused on five major aspects of the divestiture proposal: (1) the physical condition of the properties to be divested; (2) the proposed operating plans of P&LE and GTI; (3) the marketing plans and projections of P&LE and GTI; (4) the financial ability of GTI and P&LE to continue their existing rail services, to acquire the divestiture properties, and to pay for the necessary upgrading of the tracks and yards to be acquired under the divestiture agreements; and (5) the ability of the proposed operations of P&LE and GTI to remedy the competitive problems that we identified in our initial study for the Department of Transportation.

We concluded that the proposal was unacceptable and explained why in Appendix A to my September 25 letter to Secretary Dole. At almost the same time, NS announced a substantially modified divestiture proposal that substituted overhead trackage rights on the Conrail main line for the so-called "Streak of Rust" between Toledo and St. Louis. On a continuous basis from late September until early this week, representatives from the Division met with representatives of NS, GTI, and P&LE to explain our concerns about the proposal (for example, the fact that under the original trackage rights arrangement. GTI would have been unable to serve most local shippers from Toledo to East St. Louis). With each new modification, we pointed out the problems that remained. In our view it as necessary for the proposal to address *all* of our competitive concerns. As a result, the proposal that was finally put foward by NS is quite different and vastly superior to that originally put forward.

The new divestiture proposal appears to correct the defects of the earlier proposals. For example, in my September 25 letter I stated that under the initial divestiture proposal no significant service would be provided to Wayne or Washtenaw Counties, Michigan or to Blackford and Wabash Counties, Indiana. In contrast, the new proposal provides that GTI will have overhead trackage rights over the NS line from Detroit to Fort Wayne, Indiana with an interchange with the Ann Arbor at Milan, Michigan (to serve Washtenaw County) and local service trackage rights from Detroit to Toledo over the

Conrail line. Both lines will give GTI direct access to Detroit's substantial traffic and the former will enable GTI to provide service between Detroit and Chicago over essentially the same route that NS uses today. The latter line will allow GTI to serve many major shippers on a competitive basis with NS/Conrail, and will enable GTI to provide direct service between Detroit and St. Louis. Other features of the new proposal provide the acquirers with lines of significantly higher quality than the earlier proposals. Moreover, all the problem counties designated in our January 29 and March 26 letters to Secretary Dole will be served by either (and in some cases both) GTI and P&LE. Thus, it appears that GTI and P&LE will have direct access to the vast majority of shippers whose problem revenues are reflected in the January 29 and March 26 letters.

In addition, while the September 25 divestiture plan provided for a maximum switching charge of $250 per car to be paid by GTI and P&LE to NS, a rate lower than that which NS and Conrail often charge each other, we were concerned that NS still proposed to be responsible for all of the switching along the divested lines, leaving GTI and P&LE dependent on the good faith of their major competitor to provide non-discriminatory treatment. We told NS that it would have to provide both behavioral and structural solutions for this potential problem. As a result, it modified its proposal in two significant ways.

First, the divestiture agreements will include an automatic penalty clause providing for liquidated damages if cars switched for GTI and P&LE are handled less favorably than cars that NS/Conrail switches for itself. Second, the agreement will guarantee switching parity between NS/Conrail and GTI on the trackage rights lines. Under the terms of the agreement, GTI has the option of providing the switching now provided by the Indianapolis Union Belt Railroad and by Conrail in two other areas. This means that if GTI so chooses—in its complete, unilateral discretion—GTI could switch approximately as many cars for NS/Conrail as NS/Conrail would switch for it. This would ensure parity between the railroads in the affected areas and thus the trackage rights arrangement would have the unprecedented value of creating, for the first time to my knowledge, truly contestable markets in the railroad industry.

Another area of concern to us was the possibility that Conrail or NS may have entered into long-term contracts with shippers that would foreclose GTI and P&LE competing for the business of important shippers along the lines covered by the divestiture. NS responded to this concern as well, agreeing to allow all coal contracts with more than two years and all other contracts with more than one year to run from the date of the divestiture to be open for solicitation by GTI and P&LE, provided that the contracts involve service over the divested lines. These modifications significantly enhance GTI's and P&LE's ability to provide the long-term, viable competition that the Division has required since its January 29 letter.

In short, the present proposal is a substantial improvement over the earlier plans, and it appears to resolve our concerns. GTI and P&LE have indicated they intend to provide significant service to the shippers that otherwise would be adversely affected by the merger of Conrail and NS. What is even more significant than their intentions or their revenue projections, however, is the economic incentive and ability to provide competitive service to shippers throughout the corridor that the divestiture proposal provides GTI and P&LE. Regardless of whether they are carrying a particular shipper's goods immediately after the divestiture, the terms of the divestiture ensure that if NS/Conrail and/or CSX try to raise rates to anticompetitive levels, GTI and/or P&LE will be able to, and have an incentive to, provide alternative service at competitive rates. In other words, it appears to create long-term, viable and competitive service for affected shippers.

While it appears that the plan addressed our stated concerns, we intend to consult outside experts to help us to confirm that this proposal will create long-term, viable and competitive rail service. The expert who is hired will be asked to look at all aspects of the plan, both operational and financial, in detail in order to confirm the accuracy of the representations upon which we have based our conclusion.

We are currently working with the Department of Transportation to finalize the funding and timing of that study. While the outside consultant is analyzing the divestiture, our staff will discuss the competitive effects of the proposed divestiture with additional shippers, local governments, and other interested parties. Upon receipt and consideration of the report, the Department of Justice will be able to make a final determination as to whether it will approve the proposal.

Mr. Chairman, that concludes my prepared testimony. I will be happy to answer any questions from you or members of the Committee.

Mr. HOLLINGS addressed the Chair.

The PRESIDING OFFICER (Mr. MATTINGLY). The Senator from South Carolina is recognized.

Mr. HOLLINGS. Mr. President, I will be very brief.

I just want to make some remarks about the comments that have been made. The particular amendment at hand is nothing less than a killer amendment in the light, Mr. President, of the tremendous work that has been done on this particular score.

Secretary Dole of Transportation has worked on all the particular offers for years. I will never forget her appearance before the Commerce Committee, and the presentation she made. We were all eager to find fault. There were different interests around. Necessarily for an unusual privatization of a public entity, that sort of goes against Congress' approach to anything. We had tried the privatization. That is what caused Conrail—some bankruptcies up there in the Northeast before we could work it out in the early 1970's. We really tried to save the service—let me emphasize just exactly that expression: "to save the service"—for the traveling and shipping public. We had to put in an antitrust provision. No one questioned it at that time.

We had a big legal mess on our hands with these bankruptcies. The idea was not to try to produce more legal confusion with respect to antitrust charges, countercharges, and everything else of that kind. So working at that particular time we gave it the antitrust immunity so we could work it out for the best interests of the people of the United States. And we did.

Conrail has operated. We have watched the operation. On that particular point, Mr. Crane has done a credible job in the operation of Conrail. But everyone who has testified with any expertise with respect to railroads knows that Conrail cannot sustain itself. That is the bottom line. An individually operated entity of this kind cannot. It was supposed to bring in money. We sold it to the National Congress at that time so we could all make money after we had given it the antitrust immunity, had done all of these things, and had put some moneys into it.

Now having put all the moneys and everything else like that into it, there has been zero dollars to the taxpayers, and millions and millions paid out.

We see an operation diminishing, and the outlook is not bright. We lost some 59,000 employees, and 5,000 or so miles of trackage. The game plan now is to lose an additional 4,500 employees, and 4,000 more miles.

So seeing that, some 5 years ago we said let us dispose of it in the best interests of the people of this country. The Government is not necessarily in the money-making business. But it is not in the money-losing business either. On that particular score, I have never seen it in one sheet in the RECORD.

I will ask unanimous consent to have printed in the RECORD the entire cost of the offer to Norfolk Southern.

It comes up to much more than $1.2 billion. But we are not talking costs here this morning. We are talking antitrust. And I have tried to cooperate and be generally quiet in this particular debate so others could get on who have had no chance at all to be heard.

But you can see in a flash that in addition to the $1.2 billion, the divestiture costs are some $200 million. The State improvement agreements, some $200 million. The repayment for labor is $400 million. The New York dock labor protection is $250 million. And $150 million for employee profit participation. State tax exemption is another $250 million. So the minimum total value of Norfolk Southern's offer is $3.65 billion.

I hate to hear these expressions about giveaway and everything else of that kind. Secretary Dole in addition to looking out for the public interest is making absolutely sure as to the bottom line.

I ask unanimous consent to have printed in the RECORD at this particular point the document giving the

overall cost of the Norfolk Southern offer.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

Conrail Sale to Norfolk Southern: Value

Direct benefits to Federal Government:	
$1.2 billion cash	$1.2
.2 billion cash from Conrail	.2
.8 billion saving for "give up of tax benefits" ($1.8 operating loss carryforwards; $.3 ITC's)	[1] .8
Subtotal	2.2
Indirect benefits to the Federal Government:	
Assurance Conrail will not "come back"	
Preservation of a larger rail workforce paying more taxes	
Creation of new competition which makes two smaller railroads stronger saving jobs and Federal subsidy	
Divestiture Cost to Norfolk Southern:	
NS receives about $60 million for divested property—Buffalo, Detroit, Chicago, St. Louis—but losses over $200 million a year business to new carriers. Over 5 years that is $1 billion gross; $200 to $250 million profit.	.2
State improvement agreements (varies by State, include Harlem River Terminal in New York; Orphan Bridge in New Jersey; port access in Massachusetts, etc.)	.2
Subtotal	.4
Repayment of Conrail labor (ESOP and back pay)	.4
New York dock labor protection	.25
Employee profit participation	.15
State tax resumption	.25
Subtotal	1.05
Minimum total value of NS offer	3.65

[1] Since NS is the largest taxpayer in the rail industry (1984: $154 million Federal income tax alone), ordinarily it could make full use of tax benefits from an acquired company. Morgan Stanley could only make use of such benefits after they bought some other company in order to generate taxable income. Stand alone Conrail is not projected to become a taxpayer in the future ever. Projection on 5 year basis except where cash outlay is one time payments.

Mr. HOLLINGS. In addition to that, of course, Secretary Dole knew that in facing the Congress she would be facing all of these so-called antitrust charges. She started in that back 2 years ago. Douglas Ginsburg is a professional. He taught this particular subject at Harvard. He has been working. No one questioned his integrity. I happen to know the general reputation of his administration with respect to antitrust. I see what others see with Chevron and Gulf. I see what is going on with RCA and GE.

As the former chairman of the Subcommittee on Appropriations for State-Justice-Commerce, we have the antitrust appropriations. We are making sure that they keep it beefed up, and that the antitrust effort and alertness of this particular Government is kept current. There may be some misgivings by some, but there are no misgivings about Donald Ginsburg and the particular things he has done here with the Conrail sale.

As a professional, this was turned over to him. I am going to put in a couple of these pages so you begin to get the feel, because we say we have thoroughly studied it.

Mr. Ginsburg, in testifying before the Judiciary Committee on Norfolk Southern and responding to the distinguished Senator from Pennsylvania's questions, said:

Senator, it is very important to me as a personal matter that you understand the full answer to the question. The Department of Justice has probably spent more time analyzing the needs of an appropriate divestiture in this deal would have than any other transaction in its history. The analysis was done first in late 1984—

We have been on this quite some time. This is not just a little letter from the Justice Department because the Congressmen and Senators are extremely busy. They have now turned their minds to it. Nobody wanted to do it before Christmas. Now all of a sudden we come back in the midst of all these concerns. We have this. It is not just a letter. It is an analysis. An analysis was done first in late 1984.

—and an extensive list of requirements was developed and sent to the Department of Transportation, outlining the absolute requirements that would have to be met before a divestiture could be approved. The list was supplemented with further additional requirements in March. At that time in March—

this is still Ginsburg testifying now.

the Department had become really quite intimate, I think, with the markets involved, with the facts surrounding them, with the shape or at least characteristics of an acceptable divestiture. A divestiture proposal was submitted in the spring, and the Department—

This is all a year ago.

—set about analyzing that and, as you know, engaged an outside consultant.

So we had an outside consultant come in and do its own analysis on the basis of the paper record.

The outside analysis tended to confirm our own doubts about that transaction, as well as to supply some specific data, needs for data that we agreed with, and on that basis we rejected the proposed divestiture.

So after analyzing some 15 participating bids, different proposals and everything else, we had a Norfolk Southern bid rejected on the basis of antitrust about a year ago by the Department of Justice.

Again reading from the testimony of Mr. Ginsburg:

About the same time, NS sweetened the deal. This was late September, about the 26th of September, with a modified divestiture plan. Now the task facing us in that circumstance was to analyze the modification, not the entire transaction. We had been spending—we had spent a year doing that, sir. It was to ask: Do the modifications meet the objections? We sent Secretary Dole a laundry list—

Listen to that.

We sent Secretary Dole a laundry list appended to the September 25 letter to her that sets up very specifically our concerns and the inadequacies and faults that we found with the then-proposed divestiture. So our task was to look at the revisions in the divestiture, the changes in it, which were now being proposed or were then being proposed, and compare them with our concerns and ask whether they meet those concerns, and the answer was they did not and we rejected that.

So you have on two occasions on an antitrust test by the Department of Justice—after even a year's study and outside private consultants—two rejections. This is a close bid. This is close competition.

If I were the lawyer for any entity trying to take over, I would want to take over the best deal I could get. If I could create, contrive, such as that one we had yesterday afternoon, the "take-your-money-and-run amendment," Morgan Stanley, I would be delighted to take a bunch of money on the outside and take it and run. Now I am sure that Norfolk Southern wanted to make sure thay could get every advantage they possibly could. There is no question about that. They made a bid that initially was not successful from an antitrust perspective.

Norfolk Southern had known all during 1985 that they were being perused, studied, and admonished by antitrust requirements of the Department of Justice. Listen, again, to Mr. Ginsburg:

On November 11 the carrier, Norfolk Southern, came back. We engaged in virtually continuous discussion at the staff level over the period from September 25 to November 11. On November 11, Norfolk Southern came back with another proposal, a proposal which, in basic outline, is a proposal that we have now accepted. But when we looked at that proposal and held it up against our concerns, we rejected that. We said, "No, we don't negotiate. All of these items have to be met, each and every one. This is not a horse trading kind of situation." And they came back with further responses and further responses on a virtually daily basis.

Senator SPECTER. You say you rejected the November 11 offer?

Mr. GINSBURG. The November 11th offer did not meet all of our concerns, and we said no, and we said we would not approve it, unless it was further modified to meet these concerns. These modifications were forthcoming in dribs and drabs, and on Tuesday morning of this week, the last of them was met and we accepted the proposal. Now the proposal we have accepted is, in basic outline, the November 11th proposal, but there were conditions that had to be added in order to make it acceptable. So I think—I think it's terribly important to bear in mind that we are working on a knowledge basis that has been developed over a year that

has enabled us to evaluate proposals and modifications against the requirements that we laid out a year ago or in January.

Of course, we would be delighted to include the rest of the transcript here if necessary. We are trying to give Senators a feel for the deliberateness, the comprehensiveness, and the thoroughness with which Justice has operated. The Department of Justice has really already had an antitrust hearing that you would get before the courts, one better than you would get before the ICC.

I do not know where they are getting all of this. Well, of course, I do, if they want to get a delay and kill this. I do not care what the offer is—they just have at least the immunity they have right now. Norfolk Southern wants to get a railroad. They are interested in the railroad business. They are successful in operating one. They do make a profit, and they do not make it with lawyers. They do not want to buy a bunch of legal headaches. They want to get on with regular competition and the regular course of doing business and make money and not have to buy a bunch of legal headaches. Whoever we sent it to would have to have that particular provision in it, and everyone here, mature men and women of judgment, would understand that.

The antitrust immunity is limited to the merger itself. It would not extend to subsequent conduct that might be anticompetitive.

This is no "Good Government Award" and you can do as you please or do as you choose. Anything after which appears to be anticompetitive by CSX or any of the other railroads, rack them up, whatever it is. We are just trying to clear the decks to make an orderly purchase and not buy a bunch of legal headaches but get a railroad the best we can to continue that railroad service for the people of the United States.

That is what we boil down to. It has not been a hit-and-miss, ad-hoc kind of situation. This thing has been going on and on and has been looked at. By the way, we have had the hearings, and their lawyers have looked at it.

We have heard all the witnesses who opposed the sale to Norfolk Southern and who worry about this and worry about that. They had big worries, not antitrust. Conrail had that antitrust immunity.

No one is bringing a suit against Conrail because they could not under the law. But no one is claiming that of Conrail.

All of those opponents before the U.S. Senate are trying to depict Conrail as a big moneymaker and the great railroad success of all time. That is false, it is inaccurate. But they are not attacking anticompetitive practices by Conrail as of this moment. That is all we are saying. When we, the Government, sell Conrail to Norfolk Southern or anybody else, that is what they are buying, exactly what they have right now. And no one is complaining about anticompetitive practices by Conrail.

Once this sale is completed, there is no immunity. If they do engage in anticompetitive practices, then they have the recourse of the antitrust laws of the United States.

I have tried to bring it into focus because I have been listening to the debate for the last several days. This is a very important amendment and, in my opinion, it has gotten out of kilter with some idea that we really have not gotten the clearance.

You have the clearance better than the ICC. You have it from the Commerce Committee members who judiciously looked at this thing. We have had many hearings. We have cross-examined witnesses. Our staffs have looked at this. We have finally arrived at the same conclusion that Secretary Dole came to. She did a most thorough job.

Our next priority in trying to continue northeast rail service was the so-called antitrust immunity. There is no use in solving one problem of the Government and buying an antitrust problem in the next breath. We did not want to create problems, but to solve them. After that was solved, we looked at the remuneration for all the employees. We could go down the list, starting with the commencement of tax payments and all the other things, which amounts to $3.65 billion.

It is a good price. It is a good deal for the Government. It is a good deal for Norfolk Southern. There is really no antitrust problem here at this particular time.

We have Conrail at the moment operating without an antitrust charge. That is what we are trying to sell.

After that is disposed of, since it has been cleared now by the Justice Department, the only thing left to do is to walk those divestitures and tracks and everything else. There are more months on end to go through that. Everyone knows that.

In order to end that particular argument, we thought it wise that if the measure itself say without any appeals, without any judicial review, did not go through with those particular requirements made by the Department of Justice, that, in and of itself, would end the sale.

I do not know what other precaution we can take at this particular time, what else to include for further protection for the taxpayers of America.

Mr. President, I yield to the distinguished Senator from Illinois [Mr. DIXON].

The PRESIDING OFFICER. The Senator from Illinois.

Mr. DIXON. Mr. President, I shall be very brief in closing. In doing so, I express my appreciation to those on the other side. The distinguished manager has, in particular, been so accommodating. I want to repeat my high regard for him and my feeling that he has presented his case in a very fine and eloquent manner, as have his colleagues, including my warm friend, the distinguished Senator from South Carolina who has just concluded.

I want to make these three points in conclusion and say to those in their offices that very shortly, we shall be voting on this issue. There have been three points made in opposition that I think require response. I wish to answer each of the three.

The first is that my distinguished friend, the manager of the bill, and others say this is a killer amendment; a killer amendment. As an old trial lawyer, I would like every one of my colleagues to understand the corruption of reasoning in that argument. They are saying that to make them refute the argument that this has an antitrust characteristic would not be reasonable. They are saying they are not creating a monopoly here. They have said that many hundreds of times in this dispute. But they are saying, "Oh, my goodness, do not make us submit to the test of whether we are creating a monopoly." How can one reasonably argue that?

Both of my distinguished friends have said, "Oh, you are going to make us buy a lawsuit. Oh, we would not do that. Oh, Norfolk Southern would not buy this if they have to prove that it is not a monopoly."

Mr. President, let me tell you something: Just yesterday by a vote of 53 to 39, the Senate voted to let them get this railroad $600 million cheaper—$600 million cheaper—than the other offer. I am going to say in every public place in my State that any business I ever knew that could get a $600 million bargain ought to spend a couple of bucks on lawyers for a couple of days in court to establish that they have not created a monopoly that is going to crush business in the country.

Point 2. They say time—"Oh, this has taken such a terribly long time."

I say to my dear friends, it is less than a year, less than 1 year since Norfolk Southern was selected and under existing law, if you go before the Interstate Commerce Commission, it takes up to 31 months. They have used less than one-third of the time any other railroad would be subjected to under the existing law. The only other comparable situation with less than one-half of the impact, the Santa Fe case, is still pending. And they weep to us about time.

Last, my warm friend from South Carolina, for whom I have the deepest personal affection, argues, "Why, all you are doing here is giving to this merger the same immunity that Con-

rail had." I agree with the basic premise, but let us examine the facts.

Conrail was the creation of six bankrupt railroads. All were going broke. And the Senate, before I was here, gave immunity to six bankrupt railroads to make one railroad. That is one thing. I can see honorable men and women voting for that. But what we are doing here is taking two great big, powerful, profitable railroads—Conrail and Norfolk Southern—both of them pumping money, and putting them together and making one railroad that creates a monopoly in the whole Eastern quadrant of this country. There is a difference.

I say in conclusion the test of this amendment is that the people who say that this is a monopoly—which it is—could go into court, file an injunction suit in 1 day. An injunction might or might not issue. The court system, which is good enough for every one of us in America, would work in the fair, dispassionate, unprejudiced, reasonable way that the American court system has always worked, and I shall state that every case I ever saw in the history of American jurisprudence that was properly tested from the trial court to the U.S. Supreme Court, in my judgment, has been fairly and decently treated. This case would be, too, and that is all that Norfolk Southern is entitled to.

I urge my colleagues to support the amendment.

Mr. PRESSLER and Mr. DANFORTH addressed the Chair.

The PRESIDING OFFICER. The Senator from Missouri is recognized.

Mr. DANFORTH. Let me say, Mr. President, before Senator PRESSLER makes his remarks, I know Senator PRESSLER has an amendment he wants to offer; Senator LAUTENBERG has an amendment he wants to offer; I believe Senator HEINZ has an amendment. I am not sure who else has an amendment.

The cloture vote is at 3 o'clock. I want to give everyone who has an amendment to offer an opportunity to do so if that is at all possible. It will be my intention to move to table this particular amendment in the near future, if possible.

Mr. HOLLINGS. Mr. President, if the Senator from South Dakota will withhold, I would like to make just one statement to my colleague from Illinois. The impression could be with some that the Senators from our particular area—namely, let us say, from the South—necessarily approve and want Norfolk Southern to succeed on this particular bid. That is true to some extent, but it is not just a clear, uncompetitive kind of antitrust decision that I make politically here. Actually, what we had was the merger of Atlantic Coastline and the Seaboard Railroad with Chesapeake and Ohio. CSX—which is not only bigger than Norfolk Southern but more influential in my back yard. So in studying this thing over the last 2 years in the Commerce Committee, I have listened most carefully to my friend, Hays Watkins, and the others who are in competition there, to come down with a decision that I can live with, because this is not just a popular thing about the size and being anticompetitive.

Right now, the big one in the Northeast that you are talking about is CSX. When Conrail and Norfolk Southern merge, they will have practically equal tonnage. You will have an equal competitor.

In my judgment, with this particular approval recommended by the Department of Transportation and our distinguished colleague from Missouri, the Chairman of our committee, you will really be promoting—and I say that categorically—a competitor to CSX because of size and influence.

What I am doing here, rather than stifling competition, is improving it because of the revenue ton miles.

I ask unanimous consent to have printed in the RECORD at this particular point, a chart showing the change in revenue ton miles before and after the Norfolk Southern/Conrail combination.

There being no objection, the chart was ordered to be printed in the RECORD, as follows:

NORFOLK SOUTHERN CORPORATION

TABLE 1.—REVENUE TON-MILES FOR MAJOR RAILROADS—1984

	Before Norfolk Southern/Conrail combination		After Norfolk Southern/Conrail combination	
	Revenue ton-miles	Percent of total	Revenue ton-miles	Percent of total
Burlington Northern	200.6	21.8	200.6	21.8
CSX	139.4	15.1	139.4	15.1
Conrail	76.8	8.4	169.4	18.4
Norfolk Southern	92.6	10.0		
Santa Fe Southern Pacific	159.3	17.3	159.3	17.3
Union Pacific	125.2	13.6	125.2	13.6
Subtotal	793.9	86.2	793.9	86.2
Other railroads	127.6	13.8	127.6	13.8
Total class I railroads	921.5	100	921.5	100

Source: Company reports; association of American Railroads.

The PRESIDING OFFICER. The distinguished Senator from South Dakota is recognized.

DIXON-PRESSLER ANTITRUST AMENDMENT

Mr. PRESSLER. Mr. President, as an original cosponsor of this amendment, I should like to add a few comments. First I commend my distinguished colleague on his excellent work in this area.

I am sorry to report to the Senate that the very serious anticompetitive consequences of this transaction simply have not been addressed by the Department of Justice. This is particularly troublesome because of the regulatory and antitrust immunity that would be conferred on the transaction by S. 638. Under the provisions of this bill as it currently stands, Norfolk Southern could take numerous steps to coordinate the operations of the two railroads in ways that would diminish or even ultimately close gateways with their smaller regional connectors who are also competitors. Incredibly, the Norfolk Southern has not even set out the transactions that it contemplates to coordinate their operations with Conrail. Yet, the regional carriers would be foreclosed from any antitrust review by the courts or by the Interstate Commerce Commission.

In the sober light of day, I find it difficult to believe that the U.S. Senate is willing to establish the Nation's largest rail monopoly and, in the same breath, confer upon it incredibly broad antitrust immunity. I commend my colleague, Senator DIXON, for his attempt to bring a measure of fairness to the process by creating an opportunity for some authority to review what the impact will be after the plans are actually made public. We are being asked to take a big gamble here without any protection whatsoever for competing railroads. We should have full information before us before we vote, but at the very least we should provide for some competent authority to review those plans rather than leaving it to the self-interested officials of the Norfolk Southern, without any opportunity for normal review by disinterested experts.

Mr. President, I conclude by saying that I think we are on the verge of creating a huge monopoly without a sufficient antitrust review, which will have an enormously bad effect on transportation and railroads but also will cause products to become more costly to consumers throughout the Nation.

Mr. HEINZ. Mr. President, I rise as a cosponsor of the amendment offered by my distinguished colleague from Illinois, Senator DIXON, that would subject the sale of Conrail to Norfolk-Southern to the antitrust laws. This sale would clearly have significant antitrust implications, specifically with regard to competition for freight rail service in the Northeast and Midwest.

A sale of Conrail to Norfolk-Southern would reduce the number of major rail systems in the Northeast from three to two. It would likely cause higher rates and reduced service for many shippers currently served by either railroad.

Mr. President, among the most serious competitive problems posed by a sale of Conrail to Norfolk-Southern is the impact that the sale would have on shippers and receivers of bulk commodities such as coal. Coal, which accounts for 54 percent of our Nation's electricity, is largely dependent on railroads for overland transportation.

Norfolk-Southern and Conrail are both among the top five coal shippers in the Nation. Together they account for over one-quarter of the Nation's coal traffic.

A merged Norfolk-Southern/Conrail system would cause numerous and diverse competitive problems for coal producers and users. Consider the following facts. For overland movements, coal is captive to rail carriage; it cannot be moved competitively over long distances by truck. Electric utility consumers pay approximately two-thirds of the coal freight rail costs. As such, utility rates vary directly with coal transportation costs. According to a study by the Consumer Federation of America, 35 of the 144—25 percent—coal-burning utility powerplants currently served by Conrail or Norfolk Southern would lose a competitive rail transportation alternative if the railroads were merged.

The merger would thus increase electric rates for millions of industrial and residential consumers, discouraging industries and people from remaining or locating in the Northeast. The merger would also imperil coal exports from the east coast, which are a major source of economic activity for the coal regions in my State of Pennsylvania and its neighboring States. Forty-five million tons of coal, accounting for more than $2.3 billion, moved through east coast ports for export in 1984. I am particularly concerned about coal exports because of the tremendous performance of Conrail's Pier 124 at the Port of Philadelphia. During the first 9 months of 1984, Pier 124 shipped nearly 2.2 million tons of coal, more than four times the number of tons shipped during the same period of 1984. Given the numbers regarding our trade deficit, which become available today, I suggest that we should seriously question any proposal which threatens to reduce U.S. exports.

It is antitrust concerns that led the Justice Department to require Norfolk Southern to divest a portion of the combined system's rail assets in order for the Department to approve the sale. On two occasions, the Department has rejected Norfolk Southern's divestiture proposals; it has not yet ruled on the third such plan. This latest plan, it should be noted, does not even resolve competitive concerns in 15 of the 30 counties that the Justice Department deemed most serious in its studies of earlier plans. The Interstate Commerce Commission has likewise expressed skepticism with regard to the competition that would result from a sale to Norfolk Southern. In a report issued last July, the ICC stated that the two acquiring railroads under the divestiture plan, Guilford and the Pittsburgh and Lake Erie, did not have the financial resources or the traffic base to compete effectively with a merged Norfolk Southern/Conrail system.

Mr. President, if we are to approve the sale of Conrail to Norfolk Southern, the very least we should do is to provide for antitrust review of the sale. We must give shippers, railroads, and ports the opportunity to appeal to the courts or to the ICC if the merger does in fact prove the be anticompetitive.

I urge my colleagues to support this amendment.

Mr. DANFORTH addressed the Chair.

The PRESIDING OFFICER. The Senator from Missouri is recognized.

Mr. SPECTER. Mr. President, will the Senator yield?

Mr. DANFORTH. I will be delighted to yield. For about how many minutes?

Mr. SPECTER. Not more than 5.

Mr. DANFORTH. All right.

Mr. SPECTER. Mr. President, by way of very brief reply on an issue that I consider to be of enormous importance—and I think I have spoken extensively in the past, so I need not be long—I thank the distinguished Senator from South Carolina [Mr. HOLLINGS] for reminding us of the misgivings, as he puts it, by many with what the Department of Justice has done in the antitrust field.

The distinguished Senator from South Carolina [Mr. HOLLINGS] reminds us of the RCA and the Gulf-Chevron transactions; and were we to take the time this morning, there could be a litany of cases where the Department of Justice has been less than vigorous in its pursuit of antitrust issues.

Private treble damage actions have been formulated under our laws to give damaged citizens an opportunity to enforce the antitrust laws. As the distinguished Senator from South Carolina has reminded us, it is precisely those misgivings which ought not lead the U.S. Senate, the U.S. Congress, to delegate to the Department of Justice what is essentially our responsibility.

When the Senator from South Carolina talks about thoroughness and comprehensiveness, as he read from the transcript of the proceeding before the Judiciary Committee of November 21, 1985, I can personally attest to the fact that that informal hearing, which was not a Judiciary Committee hearing, left many more questions unanswered than were questions answered. Assistant Attorney General Ginsburg simply did not have the answers, nor did Secretary of Transportation Elizabeth Dole.

When the distinguished Senator from South Carolina enumerates the consideration by the Department of Justice, he should bear in mind—for he has had an opportunity to review the Department of Justice letters of January 8, 1986, to Guilford and Pittsburgh and Lake Erie—but all the questions are unanswered; and with respect to the conclusion in the January 29, 1985 letter from the Department of Justice that there is a violation of the antitrust laws without divestiture and the enumeration of factors in their letter of September 25, 1985, those questions, simply stated, have not been answered.

When the distinguished floor manager says there should be an end to controversy, I agree. But how in the world can you have an end to controversy when you do not know the facts? How can this body put its stamp of approval on this merger and say there should not be controversy when we do not know the operating plans of Pittsburgh and Lake Erie, and we do not know the divestiture details?

All we know is that what they have proposed in the past shows conclusively that you cannot stick the elephant through the eye of the needle. The facts are not in, and all the facts we know show an antitrust violation. So how can we have an end to controversy in this context?

When the distinguished Senator from Missouri says that the Department of Justice has the veto power, this Senator does not want to give the Department of Justice the veto power over what the U.S. Senate or the U.S. Congress does. This Senator does not want to delegate to the Department of Justice this critical question, in light of the conclusive conflict of interest which the Department of Justice has and because of its established lack of a track record in the antitrust field.

When we talk about this matter being a killer amendment, if it is a killer amendment, let the Norfolk Southern be killed, because that is what it deserves.

When the distinguished floor manager says that this amendment could make Norfolk Southern walk—pardon my rhetoric—that is fine with this Senator, as it does not allow Norfolk to roll.

On all the arguments and all the facts, I urge my colleagues to adopt the pending amendment.

Mr. DANFORTH. Mr. President, I move to table the amendment, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to table the amendment. On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. SIMPSON. I announce that the Senator from Mississippi [Mr. COCHRAN] and the Senator from Maryland [Mr. MATHIAS] are necessarily absent.

Mr. CRANSTON. I announce that the Senator from Montana [Mr. BAUCUS], the Senator from Louisiana [Mr. LONG], the Senator from Georgia [Mr. NUNN] and the Senator from Rhode Island [Mr. PELL] ae necessarily absent.

I further announce that the Senator from Hawaii [Mr. INOUYE] is absent on official business.

The PRESIDING OFFICER (Mr. LAXALT). Are there any other Senators in the Chamber who wish to vote?

The result was announced—yeas 56, nays 37, as follows

[Rollcall Vote No. 4 Leg.]

YEAS—56

Armstrong	Garn	Mitchell
Bentsen	Goldwater	Nickles
Bingaman	Gorton	Packwood
Boren	Gramm	Pryor
Boschwitz	Hatch	Quayle
Bumpers	Hatfield	Roth
Chafee	Hecht	Rudman
Cohen	Heflin	Sasser
D'Amato	Helms	Simpson
Danforth	Hollings	Stennis
DeConcini	Humphrey	Stevens
Denton	Kassebaum	Symms
Dodd	Kennedy	Thurmond
Dole	Laxalt	Trible
Domenici	Leahy	Wallop
Durenberger	Lugar	Warner
Eagleton	Matsunaga	Weicker
East	Mattingly	Wilson
Evans	McClure	

NAYS—37

Abdnor	Grassley	Moynihan
Andrews	Harkin	Murkowski
Biden	Hart	Pressler
Bradley	Hawkins	Proxmire
Burdick	Heinz	Riegle
Byrd	Johnston	Rockefeller
Chiles	Kasten	Sarbanes
Cranston	Kerry	Simon
Dixon	Lautenberg	Specter
Exon	Levin	Stafford
Ford	McConnell	Zorinsky
Glenn	Melcher	
Gore	Metzenbaum	

NOT VOTING—7

Baucus	Long	Pell
Cochran	Mathias	
Inouye	Nunn	

So the motion to lay on the table was agreed to.

Mr. THURMOND. Mr. President, I move to reconsider the vote by which the motion to table was agreed to.

Mr. DANFORTH. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from South Dakota is recognized.

AMENDMENT NO. 1438

(Purpose: To add provisions regarding the commencement of a proceeding by the Interstate Commerce Commission upon the request of a railroad alleging injury as a result of diversion of traffic from its lines.)

Mr. PRESSLER. Mr. President, I call up my amendment No. 1438, and ask for its immediate consideration.

The PRESIDING OFFICER. The Clerk will report.

The assistant legislative clerk read as follows:

The Senator from South Dakota (Mr. PRESSLER), (for himself, Mr. DIXON, Mr. LONG, Mr. EXON, Mr. ABDNOR, Mr. ZORINSKY, Mr. SIMON, and Mr. HEINZ), proposes an amendment numbered 1438.

Mr. PRESSLER. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 30, insert the following immediately after line 10:

PROCEEDING BY THE INTERSTATE COMMERCE COMMISSION

SEC. 303. (a) Within ten years after the date of consummation of the sale of the interest of the United States in the common stock of Conrail to Norfolk Southern Corporation, any railroad which—

(1) had rail operating revenues of less than $1 billion in calendar year 1985; and

(2) alleges that it has been injured by diversion of traffic from its lines as a result of the acquisition of Conrail by Norfolk Southern Corporation and the exercise of market power by the consolidated Norfolk Southern Corporation and Conrail system (hereinafter in this section referred to as the "consolidated system"),

may petition the Interstate Commerce Commission to institute a proceeding under this section.

(b)(1) The Commission shall commence a proceeding under this section, if the Commission finds that such railroad, as a result of the exercise of market power by the consolidated system, has experienced—

(A) a diversion of traffic from its lines equal to or greater than three and one-half percent of the number of carloads handled by such railroad during calendar year 1985; or

(B) a rerouting of traffic that has resulted in a loss of revenues from such traffic that is equal to or greater than three and one-half percent of the total railway operating revenues of such railroad in calendar year 1985.

(2) For purposes of this subsection, Norfolk Southern Corporation shall be required to establish by clear and convincing evidence that such diversions have occurred because of superior service and efficiency on the route to which the traffic is diverted. In the absence of such evidence, the Commission shall presume that the diversions occurred as a result of the exercise of market power by the consolidated system.

(c) In any such proceeding, the Commission shall determine what additional divestitures or conditions are necessary to eliminate the market power of the consolidated system in each major rail market served by the consolidated system, and to provide to such railroad fully competitive alternative connecting service to each such major rail market. The Commission shall issue an order directing that such divestitures be completed and that such conditions be imposed. In determining whether the consolidated system has market power in any major rail market, the Commission shall accord substantial weight to merger guidelines issued by the Department of Justice.

(d) Divestitures ordered to be completed under this section shall be made at a price agreed upon by Norfolk Southern Corporation and the purchaser. If Norfolk Southern Corporation and the purchaser are unable to agree on such a price, the Commission shall fix a price for the divestiture which shall not reflect any value of the line to be divested that is attributable to the market power of the consolidated system in any rail market.

(e) The Commission shall issue a final order in any such proceeding within one year after the date of filing of a petition under subsection (a) of this section.

(f) Any order issued under this section shall be subject to judicial review in the same manner and to the same extent as orders issued by the Commission under chapter 113 of title 49, United States Code. Any divestiture ordered to be completed, or condition imposed, by the Commission under this section shall be deemed to be approved by the Commission under such chapter 113.

The PRESIDING OFFICER. The Senator from South Dakota is recognized.

Mr. BYRD. Mr. President, will the Senator yield without losing his right to the floor?

Mr. PRESSLER. I yield to the distinguished minority leader. I do not yield the floor.

ORDER OF PROCEDURE

Mr. BYRD. Mr. President, it may be a little early for the distinguished majority leader to make a prognostication with respect to tomorrow. But is there anything at this point that he can tell us as to whether or not there is definitely going to be a session tomorrow with rollcall votes so that Senators who may be planning to go to the memorial service will know whether or not they will miss a vote?

Mr. DOLE. Mr. President, I have discussed the schedule with one of the managers of the bill. I have not discussed it with the other. It would be my hope we could finish action on this bill today. If that would occur, then we could be assured we would not be in session tomorrow.

The problem is if we are not in session tomorrow, we are on this bill all of next week. It is my hope we could take up TV in the Senate next week, and the Genocide Convention the following week.

But if we are going to spend another week on this, I see one or both of those probably falling by the wayside. But I think we will be in late this evening.

I have been advised by the distinguished Senator from Ohio that he intends to offer amendments if cloture should be invoked. I do not know how long that will take. Whether or not we will have Friday session depends on what happens I guess on the cloture vote, and what announcement he may have to make at that time.

Mr. BYRD. Mr. President, I thank the distinguished majority leader. Following the cloture vote with regard to this matter, will the distinguished majority leader be in a better position at that time?

Mr. DOLE. I certainly want to accommodate the Senators tomorrow, if we can.

Mr. GLENN. Mr. President, will the Senator from South Dakota yield?

Mr. PRESSLER. I yield.

Mr. GLENN. Mr. President, I ask the majority leader. I am not sure I understand. If we do finish tonight, there will be votes tomorrow in spite of the fact that we are going to Houston. Is that correct?

Mr. DOLE. I do not want to be put in that position right at this moment. Let us wait and see what happens on the cloture vote. We want to accommodate Senators going to Houston obviously, though we also want to accommodate the managers of the bill, plus the legislative schedule that we are going to have in the next 30 days.

I hope we can reach some agreement later this afternoon.

The PRESIDING OFFICER. The Senator from South Dakota.

Mr. PRESSLER. Mr. President, I am offering this amendment to ensure competition between the proposed Norfolk Southern/Conrail Railroad and the many smaller railroads which could be jeopardized by such a merger. I will explain why this amendment is needed, its purpose, how it will work, and the rationale behind each of its specific substantive provisions.

I might just say that an explanation and a section-by-section analysis of the amendment, as well as the text of the amendment itself, can be found in the January 27 CONGRESSIONAL RECORD **on page 552 for those who would like to review it in more detail.**

WHY THE AMENDMENT IS NEEDED

To state it very simply, this amendment is needed to protect small and regional railroads from being driven out of business as a result of Norfolk Southern's monopoly-like market position. Norfolk Southern would have the ability to devastate smaller railroads through traffic diversions. Let me explain:

Norfolk Southern and the Department of Transportation have argued before our Commerce Committee that (a) any diversion of traffic from small regional carriers as a result of this merger would be slight; and (b) the traffic that is diverted would be diverted as a result of increased efficiencies realized by the merger rather than because of the exercise of market power. They maintain that there will still be strong, effective competition for transcontinental traffic. But it is my fear that the essential element of effective competition will be absent in S. 638. This is so because Norfolk Southern will have a monopoly in the Eastern part of the United States. Because of its monopoly position in the East, Norfolk Southern will be able to divert transcontinental traffic from its present route to one which goes through a greater percentage of Norfolk Southern track, thereby assuring it a bigger percentage of the joint rate. This could be done even though a more direct and efficient route is available because Norfolk Southern will be able to dictate the route through which this transcontinental traffic will enter into its territory. It cannot do that today because it competes with Conrail for the traffic within its territory. After the merger it will control all effective access to the eastern markets. There is no evidence that Guilford or anyone else will be able to provide the kind of competition to prevent this from happening.

If the essential element of effective competition is absent in S. 638, the amendment I am intoducing today will be critical to the very existence of many smaller railroads within and outside the Norfolk Southern-Conrail region. If I am wrong and the competitive element is there, this amendment can never go into effect. The amendment specifically provides that the diversions must result from the exercise of market power by Norfolk Southern before it can be utilized.

Indeed, if the Department of Transportation is correct in its estimates, the amendment can never be used outside the NS/CR region. So I sincerely hope that the Department will support its passage. Last Friday I sent a letter to the Secretary of Transportation asking for the Department's support. I would like to quote from relevant parts of it here:

> Enclosed for your consideration is a copy of an amendment I will be offering to S. 638, the Conrail Sale Amendments Act. The purpose of this letter is to seek your support for its succesful passage in the Senate.
>
> As you know, my major concern with S. 638 is the potential adverse impact that a merged Norfolk Southern/Conrail Railroad system would have on the railroads in the Midwest and other parts of the country outside the immediate Norfolk Southern/Conrail region. Since the Department of Transportation has estimated that no railroad outside this area will suffer traffic diversions in exces of 2 percent of present traffic, it is my hope that you will be able to support the amendment.

Mr. President, I should say that the Department of Transportation has estimated that no more than 2 percent of traffic will be diverted. My amendment would not kick in unless there is a 3½-percent diversion. Then there would be a proceeding before the ICC. But if the Department of Transportation's own numbers that they have supplied the Commerce Committee and Congress are correct, they should be supporting this amendment. In a letter to the Department of Transportation I wrote:

> We have chosen the 3½ percent diversion figure because it represents the point at which the actual existence of some of these smaller railroads is threatened. I trust you will find this percentage figure to be extremely conservative as it would require diversions in excess of 200 percent of the Department's "most liberal case" estimates before it could be used by railroads outside the NS/CR region.
>
> If for any reason you find the 3½ percent figure to be out of line with the Department's estimate, I would be happy to substitute it with the actual percentage figures contained in the Department's June 28, 1985, letter to Chairman Danforth of the Senate Commerce, Science, and Transportation Committee.

So that offer was made to the Department Transportation with their own numbers on diversion of traffic. We have gone above that in this amendment with my eight cosponsors.

Let me say that this is of particular interest to railroads in the South, the Midwest, the West, and throughout the country because it would give them some protection during the 10-year period the amendment will be in effect. It will give them some protection from the monopoly. It does not reinstitute the Staggers Act. It does not reinstitute elaborate proceedings. I will explain what it does.

THE AMENDMENT'S PURPOSE

The purpose of the amendment is quite simple. It is to protect small and regional railroads from unfair market power and other anticompetitive pressures which could be exerted by a combined NS/CR Railroad. The rail system of the West and the Midwest, as well as the smaller Northeastern carriers, should not be sacrificed for the sole benefit of a single railroad.

The return of Conrail to the private sector represents the last chapter in the Federal Government's rescue of the Northeast rail system after the Penn Central and six other railroads collapsed in 1970. This amendment is designed to ensure that it is not the first chapter in the collapse of the rail system in the Midwest or other parts of the country. It would be ironic indeed if, by finally turning this system over to the private sector and getting the Federal Government out of the railroad business, we set the wheels in motion for larger railroad failures in other parts of the country, thereby starting the process all over again.

This amendment is the result of a sincere desire to avoid a potentially catastrophic situation with railroads in other parts of the country. It is not intended to be, and certainly should not be, a "killer amendment" of any kind. Indeed, I believe it will strengthen this legislation if adopted.

HOW THE AMENDMENT WILL WORK

Mr. President, this is a relatively brief, straightforward, and simple amendment. It is approximately three pages in length and the substantive provisions are as follows:

First, the amendment permits smaller railroads to petition the ICC to seek relief from diversions of traffic from their lines that are attributable to the acquisition of Conrail by Norfolk

Southern. The conditions precedent to seeking relief are first, that the petition be filed within 10 years of the consummation of the sale of the interest of the United States in the stock of Conrail to Norfolk Southern; second, that in calendar 1985 the petitioning railroad have had rail operating revenues less than $1 billion; and third, that the petitioning railroad allege the diversions result from the acquisition of Conrail by Norfolk Southern and the exercise of market power by the consolidated Norfolk Southern and Conrail System—the Consolidated System.

Second, the ICC will not be required to proceed with the petitioning railroad's claim unless it finds that the petitioning railroad, as a result of the exercise of market power by the Consolidated System, has suffered either: First, a diversion of traffic equal to or greater than 3½ percent of the number of carloads handled by the railroad in calendar 1985, or second, a rerouting of traffic that has resulted in a loss of revenues from such traffic equal to or greater than 3½ percent of the rail operating revenues of the petitioning railroad in calendar 1985.

Let me emphasize that we chose this number because it is much higher than the Department of Transportation's own estimate. They have not responded as to why they cannot support this amendment if they believe in the numbers they have put forward.

Third, if the ICC finds that the traffic diversions have occurred as a result of the exercise of market power, and only as an exercise of market power—as opposed to increased efficiency, and so forth—only if it occurs as a result of the exercise of market power and that is a finding that the ICC would have to make. Otherwise, you could not bring a case. Only then, if it is a monopolistic practice.

To repeat, if the ICC finds that the traffic diversions have occurred as a result of the exercise of market power, they will then determine the divestitures or conditions necessary to eliminate the market power of the Consolidated System, and to provide the petitioning railroad fully competitive connecting access to each major rail market.

For the benefit of those Senators and staff listening on their boxes, there has been some implication by the Department of Justice and the Department of Transportation that this would kick in if traffic were diverted for some other reason. That is not true. It would have to be as a result of the exercise of market power or the result of a monopoly being created by the sale of Conrail to Norfolk Southern which, incidentally, I believe would have monopolistic power. Whether it chose to exercise it or not remains to be seen.

That would do great damage to Midwest railroads, Southern railroads, Western railroads, and Eastern railroads that try to do business with this monopoly railroad.

Fourth, the amendment requires that any divestiture required shall be made at prices to be agreed by the Norfolk Southern and the divestee. In the event that the parties cannot agree on a price, the Commission is directed to set a price for the divested properties. In setting a price the Commission is directed not to take into account any value of the divested properties that results from the market power of the Consolidated System in any rail market.

And finally, the amendment requires that a final decision be made within 1 year of the date of filing the petition, and that the ICC follow the Normal Administrative Procedure Act and Interstate Commerce Act guidelines.

RATIONALE BEHIND CERTAIN PROVISIONS

Finally, Mr. President, I would like to explain the rationale behind some of the provisions of this amendment that I expect will be questioned by those who support Norfolk Southern's desire to have a clean bill with no amendments.

First and foremost I want to make it very clear that this is not an attempt to reregulate the industry in any way. I think that this is clear enough on its face, but I want to emphasize this point.

Indeed, many of the strongest advocates of deregulation support this amendment. This does not confer any unusual authority on the ICC. In fact, merger proposals normally are required to be approved by the ICC unless they have a specific statutory exemption, as is the case here.

When the ICC does approve a merger under the normal procedures, it frequently retains jurisdiction to modify conditions or to impose new conditions on the merged railroad if it utilizes its monopolistic conditions to the competitive detriment of other railroads. This is modeled after a frequent ICC practice and is not really giving the ICC any unusual authority that it does not have in most other mergers. In fact, it is simply restoring a small portion of what would normally have been within its power if Congress had not granted an exemption.

I think that is important to focus on, Mr. President, that when the ICC does approve a merger under the normal procedures, it frequently retains jurisdiction to modify conditions or impose new conditions, and that is what this would do. It is not a rebirth, not a part of Staggers, it is not an effort to reregulate. It is what is done in merger cases normally, except here where Congress has granted an exemption.

Second, the amendment requires Norfolk-Southern to show that the diversion resulted because of superior service and efficiency rather than because of its greater market power. This burden of proof is placed on Norfolk-Southern for two very good reasons. Most important, Norfolk-Southern will be the only entity with the data necessary to prove the reasons for the diversions. To place the burden on the petitioning railroad would be to require them to prove a negative. That is almost impossible in any case. Norfolk-Southern is clearly in the best position to prove what caused the diversions and the amendment reflects that reality.

The second reason is that Norfolk-Southern has consistently stated that no diversions will result from the merger. I feel it is only fair to require that they prove their point.

Mr. President, the Department of Transportation has indicated that at the most, the diversions will be 2 percent. Norfolk-Southern has consistently insisted there will be no diversions, so they both should be supporting this amendment if they mean what they say. I am amazed that they are not supporting the amendment, because it is well within the percentages they have given. It is well within the things Norfolk-Southern has said publicly. If we are to trust them, they should be supporting this amendment.

Mr. President, there were two letters sent, one by the Department of Transportation and one by the Department of Justice, stating their positions on the amendment I am now proposing. I just saw those letters last night. They have been circulated. I have circulated a letter in response to them to each Senator. Let me first make a few remarks about those letters, as I think that, if they are carefully read by staff and Senators, they will increase the reasons for my amendment.

As I am sure It is no surprise to anyone, both letters oppose the amendment. I am sure that the distinguished floor manager will be discussing them a bit later but I would like to address the individual points raised in each letter at this time as well. I ask unanimous consent that both letters be printed in the RECORD at this point.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

U.S. DEPARTMENT OF TRANSPORTATION,
FEDERAL RAILROAD ADMINISTRATION,
Washington DC.

The Honorable LARRY PRESSLER,
U.S. Senate, Washington, DC.

DEAR SENATOR PRESSLER: We strongly oppose your "diversion protection" amendment No. 1438 to the pending Conrail sale bill, S. 683, for a number of reasons.

Norfolk Southern has been negotiating in good faith with all the regional railroads who have approached them. They have already executed agreements with a number of regional railroads including the Soo/Milwaukee, Kansas City Southern, and Iowa Interstate railroads in the midwest.

The amendment you propose does nothing to address the concerns of the vast majority or regional carriers and their shippers. The remedy provisions neither adequately protect shippers nor provide a structure that is workable in real world situations. The amendment is also of doubtful constitutionality. As drafted, the amendment

Utilizes terms and concepts that have no legal meaning in ICC case law. It is thus impossible to say with certainly how the Commission will interpret its language, and whether the amendment will actually achieve what its authors intend.

The authority granted by the amendment is much broader than the author's apparent intent. Under the Pressler amendment as drafted a railroad suffering diversions in Minnesota could request trackage rights to New York City, and the ICC has full authority to grant them. Moreover, the amendment creates no procedure for sorting out conflicting claims to trackage by the dozens of railroads who could hypothetically be entitled to a remedy.

The remedies do not take adequate account of shippers' interests. For example, the "sale of line" provision could seriously damage shippers. Fragmenting Conrail into numerous smaller segments might expand the systems of some railroads, but it would force many shippers to pay joint rates and switching charges they do not pay today.

The amendment fails to mandate specific remedies to protect gateway access and joint routings. These are crucial shipper issues, as well as the basic remedy the carriers negotiating with Norfolk Southern have argued for.

For shippers served by two railroads, the amendment's use of line sales to shift market shares could reduce competition by eliminating one railroad from the market.

The line sale provisions would favor larger carriers, with liquid assets, over smaller carriers without them.

The compensation provisions are of questionable constitutionality, closely resembling a condemnation proceeding without a fair market value assessment.

While we agree that it is appropriate to address the concerns of the midwestern regional railroads, we think carefully crafted private agreements are the best answer.

Yours very truly,

JOHN H. RILEY,
Administrator.

U.S. DEPARTMENT OF JUSTICE,
ANTITRUST DIVISION,
Washington, DC.

Honorable JOHN C. DANFORTH,
Chairman, Committee on Commerce, Science, and Transportation, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: The Senate is now considering S. 638, which would authorize the sale of the Government's interest in Consolidated Rail Corporation ("Conrail") to Norfolk Southern Corporation ("NS"). I am writing to express the strong opposition of the Department of Justice to proposed amendment No. 1438 to S. 638 offered by Senator Pressler on January 27, 1985. That amendment would authorize certain railroads for ten years to petition the Interstate Commerce Commission ("ICC") for divestiture of rail assets or imposition of conditions by alleging that they had been injured by the "diversion" of traffic as a result of the NS/Conrail merger and the exercise of market power by the consolidated NS/Contrail system. Unless NS could prove that the diversions had occurred because of "superior service and efficiency," the ICC would be required to presume that the diversions occurred as a result of the exercise of "market power" by NS/Conrail. The ICC would then be required to determine what additional divestitures or conditions were necessary to eliminate such market power in each "major rail market" served by the consolidated system.

The Department strongly opposes the proposed amendment because it raises serious competitive issues for the future of rail transportation in this country. First, under the amendment, a competitor of NS/Conrail could seek relief from the ICC if it merely alleged diversions that exceed three and one-half percent of the number of carloads handled by the affected railroad in 1985, or reroutings resulting in a loss to the affected railroad of revenues equal to or greater than three and one-half percent of its 1985 railway operating revenues. As demonstrated by the recent ICC staff study that examined the diversions that might result from an NS/Conrail merger, there is a wide variety of views as to how to define and calculate diversons. Moreover, diversions generally reflect efficiencies of improved transportation offerings, rather than competitive problems, made possible by rail mergers. Thus, a competitor of NS/Conrail need only allege "diversions" of three and one-half percent in order to trigger a complex ICC proceeding that could last up to one year and could result in a required divestiture or significant constraints on NS/Conrail operations that would be wholly unjustified by any competitive problems.

Second, the amendment is particularly troublesome because it would grant some railroads an unprecedented administrative vehicle by which to seek to seize rail lines from, or have onerous competitive conditions imposed upon, their rival without having to make even a preliminary showing that the alleged diversions resulted from the exercise of market power. Rather, the burden would be on NS to establish by "clear and convincing evidence" that the diversions occurred because of "superior service and efficiency on the route to which the traffic is diverted." In the absence of such a showing, the ICC would be required to presume the existence of market power and to order relief. This provision not only shifts the burden of proof from the party normally required to bear it—the petitioner—but it also imposes a higher standard upon NS than would normally be imposed in IC proceedings. Thus, this provision significantly enhances the likelihood that the amendment would undesirably frustrate shippers' choices and hinder rather than promote competition.

Third, the amendment would condemn the exercise of "market power" without defining that critical term. It thus is entirely unclear whether the amendment would condemn only predatory conduct and the exercise of monopoly power, or whether it also could be used to punish any effort by NS/Conrail to compete vigorously but lawfully. Moreover, the amendment states that the ICC "shall accord substantial weight" to the Department's merger Guidelines in determining whether NS/Conrail has "market power" in any relevant market. As we have repeatedly stated, however, the Department does not employ the Guidelines' Herfindahl-Hirschaman Index in measuring market concentration in analyzing rail mergers because of the unavailability of information necessary to perform the required calculations. Rather, the Department uses a variety of screening methodologies developed to assess the likely competitive effects of such transactions. Thus, this provision is fundamentally at odds with the way in which the Department analyzes the competitive aspects of rail mergers.

Fourth, this amendment would authorize the ICC to impose conditions that would require NS/Conrail to accept traffic from connecting carriers in order to maintain their competitive relationship. As we stated in our April 30, 1985 letter (a copy of which is enclosed) concerning an earlier proposal to amend S. 638, such conditions are, in effect, market allocation and pricing arrangements that undermine the ability of merging carriers to realize the efficiencies that could otherwise be realized through their merger. Such conditions may result in a significant attenuation of competition between the merged carriers.

For all these reasons, the new regulatory regime that the amendment would impose on the ICC and NS/Conrail probably would cause the loss of many, if not all, of the efficiencies that the NS/Conrail merger would otherwise produce, and would harm rather than promote vigorous competition in the rail industry. The Department of Justice strongly opposes this amendment.

Sincerely,

DOUGLAS H. GINSBURG,
Assistant Attorney General.

Mr. PRESSLER. I begin with the letter from the Department of Transportation. I stated earlier in the debate that the Department has long since lost its credibility and objectivity regarding this issue. Nothing illustrates the point better than this letter. Let me explain:

First, DOT says that Norfolk Southern has been negotiating in good faith with the regional railroads to work out the problems they originally said never existed. Mr. President, I have talked to several of the regional railroads and that is just not true. As proof, DOT cites three examples of railroads with whom Norfolk Southern has reached private agreement, Including "Iowa Interstate Railroads in the Midwest."

They do not bother to mention that the State of Iowa is adamantly opposed to this sale or that Iowa DOT is part of a Midwestern coalition opposed to this bill as written. They do not talk about the Chicago-Northwestern Railroad, the principal railroad that goes across my State and the State of Iowa.

I find it hard to believe that DOT and Norfolk Southern know what is best for Iowa better than does Iowa itself. I have had a series of meetings in my office with regional railroads from the West, the Midwest, and other parts of the country—the East, too—and that is simply not true. There have not been agreements reached or offered with most regional railroads. There have been some, but they have been done in a flavor which I question very much. I do not think they are in good faith because they have not offered the same thing to all the railroads.

Second, the letter states that this amendment does nothing to address the concerns of the vast majority of regional carriers and their shippers. Again, the position of the regional railroads and the shippers contradicts DOT's letter.

I have been informed as recently as this morning through contacts with the Coalition for a Competitive Conrail, which consists of shippers from across the Nation, and others, that shippers around the country support the concept of this amendment. They have not had the opportunity to read the amendment in detail, but they do support its concept and principle. The point is that the Department's comments in this area are way off base. As for the regional railroads, they have read it and support it as well without exception. If anyone can cite an exception to that, I would welcome their bringing that exception to the floor.

Third, the letter states that the amendment "utilizes terms and concepts that have no legal meaning in ICC case law." So it is uncertain "whether the amendment will actually achieve what its authors intend." This argument is a bit hard to address here, since the DOT did not bother specifying terms and concepts to which they are referring.

This is a very vague charge to send around in a letter to all Senators. It is hard for me to answer. The only plausible interpretation we can give this argument is that they were repeating the concern of the Department of Justice about the extent to which the term "market power" is defined. For that, the amendment clearly directs the ICC to the interpretation given it in many other agency cases. To the extent that DOT implies the concept of market power is foreign to the ICC, I can only assume they have not read the Interstate Commerce Act. The term "market power" is most clearly used there. Let me quote a phrase from section 10505 of that act. The purpose of that section is "to protect shippers from the abuse of market power."

Fourth, the DOT claims that the amendment gives the ICC much broader authority than the authors intended, citing an outrageous example of a Minnesota railroad requesting trackage rights into New York. The amendment clearly limits the authority of ICC to provide relief only to the extent "necessary to eliminate the market power of the consolidated system."

Of course, it leaves discretion to the ICC. It does so because there is no way to predict the specific conditions under which a regional railroad will be harmed. But to imply that the ICC will be so irresponsible in the implementation of any statute really does not—it just could not be true. The short answer to this question is simply this: If the ICC cannot be trusted to provide a reasonable remedy, as required by the amendment, as they have in every other merger case, then indeed, one should vote against the amendment.

Fifth, the DOT almost humorously argues that the amendment might favor large railroads over small ones. Again, they fail to elaborate on this statement, so it is hard to determine their rationale. Maybe by small carriers, they are referring to Norfolk Southern. All the small railroads we have heard from favor this amendment, so I have a hard time understanding DOT's point.

The sixth point regarding the two letters that were sent around last night, is that the DOT questions the constitutionality of the amendment's compensation provisions. Evidently, DOT mistakenly interprets this to be a condemnation provision. this is clearly not the case. This is simply a condition of sale that Norfolk Southern is perfectly free to refuse and therefore raises no constitutional question.

Mr. President, I have one final comment on those letters.

The DOT letter states:

• • • the amendment fails to mandate specific remedies to protect gateway access and joint routings. These are crucial shipper issues, as well as the basic remedy the carriers negotiating with Norfolk Southern have argued for.

Mr. President, that is exactly the kind of amendment I offered in the Commerce Committee, which DOT opposed. Now they say they would have supported it. They have changed their minds. Perhaps I should bring it up here. I would be very pleased to offer the amendment I offered in the Commerce Committee if they would agree to support it—at least, from the language I have read, which is contradictory. I suspect that they would find another reason not to support it.

Apparently, DOT is interested in preserving deregulation when it suits its purposes.

The fact is that the Department will not support my amendment. That is the truth of the matter. This is clear from their position on every good-faith amendment offered here today. This is a good-faith amendment; by the very standards DOT has set up, they should endorse this amendment. By the very things they said before the Commerce Committee, they should endorse this amendment. By the very things Norfolk Southern has said, they should endorse this amendment.

It seems that we are in the position that Norfolk Southern feels they can push this bill through the Senate without accommodating regional railroads in any way. This is a very small accommodation, and I think the letters that the Department of Justice and the Department of Transportation sent are contradictory. They contradicted things they said in the committee. They were vague, and I think they are misleading. I hope Senators and staff members listening will take a look at them in light of the six points I have made.

Mr. President, I wish to read a letter that I sent to John Riley, Administrator. I will read from the letter—I shall not read all of it—which I have circulated to every Senator, but some of the staff listening may have not obtained this letter.

Mr. President, after reading this letter I believe I will ask that my amendment be laid aside, to be brought back later this afternoon for a vote. I do not ask that yet. I want to get the correct language here, and Chairman DANFORTH and I are working on that.

If someone can write me the correct language to do that and preserve my rights to vote, I would appreciate it.

I do want to share this letter with those listening on the boxes, and let me say, Mr. President, I think that this amendment is an example of the frustrations some Senators have had in getting any change.

The Department of Transportation and Norfolk Southern feel that they have the votes to plow on ahead full speed and they are going to run into great difficulty in the House of Representatives unless they are much more flexible.

There have been a lot of good faith efforts from smaller regional railroads to enter into agreement with Norfolk Southern. They have been brushed aside. There have been a lot of good faith efforts by Senators, and I have joined with my colleague, Senator LONG, in the Commerce Committee to get small changes to accommodate some of the smaller railroads. The Department of Transportation's and the Department of Justice's response has been to totally distort the content of the amendments and go forward simply because they feel they have the votes and they are not willing to accommodate anywhere.

I found the flavor of this to be a bit unpleasant because, by the Department's own numbers and by what Norfolk Southern has said, they should be supporting this amendment.

Let me read the letter that I have addressed to John Riley regarding the letters that were sent.

Last night I was able to obtain through another Senator a copy of your undated letter to me stating the Department of Transportation's opposition to my amendment.

I might say that although the letter is addressed to me, we did not obtain a copy of it except through another Senator.

Although your position is no surprise, I was disappointed that the Department

cannot support an amendment which could never go into effect unless the figures you supplied the Senate were incorrect by a factor of two. Let me respond to the issues you raise.

First, you state the Norfolk Southern has been negotiating in good faith with the regional railroads to work out the problems they originally said never existed. You made the same arguments in another eleventh hour letter delivered on the morning of a Commerce Committee vote on another regional amendment. But Norfolk Southern has never made any substantial offers to any of the railroads most adversely affected by the merger. They have negotiated deals with only those railroads which are politically necessary or which are not substantially impacted. As proof of Norfolk Southern's "good faith" negotiations, you cite three examples of railroads with whom Norfolk Southern has reached a private agreement, including "Iowa interstate railroads in the Midwest." But you fail to mention that the State of Iowa is adamantly opposed to this sale, or that the Iowa DOT is part of a midwestern coalition opposed to S. 638. I find it hard to believe that the DOT or Norfolk Southern know what is better for Iowa than does Iowa itself.

Second, the letter states that this amendment "does nothing to address the concerns of the vast majority of regional carriers and their shippers." Again, the position of the regional railroads and the shippers contradicts your letter. I have been informed as recently as this morning through contacts from the Coalition for a Competitive Conrail, which consists of shippers across the nation, that shippers around the country support the concept of this amendment. They have not had the opportunity to read the amendment in detail, but they do support its concept and principles. As for the regional railroads, they have read it and support it as well.

Third, the letter states that the amendment "utilizes terms and concepts that have no legal meaning in ICC case law" and so it is uncertain "whether the amendment will actually achieve what the authors intend." This argument is a bit hard to address here since you did not specify the "terms and concepts" to which they were referring. The only plausible interpretation I can give this argument is that you were repeating the Department of Justice's concern about the definition of the term "market power." The amendment clearly directs the ICC to the interpretation given in many other agency cases. To the extent that DOT implies the concept of "market power" is foreign to the ICC, I can only assume that you have misread the Interstate Commerce Act. The term "market power" is used most clearly there. Let me quote a phrase from Section 10505 of that Act. A purpose of Section 10505 is "to protect shippers from the abuse of market power."

Fourth, you state that the amendment gives the ICC much broader authority than the authors intended, citing and outrageous example of a Minnesota railroad requesting trackage rights into New York. The amendment clearly limits the authority of the ICC to provide relief only to the extent "necessary to eliminate the market power of the consolidated system."

Let me say that citing that example of a Minnesota railroad seeking trackage rights into New York would have nothing to do with this. There would have to be a showing of abuse of market power of the consolidated system.

Of course it leaves discretion to the ICC. It does so because there is no way to predict the specific conditions under which a regional railroad will be harmed. But to imply that the ICC would be so irresponsible in the implementation of any statute is ridiculous. The ICC has this broad authority in virtually every other merger case.

Fifth, you argue that the amendment might favor large railroads over smaller ones. You fail to elaborate on this statement, so it is hard to determine your rationale. Maybe by "small carriers" you are referring to Norfolk Southern. All the small railroads we have heard from favor this amendment, so your point is difficult to understand.

Sixth, you question the constitutionality of the amendment's compensation provisions. Evidently, you mistakenly consider this to be a condemnation provision. That is clearly not the case. This is simply a condition of sale that Norfolk Southern is perfectly free to refuse, and therefore raises no constitutional question.

Finally, and most outrageously, the letter states "the amendment fails to mandate specific remedies to protect gateway access and joint routings. These are crucial shipper issues, as well as the basic remedy the carriers negotiating with Norfolk Southern have argued for." This is exactly the kind of amendment I offered in the Commerce Committee, which you opposed by saying it would reregulate the railroad industry. It seems to me that the Department's double standard here has come back to haunt you. I would be very pleased to reoffer that amendment on the floor today if you would agree to support it. Apparently, DOT is interested in preserving deregulation only when it suits its purposes.

THE ICC'S JURISDICTION

Mr. President, the jurisdiction of the Interstate Commerce Commission to impose conditions on mergers is extremely broad. Section 11344(c) of the Interstate Commerce Act specifically provides that "The Commission may impose conditions governing the transaction."

In *Baltimore & Ohio R. Co.* v. *United States*, 386 U.S. 372 (1986) the Supreme Court described this power of the ICC as follows:

Once a valid order is entered by the Commission, it, of course, has the power to retain jurisdiction for the purpose of making modifications that it finds necessary in the light of subsequent circumstances or to assist in compliance with prior conditions. 386 U.S. at 387.

The Commission has exercised this power broadly with the approval of the courts. For example, in approving the merger of the Northern Pacific and the Great Northern Railway, the Commission retained jurisdiction to require inclusion of other railroads stating as follows:

The Commission shall retain jurisdiction over these proceedings for a period of 5 years following consummation of the transactions herein authorized, or such other period as the Commission, for good cause shown, may hereafter prescribe for the purpose, among others, of considering petitions under section 5(2)(d) of the act, by any railroad in the territory involved requesting inclusion in the merger so authorized. The Commission shall also retain jurisdiction over these proceedings for a period of 5 years following consummation of the transaction herein authorized, or such other period as the Commission, for good cause shown, may hereafter prescribe, to impose such just and reasonable conditions upon petition by any party in interest, or in its own motion, after hearing, as may be necessitated by any cumulative or crossover problems stemming from approval of this merger and any other transaction authorized under section 5 with respect to the territory involved. Consummation of the transactions herein authorized shall constitute irrevocable assent by applicants to the power of this Commission to impose, after hearing, such just and reasonable conditions as may be necessary or appropriate. 331 ICC at 359.

When the BN sought to attack the ICC's jurisdiction to impose these conditions, the Seventh Circuit Court of Appeals in Chicago stated:

[W]e hold that the ICC had jurisdiction to impose Condition 33. Section 5(2)(d) gives the ICC authority in a railroad merger proceeding to require the inclusion in the merged line of another railroad in the same territory "as a prerequisite to its approval" of the merger. In the present case, the ICC merely conditioned its approval of the merger on, inter alia, a five year reservation of jurisdiction to consider § 5(2)(d) petitions for inclusion of other railroads in the territory. The ICC has such authority. Section 5(2)(d) provides in part that the ICC shall approve a proposed merger if it finds that subject to such terms and *conditions* and such modifications as it shall find to be just and reasonable, the proposed [merger] . . . will be consistent with the public interest, . . . [Emphasis added.]

Condition 33 is a condition which the ICC imposed as being consistent with the public interest. It cleared the way for the ICC to proceed with the authorization for an important merger, . . . *Chicago Milwaukee* v. *United States*, 585 F.2d (7th Cir. 1978).

The ICC unquestionably has jurisdiction to condition the approval of a merger on the grant of trackage rights or the divestiture of lines, just as it has the jurisdiction to require inclusion of another railroad. Most mergers have included conditions requiring alleviation of anticompetitive consequences. For example, in the Union Pacific merger case, the Commission required the Union Pacific to give the Denver & Rio Grande trackage rights from Pueblo, CO, to Kansas City, and the Southern Pacific trackage rights from Kansas City to St. Louis.

There is no statutory reason why the ICC's power to retain jurisdiction to order postmerger divestitures or grants of trackage rights in light of postmerger experience should be any narrower than its power to retain jurisdiction to require postmerger purchase of other railroads in the light of postmerger experience.

Indeed, the Commission has exercised its authority to retain jurisdiction to require postmerger divestitures or grants of trackage rights as recently as January 8, 1985, decision in Finance

Docket No. 29640 (Sub. No. 9) on the proposed Milwaukee Road by several carriers, including Chicago & North Western, the Soo Line, and the Grand Trunk. In addressing a Burlington Northern request for trackage rights to certain utilities in the event the Chicago & North Western were permitted to purchase the Milwaukee, the Commission stated at p. 26 of its decision:

> While the evidence before us does not demonstrate a need to impose such a trackage rights condition at this time, however, we recognize that evidence could arise at some future date that would justify such a condition. For example, if, following a CNW/MILW combination, the utilities experienced appreciably diminished service levels or significantly increased rates that were attributed to the acquisition, imposition of trackage rights could be justified. Accordingly, we will retain jurisdiction to consider imposing these conditions at some future date if the need arises.

There is simply nothing out of the ordinary in the ICC retaining jurisdiction to perfect its merger decisions in the light of postmerger experience. As I have pointed out, this has included postmerger jurisdiction to require the purchase of other railroads (the Northern Lines Merger case), and to require the postmerger grant of trackage rights (Milwaukee acquisition). It has also encompassed retention of jurisdiction to estabish a price for trackage rights granted in the merger decision (See Union Pacific Merger Decision, 366 I.C.C. 459 (1982)), and to establish the price for a railroad included in the merger (See Penn Central Merger Decision requiring inclusion of the New Haven, 330 I.C.C. 328).

Concededly, in the majority of Interstate Commerce Commission cases, the Commission has been able to articulate fairly specifically the areas in which post-merger remedial action may be required. This is possible because, by the time a decision is issued, the Commission has conducted a detailed examination of the competitive consequences of a proposed merger, and the adequacy of the proposed remedies, with the assistance of a fully developed public record produced with the opportunity for cross-examination.

The process that has been followed in connection with this merger proceeding simply doesn't permit this level of specificity. The Congress is being asked to approve the merger before the Department of Justice has even let the contract to a consultant to study the viability of proposed divestees. The details of this transaction are shrouded in mystery. So far as we have been able to determine, the Department of Justice has not yet obtained from Guilford, Pittsburgh & Lake Erie, or Norfolk Southern any operating or financial plans that would show whether the competitive problems that the Department of Justice identified in its January 29, 1985, letter have, in fact, been solved. The Department of Justice concedes that it has not examined the effect of the merger on carriers outside the Conrail region. The ICC simply wouldn't give approval to such a transaction without determining the effect of the transaction on connecting and competing carriers, and resolving the issues that are still open here. Indeed, if it did, the Court of Appeals would reverse it as did the Supreme Court in *Baltimore & Ohio* v. *United States*, 386 U.S. 372 (1967), where the Supreme Court, while approving the power of the ICC to retain jurisdiction to make postmerger adjustments, said that the Commission simply had not performed its duties prior to approving the merger.

Mr. EXON. Mr. President, I have been given a copy of a recent letter to Senator DANFORTH, the chairman of the Commerce Committee, on which I serve, from Assistant Attorney General Douglas Ginsburg, which expresses "strong opposition" to the Pressler amendment, which I have cosponsored, giving modest protection to regional railroads.

This does not surprise me, in that Mr. Ginsburg has increasingly taken the posture that there is no such thing as a bad merger. Mr. Ginsburg is distressed that small carriers competing against the new $7-billion giant could seek relief from the Interstate Commerce Commission because, argues Mr. Ginsburg, "diversions generally reflect efficiencies of improved transportation offerings."

Mr. President, Mr. Ginsburg ignores the fact that major diversons will be off carriers who are already in a fragile condition. I suggest that Mr. Ginsburg talk to shippers in Nebraska as to whether they agree that the Chicago North Western should contribute to a Norfolk Southern owned Conrail, or to shippers in Michigan as to whether the Ann Arbor Railroad or Grand Trunk should contribute, or to shippers in Louisiana as to whether the Illinois Central should contribute, or to shippers in New York as to whether the Susquehanna should contribute, or to shippers in Vermont as to whether the Central Vermont should make its contribution by diverting traffic to the largest transportation monopoly in the world in the name of "efficiency."

I suggest, Mr. President, that the answer is a resounding "No." The taxpayers of Nebraska have already contributed to Conrail. We are not going to ask our shippers to contribute Chicago Northwestern profit to Norfolk Southern's new Conrail acquisition without some kind of protection.

I strongly urge my colleagues to get off the kick that is obviously on in the U.S. Senate to vote down every amendment and to ram through the administration-dictated sale of Conrail to Norfolk Southern, lock, stock, and barrel, without thinking, without amendment, without any change.

I strongly urge my colleagues to understand what is going on and to support at least this much needed amendment by the Senator from South Dakota [Mr. PRESSLER].

Mr. LONG. Mr. President, I am an original cosponsor of the amendment offered by the Senator from South Dakota. I have cosponsored this amendment because of my concerns regarding the serious impact a merger of Conrail and Norfolk Southern may have on small and regional railroads.

Mr. President, I have been contacted by a number of shippers, port authorities, and elected officials within my State about this issue. These individuals are greatly concerned that a merger of Conrail and Norfolk Southern will jeopardize service to Louisiana by the Illinois Central Gulf Railroad.

Many shippers in my State depend upon the ICG for rail service. These shippers fear that a consolidated Conrail/Norfolk Southern system—by virtue of its enormous size—will divert traffic away from the much smaller ICG and to the new merged system.

The ICG projects that this diversion could result in a revenue loss of up to $51 million per year. If this projection proves to be accurate, both the ICG and its customers in Louisiana stand to lose a great deal.

The amendment under consideration is a direct response to this problem. It is intended to insure that shippers who depend upon small and regional carriers will not have their service disrupted as a result of the proposed merger of Conrail and Norfolk Southern.

Mr. President, there are some who may argue that Congress should not attempt through legislation to protect these smaller railroads and their customers. Opponents of this amendment may argue that any traffic diversions that result from the merger are simply the consequences of the market in operation.

What these opponents overlook is the fact that it is Congress that is being asked to approve the very merger which threatens these smaller lines. It is only Congress through adoption of the Pressler amendment that can attempt to prevent the problems this merger will create. Surely, we owe this much to these smaller railroads and their customers.

Mr. President, the amendment under consideration is limited in scope. It is only applicable to small and regional railroads who suffer traffic losses as a result of the market power of the consolidated Conrail/Norfolk Southern system. Traffic losses for any other reason fall outside of this amendment.

This amendment provides a remedy through the ICC in the event that a small or regional railroad sustains traffic losses of 3½ percent or more as a result of the merger. The Department of Transportation is of the opinion that diversions of this size are not likely to occure. I hope this is true.

I also know that good intentions are of little benefit if significant diversions do, in fact, occur as a result of the merger Congress is being asked to approve.

This amendment is necessary to insure that small and regional railroads and their customers are treated fairly. I certainly urge my colleagues to support this proposal.

REGIONAL RAILROAD AMENDMENT

Mr. DIXON. Mr. President, I am pleased to join my distinguished colleague from South Dakota, Senator PRESSLER, in offering this amendment designed to provide much-needed protection for small and regional railroads from at least some of the anticompetitive effects of a Conrail-Norfolk Southern merger.

Our amendment permits these small railroads to go to the Interstate Commerce Commission for relief if they experienced traffic diversion of 3½ percent or greater due to the anticompetitive impacts of the merger. The amendment is not designed to protect small railroads from stronger competition, only from monopoly power.

The need for this amendment is clear. The Government has a responsibility to return Conrail to the private sector in a manner which treats all affected parties, including small railroads, as fairly as possible. S. 638 does not meet this responsibility. Instead, it immunizes the merger from the antitrust laws, and provides affected railroads and others with none of the usual procedural mechanisms available at the Interstate Commerce Commission. In other railroad mergers, small railroads and large railroads have a chance to argue competitive issues before the ICC, and to obtain appropriate relief if they make their case. In this proposed sale, however, they have not been provided with any such opportunity.

It must be remembered that the Midwest, where many of these smaller railroads operate, has already suffered dramatically from major restructuring of its railroad industry. The Rock Island Railroad was liquidated. The Milwaukee road also fell into bankruptcy; it lost most of its trackage and the remnants were merged into the Soo Line. Other Midwestern railroads, while continuing to exist, are smaller and have been financially weakened by the major mergers that occurred around them.

It is also important to remember that the Federal Government has an important financial stake in the continued financial health of many of these railroads. Several hundred million dollars in Federal direct loans and loan guarantees—including loans at below-market interest rates—have been made to the small Midwestern railroads. To cite just three examples, the Chicago and Northwestern received roughly $200 million, the Illinois Central Gulf received $152 million, and the Milwaukee received $60 million. This is more than one-third of the amount the Government will receive from Norfolk Southern for Conrail. If the monopoly power of a Conrail-Norfolk Southern system erodes the earning power of Midwestern and other small railroads, the Government will, in effect, be responsible for working to undermine the ability of these railroads to repay it.

It is clear, Mr. President, that the Department of Transportation's recommendations will cause substantial diversions of traffic from Midwestern railroads. The staff of the Interstate Commerce Commission found that the Chicago & Northwestern could lose over $45 million in traffic; the Illinois Central Gulf could lose over $32 million; and the Grand Trunk Western could lose almost $29 million.

The amendment we are offering, however, is not based on these figures. Instead, it is based on estimates made by the Department of Transportation. The Department asserts that no railroad will suffer more than 2-percent diversion. The amendment almost doubles the Department's figures, and requires railroads to demonstrate diversion of 3½ percent caused by the anticompetitive aspects of the proposed merger in order to go before the ICC.

If the Department's view is correct, the amendment will never go into effect. If the Department is wrong, however, this amendment is essential to provide at least minimal protection to railroads that could be devastated by the anticompetitive effects of the Department's recommended solution.

Mr. President, I believe this amendment is a reasonable solution to a problem ignored by S. 638. It provides a safety net for small railroads in case, as I believe, the Department of Transportation is wrong, and diversions caused by the monopoly power of a combined Conrail-Norfolk Southern system are much greater than they are now estimating. I hope my colleagues will find it possible to support this amendment. I earnestly urge its adoption.

Mr. PRESSLER. Mr. President, if the chairman of the Commerce Committee is agreeable, I am prepared to lay this amendment aside so another can be offered, if we can return to it later.

Mr. DANFORTH. All right.

Senator LAUTENBERG. I know has an amendment to offer. He is not on the floor now.

Mr. METZENBAUM. Mr. President, will the Senator from Missouri yield for a moment?

Mr. DANFORTH. Yes.

Mr. METZENBAUM. If I could have the attention of the Senator from South Dakota.

Mr. DANFORTH. Senator PRESSLER has the floor, I believe.

Mr. METZENBAUM. Will the Senator from South Dakota yield?

Mr. PRESSLER. I have not yielded the floor.

Mr. METZENBAUM. Mr. President, will the Senator from South Dakota yield for a question?

Mr. PRESSLER. Yes.

Mr. METZENBAUM. Would the Senator from South Dakota be willing, in his unanimous-consent request, laying his measure aside temporarily and be willing at the same time to include the fact that the Senator from Ohio might offer an amendment to the amendment of the Senator from South Dakota and that also could be laid aside with the amendment of the Senator from South Dakota?

Mr. PRESSLER. That is fine. Yes.

Mr. President, I ask unanimous consent that my amendment be temporarily laid aside until the hour of 1:45 p.m.

Mr. METZENBAUM. With the understanding that the Senator from Ohio may offer an amendment to the pending amendment?

Mr. PRESSLER. Yes.

The PRESIDING OFFICER. Is that the Senator's understanding?

Mr. PRESSLER. Yes.

Mr. DANFORTH. Mr. President, reserving the right to object, I wonder if the Senator from South Dakota wants to set aside the amendment until a time certain. Why not just lay his amendment aside and in that case he could just call for the regular order and bring his amendment up?

Mr. METZENBAUM. Mr. President, I say if the Senator from South Dakota does that and someone has the floor or we are in a quorum call, he would not be able to call his amendment up unless he had unanimous consent for a time certain. I think I am right.

Mr. PRESSLER. Let us say 1:45, so the Senator from New Jersey can proceed.

The PRESIDING OFFICER. Do we have a request?

Mr. PRESSLER. I submit the request.

Mr. METZENBAUM. And with that is the provision that the amendmemt of the Senator from Ohio can be called up.

The PRESIDING OFFICER. Is there objection? If not, it is so ordered.

AMENDMENT NO. 1569

(Purpose: To direct the Secretary of Transportation to solicit and consider new sealed, competitive bids for the purchase of the interest of the United States in the common stock of Conrail)

Mr. METZENBAUM. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Ohio [Mr. METZENBAUM] proposes an amendment numbered 1569 to amendment No. 1438.

Mr. METZENBAUM. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment reads as follows:

In lieu of the language proposed to be inserted, insert the following:

That this Act may be cited as the "Conrail Sale Act of 1985".

SEC. 2. (a) As soon as is practical, the Secretary shall solicit and consider new, sealed, competitive bids for the purchase of the common stock of Conrail. The specifications for such bids shall be sufficiently detailed so as to assure sufficient information and data for use by the Secretary in considering among others, matters such as the use of money and other assets of Conrail; the source of cash payment for such common stock; and the protection of the rights and benefits of the current employees of Conrail.

(b) One hundred eighty days following the date on which the Secretary solicits bids under subsection (a) of this Section, the Secretary shall report to Congress the results of such solicitation.

Mr. METZENBAUM. Mr. President, I ask for the yeas and nays in connection with my amendment.

The PRESIDING OFFICER. Is there sufficient second?

There does not appear to be a sufficient second.

Under the previous order, the two amendments are set aside until 1:45.

AMENDMENT 1570

(Purpose: To protect affected regions after implementation of the Secretary's plan)

Mr. LAUTENBERG. Mr. President, on behalf of myself, Senators Moynihan and Bradley, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will call reort.

The assistant legislative clerk read as follows:

The Senator from New Jersey [Mr. LAUTENBERG], for himself, Mr. MOYNIHAN, and Mr. BRADLEY, proposes an amendment numbered 1570 to amendment No. 1437.

Mr. LAUTENBERG. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment reads as follows:

On page 19, insert before line 1 the following new section:

SEC. 111. (a) The Regional Rail Reorganization Act of 1973 is amended by adding at the end thereof the following new title:

"TITLE VIII—PROTECTION OF AFFECTED REGIONS AFTER IMPLEMENTATION OF THE SECRETARY'S PLAN

"DEFINITIONS

"SEC. 801. (a) For purposes of this title—

"(1) the term 'affected region' means any State, county, port or port district in which any dominant railroad is the only railroad—

"(A) owning or controlling trackage rights into such region; or

"(B) carrying in excess of 80 percent of the total interstate rail freight in such region;

"(2) the term 'alternative railroad' means any railroad that desires and is capable of providing railroad transportation in an affected region, but lacks necessary trackage rights;

"(3) the term 'dominant railroad' means—

"(A) the Corporation or Norfolk Southern Corporation after the date of implementation of the Secretary's Plan pursuant to section 401(a)(4) of this Act and the sale of the interest of the United States in the common stock of the Corporation to Norfolk Southern Corporation pursuant to section 401(a)(5) of this Act; or

"(B) any corporation created by Norfolk Southern Corporation as a result of such implementation and such sale,

which, acting jointly or severally, operates as a railroad in an affected region, and owns or controls all trackage rights into such region or carries in excess of 80 percent of the total interstate rail freight in such region; and

"(4) the term 'governmental authority of any affected region' means any governmental authority authorized by appropriate State law, Federal law, or agreements between or among States to maintain legal actions on behalf of an affected State, county, port or port district.

"PROTECTION OF AFFECTED REGIONS

"SEC. 802. (a)(1) The governmental authority of any affected region may file a complaint in the United States district court for any district in which such affected region is located, seeking an order granting trackage rights into such region for any specified alternative railroad. All relevant dominant railroads shall be named as defendants in such complaint.

"(2) The court may grant the relief sought by the complaint if the plaintiff governmental authority establishes, by a preponderance of the evidence that—

"(A) the specified alternative railroad sought in good faith to negotiate an agreement with the defendant dominant railroad pursuant to section 11343(a)(6) of title 49, United States Code;

"(B) such negotiations were not successful; and

"(C) granting of the trackage rights sought in the complaint is practical and will not unreasonably impair the operations of the defendant dominant railroad over the affected rail lines.

"(3) If the court determines that the plaintiff governmental authority has met its burden under subparagraphs (2)(A) and (B) of this subsection, but not with respect to subparagraph (2)(C), the court shall prescribe such lesser amount of trackage rights, if any, that plaintiff by preponderance of the evidence establishes is practical and will not unreasonably impair the operations of the defendant dominant railroad over the affected rail lines.

"(b) The court shall establish the terms of any traffic rights ordered under subsection (a). The terms shall include such payment to the defendant dominant railroad by the specified alternative railroad that provides adequate compensation for the use of the affected rail lines. Adequate compensation shall include a fair contribution to the profits of the defendant dominant railroad.

"(c)(1) Operations by any specified alternative railroad pursuant to the grant of trackage rights under subsection (a) are contingent upon the execution by the defendant dominant railroad and any specified alternative railroad of an agreement embodying all the terms established by the court under subsection (b). The court shall order the defendant dominant railroad to execute such agreement.

"(2) The agreement referred to in paragraph (1) of this subsection, upon execution by the dominant railroad and a specified alternative railroad, shall be exempt from the antitrust laws and from all other laws, including State and municipal law, as necessary to allow the parties to implement the agreement, in the same manner as an agreement made pursuant to section 11341 of title 49, United States Code.

"(3) The court which orders the grant of trackage rights shall have exclusive jurisdiction to resolve any disputes arising under the executed agreement referred to in paragraph (1) of this subsection.

"(d) The remedies provided for in this section shall not preclude any action or relief pursuant to the Sherman Act (15 U.S.C. 1 et seq.).".

(b) The table of contents of the Regional Rail Reorganization Act of 1973 is amended by adding at the end thereof the following:

"TITLE VIII—PROTECTION OF AFFECTED REGIONS AFTER IMPLEMENTATION OF THE SECRETARY'S PLAN

"Sec. 801. Definitions.

"Sec. 802. Protection of affected regions.".

Mr. LAUTENBERG. Mr. President, I rise to offer an admendment to S. 638 to address some of the anticompetitive aspects of the proposed merger of Conrail with Norfolk Southern. This amendment goes to the heart of the debate over the sale of Conrail to Norfolk Southern. It addresses the enormous economic power which would stem from this merger, and provides relief for captive communities and shippers in the Conrail service area should this power be abused.

The amendment I am offering provides remedies for States, counties, port authorities or port districts which will be subject to a monopoly on rail freight service enjoyed by Norfolk Southern under the sale proposed by S. 638. In the event that monopoly position is abused, this amendment gives adversely affected communities the right to seek relief in the U.S. district courts. The courts would have the right to grant trackage rights to a competing carrier, if a competing carrier is willing and able to provide service and negotiations with Norfolk Southern have failed.

Mr. President, it is particularly important that this amendment be

adopted as part of this bill. In this legislation, which implements the Secretary of Transportation's plan to sell Conrail to Norfolk Southern, the Senate is asked to approve the creation of the largest railroad in the country. In addition, we are asked to immunize this sale from ICC and antitrust examination.

The Senate essentially is passing judgment on a merger, and a very large and complicated merger. Mergers are nothing new in the railroad industry. There has been a dramatic increase in the consolidation of this industry over the last 25 years. The merger of Conrail and Norfolk Southern will be, however, the biggest of all. This consolidation has coincided with the deregulation of the railroad industry under the Staggers Rail Act of 1980. So, the number of service providers in the industry has become smaller at the same time that the Congress has moved to deregulate the industry.

Mr. President, New Jersey is no stranger to this phenomenon. Since the creation of Conrail, New Jersey has been a captive State, with Conrail our only major service provider. The Port of New York and New Jersey has been a captive port. Conrail is its only major railroad and the Port of New York and New Jersey is Conrail's major port. The sale of Conrail to Norfolk Southern would alter that arangement fundamentally. In the future, the Port of New York and New Jersey could find itself captive to one railroad, which does not have one major port, but two or more. And, perhaps more importantly, a railroad which has made major investments in other ports. This would provide a powerful incentive for Norfolk Southern to divert traffic to the ports in which they have invested, away from the New York-New Jersey area. We could also see diversion of freight traffic from the Port of New York and New Jersey to other ports where rates are kept low through competition.

In arriving at a divestiture outline to coincide with this sale proposal, the Department of Justice attempted to address the question of how to maintain multiple rail service to communities that have multiple service today. But, the Justice Department did not even address the problems of monopoly States like New Jersey. Therefore, the legislation before us does absolutely nothing to enhance the options of shippers in New Jersey and other monopoly communities and States.

What will happen in these States if this dramatic merger is approved by Congress? Shippers will have fewer options. And ports, which were captive before the merger, will still be captive, but to a much larger economic entity.

Mr. President, in my estimation, the jewel in the crown of the Conrail sale is the Port of New York and New Jersey. If Norfolk Southern becomes the sole railroad serving this port, what will it have gained? It will have gained monopoly access to a port that generates the following:

Over $14 billion annually in economic activity to the region; 191,600 jobs, 103,100 of them direct port industry jobs; $4.2 billion in wages and salaries; $2.3 billion in business income; and $400 million in State and local income and sales taxes.

Indeed, the Port of New York-New Jersey is the jewel in the crown of the Conrail sale.

Mr. President, the amendment I am offering seeks to ensure that the economic interests of captive communities, and particularly the State of New Jersey, the port community which serves New York and New Jersey, and the shippers throughout this region are protected.

Mr. President, the amendment I am offering is a matter of preventive medicine. For, once in place, it will serve as a deterrent to the abuse of monopoly power. It does so by holding out the possibility of competition to captive communities and the threat of competition to Norfolk Southern.

I have supported the deregulation of the railroad industry, along with other modes of transportation. But, while deregulation has led to improved service and lower rates or prices in many instances, there are some situations in which deregulation can only accomplish just so much. In aviation, for example, we have seen airlines born virtually overnight. The barriers to entry to the industry have all but disappeared. But it is very difficult to start a railroad overnight.

Temporary international air route certificates are analogous to the remedies provided in this amendment. DOT extends temporary authority to airlines to fly international routes as a means of approximating competition in a part of the aviation industry that deregulation cannot reach. Incumbent carriers argue that these certificates are often routinely recertified and limit their flexibility with respect to services and fares. That means that the possibility, the mere possibility, of losing a route tends to keep fares down and service up. My amendment is designed to apply the same competitive pressure should Conrail be sold to Norfolk Southern.

Mr. President, this amendment will have no effect on Norfolk Southern unless two things are true. First, Norfolk Southern will have to be pricing its services sufficently above its costs to make the market attractive to a competitor. Shippers are not going to want another carrier if it means paying higher rates. Second, a competing carrier has to try to enter the market and be turned aside by Norfolk Southern. Only if these conditions obtain will a State, county or port authority have a case to bring to court.

Mr. President, I want to stress that this amendment applies to areas in which one railroad controls 80 percent or more of rail freight movements. While the captive situation in the Port of New York and New Jersey will be made worse by a Norfolk Southern takeover or Conrail, Conrail as it is presently constituted would be covered under this amendment. So, I am not just addressing this amendment to Norfolk Southern. I am addressing monopoly control per se.

The first question that will be asked about this amendment will be: Why use the courts and not the Interstate Commerce Commission?

The answer is very direct and very simple: The ICC cannot accomplish the purposes of the amendment, the granting of extensive trackage rights. The ICC can grant the joint use of terminal facilities, but that is not the issue in a State with no other major railroad but Conrail. This amendment permits the district courts to order the same kind of remedy that they have applied to other U.S. industries for years.

Beyond the legal impediments to using the ICC is the very practical fact that the President wants to put the ICC out of business. Who would one complain to then? The Department of Transportation, which is responsible for recommending this merger?

As my colleagues well know, the ICC's record of dealing with captive shipper complaints has not been exemplary under this administration. There will be those who cheer the ICC's demise, not because they do not need protection from abuse of monopoly power, and artificially high rates, but because they get no protection now.

Finally, Mr. President, it will be said that having a court assign trackage rights is a matter of confiscating property. That is clearly not the intent of this amendment.

The amendment specifies that a competing carrier must compensate Norfolk Southern for the use of its facilities, including a reasonable return on its investment and a just return to profits. The courts presently have the authority to set compensation for the use of facilities under the essential facilities doctrine, which was used in the case of the AT&T/MCI settlement.

Mr. President, if this amendment becomes law, I doubt that it will ever be used. Like a temporary international air route certificate, it will serve to keep Norfolk Southern honest. It should keep service up and prices down as though there was a competitive marketplace.

All that this Senator is asking for with this amendment is protection for my State's vital economic interests by providing for just the possibility of competition. This amendment does not break up Conrail; this amendment

does not give 1 inch of track to another railroad. All this amendment does is let the free market dictate when competition is called for and, in that case, allow for competition.

I hope my colleagues who face captive control of their coal mines, farms, or ports will support this amendment.

Mr. President, I ask unanimous consent that a letter from the Port Authority of New York-New Jersey in support of this amendment be printed in the RECORD, along with an editorial from the New York Times which urges Congress to explore ways to stimulate more competition in the rail industry, including the option of requiring companies to lease their tracks and terminals to competitors at reasonable rates.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

JANUARY 27, 1986.

Re Proposed Sale of Conrail.
Hon. FRANK R. LAUTENBERG,
Hart Senate Office Building,
Washington, DC.

DEAR SENATOR LAUTENBERG: I had the privilege of testifying before the Senate Committee on the Judiciary on April 2, 1985 regarding the proposed sale of the United States Government's interest in Conrail. At that time, I took the opportunity to point out to the Committee that the proposed sale of the only major railroad serving our port and our region causes no small concern to the Port Authority.

While our region is now enjoying relatively efficient rail service, the possibility that our sole major rail carrier might be controlled by a railroad system that may have its primary focus on other major competing ports causes us continuing concern. The analysis that has been performed by the Department of Justice regarding the anti-competitive effects of the acquisition of Conrail by the Norfolk Southern unfortunately did not focus on those areas of the country which have been deprived of competition in its rail service network for a number of years. For this reason, we at the Port Authority have advocated before House and Senate Committees that any legislation dealing with the disposition of Conrail should contain in it some provision whereby a rail carrier can acquire on reasonable terms trackage rights to provide competing service to our port upon abuse by a dominant rail carrier of its market position. I hasten to add, we have not suggested that Congress at this time designate rail lines in our areas for divestiture or transfer to another carrier. It is not our intent to deprive Conrail of the economies of scale that it now enjoys and are important to its success until and unless there is an abuse of a dominant market power.

To perpetuate a legal condition that would permit an existing monopoly carrier to inhibit competition by other rail carriers, however, is clearly contrary to the spirit of the statutes that created Conrail and deregulated the railroad industry. For this reason, we were most gratified to learn that you are considering the introduction of an amendment to the legislation authorizing the sale of Conrail addressing the concerns that have been expressed by the Port Authority as well as others. We have had an opportunity to review a draft of the proposed amendment and can strongly support it as providing what we feel is vital protection against potential market abuse that could adversely effect our port and our region.

I have enclosed herewith a copy of my statement before the Committee on the Judiciary as well as the testimony of Hugh Welsh, the New Jersey Solicitor of the Port Authority before the House Subcommittee on Commerce, Transportation and Tourism regarding this subject. We would be pleased to discuss with you the facts and concerns set forth in this testimony or provide any additional information that might be helpful.

Very truly yours,
PATRICK J. FALVEY,
General Counsel/Assistant
Executive Director.

[From the New York Times, Dec. 23, 1985]

NEXT STEPS IN RAIL DEREGULATION

When Congress relaxed price controls for freight railroads in 1980, it sought an artful balance. It wanted to give railroads incentives to rebuild their collapsing systems. But it wanted also to protect shippers from being gouged by rail monopolies. Some of these shippers now complain that the balance has tilted in favor of railroads, and they make a good case. If deregulation is to work for everyone, the reforms of 1980 need fine tuning.

Most cargo shipping is vigorously competitive. In setting prices, truckers and airlines must keep a close eye on the competition. Railroads, too, are held in check for some products in some regions. If they try to overcharge the large manufacturers of high-value products like machinery or auto parts, they risk losing the business to another railroad or an enterprising trucker.

But railroads exert great market power in carrying bulk commodities on underserved routes. So Congress put some limits on the railroads' freedom to set their own rates. Where a shipper can show that a rail company dominates a transportation market, the Interstate Commerce Commission is empowered to intervene. And if the commission finds a railroad's total revenues to be adequate and its prices unreasonable, the shipper can be granted rate relief.

By and large, this partial deregulation has worked well. Railroads are posting good profits. More important, they are investing billions to modernize their systems. And many shippers are getting better service for the same old rates. But some shippers, notably power companies buying coal from Western mines, have been seriously overcharged. And the I.C.C. has so far denied them relief. The commission, it appears, clings to the outdated rationale that the railroads need every last penny to stay in business.

A coalition of commodity shippers, electric utilities, labor unions and consumer groups urges legislation, to reduce the I.C.C.'s discretion, forcing it to come down harder on strong railroads. Things may have to come to that if the commission refuses to tighten its guidelines for rate relief. But the dreary history of price regulation makes very clear that prices set by regulators can never be entirely fair or efficient.

The long-term goal of reform should be to keep easing off regulation by making the shipping industry ever more competitive. At least three steps could be taken toward that end:

Congress should authorize construction of pipelines to carry mixtures of pulverized coal and water from mines to power plants. Such coal slurry pipelines have been blocked at state level by railroad lobbying. If Congress pre-empts authority over pipelines, the mere threat of their construction would discourage rail overcharges.

The I.C.C. or Congress, if necessary, should halt rail mergers that reduce the number of carriers serving shippers of bulk commodities.

Congress should explore ways to stimulate more competition among existing rail systems. For example, it might require rail companies to lease their tracks and terminals to competitors at reasonable rates.

The first goal of rail deregulation—a more productive, financially stable system—has been achieved. The next goal should be insuring that railroads share the benefits with consumers.

Mr. MOYNIHAN. Mr. President, I rise today to join my distinguished colleague, Senator LAUTENBERG, in cosponsoring this amendment to S. 638, the Conrail Sale Amendments. This amendment will protect shippers, ports, localities, and the States from monopolistic practices by any railroad. It will ensure shippers using the railroad are charged fair rates.

In a region served by a dominant railroad, that is, one which controls 80 percent or more of the rail service in the region, this amendment would establish a procedure whereby the U.S. district court could review and grant relief to another railroad seeking to enter the market. If negotiations between the dominant railroad and an alternative railroad are unsuccessful, then the court may grant relief to the alternative railroad in the form of trackage rights. The court would also determine a fair payment to the dominant railroad for such trackage rights.

Currently, Conrail operates more than 2,600 route miles in New York. More than 5,000 New Yorkers work for Conrail. More than 2,500 New York enterprises ship via Conrail. Each year 300,000 freight cars originate from Buffalo; 18,000 freight cars originate from Long Island alone. It is essential that shippers be protected from freight overcharges, regardless of which railroad or group eventually succeeds in purchasing Conrail.

I enthusiastically support this amendment, and I urge my colleagues to do the same.

Mr. LAUTENBERG. Mr. President, I urge the adoption of the amendment and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is not a sufficient second.

Mr. DANFORTH. Mr. President, I think before we get a sufficient second for anything we will have to have a manager for the other side of the floor.

I will move to table the amendment in about a minute.

Mr. President, the Port of New York is one of the clear beneficiaries from the sale of Conrail to Norfolk South-

ern. The Port of New York is now served only by Conrail. After the divestiture, it will be served by both Conrail and Guilford.

What the Senator from New Jersey would do is basically put the court in the same business that the ICC is in today. Now shippers can petition the ICC in case of inadequate competition or inadequate service. And the ICC has the power to open up access to competitive and competing railroads.

I do not think that the Senate wants to get the courts in basically the regulatory business any more than the courts are already in the regulatory business.

Also, I think what this does is to interject into the whole business of railroading a wild card. In fact, not only one wild card, but every district court in the country becomes a wild card open to anyone who wants to file suit in that district court.

It seems to me that if we are going to have an area of regulation, we should keep that in the regulatory agencies, and not expand it to every Federal district court in the country.

Therefore, Mr. President, I move to table the amendment.

The PRESIDING OFFICER. The question is on the motion. All in favor say, "aye."

Mr. DANFORTH. I ask for the yeas and nays, Mr. President.

The PRESIDING OFFICER. Is there a sufficient second? There is not a sufficient second.

Mr. LAUTENBERG. Mr. President, is the definition of a sufficient second not a manager and comanager of the bill? I have been placed in the enviable position of being the representative on our side to comanage this.

The PRESIDING OFFICER. The answer is in the negative. The Constitution provides that one-fifth be present.

Mr. LAUTENBERG. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. DANFORTH. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DANFORTH. Mr. President, I ask for the yeas and nays on the motion to table the amendment.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Missouri. The yeas and nays have been ordered and the clerk will call the roll.

The legislative clerk called the roll.

Mr. SIMPSON. I announced that the Senator from Wyoming [Mr. WALLOP] is necessarily absent.

Mr. CRANSTON. I announce that the Senator from Montana [Mr. BAUCUS] and the Senator from Georgia [Mr. NUNN] are necessarily absent.

I further announce that the Senator from Hawaii [Mr. INOUYE] is absent on official business.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who wish to vote?

The result was announced—yeas 51, nays 45, as follows:

[Rollcall Vote No. 5 Leg.]

YEAS—51

Armstrong	Gramm	McClure
Bingaman	Grassley	Murkowski
Boren	Hatch	Nickles
Chafee	Hatfield	Packwood
Cochran	Hawkins	Pryor
Cohen	Hecht	Quayle
Danforth	Heflin	Roth
Denton	Helms	Rudman
Dole	Hollings	Simpson
Domenici	Humphrey	Stennis
Durenberger	Kassebaum	Stevens
Eagleton	Kasten	Symms
East	Laxalt	Thurmond
Evans	Long	Trible
Garn	Lugar	Warner
Goldwater	Matsunaga	Weicker
Gorton	Mattingly	Wilson

NAYS—45

Abdnor	Exon	Melcher
Andrews	Ford	Metzenbaum
Bentsen	Glenn	Mitchell
Biden	Gore	Moynihan
Boschwitz	Harkin	Pell
Bradley	Hart	Pressler
Bumpers	Heinz	Proxmire
Burdick	Johnston	Riegle
Byrd	Kennedy	Rockefeller
Chiles	Kerry	Sarbanes
Cranston	Lautenberg	Sasser
D'Amato	Leahy	Simon
DeConcini	Levin	Specter
Dixon	Mathias	Stafford
Dodd	McConnell	Zorinsky

NOT VOTING—4

Baucus	Nunn
Inouye	Wallop

So the motion to lay on the table amendment No. 1570 was agreed to.

Mr. DANFORTH. Mr. President, I move to reconsider the vote by which the motion was agreed to.

Mr. METZENBAUM. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. METZENBAUM. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment is not in order.

Mr. METZENBAUM. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

Mr. PRESSLER. Before that, may I ask, Mr. President, what is the pending business? I do not want to hold things up here at all but——

The PRESIDING OFFICER. The Senator from Ohio is asked to withhold.

Mr. PRESSLER. If it was the intention of the Senator from Ohio to offer an amendment that has no relationship to mine, I would not object. I would like to ask unanimous consent to delay consideration of my amendment until 2:15.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

AMENDMENT NO. 1572

Purpose: To direct the Secretary of Transportation to solicit and consider new sealed, competitive bids for the purchase of the interest of the U.S. in the common stock of Conrail.)

Mr. METZENBAUM. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Ohio [Mr. METZENBAUM] proposes an amendment numbered 1572.

Mr. METZENBAUM. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

In lieu of the language proposed to be inserted, insert the following: That this Act may be cited as the "Conrail Sale Act of 1985".

SEC. 2. (a) As soon as is practical, the Secretary shall solicit and consider new, sealed, competitive bids for the purchase of the common stock of Conrail. The specifications for such bids shall be sufficiently detailed so as to asure sufficient information and data for use by the Secretary in considering among others, matters such as the use of money and other assets of Conrail; the source of cash payment for such common stock; and the protection of the rights and benefits of the current employees of Conrail.

(b) One hundred eighty days following the date on which the Secretary solicits bids under subsection (a) of this Section, the Secretary shall report to Congress the results of such solicitation.

Mr. METZENBAUM. Mr. President, this amendment is very simple, very direct. It directs the Secretary of Transportation to solicit new bids for the sale of Conrail.

Conrail today is a very substantial Government asset. In 1981, it earned $39 million; in 1982, it earned $174 million; in 1983, it earned $313 million; and in 1984, it earned $500 million; and in 1985, it earned $440 million. It is probably one of the few instrumentalities of Government that has money in the bank, surplus money.

It has $915 million in the bank. It has so much money in the bank that even in the deal for Norfolk Southern to acquire it, there is a stipulation that anything in excess of $800 million that it has shall redound to the benefit of the Government.

The U.S. Railway Association, Conrail's independent banker, says that

"Conrail's viability as an independent entity is reasonably assured."

Conrail, in other words, is a very substantial going concern.

Norfolk Southern is not the only company that has expressed an interest in purchasing Conrail. We now have two additional offers on the table. Let us compare all three.

In return for Conrail, Norfolk Southern would pay the Government $1.2 billion. But at the same time, Norfolk Southern would be able to depreciate Conrail's $3.5 billion of assets.

In addition, Norfolk Southern would not have to pay interest and dividends that Conrail, under Federal ownership, would have to begin paying the Government in 1988.

Present projections are that if Conrail remained in the Government's hands, Conrail would repay the Government about $800 million between 1988 and 1989—almost $300 million a year.

According to the Congressional Budget Office, the interest and dividend loss would be slightly less than $300 million each year, totaling approximately $0.8 billion from 1988 through 1990.

CBO also estimated "revenue losses to the Federal Government of approximately $100 million annually from 1987 through 1990, as a result of a sale to Norfolk Southern."

As a result, the Government will not gain 1 cent from Norfolk Southern in return for Conrail.

With respect to the Morgan Stanley offer, that group is now willing to pay $1.4 billion for Conrail. That is $200 million more than the Norfolk Southern offer.

For the life of me, I do not understand why anybody in this body who is so much in favor of the Norfolk Southern offer is so indifferent to that additional $200 million. If you wanted to sell it to Norfolk Southern—which I would not support—but if you did I would think that you would say to them, "We expect you to pony up that additional $200 million, at least to equal the bid of Morgan Stanley.

In addition to the loss of that $200 million, the Department of the Treasury indicated in its letter of January 23, 1986, to Senator DANFORTH, that the sale of Conrail to the Morgan Stanley group would result in a net revenue gain to the Treasury of $24 million.

The fact is that the word is beginning to get out that Conrail is a pretty good deal after all. No; I want to change that. The sale of Conrail to Norfolk Southern is probably one of the best business deals that have been talked about or have been present before the U.S. Congress in many a year, and it is probably one of the best business deals that has ever been made, if and when it is permitted to go forward.

Now we have a third offer on the table. The Allen Co., working with the First Boston group, recently submitted a proposal to purchase Conrail for $1.64 billion—nearly a half billion more than Norfolk Southern.

I am not going to stand on the floor of the U.S. Senate and comment on the relative merits of Morgan Stanley or the Allen offer. I know that $200 million is money, and I know that $440 million, which is the Allen/First Boston figure, is a lot of money. But there is absolutely no question in my mind that we can get a better deal for Conrail than that which we have from Norfolk Southern. There is absolutely no reason why we should not attempt to get a better deal.

This amendment simply seeks to ensure that Conrail is sold to the private sector in accordance with current law.

The Northeast Rail Service Act of 1981 directed the Secretary of Transportation to develop a plan for the sale of Conrail that would promote competitive bidding and that would maximize the return to the United States on its investment.

The fact is that no such competitive bidding occurred, and the fact is that the Government is not maximizing its return. The Government has $7 billion in this deal—$7 billion. It is making $440 million. It has $950 million in the bank. And what are we doing? We are really going headlong, fighting, pushing, shoving, doing whatever is necessary, to make this sale become a reality to Norfolk Southern. I think it is bad business for the U.S. Government.

The Department of Transportation and its investment banker, Goldman Sachs, simply took the first offer they received for Conrail, which was $1 billion, from the Allegheny Corp., and publicly announced that the offer was within the range of reasonable compensation.

I never heard anything more absurd in my life. I never heard of such a preposterous way to conduct business. I am trying to say that I am quite shocked that Goldman Sachs, which is certainly a respected, knowledgeable, and reputable banking firm, would take the $1 billion offer, go public with it, and say that it was within the range of reasonable compensation. It obviously is not within the range of reasonable compensation, because we know that $400 million more is being offered by Morgan Stanley. We know that $640 million more is being offered by First Boston-Allen, and we do not know how much more could be obtained if competitive bids were taken.

Why in the world do those who come on the floor and talk about competitive bidding with respect to procurement for the Department of Defense and other arms of Government shy away from the same procedure as pertains to sealed competitive bids when we are talking about selling one of the Government's most valuable assets?

The quotation about it being within the range of reasonable compensation was confirmed as accurate by Federal Railroad Administration Deputy Administrator James Rooney, in his testimony before the Senate Judiciary Committee on April 2, 1985.

In other words, the entire bid process was prejudiced from the very start. Any other company that may have been about to make an offer knew then that Conrail could be purchased for about $1 billion.

If another company had been looking at the deal and if they went to their board and said, "Look, I think this is a great opportunity; I think we should make an offer at $2 billion," the board or the stockholders would have thought they had lost their marbles. They would have said, "Are you out of your head? When they are already saying that the billion dollar offer is within range, you want to come in with a $2 billion offer?"

Why would they not get closed, sealed, competitive bids? Sure, some higher bids came in, but they were highly leveraged and involved paying the Government with its own money. That, in itself, proves the point that Conrail is a very substantial asset.

Mr. President, the intent of this amendment is to introduce a proper bid procedure. It would direct the Secretary to solicit new sealed bids specifying how the purchaser would pay for the railroad, how it would treat Conrail's cash and other assets, and what steps would be taken to protect the rights of Conrail's employees.

I have no problem and I believe the way those sealed bids should be obtained is for the Secretary of Transportation to spell out all of the terms and conditions that are applicable with respect to the bid so that everyone bids on the same basis, so that everyone is obligated to the same commitments, so that everyone knows what the contract terms are going to be and they cannot just say, "Well, give us just a potpourri of bids, come in with any kind of bid that you want and we will then take a look at them." You ought to be able to compare apples with apples and oranges with oranges, but what was done in this case was they were comparing apples with watermelons, and that is no way to conduct Government business.

In the interest of protecting the taxpayers' $7 billion investment in Conrail, I urge my colleagues to support the amendment.

Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

Mr. METZENBAUM. Mr. President, without making a precedent I ask

unanimous consent that the yeas and nays be ordered notwithstanding the fact there was not a sufficient second.

Mr. DANFORTH. Mr. President, I have to object to that.

The PRESIDING OFFICER. Objection is heard.

Mr. METZENBAUM. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. METZENBAUM. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. METZENBAUM. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. DANFORTH. Mr. President, what this amendment does, of course, is to go back to square one and open up a whole new bidding process.

I ask Senators to reflect on the question how many bids are we going to get. I mean, we have had a bidding process and 15 bids were submitted, with countless, countless man-years, countless millions of dollars worth of time and money spent on preparing bids to be submitted in good faith in a bidding competition, and then we say submit more bids.

Mr. President, if we agree to this amendment no one is ever going to bid for anything again that the Federal Government wants to sell.

I move to table the amendment and ask for the yeas and nays.

Mr. METZENBAUM. Will the manager yield for a minute?

Mr. DANFORTH. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. DANFORTH. Mr. President, I ask unanimous consent that the Senator from Ohio be allowed to proceed for 1 minute.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. METZENBAUM. I thank the Senator from Missouri.

Mr. President, I just want to say that should this matter be sent back to the Department of Transportation and should the Department of Transportation then take sealed bids and then come back to the Senate with the award to the highest bidder after having taken those competitive bids, I want to make the public assurance that I would not then see fit to battle the matter on the floor.

I would then think that the Government had acted properly and there would not be any delay or further debate as far as this Senator is concerned.

The PRESIDING OFFICER. The question is on agreeing to the motion to lay on the table the amendment of the Senator from Ohio.

On this motion, the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. SIMPSON. I announce that the Senator from Wyoming [Mr. WALLOP] is necessarily absent.

Mr. CRANSTON. I announce that the Senator from Montana [Mr. BAUCUS] and the Senator from Georgia [Mr. NUNN] are necessarily absent.

I further announce that the Senator from Hawaii [Mr. INOUYE] is absent on official business.

The PRESIDING OFFICER (Mr. HECHT). Are there any other Senators in the Chamber who wish to vote?

The result was announced—yeas 64, nays 32, as follows:

[Rollcall Vote No. 6 Leg.]

YEAS—64

Abdnor	Evans	Matsunaga
Armstrong	Garn	Mattingly
Bentsen	Goldwater	McClure
Biden	Gore	Mitchell
Bingaman	Gorton	Murkowski
Boren	Gramm	Nickles
Boschwitz	Grassley	Packwood
Bumpers	Hatch	Pryor
Chafee	Hatfield	Quayle
Chiles	Hawkins	Roth
Cochran	Hecht	Rudman
Cohen	Helms	Simpson
D'Amato	Hollings	Stennis
Danforth	Humphrey	Stevens
DeConcini	Kassebaum	Symms
Denton	Kasten	Thurmond
Dodd	Kennedy	Trible
Dole	Kerry	Warner
Domenici	Laxalt	Weicker
Durenberger	Leahy	Wilson
Eagleton	Long	
East	Lugar	

NAYS—32

Andrews	Heflin	Pressler
Bradley	Heinz	Proxmire
Burdick	Johnston	Riegle
Byrd	Lautenberg	Rockefeller
Cranston	Levin	Sarbanes
Dixon	Mathias	Sasser
Exon	McConnell	Simon
Ford	Melcher	Specter
Glenn	Metzenbaum	Stafford
Harkin	Moynihan	Zorinsky
Hart	Pell	

NOT VOTING—4

Baucus	Nunn
Inouye	Wallop

So the motion to lay on the table was agreed to.

Mr. DANFORTH. Mr. President, I move to reconsider the vote by which the motion to table was agreed to.

Mr. HOLLINGS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. HEINZ. Mr. President, I take this time to speak against the cloture motion which we are going to vote on at 3 o'clock today. I do so to bring to the attention of the Senate certain facts, and to urge our colleagues, Mr. President, to reject at least for now the imposition of cloture on this legislation.

It has always troubled me generally when anybody files a cloture motion on the very minute a bill hits the floor. It has traditionally been the custom of the Senate to permit full debate, and then if it was the judgment of the leadership or of a substantial number of Senators that the debate was irrelevant, nongermane, or proceeding simply for the purpose of delay in the face of the will of the Senate to proceed, at that point a cloture motion would be filed, and we would proceed to vote on it.

In the case of this legislation, on the day we took up the bill in earnest on Tuesday, we were supposed to debate the billon Tuesday, and because of the tragedy of the space shuttle there was no debate. The leader sent a cloture motion to the desk, and that was it. Here we are voting on cloture at 3 p.m. today, just a little over 2 days after that motion was filed.

I have amendments that I want to offer. They are serious amendments. They deserve debate. They really ought to be considered not under the limitations of Postcloture where I am going to be limited to 1 hour. I do not seek to filibuster this bill, however, I might end up using every trick in the trade if I do not have proper opportunity to get my amendments considered, and properly debated. I can file—indeed I have filed a lot of amendments.

I have no wish at this point to engage in a battle of tactical wits with my colleagues who are involved in this legislation. But make no mistake: If we are going to have debate prematurely brought to a close and thereby deny the thoughtful consideration of germane amendments, or even nongermane amendments, which are relevant to the bill, then if those opportunities are foreclosed, Mr. President, I am prepared to use every legitimate parliamentary device to keep everybody here right through the weekend and beyond, if necessary.

For the record, I just want people to understand exactly what we have been able to do. The burden, when it comes to whether or not cloture should be invoked here in the Senate, is a burden of proof that rests with the people who have filed the cloture motion and seek to terminate debate.

The proof that is necessary is that the Senate is not proceeding deliberately and with purpose to a conclusion.

Mr. President, we have not had the time to proceed deliberately and with purpose to a conclusion.

I just checked with the Parliamentarian at the desk right in front of you, Mr. President, and this Senate has not been inactive on the Conrail bill.

We have been on the bill. I am not talking about any of the skirmishing on the motion to proceed, during which I talked a total of 1 minute. As of 2 p.m. today, we have been on this bill a maximum of 14 hours and 20 minutes. That includes quorum calls, votes, debate, and the reading of amendments a maximum of 14 hours and 20 minutes. Two days of honest work minus about 1 hour and 40 minutes.

We have considered a total of five amendments. We are not through voting on those five. One of them, probably the major amendment considered so far, Senator SPECTER's amendment regarding the Morgan Stanley offer, had 12 speakers on it, who wanted to debate that amendment. It is not an excessive number. Nobody spoke for an excessive amount of time.

The Dixon antitrust amendment also clearly was an important amendment. There were 10 speakers on that amendment, not an excessive number.

Senator LAUTENBERG's amendment, with only two or three speakers, had about 1 hour of time.

So far we are proceeding with Senator PRESSLER's amendment. We have had an amendment to it which took 15 minutes, Senator METZENBAUM's amendment, with two speakers.

Senator DANFORTH, who is managing the bill, had an amendment with seven speakers on it.

Mr. President, this is not a filibuster. We are trying to go about the work of the Senate in an orderly way. The record proves it. But a very good way to have a filibuster—and the rules on postcloture filibusters are, as we know, fairly flexible—is to have this cloture motion jammed down the Senate's throat. The best thing that could happen to those people who are proponents of this legislation, if they want to get a bill—and hopefully it is not identical to the bill that we have before us—is that they do not succeed with this cloture motion. Indeed, they would be well advised to vote against it.

I have some amendments that ought to be considered. There are other meritorious amendments. We do not want to be disadvantaged by gagging the Senate prematurely, unfairly and unnecessarily, simply because some people have some planes to catch on Friday or Saturday to get out of here.

Mr. President, I yield the floor.

Mr. METZENBAUM. Mr. President, the Senator from Pennsylvania, and I appreciate his subsequent comment, brought up this matter. I want to make clear we have done nothing unusual in this matter except to use the ordinary procedures of the Senate, to bring out the issues as to the manner in which bids were received, as to the failure to conform with the antitrust laws of this country, and as to the fairness and equity of the entire proposition. We have not had an opportunity nor enough time to be able to discuss the matters in their entirety nor to call up their amendments. We have had no choice under the circumstances.

Let us recognize what happened. Immediately upon the substitutes being offered, immediately, a very unusual procedure was involved. The majority leader laid down a cloture petition. That is not the normal way to use cloture. Cloture normally occurs, or there is an effort to obtain cloture, after there has been an extended debate and when the manager of the bill wants to bring the matter to a conclusion.

What we have before us now is a new procedure. I say it is that procedure that creates the problem. It is the fact that immediately upon laying down the substitute bill, at that very moment, the leadership laid down a cloture petition. Therefore, it meant that we had a limited time. We unfortunately had to go out of session on Tuesday and had no opportunity on Tuesday to act. We were limited to acting only on Wednesday and then a few hours today, on Thursday.

That means that many of us who have amendments that we would like to call up had to be certain that those amendments were in order in order that we could call them up postcloture. But there has been no evidence whatsoever as of this moment that there is any filibuster, that there is anything other than the usual procedure except the procedures that have been used by the managers of the bill. It is they who filed a cloture motion immediately upon filing the substitute bill.

Yes, indeed; I have some amendments to call up postcloture, but it is because they did not give me an opportunity to call them up prior to cloture. I called one up this morning. I tried to get one added onto Senator PRESSLER's amendment, then found I had an opportunity to call it up independently.

At this point, Mr. President, I withdraw the amendment to the Pressler amendment.

The amendment (No. 1569) was withdrawn.

Mr. METZENBAUM. Mr. President, I want to make it clear that the reason we are going to have some amendments postcloture is that we did not have a chance to call them up prior to cloture. In one-half hour, we will have the vote on the cloture motion.

There have been other Senators here today trying to get recognized in order that they might call up their amendments. At this moment, nobody can call up an amendment and get any adequate time for debate because the amendment of the Senator from South Dakota is the pending business. That matter is to be acted upon either at 2:15 or 2:30 or something of the kind. At 3 o'clock, we go into the cloture vote. So there will be some postcloture amendments, but it will not be in an effort just to extend the debate for time purposes only, but in order to make it clear to the American people and to Members of the Senate what this issue is all about and to give them an opportunity to correct some problems that exist.

Shortly after the cloture vote, I intend to call up an amendment having to do with the whole matter of treating the employees, because I think the employees have been treated very shamefully under the memorandum of agreement. I shall discuss that further after the cloture motion, because there is not adequate time to discuss it at the present moment.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DANFORTH. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 1438

Mr. DANFORTH. Mr. President, what is the pending business?

The PRESIDING OFFICER. Amendment No. 1438 by the Senator from South Dakota is the pending business.

Mr. PRESSLER. Mr. President, I ask unanimous consent to withdraw my amendment and send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The Senator has the right to withdraw his amendment.

The amendment (No. 1438) was withdrawn.

AMENDMENT NO. 1582, AS MODIFIED

(Purpose: To provide protection to regional carriers against unfair or destructive competitive practices)

Mr. PRESSLER. I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will state the amendment.

The assistant legislative clerk read as follows:

The Senator from South Dakota (Mr. PRESSLER) proposes an amendment numbered 1582.

Insert a new Section 304 as follows after Section 303 and renumber Sections 304 through 306 as Sections 305 through 307:

"SEC. 304. Subtitle IV of title 49, United States Code, is amended by inserting a new section 10735 as follows:

"SEC. 10735. REGIONAL RAILROAD GATEWAY PROTECTION

(a) For purposes of this section, unless the context requires otherwise:

(i) "Affected Carrier Routing(s)" means the freight route(s) of a Midwest Regional

Carrier designated by the Interstate Commerce Commission under subsection (c) of this section pursuant to a finding under subsection (b) of this section as the route(s) from which the relevant diversions have occurred;

(ii) "Base Revenues" means the total railroad freight revenues a railroad collected during the last full calendar year prior to the enactment of the Conrail Sale Amendments Act of 1985 multiplied by a fraction the numerator of which is the United States Bureau of Labor Statistics, Consumer Price Index for Urban Wage Earners and Clerical Workers, all items (1967=100) for 1986 and the denominator of which is the United States Bureau of Labor Statistics, Consumer Price Index for Urban Wage Earners and Clerical Workers, all items (1967=100) for the year concerning which a complaint is brought under this section;

(iii) "Exempt Joint Rate" means a transportation charge for deregulated railroad freight traffic specified in an agreement to which both a Midwest Regional Carrier and Norfolk Southern/Conrail are parties;

(iv) "Midwest Regional Carrier" means a Class I rail carrier: (A) not affiliated with or operated as a part of another United States Class I rail carrier, (B) the total freight revenues of which do not exceed 3.6 percent of total United States rail freight revenues, and (C) principal freight routes of which connect its service territory with the Chicago Terminal District;

(v) "New tariff joint rate" or "new exempt joint rate" means any tariff joint rate which is created through selective rate adjustments, excluding general rate increases or decreases;

(vi) "Norfolk Southern/Conrail" means the Norfolk Southern Corporation, its rail affiliates, and the Consolidated Rail Corporation;

(vii) "Shortline railroad" means a rail carrier which, together with any affiliates, earned rail operating revenues of less than $90,000,000 in 1984;

(viii) "Tariff joint rate" means a rate on regulated railroad freight traffic on file with the Interstate Commerce Commission to which tariff rate both a Midwest Regional Carrier and Norfolk Southern/Conrail are parties; and

(ix) "Through revenues" mean the entire transportation charge exclusive of any lawful agreement any party may have for refund or discount of charges to shippers.

(b) Upon receipt of a complaint from a Midwest Regional Carrier prior to the tenth anniversary of the date enactment of the Conrail Sale Amendments Act of 1985, the Interstate Commerce Commission shall conduct a proceeding in which the complaining Midwest Regional Carrier shall have the burden of proving:

(i) that it suffered a cumulative diversion of its railroad freight revenues to Norfolk Southern/Conrail from the date the sale of the interest of the United States in the common stock of the Consolidated Rail Corporation to Norfolk Southern Corporation is consummated through the date the complaint is filed in excess of three and one-half percent of its Base Revenues;

(ii) that the diversion of railroad freight revenues referred to in paragraph (b)(1) of this section resulted from an unfair or destructive competitive practice (or practices) of Norfolk Southern/Conrail and not from fair and effective competition from Norfolk Southern/Conrail that benefits shippers and consumers, such as superior service or lawful lower rates; and

(iii) that the diversion of railroad freight revenues referred to in paragraph (b)(i) of this section did or will result in a loss of essential railroad freight services.

(c) If the Interstate Commerce Commission finds that, in a proceeding conducted under this section, the criteria set forth in subsection (b) of this section have been met, the Interstate Commerce Commission shall, in every case, designate Affected Carrier Routings and cause Norfolk Southern/Conrail to maintain, keep in effect, or concur in the establishment or re-establishment of tariff joint rates or exempt joint rates via such Affected Carrier Routings as follows:

(i) Norfolk Southern/Conrail tariff joint rates and exempt joint rates via Affected Carrier Routings (A) in existence on the date the sale of the interest of the United States in the common stock of the Consolidated Rail Corporation to Norfolk Southern Corporation is consummated, (B) applicable to traffic moving between origins and destinations on Norfolk Southern/Conrail and shortline railroads connecting with it and origins and destinations on the Affected Carrier Routing, shortline railroads connecting with it, and connecting lines beyond it, and (C) applicable to traffic moving via Chicago, shall be maintained or restored and shall remain in effect: *Provided, however,* That either Norfolk Southern/Conrail or the Midwest Regional Carrier, or both, may take any or all Rail Carrier Cost Recovery increases in tariff joint rates, or increases in rates according to another index agreed upon between them, or, in the case of exempt joint rates, either may increase its share of through revenue as may be necessary to maintain the ratio of Norfolk Southern/Conrail's share of through revenues to the Midwest Regional Carrier's share of through revenue on the Affected Carrier Routing that exists on the date the sale of the interest of the United States in the common stock of the Consolidated Rail Corporation to Norfolk Southern Corporation is consummated.

(ii) Whenever Norfolk Southern/Conrail establishes a new traiff joint rate or exempt joint rate on traffic moving between origins and destinations on Norfolk Southern/Conrail and origins and distinations on an Affected Carrier Routing, shortline railroads connecting to it, and connecting lines beyond it, Norfolk Southern/Conrail shall concur in the application of the same tariff joint rate or exempt joint rate via Norfolk Southern/Conrail—Chicago—Affected Carrier Routing between the same origin and destination points: *Provided, however,* That the actual mileage traversed via Norfolk Southern/Conrail—Chicago—Affected Carrier Routing shall not exceed 110 percent of the mileage traversed by the routing cited by the new tariff joint rate or exempt joint rate established by Norfolk Southern/Conrail.

(iii) Revenues from traffic on routes governed by paragraph (c)(ii) of this section shall be divided among the carriers according to the standard divisions of railroad revenue customarily applicable to such routes.

(iv) On routes governed by paragraph (c)(ii) of this section, either Norfolk Southern/Conrail or the Midwest Regional Carrier, or both, may take any or all Rail Carrier Cost Recovery increases in tariff joint rates, or increases in rates according to another index agreed upon between them, or, in the case of exempt joint rates, either may increase its share of through revenue as may be necessary to maintain the ratio of Norfolk Southern/Conrail's share of through revenues to the Midwest Regional Carrier's share of through revenue on the Affected Carrier Routing that exists on the date the sale of the Consolidated Rail Corporation to Norfolk Southern Corporation is consummated.

(v) Nothing in this section or Subtitle IV of title 49, United States Code, shall require Norfolk Southern/Conrail or any Midwest Regional Carrier to maintain any tariff joint rate or any Affected Carrier Routing established or re-established under this section beyond the fifteenth anniversary of the date of enactment of the Conrail Sale Amendments Act of 1985.

(d) The Interstate Commerce Commission shall expedite consideration of any complaint filed under this section. The Interstate Commerce Commission shall conclude evidentiary proceedings by the end of the fourth month after the filing of such complaint. The Interstate Commerce Commission shall issue a final decision by the end of the sixth month after the filing of such complaint.

(e) Nothing in this section shall require Norfolk Southern/Conrail to participate in a rate which causes Norfolk Southern/Conrail to receive revenues lower than 110 percent of its variable cost for performing its part of the service as calculated by using Interstate Commerce Commission Rail Form A.

(f) Nothing in this section shall preclude either Norfolk Southern/Conrail or any Midwest Regional Carrier from entering into otherwise lawful refund or discount arrangements with shippers singly or collectively with respect to any railroad traffic subject to this section.

(g) Nothing in this section shall preclude either Norfolk Southern/Conrail or any Midwest Regional Carrier from seeking under this Subtitle or other proper legal authority to discontinue its operations over or to abandon service over particular lines.

(h) The Interstate Commerce Commission shall not suspend any rate or tariff or any railroad during the pendency of any proceeding under this section.

(i) Nothing in this section shall invalidate or supercede, in whole or in part, any traffic protective agreement Norfolk Southern/Conrail has entered into or enters into with any other railroad.' "

Mr. PRESSLER. Mr. President, we have been negotiating with the Department of Transportation throughout the morning and into this afternoon on a compromise amendment. We have worked out an agreement on an amendment that is not totally satisfactory to me. We have had a very lengthy and useful negotiation with the Department of Transportation by which I think, in the House and during the conference, we can regain the full thrust of the purpose of my initial amendment.

We are still negotiating over a few minor word changes and some other details, but I believe I am prepared to offer this compromise with the clear understanding that this is a beginning of a process which is intended to lead to legislation which truly addresses the concerns of the midwestern and other regional carriers.

Because of the sheer lack of time needed to carefully draft and evaluate

the substantive provisions of this type of legislation, I would be the first to admit that the amendment I am offering is anywhere close to perfect, and it is very doubtful whether it will adequately address all the concerns of the affected railroads.

I should stress here that I have not had the opportunity to evaluate the effect of this compromise regional railroad amendment.

The regional railroads with which I have been working, namely the Chicago North Western, Illinois Central Gulf, and Grand Trunk have not seen this proposed amendment. And so I do not know whether it is acceptable to regional railroads who stand to suffer from traffic diversions.

However, I accept the good intentions of the Department of Transportation to continue working with us on an ongoing basis to come up with an agreement acceptable to all. So I am proposing it as the base line from which I will attempt to build a framework of protection for regional railroads, and I do so with some reservation. My offering this amendment is very much based on my perception of the Department of Transportation's good faith commitment to continue working to perfect this amendment in such a way that it truly addresses the regional railroads' concerns. These railroads will have a significant amount of input as we go forward with this process.

The one real concern I do have about offering this compromise is that I am certain that Norfolk Southern and others will use it to argue that the regional railroad issue is now taken care of. Let me state most emphatically that this is not the case. It does not solve the problem of the midwest and other regional railroads. We have a long way to go and I look forward to working with the Department of Transportation on this issue rather than continuing to do battle with them.

I am pleased the Department has recognized the problem. After today, we can go forward in addressing it completely.

I thank Senator DOLE, Senator DANFORTH, and others who have worked with me on this. I have spoken at length of what my goals are.

I think the talks we had with the Department were useful, and I think that during the conference, on which I hope to serve, we will find it useful. I shall not seek a rollcall vote on this if this amendment is agreeable with both sides.

I thank the chairman of the Committee on Commerce, who, I believe, has agreed with this amendment.

Mr. DANFORTH. Mr. President, let me say that throughout the lengthy deliberations in the Commerce Committee, the Senator from South Dakota has been intrepid in his efforts to provide some degree of assurance that other railroads, particularly in the Northwestern part of our country, will not suffer from diversion. He has insisted that the Commerce Committee address this matter. He has insisted that we hold hearings. He has discussed at some length with me and with members of the Commerce Committee staff what steps could be taken to try to assure some measure of protection for these railroads. He has prepared an amendment which he offered earlier today. That amendment, which dealt with diversion and which gave certain continuing powers to the ICC, I thought, was a bad amendment. It was one that would have, I believe, put the Norfolk Southern constantly before the ICC in protracted cases. This amendment, however, I think, is far more reasonable. As far as this Senator is concerned, I am prepared to support it.

The amendment, Mr. President, would allow for the protection of through routes that Midwestern railroads now have with Norfolk Southern. The new amendment would not have, in my view, the same anticompetitive effects as the original one, so I am prepared to support this amendment.

Mr. PRESSLER. Mr. President, I move the amendment.

Mr. HOLLINGS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. PRESSLER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PRESSLER. Mr. President, I shall move fairly quickly. First of all, there are just two or three word changes from our original compromise I earlier sent to the desk. I ask unanimous consent to send a modification of my amendment to the desk.

The PRESIDING OFFICER. The Senator has a right to modify his amendment.

The modification is as follows:

Insert a new Section 304 as follows after Section 303 and renumber Sections 304 through 306 as Sections 305 through 397:

SEC. 304. Subtitle IV of title 49, United States Code, is amended by inserting a new section 10735 as follows:

SEC. 10735. REGIONAL RAILROAD GATEWAY PROTECTION.

(a) For purposes of this section, unless the context requires otherwise:

(i) "Affected Carrier Routing(s)" means the freight route(s) of a Midwest Regional Carrier designated by the Interstate Commerce Commission under subsection (c) of this section pursuant to a finding under subsection (b) of this section as the route(s) from which the relevant diversions have occurred;

(ii) "Base Revenues" means the total railroad freight revenues a railroad collected during the last full calendar year prior to the enactment of the Conrail Sale Amendments Act of 1985 multiplied by a fraction the numerator of which is the United States Bureau of Labor Statistics, Consumer Price Index for Urban Wage Earners and Clerical Workers, all items (1967=100) for 1986 and the denominator of which is the United States Bureau of Labor Statistics, Consumer Price Index for Urban Wage Earners and Clerical Workers, all items (1967=100) for the year concerning which a complaint is brought under this section;

(iii) "Exempt Joint Rate" means a transportation charge for deregulated railroad freight traffic specified in an agreement to which both a Midwest Regional Carrier and Norfolk Southern/Conrail are parties;

(iv) "Midwest Regional Carrier" means a Class I rail carrier: (A) not affiliated with or operated as a part of another United States Class I rail carrier, (B) the total freight revenues of which do not exceed 3.6 percent of total United States rail freight revenues, and (C) the principal freight routes of which connect its service territory with the Chicago Terminal District;

(v) "New tariff joint rate" or "new exempt joint rate" means any tariff joint rate which is created through selective rate adjustments, excluding general rate increases or decreases.

(vi) "Norfolk Southern/Conrail" means the Norfolk Southern Corporation, its rail affiliates, and the Consolidated Rail Corporation;

(vii) "Shortline railroad" means a rail carrier which, together with any affiliates, earned rail operating revenues of less than $90,000,000 in 1984;

(viii) "Tariff joint rate" means a rate on regulated railroad freight traffic on file with the Interstate Commerce Commission to which tariff rate both a Midwest Regional Carrier and Norfolk Southern/Conrail are parties; and

(ix) "Through revenues" mean the entire transportation charge exclusive of any lawful agreement any party may have for refund or discount of charges to shippers.

(b) Upon receipt of a complaint from a Midwest Regional Carrier prior to the tenth anniversary of the date enactment of the Conrail Sale Amendments Act of 1985, the Interstate Commerce Commission shall conduct a proceeding in which the complaining Midwest Regional Carrier, except with respect to product and geographic competition for which Norfolk Southern Conrail shall have the burden of proof, shall have the burden of proving:

(i) that it suffered a cumulative diversion of its railroad freight revenues to Norfolk Southern/Conrail from the date the sale of the interest of the United States in the common stock of the Consolidated Rail Corporation to Norfolk Southern Corporation is consummated through the date the complaint is filed in excess of three and one-half percent of its Base Revenues;

(ii) that the diversion of railroad freight revenues referred to in paragraph (b)(i) of this section resulted from an anti-competitive practice (or practices) of Norfolk Southern/Conrail and not from fair and effective competition from Norfolk Southern/Conrail that benefits shippers and consumers, such as superior service or lawful lower rates; and

(iii) that the diversion of railroad freight revenues referred to in paragraph (b)(i) of this section did or will result in a loss of essential railroad freight services.

(c) If the Interstate Commerce Commission finds that, in a proceeding conducted

under this section, the criteria set forth in subsection (b) of this section have been met, the Interstate Commerce Commission shall, in every case, designate Affected Carrier Routings and cause Norfolk Southern/Conrail to maintain, keep in effect, or concur in the establishment or re-establishment of tariff joint rates or exempt joint rates via such Affected Carrier Routings as follows:

(i) Norfolk Southern/Conrail tariff joint rates and exempt joint rates via Affected Carrier Routings (A) in existence on the date the sale of the interest of the United States in the common stock of the Consolidated Rail Corporation to Norfolk Southern Corporation is consummated, (B) applicable to traffic moving between origins and destinations on Norfolk Southern/Conrail and shortline railroads connecting with it and origins and destinations on the Affected Carrier Routing, shortline railroads connecting with it, and connecting lines beyond it, and (C) applicable to traffic moving via Chicago, shall be maintained or restored and shall remain in effect: *Provided, however,* That either Norfolk Southern/Conrail or the Midwest Regional Carrier, or both, may take any or all Rail Carrier Cost Recovery increases in tariff joint rates, or increases in rates according to another index agreed upon between them, or, in the case of exempt joint rates, either may increase its share of through revenue as may be necessary to maintain the ratio of Norfolk Southern/Conrail's share of through revenues to the Midwest Regional Carrier's share of through revenue on the Affected Carrier Routing that exists on the date the sale of the interest of the United States in the common stock of the Consolidated Rail Corporation to Norfolk Southern Corporation is consummated.

(ii) Whenever Norfolk Southern/Conrail establishes a new tariff joint rate or exempt joint rate on traffic moving between origins and destinations on Norfolk Southern/Conrail and origins and destinations on an Affected Carrier Routing, shortline railroads connecting to it, and connecting lines beyond it, Norfolk Southern/Conrail shall concur in the application of the same tariff joint rate or exempt joint rate via Norfolk Southern/Conrail—Chicago—Affected Carrier Routing between the same origin and destination points: *Provided, however,* That the actual mileage traversed via Norfolk Southern/Conrail—Chicago—Affected Carrier Routing shall not exceed 110 percent of the mileage traversed by the routing cited by the new tariff joint rate or exempt joint rate established by Norfolk Southern/Conrail.

(iii) Revenues from traffic on routes governed by paragraph (c)(ii) of this section shall be divided among the carriers according to the standard divisions of railroad revenue customarily applicable to such routes.

(iv) On routes governed by paragraph (c)(ii) of this section, either Norfolk Southern/Conrail or the Midwest Regional Carrier, or both, may take any or all Rail Carrier Cost Recovery increases in tariff joint rates, or increases in rates according to another index agreed upon between them, or, in the case of exempt joint rates, either may increase its share of through revenue as may be necessary to maintain a the ratio of Norfolk Southern/Conrail's share of through revenues to the Midwest Regional Carrier's share of through revenue on the Affected Carrier Routing that exists on the date the sale of the interest of the United States in the common stock of the Consolidated Rail Corporation to Norfolk Southern Corporation is consummated.

(v) Nothing in this section or Subtitle IV of title 49, United States Code, shall require Norfolk Southern/Conrail or any Midwest Regional Carrier to maintain any tariff joint rate or any Affected Carrier Routing established or re-established under this section beyond the fifteenth anniversary of the date of enactment of the Conrail Sale Amendments Act of 1985.

(d) The Interstate Commerce Commission shall expedite consideration of any complaint filed under this section. The Interstate Commerce Commission shall conclude evidentiary proceedings by the end of the fourth month after the filing of such complaint. The Interstate Commerce Commission shall issue a final decision by the end of the sixth month after the filing of such complaint.

(e) Nothing in this section shall require Norfolk Southern/Conrail to participate in a rate which causes Norfolk Southern/Conrail to receive revenues lower than 110 percent of its variable cost for performing its part of the service as calculated by using Interstate Commerce Commission Rail Form A.

(f) Nothing in this section shall preclude either Norfolk Southern/Conrail or any Midwest Regional Carrier from entering into otherwise lawful refund or discount arrangements with shippers singly or collectively with respect to any railroad traffic subject to this section.

(g) Nothing in this section shall preclude either Norfolk Southern/Conrail or any Midwest Regional Carrier from seeking under this Subtitle or other proper legal authority to discontinue its operations over or to abandon service over particular lines.

(h) The Interstate Commerce Commission shall not suspend any rate or tariff of any railroad during the pendency of any proceeding under this section.

(i) Nothing in this section shall invalidate or supercede, in whole or in part, any traffic protective agreement Norfolk Southern/Conrail has entered into or enters into with any other railroad.

(j) The Interstate Commerce Commission shall establish evidentiary standards sufficient to give petitioners a fair and reasonable opportunity to meet their burden of proof.

Mr. Pressler. Mr. President, there are three changes to our original compromise, which were as follows:

The change in subsection (b) is intended to shift the burden of proof to Norfolk Southern under certain circumstances.

The change in subsection (b)(ii) clarifies one element of causation needed to maintain a case before the ICC.

The addition of subsection (j) is intended to make it much easier than under the present ICC evidenciary and discovery rules for the petitioning railroad to obtain Norfolk Southern's cost data and other information needed to meet its burden of proof.

Mr. President, the regional railroads I have been working with, the Chicago Northwestern, Illinois Central Grand Trunk have not seen this proposed amendment. We have worked only with DOT. I thank them very much. I do not seek a rollcall vote. I do yield to Senator KASTEN, an original cosponsor, for any remarks he may have at this moment.

Mr. KASTEN. I thank the Senator for yielding.

Mr. President, the chairman, the ranking member, Senator PRESSLER and I have all been working together to try to deal with special problems which have affected the regional railroads, particularly the Chicago & Northwestern. I believe that this is a positive step. I appreciate the work of everyone involved. I am hopeful that we now can move forward and have eliminated a large number of objections and problems that are coming from the Chicago & Northwestern and various shippers in the Midwestern regions that are concerned.

I am pleased to be a consponsor of this amendment, and I have enjoyed working with the chairman, the ranking member, and others, as we have tried to work out this difficult problem.

Mr. President, I am convinced that adoption of this amendment will give the railroads and shippers in the Midwest the protection that they need in order to gurantee their gateway in Chicago as well as competition to the East.

As any Senator from the Midwest knows, the area's regional railroads are concerned that if Norfolk Southern acquires Conrail, these smaller railroads could dramatically suffer from heavy diversions of traffic. What these small railroads really want and need is gateway and rate protection. Although Secretary of Transportation Dole has received assurances on these matters from Norfolk Southern, the fears persist. Fortunately, this amendment provides these railroads with the necessary protection to dispel those fears.

The amendment does this: in the event that the railroads' worst fears should come true, the railroad in question must show that traffic has been diverted by Norfolk Southern through anticompetitive means instead of by fair competition beneficial to both shippers and consumers.

Those same railroads must show that these diversions have exceeded 3.5 percent of total revenues as well as showing that the diversions have affected the regional railroad's viability in a detrimental fashion.

Once damage has been proven, the regional railroads will receive what they have been seeking: preservation of the status quo on the affected lines' rates as well as the opportunity to take advantage of new lower rates on parallel routes. The Interstate Commerce Commission would also be directed to expedite its proceedings so that decisions as well as relief could be handled quickly.

Mr. President, as my colleagues can see, this amendment addresses the

paramount concerns of the Midwestern's regional railroads, especially those of the Chicago & Northwestern. No one wants to see Congress favoring one railroad over another. Both the Chicago & Northwestern and the Soo-Milwaukee have provided the shippers and consumers of Wisconsin with competitive rates and excellent service. I certainly do not want to see the service of either of these great railroads suffer as a result of this sale.

Mr. President, in the end, Norfolk Southern will be able to vigorously compete in the Midwest, the regional railroads will have the necessary protection against antirail competition, and most importantly, competitive rates and benefits to shippers and consumers will be enhanced making them the biggest winners of all.

Mr. PRESSLER. Mr. President, Let me reiterate that this amendment does not necessarily give the Midwestern railroads or shippers the full protection they need. It is intended only as a starting point. We have a long way to go. I move adoption of the amendment.

Mr. DANFORTH. Mr. President, as I have stated earlier, I accept the amendment. I do want to make it clear that Norfolk Southern does not agree with this amendment, but in the interest of moving the bill forward as we approach a cloture vote, I do accept it and I urge Senators to support it.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 1582, as modified), was agreed to.

Mr. DANFORTH. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. HOLLINGS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. HOLLINGS. Mr. President, pending the return of the distinguished chairman to the floor, I will make some remarks.

We did not like that amendment. The Senator from South Dakota believes it is innocuous. That was his word. He said it did not really force anything. Mr. Reilly of DOT worked it out with him. Norfolk Southern feels they should be permitted to negotiate.

That is the real concern we have—that we do not gain anything, we do not lose anything, we do not change the picture we have, just the opportunity to negotiate with those who have that right, and let the market forces operate.

Mr. DANFORTH. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. CHAFEE). The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DANFORTH. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SYMMS. Mr. President, I have two amendments that I would like to offer. The first one addresses the prevention of small and captive shippers from gaining critical information from the Interstate Commerce Commission. Access to this information is necessary to protect them from discrimination in the ratemaking process. While the law says such shippers may have this information if they suspect discrimination, a snarl of regulations poses an effective block to their getting it. My amendment would remove that block and restore fairness to the system.

The second amendment has to do with fairness as well. Under current law, railroads have at their disposal a number of tools to prevent any but railroad-owned cars from operating on railroad tracks. Several years ago, in the 1970's, there occurred a widespread shortage of railcars. Railroads could not or would not spend the money to accumulate the needed railcars and undertook a campaign to encourage shippers to buy or lease their own cars. Many shippers did just that to meet the demands of their customers and allow their business to grow. In the meantime the railroads, in the improved business environment brought about by the Staggers Act, began to accumulate more cars of their own until today a surplus exists. The railroads now are in a position to insist that shippers use railroad-owned cars, meaning shippers are forced to park their own cars. Mr. Buzz Fitzpatrick, Director of the U.S. Department of Agriculture's Department of Transportation Office, discussed this problem in a short article in October's Traffic World magazine. Calling the situation unfair, he said:

> There hasn't been an equitable arrangement overall * * *. Some railroads are more equitable than others but generally there hasn't been the equitable arrangement there should be.

My amendment would simply require the railroads to accept shipper-owned cars purchased or leased prior to 1980. This protects against what is becoming a monopoly over railcars by railroads and restores the equity Mr. Fitzpatrick suggests is missing.

Mr. DANFORTH. Will the Senator from Idaho yield for a question?

Mr. SYMMS. Certainly.

Mr. DANFORTH. I appreciate the concerns of my friend from Idaho, and recall that he testified on these same concerns recently in a hearing of the Surface Transportation Subcommittee of the Commerce Committee. These are issues that indeed should be considered. In fact, I am informed by Senator PACKWOOD, the chairman of the Surface Transportation Subcommittee, that his Subcommittee has scheduled a legislative hearing on the Staggers Act in the near future. I would suggest that this hearing would present an excellent forum in which to consider the Senator's amendments. Would the Senator consider withdrawing his amendments at this time in favor of bringing them up in the context of the upcoming hearing?

Mr. SYMMS. I thank my friend from Missouri for his support of my concerns. I am happy to hear of the upcoming action by the Commerce Committee on these issues. I will withdraw my amendments for the time being pending their being taken up by the Commerce Committee.

CLOTURE MOTION

The PRESIDING OFFICER. Under the previous order, the hour of 3 p.m. having arrived, the clerk will state the motion to invoke cloture.

The legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of Rule XXII of the Standing Rules of the Senate, hereby move to bring to a close debate on amendment No. 1437 to S. 638, a bill to amend the Regional Rail Reorganization Act of 1973 to provide for the transfer of ownership of the Consolidated Rail Corporation to the private sector, and for other purposes.

Strom Thurmond, Nancy Kassebaum, Paul Trible, Paul Laxalt, Ted Stevens, Mack Mattingly, Malcolm Wallop, John Danforth, James A. McClure, James Abdnor, Phil Gramm, Thad Cochran, Jesse Helms, Steve Symms, Al Simpson, Pete Domenici, and Don Nickles.

VOTE

The PRESIDING OFFICER. By unanimous consent, the quorum call has been waived.

The question is, Is it the sense of the Senate that debate on amendment 1437 shall be brought to a close?

The yeas and nays are automatic under the rule.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Montana [Mr. BAUCUS], and the Senator from Georgia [Mr. NUNN] are necessary absent.

I further announce that the Senator from Hawaii [Mr. INOUYE] is absent on official business.

I further announce that if present and voting, the Senator from Montana [Mr. BAUCUS] would vote "yea."

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The yeas and nays resulted—yeas 70, nays 27, as follows:

[Rollcall Vote No. 7 Leg.]

YEAS—70

Abdnor	Bentsen	Boren
Armstrong	Bingaman	Boschwitz

Bumpers	Grassley	Moynihan
Chafee	Hatch	Murkowski
Chiles	Hatfield	Nickles
Cochran	Hawkins	Packwood
Cohen	Hecht	Pell
Cranston	Helms	Pressler
D'Amato	Hollings	Pryor
Danforth	Humphrey	Quayle
DeConcini	Johnston	Rudman
Denton	Kassebaum	Sasser
Dixon	Kasten	Simpson
Dole	Kennedy	Stennis
Domenici	Kerry	Stevens
Durenberger	Laxalt	Symms
Eagleton	Leahy	Thurmond
East	Long	Trible
Evans	Lugar	Wallop
Garn	Matsunaga	Warner
Goldwater	Mattingly	Weicker
Gore	McClure	Wilson
Gorton	McConnell	
Gramm	Mitchell	

NAYS—27

Andrews	Harkin	Proxmire
Biden	Hart	Riegle
Bradley	Heflin	Rockefeller
Burdick	Heinz	Roth
Byrd	Lautenberg	Sarbanes
Dodd	Levin	Simon
Exon	Mathias	Specter
Ford	Melcher	Stafford
Glenn	Metzenbaum	Zorinsky

NOT VOTING—3

Baucus	Inouye	Nunn

The PRESIDING OFFICER. On this vote, the yeas are 70, the nays are 27. Three-fifths of the Senators duly chosen and sworn having voted in the affirmative, the motion is agreed to.

CONRAIL SALE AMENDMENTS ACT OF 1985

Mr. CRANSTON addressed the Chair.

The PRESIDING OFFICER. The Senator from California is recognized.

Mr. CRANSTON. Mr. President, under cloture, I transfer my 1 hour to the minority leader, Senator BYRD.

The PRESIDING OFFICER. Who seeks recognition?

Mr. METZENBAUM addressed the Chair.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. METZENBAUM. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. A quorum is present.

Mr. BYRD addressed the Chair.

The PRESIDING OFFICER. The minority leader is recognized.

Mr. BYRD. Mr. President, on my time I ask the distinguished majority leader what his plans are now for the afternoon and the evening, and tomorrow with respect to rollcall votes, especially with respect to tomorrow because of the memorial service that will be conducted in Texas.

Mr. DOLE. Mr. President, if the minority leader will yield, we would like very much to complete action on this bill. The vote is rather decisive. It is 70 to 27. We ought to go ahead, and complete action on the bill.

I know there are some germane amendments that will be offered. We intend to stay here as long as necessary this evening, and probably tomorrow. I do not know of any other choice.

If one or two Members want to keep us here, that is their option. We are prepared to go to final passage, and do it by 5 o'clock this afternoon, and not be in tomorrow.

I know there are some amendments that are germane, and will be offered. But I think a rather clear majority have spoken on this matter.

We would like to complete it.

Mr. BYRD. Mr. President, as far as I am concerned, we can vote now. But that is not my purpose in asking the distinguished majority leader, and I understand that he has to press on for final action on this matter. But there is a question which I hope the distinguished majority leader will answer, if he can.

In the event that we do not finish this measure today, does he intend to keep the Senate in tomorrow with rollcall votes? It is perfectly all right with me. I am going to be here anyway. As I say, we have had our shot.

As far as I am concerned, we invoked cloture, and I voted against cloture. So I have no problem.

I can vote right now on the rest of the amendments, and on final passage. But if we do not finish today, what can the Senators depend on on both sides of the aisle with respect to going to the memorial service tomorrow?

Will they miss rollcall votes here, or would the distinguished majority leader be able to tell us more after passage of a little more time this afternoon?

Mr. DOLE. Obviously, I want Senators to attend the memorial service. Many Senators' States are involved, and persons from their States are directly involved in this tragedy. If we can reach some agreement on a final vote, even as early as say next Tuesday, I would be prepared to say we would not be in tomorrow. But just to entertain one or two Members of the Senate or have them entertain us for the next 8 or 9 days does not appeal to me at all. If that is the case, I think we have to do what we can to bring this matter to a close.

I might be in a better position later on in the next 2 or 3 hours. There will be a plane available. It will not be a matter of catching an airplane tomorrow. It would be my hope we could complete action on this matter this week, and then take up TV in the Senate on Monday of next week. It may be that in a couple of hours I will be in a better position.

Mr. BYRD. Very well. I thank the majority leader.

The PRESIDING OFFICER. The question is on the substitute.

Mr. METZENBAUM addressed the Chair.

The PRESIDING OFFICER. The Senator from Ohio.

AMENDMENT NO. 1531

Mr. METZENBAUM. Mr. President, I call up amendment No. 1531, and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Ohio [Mr. METZENBAUM] proposes an amendment numbered 1531.

Mr. KENNEDY. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Is there objection?

Mr. METZENBAUM. I object.

The PRESIDING OFFICER. Objection is heard.

The bill clerk continued reading the amendment.

Mr. METZENBAUM. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Is there objection?

Mr. DOLE. I object.

The PRESIDING OFFICER. Objection is heard.

The bill clerk continued reading the amendment.

Mr. METZENBAUM. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

The amendment is as follows:

AMENDMENT NO. 1531

In lieu of the language proposed to be inserted, insert the following:

That this Act may be cited as the "Conrail Sale Amendments Act of 1985".

FINDINGS

SEC. 2. The Congress finds that—

(1) the Northeast Rail Service Act of 1981 (45 U.S.C. 1101 et seq.) provided for an orderly return of Conrail freight service to the private sector;

(2) the provisions of the Northeast Rail Service Act of 1981 were successful in removing Conrail's obligations beyond railroad freight service and in otherwise preparing Conrail for an orderly return to the private sector;

(3) acting under section 403 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 763), the Board of Directors of the United States Railway Association twice found Conrail to be a profitable corporation;

(4) acting under section 401 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 761), the Secretary engaged an investment banker and arranged, through open competitive bidding and negotiation, to sell the interest of the United States in the common stock of Conrail;

(5) the Secretary's Plan for the sale of Conrail provides for sale of the interest of the United States in the common stock of Conrail to Norfolk Southern Corporation;

(6) the Secretary found that sale of the interest of the United States in the common stock of Conrail to Norfolk Southern Corpo-

ration best meets the sale criteria of (A) leaving Conrail in the strongest financial position after the sale, (B) preserving patterns of service to shippers and communities in the region Conrail serves, and (C) maximizing return to the Federal Government consistent with the criteria specified in clauses (A) and (B);

(7) amendments to the Regional Rail Reorganization Act of 1973 (45 U.S.C. 701 et seq.) and related laws are needed to permit the sale of the interest of the United States in the common stock of Conrail to Norfolk Southern Corporation and to permit cancellation of the interest of the United States in Conrail debt and preferred stock; and

(8) the Secretary's Plan satisfies the requirements of the Northeast Rail Service Act of 1981, including the intent, goals, and objectives relating to the sale of the interest of the United States in the common stock of Conrail and the requirements of section 401(e) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 761(e)).

PURPOSE

SEC. 3. It is therefore declared to be the purpose of the Congress in this Act to return Conrail to the private sector by directing and facilitating implementation of the Secretary's Plan for the sale of the interest of the United States in the common stock of Conrail.

DEFINITIONS

SEC. 4. (a) In this Act, unless the context otherwise requires, the term—

(1) "Conrail" means the Consolidated Rail Corporation;

(2) "Definitive Agreements" means any and all agreements existing or to be developed between the United States and Norfolk Southern Corporation, including all representations and warranties made therein, to implement the Memorandum of Intent described in paragraph (4)(A);

(3) "Secretary" means the Secretary of Transportation; and

(4) "Secretary's Plan" means (A) the Memorandum of Intent between the United States and Norfolk Southern Corporation signed February 8, 1985, and (B) the divestitures by the Norfolk Southern Corporation of certain rail tracks, rights, and facilities, and any transactions or agreements related or incidental to such divestitures, in connection with the implementation of attachment A to the letter from the Department of Justice attached to the Memorandum of Intent as exhibit E.

(b) Section 102 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 702) is amended—

(1) by redesignating paragraphs (6) through (18) as paragraphs (7) through (19), and paragraphs (19) through (21) as paragraphs (21) through (23), respectively;

(2) by inserting after paragraph (5) the following paragraph:

"(6) 'Definitive Agreements' means any and all agreements existing or to be developed between the United States and Norfolk Southern Corporation, including all representations and warranties made therein, to implement the Memorandum of Intent described in paragraph (20)(A);"; and

(3) by inserting after paragraph (19), as so redesignated, the following paragraph:

"(20) 'Secretary's Plan' means (A) the Memorandum of Intent between the United States and Norfolk Southern Corporation signed February 8, 1985, and (B) the divestitures by the Norfolk Southern Corporation of certain rail tracks, rights, and facilities, and any transactions or agreements related or incidental to such divestitures, in connection with the implementation of attachment A to the letter from the Department of Justice attached to the Memorandum of Intent as exhibit E;".

(c) Section 1135(a) of the Northeast Rail Service Act of 1981 (45 U.S.C. 1104(a)) is amended—

(1) by redesignating paragraphs (6), (7), and (8) as paragraphs (7), (8), and (10), respectively;

(2) by inserting after paragraph (5) the following paragraph:

"(6) 'Definitive Agreements' means any and all agreements existing or to be developed between the United States and Norfolk Southern Corporation, including all representations and warranties made therein, to implement the Memorandum of Intent described in paragraph (9)(A);"; and

(3) by inserting after paragraph (8), as so redesignated, the following paragraph:

"(9) 'Secretary's Plan' means (A) the Memorandum of Intent between the United States and Norfolk Southern Corporation signed February 8, 1985, and (B) the divestitures by the Norfolk Southern Corporation of certain rail tracks, rights, and facilities, and any transactions or agreements related or incidental to such divestitures, in connection with the implementation of attachment A to the letter from the Department of Justice attached to the Memorandum of Intent as exhibit E;".

TITLE I—AMENDMENTS TO THE REGIONAL RAIL REORGANIZATION ACT OF 1973 AND THE NORTHEAST RAIL SERVICE ACT OF 1981

Subtitle A—Regional Rail Reorganization Act of 1973 Amendments

LIMIT ON AUTHORITY TO PURCHASE STOCK

SEC. 101. Section 216(b) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 726(b)) is amended by adding at the end thereof the following paragraph:

"(5) The authority of the Association to purchase debentures or series A preferred stock of the Corporation under this section shall terminate upon the consummation of the sale of the interest of the United States in the common stock of the Corporation under the terms of the Secretary's Plan.".

RESPONSIBILITY OF CONRAIL DIRECTORS

SEC. 102. Section 301(i) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 741(i)) is amended by inserting immediately after "required by law" the following: ", taken to implement the Secretary's Plan,".

APPLICABILITY OF REGIONAL RAIL REORGANIZATION ACT OF 1973 TO CONRAIL AFTER SALE

SEC. 103. Section 301 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 741) is amended by adding at the end thereof the following subsection:

"(k) GOVERNING PROVISIONS AFTER SALE.—The provisions of this Act shall not apply to the Corporation and to activities and other actions and responsibilities of the Corporation and its directors after consummation of the sale of the interest of the United States in the common stock of the Corporation under the terms of the Conrail Sale Amendments Act of 1985, other than with regard to—

"(1) section 102 of this Act;

"(2) section 201(d) of this Act;

"(3) section 203 of this Act, but only with respect to information relating to proceedings before the special court established under section 209(b);

"(4) section 216(f)(8) of this Act, but only as such authority applies to activities related to the employee stock ownership plan and related trusts prior to or in connection with consummation of the sale of the interest of the United States in the common stock of the Corporation, including activities related to the sale, exchange, valuation, or disposition of the assets of the employee stock ownership plan and related trusts, or of Conrail Equity Corporation, in connection with the Secretary's Plan;

"(5) sections 216(f)(11) and 216(f)(12) of this Act, as amended by the Conrail Sale Amendments Act of 1985;

"(6) section 217(e) of this Act;

"(7) subsection (i) of this section, but only as such authority applies to service as a director of the Corporation prior to consummation or in connection with implementation of the sale of the interest of the United States in the common stock of the Corporation;

"(8) section 305 of this Act, but only as to the effect, and continuing administration, of supplemental transactions consummated prior to consummation of the sale of the interest of the United States in the common stock of the Corporation;

"(9) section 308 of this Act, but only in abandonment actions when such authority has been relied on to file a notice or notices of insufficent revenues prior to consummation of the sale of the interest of the United States in the common stock of the Corporation;

"(10) section 401(a) of this Act, as amended by the Conrail Sale Amendments Act of 1985;

"(11) section 402 of this Act, as amended by the Conrail Sale Amendments Act of 1985;

"(12) section 408(c) of this Act, as amended by the Conrail Sale Amendments Act of 1985;

"(13) section 701 of this Act, but only as may be necessary to identify employees eligible for benefits under agreements entered into under such section;

"(14) section 702(e) of this Act;

"(15) section 704(b) of this Act;

"(16) section 709 of this Act;

"(17) section 710(b)(1) of this Act;

"(18) section 711 of this Act;

"(19) section 714 of this Act, but only with regard to disputes or controversies specified in such section that arose prior to consummation of the sale of the interest of the United States in the common stock of the Corporation; and

"(20) section 715 of this Act, as amended by the Conrail Sale Amendments Act of 1985.".

IMPLEMENTATION OF THE SECRETARY'S PLAN

SEC. 104. (a) Section 401(a)(3) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 761(a)(3)) is amended to read as follows:

"(3) The Secretary is authorized and directed to implement the Secretary's Plan, in accordance with paragraph (4) of this subsection. Such implementation of the Secretary's Plan and the coordinated operation of the Corporation's properties with those of Norfolk Southern Corporation and its affiliates as a single rail system is deemed approved by the Commission under chapter 113 of title 49, United States Code.".

(b) Section 401(a) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 761(a)) is amended by adding at the end thereof the following paragraphs:

"(4) The Secretary shall implement the Secretary's Plan by negotiating, executing, delivering, and performing the Definitive

Agreements, which shall conform to the Memorandum of Intent described in section 102(20)(A) of this Act. The Secretary shall, 45 calendar days before the date on which the Secretary anticipates that the interest of the United States in the common stock of the Corporation will be sold to Norfolk Southern Corporation, transmit to the Committee on Commerce, Science, and Transportation of the Senate and to the Committee on Energy and Commerce of the House of Representatives a notification of any alteration from the Memorandum of Intent described in section 102(20)(A) of this Act which will be made in the Definitive Agreements. After the date of such sale, the Secretary shall transmit to such Committees notification of any intent to waive compliance with any substantive covenant, agreement or obligation contained in the Definitive Agreements, and the Secretary may not waive such compliance until a period of 45 calendar days has expired after the date of such transmittal.

"(5) The Secretary shall not transfer the interest of the United States in the common stock of the Corporation except concurrently with a divestiture by Norfolk Southern Corporation of rail assets and rights approved by the Attorney General.

"(6) The sale of the interest of the United States in the common stock of the Corporation shall be deemed to be consummated at the date title to the common stock passes to Norfolk Southern Corporation and the United States receives the cash purchase price.".

RAILROAD PURCHASERS AND OFFER FOR SALE OF SHARES TO EMPLOYEES

SEC. 105. Subsections (d) and (e) of section 401 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 761 (d) and (e)) are repealed.

CANCELLATION OF DEBT AND PREFERRED STOCK

SEC. 106. Section 402 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 762) is amended to read as follows:

"DEBT AND PREFERRED STOCK

"SEC. 402. (a) RECAPITALIZATION.—In connection with the sale of the interest of the United States in the common stock of the Corporation under section 401 of this Act, and consistent with the Secretary's Plan, the Secretary may take all action necessary to cause the Corporation to be recapitalized such that the interest of the United States, or any agent or instrumentality thereof, and all other commitments or obligations of the Corporation to the United States or any agent or instrumentality thereof arising out of such interest, in any debt (including accrued interest and contingent interest thereon) and preferred stock (including accrued and unpaid dividends thereon) of the Corporation shall be cancelled or retired, and contributed to the capital of the Corporation. The Secretary shall cause the recapitalization authorized by this section to be effective as of the consummation of the sale of the interest of the United States in the common stock of the Corporation.

"(b) BREACH OF REPRESENTATIONS.—(1) Norfolk Southern Corporation or any successor corporation thereto may bring suit for any breach of representations contained in paragraph 6(e) of the Memorandum of Intent described in section 102(20)(A) of this Act (hereinafter referred to as the 'Representations') in the United States Claims Court or a district court of the United States. If such an action is brought, the Claims Court or district court shall determine the amount by which the United States income tax (including interest and penalties whether or not such penalties are assessed as a tax under the Internal Revenue Code of 1954) assessable against the Corporation or against Norfolk Southern Corporation for any year exceeds the amount of such tax which would have been assessable for such year had such Representations not been breached (hereinafter referred to as the 'Offset Amount').

"(2) The Representations shall be considered breached and Norfolk Southern Corporation shall be entitled to bring suit upon the first occurrence of any of the following that is inconsistent with the Representations: (A) the issuance by the Internal Revenue Service of a statutory notice of deficiency (90-day letter), (B) the assessment of the United States income tax, or (C) any claim by the United States in a suit or other judicial proceeding against Norfolk Southern Corporation or the Corporation.

"(3) The right to bring suit pursuant to this section shall not be subject to any waiting period applicable to tax proceedings or to any requirements for payment of any tax as a condition to instituting any suit based on a breach of the Representations.

"(4) Any judgment for money damages relating to breach of the Representations shall only be awarded as an offset in any court or administrative proceeding against the tax liability of Norfolk Southern Corporation or the Corporation, or both, to which such breach relates; except that if any such tax liability resulting from such breach has been paid, the judgment shall to that extent be an offset against any United States income tax liability of the Norfolk Southern Corporation or the Corporation, or both. If any portion of the tax resulting from a breach of the Representations has been paid, then the Offset Amount shall include interest on such payment from the date paid at the rate from time to time specified in the Internal Revenue Code of 1954 for interest payable on refund claims.

"(5) It shall not be a defense to an action brought under this section that Norfolk Southern Corporation knew, or should have known, of the falsity of the Representations or that there exists no carryover basis procedure as contemplated by the last sentence of the Representations.

"(6) For purposes of this section, tax liability of Norfolk Southern Corporation shall include the tax liability of Norfolk Southern Corporation and its affiliated group, within the meaning of section 1504 of the Internal Revenue Code of 1954.".

APPLICABILITY OF CERTAIN LAWS TO SALE OF CONRAIL

SEC. 107. Section 408 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 768) is amended—

(1) by repealing subsection (b);

(2) by amending subsection (c) by striking "No transfer" and all that follows through "subject to" and inserting in lieu thereof "Except as provided in section 1152 of the Northeast Rail Service Act of 1981 (45 U.S.C. 1105), the Secretary's Plan and the Definitive Agreements and their negotiation, execution, and implementation shall not be subject to administrative or"; and

(3) by adding at the end of subsection (c) the following sentence: "The issuance in private placement of notes or other securities in accordance with exhibit B to the Memorandum of Intent (described in section 102(20)(A) of this Act) in the Secretary's Plan shall not be subject to the provisions of subtitle IV of title 49, United States Code.".

LABOR PROTECTION

SEC. 108. (a) Section 701(d)(2) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 797(d)(2)) is amended by striking "the last day of the eighteen-month period beginning on".

(b)(1) Title VII of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 797 et seq.) is amended by adding at the end thereof the following section:

"PROTECTION AFTER SALE

"SEC. 715. After consummation of the sale of the interest of the United States in the common stock of the Corporation pursuant to the Secretary's Plan, any employee of Norfolk Southern Corporation, the Corporation, any rail affiliate of either company, and any transferee of the rail tracks, rights, and facilities divested in accordance with the Secretary's Plan, who is adversely affected in his employment by the implementation of the Secretary's Plan shall receive from his employer protection under the labor protective conditions set forth in New York Dock Railway—Control—Brooklyn Eastern District Terminal (354 ICC 399 (1978), modified upon further consideration, 360 ICC 60 (1979)). The arbitration provisions of section 4 of New York Dock shall apply to the formation of any implementing agreements that may be necessary in connection with the implementation of the Secretary's Plan, including any resulting coordinations.".

(2) The table of contents of the Regional Rail Reorganization Act of 1973 is amended by inserting immediately after the item relating to section 714 the following item:

"Sec. 715. Protection after sale.".

PREFERENTIAL HIRING

SEC. 109. Section 703 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 797b) is amended—

(1) by redesignating subsection (b) as subsection (c); and

(2) by inserting immediately after subsection (a) the following subsection:

"(b) IMPLEMENTATION OF SECRETARY'S PLAN.—Any employee of any railroad who is deprived of employment as a result of the implementation of the Secretary's Plan shall have the first right of hire for a vacancy for which he is qualified on any Norfolk Southern Corporation rail subsidiary, except where such vacancy is covered by (1) an affirmative action plan, or a hiring plan designated to eliminate discrimination, that is required by Federal or State statute, regulation, or Executive order, or by the order of a Federal court or agency, or (2) a permissible voluntary affirmative action plan. For purposes of this subsection, a railroad shall not be considered to be hiring new employees when it recalls any of its own furloughed employees.".

CROSS CRAFT EMPLOYMENT

SEC. 110. (a) Title VII of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 797 et seq.) is amended by inserting immediately after section 703 the following section:

"CROSS CRAFT EMPLOYMENT

"SEC. 703A. Any employee of Norfolk and Western Railway Company, Southern Railway Company, or the Corporation who is deprived of employment as a result of the implementation of the Secretary's Plan shall have the first right of hire for any vacancy for which such employee is qualified at the entry level of any Norfolk Southern Corporation rail subsidiary, without regard to craft or class or the provisions of section

703 of this Act. Such employee shall retain his seniority rights to return to his original craft or class whenever a vacancy occurs. For purposes of this section, a railroad shall not be considered to be hiring new employees when it recalls any of its own furloughed employees.".

(b) The table of contents of the Regional Rail Reorganization Act of 1973 is amended by inserting immediately after the item relating to section 703 the following item:

"Sec. 703A. Cross craft employment.".

Subtitle B—Northeast Rail Service Act of 1981 Amendments

SPECIAL COURT JURISDICTION

SEC. 121. (a) Section 1152 of the Northeast Rail Service Act of 1981 (45 U.S.C. 1105) is amended—

(1) by inserting "or the Conrail Sale Amendments Act of 1985" immediately after "subtitle" wherever it appears;

(2) in subsection (a), by striking "or" at the end of paragraph (3), by striking the period at the end of paragraph (4) and inserting in lieu thereof a semicolon, and by adding at the end thereof the following paragraphs:

"(5) brought by the United States or any agency or instrumentality thereof seeking to enforce the Secretary's Plan or the Definitive Agreements;

"(6) brought by Norfolk Southern Corporation seeking to enforce the Secretary's Plan or the Definitive Agreements;

"(7) brought by a party who filed a complaint with the Secretary under subsection (e) of this section, and who is aggrieved by (A) a determination of the Secretary under paragraph (1) of such subsection that the party has not suffered direct economic injury, or (B) a decision of the Secretary under paragraph (2) of such subsection that a covenant has not been violated;

"(8) brought by a party which is a signatory to an ancillary agreement entered into in accordance with the Secretary's Plan or the Definitive Agreements and which is seeking to enforce such ancillary agreement; or

"(9) brought to determine the value of the interest of the employee stock ownership plan and related trusts, or of the beneficiaries thereof, in the preferred stock of the Conrail Equity Corporation.

For purposes of any action brought under paragraph (5) of this subsection, a violation of any covenant contained in the Secretary's Plan or the Definitive Agreements shall be deemed to constitute immediate and irreparable harm for purposes of awarding injunctive relief to the United States.".

(b) Section 1152 of the Northeast Rail Service Act of 1981 (45 U.S.C. 1105) is amended by adding at the end thereof the following subsection:

"(e)(1) Any party who suffers direct economic injury as a result of an alleged violation of a covenant contained in the Definitive Agreements may file a complaint with the Secretary seeking enforcement of such covenant. If the Secretary determines that the complainant has demonstrated to the Secretary that it has suffered direct economic injury, the Secretary shall investigate the complaint.

"(2) If the Secretary decides to investigate a complaint under paragraph (1) of this subsection, the Secretary shall give reasonable notice of such decision to investigate to the alleged violator of such covenant and the complainant, and shall make a final decision on such complaint within 60 days after the date on which it was filed.

"(3) If the Secretary finds that (A) the covenant in question has been violated, and (B) the complainant suffered direct economic injury as a result of such violation, the Secretary shall enter an order directing the violator of such covenant to comply with such covenant.

"(4) On appeal, any decision by the Secretary under this subsection shall be upheld, unless such decision is found to be arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law.".

APPLICABILITY OF OTHER LAWS

SEC. 122. Section 1168(a) of the Northeast Rail Service Act of 1981 (45 U.S.C. 1116(a)) is amended by striking "service transfers" and inserting in lieu thereof "sale of the interest of the United States in the common stock of Conrail or transfer of the rail properties and freight service responsibilities of Conrail".

QUALIFICATION, REVIEW, AND VALUATION OF EMPLOYEE STOCK OWNERSHIP PLANS

SEC. 132. Section 216(f) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 726(f)) is amended by adding at the end thereof the following paragraphs:

"(11) The employee stock ownership plans of the Corporation and related trusts maintained, amended, or adopted in implementing the Secretary's Plan shall be deemed to meet the qualification requirements of sections 401 and 501, respectively, of the Internal Revenue Code of 1954, notwithstanding (A) that such plans may not meet the requirements of section 415 of the Internal Revenue Code of 1954, or (B) that participants in such plans may be entitled to withdraw a portion of the shares allocated to their accounts prior to the expiration of the period generally imposed by the Internal Revenue Service for qualified plans. Such qualification shall relate only to the contributions, allocations, and withdrawals of shares provided for in the Secretary's Plan with respect to the plans and related trusts maintained, amended, or adopted in implementing the Secretary's Plan. Such contributions and allocations shall in no event be treated as having exceeded the maximum annual addition permitted under section 415 of the Internal Revenue Code of 1954 (but not for purposes of applying section 404(j) of the Internal Revenue Code of 1954) for purposes of calculating any limitation under section 415 with respect to contributions and allocations not described in the Secretary's Plan, including contributions and allocations to plans and related trusts of the Corporation and any affiliated corporation. The continued qualification of such plans with respect to all other contributions, allocations, and withdrawals shall be subject to all provisions of existing law, as amended from time to time. No inference shall be drawn from this paragraph as to whether an amount is a contribution deductible under section 404 of the Internal Revenue Code of 1954 rather than a non-deductible capital expenditure.

"(12) Except as provided in section 1152 of the Northeast Rail Service Act of 1981 (45 U.S.C. 1105), the issuance and sale or contribution of securities by Norfolk Southern Corporation to fulfill arrangements with the Corporation's employees in implementing the Secretary's Plan and the distribution of shares from the Corporation's employee stock ownership plans and related trusts maintained, amended, or adopted in implementing the Secretary's Plan shall not be subject to the registration and prospectus delivery requirements of the Securities Act of 1933, any approval requirement under subtitle IV of title 49, United States Code, or the laws of any State with respect to the issuance and sale of securities.".

TITLE II—TECHNICAL AND CONFORMING AMENDMENTS

REGIONAL RAIL REORGANIZATION ACT OF 1973 AMENDMENTS AND REPEALS

SEC. 201. The following provisions of the Regional Rail Reorganization Act of 1973 are repealed or amended as specified:

(1) Subsections (a) and (b) of section 214 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 724(a) and (b)) are repealed, and such section 214 is amended by striking "(c) ASSOCIATION.—".

(2) Subsection (f) of section 217 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 727(f)) is repealed, without prejudice to the continued availability of funds appropriated prior to the date of enactment of this Act pursuant to section 217(f)(1)(C) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 727(f)(1)(C)).

(3) Section 404 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 764), and the item relating to such section in the table of contents of such Act, are repealed.

(4) Section 405 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 765), and the item relating to such section in the table of contents of such Act, are repealed.

(5) Section 406 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 766), and the item relating to such section in the table of contents of such Act, are repealed.

(6) Section 407 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 767), and the item relating to such section in the table of contents of such Act, are repealed.

(7) Subsections (a) and (d) of section 408 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 768 (a) and (d)) are repealed.

(8) Section 409 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 769), and the item relating to such section in the table of contents of such Act, are repealed.

(9) Section 410 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 769a), and the item relating to such section in the table of contents of such Act, are repealed.

(10) Section 411 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 769b), and the item relating to such section in the table of contents of such Act, are repealed.

(11) Section 412 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 769c), and the item relating to such section in the table of contents of such Act, are repealed.

(12) Section 713 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 797l), and the item relating to such section in the table of contents of such Act, are repealed.

AMENDMENTS AND REPEALS OF OTHER RAIL LAWS

SEC. 202. The following provisions of law are repealed or amended as specified:

(1) Section 1154 of the Northeast Rail Service Act of 1981 (45 U.S.C. 1107), and the item relating to such section in the table of contents of such Act, are repealed.

(2) Section 1161 of the Northeast Rail Service Act of 1981 (45 U.S.C. 1110), and the item relating to such section in the table of contents of such Act, are repealed.

(3) Section 1166 of the Northeast Rail Service Act of 1981 (45 U.S.C. 1114), and the item relating to such section in the table of contents of such Act, are repealed.

(4) Subsection (c) of section 1167 of the Northeast Rail Service Act of 1981 (45 U.S.C. 1115(c)) is repealed.

(5) Subsection (b) of section 1168 of the Northeast Rail Service Act of 1981 (45 U.S.C. 1116(b)) is repealed.

(6) Section 501(8) of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 821(8)) is amended—

(A) by striking "(A)";

(B) by striking "(i)" and inserting in lieu thereof "(A)", and by striking "(ii)" and inserting in lieu thereof "(B)"; and

(C) by striking all after "utilization;".

(7) Section 505 of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 825) is amended—

(A) in subsection (a)(1), by striking all after "railroad" through "1981)"; and

(B) in subsection (b)(2)(C), by striking all after "costs" the second time it appears through "subsidy".

(8) Subsection (b)(1) of section 509 of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 829(b)(1)) is repealed.

(9) Section 511(e) of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 831(e)) is amended by striking "(1)", and by striking all after "time" and inserting in lieu thereof a period.

(10) Section 402 of the Rail Safety and Service Improvement Act of 1982 (45 U.S.C. 825a) is repealed.

(11) Section 1005(b)(1) of the Rail Passenger Service Act (45 U.S.C. 655(b)(1)) is amended by striking "the Consolidated Rail Corporation,".

(12) Section 10362(b)(7)(A) of title 49, United States Code, is amended by striking "by the Consolidated Rail Corporation or".

(13) Section 332(d) of title 49, United States Code, is amended by striking ", the Consolidated Rail Corporation,".

TITLE III—MISCELLANEOUS PROVISIONS

COMMON CARRIER STATUS OF CONRAIL AFTER SALE

SEC. 301. (a) Conrail's status as a common carrier by railroad under section 10102(4) of title 49, United States Code, shall not be affected by virtue of sale of the interest of the United States in Conrail's common stock. Purchase of Conrail stock shall not alone be the basis of a determination that the acquiring entity has become a common carrier by railroad under section 10102(4) of title 49, United States Code.

(b) The Definitive Agreements shall contain a binding commitment by Norfolk Southern Corporation to continue to operate Conrail in full compliance with the provisions of section 10731(e) of title 49, United States Code.

CONSUMMATION OF SALE

SEC. 302. The sale of the interest of the United States in the common stock of Conrail shall be deemed to be consummated on the date title to the common stock passes to Norfolk Southern Corporation and the United States receives the cash purchase price.

CONTRACTS

SEC. 303. (a) Except as provided in subsection (b) of this section, nothing in this Act shall affect—

(1) Conrail's obligation to carry out its transportation contracts and equipment leases, equipment trusts, and conditional sale agreements, in accordance with their terms; and

(2) the obligation of any transferee of divested assets to carry out transportation contracts and equipment leases, equipment trusts, and conditional sale agreements to which such assets are subject, in accordance with their terms.

(b) If a divestiture carried out pursuant to the Secretary's Plan precludes Conrail from providing a transportation service for which it has contracted without a right of termination that may be exercised in the event of the sale of the interest of the United States in the common stock of Conrail and the divestiture will result in a change or modification in the movement of the traffic involved, the transferee of the divested rights and properties and Conrail shall provide the contracted-for service on terms and conditions which, to the maximum extent possible, conform to the terms and conditions in the contract.

CONGRESSIONAL OVERSIGHT OF COMPLIANCE

SEC. 304. The Secretary shall, no later than January 31 of each year, submit to the Committee on Commerce, Science, and Transportation of the Senate and to the Committee on Energy and Commerce of the House of Representatives a report setting forth each certificate which Norfolk Southern Corporation and Conrail provided to the Secretary, during the preceding year, certifying compliance with the covenants contained in the Definitive Agreements.

SEPARABILITY

SEC. 305. If any provision of this Act or the application thereof to any person or circumstances is held invalid, the remainder of this Act and the application of such provision to other persons or circumstances shall not be affected thereby.

EFFECTIVE DATE

SEC. 306. (a) Except as provided in subsection (b) of this section, the provisions of and amendments made by this Act shall take effect on the date of enactment of this Act.

(b) Sections 108(a), 201 and 202 of this Act shall take effect on the date of consummation of the sale of the interest of the United States in the common stock of Conrail.

(c) Any provision of this Act which, pursuant to Article I, Section 7 of the Constitution, provides for raising revenue shall only be effective upon the enactment into law of a bill which has originated in the House of Representatives enacting such provision.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. METZENBAUM. Mr. President, this amendment is one that repeals the immunity given to the ESOP fiduciaries. There are 48,211 Conrail workers and the fiduciaries have an obligation to protect the trust assets. But under this provision as it is before us, the fiduciaries are given immunity. No reason is given for that immunity. All my amendment would do is repeal the immunity.

The workers who built Conrail are being asked to subsidize the acquisition. They stand to lose their retirement security. They are being shortchanged by nearly $400 million.

This sale plan would provide Conrail's employees a combined payment of $375 million for their 15 percent share of Conrail stock and for wages deferred between 1981 and 1984. That is not enough to give a fair price for the shares owned by ESOP.

The value of the ESOP, calculated on the basis of the amount Norfolk Southern is paying the Government per share of stock, is $212 million. Add to that the deferred wages of about $290 million per year between 1981 and 1984, and the total comes to $502 million, not including interest.

When you add in the interest, the total comes to $762 million.

But there is only $375 million being made available, so the employees are being short changed by $387 million. No wonder Norfolk Southern wants the fiduciaries protected. No wonder this agreement would provide for their protection.

Norfolk Southern plans to buy out Conrail's employees for less than half of what they are due.

Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is not a sufficient second.

Mr. METZENBAUM. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. DANFORTH. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

Mr. METZENBAUM. Objection.

The PRESIDING OFFICER. Objection is heard.

The legislative clerk continued to call the roll.

Mr. METZENBAUM. I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. DANFORTH addressed the Chair.

The PRESIDING OFFICER. The Senator from Missouri.

Mr. DANFORTH. Mr. President, the overwhelming majority of employees of Conrail approved of the buyout of the ESOP that is provided for by the deal. It seems reasonable that the fiduciaries should be immune from what amount to nuisance suits as part of the whole transaction. Therefore, I move to lay the amendment of the Senator from Ohio on the table.

The PRESIDING OFFICER. The question is on agreeing to the motion to lay the amendment on the table.

Mr. DANFORTH. I ask for the yeas and nays on the motion.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. METZENBAUM. Mr. President, I ask unanimous consent that the Senator from Ohio may proceed for 1 minute.

Mr. GOLDWATER. I object.

The PRESIDING OFFICER. The objection is heard.

The question is on agreeing to the motion to lay the amendment of the Senator from Ohio on the table. The yeas and nays have been ordered. The clerk will call the roll.

The bill clerk called the roll.

Mr. SIMPSON. I announce that the Senator from Colorado [Mr. ARMSTRONG] is necessarily absent.

Mr. CRANSTON. I announce that the Senator from Montana [Mr. BAUCUS], and the Senator from Georgia [Mr. NUNN] are necessarily absent.

I further announce that the Senator from Hawaii [Mr. INOUYE] is absent on official business.

The PRESIDING OFFICER (Mr. EVANS). Are there any other Senators in the Chamber desiring to vote? .

The result was announced—yeas 69, nays 27, as follows:

[Rollcall Vote No. 8 Leg.]

YEAS—69

Abdnor	Goldwater	Mitchell
Andrews	Gorton	Moynihan
Bentsen	Gramm	Murkowski
Bingaman	Grassley	Nickles
Boren	Hatch	Packwood
Boschwitz	Hatfield	Pressler
Bumpers	Hawkins	Pryor
Chafee	Hecht	Quayle
Chiles	Helms	Roth
Cochran	Hollings	Rudman
Cohen	Humphrey	Simpson
D'Amato	Johnston	Specter
Danforth	Kassebaum	Stafford
DeConcini	Kasten	Stennis
Denton	Kennedy	Stevens
Dodd	Laxalt	Symms
Dole	Leahy	Thurmond
Domenici	Lugar	Trible
Durenberger	Mathias	Wallop
Eagleton	Matsunaga	Warner
East	Mattingly	Weicker
Evans	McClure	Wilson
Garn	McConnell	Zorinsky

NAYS—27

Biden	Gore	Melcher
Bradley	Harkin	Metzenbaum
Burdick	Hart	Pell
Byrd	Heflin	Proxmire
Cranston	Heinz	Riegle
Dixon	Kerry	Rockefeller
Exon	Lautenberg	Sarbanes
Ford	Levin	Sasser
Glenn	Long	Simon

NOT VOTING—4

Armstrong	Inouye
Baucus	Nunn

So the motion to lay on the table was agreed to.

(Later the following occurred:)

Mr. FORD. Mr. President, I should like a point of information. Was the last vote on a tabling motion?

The PRESIDING OFFICER. Yes, the last vote was on a motion to table.

Mr. FORD. Mr. President, how was I recorded on the last vote?

The PRESIDING OFFICER. The Senator from Kentucky was recorded in the affirmative.

Mr. FORD. Mr. President, I thought it was an up-and-down vote, and in my inability to be sure that it was a tabling motion, I voted in the affirmative but wanted to vote in the negative.

Since it will not change the outcome, I ask unanimous consent that my vote be changed from "aye" to "nay."

The PRESIDING OFFICER. Is there objection?

Mr. DANFORTH. Mr. President, reserving the right to object—and I will not object—the tradition is that if the change of the vote does not affect the outcome of the vote, Senators are generally allowed to change their votes; and with that understanding, I have no objection.

Mr. FORD. That was my understanding, and that was part of my unanimous-consent request, that it would not change the outcome.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The foregoing tally has been changed to reflect the above order.)

Mr. DANFORTH. Mr. President, I move to reconsider the vote by which the motion was agreed to.

Mr. CHAFEE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. DANFORTH. Mr. President, I inquire of the Chair how long the last vote took.

The PRESIDING OFFICER. Twenty-one minutes and ten seconds.

Mr. DANFORTH. Mr. President, I am told that there are well over 100 amendments at the desk. It is my hope to cut off the time for voting shortly after 15 minutes for each vote. I think that otherwise this is going to be even more prolonged that it might otherwise be.

The PRESIDING OFFICER. The Senate is put on notice that 15 minutes are allowed for a rollcall vote, and Senators should govern their actions accordingly.

Mr. BUMPERS. Mr. President, under the rules of the Senate, following cloture, each Senator is allocated 1 hour. At this point, I allocate my 1 hour to the minority leader.

Mr. METZENBAUM. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. TRIBLE. Mr. President, I ask unanimous consent that the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

VISIT TO THE SENATE BY THE MEMBERS OF THE CONGRESS OF THE REPUBLIC OF PERU

Mr. TRIBLE. Mr. President, it is my honor today to accompany to the floor of the U.S. Senate eight distinguished members of the Congress of Peru.

These gentlemen represent the Senate and the Chamber of Deputies. They are here to build a greater understanding between our two countries.

Let me say that I believe it is credibly important that those of us who represent the United States learn more about the realities, the problems, and the opportunities for those nations to our south.

I welcome them, and I hope that their visit here will lead to greater understanding between our two countries.

RECESS

Mr. TRIBLE. I at this point ask unanimous consent the Senate stand in recess for 5 minutes, and I invite my colleagues to take this opportunity to warmly welcome these good gentlemen to the United States.

The PRESIDING OFFICER. The Chair notes with pleasure the presence of our distinguished visitors from Peru.

There being no objection, the Senate, at 4:10 p.m., recessed until 4:15 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer [Mr. EVANS].

CONRAIL SALE AMENDMENTS ACT OF 1985

The Senate continued with the consideration of the bill (S. 638).

Mr. METZENBAUM. Mr. President, my understanding is that the Senator from Pennsylvania wishes to call up an amendment shortly.

Under the circumstances, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. DOLE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOLE. Mr. President, I take this time to urge my colleagues who have legitimate amendments to offer the amendments. There is a lot of pressure from Members asking me about how late tonight, and how long tomorrow. Of course, we want to accommodate those Members with amendments that they would like to offer. I am not in a position to indicate what may develop tomorrow. But if there are Members who are not on the floor in their offices, if they can be notified by members of their staff, we would like to bring this matter to a close. It would be appreciated.

It seems to me the Senate has spoken rather quickly. We would like to move on to final disposition. But obviously, if there are amendments that were not offered prior to cloture being invoked that are germane and are meritorious, of course we want to act on those hopefully without much debate, and with rollcalls that will permit us

to finish this bill sometime between now and tomorrow morning.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. EXON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. EXON. Mr. President, will the Chair please advise the Senator from Nebraska about what is the pending matter before the U.S. Senate.

The PRESIDING OFFICER. The question is on the substitute amendment.

Mr. EXON. Is there any reason the Chair could give me that we do not proceed to a vote on the matter before us?

The PRESIDING OFFICER. The question is in front of us.

Mr. GORTON. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. EXON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. EXON. Mr. President, since we are not doing anything after nearly finishing a postcloture filibuster, I would call attention of the Senate to the question of where are all those people who were standing on the floor of the Senate Friday before Christmas or thereabouts wondering why in the world we cannot operate this body in a usual and a conventional manner?

I think this is a typical explanation of why we cannot get anything done.

The situation is simply this: right or wrong, cloture was invoked. I voted against cloture. I thought that was the wrong thing to do because I think the bill that is being passed here is a very bad one. But cloture was invoked.

The normal procedures are, I think under the founders of the Constitution and the early framers of the rules of this body, that after cloture is invoked, cloture has been invoked. Then as I understand it, and I am a relative newcomer here, we came along with the postcloture filibuster. That should be properly exercised and used.

But it seems to me that is not what we are going through here right now at 20 minutes of 5 in the afternoon is, when there are those who wish to leave for some good and valid reason. If we are going to have a postcloture filibuster, let us have a postcloture filibuster. I would suggest that those who want to take part in that have the obligation to be on the floor. I do not understand either the majority or minority protecting whoever it is who wants to come on this floor and offer whatever they want in a series of amendments.

I call upon those who have been on this floor on many occasions saying it is time we straighten out the affairs of disorder while protecting the rights of all to come forth now and say let us move forward in the U.S. Senate and take care of our legitimate business.

I would remind my colleagues it was shortly before Christmas when we called a special meeting one morning. We got the majority leader and the minority leader there and we said, "Is it not terrible the way we run this body?" Everybody who was there agreed it was terrible the way we ran this body. I think it is even worse when we run this body in a fashion that either the majority leader or the minority leader, or both, are protecting certain individuals, for whatever reason I do not know, and they are not here to press forward with their rights in a postcloture filibuster.

That is why we waste time in meaningless, needless, and time-consuming quorum calls all at the time when we pretend we have a lot of important business to carry on.

For the life of me, Mr. President, I do not understand why, a few moments ago when there was no one on the floor of the Senate to proceed with amendments in a postcloture filibuster, we did not move briskly ahead at that time with a final vote on the measure.

As long as we are going to continue, both the majority and minority leadership of this body, to protect Senators who are not here on the floor, as long as we are going to delay, as long as we are going to put in quorum calls when someone suggests we move ahead, then we are kidding ourselves if we think we are ever going to make any meaningful reforms in the way this place does business.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The question is on the substitute amendment.

Mr. DOLE addressed the Chair.

The PRESIDING OFFICER. The majority leader.

Mr. DOLE. Mr. President, I certainly share the views expressed by the distinguished Senator from Nebraska. Indeed, this bill could be finished if amendments were here to be voted upon. I know there is a Senator on this side with amendments and a Senator on the other side with an amendment. But we are going to stay here. I hate to inconvenience 98 Members for the convenience of 2 Members. A number of our colleagues have already departed.

I have no quarrel with the remarks of the Senator from Nebraska. I would hope the distinguished Senator from Pennsylvania, Senator HEINZ, would come to the floor. He indicated earlier he had four amendments. We have been waiting now for 40 minutes for him to come to the floor. If he does not come to the floor, we will have a rollcall and have Senators come in. That will inconvenience Senators on both sides. We can resort to having a quorum call every hour, permitting someone to go home for a while and then have to come back and then at sometime we will be prepared to vote. If we have to do that, we will do that. We will not let 1 or 2 Senators inconvenience 97.

Mr. GOLDWATER. If the Senator will yield, I was glad to hear my friend from Nebraska comment on filibuster because earlier several of us who have been here for some years were talking about filibusters and the way they used to be heard. The first thing we heard every year was, "Let us amend rule XXII." That went on for years and years.

We finally amended rule XXII until we have gotten it into the god-awful shape it is in today when one man can abuse the whole Senate. That is what is happening today. One man or two men. It is not 50 or 60 but one man or two men.

In fact, this Senate is being abused to the extent by one man that many of us are not going to be able to go to Houston tomorrow to pay our respects to some decent Americans. I resent it deeply.

If I were the floor leader, I would recess and go home.

I am glad the Senator from Nebraska spoke as he did and I hope other people will speak likewise. It is an abuse by a few people of a rule that has been amended and amended all in the interest of decency and human beings. I do not like what is going on one bit.

Mr. EXON. Will the Senator yield?

Mr. GOLDWATER. Yes, I yield.

Mr. EXON. Mr. President, I appreciate the remarks by my friend and colleague, Senator GOLDWATER.

I hope no one is misunderstanding what I am saying. This Senator was accused, I think wrongfully, not too long ago of filibustering in the Senate. It was not post-cloture filibuster but it was a mini-filibuster or a filibuster, call it what you will, because I happened to feel very strongly about a farm bill that I was not satisfied with. But I thought we lived within the rules. We stayed on the floor. We did whatever was necessary within the rules.

I guess what I am most objecting to is that I came on the floor a few moments ago and looked around and no one that I knew of participating in the filibuster was on the floor. It seems to me that that would have been the time and fully under the rules, since those who were filibustering were not

here to protect themselves, to move ahead with the vote. But when I brought that up, someone somewhere said, "We have to protect" a certain Senator from that side of the aisle who was away somewhere "and we are waiting for him to come over to offer four or five amendments."

I suggest when you get especially into a post-cloture filibuster situation you had better be here to protect your interests or you fall by the wayside.

Let me make it clear, I am not critizing anyone who is legitimately using the rules in regular filibuster or in post-cloture filibuster so long as they are here under the rules to protect their interest. But when they are not, I suggest we should move expeditiously ahead—I suspect that the vast majority of this body would like to do that—and have the vote. If they are not here to protect themselves, they lose.

Mr. GOLDWATER. Will the Senator yield?

Mr. EXON. I yield.

Mr. GOLDWATER. I am glad the Senator mentioned the rules. If there is one thing wrong with this body, it is that we do not follow the rules. How many times do we complete a vote in 15 minutes? Do you know how many days we spent last year going over the 15 minutes? It was 12 days. Why? We were waiting for one man. I do not know why we wait for one man. I think most of us can get over here and vote, but now we wait for someone with an amendment. If they do not get here, we have an old expression, to hell with them.

[Laughter.]

Mr. METZENBAUM addressed the Chair.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. METZENBAUM. Mr. President, let us not lose our perspective. I want to say to my friend from Nebraska that I was not absent; I was having a sandwich in the cloakroom. I was here. We are not moving forward at the moment because the Senator from Pennsylvania indicated he wanted to call up an amendment at 4:30. At 4:20, I did not call up an amendment but decided to wait until after 4:30.

But the fact is there is no filibuster going on. Everyone is talking about filibuster. Let us put this in its proper perspective.

Immediately upon filing the substitute bill, the majority leader laid down a cloture motion. The U.S. Senate has been known as a body that has open and free debate; but a cloture motion cuts off debate.

On Tuesday, unfortunately, we could not be in session for reasons that are well known to all of us, so there was not that much time left on Wednesday and we had Senators on the floor trying to get their amendments up. The Senator from Ohio had amendments to call-up but the Senator from New Jersey wanted to callup one; the Senator from Arizona wanted to call-up one but did not get his called up. The Senator from South Dakota took a lot of time in connection with his amendment and there was not an opportunity to call up every amendment.

Immediately after cloture was invoked, I called up an amendment, a germane amendment. I have other germane amendments which I expect to call up. But I thought it was a matter of courtesy to the Senator from Pennsylvania to permit him to go with his amendment as the second one.

I say to my colleague from Nebraska, we are not in a post-cloture filibuster, we are in a post-cloture situation that became inevitable because a cloture motion was filed prematurely without the Senate having had an ample opportunity to debate this subject.

Mr. President, I suggest the absence of a quorum.

Mr. EXON. Mr. President, will the Senator withhold?

Mr. METZENBAUM. I yield the floor.

Mr. EXON. I say to my friend and colleague from Ohio, whom I have stood with, I think, on every vote in the matter before us, I doubt if we differ one iota. I think we have the same concern about the matter before us. But whatever he calls it, we have invoked cloture on this bill.

I think whatever you call it, any series of amendments thereafter, regardless of the timeliness or lack of timeliness of the cloture motion that was filed by the majority leader—which he has every right to do—we are not in a situation of stalling. You can say it is not a filibuster if you wish.

I think, though, Mr. President, my friend and colleague from Ohio, for whom I have a highest respect, has just proven the point I made when I arose. He said he went off the floor to have lunch in the cloakroom. When he did that, he lost his right to the floor. Of course, fortunately from his standpoint, he transferred the obligation at that time to the leadership on this side of the floor. So we have a strained situation.

We have the majority leader, who is strongly in support of this measure, allowing the protection from his side of the aisle—I might have done the same for my colleague from Ohio had he asked me to do so. But I came on the floor and there was no one.

It seems to me the statement the Senator from Ohio made proved my point. If Senators are not here at the right time to protect their interest, why is it not the responsibility of the leadership to move ahead? Now they cannot do it because the Senator is on the floor.

The PRESIDING OFFICER. The question is on agreeing to the substitute amendment.

Mr. METZENBAUM. Mr. President, does the Senator from Pennsylvania seek recognition?

The PRESIDING OFFICER. The question is on agreeing to the substitute amendment.

CALL OF THE ROLL

Mr. HEINZ. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk called the roll and the following Senators entered the Chamber and answered to their names:

[Quorum Call No. 2 Leg.]

Dole	Gramm	Metzenbaum
Exon	Heinz	
Ford	Helms	

The PRESIDING OFFICER. A quorum is not present. The clerk will call the names of the absent Senators.

The legislative clerk resumed the call of the roll.

Mr. DOLE. Mr. President, I move that the Sergeant at Arms be instructed to request the attendance of the absent Senators. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

VOTE

The PRESIDING OFFICER. The question is on agreeing to the motion of the majority leader. The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

Mr. SIMPSON. I announce that the Senator from Arizona [Mr. GOLDWATER] is necessarily absent.

Mr. CRANSTON. I announce that the Senator from Georgia [Mr. NUNN] and the Senator from Mississippi [Mr. STENNIS] are necessarily absent.

I further announce that the Senator from Hawaii [Mr. INOUYE] is absent on official business.

The PRESIDING OFFICER (Mr. COHEN). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 91, nays 5, as follows:

[Rollcall Vote No. 9 Leg.]

YEAS—91

Abdnor	Cohen	Ford
Andrews	Cranston	Garn
Armstrong	D'Amato	Glenn
Baucus	Danforth	Gore
Bentsen	DeConcini	Gorton
Biden	Denton	Gramm
Bingaman	Dixon	Grassley
Boschwitz	Dodd	Harkin
Bradley	Dole	Hart
Bumpers	Domenici	Hatch
Burdick	Durenberger	Hatfield
Byrd	Eagleton	Hawkins
Chafee	East	Hecht
Chiles	Evans	Heflin
Cochran	Exon	Heinz

Helms	Mattingly	Rudman
Hollings	McClure	Sarbanes
Humphrey	McConnell	Sasser
Johnston	Melcher	Simon
Kassebaum	Metzenbaum	Simpson
Kasten	Mitchell	Specter
Kennedy	Moynihan	Stafford
Kerry	Murkowski	Stevens
Lautenberg	Nickles	Symms
Laxalt	Packwood	Thurmond
Leahy	Pell	Trible
Levin	Pressler	Warner
Long	Pryor	Wilson
Lugar	Riegle	Zorinsky
Mathias	Rockefeller	
Matsunaga	Roth	

NAYS—5

Boren	Quayle	Weicker
Proxmire	Wallop	

NOT VOTING—4

Goldwater	Nunn
Inouye	Stennis

So the motion was agreed to.

The PRESIDING OFFICER. With the addition of Senators voting who did not answer the quorum call, a quorum is now present.

CONRAIL SALE AMENDMENTS ACT OF 1985

AMENDMENTS NO. 1560

(Purpose: To restrict the definition of definitive agreements)

Mr. HEINZ. Mr. President, I call up my amendment No. 1560.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Pennsylvania [Mr. HEINZ] proposes an amendment numbered 1560.

Mr. HEINZ. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 4, line 14, insert after "paragraph (4)(A)" the following: "except that such term shall not include any agreements unless there is a binding and restrictive agreement with Norfolk Southern Corporation that—

"(A) such corporation's ability to utilize Conrail's built-in losses (determined presumptively by an allocation among Conrail's tangible and intangible assets of the cash price paid for the Conrail stock, plus remaining Conrail liabilities, less Conrail cash, marketable securities, inventory, and the value of its excess pension assets) shall be restricted in a manner consistent with existing Federal tax law and regulations and with the Secretary's understanding that Norfolk Southern Corporation shall abide by, and remain subject to, the limitations set forth in Income Tax Regulations section 1.1502-15 and other related provisions of the Federal Income Tax Regulations, and

"(B) such corporation will not directly or indirectly utilize Conrail's built-in losses by any means or through any device or method (including, but not limited to, stock or property transfers, or other capital or operating arrangements, having the effect of shifting taxable income to Conrail) having the effect of reducing the Federal tax liability of Norfolk Southern Corporation's affiliated group (other than Conrail and its existing subsidiaries).".

Mr. HEINZ. Mr. President, very simply this amendment would not permit the sale to Norfolk Southern to occur unless there is an agreement with Norfolk Southern which restricts Norfolk Southern's ability to use Conrail's built-in depreciation deductions and which restricts Norfolk Southern's ability directly or indirectly to shift Norfolk Southern's taxable income to Conrail.

I might say, Mr. President, that this amendment is for all intents and purposes entirely consistent with statements made by the Secretary of Transportation, Mrs. Dole.

There is a reason both why she is right in her policy pronouncement and why this amendment is right, and it is simply a matter not just of commonsense but of dollars and cents. The tax benefits to Norfolk Southern by virtue of this sale simply constitute a rebate of a portion of the $1.2 billion purchase price that has been agreed upon. And for every dollar of extra tax benefit that Conrail cannot use and which Norfolk Southern can use to shelter and successfully avoid taxes on existing profitable operations, the taxpayers, the Treasury, we the Federal Government are out of pocket by exactly that amount, and the purchase price is accordingly worth to us that much less.

How much is the rebate? How much money are we talking about? What is the revenue loss to the Federal Government?

The administration concedes that it is $200 million. The Joint Tax and Congressional Budget Office, and I have somewhat more faith in them, estimate that it is $400 million. Both of these estimates, by the way, are through fiscal year 1990, and there are additional revenue loss in both cases in the outyears.

Let me tell you what the issue is not about. The issue is not whether tax benefits to Norfolk Southern flow from special tax treatment versus any other business transaction. No; that is not the issue. The issue is really, as I said at the outset, since we the Federal Government are the seller, and we are presumably interested in getting what we are getting, $1.2 billion, you have to net the tax benefit, whether it is $200 million or $400 million, to figure out how much this is really going to get the Government.

I said that the revenue loss is depending on the estimate you believe between $200 million and $400 million through fiscal 1990.

Compared to the Morgan Stanley offer, which would have raised the ante by $200 million, that really is a $400 million to $600 million difference.

My colleagues, I know, Mr. President, have elected not to adopt the Morgan Stanley approach, but in rejecting it without the adoption of this amendment, this Senate will have put a $400 million to $600 million hole in the $1.2 billion purchase price, not something I want to be guilty of.

Now, I want to be clear about what this amendment will limit. It will constrain, but it is not going to eliminate in its entirety the Norfolk Southern use of Conrail tax benefits. It is designed in response to the Secretary's statements that Norfolk Southern should not be allowed to gain access to Conrail's built-in deductions arising from assets as of the day of sale.

So, its goal is a modest goal and that is to limit the use of Conrail's tax deductions to offset Conrail's income, not other existing income producing operations of Norfolk Southern.

The amendment, as I stated, is drafted in a way to allow the maximum opportunity for the Revenue Service and the Treasury Department to nail down in advance all the problems to make it self-enforcing. How does it do that? Well, basically what it says is that there will not be an agreement to sell Conrail unless the IRS first gets a binding and restrictive agreement between the IRS and Norfolk Southern, that restricts Norfolk Southern's ability to utilize Conrail's built-in losses, and that Norfolk Southern will not directly nor indirectly utilize Conrail's built-in losses by any means or through any device or method having the effect of shifting taxable income to Conrail.

How can Norfolk Southern reduce its tax liability? Very simply, if Norfolk Southern has a profitmaking subsidiary and decides we are going to shift that into the Conrail subsidiary, then it will use some of Conrail's excess depreciation to shelter income from that other subsidiary. This income shifting is going to cost the Federal Government money and that is what we should be alert to.

We probably are incapable of drafting an amendment that is perfect in closing off every avenue by which Norfolk Southern might some way or another utilize tax benefits derived by the acquisition of Conrail. This amendment requires the Internal Revenue Service to sit down with Norfolk Southern and execute an agreement consistent with the intent of Congress. I believe this amendment represents a very good-faith attempt to reduce the loss in tax revenues which we will suffer if we go ahead and sell Conrail to Norfolk Southern. It represents, by and large, quite an effective means of doing that, and most important it assures better than the bill before us and better than any other policy I am yet aware of that the Government actually receives the value of the $1.2 billion purchase price when all the receipts and lack of them are counted that we say we want to get.

I want to add to the RECORD at this point a quotation from a letter dated

December 20, written by Mrs. Dole, the Secretary of Transportation, to Congressman JAMES FLORIO, the chairman of the Subcommittee on Commerce, Transportation, and Tourism of the House Energy and Commerce Committee. The letter states in its relevant paragraph on page 5:

I should add, however, that both the Department of the Treasury and this Department believe that Norfolk Southern will not be able to gain access to Conrail's built-in deductions arising from the latter's depreciable assets as of the sale data. You will recall that I testified before your subcommittee that I do not oppose—

I emphasize—

do not oppose statutory language to ensure this result.

This statutory language ensures that result. It does not go beyond that intent. It is consistent with the Secretary's avowed policy. I urge my colleagues to adopt it.

Mr. METZENBAUM. Have the yeas and nays been ordered?

The PRESIDING OFFICER. They have not.

Mr. METZENBAUM. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. SPECTER. Mr. President, I commend my distinguished colleague for the introduction of this amendment. On the face of the current record, it is obvious that any sale of Conrail to Norfolk Southern will be a bonanza for Norfolk Southern and a tremendous loss for the American taxpayers. Conrail is an entity which has cost the Federal Government in excess of $7 billion.

This body has rejected a superior offer from Morgan Stanley which would produce $200 million more than that offered by Norfolk Southern. There are tremendous losses to the consumers of this country by the antitrust implications and the reduction of competition by a joinder of Conrail and Norfolk Southern, and there should not be any further losses to the American people, the American taxpayers of American business or American consumers.

The disclosures by the Congressional Budget Office show a loss of some $400 million in taxes. The updated report by the Department of the Treasury, doubtless partisan in nature, shows an overall loss in the range of $175 million, reduced to present value to $125 million. Other analyses have demonstrated the tax loss in the range of $400 million.

Considering the bonanza and great value to Norfolk Southern of the tremendous value in the Conrail assets, it is the judgment of this Senator that Norfolk Southern ought not to be the beneficiary of these tax breaks. And for these reasons I am pleased to join my distinguished colleague from Pennsylvania in support of this amendment.

Mr. DANFORTH. Mr. President, first, it should be said that this amendment is really, I believe, sour grapes. This amendment is to say: "Well, we lost. We lost the cloture vote, we lost the Morgan Stanley vote and, having lost all that, let's change the deal in such a way that it would be totally unattractive to Norfolk Southern. Let's kill it."

Mr. President, I think we have made that decision in the Senate. We made that decision after considerable debate over the purchase cost and the tax consequences. The tax matters have been studied. The Treasury Department has studied them at great length. The Treasury Department has written letters on the subject, analyzing the tax consequences. It has all been debated in the Senate. Now, postcloture, the Senator from Pennsylvania suggests that we get into it all again.

Mr. President, what the Senator from Pennsylvania would do in his amendment is to rewrite the built-in deduction rules in our tax laws. And these constitute some of the most complex aspects of the tax laws of this country. The consolidated return regulations, which are touched by this, comprise some 127 pages of the tax regulations. It is an extraordinarily complicated rewriting of the method of computing deductions for Norfolk Southern after the deal is entered into.

I do not think we want to get into this complex matter involving a fine tuning of our tax laws, aimed at one company—one company—a company specific. I do not think it is right. I do not think we want tax laws that single out one company.

I think that, given the fact that it totally wrecks the deal and wrecks the economics of this deal, this is an amendment we do not want to agree to and, therefore, Mr. President, I move to table the amendment.

Mr. HEINZ. Will the Senator withhold his motion for just a minute?

Mr. DANFORTH. I will withhold my motion to table for 1 minute.

Mr. HEINZ. Well, would the Senator from Missouri be willing to answer a question or two?

Mr. DANFORTH. No, I am not. I am not going to get into a debate on this.

I move to table the amendment and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Missouri [Mr. DANFORTH] to table the amendment of the Senator from Pennsylvania [Mr. SPECTER]. The yeas and nays have been ordered, and the clerk will call the roll.

The bill clerk called the roll.

Mr. SIMPSON. I announce that the Senator from Arizona [Mr. GOLDWATER] is necessarily absent.

Mr. CRANSTON. I announce that the Senator from Georgia [Mr. NUNN] and the Senator from Mississippi [Mr. STENNIS] are necessarily absent.

I further announce that the Senator from Hawaii [Mr. INOUYE] is absent on official business.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 63, nays 33, as follows:

[Rollcall Vote No. 10 Leg.]

YEAS—63

Armstrong	Gore	Mattingly
Bentsen	Gorton	McClure
Biden	Gramm	McConnell
Bingaman	Grassley	Moynihan
Boren	Hatch	Murkowski
Boschwitz	Hatfield	Nickles
Bradley	Hawkins	Packwood
Chafee	Hecht	Pressler
Chiles	Heflin	Pryor
Cochran	Helms	Quayle
D'Amato	Hollings	Roth
Danforth	Humphrey	Rudman
DeConcini	Johnston	Simpson
Denton	Kassebaum	Stevens
Dole	Kasten	Symms
Domenici	Kennedy	Thurmond
Durenberger	Laxalt	Trible
Eagleton	Long	Wallop
East	Lugar	Warner
Evans	Mathias	Weicker
Garn	Matsunaga	Wilson

NAYS—33

Abdnor	Ford	Mitchell
Andrews	Glenn	Pell
Baucus	Harkin	Proxmire
Bumpers	Hart	Riegle
Burdick	Heinz	Rockefeller
Byrd	Kerry	Sarbanes
Cohen	Lautenberg	Sasser
Cranston	Leahy	Simon
Dixon	Levin	Specter
Dodd	Melcher	Stafford
Exon	Metzenbaum	Zorinsky

NOT VOTING—4

Goldwater	Nunn
Inouye	Stennis

So the motion to lay on the table amendment No. 1560 was agreed to.

Mr. HEINZ. Mr. President, I move to reconsider the vote by which the motion was agreed to.

Mr. FORD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. HEINZ. Mr. President, the Senate has worked its will on this amendment, but I want to draw the attention of the Senate to something I think is not in the tradition of the Senate.

I said earlier today that it is important for substantive amendments to be carefully weighed and evaluated and to be debated. The amendment I offered a few minutes ago—perhaps the results would not have been any different—was debated briefly by me. I spoke for 6, 7, or 8 minutes. Senator SPECTER spoke for 2, 3, or 4 minutes.

In opposition, the Senator from Missouri, the manager of the bill, spoke for 1 or 2 minutes. I asked him if he would yield for a question and he said, "No."

It is his right not to yield for a question. He was within every single right of not yielding.

But, nonetheless, when we are considering an amendment of serious importance that involves some $200 million or $400 million, depending on who you believe, it is in the interest of good debate, serious, professional legislative work, to answer reasonable questions.

The Senator from Pennsylvania did not have a chance to propound the question. He was not given a chance.

Mr. President, I fear that this is one of the consequences that we inflict upon ourselves when our leadership decides, as is the leadership's perfect right, to file a cloture motion on the very instant a bill is taken up by the Senate and sends out the word, "It is time to move ahead down the track," and it does not make any difference whether anybody wants to have a chance to ask where the train is going or why it is leaving.

This is too important a body, our tradition prizes debate too highly, to simply rush, without proper consideration.

How much more time might we have spent? Five minutes? Ten minutes? At the outside, 15 minutes. At least we would be making the record clear to the public as to what the issues were.

The public is not going to know. Maybe that is the way we want to write the public record. I do not think most of us do. And I am not going to second-guess my colleague from Missouri; I am not going to try to ask him after the fact a lot of pertinent questions as to whether, in fact, there would have been, in his judgment, $200 or $400 million worth of revenue loss. I think I know how he would have answered that question had he let it be asked. He would probably have let it be answered in the affirmative, because he knows what the facts are.

When he claimed that the amendment was rewriting the 127 pages of the consolidated return portion of the Internal Revenue Service Code, if I had had the opportunity to ask him if he had read the amendment and whether, in fact, it modified one word in the Internal Revenue Code—which it does not—I am sure he would have, on reconsideration, corrected the record.

When, had I had the chance, I would have asked him whether or not the Secretary of Transportation had made the statements that I quoted into the RECORD in her letter of December 20 to Mr. FLORIO, a factual matter, I think the Senator from Missouri would have answered that accurately and agreed that that was the policy of the Department of Transportation, at least on December 20.

When I first came to this body, someone said, "Well, John, you may have disagreements with people, but just remember something: Everybody is entitled to their own opinion but we are only entitled, you and whoever you are debating with are only entitled to one set of facts." The purpose of the debate in this body is at least to isolate what the facts are. We can differ in our conclusions and the relevance of those important pieces of information, but we should never obscure the facts.

We should not obscure the ability of the Senate to illuminate issues. I fear that the last 2 days, we have very much darkened in this body the light in which the debate should be carried on.

Mr. President, I yield the floor.

Mr. RIEGLE addressed the Chair.

The PRESIDING OFFICER (Mr. GRAMM). The Senator from Michigan.

Mr. REIGLE. I thank the Chair. I want to acknowledge the remarks of the Senator from Pennsylvania, who, I think, makes very important points here.

I appreciate the feeling with which he expresses his points. I want to join him. I feel the same uneasy feeling that he has just ably described. I think examples of arbitrariness are less than what we ought to see in terms of the conduct of the Senate toward any Senator, regardless of which side of the aisle—not just here on the floor but in committee as well, not just on this issue but other issues as well. I think this is an important matter to at least think about at this particular moment.

I congratulate the Senator from Pennsylvania for making those points, for insisting, I think, upon his proper rights as a Senator to try to have an important matter of this kind looked at, evaluated, weighed.

I got the feeling yesterday and in the previous days of debate on this matter that, in a sense, the fix is in. It has been in for a long time. The decision was made some time ago in the administration to go with the Norfolk Southern package come hell or high water, even if they were the low bidder and there was a big difference in dollar offers; even if there were no operating plan; even if there were major antitrust problems and no clearance from the Justice Department; even if there were no labor agreements, all of which is the case, and was the case when we took this up in the committee.

We were not able to get straight answers on any of those things at that time. There was a big rush to report it out, bring it up, make it the first big business of the Senate in the second session. Frankly, in my view, any matter that comes out and is complex and is the first item out of the box had a hard time getting the kind of consideration it ought to get, especially one that I think is not one that Members see, Members off the Commerce Committee or outside the immediate geographical areas affected, or necessarily able to spend all that much time working on. We have spent a lot of time on other things—Gramm-Rudman, and people in other committees on other things, tax reform and what have you. So this is a matter many Senators are beginning to deal with in an immediate way for the first time when it was brought to the floor just a matter of a few days ago.

So, Mr. President, this is the kind of question, an important question, a big question in terms of the policy issues, in terms of the fallout, in terms of how the economic system is going to work and certainly in dollars and cents terms, right down into the budget deficit itself, which is, of course, a problem of enormous magnitude, as we all know. It seems to me this is the kind of issue where we would not want to hurry and we would not want to suppress facts or questions or information, as the Senator from Pennsylvania speaks about them, but rather, that we would want to accord ourselves the opportunity to get as much information as possible, have full debate, not run roughshod over anybody, in order to see to it that, in the end, we can all walk away with the confidence that at least we have had our say, there has been full consideration and a proper consideration. And if we have to be on the losing side, at least we can leave with the satisfaction that there was a full and open and balanced and fair debate.

It seems to me we are entitled to that, the country is entitled to that. And no Senator, whether he is a committee chairman or in any other position of leadership, has the right, in my view, to run over the edges in that area, not now or at any other time.

So I hope—I know when we are on the floor for long periods of time and people are tired and tempers are short, I think it is easy sometimes to be arbitrary, not necessarily even intentionally. But that is not any excuse for it, whether it is intentional or unintentional. I hope that we would not see ourselves in that situation. I think we are hurrying too fast on this and we do not have the answers.

I am frank to say as a member of the Commerce Committee that has jurisdiction in this matter—and I have served on that committee now for 9 years—I have seen a lot happen on that committee over that period of time, under a variety of leadership, on different issues that have come down the track. I will make it as plain as I can make it: I think we have done a poor job on this situation in this com-

mittee. I do not think we have done a good job to bring it out here because we do not have the definitive answers in any one of the question areas that properly need to be raised and settled on this matter.

We do not have final determination from the Justice Department on the antitrust issues, yet we are urged to go ahead despite not having that. In fact, because we know there are problems in this area, we are asked to put an antitrust exemption in the law to create a special waiver to forestall problems that are here in the antitrust area. I do not think that is a way to handle a matter of this complexity.

On the labor agreements, when I asked that question, there are a lot of jobs involved here and I think it is important to ask what is going to happen to those people. I think they have some right to know. I think it is a fair question, one that deserves an answer. We were told in the committee that there were agreements worked out, there were understandings. It turned out that was false. Those were false assertions. Afterward, I gathered all of the labor organizations in my office and I asked them point blank if this was true. And they said no, it was not true. It was not true then and it is not true today. So there are no understandings and agreements in that area. There ought to be. They may not be ones I would agree with or they would agree with but, nevertheless, if we are about to execute this deal it seems to me we have a right to have that kind of issue sorted out.

How about an operating plan? I have a lot of shippers in my State. I will not necessarily name them by name, well-known companies, major shippers that use the rail lines all across the country who are very much concerned about what is going to happen in terms of freight rates and accessibility in getting their products to market, and so forth, They are very much concerned.

The Department of Transportation in my State has come back with an adverse finding on it because we are finding in my State that businesses are harmed rather than helped in this package. Others apparently feel they are helped. But we do not have a comprehensive operating plan yet. We did not have it at the time the committee met. I asked for it. We were told it was not ready, and it has not been put together since. We do not have it today and yet we are asked to go ahead.

Of course, that brings us around to the question of the dollars and cents. Since the committee acted some time ago, things have changed. One of the things that has changed is one of the serious bidders in this case, Morgan Stanley, putting together a consortium of major blue-ribbon investors around the country, has come to us and said, "Look, we are willing to buy these assets and to continue this railroad in operation and we are willing to pay more money, cash on the table, a cashier's check at the closing, that will be $200 million higher than the bid that has been made by Norfolk Southern." And you will not have all the other problems. You will not have the anticompetitive problems because you will maintain a competitive railroad and the other matters will be worked out and in addition the tax credits, which our own Congressional Budget Office tells us are $400 million that adversely will come right down through to the Federal deficit if this deal goes through as recommended to Norfolk Southern, they have said. But they do not have to say it. We can say it. We know that they, these defects, do not apply in the case of the Morgan Stanley offer, and so just the sheer dollar difference magnifies up from $200 million to at least $600 million. In fact, the figure is higher because there are some other factors.

And so it is adverse in that respect. And yet in the interest of what, I am not quite sure. The momentum. People have taken positions. People's reputations are at stake. People have gotten out on this limb, and so forth, and so we have to go ahead and we have to do this despite all these facts.

I do not think the Senators from Pennsylvania particularly enjoyed the struggle that they have had to go through, Senator SPECTER, who for many days was involved, and Senator HEINZ, who has just spoken a moment ago. Others of us who have strong feelings about it have not taken time to speak many times on this. I have only spoken once and that was yesterday. I had hoped we would see some movement because these facts are very powerful facts. Something needs to be changed here.

We ought not to just automatically be backed into the decision at the end of having to accept the Norfolk Southern offer because that offer on its face and in comparison to our other options is defective. The bid is not high enough. It is much too low. The antitrust problems are there. They have not been resolved. We do not have the labor understandings, nor do we have an operating plan. So why are we going ahead? Why are we going to do something that on every major count is adverse as one would weigh it to the interests of the country.

I want to say something I said yesterday. This is not to speak against Norfolk Southern. I think that it is a very well-managed railroad. They have a very fine record of success. I applaud that. I think they know how to operate very successfully in the railroad business, but that does not mean that you turn around and sell them very valuable public assets at less than full value. We should not sell them oil lands or anything they might want at less than full value or less than somebody else is standing there saying they are prepared to offer us as is the case in at least the other two offers. I think at this point if we opened up this bidding the way we ought to, we would get additional bidders coming forward at even higher price levels.

I do not blame Norfolk Southern in a sense for wanting to get a good deal if they can. If they come in and buy these assets at far less than full value, they are doing a good job for their shareholders, they are enhancing the value of their company. That is the way the private enterprise system works. But that is not the way the public system works. These are public assets. Conrail does not belong to the Commerce Committee or to any member of the Commerce Committee or to the Transportation Department or to the Reagan administration or to this Senate or to this Congress. The Conrail system today belongs to 240 million Americans and they have been asked to invest in it over a period of time by our actions, and we have done so. And lo and behold it has worked quite well; a successful railroad operation has been put together that has enhanced the rail transportation system in this country.

We have more people at work, we have more competition on rates, holding rates down, we have more options for shipping for people out there who need to ship their goods over the rail system. So we have come out ahead.

It has been a good investment. We are making money. It is a profitable operation. I am not prepared to go from that to say that it ought to stay within the Government, because I do not think that. I think it is time to move it out into the private sector. So I would agree, for example, with the position of the committee that the time to act on this is in this timeframe. That does not mean today or tomorrow but certainly within the period of the next few months.

I think in calendar year 1986 we ought to be able to make a reasoned and rational and sound decision on this issue. But we are not in a position to make it right now even though we are being rushed into that. We are being backed into what I think is clearly a defective alternative. But the people who are the losers here are not just the Senator from Pennsylvania, who I think was not treated properly, if I may say so, a short time ago in this matter, and others of us who may in one way or another have gotten a little bit in the way of short shrift in terms of a chance to weigh in with facts and a position on this thing. But if we sell these assets at less than full value, if we go with the low bidder and not a higher bid that is available, we are really defrauding the American people. We are taking the money out of their pockets because they are the

ones who own Conrail, not any of the other agencies of Government that I mentioned before. It is the American people that own it, 9½ million people of Michigan who are equity holders in Conrail today and they deserve to get full value when it is sold. That is true of the people of every one of the other 49 States.

So I do not think we are being unreasonable to ask for that. In fact, I would say that the people who say, "No, we cannot get that and we have to hurry and time is up, let's go ahead and let's do it now," I think they are the ones being unreasonable, most unreasonable.

The public will be the loser in this case. That is the thing that is painful. We have just gone through this exercise—I serve as many of my colleagues do as a member of the Senate Budget Committee, and I have now for some years, and I have watched as we have gone through all of the tortured exercises of trying to bring down the Federal budget deficits.

I have watched Chairman DOMENICI lead that effort, who I think is one of the most talented Members of this body, working long hours. I think he impaired in some instances his own health to try to get the job done. But here we are still with budget deficits in the range of $200 billion a year, and we are trying now with automatic, across-the-board cuts in Gramm-Rudman, if they take effect, to bring the budget deficits down because we do not have enough money.

We are in a very bad financial condition, fiscal condition. Here is a chance to do something to help that problem but not if we do not sell to the high bidder. If we have a chance to sell it for at least $200 million more than what is being recommended here, and in fact have an additional $400 million available through the offset of the tax credits, so a total of $600 million or six-tenths of a billion dollars, that is a lot of money.

Let us bring that down through to the bottom line; namely, the Federal budget deficit. Let us use that for the remainder of this fiscal year, the part that would kick in and for the coming fiscal year. Let us use that to reduce that deficit. I think this is one of the few things we can do. I think there is a consensus to privatize, if you will, with respect to Conrail.

I think there is a bona fide consensus on both sides that says it is time to move it out from under the umbrella of Government and into the private sector. That clearly is the view that I hold. But having established the notion that that is the sensible thing to do, why under any set of arguments are we prepared to do that at less than full value and less than somebody else is willing to pay?

I used the analogy yesterday of the New York Stock Exchange because if you want to buy or sell a security that passes through the New York Stock Exchange you do it in an open market. It is done right there on the floor and you come down and you offer what you have for sale and somebody is bidding on the other side. The sale is consummated between the person selling and the highest bidder, because the person who is selling wants the highest offer, and they have a right to get it, and that is why we have an open market system. It is one thing that differentiates our economic system from that of other nations that operate differently. I believe in that very strongly. I thought that when I served on the other side of the aisle, and I think it as well when I serve on the side of the aisle.

If we try to sell securities on the floor of the New York Stock Exchange or in an open market and there is more than one bidder, normally we would sell to the high bidder. We would take the person who is offering the highest price. But here we are being asked to violate all those rules of commerce, all those rules of common sense and the things we talk about in terms of how we work on our way through commercial transactions. In this sense, the loser is the American people, because this belongs to them.

So here we are, in the process of selling it off, being urged to auction it off, but instead of selling to a higher bidder, we are going to sell it to the low bidder.

It is not surprising that the Senator from Pennsylvania, the Senator from Nebraska, the Senator from Iowa, the Senator from Minnesota, this Senator, and Senators I have talked to on that side of the aisle do not have a good taste in their mouths about this. They might not say it the way I am saying it because of the relationships involved. Nobody wants to offend anybody else in the administration or anybody on the committee or in a position of leadership on this issue. But is that more important than being willing to offend the American people, willing to offend common sense, in terms of the decision we will have to make here and the effects that everybody will have to live with?

I think that sometimes we end up concerning ourselves on matters such as this, and we end up doing the wrong thing for our own personal purposes: personal reputations, the awkwardness of reversing a position, the awkwardness of opening the bidding process again, if new bids have come in that are higher.

Everybody says, "No, we can't do that, because maybe that will reflect a little badly on this person or that person." What about the American people? When we get television in here, and I gather that it is coming, and the American people have a chance to watch this—if they were watching this debate over the last several days and we were to have a referendum and they could vote as to who would get these assets, I have no doubt in my mind what the American people would do. They would say, "Sell to the high bidder. We need the money."

People are now talking about higher taxes, some on that side of the aisle and some on this side of the aisle. Nobody wants to think about that in terms of solving the deficit problem. I should think they would say, "If you are going to sell public assets, sell them at the highest price. Get all the money you can. That is my money. Those are our assets."

That is what the people of Michigan would say, even without knowing about the problems that relate to the transportation difficulties this package would create for our section of the country. They would say, "Get full value. I don't want my taxes going up. I want the deficit going down."

So if you can sell this for $1.8 billion instead of $1.4 billion, sell it. I do not think we worked very hard to get buyers. In fact, I think that if we opened the competition again for the next 6 months—and I am talking about legitimately—if the Department of Transportation said to the country, "If there is anybody out there willing to come forward with a serious operating plan and is willing to offer $1.6 billion, $1.8 billion, or $2 billion or more." and presumably there would be some tax offset on the tax credits, I think other people would come forward.

That is my judgment, but we have already seen it happen in the case of two other serious bidders, and I think we would see more. But they, the Transportation Department, are not prepared to do that, because for some reason—and it is not clear to me exactly what the reason is—we are in an awful hurry to do this.

I know why Norfolk Southern is in a hurry—because it is a very good deal for them, and they know it. I do not disparage them for trying to make the best deal they can. But we are not here as agents for Norfolk Southern—at least, I hope we are not. I sometimes feel, when I hear some of the comments, that perhaps we are. But I do not think we are. I think we are here as agents for the American people, and the American people deserve the best deal they can get.

I can tell you pointblank that the Commerce Committee has not brought the best deal before the Senate. That is not the best deal, and it is not an adequate deal. It is a poor deal; it is a bad deal.

As I say, I am somewhat at a loss to understand exactly what the circumstances were in the collection of judgments that would have brought us to

this, to do something in a hurry here that really is unsound. It is far less sound than other options available to us this very day. I think better options could be found, if we were willing to work at it.

I will conclude by saying this to the Senator from Pennsylvania. I have served with him a long time. We served together in the House on the same side of the aisle. We served on the opposite sides of the aisle in the House. We have served in the Senate a long period of time. I though what he said was very important and I think very well said and very appropriate.

If we ever get to the point here where any Senators, through any set of circumstances, as to who is in charge or how bills are being managed or the frustrations of debate or who is on what side of what position—if we ever get to the point here where one Senator is more important than another, or there is any appearance that anybody thinks that or acts that way, we are in big trouble, because that is not the way it is. We are all equal in this body, regardless of the size of the States we represent or how long we have been here, and that is how it should be. My State is the 8th largest, but that does not mean anything in terms of whether somebody else happens to be from the State that is 50th in size in terms of rank. When we come here on the floor, we should be able to act back and forth in good faith between each other, accord each other the privilege of being able to present our point of view, to argue it, to get full answers, and to get the facts out on the table. When that does not happen, the Senate and the country are losers.

If we back into this Norfolk Southern thing the way it has been done here, I think the Senate will not have met its responsibility to the American people. I think it will be a disappointing performance from start to finish, in terms of that being the outcome and our saying that is the best we can do in light of the existing circumstances. It is not the best we can do. We can do a lot better, but we are not going to do a lot better if we are not willing to make the effort to do it.

Those are the views of this Senator.

I reserve the remainder of my time, in terms of my 1 hour.

Mr. CHAFEE. Mr. President, I am not going to respond to the conspiracy theory that has been propounded by the Senator from Michigan. I am not going to spend time saying that we are all guilty of falsehoods, as he has suggested, or untruths, or that this has been illegitimate dealing for this railroad, as he has characterized it, or that we are all participating as defrauders, as he suggested.

Everything that the Senator said he said last night at the top of his lungs.

It is not as though this is the first time we have had a chance to debate this. We have had this before this body for nearly 2 weeks, and indeed if it is all that important I notice that last Friday we did not even meet by agreement. The Senator from Michigan and his conferees on the other side who are opposed to this wanted to take the day off. They did not want to debate this.

This suggestion that we have not had a chance to go through this matter thoroughly is hogwash.

Now he suggested that there has not been an opening for people to come forward and bid. The bidding started in this in 1982 and at some time you have to say enough is enough and you close the door and get on with making your decision.

Now, Mr. President, I am not going to go through all the details of the bidding. We know that it was narrowed down. There were various bidders that fell out or could not raise the money, and finally the decision was made and so it came before the Commerce Committee and there they went through it and in considerable detail.

I do not think there is any conspiracy in this body, as suggested, or that we are all lacking courage. What a suggestion that in a vote of 70 to 27, 70 people here who voted that way somehow did not have the courage to stand up; we were being subverted in some fashion or locked into a position because of friendships or leaderships or people in important positions.

Clearly somehow the suggestion is that the Secretary of Transportation has a grip on us and that we do not know how to vote.

Mr. HOLLINGS. I wish she did.

Mr. CHAFEE. That is nonsense.

Now, the Morgan Stanley vote, 53 to 39, there is a vote on it. Somehow all of us did not know what we were doing. We just did not understand it. The Senator from Michigan understood it. He is speaking for America but the rest of us are all pandering to some special interest or group because we do not stand up, we are not like he, red-blooded virile Michigander who can tell us how to do things around here. That is nonsense.

Let us just suggest how we got into this position. We came back from recess after spending the last part of December talking about the quality of life in the Senate and things are going to be better as the group who is opposed to know. What did they start off doing? Something that the great filibusters in the past never even designed to do, and that is we are not even going to proceed. We are going to have a filibuster on the motion to proceed.

Is that fostering friendships and dealing with problems around here? Is that getting to the guts of an issue? If it is, it did not improve the quality of my life, I will tell you, in any fashion.

Now, we spent last week on it and this week, and the Senator from Michigan says we have not had a chance to discuss it. How long are we going to take? Cannot we reach a decision in this body or are we paralyzed? Do we have to go on and reopen everything for bidding?

Let us see. Mr. Marriott had a bid in there. We will look at it over again.

The Senator from Michigan said he wanted to sell this railroad. When does he want to sell it? In the year 2000? Are these people going to keep their bids open forever?

He said we would not know what is in it and there are untruths. Some of the charges here are so foolish that I do not understand a sensible person like the senior Senator from Michigan to say these falsehoods, untruths, and this conspiracy and defrauding and illegitimate bidding. That is nonsense and we know it.

There comes a time when we have to make up our minds, we have to fish or cut bait. We voted on this. We have had vote after vote. How many votes have we had on this matter, motions to table? How many votes today, I ask the Chair? I will ask anybody.

The PRESIDING OFFICER. Seven.

Mr. CHAFEE. Seven. Seven votes.

And can someone tell me what the closest was?

Mr. HOLLINGS. Fifty-four to forty-five.

Mr. CHAFEE. What is the closest vote, I ask the Chair in this matter?

Mr. HOLLINGS. Fifty-one to forty-five.

Mr. CHAFEE. Fifty-one to forty-five, and I do not know what that high watermark was?

Mr. METZENBAUM. Pretty close, antitrust.

Mr. CHAFEE. The Danforth motion to table Lautenberg; nothing to do with antitrust. That was a special favor for New York and New Jersey and that went down.

Mr. HOLLINGS. That is right.

Mr. CHAFEE. Now, you know, democracy is a pretty precious thing and the debate in this body is a pretty precious thing.

I have talked with some on the other side when they have talked about debating motions to proceed and filibustering, and the answer is the rules permit it. All they are doing is acting under the rules.

Ladies and gentlemen, if we feel that we can go to the ultimate of the rules in this body every time and that there is no comity, as it were, no feeling of getting on with the business, if we are going to debate everything, have a filibuster on the motion to proceed and then have a filibuster on the actual motion itself, and then use up our 100 hours, that is all permitted. But is

that the way to do the business of the U.S. Government? I do not think so.

In the great issues, this hardly ranks as one of the great issues that has come before this body. In all fairness, what happens with Conrail is not going to determine the future of this Nation. But in the great debates in the past, those who have been involved with them and they were greater giants than we are, and I am talking about Senator Russell, and I am talking about those people who preceded us here, when the debate was over, when the cloture motion had been invoked, they went to the vote. The decision had been made, and we have to get on with the business of the people of the United States of America.

And so I think that is the important lesson. The Senator from Michigan thinks we are all wrong, the rest of us do not know what we are doing. Seventy of us—here are the votes: 56-37, 51-34, 61-32, 70-27, 69-27, 91 to 5. That was a motion to instruct the Sergeant at Arms, and I suppose we got a lot of people we normally would not get on that, even though there were five who did not quite understand this business. And 63 to 33.

What do you have to do to get on with the business of the United States? Were we going to spend this week, next week, ad infinitum, on this business? I do not think so. Let us get on. We have other tough things and the Senator from Michigan is a member of the Budget Committee and the problems with that budget make this Conrail business pale in importance. That is the big measure that we ought to be dealing with, and let us get on with it.

So, I want to say I categorically reject this business that we are all guilty of participating in some conspiracy over here or we are all guilty of falsehood or untruth or illegitimate bidding was partook here or that there was defrauding. These are all statements that the Senator who previously spoke used.

I would hope that if people have votes, they bring them up and let us vote on it and see if we cannot settle this matter once and for all and go on to other matters.

Thank you very much, Mr. President.

Mr. RIEGLE. Mr. President, I always find the Senator from Rhode Island entertaining if nothing else.

But I listened with great care to what he said. I say to the Chair, and I will address my colleague through the Chair, that he is free, obviously, to make whatever characterization that he likes about what I have said and that is something that he would have to decide for himself, but I want to make it clear that it would be well, I think, to use, if you are going to make characterizations, you ought to use direct quotes and not sort of round the edges off in terms of what is said or not said.

I am quite prepared to stand by everything I said a minute ago, every word of it, exactly as I said it and as I hope it was taken down accurately, and I must say I think the characterizations, not using the quotations, the characterizations just made, and I enjoyed the humor in the comments myself, are I think quite different from the spoken words that I said. It may sound the same to the Senator from Rhode Island, and that is as it is. But I would hope that in a matter of this consequence we would make sure that not just this Senator—I have only spoken twice; I have not been involved in any of the filibuster activities that have been cited in an earlier tiem, but I want all Senators to be heard including the ones on that side of the aisle, and this dicussion, I say to the Senator from Rhode Island, that I was attempting to address was initiated by the colleague on his side of the aisle, the Senator from Pennsylvania, and properly so, properly so.

You know, this shoe is going to have to fit on both feet eventually in terms of the kinds of procedures we are going to use around here. And you may find that being in the majority, especially for a party that has not been in the majority for a long, long time until recently, confers some sort of special privilege in terms of the use of the powers that go with that, but I do not think so.

I hope there would not be a misjudgment about that, because, in due course, and I hope by the time the elections are settled in this year, the majority will be back on this side. I hope that when that happens—and I think it will happen this time, and I hope that it will—but I hope that, when it does happen, we would be unfailing, unfailing in our courtesies to the Senators on the other side of the aisle in committee, in subcommittee, and on the Senate floor—all Senators, whether they happen to agree with us or not, those on our side of the aisle, those on the other side on the aisle.

I think the Senator from Pennsylvania was badly treated and improperly so. There is no excuse for it. And to put it off with a lot of asides and humor and so forth does not take the fact away. I am bothered about it, and, if it happens again, I will speak about it again.

I reserve the balance of my time.

Mr. METZENBAUM. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DOLE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. Mr. President, the Senate is considering legislation authorizing the sale of the Federal Government's ownership of Conrail to the Norfolk Southern Corp., as proposed by the Department of Transportation. The Conrail debate has involved shippers, State governments, and a number of railroads, including Conrail, Norfolk Southern, and the Chessie System Railroads, the largest railroads in the Eastern United States. This is a very difficult and complex issue in any event, but for me it has been especially difficult because all three of those railroads operate in my State of West Virginia. They all play major roles in the economy of my State, transporting West Virginia coal, steel, chemicals, and other commodities to markets in other parts of the country, or to destinations overseas.

West Virginia's economy, and, therefore, the jobs of thousands of West Virginians, depend heavily on efficient, economical rail transportation. Accordingly, I have been concerned about the implications for West Virginia of the proposed sale. For the past several months, I have listened carefully to all sides of the debate in an effort to determine whether the proposed sale of Conrail to Norfolk Southern would be in the best interests of West Virginia.

After weighing the information I have received regarding this issue, I have come to the conclusion that the sale of Conrail to the Norfolk Southern Corp. would not be in the best interests of West Virginia. For example, West Virginia coal is shipped by Norfolk Southern, the Chessie System railroads, the B&O and the C&O, and Conrail. A combined Conrail/Norfolk Southern railroad would have an economic incentive to ship and deliver coal from coal mines on its own system, rather than to deliver coal originated on the Chessie System. Consequently, between 3 and 5 million tons of West Virginia coal shipped on the B&O Railroad could be adversely affected. This amount of coal is not insignificant, for it represents from 7 to 12 percent of the West Virginia coal shipped out-of-State to domestic utility markets. More importantly, the potential loss of markets for this coal translates directly into the loss of more than 1,000 coal-mining jobs in West Virginia. In addition, diminished coal shipments on the B&O could result in the loss of railroad jobs, thereby further exacerbating the already difficult employment situation in West Virginia.

It is likely that other commodities of importance to West Virginia could be similarly affected.

In addition, Conrail plays an important competitive role in West Virginia. It has been aggressive in its efforts to develop and market West Virginia

coal, particularly in the area of coal exports. If Conrail were sold to Norfolk Southern, economical alternative routes developed by Conrail for the shipment of West Virginia coal bound for the export market could be eliminated. This could further erode the competitiveness of West Virginia export coal in world markets, which, in turn, would have an adverse effect on coal-mining employment in West Virginia.

Mr. President, I believe that the Federal Government should not be in the freight railroad business. However, I cannot support a plan to return Conrail to the private sector that could have an adverse impact on West Virginia jobs, or diminish the prospects for economic growth in West Virginia. I must, therefore, oppose the proposed sale of Conrail to Norfolk Southern. Thus, yesterday I voted in support of the Morgan Stanley proposal to return Conrail to the private sector, through a public offering because I believe that an independent Conrail is in the best interests of West Virginia.

Mr. LONG. Mr. President, the Senate is presently considering legislation authorizing the sale of Conrail to Norfolk Southern.

The merger of Conrail with Norfolk Southern, however beneficial in other respects, clearly would continue the trend toward concentration in the railroad industry which has already greatly reduced competition between railroads and transportation alternatives for thousands of shippers.

This problem has been enormously aggravated by the continuing failures of the Interstate Commerce Commission in administering the Staggers Rail Act of 1980. Congress intended that the ICC implement regulations and procedures which would permit captive shippers to challenge unreasonable rail rates. Under the standards and procedures implemented by the ICC since passage of the Staggers Act, shippers have attempted to challenge rail overcharges but without success. Furthermore, the ICC is constantly expanding the ranks of captive shippers because it refuses to preserve competitive transportation options through the use of joint rates, reciprocal switching, and other procedures.

This failure of the ICC to address captive shipper problems was the subject of the lead editorial in the New York Times on December 23, 1985. It points out that although some captive shippers have been seriously overcharged, the ICC has refused to grant rate relief. It criticizes the Commission for clinging to the "outdated rationale that the railroads need every last penny to stay in business."

Mr. President, many of us thought that Congress had effectively legislated protections for captive shippers in the Staggers Act in 1980. The record of the ICC makes clear that this is not the case. It is obvious that the exercise of monopoly power by the railroads is a problem that will not go away.

If Congress does in fact decide that Norfolk Southern should be allowed to buy Conrail, then it should also take steps to minimize the impact of that acquisition on future competition in the railroad industry and on captive shippers. It should clarify and strengthen the role of the ICC by enacting the Consumer Rail Equity Act (S. 477), which is now pending before the Senate Commerce Committee. I urge my colleagues to support legislation, which will enhance competition between railroads and give captive shippers a fair chance to challenge excessive rates at the ICC.

Mr. President, I ask unanimous consent that the text of the New York Times editorial be printed in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

[From the New York Times, Dec. 23, 1985]

NEXT STEPS IN RAIL DEREGULATION

When Congress relaxed price controls for freight railroads in 1980, it sought an artful balance. It wanted to give railroads incentives to rebuild their collapsing systems. But it wanted also to protect shippers from being gouged by rail monopolies. Some of these shippers now complain that the balance has tilted in favor of railroads, and they make a good case. If deregulation is to work for everyone, the reforms of 1980 need fine tuning.

Most cargo shipping is vigorously competitive. In setting prices, truckers and airlines must keep a close eye on the competition. Railroads, too, are held in check for some products in some regions. If they try to overcharge the large manufacturers of high-value products like machinery or auto parts, they risk losing the business to another railroad or an enterprising trucker.

But railroads exert great market power in carrying bulk commodities on underserved routes. So Congress put some limits on the railroads' freedom to set their own rates. Where a shipper can show that a rail company dominates a transportation market, the Interstate Commerce Commission is empowered to intervene. And if the commission finds a railroad's total revenues to be adequate and its prices unreasonable, the shipper can be granted rate relief.

By and large, this partial deregulation has worked well. Railroads are posting good profits. More important, they are investing billions to modernize their systems. And many shippers are getting better service for the same old rates. But some shippers, notably power companies buying coal from Western mines, have been seriously overcharged. And the I.C.C. has so far denied them relief. The commission, it appears, clings to the outdated rationale that the railroads need every last penny to stay in business.

A coalition of commodity shippers, electric utilities, labor unions and consumer groups urges legislation, to reduce the I.C.C.'s discretion, forcing it to come down harder on strong railroads. Things may have to come to that if the commission refuses to tighten its guidelines for rate relief. But the dreary history of price regulation makes very clear that prices set by regulators can never be entirely fair or efficient.

The long-term goal of reform should be to keep easing off regulation by making the shipping industry ever more competitive. At least three steps could be taken toward that end:

Congress should authorize construction of pipelines to carry mixtures of pulverized coal and water from mines to power plants. Such coal slurry pipelines have been blocked at state level by railroad lobbying. If Congress pre-empts authority over pipelines, the mere threat of their construction would discourage rail overcharges.

The I.C.C. or Congress, if necessary, should halt rail mergers that reduce the number of carriers serving shippers of bulk commodities.

Congress should explore ways to stimulate more competition among existing rail systems. For example, it might require rail companies to lease their tracks and terminals to competitors at reasonable rates.

The first goal of rail deregulation—a more productive, financially stable system—has been achieved. The next goal should be insuring that railroads share the benefits with consumers.

Mr. BAUCUS. Mr. President, I would like to announce that I was called back to Montana yesterday afternoon for a critical meeting concerning the future of a major industrial facility in Columbia Falls, MT.

As a result, I was unable to be here to cast my vote on Senator SPECTER's amendment concerning the sale of Conrail to Morgan Stanley. Had I been present, I would have voted against the tabling motion on the amendment.

Mr. DOLE. Mr. President, there will be no more votes this evening. The Senate will not be in session tomorrow.

S. 638 LAID ASIDE UNTIL TUESDAY, FEBRUARY 4, 1986

Mr. President, I ask unanimous consent that S. 638 be laid aside until Tuesday, at 11 a.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOLE. Mr. President, on Monday we will be in session. We will start debate on TV in the Senate, Senate Resolution 29. We will be back on Conrail on Tuesday, and I feel certain that we will conclude action on the Conrail bill hopefully early afternoon on Tuesday. There is no agreement. But I have checked with the principals. It seems to me that there are some important questions that should be raised. They will be raised.

I am confident we do not need an agreement. We have in effect the word of a number of the Senators that we will conclude action on Tuesday. If we finish early on Tuesday, we will be back on TV in the Senate. Then we will stay on that the balance of the week.

It would be my hope that we could dispose of that measure next week.

I would again indicate to a number of my colleagues—some 22 or 24—who would hope to be able to go to Hous-

71-059 O-87-39 (Pt. 1)

ton tomorrow that we will not be in session. They will be able to go.

There will be no more votes this evening.

ROUTINE MORNING BUSINESS

Mr. DOLE. I ask unanimous consent that there now be a period for the transaction of routine morning business not to extend beyond the hour of 7:15.

The PRESIDING OFFICER. Without objection, it is so ordered.

MAKING CERTAIN TECHNICAL CORRECTIONS TO AMENDMENTS TO THE FOOD SECURITY ACT OF 1985—S. 2036

Mr. DOLE. Mr. President, I send a bill to the desk on behalf of myself and the distinguished Senators ABDNOR, ANDREWS, BUMPERS, BENTSEN, NICKLES, COCHRAN, PRYOR, BOREN, ZORINSKY, MELCHER, HELMS, and BAUCUS, and ask for its immediate consideration.

The PRESIDING OFFICER. The bill will be stated by title.

The legislative clerk read as follows:

A bill (S. 2036) to make certain technical corrections to amendments made by the Food Security Act of 1985, and for other purposes.

The PRESIDING OFFICER. Without objection, the Senate will proceed to consider the bill.

The Senate proceeded to consider the bill.

Mr. DOLE. Mr. President, if I could briefly explain, I know both Senators ANDREWS and ABDNOR want to comment on another matter.

Action on this issue is vital in enabling the Department of Agriculture to implement the 1986 commodity programs announced yesterday afternoon.

During the conference on the farm bill, conferees for the House and the Senate agreed to make limited cross-compliance a discretionary authority with the Secretary of Agriculture for all appropriate program crops—wheat, feed grains, cotton, and rice. If the Secretary decides to exercise this authority, he can prohibit a producer participating in any of these programs from exceeding his or her base acreage for any other crop for which an aceage reduction requirement is in effect. The purpose of this provision, as agreed to in conference, would be to prevent farmers from receiving benefits under one program while expanding their base for another crop deemed in surplus.

In drafting this provision into law after the conference, the discretionary language was maintained for cotton and rice but was accidentially deleted for wheat and feed grains. As a result, the Secretary now has no choice but to require wheat and feed grain producers who want to participate in their programs to confine their production of other crops with acreage reduction programs to their established bases.

If left unchanged, this requirement for limited cross-compliance will cause great hardship and inequity in rural America. First, some producers of fall-sown wheat and barley, who had no reason to expect such a restriction, have already planted beyond their bases for 1986 crops. In order to be in the program for wheat, these farmers will have to tear up considerable barley acreage.

This program will be compounded in Southern States where, in an effort to be fair, USDA has indicated its intention to require cross-compliance for cotton and rice if this amendment is not passed. Under such conditions, farmers who intend to join the cotton program in 1986 will be forced to confine wheat acreage to their program base.

I understand that the administration indicated in yesterday's program announcement that it will not require cross-compliance on any 1986 crop if this amendment is passed. However, in the event Congress is unable to pass a "clean" bill in a timely fashion, USDA will be forced to go ahead and try to make the existing legislation workable.

On behalf of the distinguished Senator from Nebraska [Mr. ZORINSKY], I have added a technical amendment to this bill to correct the procedures for establishing ASCS community committees. I understand this change is acceptable to all concerned, and we should therefore be able to accommodate it.

Several of my colleagues may have an interest in making other changes in the farm bill. But I ask all my colleagues to defer further amendments until a comprehensive corrections bill can be drafted. We need to get this change in cross-compliance in place immediately. Adding amendments will only invite efforts to broaden the legislation, reducing chances of its passage in both Houses and enactment into law. The cross-compliance issue is unique in that it affects all of the major commodities with acreage reduction requirements, and it is essential if USDA is to avoid serious complications in administering the 1986 programs.

I ask my colleagues to accept this important measure as it stands, and allow the 1986 farm programs to be implemented in a fair fashion, as conferees during the farm bill conference originally intended.

Mr. President, I have discussed this amendment with the Presiding Officer [Mr. COCHRAN]. We discovered in the drafting of the farm bill that the report language said one thing, the bill itself said another. It refers to what we call cross compliance. It is a very important matter to producers of many commodities. That is why there are so many Senators on both sides of the aisle cosponsoring the legislation. It is a flatout error.

In addition, the distinguished Senator from Nebraska [Mr. ZORINSKY], the ranking Democrat on the Agriculture Committee, discovered another drafting error with respect to certain ASCS offices. That correction has been made.

Mr. BENTSEN. Mr. President, I am pleased to join with my distinguished colleagues the Senate majority leader [Mr. DOLE] and the ranking member of the Agriculture Committee [Mr. ZORINSKY] in introducing this bill and asking for its immediate passage. I am very pleased with the expedited consideration that this bill is being given. Its passage is critically important to Texas farmers.

Mr. President, yesterday Secretary of Agriculture Block announced some parts of the 1986 commodity programs. I am very disappointed that the Secretary announced that he would require cross compliance for all commodities for the 1986 crop. That decision was his. Due to a drafting error in the 1985 farm bill cross compliance is required for some commodities. It is not required by law for all commodities.

Extending it to all commodities at this late date is a devastating blow to farmers in south Texas. Land preparation has been completed and planting is either underway or only days away. Cross compliance in many cases will make an enormous difference in what a farmer can plant.

In addition, due to the errors and confusion involving acreage bases, especially for feed grains, farmers do not know and probably cannot find out before planting what their feed grain acreage base is. Thus they do not know how to meet the cross-compliance requirements, but they are threatened with loss of all farm program benefits for all crops if they fail to meet these requirements.

The Secretary also announced that he would accept a technical corrections bill dealing with cross compliance, and that cross compliance would not be required for 1986 if it was discretionary for all crops. This bill does exactly that. It corrects an error in the farm bill and makes cross compliance discretionary for all crops.

The 1985 farm bill made cross compliance discretionary for cotton and rice but mandatory for wheat and feed grains. This was, I believe, an unintentional error. The statement of managers in the conference report indicates that cross compliance was to be distretionary for all commodities, but the bill language was not written that way. That needs to be corrected. There are things that the Secretary

could do administratively to help this situation. He has not chosen to do that, and he has called on Congress to correct this mistake.

I will help in that effort. Cross compliance cannot be implemented for 1986. Too many farmers have gone to far on planting preparations to change now. They have plowed their land, bedded that land, fertilized, put down herbicides, purchased their seed. Major changes in the farm program at this late date will cost farmers in early-planting States such as Texas heavily. Farmers farther North will be inconvenienced, but not hurt nearly as bad. That is not equitable at all.

I will help, but I must point out that Texas farmers are once again being used as political pawns in farm bill maneuvers. They do not like that and neither do I. The Secretary did not have to announce cross compliance for cotton, but he did. That will be tremendously damaging to South Texas if it is not changed immediately.

Most south Texas farmers grow cotton and milo. Many were planning on participating in the cotton program and not participating in the milo program, since the feed grain bases are incredibly messed up and they have to plant right now. Cross compliance for cotton limits their milo planting to no more than their base acres.

But they do not know what their milo base will be. The local ASCS office cannot tell them. And yet they must plant in the next few days. Cross compliance means they may be denied price supports for cotton because of the same foulups that may deny them price supports for milo.

What little information that has been put out on bases has been riddled with errors that add to the confusion. I must point out to their credit that the USDA has been helpful in correcting these errors when I have brought them to their attention. They tried to correct their error in announcing separate bases for milo and corn. I was told that there would be one common feed grain base, as we have had in the past. But then the official announcement corrected this error only for farmers who have been participating in the program. That means that some farmers would be denied farm program benefits this year because of decisions they made up to 5 years ago. That is totally unfair.

I was told yesterday evening by the head of the Agricultural Stabilization and Conservation Service that his intention was to treat everyone the same, and that he would look into this and correct any errors. I very much appreciate his cooperation. It is most helpful, and it is the second time that ASCS has corrected flaws in the feed grain bases after I have pointed them out.

But the fact is that the problems with feed grain bases cannot be corrected in time for many Texas farmers. If they have not planted they have at least made financial commitments of well over half their total production cost. At this point it will cost them just as much to leave the land idle and keep if free of weeds as it will to put in a milo crop. It is too late to make major changes in planting without suffering large losses.

In addition, ASCS probably cannot get the corrected information on feedgrain bases to the county offices before much of south Texas has planted.

By announcing cross compliance for cotton the Secretary has raised the ante. He has told Texas farmers that not complying with regulations that were not even written at planting time may make them ineligible for any price supports on any commodity. That is a death threat in many cases.

The Secretary has indicated that he will accept this bill, and I urge my colleagues to pass it quickly.

At the same time, I urge the Secretary of Agriculture to meet us part way. At least announce that there will be no cross compliance for cotton and rice. If that is what he really wants, then announce it in time for all farmers. Do not freeze south Texas farmers out of the farm program just as a political maneuver. It is too late to hold them hostage without adding to the damage that has already done by the late announcement of these farm programs. Corn Belt farmers will be OK if he removes cross compliance within a month or two. But in just a week or two south Texas will have already planted. It will be too late to go back. Mother nature does not wait on these things.

Mr. President, I ask unanimous consent that a copy of my letter to Secretary Block be prinnted in the RECORD following my remarks.

These being no objection, the letter was ordered to be printed in the RECORD, as follows:

JANUARY 30, 1986.

Hon. JOHN BLOCK,
Secretarty, U.S. Department of Agriculture, Washington, DC.

DEAR MR. SECRETARY: I urge you to reconsider your announcement that you would require cross-compliance for all farm program commodities for 1986. Cross-compliance cannot be required for 1986 without causing great hardships and inequities.

Because of the planting dates in South Texas farmers there cannot wait weeks or even days for passage of the technical corrections bill that you requested as a condition of not requiring cross-compliance. They must plant now, and any announcement you make later on removing cross-compliance will benefit Corn Belt farmers, not South Texas farmers.

In addition, there are major problems with your proposed methods of calculating feed grain acreage bases. Because of these errors and the resulting confusion, it will probably be impossible to tell many South Texas farmers what their feed grain base will be before they actually plant. Many farmers were planning to deal with this by participating in the cotton program but not participating in the feed grain program.

Your announcement of cross-compliance for cotton, which is not required by law, denies them that option. It tells these farmers that they cannot get any farm program benefits if they plant more than their base acreage of feed grains. Under current conditions that is an economic death threat for many farmers. At the same time they do not know what their feed grain base in and very likely will not know before they must plant. This is totally unfair.

I will cooperate in every way in expediting passage of a technical corrections bill to make cross-compliance discretionary for wheat and feed grains. In fact, I am introducing such legislation today. I urge you to meet us half-way by removing the cross-compliance requirement for cotton and rice. An immediate announcement of such action is the only way to avoid severe hardships for South Texas farmers.

Sincerely,

LLOYD BENTSEN.

Mr. DOLE. Mr. President, as I said, this bill contains, in effect technical corrections to correct drafting errors. I know other Members are concerned about yields and bases. I am pleased to yield to my distinguished colleague from North Dakota.

Mr. ANDREWS. Mr. President, I appreciate the majority leader's yielding. This type of correction is extremely important because it goes back to what we have had for so long, the opportunity to put in your wheat yield but not your corn yield. This lack of cross-compliance or the nonnecessity of cross-compliance fits very well in the rotation and growing patterns that have been established for so long.

Mr. President, as the majority leader knows, because we have been working with him, this is not the only technical correction we have to make. When you put together a farm bill that is as many pages long as this one is, there are a lot of different interpretations. Cross-compliance is one. Yields, proven yields, is another.

In this bill, there was a change made and we froze the yields to the 1981–85 5-year period. It was done, as we discussed in the committee, in order to make sure that the budget impact in those out years was understandable.

The budget impact could be based on a finite 5-year period. It would not keep going up as the proven yields went up or whatever with the vagaries of the weather. Farmers accepted that. They understood that it would be based on their 1981 through 1985 yields, dropping the high and the low years.

But a strange thing happened, Mr. President, on the way to the county and State ASCS offices. A few of those superlawyers down in the bowels of the Department of Agriculture decided that they could uninterpret and reinterpret language. So instead of just freezing to a 5-year base period, they not only froze to the 5-year base

period which we all understood, but they changed the rules for figuring the yields in that 5-year period. They read farm program payment yields not to be the yield for the farm in 1981, 1982, 1983, 1984, and 1985 on which your payment was figured, but to be the composite yield that was given in each one of those years. And instead of continuing as we have in the past with an understandable program which we thought this language spelled out, they have come up with a new one that, by duplicity and refiguring and a number of other things, changed the rules totally out in the field.

So now, Mr. President, when the farmer comes into the county ASCS office and says, "My farm produced 40 bushels of wheat in 1983 and I can prove it by receipts," somebody behind the desk is forced, because of this lawyer's ruling, to say, "No way, we say it is 27 and that is what you are stuck with."

I appreciate the support of the majority leader in rectifying this. I think the present occupant of the chair is agreeable to this, that tying down the 5-year period is indeed what was meant but not to rejigger and refigure this thing around so a farmer who knows his yield best and can prove that yield is disallowed from proving that yield.

I appreciate the offer of support from the majority leader. We hope we can rectify this as another technical correction within a few days.

Mr. DOLE. I thank the distinguished Senator from North Dakota. He has discussed this with me and I have discussed it with the Secretary of Agriculture. They have a little different view but I think there are a number of Senators on both sides of the aisle who will be heard on this in the next few days.

I think at this point, we should take care of as much as we can. We know this is a technical error.

I yield to the Senator from South Dakota. Mr. President, the Senator from South Dakota was the first one to call this to my attention. I have discussed with him how it applies to particular farmers in the State of South Dakota. It has a rather drastic impact. From the figures I just saw, one farmer could lose as much as $23,000.

Mr. ABDNOR. Mr. President, let me say that is not a particularly large farmer. That is the kind of impact this could have if allowed to stand. I commend the Senator from Kansas, the majority leader, for the technical amendment that he has just offered. That, too, is very necessary.

As the Senator from North Dakota stated—and I associate myself with his entire statement—interpretations I guess can be placed particularly once it leaves the floor of the House and the Senate and gets down into the agency that is administering the program. Sometimes they like to put an entirely different interpretation to a matter, and that is obviously what happened here. It caught me completely by surprise. My understanding was such that I had enough confidence in this bill—and I supported it—I was under the impression that we were interpreting this the same as in the past. Had I any idea this was intended on the part of the legal staff or whoever interpreted that down at the Department of Agriculture, I can assure the majority leader he would have heard strong remarks on my part. And if we had not cleared it up, I could have never supported this measure. So if ever there was a need for a technical amendment in addition to the majority leader's, to straighten this out, it is on this matter of establishing yields. Hopefully in the next few days we can clear this matter up. I thank the Senator very much for the opportunity to set the record straight.

Mr. DOLE. Mr. President, let me indicate again I have discussed this with the Secretary. I have also discussed it with the Senator from Minnesota, who is now on the floor. It was a 13-pound piece of legislation. We had the staff working night and day trying to put it all together. I think they did a remarkable job, and I have certainly no criticism of the staff on either side. But we need to correct some of the things that have been misinterpreted, or at least clarified, and I think the fact we have made a little history on the floor will be helpful to the USDA officials who somehow interpret what we may have had a different view on.

Mr. BOSCHWITZ. Mr. President, I would like to ask the leader, this is an amendment, I heard on the squawk box, that he is presenting which deals with cross-compliance; is that correct?

Mr. DOLE. That is correct. I also indicated that we had one view expressed in the report which made it discretionary, as it is for rice and cotton, and as it was to have been for wheat and feed grains, but in the statute it was inadvertently drafted and it made it mandatory. This simply comports with the committee report. And also the other half of the technical amendment is one that the distinguished Senator from Nebraska [Mr. ZORINSKY] raised with reference to establishing ASCS community committees. Again, this is another drafting error. I know there are other policy errors that we have not discussed.

Mr. BOSCHWITZ. There are some other drafting errors as well, and we had been flirting with the idea of brining them to the attention of the Senate but, on the other hand, we did not want to open up the entire farm bill. The one that the Senators from South Dakota have brought to my attention is certainly a significant one. As the majority leader knows, I was quite active in seeking not only to freeze yields but also to freeze bases. It was my understanding of the matter that we would freeze, but we would not retroactively penalize. It seems that the farm bill has done that to the disadvantage particularly of our regions where the yields have been bountiful in the last couple years. So that it is my understanding then that yet another technical correction bill will be considered with respect to that in 1986?

Mr. DOLE. That is correct, and I will be very pleased to include the Senator from Minnesota as a cosponsor on this correction.

I may already have done that.

Mr. BOSCHWITZ. No; the Senator from Minnesota was not on the list that the majority leader read, which I heard on the squawk box; but as he got halfway down the list, I realized that this was an agricultural matter. I am pleased to join the majority leader.

Mr. DOLE. Mr. President, I ask unanimous consent that the name of the Senator from Minnesota be added as a cosponsor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BOSCHWITZ. And we will revisit this.

Mr. DOLE. That is correct.

Mr. President, I wish to indicate that this matter was cleared with the distinguished chairman of the committee, Senator HELMS, because it was technical in nature.

Mr. HELMS. Mr. President, the legislation being considered will correct two strictly technical flaws in Public Law 99-198, the Food Security Act of 1985.

The legislation provides that there may be more than one ASCS community committee in each administrative area established in the Food Security Act of 1985 and thereby corrects this section of the act to reflect what the conference committee adopted. ASCS community committees are involved in the election of ASCS county committees which help USDA administer Federal farm subsidy programs.

The other technical error involves what is known as cross-compliance. The term cross-compliance is typically used to describe the requirement that producers who participate in one Federal farm subsidy program, such as the cotton program, would not be allowed to plant other program crops, such as wheat, feed grains, or rice, in excess of the farm acreage base for those crops.

The conferees wanted to include Secretarial authority to impose this form of cross-compliance because of our concern about the ever expanding farm subsidy acreage base. The conferees were concerned about the practice of "base building" and the existence of "phantom acres" in the Federal farm subsidy programs. Two Government

Accounting Office reports confirm that there has been significant abuse in this regard.

The recent growth of farm acreage bases when production reduction programs are in effect contribute to "slippage" in the programs which costs taxpayers billions of dollars and works at cross purposes with the farm programs themselves.

Clearly Congress intended that steps be taken to eliminate the abuses involving base building and phantom acres. These abuses are legal because of loopholes. A minority of farmers use these loopholes. They work to the disadvantage of the majority of farmers, however, because they make the acreage limitation programs ineffective. This is contrary to the intent of the Congress, which has very clearly determined that it wants effective programs. The abuses create overproduction which drives prices lower, to the disadvantage of all farmers. And, of course, the taxpayers pay the costs of these abuses to the tune of billions of dollars.

The conferees agreed that the Secretary of Agriculture should have the discretion to require cross-compliance as a condition for eligibility for loans, purchases, or payments. Secretarial discretion was thought more desirable because it will allow for greater flexibility in working out details, and, very frankly, because Congress wanted the administration to "take the heat" that might come from those who would have their abusive practices curtailed.

However, in the grueling process of drafting this massive piece of legislation before Christmas adjournment, the wheat and feed grain cross-compliance provision was drafted in terms that are mandatory instead of discretionary.

On Wednesday, January 29, 1986, Secretary Block announced that he intends to require cross-compliance for wheat, feed grain, cotton, and rice. However, the Secretary also announced that the administration would accept a technical amendment to the Food Security Act of 1985 making cross-compliance discretionary for all crops. If this legislation is approved, the Secretary has said that he would not require cross-compliance for any crops in 1986.

The committee staff and others are continuing to review the bill for additional errors. However, farmers urgently need to know the details of the 1986 farm programs and, therefore, I have agreed to attempt to correct this error as quickly as possible.

I am aware of the fact that several Senators would like to address other issues they consider to be technical in nature. I am also aware of the fact that some Senators would like to make substantive changes in the farm bill, many of which would cost millions, and even billions of dollars.

If we are to deal effectively with the cross-compliance error, it is necessary that Senators withhold asking for consideration of other nontechnical and policy issues so that farmers will be given the opportunity to plan their operations in a timely fashion without confusion and delay.

Mr. ZORINSKY. Mr. President, I am pleased to join the distinguished majority leader in supporting legislation that would make cross-compliance under the wheat, feed grain, upland cotton, and rice programs discretionary with the Secretary of Agriculture.

This was the agreement reached by the committee of conference on the Food Security Act of 1985—the 1985 farm bill. The statement of managers relating to wheat provides, and I quote: "The Conference substitute provides the Secretary with authority to require compliance on a farm with the terms and conditions of any other commodity program as a condition of eligibility for loans, purchases, or payments under the wheat program if an acreage limitation program or set-aside is established, but only to the extent that producers who participate in any acreage limitation program or set-aside may not expand acreage of another crop for which there is an acreage limitation or set-aside in effect."

Similar language is contained in the portions of the statement of managers relating to feed grains, upland cotton, and rice.

The language of the 1985 act itself relating to upland cotton and rice reflects the conferees' agreement. However, the language of the act relating to wheat and feed grains does not reflect the agreement reached by the conferees. The legislation before the Senate would correct that error.

Yesterday, the Secretary of Agriculture, in announcing additional provisions of the 1986 wheat and feed grain programs, stated that it is the Department's intention to require cross compliance for the 1986 crops of wheat, feed grains, cotton, and rice. However, the Department's press release stated that the administration would accept an amendment to the 1985 act making cross compliance discretionary. According to the Department's press release, if cross compliance is made discretionary for all 1986 crops, it will not be required for that crop year.

In my judgment, such a determination by the Secretary would be eminently correct. The farm bill was not approved by the President until December 23, 1985. Many farmers had planted commodities prior to the enactment of the bill. It is only fair that producers know the rules of the programs prior to their making production decisions. Due to the delay in the enactment of the 1985 farm bill, this was not possible in the case of the 1986 crops.

With the enactment of the legislation before us, the 1985 bill will be corrected to conform with the agreement of the conferees, and the Secretary of Agriculture will be abie to make a determination that is fair and equitable.

In addition to the cross compliance provision, the legislation makes an important correction in the section of the 1985 farm bill relating to Agricultural Stabilization and Conservation Committees. The agreement of the committee of conference was to adopt a provision of the House bill that would permit more than one community committee per area in counties that, on the date of the enactment of the 1985 bill, have more than three community committees. Through error, the bill as enacted did not reflect the agreement.

Local ASC Committees play an important role in the administration of farm programs, and the bill before the Senate would make the necessary correction. I urge my colleagues to join me in supporting the legislation.

The PRESIDING OFFICER. The bill is open to amendment. If there be no amendment, the question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading, was read the third time, and passed, as follows:

S. 2036

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. CROSS COMPLIANCE FOR 1986 THROUGH 1990 CROPS OF WHEAT.

Paragraph (2) of section 107D(n) of the Agricultural Act of 1949 (as added by section 308 of the Food Security Act of 1985 (Public Law 99-198)) is amended to read as follows:

"(2) If an acreage limitation program is established for a crop of wheat under subsection (f)(2), the Secretary may require that, as a condition of eligibility of producers on a farm for loans, purchases, or payments under this section, the acreage planted for harvest on the farm to any other commodity for which an acreage limitation program is in effect shall not exceed the crop acreage base for that commodity.".

SEC. 2. CROSS COMPLIANCE FOR 1986 THROUGH 1990 CROPS OF FEED GRAINS.

Paragraph (2) of section 105C(n) of the Agricultural Act of 1949 (as added by section 401 of the Food Security Act of 1985 (Public Law 99-198)) is amended to read as follows:

"(2) If an acreage limitation program is established for a crop of feed grains under subsection (f)(2), the Secretary may require that, as a condition of eligibility of producers on a farm for loans, purchases, or payments under this section, the acreage planted for harvest on the farm to any other commodity for which an acreage limitation program is in effect shall not exceed the crop acreage base for that commodity.".

SEC. 3. AGRICULTURAL STABILIZATION AND CONSERVATION COMMITTEES.

The fifth paragraph of section 8(b) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590h(b)) (as amended by sec-

tion 1711(a) of the Food Security Act of 1985 (Public Law 99-198)) is amended—

(1) in the third sentence, by striking out "community committee" and inserting in lieu thereof "local committee"; and

(2) by striking out the fourth and fifth sentences and inserting in lieu thereof the following new sentences: "Each local administrative area shall have one local committee consisting of at least three members elected to 3-year terms in a local election to be held every third year, except that there may be more than one local committee per administrative area in counties that, as of the date of enactment of the Food Security Act of 1985, have more than three local committees. Only one local administrative area shall hold an election in any given year in each county. Only farmers within a local administrative area who are producers who participate or cooperate in programs administered within their area shall be eligible for nomination and election to the local committee for that area. Only farmers who are participating or cooperating producers within an area shall be eligible to vote in the election in that area.".

Mr. DOLE. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

EXTENDING WAIVER AUTHORITY OF DISTRICT OF COLUMBIA BOND ACT OF 1985

Mr. DOLE. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of H.R. 4027, dealing with the D.C. Revenue Bond Act.

The PRESIDING OFFICER. The bill will be stated by title.

The legislative clerk read as follows:

A bill (H.R. 4027) extending the waiver authority of the District of Columbia Revenue Bond Act of 1985 to certain revenue bond acts of the District of Columbia, and for other purposes.

The PRESIDING OFFICER. Is there objection to the present consideration of the bill?

There being no objection, the bill was considered, ordered to be read a third time, read the third time, and passed.

Mr. DOLE. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

ORDER FOR STAR PRINT OF S. 1980

Mr. DOLE. Mr. President, I ask unanimous consent that a star print be made of S. 1980, to amend title 17, United States Code, regarding the conveyance of audiovisual work, and for other purposes, to reflect the following corrections:

On page 2, line 1, delete the word "transmission" and insert in lieu thereof the word "broadcast".

On page 2, delete lines 5 through 8 and insert in lieu thereof the following:

"(b) Notwithstanding section 101 of this title, for purposes of this section, 'audiovisual work' means any motion picture, pre-recorded television program, or commercial advertisement."

On page 2, line 13, delete the words "the first" and insert the number "1" after the word "section".

The PRESIDING OFFICER. Without objection, it is so ordered.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Saunders, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session, the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the Committee on Foreign Relations.

(The nominations received today are printed at the end of the Senate proceedings.)

MESSAGES FROM THE HOUSE

At 11:35 a.m., a message from the House of Representatives, delivered by Mr. Berry, one of its reading clerks, announced that the House agrees to the amendment of the Senate to the bill (H.R. 2466) to make miscellaneous changes in laws affecting the U.S. Coast Guard, and for other purposes.

The message also announced that pursuant to the provisions of Public Law 453 of the 96th Congress, the chairman of the Committee on Merchant Marine and Fisheries appoints the following Members of that committee to serve as members of the Board of Visitors to the U.S. Merchant Marine Academy for the year 1986: Mr. BIAGGI, Mr. DYSON, Mr. SNYDER, and Mr. JONES of North Carolina (ex officio).

The message further announced that pursuant to the provisions of section 1295b(h) of title 46 of the United States Code, the Speaker appoints as members of the Board of Visitors to the U.S. Merchant Marine Academy the following Members of the House: Mr. MANTON and Mr. CARNEY.

The message also announced that pursuant to Public Law 301 of the 78th Congress, the chairman of the Committee on Merchant Marine and Fisheries appoints the following members of that committee to serve as members of the Board of Visitors to the U.S. Coast Guard Academy for the year 1986: Mr. STUDDS, Mr. HUGHES, Mr. DAVIS, and Mr. JONES of North Carolina (ex officio).

The message further announced that pursuant to the provisions of section 194(a) of title 14 of the United States Code, the Speaker appoints as members of the Board of Visitors to the U.S. Coast Guard Academy the following Members on the part of the House: Mr. GEJDENSON and Mrs. JOHNSON.

The message also announced that pursuant to the provisions of section 9355(a) of title 10 of the United States Code, the Speaker appoints as members of the Board of Visitors to the U.S. Air Force Academy the following Members of the House: Mr. DICKS, Mr. WIRTH, Mr. KRAMER, and Mr. LEWIS of California.

The message further announced that pursuant to the provisions of section 6968(a) of title 10 of the United States Code, the Speaker appoints as members of the Board of Visitors to the U.S. Naval Academy the following Members on the part of the House: Mr. WILSON, Mr. FOLEY, Mrs. HOLT, and Mr. SKEEN.

The message also announced that pursuant to the provisions of section 4355(a) of title 10 of the United States Code, the Speaker appoints as members of the Board of Visitors to the U.S. Military Academy the following Members on the part of the House: Mr. DIXON, Mr. HEFNER, Mr. FISH, and Mr. HILLIS.

At 3:40 p.m., a message from the House of Representatives, delivered by Mr. Berry, one of its reading clerks, announced that the House has passed the following bill, in which it requests the concurrence of the Senate:

H.R. 3525. An act to amend title 3, United States Code, and the Uniform Time Act of 1966 to establish a single poll closing time in the continental United States for Presidential general elections.

MEASURES REFERRED

The following bill was read the first and second times by unanimous consent, and referred as indicated:

H.R. 3525. An act to amend title 3, United States Code, and the Uniform Time Act of 1966 to establish a single poll closing time in the continental United States for Presidential general elections; to the Committee on Rules and Administration.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC-2328. A communication from the President of the United States transmitting, pursuant to law, classified and unclassified versions of the administration's report on "Soviet Noncompliance with Arms Control

Agreements"; to the Committee on Foreign Relations.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. THURMOND, from the Committee on the Judiciary, without amendment:

S. Res. 306. An original resolution authorizing expenditures by the Committee on the Judiciary; referred to the Committee on Rules and Administration.

By Mr. STAFFORD, from the Committee on Environment and Public Works, without amendment:

S. Res. 308. An original resolution authorizing expenditures by the Committee on Environment and Public Works; referred to the Committee on Rules and Administration.

By Mr. THURMOND, from the Committee on the Judiciary, without amendment and with a preamble:

S.J. Res. 226. A joint resolution to designate the week of April 6 through April 12, 1986, as "World Health Week", and to designate April 7, 1986, as "World Health Day."

S.J. Res. 234. A joint resolution to designate the week of February 9 through February 15, 1986, as "National Burn Awareness Week."

S.J. Res. 239. A joint resolution designating the week beginning on June 1, 1986, as "National Maternal and Child Health Week."

S.J. Res. 247. A joint resolution to designate the week of June 1 through June 7, 1986, as "National Theatre Week."

S.J. Res. 249. A joint resolution to proclaim October 23, 1986, as "A Time of Remembrance" for all victims of terrorism throughout the World.

S.J. Res. 254. A joint resolution to designate the year of 1987 as the "National Year of Thanksgiving."

By Mr. HEINZ, from the Special Committee on Aging, without amendment:

S. Res. 310. An original resolution authorizing expenditures by the Special Committee on Aging; referred to the Committee on Rules and Administration.

By Mr. HELMS, from the Committee on Agriculture, Nutrition, and Forestry, without amendment:

S. Res. 311. An original resolution authorizing expenditures by the Committee on Agriculture, Nutrition, and Forestry; referred to the Committee on Rules and Administration.

By Mr. ROTH, from the Committee on Governmental Affairs, without amendment:

S. Res. 313. An original resolution authorizing expenditures by the Committee on Governmental Affairs; referred to the Committee on Rules and Administration.

By Mr. ANDREWS, from the Select Committee on Indian Affairs, without amendment:

S. Res. 314. An original resolution authorizing expenditures by the Select Committee on Indian Affairs; referred to the Committee on Rules and Administration.

By Mr. WEICKER, from the Committee on Small Business, without amendment:

S. Res. 315. An original resolution reported authorizing expenditures by the Committee on Small Business; referred to the Committee on Rules and Administration.

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. THURMOND, from the Committee on the Judiciary:

Howard V. Adair, of Alabama, to be U.S. marshal for the southern district of Alabama for the term of 4 years;

Robert V. Pavlak, Sr., of Minnesota, to be U.S. marshal for the district of Minnesota for the term of 4 years;

Kernan H. Bagley, of Oregon, to be U.S. marshal for the district of Oregon for the term of 4 years;

Thomas C. Greene, of Alabama, to be U.S. marshal for the northern district of Alabama for the term of 4 years;

Melvin E. Jones, of Alabama, to be U.S. marshal for the middle district of Alabama for the term of 4 years;

Delaine Roberts, of Wyoming, to be U.S. marshal for the district of Wyoming for the term of 4 years.

By Mr. LUGAR, from the Committee on Foreign Relations:

Mark N. Blitz, of Virginia, to be an Associate Director of the U.S. Information Agency.

(The above nomination was reported from the Committee on Foreign Relations with the recommendation that it be confirmed, subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

By Mr. ROTH, from the Committee on Governmental Affairs:

Report to accompany the nomination of Terence C. Golden to be Administrator of the General Services Administration (Exec. Rept. 99-11).

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. WEICKER (for himself and Mr. DODD):

S. 2027. A bill to amend title 28, United States Code, to provide for the appointment of one additional judge for the district of Connecticut; to the Committee on the Judiciary.

By Mr. STEVENS:

S. 2028. A bill for the relief of Victoria Bacarisas; to the Committee on the Judiciary.

By Mr. CHILES:

S. 2029. A bill to establish the Big Cypress National Preserve Addition in the State of Florida, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. PRYOR (for himself, Mr. ANDREWS, Mr. GRASSLEY, Mrs. KASSEBAUM, and Mr. PROXMIRE):

S. 2030. A bill to establish an alternative procedure for the review of bid protests under the Competition in Contracting Act, and for other purposes; to the Committee on Governmental Affairs.

By Mr. JOHNSTON:

S. 2031. A bill to authorize the Secretary of the Interior to release restrictions on certain property located in Calcasieu Parish, LA, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. WARNER (for himself and Mr. TRIBLE):

S. 2032. A bill to amend Nuclear Waste Policy Act of 1982 to prohibit the development of a repository in proximity to a monitored retrievable storage facility; to the Committee on Environment and Public Works.

By Mr. CHILES (for himself, Mr. BAUCUS, Mr. BINGAMAN, Mr. EXON, Mr. GORE, Mr. JOHNSTON, LEVIN, and Mr. NUNN):

S. 2033. A bill to promote economic growth and trade expansion, to amend the Trade Act of 1974 to open foreign markets, to enhance the competiveness of United States firms, and for other purposes; to the Committee on Finance.

By Mr. DIXON:

S. 2034. A bill to amend title 10, United States Code, to prescribe the organizational structure of unified and specified combatant commands, to prescribe the authority of unified and specified combatant commanders, and for other purposes; to the Committee on Armed Services.

S. 2035. A bill to amend title 10, United States Code, to establish within the Office of the Secretary of Defense an Office of Procurement for the centralized procurement of all property and services for the Department of Defense, to provide for an Under Secretary of Defense for Procurement, and for other purposes; to the Committee on Armed Services.

By Mr. DOLE (for himself, Mr. PRYOR, Mr. BOREN, Mr. ZORINSKY, Mr. MELCHER, Mr. HELMS, Mr. ABDNOR, Mr. BUMPERS, Mr. BENTSEN, Mr. COCHRAN, Mr. ANDREWS, Mr. NICKLES, and Mr. BOSCHWITZ):

S. 2036. A bill to make certain technical corrections to amendments made by the Food Security Act of 1985, and for other purposes; considered and passed.

By Mr. DURENBERGER (for himself and Mr. EVANS):

S. 2037. A bill to create a fiscal safety net program for needy communities; to the Committee on Governmental Affairs.

By Mr. WALLOP (for himself, Mr. DURENBERGER, and Mr. ZORINSKY):

S.J. Res. 262. Joint resolution to authorize and request the President to issue a proclamation designating June 2 through 8, 1986, as "National Fishing Week"; to the Committee on the Judiciary.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. THURMOND, from the Committee on the Judiciary:

S. Res. 306. An original resolution authorizing expenditures by the Committee on the Judiciary; to the Committee on Rules and Administration.

By Mr. MOYNIHAN:

S. Res. 307. Resolution to encourage the Environmental Protection Agency to take all necessary action to avoid the long-term disruption of the Superfund program; to the Committee on Environment and Public Works.

By Mr. STAFFORD, from the Committee on Environment and Public Works:

S. Res. 308. An original resolution authorizing expenditures by the Committee on Environment and Public Works; to the Committee on Rules and Administration.

By Mr. MATHIAS (for himself and Mr. FORD):

S. Res. 309. Resolution authorizing expenditures by the Committee on Rules and Administration for the period March 1, 1986, through February 28, 1987; to the Committee on Rules and Administration.

By Mr. HEINZ, from Special Committee on Aging:

S. Res. 310. An original resolution authorizing expenditures by the Special Committee on Aging; to the Committee on Rules and Administration.

By Mr. HELMS, from the Committee on Agriculture, Nutrition, and Forestry:

S. Res. 311. An original resolution authorizing expenditures by the Committee on Agriculture, Nutrition, and Forestry; to the Committee on Rules and Administration.

By Mr. MATHIAS (for himself, Mr. STAFFORD, and Mr. WEICKER):

S. Res. 312. Resolution affirming, in part, and disaffirming, in part, the order issued by the President under section 252 of the Balanced Budget and Emergency Deficit Control Act of 1985 for fiscal year 1986, and instructing the appropriate committees of the Senate to report certain changes in the laws within their jurisdiction; to the Committee on the Budget.

By Mr. ROTH, from the Committee on Governmental Affairs:

S. Res. 313. An original resolution authorizing expenditures by the Committee on Governmental Affairs; to the Committee on Rules and Administration.

By Mr. ANDREWS, from the Select Committee on Indian Affairs:

S. Res. 314. Resolution authorizing expenditures by the Select Committee on Indian Affairs; to the Committee on Rules and Administration.

By Mr. WEICKER, from the Committee on Small Business:

S. Res. 315. An original resolution authorizing expenditures by the Committee on Small Business; to the Committee on Rules and Administration.

By Mr. DOLE (for himself and Mr. BYRD):

S. Res. 316. Resolution to authorize production of documents by the Permanent Subcommittee on Investigations; considered and agreed to.

By Mr. DOLE (for himself and Mr. BYRD):

S. Res. 317. Resolution to direct the Senate Legal Counsel to intervene in "American Postal Workers Union, AFL-CIO, et al. v. United States of America" and "American Federation of Government Employees, AFL-CIO, et al. v. United States of America"; considered and agreed to.

By Mr. BAUCUS:

S. Res. 318. Resolution to express the sense of the Senate that the Nomenclature Committee of the International Astronomical Union take such action as is necessary to name seven of the moons of Uranus discovered by the Voyager 2 spacecraft in honor of the crew members of the Challenger space shuttle who died on January 28, 1986; to the Committee on Commerce, Science, and Transportation.

By Mr. DOLE (for Mr. HATFIELD):

S. Res. 319. Resolution authorizing supplemental expenditures by the Committee on Appropriations for the procurement of consultants; considered and agreed to.

By Mr. JOHNSTON (for himself and Mr. LEAHY):

S. Res. 320. Resolution affirming, in part, and disaffirming, in part, the order issued by the President under section 252 of the Balanced Budget and Emergency Deficit Control Act of 1985 for fiscal year 1986, and instructing the appropriate committees of the Senate to report certain changes in the laws within their jurisdiction; to the Committee on the Budget.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. WEICKER (for himself and Mr. DODD):

S. 2027. A bill to amend title 28, United States Code, to provide for the appointment of one additional district judge for the district of Connecticut; to the Committee on the Judiciary.

ADDITIONAL DISTRICT JUDGE FOR THE DISTRICT OF CONNECTICUT

● Mr. WEICKER. Mr. President, I rise today to introduce legislation to create an additional Federal district judgeship for the district of Connecticut. Accepting this much-needed position would bring the total number of district judges in Connecticut to seven; a number supported by the Administrative Office of the United States Courts' Subcommittee on Judicial Statistics in its 1984 biennial survey of judgeship needs. I am joined in this legislative endeavor by my colleague from Connecticut, Senator DODD, and by the entire Connecticut congressional delegation, which has cosponsored similiar legislation introduced today by Representative STEWART MCKINNEY.

I recently had the opportunity to address many of our State's judicial and legal community in Bridgeport, CT. At that time I commented on the great pride the citizens of Connecticut take in the integrity and experience of the State's Federal judges. The men and women fulfilling the awesome responsibilities of the bench in Connecticut apply not only their substantial legal scholarship to the task, but also long hours of hard work; hours that increase each year.

Despite this dedication, Connecticut is faced with a dilemma as illustrated by the 1985 U.S. district court judicial workload profile compiled by the Administrative Office of the United States Courts. The district of Connecticut's overall workload has increased by 40 percent since 1980. In formulating its recommendations for new judgeships, the Subcommittee on Judicial Statistics considered the level of new case filings, the case mix, the level of weighted filings, pending cases, and the length of trials. The subcommittee employed 400 weighted filings per judgeship as the level at which a court deserved consideration for additional judgeships.

Weighted filings are those deemed to involve unusual complexity, requiring substantial court time. In Connecticut, weighted filings per judge were 512 in 1985; 633 in 1984; 569 in 1983; and 560 in 1982. So the district of Connecticut has well exceeded the level of 400 for all of the past several years. Trials have risen correspondingly as have the number of triable defendants in pending criminal felony cases. Therefore, at all levels considered by the subcommittee, the conclusion reached was that the district of Connecticut fully deserves an additional judgeship.

I urge the Committee on the Judiciary to expeditiously consider this legislation. I am confident the committee and later the full Senate, will grant Connecticut's district judges and our fine courts the additional judgeship they need to sustain the outstanding record of administering justice that we have come to expect.

I ask unanimous consent that the text of this legislation be printed in the RECORD at this point.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2027

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) there shall be appointed, pursuant to section 133 of Title 28, United States Code, an additional district judge for the District of Connecticut.

(b) To reflect the change made by this section in the table of judges for each of the judicial districts, section 133 of title 28, United States Code, is amended by striking the following:

"Connecticut ..... 6"

and inserting in lieu thereof the following:

"Connecticut ..... 7".●

By Mr. STEVENS:

S. 2028. A bill for the relief of Victoria Bacarisas; to the Committee on the Judiciary.

RELIEF OF VICTORIA BACARISAS

● Mr. STEVENS. Mr. President, I rise today to introduce private legislation on behalf of a young girl, Victoria Bacarisas. Victoria's case struck a chord with me. She has been in the country since the age of 14. She is now 20, and lives with her sister and brother-in-law. Up to this point, she is not that different from many Filipinos who have found their way into this country. However, there is a special humanitarian need in her case.

She contacted me late last year, and asked for help in staying in this country. Although unmarried, she was pregnant, and would in all likelihood be just a few weeks short of delivery at the time of her deportation hearing. Discussions with immigration officals disclosed that she could get a continuance until after she had her child, and she would be given time to recover. I felt that this would be sufficient to take care of her immediate problems.

I have discovered now that Vicotoria gave birth prematurely, and that her young son was in intensive care. He

will have to stay there for most of the next 2 months, and could need careful medical supervision in the future. Considering the needs of her newborn child, I feel compelled to do what I can to assist these two. The care he needs is clearly more readily available here than in the Philippines. However, his chances of receiving the care he will need during the early years of his life would be severely threatened by deportation of this mother.

Victoria has been here long enough to become well established in the United States. Considering the equities of her case, I feel justified in asking that she be granted permanent resident status.●

By Mr. CHILES:

S. 2029. A bill to establish the Big Cypress National Preserve Addition in the State of Florida, and for other purposes; to the Committee on Energy and Natural Resources.

BIG CYPRUS NATIONAL PRESERVE ADDITION ACT

● Mr. CHILES. Mr. President, today I am pleased to introduce legislation to authorize the expansion of the Big Cypress National Preserve in south Florida. This bill calls for putting into public ownership some 128,000 acres bordering the northeast boundary of the existing preserve. The Acquisition Program contemplated would be in conjunction with the planned construction of Interstate 75, providing a unique opportunity to utilize Federal dollars allocated for the construction of an interstate highway to accomplish equally important goals of environmental restoration and endangered species protection. It is in the public interest to have these particular lands in Federal ownership, and it is practicable and incumbent on us to move on this land acquisition program as soon as possible.

WHY THESE LANDS SHOULD BE ACQUIRED

First, let me point out specifically how acquiring these particular lands will complement and, in fact, enhance ongoing activities aimed at protecting Everglades National Park and preserving the endangered Florida panther. As an original sponsor of the Federal legislation establishing the Big Cyprus National Preserve, I am keenly aware of the critical role water quality and quantity plays in ensuring the livelihood of Everglades National Park.

The unique international treasure of Everglades National Park covers some 1,337,000 acres of land and water containing a diverse representation of vegetation and wildlife. The sawgrass wilderness areas, cypress swamps, mangrove forest, and shallow estuarine bays that compose the park area support a wide variety of fish, bird, and other wildlife populations, including many endangered species. Though large in acreage, this ecosystem is fragile and totally dependent on the complex hydrology of the entire region. Located at the end of a watershed, the park's livelihood is dependent on the quality and quantity of water that flows into it. Studies have indicated how impeded water flow has adversely affected species and their habitats.

It was the strong concern for protecting the watershed area so critical to Everglades National Park that prompted consideration of purchasing lands which now encompass the Big Cypress National Preserve. The 574,000 acre preserve was established by Congress in 1974 to make sure this important watershed area was not further developed or disrupted. Additionally, the purchase of this area has provided significant recreational opportunities which will become increasingly important as south Florida continues to experience growth and development. To date nearly $180 million in Federal funds has been appropriated to purchase these important lands. This past year $2 million was appropriated to help complete the Acquisition Program.

In addition to establishing the Big Cypress National Preserve, Congress has acted on another front to address the hydrological problems affecting the Everglades National Park. In the spring of 1983 the National Park Service staff recommended a broad based program to restore the natural water flows that the park once received, but no longer experiences. The hydrologic imbalances over recent decades have resulted in severe damage to the fish and wildlife populations of the park. In the fall of 1983 Congress approved legislation as part of a funding bill for the Army Corps of Engineers to allow for a 2-year experiment to determine adequate water delivery schedules for the park. I am pleased that this past December, at my request, the Senate Appropriations Committee approved extension of this experiment. This extended timetable will hopefully allow for the determination of a water delivery schedule to accomplish the restoration of the hydrology and reestablishment of the historic flow water through Northeast Shark River Slough and Taylor Slough into the park.

Alligator Alley, the cross-State highway going from Andytown in Broward County to Naples, has disrupted the natural water flow in the Big Cypress Preserve area and has posed a major threat to Florida panthers and other wildlife of the region. The road functions as a dam in some areas, causing unnatural pooling of water while at the same time interrupting the important sheet flow so essential to Everglades National Park. The construction of I-75 along Alligator Alley provides an important opportunity to correct these hydrological problems and, in fact, plans are underway to ensure that this is done. Public ownership of the lands bordering the I-75 corridor will expand the watershed protection offered to Everglades National Park, prevent future development of these lands, and increase recreational opportunities for the general public.

In addition, it is important to point out how public ownership of these identified lands will foster efforts currently underway to protect the habitat of the Florida panther and other endangered species. There are currently estimated to be 20 to 30 Florida panthers in existence, making it among the most endangered species on Earth. All known Florida panthers in existence live in Everglades National Park, the Big Cypress National Preserve, and Fakahatchee Strand. The U.S. Fish and Wildlife Service has proposed the establishment of a 32,000-acre national wildlife refugee in the Fakahatchee Strand area for the primary purpose of protecting the critical habitat of the panther, the State animal of Florida. As a member of the Senate Appropriations Committee, I have worked over the past few years to secure funding for this important land acquisition project. Congress provided $4 million in fiscal year 1985 and, just recently, approved $3 million in the fiscal year 1986 bill. The 128,000 acre area proposed for purchase under this bill contains land critical to the continuing survival of the endangered Florida panther. Panther fatalities have occurred as a result of automobile traffic on Alligator Alley. Provisions for wildlife crossings in the design for I-75 to allow panthers and other species to cross under the interstate show the commitment of the State in the continued protection of endangered species. The State of Florida Department of Transportation supports the construction of 23 new wildlife crossings and 13 bridge extensions, estimated to cost $12.9 million. The State has agreed to finance that portion of the total cost which is determined to be nonparticipating by the Federal Highway Administration, approximately $10 million. Public acquisition and management of these lands by the National Park Service as envisioned in this bill will complement the efforts of the Fish and Wildlife Service National Wildlife Refuge and will ensure that everything possible is done to guarantee the protection of panther and other endangered species habitat.

WHY THESE LANDS SHOULD BE ACQUIRED NOW

The conversion of Alligator Alley to I-75 will sever existing access to private property north and south of the highway, requiring the payment of damages to the property owners by the Department of Transportation. Estimates are that severance damage funds, which must in any event be expended, will equal 47 percent of the value of the affected lands. The pro-

posed legislation contemplates using the severance damage moneys to pay a portion of the cost of acquiring approximately 128,000 acres of privately owned land located immediately north of the existing Big Cypress National Preserve. The balance of the purchase price would be paid by the Department of the Interior and the State of Florida in the same cost-sharing arrangement—80/20—found in the original Big Cypress legislation. Significantly reduced Federal expenditures are possible if land exchanges with affected property owners can be accomplished by the Department of the Interior.

If we act quickly to enact this legislation enabling the utilization of the DOT severance damage funds, we will make it possible for the public to acquire environmentally significant lands for substantially less cost than would otherwise be possible. It may be as early as this fall when Florida DOT will be able to begin to make offers of severance damages to landowners along I-75. The other matching funds as well as the necessary legislative authority need to be available to complete full acquisition of the lands. For this reason, it is critical we secure approval of legislation to enable the State Department of Transportation to work with DOI and the State of Florida to accomplish the acquisition of these lands in conjunction with purchasing rights-of-way and paying severance damages associated with the construction of I-75.

The opportunity afforded by the construction of I-75 is too remarkable not to purchase these environmentally significant lands and expand the boundaries of Big Cypress National Preserve. The challenge to protect the important values of Everglades National Park and the critical habitat of the Florida panther is too great for Congress not to move forward and implement this plan.

In closing, I want to point out the extent to which the State of Florida has demonstrated its commitment to a partnership with the Federal Government to achieve the goals I have outlined. As I mentioned previously, the State is willing to go above and beyond its necessary role in financing the construction of I-75 to enhance environmental restoration and endangered species protection. The 1985 Florida Legislature enacted legislation designating the 128,000 acre area as an "area of critical State concern." This designation gives the State eminent domain power over this land and thus will facilitate the joint Federal-State Acquisition program for this property. This designation will also help protect the area against development until acquisition is complete. Additionally, the State has just recently committed some $22 million in State funds for land acquisition in the Everglades area. The recent actions by the State of Florida coupled with the accelerated schedule for the construction of this portion of I-75 point to the need for expedient and positive action by Congress to approve this Land acquisition Program. I hope my colleagues will join me in this effort to protect and preserve the national treasures associated with Everglades National Park and Big Cypress National Preserve.

I ask unanimous consent that a copy of the bill be printed in the RECORD at this point.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2029

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

(a) SHORT TITLE.—This Act may be cited as the "Big Cypress National Preserve Addition Act".

(b) AMENDMENT OF BIG CYPRESS NATIONAL PRESERVE ACT.—Whenever in this Act an amendment is expressed in terms of an amendment to the Act of October 11, 1974, such amendment shall be considered to be made to the Act entitled "An Act to establish the Big Cypress National Preserve in the State of Florida, and for other purposes", approved October 11, 1974 (Public Law 93-440; 88 Stat. 1257).

SEC. 2. FINDINGS AND PURPOSE.

(a) FINDINGS—The Congress finds that—

(1) the planned construction of Interstate 75 is presently being designed in such a way as to improve the natural water flow to the Everglades National Park, which has been disrupted by State Road 84 (commonly known as "Alligator Alley");

(2) the planned construction of Interstate 75 provides an opportunity to enhance protection of the Everglades National Park, to promote protection of the endangered Florida panther, and to provide for public recreational use and enjoyment of public lands by expanding the Big Cypress National Preserve to include those lands adjacent to Interstate 75 in Collier County north and east of the Big Cypress National Preserve, west of the Broward County line, and south of the Hendry County line;

(3) the Federal acquisition of lands bordering the Big Cypress National Preserve in conjunction with the construction of Interstate 75 would provide significant public benefits by limiting development pressure on lands which are important both in terms of fish and wildlife habitat supporting endangered species and of wetlands which are the headwaters of the Big Cypress National Preserve; and

(4) public ownership of lands adjacent to the Big Cypress National Preserve would enhance the protection of the Everglades National Park while providing recreational opportunities and other public uses currently offered by the Big Cypress National Preserve.

(b) PURPOSE.—It is the purpose of this Act to establish the Big Cypress National Preserve Addition.

SEC. 3. ESTABLISHMENT OF ADDITION.

The Act of October 11, 1974, is amended by adding at the end thereof the following new section:

"SEC. 9. (a) In order to—

"(1) achieve the purposes of the first section of this Act;

"(2) complete the preserve in conjunction with the planned construction of Interstate Highway 75; and

"(3) insure appropriately managed use and access to the Big Cypress Watershed in the State of Florida,

the Big Cypress National Preserve Addition is established.

"(b) The Big Cypress National Preserve Addition (referred to in this Act as the 'Addition') shall comprise approximately 128,000 acres as generally depicted on the map entitled 'Big Cypress National Preserve Addition', dated January, 1986 which shall be on file and available for public inspection in the Office of the National Park Service, Department of the Interior, Washington, D.C., and shall be filed with appropriate offices of Collier County in the State of Florida. The Secretary shall, as soon as practicable, publish a detailed description of the boundaries of the Addition in the Federal Register.

"(c) The area within the boundaries depicted on the map referred to in subsection (h) shall be known as the Big Cypress National Preserve Addition.".

SEC. 4. ADMINISTRATION OF ADDITION.

(a) UNIT OF THE NATIONAL PARK SYSTEM.—The Act of October 11, 1974, is amended by adding at the end thereof the following new section:

"SEC. 10. (a) The Secretary shall administer the Addition in accordance with this Act and the provisions of law generally applicable to units of the national park system, including the act entitled 'An Act to establish a National Park System, and for other services', approved August 25, 1916 (39 Stat. 535; 16 U.S.C. 1-4).

"(b) In administering the Addition, the Secretary shall develop and publish in the Federal Register such rules and regulations as the Secretary deems necessary and appropriate to manage and control the use of Federal lands and waters with respect to—

"(1) motorized vehicles;

"(2) exploration for and extraction of oil, gas, and other minerals;

"(3) grazing and agriculture;

"(4) draining or contructing of works or structures which alter the natural water courses;

"(5) recreational uses, including hunting, fishing, and trapping, which shall be promoted and encouraged;

"(6) new construction of any kind; and

"(7) such other uses as the Secretary determines must be limited or controlled in order to carry out the purposes of this Act.

"(c) For purposes of administering the Addition and notwithstanding section 2(c), it is the express intent of the Congress that the Secretary should substantially complete the land acquisition program contemplated with respect to the Addition in not more than five years after the date of the enactment of this paragraph.".

(b) HUNTING, FISHING, AND TRAPPING.—Section 5 of the Act of October 11, 1974, is amended by inserting "and the Addition" after "preserve" each place it appears.

(c) SUITABILITY AS WILDERNESS.—Section 7 of the Act of October 11, 1974, is amended—

(1) by inserting "with respect to the preserve and five years from the date of the enactment of the Big Cypress National Preserve Addition Act with respect to the Addition" after "date of the enactment of this Act" in the first sentence; and

(2) by inserting "or the area within the Addition (as the case may be)" after "preserve" each place it appears.

SEC. 5. ACQUISITION OF LAND WITHIN ADDITION.

(a) UNITED STATES SHARE OF ACQUISITION COSTS.—The first section of the Act of October 11, 1974, is amended by adding at the end thereof the following new subsection:

"(d)(1) The aggregate cost to the United States of acquiring lands within the Addition may not exceed 80 percent of the total cost of such lands.

"(2) Except as provided in paragraph (3), if the State of Florida transfers to the Secretary lands within the Addition, the Secretary shall pay to or reimburse the State of Florida (out of funds appropriated for such purpose) an amount equal to 80 percent of the total costs to the State of Florida of acquiring such lands.

"(3) The amount described in paragraph (1) shall be reduced by an amount equal to 20 percent of the amount of the total cost incurred by the Secretary in acquiring lands in the Addition other than from the State of Florida.

"(4) For purposes of this subsection, the term 'total cost' means that amount of the total acquisition costs (including the value of exchanged or donated lands) less the amount of the costs incurred by the Federal Highway Administration and the Florida Department of Transportation, including severance damages paid to private property owners as a result of the construction of Interstate 75.".

(b) METHODS OF LAND ACQUISITION IN THE ADDITION.—The first sentence of subsection (c) of the first section of the Act of October 11, 1974, is amended—

(1) by inserting "or the Addition" after "preserve" the first place it appears; and

(2) in the first proviso—

(A) by inserting "in the preserve" after "subdivisions,"; and

(B) by striking out the colon and inserting in lieu thereof "and, any land acquired by the State of Florida, or any of its subdivisions, in the Addition shall be acquired in accordance with subsection (d):".

(c) VALUATION AND APPRAISAL.—The fourth sentence of subsection (c) of such section is amended by inserting "or the Addition" after "preserve" each place it appears.

(d) ACQUISITION OF PROPERTY RIGHTS BY THE STATE OF FLORIDA.—Subsection (c) of such section is amended by adding at the end thereof the following: "Nothing in this Act shall be construed to interfere with the right of the State of Florida to acquire such property rights as may be necessary for Interstate 75.".

(e) EXCLUSION OF SUBSURFACE ESTATE.—The third sentence of subsection (c) of such section is amended by inserting "and the Addition" after "preserve" each place it appears.

(f) IMPROVED PROPERTY IN ADDITION.—Section 3(b) of the Act of October 11, 1974, is amended—

(1) in paragraph (i) by inserting "with respect to the preserve and January 1, 1986, with respect to the Addition" after "November 23, 1971,"; and

(2) in paragraph (ii)—

(A) by inserting "with respect to the preserve and January 1, 1986, with respect to the Addition" after "November 23, 1971," the first place it appears; and

(B) by inserting "or January 1, 1986, as the case may be," after "November 23, 1971," the second and third places it appears.

SEC. 6. COOPERATION AMONG AGENCIES.

The Act of October 11, 1974, is further amended by adding at the end thereof the following new section:

"SEC. 11. The Secretary and other involved Federal agencies shall cooperate with the State of Florida to establish recreational and oil, gas, and mineral access points and roads, rest and recreation areas, appropriate wildlife protection, and, where appropriate, hunting, fishing, frogging, and other recreational opportunities in conjunction with the creation of the Addition and in the construction of Interstate Highway 75.".

SEC. 7. REPORT TO CONGRESS.

The Act of October 11, 1974, is further amended by adding at the end thereof the following new section:

"SEC. 12. Not later than one year after the date of the enactment of this section, the Secretary shall submit to the Congress a detailed report on, and further plan for, the preserve and Addition including—

"(1) the status of the existing preserve, the effectiveness of past regulation and management of the preserve, and recommendations for future management of the preserve and the Addition;

"(2) a summary of the public's use of the preserve and the status of all access rights for public and private use;

"(3) the need for involvement of other State and Federal agencies in the management and expansion of the preserve and Addition;

"(4) the status of land acquisition; and

"(5) a determination, made in conjunction with the State of Florida, of the adequacy of the number, location, and design of the recreational access points on I-75/Alligator Alley for access to the Big Cypress National Preserve, including the Addition. The determination required by clause (5) shall incorporate the results of any related studies of the State of Florida Department of Transportation and other Florida State agencies. Any recommendation for significant changes in the approved recreational access points, including any proposed additions, shall be accompanied by an assessment of the environmental impact of such changes.".

SEC. 8. AUTHORIZATION OF APPROPRIATIONS.

Section 8 of the Act of October 11, 1974, is amended—

(1) by striking out "There" in the first sentence and inserting in lieu therefore "(a) Except as provided in subsection (b), there"; and

(2) by adding at the end thereof the following new subsection:

"(b) There are authorized to be appropriated such sums as may be necessary to acquire lands within the Addition.".●

By Mr. JOHNSTON:

S. 2031. A bill to authorize the Secretary of the Interior to release restrictions on certain property located in Calcasieu Parish, LA, and for other purposes; to the Committee on Energy and Natural Resources.

REGARDING CERTAIN PROPERTY IN CALCASIEU PARISH

● Mr. JOHNSTON. Mr. President, the legislation I am introducting today would remove restrictions on certain lands located in Calcasieu Parish, LA, comprising approximately 1,600 acres for the purpose of permitting the leasing of these lands for use as an industrial airpark. These restrictions were placed on the use of this property by the United States when the Chennault Air Force Base was disbanded and the property conveyed to the various public bodies. While these restrictions permit a number of diverse uses of the land, they prohibit the leasing of the property for development purposes.

Mr. President, all of the present owners of these properties agree that an air industrial park is in the best interests of Calcasieu Parish—an area currently plauged by double-digit unemployment. Reactivation of a portion of the airbase as an air industrial park could greatly expand the area's economic base and provide employment opportunities for hundreds or perhaps thousands of Louisiana citizens.

Mr. President, I ask unanimous consent that a letter to Congressman JOHN BREAUX from the affected public bodies regarding this project appear in the RECORD at this point.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

DECEMBER 4, 1985.

Re Proposed Development of Industrial Air Park at Chennault Air Force Base, Lake Charles, Louisiana.

Congressman JOHN BREAUX,
U.S. Congress,
Washington, DC.

DEAR CONGRESSMAN BREAUX: The City of Lake Charles, Calcasieu Parish Police Jury, Sowela Technical Institute and the Calcasieu Parish School Board are owners of various contiguous parcels of land acquired from various agencies of the United States of America which originally formed a part of Chennault Air Force Base in Lake Charles, Louisiana. As owners of these properties, these various governmental bodies have used these properties to suit their own individual needs. The economic decline in the petrochemical industry on which our area has been so dependent has brought home the need for a diversification of our economic base. For months now, the citizens have suffered through double-digit unemployment despite efforts and attempts to improve the economy which have been made by various public and private entities.

As owners of Chennault Air Force Base, the City of Lake Charles, Calcasieu Parish Police Jury, Sowela Technical Institute and the Calcasieu Parish School Board have come to realize that the reactivation of the air base as an industrial air park could greatly expand the area's economic base and provide employment opportunities for literally thousands of individuals.

The City of Lake Charles, Calcasieu Parish Police Jury, Sowela Technical Institute and the Calcasieu Parish School Board have all mutually agreed that it would be in the best interest of the citizens of Calcasieu Parish that certain portions of Chennault Air Force Base be consolidated for use as an industrial air park. The major obstacle which we all face in making this industrial air park a reality is the restrictions placed on the use of this property by the United States of America when various parcels of property were reconveyed by the United States to the various owners. A great deal of time and effort has gone into the planning for the establishment of this industrial air park.

The City of Lake Charles, Calcasieu Parish Police Jury, Sowela Technical Institute and the Calcasieu Parish School Board all sincerely believe that the exemption of these properties from these deed restrictions would inure to the benefit of all citizens. We are not asking that the property be relieved of all restrictions. We understand that our Federal Government may have need of this property in the future to serve the interest of our national defense. In this regard, we believe that the reactivation of Chennault as an industrial air park would result in a facility which could be used by the government on a moment's notice for any defense purposes whatsoever.

As representatives of the City of Lake Charles, Calcasieu Parish Police Jury, Sowela Technical Institute and the Calcasieu Parish School Board, we are authorized to advise you that these governmental bodies, as owners of property at Chennault, do wholeheartedly support the efforts of you and your staff in sponsoring the appropriate legislation needed in order to exempt these properties from these use restrictions.

Sincerely yours,

CITY OF LAKE CHARLES,
(By) EDWARD S. WATSON,
Mayor.

CALCASIEU PARISH POLICE JURY,
(By) RODNEY M. VINCENT.

CALCASIEU PARISH SCHOOL BOARD,
(By) BILLY J. MOSES,
Superintendent.

SOWELA TECHNICAL INSTITUTE,
(By) EARL LEE HAMMETT.

Mr. JOHNSTON. Mr. President, I am hopeful that the Public Lands, Reserved Water, and Resource Conservation Subcommittee can conduct a hearing on this measure in the near future and that the Senate can move expeditiously.●

By Mr. WARNER (for himself and Mr. TRIBLE):

S. 2032. A bill to amend the Nuclear Waste Policy Act of 1982 to prohibit the development of a repository in proximity to a monitored retrievable storage facility; to the Committee on Environment and Public Works.

NUCLEAR WASTE POLICY IMPROVEMENT ACT

● Mr. WARNER. Mr. President, I rise today to introduce legislation to ensure that the legislative intent of the Nuclear Waste Policy Act [NWPA] of 1982 is fully implemented by the Department of Energy.

As required by law, the Department is moving forward to make final selection of a site (between Texas, Nevada, and Washington) for the first high-level radioactive waste repository.

On January 16, 1986, the Department of Energy selected 12 sites in seven States as possible locations for a second high-level radioactive waste disposal repository.

In conjunction with this effort to select sites for the permanent disposal of high-level radioactive waste and spent nuclear fuel, under NWPA the Department is also separately moving to select a site for a monitored, retrievable storage facility [MRS].

Pursuant to NWPA, the Department developed the Mission Plan for the Civilian Radioactive Waste Management Program.

Under these guidelines, the Department has integrated the purpose of MRS facilities into the overall waste-management system.

The Mission Plan identifies the role of the MRS facility to consolidate and package waste before being permanently disposed in a high-level radioactive waste repository.

I believe that the role of an MRS facility is equal in importance to a deep-mined geologic repository from waste management, environmental, and socioeconomic viewpoints.

The NWPA stresses the critical importance of establishing a regional balance of site selection for waste disposal to foster greater public confidence and Federal credibility in the program.

Recognizing these objectives, the law specifically prohibits DOE from constructing an MRS facility and a repository in one State.

This protection is necessary for many reasons.

For example, not to further burden a host State's transportation system since waste would be traveling to the MRS for interim storage and, after packaging, sent to the repository for permanent disposal.

My legislation today further clarifies the protections to the environment, public, health, and safety by directing DOE not to construct a repository within a radius of a monitored, retrievable storage facility.

Often the boundaries of a State will not provide the needed protection that a specific radius will, such as, perhaps, 400 miles.

Parts of several States may need protection.

Recognizing that a State boundary offers no protection to an area from these burdens, it seems clear to me that the intent of the Nuclear Waste Policy Act of 1982 was to not concentrate nuclear waste in any one region of the country.

Establishing a 400-mile protective radius from the site of a MRS facility would meet the objectives of the existing law.

I wholeheartedly support the need to develop a comprehensive policy for the disposal of radioactive waste that will have the support and trust of our citizens.

The Congress recognized that maintaining a close relationship with the States, and its citizens, where a disposal site was under consideration was essential in convincing a State to accept radioactive waste from across the Nation.

It was further recognized by the Senate Committees on Energy and Natural Resources and the Environment and Public Works that in the Committee Report to S. 1662 "no single State or region of the country will bear the full burden of civilian nuclear waste disposal."

Mr. President, nuclear energy continues to be a safe source of energy and promotes our Nation's energy independence.

To ensure the continued viability of nuclear energy, we must safely dispose of its waste.

At the same time, we must not lose sight of the need for regional balance and unquestioned fairness in developing nuclear waste disposal sites.

I believe my legislation ensures that this regional balance and fairness are maintained in the program as Congress intended when we passed the National Nuclear Waste Policy Act of 1982.●

● Mr. TRIBLE. Mr. President, I am pleased to join my colleague from Virginia in introducing the Nuclear Waste Policy Improvement Act of 1986, legislation that simply clarifies the intent of the Nuclear Waste Policy Act of 1982 to ensure greater protection of public health and safety.

The Nuclear Waste Policy Act of 1982 provides that no State shall have both a monitored, retrievable storage [MRS] facility and a high-level radioactive waste repository. This is intended to prevent large concentrations of nuclear waste in one region of the country. The distinct possibility exists, however, that an MRS site and a repository could be in close proximity to each other. In fact, one proposed site is separated from the MRS facility by only 76 miles.

If two waste sites can be located in such proximity, it is obvious that State boundaries are an inadequate guideline. Rather, a geographical area should be prescribed. This legislation clarifies this guideline by protecting an area within a 400-mile radius of any MRS facility.

The clear purpose of the Nuclear Waste Policy Act of 1982 is to establish reasonable balance among nuclear sites. This legislation will insure that balance by requiring that MRS and repository sites are a reasonable distance from one another. Hence no region's transportation system would be unduly burdened.

I support the effort to create a national policy for radioactive waste management. But any plan must have the support of our citizens. The bill introduced today will realize both goals.●

By Mr. PRYOR (for himself, Mr. ANDREWS, Mr. GRASSLEY, Mrs. KASSEBAUM, and Mr. PROXMIRE):

S. 2030. A bill to establish an alternative procedure for the review of bid protests under the Competition in

Contracting Act, and for other purposes; to the Committee on Governmental Affairs.

PROCUREMENT SAFEGUARD ACT

● Mr. PRYOR. Mr. President, today I am introducing new legislation that I and several of my colleagues, in the House and the Senate, believe will go a long way to eliminate excessive cost and low quality in Federal procurement, not just Department of Defense procurement but all Federal procurement. In the Senate I am joined by Senators, ANDREWS, GRASSLEY, PROXMIRE, and KASSEBAUM as cosponsors. In the House identical legislation is being introduced by Congresswoman BARBARA BOXER, Congressman DENNY SMITH, and others. We continue to strongly believe that the road to cleaning up the painfully self-evident, and continuing, problems and high costs the Federal Government is experiencing in procurement can only be paved smoothly by competition. Several new statutes to increase competition in Federal contracting have resulted from the strong support that some in Congress have given to competition, but without enforcement these new laws will amount to little. The bill I am introducing today should go a long way in providing that needed enforcement.

For the last 10 years an important competition enforcement mechanism has existed in the Protest Division of the General Accounting Office, where private businessmen can watch over each other's Government business and register protests against contract proposals and contract awards that violate Federal procurement laws and regulations. This contract protest process allows business competitors to make available to the Government better products for lower prices. Unfortunately, this process has not worked well in the Protest Division of the GAO.

Unlike the investigatory divisions of the GAO, which many of us have come to rely on for an objective and independent point of view, the GAO's Protest Division does not have a good reputation for independence or for an effective decisionmaking process. This sentiment appears to be the consensus of those in the private sector and those in government who have observed the GAO Protest Division closely. These criticisms also seem to be substantiated by the GAO Protest Division's track record of the past few years: the vast majority of the time the GAO Protest Division rejects contract protests.

This unfortunate track record was acknowledged by the most comprehensive legislation enacted by Congress on the subject of competition, the Competition in Contracting Act of 1984. This statute attempted to strengthen the GAO Protest Division, but the results, so far, seem disappointing.

The Competition in Contracting Act also acknowledged inherent weaknesses in the GAO and its protest process by establishing an alternate forum for contract protesters: the Board of Contract Appeals of the General Service Administration. In contrast to the GAO Protest Division, the GSA Board had established a reputation for objectivity and independence—even of its parent organization, the GSA—and the Board already had in place a set of procedures much better geared toward giving contract protesters a fair hearing.

As a result, an experiment was started; the GSA Board was allowed to hear contract protests concerning automatic data processing equipment contracts. The experiment has been in effect for a year, and it appears to be working. A track record considerably different from that which continues in the GAO has been established.

There is an important reason for this substantial difference in performance and reputation. Without in any way denigrating the dedication and professionalism of the people in the GAO Protest Division, it is clear that they are hampered by legal and other restraints in the procedures they are allowed to follow. For example, the GAO must follow a rule of "presumption of agency correctness." This term means that on all arguments over the facts of a protest case, the Government agency's assertions of fact must be accepted by the GAO. In contrast, the GSA Board of Contract Appeals has a "preponderance of evidence" standard wherein each side must prove the facts it asserts. As another example, in the GSA Board testimony is taken under oath, and subpoenas can be issued; in the GAO neither is possible. Furthermore, the GAO protest process can take twice as long as that in the GSA Board. Finally, GAO's authority is subject to a constitutional challenge in the courts; the GSA Board's authority is not vulnerable to any such challenge.

There would seem little question but that the GSA Board of Contract Appeals is a far better forum to enforce competition in Government contracting than the GAO Protest Division. The GAO has had exclusive domain over the contract protest process for 60 years with little success to show for it: all of us read much too often of ridiculous Government contracting decisions which somehow managed to escape any dragnet in the GAO.

The Procurement Safeguard Act, which we are introducing today, takes an important step in stopping Government procurement horror stories. The bill would expand the experiment wisely set up by the Competition in Contracting Act by increasing the jurisdiction of the GSA Board of Contract Appeals beyond just automatic data processing protests to all Government contracting protests. Furthermore, the Procurement Safeguard Act would keep the GAO Protest Division in business, just the same as it is now. In effect, the bill would establish competition between the GAO and the GSA Board in the enforcement of competition itself. The GAO would be given every opportunity to use the resources available to it to improve its performance, and the GSA Board would operate in the knowledge that it could not just rest on the laurels of its past, effective performance.

Mr. President, this entire subject of contract protest, the GAO Protest Division and the GSA Board of Contract Appeals is a new subject to many of us, certainly to myself. For that reason, we intend to seek hearings in the Government Affairs Committee, where I understand this bill will be referred, so that the hypothesis of this legislation can be demonstrated and Senators familiarized with the issues. It is not my intention to try to rush this new legislation through the Senate. The subject matter is an important one which requires our study and our thorough deliberation.

Finally, Mr. President, I ask unanimous consent that there be printed at this point in the RECORD, the text of the bill, a more detailed analysis of the need for this legislation, and a brief summary of its provisions.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 2030

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Procurement Safeguard Act of 1986".

SEC. 2. PURPOSE.

The purpose of this Act is to ensure enforcement of the laws of the United States that foster and require economy and efficiency and fair, full, and open competition in contracting. Therefore, this Act establishes an alternative, independent forum for protest actions of an administrative adjucative nature, with the power and duty to issue subpoenas, take testimony under oath, conduct factfinding, order discovery, and issue such orders, rulings, and decisions as are necessary to enforce the laws of the United States that foster and require economy and full and open competition in contracting.

SEC. 3. AMENDMENTS TO TITLE 31, UNITED STATES CODE.

(a) ESTABLISHMENT OF ALTERNATIVE PROCEDURE.—Chapter 35 of title 31, United States Code, is amended by adding at the end thereof the following new suchapter:

"SUBCHAPTER VI—ALTERNATIVE PROCUREMENT PROTEST SYSTEM

"§ 3561. Definitions.

"In this subchapter—

"(1) 'protest' means a written objection by an interested party to a solicitation by a Federal agency for bids or proposals for a proposed contract for the procurement of property or services or a written objection

to a proposed award or the award of such a contract;

"(2) 'interested party' means, with respect to a contract or proposed contract for the procurement of property or services, an actual or prospective bidder, offeror, subcontractor, supplier, or other party whose economic interest would be affected, directly or indirectly, by the award of the contract or by failure to award the contract;

"(3) 'board' means the board of contract appeals of the General Services Administration; and

"(4) 'Federal agency' has the meaning given such term by section 3 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 472).

"§ 3562. Protests by interested parties concerning procurement actions.

"Upon request of an interested party in connection with any procurement conducted by a Federal agency (including procurements conducted under delegations of procurement authority) filed in accordance with this subchapter, the board of contract appeals of the General Services Administrative shall review any decision by a contracting officer alleged to violate a statute, regulation, or other provision of law. An interested party who has filed a protest under subchapter V of this chapter with respect to a procurement or proposed procurement may not file a protest with respect to that procurement or proposed procurement under this subchapter. An interested party may not file a protest under this subchapter with respect to a procurement or proposed procurement conducted under the authority of section 111 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 759).

"§ 3563. Protests filed before contract award.

"(a) When a protest under this subchapter is filed before the award of a contract in a protested procurement, the board, at the request of an interested party and within 10 days of the filing of the protest, shall hold a hearing to determine whether the board should suspend the procurement authority of the Federal agency for the protested procurement on an interim basis until the board can decide the protest.

"(b) The board shall suspend the procurement authority of the Federal agency unless the Federal agency concerned establishes that—

"(1) absent action by the board, contract award is likely to occur within 30 days of the hearing; and

"(2) urgent and compelling circumstances which significantly affect interests of the United States will not permit waiting for the decision of the board.

"§ 3564. Protests filed within 10 days of contract award.

"(a) If the board receives notice of a protest under this subchapter after the contract has been awarded but within 10 days after notice of the contract award is received by each bidder or offeror on the contract, the board shall, at the request of an interested party and within 10 days after the date of the filing of the protest, hold a hearing to determine whether the board should suspend the procurement authority of the Federal agency for the challenged procurement on an interim basis until the board can decide the protest.

"(b) The board shall suspend the procurement authority of the Federal agency to acquire any property or services under the contract which are not previously delivered and accepted unless the Federal agency concerned establishes that urgent and compelling circumstances which significantly affect interests of the United States will not permit waiting for the decision of the board.

"§ 3565. Procedures and standards in protest proceedings.

"(a) The board shall conduct such proceedings and allow such discovery as may be required for the expeditious, fair, and reasonable resolution of the protest. The board shall review de novo any decision by a contracting officer alleged to violate a statute, regulation, or other provision of law. Such review shall be conducted under the preponderance of evidence standard applicable to review of contracting officer decisions by boards of contract appeals.

"(b)(1) Subject to any deadlines imposed by section 9(a) of the Contract Disputes Act of 1978 (41 U.S.C. 608(a)), the board shall give priority to protests filed under this subchapter. Except as provided in paragraphs (2) through (4), the board shall issue its final decision within 45 working days after the date of the filing of the protest, unless the board's chairman determines that the specific and unique circumstances of the protest require a longer period, in which case the board shall issue such decision within the longer period determined by the chairman.

"(2) If the major portion, as determined by dollar volume, of the protested procurement is to be performed outside the continental United States, then the board is authorized to extend the 45 working-day deadline set forth in paragraph (1) of this subsection for a period not to exceed 15 working days. The board shall issue its final decision within such extended period, unless the board's chairman determines that the specific and unique circumstances of the protest require a longer period, in which case the board shall issue such decision within the longer period determined by the chairman.

"(3) If the award of a contract is suspended pursuant to section 3563, the procuring agency may, subject to the approval of the board, elect to extend the 45 working-day deadline set forth in paragraph (1) of this subsection for a period not to exceed 15 working days. The agency shall request such an extension within 2 working days from the date the suspension is ordered, and the board shall rule on such request within 4 working days thereafter. The suspension shall remain in effect during the extended period for deciding the bid protest.

"(4) If a procurement is not suspended pursuant to section 3562, an interested party may, subject to the approval of the board, elect to extend the 45 working-day deadline set forth in paragraph (1) of this subsection for a period not to exceed 15 working days. The interested party shall request such an extension within 2 working days after the protest is filed or within 2 days after a request for suspension is denied, whichever is later, and the board shall rule on such request within 4 working days thereafter. Due consideration shall be given to the views of the agency. If more than one interested party files a protest against the same procurement, then the board shall not order an extension unless the extension is agreed to by all interested parties.

"(c) The board may dismiss a protest the board determines is frivolous or which, on its face, does not state a valid basis for protest.

"§ 3566. Bases and consequences of decisions.

"(a) In making a decision on the merits of protests brought under this subchapter, the board shall accord full weight to the need for prompt and effective enforcement of Federal statutes, regulations, and policies furthering economic and efficient procurement and fair, full, and open competition.

"(b)(1) If the board determines that a challenged agency action violates a statute, regulation, or other provision of law, the board shall suspend, revoke, or revise the procurement authority of the Federal agency for the challenged procurement.

"(2) The board shall order the termination of awarded contracts or make such other orders and shall grant such other relief as may be necessary to ensure compliance with statutes and regulations, and to ensure full, open competition and economic, efficient contracting.

"(c) Whenever the board makes a determination described in subsection (b)(1), it may, in accordance with section 1304 of this title, further declare an appropriate interested party to be entitled to the costs of—

"(1) filing and pursuing the protest, including reasonable attorney's fees, and

"(2) bid and proposal preparation.

"§ 3567. Appeal of board decisions.

"(a) The final decisions of the board may be appealed by the head of the Federal agency concerned and by any interested party, including any interested party who intervenes in any protest filed under this subchapter, as set forth in the Contract Disputes Act of 1978 (41 U.S.C. 601 et seq.).

"(b) If the board revokes, suspends, or revises the procurement authority of the Federal agency after the contract award or orders the termination of such contract, the affected contract shall not be presumed void ab initio as to any goods or services delivered and accepted under the contract before the suspension, revocation, or revision of such procurement authority, unless the boad specifically rules that the contract was void ab initio.

"(c) Nothing contained in this subchapter shall affect the board's power to order any additional relief which it is authorized to provide under any statute or regulation.

"§ 3568. Authority to administer oaths and to issue subpoenas; court representation.

"(a) In connection with any protest action filed under the authority of this subchapter or any other action or proceeding before the board, any judge of the board or any hearing examiner duly designated by the chairman is empowered to administer oaths and affirmations and to issue subpoenas. Every subpoena shall be issued under the seal of the board and shall command each person to whom it is directed to attend and give testimony at a deposition or hearing and may command the person to whom it is directed to produce the books, papers, documents, or tangible things designated therein.

"(b) In case of contumacy or refusal to obey a subpoena or to answer questions of a judge or hearing examiner under oath, the board may invoke the aid of any district court of the United States within the jurisdiction of which the person quilty of such contumacy or refusal is found or resides, or transacts business, and such court shall have jurisdiction to order such person to appear before the board to produce evidence or give testimony or both. any failure to obey such an order of the court may be punished as a contempt thereof by the court.

"(c) Except as provided in section 518 of title 28, United States Code, relating to litigation before the Supreme Court, attorneys designated by the chairman of the board may appear for, and represent the board in, any civil action brought in connection with any function carried out by the board pursuant to this subchapter.

"§ 3569. Rules, procedures, and operations.

"(a) Not later than 90 days after the date of enactment of this subchapter, the board shall adopt and issue such rules and procedures as may be necessary to the disposition of protests filed under the authority of this subchapter.

"(b) The board shall adopt a seal which shall be required for authentication purposes. The board shall adopt such internal procedures and form of organization as may be necessary for its day-to-day operations. The chairman, or his designee, may authorize travel and enter into contracts and other arrangements necessary for the board's day-to-day operations, but only to the extent and in such amounts as may be provided in advance by appropriations Acts. The chairman is authorized to establish such positions and to select, appoint, and employ such officers and employees as may be necessary for carrying out the functions, powers, and duties of his office and of the board, subject to the provisions of title 5, United States Code, governing appointments in the competitive service, the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and general schedule pay rates, and the provisions of section 8(b) of the Contract Disputes Act of 1978 (41 U.S.C. 607(b)) relating to board members which are not subject to classification but whose rates of pay are set by statute.

"(c) The chairman of the board shall report to the Attorney General and to the appropriate committees of Congress any incident concerning a protest under this subchapter that may involve a violation of section 1505 of title 18.".

(b) CONFORMING AMENDMENT.—Section 3552 of title 31, United States Code, is amended by inserting "under subchapter VI of this chapter or" before "under section 111(h) of the Federal Property and Administrative Services Act of 1949".

(c) CLERICAL AMENDMENT.—The analysis for such chapter is amended by adding at the end thereof the following:

"SUBCHAPTER VI—ALTERNATIVE PROCUREMENT PROTEST SYSTEM

"3561. Definitions.
"3562. Protests by interested parties concerning procurement actions.
"3563. Protests filed before contract award.
"3564. Protests filed within 10 days of contract award.
"3565. Procedures and standards in protest proceedings.
"3566. Bases and consequences of decisions.
"3567. Appeal of board decisions.
"3568. Authority to administer oaths and to issue subpoenas;
"3569. Rules, procedures, and operations.".

WHAT IS THE PROCUREMENT SAFEGUARD ACT, AND WHY IS IT NEEDED?

WHY IS IT NEEDED?

Competition has been the subject of several new laws to reduce excessive costs, to improve quality and to expand the industrial base for the Defense Department and the rest of the federal government. However, these new laws will be meaningless without enforcement. In the private sector, firms that cannot compete effectively go out of business. No such automatic enforcement mechanism exists in government contracting. There, powerful forces combine to resist competition and to perpetuate what amounts to a non-market spending system.

One way to overcome bureaucratic and some industry resistance to competition is to bring the competitive pressures of the private sector into government contracting. How? By allowing businessmen to monitor the award of government business to their competitors and to step in and protest when violations of statutory and regulatory procurement rules are evident. For 60 years a forum for this process has existed inside the federal government in the Protest Division of the General Accounting Office. Here, government contractors are allowed to watch over each other and register protests against non-competitive government contract proposals and unjustified government awards of contracts.

Unfortunately, this mechanism in the GAO has not worked well. Although the GAO deserves its good reputation in its investigatory divisions, the GAO Protest Division—the one discussed here—does not have a reputation for independence and aggressiveness among many of those in business and government who observe it closely.

Weaknesses in the GAO Protest Division were recognized by Congress when it enacted the Competition in Contracting Act of 1984. Among many things, that legislation attempted to strengthen the GAO's Protest Division, but it also went further than that. It contained an additional provision that allowed businessmen wanting to protest certain types of government contract proposals and contract awards to do so in a second administrative forum: the General Services Administration's Board of Contract Appeals. An experiment was initiated; the GSA Board was given authority to rule on protests against any federal agency's procurement decisions pertaining to automated data processing equipment. This expansion of the GSA Board's jurisdiction was scheduled to terminate in 1987, unless subsequently extended by statute. Thus, for adp contract protests and until 1987, protesters were allowed to select between the GAO and the GSA Board for registering their complaints against government procurement decisions.

A major reason for the GSA Board's being selected for this experiment was the many differences between it and the GAO Protest Division. First, as pointed out by the Report of the House Government Operations Committee on the Competition in Contracting Act, the GAO Protest Division has a poor track record in the contract protest business. Of the 7,000 protests filed at the GAO between 1981 and 1983, decisions were made on 3,228: the rest were thrown out for one reason or another. Of these 3,228 decisions, the GAO Protest Division found in favor of the protest in 235 instances, 7.3% of the time. Only in 34 of these cases did the GAO back up its decision with a recommendation to cancel the protested bid proposal or contract. Basically, the same pattern appears to be recurring even after the enactment of the Competition in Contracting Act, which sought to improve the GAO's record.

There are reasons why the GAO has maintained what appears to be such a poor track record. As one witness testified to the House Government Operations Committee: ". . . GAO does not conduct investigations to establish the validity of a bid protester's claims * * * GAO's protest decisions must rely on the facts which the (government) agency chooses to disclose. * * * an agency need only deny that a protester's statement of facts is correct. In nine cases out of ten, the agency's denial will carry the day." Thus, there can be little, if any, dispute over the facts of a case in the GAO Protest Division; by definition the government almost always will win the factual argument, and, therefore, the case.

Furthermore, in the GAO there is no testimony under oath, and subpoenas against either the government or the protester cannot be issued. In short, a protester is at the mercy of his opponent's willingness to be complete and accurate in his assertions, which is a lot to ask of an interested party when billions of dollars are at stake.

There are additional problems. The GAO Protest Division process can take twice as long as that in the GSA Board. One key component of the GAO protest reforms implemented by the Competition in Contracting Act—the authority to suspend protested procurements—is under constitutional attack in the federal courts.

The GSA Board offers a sharp contrast to the GAO. Since the beginning of 1985 when the GSA Board was allowed to hear adp bid protests, its track record has borne out a vote of confidence. Of 101 bid protests filed in the first 10 months of the Board's new, expanded operations, 10 protests were decided for the protester, 27 were dismissed in the protester's favor; 9 protests were denied, and 16 were dismissed in favor of the procuring agency; the rest remain pending. This record of finding in favor of the protester more than half of the time is in sharp contrast to the GAO's record of finding almost always against the protester.

One reason for this better track record is that the GSA Board replaces the GAO's procedural weaknesses with strengths. Most importantly, neither party has a lock on the facts. Rather than the GAO's "presumption of agency correctness", there is a discovery process, including testimony under oath and authority to issue subpoenas, to uncover the facts of the matter without prejudice and on the merits. Secondly, unlike the GAO, there is no dispute, constitutional or otherwise, over whether the GSA Board has the authority to enforce its opinions. All of its decisions are final and binding on the agency and can be reversed only by the United States Court of Appeals for the Federal Circuit.

Whether it be actual performance, procedures designed to get to the bottom of a matter, or the unquestioned authority to make decisions stick, the GSA Board is clearly preferable to the GAO if you are a potential government contractor and want to have a fair chance at overturning improper government agency procurement decisions. The issue is an extremely important and fundamental one. If waste is to be stopped, it must be subjected to the same forces that naturally operate in the market place: if you can't build it best and cheapest, you don't get the business. Exploiting the benefits of the GSA Board of Contract Appeals will bring those needed forces into government contracting. 60 years of business at the GAO Protest Division has only allowed problems to continue.

The only remaining question is, why limit the GSA Board to hearing only automatic data processing protests, and why shut even that business down in 1987? Removing these limitations are the two basic objectives of the Procurement Safeguard Amendment.

WHAT IS THE PROCUREMENT SAFEGUARD ACT?

The proposal would expand the jurisdiction of the General Services Administration's Board of Contract Appeals to allow it to hear any and all bid protests, rather than just those concerning automated data processing. The bill would not eliminate the GAO Protest Division; the GSA Board would be established as a second forum. Protesters would have a choice of one or the other (but could not go to both). The Procurement Safeguard Act would apply the virtues of competition to the business of bid protest itself. The GAO Protest Division would have pressure applied to improve its questionable performance, and the GSA Board would not be able to rest on its past laurels. What better device is there to increase competition in government contracting than to create competition in the enforcement of that competition?

Furthermore, the Procurement Safeguard Act would further increase the GSA Board's independence of its parent agency, the GSA, and the bill would augment the already preferable procedures now in use in the Board.

A brief section by section analysis follows:

Section 3561 is a definitions section; these definitions are technical, except for the definition of "interested party" (those permitted to file protests). An important expansion from previous definitions of the term is used: any party with a direct or indirect economic interest would be allowed to file a protest; this would include not just subcontractors but also private citizens. With this admittedly controversial definition, the number of procurement "policemen" searching for fraud would be tremendously expanded.

Section 3562 would establish the GSA Board as a alternate forum to the GAO Protest Division to hear any protest actions concerning violations of statutes or regulations for procurement or sale by federal agencies. Any Protester who has a protest filed with the GAO may not also file with the GSA Board.

Section 3563 establishes rules for when a protested procurement shall be suspended in order to prevent an illegal procurement from becoming an accomplished fact by the time a Board ruling against it is made.

Section 3565 specifies the GSA Board's existing practice of being neutral with regard to either party's version of the facts of a case. The "preponderance of evidence" standard is applied to disputes over facts. The section also establishes rules for extending the Board's 45 working day deadline for coming to a decision in the event of special circumstances, and the section gives the Board authority to dismiss patently frivolous or incompetent protests.

Section 3566 states that the Board "shall", not "may", suspend, revoke or revise the authority for any procurement found to violate any statute, regulation or other provision of law.

Section 3567 allows the Board's decisions to be appealed by any federal agency or protester in federal court.

Section 3568 makes explicit the Board's authority to issue subpoenas and to take testimony under oath.

Section 3569 permits the Board to write its own rules and procedures to implement this Act and to appoint its own judges and staff under current Civil Service requirements. The section also requires the Chairman of the Board to report to the Attorney General and Congress any incident involving attempts to bribe or otherwise improperly influence the deliberations of the Board.●

By Mr. CHILES (for himself, Mr. BAUCUS, Mr. BINGAMAN, Mr. EXON, Mr. GORE, Mr. JOHNSTON, Mr. LEVIN, and Mr. NUNN):

S. 2033. A bill to promote economic growth and trade expansion to amend the Trade Act of 1974 to open foreign markets, to enhance the competitiveness of U.S. firms, and for other purposes; to the Committee on Finance.

TRADE EXPANSION ACT

● Mr. CHILES. Mr. President, for some years now, the United States has been at a disadvantage in international markets. In part, that's the result of insular trade policies set up by other nations which make American sales abroad much more difficult.

But that's neither the whole story, nor the sole explanation for the record trade deficit.

In many ways, we have not applied ourselves to the task of export promotion. We haven't been ambitious enough in welding together the advantages we have.

Individual States seek markets abroad, but they go it alone. Many small businesses search for foreign markets, but they have to penetrate a mixed bag of Government agencies involved with trade. And the agencies themselves either go in different directions or sometimes fail to take the initiative to help manufacturers find new markets abroad.

It seems to me this country has to make a decision to actively pursue foreign sales, and do it in a coordinated fashion. The tools we have are rusty, and we don't have all the ones we need. We are restless and willing to break new trails, but we really don't have a map to guide us.

I think we can do better. We can bring new energy to world markets, sharpen our competitive edge, and still put aside the antagonisms that have colored the world trade picture.

We need to revitalize our approach and make it clear that the way to gain an advantage is through the quality of goods and services we produce rather than by the size of the barriers put up.

And here at home, we need to move more closely together in the best interests of the American worker and American business, to promote our goods and services abroad.

Our immediate aim is American trade expansion. Our long-range goal is a more active world market where all nations can compete according to rules we each understand and all observe.

Today, we take the first step.

Today we are introducing a new trade bill.

This bill includes solid provisions from several other proposals currently before the Senate. We believe this bill refines and expands a reasonable approach to opening access to world markets for American goods. But it also goes farther, and has more immediate impact.

It makes clear to other nations that the United States is gearing up to compete fairly. It tells the American worker the country is serious about safeguarding their ability to produce. And it lets American businesses know the Government will help where it can to protect their right to sell overseas.

A section-by-section analysis describes the bill in detail, but let me briefly summarize some of its main features.

It begins here at home. The bill would require us to identify and remove our own barriers to trade to show good faith, and keep us from tying our own hands. We have many government policies in our own country that have proven to be barriers to our own producers in the search for foreign markets.

Next, it requires the U.S. Trade Representative to inventory the effects on American exports of lifting foreign trade barriers. It will serve as a reference point for setting access goals to foreign markets. If other nations are unwilling to open their markets in accordance with those goals, the United States will take the action necessary to make up the shortfall by limiting the amount of foreign imports into this country.

Third, the bill sets up a $300 million "war chest" to counter, if necessary, other nation's assistance to their own producers.

Fourth, it directs the Export-Import Bank to work with State agencies in the promotion of exports to coordinate a truly national effort.

Fifth, it directs the Secretary of Agriculture to conduct research to improve the potential of American agricultural exports.

Sixth, it would streamline procedures for American industries damaged by imports, and require the International Trade Commission to automatically implement their decisions unless overridden by the President.

The bill also instructs the Department of Commerce to monitor foreign industries which engage in predatory practices. It would protect the creativity of American intellects by prohibiting trade with foreign firms whose goods are manufactured as a result of the illegal use of U.S. patents. In that sense, it also protects America's investment in research and development.

Beyond these items, the President would be instructed to enter into negotiations to strengthen GATT with regard to services, agricultural trade, technology, and investments.

It would also involve the U.S. Treasury and the Federal Reserve Board in

an effort to find ways to ease the international debt crisis.

And at the heart of the bill is the idea of promoting growth—not just through ever-expanding exports—but through serious work on the problems of deficits and consumption affecting the nations of the world.

We begin this work to invigorate world trade. And we start it because we value the benefits dynamic and competitive partnership can bring to this Nation and all others who join the effort.

For millions of people in the industrial West, the world is a market for the high-technology wonders we have produced. For millions more in nations around the globe, trade is the difference between a past of poverty and a future of advancement.

If we become partners, we can all gain. But if we remain at odds, protected by trade barriers, we could fall victim to a myth. And the myth is that in a crowded world, any nation can go it alone indefinitely. Even in a simpler world with far fewer people, that idea has been tried, and failed before. If we can't be partners immediately, at least we can work toward a community of competitors as the first step.

The United States has great power. It has the power to weld our economy into a productive force for the advancement of living standards around the world. We are, perhaps, one of the very few who can.

But we recognize there are benefits to be had from partnership—between business and government at home and among nations—to unleash ideas and productivity in all their diversity.

This bill alone will not reach all those goals at once. But it is time to begin, and I hope my colleagues in the Senate will join us in the effort.

I ask unanimous consent to insert a section-by-section analysis at this point in the RECORD.

There being no objection, the section-by-section analysis was ordered to be printed in the RECORD, as follows:

THE TRADE EXPANSION ACT OF 1985—SECTION-BY-SECTION SUMMARY

TITLE I—OPENING FOREIGN MARKETS

Requires the U.S. Trade Representative to calculate the potential increase in U.S. exports from lifting foreign trade barriers. These amounts form the basis for export goals and timelines for countries whose barriers are a significant impediment to U.S. exports.

Just as in S. 1404 (as amended), failure to meet the export goals would result in the foreign country being denied access to the U.S. market by the amount of the shortfall from the target.

In initiating Section 301 cases (unfair trade barriers), the USTR is instructed to focus not only on the most egregious practices, but to also consider the ability of smaller exporters to pursue their own remedies.

TITLE II—SUPPORTING U.S. EXPORT EFFORTS

Establishes a $300 million Export-Import bank "war chest" to counter mixed credits and other forms of subsidized financing.

Requires the Commerce Department to identify existing U.S. barriers to U.S. exports and reports to Congress on the increased value of exports that could be expected from their removal.

Revises Foreign Corrupt Practices Act by replacing the imprecise "reason to know" standard with a cleaner "knowledge standard". Strengthens enforcement of FCPA by doubling penalties. Requires Secretary of Commerce to review impact of FCPA on U.S. exports.

Mandates competitiveness impact statements for major legislative or regulatory initiatives by Federal agencies. In addition, the Congressional Budget Office will monitor committee-reported bills to identify those which would have a major impact on the international trade of the United States.

Instructs U.S. directors to multilateral development banks to aid procurement opportunities for U.S. firms.

Directs the Export-Import bank to work with state agencies that promote exports to establish procedures for consultation and coordination of efforts. Assures that these state agencies have ready access to the Commerce Department's trade data bank (see Title 9).

Requires diplomatic missions to facilitate U.S. export efforts.

TITLE III—ECONOMIC GROWTH AND TRADE EXPANSION

Instructs the President to negotiate with foreign countries:

To coordinate macroeconmic adjustment with reductions in the U.S. budget deficit matched by the expansion of foreign economies.

To base their economic growth on a balance of external and domestic demand, recognizing that exclusive reliance on export-led growth creates trade imbalances which increase protectionist pressures and undermine the world trading system.

To work with the United States and international organizations to pursue a pro-growth strategy to resolving the international debt crisis.

TITLE IV—AGRICULTURAL TRADE

Directs the Secretary of Agriculture to conduct research to enhance the competitiveness of U.S. agricultural commodities. Specific studies of U.S. comparative advantage, new developments in research conducted by foreign countries, and the level of export subsidization by foreign governments are mandated.

Authorizes the Secretary of Agriculture to conduct an export quality incentive program using export PIK commodities. The government would provide commodities in exchange for each 1 percent improvement in grain quality above the standard contract.

Directs the Secretary of Agriculture to issue an annual report summarizing the impact of actions taken by the USTR on U.S. exports of agricultural commodities.

TITLE V—RELIEF FROM INJURY CAUSED BY IMPORTS

Adopts the language of S. 1860 which:

Streamlines section 201 procedures for industries damaged by imports.

Requires the International Trade Commission's recommendation to be automatically implemented unless overridden by the President.

Has Section 201 relief accompanied by adjustment measures aimed at restoring the competitiveness of the damaged industry.

Differs from S. 1860 by requiring that temporary relief under section 201 be in the form of tariffs or auctioned quotas, so that the "surplus" created by the protection flows to the Treasury rather than foreign producers.

TITLE VI—RESISTING PREDATORY TRADE PRACTICES

Instructs the Commerce Department to monitor for foreign industries which engage in predatory competition (such as protecting an industry while building a large export capacity).

The Commerce Department would monitor the flow of these industries' products to the U.S. and submit to Congress a report identifying cases of excessive increases in sales.

Adopts language of S. 1543 which strengthens the protection of intellectual property rights by prohibiting foreign firms from selling goods in the U.S. whose manufacturing involves the illegal use of U.S. process patents.

Calls for sufficient funding for personnel to vigorously enforce U.S. trade laws.

Amends countervailing duty law to establish that a subsidy exists when a government sells an input product or grants removal rights for an input product at a price below market value.

TITLE VII—INTERNATIONAL TRADE NEGOTIATIONS

Instructs the President to enter into international trade negotiations to create or strengthen the GATT articles with regard to trade in services, agricultural trade, technology and related processes, intellectual property rights, investments.

Calls for the strengthening of GATT as an institution through tougher enforcement mechanisms and streamlined procedures.

TITLE VIII—INTERNATIONAL DEBT CRISIS

Requires the U.S. Treasury and the Federal Reserve Board, in consultation with the International Monetary Fund and the World Bank, to report on the options for ameliorating the international debt crisis.

The report will consider the options for debt repayment flexibility conditioned on an increased role for the private sector in the indebted countries, appropriate monetary, fiscal and regulatory policies, movement toward membership in and adherence to the GATT articles.

Calls on industrialized countries which benefit from a U.S. defense presence to play a greater financial role in supporting the international institutions which aid the indebted countries.

Instructs the Administration to evaluate the feasibility of selling surplus agricultural and other commodities in exchange for local currency in indebted countries where hard currency supplies are low (Cooley Loan Program).

TITLE IX—TRADE INFORMATION

Mandates that the Commerce Department develops and maintains a centralized trade data bank with information on foreign economies and market opportunities, foreign business practices, laws and regulations, and information on specific industrial sectors.

Establishes a new service in the Commerce Department aimed at meeting the information needs of particular U.S. firms—with the companies sharing the cost.●

● Mr. EXON. Mr. President, I am pleased to cosponsor the Trade Expansion Act of 1986. I would like to focus on the key agricultural provisions of this comprehensive trade bill. International trade is of vital importance to our Nation's agriculture sector. Fully, one-third of our food production is devoted to export. Unfortunately, our agricultual export markets have deteriorated considerably in recent years.

The administration's solution to the growing crisis in rural America has been to embark on policies which reduce commodity prices below the cost of production, destroy asset equity and slash rural services. This has been done in the name of free market principles and increased exports.

Mr. President, you do not expand export markets by bankrupting the American farmer. Despite all of the problems in rural America, our farmers are the world's most efficient. On a fair playing field, American farmers would win every time. The fact is that there is no free world market in agriculture. Foreign governments subsidize their farmers, close their markets to American agricultural exports and lend great assistance and protection to their farmers. By contrast, in recent times, the U.S. Government has seemed to do everything possible to drive the American farmer from his land.

The Trade Expansion Act would pry open foreign markets, fight unfair trade practices, and add an element of reciprocity to our trade relationships. This approach would reduce the trade deficit through increasing exports rather than closing the American market.

Of key importance are the provisions which affect agriculture trade. The legislation authorizes the President to negotiate to bring foreign agricultural practices under the discipline of international trade law. Unfair foreign trade practices which would be clearly prohibited in the manufacturing sector run rampant in the agriculture sector. It is time that America demand not only free trade, but also fair trade.

The Trade Expansion Act includes an innovative incentive program to improve the quality export grain. PIK incentives would be given for improved grain quality. Experts have long recognized that the United States has had a problem with quality standards. This is the type of positive approach which is likely to work.

The legislation also requires the Secretary of Agriculture to research methods to improve and enhance our long-term competitiveness in world markets. In addition, the Secretary of Agriculture must report on the impact of U.S. trade actions on agricultural exports. Too often, protection is granted to one domestic industry with no consideration given to the retaliation such action provokes against U.S. agricultural exports.

Another innovative provision of the Trade Expansion Act provides for the sale of surplus commodities to debt ridden nations for their local currencies. In essence, this proposal is a modern day version of the Cooley Loan Program. Under such a system, the United States can develop future markets in the Third World while disposing of surplus commodities.

Certainly there is much to be done in the area of agricultural trade. The Trade Expansion Act is a significant step in the right direction. I strongly urge my colleagues to study and support this comprehensive trade legislation.●

● Mr. BAUCUS. Mr. President, I am pleased to join in sponsoring the Trade Expansion Act of 1986.

This bill is an excellent piece of trade legislation.

But it is more than that.

It is also an expression of the views of the Democratic Leadership Conference, an organization that consistently has offered creative solutions to the problems we face today.

I am proud to be a member of that organization.

The bill I am cosponsoring today continues the DLC tradition of offering creative, forward-looking solutions to the vexing problems facing our Nation.

I would like to focus my remarks on one provision that I think is critical to America's future.

This legislation incorporates S. 1292, the natural subsidies legislation that I introduced in the Senate last year.

That legislation provides that natural resource subsidies should be subject to countervailing duties, like other subsidies proscribed by the GATT.

This has become a particularly big problem for the U.S. forest products, mining, chemicals, cement, and energy industries.

This legislation will tell foreign competitors that the playing field must truly be level.

This legislation will tell them that America truly believes in free, but fair, trade.

And this legislation would be consistent with the GATT.

The Trade Expansion Act of 1986 has many other fine provisions. I am pleased to be a cosponsor of this bill.●

By Mr. DIXON:

S. 2034. A bill to amend title 10, United States Code, to prescribe the organizational structure of unified and specified combatant commands, to prescribe the authority of unified and specified combatant commanders, and for other purposes; to the Committee on Armed Services.

UNIFIED AND SPECIFIED COMMAND ORGANIZATIONAL ACT

Mr. DIXON. Mr. President, today I am introducing legislation to address one of the key problems in the Department of Defense—the need to strengthen the authority and power of the unified commanders of our combined Armed Forces. I offer this legislation as a component to the broader efforts of the Committee on Armed Services, on which I serve, to reorganize and strengthen the Department of Defense. This effort was launched in a bipartisan spirit by Senators John Tower and the late Scoop Jackson, and has been guided in this Congress by the current chairman, BARRY GOLDWATER, and Senator SAM NUNN.

UNIFIED AND SPECIFIED COMMANDS

Mr. Chairman, one can look at the Department of Defense as consisting of two parallel components. The first is the policymaking component which is comprised primarily of the formal headquarters of the services and the civilian DOD leadership. The second is the operational component which exercises day-to-day control over our standing combat forces.

Prior to World War II, the War Department and the Navy Department operated independently, exercising both policymaking and operational functions. Activities that required coordination between the Army and the Navy were handled through joint coordination boards. "Mutual cooperation" was the phrase that characterized joint activity. Mutual cooperation unfortunately was the order of the day at the time of the Japanese attack on Pearl Harbor in 1941.

The complexity of war during World War II demonstrated the need for more formal means for assuring effective joint operations of the services. When the Department of Defense was organized in 1947, bringing the Navy, the Army and the new formed Air Force together under a civilian Secretary of Defense, day-to-day operational control of combat forces in forward theaters was assigned to a unified commander. The world was divided into discrete regions. Command of forces in those regions would fall to one of the unified commanders in chief. Unified commands have forces assigned from two or more services. Specified commands consist of forces from a single service. Today there are six unified commands and three specified commands.

UNIFIED COMMANDERS BUT DIVIDED COMMANDS

The disastrous failure of interservice coordination at Pearl Harbor in 1941 dictated that in each theater the operational forces of two or more services be placed under the command of a single individual. Never again would American soldiers die needlessly because of divided commands.

That was the promise. Unfortunately, history presents a flawed record of meeting that promise. A detailed review of the facts reveals that we have unified commanders, but divided commands. The Armed Services Committee conducted an exhaustive review of our operational commands. The problem, in a nutshell, is our unified commanders don't really control the forces of the individual services assigned to their command.

The individual military services retain the responsibilities to train, equip, organize, and station their own service personnel. Therefore, the Army, for example, is responsible for organizing, training, equipping, and stationing all of the Army forces assigned to the U.S. Pacific Command. The commander in chief of the U.S. Pacific Command must fight with what the Army gives him and with where they have been put by the Army. The commander in chief has little role in determining what Army forces are assigned to him, how they are equipped, how they are organized, and where they are located.

In short, we have six unified commanders in chief who are responsible for the day-to-day defense of our country and our allies who cannot control the forces under their official command. All resources, promotions, awards, and penalties flow through the service chain of command, not the operational chain of command we set up to avoid future Pearl Harbors. This we have to change.

DIXON BILL TO STRENGTHEN UNIFIED COMMANDERS

The bill I am introducing today is designed to strengthen the unified commanders, the primary individuals responsible for defending the United States. My bill does this by: Giving the unified commander greater standing within the Department of Defense; providing the unified commander greater control over subordinates of the various service component organizations; delineating explicitly his operational control over subordinate forces; and inviting further study of ways to strengthen the unified commanders.

I have attempted to strike a balance. I am trying to strengthen the unified commanders without unduly weakening the services.

We Americans depend on these unified commanders to defend our homeland and our allies, and to protect the lives of the soldiers, sailors, airmen, and marines under their command. We cannot give them these awesome responsibilities without giving them appropriate authority. My bill will substantially redress these shortcomings. I ask my colleagues to study it seriously and join me in this important improvement in our Nation's defenses.

Mr. President, I ask unanimous consent that the text of the bill be included in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2034

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Unified and Specified Command Organizational Act of 1986".

SEC. 2. UNIFIED AND SPECIFIED COMBATANT COMMANDS.

(a) Part I of subtitle A of title 10, United States Code, is amended by inserting after chapter 5 the following new chapter:

"Chapter 6—Unified and Specified Commands

"Sec.
"151. Establishment and composition.
"152. Appointment of commanders; rank; grade.
"153. Commanders of component forces.
"154. Reports.

"§ 151. Establishment and composition

"(a) There are in the Department of Defense such unified and specified combatant commands as the Secretary of Defense, in consultation with the Chairman of the Joint Chiefs of Staff, shall prescribe.

"(b) A unified combatant command shall be composed of such forces from two or more military departments as the Secretary of Defense shall prescribe in consultation with the Chairman of the Joint Chiefs of Staff.

"(c) A specified combatant command shall be composed of such forces from a single military department as the Secretary of Defense shall prescribe in consultation with the Chairman of the Joint Chiefs of Staff.

"§ 152. Appointment of commanders; rank; grade

"(a) The Commander of a unified combatant command shall be appointed by the President, by and with the advice and consent of the Senate, from officers of the regular components of the armed forces. Such commander serves at the pleasure of the President for a term of two years, and may be reappointed in the same manner for one or more additional terms. However, in time of war declared by Congress there is no limit on the number of reappointments.

"(b) The Commander of a unified combatant command is subject to the authority and direction of the President and the Secretary of Defense.

"(c) While assigned to the position of commander of a unified combatant command, such commander outranks all other officers in the armed forces except the Chairman of the Joint Chiefs of Staff and other officers assigned to duty as commanders of unified combatant commands. Officers assigned to duty as commanders of unified combatant commands shall rank among each other on the basis of dates of rank.

"(d) The commander of a unified combatant command, while assigned to such position, shall hold a grade not lower than the highest grade held by any member of the Joint Chiefs of Staff other than the Chairman.

"§ 153. Commanders of component forces

"(a) The commander of a unified combatant command shall select and assign officers to command the invididual component forces of the unified combatant command. He shall select the commander of an individual component from among five candidates nominated for selection by the Secretary of the military department from which the individual component is assigned. The commanders of individual components of a unified combatant command serve at the pleasure of the commander of the unified combatant command concerned.

"(b) Commanders of individual components of a unified combatant command are subject to the operational authority and direction of the commander of the command. Administrative and logistic support of component commands shall continue to be exercised through their respective military departments. All administrative and logistics communications between component forces and their respective military departments shall be reviewed by the unified commander in accordance with procedures established by that unified commander.

"§ 154. Reports

"The Secretary of Defense shall submit to the Congress each year, not later than February 15, a written report on all unified and specified combatant commands of the Department of Defense. The Secretary shall include in each such report has assessment of the soundness of each of the commands. The Secretary shall also transmit with each such report a separate and unmodified report from the commander of each unified and specified combatant command assessing the material status of each separate component of the command concerned.".

(b) The table of chapters at the beginning of subtitle A and at the beginning of part I of subtitle A are each amended by inserting after the item relating to chapter 5, the following new item:

"6. Unified and specified combatant commands ..... 151".

SEC. 3. SPECIAL REPORT

The Secretary of Defense and the Chairman of the Joint Chiefs of Staff shall jointly submit to the Congress a report containing their evaluation of the Unified Action Armed Forces Plan (JCS Publication 2), including their joint recommendations for such changes in the plan as the Secretary and the Chairman consider desirable. They shall transmit with such plan such comments of the commander of each of the unified and specified combatant commands as the commanders wish to make regarding such plan, including any recommendations for changes in the organizational structure of such commands as the commanders consider desirable.

By Mr. DIXON:

S. 2035. A bill to amend title 10, United States Code, to establish within the Office of the Secretary of Defense an Office of Defense Procurement for the centralized procurement of all property and services for the Department of Defense, to provide for an Under Secretary of Defense for Procurement, and for other purposes; to the Committee on Armed Services.

DEPARTMENT OF DEFENSE PROCUREMENT REORGANIZATION ACT

Mr. DIXON. Mr. President, I am today introducing a bill that would reorganize the way in which the Department of Defense is structured to purchase necessary goods and services. This bill would consolidate most of the

procurement responsibilities within the Department of Defense under a new Under Secretary of Defense for Procurement.

Mr. President, I am honored to serve on the Senate Armed Services Committee, and its Defense Acquisition Policy Subcommittee. I also have the privilege of serving on the Senate Small Business Committee. Through these two committee assignments, I have had the opportunity to study the Federal acquisition system in some detail. I have tried to review the way we buy goods and services from the perspective of the Department of Defense and from the perspective of the largest defense contractors and the thousands of small businesses in my state.

During the past several years, we have been bombarded with an almost nonstop litany of problems with the Department of Defense's procurement system. In just the last few days alone we have had more reports of abuses in the Navy's supply system and the Air Force's spare parts purchases. As my colleagues know, for the past several years the Congress has been very actively involved in a number of procurement reform efforts. I am pleased to have been the original author of many of the provisions in the 1984 Small Business and Federal Procurement Competition Enhancement Act and the 1984 Department of Defense Procurement Reform Act. These efforts were focused primarily on ways to increase competition for and reduce barriers to greater participation in the $180 billion in goods and services that the Department purchases annually. We are just beginning to see the implementation of and some positive results from these amendments.

Last year, we in the Senate Armed Services Committee continued our review of the acquisition process and made a number of additional reforms in the way in which the Department purchased its goods and services and in the Department's relationships with defense contractors. Many of those reforms are yet to be implemented, however.

The changes we have made to the procedures for DOD purchases are not enough. In my view, if we are to realistically expect continuing successes in reducing the problems of defense procurement, we must address the organizational structure to carry out that mission. The legislation I am introducing today is the starting point for that initiative.

Under present law and practice, the procurement authority of the Department of Defense is highly decentralized. Hundreds of thousands of civilian and military employees in the military departments, defense agencies, and the Office of the Secretary of Defense are involved in procurement. In addition, an untold number of others serve in a variety of staff positions to monitor the actions of the buying components. Yet, in my view, the present organizational structure runs contrary to the goal of achieving an effective and efficient acquisition system.

Mr. President, there is no doubt that the current system is cumbersome and complex.

For example, the Senate Armed Services Committee's own staff study on defense organization highlighted four problem areas with the current acquisition organization. These were:

Insufficient assured connection between national military strategy and formulation of military requirements;

Failure to achieve feasible and desirable levels of military equipment commonality;

Weak management of, and general resistance to, joint programs; and

Lack of effective departmental coordination of acquisition.

In addition, the recent white paper by Dr. James Wade, the Assistant Secretary of Defense for Acquisition and Logistics, seems to reach the same conclusion. As reported in the press, he has been quoted as saying that the:

Current DOD/Service acquisition organization is so ponderous, inflexible, and so layered as to make it virtually impossible to maintain accountability * * *. The time is right to look at other areas for improvements. The appropriate organizational structure for acquisitions can facilitate or hinder meaningful implementation of DOD policies.

These conclusions and my own study have led me to recommend that we consolidate the bulk of the acquisition system for the Department of Defense into a single, coordinated entity within the Department. This new organizational entity would be under the direction of a new Under Secretary of Defense for Procurement. I am proposing that this new Under Secretary be made the Acquisition Executive of the Department, and have all of the existing independent staff offices and procurement activities reporting to him. I am also suggesting that the various Competition Advocates, Small and Disadvantaged Business Utilization officials, the Defense Contract Audit Agency, and the Defense Logistics Agency, report to the new Under Secretary.

I have not proposed that the recently created Office of Operational Test and Evaluation be folded into this function, however. While I believe that a truly consolidated procurement organizational structure would include this office, I believe the current visibility of that office, and the work that it must be able to carry out, in the short term, require that it be left as an independent office, at least for the time being. I have proposed, however, that the charter of this Office be amended so that its test reports are provided to the Under Secretary.

Mr. President, one of the most important functions of government is ensuring the common defense. We are asked to, and do spend huge sums of money on a variety of offensive and defensive systems to preserve our national security. Regardless of what systems are purchased, however, we should insist that the purchasing process be carried out efficiently, effectively and at the least cost. We have already taken a number of important steps to change the procedures for making these purchases. But we will be able to fully meet our responsibility for preserving the national defense only if we are also prepared to radically alter the organizational structure of the Department of Defense along the lines I am proposing today.

Mr. President, I ask unanimous consent that the text of the bill be included in the RECORD.

There being no objection the bill was ordered to be printed in the RECORD, as follows:

S. 2035

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Department of Defense Procurement Reorganization Act of 1986".

SEC. 2. UNDER SECRETARY OF DEFENSE FOR PROCUREMENT.

Section 135 of title 10, United States Code, is amended—

(1) in the first sentence of subsection (a)—

(A) by striking out "two" and inserting in lieu thereof "three";

(B) by striking out "Policy and" and inserting in lieu thereof "Policy,"; and

(C) by striking out the period and inserting in lieu thereof ", and one of whom shall be the Under Secretary of Defense for Procurement."; and

(2) in subsection (b)—

(A) by inserting "(1)" after "(b)";

(B) by designating the second sentence as paragraph (2);

(C) by designating clauses (1), (2), and (3) of paragraph (2) (as designated by subclause (B) of this clause) as clauses (A), (B), and (C), respectively; and

(D) by adding at the end the following new paragraph (3):

"(3)(A) Subject to the authority, direction, and control of the Secretary of Defense, the Under Secretary of Defense for Procurement shall be responsible for the centralized procurement of all property and services for the Department of Defense. The Under Secretary may delegate his authority with respect to the procurement of any particular type or class of property or service to the Secretary of a military department if the Under Secretary determines that the delegation of such authority will result in savings to the United States or is necessary to provide the property or service to the military department in a timely and efficient manner.

"(B) The Under Secretary of Defense for Procurement shall also be responsible for all contract administration functions of the Department of Defense, including all contract audit functions of the Department of Defense.

"(C) The Under Secretary shall also be responsible for the supervision, direction, and

control of all competition advocates of the Department of Defense.".

SEC. 3. ESTABLISHMENT OF OFFICE OF DEFENSE PROCUREMENT.

(a) IN GENERAL.—Chapter 4 of title 10, United States Code, is amended by adding at the end the following new section:

"§ 140d. Office of Defense Procurement

"(a) There is in the Office of the Secretary of Defense an office known as the Office of Defense Procurement. The Under Secretary of Defense for Procurement shall be the head of such office.

"(b)(1) All functions of the Department of Defense relating to the procurement of property and services shall come under the Office of Defense Procurement.

"(2) All functions of the Defense Acquisition Regulation Council and of the Defense Logistics Agency shall come under the Office of Defense Procurement.

"(3) All functions of the Office of Small and Disadvantaged Business Utilization for the Department of Defense (established under section 15(k) of the Small Business Act (15 U.S.C. 644(k)) shall come under the Office of Defense Procurement.".

(b) CONFORMING AMENDMENT.—The table of sections at the beginning of such chapter is amended by adding at the end thereof the following new item:

"140d. Office of Defense Procurement.".

SEC. 4. TECHNICAL AND CONFORMING AMENDMENTS.

(a) CHANGE IN STATUTORY FUNCTION OF ASSISTANT SECRETARY OF DEFENSE.—Paragraph (3) of section 136(b) of title 10, United States Code, is amended to read as follows:

"(3) One of the Assistant Secretaries shall be the Assistant Secretary for Force Management and Personnel.".

(b) DIRECTOR OF OPERATIONAL TEST AND EVALUATION TO REPORT TO UNDER SECRETARY OF DEFENSE FOR PROCUREMENT.—Section 136a(d) of such title 10, United States Code, is amended by striking out "Secretary of Defense" and inserting in lieu thereof "Under Secretary of Defense for Procurement.".

(c) AMENDMENT TO CHAPTER 137 OF TITLE 10, UNITED STATES CODE.—(1) Section 2302 of title 10, United States Code, is amended by striking out "Secretary of Defense, the Secretary of the Army, the Secretary of the Navy, the Secretary of the Air Force" in paragraph (1) and inserting in lieu thereof "Under Secretary of Defense for Procurement".

(2) Section 2303 of such title is amended by striking out clauses (2), (3), and (4) and by redesignating clauses (5) and (6) as clauses (2) and (3), respectively.

(3)(A) Chapter 137 of such title is further amended by adding at the end thereof the following new section:

"§ 2325. Contracts for full-scale development and for production

"A contract for the full-scale development of a major system or for the procurement of a major system may not be entered into unless the Under Secretary of Defense for Procurement has reviewed and approved the contract. In reviewing any proposed contract for procurement of a major system, the Under Secretary shall evaluate the plans and specifications for the system, determine the necessity for production, consider the commonality of parts and components of the system, and consider the complexity and practicality of the system.".

(B) The table of sections at the beginning of such chapter is amended by adding at the end thereof the following new item:

"2325. Contracts for full-scale development and for production."

SEC. 5. ADVOCATES FOR COMPETITION.

Section 2318 of title 10, United States Code, is amended by striking out subsection (c) and inserting in lieu thereof the following:

"(c) All advocates for competition in the Department of Defense shall be under the supervision, direction, and control of the Under Secretary of Defense for Procurement.

"(d) Each advocate for competition of an agency of the Department of Defense shall transmit to the Under Secretary of Defense for Procurement a report describing the activities of the advocate during the preceding year. Such report shall be transmitted at such time and contain such information as the Under Secretary shall prescribe."

SEC. 6. CATALOGING AND STANDARDIZATION.

Chapter 145 of title 10, United States Code, is amended—

(1) in section 2451—

(A) by striking out "Secretary of Defense" in subsection (a) and inserting in lieu thereof "Under Secretary of Defense for Procurement, subject to the authority, direction, and control of the Secretary of Defense,";

(B) by striking out "Secretary" in subsection (b) and inserting in lieu thereof "Under Secretary"; and

(C) by striking out "Secretary" in subsection (c) and inserting in lieu thereof "Under Secretary";

(2) in section 2452, by striking out "Secretary of Defense" in the matter preceding clause (1) and inserting in lieu thereof "Under Secretary of Defense for Procurement";

(3) in section 2453—

(A) by striking out "Secretary of Defense" in the first sentence and inserting in lieu thereof "Under Secretary of Defense for Procurement"; and

(B) by striking out "Secretary" in the second sentence and inserting in lieu thereof "Under Secretary";

(4) in section 2454—

(A) by striking out the period at the end of the second sentence and inserting in lieu thereof ", subject to such regulations as the Under Secretary of Defense for Procurement may prescribe."; and

(B) by striking out "Secretary" in the third sentence and inserting in lieu thereof "Under Secretary"; and

(5) in section 2455—

(A) by striking out "Secretary of Defense" in subsection (a) and inserting in lieu thereof "Under Secretary of Defense for Procurement"; and

(B) by striking out "Secretary" in subsection (a)(4) and inserting in lieu thereof "Under Secretary"; and

(C) by striking out "Secretary" in subsection (b) and inserting in lieu thereof "Under Secretary".

By Mr. DURENBERGER (for himself and Mr. EVANS):

S. 2037. A bill to create a fiscal safety net program for needy communities; to the Committee on Governmental Affairs.

TARGETED FISCAL ASSISTANCE ACT

● Mr. DURENBERGER. Mr. President, today DAN EVANS and I are introducing a bill to establish a new program of "targeted fiscal assistance" for local governments. Representatives BOB MCEWEN, JOHN CONYERS, and PETER VISCLOSKY are introducing a companion bill in the House.

Over the years, our failure to use the Federal grant system effectively to address disparities in State and local fiscal capacities has been a basic failing in our intergovernmental partnership. This is a responsibility which central governments have long assumed in every other major Federal system. Today, as we stand on the verge of a fundamental restructuring of our budgetary priorities, the need to assure a minimum level of basic public services nationwide can no longer be ignored.

Over the next few years, State and local governments will confront a tremendous challenge: To provide basic and essential services to their citizens during a period marked by limited and declining resources. Deficit reduction has a price, and I'm afraid that price will include eliminating or drastically cutting many of the programs that have formed the basis of our intergovernmental partnership over the past decade.

These are programs that have enabled the national, State and local governments to work as partners in the delivery of important public services such as highways and bridges, schools and hospitals, health care for the poor and elderly, education and job training for the disadvantaged, cleaner air and water, and public housing—to name just a few. I'm afraid that many of these programs will receive deep reductions in the next few years.

And the fact of the matter is, these programs have already taken it on the chin. Since 1981, a "De Facto New Federalism" has been occurring as the national Government has struggled to get a hold on the deficit by reducing domestic spending. Federal aid as a percentage of State and local revenue has been declining since its highpoint in 1980. In that year, Federal aid equaled 31.7 percent of all State and local own-source revenue. By 1984, this figure had fallen to 23.7 percent and in 1986 it is expected to be around 20 percent—a decline of 38 percent since 1980.

Put another way, defense expenditures have increased 43 percent over the past 5 years, and entitlements have grown by 24 percent. Meanwhile, Federal aid to State and local governments has been cut more deeply than any other segment of the Federal budget: Down 25 percent in current outlays; down 25 percent in the number of programs; down 15 percent as a proportion of GNP; down 20 percent as a proportion of the Federal budget. And this is only the beginning. As the President has said, "you ain't seen nothin' yet."

Budget cuts are not the only challenge confronting State and local gov-

ernments in the months and years ahead. They will continue to face more and more unfunded Federal mandates as we, in Congress, search for shortcuts to achieve what we are no longer willing to pay for.

This practice is hardly unprecedented. Since the 1960's, Congress has often found it easier and cheaper to rely on Federal mandates to achieve its goals, thereby directing the policies and allocating the resources of State and local governments. Although they seem like bargains in Washington, these mandates impose substantial costs. One study conducted in 1978 found that the total cost to local governments of six mandates averaged $25 per capita in seven jurisdictions—roughly comparable to the amount of funds received by local governments under general revenue sharing.

In short, State and local governments have had to shoulder new responsibilities and to pay for them out of their own pockets. Some can afford it. What they need is a smooth transition—time to adjust their spending and revenues to the new realities.

Yet some communities have no such options. In many rural areas, the property tax base is plummeting with falling land and market values, with the closure and declining profits of many farm-dependent businesses, and with increased rates of tax delinquencies. In many urban areas, the problems are equally severe. Nationwide, property tax rates averaged 37 percent higher in our central cities than in surrounding suburbs—before the cuts. Where are they to turn? The same is true of towns hit hard by closing mines or foreign competition. From Maine to Arizona, the issue is the same. Some communities lack the fiscal resources they will need to offer basic public services. Not for want of trying; it's a simple matter of arithmetic. Given the same level of tax effort, a low income community can only generate half the tax revenues of a high income community. For these communities, the loss of Federal aid means they will be forced to forgo or cut back on important and vital public services such as meals for the elderly, police and fire protection, and health care for the indigent.

Ironically, these developments come just when the President and Congress have agreed to terminate general revenue sharing. As one of the strongest supporters of GRS over the years, I have accepted that decision with great reluctance. In its time, GRS has been one of our best grant-in-aid programs. It has been virtually the only Federal program that seeks to lessen fiscal disparities among our local governments. It has been the most efficient program in the Federal arsenal; 99 percent of GRS funds go directly to recipients. Its "no-strings" grants to local governments allowed officials at the local level, the officials closest to the people, to determine the best use of the funds. For many local governments, it has been the single most important intergovernmental grant.

But the time for GRS has passed. The national Government no longer can afford to share revenues it doesn't have with wealthy cities and communities. Neither can it afford to neglect communities which are so crippled by Federal aid cuts, increased responsibilities and a declining local tax base that they can no longer meet the basic needs of their citizens. In this era of budget cutbacks, we have a responsibility to establish our priorities with the utmost care. But such national priorities include reducing fiscal disparities so severe that they prevent citizens from receiving basic public services. That need will be addressed by the program I am introducing here today called targeted fiscal assistance [TFA].

President Reagan has assured us all that he will never let solutions to the deficit erode our basic safety net for needy individuals. Programs providing food, shelter, and health services to our poorest citizens must be maintained.

Yet, a real safety net is more than direct cash and in-kind assistance to individuals. It also includes vital public services—police, fire, sanitation, public health and child protection—provided by local governments. And I firmly believe it is a responsibility of the Federal Government to help ensure that all citizens enjoy a minimum level of these public services. The Targeted Fiscal Assistance Program I am proposing will ensure just that.

TFA is a well-targeted program of general purpose grants to needy communities. Even with a moderate funding level of $2.3 billion, it will reduce the fiscal disparities between high-income and low-income governments by 20 to 25 percent. It will reduce the fiscal disparities that are responsible for the substantial differences in the level and quality of basic community services.

The formulas used in distributing these funds are based on need, tax effort, and fiscal capacity. They are designed so that the greatest proportion of a State's allocation will go to poor rural and urban communities, particularly those that have above average tax effort relative to resources.

While over 80 percent of the communities that received funds under general sharing will also receive funds under the Targeted Fiscal Assistance Program, the relative distribution of funds within a State will be altered dramatically. Wealthy communities, defined as those whose average per capita income 25 percent or more above the State average will not be eligible to receive funds. Communities with low-fiscal capacity but high tax-effort can receive up to twice the average State per capita grant. Finally, small "paper" governments which provide virtually no services will not receive funds.

Mr. President, the realities we face today are clear. Less money. Less Federal involvement. Tougher choices. Tougher competition.

To many, the future looks much less clear. There are those who find the old ways comfortable. The old intergovernmental relationships we had may not have been perfect, but all of us knew what was expected of us.

But if we are to act responsibly—if we are to shape the future—we cannot stand in the wings. We must go forth to meet the challenges we face.

Targeted fiscal assistance can help us in this quest.

Mr. President, I ask unanimous consent that a copy of the bill be printed at this point in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2037

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled.

SECTION 1. SHORT TITLE.

This Act may be cited as the "Targeted Fiscal Assistance Act of 1986".

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—The Congress finds and declares that—

(1) with the same level of tax effort, high fiscal capacity communities can generate twice the tax revenues of low fiscal capacity communities;

(2) such unevenness in revenue raising ability is responsible for substantial differences in the level and quality of basis community services such as public safety, emergency services, assistance to the homeless, indigent and elderly public health, and transportation;

(3) low-income communities generally have higher concentrations of poor individuals who have above average needs for public services and place additional burdens on local governments;

(4) these communities are further burdened by the numerous, unfunded Federal mandates with which they must comply;

(5) it is a responsibility of the Federal government to help ensure that all citizens enjoy a minimum level on basic public services;

(6) it is in the national interest to strengthen the weaker partners in the Federal system by lessening the fiscal disparties that exist among communities;

(7) overall, the current system of Federal aid is only mildy targeted to needy communities and does little to lessen fiscal disparities; and

(8) a well-targeted program of general purpose local fiscal assistance, with a moderate funding level, could reduce fiscal disparities between high-income and low-income local governments by 20 to 25 percent.

(b) PURPOSE.—It is the purpose of this Act to establish a program that will—

(1) reduce fiscal disparities among local governments, and

(2) ensure that all communities can provide their citizens with a safety net of basic public services,

by providing general purpose fiscal assistance to needy communities.

SEC. 3. AUTHORIZATION OF TARGETED FISCAL ASSISTANCE.

(a) IN GENERAL.—Paragraph (1) of section 6701(a) of title 31, United States Code, is amended to read as follows:

"(1) 'entitlement period' means each one-year period beginning on October 1 of 1986, 1987, and 1988.".

(b) AMOUNTS AUTHORIZED TO BE APPROPRIATED.—Section 6703 of title 31, United States Code, is amended—

(1) by striking out "$4,566,700,000" in subsection (b)(2) and inserting in lieu thereof "$2,283,000,000",

(2) by striking out "sections 6708-6710" and inserting in lieu thereof "sections 6707, 6709, and 6710", and

(3) by adding at the end thereof the following new subsection:

"(d) There are authorized to be appropriated to the Bureau of Economic Analysis of the Department of Commerce for each of the fiscal years 1987, 1988, and 1989, $400,000 for the purpose of making the determinations required under section 6708(c)(6)(C).".

(c) CONFORMING AMENDMENTS.—

(1) The heading for chapter 67 of title 31, United States Code, is amended to read as follows:

"CHAPTER 67—TARGETED FISCAL ASSISTANCE".

(2) The table of contents of title 31, United States Code, is amended by striking out the item relating to chapter 67 and inserting in lieu thereof the following:

"67. Targeted Fiscal Assistance.".

(3) Section 6703 of title 31, United States Code, is amended by inserting "; Authorization of Appropriations" after "Fund" in the heading.

(4) The table of contents of chapter 67 of title 31, United States Code, is amended by inserting "; authorization of appropriations" after "fund" in the item relating to section 6703.

SEC. 4. ALLOCATION OF ASSISTANCE.

(a) IN GENERAL.—Chapter 67 of title 31, United States Code, is amended by striking out sections 6707, 6708, and 6709 and inserting in lieu thereof the following:

"§ 6707. Special entitlements for Indian tribes, Alaskan native villages, and the District of Columbia.

"(a) For each entitlement period, the Secretary shall allocate out of the amount authorized for such entitlement period under section 6703(b)(2) to—

"(1) each Indian tribe and Alaskan Native village having a recognized governing body carrying out substantial governmental duties and powers, and

"(2) the District of Columbia,

an amount bearing the same ratio to the special allocation amount for such entitlement period as the population of such tribe or village, or of the District of Columbia, bears to the total population of all of such tribes, villages, and the District of Columbia.

"(b) For purposes of this section, the term 'special allocation amount' means, for any entitlement period, the amount equal to—

"(1) 1.5, multiplied by

"(2) the total population of all Indian tribes, Alaskan Native villages, and the District of Columbia, multiplied by

"(3) the amount determined by dividing—

"(A) the amount authorized for such entitlement period under section 6703(b)(2), by

"(B) the total population of the United States.

"§ 6708. State area allocations for units of general local government.

"(a) For each entitlement period, the Secretary of the Treasury shall allocate to each State out of the amount authorized for the period under section 6703(b)(2) (after deduction of the amount allocated under section 6707) an amount bearing the same ratio to such amount authorized (after such deduction) as—

"(1) the product of—

"(A) the need factor of the State, multiplied by

"(B) the general tax effort factor of the States, multiplied by

"(C) the relative fiscal gap factor of the State; bears to

"(2) the sum of the products determined under paragraph (1) for all States.

"(b) The Secretary shall allocate the amount allocated to a State under this section among the units of local government in that State under section 6709.

"(c) For purposes of the section—

"(1) The need factor of a State for an entitlement period is the sum of—

"(A) one plus a fraction whose numerator is the number of individuals in the State having a family income less than 150 percent of the poverty level (as determined using the criteria of povery prescribed by the Office of Management and Budget) and whose denominator is the population of the State as determined by the latest decennial census; multiplied by

"(B) the population of the State (as determined under section 6713(b)).

"(2) The general tax effort factor of a State for an entitlement period is—

"(A) the per capita adjusted taxes of the State, divided by

"(B) the per capita total taxable resources of the State.

"(3) The relative fiscal gap factor of a State for an entitlement period is—

"(A) 2 multiplied by the sum of the total taxable resources of all the States, divided by the sum of the need factors of all the States; minus

"(B) the total taxable resources of such State, divided by the need factor of such State.

"(4) The per capita adjusted taxes of a State for an entitlement period is the amount determined by dividing—

"(A) the net amount of State and local taxes of the State collected during the years used by the Secretary of Commerce in the most recent Bureau of the Census general determination of State and local taxes made before the beginning of the entitlement period, by

"(B) the population of the State,

"(5) The per capita total taxable resources of a State for an entitlement period is the amount determined by dividing—

"(A) the total taxable resources of the State for such entitlement period, by

"(B) the population of the State.

"(6)(A) The total taxable resources of a State for an entitlement period is—

"(i) in the case of the entitlement period beginning on October 1, 1986, the total taxable resources of the State for the most recent year for which data are available,

"(ii) in the case of the entitlement period beginning on October 1, 1987, the average of the total taxable resources of the State for the 2 most recent years for which data are available, and

"(iii) in the case of each succeeding entitlement period, the average of the total taxable resources of the State for the 3 most recent years for which data are available.

"(B) The total taxable resources of a State for any year is the revenue raising capacity of the State for such year as determined by the Director of the Bureau of Economic Analysis of the Department of Commerce on the basis of the gross product of the State for such year increased by the total income of the residents of the State for such year that was not derived from assets located, or activities conducted, within the State.

"(C) In consultation with the Secretary of the Treasury, the Director of the Bureau of Economic Analysis of the Department of Commerce shall determine for each year—

"(i) the gross product of each State,

"(ii) the income of residents of each State that was not derived from assets located, or activities conducted, within the State, and

"(iii) the total taxable resources of each State.

"§ 6709. General entitlement for units of general local government.

"(a) Except as otherwise provided in this chapter, each unit of general local government in any State (other than the District of Columbia and any Indian tribe and Alaskan Native village which is eligible to receive an entitlement under section 6707 for such period) shall be entitled to receive for each entitlement period an amount bearing the same ratio to the amount required by section 6708(b) to be allocated among the units of general local government in such State as—

"(1) the product of—

"(A) the population of such unit of general local government (as determined under section 6713(b)), multiplied by

"(B) the general tax effort factor of such unit of general local government (as determined under subsection (b)(1)), multiplied by

"(C) the relative income factor of such unit of general local government (as determined under subsection (b)(2)),

bears to

"(2) the sum of the products determined under paragraph (1) of this subsection for all units of the general local government located in such State.

"(b) For purposes of this section—

"(1) The general tax effort factor of a unit of general local government for an entitlement period is—

"(A) the per capita adjusted taxes of the unit of local government, divided by

"(B) the per capita income of such unit.

"(2) The relative income factor of a unit of general local government for an entitlement period is equal to one minus 80 percent of a fraction in which—

"(A) the numerator is the per capita income of the unit of local government; and

"(B) the denominator is the per capita income of the State in which such unit is located,

except that if the computation results in a number which is less than zero, the relative income factor of such unit shall be zero.

"(3)(A) The per capita adjusted taxes of a unit of local government is—

"(i) the adjusted taxes of such unit, divided by

"(ii) the population of such unit.

"(B) The Secretary of the Treasury shall include that part of sales taxes transferred to a unit of general local government that are imposed by a county government in a

geographic area of a unit of general local government as taxes of the unit of general local government under subparagraph (A) when—

"(i) the county government transfers any part of the revenue from the taxes to the unit of general local government without specifying the purpose for which the unit of general local government may expend the revenue; and

"(ii) the chief executive officer of the State notifies the Secretary that the taxes satisfy the requirements of this paragraph.

"(C) Notwithstanding subpargraph (A)—

"(i) the per capita adjusted taxes of a township government shall not exceed 200 percent of the average per capita adjusted taxes of all township governments in the State,

"(ii) the per capita adjusted taxes of a minicipal government shall not exceed 200 percent of the average per capita adjusted taxes of all municipal governments in the State,

"(iii) the per capita adjusted taxes of a county government shall not exceed 200 percent of the average per capita adjusted taxes of all county governments in the State, and

"(iv) the per capita adjusted taxes of a unified city/county government (to be defined by the Bureau of the Census) shall not exceed 200 percent of the average per capita adjusted taxes of all units of general local governments in the State.

"(4)(A) The per capita income of a unit of general local government is—

"(i) the total income of individuals (as defined in section 6701(a)(4)) attributed to the unit of local government, divided by

"(ii) the population of such unit.

"(B) The per capita income of a State is—

"(i) the total income of individuals (as defined in section 6701(a)(4)) attributed to the State, divided by

"(ii) the population of such State.".

(b) ELIMINATION OF ALTERNATIVE ALLOCATION TO LOCAL GOVERNMENTS.—

(1) Section 6711 of title 31, United States Code is repealed.

(2) Section 6701 of title 31, United States Code is amended by striking out "6711," in subsection (a)(5)(B).

(C) CONFORMING AMENDMENTS.—

(1) Section 6701 of title 31, United States Code is amended—

(A) by inserting "the District of Columbia and" after "(3) of this title," in subsection (a)(5)(B), and

(B) by striking out subsection (e).

(2) Section 6712 of title 31, United States Code, is amended to read as follows:

"§ 6712. Adjustments of local government allocations.

"(a)(1) Subject to paragraphs (2) and (3) of this subsection, the per capita entitlement of any unit of general local government in a State under section 6709 for any entitlement period shall be no more than 200 percent of the amount determined by dividing—

"(A) the amount allocated to the State under section 6708, by

"(B) the State population.

"(2) The entitlement of any unit of general local government under section 6709 for any entitlement period shall be no more than 50 percent of the product of—

"(A) the adjusted taxes of such unit of general local government (as determined under subparagraph (A) of section 6709(b)(3) without regard to subparagraphs (B) and (C) of such section); and

"(B) a fraction in which—

"(i) the numerator is the per capita income of the State in which the unit is located (as determined under section 6709(b)(4)(B)); and

"(ii) the denominator is the per capita income of the unit of local government (as determined under section 6709(b)(4)(A)).

"(3) For purposes of section 6709, if—

"(A) the entitlement of any unit of general local government (except the District of Columbia and any Indian tribe of an Alaskan Native village) under section 6709 and this section for an entitlement period would be less than $500;

"(B) the amount of such entitlement divided by the population of such unit, is less than 5 percent of the amount allocated to the State under section 6708, divided by the State population; or

"(C) such entitlement is waived by the governing authority of the unit of general local government,

the Secretary shall not pay such entitlement to such unit of general local government.

"(b) Any amounts which may not be paid to a unit of general local government by reason of subsection (a) shall be allocated among the other units of general local government in the same State in proportion to the entitlements (under section 6709) of such other units, but no reallocation shall cause the entitlement of any such other unit to exceed the amount to which that unit is constrained by subsection (a).".

(3) The table of contents for chapter 67 of title 31, United States Code, is amended by striking out the items relating to sections 6707, 6708, and 6709 and inserting in lieu thereof the following:

"6707. Special entitlements for Indian tribes, Alaskan native villages, and the District of Columbia.
"6708. State area allocations for units of general local government.
"6709. General entitlement for units of general local government.".●

By Mr. WALLOP (for himself, Mr. DURENBERGER, and Mr. ZORINSKY):

S.J. Res. 262. Joint resolution to authorize and request the President to issue a proclamation designating June 2 through June 8, 1986, as "National Fishing Week"; to the Committee on the Judiciary.

NATIONAL FISHING WEEK

● Mr. WALLOP. Mr. President, today I am introducing a Senate joint resolution requesting and authorizing the President to proclaim June 2 through June 8, 1986, as "National Fishing Week."

Current leisure activity studies show that the second most popular form of recreation among American adults is fishing. In my family it is the most popular recreation. We rejoice in it. We rejuvenate by it. We anticipate it. This finding is not surprising in light of the wealth of personal and family-oriented benefits associated with fishing. An outdoor activity available to all ages, physical abilities, and income levels, fishing rewards the spirit as well as the body. In addition to providing a readily available source of relaxation and healthful protein-rich food, sport fishing also supports a large and complex commodities and service industry. Current industry figures show that demands for goods and services by sport fishing enthusiasts, estimated at 54 million participants in 1980, generate $25 billion in economic activity and employment for an estimated 600,000 individuals. Fishermen have traditionally shouldered the major portion of the cost of fishery resource development through license fees and specialty taxes. This private sector willingness to accept major funding responsibility for their recreational activities is to be applauded.

The Nation's fishing fraternity also includes the cadre of professionals that harvest the sea's bounties for public consumption. This fishing industry provides employment for an additional 300,000 individuals and supplies seafood worth more than $2.4 billion in direct sales.

The careful husbandry and diligent protection of our Nation's fisheries resources and the marine, freshwater, and estuaries habitats upon which they depend is a common concern shared by members of the fishing fraternity.

The fishing-related contributions to mental and physical health, family oriented recreational activity for all Americans, and heightened environmental conscience should be recognized and promoted through a special week of celebration and activity. As coauthor of the Wallop-Breaux Sport Fish Restoration Trust Fund Act, I'm proud to introduce this legislation. I urge my colleagues to honor the fishing public and the fishing industry of the United States by joining me as a sponsor of this resolution calling for the President to proclaim June 2 through June 8, 1986, as "National Fishing Week."●

● Mr. DURENBERGER. Mr. President, I am proud to join my good friend and colleague, Senator WALLOP, in introducing this resolution to establish June 2 through 8 as "National Fishing Week."

We in this country can be thankful and proud of our outstanding natural resources, particularly our water resources which offer us a wide variety of recreational opportunities. Of all the water sports available to us, I can't think of one I enjoy more than fishing.

I know this is true of the people of Minnesota as well. Many of us grew up with a fishing pole in our hands. We have over 15,000 lakes, and tens of thousands of miles of rivers and streams in which to fish. And weather is no impediment to this pastime—as soon as the lakes are frozen, fish house communities appear overnight.

Over 2 million Minnesotans of all ages, nearly half our population, enjoy fishing each year. Minnesotans don't take their fishery resources for grant-

ed, they have made a substantial commitment and investment in managing their resources for the use and enjoyment of present and future generations. It is in our best interest to manage our lakes, rivers, and streams and keep them well stocked, for fishing activities generate nearly $700 million a year in economic activity.

I believe it is more than appropriate to set aside a week as National Fishing Week. Minnesota has already established a Kids Fishing Weekend, where any parent can fish free if they are with kids under 16 years of age. I hope that many States and local governments, as well as private organizations, will engage in activities to not only celebrate this great American pastime, but to renew and reaffirm our commitment to conservation so that future generations will know the pleasure we get from casting a line on a cool summer morning.

Mr. President, it has been said that fishing is an art worthy the knowledge and patience of a wise man. As an avid fisherman, I would have to say that is true. I urge my colleagues to join us in sponsoring this resolution and hope it will see early Senate action.●

ADDITIONAL COSPONSORS

S. 231

At the request of Mr. DOLE, the name of the Senator from New Jersey [Mr. BRADLEY] was added as a cosponsor of S. 231, a bill to establish a National Commission on Neurofibromatosis.

S. 1381

At the request of Mr. QUAYLE, the name of the Senator from Wisconsin [Mr. KASTEN] was added as a cosponsor of S. 1381, a bill to amend the General Education Provisions Act to improve and expand the Assessment Policy Committee.

S. 1405

At the request of Mr. HEINZ, the name of the Senator from Minnesota [Mr. BOSCHWITZ] was added as a cosponsor of S. 1405, a bill to amend the Internal Revenue Code of 1954 relating to the method of payment of taxes on distilled spirits.

S. 1479

At the request of Mr. SASSER, the name of the Senator from Arkansas [Mr. BUMPER] was added as a cosponsor of S. 1479, a bill to amend the Public Safety Officer's Death Benefits Act.

S. 1563

At the request of Mr. HELMS, the name of the Senator from South Carolina [Mr. THURMOND] was added as a cosponsor of S. 1563, a bill to amend the Federal Campaign Act of 1971 to prohibit the use of compulsory union dues for political purposes.

S. 1580

At the request of Mr. THURMOND, the name of the Senator from Illinois [Mr. DIXON] was added as a cosponsor of S. 1580, a bill to provide for comprehensive reforms and to achieve greater equity in the compensation of attorneys pursuant to Federal statute in civil and administrative proceedings in which the United States, a State, or local government, is a party.

S. 1710

At the request of Mr. HOLLINGS, the name of the Senator from Rhode Island [Mr. PELL] was added as a cosponsor of S. 1710, a bill to establish a motor carrier administration in the Department of Transportation, and for other purposes.

S. 1860

At the request of Mr. DANFORTH, the name of the Senator from Wisconsin [Mr. KASTEN] was added as a cosponsor of S. 1860, a bill to amend the Trade Act of 1974 to eliminate barriers and distortions to trade, to provide authority for a new round of trade negotiations, to promote U.S. exports, and for other purposes.

S. 1861

At the request of Mr. DANFORTH, the name of the Senator from Wisconsin [Mr. KASTEN] was added as a cosponsor of S. 1861, a bill to establish a national trade policy.

S. 1862

At the request of Mr. DANFORTH, the name of the Senator from Wisconsin [Mr. KASTEN] was added as a cosponsor of S. 1862, a bill to eliminate barriers to, and distortions of, trade.

S. 1863

At the request of Mr. DANFORTH, the name of the Senator from Wisconsin [Mr. KASTEN] was added as a cosponsor of S. 1863, a bill to amend title II of the Trade Act of 1974 to provide relief from injury caused by imports.

S. 1864

At the request of Mr. DANFORTH, the name of the Senator from Wisconsin [Mr. KASTEN] was added as a cosponsor of S. 1864, a bill to amend the Trade Act of 1974 to respond to the threat of foreign targeting practices.

S. 1865

At the request of Mr. DANFORTH, the name of the Senator from Wisconsin [Mr. KASTEN] was added as a cosponsor of S. 1865, a bill to authorize a new round of trade negotiations.

S. 1866

At the request of Mr. DANFORTH, the name of the Senator from Wisconsin [Mr. KASTEN] was added as a cosponsor of S. 1866, a bill to establish U.S. policy on exchange rates and developing country debt, to authorize negotiations to carry out policies, and for other purposes.

S. 1867

At the request of Mr. DANFORTH, the name of the Senator from Wisconsin [Mr. KASTEN] was added as a cosponsor of S. 1867, a bill to require the President to submit legislation withdrawing trade benefits provided under generalized system of preferences from certain developing countries.

S. 1868

At the request of Mr. DANFORTH, the name of the Senator from Wisconsin [Mr. KASTEN] was added as a cosponsor of S. 1868, a bill to amend the Tariff Act of 1930 to establish procedures for determining dumping by nonmarket economy countries.

S. 1869

At the request of Mr. DANFORTH, the name of the Senator from Wisconsin [Mr. KASTEN] was added as a cosponsor of S. 1869, a bill to amend the Tariff Act of 1930 to enhance the protection of intellectual property rights.

S. 1870

At the request of Mr. DANFORTH, the name of the Senator from Wisconsin [Mr. KASTEN] was added as a cosponsor of S. 1870, a bill to promote the expansion of exports by the United States.

S. 1871

At the request of Mr. DANFORTH, the name of the Senator from Wisconsin [Mr. KASTEN] was added as a cosponsor of S. 1871, a bill to strengthen provisions of the Trade Expansion Act of 1962 that provide safeguards when imports threaten national security.

S. 1919

At the request of Mr. ANDREWS, the name of the Senator from Mississippi [Mr. COCHRAN] was added as a cosponsor of S. 1919, a bill to establish a task force to examine the issues associated with abuse of the elderly.

S. 2026

At the request of Mr. ROTH, the name of the Senator from Washington [Mr. EVANS] was added as a cosponsor of S. 2026, a bill to extend the trade adjustment assistance programs.

SENATE JOINT RESOLUTION 234

At the request of Mr. WILSON, the names of the Senator from Michigan [Mr. RIEGLE] and the Senator from Hawaii [Mr. INOUYE] were added as cosponsors of Senate Joint Resolution 234, a joint resolution to designate the week of February 9, 1986 through February 15, 1986 as "National Burn Awareness Week".

SENATE JOINT RESOLUTION 241

At the request of Mr. DOLE, the name of the Senator from Mississippi [Mr. COCHRAN] was added as a cosponsor of Senate Joint Resolution 241, a joint resolution designating the week beginning on May 11, 1986, as "National Asthma and Allergy Awareness Week".

SENATE JOINT RESOLUTION 257

At the request of Mr. CHILES, the name of the Senator from Illinois [Mr. DIXON] was added as a cosponsor of

Senate Joint Resolution 257, a joint resolution to designate the first Friday of May each year as "National Teacher Appreciation Day".

SENATE RESOLUTION 276

At the request of Mr. LAUTENBERG, the name of the Senator from Michigan [Mr. LEVIN] was added as a cosponsor of Senate Resolution 276, a resolution expressing the sense of the Senate regarding the Federal Air Traffic Control System.

SENATE RESOLUTION 298

At the request of Mr. WEICKER, the names of the Senator from Minnesota [Mr. DURENBERGER], the Senator from Hawaii [Mr. INOUYE], the Senator from Rhode Island [Mr. CHAFEE], the Senator from Pennsylvania [Mr. HEINZ], the Senator from Virginia [Mr. WARNER], the Senator from Connecticut [Mr. DODD], the Senator from Kansas [Mr. DOLE], the Senator from Illinois [Mr. DIXON], and the Senator from Alabama [Mr. DENTON] were added as cosponsors of Senate Resolution 298, a resolution expressing support and encouragement of the Senate for the U.S. Disabled Ski Team at the 1986 World Disabled Ski Championships to be held in Salem, Sweden, on April 6 through April 17, 1986.

SENATE RESOLUTION 303

At the request of Mr. HEINZ, the names of the Senator from Kentucky [Mr. FORD], and the Senator from Tennessee [Mr. GORE] were added as cosponsors of Senate Resolution 303, a resolution to express the sense of the Senate with respect to proposals currently before the Congress to tax certain employer-paid benefits and other life-support benefits.

SENATE RESOLUTION 304

At the request of Mr. TRIBLE, the name of the Senator from Virginia [Mr. WARNER] was added as a cosponsor of Senate Resolution 304, a resolution to express the sense of the Senate that the present 3-year basis recovery rule on taxation of retirement annuities be maintained.

AMENDMENT NO. 1312

At the request of Mr. SPECTER, the name of the Senator from New Jersey [Mr. LAUTENBERG] was added as a cosponsor of amendment No. 1312 intended to be proposed to S. 638, a bill to amend the Regional Rail Reorganization Act of 1973 to provide for the transfer of ownership of the Consolidated Rail Corporation to the private sector, and for other purposes.

SENATE RESOLUTION 306—ORIGINAL RESOLUTION REPORTED AUTHORIZING EXPENDITURES BY THE COMMITTEE ON THE JUDICIARY

Mr. THURMOND, from the Committee on the Judiciary, reported the following original resolution; which was referred to the Committee on Rules and Administration:

S. RES. 306

Resolved, That, in carrying out its powers, duties, and functions under the Standing Rules of the Senate, in accordance with its jurisdiction under rule XXV of such rules, including holding hearings, reporting such hearings, and making investigations as authorized by paragraphs 1 and 8 of rule XXVI of the Standing Rules of the Senate, the Committee on the Judiciary is authorized from March 1, 1986, through February 28, 1987, in its discretion (1) to make expenditures from the contingent funds of the Senate, (2) to employ personnel, and (3) with the prior consent of the Government department or agency concerned and the Committee on Rules and Administration, to use on a reimbursable basis the services of personnel of any such department or agency.

SEC. 2. The expenses of the Committee under this resolution shall not exceed $4,246,242, of which amount (1) not to exceed $36,000 may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946, as amended), and (2) not to exceed $1,000 may be expended for the training of the professional staff of such committee (under procedures specified by section 202(j) of such Act).

SEC. 3. The Committee shall report its finding, together with such recommendations for legislation as it deems advisable, to the Senate at the earliest practicable date, but not later than February 28, 1987.

SEC. 4. Expenses of the Committee under this resolution shall be paid from the contingent fund of the Senate upon vouchers approved by the Chairman of the Committee, except that vouchers shall not be required for the disbursement of salaries of employees paid at an annual rate.

SENATE RESOLUTION 307—URGING STEPS TO PREVENT LONG-TERM DISRUPTION OF THE SUPERFUND PROGRAM

Mr. MOYNIHAN submitted the following resolution; which was referred to the Committee on Environment and Public Works:

S. RES. 307

Whereas it is a reasonable certainty that the Congress will shortly provide a five-year reauthorization for the Superfund program; and

Whereas a long-term disruption of Superfund operations could cause irreparable damage to human health and the environment: Now, therefore, be it

Resolved, That (a) it is the sense of the Senate that the Environmental Protection Agency—

(1) should not take any action which would result in the long-term disruption of its Superfund program, but should take every action available to maintain the infrastructure of such program in a position so that when a reauthorization of such program is provided by the Congress such Superfund program can continue with a minimum of delay and disruption; and

(2) should immediately inform the appropriate committees of the Senate and the House of Representatives as to the amount of funds which the Environmental Protection Agency estimates would be necessary to enable it to carry out its Superfund program during the period prior to a long-term reauthorization of such program by the Congress.

(b) For purposes of this resolution, the term "infrastructure" means long-term support contracts and the officers and employees of the Environmental Protection Agency involved in the Superfund program.

SENATE RESOLUTION 308—ORIGINAL RESOLUTION AUTHORIZING EXPENDITURES BY THE COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS

Mr. STAFFORD, from the Committee on Environment and Public Works, reported the following original resolution; which was referred to the Committee on Rules and Administration.

S. RES. 308

Resolved, That, in carrying out its powers, duties, and functions under the Standing Rules of the Senate, in accordance with its jurisdiction under rule XXV of such rules, including holding hearings, reporting such hearings, and making investigations as authorized by paragraphs 1 and 8 of rule XXVI of the Standing Rules of the Senate, the Committee on Environment and Public Works is authorized from March 1, 1986, through February 28, 1987, in its discretion (1) to make expenditures from the contingent fund of the Senate, (2) to employ personnel, and (3) with the prior consent of the Government department or agency concerned and the Committee on Rules and Administration, to use on a reimbursable basis the services of personnel of any such department or agency.

SEC. 2. The expenses of the Committee under this resolution shall not exceed $2,333,631.00, of which amount (1) not to exceed $8,000.00 may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946, as amended), and (2) not to exceed $2,000.00 may be expended for the training of the professional staff of such committee (under procedures specified by section 202(j) of such act).

SEC. 3. The committee shall report its findings, together with such recommendations for legislation as it deems advisable, to the Senate at the earliest practicable date, but not later than February 28, 1987.

SEC. 4. Expenses of the committee under this resolution shall be paid from the contingent fund of the Senate upon vouchers approved by the chairman of the committee, except that vouchers shall not be required for the disbursement of salaries of employees paid at an annual rate.

SEC. 5. There are authorized such sums as may be necessary for agency contributions related to the compensation of employees of the committee from March 1, 1986, through February 28, 1987, to be paid from the Appropriations account for "Expenses of Inquiries and Investigations."

SENATE RESOLUTION 309—AUTHORIZING EXPENDITURES BY THE COMMITTEE ON RULES AND ADMINISTRATION

Mr. MATHIAS (for himself and Mr. FORD) submitted the following resolu-

tion; which was referred to the Committee on Rules and Administration.

S. RES 309

Resolved, That, in carrying out its powers, duties, and functions under the Standing Rules of the Senate, in accordance with its jurisdiction under rule XXV of such rules, including holding hearings, reporting such hearings, and making investigations as authorized by paragraphs 1 and 8 of rule XXVI of the Standing Rules of the Senate, the Committee on Rules and Administration is authorized from March 1, 1986, through February 28, 1987, in its discretion (1) to make expenditures from the contingent fund of the Senate, (2) to employ personnel, and (3) with the prior consent of the Government department or agency concerned and the Committee on Rules and Administration, to use on a reimbursable basis the services of personnel of any such department or agency.

SEC. 2. The expenses of the committee under this resolution shall not exceed $1,229,446.00, of which amount (1) not to exceed $4,000.00 may be expended for the procurement of the services of individual consultants, or organization thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946, as amended), and (2) not to exceed $3,500.00 may be expended for the training of the professional staff of such committee (under procedures specified by section 202(j) of such act).

SEC. 3. The committee shall report its findings, together with such recommendations for legislation as it deems advisable, to the Senate at the earliest practicable date, but not later than February 28, 1987.

SEC. 4. Expenses of the committee under this resolution shall be paid from the contingent fund of the Senate upon vouchers approved by the chairman of the committee, except that vouchers shall not be required for the disbursement of salaries of employees paid at an annual rate.

SEC. 5. There are authorized such sums as may be necessary for agency contributions related to the compensation of employees of the committee from March 1, 1986, through February 28, 1987, to be paid from the apprioriations account for "Expenses of Inquiries and Investigations".

SENATE RESOLUTION 310—ORIGINAL RESOLUTION REPORTED AUTHORIZING EXPENDITURES BY THE SPECIAL COMMITTEE ON AGING

Mr. HEINZ, from the Special Committee on Aging, reported the following original resolution; which was referred to the Committee on Rules and Administration:

S. RES. 310

Resolved, That, in carrying out the duties and functions imposed by section 104 of S. Res. 4, Ninety-fifth Congress, agreed to February 4, 1977, and in exercising the authority conferred on it by such section, the Special Committee on Aging is authorized from March 1, 1986 through February 28, 1987, in its discretion (1) to make expenditures from the contingent fund of the Senate, (2) to employ personnel, and (3) with the prior consent of the Government department or agency concerned and the Committee on Rules and Administration, to use on a reimbursable basis the services of personnel of any such department or agency.

SEC. 2. The expenses of the special Committee under this resolution shall not exceed $1,072,116 of which amount (1) not to exceed $35,000 may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946, as amended), and (2) not to exceed $1,000 may be expended for the training of the professional staff of such committee (underprocedures specified by section 202(j) of such Act).

SENATE RESOLUTION 311—ORIGINAL RESOLUTION REPORTED AUTHORIZING EXPENDITURES BY THE COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY.

Mr. HELMS, from the Committee on Agriculture, Nutrition, and Forestry, reported the following original resolution; which was referred to the Committee on Rules and Administration:

S. RES. 311

Resolved, That, in carrying out its powers, duties, and functions under the Standing Rules of the Senate, in accordance with its jurisdiction under rule XXV of such rules, including holding hearings, reporting such hearings, and making investigations as authorized by paragraphs 1 and 8 of rule XXVI of the Standing Rules of the Senate, the Committee on Agriculture, Nutrition, and Forestry is authorized from March 1, 1986, through February 28, 1987, in its discretion (1) to make expenditures from the contingent fund of the Senate, (2) to employ personnel, and (3) with the prior consent of the Government department or agency concerned, the Committee on Rules and Administration to use on a reimbursable basis the services of personnel of any such department or agency.

SEC. 2. The expenses of the committee under this resolution shall not exceed $1,300,500.00 of which amount (1) not to exceed $4,000.00 may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946, as amended), and (2) not to exceed $4,000.00 may be expended for the training of the professional staff of such committee (under procedures specified by section 202(j) of such act).

SEC. 3. The committee shall report its findings, together with such recommendations for legislation as it deems advisable, to the Senate at the earliest practicable date, but not later than February 28, 1987.

SEC. 4. Expenses of the committee under this resolution shall be paid from the contingent fund of the Senate upon vouchers approved by the chairman of the committee, except that vouchers shall not be required for the disbursement of salaries of employees paid at an annual rate.

SEC. 5. There are authorized such sums as may be necessary for agency contributions related to the compensation of employees of the committee from March 1, 1986, through February 28, 1987, to be paid from the Appropriations account for "Expenses of Inquiries and Investigations."

SENATE RESOLUTION 312—ALTERNATIVE TO BUDGET SEQUESTERS

Mr. MATHIAS (for himself, Mr. STAFFORD, and Mr. WEICKER) submitted the following resolution; which was referred to the Committee on the Budget:

S. RES. 312

Resolved, That (a) the sequestrations and reductions set forth with respect to accounts, programs, projects, and activities within major functional category 050 (National Defense) in the order issued by the President for fiscal year 1986 pursuant to section 252 of the Balanced Budget and Emergency Deficit Control Act of 1985 (Public Law 99-177) are hereby affirmed.

(b) The modifications, suspensions, sequestrations, and reductions set forth with respect to accounts, programs, projects, and activities within major functional categories other than major functional category 050 in the order issued by the President for fiscal year 1986 pursuant to section 252 of the Balanced Budget and Emergency Deficit Control Act of 1985 are hereby disaffirmed.

(c) Not later than 10 days after the date of the adoption of this resolution, the appropriate committees of the Senate shall report to the Committee on the Budget of the Senate—

(1) those changes in the laws within their jurisdiction set forth in the amendment proposed by the committee of conference in the conference report to accompany H.R. 3128, submitted December 19, 1985 (other than subtitle B of title XIII of such amendment); and

(2) changes in the laws within their jurisdiction to provide for the payment of amounts withheld pursuant to section 252(a)(6)(C)(1) of the Balanced Budget and Emergency Deficit Control Act of 1985.

● Mr. MATHIAS. Mr. President, in a few days President Reagan will promulgate an order that cuts funding for many Government programs in order to reduce spending for this fiscal year by $11.7 billion. Under other circumstances, we would applaud such a reduction in our deficit as a step in the right direction—toward fiscal responsibility. Unfortunately, no such praise is in order. Instead, the mandatory cuts represent a failure to legislate. They epitomize the abdication of congressional responsibility represented by the Gramm-Rudman-Hollings, budget amendment. But Gramm-Rudman-Hollings also gives Congress the chance to regain its authority over Federal spending. Today, I join with the senior Senators from Vermont [Mr. STAFFORD] and Connecticut [Mr. WEICKER] in offering an alternative to the impending sequestration order.

Halfway through this Congress, many Members are just beginning to appreciate what we have done. It brings to mind another halfway point that Dante described at the beginning of "The Inferno."

> Midway in our life's journey, I went astray from the straight road and woke to find myself alone in a dark wood. How shall I say

What wood that was! I never saw so drear,
so rank, so arduous a wilderness! Its
very memory gives a shape to fear.

It is not so much memory that gives shape to our fears as what is yet to come. Enacted in frustration and desperation over the rising tide of Federal debt, Gramm-Rudman-Hollings locks in specific deficit targets enforced by automatic across-the-board cuts. This year the mechanized cuts are small compared to the devastating slashing necessary to meet next year's statutory deficit cap. We have gone astray, not in our goals, but in the method we are willing to use to carry them out.

Mr. President, today colleagues and I offer a resolution that allows the Congress to regain its footing and control over budget decisions. Our resolution activates the process laid out in Gramm-Rudman-Hollings for a legislative alternative to automatic cuts. It would substitute the deficit reduction compromises that we worked out in the reconciliation bill for the nondefense portion of the sequester order. I would leave the defense portion of the sequester unchanged.

Reconciliation represents a rational alternative to the sequestering process. While I do not agree with all of the provisions contained in the reconciliation bill, it has proven its mettle in the legislative process. The reconciliation bill emerged as a product of congressional committee deliberations. The full Senate spent 9 days debating the measure, adopting 31 of the more than 50 amendments considered. It passed the Senate by a margin of 93–6, and was approved by the other body as well. A conference committee reached agreement on every item referred to in our resolution. In short, reconciliation reflects the collective judgment of Congress budget priorities. By contrast, the Gramm-Rudman-Hollings sequestering inferno arbitrarily singes every activity within reach of the automatic torch. The virtuous and the less deserving are punished alike.

Under Gramm-Rudman-Hollings, reductions must come from defense as well as nondefense accounts. For this year, unlike future years, the law gives the President some flexibility to shape the defense reductions. He has protected from sequestration those defense activities he considers more vital and has assigned the reductions to other lower priorities.

Our resolution also restores the cost-of-living adjustment for retired civil servants and military personnel. This returns all Federal retirement programs to an equal footing.

Finally, our resolution exceeds the necessary deficit reduction requirements for this year. The entire proposal would reduce the deficit by over $13 billion, surpassing the President's $11.7 billion sequester order.

Good government is about making responsible choices. We must reduce the deficit but not at the expense of all else, including our ability to legislate responsibly. Adoption of this resolution will reaffirm congressional control over the Nation's purse strings, and will set a good precedent for the next fiscal year. Then, we will need all the ingenuity and foresight we can muster, to avoid truly draconian automatic cuts. We must not lose this opportunity to give the American people confidence that, when that day comes, we will be up to the task. Failing to do so, moves us closer to the gates of the inferno, where, according to Dante, the greeting reads, "Abandon all hope ye who enter here."●

● Mr. STAFFORD. Mr. President, the Balanced Budget and Emergency Deficit Control Act—the so-called Gramm-Rudman-Hollings bill—that the Congress passed last year includes a provision that allows the Senate and House a limited opportunity to substitute careful judgment for the automatic cuts that are otherwise mandated by the act.

Under the provisions of the statute, between the time that the President makes a sequestration order and that order becomes final a month later, the Congress can act to suspend the across-the-board cuts by passing a resolution that substitutes targeted reductions or revenue increases of a like or greater amount. I am here on the floor of the Senate this afternoon with my colleagues to sponsor such a resolution.

What we propose is that the Congress substitute the reconciliation savings that were developed last year for the across-the-board reductions that the President will order in the domestic budget next week. Our resolution does not touch the sequestration on the defense side. Those cuts would go into effect just as ordered by Gramm-Rudman and certified by the General Accounting Office.

But on the domestic side, the $4.9 billion in sequestrations that the President is about to order would be replaced by a reconciliation instruction similar to that adopted by the Congress in the first budget resolution for 1986.

Making this substitution is the most sensible thing to do, Mr. President. Although it was not ultimately enacted because of a dispute on the Superfund Program, Congress, worked long and hard to carefully craft the budget reductions included in the reconciliation package. Some of the savings that had been projected for 1986 have been eroded because time has passed, but completing reconciliation now would still achieve more in domestic savings than would be realized by going ahead with sequestration of domestic programs under Gramm-Rudman.

Mr. President, the projected deficit for 1986 is according to latest estimates $220 billion. And even though we get optimistic about economic performance every year as the President's new budget comes up to Congress, every year we seem to end up back at the $200 billion figure. By the requirements of Gramm-Rudman the deficit has to be down to $0 in 1991. And roughly half the savings will have to come from the domestic side of the budget. So if we take Gramm-Rudman straight up over the next 5 years, we will have to save about $100 billion in domestic spending.

But many domestic programs are protected from the Gramm-Rudman cuts. Or they are favored with special rules. When one examines the actual numbers, one finds that there is only about $106 billion available on the domestic side to bear the $100 billion in reductions. Everything else gets protected.

Mr. President, there is in reality no way that the Congress can just step back and put the budget of the U.S. Government on the automatic pilot that is contained in Gramm-Rudman. It would mean the virtual abolition of much of the Federal Government—the Department of Education is not protected. The Environmental Protection has no special rule. Superfund and highways and the Interior Department and the Congress itself are all subject to the cuts of Gramm-Rudman. To successfully resolve the budget problems that we face will require that we step in and make difficult choices. Yes, there will be cuts. But all programs should be subject to scrutiny. And there may also be revenue increases to fund the programs that the American public demands of government. Raising taxes is a tough step to take.

But we are going to have to take those steps because without Congress making some choices, Gramm-Rudman will sequester a vast array of necessary activities on the domestic side of the budget. We begin the process of reasserting the congressional role in the budget process with this resolution today.●

● Mr. WEICKER. Mr. President, I rise today to join Senator MATHIAS and Senator STAFFORD in offering an alternative to the February 1 automatic sequester order for fiscal 1986 Federal spending. This resolution differs from the sequester order by substituting the reconciliation bill for domestic across-the-board cuts. The defense portion of the sequester order would remain unchanged. The reconciliation bill has great support in both the Senate and the House despite differences on a few provisions.

Mr. President, I support this resolution because it shows that the Congress can cut the deficit in a responsible way. The most troubling provision of the Gramm-Rudman-Hollings legislation is the automatic across-the-

board reduction that would begin if Congress did not meet either the law's deadline or deficit target. This across-the-board mentality is an abrogation of our legislative responsibility to set priorities for the Nation.

By replacing the 1986 sequester order with the reconciliation bill, we accomplish reductions in Federal outlays, but we do so in a manner that reflects priorities decided by Congress. Unfortunately, this is not the way a sequester order works. It reflects no priorities. It demands no choice. It simply and wrongly treats all Federal programs as equal.

Now I know, Mr. President, and we all know that this first scheduled sequester under Gramm-Rudman-Hollings is minor surgery compared to the amputations that have been predicted for September when the Congress and the President are at a standoff on a budget resolution. A second sequester order will kick in with cuts on the defense side somewhere around 18 percent and on the domestic side 25 percent. But, as my colleagues well know, there will not be blind acceptance of these cuts at either end of Pennsylvania Avenue. Tough choices, like the ones in the reconciliation bill, will be forced upon us.

As chairman of the Labor/Health and Human Services/Education Subcommittee, I will soon begin hearings on the fiscal 1987 budget. Without even the benefit of those formal hearings, I can tell you that the fiscal 1986 sequester order is already causing hemorrhaging in the programs that service the elderly, the retarded, and the disabled. Mr. President, these programs are vital, and I believe that they are supported by a majority of Americans.

Given this framework, why must they be treated the same as energy programs? Why must they be cut while Social Security remains untouched?

I believe the American people are willing to pay for those programs that are important to them. If my colleagues will remember the day, October 10, when the Senate originally passed the Gramm-Rudman-Hollings amendment, there was a series of votes concerning specific ways to reduce the deficit. Not one of those passed. There has been some speculation in the press that the vote of this body to cut spending automatically will come back to haunt the Congress. I disagree. What could come back to haunt Congress and the Nation is the inability to pick and choose among specific programs.

Mr. President, our work cannot be done by default. We must be innovative and courageous. We need to set certain priorities as we have for fiscal 1986 in the reconciliation bill and stick to them. Then we will once again be fulfilling the responsibilities of the legislative branch of government and the American people will applaud our efforts. ●

SENATE RESOLUTION 313—ORIGINAL RESOLUTION REPORTED AUTHORIZING EXPENDITURES FROM THE COMMITTEE ON GOVERNMENTAL AFFAIRS

Mr. ROTH, from the Committee on Governmental Affairs, reported the following original resolution; which was referred to the Committee on Rules and Administration:

S. RES. 313

Resolved, That, in carrying out its powers, duties and functions under the Standing Rules of the Senate, in accordance with its jurisdiction under rule XXV of such rules, including holding hearings, reporting such hearings, and making investigations as authorized by paragraphs 1 and 8 of rule XXVI of the Standing Rules of the Senate, the Committee on Governmental Affairs is authorized from March 1, 1986, through February 28, 1987, in its discretion (1) to make expenditures from the contingent fund of the Senate, (2) to employ personnel, and (3) with the prior consent of the Government department or agency concerned and the Committee on Rules and Administration, to use on a reimbursable basis the services of personnel of any such department or agency.

SEC. 2. The expenses of the committee under this resolution shall not exceed $4,440,229 of which amount (1) not to exceed $112,000 may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946, as amended), and (2) not to exceed $8,000 may be expended for the training of the professional staff of such committee (under procedures specified by section 202(j) of such Act).

SEC. 3. (a) The committee, or any duly authorized subcommittee thereof, is authorized to study or investigate—

(1) the efficiency and economy of operations all branches of the Government including the possible existence of fraud, misfeasance, malfeasance, collusion, mismanagement, incompetence, corruption, or unethical practices, waste, extravagance, conflicts of interest, and the improper expenditure of Government funds in transactions, contracts, and activities of the Government or of Government officials and employees and any and all such improper practices between Government personnel and corporations individuals, companies, or persons affiliated therewith, doing business with the Government; and the compliance or noncompliance of such corporations, companies, or individuals or other entities with the rules, regulations, and law governing the various governmental agencies and its relationships with the public.

(2) the extent to which criminal or other improper practices or activities are, or have been, engaged in the field of labor-management relations or in groups or organizations of employees or employers, to the detriment of interests of the public, employers, or employees, and to determine whether any changes are required in the laws of the United States in order to protect such interests against the occurrence of such practices or activities;

(3) organized criminal activity which may operate in or otherwise utilize the facilities of interstate or international commerce in furtherance of any transactions and the manner and extent to which, and the identity of the persons, firms, or corporations, or other entities by whom such utilization is being made, and further, to study and investigate the manner in which and the extent to which persons engaged in organized criminal activity have infiltrated lawful business enterprise, and to study the adequacy of Federal laws to prevent the operations of organized crime in interstate or international commerce; and to determine whether any changes are required in the laws of the United States in order to protect the public against such practices or activities;

(4) all other aspects of crime and lawlessness within the United States which have an impact upon or affect the national health, welfare, and safety; including but not limited to investment fraud schemes, commodity and security fraud, computer fraud and the use of off-shore banking and corporate facilities to carry out criminal objectives;

(5) the efficiency and economy of operations of all branches and functions of the Government with particular reference to—

(A) the effectiveness of present national security methods, staffing, and processes as tested against the requirements imposed by the rapidly mounting complexity of national security problems;

(B) the capacity of present national security staffing, methods, and processes to make full use of the Nation's resources of knowledge and talents;

(C) the adequacy of present intergovernmental relations between the United States and international organizations principally concerned with national security of which the United States is a member; and

(D) legislative and other proposals to improve these methods, processes, and relationships;

(6) the efficiency, economy, and effectiveness of all agencies and departments of the Government involved in the control and management of energy shortages including, but not limited to, their performance with respect to—

(A) the collection and dissemination of accurate statistics on fuel demand and supply;

(B) the implementation of effective energy conservation measures;

(C) the pricing of energy in all forms;

(D) coordination of energy programs with State and local government;

(E) control of exports of scarce fuels;

(F) the management of tax, import, pricing, and other policies affecting energy supplies;

(G) maintenance of the independent sector of the petroleum industry as a strong competitive force;

(H) the allocation of fuels in short supply by public and private entities;

(I) the management of energy supplies owned or controlled by the Government;

(J) relations with other oil producing and consuming countries;

(K) the monitoring of compliance by governments, corporations, or individuals with the laws and regulations governing the allocations, conservation, or pricing of energy supplies; and

(L) research into discovery and development of alternative energy supplies; and

(7) the efficiency and economy of all branches and functions of government with particular reference to the operations and

management of Federal regulatory policies and programs:

Provided, That, in carrying out the duties herein set forth, the inquiries of this committee or any subcommittee thereof shall not be deemed limited to the records, functions, and operations of any particular branch of the Government; but may extend to the records and activities of any persons, corporation, or other entity.

(b) Nothing contained in this section shall affect or impair the exercise of any other standing committee of the Senate of any power, or the discharge by such committee of any duty, conferred or imposed upon it by the Standing Rules of the Senate or by the Legislature Reorganization Act of 1946, as amended.

(c) For the purpose of this section the committee, or any duly authorized subcommittee thereof, or its chairman, or any other member of the committee or subcommittee designated by the chairman, from March 1, 1986, through February 28, 1987, is authorized, in its, his, or their discretion (1) to require by subpoena or otherwise the attendance of witnesses and production of correspondence, books, papers, and documents, (2) to hold hearings, (3) to sit and act at any time or place during the sessions, recess, and adjournment periods of the Senate, (4) to administer oaths, and (5) to take testimony, either orally or by sworn statement, or, in the case of staff members of the Permanent Subcommittee on Investigations specifically authorized by the Chairman, by deposition.

(d) All subpoenas and related legal processes of the committee and its subcommittees authorized under S. Res. 85 of the Ninety-ninth Congress, First session, are authorized to continue.

SEC. 4. The committee shall report its findings, together with such recommendations for legislation as it deems advisable, to the Senate at the earliest practicable date, but not later than February 28, 1987.

SEC. 5. Expenses of the committee under this resolution shall be paid from the contingent fund of the Senate upon vouchers approved by the chairman of the committee, except that vouchers shall not be required for the disbursement of salaries of employees paid at an annual rate, or (2) for the payment of long-distance telephone calls.

SEC. 6. There are authorized such sums as may be necessary for agency contributions related to the compensation of employees of the Committee from March 1, 1986, through February 28, 1987, to be paid from the appropriations account for "Expenses of Inquiries and Investigations."

SENATE RESOLUTION 314—ORIGINAL RESOLUTION REPORTED AUTHORIZING EXPENDITURES BY THE SELECT COMMITTEE ON INDIAN AFFAIRS

Mr. ANDREWS, from the Select Committee on Indian Affairs, reported the following original resolution; which was referred to the Committee on Rules and Administration:

S. RES. 314

Resolved, That, in carrying out its powers, duties, and functions under the Standing Rules of the Senate, in accordance with its jurisdiction under rule XXV of such rules, including holding hearings, reporting such hearings, and making investigations as authorized by paragraphs 1 and 8 of rule XXVI of the Standing Rules of the Senate, the Committee on Indian Affairs is authorized from March 1, 1986, through February 28, 1987, in its discretion (1) to make expenditures from the contingent fund of the Senate, (2) to employ personnel, and (3) with the prior consent of the Government department or agency concerned and the Committee on Rules and Administration, to use on a reimbursable basis the services of personnel of any such department or agency.

SEC. 2. The expenses of the committee under this resolution shall not exceed $814,032.00, of which amount (1) not to exceed $15,000.00 may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946, as amended), and (2) not to exceed $1,000.00 may be expended for training of the professional staff of such committee (under procedures specified by section 202(j) of such act).

SEC. 3. The committee shall report its findings, together with such recommendations for legislation as it deems advisable, to the Senate at the earliest practicable date, but not later than February 28, 1987.

SEC. 4. Expenses of the committee under this resolution shall be paid from the contingent fund of the Senate upon vouchers approved by the chairman of the committee, except that vouchers shall not be required for the disbursement of salaries of employees paid at an annual rate.

SEC. 5. There are authorized such sums as may be necessary for agency contributions related to the compensation of employees of the committee from March 1, 1986, through February 28, 1987, to be paid from the Appropriations account for "Expenses of Inquiries and Investigations."

SENATE RESOLUTION 315—ORIGINAL RESOLUTION REPORTED AUTHORIZING EXPENDITURES BY THE COMMITTEE ON SMALL BUSINESS

Mr. Weicker, from the Committee on Small Business, reported the following original resolution; which was referred to the Committee on Rules and Administration:

S. RES. 315

Resolved, That, in carrying out its powers, duties, and functions under the Standing Rules of the Senate, in accordance with its jurisdiction under rule XXV of such rules, including holding hearings, reporting such hearings, and making investigations as authorized by paragraphs 1 and 8 of rule XXVI of the Standing Rules of the Senate, the Committee on Small Business is authorized from March 1, 1986 through February 28, 1987, in its discretion (1) to make expenditures from the contingent fund of the Senate, (2) to employ personnel, and (3) with the prior consent of the Government department or agency concerned and the Committee on Rules and Administration, to use on a reimbursable basis the services of personnel of any such department or agency.

SEC. 2. The expenses of the Committee under this resolution shall not exceed $926,220.

SEC. 3. The Committee shall report its findings, together with such recommendations for legislation as it deems advisable, to the Senate at the earliest practicable date, but not later than February 28, 1987.

SEC. 4. Expenses of the Committee under this resolution shall be paid from the contingent fund of the Senate upon vouchers approved by the chairman of the Committee, except that vouchers shall not be required for the disbursement of salaries of employees paid at an annual rate.

SENATE RESOLUTION 316—AUTHORIZING PRODUCTION OF DOCUMENTS BY THE PERMANENT SUBCOMMITTEE ON INVESTIGATIONS

Mr. DOLE (for himself and Mr. BYRD) submitted the following resolution; which was considered and agreed to.

S. RES. 316

Whereas, the Permanent Subcommittee on Investigations of the Committee on Governmental Affairs has investigated allegations of illegal transfers of technology to the Socialist Republic of Vietnam;

Whereas, the Department of Commerce has requested access to records received during the Subcommittee's investigation which may assist the Department in fulfilling its own investigatory responsibilities;

Whereas, by the privileges of the United States Senate and Rule XI of the Standing Rules of the Senate, no evidence under the control or in the possession of the Senate can, by administrative or judicial process, be taken from such control or possession but by permission of the Senate;

Whereas, when it appears that documents, papers and records under the control of or in the possession of the Senate are needed in any investigation for the promotion of justice, the Senate will take such action as will promote the ends of justice consistent with the privileges and rights of the Senate; Now, therefore, be it

Resolved, That the Chairman and Ranking Minority Member of the Permanent Subcommittee on Investigations, acting jointly, are authorized to provide to the Department of Commerce records relating to the Subcommittee's investigation of allegations of the illegal transfer of technology to the Socialist Republic of Vietnam.

SENATE RESOLUTION 317—AUTHORIZING REPRESENTATION BY THE SENATE LEGAL COUNSEL

Mr. DOLE (for himself and Mr. BYRD) submitted the following resolution; which was considered and agreed to.

S. RES. 317

Whereas, in the case of *American Postal Workers Union, AFL-CIO, et al.* v. *United States of America*, Civil Action No. 86-0147, and *American Federation of Government Employees, AFL-CIO, et al.* v. *United States of America*, Civil Action No. 86-0154, pending in the United States District Court for the District of Columbia, the constitutionality of the Balanced Budget and Emergency Deficit Control Act of 1985, Public Law 99-177, has been placed in issue;

Whereas, in the related cases of *Representative Mike Synar, et al.* v. *United States of America*, Civil Action No. 85-3945, and *National Treasury Employees Union* v.

United States of America, Civil Action No. 85-4106, the Attorney General has challenged the constitutionality of provisions of the Balanced Budget and Emergency Deficit Control Act of 1985;

Whereas, pursuant to section 274(a)(4) of the Balanced Budget and Emergency Deficit Control Act of 1985, the plaintiffs have delivered copies of their complaints to the Secretary of the Senate and the Clerk of the House of Representatives and each House of Congress has the right to intervene in defense of the constitutionality of the Act;

Whereas, pursuant to sections 703(c), 706(a), and 713(a) of the Ethics in Government Act of 1978, 2 U.S.C. §§ 288b(c), 288e(a), and 288l(a) (1982), the Senate may direct the Senate Legal Counsel to intervene in the name of the Senate in any legal action in which the powers and responsibilities of Congress under the Constitution are placed in issue: Now, therefore, be it

Resolved, That the Senate Legal Counsel is directed to intervene in the name of the Senate in the cases of *American Postal Workers Union, AFL-CIO, et al.* v. *United States of America* and *American Federation of Government Employees, AFL-CIO, et al.* v. *United States of America*.

SENATE RESOLUTION 318—URGING THE INTERNATIONAL ASTRONOMICAL UNION TO NAME SEVEN OF THE MOONS OF URANUS IN HONOR OF THE SEVEN CREW MEMBERS OF THE "CHALLENGER" SPACE SHUTTLE

Mr. BAUCUS submitted the following resolution; which was referred to the Committee on Commerce, Science, and Transportation:

S. RES. 318

Whereas the Voyager 2 spacecraft recently discovered ten additional moons orbiting the seventh planet in the solar system, Uranus;

Whereas this discovery resulted from over twenty-five years of manned and unmanned space exploration, whereby many Americans have dedicated their skills and risked their lives to benefit all mankind;

Whereas on January 28, 1986 the mission of the space shuttle, Challenger, was tragically terminated, ending the lives of the seven astronauts aboard: Christa McAuliffe, Francis Scobee, Michael Smith, Judith Resnick, Ronald McNair, Ellison Onizuka, and Gregory Jarvis;

Whereas the Nation remains shocked and stunned at the loss of these seven brave astronauts;

Whereas the memory of the seven heroes should be memorialized in a way that remainds us of their courage and their quest to explore space to benefit all mankind; and

Whereas it has been the respected international tradition that newly discovered moons, planets and comets be named by the International Astronomical Union; Now, therefore be it

Resolved, That it is the sense of the Senate that the Nomenclature Committee of the International Astronomical Union take such action as is necessary to name seven of the ten moons discovered by the Voyager 2 spacecraft, which are currently designated as 1985 U1 and 1986 U1 through 1986 U9, in honor of the following seven crew members of the Challenger space shuttle who died so tragically on January 28, 1986:

(1) Francis R. Scobee,
(2) Michael J. Smith,
(3) Gregory B. Jarvis,
(4) Ellison S. Onizuka,
(5) Christa McAuliffe,
(6) Ronald E. McNair, and
(7) Judith A. Resnick.

And be it *further Resolved*, that the Secretary of the Senate shall convey this Resolution to the American Astronomical Union and ask their assistance in carrying out this memorial.

Mr. BAUCUS. Mr. President, on January 28, 1986, our entire Nation was brought together by a tragedy that still seems incomprehensible 2 days later.

The space shuttle *Challenger*, embarking on its 10th mission into the heavens, exploded—ending the lives of seven courageous astronauts.

The shock and sadness that we all felt on Tuesday has not lessened.

We grieve the loss of those seven lives.

Our hearts go out to the families of the astronauts, who have suffered through a private event in a very public way.

The pain that we feel for them extends to the school children throughout the Nation who witnessed the tragedy on television.

There is so much we want to say, and yet words fail us.

Mr. President, today I am proposing a resolution to memorialize the seven heroes whose lives were taken 2 days ago.

My resolution calls for the naming of seven of the newly discovered moons of the planet Uranus for the seven men and women who died aboard the space shuttle *Challenger*.

I believe this is a fitting reminder of their courage and their quest to explore space for the benefit of all mankind.

I would like to point out that it has been the respected international tradition that newly discovered moons, planets, and comets be named by the International Astronomical Union.

But the naming of celestial bodies is a lengthy procedure. My resolution recommends to the International Astronomical Union that seven of the newly discovered moons of Uranus be named in the interim period as follows: McAuliffe, Scobee, Smith, Resnick, McNair, Onizuka, and Jarvis.

My resolution proposes that these will be temporary names until the permanent names are chosen by the IAU. It is also the intention that these names be permanent.

I hope that my colleagues will join me in this resolution in memory of the brave men and women of the space shuttle *Challenger*.

SENATE RESOLUTION 319—AUTHORIZING ADDITIONAL EXPENDITURES BY THE COMMITTEE ON APPROPRIATIONS

Mr. DOLE (for Mr. HATFIELD) submitted the following resolution; which was considered and agreed to:

S. RES. 319

Resolved, That section IV of Senate Resolution 85, ninety-ninth Congress, agreed to February 28, 1985, and amended, is amended by striking out "$115,000" and inserting in lieu thereof "$140,000".

SENATE RESOLUTION 320—INSTRUCTING COMMITTEES TO REPORT CERTAIN CHANGES IN LAWS WITHIN THEIR JURISDICTIONS

Mr. JOHNSTON (for himself and Mr. LEAHY) submitted the following resolution; which was referred to the Committee on the Budget.

S. RES. 320

Resolved, That (a) the sequestrations and reductions set forth with respect to accounts, programs, projects, and activities within major functional category 050 (National Defense) in the order issued by the President for fiscal year 1986 pursuant to section 252 of the Balanced Budget and Emergency Deficit Control Act of 1985 (Public Law 99-177) are hereby affirmed.

(b) The modifications, suspensions, sequestrations, and reductions set forth with respect to accounts, programs, projects, and activities within major functional categories other than major functional category 050 in the order issued by the President for fiscal year 1986 pursuant to section 252 of the Balanced Budget and Emergency Deficit Control Act of 1985 are hereby disaffirmed.

(c) Not later than 10 days after the date of the adoption of this resolution, the appropriate committees of the Senate shall report to the Committee on the Budget of the Senate—

(1) those changes in the laws within their jurisdiction set forth in the amendment proposed by the committee of conference in the conference report to accompany H.R. 3128, submitted December 19, 1985 (other than subtitle B of title XIII of such amendment);

(2) changes in the laws within their jurisdiction to provide for the payment of amounts withheld pursuant to section 252(a)(6)(C)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985.

AMENDMENTS SUBMITTED

SALE OF CONSOLIDATED RAIL CORPORATION

METZENBAUM AMENDMENT NO. 1569

Mr. METZENBAUM proposed an amendment to amendment No. 1438 proposed by Mr. PRESSLER (and others) to amendment No. 1437 proposed by Mr. DANFORTH to the bill (S. 638) to amend the Regional Rail Reorganization Act of 1973 to provide for the transfer of ownership of the Consoli-

dated Rail Corporation to the private sector, and for other purposes; as follows:

In lieu of the language proposed to be inserted, insert the following:

That this Act may be cited as the "Conrail Sale Act of 1985".

SEC. 2 (a) As soon as is practical, the Secretary shall solicit and consider new, sealed, competitive bids for the purchase of the common stock of Conrail. The specifications for such-bids shall be sufficiently detailed so as to assure sufficient information and data for use by the Secretary in considering among others, matters such as the use of money and other assets of Conrail; the source of cash payment for such common stock; and the protection of the rights and benefits of the current employees of Conrail.

(b) One hundred eighty days following the date on which the Secretary solicits bids under subsection (a) of this Section, the Secretary shall report to Congress the results of such solicitation.

LAUTENBERG (AND OTHERS) AMENDMENT NO. 1570

Mr. LAUTENBERG (for himself, Mr. MOYNIHAN, and Mr. BRADLEY) proposed an amendment to amendment No. 1437 proposed by Mr. DANFORTH to the bill S. 638, supra; as follows:

On page 19, insert before line 1 the following new section:

SEC. 111. (a) The Regional Rail Reorganization Act of 1973 is amended by adding at the end thereof the following new title:

"TITLE VIII—PROTECTION OF AFFECTED REGIONS AFTER IMPLEMENTATION OF THE SECRETARY'S PLAN

"DEFINITIONS

"SEC. 801. (a) For purposes of this title—

"(1) the term 'affected region' means any State, county, port or port district in which any dominant railroad is the only railroad—

"(A) owning or controlling trackage rights into such region; or

"(B) carrying in excess of 80 percent of the total interstate rail freight in such region;

"(2) the term 'alternative railroad' means any railroad that desires and is capable of providing railroad transportation in an affected region, but lacks necessary trackage rights;

"(3) the term 'dominant railroad' means—

"(A) the Corporation or Norfolk Southern Corporation after the date of implementation of the Secretary's Plan pursuant to section 401(a)4) of this Act and the sale of the interest of the United States in the common stock of the Corporation to Norfolk Southern Corporation pursuant to section 401(a)(5) of this Act; or

"(B) any corporation created by Norfolk Southern Corporation as a result of such implementation and such sale,

which, acting jointly or severally, operates as a railroad in an affected region, and owns or controls all trackage rights into such region or carries in excess of 80 percent of the total interstate rail freight in such region; and

"(4) the term 'governmental authority of any affected region' means any governmental authority authorized by appropriate State law, Federal law, or agreements between or among States to maintain legal actions on behalf of an affected State, county, port, or port district.

"PROTECTION OF AFFECTED REGIONS

"SEC. 802. (a)(1) The governmental authority of any affected region may file a complaint in the United States district court for any district in which such affected region is located, seeking an order granting trackage rights into such region for any specified alternative railroad. All relevant dominant railroads shall be named as defendants in such complaint.

"(2) The court may grant the relief sought by the complaint if the plaintiff governmental authority establishes, by a preponderance of the evidence that—

"(A) the specified alternative railroad sought in good faith to negotiate an agreement with the defendant dominant railroad pursuant to section 11343(a)(6) of title 49, United States Code;

"(B) such negotiations were not successful; and

"(C) granting of the trackage rights sought in the complaint is practical and will not unreasonably impair the operations of the defendant dominant railroad over the affected rail lines.

"(3) If the court determines that the plaintiff governmental authority has met its burden under subparagraphs (2) (A) and (B) of this subsection, but not with respect to subparagraph (2)(C), the court shall prescribe such lesser amount of trackage rights, if any, that plaintiff by prepondenance of the evidence establishes is practical and will not unreasonably impair the operations of the defendant dominant railroad over the affected rail lines.

"(b) The court shall establish the terms of any traffic rights ordered under subsection (a). The terms shall include such payment to the defendant dominant railroad by the specified alternative railroad that provides adequate compensation for the use of the affected rail lines. Adequate compensation shall include a fair contribution to the profits of the defendant dominant railroad.

"(c)(1) Operations by any specified alternative railroad pursuant to the grant of trackage rights under subsection (a) are contingent upon the execution of the defendant dominate railroad and any specified alternative railroad of an agreeement embodying all the terms established by the court under subsection (b). The court shall order the defendant dominant railroad to execute such agreement.

"(2) The agreement referred to in paragraph (1) of this subsection, upon execution by the dominant railroad and a specified alternative railroad, shall be exempt from the antitrust laws and from all other laws, including State and municipal law, as necessary to allow the parties to implement the agreement, in the same manner as an agreement made pursuant to section 11341 of title 49, United States Code.

"(3) The court which orders the grant of trackage rights shall have exclusion jurisdiction to resolve any disputes arising under the executed agreement referred to in paragraph (1) of this subsection.

"(d) The remedies provided for in this section shall not preclude any action or relief pursuant to the Sherman Act (15 U.S.C. 1 et seq.).".

(b) The table of contents of the Regional Rail Reorganization Act of 1973 is amended by adding at the end thereof the following:

TITLE VIII—PROTECTION OF AFFECTED REGIONS AFTER IMPLEMENTATION OF THE SECRETARY'S PLAN

"Sec. 801. Definitions.

"Sec. 802. Protection of affected regions.".

METZENBAUM AMENDMENT NO. 1571

(Ordered to lie on the table.)

Mr. METZENBAUM submitted an amendment intended to be proposed by him to amendment No. 1437 proposed by Mr. DANFORTH to the bill S. 638, supra; as follows:

In lieu of the language proposed to be inserted, insert the following:

FINDINGS

SEC. 2. The Congress finds that—

(1) the Northeast Rail Service Act of 1981 (45 U.S.C. 1101 et seq.) provided for an orderly return of Conrail freight service to the private sector;

(2) the provisions of the Northeast Rail Service Act of 1981 were successful in removing Conrail's obligations beyond railroad freight service and in otherwise preparing Conrail for an orderly return to the private sector;

(3) acting under section 403 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 763), the Board of Directors of the United States Railway Association twice found Conrail to be a profitable corporation;

(4) acting under section 401 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 761), the Secretary engaged an investment banker and arranged, through open competitive bidding and negotiation, to sell the interest of the United States in the common stock of Conrail;

(5) the Secretary's Plan for the sale of Conrail provides for sale of the interest of the United States in the common stock of Conrail to Norfolk Southern Corporation;

(6) the Secretary found that sale of the interest of the United States in the common stock of Conrail to Norfolk Southern Corporation best meets the sale criteria of (A) leaving Conrail in the strongest financial position after the sale, (B) preserving patterns of service to shippers and communities in the region Conrail serves, and (C) maximizing return to the Federal Government consistent with the criteria specified in clauses (A) and (B);

(7) amendments to the Regional Rail Reorganization Act of 1973 (45 U.S.C. 701 et seq.) and related laws are needed to permit the sale of the interest of the United States in the common stock of Conrail to Norfolk Southern Corporation and to permit cancellation of the interest of the United States in Conrail debt and preferred stock; and

(8) the Secretary's Plan satisfies the requirements of the Northeast Rail Service Act of 1981, including the intent, goals, and objectives relating to the sale of the interest of the United States in the common stock of Conrail and the requirements of section 401(e) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 761(e)).

PURPOSE

SEC. 3. It is therefore declared to be the purpose of the Congress in this Act to return Conrail to the private sector by directing and facilitating implementation of the Secretary's Plan for the sale of the interest of the United States in the common stock of Conrail.

DEFINITIONS

SEC. 4. (a) In this Act, unless the context otherwise requires, the term—

(1) "Conrail" means the Consolidated Rail Corporation;

(2) "Definitive Agreements" means any and all agreements existing or to be developed between the United States and Norfolk Southern Corporation, including all representations and warranties made therein, to implement the Memorandum of Intent described in paragraph (4)(A); except that such term shall not include any agreements unless there is a binding agreement with Norfolk Southern Corporation that fully satisfies (i) all employer claims against Conrail arising from prior wage concessions, and (ii) employees' 15% beneficial interest in Conrail.

(3) "Secretary" means the Secretary of Transportation; and

(4) "Secretary's Plan" means (A) the Memorandum of Intent between the United States and Norfolk Southern Corporation signed February 8, 1985, and (B) the divestitures by the Norfolk Southern Corporation of certain rail tracks, rights, and facilities, and any transactions or agreements related or incidental to such divestitures, in connection with the implementation of attachment A to the letter from the Department of Justice attached to the Memorandum of Intent as exhibit E.

(b) Section 102 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 702) is amended—

(1) by redesignating paragraphs (6) through (18) as paragraphs (7) through (19), and paragraphs (19) through (21) as paragraphs (21) through (23), respectively;

(2) by inserting after paragraph (5) the following paragraph:

"(6) 'Definitive Agreements' means any and all agreements existing or to be developed between the United States and Norfolk Southern Corporation, including all representations and warranties made therein, to implement the Memorandum of Intent described in paragraph (20)(A) except that such term shall not include any agreements unless there is a binding agreement with Norfolk Southern Corporation that fully satisfies (i) all employer claims against Conrail arising from prior wage concessions, and (ii) employees' 15% beneficial interest in Conrail.

(3) by inserting after paragraph (19), as so redesignated, the following paragraph:

"(20) 'Secretary's Plan' means (A) the Memorandum of Intent between the United States and Norfolk Southern Corporation signed February 8, 1985, and (B) the divestitures by the Norfolk Southern Corporation of certain rail tracks, rights, and facilities, and any transactions or agreements related or incidental to such divestitures, in connection with the implementation of attachment A to the letter from the Department of Justice attached to the Memorandum of Intent as exhibit E;".

(c) Section 1135(a) of the Northeast Rail Service Act of 1981 (45 U.S.C. 1104(a)) is amended—

(1) by redesignating paragraphs (6), (7), and (8) as paragraphs (7), (8), and (10), respectively;

(2) by inserting after paragraph (5) the following paragraph:

"(6) 'Definitive Agreements' means any and all agreements existing or to be developed between the United States and Norfolk Southern Corporation, including all representations and warranties made therein, to implement the Memorandum of Intent described in paragraph (9)(A), except that such term shall not include any agreements unless there is a binding agreement with Norfolk Southern Corporation that fully satisfies (i) all employer claims against Conrail arising from prior wage concessions, and (ii) employees' 15% beneficial interest in Conrail.

(3) by inserting after paragraph (8), as so redesignated, the following paragraph:

"(9) 'Secretary's Plan' means (A) the Memorandum of Intent between the United States and Norfolk Southern Corporation signed February 8, 1985, and (B) the divestitures by the Norfolk Southern Corporation of certain rail tracks, rights, and facilities, and any transactions or agreements related or incidental to such divestitures, in connection with the implementation of attachment A to the letter from the Department of Justice attached to the Memorandum of Intent as exhibit E;".

TITLE I—AMENDMENTS TO THE REGIONAL RAIL REORGANIZATION ACT OF 1973 AND THE NORTHEAST RAIL SERVICE ACT OF 1981

Subtitle A—Regional Rail Reorganization Act of 1973 Amendments

LIMIT ON AUTHORITY TO PURCHASE STOCK

SEC. 101. Section 216(b) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 726(b)) is amended by adding at the end thereof the following paragraph:

"(5) The authority of the Association to purchase debentures or series A preferred stock of the Corporation under this section shall terminate upon the consummation of the sale of the interest of the United States in the common stock of the Corporation under the terms of the Secretary's Plan.".

RESPONSIBILITY OF CONRAIL DIRECTORS

SEC. 102. Section 301(i) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 741(i)) is amended by inserting immediately after "required by law" the following: ", taken to implement the Secretary's Plan,".

APPLICABILITY OF REGIONAL RAIL REORGANIZATION ACT OF 1973 TO CONRAIL AFTER SALE

SEC. 103. Section 301 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 741) is amended by adding at the end thereof the following subsection:

"(k) GOVERNING PROVISIONS AFTER SALE.—The provisions of this Act shall not apply to the Corporation and to activities and other actions and responsibilities of the Corporation and its directors after consummation of the sale of the interest of the United States in the common stock of the Corporation under the terms of the Conrail Sale Amendments Act of 1985, other than with regard to—

"(1) section 102 of this Act;

"(2) section 201(d) of this Act;

"(3) section 203 of this Act, but only with respect to information relating to proceedings before the special court established under section 209(b);

"(4) section 216(f)(8) of this Act, but only as such authority applies to activities related to the employee stock ownership plan and related trusts prior to or in connection with consummation of the sale of the interest of the United States in the common stock of the Corporation, including activities related to the sale, exchange, valuation, or disposition of the assets of the employee stock ownership plan and related trusts, or of Conrail Equity Corporation, in connection with the Secretary's Plan;

"(5) sections 216(f)(11) and 216(f)(12) of this Act, as amended by the Conrail Sale Amendments Act of 1985;

"(6) section 217(e) of this Act;

"(7) subsection (i) of this section, but only as such authority applies to service as a director of the Corporation prior to consummation or in connection with implementation of the sale of the interest of the United States in the common stock of the Corporation;

"(8) section 305 of this Act, but only as to the effect, and continuing administration, of supplemental transactions consummated prior to consummation of the sale of the interest of the United States in the common stock of the Corporation;

"(9) section 308 of this Act, but only in abandonment actions when such authority has been relied on to file a notice or notices of insufficent revenues prior to consummation of the sale of the interest of the United States in the common stock of the Corporation;

"(10) section 401(a) of this Act, as amended by the Conrail Sale Amendments Act of 1985;

"(11) section 402 of this Act, as amended by the Conrail Sale Amendments Act of 1985;

"(12) section 408(c) of this Act, as amended by the Conrail Sale Amendments Act of 1985;

"(13) section 701 of this Act, but only as may be necessary to identify employees eligible for benefits under agreements entered into under such section;

"(14) section 702(e) of this Act;

"(15) section 704(b) of this Act;

"(16) section 709 of this Act;

"(17) section 710(b)(1) of this Act;

"(18) section 711 of this Act;

"(19) section 714 of this Act, but only with regard to disputes or controversies specified in such section that arose prior to consummation of the sale of the interest of the United States in the common stock of the Corporation; and

"(20) section 715 of this Act, as amended by the Conrail Sale Amendments Act of 1985.".

IMPLEMENTATION OF THE SECRETARY'S PLAN

SEC. 104. (a) Section 401(a)(3) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 761(a)(3)) is amended to read as follows:

"(3) The Secretary is authorized and directed to implement the Secretary's Plan, in accordance with paragraph (4) of this subsection. Such implementation of the Secretary's Plan and the coordinated operation of the Corporation's properties with those of Norfolk Southern Corporation and its affiliates as a single rail system is deemed approved by the Commission under chapter 113 of title 49, United States Code.".

(b) Section 401(a) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 761(a)) is amended by adding at the end thereof the following paragraphs:

"(4) The Secretary shall implement the Secretary's Plan by negotiating, executing, delivering, and performing the Definitive Agreements, which shall conform to the Memorandum of Intent described in section 102(20)(A) of this Act. The Secretary shall, 45 calendar days before the date on which the Secretary anticipates that the interest of the United States in the common stock of the Corporation will be sold to Norfolk Southern Corporation, transmit to the Committee on Commerce, Science, and Transportation of the Senate and to the Committee on Energy and Commerce of the House of Representatives a notification of any alteration from the Memorandum of Intent described in section 102(20)(A) of this Act which will be made in the Definitive Agreements. After the date of such sale, the Secretary shall transmit to such Committees

notification of any intent to waive compliance with any substantive covenant, agreement or obligation contained in the Definitive Agreements, and the Secretary may not waive such compliance until a period of 45 calendar days has expired after the date of such transmittal.

"(5) The Secretary shall not transfer the interest of the United States in the common stock of the Corporation except concurrently with a divestiture by Norfolk Southern Corporation of rail assets and rights approved by the Attorney General.

"(6) The sale of the interest of the United States in the common stock of the Corporation shall be deemed to be consummated at the date title to the common stock passes to Norfolk Southern Corporation and the United States receives the cash purchase price.".

RAILROAD PURCHASERS AND OFFER FOR SALE OF SHARES TO EMPLOYEES

SEC. 105. Subsections (d) and (e) of section 401 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 761(d) and (e)) are repealed.

CANCELLATION OF DEBT AND PREFERRED STOCK

SEC. 106. Section 402 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 762) is amended to read as follows:

"DEBT AND PREFERRED STOCK

"SEC. 402. (a) RECAPITALIZATION.—In connection with the sale of the interest of the United States in the common stock of the Corporation under section 401 of this Act, and consistent with the Secretary's Plan, the Secretary may take all action necessary to cause the Corporation to be recapitalized such that the interest of the United States, or any agent or instrumentality thereof, and all other commitments or obligations of the Corporation to the United States or any agent or instrumentality thereof arising out of such interest, in any debt (including accrued interest and contingent interest thereon) and preferred stock (including accrued and unpaid dividends thereon) of the Corporation shall be cancelled or retired, and contributed to the capital of the Corporation. The Secretary shall cause the recapitalization authorized by this section to be effective as of the consummation of the sale of the interest of the United States in the common stock of the Corporation.

"(b) BREACH OF REPRESENTATIONS.—(1) Norfolk Southern Corporation or any successor corporation thereto may bring suit for any breach of representations contained in paragraph 6(e) of the Memorandum of Intent described in section 102(20)(A) of this Act (hereinafter referred to as the 'Representations') in the United States Claims Court or a district court of the United States. If such an action is brought, the Claims Court or district court shall determine the amount by which the United States income tax (including interest and penalties whether or not such penalties are assessed as a tax under the Internal Revenue Code of 1954) assessable against the Corporation or against Norfolk Southern Corporation for any year exceeds the amount of such tax which would have been assessable for such year had such Representations not been breached (hereinafter referred to as the 'Offset Amount').

"(2) The Representations shall be considered breached and Norfolk Southern Corporation shall be entitled to bring suit upon the first occurrence of any of the following that is inconsistent with the Representations: (A) the issuance by the Internal Revenue Service of a statutory notice of deficiency (90-day letter), (B) the assessment of the United States income tax, or (C) any claim by the United States in a suit or other judicial proceeding against Norfolk Southern Corporation or the Corporation.

"(3) The right to bring suit pursuant to this section shall not be subject to any waiting period applicable to tax proceedings or to any requirements for payment of any tax as a condition to instituting any suit based on a breach of the Representations.

"(4) Any judgment for money damages relating to breach of the Representations shall only be awarded as an offset in any court or administrative proceeding against the tax liability of Norfolk Southern Corporation or the Corporation, or both, to which such breach relates; except that if any such tax liability resulting from such breach has been paid, the judgment shall to that extent be an offset against any United States income tax liability of the Norfolk Southern Corporation or the Corporation, or both. If any portion of the tax resulting from a breach of the Representations has been paid, then the Offset Amount shall include interest on such payment from the date paid at the rate from time to time specified in the Internal Revenue Code of 1954 for interest payable on refund claims.

"(5) It shall not be a defense to an action brought under this section that Norfolk Southern Corporation knew, or should have known, of the falsity of the Representations or that there exists no carryover basis procedure as contemplated by the last sentence of the Representations.

"(6) For purposes of this section, tax liability of Norfolk Southern Corporation shall include the tax liability of Norfolk Southern Corporation and its affiliated group, within the meaning of section 1504 of the Internal Revenue Code of 1954.".

APPLICABILITY OF CERTAIN LAWS TO SALE OF CONRAIL

SEC. 107. Section 408 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 768) is amended—

(1) by repealing subsection (b);

(2) by amending subsection (c) by striking "No transfer" and all that follows through "subject to" and inserting in lieu thereof "Except as provided in section 1152 of the Northeast Rail Service Act of 1981 (45 U.S.C. 1105), the Secretary's Plan and the Definitive Agreements and their negotiation, execution, and implementation shall not be subject to administrative or"; and

(3) by adding at the end of subsection (c) the following sentence: "The issuance in private placement of notes or other securities in accordance with exhibit B to the Memorandum of Intent (described in section 102(20)(A) of this Act) in the Secretary's Plan shall not be subject to the provisions of subtitle IV of title 49, United States Code.".

LABOR PROTECTION

SEC. 108. (a) Section 701(d)(2) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 797(d)(2)) is amended by striking "the last day of the eighteen-month period beginning on".

(b)(1) Title VII of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 797 et seq.) is amended by adding at the end thereof the following section:

"PROTECTION AFTER SALE

"SEC. 715. After consummation of the sale of the interest of the United States in the common stock of the Corporation pursuant to the Secretary's Plan, any employee of Norfolk Southern Corporation, the Corporation, any rail affiliate of either company, and any transferee of the rail tracks, rights, and facilities divested in accordance with the Secretary's Plan, who is adversely affected in his employment by the implementation of the Secretary's Plan shall receive from his employer protection under the labor protective conditions set forth in New York Dock Railway—Control—Brooklyn Eastern District Terminal (354 ICC 399 (1978), modified upon further consideration, 360 ICC 60 (1979)). The arbitration provisions of section 4 of New York Dock shall apply to the formation of any implementing agreements that may be necessary in connection with the implementation of the Secretary's Plan, including any resulting coordinations.".

(2) The table of contents of the Regional Rail Reorganization Act of 1973 is amended by inserting immediately after the item relating to section 714 the following item:

"Sec. 715. Protection after sale.".

PREFERENTIAL HIRING

SEC. 109. Section 703 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 797b) is amended—

(1) by redesignating subsection (b) as subsection (c); and

(2) by inserting immediately after subsection (a) the following subsection:

"(b) IMPLEMENTATION OF SECRETARY'S PLAN.—Any employee of any railroad who is deprived of employment as a result of the implementation of the Secretary's Plan shall have the first right of hire for a vacancy for which he is qualified on any Norfolk Southern Corporation rail subsidiary, except where such vacancy is covered by (1) an affirmative action plan, or a hiring plan designated to eliminate discrimination, that is required by Federal or State statute, regulation, or Executive order, or by the order of a Federal court or agency, or (2) a permissible voluntary affirmative action plan. For purposes of this subsection, a railroad shall not be considered to be hiring new employees when it recalls any of its own furloughed employees.".

CROSS CRAFT EMPLOYMENT

SEC. 110. (a) Title VII of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 797 et seq.) is amended by inserting immediately after section 703 the following section:

"CROSS CRAFT EMPLOYMENT

"SEC. 703A. Any employee of Norfolk and Western Railway Company, Southern Railway Company, or the Corporation who is deprived of employment as a result of the implementation of the Secretary's Plan shall have the first right of hire for any vacancy for which such employee is qualified at the entry level of any Norfolk Southern Corporation rail subsidiary, without regard to craft or class or the provisions of section 703 of this Act. Such employee shall retain his seniority rights to return to his original craft or class whenever a vacancy occurs. For purposes of this section, a railroad shall not be considered to be hiring new employees when it recalls any of its own furloughed employees.".

(b) The table of contents of the Regional Rail Reorganization Act of 1973 is amended by inserting immediately after the item relating to section 703 the following item:

"Sec. 703A. Cross craft employment.".

Subtitle B—Northeast Rail Service Act of 1981 Amendments

SPECIAL COURT JURISDICTION

SEC. 121. (a) Section 1152 of the Northeast Rail Service Act of 1981 (45 U.S.C. 1105) is amended—

(1) by inserting "or the Conrail Sale Amendments Act of 1985" immediately after "subtitle" wherever it appears;

(2) in subsection (a), by striking "or" at the end of paragraph (3), by striking the period at the end of paragraph (4) and inserting in lieu thereof a semicolon, and by adding at the end thereof the following paragraphs:

"(5) brought by the United States or any agency or instrumentality thereof seeking to enforce the Secretary's Plan or the Definitive Agreements;

"(6) brought by Norfolk Southern Corporation seeking to enforce the Secretary's Plan or the Definitive Agreements;

"(7) brought by a party who filed a complaint with the Secretary under subsection (e) of this section, and who is aggrieved by (A) a determination of the Secretary under paragraph (1) of such subsection that the party has not suffered direct economic injury, or (B) a decision of the Secretary under paragraph (2) of such subsection that a covenant has not been violated;

"(8) brought by a party which is a signatory to an ancillary agreement entered into in accordance with the Secretary's Plan or the Definitive Agreements and which is seeking to enforce such ancillary agreement; or

"(9) brought to determine the value of the interest of the employee stock ownership plan and related trusts, or of the beneficiaries thereof, in the preferred stock of the Conrail Equity Corporation.

For purposes of any action brought under paragraph (5) of this subsection, a violation of any covenant contained in the Secretary's Plan or the Definitive Agreements shall be deemed to constitute immediate and irreparable harm for purposes of awarding injunctive relief to the United States.".

(b) Section 1152 of the Northeast Rail Service Act of 1981 (45 U.S.C. 1105) is amended by adding at the end thereof the following subsection:

"(e)(1) Any party who suffers direct economic injury as a result of an alleged violation of a covenant contained in the Definitive Agreements may file a complaint with the Secretary seeking enforcement of such covenant. If the Secretary determines that the complainant has demonstrated to the Secretary that it has suffered direct economic injury, the Secretary shall investigate the complaint.

"(2) If the Secretary decides to investigate a complaint under paragraph (1) of this subsection, the Secretary shall give reasonable notice of such decision to investigate to the alleged violator of such covenant and the complainant, and shall make a final decision on such complaint within 60 days after the date on which it was filed.

"(3) If the Secretary finds that (A) the covenant in question has been violated, and (B) the complainant suffered direct economic injury as a result of such violation, the Secretary shall enter an order directing the violator of such covenant to comply with such covenant.

"(4) On appeal, any decision by the Secretary under this subsection shall be upheld, unless such decision is found to be arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law.".

APPLICABILITY OF OTHER LAWS

SEC. 122. Section 1168(a) of the Northeast Rail Service Act of 1981 (45 U.S.C. 1116(a)) is amended by striking "service transfers" and inserting in lieu thereof "sale of the interest of the United States in the common stock of Conrail or transfer of the rail properties and freight service responsibilities of Conrail".

Subtitle C—Employee Stock Ownership Plan

RESPONSIBILITY OF EMPLOYEE STOCK OWNERSHIP PLAN FIDUCIARIES

SEC. 131. (a) Section 216(f)(8)(A) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 726(f)(8)(A)) is amended—

(1) by striking "or" at the end of clause (ii);

(2) by striking the period at the end of clause (iii) and inserting in lieu thereof "; or"; and

(3) by adding at the end thereof the following clause:

"(iv) for or in connection with any action taken to implement the Secretary's Plan, including any sale, exchange, valuation, or disposition of the plan and related trust assets, or the assets of Conrail Equity Corporation, in connection with implementation of the Secretary's Plan and any determination of the terms on which any such sale, exchange, valuation, or disposition is effected.".

QUALIFICATION, REVIEW, AND VALUATION OF EMPLOYEE STOCK OWNERSHIP PLANS

SEC. 132. Section 216(f) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 726(f)) is amended by adding at the end thereof the following paragraphs:

"(11) The employee stock ownership plans of the Corporation and related trusts maintained, amended, or adopted in implementing the Secretary's Plan shall be deemed to meet the qualification requirements of sections 401 and 501, respectively, of the Internal Revenue Code of 1954, notwithstanding (A) that such plans may not meet the requirements of section 415 of the Internal Revenue Code of 1954, or (B) that participants in such plans may be entitled to withdraw a portion of the shares allocated to their accounts prior to the expiration of the period generally imposed by the Internal Revenue Service for qualified plans. Such qualification shall relate only to the contributions, allocations, and withdrawals of shares provided for in the Secretary's Plan with respect to the plans and related trusts maintained, amended, or adopted in implementing the Secretary's Plan. Such contributions and allocations shall in no event be treated as having exceeded the maximum annual addition permitted under section 415 of the Internal Revenue Code of 1954 (but not for purposes of applying section 404(j) of the Internal Revenue Code of 1954) for purposes of calculating any limitation under section 415 with respect to contributions and allocations not described in the Secretary's Plan, including contributions and allocations to plans and related trusts of the Corporation and any affiliated corporation. The continued qualification of such plans with respect to all other contributions, allocations, and withdrawals shall be subject to all provisions of existing law, as amended from time to time. No inference shall be drawn from this paragraph as to whether an amount is a contribution deductible under section 404 of the Internal Revenue Code of 1954 rather than a non-deductible capital expenditure.

"(12) Except as provided in section 1152 of the Northeast Rail Service Act of 1981 (45 U.S.C. 1105), the issuance and sale or contribution of securities by Norfolk Southern Corporation to fulfill arrangements with the Corporation's employees in implementing the Secretary's Plan and the distribution of shares from the Corporation's employee stock ownership plans and related trusts maintained, amended, or adopted in implementing the Secretary's Plan shall not be subject to the registration and prospectus delivery requirements of the Securities Act of 1933, any approval requirement under subtitle IV of title 49, United States Code, or the laws of any State with respect to the issuance and sale of securities.".

TITLE II—TECHNICAL AND CONFORMING AMENDMENTS

REGIONAL RAIL REORGANIZATION ACT OF 1973 AMENDMENTS AND REPEALS

SEC. 201. The following provisions of the Regional Rail Reorganization Act of 1973 are repealed or amended as specified:

(1) Subsections (a) and (b) of section 214 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 724(a) and (b)) are repealed, and such section 214 is amended by striking "(c) ASSOCIATION.—".

(2) Subsection (f) of section 217 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 727(f)) is repealed, without prejudice to the continued availability of funds appropriated prior to the date of enactment of this Act pursuant to section 217(f)(1)(C) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 727(f)(1)(C)).

(3) Section 404 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 764), and the item relating to such section in the table of contents of such Act, are repealed.

(4) Section 405 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 765), and the item relating to such section in the table of contents of such Act, are repealed.

(5) Section 406 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 766), and the item relating to such section in the table of contents of such Act, are repealed.

(6) Section 407 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 767), and the item relating to such section in the table of contents of such Act, are repealed.

(7) Subsections (a) and (d) of section 408 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 768 (a) and (d)) are repealed.

(8) Section 409 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 769), and the item relating to such section in the table of contents of such Act, are repealed.

(9) Section 410 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 769a), and the item relating to such section in the table of contents of such Act, are repealed.

(10) Section 411 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 769b), and the item relating to such section in the table of contents of such Act, are repealed.

(11) Section 412 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 769c), and the item relating to such section in the table of contents of such Act, are repealed.

(12) Section 713 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 797l), and the item relating to such section in the table of contents of such Act, are repealed.

AMENDMENTS AND REPEALS OF OTHER RAIL LAWS

SEC. 202. The following provisions of law are repealed or amended as specified:

(1) Section 1154 of the Northeast Rail Service Act of 1981 (45 U.S.C. 1107), and the item relating to such section in the table of contents of such Act, are repealed.

(2) Section 1161 of the Northeast Rail Service Act of 1981 (45 U.S.C. 1110), and the item relating to such section in the table of contents of such Act, are repealed.

(3) Section 1166 of the Northeast Rail Service Act of 1981 (45 U.S.C. 1114), and the item relating to such section in the table of contents of such Act, are repealed.

(4) Subsection (c) of section 1167 of the Northeast Rail Service Act of 1981 (45 U.S.C. 1115(c)) is repealed.

(5) Subsection (b) of section 1168 of the Northeast Rail Service Act of 1981 (45 U.S.C. 1116(b)) is repealed.

(6) Section 501(8) of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 821(8)) is amended—

(A) by striking "(A)";

(B) by striking "(i)" and inserting in lieu thereof "(A)", and by striking "(ii)" and inserting in lieu thereof "(B)"; and

(C) by striking all after "utilization;".

(7) Section 505 of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 825) is amended—

(A) in subsection (a)(1), by striking all after "railroad" through "1981)"; and

(B) in subsection (b)(2)(C), by striking all after "costs" the second time it appears through "subsidy".

(8) Subsection (b)(1) of section 509 of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 829(b)(1)) is repealed.

(9) Section 511(e) of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 831(e)) is amended by striking "(1)", and by striking all after "time" and inserting in lieu thereof a period.

(10) Section 402 of the Rail Safety and Service Improvement Act of 1982 (45 U.S.C. 825a) is repealed.

(11) Section 1005(b)(1) of the Rail Passenger Service Act (45 U.S.C. 655(b)(1)) is amended by striking "the Consolidated Rail Corporation,".

(12) Section 10362(b)(7)(A) of title 49, United States Code, is amended by striking "by the Consolidated Rail Corporation or".

(13) Section 332(d) of title 49, United States Code, is amended by striking ", the Consolidated Rail Corporation,".

TITLE III—MISCELLANEOUS PROVISIONS

COMMON CARRIER STATUS OF CONRAIL AFTER SALE

SEC. 301. (a) Conrail's status as a common carrier by railroad under section 10102(4) of title 49, United States Code, shall not be affected by virtue of sale of the interest of the United States in Conrail's common stock. Purchase of Conrail stock shall not alone be the basis of a determination that the acquiring entity has become a common carrier by railroad under section 10102(4) of title 49, United States Code.

(b) The Definitive Agreements shall contain a binding commitment by Norfolk Southern Corporation to continue to operate Conrail in full compliance with the provisions of section 10731(e) of title 49, United States Code.

CONSUMMATION OF SALE

SEC. 302. The sale of the interest of the United States in the common stock of Conrail shall be deemed to be consummated on the date title to the common stock passes to Norfolk Southern Corporation and the United States receives the cash purchase price.

CONTRACTS

SEC. 303. (a) Except as provided in subsection (b) of this section, nothing in this Act shall affect—

(1) Conrail's obligation to carry out its transportation contracts and equipment leases, equipment trusts, and conditional sale agreements, in accordance with their terms; and

(2) the obligation of any transferee of divested assets to carry out transportation contracts and equipment leases, equipment trusts, and conditional sale agreements to which such assets are subject, in accordance with their terms.

(b) If a divestiture carried out pursuant to the Secretary's Plan precludes Conrail from providing a transportation service for which it has contracted without a right of termination that may be exercised in the event of the sale of the interest of the United States in the common stock of Conrail and the divestiture will result in a change or modification in the movement of the traffic involved, the transferee of the divested rights and properties and Conrail shall provide the contracted-for service on terms and conditions which, to the maximum extent possible, conform to the terms and conditions in the contract.

CONGRESSIONAL OVERSIGHT OF COMPLIANCE

SEC. 304. The Secretary shall, no later than January 31 of each year, submit to the Committee on Commerce, Science, and Transportation of the Senate and to the Committee on Energy and Commerce of the House of Representatives a report setting forth each certificate which Norfolk Southern Corporation and Conrail provided to the Secretary, during the preceding year, certifying compliance with the covenants contained in the Definitive Agreements.

SEPARABILITY

SEC. 305. If any provision of this Act or the application thereof to any person or circumstances is held invalid, the remainder of this Act and the application of such provision to other persons or circumstances shall not be affected thereby.

EFFECTIVE DATE

SEC. 306. (a) Except as provided in subsection (b) of this section, the provisions of and amendments made by this Act shall take effect on the date of enactment of this Act.

(b) Sections 108(a), 201 and 202 of this Act shall take effect on the date of consummation of the sale of the interest of the United States in the common stock of Conrail.

(c) Any provision of this Act which, pursuant to Article I, Section 7 of the Constitution, provides for raising revenue shall only be effective upon the enactment into law of a bill which has originated in the House of Representatives enacting such provision.

METZENBAUM AMENDMENT NO. 1572

Mr. METZENBAUM proposed an amendment to amendment No. 1437 proposed by Mr. DANFORTH to the bill S. 638, supra; as follows:

In lieu of the language proposed to be inserted, insert the following:

That this Act may be cited as the "Conrail Sale Act of 1985".

SEC. 2. (a) As soon as is practical, the Secretary shall solicit and consider new, sealed, competitive bids for the purchase of the common stock of Conrail. The specifications for such bids shall be sufficiently detailed so as to assure sufficient information and data for use by the Secretary in considering among others, matters such as the use of money and other assets of Conrail; the source of cash payment for such common stock; and the protection of the rights and benefits of the current employees of Conrail.

(b) One hundred eighty days following the date on which the Secretary solicits bids under subsection (a) of this Section, the Secretary shall report to Congress the results of such solicitation.

HEINZ AMENDMENT NOS. 1573 THROUGH 1577

(Ordered to lie on the table)

Mr. HEINZ submitted five amendments intended to be proposed by him to amendment No. 1437 proposed by Mr. DANFORTH to the bill S. 638, supra; as follows:

AMENDMENT NO. 1573

In lieu of the language proposed to be inserted, insert the following:

FINDINGS

SEC. 2. The Congress finds that—

(1) the Northeast Rail Service Act of 1981 (45 U.S.C. 1101 et seq.) provided for an orderly return of Conrail freight service to the private sector;

(2) the provisions of the Northeast Rail Service Act of 1981 were successful in removing Conrail's obligations beyond railroad freight service and in otherwise preparing Conrail for an orderly return to the private sector;

(3) acting under section 403 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 763), the Board of Directors of the United States Railway Association twice found Conrail to be a profitable corporation;

(4) acting under section 401 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 761), the Secretary engaged an investment banker and arranged, through open competitive bidding and negotiation, to sell the interest of the United States in the common stock of Conrail;

(5) the Secretary's Plan for the sale of the Conrail provides for sale of the interest of the United States in the common stock of Conrail to Norfolk Southern Corporation;

(6) the Secretary found that sale of the interest of the United States in the common stock of Conrail to Norfolk Southern Corporation best meets the sale criteria of (A) leaving Conrail in the strongest financial position after the sale, (B) preserving patterns of service to shippers and communities in the region Conrail serves, and (C) maximizing return to the Federal Government consistent with the criteria specified in clauses (A) and (B);

(7) amendments to the Regional Rail Reorganization Act of 1973 (45 U.S.C. 701 et seq.) and related laws are needed to permit the sale of the interest of the United States in the common stock of Conrail to Norfolk Southern Corporation and to permit cancellation of the interest of the United States in Conrail debt and preferred stock; and

(8) the Secretary's Plan satisfies the requirements of the Northeast Rail Service Act of 1981, including the intent, goals, and objectives relating to the sale of the interest of the United States in the common stock of Conrail and the requirements of section 401(e) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 761(c)).

PURPOSE

SEC. 3. It is therefore declared to be the purpose of the Congress in this Act to return Conrail to the private sector by directing and facilitating implementation of the Secretary's Plan for the sale of the interest of the United States in the common stock of Conrail.

DEFINITION

SEC. 4. (a) In this Act, unless the context otherwise requires, the term—

(1) "Conrail" means the Consolidated Rail Corporation;

(2) "Definitive Agreements" means any and all agreements existing or to be developed between the United States and Norfolk Southern Corporation, including all representations and warranties made therein, to implement the Memorandum of Intent described in paragraph (4)(A);

"except that such term shall not include any agreements unless there is a binding and restrictive agreement with Norfolk Southern Corporation that—

"(A) such Corporation's ability to utilize Conrail's built-in losses (determined presumptively by an allocation among Conrail's tangible and intangible assets of the cash price paid for the Conrail stock, plus remaining Conrail liabilities, less Conrail's cash, marketable securities, inventory, and the value of its excess pension assets) shall be restricted in a manner consistent with existing Federal tax law and regulations and with the Secretary's understanding that Norfolk Southern Corporation shall abide by, and remain subject to, the limitations set forth in Income Tax Regulations section 1.1502-15 and other related provisions of the Federal Income Tax Regulations, and

"(F) such Corporation will not directly or indirectly utilize Conrail's built-in losses by any means or through any device or method (including, but not limited to, stock or property transfers, or other capital or operating arrangements, having the effect of shifting taxable income to Conrail) having the effect of reducing the Federal tax liability of Norfolk Southern Corporation's affiliated group (other than Conrail and its existing subsidiaries).".

(3) "Secretary" means the Secretary of Transportation; and

(4) "Secretary's Plan" means (A) the Memorandum of Intent between the United States and Norfolk Southern Corporation signed February 8, 1985, and (B) the divestitures by the Norfolk Southern Corporation of certain rail tracks, rights, and facilities, and any transactions or agreements related or incidental to such diverstitures, in connection with the implementation of attachment A to the letter from the Department of Justice attached to the Memorandum of Intent as exhibit E.

(b) Section 102 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 702) is amended—

(I) by redesignating paragraphs (6) through (18) as paragraphs (7) through (19), and paragraphs (19) through (21) as paragraphs (21) through (23), respectively;

(2) by inserting after paragraph (5) the following paragraph:

(6) 'Definitive Agreements' means any and all ageements existing or to be developed between the United States and Norfolk Southern Corporation, including all representations and warranties made therein, to implement the Memoradum of Intent described in paragraph (20)(A);"; and

"except that such term shall not include any agreements unless there is a binding and restrictive agreement with Norfolk Southern Corporation that—

"(A) such Corporation's ability to utilize Conrail's built-in losses (determined presumptively by an allocation among Conrail's tangible and intangible assets of the cash price paid for the Conrail stock, plus remaining Conrail liabilities, less Conrail's cash, marketable securities, inventory, and the value of its excess pension assess) shall be restricted in a manner consistent with existing Federal tax law and regulations and with the Secretary's understanding that Norfolk from the Department of Justice attached to the Memorandum of Intent as exhibit E;".

(c) Section 1135(a) of the Northeast Rail Service Act of 1981 (45 U.S.C. 1104(a)) is amended—

(1) by redesignating paragraphs (6), (7), and (8) as paragraphs (7), (8), and (10), respectively;

(2) by inserting after paragraph (5) the following paragraph:

"(6) 'Definitive Agreements' means any and all agreements existing or to be developed between the United States and Norfolk Southern Corporation, including all representations and warranties made therein, to implement the Memorandum of Intent described in paragraph (9)(A);"; and

"except that such term shall not include any agreements unless there is a binding and restrictive agreement with Norfolk Southern Corporation that—

"(A) such Corporation's ability to utilize Conrail's built-in losses (determined presumptively by an allocation among Conrail's tangible and intangible assets of the cash price paid for the Conrail stock, plus remaining Conrail liabilities, less Conrail cash, marketable securities, inventory, and the value of its excess pension assets) shall be restricted in a manner consistent with existing Federal tax law and regulations and with the Secretary's understanding that Norfolk Southern Corporation shall abide by, and remain subject to, the limitations set forth in Income Tax Regulations section 1.1502-15 and other related provisions of the Federal Income Tax Regulations, and

"(B) such Corporation will not directly or indirectly utilize Conrail's built-in losses by any means or through any device or method (including, but not limited to, stock or property transfers, or other capital or operating arrangements, having the effect of shifting taxable income to Conrail) having the effect of reducing the Federal tax liability of Norfolk Southern Coporation's affiliated group (other than Conrail and its existing subsidiaries).".

(3) by inserting after paragraph (19), as so redesignated, the following paragraph:

"(20) 'Secretary's Plan' means (A) the Memorandum of Intent between the United States and Norfolk Southern Corporation signed February 8, 1985, and (B) the divestitures by the Norfolk Southern Corporation of certain rail tracks, rights, and facilities, and any transactions or agreements related or incidental to such divestitures, in connection with the implementation of attachment A to the letter from the Department of Justice attached to the Memorandum of Intent as exhibit E;".

TITLE I—AMENDMENTS TO THE REGIONAL RAIL REORGANIZATION ACT OF 1973 AND THE NORTHEAST RAIL SERVICE ACT OF 1981

Subtitle A—Regional Rail Reorganization Act of 1973 Amendments

LIMIT ON AUTHORITY TO PURCHASE STOCK

SEC. 101. Section 216(b) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 726(b)) is amended by adding at the end thereof the following paragraph:

"(5) The authority of the Association to purchase debentures or series A preferred stock of the Corporation under this section shall terminate upon the consummation of the sale of the interest of the United States in the common stock of the Corporation under the terms of the Secretary's Plan.".

RESPONSIBILITY OF CONRAIL DIRECTORS

SEC. 102. Section 301(i) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 741(i)) is amended by inserting immediately after "required by law" the following: ", taken to implement the Secretary's Plan,".

APPLICABILITY OF REGIONAL RAIL REORGANIZATION ACT OF 1973 TO CONRAIL AFTER SALE

SEC. 103. Section 301 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 741) is amended by adding at the end thereof the following subsection:

"(k) GOVERNING PROVISIONS AFTER SALE.—The provisions of this Act shall not apply to the Corporation and to activities and other actions and responsibilities of the Corporation and its directors after consummation of the sale of the interest of the United States in the common stock of the Corporation under the terms of the Conrail Sale Amendments Act of 1985, other than with regard to—

"(1) section 102 of this Act;

"(2) section 201(d) of this Act;

"(3) section 203 of this Act, but only with respect to information relating to proceedings before the special court established under section 209(b);

"(4) section 216(f)(8) of this Act, but only as such authority applies to activities related to the employee stock ownership plan and related trusts prior to or in connection with consummation of the sale of the interest of the United States in the common stock of the Corporation, including activities related to the sale, exchange, valuation, or disposition of the assets of the employee stock ownership plan and related trusts, or of Conrail Equity Corporation, in connection with the Secretary's Plan;

"(5) sections 216(f)(11) and 216(f)(12) of this Act, as amended by the Conrail Sale Amendments Act of 1985;

"(6) section 217(e) of this Act;

"(7) subsection (i) of this section, but only as such authority applies to service as a director of the Corporation prior to consummation or in connection with implementation of the sale of the interest of the United States in the common stock of the Corporation;

"(8) section 305 of this Act, but only as to the effect, and continuing administration, of supplemental transactions consummated prior to consummation of the sale of the interest of the United States in the common stock of the Corporation;

"(9) section 308 of this Act, but only in abandonment actions when such authority has been relied on to file a notice or notices of insufficent revenues prior to consummation of the sale of the interest of the United

States in the common stock of the Corporation;

"(10) section 401(a) of this Act, as amended by the Conrail Sale Amendments Act of 1985;

"(11) section 402 of this Act, as amended by the Conrail Sale Amendments Act of 1985;

"(12) section 408(c) of this Act, as amended by the Conrail Sale Amendments Act of 1985;

"(13) section 701 of this Act, but only as may be necessary to identify employees eligible for benefits under agreements entered into under such section;

"(14) section 702(e) of this Act;

"(15) section 704(b) of this Act;

"(16) section 709 of this Act;

"(17) section 710(b)(1) of this Act;

"(18) section 711 of this Act;

"(19) section 714 of this Act, but only with regard to disputes or controversies specified in such section that arose prior to consummation of the sale of the interest of the United States in the common stock of the Corporation; and

"(20) section 715 of this Act, as amended by the Conrail Sale Amendments Act of 1985.".

IMPLEMENTATION OF THE SECRETARY'S PLAN

SEC. 104. (a) Section 401(a)(3) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 761(a)(3)) is amended to read as follows:

"(3) The Secretary is authorized to implement the Secretary's Plan, in accordance with paragraph (4) of this subsection. Such implementation of the Secretary's Plan and the coordinated operation of the Corporation's properties with those of Norfolk Southern Corporation and its affiliates as a single rail system is deemed approved by the Commission under chapter 113 of title 49, United States Code.".

(b) Section 401(a) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 761(a)) is amended by adding at the end thereof the following paragraphs:

"(4) The Secretary shall implement the Secretary's Plan by negotiating, executing, delivering, and performing the Definitive Agreements, which shall conform to the Memorandum of Intent described in section 102(20)(A) of this Act. The Secretary shall, 45 calendar days before the date on which the Secretary anticipates that the interest of the United States in the common stock of the Corporation will be sold to Norfolk Southern Corporation, transmit to the Committee on Commerce, Science, and Transportation of the Senate and to the Committee on Energy and Commerce of the House of Representatives a notification of any alteration from the Memorandum of Intent described in section 102(20)(A) of this Act which will be made in the Definitive Agreements. After the date of such sale, the Secretary shall transmit to such Committees notification of any intent to waive compliance with any substantive covenant, agreement or obligation contained in the Definitive Agreements, and the Secretary may not waive such compliance until a period of 45 calendar days has expired after the date of such transmittal.

"(5) The Secretary shall not transfer the interest of the United States in the common stock of the Corporation except concurrently with a divestiture by Norfolk Southern Corporation of rail assets and rights approved by the Attorney General.

"(6) The sale of the interest of the United States in the common stock of the Corporation shall be deemed to be consummated at the date title to the common stock passes to Norfolk Southern Corporation and the United States receives the cash purchase price.".

RAILROAD PURCHASERS AND OFFER FOR SALE OF SHARES TO EMPLOYEES

SEC. 105. Subsections (d) and (e) of section 401 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 761(d) and (e)) are repealed.

CANCELLATION OF DEBT AND PREFERRED STOCK

SEC. 106. Section 402 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 762) is amended to read as follows:

"DEBT AND PREFERRED STOCK

"SEC. 402. (a) RECAPITALIZATION.—In connection with the sale of the interest of the United States in the common stock of the Corporation under section 401 of this Act, and consistent with the Secretary's Plan, the Secretary may take all action necessary to cause the Corporation to be recapitalized such that the interest of the United States, or any agent or instrumentality thereof, and all other commitments or obligations of the Corporation to the United States or any agent or instrumentality thereof arising out of such interest, in any debt (including accrued interest and contingent interest thereon) and preferred stock (including accrued and unpaid dividends thereon) of the Corporation shall be cancelled or retired, and contributed to the capital of the Corporation. The Secretary shall cause the recapitalization authorized by this section to be effective as of the consummation of the sale of the interest of the United States in the common stock of the Corporation.

"(b) BREACH OF REPRESENTATIONS.—(1) Norfolk Southern Corporation or any successor corporation thereto may bring suit for any breach of representations contained in paragraph 6(e) of the Memorandum of Intent described in section 102(20)(A) of this Act (hereinafter referred to as the 'Representations') in the United States Claims Court or a district court of the United States. If such an action is brought, the Claims Court or district court shall determine the amount by which the United States income tax (including interest and penalties whether or not such penalties are assessed as a tax under the Internal Revenue Code of 1954) assessable against the Corporation or against Norfolk Southern Corporation for any year exceeds the amount of such tax which would have been assessable for such year had such Representations not been breached (hereinafter referred to as the 'Offset Amount').

"(2) The Representations shall be considered breached and Norfolk Southern Corporation shall be entitled to bring suit upon the first occurrence of any of the following that is inconsistent with the Representations: (A) the issuance by the Internal Revenue Service of a statutory notice of deficiency (90-day letter), (B) the assessment of the United States income tax, or (C) any claim by the United States in a suit or other judicial proceeding against Norfolk Southern Corporation or the Corporation.

"(3) The right to bring suit pursuant to this section shall not be subject to any waiting period applicable to tax proceedings or to any requirements for payment of any tax as a condition to instituting any suit based on a breach of the Representations.

"(4) Any judgment for money damages relating to breach of the Representations shall only be awarded as an offset in any court or administrative proceeding against the tax liability of Norfolk Southern Corporation or the Corporation, or both, to which such breach relates; except that if any such tax liability resulting from such breach has been paid, the judgment shall to that extent be an offset against any United States income tax liability of the Norfolk Southern Corporation or the Corporation, or both. If any portion of the tax resulting from a breach of the Representations has been paid, then the Offset Amount shall include interest on such payment from the date paid at the rate from time to time specified in the Internal Revenue Code of 1954 for interest payable on refund claims.

"(5) It shall not be a defense to an action brought under this section that Norfolk Southern Corporation knew, or should have known, of the falsity of the Representations or that there exists no carryover basis procedure as contemplated by the last sentence of the Representations.

"(6) For purposes of this section, tax liability of Norfolk Southern Corporation shall include the tax liability of Norfolk Southern Corporation and its affiliated group, within the meaning of section 1504 of the Internal Revenue Code of 1954.".

APPLICABILITY OF CERTAIN LAWS TO SALE OF CONRAIL

SEC. 107. Section 408 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 768) is amended—

(1) by repealing subsection (b);

(2) by amending subsection (c) by striking "No transfer" and all that follows through "subject to" and inserting in lieu thereof "Except as provided in section 1152 of the Northeast Rail Service Act of 1981 (45 U.S.C. 1105), the Secretary's Plan and the Definitive Agreements and their negotiation, execution, and implementation shall not be subject to administrative or"; and

(3) by adding at the end of subsection (c) the following sentence: "The issuance in private placement of notes or other securities in accordance with exhibit B to the Memorandum of Intent (described in section 102(20)(A) of this Act) in the Secretary's Plan shall not be subject to the provisions of subtitle IV of title 49, United States Code.".

LABOR PROTECTION

SEC. 108. (a) Section 701(d)(2) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 797(d)(2)) is amended by striking "the last day of the eighteen-month period beginning on".

(b)(1) Title VII of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 797 et seq.) is amended by adding at the end thereof the following section:

"PROTECTION AFTER SALE

"SEC. 715. After consummation of the sale of the interest of the United States in the common stock of the Corporation pursuant to the Secretary's Plan, any employee of Norfolk Southern Corporation, the Corporation, any rail affiliate of either company, and any transferee of the rail tracks, rights, and facilities divested in accordance with the Secretary's Plan, who is adversely affected in his employment by the implementation of the Secretary's Plan shall receive from his employer protection under the labor protective conditions set forth in New York Dock Railway—Control—Brooklyn Eastern District Terminal (354 ICC 399 (1978), modified upon further consideration, 360 ICC 60 (1979)). The arbitration provisions of section 4 of New York Dock shall apply to the formation of any implementing agreements that may be necessary in con-

nection with the implementation of the Secretary's Plan, including any resulting coordinations.".

(2) The table of contents of the Regional Rail Reorganization Act of 1973 is amended by inserting immediately after the item relating to section 714 the following item:

"Sec. 715. Protection after sale.".

PREFERENTIAL HIRING

SEC. 109. Section 703 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 797b) is amended—

(1) by redesignating subsection (b) as subsection (c); and

(2) by inserting immediately after subsection (a) the following subsection:

"(b) IMPLEMENTATION OF SECRETARY'S PLAN.—Any employee of any railroad who is deprived of employment as a result of the implementation of the Secretary's Plan shall have the first right of hire for a vacancy for which he is qualified on any Norfolk Southern Corporation rail subsidiary, except where such vacancy is covered by (1) an affirmative action plan, or a hiring plan designated to eliminate discrimination, that is required by Federal or State statute, regulation, or Executive order, or by the order of a Federal court or agency, or (2) a permissible voluntary affirmative action plan. For purposes of this subsection, a railroad shall not be considered to be hiring new employees when it recalls any of its own furloughed employees.".

CROSS CRAFT EMPLOYMENT

SEC. 110. (a) Title VII of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 797 et seq.) is amended by inserting immediately after section 703 the following section:

"CROSS CRAFT EMPLOYMENT

"SEC. 703A. Any employee of Norfolk and Western Railway Company, Southern Railway Company, or the Corporation who is deprived of employment as a result of the implementation of the Secretary's Plan shall have the first right of hire for any vacancy for which such employee is qualified at the entry level of any Norfolk Southern Corporation rail subsidiary, without regard to craft or class or the provisions of section 703 of this Act. Such employee shall retain his seniority rights to return to his original craft or class whenever a vacancy occurs. For purposes of this section, a railroad shall not be considered to be hiring new employees when it recalls any of its own furloughed employees.".

(b) The table of contents of the Regional Rail Reorganization Act of 1973 is amended by inserting immediately after the item relating to section 703 the following item:

"Sec. 703A. Cross craft employment.".

Subtitle B—Northeast Rail Service Act of 1981 Amendments

SPECIAL COURT JURISDICTION

SEC. 121. (a) Section 1152 of the Northeast Rail Service Act of 1981 (45 U.S.C. 1105) is amended—

(1) by inserting "or the Conrail Sale Amendments Act of 1985" immediately after "subtitle" wherever it appears;

(2) in subsection (a), by striking "or" at the end of paragraph (3), by striking the period at the end of paragraph (4) and inserting in lieu thereof a semicolon, and by adding at the end thereof the following paragraphs:

"(5) brought by the United States or any agency or instrumentality thereof seeking to enforce the Secretary's Plan or the Definitive Agreements;

"(6) brought by Norfolk Southern Corporation seeking to enforce the Secretary's Plan or the Definitive Agreements;

"(7) brought by a party who filed a complaint with the Secretary under subsection (e) of this section, and who is aggrieved by (A) a determination of the Secretary under paragraph (1) of such subsection that the party has not suffered direct economic injury, or (B) a decision of the Secretary under paragraph (2) of such subsection that a covenant has not been violated;

"(8) brought by a party which is a signatory to an ancillary agreement entered into in accordance with the Secretary's Plan or the Definitive Agreements and which is seeking to enforce such ancillary agreement; or

"(9) brought to determine the value of the interest of the employee stock ownership plan and related trusts, or of the beneficiaries thereof, in the preferred stock of the Conrail Equity Corporation.

For purposes of any action brought under paragraph (5) of this subsection, a violation of any covenant contained in the Secretary's Plan or the Definitive Agreements shall be deemed to constitute immediate and irreparable harm for purposes of awarding injunctive relief to the United States.".

(b) Section 1152 of the Northeast Rail Service Act of 1981 (45 U.S.C. 1105) is amended by adding at the end thereof the following subsection:

"(e)(1) Any party who suffers direct economic injury as a result of an alleged violation of a covenant contained in the Definitive Agreements may file a complaint with the Secretary seeking enforcement of such covenant. If the Secretary determines that the complainant has demonstrated to the Secretary that it has suffered direct economic injury, the Secretary shall investigate the complaint.

"(2) If the Secretary decides to investigate a complaint under paragraph (1) of this subsection, the Secretary shall give reasonable notice of such decision to investigate to the alleged violator of such covenant and the complainant, and shall make a final decision on such complaint within 60 days after the date on which it was filed.

"(3) If the Secretary finds that (A) the covenant in question has been violated, and (B) the complainant suffered direct economic injury as a result of such violation, the Secretary shall enter an order directing the violator of such covenant to comply with such covenant.

"(4) On appeal, any decision by the Secretary under this subsection shall be upheld, unless such decision is found to be arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law.".

APPLICABILITY OF OTHER LAWS

SEC. 122. Section 1168(a) of the Northeast Rail Service Act of 1981 (45 U.S.C. 1116(a)) is amended by striking "service transfers" and inserting in lieu thereof "sale of the interest of the United States in the common stock of Conrail or transfer of the rail properties and freight service responsibilities of Conrail".

Subtitle C—Employee Stock Ownership Plan

RESPONSIBILITY OF EMPLOYEE STOCK OWNERSHIP PLAN FIDUCIARIES

SEC. 131. (a) Section 216(f)(8)(A) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 726(f)(8)(A)) is amended—

(1) by striking "or" at the end of clause (ii);

(2) by striking the period at the end of clause (iii) and inserting in lieu thereof "; or"; and

(3) by adding at the end thereof the following clause:

"(iv) for or in connection with any action taken to implement the Secretary's Plan, including any sale, exchange, valuation, or disposition of the plan and related trust assets, or the assets of Conrail Equity Corporation, in connection with implementation of the Secretary's Plan and any determination of the terms on which any such sale, exchange, valuation, or disposition is effected.".

QUALIFICATION, REVIEW, AND VALUATION OF EMPLOYEE STOCK OWNERSHIP PLANS

SEC. 132. Section 216(f) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 726(f)) is amended by adding at the end thereof the following paragraphs:

"(11) The employee stock ownership plans of the Corporation and related trusts maintained, amended, or adopted in implementing the Secretary's Plan shall be deemed to meet the qualification requirements of sections 401 and 501, respectively, of the Internal Revenue Code of 1954, notwithstanding (A) that such plans may not meet the requirements of section 415 of the Internal Revenue Code of 1954, or (B) that participants in such plans may be entitled to withdraw a portion of the shares allocated to their accounts prior to the expiration of the period generally imposed by the Internal Revenue Service for qualified plans. Such qualification shall relate only to the contributions, allocations, and withdrawals of shares provided for in the Secretary's Plan with respect to the plans and related trusts maintained, amended, or adopted in implementing the Secretary's Plan. Such contributions and allocations shall in no event be treated as having exceeded the maximum annual addition permitted under section 415 of the Internal Revenue Code of 1954 (but not for purposes of applying section 404(j) of the Internal Revenue Code of 1954) for purposes of calculating any limitation under section 415 with respect to contributions and allocations not described in the Secretary's Plan, including contributions and allocations to plans and related trusts of the Corporation and any affiliated corporation. The continued qualification of such plans with respect to all other contributions, allocations, and withdrawals shall be subject to all provisions of existing law, as amended from time to time. No inference shall be drawn from this paragraph as to whether an amount is a contribution deductible under section 404 of the Internal Revenue Code of 1954 rather than a non-deductible capital expenditure.

"(12) Except as provided in section 1152 of the Northeast Rail Service Act of 1981 (45 U.S.C. 1105), the issuance and sale or contribution of securities by Norfolk Southern Corporation to fulfill arrangements with the Corporation's employees in implementing the Secretary's Plan and the distribution of shares from the Corporation's employee stock ownership plans and related trusts maintained, amended, or adopted in implementing the Secretary's Plan shall not be subject to the registration and prospectus delivery requirements of the Securities Act of 1933, any approval requirement under subtitle IV of title 49, United States Code, or the laws of any State with respect to the issuance and sale of securities.".

TITLE II—TECHNICAL AND CONFORMING AMENDMENTS

REGIONAL RAIL REORGANIZATION ACT OF 1973 AMENDMENTS AND REPEALS

SEC. 201. The following provisions of the Regional Rail Reorganization Act of 1973 are repealed or amended as specified:

(1) Subsections (a) and (b) of section 214 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 724 (a) and (b)) are repealed, and such section 214 is amended by striking "(c) ASSOCIATION.—".

(2) Subsection (f) of section 217 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 727(f)) is repealed, without prejudice to the continued availability of funds appropriated prior to the date of enactment of this Act pursuant to section 217(f)(1)(C) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 727(f)(1)(C)).

(3) Section 404 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 764), and the item relating to such section in the table of contents of such Act, are repealed.

(4) Section 405 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 765), and the item relating to such section in the table of contents of such Act, are repealed.

(5) Section 406 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 766), and the item relating to such section in the table of contents of such Act, are repealed.

(6) Section 407 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 767), and the item relating to such section in the table of contents of such Act, are repealed.

(7) Subsections (a) and (d) of section 408 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 768 (a) and (d)) are repealed.

(8) Section 409 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 769), and the item relating to such section in the table of contents of such Act, are repealed.

(9) Section 410 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 769a), and the item relating to such section in the table of contents of such Act, are repealed.

(10) Section 411 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 769b), and the item relating to such section in the table of contents of such Act, are repealed.

(11) Section 412 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 769c), and the item relating to such section in the table of contents of such Act, are repealed.

(12) Section 713 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 797l), and the item relating to such section in the table of contents of such Act, are repealed.

AMENDMENTS AND REPEALS OF OTHER RAIL LAWS

SEC. 202. The following provisions of law are repealed or amended as specified:

(1) Section 1154 of the Northeast Rail Service Act of 1981 (45 U.S.C. 1107), and the item relating to such section in the table of contents of such Act, are repealed.

(2) Section 1161 of the Northeast Rail Service Act of 1981 (45 U.S.C. 1110), and the item relating to such section in the table of contents of such Act, are repealed.

(3) Section 1166 of the Northeast Rail Service Act of 1981 (45 U.S.C. 1114), and the item relating to such section in the table of contents of such Act, are repealed.

(4) Subsection (c) of section 1167 of the Northeast Rail Service Act of 1981 (45 U.S.C. 1115(c)) is repealed.

(5) Subsection (b) of section 1168 of the Northeast Rail Service Act of 1981 (45 U.S.C. 1116(b)) is repealed.

(6) Section 501(8) of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 821(8)) is amended—

(A) by striking "(A)";

(B) by striking "(i)" and inserting in lieu thereof "(A)", and by striking "(ii)" and inserting in lieu thereof "(B)"; and

(C) by striking all after "utilization;".

(7) Section 505 of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 825) is amended—

(A) in subsection (a)(1), by striking all after "railroad" through "1981)"; and

(B) in subsection (b)(2)(C), by striking all after "costs" the second time it appears through "subsidy".

(8) Subsection (b)(1) of section 509 of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 829(b)(1)) is repealed.

(9) Section 511(e) of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 831(e)) is amended by striking "(1)", and by striking all after "time" and inserting in lieu thereof a period.

(10) Section 402 of the Rail Safety and Service Improvement Act of 1982 (45 U.S.C. 825a) is repealed.

(11) Section 1005(b)(1) of the Rail Passenger Service Act (45 U.S.C. 655(b)(1)) is amended by striking "the Consolidated Rail Corporation,".

(12) Section 10362(b)(7)(A) of title 49, United States Code, is amended by striking "by the Consolidated Rail Corporation or".

(13) Section 332(d) of title 49, United States Code, is amended by striking ", the Consolidated Rail Corporation,".

TITLE III—MISCELLANEOUS PROVISIONS

COMMON CARRIER STATUS OF CONRAIL AFTER SALE

SEC. 301. (a) Conrail's status as a common carrier by railroad under section 10102(4) of title 49, United States Code, shall not be affected by virtue of sale of the interest of the United States in Conrail's common stock. Purchase of Conrail stock shall not alone be the basis of a determination that the acquiring entity has become a common carrier by railroad under section 10102(4) of title 49, United States Code.

(b) The Definitive Agreements shall contain a binding commitment by Norfolk Southern Corporation to continue to operate Conrail in full compliance with the provisions of section 10731(e) of title 49, United States Code.

CONSUMMATION OF SALE

SEC. 302. The sale of the interest of the United States in the common stock of Conrail shall be deemed to be consummated on the date title to the common stock passes to Norfolk Southern Corporation and the United States receives the cash purchase price.

CONTRACTS

SEC. 303. (a) Except as provided in subsection (b) of this section, nothing in this Act shall affect—

(1) Conrail's obligation to carry out its transportation contracts and equipment leases, equipment trusts, and conditional sale agreements, in accordance with their terms; and

(2) the obligation of any transferee of divested assets to carry out transportation contracts and equipment leases, equipment trusts, and conditional sale agreements to which such assets are subject, in accordance with their terms.

(b) If a divestiture carried out pursuant to the Secretary's Plan precludes Conrail from providing a transportation service for which it has contracted without a right of termination that may be exercised in the event of the sale of the interest of the United States in the common stock of Conrail and the divestiture will result in a change or modification in the movement of the traffic involved, the transferee of the divested rights and properties and Conrail shall provide the contracted-for service on terms and conditions which, to the maximum extent possible, conform to the terms and conditions in the contract.

CONGRESSIONAL OVERSIGHT OF COMPLIANCE

SEC. 304. The Secretary shall, no later than January 31 of each year, submit to the Committee on Commerce, Science, and Transportation of the Senate and to the Committee on Energy and Commerce of the House of Representatives a report setting forth each certificate which Norfolk Southern Corporation and Conrail provided to the Secretary, during the preceding year, certifying compliance with the covenants contained in the Definitive Agreements.

SEPARABILITY

SEC. 305. If any provision of this Act or the application thereof to any person or circumstances is held invalid, the remainder of this Act and the application of such provision to other persons or circumstances shall not be affected thereby.

EFFECTIVE DATE

SEC. 306. (a) Except as provided in subsection (b) of this section, the provisions of and amendments made by this Act shall take effect on the date of enactment of this Act.

(b) Sections 108(a), 201 and 202 of this Act shall take effect on the date of consummation of the sale of the interest of the United States in the common stock of Conrail.

(c) Any provision of this Act which, pursuant to Article I, section 7 of the Constitution, provides for raising revenue shall only be effective upon the enactment into law of a bill which has originated in the House of Representatives enacting such provision.

AMENDMENT NO. 1574

In lieu of the matter proposed to be inserted, insert the following: "except that the term 'definitive agreements' shall not include any agreements unless there is a binding and restrictive agreement between the Internal Revenue Service and Norfolk Southern Corporation that—

"(A) such Corporation's ability to utilize Conrail's built-in losses (determined presumptively by an allocation among Conrail's tangible and intangible assets of the cash price paid for the Conrail stock, plus remaining Conrail liabilities, less Conrail cash, marketable securities, inventory, and the value of its excess pension assets) shall be restricted in a manner consistent with existing Federal tax law and regulations and with the Secretary's understanding that Norfolk Southern Corporation shall abide by, and remain subject to, the limitations set forth in Income Tax Regulations section 1.1502-15 and other related provisions of the Federal Income Tax Regulations, and

"(B) such Corporation will not directly or indirectly utilize Conrail's built-in losses by any means or through any device or method (including, but not limited to, stock or property transfers, or other capital or operating arrangements, having the effect of shifting taxable income to Conrail) having the effect of reducing the Federal tax liability of Norfolk Southern Corporation's affiliated group (other than Conrail and its existing subsidiaries).".

AMENDMENT NO. 1575

In lieu of the matter proposed to be inserted, insert the following: "except that the term 'definitive agreements' shall not include any agreements unless there is a binding and restrictive agreement between the Internal Revenue Service and Norfolk Southern Corporation that—

"(A) such Corporation's ability to utilize Conrail's built-in losses (determined presumptively by an allocation among Conrail's tangible and intangible assets of the cash price paid for the Conrail stock, plus remaining Conrail liabilities, less Conrail cash, marketable securities, inventory, and the value of its excess pension assets) shall be restricted in a manner consistent with existing Federal tax law and regulations and with the Secretary's understanding that Norfolk Southern Corporation shall abide by, and remain subject to, the limitations set forth in Income Tax Regulations section 1.1502-15 and other related provisions of the Federal Income Tax Regulations, and

"(B) such Corporation will not directly or indirectly utilize Conrail's built-in losses by any means or through any device or method (including, but not limited to, stock or property transfers, or other capital or operating arrangements, having the effect of shifting taxable income to Conrail) having the effect of reducing the Federal tax liability of Norfolk Southern Corporation's affiliated group (other than Conrail and its existing subsidiaries).".

AMENDMENT NO. 1576

In lieu of the matter proposed to be inserted, insert the following "except that the term 'definitive agreements' shall not include any agreements unless there is a binding and restrictive agreement between the Internal Revenue Service and Norfolk Southern Corporation that—

"(A) such Corporation's ability to utilize Conrail's built-in losses (determined presumptively by an allocation among Conrail's tangible and intangible assets of the cash price paid for the Conrail stock, plus remaining Conrail liabilities, less Conrail cash, marketable securities, inventory, and the value of its excess pension assets) shall be restricted in a manner consistent with existing Federal tax law and regulations and with the Secretary's understanding that Norfolk Southern Corporation shall abide by, and remain subject to, the limitations set forth in Income Tax Regulations section 1.1502-15 and other related provisions of the Federal Income Tax Regulations, and

"(B) such Corporation will not directly or indirectly utilize Conrail's built-in losses by any means or through any device or method (including, but not limited to, stock or property transfers, or other capital or operating arrangements, having the effect of shifting taxable income to Conrail) having the effect of reducing the Federal tax liability of Norfolk Southern Corporation's affiliated group (other than Conrail and its existing subsidiaries).".

AMENDMENT NO. 1577

In lieu of the matter proposed to be inserted, insert the following: "except that the term 'definitive agreements' shall not include any agreements unless there is a binding and restrictive agreement between the Internal Revenue Service and Norfolk Southern Corporation that—

"(A) such Corporation's ability to utilize Conrail's built-in losses (determined presumptively by an allocation among Conrail's tangible and intangible assets of the cash price paid for the Conrail stock, plus remaining Conrail liabilities, less Conrail cash, marketable securities, inventory, and the value of its excess pension assets) shall be restricted in a manner consistent with existing Federal tax law and regulations and with the Secretary's understanding that Norfolk Southern Corporation shall abide by, and remain subject to, the limitations set forth in the Income Tax Regulations section 1.1502-15 and other related provisions of the Federal Income Tax Regulations, and

"(B) such Corporation will not directy or indirectly utilize Conrail's built-in losses by any means or through any device or method (including, but no limited to, stock or property transfers, or other capital or operating arrangements, having the effect of shifting taxable income to Conrail) having the effect of reducing the Federal tax liability of Norfolk Southern Corporation's affiliated group (other than Conrail and its existing subsidiaries).".

METZENBAUM AMENDMENT NOS. 1578 THROUGH 1581

(Ordered to lie on the table.)

Mr. METZENBAUM submitted four amendments intended to be proposed by him to the bill S. 638, supra; as follows:

AMENDMENT NO. 1578

In lieu of the matter proposed to be inserted, insert the following: "except that the term 'definitive agreements' shall not include any agreements unless there is a binding and restrictive agreement between the Internal Revenue Service and Norfolk Southern Corporation that—

"(A) such Corporation's ability to utilize Conrail's built-in losses (determined presumptively by an allocation among Conrail's tangible and intangible assets of the cash price paid for the Conrail stock, plus remaining Conrail liabilities, less Conrail cash, marketable securities, inventory, and the value of its excess pension assets) shall be restricted in a manner consistent with existing Federal tax law and regulations and with the Secretary's understanding that Norfolk Southern corporation shall abide by, and remain subject to, the limitations set forth in Income Tax Regulations section 1.1502-15 and other related provisions of the Federal Income Tax Regulations, and

"(B) such Corporation will not directly or indirectly utilize Conrail's built-in losses by any means or through any device or method (including, but not limited to, stock or property transfers, or other capital or operating arrangements, having the effect of shifting taxable income to Conrail) having the effect of reducing the Federal tax liability of Norfolk Southern Corporation's affiliated group (other than Conrail and its existing subsidiaries).".

AMENDMENT NO. 1579

In lieu of the matter proposed to be inserted, insert the following: "except that the term 'definitive agreements' shall not include any agreements unless there is a binding and restrictive agreement between the Internal Revenue Service and Norfolk Southern Corporation that—

"(A) such Corporation's ability to utilize Conrail's built-in losses (determined presumptively by an allocation among Conrail's tangible and intangible assets of the cash price paid for the Conrail stock, plus remaining Conrail liabilities, less Conrail cash, marketable securities, inventory, and the value of its excess pension assets) shall be restricted in a manner consistent with existing Federal tax law and regulations and with the Secretary's understanding that Norfolk Southern Corporation shall abide by, and remain subject to, the limitations set forth in Income Tax Regulations section 1.1502-15 and other related provisions of the Federal Income Tax Regulations, and

"(B) such Corporation will not directly or indirectly utilize Conrail's built-in losses by any means or through any device or method (including, but not limited to, stock or property transfers, or other capital or operating arrangements, having the effect of shifting taxable income to Conrail) having the effect of reducing the Federal tax liability of Norfolk Southern Corporation's affiliated group (other than Conrail and its existing subsidiaries).".

AMENDMENT NO. 1580

In lieu of the matter proposed to be inserted, insert the following: "except that the term 'definitive agreements' shall not include any agreements unless there is a binding and restrictive agreement between the Internal Revenue Service and Norfolk Southern Corporation that—

"(A) such Corporation's ability to utilize Conrail's built-in losses (determined presumptively by an allocation among Conrail's tangible and intangible assets of the cash price paid for the Conrail stock, plus remaining Conrail liabilities, less Conrail cash, marketable securities, inventory, and the value or its excess pension assets) shall be restricted in a manner consistent with existing Federal tax law and regulations and with the Secretary's understanding that Norfolk Southern Corporation shall abide by, and remain subject to, the limitations set forth in Income Tax Regulations section 1.1502-15 and other related provisions of the Federal Income Tax Regulations, and

"(B) such Corporation will not directly or indirectly utilize Conrail's built-in losses by any means or through any device or method (including, but not limited to, stock or property transfers, or other capital or operating arrangements, having the effect of shifting taxable income to Conrail) having the effect of reducing the Federal tax liability of Norfolk Southern Corporation's affiliated group (other than Conrail and its existing subsidiaries).".

AMENDMENT NO. 1581

In lieu of the matter proposed to be inserted, insert the following: "except that the term 'definitive agreements' shall not include any agreements unless there is a binding and restrictive agreement between the Internal Revenue Service and Norfolk Southern Corporation that—

"(A) such Corporation's ability to utilize Conrail's built-in losses (determined presumptively by an allocation among Conrail's tangible and intangible assets of the cash price paid for the Conrail stock, plus remaining Conrail liabilities, less Conrail cash, marketable securities, inventory, and the value of its excess pension assets) shall be restricted in a manner consistent with existing Federal tax law and regulations and with the Secretary's understanding that Norfolk Southern Corporation shall abide by, and remain subject to, the limitations set forth in Income Tax Regulations section 1.1502-15 and other related provisions of the Federal Income Tax Regulations, and

"(B) such Corporation will not directly or indirectly utilize Conrail's built-in losses by

any means or through any device or method (including, but not limited to, stock or property transfers, or other capital or operating arrangements, having the effect of shifting taxable income to Conrail) having the effect of reducing the Federal tax liability of Norfolk Southern Corporation's affiliated group (other than Conrail and its existing subsidiaries).".

PRESSLER (AND DURENBERGER) AMENDMENT NO. 1582

Mr. PRESSLER (for himself and Mr. DURENBERGER) proposed an amendment which was subsequently modified, to amendment No. 1437 proposed by Mr. DANFORTH to the bill S. 638, supra; as follows:

On page 31, insert a new section 304 as follows after section 303 and renumber sections 304 through 306 as sections 305 through 307:

"SEC. 304. Subtitle IV of title 49, United States Code, is amended by inserting a new section 10735 as follows:

"SEC. 10735. REGIONAL RAILROAD GATEWAY PROTECTION.

"(a) For purposes of this section, unless the context requires otherwise:

"(i) 'Affected Carrier Routing(s)' means the freight route(s) of a Midwest Regional Carrier designated by the Interstate Commerce Commission under subsection (c) of this section pursuant to a finding under subsection (b) of this section as the route(s) from which the relevant diversions have occurred;

"(ii) 'Base Revenues' means the total railroad freight revenues a railroad collected during the last full calendar year prior to the enactment of the Conrail Sale Amendments Act of 1985 multiplied by a fraction the numerator of which is the United States Bureau of Labor Statistics, Consumer Price Index for Urban Wage Earners and Clerical Workers, all items (1967=100) for 1986 and the denominator of which is the United States Bureau of Labor Statistics, Consumer Price Index for Urban Wage Earners and Clerical Workers, all items (1967=100) for the year concerning which a complaint is brought under this section;

"(iii) 'Exempt Joint Rate' means a transportation charge for deregulated railroad freight traffic specified in an agreement to which both a Midwest Regional Carrier and Norfolk Southern/Conrail are parties;

"(iv) 'Midwest Regional Carrier' means a Class I rail carrier: (A) not affiliated with or operated as a part of another United States Class I rail carrier, (B) the total freight revenues of which do not exceed 3.6 percent of total United States rail freight revenues, and (C) the principal freight routes of which connect its service territory with the Chicago Terminal District;

"(v) 'New tariff joint rate' or 'new exempt joint rate' means any tariff joint rate which is created through selective rate adjustments, excluding general rate increases or decreases.

"(vi) 'Norfolk Southern/Conrail' means the Norfolk Southern Corporation, its rail affiliates, and the Consolidated Rail Corporation;

"(vii) 'Short railroad' means a rail carrier which, together with any affiliates, earned rail operating revenues of less than $90,000,000 in 1984;

"(viii) 'Tariff joint rate' means a rate on regulated railroad freight traffic on file with the Interstate Commerce Commission to which tariff rate both a Midwest Regional Carrier and Norfolk Southern/Conrail are parties; and

"(ix) 'Through revenues' mean the entire transportation charge exclusive of any lawful agreement any party may have for refund or discount of charges to shippers.

"(b) Upon receipt of a complaint from a Midwest Regional Carrier prior to the tenth anniversary of the date enactment of the Conrail Sale Amendments Act of 1985, the Interstate Commerce Commission shall conduct a proceeding in which the complaining Midwest Regional Carrier, * * * shall have the burden of proving:

"(i) that it suffered a cumulative diversion of its railroad freight revenues to Norfolk Southern/Conrail from the date the sale of the interest of the United States in the common stock of the Consolidated Rail Corporation to Norfolk Southern Corporation is consummated through the date the complaint is filed in excess of three and one-half percent of its Base Revenues;

"(ii) that the diversion of railroad freight revenues referred to in paragraph (b)(i) of this section resulted from an anticompetitive practice (or practices) of Norfolk Southern/Conrail and not from fair and effective competition from Norfolk Southern/Conrail that benefits shippers and consumers, such as superior service or lawful lower rates; and

"(iii) that the diversion of railroad freight revenues referred to in paragraph (b)(i) of this section did or will result in a loss of essential railroad freight services.

"(c) If the Interstate Commerce Commission finds that, in a proceeding conducted under this section, the criteria set forth in subsection (b) of this section have been met, the Interstate Commerce Commission shall, in every case, designate Affected Carrier Routings and cause Norfolk Southern/Conrail to maintain, keep in effect, or concur in the establishment or re-establishment of tariff joint rates or exempt joint rates via such Affected Carrier Routings as follows:

"(i) Norfolk Southern/Conrail tariff joint rates and exempt joint rates via Affected Carrier Routings (A) in existence on the date the sale of the interest of the United States in the common stock of the Consolidated Rail Corporation to Norfolk Southern Corporation is consummated, (B) applicable to traffic moving between origins and destinations on Norfork Southern/Conrail and shortline railroads connecting with it and origins and destinations on the Affected Carrier Routing, shortline railroads connecting with it, and connecting lines beyond it, and (C) applicable to traffic moving via Chicago, shall be maintained or restored and shall remain in effect; *provided, however, that* either Norfolk Southern/Conrail or the Midwest Regional Carrier, or both, may take any or all Rail Carrier Cost Recovery increases in tariff joint rates, or increases in rates according to another index agreed upon between them, or, in the case of exempt joint rates, either may increase its share of through revenue as may be necessary to maintain the ratio of Norfolk Southern/Conrail's share of through revenues to the Midwest Regional Carrier's share of through revenue on the Affected Carrier Routing that exists on the date the sale of the interest of the United States in the common stock of the Consolidated Rail Corporation to Norfolk Southern Corporation is consummated.

"(ii) Whenever Norfolk Southern/Conrail establishes a new tariff joint rate or exempt joint rate on traffic moving between origins and destinations on Norfolk Southern/Conrail and origins and destinations on an Affected Carrier Routing, shortline railroads connecting to it, and connecting lines beyond it, Norfolk Southern/Conrail shall concur in the application of the same tariff joint rate or exempt joint rate via Norfolk Southern/Conrail—Chicago—Affected Carrier Routing between the same origin and destination points; *provided, however, that* the actual mileage traversed via Norfolk Southern/Conrail—Chicago—Affected Carrier Routing shall not exceed 110 percent of the mileage traversed by the routing cited by the new tariff joint rate or exempt joint rate established by Norfolk Southern/Conrail.

"(iii) Revenues from traffic on routes governed by paragraph (c)(ii) of this section shall be divided among the carriers according to the standard divisions of railroad revenue customarily applicable to such routes.

"(iv) On routes governed by paragraph (c)(ii) of this section, either Norfolk Southern/Conrail or the Midwest Regional Carrier, or both, may take any or all Rail Carrier Cost Recovery increases in tariff joint rates, or increases in rates according to another index agreed upon between them, or, in the case of exempt joint rates, either may increase its share of through revenue as may be necessary to maintain the ratio of Norfolk Southern/Conrail's share of through revenues to the Midwest Regional Carrier's share of through revenue on the Affected Carrier Routing that exists on the date of sale of the interest of the United States in the common stock of the Consolidated Rail Corporation to Norfolk Southern Corporation is consummated.

"(v) Nothing in this section or Subtitle IV of title 49, United States Code, shall require Norfolk Southern/Conrail or any Midwest Regional Carrier to maintain any tariff joint rate or any Affected Carrier Routing established or re-established under this section beyond the fifteenth anniversary of the date of enactment of the Conrail Sale Amendments Act of 1985.

"(d) The Interstate Commerce Commission shall expedite consideration of any complaint filed under this section. The Interstate Commerce Commission shall conclude evidentiary proceedings by the end of the fourth month after the filing of such complaint. The Interstate Commerce Commission shall issue a final decision by the end of the sixth month after the filing of such complaint.

"(e) Nothing in this section shall require Norfolk Southern/Conrail to participate in a rate which causes Norfolk Southern/Conrail to receive revenues lower than 110 percent of its variable cost for performing its part of the service as calculated by using Interstate Commerce Commission Rail Form A.

"(f) Nothing in this section shall preclude either Norfolk Southern/Conrail or any Midwest Regional Carrier from entering into otherwise lawful refund or discount arrangements with shippers singly or collectively with respect to any railroad traffic subject to this section.

"(g) Nothing in this section shall preclude either Norfolk Southern/Conrail or any Midwest Regional Carrier from seeking under this Subtitle or other proper legal authority to discontinue its operations over or to abandon service over particular lines.

"(h) The Interstate Commerce Commission shall not suspend any rate or tariff of any railroad during the pendency of any proceeding under this section.

"(i) Nothing in this section shall invalidate or supersede, in whole or in part, any traffic protective agreement Norfolk Southern/Conrail has entered into or enters into with any other railroad.

"(j) The Interstate Commerce Commission shall establish evidentiary standards sufficient to give petitioners a fair and reasonable opportunity to meet their burden of proof."

NOTICE OF HEARINGS

COMMITTEE ON RULES AND ADMINISTRATION

Mr. MATHIAS. Mr. President, I wish to announce that the Committee on Rules and Administration will meet in SR-301, Russell Senate Office Building, on Monday, February 3, 1986, at 2:30 p.m., to receive testimony from Chairman RICHARD G. LUGAR and Ranking Minority Member CLAIBORNE PELL of the Foreign Relations Committee on their committee funding resolution for fiscal year 1986.

I would also like to mention that the committee budget hearings on Tuesday, February 4, 1986, have been rescheduled and will begin at 9:50 a.m.; the hearings on February 5, 1986 will begin at 9:30 a.m. as previously scheduled. The hearings on both February 4 and 5 will take place in SR-301.

For further information concerning these hearings, please contact Carole Blessington of the Rules Committee staff on 224-0278.

COMMITTEE ON SMALL BUSINESS

Mr. WEICKER. Mr. President, I would like to announce that the Senate Small Business Committee will hold 2 days of hearings on the cost and availability of liability insurance for small business. The hearings will be held on February 20 and 21, 1986 in room 428A of the Russell Senate Office Building, and both will commence at 9:30 a.m. For further information, please call Bob Wilson or Erline Patrick, of the committee staff at 224-5175.

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. McCLURE. Mr. President, I would like to announce for the information of the Senate and the public a change in the location of the closed hearing previously scheduled before the Committee on Energy and Natural Resources on Thursday, February 27, at 10 a.m. The hearing will take place in room SH-219 of the Senate Hart Office Building in Washington, DC. The purpose of the hearing is to receive a briefing with respect to negotiations on Micronesian status.

For further information, please contact Jim Beirne at (202) 224-2564.

AUTHORITY FOR COMMITTEES TO MEET

SUBCOMMITTEE ON STRATEGIC AND THEATER NUCLEAR FORCES

Mr. DANFORTH. Mr. President, I ask unanimous consent that the Subcommittee on Strategic and Theater Nuclear Forces, of the Committee on Armed Services be authorized to meet during the session of the Senate on Thursday, January 30, 1986, in order to conduct a hearing on antitactical ballistic missile defenses.

The PRESIDING OFFICER. Without objection, it is so ordered.

SELECT COMMITTEE ON INTELLIGENCE

Mr. DANFORTH. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on Thursday, January 30, 1986, in closed executive session, in order to receive an intelligence briefing.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON PUBLIC LANDS, RESERVED WATER, AND RESOURCES CONSERVATION

Mr. DANFORTH. Mr. President, I ask unanimous consent that the Subcommittee on Public Lands, Reserved Water, and Resource Conservation of the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate on Thursday, January 30, to hold a hearing on Senate Joint Resolution 221 and House companion House Joint Resolution 382, to authorize the continued use of certain lands within the Sequoia National Park by portions of an existing hydroelectric project and H.R. 3851, to amend section 901 of the Alaska National Interest Lands Conservation Act.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY

Mr. DANFORTH. Mr. President, I ask unanimous consent that the Committee on Agriculture, Nutrition, and Forestry be authorized to meet during the session of the Senate on Thursday, January 30, 1986, in order to receive testimony on the Farmers Home Administration loan servicing regulations and a General Accounting Office report on FmHA's farm loan portfolio.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

THE CHILEAN HUMAN RIGHTS COMMISSION

● Mr. DURENBERGER. Mr. President, the Chilean Human Rights Commission was founded in 1978 by Dr. Jaime Castillo and other prominent Chileans from various fields seeking a secular human rights organization to monitor violations of human rights and to work to restore the rights guaranteed in the international human rights treaties that Chile has signed.

Since its founding, and despite the many obstacles placed in its path by Chile's military government, the Commission's accomplishments have been impressive. The Commission has established a network of human rights organizations throughout Chile. With the support of these regional groups, the Commission monitors the status of human rights and publishes monthly informational bulletins. The Commission is one of the most highly respected organizations in Chile and has been accepted as an affiliate of several leading international human rights organizations, such as: the International Commission of Jurists, Geneva; the International Federation of Human Rights, Paris; and the International League for Human Rights, New York.

The Commission's President, Dr. Castillo, served as Minister of Justice in the Christian Democratic government of President Eduardo Frei in the late 1960's and early 1970's. Maximo Pacheco Gomez, the Commission's Vice President since 1978, was the Minister of Education in President Frei's government and served as the dean of the faculty of law at the University of Chile in Santiago.

Since last August, it appears that the government of President Augusto Pinochet has intensified its pressure against the Commission and its affiliates. In August, Chilean police temporarily detained Dr. Castillo for reading a proclamation that reminded Chileans of their obligation and right to uphold basic human rights. More than 20 others associated with the Commission were arrested at the same time.

On November 29, the Commission's national offices in Santiago were raided, ransacked, and its documents were confiscated by armed plainclothesmen. One Commission employee was beaten so severely that she required hospitalization. This attack preceded by one week the visit to Chile by the United Nations Special Rapporteur on Chile, Prof. Fernando Volio of Costa Rica. This attack was just one of more than a dozen similar incidents in 1985 of plainclothemen attacking Chilean human rights defenders and ransacking their offices.

On January 15, Senator KENNEDY visited Chile to meet with representatives of the democratic opposition and Chilean human rights organizations. Upon his arrival at Santiago, he was confronted by a violent demonstration by members of the Independent Democratic Union, a pro-Pinochet group. Chilean police did not act to restrain the demonstrators and Senator KENNEDY was forced to leave the airport by helicopter. At the same time, three of the Commission's leaders were approaching the airport and were themselves attacked by UDI demonstrators. Their car was damaged and Dr. Castillo was injured. Once again, Chilean police stood aside and did nothing while the attack was underway. It now appears that high-ranking officials of the Chilean Government

were actively engaged in the planning and the implementation of this demonstration. If this is true, President Pinochet's government owes Senator KENNEDY an apology and should conduct a thorough investigation into this incident.

Most recently, Dr. Pacheco and his family have again been the targets of harassment. At noon on January 18, Dr. Pacheco's maid, Rosa Espinoza Baeza, was abducted by plainclothesmen and driven to a remote location on the outskirts of Santiago. She was held and interrogated by her kidnappers for 14 hours, when she was returned to the center of Santiago on the morning of January 19. During Ms. Espinoza's interrogation, her kidnappers' questioning focused on Dr. Pacheco's contacts in the United States and on the January 15 visit of Senator KENNEDY to Chile. It is my hope that the Pinochet government will cease its attacks against the Chilean Human Rights Commission and that it will allow the Commission to conduct its important humanitarian efforts.

Mr. President, I ask that two articles on the Chilean Human Rights Commission as well as two summaries of attacks on the Commission be printed in the RECORD.

The material follows:

PROTEST HINDERS KENNEDY IN CHILE

(By Lydia Chavez)

SANTIAGO, CHILE, Jan. 15.—Senator Edward M. Kennedy, arriving here today on a tour of South America, was forced to leave the airport by police helicopter after dozens of pro-Government demonstrators blocked a highway.

Some of the protesters wore life preservers and carried photographs of Mary Jo Kopechne, who died in the Senator's 1969 automobile accident at Chappaquiddick. The demonstration was organized by the Independent Democratic Union, a party that supports the military Government.

The police, generally fierce with crowds, did little to hinder the protest.

The airport protesters were greatly outnumbered elsewhere by people who warmly welcomed Mr. Kennedy.

In a second incident later in the day, the Massachusetts Democrat's car was struck by a stone and eggs as he left a rehabilitation center after a tour. Jamie Castillo, the president of the Chilean Human Rights Commission, was injured slightly when a stone smashed the window of his car.

President Augusto Pinochet has refused to meet with the Senator, calling him a "enemy" of the people because of his sponsorship of a 1976 amendment banning military assistance to Chile and his strong criticism of the military Government.

"I am told that there are some people who regard me as an enemy of Chile," Mr. Kennedy said. "I am not an enemy of Chileans, I am an enemy of kidnapping, murder and arbitrary arrests."

The Senator, flanked by his sisters Jean Smith and Patricia Lawford, came here for a 24-hour visit.

In the last week, the Senator has met with the Presidents of Brazil, Uruguay and Argentina to talk about the foreign debt crisis that has thrown their fledgling democracies into recessions. In Argentina, he also met with political exiles from Paraguay.

Mr. Kennedy in his airport statement said he would be the first to support renewed aid if "Chile were once again to respect basic human rights." He added that Congress at one time or another has banned aid to Cuba, Guatemala, Nicaragua, Uruguay and Argentina because of present or past abuse of human rights.

The Senator met today with political leaders who recently signed a United States-supported agreement, rejected by the Government, that calls for a return to full democracy here.

Juan Francisco Cardinal Fresno Larrain, who supported the pact, declined to meet with Mr. Kennedy, saying his visit was political, but church sources said he supported the visit. But other church officials, including Raúl Silva Cardinal Henriquez, met with the Senator.

ACCOUNT OF INCIDENT AT SANTIAGO AIRPORT ON JANUARY 15 INVOLVING OFFICIALS OF THE CHILEAN HUMAN RIGHTS COMMISSION

(Source: International Friends of the Chilean Human Rights Commission)

On Wednesday, January 15, 1986, at approximately 10:00 am, three principal officers of the Chilean Human Rights Commission were assaulted by a mob. Jaime Castillo Velasco, President, Maximo Pacheco Gomez, Vice-President, and Gonzalo Taborga Molina, Director for International Relations were driving from the Santiago airport towards the city. They had gone to the airport to greet Senator Edward Kennedy, Democrat of Massachusetts, who has been a consistent and prominent critic of human rights abuses in Chile during the last decade. The purpose of Senator Kennedy's visit was to meet with Commission members and other human rights groups, church groups, and influential political and social figures, hear testimony of victims of human rights abuse and discuss, in general, the situation of human rights in Chile. Due to the hostile reception that the Senator received at the airport by nearly 500 student protesters of the Independent Democratic Union (UDI), the Senator had to leave the airport by police helicopter for security purposes.

Dr. Pacheco and Dr. Castillo in the front seats and Gonzalo Taborga in the rear, were driving together with a long line of existing vehicles slowly along the road from the airport. A crowd of highly charged protesters was chanting "Ted go home." One kilometer from the airport itself, and not quite 10 meters from a Carabinero station, one of the protesters spotted Dr. Pacheco's car and shouted, "Here comes Castillo and Pacheco." Within moments the Commission members found themselves surrounded by approximately 100 armed individuals, some reportedly students of the UDI, others belonging to different youth groups. The protesters, who were well organized, began to throw rocks, sticks and eggs at the vehicle, thus breaking all the windows. One rock struck Dr. Castillo in the back of the neck and bits of shattered glass cut his head, face and back.

During this entire incident civilian police officers of the Carabineros, standing close by, did nothing; they neither moved to protect the Commission members, nor attempted to break up the menacing crowd. In fact, according to the testimony of Maximo Pacheco, the protesters acted while the Carabineros were "absolutely passive." Dr. Pacheco believes that if he had been hit and did not advance the car, the crowd would have killed them.

However, the Commission members succeeded in escaping from the mob, and Dr. Castillo was quickly taken for medical treatment. The vehicle they drove is estimated to have sustained substantial damage.

The Chilean Human Rights Commission fears that similar incidents may happen again. On November 29, 1985, the national offices of the Commission were ransacked by armed intruders who beat an employee so severely she had to be hospitalized. In Chilean newspapers, the UDI's organizers stated that their actions of January 15 "met with great success" and that they were very satisfied with the results of the day.

Dr. Pacheco commented on the latest incident: "it is a sad state of affairs when we cannot even greet an American Senator without risking our lives."

[From the New York Times, Dec. 7, 1985]

GUNMEN IN CHILE SAID TO STEAL RIGHTS DOCUMENTS

(By Robert O. Boorstin)

Armed gunmen in the Chilean capital of Santiago stormed into the office of the nation's leading human rights group and removed documents that had been compiled for a United Nations investigation, members of the group said this week.

The commission members said the assailants beat the wife of an employee of the Chilean Commission on Human Rights and ransacked the offices in central Santiago during the attack last week.

Human rights commission members and officials of the New York-based International League for Human Rights said that although they could not identify the gunmen, recent patterns of human rights abuses in Chile suggested that they might have been operating with the knowledge of the Government of President Augusto Pinochet.

"This is a special kind of harassment," German Molina, national secretary of the commission, said Wednesday in a telephone interview from Santiago.

GROUP LOGS RIGHTS ABUSES

The commission, established in 1978, is made up of prominent Chileans attempting to catalogue human rights abuses and seek judicial remedies.

Juan Prado, press attaché of the Chilean Embassy in Washington, said charges of intimidation by groups connected to the Government were "silly" and "stupid."

"I find absurd and completely devoid of logic," he said, "that anybody in his right sense of mind would commit such an assault in Santiago on the eve of the visit by a representative of the United Nations."

The visit by the investigator, Prof. Fernando Volio, would mark the first time in the six-year history of the special investigator's position that the Pinochet Government had agreed to permit a United Nations investigator to go to Chile to collect information on human rights. Mr. Volio is a former Foreign Minister of Costa Rica.

In a telegram to General Pinochet on Wednesday night, the New York-based International Friends of the Chilean Human Rights Commission urged appropriate authorities to "undertake a full investigation and prosecute the perpetrators."

The recently formed group of former and current public officials includes the chairman of the Senate Select Committee on In-

telligence, Dave Durenberger, Republican of Minnesota, and is headed by former Secretary of State Cyrus R. Vance.

In a related development, the Reagan Administration urged the Pinochet Government on Thursday to accept the recommendations of the United Nations report by Mr. Volio. The report calls for increased protection for church and human rights activists, an end to the practice of internal banishment of anti-Government activists and the strengthening of judicial procedures.

ACCOUNT OF RANSACKING OF CHILEAN HUMAN RIGHTS COMMISSION OFFICE ON NOVEMBER 29

On Friday morning, November 29, 1985, at approximately 8:45 a.m. two men armed with revolvers rang the doorbell of the Chilean Commission for Human Rights. Marina Rodriquez, the 42-year-old caretaker (cuidadora) answered and was told that they had a letter to deliver to the secretary of the Commission, Bessi Saavedra. Sra. Rodriguez, who lives on the premises with her family, advised them that the Commission would not open to the public until 10:00 a.m.

The men then pushed her aside violently. One beat her with his fists and revolver causing a concussion. The other intruder went straight to the secretary's office. He broke down the door and destroyed the furniture within the room. He was allegedly searching for some "special document."

The caretaker's two daughters, 20 and 22 years old, respectively, tried to help their mother and carry her to the apartment in the same building. The men threatened them with death.

The two attackers then entered other Commission offices "searching for an employee" and proceeded to destroy archives and correspondence of the Commission. When they left, 25 minutes later, they took with them two private, confidential address-telephone books and three documents which the Commission planned to publish: "The Rights to the Physical and Moral Integrity of Individuals Under the 1980 Political Constitution"; "The Organic Law Regarding States of Exception"; and, "Terrorism, Antiterrorism and Human Rights".

Marina Rodriguez testified that while being beaten her attackers shouted "Now you will know the hand of the CNI." [The CNI, (Central Nacional de Informaciones, or the National Intelligence Agency) is the Chilean secret security police force identified by international organizations as the agency linked to torture and other human rights abuse.] To date, the police investigation of the attack on the Commission reported that this was a common crime, although nothing of material value was taken. Sra. Rodriguez is still hospitalized in the Costa Central Hospital in Santiago.

Source: International Friends of the Chilean Human Rights Commission.●

INTERNATIONAL TRADE 1985

● Mr. LUGAR. Mr. President, this morning the Department of Commerce announced preliminary U.S. trade results for December 1985 and all of 1985. The news is not very positive. In December the U.S. trade deficit was $17.4 billion and for the year the trade deficit was $149 billion. This represents 116 and 20-percent increases over the comparable period of 1984, respectively. The deficit with Japan in 1985 was $50 billion, a 35-percent increase over 1984.

In the face of such a hemorrhage it is fair to ask if we are managing our trade correctly and how we can gain improvements.

Ambassador Yeutter has recently declared that the administration's trade policy rests on four pillars—free trade, fair trade, GATT enhancement, and monetary reform. In general this is a policy which I have supported and continue to support.

President Reagan and his administration are to be commended for their courage in keeping to a policy of open markets in the face of severe political pressure. Refusal to grant protection to the U.S. textile, shoe, and copper industries, in my view, was the correct approach.

On fair trade, again the administration is moving in the right direction. The announcement this fall by Ambassador Yeutter to self-initiate section 301 cases is an appropriate use of administration discretion. Secretary Baldrige's strike force actions on semiconductors shows that the administration is not going to wait until an American industry is destroyed before it begins to look at causation. I am especially heartened by the announcement that the administration will begin to hold negotiations on the Japanese aluminum cartel, a subject of hearings before the Senate Foreign Relations Committee.

I also give cautious support for an enhancement of the GATT, particularly a new round of trade negotiations. However, we must first assess the results of the 1979 Tokyo Round to determine how to proceed. A new round which does not address the problems of agricultural subsidies, services, and countries with persistent balance-of-payments surpluses would not be a step forward.

There is probably most support for the administration's final pillar, monetary reform, meaning the inflated value of the dollar. In the long run, reducing the value of the dollar will probably do the most to help American exporters. Already the G-5 decision of last fall is showing results. The dollar this week hit a 7-year low against the yen, closing below 200 to the dollar.

Perhaps the best trade news to come out of 1985 was the announcement by President Reagan and P.M. Mulroney of Canada that they expect to begin serious negotiations aimed at reducing trade barriers between our two nations. If the negotiations are successful, U.S. exporters will see a fall in Canadian tariffs, now among the highest in the industrialized world, and Canadian exporters would gain a more secure access to the U.S. market.

The most troubling aspect of our trade policy has been our inability to understand the nature of the Japanese trading system. On the bilateral front, 1985 was not a banner year. In spite of a year's worth of Moss talks and a decrease of 20 percent in the dollar, U.S. exports to Japan actually declined.

The situation is worse on the multilateral front, partially the effects of a closed Japanese market for the LDC's. In 1983 the United States ran a $27 billion deficit with the nonoil producing LDC's; Japan ran a $13 billion surplus. By 1985, that accumulation of Japanese surplus was over $20 billion and accelerating. The effects of this on the high debt LDC's are self-evident.

Of particular importance is the need to develop a policy on the Japanese trading system in the GATT context. The results of the Tokyo Round of trade negotiations showed that Japan improved its term of trade, exports as a percent of total, with all its trading partners—the United States, Canada, the EC, OECD, LDC's, even the world. A repeat of this pattern in the new round of trade negotiations is unacceptable.

Turning to our legislative agenda on trade, we made an important first step in the passage of the farm bill in December. While this bill contains some controversial parts, on balance it should go far toward regaining foreign markets for U.S. agricultural exports.

President Reagan is expected to propose changes to American antitrust laws which will make American firms more competitive in the international arena. I look forward to examining this important proposal.

Making American firms more efficient is an important theme we must address. How the tax burden falls can make a big difference on competitiveness or whether it makes sense to move production overseas. The ITC is currently considering the effects of the House passed tax bill on these issues.

Finally, the major trade legislation to be considered by this Congress will be the bipartisan trade bill, S. 1860, introduced in November. The results of hours of work by Senators from both parties, I was pleased to see that the majority leader has pledged to assign it a high priority for floor action.

We have a problem on trade and it is getting worse. The administration has come a long way to meeting its responsibilities. It is time for the Congress to meet its responsibilities in 1986.●

SOUTH AFRICA: IMPRISONMENT UNDER THE PASS LAWS

● Mr. HATFIELD. Mr. President, in another one of its unusally well-documented and well-written reports, Amnesty International brings the sad reality of South African pass laws to the attention of the American people. The Amnesty International report, entitled

"South Africa: Imprisonment Under the Pass Laws," exposes South Africa's longstanding pass laws as the fundamental mechanism with which the unpalatable and discriminatory principles of apartheid are implemented.

South Africa is plagued by the disease of apartheid. An explosive tension mounts daily, threatening the Pretoria government and its apartheid system.

A constructive alternative must be found for the oppressive and destabilizing apartheid system in South Africa. Criticism is not enough. By understanding the mechanisms with which apartheid is enforced, we can better undertake the task of crafting a United States policy which places more direct pressure on the South African Government to abolish apartheid.

"South Africa: Imprisonment Under the Pass Laws" is an important contribution to the case against pass laws specifically and apartheid generally. I ask that the full text of the report be inserted into the RECORD, and suggest that my colleagues take the time to read "South Africa: Imprisonment Under the Pass Laws."

The material follows:

SOUTH AFRICA: IMPRISONMENT UNDER THE PASS LAWS

CHAPTER ONE: IMPRISONMENT UNDER THE PASS LAWS: INTRODUCTION

Each year in South Africa many thousands of black people are imprisoned under the so-called pass laws, which are discriminatory on grounds of race, existing only to control the residence and movement of the black population. In 1984, for example, some 238,000 people were reported to have been arrested under the pass laws or related legislation by police or by officials with similar arrest powers employed by the government department mainly responsible for black affairs, the Ministry of Co-operation and Development. Some were released after a short time without being brought to court but the vast majority were prosecuted in special courts for blacks known as "commissioners' courts", convicted, fined or imprisoned. Thereafter, in many cases, those concerned were "endorsed out"—sent to the African "homelands" which, though together they comprise only 13 per cent of South Africa, are the only areas in which blacks possess permanent residence rights, freedom of movement and rights as citizens. Under the South African Government's policy of apartheid, or "separate development", the remainder, some 87 per cent of South Africa's land area, is preserved for exclusive occupation by whites and the other minority population groups. Blacks, officially, are permitted in this larger area only as temporary so-journers and on licence while they meet the requirements of the largely white-run economy.

"Influx control" is the official description given to this long-established policy of the South African Government whereby the residence and movement of black people in "white" South Africa is regulated and controlled. The pass laws are its cutting edge. All Africans, from the time they reach their sixteenth birthday, are issued with a pass—it is officially termed a "reference book"—which they must carry on their person at all times. The primary statutory provision creating the obligation to have a pass or reference book amply demonstrates their discriminatory character:

"(a) *being a Black* who has attained the age of sixteen years, who

"(b) after the fixed date applicable to him is not in possession of a reference book issued to him . . . shall be guilty of an offense and liable to conviction . . ."

(Blacks (Abolition of Passes and Co-Ordination of Documents) Act, 1952). (Emphasis added)

The pass book contains, in addition to particulars identifying the person to whom it is issued, various "endorsements" which specify where the person may reside and is employed. The pass must be produced on demand to the police or relevant officials of the Ministry of Co-operation and Development, who daily carry out spot-checks on the streets of the main cities and towns. Failure to produce the pass on demand leads to immediate arrest. Similarly, it is an offence for any African who lacks the requisite qualifications to be there and so does not have the relevant endorsement in his pass to remain for more than 72 hours in areas prescribed for whites. This too results in immediate arrest. The penalty for both offences—the most common but by no means the only offences defined by the pass laws—is up to three months' imprisonment.

Those imprisoned under the pass laws are prisoners of conscience under Amnesty International's mandate—that is, "persons who in violation of the Universal Declaration of Human Rights are imprisoned, detained or otherwise physically restricted by reason of . . . their ethnic origin, sex, colour or language, provided they have not used or advocated violence."

In 1983, the International Council, Amnesty International's highest decision-making body, declared its total opposition to, and condemned, those laws and practices of *apartheid* which result in human rights violations within the organization's mandate. It called for a special program of action to be developed by the organization against such laws and practices. This report is a direct consequence of that call. The pass laws, judged by any standards, are flagrantly discriminatory in their nature and application and, more than any other laws and practices of *apartheid*, provide the context for systematic and extensive violations of fundamental human rights.

This report into imprisonment under the pass laws has been prepared over a period of two years during which Amnesty International sent two missions to South Africa to inquire into the use of the pass laws and related legislation. During these missions, which took place in April 1984 and May 1985, Amnesty International's delegates visited several urban centres and observed trial proceedings in respect of alleged pass law offences in various commissioners' and magistrates' courts. Amnesty International's legal delegate interviewed a wide range of informants in many parts of South Africa, including particularly officials and human rights activists, members of the Black Sash, a women's organization which has many years monitored the pass law system and assisted its victims, and, not least, individual pass law prisoners themselves. What emerged, as the report details, is that the pass laws do not only lead to the imprisonment of vast numbers of prisoners of conscience but do so by denying to the great majority the right to a fair trial and result in many being subjected during their imprisonment to cruel, inhuman and degrading treatment or else made available as cheap labour to white farmers under what is officially described as parole but in essence is closer to a system of forced labour.

Both Amnesty International missions to South Africa were undertaken by Kevin Boyle, Professor of Law at University College, Galway, in Ireland. He was accompanied on the first mission by a staff member of Amnesty International's Research Department. His report to Amnesty International follows this introduction.

In the months following the first Amnesty International mission in April 1984, the South African Government made certain changes with respect to the pass law courts at the recommendation of an important Commission of Inquiry into the Structure and Functioning of the Courts, under the chairmanship of Mr. Justice G. G. Hoexter. In particular, the judicial functions of commissioners with respect to pass law offences were transferred to magistrates, and magistrates' courts replaced commissioners' courts as the venue for trials of pass law prisoners. It was a primary objective of the second Amnesty International mission in May 1985 to evaluate the impact and significance of this change.

In his report to Amnesty International, Professor Boyle describes in detail the various legal enactments which have come to be known as the pass laws and the particular offences these define relating to the residence and movement of black people in South Africa. These laws, as the report shows, weigh heavily upon the whole of South Africa's black population, estimated in 1983 at more than 22 million people, and play havoc with their daily lives. They entrench the apartheid system and are designed to treat people as criminals for exercising their right to freedom of movement and residence in their own country. It considers also how the pass laws are viewed and administered by the authorities, and how they are enforced by the police, officials of the Ministry of Co-operation and Development and the courts. In many cases, the report suggests, the enforcement process is not only conducted arbitrarily but is based on an arrest process which, though extensively used, is unlawful and in conflict with the requirements of South Africa's Criminal Procedure Act.

The report devotes considerable attention to the trial process in the commissioners' courts as they functioned in 1984 and reviews the changes consequent upon the transfer of pass law trials to magistrates' courts later that year. With respect to the commissioners' courts, it notes that they processed very large numbers of cases of alleged pass law offenders and did so at startling speed. For example, the six commissioners' courts which sat in Johannesburg were disposing of, on average, some 350 to 400 pass law cases and 100 under trespass and curfew legislation on Mondays and some 200 cases per day for the rest of the week when observed by Amnesty International's delegate in April 1984. With few exceptions, defendants were not legally represented, were tried in a language which was not their mother-tongue and before court officials who, far from being independent, were employed by the government department responsible for black affairs. The trials were not, therefore, fair and conducted in accordance with internationally accepted legal standards. By May 1985, some improvements in the trial process had occurred as a result of the transfer or respon-

sibility to magistrates' courts but these too, like the commissioners' courts before them, are deficient in several respects and are responsible for imprisoning black people on grounds of race.

The report is concerned also with the treatment of pass law prisoners once they have been convicted and fined or imprisoned by the courts. It has been estimated that some 30 to 40 per cent of those fined are imprisoned, at least for a period, because they are not able to produce immediately the money to pay the fine. The provisions of the South African Prisons Act make it particularly difficult to inquire into conditions of imprisonment and treatment of prisioners in South Africa's penal institutions. However, as this report shows, there is ample evidence to suggest that pass law prisoners are exposed to cruel, inhuman and degrading treatment while in custody. Many, however, are released under the parole system into the custody of white farmers for use as farm labour. In these circumstances too, cases of serious abuse have come to light over a long period.

The report concludes by describing the work of certain non-governmental bodies in South Africa concerned with the pass laws and by reviewing current developments on an official level on the future of influx control. It looks briefly at developments in Namibia, which remains under South African control and where a system of uniform identity documents has been introduced for all races in such a way that race classification and racially-discriminatory system of enforcement has been maintained.

In some respects, the attached report is broader in content and provides more background information than ordinarily appears in reports published by Amnesty International as it was prepared for the organization by an independent legal expert. It is being reproduced in its entirety because of the complex nature of the pass law system and its administration and because of the relevance of the information it contains to Amnesty International's mandate concerns.

Amnesty International has noted improvements in the judicial process with respect to pass law prisoners since late 1984 but considers that these are not sufficient to remedy the system of human rights abuse which derives from the nature and application of the pass laws and has become institutionalized under the South African Government's policy of apartheid. Consequently, while the organization welcomes such improvements as have been made, or may yet be introduced, to ameliorate the nature, scale and extent of human rights violations under the pass laws, it considers that such violations will continue because of the nature of the pass laws. To this end, Amnesty International advocates the early and total abolition of the pass laws as a necessary step to ending the imprisonment of black people on account of their race.

CHAPTER TWO: PASS LAWS AND APARTHEID

The origins of the pass laws

The exercise of control over African people through badges, documents, permits and permissions is neither a product of *apartheid* nor was it historically confined to South Africa.[1] The use of passes in South Africa can be traced to the mid-eighteenth century and to the control of imported slaves. A pass authorising travel was required in the Cape by slaves travelling within the settlement. In 1797 and 1809 new measures were introduced extending to Africans the requirement that they carry permits. All servant contracts had to be registered and it was a criminal offence to leave or desert service. The pass was the means chosen to enforce this servitude.[2]

Beginning with the Bantu Pass Law of 1867 in the Cape of Good Hope, different laws and ordinances in the various provinces laid the basis of the modern system of control of African lives through documents and the criminal law. From the discovery of diamonds in 1867, and later the discovery of gold, the use of pass laws with respect to black labour was associated with the mining industry as the industrial revolution in South Africa developed. One of the earliest of these proclamations was Number 14 of 1872, made for the diamond fields in Kimberley. It provided, with reference to Africans:

"Any person who shall be found wandering or loitering about within the precincts of any camp without a pass signed by his master or by a magistrate or justice of the peace, and without being able to give a good and satisfactory account of himself, may be arrested by any police officer or constable without a warrant and taken before the magistrate of the district, and shall be liable to be punished by fine not exceeding five pounds, by imprisonment with or without hard labour and with or without spare diet for any period not exceeding three months, or by corporal punishment in any number of lashes not exceeding twenty-five."

A historian has commented on this ordinance: [3]

"In this way was introduced the pass law system which endures in South Africa to this day. Under its authority masses of people were raided, rather than arrested, the largest number taken at one time being 286. Under it mass trials lasting an average of a few minutes have been held, with as many as fifty-six persons sentenced in one bloc, and in which the accused were seldom allowed even to record their pleas. The law governing passes was so involved that it was considered difficult for educated whites to understand. The 'raw' black from the country, who often arrived at the fields sick and emaciated after a difficult journey, was easily caught in its meshes."

The same author also notes, "[G]overnment as well as diggers profited from the new legislation as pass-law victims provided a source of income and a source of labour. They were put to work collecting night soil and digging graves at times without a doubt for their comrades who had died as a result of the arduous journey from the country. Blacks not only suffered under the constraints, they paid for maintaining them".[4] A similar observation seems appropriate today. A major source of revenue for the Development Boards which administer the pass laws comes from the fines paid by Africans for breach of those laws, an annual amount of over 1 million rands. Those unable to pay fines provide free labour to farms or clean government buildings, much it seems as it was in the 1870's.[5]

Following the Union of South African states in 1910 several official commissions of enquiry were to examine the operation of the pass law requirements which had developed in the different provinces.[6] These commissions conceded that passes were strongly resented by Africans, were highly complicated and were discriminatory. None however proposed that they should be abolished. All sought rationalisation and simplification of the system while arguing that its essentials—control of movement—should be retained. More recent commissions have equally failed to advise the abolition of passes and have sought similar rationalisation.[7] The basic principle justifying pass laws was articulated by one such enquiry, the *Stallard Commission* (1922),

"The native should only be allowed to enter the urban areas, which are essentially the white man's creation, when he is willing to enter and minister to the needs of the white man and should depart therefrom when he ceases to so minister".

For over sixty years this principle has dictated the influx control policies of successive South African governments. It has only been in the very recent past, following official acknowledgement of the inevitability of some permanent black urbanisation, that the principle has come to be modified.

With the coming to power of the Nationalist government in 1948 and the implementation of *apartheid*, the reference book became the major instrument of central government control of the African population. This was achieved with the passing in 1952 of the *Black Abolition of Passes and Co-ordination of Documents) Act.* This act did not, as its title might suggest, abolish passes but, according to the Minister introducing the measure, replaced the existing system of multiple local passes, with a single centrally issued, strongly bound 'reference book', which would be easy to carry and would enable the police to perform their duties more easily. The requirement to take out a reference book was extended to all Africans, men and women, over sixteen years of age. The final date after which it was an offence for Africans to be in possession of a reference book was determined as 1 February 1958 for males and 1 February 1963 for females. The act ordained that every African had to appear before a commissioner to be issued with a reference book. Fingerprints and, if thought necessary, palmprints, were to be taken by the commissioner and forwarded to a Central Reference Bureau. Certain categories, including black clergymen, lawyers and teachers, were exempted from fingerprinting and were to be issued with a reference book bound in a different colour to the book issued to others.

The imposition of this system of passes was strongly resisted at the time by the African population. Strikes, civil disobedience including the burning of reference books, marches and demonstrations against passes were vigorously suppressed by the state, culminating in the Sharpeville killings in 1960 when 69 Africans were shot dead by the police.[8] Protest about the resistance to the "dompas" ("stupid pass") has endured. Nevertheless, the same system of control based on the pass continues today as it has for almost two hundred years. Daily in the 1980s hundreds of African people are arrested, detained, prosecuted and punished in South African courts, often by imprisonment, for "failure to produce" their reference books when demanded to do so by a police officer or Development Board official.

Race classification and citizenship

A core feature of *apartheid* in South Africa is race classification. Under the Population Registration Act of 1950 every person on birth has to be classified in one of four racial groups, White, Indian, Coloured or Black. This classification determines all rights that may be exercised within South Africa and is basic to the theory of "separate development".

Footnotes at end of chapter 2.

The black population however is subject to further classification, which has crucial implications for the functioning of the pass law system. Under the Promotion of Bantu Self-Government Act 1959, and subsequent legislation, Africans were classified into ten separate "Bantu" peoples linked to native reserves, or "homelands", which were gradually given certain self-governing functions. The purpose of this step was to lay the basis for the policy of constitutional separation of the African population. The Bantu Homelands Citizenship Act 1970 marked a second stage in this process whereby every black person in South Africa was declared to be a citizen of one of the homelands, a designation incorporated in the pass book. The final stage of the process began when "self-governing" homelands became "independent" states. In 1976, under the Status of Transkei Act, Transkei became "independent" and all its citizens ceased to be citizens of South Africa. Similar developments occurred in Bophuthatswana, Venda and Ciskei in 1977, 1979, and 1981 respectively. As a result, all Tswana-speaking, Xhosa-speaking and Venda-speaking people are now foreigners within South Africa and possess passports rather than passes.[9] It remains the policy of the South African government that all of the remaining "self-governing" homelands should move towards "independence". The utlimate consequence of this policy as foreseen by the government is that there will be no Africans who are citizens of the Republic of South Africa.[10] Under South African law all will be aliens. The immediate consequences relevant to an account of the pass laws may be briefly summarised.

Three categories of Africans may now be distinguished: those who remain citizens of South Africa (while also citizens of "self-governing" states, for example, KwaZulu), those who have been denationalized and who are citizens of the "independent" states formerly part of South Africa (for example, Transkei), and foreign workers from the neighbouring states (for example, Mozambique). Each category has a different legal status within South Africa.

The category who remain citizens of South Africa have, or will continue to have, the possibility of acquiring "urban residence" rights (discussed below), and thereafter, under certain conditions, may bring family to the urban areas, may lease property and have certain employment freedoms. As the remaining homelands take "independence" this category will gradually reduce. The citizens of the "independent" states born before the date of "independence" are in a transitional category and for the moment have the same privileges as the first category. However, their children born *after* the date of "independence" of the relevant homeland are assimilated to the position of "foreign blacks". This third category, foreign African nationals, have no rights as such. A temporary permit issued to work in South Africa may be withdrawn without notice and without reasons given. Once the permit is withdrawn the worker can be deported at any time. They have no residence rights and are not entitled to bring family with them when in South Africa under an employment contract. All three categories are subject to the pass laws, without which this elaborate system of division and control would be impossible to police. But, in addition, the foreign African nationals and the "new" African foreigners are subject to the laws governing aliens, which include sweeping powers of detention without trial and of deportation or repatriation which are not reviewable by South African courts.

Group apartheid—Urban areas

A further central feature of *apartheid* is its physicial dimensions in terms of land and residence. As noted in Chapter 1, by virtue of Lands Act in 1913 and 1927, the territory of South Africa was allocated 87 per cent to whites and 13 per cent to blacks. The notion which was basic to this apportionment was that the black population had no rights by law to own land or to reside or to be in the declared white areas. Their place was in the reserves or homelands, now "Black States", except when requisitioned for employment. Strict residential segregation was and is enforced on Africans permitted into the white urban areas for employment. Different practices exist in the rural areas, but the theory remains that blacks are 'temporary sojourners' in the entire 'white' territory, rural or urban. The flow and the control of black labour from the homelands and from neighbouring states is administered through the reference book, permit or passport.

Under the Black (Urban Areas) Consolidation Act 1945,[11] as amended most recently by the Black Development Act 1984, and under the Group Areas Act 1966, urban areas are segregated according to racial group as are occupational activities within them. In particular, the 1945 and 1984 acts establish control over the residence of Africans as well as control of their movement and their behaviour within the cities. Under power in these acts are urban areas of South Africa are "prescribed"—that is, they are in effect "white" areas. Development Boards (formerly Administration Boards) are empowered to erect and fence off towns or townships, villages, and hostels for the black population, segregated from the white residential areas. Increasingly, new African residential areas are physically located at considerable distances from white areas (for example, Khayelitsha, some 30 kms. from Cape Town) or are located within the adjacent borders of the homelands (for example Bronkhorstpruit in KwaNdbele). Existing townships have likewise been incorporated into the homelands by the expedient of redrawing homeland boundaries (as proposed for Lamontville and Hambanati, Durban, both of which are scheduled for incorporation into KwaZulu). The freehold ownership and control of all residences erected within the segregated locations have been vested in the Development Boards but management of townships will be increasingly transferred to the new local authority councils. Since 1978, Africans with "urban rights" may enter into 99-year leases. By March 1982, however, only 1,831 such leases had been registered.[12] For the vast bulk of Africans rented accommodation is the sole source of housing that they can afford. Regulations of 1968 control in detail the lives of Africans in townships or locations.[13] A permit is required for residence in the black township which specifies who may reside there and if unauthorised lodgers are found on inspection, they may be summarily "endorsed out" or expelled from the city to the homeland. Single workers are required for the most part to reside in hostel accommodation, at least some of which is characterised by servere overcrowding and primitive living conditions.[14] Powers also existed under the 1945 act to expel "idle or undesirable blacks", "redundant blacks" (defined as "blacks in excess of the reasonable labour requirements" of the area), a power however which was never used; and blacks whose presence was "detrimental to the maintance of peace and order". These powers, other than those concerned with "idle or undesirable blacks", have now been abolished by the Black Community Development Act of 1984.

In the prescribed or white urban areas, prior permission to *enter* is only in law required for "foreign blacks". Other categories have permission to be in the city for up to 72 hours. Thereafter, their presence is unlawful unless they have express authority to be there endorsed in their passes or have earned a qualification for presence in that urban area. A much prized asset among the black population is a pass endorsed with a qualification allowing urban residence. Such a qualification is known as "section 10" rights, following the section of the 1945 Black (Urban Areas) Act allowing for this possibility, although it is a "right" which is more properly decribed as a privilege or concession, under South African law.[15] This section, which is introduced by the heading, *Restriction of right of Blacks to remain in certain areas*, provided as follows:

s.10 (1) No Black shall remain for more than seventy-two hours in a prescribed area unless he produces proof in the manner prescribed that—

(a) he has, since birth, resided continuously in such area; or

(b) he has worked continuously in such area for one employer for a period of not less than ten years or has lawfully resided continuously in such area for a period of not less than fifteen years, and has thereafter continued to reside in such area and is not employed outside such area and has not during either period or thereafter been sentenced to a fine not exceeding five hundred rand or to imprisonment for a period exceeding six months; or

(c) such Black is the wife, the unmarried daughter, or the son under the age of eighteen years, of any Black mentioned in paragraph (a) or (b) of this sub-section and, after lawful entry into such prescribed area, orginarily resides with the Black in such area; or

(d) in the case of any other Black, permission so to remain has been granted by an officer appointed to manage a labour bureau . . . due regard being had to the availability of accommodation in a Black residential area.

At 31 December 1984, some 3,888,187 Africans had "section 10" rights, either in terms of 10(1)(b), having been born in the cities or, in terms of 10(a)(b), having worked continuously there for either ten or fifteen years as provided, or having qualified under 10(1)(c) being the wife or dependent of a worker who had earned a 10(1)(b) qualification.[16] Such qualifications, until recently, could be forfeited if the person left the urban area where the qualification has been claimed and may still be forfeited if he or she is sentenced to a fine exceeding R1,000 or a term of imprisonment exceeding 6 months. "Section 10" rights are also lost if the person is deemed "idle or undesirable" under the commissioner's enquiry pursuant to section 29 of the 1945 act. A woman qualifying under section 10(1)(c), by virtue of marriage, loses that status on divorce, separation or death of her husband, and can be ordered out of the city. In May 1985, an amendment of section 10 was legislated, the first of many amendments since 1945 which enlarged rather than reduced the scope of that section. This amendment, which came into effect in June 1985 and was designed to increase the mobility of urban Africans, is

discussed in the final section of this chapter.

Apart from those who have "section 10" rights, permission to remain in a prescribed area in excess of 72 hours can be granted by a labour officer for a particular purpose, for example, to seek work or to visit relatives (section 10(1)(d) permissions). As noted, nationals of neighbouring states (foreign blacks) have no right whatsoever to be in a prescribed area at any time (section 12 of the Urban Area Act 1945). However, written permission may be given by the authorities to enter. The act, in section 13, exempts certain classes of foreign workers from these restrictions, principally those lawfully in transit to the mines.

It is primarily through a combination of control of accommodation, including its availability, and control of employment under the Black Labour Act (discussed below) that the administrative system of influx control in urban South Africa is designed to work in theory. The coercive face of influx control—arrests, prosecution and trial for pass law offences—is directed primarily at distinguishing Africans "illegally" in white areas from those possessing the necessary qualifications. Many of these "illegals" are Africans from the homelands who, as the *Hoexter* Commission noted, feel compelled through poverty to flock to the cities despite lack of permission and accommodation.[17] The very large number of prosecutions of those illegally in towns and cities, which have increased rather than decreased in the 1980s, demonstrates both the human cost of influx control policies and that they do not work very well.[18]

Group apartheid—Rural areas

The presence, movement and residence of Africans in the rural areas of 'white' South Africa is subject to control by the state to the same, if not a greater, extent than in the urban areas. By operation of law, virtually all independent rights to tenure or occupation of farm land by Africans have been destroyed.[19] Africans can only lawfully be present in the rural areas as farm labourers or their dependents.[20] This situation has been progressively achieved through the impact of the Development Trust and Land Act 1936. This act establishes control over the numbers of Africans in the countryside by means of 188 Labour Control Boards and through labour liaison officers. An owner of a farm is prohibited from allowing Africans "to congregate or reside thereon" without the written permission of the Secretary of the Department of Co-operation and Development. Africans equally are prohibited from so doing or from occupying any dwelling. The Labour Control Board may institute certain enquiries to determine whether the number of black employees "is unduly large" taking into account "the nature and extent of the farming operations carried on by the owner . . . including the availability of non-black labour".[21]

Should an enquiry determine that there is an excess of Africans over labour requirements, it may order the farmer to eject them on pain of conviction and the Africans become in law squatters who may also be ejected summarily by the state. The mechanisation of agriculture and the consolidation of farms has led to a rapid fall in the demand for agricultural workers.[22] The Labour Control Boards provide a means for removing not only surplus labour from white farms to the homelands but also the retired, the elderly and the sick in the rural labour force. None would be thereafter permitted to move to the urban areas. It has been calculated that since the 1960s over one million people have been forced off white farms through these procedures.[23]

The Black Labour Act 1964 and the black labour regulations

This act, with its accompanying regulations of 1965 and 1968, established the means of control over the employment of black people in all areas.[24] The pass is central to its functioning. A complex system of labour bureaus exists across the country through which Africans seeking work are channelled. Black persons who have "section 10" rights may take up employment within the urban area in which they are qualified, subject only to the contract of employment being registered with the Labour Bureau. But for the bulk of Africans without a right to be in the urban area, the procedure is very different.[25] In the first instance, all black males over 15 years are required to register for employment in the homelands, at labour bureaus established there. Females who wish to work may also register. The labour officer classifies each for a particular category of employment stamped in the pass. One of the features of this system is that once categorised, for example, "farm labourer" in the reference book, a young person may be required to remain as a farm labourer. He cannot change that designation without the concurrence of the labour officer. Efforts to take up employment in the city would be futile because the pass is already stamped "farm labourer" and he could not be registered for urban employment. A farm labourer will not in practice be allowed to change to urban employment without the consent of both the farmer who employs him and the agricultural union for the area.[26]

To obtain lawful employment in an urban area, an employee must be requisitioned through a municipal labour bureau, by an employer, or recruited by a labour agent. A contract has to be entered into, attested and registered at the labour bureau for the area in which the recruitment took place. Ordinarily, the contract of employment may be for no longer than 12 months at which point the employee is required to return to the homeland to renew it. By and large, women are blocked from employment in the prescribed areas or cities by the Labour Regulations. The system established, therefore, is a migrant labour system of males who are directed and controlled in their employment through the Labour Bureaus.

The municipal labour officer has power to require a black worker to be medically examined at any time, and may refuse to sanction employment if the worker is not "passed health and vaccinated" by a medical officer, or if there is not available suitable accommodation. He may also refuse to sanction the contract if a suitable unemployed African with "section 10" rights is available. The lawful basis of entry by the African employee into the prescribed area is section 10(d) of the Urban Areas Act 1945, discussed above. A worker lawfully permitted under section 10(d) to be in an urban area may ultimately qualify for "section 10" rights, for example, after 10 years' continued employment with the same employer. The requirement that the contract of employment be not longer than 12 months, and that to renew it a worker had to return to the homeland labour bureau, had been introduced in 1978 to prevent a migrant worker acquiring the necessary uninterrupted 10 years' continuous residence. This policy emerged in a recent case, where the Appellate Division, the highest court in South Africa, ruled that the intermittent absence from an urban area by a migrant worker to renew a contract of employment did not interrupt residence, and that after 10 years a migrant worker would be entitled to permanent residence rights.[27] This decision resulted in a large number of migrant workers becoming formally entitled to urban residence rights under section 10 of the 1945 act. However, as a result of legislative amendments in 1983, their consequential right to bring families to the cities is contingent on purchasing suitable accommodation.[26]

"Insiders" and "outsiders": Influx control reform proposals—Black commuter labour

A further aspect of the use of housing to control movement was the decision in the 1970s to freeze the growth of black townships in 'white' areas, and the forced location of further growth within the borders of the homelands. With this has been coupled a decentralization strategy of industrial development with efforts to site new industry in or at the borders of these homelands.[29] In this way, Africans can work in South Africa and travel home to their own "country" at night.

These policies have given rise to the phenomenon of commuter labour, a present day complement to the migrant labour system. In 1984, over 600,000 commuters had to travel and return daily from the homelands, "independent" and "self governing", to work in South African cities.[30] The "border" commuters from KwaZulu travel to work in the Durban-Pinetown-Pietermaritzburg area, commuters from Bophuthatswana travel to the Pretoria-Witwatersrand-Vereeniging area and workers from Ciskei commute to the East London-Kingwilliamstown region.[31] Speaking of Ciskei and KwaZulu, a government planner said:

"[The commuting policy] has been planned like that. Now [the people] live in their fatherland under their own country's laws and governed by their own traditions and language and they want to stay there because they can live together with their people, they can participate in their government. And outside their country they can't have that".[32]

For a very large percentage of these people, the homeland policies introduced under the Government's *apartheid* system impose enormous burdens of travelling time. Currently, 400,000 of these "border" commuters travel more than *30* kilometres per day; twenty per cent travel between 3.5 and 7 hours per day or an average 4.5 hours per day which is equivalent to more than half of an average working day.[33] A study of KwaNdebele residents discovered that:

"[M]any spend between five and eight hours daily commuting between their homes and their workplaces around Pretoria and Brits. Buses leave their depots some 130 kms. east of Pretoria to pick up their first passengers at around 2.30 am. by 3am the buses are often full and by 4.00 am most of the standing passengers sit on the floor in quest of a place to snooze."[34]

Official attitudes remain complacent. A senior administrator of influx control, Mr. Louis Kok, has been quoted, for example, by one researcher as saying:

"If someone wants to make use of work opportunities and commute to Johannesburg then he can commute, then he can ride on the buses but no-one forced him to do it."[35]

What this official failed to mention, however, is that people did not choose to live in scattered and isolated settlements in homelands, far from employment. They are in most cases legally compelled to reside in such areas.[36]

Influx control reform

The last decade in South Africa has been characterised by the coincidence of the most vigorous period in the implementation of traditional *apartheid* policies alongside an equally unprecedented questioning of them, not only at the popular level but in official and business circles.[37] In the result, there has been a confusing mixture of reform, repression and resistance culminating in the imposition of a state of emergency in many areas in the second half of 1985.

It is not possible here to account for these developments, only to focus on their effects on the future of so-called influx control. After a protracted period of public and private argument, it now appears that at governmental level there is new thinking. It has been accepted that the long-established policies of demographic manipulation, represented in the homeland and denationalisation policy, and in forced removals, pass laws and deportations, are no longer effective in preventing black urbanisation and require modification. The economic strategies of decentralisation, homeland development and border industries have equally failed to prevent African movement and African numbers rising in "white" South Africa. The migrant and commuter labour systems and the pass laws as the means for the maintenance of *apartheid* have increasingly come to be challenged, culminating in an official report published in 1985 which argues for their abandonment.

The Wiehahn and Riekert Commissions

It is generally accepted that revision in thinking on influx control dates from the publication in 1979 of these two official enquiries into labour legislation. Both had a common conclusion: the permanent residence of *some* of the African population in "white" South Africa had to be accepted and the theory that the black was a "temporary sojourner" required modification. In both reports, the emphasis was on the economic imperatives for a changed approach. There was a need to recognise the industrial demand for a stable and increasingly skilled section of the black working workforce and in turn to come to terms with the personal and social needs of that population if it were to be peaceful, content and productive.

The *Wiehahn* Commission recommended that the prohibition on black workers forming trade unions (a prohibition achieved by their being omitted from the definition of employee in the relevant labour legislation) should be removed. This, and a further recommendation that an industrial court be established, were gradually implemented by government.[38]

The *Riekert* Commission was established to study the manpower requirements of industry, which inevitably led to the study of the pass laws and the black labour legislation. In his report, Riekert first concluded that the reality of permanent urbanisation of black people had not only to be accepted as inevitable but a necessity for the future economic development of South Africa. In effect, this report repeated the similar arguments which had been made by the Fagan Commission in 1946, proposals that the Nationalist Party on coming to power in South Africa had specifically rejected.[39]

However, Riekert did not propose that controls on African mobility should be ended. Instead, his proposals were for a more efficient system less wasteful to industry in manpower hours than the existing one. It should also be possible to 'deracialise' influx control. The existing Urban Areas Act was:

"of a discriminatory nature because certain of its provisions, do not appear in legislation applying to other population groups." (para 6.14)

New legislation "would regulate the movement of all workers (White, Coloured and Black) from rural areas to urban areas and from independent states to the Republic of South Africa" (para. 3.600)

Riekert proposed that these "non-discriminatory" controls should be exercised through employment and housing rather than through mere presence and enforcement on the streets. Lawful residence in the urban areas would be linked to having registered employment and housing. In this way:

"It will be possible . . . to apply influx control more effectively than at present so that much of the bitterness and frustration caused by it can be eliminated . . ." (para. 3.600–3.601)

What the report failed to dwell on was the fact that there is no significant process of urbanisation of other populations since it is virtually complete in their cases, and effectively there is only migration from black rural areas. In addition, linking access to urban areas to approved housing was hardly non-discriminatory when, as *Riekert's* own statistics established, there was no shortage of white housing and only surmountable problems with other racial groups, whereas there exists a massive shortage for black people because of the deliberate policies of freezing the expansion of black townships.[39]

The report's other main recommendations related to the need for 'positive development of the urban and rural Black communities outside the Black states', including in housing, infrastructure and through encouraging local participation of the now acknowledged permanent black population. The basic thesis underlying the *Riekert* Commission's proposals, that a distinction should be drawn between the urban 'insider' black population and the rural 'outsider' population in the homelands, with strict policing through employment and housing of the movement from one category to the other, was accepted by the government, along with much of the other thinking in the report. Various features of these policies have been implemented in the last four years. A *Black Local Authorities Act 1982*, granted in principle local franchise to black urban residents and equal status to those authorities as white local government. A *Black Community Development Act 1984* established Development Boards to "promote the viability, development and autonomy of Black communities . . . and to promote the welfare of the Black person." The introduction of the 99-year leasehold scheme for black homes, and the *Co-operation and Development Amendment Act 1985*, were equally reforms based on Riekert proposals.

The latter act allows greater mobility of African urban workers: the "section 10" qualification for residence may now be earned by lawful residence and employment in more than one prescribed area. The act also reduced the qualifying period for an African employed by more than one employer from 15 to 10 years.

The 'outsider' part of the policy has also seen implementation. Under the *Alien and Immigration Law Amendment Act 1984*, for example, penalties for employing illegal 'alien' labour were massively increased to R5,000 or two years' imprisonment, or both. 'Alien' labour included workers from the "independent" states, the denationalised eight million Africans who are deemed citizens of these states and who are no longer South African citizens.

The most contentious aspect of the government's efforts to implement Riekert has been, however, over the *mechanisms* of influx control. In accepting the report the government, in a *White Paper*, noted:

" . . . the Government fully identifies itself with the Commission's conclusion that serious social problems would arise in the urban areas of South Africa affecting both the established urban population (White, Coloured, Asian and Black) and the new entrants, if a large scale influx of Black workers should take place uncontrolled. In this connection, therefore, the question to which both the Commission and the Government had to find an answer was not whether there should be influx control, but what the right mechanism for influx control would be in South African circumstances."[40]

The search for "the right mechanism" led first to one proposed legislative measure, The Orderly Movement and Settlement of Black Persons Bill, which was withdrawn while at Bill stage after a public outcry over its provisions. This bill sought effectively to impose a night time curfew during which blacks found in "white" areas would be liable to arrest, to end black people's rights to visit urban areas for up to 72 hours without permission and to make black residence in urban areas dependent upon the availability of accommodation. The latest legislative proposal is to introduce common documents of identity for all "population groups" by mid-1986.[41] Meanwhile, a Report of the President's Council Committee for Constitutional Affairs, while welcoming the proposed common identity document, has urged acceptance of "orderly" freedom of movement for the African population. The possible linkage between these initiatives was not clear at the time of completion of this study in late 1985. The President's Council's Report is, however, examined in more detail in a concluding chapter.

FOOTNOTES

[1] On the history of pass laws in South Africa, see Muriel Horrell, *The Pass Laws*, South African Institute of Race Relations (Johannesburg 1960); M. Savage "Pass Laws and the disorganisation and reorganisation of the African population in South Africa", Carnegie Conference Paper No. 281 (Cape Town 1984); N.J.J. Oliver, "The presence and employment of Blacks in the Urban Areas of South Africa: a historical survey of legislation", in *The Law Relating to Urban Africans in South Africa, Acta Juridica* (Cape Town 1985) pp. 1-16. In colonial Kenya, the pass known as *kipande* was introduced in the 1920s as a means of labour control. It consisted of a metal cylinder hung around the neck in which a labour registration certificate was contained. In Southern Rhodesia passes were introduced in the 1890s and lasted with modifications until independence. On Kenya, see B.J. Berman & J. Landsdale, "Labour Control in Kenya, 1919-1929", 14 *Canadian Journal of African Studies* (1980) pp. 55-82. On Southern Rhodesia see C. Palley, *The Constitution History and Laws of Southern Rhodesia*, 1888-1965 (Oxford 1966) pp. 105-6, 614-5.

[2] Hahlo & Kahn, *South Africa: The Development of Laws and Constitution* (London 1960) p. 794.

[3] J.M. Smalberger, "The role of the diamond mining industry in the development of the pass law system in South Africa", 9 *International Journal of African Historical Studies* (1976) pp. 418-434, at p. 433.

[4] *Ibid*, p. 432.

[5] Chapter 7 *infra*.

[6] The most important of these were the *Report of the Transvaal Local Government Commission* (the Stallard Commission) 1922, and *Report of the Native Laws Commission 1946-1948* (The Fagan Commission), 1948.

[7] *Commission of Inquiry into Labour Legislation* RP 47/1969 (the Wiehahn Report) and *Commission of Inquiry into Legislation Affecting the Utilisation of Manpower* RP 32/1979 (the Riekert Report).

[8] Muriel Horrell, *Action, Reaction and Counter-Action*, South African Institute of Race Relations 1971.

[9] See J. Dugard, "South Africa's 'Independent' Homelands: An Exercise in Denationalisation" (1980) 10 *Denver Journal of International Law and Policy*, 11; A. Chaskalson and S. Duncan, "Influx Control: The Pass Laws", Carnegie Conference Paper No. 81 (Cape Town 1984).

[10] In 1978 the then Minister of Bantu Administration and Development stated in the South African parliament: "[I]f our policy is taken to its full logical conclusion as far as the Black people are concerned there will be not one Black man with South African citizenship . . . [E]very Black man in South Africa will eventually be accommodated in some independent new state in this honourable way and there will no longer be a moral obligation on this Parliament to accommodate these people politically". Cited by Dugard, op.cit., p. 16.

[11] The Black Community Development Act 1984 substantially replaces the Urban Areas Act of 1945, except as regards 'influx control' provisions in that Act, which remain in force.

[12] Cited by Corder, "The rights and conditions of entry into and residence in urban areas by Africans", in *Acta Juridica* (1984) p. 56.

[13] *Regulations Governing the Control and Supervision of an Urban Black Residential Area and Relevant Matters*, GNR1036 of 14 June 1968; *Black Labour Regulations*, GNR1892, of 3 December 1965.

[14] See "Anger over conditions in Durban's hostels for migrant workers" *The Natal Mercury* March 28, 1985; "Living conditions at black hostels to be investigated" *The Star* 30 January 1985, (Johannesburg).

[15] There is considerable literature on section 10 rights and a large amount of case law considering their scope. The accounts relied on here include, G. Budlender, "Prosecutions under the Pass Laws", Legal Resources Centre Memo (1984) unpublished; C. Nicholson in Legal Resources Centre *Para Legal Manual* (1982); H. Corder, op.cit., footnote 12.

[16] Figures given by the Minister of Co-operation and Development in the House of Assembly, Question No. 270 (1985).

[17] Commission of Inquiry into the Structure and Functioning of the Courts, Chairman Mr Justice G.G. Hoexter, Fifth and Final Report, RP 78/1983, para 5.2. For the most detailed contemporary accounts of poverty in South Africa and the effects of influx control on the rural poor, see H. Zille, "Political power and poverty: an examination of the role and effect of influx control in South Africa"; S. Duncan, "Influx Control and Poverty—Black Sash Case Studies", Carnegie Conference Papers (Cape Town 1983). See also H. Giliomee & L. Schlemmer, *Up Against the Fences, Poverty, Passes and Privilege in South Africa* (Cape Town 1985).

[18] On the increase of prosecutions under the pass laws see M. West "Influx Control: the 1983 Statistics", SAIRR Cape Western Regional Topic Paper 84/2.

[19] M. Horrell, Race Relations as Regulated by Law in South Africa, SAIRR (1972), p. 74.

[20] C. Nicholson, "Rural Areas" in Legal Resource Centre, *Para Legal Manual*, pp. 256-308.

[21] Development Trust and Land Act, 1936, S. 29 and the Black Labour Regulations 1965, Chapter III, Regulation 9; C. Nicholson, op. cit.

[22] S. Duncan.

[23] J. Nattras, "The dynamics of black rural poverty in South Africa", in H. Giliomee & L. Schlemmer, *Up Against the Fences, Poverty, Passes and Privilege in South Africa* (Cape Town and Johannesburg, 1985), chapter 2, footnote 17, p. 4.

[23a] Giliomee & Schlemmer op. cit. footnote 17, p. 4.

[24] Black Labour Act, No. 67 of 1964, Black Labour Regulations GNR1892 of 3 December 1965 as amended, Regulations for Labour Bureaus at Bantu Authorities Proc R74 of 1968, 29 March 1968.

[25] This section draws generally on, A. Chaskalson and S. Duncan, "Influx Control; the pass laws", Carnegie Conference Paper No. 81 (Cape Town April 1984).

[26] *Ibid*, P. 8.

[27] Rikhoto, 1983(3) S.A.595(A).

[28] Komani NO v. Bantu Affairs Administration Board 1980(4) SA 448(A), established the right of wives and children of section 10(1)(a) and 10(1)(b) people to remain with them. This right was cut down by an amendment of 27 August 1983 to section 10, which made it illegal for family of section 10(b) workers to bring their families to live with them in town unless they have approved accommodation. According to some analysts, the severe housing shortage throughout the state is the result of a deliberate policy over decades of not building new homes in the townships, which has only recently been reversed, and means that most qualified workers cannot find family accommodation or afford what is available.

[29] For an analysis of these policies, see h.2.16 "Political power and poverty: an examination of the role and effect of influx control in South Africa", Carnegie Conference Paper No. 83 (Cape Town 1983). M. Savage, "Pass Laws and the disorganisation and reorganisation of the African population in South Africa", Carnegie Conference Paper No. 281 (Cape Town 1983).

[30] These figures are taken from the recent Report of the Committee for Constitutional Affairs of the President's Council on *An Urbanisation Strategy for the Republic of South Africa*, p/c 3/1985, Chapter 7. The Report is considered in Chapter 8.

[31] *Ibid, para* 7.19.

[32] H. Zille, op. cit p. 36.

[33] H. Zille, op. cit. p. 36. For a detailed picture of the commuting experience see J. Lelyveld, *Move Your Shadow South Africa Black and White*, Times Book, 1985, Ch. 5 "Foced Bussing", p. 119-155.

[34] Zille, op. cit. p. 36.

[35] Report of the Committee for Constitutional Affairs, *op. cit. para.* 7.19.6.

[36] Apart from the costs in terms of health, well-being and family life which the burden of travelling imposes on African commuters, there is also its financial cost. Averaged out, each African commuter pays R1,000 per year on travelling to and from work. The total cost, 50% of which is subsidized by the state, has been estimated at $2,000 million in 1984. See generally H. Giliomee, *The Parting of the Ways: South African Politics, 1976-1982.*

[37] Commission of Inquiry into Labour Legislation RP 47/1979 (*Riekert Report*).

[38] For a more detailed treatment from which these points are drawn see G.M. Budlender and D.M. Davis, "Labour Law, Influx Control and Citizenship: The Emerging Policy Conflict" in *Acta Juridica*, op cit. Note 1 above, pp. 141-172.

[39] Geoff Budlender, "Ending Racially Discriminatory Legislation? Influx Control" (Pietermaritzburg, unpublished paper 2 July 1985)

[40] White Paper WPT-1979, p. 2.

[41] As indicated by the Minister of Home Affairs to Parliament, Questions and Replies, col. 1093 (16 April 1985).

CHAPTER THREE: PASS LAWS AND PASS OFFENCES

The pass laws constitute an administrative regime which controls the movement and the employment within South Africa of all Africans, including citizens, foreign nationals and the new "aliens" from the homelands alike. In legal terms, the system is primarily one of administrative rule, which seeks to regulate every aspect of life for African people, and which necessitates entrusting wide discretionary powers to a very large number of officials, who in turn are subject by the legal order to a minimum or to no control over how they exercise such powers. The further distinctive feature of the pass laws is the almost countless number of offenses which have been created for failing to obey regulations or act as officials require. Only the most commonly prosecuted of these offenses can possibly be surveyed here. At the heart of the entire system, however, lies the personal identity document—the pass (or passport in the case of Africans from the nominally independent homelands)—which all Aficans, and only Africans, are compelled to have. Thousands daily are asked for these documents by the police or other officials, and hundreds daily are arrested, prosecuted, fined or imprisoned for not having them with them when demanded, or because they have lost them, or for not having them at all, or because the required qualifications, permissions or other entries are absent from the book. It is the nature of these common offences and the enactments in which they are to be found that are considered in this chapter.

The Blacks (Abolition of Passes and Co-ordination of Documents) Act 1952

This act was not, as noted in Chapter 2, a law to abolish passes, but rather was intended to introduce a countrywide uniform pass, and to take powers to extend the pass requirement to previously exempt categories, principally women. The act also introduced the term "reference book" instead of pass, but the usage "pass" and "pass book" has persisted and is pervasive in South Africa. The act provides that all Africans over the age of 16 years must be issued with a reference book, and it is a criminal offence not to possess one. Black children under 16 years of age also require identification documents issued by a commissioner if they are absent from home, or employed outside the home.

The contents of a reference book include: a photograph, identity number, address, ethnic group and homeland citizenship, particulars of employment required to be completed by the employer, drivers licence and tax details and endorsements such as "section 10" qualification, etc. The 1952 act also introduced the fingerprint as a means of checking the identity of black people of South Africa and from neighbouring countries. Fingerprinting is compulsory for Africans, but for no other group. Fingerprints which must be taken on the issue of a reference book are registered with the Central Reference Bureau in Pretoria, established under this act, and along with other particulars of identity from the reference book are stored in a computer.

Africans from the "independent" homelands have been progressively issued with (or have been forced to apply for in order to be registered as work seekers) identity or travel documents from these states. They are not entitled to reference books because they are not South African citizens (the 1952 Act, section 3 as amended). The identity documents acceptable include a passport or a permit to travel, as in the case of "foreign blacks". It is an offence to employ an African who is not in possession of a reference book or equivalent document (section 8 *Bis*).

An employer is required to record in the reference book particulars relating to the employment contact, and register it with the labour bureau. Until recently repealed, the employer had the duty to sign the reference book monthly. If 'such Black deserts from his service or if such contract is terminated' the employer must inform the labour bureau (the 1952 Act S.8). It is unlawful to employ an African if the reference book does not indicate termination of a previous contract (section 8(1)). These provisions are but a sample of the controls on Africans' employment freedoms maintained through the reference book.

Reference book offences

The Blacks (Abolition of Passes and Co-ordination of Documents) Act, 1952 ('the 1952') creates at least a score of offences connected with passes and identity documents, but the principal ones are the offences contained in section 15(1)(a)(i), (ii):

"(1) Any person—

(a) being a black who has attained the age of sixteen years, who—

(i) after the fixed date applicable to him, is not in possession of reference book issued to him;

(ii) after the fixed date applicable to him, fails or refuses to produce on demand of an authorised officer under section *thirteen*, a reference book issued to him;

. . . shall be guilty of an offence and liable on conviction . . . to a fine not exceeding fifty rand or to imprisonment for a period not exceeding three months;"

Under this provision, the most frequently prosecuted offence is failure to produce a reference book on demand of an 'authorised officer'. An authorised officer can be any one of a group of twelve different officials, but in practice is a member of the South African police, or a Development Board official. The use of the power to demand passes and its interpretation by officials has been a constant source of grievance for the black population since reference books were first introduced. What is in issue is the practice whereby the police require actual *physical possession* of the document at the time it is requested (usually on the street) and their practice of arresting a person who fails to produce it. This interpretation of the offence whereby it is converted into the offence of 'failing to carry' a pass, has been specifically rejected by the South African courts. In *Ncube* v. *Zikalala* 1975 (5) S.A., the Appellate Division stated that the offence does not require that "a black should always carry a reference book with him . . . it is clear that a black requested to produce his reference book should be given a reasonable opportunity of fetching his reference book somewhere if he does not have it on him at the moment".[1] An independent study of the pass laws (Monama 1983) confirms that this ruling has been ignored in the enforcement of section 15.[2] Amnesty International's delegate received numerous reports from concerned organisations during both missions in 1984 and 1985 that people continue to be denied opportunity to fetch passes, sometimes where the document was only a matter of yards away. Complaints of this nature were occasionally voiced in court in prosecutions observed by Amnesty International's delegate but were not commented upon by the commissioners.

The vulnerability of Africans to arrest for "failing to produce" is exacerbated by employers holding on to reference books when someone takes up employment, a practice which is depreciated by some commissioners, but with little apparent effect. One person interviewed by Amnesty International's delegate who was arrested and convicted under section 15 described being a victim of both these practices by police and employer:

"I was arrested on Tuesday 14 May at about 8.00 am. I was only a few yards from my place of work. What happened was that my employer took my reference book in order to register me in his employment. But he had it for weeks and did not do it. Europeans do that. They are not prepared to register black people immediately but want to see how you turn out as a good worker. My employer had again promised to register me the day I was arrested. I was asked for my reference book by a plain clothes policeman. I told him it was with my employer in the building just a few yards away. But he said that's no good, you have to come with me. I pleaded let me collect it and I will show I have one. But he just put me in the police truck. He didn't give me a chance to collect it. Later I pleaded guilty before the commissioner's court. The commissioner let me go but told me never to give my reference book to my employer. I lost three days work over this, and I can be arrested again in the street because I still haven't got the book."

Arrests for 'failure to produce' are discussed further in chapter 5, but it may be mentioned here that many of them are probably illegal arrests under South African law since they contravene the court ruling that opportunity should be given to fetch documents.

The offence created by section 15(1)(a)(ii) has a maximum penalty of R50 or three months' imprisonment in default of payment.

Offences connected with presence in a prescribed area

(a) *Remaining in a prescribed area for more than 72 hours without permission:*

Section 10 of the Black (Urban Areas) Consolidation Act 1945 (the 1945 Act as amended in 1952), which was considered in detail in chapter 2, makes it an offence for Africans, except those who have the requisite qualifications or otherwise have permission, to remain in a prescribed area longer than 72 hours. It provides:

"(4) Any person . . . who remains in any area for a purpose other than that for which permission so to remain has been granted to him, shall be guilty of an offence and liable on conviction to a fine not exceeding one hundred rand or in default of payment to imprisonment for a period not exceeding three months or to both such fine and such imprisonment or to such imprisonment without the option of a fine."

The equivalent offence for "foreign blacks", whom it will be recalled have no right at all to be in a prescribed area, is contained in section 12 of the 1945 Act. Additional offences are created connected with "introducing" blacks who are prohibited into prescribed areas (section 12) and employing blacks who are illegally in prescribed areas (section 11). These offences are aimed at the other races, and although contained in the 1945 Act, are prosecuted in the ordinary courts, and not the commissioner's courts, which deal exclusively with offences by Africans. In practice, as noted by the *Riekert Commission* employees and not employers are the most frequently prosecuted for illegal employment.[3] In line with the recommendations of that Commission, the penalties for offences connected with illegal employment were increased in 1979. The maximum penalty applicable to both employer and employee now is R500, or 3 months' imprisonment, or both, or to 3 months' imprisonment without the option of a fine.

A crucial feature of the offence under section 10(4) is the requirement (in section 10(5)) that the *onus of proof* with respect to disproving the principal elements of the offence is placed on the accused. It is to be presumed in any prosecution that the person was at the time of arrest longer than 72 hours in the prescribed area in question. If he or she claims to have been there for a shorter period or to be entitled to be there for longer—that is, to have permission under Section 10(d) or to have "urban rights" (10 (a), (b) or (c))—then the burden of proving such is on the accused person.

It should be noted that such requirements as to proof, which are characteristic of most pass law offences, deny the accused a central guarantee of a fair trial proclaimed in the Universal Declaration of Human Rights—the right to be presumed innocent until proved guilty according to law.[4] The consequences of reversing the onus of proof, as observed in the trials for such offences during the Amnesty International missions, were to coerce the normally unrepresented defendant to plead guilty and to relieve the prosecutor from the need to call any evidence in the case. In no trial observed on either mission in 1984 or 1985 did a prosecutor call a witness or prove anything through evidence. If, as exceptionally occurred, an accused pleaded "not guilty" to a section 15 or other offence, the case was either dismissed on the basis of the defendant's evidence or the accused was remanded, normally in custody, to enable police evidence to be called. Members of the Black Sash organization who regularly monitor these courts confirmed to Amnesty International's delegate that when an accused was again produced it was only in the rare case that prosecution evidence was called. The usual outcome, if an accused did not change the plea to "guilty", was a discharge.[5] These and other features of trial in commissioners' courts for pass offences are discussed further in chapter 6.

Just as there is a grievance over the enforcement of the law requiring production of a pass (section 15 of the 1952 Act above), equally, the practices of the police in arresting for alleged offences contrary to section 10(4) are a source of constant complaint. The Amnesty International mission in 1984 was informed that at least in Johannesburg the 72-hour period within which it is lawful to be in the prescribed area is largely ignored. The offence of "remaining" in a prescribed area has been converted into one of "entering" a prescribed area. It was reported, for example, that people with luggage are frequently arrested outside bus stations or outside the railway station having alighted from transport bringing them to Johannesburg. Numerous cases which Amnesty International's delegate observed in the Germiston commissioners' court in May 1985 were withdrawn in court by the prosecutor following the defendants' complaints that they were arrested within hours of arriving in the prescribed area. The prosecutor and the magistrate expressed concern about police behavior in these cases, and the prosecutor was detailed to complain to the local police commander. In contrast, in 1984, in cases observed at the commissioners' courts in Market Street, Johannesburg, similar accusations made by defendants produced no response from court officials. The use of this arrest power is considered further in chapter 5, but it is clear that arrests in the circumstances mentioned are illegal under the laws of South Africa.

(b) *Trespass Offences:*

In many legal systems, trespass—entering or remaining on property without the owner's consent—is a civil matter. In South Africa, however, it is a criminal offence and those arrested and prosecuted are overwhelmingly black. In 1984, for example, more than 90,000 Africans were arrested for alleged trespass.[6]

The principal legislation is the Trespass Act of 1959 and regulations promulgated in 1968 which make it an offence to be present without a permit or written authorisation by its superintendent in any of the black hostels administered under the aegis of the Department of Co-operation and Development and used to accommodate black migrant workers in white areas.[7] Arrests and prosecutions for breaching these regulations are believed to constitute a significant proportion of the total though no precise figures were available to Amnesty Internation-

Footnotes at end of chapter 3.

al's delegate. Other arrests occur in the context of visits by black friends or relatives to black domestic servants in their quarters in white residential suburbs, which may result in the prosecution both of the visitor and of the domestic servant or employer who permitted the unauthorised black person to be present.

Although this legislation relating to trespass is notionally non-discriminatory by race, it is applied, in practice, on a discriminatory basis and in such a way that it supplements the restrictions on freedom of movement and presence contained in the pass laws. One indication of this is the different treatment accorded to people of different race alleged to have breached the laws relating to trespass: as described below in chapter 5, black people are arrested and taken into custody while whites are simply summonsed.

Even blacks who are qualified (under section 10 of the Black (Urban Areas) Act) to remain in areas preserved for whites are not permitted freedom of movement in those areas. This is because section 9(9)(a) of the Black (Urban Areas) Act provides that "no Black shall without permission of the owner of any land or building within an urban area outside a location, Black village or Black hostel enter upon or into or remain . . . unless he does so in the course of his employment". This provision is clearly discriminatory.

It is not known to Amnesty International what proportion of those imprisoned for trespass are victims of discrimination on the basis of race—either because the provision under which they have been imprisoned is discriminatory in itself or because it has been applied in a discriminatory way—and thus may be considered prisoners of conscience.

(c) *Squatting:*

"In the South African sense the term squatting is used to connote occupation by [blacks]—no matter what the nature of tenure—of land owned by non-blacks".[8] The arrest of whole communities for squatting—that is, illegal presence and residence—has long been a feature of influx control in South Africa. The best known struggles involving squatters have occurred at Crossroads in Cape Town, but there are many other instances and locations.[9] A recent illustration occurred in November 1984 when hundreds of people were rounded up and accused of squatting on a farm near Grasmere, south of Johannesburg, in a joint police-army operation. The raid took place at midnight and many young children were left uncared for when their parents were taken and held in police cells over the weekend before being released on bail.[10] Squatting prosecutions are also frequently employed in rural areas, to force farm labourers and families whose services are no longer required off farmland. The principal legislation used is *The Prohibition of Illegal Squatting Act of 1951*, which contains an array of powers to arrest, powers of eviction and to pull down shanty dwellings. This act is not of general application but applies only to areas "proclaimed" by the government.

Again, the legislation relating to squatting is notionally non-discriminatory but appears, in practice, to be applied almost exclusively against blacks from a racial motivation. In cases where this racial aspect is primary, those imprisoned for alleged illegal squatting may be prisoners of conscience.

(d) *Curfew:*

Under the 1945 Act, section 31, the State President may, at the request of a local authority, proclaim a curfew for that area "and no black male or female, shall be in any public place within [that area] during such hours of the night as are specified unless such Black be in possession of a written permit signed by his employer or by a person authorised . . ." Many "white" urban areas are subject to such nightly curfews. In 1984, 11,688 Africans or over 30 per day were prosecuted under the curfew regulations.[11] The offence is explicitly discriminatory. Only Africans are subject to curfew laws. Any African abroad where a curfew is proclaimed must have a written authorisation, or a "night special" as it is called in the argot of the Johannesburg police. Complaints voiced in court by Africans that they were arrested before curfew hour, held in police vans until after 11 pm and then charged with breaking the curfew, were commonplace in the cases in the Johannesburg commissioners' courts observed by Amnesty International's delegate. Under the legislation, curfew is optional in municipalities. The *Riekert Commission* noted that in 1978 out of 309 areas where Africans were subject to curfew laws, only 49 then enforced them strictly. This had fallen to ten in 1984.[12] That Report recommended abolition of the curfew, but this has not occurred, although accepted in principle by the government. The drop in curfew regulation is evident from figures for 1971-72 when some 132,264 people were arrested for such offences.[13] Nevertheless, in the period 1975-1983, 200,000 Africans were prosecuted in South Africa for the crime of movement by night.[14] Some municipalities insist not only on a street curfew but a "white by night" policy. For example, in such towns in the Transvaal as White River and Barberton all domestic servants must reside in the black township or location and not in domestic quarters in the white area, between the hours of 9 pm and 4 am.

Administrative control under the pass laws

A characteristic of the pass laws is the array of administrative powers given to officials at all levels in the exercise of control over the lives of Africans. Some of these powers can be exercised only after court enquiry or an application to a court, but others have no such requirements. These powers are additional to the crucial discretion from the point of view of the African worker exercised by such as the labour bureau officials and authorities responsible for accommodation. Indeed, at every turn, African life where it is not regulated by the police and the commissioner is governed by the discretion of officials, with limited if any safeguards on arbitrary action. Only the major sources of administrative power are described in this Report.

"Section 29" enquiries into "idle or undesirable blacks"

The 1945 Act provides for an inquisitorial jurisdiction conducted by a commissioner known as "section 29 enquiries".[15] Arising from these investigations, Africans may be banished from the cities or sent to farm colonies or other places for terms as long as eighteen months. The procedures involved are administrative and an "idle or undesirable" finding is not a conviction for an offense. In practice, however, commissioners have thought otherwise and have used these arbitrary powers to punish people with terms of forced labour for what they conceive of as "the felony of idleness".[16]

The powers given to officials by section 29 of the 1945 Act have been condemned over the years by South African judges, who have variously described them as "constituting a 'drastic interference with human liberty', as giving 'extraordinary powers' that 'are unknown to any system of jurisprudence', as being very dangerous', and 'as not being in accordance with justice' ".[17] To these condemnations may be added the further one, not referred to by the courts, that the powers are racially discriminatory. Only Africans are subject to section 29 investigations and to banishment, detention and forced labour. The *Riekert Commission* in 1978 recommended its abolition.[18] The government has taken power to do so in the Black Community Development Act of 1984, but has not thus far done so.

Where any authorized officer has reason to believe

"that any Black is an idle and undesirable person, he may notwithstanding the provisions of any other law without warrant arrest that Black . . . and take him . . . before a Commissioner" (section 29(1))

The maximum period that the person arrested may be held before being brought before the commissioner is 72 hours, whereas the maximum period for an alleged offence permitted by the Criminal Procedure Act of 1977 is 48 hours. While an investigation is underway the person may be remanded on bail, but normally he or she is in custody for such periods as are necessary pending the completion of an enquiry.

For the purposes of the section a "Black" excludes a *bona fide* black housewife, but includes any other females over 15 years and under 60, and males over 15 and under 65 years of age.

The section provides for arrest on an allegation of being "idle or undesirable" in a catalogue of circumstances remarkable for its scope. There are nine distinct sets of circumstances which justify arrest and an enquiry into "idleness" and at least eleven justifying enquiry as to "undesirability". The most common allegation of "idleness' examined before the commissioners' courts is where it is alleged that the person has been unemployed for a period of 122 days within the preceding twelve months. Other grounds include where he has refused on three consecutive occasions employment offered him by the labour bureau, or has lost his employment on more than two occasions within 6 months "due to his own misconduct, neglect, intemperance or laziness". "Idleness' also includes begging or failure to support dependents through gambling or addiction to drugs.

The categories of "undesirable" all relate to convictions for different offences, including any offence involving public violence, selling or possessing sorghum beer, malicious injury to property, or membership in unlawful organisations.

The commissioner undertakes an enquiry into the allegation that the person arrested is "idle or undesirable" and he "shall require such Black to give a good and satisfactory account of himself . . . and if [he] fails to do so, the commissioner shall declare such person to be an idle or an undesirable person according to the circumstances" (section 29, 6 (a), (b)).

The section further provides in relation to an allegation of idleness due to not having lawfully been employed for an aggregate of 122 days or more, "where there is any doubt as to whether a Black falls within the category . . . the burden of proof that he does not fall within such category shall be upon such Black". The process of enquiry, therefore, is one of compulsory inquisition. The African person is required to "give a good

and satisfactory account of himself" on pain of being deemed "idle" or "undesirable".

The finding that a person is "undesirable" under the act might appear to operate automatically once conviction is established for one of the listed offences. But the courts have sought to prevent this interpretation of their powers by commissions. In the case of some offences the act requires the conviction to have been within the preceding three or five years, but in the case of others, for example, public violence or malicious damage, a conviction at any time may suffice. None of the listed offences are within the jurisdiction of the commissioners' courts. The section therefore contemplates the arrest of an offender after conviction and sentence in a court of law for purposes of an enquiry conducted by a government official. Should that enquiry lead to a finding by the commissioner that the person is "undesirable" or "idle", he is empowered to order the person's removal to a homeland or such other place as determined by him and he may further order that he may not return at any time without written permission. In practice, such persons are sent to work on farm colonies run by the Department of Prisons, for such period as the commissioner may determine.[19] The commissioner has power to suspend an order for removal, and as a condition of the suspension require the person to take up employment arranged by the labour bureau. From observation by Amnesty International's delegate of section 29 proceedings in the Johannesburg commissioners' courts in 1984, it is apparent that suspension of sentence is common. If the order does take effect, however, then should the African have 'urban rights' under section 10 of the 1945 act, or have permission to remain in the urban area under section 10(1)(d), he or she "shall forthwith forfeit any right which [he or she] may have acquired" (section 29(16)).

In Johannesburg, one commissioner dealt exclusively with section 29 cases in 1984. For the month of March 1984, the court had a case load of 357 cases. Orders under section 29 were made in 43 cases, 100 were withdrawn and 214 were remanded for further investigation.[20] The commissioner dealt with an average of about 20 cases per week. On average a person under investigation spent four to six weeks in custody before or during the investigation. The hearing functions through a combination of evidence led by an inspector and questioning from the commissioner. In no case observed was the person represented.[21] A principal source of evidence produced by the inspector consisted of what were termed admissions by the arrested person during interviews. A typical case was introduced by the inspector as follows:

"The respondent is a black male aged 27 years. I have reason to believe he is idle in terms of section 29. He appears to be an able bodied person who doesn't work. Identified from records in Pretoria [identification number read]. He is not registered as a work seeker or a worker. He has no proof that in the last twelve months he did any work at all. He has no permit to work in Johannesburg and on interview he made the following admissions: 'No fixed address. I have none in Johannesburg.' 'I have no private income to pay for my upkeep.' Alleges he arrived in Johannesburg in January 1984. He is so vague that he is not able to supply particulars before that. He cannot give any reason why he is not earning a living. I have further information I will divulge later to show he has been here more than twelve months and my submission is that he is idle."

The bulk of section 29 enquiries result from cases referred from the other commissioners' courts. If the aid centre interview (see chapter 4) indicates that the arrested person is someone who ought to be investigated further, the person is remanded in custody for a section 29 enquiry. A further source of cases is on complaint from wives or mothers about the domestic behaviour of husbands or sons. Thus, social problems and domestic disputes among African people can be dealt with through a coercive procedure rather than helping agencies or case work. The section 29 procedure is also used to enforce maintenance orders made in other courts. If a husband claims inability to pay an order the maintenance court will refer the case for investigation as to means by the section 29 court.

Orders made under section 29 are in practice treated as being subject to automatic review by the Supreme Court.[22] While there is some doubt as to whether this has proved to be an effective safeguard, many commissioners resent it and some have sought to have it abolished. The arbitrary and racially discriminatory powers and procedures described under section 29 are in gross violation of fundamental human rights and freedoms as prescribed by the Universal Declaration of Human Rights. Those subjected to the administrative "findings" under section 29 enquiries and who, as a result, are required to undertake forced labour on farm colonies are equally prisoners of conscience as the victims who are convicted and sentenced for pass law offences by the same commissioners' courts.

Identification enquiries for the issuing of reference books

Independent of the powers under the 1952 Act to arrest and prosecute for the offence of not being in possession of a pass, which were described above, an authorised officer may, if he is satisfied that the person does not in fact have a reference book, identity document or passport, "bring such Black or cause him to be brought before a commissioner . . . in order that a reference book [etc.] may be issued to him, or in order that such enquiry may be made regarding the identification of such Black as such commissioner or officer may consider necessary". Pending enquiries, any "such commissioner or officer" may order the person's detention for a maximum of 30 days "in any reception depot, lock-up, police cell or gaol" (section 5). This power constitutes a form of administrative detention in direct contradiction to the terms of the South African Criminal Procedure Act of 1977, and underlines the extent to which the powers exercised over Africans of a regulatory and penal nature represent a parallel system of "black justice".[23]

Removal, repatriation and deportation orders

An array of powers exist to remove Africans in different circumstances and under different laws, with or without the intervention of a court.

(i) Under *section 14 of the Urban Areas Act 1945*, an African convicted of remaining in the prescribed area for more than 72 hours or a foreign national working there illegally, whether convicted or not, may be removed or deported together with his dependents under a warrant issued by the court that convicted him or by any commisioner. Due regard must be paid to the family ties of such person. Removal may be to the homeland, whether "independent" or "self-governing", or to a foreign state. In terms of an amending law passed in 1970, the convicted person may alternatively be sent to designated institutions or places to "be detained thereat for such period and perform such labour as may be prescribed" (section 14(1A)).

An effect of this extraordinary provision can be to impose a second punishment of a term of forced labour for an offence already dealth with by a fine or imprisonment. Statistics are not available on the use of this particular power, but in 1984 some 25,085 Africans were repatriated, either under section 14 of the 1945 Act or under the *Admission of Persons to the Republic Regulation Act 1972*, discussed below.[24]

(ii) Under the *Blacks Resettlement Act 1954*, Africans may be removed from the Johannesburg area and resettled elsewhere by a Black Resettlement Board, which is given extensive powers to require departure from the area. The board may seek a court order for compulsory removal and the demolition of buildings, structures or other property.

(iii) Under the *Black Labour Act 1964*, a district labour officer has summary powers to "endorse out" any African who he has refused permission to be employed in the prescribed area or whose contract of employment has been cancelled. The officers in any aid centre have concurrent powers to require the person to depart "within a period determined by the officer concerned" (secton 25).

(iv) Under the *Black Communities Development Act 1984*, a commissioner may issue a warrant for the removal of any person who is proved to have been in an altered or disestablished town or hostel and order the destruction of any residence or structure. Failure to leave is a criminal offence and the court may "in addition to imposing any penalty . . . order a member of the South African Police to remove such person and his personal effects" (section 38(1)). Section 40 of this act authorises a commissioner to remove "coloured persons" from "black towns."

(v) Under the *Aliens Acts, 1937 and 1984*, and the *Admission of Persons to the Republic Regulation Act 1952*, extensive powers exist to detain and to deport not only foreign African nationals, but the "new" foreigners from the "independent" homelands. In recent years, much concern has been expressed in South Africa over the use and abuse of these highly discretionary powers. As noted in chapter 2, the evidence is accumulating that citizenship laws are being substituted for the pass laws and it is believed that this represents the likely new direction of influx control policy as ever-increasing percentage of South Africans are by birth designated foreigners.

Most states exercise control of the movement of foreign citizens across their frontiers. South Africa, however, is distinctive for several reasons. First, it has, at least until recently, encouraged very large numbers of migrant males from surrounding states to enter South Africa to work in mining, agriculture and industry in general. This system of migrant labour, which dates from colonial times, brought in 1984 a total of 355,560 people from other African states into South Africa.[25] The second distinct feature is that South Africa links control of these foreign nationals or aliens to its pass laws and to its policies of racial discrimination.

Under the Aliens Act 1937, as amended, to obtain permanent residence in South Africa

an applicant must be issued with a permit by an Immigration Selection Board. The board is authorized to issue such a permit, which is known as a "permanent residence permit", only in the case of an applicant who "is likely to be readily assimilated with the European inhabitants of South Africa" (section 4(3)). A "European inhabitant" is defined as being a person classified as white under the Population Registration Act 1950.[26]

Africans who are foreign nationals and who are given permission to enter South Africa are issued with a temporary permit only. As a result, they may be deported at any time and the temporary permit withdrawn. Even when they have lived all their lives in South Africa, such foreign nationals remain foreigners. Nor can their children become South African citizens, because their fathers lacked permanent residence rights. In contrast, children of white parents are automatically South African citizens, because their parents would have had permanent residence permits.

One population which has suffered considerably from these laws and from official policy changes on their presence in South Africa are citizens of Zimbabwe. Under current govenment directives, a Zimbabwean who cannot prove that he has worked in the same job since January 1959 or that he has been continuously employed in South Africa since January 1953 is not allowed to remain in South Africa even should an employer wish to renew a long-standing employment contract. Many hundreds have been prosecuted, convicted and imprisoned since that policy came into effect. These prosecutions take place in the commissioners' courts. Imprisonment for terms of 6 months, heavy fines following long periods of remand in custody and thereafter deportation is the standard experience of these foreign citizens. Between February 1983 and January 1984, a total of 2,412 people were deported to Zimbabwe, and 20,141, to Mozambique.[27]

It has been governent policy to reduce the number of all foreign nationals in South Africa and the laws have been strengthened and vigorously enforced. It is a serious offence to employ a foreign black national within South Africa who has no permit to be there. Under the Aliens and Immigration Laws Amendment Act 1984, penalties of up to two years' imprisonment or a fine of R5,000 can be imposed on anyone who gives employment or shelter to an alien. Under the act, employers are obliged to furnish returns of all employees who are aliens. Equally, under the pass laws (Urban Areas Act Section 12), it is an offence for a foreign black national to enter any urban area unless written permission from the Secretary of the Department of Co-operation and Development has been given.

The aliens legislation applies in virtually the same manner to the new foreigners from the "independent" homelands as it does to foreign black nationals.[28] This means that over 8 million former South African citizens are controlled in their movement by legislation governing aliens, as well as by the pass laws. In particular, they are vulnerable to expulsion or deportation from "white" South Africa if they do not have the requisite temporary permit to be there. It has been calculated that up to 40 per cent of the African population of Cape Town who were classified as "illegals" only in the sense that as South African citizens they had no permission to be in the Cape under Section 10 of the 1945 Act, are now also illegal aliens within South Africa since they have come from such homelands as Transkei.[29] Thus, since "independence" in 1976, over 4,000 Transkeians have been deported from South Africa under the Admission of Persons to the Republic Regulation Act 1972.[30] An unknown proportion of the 25,085 persons repatriated or deported in 1984 were returned to homelands, "independent" and "self governing", as well as to the surrounding independent states.

The control of illegal "aliens" or "prohibited persons", as they are defined, involves extensive and arbitrary powers of arrest and detention granted to police and immigration officials without any right of access to the courts by those who are their victims. In 1984, 1,891 persons were declared prohibited persons or prohibited immigrants, but a very much larger number of persons were arrested and detained without trial for long periods as suspected prohibited persons.[31] Those detained on this basis are believed to have included many black people who have South African birth certificates and reference books. Such South African citizens are reportedly held incommunicado for periods that can exceed 12 months in some cases while efforts are made by the police to force them to admit that their documentation is forged and that they are foreigners and not citizens. Allegations of assault and forced confessions have also been made.

In 1984, a government enquiry was established to look into specific allegations of this nature in Johannesburg. The Minister then responsible, Dr. P.G.J. Koornhof, told Parliament on 6 June 1984:

"The purpose of these allegations was that law-abiding black people with valid South African reference books and other documents are being detained without trial by the commissioner at Alexandra for up to 13 months to make them confess that they are aliens in order to deport them to Zimbabwe".[32]

One of the people involved, Mr. Albert Nkomo, aged 19, was reported to have said that he was detained for a period of three months as an illegal immigrant even though his reference book stated that he was born in Orlando township, Soweto. This was the second time he had been arrested within a year. He had been arrested in February 1984 on a charge of being in the area illegally and was discharged. Thereafter, he was rearrested on suspicion of being a prohibited immigrant and held until his lawyer had taken court proceedings to secure his release, satisfying the court that he was a South African citizen.[33]

Large numbers of other Africans have reported been arrested on a similar basis in diffferent parts of South Africa, including the towns and townships of the Witwatersrand and the region near to the Mozambique border. In Nelspruit, in Northern Transvaal, a squad of police officers who apparently double as immigration officials are reported in the last two years to have arrested thousands of Africans whom they allege to be prohibited immigrants but some of whom were citizens of South Africa. Access to relatives and families has been denied to those arrested who have not been charged with offences. There is no limit to their period of detention in law. The relevant legislation, the Admission of Persons to the Republic Regulation Act, permits an appeal by a detainee to a statutory board, but it is known that detainees have not been informed in time or at all of the right to appeal, which must be lodged within three days of arrests. Allegations of assault to force detainees to admit foreign citizenship have been reported. However, it is not known how widespread these assaults are. Amnesty International's delegate received information in May 1985 from lawyers who act for some of those arrested in the Nelspruit area. One of them was present in court when a detainee alleged before the Nelspruit Commissioners' Court that he had been beaten by the police to admit that he was a prohibited immigrant. His face was obviously bruised when he appeared in court, and his mother also alleged that he had been assaulted.

One such case that has been reported in the press and about which additional information has been provided to Amnesty International concerns *Samuel Ngomane,* a South African citizen.[34] He was arrested on 14 October 1983 on suspicion of being an illegal immigrant. He held a South African reference book, worked at a mine in Barberton and had his family and child in the vicinity. His pass was removed following arrest, at Barberton, where he was held until 28 November 1983. Without being charged or brought to court he was removed to a farm and required to work there for R15 per week. He earned R115 per week as a miner. For the following twelve months, he worked on different farms. One of the farms, it was discovered, was owned by the father of the Nelspruit commissioner, who is also the passport control officer for the area and was presiding officer in 1984 in the local commissioners' court, where he also at times acted as prosecutor. When a local legal firm was instructed to act for Samuel Ngomane, and newspapers publicised the case, he was in a matter of days sent across the Mozambique border without his lawyers being informed beforehand. According to his lawyer, Samuel Ngomane insisted that he was a South African citizen, held a reference book and wished to tell in court the story of his forced labour. However, under the legislation, there is no obligation to bring the person to court and an officer may deport the person, *whether or not he has been convicted* of being a prohibited person, to any country that officer considers he came from. The officer in this case claimed that Samuel Ngomane was being held on the farm as a police informer, and he had thereafter lawfully exercised his powers in sending him to Mozambique.

While control of aliens and their removal from a state where they are illegally present is a legitimate exercise of sovereign powers by a state, the exercise of such powers must conform to international law on the treatment of aliens and to those human rights standards which are applicable to citizens and non-citizens alike. Policies of denationalisation and consequent manufacturing of alien or stateless status for the homeland populations in South Africa have been pursued by the South African Government for racial motives and in violation of international law.[35] The use of the aliens control legislation over the categories of genuine African foreign nationals, the homeland population and now the category of South African citizens who, although possessing identity documents from South Africa, are alleged to be foreign nationals, gives rise to serious concern as constituting new directions in the violation of African rights of residence and movement and in permitting the imprisonment of individuals attempting to exercise such rights. Twenty thousand alleged citizens of Mozambique were deported from South Africa in 1983-84, in the case of many, following conviction, fines or imprisonment. On the available evidence, it is pos-

sible that a considerable number of these people were nationals of South Africa who were victims of arbitrary exile from their own country.

FOOTNOTES

[1] 1975(4) SA 508 (a).
[2] See Chapter 6.
[3] Riekert Commission *para.* 4.152.
[4] Art. 11 of the Universal Declaration, and see also Art. 14 of U.N. Civil and Political Covenant of 1966.
[5] Monitors were from the Black Sash. See also Monama *op. cit.*
[6] *Per* Minister for Justice, in Parliament, Tuesday 26 February 1985.
[7] Regulations promulgated in Government Notice No. 1036, dated 14 June 1968.
[8] Quoted by C. Nicholson, Legal Resource Centre, *Para-Legal Manual*, 2nd edition, p. 291.
[9] For a detailed account see D. Horner (ed), *Labour Preference Influx Control and Squatters: Cape Town entering the 1980s*, South African Labour and Development Research Unit, Working Paper No. 50 (Cape Town July 1983).
[10] Adler, Beetge and Sher, "The 'New' Illegality: Squatters with Urban Rights but no Houses", a case study of the Grasmere Squatter Camp, *Indicator* SA Vol. 2, no. 2, July 1984.
[11] *Per* Minister of Law and Order, Parliamentary question answered on Tuesday 9 April 1985.
[12] *Per* Minister of Co-operation and Development in reply to a question from Mrs. H. Suzman, House of Assembly Debates, 16 March 1984.
[13] *Rand Daily Mail*, 13 March 1984.
[14] C. Hartford (1985) unpublished paper on curfew laws available from the Center of Applied Legal Studies, University of Witwatersrand, Johannesburg.
[15] For detailed accounts, see C.R. Nicholson, Legal Resources Centre *Para-Legal Manual* (2nd edition) pp. 354-396; J.R. Land, *Acta Juridica* (1984) pp. 211-234.
[16] A commissioner's comment in S v. Nkwe and others 1962 (3) S.A. 204(T).
[17] These comments are collected by J.R. Land, op.cit. p. 219.
[18] Para. 4.244.
[19] Land, op.cit. p. 228.
[20] Information supplied by the court.
[21] It is arguable that there is in fact no *right* to legal representation, since the proceedings are administrative, not judicial, see M. Dixon, "Legal Representation and Removals under Section 14 of the Black (Urban Areas) Consolidation Act 1945", unpublished paper 1981, University of Cape Town.
[22] It is unclear whether an order made under Section 29 constitutes a sentence in a criminal proceeding; see Criminal Procedure Act 1977 S. 302.
[23] In evidence to the Riekert Commission, para. 4.324.
[24] House of Assembly Written Reply *General Affairs* Question No. 573.
[25] House of Assembly Written Reply from the Minister of Co-operation and Development, Thursday 14 March 1985, Col. 628-636, *Rand Daily Mail*, 16 March 1985.
[26] This account is based on a Black Sash conference paper by S. Duncan, "The Alien and Immigration Laws Amendment Bill" (July 1982). See also "the Sad Plight of South Africa's Discarded People" by S. Duncan, Rand Daily Mail, 6 July 1984.
[27] Rand Daily Mail, June 7, 1984, quoted figures given in Parliament.
[28] J. Dugard "South Africa's 'Independent' Homelands: An Exercise in Denationalisation", 10 (1980) *Denver J. of Int. Law*, 11.
[29] Duncan, op.cit.
[30] M. Savage "Pass Laws and the Disorganisation and Reorganisation of the African Population in South Africa" Carnegie Conference paper 281 (1984), p. 14.
[31] House of Assembly, 11 April 1985, col. 1046.
[32] *Rand Daily Mail*, 7 June 1984.
[33] *Ibid*, and issue of 26 May 1984.
[34] See *City Press*, October 14, 1984.
[35] "The Denationalization of Black South Africans in Pursuance of Apartheid", Centre for Applied Legal Studies, Occasional Paper 8, University of the Witwatersrand, Johannesburg (August 1984).

CHAPTER FOUR: ADMINISTRATION OF THE PASS LAWS

Study of the pass law system in South Africa confirms that Africans are not governed by the necessary foundation for the employment of human rights within a state, the rule of law. They are instead subject to a system colonial in its origins which has been described as one of "administrative rule."[1] At the centre of this system is the constitutional designation of the State President as Paramount Chief of all Africans in South Africa wielding total power over them.[2] This adaptation of an indigenous concept of customary authority into the law provides the ultimate justification in the South African legal order for the control exercised over black people. It also means that the African majority, who have no vote, are not in principle recognised before the law as persons having human rights on an equal basis with the rest of the population. *Apartheid* therefore functions at the core of the South African legal order as well as its visible administration and enforcement.[3]

Black people are the objects of a separate, largely unaccountable and hidden legal system, an elaborate code of administrative requirements and directives enforced by criminal sanctions which authorises central government intervention in African lives to a degree that would be considered intolerable by the white population. The mechanism which makes such governmental control possible is the documentation and information maintained on Africans through the reference book or pass that all possess. This chapter briefly outlines the range of departments, agencies and institutions responsible for directing and administering this system of control.

Government departments

At the level of government, the principal departments with such responsibility are Co-operation and Development. Home Affairs, Labour, Justice and Immigration. Responsibilities for "Black Affairs" are in the process of change and the exact picture has yet to emerge. The Department of Co-operation and Development (formerly Bantu Affairs, then Plural Development) appears to remain as the principal ministry. It, on behalf of the State President, determines policy over African people and has described itself as a "public service within a public service in respect of blacks". The department has responsibility for Africans both in the "common area" and the homelands. Its functions include black labour and residence, housing, the development boards, community councils and local government. Since November 1984, its functions in relation to population registration of Africans and the reference book system has been transferred to the Department of Home Affairs.[4]

Until September 1984, the Department of Co-operation and Development also had responsibility for the commissioner's courts in which pass law offences are prosecuted. However, following the recommendation of the *Commission of Enquiry into the Structure and Functioning of the Courts*, chaired by Mr. Justice Hoexter, which reported in April 1984, these judicial functions have been transferred to the Department of Justice.[5] The *Hoexter* Report documents the long internal struggle between the Department of Co-operation and Development and its predecessors and the Department of Justice over which should control the administration of justice relating to African people.

In 1957, the Department of Co-operation and Development had succeeded in having legislation passed which gave to its commissioners power to hold a court in respect of any offence committed by an African (Native Law Further Amendment Act 1957). However, outside the "homelands" this jurisdiction was never fully exercised. According to the *Hoexter* Commission, a compromise had then been arrived at between the departments whereby:

(a) civil cases between blacks only would be heard by the commissioners, and,

(b) the commissioners would try only "certain statutory offences which apply exclusively to the black population"—that is, pass offences.[6]

In evidence to the Commission, officials of the Department of Co-operation and Development not only defended its involvement in the administration of justice for Africans, but called for a complete separation of "white" and "black" courts with a separate hierarchy of magistrates, supreme court and appellate division. The Department of Justice argued for a single system of judicial administration for all races under its aegis.

The *Hoexter* Commission rejected the proposal to formalise apartheid in the judicial system through a dual hierarchy of courts, commenting:

"That inhabitants of the same country should purely on the ground of race be criminally prosecuted in separate courts for any offence whatever is . . . by any civilised standard unnecessary, humiliating and repugnant." (para 6.1)

Hoexter called for the abolition of the commissioners' courts, and recommended that in the interim the Department of Justice should be responsible for them. This latter recommendation was duly implemented in September 1984. In May 1985, draft legislation to abolish commissioners' courts was circulated.[7] This will apparently leave unaffected other special courts such as the Black Divorce Court, and commissioners' courts in the homelands.

Administration and development boards

Until mid-1984, administration boards, of which there were thirteen, were the executive arm of central government for African affairs. The new development boards which have now been substituted have similar functions but are intended to reflect a more positive image based on the new thinking that accepts at least some permanent black urbanisation.[8] The administration boards were charged with the day to day implementation of the Department of Co-operation and Development's powers to control the African population. Each board had functional divisions, and included inspectorates and officials who had policing powers. In some administration board areas—for example, the Eastern Cape—most pass law arrests were made by board officials whereas in others, such as the East Rand, arrests were mainly by the police. The boards were vested with rights, powers and functions of a local authority and took over all assets and liabilities of the existing local government bodies in respect of black townships. The boards' revenue derived from rentals to African residents, fees paid by employers of African labour, profits on liquor stores in African townships, and fines imposed for pass offences. Formerly, the boards did not make policy, that being determined centrally for all boards by the Department of Co-operation and Development. The new development boards appear to have taken over all the functions of the administration boards, but are also linked with new institutions of local government for urban black areas. In 1984, development board officials arrested 75,032 Africans under the pass laws.[9]

Aid centres

These centres, which are under the aegis of the Department of Co-operation and Development were provided for by the Black Labour Act 1964. The first such centres were established in 1971; in 1978 some 19 had been established. Each aid centre is run by a manager (who may also be the local commissioner) and has staff supplied by the local administration board. The centres cater for black people arrested under the legislation already outlined for pass offences. According to the Riekert Commission:

"the object of aid centres is to limit criminal proceedings against and the detention of persons contravening the control measures to the offender who is guilty of repeated offences, and to afford the circumstantial or so-called 'technical' offender the opportunity to get his affairs in order." (para 3.178)

What this means in practice is that the centres function between the arrest and apprearance in court of black people to distinguish which of them are "legals" and which are so-called "illegals"—that is, to distinguish between those who, though arrested for "failing to produce" documents, do have permission or a qualification to be in the urban area, and others who are without passes or such permission or qulification. Very large numbers of people are processed through the aid centres: in 1977, the figure was 176,787.[10] When, through interview, a person's identity and particulars are established, the aid centre may recommend to the court the withdrawal of a prosecution or a discharge. As a result, a large percentage of all pass arrests lead to a withdrawal of the prosecution or to a discharge at the court stage. The actual working of the centres as observed in Johannesburg and Cape Town is described in chapter 6.

The commissioners' courts

As noted above, it may now be the intention of the government to abolish these courts, their functions being taken over by magistrates' courts, at least in the so-called "common" or "white" area of South Africa. Commissioners' courts are inferior courts exercising a special jurisdiction relating exclusively to Africans. Commissioners have no jurisdiction over whites. Formerly known as Bantu Courts, they were the responsibility of the Department of Co-operation and Development. These courts exercise both civil and criminal jurisdiction and include commissioners' courts, divorce courts and appeal courts from commissioners' courts for civil cases. While their criminal jurisdiction was in practice limited to pass law offences, civil jurisdiction was unlimited. An African sueing another African could not issue proceedings in the ordinary courts; proceedings had to be taken before a commissioner. There was no limitation on the commissioners' civil jurisdiction, unlike the inferior courts in the ordinary legal system. The commissioners are not judges as such but civil servants, in the employment of the Department of Co-operation and Development. Further, their functions are a mixture of the administrative and the judicial. According to the *Hoexter* Report, the minimum qualification of the commission is the *Diploma Juris.* In rural areas, a magistrate may be appointed as a commissioner.

The concept which the Department of Co-operation and Development has both of the black population and the role of commissioner emerges from its evidence to the *Hoexter* Commission. Its officials opposed the separation of judicial and administrative functions of the office of the commissioner, as it would "speedily result in a loss of authority" for the commissioners:

"The *judicial* function helps by giving authority in the eyes of Blacks to the Commissioner and helps to execute Government policy and to bring home to Blacks the policy aspects as determined by the Department . . . Blacks are used to acknowledging one authority figure who controls and organizes their whole lives." (paras. 4.2.3., 4.2.4.). (emphasis added)

These comments confirm that the lack of independence of the commissioner, who acts as judge in pass law cases and who regularly commits people to prison, is not denied as such but justified as part of the control system for Africans: the courts are conceived of as having the function of executing government policy rather than of administering impartial justice. Consequently, the commissioners' courts, as the judicial extension of a government department, cannot be considered as independent courts of law in which the rights to fair trial can be upheld, although they have been responsible over many years for trying, fining or imprisoning several million Africans. The *Hoexter* Commission did not take the opportunity to condemn the philosophy that the courts' role should be to execute government policy. Nor, though it criticised the existence of separate courts for blacks prosecuted under the pass laws, did it call for the abolition of the separate criminal laws applicable to the African population. Nor did it comment on the continued control of justice and its administration by the Department of Co-operation and Development through commissioners' courts in the "homelands", a jurisdiction that would be apparently unaffected by its recommendations for a single court system in the "common area".

The typical career cycle of commissioners included employment as a clerk, translator, and prosecutor before promotion to a commissioner, although it was commonplace for someone to act as a prosecutor and a commissioner. In practice, however, commissioners were also recruited from law graduates, but they often had no experience of legal practice. In the largest city, Johannesburg, commissioners' courts in 1984 were presided over for the most part by officers in their late twenties. The "section 29" court which dealt with "idle and undesirable" enquiries, however, remained the responsibility of the most senior commissioner, in both 1984 and 1985.

The *Hoexter* Commission details the mixture of administrative and judicial functions which make up the duties of both commissioners and magistrates in South Africa. Neither group, it conceded, were independent in the exercise of judicial powers. The priority given to administrative duties by commissioners over judicial functions was also noted. One consequence, according to evidence before the Commission, was that court work was frequently relegated to the most junior and occasionally unqualified officers.[11] As a prelude to the abolition of commissioners' courts, the Commission recommended the separation of the judicial and administrative functions of the commissioners and ultimately the removal of all their judicial competence to magistrates, who in turn should be made independent of the Department of Justice. While these changes are being implemented, it remains the case that magistrates who now preside in the commissioners' courts are in formal terms no more independent than commissioners. While magistrates' involvement has, as will be seen, raised standards in some courts, the re-appointment of former commissioners as magistrates in other courts means that little change may be evident to the ordinary African prosecuted under the pass laws.[12]

FOOTNOTES

[1] G. Budlender, "Influx Control: The politics of exclusion: administrative rule", unpublished paper (October 1982); W.H.B. Dean, "The Legal Regime Governing Urban Africans in South Africa—An Administrative Law Perspective", *Acta Juridica*, (1984) pp. 105–140.

[2] Art. 93 of the 1983 Constitution provides, "The control and administration of Black affairs shall rest in the State President"; see also Black Administration Act No. 38 of 1927, and C. Nicholson, "Powers of the State President", in *Para-Legal Manual*, 2nd edition, Legal Resource Centre (Durban).

[3] A.E. Sachs, *Justice in South Africa*, Chatto Heinemann (1973) ch. 4, 85–111; W.H. Dean *op. cit.*; Mathews, *Law Order and Liberty in South Africa* (U. of California Press 1972), p. 240; J. Dugard, *Human Rights and the South African Legal Order* (Princeton 1978) pp. 37–52.

[4] Proclamation R.191 of 1984.

[5] 5th and Final Report, RP 78/1983. The transfer of responsibility was effected by Proclamation No. R131, 1984.

[6] Hoexter, para. 3.20.

[7] *The Citizen*, 30 May 1985; ('Special Black Courts to be abolished').

[8] See F. Venter, "The Government of Blacks in Urban Areas of South Africa", *Acta Juridica* (1984), pp. 17–32.

[9] House of Assembly, Question No. 144 (1985).

[10] Riekert Report para. 3.185.

[11] *Hoexter*, para. 4.3, 8.4.

[12] See Chapter 6.

CHAPTER FIVE: ENFORCING THE PASS LAWS: PRE-TRIAL ASPECTS

In Chapter 2 it was noted that the key points for checking by the authorities on the "illegal" movement of Africans from the homelands into the urban areas are the place of employment, housing and the streets. While the *Riekert* Commission recommended a shift from street enforcement to the other two points of control, the policing of the streets in search of "illegals" remains the dominant means of enforcing the pass laws. The majority of prosecutions still concern the alleged failure to produce a pass when demended or the producing of a pass which does not include the necessary permission to be in the urban area. This chapter examines the pre-trial aspects of the enforcement process, as found on both Amnesty International missions, and considers the practices of the police and development board officials in terms of the relevant international and national standards.

Provisions of South African criminal procedure

The Criminal Procedure Act 1977, section 39, provides for three methods of securing the attendance before a court of a person charged with an offence: by summons, written notice or arrest. An arrest may be with or without a judicial warrant. South African common law accepts the principle that the method to secure attendance least obtrusive on the person's liberty should be used. This normally entails that prosecutions for minor offences, in which category pass offences fall under South African law, are initiated by summons.

The use of arrest rather than summons in pass offences

In terms of the penalties applicable to them, most pass law offences are relatively non-serious offences. However, it is a characteristic of administration of the pass laws as they affect Africans that they are enforced entirely through arrests without war-

rants, either by the South African police or by development board inspectors, who have equal powers of arrest for these purposes as the police. In contrast, where the pass laws impinge on whites or others—for example, the offence of employing "illegal" African workers—the process of enforcement is invariably by summons. This is the case even through the most serious offences in terms of penalties, under the 1945 Black (Urban Areas) Act, are reserved for those committed by employers. It has been the practice for the normally white employer to use the "admission of guilt" procedure by means of which a guilty plea may be entered by post through a lawyer and court attendance avoided altogether.

It is known that, following an initial arrest of an African for trespass and curfew offences, fines paid by the admission of guilt procedure at the police station resulting in release can occur. It was not possible to determine the extent to whch this procedure is used. It is clear, however, that the bulk of those arrested are not given this option of paying a fine at a police station, but are detained and brought to court for prosecution. The differences and inequalities in the modes of initiation and administrative disposition of pass law offences as between the races were officially noted by the *Riekert* Commission in 1978 (para. 3.152). The Commission also commented on the relative rarity of prosecution of white employers for employing "illegals" and the low conviction rates, as compared with their employees. The Commission considered this arose in part because the employer and employee where prosecuted were tried in different courts, and generally from a reluctance to prosecute employers. It recommended more vigorous prosecution of employers and that they should be prosecuted before the same court. In 1983, 1,140 employers of illegal black workers were fined a total of R178,258.[1] It is not known what proportion of this number actually appeared in court, but it is known that all who did were summonsed. None were arrested or warned of arrest.[2] In the same year at least 150,000 Africans were arrested under the same legislation and none were summonsed.[3]

The legal basis of arrests under the pass laws

The exact legal basis of the arrests made under one of the principal acts which create pass offences is not clear. The law of arrest in South Africa is governed by Section 40 of the Criminal Procedure Act 1977. This provides *inter alia* that a lawful arrest may be made of any person "who commits or attempts to commit an offence in [an officer's] presence". It is doubtful if this power would cover the offence under section 10 of the 1945 Act ("being in a prescribed area in excess of 72 hours"). When arresting without warrant for such an alleged offence, the officer could at most only suspect in the ordinary case that the person was in the prescribed area longer than 72 hours. But the power to arrest on reasonable suspicion of an offence is not permitted under the 1977 Act for this or any other pass law offence (section 40(b) and Schedule III).

The Criminal Procedure Act contains a proviso (in section 40(2)) which enables an arrest without warrant to be lawfully made under conditions or circumstances different to those which it prescribes, if any other law provides the necessary legal basis. However, the Black (Urban Areas) Act 1945, at least, while it prohibits residence in the urban areas by unqualified blacks beyond 72 hours, does not make provision for such exceptional arrest powers. The formal legality of many pass law arrests under the terms of South African law itself must therefore be doubted.

Arbitrary practices on arrest

The reliance on arrest for the enforcement of the pass laws where, measured by the penalties, a summons or payment of a fine would be justified is striking. So too is the collective or group approach taken by the police and other relevant officials in their enforcement. Arrests rarely occur in individual cases, with an officer responding to specific conduct considered a criminal offence, but result from regular screening on the streets, and surprise "raids" on hostels, townships or factories, where documents are demanded and checked. The dress of those who appear in court following arrests the previous day—workers; women in shop coats, men in overalls, teenagers, people smartly dressed for the evening, others in the shabby clothes of the poor and jobless—offers eloquent testimony to the sweep of arrests through the black community. The police themselves describe the duty as being on the "Raiding Squad". An admittedly exceptional mass arrest in January 1982 illustrates the potentiality of the process. In that case, 766 African men were arrested at the Diepkloff men's hostel in Johannesburg for an alleged presence there without a permit. Ultimately 84 persons were charged in the Market Street commissioners' court, of whom 60 were convicted.[4]

Amnesty International's delegate witnessed and had described the street enforcement procedures. Police vans patrol on a continuous basis and plain clothes officers dressed often in casual wear mingle with the crowds on the streets, suddenly stopping an African at random and demanding "pass". If it is not produced or is "incorrect" (in the eyes of the officer), the person is arrested and bundled into a police wagon. Thereafter, the patrol recommences its surveillance. As discussed in Chapter 3, the law as interpreted by the courts requires that if someone challenged does not have a pass with him or her, a reasonable opportunity to fetch it should be given. However, in practice this is ignored. A failure to produce the reference book at the point it is demanded is cause for immediate arrest. It may be possible on arrest for others to remonstrate with the officer and secure the release of a friend or acquaintance who has been picked up while the van is parked in the street, provided someone can produce a reference book from nearby where the arrested person had left it. But the approach to enforcement equally creates ample occasion for arbitrary action by the police. Opportunity for bribery is also legion, and complaints were made during interview of those who had experienced arrests, of police officers demanding money in return for release before and after people were brought to police stations. A reportedly common context where money is demanded arises from abuse of arrest powers under curfew regulations. In Johannesburg, for example, the police often reportedly make arrests before the curfew hours (11 pm–4 am), hold those arrested in vans until after it has come into effect and then threaten to charge them with breach of curfew unless a bribe is paid. The following statement taken for the purposes of legal proceedings for false imprisonment from Mr. Jonas Molepo, while it does not allege bribery, amply portrays abuse of curfew arrest powers and the serious consequences that this may have for the victim:

"I am employed as a gardener. I have passed Standard 6 school. Born 12 December 1958. Unmarried. On Tuesday 17 April 1984 I went to visit a friend in Dunkeld. At about 9.30 pm when I was on the way home, I was stopped by two black policemen. This was in Oxford Road in the Parkwood area. The policemen were in plain clothes. One of them asked me for my pass. I gave it to him. He checked it and found that it was in order but he then asked me where my "night special" was. I said I hadn't got it. They then arrested me and put me in a truck. There was no-one else in the truck. We then drove around and more people were arrested, including in Orange Grove. From there we went to town, where more people were arrested; and from there to Hillbrow police station. There were many people arrested—I would say 30. I do not know the names of the policemen who arrested me. There were five altogether—the two who arrested me, another two who were also arresting people, and the driver. They were all black.

"At about 12.30 pm we reached Hillbrow police station. I was put in a cell with about 30 other people. There were no mattresses: I had to sleep on the floor on blankets. The next morning (Wednesday 18 April) we were taken to the court in a van. I appeared in the court. I still had my pass with me at this stage. The prosecutor said that the police said that they had found me in Oxford Road at 11.25 p.m. I said that was not correct—it was 9.30 pm. He asked whether I checked the time when the police asked for a night special and I said yes. He asked whether I had a watch, and I said yes. He then said the case would be remanded because I denied what the police said.

"The case was then remanded to Tuesday 1 May 1984. Nothing was said about bail. This was between 10.00 am and 11.00 am. I was then taken to Modderbee Prison where I was held until the day of my appearance. When I appeared in Court on 1 May the case was withdrawn. No reason was given: I was asked the same questions as before, and gave the same answers. The policeman was not in court."

The complainant, assisted by the Legal Resources Centre in Johannesburg, took proceedings in the magistrates' court and was awarded R1,000 damages in May 1985.

Sexual harassment and assault were also reported to Amnesty International's delegate in the day-to-day arrests of people on the streets. Similar allegations are occasionally reported by the press, but it was not possible to determine how systematic such ill-treatment was.[5]

The indignities and discomfort associated with such mass arrest procedures are, however, well attested. Africans, men and women, picked up on the streets of the largest city, Johannesburg, complained of having to spend inordinate hours sitting in the very over-crowded interior of a police van until it had secured its complement of people. Apart from overcrowding and denial of water and food, a common complaint was denial of access to toilet facilities. One man complained,

"I was arrested at 8 am and did not get to Hillbrow [police station] until 1:30 pm. I was over five hours in a crowded truck going around the streets, as they hunted for more people to arrest. We asked to be let out to get to the toilet, but they said they did not have time for that. I had to urinate in my trousers sitting down. One man couldn't help himself and he did it out the join be-

Footnotes at end of chapter 5.

tween the back doors of the van. When we got to the police station they saw the wetness on the doors and they said who did that? But none of us said anything."

Organizations such as the Black Sash have evidence that these trawling operations through the streets of Johannesburg frequently focus at such places as the Railway Concourse, where people congregate and where many Africans arriving on trains or buses are arrested even where a pass is produced because they have "entered" a prescribed area. There is no such offence, and as outlined in Chapter 2, provided a person has a valid pass, he or she requires permission to be in an urban area such as Johannesburg only after the elapse of three days. While admittedly the offence in question (section 10(4) of the Urban Areas Act 1945), as defined, is difficult to enforce, there can be little doubt that there is widespread illegality associated with arrests under it. The common police interpretation of the offence as one of *entry* into a prescribed urban area is clearly invalid as a basis for arrest. It has already been noted that the existence of any legal power to arrest under South African law for this particular offence may be doubted in any event, and it can be concluded that many if not all arrests for this offence constitute false imprisonment.

Illegal practices associated with enforcing the offence of "failing to produce a pass on demand" (section 15 of the 1952 Act) have also been documented in Chapter 2. In the case of this alleged offence the police and development board officials appear to interpret the offence as failing to *carry* a pass, despite the ruling of the Appellate Division that reasonable opportunity to produce a pass must be given before arrest could be justified.[6] In consequence, many arrests for this offence are also unlawful under South African law and thousands detained on this basis have been equally subjected to false imprisonment.

In 1984, in the Johannesburg commissioners' courts, as many as 70 per cent of those arrested had charges withdrawn or were released after a caution and discharge.[7] This very high percentage of cases withdrawn in court justifies the inference that very many arrests are unnecessary as well as unlawful. It seems clear that police and officials exercising arrest powers leave the aid centres to distinguish "legals" from "illegals" from among those detained on the streets. Persistent high levels of arrests over many years point to an official policy in this regard.

Information on arrest

South African law and the relevant international standards require that on arrest a person shall be informed of the cause or grounds of arrest. If, as appears to be the case, arrests for both section 10 and section 15 offences in practice are unlawful because of police interpretation of these offences, it follows that persons could not be given an adequate ground justifying the arrest in many cases. In the case of a section 15 offence, for example, a person ought to be informed of the opportunity to fetch the pass book if it is not on his person in order to fulfill this requirement, but as has been noted, this is not done. In any event, Amnesty International's delegate was informed by people who had been arrested and by others concerned that no grounds as such are given by officers effecting arrests.

The role of the court in supervising arrests

It is not unusual in any jurisdiction for the police incidentally or deliberately to abuse arrest powers. In such circumstances, the role of the court before which persons are charged and prosecuted is to act as a check on such illegalities. However, the commissioners' courts responsible for trying pass law cases did not serve this function. This was largely a result of the failure of the courts to require evidence from prosecution witnesses before conviction. The "trial" usually operates on the basis of a guilty plea by the defendant, as explained in Chapter 6. In no trial observed by Amnesty International's delegate did a police officer, or any other witness, give evidence on behalf of the prosecution. Therefore, no examination was possible of the issues raised here surrounding the legality of arrests under the pass laws. Even where the accused complained of illegalities, for example, arrest before the curfew or of having been arrested immediately on entry into the prescribed area, the commissioners ignored the matter. Given that the defendants before the commissioners' courts are unrepresented, the failure by the court to require the legal basis of arrest to be established also makes it difficult for any civil claim to compensation for unlawful arrest and detention to be pursued subsequently, although this is a right which is laid down in both South African law and under international standards.

Post arrest procedure

The South African Criminal Procedure Act, section 50, regulates the procedure following arrest and is in conformity with international standards. Thus, the law provides that an arrested person shall be brought to a police station as soon as possible and normally charged or released within 48 hours, subject to possible extension over weekends and other days when there is no normal court sitting up to a maximum of 72 hours. The normal practice is to bring those arrested before the commissioners' court on the following day. The scale of arrests and detentions over weekends, however, is a major grievance voiced about the enforcement of the pass laws. In a city such as Johannesburg, the courts on a Monday sitting have their busiest day, dealing with those arrested from Friday to Sunday evening. Thus, average figures in 1984 for the Monday sittings of the commissioners' courts in Johannesburg were 350–400 alleged pass offences and over 100 trespass and curfew cases. This compares with a daily figure of about 250 during other week days.[8] From the point of view of the persons arrested, to be detained under these laws at weekends imposes the burden of possibly three nights in crowded police cells, to be followed very often by withdrawal of charges or by a conditional discharge on Monday, once their position has been found to be "legal". The withdrawal of such a high percentage of these charges because no offence has been committed or no proof of an offence is available underscores the intolerable burden that the arrest practices under the pass laws place upon the liberty and security of the individual African.

Access to legal advice or to relatives

It is the law in South Africa that a person arrested for an offence has a right from the time of arrest to a lawyer (Criminal Procedure Act, Section 73). For the bulk of the black population who subsequently appear unrepresented in the commissioners' courts, this is of little value, since they do not have lawyers or the means to engage them on their behalf. Of more significance is the possibility to contact relatives. The Criminal Procedure Act does not, however, impose a duty on the police to inform an arrested person of the right to have a lawyer or to contact relatives.

In practice, it appears that arrested persons may be permitted to telephone a friend or relative from the police station if they so request. It is possible to arrange release on police bail (or after a warning) but the extent of its use in the case of the pass laws is not known. Given the very large number of prosecutions withdrawn in court (often occurring when a relative produces a reference book in court that the person was not carrying at the time of arrest), it must be doubted that relatives are contacted from the police station by those arrested to a significant extent or that bail is frequently given by the police. The normal picture that emerges is of family, relatives or employer learning of an arrest, if at all, only in time to turn up for a court appearance. In most cases, they learn of the arrest through witnesses to it on the street rather than the authorities. On the morning of the court hearing, the aid centre may contact an employer to check on particulars, thereby alerting him or her of the impending court appearance. However, the centre does not consider that it is its function to alert relatives.

One consequence is that many of those prosecuted may, following conviction, be sent direct to prison not having the money available to pay the usual penalty of a fine. No time is allowed for payment of a fine. Amnesty International's delegate was told of numerous cases of fines being paid at the prison by relatives who had not learned of the person's arrest, prosecution and conviction (which can often take place all within 24 hours) until he or she had been committed to prison for non-payment of the fine. The failure to ensure following arrest by the police, that an arrested person is put in contact with relatives or an employer exacerbates the injustice inherent in the enforcement of these laws.

Charge

The procedure on charging involves firstly the completion of a charge sheet which subsequently is forwarded to the aid centre. Police questioning is peremptory since that is seen as the function of the aid centre. Prisoners are classified at this stage into those who were arrested without passes and those with passes (the alleged offence being connected with particulars absent from the pass in the latter case), or with being in the area without permission endorsed in the pass book, or with trespass, curfew, etc. Charging is the function of the South African police or, in Johannesburg (in 1984), officials of the administration board based at police stations. Fingerprints of all those charged are taken for subsequent checking by the aid centre. Many of those interviewed complained of the behavior of charging officers. Insults, name calling ('kaffir', 'baboon'), slapping on the face for failing to speak up or to move fast enough, being told they smelled and so on, were reported to be indignities commonly inflicted upon those arrested under the pass laws.

Detention conditions pending trial

The most serious complaints of those arrested concern the conditions of detention and their treatment in police stations pending trial. Police stations and facilities are segregated by race. Detention conditions for Africans are generally reported to be inferior to those for white persons arrested and, on the available evidence, are to be criticised as violating international minimum standards.

The arrested person following charge is placed in a communal cell which has in some cases a cement bench circling the wall, but in others, nowhere to sit but the floor. The cell can include other persons arrested for ordinary criminal offences, teenagers as well as adults. Male and female are separated. A thin foam mattress and a coarse blanket is normally issued to each prisoner, although complaints were made on interview that there were often not enough blankets or mattresses to go round. Serious overcrowding in police lockups, particularly at weekends, is widely known to be common. Black prisoners, young and old, are expected to sleep on the floor. White prisoners, however, have bunks. Complaints that the blankets issued to black prisoners were often lice-ridden or wet were also made. Each cell is equipped with a toilet that is not closed off and often fails to flush. Women prisoners, in particular, complained of the smells and the lack of air in the cells. A cold tap and a basin is also contained in each cell but no soap or towel is provided. Many of those interviewed by Amnesty International's delegate also complained of the cold at night.[9]

The process of feeding prisoners awaiting trial is said to be carried out in a way which subjects prisoners to indignity and inhumanity. The following account from one prisoner arrested in Johannesburg was confirmed by many others on interview and may be said to represent a typical experience:

"At 8:00 pm they gave us food. Our cell was one of three which opened on to a common yard. A large plastic can, like an oil drum cut in two, full of porridge mixed with soup, was left in the middle of the yard. Then they opened all three doors and the prisoners rushed to get to the can first, grabbing with their hands. There were maybe fifty prisoners, and many were fighting to get at the food because they were starving. There were no plates, spoons or anything provided. You just fight to get some food and stuff it in your mouth with your hands. A large drum of tea is also put in the yard and this is to be passed from mouth to mouth, there are no cups. Some prisoners got nothing, some were too disgusted to take any. Some prisoners get black police officers to buy them food from outside. If you have money and you tip they will get you what you want. One man was in for trespass and he asked for a nip of brandy. He tipped the policeman well. He got it brought in. He left the empty bottle in the window ledge of the toilet. The next morning it was the same—you fought for food or bribed a police officer."

The same prisoner told of serious brutality associated with the cleaning of cells, which is often the duty of convicted pass offenders assigned for non-payment of fines to cleaning duties at the police stations.

"The cells at Hillbrow are cleaned by pass offenders. They have been convicted for not having reference books and are sent to clean out cells. They have a very bad time. They are beaten by black police officers. There is a punishment called 'scutta'. This is the word for the way that officers get cleaning done in the police stations and prisons which is thought of as a game by them. It means you have to rush and clean at the double. The policeman shouts 'scutta' and the orderlies are immediately meant to rush to get buckets of water which they pour over the floor then, without stopping they must in a line take cloths and mop up the water, pushing it forward like making a dam of it and all the time they must hurry, hurry. They must run and wring out the cloth and rush back to the floor. The floor must be totally dry in minutes. All the time the police officer is shouting to hurry and hitting them on the back with a stick.

"When I witnessed this game at Hillbrow there were three pass offenders doing the cleaning. The officer said we need more men. He pointed to a number of us, 'you, you', picking out six men. I did not get picked. He had a broom stick and he stood behind the men shouting and hitting them across the back. As they were rushing to get out the cell door to fetch the water, the men, about five of them all got stuck in the cell door and one man fell down and was trampled by the others. He hurt his arm. I went over to help him. The policeman said 'Leave him. He is lying. There is nothing wrong with him'. The man got up. You could see he was hurt as he bent down to mop up the water with the cloth. All the time the officer was hitting the prisoners across the buttocks and back.

"If anyone fell forward he would hit them until they got up again. In this punishment you must not kneel while mopping or squat, you must bend down from the back. Any, everything must be done quick, quick. In two minutes the cell was bone dry and they moved out to clean the yard. The policeman was boasting that the prisoners could fight him outside. 'You can do anything you like if you see me on the street. Now is my chance'. This punishment of scutta is also used with pass offenders who are in prisons on cleaning duties."

While it was not possible to determine the extent of assault and ill-treatment which is experienced by pass arrestees, Amnesty International's delegate was satisfied, on the basis of the information obtained, that routine ill-treatment, degrading conditions of detention, including overcrowding and inhuman conditions for eating and sleeping, are the common experiences of a large number of those arrested under the pass laws, prior to being brought to commissioners' courts. The South African government has frequently claimed that prison conditions, including pre-trial conditions, in South Africa, conform to the United Nations' Standard Minimum Rules on the Treatment of Prisoners.[10] This claim, it would appear, is unlikely to be accurate with respect at least to the many thousands arrested and detained under the pass laws.

Summary of concerns about pre-trial procedures

Concern over the operation of the pass laws at the point of arrest may be summarised as follows:

(i) the use of arrest as opposed to summons procedure in the case of Africans;

(ii) the group character and scale of enforcement which denies individual justice to the person;

(iii) the legal basis of arrest, in particular, as to whether arrests for a "section 10 offence" ("being in a prescribed area without permission in excess of 72 hours") are compatible with the South African Criminal Procedure Act 1977;

(iv) police practices in the interpretation of the major offences (section 10, section 15) which render the bulk of these arrests unlawful;

(v) the failure adequately to fulfill the requirement that the arrested person be informed of the grounds or cause of arrest.

Apart from the arbitrary and unjust nature of the laws themselves under which people are being arrested, it must be concluded that arrest practices by the police are equally arbitrary and violate both national and international standards governing the protection of the liberty and security of the person.

Following arrest, as this study has indicated, there is inadequate effort to ensure that those arrested have the opportunity to make contact with relatives or with legal advice. Further, the conditions and treatment of Africans arrested for pass offences awaiting trial in police stations are commonly degrading and inhuman. Violence against prisoners is reported to be commonplace. Many of these features flow from the group approach to arrest which in turn reflects official policy in the enforcement of the pass laws.

FOOTNOTES

[1] M. West, "Influx Control: the 1983 Statistics", SAIRR, Regional Topic Paper, Cape Western Region, 84/2.

[2] *Rand Daily Mail*, 30 June 1984.

[3] Information given in a parliamentary question by the Minister of Co-operation and Development. The Minister confirmed that none were arrested in 1984, and that all employers involved were non-Black. *House of Assembly*, General Affairs Question No. 129 (1985).

[4] South African Institute of Race Relations, *Survey of Race Relations in South Africa*, 1982, p.263.

[5] See, for example, 'Probe into Cop Assault' *Sowetan*, 9 August 1984; 'Boy claims SAP assault' *Rand Daily Mail*, 27 June 1984. Civil actions brought in South African courts have involved claims of assaults on pass arrests; *Mokhesi v. Minister of Police*, Transvaal Provincial Division of the Supreme Court, case no. 37241/1980, was one such case where damages of R500 were awarded.

[6] *Ncube en 'n Ander v. Zikalala* 1975(4) SA 508(A).

[7] Statistics made available to Amnesty International's delegate by the Aid Centre, Market Street, Johannesburg.

[8] See footnote 7.

[9] This account based on interviews is corroborated by the interview statements contained in *Children in Prison: South Africa*, by Fiona McLachlann, *United Nations Centre Against Apartheid*, Notes and Document January 1985, 85-07291.

[10] See, for example, the speech of the Minister of Justice, *House of Assembly Debates*, Col. 6386 (Wednesday 5 June 1985).

CHAPTER SIX: ENFORCING THE PASS LAWS: COURT STAGES

During the Amnesty International mission to enquire into the pass laws in April 1984, an important enquiry conducted by Mr. Justice Hoexter into the court system of South Africa was published and debated in parliament. Its major recommendations have already been noted. The *Hoexter* Report was critical of judicial administration in South Africa's lower courts, both magistrates' and commissioners' courts. But it was particularly condemnatory of the standard of justice administered in commissioners' courts which try pass law cases. The Report's recommendation, that pending abolition magistrates should take over the jurisdiction of commissioners' courts and that administrative responsibility should be transferred from the Department of Co-operation and Development to the Department of Justice, was accepted by the government. From 1 September 1984 the transfer was effected.[1]

Following this development a second Amnesty International mission visited South Africa in May 1985 in order to assess the effects of these changes on proceedings in commissioners' courts. To provide a full picture it is proposed in this chapter, unless the context requires otherwise, to describe first the courts as observed in 1984 before

commenting on the impact of the transfer of responsibility in September 1984.

The role of the aid centre

The establishment and administration of aid centres was discussed in Chapter 4. Persons arrested for pass offences following overnight or longer custody in police stations are bought to the courts at an early hour to be interviewed by aid centre officials prior to appearance in court. The links between the centre in Johannesburg and the prosecution is illustrated by the fact that in 1984 those who conducted interviews at the aid centre and those who had responsibility for charging at some police stations were the same officials (manpower liaison officers) employed by the West Rand Administration Board.

Aid centre officials interview each arrested person normally through an interpreter. The object is to investigate the person rather than the alleged offence as such. Information is committed to an investigation form. Fingerprints taken at the charging stage or at the aid centre enable identity to be checked where it is in doubt with records in the centre or via teleprinter to the Reference Bureau in Pretoria. Employment and housing details are also checked. The primary concern of the investigation is to sift "legals" from "illegals"—that is, those who have rights or permission to be in the area, and those who do not.

Where the arrest has arisen because of some information absent from a reference book, such as the requirement until recently that it contain an employer's monthly signature or because a contract has expired, the employer will be alerted and a withdrawal of the charge, or "caution and discharge" will be recommended. In Cape Town, Amnesty International's delegate was told in 1984 that aid centre officers there would travel to an employer to fetch travel documents deposited with him or her. In addition, aid centre officials in both Cape Town and Johannesburg stated that their functions included helping persons lawfully in either city to find employment.

The aid centre also recommended how cases should be disposed of, whether to withdraw charges, to caution and discharge, or to proceed to a trial. The prosecutor and the commissioner in court seemed invariably to follow these recommendations. In other cases, where doubts remain as to identity or "legality", the recommendation will be for a remand in custody (RIC) for further investigation including a possible enquiry under section 29 of the 1945 Act (as to whether the person should be declared "idle or undesirable"). Indeed, in 1984 in Johannesburg it was established procedure to pass up to the commissioner hearing the case the aid centre Investigation Report Form, which included all particulars on the alleged offence, any previous convictions and recommendation as to disposition along with the charge sheet in the case. This procedure, which was observed by Amnesty International's delegate, would appear to undermine any possibility of an impartial hearing by the commissioner. The defendant may well have made admissions prejudicial to him on the aid centre form, with which the commissioner was forearmed before any evidence was led, and since the commissioner apparently always followed the aid centre's recommendation, his role was in many cases simply to rubber stamp the aid centre's judgment.

The aid centre, therefore, should be seen as an aspect of the overall influx control system. Its function, as the *Riekert* Commission noted, is to cut down the waste to the economy in man-hours resulting from the scale of arrests of Africans generated by that system.[2] As was emphasised by officials, negligent employers who do not keep papers in order and "technical offenders" can be speedily separated and returned to work. Through investigation of the illegal employee, the centre also gathers information on employers, which is used by the development boards in subsequent prosecutions of employers. The centre is not, therefore, as its name might imply, intended to assist the arrested person in the context of a prosecution that can result in a substantial fine or imprisonment. Rather, it is an integral part of the prosecution and trial process, necessitated by the scale and evident arbitrariness of a large number of arrests for pass law offences. As noted in Chapter 5, a high percentage of arrests (over 70% in Johannesburg in March 1984) lead to a withdrawal of charges or to a caution without a fine, following the recommendations of officials.[3] The fact that individuals have charges withdrawn or are released with a caution is a limited compensation for the disproportionate intrusion on their lives and dignity resulting from arrest, detention in degrading conditions and further processing by officialdom. It should be recalled as well that the manager of an aid centre has powers himself under the Black Labour Act to order the removal of a person, without the need for any trial to take place (see Chapter 4). No differences have resulted in the role of the aid centres, which remain under the control of the Department of Co-operation and Development, as a result of the transfer of responsibility for commissioners' courts to the Department of Justice since September 1984, with the minor exception that by commencing interviews earlier in the day the courts are able to commence their hearings earlier too.

Trial of offences in commissioners' courts (1984)

A large number of cases dealt with by these courts were observed in 1984 in Johannesburg, Cape Town and East London. In 1985, a smaller number of trials were observed, including in the main courts in Market Street, Johannesburg and at Germiston, a town neighbouring Johannesburg. At the time of Amnesty International's missions, two studies has been conducted into commissioners' courts (*West* 1982, *Monama* 1983). Monama's study was based on a two week period of observation in December 1982 at the Johannesburg commissioners' court.[4] West's study was based on the files of monitors from the Black Sash of the Langa court in Cape Town in 1982, and on personal observation.[5] Amnesty International's delegate met both these academic researchers and also visited and observed trials in the same courts that were the subject of the earlier studies. This study draws on both pieces of research and their value to this report is gratefully acknowledged.

Commissioners' courts normally commenced in the late morning to allow for processing of those arrested by the aid centres attached to the courts. The volume of arrests will vary according to the size of the city or town. In Johannesburg, where most trials were observed, there were six commissioners' courts in 1984 which sat permanently, disposing of an average 350–400 pass arrests and 100 trespass or curfew cases on a Monday (following the weekend arrests) and an average of 200 cases per day for the remainder of the week. In Cape Town and East London, normally only one court sat, but also dealt regularly with a large volume of cases. In Johannesburg, one court dealt with "section 29" enquiries, the others with pass law and related offences, with male and female defendants prosecuted in difference courts. The corridors and the public stalls in the courts were crowded. The stalls were physically divided, a legacy of the segregation policies which divided court facilities into European and non-European. More extreme remnants of this policy are to be found in rural commissioners' courts where even the dock and the witness stand are partitioned and have separate entrances for the races.

In each court the defendants were lined up in corridors leading from cells behind the courtrooms and filed into a dock when their names were called in turn. Each defendant was distinguished by surname and given a tab with a number which was left with the clerk after the case was completed. Prosecutions were disposed of with great rapidity, rarely exceeding two or three minutes for each case. The majority of defendants pleaded guilty. It was clear that all the personnel in the court were geared to the completion of the court list as the primary consideration which, given the volume of cases, required a constant flow of defendents through the court. It was not unusual to hear the clerk call another case before the previous case was completed. Frequently, relatives, friends or employers who crowded into the court to deliver a reference book or other documentation had to make frantic efforts to present these before the case was disposed of and the defendent remanded or fined and returned to custody. In one case observed, a young woman entered the dock in Court B, the prosecutor said "No reference book, R.I.C." (remand in custody), reading from the aid centre from which clearly recommended this. The young woman was led from the dock, gesticulating wildly at the prosecutor that her relatives were trying to get to the front of the court. He finally turned to see someone struggling through the packed court to hand in her reference book. She was brought back to the dock and discharged.

The most common prosecutions in Johannesburg were for the following offences: failing to produce a reference book on demand (section 15 offense); remaining in a prescribed area longer than 72 hours without permission (section 10 offense); "foreign blacks" entering a prescribed area (section 12 offense); breach of curfew regulations; trespassing on black hostels.

Once the defendent was in the dock, the prosecutor called out (for example) "twee klagtes" or "two charges", or "section 10, section 15". Alternatively, he would rapidly recite the charges and ask "how do you plead". At this juncture, the interpreter took over and recited the charges in the African language and asked how did the defendant plead. The interpreter informed the court in Afrikaans or English of the plea "guilty" or "not guilty".

If, as in the majority of cases, the plea was expressed as guilty, the commissioner asked "anything in mitigation?". The interpreter queried the defendant and informed the court. The commissioner sometimes questioned the accused briefly on what had been said and imposed sentence.

Some Illustrative Cases

In the female court, a young woman charged with the two offences, pleaded not guilty to section 10 and guilty of section 15. The commissioner asked, "Why did you

plead not guilty to section 10?" and she replied,"Because this is my fourth day." The commissioner then found her guilty and asked, "Anything in mitigation?" the defendant replied, "I brought my mother's children to holiday with their mother in Johannesburg. I forgot to bring my reference book with me." The commissioner stated, "You have to have permission to come to Johannesburg," and imposed a sentence of R30 or 30 days.

A young man pleaded guilty to section 10; section 15 was withdrawn. In mitigation he stated "I came here to seek work; I have found employment, but I have no documents." The commissioner asked, "Where are you from?" He replied "The Transkei." "Did the authorities give you permission?" "No," he said. Sentenced to R35 or 35 days in prison.

In a similar case, a female defendant pleaded not guilty to an offence under section 10. After a discussion between the interpreter and the defendant she changed her plea to guilty. In mitigation she stated, "My parents are old and sickly. I cannot get a job in the Transkei to support them." She produced documents but these were valid only in the Transkei, not for Johannesburg. She was sentenced to R50 or 50 days, suspended for one year on condition that no section 10 offense would occur between April 1984-April 1985. This sentence, which was explained in detail to the defendant, was imposed because the commissioner considered that the defendant may have thought that she in fact had permission to work in Johannesburg. She was told to get permission if she wanted to come to Johannesburg.

A male defendant charged with trespassing in a black hostel pleaded guilty and explained he acted as a messenger between a husband who stayed at the hostel and his wife. The commissioner stated that he had no permission to be there and sentenced him to R40 or 80 days. This was a sentence which the commissioner had no jurisdiction to impose. The maximum penalty for the offence is R20 and/or imprisonment with or without hard labour for a period not exceeding two months.[6] The sentence was unlawful.

A woman pleaded guilty to trespass in a male hostel. She admitted previous convictions. In mitigation, she stated "I am nine months' pregnant. I entered the hostel area to look for the father." The commissioner, in giving a caution and discharge, directed her to the fourth floor of the building to take proceedings for maintenance.

A female defendant charged with breach of the curfew in Johannesburg pleaded not guilty. "I was arrested at 9.30, not 12.00 midnight." The commissioner asked if the arresting officer was in court. He was not and the case was discharged.

A female defendant pleaded guilty to section 10, and section 15. "Anything in mitigation?" asked the commissioner. "I came to Johannesburg to see my child who is in hospital." the commissioner replied "If I want to go to Cape Town, I have to arrange a place to stay. So should you. You should get permission to come here. You must have a place to stay." She was sentenced to R30 or 30 days on count one, R10 or 10 days on count two.

A male defendant pleaded guilty to breach of the curfew. "I was on my way home from work. I am a barman in a hotel." The commissioner gave a caution and discharge, and instructed the interpreter: "Tell him he should get himself a 'night special'."

A female dressed in a white shop coat pleaded guilty to breach of the curfew. "Anything in mitigation?" "I was going from my work to a shop." "Where do you work?" "I work at Continental Restaurant." "Are you working at 2 a.m.?" "We work from 11 a.m. to 2 a.m. We were making salads for the morning." "You shouldn't be out at that time of night without a night special, 20 rands or 40 days". This sentence may also have been unlawful. The maximum fine provided by law is four rand or one month for a first offence. However, for a second offence the penalties are 20 rand or three months' imprisonment. No suggestions was made that there was a previous conviction.[7]

In an East London court a series of cases related to trespass on a white farm: a woman with a child was prosecuted for being "illegally on premises without permission". She pleaded guilty. In mitigation she stated: "I went there to fetch money from my husband. He is working there. He came late. I had no transport to go home. I stayed. I am asking for pardon." The commissioner sentenced her to R10 or 10 days for having no reference book and accepted her excuse on the charge of trespass.

Assessment

While it was clear both from the cases observed by Amnesty International's delegate and those described in other studies that the quality and experience of commissioners vary considerably, it is clear to Amnesty International that the proceedings in the commissioners' courts, as observed by its delegate in 1984, did not conform to, or come near to conforming to, the international standards for a fair trial. Quite apart from the unacceptability of a judicial process organized on racial lines (subsequently condemned by the official *Hoexter* inquiry) and the unjust nature of the laws enforced therein, the adjudication on pass law offences in commissioners' court compounded the injustice of the pass law system.

Concerns about pass law trials relate both to the personnel of the court and to virtually every aspect of procedure.

Personnel of the Court

The Commissioner

The commissioner's function in the trial was to act as judge. He determined guilt or innocence and sentence. While the jurisdiction of the commissioners' court was confined to what might be considered minor offences, the commissioner was empowered to impose the sanction of deportation from the urban areas, a sanction which was not available to the ordinary courts. In other words, the commissioner, who was acknowledged by the *Hoexter* Commission to lack all independence, had greater powers than the *independent* judiciary. The commissioner is a civil servant who, as that report acknowledges, is required in that capacity to implement the policy of the Department of Cooperation and Development which employs him. It is incompatible with any notion of fairness that an officer of a government department should preside at a criminal trial, where the policies that have led to the prosecution and trial were laid down by other officials of the same department. The common practice whereby the commissioner also doubled as a prosecutor in other cases deserves no further comment in terms of the concept of fair trial. As noted in Chapter 4, the Department of Cooperation and Development in its evidence to the *Hoexter* Commission defended the status of the commissioner, claiming that his judicial functions helped "to execute government policy and to bring home to Blacks policy aspects determined by the Department". This open rejection of independence and impartiality as requisites for a judge in these cases is sufficient in itself to deny to the commissioners' court the description court, and to the commissioner the title judicial officer. The occasional commissioner observed by Amnesty International's delegate to act conscientiously (particularly the commisisoner conducting "section 29 inquiries" in Johannesburg) cannot compensate for the fundamental defect of lack of independence.

Observation of the procedures in the courts amply demonstrated that the commissioners, with few exceptions, did not act in a judicial manner. In the first place, the speed of disposition of cases in the courts, rarely lasting longer than two or three minutes, denied the possibility of individualized justice to the defendants prosecuted. When it is remembered that the commissioner often did not understand the language used by the defendant but had to rely on an interpreter it strains credulity to imagine that any real consideration can be given to a case within a matter of minutes which includes the time for translation. These trials of two or three minutes resulted in fines often equivalent to several times the weekly wage of a African or, for those unable to find the money, two or three months in prison.

The failure to act judicially in not requiring the prosecution to produce evidence and to challenge the evident illegalities in arrests under the pass laws has already been noted.[8] Other monitors of these courts observed the commissioners record convictions, where in effect the person was pleading not guilty—for example, where the accused claimed he was denied opportunity to fetch a pass—while also pleading guilty. Instead of acquitting, as ought to be done the commissioner convicted and cautioned and discharged the person. *Monama* points also to the commissioners' failure to check the prosecutors' free use of remands in custody, often for lengthy periods, particularly in the case of so-called "foreign blacks".[9] His observation, that the commissioner did not inform or explain the right to apply for bail, but automatically remanded in custody unless bail was requested, was confirmed during the Amnesty International mission. It is a significant indicator of the atmosphere of these courts that neither commissioner nor court officials referred to the defendants as Mr. or Mrs. but rather by surname or number.[10] Indeed, in the case of some commissioners the defendant was not addressed at all, all comments and questions being directed to the court interpreter.

Amnesty International's delegate also had the opportunity to observe the disposition of pass law prosecutions against white employers in the Johannesburg magistrates' court. The contrast was considerable, not least in the time taken over each case, the attitude of the magistrate to the defendants and in the sentences imposed. It was particularly noticeable that the magistrate responded sympathetically to the most common defence of ignorance or confusion over the bureaucratic procedures involved in hiring African employees, a response wholly absent from the commissioners' court in dealing with the employees in question.

Prosecutors

In some instances prosecutors in the commissioners' courts had a modicum of training, but in the majority of cases, they were junior civil servants drawn from clerical and

administrative grades with limited general educational attainment and no legal knowledge. The *Hoexter* Commission commented upon the "disturbingly low average level of experience of prosecutors", in both commissioners' and magistrates' courts in South Africa. The prosecutor's function seemed to consist only in the announcing of charges or the withdrawing of them on the basis of the case comments. In Cape Town, *West* found that it had been quite common for the prosecutor to double as interpreter.[10] It was clear in all trials observed by Amnesty International's delegate that the prosecutor was not personally acquainted with the facts in any case he presented, or in a position to prove any feature of any case if called upon. On no occasion where trials were observed did the prosecutor call a witness. In no case, indeed, was any evidence as such called by anyone, except in the "idle and undesirable" enquiry procedures. The majority of defendants pleaded guilty, but where a not guilty plea was made, the prosecutor was never in a position to lead evidence, and as bail was not normally preferred, or given if sought, an accused was in effect punished for pleading not guilty by a remand in custody. This could often mean a loss of a job as well as imprisonment for some weeks. It was largely because of these realities in the commissioners' courts that Africans pleaded guilty. In summary, the prosecutor acted in that capacity in name only in the trials attended by Amnesty International's delegate in 1984.

Interpreters

The South African legal system must accommodate to a multi-lingual society. The official languages are Afrikaans and English. In addition, there is a plurality of African languages which lack official status. In legal proceedings, the function of an interpreter is crucial and the availability of interpretation is guaranteed by South African law. Where the interpreter acts for all parties in the court, including prosecutor and defendant, his role is especially crucial. In the commissioners' courts, the interpreters were often police officers or court clerks who doubled as interpreters. As noted, the prosecutor has been known to assume the role simultaneously of interpreter in some courts.

The prosecutor often left the reciting of the full charge to the interpreter, who in turn frequently failed to recite it in full to the defendant, but summarized it only. Equally, the interpreter might fail to narrate what the accused actually said, representing it by "he pleads guilty", or "he pleads not guilty". Thus *Monama* notes that in practice the *offense* of remaining in a prescribed area without permission longer than 72 hours (section 10 of the 1945 Act) is represented as follows: "You were found within the prescribed area for more than 72 hours. Is that so?" A reply of "yes" is then translated to the court as "guilty".[11]

In conversation with Amnesty International's delegate, an interpreter in Johannesburg admitted that he summarized rather than narrated the evidence. Much of what the accused might say was not recited to the court, "because he might talk about all kinds of irrelevant things". But what is relevant or irrelevant under these complex offenses should in principle be a matter for the court to determine, not an interpreter. This role of the interpreter in "double translation"—summarizing the charges for the accused and translating his replies into bureaucratic and court language—must raise serious possibilities of innocent defendants being convicted. This is all the more likely when the haste with which the cases were dispatched is considered and the fact that virtually all defendants are unrepresented. The affinity of the interpreter with the court and its routines and pressures was reflected in the rendering by him of mitigation evidence: it was noticeable in different courts that apart from exegesis of the accused's remarks, what he might consider a "tall story" was not infrequently rendered with a smile to the court.

It was also noticeable that the proceedings operated on the assumption that an interpreter was always needed. The accused was not asked if he or she could speak English or Afrikaans. Yet many of those convicted were clearly employees and maids who lived or had been born in the cities and by necessity must speak one of these languages. It was probable in may cases that the people unaccustomed to courts assumed that when they were addressed in Xhosa, for example, they must reply in that language. To impose, in effect, the need for translation clearly increased the risks of false convictions. In one case, at least, which was not observed but described to Amnesty International's delegate by the defendant involved, the commissioner insisted that the accused speak in an African language, despite the fact that he understood English. However, in other cases observed, if the accused replied in English or Afrikaans the case proceeded in that language. The point, however, is that the accused person was not asked at the outset whether an interpreter was needed.

Legal representation of defendants

Of the trials observed in 1984, an accused was represented in only one case. It is clear that virtually every defendant in the commissioners' courts was unrepresented, something which had not changed in 1985. Notices advertising the availability of legal aid and advice were posted at the courts in Johannesburg, giving telephone numbers to ring, but no service is provided at the courts and clearly the vast majority of defendants are either unaware of the possibility or do not avail themselves of it. It is clear that the absence of legal representation diminishes to vanishing point the chances of fair trial in the commissioners' courts. The involvement of human rights organizations in legal representation of pass offenders is discussed below.

Bail

One factor other than lack of means which was known to contribute to the virtual absence of lawyers was fear on the part of the accused that contesting a case would lead to adjournments and remands in custody. It was confirmed by organizations concerned such as the Black Sash (which had attempted to arrange legal representation in some cases) that Africans caught up in the pass law system prefer, if they can, to plead guilty and to pay a fine in order to get out of the clutches of officials as quickly as possible. The "drawback", that legal representation would lead to delays with defendants being remanded in custody, was mentioned by several commissioners in interview. They were generally hostile to the idea that legal representation was necessary or desirable. Nor, it seems, would remand on bail be favourably considered as a general policy. It was a general view of all personnel associated with these courts who were interviewed that bail should only be rarely granted because people would not return for trial. No evidence was offered to support these opinions. It has been claimed that a policy directive has been issued to commissioners not to grant bail.[12] This could not be confirmed during the Amnesty International missions, but it was clear that, apart from several cases observed in East London, no commissioner or prosecutor raised the possibility of bail when a case was being adjourned. While bail was granted on occasions at the request of the accused (although more often refused), it was fixed at what must be considered a high rate given the usual fines for the offences in issue. The scale of the injustice involved in the refusal of bail or setting it impossibly high is underlined by the fact that anything from a quarter to one third of all cases observed in several days in Johannesburg were adjourned by the prosecutor for periods of normally two weeks.[13]

Sentencing

Disposition or sentence in the commissioners' courts in the observed cases seemed highly arbitrary. Heavy fines were routinely imposed without any apparent concern on the part of the commissioner as to the ability of a defendant to pay. The default term of imprisonment fixed should the fine not be paid (and paid immediately) normally was an equivalent number of days' imprisonment to the number of rands imposed, and occasionally even double the fine.

The ratio between fine and days in prison of one rand to one day creates an obvious disproportion where, unable to pay a fine of R70, for example, a person would spend 70 days committed to prison. This is an even more serious matter since pass offenders convicted in the commissioners' courts are known to be contracted out to farmers for the duration of their sentence—a form of forced labour condemned under the International Labour Organization (ILO) Conventions, and which is discussed in chapter 7.

The high proportion of offenders who are committed to prison in default of payment of a fine is of major concern, particularly when it is known that the proportion is much lower in the case of ordinary criminal convictions, *Monama* found for December 1982 that, out of a total of 555 convictions surveyed in the commissioners' courts in Johannesburg, 44 per cent of these sentenced were committed to prison. Similarly, *West* confirmed from official criminal statistics that the figure is approximately 40 per cent. Since imprisonment is only exceptionally available as a direct penalty for breach of the pass laws, it is clear that the majority of those in prison were there because they could not afford to pay the fine imposed. Figures for March 1984 which were made available to Amnesty International's delegate by the aid centre in Johannesburg and which concerned convictions under section 10 (remaining in an urban area without a permit for longer than 72 hours) show that 446 defendants paid fines and 989 were jailed in default for periods up to the maximum of three months. These figures, however, would be reduced by the number who had fines paid for them at the prison—an unknown percentage.

If time were allowed to pay fines, as is permitted by the Criminal Procedure Act, at the discretion of the court, it is clear the numbers sent to prison would fall sharply. The injustices involved need no underlining, not least in the many cases, known to monitors of these courts, where a person within the space of twenty four hours or less may be arrested, convicted and imprisoned without relatives being aware what has befallen

him or her. The authorities cannot be unaware of this and it must therefore be deliberate policy implemented by the commissioners' courts to require immediate payment of fines at the court. That this is the case is evident from the fact that the valuable institution of the "Prisoner's Friend", an official available at criminal courts in South Africa to help defendants and relatives after convictions with the payment of fines, functions differently in the pass courts than in the ordinary magistrates' courts. Thus, in the Cape Town magistrates' court, this official has authority to grant time to pay fines for criminal offences, even to waive them in certain cases. When interviewed by Amnesty International's delegate, the official proudly stated that no one had gone to prison for non-payment of a fine in the previous three months. The equivalent official in the pass court, however, had no authority to defer fines. The discrimination effected through administrative policy whereby the non-criminal pass offender is committed to prison while the ordinary criminal offender is given every opportunity to pay a fine is blatant and indefensible. This topic is discussed further in chapter 7.

Appeal

It is possible to appeal from the commissioners' court to the Supreme Court. However, no appeals are brought. No one to whom the observer spoke could recall an appeal ever having been brought over conviction or sentence. It was remarkable that this situation was not seen as a matter for concern by those who administered justice in the commissioner's courts. The chief presiding officer in the Johannesburg court, when interviewed, took a complacent view: "The safeguards are such that there is nothing to appeal about". South African criminal procedure does provide for an alternative safeguard, automatic review of sentences of lower courts, where the sentence is in excess of three months or R250. However, the maximum sentences that commissioners' had power to impose normally fell below that limit and, therefore, commissioners' decisions (other than under section 29 inquiries) were effectively immune from review. In the result the commissioners' courts have functioned for many years with no scrutiny from anyone outside the department that ran them and dictated policy within them.

Conclusions on the trial process

This chapter has so far examined the major features of trial procedures in the administration of the pass laws as observed in 1984. It has found blatant and serious fault in terms of the international standards of fair trial and confirms the similar assessments in the *West* and *Monama* studies. The decision to remove responsibility for pass law courts to the Department of Justice, and the recent decision to implement soon the other recommendation of the *Hoexter* Commission, to abolish these courts, is welcome. However, as the experience since September 1984 when the Department of Justice took responsibility for these courts establishes, improved judicial procedures and standards in themself are insufficient to make arbitrary and discriminatory laws acceptable. The pass laws directly violate international standards in leading to imprisonment on grounds of race. Fairer procedures may mitigate their effect but only to a limited extent. To ensure justice and respect for fundamental human rights, it is their abolition that is required.

The transfer of responsibility for the commissioner's courts to the department of justice and its effects

The *Hoexter* Commission's recommendation that the Department of Justice take on responsibility for the administration of justice in commissioners' courts came into practical effect from 1 September 1984. This did not entail the abolition of the courts, as some newspaper comment claimed, but rather a series of changes which taken together have removed some of the more arbitrary features of proceedings in the pass law courts before that date. The most siginificant effects have resulted from changes in personnel. In the major centres such as Johannesburg and Cape Town, commissioners who had been hearing cases have been transferred from these duties and replaced by more experienced magistrates (all of whom by law are also entitled to exercise commissioners' functions). Apart from Johannesburg, hearings of violation of the pass laws are no longer taken in separate courts, but integrated with the lists of offences in the ordinary magistrates' courts building. In Johannesburg, however, the courts are still held in the commissioners' buildings although there is now a smaller number of courts and fewer cases to be heard.

In other centres across the country, however, the transfer of responsibility has resulted apparently in nominal changes only. In a speech on the opening of a magistrates' court building in the KaNgwane homeland in March 1985 the Chief Minister, E.J. Mabuza, commented:

"The commissioners' courts are still there and they sit as commissioners' courts and their jurisdiction has not been altered. In some cases, the court officials of the commissioners' courts, as they were before 1 September 1984, have been appointed by the Department of Justice in the same capacities, from the court interpreter right up to the presiding officer. All the changes that have occurred have simply been a movement from one building to the other. The same heads are wearing the same caps, the only difference being that the caps have just slightly been turned".

Nevertheless, those with experience of monitoring the commissioners' courts in Cape Town and Johannesburg have confirmed that the standards of adjudication have improved. The most important change identified and confirmed by Amnesty International's delegate has been in the quality of prosecution staff. Prosecutors now insist on a written statement from an arresting officer before proceeding with a prosecution, in an attempt to reduce the enormous scale of arbitrary arrests associated with the enforcement of the pass laws. In 1984, up to 70 per cent of monthly arrests in Johannesburg under the pass laws led to a withdrawal of the prosecution in the face of the court or to a conditional discharge. Now, the Department of Justice prosecutors do not proceed at all with these cases, leading to the release of the arrested person from the court building before appearance in court. In October 1984, it was reported that more than two thirds of people arrested for pass offences in Johannesburg were being released before prosecution because the police were not following the new procedures.

It is not clear, however, what impact this policy is having on actual arrest. In March 1984, some 5,870 people were interviewed by the Johannesburg Aid Centre following arrest. This had dropped dramatically to 1,765 in March 1985, seven months after the takeover by the Department of Justice. However, it is unclear whether the reduction results from an actual decine in total arrests. Amnesty International's delegate was informed that there was now a policy of distributing pass arrests over the many local police and magistrates' courts within Johannesburg. It was also believed by some that the reduction in arrests, if there had been such, was a consequence of the redeployment of the police to deal with township violence, which had been accelerating through 1984 and which ultimately led to the imposition of a state of emergency in certain areas in July 1985.

As a result of the reduction in the number of cases being heard by the magistrates, for whatever reason, and the more careful screening by the prosecutors, it was evident that more attention could be devoted to each particular case. Nevertheless, following personal observation by Amnesty International's delegate in several centres, the conclusion must be drawn that the improvements achieved or that are possible of achievement are modest. The atmosphere now conforms more to that of a court, but the system is still based in the guilty plea and on an administrative rather than judical process.

The prosecutor is rarely in a position to produce any evidence whatsoever to prove the charges. He relies on the police statement and on the information which may include incriminating admissions from the earlier aid centre interview. Where the defendant pleads not guilty he is rarely able to respond except as before by withdrawing the charge or seeking a remand in custody. Further, the fact that the major offence, "being in a prescribed area for more than 72 hours without permission", is defined so as to place the full onus of proof on the defendant encourages enforcement by guilty plea, and taints the entire procedure with unfairness. It remains a system that functions in the routine case by prior interrogation at the aid centre, with no opportunity granted for the accused to consult a lawyer in advance, where the prosecutor is unable to provide any evidence independent of what can be extracted from an unrepresented, often poorly educated and confused defendant.

One important change for a minority of defendants who wish to have legal representation is that bail will be more readily granted where an adjournment is sought in court for that reason. As previously noted, it was the denial of bail and the insistence on remand in custody by the former commissioners which resulted in an even greater proportion of people being prepared to plead guilty so as to avoide time in prison on remand.

Generally, sentencing in the courts is now more moderate and consistent between cases. Thus, in one morning's cases observed in the Germiston Commissioners' Court, all but one was disposed of by a suspended fine.

In summary, the evidence is that the prosecutors and magistrates operating, at least in the courts observed, have through more professional attitudes moderated the arbitrary character of the former commissioner-run courts. While this is to be welcomed, it does not remove the injustice inherent in an essentially non-judicial process that functions through the admission of guilt by the defendant. Nor can any reform of procedure change the racially discriminatory nature of the laws themselves. It requires to be repeated that only the final abolition of offences and laws which permit the imprison-

ment of black people for exercising their freedom of movement could constitute acceptable reform.

FOOTNOTES

[1] Government Notice, Proclamation No. R131, 1984.

[2] *Inquiry into Legislation Affecting the Utilization of Manpower* RP. 32/1979. para.

[3] See note 7 to Chapter 5.

[4] R. Monama, "Is this Justice? A Study of the Johannesburg Commissioners' ("Pass") Courts", Centre for Applied Legal Studies, Occasional Paper 4, University of Witwatersrand, Johannesburg (June 1983).

[5] M. West, "From Pass Courts to Deportation: Changing patterns of influx control in Capetown", *African Affairs*, Vol. 81, no. 325, October 1982, pp. 463-477.

[6] Regulations 19(3) and 47(1) of *Regulations of 14 June 1968*, CNR 1036.

[7] *Blacks (Urban Areas) Consolidation Act* 1945 S. 31(3).

[8] See Chapter 5.

[9] Op. cit., p. 39-50.

[10] West, op.cit., p. 470.

[11] Monama, p. 22.

[12] Monama, p. 29.

[13] Monama's statistical study confirms this rough calculation, p. 39-40.

CHAPTER SEVEN: ENFORCING THE PASS LAWS: PUNISHMENT AND FORCED LABOUR

Sentencing by commissioners' courts was considered in the previous chapter. This chapter examines the fate of the pass offender following conviction and sentence. While a considerable proportion of those convicted are discharged with a caution, most are fined or imprisoned. Thereafter, some face the further sanction of deportation or repatriation, as outlined in Chapter 3. It should also be recalled that powers exist to direct Africans to prison "farm colonies" without the requirement of a conviction and with or without an administrative inquiry into alleged idleness or undesirability.[1] All of these dispositions and penalties result from offences created by South African law out of the movement, residence or presence of Africans, offences which violate the Universal Declaration of Human Rights in multiple ways, as outlined in Chapter 1. All of them also follow procedures which fall short of international standards of fair trial.

Fines

Most of the numerous offences created under the pass laws provide a fine as the penalty. Imprisonment as a primary sanction is normally imposed only where the person has previous pass law convictions and, in the cases of so-called "foreign blacks", in urban areas without permission.

For the majority of pass offenders, therefore, conviction results in a fine. Given the scale of prosecutions, such fines involve the extraction of considerable sums of money from what is, in effect, the poorest section of the population. In 1983, in the seven administration board districts of the transvaal alone, 146,200 convictions brought in a total of R1,119,618 in fines. Of this amount R218,252 went directly to the state and R901,366 to the individual regional boards. In the Western Cape, the total amount paid in fines for 1983 was R723,257. Africans paid R545,000 of this through commissioners' courts, and employers of illegal labour R178,258 through magistrates' courts.[2]

The administration boards before disestablishment in 1984 were responsible for enforcing influx control and were required to be self-financing. Their principal sources of revenue came from sales in liquor stores in the black townships, which until recent times were exclusively owned by the boards, and from pass law fines. Whether designedly or not, the policy of heavy fines in the commissioners' courts augmented revenue. The African population was, in effect, required to pay for the influx control system of which it was the sole victim.

Default imprisonment

The fact that the imposition of large fines leads to the immediate committal to prison of an estimated one in three of those convicted in the pass courts, unable to raise the fine, has already been noted.[3] The practice which ensures this, of ordering an equivalent number of days' imprisonment (or double the days of imprisonment) to the fine imposed (e.g. R70 or 70 days; R40, or 80 days), was criticised as disproportionate, arbitrary and frequently illegal. It is a principle of sentencing law in South Africa that a fine should be proportionate to an offender's ability to pay and the law also allows, at the discretion of the court, time to pay a fine.[4] In Chapter 6 it was noted that in the Athlone magistrates' court, Cape Town, the Prisoner's Friend exercised such a discretion at the direction of the court for ordinary criminal offences, implementing an official policy to curb prison numbers. A different policy was evident in the commissioners' courts. Immediate payment was required to the fines officer before the person could be released, leading to the foreseeable result of large scale committal to prison for those who had no means or no relative on hand to pay the fine. An unknown proportion of such offenders have fines paid at the prison by relatives, and are released, but a considerable proportion remain imprisoned.

Commissioners and other officials interviewed seemed unconcerned about this outcome of their sentencing, commenting only that if fines were not immediately paid people would not pay them and could not thereafter easily be traced. Whatever merit this had as an argument in the case of those "illegally" in the cities, Africans charged with offences such as breach of curfew or reference book offences were for the most part qualified to be in the urban areas and had fixed addresses.

The majority of those committed to prison because of their inability to pay fines are immediately "paroled" for farm labour or allocated to cleaning duties at police stations or other public buildings for the duration of their sentences. In the Johannesburg commissioners' courts in 1985, then presided over by magistrates, pass offenders unable to pay fines were apparently allocated directly from the court cells to cleaning duties in police stations, without committal to a prison, suggesting a system of conscious exploitation. Such a practice appears to be a variant of the scheme first introduced in the 1940s, also in Johannesburg, whereby, acting under official instruction, commissioners offered Africans arrested for pass offences the "choice" of farm labour for periods up to twelve months or facing prosecution.[5] Amnesty International's delegate was informed that today on the borders of the Orange Free State this exploitation of pass victims has been known to take an equally explicit form. Raids on black settlements by Orange-Vaal Board officials were alleged to coincide with harvest time (the months of September, October and November), and it was claimed that Africans are "sold" outside court houses, following conviction for squatting and other pass infringements, to local wheat and maize farmers in the Orange Free State.

There would appear to have been indifference on the part of commissioners to the scale of default imprisonment flowing from their sentencing policies. The moderation in sentencing evident in Johannesburg since the Department of Justice was given responsibility for commissioners' courts in late 1984, was discussed in Chapter 6. Such a change in policy, if general throughout South Africa, could lead to a reduction in default imprisonment and to the abuses long associated with it, including the forced labour of pass victims on farms and other places.

"Who wants to be sold?"—The parole scheme and the pass offender[6]

Section 75 of the South Africa Prisons Act 1959, entitled "agreement for labour of prisoners", provides that subject to the employment of prisoners on public works to the extent possible, the prison authorities may contract with private persons for firms for the employment of prison labour. This provision of the Prisons Act, and limited statistical information in the annual Report of the Commissioner of Prisons, is the only formal acknowledgement of a system of forced labour involving pass offenders and most other categories of African prisoners which has functioned in different guises in South Africa for over a century. The act, in the words of one former Minister of Prisons, authorizes the "lease" of prisoners "to any person, body of persons, organisation or authority which the Commissioner of Prisons thinks fit." [7]

The various schemes, such as the 1940s' "inter-departmental" scheme already mentioned, which have existed over many years for the utilisation of prison labour by both state and private interests have been documented elsewhere.[8] The current system is termed "parole", a description which appears to have been deliberately chosen to suggest what would be ordinary penal in many countries. Thus the Official Yearbook of the Republic of South Africa 1980-81, describes parole as follows:

"The basic principles of release on parole, which have been adopted by most Western countries, are incorporated in the penological legislation of South Africa. Release on parole is subject to certain basic requirements and considerations—the most important being employment, accommodation and aftercare. With few exceptions those serving sentences of up to six months are released on parole *mostly on reception* or at other times during their sentences. Prisoners serving longer than six months may also be released on parole after having served certain portions of their sentences. On release a prisoner is given free transport to his home or place of work and is supplied with sufficient clothing if he has no clothes of his own." (emphasis added) [9]

In this account there is a deliberate equating of "instant" parole—immediate diversion on reception into prison of the bulk of offenders serving sentences of less than two years (who are disproportionately black) [10] to perform labour for private interests—with the normal concept of release of prisoners who have served a proportion of a sentence of imprisonment and who under supervision are free to lead an ordinary life in the community. "Instant" parole is, in fact, a unique South African institution whereby thousands of prisoners, including pass victims, are, in the accurate argot of warders and African prisoners, "sold" principally to white farmers as virtual free labour.

A South African study of prison work explains the parole scheme as follows:

". . . immediately after being sentenced prisoners are asked of they would rather

serve their sentence in prison or be released on parole to work for a private person at market wages. The majority of prisoners opt for parole. The standard contract is entered into between the employer and the parolee which states that the employer must be responsible for the food, clothing and shelter of the prisoner and on expiry of the parole period the prisoner must be returned to the prison. In addition the employer must pay the parolee the current market wages in his particular district. The maximum hours of work are stipulated as being ten per day. The employer has no right of restraint over the parolee who can leave the employment and return to prison if he wants to do so." [11]

This account does not acknowledge either that the scheme as described violates in principle the International Labour Organisation's (ILO) Conventions on Forced Labour (to which, however, South Africa is not a party) or that the actual operation of the scheme involves no real choice for the offender and little or no possibility of return to prison before the expiration of sentence. While the study makes reference to abuses in the past resulting from similar schemes and to the lack of safeguards for the prisoner, it does not confront the cumulative evidence over many years of the gross physical abuse of prisoners by white farmers. Nor does it document the often very low level of "market wages" and poor conditions which characterise the lot of African prisoners paroled for farm labour. The *Viljoen* Commission into the South African Penal System, which reported in 1976, equally emphasised the formal protections of prisoners laid down in the hiring contract between private employers and the prisons department, including inspection by prison staff of accommodation and food.[12] It is clear, however, from the recurrent cases that come to public notice, that such inspection as is undertaken is not sufficient to prevent abuse of prison labour on a substantial scale. This may be reflected to some extent by the fact that in 1983-84 Africans (in total, 4,115) constituted three quarters of the parolees who absconded from employers.[13]

Statistics on the use of parole

The scale of private or state use of prison labour outside of prison in South Africa is not easily determined because little official information is released on the subject, as is the case with the prison system generally. In 1973-1974, a total of 276,871 persons were imprisoned for one to four months (including the four nominally independent homelands—the so-called TVBC states). Of these, 112,094 or 40 percent were released within twenty four hours of admission to prison and sent primarily to farms.[14] In 1983-1984, 188,660 prisoners were admitted to prison for terms from one to four months (a total excluding the TBVC states). Of these a total of 54,366 "units" were released on parole. Of this total 40,624 were African male and female, 129 were whites, 74 Asian and 11,539 Coloured. All cases of immediate parole (those sentenced to two years and under) numbered 77,344 in 1983-1984, of which 58,925 were African, and the likelihood is that most, male as well as female, were made available to private employers including farmers.[15] It is not possible on the available figures to determine what percentage of the total were imprisoned for pass offenses but it is likely that they constituted a substantial proportion of the total.

The parole scheme and the ILO convention on forced labour (No. 29) 1930

Under the Forced Labour Convention 1930, the term "forced or compulsory labour" means, "all work or service which is exacted from any person under the menace of any penalty and for which the said person has not offered himself voluntarily".

An important exception is:

"Any work or service exacted from any person as a consequence of a conviction in a court of law, provided that the said work or service is carried out under the supervision and control of a public authority and that the said person is not hired to or placed at the disposal of private individuals, companies or associations." (Article 2(2)(c)).

Prison work followed conviction for a criminal offence, therefore, does not constitute forced labour provided the conditions cited are met. In South Africa these conditions are not met with respect to pass law cases. In the first place, the requirement that *a conviction in a court of law* should be a pre-requisite to compulsory labour in prison is absent in those instances where, under administrative direction, Africans are sent to "farm colonies" (section 29 inquiries, Chapter 3 above). The Prisons Act defines a "farm colony" as a place where prisoners are sent "to learn habits of industry and labour". In March 1982, there were 195 prisoners undertaking forced labour at such farm colonies, following inquiries by commissioners under Section 29 of the 1945 Act.[16]

The requirement of *a conviction in a court of law*, is in any event not satisfied, even where prosecutions take place, because of the nature of the commisioners' courts which deal with pass cases. As noted by the Committee of Experts in its commentary on the Convention,

"This provision aims at ensuring that penal labour will not be imposed unless the guarantees laid down in the general principles of law recognised by the community of nations are observed, such as the presumption of innocence, equality before the law, regularity and impartiality of proceedings, independence and impartiality of courts, guarantees necessary for defence, clear definition of the offence and non-retroactivity of penal law." [17]

The lack of independence of the officials who try the bulk of pass law offences and the non-observance of the normal guarantees of fair trial in commissioners' courts has been fully documented in Chapter 6, and was also confirmed by the *Hoexter* Commission. It follows, therefore, that from the outset labour extracted from *any* person imprisoned through the commissioners' courts, whether imprisoned directly or by reason of non-payment of a fine, constitutes forced labour under the Convention of 1930.

Apart from the absence of fair trial guarantees and an independent court, the parole system to which the bulk of those imprisoned under the pass laws are exposed, as well as thousands of other sentenced prisoners, is in itself incompatible with the Convention, which specifically excludes the use of prison labour by private interests (section 2(c) cited above). Article 4 of the Convention imposes an obligation on a state party not "to impose or permit the imposition of forced or compulsory labour for the benefit of private individuals, companies or associations". South Africa, however, is not a party to the Convention, nor is it currently a member of the ILO. The Committee of Experts on the ILO Forced Labour Convention has commented that both the requirement of a conviction by a court and the prohibition on putting prisoners at the disposal of private individuals, companies, or associations in the Convention, "are important guarantees against the administration of the penal system being diverted from its true course by coming to be considered as a means of meeting labour requirements".[18]

The South African penal system in practice illustrates such a diversion from the true purposes of imprisonment, for the precise purpose of meeting labour requirements.

The parole scheme and the forced labour convention (No. 105) 1957

Under this supplementary Convention, to which South Africa is not a party, forced or compulsory labour for certain purposes is condemned, including, under Article 1(b), "as a means of racial, social, national or religious discrimination". The exaction of labour from those convicted under the pass laws constitutes the most direct contradiction of this norm. Only Africans may be guilty of pass law offences, and the laws are, therefore, explicitly racially discriminatory. Any labour by those imprisoned under the pass laws, whether normal prison work or work outside prison for the state or for private persons such as farmers, must under the 1957 Convention be condemned as forced or compulsory labour in addition to the extent that such labour is independently in violation of the 1930 Convention on Forced Labour.

The operation of parole

While information from official sources on the use of prison labour outside of prison is sparse, sufficient detail has emerged from court records, newspaper reports and prisoners themselves to justify the greatest concern by the international community over this largely invisible dimension of *apartheid. Further research, however, is required before a full picture emerges and certain aspects only are highlighted here.*

"Consent" to parole

A common official response to criticism of the use of prison labour on private farms is to claim that the scheme is entirely voluntary. Prisoners, it is said, have a choice whether to be paroled or whether to remain in prison and may return to the prison at any time from the farms or other places. The evidence is overwhelming that this official view presents a false picture of the functioning of parole.

In practice, it is reported that prisoners are selected and sent to farms without any real choice. While there, they are locked up at night in cell-like accommodation and, in many cases, they are, in effect, not free to return to prison. They are often subjected to very long hours of work, live in wretched conditions, receive poor wages, and are frequently the victims of systematic brutality.

Africans who have been regularly arrested for squatting at Grasmere in the southern Transvaal told Amnesty International's delegate in 1985 that on being sent to farms they had clothes and shoes removed to prevent escape and were given sacks to wear. At night they slept in barns on sacks. There is little evidence to suggest that conditions and treatment "on parole" in the 1980s have changed significantly from the 1940s and 1950s when, as noted by Allen Cook in his study:

"Once [on the farms] all schemes were the same. Labourers got the same 'uniform', a sack with holes cut out for the head and arms—a tell-tale garment on the country roads should a 'volunteer' try to escape. Labourers were locked and guarded in the same foul 'compounds', whipped and driven with the same whips and sticks, fed with the

same maize porridge, regardless of which particular 'scheme' has ensnared them—or even indeed if they had gone to the farm of their own 'free' will."[19]

The involuntary nature of the present-day system is confirmed by the frequent complaints conveyed to Amnesty International's delegate of obstruction or of refusal by prison officials to co-operate when relatives who find the money for fines attempt to pay them at the prison. The law permits a fine to be paid at any time and the prisoner should be brought back from a farm to the prison to be released. However, it was said that once the unfortunate prisoner had been sent to a farm, only the intervention of a lawyer, unavailable to most Africans, and the threat of legal action, would secure his or her release from a farm.

It is not possible, of course, to assess to what extent such conditions prevail in every parole situation. However, in view of the large number of cases of ill-treatment of parolees recorded over the past two decades, it appears that the parole system does result in widespread abuse. At the least, the evidence suggests that a government inquiry into the operation of the parole system and the treatment of parolees is justified. Some of the cases reported over the last 20 years are recounted below.

Selection for parole

As already noted, the great majority of those prisoners who are destined for farms are released into the custody of the farmer within one or two days after admission to prison. The common procedure has been documented in a number of civil and criminal proceedings. Thus the experience of one pass offender committed to Modderbee Prison, Benoni, in 1979, came to light in statements taken by lawyers for a Supreme Court action by three ex-parolees against their former employers:

"My name is Frans Le Kwapa Mokonoto, I am 35 years old . . . a builder by trade. I have what is known as a 'black certificate' for building which I obtained from the State Industrial School in Hammanskraal.

"On Thursday, 8 March 1979, I was arrested in Parkhurst, Johannesburg, while on my way to visit [a friend]. I was arrested because my pass book was not in order and I appeared in court on Friday 9. I was found guilty and sentenced to a fine of R60.00 or 60 days' imprisonment. On the same day I was transferred to Modderbee Prison . . . On the following Monday, I was examined by a prison department doctor and certified fit to work, and sold to Mr————. We were all lined up in a big room where there were 50 or 60 prisoners, then white policemen called some of us out. We were given a ticket on which was written our name, our sentence and our date of release. We had no option of whether to go or not. At no time was I asked whether I wanted to do farm labour."

It is to be noted that Frans Mokonoto was a qualified builder, not a farm labourer, yet he was immediately selected to work on a farm. His statement goes on to recount, the beatings he received at the hands of foremen on the farm because, unaccustomed to picking tomatoes, he was slower than other prisoners selected.

In several other statements made by parolees for the purposes of this case, it emerged that only one was asked if he wished to do farm labour. A plaintiff in the case, Petrus Mofokeng, stated in his evidence in court that, following conviction for a general tax offence and unable to pay the fine, he was taken to Modderbee prison from where he was fetched by the farmer and taken to his farm. At this stage he had no idea he was being "paroled", in prison he had signed a form with his thumb print but had not been given the opportunity to read it, although he could both read and write.

It also emerged that the farmers who arrive at the prison to "lease" labour do not directly select the prisoners. Instead, prisoners were allocated to them by police or prison staff. The farmer apparently tells the officer for what periods he will require the prisoners as labourers, and parolees are then selected according to the length of sentence and the requirement of the farmer. Prison labour is particularly in demand during harvesting season. It appears that pass offenders who are given a default sentence of two weeks or less are sent to police stations or allocated to cleaning duties at other public buildings such as the mortuary, while those with longer sentences are sent to farms.

Treatment of parolees on farms

The treatment claimed to have been meted out to parolees on at least one farm gained attention as a result of the case brought by Frans Mokonoto in 1980. A prosecution for assault brought against a farmer by a parolee led to an acquittal. Thereafter, three exparolees initiated a civil action for assault, which after it had commenced, was settled out of court on terms that were not disclosed.[20] Detailed allegations that a systematic brutality was practised at the farm emerged from evidence given in both court cases and from statements made for purposes of the case by the plaintiffs and other parolees as witnesses. It is to be noted, however, that most of these allegations were denied and were not proved in the court since the case was settled:

1. Assaults on prisoners with fists, sjamboks and sticks with coat hanger wire attached at the ends were alleged to be commonplace, and were allegedly carried out by the farmer, his son, by black foremen or "imbalas" and by "old" parolees, who had remained on after expiration of sentence as farm labourers.

2. Contrary to the requirement of the contract to supply prison labour, prisoners were locked up nightly in a large unlit cell with barred windows and a padlocked door. Prisoners uniformly referred in their statements to the living quarters as a cell.

3. Prisoners earned 45-60 cents per day and worked six days per week as long as was required. The maximum laid down in the Prison Rules is ten hours per day.

4. All new prisoners, on arriving at the farm, it was claimed, were assaulted to accustom them to the "law of the farm" and to discourage them from running away. One parolee stated:

"Altogether 13 of us prisoners were taken by [the farmer]. When we arrived at the farm after about three hours we were met by a man who I later learned was the farmer's son. The farmer told his son that I had been pointing at him, while I was being transported on the back of the van. The son hit me with his fist in my face. This assault took place while we were standing where the truck offloaded us. I tried to explain that I had merely been gesticulating to my fellow prisoners and not pointing [at the farmer] but this was to no avail. [We were] then instructed to go to work.

"When we knocked off after the first day's work, we were taken to a big dormitory. When we went there at night we were locked in and the room was opened again in the morning. We were warned by the other prisoners on the farm that that night there would be trouble. That evening after we had eaten, [the farmer's] son came into the cell. He was accompanied by five black workers who were not prisoners and who served as our supervisors on the farm. These men were carrying sticks which we in prison call 'donkie piels'. I was singled out from the new prisoners and was punched and kicked in the mouth and back after I had fallen down. I lost roughly four to six teeth in the bottom row and my mouth was bleeding. They said they had singled me out because I had been pointing in the back of the van that morning. The son instructed supervisors to take me out and wash my mouth out. When I came back in, I saw that the 12 other new prisoners were lying on their stomachs having stripped naked. These men were being hit on the back with the donkie piels by the workers. Every Tuesday and Friday, the son and some five workers would come to the cell and would beat up the new prisoners. The form of the beatings was the same. That is, the new prisoners would have to strip naked, lie on their stomachs on the floor, and would get beaten with donkie piels.

"We used to start work at 6.00 in the morning and work until 6.00 in the evening. Sometimes we worked later, even as late as a quarter to eight. We had one break during the day. That was at ten o'clock in the morning when we had a fifteen minute break for lunch. Our work was in the fields on the farm. Mr. —— was growing pumpkins, tomatoes and peaches. Our job was to dig in the fields to pick the fruit and vegetables and to put it in bags. Most of the work we did was with the peaches. For lunch we were given porridge mixed with milk but the milk tasted as though it had been mixed with water.

"While we were working in the fields, we were supervised by two black workers employed by the farmer. They carried sticks with them. There was no one from the prison who gave any supervision or control.

"[There were] five of [the farmer's] own workers working on the farm, in addition he had about 60 prison workers. On Tuesdays and Fridays, he or his son would go to Modderbee to return and hire prison labourers."

5. New prisoners were allegedly subjected to a variety of initiation ceremonies, consisting of prolonged beatings, humiliations and forced exercises. One prisoner who had been given R70/90 days' sentence for non-payment of a traffic fine, related one such "ceremony":

"In the cell the new prisoners were put on one side in the toilet and called out one by one and told take off their clothes by the "indunas". A plate was put on the floor and we were made to run around the plate and they would hit us with belts on our backs. They also hit us with their hands on our faces and the front of our bodies. The other prisoners had to sing while this was going on. I and the two other older prisoners were not made to do this for a long time, but the younger ones were made to do this for a much longer time. I was sore and I bled from my nose and mouth. We were then given blankets but had to share with some of the other new prisoners. We then went to sleep."

The ritual beatings and reference to singing while this ill-treatment was being administered is significant. Forcing African prisoners to sing and to dance while under ritual assaults was alleged by other prisoners interviewed during the Amnesty International missions to be a common form of

"entertainment" with the prisons themselves, which are discussed later in this chapter.

The forced exercises complained of by prisoners included one where they were required to lie flat on the ground, naked, inside their living quarters. Large stones were then placed on their backs and they were ordered to do press ups. Another such exercise outside of the cell was recalled by one parolee as follows:

"One of the forms of punishment which occurred regularly on the farm was that the prisoners were made to pick up concrete blocks and carry them over their heads. We were told to stand in lines. We had to lift up and put down the blocks while he called 'panzi' and 'phezalu'. This had to be done many times and he would hit those with a sjambok who could not keep doing it. He then said that we must run to another part of the field holding the concrete block over our heads. The farmer's son used to ride in a jeep behind us as we were running. Anyone who fell was beaten."

6. Prisoners also complained of being threatened with death. One parolee's statement claims:

"S., one of the workers on the farm, who was not a prisoner and who was one of our supervisors, continually pointed out [what he claimed were] the graveyards all over the farm. These graveyards had stones and rocks on top of them. S. said these graves were the graves of our fellow prisoners. He said, if we did not want to work and we think funny things we would be hit and would die and be buried on the farm."

7. None of the parolees who made statements ever saw any prison staff at the farm, and no evidence exists that any supervision was ever exercised by the prison authorities.

8. The farmer in question stated in court that he had 4,000 parolees working on his farm between August 1972 and August 1979. he fetched them personally from Modderbee prison and returned them at the end of their sentence.

9. There was evidence in the statements made for the purpose of legal proceedings, principally from the comments made to returned parolees who bore evidence of assaults and injuries, that at least some prison staff were aware of the reputation of that particular farm.

Other farm cases from the 1970s

The allegations which emerge from the case outlined above (most of which were denied in court and were never proved) are not unique. The following list of other cases involving the assault or the death of farm or parolee labour during the 1970s was compiled from newspaper reports by Allen Cook in *Akin to Slavery, Prison Labour in South Africa:*

Rand Daily Mail, 12 May 1971. A Hartbeesfontein (Transvaal) farmer was found guilty of having put a castration ring (used for rams) round the testicles of a 14-year-old African alleged to have "become too much of a gentleman."

Rand Daily Mail, 7 December 1971. Two Standerton (Transvaal) white farmers and an African boss-boy were found guilty of having killed a parolee in a series of assaults which the judge described as "cruel, inhuman and merciless." The two whites were sentenced to six years' imprisonment each, the boss-boy to four years' imprisonment.

Rand Daily Mail, 28 May 1973. Four people including a two-year-old boy were killed and another injured when a "prominent" Carolina (Transvaal) farmer opened fire on Africans on his farm.

Rand Daily Mail, 20 September 1974. An Olifantsfontein (Transvaal) farmer and two of his employees were convicted of beating two Africans and then painting them silver. One of the Africans was hospitalized for a week. The farmer was fined R60.

Rand Daily Mail, 16 December 1975. A Bothaville (Orange Free State) farmer was found guilty of having shot a labourer dead for not obeying an instruction. The farmer was sentenced to five years' imprisonment of which two years were suspended.

Sunday Tribune (Durban), 15 July 1977. An investigation by this newspaper into conditions of farmworkers in Natal found that workers were "often beaten for punishment."

Sunday Times (Johannesburg), 17 July 1977. The Mayor of Carnarvon (Cape Province) was found guilty of whipping a woman worker with a sjambok. The woman was treated for 25 lash marks on her back, buttocks and legs and spent a week in hospital.

Rand Daily Mail, 1 September 1978. A 21-year-old Delmas (Transvaal) farmer was fined R500 and given a sentence of one year's imprisonment suspended for five years after assaulting a 65-year-old African herdsman. The African died of multiple injuries the day after the assault. He had got in the farmer's way when the farmer was engaged in a jackal hunt.

Daily Dispatch (East London), 4 January 1979. A Paulpietersburg (Natal) farmer was jailed for one year for killing a seven-month-pregnant African woman on his farm. His defence was that the woman was stealing a log and that he had fired at her buttocks. The judge said that the farmer "could have and should have aimed at the lower part of the legs" and not at the buttocks. He gave the farmer leave to appeal against the sentence.

Sunday Express (Johannesburg), 3 June 1979. A wine farmer called Du Toit of Rawsonville (Western Cape Province) was found guilty of chaining a 13-year-old boy by the neck, of beating a labourer with a hosepipe while he was strung up by the neck, and of killing another labourer by beating him in the same way.

Cases in the 1980s

More recent newspaper reports published while this study was being prepared indicate a continuation of such incidents:

Cape Times, 13 November 1984. On 15 November 1984, at the regional court in Bellville, a white farmer and two prison warders were found guilty of having assaulted William Albert, a young prisoner parolee, five times during the Easter weekend in 1983. The prisoner died of his injuries. The accused had been charged with culpable homicide but the magistrate said this had not been proved beyond a reasonable doubt.

The victim weighed 36 kg. at the time of this death and the magistrate said he had "the physical build of a child". Giving evidence in his own defense, the farmer stated that Mr. Albert, a small man, was a very bad worker. He was not weak but lazy, he said. He hit him on the buttocks with a stick because he was not handling cases of tomatoes properly while they were being loaded onto a lorry. The same day he slapped him on the cheek and again hit him with a stick because he was not working properly. "I didn't want to hurt him I just wanted him to get a move on" the accused told the court. He complained to the prison officer about Albert. The co-accused prison officer said he would look into it. The farmer told the court that he later saw the third accused fell the deceased man with a smack and then trample on the stomach of the youth who screamed and lost consciousness. He (the third accused) had then trampled on his head. The victim died after transfer to Cape Town hospital.

The magistrate fined each defendant R1,000 (or 100 days' imprisonment) and imposed a sentence of four months; imprisonment suspended for four years. A condition of the suspended sentence in the farmer's case was that he made no use of prison or parole labour during the four years.

Cape Herald, 28 July 1984. Fourteen contract workers from the Transkei aged between 16 and 40 years quit their job at a farm in the Bree River area near Worcester, saying they were no longer prepared to put up with long working hours, low wages, assaults and verbal abuse of the owner. A spokesman for the workers, Mr. Mbawe, told the Worcester advice office, "The men realised what they were in for when they arrived at the farm after a fifteen-hour journey from Queenstown. When they asked for food, his reply was, 'You've come to work not to eat'." The men said their working days, Mondays to Saturdays, started at 5.00 a.m. and ended at 6.00 p.m. In this time they were not allowed to eat. "But he did give us water." The man said they were given a 25 kg. bag of maize meal every fortnight in lieu of Saturday work. They were also given a portion of tripe every Friday. "If we wanted extras we had to go the the bosses' farm shop where items were more expensive than at the Bree River railway station, 20 km away." The men's wages amounted to R21 per week, and many workers had stayed on because, "We had saved our wages with the boss and it was not easy to get it back. He did not want us to save at the post office."

The men complained of threats and assaults, and about their living conditions. "Our rooms had no beds and no blankets. We had to cover ourselves with cardboard. We slept in our work clothes. There were no tables, no chairs, no washing facilities—we had to fetch our water from a river a kilometre away and wash in drums. When we complained about our living conditions and when we asked to be taken to town to buy ourselves blankets and other necessities, he said he did not want to waste his petrol on us." The farmer involved denied assaulting anyone and told the same newspaper that he was generous: "No other farmer in the area treats his workers the way I do—that can be confirmed by the Bantu Administration Board." Because the men had broken their contracts they were given 72 hours to return to the Transkei by the Administration Board.

The "rent a convict" scheme

A variant of the scheme for the use of prison labour detained on farms is a system of daily labour known widely in South Africa as the "rent a convict" scheme. Pass offenders are the normal group of prisoners made available under this system. The system is distinguished from the scheme so far described in that the prisoners are fetched from the prison and returned there in the evening.

An account of this system was given by the Minister of Justice in parliament in reply to a parliamentary question on 19 February 1985:

"Prisoners are made available to hirers at a fixed tariff approved by the Treasury. The prisoners concerned are not employed by the hirer and therefore conditions of employment are not laid down, but prisoners

are to be treated in accordance with the stipulations of the Prisons Act of 1959 (Act No. 8 of 1959) and the Regulations promulgated in terms thereof. Prisoners are collected at the prison by the temporary warders in the employ of the hirer at 06h45 and are returned to the prison at 16h30. They have breakfast and supper in the prison and have lunch, which is provided by the prison, at their places of work. A lunchtime is provided for this purpose from 12h00 to 13h00."

This information was given in reply to questions by Peter Soal, an opposition M.P., who had asked about a potato farm at Bethal where "foreign" workers were employed and where an average of 50 prisoners were hired daily. The questions had been prompted by an expose of conditions on the farm by a newspaper. Peter Soal, who visited the farm, told the newspaper that the labourers' conditions were "incredible," and that none of the relevant ministers (Justice, Co-operation and Development and Manpower) to whom he had sent the newspaper reports, "expressed any concern or regret." [21] It may be noted that the Bethal district figured in the forced labour scandals concerning pass victims in the 1940s.[22]

Prisoners may be made available not only to farms on a daily basis, but also to urban dwellers. Thus, in Middleburg in the Transvaal, pass offenders are hired daily, at a rate of R1.20 per day, Monday to Friday and 95c on a Saturday. The hirer, who must be white, is sworn in as a temporary warder. No restriction is placed on the work the hired prisoners may do, but a popular use is as a gardener and odd-job man. One effect of these schemes in urban areas is to undercut the wages of Africans seeking daily work such as gardeners in the suburbs.

The pass offender in prison: Statistics

The percentage of pass offenders committed to prison, including those who actually serve their sentences in prison and those diverted from the prisons to work for private concerns, has been in recent years a matter of considerable dispute within South Africa. The issue has arisen in the context of general concern about overcrowding in South African prisons.

South Africa has a high crime rate and an extremely high rate of imprisonment. In 1983-1984, there were over half a million admissions to prisons, 266,700 sentenced prisoners and 255,000 unsentenced. In 1977, 450 persons per 100,000 of the population were admitted to prison as compared with a figure of 96 in the United States (which is itself considerably higher than most other countries). In 1983, the United Kingdom, which has roughly double the population of South Africa, had an average daily prison population of 50,850 compared with 107,174 in South Africa.[23] South African prisons, while built to hold 70,000 according to evidence given to the *Hoexter* Commission, have an overpopulation of about 40 per cent.[24] The *Hoexter* Commission condemned the consequent severe overcrowding in prisons and blamed the situation on the large numbers of pass offenders committed to prison:

"Another material factor in regard to the overcrowding of our prisons is that hordes of Blacks [sic] land in prison as a result of influx control. Judged by civilised norms these people are not real malefactors. They are the needy victims of a social system that controls the influx of the people from the rural to the urban areas by penal sanction. The reason for this virtually unstemmable influx is poverty." (*para.* 5.2).

The prison service in reply disputed that pass law offenders constituted an inordinate percentage of the prison population, claiming that a survey on 30 April 1984 had disclosed a total of 3,844 sentenced prisoners and 1,619 unsentenced, or 5.19 per cent of the prison population due to influx control violations. However, these figures have been in turn disputed. Researchers at the Institute of Criminology at the University of Cape Town have noted that in 1978-79, when annual figures were published, pass offenders represented 40.27 per cent of all sentenced black prisoners that year.[25] While these latter statistics are not now published, it has been calculated that in 1984 some 35 per cent of all admissions to prison in South Africa were for pass law offences.[26] The dispute over the interpretation of statistics results from the piecemeal way in which information is revealed and the limited returns published in the Annual Reports.[27] What is not in dispute is that a considerable number of Africans convicted under racially discriminatory laws governing movement end up in South Africa's prisons. Those handed over to farms or other private employers from the prisons, on the available evidence, as already outlined, are subject to a regime which in substance constitutes imprisonment. All are prisoners of conscience under Amnesty International's mandate.

Prison conditions and the pass victim

If information of a statistical nature on South African prisons is difficult to interpret, the knowledge of conditions of detention for the pass offender and others in South African prisons is equally uncertain. In part, this results from lack of information and research on prisons and prison conditions. But lack of research in turn is explained by the legislative inhibitions in South Africa on reporting or researching on prisons, which have the effect of imposing a form of censorship.

The Prisons Act 1959 provides:

"Any person who . . . publishes or causes to be published in any manner whatsoever any false information concerning the behaviour or experience in prison of any prisoner or ex-prisoner or concerning the administration of any prison, knowing the same to be false, or without taking reasonable steps to verify such information (the onus of proving that reasonable steps were taken to verify such information being upon the accused) . . . shall be guilty of an offence and liable on conviction to a fine not exceeding two thousand rand, or in default of payment, to imprisonment for a period not exceeding two years or to such imprisonment without the option of a fine or to both such fine and such imprisonment." [28]

Nevertheless, sufficient information may be gleaned from official sources and the limited research to date to provide a picture of prison conditions characterised by overcrowding and violence. In this, South Africa is by no means exceptional. However, it is unique as the *Hoexter* Commission noted, in imprisoning the innocent for the crime of movement because of their race.

South African prisoners are segregated according to race, and white and "non-white" wear different prison uniforms. Every prison officer has the power of a police officer and may carry arms.[29] Most accommodation for "non-whites" is in communal cells, which are for the most part characterised by gross overcrowding and the mixing of young persons, children and adults.[30] No separation is attempted of those such as pass offenders, whether on remand or following sentence from, in the *Hoexter* Commission's terms, real malefactors, offenders with previous prison experience, or long-term offenders including those committed for violence or other serious offences. On remand, awaiting trial and after conviction, prison cells are controlled by prison gangs, often composed of prisoners with a record of violence, which have long been a feature of South African prisons. Murders committed by nationwide prison gangs are a serious problem. Between 1974 and 1978 in the Western Cape alone, research of court records has revealed that 41 African prisoners were killed as a result of gang activity and 77 others sentenced to death for these murders.[31] Sexual assault is commonplace among prisoners, and it was alleged to Amnesty International's delegate that pass offenders, because of their general vulnerability, were frequently victims of such assaults. In June 1985, Helen Suzman, M.P., who has long campaigned about prison conditions, read out an account of conditions in one prison to the South African Parliament.

"I have received a particularly disturbing report about conditions in North End Prison in Port Elizabeth. The Eastern Cape, I must say, has more than its fair share of horrors. This statement comes from a man who was picked up by the police and charged with public violence. His case was remanded and he was kept in jail. The statement makes ugly reading . . . It states that he was kept in a cell 5 metres by 7 metres in which 90 prisoners slept on mats. Yes, 90 prisoners slept in a cell of that size! In one corner of the cell there was a pit which served as a toilet—with no privacy whatsoever! Among the 90—and this is almost the worst aspect of this matter—there were children awaiting trial.

"In the cell were 'bosses' belonging to gangs which bullied other prisoners, appropriated the bread and meat of other prisoners and beat up those who resisted using the so-called 'pompa' punishment which apparently means blows on the face. Every night according to this report the young adults and the children were sodomised by these 'bosses'. This goes on in many jails. However, the worst thing about this particular case was that the warders were apparently well aware of what was going on and did nothing to stop the practice." [32]

This account of North End prison is supported by information obtained by Amnesty International's delegate about conditions of detention in other prisons. These conditions which the pass offender shares with others would appear to be in clear contravention to the rights of both unconvicted and convicted prisoners the South African prison regulations, and under the United Nations *Standard Minimum Rules for the Treatment of Prisoners* which the South African Government claims to uphold.

Pass offenders in most cases have no previous prison experience, are frequently illiterate, and come from a rural background which has left them unaccustomed to the urban environment. The assault on their senses by the experience of arrest, prosecution and imprisonment under the pass laws can only be surmised. In prison, the pass victim lacks all status. Not recognized as a criminal on a short term basis, "reference book" or "trespass" people are considered and referred to as a nuisance, "taking up space", to be despatched to farms or other places as soon as possible. Such attitudes towards them are said to be shared by other prisoners and prison staff alike. Males are fair game for assault by anyone. Whereas "real" prisoners may require a different at-

titude. All ex-prisoners interviewed by Amnesty International's delegate, white and African, agreed that pass offenders were the butt of the system and are treated as people who must do double work to justify their keep. Pass prisoners are normally employed on maintenance and cleaning duties in the prisons or as servants for the prison staff.[33]

Otherwise what emerged from interviews conducted by Amnesty International's delegate was a picture of a prison regime characterised by strict discipline imposed through violence or the threat of violence on all offenders, including the pass offender, who are not white. It was reported that, in some prisons at least, black prisoners are told on reception that they should never look up at a white officer, and are allowed only a few minutes to eat each meal, in conditions of silence and under threat of assault by warders with canes for disobedience. White prisoners, in contrast, former black prisoners alleged, eat separately, are allowed ample time to consume their meal and are not required to remain silent.

Prison complaints machinery and assaults

The Prisons Act and regulations do explicitly prohibit ill-treatment of any kind, including assaults on prisoners, and provide a complaints machinery which is not wholly ineffective. Thus, in 1983, for example, some 1,066 complaints of assault by prison officers were made by prisoners: of these, 244 resulted in departmental trials (with 130 convictions) and 50 in criminal investigations (with 11 convictions).[34]

However, the efficacy of the law in preventing assault must be doubted, not least where officially tolerated assaults occur, such as was disclosed in a recent official report on Barberton Prison, whose inmates include pass offenders.[35] The Report, released in May 1984, disclosed that new prisoners were assaulted on arrival at the prison. It was established that a practice had existed for many years at this maximum security prison to "groet" or "warm te maak" (to "greet" or "warm up") new arrivals. Prisoners were stripped naked and then forced to go into a prison yard and run past a circle of warders, black and white, who were armed with truncheons or pieces of rubber pipe. Prisoners were then hit by the warders as they ran, with a prisoner receiving as many as thirty strokes. The Report also confirmed that assaults by warders took place at other times. The report noted, "There is every reason to believe that these practices were known to senior officers, but accepted as a tradition particular to that institution, and therefore a blind eye was turned to it." [36] The Commissioner of Prisons, Lieutenant-General W. H. Willemse, strongly condemned these practices and announced that steps had been taken to "prevent anything of that sort happening again." [37]

Further research is necessary before the full prison regime to which prisoners and other black prisoners are exposed is documented adequately. What is already known, however, suggests a catalogue of ill-treatment and degradation that violates minimum standards and calls for urgent action by the South African Government.

FOOTNOTES

[1] Chapter 3 above.

[2] These figures are taken from M. West, "Influx Control: the 1983 Statistics", South African Institute of Race Relations, Cape Western Region, Regional Topic Paper, 84/2.

[3] Chapter 6, p. 19 above.

[4] *S. v. Jansen* 1972 S.A. 86(c), Criminal Procedure Act 1977, ss. 287. 288.

[5] J. Derrick, *Africa's Slavery Today*, London 1975, p. 174, A. Cook, *Akin to Slavery, Prison Labour in South Africa*, Fact Paper on Southern Africa, No. 11, International Defense and Aid Fund, 1982, pp. 14-17.

[6] "Who wants to be sold?" is a quotation taken from a statement prepared for pending civil proceedings by a female pass prisoner at Heidelberg prison, who records that she was asked the question by prison staff before being sent to a farm near Tsakane, Brakpan.

[7] Cited by Cook, op. cit. p. 63.

[8] See references cited in Note 5.

[9] P. 272, cited by Cook, op. cit. pp. 2-3.

[10] "What is clear is that the Blacks are by far the most heavily represented in the category of those released on parole up to and including four months." R. Graser, 'A Descriptive Analysis of Parole in South Africa,' in M.C.J. Olmerdahl, N. C. Steytler, (eds) *Criminal Justice in South Africa*, Juta, 1983, p. 294.

[11] T. M. Corry, *Prison Labour in South Africa*, (Cape Town, 1977), pp. 159-60.

[12] *Report of the Commission of Inquiry into the Penal System of South Africa*, RP 78 of 1978.

[13] Commissioner of Prisons Report, 1983-84, Table 15.

[14] Corry, op. cit. p. 89.

[15] All figures from Commissioner of Prisons Report, 1983-84, Table 15.

[16] Violation of Human Rights in South Africa. Report of the *Ad Hoc* Working Group of Experts, Commission on Human Rights E/CN.4/1983/10, 21 January 1983. p. 92.

[17] Abolition of Forced Labour General Survey by the Committee of Experts on the Application of Conventions and Recommendations, ILO Geneva 1979, *para.* 94.

[18] Op. cit. *para.* 35.

[19] Cook, op. cit. note 5, page 15.

[20] *Petrus Buti Mofokeng and three others* v. *Minister of Prisons*, Transvaal Provincial Division Case No. 4919/79

[21] *City Press*, 24 February 1985 "Life in Bethal: Government gives details".

[22] J. Demak, *op. cit*, Note 5. For a harrowing picture of the conditions of the African rural labourer, see, *Influx Control and Poverty, Case Studies*, by the Black Sash, Carnegie Conference Paper No. 85. 1984.

[23] See generally debate on the annual report of the Commissioner of Prisons, 1983-84, in House of Assembly Debates, Wed. 5 June 1985, col. 6812-2850.

[24] Evidence given by the Commissioner of Prisons, cited by Graser in M.C. Olmesdahl, N.C. Steytler, (eds.), *Criminal Justice in South Africa* (Juta 1983) p. 288.

[25] Calculated by Dr. Mona Slabbert, cited in, *Children in Prison: South Africa*, by Fiona McLochlan, U.N. Centre Against Apartheid, January 1985, p. 8.

[26] Calculated by Professor Dirk van Zyl Smit, Director, Institute of Criminology, University of Cape Town.

[27] See Professor van Zyl Smit's note, "Facts from prison figures: the case of influx control", (1985) South African Journal of Criminal Law and Criminology, 89-91.

[28] Of the similar operation of the Police Act of 1958: *Human Rights: The Cape Town Conference* (Proceedings of the First International Conference on Human Rights in South Africa, 22-26 January 1979), (Juta, 1979) Editors Preface, ix.

[29] Prison Act 1959, ss.23,s.10. The basic rule in South African prisons is "association by day, segregation at rest".

[30] See *Children in Prison*, op. cit., Note 19. Also, "In June 1984 the Minister of Justice Mr. Coetsee disclosed in parliament that the youngest sentenced prisoner at 19 March 1984 was aged 13 years—a Coloured boy. Of the 867 boys and girls in prison and below the age of 18 years, few were classified as white. In 1983, 3,415 children and infants had either gone to prison with their mothers or were born in prison. Of these 11 were white". *Violations of Human Rights in Southern Africa*, Report of the *Ad Hoc* Working Group of Experts, Commission on Human Rights, E/CN.4/1985/8, 23 January 1985, *para.* 425. In 1984, 111 children went to jail with their mothers, who were sentenced in the Langa Magistrates Court, Cape Town; 39 were younger than one year old. *Rand Daily Mail*, 5 March 1985.

[31] N. Haysom, *Towards an Understanding of Prison Gangs*, Institute of Criminology, University of Cape Town 1981.

[32] Op. cit. Note 23, col. 6814.

[33] Corry, Prison Labour in South Africa, *op. cit.* p. 121.

[34] Hansard QR 20 June 1984, col. 1737.

[35] *Verslag van die Komitee van ondersoek na die Gebeure te Barberton: maksimumsekuriteitsgevangen is (Dorp) op 20 en 30 September 1983 en Aanverwante Angeleenthede, 10 January 1984.* See also, *Rand Daily Mail*, 17 May 1984, "Prison Report tells of abuse by warders", *Cape Times* 17 May 1984, "Prison beatings 'rite' of welcome".

[36] *Ibid. para.* 2.8.2.

[37] *Cape Times*, 17 May 1984.

CHAPTER EIGHT: ACTION ON THE PASS LAWS

The preceding chapters of this study based on two Amnesty International missions to South Africa have documented how the system officially described as "influx control" functions in practice and leads each year to the arrest and imprisonment of many thousands of black people on grounds of race.

This chapter concludes the study with a brief survey of the responses to the pass laws of some of the non-governmental bodies within South Africa concerned with human rights, and a discussion of recent developments in the continuing debate at official level on future policy on influx control. The most recent and most significant development in that regard was the publication in August 1985 of a report of the Committee for Constitutional Affairs of the President's Council entitled *An Urbanisation Strategy for the Republic of South Africa.* This proposes abolition of 'coercive' influx control including the pass laws.[1]

Non-governmental action

That the injustices inherent in the pass laws and their enforcement have come to be more widely recognised within South Africa, including in the President's Council Report just cited, is almost entirely due to the work of a small number of human rights organisations and of individuals over the last decade. *The South African Institute of Race Relations* (SAIRR) has, in this field as in others, painstakingly recorded the statistics relating to pass law and group areas prosecutions, forced removals and deportation in its annual Survey of Race Relations. In addition, the important historical accounts of the pass laws have been researched and published by the Institute.[2] *The Black Sash*, a traditionally but not exclusively white women's organisation, has been particularly active on the pass laws. Through its network of advice centres it has for many years helped individual Africans to cope with the burden of laws and administration which rule where they can live and work. It devised and developed a system for monitoring the functioning of the commissioners' courts through volunteers observing trials, thereby bringing to light for the first time the arbitrariness of these courts.

Legal defence: The role of lawyers

All but a few members of South Africa's legal profession, it would appear, are largely ignorant of the law and practice related to the pass laws and the bureaucracy that surrounds them.[3] Only a handful of lawyers have experience of the pass law courts. For example, in 1983 less than one per cent of the 284,000 black people prosecuted under the pass laws in commissioners' courts were legally represented.[4]

There have been exceptions. The *Centre for Applied Legal Studies* at the University of the Witwatersrand in Johannesburg has played a crucial role in research and action on the pass laws. Research and publications on the commissioners' court from the Centre and similar studies from the Univer-

sity of Cape Town concerning the Langa commissioners' court, were made available to the *Hoexter* Commission which ultimately recommended the abolition of these courts. The public interest lawyers' group, the *Legal Resources Centre*, with offices in Johannesburg, Durban and Cape Town, has primarily fought the pass laws through the civil courts, and in a number of cases has achieved significant victories over the hitherto assumed omnipotence of the officials, boards and inspectors who enforce these laws. The small *Black Lawyers Association*, comprising advocates and attorneys, and *Lawyers for Human Rights*, comprising advocates, are increasingly active in defense work on behalf of pass victims.

Nevertheless, it has always been and remains the case that the majority of people prosecuted under the pass laws have no legal representation. In 1983, as mentioned, a mere 2,738 of those prosecuted were defended. One response by the Black Sash, Lawyers for Human Rights and other groups has been to devise rotas of lawyers willing to appear at the courts and undertake representation before the commissioners' or magistrates' courts of Africans who wish representation or whose family request it. The presence of Black Sash monitors in the courts has proved important for the identification of cases that may have some success if defended. The changing attitudes of prosecutors since September 1984, and the take-over by the Department of Justice is reflected in Johannesburg in their willingness to alert monitors to cases being processed which they consider merit a defense lawyer's attention. Modest victories have been won (including in the area of bail) by the lawyers' rota scheme.

The impact of a small number of lawyers on the system is, however, inevitably limited, and that is recognized by those involved. It is equally recognized, not only by the lawyers involved, but by all organizations working on behalf of pass victims, that attempts to deliver justice in courts where people are prosecuted for offenses that other citizens cannot commit because they are of a different colour cannot be achieved.

The abolition of 'influx control'?

The proposal to abolish so called influx control, including passes andf pass laws, most recently mooted by the *Report* of a committee of the President's Council, while significant and welcome, is hardly a new idea. As mentioned in Chapter 2, official enquiries over many years have broached or recommended this possibility or variations on it, only to be ignored.[5] It is perhaps telling that the report compiled by the President's Council in 1985 should conclude almost in the exact same language of the Fagan Commission in 1984—that black urbanisation is impossible to prevent, that pass laws are a major grievance of the African population, and are "damaging to relations between groups".[6] What is different on this occasion, as noted in Chapter 2, is the range of interests in South Africa who advocate the abandonment of influx control laws, not least the business community.[7] Significant too is the apparently broad acceptance in government circles that change is necessary. It still remains unclear, however, what future policy on African mobility will be and whether control is genuinely to be abandoned or simply recast in a different form. In that context, the proposal by the government of a new common identification document, in lieu of reference books, for issue to all persons in South Africa and to be produced on demand, does not afford sufficient guidance as to the likely effect of such a system on the African population. Meanwhile, the pass laws and the reconstructed pass courts continue to function.[8]

The report of the President's Committee on Black Urbanisation: preliminary observations

Before commenting on the proposals in this important report, certain preliminary observations are appropriate. It is noteworthy that the committee, which in effect was considering the future of the black majority of South Africa, did not have a single representative from that population among its members. The committee's report assumes the continued existence of *apartheid* and fails to address its fundamental elements.

The admission in the report that pass laws violate human rights is to be welcomed. The committee, however, clearly endorses other related aspects of *apartheid*, or avoids comment on them as being outside its terms of reference. The obscurity of such language as "the existence of group-related settlement in urban centres is recognised" (para. 11.12) cannot disguise the endorsement of the Group Areas Act and residential segregation. The implication is that further black urbanisation will take place only in the carefully located new black "cities" such as Khayelitsha, 30 km. from "white" Cape Town. The report equally assumes that racial classification and the system of "national" and "independent" black states will continue. The committee did not consider that it was its task: "to express a view on the utilisation of influx control in order to obtain certain constitutional objectives" (para. 9.86).

The one member of the President's Council Committee who refused to sign the report, Mr. Connie Mulder, a former government minister and now a leader of the Conservative Party, made clear his belief that influx control is central to the maintenance of a system which denies equal political rights to the African majority population, and therefore cannot ultimately be so ignored. He is reported to have insisted that:

"there was a link between citizenship and the pass laws: blacks were either regarded as citizens of their own 'homelands' and subject to influx control or they were citizens of South Africa and entitled to freedom of movement and political rights in South Africa. If the policies of influx control and racial separation were abandoned, then we must do away with our areas, our schools, our facilities. We must then open everything to blacks, including Parliament."[9]

The committee did touch on the issue of citizenship, that is the denationalisation policy, which has stripped over eight million black South Africans of their citizenship and nationality. The report notes that the State President has referred the question to a Special Cabinet Committee, and recommendations would be forthcoming "to be based on investigation and negotiation on the problems of terminology and content that surround the question of citizenship" (para. 9.106).

The government has since declared that South African nationality could be "restored" to the "citizens" of the TVBC states. This presumably entails a system of dual citizenship, though the crucial question of citizenship rights remains unsatisfactorily unclear.[10]

The committee's arguments on influx control

The principal arguments of the committee are that the policies of preventing African urbanisation, whatever their objectives, have not proved effective and that there is an urgent need of economic and social grounds to plan positively for "orderly" black urbanisation. The report produces detailed statistical evidence to establish that if influx control was replaced by a policy which accepted urbanisation, nothing dramatic would happen. In particular, the report is at pains to emphasize that the traditional white fear of being overwhelmed by African people, should controls be removed, is misplaced. This calculation is based on the consensus of expert demographic opinion that already the major source of increase in urban African numbers is through natural increase of the population already lawfully in the cities (under section 10). If there were no barriers to further migration from rural areas, the likely in-migration movement would be at most one to three million over a decade, made up largely of dependents of those already in cities.[11] A further argument for accepting urbanisation is that the natural increase in the African population should gradually reduce along the lines of decrease in family size in the white and other populations. The overall case is explained succintly in a separate article by two experts whose approach reflects the Committee's own:

". . . on the basis of careful statistical projections . . . by the year 2000, there will be an additional two million blacks in the white metropolitan areas if influx control is abolished. This will result in a black population in these areas of 9.52 million. If, however, influx control is maintained up to the year 2000 there will be a total of 7.76 million blacks. Clearly the difference of two million will not qualitatively alter the character of the white cities. If certainly does not merit the costs.

"Apart from the political costs of black alienation there are substantial financial costs. [In] the current financial year (1984–5), roughly R89 million will be spent on administering influx control. This means that by the year 2000, we will spend more than R1.3 billion to reduce the black population in the common areas by a factor of 2 in 10. We doubt whether it is worth the cost."[12]

Government response

As yet the response of the government to the proposed abandonment of influx control, to the ending of reference books and the pass laws remains to be spelled out. In general, the President's Council report builds on the *Riekert Commission*, in the acceptance of black urbanisation, and this at least is in line with official thinking. The amendment of Section 10 of the Urban Areas Act, legislated in mid-1985, whereby it is made easier to obtain a qualification for urban residence, is perhaps a portent. However, the limits of change have already been made clear. In the deepening crisis following the state of emergency and growing international pressure, State President P.W. Botha has categorically rejected "one man, one vote", has endorsed the "homelands" as a positive aspect of any solution and has insisted that urban residential segregation under the Group Areas Act will continue.[13] He has also been reported as describing the President's Council report as proposing amendment to influx control laws rather than abolition.[14] Finally, plans are already well advanced to introduce a uniform identification document for all in South Africa.

A Common Identity Document: Namibian experience

The President's Council committee on urbanisation did not oppose the retention of reference books for Africans provided they were not used for influx control (para. 175). It welcomed, however, the idea of a common document of identity:

"The Committee supports the principle of uniform identity documents for all citizens of the RSA (including the National States) and agrees that it is necessary that all citizens of other countries should be able to identify themselves inside the RSA. In the RSA as in Western and other countries the police should be able to establish the identity of any person beyond all doubt." (para. 9.131)

It is fair to note that the committee explicitly takes the point that the substitution of a common document, if failure to produce it on demand is made a criminal offence, could lead to new pass laws under a different guise:

"Care should be . . . taken that a new type of technical offence is not created in this way and accordingly failure to carry such a document should not be a criminal offence." (para. 9.155)

It will be of importance to note whether this recommendation is or is not followed in any new legislation governing identity documents.

It is on this question that the experience of Namibia may be instructive. Namibia, termed South West Africa under South African law and a territory whose continued occupation by South Africa the United Nations has declared illegal, had the same influx control system including reference books as South Africa until 1977. Various amendments were then made by proclamation by a newly-appointed South Afrcian Administrator-General. Africans were no longer required to have permits to remain for more than 72 hours in urban areas in which they were not lawfully resident or to produce passes on demand. However, they continued to be required to obtain permission to seek work and their work contracts still had to be registered.[15]

The sections of the pass laws which were repealed in 1977 in Namibia were replaced by the Identification of Persons Act 1979, which came into force in 1980. Under this Act and accompanying regulations, all persons resident in the territory had to apply for a common identity document, and all were required to carry it. The identity document had to be produced on demand to any member of the "security forces" defined as the South West Africa Police, the South West Africa Territorial Force, or "any such other body or force or category or group of persons as the Administrator-General may . . . declare to be a security force for the purposes of this Act."[16] Failure to produce is an arrestable offence punishable by a fine of R500 or 6 months' imprisonment, or both, penalties much heavier than those that apply to reference books in South Africa itself. The regulations require the taking of fingerprints and photographs to be inserted in the document by a "registry officer", recording of employment details and the issuing of an individual identity number. There is power to include in the document "whether by means of a letter or figure or otherwise any information contained in the application."[17]

The regulations also require details of "population group", "tribe" and "tribe code" for inclusion in the identity document. Although the South African government claimed to have discontinued race classification in Namibia in 1980, the 1985 *Special Report on Apartheid* of the ILO, states that:

"In practice, however, racial classification does continue through the issue of identity documents, which require all Namibians to be registered according to the official division of the population into 11 ethnic groups."[18]

The inclusion of employment details in the document, added to race classification, means that nothing that was in the reference book under the pass laws has been omitted. The experience has been that the new identity document has been used oppressively and in a discriminatory manner against Africans, including through mass round-ups and security checks by security forces. The 1983 *Special Report on Apartheid* noted also that

"[the Act] which required persons over 16 years of age to carry an identity card [is] in practice of much more significance for blacks than for other race groups. In spite of the removal of influx control constraints on free movement of labour continue through the registration of work contracts and by an increased fine on employers who engage unregistered workers".

This experience of Namibia with identity documents is relevant to the proposals for South Africa itself. Indeed, Namibia may prove the prototype. It is the case in South Africa under existing law, as noted in Chapter 1, that all races are issued with identity documents. The difference is that the separate system and legislation for the black reference book has been coercively enforced, while the separate legislation for other groups has not. The result was graphically illustrated in answer to a parliamentary question in 1984. Mrs. Helen Suzman asked how many people classified as White, Coloured, Indian and Black had been arrested over the past 10 years for not being in possession of an official identity document. The answer was Whites 0; Coloureds 2; Indians 0; Blacks 637,584.[19]

FOOTNOTES

[1] PC.3/1985, ISBN O 621 902789.

[2] M. Horrell, *The Pass Laws*, (SAIRR, 1960), *Action Reaction and Counter-Action* (SAIRR, 1971).

[3] Cf. J. Dugard, *Human Rights and the South African Legal Order* (1979), pp. 389-402.

[4] Figures given by the Minister of Co-operation and Development in answer to parliamentary questions, reported in the *Rand Daily Mail* (1 May 1984).

[5] The Committee's report lists the various earlier enquiries (para. 9.31-9.32.5). It is also true, as noted by this Committee, that all earlier reports "accepted that a certain degree of control over the movement and settlement of Blacks had to be maintained". However, it is not entirely clear that a "certain degree of control" over Africans is unacceptable to this Committee as well—see, for example, comments on movement from "independent" states, para. 9.119, and equivocal conclusion on *Riekert Commission's* influx control objectives, para. 9.141.

[6] ibid. para. 9.86.

[7] The business community's arguments for abolition which have been marshalled by the *Urban Foundation* have emphasised the cost and ineffectiveness of influx control; see, "Scrap 'costly' influx control Govt. is urged" *Rand Daily Mail*, (Wednesday October 31, 1984), and, H.F. Oppenheimer, "Reflections on the government's industrial decentralisation policy"; Gavin Relly, "Influx Control and Economic Growth", in H. Giliomee and L. Schlemmer, *Up Against the Fences, Poverty passes and privilege in South Africa* (David Phillip 1985), pp. 293-303. For Government views, see the statement by the State President, Mr. Botha, on the opening of Parliament, January 1985.

[8] ". . . the issuing of uniform identity documents common to all population groups will probably commence on 1 July 1986". Minister of Home Affiars, *Hansard*, col. 1093 (16 April 1985).

[9] *The Guardian*, 14 September 1985.

[10] *The Times*, 13 September 1985.

[11] See Report, Chapter 4, p. 44-56.

[12] "Call for an urbanisation policy to replace influx control", by H. Giliomee and L. Schlemmer, *Rand Daily Mail*, 28 February 1985. (excerpted from *Up Against the Fences*, op. cit.).

[13] *The Times*, 16 August 1985.

[14] *The Times*, 17 October 1985.

[15] General Law Amendment Proclamation 1977.

[16] Identification of Persons Act 1979, Section 1.

[17] *Ibid.*

[18] p. 64.

[19] Debates of the House of Assembly (*Hansard*) Questions and Replies, Col. 1100-1101 (16 April 1985).

CHAPTER NINE: THE PASS LAWS: CONCLUSION

Amnesty International's Statute commits the organisation to work throughout the world to secure observance of the provisions of the Universal Declaration of Human Rights by, among other things, "working towards the release of and providing assistance to prisoners of conscience"—those who are "imprisoned, detained or otherwise physically restricted by reason of their political, religious or other conscientiously held beliefs or by reason of their ethnic origin, sex, colour or language provided that they have not used or advocated violence". Amnesty International has also committed itself to oppose by all appropriate means the infliction of torture or other cruel, inhuman or degrading treatment or punishment of all prisoners.

As this report has sought to show, each year many thousands of black South Africans are subjected to arbitrary arrest and imprisonment simply by virtue of their race. They, as one category of political prisoners among many in South Africa, continue to comprise the overwhelming majority of the country's prisoners of conscience. As this report has also shown, they also constitute one of the most abused groups of South Africa's prisoners and have been frequently, perhaps routinely, subject to cruel, inhuman or degrading treatment or punishment, some of it bordering on enforced slavery.

Recently, there have been calls from quasi-governmental and other influential sectors in South Africa for reform of the pass laws, but it is unclear how far the government is prepared to go to effect change. The pass laws appear inextricably bound up with other basic elements of the apartheid system such as compulsory race classification and residential segregation which, it appears, the government is currently committed to preserve. It is true that, in the very period that this report has been in preparation, action has been taken to reduce some of the most glaring aberrations of the judicial process which for many years characterised the pass law courts. Such action is welcome, though overdue and relatively inconsequential when measured against what is actually needed to put an end to the imprisonment of individuals simply on the basis of their race.

Amnesty International is totally opposed to imprisonment on the basis of race and therefore calls urgently and unreservedly for the complete and total abolition of the pass laws and any other system which may be devised to criminalize the movement and residence of black people in South Africa on the basis of race. Mr Justice Hoexter, in a notable but regrettably undeveloped phrase, in his report on the pass law courts, wrote:

"That inhabitants of the same country should purely on the grounds of race be criminally prosecuted in separate courts for

any offence whatever is. . . by any civilized standard, unnecessary, humiliating and repugnant."

Amnesty International endorses this statement but is obliged to add that it is equally repugnant and wholly unacceptable that inhabitants of the same country should be subject to, and liable to imprisonment under, laws—not just courts—which discriminate on the grounds of race. The pass laws should be abolished now.

GRAMM-RUDMAN-HOLLINGS WILL PINCH ALL TOES

● Mr. SIMON. Mr. President, the barrage of questions and complaints we are all receiving about Gramm-Rudman-Hollings undoubtedly will grow as its impact becomes clearer. I voted for the budget balancing bill with the conviction that if we do not get hold of our mounting fiscal problems now, we may face economic chaos later. In a weekly column I write for newspapers in my State, I have attempted to answer some of the questions I am frequently asked. I also offer what I think will be the ultimate result of Gramm-Rudman-Hollings—a combination of revenue increases and spending cuts that will move our country in a sounder financial direction. I ask that the column be printed in the RECORD,

The column follows:

PAY-AS-YOU-GO PATH WILL PINCH ALL TOES

(By U.S. Senator Paul Simon)

There is a near-panic developing over the enactment of the Gramm-Rudman-Hollings plan to reduce the deficit. Otherwise rational people—like columnist George Will—seem to have come unglued.

People who should have been in near-panic about the deficit now are in that state over this response to the deficit.

Let me comment on two of the statements I hear:

"We should deal with the deficit but not in this way!"

Any way that steps on toes—and that is required—will have some unpopularity. But Gramm-Rudman-Hollings (GRH) does not require any specific formula. It simply says if Congress and the administration don't come up with better answers, we're not going to continue this indefinite drift.

GRH calls for percentage across the board cuts if Congress and the White House fail to respond to specific targets in reducing the deficit. GRH is invoked only if better answers are not found. But it is a recognition that we cannot indefinitely continue to spend roughly one-fourth more money than we take in without causing economic chaos. GRH leaves plenty of room, for those with better ideas to solve the deficit, to propose them. But I find that most of those who call GRH the wrong answer have proposed no solution at all.

"But a program I believe in strongly may get cut."

It may indeed!

Programs a lot of us believe in strongly may be cut.

But the day is past when groups favoring education programs, health research, and a great many other things I favor can simply hold out their hands and ask for money. Now, people interested in money are also going to have to be interested in revenue. That is a dramatic change and a needed change. If you want more support for education, for example, which I happen to favor strongly, then those of us who favor that will also have to come up with ways to pay for it. Whatever the program you favor, you have to also propose means of getting the revenue for it if you are talking about spending increases.

My guess is that we will come up with a combination of revenue increases and spending cuts that will move our country in a sounder financial direction.

Indefinite drifting toward bigger and bigger deficits is a course toward economic disaster. That threatens not only our economy, but our free system.

Gramm-Rudman-Hollings will force us to face reality. I hope Congress and the White House will act responsibly so that there will be none of the horrendous cuts some people have talked about. We won't go to GRH's automatic pilot unless Congress and the President give up the controls.

We know that the course we were on prior to GRH courts disaster. Whether GRH will force us to a responsible course we will know within a few months.●

HEALTH CARE: QUALITY AND CONSTRAINT

● Mr. QUAYLE. Mr. President, Dr. Otis Bowen has taken on one of the toughest jobs in the country as the new Secretary of Health and Human Services. But he has also taken on one of the most important—touching the lives of millions of Americans in programs ranging from Social Security to Medicare.

One of Dr. Bowen's biggest challenges was outlined recently in an Op-Ed in the Indianapolis Star by Frank E. Samuel, Jr., president of the Health Industry Manufacturers Association. Mr. Samuel argues that Dr. Bowen must see to it that quality, access, and compassion remain top priorities for administration health programs.

As Mr. Samuel points out, Dr. Bowen has the opportunity to show that the administration's commitment to fiscal commonsense is matched by a social commitment to quality and access. I am sure that Dr. Bowen will keep this important message in mind as he carries out his new duties. I ask that Mr. Samuel's Op-Ed be printed in the RECORD.

The article follows:

HEALTH CARE: QUALITY AND CONSTRAINT

(By Frank E. Samuel, Jr.)

A country doctor from Indiana is now taking control of the third largest budget in the world—the Department of Health and Human Services. And Otis R. Bowen enters the scene at a historic juncture for federal health policy. A two-decade spending binge in health care has been followed by a strict Reagan spending diet. And although that diet seems to be bringing costs under control, it is not doing so without sacrifices in the tremendous advances in quality and access that accompanied the high spending.

So Bowen has a unique opportunity to stop the pendulum in the middle, and bring federal health policy into a new era that balances quality with cost constraint. To succeed, he must rekindle a commitment to compassion, and progress without pushing aside the Reagan emphasis on fiscal control.

Cost control was scarcely on the agenda when Medicare and Medicaid legislation passed in 1965. Nearly all political factions eventually agreed with a need to invest resources in improving health care for the elderly and poor.

The investment paid dividends not only for the beneficiaries of these programs. The infusion of new resources into the health care system helped bring about a technological boom that has benefited all of society. Advances in diagnosis and treatment of heart disease, cancer, blindness, infant death and scores of other conditions and diseases, to some degree, are part of the Medicare/Medicaid legacy.

But the investment was costly. And as health costs grew, the political support for unabated growth in federal health spending waned.

If the 1960s and 1970s were the years of technological advancement and expanded access, the 1980s are the decade of cost control. President Reagan came to office with a mandate to do something about health costs. So since 1981 the administration and Congress have made changes in Medicare and Medicaid that will yield $35 billion in cuts by 1987. What's more, Medicare's hospital payment scheme was overhauled to save costs. Rather than reimbursing hospitals for whatever costs they incur, Medicare now pays a set price for each of 476 diagnoses—regardless of how much it costs the hospital to treat a patient. The private sector has also clamped down on health costs.

The results are striking. In 1984, private and public sector health care spending grew by only 9.1 percent—the slowest rate in 20 years. Hospitals share of those costs grew by only half their 1983 rate. But evidence is mounting that we may be paying for this cost-cutting fervor in the form of reduced health care quality.

About 35 million people—15 percent of the population—are estimated to be without health insurance. While Medicaid—the main federal-state health financing program for the indigent—covered 65 percent of the poor in 1976, it now covers only 52 percent.

Changes and cutbacks in Medicare payments have led hospitals to release elderly patients too soon. At recent Senate hearings, doctors reported increased pressure from hospitals to release Medicare patients when their treatment costs reach the set price for their illness. And public hospitals report that other hospitals are "dumping" more patients onto them only because the severity of their condition makes them unprofitable to treat when bumped against the set Medicare price.

Medicare changes have also led hospitals to use treatments that may run up higher long-term costs. Newer pacemakers, for example, cost more initially than the older models. But for some patients they can reduce long-term costs because they can be adjusted for changes in the patient's condition without follow-up surgery. Medicare's payment system, however, often discourages use of the more expensive model because Medicare pays a set rate for pacemaker cases, regardless of the actual pacemaker used. So the hospital is money ahead using the cheaper version, especially since patients may well have to return for follow-up surgery—in which case the hospital again collects the total fee from Medicare.

Can Bowen forge the political consensus needed to stop this trend before it leads to a backlash that will drive costs out of control again? Yes, by establishing a clear agenda now, based on quality and access, and putting together the political coalition to back it.

As a start. Bowen should:

1. Balance long-term and short-term savings. Federal health spending has been cut, at least in the short term. But will these savings hold up tomorrow? Delayed care by families who lack health insurance or by Medicare patients released early from hospitals because of inadequate payment levels will burst upon us at a higher cost when care can be put off no longer. Somebody will have to pay eventually. Bowen should, at the very least, see to it that Medicare hospital payments keep up with inflation.

2. Plug the gaps in health care coverage. Incentives from Medicare's new pricing system and private sector initiatives have reduced hospital use. Some of those savings should be reinvested in areas of greatest health care need—the uninsured medical treatment for pregnant women and newborns, and protection for those who suffer catastrophically expensive illness. This may not even mean more spending, just a reallocation to those most in need.

3. Recognize that health care progress is impossible without technology.

Development of new technologies is essential to health care quality. Medicare places a premium only on technologies that cut short-term costs. While many technologies do that, others don't; they instead reduce hospital admissions or greatly improve health care quality. Investment in these technologies may be unprofitable given the incentives of Medicare. Without such products, medical advance will slow down, affecting us all. Is that a cost we want our children to bear?

A new consensus may be emerging that is questioning whether cost cutting in health programs has gone too far. If quality continues to suffer under excessive cost squeezes, a backlash could undo much of the fiscal constraint the Reagan administration has successfully injected into the health care system. The challenge for Bowen is to reintroduce quality before it's too late—and to do it without sending signals that cost containment is a thing of the past.

If he succeeds in this, his boss may go down in history as the only modern president who could bring fiscal common sense to health care without jeopardizing the social commitment to quality and access.●

NICARAGUA

● Mr. SIMON. Mr. President, I am one of those who has been very much concerned about our involvement in Nicaragua. I am not in love with the Sandinistas. They are not Boy Scouts. They are not as sensitive to human rights as they should be and they are obviously too often politically inept, and sometimes just plain crude.

What the Government of the people of Nicaragua should have is a government selected by a decision by the people of Nicaragua. We should not be involved in that decision. We should make clear our concern for human rights, but we should not be sending weapons to that troubled area.

The evidence supporting that position is overwhelming.

It was confirmed to me recently in an affidavit by Edgar Chamarro sent to me by a friend in California. I urge my colleagues and their staffs to read this statement.

I also urge my friends at the CIA to read it. We need a good intelligence gathering operation, but it should be just that.

The affidavit of Edgar Chamarro is disquieting, suggesting that we ought to reexamine our policies and reexamine them quickly. I ask that it be printed in the RECORD.

The affidavit follows:

INTERNATIONAL COURT OF JUSTICE CASE CONCERNING MILITARY AND PARAMILITARY ACTIVITIES IN AND AGAINST NICARAGUA

AFFIDAVIT OF EDGAR CHAMORRO

City of Washington, District of Columbia, ss:

I, Edgar Chamorro, being first duly sworn, depose and say the following:

1. I am a citizen of Nicaragua. I was born in Granada, Nicaragua on July 23, 1931. I presently reside in the United States of America with my wife and two children, at 640 Allendale Road, Key Biscayne, Florida. I have applied to the Government of the United States for permanent resident status so that I can live permanently in the United States. I am currently awaiting final action on my application. I have been advised by my attorneys that I should not travel outside the United States until my application for permanent resident status is formally approved; travel outside the United States at the present time, according to my attorneys, could prejudice my application and result in my being permanently excluded from the United States. Since I am unable to appear in person before the International Court of Justice, I am submitting my testimony to the Court in written form.

2. I will begin by describing my background. I was raised in Nicaragua. At the age of 19, I joined the Jesuit order of the Roman Catholic Church, and subsequently became a Roman Catholic priest. I studied at the following Jesuit-affiliated institutions: Catholic University in Quito, Ecuador; St. Louis University in St. Louis, Missouri; and Marquette University in Milwaukee, Wisconsin. I later served as full professor and Dean of the School of Humanities at the University of Central America, a Jesuit-affiliated institution in Managua, Nicaragua. I left the priesthood in 1969, but continued my career in education. In 1972, I received a Master's Degree in Education from Harvard University, Cambridge, Massachusetts.

3. I returned to live in Managua, and went into private business. I worked for an advertising agency called Creative Publicity. I developed an expertise in advertising, public relations and mass communications. In 1977, I was appointed by the Nicaraguan Government to be a member of the Mission of Nicaragua to the United Nations in New York. I served in that capacity for one year, after which I returned to Nicaragua. In June 1979, I took up residence with my family in Miami, Florida. At that time, there was a full-fledged insurrection against the Government, and the Guardia Nacional ("National Guard"), the Nicaraguan armed forces loyal to the President, General Anastasio Somoza, were bombing residential neighborhoods and shooting innocent civilians in the streets. I did not wish to remain in Nicaragua under such conditions.

4. On July 19, 1979, the insurrection succeeded in overthrowing the Somoza Government and a new Government of National Reconstruction was established in its place. The new government was led by the Frente Sandinista de Liberaction Nacional (Sandinista National Liberacion Front) or "FBLN," which favored broad social and economic change in Nicaragua. I traveled back to Nicaragua in September 1979 to learn about the new government first-hand, and to decide whether to move back to Nicaragua with my family. Although I, too, favored social and economic changes in Nicaragua, I felt then—and still feel—that the policies and programs of the FSLN were and are too radical, and that I could not lend my support to a government dominated by that political party. I decided to remain in Miami.

5. Toward the end of 1979 I began to work with a group of Nicaraguan exiles living in Miami who, like me, opposed the policies of the new government. In 1980 we constituted ourselves as the Union Democratica Nicaraguense (Nicaraguan Democratic Union), or "U.D.M." Our principal activity was to write letters to members of the United States Congress urging them to vote against financial assistance for the Nicaraguan Government. We also held political meetings and rallies with other like-minded Nicaraguan exiles in Miami, and we set up regional committees in other cities of the United States where substantial numbers of Nicraguans were residing. The leaders of our organization, with whom I worked closely, was Jose Francisco Cardenal. Cardenal had served briefly as Vice President of the Council of State, the legislature of the new Nicaraguan Government, but had resigned his post and left Nicaragua because of his disagreements with the new government's policies.

6. In 1981, the U.D.M. underwent a transformation. During the first half of the year, Cardenal was contacted by representatives of the United States Central Intelligence Agency, and he began to have frequent meetings with them in Washington and in Miami. He also began to receive monetary payments from these people. He was told that the United States Government was prepared to help us remove the F.S.L.N. from power in Nicaragua, but that, as a condition for receiving this help, we had to join forces with the ex-National Guardsmen who had fled to Honduras when the Somoza Government fell and had been conducting sporadic raids on Nicaraguan border positions ever since. Cardenal was taken to Honduras by his C.I.A. contacts on several occasions to meet with these Guardsmen. The U.D.N., including Cardenal, initially opposed any linkage with the Guardsmen. The C.I.A., and high-ranking United States Government officials, insisted that we merge with the Guardsmen. Lt. General Vernon Walters, then a special assistant to the U.S. Secretary of State (and formerly Deputy Director of the C.I.A.) met with Cardenal to encourage him to accept the C.I.A.'s proposal. We were well aware of the crimes the Guardsmen had committed against the Nicaraguan people while in the service of President Somoza, and we wanted nothing to do with them. However, we recognized that without help from the United States Government we had no chance of removing the Sandinistas from power, so we eventually

acceded to the C.I.A.'s, and General Walters' insistence, that we join forces with the Guardsmen. Some U.D.N. members resigned because they would not associate themselves with the National Guard under any circumstances, but Cardenal and I and others believed the C.I.A.'s assurances that we, the civilians, would control the Guardsmen in the new organization that was to be created.

7. At that time, the ex-National Guardsmen were divided into several small bands operating along the Nicaragua-Honduras border. The largest of the bands, headed by Enrique Bermudex, a former Colonel, was called the 15th of September Legion. The bands were poorly armed and equipped, and thoroughly disorganized. They were not an effective military force and represented no more than a minor irritant to the Nicaraguan Government. Prior to the U.D.N.'s merger with these people, General Walters himself arranged for all of the bands to be incorporated within the 15th of September Legion, and for the military government of Argentina to send several army officers to serve as advisers and trainers. The merger of the U.D.N. with the 15th of September Legion was accomplished in August 1981 at a meeting in Guatemala City, Guatemala, where formal documents were signed. The meeting was arranged and the documents were prepared by the C.I.A. The new organization was called the Fuerza Democratica Nicaraguense ("Nicaraguan Democratic Force") or, by its Spanish acronym, F.D.N. It was to be headed by a political junta, consisting of Cardenal, Aristides Sanchez (a politician loyal to General Somoza and closely associated with Bermudez) and Mariano Mendoza, formerly a labor leader in Nicaragua; the political junta soon established itself in Tegucigalpa, Honduras, taking up residence in a house rented for it by the C.I.A. Bermudez was assigned to head the military general staff, and it, too, was based in Honduras. The name of the organization, the members of the political junta, and the members of the general staff were all chosen or approved by the C.I.A.

8. Soon after the merger, the F.D.N. began to receive a substantial and steady flow of financial, military and other assistance from the C.I.A. Former National Guardsmen who had sought exile in El Salvador, Guatemala and the United States after the fall of the Somoza Government were recruited to enlarge the military component of the organization. They were offered regular salaries, the funds for which were supplied by the C.I.A. Training was provided by Argentinian military officers, two of whom—Col. Oswaldo Rivero and Col. Santiago Villejas—I got to know quite well; the Argentinians were also paid by the C.I.A. A special unit was created for sabotage, especially demolitions; they were trained directly by C.I.A. personnel at Lepaterique, near Tegucigalpa. Arms, ammunition, equipment and food were supplied by the C.I.A. Our first combat units were sent into Nicaraguan territory in December 1981, principally to conduct hit-and-run raids. The first military successes of the organization came in March 1982, when C.I.A.-trained saboteurs blew up two vital bridges in northern Nicaragua—at Rio Negro and Ocotal.

9. 1982 was a year of transition for the F.D.N. From a collection of small, disorganized and ineffectual bands of ex-National guardsmen, the F.D.N. grew into a well-organized, well-armed, well-equipped and well-trained fighting force of approximately 4,000 men capable of inflicting great harm on Nicaragua. This was due entirely to the C.I.A., which organized, armed, equipped, trained and supplied us. After the initial recruitment of ex-Guardsmen from throughout the region (to serve as officers or commanders of military units), efforts were made to recruit "foot soldiers" for the force from inside Nicaragua. Some Nicaraguans joined the force voluntarily, either because of dissatisfaction with the Nicaraguan Government, family ties with leaders of the force, promises of food, clothing, boots and weapons, or a combination of these reasons. Many other members of the force were recruited forcibly. F.D.N. units would arrive at an undefended village, assemble all the residents in the town square and then proceed to kill—in full view of the others—all persons suspected of working for the Nicaraguan Government or the F.S.L.W., including police, local militia members, party members, health workers, teachers, and farmers from government-sponsored cooperatives. In this atmosphere, it was not difficult to persuade those able-bodied men left alive to return with the F.D.N. units to their base camps in Honduras and enlist in the force. This was, unfortunately, a widespread practice that accounted for many recruits. The F.D.N. received all of its weapons from the C.I.A. In 1982, the C.I.A. provided FAL rifles to all F.D.N. combatants. These were acquired used from the Honduran army, which found these rifles expendable after the United States Government reequipped the Honduran army with American-made M-16 rifles, thus enabling the C.I.A. to purchase the FALs for the F.D.N. (Later, in 1983, the C.I.A. acquired AK-47 assault rifles for the F.D.N.).

Training continued under the direction of Argentinian military officers, although gradually the Argentinians were replaced and C.I.A. personnel performed all military training themselves. By the end of 1982, we were ready to launch our first major military offensive designed to take and hold Nicaraguan territory, which the C.I.A. was urging us to do. Our principal objective was the town of Jalapa, in northern Nicaragua. More than 1,000 of our fighters were involved, and we used light artillery (mortars, supplied by the C.I.A.) in combat for the first time. Although we inflicted casualties on the Sandinistas and caused substantial destruction in Jalapa and other neighboring towns, our offensive was repulsed and we were forced to retreat to Honduras and regroup without having accomplished our objective.

10. My specific job during the first year after the creation of the F.D.N. was to serve as staff person to the political junta. I was based in Miami, where I did political propaganda work, wrote letters, organized rallies, set up committees in various parts of the United States and generally worked at building support for our cause within the United States. During this period Cardenal grew increasingly unhappy over his lack of influence with the F.D.N. He had frequent conflicts with the C.I.A. personnel who were supervising and directing the F.D.N.'s political and military activities and found that he had no control over Bermudez or the other members of the F.D.N. general staff, who answered only to the C.I.A. Eventually he quit the organization, returned to Miami and entered the insurance business.

11. In November 1982 I was approached by a C.I.A. agent using the name "Steve Davis" and asked to become a member of the "political directorate" of the F.D.N., which the C.I.A. had decided to create as a substitute for the "political junta." (I am able to refer to "Davis" by name because I know that it is a pseudonym; United States law makes it a criminal offense to reveal the real name of any undercover C.I.A. operative). I had lunch with "Davis" at a restaurant near my home in Florida. "Davis" told me he was speaking in the name of the President of the United States, who want "to get rid of the Sandinistas." "Davis" explained to me that the F.D.N. had a bad image in the United States, and particularly among members of the Congress, because it was perceived as an organization of ex-National Guardsmen. He told me that in order to maintain the support of the Congress for the C.I.A.'s activities it was necessary to replace the political junta with a group of prominent Nicaraguan civilians who had no ties with the National Guard or the Somoza Government. "Davis" left without asking me to make a commitment. He told me I would be contacted again in the near future.

12. Later that month, "Davis" telephoned me and asked me to have dinner with him in his hotel suite at the Holiday Inn in Miami. When I arrived, "Davis" introduced me to another C.I.A. man, who used the name "Tony Feldman." "Feldman" was introduced as "Davis'" superior from Washington, and he acted as though "Davis" worked for him. "Feldman" told me that the C.I.A. had decided on a seven-member political directorate for the F.D.N., because any larger group would be unmanageable. He said that I had been selected as one of the seven, and he asked me to accept. He told me that the United States Government was prepared to give its full backing to the F.D.N. so that, by the end of 1983, we would be marching into Managua to take over the Nicaraguan Government. I was glad to see that the United States Government was committed enough to our cause to be taking such an active role, and I agreed to join the directorate they were creating. Over the next several days "Feldman" took control of the operation and moved the headquarters to the Four Ambassadors Hotel, also in Miami, where we met constantly. "Feldman" and his assistants discussed with me possible candidates for the directorate, but it was obvious that they had already decided who they wanted. The most important thing, "Feldman" emphasized, was that the directorate be formed immediately. He told me that the C.I.A. was worried that the Congress might enact legislation to prohibit the use of United States funds for the purpose of overthrowing the Nicaraguan Government, and that the creation of a political directorate composed of prominent, respectable civilians might persuade the Congress not to enact such legislation.

14. The press conference was held the next day, December 8, 1982, at the Hilton Conference Center in Fort Lauderdale, Florida. We filed in and introduced ourselves as the directorate of the Nicaraguan Democratic Force (F.D.M.), and then I read our statement of principles and goals. A C.I.A. officer named "George" had rewritten our original version of the statement, and I had to read his words. In January 1983, at the instruction of C.I.A. agent "Thomas Castillo," we put out a 12-point "peace initiative" drafted by the C.I.A., which essentially demanded the surrender of the Sandinista Government. I thought this was premature, but "Castillo" insisted that it be done to get the F.D.M. favorable publicity. Also at this time, another Nicaraguan civilian—Adolfo Calero—who had just left Nicaragua, was added to the directorate. Calero had been

working for the C.I.A. in Nicaragua for a long time. He served as, among other things, a conduit of funds from the United States Embassy to various student and labor organizations. "Feldman" had told me that the C.I.A. was bringing him out of Nicaragua, where he had run the local Coca-Cola distributorship, to serve on the F.D.N.'s political directorate. Despite these public relations efforts, the United States Congress enacted a prohibition on C.I.A. efforts to overthrow the Nicaraguan Government, although it appropriated millions of dollars to the C.I.A. for clandestine military and paramilitary activities against the Nicaraguan Government. Before this prohibition was enacted, the C.I.A. agents we worked with spoke openly and confidently about replacing the government in Managua. Thereafter, the C.I.A. instructed us that, if asked, we should say that our objective was to interdict arms supposedly being smuggled from Nicaragua to El Salvador. If any of us ever said anything publicly about overthrowing the Nicaraguan Government, we would be visited immediately by a C.I.A. official who would say, "That's not the language we want you to use." But our goal, and that of the C.I.A. as well (as we were repeatedly assured in private), was to overthrow the Government of Nicaragua, and to replace the Sandinistas as a government. It was never our objective to stop the supposed flow of arms, of which we never saw any evidence in the first place. The public statements by United States Government officials about the arms flow, we were told by the C.I.A. agents with whom we worked, were necessary to maintain the support of the Congress and should not be taken seriously by us.

15. From January 1983 through June 1984, I worked for the F.D.N. full time and remained a member of the political directorate until November 1984. The C.I.A. paid me a salary of $2,000 a month to support myself and my family, plus expenses. Similar arrangements were made with the other F.D.N. "directors". I was put in charge of public relations for the F.D.N. We wanted to set up highly visible headquarters in a shopping center or office building, but the C.I.A. did not like the idea. They said it would become a target for demonstrations or violence. They insisted that we take an elegant suite at the David Williams Hotel in Coral Gables, Florida which the C.I.A. paid for.

16. At the end of January 1983, I was instructed to relocate to Tegucigalpa, Honduras to establish and manage the F.D.N.'s communications office. The C.I.A station in Tegucigalpa, which at that time included about 20 agents working directly with the F.D.N., gave me money, in cash, to hire several writers, reporters, and technicians to prepare a monthly bulletin called "Comandos," to run a clandestine radio station, and to write press releases. I was also given money by the C.I.A. to rent a house, office space and automobiles and to obtain office supplies and communications equipment. I also received money from the C.I.A. to bribe Honduran journalists and broadcasters to write and speak favorably about the F.D.N. and to attack the Government of Nicaragua and call for its overthrow. Approximately 15 Honduran journalists and broadcasters were on the C.I.A.'s payroll, and our influence was thereby extended to every major Honduran newspaper and radio and television station. (I learned from my C.I.A. colleagues that the same tactics was employed in Coasta Rica in an effort to turn the newspapers and radio and television stations of that country against the Nicaraguan Government). I worked very closely in all of these matters with several C.I.A. agents based in Tegucigalpa, but most closely with one of the deputy station chiefs, named "George," who had drafted the F.D.N.'s first press statement in Miami and was then transferred to Tegucigalpa to continue working with us. Together with "George," and subject to his approval, I planned all the activities of my communications office and prepared a budget. The budget was reviewed by the C.I.A. station in Tegucigalpa and, if approved, sent to Washington to obtain the necessary funds, which were always provided to me in cash.

17. I was not the only member of the directorate to prepare a budget in this fashion. Indalecio Rodriguez, who was put in charge of "civilian affairs," which meant assistance for Nicaraguan refugees in Honduras or family members of our combatants, worked with his C.I.A. "adviser" in the same manner in which I worked with "George." Adolfo Calero and Enrique Bermudez worked on the military and logistics budget. This budget was not as large as one might suppose. The F.D.N. never received money to purchase arms, ammunition or military equipment. These were acquired for us and delivered directly to us by the C.I.A. One of the senior agents at the C.I.A.'s Tegucigalpa station, known to us as "the Colonel," was an expert in these matters, and he, together with his assistants, determined what we needed and obtained it for us, including: arms, ammunition, uniforms, boots, radio equipment, etc. As long as I was in Honduras (until June 1984), the F.D.N. never acquired its own arms, ammunition or other military equipment. We were just the end receivers. The main items in the military and logistics budget that Calero and Bermudez worked on were things that could be acquired locally, such as food for our men, for which money had to be obtained from the C.I.A. *Calero and Bermudez were our main links with the C.I.A.* They met constantly with the C.I.A. station chief (whose name I cannot reveal here because I am uncertain whether it is his real name or a pseudonym) and his principal deputies.

18. Most of the C.I.A. operatives who worked with us in Honduras were military trainers and advisers. Our troops were trained in guerrilla warfare, sabotage, demolitions, and in the use of a variety of weapons, including assault rifles, machine guns, mortars, grenade launchers and explosives, such as Claymore mines. We were also trained in field communications, and the C.I.A. taught us how to use certain sophisticated codes **that the Nicaraguan Government forces would not be able to decipher. This was critical to our military operations because it enabled various units, or task** forces, to communicate with each other, and to coordinate their activities, without being detected by the Sandinistas. Without this communications capacity, our forces inside Nicaragua would not have been able to coordinate their activities with one another and they would have been unable to launch effective strikes at the designated targets. Even more critical to our military activities was the intelligence that the C.I.A. provided to us. *The C.I.A. working with United States military personnel, operated various electronic interception stations in Honduras for the purpose of intercepting radio and telephonic communications among Nicaraguan Government military units.* By means of these interception activities, and by breaking the Nicaraguan Government codes, the C.I.A. was able to determine—and to advise us of—the precise locations of all Nicaraguan Government military units. The information obtained by the C.I.A. in this manner was ordinarily corroborated by overflights of Nicaraguan territory by United States satellites and sophisticated surveillance aircraft. With this information, our own forces knew the areas in which they could safely operate free of government troops. If our units were instructed to do battle with the government troops, they knew where to set up ambushes, because the C.I.A. informed them of the precise routes the government troops would take. This type of intelligence was invaluable to us. Without it, our forces would not have been able to operate with any degree of effectiveness inside Nicaragua. The United States Government also made it possible for us to resupply our troops inside Nicaragua, thus permitting them to remain longer inside the country. Under cover of military maneuvers in Honduras during 1983, United States armed forces personnel constructed airstrips, including the one at Aquacate, that, after the C.I.A. provided us with airplanes, were instrumental in resupplying our troops.

19. The C.I.A. was also directly involved in our military tactics. The agency repeatedly ordered us to move our troops inside Nicaragua and to keep them there as long as possible. After our offensive at the end of 1982 was turned back, almost all of our troops were in Honduras and our own officers believed that they needed more training and more time before they would be ready to return to Nicaragua. The F.D.M. officers were overruled by the C.I.A., however. The agency told us that we had to move our men back into Nicaragua and keep fighting. We had no choice but to obey. In 1983, the C.I.A. instructed us not to destroy farms or crops because that would be politically counterproductive. In 1984, however, we were instructed to destroy export crops (especially coffee and tobacco), and to attack farms and cooperatives. Accordingly, we changed our tactics in 1984.

20. In July 1983, we were visited in Tegucigalpa by Duane Clarridge, the C.I.A. official, based in Washington, who was in charge of the agency's military and paramilitary activities against Nicaragua. At that time we were introduced to Clarridge as "Maroni." (I am free to state his real name because his identify has already been publicly disclosed in the United States). During a meeting with the political directorate, Clarridge told us that the C.I.A. had decided that something must be done to cut off Nicaragua's oil supplies, because without oil the Nicaraguan military would be immobilized and its capacity to resist our forces would be drastically reduced. Clarridge spoke of various alternatives. He said the Agency was considering a plan "to sink ships" bringing oil to Nicaragua, but that one problem with this plan was that if a ship belonging to the Soviet Union were sunk it could trigger a serious international incident. Clarridge said that the C.I.A. was also considering an attack on Nicaragua's sole oil refinery, located near Managua. According to Clarridge, however, the refinery was located in a densely populated area, and the civilian casualities resulting from such an attack would be politically counterproductive. Finally, Clarridge said that the Agency had decided on a plan to attack the oil pipelines at Puerto Sandino, on Nicaragua's Pacific Coast, where the oil tankers

delivering oil to Nicaragua discharge their cargo.

21. In September 1983, the C.I.A. blew up the pipeline at Puerto Sandino, just as Clarridge had advised us it would. The actual operatives were Agency employees of Hispanic descent, referred to within the Agency as "Unilaterally Controlled Latino Assets" or UCLAs. These UCLAs, specially trained underwater demolitions experts, were despatched from a C.I.A. "mother ship" that took them to within striking distance of their target. Although the F.D.N. had nothing whatsoever to do with this operation, we were instructed by the C.I.A. to publicly claim responsibility in order to cover the C.I.A.'s involvement. We did. In October, C.I.A. UCLAs attacked Nicaragua's oil storage tanks at Corinto, also on the Pacific Coast. This was a combined sea and air attack involving the use of rockets. It was a complete success; all of the tanks were destroyed and enormous quantities of oil were consumed by fire. Again, the C.I.A. instructed us to publicly claim responsibility, and we did. Later in October, there was another UCLA attack on Puerto Sandino, which again resulted in the demolition of the oil pipeline. We again claimed responsibility per instructions from the C.I.A. Subsequently, the UCLAs attacked Nicaraguan Government military facilities at Potosi and radio antennas at Las Casitas. We again were told to claim responsibility and we did.

22. We had a second visit from Clarridge in October 1983. Clarridge told us that the Agency had decided that the F.D.N. needed a single spokesman in order to more effectively persuade the Congress to continue supporting the C.I.A.'s activities against Nicaragua, and that Calero should be the one. He asked us to make Calero the head of the political directorate and we did so without objection. Clarridge also told us that the Agency wanted us to launch another major offensive with the objective of seizing and holding Nicaraguan territory, no matter how small. He said that as soon as our hold on that territory was secured, we should establish a provisional government, which the United States and its Central American allies would promptly recognize as the legitimate Government of Nicaragua.

23. The offensive was launched at the end of 1983, after the Congress had appropriated—openly for the first time—$24,000,000 to the C.I.A. for military and paramilitary activities in and against Nicaragua. While our forces inflicted greater casualties on the government's troops and on civilians, and destroyed more property than in previous attacks, we nevertheless failed to take or hold any Nicaraguan territory and the majority of our troops were forced to return to their bases in Honduras.

24. On January 5, 1984, at 2:00 a.m., the C.I.A. deputy station chief of Tegucigalpa, the agent I knew as "George," woke me up at my house in Tegucigalpa and handed me a press release in excellent Spanish. I was surprised to read that we—the F.D.W.—were taking credit for having mined several Nicaraguan harbors. "George" told me to rush to our clandestine radio station and read this announcement before the Sandinistas broke the news. The truth is that we played no role in the mining of the harbors. But we did as instructed and broadcast the communique about the mining of the harbors. Ironically, approximately two months later, after a Soviet ship struck one of the mines, the same agent instructed us to deny that one of "our" mines had damaged the ship to avoid an international incident.

25. In May 1984 the United States Congress voted not to provide more assistance to the C.I.A. for military and paramilitary activities against Nicaragua. Many of us became worried about receiving continued support from the United States Government and we expressed these concerns to our C.I.A. colleagues in Tegucigalpa. We were repeatedly assured by the station chief and his deputies, in the strongest possible terms, that we would not be abandoned and that the United States Government would find a way to continue its support. At around this time we were visited by Ronald F. Lehman II, a Special Assistant to the President of the United States who was serving then on the National Security Council. Mr. Lehman assured us that President Reagan remained committed to removing the Sandinistas from power. He told us that President Reagan was unable at that time to publicly express the full extent of his commitment to us because of the upcoming presidential elections in the United States. But, Mr. Lehman told us, as soon as the elections were over, President Reagan would publicly endorse our effort to remove the Sandinistas from power and see to it that we received all the support that was necessary for that purpose. We received a similar assurance of continued United States Government support, notwithstanding the refusal of the Congress to appropriate more funds, from Lt. Col. Oliver North, another official of the National Security Council.

26. It was still important to these officials, and to the C.I.A., to obtain additional appropriations of funds from the Congress, and they had not abandoned hope that the Congress could be persuaded to resume funding our activities. Our C.I.A. colleagues enlisted us in an effort to "lobby" the Congress to resume these appropriations. I attended meetings at which C.I.A. officials told us that we could change the votes of many members of the Congress if we knew how to "sell" our case and place them in a position of "looking soft on Communism." They told us exactly what to say and which members of the Congress to say it to. They also instructed us to contact certain prominent individuals in the home districts of various members of Congress as a means of bringing pressure on these members to change their votes. At various times Calero, Callejas, Seledon, Salazar, Rodriguez and I participated in these "lobbying" activities.

27. A major part of my job as communications officer was to work to improve the image of the F.D.N. forces. This was challenging, because it was standard F.D.N. practice to kill prisoners and suspected Sandinista collaborators. In talking with officers in the F.D.N. camps along the Honduran border, I frequently heard offhand remarks like, "Oh, I cut his throat." The C.I.A. did not discourage such tactics. To the contrary, the Agency severely criticized me when I admitted to the press that the F.D.N. had regularly kidnapped and executed agrarian reform workers and civilians. We were told that the only way to defeat the Sandinistas was to use the tactics the Agency attributed to "Communist" insurgencies elsewhere: kill, kidnap, rob and torture.

28. These tactics were reflected in an operations manual prepared for our forces by a C.I.A. agent who used the name "John Kirkpatrick." I assisted "Kirkpatrick" in translating certain parts of the manual, and the manuscript was typed by my secretary. The manual was entitled: "Psychological Operations in Guerrilla Warfare." It advocated "explicit and implicit terror" against the civilian population, including assassination of government employees and sympathisers. Before the manual was distributed, I attempted to excise two passages that I thought were immoral and dangerous, at pages 70 and 71. One recommended hiring professional criminals. The other advocated killing some of our own colleagues to create martyrs for the cause. I did not particularly want to be "martyred" by the C.I.A. So I locked up all the copies of the manual and hired two youths to cut out the offending pages and glue in expurgated pages. About 2,000 copies of the manual, with only those two passages changed, were then distributed to F.D.N. troops. Upon reflection, I found many of the tactics advocated in the manual to be offensive, and I complained to the C.I.A. station chief in Tegucigalpa. The station chief defended "Kirkpatrick" and the manual, and no action was ever taken in response to my complaints. In fact, the practices advocated in the manual were employed by F.D.N. troops. Many civilians were killed in cold blood. Many others were tortured, mutilated, raped, robbed or otherwise abused.

29. As time went on, I became more and more troubled by the frequent reports I received of atrocities committed by our troops against civilians and against Sandinista prisoners. Calero and Bermudez refused to discuss the subject with me, so I went straight to our unit commanders as they returned from combat missions inside Nicaragua and asked them about their activities. I was saddened by what I was told. The atrocities I had heard about were not isolated incidents, but reflected a consistent pattern of behavior by our troops. There were unit commanders who openly bragged about their murders, mutilations, etc. When I questioned them about the propriety or wisdom of doing those things they told me it was the only way to win this war, that the best way to win the loyalty of the civilian population was to intimidate it and make it fearful of us. I complained to Calero and Bermudez, and to the C.I.A. station chief about these activities, but nothing was done to stop them. In June 1984, Clarridge visited us again. Although he was well aware of the terrorist tactics the F.D.N. troops were employing, he spoke warmly to Bermudez: "Well done, Colonel," I remember him saying, "Keep it up. Your boys are doing fine." It was the last time I saw him. Shortly thereafter, I acknowledged to a newspaper reporter that our troops had killed some civilians and executed some prisoners, though I tried to explain these practices as best I could. Calero told me I could no longer work in Honduras and I was reassigned to the local F.D.N. committee in Miami. I was given nothing to do and I no longer had much interest in working for the F.D.N., or to be more accurate, for the C.I.A.

30. When I agreed to join the F.D.N. in 1981, I had hoped that it would be an organization of Nicaraguans, controlled by Nicaraguans, and dedicated to our own objectives which we ourselves would determine. I joined on the understanding that the United States Government would supply us the means necessary to defeat the Sandinistas and replace them as a government, but I believed that we would be our own masters. I turned out to be mistaken. The F.D.N. turned out to be an instrument of the United States Government and, specifically, of the C.I.A. It was created by the C.I.A., it was supplied, equipped, armed and trained

by the C.I.A. and its activities—both political and military—were directed and controlled by the C.I.A. Those Nicaraguans who were chosen (by the C.I.A.) for leadership positions within the organization—namely, Calero and Bermudez—were those who best demonstrated their willingness to unquestioningly follow the instructions of the C.I.A. They, like the organization itself, became nothing more than executioners of the C.I.A.'s orders. The organization became so thoroughly dependent on the United States Government and its continued support that, if that support were terminated, the organization would not only be incapable of conducting any military or paramilitary activities against Nicaragua, but it would immediately begin to disintegrate. It could not exist without the support and direction of the United States Government.

31. I became more and more distanced from the F.D.N. in the second half of 1984. I had, for all intents and purposes, ceased to be a part of the organization. Finally, on November 20, 1984, I received a letter stating that the political directorate had decided to relieve me of my duties. I made no protest.

32. My opposition to the Nicaraguan Government continues. I oppose its policies and programs and I would like to see it removed or replaced. This should be accomplished, however, by the Nicaraguan people themselves, and not by the United States Government or by its instruments, including the F.D.N., which follow its dictates and serve its interests instead of those of the Nicaraguan people. My presentation of this testimony to the International Court of Justice is not an expression of support or sympathy for the present Nicaraguan Government or its case against the United States. It is a result of my commitment to tell the truth, to all interested parties, about my personal experiences in the F.D.N. Since I left the organization at the end of 1984, I have spoken publicly in the United States about my experiences and I have made myself available to journalists whenever they have requested interviews. When Nicaragua's attorneys approached me and asked if I would present testimony about my experiences to the International Court of Justice, I decided to do so. This decision is consistent with my practice of speaking openly and honestly about my experiences before any interested body or forum. Whatever the best solution for the Nicaraguan people may be, I am convinced that it can only come about on the basis of truth, and that those of us with relevant personal experience are under a moral obligation to make the truth known.●

DAVE DUERSON

● Mr. LUGAR. Mr. President, I bring to the Senate's attention a Hoosier member of the Chicago Bears Superbowl championship football team, Dave Duerson of Muncie, IN.

On a team of great players, Dave has made his mark and has proved that he is indeed one of the best. In only his first year as a starter, he has garnered praise from teammates, coaches, sportswriters, and fans alike. At strong safety, he is an integral part of the Bears' renowned "46" defense. On the blitz, his 6 foot 1 inch, 203 pound frame has inspired fear in many quarterbacks, while receivers have learned to respect his speed and agility. A recent article in the New York Times called Duerson a "thinking man's safety" noted that the Bears' complex defense requires both outstanding mental and physical capability. Perhaps the ultimate confirmation of Duerson's talent was his selection to be a member of this year's Pro Bowl team.

Duerson has earned praise as more than an athlete, however. I was fortunate to know Dave Duerson when he was an intern on my staff in the summer of 1982. He combines physical ability with a strong character, warm personality, and keen intelligence. Playing on my staff softball team, he amazed others with his strength and propensity to hit home runs, yet always tempered his own ego with humility.

Dave is a graduate of Notre Dame with a degree in economics and was a member of his high school National Honor Society. He founded the Damco Corp., a camp that promotes drug and alcohol awareness among youth. To those of us who know Dave Duerson, he has been an inspiration both on and off the playing field.●

TRADE ADJUSTMENT ASSISTANCE

● Mr. ROTH. Mr. President, I submit for the RECORD the editorial which appeared in today's Journal of Commerce on the legislation introduced by myself and Senator MOYNIHAN on trade adjustment assistance.

Today, the preliminary announcement of the U.S. trade deficit for 1985 of $148.5 billion confirms our expectations that the deficit for 1985 would be at an all-time and unacceptable high. The deficit number also makes it absolutely clear that this is no time to eliminate trade adjustment assistance.

The editorial follows:

TRADE AID PROPOSAL LIVES

Despite presistent efforts by the Reagan administration, trade adjustment assistance legislation lives on Capitol Hill. A stubborn Congress has refused to back away from a program of government assistance for workers who lose jobs to imports. Now a new and better version of trade adjustment assistance is pending, and in spite of a frenzied atmosphere of budget cutting in Washington, this bill deserves support.

Congress can now make an even stronger case for trade adjustment because the new program would not draw on the taxpayer's dollar at all, but would instead be funded by a duty of 1 percent or less of the value of imports. Import duties are generally not the best way to aid struggling domestic industries, but in this case the duty is small—totaling only about $300 million on $350 billion worth of imports—and the program's potential is great.

A temporary casualty of Congress' inability to agree on a deficit reduction plan in December, the proposal deserves more attention than it has attracted. The budget fight centers on financing the Superfund for toxic waste cleanup. When it goes back to conference, Superfund, and not trade adjustment assistance, is expected to be in the spotlight.

The Office of Management and Budget indicates that the trade adjustment assistance program will be vetoed if passed by Congress. Sen. Phil Gramm, R-Texas, leads the administration's fight. But some administration sources say the trade assistance package is a little fish in a big pond and will not be killed by a veto if it is attached to the larger Superfund bill.

The conference members are bipartisan co-sponsors of the trade aid. They include 11 members of the Senate Finance Committee and the program's author, Sen. William V. Roth Jr., R-Del. The National Retail Merchants Association and other free trade groups are supporting the plan as a way to give firms a chance to adjust to import competition and a way to resist protectionist trade barriers.

In December, Congress did pass a continuing resolution providing $26 million to continue the training, job search and relocation assistance under the program, but not the unemployment compensation. In addition, loans, guarantees and technical assistance to firms were not funded.

The administration proposes an inadequate substitute in the form of much less funding under the Job Training and Partnership Act. This law provides for Labor Department-administered training, job search and relocation, but no unemployment benefits or aid to industry.

The Commerce Department is now in the process of "orderly disengagement" of its assistance to firms under the program. The Labor Department estimates that when funds were cut off on Dec. 19, between 10,000 and 15,000 workers were left in the lurch.

The $300 million in revenues earned under Sen. Roth's version of the program compares to the price tag for the current program—about $70 million a year. Sen. Roth points out that he borrowed the idea from Hong Kong. Everyone thinks Hong Kong is a free port, he says, but in fact, it assesses a small fee—0.05 percent—on all imports and exports and uses the fee for trade promotion.

The reformed program would continue all the old program's benefits to workers but add a new eligibility requirement and a new benefit. A worker would have to agree to retraining in order to receive a trade readjustment allowance. If no training program is available or suitable, an exception would be made. Workers would be given a $4,000 retraining voucher redeemable for training.

In the meantime, the giant trade deficit continues to grow. It is estimated that up to 80 percent of U.S. production faces import competition. The more aid aimed at adjustment to competition the better.

Failure to provide enough money for such workers and firms will make protectionist legislation seem more attractive to Congress and contribute to the vicious circle that has made ailing industries and unemployment a permanent fixture of the U.S. economy.●

THE DECLINE IN AMERICAN TRADE COMPETITIVENESS

● Mr. RIEGLE. Mr. President, in the last 36 hours two statistics were released that show that the United States continues to face a worsening crisis in its international trade position. Figures released yesterday by the

Department of Labor state that U.S. business productivity fell 1.3 percent during the last 3 months of 1985, which is the sharpest decline in productivity in 4 years. Thus the productivity gain for 1985 as a whole was only 0.3 percent. Figures released today by the Department of Commerce show that the U.S. merchandise trade deficit hit a record high of $148 billion in 1985. This exceeds the 1984 merchandise trade deficit by $25 billion.

Manufactured goods had a deficit of nearly $113 billion in 1985, an increase of $23 billion from 1984. This manufactured goods deficit accounts for over 90 percent of the increase in the overall trade deficit and is the primary factor in explaining our worsening trade competitiveness.

Manufacturing imports are the largest component of the trade deficit next to petroleum, and they are dominated by the record number of automobiles imported primarily from Japan. Autos accounted for $32 billion of our bilateral trade deficit, or nearly a third of our imports from Japan.

All of these statistics show that the industrial competitiveness of the United States—relative to our major trading partners—has worsened in the most recent period.

Our competitiveness in international trade is a matter of national importance and urgency. President Reagan's own Commission on Industrial Competitiveness—the Young Commission—found that our inability to compete is a long-term and pervasive problem that hinders our economic growth. Competitiveness is the means to provide employment for Americans and to increase our standard of living. Competitiveness is vital to our ability to uphold our political, economic, and military commmitments worldwide.

This decline in American competitiveness is not a short-term problem caused by the down-side of a business cycle. It is also not just a monetary problem that can be resolved only by devaluing the American dollar. Rather it is the result of longer term forces at work in the American and the international economy.

Major changes have occurred in the way the international economy has been functioning since the 1970's. For example, our major new competitors come from the Pacific Rim states, Japan, South Korea, Taiwan, Singapore, and Hong Kong. It is estimated that U.S. trade with these states will be double that of our European trading partners by 1995. Our current trade imbalance with Japan reached $49.7 billion in 1985, nearly one-third of our overall merchandise trade deficit. Our new competitors have developed a new kind of competition; a concerted national strategy by national governments that is being mimicked and adapted all over East Asia; working with companies in a single-minded nationalist policy to continually increase exports and market share. As a result of these state-led strategies, they have also been able to maintain higher levels of investment and productivity growth than the United States for two decades.

These recent economic indicators demonstrate the severity of the problem. Our major trade policy objective must be to restore American competitiveness. This needs to be a top agenda item for Congress, the executive branch and industry.

Unfortunately, the administration continues to put trade policy on the back burner. The growth in our merchandise trade deficit and the stagnation in our productivity have not been answered with any overall coherent policy. Instead the administration has continued its piecemeal approach of negotiations on a sector-by-sector basis which does not lead to any fundamental reform.

We need a more realistic long-term trade strategy that balances American economic needs and the requirements of the world economy. We must develop a consensus to act now to meet the trade challenges facing the United States.●

CONDOLENCES FROM EXECUTIVE SECRETARY, INTERPARLIAMENTARY UNION

● Mr. STAFFORD. Mr. President, as President of the United States Group to the Interparliamentary Union, I ask to have printed in the RECORD a telegram of condolence from the Executive Secretary of the Interparliamentary Union, Mr. Terenzio, in connection with the tragic accident to our space shuttle and her crew.

The telegram follows.

JANUARY 30, 1986.

Senator ROBERT T. STAFFORD,
President, U.S. Interparliamentary Group.

Saddened tragic accident which befell crew of space shuttle *Challenger.* Please convey my sincere condolences to U.S. Congress and Government and to families of victims.

Regards,

TERENZIO.●

DECLINING U.S. COMPETITIVENESS

● Mr. BINGAMAN. Mr. President, I would like to take a few minutes today to point out today's release of a little noticed but tremendously important Government statistic.

The Bureau of Labor Statistics tells us that U.S. productivity dropped at an annual rate of 1.3 percent in the last quarter of 1985. This is the sharpest decline in 4 years. The decrease, when farming is excluded, was an even sharper 1.8 percent. That means that for the entire year, productivity grew at a negligible three-tenths of 1 percent compared with 2.1 percent in 1984.

Mr. President, these are admittedly dry, obscure, and perhaps little understood, additional Government statistics in the barrage of statistics released monthly in Washington. But, let me tell you what they mean, why they are important, and why they should not be ignored.

According to analysts, the decline in productivity is a reflection of the slowdown in economic growth last year. The last time there was a similar sharp drop was the fourth quarter of 1981, when annual productivity fell by 5.3 percent. The Bureau of Labor Statistics said the latest decline reflected a 3.9-percent increase in the number of hours worked and a 2.5-percent gain in the output of goods and services.

The Government also said that employment increased 2.9 percent in 1985, a rise that "was a good deal smaller" than the 5.1 percent of 1984. Also the number of average hours worked weekly dropped for the first time since the end of the 1981–82 recession.

Today the Government also announced the merchandise trade deficit for 1985, which reached a new record of approximately $148.5 billion. One third of this deficit is due to petroleum imports which accounted for a total of $52.4 billion. This amount is significant and we should be concerned.

Taken separately, these statistics each are cause for alarm. Taken together they are a 5-alarm fire. And we have not even called out the fire trucks.

Taken together these figures—the decline in productivity, the decreased rate of employment, the rising trade deficit and the resulting slow down in our economic growth—indicate to me an ever growing decline in our economic competitiveness.

We are without question in a new global economy facing stiff competition from more and more nations. Our ability to produce and sell goods and services at home and abroad is increasingly threatened. This declining ability to compete means one thing—it means we face a substantial decline in our standard of living if we don't reverse current trends.

One year ago this week, President Reagan's Commission on Industrial Competitiveness issued its report. Prepared by a distinguished group of American businessmen, former Government officials, labor leaders, and academics, it concluded that "America's ability to compete in world markets must be improved." The report carried several pages of solid recommendations. Unfortunately most of them have been ignored by the President and the Congress. But the problem of competitiveness it describes has

not gone away. Instead it has grown worse and it is getting steadily more serious.

Mr. President, it is long past the time for us to come to grips with trade deficits, stagnant real wages, job losses, Government deficits, declining productivity and much more.

I am pleased that the distinguished minority leader, who is acutely aware of these problems, recently created a Senate Democratic Working Group on Economic Competitiveness. I am honored to serve on that group as its chairman along with my distinguished colleagues, Senators BAUCUS, KERRY, LEVIN, MATSUNAGA, MOYNIHAN, RIEGLE, and ROCKEFELLER. We intend in the coming months to address our competitiveness ills and to focus on their causes. I hope we can come to a consensus on lasting solutions.

In the meantime we must accept these grim but convincing Government statistics as unhappy harbingers of what lies ahead if we do not act. They point to a problem as deadly for our economy as a single cancerous cell if it is permitted to multiply.●

WE HAVE A DREAM

● Mr. MURKOWSKI. Mr. President, I would like to take a few moments to praise some very special Alaskan teenagers for their efforts to help retire the national debt—Andrea L. Anderson, Emmett Anderson, Douglas Antemie, Arnold Kalmakoff, Darrell Kalmakoff, Norman Kalmakoff, Parnell Kalmakoff, Patt Kalmakoff, Anita Marie Lind, Lisa M. Lind, Angela Shangin, Emily Speer, Terry Stephanoff, and Carl Willie.

These students attend Chignik Lake School in Chignik Lake, AK, and have taken it upon themselves to organize a fundraising drive to help pay off our country's financial obligation. Last fall they sent President Reagan their first $1,000 check, which was made out to the U.S. Government and endorsed "for use on the National Debt only."

Their project was inspired by the school's principal, Mr. David Smith, who was looking for a way to get his students involved in public issues. His efforts perked the students' interest, and they have been speaking about the debt problem to interested groups, informing anyone who will listen and trying to inspire others to action as well.

Contributions to this worthy cause can be made to Alaska Concerned Students for a Retired Deficit, P.O. Box 498, King Salmon, AL 99613. The concerned students also would like everyone to spread the word by contacting two friends. I ask that written material from this dedicated group of citizens be printed in the RECORD.

Mr. President, these students from Alaska remind us again that the national debt will have its greatest negative impact on our children and grandchildren. These students are setting the example of concerned citizenship, and I applaud their efforts.

The material follows:

How would you like to get a piece of gum from the store and find out you had to take a wheelbarrow full of U.S. currency to get it? Would you like to have a $1,000 in the bank and wait two years and find that you had nothing in the bank when you went back? Would you like to study hard for a job and find out that there are none?

This is what will happen in the immediate future if we do not retire the national debt. David Stockman, the recent Director of the Budget, said that if we do not do something about the national debt in the next five years, we will have the worst depression that we have ever had.

Since the beginning of this country we have spent more money than we have been taking in. You know that you can't earn a $1,000 and expect to spend a million. It just won't work.

This problem won't just go away and no one seems to be doing anything about it. Adults won't, the Congress won't, businesses won't but the students of Chignik Lake High School will! We have a dream that this nightmare will vanish.

As you can see from the graph since 1790 until 1981 we charged one trillion dollars. That's about 200 years. The second trillion dollars we have charged in about five years. And if this keeps up, our dollar will be a worthless piece of paper. Argentina's peso is in that condition now.

Most people think that we can't retire the debt. But the youth of America will not accept that! We have a dream of a prosperous future. Arnold Von Winkelried, a Swiss hero, in the face of certain defeat led a group of farmers with sticks, rocks and pitchforks against the enemy. He cried, "This day I die for Switzerland!" His efforts inspired his countrymen to win the battle and to set up Switzerland as a neutral nation from then on. If one person can make a difference, what can all of us do together?

The boy of Flanders, one person, saved his country by taking action.

Samantha Smith asked for peace. Her efforts got the world's attention.

One person by themselves can do little but if all of us join hands as a nation we can make our dream come true. The strength of our Nation is in its people, people who are willing to work together to save our future. We have a dream that we can keep the American dream alive.

We challenge you, Alaska! We challenge you, America! Stand up and be counted. We are a small group of students in Chignik Lake, Alaska. We have started a fund to retire the national debt. We are donating $1,000 toward that goal. It is being sent directly to President Reagan asking him to put it directly on the debt and support our efforts.

We are asking you to do three things to insure everyone's future. You owe it to yourself and to America's youth.

1. Donate dollars to Alaska Concerned Students for a Retired Deficit. The address is Box 498 King Salmon, AK 99613. Or send it directly to the President.

2. Call or write your National and State Congressmen and Senators. Call or write the President.

3. Call two other friends and tell them to do exactly the same thing.

Benjamin Franklin coined the phrase. "A stitch in time saves nine." Your dollar today can save millions tomorrow. We have a dream that the nightmare of all nightmares—the national debt—can be ended and the American dream again become a reality. Let's not let our future and our Nation's future "perish from the earth".

Thank you.●

PARENTS INVOLVEMENT IN CHILD EDUCATION

Mr. DODD. Mr. President, I wish to draw the attention of the Senate to some excellent work recently published by the Home and School Institute. Dorothy Rich, president of that institute, has written a handbook for policymakers, advising all of us of the critical importance of involving parents in the education of children of all ages. I urge my colleagues to peruse the following excerpts from this publication entitled: "The Forgotten Factor in School Success—The Family."

I ask that the excerpts from the Home and School Institute handbook and an article by William Raspberry of the Washington Post describing that handbook be printed in the RECORD.

The material follows:

[From the Washington Post, Nov. 4, 1985]

LITTLE TRICKS FOR LEARNING

(By William Raspberry)

The title of Dorothy Rich's new policy maker's guide—"The Forgotten Factor in School Success: The Family"—sounds anachronistic. The family a forgotten factor? Why, everybody these days talks about the importance of home training, family reinforcement, parental involvement.

Rich hears the talk, too. But she knows that too often that's all it is. State and federal legislation on schooling seldom addresses what parents might usefully do; local school administrators, while they might spend a lot of effort coaxing parents to come out for special nights, almost never give parents anything to do that would help their children learn.

They don't, I suspect, because they don't know how to involve parents in the learning process. If that guess is correct, they ought to listen to Dorothy Rich.

Rich, founder and president of the Washington-based Home and School Institute and a recogized expert in the area of family-assisted learning, has, in two decades of research and practice, come up with a bundle of low-cost, common-sense ways for parents to help their children in school.

"The crucial thing is to have a partnership between teachers and parents," she says. "The need is for a role for the family that is complementary, not duplicative of what teachers are doing. There's so much that kids can learn in families that they cannot learn even in the best of schools."

What, for instance? Well, time management, for one. "Children forget what they are supposed to do and why they are supposed to do it. So in order to give them a memory jogger and help them plan ahead, I have parents get a plain calendar with squares for each day and ordinary colored markers or crayons. Starting with the current month, you go over the calendar with the [elementary age] child, filling in special

days—birthdays, appointments and so on. Let the child decorate the calendar to personalize it, and then hung it where everyone can see and use it.

"With that as a base, you can talk about the future—'How old will you be in 1991? How old will I be? What do you think we'll be doing?' "

Or, one of Rich's favorites, the family "TV diet." "You agree to go on a TV diet for a week, meaning that, for that week, the family will watch no more than two hours of television a day. You sit down as a family, select the shows, add up the viewing times and post the list. You can have some family games or puzzles or books ready for the non-viewing hours. After a week, the family might agree to reward itself with a picnic or some special outing."

All of Rich's tricks—and it's something of a disservice to list just one or two—do at least double duty, sometimes more. The TV diet, for instance, teaches time management and self-discipline and also brings the family closer together. If the children are invited to discuss the strengths and weaknesses of the shows they view, it helps to develop their critical abilities. And most of the things Rich suggests involve at least some reading and writing.

This sort of thing—which some parents do on their own and which virtually all would do if they were prompted to do so and told of the educational implications for their children—is what Rich means when she talks about parental involvement.

Her booklet concerns itself mostly with a philosophical overview and policy recommendations. My own fascination, though, is with the particulars of how to do it.

Rich's little tricks cost virtually no money and not much time—the necessary materials can be sent home by the children, saving parents even the necessity of a trip to school. And yet it seems obvious that the payoff is far greater than you could hope to get from having a parent serve as a classroom volunteer or member of some busywork advisory boards.

THE FORGOTTEN FACTOR IN SCHOOL SUCCESS—THE FAMILY: A POLICYMAKER'S GUIDE BY DOROTHY RICH

FIVE QUESTIONS

The handbook addresses five major questions. Brief answers to each follow. Supporting details are found in the text.

What problems can family involvement solve?

Family involvement programs address major school problems. Among them are: disappointing student academic achievement; poor work behaviors and attitudes of students; and breakdown of the relationship between home and school.

Evidence outlined in Section I indicates that parent involvement:

Raises the academic achievement of students;

Improves attitudes and performance of children in school;

Helps parents understand the work of the schools;

Enables parents and children to communicate more and show their caring toward each other; and

Builds school-community relationships in an ongoing, problem-preventing way.

This does not happen immediately. While not everything is yet known about family involvement, enough is now known about its benefits. Action needs to be taken to begin integrating family involvement in all school subjects and all school years.

Why is involving families so important now?

An urgent need today is to find ways to deal constructively with the fact that the majority of mothers are in the workforce and a growing number of children are living in single parent homes.

Many education issues today deal with families and with parent needs. These cut across all grade levels and include such topics as: schooling for 4-year-olds, care for latchkey children, tuition tax credits, vouchers, home schooling, student achievement, magnet schools, private schooling, and high school dropouts.

Family demographics affect the work of the school. Section VI presents current research on the impact of employed mothers and single parent households on student achievement. While not all answers or even all questions are yet known, enough is now known to support changes for schools to have programs and policies that work effectively with today's families.

What does good family involvement look like?

The traditional form of family involvement of the last two decades has been the Advisory Council with families in an advisory capacity, as in PAC's. Good or effective family involvement appropriate for today's families is different. The advisory role, while it may have been a relevant and useful model at the time it was designed, is no longer the most appropriate involvement method. This is due to changes in family life and to the findings of educational research.

Effective involvement today needs to be based on a non-deficit view of families. More traditionally, families have been identified by deficits, with the school in a compensatory role. The position of this guide, based on experience with thousands of families, is that there are strengths in every family that can be mobilized into effective educational action. Good involvement provides learning strategies for families to use at home. these reinforce but do not duplicate the school. It uses the school, community agencies, and businesses to "deliver support" to families in their important role in the education of their children.

What can schools do?

Schools must be ready to care about adults as well as children. Schools must begin to include parent involvement as a legitimate, integral part of its programs, recognizing that successful teaching of reading and math involves families. This means people, materials, and programs to enlist families as educational partners. Reaching the family must be considered as important as reaching the child. This means change from past practices which have tended to isolate schools from the community.

For public schools to attract and keep families (who have a choice as to which school to send their children), schools must show that they care about parents. A difference between public and private schools, some say, is that private schools respond more to parent needs, with more individualized attention to student and family.

This guide provides specific recommendations with examples for action. Among them are: the use of home education activities that employ the unique resources of the home to expand the work of the school; ways to provide teachers with training and information to help them work well with families; the use of school facilities for community needs; emphasis on early prevention of learning problems by reaching parents at local businesses, hospitals, and community agencies; involvement of senior citizens and non-parents in school-related activities; the connection of parent/school programs with organizations such as Parents Without Partners and American Association of Retired Persons.

What can policymakers do?

The *Partnership for Excellence Design* outlined in Section V includes: An Information Campaign on the Importance of Parents as Educators; Establishment of a Parent Educational Delivery System; and systematic programs of Home Learning Activities For Families and Others To Use With Children. A list of basic tasks and a projection of costs are provided. Starting modestly, it is possible to launch an effort at the state level for $75,000. At the school system level, it is possible to launch this design for $40,000, which provides a number of schools with direct services.

A 20 Question Checklist to help policymakers frame family-school initiatives has been specifically designed for this guide (Section III). This Checklist is useful in evaluating potential policies and programs to assess their "family factor" orientation.

Emphasis on the role of parents as educators may take some public reeducation. Generally speaking, the public has been accustomed to a school-community relations approach, more of a public relations effort rather than an educational sharing effort. Also, the public may confuse this new campaign with home-schooling, but not if policymakers are aware of these concerns in advance. (See *Points to Focus On* below.)

The material in this guide prepares policymakers to take the strategic leadership position in family-school involvement: holding hearings, evaluating programs and policies, organizing allies, and gaining and holding media attention.

POINTS TO FOCUS ON

Distinctive themes of this guide

The key is to recognize the family—every family—as a system for teaching and learning. Surveys indicate public concern and readiness to get involved. Data such as the numbers of children in poverty and numbers of single parents can seem almost unmanageable. The message and the program in this guide, based on research and experience, show that there are practical, effective strategies that can be used to address these conditions.

Political feasibility

The basic tenet of the family-as-educator approach outlined in this guide crosses ideological lines. These programs provide noncontroversial approaches to issues that were often avoided because of potential controversy. This approach offers policymakers a viable middle ground on school-family issues, presenting new premises from which constructive public debate can follow.

Importance of student attitudes brought from home

Schooling reforms for the late 80's and 90's, to be really effective, must focus on the attitudes students bring into school from home. A student's attitudes and self-esteem are key determiners of achievement. Schools depend on the "input" from the home—particularly the attitudes and the motivation that children bring to the classroom. However, the majority of schools have not yet worked with the home in sustained, systematic ways.

Different roles for teacher and parent

The parent involvement approach recommended by this guide is the involvement of the home that extends the work of the school. It is based on the different strengths of the home and the classroom.

The roles of parents and teachers are different—they are different but they are complementary. The family is in the ideal position to prepare for, expand, and extend the work of the school. To use the family only to duplicate the school does not take advantage of the family's significant educational role. There is traditional homework, but there is also the opportunity for families to engage in individualized give-and-take with students at "teachable moments" that teachers can only dream about.

"Home-schooling" and family involvement

The family-as-educator role differs from "home schooling." Family involvement in this guide refers to the more informal but strong role parents play in preparing children for school and in reinforcing and expanding the work of the school through learning experiences at home.

Home schooling refers to the taking over by the family of the children's schooling in place of sending the youngsters to school. While there is some public interest in home schooling, the vast majority of children will continue to go outside their own homes for formal schooling.

"School-community relations" and family involvement

School-community relations, as more traditionally defined, is based on public relations and building of goodwill towards the school. This should not be confused with the parent involvement approach defined in this guide which is intimately connected with the academic goals of the schools. This involvement is grounded in the research that supports the educational role of the family. An added bonus is that it builds excellent public relations for schools from a solid base of parent support.

Four rules for involvement programs

1. Link parents' involvement directly to the learning of their own children. An important reward for parents is their children's school success.

2. Provide ways for families to reinforce academic skills at home. Easy home learning techniques foster learning: young children use the TV schedule to keep to time limits, and dial and read telephone numbers; older students make "best buy" purchases at the grocery store and use maps to plan family trips.

3. Link the school's work to the community. Schools must share the responsibility of education. Home learning activities can be distributed at workplaces, churches, gas stations, and grocery stores. They can be provided in adaptations for bilingual and special education students. The wider public, including senior citizens, need to participate.

4. Provide for parent involvement at all levels of schooling. Research and parent programs have primarily centered on early childhood, but continuing support is needed as children move through school. Teens need help from home to get the best from the secondary years.

Parent involvement deserves consistent backing in the same way that the teaching of reading deserves consistent backing.

CURRENT MOMENTUM AND OPPORTUNITY

School and family responsibilities are increasing and will increase even more in the near future. Before 1990, there will be more young children in school and more mothers in the workplace. For more students to succeed, it is vital to enable families to have greater positive impact on children's schooling. There is today a convergence of forces and needs about families and schools:

Teachers are realizing more than ever that they must work in partnership with parents and the community.

A growing research base is affirming the impact of families as educators of their children.

Today's parents are more schooled than ever before, making it more possible for families to help their children.

There is strong interest in this country in self-help initiatives rather than in waiting for government and institutions to take care of individual needs.

The family may look different today but parents continue to care about their children. Teachers care about the achievement of their students. Both have more abilities and potential to do a more successful job than ever before.

These are the strengths that policymakers can build upon.●

JONAS SAVIMBI'S VISIT TO WASHINGTON

● Mr. KERRY. Mr. President, this week marks the arrival in Washington of Jonas Savimbi, the leader of the UNITA guerrilla forces in Angola. He comes here seeking financial and military aid from the Congress for his efforts to overthrow the Government of Angola.

It has been reported recently that the administration will offer him moral support for his struggle. There have been suggestions that the administration may offer covert aid to UNITA. Some conservatives in the Congress and elsewhere wish to go further, and offer Mr. Savimbi and his forces economic and/or military assistance totaling millions of dollars. Mr. Savimbi's supporters argue that he is leading a crusade against communism in Angola, and that for this reason we in the United States should give him our support.

As the ranking member of the African Affairs Subcommittee of the Senate Foreign Relations Committee, I believe that it is important for those of us in the Congress who are charged with making these decisions to review the history of Angola and the current situation there carefully before reaching a judgment on this matter.

Mr. President, Angola has been at war for 25 years, since 1961. Prior to 1975, Mr. Savimbi's group UNITA, the now-ruling party of MPLA, and other rebel forces fought to free Angola from Portuguese colonial occupation. Since 1975, Angola has been wracked by civil war. UNITA has waged war against the Marxist government of Angola in an effort to topple it and seize power.

Because Jonas Savimbi is leading the struggle against a Marxist regime, and because he seeks support from the Reagan administration and from American conservatives, he has tried to portray himself as an anti-Communist crusader. But the facts reveal otherwise.

Mr. Savimbi in fact has long been an avowed Marxist and Maoist. As a guerrilla leader in the 1960's, he spent a year in China undergoing political training, and returned to Angola describing himself as a Marxist-Leninist, and his enemies as "notorious agents of imperialism." In 1970, UNITA's magazine, Kwacha-Angola, named its heroes and mentors as "great revolutionaries such as Mao Tse-tung, General Giap, Ho Chi Minh, Che Guevara, and many others."

As recently as September 8, 1984, in an interview with the Portuguese newspaper Expresso, Mr. Savimbi declared: "We felt that the Chinese philosphy could succeed in Angola, which was the case." He also said that "We are in favor of socialism because it is necessary to socialize production. Only in this way can values be created in people."

The fact is, Mr. President, that Jonas Savimbi is a long-time, self-avowed Marxist and Maoist revolutionary. How ironic, then, that he now seeks to portray himself as an anti-Communist crusader, and that he is being embraced by rightwing conservatives in this country. It is my understanding that the Conservative Caucus, an extreme rightwing group, recently named Jonas Savimbi as their "Man of the Year." Politics does indeed make strange bedfellows.

As columnist Richard Cohen wrote recently in the Washington Post:

> The "ism" that probably best motivates Savimbi is opportunism. That explains his alliance with South Africa. It is from it that Savimbi gets what it takes to wage his guerrilla war, and it is from Pretoria that he takes orders. The UNITA-South Africa relationship is so cozy that Savimbi was the only black African leader to attend President P.W. Botha's inauguration. Even African leaders who appreciate that UNITA has to take support where it is offered were offended by that. Consequently, Savimbi is a pariah in black Africa—the continent's No. 1 Uncle Tom.

Mr. President, if the United States were to now begin to offer military and economic support to Jonas Savimbi and UNITA, it would destroy any remaining credibility that this Nation has as an opponent of apartheid. UNITA is closely allied with the South African regime, so closely that it could not survive without South African support and assistance.

There is no way to assist UNITA without at the same time assisting the apartheid regime in South Africa. This fact alone separates the Angolan situation from those in Afghanistan, Cambodia, and Nicaragua. South Africa is the principal sponsor and arms supplier for UNITA, and South African

forces perform direct combat roles side by side with UNITA forces. They also help UNITA indirectly by their own attacks against the MPLA forces in southern Angola, which South Africa has repeatedly invaded. Any aid to UNITA will ally us with the apartheid regime in South Africa, and will undermine our pressures on South Africa to dismantle apartheid, and to stop its aggression in southern Africa.

It is also worth mentioning, Mr. President, that UNITA has a long history of human rights abuses in Angola. These range from the kidnapping of foreign nationals—including Americans—for propaganda purposes, to murder and physical mutilation of civilians, to the shooting down of civilian aircraft, which resulted in the death of an American citizen in 1984. In April 1984, UNITA emulated the tactics of the terrorists in Beirut by driving a jeep loaded with explosives to a 7-story building in Huambo, Angola, killing over 100 people.

It has been argued by some that by aiding UNITA, we will roll back Soviet and Cuban influence in Angola by producing the overthrow of the MPLA government, or by forcing it into a coalition with UNITA. The reality is, Mr. President, that the Soviets and the Cubans have invested their prestige in Angola, and they are not about to retreat in the face of increased aid to UNITA. Rather, they will escalate their own aid, to increase Angolan dependence on Soviet and Cuban support. No effort to roll back Soviet and Cuban influence in Angola will be successful unless it takes into account the fact that their presence is mainly the result of South African military pressures in Angola. The Soviets and the Cubans arrived in force in Angola in 1975 to back the MPLA against other factions which were aided by South African and Zairean forces. In 1976–77, the number of Cuban troops was significantly reduced as South African and other external pressures eased. Subsequent South African attacks and invasions of Angolan territory, and increased support of UNITA, has caused an increase in Soviet advisers and equipment, and Cuban troops.

Mr. President, the best way to roll back the Soviet and Cuban military presence in Angola is to obtain the withdrawal of South African forces from the neighboring country of Namibia, which are illegally occupying that nation, and the cessation of South African support for UNITA. Angola has already agreed not only to a plan of withdrawal of almost 80 percent of the Cubans over a 3-year period when South Africa withdraws from Namibia, but it has also indicated that it will expedite the total withdrawal of Cuban troops if externally aided attacks are ended.

Mr. President, if the United States begins now to give aid to UNITA, it will end any role for the United States as an honest broker in southern Africa. It will defeat all of our efforts to bring independence to Namibia, and an end to the illegal South African occupation. It will destroy our efforts to bring about change in the apartheid system in South Africa, and it will ally us with the white racist regime in that country.

As the Washington Post editorialized on Tuesday, January 28:

> A three-purpose negotiation has been proceeding—it limps but it lives—to bring peace to Angola, independence to Namibia, and border security to South Africa. The United States is running this negotiation; despite everything, only the United States has access to all parties to keep running it. If, however, Washington stops trying to act as a mediator in Angola's civil war and instead joins it as a military patron of one side, then forget about the whole negotiation. Forget about trying to help settle southern Africa down.

Mr. President, it is true that Angola has a Marxist government. It is also true that the United States is the only major Western nation to refuse to establish diplomatic relations with Angola. It is also true that Angola has a major trade and economic relations with the United States, and is our fourth-largest trade partner in Africa. Angola's three largest trading partners are the United States, the Netherlands, and Brazil, and the Angolans desire to have good relations with the United States and other Western countries.

Mr. President, my distaste for Marxist regimes is as great as any of my colleagues in this body. I do not sympatize with the Angolan Government. But I am also a realist. I believe that the best way to limit escalation on both sides in Angola, is to press on with negotiations, for South African withdrawal from Namibia, and Cuban withdrawal from Angola.

As a veteran of Vietnam, I do not wish to see our country emulate that experience in southern Africa, and become involved in an escalating conflict in Angola. I hope that we have learned enough from the experience of Vietnam to judge more wisely where to draw the line regarding the limits of American involvement in foreign conflicts.

Mr. President, as we note the arrival in Washington this week of Jonas Savimbi, I hope that my colleagues will carefully consider where to draw that line, and what role we wish to play in southern Africa, before we decide whether or not to give our support to UNITA. And I hope that we will make that decision with a sense of history. It has often been said that those who do not learn from history are doomed to repeat it. Let it not be said that we have failed to learn from history, and that we have repeated our past mistakes in Angola.●

NATIONAL NATURBAHN CHAMPIONSHIP

● Mr. RIEGLE. Mr. President, my State of Michigan is proud to host the National Naturbahn Championship this coming weekend, February 1 and 2, at the newly designated Olympic Training Center in Marquette, MI. Naturbahn is a form of luge, a very specialized international sport. This competition is the first endeavor by the U.S. Luge Association to develop a strong Naturbahn program in this country. A select few of the competitors in this event will be sent to Europe to compete for the World Cup.

I would like to thank my colleagues that contributed their State flags to the Naturbahn Championship. I am hopeful that this competition will become an annual event, and will provide the impetus to develop a national Naturbahn team.●

ON THE U.S TRADE DEFICIT

● Mr. MOYNIHAN. Mr. President, today I rise to speak, once again, on the deplorable state of the U.S. merchandise trade deficit.

This morning, the Department of Commerce released the figures for last year's mechandise trade between the United States and the rest of the world. The news, while not unexpected, is still unacceptable: A trade deficit of $148.5 billion, our largest ever.

The trade deficit increased $25.2 billion in 1985. According to the International Trade Commission and the Department of Commerce, that means we lost 630,000 new job opportunities.

That our trade imbalance grew 20 percent last year reflects the fact that we continue to record trade deficits with our major trading partners: With Japan, a deficit of $49.7 billion, up 34 percent; with Western Europe, $27.4 billion, up 51 percent; with the Republic of Korea, $4.8 billion, up 14 percent; and with Taiwan, $13.1 billion, up 16 percent.

It took 191 years and 39 administrations to reach a trade deficit of $36.4 billion in 1980: It has taken the present administration only 5 years to quadruple that figure.

With the administration's doctrinaire adherence to some abstract notion of "free trade," and with a trade deficit like the one we had last year, is it any wonder that a wave of protectionism threatens to drown responsible trade policy? Although the administration will not acknowledge it, we are in the midst of an undeclared trade war, and as today's statistical release demonstrates, we are losing.

I call upon the President to actively support the efforts of those of us in Congress who have introduced legislation to address our trade problems—such as the Trade Enhancement Act and the Trade Adjustment Assistance

Reform and Extension Act—while avoiding the protectionist measures sought by some.

Last November 20, Senator DANFORTH and I were joined by 31 of our colleagues in introducing S. 1860, the Trade Enhancement Act of 1985. A bipartisan effort to formulate a comprehensive approach to national trade policy, our bill seeks to address many of the reasons why our trade performance has been so poor.

First, our bill would expand trade by authorizing the President to negotiate new trade and monetary agreements with U.S. trading partners and by setting specific guidelines for those negotiations.

Second, TEA seeks to make trade fair. Based on legislation I introduced earlier in the 1st session (S. 1548; S. 1505), TEA would require the Treasury Department and the Federal Reserve Board to address the overvalued dollar and would require the U.S. Trade Representative to address unfair foreign trade practices. It also addresses violations of intellectual property rights, foreign "targeting," and foreign subsidization of exports.

Third, the Danforth-Moynihan bill would assist industries injured by increased imports. Although an open and fair trading system provides great benefits, surging imports can injure individual industries. TEA would require the President to grant temporary import relief to industries injured by excessive imports, but only if those industries agree to take action to adjust to the changing marketplace and the International Trade Commission agrees that the industry, with those changes, can be made competitive.

However, while seeking to improve our future trade posture, we must not forget those who have already lost their jobs to foreign competition.

Mr. President, the Trade Adjustment Assistance Program is the commitment our country made two decades ago to those workers who have lost their jobs to imports. It is, I might add, the only Federal program explicitly intended for workers so affected.

That is why last July Senator ROTH and I introduced S. 1544, a bill to reauthorize, extend and reform the TAA program. Our TAA bill was unanimously incorporated by the Senate Finance Committee into the budget reconciliation bill, approved by the Senate, and agreed to by the House conferees. However, as my colleagues know, Congress adjourned without completing action on the budget reconciliation bill—or otherwise explicitly extending the TAA Program.

Unfortunately, the administration has relied on this Congressional lapse to begin terminating TAA. The Department of Labor ceased paying benefits to an estimated 10,000 to 15,000 workers who were receiving cash assistance under the TAA Program. In addition, the Department of Commerce stopped technical and financial assistance to firms trying to adapt and adjust to import competition.

Therefore, in order to temporarily give the needed explicit authorization, Senator ROTH and I, joined by 20 of our colleagues, yesterday introduced legislation to reauthorize the TAA Program through March 15, 1986. This will give Congress time to complete action on the budget reconciliation bill and the Roth-Moynihan TAA bill—the best way that Congress can help ease the pain of the many workers whose industries have been ravaged by imports.

Let some good result from the ominous trade figures we learned of today. Let last year's deficit serve as the catalyst which moves us to confront our trade situation, and its resultant unemployment problems.

We can still avoid the dangerous effects of protectionism, but only if the administration acknowledges that a problem exists, and supports responsible efforts to address it.●

AUTHORITY FOR COMMITTEES TO FILE REPORTS ON FRIDAY, JANUARY 31, 1986

Mr. DOLE. Mr. President, I ask unanimous consent that during the recess of the Senate over until Monday, February 3, 1986, committees be authorized to file reports on Friday, January 31, 1986, between 10 a.m. and 3 p.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

JOINT SESSION ON FEBRUARY 4, 1986

Mr. DOLE. Mr. President, I ask unanimous consent that the joint session to hear the President of the United States on Tuesday, February 4, begin at 8 p.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

TECHNOLOGY TRANSFER INVESTIGATION DOCUMENTS

Mr. DOLE. Mr. President, I send a resolution to the desk on behalf of myself and the distinguished minority leader, and ask for its immediate consideration. It is a legal counsel resolution.

The PRESIDING OFFICER. The resolution will be stated by title.

The legislative clerk read as follows:

A resolution (S. Res. 316) to authorize production of documents by the Permanent Subcommittee on Investigations.

The PRESIDING OFFICER. Is there objection to the present consideration of the resolution?

There being no objection, the Senate proceeded to consider the resolution.

Mr. DOLE. Mr. President, the Permanent Subcommittee on Investigations of the Committee on Governmental Affairs recently conducted an investigation of allegations of the illegal transfer of technology to the Socialist Republic of Vietnam. The Office of Export Enforcement of the Department of Commerce has now asked the subcommittee for access to documents obtained by the subcommittee during such investigation. Senators ROTH and NUNN, the chairman and ranking minority member of the subcommittee, would like to be able to respond to authorized requests for pertinent subcommittee records.

This resolution would authorize the chairman and ranking minority member, acting jointly, to provide the requested documents. It reserves for the subcommittee discretion to withhold confidential matters.

The PRESIDING OFFICER. The question is on agreeing to the resolution.

The resolution was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 316

Whereas, the Permanent Subcommittee on Investigations of the Committee on Governmental Affairs has investigated allegations of illegal transfers of technology to the Socialist Republic of Vietnam;

Whereas, the Department of Commerce has requested access to records received during the Subcommittee's investigation which may assist the Department in fulfilling its own investigatory responsibilities;

Whereas, by the privileges of the United States Senate and Rule XI of the Standing Rules of the Senate, no evidence under the control or in the possession of the Senate can, by administrative or judicial process, be taken from such control or possession but by permission of the Senate;

Whereas, when it appears that documents, papers and records under the control of or in the possession of the Senate are needed in any investigation for the promotion of justice, the Senate will take such action as will promote the ends of justice consistent with the privileges and rights of the Senate; Now, therefore, be it

Resolved, That the Chairman and Ranking Minority Member of the Permanent Subcommittee on Investigations, acting jointly, are authorized to provide to the Department of Commerce records relating to the Subcommittee's investigation of allegations of the illegal transfer of technology to the Socialist Republic of Vietnam.

Mr. DOLE. Mr. President, I move to reconsider the vote by which the resolution was agreed to.

Mr. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

LEGAL COUNSEL DIRECTION

Mr. DOLE. Mr. President, I send a resolution to the desk on behalf of myself and the distinguished minority

leader and ask for its immediate consideration.

The PRESIDING OFFICER. The resolution will be stated by title.

The legislative clerk read as follows:

A resolution (S. Res. 317) to direct the Senate Legal Counsel to intervene in American Postal Workers Union, AFL-CIO, et al. versus United States of America and American Federation of Government Employees, AFL-CIO, et al. versus United States of America.

The PRESIDING OFFICER. Is there objection to the present consideration of the resolution?

There being no objection, the Senate proceeded to consider the resolution.

Mr. DOLE. Mr. President, pursuant to Senate Resolution 282 of the 99th Congress, the Senate legal counsel has intervened in two cases—Representative MIKE SYNAR, et al. versus United States of America and National Treasury Employees Union versus United States of America—in defense of the constitutionality of the Balanced Budget and Emergency Deficit Control Act of 1985, popularly known as the "Gramm-Rudman-Hollings" measure. The Attorney General has joined the plaintiffs in challenging the portions of the act which assign responsibilities to the Comptroller General in reporting excess deficits to the President.

The cases brought by Representative SYNAR and the National Treasury Employee Union have been briefed and argued, and are awaiting decision by a three-judge panel in the U.S. District Court for the District of Columbia. Two other unions representing Federal employees, the American Postal Workers Union, AFL-CIO, and the American Federation of Government Employees, AFL-CIO, have now filed additional actions challenging the act and have moved to consolidate them with the cases brought by Representative SYNAR and the National Treasury Employees Union.

This resolution would direct the Senate legal counsel to intervene in the name of the Senate in these new cases to continue the Senate's defense of the act. Mr. President, I move adoption of the resolution.

The PRESIDING OFFICER. The question is on agreeing to the resolution.

The resolution (S. Res. 317) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 317

Whereas, in the cases of *American Postal Workers Union, AFL-CIO, et al.* v. *United States of America,* Civil Action No. 86-0147, and *American Federation of Government Employees, AFL-CIO, et al.* v. *United States of America,* Civil Action No. 86-0154, pending in the United States District Court for the District of Columbia, the constitutionality of the Balanced Budget and Emergency Deficit Control Act of 1985, Public Law 99-177, has been placed in issue;

Whereas, in the related cases of *Representative Mike Synar, et al.* v. *United States of America,* Civil Action No. 85-3945, and *National Treasury Employees Union* v. *United States of America,* Civil Action No. 85-4106, the Attorney General has challenged the constitutionality of provisions of the Balanced Budget and Emergency Deficit Control Act of 1985;

Whereas, pursuant to section 274(a)(4) of the Balanced Budget and Emergency Deficit Control Act of 1985, the plaintiffs have delivered copies of their complaints to the Secretary of the Senate and the Clerk of the House of Representatives and each House of Congress has the right to intervene in defense of the constitutionality of the Act;

Whereas, pursuant to section 703(c), 706(a), and 713(a) of the Ethics in Government Act of 1978, 2 U.S.C. §§ 288b(c), 288e(a), and 2881(a) (1982), the Senate may direct the Senate Legal Counsel to intervene in the name of the Senate in any legal action in which the powers and responsibilities of Congress under the Constitution are placed in issue: Now, therefore, be it

Resolved, That the Senate Legal Counsel is directed to intervene in the name of the Senate in the cases of American Postal Workers Union, AFL-CIO, et al. versus United States of America and American Federation of Government Employees, AFL-CIO, et al. versus United States of America.

SUPPLEMENTAL EXPENDITURES

Mr. DOLE. Mr. President, I send a resolution to the desk in behalf of Senator HATFIELD and ask for its immediate consideration.

The PRESIDING OFFICER. The resolution will be stated by title.

The legislative clerk read as follows:

A resolution (S. Res. 319) authorizing supplemental expenditures by the Committee on Appropriations for the procurement of consultants.

The PRESIDING OFFICER. Is there objection to the present consideration of the resolution?

There being no objection, the Senate proceeded to consider the resolution.

Mr. HATFIELD. Mr. President, this resolution would increase the amount of money in the budget of the Committee on Appropriations for computer costs, which have reached unexpectedly high levels because of last year's numerous iterations of the overall Federal budget and its impact on appropriations bills.

The additional money provided for computer costs will be drawn from other funds in the committee's budget, so that total funding for the committee will not be increased.

I understand that this has been cleared by Senator MATHIAS, chairman of the Rules Committee, and Senator FORD, the ranking minority member.

I ask for the adoption of the resolution.

The PRESIDING OFFICER. The question is on agreeing to the resolution.

The resolution (S. Res. 319) was agreed to, as follows:

Resolved, That section IV of Senate Resolution 85, ninety-ninth Congress, agreed to February 28, 1985, and amended, is amended by striking out "$115,000" and inserting in lieu thereof "$140,000".

NO FRIDAY SESSION

Mr. DOLE. Mr. President, as previously indicated, there will be no session on Friday so that Members desiring to attend the memorial service in Houston will be permitted to do so. There are some 20 or 25 Senators who will be attending that service.

ORDERS FOR MONDAY, FEBRUARY 3, 1986

RECESS UNTIL 12 NOON

Mr. DOLE. Mr. President, I ask unanimous consent that once the Senate completes its business today, it stand in recess until the hour of 12 noon on Monday, February 3, 1986.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR THE RECOGNITION OF SENATOR PROXMIRE

Mr. DOLE. Mr. President, following the recognition of the two leaders under the standing order, I ask unanimous consent that there be a special order in favor of the Senator from Wisconsin [Mr. PROXMIRE] for not to exceed 15 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

ROUTINE MORNING BUSINESS

Mr. DOLE. Following the special order, I ask unanimous consent that there be a period for the transaction of routine morning business not to extend beyond the hour of 1 p.m., with Senators permitted to speak therein for not more than 10 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. DOLE. Mr. President, following morning business, the Senate will begin consideration of S. Res. 28, TV in the Senate.

I think it is safe to say there will be no votes on Monday. We will have hopefully a lively discussion. It is a very important matter to every Member of this body, and I hope we will have a full debate, and I am certain we will, and we do have at least an understanding there will be no votes after 6 p.m.

I think it is fair to say in this case there will be no votes on Monday. There will be debate.

Then, at 11 a.m., on Tuesday, we will resume consideration of S. 638, the Conrail sale. It is my hope, based on conversations with the principals on all sides, that we could conclude, finally dispose of that bill maybe midafter-

noon or early evening, and then, depending on what time it may be, return to TV in the Senate, hopefully conclude action on TV in the Senate next week and the following week. If we conclude TV in the Senate, it will be my intention to bring up the Genocide Convention.

Mr. BYRD. Mr. President, I thank the distinguished majority leader for calling up S. Res. 28 on Monday next. He is keeping his commitment that was made several weeks ago when I asked the distinguished majority leader if he would give assurance that S. Res. 28 would be brought up before the Senate early in the Second Session, and that commitment was made during the First Session, the closing days of the First Session. He has kept his commitment and fulfilled his assurance, as I knew he would.

I just want the RECORD to show that I and those who are very supportive of this resolution are appreciative of the distinguished leader calling up S. Res. 28 very early in the session and, as he indicated last year, he would try to do that immediately following the disposition of the Conrail legislation.

I commend him and I thank him.

Mr. DOLE. I thank the distinguished minority leader.

In my view I think the Senate is ready to act. It seems to me there has been a rather decided change just in the past 6 or 8 months. I will confess this Senator has changed some of his views.

I would hope that we could put together a responsible package and do it in fairly short order.

RECESS UNTIL MONDAY

Mr. DOLE. Mr. President, there being no further business to come before the Senate, I move the Senate stand in recess until 12 noon on Monday, February 3, 1986.

The motion was agreed to and, at 7:29 p.m., the Senate recessed until Monday, February 3, 1986, at 12 noon.

NOMINATIONS

Executive nominations received by the Senate January 30, 1986:

BOARD OF INTERNATIONAL BROADCASTING

James Albert Michener, of Pennsylvania, to be a member of the Board for International Broadcasting for a term expiring April 28, 1987, reappointment.

U.S. INTERNATIONAL DEVELOPMENT COOPERATION AGENCY

Carlos Salman, of Florida, to be a member of the Board of Directors of the Overseas Private Investment Corporation for a term expiring December 17, 1988, reappointment.

EXTENSIONS OF REMARKS

REMARKS OF PHILIP L. SMITH AT DEDICATION OF MEMORIAL SCULPTURE OF DR. KING

HON. CHARLES McC. MATHIAS, JR.

OF MARYLAND

IN THE SENATE OF THE UNITED STATES

Thursday, January 30, 1986

● Mr. MATHIAS. Mr. President, as authorized by concurrent resolution, the congressional tribute to Dr. Martin Luther King, Jr., was marked by the dedication of a memorial sculpture of Dr. King in the rotunda of the Capitol on January 16, 1986. This moving ceremony commemorating Dr. King's legacy—the reconciliation of all Americans of every color and walk of life—was followed by a reception arranged by the Capitol Historical Society. At a luncheon before the dedication ceremony, the president and chief executive officer of General Foods Corp., Mr. Philip L. Smith, spoke with great feeling and understanding of the significance of the occasion, and I ask that his remarks be printed in the RECORD.

The remarks follow:

REMARKS OF PHILIP L. SMITH, PRESIDENT AND CHIEF OPERATING OFFICER, GENERAL FOODS CORP.

Good afternoon, Mrs. King, members of the King family, Senator Mathias, ladies and gentlemen.

Thank you for sharing in this happy and festive occasion. It marks both the dedication of a bust of Martin Luther King, Jr. in the U.S. Capitol building, as well as next week's first official observance of Dr. King's birthday as a national holiday.

It's a special pleasure and honor to welcome Mrs. Coretta Scott King, who is with us today. Mrs. King has been a leader in carrying on Dr. King's work. And she is an inspiration to all those who believe in what Dr. King stood for.

Thank you for being with us today, Mrs. King.

Before we have lunch, I just want to take a moment to tell you that we at General Foods are honored to be a part of this national celebration. And I emphasize the word "national." For these events celebrate what the memory of Dr. King means to all of us.

In honoring the man who began his public career 30 years ago as a hero and mentor for black Americans, these events celebrate the fact that Dr. King is today a hero and mentor to *all* Americans—black and white, north and south.

This truly is a cause for national celebration. For it marks not only how far black Americans have come in these past 30 years. It marks how far all Americans have come!

The dedication of Dr. King's bust in the Capitol building is laden with poetic and historic symbolism. This will be the first bust of a black man to stand in the Capitol building. The structure that is, as Nathaniel Hawthorne once said, "the center and heart of America."

It was in this building that much of the great drama of whether this country would be slave or free was fought—in Congress and the old Supreme Court chambers.

During the Civil War, the Capitol building was used for a time as a barracks for federal troops guarding the city. And when critics complained of continued construction while the war raged, President Lincoln replied: "If people see the Capitol going on, it is a sign we intend the Union shall go on."

In 1863, construction was finished, as the Statue of Freedom was lifted atop the dome—the same year the Emancipation Proclamation was issued.

The process of reconciliation, of healing the wounds of civil strife, began in the Capitol. There, in the President's Room, Abraham Lincoln refused to sign the Wade-Davis Bill, imposing radical reconstruction on the South.

This was the same process of reconciliation that would be carried to fruition a century later by people of good will from all over America—foremost among them, Martin Luther King. Standing at the other end of the Mall in 1963—exactly a hundred years after Emancipation—Dr. King faced the Capitol as he proclaimed his dream of what America could be.

Today, our Capitol building stands as a symbol of our ideals of freedom and equality and the rights of the individual. Ideals that are not always fulfilled. But ideals for which all of us, inspired by Dr. King, continue to strive.

As a native of Georgia myself, I'm pleased that on the outside, the East Front of our national Capitol boasts a facade of shining marble, which was dug from the earth of Georgia. And I'm even more pleased that inside, from today on, there will be a shining new bust of the Georgia preacher's son who changed his country and the world.

When Abraham Lincoln died, his Secretary of War said, "Now he belongs to the ages."

And with the events we are making today—we Georgians, we Americans, we human beings—can say of Martin Luther King: "Now he belongs to all of us."●

SHOULD WE BEGIN ANOTHER EXPENSIVE FOREIGN ENTANGLEMENT?

HON. STEPHEN L. NEAL

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 30, 1986

Mr. NEAL. Mr. Speaker, while enthusiasm is running high within the administration and on Capitol Hill to involve our country in yet another expensive foreign entanglement—this time in Angola, it might be prudent to reflect on the wisdom of such involvement. Mr. Sanford Unger, writing in the Washington Post, paints a far different portrait of the leader of UNITA, Jonas Savimbi, than the picture drawn for us by the administration and others.

Mr. Unger portrays Savimbi as a brutal and ruthless, but charismatic leader, who built his reputation as an anti-American and anticapitalist. Mr. Savimbi, says Unger, is masterfully manipulating American political leaders into believing that he represents the last line of defense against Soviet/Cuban aggression in southern Africa. The facts are, according to Mr. Unger, that it would take an enormous commitment by America to give Savimbi a chance to topple the Angolan Government. And American involvement would not hasten the Cuban exodus from Angola, but would probably prolong Angolan dependence on Cuba and the Soviet Union.

This is not a crisis situation, Mr. Speaker, I would urge my colleagues not to act in haste, but to take time to objectively weigh the facts concerning Mr. Savimbi and his organization and to consider the cost of borrowing to finance another war.

I commend Mr. Unger's article to the attention of my colleagues:

JONAS SAVIMBI: BIG WELCOME FOR A BAD BET

(By Sanford J. Ungar)

An African guerrilla leader named Jonas Savimbi will arrive in Washington this week on a tour aimed at gaining U.S. support for his guerrilla war against the Soviet-backed regime in Angola. His goal, in simple terms, is to become American's "contra" in Africa.

Savimbi is a charismatic African politician. But his guerrilla movement cannot win and he does not deserve U.S. financial support or sympathy.

Savimbi's march on Washington this week highlights his astonishing transformation from Chinese-supported revolutionary to conservative-backed "freedom fighter." Barely six years ago he could not get an appointment even with the assistant secretary of state for African affairs, because Congress had passed a law forbidding American covert involvement with his forces in the Angolan civil war. But this week Savimbi has an excellent change for a private meeting with President Reagan in the Oval Office.

The Clark Amendment, which prevented his forces from gaining American aid, was repealed last year. So now he will be paraded through Congress as the American candidate for leadership not only of Angola, but perhaps all of southern Africa. He will be portrayed as the one man who can give Cuban troops a bloody nose and help restore American influence and prestige there. Tonight, Savimbi's new high profile will be evident to 40 million viewers in a scheduled appearance on CBS's "Sixty Minutes."

The trouble is that Savimbi simply isn't what his best American friends believe or wish he could be. "Savimbi is a master at telling people what they want to hear," says John Marcum, professor of political science at the University of California at Santa Cruz and one of the leading U.S. experts on Angola. He has a quality of delivering a

message in a way that pleases the ear of the listener."

Today that skill is being used to court American support, but in the past it has been employed to stir up sentiment against the United States.

Furthermore, Savimbi built much of his power base by overtly appealing to black-nationalist attitudes and antiwhite bias among some of Angola's tribal groups. His tactics are every bit as brutal and repressive as those of the government now in power in Angola—if not more so.

He has proudly claimed to have attacked the installations of American and other Western companies. And he has lost most of his support from other African nations by collaborating with the white minority regime in South Africa.

Besides, UNITA is far from winning. In fact, U.S. aid to Savimbi now would prolong rather than shorten the Angolan war, and it would increase rather than end the Cuban presence in Angola.

The United States has no business taking a position on either side of this civil war. There is little in Angola's internal conflict that has anything to do with American national interests. And the risks are many. Funding Savimbi now would put the United States into a de facto military alliance with South Africa. That would violate the declared policy of the Reagan administration and would also alienate America's good friends elsewhere in Africa.

I have met Jonas Savimbi during his previous visits to the United States, and I have been greatly impressed with his political and rhetorical skills. He is a genuinely charismatic figure whose eyes seem alive with fire when he talks of the struggle in Angola. He speaks superb English (along with, it is said, Portuguese, French, and several other languages), and he is particularly adept at playing to the American fear of Fidel Castro, whose troops prop up Savimbi's enemy.

Other journalists who have visited him in the bush inside Angola—it is easy to arrange trips from South Africa or Namibia on South African planes—have been even more dazzled by Savimbi. They have heard him give dramatic, spellbinding orations to "party congresses" of his supporters, and they have been taken with his apparent willingness to stay at his fighters' side in their most difficult moments—rather than spending much of his time in fancy restaurants in European capitals, as the leaders of other Third World nationalist movements have sometimes been known to do.

Nonetheless, it is one thing to recognize the mystique of Jonas Savimbi and quite another to commit American prestige—and deficit financing—to his cause. Those who would bankroll him as an American surrogate in southern Africa would do well to examine the recent history of Angola and Savimbi's own record.

Savimbi's involvement in the tangled politics and the violent struggle for control of Angola goes back to the early 1960s. That was more than 10 years before the country became independent, following a revolution in Lisbon, and was thrust into the unenviable position of a pawn in the East-West struggle. Although many students of African politics see Savimbi as an opportunist who adjusts his ideology to the needs of the moment, most still recognize him as a genuine Angolan nationalist—a man whose record and credentials as an opponent of colonialism entitle him to some role in his country's future.

A member of the Ovimbundu tribe (which makes up about a third of Angola's population), Savimbi was born in the country's central highlands in 1934 to a family that one Protestant missionary described as being of "exceedingly humble, primitive, pagan background." Nonetheless, he graduated at the top of his high school class, and the missionaries, who saw great promise in him, sent him to Portugal for advanced studies.

Before long, however, he was being harassed by dictator Antonio Salazar's secret police for his political activities on behalf of Angolan independence, and so he fled to Switzerland in 1960, enrolling in the political science department at the University of Lausanne.

According to one State Department document that has frequently been quoted, Savimbi turned up at the American Embassy in Bern early in 1961, declared that he had been inspired by a speech by then-United Nations ambassador Adlai Stevenson in favor of self-determination for all peoples of the world, and introduced himself as "the future president of Angola."

Within months of making his ambitions known to U.S. diplomats, Savimbi had gone off to Leopoldville (now Kinshasa), the capital of the newly independent Belgian Congo (now Zaire), to join Holden Roberto, the leader of a generally pro-Western organization called the National Front for the Liberation of Angola (FNLA).

The FNLA was being aided and encouraged by the United States as an alternative to the Soviet-supported Popular Movement for the Liberation of Angola (MPLA). (It seemed unlikely to the superpowers that Portuguese colonial rule could last much longer on a continent where so many other countries were setting their possessions free, and in this period Washington and Moscow were characteristically choosing up sides among the new and future nations of Africa.)

But in 1964 the rivalry between Roberto and Savimbi came to a head, and Savimbi broke away from the FNLA. Two years later, he brought together his own cadres and formed a "third force," UNITA—the National Union of the Total Independence of Angola. Savimbi found help from China, among others, and UNITA managed to play its own unpredictable part in the war against the Portuguese.

As independence approached in 1975, the military struggle in Angola turned into a tripartite civil war among the nationalist groups, and that doomed the prospect of open, fair elections. To the surprise of many outside observers, UNITA actually outlasted the FNLA, which, despite help from the U.S. Central Intelligence Agency, crumbled before the Soviet- and Cuban-aided MPLA.

Meanwhile, South Africa, concerned about the effects of the civil war on its neighboring territory of Namibia, had also intervened in Angola. Inevitably, the South Africans offered to help Savimbi, and he accepted.

The MPLA managed to establish a government in Angola's capital of Luanda late in 1975, and it has stayed in power since then with the support of a Cuban military and civilian contingent now estimated at between 25,000 and 35,000. But UNITA has also sustained its guerrilla struggle against the MPLA, with money and supplies from South Africa, for more than 10 years. Savimbi generally claims to control at least a third of the area of the vast country.

Last year, even as economic sanctions were being voted against South Africa, hardliners in both houses of Congress were successful in getting the law prohibiting American involvement in the Angolan civil war repealed. Savimbi's American backers believe that Angola is a place where the United States can stand up to the Soviet Union. It is on the strength of these conservative hopes—that America can get back into the fray as a player in Angola—that Savimbi is winging to Washington.

But before Savimbi is allowed to leave town triumphantly with a chunk of the American treasury, it would be a good idea to take a realistic look at the man who would be our newest African client.

Savimbi does not have the credible record as a moderate, democratic, pro-American figure that is so often cited on his behalf by his supporters in both parties here.

On the contrary, he built his reputation during the late 1960s and early 1970s as a fervid anti-capitalist, anti-American revolutionary. "No progressive action is possible with men who serve American interests . . . the notorious agents of imperialism," he said at the time of his break with Roberto. Among his leading supporters in the years that followed were Mao Tse-tung, Che Guevara, and Gamal Abdel Nasser.

During those same years, Savimbi drew a distinction between his own movement and the MPLA on the basis of their racial composition, denouncing the MPLA for its inclusion of, and alleged domination by, white radicals and *mestizos* (people of mixed race) who had accepted Portuguese citizenship.

Roughly one-tenth of the million people who live in the capital city of Luanda are white or mestizo, and the MPLA regime, whatever its other flaws, is multiracial in composition. "Given Savimbi's past statements on racial issues (the whites and mestizos), all quiver at the thought of his coming to power," says Gerald J. Bender, professor of international relations at the University of Southern California and an advocate of American diplomatic recognition of the Angolan government.

Although Savimbi has been wise enough to alter his pro-Marxist, antiwhite rhetoric when it is expedient to do so, the UNITA slogan remains "Socialism, Negritude, Democracy, and Nonalignment." No one really knows what his policies would be if he were to come to power. As the Washington Post's Leon Dash reported in 1977 after spending seven months with UNITA forces in the bush, "Savimbi is an enigma, a man on whom many labels can stick—brilliant, charismatic, affable, unyielding, forgiving, temporizing, Machiavellian, opportunistic, lying, nationalistic, Marxist, Maoist, pro-Western and socialist."

Savimbi is miscast as a "freedom fighter" defending Western ideals against a harsh Marxist regime.

UNITA has in fact been criticized for its brutal tactics in the Angolan countryside. In classic guerrilla fashion, its acknowledged goals are to grind the Angolan economy to a halt, prevent development, and destroy agriculture—all to stir up discontent with the government.

Among the foreigners taken prisoner during UNITA attacks in recent years have been many missionaries and church workers. Just last month, in an incident reported by the Brazilian Embassy in Angola and three religious organizations, five Baptist church workers were killed, three wounded and two women carried off by Savimbi's men.

And one of the sharpest ironies of the situation in Angola is that the MPLA govern-

ment finds that it needs the Cubans to help protect Gulf Oil rigs and storage tanks from threats by the South Africans and the allegedly pro-American UNITA forces.

Savimbi is not the popular pan-African politician that he often claims to be.

It is true that in the period just after independence the Organization of African Unity (OAU) was sharply divided on the issue of whether to recognize the MPLA or some FNLA/UNITA coalition as the legitimate govenment in Angola. But as soon as the nature of Savimbi's connections with South Africa became known, he lost much of his support elsewhere on the continent.

Savimbi travels to and from Angola primarily through South Africa and South-African-controlled Namibia; his headquarters in Jamba are only 18 miles from the Namibian border. The government in Pretoria is proud of its connection with UNITA, claiming that it proves South Africa's ability to work with the "right" kind of black African leader. In fact, Savimbi was an honored guest at the inauguration of State President P. W. Botha in 1984. To this day, most African governments depict Savimbi as a South African puppet.

Further American assistance to Savimbi, overt or covert, will not lead to withdrawal of the Cuban forces in Angola.

On the contrary, every South African intervention on UNITA's side in the past has caused an increase in the number of Cubans. There is no reason to think that American aid would produce a different result. In recent meetings, Angolan President Jose Eduardo dos Santos has reportedly warned Chester A. Crocker, assistant secretary of state for African affairs, of that fact, and he has frankly asked the Reagan administration not to push Angola into a greater dependence on the Soviet Union.

The Angolan leadership claims it would like to send the Cubans home gradually and take a more truly non-aligned posture in foreign policy. But the regime insists that this is impossible so long as UNITA continues its military efforts and South Africa continues to invade Angolan territory at will.

Savimbi is not on the verge of winning the power struggle in Angola, and few outside observers, including the American intelligence community, believe he has any chance of doing so at any time in the near future.

Then-CIA director William Colby estimated in the mid-1970s that it would take some $100 million in outside aid for the "pro-Western" forces to prevail in Angola, and the United States put in about $14 million before the Clark amendment took effect.

Today, U.S. officials estimate that if the MPLA were strengthened and substantially greater Soviet-funded Cuban assistance were offered, even $200 or $300 million—far more than anyone is suggesting the United States might be able to provide—would probably not do the job. With or without an infusion of U.S. funds, the Angolan civil war is locked in a stalemate.

Jonas Savimbi's visit to Washington, then, has little to do with the real prospects for peace in southern Africa, and a great deal to do with American politics.

Two significant forces are arrayed on Savimbi's side: liberal Democrats who believe they have to demonstrate their ability to support a tough, anti-Soviet foreign policy; and conservative Republicans who, having voted last summer for economic sanctions against South Africa, have been under pressure to take some other persuasive, anti-communist steps in the region.

An example of the former is 85-year-old Rep. Claude Pepper (D-Fla.), who has an increasing number of anti-Castro Cuban exiles in his district demanding he take a tougher stand.

An example of the latter is 50-year-old Rep. Jack Kemp (R-N.Y.), who was warned by some of his bedrock conservative supporters that his vote for South African sanctions could cost him the GOP presidential nomination in 1988.

Pepper and Kemp make an interesting coalition, but they are crafting bad foreign policy. To be wary of some of what the MPLA has done and to wish for an end to the Cuban presence in southern Africa does not require support for a harsh and unprincipled guerrilla leader about whom the American government and people actually know very little. To be skeptical and cautious with Savimbi does not imply endorsement of the regime in Luanda.

It is fine to treat Savimbi to some good, old-fashioned, all-American hospitality; we have done as much for many unsavory types from all over the world in recent years. But if we offer him new aid—either "overt" or "covert," however it is packaged—the people of Africa, as usual, will be the biggest losers of all.

EASING THE FINANCIAL BURDEN OF ADOPTION

HON. CARROLL HUBBARD, JR.

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 30, 1986

Mr. HUBBARD. Mr. Speaker, I have received an excellent letter from one of my constituents, Mr. Mike Northern, a member of OURS (an adoptive parent group in Kentucky) from Providence, KY., advising me of his support for H.R. 2793, the Fairness for Adopting Families Act.

Mr. Northern highlights the financial difficulties adoptive parents are confronted with, and discusses pending legislation which would offer some relief. I strongly support efforts to assist with the adoption of children and encourage my colleagues to read Mr. Northern's informative comments. His letter to me followed:

PROVIDENCE, KY.,
January 8, 1986.

Congressman CARROLL HUBBARD,
2244 Rayburn House Office Building, Washington D.C.

DEAR CONGRESSMAN HUBBARD: I am writing to ask for your support of house bill HR 2793 as introduced by Florida Representative William Lehman.

This is a much needed piece of legislation which would ease the burden on many adoptive parents. Also it would lift a restrictive barrier making adoption possible for many families who are currently deterred by large adoption expenses.

The bill as written would allow a tax deduction for adopting a child of $5000 for a U.S. adoption and $7000 for a foreign adoption.

As we progress toward the adoption of our child, we are finding that adoptive parents are discriminated against much more than we realized. From the large expenses which are currently non-deductible to the problems of health insurance coverage, we face problems that birth parents don't.

I would also like to ask your help in monitoring legislation regarding foreign adoptions. As an adoptive parent and a member of OUR in KY., an adoptive parent group, I would like to see the doors of the U.S. remain open for legal adoptions. I am currently watching for this type of legislation through a group called IMPACT for OURS.

I hope you can be of assistance of these matters. I believe the easier we can make it for parents to adopt, the more children will have homes.

Thank you for any help you can give.

Sincerely,

MIKE NORTHERN.

STUDENT AID AND EDUCATIONAL OPPORTUNITY

HON. WILLIAM D. FORD

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 30, 1986

Mr. FORD of Michigan. Mr. Speaker, last month Secretary of Education William J. Bennett made headlines by challenging an audience of New York business leaders and educators to write him if they found a way to motivate students to stay in school or to go on to college. During the same speech he surmised that personal encouragement and support motivated kids much more strongly than Federal financial assistance and provided an example to substantiate his reasoning. Unfortunately, Mr. Bennett's view is shortsighted and ignores some very painful realities that currently exist in Federal assistance which undercut confidence in the student aid programs and undermine their potential to serve low-income students.

On December 22, 1985, a Washington Post editorial analyzed the Secretary's comments and underscored the fallacies in his logic. Even more importantly the article emphasized the need for stabilized student financial assistance programs which provide adequate funding for low-income students. I encourage my colleagues to read that editorial, which follows, and to seriously consider its implications as we begin the fiscal year 1987 budget process:

MR. BENNETT AND ENCOURAGEMENT

William J. Bennett, secretary of education, asked 100 business leaders and college presidents recently to help him figure out how to keep kids in school. "Write me," said Mr. Bennett to his New York audience, "if you have found a way to motivate students to stay in school and go on to college, or if you know someone who has." As an example, he praised Eugene Lang, the millionaire who inspired a sixth-grade graduating class in Harlem by promising to pay full tuition for their college educations. Five years later, every child in that class who is still in the New York area is still in school—a dramatic contrast to the area's 40 percent dropout rate.

Mr. Bennett told the audience he found it "striking" that Mr. Lang's promise motivated kids so much more strongly than federal financial aid does, even though "the actual money orignially offered to these students is approximately the same as the amount students from low-income families can receive from the federal government's Pell Grant and other aid programs." The differ-

ence, he concluded, was Mr. Lang's "personal encouragement and support."

Mr. Bennett is right that encouragement is important, but there are-problems with his broader diagnosis. First, Mr. Lange's hugely successful arrangement with the sixth-graders is hardly comparable to federal aid programs. Contrary to Mr. Bennett's assertion, Mr. Lang did not just offer each student "$2,000 toward their education" but the whole thing. (The maximum Pell or direct grant is $2,100—toward annual expenses that averaged $4,881 at public colleges and $9,027 at private ones last year.) To get full tuition from the federal government, by contrast, a student supplies family financial information. Colleges then calculate, based on standard formulas, the maximum amount they expect the family to contribute; the maximum they expect a student to contribute through student loans, summer jobs and government-aided "work-study" jobs; and Pell and other grants for the rest.

More important, the guarantees of even that much aid are precarious and getting more so. Mr. Bennett will not have forgotten that he himself led the charge against them last March, calling for a $4,000 "megacap" on federal aid per student per year, and saying that full aid based on need was "unreasonable." Efforts to cut will be redoubled in 1986, with the whole Higher Education Act up for reauthorization and the Gramm-Rudman balanced-budget legislation mandating cuts across the board.

Mr. Bennett's stance on all this will be crucial—which brings us back to the matter of encouragement. Low-income high-schoolers now certainly realize that, no matter how much somebody encourages and believes in them, their chances of paying for college are getting dimmer. That the general climate of opinion on aid does affect poor and minority kid's aspirations became clear after the 1982 cuts, when the numbers of college applications from such kinds dropped sharply. Since last year, Mr. Bennett has moderated the sharp tone in which he called for "stero divestiture." Now would be a good time for him to focus serious attention on one very rational cause of student discouragement—the growing chasm between rising college costs and shrinking aid sources. Money without personal encouragement, as he told the audience, may not be enough to keep kids in school. But for those not visited by a Eugene Lang, all the encouragement in the world is useless without money.

PROTECTION FOR WHISTLEBLOWERS

HON. PATRICIA SCHROEDER

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 30, 1986

Mrs. SCHROEDER. Mr. Speaker, I would like to bring to your attention a recent editorial in the Denver Post concerning H.R. 4033, the Whistleblower Protection Act of 1986. The Post focuses on the problems with our current system and the need for change. Their position reflects the desire of Americans to encourage those who witness waste and wrongdoing to step forward.

[From the Denver Post, Jan. 28, 1986]

PROTECTION FOR WHISTLEBLOWERS

Federal whistleblowers—those few government workers bold enough to report waste and protest abuse—were supposed to have been given shelter from reprisals and a forum for their complaints in 1978 when the Office of Special Counsel was created.

But the OSC today is more concerned with protecting bureaucratic posteriors than the American taxpayers. When it doesn't ignore employee complaints entirely, it sometimes targets whistleblowers for the very abuse it was created to forestall.

That's why Denver Congresswoman PAT SCHROEDER and a bipartisan group of cosponsors have introduced the "Whistleblower Protection Act of 1986."

Schroeder cited a General Accounting Office survey for the 1984 fiscal year showing that only 8 percent of 1,383 complaints alleging prohibited personnel practices survived initial OSC screening. And of the cases in which whistleblowers complained to the OSC of reprisals—transfers, demotions, harrassment, even firings—80 per cent were discarded with no corrective action. Even granting a certain number of kooks and crank complaints, that record suggests an inexcusable inattention to duty and detail.

Schroeder's proposed reforms would define prohibited personnel practices more carefully, give employees direct access to the Merit System Protection Board, broaden that broad's authority to impose sanctions against bureaucrats and set more reasonable standards of proof in appeals. The OSC would be more clearly defined as a protector for whistleblowers, in a relationship similar to a lawyer and client.

We wish Schroeder's bill well. Whistleblowers can be potent antidotes to bureaucratic arrogance, waste and corruption. It is time to harness their knowledge.

A BILL TO REGULATE WATER DEVELOPMENT FACILITIES IN NATIONAL PARKS

HON. RICHARD H. LEHMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 30, 1986

Mr. LEHMAN of California. Mr. Speaker, today I am introducing legislation to regulate water development facilities within national parks and monuments. The need for such Federal law became evident to me this year as I worked with the Department of the Interior to get an agreement prohibiting further expansion of water development facilities within Yosemite National Park which I represent. We still do not have an agreement, and I am convinced that a cohesive statement of law is needed to regulate water projects in national parks and monuments throughout the country.

My bill would accomplish four objectives:

First, prohibit new water development contruction within the boundaries of national parks and monuments.

Second, require congressional approval to expand any existing water development projects which lie within national parks or monuments.

Third, require permits from the Secretary of the Interior to operate any existing water development projects which lie within national parks or monuments.

Fourth, require any major maintenance, repair, or reconstruction of water projects lying within national parks or monuments to be subject to regulations developed by the Secretary of the Interior.

Mr. Speaker, regulation of water projects in national parks is long overdue—not just in my backyard—not just in Yosemite National Park. For example, I understand there was recently a proposal to retrofit a water development project in the Grand Teton National Park in Wyoming and add transmission lines and conduits. In Olympic National Park in Washington, the National Park Service's objection to the relicensing of existing hydroelectric facilities in the park has been questioned by the Federal Energy Regulatory Commission.

Regulation of water facilities and hydroelectric projects in national parks is the job of the Department of the Interior, but it is the job of Congress to give it strong legislative tools. In the past legislation authorizing specific projects within national parks has given carte blanche to water development to the detriment of the values for which our national parks were created. According to the Congressional Research Service, 18 national parks contain 108 dams.

My bill does not turn the clock back; it does, however, determine that water development projects in national parks will be unacceptable in the future. National parks represent the very best of our American landscape. Therefore, we must preserve and enhance these irreplaceable natural resources. I urge my colleagues to support this legislation.

A REMINDER OF THE GOVERNMENT'S BOUNTY

HON. TONY COELHO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 30, 1986

Mr. COELHO. Mr. Speaker, reactionaries on the right continue to present government as the No. 1 public villain. You and I know that is not the case.

Fortunately, there are many dedicated public servants who have the courage to stand up and defend government. Lane Kirkland, the great union leader, who has done so much to help improve the quality of life for American working people wrote a very moving article in Sunday's New York Times in which he challenged the enemies of government.

It is very thoughtful and anecdotal, yet a futuristic defense of government's proper role in society.

The article follows:

[From the New York Times, Jan. 26, 1986]

A REMINDER OF THE GOVERNMENT'S BOUNTY

(By Lane Kirkland)

COLUMBIA, S.C.—A state embodies and magnifies the frailties of man and his capacity for good or ill. Unchecked and unopposed, it can be an engine of oppression, sweeping hordes to concentration camps or Gulags. Held within democratic bounds by free citizens, it is an indispensable instrument of progress.

I am reminded of the capacity of government to do good whenever I return to my

native state, South Carolina. I remember a South Carolina that was too poor to paint and too proud to whitewash. Nothing in my experience has contradicted what I absorbed in my youth in South Carolina, and I remember it well.

And the more fiercely the current national debate rages about the appropriate role of the Federal Government and its various programs, the more clearly I remember a South Carolina before there was such a role, when states' rights ruled and enterprise was free to do as it pleased.

I remember when the destitute aged were sheltered not in the bosom of a warm and loving family but in county poorhouses. Then Social Security came and tore those poorhouses down, freeing young and old alike of that specter.

When I note the now-flourishing institutions of higher learning spread across this state, I remember when some fine little colleges were one jump ahead of the sheriff, were hard-pressed to put meals on the students' tables and couldn't meet their payrolls. They were rescued and made solvent by the National Youth Administration, wartime training programs and the G.I. Bill of Rights.

When I see the clear waters of our rivers, I remember when the Broad, the Wateree, the Bush and the Saluda ran brick-red from the erosion of farms and deforested uplands. The Soil Conservation Service and the millions of trees planted by the 30 or so Civilian Conservation Corps camps placed in South Carolina had something to do with the improvement. Free enterprises, such as the paper and forest products industries, shared abundantly in the benefits of those Government initiatives.

I remember when kerosene lit the farms until the Rural Electrification Administration electrified and humanized them, bridging the cultural gap between town and country—and, incidentally, creating new markets for the appliance industry.

When I hear complaints about affirmative action, I remember things that used to happen in this land, the treatment of people by people. While we still have a way to go, does anyone think we would have approached our present level of equity and civility without the intervention of the Federal Government? I have met no South Carolinian who has expressed to me any desire to return to the old days of racial cruelty and exclusion.

When I hear it said that Southern working people have some cultural aversion to the exercise of the right of freedom of association, I cannot help but remember the old days when cotton mills sometimes bristled with National Guard bayonets and machineguns to enforce that alleged aversion. Still today, the question returns to my mind: If Southern workers don't want their own unions, why have states and corporations found it so expedient to collaborate in forging measures to thwart the effective pursuit of that aspiration?

Lest it be thought that these reflections are just another expression of outmoded "liberal" balderdash, let me point out that such stout conservatives as Senators James F. Byrnes, Olin Johnston and Burnet R. Maybank were among the authors of the larger Federal role that helped bring this state into the modern age.

I do not counsel worship at the altar of government for its own sake, for I share fully the wholesome antipathy to government—Federal, state or local—unrestrained by strong free and private institutions, for one of which I speak.

I do suggest that the citizens of a modern Republic should not go too far in support of those who would dismantle or ruin the benign capacity of their Government, for they may need it badly some day. When it happens to you, you'll know it's true.

As for those terms, "liberal" and "conservative," as one who has been afflicted by both labels, depending on the stance of the afflictor and the foreign or domestic nature of the issue, I doubt their utility in this day and age for anyone except slap-dash journalist.

Real meaning has surely been drained from a term when the clammy hand of fashion appears in the form of a hyphen preceded by "neo," as in "neo-conservative" and"neo-liberal." In all areas of human discourse, "neo-hyphen" is a sure sign of something that is not long for this world.

If, as has been said, a modern "liberal" is someone who believes that his country's adversaries are probably right, I strongly reject that label.

And what is the objective meaning of the word "conservative" when its leadership has brought us a $200 billion annual deficit, put forward a measure that will mindlessly gut our defense forces year after year, and now, in the wake of Geneva, escorts clamoring hoards of businessmen east in pursuit of Moscow gold, exposing to that "evil empire" the soft underbelly of freedom, the stateless avarice of capital?

We ought not waste too much time worrying about which category they ought to fit. There may be a few pure liberals and pure conservatives about who march in lockstep, but I don't really know any.

The great rank and file of the American people are liberal about some things and conservative about others, and the shifting distribution of such impulses depends largely upon circumstances and interests.

That is the way it should be, because there really are things one ought to be conservative about and things one ought to be liberal about, and they do change.

For example, it is true, as Santayana said, that those who cannot remember the past are doomed to repeat it.

Yet it is equally true that those who do remember the past may not know when it is over.

UNITED NICARAGUAN OPPOSITION DOCUMENT

HON. BOB STUMP

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 30, 1986

Mr. STUMP. Mr. Speaker, the United Nicaraguan Opposition has issued a document of great importance—the Principles and Objectives for the Provisional Government of National Reconciliation. This historic document displays the democratic future which awaits Nicaragua when the United Nicaraguan Opposition prevails in the struggle for freedom in Nicaragua. I am inserting the document in the CONGRESSIONAL RECORD so that all Members may have the opportunity to review it in light of the upcoming vote to continue full American support for UNO:

UNITED NICARAGUAN OPPOSITION—PRINCIPLES AND OBJECTIVES FOR THE PROVISIONAL GOVERNMENT OF NATIONAL RECONCILIATION

Under the protection of God and interpreting the hopes of the great majority of people in Nicaragua, who with heroic patriotism shook off the yoke of the previous dictatorship and now suffer the repression by force of arms of new tyrants and foreign intervention;

Giving Homage: To the noble sacrifice of the democratic resistance forces which have shed their blood and continue to offer their lives in an unequal war against an army in the service of Soviet imperialism, from which it receives direction, training, weapons and supplies;

To the civic courage and democratic vocation of the political parties, labor and social organizations, ethnic minorities and individuals who have maintained a firm attitude against the abuses of the military tyranny of the Sandinista Front;

Affirming: That the people of Nicaragua have demonstrated their will to free themselves from the totalitarian regime which oppresses them with the support of foreign forces and the so-called internationalists, carrying out a painful defensive war and a war of liberation which have witnessed heroic actions inspired by the highest degree of patriotism on the part of the combatants of the Nicaraguan Democratic Resistance and of broad sectors of the population;

Recognizing: That the courage and sacrifice of different sectors comprising the nation have created, in the face of repression, the conditions for the liberation of Nicaragua, faithful to the historic tradition that has led them to rise up in arms when their freedom and democratic aspirations have been snatched away from them;

Considering: The historic democratic determination of the Nicaraguans, translated in the past struggles against the Somoza dynasty and in the present struggle against the totalitarianism of the Sandinista Front, the firm belief in a juridical order and respect for the constitution of the country and the sacrifices for the full exercise of its precepts;

Committed: To the unrestricted observance of the human rights of all Nicaraguans without exception, the establishment of a State of Law which permits the full development of the individual and the promotion of social justice;

Recognizing: That the tragic situation of Nicarauga, embroiled in chaos as a consequence of the present dictatorship, requires the adoption of special and urgent measures in the political, economic and social arenas which guarantee the quick and orderly transition toward a democratic State, by means of a Provisional Government of a duration strictly limited by the needs of the transition;

Reaffirming: Our commitment to peace and democracy contained in the Pronouncements of San Jose of March 1, 1985, of San Salvador of June 12, 1985, and our support for the calls for National Dialogue demanded by the Democratic Coordinator and the Nicaraguan Bishops Conference;

Taking into account: The civil war of Nicaragua, which threatens the peace of the region and of the American continent, brought about by the failure of the military tyranny of the Sandinista Front to fulfill the resolutions of the XVII Council of Foreign Ministers Meeting of the Organization of American States of June 23, 1979 which, in an action which set a precedent in our continent, explicitly withdrew its recognition of one of the member governments in order to grant it to an insurgent force, which committed itself to establish democ-

racy and respect the human rights of all Nicaraguans without exception;

Convinced: That the solidarity and reconciliation of all Nicaraguans, as well as the support and understanding of the peoples and governments of the free world, will contribute effectively to the creation of the indispensable conditions so that a democratic and pluralistic process is established which guarantees peace, sovereignty and freedom to our people;

Therefore: On behalf of the Directorate of the United Nicaraguan Opposition and with the full support of its Permanent Advisory Committee, we propose to the Nicaraguan people and inform our sister Latin American nations and the democratic governments of the world, while at the same time requesting their support and solidarity, the Principles and Objectives of a Provisional Government of National Reconciliation.

PRINCIPLES AND OBJECTIVES

I. Regarding the political system

1. To democratize Nicaragua, guaranteeing and promoting political pluralism and the participation of all citizens at the local and national level, through the exercise of representative democracy, respecting their ethnic, cultural and religious values;

2. To establish a political system which guarantees the separation and independence of the powers of the government;

3. To establish a rule of law which assures the equality of the citizens before the law; respect for, the full exercise of, and effective development of Human Rights through the independence of the Judicial Power; giving guarantees to national Human Rights organizations, and adhering strictly to international obligations deriving from written agreements;

4. To guarantee the strictest respect for freedoms, especially those of speech, association, worship and unions with respect for agreements numbers 87 and 98 of the International Labor Organization, such as the undeniable right to strike;

5. To recognize the primacy of Civil Society over the State and the achievement of the common good as its principle objective;

6. To create an autonomous electoral system which guarantees representative democracy and respect for the popular will, freely expressed in periodic elections, assuring alternability in office, through the principle of non re-election;

7. To promulgate a Civil Service Law, establishing the administrative career. There will be created the National Comptrollership Commission to guarantee the efficient and honest use of public funds and State resources;

8. To abolish any and all types of capital punishment and to eliminate permanently and unequivocally the special tribunals which have been abusively created by the Sandinista Front;

9. To decree a General Amnesty for political and related common crimes, as an expression of the process of rehabilitation and reconciliation, without exception;

10. To recognize the historic rights of the indigenous peoples of Nicaragua, adopting special administrative and developmental measures in order to accelerate the progress of the Atlantic Coast; fostering the participation of its people in matters affecting the region, preserving their cultural identity and strengthening the nationality and territorial integrity of the Nation;

11. To demilitarize society by subjecting the military to the civil authority, proceeding to dismantle military, para-military and security organizations and the organizations of repressive nature of the Sandinista regime;

12. To create a National Army in the service of the Nation and the defense of its sovereignty, of adequate proportions for those objectives and composed principally of those Freedom Fighters who wish to serve professionally and loyally in democratic institutions, and by other Nicaraguans who also meet the conditions of moral character. No person with a record of human rights violations will be able to become a part of the new National Army.

II. Socioeconomic affairs

1. To recognize the family as the basis of society, making its protection a fundamental objective of the Government of Reconciliation;

2. To give preferential use of state resources to satisfy basic human needs: especially employment, food, health, education and housing;

3. To assure that education responds to the fundamental principles of freedom of instruction and the right of parents to select the best for their children. The preservation and the development of culture and sports will be an important part of the programs of teaching, outreach and information.

4. To carry out an integral agrarian reform, which responds to the natural right of private property, taking into account efficiency in the utilization of resources and the utility of giving land to those who work it;

5. To establish a new social contract, democratically adopted, which recognizes the equitable participation of all sectors of civil society, both in effort as well as in benefits;

6. To provide immediate assistance to the victims of the civil war, providing programs which permit their rehabilitation and economic security;

7. To adopt measuers which facilitate full participation in productive civilian life by combatants who do not join the new army and national police;

8. To promote and facilitate the return of exiles through programs to finance the creation of jobs and the adoption of legal, economic and customs measures and other incentives;

9. To formulate and execute an immediate program of action and the securing of resources for the reordering and reactivation of the national economy and the providing of jobs for the Nicaraguan people;

10. To abolish state centralism and return to the private sector all those productive, commercial and service activities which said sector is able to carry out more efficiently for the common good;

11. The Government of Reconciliation, as guarantor of the common good and social peace, will observe and promote the principles of: social justice, freedom of association, work as a source of well-being and wealth, the indispensable contribution of laborers and peasants to the development of the country, as well as solidarity with the less favored sectors of the population, private property as the expression of a natural right and the sovereignty of Nicaragua over its natural resources;

12. To consolidate and perfect the Central American Common Market and to promote foreign investment as important measures to bring about socio-economic development.

III. Foreign policy

To adopt a foreign policy which protects the peace and strengthens the independence and sovereignty of the Nation, founded on the principles of the inter-American system; supported in the fulfillment of international accords, cooperation and friendly relations, especially with those countries which practice representative democracy, and in the permanent determination to contribute to the economic, social and political integration of the Central America fatherland.

IV. Plan and program

A program of Government will be presented for the consideration of a consultative body in which will be represented the various democratic, political, social and labor organizations which will implement these principles. It will establish the procedures so that, by the eighth month after the installation of the new Government of Reconciliation, it will hold elections for a Constituent Assembly. After eighteen months it will hold general elections with guarantees to assure the free participation of all citizens and the integrity of the elections.

Among the preferred objectives to be considered by the consultative body should be the following: Reorganization of the Judicial Power; Municipal Autonomy; reorganization and integrity of Public Administration; health and social security; education; culture; housing; transportation; infrastructure; sports; policies of incentives for the various productive sectors; the financial system; agrarian reform; commerce; foreign investment; reduction of the foreign debt; fiscal, monetary and credit policies, giving special attention to the development of cooperatives and the balanced action of the State.

We reiterate that the liberation of our fatherland requires the participation of all the democratic sectors of the Nicaraguan people, as well as the solidarity and support of the peoples and governments of the countries of the Americas and the other free peoples of the world.

At the same time, we pledge ourselves to respect the consensus of Nicaragua's democratic spectrum in the selection of those who will implement the initial task of national reconstruction. Furthermore, we pledge ourselves to assure that it shall be the people, by means of an electoral process in full enjoyment of their rights and freedoms, who will elect the Constituent Assembly and, later, the national authorities.

Caracas, Venezuela, Cradle of Liberator Simon Bolivar, the twenty-second day of January of Nineteen Eighty-six.—Arturo Cruz, Alfonso Robelo, Adolfo Calero.

DISCOUNT BROKERAGE—BANKERS BEWARE

HON. FERNAND J. ST GERMAIN

OF RHODE ISLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 30, 1986

Mr. ST GERMAIN. Mr. Speaker, I would like to bring to the attention of my colleagues an article written by Prof. Daniel T. Seymour of the University of Rhode Island. Amidst the cries for further deregulation, and in a period where advantage-seeking loophole specialists are becoming increasingly in vogue, Professor Seymour sounds a cautionary note to those banks seeking to jump, head first, into the discount brokerage field.

The incessant demands for expanded bank powers by bank lobbyists obscure the basic

public policy objectives which led to the adoption of the Glass-Steagall Act of 1933, separating investment banking from commercial banking. Professor Seymour's well-reasoned article raises a number of questions which should be of concern to banks as they seek to maintain the trust and confidence of the public at large.

Discount brokerage is merely the camel's nose under the tent. It already has led to a number of devices wherein. In fact, discount brokerage activities have been combined with investment advice. Making markets and underwriting corporate securities, with the obvious devastating impact on the policy of separating banking from commerce, will inevitably be the next demand.

Professor Seymour raised the issue of risk well when he stated:

The major attributes of commercial banks—stability, confidence, low risk and passivity—do not relate to the stock market. For many investors the money they invest in the stock market is "play money." The basic rule is that the investor must be in a position to lose all of it. Such a rule is in direct conflict with the historical view of what banks are and, in many people's should be.

Many commercial banks have responded to deregulation with a modern-day, financial version of Pickett's Charge. There has not been an appropriate amount of internal assessment, integrated with knowledge of the competition and information on customer needs.

I commend Professor Seymour's article to the attention of my colleagues.

[From the Magazine of Bank Administration, September 1985]

AN ARGUMENT AGAINST DISCOUNT BROKERAGE

(By Daniel T. Seymour)

The discount brokerage bandwagon has been in high gear for more than two years now. Most of the enthusiasm is based on several logical appeals: Capital requirements are negligible; it represents a source of fee income and it strengthens relationships with "upscale" customers. Since 1977, the discount brokerage business has been the fastest growing segment of the brokerage industry and future growth also looks good. A 1983 survey by Market Facts, Inc. estimates that 39% of current customers of nonbank discount brokers and 85% of those brokers' potential customers are "interested" in shifting alliances to banks or thrifts.

In the face of such accolades and acclaims it is difficult to resist the trend, to simply say "I don't think discount brokerage is for us."

THE STRENGTH OF BANKS

Through all of the hoopla it has been difficult to find a discouraging word. Most of the positive, upbeat feeling comes from the general notion that commercial banks are the kingpins of the financial industry. This is an egocentric perspective which relates strength to size.

The fact is that banks do have strengths. But such strengths are not based on asset size or number of depositors or return on assets. Those strengths are fragile and, as was seen during the money market exodus, potentially fleeting. Real strength is more deeply rooted in the values and history of the institutions.

When the issue of new products and services is raised within this context, it should be evident that a business should leverage its strength. Growth or new product development should not be reactive or random. Instead, growth strategies should build on, draw strength from and enlarge some central strength or competence. The question remains as to whether the concept of the financial supermarket and the current rush into discount brokerage is a logical extension of the core strength of commercial banks.

A QUESTIONABLE MIX

If we were to look at individuals' investment portfolios, we would find an imposing number of different vehicles—from real estate, to equities, to municipal bonds, the list is long and varied. Each investment opportunity has its own risk/return characteristics, its own liquidity/return characteristics. The choice of an investment is also directly related to the specific objective which the investor has in mind. People may choose an investment for income, capital appreciation, tax reduction, security or simply cash availability.

A third element to be factored in is the institution. While the investment chosen is related to the objective, the objective, in turn, is related to the institution. Several examples may illustrate. Government and agency issues (e.g., U.S. Treasury bills, notes and bonds) are usually related to a "security" objective. The risk is limited, and cash availability, continuing income and capital appreciation are not key factors. The psychological link between the objective behind government issue purchases and an institution is obvious. Commercial banks signify "a safe place to put your money." They evoke images of bank vaults and conservation. Government issues, security and commercial banks are a natural connection.

Municipal bonds are somewhat different. The most common objective attached to them is related to tax exemption. For people in higher tax brackets, they represent a means to generate income without being taxed by federal, state and local agencies. Such municipal bonds are issued by state and community agencies and are usually held for safekeeping by the institution. Again, municipal bonds are related closely to the image of commercial banks—safe, low-risk investments. They are also a low-involvement investment. Since the rates are fairly stable and the maturity dates set, they require only that banks be efficient in crediting interest to investors' accounts and notifying them of maturity.

Now let us look at the purchase of equities. The stock market is most often linked to a capital appreciation objective. There is greater volatility than the other investments mentioned and, usually, greater risk. It requires attention in a dynamic environment. The major attributes of commercial banks—stability, confidence, low risk and passivity—do not relate to the stock market. For many investors the money they invest in the stock market is "play money." The basic rule is that the investor must be in a position to lose all of it. Such a rule is in direct conflict with the historical view of what banks are and, in many people's eyes, should be.

NOT FOR EVERYONE

A number of commercial banks have decided to be discount brokers in a very physical way. By installing telephones and self-service counters with microcomputers for obtaining securities prices, they have chosen to become associated with the stock market image. For some banks with specific customer bases, in particular retail trade areas, this may be a prudent strategy. But for others, and there are many, the limited number of trades and resulting fee income generated through a discount brokerage service are decidely not worth the trouble.

The discount brokerage appeals are solid. But a short-run focus on such things as fee income may be at the expense of a longer-run, negative association. Perhaps it is better to forego the fees and the opportunity to move toward being a "financial supermarket." Perhaps it is better to maintain a healthy distance from an investment service in which your customer can lose a very large amount of money in a very short time.

Many commercial banks have responded to deregulation with a modern-day, financial version of Pickett's Charge. There has not been an appropriate amount of internal assessment, integrated with knowledge of the competition and information on customer needs. The current environment requires banks to be more competitive, more aggressive. But it also requires them to pick and choose, to assess their own strengths and to avoid being reactive. Simply put, discount brokerage may not be for everyone.

SISTER GOERING—CARING AND DOING SOMETHING ABOUT IT

HON. JIM ROSS LIGHTFOOT

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 30, 1986

Mr. LIGHTFOOT. Mr. Speaker, not long ago I informed my colleagues of how the volunteer "care and share" project has worked in Iowa's Fifth Congressional District to provide a way for caring neighbors to help those less fortunate than themselves by donating food, time, and money to help restock food pantries throughout the district. As I said before, the response was tremendous and exceeded all our hopes and expectations. "Care and share" showed that in hard times people do care and are willing to help, and we can help them help one another by providing the leadership and organization that it takes to implement such a project.

Other efforts to alleviate the problems related to the depressed farm economy continue, and today I would like to call my colleagues attention to one in particular. Sister Jean Goering has coordinated a project funded by the Volunteers in Service to America Program to help victims of the depressed economy by providing food, clothing, and emotional support groups for dislocated farmers. With the help of volunteers, many of whom have been through the trauma of being dislocated from their farms, Sister Goering helps supplement other local programs to address the needs of dislocated farmers who need help. The program was organized only 3 months ago, but has been so successful thus far that the number of counties covered has been increased from 8 to 10 and it is being used as a model for other projects in the State of Iowa.

Mr. Speaker, Sister Goering and everyone involved in helping her have been outstanding in their demonstration of genuine care for their neighbors who are suffering hardships. I'm sure my colleagues join me in extending my sincere thanks to Sister Goering for everything she has done.

HONORING CONGRESSMAN PARREN J. MITCHELL

HON. STENY H. HOYER

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 30, 1986

Mr. HOYER. Mr. Speaker, the Maryland delegation will be losing half of its members after this session. No one will be more sorely missed than our delegation's dean, PARREN J. MITCHELL of Baltimore's Seventh Congressional District.

Next week many citizens from Prince George's County will be gathering at my Fifth Annual Congressional Breakfast in honor of Black History Month. During the course of the breakfast, we will pay tribute to Congressman MITCHELL, who is truly a historic figure in Maryland. He is the first black citizen of our State to be elected to the House of Representatives. Since 1970, when he was first elected by the citizens of his district by a margin of only 38 votes, Congressman MITCHELL has been reelected with overwhelming support.

Perhaps PARREN did not always have a career in politics in mind, but as a member of the Mithcell family, he certainly was destined to be an activist. The Mitchell family is one of the premier political families in Maryland and in the Nation. Members of the family have changed the face of our State, and are responsible for a vast array of State civil rights laws and actions which have brought equal opportunity and justice to black citizens in our State. One of our greatest national civil rights leaders, the late Clarence Mitchell, Jr., who was often referred to as the 101st Senator, was PARREN'S brother.

Upon his graduation from Morgan State in 1950, PARREN MITCHELL sued the University of Maryland to become the first black graduate student at that institution. He earned his graduate degree in sociology in 1952, and returned to Morgan State to teach. His career has always been marked by public service. From 1963–65 he was head of the Maryland Human Rights Commission, and later, in the 1960's, he became head of Baltimore's anti-poverty program. This activism culminated in a first campaign for Congress in 1968, and a successful campaign in 1970. Since that time there has been no stopping him. Today, I would venture to guess that there is no Member more popular among his constituents than is PARREN. He is truly revered by his friends and neighbors.

In his distinguished congressional career, he has made his mark on a wide array of issues. His has been a career of dedication to furthering the rights of all Americans and speaking out to protect and help the less fortunate of our land. Perhaps his greatest impact has been on small business issues. Congressman MITCHELL currently serves as Chair of the House Committee on Small Business. He is the author of three major legislative initiatives over the past decade to encourge the growth of minority owned businesses. The first requires State, county, and local governments receiving Federal grants to set aside a percentage of those grants for contracts for minority firms. In 1978 he was successful in amending the Small Business Act to increase Federal efforts to direct business toward minority owned firms by requiring that Federal contractors set forth plans to reward subcontracts for minority businesses. When Congress adopted major legislation in 1982 to repair our Nation's infrastructure with a massive road rehabilitation program, Congressman MITCHELL authored an amendment to include a 10-percent set-aside for minority business firms. Together, these visionary measures have resulted in billions of dollars of business for minority-owned firms.

In the 95th Congress, he served as chairman of the Congressional Black Caucus, and was one of the most effective and articulate spokesman ever to hold that post.

When Congressman MITCHELL leaves this House, we will lose part of our conscience and a singular voice for justice for the poor and for the disadvantaged. Maryland will lose one of its most effective Congressmen. Thankfully, our State's citizens will not lose the energy and commitment that PARREN MITCHELL has brought to all of us. He has already announced his intention to organize a new project in which members of the community would make regular contributions to fund self-help projects in the black community.

When we gather next week to mark Black History Month and to honor Congressman PARREN MITCHELL, we will recall that he has not only been an outstanding Representative of the people of his own district, but that he has made the people of my own congressional district proud. He has been a true friend to all of us.

ANOTHER VOICE ON OIL IMPORTS

HON. BARBARA B. KENNELLY

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 30, 1986

Mrs. KENNELLY. Mr. Speaker, the Washington Times ran a commentary by Warren Brookes on the economic and foreign policy impact of a crude oil import fee. The article comes at the issue from a different angle, and I am inserting it at this point in the RECORD for the benefit of my colleagues.

BEWARE OF OIL TAX SOOTHSAYERS

Earlier this month President Reagan implicitly promised Mexico's President Miguel de la Madrid to keep the U.S. credit pipeline open to prevent Mexico's economy from totally unraveling.

The most important thing President Reagan could do for both Mexico and the United States is to *veto* any oil-import tax Congress might pass. Any such tax could push Mexico into bankruptcy—and force the United States to construct a 1,400-mile wall on our border from Brownsville, Texas, to San Diego, Calif., to stem the potential refugee tide.

Since Dec. 16, when the OPEC nations effectively signaled the end of their worldwide oil-pricing cartel and announced "every man for himself" in the pursuit of their dwindling share of the world market, Capitol Hill has been abuzz with talk about its being "time for an oil-import tax."

Now when the U.S. economy and consumer are in line for the added stimulus of as much as $20–30 billion in lower crude oil prices from a deregulated oil market, Congress wants to take it away.

Many of the same politicians who helped give OPEC its cartel power, by *holding down* the price of domestic oil and gas, are now eager to "hit OPEC while it's down" with a $5, $10, or $15 levy per barrel, whatever would push the domestic price back *up* to $27.

And, with Gramm-Rudman-Hollings in the offing, politicians are justifying this tax increase with lots of "economic" reasons.

The theory behind this "revenue enhancer" is that a $5-plus drop in crude oil prices would be "bad for the economy" because it would cut into already weak domestic oil exploration and development, and encourage consumers to stop conserving.

By imposing a tax on imported oil to keep it at a market price of about $27, not only would U.S. producers be insulated from falling world prices, but consumers would never miss what they never got and would continue to conserve.

There are many flaws in this logic. But the most obvious is that this tax would fall most heavily not on OPEC (from whom we get less than 9 percent of our oil) but on our friendly neighbors, debtors, and allies—and on American industry, which would be further priced out of world markets, which would enjoy an even greater relative price cut.

Today the United States gets less than 2 percent of its oil from Persian Gulf nations. It gets more than 56 percent of its imports from Mexico, Venezuela, Canada, and the United Kingdom. The first two are heavy debtors and friends—the latter two are among our most valued trading partners and allies.

More important, virtually all of our imported oil comes from countries that are in the weakest position to deal with a real price collapse. Our chief suppliers have little excess production capacity. Almost none of our oil comes from those "swing producers" in OPEC, Saudi Arabia, Kuwait, Libya, Qatar, and the United Arab Emirates, who can easily offset falling prices with rising production out of excess capacity.

This essentially is the message of an insider report by its economist Steve Hanke to the clients of Friedberg Commodity Management. Mr. Hanke says the effort to hold the line on prices by cutting back production means "the swing producers (the ones who have cut production deeply to keep prices up) . . . will increase output as prices decline," contrary to normal market response. This is because it is the only way they can maintain or increase their revenues.

Mr. Hanke told us that an oil-import tax would actually accelerate this process, forcing prices down further and faster, and "when OPEC collapses, world crude production will reach about 65 million barrels a day . . . and prices will range from $5.38 to 16.39 a barrel.

"Producers without excess capacity will be hit hardest by an OPEC collapse." Such producers, including Mexico, would experience not only a drop in prices but a matching drop in total income.

Mr. Hanke says Mexico will begin to "hurt" when oil falls below $25.77, Venezuela at $20.72—but Saudi Arabia can get the same level of revenue as now with oil as low as $14.30.

"This means that a U.S. oil-import tax is likely to push the swing producers much

faster to their breakeven point, with even greater damage to our debtor-nations, especially Mexico.

"More important, this would give our major trading competitors, Japan, Germany, France, a huge oil-cost windfall even as American manufacturers continued to pay high prices—and this would make our trade deficit much worse."

In other words, an oil-import tax would be a bonanza for Japan and Europe, but a trading catastrophe for U.S. industry, and would mean certain collapse for our big debtor-neighbor, Mexico. Yet, exempting Mexico would cut our oil-import tax revenues by nearly 40 percent, and force an even more punishing tax rate.

It's called shooting yourself (and your neighbor) in the foot.

MARTIN LUTHER KING DAY

HON. JIM COURTER

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 30, 1986

Mr. COURTER. Mr. Speaker, with the first observance of the Federal Martin Luther King holiday behind us, many Americans are reflecting on the meaning of this national holiday and the impact of this unique man.

The following editorial from the Asbury Park Press is a fine tribute to Dr. King and the holiday created in his honor. I commend this editorial to the attention of my colleagues. It will help us remember what the Martin Luther King holiday is really all about.

[From the Asbury Park (NJ) Press, Jan. 11, 1986]

A BRAND-NEW HOLIDAY—MARTIN LUTHER KING DAY A TIME FOR RESOLVE

His admirers doubtless feel that it has taken far too long to commemorate the Rev. Dr. Martin Luther King Jr. with an annual federal holiday. But compared with other national holidays, the slain civil rights leader's birthday achieved that status with breathtaking speed. Observances of Thanksgiving Day and Columbus Day, for example, took many years to evolve into national commemorations.

In three months, the 18th anniversary of King's assassination in Memphis will be observed; perhaps that is insufficient time to judge any individual's historical impact on his nation and his times.

In any case, Martin Luther King Jr. would have become 56 years old on Wednesday if he were still living. There can be no doubt that during his brief time in the forefront of the national civil rights movement, he arrested the conscience of the nation. The racial discrimination that existed in both the North and South before he first came to prominence in the late 1950s is unthinkable today. It is surprising to think that it survived until so recently.

Wednesday is not the holiday his supporters sought, however. In its infinite wisdom, Congress in recent years has rescheduled every federal holiday except Thanksgiving Day and Independence Day on a Monday, so that weary workers can enjoy more three-day weekends. So the Rev. Dr. King will be honored henceforth on the third Monday in January.

Let us hope, however, that Americans will not continue to quibble over honoring the Rev. Dr. King the way the U.S. Senate did when it considered the legislation that created the holiday. The debate there was acrimonious in the extreme; Sen. Jesse Helms, R-NC, characterized King's role as "action-oriented Marxism" and decried his opposition to the Vietnam War. But overwhelming majorities eventually voted for the bill in both houses of Congress in 1983, and President Reagan promptly signed it.

We are now on the brink of the first national celebration to honor the life of a black American. The federal commission set up to organize the celebration encountered trouble raising the funds it hoped to obtain, but a wide variety of events has been scheduled. These include the unveiling of a bust of King on Friday in the Capitol rotunda, a parade in his native Atlanta on the afternoon of Jan. 20, and a nationally televised tribute that evening.

The first Martin Luther King holiday is sure to be especially poignant in Virginia, where a black state senator was elected last fall as lieutenant governor. L. Douglas Wilder thus became the first black since Reconstruction to win a major state elective office in the South. It was Wilder who led a nine-year fight to make King's birthday a state holiday.

And, in a bit of irony that seems almost too delicious, Virginia's King holiday also falls each year on Virginia's observance honoring two Confederate Civil War generals, Robert E. Lee and "Stonewall" Jackson.

We probably will not see again a national spokesman for the aspirations of black Americans who achieves the widespread acclaim enjoyed by the Rev. Dr. King. He spoke not to blacks, and not to whites, but to Americans. He warned his oppressed brethren not to descend into hatred and taught white Americans that they could not be truly free within themselves until minorities joined the economic and social mainstreams of American life. He combined the calling of a devout clergyman with the skills of a passionate orator and the courage of a brave man. The struggle he took up has not been won, but great strides were made because of his leadership.

It is not time to end the dissension over honoring him and to unite in resolve to reach the high calling he laid upon all Americans.

J. EDGAR CHENOWETH

HON. PATRICIA SCHROEDER

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 29, 1986

Mrs. SCHROEDER. Mr. Speaker, J. Edgar Chenoweth was born in Trinidad, CO, and there he died, 88 years later. He was a true native son. He grew up in Trindad, went to school there, and practiced law there. He represented Trinidad in Congress, serving two stints for a total of 11 terms, a testimony to his industry, his popularity, and the good sense of his constituents.

He had a hand in bringing to Colorado eight major military installations, including the Air Force Academy, Fort Carson, and the Air Defense Command. If he hadn't retired in 1965, the Pentagon would now be in Trinidad.

There are few Colorado public officials as respected and admired as J. Edgar Chenoweth.

UNITED NICARAGUAN OPPOSITION STRUGGLES FOR A FREE NICARAGUA

HON. HENRY J. HYDE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 30, 1986

Mr. HYDE. Mr. Speaker, the United Nicaraguan Opposition and its democratic resistance forces have struggled bravely to bring freedom and democracy to Nicaragua. As repression of the Nicaraguan people by the Marxist Sandinista regime grows, it becomes ever more imperative that the United States continue and expand its support to UNO. If we are to remain true to the principles which our Nation holds dear, the United States must continue to stand beside those who fight for human dignity and self-determination in Nicaragua. The United Nicaraguan Opposition fights for the same inalienable rights for the Nicaraguan people that our forefathers fought to gain two centuries ago.

On January 22, 1986, the United Nicaraguan Opposition promulgated its "Principles and Objectives for the Provisional Government of National Reconciliation." Among the principles and objectives which UNO seeks to advance are:

To democratize Nicaragua, guaranteeing and promoting political pluralism and the participation of all citizens at the local and national level, through the exercise of representative democracy, respecting their ethnic, cultural and religious values.

To guarantee the strictest respect for freedoms, especially those of speech, association, worship and unions.

To create an autonomous electoral system which guarantees representative democracy and respect for the popular will, freely expressed in periodic elections.

To recognize the family as the basis of society, making its protection a fundamental objective.

To abolish state centralism and return to the private sector all those productive, commercial and service activities which said sector is able to carry out more efficiently for the common good.

The Government of Reconciliation, as guarantor of the common good and social peace, will observe and promote the principles of: social justice, freedom of association, work as a source of well-being and wealth, the indispensable contribution of laborers and peasants to the development of the country, as well as solidarity with the less favored sectors of the population, private property as the expression of a natural right and the sovereignty of Nicaragua over its natural resources.

The United Nicaraguan Opposition thus stands for—and fights bravely to establish—freedom and democracy. The contrast with the Marxist Sandinistas could not be more stark.

As the Congress of the United States specifically found in the International Security and Development Cooperation Act of 1985 (Public Law 99-83; section 722), the Sandinista regime "has flagrantly violated * * * the rights of the Nicaraguan people" and "is not a gov-

ernment freely elected under conditions of freedom of the press, assembly, and organization."

Moreover, the Congress has found that the Sandinista regime has taken significant steps toward establishing a totalitarian Communist dictatorship and has committed atrocities against its citizens. The Congress found that, as a result of these abuses, the Sandinista regime has lost the support of virtually all independent sectors of Nicaraguan society who initially supported the removal of the Somoza regime.

Mr. Speaker, the Congress will soon face, once again, the choice between supporting the forces of freedom and democracy in Nicaragua or supporting consolidation of the repressive Marxist Sandinista regime's hold on the Nicaraguan people. Some of my colleagues would undoubtedly object that failing to support UNO is not the same as supporting the Sandinistas, but, as politically comfortable as that position might be to them, it is a fantasy. Freedom and democracy can survive in Nicaragua only if UNO prevails, and UNO can prevail only if the United States and other nations which stand for freedom and democracy support UNO's struggle. If the United States does nothing, if the United States simply averts its gaze and avoids reality, we will abandon our most precious national values and we will endanger our security interests and those of our allies.

The outcome of the struggle in Nicaragua depends upon the outcome of the struggle in Congress. I urge my colleagues to stand with the forces of freedom and democracy and to vote for continued and expanded support to the democratic resistance forces of the United Nicaraguan Opposition.

TRIBUTE TO THEODORE WELLMAN

HON. BARBARA BOXER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 30, 1986

Mrs. BOXER. Mr. Speaker, I am honored to have this opportunity to offer a tribute in memory of Theodore Wellman, one of the finest and gentlest champions of the environment that it will ever be my privilege to know.

Ted Wellman will be lovingly remembered by thousands of people in my district for his efforts to preserve environmental quality. Even at the age of 83, he was a bastion of strength for others wearied by the endless battles necessary to protect the natural resources which sustain us.

Ted Wellman led the way for many northern Californians in the fight against taming wild rivers or harming the bay or the delta. His expertise and influence in water policy issues were respected statewide.

Ted Wellman was beloved not only for what he accomplished, but also for the way he lived his life. A strong and towering figure, Ted was nonetheless a gentle man who gained the respect of his adversaries as well as his followers. The gift he brought to the causes he advocated was the power of gentle persuasion. He offered persuasion graciously, presenting impeccably researched facts in support of thoughtfully constructed positions. Ted's arguments on any issue were invariably so reasonable they were hard to oppose.

Ted Wellman's long labor of love to make Marin a better place came after service as a lieutenant commander in the U.S. Navy during World War II and a full career as a corporate executive. Following his retirement at age 64, Ted dedicated himself to civic responsibilities, including service as present of the Marin Conservation League, the Marin Community College Board, the Marin Boy Scout Council, and the Kentfield Civic League. He served on the Marin General Hospital Foundation and the county's first Solid Waste Management Committee, the latter a commitment of particular importance to Ted, who deeply believed in conservation and recycling as the key to resource preservation.

Ted Wellman was a championship tennis player in his seventies and eighties, winning 11 national seniors competitions from 1969 to 1982. He became a proficient landscape painter as well. Ted's cherished friends recount with delight his skill at playing the piano and ukelele, where his specialty was singing and playing old college songs.

Ted Wellman had a long and inspiring marriage to another wonderful person, Grace, who was equally gifted with success in all the endeavors she shared with Ted. I am grateful that we have Grace with us to carry on Ted's mission. It will take the rest of us a lifetime to live up to the legacy which Ted Wellman has left us, for the magnitude of his accomplishments cannot be equaled with any less devotion and skill and perseverance than that which characterized Ted's achievements. This will be our real tribute to Ted Wellman.

CHANGING TIMES IN MALTA

HON. EDWARD F. FEIGHAN

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 30, 1986

Mr. FEIGHAN. Mr. Speaker, last July, along with several of my colleagues on the House Foreign Affairs Committee, I had the pleasure of meeting Dr. Eddie Fenech-Adami, the leader of the pro-Western Nationalist Party and a member of Parliament in the Republic of Malta. Thrown into the international spotlight by the tragic hijacking of an Egyptian jetliner late last year, Malta has been experiencing political changes that deserve our attention and concern.

At the last elections in 1981, Dr. Adami's party polled 51 percent of the popular vote. But despite the island's system of proportional representation, and primarily because of some skillful gerrymandering, the ruling Socialist Labour Party obtained an absolute majority of parliamentary seats and retained control of the Government. Under proportional representation, this should not have been possible, and does not bode well for the future of democracy in Malta.

In late 1984, the controversial Socialist Prime Minister Dominic Mintoff resigned. However, it is generally believed that he is directing his hand-picked successor, Karmenu Mifsud-Bonnici. Mr. Bonnici has never contested a parliamentary election—hence his nickname of "Dr. Zero" among many Maltese.

Besides an unqualified subservience to Mintoff, Mifsud-Bonnici apparently has two other qualifications for the succession: He personally authored the electoral district boundary changes in 1981, and in 1984 he led a heavily armed mob of dockworkers into the capital of Valletta, where they ransacked the law courts and the Catholic Archbishop's curia.

Since the ascendancy to power of the Socialist Labour Party in 1971, democracy and respect for human rights in Malta have suffered severely. The Maltese regime has apparently subverted the democratic safeguards of the Maltese constitution. Radio and television broadcasting have become a state monopoly. Judicial independence has been undermined by a law which enables a simple majority in Parliament to suspend to judge from his duties. The supposedly independent Electoral Commission has been reportedly packed with Government appointees. A so-called "Foreign Interference Act" passed in 1982 requires a Government permit for the activities of foreigners on the island, including politicians, journalists and trade union officials. By virtue of this law, two prominent European Christian Democrats were not allowed to address a public rally of the Nationalist Party last September; a third member was expelled from the island.

Political tensions and extreme divisiveness are characteristic of Malta today. In 1984, Freedom House reclassified Malta as only "partly free," and the May 1985 report from the International Helsinki Federation for Human Rights concluded that "there exist serious violations of human rights, in Malta, which need to be remedied."

It is the growing sense both in Malta and the United States that the present Government is allowing itself to become a surrogate of Libya and the Soviet Union. In 1979, British and NATO naval facilities were removed from Malta, and in 1981, the Soviet fleet was given "bunkering" facilities. In 1982, a secret military cooperation treaty was signed with North Korea, and in 1984, a treaty of friendship and cooperation was signed with Libya. These are two of the five "confederation of terrorist states" outlined by President Reagan in his address to the American Bar Association last July.

In January of 1985, Kim Il Sung of North Korea was bestowed the highest honor of the Republic of Malta and the Maltese President, in her turn, flew to Pyongyang where she received the Order of the Flying Juche. In a formal speech, quoted in the Pyongyang Times, she conveyed the appreciation of the Maltese people:

> For the significant aid and assistance that the [North] Korean people, under your able leadership, have given in the past and are still giving our people to this very day.

Officially, this aid and assistance was supposed to consist of fertilizer. But in November 1983, the truth became known when Eddie Fenech-Adami obtained and publicized a secret treaty that had been signed between Malta and North Korea—widely reported to be almost an exact replica of the former treaty

between Grenada and North Korea. Under the treaty, North Korea has given Malta arms that are better suited for internal use than for defense against an outside attack. It has also sent military instructors to train the Maltese security apparatus in riot-quelling and the interrogation of detainees.

In November 1984, the growing ties of the Maltese regime to Libya were crowned by a Treaty of Cooperation which includes a defense protocol that should be of great concern to NATO and the United States. Under the treaty, Libya has undertaken to assist Malta whenever the Government of the Republic of Malta explicitly requests so in case of threats or acts of aggression against Malta's territorial integrity and sovereignty. The two sides also promise to hold consultations aiming at harmonizing their viewpoints on political, economic, security and international issues which affect their interests, and will endeavor to support one another's viewpoints whenever this mutual support is required.

The Maltese regime has already harmonized its views with Libya's on two issues of crucial concern to the United States, namely the Gulf of Sidra and the Middle East. The communique issued when the treaty was signed said that:

The two sides also expressed profound concern at the many provocations by the USA which violate the sovereignty of the Libyan Arab Jamaheriya and its territorial integrity which constitute a threat to international peace and security.

The Maltese side reiterated its support for the Jamaheriya's efforts to resist the various pressures arising from these provocations.

On the Middle East, the joint communique added:

The two sides confirmed their full support and absolute assistance to the armed struggle staged by the Palestinian people to liberate their soil in its entirety and return to their homeland.

These statements further sanction the Malta based activities of the PLO, which has had an active office on the island for several years.

The defense protocol of the Libyan-Maltese treaty has three alarming provisions. The two sides agreed to embark on a continuous exchange of information on matters of special interest to their mutual security and defense purposes. Libya agrees to train Maltese military personnel in Libya or in Malta. And it further agrees to study supplying any military equipment and armaments which Malta may require.

The intentions of the Maltese and Libyan regimes are further revealed by cultural aspects of their relationship, which are truly surprising considering that Malta is overwhelmingly Catholic and has strong British and Italian traditions. As reported in the Wall Street Journal of April 11, 1985:

The largest hotel on the island is owned by and used almost exclusively by Libyans. Arabic is now a required language course in all Maltese schools. There is a new mosque built by the Libyans. Recently, Libyan warships have been regularly putting into the Grand Harbor. Liybans don't need passports to hop across to Malta (just an identification card). Some officials suspect Malta is being used as a jumping off place for Libyan terrorists.

Since 1979, the Maltese Socialist Government has claimed to the international community that it is neutral and nonaligned, a position which the Soviet Union was quick to embrace because it marked a setback for the West. But is Malta really neutral, or is that rhetoric covering a deliberate shift toward the East?

Malta has become part of the almost automatic majority in the United Nations which votes systematically against the West. In the State Department's May 1985 Report to the Congress on Voting Practices in the United Nations it was shown that Malta voted with the United States on only 19 percent of the votes, not far above the average for Communist East European countries, and substantially below the 55-percent average for Western European nations, Is this really nonalignment?

During his visit to Congress, Eddie Fenech-Adami explained that Malta had a serious unemployment problem and expressed his desire for an increase of foreign investment in the island—especially from the United States—which would help generate more jobs for the Maltese and create greater economic and political stability. Although we sympathized with his concerns, we felt compelled to remind him that American investment originated in the private sector, and that the socialist policies of the Maltese Government over the last decade had, if anything, helped to frighten away private investors. In addition, the military alliances of the Maltese Government—with Libya and North Korea especially—would make any rational Western entrepreneur extremely wary of investing new capital on the island. Many American businesses have unpleasant memories of what happened in Grenada under similar circumstances.

Dr. Adami was in an uncomfortable position when he visited with us: As leader of the opposition, he does not agree with the increasingly anti-Western policies of the present regime. On the other hand, he was reluctant to criticize his country's government in an open, foreign forum. He was surprised, however, to see that we were aware of the Maltese situation, including the serious violations of human rights that have been reported in the International Community.

Mr. Speaker, in view of the changing situation in Malta, I believe it is time the United States developed a decisive policy position toward that country. The State Department's attitude of benign neglect toward Malta has seen it turn from a pro-Western, NATO democracy to a so-called nonaligned country that cultivates growing ties with aggressor States. We should be moving away from a policy of passive aloofness and do everything we can to ensure that the democratic values of the Maltese people will not be betrayed. What is at stake is not the survival of the Socialist regime, but the survival of freedom, democracy, and human rights in that strategic Mediterranean island.

I also call upon the Maltese Government to take positive steps to remedy its internal inequities and external policies if it wants assistance or investment from the United States. Rhetoric will not suffice nor substitute for concrete actions. Any consideration of assistance by our country should be preceded by definitive actions by the present Maltese Government to restore full democracy and freedom to its citizens, to correct identified violations of human rights, and to repudiate its military ties to agents of terrorism.

REQUIEM FOR A "CHALLENGER"

HON. MEL LEVINE

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 30, 1986

Mr. LEVINE of California. Mr. Speaker, in an incisive editorial, Representative GEORGE BROWN writes that, in tribute to the *Challenger* astronauts, we must press on with our manned space activities. He suggests that the vision shared by those seven astronauts, their sense of resolve and adventure, should inspire us to continue our search in space.

We shall always remember the sacrifices of the seven men and women who lost their lives aboard the space shuttle *Challenger.* This disaster reminds us of the great risks all astronauts have taken on our behalf. The previous successes of our manned space program have made it easy for us to dismiss the courage and dedication of the American astronaut, who for more than two decades has proudly answered a call to serve the Nation.

In an aftermath of this national tragedy, let us not forget why we venture into space. We do so to enhance our knowledge of this planet and the universe, and to satisfy our desire to discover what no man has seen before. Our manned efforts in space have enabled explorers to observe directly the secrets of the universe and to react to them with scientific deftness and spontaneity.

I urge my colleagues to read Representative BROWN's Los Angeles Times editorial and ask unanimous consent to place it in the CONGRESSIONAL RECORD.

[From The Los Angeles Times, Jan. 29, 1986]

REQUIEM FOR A CHALLENGER—IN TRIBUTE, LET US KEEP MOVING INTO THE LAST FRONTIER

(By George E. Brown, Jr.)

In one instant the explosion of the Challenger united us in grief as we were reminded of the dangers of manned space flight, and at the same time it shook the complacency with which we have viewed recent shuttle flights. Tuesday's accident etches into our memory the sacrifice that seven brave people made in pursuit of a better understanding of the universe.

As the immediate shock wears away we will begin to examine the specifics of the accident and its consequences for our manned space effort. Some of these consequences are already apparent.

The launch facilities will be shutdown for an indefinite period as investigators comb the site for clues to the launch failure. Computerized launch-control programs will be pulled and examined countless times in search of some malfunction. An exhaustive search for every fragment of the spacecraft will be conducted, just as with major aircraft accidents, to aid in the analysis of various potential explanations of the tragedy. Only when the National Aeronautics and Space Administration is completely satisfied that the source of the failure has been

found and corrected can we think of a resumption of the shuttle program.

Even as confidence in the launch program and facilities is being restored, the question of crew safety will be raised. The current orbiters, as we learned Tuesday, do not have the ability to separate the crew compartment from the body of the orbiter. Crew-safety concerns may result in changes in launch procedures or an actual physical redesign of the orbiter, the main shuttle engine, the solid rocket boosters or other components of the system. This will cause further delays in a restart of our shuttle-launch program. Even when restarted, with one orbiter lost, more time will be needed between launches as returning vehicles are inspected and prepared for the next flight.

In the short run these delays will cause a shift to our European "competitors" in the commercial space race. The French and German programs use unmanned launch vehicles, and are free of the concern for astronaut safety inherent in our shuttle program. With our space-transportation system temporarily shutdown or running behind schedule, companies wanting to place satellites in orbit will seek out the European space programs.

As we move beyond these immediate consequences we will see a reexamination of our entire manned space effort as we balance future prospects against Tuesday's loss. Will this examination reveal an essential role for men and women in exploring and using space, the last frontier facing mankind, or will it conclude that we should retreat to an unmanned space program? It is my hope that we will glimpse the vision of the future that led those seven heroic people into the cockpit of the Challenger on Tuesday morning.

The vision should lead us to renew our commitment to manned efforts in space and redouble our efforts to solve every problem that stands in the way of those efforts even in times of fiscal restraint. As with the tragic loss of the Apollo 1 astronauts 19 years ago, we will come out of this with a better program.

The first priority after identifying and correcting the problems of Challenger should be an examination of the replacement of Challenger with a fifth orbiter. We should then push the development of the next generation of space vehicles—the hypersonic spacecraft that is now in the conceptual design phase, which will be able to takeoff and land much like current commercial airliner and ascend directly into space. The plans for a manned space station must be continued on schedule. Research into space manufacturing, such as the development of new drugs and new industrial materials, must be pursued along with other commercial space activities.

The Challenger mission was the latest step in a journey that we started nearly 30 years ago. We must view the exploraton of space with the same excitement and sense of opportunity that moved those seven men and women who perished Tuesday to seek the shuttle assignment. There is no other course open to Americans who would say, in the words of President Reagan on Tuesday, "Give me a challenge and I'll meet it with joy."

TRIBUTE TO THE LATE HONORABLE J. EDGAR CHENOWETH

HON. MORRIS K. UDALL

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 29, 1986

Mr. UDALL. Mr. Speaker, I join with my colleagues in mourning the passing of a friend and former Member of this House, "Judge" Ed Chenoweth, who died in Trinidad, CO, on January 2.

It was my good fortune to serve with Ed when I came here as a freshman in the early 1960's and we both sat as members of the Interior and Insular Affairs Committee.

The Denver Post said that Ed was probably a man without a single real enemy, and that's surely true in these parts. He was a kind and gracious man who was endowed with both compassion and enormous generosity.

Ed was a country lawyer who became a country judge and he had a real knack for making a point with a good bit of wit. His sense of humor didn't fade with age, and he never used it in an unkind way.

My sympathy goes to Ed's wife, Ruth, and to all the members of his family.

I am sorry that Ed Chenoweth is gone. I am glad he was my friend.

ENVIRONMENT, ECONOMY, AND SECURITY: THE EMERGING AGENDA

HON. CLAUDINE SCHNEIDER

OF RHODE ISLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 30, 1986

Mrs. SCHNEIDER. Mr. Speaker, as we embark on a new year I would just like to take a few minutes to look ahead at a compelling agenda that I hope this body will take up this year: That is, to strengthen United States economic and national security interests by helping developing countries, particularly in Africa, overcome impediments to economic development and become more stable and productive members of the international economic community.

These countries can only find the economic growth they are seeking if they protect the natural resource base that is the foundation for healthy agriculture, forestry, and herding economies. There is much we can do to provide information and training to less developed countries to help them achieve resource conserving development rather than resource depleting development. I have joined with a number of my colleagues in the Developing Country Task Force sponsored by the Environmental and Energy Study Institute to put together a congressional action plan for meeting this need, which will be introduced early this year.

I commend to my colleagues an article by Gus Speth, chairman of the task force, which eloquently lays out the new global environmental agenda that we should all be aware of and a part of. These are issues we cannot ignore, as the economic health of this country is increasingly tied to the world economy.

ENVIRONMENT, ECONOMY, SECURITY: THE EMERGING AGENDA

(By James Gustave Speth, President World Resources Institute, Washington, DC)

Today a new environmental agenda is emerging, and it is just now forcing itself on the attention of policymakers and the public at large. Once fully visible, this agenda will scarcely resemble the environmental agenda of a decade ago. Its concerns are both practical and urgent; they address the survival of human, animal, and plant populations over vast sections of our globe.

These emerging concerns encompass the great life-supporting systems of the planet's biosphere—the atmosphere, oceans, climate, soil, and forests. Today's issues are arising from the spread of deserts, the loss of forests, the erosion of soils, the growth of human populations, the exhaustion of ecological communities, the accumulation of wastes, and the alteration of the biogeochemical cycles of the planet. Today's environmental concerns transcend borders, national laws, and local customs. As a result, the politics needed to meet present and future challenges require a new vision and a new diplomacy, new leaders and new policies.

Of course, the old, predominately domestic agenda will not disappear. It is still important, still much in need of attention. The efforts launched in the 1970s to control local pollution; regulate hazardous substances; curb stripmining and clearcutting; and protect our parks, wilderness, wetlands, and wildlife have been only partially successful. Much more needs to be done to achieve the goals set in a score of major federal environmental laws passed in the 1970s. Nor have we made enough progress toward harmonizing, simplifying, and improving the economic efficiency of the environmental regulations.

But we must also make room for the new agenda. There are many compelling reasons for a high level of concern and response: reasons of humanity, of environment, of science. But increasingly we are seeing that how the new agenda is addressed can profoundly affect U.S. economic and security interests. The new agenda will demand attention in the 1980s and 1990s in part because its concerns are inextricably linked to other pressing international goals:

Expanding international trade and markets.

Improving North-South relations.

Promoting sustainable economic development.

Managing the pressures of population increases, and

Ensuring long-term political stability in the Third World.

In a world that is daily more complex and interdependent economically, the economic and security interests of the U.S. must be understood in a broad global context. Economic problems elsewhere in the world—for example, those stemming from food, resource, and population pressures—can affect such U.S. national concerns as economic recovery, hemispheric security, and international political stability. Private and public decision-makers in the U.S. must together attend to these emerging issues.

Starting about fifteen years ago, U.S. leaders in Congress and elsewhere responded vigorously to the environmental concerns prominent then. Today, we face an emerging agenda of environmental, resource, and development issues that, if anything, are

even more important to our basic values and long-term interests than the concerns of the 1970s. Granted that these newer concerns are less "in our own back yard" and thus harder to grapple with politically. Still, the emergence of this new set of critical issues presents U.S. leaders, both in government and in the private sector, with a special opportunity and responsibility.

THE NEW AGENDA

Consensus seems to be emerging, within the international scientific community and among other experts, on exactly what are the priority concerns that deserve wide attention:

1. *Loss of crop and grazing land* due to desertification erosion, conversion of land to non-farm uses, and other factors. The United Nations reports that, globally, farm and grazing land are being reduced to zero productivity at the rate of about 20 million hectares a year. (One hectare equals about 2.5 acres.)

2. *Depletion of the world's tropical forests,* which is leading to loss of forest resources, serious watershed damage (erosion, flooding, and siltation), and other adverse consequences. Deforestations is projected to claim a further 100 million hectares of tropical forests by the end of this century.

3. *Mass extinction of species,* principally from the global loss of wildlife habitat, and the associated loss of genetic resources. One estimate is that more than 1,000 plant and animal species become extinct each year, a rate that is expected to increase.

4. *Rapid population growth,* burgeoning Third World cities and ecological refugees. World population will most likely double by the early decades of the next century, and almost half the inhabitants of developing countries will have in cities—many of unmanageable proportions.

5. *Mismanagement and shortages of fresh water resources.* It now seems possible to many researchers that water will be to the 1990s what energy was to the 1970s.

6. *Overfishing, habitat destruction, and pollution in the marine environment.* Twenty-five of the world's most valuable fisheries are seriously depleted today due to overfishing.

7. *Threats to human health* from the mismanagement of pesticides and hazardous substances and from waterborne pathogens. Waterborne diseases are responsible for about 80 percent of all illness in the world today.

8. *Climate change* due to the increase in "greenhouse gases" in the atmosphere. The steady build-up of carbon dioxide and other gases in the atmosphere, due principally to fossil fuel burning, is predicted to create a "greenhouse effect" of rising temperatures and local climate change—the question increasingly is not "if?" but "how much?"

9. *Acid rain* and, more generally, the effects of a complex mix of air pollutants on fisheries, forests, and crops. The "export" of acid rain, for example, harms not only natural resources but also constructive relationships among neighboring states in political and economic affairs.

10. *Mismanagement of energy fuels and pressures on energy resources,* including shortages of fuelwood, the poor person's oil. Although market forces and government actions have eased pressures, these vital resources are, undeniably, finite in quantity and disparate in locale. Our energy problems may be forgotten, but they have not gone.

These ten problems mainly stem from either excessive poverty and population growth in the developing countries or from the careless and excessive use of certain technologies and resources in the developed countries. The cumulative impact of these threats is far more serious in the poor countries than in the rich. These ten problems are not, by and large, the environmental concerns to which the U.S. and other industrial countries turned priority attention in the early 1970s. They represent a new policy agenda for the United States, one that is more international and global in its scope and implications and is concerned more with management of economically important resources than with traditional pollution control.

COMMON GROUND: A NEW POLITICS

The politics of this new agenda are different from the environmental politics of the past decade. The predominantly domestic environmental causes of the 1970s had little going for them but the people. The environmental movement handed the business community a long string of defeats; it left the scientists anxious in their efforts to keep up. Economists were aghast; ecologists, even lawyers, were lionized. Citizens took on government at all levels, and won. Large majorities of the public were strongly pro-environment—and they still are, as the Reagan Administration learned the hard way.

The politics of the new agenda, on the contrary, must be a search for common ground. Popular support for the new agenda is now weaker than for the old: the issues are more remote, more distant in space and time. Although there are conspicuous exceptions (like acid rain), the new agenda addresses the relationship of environment and development in the Third World, the health of the global commons, and a series of resource and environmental threats that, while serious, are less visible, often slow to develop, or affect the U.S. only indirectly. But, as if to compensate, the new agenda invites strangers and even old antagonists to work together. Economic growth is needed to attack poverty, the worst destroyer of the environment worldwide, so business and labor leaders and environmentalists must make common cause in promoting sustainable growth. Economists and ecologists must cooperate if development strategies are to promote this goal. The development, population, and environmental communities now face the same set of problems. The relevant bureaucracy in national and international agencies—now almost immune from litigation and able to cloak itself in the mysteries of foreign policy and national security—must be wooed on its own terms. Yet, it too will not succeed unless it comes to terms with global-scale resource, environmental and population issues.

THE NEW AGENDA AND THE U.S. ECONOMY AND U.S. FOREIGN POLICY

The emergence of the new agenda has been accompanied by a growing realization that the goals of environmental conservation and economic growth in both developing and industrial countries are more complementary than often depicted.

Beyond economic concerns, there are many ways in which U.S. foreign policy interests are linked to global-scale resource, environmental and population issues.

The history of our country is replete with instances in which "national security" has been interpreted in almost exclusively military terms. Given the linkages among population, resource, economic and political factors, a broader concept of our own long-term security interests is essential for the decades ahead.

Our long-term economic, political, and even military interests depend far more than has been generally acknowledged on the success with which developing country resources can be wisely managed for sustainable development.

MARGERY SANFORD AND ADELE SANDBERG: CHRONICLERS FOR SOVIET JEWRY

HON. WILLIAM LEHMAN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 30, 1986

Mr. LEHMAN of Florida. Mr. Speaker, those of us who have been active in Congress on the issue of Soviet Jewry have in large part relied on accurate and complete information about specific cases of Soviet Jews who have been denied permission to emigrate and who have encountered harsh treatment because of their desire to emigrate. It is due to the efforts of two of my friends and constituents, Margery Sanford and Adele Sandberg of North Miami Beach that congressional offices have received and made use of 12 volumes documenting the case histories of more than 1,100 refuseniks.

When my office became involved in the case of refusenik Ilya Essas back in 1976, it was one of these volumes that provided the information we needed. Now, 10 years later, the Essas family finally received permission to emigrate and arrived in Israel just days ago. I would like to place in the CONGRESSIONAL RECORD an article from the Miami Herald of January 2, 1986, paying tribute to this very important project. The difficult challenge we face in trying to improve emigration prospects for Soviet Jews is made so much easier than it would otherwise be—thanks to Marge and Adele.

The article follows:

THEIR CRY IS, "LET OUR PEOPLE GO"

(By Bea L. Hines)

For more than 10 years now, Margery Sanford and Adele E. Sandberg have collected tidbits of information about thousands of Jewish families still seeking their freedom from the Soviet Union.

"It's like a giant jigsaw puzzle," said Sanford. "A line from a story . . . a paragraph from a letter . . . things we have put together to help tell their story."

The result of their labor is 12 volumes documenting the case histories of more than 1,100 Refuseniks—Jews who have applied to leave Russia but have been refused permission by the Soviet government.

Their latest volume, "Soviet Jews: Hostages All," was published in September.

"Our simple message to the Soviet Union is, 'Let our people go,' " said Sandberg.

Sandberg and Sanford, both married to doctors, live in the same block in North Miami Beach. They both attend Temple Sinai there. They became best friends after they began volunteer work with the South Florida Conference on Soviet Jewry.

They started documenting the cases of Refuseniks after each had traveled to the Soviet Union.

Since the first volume was published in 1976, Sanford and Sandberg said the books have been used throughout the country by

American Jews as references for the Adopt a Family and Twinning programs.

In the Adopt a Family program, American families select a Russian family from the book to correspond with. The Twinning program pairs 13-year-olds celebrating their bar or bat mitzvah in this country with Soviet Jews who are unable to do so because of restrictions on religious activities.

Most importantly, the women say, the books have kept the plight of the Soviet Jews in the spotlight.

"These books are their lifeline," Sanford said. "They want people to know they are alive," she said.

"This is a mass historically important movement. We want the free people of the world to relate to these people who are being held hostage," added Sandberg. "Inside Russia, they are silent. We who are free have to be their voice."

"Hinda Cantor, chairman of the conference on Soviet Jewry, says the books are recognized throughout the world.

"They are important, if for nothing else than moral support," she said.

Last month, in the midst of the Reagan-Gorbachev talks, Ilya Essas, his wife and three children were given permission to leave Russia.

Essas, a prominent mathematician who lost his job when he started giving Hebrew lessons in his Moscow apartment, had tried for 12 years to leave Russia.

Sandberg and her husband, Joel, had fought for Essas for years. They complained when the Essas family was harassed by the KGB and lobbied politicians for help in pressuring the Russians.

The Sandbergs' son, David, was twinned with Essas' son, Iosif, last year in a bar mitzvah ceremony.

There are thousands of other Refuseniks waiting to leave. People like Mikhail and Valya Lerman and their 13-year-old daughter, Julia, who has been ill from birth.

Mikhail Lerman was a mathematician and his wife was a computer programmer. They applied to leave the Soviet Union in 1977 and were refused in August 1978. The Lermans are worried about Julia's condition and are not convinced she is receiving adequate medical treatment.

And like Evgeny and Marina Aizenberg.

Aizenberg, 33, is serving time in prison for "defaming the Soviet State." His crime was teaching Hebrew and celebrating Jewish holidays. Aizenberg's wife, Marina, has a malignant tumor in her breast and faces a mastectomy.

There are other success stories. Mark Markish, his wife and family were allowed to leave the Soviet Union last October. In a letter from Switzerland to Sanford and Sandberg, Markish's father wrote of his thanks:

". . . I am extremely happy to inform you that my son Mark Markish has at last been able to leave the Soviet Union with his wife and children.

"There is no doubt that their emigration would not have been possible without your active support and help. . . ."

While it is encouraging when Refuseniks are allowed to leave the Soviet Union, Sanford and Sandberg said that is the time to work that much harder for the release of those who remain behind the Iron Curtain.

"Since the Reagan-Gorbachev talks the morale of the Refuseniks is very low now," Sanford said. "Their lives are being threatened everyday.

"What we've done is just the tip of the iceberg."

Said Sandberg: "The Russians keep saying all the Jews who wanted to leave have left. Well, our books tell a different story. We believe there are from 2 to 3 million Jews still living in the Soviet Union. That's one out of six Jews in the world today.

"At least 300,000 to 400,000 have already requested visas from the Soviet Union. Their lives are on the line," she said.

What can you do?

"Write to them, keep in touch. Let them know you care," Sandberg said.

Persons who are planning to visit the Soviet Union may contact Sanford and Sandberg at the South Florida Conference on Soviet Jewry at the Greater Miami Jewish Federation for names and addresses of Refuseniks to visit while there.

"We in the free world are their only hope," Sandberg said.

MEDICARE BENEFICIARY PROTECTION ACT OF 1986

HON. EDWARD R. ROYBAL

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 30, 1986

Mr. ROYBAL. Mr. Speaker, yesterday I introduced the Medicare Beneficiary Protection Act of 1986 (H.R. 4065) that continues the current waiver of liability presumption for home health agencies and skilled nursing facilities—a provision the administration is proposing to eliminate.

Today I ask that H.R. 4065 be printed in its entirety in the RECORD along with letters cosigned by the Honorable FORTNEY (PETE) STARK and myself on the waiver of liability issue to Health and Human Services Secretary Otis Bowen and OMB Director James Miller.

The H.R. 4065 follows:

H.R. 4065

A bill to continue the current waiver of liability presumption for home health agencies and skilled nursing facilities under the medicare program in order to protect beneficiary access to home health and extended care services

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Medicare Beneficiary Access protection Act of 1986".

SEC. 2. WAIVER OF LIABILITY PRESUMPTION FOR HOME HEALTH AGENCIES.

The Secretary of Health and Human Services shall, for purposes of determining whether payments to a home health agency should be denied pursuant to section 1862(a)(1)(A) of the Social Security Act, apply a presumption of compliance (2.5 percent) in the same manner as under the regulations in effect as of January 1, 1986. Such presumption shall apply until 12 months after the date on which 10 regional intermediaries have commenced operations to service home health agencies, as required under section 1816(e)(4) of the Social Security Act.

SEC. 3. WAIVER OF LIABILITY PRESUMPTION FOR SKILLED NURSING FACILITIES.

The Secretary of Health and Human Services shall, for purposes of determining whether payments to a skilled nursing facility should be denied pursuant to section 1862(a)(1)(A) of the Social Security Act, apply the same presumption of compliance (5 percent) as in effect under regulations as of January 1, 1986. Such presumption shall apply for the 30-month period beginning with the first month beginning after the date of the enactment of this Act.

SELECT COMMITTEE ON AGING,
Washington, DC, January 17, 1986.

Hon. JAMES C. MILLER III,
Director, Office of Management and Budget, Old Executive Office Building, Washington, DC.

DEAR MR. MILLER: It has come to our attention that final regulations are being drafted by the Health Care Financing Administration regarding the medicare waiver of liability for nursing home and home health providers.

In proposed regulations published February 12, 1985, HCFA would eliminate the criteria for a favorable presumption and determine payment on a case-by-case basis. Under this rule, providers would be liable for payment for claims which were judged to be uncovered after HCFA review.

As a part of the conference agreement on H.R. 3128, the Consolidated Omnibus Budget Reconciliation Act of 1985, (which, as you know, because of time constraints at the end of the session did not receive full consideration) a provision was adopted that would require the Secretary to maintain the 2.5 percent waiver of liability policy for home health agencies from enactment until 12 months after the consolidation of claims for processing for home health agencies.

In addition, the conference agreement contains a provision which would require the Secretary to maintain the five percent favorable presumption waiver of liability for skilled nursing facilities until 30 months after enactment.

The conference committee reached this agreement based on the potential impact of eliminating the favorable presumption would have not only on providers, but beneficiaries' access to such facilities. We believe that conference will be taken up when the new session begins and we have every expectation that the waiver of liability provisions will remain intact.

Therefore, we would request that you consider the clear intent of the conference agreement in drafting final regulations on this issue.

Sincerely,

FORTNEY H. (PETE) STARK,
Chairman, Subcommittee on Health, Committee on Ways and Means.
EDWARD R. ROYBAL,
Chairman, Select Committee on Aging.

COMMITTEE ON WAYS AND MEANS,
Washington, DC, January 17, 1986.

Hon. OTIS BOWEN,
Secretary, Department of Health and Human Services, Washington, DC.

DEAR MR. SECRETARY: It has come to our attention that final regulations are being drafted by the Health Care Financing Administration regarding the medicare waiver of liability for nursing home and home health providers.

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Sincerely,

EDWARD R. ROYBAL,
Chairman, Select Committee on Aging.
FORTNEY H. (PETE) STARK,
Chairman, Subcommittee on Health, Committee on Ways and Means.

WE CANNOT WELCOME SAVIMBI

HON. MAJOR R. OWENS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 30, 1986

Mr. OWENS. Mr. Speaker, it has come to my attention that some Members of Congress and White House staff members will be meeting with Jonas Savimbi, President of the National Union for the Total Independence of Angola [UNITA], to discuss proposals to provide assistance to Mr. Savimbi and his South African backed insurgents seeking to overthrow the Government of Angola. Assistance being discussed includes military and so-called humanitarian aid. Whether the aid being discussed would be supplied overtly or covertly, the practical reality is that it would conclusively ally the United States with South Africa's apartheid regime.

South Africa has a despicable history of attempting to control all of southern Africa. It has raided many of its neighbors directly following a policy which serves to strengthen its own apartheid regime. Supporting UNITA would serve South Africa's policies in that part of the world by assisting their surrogate forces in Angola. This policy is hostile to all of the black people in southern Africa. This policy serves to condone all of South Africa's acts of banditry such as its air raids against Angola from Namibia which it illegally occupies.

It is hard to imagine that we would ever welcome a foreign leader to this country who proudly proclaims that he was a friend of Adolf Hitler. Since the Botha regime in South Africa is the moral equivalent of Hitler's Nazi regime, no decent public official should be extending the hand of welcome to the opportunist, Jonas Savimbi, who proudly proclaims that Prime Minister Botha, the butcher of South Africa, is his friend.

ANGOLA—WHOSE SIDE ARE WE ON?

HON. DUNCAN HUNTER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 30, 1986

Mr. HUNTER. Mr. Speaker, I would like to call the attention of the House to an important and insightful article, "Angola—Whose Side Are We On?" written by Maj. Gen. J. Milnor Roberts, Jr. (AUS-Retired), which appeared in the February 1986 issue of the Retired Officer magazine. General Roberts is a former executive director of the Reserve Officers Association and currently is chairman of the board of the Committee for a Free Afghanistan.

With the current visit of UNITA leader, Dr. Jonah Savimbi, to Washington, I commend it to my colleagues as a thoughtful explanation of the stakes and circumstances present in Angola. As we, in the Congress, debate this Nation's policy toward Angola, it is important that we are well informed. There are many misconceptions about the Marxist regime of the MPLA and the UNITA freedom fighters. I believe this article clarifies some of these misconceptions.

Mr. Speaker, I ask my colleagues to read "Angola—Whose Side Are We On?" as we consider the fate of Angola. It is far too important a topic to ignore.

[From The Retired Officer, February 1986]

ANGOLA—WHOSE SIDE ARE WE ON?

(By Maj. Gen. J. Milnor Roberts, Jr., AUS-Ret.)

Q. Where can you find a country with a communist government, kept in power with the aid of 35,000 Cuban troops, supplied with $2 billion worth of current Soviet weapons in the past 18 months, financed by American oil companies and regarded by our State Department as an example of "constructive engagement"? Those last two words are State Department jargon for turning our backs on freedom fighters struggling to throw off communist domination while "negotiating."

A. Angola is the name of this strategically important country situated on the South Atlantic coast of Africa. It has a population of about eight million and an area nearly twice as large as Texas.

Most Americans haven't the slightest idea of the location of Angola unless they happen to reside in Delaware, Indiana, Kansas, Louisiana or New York, all of which have "Angolas." There is a large swamp in North Carolina bearing that name, also.

Why should they care? Angola is a significant portion of the South African continent which has a veritable treasure house of essential minerals as well as major reserves of gold and diamonds. Furthermore, Angola, Namibia and South Africa border the South Atlantic Ocean and the key sea routes connecting Southwest Asia with Europe and the Americas.

The Soviet Union has maintained intense activity in this region for the past 25 years and has succeeded in establishing a "red belt" across the continent from Angola through Zimbabwe to Mozambique. Communist insurgents (SWAPO—which stands for South West Africa People's Organization) have caused turmoil in Namibia for the past decade. Their final objective is communist domination of Southern Africa.

A colony of Portugal for nearly 500 years, Angola was ripe for independence in the early 1960s when most European colonies in Africa were seeking self-government and release from foreign domination. By 1966, there were three nationalist movements (FNLA—acronym for National Front for the Liberation of Angola; MPLA—Popular Movement for the Liberation of Angola—the ruling party. And UNITA—National Union for the Total Independence of Angola). The latter was led by Dr. Jonas Savimbi, who proved to be the strongest leader of the three movements. Although he received some training in Red China, Savimbi is not a communist and is a strong advocate of free elections and a pluralist democracy for Angola.

However, the MPLA was Marxist oriented from its establishment, and its policies were guided by the Soviet Union when Portugal agreed to independence for Angola at the Alvor Conference in January 1975. By early March 1975, some Cuban troops were training at MPLA bases, and Soviet weapons were being supplied in steadily increasing numbers.

Guerrilla warfare soon broke out with the MPLA forces on one side and the FNLA and Savimbi's UNITA on the other. Although there were South African forces involved in the early fighting near the border of Namibia (then called Southwest Africa), these were withdrawn by February 1976, which left UNITA to carry on the struggle alone in the southeastern section of the country. The FNLA became ineffective in northern Angola, and its leader, Holden Roberto, vanished. Thousands of Cuban troops were arriving by September 1975, and victory for the Marxist MPLA seemed inevitable.

CLARK AMENDMENT

While there had been limited U.S. assistance to UNITA and the FNLA during this turbulent period, all such support ended when Congress passed the Clark Amendment (named for then Sen. Richard C. Clark of Iowa) in January 1976. This law prohibited all direct and indirect military or paramilitary assistance to any group in Angola. The rationale for this action, which amounted to delivering Angola to the communists on a "silver platter," was the alleged threat of "another Vietnam."

But all was not lost. As the Soviets have discovered in Afghanistan, courageous people—given strong leadership—will fight for indefinite periods for their homes and their freedoms. During the past nine years, UNITA forces under the leadership of Savimbi, have gained control of more than one-third of Angola and are operating a government which is concerned with all aspects of civic and educational affairs. Thus, UNITA is no longer just another guerrilla operation. It has a regular army of 25,000 men and militia forces totaling 30,000 additional personnel.

POLITICAL-MILITARY SITUATION

Jeremias K. Chitunda, UNITA Secretary of Foreign Affairs, puts the political and military situation in perspective through the series of questions and answers which follow:

Q. Were the Cubans invited by the Angolan government to help repel the South African invasion?

A. Absolutely not. It is totally inaccurate for anyone to assert that "the Cubans came to Angola at the request of the Angolan government to repel a South African invasion," as the MPLA and its friends allege *ex post facto*. The indisputable chronology of

events shows that the South Africans intervened precisely in response to the Cuban moves. And the only government in place in Angola at the time of the Cuban arrival was the interim government composed by the three Angolan parties and Portugal. The Cubans were invited by an Angolan *faction;* they came to torpedo the Alvor Agreement and to install the Soviet protege (MPLA) in power.

Q. Is the present MPLA regime a legitimate government?

A. No. The regime was installed in power by the Cuban expeditionary force and Soviet guns; it is maintained in power by foreign armies. Legitimacy to a government can be conferred only by the people through a plebiscite or free elections. The Angolan people have never been allowed to exercise this inalienable right to self-determination; they have never been consulted, they have never been allowed to vote. The present MPLA government is illegitimate.

Q. Does OAU (Organization of African Unity) recognition confer legitimacy to the MPLA regime?

A. No. Idi Amin Dada of Uganda came to power by force, by overthrowing a duly elected government. And yet, when Idi Amin was at the peak of his atrocities (endless massacres against the Ugandan people), amidst worldwide dismay and condemnations, he was also the chairman of the OAU! How legitimate was Idi Amin's rule of terror to the eyes of this pan-African organization? Since there are so many atrocious, corrupt and illegitimate regimes in Africa (as elsewhere among Third World countries), it is normal to expect the OAU member governments to protect each other by never criticizing a member country for its internal situation. Were the OAU to act effectively to promote peace, justice and legitimacy in Angola, it would set precedent to the downfall of many regimes.

Q. How did the OAU react to foreign intervention in Angola?

A. The ad hoc extraordinary summit conference by the African heads of state on Jan. 21, 1976, in Addis Ababa (Ethiopia) had recommended the immediate and total withdrawal of all foreign forces from Angola—the Cubans and the South Africans alike. The South Africans withdrew by February 1976, but the Cubans remained and increased their number from 12,000 (in early 1976) to 45,000 (by late 1985).

Q. What are UNITA goals?

A. UNITA seeks (a) the withdrawal of all foreign forces from the country; (b) the formation of a government of national unity; (c) national reconciliation; (d) holding of free elections; and (e) the creation of durable democratic institutions for socio-economic progress and well-being. UNITA wishes to achieve these goals by peaceful means alone. But for the time being, armed resistance has been imposed on it by the refusal of the other side to negotiate.

Q. How successful is UNITA's armed resistance to the Soviet-Cuban occupation?

A. UNITA controls today more than one-third of Angola. Schools, clinics, repair shops, agriculture, trade, road and bridge construction are some of the main social and economic activities that are normally carried out in the UNITA-controlled area to ensure self-sufficiency in food, social services and manpower. UNITA enjoys vast popular support not only in the areas under its control but also in the enemy-controlled portion of the country.

Most of the fighting in Angola actually takes place in the Soviet-Cuban-MPLA controlled part of the country where UNITA has extended its military programs. UNITA has a 50,000-strong army of regular and semi-regular troops with both conventional and guerrilla warfare training.

The remarkable improvement in the fighting capability and overwhelming popular support have now enabled UNITA to achieve overall strategic superiority, notwithstanding the other side's vast arsenal of highly sophisticated weapons, tanks and aircraft. UNITA has popular support, which cuts across all Angola's ethnic groups, in the countryside as well as in urban areas.

Q. Is UNITA an Ovimbundu-based movement?

A. While enjoying the overwhelming support of the Ovimbundu (who make up 43 percent of the Angolan population), UNITA is totally multi-ethnic in its origin, leadership composition and actual presence throughout the country.

UNITA was founded on Mar. 13, 1966, in the village of Mwangai in the central eastern province of Moxico predominated by the Luena and Chjokwe ethnic groups. The founding members included Ovimbundu, Chokwe, Luena, Cabinda, Cuanhama, Bakongo and Kimbundu, integrating Angola's main ethnic groups.

UNITA's penetration and consolidation of its guerrilla bases today in the North (Bakongo and Kimbundu), Centre (Ovimbundu and Kimbundu), South (Ovimbundu, Cuanhama, Ganguela and Humbe), East (Chokew and Luene) and Northeast (Chokwe and Lunda) were made possible only with its multi-ethnic base of support and appeal.

Q. Where does UNITA get its support?

A. From several friendly countries in Africa, Asia, Europe and the Middle East. However, 65 percent of UNITA's weapons are those captured in combat; others are received and/or purchased from outside.

The main source of the movement's strength is the practice of scrupulous self-reliance. Thus, there are no foreign advisors and no foreign camps for training for UNITA. While deeming foreign support indispensable, UNITA is not dependent on such assistance.

UNITA's ties with South Africa are strictly within the context of South Africa's economic dominance in the region where all the countries find it literally impossible not to cooperate with Pretoria, notwithstanding all Africans' sincere commitment to fight apartheid.

CURRENT U.S. POLICY

Despite the obvious progress of UNITA, U.S. policy continues to favor the Marxist puppet government in Angola. About 90 percent of that government's revenue is obtained from the sale of oil to several Western firms, most notably Gulf Oil Corporation, which is now owned by Chevron. This trade amounted to more than $1 billion in 1984. At least $500 million of that amount was paid by Angola to Castro's Cuban government in consideration for the services of Cuban troops. There are also several thousand other Soviet bloc troops in the country.

A consortium of U.S. banks, including the Export-Import Bank, announced in September 1985 a loan of $500 million to Angola for the further development of its oil reserves.

Confronted with the paradox of a U.S. policy, which sustains our opponents and penalizes our friends, Congress repealed the Clark Amendment in July 1985, thus removing the legal barrier to assisting Savimbi's "freedom fighter."

In October, Congressmen Claude Pepper of Florida, with co-sponsor Rep. Jack Kemp of New York, introduced a bill which would authorize $27 million in humanitarian assistance of Angola. To the amazement of many, including House Minority Leader Bob Michel (R-Ill.), the Pepper-Kemp bill was opposed by Secretary of State George Shultz on the ground that it would disturb "negotiations" which have been on-going for a long time!

Meanwhile, the Soviets have supplied the following hardware items to the MPLA in 1984 and much more of the same in 1985 (its value is estimated in excess of $1 billion): 25 armored cars; 34 57mm anti-aircraft guns; 100 other AA guns; 96 T-34 tanks; 34 T-54 tanks; 3 T-62 tanks; 46 personnel carriers (BTR-60); 140 cargo trucks; 30 MiG-21s (*Fishbed*); 7 MI-8 helicopter crates; 2 MI-24 rotary wing crates; 12 MiG-21 fuselage crates; 5 SU-22 (*Fitter*) fuselage crates; 5 SU-22 (*Fitter*) wing crates; 2 MiG-23 (*Flogger*) fuselage crates; and 6 MiG-23 (*Flogger*) wing crates.

At the end of 1985, there was growing bipartisan sentiment in Congress to take the following steps with regard to Angola:

Give the Angola "freedom fighters" the same amount of humanitarian aid as authorized for the "Contras" who are battling the Marxist government in Nicaragua ($27 million/Pepper-Kemp bill).

Provide the Angola "freedom fighters" $27 million in military aid, especially anti-tank weaponry (Siljander bill).

Cut off U.S. investments in Angola along with loans and credits until all foreign troops are withdrawn (McCollum bill).

In his Oct. 24 address to the United Nations, President Reagan demanded the withdrawal of Soviet bloc troops and/or support from Angola, Afghanistan, Nicaragua, Cambodia and Ethiopia. With this evidence of White House support and obvious interest by a majority in Congress, which repealed the Clark Amendment, there should be no question as to "whose side we are on in Angola."

THE VERSATILE AND DISTINGUISHED CAREER OF BRADFORD F. MORSE

HON. DANTE B. FASCELL

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 30, 1986

Mr. FASCELL. Mr. Speaker, the Honorable Bradford F. Morse, a very distinguished American and a former member of the Committee on Foreign Affairs, has announced that he will retire this spring after serving for 15 years as Administrator of the United Nations Development Program [UNDP].

Both as Under Secretary General of the United Nations and subsequently as UNDP Administrator, Brad Morse has been the highest ranking American employee of the United Nations. As UNDP chief, Brad performed magnificently—rescuing the agency from near bankruptcy at the time of his appointment in 1974. Because of his success in that area, he was asked in 1985 by U.N. Secretary General Perez de Cuellar to head up the first U.N. office to coordinate global famine relief to Africa, where he also did an outstanding job.

Brad Morse has had an interesting and varied career—as a law professor at Boston University, as head of the Veterans' Administration under President Eisenhower, as counsel to the Senate Armed Services Committee, and as a Member of Congress. A man of bluff good humor, enormous energy, and perpetual optimism—he was not only highly popular among Members of this body—but also the perfect choice for the world body which clearly needs employees of Brad's caliber. He will be sorely missed, but I wish him well in his richly deserved retirement—which I know will be an active one, indeed.

Mr. Speaker, the Christian Science Monitor recently carried an article summarizing the highlights of Brad Morse's remarkable public career, and I ask unanimous consent to insert the full text in the RECORD at this point.

The article follows:

[From the Christian Science Monitor, Dec. 5, 1985]

BRADFORD MORSE: A CAREER IN PUBLIC SERVICE, CAPPED BY GUIDING A UN AGENCY

(By David K. Willis)

UNITED NATIONS, N.Y.—A big, bluff man strides into a conference room 21 floors above Manhattan. A team of secretaries glides in and out of a large conference room as he begins to reminisce to a visitor. Telephones ring. The sun sparkles on the East River below.

This could be the chief executive of a large corporation. But few chief executives can look back on a half-dozen different careers in which:

He is widely credited with helping to save countless lives by setting up the first United Nations office to coordinate global famine relief to Africa.

He served for 15 years as the highest ranking American at the United Nations. A firm defender of the UN dream, he plunged into such diplomatic hornets' nests as Idi Amin's expulsion of Asians from Uganda, and organizing development projects ranging from the construction of thousands of paved roads in Africa's starving Sahel region to studying the migration patterns of red locusts in Africa which destroy maize (corn) crops.

He rescued the UN's largest single agency (the UN Development Program, whose present budget is about $1 billion a year) from near-bankruptcy when he took it over in 1974. He sold the official limousine he inherited, dismissed the chauffeur, and toured the world in tourist-class air seats to drum up cash.

He studied law in Boston, advised senators in Washington, virtually ran the third-largest department in the government of the Eisenhower administration (the Veterans Administration), and won six successive terms in the House of Representatives as a Republican from a previously Democratic area centered around Lowell, Mass.

Bradford F. Morse recalls all of this and more over coffee, breaking off now and then to take urgent calls. Nostalgia hangs in the air: Mr. Morse has just announced that he is retiring from the UN at some point after May next year.

He has a two-year-old daughter from a second marriage and has told friends he would like to spend more time with her. But he intends to stay active in the Inter-Action Council (a private group of about 30 former heads of state including Helmut Schmidt, Takeo Fukuda, James Callaghan, and Pierre Trudeau of which Morse is secretary-general) and the Salzburg Seminar (a private, 40-year-old non-profit group whose officials report contributions from the Austrian government, the United States Information Agency, the Ford, Rockefeller, and other foundations, and more.)

The seminar gathers leaders from West, East, and the third world at ten seminars a year in Schloss Leopoldkron near Salzburg, Austria. Morse has just been appointed the organization's president.

Yet what Morse really wanted to talk about the other morning was global development. The two words sound formidably dull, but in fact they mean trying to enable as many people as possible to lift the quality of their lives through higher incomes, more opportunity, greater freedom.

Morse has tried to do this first in the US and then as a world-traveling UN official. He is much like in the UN system, by people who pay tribute to his human warmth while wondering how he finds time to focus on many different organizations and issues every day.

"Yes, he's taking two different jobs in his 'retirement'," says one longtime associate, "but for Brad, two jobs at a time is just rountine. . . ."

Says another senior UN official: "Here is a kind, decent human being who has always worked hard to help other people."

Comments M. Peter McPherson, head of the US foreign aid agency in Washington: "Brad brought political skills to his job as the first UN coordinator of African famine relief. Those skills were needed to get things done, enabling his staff to concentrate on the daily details. On Africa he has done a fine job."

For years now, Morse has been preaching the UN's role as the supporter and coordinator of what he calls "invisible" development.

"The UN Development Program [UNDP] doesn't have anything that appeals to the heartstrings, like refugees, or children, or disaster victims," he said. "We work instead in a number of different fields: agriculture, food, forestry, fisheries, health care, atomic science, medical research, education, civil aviation, meteorolgy, transport. . . .

"We coordinate. We facilitate. We don't build buildings or dams that you can touch, feel, and see. We provide technical cooperation. . . ."

UNDP, he argues, helps countries develop their "human capacities"—"we help create and release human energy."

Why, he asks, is Japan a great country despite having few natural resources? What makes Switzerland respected? Morse's answer: the abilities of their people.

Only about 10 percent to 20 percent of a country's growth is the combination of labor and capital, he says. The rest is human energy and productivity.

Morse was asked by UN Secretary-General Javier Pérez de Cuéllar to launch the UN Office for Emergency Operations in Africa in early 1985. Critics said it was too late, too powerless, too bureaucratic.

A year later, Morse and his Canadian deputy Maurice Strong receive plaudits from governments and private agencies for providing a central focus to scattered UN efforts, and for coordinating efforts in the field by a number of agencies including the World Food Program and the Food and Agriculture Organization, both based in Rome.

Morse said he had always wanted to work with public affairs.

After teaching law at Boston University from 1949-53, he served as a Lowell, Mass., city councilor and then moved to Washington as counsel to the Senate Armed Services Committee, working on ammunition shortages and Pentagon oversight.

He served on the staff of Sen. Leverett Saltonstall (R) of Massachusetts until 1958 when he become No. 2 man in the Veterans Administration.

In September 1960 the Fifth District Congressional seat in Massachusetts fell vacant when the incumbent passed on 10 days before the Republican primary. Morse jumped in as a write-in candidate and won. Given little chance to defeat his rival Democrat in November with Democrat John F. Kennedy running for president, Morse won by virtually ignoring television, using radio extensively, and concentrating on reaching people in constant touch with the wider public: store owners, barbers, and more.

He kept on winning the seat throughout the 1960s, setting up the Wednesday Group of moderate GOP House members, heading a group of members supporting peace through law and serving on the Foreign Affairs Committee.

In 1972 the Nixon White House asked him if he would replace the late Ralph Bunche as UN undersecretary-general.

On Oct. 3, 1973, Morse hit the headlines by physically separating two General Assembly delegates (from Chile and Saudi Arabia) on the assembly podium as the two men shouted insults at each other.

Since 1974 he has repaired the financial fortunes of UNDP. This year member states pledged $736 million, $36 million above target. A number of other smaller agencies under his command spend another $300 million.

Is he optimistic as he prepares to leave the UN?

"Well," he says, "we haven't had a third world war. The UN has its weaknesses, of course, but it has achieved more than people give it credit for."

Avoiding political issues, he cited the UN's social and humanitarian ones: helping push up life expectancy, cut infant mortality rates, boost literacy, and working to steamline international air travel, mail, radio broadcasts and more.

PERSONAL EXPLANATION

HON. GEORGE W. GEKAS

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 30, 1986

Mr. GEKAS. Mr. Speaker, due to illness I was unable to come to the floor and vote on three measures preceding the final vote on H.R. 4055.

Mr. Speaker, I would like this statement to appear immediately after the vote on rollcall No. 12.

FEDERAL DISTRICT OF CONNECTICUT JUDGE BILL

HON. STEWART B. McKINNEY

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 30, 1986

Mr. McKINNEY. Mr. Speaker, today I am introducing with the entire Connecticut House delegation a bill to authorize an additional Federal district court judge for the district of

Connecticut. Similar legislation is being introduced today in the other body by my good friend and colleague, Senator LOWELL P. WEICKER, JR.

The U.S. district courts essentially are the trial courts for cases under general Federal jurisdiction. Each State has at least one district court, while some of the larger States have as many as four. Currently, there are 92 district courts, plus one each in the District of Columbia and the Commonwealth of Puerto Rico. Each court has from 1 to 27 judgeships. In total, there are 541 permanent district judgeships in the 50 States.

In Connecticut there is one Federal district court with six permanent judges. Enactment of Public Law 98-353, the Bankruptcy Amendments and Federal Judgeship Act of 1984, created the sixth Connecticut judgeship. Yet while this recent addition to the district court undoubtedly will improve the situation in Connecticut, the case load burden of the court remains unwieldy.

The Subcommittee on Judicial Statistics, comprised of Federal judges, in its most recent national judgeship survey determined that 400 weighted filings per judge per year is the level at which a court deserves consideration for additional judgeships. A weighted filing simply is a mathematical adjustment of case filings which gives heavier count to cases known to be of a more difficult and time consuming nature. The district of Connecticut over the last 6 years has averaged 537 weighted filings per judge. In 1984 the end-of-year figure was 633; and while the 1985 total showed improvement—512—it still is well above both the national average of 453 and the acceptable level of 400 filings.

In addition, within its Federal circuit, comprised of six districts and encompassing Connecticut, New York, and Vermont, our State has had the most weighted case filings per judge in each of the last 6 years, except in 1983 when New York's northern district totaled 572 to Connecticut's 569. Given these compelling statistics, I believe that the need for an additional district court judge in Connecticut is evident.

It is important for my colleagues in the House to understand that my intention in introducing this measure is not to diminish in any way the needs of those district courts in analogous circumstances. In fact, I encourage representatives from these districts to undertake similar initiatives. However, the situation in Connecticut is critical, and I believe it is essential to recognize that fact.

A question also may be raised over the cost of this legislation, especially now in light of the Gramm-Rudman-Hollings spending cuts which lie ahead. According to the Administrative Office of the U.S. Courts, each additional Federal district judgeship costs $542,000 during the first year and $406,000 for each additional year. For Connecticut, these modest costs will translate into large benefits.

An investment in our Nation's judicial system is an investment in our society. The costs attributed to providing an additional judgeship for the district of Connecticut would be minuscule compared to the increased ability of that court to meet its responsibilities to society.

Therefore, I thank my colleagues n the Connecticut delegation for joining with me today in introducing this measure. And I am sure that I speak for all of them when I urge the House Committee on the Judiciary to expedite proceedings on this legislation.

BIG CYPRESS NATIONAL PRESERVE ADDITION

HON. TOM LEWIS

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 30, 1986

Mr. LEWIS of Florida. Mr. Speaker, today I am introducing the Big Cypress National Preserve Addition. This legislation offers a unique opportunity to acquire a major land area in Collier County, FL, for an important addition to the Big Cypress National Preserve.

With the conversion of Alligator Alley—State Road 84—to Interstate 75, access to private property north and south of the alley in the Big Cypress Swamp will be served, and damages paid to affected property owners. Under this innovative legislation, Federal and State transportation severance damage moneys would be utilized to pay a portion of the cost of acquiring approximately 128,000 acres of privately owned land located immediately north of the Big Cypress National Preserve. Of the remaining balance, 80 percent would be paid by the U.S. Department of Interior and 20 percent by the State of Florida.

By enabling the acquisition of this land to take place in conjunction with the Alligator Alley and I-75 conversion, fee title to the land could be obtained by paying landowners the difference between the severance damages and the actual value of the land. This would result in the public acquiring this land for far less than what it would otherwise cost.

An exciting, cost-saving feature of this proposal is the possibility of compensating private property owners through land exchanges with the Department of Interior. Utilization of existing Department of Interior lands will become increasingly necessary in this era of fiscal belt-tightening, and "land swaps" would allow this land to be obtained without large Federal expenditures.

Although this bill is an important piece of environmental legislation, it is also vital to recognize that it is much more. For as surely as wildlife in the Glades are linked to the wetlands for survival, so are the growing urban populations of southern Florida dependent upon these same wetland areas as recharge sources for their drinking water. In my view, this legislation is needed to help insure that south Florida's water supply will have a chance to keep pace with its population increases.

Securing passage of this bill will prove to be a difficult task; however, because of the significant public benefit associated with the acquisition program, it is a task which must be vigorously pursued. Therefore, I urge the support and participation of my House colleagues as together we labor in this important undertaking.

DEWEY KNIGHT: OUTSTANDING PERFORMANCE IS A DAILY ROUTINE

HON. WILLIAM LEHMAN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 30, 1986

Mr. LEHMAN of Florida. Mr. Speaker, Dewey Knight has been a great natural resource in Metro-Dade County government for almost 30 years—16 of those years as an assistant county manager. He knows Dade County, its people, its problems and its government. he brings people together and makes things happen and is a political treasure whose sound judgement, knowledge and commitment are an almost indispensable part of Metro-Dade government.

By choice, Dewey Knight doesn't often make headlines. He is truly powerful because he does not seek power, and he enjoys great confidence because he only cares about results, and not who gets the credit. We are fortunate to have such a fine public servant working for our community.

The publisher of the Miami Herald recently wrote an article about Dewey Knight, and I would like to share it with my colleagues:

The article follows:

A CARING SPIRIT WATCHES OVER DADE

(By Dick Capen)

"A great champion of the downtrodden."
"A brilliant administrator."
"A model public servant."

When it comes to public-service role models, Dewey Knight is one of South Florida's best. Many consider this 27-year veteran of Dade County government to be a key conscience of our community. As an assistant county manager since 1970, he has been a highly valued deputy to three Dade County managers—Porter Homer, Ray Goode, and Merrett Stierheim. Now he is breaking in his fourth boss, Sergio Pereira, who succeeded Stierheim earlier this month.

"Dewey is a great champion of the downtrodden, with compassion for the refugees and a particular sensitivity to the problems of the black community here," says Stierheim, who relied on Knight as his principal deputy for almost 10 years. Former Manager Porter Homer, who hired Knight in 1959, says that "Dewey was a person I spotted early on as one with a lot of talent and a willingness to work hard." Ray Goode, who worked with Knight for six years before giving up his county post in 1976 to become president of the Babcock Co., describes him as "Mr. Dependable, with a penetrating social consciousness. Dewey's bottom line was always to serve the citizens of Dade County."

Known for hard work and fairness, Knight credits Porter Homer for opening equal-opportunity doors for him. "Porter was key in bringing blacks and Latins into significant policy and administrative positions," Knight says.

He looks up to the three former managers as his mentors. "Porter taught me tenacity. Ray was one of the fairest men I have ever known, and Merrett made me realize you need to constantly have a fire boiling in your stomach." All three mentors clearly played key roles in Knight's phenomenal career achievements, culminating in his se-

lection in 1984 for the Outstanding Leadership Award from the Conference of Black Administrators.

Given the hazardous nature of public service in this part of the world, Porter probably gave Knight his best advice: "In this job you'll have millions of opportunities to keep your mouth shut. Take advantage of every one of them."

Despite success and celebrity, Knight never has lost his sense of humility. The Knights, who have two sons, live in Edison Center area of Liberty City. "He could have moved to another area," says his wife, Clara, "but he chose to stay in the ghetto. The people in our neighborhood love him because he's always doing something for them."

Son of a domestic and the only black mailman in Daytona Beach, Knight followed his mother's footsteps as a graduate of Bethune Cookman College. After a tour in the Air Force, he obtained his master's degree in social work from Atlanta University and then moved to Bridgeport, Conn., for his first job.

Knight reluctantly moved to Miami in 1959; his wife was eager to return here, where she was born and reared. At that time Miami was a segregated city with few opportunities for professional blacks. Knight's first job here involved counseling at the Kendall Children's Home. Eight years later he was appointed county welfare director. The rest became history as he turned in one first-class performance after another.

In all his years as a key public servant, Knight's proudest accomplishment came with the 1977 opening of the Caleb Center in Liberty City. The facility offers one-stop service for thousands of local residents: a county court, state services, day-care facilities, a library, private-agency offices, the Black Archives, and a neighborhood auditorium. Today the center's conveniences epitomize the caring spirit of Dewey Knight.

At home, Knight enjoys family time, good food, classical music, and almost any book (he wishes that he could read a thousand words a second). He also enjoys close friends, including his favorite golfing companion, Jesse McCrary, a local attorney and former secretary of state. "Jesse's my continuous supply of spending money," Knight says.

McCrary disagrees: "Hell, he's responsible for looking out for millions of dollars of public money, but he can't even count. I was with him when he shot a hole-in-one, and he put a zero on his scorecard!"

Offering encouragement to young blacks is high on Knight's priority list. "Give your job your best shot," he tells them. "There are outlets for every interest imaginable in this community." One person who clearly is in the Dewey Knight fan club is Broward County Administrator Floyd Johnson, a fast-rising public servant who recently was a finalist in San Diego's nationwide search for a county manager. "Dewey is a person who has nationwide respect as a black administrator."

"Over the years, Knight has remained a consistently reliable, admired pubic servant. Such are hard to find in South Florida. His dedication to this community is well known and deeply admired. "We can do anything here," he says, "but we have a responsibility to give something back in return."

Dewey Knight gives something back to South Florida every day, and we're a better place for it.

NEW USDA GUIDELINES FOR CROP YIELDS UNFAIR TO FARMERS

HON. ARLAN STANGELAND

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 30, 1986

Mr. STANGELAND. Mr. Speaker, I would like to bring to the attention of my colleagues a serious problem that exists for the farmers in their districts who produce wheat and feedgrains.

The problem lies in the way the Department of Agriculture [USDA] is proposing to determine yields for the 1986 and 1987 crops. Briefly, in 1981 only 3 years' data was needed to assign a proven program yield. But beginning in 1982, 5 years' data was required.

Thus, under the newly announced program, you would need proven yields for individual seasons as far back as 1977 and every year thereafter through 1984 to have a full set of five proven program yields for crop years 1981 through 1985.

Also, under the Department's proposed program, an average would be taken of this 5-year period, dropping the high and low yields, and the most recent actual yields entering the equation would be those from the 1984 crop which helped establish the 1985 program yield.

Some farmers relied on the past rules and began proving their yields during the period between 1981 and 1985.

For example, a farmer may have begun proving his yields for 1983, honestly believing that by 1985 he would be able to use his proven yields for his ASCS yield determinations. (It takes at least 3 years of proving yields to be assigned a proven program yield for payment purposes. Two of the required 5 years' worth of data can be the county average yields.)

Under the Department's new guidelines, this farmer would not be allowed to use these proven yields. As the rule now stands, it does not make any difference what his proven yields for individual years were, because he had not been paid on any of them yet. He was merely accumulating data toward his first proven yield program in 1986.

As the calculation now stands, for wheat, the farmers in my area stand to lose at least 10 bushels per acre in their ASCS yield calculations. This is a very serious loss given the difficult times out on the farm.

During the conference on the 1985 farm bill, it was my understanding that the intent of the yield calculation was to protect the producer's right to utilize proven yields, frozen at the current levels. Also, the yields would not increase for 1986 and 1987, but they would not be less than the 1985 program yields.

Presently, I am working to make the Department of Agriculture's yield calculations reflect the fair and actual production of our hard-working farmers. I invite my colleagues to join me in my efforts to correct this calculation before any farmer is treated in a manner that is unjust and unfair.

TRIBUTE ACCORDED KEN BRANCHEAU FOR OVER 40 YEARS OF DEDICATED SERVICE

HON. BOB CARR

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 30, 1986

Mr. CARR. Mr. Speaker, I rise today to honor a longtime resident of my home State, Mr. Kenneth W. Brancheau, of Pontiac, MI.

Ken Brancheau will close a chapter in his life which has spanned more than 40 years. As a cable splicer for Michigan Bell Telephone for almost half a century, Ken has provided an invaluable service to the residents of southeastern Michigan. The occasion of his retirement gives us the opportunity to thank Ken for his many years of dedicated service.

Ken has held many jobs in and around the city of Pontiac. Many will remember him from his work with the Madison Heights Fire Department. Others will remember him from one of the various other jobs he has held in the Pontiac community. But it is his years with the Bell Telephone that most will recall. It takes a special type of person to perform admirably in a job with uncertain hours, often with little gratitude from those he serves. This is why it is a special honor to take this opportunity to thank Ken, on behalf of the residents whom he has served but may never have known him, for the years he spent in their service.

I am sure my colleagues will agree that it is an honor and a privilege to have this opportunity to join with Ken's wife, Janavice, and their 11 children, in adding our congratulations and best wishes as he begins a new chapter in his life.

THREE HIGH SCHOOLS OF SIXTH DISTRICT OF NORTH CAROLINA WON STATE FOOTBALL TITLES

HON. HOWARD COBLE

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 30, 1986

Mr. COBLE. Mr. Speaker, the Sixth District of North Carolina is blessed in many ways. The three counties which make up the Sixth District are rich in history and natural beauty. The citizens who live in Alamance, Davidson, and Guilford Counties are justifiably proud of their counties, and so am I. Now, there is another reason for all of us who live in the Sixth District to be proud.

On December 13, 1985, a school from each county won a North Carolina State high school football title. Schools from Alamance, Davidson, and Guilford Counties won separate titles in three different classifications. How many other congressional districts can boast that three different high schools won statewide football crowns in the same season? The Sixth District surely can.

In the State's 4-A high school football championship, Walter Hines Page High School of Greensboro defeated Fayetteville Sanford 26-20 when Wayne Brame picked up a

blocked field goal attempt with 7 seconds remaining and ran 75 yards for the winning score. It was the third straight statewide title and the 35th consecutive game without a loss for the Pirates. Congratulations are in order to Page High School Principal Robert Clendenin, Pirates' football coach Marion Kirby, the faculty and staff, and students of Page High School for their outstanding victory.

In the 3-A title game, Walter M. Williams High School of Burlington defeated Forest Hills High School in a defensive struggle 7-3. It was the Bulldogs' third State crown in six seasons. In the only touchdown of the game, quarterback Robert Ward connected with Mike Faucette on a 70-yard pass play with ony 8 minutes left in the game. The people of Alamance County can be proud of the winning effort displayed by Principal Clinton Legette, football coach Sam Story, the faculty and staff, and the students of Williams High School. It takes a combined effort to produce a winner, and at Williams, that effort has paid off.

Davidson County is the home of this year's 2-A State high school football champions. Lexington High School used its potent wishbone attack to roll over previously unbeaten Fuquay-Varina 42-12. The Yellow Jackets were led by halfback Ronnie Beverly, who ran for 209 yards and one touchdown, and fullback Joe Littlejohn who scored four touchdowns while piling up 148 yards.

Lexington High School completed an outstanding season by winning the 2-A football title, thanks to the support of Principal Johnny Phillips, coach Gary Whitman, the faculty and staff, and the students of Lexington High.

The Sixth District of North Carolina is known for many reasons throughout the State. It is home of High Point, the furniture capital of the world. It is known as one of the Nation's leading producers of quality textiles and apparel, and boats, as well, one of the Nation's most modern cigarette manufacturing facilites. It is also known for the quality of the hard-working people who live there.

After December 13, 1985, the Sixth District of North Carolina became known for another reason. It is now the place where champions live. Congratulations to Page, Williams, and Lexington High Schools for their football championships. Now, bring on the basketball season.

A LITTLE KNOWN DISEASE

HON. STEWART B. McKINNEY

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 30, 1986

Mr. McKINNEY. Mr. Speaker, I would like to direct attention to a serious, though little known, national illness. I am referring to chronic Epstein-Barr virus infection (CEBV).

Those afflicted with this illness are unable to perform basic daily tasks, such as going to the grocery store. They often are unable to work—even part time. Minimal physical exertion actually worsens the symptoms.

The most distressing aspect of CEBV is that so little is known about it. Many physicians are not familiar with it, thus it is not uncommon for people struck by CEBV to be misdiagnosed.

I am pleased to say that CEBV research has been federally funded through the National Institutes of Health's Institute of Allergies and Infectious Diseases for the past few years. However, a great deal of work still must be accomplished before an effective treatment is formulated.

Fellow Members, I urge your continued support of federally funded research into chronic Epstein-Barr virus infection.

NUCLEAR WASTE

HON. BILL HENDON

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 30, 1986

Mr. HENDON. Mr. Speaker, I am today introducing legislation which many of us in Western North Carolina feel is necessary to carry out the original intent of Congress when it approved the Nuclear Waste Policy Act of 1982.

My bill, the Nuclear Waste Policy Improvement Act of 1986, will effectively provide for regional balance in the national effort to safely and permanently store high-level radioactive nuclear waste.

As you all know, the Department of Energy last week announced its intention to continue studying 12 sites in the eastern part of the country for possible location of a second permanent repository. In addition to its efforts to locate and build a second nuclear waste dump, the Energy Department is developing plans for a monitored retrievable storage [MRS] facility which it feels could process, package, and temporarily store high-level nuclear waste. The Department has picked a preferred site and two alternates in Tennessee for the MRS.

The 1982 Nuclear Waste Policy Act, now codified in title 42 of the United States Code, stresses the critical importance of regional balance in the management of nuclear waste. When the 1982 law was working its way through Congress, the Senate Committees on Energy and Natural Resources and Environment and Public Works prepared a report which clearly stated that "no single State or region of the country will bear the full burden of civilian nuclear waste disposal." As approved by Congress, the 1982 law specifically prohibits location of the MRS facility and a permanent repository in the same State—obviously an effort to spread the burden of nuclear waste disposal around.

My legislation, Mr. Speaker, further clarifies this important protection for public health and safety by prohibiting the Energy Department from building a permanent repository for nuclear waste within 400 miles of an approved MRS facility.

An arbitrary State boundary is not sufficient to implement the important goal of regional balance with regard to management of nuclear waste.

TEL-MED PROGRAM

HON. JOHN G. ROWLAND

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 30, 1986

Mr. ROWLAND of Connecticut. Mr. Speaker, I wish to inform my colleagues about the Tel-Med Program, a public service which provides recorded health information over the phone at no cost to listeners.

Tel-Med was founded in 1972 in San Bernadino, CA, by a group of doctors, nurses, and nutritionists who saw a need to increase public awareness of illness as a first step toward practicing preventative medicine. Since its inception, this program has grown to include 360 branches in virtually every State and many foreign countries. Last year a total of 725 million people benefited from this service world-wide. In Waterbury, CT, the largest city in the Fifth Congressional District, a total of 36,469 residents took advantage of this service last year alone and many more are expected to benefit from the program in the future.

Each Tel-Med is completely autonomous. Sponsors are responsible for administration and selection of the scope and selection of the topics made available to the public. They are also solely responsible for raising the moneys needed to keep the program in operation. As such, it is vitally important that we increase public awareness with the hope that we will also increase public support.

I am presently involved in promoting the Tel-Med Program in my district and would urge my colleagues to join me so that together we can spread the message nationwide. I can think of no better service that we, as Members of Congress, can provide than to promote the health and well-being of our constituency.

BONNIE STRICKLAND, NEW PRESIDENT OF THE AMERICAN PSYCHOLOGICAL ASSOCIATION

HON. SILVIO O. CONTE

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 30, 1986

Mr. CONTE. Mr. Speaker, this week marks the midwinter meeting of the American Psychological Association's council of representatives at which time Bonnie Strickland, Ph.D., will become president-elect of the 76,000 member association.

Dr. Strickland is a clinical psychologist and a professor of psychology at the University of Massachusetts in Amherst, MA. As the 95th president of APA, Dr. Strickland joins a line of distinguished psychologists to undertake this leadership role, extending back to G. Stanley Hall, William James, and John Dewey at the turn of the last century. She will be the seventh woman to hold the office.

A leader in gender and health research, Dr. Strickland has been particularly interested in the interrelationship of health and behavior. According to Dr. Strickland, today's discover-

ies of how behavioral factors influence disease and premature death are as important for us as was the identification of bacterial and viral causes of infectious disease for earlier generations. Much of Dr. Strickland's research, practice, and writing has also centered on women's health and on gender differences in health, illness, and mortality.

Dr. Strickland is also vitally concerned with women's and minority issues. She has said that she hopes that psychology "can be a model of how we can include all of the diverse interests of those who have not had a strong voice in the past."

Dr. Strickland has been Chair of the psychology department and associate to the chancellor at the University of Massachusetts at Amherst. She is a member of the National Advisory Mental Health Council and a diplomate of the American Board of Professional Psychology. She has been Chair of the Council of Graduate Departments of Psychology and APA's Board of Professional Affairs. She is currently Chair of APA's Policy and Planning Board, which oversees the professional, scientific, and educational programs of the association. She is a former president of the Clinical Psychology Division of APA and is a fellow of the divisions of clinical psychology, social psychology of women, and health psychology, and serves on the editorial board of five professional journals.

APA is the major organization representing psychology in the United States and is the world's largest association of psychologists. Its membership includes more than 60,000 clinicians, college and university professors, researchers, and consultants and about 20,000 high school teachers and students and foreign affiliates. The association publishes Psychology Today, the American Psychologist, and 18 specialized journals. Through its divisions in 42 subfields of psychology and affiliations with 53 State and Canadian provincial psychological associations, APA works to advance psychology as a science, a profession, and as a means of promoting human welfare.

It has been my honor and privilege to work closely with Dr. Strickland in matters of legislative concern to the field of psychology, including funding for mental health research and biomedical research in general, as well as assuring a role for behavioral research within these activities.

In addition, we have worked closely together over the past several years to provide continued funding for mental health clinical training, in order to help meet demonstrated professional shortages in such areas as the treatment of children, the aging, and rural populations, and to encourage minorities under-represented in the profession. And we have worked to assure a balanced distribution of those clinical training funds among the disciplines eligible for such funding.

Dr. Strickland is a strong and dedicated leader in her field. She has never hesitated to speak up on behalf of those who might not otherwise be heard, and she has used her energies to move the field of psychology forward in a most progressive way. I was very proud when Dr. Strickland received her appointment a couple of years ago to the National Advisory Mental Health Council, which oversees the National Institute of Mental Health, and I am just as proud to see her take over the reins of the American Psychological Association. Massachusetts, even if it is her adopted home, can claim another national leader among its citizens, and the APA can be congratulated on electing as talented and as worthy a President as Dr. Bonnie Strickland.

HOUSE OF REPRESENTATIVES—*Monday, February 3, 1986*

The House met at 12 o'clock noon.

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

We pray, O God, for the people who labor in this place, for staff and for the Members of this assembly. May they see in what they do a holy calling, the opportunities for contributing to justice and to the common good. Bless them, O God, and listen to the secret petitions of their hearts and minister to them in the depths of their being. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Sparrow, one of its clerks, announced that the Senate had passed without amendment a bill of the House of the following title:

H.R. 4027. An act extending the waiver authority of the District of Columbia Revenue Bond Act of 1985 to certain revenue bond acts of the District of Columbia, and for other purposes.

The message also announced that the Senate had passed a bill of the following title, in which the concurrence of the House is requested:

S. 2036. An act to make certain technical corrections to amendments made by the Food Security Act of 1985, and for other purposes.

CRISIS FOR THE HOMELESS

(Mr. VENTO asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. VENTO. Mr. Speaker, CBS "60 Minutes" program last night, February 2, 1986, telecast reporter/investigator Ed Bradley's review of problems with the New York City homeless program and how outrageously and inappropriately Federal and local dollars are being spent. This is a direct result of the administration policy with no dollars for repair, no dollars for modernization, just pay the money for the slum landlord without any standards.

This should be all the reminder that Congress needs to increase, correct the abuse, and refocus the tax dollars available. There simply isn't enough housing to meet the needs of sheltering low-income people today. The emergency shelter programs for the homeless which have been provided are certainly not an adequate answer to the continued cutbacks of the Federal Housing Program for the poor. The Reagan administration has advanced these housing cuts for the poor in spite of the increasing number of homeless and increased need and demand for housing the low-income poor.

In 1981 the National Government initiated over 300,000 units of new housing. Today in 1986 the Congress provided less than 100,000 units of new housing. The Reagan administration sought a moratorium in the 1986 budget and seeks the same in fiscal year 1987. In fact, President Reagan, incredible as it may seem, seeks to rescind or defer most of the 1986 housing units that are currently appropriated.

The American people and surely many in the U.S. Congress are concerned about the homeless and the plight of those reported by this startling CBS telecast, but we haven't seen anything yet. This sad report of our Nation's homeless is about to turn into a national housing crisis, a disgraceful return to shanty towns and shacks that only exist in history books for most U.S. citizens or the urban poor of the Third World nations, squatting in some corner next to opulence and indifference.

Mr. Speaker, this surely cannot be permitted to occur. Meeting the shelter needs of our people will take the combined effort of National, State, and local governments as well as the private sector, especially the nonprofit groups. We cannot permit this sad page in history to be repeated; housing is fundamental to the basic human needs and we as a national government have a key role to ensure its availability.

ALL 10 MOONS OF URANUS MAY BE NAMED FOR ASTRONAUTS

(Mr. McCANDLESS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. McCANDLESS. Mr. Speaker, last week, after the space shuttle *Challenger* disaster, our colleague, the gentleman from Florida [Mr. NELSON] suggested that it would be appropriate to name 7 of the 10 newly discovered moons of the planet Uranus after the members of the *Challenger*'s crew. As the moons were discovered by a product of our space program, a program for which the crew gave their lives, I thought that Mr. NELSON's idea was an excellent one and one that I strongly support.

In the wake of this tragedy, we have been reminded that 19 years earlier, almost to the day, three other brave American astronauts died in a launch pad fire during a training exercise for the first Apollo mission. One of my constituents, Teresa Seipel, of Riverside, CA, suggested that we name the remaining three newly discovered moons after Gus Grissom, Ed White, and Roger Chaffee, the three astronauts who perished in the 1967 fire. I believe that, too, is an excellent idea and today I am introducing legislation for that purpose. I invite my colleagues to cosponsor this fitting memorial.

BREAK WITH LIBYA DEMONSTRATES LEADERSHIP IN ANTI-TERRORISM

(Mr. BONIOR of Michigan asked and was given permission to address the House for 1 minute.)

Mr. BONIOR of Michigan. Mr. Speaker, the civilized world has become increasingly alarmed and outraged by the threat of terrorism. The terrorist obeys no rules of law, shows no respect for the lives of the innocent.

Any government that would provide protection and encouragement to such villians must be severely sanctioned by the international community. President Reagan has taken decisive leadership in making a complete break in economic relations with the Government of Libya.

We all know this will not be enough, but it is a step toward the forceful policy we need.

The President deserves the support not only of the American people but of all nations. Qadhafi and his kind must know that their actions have made them outcasts and outlaws in the eyes of the world.

DEMOCRATS MEET AT THE GREENBRIER, REPUBLICANS IN BALTIMORE

(Mr. BLILEY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BLILEY. Mr. Speaker, when I was a Democrat, Democrats were the party of the working people. Republi-

cans were elitist, country clubbers with no ideas or initiatives except those ideas and initiatives beneficial to their special interest—the wealthy. This past weekend is a perfect example of how times have changed and the tables have turned.

Republicans were in Baltimore. Baltimore is a working-class town with a strong ethnic tradition. We were there to percolate all sorts of new ideas and initiatives. Gramm/Rudman has changed government dramatically and Republicans are determined to make it a change for the better.

It was the Democrats who chose the country club environment of the Greenbrier. It was the Democrats who had no new ideas or initiatives. Instead, it was the same old song—raise taxes from the American family, use that revenue to fill up the Government trough and invite the special interests over for a feast.

I hope Americans take note of this past weekend. There are two ways to the promised land of a balanced budget. The Democrats will raise taxes and cut defense. Republicans will privatize, reform, and set priorities.

My values haven't changed but my party affiliation has, like I said, I used to be a Democrat, and the reasons for my change are very clear.

THEME OF DEMOCRATIC CONFERENCE IS PROFAMILY AND PROWORKING CLASS

(Ms. OAKAR asked and was given permission to address the House for 1 minute.)

Ms. OAKAR. Mr. Speaker, I was not going to take the floor to talk about the issues conference that the Democratic majority had at the Greenbrier in West Virginia, a State that has double-digit unemployment—no thanks to the other side of the aisle and the President's policies—but I cannot allow that kind of an attack to take place without talking a little about our conference.

In contrast to the conference that my colleagues on the other side of the aisle had, we were there the entire weekend, but I understood they had 30 Members who showed up and they left at 3 o'clock. We not only invited all the Members, of whom 110 Democratic Members who were trying to address the problems of this Nation showed up, but we invited the Members' families, and there were 106 children who also showed up accompanied by their mothers and fathers.

We are a party that believes in including the families of the Members, and we needed a place that would accommodate families and children. So I think that it is kind of a cheap shot to attack our conference in that way. I feel very strongly that the Democratic Party, being a profamily party, is proud of where it went. We feel a commitment to the State of West Virginia, just as we do to the working class, and the public knows that we are a party of the working class, not a party of the rich.

□ 1210

REQUIEM

(Mr. STRANG asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. STRANG. Mr. Speaker, like so many of us, I have been searching for the appropriate way to express the sorrow I feel—and those whom I serve—for the sacrifice of the *Challenger 7.* At a town meeting last Saturday in Pueblo, CO, a high school student approached me and asked if he could read to the meeting a poem he had written in memory of the astronauts. Brad Ritter, an 18-year-old senior at Central High, read his poem, entitled "Requiem," and we were all moved. Here is what he wrote:

REQUIEM

(JANUARY 28, 1986)

I saw them shining in the sky,
and I wished that I could touch them.
Once,
to touch the stars.
And so I reached to them,
high above the dreams
I had dreamt—
for this was the greatest dream
of my heart.
. . . and I did touch the stars.
I took them,
and held them,
. . . and I never let them go.
Do not look upon my life,
and call it tragedy,
For I died not in vain;
I took the reins of my wildest dream,
and rode it to the stars.
Remember me not as one
who stood and died alone
and for nothing,
attempting the impossible. . .
but remember us—
all of us who have died this day—
As dreamers who lived
and died
for their dream. . .
. . . and won it . . .
And no matter the cost,
never be afraid to dream. . .

INTERNATIONAL TERRORISM

(Mr. CLINGER asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. CLINGER. Mr. Speaker, how many more innocents must be brutally murdered before we, as a nation, and civilized people everywhere draw together to combat the threat of terrorist violence? It will take a concerted cooperative effort of actions, not just words, to stop this incessant threat.

This past Saturday, February 1, the United States took another step in battling the criminal networks of international terrorism. The final stages of President Reagan's sanctions against Mu'ammar Qadhafi's outlaw regime in Libya went into effect. These sanctions prohibit U.S. citizens and corporations from transacting business with Qadhafi's Libya. Tough criminal penalties are now the price for doing business with Qadhafi's terrorist haven.

Mr. Speaker, the senseless deaths in Rome last December and our Government's sanctions in response should have been enough for most Americans who enjoy the benefits of peace and freedom to cut the ties of commerce with Qadhafi—the barbaric exporter of terror.

But it apparently is not. Like many Americans, I was shocked last week to hear reports that four U.S. oil companies were looking for ways to circumvent the Libyan boycott. Amerada Hess, Conoco, Marathon, and Occidental were reported to have transferred their share of Libyan oil production to various non-American firms and were examining ways of continuing to operate their installations in Libya. This would negate the intended effects of the sanctions and prevent the punishment they were intended to inflict on the Qadhafi regime. There is no doubt that fully complying with the sanctions would be of some cost to these corporations, but if we are to stand up and say "Enough" to criminals who threaten the lives of innocents, we must all pay a price. I submit that the financial cost is far less than the life of one unsuspecting bystander at an airline counter.

When I learned of the apparent hesitation of these U.S. firms to comply with the sanctions, I immediately contacted them to urge their swift and complete cooperation. Americans must stand in steadfast opposition to the outrageous actions of terrorist violence and the burden must fall on corporations and individuals alike.

Mr. Speaker, I include here my letter to these four oil companies for insertion in the RECORD and I hope it will persuade these and other corporations to isolate Qadhafi's Libya wherever the arms of American commerce extend.

HOUSE OF REPRESENTATIVES,
Washington, DC, January 31, 1986.

GENTLEMEN: The spectre of international terrorism looms greater and greater over the free world and over United States nationals particularly, throughout the world. Your apparent reluctance to comply with the President's sanctions against Muammar Quaddafi's Libya is shocking and of serious concern to all Americans who abhor the Quaddafi regime's support of criminal international terrorists.

The alleged transfer of your share of Libyan oil production to oil companies of other nations would negate the intended ef-

fects of U.S. sanctions by allowing Libya to maintain its oil output of approximately 1.2 million barrels per day. In imposing the sanctions, President Reagan noted that "Americans will not understand other nations moving into Libya to take commercial advantage of our departure." Even more, Americans will not understand U.S. companies making it easier for other nations to do so. Though such transactions may not violate the letter of the Libyan sanctions, they do violence to the spirit and to the intended punishment of Libya's outlaw regime.

In addition, I would urge swift and complete divestment of your Libyan operations. Though there is no doubt of your duty to stockholders for the value of Libyan assets, I would note that the decline of oil prices and the increasingly high risk of doing business with Quaddafi's Libya militate in favor of cutting losses and pulling out now. Do not mistake the resolve of Congress and the Administration to enforce the latest round of sanctions against Libya.

As Americans who enjoy the individual and institutional freedoms of a free society, we cannot afford to carry on business as usual with those who seek to disrupt and destroy those freedoms. You are now in the spotlight of world opinion and I urge you to take immediate and responsible action to terminate your dealings with Libya.

Sincerely,

WILLIAM F. CLINGER, Jr.,
Member of Congress.

STUDENTS SUPPORT SMOKELESS TOBACCO BILL

(Mr. SILJANDER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SILJANDER. Mr. Speaker, many people assume that writing letters is a futile effort in attempting to gain the attention of their Members of Congress. It is not so, when Coloma Junior High School, 60 students wrote to me regarding smokeless tobacco and the need to support a bill that they thought was very important. After speaking with all 60 of them, I now am a cosponsor of a bill which is on the floor today.

The bill develops educational programs and public service announcements. It encourages States to adopt a minimum age for the purchase of smokeless tobacco. It requires smokeless tobacco products to carry a warning label and, last, makes unlawful to advertise on television or radio.

This is a bill that begins a step forward in educating the American people.

I want to thank the 60 junior high school students at Coloma Junior High School for bringing this bill to my attention and I hope the rest of the Members of this body will realize the importance of supporting this bill today.

INVITATION TO ATTEND PRESENTATION OF SYMBOLIC FIRST COPY OF BIBLIOGRAPHY OF SPEAKERS OF THE HOUSE

(Mr. FRENZEL asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. FRENZEL. Mr. Speaker, for the Capitol Historical Society, the distinguished gentleman from Texas, Mr. JAKE PICKLE, and I invite all the Members of the House of Representatives to a special event on February 5, Wednesday, at 1:30 p.m. in the Rayburn Room. The Capitol Historical Society has finally completed its bibliography of all the Speakers of the House. This has been a glaring hole in some of the historical data about the House. It has recently been completed through the resources and under the aegis of the society.

The first copy, the symbolic first copy, will be presented to the current Speaker, THOMAS P. O'NEILL of Massachusetts.

We hope that you will attend and that you will get a better idea of some of the things the society is doing for the Capitol and the historical remembrances of what has taken place here.

THE CRISIS IN HAITI

(Mr. RICHARDSON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. RICHARDSON. Mr. Speaker, a familiar story this weekend has hit the news. A corrupt dictator, bogus elections, theft, massive corruption, peasants that do not have a chance for bread and the daily life; no, it is not the Philippines, it is Haiti.

Mr. Speaker, the situation in Haiti is reaching crisis proportions, but I do think the Congress has acted properly in the past by imposing economic and military conditions to improve human rights in Haiti. We must use these levers constructively. We must try to pave a way for a democratic transition.

In this case, however, there are no Communists. There is corruption versus poverty.

I hope that the Congress continues to monitor the situation, as it has in the past. I know through the leadership of the Foreign Affairs Committee, this will continue.

ANNOUNCEMENT BY THE SPEAKER

The SPEAKER. Pursuant to the provisions of clause 5 of rule I, the Chair announces that he will postpone further proceedings today on each motion to suspend the rules on which a recorded vote or the yeas and nays are ordered, or on which the vote is objected to under clause 4 of rule XV.

Such rollcall votes, if postponed, will be taken on Tuesday, February 4, 1986.

ARMS EXPORT CONTROL ACT AMENDMENTS

Mr. FASCELL. Mr. Speaker, I move to suspend the rules and pass the Senate bill (S. 1831) to amend the Arms Export Control Act to require that congressional vetoes of certain arms export proposals be enacted into law.

The Clerk read as follows:

S. 1831

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) section 3(d)(2) of the Arms Export Control Act is amended—

(1) in subparagraph (A), by striking out "adopt, within such 30-day period, a concurrent resolution disapproving" and inserting in lieu thereof "enact, within such 30-day period, a law prohibiting"; and

(2) in subparagraph (B), by striking out "adopt, within such fifteen-day period, a concurrent resolution disapproving" and inserting in lieu thereof "enact, within such fifteen-day period, a law prohibiting".

(b) Section 36(b) of the Arms Export Control Act is amended—

(1) in the fifth sentence of paragraph (1), by striking out "adopts a concurrent resolution stating that is objects to" and inserting in lieu thereof "enacts a joint resolution prohibiting";

(2) in paragraph (2), by inserting "joint" before "resolution" each of the four places it appears; and

(3) In paragraph (3)—

(A) by striking out "adoption of concurrent resolutions" and inserting in lieu thereof "enactment of joint resolutions"; and

(B) by striking out "such resolution" and inserting in lieu thereof "such joint resolution".

(c) Section 36(c) of the Arms Export Control Act is amended—

(1) in paragraph (2)(B), by striking out "adopts a concurrent resolution stating that it objects to" and inserting in lieu thereof "enacts a joint resolution prohibiting";

(2) in paragraph (3)(A), by inserting "joint" before "resolution"; and

(3) in paragraph (3)(B)—

(A) by striking out "adoption of concurrent resolutions" and inserting in lieu thereof "enactment of joint resolutions"; and

(B) by striking out "such resolution" and inserting in lieu thereof "such joint resolution".

(d) Section 63 of the Arms Export Control Act is amended—

(1) in subsection (a)(1), by striking out "adopts a concurrent resolution stating that it objects to" and inserting in lieu thereof "enacts a joint resolution prohibiting";

(2) in subsection (b), by inserting "joint" before "resolution"; and

(3) in subsection (c)—

(A) by striking out "adoption of concurrent resolutions" and inserting in lieu thereof "enactment of joint resolutions"; and

(B) by striking out "such resolution" and inserting in lieu thereof "such joint resolution".

The SPEAKER pro tempore (Mr. MOAKLEY). Pursuant to the rule, a second is not required on this motion.

The gentleman from Florida [Mr. FASCELL] will be recognized for 20 minutes and the gentleman from Michigan [Mr. BROOMFIELD] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Florida [Mr. FASCELL].

Mr. FASCELL. Mr. Speaker, I yield myself such time as I may consume.

GENERAL LEAVE

Mr. FASCELL. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the Senate bill now under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

Mr. FASCELL. Mr. Speaker, I rise in support of S. 1831. At the outset I would like to commend the gentleman from California, Mr. [LEVINE], who has an identical bill, H.R. 3875, pending before the Committee on Foreign Affairs, and has asked for passage of the companion Senate bill.

S. 1831 is a technical measure which provides for joint rather than concurrent resolutions of disapproval for third-country arms transfers, government-to-government and commercial arms sales, and leases of defense articles required to be notified to Congress under the Arms Export Control Act. This action has become necessary in light of the Supreme Court decision Chadha versus INS, which struck down the constitionality of legislative vetoes.

S. 1831 also applies the expedited procedure provisions of existing law for consideration in the Senate to joint rather than concurrent resolutions of disapproval for arms sales.

Mr. Speaker, this legislation is a legislative fix to the concurrent resolutions of disapproval that have been rendered unconstitutional by the Chadha decision. It makes no other substantive changes in the congressional review period for arms sales, nor is it aimed at any particular sale. It only provides for expedited procedures for consideration of unconditional joint resolutions of disapproval. Mr. Speaker, this resolution received unanimous approval in the Senate and is supported by the ranking minority member, the gentleman from Michigan [Mr. BROOMFIELD]

I urge the adoption of S. 1831.

Mr. BROOMFIELD. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I support the legislation before us.

According to the Arms Export Control Act, letters of offer for major U.S. arms sales cannot be issued if the Congress adopts a concurrent resolution objecting to the sale during its review period. However, these legislative veto provisions have been considered to be unconsitutional in light of the Supreme Court's Chadha decision. By substituting joint resolutions for concurrent resolutions, this legislation allows the Congress to again be more involved in arms transfer policy.

As a result, I urge my colleagues to support the bill.

Mr. LEVINE of California. Mr. Speaker, I rise in support of S. 1831 to provide for expedited procedure of joint resolutions of disapproval introduced pursuant to section 36(b) of the Arms Export Control Act. This bill, which was passed by the Senate in December, is identical to legislation I introduced on December 6 and which has 21 House cosponsors.

Mr. Speaker, the AECA provides for expedited procedures for concurrent resolutions. However, since the 1983 Supreme Court Chadha decision, which declared the legislative veto unconstitutional, Congress has employed joint resolutions of disapproval to oppose particular arms sales. While concurrent resolutions are subject to expedited procedure, joint resolutions are not. This is not a special problem in the House because the Rules Committee can bring to the floor legislation in an expedited manner. However, there is a problem in the Senate because there is no Rules Committee and consideration of important joint resolutions related to arms sales can be subject to delay through filibuster.

This legislation would clarify and tighten procedural safeguards to ensure that the Senate can act in a timely manner, and includes expedited procedures for resolutions introduced pursuant to the AECA which effect leasing and private arms transfers as well.

This is a reasonable bill which would enable both bodies to act in a responsible, timely fashion on a very important matter. I urge its passage.

Ms. MIKULSKI. Mr. Speaker, I am pleased to rise in support of S. 1831, the Arms Export Control Act Amendments.

This legislation could not have come at a more appropriate time. As you know, last November Congress suspended the administrations' proposed sale of $1.9 billion in weapons to Jordan. Now, hoping to salvage two victories from one defeat, the Reagan administration proposes to sell advanced weapons to both Saudi Arabia and Jordan.

Arms sales to Middle East nations encounter intense opposition from Congress not because of negative feelings toward Arab States, but because of appreciation for the positive role that Israel plays for the United States in that volatile region of the world.

Israel is a crucial actor for the United States in the Middle East. Tel Aviv offers the only stable, democratically elected government that reflects American values in the region. To jeopardize the security of Israel with excessive arms sales to hostile neighboring states is to undermine any hopes of achieving a lasting peace in the Middle East. Every policy must have a solid base and for the United States, Israel provides the needed foundation in the Middle East.

History does not offer an encouraging precedent for American arms sales to Middle East regimes. Providing sophisticated armaments to the Shah of Iran in an effort to develop his country into the "Policeman of the Persian Gulf" has made that nation a sworn enemy of the United States. In addition, advanced American weapons such as the F-14 fighter plane and long-range Pheonix air-to-air missile that were provided to Iran are now reported by intelligence sources to be in Soviet hands, allowing Moscow a firsthand look at several of our front-line armaments. If the F-15 warplanes and AWAC's previously sold to Saudi Arabia were to be lost, the Soviet Union would enjoy an intelligence bonanza and Western security would be gravely damaged. The American technicians and support personnel that accompany U.S.-made weapons to dangerous lands are easy hostages for terrorists groups.

There is no logical reason to sell Saudi Arabia and Jordan additional weapons. Each nation has ample resources to deal with any domestic uprising and the major external threats of Iran and Syria are bogged down in other conflicts. If United States weapons are provided to Saudi Arabia and Jordan, the probable target for their usage in a future conflict will not be Iran or Syria, rather Israel as it has been in previous wars. Once in the control of the purchasing state, weapons are used however that country's leaders see fit, regardless of the seller's protests.

Saudi Arabia already has more weapons that it can use and spends more per soldier than any other nation in the world. Armaments purchased by Saudi Arabia supply other Arab States, many that directly threaten Israel. British-supplied Centurion tanks allowed Jordanian armored units to punch through Israeli lines during the 1973 Yom Kippur War and threaten the Golan Heights. Under present conditions, there is no reason to assume that Saudi Arabia and Jordan adopt a neutral or pro-Israeli posture in future conflicts. If Saudi Arabia and Jordan desire to receive the benefits of American aid as Egypt does, then let each sign and adhere to a peace treaty with Israel, recognize its right to exist, and refrain from arming Israel's avowed enemies.

The proposed arms to sales to Saudi Arabia and Jordan total more than the annual military aid the United States provides Israel. Yet neither state provides a fraction of the value Israel does to the United States. If American forces go to war in the Middle East, it will be the Israeli Air Force that provides cover and the use of its bases. Units of the Rapid Deployment Force will find Israeli bases strategically located and the most secure, politically and militarily. No other bases in the region under consideration or contract for use by the United States have these features.

This legislation is critical to ensure the role of Congress in foreign policy and in controlling our arms sales policy. I urge my colleagues here in the House to join me in supporting this vital legislation.

Mr. FASCELL. Mr. Speaker, I yield back the balance of my time.

Mr. BROOMFIELD. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Florida [Mr. FASCELL] that the House suspend the rules and pass the Senate bill, S. 1831.

The question was taken; and (two-thirds having voted in favor thereof)

the rules were suspended and the Senate bill was passed.

A motion to reconsider was laid on the table.

COMPREHENSIVE SMOKELESS TOBACCO HEALTH EDUCATION ACT OF 1986

Mr. WAXMAN. Mr. Speaker, I move to suspend the rules and pass the Senate bill (S. 1574) to provide for public education concerning the health consequences of using smokeless tobacco products, as amended.

The Clerk read as follows:

S. 1574

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Comprehensive Smokeless Tobacco Health Education Act of 1986".

SEC. 2. PUBLIC EDUCATION.

(a) DEVELOPMENT.—(1) The Secretary of Health and Human Services shall establish and carry out a program to inform the public of any dangers to human health resulting from the use of smokeless tobacco products. In carrying out such program the Secretary shall—

(A) develop educational programs and materials and public service announcements respecting the dangers to human health from the use of smokeless tobacco;

(B) make such programs, materials, and announcements available to States, local governments, school systems, the media, and such other entities as the Secretary determines appropriate to further the purposes of this Act;

(C) conduct and support research on the effect of smokeless tobacco on human health; and

(D) collect, analyze, and disseminate information and studies on smokeless tobacco and health.

(2) In developing programs, materials, and announcements under paragraph (1) the Secretary shall consult with the Secretary of Education, medical and public health entities, consumer groups, representatives of manufacturers of smokeless tobacco products, and other appropriate entities.

(b) ASSISTANCE.—The Secretary of Health and Human Services may provide technical assistance and may make grants to States—

(1) to assist in the development of educational programs and materials and public service announcements respecting the dangers to human health from the use of smokeless tobacco,

(2) to assist in the distribution of such programs, materials, and announcements throughout the States, and

(3) to establish 18 as the minimum age for the purchase of smokeless tobacco.

SEC. 3. SMOKELESS TOBACCO WARNING.

(a) GENERAL RULE.—

(1) It shall be unlawful for any person to manufacture, package, or import for sale or distribution within the United States any smokeless tobacco product unless the product package bears, in accordance with the requirements of this Act, one of the following labels:

"WARNING: THIS PRODUCT MAY CAUSE MOUTH CANCER

"WARNING: THIS PRODUCT MAY CAUSE GUM DISEASE AND TOOTH LOSS

"WARNING: THIS PRODUCT IS NOT A SAFE ALTERNATIVE TO CIGARETTES".

(2) It shall be unlawful for any manufacturer, packager, or importer of smokeless tobacco products to advertise or cause to be advertised (other than through the use of outdoor billboard advertising) within the United States any smokeless tobacco product unless the advertising bears, in accordance with the requirements of this Act, one of the labels required by paragraph (1).

(b) LABEL FORMAT.—The Federal Trade Commission shall issue regulations requiring the label statement required by subsection (a) to appear—

(1) in the case of the smokeless tobacco product package—

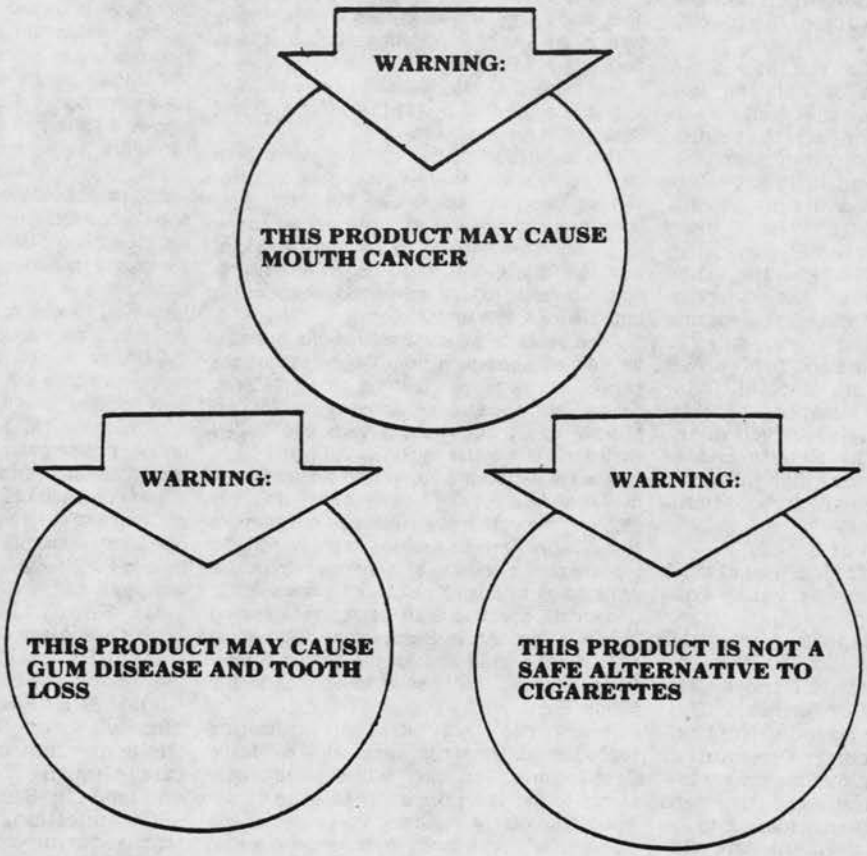
(A) in a conspicuous and prominent place on the package, and

(B) in a conspicuous format and in conspicuous and legible type in contrast with all other printed material on the package, and

(2) in the case of advertising subject to subsection (a)(2)—

(A) in a conspicuous and prominent location in the advertisement and in conspicuous and legible type in contrast with all other printed material in the advertisement,

(B) in the following format:



(C) the label statement shall appear in capital letters and the area of the circle and arrow shall be determined by the Federal Trade Commission.

(c) LABEL DISPLAY.—The Federal Trade Commission shall issue regulations requiring each label statement required by subsection (a) to—

(1) in the case of a smokeless tobacco product package, be randomly displayed by each manufacturer, packager, or importer of a smokeless tobacco product in each 12-month period in as equal a number of times as is possible on each brand of the product and be randomly distributed in all parts of the United States in which such product is marketed, and

(2) in the case of any advertisement of a smokeless tobacco product, be rotated every 4 months by each manufacturer, packager, or importer of a smokeless tobacco product in an alternating sequence in the advertisement for each brand of the product.

(d) PLAN.—Each manufacturer, packager, or importer of a smokeless tobacco product shall submit a plan to the Federal Trade Commission which specifies the method such manufacturer, packager, or importer will use to rotate, display, and distribute the statements required by subsection (a) in accordance with the requirements of subsections (b) and (c).

(2) The Federal Trade Commission shall approve a plan submitted by a manufacturer, packager, or importer of a smokeless tobacco product under paragraph (1) if such plan provides for the rotation, display, and distribution on smokeless tobacco product packages and advertisements of the statements required by subsection (a) in a manner which complies with this section and the regulations promulgated pursuant to this section.

(e) APPLICATION.—This section does not apply to a distributor or a retailer of any smokeless tobacco product which does not manufacture, package, or import smokeless tobacco products for sale or distribution within the United States.

(f) TELEVISION AND RADIO ADVERTISING.—Effective 6 months after the date of the enactment of this Act, it shall be unlawful to advertise smokeless tobacco on any medium of electronic communications subject to the jurisdiction of the Federal Communication Commission.

SEC. 4. INGREDIENT REPORTING.

(a) IN GENERAL.—(1) Each person who manufacturers, packages, or imports smokeless tobacco products shall annually provide the Secretary with—

(A) a list of the ingredients added to tobacco in the manufacture of smokeless tobacco products which does not identify the company which uses the ingredients or the brand of smokeless tobacco which contains the ingredients; and

(B) a specification of the quantity of nicotine contained in each such product.

(2) A person or group of persons required to provide information by this subsection may designate an individual or entity to provide the information required by this subsection.

(b) REPORT.—(1) At such times as the Secretary considers appropriate, the Secretary shall transmit to the Congress a report, based on the information provided under subsection (a), respecting—

(A) a summary of research activities and proposed research activities on the health effects of ingredients added to tobacco in the manufacture of smokeless tobacco products and the findings of such research;

(B) information pertaining to any such ingredient which in the judgment of the Secretary poses a health risk to users of smokeless tobacco; and

(C) any other information which the Secretary determines to be in the public interest.

(2)(A) Any information provided to the Secretary under subsection (a) shall be treated as a trade secret or confidential information subject to section 552(b)(4) of title 5, United States Code, and shall not be revealed, except as provided in paragraph (1), to any person other than those authorized by the Secretary in carrying out their official duties under this section.

(B) Subparagraph (A) does not authorize the withholding of information provided under subsection (a) of this section from any duly authorized subcommittee or committee of the Congress. If a subcommittee or commitee of the Congress requests the Secretary to provide it such information, the Secretary shall make the information available to the subcommittee or commitee and shall, at the same time, notify in writing the person who provided the information of such request.

(C) The Secretary shall establish written procedures to assure the confidentiality of information provided under subsection (a) of this section. Such procedures shall include the designation of a duly authorized agent to serve as custodian of such information. The agent—

(i) shall take physical possession of the information and, when not in use by any person authorized to have access to such information, shall store it in a locked cabinet or file; and

(ii) shall maintain a complete record of any person who inspects or uses the information.

Such procedures shall require that any person permitted access to the information shall be instructed in writing not to disclose the information to anyone who is not entitled to have access to the information.

SEC. 5. ENFORCEMENT, REGULATIONS, AND CONSTRUCTION.

(a) ENFORCEMENT.—(1) A violation of section 3 of the regulations promulgated pursuant to this Act shall be considered a violation of section 5 of the Federal Trade Commission Act.

(2) Any person who is found to violate any provision of section 3 or 4(a) shall be guilty of a misdemeanor and shall on conviction thereof be subject to a fine of not more than $10,000.

(b) REGULATIONS UNDER SECTION 3.—(1) Regulations issued by the Federal Trade Commission under section 3 shall be issued in accordance with section 553 of title 5, United States Code.

(2) Not later than 180 days after the date of the enactment of this Act, the Federal Trade Commission shall promulgate such regulations as it may require to implement section 3.

(c) CONSTRUCTION.—Nothing in this Act (other than the requirements of sections 3 and 4) shall be construed to limit, restrict, or expand the authority of the Federal Trade Commission with respect to unfair or deceptive acts or practices in the advertising of smokeless tobacco products.

SEC. 6. INJUNCTIONS.

The several district courts of the United States are vested with jurisdiction, for cause shown, to prevent and restrain violations of sections 3 and 4 upon application of the Federal Trade Commission in the case of a violation of section 3 or upon application of the Attorney General of the United States acting through the several United States attorneys in their several districts in the case of a violation of section 3 or 4.

SEC. 7. PREEMPTION.

(a) FEDERAL ACTION.—No statement relating to the use of smokeless tobacco products and health, other than the statements required by section 3, shall be required by any Federal agency to appear on any package or in any advertisement (unless the advertisement is an outdoor billboard advertisement) of a smokeless tobacco product.

(b) STATE AND LOCAL ACTION.—No statement relating to the use of smokeless tobacco products and health, other than the statements required by section 3, shall be required by any State or local statute or regulation to be included on any package or in any advertisement (unless the advertisement is an outdoor billboard advertisement) of a smokeless tobacco product.

(c) EFFECT ON LIABILITY LAW.—Nothing in this Act shall relieve any person from liability at common law or under State statutory law to any other person.

SEC. 8. REPORTS.

(a) SECRETARY'S REPORT.—The Secretary of Health and Human Services shall transmit a report to the Congress not later than January 11, 1987, and biennially thereafter, containing—

(1) a description of the effects of health education efforts on the use of smokeless tobacco products,

(2) a description of the use by the public of smokeless tobacco products,

(3) an evaluation of the health effects of smokeless tobacco products and the identification of areas appropriate for further research, and

(4) such recommendation for legislation and administrative action as the Secretary considers appropriate.

(b) FTC REPORT.—The Federal Trade Commission shall transmit a report to the Congress not later than January 11, 1987, and biennially thereafter, containing (1) a description of the current sales, advertising, and marketing practices associated with smokeless tobacco products, and (2) such recommendations for legislation and administrative action as it deems appropriate.

SEC. 9. DEFINITIONS.

For purposes of this Act:

(1) The term "smokeless tobacco" means any finely cut, ground, powdered, or leaf tobacco that is intended to be placed in the oral cavity.

(2) The term "commerce" means (A) commerce between any State, the District of Columbia, the Commonwealth of Puerto Rico, Guam, the Virgin Islands, American Samoa, Wake Island, Midway Islands, Kingman Reef, or Johnston Island and any place outside thereof; (B) commerce between points in any State, the District of Columbia, the Commonwealth of Puerto Rico, Guam, the Virgin Islands, American Samoa, Wake Island, Midway Islands, Kingman Reef, or Johnston Island, but through any place outside thereof; or (C) commerce wholly within the District of Columbia, Guam, the Virgin Islands, American Samoa, Wake Island, Midway Islands, Kingman Reef, or Johnston Island.

(3) The term "United States", when in a geographical sense, includes the several States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, the Virgin Islands, American Samoa, Wake Island, Midway Islands, Kingman Reef,

Johnston Island, and installations of the armed forces.

(4) The term "package" means a pack, box, carton, pouch, or container of any kind in which smokeless tobacco products are offered for sale, sold, or otherwise distributed to consumers.

(5) The term "sale or distribution" includes sampling or any other distribution not for sale.

(6) The term "Secretary" means the Secretary of Health and Human Services.

SEC. 10. TECHNICAL AMENDMENT

Section 402(D)(2) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 342(d)(2)) is amended by inserting before the semicolon a comma and the following: "except that this clause shall not apply to confectionery which is introduced or delivered for introduction into, or received or held for sale in, interstate commerce if the sale of such confectionery is permitted under the laws of the State in which such confectionery is intended to be offered for sale".

SEC. 11. EFFECTIVE DATE.

(a) IN GENERAL.—Except as provided in sections 3(f) and 5(b) and subsection (b), this Act shall take effect one year after the date of enactment of this Act.

(b) EXCEPTION.—Sections 2, 3(b), 3(c), 3(d), 3(e), 4(b), 7, 8, 9, and 10 shall take effect on the date of the enactment of this Act.

The SPEAKER pro tempore. Is a second demanded?

Mr. BLILEY. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. the gentleman from California [Mr. WAXMAN] will be recognized for 20 minutes and the gentleman from Virginia [Mr. BLILEY] will be recognized for 20 minutes.

The Chair recognizes the gentleman from California [Mr. WAXMAN].

Mr. WAXMAN. Mr. Speaker, I yield myself such time as I may consume.

GENERAL LEAVE

Mr. WAXMAN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks, and to include extraneous material, on the Senate bill now under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. WAXMAN. Mr. Speaker, on behalf of Mr. DINGELL, Mr. SYNAR and myself, I am pleased to present a legislative proposal to the House that responds to concerns about the adverse health effects of using smokeless tobacco and the growing use of this product by young people. The legislation is the result of a lengthy negotiations between representatives of the public health community, smokeless tobacco industry and Members of the House and Senate.

Mr. Speaker, the legislation represents a carefully crafted compromise between provisions of H.R. 3510, currently pending before the Energy and Commerce Committee, and S. 1574, which passed the Senate on December 16. These proposals demonstrate broad concern in the Congress and the public about the adverse health effects of smokeless tobacco. Although the Committee on Energy and Commerce was prepared to formally report the compromise legislation, the pending actions of several State legislatures to enact potentially conflicting labelling requirements require swift, preemptive action by the Congress.

Support for the legislation is broad. It enjoys the support of organizations such as the American Cancer Society, American Heart Association, American Lung Association and American Dental Association as well as the members of the smokeless tobacco industry. At this point I would like to place in the RECORD letters of support for the legislation from the Coalition on Smoking or Health and the Smokeless Tobacco Council.

SMOKELESS TOBACCO COUNCIL, INC.,
January 27, 1986, Washington, DC.

Re Comprehensive Smokeless Tobacco and Health Education Act.

Hon. HENRY A. WAXMAN,
Chairman, Subcommittee on Health and the Environment, Committee on Energy & Commerce. U.S. House of Representatives, Washington, DC.

DEAR CHAIRMAN WAXMAN: You will recall that I appeared before your Subcommittee on July 26, 1985, to express the position of the smokeless tobacco manufacturers regarding proposed federal legislation concerning the labeling of smokeless tobacco products. I advised you that it was the position of the smokeless tobacco manufacturers that health warnings relating to their products were unwarranted in view of the unresolved scientific controversy regarding smokeless tobacco and health. The position of the smokeless tobacco manufacturers on this issue has not changed.

I also advised you, however, that the smokeless tobacco manufactureres recognized that when an issue is raised with respect to a product such as smokeless tobacco which is marketed and used nationwide, it is an issue that should be resolved at the Federal level. I further stated that if there were to be warning labels on smokeless tobacco products, a nationally uniform labeling program was essential in order to avoid the myriad of problems attendant with warning labels promulgated by various state legislatures or federal or state agencies. The position of the smokeless tobacco manufacturers on this issue is also unchanged.

We recognize the difficulty in meeting the often disparate needs of the various groups interested in legislation as important as this, and we believe the Amendment to S. 1574 which you sought to offer in the House on December 19, 1985, addressed many of the serious concerns of the smokeless tobacco manufacturers.

Consistent with the foregoing, if it is the will of Congress that there be Federal legislation on this subject, then we believe that your Amendment is the appropriate method to resolve the smokeless tobacco labeling issue on a national, uniform basis. The smokeless tobacco manufacturers will support this effort.

Respectfully yours,
MICHAEL J. KERRIGAN,
President.

COALITION URGES PASSAGE OF SMOKELESS TOBACCO EDUCATION ACT

On Tuesday, January 28, 1986, you will be asked to vote on an amendment in the nature of substitute to S. 1574, "The Comprehensive Smokeless Tobacco and Education Act of 1985." The amendment will be offered by Representatives HENRY WAXMAN and MIKE SYNAR. This bill represents the successful culmination of months of careful negotiation between all parties directly affected and is supported by both the Coalition on Smoking OR Health and the Smokeless Tobacco Industry.

The Coalition on Smoking OR Health and its member organizations, the American Cancer Society, the American Lung Association, and the American Heart Association urge you to vote for this compromise bill without amendments. It must be stressed that any amendments will destroy the carefully crafted compromise.

Mr. Speaker, on July 26, 1985, the Subcommittee on Health and the Environment conducted a hearing on the health effects of smokeless tobacco. Scientists representing the National Cancer Institute, the American Dental Association, the American Cancer Society and the American Academy of Otolaryngology—Head and Neck Surgery testified to the fact that these products can cause life-threatening diseases of the mouth and oral cavity. In addition, the hearing documented an alarming increase in the use of smokeless tobacco by young people.

We also heard chilling testimony from the mother of a young high school track star. Betty Ann Marsee told of her son's courageous struggle against mouth cancer caused by his use and addiction to smokeless tobacco. Until Sean Marsee's cancer was diagnosed, he, like many young people today, didn't believe smokeless tobacco could be harmful. He believed there could be little harm from a product promoted by athletes, advertised on television and sold without a health warning.

Mrs. Marsee's testimony underscores public concern over the increased use of smokeless tobacco in our primary and secondary schools. Surveys conducted in the State of Texas discovered that 88 percent of the users of smokeless tobacco began before the age of 15. In a statewide study of Oklahoma students, 13 percent of third grade males, and 22 percent of fifth grade males used smokeless tobacco. Among 11th grade males, the study found that 39 percent used smokeless tobacco. These figures contrast sharply with the lower incidence of smoking among these same age groups. The increased use by young people of a product known to be a cause of cancer presents a serious risk to public health.

The efforts by manufacturers to promote the sale of smokeless tobacco to youth have been aggressive, sophisticated and successful. Through the use of television and radio, the smokeless tobacco industy has developed advertising themes and promoted celebrity spokesmen with special appeal to young people. These efforts have opened up the Nation's secondary schools as a major and growing market for smokeless tobacco products.

Mr. Speaker, smokeless tobacco is not a safe alternative to cigarettes. It is not another version of bubble gum. Smokeless tobacco products, like cigarettes, are inherently dangerous products. They should not be sold to children and should not be advertised on television or radio.

To date, State and local efforts to place restrictions on the sale of smokeless tobacco have been insufficient to restrict the availability of these products to young people or to educate the public about the dangers of smokeless tobacco use.

Less than half the States have enacted laws to prohibit the sale of smokeless tobacco to those under 18 years of age. Although an estimated 26 State legislatures are expected to consider legislation requiring warnings on smokeless tobacco products in 1986, only the State of Massachusetts has completed action. The Massachusetts label requirement will take effect on April 1, 1986, but will not apply to advertising and only affects tobacco snuff.

Swift enactment of Federal legislation at this time will assure a more timely and comprehensive dissemination of health information. States will continue to be free to restrict smokeless tobacco sales to those 18 and over; consider the need for a State smokeless tobacco excise tax to finance health education efforts in the schools; and prohibit or restrict promotion practices such as the free distribution of smokeless tobacco samples.

Mr. Speaker, I would like to briefly elaborate on the major provisions of the legislation.

The purpose of the legislation is to make the public aware of the adverse health consequences of using smokeless tobacco products. The bill provides a comprehensive public health strategy including the random display of three health warning labels on smokeless tobacco packages and advertising; the development of Federal and State educational activities; and a prohibition on TV and radio advertising.

The warning labels required by section 3 of the bill state the following:

First. Warning: This Product May Cause Mouth Cancer.

Second. Warning: This Product May Cause Gum Disease and Tooth Loss.

Third. Warning: This Product Is Not a Safe Alternative to Cigarettes.

The warning statements will be displayed randomly on smokeless tobacco packages in accordance with regulations promulgated by the FTC and a plan submitted by the manufacturer and approved by the FTC. An approved plan must provide for the display of the warning statements an approximately equal number of times during each 12-month period and that the warnings will be randomly distributed in all parts of the United States in which the product is marketed.

Section 3(b)(1)(A) of the legislation requires that the warnings be located "in a conspicuous and prominent place on the package . . ." Smokeless tobacco products come in a variety of sizes ranging from circular cans to paper pouches. In issuing regulations under this section, the FTC should be sensitive to differences in packaging. For example, it may be possible to place a warning on the top of a smokeless tobacco can but it may not be possible on a pouch which may not have an identifiable top. It is not intended that regulations require conformity in package shape or material. Rather, it is intended that regulations assure that the placement of the warning on different package styles reflect a conspicuous and prominent place relative to the respective package style. The location and size of the warning on smokeless tobacco packages will vary due to the variety of package styles currently in use. The FTC will determine the format for displaying the waring statements on smokeless tobacco packages.

Mr. Speaker, section 3(b)(2)(B) of the legislation requires manufacturers to display the three warning statements on advertising in a circle and arrow format. In developing this proposal the Congress recognized that a major deficiency of warning statements is that few people notice or read them. The circle and arrow format was selected to display the warnings in smokeless tobacco advertising because studies conducted by the Federal Trade Commission staff in 1981 concluded that this format significantly improved the visibility and effectiveness of warning statements. In fact, the circle and arrow format was found ". . . superior to all other shapes . . . in prompting mentions of the contents of warning messages." Overall, the circle and arrow format was determined to be significantly more effective in disseminating information than the rectangle format that has been used for warnings on cigarettes.

In implementing this authority, it will be necessary for the Federal Trade Commission to issue regulations utilizing a concept of proportionality. Such regulations must take into account that the size of the format and corresponding size of warning letters will necessarily vary depending upon the variety and size of the advertising to which they will apply. For example, the format on a single page advertisement in a magazine such as Time will be smaller than in a two-page advertisement in the same magazine. The format on a full page in a newspaper such as the Washington Post will be larger than the format that might appear on a matchbook or leaflet promotion.

With one exception, all advertising of smokeless tobacco is required to display one of the three health warnings. Smokeless tobacco advertising on outdoor billboards is exempted from the labeling requirements and the preemptive sections of the bill due to the recognition by the Congress that, at the present time, there is very little, if any, advertising of these products. Further, there is strong feeling on the part of some that the display of warnings on outdoor billboards now approved for cigarette advertising has been ineffective and that to extend that same requirement for smokeless tobacco would be similarly ineffective. Rather than impose any requirements under this section to outdoor billboards, it was our view that the subcommittee will monitor the use of outdoor billboards by the smokeless tobacco industry as well as the feasibility and effectiveness of requiring warning statements that can be displayed in a conspicuous format for this advertising media. In the event outdoor billboards are utilized in the future to advertise smokeless tobacco, the rights of manufacturers, importers or packagers to voluntarily place warnings on their advertising are not restricted or abridged by this legislation. The authority of the Federal Trade Commission and the various State and local governments, regarding the placement of warning statements on outdoor billboards remains unchanged and are not preempted or otherwise affected by this act. Should decisions by the States or Federal Trade Commission in this regard become burdensome on interstate commerce or cause other problems in the future, the Congress reserves the right to revisit this matter.

Section 3(a)(2) of the legislation provides that smokeless tobacco advertising must bear one of the required health warnings in the required format and displayed in manner consistent with FTC regulations. The FTC is intended to be sensitive to the differences between different forms of advertising, including advertising that may evolve in the future. For example, if radio advertising was not prohibited under section 3(f), the Congress would not expect an advertisement disseminated via sound to display a visual symbol. In the case of radio, the FTC would be expected to issue regulations requiring the warning statement to be read by the principle narrator in the

ad. Such a provision might be applicable in the future if advertising was disseminated through prerecorded audio cassette tapes. With respect to video advertisements, such as prerecorded video tapes which utilize both a visual and audio format, the FTC would be expected to issue regulations requiring that the advertisement bear the circle/arrow format during the pendency of the ad and that the warning be read by the principle narrator in the ad. While both television and radio advertisements of smokeless tobacco are prohibited under the legislation, they provide examples of the sensitivity and discretion the Congress expects the FTC to utilize in issuing regulations to assist manufacturers, packagers, and importers in complying with the requirements of the law affecting advertising.

Mr. Speaker, in my view the most important feature of this legislation is its prohibition upon advertising of smokeless tobacco on radio and television. Anytime the Congress considers restrictions on advertising it mut approach limitations such as an advertising ban with the utmost caution. But, smokeless tobacco, like cigarettes, are inherently dangerous products. These unique characteristics have historically prompted Congress to treat regulation of tobacco products differently than other consumer products.

In 1970 the Congress banned television advertising of cigarettes due to concern about the impact of such advertising upon youth. In fact, the unique impact of television advertising on youth was acknowledged in 1969 by none other than the chairman of the Philip Morris Tobacco Co. in testimony before the Consumer Subcommittee of the Senate Committee on Commerce. In his testimony, Joseph Cullman stated:

I think further that broadcast is quite different from print media. We think that the print media appeals to a more adult person and as such is a more appropriate place for cigarette ads.

Mr. Speaker, there is little doubt that the recent growth in television and radio advertising of smokeless tobacco ads has closely paralleled the steep increase in smokeless tobacco sales and its use among youth. If the Congress is to prevent growing numbers of young people from using this inherently dangerous product, it must, as it did with cigarettes and little cigars, ban their advertising on television and radio.

The committee has considered alternative means of educating the public about the health effects of this product. In the case of magazine or newspaper advertising the use of a clear, and prominent, health warning will provide a minimum level of information concerning the health risks associated with the advertised product.

Health warnings would be less effective on television or radio advertising. These advertising forms are generally regarded by media experts as the most persuasive forms of advertising. TV and radio advertising are particularly effective means for reaching large audiences of young people.

It is generally recognized that there is a close relationship between the age of an individual and that individual's reliance upon the written word. In its decision affirming the 1970 cigarette advertising ban, the U.S. District Court for the District of Columbia commented in Capital Broadcasting Company versus Mitchell:

. . . Congress knew of the close relationship between cigarette commercials broadcast on the electronic media and their potential influence on young people, and was no doubt aware that the younger individual, the greater the reliance on the broadcast message rather than the written word. A pre-school or early elementary school age child can hear and understand a radio commercial or see, hear and understand a television commercial, while at the same time be substantially unaffected by an advertisement printed in a newspaper, magazine or appearing on a billboard.

On March 27, 1972, the Supreme Court refused to hear a request for appeal of the Capital Broadcasting Co. case and thereby let stand the lower court's judgment. In 1973, Congress expanded the ban on television and radio advertising of cigarettes to include "little cigars."

Mr. Speaker, the phrase "put a little pinch between your cheek and gum" has become a familiar phrase in American conversation. It refers to a common instruction for the use of smokeless tobacco. It is an advertising theme widely circulated on television and radio by active and former sports personalities. Just as many Americans can still remember cigarette jingles played on radio and television, advertising themes for smokeless tobacco have a pervasive effect upon our society and impact disproportionately upon those too young to make informed decisions about whether to use a product. For this reason, section 3(f) of the legislation prohibits television and radio advertising of smokeless tobacco products effective 6 months after the date of enactment.

I am pleased to report that the U.S. Tobacco Co. agreed, as a reflection of its commitment not to encourage young people to use smokeless tobacco products, that it would withdraw plans to advertise on the Super Bowl that occurred on January 26. In addition, the Smokeless Tobacco Council recently revised its voluntary advertising guidelines to prohibit the use of current or retired athletes who have competed since 1975. I want to commend the U.S. Tobacco Co. and the Smokeless Tobacco Council of this gesture of cooperation and hope it reflects a long term commitment to prevent and discourage young people from using smokeless tobacco products.

Mr. Speaker, section 2 of the legislation authorizes the Secretary of Health and Human Services to work closely with States in the development of educational programs and public service announcements to complement the new health warnings. These efforts are especially critical at the primary and secondary school levels where young people are most vulnerable and the pressure to being smokeless tobacco use is strong. The Secretary should work closely with broadcasters to assure the widest possible dissemination of public service announcements. The legislation calls upon the Secretary to encourage and assist States in establishing 18 as the minumum age for the purchase of smokeless tobacco.

Section 4 of the legislation requires ingredients in smokeless tobacco to be disclosed to the Secretary of Health and Human Services. Such disclosure will permit more precise evaluation of the health effects of smokeless tobacco products and will enable the Secretary to warn of specific ingredients contained in smokeless tobacco that may increase the health risks of the product.

Section 5 (Enforcement, Regulations, and Construction) gives the FTC clear authority to promulgate regulations pursuant to section 553 of the Administrative Procedure Act (5 U.S.C. 553) to govern the implementation of all aspects of section 3. With respect to packages, the FTC will promulgate regulations that prescribe the size and shape of the format and the size type, layout, and color of the warning statement and the background on which they appear. With regard to advertisements, the FTC will promulgate regulations that prescribe the size of the format, and the size type, layout and color of the warning statement and the background on which they appear. The FTC will also promulgate regulations to govern compliance with section 3(c). The primary concern for the FTC in developing these regulations should be the effectiveness of the warning.

The FTC shall promulgate regulations for section 3 under 5 USC 553 rather than section 18 of the Federal Trade Commission Act. The requirements of 5 USC 553 will ease the administrative burden on the agency, give the agency clear authority to seek a cease and desist order or injunction for any violation of these regulations, and to make clear that it is Congress' intention that the civil penalties provision for violation of a section 18 trade rule regulation not be used as the penalty for violation of these regulations.

Section 7 (Preemption) of the legislation preempts the Federal Trade Commission and State and local stat-

utes or regulations from requiring warning labels which differ from those required by section 3. The scope of the preemption includes the wording of the warnings as well as the format in which they are displayed. This act does not address the question of product liability and is not intended to alter the duties and rights of manufacturers with respect to their product liability responsibilities.

Section 10 (Effective Date) of the legislation requires that the warning statements appear on smokeless tobacco packages and advertising 1 year after the date of enactment. In order to provide for an orderly transition and to enable the issuance of regulations necessary to implement the labeling requirements, subsection 10(b) provides that sections 2, 3(b), 3(c), 3(d), 3(e), 4(b), 7, 8, and 9 shall take effect on the date of enactment. While the provisions of section 3(d) permit the submission and approval of a label rotation plan prior to the effective date that applies to section 3(a), this should not be construed to require a manufacturer to display the required health warnings prior to the appropriate effective date, 1 year after the date of enactment.

Mr. Speaker, while the amendment now under consideration is similar to H.R. 3510, there are several provisions not included in the amendment to S. 1574. In order that their omission not be misconstrued, I would like to make several brief comments.

The substitute to S. 1574 omits references to the presence of nicotine in smokeless tobacco and the addictive properties of nicotine. These omissions are not a comment on either the presence or pharmacological properties of nicotine. The omission of a warning relating to addiction and the delegation of congressional findings can only be interpreted as a casualty to compromise.

Similarly, the scientific information contained in the health warnings were not intended to represent the final, all inclusive summary of the health effects of smokeless tobacco known today or in the future. The Congress recognizes that science is a constantly evolving process. Later this year the Surgeon General will complete a comprehensive report on the health effects of smokeless tobacco. Undoubtedly, with the completion of this report, the public, and medical and scientific community will know more about the health effects of smokeless tobacco than was known today. As research is analyzed and new research undertaken, additional information will be learned about the extent and variety of adverse health effects associated with smokeless tobacco.

Mr. Speaker, there is an additional, unrelated technical provision contained in the legislation that I would like to draw to Members' attention.

Section 10 of the bill contains a technical amendment having to do with confectionery. Under section 402(d)(2) of the Federal Food, Drug and Cosmetic Act, confectionery is adulterated, and therefore cannot be distributed in interstate commerce if it contains liqueur or other alcohol, except for marginal amounts derived solely from the use of flavoring extracts. States are free, however, to permit the marketing and sale within their own borders of chocolate and other confections containing alcohol and numerous States have done so.

Under current Federal law, confectionery that contains alcohol may not be produced in one State and sold in another, even though such goods may conform to all applicable laws of the States involved. Current law in this regard is an unnecessary barrier to interstate commerce. Section 10 of the bill would allow those States that permit higher levels of alcohol in confectionery to be sold within their borders, to ship their products to those other States that also permit higher levels of alcohol in confectionery. The bill would not permit shipment in interstate commerce to States that do not permit higher levels of alcohol.

Mr. Speaker, S. 1574 is vital to the goal of alerting the American public to some of the hazards of smokeless tobacco. Passage is, as one cancer physician testified to our subcommittee, an "opportunity to practice preventive medicine." This is legislation that can make a difference in stopping young people from responding to the "siren-like appeals" of smokeless tobacco television and radio advertising.

Mr. Speaker, our colleagues Mr. DINGELL, Mr. SYNAR, Ms. COLLINS, and Mr. STRATTON deserve special recognition for their commitment to the health of our young people and for their leadership in developing this important legislation. I also want to commend representatives of the Coalition on Smoking OR Health—perhaps one of the most effective interest groups committed to the prevention of disease and promotion of health—for their foresight and willingness to reach a cooperative and amiable resolution of this matter.

I urge every Member to join with us in passing this important health legislation.

Mr. BLILEY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I am opposed to this bill in its present form. Yet, in the interest of public policy, I will not ask my colleagues to oppose it, nor will I ask them to oppose the irregular procedure under which this legislation is being considered.

The Waxman substitute which we are considering today will require smokeless tobacco products and their advertising to carry three different warning labels. I am concerned about these labels in content and format.

I am concerned about the content in two regards. First, there is no substantive scientific evidence to support the causal link indicated by the labels. Second, the labels do not bear any attribution. I think it is inappropriate for Congress to require any label on tobacco products which is unattributed.

As for format, the circles and arrows on advertising required by this bill are unjustified. Current evidence indicates that label format has little to do with public awareness of potential health hazards.

I am also concerned about the constitutional validity of banning television and radio advertising. Personally, I believe this provision infringes on the constitutional guarantee of free speech. I believe this provision deserves, indeed, demands further scrutiny.

Why, with these concerns am I not asking my colleagues to oppose this bill. To go straight to the point, Mr. Speaker, what is going on in various State legislatures throughout the country concerning smokeless tobacco labeling is an abomination. Actions being contemplated or being taken are without justifiable scientific basis. The Constitution confers on Congress the power to regulate commerce. Power always carries with it responsibility. A chaotic labeling situation in 50 States and 50 different labels is far more injurious to commerce than inappropriate and ill-advised uniform labeling requirements of the Congress. The bill contains not only labels, but an important and necessary preemption of State and local actions in this area, as well as Federal actions not specifically provided for in this legislation. This is essential to the industry, and it is an essential and proper exercise of congressional authority.

Mr. Speaker, I am also concerned about the procedure being employed today, which in effect bypasses the full Energy and Commerce Committee. While I will not oppose this procedure today, I hope that it does not become the modus operandi of the committee. I do, however, understand the reasons that led the chairman of the committee to decide that this was the best manner in which to proceed.

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Mr. Speaker, I reserve the balance of my time.

Mr. WAXMAN. Mr. Speaker, I am pleased to yield 3 minutes to a very distinguished member of our subcommittee, the gentleman from New Mexico [Mr. RICHARDSON].

Mr. RICHARDSON. I thank the gentleman for yielding this time to me.

Mr. Speaker, I rise in strong support of S. 1574, the smokeless tobacco education bill. While I am happy to lend

my support to this much-needed legislation, I would like to point out to my colleagues a major—and important—difference between this bill and the bill passed by the Subcommittee on Health and the Environment.

Smokeless tobacco products include snuff and chewing tobacco. These products currently are not subject to Federal regulation and—unlike cigarettes—are not required to carry health warning labels. The National Institutes of Health estimates that some 10 million Americans—of which about 3 million are under age 21—currently use smokeless tobacco products regularly. According to the Health and Environment Subcommittee, there is evidence that the use of smokeless tobacco is increasing among young people who may believe that the product is a harmless alternative to cigarettes.

The bill requires these warnings to be rotated and randomly distributed and to be conspicuously placed on product packages. The same warnings would also have to be included in any printed advertisement of smokeless tobacco products—except on outdoor billboards. Radio or television advertising of such products would be prohibited.

The measure also requires HHS to establish a program to inform the public of any dangers to human health resulting from the use of smokeless tobacco. In carrying out the program, the measure requires HHS to develop education programs and public service announcements and to make information available to the States, and to conduct and support research on the health effects of smokeless tobacco. The bill also allows the Department to provide technical assistance and grants to States to assist in the development of educational programs, and to help States set a minimum age of 18 for the purchase of smokeless tobacco if a State chooses to do so. The bill authorizes no funds for these activities.

Manufacturers of smokeless tobacco products would be required by the bill to provide HHS with a list of chemicals added to tobacco in the manufacture of smokeless tobacco, and to tell the Department how much nicotine the product contains. This information would be regarded as a trade secret or confidential information and would be safeguarded by the Department.

Finally, the measure preempts any different warning labels that States may require on smokeless tobacco product packages.

During the subcommittee markup of H.R. 3510, I offered a successful amendment which recognized the special nature of outdoor advertising—the circle and arrow format found in the bill we are considering today would take up so much space on a billboard, it would make billboards virtually useless as an advertising medium. My amendment did not exempt outdoor advertising from carrying warnings about the potential hazards of smokeless tobacco—it merely changed the format in which this information was to be presented. My amendment also exempted outdoor advertising from the provision in H.R. 3510 which allowed the FTC to revise the label formats for advertising.

It is my understanding that the bill we are considering today excludes outdoor advertising from its provisions entirely. It is my concern that this exemption not be construed as a signal to the FTC, State and local agencies to step in and make requirements of outdoor advertising that are inconsistent with the intent of my amendment.

Nonetheless, I wish to thank the gentleman from California [Mr. WAXMAN], the ranking minority member, the gentleman from Virginia [Mr. BLILEY], for their work on this subcommittee, the gentleman from Ohio, the gentleman from Oklahoma [Mr. SYNAR], for their leadership on this important health issue, but also to the industry, to those involved in the regulation, the Representatives from tobacco States who worked very closely together on this issue, to provide a bill that makes sense, that should pass, that I believe is equitable, and that I believe deserves the support of this House.

Mr. BLILEY. Mr. Speaker, I yield such time as he may consume to the gentleman from Utah [Mr. NIELSON].

Mr. NIELSON of Utah. I thank the gentleman for yielding time to me.

Mr. Speaker, I want to make it clear that I was a cosponsor of the bill as it was introduced in the House and I do support the legislation. However, I am opposed to what has happened in this particular case.

When the legislation was considered, I tried to eliminate the circle and arrow warning. I felt that it was unfair to have a different warning format than we had for the cigarette industry. That was ignored. However, there were two amendments passed, one of which has been alluded to and another which I am going to mention, which were passed in the subcommittee and the committee.

One had to do with the outdoor advertising. The amendment offered by the gentleman from New Mexico [Mr. RICHARDSON], which has just been mentioned, has been left out of this bill. I think it was important and I am going to extend my remarks in that regard.

The other amendment was the one offered by the gentleman from New York [Mr. ECKERT] which exempted the newspapers from having to show the ads in color, since they use black and white in most of their advertising.

I do not know why it is necessary to bring a bill up on suspension which has been altered without the participation of the full committee. The bill would pass on its own merits and the two amendments which we supplied in the committee were very fine amendments. I think they would strengthen the bill and make it more fair to the industry and make it more meaningful to everyone concerned.

Therefore, I oppose that particular aspect. I will not call for a vote on the bill, nor will I oppose the bill, but I do object to the way it has been handled and I hope it will not be a pattern for such issues in the future.

Mr. Speaker, you will note that the subcommittee elected not to include outdoor advertising of smokeless tobacco products within the comprehensive warning label requirements which this bill would impose on advertising in other print media. During the subcommittee's deliberations leading to enactment of the Comprehensive Smoking Education Act of 1984, we carefully considered the imposition on outdoor advertising of a circle and arrow warning format like that required in this bill. At that time, the subcommittee became convinced that such a warning format was simply not adaptable to the unique constraints of outdoor advertising. The subcommittee determined that this format would usurp so much space on a billboard that it effectively would operate as a prohibition on advertising in this medium. The alternative billboard warning format ultimately adopted in the 1984 bill was found by the subcommitte to be equally effective in achieving the policy goals of that legislation.

For these reasons, outdoor advertising is not included within the provisions of the House amendment to S. 1574 which would require a circle and arrow warning format in print media. As a practical matter, the exemption for outdoor advertising will not have a significant impact on the effectiveness of this bill since at present there is very little, if any, outdoor advertising of these products. In this regard I wish to make it clear that the present exemption for outdoor advertising of smokeless tobacco is not to be construed by the Federal Trade Commission or other State or local agencies as an invitation for them to occupy this field. However, if the committee finds, on advice of the FTC that there is a significant shift of smokeless tobacco advertising from other media to the outdoor medium after enactment of this bill, the subcommittee will promptly consider amendments to establish a separate warning format for outdoor advertising of smokeless tobacco products based on the format required for cigarette advertising in that medium.

Under these circumstances, the manufacturers of smokeless tobacco are presented with the opportunity to demonstrate to the Congress their desire to act responsibly by adopting a voluntary program which incorporates health warning statements required by this bill in any future outdoor advertisements using the format now required for cigarette advertisements on billboards. Certainly such action would be an important factor in any future consideration of further regulation in this area.

I also object to the elimination of the amendment of the gentleman from New York [Mr. ECKERT] to exempt the newspapers from the requirement that color be used.

While I am a cosponsor of the legislation and support it, I do object to the manner in which all of the committee amendments were ignored and I hope this does not become a pattern for other health legislation.

Mr. BLILEY. Mr. Speaker, I have no further requests for time.

Mr. WAXMAN. Mr. Speaker, I yield 2 minutes to the gentleman from Ohio [Mr. ECKART].

Mr. ECKART of Ohio. I thank the gentleman for yielding this time to me.

Mr. Speaker, as a cosponsor of Public Law 98-474, the Comprehensive Smoking Education Act of 1984 and a supporter of today's efforts, I have been a consistent and strong advocate of health warnings on tobacco advertising. For me, the link between tobacco use and serious illness is clear, but must be made more clear to the public at large.

I support the statement of the gentleman from California [Mr. WAXMAN] and was especially happy to support his bill, H.R. 3510, as it was reported from his subcommittee. That bill would have provided for similar treatment of both cigarettes and smokeless tobacco products in various forms of the media.

The new cigarette warnings have been in effect since October 1985. Extensive analysis in the press since then suggests, and I know of no contrary arguments, that the new warning systems have served their purpose of increasing public awareness and I hope that we will achieve similar results with the various combinations of new warnings and bans on advertising concerning smokeless tobacco.

We, of course, are delighted that various media forms already contain little if any smokeless advertising, and the bill and the chairman take note of that. The bill before us takes the proper approach by mandating warnings on those media forms which currently carry such advertising.

Since there can be as long as a 6-month delay before this resolution becomes law, I would urge even more prompt consideration by various media forms of voluntary restraints as well.

The record for me is clear. The current format for cigarettes is working, needed, and necessary, and the same format for smokeless tobacco is long overdue.

Mr. WAXMAN. Mr. Speaker, I am pleased to yield 4 minutes to the gentleman from Oklahoma [Mr. SYNAR] the original author of the legislation to deal with this problem, who has taken the leadership in trying to get a Federal solution to what is a growing problem all around the country.

Mr. SYNAR. I thank the gentleman for yielding this time to me.

Mr. Speaker and my colleagues, it is with a great amount of honor that I stand here today, after months of negotiations on this very important legislation. It is very rare that we get the opportunity to come to the well of the House to talk about legislation that is going to benefit people by and large, and save thousands if not millions of lives in the future.

Today's legislation gives us an opportunity to all go home, both Republicans and Democrats alike, and say that we have made a major step toward protecting the health of young people throughout this country.

I think I would be remiss in my responsibility if I did not extend a very special thanks to the gentleman from California, HENRY WAXMAN, for the outstanding job and leadership that he has exemplified on this very important issue. All through the negotiations, which have gone on for the last 2 or 3 months, his strength, his understanding and his compassion have been really the principles by which we have been able to fashion a piece of legislation which will benefit so many Americans.

I would also like to give special thanks to Ripley Forbes, the staff director, who has done an excellent job in bringing together all the various opinions and ideas which we have had to formulate in these negotiations.

Mr. Speaker, I want to thank the gentleman from California for his hard work on this issue. His diligence and commitment have resulted in a bill to provide strong warnings on smokeless tobacco containers and prohibits their advertising on radio and television.

Many of us in Congress were abruptly confronted with the dangers of smokeless tobacco after the tragic death of 19-year-old Sean Marsee. Sean had dipped snuff daily for nearly 7 years. He developed mouth cancer which his doctors said was caused by his heavy snuff use. He died a painful death less than a year after his initial diagnosis.

Smokeless tobacco use has reached epidemic levels among young people. A recent consensus conference conducted by the National Institutes of Health concluded that 3 million young people used smokeless tobacco last year. Numerous studies, which I need not summarize here, have documented the growing and widespread use of smokeless tobacco among young people—some as young as 5 years old.

Other studies have found that young people believe these products are a safe alternative to cigarettes. This perception is strongly reinforced by industry advertisements which tell users to "take a pouch instead of a puff," and which feature successful professional athletes touting the pleasures of dipping. And lest young users be discouraged by the initial gum irritation accompanying snuff use, Walt Garrison assures them that "you could feel a slight irritation around the gum * * * but learning is part of the fun and things pass with practice." Little wonder that young, impressionable males conclude that smokeless tobacco use is consistent with good health.

The dramatic increase in smokeless tobacco use coincides with increased advertising aimed at young people. According to the NIH consensus statement:

> Production declined steadily from 1930 until the late 1960's. Subsequently, there has been a resurgence of production, with a steady increase in smokeless tobacco output totaling about one-third since 1970, but in just the last 5 years, from 1981 to 1985, the production of moist snuff, the form often used by youth, has increased by one-third.

Last year the smokeless tobacco industry spent $20 million advertising various snuff and chewing tobacco products.

While smokeless tobacco use has increased, the evidence linking the product to mouth cancer also has grown dramatically. One study found that nonsmoking snuff-dippers had for times the risk of mouth cancer as nonusers. The risk increased fiftyfold for those who dipped over several decades.

Smokeless tobacco contains two classes of powerful carcinogens which have been found to produce cancer readily in rats and hamsters.

After reviewing volumes of scientific data on the link between smokeless tobacco and cancer, the NIH consensus panel concluded that "the use of smokeless tobacco, particularly snuff when started in childhood, increases the risk of oral cancer."

The NIH panel also concluded that smokeless tobacco is addictive. To again quote the consensus statement: "in studies of teenagers who attempted to stop using smokeless tobacco, only a small percentage were able to do so, suggesting that tobacco by the oral route has substantial addicting properties. The continued use of smokeless tobacco even by those who experience serious adverse health consequences attests to its addicting powers." The statement concludes: "The primary behavioral consequence

of regular use of smokeless tobacco is long-term nicotine dependence and its associated health risks."

Witnesses at a hearing conducted by the Subcommittee on Health and the Environment testified to the strongly addicting nature of smokeless tobacco. Dr. Elbert Glover, associate professor at East Carolina University in Greenville, NC, reported these findings from two "quit smokeless tobacco clinics" he conducted.

> The two clinics had a total of 41 subjects . . . with a 2.3 percent success rate, meaning only 1 out of that 41 was able to quit. Incidentally, I do quit smoking clinics with cigarettes, and my success rate is about 38 percent over the past 9 or 10 years. The complaints associated with the abstinence syndrome of smokeless tobacco were typical withdrawal symptoms experienced by smokers, but of greater intensity.

H.R. 2950, which I introduced, and H.R. 3510, introduced by Representative WAXMAN, both would have required that smokeless tobacco products and print advertisements carry this label: "Warning: This Product Contains Nicotine and Is Addictive." I strongly believe that this warning is warranted given the state of scientific knowledge on smokeless tobacco. However, in negotiating an overall agreement on this legislation, this label was substituted for one which reads: "Warning: This Product Is Not a Safe Alternative to Cigarettes." The parties involved in negotiating this agreement felt that such a warning was necessary given the widespread impression that smokeless tobacco use is safer than smoking.

The substitution of warning labels should in no way be interpreted as an acknowledgment of ambiguity in the evidence on the addictive nature of smokeless tobacco. That evidence is clear and irrefutable.

The amendment before us prohibits the advertising of smokeless tobacco on radio and television. There are several reasons why this provision was included.

Smokeless tobacco advertisements are aimed exclusively at potential new users. The vast majority of electronic media advertising is purchased by one company—U.S. Tobacco. That company holds over 90 percent of the moist snuff market. Obviously, U.S. Tobacco has little to gain by promoting brand switches, as opposed to encouraging nonusers to start.

Official statements by industry officials make clear their intent. A 1983 article in Advertising Age quoted U.S. Tobacco's marketing services director as saying, "What we're doing is directing oral tobacco at an entirely new demographic group." Another industry official said in an interview that, "I feel there is a genuine opportunity to expand the numbers and types of people who are using smokeless tobacco."

The content of the advertisements put this philosophy into effect. As I stated before, Walt Garrison provides lessons for the fainthearted nonuser. The slogan accompanying the advertisement of Skoal Bandits suggests to smokers that smokeless tobacco is a safe alternative to smoking—"Take a pouch instead of a puff." One brochure tells new users that, "It's as easy as 1-2-3."

When these advertisements feature prominent, successful athletes, the result is a powerful enticement for young people to begin using snuff and chewing tobacco. One only needs to visit any junior high or high school in America to see how successful the smokeless tobacco industry has been at cultivating this new market. The familiar circular bulge in the rear pocket has become an indispensable status symbol for teenage males.

Witnesses at the hearing conducted by the Subcommittee on Health and the Environment testified to the misleading impact of these advertisements. Ron Freeman, a high school football coach at Muskogee, OK, forcefully addressed this issue:

> Advertising on TV presents the image of being macho, that it is an alternative to smoking . . . Our kids that I coach and deal with on a daily basis still have role models. They still have people who are more or less heroes in their life, and then they see these heroes on TV advertising smokeless tobacco . . . then they feel like it is all right for this particular athlete, they have made it to the top, they have been very successful, so, therefore, it must be all right for me. If I want to attain the level they have attained, then I need to do the same things that they are doing.

It is my strong belief, and I believe I can speak for other members of the committee, that a prohibition on smokeless tobacco advertising is essential to achieving the purpose of this bill—discouraging the use of smokeless tobacco products and adequately warning users of its dangers. To continue to allow the advertisement of these products would imply a safety that does not exist, and would allow the continued display of misleading advertisements.

From the statements made by the smokeless tobacco industry, as well as those representing the broadcast industry, it appears that any type of restriction on smokeless tobacco television and radio advertising would result in a de facto ban. H.R. 2950, which I introduced, would have required a health warning label to be read once during radio and television advertisements present for the duration of television advertisements. This provision is comparable to the warning label requirements for print advertisements that are included in the amendment before us.

The National Association of Broadcasters stated that the provisions of H.R. 2950 addressing electronic advertising would force smokeless tobacco advertisers to "withdraw from broadcast advertising altogether." The Smokeless Tobacco Council has repeated this statement on numerous occasions. In fact, they have stated that any label requirement for television advertising would be a de facto ban. From these statements it is clear that Congress is faced with two alternatives: to exempt electronic advertising from any warning label requirement; or prohibit electronic advertising outright. Given the massive amount of data we now have on the harmful effects of these products, this is no choice at all.

As a final point, I would like to briefly address the issue of product liability. I believe the amendment could not be more clear as to our intent. This measure is not intended to have any impact on product liability suits. It is not to be construed as relieving any person of his liability at common law.

Again, I want to thank Mr. WAXMAN and the members of the Subcommittee on Health and the Environment who helped secure the passage of this bill. I am hopeful that the Senate will take up this measure quickly and defeat any weakening amendments.

NATIONAL INSTITUTES OF HEALTH—CONSENSUS DEVELOPMENT CONFERENCE STATEMENT: HEALTH IMPLICATIONS OF SMOKELESS TOBACCO USE, JANUARY 13-15, 1986

INTRODUCTION

Smokeless tobacco includes both chewing tobacco and snuff. These products contain tobacco leaf plus a variety of sweeteners, flavorings, and scents. In chewing tobacco, the leaf may be shredded (looseleaf), pressed into bricks or cakes (plugs), or dried and twisted into rope-like strands (twists). A portion is either chewed or held in place in the cheek or lower lip.

The two categories of snuff, dry and moist, are made from powdered or finely cut tobacco leaves. In some countries including the United Kingdom, dry snuff is sniffed through the nose, but in the United States, both dry and moist snuff are taken in the mouth or "dipped." A small amount, a "pinch," is held in place between the lip or cheek and the gum.

Although smokeless tobacco was widely used in the United States in the past, during this century its use declined sharply. There is evidence that this trend has reversed, and smokeless tobacco is regaining popularity. Market data show marked increases in manufacturing and sales, especially in the category of moist snuff, and total annual sales of smokeless tobacco are close to $1 billion. Reports from schools in different regions of the country indicate that smokeless tobacco—principally moist snuff—is being used by very young people, especially adolescent males.

Serious questions have been raised regarding health and behavioral effects from use of smokeless tobacco. Most notably, it has been linked to oral cancer.

If smokeless tobacco use does produce adverse health effects, then the use of smokeless tobacco by a large segment of the population could have long-term public health consequences. It is important at this time that the available information be assessed,

both to provide the scientific community with a synthesis of current knowledge and a framework for further research, and to provide the public with the information it needs to make informed decisions regarding the use of smokeless tobacco.

To accomplish this end, the National Cancer Institute, the National Institute of Dental Research, and the NIH Office of Medical Applications of Research convened a consensus development conference on Health Implications of Smokeless Tobacco Use on January 13-15, 1986. After a day and a half of presentations by experts in relevant fields, a consensus panel including representatives of epidemiology, cancer, dentistry, psychology, pediatrics, psychopharmacology, education, and the public considered the evidence and agreed on answers to the following questions:

What are the current trends in the use of smokeless tobacco in the United States?

Does the use of smokeless tobacco increase the risk of oral or other cancers?

Does the use of smokeless tobacco increase the risk of periodontal disease or other oral and health problems?

What are the behavioral consequences of smokeless tobacco use?

What issue regarding the health consequences of smokeless tobacco use require further research?

1. WHAT ARE THE CURRENT TRENDS IN THE USE OF SMOKELESS TOBACCO IN THE UNITED STATES?

The panel estimates that at least 10 million Americans have used smokeless tobacco within the past year, with 3 million of these users being less than 21 years old. Recent data indicate that significant proportions of teenage boys are current users, and the number of users in this age group is steadily increasing.

Detailed national data on trends in the use of smokeless tobacco are not currently available; however, there are indications of recent significant changes. One such indication is the amount of smokeless tobacco manufactured in the United States. Production declined steadily from 1930 until the later 1960's. Subsequently, there has been a resurgence of production, with a steady increase in smokeless tobacco output totaling about one-third since 1970, but in just the last 5 years, from 1981 to 1985, the production of moist snuff, the form often used by youth, has increased by one-third.

The frequency of use of smokeless tobacco has only recently become a subject for national investigation. In 1985, a national representative study revealed that 16 percent of males between 12 and 17 years of age had used some form of smokeless tobacco within the past year, and of these, about one-third used it one or more times per week. These figures mask wide variations among subgroups. Currently, males over 21 years of age use somewhat less, with use decreasing for the older groups. Only 2 percent of females use smokeless tobacco, whereas blacks and Hispanic youth are intermediate users. Patterns of use appear to be similar in most of the country, with the lowest use in the Northeast.

Some local studies have reported use by 30 to 40 percent of males in high school; even among third graders, 13 percent of males reported use. One study found that use increased for males at each grade level. Significant use by kindergarten children also has been reported in some areas in one state. In a sample of colleges, about 20 percent of the males reported use of smokeless tobacco.

In the one local longitudinal study, covering 1976 to 1982, tobacco chewing doubled and snuff dipping tripled, with peak use amoung boys 12 to 14 years old.

It is of interest that in some schools, the percentage of males reporting regular use of smokeless tobacco was higher than the percentage reporting use of cigarettes.

2. DOES THE USE OF SMOKELESS TOBACCO INCREASE THE RISKS OF ORAL OR OTHER CANCERS?

The human data provide convincing evidence for an increased risk of oral cancer as the result of smokeless tobacco use. Data are insufficient to determine whether cancers at sites other than the mouth and throat are related to smokeless tobacco use.

Human data

With respect to direct human evidence, one North Carolina study of women provides the most compelling data to support a role for snuff dipping in the causation of oral cancers. In this study, among nonsmokers, the risk of oral cancer was 4.2 times greater for those who used snuff than for those who did not and for users over several decades the risk was much higher. These data are particularly striking in that (1) the oral cancer risks were greatest for cancers located in the buccal mucosa and gingiva where the snuff was placed; (2) the risk increased with increasing duration of snuff use; (3) factors such as diet, dental hygiene, alcohol intake, and cigarette smoking were found not to be responsible for the association between snuff and oral cancer; and (4) the risks were so large that it would be difficult to postulate alternative explanations for the association between oral cancer and snuff other than a causal one.

These findings are supported by other epidemiological studies, primarily of the case control type, and by clinical case series. However, most of these studies did not specify the type of smokeless tobacco product, i.e., snuff or chewing tobacco. Thus, it seems prudent to recognize the carcinogenic potential of all smokeless tobacco products, acknowledging that the adverse effect of snuff has been more fully documented.

Although this relationship has been most clearly demonstrated for elderly, rural women residing in the Southeastern United States, there is no reason to believe that snuff would also be carcinogenic in women and men in all geographic locations. In fact, men using smokeless tobacco experienced a 3.9-fold increased risk for oral cancer in a study based on the Third National Cancer Survey. Youngsters, starting the use of snuff in grade school and continuing its use through adult life, are likely to experience a similar risk.

Our conclusion with respect to oral cancer is supported by multiple studies showing a relationship between oral cancer and chewing of betel quid containing tobacco in Indian and Southeast Asia. Furthermore, this view is consistent with the judgment of a recent working group of the International Agency for Research on Cancer (IARC), which reported that the evidence associating snuff with oral cancer is "sufficient" to indicate a causal relationship.

Carcinogens in smokeless tobacco

Chemical analysis of various types of smokeless tobacco has revealed the presence of polonium-210, a radioactive alpha-emitter and known radiation carcinogen, and representative of two classes of powerful chemical carcinogens, the polycyclic aromatic hydrocarbons and the nitrosamines.

Of the 19 nitrosamines identified in smokeless tobacco, the carcinogenic nitrosamines present the highest concentration are NNN and NNK, both of which are related chemically to nicotine. Snuff contains 1.6 to 135 mg per kilogram (mg/kg) of NNN and 0.1 to 14 mg/kg of NNK. For comparison, U.S. foods and beverages may not contain more than 0.01 mg/kg of nitrosamines. U.S. looseleaf and plug tobacco contain 0.2 to 8.2 mg/kg of NNN and 0 to 1.0 mg/kg of NNK.

Both NNN and NNK readily produce cancer in rats and hamsters in organs such as the nose, trachea, esophagus, and liver. Benign tumors (papillomas) of the mouth are induced when NNN and NNK are applied directly to the mouth of rats.

Carcinogenesis tests in animals

Repeated experimental studies in animals have failed to provide adequate evidence that chewing tobacco, snuff, or extracts derived from them induce cancer.

Implications for human health

The risk of oral cancer in the United States is small among those who do not smoke, drink alcoholic beverages, or use smokeless tobacco. The data considered here, however, raise the concern that regular users of snuff, especially children, may develop oral cancer later in life. The panel believes the public should be warned that the use of smokeless tobacco, particularly snuff when started in childhood, increases the risk of oral cancer.

3. DOES THE USE OF SMOKELESS TOBACCO INCREASE THE RISK OF PERIODONTAL DISEASE OR OTHER ORAL AND HEALTH PROBLEMS?

Evidence supports an association of smokeless tobacco use with gingival recession and oral leukoplakia, but there is insufficient evidence of an association of periodontitis or tooth decay. Other potential physical health hazards are essentially unexplored.

Gingival recession, gingivitis, and periodontal diseases

Both case reports and studies of larger samples show an association of smokeless tobacco use with localized gingival recession (receding gums), especially where the smokeless tobacco is habitually placed. One study has reported a significant association of smokeless tobacco use with generalized gingivitis. Data currently are insufficient to support an association of smokeless tobacco use with generalized or advanced periodontal disease.

Tooth decay

There are disparate data on whether smokeless tobacco use increases or decreases tooth decay. The absence of reliable data that take into account the diversity of smokeless tobacco products and the amount and bio-availability of contained sugars and fluoride may contribute to the lack of agreement among the few reports on this topic.

Leukoplakia

Several reports associate snuff use and, in at least one report, chewing tobacco use with the presence of white patches of the oral mucosa clinically described as leukoplakia. Indeed, leukoplakia is a frequent concomitant of smokeless tobacco use. Although multiple studies describe the transformation of leukoplakia to malignancy within the range of 1 to 18 percent over observation periods ranging from several months to 11 years, there are few data on whether snuff-associated leukoplakia per se undergoes similar frequencies of malignant transformation. The studies done to date probably have not been conducted for sufficient time or with sufficient numbers of long-term users to define incidence of malig-

nant transformation. Studies from India and Southeast Asia, involving different smokeless tobacco products and use patterns, suggest that the long-term risk for malignant change of smokeless tobacco-associated leukoplakia may be significant.

Other health risks

Blood levels of nicotine achieved by cigarette smoking, which are similar to those achieved by smokeless tobacco use, cause elevations of blood pressure, heart rate, certain blood lipids, and catecholamines. However, no direct epidemiological data are available on cardiovascular morbidity and mortality in association with smokeless tobacco use.

The complex array of constituents in smokeless tobacco presents a variety of potential health risks for the user as well as for the offspring of pregnant female users. In addition to nicotine, heavy metals such as lead and cadmium have been found in smokeless tobacco at levels that represent potential risks to the fetus and young child.

4. WHAT ARE THE BEHAVIORAL CONSEQUENCES OF SMOKELESS TOBACCO USE?

Tobacco produces psychological effects variously described as relaxing, arousing, and euphoriant. Over the past two decades, laboratory and clinical studies have indicated that these effects are mediated by nicotine and blocked by mecamylamine, a drug that competes for nicotine receptors in the brain. Tobacco use leads to a state of dependence in most regular users; this state is characterized by tolerance, physical dependence, and willingness to expend considerable efforts to maintain individual plasma levels within a range of values bounded by toxic effects and the onset of withdrawal symptoms. Plasma levels achieved by smokeless tobacco use are similar to those of cigarette smoking. Nicotine self-administration patterns are very similar to those of other central nervous system stimulant drugs in both laboratory animal and human studies.

The abuse liability of a substance—the degree of its ability to gain control over the user—is correleated with the delay between administration and brain levels sufficient to engender a psychological effect. Because nicotine from smokeless tobacco is presumed to reach the brain more slowly than that from cigarette smoke, it might be hypothesized that smokeless tobacco would have lower abuse liability. However, in studies of teenagers who attempted to stop using smokeless tobacco, only a small percentage were able to do so, suggesting that tobacco by the oral route has substantial addicting properties. The continued use of smokeless tobacco even by those who experience serious adverse health consequences attests to its addicting powers.

Addicted users of nicotine become tolerant to the drug: that is, despite experiencing initial unpleasant side effects (e.g., tremulousness, dizziness, and nausea), such users increase their dosage until it levels off at one that fulfills their need. Such users seek nicotine continually. Some users of smokeless tobacco use it even while sleeping.

The physical dependence associated with nicotine induces withdrawal symptoms when addicted users abruptly discontinue its use. Thereafter, exusers often experience craving for nicotine, and many become users again.

Other behavioral effects

Tobacco withdrawal produces increased irritability and decrements in several basic cognitive functions. These disruptive effects begin within hours of the last nicotine dose. Such cycles of intake and abstinence are typical of use patterns of youth in school and adults in many employment situations. Thus, the associated cognitive impairments could have adverse effects on academic and job performance.

Behavioral pharmacology and learning studies show that the determinants of the initiation, maintenance, and reduction of substance use result from the interaction between biochemical and behavioral processes. For smokeless tobacco, nonbiochemical factors that are correlated and readily manipulable include advertisements about smokeless tobacco, influence from peers, parental acceptance of smokeless tobacco use, and perception that smokeless tobacco is less harmful than smoking tobacco.

Behaviors can become interchangeable based on their function to the individual. For example, current opinion is that some smokers are switching to smokeless tobacco because the latter is considered a safe alternative for maintaining their nicotine dependence. Others suggest that young people using smokeless tobacco often switch to cigarettes. Use of smokeless tobacco in children is sometimes associated with the use of hard liquor, beer, wine, cigarettes, and marijuana.

5. WHAT ISSUES REGARDING THE HEALTH CONSEQUENCES OF SMOKELESS TOBACCO USE REQUIRE FURTHER RESEARCH?

There is a pressing need for well-designed studies of:

a. Prevalence of smokeless tobacco use based on continuing national probability sample data, including type of product, age, sex, region, and concomitant cigarette smoking. In addition, longitudinal studies should be conducted.

b. Users and nonusers of smokeless tobacco products, to characterize better the prevalence and incidence of periodontal diseases, caries, leukoplakia, and cancer. These studies should identify, as far as possible, the nature and contents of products used, patterns and durations of their use, concomitant use of other substances such as alcohol and smoking tobacco, and occurrence of viral infections. Where appropriate, they should use tissue biopsy as well as critical clinical and laboratory measurements.

c. Cancers of sites other than the mouth carried out in geographic areas with high rates of smokeless tobacco use.

d. Potential role of smokeless tobacco in cardiovascular disease and adverse outcomes of pregnancy.

e. Potential of users of smokeless tobacco to produce nitrosamines in vivo.

f. Research on the relationship between amounts of smokeless tobacco used and plasma levels of lead, cadmium, and other potential toxins.

g. Strategies for the development and evaluation of prevention programs, including school-based programs, taking into consideration regional, ethnic, age, socioeconomic, and other variables.

h. Development and evaluation of early intervention and treatment programs to reduce smokeless tobacco dependence, with special consideration of specific populations, including

1. School and College age.

2. Persons with specific risk or disease conditions, including malignancies, cardiovascular disease, women at risk for pregnancy.

3. Workplace- and industry-specific populations where elevated smoke tobacco use is common. Such programs should include a range of approaches based on pharmacological and behavioral treatments.

CONCLUSIONS

Use of smokeless tobacco has a long history in the United States, but trends in recent years, in particular the increasing use of snuff by children and young adults, have led to concerns about possible health consequences. National data suggest that at least 10 million persons have used smokeless tobacco of one kind or another within the past year. Patterns of use by age, sex, and type of product vary across the country.

The human evidence that use of snuff causes cancer of the mouth is strong. Risk is particularly high for parts of the mouth where the snuff is usually placed.

Data are currently insufficient to come to any conclusion regarding the relationship of smokeless tobacco use to cancers at other sites. Repeated experimental studies in animals have failed to provide adequate evidence that chewing tobacco, snuff, or extracts derived from them induce cancer. However, nitrosamines chemically related to nicotine occur at high levels in snuff and, generally, at lower levels in chewing tobacco. These compounds are highly carcinogenic in animals. The concentrations of nitrosamines in smokeless tobacco are far higher than the levels of these compounds allowed in any U.S. food or beverage.

Smokeless tobacco use increases the frequency of localized gum recession and leukoplakia where the snuff is usually placed, but evidence on its relationship to other diseases of the oral cavity is inadequate. The presence of lead in smokeless tobacco may pose a special risk for the developing fetus. Use of smokeless tobacco releases nicotine into the bloodstream and produces blood levels of nicotine comparable to those produced by smoking tobacco. The primarly behavioral consequence of regular use of smokeless tobacco is long-term nicotine dependence and its associated health risks.

Use of smokeless tobacco is one of a number of health-endangering behaviors which frequently coincide, with the clear potential for long-term and serious consequences.

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National Institute of Dental Research, Harald A. Löe, D.D.S., Dr. Odont., Director.

Office of Medical Applications of Research, NIH, Itzhak Jacoby, Ph.D., Acting Director.

Ms. OAKAR. Mr. Speaker, will the gentleman yield?

Mr. SYNAR. I yield to the gentlewoman from Ohio.

Ms. OAKAR. I thank the gentleman for yielding.

Mr. Speaker, I just want to compliment the gentleman and the committee. I think this is a real, serious problem that is more subtle than the obvious problems with tobacco smoking, and so on. I think this is a really fine piece of legislation. I want to compliment the gentleman and all the members of the committee for their work on this legislation.

Mr. WAXMAN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, in closing, I do want to thank all of the people who have participated in drafting this legislation and fashioning the compromise that is before us today.

I want to single out the Coalition on Smoking or Health for their diligence in looking after the public health interests of the people in this country. I want to thank our staff, particularly Mr. Ripley Forbes, for his diligent work in seeing this legislation through to this point.

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We have before us a bill that will address the problems which are very real for children who had been encouraged to use smokeless tobacco in a misleading way, and who in some cases have died, suffered even the ultimate consequences to their health from this very, very dangerous product.

I hope this legislation will serve as an encouragement all around this Nation that people should not take up this filthy habit, and certainly not think that smokeless tobacco is a safe replacement in any way for the other filthy habit of smoking cigarettes.

I urge adoption of this legislation.

Mr. COOPER. Mr. Speaker, it is well known that I am a Tennessean and that tobacco is a very important crop in my State. In fact, tobacco was the No. 1 cash crop in Tennessee last year. And my congressional district probably has the greater part of all the tobacco that's produced in Tennessee.

For generations, growing tobacco has been a way of life for thousands of my constituents. Tobacco grows on poor hill land that is good for little else, and has provided a livelihood for many poor Tennesseans who needed the money. It has been a kind of de facto poverty program for people who, quite rightly, preferred hard work to welfare.

But, while tobacco is important to my district, our people, particularly our young people, are far, far more important. And it is their health that is at risk due to smokeless tobacco.

Beginning in 1981, the first substantial evidence was collected which proved that there is a link between smokeless tobacco use and oral cancer. Apparently, you are four times more likely to contact cancer if you use it. Despite that discovery, smokeless tobacco use has risen about 33 percent since then and has become a $1 billion industry. Massive advertising campaigns such as the $1 million spent during the 1984 Winter Olympics have helped fuel the growth.

Somewhere between 10 and 22 million Americans have used smokeless tobacco products. There have been no warning labels to tell them of the danger. Use has skyrocketed, particularly among young people. An estimated 3 million Americans under 21 use smokeless tobacco. Somewhere between 15 and 40 percent of the secondary school students in my State have tried it, and use has been documented all the way down to the kindergarten level.

It is high time that the steps included in this bill be taken. The rough warning labels are long overdue. Advertising or radio and TV of smokeless products should be banned. And thorough studies by the Department of Health and Human Services and a public information program are long overdue.

I congratulate the chairman of the Health Subcommittee for spearheading these efforts and achieving this historic compromise.

Mr. SILJANDER. Mr. Speaker, I rise today in strong support for S. 1574, the smokeless tobacco bill. Recently, I received over 60 letters from junior high school students in Coloma, MI. These young people wrote and told me that they were overwhelmingly in favor of Congress taking action to limit the advertising of smokeless tobacco products, as well as, requiring warning labels to be displayed on smokeless tobacco products and smokeless tobacco advertising.

Their letters to me were in response to an article which they had read in Reader's Digest. This article told of a young high school athlete's struggle against cancer by smokeless tobacco. Despite several traumatic operations, the young athlete died.

I commend the students of Mrs. Sanders' eighth grade English class for their concern and publicminded spirit to write to me about this very serious and important issue. The students are: Ricky Albright, Aaron Carlisle, Paul Mow, Chris Burton, Crystal Sanders, Marty Badt, John Allen Frost, Kelly Moran, Kevin Hester, Stacey Latsch, Jeff Thornton, Tammy Dill, Sherri Miller, John Veit, Michael Steck, Ben Hollerbach, Kevin Wise, Robbie Privett, Curt Johnson, Jacob Krieger, Wendy Sweet, Kerry Krause, Donna Roseman, Derick Snyder, Jason Miller, Pam Johnson, Amy Martin, Bridget Miller, Kelly Siler, Darrin McGee, Corey Leslie, Charlie Rice, Eric Hensel, Leslie Sanders, Sherri Barnes, Kathy Carpenter, Karen Trapp, Jason Renfro, Jeff Nelson, Stephanie Miller, Wendy Stampfly, Pam Kutchinski, Staci Keirman, Scott Riemer, Char Coats, Tim Ishmael, Linda King, Denise Tullio, Tracya Brown, Karen Kniebes, Aaron Denbow, Tijuana Bridgeman, Jennifer Schlipp, Scott Quinn, Nikki Weber, Michelle Enochs, Brenda Brown, Rochelle Clapsaddle, Tiffany Bailey, Denise Rowe, Missi Wheeler, Marinda Bevins, and Joshua Koch.

Because of their efforts, and the efforts of thousands of other students across the country and various public health organizations, Congress is today taking the necessary steps to inform the public of the serious health effects associated with the use of smokeless tobacco.

Mrs. COLLINS. Mr. Speaker, I rise today to join my colleagues in expressing support of the Smokeless Tobacco and Health Education

Act. As a member of the Health Subcommittee, which held hearings last year on the dangers associated with the use of smokeless tobacco products, and coauthor of H.R. 3510. I welcome the timely consideration of this important legislation.

I would also like to take this opportunity to thank my good friend and colleague, Representative HENRY WAXMAN, chairman of the Health Subcommittee, for his relentless efforts to develop a strong bill, one which will not only make people more aware of the health hazards associated with smokeless tobacco, but make it more difficult for young people to get their hands on such potentially deadly products.

As the author of legislation designed to dissuade children from using snuff and smokeless tobacco, H.R. 3078, I was proud to be an active part of the subcommittee's efforts to curb its use and promote greater national awareness of the health risks associated with these products. The bill I sponsored addressed the problem in three ways: Education, excise taxes, and a prohibition on deductions of advertising expenses. In my view, education is the key ingredient in the formula for making sure that all users are well-informed of the risks that they are taking in chewing tobacco and dipping snuff.

The substitute measure to be offered by my good friend and colleague and chairman of the Health Subcommittee, Representative HENRY A. WAXMAN, contains important and necessary provisions that will go a long way toward removing the glamour and hype associated with snuff and discourage our youngsters from engaging in an activity that promises to result in serious health problems.

As provided for in the Smokeless Tobacco and Health Education Act, warning labels will be required on smokeless tobacco product packages, radio or television advertising of these products will be prohibited, and the Department of Health and Human Services will be required to develop education programs and public service announcements as a way to inform the public of the health risks resulting from the use of smokeless tobacco. Lastly, manufacturers of smokeless tobacco products would be required to list chemicals added in the manufacture of smokeless tobacco.

I urge my colleagues to join me in putting a lid on the rampant use of chewing tobacco and snuff by our Nation's youth by voting to pass this very needed legislation.

Mr. HOPKINS. Mr. Speaker, I rise in opposition to the committee amendment to S. 1574, the smokeless tobacco education bill which passed the House yesterday. I support the version of this bill which was passed by the other body.

First, I think it should be pointed out that this is not a committee amendment. Rather, it is a subcommittee amendment because the full Energy and Commerce Committee has not acted on this bill.

It is irresponsible to make such a bold move without first having full committee action on the bill and time for full debate and amendment in the House. Bringing this measure up under suspension, when the full committee has not even passed it, is not a responsible way to legislate.

Second, I am sure many Members have received concerned calls from radio and television stations in their districts who are suddenly faced with the loss of advertising revenue from a legal product. The House should not take the step of banning advertising without first trying a less restrictive measure, such as requiring that warnings be included in the ads.

Third, I do not agree with the need to go beyond the design of warning labels currently on cigarettes. I believe new warning labels on smokeless products should conform to the precedent Congress established with cigarettes.

Mr. GILMAN. Mr. Speaker, I am pleased to speak in support of S. 1574, legislation directing the Department of Health and Human Services to develop a program to educate the public on the health consequences associated with the use of smokeless tobacco. While I believe it is safe to say that the general public is well-aware of the deleterious health affects of smoking—the fact that it increases the smoker's chance to contract heart and lung diseases—many do not know that smokeless tobacco—snuff and chewing tobacco—also poses a significant health risk to the user. By adopting this legislation to facilitate an increased awareness among our constituents to the dangers of smokeless tobacco, we will have made a significant contribution to protecting their continued good health.

In response to the serious health consequences associated with smoking, many individuals, especially our young, have turned to smokeless tobacco. Most recent evidence, however, indicates that the nicotine levels found in smokeless tobacco have been directly associated with high blood pressure, recission of the gums, peridontal bone destruction and tooth abrasion, as well as oral cancer. I am pleased to note that this legislation enjoys the support of trhe American Cancer Society and the American Dental Association, as well as members of the smokeless tobacco industry.

In accordance with S. 1574, all smokeless tobacco products manufactured, packaged or imported for sale or distribution in the United States must bear one of the following three statements: (1) Warning: This Product May Cause Mouth Cancer; (2) Warning: This Product May Cause Gum Disease and Tooth Loss; or (3) Warning: This Product Is Not a Safe Alternate to Cigarettes. This legislation also directs HHS to conduct and support research on the effects of smokeless tobacco on human health and to disseminate the findings of the research to the general public. HHS must report to Congress by January 1, 1987—and biennially thereafter—on the progress of its health-education efforts.

There is probably not a Member present in this Chamber who has not known a loved one who has been ill or died from an illness attributable to cigarette smoking. When I was a youth, we did not know the dangers of cigarette smoking. Today's youth, however, cannot make the same claim. It is our duty to share our knowledge of the dangers of smokeless tobacco and to make certain that all persons, especially our youth, are making informed decisions regarding the use of smokeless tobacco. Accordingly, I urge my colleagues to offer their full support for adoption of S. 1574 in order to inform the public of the health effects associated with the use of snuff and chewing tobacco.

Mr. WAXMAN. Mr. Speaker, I yield back the balance of my time.

Mr. BLILEY. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California [Mr. WAXMAN] that the House suspend the rules and pass the Senate bill, S. 1574, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the Senate bill, as amended, was passed.

A motion to reconsider was laid on the table.

FEDERAL EMPLOYEES BENEFITS IMPROVEMENT ACT OF 1986

Ms. OAKAR. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 4061) to amend title 5, United States Code, to expand the class of individuals eligible for refunds or other returns of contributions from contingency reserves in the Employees Health Benefits Fund; to make miscellaneous amendments relating to the Civil Service Retirement System and the Federal Employees Health Benefits Program; and for other purposes, as amended.

The Clerk read as follows:

H.R. 4061

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Federal Employees Benefits Improvement Act of 1986".

TITLE I—FEDERAL EMPLOYEE HEALTH BENEFITS

SEC. 101. AUTHORITY TO REFUND CERTAIN CONTRIBUTIONS TO ENROLLEES.

The last sentence of section 8909(b) of title 5, United States Code, is amended by striking out "employees" and inserting in lieu thereof "enrollees".

SEC. 102. ELIMINATION OF REQUIREMENT OF THREE MEDICAL SPECIALTIES FOR GROUP-PRACTICE PREPAYMENT PLANS.

The second sentence of section 8903(4)(A) of title 5, United States Code, is amended to read as follows: "The group shall include at least 3 physicians who receive all or a substantial part of their professional income from the prepaid funds and who represent 1 or more medical specialties appropriate and necessary for the population proposed to be served by the plan.".

SEC. 103. AUTHORITY TO WAIVE CERTAIN ELIGIBILITY REQUIREMENTS.

Section 8905(b) of title 5, United States Code, is amended by adding at the end thereof the following new sentence: "The Office may, in its sole discretion, waive the requirements of this subsection in the case of an individual who fails to satisfy such requirements if the Office determines that, due to exceptional circumstances, it would be against equity and good conscience not to allow such individual to be enrolled as an

annuitant in a health benefits plan under this subchapter.".

SEC. 104. ANNUAL OPEN SEASON.

(a) IN GENERAL.—Section 8905(f) of title 5, United States Code, is amended to read as follows:

"(f)(1) Under regulations prescribed by the Office, the Office shall, before the start of any contract term in which—

"(A) an adjustment is made in any of the rates charged or benefits provided under a health benefits plan described by section 8903 or 8903a of this title,

"(B) a newly approved health benefits plan is offered, or

"(C) an existing plan is terminated,

provide a period of not less than 3 weeks during which any employee, annuitant, or former spouse enrolled in a health benefits plan described by such section shall be permitted to transfer that individual's enrollment to another such plan or to cancel such enrollment.

"(2) In addition to any opportunity afforded under paragraph (1) of this subsection, an employee, annuitant, or former spouse enrolled in a health benefits plan under this chapter shall be permitted to transfer that individual's enrollment to another such plan, or to cancel such enrollment, at such other times and subject to such conditions as the Office may prescribe in regulations.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall be effective with respect to contracts entered into or renewed for calendar years beginning after December 31, 1986.

SEC. 105. AUTHORITY TO PAY CERTAIN HEALTH CARE PROFESSIONALS.

(a) DEFINITIONS.—Section 8901 of title 5, United States Code, is amended—

(1) by striking out "and" at the end of paragraph (9);

(2) by striking out the period at the end of paragraph (10) and inserting in lieu thereof "; and"; and

(3) by adding at the end thereof the following new paragraph:

"(11) 'qualified clinical social worker' means an individual—

"(A) who is licensed or certified as a clinical social worker by the State in which such individual practices; or

"(B) who, if such State does not provide for the licensing or certification of clinical social workers—

"(i) is certified by a national professional organization offering certification of clinical social workers; or

"(ii) meets equivalent requirements (as prescribed by the Office).".

(b) CLINICAL SOCIAL WORKERS.—Section 8902(k) of title 5, United States Code, is amended—

(1) by striking out "(k)" and inserting in lieu thereof "(k)(1)";

(2) by striking out the last sentence; and

(3) by inserting at the end thereof the following:

"(2) When a contract under this chapter requires payment or reimbursement for services which may be performed by a qualified clinical social worker, an employee, annuitant, family member, or former spouse covered by the contract shall be entitled under the contract to have payment or reimbursement made to him or on his behalf for the services performed. As a condition for the payment or reimbursement, the contract—

"(A) may require that the services be performed pursuant to a referral by a psychiatrist; but

"(B) may not require that the services be performed under the supervision of a psychiatrist or other health practitioner.

"(3) The provisions of this subsection shall not apply to group practice prepayment plans.".

(c) EFFECTIVE DATE.—The amendments made by subsections (a) and (b) shall be effective with respect to contracts entered into or renewed for calendar years beginning after December 31, 1986.

SEC. 106. HEALTH SERVICES FOR MEDICALLY UNDERSERVED POPULATIONS.

(a) IN GENERAL.—(1) Section 3 of the Act entitled "An Act to amend chapter 89 of title 5, United States Code, to establish uniformity in Federal employee health benefits and coverage by preempting certain State or local laws which are inconsistent with such contracts, and for other purposes", approved September 17, 1978 (Public Law 95-368; 92 Stat. 606; 5 U.S.C. 8902 note), is amended by striking out "; except that such provisions shall not apply to services provided after December 31, 1984".

(2) Section 5(b) of the Act entitled "An Act to amend the provisions of chapters 83 and 89 of title 5, United States Code, which relate to survivor benefits for certain dependent children, and for other purposes", approved January 2, 1980 (Public Law 96-179; 93 Stat. 1300; 5 U.S.C 8902 note), is amended by striking out "and before January 1, 1985,".

(3) Section 8902(m)(2)(A) of title 5, United States Code, is amended by adding at the end thereof the following: "This paragraph shall apply with respect to a qualified clinical social worker covered by subsection (k)(2) of this section without regard to whether such contract contains the requirement authorized by clause (i) of the second sentence of subparagraph (A) of such subsection (k)(2).".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect with respect to services provided after December 31, 1984.

SEC. 107. MENTAL HEALTH, ALCOHOLISM, AND DRUG ADDICTION BENEFITS.

(a) FINDINGS.—The Congress finds that—

(1) the treatment of mental illness, alcoholism, and drug addiction are basic health care services which are needed by approximately 40,000,000 Americans each year;

(2) treatment of mental illness, alcoholism, and drug addiction is increasingly successful;

(3) timely and appropriate treatment of mental illness, alcoholism, and drug addiction is cost effective in terms of restored productivity, reduced utilization of other health services, and reduced social dependence; and

(4) mental illness is a problem of grave concern to the people of the United States and is widely but unnecessarily feared and misunderstood.

(b) SENSE OF THE CONGRESS.—It is the sense of the Congress—

(1) that participants in the Federal employees health benefits program should receive adequate benefits coverage for treatment of mental illness, alcoholism, and drug addiction; and

(2) that the Office of Personnel Management should encourage participating health benefits plans to provide adequate benefits relating to treatment of mental illness, alcoholism, and drug addiction (including benefits relating to coverage for inpatient and outpatient treatment and catastrophic protection benefits).

SEC. 108. STUDY RELATING TO EXPANDING THE CLASS OF PRACTITIONERS COVERED BY SECTION 8902(k)(1).

The Office of Personnel Management shall study and, before April 1, 1986, submit a written report to the Committee on Post Office and Civil Service of the House of Representatives and the Committee on Governmental Affairs of the Senate with respect to extending section 8902(k)(1) of title 5, United States Code, as amended by this Act, to cover health practitioners not currently covered thereunder (such as nurse-midwives, nurse practitioners, chiropractors, and clinical social workers).

SEC. 109. STUDY OF THE ADEQUACY OF HEALTH BENEFITS PROGRAM INFORMATION.

(a) IN GENERAL.—Not later than June 1, 1986, the Office of Personnel Management shall (1) study the adequacy of any sources or methods currently provided under chapter 89 of title 5, United States Code, to assist individuals in making informed decisions concerning the choice of a health benefits plan under such chapter and the use of benefits available under any such plan, and (2) submit to the Committee on Post Office and Civil Service of the House of Representatives and the Committee on Governmental Affairs of the Senate a report on the findings and determinations of the Office resulting from such study.

(b) REPORT REQUIREMENTS.—The report required by subsection (a) shall include—

(1) an assessment of the adequacy of the sources and methods referred to in such subsection in advising individuals with respect to the coordination of benefits under chapter 89 of title 5, United States Code, with benefits available under other health insurance programs established by or under Federal law, including title XVIII of the Social Security Act; and

(2) the administrative actions and any recommendations for legislation which the Office considers necessary in order to improve the effectiveness of any such source or method.

SEC. 110. DEMONSTRATION PROJECT.

(a) DEFINITIONS.—For the purposes of this section—

(1) "health protection" means activities to minimize environmental and other workplace conditions which cause or aggravate stress, illness, disability, or other health impairments, including such activities as—

(A) accommodation of the handicapped;

(B) review of plans for new or altered facilities;

(C) routine inspections, surveys, studies of worksites;

(D) inspections of worksites by a physician, nurse, or other licensed health professional with training in occupational safety and health;

(E) evaluation and monitoring of worksite hazards; and

(F) investigations of causes of occupational disease or injury;

(2) "health promotion" means activities to encourage the development of health enhancing habits and practices, including activities encouraging—

(A) cessation of tobacco smoking;

(B) reduction in the misuse of alcohol, drugs, and other chemical substances;

(C) improvements in nutrition;

(D) improvements in physical fitness, including weight reduction; and

(E) control of stress;

(3) "disease prevention" means activities to prevent unnecessary illnesses, morbidity,

disability, and medical treatment, including—

(A) occupationally related examinations;

(B) general health assessments;

(C) biological monitoring;

(D) immunizations, chemoprophylaxis, fitting respirators and hearing protectors, use of barrier creams, control of high blood pressure, control of sexually transmittable diseases, care to improve pregnancy outcome, control of toxic agents, control or elimination of hazards leading to accidental injuries, control of infectious agents, and other health intervention activities; and

(E) referral to private physicians, dentists, and other licensed health professionals;

(4) "secondary prevention" means—

(A) activities to provide on-the-job emergency health and dental care and assistance, and

(B) rehabilitation or follow-up care after emergency care,

to reduce morbidity, disability, lost productivity, and medical treatment.

(b) IN GENERAL.—The Director of the Office of Personnel Management, in consultation with the Secretary of Health and Human Services, shall establish and carry out at least one demonstration project to determine—

(1) the most effective (including cost-effective) means of—

(A) furnishing health protection, health promotion, disease prevention, and secondary prevention services to Federal Government employees;

(B) encouraging such employees to adopt good health habits;

(C) reducing health risks to such employees, particularly the risks of heart disease, cancer, stroke, diabetes, anxiety, depression, and lifestyle-related accidents;

(D) reducing medical expenses of such employees through health protection, health promotion, disease prevention, and secondary prevention activities;

(E) enhancing employee productivity and reducing health related liability of the Federal Government through a comprehensive occupational health program; and

(F) carrying out a program—

(i) to train employees under the jurisdiction of a Federal Government agency to furnish health protection, health promotion, disease prevention, and secondary prevention services to employees of such agency; and

(ii) to promote interagency agreements under which trained employees of an agency are available to furnish such services to employees of other Federal Government agencies, subject to reimbursement of the costs of the agency in making the trained employees available; and

(2) the cost effectiveness of organizational structures and of social and educational programs which may be useful in achieving the objectives described in clause (1).

(c)(1) CONDUCT OF THE DEMONSTRATION PROJECT.—The demonstration project described in subsection (b) shall be conducted in cooperation with at least one—

(A) health profession school;

(B) allied health profession or nurse training institution; or

(C) public or private entity which provides health care.

(2)(A) The Director of the Office of Personnel Management, in consultation with the Secretary of Health and Human Services, may enter into contracts with, or make grants to, any school of medicine, school of osteopathy, school of public health, school of nursing, health maintenance organization, or other qualified health care provider for the purpose of carrying out the demonstration project described in subsection (b).

(B) The authority of the Director of the Office of Personnel Management to enter into contracts or to make grants under subparagraph (A) is effective for fiscal year 1986 and subsequent fiscal years only to such extent or in such amounts as are provided in appropriation Acts.

(C) For the purposes of this paragraph, the terms "school of medicine" and "school of osteopathy" have the same meanings as provided for such terms in section 701(4) of the Public Health Service Act (42 U.S.C. 292a(4)).

(d) REPORT.—Not later than 60 days after the date the demonstration project required by subsection (b) terminates, the Director of the Office of Personnel Management, in consultation with the Secretary of Health and Human Services, shall submit to Congress a report on the project.

(e) ESTABLISHMENT AND TERMINATION REQUIREMENTS.—The demonstration project required by subsection (b) shall be established not later than 6 months after the date of enactment of this Act and shall terminate on the date 2 years after such date of enactment.

SEC. 111. ADDITIONAL TYPE OF HEALTH BENEFITS PLAN.

Paragraph (4) of section 8903 of title 5, United States Code, is amended by adding at the end thereof the following new subparagraph:

"(C) MIXED MODEL PREPAYMENT PLANS.—Mixed model prepayment plans which are a combination of the type of plans described in subparagraph (A) and the type of plans described in subparagraph (B).".

SEC. 112. RESTRICTIONS RELATING TO AMOUNTS REFUNDED TO THE EMPLOYEES HEALTH BENEFITS FUND FROM CARRIERS' SPECIAL RESERVES.

(a) PROHIBITED TRANSFERS.—(1) No amount in the Employees Health Benefits Fund may be transferred to the general fund of the Treasury of the United States or the United States Postal Service as a result of a refund described in paragraph (2).

(2) This subsection applies with respect to any refund made by a carrier during fiscal year 1986 or 1987 to the Employees Health Benefits Fund to the extent that such refund represents amounts in excess of the minimum level of financial reserves necessary to be held by such carrier to ensure the stable and efficient operation of its health benefits plan.

(b) RESTRICTION RELATING TO USE OF CERTAIN AMOUNTS IN THE FUND.—(1) Any amount which is in the Employees Health Benefits Fund, and which is described in paragraph (2), may be used solely for the purpose of paying the Government contribution under chapter 89 of title 5, United States Code, for health benefits for annuitants enrolled in health benefits plans (without regard to the health benefits plan or plans from which the refunds were received).

(2) This subsection applies with respect to any amounts—

(A) which are referred to in subsection (a)(2); and

(B) which are attributable to Government contributions (other than contributions by the government of the District of Columbia, which shall be returned to such government) that were made under section 8906(b) of title 5, United States Code, as determined under regulations which the Office of Personnel Management shall prescribe.

(c) DEFINITIONS.—For the purpose of this section—

(1) the term "Employees Health Benefits Fund" refers to the fund described in section 8909(a) of title 5, United States Code;

(2) the term "carrier" has the meaning given such term by section 8901(7) of such title; and

(3) the term "health benefits plan" has the meaning given such term by section 8901(6) of such title.

TITLE II—CIVIL SERVICE SPOUSE AND FORMER SPOUSE EQUITY IMPROVEMENTS

SEC. 201. REVISION OF THE APPLICATION AND SPECIAL ELECTIONS PROVISIONS OF THE CIVIL SERVICE RETIREMENT SPOUSE EQUITY ACT OF 1984.

(a) APPLICATION.—Section 4(a) of the Civil Service Retirement Spouse Equity Act of 1984 (Public Law 98-615; 98 Stat. 3204) is amended to read as follows:

"(a)(1) Except as provided in paragraphs (3), (4), (5), and (6) and subsections (b) and (c), the amendments made by section 2 of this Act shall take effect May 7, 1985, and shall apply—

"(A) to any individual who, on or after such date, is married to an employee or Member who, on or after such date, retires, dies, or applies for a refund of contributions under subchapter III of chapter 83 of title 5, United States Code, and

"(B) to any individual who, as of such date, is married to a retired employee or Member,

unless (i) such employee or Member has waived, under the first sentence of section 8339(j)(1) of such title (or a similar prior provision of law), the right of that individual's spouse to receive a survivor annuity, or (ii) in the case of a post-retirement marriage or remarriage, an election has not been made before such date by such employee or Member with respect to such individual under the applicable provisions of section 8339(j)(1) or 8339(k)(2) of such title, as the case may be (or a similar prior provision of law).

"(2) Except as provided in subsection (f), the amendments made by section 3 of this Act shall take effect May 7, 1985, and shall apply to any individual who, on or after such date, is married to an employee or annuitant.

"(3) The amendments made by subparagraphs (B)(iii) and (C)(ii) of section 2(4) of this Act (relating to the termination of survivor benefits for a widow or widower who remarries before age 55) and the amendments made by subparagraph (F) of such section 2(4) (relating to the restoration of a survivor annuity upon the dissolution of such a remarriage) shall apply—

"(A) in the case of a remarriage occurring on or after the date of the enactment of this Act; and

"(B) with respect to periods beginning on or after such date.

"(4)(A) Except as provided in subparagraph (B), the amendment made by section 2(3)(A) of this Act (but only to the extent that it amends title 5, United States Code, by adding a new section 8339(j)(5)(C)) and the amendment made by section 2(3)(C) of this Act (which relate to the election of a survivor annuity for a spouse in the case of a post-retirement marriage or remarriage) shall apply—

"(i) to an employee or Member who retires before, on, or after May 7, 1985; and

"(ii) in the case of a marriage occurring on or after May 7, 1985.

"(B) The amendments referred to in subparagraph (A) shall not apply in the case of a marriage of an employee or Member retiring before May 7, 1985, if the marriage occurred after May 6, 1985, and before the date of the enactment of the Federal Employees Benefits Improvement Act of 1985.

"(C) Any election by an employee or Member described in subparagraph (B) to provide a survivor annuity for that individual's spouse by a marriage described in such subparagraph shall be effective if made in accordance with the applicable provisions of section 8339(j)(1) or 8339(k)(2) of title 5, United States Code, as the case may be, as in effect on May 6, 1985.

"(5)(A) Paragraphs (2), (3), (4), and (5)(B) of section 8339(j) of title 5, United States Code (as added by section 2(3)(A) of this Act), shall apply in the case of a former spouse of an employee or Member whose marriage to such employee or Member terminated before May 7, 1985, if such employee or Member retires on or after such date.

"(B)(i) The requirement described in clause (ii) shall not apply to an election made by an employee or Member under section 8339(j)(3) of title 5, United States Code (as amended by section 2(3)(A) of this Act), in order to provide a survivor annuity under section 8341(h) of such title (as amended by section 2(4)(G) of this Act) in the case of a former spouse referred to in subparagraph (A) if the election meets the requirements of clause (iii).

"(ii) The requirement referred to in clause (i) is the requirement prescribed in section 8339(j)(3) of title 5, United States Code, for an employee or Member to make an election in the case of a former spouse under such section 8339(j)(3) at the time of retirement or, if later, within 2 years after the date on which the marriage of the former spouse to the employee or Member is dissolved.

"(iii) Clause (i) applies to an election which is made by an employee or Member who retires on or after May 7, 1985, and before the date of the enactment of the Federal Employees Benefits Improvement Act of 1985, and is received by the Office of Personnel Management within the 2-year period beginning on the date of the enactment of such Act.

"(C) A survivor annuity shall be paid a former spouse as provided in section 8341(h) of title 5, United States Code (as amended by section 2(4)(G) of this Act), pursuant to an election made in the case of such former spouse under this paragraph.

"(D) The amendments made by paragraphs (6) and (7) of section 2 of this Act shall apply in the case of survivor annuities and elections authorized by this paragraph.

"(6) The amendment made by section 2(4)(A) of this Act (relating to the definition of a widow or widower) and the amendment made by section 2(4)(G) of this Act (but only to the extent that it amends title 5, United States Code, by adding a new section 8341(i)) shall apply with respect to any marriage occurring on or after the date of the enactment of this Act.".

(b) ENTITLEMENT OF A FORMER SPOUSE IN CASE OF RETIREMENT OR DEATH OF AN EMPLOYEE OR MEMBER BEFORE THE EFFECTIVE DATE.—Section 4(b) of the Civil Service Retirement Spouse Equity Act of 1984 (Public Law 98-615; 98 Stat. 3205) is amended—

(1) in paragraph (1)—

(A) by striking out "the one hundred and eightieth day after the date of enactment of this Act" in the matter before subparagraph (A) and inserting in lieu thereof "May 7, 1985, or who died after becoming eligible to retire and before such date,";

(B) by striking out "retired" in the matter before clause (i) in subparagraph (B); and

(C) by striking out clause (iii) in subparagraph (B) and by redesignating clauses (iv), (v), and (vi) of such subparagraph as clauses (iii), (iv), and (v), respectively; and

(2) by redesignating paragraph (4) as paragraph (5);

(3) by inserting after paragraph (3) the following new paragraph (4):

"(4)(A) A former spouse of an employee or Member referred to in the matter before subparagraph (A) in paragraph (1) of this section shall be entitled to a survivor annuity under subparagraph (B) of such paragraph if—

"(i) the former spouse satisfies the requirements of clauses (ii) through (v) of such subparagraph (B); and

"(ii) there is no surviving spouse of the employee or Member and no other former spouse of such employee or Member who is entitled to receive a survivor annuity under subchapter III of chapter 83 of title 5, United States Code, based on the service of such employee or Member which is creditable under such subchapter and there is no other person who has been designated to receive a survivor annuity under such subchapter by reason of an insurable interest in such employee or Member.

"(B) For the purposes of this paragraph, the term 'surviving spouse' means a widow or a widower as defined in paragraphs (1) and (2), respectively, of section 8341(a) of title 5, United States Code."; and

(4) in paragraph (5), as redesignated by clause (2) of this subsection—

(A) by striking out "Member," in the matter before subparagraph (A) and inserting in lieu thereof "Member (or of that portion of the annuity which such employee or Member may have designated for this purpose under paragraph (1)(A) of this subsection),"; and

(B) by striking out "section 8341(b)(4)" in the matter following subparagraph (B) and inserting in lieu thereof "section 8341(h)(2)".

(c) ELIGIBILITY OF CERTAIN FORMER SPOUSES TO ENROLL IN A FEDERAL EMPLOYEES HEALTH BENEFITS PLAN.—(1) The first sentence of section 4(f) of the Civil Service Retirement Spouse Equity Act of 1984 is amended to read as follows: "Any individual—

"(1) who is entitled to a survivor annuity under subsection (b) of this section or pursuant to an election authorized by reason of the application of subsection (a)(5) of this section,

"(2) as to whom a court order or decree referred to in section 8345(j) of title 5, United States Code (or similar provision of law under a retirement system for Government employees other than the Civil Service Retirement System) has been issued before May 7, 1985, or

"(3) who is entitled (other than as described in paragraph (2)) to an annuity or any portion of an annuity as a former spouse under a retirement system for Government employees as of May 7, 1985,

shall be considered to have satisfied section 8901(10)(C) of title 5, United States Code, as amended by this Act.".

(2) The second sentence of such section 4(f) is amended—

(A) by inserting ", within 12 months after the date of the enactment of the Federal Employees Benefits Improvement Act of 1985," before "enroll"; and

(B) by inserting before the period at the end the following: "(other than the conditions prescribed in subparagraphs (A) and (B) of paragraph (1) of such section 8905(c))".

(d) ADDITIONAL ELECTION.—(1) Notwithstanding the time limitation prescribed in subparagraph (A) of section 4(b)(1) of the Civil Service Retirement Spouse Equity Act of 1984, an election may be made under such subparagraph before the expiration of the 12-month period beginning on the date on which the regulations under paragraph (3) of this subsection first take effect.

(2) Any retired employee or Member who has made an election under section 4(b)(1)(A) of the Civil Service Retirement Spouse Equity Act of 1984 (as in effect at the time of such election) before the regulations under paragraph (3) of this subsection become effective may modify such election by designating, in writing, that only a portion of such employee or Member's annuity is to be used as the base for the survivor annuity for the former spouse for whom the election was made. A modification under this subparagraph shall be subject to the deadline under paragraph (1) of this subsection.

(3) The Office of Personnel Management shall prescribe regulations to carry out this subsection, including regulations under which an appropriate refund shall be made in the case of a modification under paragraph (2) of this subsection.

SEC. 202. CREDIT FOR MILITARY SERVICE.

Section 8332(j)(1) of title 5, United States Code, is amended by striking out "widow" each place it appears and inserting in lieu thereof "spouse, former spouse".

SEC. 203. ANNUITY REDUCTIONS.

(a) IRREVOCABILITY OF A JOINT SPOUSAL WAIVER.—Section 8339(j)(3) of title 5, United States Code, is amended by inserting ", unless all rights to survivor benefits for such former spouse under this subchapter based on marriage to such employee or Member were waived under paragraph (1) of this subsection" before the period at the end of the first sentence.

(b) REPLACEMENT OF TERMINATED REDUCTION.—Section 8339(j)(5)(B) of title 5, United States Code, is amended to read as follows:

"(B) Any reduction in an annuity for the purpose of providing a survivor annuity for a former spouse of a retired employee or Member shall be terminated for each full month after the former spouse remarries before reaching age 55 or dies. This reduction shall be replaced by an appropriate reduction or reductions under paragraph (4) of this subsection if the retired employee or Member has (i) another former spouse who is entitled to a survivor annuity under section 8341(h) of this title, (ii) a current spouse to whom the employee or Member was married at the time of retirement and with respect to whom a survivor annuity was not jointly waived under paragraph (1) of this subsection, or (iii) a current spouse whom the employee or Member married after retirement and with respect to whom an election has been made under subparagraph (C) of this paragraph or subsection (k)(2) of this section.".

(c) ELECTIONS RELATING TO A SURVIVOR ANNUITY FOR A PERSON WHO HAS AN INSURABLE INTEREST IN AN ANNUITANT.—(1) Section 8339(j)(5)(C) of title 5, United States Code, is amended by adding at the end thereof the following:

"(v) An election to provide a survivor annuity to a person under this subparagraph—

"(I) shall prospectively void any election made by the employee or Member under subsection (k)(1) of this section with respect to such person; or

"(II) shall, if an election was made by the employee or Member under such subsection (k)(1) with respect to a different person, prospectively void such election if appropriate written application is made by such employee or Member at the time of making the election under this subparagraph.

"(vi) The deposit provisions of clauses (ii) and (iii) of this subparagraph shall not apply if—

"(I) the employee or Member makes an election under this subparagraph after having made an election under subsection (k)(1) of this section; and

"(II) the election under such subsection (k)(1) becomes void under clause (v) of this subparagraph.".

(2) Section 8339(k)(1) of such title is amended by adding at the end thereof the following: "In the case of a married employee or Member, an election under this paragraph on behalf of the spouse may be made only if any right of such spouse to a survivor annuity based on the service of such employee or Member is waived in accordance with subsection (j)(1) of this section.".

(3) Paragraph (2) of section 8339(k) of such title is amended—

(A) by striking out subparagraph (B)(i) and inserting in lieu thereof the following:

"(B)(i) The election and reduction shall take effect on the first day of the first month beginning after the expiration of the 9-month period beginning on the date of marriage. Any such election to provide a survivor annuity for a person—

"(I) shall prospectively void any election made by the employee or Member under paragraph (1) of this subsection with respect to such person; or

"(II) shall, if an election was made by the employee or Member under such paragraph with respect to a different person, prospectively void such election if appropriate written application is made by such employee or Member at the time of making the election under this paragraph.";

(B) by striking out "(other than an employee or Member who made a previous election under paragraph (1) of this subsection)" in subparagraph (B)(ii); and

(C) by adding at the end thereof the following new subparagraph (D):

"(D) Subparagraphs (B)(ii) and (C) of this paragraph shall not apply if—

"(i) the employee or Member makes an election under this paragraph after having made an election under paragraph (1) of this subsection; and

"(ii) the election under such paragraph (1) becomes void under subparagraph (B)(i) of this paragraph.".

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect May 7, 1985.

SEC. 204. PRORATED COST-OF-LIVING ADJUSTMENTS FOR THE FIRST YEAR.

Section 8340(c)(1) of title 5, United States Code, is amended—

(1) by striking out "or widower" the first time it appears and inserting in lieu thereof ", widower, or former spouse,"; and

(2) by striking out "or widower" the second and third time it appears and inserting in lieu thereof ", widower, former spouse, or insurable interest designee".

SEC. 205. SURVIVOR BENEFITS FOR CHILDREN.

(a) EQUITABLE SURVIVOR ANNUITIES FOR SURVIVING CHILDREN.—Section 8341(e) of title 5, United States Code, is amended—

(1) by redesignating paragraphs (1) and (2) as paragraphs (2) and (3), respectively; and

(2) by inserting before paragraph (2), as redesignated by clause (1), the following new paragraph:

"(1) For the purposes of this subsection, 'former spouse' includes a former spouse who was married to an employee or Member for less than 9 months and a former spouse of an employee or Member who completed less than 18 months of service covered by this subchapter.".

(b) INDIVIDUAL DETERMINATION OF SURVIVOR ANNUITY AMOUNT.—Section 8341(e)(2) of title 5, United States Code, as redesignated by subsection (a)(1) of this section, is amended by striking out "each surviving child" both times it appears and inserting in lieu thereof "that surviving child".

SEC. 206. DEFERRED ANNUITIES FOR FORMER SPOUSES OF FORMER MEMBERS OF CONGRESS.

Section 8341(h)(1) of title 5, United States Code, is amended by striking out "or annuitant" and inserting in lieu thereof "annuitant, or former Member who was separated from the service with title to a deferred annuity under section 8338(b) of this title".

SEC. 207. CHANGES IN COURT ORDERS AFTER DEATH.

Section 8341(h)(4)(A) of title 5, United States Code, is amended by inserting "or death" after "retirement".

SEC. 208. EFFECT OF A SEPARATION AGREEMENT ON REFUND OF A LUMP-SUM CREDIT.

Section 8342(j)(1)(B) of title 5, United States Code, is amended to read as follows:

"(B) shall be subject to the terms of a court decree of divorce, annulment, or legal separation or any court order or court approved property settlement agreement incident to such decree if—

"(i) the decree, order, or agreement expressly relates to any portion of the lump-sum credit involved; and

"(ii) payment of the lump-sum credit would extinguish entitlement of the employee's or Member's spouse or former spouse to a survivor annuity under section 8341(h) of this title or to any portion of an annuity under section 8345(j) of this title.".

TITLE III—MISCELLANEOUS CIVIL SERVICE AMENDMENTS

SEC. 301. RECEPTION AND REPRESENTATION EXPENSES OF THE OFFICE OF PERSONNEL MANAGEMENT.

Section 1103(a) of title 5, United States Code, is amended—

(1) by striking out "and" after paragraph (7);

(2) by striking out the period after paragraph (8) and by inserting in lieu thereof "; and"; and

(3) by inserting after paragraph (8) the following:

"(9) incurring official reception and representation expenses of the Office subject to any limitation prescribed in any law.".

SEC. 302. EXCEPTION TO NOTICE REQUIREMENTS FOR ROUTINE PAY MATTERS.

Section 1103(b) of title 5, United States Code, is amended by adding at the end thereof the following new paragraph:

"(4) Paragraphs (1) and (2) of this subsection and section 1105 of this title shall not apply to the establishment of any schedules or rates of basic pay or allowances under subpart D of part III of this title. The preceding sentence does not apply to the establishment of the procedures, methodology, or criteria used to establish such schedules, rates, or allowances.".

SEC. 303. PREDEPARTURE ALLOWANCE.

Section 5924(2)(A) of title 5, United States Code, is amended by inserting after "United States" the following: ", its territories or possessions, the Commonwealth of Puerto Rico, or the areas and installations in the Republic of Panama made available to the United States pursuant to the Panama Canal Treaty of 1977 and related agreements".

SEC. 304. DENTAL CARE IN GOVERNMENT MEDICAL FACILITIES OVERSEAS.

The second sentence of section 5 of the Act of May 10, 1943 (24 U.S.C. 35; 57 Stat. 81) is amended to read as follows: "Routine dental care, other than dental prosthesis and orthodontia, may be furnished to such persons who are outside the naval service under the same conditions as are prescribed in section 4 of this Act for hospital and dispensary care for such persons.".

SEC. 305. MINIMUM ANNUITY UNDER THE CIVIL SERVICE RETIREMENT AND DISABILITY SYSTEM.

(a) REPEAL.—Section 8345(f) of title 5, United States Code, is repealed.

(b) SAVINGS PROVISION.—An annuity payable from the Civil Service Retirement and Disability Fund as of the day before the date of enactment of this Act shall not be reduced—

(1) by reason of the repeal of section 8345(f) of title 5, United States Code; or

(2) if or to the extent that the reduction is to be made for the purpose of eliminating an overpayment resulting from the manner in which such section 8345(f) has been administered by the Office of Personnel Management.

(c) RATIFICATION OF ERRONEOUS PAYMENTS.—Any individual to whom an overpayment of an annuity has been made from the Civil Service Retirement and Disability Fund before the date of enactment of this Act shall be deemed to have been entitled to that overpayment if and to the extent that such overpayment resulted from the manner in which the Office of Personnel Management has administered section 8345(f) of title 5, United States Code.

(d) ADJUSTMENTS OF CERTAIN REDUCTIONS.—(1) Effective for any month after the date of enactment of this Act, the amount of any annuity which—

(A) is payable from the Civil Service Retirement and Disability Fund; and

(B) was reduced after June 30, 1985, and before the date of enactment of this Act, to eliminate any overpayment resulting from the manner in which the Office of Personnel Management administered section 8345(f) of title 5, United States Code,

shall not be less than the amount which would have been payable as of such date of enactment if the reduction described in clause (B) had not been made.

(2)(A) The Office shall make a lump-sum payment to each individual receiving an annuity to which paragraph (1) applies.

(B) The lump-sum payment made to any individual under this paragraph shall be equal to the excess of—

(i) the total amount of the annuity payments which would have been made to the individual for the period beginning with the first month in which the reduction described in paragraph (1)(B) was made and ending on the last day of the month in which this Act is enacted if the reduction had not been made, over

(ii) the total amount of the annuity payments which have been paid to such individual for that period.

SEC. 306. CIVIL SERVICE BENEFITS FOR FORMER EMPLOYEES OF COUNTY COMMITTEES.

(a) RETENTION.—Section 3502(a)(C) of title 5, United States Code, is amended by striking out "who is an employee in or under the Department of Agriculture".

(b) RATE OF PAY ON CHANGE OF POSITION.—Section 5334(e) of title 5, United States Code, is amended—

(1) by inserting a comma after "may"; and

(2) by striking out "under the Department of Agriculture,".

(c) ACCRUAL AND ACCUMULATION OF LEAVE.—The first sentence of section 6312 of title 5, United States Code, is amended by striking out "in the case of any officer or employee in or under the Department of Agriculture".

SEC. 307. 18-MONTH PERIOD TO ELECT A SURVIVOR ANNUITY UNDER THE CIVIL SERVICE RETIREMENT AND DISABILITY SYSTEM.

(a) IN GENERAL.—Section 8339 of title 5, United States Code, is amended by adding at the end thereof the following:

"(o)(1)(A) An employee or Member—

"(i) who, at the time of retirement, is married, and

"(ii) who notifies the Office at such time (in accordance with subsection (j)) that a survivor annuity under section 8341(b) of this title is not desired,

may, during the 18-month period beginning on the date of the retirement of such employee or Member, elect to have a reduction under subsection (j) made in the annuity of the employee or Member (or in such portion thereof as the employee or Member may designate) in order to provide a survivor annuity for the spouse of such employee or Member.

"(B) An employee or Member—

"(i) who, at the time of retirement, is married, and

"(ii) who at such time designates (in accordance with subsection (j)) that a limited portion of the annuity of such employee or Member is to be used as the base for a survivor annuity under section 8341(b) of this title,

may, during the 18-month period beginning on the date of the retirement of such employee or Member, elect to have a greater portion of the annuity of such employee or Member so used.

"(2)(A) An election under subparagraph (A) or (B) of paragraph (1) of this subsection shall not be considered effective unless the amount specified in subparagraph (B) of this paragraph is deposited into the Fund before the expiration of the applicable 18-month period under paragraph (1).

"(B) The amount to be deposited with respect to an election under this subsection is an amount equal to the sum of—

"(i) the additional cost to the System which is associated with providing a survivor annuity under subsection (b)(2) of this section and results from such election taking into account (I) the difference (for the period between the date on which the annuity of the participant or former participant commences and the date of the election) between the amount paid to such participant or former participant under this subchapter and the amount which would have been paid if such election had been made at the time the participant or former participant applied for the annuity, and (II) the costs associated with providing for the later election; and

"(ii) interest on the additional cost determined under clause (i) of this subparagraph computed using the interest rate specified or determined under section 8334(e) of this title for the calendar year in which the amount to be deposited is determined.

"(3) An election by an employee or Member under this subsection voids prospectively any election previously made in the case of such employee or Member under subsection (j).

"(4) An annuity which is reduced in connection with an election under this subsection shall be reduced by the same percentage reductions as were in effect at the time of the retirement of the employee or Member whose annuity is so reduced.

"(5) Rights and obligations resulting from the election of a reduced annuity under this subsection shall be the same as the rights and obligations which would have resulted had the employee or Member involved elected such annuity at the time of retiring.

"(6) The Office shall, on an annual basis, inform each employee or Member who is eligible to make an election under this subsection of the right to make such election and the procedures and deadlines applicable to such election.".

(b) EFFECTIVE DATE AND APPLICATION.—(1) The amendment made by subsection (a) shall take effect 3 months after the date of the enactment of this Act.

(2)(A) Subject to subparagraph (B), the amendment made by subsection (a) shall apply with respect to employees and Members who retire before, on, or after such amendment first takes effect.

(B) For the purpose of applying the provisions of paragraph (1) of section 8339(o) of title 5, United States Code (as added by subsection (a) of this section) to employees and Members who retire before the date on which the amendment made by subsection (a) first takes effect—

(i) the period referred to in subparagraph (A) or (B) of such paragraph (as the case may be) shall be considered to begin on the date on which such amendment first becomes effective; and

(ii) the amount referred to in paragraph (2) of such section 8339(o) shall be computed without regard to the provisions of subparagraph (B)(ii) of such paragraph (relating to interest).

(3) For purposes of this subsection, the terms "employee" and "Member" each has the meaning given that term in sections 8331(1) and 8331(2) of title 5, United States Code, respectively.

The SPEAKER pro tempore. Is a second demanded?

Mr. MYERS of Indiana. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentlewoman from Ohio [Ms. OAKAR] will be recognized for 20 minutes and the gentleman from Indiana [Mr. MYERS] will be recognized for 20 minutes.

The Chair recognizes the gentlewoman from Ohio [Ms. OAKAR].

GENERAL LEAVE

Ms. OAKAR. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks, and to include extraneous matter, on H.R. 4061, the bill presently under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from Ohio?

There was no objection.

Ms. OAKAR. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, today the House will consider H.R. 4061, the Federal Employees Benefits Improvement Act of 1986. This legislation is very similar to H.R. 3384, which was passed by the Congress last December and vetoed by the President on January 17, 1986.

The two provisions in H.R. 3384 to which the President objected have been deleted from H.R. 4061. The present legislation is cosponsored by 28 of my colleagues, including WILLIAM FORD, chairman of the Committee of Post Office and Civil Service, GENE TAYLOR, the ranking minority member, and JOHN MYERS, the ranking minority member of the Subcommittee on Compensation and Employee Benefits. H.R. 4061 enjoys bipartisan support in both the House and Senate and by the administration.

The purpose of H.R. 4061 is to make Federal annuitants eligible for refunds from the Federal Employees Health Benefits Program [FEHBP], and to make other necessary changes in the FEHBP and the Civil Service Retirement Program.

Mr. Speaker, millions of Federal employees and retirees are counting on us today to enact the reforms in H.R. 4061. The legislation will:

Enable Federal retirees to receive refunds from their health insurance plans;

Amend the "Three Medical Specialties" requirement for prepaid, comprehensive plans in the FEHBP;

Grant authority to the Office of Personnel Management [OPM] to waive certain eligibility requirements for annuitants to participate in the FEHBP;

Require OPM to conduct an annual open season;

Provide that FEHBP plans may require referral by a psychiatrist, but not physician supervision, as a condition for reimbursement of clinical social workers;

Permanently reinstate the authority for FEHBP reimbursement for nonphysician health providers in medically underserved areas;

Express the sense of the Congress that sufficient coverage for mental health and substance abuse treatment be available through the FEHBP;

Mandate a study by the OPM of the advisability of requiring direct payments to nonphysician health providers, such as clinical social workers, nurse practitioners, chiropractors, and others;

Mandate a study by the OPM of the adequacy of information services to FEHBP participants;

Require the OPM to establish at least one demonstration project to determine the advisability of health promotion and protection programs; and

Allow for participation in the FEHBP by "mixed model" HMOS.

H.R. 4061 also makes technical changes in the Civil Service Retirement System to ensure retirement protection for certain former spouses, as well as other provisions sought by the administration.

As I mentioned, Mr. Speaker, two provisions to which the President has objected are not included in H.R. 4061. The first would eliminate the cap on the Federal Government's contribution to FEHBP premiums. The second would provide for direct reimbursement of nurses and nurse-midwives for covered services rendered to FEHBP enrollees. These provisions were removed from H.R. 4061 in order to expedite passage of the legislation.

I want to reassure my colleagues and the Federal employees that I intend to pursue these issues in the coming weeks.

With regard to the issue of direct reimbursement for nonphysician health practitioners under the FEHBP, this process begins with H.R. 4061. The legislation directs the Office of Personnel Management to study and report to Congress by April 1 on the feasibility of extending direct reimbursement to nonphysician health providers, including clinical social workers, nurse practitioners, nurse-midwives, chiropractors, and others.

I would like to point out, Mr. Speaker, that the issue of direct reimbursement for nurses, nurse practitioners, nurse-midwives, and others is exceedingly important and timely. These qualified health professionals are the mainstay of our health care system. They are the providers who are in constant contact with patients, providing more hours of direct care and counseling than any others. These trained professionals' main priority is to maintain health and prevent the onset of illness. They are not only compassionate, they are cost-effective, and prudent in their fees. I am convinced that our investigation into the direct reimbursement of nurses and other health practitioners will ultimately lead to cost savings in the FEHBP and better quality health care.

As an aside, my colleagues may notice that clinical social workers are mentioned elsewhere in H.R. 4061. The legislation mandates that FEHBP carriers reimburse these providers without any requirement of physician supervision, although physician referral may or may not be required. In addition, however, clinical social workers will be included in the OPM study to determine the appropriateness of direct reimbursement without physician referral. Immediately following completion of the OPM study, I will hold hearings on the direct reimbursement issue in the Subcommittee on Compensation and Employee Benefits and develop appropriate legislation.

In conclusion, Mr. Speaker, H.R. 4061 makes many important changes in Federal employee benefit programs. Its reforms will promote cost savings and improved administration. I urge my colleagues to give swift and favorable consideration of H.R. 4061.

Ms. OAKAR. Mr. Speaker, I reserve the balance of my time.

Mr. MYERS of Indiana. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 4061. I am proud to be a cosponsor of this legislation which will benefit Federal employees, annuitants and their dependents. It has been very ably presented by our Chair in describing the content of the bill.

One thing I think the Chair did mention but needs to be clarified, it does make technical and clarifying changes in the law providing for survivor benefits to former spouses. I think the gentlewoman from Colorado is going to describe this and define it a little bit more later on.

By way of background, the decision to make refunds of excess reserves was negotiated last year with participating carriers based on the assumption that Congress would pass legislation to allow the refunds to be made to the annuitants. These are active employees who would be eligible for refunds under current law.

As the Chair has said, the bill that passed the House last year and was sent to the President was vetoed. The President vetoed that bill on January 17 because he objected to two provisions. The President said he strongly opposed a provision which would have eliminated the current 75-percent ceiling on the Government's share of the premiums of any individual health plan as being excessive costs under the Gramm-Rudman and any other features that we try and hold down spending.

He also said that he had problems with the provision requiring direct access to and permitting direct payment for the services of nurses, midwives and other types of provisions of health care that were unsupervised. As the Chair has said, this legislation does provide for a study and recommendation to be made in this area because there are sections of the country where these services are badly needed.

This bill has strong bipartisan support, as the Chair has said, from both sides of the aisle. President Reagan has made it clear that he continues to support refunds for annuitants. The administration supports the enactment of this bill.

Again, I compliment our Chair. I am proud to be a cosponsor in urging suspension of the rules and passage of this beneficial and important legislation.

I reserve the balance of my time, Mr. Speaker.

Ms. OAKAR. Mr. Speaker, I yield such time as she may consume to my colleague, the gentlewoman from Colorado [Mrs. SCHROEDER].

Mrs. SCHROEDER. Mr. Speaker, I really want to tell everyone how appreciative Federal employees are of the very fast action of both the gentlewoman from Ohio [Ms. OAKAR] and the gentleman from Indiana [Mr. MYERS] in moving this back to the floor.

Mr. Speaker, a lot of people are anxiously waiting for us to pass H.R. 4061. Federal retirees, who lost a promised cost of living increase last month, are waiting for refunds from their health insurance programs. Former spouses of Federal employees, some eligible since last May for survivor benefits under Public Law 98-615, are waiting for confirmation that they will receive benefits. And the Office of Personnel Management [OPM], charged with administering these program, is waiting for Congress to resolve every potential wrinkle in the former spouse benefit program before taking any steps to make the law effective.

Representative MARY ROSE OAKAR and I have received many calls from other Members, from former spouses, and from attorneys, all wanting to know what was holding up OPM's processing of survivor benefit applications. We wanted to know, too. Last week, Representative OAKAR and I wrote to the OPM Director requesting an explanation for OPM's inertia in setting up the former spouse benefit program. A copy of our request is attached.

But we should not enact this legislation just to prod OPM into action. Rather, we should enact H.R. 4061 because it will improve the Federal Employees Health Benefits Program. It will improve the Civil Service Retirement Spouse Equity Program. And last fall we voted to enact H.R. 3384, the predecessor to this bill. I encourage my colleagues to support H.R. 4061.

COMMITTEE ON POST OFFICE
AND CIVIL SERVICE,
Washington, DC, January 31, 1986.

Hon. CONSTANCE HORNER,
Director,
U.S. Office of Personnel Management,
Washington, DC.

DEAR MRS. HORNER: We have received numerous complaints from our colleagues and former spouses of federal employees and retirees regarding the implementation of the Civil Service Retirement Spouse Equity Act (P.L. 98-615). We have heard that the Office of Personnel Management (OPM) simply has not acted to process applications from former spouses. It would be useful if you could provide us with the following information pertaining to OPM's administration of P.L. 98-615.

1. How many applications for section 4(b) benefits [employee retired prior to effective date] have been received by the Office of Personnel Management? How many applications are complete and ready for processing?

2. How many applications have been processed? In how many of these cases have checks actually been sent to the former spouse? How much money has been disbursed?

3. Over eight months have passed since proposed regulations to implement P.L. 98-615 were issued on May 13, 1985. What steps has OPM taken to finalize these regulations?

4. What are the reasons for the delay in processing applications? In light of the fact that H.R. 3384 was vetoed by the President and action on a similar bill will take some time, what are OPM's intentions regarding the processing of applications?

5. P.L. 98-615 provides that persons entitled to receive survivor benefits are also eligible to participate in the Federal Employee Health Benefit program. How are health insurance provisions being handled for individuals with pending applications?

6. How many court orders awarding survivor benefits under 5 U.S.C. 8341(h) has OPM received? How many of these records are complete and ready for disbursement?

7. How many of these individuals chose to continue participation in the Federal Employee Health Benefit program? How is this monitored?

Please respond to these questions by the close of business on Friday, February 14, 1986. Any questions should be directed to Cathy Straggas (226-7546) of the Subcommittee on Compensation and Employee Benefits or Andrea Nelson (225-4025) of the Subcommittee on Civil Service.

Thank you in advance for your assistance.

Sincerely yours,

MARY ROSE OAKAR,
Chairwoman, Subcommittee on Compensation and Employee Benefits.
PATRICIA SCHROEDER,
Chairwoman, Subcommittee on Civil Service.

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Mr. MYERS of Indiana. Mr. Speaker, I yield such time as he may consume to the gentleman from Virginia [Mr. WOLF].

Mr. WOLF. Mr. Speaker, I rise in support of H.R. 4061. I want to congratulate and commend the gentlewoman from Ohio [Ms. OAKAR] for her efforts in pushing this legislation and being very, very diligent; and I commend also the gentleman from Indiana [Mr. MYERS].

Mr. Speaker, I rise in support of H.R. 4061, the Federal Employees Benefits Improvements Act of 1986. As an original cosponsor of this measure and as the sponsor of legislation to provide a rebate for retired subscribers in the Federal Employees Health Benefit Plan, and also provide a second chance to elect a survivor annuity, I believe this bill represents a balanced approach to several needed reforms in the Federal health benefits and retirement programs.

The refund proposed by the health carriers to Federal subscribers is a positive benefit and one which we should expedite and include all subscribers, both active and retired employees. This legislation improves the benefits structure for Federal employees and retirees and I urge my colleagues to support passage of H.R. 4061.

Mr. MYERS of Indiana. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Ms. OAKAR. Mr. Speaker, I am very, very pleased with the cooperation that I have had from the minority. Let me at this point yield such time as he may consume to the gentleman from New York [Mr. GILMAN].

Mr. GILMAN. Mr. Speaker, I rise in support of H.R. 4061, the Federal Employees' Benefits Improvement Act of 1986. This legislation would amend and improve the health insurance and retirement programs for Federal employees. In order to ensure that our Government employees are given the opportunity to benefit from an affordable and stable health plan, H.R. 4061 must be made into law. In May 1985, hearings before the House Subcommittee on Compensation and Employee Benefits dealt extensively with the accumulated excess reserve in the Federal Employees' Health Benefits Program [FEHBP]. At the close of 1984, $1.9 billion—or three times the amount considered necessary to assure program stability—had accumulated in program reserve accounts. To draw down excess reserves, 11 carriers will offer rebates to subscribers during the 1986 contract year. However, current law does not allow for such payments to be made to Federal retirees. H.R. 4061 would amend current law to enable all FEHBP enrollees to be eligible for rebates.

In addition, other changes are necessary to improve the FEHBP in order for enrollees to benefit from a more affordable, stable program with a greater variety of choice. H.R. 4061 includes numerous provisions to accomplish these changes.

With respect to retirement benefits, H.R. 4061 amends several provisions in Public Law 98-615, a law passed last year to provide for survivor retirement benefits to former spouses of Federal workers. The bill makes technical changes in the law to clarify congressional intent.

Therefore, this bill incorporates positive changes to improve the Federal health insurance and retirement programs for the benefit of all Federal workers and retirees. Accordingly, I urge the House to fully support and to adopt this legislation.

Ms. OAKAR. Mr. Speaker, I yield myself such time as I may consume to make a few closing comments.

Mr. Speaker, I was disappointed that the President vetoed the bill, because it included removal of the cap on the Government's health insurance premium contributions. In the long run this reform would have saved a lot of money, because it would have made the health providers a little bit more aware of the competition they have, and so on. I was also very disappointed that the provision mandating direct reimbursement for nurses and others was vetoed; so we are going to carry on with a study in this area.

By the large, I would say the Committee on Post Office and Civil Service really appreciates the work that Government workers do for this country. It is in a bipartisan spirit that most of us work together on these areas, so when I make my following remarks, I am really not speaking of my colleagues on the other side of the aisle who are so cooperative and so supportive.

It is disconcerting to me, Mr. Speaker, that there has been an assault, in my judgment, on the value of Government workers and retirees. We see this with the automatic sequestration of the cost-of-living adjustment for Federal retirees; and I think the American public sometimes does not realize who we are talking about when we talk about Federal employees.

We are talking about drug enforcement officers who are Government workers; we are talking about people who very often run military bases. I know there are several bases in Ohio where there are three military personnel, and the rest are civilians who work for the Federal Government.

We are talking about people who distribute Social Security checks and, yes, our IRS people who have a thankless job, to say the least. We are talking about people who protect our borders so that we are safe and sound as a territory in the international forum. We are talking about air traffic controllers whose value is insurmountable in terms of safety.

We are talking about people who maintain our recreational areas and our parks. We are talking about Secret Service agents who protect, among others, the President of the United States. We are talking about many, many more thousands of people, too numerous to mention; but there is not a job in the United States that in some way or another does not relate to the necessity of having these valued workers.

We are also talking about astronauts. We are talking about people, some of whom sacrificed their lives for this country by taking on a very dangerous mission.

I think the time for attacking Federal employees and retirees should come to a halt. I think we ought to understand that the people I have mentioned, and indeed our own staff, and some of the people who are at the floor recording our words today, we ought to say thank you to these people, and we ought to say that they

deserve a just living, they deserve benefits; and retirees who have given their service to this Government deserve a cost-of-living adjustment.

So I just wanted to, by way of responding to the President's veto, indicate that this Chair of a subcommittee is going to speak out very vocally if the budget contains another assault on Federal workers and retirees.

At this point I want to thank my colleagues on the other side of the aisle for their cooperation.

Mr. FAZIO. Mr. Speaker, I rise in strong support of H.R. 4061. I would like to thank my colleague, Ms. OAKAR, for her leadership in the area of FEHB reform, and her persistent efforts to pass this bill.

Last May, Blue Cross and Blue Shield announced that it would pay rebates to subscribers as a result of excess reserves it had accumulated. Since that time, 10 other carriers have joined Blue Cross in offering rebates.

It is now 9 months later, and those rebates still have not been paid, despite universal agreement that they should go forward. This bill will make a very simple, one word change in title 5, which will allow retirees to receive those rebates. It is time that we make this change.

In addition, the bill also makes a number of other necessary changes in the FEHB. It requires OPM to hold an open season in any year in which changes are made in rates charged or benefits offered by any plan, or if new plans are offered or an old plan is terminated. This provision will allow FEHB subscribers to adjust their coverage any time a change is made in the system. This ensures that subscribers have the opportunity to select the coverage that best suit their needs.

The bill also makes a number of technical but important changes to the Civil Retirement Spouse Equity Act. Certain Federal employees, retirees, and surviving spouses of employees were inadvertently excluded from that act, and H.R. 4061 corrects that oversight. The bill also clarifies congressional intent for electing an insurable interest for former spouses, as well as conditions for participation in the FEHB by former spouses.

I believe that it's time this bill was enacted. There is nothing controversial in this bill, and the administration has expressed its support. I urge my colleagues to suspend the rules, and pass this bill today.

Mr. YOUNG of Alaska. Mr. Speaker, I rise in strong support of H.R. 4061, the Federal Employees Benefits Improvements Act of 1986, and urge that the House suspend the rules and approve this important legislation.

I want to compliment the chairwoman of the subcommittee for her swift action in introducing a bill that would meet the objections raised to H.R. 3384 by the administration. The Federal Employees Benefits Improvement Act of 1985 was the product of a great deal of negotiation, and I was disappointed to learn of the President's veto.

This legislation, H.R. 4061, however, has the strong support of the administration, as well as strong bipartisan backing here in the House.

It is most important that this bill be approved quickly and sent to the President so that we can facilitate health premium refunds for our retirees. Current law does not permit Federal retirees to participate in the rebates being offered to participants in 11 Federal health benefit plans. This legislation will allow retirees, in addition to current employees, to receive these refunds.

H.R. 4060 also contains another important provision. The OPM study of a direct payment program for nonphysician health practitioners is especially important to my State of Alaska. In many areas, physicians are unavailable, and health care is provided by very capable health care professionals such as nurse-practitioners. To the residents of remote areas, these professionals provide the only health care link, and save the cost of a Medevac to a city or similar regional center.

I'll be watching the progess of this study very closely, and know that a program that provides for direct payments to nonphysician health practitioners can only improve health care in Alaska, and other medically underserved areas.

Mr. Speaker, again I urge that the House suspend the rules and approve the Federal Employees Benefits Improvements Act of 1986.

Mr. HOYER. Mr. Speaker, I rise today to strongly support H.R. 4061, the Federal Employees Benefits Improvements Act of 1986. I want to commend the good chairwoman, Congresswoman OAKAR, for her untiring support of Federal employees and retirees. In 1985 Congresswoman OAKAR introduced H.R. 3384, which I was proud to cosponsor and support on this floor. After passage by both Houses of Congress, the President saw fit to veto what was an excellent piece of legislation.

Rather than fight the President over his reasons for vetoing the bill and delay the refund of health insurance overcharges to millions of Federal retirees who have been waiting patiently for their money, the chairwoman has wisely seperated out the refund provision of the bill for quick passage and chosen to fight for the other important provisions another day.

These other provisions are good ones. The 75-percent cap on Federal contributions to health plans for Federal employees could lead to significant cost savings in the future by encouraging more efficient health plans. The other item of Presidential concern is direct reimbursement for services of nurses and nurse midwives, which would also be a cost effective reform. Legislation including these provisions should quickly make its way to this floor so that we may send it right back to the President with enough votes that he will think twice about another veto. But for now, it is more important that we get that overdue refund to our retirees, who have already lost enough at the hands of this Congress and the President. As always, the chairwoman provides excellent leadership for those of us who feel that our Federal employees and retirees deserve better than being constantly singled out to bear a disproportionate share of cuts, and I support H.R. 4061 as a bill which attempts to quickly remedy a cut which the President was all too willing to impose.

Mr. Speaker, as we begin to review this year's budget review process and as we consider next year's appropriations, I hope that we will begin to treat those who serve our country daily with a degree of fairness and equity both in their salaries and benefits while they are employed and in their retirement benefits after they have concluded their service to this country. Let us work to ensure that they are accorded the respect and the compensation that they are due, because without them, what good we do here will have little effect. Without them, the Nation fails. And then, it is not just they who will suffer, but us all.

Mr. BARNES. Mr. Speaker, I strongly support H.R. 4061 and commend my colleague, the chairwoman of the Compensation and Employee Benefits Subcommittee (Ms. OAKAR) for her efforts on behalf of FEHB reform.

This bill does a number of important things. First and foremost, it makes a very simple, but critical change in title 5 to allow civil service and postal annuitants to receive rebates from FEHB carriers. Eleven carriers have announced rebates for subscribers due to excess reserves that have accumulated. Rebates for current employees are already in the works, and it is time we made this one word change in the law to allow annuitants to get them as well.

In addition, the bill requires OPM to study the adequacy of current sources of information on the FEHB. I believe those systems are woefully inadequate. In the 98th Congress, I introduced the "Federal Employees Health Benefits Information Act" which would have established an information center within OPM to act as a national information clearinghouse for the over 10 million Americans covered by the FEHBP. If the study required by H.R. 4061 shows a severe lack of information sources for the FEHBP, as I believe it will, I hope that we will be able to establish a similar office so that FEHB subscribers will have the information they need to make important decisions about health care coverage.

Finally, the bill makes several technical changes to a bill we passed in the 98th Congress, the Civil Service Retirement Spouse Equity Act. Among those changes are a provision which clarifies conditions that allow former spouses of Federal employees to participate in the FEHB. I have received numerous calls from divorcing couples who waited years for enactment of this bill so they wouldn't lose important benefits, and have been forced to wait even longer to be sure of getting health benefits.

Mr. Speaker, I believe this is an important and long overdue bill, and I urge my colleagues to suspend the rules and pass H.R. 4061.

Ms. OAKAR. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentlewoman from Ohio [Ms. OAKAR] that the House suspend the rules and pass the bill, H.R. 4061, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

COMMUNICATION FROM THE CLERK OF THE HOUSE

The SPEAKER pro tempore laid before the House the following communication from the Clerk of the House of Representatives:

WASHINGTON, DC,
February 3, 1986.

Hon. THOMAS P. O'NEILL, Jr.,
The Speaker, House of Representatives, Washington, DC.

DEAR MR. SPEAKER: Pursuant to the permission granted in Clause 5, Rule III of the Rules of the U.S. House of Representatives, I have the honor to transmit sealed envelopes received from the White House as follows:

(1) At 4:35 p.m. on Friday, January 31, 1986 and said to contain a message from the President whereby he transmits the 1985 annual report of the U.S. Arms Control and Disarmament Agency; and

(2) At 3:10 p.m. on Saturday, February 1, 1986 and said to contain a message from the President that reports on the issuance of the Order on Emergency Deficit Control Measures for Fiscal Year 1986 in accordance with the Balanced Budget and Emergency Deficit Control Act of 1985.

With kind regards, I am,
Sincerely,

BENJAMIN J. GUTHRIE,
Clerk, House of Representatives.

THE 1985 ANNUAL REPORT OF THE U.S. ARMS CONTROL AND DISARMAMENT AGENCY—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES

The SPEAKER pro tempore laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, without objection, referred to the Committee on Foreign Affairs:

(For message, see proceedings of the Senate of today, Monday, February 3, 1986.)

□ 1300

REPORT ON ISSUANCE OF ORDER ON EMERGENCY DEFICIT CONTROL MEASURES FOR FISCAL YEAR 1986—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES

The SPEAKER pro tempore laid before the House the following message from the President of the United States; which was read.

(For message, see proceedings of the Senate of today, Monday, February 3, 1986.)

The SPEAKER pro tempore (Mr. MAZZOLI). Without objection, the Chair's referral of the President's message will be postponed until tomorrow.

There was no objection.

REPORT ON THE EUROPEAN RESPONSE TO INTERNATIONAL TERRORISM

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Massachusetts [Mr. FRANK] will be recognized for 5 minutes.

Mr. FRANK. Mr. Speaker, I am glad to note that I am being joined on the floor by my colleague from South Carolina [Mr. DERRICK]. Last week, at the request of the U.S. State Department, Mr. DERRICK and I made a rather quick trip to Europe, not the most comfortable way to travel. We each flew over and flew back within a period of much less than 1 week. But it was to attend, as observers, the Parliamentary Assembly of the Council of Europe. This is the body that is composed of the 21 democratic states of Europe. It consists of Members of the Parliaments of those 21 states who are sent to this European Parliament in proportion to the party's strength in their home Parliaments.

One of the issues being considered in the current sitting, which began last weekend and will conclude at the end of this week, had to do with terrorism.

Now as Members are aware, we, in the United States, fairly broadly across the political spectrum, have been disappointed by the lack of firm response that we have gotten from many of our European allies in our policy against terrorism.

President Reagan's position against terrorism, his imposition of sanctions, and his effort to rally a unified world response against terrorism, is something that is widely supported in this country. It has no problem in either the partisan sense or in the legislative/executive sense.

I believe the overwhelming majority of the Members of Congress on both sides of the aisle and in both Houses support him.

Mr. DERRICK and I were delighted to be invited by the State Department to travel to Europe as a demonstration, as two members of the Democratic Party, of the kind of support that existed from President Reagan's policy here.

We were able to participate in the deliberations of the political committee and in the plenary. We were both able to speak.

I am very pleased to be able to report that we were able to participate in a deliberation which resulted in the adoption of a very strong antiterrorist resolution. It met; it exceeded the expectations, I think it is fair to say, of the American experts in this area in the State Department. It is the strongest response against terrorism in resolution form from anybody in Europe.

Now I wish it were binding on the governments because I wish we had all the friends and others in Europe adopting this as a policy. It is not. It is a consultative assembly, but it is a very influential one. The fact that this resolution was adopted and was adopted with only one abstention and no negative votes in the plenary on Wednesday, which Mr. DERRICK and I addressed on Tuesday, is very encouraging. I think it helps us get the kind of consensus that we need.

Let me just read the operative paragraph that was added in committee with our full support here:

Invites the governments of the Council of Europe member states to consider together and, where possible, take all measures, whether diplomatic, political, or economic, to deter and retaliate against states recognized as being responsible, directly or indirectly, for assistance to terrorism.

That is the most specific endorsement of sanctions that we have gotten.

This resolution named, again in an amendment adopted, Libya, Syria, and Iran. It quite clearly says that there are no justifications for terrorism. People said, "Well, let's talk about the political situation in the Middle East which might contribute to it." That was voted down because a majority of the members, the overwhelming majority of the members, said that we are not going to suggest anything exculpates this, that anything justifies it. It was a very firm condemnation of terrorism.

I am very delighted to have participated.

Mr. Speaker, I am inserting in the RECORD at this point the resolution adopted by the Parliamentary Assembly of the Council of Europe last Wednesday with no negative votes and only one abstention, which is a very, very strong and explicit resolution, not only condemnation of terrorism and of Libya, Iran, and Syria for supporting it, but calls for sanctions to be taken to prevent this wave of murder and kidnaping and assault from continuing.

The report of the Parliamentary Assembly of the Council of Europe follows:

COUNCIL OF EUROPE PARLIAMENTARY ASSEMBLY REPORT ON THE EUROPEAN RESPONSE TO INTERNATIONAL TERRORISM PRESENTED BY THE POLITICAL AFFAIRS COMMITTEE

(RAPPORTEUR: MR. AMADEI),
January 27, 1986.

The Assembly,

1. Outraged by the wave of murders and massacres perpetrated by various terrorist organisations in several countries, in particular the simultaneous attacks carried out at the airports of Rome and Vienna on 27 December 1985;

2. Recalling its unqualified condemnation of terrorism, which denies democratic values and human rights;

3. Emphasising again that democratic states must combat terrorism while respecting democratic principles and the rights and freedoms guaranteed in their constitutions as well as in the Statute of the Council of Europe and the European Convention on Human Rights;

4. Noting with concern the growing evidence that terrorist organizations receive substantial logistic, political and financial support relayed, in particular, by certain states—Libya, Syria and Iran, among others—in open contradiction with the obligations resulting from membership of the international community;

5. Convinced that co-operation between the member states and the world's other pluralist democracies is the primary condition for effective prevention and suppression of all forms of terrorism;

6. Anxious for a speedy and successful conclusion to the efforts being made at intergovernmental level to set up within the Council of Europe framework an ad hoc political body open to all Ministers who in their national governments are responsible for matters relating to the problems of terrorism and international organised crime;

7. Invites the governments of the Council of Europe member states:

a. to introduce as a matter of urgency new forms of co-operation between their relevant authorities, and especially between police forces and intelligence services,

i. to expose and publicly denounce states which assist terrorism in any way;

ii. to forestall planned attacks and any possibility of attack by stepping up checks and circulating information;

iii. reinforce penal sanctions for all those responsible for terrorists acts;

b. to take action in all international forums, particularly in the United Nations, within the CSCE framework and through more intensive Euro-Arab dialogue, to secure the participation of as many states as possible in the battle against terrorism and the political and economic isolation and moral; condemnation of states which support it;

c. to consider together and where possible, take all measures whether diplomatic, political or economic to deter and retaliate against states recognized as being responsible directly or indirectly for assistance to terrorism;

8. Decides to consider in greater detail, at its next part-session, Council of Europe action to improve co-operation between member states on the lines of this resolution.

Mr. Speaker, I yield back the balance of my time so that my colleague, the gentleman from South Carolina [Mr. DERRICK] who so ably participated in the debate, may take over.

ADDITIONAL REPORT ON THE EUROPEAN RESPONSE TO INTERNATIONAL TERRORISM

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from South Carolina, [Mr. DERRICK] is recognized for 5 minutes.

Mr. DERRICK. Mr. Speaker, I thank the gentleman from Massachusetts [Mr. FRANK] for his kind remarks. We did make a quick trip. I think we were in Strasbourg probably no more than 24 hours.

If I may say so, I think that our trip over there was very worthwhile. It gave me a better understanding of the situation as far as terrorism is concerned, and hopefully we were able to communicate to the members of the Council of Europe better the position of our country.

I think one thing, that has already been pointed out by my friend, is that it is not a partisan position; that it is a united position in this country; the strong, strong feeling that we have opposing terrorism and that we really even hesitate to label it as terrorism but rather to lable it as murder without provocation around the world.

As I was pleased to point out to the members of the council, it was so very, very much in their interest from a parochial sense as well as peace throughout the world, that they join with us in supporting the President's initiatives and other initiatives that we might take because, quite frankly, it was bad for business. And I explained to them how many Americans to whom I had spoken over just the last several months who were anticipating maybe traveling in Europe or other parts of the world, who were hesitant because of the terrorism situation, and what this could develop into, not only being bad for business but being bad for communication between our countries.

I would have to say that I came away with the opinion that these representatives, at least those with whom I spoke, could not possibly have been representative of the governments who failed to support us. They were very firm in their support of the steps that President Reagan had taken on terrorism, and I think we will see some very positive results from the resolution that was passed by the council.

The speech of Mr. DERRICK to the Council of Europe on terrorism and trade is as follows:

REMARKS OF THE HONORABLE BUTLER C. DERRICK, U.S. HOUSE OF REPRESENTATIVES, BEFORE THE COUNCIL OF EUROPE ON TERRORISM AND TRADE, JANUARY 28, 1986

I am honored to participate in the 37th Ordinary Session of the Parliamentary Assembly and to represent the House of Representatives of the United States Congress.

Please allow me to comment briefly on a couple of topics which are very important to the Council of Europe and the United States: international terrorism and international trade.

Nearly every day a new act of terrorism occurs somewhere in the world. Americans are distressed and angry over the inability of governments to bring these criminals to justice. The citizens of my country do not understand why other Western nations do not strongly respond to attacks, like the ones that occurred in the Vienna and Rome airports. These are politically motivated acts of terrorism, crimes against the laws of our nations, and unacceptable threats to international peace. Frustrated with the Western world's apparent inability to counter these threats, some Americans have called for extreme measures to prevent such acts and to punish their perpetrators.

Many of our Western friends try to be even-handed in the Middle East. But this policy cannot justify the lackadaisical approach to combating acts of terrorism. Terrorism is bad for business because it threatens tourists; it requires substantial government investments to improve security systems; and it makes businesses reluctant to locate in areas subject to frequent attacks. It also results in the loss of life of innocent civilian men, women and children.

The United States does not ask the nations of Europe to take the lead in combatting this evil, but you must lend your support to our efforts to bring these terrorists to justice. England asked for U.S. support in the Falkland Islands situation and, while it hurt U.S. efforts with certain Latin American governments, we gave support. Yet when things changed and the U.S. invited support from the United Kingdom against Libya, we were turned down. Many Western nations are very tough on domestic terrorism but are reluctant to take action to combat international terrorism.

One of the reasons the West has generally been ineffective in combatting terrorism is due to the lack of cooperation among nations, especially among allies. We are getting to the point where it is a prohibitive expense to combat terrorism alone. Our diplomatic facilities are costing the Western world a lot of money. It might be time for us to ask ourselves whether doing business with a terrorist nation is worth what it is costing us to defend ourselves against terrorism. Are the cost-benefits of doing business with outlaw nations worth the price? When we have cooperation in so many other areas, why is it that this spirit cannot prevail in the effort against international terrorism.

It is the belief of many Americans, and my colleagues in Congress, that if our Western friends would at least collaborate with us and, at minimum not undercut U.S. efforts, we can be more successful. Last week the Second Session of the 99th Congress of the United States convened. Laws were passed in the United States in 1984 and 1985 that prohibited aid to countries that harbored terrorists or supported terrorism, and barred imports from countries supporting terrorism. Funds were also provided for an anti-terrorism program which enhanced the United States' ability to prosecute terrorist criminals.

Many of my colleages in Congress have expressed their impatience over the lack of will of Western nations in capturing and punishing terrorists in foreign countries. Thus, efforts this year in the Congress will be focused on implementing the International Airport Security Act, establishing an International Coordinating Terrorism Committee of like-minded nations that have terrorism problems, enacting legislation to provide for better international exchange of information on passport control, to further upgrade airport security, to try to get an international convention on maritime security, to upgrade our extradition treaty, and to try and get the International Atomic Energy Agency to upgrade its security standards.

The United States is committed to developing new tools to fight international terrorism effectively and in a manner consistent with our legal traditions. We encourage the support of Western nations. Without it, the Western world will continue to be victimized by terrorism, and terrorists will continue to commit wanton acts of violence and destruction to advance their political objectives.

REGARDING ALLEGED INVESTMENTS OF PRESIDENT MARCOS IN THE UNITED STATES

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Iowa [Mr. LEACH] is recognized for 10 minutes.

Mr. LEACH of Iowa. Mr. Speaker, every now and then in political life, an issue emerges which is of such a dimension that it is set apart from the ordinary course of claims on time and judgment. Such is the case of a congressional subcommittee investigation into the investments in the United States of the family of the President of the Philippines, Ferdinand Marcos.

At first glance, the subject matter would not appear overly relevant to Congress. After all, in the vast majority of countries in the world, economic conflicts of interest are the norm rather than the exception in political life. Why the Subcommittee on Asian and Pacific Affairs is investigating this particular issue at this particular time is that the size and scope of abuse of power in the Philippines appears to be extraordinary by any standard. Some reports put Marcos family wealth in a category which few, if any, American families rival. Evidence that the subcommittee has unearthed points to a small fraction of this fortune—a quarter billion dollars worth of "walking around money" for the First Lady of the Philippines, according to one critic—being invested in prime New York City real estate.

Given the recent economic decay in the Philippines and the increase in the leftist insurgency feeding upon this decay, the issue deserves to be explored to the fullest extent possible. It may not be a happy event for a congressional committee to investigate the private investments of a foreign head of state, particularly when the country involved has friendly and important geostrategic relations with the United States. There are, however, policy implications for the Congress if it becomes apparent that a country to which we give aid is run by a family which allocates the resources of its land to its own personal use and which, in effect, loots the capacity of the country to achieve responsible economic growth and advance the welfare of its people.

It would appear that the economic infrastructure of the Philippines and the attendant ability of the Government to deal with a violent leftist insurgency is collapsing in part because the moral fiber of the leadership of the country has itself collapsed. Corruption breeds cynicism and the attendant poverty of opportunity for the masses breeds revolution. Any government that enriches itself while impoverishing its people will never be able to ensure domestic stability or meet its international commitments.

The problems involved in the congressional investigation of the Marcos family are myriad, touching on a host of constitutional and civil libertarian issues. Ascertainment of property ownership is extremely difficult when offshore corporations are utilized to shield individuals from public and tax accountability. It is compounded when investment advisers holding inside knowledge have family held hostage to a capricious Philippines political system or are lawyers who maintain that their knowledge is privileged because of the unique lawyer-client relationship.

Several attorneys subpoenaed by the subcommittee were confronted with a legal dilemma of catch-22 proportions. To refuse to answer questions posed by Members subjected them to the risk of being held in contempt of Congress, implying the prospect of jail. To answer certain questions put them in potential violation of the canons of the legal profession which in some States, have been codified in statute.

While precedents are uneven, the courts have largely held that Congress's investigatory powers are second only to its legislative mandate and prevail over privileges which exist in the practice of law or elsewhere. The investigatory authority of Congress is in fact so powerful that, as the ranking minority member of the subcommittee I have been as concerned with its potential coercive abuse as with the substance of the enquiry. The dangers of McCarthyism of the left appear to me to be every bit as grave as that of the right.

The fact that Marcos may be an aggrandizing leader of a foreign state—one who built his early political base on false claims of leading a guerilla band in support of American forces in World War II—does not justify Congress applying anything except the highest investigatory standards. It is technically the case that in policy deliberations, congressional standards need not be as high as judicial, but what the subcommittee is dealing with in the investigation of the Marcos family is the reputation of individuals who are citizens of this country as well as that of political leaders of a foreign state. Rather than lower, a powerful case can be made that the evidentiary standards applied should be higher than those required by a court of law.

On the other hand, issues of this nature can't be ducked. Some have suggested that the inquiry is inappropriate, at least in timing, because of the upcoming Philippine elections and the effect a congressional hearing might have on the outcome. My view is that to restrict or defer attention from the issue could be interpreted as a coverup and as electorally interventionist as proceeding with the inquiry might be. In a democracy, facts should never be squelched. They may not always be happy, but the chips should be allowed to fall where they might, unfettered by concerns for timing.

In any regard, the subcommittee has followed precise and careful rules and procedures and while a preliminary determination to proceed with contempt citations against two individuals has been made, these individuals have been cited in large measure because of their involvement as heads of a real estate investment company rather than as legal advisors to the Marcos family. An attorney with the law firm with which the two individuals mentioned above are associated was not cited by the Foreign Affairs Committee for contempt largely because his knowledge appeared to be derived from performance of strictly legal services.

The enquiry has received a great deal of press in this country and substantially more in Asia. The substance of the issue has been highlighted by concern for the safety of witnesses, the revelation of coded telexes, and lawsuits filed and withdrawn against the First Lady of the Philippines.

The picture preliminarily painted is one of opulent investment by the Marcos family in New York real estate. While conclusive evidentiary aspects of the committee's investigation have been thwarted in part by legalistic exercise of privilege by certain witnesses, only the naive could conclude that there wasn't fire amidst the smoke.

There is, of course, a risk to this type of inquiry, particularly if President Marcos prevails in the February 7 election. But the issues are of such profound international significance that they require addressing. Should American taxpayers be asked to support a foreign government hallmarked by corruption? Are U.S. foreign aid dollars which become fungible parts of a foreign treasury being returned directly or indirectly to our shores as investments of a private citizen? Is the international monetary crisis in part caused by the flight of corrupted capital from the developing world to safe havens like the United States? Are American laws regarding the disclosure of foreign ownership of property in the United States being fully observed? Isn't political integrity the linchpin of effective government of any size or philosophical foundation?

It is my hope that the subcommittee will pursue its enquiry both with regard to the New York real estate as well as with regard to other alleged Marcos investments, which may make this Manhattan property appear a footnote in value, until these questions can be satisfactorily answered.

As a case study, the Marcos investigation provides a glimpse at the dimension of global problems from a particular perspective that demands

the heed of all current and budding political potentates. The developing word deserves better.

□ 1315

HIDDEN WEALTH OF MARCOS FAMILY IN UNITED STATES

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York [Mr. SOLARZ] is recognized for 60 minutes.

Mr. SOLARZ. Mr. Speaker, over the course of the last few months, the Foreign Affairs Subcommittee on Asian and Pacific Affairs has been conducting an investigation into the allegations of massive real estate investments in the United States by Philippine President Ferdinand Marcos and his wife, Imelda.

President Marcos has denied having any such holdings here in the United States, and in an interveiw which appeared in the Washington Post on Friday, President Marcos challenged our committee to produce the evidence which would substantiate the conclusion that he and his wife have indeed acquired substantial real estate interests in the United States.

I accept President Marcos' challenge to produce that evidence, and I plan to lay it before the House during the course of my presentation this afternoon.

I will lay out in substantial and significant detail the evidence both direct and documentary which led me, as chairman of the Subcommittee on Asian and Pacific Affairs—and I believe most of my other colleagues on the committee, as well—to come to the inescapable conclusion President and Mrs. Marcos control a real estate empire in New York worth somewhere in the vicinity of $350 million.

But before I lay out the evidence, I think it may serve a useful purpose to begin at the beginning and to make it clear to the House why the Subcommittee on Asian and Pacific Affairs commenced this investigation.

Our determination to look into the question of the hidden wealth of the Marcos family in the United States resulted from a series of newspaper articles that first began to appear in the American press last June when the San José Mercury News, in California, ran a series of articles describing the alleged real estate holdings of the Marcoses in our country.

Those articles were followed, in turn, by a long investigatory piece in the Village Voice in New York, and then by the New York Times.

In view of the extent to which these allegations, if true, would have had profound implication for American foreign policy and the American Foreign Aid Program for the Philippines, I concluded, in my capacity as chairman of the Subcommittee on Asian and Pacific Affairs, which has jurisdiction over our foreign policy and Foreign Aid Program for the Philippines, that we had no alternative but to commence our own investigation into the accuracy of these allegations.

It soon became clear that the paper trail which would have enabled us to have determined beyond a shadow of a doubt who was the owner of these properties was leading nowhere. It was, of course, no accident that the paper trail was leading nowhere because the ultimate ownership of these properties is in the name of a series of offshore corporations which have very cleverly been established in foreign entities whose rules of confidentiality and secrecy make it impossible for anyone from our country to gain access to the records in the name of these corporations, which would have enabled us to have determined who the ultimate beneficiaries of these properties were.

Once it became clear that we were unable, by tracing the paper trail, to determine who the owners of the properties were, because of the fact that they were held in the name of offshore corporations to whose records we were denied access, we came to the conclusion that the only way we could determine the truth or falsity of the allegations involved in these articles was to subpoena and put under oath in hearings before our subcommittee a number of the individuals who were named in the articles as having been instrumentally involved in the purchase, the acquisition, the financing, and the management of these properties.

It was our hope that by doing so, we would be able to obtain definitive information which those journalists who wrote these investigatory articles were not able to obtain by virtue of the fact that the individuals involved who were named in the articles refused to grant them interviews.

We began our investigation at the staff level, therefore, in the early fall, several weeks before President Marcos of the Philippines decided to call a snap presidential election, which is scheduled for February 7 in his country.

I mention this because as our hearings developed and as it became clear that we were in the process of producing evidence clearly linking these properties to the Marcos family, there were a number of individuals who charged us with holding the hearings for one purpose and one purpose only, which was to intervene in the Philippine elections and, by exposing this scandal, to influence the outcome.

I want to take this opportunity to categorically reject those charges. The truth is that we began our investigation before Mr. Marcos called this snap election. The fact is that we decided to hold hearings on this issue a few weeks before the elections were called.

Under those circumstances, we came to the conclusion that were we to cancel our hearings until the elections were over, we could just as easily have been accused of trying to interfere with the elections in the Philippines by covering up this putative scandal involving the diversion of hundreds of millions of dollars from the Philippines into lucrative real estate investments in the United States.

I remember how, in 1972, the Post Office and Civil Service Committee, under pressure from the administration, canceled a scheduled hearing on the Watergate burglary because of the argument that this might constitute interference in the forthcoming Presidential election in the United States.

Looking back on that decision now, we can see how wrong it was, because our Nation will have to live with the eternal shame of a President of the United States who subsequently was subject to impeachment proceedings in the House of Representatives and forced to resign his office as a result of the information which subsequently came to the attention of the Congress and the country.

□ 1330

So we decided that inasmuch as we would have held the hearings even if there had been no election called in the Philippines, that we had no alternative but to play it right down the middle and let the chips fall where they may and proceed with our hearings as if there had been no election at all.

Indeed, there was at that time a number of people who were suggesting that the elections might very easily be postponed or permanently canceled, and if we were to have waited for the elections to be held, there was a possibility that the hearings might have been postponed indefinitely. In any case, the purpose of the hearings was not to interfere in the elections in the Philippines or to influence their outcome. The purpose of the hearings was to establish whether these allegations concerning the hidden wealth of the Marcos' in the United States was accurate, and if so, what were their implications for American foreign policy and American foreign aid toward the Philippines.

Over the course of the last few months, having made the decision to proceed with these hearings, the Subcommittee on Asian and Pacific Affairs held 6 days of intensive hearings, often lasting several hours at a time, during which we received testimony from 16 witnesses, and during the course of which we have reviewed literally several thousand pages of documents that were produced before our

committee as a result of subpoenas authorized by the committee.

Mr. Speaker, I would submit that the evidence produced and uncovered by the Subcommittee on Asian and Pacific Affairs points to the clear and compelling conclusion that Philippine President Ferdinand Marcos and his wife Imelda, the first lady of the Philippines, own at least five properties in the State of New York, including the Lindenmere estate in Center Moriches on Long Island, the Crown Building at 730 Fifth Avenue, the Herald Center, a nine-story vertical shopping mall at 34th Street and Sixth Avenue, 40 Wall Street; one of the largest office buildings in the financial district of Manhattan, and lastly, 200 Madison Avenue, which is considered one of the more lucrative and prestigious office buildings in midtown Manhattan. The total estimated value of these properties is approximately $350 million. These properties, according to evidence submitted to our committee, were all acquired since 1980 through agents acting on behalf of the Marcos' themselves.

Purchases of these properties were structured through offshore corporations registered in the Netherlands Antilles in order to hide the true ownership of these properties.

You may be interested to know that President Marcos' sole visible and public and legitimate source of income is the $5,700 a year he earns in his capacity as President of the Philippines. For someone to have acquired control of a real estate empire in New York with a salary of $5,700 a year suggests either that he has a very good investment advisor or that he has acquired the resources with which to purchase these properties, through presumptively improper means.

There is, of course, no American law which prohibits foreigners from investing in the United States. We welcome foreign investment. The mere fact that these properties were purchased by someone from overseas hardly means that their acquisition was in any way illegal. Nevertheless it appears as if at least one American law may have been violated inasmuch as, according to the Department of Commerce, it appears as if some of the corporations in whose name these properties were purchased have failed to comply with requirements under American law. This law obligates them to disclose to the Commerce Department the identity or at least the nationality of the purchasers of these properties.

Insofar as the Philippines is concerned, there is the very real possibility that the acquisition of these properties through the diversion of hundreds of millions of dollars from the Philippines may have constituted a violation of the foreign exchange laws of that country. In the Philippines, any foreign transaction involving more than $5,000 in foreign exchange requires the approval of the Central Bank of that country.

Last week, the Foreign Minister of the Philippines, in a speech before the National Press Club here in Washington, said that our subcommittee had not produced a single iota of evidence that President and Mrs. Marcos were the owners of these properties. I would submit that in a literal sense the Foreign Minister was accurate. We have not produced an iota of evidence, we have produced a ton of evidence that the Marcoses own these properties, and I will now lay it before you.

Let me begin with the Lindenmere estate, a 13-acre estate in Suffolk County, NY, estimated to be worth approximately $19 million. The subcommittee received compelling testimony from the contractor who was responsible for the construction of the estate that he had seen Mrs. Marcos there on at least five occasions. He also testified that he had been instructed not to mention the fact, although he had been told she was the owner of the property, that she was the owner of the property because she wanted her ownership kept confidential.

Augusto Camacho, the architect who was responsible for the design of the property, sent several letters to Mrs. Marcos which we uncovered during the course of our investigation in which he beseeched her to pay him for the hundreds of thousands of dollars worth of his time and services that he had put into the design of the property, and which he had been unable to collect from her duly appointed agents in New York.

Vilma Bautista, who works at the Philippine Mission to the U.N. as Mrs. Marcos' personal secretary when the first lady of the Philippines is in the United States, according to documentary evidence submitted before our committee, paid a substantial share of the taxes on the Lindenmere estate. Now, if this property was not owned by Mrs. Marcos why would her secretary have paid the taxes on it?

In addition to the evidence which we received concerning the Lindenmere, from the contractor, from the architect and from the county tax records which proved that Mrs. Marcos' secretary had paid a substantial share of the taxes on it, the subcommittee also uncovered substantial evidence that the Marcoses own four multimillion-dollar commercial properties in Manhattan. These include the Crown Building at 730 Fifth Avenue, which is now worth over $100 million, the Herald Center, a nine-story vertical mall at 34th Street and Sixth Avenue which is worth approximately $60 million, 200 Madison Avenue, a prestigious office building which is now worth approximately $80 million, and 40 Wall Street which, at 70 stories, is one of the tallest office buildings in the financial district in New York City which is worth in excess of $95 million. Together with the Lindenmere these five properties are worth approximately $350 million.

The subcommittee has reviewed thousands of pages of subpoenaed documents and heard 2 days of lengthy testimony on the issue of the ownership of these properties from a number of individuals who were intimately involved in the acquisition, management, and financing of these buildings.

We began our hearings on these properties by taking testimony from Joseph and Ralph Bernstein, the heads of the New York Land Co., which is the parent company for the offshore corporations that own these four Manhattan buildings.

□ 1340

The Bernsteins, more so than anyone else, were presumably in a position to let us know who were the owners of these properties, inasmuch as they had purchased the properties on behalf of the ultimate owners and were responsible for their management. And yet, when we called the Bernsteins before us, they refused to answer such simple questions as, "Do you know President Marcos? Have you ever met Mrs. Marcos? Who owns the Herald Center? Who owns 200 Madison Avenue? Who owns 40 Wall Street? Who owns the Crown Building?" on the grounds of the attorney-client privilege.

There is to be sure a time honored and very legitimate tradition in American law of the attorney-client privilege. There are all sorts of circumstances in which the assertion of that privilege would indeed be legitimate. But it was the conclusion of the House counsel and the minority counsel and of an overwhelming bipartisan majority of the Foreign Affairs Committee that in this instance, inasmuch as the questions we were asking related to business transactions rather than to legal advice, that the assertion of the privilege was utterly unjustified. It was for that reason that the Foreign Affairs Committee voted by a margin of 21 to 2 to cite the Bernstein brothers for contempt. We will be bringing that contempt citation before the full House after we return from the February recess.

I would submit that the refusal of the Bernsteins to answer our questions and to assert without justification the attorney-client privilege as the reason for doing so, in and of itself is a very significant development in this investigation. Faced with the very real possibility of having to spend up to a year in jail because of their refusal to answer such questions as whether or not the Marcoses own these proper-

ties, we can only ask ourselves, "What possible reason would the Bernsteins have had for running that risk if in fact the Marcoses did not own the property?" If they did not own the properties, the Bernsteins would simply have to have said that they did not own them, and they would not have been involved as a consequence in a contempt of Congress. Indeed Irwin Robinson, an attorney who represented Mrs. Marcos in a suit involving the Lindenmere estate, when asked if he knew whether the Marcoses owned these properties, did not assert the attorney-client privilege and responded by indicating that he had no knowledge that the Marcoses did own the properties.

The Bernsteins' action, therefore, creates a strong presumption that the reason they refused to testify is that they knew the Marcoses did own the property and wanted to protect them from that knowledge becoming public. They did not want to deny under oath that the Marcoses owned the properties because if they did, they would have been running the risk of an indictment not for contempt of Congress but for perjury, which carries with it a sentence of 5 years, not a sentence of only 1 year, which is the case of a contempt-of-Congress conviction.

Now, if the refusal of the Bernsteins to answer the subcommittee's questions was the only indication we had of the Marcoses' involvement with these four commercial properties, it might not have been sufficient evidence to justify the conclusion that the Marcoses owned their buildings. But we have also received documentary and direct evidence which, combined with the Bernsteins' refusal to answer the questions posed to them by the members of the subcommittee, leads in my judgment to the inescapable conclusion that the Marcoses are indeed the owners of these properties. What, then, is this additional evidence?

Five people intimately involved in the purchasing, financing, and management of these properties testified under oath that they were told or given the firm impression by Joseph Bernstein, the head of New York Land, which was responsible for the management of these properties, that the Marcoses owned the buildings.

Victor Politis, a former executive vice president of the New York Land Co., testified under oath that he was told by Joseph Bernstein in May 1984 that Mrs. Marcos owned these properties, and that President Marcos has given them to her a a gift. Some gift. This is a $350 million gift from the President of the Philippines to his wife, the first lady of that country.

Jim Breslin and Morad Tahbaz, who are still vice presidents of the New York Land Co., testified under oath that Joseph Bernstein had given them at a meeting at which Mr. Politis was present the very firm impression that the Marcoses owned these properties.

Barry Knox, another witness who helped arrange financing for three of the buildings, testified under oath that Joseph Bernstein told him, not once but on a number of occasions, that the Marcoses owned these four properties.

Henry Bullock, another witness, the loan officer for the Security Pacific Mortgage Co., who arranged the loans for some of these properties, testified under oath that he had been told by Joseph Bernstein at a meeting at the Trade Vics restaurant in New York on February 15, 1985, that in effect the Marcoses were the owners of these properties.

In addition, Victor Politis, the former executive vice president of New York Land, and Barry Knox, who helped arrange the financing for some of these buildings, both testified under oath that Mrs. Glyceria Tantoco, a very close personal friend of Mrs. Marcos, who had originally represented herself as the owner of these properties, had told them that in fact Mrs. Marcos was the real owner of the properties. And she also told Mr. Knox, who reported this to the subcommittee under oath, that she specifically asked him to create the impression that she, Mrs. Tantoco, was the owner and wanted to cover up the fact that Mrs. Marcos was the owner of these properties.

While this testimony from five witnesses, who were told by Joseph Bernstein and Mrs. Tantoco that Mrs. Marcos was the owner of the properties, is by itself fairly convincing, I grant that there might be some who would discount this testimony on the grounds that it is hearsay evidence and does not constitute in and of itself direct proof of Mrs. Marcos' ownership, together with her husband, of these properties.

But in addition to the testimony of these five witnesses, and in addition to the refusal of the Bernstein brothers to answer the most simple questions about whether the Marcoses owned these properties, we also received direct eyewitness testimony establishing very clearly and convincingly Mrs. Marcos' link to the ownership of these properties.

Mr. Politis, testifying under oath before our subcommittee, described a meeting in October 1984 at a townhouse in New York at which Mrs. Marcos was present, together with Joseph Bernstein, Mrs. Tantoco, Barry Knox, Mr. Politis himself, and others, which was called for the purpose of discussing these properties. And Mr. Politis testified under oath that at that meeting Mrs. Marcos said that she wanted the buildings kept in tiptop shape, and that she wanted the best management for them. Mr. Politis went on to say under oath that Mrs. Marcos also indicated that her major concern with respect to these properties was whether she would be able to pull $70 million out of them by 1987.

In addition, Mr. Knox, the gentleman who arranged the financing for these properties, testified under oath that she had been at three separate meetings at the same building on East 66th Street in Manhattan at which Mrs. Marcos was present, the primary purpose of which was to present Mrs. Marcos with a detailed briefing on the financial status of these properties.

□ 1350

So I think it is very clear that the Marcoses had an interest in covering up their ownership of these properties. They lead, after all, a country in which the economy has gone into a drastic decline, in which almost half the population lives in poverty, and in which a Communist insurgency gains strength and momentum every day, and it clearly was not in their interests to have it known back in the Philippines that while all this was happening, while the people of their country were sinking into poverty, when the Communists were marching on Manila, that they were diverting hundreds of millions of dollars from the Philippines that could have been used for economic development in that country into the purchase of lucrative real estate investments in New York City. So they clearly had an interest in covering it up.

But I would submit that the evidence that our subcommittee has obtained makes it clear that the coverup did not work and that we now have the facts and the knowledge and we know the truth, which is that the Marcoses own these properties.

If Mrs. Marcos did not own the Lindenmere, why would the contractor say he has seen her there five times and why would he testify under oath that he had been told to cover up the fact that she was the owner?

If Mrs. Marcos was not the owner of the Lindenmere, why did the architect of the property send her several letters trying to collect the money which he was owed for his services on the property?

If Mrs. Marcos did not own the Lindenmere, why did her personal secretary pay the taxes on the property?

And if the Marcoses did not own those four big multimillion-dollar buildings in Manhattan, why did the Bernstein brothers, one of whom is not even an attorney, assert the attorney-client privilege in refusing to answer such questions as whether the Marcoses owned the property?

Why did five other individuals who were intimately involved in the acquisition, the management and the financing of these properties, testify

under oath that Joseph Bernstein told them that the Marcoses owned these properties, if in fact they did not own them?

Why would another witness have testified under oath that Mrs. Marcos said at a meeting at which he was present that her major concern with respect to the properties was that she be able to get $70 million out of them by 1987, if in fact the Marcoses did not own the property?

Why would the man who was responsible for the financing of the properties testify under oath that he had been at three separate meetings with Mrs. Marcos for the purpose of discussing these properties, if in fact Mrs. Marcos was not the owner of these properties with her husband?

Now, having established the fact that the Marcoses owned these properties, let me say a few words about the implications of these revelations for American foreign policy and the American Foreign Aid Program to the Philippines. It is, of course, up to the Filipino people to determine for themselves the propriety of the acquisition of these buildings by the first family of their own country; but it is up to us to determine the relevancy of these acquisitions for American foreign policy and the American Foreign Aid Program.

The truth of the matter is that we face some very serious problems in the Philippines. It is a country of enormous political and strategic importance for the United States. Our bases there at Clark Field and Subic Bay play a very important role in helping the United States preserve the peace and maintain a balance of power in Asia. If we were ever denied access to those facilities, it would send shockwaves throughout the region. Many countries, ranging from Japan to Korea, to Thailand, to Australia, to New Zealand, who depend on the United States for their own security, would be obligated to rethink their own security calculations.

There can be little doubt that if the Communists ever come to power in that country, the United States will be deprived of access to those facilities.

Over the course of the last few years there has been a clear and direct relationship between the decline of the Philippine economy and the growth of the Communist insurgency. To a very large, if not exclusive extent, the decline in the Philippine economy has in turn been related to the system of crony capitalism established by President Marcos and the government-led capital flight of which the evidence uncovered in our hearings is a very dramatic example.

Consequently, it seems to me, first of all, that regardless of who wins the elections on February 7 that we should insist as a condition for any additional economic assistance that the system of crony capitalism and government-led capital flight come to an end.

At a time of Gramm-Rudman, at a time when we have to cut into so many vitally important domestic programs in our own country, there can be no justification for sending hundreds of millions of dollars in economic aid to help the poor people of the Philippines if simultaneously the President and First Lady of that country are siphoning off perhaps even larger sums that would otherwise be available for economic growth and development in other countries into real estate investments in the United States.

Second, in the event President Marcos should win the election on February 7, I believe that we should insist as a condition for any additional economic assistance to his country that he repatriate the resources used to acquire these properties from the United States to the Philippines so they can be put to work in his own country.

I simply do not see how we can justify to the taxpayers of my district in Brooklyn, or to the taxpayer anywhere else in our country, sending additional aid to a country in desperate poverty like the Philippines if the leader of that country insists on diverting hundreds of millions of dollars from his nation into the United States.

Third, for political as well as symbolic purposes, I believe that we should make it clear that we will no longer provide any economic assistance to the Philippines through the Ministry of Human Settlements so long as it remains the personal fiefdom of Mrs. Marcos.

Fourth, in view of the possibility that some of the resources used to acquire these properties may have come from our Foreign Aid Program, I believe we should expand and expedite the audits and reviews which are curently underway by several agencies of our own Government of the Foreign Aid Program in the Philippines.

In view of a grand jury investigation now underway in Virginia, in which there is reason to believe that evidence has been uncovered involving corruption in the foreign military sales programs to the Philippines, we should immediately commence a review of all commercial military sales to the Government of the Philippines under the Foreign Military Sales Program.

Finally, there is the very real possibility that American law may have been violated by some of those corporations in whose name these properties were purchased. Some of these corporations appear not to have filed disclosure documents, as required by law with the Department of Commerce, indicating the identity and/or the nationality of the foreign citizens who purchased these properties. I believe the Department of Justice should commerce an investigation and, if necessary, prosecute those individuals or corporations involved if it should turn out that they have, in fact, violated American law.

In the final analysis, our policy toward the Philippines will be determined to a large extent by what happens in the elections in that country on February 7. Whether or not the elections are free and fair, or whether or not they are fundamentally fraudulent, will have a significant bearing on our policy.

The administration itself, the Congress by unanimous vote, and millions of other Americans, have expressed their commitment for the cause of free and fair elections in the Philippines.

I can only express the hope that the elections will give the Filipino people an opportunity to peacefully determine their own future. If they do, I think we have no alternative but to respect the result; but if it should turn out the elections are fundamentally fraudulent, we may have to review our entire relationship with the Philippines. It would be very difficult under those circumstances to justify continuing to support a government which would have lost whatever residual legitimacy it may have left. But regardless of who wins the elections on February 7, and I want to stress that this is a matter for the people of the Philippines to determine, it is not up to the United States, it is up to them. Regardless of who wins those elections, I believe our subcommittee has uncovered compelling evidence which leads to the conclusion that the President and the First Lady of that country have acquired a real estate empire in our Nation, and even if it should turn out that not a single cent of American foreign aid was involved, I submit that it would still have profound implications for the future of our foreign policy and our Foreign Aid Program for that country.

Therefore, I urge my colleagues in the Congress to give some thoughtful considerations to the evidence we have uncovered and to weigh in their own minds what the implications of that evidence may be for our future relationship with the Philippines.

Mr. Speaker, I would be happy at this time to yield to my very good friend, the gentleman from New Mexico, who accompanied me on a factfinding mission to the Philippines last April before any of us knew anything about these revelations.

Mr. RICHARDSON. Mr. Speaker, I thank my colleague. I want him to know that that may have been the last time I accompany my colleague to the Philippines, but that does not diminish my admiration for the tremendous work the gentleman has done over the years on this issue, first of all the

tying of conditions on the Philippines, the shifting from military to economic aid through his amendment I think made some very constructive signals to the administration that have caused some military reforms, although there is still a tremendous amount to be made.

I think with the gentleman's very close dialog that he has had with Mr. Laurel and Mrs. Aquino, I think he certainly has been a very constructive force.

I think from the evidence he has uncovered, I have followed his hearings very closely, I think they point out the damaging evidence that foreign aid dollars may have been diverted.

I just am one Member of the House who wants to thank the gentleman for generating good public policy and pushing American foreign policy in the direction of not standing for a corrupt dictator, of recognizing the importance of our security interests in the Philippines, of pushing for very fair elections.

I just wanted to have one dialog with my colleague. I am very concerned that by us having sent a congressional delegation to monitor the elections in the Philippines when Mr. Marcos has done nothing to ensure that the elections are not fraudulent, in fact what he had done is increased the possibility with limiting foreign observers from getting close to the polls that we in effect may be sending a signal that after election night that something adverse might happen. It is a concern I have and I just wish to share that with my colleague.

Mr. SOLARZ. Well, I thank the gentleman for his statement. I particularly appreciate his kind words about the work which our subcommittee has been doing.

Let me say that I think it would be a tragedy for the United States if we ended up legitimizing what the Filipino people themselves concluded was an illegitimate process; but I am very hopeful that our observers there will play a constructive role in increasing the prospects for a reasonably free election.

I have discussed this both with Senator LUGAR and Congressman MURTHA, who will be cochairing the delegation. I think they recognize the potential pitfalls involved in coming to any premature conclusions about the honesty of the elections in view of the fact that there are 94,000 polling places and 7,000 islands in the Philippines and it will obviously be very difficult for a limited delegation in one day to reach a definitive determination about the honesty of the electoral process in the Philippines; but I believe that we have such an overwhelming stake in a free and fair election, inasmuch as a fraudulent election would dramatically accelerate the political polarization in the Philippines and could even eventually set the stage for the eventual triumph of communism in that country, that we have no alternative but to do everything we can to increase the prospects for a free election. That is why this House unanimously voted for a resolution, as did the other body, calling on the Government of the Philippines for a free and fair election. It is why we are sending the observer mission over there.

My good friend, the gentleman from New Mexico, while acknowledging that he had been with me in the Philippines in the past, indicated that he had some reservations about returning with me in the future. Let me simply say to the gentleman that I plan to go back to the Philippines myself after the election is over sometime next week, because I believe that whatever happens, whether Mrs. Aquino wins or Mr. Marcos wins, whether it is free or whether fraudulent, will have profound implications for our future relationship with them.

□ 1405

I thought it would be helpful to get a wide variety of views in the Philippines about what we should do in the wake of the election, but I want to say to my friend, the gentleman from New Mexico, that as General MacArthur was able to say, upon returning to Manila, "I have returned," it is my fondest hope that I will be able to say, after going to the Philippines, that after I come back to New York, that I have returned from the Philippines.

UNITED STATES SHOULD NOT INTERFERE IN PHILIPPINE ELECTIONS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Indiana [Mr. BURTON] is recognized for 15 minutes.

Mr. BURTON of Indiana. Mr. Speaker, my colleague, the gentleman from New York, has just taken about an hour to point out that there are all kinds of allegations of corruption that he has uncovered as respects President Marcos and his wife. This concerns me a great deal.

The gentleman's comments which he just made were rife with all kinds of implications which may or may not exist. First of all, he said, "There is a very possibility of corruption." "There is compelling testimony," he said. "There may have been misuse of public funds over there by investing those funds in the United States." And "It appears as if." But there has been no proof, no documented proof beyond a reasonable doubt that these things have occurred.

What concerns me the most is that we must have a good working relationship with the Philippines, with whomever is the ultimate victor, whether it is Mrs. Aquino or whether it is President Marcos.

I was just in the Philippines about 1 week to 10 days ago, and when I was going down the main thoroughfare of Manila a newspaper boy ran up to the car door and knocked on the window and asked me if I wanted to buy a newspaper. The newspaper headline was, "FM and FL"—Ferdinand Marcos and First Lady—"World Class Grafters—Solarz."

That tells me one thing as a Member of Congress: that the gentleman from New York [Mr. SOLARZ], the chairman of the committee that deals with the Philippines in the U.S. House of Representatives, is trying to have an impact on the outcome of the elections in the Philippines. He is trying to make sure that Mr. Marcos is defeated.

I am not here to say Mr. Marcos is lily white. I am not here to say that corruption does not exist in the Philippines. It may very well be that it does exist. And I am not here to say that Mr. Marcos should be reelected or that Mrs. Aquino should be elected. What I am saying is that the United States of America should have a good working relationship with whomever the people of the Philippines choose to elect, and it should be their decision, not our decision.

If we want to get a real "Ugly American" image, all we have to do is start going around the world telling sovereign nations who we think they ought to elect and have them believe that we are dictating to them the policy of their Government.

We need to work with them for economic stability in the Philippines. We need to work with them to make sure that the Communists do not get a further toehold in that part of the world; that the balance of power remains consistent. To that end, we need to make sure that our bases, Clark Air Force Base and Subic Bay Naval Base, remain in the Philippines.

I met with Mr. Marcos when I was in the Philippines and I talked with him at length about our relationship, and he told me that in 1991 the agreements with the United States regarding our bases and our presence in that part of the world would be renegotiated, but that he was sure that the bases would remain. I then met with Mrs. Aquino's people, two of her brothers and other people on her campaign committee, and they told me that our bases would remain through 1991, but at that point, in 1989 or 1990, a decision would be made on whether or not the legislative branch of Government or the people would decide whether or not our bases should remain.

We should have that kind of relationship. We should let them know that we want to help them with their economy, with their military prob-

lems, with the problems with the Communist NPA army, but we should indicate to them that we are not trying to dictate who should be the next President of that country.

That country is one of the most literate countries in the world. They know what is going on, make no mistake about it. They know the charges of corruption. They know of these allegations. They know of the charges that have been made against President Marcos' war record. They did not need us to tell them about that. Nevertheless, we, here in this Congress, chose to stick our nose in and start trying to tell them what they already knew. As a result, those people who are for Mr. Marcos are upset with people like the gentleman from New York [Mr. SOLARZ], and those people who are for Mrs. Aquino are upset with other Members of this body because the United States of America, instead of trying to work with those people and help them through a very trying time, are trying to dictate who is going to be the next President of that country. I think that is wrong.

I talked with Cardinal Sin and he is very interested in this election. As a matter of fact, he was the person who was instrumental in getting Mr. Laurel and Mrs. Aquino together on one ticket so that they would be a formidable force to oppose President Marcos. He has very strong feelings about the outcome of this election.

Business people have very strong opinions about the outcome of the election and who should be the victor.

There are people on both sides who feel very strongly, so how can the United States of America come out ahead if we start choosing sides and trying to decide for those people who ought to be their leader. We can only get a black eye and it can only lead in the long run to problems for the United States of America.

Five hundred air miles away from Clark Air Force Base and Subic Bay is Cam Ranh Bay in Vietnam. That used to be our biggest naval installation. Now the Soviet Union has a great armada in there, and if we lose Clark Air Force Base and Subic Bay, you can bet your bottom dollar the Soviets will have a presence in that part of the world and the balance of power will be upset. We must not allow that to happen, and the best way to make sure that does not happen is for the United States of America to make sure we have a good working relationship with whomever is the eventual winner over there.

The gentleman from New York [Mr. SOLARZ] does not do the United States of America and our interests any favor by raising these allegations 1 week before the election. He would have us believe that this just happened; that all of a sudden they were conducting this investigation and the elections came up and it was just a coincidence that this all came to pass at the same time. Baloney; baloney. He has orchestrated this so that this entire scenario would take place just before the election, so that he would have a tremendous impact himself in trying to pick the next President of the Philippines.

The party of the gentleman from New York [Mr. SOLARZ] in the past has made some monumental blunders. They were instrumental in helping get the Shah of Iran thrown out. Look what we ended up with: the Ayatollah Khomeini. They were instrumental in pushing and pushing and pushing in Nicaragua for a change, and I am not saying that was bad, but nevertheless, they pushed for that change and it did take place. Now we have Daniel Ortega and a Communist menace on our front doorstep.

All I am saying is that we should have a good working relationship and let those people know we are concerned about the future of the Philippines, whomever they choose to be their President. What we are doing, or what the gentleman from New York [Mr. SOLARZ] is trying to do is to tell them who ought to be their President. He is raising all kinds of issues that the people of the Philippines already know about and he is creating headlines. He is in the headlines in the Philippines. Instead of just Marcos and Aquino and the issues, we have SOLARZ telling them of corruption that they already are aware of or that they have heard about.

I am very distressed about this. After having been over there and talked to people on both sides of the issue and both sides of this election campaign, I am convinced that there are good people in both camps, good people who want to deal with the problems of the Communist army and the growing Communist threat over there, good people who want to see changes in the military structure so that they will be stronger and be able to deal with any kind of military eventuality, any kind of military threat in the future, good people who want to see a change in the economy of that country, who want to see economic changes that are going to bring about prosperity in the future on both sides of this political spectrum.

For us to jeopardize our interests over there by taking this type of approach, I think, is sorely wrong. I, for one, if this is being broadcast around the world and the people are listening to it in the Philippines as well in the United States of America, would like to go on record as saying that we are for the people of the Philippines, whatever they decide. We are not endorsing President Marcos. We are not endorsing Mrs. Aquino. We are endorsing what the people of the Philippines want. We want to work with you to help build up your economy, to build up your military presence in that part of the world so you can deal with the Communist menace. We want to make sure that our working relationship is so good that you will want to work with us to make sure our bases at Subic Bay and Clark Air Force Base remain so that the balance of power between the Soviet Union and the United States is not disturbed in the long run.

That should be our position. That is my position. I hope the people of the Philippines realize that the gentleman from New York [Mr. SOLARZ] does not speak for the Congress.

□ 1415

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

Mr. LEACH of Iowa, for 10 minutes, today.

Mr. BURTON of Indiana, for 15 minutes, today.

(The following Members (at the request of Mrs. MEYERS of Kansas) to revise and extend their remarks and include extraneous material:)

Mr. MCDADE, for 15 minutes, on February 5.

(The following Members (at the request of Mr. FRANK) to revise and extend their remarks and include extraneous material:)

Mr. FRANK, for 5 minutes, today.

Mr. DERRICK, for 5 minutes, today.

Mr. ANNUNZIO, for 5 minutes, today.

Mr. SOLARZ, for 60 minutes, today.

Mr. RANGEL, for 60 minutes, today.

(The following Members (at the request of Mr. BURTON of Indiana) to revise and extend their remarks and include extraneous material:)

Mr. GONZALEZ, for 30 minutes, today.

Mr. GONZALEZ, for 60 minutes, on February 4.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mrs. MEYERS of Kansas) and to include extraneous matter:)

Ms. SNOWE.

Mr. HUNTER in two instances.

Mr. DIOGUARDI in two instances.

Mr. BLILEY.

Mr. CLINGER.

Mr. GILMAN in three instances.

Mrs. ROUKEMA.

(The following Members (at the request of Mr. FRANK) and to include extraneous matter:)

Mr. ANDERSON in 10 instances.

Mr. GONZALEZ in 10 instances.

Mrs. LLOYD in five instances.

Mr. HAMILTON in 10 instances.

Mr. BROWN of California in 10 instances.
Mr. ANNUNZIO in six instances.
Mr. JONES of Tennessee in 10 instances.
Mr. BONER of Tennessee in five instances.
Mr. DE LA GARZA in 10 instances.
Mr. YATRON.
Mr. ASPIN.
Mr. MICA.
Mr. KOSTMAYER in two instances.
Mr. RICHARDSON.
Mr. MRAZEK.
Mr. AUCOIN.
Mr. MARKEY.

ADJOURNMENT

Mr. BURTON of Indiana. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 2 o'clock and 16 minutes p.m.) the House adjourned until tomorrow, Tuesday, February 4, 1986, at 12 o'clock noon.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

2614. A letter from the Assistant Secretary of the Navy (Shipbuilding and Logistics), transmitting notice of the decision to convert the operation and maintenance of the S3A simulator function of the Fleet Aviation Specialized Operational Training Group, Pacific Fleet at San Diego, CA, to contract performance, pursuant to 10 U.S.C. 2304 nt.; to the Committee on Armed Services.

2615. A letter from the Principal Deputy Assistant Secretary of the Navy (Shipbuilding and Logistics), transmitting notification of the proposed decision to convert to contractor performance the storage and warehousing and motor vehicle operation and maintenance functions at the Naval Administrative Command, Great Lakes, IL, pursuant to 10 U.S.C. 2304 nt.; to the Committee on Armed Services.

2616. A letter from the Secretary of Defense, transmitting a report on the specific aspects of budgeting for inflation; to the Committee on Armed Services.

2617. A letter from the chairman, Council of the District of Columbia, transmitting D.C. act 6-127, "D.C. Health Occupations Revision Act of 1985," and report, pursuant to Public Law 93-198, section 602(c); to the Committee on the District of Columbia.

2618. A letter from the chairman, Council of the District of Columbia, transmitting D.C. act 6-130, "AIDS Health-Care Response Temporary Act of 1985," pursuant to Public Law 93-198, section 602(c); to the Committee on the District of Columbia.

2619. A letter from the chairman, Council of the District of Columbia, transmitting D.C. act 6-129, "D.C. Stadium Act of 1957 Amendment Act of 1985," and report, pursuant to Public Law 93-198, section 602(c); to the Committee on the District of Columbia.

2620. A letter from the chairman, Council of the District of Columbia, transmitting D.C. act 6-128, "Litter Control Administration Act of 1985," and report, pursuant to Public Law 93-198, section 602(c); to the Committee on the District of Columbia.

2621. A letter from the chairman, Council of the District of Columbia, transmitting D.C. act 6-125, "D.C. Taxicab Commission Establishment Act of 1985," and report, pursuant to Public Law 93-198, section 602(c); to the Committee on the District of Columbia.

2622. A letter from the chairman, Council of the District of Columbia, transmitting D.C. act 6-126, "Phosphate Soaps and Detergent Restriction Act of 1985," and report, pursuant to Public Law 93-198, section 602(c); to the Committee on the District of Columbia.

2623. A letter from the Secretary of Education, transmitting final regulations for the special projects and demonstrations for providing transitional rehabilitation services to handicapped youth, pursuant to GEPA, section 431(d)(1) (88 Stat. 567; 90 Stat. 2231, 95 Stat. 453; to the Committee on Education and Labor.

2624. A letter from the Secretary of Health and Human Services, transmitting a report entitled "Health, United States," pursuant to 42 U.S.C. 242m(a)(2)(A); to the Committee on Energy and Commerce.

2625. A letter from the Assistant Secretary for Legislative and Intergovernmental Affairs, Department of State, transmitting a report pursuant to 22 U.S.C. 2151n(d), 2304(b), and 19 U.S.C. 2465(c); to the Committee on Foreign Affairs.

2626. A letter from the Assistant Secretary for Legislative and Intergovernmental Affairs, Department of State, transmitting a report pursuant to 22 U.S.C. 215in(d); to the Committee on Foreign Affairs.

2627. A communication from the President of the United States, transmitting a report on the adherence of the United States to obligations undertaken in arms control agreements and on problems related to compliance by other nations with the provisions of bilateral and multilateral arms control agreements to which the United States is a party, pursuant to the Arms Control and Disarmament Act, as amended (H. Doc. No. 99-156); to the Committee on Foreign Affairs and ordered to be printed.

2628. A letter from the Comptroller General, General Accounting Office, transmitting the GAO's Annual Report for Fiscal Year 1985, pursuant to 31 U.S.C. 719(a); to the Committee on Government Operations.

2629. A letter from the Acting Chairman, Federal Mine Safety and Health Review Commission, transmitting a report on the Commission's compliance with the laws relating to open meetings of agencies of the Government (Government in the Sunshine Act) during calendar year 1985, pursuant to 5 U.S.C. 552b(j); to the Committee on Government Operations.

2630. A letter from the Acting Chairman, Federal Trade Commission, transmitting the annual report of the Commission's activities in compliance with the Competition in Contracting Act, covering fiscal year 1985, pursuant to 41 U.S.C. 419; to the Committee on Government Operations.

2631. A letter from the Administrator, General Services Administration, transmitting a report on the donation of personal property to education or public health insitutions during fiscal year 1985, pursuant to 40 U.S.C. 484(o); to the Committee on Government Operations.

2632. A letter from the Administrator, General Services Administration, transmitting a draft of proposed legislation to amend section 603(a) of the Federal Property and Administrative Services Act of 1949, as amended, 64 Stat. 590, 40 U.S.C. 475(a), by adding a provision authorizing the expenditure of moneys for official reception and representation expenses; to the Committee on Government Operations.

2633. A letter from the Assistant Secretary of the Treasury (Management), transmitting a report on the implementation of the Competition in Contracting Act within the Department of the Treasury covering fiscal year 1985 and actions to be undertaken during fiscal year 1986, pursuant to 41 U.S.C. 419; to the Committee on Government Operations.

2634. A letter from the Chairman, Advisory Commission on Intergovernmental Relations, transmitting the Commission's 27th annual report, pursuant to Public Law 86-380, section 5(3); to the Committee on Government Operations.

2635. A letter from the Chairman, Nuclear Regulatory Commission, transmitting the Commission's fiscal year 1985 report on actions taken to increase competition for contracts, number and dollar value of noncompetitive contracts and accomplishments of the advocate for competition, pursuant to 41 U.S.C. 419; to the Committee on Government Operations.

2636. A letter from the Chairman, U.S. Federal Labor Relations Authority, transmitting a report on the implementation of the Competition in Contracting Act for fiscal year 1985, pursuant to 41 U.S.C. 419; to the Committee on Government Operations.

2637. A letter from the Deputy Assistant Secretary of Defense (Comptroller—Administration), transmitting notification of four new record systems proposed by the Department of the Navy, pursuant to 5 U.S.C. 552a(o); to the Committee on Government Operations.

2638. A letter from the Executive Director, Pension Benefit Guaranty Corporation; transmitting a report on the implementation of the Federal acquisition regulations, pursuant to 41 U.S.C. 419; to the Committee on Government Operations.

2639. A letter from the Executive Secretary, National Security Council, transmitting the 1985 annual report on the Council's activities under the Freedom of Information Act, pursuant to 5 U.S.C. 552(d); to the Committee on Government Operations.

2640. A letter from the inspector general, Department of Housing and Urban Development, transmitting notification of a proposed new computer matching program, pursuant to 5 U.S.C. 552a(o); to the Committee on Government Operations.

2641. A letter from the Managing Director, Interstate Commerce Commission, transmitting a report on the Commission's competition advocacy program during fiscal year 1985 and projections for fiscal year 1986, pursuant to 41 U.S.C. 419; to the Committee on Government Operations.

2642. A letter from the Secretary of Energy, transmitting the fiscal year 1985 report describing the activities the Department is undertaking to improve competition in accordance with the requirements of the Competition in Contracting Act of 1984, pursuant to 41 U.S.C. 419; to the Committee on Government Operations.

2643. A letter from the Deputy Associate Director for Royalty Management, Department of the Interior, transmitting notification of proposed refunds of excess royalty payments in OCS areas, pursuant to 43

U.S.C. 1339(b); to the Committee on Interior and Insular Affairs.

2644. A letter from the Chief Immigration Judge, Executive Office for Immigration Review, Department of Justice, transmitting a report on suspension of deportation of certain aliens of good character and with required residency when deportation causes hardship under section 244(a), Immigration and Nationality Act, pursuant to 8 U.S.C. 1254(c); to the Committee on the Judiciary.

2645. A communication from the Assistant Secretary of the Army (Civil Works), transmitting a Corps of Engineers report on Halstead, KS, in partial response to resolutions adopted June 21, 1944, and May 5, 1966, by the Committee on Public Works, House of Representatives, and section 208 of Public Law 89-298 (H. Doc. No. 99-157); to the Committee on Public Works and Transportation and ordered to be printed.

2646. A letter from the Director, National Science Foundation, transmitting a report on Women and minorities in science and engineering, pursuant to Public Law 96-516, section 37; to the Committee on Science and Technology.

2647. A letter from the Director, Program Review, St. Lawrence Seaway Development Corporation, Department of Transportation, transmitting a response to the Comptroller General's audit of the Corporation; jointly, to the Committees on Government Operataions and Public Works and Transportation.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. AuCOIN:

H.R. 4100. A bill to amend the Internal Revenue Code of 1954 to extend until January 1, 1987, the credit for increasing research activities; to the Committee on Ways and Means.

By Mr. HEFTEL of Hawaii (for himself, Mr. FOWLER, Mr. MATSUI, and Mrs. KENNELLY):

H.R. 4101. A bill to amend the Internal Revenue Code of 1954 to extend the energy investment credit for geothermal property until July 31, 1986; to the Committee on Ways and Means.

By Mr. STARK:

H.R. 4102. A bill to make permanent the increase in the tax on cigarettes and to provide cost-of-living adjustments in the amount of such tax; to the Committee on Ways and Means.

By Mr. TORRICELLI:

H.R. 4103. A bill making a supplemental appropriation for the National Aeronautics and Space Administration to construct an orbiter; to the Committee on Appropriations.

H.R. 4104. A bill authorizing the construction of a replacement orbiter for the Space transportation system; to the Committee on Science and Technology.

By Ms. SNOWE (for herself, Mr. FUSTER, Mr. DENNY SMITH, Mr. MARTIN of New York, Mr. LANTOS, Mr. UDALL, Mr. PURSELL, Mr. DANIEL, Mr. HOWARD, Mr. DWYER of New Jersey, Mr. LELAND, Mr. EVANS of Illinois, Mr. MANTON, Mr. MARTINEZ, Mr. GUNDERSON, Mr. DASCHLE, Mrs. HOLT, Mr. RICHARDSON, Mr. ROWLAND of Georgia, Mr. LOWRY of Washington, Mr. WATKINS, Mr. WILSON, Mrs. BOXER, Mr. HUGHES, Mr. YOUNG of Alaska, Mr. THOMAS of Georgia, Mr. BLAZ, Mr. LEHMAN of California, Mr. LEVINE of California, Mr. HATCHER, Mrs. BENTLEY, Mr. LAGOMARSINO, Mr. FAUNTROY, Mr. TOWNS, Mr. ROE, Mr. YOUNG of Missouri, Mr. CROCKETT, Mr. FRENZEL, Mr. ERDREICH, Mr. KOLTER, Mr. HERTEL of Michigan, Mr. CONTE, Mr. LEVIN of Michigan, Mr. MATSUI, Mr. DEWINE, Mr. RINALDO, Mrs. BYRON, Mr. BILIRAKIS, Mr. SKELTON, Mr. HAMMERSCHMIDT, Mr. ROYBAL, Mr. TAUKE, Mr. WYDEN, Mr. REGULA, Mr. ROGERS, Mr. WORTLEY, Mr. MRAZEK, Mr. MCDADE, Ms. MIKULSKI, Mr. BIAGGI, Mr. GREEN, Mrs. JOHNSON, Ms. OAKAR, Mr. VENTO, and Mrs. LLOYD):

H.J. Res. 510. Joint resolution to designate the week of May 11, 1986, through May 17, 1986, as "National Osteoporosis Awareness Week"; to the Committee on Post Office and Civil Service.

By Mr. KILDEE:

H. Con. Res. 276. Concurrent resolution concerning the timeline for the implementation of proof of eligibility requirements for programs under the Indian Education Act; to the Committee on Education and Labor.

By Mr. McCANDLESS:

H. Con. Res. 277. Concurrent resolution to encourage the President to request that the Working Group for Planetary System Nomenclature of the International Astronomical Union designate three of the moons recently discovered near the plant Uranus by the names of the crew members of Apollo I; to the Committee on Science and Technology.

By Mr. AuCOIN:

H. Res. 370. Resolution expressing the sense of the House of Representatives that H.R. 3838, a bill to reform the internal revenue laws of the United States, should not take effect before January 1, 1987; to the Committee on Ways and Means.

MEMORIALS

Under clause 4 of rule XXII, memorials were presented and referred as follows:

289. By the SPEAKER: Memorial of the Senate of the Commonwealth of Massachusetts, relative to the designation of the Old Colony Rail System project as a "rehabilitation" project; to the Committee on Public Works and Transportation.

290. Also, memorial of the Senate of the State of Alabama, relative to veterans' benefits; to the Committee on Veterans' Affairs.

291. Also, memorial of the Legislature of the Virgin Islands, relative to the enactment of H.R. 1224; to the Committee on Ways and Means.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 471: Mr. STENHOLM.

H.R. 479: Mr. BEVILL, Mr. LEWIS of California, Mr. MCCOLLUM, Ms. MIKULSKI, Mr. TAUKE, Mr. VENTO, and Mr. WISE.

H.R. 585: Mr. BIAGGI.

H.R. 1069: Mr. DOWNEY of New York.

H.R. 1375: Mr. BEVILL and Mr. SHELBY.

H.R. 1376: Mr. LELAND.

H.R. 1436: Mr. SCHAEFER, Mr. COELHO, Mr. BARNARD, and Mr. YOUNG of Alaska.

H.R. 1626: Mr. CHAPMAN.

H.R. 1946: Mr. LENT and Mr. MOORHEAD.

H.R. 1973: Mr. GILMAN.

H.R. 2001: Mr. SILJANDER, Mr. JONES of North Carolina, and Mr. DAVIS.

H.R. 2064: Mr. BEDELL.

H.R. 2440: Mr. BROYHILL, Mr. LOWERY of California, Mr. RICHARDSON, and Mr. WYLIE.

H.R. 2535: Mr. STAGGERS, Mr. LELAND, Mr. MURTHA, Mr. KLECZKA, Mr. PETRI, Mr. MATSUI, Mr. LAGOMARSINO, Mr. FAWELL, Mr. BILIRAKIS, Mr. FOGLIETTA, Mr. GUNDERSON, Mr. MARTINEZ, Mr. TALLON, Mr. BARTLETT, Mr. HORTON, Mr. COLEMAN of Missouri, Mr. LUNGREN, Mr. PERKINS, Mr. FAUNTROY, Mr. TAUKE, Mr. DEWINE, and Mr. CONYERS.

H.R. 2810: Mr. MILLER of California.

H.R. 3006: Mr. KASICH.

H.R. 3436: Mrs. BURTON of California, Mr. BUSTAMANTE, and Mr. BARTON of Texas.

H.R. 3508: Mr. ROEMER, Mr. NICHOLS, Mr. ROBINSON, Mr. SCHUMER, Mr. MORRISON of Connecticut, Mr. HAMILTON, Mrs. SCHROEDER, Mr. SHELBY, Mr. BONER of Tennessee, Mr. CHAPPIE, Mr. COLEMAN of Texas, Mr. FRANKLIN, Mr. DE LA GARZA, Mr. KANJORSKI, and Mr. MCCLOSKEY.

H.R. 3513: Mr. FASCELL.

H.R. 3626: Mr. ECKERT of New York.

H.R. 3660: Mr. HENDON.

H.R. 3736: Mr. BARTON of Texas.

H.R. 3748: Mr. GEJDENSON, Mr. MCKINNEY, and Mr. NEAL.

H.R. 3799: Mr. BROWN of California and Mr. VENTO.

H.R. 3866: Mr. VENTO, Ms. MIKULSKI, Mr. RANGEL, Mr. JACOBS, and Mr. PANETTA.

H.R. 3950: Mr. BROWN of California, Mr. HANSEN, WAXMAN, Mr. DELLUMS, Mr. HAYES, and Mr. LANTOS.

H.R. 4033: Mr. NEAL, Mr. HERTEL of Michigan, Mr. LIGHTFOOT, Mr. GLICKMAN, Mr. HUGHES, Mr. LELAND, Mr. CHAPPIE, and Mr. TORRES.

H.R. 4057: Mr. JONES of North Carolina, Mr. HERTEL of Michigan, Mr. NOWAK, and Mr. NICHOLS.

H.R. 4058: Mr. PERKINS.

H.R. 4060: Mr. MOAKLEY, Mr. FORD of Michigan, Mr. KASTENMEIER, Mr. HAYES, Mr. FRANK, Mr. ACKERMAN, Mr. HUTTO, Mr. MATSUI, Mr. RAHALL, Mr. TRAXLER, Mr. PRICE, Mr. JACOBS, Mr. AKAKA, Mr. HUBBARD, Mr. HEFTEL of Hawaii, Mr. VENTO, Mr. TORRES, and Mr. WHEAT.

H.R. 4061: Mr. EVANS of Illinois, Mr. KOSTMAYER, Mr. WIRTH, Mrs. BOXER, Mr. MCCLOSKEY, Mrs. SCHROEDER, and Mr. TORRES.

H.J. Res. 87: Mr. BREAUX.

H.J. Res. 245: Mr. SPENCE and Mr. ERDREICH.

H.J. Res. 410: Mr. YOUNG of Florida and Mr. SABO.

H.J. Res. 417: Mr. MORRISON of Connecticut, Mr. STUDDS, Mr. BROWN of California, Mr. PANETTA, Mr. DASCHLE, Mr. MARKEY, and Mr. SAXTON.

H.J. Res. 462: Mr. RAHALL.

H.J. Res. 483: Mr. ALEXANDER, Mr. ANDERSON, Mr. ANDREWS, Mr. ANTHONY, Mr. BADHAM, Mr. BENNETT, Mr. BIAGGI, Mr. BILIRAKIS, Mr. BLAZ, Mr. BONER of Tennessee, Mr. BONIOR of Michigan, Mr. BORSKI, Mr. BROWN of Colorado, Mr. BROYHILL, Mr. BRYANT, Mr. CHANDLER, Mr. CHENEY, Mr. CLAY, Mr. COATS, Mr. COBLE, Mr. COLEMAN of Missouri, Mr. COLEMAN of Texas, Mr. CONTE, Mr. CONYERS, Mr. COOPER, Mr. DANIEL, Mr. DARDEN, Mr. DASCHLE, Mr. DAUB, Mr. DAVIS, Mr. DELAY, Mr. DELLUMS, Mr. DINGELL, Mr. DORGAN of North Dakota,

Mr. DOWDY of Mississippi, Mr. DOWNEY of New York, Mr. DREIER of California, Mr. DUNCAN, Mr. DWYER of New Jersey, Mr. DYMALLY, Mr. DYSON, Mr. EDGAR, Mr. EMERSON, Mr. ENGLISH, Mr. ERDREICH, Mr. EVANS of Illinois, Mr. FASCELL, Mr. FEIGHAN, Mr. FIELDS, Mr. FISH, Mr. FOGLIETTA, Mr. FRANKLIN, Mr. FRENZEL, Mr. FUQUA, Mr. FUSTER, Mr. GALLO, Mr. GARCIA, Mr. GEKAS, Mr. GILMAN, Mr. GINGRICH, Mr. GONZALEZ, Mr. GUARINI, Mr. GUNDERSON, Mr. RALPH M. HALL, Mr. HARTNETT, Mr. HATCHER, Mr. HENDON, Mr. HILER, Mrs. HOLT, Mr. HORTON, Mr. HUGHES, Mr. HUNTER, Mr. HUTTO, Mr. HYDE, Mr. IRELAND, Ms. KAPTUR, Mr. KINDNESS, Mr. LAFALCE, Mr. LEHMAN of Florida, Mr. LELAND, Mr. LEWIS of California, Mr. LEWIS of Florida, Mrs. LONG, Mr. MCCOLLUM, Mr. MCDADE, Mr. MCEWEN, Mr. MCKERNAN, Mr. MACK, Mr. MARTIN of New York, Mrs. MARTIN of Illinois, Mr. MATSUI, Mr. MINETA, Mr. MOLINARI, Mr. MONTGOMERY, Mr. MOORHEAD, Mr. MORRISON of Washington, Mr. MRAZEK, Mr. NATCHER, Mr. NEAL, Mr. NELSON of Florida, Mr. NICHOLS, Mr. NIELSON of Utah, Ms. OAKAR, Mr. OBERSTAR, Mr. OXLEY, Mr. PANETTA, Mr. PARRIS, Mr. PASHAYAN, Mr. PEPPER, Mr. PETRI, Mr. PURSELL, Mr. RAHALL, Mr. RANGEL, Mr. REID, Mr. RICHARDSON, Mr. RODINO, Mr. ROE, Mr. ROEMER, Mr. ROGERS, Mr. ST GERMAIN, Mr. SAVAGE, Mr. SCHAEFER, Mr. SCHULZE, Mr. SHELBY, Mr. SHUMWAY, Mr. SKEEN, Mr. DENNY SMITH, Mr. SMITH of Florida, Mr. SMITH of New Hampshire, Mr. ROBERT F. SMITH, Ms. SNOWE, Mr. STANGELAND, Mr. SUNDQUIST, Mr. SWINDALL, Mr. TAUKE, Mr. TAYLOR, Mr. THOMAS of California, Mr. UDALL, Mr. VALENTINE, Mr. VOLKMER, Mr. WEBER, Mr. WHITTAKER, Mr. WILSON, Mr. WOLF, Mr. WORTLEY, Mr. WYLIE, Mr. YOUNG of Florida, Mr. YOUNG of Alaska, Mr. YOUNG of Missouri, Mr. ATKINS, Mr. BATES, Mrs. BENTLEY, Mrs. BOXER, Mr. BURTON of Indiana, Mrs. BURTON of California, Mrs. BYRON, Mr. CAMPBELL, Mr. CARR, Mr. CHAPPIE, Mr. COBEY, Mrs. COLLINS, Mr. CRAIG, Mr. DORNAN of California, Mr. FAZIO, Mr. FRANK, Mr. GOODLING, Mr. GRADISON, Mr. HEFNER, Mr. HENRY, Mr. HERTEL of Michigan, Mr. HOPKINS, Mr. HOYER, Mr. JENKINS, Mrs. JOHNSON, Mr. JONES of North Carolina, Mr. KASICH, Mr. KASTENMEIER, Mr. KOLBE, Mr. KRAMER, Mr. LAGOMARSINO, Mr. LANTOS, Mr. LEHMAN of California, Mr. LENT, Mr. LIGHTFOOT, Mr. LOEFFLER, Mr. LOWERY of California, Mr. LUKEN, Mr. LUNDINE, Mr. MARTINEZ, Mr. MICA, Mr. MOAKLEY, Mr. MOLLOHAN, Mr. MONSON, Mr. MORRISON of Connecticut, Mr. O'BRIEN, Mr. RINALDO, Mr. ROSE, Mr. ROWLAND of Georgia, Mr. SCHUETTE, Mr. SILJANDER, Mr. SLAUGHTER, Mrs. SMITH of Nebraska, Mr. TAUZIN, Mr. WALKER, Mr. WAXMAN, Mr. WEISS, Mr. WIRTH, and Mr. ZSCHAU.

H.J. Res. 500: Mr. RUDD, Mr. YOUNG of Florida, Mr. LELAND, Mr. VENTO, Mr. ADDABBO, Mr. BADHAM, Mr. HERTEL of Michigan, Mr. WORTLEY, Mr. BEDELL, Mr. DORNAN of California, Mr. MCCOLLUM, Mr. HOWARD, and Mr. VANDER JAGT.

H.J. Res. 502: Mr. BRYANT, Mrs. BURTON of California, Mr. FOGLIETTA, Mrs. HOLT, Mr. HORTON, Mr. LANTOS, Ms. OAKAR, Mr. O'BRIEN, Mr. PERKINS, Mr. WORTLEY, and Mr. YATRON.

H. Con. Res. 208: Mr. MITCHELL.

H. Res. 369: Mr. BONER of Tennessee, Mr. HORTON, Mr. BOUCHER, Mr. WISE, Mr. BRYANT, Mr. ADDABBO, Mrs. COLLINS, Mr. HAWKINS, Mr. CONYERS, Mr. CLAY, Mr. FAUNTROY, Mr. DYMALLY, Mr. SAVAGE, Mr. SILJANDER, Mr. APPLEGATE, Mr. O'BRIEN, Mr. GRAY of Illinois, Mr. FUSTER, Mr. OWENS, Mr. DIOGUARDI, Mr. DIXON, Mr. MANTON, Mr. COBLE, Mr. ST GERMAIN, Mr. ORTIZ, Mr. DWYER of New Jersey, Mr. FOWLER, Mr. EARLY, Mr. LOWRY of Washington, Mr. MOAKLEY, Mr. LEWIS of California, Mr. LOEFFLER, Mr. MOODY, Mr. RINALDO, Mr. ARCHER, Mr. PERKINS, Mr. BERMAN, Mr. ACKERMAN, Mr. BARNES, Mr. CONTE, Mr. BROOMFIELD, Mrs. BURTON of California, Mr. MATSUI, Mr. KEMP, Mr. MRAZEK, Ms. MIKULSKI, Mr. BEDELL, Mrs. BOXER, Mr. ROWLAND of Georgia, Mr. RITTER, Mr. KLECZKA, Mr. WHEAT, Mr. BREAUX, Mr. CALLAHAN, Mr. CAMPBELL, Mr. SEIBERLING, Mr. HUBBARD, Mr. LUKEN, Mr. FLORIO, Mr. WALGREN, Mr. MCHUGH, Mr. PANETTA, Mr. KASTENMEIER, Mr. MADIGAN, Mr. FRANKLIN, Mr. SHARP, Mr. WOLPE, Mr. FISH, Mr. KOSTMAYER, Mr. VANDER JAGT, Mr. SYNAR, Mr. HATCHER, Mr. EVANS of Iowa, Mr. WEBER, Mr. DAUB, Mr. CHANDLER, Mr. SMITH of New Jersey, Mr. CARPER, Mr. EDGAR, Mr. LEWIS of Florida, Mr. COUGHLIN, Mr. YATRON, Mr. NEAL, Mr. CARNEY, Mr. ANDREWS, Mr. SCHEUER, Mr. DELAY, and Mr. MCKINNEY.

PETITIONS, ETC.

Under clause 1 of rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

269. By the SPEAKER: Petition of the City of Megara, Greece, relative to human rights of the Greek minority in Northern Epirus (Albania); to the Committee on Foreign Affairs.

270. Also, petition of City Council of Berea, OH, relative to the Revenue Sharing Program; to the Committee on Government Operations.

271. Also, petition of the City Commission, Miami Beach, FL, relative to the Federal Revenue Sharing Program, to the Committee on Government Operations.

272. Also, petition of the State of Washington Nuclear Waste Board, Olympia, WA, relative to liability and compensation for accidents resulting from the transport, storage, and disposal of nuclear wastes, jointly, to the Committees on Energy and Commerce and Interior and Insular Affairs.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 3456

By Mr. DANNEMEYER:

—Amend title IV to read as follows:

TITLE IV—AMUSEMENT PARK RIDES

SEC. 401. ESTABLISHMENT OF COMMISSION.

(a) ESTABLISHMENT.—There is established a National Commission on Amusement Ride Safety (hereafter referred to as the "Commission").

(b) COMPOSITION.—The Commission shall be composed of five members as follows:

(1) The Director of the National Bureau of Standards, who shall be chairman of the Commission.

(2) The Chairman of the Consumer Product Safety Commission (or his designee), who shall be vice chairman of the Commission.

(3) Three members to be appointed by the President as follows:

(A) One from among State officials who administer State amusement ride Safety inspection programs.

(B) One from among professionals in the amusement ride industry who have education, training, or experience in amusement ride safety matters.

(C) One from among persons who represent consumers.

(c) VACANCIES.—Any vacancy in the Commission shall not affect its powers.

(d) QUORUM.—Three members of the Commission shall constitute a quorum.

SEC. 402. DUTIES OF THE COMMISSION.

(a) IN GENERAL.—

(1) The Commission shall conduct a comprehensive investigation of the scope and adequacy of safety measures employed to protect the public from unreasonable risks of injury from amusement rides. Such investigation shall include a review of—

(A) Federal, State, and local laws regulating the amusement ride industry;

(B) existing voluntary comprehensive ride safety standards; and

(C) self-regulation mechanisms within such industry.

(2) Such investigation shall determine for each law, standard, and self-regulation mechanism reviewed under subparagraphs (A) through (C) of paragraph (1)—

(A) the scope of its coverage;

(B) the effectiveness of any available sanctions or enforcement mechanisms; and

(C) the adequacy of powers to investigate violations.

In addition, the investigation shall determine the uniformity of application and quality of enforcement of the laws, standards, and self-enforcement mechanisms so reviewed.

(b) PUBLICATION.—As soon as practicable after the date of enactment of this title, the Commission shall publish in the Federal Register an announcement of the investigation described in subsection (a) and shall afford an opportunity for any interested persons to submit views on the subject of the investigation.

(c) REPORTS.—The Commission may transmit to the President and to the Congress such interim reports as it deems advisable and shall transmit its final report to the President and to the Congress not later than 18 months from the date of the enactment of this title. The final report shall contain a detailed statement of the findings and conclusions of the Commission with respect to the adequacy of existing amusement ride safety standards and regulations together with such recommendations for legislative, administrative or other action as it deems appropriate.

SEC. 403. POWERS OF THE COMMISSION.

(a) IN GENERAL.—The Commission may, for the purpose of carrying out this title, hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence as the Commission considers appropriate. The Commission may administer oaths or affirmations to witnesses appearing before it. In holding such hearings, the Commission, upon a vote of a quorum of its members, may—

(1) order any corporation, business, or individual to submit, within a reasonable period, such reports or answers to questions as the Commission may request in such form and such manner as the Commission may prescribe;

(2) require by subpoena the attendance and testimony of witnesses and the production of any evidence relevant to the execution of its duties; and

(3) order any person to give testimony by deposition to any person designated by the Commission to administer oaths and to take such deposition.

(b) PUBLICATION.—The Commission shall publish notice of any proposed hearing in the Federal Register and shall afford a reasonable opportunity for interested persons to present relevant testimony and data.

(c) SUBPOENAS.—

(1) If a person issued a subpoena under subsection (a)(2) refuses to obey such subpoena or is guilty of contumacy, any court of the United States within the judicial district within which the hearing is conducted or within the judicial district within which such person is found or resides or transacts business may (upon application of the Commission) order such person to appear before the Commission to produce evidence or to give testimony relating to the matter under investigation. Any failure to obey such order of the court may be punished by such court as a contempt thereof.

(2) The subpoenas of the Commission shall be served in the manner provided for subpoenas by a district court of the United States under the Fedeal Rules of Civil Procedure for the United States district courts.

(d) WITNESSES.—The Commission may pay witnesses the same fees and travel expenses as are paid in like circumstances in the courts of the United States.

(e) INFORMATION.—The Commission may request from any department, agency, or independent instrumentality of the Government and information it deems necessary to carry out its functions under this title; and each such department, agency, or independent instrumentality is authorized to cooperate with the Commission and, to the extent permitted by law, to furnish such information to the Commission.

(f) DELEGATION.—The Commission may delegate any of its functions to individual members of the Commission.

SEC. 404. COMPENSATION OF MEMBERS: REIMBURSEMENT FOR TRAVEL EXPENSES.

(a) IN GENERAL.—Members of the Commission shall serve without compensation.

(b) TRAVEL.—While away from their homes or regular places of business in the performance of services for the Commission, members of the Commission shall be reimbursed for travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code, for persons employed intermittently in the Government service.

SEC. 405. ADMINISTRATION.

(a) STAFF DIRECTOR.—The Commission may appoint and fix the compensation of a staff director who shall be paid an amount not to exceed the minimum rate of basic pay payable for level GS-15 of the General Schedule.

(b) OTHER PERSONNEL.—The head of any Federal agency is authorized to detail, on a reimbursable basis, any of its personnel to assist the Commission in carrying out its duties under this title.

(c) TERMINATION.—The Commission shall cease to exist upon submitting the final report required under section 402(c).

INVESTIGATION OF CERTAIN ACCIDENTS

SEC. 6. (a) The National Bureau of Standards of the Department of Commerce may investigate any accident involving an amusement ride at a fixed site amusement park if—

(1) such accident caused death or serious personal injury, or could have caused death or serious personal injury;

(2) an appropriate authority of State or local government requests, in writing that the Secretary of Commerce conduct such investigation; and

(3) the Secretary of Commerce makes a determination to conduct such an investigation

(b) Upon conclusion of such an investigation, the National Bureau of Standards shall issue a final accident report containing its findings, conclusions, and recommendations. Such report shall include—

(1) findings of the causes of the accident, including a scientific and technological examination of the material, physical and chemical conditions that contributed to the accident;

(2) recommendations for actions or procedures which could have prevented the accident; and

(3) recommendations for actions or procedures to prevent similar accidents.

(c) The National Bureau of Standards shall transmit a copy of any such report to—

(1) the authority of State of local government which requested such investigation; and

(2) any other appropriate person or organization, as determined by the Secretary of Commerce.

(d) Nothing in this section shall be construed to limit or affect any existing authority of the Secretary of Commerce.

(e) The provisions of section 8 of the National Bureau of Standards Authorization for Fiscal Year 1983 (15 U.S.C. 275b) shall not apply to any service performed pursuant to this section.

(f) The provisions of this section shall be effective until Congress enacts legislation regarding amusement ride safety in response to the report submitted by the Commission under section 5 of this Act.

SENATE—*Monday, February 3, 1986*

(Legislative day of Monday, January 27, 1986)

The Senate met at 12 noon and was called to order by the President pro tempore [Mr. THURMOND].

PRAYER

The Chaplain, the Reverend Richard C. Halverson, D.D., offered the following prayer:

Let us pray.

This is what the Lord says: *What fault did your fathers find in me that they strayed from me? They followed worthless idols and became worthless themselves.*—Jeremiah 2:5 (NIV).

God of our fathers, the prophet, Jeremiah, reminds us that we are incurably religious. We must worship—if not the true God, we invent substitutes and become like the substitute god we worship—whether it is the God of power, position, prestige, popularity, prosperity, pleasure, or No god, or ourselves. We worship you Lord, not because you need our worship, but because we need to worship. Our humanness is diminished when we fail to worship you.

"I will exalt you my God and King; I will praise Your name for ever and ever. Every day will I praise You and extoll Your name for ever and ever. Great is the Lord and most worthy of praise; his greatness no one can fathom."—Psalm 145:1-2. Amen.

RECOGNITION OF THE MAJORITY LEADER

The PRESIDENT pro tempore. The distinguished majority leader is recognized.

SCHEDULE

Mr. DOLE. Mr. President, under the standing order, the leaders have 10 minutes each. Then there is a special order for the Senator from Wisconsin, Senator PROXMIRE, for not to exceed 15 minutes, and then routine morning business not to extend beyond the hour of 1 p.m., with Senators permitted to speak therein for not more than 10 minutes each.

Following routine morning business, the Senate will begin consideration of Senate Resolution 28, TV in the Senate. That will be today.

Then, on tomorrow, we will convene at 11 a.m., and, after morning business, the Senate will stand in recess from 12 noon until 2 p.m. for the weekly party caucuses. When the Senate reconvenes at 2 p.m., it will resume consideration of and finish S. 638, the Conrail bill.

There is, of course, the joint session tomorrow night to hear the President's State of the Union Message, and that is at 8 p.m. Hopefully, we can conclude action on Conrail by 6:30 or 7 p.m. We should assemble, then, if we do complete action, by 7:30 p.m., so we can go over as a body to hear the President's State of the Union Message.

On Wednesday, Thursday, and Friday, we will resume consideration of Senate Resolution 28, TV in the Senate.

Again, I am not certain what will happen on that particular legislation. I have just not heard from many Members. I know there are a number of Members who strongly support TV in the Senate; there are some who are less than enthusiastic; and some, like myself, who believe that we should do it, but there should be at least minimal rules changes to accompany TV in the Senate, either agreed to now or before we move from the test period on radio and TV into the public phase of TV and radio in the Senate.

Mr. LONG. Will the Senator yield at that point?

Mr. DOLE. I am happy to yield.

(Mr. McCONNELL assumed the chair.)

Mr. LONG. Mr. President, I am very delighted to hear the majority leader say what he did about the changes in the rules if we are going to have TV in the Senate. The Senate will recall that some years ago we had this matter up and, after debating it for a while, the matter was referred to the Rules Committee by the then majority leader, Mr. Baker. The instructions were that the committee should report a measure back that would contain rules to implement television in the Senate.

Now, I say to our leader, there are some rules changes that are needed badly; that it is inexcusable to understand why we have not done it. They keep being postponed, postponed, and postponed.

I am here to submit to the able leader that, if we do not seize upon this opportunity and tell those who want TV in the Senate that if they want it they are going to have to agree to some rules changes and let the Senate vote on some rules changes, we will never get it.

Just to take one simple example: Why is a motion to proceed still fully debatable? You cannot blame anybody for taking full advantage of it, because they all know it is there and the Senate does nothing about it. But, as the Senator so well knows, one can proceed and debate a motion to proceed for at least 2 days before the Senate can get to the cloture motion. He can still debate, because he still has 1 hour, and he can make motions and things like that, even after it is agreed to.

There are other things that we should look at. For example, we should not have to invoke cloture in order to have germaneness. If you get cloture, you do have a germaneness rule. But when the Senate has an important national issue that should be debated, we ought to be able to bring that matter up and the Senate should be able to impose germaneness on the measure without invoking cloture and limiting everybody to 1 hour and all of the other procedures under cloture. There is no doubt about it, in my judgment, that the Senate would vote for it if they had a chance to vote for it.

Under the cloture rule, after a motion to invoke cloture is filed—the leader filed a cloture motion, and he well knows—the vote on the cloture motion is on the next day but one. This normally means if a cloture motion is filed right now, the vote will not be until Wednesday on the motion to invoke cloture. Forty-eight hours is too long. Senators know pretty well how they are going to vote when the motion is filed. So it should not be more than 1 day. That is just to mention one item.

Another item, may I say to the leader, is that we ought to have a voting machine. I believe every State legislature has one. I do not know of any State that does not have a voting machine. I know they did it in my State of Louisiana. I was a 10-year-old boy the first time I saw it. So we ought to have a voting machine here to expedite the process of the Senate.

There are some other things I could mention. But there are some matters that are so obvious that ought to be considered and voted on that, if you are ever going to get them, you are going to have to get them now.

I told the leader—and I think he knows; he has his own opinion on this—that if you put the Senate on television and if you do not have any rules to limit conversation, the debate could go on forever, because a Senator will see the chance either to help himself with his constituents or else he feels, if he makes a speech on this particular situation, he might be recognized as a statesman throughout the

entire country, so that is a good time to make his speech. So if you are going to get some kind of limitation, you better get it as a part of the package, as a part of the deal, before the TV goes on or I do not think you are going to get it.

Mr. DOLE. Mr. President, let me indicate that I think that is one which has been fairly successful in the House.

I also agree that the American public ought to see the Senate in action. I think we ought to show who is listening in the Chamber in the Senate or in the House. They ought to show the empty Chamber, and not make it appear in Kansas, Louisiana, or wherever their Senator is from that he has everybody riveted to their seats. Often there is nobody in the seats. The Chamber is empty.

I did not disagree with the Speaker when he panned the empty Chamber. I imagine there were a lot of surprised viewers who had believed their Member of Congress really held the Members of the House in rapt attention. They were not even there. They probably were not even in town.

There are other areas that I think we need to be certain we are not going to deceive anyone about. We are going to let warts and all be shown. But the House has rules, and it makes it a bit easier there for them to say nobody can stay on all day. Here you can stay all day, particularly if you have a good crowd. If you had a good viewing audience, it might be something right before election, and I might want to stay on all day rather than vote absentee. Then you could get all kinds of coverage at home.

There are areas I think we need to address. We have experts on rules. Certainly the distinguished minority leader is one. The distinguished Senator from Alaska, Senator STEVENS, has done a lot of work on the rules, as has Senator MCCLURE on this side.

I know there are some who do not want to change the rules. They do not want to change anything. They like it just as it is. I am not asking for many changes. But I hope at least on the motion to proceed we could have 2 hours of debate, and maybe reduce the 3-day rule on reports. There are just a few little things that would make it a bit easier for those who have to manage the business of the Senate.

It all gets back to the quality of life that we talked about. It seems to me that one big complaint I pick up from Members is, "Well, we never really know for certain when we are going to leave this place in the evening."

I just suggest without some rules, and with TV in the Senate, Senators may not want to leave in the evening. Perhaps they would want to be on the evening news.

So I think it is going to be a good debate. I hope we can do it. My view is it ought to happen, and I certainly want to work with the Senator from Louisiana, the distinguished minority leader, and the Senator from Colorado, Senator ARMSTRONG. He has been very active on this side along with the chairman of the Rules Committee.

I reserve the balance of my time.

RECOGNITION OF THE MINORITY LEADER

The PRESIDING OFFICER. Under the previous order, the Democratic leader is recognized.

Mr. BYRD. Mr. President, I ask unanimous consent that I may reserve my time throughout the day.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. I yield the floor.

RECOGNITION OF SENATOR PROXMIRE

The PRESIDING OFFICER. Under the previous order, the Senator from Wisconsin [Mr. PROXMIRE] is recognized for not to exceed 15 minutes.

IS THERE AN OPTION TO DÉTENTE WITH THE SOVIET UNION?

Mr. PROXMIRE. Mr. President, is there an option to détente? Sure. And there is an option to life. It is called death. Those who would reject détente would take a long flight from life into the grave. We live in a nuclear world. Our world suddenly has become starkly different than it has ever been in all human history in one vital respect. War between the two superpowers will bring death to both. And I mean death. In a superpower war, neither country could conceivably survive as an organized society.

The National Academy of Science has estimated that a tiny 1 percent of the U.S.S.R. nuclear arsenal—that is right, I said 1 percent—delivered on American cities would instantly kill between 35 million and 55 million Americans. Tens of millions more would become terminal, dying of severe burns or radioactivity. Doctors and hospitals would be pitifully inadequate even if all of them survived, and most of the doctors would perish. Most hospitals would lie in ruins. America's major cities would become radioactive garbage heaps.

The Academy of Science has found the clear possibility that the huge and widespread fires in American cities set off by the nuclear attack would kick such an immense concentration of smoke and soot into the atmosphere that sunlight would be shut off from the Earth for many weeks, and the temperature on Earth would drop 45 degrees below normal for a year or so. Agricultural scientists tell us this would devastate much of the world's food supply.

Carl Sagan, the eminent astronomer, has said that nuclear winter would constitute Earth's worst environmental disaster in the past 45 million years. The fact of nuclear winter means that, as the Catholic bishops have declared, for the first time in human history a generation has the power to destroy mankind on Earth.

The hardliners who oppose détente would agree with much of this. Their guru, President Ronald Reagan, has said that a nuclear war can never be won, and must never be fought. How can these hardliners defend their position? They argue that détente is more likely to lead to a superpower war than a policy of standing up to the Soviet Union in firm opposition whenever and wherever superpower interests clash.

In Afghanistan and Nicaragua, in Angola and the Middle East their view is that we should move in with support, including military support, to stop the encroachment of tyranny, and to advance the cause of freedom. They see ideological conflicts everywhere. And I mean conflicts; not differences—conflicts. They believe that if the United States steps back or steps out, the tyranny of Soviet communism steps in. They see the Soviets stopping only when the United States stands up to them. They contend that the Soviets recognize the terrible possibility of nuclear war, too. They believe the Soviets will not impose their tyranny on others on only one condition. That condition is if they know the United States will go to war if necessary to prevent it.

Now how about it? Which policy is more likely to lead to peace and life? Basically détente is right. We Americans have no real choice in this nuclear world except to live with the other superpower. They are here to stay. They have not advanced their Marxist philosophy or their military power anywhere in the world. They have failed in their economy. Their people suffer in a gray, grinding poverty. They have miserably flopped in little primitive weak Afghanistan where their military effort has been pathetic. No where in the world have their troops won a clear military success except in their puppet satellites in Eastern Europe.

Obviously, the free world has nothing to fear except our own paranoiac dread of the Soviets. We can negotiate with this superpower in the knowledge that we—not they—have the superior military power. We—not they—have the superior technology. We—not they—have the superior military allies. What more do we need or want? Our paranoia, our fear that the Russians are 10 feet tall, could push this country into a direct military conflict

with the U.S.S.R. in Africa, or Asia, or Europe.

Consider Europe. Our troops in Europe are loaded with tactical nuclear weapons. We have refused to renounce a first use of these mininukes in the event of a conventional conflict with the U.S.S.R. Meanwhile we have also refused to try to negotiate a verifiable end to nuclear weapons testing.

So both superpowers continue to develop smaller, cheaper more devastating nuclear weapons. These are the weapons tailor-made for the scores of smaller nations thirsting for a nuclear equalizer. Both superpowers and all mankind can gain from détente, and lose with confrontation.

THE MYTH OF THE DAY

Mr. PROXMIRE. Mr. President, the myth of the day is that spending cuts alone will balance the budget. That myth has been given up by most people, but a few, adamantly opposed to any new taxes, still cling to it. Even they will now have to rethink their position after looking through a remarkable book published by the Heritage Foundation.

That book, "Slashing the Deficit, Fiscal 1987," is a search and destroy mission against Federal spending. Had General Sherman been as thorough and as ruthless on his march to the sea, Savannah, GA, would still be in ruins.

What sort of spending cuts does the Heritage Foundation propose? Start with the outright elimination of 25 programs, ranging from the Export-Import Bank to rural housing assistance. Add a bracing dose of privatization, for example, selling the Bonneville Power Administration and placing tolls on some interstate highways. Then stir in savings from highly controversial proposals such as charging some veterans for their health care.

My abbreviated summary does not do justice to the scope and ruthlessness of the foundation's proposal. There are recommendations in it which are certain to raise the hackles of even the most committed antispending Member of Congress. Set aside all political objections, however, and assume that every recommendation were to be adopted by Congress. I am not advocating such a course, but do want to demonstrate the magnitude of the deficit.

How much would be saved? About $120 billion, using the most optimistic technical assumptions imaginable. If more reasonable assumptions about speed of implementation, possible termination costs, and savings on interest are made, then the potential savings drop to $100 billion or less.

Picture this, Mr. President, Here is an organization—the Heritage Foundation—with not a liberal bone in its body. It loathes Federal spending. It looks on taxes as akin to the plague. Yet that organization can suggest no more than halving the budget deficit by relying on spending cuts. And many of these recommendations will be renounced by conservatives in this body.

Do we need more revenue so the deficit can be eliminated? The answer is an irrefutable "Yes."

THE ERITREAN CONFLICT AND THE GENOCIDE CONVENTION

Mr. PROXMIRE. Mr. President, the Eritrean conflict in Ethopia continues as one of Africa's longest and least publicized wars. The Ethiopian Government is fighting Eritrean rebels in order to keep open its two major ports on the Red Sea. Ethiopia's overall objective, however, is to prevent the rebels from establishing their own nation. This past fall, Ethiopia launched its eighth major military offensive in as many years into this area.

The civil war began when Ethiopia overrode the post-World War II U.N. guarantee to allow Eritrea to exist as an autonomous territory. Eritrea was forced to submit to a new official language. Its elections were rigged, and finally, in 1962, Ethiopia annexed this area.

Mr. President, Ethiopia has revealed that its war aim is not simply to maintain its ports on the Red Sea, but to deny Eritrean ambitions to become an independent nation. The Government's army pursues this aim by inflicting damage upon combatants and civilians alike. Relief workers report that rural peasants are forced to abandon their farms because of the destruction wrought by the war, which compounds the impact of a 10-year drought. Reports describe advancing soldiers routinely burning crops and houses, stealing and shooting livestock, and raping Eritrean women.

Relief agencies have shipped supplies to provide for the basic needs of the homeless and starving refugees. The United States has pledged 25,000 tons of food for Eritrea, and a nearby region also affected by the civil war.

Mr. President, is material assistance all that we can provide for the Eritreans, a people whose nationhood is being denied? What step can we take to object to this moral wrong?

Mr. President, the Genocide Convention is designed to prevent and punish acts committed with the intent to destroy a national, ethnic, religious, or racial group. Ratification of this treaty would allow the United States to take its place alongside many of its allies in opposing genocide. Why must we continually hesitate to take action when moral wrongs are committed frequently against people such as the Eritreans, reminding us that we must act now?

I yield the floor.

ROUTINE MORNING BUSINESS

The PRESIDING OFFICER. There will now be a period for the transaction of routine morning business not to extend beyond the hour of 1 p.m., with Senators permitted to speak therein for not more than 10 minutes each.

NEW SCHOLARSHIPS TO IMPROVE U.S. STANDING IN CENTRAL AMERICA

Mr. COCHRAN. Mr. President, a few weeks ago the New York Times carried an article describing a new U.S. Government-sponsored Scholarship Program aimed at improving relations between the United States and Central America.

This is a program which was recommended by the Commission headed by Henry Kissinger last January, as a new way to build lasting links between our two regions.

I rise today to applaud the creation of this program, and to congratulate those who are now involved in administering this very important new initiative.

According to the New York Times article, which is dated January 12, 1986, the program is administered by the U.S. Information Agency, and will involve at the outset 150 college students who will come to the United States from Central American countries to engage in a wide range of academic studies.

This is another example, Mr. Presdient, of what I think is an important way that we can improve our standing in many areas of the world. And this is not just for the political advantages that this may bring. There are some very real economic benefits involved for us as well. To give an example, a few years ago as I was conducting hearings in the Subcommittee on Agriculture appropriations we had before us the Director of the Office of International Cooperation and Development, Dr. Joan Wallace and I asked her if it would be possible to develop a new program to be administered by her agency in the Department of Agriculture that would bring foreign studens who were interested in studying agriculture subjects to the United States.

We found that there was a program that provided some scholarship funds in AID, the Agency for International Development. But these were funds targeted to the smallest and poorest countries around the world. There were many other nations who would like to participate, we found, in a program of that kind but were ineligible because they were classified by the Department of State as middle-income countries and perceived to be financially able to pay for sending their

own students or otherwise take care of the problems themselves.

In spite of that, at my request we appropriated $1.5 million to start a scholarship program that involved agriculture students from abroad. I am taking advantage of this opportunity today, Mr. President, to advise the Senate that this program has been a resounding success. We are in the third year of the program. I can say from a report I received just last week from Dr. Wallace that countries around the world who have participated, agriculture cooperators who are promoters of U.S.-grown agriculture products abroad, and the students themselves who have had an opportunity to participate are all enthusiastic about the program.

In the first year of the program, 102 foreign students were here in the United States from six countries: Korea, Mexico, Venezuela, Colombia, Turkey, and the Ivory Coast. Fifty-eight percent of them were from government services or organizations, 9 percent came from academic pursuits back in their home countries, and 33 percent were from private business.

They were enrolled in university and college classes all across America. They were involved in research projects at the Department of Agriculture laboratories, and they participated in many practical, hands-on learning experiences in our agriculture areas.

The subjects they studied ranged from processing of commodities to marketing to disease control and animal science.

Evaluation of the training experiences has been extremely positive by those who were involved.

There have been some specific example cited of sales of U.S. commodities and of U.S. business products—as a result of these training experiences.

The two most often mentioned benefits according to the students themselves were improved skills and the establishment of valuable U.S. contacts. That goes right to the heart of the reason why this is a wise investment, from a business standpoint. The students become familiar with our technologies. The students also become familiar with the types of machinery and equipment used in the United States, and manufactured in the United States, in the agriculture sector. So the likelihood is upon graduation, or once these students get back into business in their own countries, they will want to work with, be involved with, the same technologies, the same equipment, the same machinery, with which they become familiar in the United States.

To give an example of how successful this program is as viewed by the foreign countries, we are seeing more and more contributions being made by the countries sending students to help pay for transportation costs and the like, to make the U.S. dollars go further so that more students can participate in this program.

We are also seeing organizations, such as the American Soybean Association, the U.S. Wheat Association, and the U.S. Feedgrains Council, contributing their own money to help defray the cost of these training programs.

What does that tell you? These people are in the business of selling U.S. grain, U.S. wheat and U.S. soybeans overseas. Some were worrying when this program developed that we were going to be training these agriculturalists, giving them technology and knowhow, so that they would go home and compete with us and make it more difficult for us to sell in international markets.

Just the opposite is occurring. We are seeing our ability to sell in those countries that are sending these students improve as a result of this experience.

This year is the third year of this new program, Mr. President. I am confident that before the year is out we will be able to present to the Senate a full report with details of the countries that have sent students to study in the United States, the numbers involved, and probably more data on the return of our investment.

Let me simply conclude by saying that we only need to look to the Soviet Union's recent investments and the recent investments of Eastern European countries in programs of this kind to see how much emphasis is now being placed on the exchange of information and the exchange of people in the college and university environments.

The article I mentioned points out that in 1982, 37,000 students from Africa studied in the Soviet Union or Eastern European countries—37,000.

Do you know how many studied in the United States that same year? Eight percent of that number. Fewer than 3,000 came to the United States under our Government sponsorship.

We do have the benefit in our country of private foundation activity in this area. There are many groups who are involved in providing funds from the private sector to help make it possible for students to spend a year or two studying in some country other than their own.

One example that I am personally familiar with is the Rotary Foundation. I had the privilege and honor of having a fellowship 1 year and studying in Europe under a Rotary Foundation fellowship.

There are many other activities for American students and even foreign students to come here under the auspices of academic and cultural exchange programs which may not be available in the Soviet Union or Eastern European countries. That may be one reason why those numbers are skewed so much, that the big number of 37,000 attributed to scholarship programs for Africans in the Soviet Union is government-sponsored activity.

What I am saying is that our Government ought not to lose sight of the fact that it does play a vital role in promoting exchanges of this kind. There is a definite economic benefit. There is an obvious political benefit to the United States for continuing to support activities of this kind.

The article I mentioned is a clear example of a new program which we have developed. I referred to a program which is just 3 years old which I hope can be continued after the end of this fiscal year. I think the evidence is going to be overwhelming in support of a continuation of the program administered by the Office of International Cooperation and Development. I will wait until the appropriate time before I reach a conclusion and make a final recommendation to the Senate on that subject.

Mr. President, I ask unanimous consent that the article to which I referred from the New York Times be included in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the New York Times, Jan. 12, 1986]

NEW SCHOLARSHIPS AIM TO IMPROVE U.S. STANDING IN CENTRAL AMERICA

(By Gene I. Maeroff)

More than 150 college students from seven Central Amerian countries, including Nicaragua, are to arrive in Miami tomorrow under a new scholarship program through which the United States hopes to improve its relations in the region and counter Soviet influence.

The $3.8 million program, the Central American Program for Undergraduate Scholarship, is an outgrowth of a Presidential commission headed by Henry A. Kissinger that recommended such aid last January as a way "to build lasting links between Central America and the United States."

MUCH BROADER PROGRAM SEEN

The students arriving this week, officials say, are predominantly from poor rural areas and might otherwise have gone to study in the Soviet Union and other Communist countries.

If the program, sponsored by the United States Information Agency, is successful, it could become a model for a much broader one in which the government would bring poor undegraduate students from all parts of the world to study in the United States.

"In the past, those coming here for undergradutate study have been self-financed and more affluent, leaving the Soviets to concentrate on those who couldn't afford to go to the United States," and Paul White, chief of the Bureau for Latin America and the Caribbean of the Agency for International Development.

Mr. White's agency and the U.S.I.A. are mounting companion programs that could bring more than 4,000 undergraduates from Central America to the United States to

study for bachelor's degrees by the early 1990's.

FOCUS ON UNDERGRADUATES

The unusual factor is the focus on undergraduates. In the past, students brought to the United States have largely been graduate students, scholars and technical personnel.

Federal officials also said the ventures marked a new emphasis on Central America, a region long neglected in education programs.

"This is the forerunner of a sizable flow of youngsters from less privileged backgrounds," said Richard Dye, vice president of the Institute of International Education, a private agency that helped set up the program.

The effort in Central America is regarded by its proponents as a potential model for similar projects elsewhere under the Third World Undergraduate Scholarship Act. Congress passed the legislation last year and the President signed it, but so far the project has received no funds.

When the bill was discussed in the House, one of its backers, Representative Jim Wright of Texas, the majority leader, said:

"Rich students come to the United States; poor students go to the Soviet bloc countries on full scholarships. In 1982, for instance, 37,000 Africans received an education in the Soviet Union and Eastern Europe completely at Government expense. That same year fewer than 3,000 Africans came to study in the United States under our Government's sponsorship."

Congress has given the information agency $3.8 million for the program that starts tomorrow and told it that future funds will depend on how well it works. The House Appropriations Committee's Subcommittee on Commerce, Justice, State and Judiciary refused to promise support for eventually bringing 3,000 undergraduates to the United States from Central America.

IMPACT ON YOUNG STUDENTS

Subcommittee members, more accustomed to short-term programs for older students, were uneasy about the impact on less mature undergraduates who might be more inclined to remain in the United States. The members also said they had reservations about starting a large scholarship program for foreigners while domestic student aid programs faced cuts.

The students arriving tomorrow are to spend three days being oriented to American college life at Miami-Dade Community College and then depart Jan. 16 for 12 campuses around the country.

"We're excited about it, and we have had an overwhelming response from our community," said Wynn De Bevoise, project coordinator at the University of Louisville, where 15 of the students have been assigned.

Most do not speak English, Mrs. De Bevoise said, and are to spend six to eight months learning English before they begin regular courses.

SIX ARE FROM NICARAGUA

The 154 students to arrive in Miami include 24 from Costa Rica, 23 from El Salvador, 26 from Guatemala, 25 from Panama, 30 from Honduras, 20 from Belize and 6 from Nicaragua.

Two private agencies, the Institute of International Education and the Latin American Scholarship Program for American Universities, helped information agency officials and representatives of the Central American governments choose the students.

The information agency sought students who were within about two years of completing bachelor's degrees. Most are in their 20's and are entering the third year of college. Among them are 40 school teachers whose classes are to be taught by Peace Corps volunteers while they study in the United States.

Most of the others are pursuing degrees in the social sciences and humanities. Past scholarship programs aimed mainly at students in science, engineering and technical fields.

The students are to attend the University of Louisville, Iowa State University, the University of Texas at El Paso, St. Michael's College in Vermont, Linfield College in Oregon, the University of Arkansas, Spring Hill College in Alabama, Louisiana State University, the University of Wisconsin-Eau Claire, Murray State University in Kentucky, Mankato State University in Minnesota and Indiana University of Pennsylvania.

LEAVE OF ABSENCE

Mr. MATHIAS. Mr. President, in accordance with provisions of rule VI of the rules of the Senate, I ask unanimous consent to be absent from the 6th of February to the 25th of February to perform certain duties for the Committee on Foreign Relations.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE NEED FOR A CLEAR AND COMPREHENSIVE NATIONAL STRATEGY

Mr. WARNER. Mr. President, over the years, members of our committee, particularly Senator GOLDWATER and Senator NUNN, have strongly voiced the need to improve the method by which the Congress receives from the executive branch positions covering U.S. foreign policy objectives and the supporting defense requirements.

For years Congress has collected this body of policy information in a very diverse manner: Presidential Address, posture statements, hearings, fact sheets, reponses to questions, and the like. Further, the information comes fragmented—presented at different times, to different committees, in different versions.

This historical practice, in part, will continue; but to be more effective, our budget process should begin with the presentation of a national strategy. With defense budgets ranging around $300 billion impacting upon State Department budgets of over $12 billion, it is essential that Congress receive at the very beginning of the budget process a foundation documentation of our national strategy—a coordinated, comprehensive description of our foreign policy, our worldwide commitments, and the requirements of our national defense to deter aggression and implement our foreign policy.

I recently researched a statement Senator GOLDWATER made in a speech to the American Business Press in 1983, indicating his concern on this issue:

We need a grand strategy and we need it now. It must be coherent. It must be realistic. It must be sufficient to deter our enemies and protect our friends. And it must be understood by the American people and have their support.

The Armed Services Committee is now in the concluding stages of devising a bill intended to strengthen elements of our defense organization and to improve the interface between Congress and the executive branch on defense and foreign policy issues. I shall be submitting an amendment to this bill which relates to the procedure by which Congress receives a foundation report. This amendment will require that:

The President provide a foundation report on the national strategy to the Congress at the beginning of each year. The chairman of the Armed Services Committee and the Foreign Relations Committee of the Senate will convene a joint hearing to receive this report and request the Secretary of State and the Secretary of Defense jointly appear to present the report. A similar procedure will be followed by the House of Representatives.

These hearings will take place annually following the President's State of the Union Message but prior to hearings on the annual posture statements.

In recent years, the respective chairmen and ranking minority members of the Senate Foreign Relations and Armed Services Committees have been achieving increased coordination between these committees. This amendment provides the opportunity to further advance these efforts and to provide both committees with a common point of departure as they proceed to perform their respective responsibilities.

Strategic consensus requires almost unprecedented cooperation, agreement, and coordination among policymakers, strong and dedicated administration leadership, and commitment by Congress and the American public to support force deployments and resource requirements demanded by such fundamental decisions.

But at least we can begin our legislative process each year with a better understanding of an administration's view of our national strategy.

Mr. President, at this time I want to recognize the efforts of our distinguished chairman of the Senate Armed Services Committee [Mr. GOLDWATER] and minority member [Mr. NUNN] for the leadership they have given in bringing the defense reform issues to a point where a markup session can be started.

I also want to comment on an article which appeared in the February 3, 1986, edition of Defense News entitled

"Warner Building Barrier Against Reorganization."

In that article it was inferred that I intended to do whatever is necessary to block the attempts of other Senators to reorganize the Defense Department and that I would be marching off in my own direction when the committee begins to consider its reorganization bill this week.

This article has misinterpreted my comments. I completely support the efforts of the committee to bring about positive change, where necessary, in the Department of Defense. I have worked and will continue to work diligently to that end.

The thrust of my work is that I believe the system is not broken, but at the same time, there are aspects of the Department of Defense which can be improved.

This is an important challenge and I welcome the opportunity to work with all members of the committee to make a solid contribution.

JOHN FLINK

Mr. BAUCUS. Mr. President, I would like to say a few words today about John Flink, my press secretary, who is leaving my staff after loyal service of 7 years.

I would like to concentrate first on the qualities that made John an exceptionally fine press secretary, as well as a policy advisor. Above all, he is a clear thinker. I always recommend to my staff the slim volume entitled, "Elements of Style". In that book, E.B. White teaches us to use the simplest words to most clearly express an idea. Even if one adopts all of those rules, the writing on complicated issues will never be clear unless the person who pens those words thinks clearly. John Flink does.

Moreover, John is a steady hand. He is incapable of overstatement. He has a quiet presence and an institutional memory that made him trustworthy for the rest of my staff and the press corps in Montana and in the Capitol. In short, John Flink had good judgment and integrity that people trust.

A few final personal thoughts about John. His interest in running emerged at the same time as mine, and both of us helped each other when neither of us really wanted to run.

There is an old saying that "still waters run deep," and I can think of no one who better depicts that description than John Flink. When he goes home at night, I know that he spends hours listening to fine music and consuming a wide variety of good literature. He is a deep thinker about many things; theology, world issues, and personal freedoms. He is a good listener, and he was a wonderful and loving husband to his late wife, Kathy.

I will miss John, and I thank him for the service he has rendered to me and to the people of the State of Montana.

SOVIET GESTURE TO JUDITH RESNIK AND CHRISTA McAULIFFE

Mr. METZENBAUM. Mr. President, the announcement by the Soviet Union that it will name two craters on the planet Venus after Judith Resnik and Christa McAuliffe is a fitting tribute to the two women who perished in the tragic explosion of the *Challenger.*

This move by the Soviets, whose cartographers are creating the first map of the surface of Venus, is a thoughtful gesture that could—if only in passing—bridge the deep gap that divides our countries.

People throughout the world that cherish the quest for knowledge and exploration are deeply saddened by this tragedy.

Over the weekend, all across this Nation, Americans paused to pay tribute to the seven members of the *Challenger* crew.

Judy Resnik and Christa McAuliffe hold a special place in our hearts.

Ms. Resnik, who comes from Akron, OH, was on her second space trip. She was thrilled by her job and was an inspiration for all young women who see space exploration as a challenging and exciting goal. Those of us in Ohio were particularly saddened by the untimely death of one of our own.

Ms. McAuliffe was the best known of the seven because she was the first civilian rider on a space mission. As a school teacher, students throughout the Nation looked to her as a special hero and truly so.

The sudden end of the *Challenger's* journey does not mean that the mission of these two end in failure. Indeed, they succeeded in forging a path into space technology for women and civilians that will remain forever.

To them we owe a deep sense of gratitude, and this designation on the planet Venus will be an everlasting rememberance of their contribution.

EXPRESSION OF CONDOLENCES

Mr. STAFFORD. Mr. President, I bring this telegram to the attention of the Senate as the President of the United States group of the Interparliamentary Union. It is the international organization to which we have belonged throughout most of this century, and to which 104 nations now belong. The union is based in Geneva, Switzerland. One of the nations which almost invariably supports the United States in most political contests and philosophical views has been Belgium. I have in my hand a telegram from the president of the Belgian group of the Interparliamentary Union in which he expresses his personal and his country's sympathy to the Congress of the United States and to the Nation on the tragic accident to our *Challenger.*

Mr. President, I ask unanimous consent that the telegram be printed in the RECORD.

There being no objection, the telegram was ordered to be printed in the RECORD, as follows:

For Senator STAFFORD.

The Belgian group of the Interparliamentary Union and its American section express their pain and their condolences to the American Interparliamentary group and to the Congress of the United States after the tragic accident of Challenger. The sympathy of the members of the group go to the families of the seven who offered their lives for the progress of science and human knowledge.

Senator JANINE DELFUELLE, *President, Belgian American Section.* Senator D. DE CLERCO, *President, Belgian Group IPU.*

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER (Mr. STAFFORD). Is there further morning business? If not, morning business is closed.

TV AND RADIO COVERAGE OF SENATE PROCEEDINGS

Mr. DOLE. Mr. President, I ask unanimous consent that the Senate turn to the consideration of Calendar No. 420, Senate Resolution 28, and the TV in the Senate resolution.

The PRESIDING OFFICER. The resolution will be stated by title.

The legislative clerk read as follows:

A resolution (S. Res. 28) to improve Senate procedures.

The PRESIDING OFFICER. Is there objection to the present consideration of the resolution?

There being no objection, the Senate proceeded to consider the resolution, which had been reported from the Committee on Rules and Administration, with amendments, as follows:

(The parts of the resolution intended to be stricken are shown on boldface brackets, and the parts of the resolution intended to be inserted are shown in italics.)

Resolved, That (a) the Senate hereby authorizes and directs that there be both television and radio broadcast coverage (together with videotape and audio recordings) of proceedings in the Senate Chamber.

[(b) Such broadcast coverage shall be—

[(1) provided in accordance with provisions of this resolution;

[(2) provided continuously except for any time when a meeting with closed doors is ordered; and

[(3) provided that during any television and/or radio broadcasts, time shall be divided and controlled in such way as to assure equal time to both the majority and minority parties; and

[(4) provided subject to the provisions pertaining to the Senate gallery contained in the following Standing Rules of the Senate: rule XIX, paragraphs 6 and 7; rule XXV, paragraph 1(n); and rule XXXIII, paragraph 2; and

[(5) provided that the Senate shall be in session on Mondays, Tuesdays, and Thursdays, with committee meetings scheduled on days and/or times the Senate is not to be in session except as otherwise ordered:]

(b) Such broadcast coverage shall be provided in accordance with the provisions of this resolution.

SEC. 2. The radio and television broadcast of Senate proceedings shall be—

(a) supervised and operated by the Senate, and

(b) made available on a "live" basis and free of charge to (1) any accredited member of the Senate Radio and Television Correspondents Gallery, (2) the coaxial cable system of the Architect of the Capitol, and (3) such other news gathering, educational, or information distributing entity as my be authorized by the Committee on Rules and Administration to receive such broadcasts.

SEC. 3. The television broadcast of Senate proceedings shall follow the Presiding Officer and Senate who are **[recognized to speak by the Presiding Officer (including Senators who are so recognized with the consent of another Senator to interrupt such other Senator).]** *speaking.*

SEC. 4. (a) The broadcast coverage by radio and television of the proceedings of the Senate shall be implemented as provided in this section.

(b) The Architect of the Capitol, in consultation with the Sergeant at Arms and Doorkeeper of the Senate, shall—

(1) construct necessary broadcasting facilities for both radio and television (including a control room and the modification of Senate sound and lighting fixtures);

(2) employ necessary expert consultants; and

(3) acquire and install all necessary equipment and facilities to (A) produce a broadcast-quality "live" audio and color video signal of such proceedings, and

(B) provide an archive-quality audio and color video tape recording of such proceedings:

Provided, That the Architect of the Capitol, in carrying out the duties specified in clauses (1) through (3) of this subsection, shall not enter into any contract for the purchase or installation of equipment, for the employment of any consultant, or for the provision of training to any person, unless the same shall first have been approved by the Committee on Rules and Administration.

(c) The Sergeant at Arms and Doorkeeper of the Senate shall (1) employ such staff as may be necessary, working in conjunction with the Senate recording and photographic studios, to operate and maintain all broadcast audio and color video equipment installed pursuant to this resolution, (2) make audio and video tape recordings of Senate proceedings, (3) make copies of such recordings available, upon payment to him of a fee fixed therefor by the Committee on Rules and Administration, to Members of the Senate and to each person described in subsection (b)(1) and (3) of section 2 of this resolution, and (4) retain for ninety days after the day any Senate proceedings took place, such recordings thereof, and as soon thereafter as possible, transmit to the Librarian of Congress and to the Archivist of the United States copies of such recordings:

Provided, That the Sergeant at Arms and Doorkeeper of the Senate, in carrying out the duties specified in clauses (1) and (2) of this subsection, shall comply with appropriate Senate procurement and other regulations.

(d) The Librarian of Congress and the Archivist of the United States shall each receive, store, and make available to the public, at no cost for viewing or listening on the premises where stored and upon payment of a fee equal to the cost involved through distribution of taped copies, recordings of Senate proceedings transmitted to them by the Sergeant at Arms and Doorkeeper of the Senate.

[SEC. 5. (a)] *SEC. 5. (a) Radio coverage of Senate proceedings shall—*

(1) begin as soon as the necessary equipment has been installed; and

(2) be provided continuously at all times when the Senate is in session (or is meeting in Committee of the Whole), except for any time when a meeting with closed doors is ordered.

(b)(1) As soon as practicable after the necessary equipment has been installed, there shall begin a test period during which tests of radio and television coverage of Senate proceedings shall be conducted by the staffs of the Committee on Rules and Administration and of the Office of the Sergeant at Arms and Doorkeeper of the Senate. **[***Such test period shall end on such date as may be agreed upon by the Majority Leader, the Minority Leader, the chairman of the Committee on Rules and Administration, and the ranking minority member of such committee.***]**

[*(b)***]** *(2) During such test period—*

[*(1)***]** *(A) final procedures for camera direction control shall be established;*

[(2)**]** *(B) television* coverage of Senate proceedings shall not be transmitted to any outside source; and

[1(3)**]** *(C) video and audio* recordings of Senate proceedings shall be made and retained by the Sergeant at Arms and Doorkeeper of the Senate.

(3) During the test period provided in paragraphs (1) and (2), the Committee on Rules and Administration shall report a Senate resolution to the Senate specifying the times when radio and television broadcast shall be provided. Coverage of Senate proceedings shall begin upon the agreement of the Senate to the resolution reported pursuant to the preceding sentence. The test period shall end on the date prescribed by such resolution.

SEC. 6. The use of tape duplications of broadcast coverage of the proceedings of the Senate for political or commercial purposes is stricly prohibited; and any such tape duplication furnished to any person shall be made on the condition that it not be used political or commercial purposes.

SEC. 7. Any changes in the regulations made by this resolution shall be made only by Senate resolution. However, the Committee on Rules and Administration may adopt such procedures and such regulations, which may not change or contravene any Senate rule and, which do not contravene the regulations made by this resolution, as it deems necessary to assure the proper implementation of the purposes of this resolution.

SEC. 8. Such funds as may be necessary (but not in excess of **[**$2,500,000**]** *$3,500,000* to carry out this resolution shall be expended from the contingent fund of the Senate.

[Sec. 9. Rule XXVI, paragraph 7, (a)(1), is amended to read as follows:

["7. (a)(1) Except as provided in this paragraph, each committee, and each subcommittee thereof is authorized to fix the number of its members (but not less than one-third of its entire membership) who shall constitute a quorum thereof for the transaction of such business as may be considered by said committee, execpt that no measure or matter or recommendation shall be reported from any committee unless a majority of the committee are physically present, and no report or legislative or executive measure or matter from a committee shall be accepted at the desk except on the representation of the committee chairman that it was not reported by polling.".

[SEC. 10. Rule XXX, paragraph 1(b), is amended to read as follows:

["(b) When a treaty is reported from a committee with or without amendment, it shall, unless the Senate unanimously otherwise direct, lie over one day for consideration; after which it may be read a second time, after which amendments may be proposed. At any stage of such proceedings the Senate may remove the injunction of secrecy from the treaty.".

[SEC. 11. Rule XII, paragraph 1, is amended by striking the first clause thereof and inserting in lieu thereof the following:

["Except as provided in subparagraph 5 of this rule, when the yeas and nays are ordered,".

[SEC. 12. Rule XII is amended by adding at the end thereof the following new paragraphs:

["5. Whenever the Majority Leader, with concurrence of the Minority Leader, shall determine, the names of Senators voting upon any rollcall shall be recorded by electronic device. Senators shall not have more than fifteen minutes from the beginning of the rollcall to have their votes recorded.

["6. The Majority Leader, with concurrence of the Minority Leader, may announce that any recorded vote that is scheduled to or does occur immediately after another recorded vote shall be no longer than five minutes in duration.".

[SEC. 13. Paragraph 4 of rule XVI of the Standing Rules of the Senate is amended

[(1) by inserting "(a)" after "4"; and

[(2) by adding at the end of such paragraph the following new subparagraph:

["(b) If a point of order is made by any Senator against an amendment to a general appropriations bill on the ground that such amendment proposes general legislation or proposes a limitation or restriction not authorized by law and is to take effect or cease to be effective upon the happening of a contingency, it shall not be in order to raise the defense of germaneness unless there is House legislative language on that subject contained in the bill.".

[SEC. 14. Rule XVII , paragraph 5, of the Standing Rules of the Senate is amended to read as follows:

["5. Any measure or matter reported by any standing committee shall not be considered in the Senate unless the report of that committee upon that measure or matter has been available to Members for at least two calendar days (excluding Sundays and legal holidays) prior to the consideration of that measure or matter. If hearings have been held on any such measure or matter so reported, the committee reporting the measure or matter shall make every reasonable effort to have such hearings printed and available for distribution to the Members of the Senate prior to the consideration of such measure or matter in the Senate. This paragraph—

["(1) may be waived by joint agreement of the Majority Leader and the Minority Leader of the Senate; and

["(2) shall not apply to—

["(A) any measure for the declaration of war, or the declaration of a national emergency, by the Congress, and

["(B) any executive decision, determination, or action which would become, or continue to be, effective unless disapproved or otherwise invalidated by one or both Houses of Congress.".

[SEC. 15. Rule XV of the Standing Rules of the Senate is amended—

[(1) by inserting after "MOTIONS" in the caption a semicolon and the following: "GERMANENESS";

[(2) by adding at the end thereof the following new paragraph:

["6. (a) At any time during the consideration of a bill or resolution, it shall twice be in order during a calendar day to move that no amendment, other than the reported committee amendments, which is not germane or relevant to the subject matter of the bill or resolution, or to the subject matter of an amendment proposed by the committee which reported the bill or resolution, shall thereafter be in order. The motion shall be privileged and shall be decided after one hour of debate, without intervening action, to be equally divided and controlled by the Majority Leader and the Minority Leader or their designees.

["(b) If a motion made under subparagraph (a) is agreed to be an affirmative vote of three-fifths of the Senators present and voting, then any floor amendment not already agreed to (except amendments proposed by the committee which reported the bill or resolution) which is not germane or relevant to the subject matter of the bill or resolution, or the subject matter of an amendment proposed by the committee which reported the bill or resolution, shall not be in order.

["(c) When a motion made under subparagraph (a) has been agreed to as provided in subparagraph (b) with respect to a bill or resolution, points of order with respect to questions of germaneness or relevancy of amendment shall be decided without debate, except that the Presiding Officer may entertain debate for his own guidance prior to ruling on the point of order. Appeals from the decision of the Presiding Officer on such points of order shall be decided without debate.

["(d) Whenever an appeal is taken from a decision of the Presiding Officer on the question of germaneness of an amendment, or whenever the Presiding Officer submits the question of germaneness or relevancy of an amendment to the Senate, the vote necessary to overturn the decision of the Presiding Officer or hold the amendment germane or relevant shall be two-thirds of the Senators present and voting. No amendment proposing sense of the Senate or sense of the Congress language that does not directly relate to the measure or matter before the Senate shall be considered germane.".

[SEC. 16. Paragraph 2 of rule XXII of the Standing Rules of the Senate is amended to read as follows:

["2. Notwithstanding the provisions of rule II or rule IV or any other rule of the Senate, at any time a motion signed by sixteen Senators, to bring to a close the debate upon any measure, motion, other matter pending before the Senate, or the unfinished business, is presented to the Senate, the Presiding Officer, or clerk at the direction of the Presiding Officer, shall at once state the motion to the Senate, and one hour after the Senate meets on the following calendar day but two, he shall lay the motion before the Senate and direct that the clerk call the roll, and upon the ascertainment that a quorum is present, the Presiding Officer shall, without debate, submit to the Senate by a yea and nay vote the question:

[" 'Is it the sense of the Senate that the debate shall be brought to a close?'

["And if that question shall be decided in the affirmative by two-thirds of the Senators duly chosen and sworn then said measure, motion, or other matter pending before the Senate, or the unfinished business, shall be the unfinished business to the exclusion of all other business until disposed of.

["Except by unanimous consent, no amendment shall be proposed after the vote to bring the debate to a close, unless it had been submitted in writing to the Journal Clerk by 1 o'clock p.m., on the day following the filing of the cloture motion if an amendment in the first degree, or unless it had been so submitted at least one hour prior to the beginning of the cloture vote if an amendment in the second degree. No dilatory motion, or dilatory amendment or amendment not germane shall be in order. Points of order, including questions of relevancy, and appeals from the decision of the Presiding Officer shall be decided without debate. Whenever an appeal is taken under this rule from a decision of the Presiding Officer on the question of germaneness of an amendment, the vote necessary to overturn the decision of the Presiding Officer shall be two thirds of the Senators, present and voting.

["After no more than twenty hours of consideration of the measure, motion, or other matter on which cloture has been involved, the time to be equally divided and controlled by the Majority and Minority Leaders or their designees, the Senate shall proceed, without any further debate on any question, to vote on the final disposition thereof to the exclusion of all amendments not then actually pending before the Senate at that time and to the exclusion of all motions, except a motion to table, or to reconsider and one quorum call on demand to establish the presence of a quorum (and motions required to establish a quorum) immediately before the final vote begins.

["If, for any reason, a measure or matter is reprinted after cloture has been invoked, amendments which were in order prior to the reprinting of the measure or matter will continue to be in order and may be conformed and reprinted at the request of the amendment's sponsor. The conforming changes must be limited to lineation and pagination.

["No Senator shall call up more than two amendments until every other Senator shall have had the opportunity to do likewise.".]

Mr. DOLE. Mr. President, I will have a statement later, but I am prepared to turn the resolution over to the manager on this side, the distinguished chairman of the Rules Committee, Senator MATHIAS.

Mr. MATHIAS. Mr President, I thank the majority leader. I thank him for giving me this opportunity to address the Senate, but more than that I thank him for calling up this resolution because I think it is an extremely important resolution.

It is not novel. The Senate has had a long time to think about it and consider it. I think it is good that we begin early in 1986 to consider a subject which many of us feel is essential for the future of the Senate in its relationship with the American people.

Some four decades ago, a joint resolution providing for radio broadcast coverage of the proceedings of the Senate and the House of Representatives was introduced. It was a historic first. It was the first legislative initiative taken to open up the Halls of Congress to the electronic age.

Since that time, versions of that resolution have come to include television.

These proposal have tracked the development of the electronic media itself.

Today radio and television coverages of the legislative proceedings are a way of life in the other body. But this is still not so in the Senate, despite the years of consideration, many hearings, and a great deal of private discussion.

So once again we meet to address the issue that is embodied in Senate Resolution 28, the resolution introduced by the distinguished minority leader, one to which he has given a great deal of thoughtful and positive consideration.

As amended in the committee by Mr. GORE, Senate Resolution 28 establishes a test period during which the Senate proceedings will be broadcast live on radio but will be televised only on the in-house closed circuit congressional system. I think that ought to be clearly understood. We are not talking about going to the networks, we are not talking about going to the cables, we are not talking about going to the world; we are talking about video on an in-house closed circuit congressional system just for a test period.

The test period will end only after another resolution has been considered and acted upon by both the Committee on Rules and Administration and the entire Senate. Thus, no television signal can reach the public now. There may be some regrets about that, but sometimes you have to go slowly. No television signal will reach the public, and permanent public radio broadcasts will not be finally authorized, until there is another affirmative decision, a second action taken in the Chamber, taken by, again, to repeat, by the Committee on Rules and by the Senate.

The committee believes that the test period represents an important opportunity for Senators to experience televised proceedings before the public spotlight is turned on. After all, we have not met in private, except under unusual conditions, for many years. We have had the privilege of having our proceedings witnessed by visitors in the galleries, so we are not entering

a totally new experience. But we are not going to broadcast these signals until the test period is completed. The test period should be used to review and consider rules changes that have been suggested by the distinguished Senator from West Virginia, Mr. BYRD, and by other Senators, that the introduction of the television cameras may necessitate.

We may find during this test period that some changes are needed. I believe the Senator from West Virginia believes that. This is our opportunity to test that theory.

Whether, in fact, any rules changes ultimately will accompany a resolution to televise Senate proceedings, or whether they should be considered separately, will be up to the Senate. It will be determined by the committee and the Senate. But it is the intention of the committee that the rules changes be considered concurrently with the closed-circuit television broadcast test.

Radio and television coverage of the Senate would be, in my judgment, beneficial in a number of ways. I think that a thorough knowledge and understanding of history is important in the discharge of public duty. And this would be, for the first time, an accurate, historical record of what transpires in the U.S. Senate.

I am a great admirer of the CONGRESSIONAL RECORD as it is presently published. It is a wonderful and a useful document. But, as the clerks on the rostrum who sit here hour after hour, day after day, month after month, are well aware, it is not a precise, historical record of what has occurred here. It is revised, it is extended, it is added to, it is supplemented and sometimes things are deducted, things are expunged. So it is a highly edited document.

This video tape will provide for all time the complete historical record of what occurs on the floor. And that is of some importance. It will preserve the voices, the facial expressions, the triumph and the pain of Senators who are engaged in a debate.

And this will not only be of historical significance but, to the contemporary public who may see it if we authorize it to go to the networks and to other outside media, to that contemporary public it will add a new dimension to the public's understanding of the Senate's business. The public will become a part of these debates. They will see them. They will hear them. They will get some sense of the personal interplay that goes on among Senators which affects this Nation. In effect, it will bring the debates in the Senate to life. It will make the Senate once again the great forum of debate in America.

Now, there is another important question, and that is the question of fairness. One of the objections to television in the Senate has been the concern that, on occasion, the Presiding Officer might not be fair, might exhibit some bias when making rulings from the Chair. And some have argued that if there were to be some case of unfairness, or some case of bias on the part of the Chair—God forbid—but if it should happen, that the effect of that would be exaggerated on camera, that the error, if error were made, would be perpetuated on film.

Well, I understand that that is a very valid concern and it is one that certainly should not be ignored. But, in all these questions I like to rely on that great 18th century English marvel, Dr. Samuel Johnson, a man who wrote the dictionary and who was so full of human wisdom. Dr. Johnson once said that the greatest inducement to a clear conscience is the suspicion that someone is watching.

Well, if we have more than a suspicion that someone is watching, if we know that the entire American people are watching, I believe that the Presiding Officer of the U.S. Senate would be extremely careful to be impartial and just and fair. The Presiding Officer in that chair, who knows that the eyes of 225 million Americans are upon him, will be paying close attention to what is being said on the floor of the Senate and will be very careful in the rulings he makes from the Chair.

Now the decision we have to make involves the fundamental right of citizens to know what their Government is doing and how it is doing it. The studies have been made, the costs have been computed and I think the time has come to implement the results of all our deliberations. It is within our ability to allow the people to see us at work, to see us doing the work that we were elected to do, and to let them know of the concerns and the questions and the apprehensions as we make decisions.

I sometimes think that the American public thinks that being in the Congress is an easy job. "Look at those fellows. They don't convene until noon. They just drift around. They take a vote sometime late in the day. That is an easy thing. They knew all along or their staff tells them what to do, how to vote."

And if they see this decision being made, if they see that Members are personally familiar with the issue, that the decisions draw upon a wealth of knowledge and experience in public life, that the decisions are not made arbitrarily but, in most cases—and I believe the distinguished minority leader would agree with me—in most cases the decisions are a painful choice between alternatives.

I have to do one thing or the other. What I try to do is to decide on a course of action that will be most beneficial, more beneficial, and less painful than the other decisions. I think we have the technical capacity to bring people of this country closer to the Senate which in turn will bring us closer to them. The rules and procedures that govern our work on the Senate floor are constantly evolving, and we are mindful of those changes.

I think we have to recognize that many of the opinions that have previously been discussed on this subject were dictated by the circumstances of the time that those decisions were made. And this is a different time. This is a time when the American people depend upon the electronic media for a great deal of their knowledge of public affairs. This is a time in which there is a high degree of interest in public affairs in America. This is a time in which I think we can create a benefit for ourselves as well as a benefit for the country by making the American people a part of our deliberations—by turning on the lights and bringing in the cameras.

So I hope that we will give careful attention to Senate Resolution 28, and move very rapidly to approve it.

Mr. FORD. Mr. President, I support Senate Resolution 28 as amended and reported by the Rules Committee on November 19, 1985. Although not all of my fears and uncertainties concerning televising Senate Chamber proceedings are entirely gone, I believe the time has come to take this first step of a test period, during which we can gain knowledge and experience, and, I would hope, fine tune any system under which we move to full public television coverage.

The provision in the resolution authorizing during the test period public broadcasts of radio is particularly pleasing to me. For years now, I have urged the Senate to authorize radio coverage as the most cost-effective means of informing the general public on proceedings in the Senate. It is most gratifying to me that adoption of Senate Resolution 28 by the Senate will allow almost immediate initiation of radio broadcasts at virtually no additional cost to the Senate.

The Democratic leader [Mr. BYRD], who is the principal sponsor of this resolution, has proposed a number of rules changes which he believes should be made, certainly if we go to public television broadcasts, and probably whether we go to such coverage or not.

During the test period, the Senate will have an opportunity to consider, review, and determine what changes in our rules of procedure should be made. Before final action by the Senate to approve full public radio and television coverage, we can and will make the decisions on the rules changes that have been proposed by Senator BYRD and others.

I urge my colleagues to vote for the adoption of Senate Resolution 28. It is a measure whose time has come.

Mr. BYRD addressed the Chair.

The PRESIDING OFFICER. The distinguished minority leader.

Mr. BYRD. I thank the distinguished majority leader for calling up Senate Resolution 28 today. The majority leader kept his commitment. He has stood by his promise made last December that he would make every effort to get this matter before the Senate upon the disposition of the Conrail legislation. The Senate has been debating the Conrail decision but has not completed action thereon.

I thank the very distinguished chairman of the Senate Committee on Rules and Administration [Mr. MATHIAS] for the statement that he has just made with respect to Senate Resolution 28. I thank him also for the many courtesies that he has shown to me and to others over the past several months as we have from time to time discussed in the Committee on Rules and Administration and elsewhere, U.S. Senate television and radio coverage of debate in this body. He moved with dexterity to conduct the hearings, and I had requested that there be hearings. He moved with equal dispatch in having the resolution marked up and brought to the Senate calendar. I thank him for the time he has spent on this important matter, and for his expression of thoughts just now on the subject.

I know there are Senators in this body who are opposed to the idea of television and radio coverage in the Senate. But while I greatly respect their viewpoints, it seems to me that the time has come when the Senate debate should be covered by both television and radio.

On the Rules Committee there were others on both sides who spoke in support of the resolution and/or some of the amendments that were voted on in connection therewith. I commend Mr. GORE, who is supportive of radio and television coverage, who is active in the committee, who participated in the hearings and in the markup, and who is on the floor at this time ready to contribute to the debate.

Senator GORE was a Member of the House of Representatives when that body decided to proceed with televised coverage of debates. So he and other Senators who served in the House before coming to this body will be able to bring to bear the experience of their services there. They are in a good position to make helpful suggestions. And I feel that as the debate progresses they will continue to make fine contributions.

One of the most respected Members of this body, one who is a very senior Member of the body, Senator RUSSELL LONG, has made contributions to the debate in previous times, is prepared, and is on the floor at this time to participate in the debate. And I shall listen with great interest to what he has to say. I know that in many ways he and I feel very much the same in connection with the matter of televising Senate debate, and also, hopefully, changes in certain rules of the Senate.

I feel that certain changes are meritorious in connection with some of the rules, whether or not the Senate has television or radio coverage of the debates. I think if the Senate decides to move forward with television and radio coverage, the changes that I have proposed, although they may be improved upon by other Senators, will prove to be helpful in maintaining the unique role of this institution, and at the same time open the windows of the institution to the American people—who, after all, should be better informed of what is said here, and what is done here.

Talleyrand said, "There is more wisdom in public opinion than in Napoleon, Voltaire, or all of the ministers of state, present and to come."

I have a similar view of that expressed by Talleyrand. Gladstone referred to this body as "that remarkable body, the most remarkable of all the inventions of modern politics." It has played that role for almost two centuries. During the first 5 years of the Senate, the doors were not open, the press was not a part of the audience. And neither were the galleries opened to the public.

I have read the history of the first 2 years and I in many ways feel that that may have been the most remarkable Congress of all—the first Congress—because many of the statutes that were so necessary for the establishment of the departments of Government and for the proper functioning of this Republic were passed in the first Congress, the first 2 years.

One Senator whom we have to thank in that regard was Senator Maclay, a Senator from the State of Pennsylvania, who wrote some very revealing pages in his diary, not only with respect to the actions that were taken by the Senate in those first 2 years, but Mr. Maclay also gave future readers of that diary a remarkable insight into the personalities, the shortcomings, the strengths and, from Mr. Maclay's viewpoint, the weaknesses, of the Members of the U.S. Senate during that period.

He was not reelected, but we are all much indebted to him for having left to us his journal, which is almost a blow-by-blow description of the actions that were taken by the Senate in that period.

Mr. President, I was the acting majority leader of the Senate at the time the late Mr. Nelson Rockefeller was sworn in as the 41st Vice President of the United States. The then majority leader, Mr. Mansfield, was in the Far East at the time. The television and radio galleries implored me to approve the televising of that event. Being the acting majority leader at that time, I gave that approval. That is the only occasion of live TV coverage of Senate proceedings.

When the Senate neared the debate on the Panama Canal treaties, I offered a resolution, Senate Resolution 268, on September 24, 1977. It was agreed to on February 2, 1978.

That was a resolution providing for radio coverage of the proceedings of the Senate during the consideration of the Panama Canal treaties. I offered that resolution on behalf of myself and Mr. BAKER, Mr. ZORINSKY, Mr. THURMOND, Mr. Abourezk, Mr. HUDDLESTON, Mr. METZENBAUM, and Mr. MATSUNAGA.

Mr. LONG. Will the Senator yield at that point?

Mr. BYRD. I yield.

Mr. LONG. The Senator has a great memory. I will ask him if he will recall one of the events that happened during the course of that debate.

If I recall correctly, we had agreed by unanimous consent to a vote after a lengthy and extended debate. I believe the vote was to be at noon. Everybody in America had their radios tuned in to hear the outcome of the vote. That was a tremendous vote. Here was everybody waiting to hear the vote. The majority leader at that time, I believe, was Mr. Mansfield. Is this Senator correct? Or was the Senator from West Virginia the leader?

Mr. BYRD. I was the majority leader.

Mr. LONG. Then the majority leader came in and asked unanimous consent to extend the time to hear other speakers. At that time, the Senator from Louisiana felt that was not fair to all the public. Here were millions of people waiting breathlessly to hear how the vote would go. It would be a close vote on the Panama Canal treaties. They were not going to hear the vote, not unless they had all afternoon to wait, because several other Senators had importuned the leadership on both sides of the aisle saying they must have more time to debate.

In my judgment, I felt at that time, and still feel, that that was an imposition on the entire Nation, on every listener of radio, not only everybody in the Senate, who wanted to hear the vote, everyone around the country.

I objected. Those Senators who had obtained this agreement with the leadership were undoubtedly very irritated with the Senator from Louisiana at that point. I made the point that there was an agreement on the time for the vote. Everybody in America wanted to hear the vote. I was satisfied that not one vote would be changed and that we ought to go forward with the vote.

I believe I eventually relented on that and let them have some of that time. I think I did not go all the way with it but I did agree that some time would be allotted.

Does the Senator recall that situation at that time?

Mr. BYRD. I have a somewhat vague recollection of it, may I say to the distinguished Senator, but I have absolutely no doubt that his recollection of the incident to which he is referring is accurate. It would be typical of the distinguished Senator from Louisiana to relent and, after having made very carefully whatever point he intended to make or whatever protection he intended to give to the American listening audience, to attempt to work out whatever compromise would be desirable all the way around.

Mr. LONG. The point this Senator had in mind was that any one of those Senators could have made the speech the night before or any time within the previous month. They wanted to wait until the last minute when everyone wanted to hear the vote and then they wanted to give their speeches. The Senator from Louisiana felt that that was an indication of one of the problems that should be dealt with if we are going to have television in the Senate. Someone sees the chance to make a speech and have 50 million people see him.

Of course, every Senator cherishes in his bosom the hope that he can be eloquent on occasion. He would like to think that at that moment he will carry the day and perhaps change a vote or two. But even if he changes no votes, he tries to persusade the people that he is a great Senator making the speech and he should well be considered perhaps for some higher office than just U.S. Senator. If he is not considered, the people back home would hopefully hear the speech and agree that at least they had great representation of which their State should be proud, thereby assuring the Senator of reelection by making the speech when everyone was tuned in.

Now, if we are going to have television in the Senate, I say to my able Democratic leader, it seems to this Senator that it is indispensable that we have some way to control the length of speaking and, in fact, not only the length of a Senator's speaking, but the length of the overall debate. We do not have that now. The House has it, but we do not have it.

I wonder if the Senator an opinion on that.

Mr. BYRD. Yes, Mr. President. What the distinguished Senator from Louisiana is saying would be undoubtedly true. As a matter of fact, already, while we have no television or radio coverage of Senate debate, I am sure the distinguished Senator from Louisiana will agree with me that we see, time after time, espcially on a very controversial matter, Senators who will not come to the floor to make their speeches until the last day. They want to offer their amendments the last day, they want to make their speeches the last day; more preferably, they want to be the last ones to speak. I have felt that way myself on several occasions. It might be that that phenomenon would continue under television and radio coverage.

There is no doubt about it, there are changes that will have to be made in the Senate. The distinguished Senator from Louisiana puts his finger right on the key practical question: How do we assure the minority of equal time? How do we ensure against a Senator's taking the floor and speaking for an entire day while other Senators have to divide the time that remains? So, fairness toward the minority, and hedges against Senators' hogging the camera are all important.

I think we can work out those problems. In a test period, I believe with the combined and collective judgment of Senators we shall be able to find ways that will overcome such problems, which are of great concern to the distinguished Senator from Louisiana. And they are of concern to me.

These are practical problems. They are extremely important, especially with the unique role of the Senate under the Constitution. I certainly want to work with the distinguished Senator from Louisiana and other Senators to see if we can come to grips with these very real issues and concerns.

I respect the distinguished Senator from Louisiana because he is concerned about the unique role of the Senate under the Constitution. But the Senator, as I have seen on many occasions, when he applies his talent to a task, can make a tremendous contribution toward making things work.

Mr. MATHIAS. Will the minority leader yield to me for a brief observation Mr. President?

Mr. BYRD. Yes, Mr. President.

Mr. MATHIAS. I share with the minority leader the concerns he has just expressed and, I would like to assure the Senator from Louisiana, that I think the majority of the Rules Committee share them and that we would try to work out those procedures which will assure fairness and equity as we proceed with this test period. I think there is no deviation of any sort from that general proposition.

Mr. BYRD. I thank the distinguished Senator.

Mr. President, I do not want to keep the floor overly long. If I may take just a very few minutes more, then I shall yield the floor.

Mr. President, my goal has been, and continues to be, to address those concerns about which we have been talking, in a way that will produce the votes to move this institution out of the communications dark ages and into the 25th century before we reach the 21st.

The resolution before us is the necessary first step. I favor its adoption and I believe the test period is a good idea. It will give us time to assess the need for other rules changes, changes in procedures, and so on. Any necessary changes can be considered as part of our final resolution.

I shall only add to that, that there is a public service argument, there is an institutional argument, and there is an equity argument for opening this Chamber to the microphones and cameras of the broadcast media.

First, the public service argument: As we consider this resolution, I hope we will keep in mind the admonition of Woodrow Wilson, who said that "the informing function of Congress should be even preferred to its legislative function." In order to carry out that charge to inform the public, we must acknowledge the best ways in 1986 of reaching that public. A study commissioned by the American Society of Newspaper Editors and released in April of 1985 shows that the American people are more likely to rely on television news reports over those carried on newspapers, magazines, and radio. Seventy-two percent identified TV as their preferred source for national and international news. And Roper's annual poll on the news media shows television named by most people as their first and most believable news source.

Some would argue that we already allow access. But allowing broadcast reporters without their cameras and microphones into the gallery is not enough. Giving interviews outside the Chamber is not enough. I said there was an equity argument for broadcast proceedings of the Senate. We have given print reporters the tools of their trade, but we have not given television and radio the visuals and audio they need.

Even those of us who came to this institution before the era of the television candidate understand such needs. We have a President in the White House who understands the need for visuals and who also understands the power of television's direct impact. We claim to be the foremost deliberative body in the world; certainly that image is handicapped when television audiences in 1986 see only artists' renderings of a reporter's version of our debates rather than the live debates themselves.

And that brings me to the institutional arguments for television in the Senate. I said in my speech on January 3, 1985, when I introduced a resolution on this subject, that the Senate was fast becoming the invisible half of Congress and that we cannot hold our own with the White House and the

House of Representatives when it comes to news coverage of the important issues of the day.

The Founding Fathers gave the Senate a unique role—the responsibility of "advice and consent" on executive appointment and on treaties, in addition to providing a distinctly different legislative arena from that of the House of Respresentatives. Millions of Americans, through television, see the daily proceedings of the House but are denied access to the proceedings of the unique Senate Chamber.

Mr. President, to remain a visible policymaking part of our national Government we must find a way to accommodate television and radio broadcasts of Senate proceedings. I am convinced we can do this without violating the unique role of the Senate.

There is nothing that benefits our country like an informed public. The will of the people is best derived from an educated electorate. I believe that we do the people of this Nation an injustice by continuing to deny the broadcast media access to the proceedings of this body.

A sampling of editorial comments on the possibility of TV in the Senate highlights this point. The Oregonian of Portland, OR wrote:

Anything that has a chance to enhance the public's comprehension of how the legislative system works is worth the overstated risk of longer floor speeches or political grandstanding.

According to the Christian Science Monitor:

Great public access to elected officials' legislative proceedings tends toward greater understanding and accountability . . . The argument we like best: If television is to be used so much for staged political events—from contrived "news" events to paid campaign commericals—then it should provide more realistic coverage of government in action.

The Miami Herald wrote:

But the Senate is everybody's business, and there's simply no substitute for being there via the live eye.

And from the Sun-Sentinel and Fort Lauderdale News:

In reality, TV will have one major beneficiary—the voter and the taxpayer, who will have an improved understanding of how his or her government operates by seeing and hearing it in action.

Mr. President, I know that there is continuing concern for rights of the minority should we decide to televise our proceedings. I share that concern and had addressed it in the rules changes I proposed in my original package. I want to assure Senators that I believe that the final resolution after the test period must include a commitment to equal access for the minority and majority to recognition during televised proceedings.

I know that there is concern that the traditions of the Senate will not survive the glare of the television cameras. I disagree with this. I believe our proceedings can be televised without losing the unique aspects of this body. I believe it is possible to maintain our traditions while also meeting the realities of our times. We cannot continue to be the invisible half of Congress. We should not hide behind tradition, but rather take every advantage available to us to prove our best-known tradition—namely, the Senate is the greatest deliberative body in the world.

I urge my colleagues to support this resolution. I yield the floor.

The PRESIDING OFFICER. The Senator from Tennessee.

Mr. GORE. Mr. President, I wish to compliment the distinguished minority leader for his foresight in addressing this issue early in 1985. I ask unanimous consent to include in the RECORD an article from Broadcasting Magazine from January of 1985 entitled "Byrd Fronts Drive for Radio-TV in Senate."

There being no objection, the article was ordered to be printed in the RECORD, as follows:

BYRD FRONTS DRIVE FOR RADIO-TV IN SENATE

Senate Minority Leader Robert C. Byrd (D-W.Va.) last week began his campaign to allow radio and television coverage of the Senate with a solo appearance before the Senate Rules Committee. He warned: "Without television coverage, the Senate is fast becoming the invisible half of Congress." But it was evident at the hearing that the proposal will run into opposition from senators concerned about provisions designed to accommodate the Senate—with its traditions and rules encouraging lengthy debate—to broadcast coverage, as well as to others Byrd has included to provide additional streamlining of Senate procedures.

Senator James A. McClure (R-Idaho) did not dispute the complaint that Senate rules can be used to construct roadblocks to Senate action. But he said, "We're looking for an easy fix. What is really required is self-discipline on the part of members." His expressed concern was with the protection now given members of a minority—even a single member: "I'd err on the side of caution rather than going over to the majority side. The protection we've had in the Senate is in the tolerance of members, not the rules."

The issue of television and radio coverage as such was not discussed at length, other than by Byrd, who had introduced his resolution in the first week of the new Congress (Broadcasting, Jan. 7). Senate Majority Leader Bob Dole (R-Kan.), who has made it clear he opposes opening the Senate to such coverage—he feels it would impede procedures he says are already balky—participated in the hearing long enough to indicate he intends to give the matter a thorough airing. He said he will soon poll Republican members on the issue, and would discuss it with Byrd—and many other senators. He talked of discussing it "Over lunch" with "a majority of the 100 members."

Striking the theme certain to be heard as long as the debate over the issue lasts, Dole said, "We want to streamline procedures, but without sacrificing the rights of members." Or, as Senator Wendell Ford (D-Ky.), who had opposed radio-TV coverage in the Senate in the last Congress, when it was pushed by then Majority Leader Howard Baker (R-Tenn.), put it, "How far do you feel we need to go or can go in shifting power from the individual senators who are in the minority to the leadership of the majority?"

Byrd, responding specifically to McClure's concerns, said, "We have responsibility as senators to protect the minority, but we must also protect the majority against the tyranny of the minority."

Byrd was not without support for his proposal. Senate Rules Committee Chairman Charles McC. Mathias Jr. (R-Md.), who had supported Baker's proposal, said he welcomed Byrd's interest in the matter. Then, noting that television coverage of Britain's upper house of Parliament had begun on Wednesday, a day before the hearing, he said, "We should be at least as bold and venturesome as the House of Lords."

Byrd's argument was that "the Senate can maintain [its] traditions while meeting the realities of [the] times. We can change without violating the unique role of the Senate." And he said, in effect, that the Senate is losing the image contest to the House of Representatives, whose debates, he noted, are seen in clips on the network evening news programs and are carried live by C-SPAN, and to the President, "who always has access to television." Then he said, "I believe it is becoming increasingly essential to find a way to accommodate television broadcasts of our proceedings if we are to remain a visible policy-making part of our national government."

It would not be easy, he acknowledged. A particular difficulty he foresees is in achieving what he considers the essential ingredient of "equity in debate time" in a legislative body where the advantage in controlling the floor rests with the majority. His proposal, he said, is designed to deal with some of the fairness problems: The majority and minority leaders would decide when and for how long broadcast coverage will be permitted and broadcast time would be controlled in a way to assure equal time to the majority and minority parties. It also would restrict Senate sessions to Monday, Tuesday and Thursday and committee hearings to those times and those days when the Senate is not in session.

A number of the provisions are designed to speed up the business of the Senate. One calls for electronic voting, a procedure for deciding issues that has been employed in many state legislatures for years. It changes the method of cutting off debate by scrapping the requirement that three-fifths of elected senators vote for cloture and substituting a requirement that two-thirds of those present and voting support cloture (except that two-thirds of elected senators would be required to end debate on a change in Senate rules). Perhaps more important, the resolution eliminates the present provision permitting 100 hours of debate after a cloture vote and replaces it with one permitting 30 hours, equally divided between the parties. Another provision sets a two-hour limit on the time that can be devoted to a motion to proceed, a motion that can now be used as a means of stalling action.

Under the Byrd proposal, construction of the broadcast facilities and control of the cameras and microphones would be in the control of Senate employes. It would also provide for a trial period before sound and pictures could be transmitted to the public. One difference from the coverage now em-

ployed in the House is that senators would not, as originally believed, be required to speak from the podium. Byrd said the camers would be focused on the presiding officer and those senators recognized by the presiding officer, as well as those recognized with the consent of another senator, wherever they are speaking on the floor. However, he indicated the cameras would provide tight shots. The cameras, he said, "would not show empty seats or demonstrations in the gallery."

Byrd concluded his testimony with advice for his colleagues: Television one day—maybe not tomorrow or next year—is coming to the Senate. So it would be well for members like himself and Mathias, he said in remarks to the chairman, to participate in drafting the necessary rule changes. "Knowing something about the rules," he said, "we should do whatever we can to make television available within the peculiar rules and traditions of the Senate."

Mr. GORE. It has been a pleasure for me as a freshman Member of this body to have the opportunity to work with the minority leader, and I certainly appreciate the distinguished leadership he has provided on this issue.

It has also been a privilege to work with the chairman of the Rules Committee, the Senator from Maryland, who has pushed this matter forward with imagination and drive, and the distinguished ranking minority member of the Rules Committee, the Senator from Kentucky [Mr. FORD] who has done an equally outstanding job, and I have enjoyed working with him as well.

Senator ARMSTRONG, the junior Senator from Colorado, has been indefatigable in his efforts to move this issue forward for floor consideration, and the majority leader, Senator DOLE, has been responsive to the concerns of so many Members of this body that we have an opportunity to move toward television and radio broadcasting.

I wish also, Mr. President, to pay tribute to my predecessor from Tennessee, the former majority leader, Senator Baker, who felt very strongly about this issue, worked tirelessly in behalf of radio and television coverage, and retains his interest in seeing this resolution pass.

Mr. President, when Americans turn on their television sets in the 1980's, they can see pictures of the *Titanic* at the bottom of the ocean, and they can keep track of Halley's Comet in deep space. But if they want to see and hear what is going on on the floor of the U.S. Senate, they have to get an airplane ticket and fly to Washington, take a taxicab to the Capitol, get a ticket to get into the Capitol, and then stand in line for 1 of only 611 seats in the Senate gallery. Just imagine how many lobbyists alone will be in line for those seats when the tax reform bill comes up later this year.

If you take a pencil and paper and do the mathematics, you will find that if the Senate of the United States was in session 365 days a year, each one of these seats would have to change hands 1,000 times a day for every American to get a brief glimpse of these proceedings.

But televising Senate proceedings will make democracy more than a once-in-a-lifetime experience for those American citizens who wish to keep track of what occurs on the floor of the U.S. Senate.

We are in the midst of a revolution in democratic participation. The American people now demand more information about their Government, and Government at last is learning to provide it.

With the help of sophisticated technology, some Members of Congress have met with constituents via teleconference, and we are all familiar with the fact that popular opinion, which once came by stagecoach and pony express, now arrives by mailgram and computer modem.

There is bound to be a little uneasiness in the marriage of a new medium and an old and distinguished institution, but over the last 2 centures, our faith in democracy and the wisdom of our people has shown that we have nothing to fear but the dark.

As a freshman who has much to learn about Senate procedures, I cannot answer every objection of my colleagues who have long served in this institution and mastered its rules and have concerns about the impact of television. But I can speculate about the impact television will have on the Senate, and I can offer the perspectives of a Member who served in the House of Representatives both before and after its proceedings were televised. I have also studied and written at length about the impact of television on our constitutional system.

On March 19, 1979, I made the first speech on the floor of the other body as the television cameras were turned on for the first time, and at that time said that television had the power to revitalize representative democracy.

Generally speaking, Mr. President, that has been its effect in the House of Representatives. Certainly TV did not disrupt the institution as many feared. In fact, I believe most of my former House colleagues would agree that, after a few months, most Members began to totally forget the cameras. Neither the tone nor the manner of debate changed perceptibly. It is true that the number of 1-minute speeches which begin the day's proceedings in the House has increased, but even that change has been beneficial in the view of many. For those opponents of Senate television who fear a wave of long and self-indulgent speeches, the House experience seems to indicate the opposite result. Speeches seem to have become more focused and more carefully drafted. Words are chosen with more deliberation and enunciated more precisely. Television, in other words, has helped to keep Members on their toes.

There is something about the television medium that has the effect of dissipating hot air. Because of the nature of the medium, long-winded speeches tend to produce a bad reaction on the part of many television viewers. Perhaps, for that reason, television has helped to rein in grandstanding and verbosity in the House of Representatives. With respect to the exchange between the distinguished minority leader and the distinguished senior Senator from Louisiana earlier, I would submit that there is a kind of self-correcting mechanism.

If we are seriously concerned about a single Senator taking to the floor of the Senate and controlling all of the debate time for an entire day just because the television cameras are turned on, I think we can dispel that concern rather easily because the first Senator who responds to television in such a manner would soon receive in his or her office a flood of mailgrams, telegrams, letters, and telephone calls saying, "Cut it out; we don't want to hear all that hot air."

The next time that particular Senator took the floor, that Senator might well remember the reaction of his or her constituents. There is a self-correcting mechanism. I submit that it even extends to the question of fairness in the distribution of debate time as between the two parties.

If it becomes clear in the course of a debate that the majority leader or the presiding officer is exhibiting unfairness and that is pointed out, and then subsequently confirmed in the minds of those who are watching on television, this, too, would provoke a bad reaction, and the resulting outrage would tend to work a change in the way the Senate was run.

In the House of Representatives, the impact has been extremely positive, and it has been dramatic. Twenty-three million American households now have access to gavel-to-gavel coverage of the House proceedings. Studies indicate that, remarkably, 93 percent of the C-Span viewers of the House proceedings vote in each election. I daresay that there is not another cross-section of people in this country where you would find such a high percentage of voters.

The televising of House proceedings has enhanced the public perception of the institution and the work of its Members. I cannot tell you how many times people came up to me during my service in the House of Representatives to tell me how they felt about the speeches which were made during a particular debate. And after a time, you become aware of the fact that the speeches make a difference. If no one is listening to speeches that are made

on the floor of the House or the floor of the Senate, then their impact is, of course, diminished. But if Members of this body begin to get the idea that their constituents are following the course of the arguments made on the floor of the Senate, then the impact of each individual speech is heightened, and the desire of Senators to participate actively in that debate, or at least to follow the logic of the statements made, is going to be enhanced.

For a few, that is a drawback. But most who think about it will see that as a positive contribution. This, after all, is a deliberative body. It used to be widely known as, and is still often referred to as, the world's greatest deliberative body. It can be that again. In fact, not just in legend. Television can help to make it so.

Senate rules, of course, are so very different from House rules that it is difficult to predict the precise impact of the change. This is true. But I feel comfortable in predicting that the televising of Senate proceedings will enhance, not diminish, the prestige of this institution. In time, the viewers will grow accustomed to Senate rules and procedures, just as they have done in watching the House. The proud traditions of the Senate will shine through in the telecasts. The American people will begin to see the complexity of the tasks facing Senators and better appreciate their hard work and dedication. This has been the case in the House of Representatives.

In talking to my colleagues in this body, I sense a feeling of inevitability about televising procedures. The Senate simply must reestablish itself as a full and visible partner in public debate. The question now seems to be not if, but when and how.

One of the principal reasons is the one cited by the minority leader:

> Without television coverage, the Senate is fast becoming the invisible half of Congress.

That is a very concise, insightful statement of exactly why we need to proceed.

The measure before us is a modest step. It calls for a test period for an in-house TV system and for gavel-to-gavel radio coverage. No television signal will be made available to the public until a subsequent resolution passes both the Rules Committee and the Senate. As another safeguard, it instructs the Rules Committee to hold hearings during the test period on any rules changes that cameras might require.

Working with the minority leader, I offered some suggestions for changes in his resolution as it was presented to the Rules Committee, and both he and I feel that slow and deliberate steps are better than an abrupt shift to television, and the committee endorsed Senator BYRD's resolution, as modified, by an overwhelming vote.

The Senate need not and should not toil in obscurity forever. Let us proceed in measured steps, but let us move forward. We must give the American people the opportunity not only to watch Government in action but also to take part in it, through an electronic town meeting of the Nation. All that stands between the Dark Ages and a new era in representative democracy is a rollcall vote and the flip of a switch.

The best way to preserve our democracy is to return to its oldest principle—trust in the American people. As Daniel Webster observed, a democracy must always rely on its people—seeking out their wisdom, listening to their ideas, and sharing with them the tools of opportunity and the rewards of success.

Televising the Senate would be another great stride in making democracy work.

Mr. President, there is one matter that I should like to address very briefly before closing, and that is the relationship between this resolution and rules changes that might be needed before the television signal is made available to the American people.

I wish to quote from the report of the Rules Committee, a copy of which is on the desk of each Senator. It says:

> The committee intended to break the linkage between rules changes and the vote on the test period, but it did not intend to break the linkage between rules changes and the decision to broadcast the television signal to the public.

I am reading from near the bottom of page 4. At the very bottom of page 4, I emphasize this quotation:

> . . . it is the intention of the committee that the rules changes be considered concurrently with the closed-circuit television broadcast test.

There have been a great many informal discussions about how this linkage might be preserved, and on this occasion I simply ask the chairman of the Rules Committee if he wishes to respond to this question:

Is it not true that during the test period, it is the intention of the Rules Committee to move with all deliberate speed to a full consideration of the rules changes, so that at the time the Senate is ready to end the test period and consider the question of whether or not the TV signal should be made widely available to the public, we will have before us the results of the Rules Committee's work on the proposals for changing the rules as recommended by the minority leader?

(Mr. SIMPSON assumed the chair.)

Mr. MATHIAS. The Senator from Tennessee is exactly right. As he just heard me assure the minority leader and the Senator from Louisiana, I am convinced that the Rules Committee wants to work in a way that will provide absolute equity for Senators, absolute fairness in floor proceedings as it relates to television coverage.

But there are some unknowns here. I think we all admit that. I think the best way to do it is to act it out, give it a trial and do it under these test conditions in which the signals are kept in-house. Members can see what it feels like on the floor. They can go back to their offices and observe it through the screen, look at it on the tube so they can see both sides of the operation, and in the light of that experience and observation we can then look at the rules question.

But it should be done concurrently, and that is why the language that the Senator has quoted from the report is important language.

Mr. GORE. Let me just say in concluding that during my experience in the House of Representatives we had a closed-circuit test period of the television broadcast before it was made available to the television networks and to C-SPAN and to others. Many Members of the House of Representatives who had grave misgivings about the introduction of television began to feel much more comfortable with it when they could actually see exactly what was involved.

Some modifications in the way the House did business were made after, the precise nature of the impact of television could be assessed and the changes could be more artfully designed.

It is my hope and belief that this body would have the same experience when we can actually see the proceedings during the test period. Senators would, see for example, that the camera would be focused only on the Senator speaking, so that Senator who might be in an important committee meeting would realize that there is no need to rush over to the floor to be there just in order to be seen as not absent. This would produce a feeling of ease, and I think, therefore, that the test period is the correct way to go.

Again I compliment all those who have brought us to this point and I hope we can vote on this favorably this week or soon.

Mr. MATHIAS. Will the Senator yield for a question?

Mr. GORE. I am delighted to yield.

Mr. MATHIAS. First of all, I thank the Senator for his very kind and generous comments and for his consistent support for this measure.

I wanted to say that I agree exactly with him in the point he made that television really will discourage the frivolous. It will not encourage it; it will discourage it.

I think that all of us who have had any experience in political life in the last decade understand that the objective eye of the camera is very quick to

spot the phony, very quick to spot the frivolous and to expose them.

It is, in fact, cruel in that respect. It never blinks. I think that it will tend to enhance the objectivity of the view of this floor rather than otherwise.

I also agree with the Senator in his comment about the importance of the impact on public thinking about the kind of example we already have from C-SPAN.

Just the other day I was walking around the corridor behind this Senate gallery and two very attractive and very pleasant ladies stopped me and they said "Oh, good morning, Senator," as if they knew me well, as if they were constituents from Maryland, I stopped and I was a little at a loss because I did not immediately recognize those Marylanders and they kindly said "We are from California but we know you because we watch C-SPAN."

That is just an illustration of the kind of personal link that televison establishes between the viewers and Members of Congress who are observed on C-SPAN and other electronic media.

My question to the Senator really is this, and it relates to the concern expressed by the Senator from Louisiana about the fact that the Panama Canal Treaty vote was slightly delayed, because a few Senators wanted to make some closing remarks.

Obviously, if those remarks were frivolous or unnecessary what we have already said I think would apply.

But there are serious things that need to be said sometimes at the last minute.

Does the Senator believe that this would really concern the public, or is the public already well introduced to the uncertainties of life through other activities that are exhibited on television?

For example, is the public seriously concerned if there is a 10th inning in a baseball game? That is serious. Now you are talking about serious business. You are talking about baseball. If a baseball game does not end right at the end of the 9th inning, if it goes into the 10th inning, do you think the public is very much concerned or upset about that?

If there is overtime in a football game—if anyone does not think that is serious business, just remember back to Super Sunday a week ago—if there is a little overtime in a football game, does the public fail to understand the reasons for it?

I think the public would understand that if there is a genuine need to extend the play, to make another point, to carry the ball another yard, whatever it may be, they would understand exactly what is happening here on the Senate floor, and they would accommodate to it even if it prolongs the vote for a few minutes.

I wonder what the Senator felt about that?

Mr. GORE. My answer to the Senator's question would be exactly the same as the one he has himself provided, and I would only add one thought: If we are concerned that it might inconvenience the American people to tune in the radio or television to hear and see for themselves the drama of a particular vote only to find that it was going to take place a little bit later than had been scheduled, is the remedy to inconvenience them even more by preventing them from ever seeing or hearing it no matter what time they turn on their television or radio?

I think the answer is self-evident, and once the American people became familiar with the rules and procedures of the Senate, as they would, such an inconvenience would not occur. They would know that there is a tradition of courtesy here and that, if Senators arrive with thoughts to share which they feel are important, the tendency of the body is to say, of course, we want to show every courtesy to our colleagues. This would become well-known to the American people just as similar conventions and procedures in the House of Representatives have become well-known to them.

I urge my colleagues to support this resolution. I think it is so important. We are at the threshold of a new era in participatory democracy.

The Senate can lead the way. The passage of this resolution is the key.

I yield the floor.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. DECONCINI. Mr. President, I thank the Chair.

Mr. President, I will be glad to yield to the minority leader.

Mr. BYRD. I thank the distinguished Senator from Arizona for his courtesy, and I apologize for interrupting him.

I committed an inadvertent ovrsight a little earlier when I did not make reference to the distinguished Senator from Kentucky [Mr. FORD], who is the ranking minority member on the Committee on Rules and Administration.

Mr. FORD has been very, very attentive to his duties in all things and to say that he is attentive to his duties on the Rules Committee would be no exception. He has faithfully attended the markups, the hearings of the Rules Committee with reference to this matter, and he has worked very closely with me and others on that committee. I wish to commend him for the diligence that he has displayed as, over the months, the Committee on Rules has come to grips with this subject matter. He is a very able Senator. He contributes much to the Senate, to his State, and to his country.

I wish to apologize for speaking earlier without reference to the services that Senator WENDELL FORD has given in this whole matter. His speech, as ranking member, should have followed the statement by the distinguished chairman of the committee, Mr. MATHIAS.

I ask unanimous consent that Mr. FORD's statement appear in the RECORD at that point immediately following the remarks of Mr. MATHIAS and prior to my own remarks.

At the moment he is in his office meeting with some constituents, and he had to temporarily leave the floor. But I apologize to him in absentia, not that he has mentioned the matter to me, but I do know he should have been entitled to speak following the distinguished Senator from Maryland [Mr. MATHIAS], the chairman.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. I thank my friend Mr. GORE for the references he has made and I thank Mr. DECONCINI for his kindness in yielding to me.

Mr. DECONCINI. Mr. President, I agree with the remarks of the minority leader regarding the senior Senator from Kentucky. As a member of the Rules Committee, I have witnessed his immense effort and tenacity in working not only on this legislation but in general. I would also like to commend the chairman of the Rules Committee, the Senator from Maryland, and the distinguished minority leader, who have spent many hours to produce the resolution that is before us today.

In addition, the Senator from Tennessee, is to be commended for his efforts.

As my colleagues know, the former majority leader, Mr. Baker, tried to get a similar resolution passed in the last Congress when it was not a very popular issue. I was pleased at that time to lend my support to the then majority leader, Mr. Baker.

Mr. President, I wholeheartedly support Senate Resolution 28, introduced by the very distinguished minority leader. This resolution provides for a test period of live, gavel-to-gavel radio coverage and closed-circuit television coverage of all proceedings in the Senate Chamber, except when a closed-door session is in order.

By its very design, democracy was intended to be an open process. The framers of the Constitution conceived our form of government specifically for its emphasis on forthrightness and the free flow of information. They fully intended that the public know what its government was up to.

That may have been easy in 1776. But 1986 presents a different United States, a nation of constituents so numerous and so dispersed that Congress is no longer physically accessible to the majority of Americans. These new artificial barriers of vast expanses can, and must, be circumvented by utilizing

the most efficient, modern forms of communication available. Undoubtedly, those methods include television and radio.

The issue of allowing Senate proceedings to be broadcast has been repeatedly debated in this body since it was first proposed in the 1940's. And frankly, I am surprised that this common sense measure has not been passed earlier. For almost 40 years, television and radio coverage of Senate committee hearings have given the American public partial view of their elected representatives at work. Several television broadcasts, most notably of the Fulbright hearings on Vietnam and the Ervin investigation of Watergate, and radio coverage such as the broadcast of the Panama Canal Treaty debates have restored a form of open access to the mechanisms of the Senate.

Each and every step we have taken toward openness in government has had positive, not negative, effects. Opponents of this resolution should be reassured that the consequences of allowing television and radio coverage of the House have been less than catastrophic. After a few weeks of initition, the cameras were no longer an obstruction, but an unobstrusive part of the daily routine. Surely, it will not be said that Senators are less able to cope with the presence of television cameras than our counterparts in the House.

Since this resolution provides for a test period, we will have time to review and consider changes that may be necessitated from the introduction of television cameras. I am pleased to have been recently appointed to the ad hoc committee which will study changes in the standing rules of the Senate, and I look forward to working with my colleagues to improve the proceedings of the Senate.

I believe that we have an obligation to pass this resolution. We have an obligation to open our debates to the people whose lives we affect by the decisions we make. I am glad to join my distinguished colleagues, particularly the minority leader, the chairman of the Rules Committee and its ranking member, Mr. FORD, in supporting this resolution.

I yield the floor.

Mr. MELCHER addressed the Chair.

The PRESIDING OFFICER (Mr. WEICKER). The Senator from Montana.

Mr. BYRD. Mr. President, will the distinguished Senator from Montana yield?

Mr. MELCHER. I am delighted to yield.

Mr. BYRD. Mr. President, I thank the distinguished Senator from Arizona for his illuminating and incisive remarks. I thank him for the support he has given to this effort. I know that he will continue throughout the debate, as will others in support of this measure, to deal with it and discuss it, hopefully, and, in the final analysis, enable the Senate to pass it.

I thank the distinguished Senator from Montana who, likewise, is a good supporter of this measure. I appreciate the contributions he has made and will continue to make as we debate the resolution and, hopefully, come to a vote on it.

Mr. MELCHER. Mr. President, I thank our distinguished Democratic leader. I do, indeed, strongly support Senate Resolution 28. I do so because one of the greatest responsibilities that we have here in the Senate is the communication of our actions to the people.

These methods of the media coverage by reporters and individually each of us mailing out through our letters or our newsletters or through telephone conversations or participating through radio and television media coverage are all fine to relate to the people what goes on here in the U.S. Senate, but we are at a time now when I believe it is absolutely essential that we allow the people themselves through television and through their own radios to record or audit or view our actions here in the Senate.

Their opportunity to watch and hear us as the Senate's actions occur is a right, and I believe they want to exercise that right. The people will observe our deliberations, observe and audit our actions, and they will tell us—they will tell us—how they feel. They will let us know of their approval or disapproval.

That review by the people themselves will be in a sense a report card to the Senate that will help to formulate government, and in doing so strengthen both the Senate and the Nation.

Mr. President, those are my reasons for strongly supporting Senate Resolution 28.

Mr. President, I yield the floor.

Mr. SIMON. Mr. President, I rise in support of the move to have televised debate. I commend my colleague from Tennessee, who has provided leadership on this, and all the members of the Rules Committee who have worked on this, including the distinguished Senator from Virginia.

Why move in the direction of televised debates? The reasons are several.

First, in a democracy, the people are entitled to know not only what decisions are made but how those decisions are made, what goes into them; why does the Senator from West Virginia, the Senator from Virginia, or the Senator from Tennessee make the decisions that we do. I think the public is going to have more of a chance to know not only the final decision, not only that we pass a bill 54 to 43, but why this is important for the people of Connecticut and Illinois. That is first of all.

Second, let us face it, Senate debate is not what it ought to be. I had breakfast this morning in the Senate dining room and I saw more Members of the Senate in the Senate dining room at breakfast than there are here on the floor of the Senate right now listening to this debate.

When do we have the best debate on Senate subjects? I would love to tell you it is right here on the floor. I have heard some good speeches on the floor, maybe even some great speeches on the floor. The best debate is in the Democratic caucus and I assume in the Republican caucus, though I have not been privileged to receive an invitation to attend the Republican caucus. I assume the same is true there. There you can speak to more Senators ordinarily than you can on the floor of the Senate.

I do not know that televising the debates is going to change things, but it might and it seems to me it is a worthwhile experience. Why not try it? Then the public can get greater insights into the decisions.

The Conrail decision we are struggling with right now is a complex thing. The average citizen in Illinois and in the States represented by those Members on the floor right now just gets lost on this thing. They would at least have some idea what this whole Conrail decision is all about, a much better idea than they are going to get in 30 seconds of television on the 6 o'clock news or the 10 o'clock news; a much better idea than they will get just glancing at an International News Service or Associated Press news release, or some other fine news service. They can get some understanding of the details of the problem.

And, finally, and I think not the least important, we are going to face tough decisions in these coming months and years. There are no popular decisions in doing the right thing for the future of our country. I want the people of Illinois, when I make some unpopular decisions—and I am going to make some unpopular decisions during the coming months and years—to understand why I make those unpopular decisions, that it is for the good of the country.

Just as one example: revenue. I do not believe anyone within the sound of my voice will fail to acknowledge that the majority of the Members of the Senate will at least privately acknowledge we have to have more revenue in this country. Maybe we do not make speeches about it, but we acknowledge it.

There is a great story in this morning's Washington Post by John Berry about where we are going and why additional revenue is needed. A small percentage of the people in Connecti-

cut, Illinois, Tennessee, West Virginia, Virginia, and South Dakota are going to read that story.

They ought to hear right here as we debate this what the needs of the Nation are and why we have to move in this direction.

Mr. PRESSLER. Will the Senator yield?

Mr. SIMON. I yield.

Mr. PRESSLER. I served in the House before coming to the Senate. I do have some comments concerning the House becoming the upper Chamber because it is on TV and people can see it. They feel that the great debates will be in the House because of their accessibility to the country.

It is not that we are trying to be a superior body here but trying to be an equal body.

I think the people of the country have a right to hear what we are saying and to participate in the great debates. If you go through some of the great debates in our history, they have been in the Senate more so than in the other body, though there is no reason they cannot be there also.

Senator Baker pointed out that unless the Senate goes on television, the great issues of our time and the in-depth discussions will be carried on, at least to the public's awareness, in the other body. I think we have an obligation to be part of those great debates. It could be that the budget debate we are going into now will be one of the great debates or issues.

Unless the people of this country are able to see us, have an opportunity to see us, unless the local news stations have an opportunity to have news clips from what we do there—rightly or wrongly, and some may be critical of us, and that is very appropriate, also—I think that is very important for us to consider, that the U.S. Senate is not reaching out in terms of the great debates unless we change this.

Mr. SIMON. I thank my colleague from South Dakota. I could not agree with him more. He is right. We did serve in the House together. He came over here in the Senate a little earlier—of course, he is much older than I am—but he started off in that direction sooner than I did.

It is not only the great debates. The other day, after the tragedy in Florida, frankly, I wish every American could have heard JOHN GLENN and JAKE GARN right here on the floor of the Senate. I was proud to serve with both of them. I thought it was a moving event when they both got up and gave their reactions to it. The Nation should have been able to see that.

Mr. WARNER. Mr. President, will the Senator yield on that?

Mr. SIMON. Yes, Mr. President.

Mr. WARNER. The Senator said he wished they could have heard. If they could have seen the faces of those two great Senators and the emotion they had in their faces.

Mr. SIMON. The Senator from Virginia is absolutely correct.

Mr. PRESSLER. I might add that television did cover the prayer in the House of Representatives and it did cover some of the comments in the House of Representatives. I applaud that. That was good. It was available to the networks and they used it. But here, in the Senate, where we had a very dramatic moment, and I think three-fourths of the Senators were here, we had two Senators stand and make very dramatic statements and it was not available to anybody. I think the children of America missed, I think the adults of America missed and everybody missed that, except the people who were here. The number of people in the galleries is very limited. That was a moment in history that is forever lost because we do not have television in the Senate.

Mr. SIMON. My colleagues are absolutely correct. In this case, both JOHN GLENN and JAKE GARN had a press conference, but it was not the same. It was not the same as suddenly speaking for the first time to your colleagues and hearing them say here is what happened and what it meant. That should have been captured, not only for the people of today but for the people of tomorrow.

Again, Mr. President, this is the direction that we ought to go in. We serve ourselves, we serve the Nation well by moving in this direction.

Mr. PRESSLER. If my colleagues will yield further, this has stimulated me to think there was an article in TV Guide by Mr. Norman Ornstein, an expert on Congress, about how little Congress is in TV in terms of the network news, about 2 weeks ago. It is entitled, "Where's All the Coverage? The Case of Our Disappearing Congress."

It does not really have an explanation, but it compares September of 1985 to September of 1975 and points out that during September of 1985, we had the immigration bill debate on the Senate floor, which is one of the great debates on the Senate floor, the Simpson-Mazzoli bill, whether you agree with it or disagree with it. It pointed out that there was virtually no coverage except some brief press clips from a press conference or something of that sort.

That is the sort of issue, regarding immigration, whatever your stand on it is and all the amendments, that if it were available on TV, I would think would be something schoolchildren and adults across this country, regardless of how they feel about it, would be interested in, the various amendments we debated here—I think we had something like 20 amendments that were debated. That really is one of the great debates of our time and there was virtually no coverage or, according to this article, no coverage of it. About the only thing TV stations had available were press conferences, which are not the living thing. That is a good example of a debate.

Of course, the Senate passed the bill, but it did not pass in the House. There is no saying what will come of it this year. But that is one of the great debates of our time.

I think that article should be in the RECORD and I am going to get it and bring it over.

Mr. President, I ask unanimous consent to have the the article printed after Mr. SIMON's remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. PRESSLER. That article, which was written by Norman Ornstein, who is an expert on Congress, was struggling with the question of why we did not see more of the Senate and of Congress actually working. We do see a lot of commentators commenting about Congress, but very little—perhaps it is because the TV stations do not have available, what occurs in the U.S. Senate.

Mr. SIMON. I thank the Senator from South Dakota.

Let me add just one observation. I do not know how my colleagues from Tennessee, South Dakota, and Connecticut, who are here, feel, but I feel we shall be in a decided disadvantage compared to the minority leader and the Senator from Virginia, who have a distinguished shock of gray-white hair. They look like Senators on the floor of the U.S. Senate. They will have a great advantage on television, Senator WARNER and Senator BYRD, over us. Despite that handicap, I still favor going on television.

EXHIBIT 1

[From TV Guide, Jan. 11-17, 1986]

THE CASE OF OUR DISAPPEARING CONGRESS

(By Norman Ornstein and Michael Robinson)

This new survey reveals that the network news shows are covering lawmakers less and less even as they're becoming more assertive. The mystery is why. Two hundred years ago, the authors of our Constitution designed Congress as the "first branch" of American Government. But you would never know that if you relied on the evening news in 1985.

That is the first conclusion we came to after a month of intensive analysis of the network evening news shows. Throughout September, we carefully monitored the broadcasts on ABC, CBS and NBC, checking closely for every story that mentioned Congress or its members, in an attempt to assess how the network news shows treat our first branch. What we saw met the conventional standards of responsible journalism. It was what we *didn't* see that troubles us. How do the networks cover Congress? The answer, sadly, is: not much.

In retrospect, most of the typical criticisms the networks receive about their Con-

gressional coverage strike us as largely unwarranted. When given a chance, Capitol Hill correspondents do a professional job. But eventually sins of omission also get noticed. And Congressional correspondents just don't get much of a chance these days.

The lack of coverage—the disappearing Congress—is something we had noticed in general over the past several years. But we decided that our gut reactions had to be tested more systematically. So we picked a month, September 1985, when the issues before Congress and the Federal Government were urgent and numerous; when the institution was regularly in session; and when the President was also in Washington and focusing a good deal of his attention on Congress and matters before it.

Ironically, we found that during a time when Congress has been trying to gain more authority in policy-making and grant greater access to television, the networks have been bailing out on Congressional news coverage, at least on their evening news programs.

During the four weeks of September, when Congress was in session, we counted just under a hundred news stories that in any way, shape or form mentioned Congress or any of its members. At first blush, that sounds like a whole lot of news. But in reality, it's a pittance. To begin with, that means Congress is mentioned in fewer than one out of every 10 stories. And that is only if we count equally every mention of Congress, no matter how minor. Eliminate the stories in which Congress is no more than a passing reference, and the number of items falls to 78. And even among these, almost half treated Congress simply as a supporting actor, not the principal focus of the piece. There were only 41 stories in which Congress was the focus of the story.

On average, in other words, during what was one of Congress's most active months in years, network evening news presented us with about half a Congress story per broadcast—and that's using a very generous definition of a Congress story.

Now take a historical perspective. We checked the record for September 1975, 10 years earlier. That month the networks presented well over 200 stories mentioning Congress, more than *double* the number of references made in September 1985 on the evening news. There was no special crisis taking place 10 years ago September, and no vital issues resolved—nothing, in other words, that might easily explain why it was that Congress deserved so much more attention back then. Clearly, somewhere along the line, all three networks have systematically deemphasized their Capitol Hill coverage: they all seem to agree that the Congress of the 1980s isn't nearly as newsworthy as the Congress of the 1970s.

PLAYING DOWN WASHINGTON

The conventional explanation for all this is that networks have consciously decided to get the news more and more from outside Washington. George Watson, the veteran and respected Washington bureau chief for ABC, denies this; he says there has been "no conscious decision on our part to deemphasize coverage of Congress." But Lane Venardos, executive producer of the *CBS Evening News with Dan Rather*, told the Washington Journalism Review that reduced coverage of Congress "is a direct result of decisions made at CBS . . . to 'de-Washingtonize' our coverage."

In any event, the facts show that the networks have not gotten out of Washington so much as they've gotten off Capitol Hill. Charles Gibson, ABC's chief House correspondent says, "Ten years ago, there was probably one piece a week that started in a Congressional hearing room and ended in a hearing room. Today you won't see any of that." NBC's Roger Mudd, the dean emeritus of network Congressional reporters, says, "Today, if they cover a hearing, they'll stay in the hearing itself for maybe 15 seconds—then switch to a coal mine in West Virginia or somewhere else out of Washington to finish the story."

The networks still stay in Washington for the Presidency, however. The White House still does phenomenally well in holding the attention of all three networks. In September, the White House and its First Family got more than three times as many news references as Congress. And sometimes the inequality of the news focus was painfully clear.

During September, the Senate debated and passed a landmark piece of legislation dealing with immigration, a bill with profound consequences for the population of America and for the future of U.S.-Mexican relations. All told, on the three networks combined, the Senate's debate and action attracted about one minute's worth of evening-news time. Meanwhile, Nancy Reagan's brief stopover in Mexico City, arranged so that the First Lady could extend cash and condolences after the earthquake, attracted about four times the news coverage. So, downplaying Washington means deemphasizing Congress and its actions, not the Reagans and their White House.

Congressional coverage fails not because of a lack of pictures, by the way. Since 1979, the networks have had access to live broadcasting of the House of Representatives. In September, they used that system only eight times on evening news—which works out to a short blurb of House debate in one out of every 10 newscasts. The video from the House floor is often good—lively, punchy, significant. The lack of interest by the networks in using it miffs, among others, Roger Mudd. "I think it's a journalistic outrage," he says, "to have that material and then just ignore it."

GETTING IT RIGHT

The networks have long been sensitive about the problem of superficiality in the evening news, a problem built in by the limitations of a 22-minute broadcast filled with stories that usually are less than two minutes long. The networks have attempted to deal with that problem by occasionally showcasing one story, giving it more time or several short reports from different angels.

Given this limitation, we do not quarrel much with the quality of the coverage of Congress provided by the network news shows. For the most part, what they told us about Congress was accurate, often substantive, and about important issues: our monitoring shows that the issue receiving the greatest amount of attention in Congressional coverage was trade policy; No. 2 was U.S./South Africa relations; and No. 3 was tax reform.

True, little of the coverage was profound. And most of it came early in the month, before the networks shifted their attention to Mexico, Hurricane Gloria and, eventually, the Paris summit between Mikhail Gorbachev and Francois Mitterand. Still, trade, South Africa and tax reform were the issues where there was real action. And "action" is the key word.

Issues, no matter how important, that were heating up in Congress but had not yet boiled over received hardly any attention. Take the deficit. During September, Congress faced direct pressure over the statutory limit on the national debt—due to go over the highly symbolic $2-trillion mark. Republicans in the Senate had openly threatened to use the vote on the debt limit to attempt a new law forcing an end to Federal deficits, underscoring their deep concern about the deficit. None of these undercurrents or maneuvers, which were leading up to dramatic confrontation and action, received the attention of the networks. The deficit itself was not totally ignored. It was mentioned as an important factor in several stories on trade and international economics. And Bill Moyers presented a hard-hitting commentary on Congress's inability to cut the deficit; but that was about it. With the shrinking news hole the networks have adopted for Congress, all the movement on Capitol Hill to deal with the fiscal crisis—background vital for understanding the tremendously significant actions Congress did take in October—just could not be covered. No boilover, no coverage. Unless, of course, the issue has sex and/or "circus" appeal.

The network news quest for action—plus conflict plus celebrity—eventually leads to circus reporting. And in September the networks all found lots of time to cover the circus generated by rock-video and rock-lyric "pornography." Heavy-metal rock star Dee Snider, lead singer of the group Twisted Sister, came to the Senate to testify in favor of rock video and against public warning or labeling of "adult" lyrics on record albums. And Susan Baker and Tipper Gore, spouses of two of Washington's most celebrated political leaders, Treasury Secretary James Baker and Sen. Albert Gore Jr. (D-Tenn.), came to testify in favor of such labeling.

NBC's Tom Brokaw seized the opportunity to do a three-minute story—a virtual eternity on the evening news—about all this contempoary music and culture, moving from the hearings to extensive use of rock videos. All told, the rock-porn hearing attracted a full six and a half minutes of evening news time in a single day—more coverage than Congressional work on the budget-deficit crisis received in a full month.

In the end, the networks did give substantial time and attention to some of the major issues that Congress grappled with in September. Trade policy received three times as much coverage as rock porn. But the only issues that were covered on the evening news were those Congress pushed hard to the point of open conflict or to the point of final passage.

ANSWERING THE CRITICS

Network news has taken its shots from hostile critics in the past several years. But our monitoring of the evening news programs tells us that some of the criticism is wrongheaded.

Perhaps because the networks do so little reporting about Congress, there isn't space enough for many mistakes. Whatever the reason, the network coverage of Congress seems by and large to be fair and responsible when it is here at all. Critics such as Reed Irvine of Accuracy in Media argue that all the networks are biased against Republicans and favor liberals; not in our findings. Start with the anti-Republican charge.

As far as time on camera is concerned, it is the Democrats who have more to complain about. The Republicans overall get more time in the news, and nobody comes close to getting as much coverage as Senate Repub-

lican Leader Robert Dole (R-Kans). In September, Dole appeared in 12 separate pieces, six times as many as House Speaker Thomas P. "Tip" O'Neill (D-Mass.). As for the character of coverage—the networks made just as many critical comments about Democrats in Congress as Republicans.

Liberal bias? Only one piece on Congress during the month of September sounded "liberal." Bill Moyers, in a lengthy commentary, showed how the Congress was caving in to special interest and PACs on Superfund legislation to clean up toxic-waste sites in America. It was a tough piece, making powerful use of visuals. And it was one that would make most conservatives wince. But the piece was commentary, and it spared neither party as it condemned the cave-in on the House side. To us, Moyers' piece looked more like old-fashioned watchdog journalism than liberal bias.

One legend did prove to be valid. CBS is different—not more liberal, just different. As Lane Venardos's comment suggests. CBS is by no means preoccupied with the internal dynamics of the legislative process. Still, CBS accounted for more than half the pieces making some use of House television. And CBS, at least in September, accounted for practically all of the heavyweight criticism of Congress.

Hard-hitting journalism may be great, but it can get journalists into trouble. CBS embarrassed itself in September with one of its feature pieces about the politics of Congress. Bruce Morton, using videotape, presented a negative story about Congressional junketeering. The pictures implied that Sens. Chic Hecht (R-Nev.) and Jesse Helms (R-N.C.) had recently been junketing in Jerusalem at Government expense. A few nights later, Dan Rather apologized on the air, admitting that the trip in question had been financed privately, not by the taxpayers. Gaffe or not, CBS still occasionally covers Congress as an institution in its own right.

BAD NEWS, BAD NEWS

One other piece of "conventional wisdom" about news coverage of Congress seems to hold. In the past we've argued that network news is too negative toward Congress—that it has followed the dictum of the late social *doyenne* Alice Roosevelt Longworth: "If you can't say anything good about someone, sit right here by me." In September, we found only the softest sort of whispers implying anything good about Congress. Even when the facts favored Congress, reporters rarely drew that conclusion.

Granted, the vast majority of the stories were simply neutral about the way Congress does its job. But one of every 10 news pieces was negative in tone and none was expressly positive. At the top of the list were three tough-minded pieces on CBS—the two commentaries by Moyers and the junket piece by Morton.

Most other reporting was more like teasing than mudslinging or muckraking. For example, ABC's Charles Gibson, usually one of the most thoughtful Congressional correspondents, began a story on an informal weekend meeting of lawmakers about tax reform by saying, "Where else for Congressmen to go to consider the Nation's tax burden but on a retreat at a secluded, posh conference center outside Washington? A retreat paid for by taxpayers." (Gibson, incidentally, was mistaken: the retreat was privately financed.)

It's hard to say how much praise or criticism any Congress deserves. But it is clear that, even in a month without a whiff of scandal, the networks found some room for hard-nosed and soft-core criticism—but no time for anything positive.

WHY LESS COVERAGE?

Why is Congress slighted by the evening news? There are, of course, many reasons, many of them valid. ABC's Gibson offers one. He likens Congressional action to moving a house across a street. The final outcome is important, but the house moves inch by inch; which inch do you cover? And indeed, Congress does move inch by inch, with sometimes dozens of decision points, and few if any offering the final word. When the Senate passed that immigration bill, it was the third time it had done so—and in the past, the bill failed to become law. So there is a case to be made for not covering that particular "inch."

Another reason is the proliferation of other public-affairs programs, including *ABC's Nightline* and *This Week with David Brinkley*, CBS's *Nightwatch and Sunday Morning*, not to mention such public-television shows as *MacNeil/Lehrer News Hour*, and *Capitol Journal* and, of course, cable's C-SPAN. *Nightline* has done some first-rate shows on the Congress, and the occasional discussions Phil Jones has with Charles Kuralt on *Sunday Morning* are the best no-frills analyses of Congress on commercial television.

Of course, even where the other network news shows do fill in the gaps, problems remain. There is still limited quality and quantity of coverage. And the audience for any and all of the other shows is dwarfed by the ratings for the three prime-time newscasts. The evening news shows are the flagships for the news divisions. If the news doesn't show up there, its impact is greatly diminished.

TRUTH? YES, BUT . . .

Admittedly, we have looked at only one month, and only at the evening news broadcasts. But what we have seen leads us to conclude that the networks do present the truth—but not the whole truth, or even a major fraction thereof. And if the news hole for Congress keeps shrinking, the truth will be so small that nobody will ever notice.

Congress is losing out badly, and not just to the Presidency. Congress is the victim of current evening news policy: do one major story a day and let it be something more sensational than Congress. It's not that the networks have filled up on junk journalism. In September, the Congress lost out to the crisis in South Africa, a major story by any definition; to the Mexican earthquake, a genuine disaster; to Hurricane Gloria, a potential disaster; and to the upcoming Reagan-Gorbachev summit.

We do not question news judgment that places stories about earthquakes and South Africa above the internal machinations of Congress. We do question news judgment that values rock-video regulation above immigration reform or deficit reduction. We question most of all the coverage of the Presidency, which has abated not at all these last 10 years. The networks remain fixated on every twist and turn, every rumored staff rift, inside the White House. We aren't the only ones who question such coverage; a recent ABC News poll shows 38 per cent of Americans think there is not enough network coverage of Congress, with only 17 per cent believing there is too much. Meanwhile, a full 41 per cent of the public thinks the networks provide too much coverage of the Presidency, while only 13 per cent think there is not enough!

This is obviously not a major crisis. So long as the Constitution gives Congress the power to make our laws, Congress will still matter—no matter what the networks do. But the compulsion to cover the Presidency raises issues about standards. And the preoccupation with the Presidency does shape public attitudes about where the power lies in the system—and that in turn affects the power itself. In September, four stories in 10 tied the Congress directly to the Presidency. More than 20 per cent of the "Congress" pieces were taped on location—at the White House! Journalism ought simply to fight the obsession to do the Presidency, especially at the expense of Congress.

There is one group out there that must feel particularly frustrated by all this—the network Congressional correspondents. They are the news equivalent of the famous television Maytag repairman—lonely and underutilized.

But it obviously goes beyond that. Here we are in President Reagan's second term, and Congress is trying harder than ever to make news and make policy. It is succeeding at the latter—on trade, deficit reduction, farm policy, military reform, immigration, South Africa and countless other key issues, where the ideas and control of the agenda are rooted on Capitol Hill.

Judging by the network news attention, you'd never know it. There are reasons to take the anchormen and the news programs on the road, to Mexico City, Paris or Geneva—mostly good reasons. But the continuing focus on the Presidency and away from Congress, given the canons of journalism, is harder to justify. Congress deserves more coverage than it's getting. But that fact may be ignored, given the network news pressures to leave Washington behind. The sizable segment of the public that wants to see more of Congress had better hope in the end that the Senate grants access to the cameras. It isn't likely to change the networks' focus, but at least all of Congress will be appearing on America's home screens, if only on cable television.

Mr. PRESSLER. Mr. President, as a long-time supporter of television and radio broadcast coverage of proceedings in the Senate Chamber, I am a cosponsor of Senate Resolution 28.

A great deal of debate has occurred on this proposal and some of our colleagues have expressed concern that the quality of debate in the Senate would be affected by televised sessions. I believe television in the Senate would be a good thing.

Our sessions are open for public view from the Senate gallery. It is time we extended the public gallery to the entire Nation. Television would merely expand our present audience and give those who would otherwise not have the opportunity, the privilege of seeing firsthand our legislative process at work. The American people would enjoy this experience. They need to be informed and I believe they can be trusted to accept the traditions and procedures under which the Senate operates. To continue to deny them the privilege of viewing the Senate in session is to deny them the incentive to reach out and become involved in public affairs.

In today's society, we are committed to open government. Committee hearings are open to the public and the fact that there are great numbers of citizens interested in the process is attested to by the heavy attendance and coverage which have existed over the years. Senate committee markups, which previously were held in closed executive sessions, were opened to the public over 10 years ago and have been allowed to be televised and broadcast. We need to continue to improve upon this popular tradition by televising and broadcasting Senate deliberations.

I think that television and radio in the Senate would be especially good for and appreciated by our young people—high school and college students. I have addressed many commencement exercises and government classes around my State of South Dakota during my time in Congress and find that many young people do not have a clear understanding of how our legislative process works. While American government classrooms do an excellent job in educating our young people about our Government and how it works, the exposure broadcast and televised sessions would provide would have a lasting and positive effect on our young people. The future of American politics lies in the hands of our young people.

I should note that my interest in televising and broadcasting Senate proceedings stems from my deepest conviction that this would be in the public interest.

One of the most profound forces in contemporary life has been the advent of the telecommunications industry. However, television frequently does an inadequate job of coverage on action taken in the Senate Chamber. This is not to take away from the fine job the network reporters do, but frequently the time allotted for network news broadcasting is not sufficient to get the full story across.

Many opponents of this legislation have used the argument that the public will be confused by Senate rules and deliberations. On the contrary, televising the Senate would help remove the shroud of secrecy that exists and provide a better understanding of our legislative process. It is true that as a collective body, we are constantly on the run, rushing from one committee meeting to another, to a rollcall vote on the Senate floor, or to appointments with constituents. Activities off the floor consume approximately 90 percent of the Senator's time. We do not need to hide this from the public. They will accept the fact that there are great demands on our time and we cannot be present on the floor at all times.

One can understand and sympathize with the fear of some of our colleagues that certain of the Senate's intangible qualities would be lost by the advent of live TV in the Chamber.

The other side of that argument is that there is more to be gained than lost by live coverage. The basis of democracy is citizen involvement. We must not allow people to become alienated from their Government. If we are to be governed by the people, then we must take the necessary steps to instill in our people the desire to govern. Open hearings, public listening meetings, and the television and broadcasting of Senate debates are all ways to keep Government in touch with the people and the people in touch with their Government.

I believe it is time we moved forward with this proposal which would allow the people the right they so richly deserve to have access to the legislative deliberations of the Senate.

Mr. WARNER. Mr. President, I join my colleagues in support of Senate Resolution 28, which in my judgment will improve the ability of this body and the Government to keep the people better informed. The resolution would provide a test period for implementing gavel-to-gavel radio and TV broadcast coverage of proceedings in the Senate Chamber. The assumption is if this proves to be successful, the Senate will then address the issue of making that coverage available beyond the Chamber. In that context, we shall need to examine the rules.

I note the presence on the floor of the distinguished minority leader and recall his extensive research on this issue and his presentation to the Rules Committee. At some point, I think it is essential that we look at the rules in the context of our overall objective.

It is my hope that the senior Members of the Senate on both sides of the aisle—I see we are now joined by our distinguished colleague from Mississippi [Mr. STENNIS]—Mr. LONG, Mr. THURMOND, and Mr. DOLE, and others who have been here many years, will help guide the rest of us as we work our way toward this goal and do it in a manner that will in no way compromise the integrity and the procedures of this great institution.

In the beginning, I had considerable skepticism about this issue and did not associate myself with either side. I have patiently studied it and eventually, I came around to the view that we should certainly take this initial step because of the study of history. History is, in a way, our rear-view window on life. If we go back, this institution had a public gallery open to all citizens, as it is today and has been continuously since 1794. By providing a public gallery, the Senate allowed firsthand observance of the proceedings by the only means available in the early years of our country. At that time, it was direct sight and sound transmission.

Now, as we approach the bicentennial of the Senate, we should reaffirm the same policy of openness that our forebears, and indeed, the Founding Fathers, had in establishing the public gallery. We have to recognize that we have to facilitate the advancing technologies, television and radio—which again, although indirectly, transmit sight and sound. That more people today learn from these mediums of communication than all others is a reality. They are an integral part of the modern-day teaching process. Now, the Congress has powers, coequal in many respects, with the executive branch of our Government. Therefore, the availability of communications emanating from each of these branches should be on as coequal a basis as technically possible. The people of this Nation have a right to know firsthand and, I stress, on a real-time basis, what is being discussed and debated in the United States.

Let me emphasize "real time." While the written press, I think, fairly and objectively transmits the proceedings, if we were in the middle of a debate and persons viewed it or heard it, they would then have the opportunity to communicate their thoughts with respect to the pending issues on a real-time basis. It is not beyond possibility that within a matter of hours an individual on the west coast, upon viewing or hearing what is transmitted in the United States Senate, could transmit his or her views back through a Senator's office and that communication reach the floor of the Senate during the course of the debate. Therefore, the real-time communications aspect of what we are about to hopefully enact is a very important consideration.

It is also important, as mentioned by many of my distinguished colleagues today—and I notice the presence of the Senator from Tennessee—that people know their Senators and have the opportunity to see them in action. It is another way to be able to hear and see the Senators performing the duties for which they were elected. Indeed, the written press in a vital and important mechanism for conveying information to the people as well as the record of the proceedings for posterity. However, radio and television coverage is instantly relayed to the public and conveys the energy and the feeling and at times the humor that is associated with this great institution. Whether the issue being debated in the U.S. Senate is small or great, it is important that we allow our citizens the opportunity to observe us on a real-time basis.

I urge my colleagues to support Senate Resolution 28.

Mr. LONG. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. EVANS). Without objection, it is so ordered.

Mr. BYRD. Mr. President, for the time being, I will be opposed to the adoption of the committee amendments en bloc. If a request is made for such, I hope that if I am not on the floor, one of the Senators who is present or who may be listening in and who would come to the floor at that time would object to adopting the committee amendments en bloc. Now, I may at a later time take a different position on that, but as for right now that is my position.

Mr. President, I will not speak with reference to each of the proposed rules changes that I incorporated into Senate Resolution 28 star print. I will however, try to briefly comment on a few of them.

The legislation which I introduced and which is shown as stricken, these are the amendments in part which I earlier included in Senate Resolution 28 star print. I provided for gavel-to-gavel coverage of Senate debates. I provided that such coverage could be had continuously except when a meeting with closed doors is ordered. I provided that any television or radio broadcast time shall be divided and controlled in such a way as to assure fairness to both parties, equal time to both the majority and minority parties. I provided that the Senate would be in session on Mondays, Tuesdays, and Thursdays, and that committee meetings would be scheduled on days or times that the Senate is not in session, unless otherwise ordered.

Of course, this does not mean that a majority leader could not call the Senate into session on days other than Mondays, Tuesdays, and Thursdays. That could be done, just as it is now, by unanimous consent or by nondebatable motion. But this language would be advisory in nature and, hopefully, would be followed by majority leaders present and future.

The Senate would be in session on days when no committee meetings were being held. Conversely, committee meetings would be held on days when the Senate would not be in session. Committee meetings, therefore, would not be interrupted by Senate quorum calls or rollcall votes. This would ensure better attendance on the Senate floor than we now see, and, likewise, it should encourage better attendance in committee meetings, because, in each instance, that would be the sole focal point of action, and we would not have Senate floor sessions and committee hearings going on simultaneously. As I say, that could be changed in a given situation by unanimous consent or motion as it is done now.

The next provision that I shall make reference to will be—and in all these instances may I say parenthetically that the changes in the rules which I have advocated or on which other Senators may have improvements that they would like to propose to those rules that I have suggested——

Mr. LONG. Mr. President, will the Senator yield?

Mr. BYRD. Yes, if I could just finish my sentence.

In each instance, I am only touching on those rules as to which I believe the Senate would be well advised to accept the rules changes with or without television. In the event debate is covered by television, I think these rules changes would enhance the standing of the Senate, improve on the debates, increase attendance, and enhance the Senate in the eyes of the American people.

I yield to the Senator.

Mr. LONG. Mr. President, the Senator is familiar with the arguments I have made about television in years gone by and that I am making now.

Without a rules change to accompany TV in the Senate, we can imagine that any time something is before the Senate that has a great deal of interest in the country, and that is frequently the case, you could expect the debate to go a great deal longer, because in many cases the Senators would be speaking to the largest audience they have ever addressed. That will tend to slow down the work of the Senate, unless something is done by way of rules to see that it does not.

These suggestions the Senator has here would tend to make the Senate more efficient and would help save the time of Senators by getting on with the business.

It seems to me that if you are going to do something which—minus the rules changes that I do not see here at the moment—would tend to cost us a lot of valuable time, we at least should have whatever we can find as part of this to make the Senate more efficient, so that it would get on with the business.

I applaud the distinguished miority leader for suggesting these proposals, and I hope very much that the Senate will consider them.

Let me ask the Senator: Does some special procedure have to be followed in order to bring these matters to a vote, or are they available for the Senate to vote on in view of the fact that they were in the original resolution?

Mr. BYRD. They are available for the Senate to vote on. They are divisible by sections, and there are 16 sections in the resolution.

That was one reason why I would object, at least for the present, to adoption of the committee amendments en bloc. They would each be subject to separate votes as things now stand.

Mr. LONG. Mr. President, the Senator from West Virginia, in my judgment, is the best parliamentarian in the Senate. I am talking about Senators. It may be that the Parliamentarian might be a better parliamentarian than the Senator from West Virginia. I am not sure about that. But other than the Parliamentarian, I think the Senator from West Virginia is the best parliamentarian in the Senate, and I have observed many parliamentarians in the 37 years I have been here.

Let me ask the Senator if this is correct: If this were not a part of the language of the measure, would it not be necessary to file notice at the desk that one wishes to amend this proposal, to have a change in the rules as part of it, and the notice would have to be at least 24 hours in advance of the date the amendment is offered?

Mr. BYRD. May I suggest that the Chair answer that question?

Mr. LONG. I address the question to the Chair. If the matter that has been stricken were not a part of the resolution and one wanted to offer something to amend this resolution, to offer a change in the rules or a measure to amend the Senate rules, would it not be necessary to file a notice of intention to offer the amendment, to state what the amendment would be, and to file that notice at least 24 hours before the amendment is offered?

The PRESIDING OFFICER. The Senator is correct. One day's notice.

Mr. LONG. One day's notice. Does that mean 24 hours?

The PRESIDING OFFICER. No, it does not. One calendar day.

Mr. LONG. So if one files today, he can bring it up at any time tomorrow. Is that correct?

The PRESIDING OFFICER. That is correct.

Mr. LONG. I thank the Chair.

The Senator's former colleague from West Virginia, Mr. Randolph, offered an amendment to the rules in a previous debate on TV in the Senate, and I recall that at that time he had to follow the procedure to which I have referred.

It is very important to the Senator from Louisiana that we consider the rules that must accompany TV in the Senate in order to serve the Nation's interests and the Senate's interests, and I am pleased that the minority leader saw that problem. As a member of the committee, he made his suggestions, so that they would be available to the committee and to all Senators. I believe that some of the suggestions he has made might even be some I

have been making down through the years, if the Senator can recall what my suggestions have been to him.

Mr. BYRD. The Senator is correct.

The distinguished Senator from Louisiana, on several occasions, has advocated a rule which would allow a motion to be made with reference to a particular bill before the Senate—a motion that all amendments be germane and relevant. If that motion carried by 60 votes—which would be the number of votes required to invoke cloture, anyhow, on measures not involving rules changes—what it would accomplish would be this: That by the same vote, 60 votes, the Senate would vote that an amendment not germane or relevant would not be in order—cloture would accomplish the same purpose.

However, the distinguished Senator from Louisiana does not believe that cloture should be invoked in every instance just in order to rule out nongermane amendments, and I agree with him on that. That provision is carried in this resolution, with the additional provision which I have thought should be the twin brother of that amendment—namely, that to overrule the Chair with respect to what the Chair considers to be germane or not germane would require a two-thirds vote of the Senate.

Mr. LONG. Mr. President, during my first day in the U.S. Senate, something was going on, a resolution of some sort, and a Senator from—I do not recall what State he was from—got up to make a speech. I will never forget the occasion. One Member got up and made a speech about something that had nothing whatever to do with what was going on. The Senator from Louisiana thought, was that man out of his mind? What is going on here does not have a thing on Earth to do with the speech that man was making. It appeared ridiculous. He was talking about the Reed-Bulwinkle bill, which I had knowledge of, which had passed in the previous Congress, and nobody was interested in that bill. I thought he must be senile or something, but he was talking about the Reed-Bulwinkle bill and not about the measure that was being considered.

Subsequently, I found that Senators were doing it all the time. They got up and made speeches about something that had absolutely nothing to do with what was going on or the measure being considered.

It seems to me that if we are going to put the Senate on television, we should require that when you have a bill before the Senate, Senators talk about the bill.

Now, I am not saying that they have to talk about the bill in the morning hour. You can set aside time or gain consent of the Senate to talk about irrelevant matters.

But the public out there is not going to understand what is going on unless we talk about the bill when it is before us while we are on television.

I have done many times myself—when I have something I want to say about a matter I come in here and ask someone to yield to me and make a speech about something that has nothing whatever to do with what is going on, insert it in the record and go on about my business.

We should not do business that way if we are on television. We ought to do business in a more orderly fashion because it is not that much of a bother to do it in an orderly fashion, if you want to do it. May I say to the Senator, it seems to me that we ought to do it whatever measure the Senate passes that has to do with television, so that we do get the opportunity to do that.

When the Senate is on television, it seems to this Senator, if we have, let us say, the Panama Canal Treaty before us, as we had before, or whatever it might be, the amendments ought to have some relative connection to the bill.

In other words, if the bill has to do with prayer in school, you should not have an abortion amendment offered on a prayer-in-school amendment because it has nothing to do with it.

It would seem to the Senator from Louisiana that for such a purpose germaneness ought to be construed more broadly than it is for purposes of the present cloture rule. But I do not see why that cannot be worked out in a way to agree that the amendment would be more germane but with a broader concept of germaneness in that situation.

Now, when that happens, we have seen under our cloture rule and we have seen under the consent rules, Senators offer amendments that are not germane, knowing they are not germane, and we see a Senator stand and move to appeal from the ruling of the Chair when the Chair upheld the Parliamentarian.

I would ask the Senator, does one of his proposals have something to do with that fact, with germaneness when one offers an amendment that has nothing whatever to do with the bill and the Parliamentarian does his duty and then for Senators for reasons of expediency proceed to vote the Parliamentarian and the Presiding Officer down?

Mr. BYRD. Yes. My provisions if adopted would allow the Chair to be overturned in its ruling anent germaneness only if two-thirds of the Senate voted to overrule the Chair.

Mr. LONG. Mr. President, that would be a very important improvement of Senate procedure. I am sorry that has become necessary. But in the judgment of the Senator from Louisiana, it very much is necessary.

May I say to my distinguished leader that I believe I have been as consistent in voting to support the Parliamentarian and the Chair, when I know that they are doing their duty as the good Lord gives them the light to see it, as almost anyone in this body. I even find myself seeing the other people do the expedient thing so much that I find myself wondering what is the point of it. We really ought to come back to fundamentals and insist that we uphold the Chair when the Chair is clearly right. The Senate has trespassed in this area so much that I think it is time that Senators in their conscience support the Senator's proposal to say that where the Chair rules that something is not germane, it would require a two-thirds majority to overrule the Chair.

Mr. BYRD. Mr. President, the distinguished Senator from Louisiana asked the Chair a little earlier with respect to amendments to Senate Resolution 28, whether or not the Senate would have to be given notice 1 day in advance in writing. As I understood the Chair, the Chair answered in the affirmative. May I ask the Chair what situation would obtain in the event cloture is invoked on Senate Resolution 28? And I have reference both to the introduction of first-degree amendments and second-degree amendments.

The PRESIDING OFFICER. The cloture rule invokes additional requirements on the time for filing germane amendments in addition to the 1-day rule which is further noted.

Mr. BYRD. Let me ask the Chair specifically, in the event of a second-degree amendment which would fulfill the requirements of cloture by being offered 1 hour prior to the vote on cloture. If cloture is invoked, what about that second-degree amendment? It has had no previous day's notice in writing?

The PRESIDING OFFICER. It would not be in order until the following day.

Mr. BYRD. Mr. President, we probably need a change in the Senate rules on this very matter.

An amendment in the first degree has a deadline of 1 p.m. on the interim day. Does this mean that as to an amendment then offered in the first degree on the interim day and with cloture's being invoked the following day that that amendment offered in the interim could not be voted on by the Senate even though the Senate might be disposed to do so during the interim day?

The PRESIDING OFFICER. That is correct.

Mr. BYRD. As to an amendment in the second degree, in which case the amendment has to be filed no later than 1 hour before the Senate begins the vote on cloture, is the Chair stat-

ing then that immediately after cloture is invoked that particular amendment could not be called up until the next day?

The PRESIDING OFFICER. The amendment must be filed 1 hour before the vote but could not be called up until the next day.

Mr. BYRD. Yes, Senators can all see that we have a conflict in the rules here. Ordinarily, when cloture is invoked on a matter, an amendment in the second degree to a first-degree amendment has a deadline in its filing of 1 hour before the cloture vote begins. If we are going to follow on the ordinary rule, that requires 1 day's notice in writing, then that particular amendment in the second degree could not be called up on the day cloture is invoked, but would have to wait until the next day to be offered. Is that correct?

The PRESIDING OFFICER. That is correct.

Mr. BYRD. Well, that is another good reason why the postcloture ought to be changed.

I do not recall our having had any such a problem arise in the past. Does the Chair, through the Parliamentarian, remember any such situation?

The PRESIDING OFFICER. We have not had the circumstance of a rules change coming under cloture since rule XXII was amended to provide for the filing.

Mr. BYRD. I thank the Chair.

Mr. LONG. Mr. President, will the Senator yield at that point?

Mr. BYRD. Yes.

Mr. LONG. It seems to me, Mr. President, that that points out once again the need for a germaneness rule quite apart from the cloture itself.

Some years ago the Senator from Louisiana was managing a major revenue bill. In order to pass the bill, the Senator sought to persuade the Senate that cloture should be voted, not to limit Senators to 1 hour, that was not the problem, but in order to limit the germaneness of amendments so that we could focus on the measure before us and not have measures that had nothing whatever to do with the subject matter of that bill considered. And, to his surprise, cloture was voted the first time that we voted on it.

The Senator from Louisiana thought at the time that that might take two or three votes before we would finally get cloture. But that was in December and Senators wanted to be home for Christmas and it began to occur to them that a vote for cloture might get them home in time for Christmas.

The Senator at that time explained that the purpose was not to limit Senators' speaking. The purpose was germaneness and that, if cloture was voted, the manager offered to ask unanimous consent to let them have more time to talk if need be because the purpose was not to cut off their speeches but the purpose was to try to limit the irrelevant amendments that otherwise would be offered. And it worked very well.

But we do not have a rule, even to this day, that would let us do that. Now, a single person could have objected to any of those amendments being offered and it would have been out of order just in order to make it possible for us to move expeditiously. I hope the Senator agrees that we need something more than just a cloture rule, but a limitation certainly in the area of germaneness which need not, necessarily, be a limitation on the time of Senators to speak.

Mr. BYRD. I do agree with the Senator and do make such proposal in the package that I have offered.

Mr. LONG. I thank the Senator.

Mr. BYRD. I thank the distinguished Senator.

Mr. JOHNSTON. Will the Senator yield?

Mr. BYRD. Yes.

Mr. JOHNSTON. Is the Senator suggesting these changes in the rules in order to accommodate the Senate and its business or to accommodate television? Let me say that my basic objection to television in the Senate is I feared that the television tail is going to be wagging the business of the Nation, that we are going to basically and fundamentally change the way we do business, either through Senate rules changes or through the necessity of having to accommodate the television, not because it is necessarily in the interest of the Senate or the country and its business, but because it is necessary to accommodate television in the Senate.

Mr. BYRD. Mr. President, in response to the distinguished junior Senator from Louisiana, the proposed rules changes that I have incorporated in the overall resolution are meant by me to aid the Senate in the conduct of its business. Whether we have television or not, it seems to me that these are changes that ought to be made in order to make the Senate more efficient in its business. And I also think that, with the adoption of these, we would also aid television in the Senate.

As a matter of fact, I think that without most of these rules changes—not all of them, but most of them—we would not be aiding the Senate in its business. We would be going along in the same old snail's pace—sometimes too fast, sometimes too slow—as we have been operating in the last few years.

So, whether or not we have television, we should have the rules changes. But even more so should those proposed rules changes occur if the Senate televises coverage of debates.

Mr. JOHNSTON. Is the Senator suggesting that we should do away with the rule on nongermane amendments, permitting nongermane amendments?

Mr. BYRD. No; I am suggesting that a motion be in order to prohibit the introduction of nongermane amendments, and if that motion is carried in relation to a given bill before the Senate, by a vote of three-fifths of the Senate—in other words the same super majority required for cloture—then no nongermane amendments would be in order during the deliberations on that particular measure.

Mr. JOHNSTON. I thank the Senator.

Mr. BYRD. So the Senator, in that instance, would be achieving that part of cloture as to germaneness, but he would not be limiting the time of other Senators as would be the case if cloture were to be invoked.

Mr. JOHNSTON. I see. This is fundamentally different from what I thought I was hearing and I am glad the Senator clarified that.

Mr. LONG. If the Senator will yield further, it would still, would it not, do the type thing we do when we vote on cloture. We would be avoiding seeking a vote on cloture and the Senator would find his amendment would be foreclosed if cloture were voted on. Many times we simply ask unanimous consent that his amendment be considered germane for purposes of cloture in the event cloture is voted, the thought being we are not seeking to rule out his particular amendment, but that we do want germaneness in general. Therefore, in a situation that the Senator was describing, if one was seeking to limit germaneness, he would still be able to ask unanimous consent that, notwithstanding the invoking of germaneness, his amendment would be considered germane.

Mr. BYRD. Yes, he would.

The addition that I say I would make to that is that once that motion carries by a three-fifths majority, the Senate could not thereafter, by invoking the rule of "germaneness," overturn the Chair's ruling and overturn the previous decision by the Senate, which had the support of 60 votes, by a simple majority vote on invoking the rule of germaneness.

I think we saw something like that about to happen here just a year or so ago when the Senate had by decision of a supermajority ordered one thing, and then by a simple majority vote was about to overturn that previous decision by the Senate which had required 60 votes. But to overturn the Chair under my proposal, and thus the ruling of the Parliamentarian through the Chair, would require a supermajority of two-thirds.

Mr. LONG. Mr. President, if the Senator will yield further, it seems appropriate to note for the RECORD that Senators need not be caught in as much of a disadvantage as might

appear to one not familiar with the Senate procedures. For example, when one is on notice that efforts will be made to impose germaneness, a person wanting to sponsor an amendment could always go down, talk to the Parliamentarian, and be advised by the Parliamentarian as to how he is going to advise the Chair to rule on germaneness. And then if the amendment that might not be germane is sought, that is a good time to discuss it with the mover of the germaneness motion, to say that this would foreclose his amendment and he cannot support the motion unless consent is given, and even if germaneness is invoked his amendment would be considered germane.

The Senator from Louisiana oftentimes feels there is some other excuse for the Senate overruling the Chair. Senators could have easily consulted the Parliamentarian, and have found out how the Parliamentarian was going to advise the Chair. In my experience it has been true that the Chair always rules with the Parliamentarian on a matter of that sort.

So, one need be caught by surprise. Certainly, every Senator before he has been here 2 years ought to learn that so he has apprised himself of his problem, and can take the proper steps to protect the situation. If the Senator from Louisiana has an amendment that might not be germane, he could discuss that matter with the person moving germaneness and get the person to agree to ask consent for him notwithstanding the motion that the particular amendment be in order.

The purpose here is to accommodate the Senate business, keep us on the business before us. But the Senator from Louisiana certainly is one of those who recognizes it, and I am sure the minority leader recognizes that notwithstanding cloture, notwithstanding germaneness being voted, or given by unanimous consent. We ought to find a way to accommodate Senators who have amendments that in good conscience can be voted on. That can overcome the rigidity of the germaneness pressure.

As I say, if the Senate is to be on television I still think we ought to have a special amendment that would spell out just how strict we would like the germaneness rule to be.

In that way, you could have more flexibility with germaneness, and still have the benefit of such a rule.

Mr. BYRD. I thank the distinguished Senator.

Continuing now, one of my proposals was to install an electronic voting device so that the time on rollcalls could be greatly reduced and the time of the Senate conserved. Whether or not the Senate is operating under television coverage, this amendment should be adopted by the Senate. Most of our State legislatures, if not all, have electronic voting machines. I am not sure all have them. I know that West Virginia has electronic voting. The other body on Capitol Hill has electronic voting. It would save an astounding amount of time for the Senate if electronic voting were to be installed.

The first vote could continue as now, supposedly limited to 15 minutes—generally going to 20, 25, 30 minutes and in some cases an hour or more—and following that first vote, if there were votes stacked to occur immediately thereafter, when Senators reach the floor for the first rollcall they could stay around and vote on the succeeding stacked votes by machine. Those could be limited easily to 5 minutes, or however the Senate would want to limit the time thereon, thus, saving over the period of a year many days and even weeks—weeks—that are consumed entirely in nothing but the rollcalls of the Senate.

Mr. MATHIAS. Will the minority leader yield on that point?

Mr. BYRD. Yes.

Mr. MATHIAS. I have followed the minority leader, the distinguished Senator from West Virginia, in his comments today very closely. I have a high degree of harmony with his views as is often the case, I am proud to say.

Mr. BYRD. We refer to this between ourselves as the Potomac coalition.

Mr. MATHIAS. The Potomac coalition is strong and vital. I think it is not only good for the great State of West Virginia and the Free State of Maryland, but it is also good for the Nation.

On this one small point, however, I do have some reservations. My question is this. I am wondering how the minority leader deals with the occasional anomaly of errors that occur in the use of electronic voting systems. I do not ask that question out of just an abstract concern about the possibility of error. But at the time that I was a Member of the General Assembly in Maryland, there was in use in the House of Delegates an electronic voting system. I was a candidate for public office. My opponent began to accuse me of absenteeism in the General Assembly of Maryland. "This fellow is not on his job down there, so how can he be elected to any other job when he doesn't pay attention to the public business that he is already charged to do?"

I was dumbstruck. I said, well, I certainly was in Annapolis tending to my duties. My wife, who was frequently in attendance in the galleries—we were newly married in those days—was witness to the fact that I was present on the Senate floor, and sometimes a wife's testimony is not given all the credit that it should be. So we were dumbstruck. We wondered how can we right this terrible wrong, and here is this electronic voting machine, this immutable record which is supposed to be absolutely accurate.

We were really at a loss as to what to do about it. The fellow who came to our rescue was Charles Whiteford, distinguished reporter from the Baltimore Sun. He pointed out that on the tape recording of my votes there were in fact some absences, days on which I am sure I had been present fully, but also on some votes I was recorded both yea and nay on the same issue. So that, therefore, it could not possibly have been right. There was an error in the machine.

That may be a one-in-a-million chance. It may be a once-in-a-lifetime experience. But it was my experience. And therefore I have to confess to the Senator from West Virginia that it has prejudiced me against the electronic voting machines.

The second question that I would raise—since I am asking questions I will give him two to answer—is how would you schedule use of the machine? The way it was done in the House of Delegates, I think, was unfortunate because we would debate a number of issues and then, at a given hour, whatever the set hour might be, we would put 20 votes in a row. The Chair would just put the question one after another, bang, bang, bang, bang. And you would push your button, yea and nay, on 20 different issues without any individual discussion of each one at the time you voted. They had been discussed beforehand, but they were just voted bang, bang, bang, bang.

I think that decreased the amount of individual consideration given to issues. I am wondering how the Senator sees the scheduling of votes by electronics.

Mr. BYRD. First, regarding the statement with respect to the error that was made in the tallying of votes, such mistakes are presently made occasionally under the present system Second, it seems to me that, as we sometimes find, Senators who come to the floor to vote become engaged in discussions with other Senators and leave the Chamber not having voted and go back to their offices. In some instances, they have to retrace their steps and the Senate has to hold up its work until the particular Senator comes back to the Chamber and votes.

With an electronic system, all the Senator would need to do is to turn around, as he starts to go out the Chamber door, and take a look at that electronic board on the wall and see whether or not he has voted.

The way my proposal would be intended to work would be, on the first vote the Senate would have the same amount of time it now has, 15 minutes, 20 minutes, whatever. But the succeeding votes which could be stacked would be 5 minutes each. That could be determined by the majority leader

with the concurrence of the minority leader. He might want to have 5 minutes for each vote and 2 minutes in between for a brief review of the matter to be voted on.

So, as to the first vote, everything would be as it is now, except that we would be voting electronically. The length of time would be the same as it is now. All Senators would earlier be put on notice that immediately following the first vote there would be 2 votes, 6 votes, 10 votes, whatever, and each would be for 5 minutes, 4 minutes, 3 minutes, or whatever.

I am thinking of 1 year in which there were about 700 rollcall votes in the Senate.

If only 10 minutes were allowed for each rollcall vote, that would be 7,000 minutes. If the usual would be allowed, 15 minutes, that would be 10,500 minutes. Translating that into hours and then days and perhaps weeks, one can see how much of a loss of time we engage in without really being aware of the tremendous accumulation of the loss of time.

Mr. LONG. Will the Senator yield?

Mr. BYRD. Yes.

Mr. LONG. Mr. President, this Senator did not have the opportunity to serve in a State legislature but he was a minute clerk in the State legislature at the age of 17 and again at 21. The experience of the Senator from Louisiana as a minute clerk was that we never had that problem, not in the State senate. If it occurred, we could have certainly handled it without much difficulty because in each session we would start out with the reading of the journal, which would be quickly dispensed with. But anyone could check the journal and see if he was recorded as voting properly. If not, he could ask that the journal be amended to show him voting as he would like to have been recorded.

In the Senate we have taken care of that problem from time to time when a Senator was not recorded, as the Senator from Maryland mentioned, even though he was here and voted. We have had Senators come to the Chamber and state that they were here, that they voted a certain way, and have asked that they be so recorded. Other Senators would stand up and say they saw that happen, they knew the Senator was there and saw him vote. If that was the case, we had to correct the RECORD to show that the Senator voted. I ask the Senator if that is not in accord with his recollection.

Mr. BYRD. Yes; it certainly is.

Mr. LONG. So we have corrected the RECORD on occasion to show that a Senator was present, that he did vote, and an error was made by the clerk.

You can do the same thing with the electronic part of it to handle that problem.

This Senator has made a suggestion that is not in the package but which he would like to urge be considered if we are going to deal with electronic voting. That is that when a Senator is absent, rather than us stalling and fiddling and faddling in order that the Senator can rush from the White House or somewhere to be recorded, that we change the law to say that consent can be given for the Senator to be recorded. I do not believe you can do it with a change in the rules; I believe you would have to change the law.

It would be to change the law to say that consent can be given, unanimous consent—which you cannot do now—that he can be recorded as how he wanted to be recorded with the understanding that it would not change the outcome. If it would change the outcome, a motion to reconsider could be made, if it had not already been made, or even with unanimous consent it can be reconsidered, and he can be offered another chance to vote.

It has bothered the Senator from Louisiana many times that we have tried to get an agreement to vote and some Senators cannot arrive in town until 3 o'clock in the afternoon and someone else has to leave town before 3 o'clock. It is very difficult to get the time to fit.

If we could change the law to permit that if a Senator shows up at any time during the day he could be recorded as voting provided it does not change the result, that would reduce the need of holding up the Senate or trying to find a time when everybody could be here simultaneously. The Senator knows how difficult that is because he has many times tried to put those agreements together.

Mr. BYRD. I do know how difficult that is. At the present time, the Chair is not allowed by the rules of the Senate to even entertain a request that a Senator be allowed to vote after the vote has been announced by the Chair.

I would like to join with the Senator and other Senators in thinking about the proposal the distinguished Senator has made. Perhaps if all Senators were so minded, the present rule would not be an obstruction to the idea.

Mr. LONG. I thank the Senator.

Mr. McCLURE. Mr. President, I do thank the distinguished senior Senator from West Virginia for his unfailing courtesy on the floor to accommodate other Members.

Mr. President, I rise today to urge the adoption of Senate Resolution 28, as reported by the Committee on Rules and Administration. I believe the time is long overdue that we begin lifting the self-imposed veil of silence that prevents the American people from having direct, instantaneous access to the Nation's business.

We have all been made painfully aware of the power that television and radio have to convey actions and ideas to the American people and the world. A week ago, we were a nation fixed to our television sets, watching the tragedy of the *Challenger* explosion unfold before our eyes.

Yet in the same week, we also saw the wonder of what television can do. The first photographs of Uranus and its moons have made short work of many long-held assumptions about our solar system, providing all of us a fascinating glimpse at a world far beyond our own.

Yet in all of the places that television cameras have gone, this Chamber is one of the few places on Earth that has continued to prohibit television and radio—the eyes and ears of the American people—from coverage of its proceedings.

Not everyone can come to Washington, DC, and visit the galleries to see their elected representatives at work. Allowing broadcast coverage of Senate debate will let them watch us do their work, and allow them to pass judgment on how we discharge our duties.

Take Gramm-Rudman-Hollings as an example. The process we will go through this year, which is mandated by Gramm-Rudman-Hollings, will affect almost every American in some way or form. In the last month, when we all returned home, every Member of this body was no doubt questioned by constituents about how this will be carried out.

What a benefit it would be if they could see how we carry this out. I recall last October, when we began debate on the Gramm-Rudman-Hollings measure, just how valuable and instructive television could have been as we embarked on one of the best discussions I have ever heard in this body on how this Nation's budgetary process works.

Mr. President, every item that comes before this body will not have the impact that Gramm-Rudman-Hollings has. Some items we may consider to be mundane, housekeeping-type work. But what one of us may consider mundane might be of great interest to some American out there watching. And we do engage in serious, thorough debate on a variety of issues that affect this Nation and the world. I think we have a duty to provide unfettered access to the American people, through the broadcast media, and allow them to be the judges on the importance of our actions.

As I have stated before, Mr. President, I strongly support the beginning of gavel-to-gavel broadcast coverage to all accredited organizations as soon as it is technically possible. I think that as an open society, we owe it to the American people who sent us here to give them full and complete access to

our debates. But I am also aware of the concerns held by some Members about how rules and procedures of the Senate could be altered by adoption of this measure.

There have been questions—quite legitimate—on how broadcast coverage will be conducted; how it could affect the rights of the minority; how cameras will be placed; how broadcast coverage could affect the length and quality of debate.

That is why this resolution has been modified, taking a number of features from a number of proposals that have been introduced. The resolution before us now allows for a test period of closed-circuit coverage, so that technical modifications can be made and so Members can become accustomed to the necessary changes to the Chamber.

If anything, Mr. President, I think the addition of television and radio coverage will be an engine of change for the good of this body. I think it will make us more mindful of how we conduct ourselves, how we prepare for our work here, and will serve as a constant reminder to us that this institution has been, is, and will be a great deliberative body.

Anybody who has watched network television recently has probably seen one of the brief promotional announcements for this week's miniseries about Peter the Great. And in one of these announcements, an actor portraying the young Peter is shown addressing his subjects and saying, "I will drag you—kicking and screaming—into the modern World!"

I could not help but think that those of us who have been proponents of television in the Senate have felt those sentiments at one point or another. I hope now that, after several years of committee consideration and floor debate, we too will finally take the first step toward entering the modern world and allow television and radio coverage of our proceedings.

Mr. MATHIAS. Mr. President, I thank the distinguished Senator for his statement. I think he put his finger on a very important point. There have been Members of the Senate who said they oppose televising the Senate proceedings because they fear it will bring about change. I think it will bring about change, no doubt about that. But we believe it will be positive change.

Mr. McCLURE. Will the Senator yield on that?

Mr. MATHIAS. Yes, Mr. President.

Mr. McCLURE. I appreciate the Senator's remarks. Let me point to one small item.

There have been a number of comments in times past about confining Members' speeches on the floor to the actual delivery of the speech. We have elaborate procedures about what goes into the RECORD and what does not. From time to time, there has been a horrendous notion that each Member should be able to speak about only what he or she knows; that they could not turn and consult with a staff member at their side to give information handed to them which is then incorporated into the speech.

If all our deliberations appeared on television, all of that would be open to the American public to see and evaluate. I rather suspect some of the reform that some critics have suggested is necessary would come about as a necessary evolution from the simple process of exposing it to public view.

(Mr. GORTON assumed the chair.)

Mr. MATHIAS. Mr. President, I personally agree entirely with the Senator. His opinion is founded in American history, because this is not the first time the Senate has debated the question of letting the public view its proceedings. If we go back to the very early days of the Senate, this was one of the debated issues in the Senate.

The first Senate, in the initial session, followed the practice of the Continental Congress, which was to meet in closed session. The Senate continued through the first three Congresses to follow the practices of the Continental Congress in keeping its doors closed and keeping its proceedings entirely hidden from the public that it purported to represent.

As early as 1783, James Wilson, the delegate from Pennsylvania who became an outstanding proponent of democracy at the Constitutional Convention, offered a motion to open the deliberations of Congress to the public. He asserted, and I quote him because I think it is important in this case:

> It is important in every free country, that the conduct and sentiments of those to whom the direction of public affairs be committed, should be publicly known.

I think what James Wilson said in 1783 is pertinent today. It is the same sentiment the Senator from Idaho just expressed here. Proposals to open Senate sessions to the public were defeated four times in 4 successive years between 1790 and 1793. It was not until the fifth attempt—which occurred, it is interesting to note, in February 1794—that the Senate agreed to a resolution authorizing the opening of Senate legislative sessions to the public, in the words of that resolution, "so soon as suitable galleries shall be provided in the Senate Chamber."

There was not even physical accommodations for the public. They had to build them.

More than a year and a half went by before the galleries were constructed. That also seems consistent with current practices. Those in the electronic galleries who are awaiting construction of the new press facilities will be sympathetic with that delay in construction.

It was not until December 9, 1795, that the Senate was able to adopt another resolution, which announced that the public gallery had been completed and a second resolution adopted at the beginning of the first session of the fourth Congress, stated in part that these "galleries shall be permitted to be opened every morning, so long as the Senate shall be engaged in their legislative capacity, unless in such cases as may, in the opinion of the Senate, require secrecy, after which the said galleries shall be closed."

Mr. President, I think we have to note with some regret that our attitude on this matter was not as progressive as that of the other body, because Members of the other body had opened their doors to the public beginning with the very first meeting with a quorum being present, which occurred on April 1, 1789. One of the historians of the early years of the Senate has observed:

> Human nature being what it is, the private character of Senate sessions caused the suspicious to regard the Senate as a dark and mysterious place where clandestine cabals were hatched against the public interest—in marked contrast to the House of Representatives, where all was open and aboveboard. Others, reading the House debates each day in the public press and failing to notice any record of Senate activities, tended unconsciously to regard "House of Representatives" and "Congress" as virtually synonymous terms, ignoring the Senate almost entirely. House Members, whose speeches were often carefully prepared with an eye to how they would appear on newsprint, received a lion's share of the publicly and became, in the public mind, the real legislative leaders of the new Government.

Well, we hope that was, in fact, far from the case, but that seems to be the historian's perception of what it appeared to be. We are reliving that history today where every night Members of the House are seen on the television news going about their legislative business but the tube is silent as far as the activities of the Senate are concerned. So much of what the Senator from Idaho says today is supported by reference to the history of the Senate. I thank him for his contribution.

Mr. McCLURE. Will the Senator yield for one further comment?

Mr. MATHIAS. Surely.

Mr. McCLURE. I thank the Senator for the historical note, which certainly does provide a backdrop. I have always been somewhat disappointed that we were not able to open our galleries on the precise anniversary on which it had been done earlier, 200 years ago. Hopefully, we will get it done before then. I hope we do not have to wait longer.

Mr. MATHIAS. Certainly not for the terse Senator.

Mr. McCLURE. I certainly agree with that.

I think it marks also a fact which we have to understand in our public life today, that each one of us as we measure public opinion—and we do—each one of us who looks at our means by which we communicate—and we certainly all do—recognizes the great growth in the reliance by the American people upon the electronic media for their access to day-to-day news. I do not say that to derogate in any way the written press or even the radio media, but all recent studies indicate that major impressions are formulated by a major part of the American public today by what they see in capsulated versions of public discussions as contained in news on television. Anything that we can do to increase the breadth of that information and the access by the American public in that media of their choice to a greater range of information must be good for the American public.

We oftentimes quote from Jefferson that an informed electorate is the guardian and bulwark of our freedoms, and we sometimes neglect the necessity of disciplining ourselves by permitting access to the information upon which that electorate will be informed. This would be a tremendous step forward to that Jeffersonian idea.

Mr. MATHIAS. I thank the Senator.

(Mr. MATHIAS assumed the chair.)

Mr. GORTON. Mr. President, this occasion marks the third Congress in a row during which the full Senate has taken up the matter of the public broadcasting of its proceedings. In the past, questions about issues such as rules changes, and the impact of "showboating" on the Senate's tradition of unlimited debate, have caused Members to question the wisdom of permitting public broadcasts. It appears to this Senator, however, that these questions are answered in Senate Resolution 28.

The resolution before us establishes a test period for electronic coverage of Senate proceedings. During the test period, we will have an opportunity to study the need for rules changes and have an opportunity to experience televised debate outside the public spotlight. If public broadcasting indeed damages the deliberative nature of the Senate, this should become apparent during the course of the test run. We can then refuse to approve a second resolution to extend gavel-to-gavel television coverage to the general public.

Our attention today, therefore, should focus not upon rules changes which might be needed to provide television to the public. We should instead discuss our obligation to the American public to take a vital step to strengthen one of the basic cornerstones of our political heritage—an open and accessible Government.

In Federalist paper No. 49, James Madison noted that "the people are the only legitimate fountain of power." Madison wrote that the public ought to control and regulate its Government, but that this required an informed and reasoned populace.

I can think of no better way to let the American public reach reasoned opinions on national issues than to provide them with the opportunity to listen and watch as this body debates those issues. And this is an opportunity we can provide using modern television and radio systems.

Other deliberative bodies have extended this opportunity to citizens throughout the world. International bodies such as the United Nations General Assembly and Security Council provide continuous live television feeds for use by networks and other interested parties. Our neighbors to the north in Canada are allowed to watch the proceedings in their national legislature on television. The same opportunity is offered to the Japanese people by the Japanese National Diet. In all, more than 20 national legislative bodies now permit television coverage of floor proceedings.

For the last 7 years, our own citizens have had the opportunity to watch the proceedings of the House of Representatives. Building from a modest start in 1979, interest in the proceedings of the House has been growing and will continue to grow. Access to the proceedings of the House of Representatives through the C-SPAN network is now provided to 23 million homes. This translates into nearly one-quarter of all households now having access to House debates. C-SPAN is carried by 2,000 cable systems in all 50 States, the Virgin Islands, and Puerto Rico. In my own State of Washington, more than 474,000 households enjoy access to the House of Representatives through C-SPAN.

These citizens have had an opportunity to see a part of their Government in action. According to their letters, they have gained an appreciation for the complexity of legislative issues and feel more in touch with their Government.

We in the Senate also have recognized the importance of open and accessible Government. We have passed legislation that gives the public the right to comment on environmental issues. We have enacted Sunshine laws that require Government agencies to conduct open meetings. We have passed Freedom of Information statutes to ensure that Americans have access to what is happening in their Government.

At times we have acted to open the Senate to the American people. As early as 1794, the Senate established a public gallery open to all citizens and the press. Given the importance of the 1977 debate on the Panama Canal Treaty, we opened the doors of the Senate to Americans with radio broadcast coverage.

Mr. President, how has the Senate built on this heritage of open and accessible Government? How have we in the Senate enhanced the reasoning abilities of the American people?

Instead of providing the American public with the ability to observe full and free debate on television, we have offered citizens in Washington and other States the opportunity to travel 2,000 or 3,000 miles to observe the Senate in action. We have forced the news networks to use caricatures in 1- and 2-minute spots to provide the American people with information on debate regarding matters of national importance. We have given the American public the opportunity to locate and read a CONGRESSIONAL RECORD—often a week or more after a debate—to obtain a complete record of our proceedings. I find these opportunities to follow the Senate's proceedings wholly inadequate in a nation that prides itself on its information sciences.

Mr. President, technology has provided us with the tools to let America understand the day-to-day workings and debates of the Senate, yet we have failed to take advantage of these tools to give citizens access to what is their Government. This Senator believes it is time for the Senate to open itself to the American people. I urge my colleagues to take a step toward this goal by supporting Senate Resolution 28.

Mr. President, it may well be that certain accommodations will have to be made by Members of this body in order to see to it that television can and will work in the Senate. Nevertheless, it seems to this Senator that it is up to us to accommodate to the American people, rather than to demand that the American people accommodate to us.

I have every fervent hope that the ultimate result of television in the Senate will be not only a better informed electorate but also greater attention paid to debating true major issues which come before this body and which affect the constituents we represent.

It may well be that we will find that certain parts of our debate, when we are not dealing with specific legislation, are either inappropriate or, more likely, too dull to command public interest to any great extent. Issues relating to policies of national security, to budget debates, to tax reform, and to farm policy, on the other hand, possibly should be available directly to the American people, rather than through the lens or the interpretation solely of the press. This seems to me a proposition very difficult to debate.

The present occupant of the chair, the chairman of the Rules Committee [Mr. MATHIAS] has been a thoughtful observer and a very careful participant

of this movement and is to be greatly commended for having caused this debate to reach this point. I hope that he, the other Members of the Senate and the people of the United States soon have the reward of those efforts.

Mr. MURKOWSKI. Mr. President, I rise in support of Senate Resolution 29, which would permit gavel-to-gavel television coverage of our Senate proceedings. This much needed change in our way of doing business will bring an important part of our Government closer to our citizens.

From the experience of television proceedings of the House of Representatives, and some of our own Senate committee hearings, it is clear that citizens who have access to the broadcasts are watching. Some 23 million American homes can view congressional proceedings now, through the services of Cable Satellite Public Affairs Network, commonly known as C-SPAN. The latest figures indicate that as many as 30 million Americans watch an average of 12 hours of congressional proceedings per month.

These facts about viewing habits establish that legislative programming is not only in the public interest, but this is programming in which the public is interested. The public deserves this access to both Houses of Congress.

Mr. President, it is important to point out that for many Americans, particularly those in the Western States, televised coverage is the best and perhaps only access they will have to congressional proceedings.

We faced a similar situation in Alaska, which as you know is the largest State in the Union covering some 375 million acres. I note with pride that Alaska was a pioneer in televising our legislature from Juneau to communities across our State. The immense size of Alaska has elevated the importance of telecommunications, and by using the satellite system our State provides Alaskans a firsthand look at our State legislature at work.

By doing the same on the national level, televised coverage of our proceedings will give all Americans a chance to hear directly the pros and cons of an issue. Information would not have to be filtered through the media or subject to interpretations by reporters and nightly newscasters. In fact, debates affecting a specific State, which might not otherwise be reported by the press, could be seen by citizens who have a stake in the issue.

This is an appropriate time to begin televising our proceedings. Significant and controversial issues are being debated now in the Senate that have obvious long-term consequences to our future fiscal policies and foreign relations. For example, it is safe to say that many Americans are uncertain about the effect the Gramm-Rudman-Hollings amendment might have on their lives. I believe that much confusion surrounding this measure could have been avoided had Americans had a chance to see the Senate debate that piece of legislation. The Senate's historic Saturday and Sunday debates last fall provided real insight into the reasons why Gramm-Rudman-Hollings is needed, and the discussion certainly explained in detail what the measure was designed to accomplish. I am convinced that if our debate had been televised, the real problem of the budget deficit would have been more meaningful to the American public—all of whom are impacted by it.

Americans should learn more about the Senate of the United States. It is a body of the richest tradition and history. There are those who oppose televising our deliberations for fear that the unique procedures of the Senate will be misunderstood and misinterpreted by those who watch. We've all heard the remarks from our constituents who visit the Senate gallery during a quorum call, and wonder why we're not debating.

Mr. President, televising our proceedings will be a good first step for our citizens to learn about this great body. Of course, additional steps should be taken to help explain our procedures and traditions. For example, I urge the senior Senator from West Virginia to continue his discourses on the history of the Senate. I also suggest to the senatorial working group that will evaluate our procedures if this resolution passes, that they consider preparing materials that can be distributed to those viewers who have questions about our traditions and procedures.

Mr. President, I urge my colleagues to support this resolution. It's time that we take advantage of the technology of the 20th century and bring the Senate closer to the people.

Mr. KASTEN. Mr. President, I rise to voice my support for Senate Resolution 28 which authorizes a test period for television and radio broadcast coverage in the Senate.

In this electronic age where radio and television have become a dominant medium for information dissemination, Senate proceedings should be made available to the American public. Democracy thrives on open government and Senate Resolution 28 provides the public with an opportunity to form independent opinions from unfiltered coverage.

Radio and television coverage is important because it will:

First. Maximize public access to the legislative process;

Second. Encourage Senators to be more accountable and responsive to the people's needs; and

Third. Provide the citizens of the United States with an opportunity to learn about Congress firsthand.

Mr. President, I have been a cosponsor of legislation to establish TV-radio coverage of Senate proceedings for many years. This legislation is long overdue. I regret the fact that it has been watered down by the Committee on Rules and Administration. I prefer the original bill which calls for complete coverage of all Senate proceedings on national TV. However, passage of the legislation before us today would be an inportant step toward achieving that goal.

The crucial point is this: The American people have the right to participate in our Government by watching and gaining greater understanding of the deliberations and decisions of the U.S. Senate. That is why I have always supported complete TV and radio coverage of Senate proceedings and that is why I strongly support passage of Senate Resolution 28.

Mr. BYRD. Mr. President, I will continue now with my brief explanation of the amendments contained in Senate Resolution 28, amendments which deal with changes in the Senate rules. I hope I can be brief, because it is not my desire to keep other Senators from having a chance to speak.

The so-called 3-day rule—under which I chafed a great deal when I was majority leader of the Senate, would be changed by my proposal. It would become a 2-day rule. It would exclude Sundays and legal holidays prior to the consideration of any measure or matter. Heretofore, even though the Senate were in session on Saturdays, Saturdays did not count against the 3-day rule. If this provision were to be adopted, then no measure or matter reported by any standing committee would be considered in the Senate, unless the report of that committee would be available to Members for at least 2 calendar days, excluding Sundays and legal holidays, as I have stated.

With reference to the motion which the distinguished Senator from Louisiana [Mr. LONG] talked about earlier, this resolution would provide that it shall be in order twice during a calendar day to move that no amendment—other than reported committee amendments—which is not germane would be in order to the measure. The motion would be debatable for no more than 1 hour. An affirmative vote of three-fifths of the Senators present and voting would be required to prohibit amendments that are not germane.

Whenever an appeal is taken from a decision of the Presiding Officer on that question of germaneness of an amendment, or whenever the Presiding Officer submits the question of germaneness to the Senate, the vote necessary to overturn the decision of the Presiding Officer or to hold the amendment germane would be two-

71-059 O-87-45 (Pt. 1)

thirds of the Senators present and voting. No amendment proposing sense-of-the-Senate or sense-of-the-Congress language that is not germane would be considered.

In the event a cloture motion is offered, two-thirds of the Senators duly chosen and sworn would be required to invoke cloture.

So the provisions in my resolution would tighten up on rule XXII, in that it would require two-thirds of those duly chosen and sworn—in other words, 67 Senators—at times when there is a full membership of 100 Senators, to invoke cloture.

The tightening up of the cloture rule in that respect would be compensated on the other side by providing that once cloture is invoked, the fun is over; because, instead of 100 hours—as at present—no more than 20 hours of consideration of the measure, motion, or other matter on which cloture has been invoked would then be available overall.

Mr. President, I thank other Senators for their patience. I have not gone into detail with respect to every change in the rules, but only those rules which I feel are most in need of change, and especially those rules changes that would help to make televised and radio coverage of the Senate contribute to a more informed public and, at the same time, preserve the unique role of the Senate as a deliberative body.

Mr. GORE. Mr. President, will the minority leader yield?

Mr. BYRD. I am glad to yield.

Mr. GORE. Mr. President, as a freshman Member of this body, I cannot for a moment speak to the question of rules changes with the kind of expertise and experience brought to this question by my distinguished senior colleagues. But I have tried to study the rules carefully, and I have spent some time reviewing the proposed changes recommended by the distinguished minority leader.

For what it is worth, this freshman Senator supports each and every one of the proposed rules changes which we have just heard discussed.

I agree with others who have said these changes should be adopted whether or not we bring the television cameras and the radio microphones into this Chamber. It is my view that if the resolution as it was reported from the committee is approved by the Senate there would be tremendous pressure on this body to actively consider and then adopt the rules changes as recommended by the distinguished minority leader.

If this body chooses to adopt the committee resolution I will be joining the minority leader and many of my colleagues in urging that this course of action be followed by the Senate. It will be difficult, in fact, for the Senate to follow any other course of action, because the test period cannot be converted into full broadcast coverage until the Senate acts again and, as stated by the chairman of the Rules Committee, we will have before us at the same time recommendations of the committee on the package of rules changes recommended by the minority leader.

Some will recommend that we adopt some or all of these rules changes now. If I felt that could be accomplished, I would be in favor of it.

My own concern, which I have expressed privately to the minority leader and to others, is that a full-blown debate on all of these rules changes now could serve the unintended purpose of holding up the resolution on broadcast coverage. If that debate can take place without holding up the committee's resolution on broadcast coverage, it will certainly serve a useful purpose, and again even if the committee resolution is adopted, as reported out by the committee, the pressure will be on the Senate to consider these rules changes.

Again, I for one support them very strongly.

Mr. BYRD. Mr. President, I thank the distinguished Senator from Tennessee [Mr. GORE] for his expression of support for the rules changes.

The PRESIDING OFFICER (Mr. GORTON). The Senator from Louisiana.

Mr. LONG. Mr. President, the Senate is being asked today to consider Senate Resolution 28. As amended in the committee, this would provide for a test period for radio broadcast and closed-circuit television coverage of all proceedings in the Senate Chamber.

Senate Resolution 28 proposes an approximately 3 to 6 months test during which Senate proceedings will be broadcast live on radio and will be televised on the in-house closed-circuit congressional system.

These broadcasts will be provided free to the radio and television correspondents' gallery. Copies of the tape will be available to Senators, gallery members, including the media, and to others as may be authorized by the Rules Committee. The committee stripped from this resolution rules changes originally proposed by Senator BYRD.

Mr. President, it seems to be most unfortunate that the committee did not see fit to bring us rules to help guide the Senate's action in the TV era.

Some years ago the Senator from Louisiana opposed an effort to install gavel-to-gavel coverage in the Senate. The effort was most ably led by the senior Senator from Tennessee at that time, Mr. Baker. After considerable debate it was agreed that the matter would be referred to the Rules Committee and that the Rules Committee was to recommend a resolution with rules to accompany TV coverage.

Now, why the committee did not do that is difficult for the Senator from Louisiana to understand.

At the time we sent the resolution to the committee it was frankly my impression that the measure would come back from the committee with a set of rules covering the type of matters that the Senator from West Virginia [Mr. BYRD] has mentioned and would probably be amended on the Senate floor to accommodate the views of the entire Senate. This would give every Senator a chance to make his contribution, and in that fashion the Senate would then proceed to vote for television.

It did not happen, and this Senator can never understand why not.

After considering the matter for some time the committee reported back the same thing all over again, basically television coverage immediately in the Senate, and said that no rules change would be in order or was necessary.

That to me, Mr. President, could lead us to a very unfortunate situation. There is no doubt in the mind of the Senator from Louisiana that Senators will talk a great deal more than they have in the past if the Senate is on television under its existing rules.

Just to give one example. A very thoughtful Senator who seldom makes a speech on the Senate floor and is much admired and respected and draws the attention of the Senators when he does speak, a very persuasive and effective Senator, put it this way to me. He said:

> Under the existing set of rules and procedures I address the Senate about once a month. If the Senate were under television coverage as it stands today, I would have to speak about once a week so my constituents would understand that I was here looking after their interest and taking care of their problems.

That 4-for-1 increase in speaking is something that you can anticipate under the Senate rules as they exist to date, and this Senator has yet to hear a convincing argument that it would not happen if the Senate were on television under the rules as they exist now.

Mr. GORE. Mr. President, will the Senator yield?

Mr. LONG. I yield to the Senator.

Mr. GORE. The most convincing argument in my view is the experience of the House of Representatives in this regard. Similar predictions were made in advance of the decision by the other body to open its proceedings to television coverage.

A recent survey of the debate time before television coverage and after television coverage indicates that there has not been an increase in the number of speeches made by individual Members of the other body and

there has not been an increase in the amount of time consumed by individual speeches.

There has been an increase in the number of what they refer to as 1-minute speeches with which my colleague is quite familiar. But some have argued that even that is not a bad result.

Certain changes in this institution after we get some familiarity with television might include, just as an example, a change from 15-minute special-order speeches to 5-minute special-order speeches if our experience indicated that the speeches at the beginning of the day were going to proliferate.

But overall, I want to return to the point, which I believe constitutes a convincing argument, the experience of the other body was that the number of speeches and the length of speeches did not increase after the introduction of television coverage.

Mr. LONG. Mr. President, I am not at all persuaded by that argument, and it was made in the Senate before.

The House has a Rules Committee. Before a measure is brought before the House, the Rules Committee meets. It holds its hearings. It decides how long the measure should be debated, if it is going to be debated at all. It decides how many amendments can be offered and how long those amendments can be discussed. It is very closely and strictly limited.

So, the leadership of the Rules Committee, working with the Speaker, and that is generally regarded as the Speaker's committee, the Rules Committee over there, and the Speaker, with the help of the Rules Committee, can very closely limit the amount of debate in the House. It has always been that way. So the situation is entirely different.

Under the rules of the Senate, a Senator, as this Senator at this moment is doing, can take the floor and talk just as long as his legs and his lungs will hold him, and Senators do.

I could stand here, if I wanted to, and talk until midnight. I could talk until the following midnight, when I was the age of the Senator from Tennessee, I can assure him.

Mr. MATHIAS. Will the Senator yield for a brief comment?

Mr. LONG. Yes.

Mr. MATHIAS. I just want to put the case that the Senator from Tennessee has put in a slightly different way. I understand what the Senator's concern is, and it is a reasonable concern. He understands human nature and we all like to preen and strut, as Shakespeare put it, to strut for our hour, our brief hour, upon the stage. We know it is brief and we know we are on the stage only a certain time and we want to make the most of it.

Mr. LONG. "And then is heard no more."

Mr. MATHIAS. And will be heard no more. We all want to get ahead of that hour when we are heard no more. So the Senator is talking about human nature. I think that his concern is real and genuine and I do not make light of it.

But, as the Senator from Tennessee has said, the experience in the House is otherwise. There is another human factor that comes into that, and that is the fear of looking foolish. It is one thing to look foolish in an empty Chamber, it is another thing to look foolish when the eyes of 225 million Americans are upon you. And that is a powerful discipline.

But, beyond that, the point the Senator from Tennessee has made is supported by the study made by the Rules Committee, a very careful study made by the Rules Committee of the effect of televising legislative proceedings in many of the legislatures of the States in the Union and in many national legislatures of other nations. We could not find a single case where there was a substantial increase in the amount of debate that resulted from the televising of the proceedings, with this exception: The first week or two, people may have been a little more verbose and they would preen themselves before the camera. But that discipline of not wanting to look foolish soon took effect and Members calmed down, quieted down, and spoke with greater clarity, with more precision, with greater conciseness than they have ever spoken before.

So I hope that the Senator from Louisiana would let me put in his hands, within the next day or so, a copy of that report looking at the experience in other legislatures, not just the House of Representatives, but other legislatures, which may be helpful in addressing the very real and very genuine concern that he has about the Senate.

Mr. GORE. Will the Senator yield?

Mr. LONG. I will yield in 1 minute, but I want to respond to the Senator from Maryland before I yield further.

I am not convinced by what the Senator has said.

Mr. MATHIAS. I do not expect the Senator to be convinced. All I said is, I would like him to study the record, just study the record.

Mr. LONG. Please let me go forward. I say to the Senator. I am not convinced by what the Senator said because he is not referring me to somebody whose rules I thoroughly understand. If he is referring to the House of Representatives, I have told the Senator my opinion about that. I do not know what the rules are in Sweden or Timbuktu or God knows where else around the world.

I do know something about the rules in the Louisiana Legislature. In the Louisiana Legislature, that would be no problem, because all that fellow who has a bill up there has to do is to move the question. And if he has a majority of the votes, you would proceed to vote. He could call his bill up and make his presentation. Having done so, he usually waits for the other side to make their presentation. After both sides have had a chance to be heard, at anytime he feels like doing it from that point foward, if he has the votes for his bill, he can get up and move the previous question. And if he has the votes, they will vote the question, which means they will now vote on the bill and that means no further debate. So they vote. One could very well limit debate in a situation like that. We do not have such a rule here.

The Senator talks about how someone can make himself look foolish by talking at great length. Let me tell the Senator that now and then a speaker comes along who is speaking about what people agree with out there, who makes sense to people, and he starts getting wires, "Keep up the fight; carry on."

For example, the Senator from Louisiana was here when we had the vote on either the cigarette or gas tax, as I recall. Senators wanted to go home that night. I am sure the Senator from Maryland recalls it because if he was here, he was vexed that a Senator from North Carolina thought he was going to speak against the measure.

Now, for the Senate, that was very unpopular, because we made up our minds how we would vote. All we wanted to do was vote and get out of here. It was late at night and it was late in the session.

The Senator from North Carolina [Mr. EAST], bless his heart, started speaking. And, mind you, nobody wanted to hear any of it.

Well, the Senator from Louisiana went to his hideaway and turned on the squawk box to hear what the man was saying. The more he heard it, the more he thought, "Well, boy, we are lucky that speech is not being heard by the folks down in North Carolina, because all those tobacco farmers or other folks would be sending in wires and letters and telephone calls saying, 'JOHN, keep up the fight. That man up there is the only man here who is for the people. He is a man we can count on to speak up for what is good for America.' "

I could just picture JOHN EAST getting bushels and barrels of telegrams and the cloakrooms getting calls, every booth in the cloakroom ringing, to convince JOHN to carry on, keep up the fight—"we are with you 1 million percent."

When a Senator gets that kind of help and he has got the Senate against him, but he knows he has millions of people out there for him, wiring him and making themselves heard, can you not hear the man carry on? I guaran-

tee you that he would not have shut up for the next 6 hours if it was within his power to keep going. That is the kind of encouragement one can have when he has the support for what he is saying and what he is doing, even though he is badly outnumbered.

Now, this Senator has seen those situations where you have two sides that are very well divided but where both sides have strong support, and one who is speaking for what his people want, even though he is in the minority, receiving all those calls from back home to keep up the fight. I could just see him going on and on.

As a matter of fact, I am sure the Senator has had occasion in his vast worldly experience to speak before a hometown crowd, get going with what the crowd really likes and they pour it on him and then he goes on and on, and the crowd hoots and cheers.

Mr. MATHIAS. As my dear friend, the Senator from Louisiana knows, it does not require televising the Senate to get that reaction. We have gotten that reaction. In fact, I have seen Senators on the floor go on and on, even without television. So I do not think that will make all that negative a change.

Mr. LONG. Well, Mr. President, if the Senator from Maryland can inspire the Senator from Louisiana to get excited, as sometimes happens, think what the people of Louisiana can do when they tell their Senator: "Carry on the fight."

I can just see the Senator from Ohio [Mr. METZENBAUM] making his fight to make those rich people pay some taxes and see the people calling and wiring and saying, "Keep up the fight; keep up the fight, HOWARD. Go to it, old boy. Tell those people and get with it. Don't let up for a moment."

And as hard as it is to make that man stop when he thinks he is fighting a hopeless cause, I know it would be that much tougher when he has those wires and letters from the folks back home encouraging him to carry on his fight. And if he were 10 years younger, he would talk about twice as long, also, just knowing that he thought like the rest of us. Some of us cannot stand and talk as long as we did when we were younger.

I yield to the Senator from Tennessee.

Mr. GORE. Mr. President, I just wanted to cite the cumulative record in the other body and, in doing so, note that it is not at all uncommon for the other body to report measures to the floor under an open rule. In fact, a great many of the debates which take place in the other body take place without constraints, other than the so-called 5-minute rule, which is very frequently observed in the breach with the common procedure of asking unanimous consent to proceed for an additional 10 or 15 minutes.

If the hypothesis put forward by the senior Senator from Louisiana is correct that the presence of cameras has the overall effect of quadrupling the amount of time that normal human beings will wish to speak about the matters which come before the body for consideration, surely that would have been reflected in the experience of the other body.

And yet, in 1978, before television coverage was available in the other body, they were in session and debating for 1,015 hours. The following year, after television coverage was allowed, that number dropped to 974 hours. The following year, in 1980, it dropped again to 901 hours. In 1984, it was 853 hours. I do not have the comparable figure for 1985 yet. But my point is, human nature is largely the same in both bodies.

Though the rules are different, the effect of televising speeches on the behavior of the Members of the other body should not be all that different from what it would be here in this body. And the self-correcting mechanism inherent in the television medium to which I referred earlier, I think, is the reason for this dropoff in the amount of time consumed in debate in the other body after the introduction of television coverage. As the Senator from Louisiana said earlier, there are constraints on the amount of time someone can speak—how long he can stand on his feet, how long his wind holds out, how long he can ward off exhaustion.

Television introduces yet another constraint: How long that Senator can continue speaking before his or her constituents have had it, and let that Senator know through communications to his or her office that it is not going over very well.

I think that is something that would protect this body from the abuse of television broadcast coverage which our different rules would certainly make technically possible.

Mr. METZENBAUM addressed the Chair.

Mr. LONG. Mr. President, let me claim my right to the floor, then I will yield to the Senator from Ohio or anyone else.

Mr. President, as to the motion that the rules of the House are so different from those of the Senate, I am just not for a moment convinced that the Senator is correct about that matter. When a person seeks recognition in the House, I see the Presiding Officer say "For what purpose does the gentleman rise?" If the Presiding Officer ask it over here, he will say,"It is none of your business for what purpose I rise." [Laughter.]

"I will tell you after I have been at it for a while."

So it is just a completely different operation.

I yield to the Senator from Ohio.

Mr. METZENBAUM. Mr. President, I had not really intended to join this debate, but I thought I would come over just to express a few observations in support of the concept of television in the Senate.

I think one of the strongest——

Mr. LONG. Mr. President, I yielded for a question. The Senator has a way of making some great speeches.

Mr. METZENBAUM. I thought the Senator had yielded. I apologize.

Mr. LONG. I yielded for a question. I have some material I want to discuss. I will be glad to yield for a question or for a brief statement.

Mr. METZENBAUM. It is going to be a brief statement.

Mr. LONG. About 1 or 2 minutes?

Mr. METZENBAUM. That is correct.

Mr. LONG. I yield for that.

Mr. METZENBAUM. I thank the Senator from Louisiana.

I think one of the strongest reasons to have television in the Senate is because our rules need changing. Our rules need changing with respect to the manner in which we vote, the length of time we spend voting with respect to postcloture debates, or with respect to electronic voting, and a number of other ideas that should be changed.

I remember it was not too many years ago that it was proposed, and there was a committee appointed by Senator BYRD and Senator Baker, if my recollection serves me right, to move along in this very area. As a matter of fact, the distinguished Senator from Louisiana and I both served on that committee. My recollection was that the Senator from Hawaii, Senator INOUYE, was the chairman of that committee.

I remember so well that we had come to an agreement as to the limitations that should be put upon debates, and subsequent to cloture. To the best of my knowledge, the Senator from Hawaii on behalf of those of us on this side of the aisle made several representations to the other side indicating we were prepared to move forward along that line. I am informed nothing came of it, and, in fact, that there was no response.

I do not stand here in order to point the finger, or to say somebody is to blame. But I think I, as one who has not hesitated to use the Rules of the Senate in accordance with the language of those rules, feel very strongly that they should be changed. I think the cloture vote ought to require less than three-fifths. I am prepared to say that I will vote for a bare majority. I would be prepared to say that postcloture there would be maybe no debate—no debate at all once cloture is invoked. That is the end of it.

I said many times on the floor as well as in the Democratic caucuses

that as long as the rules are what they are I see no objection to any Member using those rules but that the rules should be changed, and we would be a better body when they are.

My view, I say to the Senator from Louisiana, is exactly the opposite of his; that it might cause at the inception some to have the excitement of being on continuous television, and talking on ad infinitum. I do not think that would wear very well with the public. I think that this is a major step in the right direction to open to the public—and I realize there are limitations in this proposal. But it is a step in the right direction to open the Senate floor to more information to people of this country.

I hope we will try this experiment, and see if it will work. I might speak at greater length. I indicated to the Senator from Louisiana I would not impose upon his courtesy in permitting me to make this statement, but I do appreciate it very much. I stand here only for the purpose of saying I think television in the Senate would help us move this body a long way forward with respect to our time.

Mr. LONG. I thank the Senator.

Mr. President, I am delighted to hear the Senator say that he thinks the rules should be changed. I agree that they should be changed. I frankly think that if television in the Senate is to come, we ought to insist if we can—insofar as this Senator is concerned, I would certainly insist if we were going to have television in the Senate—that we make some changes in these rules to accommodate certain pressing matters such as those discussed by the Senator from West Virginia, which, incidentally, were in the resolution. I see a line to strike them out. But they were there. I heard the Senator from Tennessee say he favored every one of them.

Some of those sugestions, may I say, are some that the Senator from Louisiana had on occasions suggested to the Senators, including the Senator from West Virginia. For example, this matter by which you would not have to invoke cloture to impose germaneness. You could just make a motion for germaneness, and with 60 percent vote for germaneness. You could do this rather than have a limitation of time, if all you really wanted to do was have the benefit of a germaneness rule rather than try to limit everybody's right to speak.

But, in any event, there are certain things that need to be done. And you wonder why. Why, Senator, is a motion to proceed still subject to unlimited debate? A motion to proceed to consider a bill? I am like the Senator. I gave unanimous consent to bring this bill up today. I did not object. But I have many times debated the motion to proceed purely as a dilatory tactic. I ought to feel, well, that gives me a better chance to make more speeches because you can make the motion to proceed.

Has the Senator debated a motion to proceed? I know I have.

Mr. METZENBAUM. I certainly have. Frankly, I think there is no reason for that to be a debatable motion. But those are the rules of the Senate. So we all have the privilege of using those rules. But that does not mean we should not change the rules.

Mr. LONG. I would join the Senator in changing them.

I will tell you frankly, Senator, television means I am going to do more talking. I will say that right now. People are not going to have to say, "Where is old RUSSELL? Why don't we hear from him?" They will hear from old RUSSELL.

Mr. BYRD. Will the Senator yield?

Mr. LONG. I yield.

Mr. BYRD. I would like to see the Senator from Louisiana make more speeches. I was disappointed to hear the Senator state the decision which he had been pondering for a long time; namely, that he was going to leave the Senate after this year. I dare say if he goes on television making speeches and letting the listening Americans get the point of his arguments, there might be a great ground swell for him to change his mind. I would like to see him change his mind.

Mr. GORE. Will the Senator yield?

Mr. LONG. I yield.

Mr. GORE. If the introduction of television into this Chamber will cause the senior Senator from Louisiana to speak more frequently and give Members of this body the benefit of his advice on more occasions, the Senator has perhaps inadvertently introduced a powerful argument in favor of opening up this Chamber to broadcast coverage.

Mr. LONG. Mr. President, I will be glad to make more speeches provided other Senators do not do the same thing. [Laughter.]

But if there are going to be 99 other Senators making more speeches, thanks, but, no, it would be better if I would make less.

Many years ago there was a member of the Chamber of Commerce in Shreveport who asked me to make a speech. He came by my office subsequently and asked how I enjoyed the occasion. I said, "I did not enjoy it a darn bit. I would have been glad to not make a speech if you had not called on all these other fellows to make speeches. Why do you not draw straws next time and let one or two make speeches instead of all of them?"

Some of them were irritated because I said the honest truth as I saw it. If I had to hear all those other fellows make their speeches, I would just as soon not make mine.

Mr. METZENBAUM. Will the Senator yield?

Mr. LONG. I yield.

Mr. METZENBAUM. The Senator was addressing himself to the germaneness question. The Senator from Ohio, the Senator from Louisiana, the Senator from West Virginia, from Tennessee, Texas, and New Mexico have all seen on the floor of the Senate time and time again there is an appropriations bill and some amendment is added to it that has nothing to do with the subject matter. I remember when Warren Magnuson was here. He used to almost cry, "Why do you have to put all these amendments on the appropriations bills?" There were almost tears in his eyes.

I just heard the Senator from Louisiana say something about 60 votes in order to determine a question with respect to germaness. I sort of wonder whether the Senate would be a better body if once the Parliamentarian had decided that something was nongermane, from that point on and henceforth as far as that bill is concerned, there would be no appeal. That would be a final decision, that it was not germane and, therefore, it does not get onto that bill.

I think we all recognize the Parliamentarian is the objective arbiter of what is and what is not germane. The question is it bears on schools, or it is abortion, it is busing, or any one of those issues, and so many others as well. It is something far out having nothing to do with the legislation. We then have the question of, is it germane? That is submitted to the body. The people do not really vote on whether it is or is not germane, but vote on the matter by how they feel on the subject.

Mr. LONG. I vote on the issue of germaneness. This Senator may, on one or two occasions, have been persuaded to go along with what appeared to be an advantage to his State or with the fear of being misunderstood by a very large group, but the Senator will find very few cases where this Senator has not supported the Chair on a matter of germaneness.

Mr. METZENBAUM. I was not talking about the Senator but of the body as a whole.

Mr. LONG. It makes me resentful that others do not do the same thing. It is our duty. We hire a man to do that job, a fellow doing his dead level best, as the Almighty gives him the power to reason and see it, has done his duty and advised the Chair. The Parliamentarian and the Chair have both done their duty. Then to overrule them to me is just wrong and we should not do it.

The Senator from West Virginia [Mr. BYRD] suggested we require a two-thirds majority. That would help a lot to sustain the Chair. I might even be willing to make it a three-fourths majority. I do not think the

Senator will be able to persuade the Senate to go along with something that says it is not subject to appeal, but to require a larger majority might be sold to the Senate. The Senator and I seek the same objective. I would like to move as far as we can in that direction. I think it might be two-thirds to some or three-fourths.

I thank the Senator.

Mr. President, I have not been alone in my concern about this issue. When a proposal for broadcast of Senate floor proceedings was considered in April 1982, Members of the Senate debated the impact this would have on the Senate and its procedures. As a result of that debate, the Senate approved a resolution which recognized that regulations and rule changes needed to be considered for the proper implementation of television and radio coverage.

I voted in favor of Senate Resolution 20 during 1982 because I believed that it reflected the Senate's recognition that changes in our rules and precedents were warranted prior to the introduction of television coverage of our proceedings. I am still of this opinion regarding the Senate's intention in the passage of Senate Resolution 20.

When television was again considered in 1984, the Senate then refused to limit debate on a proposal that called for live gavel-to-gavel coverage, without rule changes. I believe this, too, reflected the view that the Senate needs to consider rules and regulation changes before broadcast coverage is authorized.

The issues before the Senate have not changed. We still have an obligation to address the impact that television coverage will have on this body in order to assure fairness and to preserve the traditions of the Senate.

There are some, Mr. President, who contend that the test period called for in Senate Resolution 28 answers the problems that previously faced the Senate in our consideration of this issue. It is suggested that a test period will help identify the rules changes that will become necessary as a result of the introduction of television. I strongly disagree with this view.

The test period called for in Senate Resolution 28 will do nothing to address the fundamental concerns that many of us share regarding the impact of television on the Senate as an institution. All this test period will do is help us determine where cameras should be placed, how much lighting will be required and how we can best present ourselves to the public.

Mr. President, my reservations about television coverage of Senate proceedings are not based on my concern for where cameras should be placed, the amount of lighting required or any of the mechanical aspects of television coverage. Rather, my concerns are rooted in my regard for the Senate as an institution and for its role as a deliberative body. I do not believe that the test period provided for in Senate Resolution 28 can serve to test this sort of impact.

Simply stated, a test period providing for closed circuit television coverage will do nothing to test the propensity of Members to tailor debate for broadcast to the public at large, since the public will not receive live television broadcasts during the test period. The incentive for Members to give lengthy speeches for "home consumption" will not be present during this test period. The principal concerns that most of us have about the impact of television on the Senate and on debate within the Senate will not be addressed by this test.

For this reason, Mr. President, I must oppose Senate Resolution 28, as reported by the Rules Committee. This resolution does nothing to address the primary problems with television that the Senate has recognized in the past. All this resolution does is seek to avoid the hard choices and decisions concerning revision of the Senate rules and precedents that will be required if the Senate is to conduct its business properly when we are presented with the opportunity to play to a larger audience.

I do not believe that we should use the proposal for a test period as a way in which to avoid the difficult choices regarding rules changes that we know will be necessary to accommodate television. Neither should we go through the motions of a test period that would do nothing to solve the real problems regarding debate that are the cause of concern.

When the issue of televising Senate proceedings has come before us previously, I have spoken at length of the dangers this action presents to the Senate as an institution. Since I continue to believe television coverage would not be of benefit to the Senate or the country, I think it is necessary for us to consider again the problems that television coverage would likely bring.

We all know that television does not simply record actions. Television helps shape events and television will shape our actions in the Senate. I believe that we must decide whether this will help the Senate conduct its business and serve its role in our Government.

The major purpose of debate on the Senate floor in our representative form of Government is to persuade 50 other Senators elected by the voters of their States to support your position on an issue.

There are times when it is clear that most Senators have made up their minds about how they will vote on a proposal. In those instances, speakers channel the debate to the points that are important to those undecided Senators.

What will persuade them? What factors will they consider in making up their minds? Undecided Senators are the audience to address, not the television audience, under our present situation.

Television will encourage us to use the Senate floor in ways that are unnecessary and ways that are not helpful to the decisionmaking process. It will encourage us to appeal to the electorate, to our constituents, and to those we hope will vote for us in some future election.

We can do that elsewhere. There is no need for us to do that on the Senate floor. It will be harmful to the institution of the Senate if we do.

Mr. President, one of the ways I suspect Senators will be tempted to use a televised Senate floor is to secure their own reelection or to campaign for a higher office. I do not think this should surprise any of us. We are political animals and many of our numbers have aspirations to continue their careers by seeking other offices.

However, I do not understand why we should provide what will amount to free television time for incumbents to run for office as well as for carrying out their official duties. And in terms of television coverage, it will be impossible to separate the two activities.

Mr. President, I am not so naive as to believe that the Senate Chamber is not currently used to make speeches or introduce bills that are primarily for home consumption. The incentive to use the Senate floor to make speches that do not further the business of the Senate would be so much greater if that speech could be beamed to all our constituents and those we hope to make our constituents in future elections. We would in fact be making Senators who are candidates an offer they could not refuse.

This offer would be at a cost to the Senate in dollars and in our ability to discharge the business of this Nation. The number of speeches would increase. At $515 per page, the cost of printing the CONGRESSIONAL RECORD would increase. I have no doubt the Senate would be in session longer hours, increasing the cost of operation.

I know Senators can debate this, but I firmly believe we shall be in session twice as many hours if we are on television. Longer hours means that the doorkeepers, those at the desk, the pages, and all others over a period of time will necessarily have to be accommodated, either by very large pay increases or by simply hiring more of them. That runs up the cost of Government, Mr. President, for which the taxpayers will pay.

That is interesting when one looks at the polls. The polls I have seen indicate that when asked the question, "Would you like to see the Senate on

television?" The majority tend to say Yes until you raise the issue of cost. When the question is asked, "Do you think the Senate ought to be on television even if it costs the taxpayers $5 million a year?" Then the answer comes in resoundingly No by an overwhelming majority.

In my judgment, Mr. President, these sessions will require a great deal more time. It will mean that we will have to print a much longer RECORD, it will mean that we will have to have a great number of additional doorkeepers and other personnel. So it will cost a great deal more than any estimate I have seen.

That is not unusual in this Government, to have someone bring us an estimate that proves to be in error. I have seen some estimates that proved to be in error by as much as 100 to 1 in my service in the Senate. So that would not be surprising, to see another estimate very much out of line, that would estimate the cost at a minimum which proves to be much greater than one anticipates.

In all fairness, Mr. President, I do not believe this action can be characterized as opening up a closed Senate. There is public access to what we do here. The galleries are open. The press has complete access to what transpires here. The CONGRESSIONAL RECORD is available in every depository library in the country.

I also do not believe that the presence or absence of television cameras is the deciding factor of whether a Government body or agency is open and responsive to the people. Surely the absence of television in the Oval Office does not mean that the Presidency and its workings are not responsive to the public and its needs.

Mr. President, I firmly believe that television coverage will result in longer and more unnecessary speeches which will crowd an already overloaded Senate schedule. I will admit, honestly, that our behavior would be changed by television coverage. We would be forced to speak on the Senate floor more frequently to impress the voters that we are taking care of their business.

Notice that none of us say we would speak more frequently because we had something important to say or because speaking on the Senate floor would be the most effective way to accomplish our official duties. We will do so because that is the best way to get on television and be seen by our constituents.

In real terms, this cannot be better illustrated than by looking at recent Senate consideration of the 1985 farm bill. This bill was the product of extensive negotiations and compromise which took place over the entire first session. This legislation addressed issues running the gamut from farm credit to commodity programs to food stamps.

All of us have constituents in our State who are going to be affected by this legislation and who will want to know what efforts we have taken to help them out with their particular needs. Because of this fact, I believe that if floor debate concerning the 1985 farm bill had been televised to the public, this would have encouraged each and every one of us to speak at greater length about the problems facing farmers in our State and what actions we were taking to solve these problems.

These additional speeches would have considerably extended debate on legislation which already took over 2 weeks to consider. This fact is especially crucial given the fact that most farm programs were about to expire only a few short weeks after the farm legislation was finally approved.

My own behavior concerning the farm bill discussions serves as a prime example. During the entire 2-week debate on this legislation, I spoke for approximately 5 minutes—5 minutes on a piece of legislation that was probably one of our most important accomplishments in the first session of Congress; 5 minutes on a comprehensive package that we hope will begin to alleviate the serious problems that are now threatening the livelihoods of our Nation's farmers.

This 5 minutes of speech does not, of course, reflect the concern I have for these hardworking people. The need for relief was no stronger exhibited than in Louisiana, where farmers have faced further setbacks in 1985 due to hurricanes and floods. Over the past year, I have worked long hours, as many Senators have for their constituents, to assure that the farm legislation included the assistance needed to get Louisiana's agricultural community back on its feet.

I chose not to speak for more than 5 minutes on the farm bill, because it would have not served any purpose other than reiterating points that other Senators made during the debate. Had the debates been televised for public consumption, I almost certainly would have spoken at considerably greater length.

Mr. President, there are many agricultural products important to Louisiana's economy, among them soybeans, cotton, rice, and sugar. Although these growers are facing serious problems, I did not speak directly concerning each of these crops, because their concerns were amply brought out in the debate by other Senators. Had the debates been televised, I would have felt obliged to make a speech addressing my efforts to assist each of these groups.

Why would I have felt compelled to make such statements? The answer, of course, is so that my constituents would know that I was doing everything within my power to see that their interests were being carried forward. One could hardly blame a Louisiana soybean farmer for thinking that this Senator did not do anything for him if he sees that other Senators are extolling the plight of soybean farmers and he does not witness one utterance from his own Senator.

Mr. President, I believe that the current methods of informing constituents of our actions are entirely sufficient. For example, when the farm bill was approved, I am sure most of us issued newsletters or targeted mass mailings detailing our accomplishments. Some of us even secured time in the Senate recording studio to produce local feeds for our districts. That these costs are now made public every quarter would lead even those Senators with the best intentions to use television to inform the public back home and not necessary for meaningful debate.

As the second session of Congress unfolds, we are faced with difficult decisions of even greater proportion and impact than the farm legislation just completed. Most notably, this week with the President's State of the Union Address begins the long and arduous process of implementing a Federal budget.

This year for the first time these budget decisions will, be made under the guiding force of the Gramm-Rudman-Hollings law. The President will be recommending a budget which, in line with Gramm-Rudman-Hollings, must not exceed $144 billion. Yet, with the current assumptions, this will require deficit reduction efforts around the $60–$80-billion range.

More than ever before, these decisions will affect each and every one of our constituents. No single group is likely to be spared the impact of some of the tough decisions the President and the Congress will be called upon to make to bring deficit spending under control.

Should debate on the budget be televised to the public, there can be no doubt in my mind that considerable time will be devoted to Senators either impressing upon the need to reduce Government spending or explaining why they had no choice but to vote for a budget cut which adversely affects a program important to an interest in their States. This discussion will not benefit the Senate's approach to formulating a fair budget nor will it be particularly enlightening for other Senators. It will be purely and simply for home consumption.

The same forces at play do not even need mentioning when the full Senate gets around to deliberating a major tax bill scheduled for later this year. As the years go on, the issues will not get any easier to resolve and television

will not aid us in our effort to find answers.

Mr. President, 50 years ago, when my father was a Senator, the U.S. Senate met and conducted the Nation's business for about 6 months out of the year. Today, we meet all year long and still do not manage to get our work done. I hate to think how this problem we already face might be compounded should television coverage of Chamber proceeding begin without the rules changes that would surely be necessary to ensure that the Senate operates properly.

Mr. President, I have announced that I will not seek reelection. I will serve in this body for another 11 months. Whatever decision is made on televising the Senate, I will not have to live with it for very long, if at all. The concerns I am expressing are my concerns for how television would change this institution.

Because of the 37 years I have spent here, I will always care about this fine institution. As a citizen, I will continue to be affected by the laws passed here when I retire. I do not want to see any changes that will make the special role Senators are required to perform more difficult.

Mr. President, I firmly believe that the Senate is expected to provide a strong measure of statemanship in our Government. As Senators, the Constitution provides that we should take a "second look" at legislation before passing it. The 6-year term allows Senators to take a longer range view on controversial issues.

Our procedures of unlimited debate, agendas set by the full body, rather than a Rules Committee, are examples of the unique qualities of the Senate that are present for a reason. They better allow the Senate to fulfill the role of providing for the national interest as well as the concerns of our respective constituencies.

History has shown that the Senate serves as a bastion for the minority. A strong measure of protection is provided where the heat of an issue can cool under the statesmanship of the Senate.

Over the course of history, the Senate has fulfilled its purpose. Despite strong popular support, the Senate has defeated many bad bills which are now recognized as such. Likewise, the Senate has risen to many challenges to ratify treaties and pass legislation that were extremely controversial because the national interest required the Senate to do so.

Sponsors of this resolution providing for television coverage have yet to show us how the opportunity for every Senator to perform on television will preserve and protect this Nation from the follies of expediency. Until they can prove the Senate will be better able to fulfill its role in creating laws to govern this Nation, we should not move forward in this area.

I yield the floor.

Mr. BYRD addressed the Chair.

The PRESIDING OFFICER. The Democratic leader.

Mr. BYRD. I thank the Chair.

Mr. President, I compliment the distinguished Senator from Louisiana on his statement. It is a thoughtful one. It is a provocative one. It is eminently clear to me, in listening to his statement, he is still searching for the truth, searching for the facts on which he and the Senate can base a judgment, one that will be the right judgment.

Mr. President, I ask unanimous consent that all statements for and against television and radio coverage in the Senate appear as if uninterrupted in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. I also ask unanimous consent that that some same order obtain with respect to each day that the Senate debates the subject of TV and radio coverage of the Senate.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. So that those who read the RECORD will be able to read, in an uninterrupted flow, the statements and colloquies in respect to what I consider a very important debate on a very important action which the Senate hopefully will take.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LONG. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. MATHIAS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MATHIAS. Mr. President, I think that all Senators who have participated in the debate today have made a great contribution to the Senate, regardless of the position they took with respect to the pending resolution. I believe the discussion has been constructive and helpful and will focus the attention of Senators on the matters that are important.

I should like to repeat something which the Senator from Tennessee read earlier, because I think it is important for us to recognize the scope of what is before the Senate today. It is not worldwide, global broadcasting of the Senate. It is a test. In that test is included the contemplation of rules changes.

As the Senator from Tennessee did earlier in this debate, I read from page 4 of the report:

> It is the intention of the Committee that the rules changes be considered concurrently with the closed-circuit television broadcast test.

The closed-circuit television broadcast test—that is what we have before us. That is the decision we must make, and that is the decision I think we helped to focus on by the discussion today.

Mr. GORE. Mr. President, will the Senator yield?

Mr. MATHIAS. I yield.

Mr. GORE. Mr. President, the Senator from Louisiana made several cogent points earlier. There was one which caused me to want to comment briefly, and I have resisted the temptation; but since my colleague has returned to it, I want to make one very small point.

The Senator from Louisiana made the argument that the test period is defective, in the sense that since it is not open to the public, we cannot fully ascertain what changes would be worked upon the Senate by such coverage.

The distinguished chairman of the committee points out the limited scope of the resolution itself; and because of that limited scope, there is nothing whatever in this resolution that would prevent the Senate from deciding, at the conclusion of this test, that it wished to then embark upon a second, more venturesome test period during which the signal would be made available to the public, not in perpetuity but for a limited period of time, during which we could ascertain what additional impacts might come upon the Senate by virtue of the signal being made available more widely.

I believe that even during the closed-circuit test period, we will be able to better ascertain the kind of impact such coverage is likely to have on the institution. But if we decided that the Senator from Louisiana is correct and that this test is not sufficient to tell us what it will be like to have coverage available to the country as a whole, then at the conclusion of this test we could say, "Let's have another test, a little more venturesome this time; make it available to the public for 90 days," as the House of Representatives did, as an example, and at the end of that test period have another decision point, to see whether or not we want to declare that this is now the full-time policy of the Senate.

Mr. MATHIAS. The Senator is correct.

The key point that I think the Senator from Tennessee makes is that nothing permanent can happen in the Senate until there is further action by the Senate and by the Rules Committee, that nothing will change permanently, that this is looking at the situation, feeling our way along.

As the former representative from Virginia, Governor Tuck, used to say, "measuring the water." That is all we

are doing—we are just measuring the water.

Mr. LONG. Mr. President, will the Senator yield?

Mr. MATHIAS. I yield.

Mr. LONG. Mr. President, when we asked the Rules Committee to give us some rules changes that would be necessary for television, several years ago—mind you, even from one who sponsored the resolution, joined as a cosponsor, to send the resolution to the Rules Committee, asking them to propose changes that are necessary and needed with television—we received the answer back that no changes would be necessary. I do not think that is right. I think that is wrong.

Now, here, we see the suggestion, "We think the change would be necessary, but we will have to pass a further resolution before the thing is made available to the public at large."

In my judgment, there is every reason to assume that if those sponsoring the resolution were able to bypass the question of rules, then when the test period is over and we have the cameras in here and the lighting and the TV's in everybody's office, the argument will be made: "It's too big a bother. It would take too much time. We might get bogged down. The heck with all these things about the rules. Let's put ourselves on nationwide television and worry about the rules later."

At that point, the sponsors would be in a lot better position to resist the changes in the rules than they are, in my judgment, when they are seeking the first authority.

In my judgment, I say to the Senator, these rules changes can be done. I do not know how one who has never tried to pass a rules change can say it cannot be done.

I recall that when I joined with a bipartisan group when Mr. Baker was the majority leader, we proposed to him to pass some changes in the rules which would expedite his passing the legislative program under his leadership.

Why he never moved with it absolutely defies this Senator. When you have leaders on the Democratic side willing to go along with the Republican leader, I do not know why no effort was made. But it was not. If you are not going to make the effort, it is a cinch you are not going to pass anything.

Mr. BYRD. Mr. President, will the distinguished Senator from Maryland yield?

Mr. MATHIAS. I yield.

Mr. BYRD. The distinguished Senator from Maryland has accurately stated the content of the resolution in this respect. But I would hope that we would all try to remain flexible on this point, because it just may be that as the debate goes on, there would be a kind of coming together of the minds of Senators, There might develop something of a package, who knows, which would see the trial period proceed and which, at the same time, would put some rules changes into effect "permanently," to use the word as used by the distinguished Senator from Maryland.

The resolution does provide for a trial period. It provides for another resolution at the end of the trial period. That resolution would have to come from the Rules Committee, be adopted in connection with establishing TV and radio coverage of the Senate permanently. Also any rules changes that might have been thought of or considered during that trial period would wait until that resolution came out of the Rules Committee and was adopted here.

But if we could just keep ourselves flexible, who knows? This Senate may want to change its mind with respect to this very resolution and it may indeed decide to go forward with the test period and make some of the rules changes now, because, as I have argued—and I hope most Senators will agree with me—there are some rules changes that are needed in this Senate whether or not we have television. I hope we get both.

Would the Senator agree with that, that there is a need for us to be flexible?

Mr. MATHIAS. I perceived the distinguished minority leader has a kind of a glimmering. It may not yet be a vision but it is an intimation that a vision may be about to break upon his consciousness.

I want to share that vision with him. I certainly will do nothing to obscure that vision as it is in a formative stage in his mind. I think that vision might address itself to the concerns of the Senator from Louisiana which would be a consummation devoutly to be desired.

Mr. BYRD. Mr. President, I take my chair.

Mr. MATHIAS. I think we have accomplished something today and I hope we have. I will close this day's debate with the admonition of the minority leader that our minds should stay flexible.

Mr. COCHRAN. Mr. President, I rise in support of Senate Resolution 28, authorizing a test period for live broadcast coverage of Senate floor proceedings.

As a supprter of previous measures to allow broadcasting of Senate proceedings, I expressed my belief that such broadcasts would enhance the public awareness of the issue before Congress, and would lead to a better understanding of the actions of individual Senators and the Senate as an institution.

I remain convinced that this coverage of Senate proceedings would better inform the American people of the activities of one of its most important, and unique, Government institutions.

The dignity and traditions of the Senate can be maintained, I believe, even if it permits the broadcasting of its proceedings by live radio and television. It is important that we in the Senate utilize the technology that is available to provide new insights and educational experiences that will inspire renewed interest in and better understanding of our National Government.

Early in the history of the Senate, the decision was made to open its doors and conduct sessions before the press and the public who could observe from the galleries. In the context of our modern electronic era, it is time we extend this openness to all the American public, even though they are not all in the galleries.

I commend the Rules Committee for favorably reporting this measure. I am hopeful that the Senate will agree to this test period, and I am confident that its success will lead to permanent, nationwide broadcasts, and a better informed public.

ODE TO JOHNSTON-LEAHY

Mr. JOHNSTON. Mr. President, last January 29, my colleague, Senator LEAHY, and I sent around a Dear Colleague, attaching legislation which has since become Senate Resolution 320. We were both surprised and pleased to see that what has become Senate resolution 312 was actually introduced before ours was introduced.

So Senator LEAHY and I have a little poem that we would like to read. It is called: "Ode to Johnston-Leahy," and it goes as follows:

A rose by any other name may smell as sweet,
But our bill without our names would not be as neat.
We mailed our "Dear Colleague" on January 29,
And were surprised on the 30th to find ours last in line.

But we'll stand not on ceremony,
Though our pride may be battered.
Imitation, after all, should make us feel flattered.

S. Res. 312, we'll join and offer praise aplenty
For it's exactly the same as S. Res. 320.
Together the Budget Committee we can now pester
For bipartisan defeat of this year's sequester.

Mr. President, I ask unanimous consent that we be added as cosponsors of Senate Resolution 312, and I thank the distinguished Senator from West Virginia for allowing us to speak on an unrelated matter. I might say I hope that we will have the opportunity even after TV in the Senate to offer unre-

lated poems at various times in the work of the Senate. [Laughter.]

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MATHIAS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. DOLE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. ABDNOR). Without objection, it is so ordered.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Saunders, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session, the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

ANNUAL REPORT OF THE U.S. ARMS CONTROL AND DISARMAMENT AGENCY—MESSAGE FROM THE PRESIDENT RECEIVED DURING THE RECESS—PM 103

Under the authority of the order of the Senate of January 3, 1985, the Secretary of the Senate, on January 31, 1986, during the recess of the Senate, received the following messages from the President of the United States, together with an accompaying report; which was referred to the Committee on Foreign Relations:

To the Congress of the United States:

In my letter of transmittal attached to the 1984 United States Arms Control and Disarmament Agency Annual Report, I remarked that I viewed with great seriousness the negotiating commitments of January 1985 as an opportunity to reduce significantly the inventories of offensive nuclear weapons systems. Much has happened during the past twelve months to encourage me in that view. Not only have our arms control delegations continued their efforts to reach agreements with their Soviet counterparts, but I have had an opportunity to discuss with Soviet General Secretary Gorbachev many of the issues that divide our two countries. We agreed to expedite the negotiations on reducing the numbers of nuclear offensive weapons and to continue our discussions on the issue of strategic defense as well as on many other important bilateral issues. Furthermore, the Soviet leader and I agreed to future meetings, which might give further impetus to the arms control process.

This 1985 annual report, the United States Arms Control and Disarmament Agency's 25th consecutive report, provides an in-depth survey of all of the work undertaken during the year in support of negotiating agreements to reduce the number of nuclear weapons, to abolish chemical weapons, to reduce the numbers of U.S. and Soviet troops in Central Europe, to seek correction for Soviet noncompliance with existing arms control agreements, and to continue efforts to enhance peace and security and make possible the reduction of military spending worldwide.

RONALD REAGAN.

THE WHITE HOUSE, *January 31, 1986.*

ORDER TO SUSPEND AUTOMATIC SPENDING AND TO SEQUESTER OR REDUCE BUDGETARY RESOURCES—MESSAGE FROM THE PRESIDENT RECEIVED DURING THE RECESS—PM 104

Under the authority of the order of the Senate of January 3, 1985, the Secretary of the Senate, on February 1, 1986, during the recess of the Senate received the following message from the President of the United States, together with accompanying papers; which, pursuant to Public Law 99-177, was referred jointly to the Committee on Agriculture, Nutrition, and Forestry, the Committee on Appropriations, the Committee on Armed Services, the Committee on Banking, Housing, and Urban Affairs, the Committee on the Budget, the Committee on Commerce, Science, and Transportation, the Committee on Energy and Natural Resources, the Committee on Environment and Public Works, the Committee on Finance, the Committee on Foreign Relations, the Committee on Governmental Affairs, the Select Committee on Intelligence, the Select Committee on Indian Affairs, the Committee on the Judiciary, the Committee on Labor and Human Resources, the Committee on Rules and Administration, the Committee on Small Business, and the Committee on Veterans' Affairs:

To the Congress of the United States:

In accordance with the Balanced Budget and Emergency Deficit Control Act of 1985, I herewith report the issuance of the Order to affected agencies to suspend automatic spending increases and sequester or reduce budgetary resources consistent with the Comptroller General's January 21 sequestration or reduction determinations required by the Act, to eliminate the $11.7 billion deficit excess for Fiscal Year 1986. This Order is effective March 1, 1986, unless modified by enacted alternative deficit reduction legislation. A copy of the Order is enclosed.

Heads of Executive, Legislative, and Judicial branch agencies have further calculated and are sending to the Congress detailed reports of the base and reduction or sequestration amount by programs, projects, and activities. These calculations are in compliance with the Comptroller General's report.

RONALD REAGAN.

THE WHITE HOUSE, *February 1, 1986.*

ORDER

EMERGENCY DEFICIT CONTROL MEASURES FOR FISCAL YEAR 1986

By the authority vested in me as President by the statutes of the United States of America, including section 252 of the Balanced Budget and Emergency Deficit Control Act of 1985 (hereafter referred to as "the Act"), I hereby order that the following actions be taken immediately to implement the required sequestration or reduction determined by the Comptroller General in his report dated January 21, 1986, under section 251 of the Act;

(1) Each automatic spending increase which, but for the passage of the Act would be first paid on or after the enactment of the Act during fiscal year 1986 is suspended as provided in section 252(a)(6) and subject to provisions set forth in sections 255, 256, and 257 of the Act. The programs with such 1986 automatic spending increases subject to reduction in this manner, specified by account title, are: Central Intelligence Agency retirement and disability system fund; Civil service retirement and disability fund; Comptrollers general retirement system; Foreign service retirement and disability fund; Military retirement fund; National Oceanic and Atmospheric Administration retirement; Railroad Retirement Tier II; Retired pay, Coast Guard; Retirement pay and medical benefits for commissioned Public Health Service officers; Special benefits, Federal Employees' Compensation Act; National Wool Act; Special milk program; and Vocational rehabilitation.

(2) New budget authority and unobligated balances amounts for major National Defense functional category (050) are sequestered according to the procedures set forth in section 252(a)(2) of the Act.

(3) For non-defense accounts in the Federal budget, the following are sequestered: new budget authority, new loan guarantee commit-

ments, new direct loan obligations, and spending authority as defined in section 401(c)(2) of the Congressional Budget Act of 1974, as amended, and the reduction of obligation limitations, for each account and for each program, project, and activity, as defined pursuant to section 252(a)(1)(B)(i) of the Act, or each budget account activity as defined pursuant to section 252(a)(1)(B)(ii) of the Act.

(4) For accounts making payments otherwise required by substantive law, the head of each Department or agency is directed to modify the calculation of each such payment to the extent necessary to reduce the estimate of total required payments for the remainder of the fiscal year (a) where payments are not made from spending authority as defined in section 401(c)(2) of the Congressional Budget Act of 1974, as amended, to the level of remaining budgetary resources or (b) where payments are made from spending authority as defined in section 401(c)(2) of the Congressional Budget Act of 1974, as amended, to the estimated level of payments included in the Comptroller General determination on January 21, 1986, of required sequestration or reduction action.

(5) For accounts making commitments for guaranteed loans and obligations for direct loans subject to limitation otherwise required by substantive law, the head of each Department or agency is directed to modify the calculation of such commitments or obligations to the extent necessary to conform to the limitations established by the Act and specified in the Comptroller General determination of January 21, 1986.

(6) Each Department or agency head may, to the extent not otherwise prohibited by law, use existing authority to deobligate balances of budgetary resources as necessary to apply the required reduction or sequestration in as uniform a manner as possible for any person or other recipient entitled to payments under any formula-driven calculations specified in the substantive law. Deobligations may include budgetary resources obligations for which checks have not been issued or funds not otherwise disbursed (funds obligated but unexpended).

Also, the head of each Department or agency shall report the programs, projects, and activities information required by section 252(a)(5) (A) and (B) to the President of the Senate, the Speaker of the House, the Director of the Office of Management and Budget, and the Comptroller General, as instructed by the Director of the Office of Management and Budget in Bulletin No. 86-7. For those programs in the National Defense function that have already been reported by program, project, and activity, no additional report is necessary. The reports of the Departments and agencies are hereby incorporated in this Order.

I further direct the Director of Central Intelligence to report the programs, projects, and activities information required by section 252(a)(5) (A) and (B) on a classified basis to the appropriate committees of the Congress for the National Foreign Intelligence Program consistent with paragraphs 1 through 3 of this Order and to so advise the President of the Senate, the Speaker of the House, the Director of the Office of Management and Budget, and the Comptroller General, as instructed by the Director of the Office of Management and Budget.

In accordance with section 252(a)(6)(A), amounts suspended, sequestered or reduced under this Order shall be withheld from obligation and amounts suspended or sequestered shall be permanently cancelled as of March 1, 1986, unless alternative legislation is enacted prior to that date.

This Order shall be reported to the Congress and shall be published in the FEDERAL REGISTER.

RONALD REAGAN.

THE WHITE HOUSE, *February 1, 1986.*

MESSAGES FROM THE HOUSE

At 2:53 p.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the House has passed the following bill, with an amendment, in which it requests the concurrence of the Senate:

S. 1574. An act to provide for public education concerning the health consequences of using smokeless tobacco products.

The message also announced that the House has passed the following bill, without amendment:

S. 1831. An act to amend the Arms Export Control Act to require that congressional vetoes of certain arms export proposals be enacted into law.

REPORTS OF COMMITTEES RECEIVED DURING RECESS

Under the authority of the order of the Senate of January 30, 1986, the following reports of committees were submitted on January 31, 1986:

By Mr. DOMENICI, from the Committee on the Budget, without amendment:

S. Res. 321: An original resolution authorizing expenditures by the Committee on the Budget; referred to the Committee on Rules and Administration.

By Mr. DURENBERGER, from the Select Committee on Intelligence, without amendment:

S. Res. 322: An original resolution authorizing expenditures by the Select Committee on Intelligence; referred to the Committee on Rules and Administration.

By Mr. GOLDWATER, from the Committee on Armed Services, without amendment:

S. Res. 323: An original resolution authorizing expenditures by the Committee on Armed Services; referred to the Committee on Rules and Administration.

By Mr. PACKWOOD, from the Committee on Finance, without amendment:

S. Res. 325: An original resolution authorizing expenditures by the Committee on Finance; referred to the Committee on Rules and Administration.

By Mr. DANFORTH, from the Committee on Commerce, Science, and Transportation, without amendment:

S. Res. 326: An original resolution authorizing expenditures by the Committee on Commerce, Science and Transportation; referred to the Committee on Rules and Administration.

By Mr. GRASSLEY, from the Committee on Labor and Human Resources, without amendment:

S. 1858: A bill to amend the Older Americans Act of 1965 to increase the amounts authorized to be appropriated for fiscal years 1985, 1986, and 1987 for commodity distribution, and for other purposes (Rept. No. 99-232).

By Mr. HATFIELD, from the Committee on Agriculture, Nutrition, and Forestry, without amendment:

S. Res. 324: An original resolution authorizing expenditures by the Committee on Appropriations; referred to the Committee on Rules and Administration.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. GARN, from the Committee on Banking, Housing, and Urban Affairs, without amendment:

S. Res. 237. An original resolution authorizing expenditures by the Committee on Banking, Housing, and Urban Affairs; referred to the Committee on Rules and Administration.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. McCONNELL:

S. 2038. A bill to amend the Federal rules of civil procedure regarding dispute resolution; to the Committee on the Judiciary.

By Mr. RIEGLE (for himself and Mr. LEVIN):

S. 2039. A bill to amend the Agricultural Act of 1949 to authorize the Secretary of Agriculture to modify the definition of nonprogram crop to discourage any increase in the production of any commodity that would adversely affect the income of producers of that commodity; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. MATHIAS (for himself, Mr. KENNEDY, Mr. SPECTER, Mr. BIDEN, Mr. SIMON, Mr. METZENBAUM, Mr.

GLENN, Mr. STAFFORD, Mr. HOLLINGS, Mr. INOUYE, Mr. DURENBERGER, Mr. SARBANES, Mr. PROXMIRE, Mr. PACKWOOD, Mr. MOYNIHAN, Mr. BENTSEN, Mr. HATFIELD, Mr. BINGAMAN, Mr. CRANSTON, Mr. WEICKER, Mr. MITCHELL, Mr. BRADLEY, Mr. LEVIN, Mr. MATSUNAGA, Mr. CHAFEE, Mr. DODD, Mr. EAGLETON, Mr. BURDICK, Mr. KERRY, Mr. LAUTENBERG, Mr. HART, and Mr. PELL):

S. 2040. A bill to amend title VIII of the act commonly called the civil Rights Act of 1968, to revise the procedures for the enforcement of fair housing, and for other purposes; to the Committee on the Judiciary.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon) as indicated:

By Mr. GARN, from the Committee on Banking, Housing, and Urban Affairs:

S. Res. 327. An original resolution authorizing expenditures by the Committee on Banking, Housing, and Urban Affairs; to the Committee on Rules and Administration.

By Mr. DECONCINI (for himself and Mr. LAUTENBERG):

S. Res. 328. A resolution expressing the sense of the Senate on the importance of international observer delegations and NAMFREL during the February 7, 1986 election in the Republic of the Philippines; considered and agreed to.

By Mr. DOLE (for himself and Mr. BYRD):

S. Res. 329. A resolution to authorize testimony of a Senate employee; considered and agreed to.

By Mr. DENTON (for himself, Mr. MOYNIHAN, Mr. MATHIAS, Mr. BENTSEN, Mr. DURENBERGER, Mr. GRASSLEY, Mr. HATCH, Mr. HEFLIN, Mr. HOLLINGS, Mr. INOUYE and Mr. SPECTER):

S. Res. 330. A resolution establishing a Special Committee on Families, Youth, and Children; to the Committee on Rules and Administration.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. McCONNELL:

S. 2038. A bill to amend the Federal rules of civil procedure regarding dispute resolution; to the Committee on the Judiciary.

ALTERNATIVE DISPUTE RESOLUTION PROMOTION ACT

Mr. McCONNELL. Mr. President, I rise today to introduce the "Alternative Dispute Resolution Promotion Act of 1986." This bill addresses the growing crisis of confidence in our civil justice system. In my opinion, it helps chart a course back to a sensible balance between free and unfettered resort to the courts and recognition of the need for a more pragmatic, responsible approach for dealing with civil disputes.

Hardly a day goes by that we do not hear or read of the dramatic increase in the number of lawsuits filed, of the latest multimillion verdict, or of another small business, child care center, or municipal corporation that has had its insurance canceled out from under it. Just this week, I learned that the Louisville and Jefferson County metropolitan sewer district has had its insurance canceled. Despite its best efforts, it has not been able thus far to find additional insurance. Those businesses and corporations that are able to retain their insurance are often met with increases in premium costs of 100 percent, 200 percent or more.

Why are insurance rates increasing so dramatically? Why are the courthouses so crowded, despite the addition of over 100 Federal judges in the last 8 years? Because, quite simply, everyone is suing everyone, and most are getting big money. I know of one case in Louisville in which the parents of a young girl allowed her to help her uncle cut heavy duty reinforcing wire for concrete construction. The wire had been rolled into a coil for shipment, and would naturally recoil when rolled out and released. Yet the uncle let this 9-year-old girl hold down the wire, and while he looked away, the construction wire sprang back and struck the girl. The parents, who were fully aware of what the girl was doing, nevertheless sued the manufacturer for $750,000 for failing to warn the 9-year-old girl of the danger. Fortunately, the jury in that case returned a verdict of zero against the company. Yet despite an offer of settlement by the defendant, the case dragged on for 2 years, ending with a 3-day trial, and the legal fees were tens of thousands of dollars.

Nor is this an isolated incident: Consider these examples:

A burglar accidentally fell through a painted-over skylight while he was stealing lights from the roof of a public school. The sued the school district and recovered $260,000 in damages plus a continuing income.

In New York City, a man attempted suicide by jumping in front of a subway train. The man was injured but did not die; he sued, claiming the driver should have put the brakes on faster. The New York Transit Authority paid $650,000.

In Cleveland, an associate professor of political science compiled a study ranking American cities in terms of their "quality of life." He gave the city of Tulsa, Okla., poor marks. The city went into U.S. District Court and sued the professor for $26 million in damages.

Many cases like these could be resolved without filing a lawsuit, or could be settled much earlier than the present adversarial-oriented system allows.

Mr. President, when grievances are legitimate, and cannot be settled by negotiation or arbitration, an injured party has every right to seek redress in court. No one would disagree with that. But the courts ought not be used to find a deep pocket for every injury regardless of responsibility. Nor should legitimate grievances that must be brought to court become the object of years of discovery and other legal machinations, most devoted as much to generating large fees as to furthering the case.

Yet without a doubt, our present civil justice system promotes litigation, almost for litigation's sake. What is most disturbing about this state of affairs is that so little good comes from so much litigation. Indeed, this crisis will most likely reserve its harshest consequences for American consumers. When obstetricians withdraw from their profession, the quality of health care for all of us suffers. When drug manufacturers remove a product from the market, those most vulnerable are denied their only means of help. And when firms announce price increases primarily to cover rising insurance costs, it is all of us who will pay more through higher prices.

The problem is even starker when viewed from a statistical perspective. The number of lawsuits in recent years has increased almost geometrically. Between 1978 and 1983, some 12 million cases were filed in State courts. From 1940 to 1984, civil cases in Federal courts increased from 35,000 to cover 260,000 a year. Federal product liability suits more than doubled from 1978 to 1984. As the number of cases filed has increased, the dollar amount of settlements and awards has increased as well. In 1983, there were 360 personal injury cases with awards of $1 million or more—13 times as many as in 1975. The average product liability award has increased from $345,000 to over $1 million in the last 10 years, while the average medical malpractice award approached $950,000 last year.

These figures simply can't be justified. But they can be explained, for the true beneficiaries of the litigation explosion are the lawyers. Some figures indicate that as often as not, more than half the money transferred by these lawsuits goes to plaintiffs' lawyers. In asbestos litigation $62,000 of the average award of $101,000 goes to lawyers. This month's ABA Journal even featured "the new plaintiffs' elite bar" on its cover. Like the hovering hoard of lawyers picking apart the remains of the Jarndyce estate in Dickens' classic, Bleak House, the lawyers in todays courts often end up the only winners.

Mr. President, the bill I've introduced today seeks to help end the mad romance we as Americans have developed with the civil litigation process. Quite simply, my bill requires lawyers to advise their clients of the alternatives to litigation, alternatives such as extra-judicial dispute resolution techniques. It also permits a party to a lawsuit to make an offer of settlement or to engage in alternative dispute res-

olution techniques, with sanctions for unreasonably failing to accept such an offer.

Part of the concept for this legislation comes from the revision to Federal rule of civil procedure 68 as proposed by the advisory committee of the Judicial Conference of the United States. That body has recognized that the purpose of promoting settlement that rule 68 meant to serve has largely been unfulfilled. The legislation I present today embodies all of the suggested changes, but goes on to encourage not only offers of settlement, but also offers to resolve the matter with other techniques. This may be an important path to quicker, more efficient resolution. Rather than engaging in a cat and mouse game of outrageous settlement demand followed by miserly counteroffer, parties to litigation will be encouraged to put their cards on the table, look each other in the eye, and put an end to the matter.

If the court determines that the settlement offer or the ADR offer was unreasonably rejected, the court would have the power to impose monetary sanctions. The court's sanction authority will expressly permit attorney fees to be awarded against either party. Mr. President, this is an important feature of the bill. The Supreme Court has recently acknowledged, in Marek versus Chesney, decided June 27, 1985, that a party who unreasonably refuses a settlement offer is liable for the additional court costs that resulted, and that this amount should include the extra attorney fees. This bill will make it clear that those fees are available in all litigation.

Recently, writing in a Washington newspaper, Mr. Stephen Green wrote that the United States has become a lawyer's paradise. But that paradise may well become anything but idyllic for the rest of us. As Mr. Green noted:

> The explosion in litigation and jury awards has brought wealth to lawyers. But the consequences for the rest of the nation have been severe. Unless reform is forthcoming, confidence in the civil courts will continue to decline, and the judicial system will be perceived as merely a spoils system for the bar.

We in the Senate have an obligation to see that reform is forthcoming. My bill will require, for the first time, that the parties to a lawsuit are fully aware of their options, and that they have the opportunity to exercise their options in a timely way.

I do not mean to imply that most lawyers are unethical, or that they needlessly multiply the cost of lawsuits. I am a lawyer myself, as are many of us here in this body. But by the nature of the adversarial process, and the ethical code under which lawyers operate, we cannot expect the legal profession to solve this problem without guidance and prodding.

If we can wean ourselves of this unrelenting, adversarial battle called litigation, we can expect some real relief from the ever rising cost of insurance, as well as of goods and services. Perhaps we can also step back just a bit, to a more realistic view of our own rights and obligations that come from living in a complex world. Fundamental civil justice reform is important to each of us, and I am considering other proposals in addition to that introduced today. This new approach alone will not solve all the problems, but it will begin the process, and will help us shut off the fuel firing the engines of litigation.

Mr. President, I would ask unanimous consent that the text of the bill be printed in its entirety at the conclusion of my remarks.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2038

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, This Act may be cited as the "Alternative Dispute Resolution Promotion Act of 1986".

FINDINGS AND PURPOSE

SEC. 2. (a) The Congress finds and declares that—

(1) the traditional litigation process is unsuited to the timely, efficient, and inexpensive resolution of disputes among businesses and individuals involved in civil disputes;

(2) alternative dispute resolution techniques, including mini-trials, mediation, and arbitration offer more cost-effective resolution of such disputes and contribute to efficient use of resources in the Nation's economy; and

(3) the Federal Government has an interest in encouraging the use of such alternatives to the civil litigation process, to increase efficiency in interstate commerce, and to not impede economic output with prolonged litigation.

(b) It is the purpose of this Act to encourage the use of such alternative dispute resolution techniques, and to encourage the disposition of civil disputes in the most economic and efficient manner possible.

ALTERNATIVE DISPUTE RESOLUTION OPTIONS

SEC. 3. (a) The Federal Rules of Civil Procedure are amended by inserting between Rule 16 and part IV, the following:

"Rule 16.1. Advice and Certification by Counsel

"(a) ALTERNATIVE DISPUTE RESOLUTION OPTIONS.—At any time after 90 days and before 180 days after service of the summons, each attorney who has made an appearance in the case and who represents one or more of the parties to the action shall, with respect to each party separately represented, advise the party of the existence and availability of alternative dispute resolution options, including extrajudicial proceedings such as mini-trials, and third party mediation, court supervised arbitration, and summary jury trial proceedings.

"(b) NOTICE.—Each such attorney shall, not later than 180 days after an action is commenced, file notice with the court certifying that the attorney has so advised his client or clients, and indicating whether his client will agree to one or more of the alternative dispute resolution techniques.

"(c) ORDER BY THE COURT.—In the event all parties to an action agree to proceed with one or more alternative dispute resolution proceedings, the court shall be notified of such acceptance of such offer and shall enter an appropriate order governing the conduct of such alternative proceedings. Entering an order governing such further proceedings shall constitute a waiver by each party subject to the order of the right to proceed further in court.

"(d) DECISION INADMISSIBLE.—Neither the acceptance nor the refusal of any party to the action to engage in such alternative dispute resolution proceedings shall be admissible as evidence in any further proceedings in such action. In the event an offer made pursuant to this rule is rejected, the court shall proceed with the action as if no such offer had been made."

PROCEDURE FOR ALTERNATIVE DISPUTE RESOLUTION

SEC. 4. (a) Rule 68 of the Federal Rules of Civil Procedures is amended to read as follows:

"Rule 68. Offer of Settlement and Alternative Dispute Resolution

"(a) OFFER OF RESOLUTION.—At any time more than 60 days after the service of the summons and complaint, but not less than 90 days (or 75 days in the case of a counteroffer) before trial, any party may serve upon any other party, but shall not file with the court, a written offer to—

"(1) settle a claim for such money, property, or other relief as the offeror shall specify in the offer, and enter into a stipulation dismissing the claim; or

"(2) allow judgment to be entered accordingly.

Alternatively, or in conjunction with such offer, any party may serve upon any other party an offer to engage in such extra-judicial alternative dispute resolution techniques as the offeror may desire, or such judicially supervised alternative dispute resolution techniques as are available in the court in which the action is pending. The offer shall remain open for 60 days unless a written withdrawal is served on the offeree prior to acceptance by such offeree. An offer that remains open may be accepted or rejected in writing by the offeree. An offer that is neither withdrawn nor accepted within 60 days shall be deemed rejected. The fact that an offer is made but not accepted does not preclude a subsequent offer. Evidence of an offer is not admissible except in proceedings to enforce a settlement or to determine sanctions under this Rule.

"(b) SANCTIONS FOR DELAY.—If, upon a motion by the offeror within 10 days after the entry of judgment, the court determines that an offer of settlement or an offer to engage in alternative dispute resolution was rejected unreasonably, resulting in unnecessary delay and needless increase in the cost of the litigation, it shall impose an appropriate sanction upon the offeree. In making such determination the court shall consider all the relevant circumstances at the time of the rejection, including (1) the then apparent merit or lack of merit in the claim that was the subject of the offer, (2) the closeness of the questions of fact and law at issue, (3) whether the offeror had unreasonably refused to furnish information necessary to evaluate the reasonableness of the offer, (4) whether the suit was in the nature of a test case, presenting questions of far-

71-059 O-87-46 (Pt. 1)

reaching importance affecting non-parties, (5) the relief that might reasonably have been expected if the claimant prevailed, and (6) the amount of the additional delay, cost, and expense, including the additional attorney fees, that the offeror reasonably would be expected to incur if the litigation should be prolonged.

"(c) GUIDELINES FOR SANCTIONS.—In determining the amount of any sanction to be imposed under this Rule the court also shall take into account, (1) the extent of the delay, (2) the amount of the parties' costs and expenses, including any reasonable attorney fees incurred by the offeror as a result of the offeree's rejection, (3) the interest that could have been earned at the prevailing market rates on the amount that a claimant offered to accept, to the extent that the interest is not otherwise included in the judgment, and (4) the burden of the sanction on the offeree. Unless the court specifically finds that such burden so far outweighs the other circumstances, including the interests of encouraging settlements and avoiding needless and protracted litigation that are sought to be furthered by this Rule, the court shall impose a sanction in an amount not less than the added court costs and fees incurred as a result of the failure by the offeree to accept the offer that is the subject of the motion.

"(d) EXCEPTION.—This Rule shall not apply to class or derivative actions under Rules 23, 23.1 and 23.2.".

(b) The table of Rules for the Federal Rules of Civil Procedure is amended by—

(1) inserting between the item relating to Rule 16 and part IV, the following:

"16.1. Advice and Certification by Counsel.

"(a) Alternative Dispute Resolution Options.

"(b) Notice.

"(c) Order by the Court.

"(d) Decision Inadmissible.".

(2) amending the item relating to Rule 68 to read as follows:

"68. Offer of Settlement and Alternative Dispute Resolution.

"(a) Offer of Resolution.

"(b) Sanction for Delay.

"(c) Guidelines for Sanctions."

By Mr. MATHIAS (for himself, Mr. KENNEDY, Mr. SPECTER, Mr. BIDEN, Mr. SIMON, Mr. METZENBAUM, Mr. GLENN, Mr. STAFFORD, Mr. HOLLINGS, Mr. INOUYE, Mr. DURENBERGER, Mr. SARBANES, Mr. PROXMIRE, Mr. PACKWOOD, Mr. MOYNIHAN, Mr. BENTSEN, Mr. HATFIELD, Mr. BINGAMAN, Mr. CRANSTON, Mr. WEICKER, Mr. MITCHELL, Mr. BRADLEY, Mr. LEVIN, Mr. MATSUNAGA, Mr. CHAFEE, Mr. DODD, Mr. EAGLETON, Mr. BURDICK, Mr. KERRY, Mr. LAUTENBERG, Mr. HART, and Mr. PELL):

S. 2040. A bill to amend title VIII of the act commonly called the Civil Rights Act of 1968, to revise the procedures for the enforcement of fair housing, and for other purposes; to the Committee on the Judiciary.

FAIR HOUSING AMENDMENTS ACT

Mr. MATHIAS. Mr. President, 2 weeks ago the Nation observed, for the first time, the Federal holiday dedicated to the dream of Dr. Martin Luther King, Jr. On that day, we rededicated ourselves to making Dr. King's dream a reality. Today, I am proud to join with a bipartisan group of my colleagues to place back on the Nation's agenda a major piece of unfinished business left behind by the hero we honored last month. Our bill would strengthen and expand the fair housing legislation enacted in 1968, just days after Dr. King's assassination. We call on our colleagues in the Senate and in the House of Representatives to carry forward Dr. King's dream by adopting the fair housing amendments bill during this Congress.

This is substantially the same as the bill that my colleagues and I introduced in the past three Congresses. It parallels a companion bill passed by the House in 1980, which died during a lameduck session of the Senate.

The problem this bill addresses is discrimination in the housing market; discrimination because of race, color, religion, sex, national origin, handicap, or familial status. Martin Luther King knew only too well the effect of segregated housing—for racial or other reasons—on all of America.

The main weapon in the legal arsenal against housing discrimination is Title 8 of the 1968 Civil Rights Act, known as the Fair Housing Act. That legislation has made a difference. But it has been clear for years that the impact of this landmark legislation has been limited by two factors: Its enforcement mechanisms are too weak, and its coverage is too narrow to combat the discrimination that persists in the housing market. The Fair Housing Amendments Act will cure these shortcomings and substantially strengthen our efforts to eradicate housing discrimination.

When a person sets out to rent or buy a home, he or she becomes involved in the "real estate chain." That chain is comprised of several links, including the real estate sales agent; the apartment building agent; the bank, savings and loan, or mortgage company that may be needed to finance the home purchase; the appraiser who determines the value of the home upon which the mortgage amount is based; the insurance company which determines the fire, flood, theft, and other risks which the home may have and sets an insurance premium to be paid; and the secondary mortgage market entities known as "Freddie Mac," "Ginnie Mae," and "Fannie Mae" which purchase the mortgage from the bank, thrift, or mortgage company.

At each step of the real estate chain, the potential exists that the homeseeker will encounter some form of unfair treatment. Unhappily, the evidence shows that this potential is often realized.

In 1980, the Department of Housing and Urban Development estimated that each year in this country there are 2 million instances of racial discrimination in housing. This does not begin to count the instances of housing discrimination against those with physical or mental disabilities and against families with children.

Housing discrimination can run the gamut, including:

Discriminatory advertising or false representation. A person may be told that an apartment has been rented or a contract has been offered on a house when, in fact, it has not.

Racial steering. This is the case when a real estate agent only shows houses in certain neighborhoods or fails to show homes in an "off limits" neighborhood, even when the homeseeker inquires about them; or where the rental agent for several apartment buildings only tells the prospective renter of vacancies in certain of his buildings.

Blockbusting. This occurs when unscrupulous real estate agents deliberately show houses in a predominantly white block only to blacks and then encourage remaining whites to sell, thereby producing multiple sales for themselves and causing so-called white-flight or neighborhood turnover.

Redlining. This is a subtle form of racial discrimination, whereby property insurance companies either refuse to write fire, hazard, and theft insurance or charge an unfairly high insurance premium in certain neighborhoods because of the racial composition of the neighborhood.

Discriminatory financing. Lenders may require larger downpayments or impose other restrictive terms—for example, "due on sale" clauses; a shorter term mortgage if you buy in certain neighborhoods, or if you happen to be black or a woman or disabled.

Discriminatory terms of rental. This may mean an unusually large security or cleaning deposit which is not standard for all other units owned or managed by the same company

Unfair discrimination in property valuation by real estate appraisers. The property appraisal report is a critical piece of paper for the mortgage lender because it, in large part, is the basis upon which the lender determines how large a mortage he will provide. It is also used by sellers and realtors to determine the asking price of a home. An appraiser may discriminate by undervaluing a property because of the race, sex, or national origin of the current residents or neighbors.

The Fair Housing Amendments Act that we are introducing today extends the protection of our civil rights laws relating to housing to two additional classes of people: Handicapped persons and families which children.

The Urban Institute estimates there are 23.3 million adults disabled by

physical or mental impairments, in addition to 2 million disabled persons who are institutionalized. By the year 2000, the U.S. Census Bureau estimates, there will be 32 million Americans over the age of 65 years, and thus, more prone to physical frailties, disabling diseases, and mental impairments.

With our continued emphasis on deinstitutionalization, more disabled persons—many of them our own parents, brothers, sisters, and children—will be seeking independent living in residential settings. Housing discrimination against disabled persons continues their dependency on family and institutional care at huge economic and social costs.

The complaints of housing discrimination against families with children continue to mount at State and local human relations agencies. But, in many instances those agencies are unable to take action because their State law does not prohibit such discrimination. From coast to coast families with children are forced to double up, split up, or go homeless because they encounter outright exclusion in their search for decent housing. The shortage of family housing is an artificial one. The supply as well as the demand is there. The only thing preventing the market from functioning freely is discrimination.

Four HUD studies have documented the degree to which the housing market is closed to families with children. One national survey found that only one-fourth of all rental units accept children with no restrictions. In commenting on this study, the Washington Times called the situation "Dread Babies" and called for an outlawing of housing discrimination against children.

Mr. President, I ask unanimous consent that the February 2, 1984 Washington Times editorial appear at this point in the RECORD.

The PRESIDING OFFICER. There being no objection, the editorial was ordered to be printed in the RECORD.

DREAD BABIES

Jonathan Swift suggested we eat the pesky kids. As members of a civilized society, we merely banish them, along with their parents, from our midst. That's the current state of real estate in America, where a child is about as helpful in the search for a home as a record of arson and mass murder.

A 1980 survey by the Department of Housing and Urban Development showed that 25 percent of rental housing was unavailable to families with children, and that another 50 percent had restrictions on age and number. That's three-quarters of the rental housing in the U.S.

And plenty of subdivisions of single-family homes don't allow kids either. Two Florida cases have families fighting eviction notices because they had the termerity to have babies after they moved into restricted areas. "We knew we were wrong when we had the baby," said one mother. You'd think we'd committed an unnatural act.

What she had done is disturb the "tranquility factor," and little mercy is shown the offender, whether it be a child, a chainsaw, or a barking dog. In one case, a homeowner group went to court to remove a 7-month-old child. Tempers have flared; we fear that if all else fails, the offending party might be removed with a pitchfork.

Which is not to say the tenants in childless apartments or neighborhoods don't have a justified complaint. They have chosen this barren ground because for one reason or another they don't like having children around. When their expectations are shattered, they have a right to gripe.

But we can find no justification for banning babies in the first place. Is this any different than banning people because of their race, color, or other unwilled characteristics? Is private property a defensible concept when such a large segment of our society, thanks to this most Scrooge-like of exclusionary rules, is welcome only in certain neighborhoods?

The practice militates against family life, and expecially against families just beginning, which often first flower in an apartment or rented house when a home of their own is still a distant dream. Housing discrimination, whether on account of race, color, creed, or birthdate, is abhorrent. It should be outlawed.

Mr. MATHIAS. Mr President, all of these forms of discrimination in the housing market can effectively deny the home buyer or renter equal access to housing. They must be ferreted out, reported to the proper authorities, and remedied; and restitution must be made to the apartment hunter or home buyer. This is where the enforcement provisions of the Fair Housing Amendments Act come into play.

Our bill is intended to ensure that all the actors who form the links in the real estate chain operate without discrimination to do the job which the consumer—the renter or buyer—pays them to perform.

Under the current fair housing law, there are no incentives or procedures to quickly resolve housing discrimination complaints between the parties. There are basically two methods of recourse: Conciliation by HUD, or a State, or local human relations commission; or going to court. Neither has proved effective.

Less than 1 percent of the instances of discrimination find their way into the HUD formal complaint process. HUD receives about 4,500 housing discrimination complaints from individuals each year.

Of those, HUD refers about two-thirds to "substantially equivalent" State and local agencies for disposition. Of the 1,500 remaining with HUD, the Department decides to resolve only one-third. Of the roughly 500 cases, then, that HUD determines to resolve, only about one-half are successfully conciliated.

No wonder no one has much faith in the existing HUD conciliation system to resolve discrimination complaints. Landlords, prospective tenants, sellers, and prospective buyers are all dissatisfied with the status quo.

The only alternative to conciliation is to go to court. But for most individuals in the housing market, going to court is simply out of the question. It is intimidating, confusing, time-consuming, and costly for all parties.

Under current law, too many of those who discriminate in the housing market can continue to do so with impunity. The Fair Housing Amendments Act will make it costly and painful to discriminate in housing and will be a strong deterrent.

Mr. President, our bill establishes an administrative hearing and decision process as a backup to the present conciliation process.

A similar administrative enforcement mechanism is used by 28 Federal agencies—including the Social Security Administration; Occupational Safety and Health Administration; the Mine Safety Review Board; and the National Labor Relations Board—to hear and decide individual "garden variety" cases expeditiously. "Pattern or practice" housing discrimination cases, as well as zoning and land use cases, will continue to be reserved to the Attorney General to pursue in Federal court.

What we have here in the Fair Housing bill is a kind of peoples' court, or small claims court, where the two parties come and tell it to the judge without the fancy and expensive trappings of a courtroom proceeding. It is quick, inexpensive, with mandated time deadlines by which the investigation and conciliation must be concluded; a hearing, if warranted, must commence; and a decision must be made. The procedure is predictable and fair to both parties.

If the complainant successfully proves to the administrative law judge that discrimination occurred, the judge may order the respondent to cease and desist from the discriminatory practice; order him to pay the complainant's out-of-pocket costs; and order the unit to be rented or sold to the complainant. The law judge may also order that the victim be "made whole" by awarding compensatory damages for the pain, humiliation, and suffering he or she suffered by the discriminatory act. Punitive damages may also be assessed.

The bill continues the present HUD referral of complaints to those States and local agencies which HUD certifies have a "substantially equivalent" enforcement mechanism and provide the same protections, remedies, and judicial review as those contained in the Federal law. To enable those States and localities to maintain their "substantially equivalent" status under the amended act, the bill continues that recognition for 4 years. The sponsors want to continue enforcement by State and local human rights agencies and anticipate that

HUD could continue to refer cases to them, except for classes of people not covered by the State or local statute.

The bill also preserves an individual's opportunity to pursue a case in court if he or she so desires, rather than pursuing an administrative remedy.

And it leaves undisturbed current case law with respect to who is entitled to file a complaint. Both the person directly encountering discrimination, as well as auditors or testers who verify the complaint, and are entitled to truthful information concerning the availability of housing, have standing.

On the other hand, the administrative process protects the respondent from frivolous lawsuits, protracted litigation, expensive court costs and attorneys' fees, and from adverse publicity which frequently surrounds a court case.

The bill my colleagues and I am introducting today has been fine-tuned after extensive consultation with those with direct experience handling housing discrimination complaints. They include the Department of Housing and Urban Development, State and local human relations commissions, private litigators, fair housing centers, disability groups, civil rights groups, and members of the real estate construction, sales, rental, and management industries.

The bill reflects their experience with the existing conciliation process and with the courts. We are pleased to have found some common ground with the Secretary of Housing and Urban Development with respect to the use of an administrative enforcement mechanism; an increase in the proposed court civil penalties as a strong deterrent; and a streamlining of procedures and time by eliminating the proposed Fair Housing Review Commission of previous bills. In addition, we have made every effort to rely in our bill on existing, proven procedures such as HUD's complaint filing, investigation, and conciliation regulations (24 CFR Part 105).

Like all of his predecessors, Secretary Pierce recognizes that the enforcement provisions of our current fair housing law are inadequate. As the Secretary has noted, "without strong and certain enforcement, including substantial penalties, many who discriminate may never enter the conciliation process." I joined Secretary Pierce last year in Baltimore to commemorate the enactment of the 1968 fair housing law. I was heartened by the Secretary's remarks then and his deep commitment toward moving fair housing amendments into law. At that time Secretary Pierce stated: "Past efforts have resulted in separate legislative proposals, delaying achievement of our goal to strengthen fair housing. The differences of these separate proposals are too small, the common ground too broad, for us to allow victory to elude us. That is why we're working with congressional leaders * * * in an effort which I'm confident will bring enactment of strengthened enforcement this year." I have talked with Secretary Pierce within the past week and I know that his commitment is strong and positive.

Mr. President, President Reagan, in describing his goal for fair housing legislation, has emphasized that it should "place the leadership in enforcement where it belongs, with the Federal Government rather than with the individual victim." The bipartisan coalition of Senators cosponsoring this bill along with the many groups, agencies, and individuals who have worked so tirelessly over the years for enactment, support that goal and believe the Fair Housing Amendments Act will make that goal a reality.

This legislation has been endorsed by the Leadership Conference on Civil Rights, a coalition of 185 organizations representing blacks, Hispanics, Asian Americans, disabled persons, women, senior citizens, churches, and labor; by the National Committee Against Discrimination in Housing, a 36-year-old nonprofit association of more than 70 public and private fair housing organizations working at the State and local level to achieve equal housing opportunity; by the National Association for the Advancement of Colored People; by numerous State and local human rights commissions; by the American Council of the Blind; by the National Association of Private Residential Facilities for the Mentally Retarded; by the Paralyzed Veterans of America; by the Federal Administrative Law Judge Conference; by the National Association of Real Estate Brokers; and by a host of former Federal officials, Republicans and Democrats alike, who have testified on behalf of this bill before House and Senate Judiciary subcommittees.

Mr. President, I ask unanimous consent that six letters to me from those persons and organizations appear at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MATHIAS. Mr. President, Dr. Martin Luther King, Jr., said his dream was "deeply rooted in the American dream." Part of that dream is a decent home in the neighborhood of one's choice. Today, 18 years after the death of this drum major for justice, housing discrimination prevents millions of Americans from realizing that dream. What a fitting memorial to Dr. King it would be for this Congress to take up his challenge and make part of his American dream a reality by enacting this fair housing bill.

Mr. President, I ask unanimous consent that the text of this bill and an explanation of its principal provisions be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 2040

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Fair Housing Amendments Act of 1986".

SEC. 2. SHORT TITLE FOR 1968 ACT.

The Act entitled "An Act to prescribe penalties for certain acts of violence or intimidation, and for other purposes" (Public Law 90-284, approved April 11, 1968) is amended by inserting after the comma at the end of the enacting clause the following: "That this Act may be cited as the 'Civil Rights Act of 1986'.".

SEC. 3. REFERENCES TO 1968 ACT.

Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or provision, the reference shall be considered to be made to a section or other provision of the Act entitled "An Act to prescribe penalties for certain acts of violence or intimidation, and for other purposes" (Public Law 90-284, approved April 11, 1968).

SEC. 4. SHORT TITLE FOR TITLE VIII.

Title VIII is amended by inserting after the title's heading the following new section:

"SHORT TITLE

"SEC. 800. This title may be referred to as the 'Fair Housing Act'.".

SEC. 5. AMENDMENTS TO DEFINITIONS SECTION.

(a) MODIFICATION OF DEFINITION OF DISCRIMINATORY HOUSING PRACTICE.—Section 802(f) is amended by striking out "or 806" and inserting "806, or 817" in lieu thereof,

(b) ADDITIONAL DEFINITIONS.—Section 802 is amended by adding at the end the following:

"(h) 'Handicap' means, with respect to a person—

"(1) a physical or mental impairment which substantially limits one or more of such person's major life activities,

"(2) a record of having such an impairment, or

"(3) being regarded as having such an impairment.

"(i) 'Aggrieved person' includes any person who—

"(1) claims to have been injured by a discriminatory housing practice; or

"(2) believes that such person will be injured by a discriminatory housing practice that is about to occur.

"(j) 'Complainant' means the person (including the Secretary) who files a complaint under section 810.

"(k) 'Familial status' means one or more individuals' (who have not attained the age of 18 years) being domiciled with—

"(1) a parent or another person having legal custody of such individual or individuals; or

"(2) the designee of such parent or other person having such custody, with the written permission of such parent or other person.

"(l) 'Conciliation' means the attempted resolution of issues raised by a complaint, or by the investigation of such complaint, through informal negotiations involving the

aggrieved person, the respondent, and the Secretary.

"(m) 'Conciliation agreement' means a written agreement setting forth the resolution of the issues in conciliation.

"(n) 'Respondent' means—

"(1) the person or other entity accused in a complaint of an unfair housing practice; and

"(2) any other person or entity identified in the course of investigation and notified as required with respect to respondents so identified under section 810(a).".

SEC. 6. DISCRIMINATORY HOUSING PRACTICE AMENDMENTS.

(a) ADDITIONAL DISCRIMINATORY HOUSING PRACTICES.—Section 804 is amended by adding at the end thereof the following:

"(f)(1) To discriminate in the sale or rental, or to otherwise make unavailable or deny, a dwelling to any buyer or renter because of a handicap of—

"(A) that buyer or renter;

"(B) a person residing in or intending to reside in that dwelling after it is so sold, rented, or made available; or

"(C) any person associated with that buyer or renter.

"(2) To discriminate against any person in the terms, conditions, or privileges of sale or rental of a dwelling, or in the provision of services or facilities in connection with such dwelling, because of handicap of—

"(A) that person; or

"(B) a person who resides or is expected to reside in such dwelling; or

"(C) any person associated with the person discriminated against.

"(3) For purposes of this subsection, discrimination includes a refusal—

"(A) to permit, at the expense of the handicapped person, reasonable modifications of premises occupied or to be occupied, by such person if—

"(i) such modifications are necessary to afford such person agrees to return such premises (at the time of vacating them) to the condition which existed before such modification (reasonable wear and tear excepted), if the landlord's request to do so is reasonable; or

"(B) to make reasonable accommodations in rules, policies, practices, or services, when such accommodations are necessary to afford such person equal opportunity to use and enjoy a dwelling.

"(g) For any State or local government or any person acting on behalf of such a government to take any action, or to deny any privilege, license, or permit, and thereby prevent the establishment of any community residence operated for the purpose of providing residential services or supervision for persons who have a handicap, unless such community residence or its proposed use—

"(1) does not meet an established, applicable Federal, State, or local health, safety, or program standard; or

"(2) violates a legally enforceable provision or application of a comprehensive land use plan or zoning ordinance, if the combination of any such land use plan and any such zoning ordinance, as applied, would permit the establishment of such community residence in other equally suitable locations.".

(c) ADDITIONAL PROTECTED CLASSES.—(1) Section 806 and subsections (c), (d), and (e) of section 804, are each amended by inserting "handicap, familial status," immediately after "sex," each place it appears.

"(2) Subsections (a) and (b) of section 804 are each amended by inserting "familial status," after "sex," each place it appears.

(d) DISCRIMINATION IN FINANCING OF HOUSING AND INSURANCE.—Section 805 is amended to read as follows:

"DISCRIMINATION IN FINANCING OF HOUSING AND INSURANCE

"SEC. 805. (a) IN GENERAL.—It shall be unlawful for any person or other entity whose business includes engaging in residential real estate-related transactions to discriminate against any person in making available such a transaction, or in the terms or conditions of such a transaction, because of race, color, religion, sex, handicap, familial status, or national origin.

"(b) DEFINITION.—As used in this section, the term "residential real estate-related transaction" means any of the following:

"(1) The making, purchasing, or insuring of loans or providing other financial assistance—

"(A) for purchasing, constructing, improving, repairing, or maintaining a dwelling; or

"(B) secured by residential real estate.

"(2) The insuring of titles to real estate or against hazards to dwellings.

"(3) The selling, brokering, or appraising of residential real property.".

"(e) ADDITIONAL EXEMPTION.—Section 807 of such Act is amended by adding at the end of such section the following: "Nothing in this title limits the applicability of any reasonable local, State, or Federal restrictions regarding the maximum number of occupants permitted to occupy a dwelling unit. Nor does any provision in this title regarding familial status apply with respect to dwellings provided under any State or Federal program specifically designed and operated to assist elderly persons, as defined in the State or Federal program, or to dwellings in bona fide retirement communities designed and operated for older persons or dwellings otherwise intended and operated exclusively for older persons, and equipped with facilities and amenities specifically designed to meet the physical and social needs of such persons.".

(f) CLERICAL AMENDMENT.—The heading of section 804 is amended by adding at the end the following: "AND OTHER PROHIBITED PRACTICES".

SEC. 7. ADDITIONAL ADMINISTRATIVE AUTHORITY.

(a) COOPERATION WITH SECRETARY.—Section 808(d) is amended—

(1) by inserting "(including any Federal agency having regulatory or supervisory authority over financial institutions)" after "urban development"; and

(2) by adding at the end thereof "Each Federal or other governmental entity participating in such programs and activities shall also carry out such entity's responsibilities under such programs and activities in a manner affirmatively to further the purposes of this title.".

(b) ADDITIONAL FUNCTIONS OF SECRETARY.—(1) Section 808(e) is amended—

(A) in paragraph (2), by inserting before the semicolon at the end the following: ", including an annual report to the Congress specifying the nature and extent of progress made nationally in eliminating discriminatory housing practices and furthering the purposes of this title, obstacles remaining to achieving equal housing opportunity, and recommendations for further legislative or executive action";

(B) in paragraph (3), by inserting "financial and" before "technical";

(C) by inserting after paragraph (3) the following new paragraph:

"(4) provide advice and assistance, consistent with the purposes of this title, to any person of lower income (as defined by the Secretary under the United States Housing Act of 1937), upon request, concerning housing assistance for which such person is eligible and the availability and location of housing within such person's means (and the Secretary shall select the most effective means for providing these services, including the establishment of additional offices in appropriate locations and the provision of financial and technical assistance to private and public agencies to provide these services in whole or in part);";

(D) by redesignating paragraphs (4) and (5) as paragraphs (5) and (6), respectively;

(E) by striking out "; and" at the end of paragraph (5) as so redesignated;

(F) by striking out the period at the end of paragraph (6) as so redesignated and inserting "; and" in lieu thereof; and

(G) by adding at the end the following:

"(7) annually report to Congress, and make available to the public, data on the race, color, religion, sex, national origin, age, handicap, and family characteristics of persons and households who are applicants for, participants in, or beneficiaries or potential beneficiaries of, programs administered by the Department to the extent such characteristics are within the coverage of the provisions of law and Executive orders referred to in subsection (e)(2) which apply to such programs (and in order to develop the data to be included and made available to the public under this subsection, the Secretary shall, without regard to any other provision of law, collect such information relating to those characteristics as the Secretary determines to be necessary or appropriate).".

(2) Section 808 is amended by adding at the end the following:

"(f) The provisions of law and Executive orders to which subsection (e)(7) applies are—

"(1) title VI of the Civil Rights Act of 1964;

"(2) title VIII of the Civil Rights Act of 1968;

"(3) section 504 of the Rehabilitation Act of 1973;

"(4) the Age Discrimination Act of 1975;

"(5) the Equal Credit Opportunity Act;

"(6) section 1978 of the Revised Statutes (42 U.S.C. 1982);

"(7) section 8(a) of the Small Business Act;

"(8) section 527 of the National Housing Act;

"(9) section 109 of the Housing and Community Development Act of 1974;

"(10) section 3 of the Housing and Urban Development Act of 1968;

"(11) Executive Orders 11063, 11246, 11625, 12250, 12259, and 12432; and

"(12) any other provision of law which the Secretary specifies by publication in the Federal Register for the purpose of this subsection.".

SEC. 8. ENFORCEMENT CHANGES.

Title VIII is amended by striking out section 810 and all that follows through section 815 and inserting in lieu thereof the following:

"ADMINISTRATIVE ENFORCEMENT; PRELIMINARY MATTERS

"SEC. 810. (a) COMPLAINTS AND ANSWERS.—(1)(A)(i) An aggrieved person may, not later than one year after an alleged discriminatory housing practice occurred or terminated, file a complaint with the Secretary alleging

such discriminatory housing practice. The Secretary, on the Secretary's own initiative, may also file such a complaint.

"(ii) Such complaints shall be in writing and shall contain such information and be in such form as the Secretary requires.

"(iii) The Secretary may also investigate housing practices to determine whether a complaint should be brought under this section.

"(B) Upon the filing of such a complaint—

"(i) the Secretary shall serve notice upon the aggrieved person acknowledging such filing and advising the aggrieved person of the time limits and choice of forums provided under this title;

"(ii) the Secretary shall, not later than 10 days after such filing or the identification of an additional respondent under paragraph (3), serve a notice, accompanied by a copy of the original complaint, of the alleged discriminatory housing practice on the respondent and advising such respondent of the procedural rights and obligations of respondents under this title;

"(iii) each respondent may file, not later than 10 days after receipt of notice from the Secretary, an answer to such complaint; and

"(iv) the Secretary shall make an investigation of the alleged discriminatory housing practice, and complete such investigation promptly after the filing of such complaint.

"(C) Complaints and answers shall be under oath or affirmation, and may be reasonably and fairly amended at any time.

"(2)(A) A person who is not named as a respondent in a complaint, but who is identified as a respondent in the course of investigation, may be joined as an additional or substitute respondent upon written notice under paragraph (1) to such person from the Secretary.

"(B) Such notice, in addition to meeting the requirements of paragraph (1), shall explain the basis for the Secretary's belief that the person to whom the notice is addressed is properly joined as a respondent.

"(b) INVESTIGATIVE REPORT AND CONCILIATION.—(1) During the period beginning with the filing of such complaint and ending with the filing of a charge or a dismissal by the Secretary, the Secretary shall, to the extent feasible, engage in conciliation with respect to such complaint.

"(2) Whenever, before the end of conciliation efforts by the Secretary, a civil action commenced under section 813 or 814 comes to trial, the Secretary shall immediately terminate all such efforts.

"(3) A conciliation agreement arising out of such conciliation shall be an agreement between the respondent and the aggrieved person, and shall be approved by the Secretary.

"(4) A conciliation agreement may provide for binding arbitration of the dispute arising from the complaint. Any such arbitration that results from a conciliation agreement may award appropriate specific relief, including monetary relief, to the person aggrieved.

"(5) Each conciliation agreement shall be made public.

"(6)(A) With respect to each investigation under this section, the Secretary shall prepare a final investigative report containing—

"(i) the names and dates of contacts with witnesses;

"(ii) a summary and the dates of correspondence and other contacts with the aggrieved person and the respondent;

"(iii) a summary description of other pertinent records;

"(iv) a summary of witness statements; and

"(v) answers to interrogatories.

"(B) A final report under this paragraph may be amended if additional evidence is later discovered.

"(7) The Secretary shall, with respect to any respondent who enters into more than one conciliation agreement within any five-year period, transmit each conciliation agreement and each final investigative report to the Attorney General and to appropriate governmental licensing and supervisory authorities.

"(c) FAILURE TO COMPLY WITH CONCILIATION AGREEMENT.—Whenever the Secretary has reasonable cause to believe that a respondent has failed to comply with a conciliation agreement, the Secretary shall refer the matter to the Attorney General with a recommendation that a civil action be filed under section 814 for the enforcement of such agreement.

"(d) PROHIBITIONS AND REQUIREMENTS WITH RESPECT TO DISCLOSURE OF INFORMATION.—(1) No individually identifiable information derived from an investigation under this title may be made public other than in the course of proceedings under this title.

"(2) Nothing said or done in the course of conciliation under this title may be made public or used as evidence in a subsequent proceeding under this title without the written consent of the persons concerned.

"(3) Whoever makes public any information in violation of this subsection shall be fined not more than $25,000 or imprisoned not more than six months, or both.

"(4) Information derived from an investigation, shall be made available to the aggrieved person and the respondent at any time upon request, as shall any final investigative report relating to that investigation.

"(e) REFERRAL FOR PROMPT JUDICIAL ACTION.—If the Secretary concludes, during an investigation of a complaint, that prompt judicial action is necessary to carry out the purposes of this title, the Secretary shall refer the matter to the Attorney General, with a request that a civil action be commenced under section 814(b).

"(f) REFERRAL FOR STATE OR LOCAL PROCEEDINGS.—(1) Whenever a complaint alleges a discriminatory housing practice—

"(A) within the jurisdiction of a State or local public agency; and

"(B) as to which such agency has been certified by the Secretary under this subsection;

the Secretary shall refer such charge to that certified agency before taking any action with respect to such charge.

"(2) Except with the consent of such certified agency, the Secretary, after that referral is made, shall take no further action with respect to such charge unless—

"(A) the certified agency has failed to commence proceedings with respect to the charge before the end of the 30th day after the date of such referral;

"(B) the certified agency, having so commenced such proceedings, fails to carry forward such proceedings with reasonable promptness; or

"(C) the Secretary determines that the certified agency no longer qualifies for certification under this subsection with respect to the relevant jurisdiction.

"(3)(A) The Secretary may certify an agency under this subsection only if the Secretary determines that—

"(i) the substantive rights protected by such agency in the jurisdiction with respect to which certification is to be made;

"(ii) the procedures followed by such agency;

"(iii) the remedies available to such agency; and

"(iv) the availability of judicial review of such agency's action;

are substantially equivalent to those created by and under this title.

"(B) Before making such certification, the Secretary shall take into account the current practices and past performance, if any, of such agency.

"(4) During the period which begins on the date of the enactment of the Fair Housing Amendments Act of 1986 and ends four years after such date, each agency certified for the purposes of this title on the day before such date shall for the purposes of this subsection be considered certified under this subsection with respect to those matters for which such agency was certified on that date.

"(5) Not less frequently than every five years, the Secretary shall determine whether each agency certified under this subsection continues to qualify for certification. The Secretary shall take appropriate action with respect to any agency not so qualifying.

"(g) REASONABLE CAUSE DETERMINATION AND EFFECT.—(1) If the Secretary—

"(A)(i) has not approved a conciliation agreement before the end of the 100th day after the date of the filing of the complaint; or

"(ii) certifies before the end of such period that conciliation of the complaint has been engaged in, and that additional conciliation efforts are unlikely to be successful; and

"(B) determines, after an investigation under this section but not later than the end of the 100th day after the filing of the complaint, that reasonable cause exists to believe that a discriminatory housing practice has occurred or is about to occur;

the Secretary shall take action under paragraph (2).

"(2)(A) If the Secretary is required to take action under this paragraph, the Secretary shall, except as provided in subparagraph (C), immediately issue a charge, on behalf of the aggrieved person filing the complaint, for further proceedings under section 812.

"Such charge—

"(i) shall consist of a short and plain statement of the facts upon which the Secretary has found reasonable cause to believe that a discriminatory housing practice has occurred or is about to occur;

"(ii) shall be based on the final investigative report; and

"(iii) need not be limited to the facts or grounds alleged in the complaint filed under section 810(a).

"(C) If the Secretary determines that the matter involves the legality of any State or local zoning or other land use law or ordinance, the Secretary shall immediately refer the matter to the Attorney General for appropriate action under section 814, instead of issuing such charge.

"(3) Unless the Secretary is required to take action under paragraph (2), the Secretary shall promptly dismiss the complaint. The Secretary shall make public disclosure of each such dismissal.

"(4) The Secretary shall not issue a charge under this section regarding an alleged discriminatory housing practice after the beginning of the trial of a civil action commenced by the aggrieved party under an Act of Congress or a State law, seeking

relief with respect to that discriminatory housing practice.

"SUBPOENAS; GIVING OF EVIDENCE

"SEC. 811. (a) IN GENERAL.—(1) The Secretary may, in accordance with this subsection, issue subpoenas and order answers to interrogatories in aid of investigations under this title.

"(2) An administrative law judge may, in accordance with this subsection, issue subpoenas and order answers to interrogatories in aid of hearings under this section.

"(3) Such subpoenas and interrogatories may be issued to the same extent and subject to the same limitations as would apply if the subpoenas or interrogatories were issued or served in aid of a civil action in the United States district court for the district in which the investigation is taking place.

"(4) The Secretary and administrative law judges may administer oaths and affirmations for the purposes of this title.

"(b) SUBPOENAS FOR COMPLAINANTS AND RESPONDENTS.—Upon written application to the Secretary or an administrative law judge in a proceeding before the official to whom such application is made, a complainant or a respondent shall be entitled to the issuance of a reasonable number of subpoenas under subsection (a).

"(c) CRIMINAL PENALTIES.—(1) Any person who willfully fails or neglects to attend and testify or to answer any lawful inquiry or to produce records, documents, or other evidence, if it is in such person's power to do so, in obedience to the subpoena or other lawful order under subsection (a), shall be fined not more than $100,000 or imprisoned not more than one year, or both.

"(2) Any person who, with intent thereby to mislead another person in any proceeding under this title—

"(A) makes or causes to be made any false entry or statement of fact in any report, account, record, or other document produced pursuant to subpoena or other lawful order under subsection (a);

"(B) willfully neglects or fails to make or to cause to be made full, true, and correct entires in such reports, accounts, records, or other documents; or

"(C) willfully mutilates, alters, or by any other means falsifies any documentary evidence;

shall be fined not more than $100,000 or imprisoned not more than one year, or both.

"(d) WITNESS FEES.—Witnesses summoned by a subpoena under this title shall be entitled to the same witness and mileage fees as witnesses in proceedings in United States district courts.

ADMINISTRATIVE ENFORCEMENT; HEARING PROCESS

"SEC. 812. (a) CONDUCT OF HEARING.—(1)(A) An administrative law judge appointed under section 3105 of title 5, United States Code, shall conduct a hearing on the record with respect to a charge issued under section 810 of this title.

"(B) Except to the extent inconsistent with this title, sections 554, 555, 556, and 557 of title 5, United States Code, apply to such hearing.

"(2) An individual who, as an employee or other representative of the Secretary, conducted an investigation or engaged in conciliation under section 810 shall not present or prosecute a charge before an administrative law judge under this section.

"(b) SERVICE OF COPIES OF CHARGE.—(1) After the Secretary issues a charge under section 810, the Secretary shall cause a copy thereof to be served—

"(A) on each respondent named in such charge, together with a notice of opportunity for a hearing on the record at a place (in the vicinity in which the discriminatory housing practice is alleged to have occurred or to be about to occur) and at a time (not less than 30 days after the service of such charge) specified in such notice; and

"(B) on each aggrieved person.

"(2) On the request of a party and with the consent of all other parties, a hearing may be rescheduled for a time earlier than the time specified in such notice or a place other than that specified in such notice.

"(c) RIGHTS OF RESPONDENTS AND AGGRIEVED PERSONS.—(1) Any respondent named in such charge shall have the right to file an answer to the charge, to appear in person or otherwise and to present testimony at a hearing on the record, and to obtain the issuance of subpoenas under section 811.

"(2) Any aggrieved person with respect to such charge shall have the right to intervene in the proceeding, to appear in person or otherwise and to present testimony at such hearing, and to obtain the issuance of subpoenas under section 811.

"(d) RESOLUTION OF CHARGE.—Any resolution of a charge before a final order under this section shall require the consent of the aggrieved person on whose behalf the charge is issued.

"(e) EFFECT OF TRIAL OF CIVIL ACTION ON ADMINISTRATIVE PROCEEDINGS.—An administrative law judge shall not continue administrative proceedings under this section regarding any alleged discriminatory housing practice after the beginning of the trial of a civil action commenced by the aggrieved party under an Act of Congress or a State law, seeking relief with respect to that discriminatory housing practice.

"(f) FINDINGS AND CONCLUSIONS, AND ORDER.—(1) After the hearing under this section, the administrative law judge shall promptly make findings of fact and conclusions of law.

(2) If the administrative law judge finds that a respondent has engaged or is about to engage in a discriminatory housing practice, such administrative law judge shall promptly issue an order for such relief as may be appropriate, which may include—

"(A) compensation for actual damages suffered by the aggrieved person as a result of the discriminatory housing practice;

"(B) punitive damages; and

"(C) an order requiring the respondent to cease and desist from engaging in the discriminatory housing practice with respect to the aggrieved person and to take such action as is necessary to make the aggrieved person whole.

"(3) No such order shall affect any contract of sale, encumbrance, or lease executed before the issuance of such order and involving a bona fide purchaser, encumbrancer, or tenant without actual notice of the charge filed under this title.

"(4) In the case of an order with respect to a discriminatory housing practice that occurred in the course of a business subject to licensing or regulation by a governmental agency, the Secretary shall, not later than the 30th day after the date of the issuance of such order (or, if such order is judicially reviewed, 30 days after such order is in substance affirmed upon such review)—

"(A) send copies of the findings of fact, conclusions of law, and the order, to that governmental agency; and

"(B) recommend to that governmental agency appropriate disciplinary action (including, where appropriate, the suspension or revocation of the license of the respondent).

"(5) In the case of an order against a respondent against whom another order was issued within the preceding five years under this section, the Secretary shall send a copy of each of such orders to the Attorney General.

"(6) If the administrative law judge does not find that the respondent has engaged or is about to engage in a discriminatory housing practice, such administrative law judge shall dismiss the charge. The Secretary shall make public disclosure of each such dismissal.

"(g) SERVICE OF FINDINGS AND CONCLUSIONS AND ORDER.—The Secretary shall cause the findings of fact and conclusions of law made with respect to an order issued under subsection (f), together with a copy of such order, to be served on each aggrieved person and each respondent in the proceeding.

"(h) FINALITY OF ORDER; REVIEW.—(1) An order of the administrative law judge is the final order for purposes of judicial review under this title.

"(2)(A) Any party aggrieved by an order of the administrative law judge granting or denying in whole or in part the relief sought may obtain a review of such order under chapter 158 of title 28, United States Code.

"(B) Notwithstanding such chapter, however, venue of the proceeding shall be in the judicial circuit in which the discriminatory housing practice is alleged to have occurred, and filing of the petition for review shall be not later than 30 days after the date of service of such order.

"(i) COURT ENFORCEMENT OF ADMINISTRATIVE ORDER UPON PETITION BY SECRETARY.—(1) The Secretary may petition any United States court of appeals for the circuit in which the discriminatory housing practice is alleged to have occurred or in which any respondent resides or transacts business, or the Court of Appeals for the District of Columbia Circuit, for the enforcement of the order of the administrative law judge and for appropriate temporary relief or restraining order, by filing in such court a written petition praying that such order be enforced and for appropriate temporary relief or restraining order.

"(2) The Secretary shall file in court with the petition the record in the proceeding. A copy of such petition shall be forthwith transmitted by the clerk of the court to the parties to the proceeding before the administrative law judge.

"(j) RELIEF WHICH MAY BE GRANTED.—(1) Upon the filing of a petition under subsection (h) or (i), the court may—

"(A) grant to the petitioner, or any other party, such temporary relief, restraining order, or other order as the court deems just and proper;

"(B) affirm, modify, or set aside, in whole or in part, the order, or remand the order for further proceedings; and

"(C) enforce such order to the extent that such order is affirmed or modified.

"(2) Any party to the proceeding before the administrative law judge may intervene in the court of appeals.

"(3) No objection not made before the administrative law judge shall be considered by the court, unless the failure or neglect to urge such objection is excused because of extraordinary circumstances.

"(4) The findings of the administrative law judge with respect to questions of fact shall not be set aside unless such findings are unsupported by substantial evidence on the record taken as a whole.

"(k) ENFORCEMENT DECREE IN ABSENCE OF PETITION FOR REVIEW.—If no petition for review is filed under subsection (h) before the end of the 45th day after the date of the service of the administrative law judge's order, the administrative law judge's findings of fact and order shall be conclusive in connection with any petition for enforcement—

"(1) which is filed by the Secretary under subsection (i) after the end of such day; or

"(2) under subsection (l).

"(l) COURT ENFORCEMENT OF ADMINISTRATIVE ORDER UPON PETITION OF ANY PERSON ENTITLED TO RELIEF.—If before the end of the 60th day after the date of service of the administrative law judge's order, no petition for review has been filed under subsection (h), and the Secretary has not sought enforcement of the order under subsection (i), any person entitled to relief under the order may petition for a decree enforcing the order in the United States court of appeals for the circuit in which the discriminatory housing practice is alleged to have occurred.

"(m) ENTRY OF DECREE.—The clerk of the court of appeals in which a petition for enforcement is filed under subsection (k) or (l) shall forthwith enter a decree enforcing the order and shall transmit a copy of such decree to the Secretary, the respondent named in the petition, and to any other parties to the proceedings before the administrative law judge.

"(n) ATTORNEY'S FEES.—Any prevailing party may be awarded a reasonable attorneys' fee as part of the final order in any administrative proceeding based on a charge issued by the Secretary, or by the court, in any proceeding for review or enforcement of such an order, as part of the costs. The United States shall be liable for such fees and costs the same as a private person.

"ENFORCEMENT BY PRIVATE PERSONS

"SEC. 813. (a) CIVIL ACTION.—(1)(A) An aggrieved person may commence a civil action in an appropriate United States district court or State court not later than two years after the termination of an alleged discriminatory housing practice or a noncompliance with a conciliation agreement entered into under this title to obtain appropriate relief with respect to such discriminatory housing practice or noncompliance.

"(B) The computation of such two-year period shall not include any time during during which a administrative proceeding under this title was pending with respect to a complaint or charge under this title based upon such discriminatory housing practice or the discriminatory housing practice to which such conciliation agreement pertains.

"(2) An aggrieved person may commence a civil action under this subsection whether or not a complaint has been filed under section 810(a) and without regard to the status of any such complaint, but if the Secretary or a State or local agency has obtained a conciliation agreement, no action may be filed under this subsection by the aggrieved person with respect to the alleged discriminatory housing practice which forms the basis for such complaint filed with the Secretary except for the purpose of enforcing the terms of such an agreement.

"(3) An aggrieved person may not commence a civil action under this subsection with respect to an alleged discriminatory housing practice which forms the basis of a charge issued by the Secretary if an administrative law judge has commenced a hearing on the record under this title with respect to such charge.

"(b) APPOINTMENT OF ATTORNEY BY COURT.—Upon application by a person alleging a discriminatory housing practice or a person against whom such a practice is alleged, the court may—

"(1) appoint an attorney for such person; or

"(2) authorize the commencement or continuation of a civil action under subsection (a) without the payment of fees, costs, or security, if in the opinion of the court such person is financially unable to bear the costs of such action.

"(c) RELIEF WHICH MAY BE GRANTED.—In a civil action under subsection (a) the court may grant as relief, as the court deems appropriate, actual damages, any permanent or temporary injunction, temporary restraining order, and other relief, including punitive damages, and may allow the prevailing party a reasonable attorney's fee as part of the costs. The United States shall be liable for such costs the same as a private person.

"(d) EFFECT ON CERTAIN SALES, ENCUMBRANCES, AND RENTALS.—Relief granted under this section shall not affect any sale, encumbrance, or lease executed before the granting of such relief and involving a bona fide purchaser, encumbrancer, or tenant, without actual notice of the filing of a complaint with the Secretary or civil action under this title.

"(e) INTERVENTION BY ATTORNEY GENERAL.—Upon timely application, the Attorney General may intervene in such civil action, if the Attorney General certifies that the case is of general public importance. Upon such intervention the Attorney General may obtain such relief as would be available to the Attorney General under section 814(e) in a civil action to which such section applies.

"(f) CIVIL ACTION TO COMPEL COMPLIANCE BY OFFICIALS.—A person harmed by a failure to comply with section 808(d) or 808(e)(6) may, in a civil action against any person or entity having the power to secure such compliance, obtain appropriate relief to compel such compliance.

"ENFORCEMENT BY THE ATTORNEY GENERAL

"SEC. 814. (a) PATTERN OR PRACTICE CASES.—(1) Whenever the Attorney General has reasonable cause to believe that any person or group of persons is engaged in a pattern or practice of resistance to the full enjoyment of any of the rights granted by this title, or that any group of persons has been denied any of the rights granted by this title and such denial raises an issue of general public importance, the Attorney General may commence a civil action in any appropriate United States district court.

"(b) ON REFERRAL FOR PROMPT JUDICIAL ACTION.—(1) Upon referral by the Secretary under section 810(e), the Attorney General may commence a civil action for appropriate temporary or preliminary relief pending final disposition of the complaint under section 810. Any temporary restraining order or other order granting preliminary or temporary relief shall be issued in accordance with rule 65 of the Federal Rules of Civil Procedure.

"(2) The commencement of a civil action under this subsection shall not affect the initiation or continuation of administrative proceedings under section 810 and section 812 of this title.

"(c) ON REFERRAL OF DISCRIMINATORY HOUSING PRACTICE OR CONCILIATION AGREEMENT FOR ENFORCEMENT.—(1)(A) The Attorney General may commence a civil action in any appropriate United States district court for appropriate relief with respect to a discriminatory housing practice referred to the Attorney General by the Secretary under section 810(g).

"(B) A civil action under this paragraph may be commenced not later than the end of the 18th month beginning after the termination of the alleged discriminatory housing practice.

"(2)(A) The Attorney General may commence a civil action in any appropriate United States district court for appropriate relief with respect to noncompliance with a conciliation agreement referred to the Attorney General by the Secretary under section 810(c).

"(B) A civil action may be commenced under this paragraph not later than the end of 90 days after the referral of the alleged noncompliance under section 810(c).

"(d) ENFORCEMENT OF SUBPOENAS.—The Attorney General, on behalf of the Secretary, or other party at whose request a subpoena is issued, under this title, may enforce such subpoena in appropriate proceedings in the United States district court for the district in which the person to whom the subpoena was addressed resides, was served, or transacts business.

"(e) RELIEF WHICH MAY BE GRANTED IN CIVIL ACTIONS UNDER SUBSECTIONS (a) AND (c).—(1) In a civil action under subsection (a) or (c), the court—

"(A) may award such preventive relief, including a permanent or temporary injunction, restraining order, or other order against the person or persons responsible for a violation of this title as is necessary to assure the full enjoyment of the rights granted by this title;

"(B) may award such other relief as the court deems appropriate; and

"(C) may, to vindicate the public interest, assess a civil penalty against the respondent—

"(i) in an amount not exceeding $50,000, for a first violation; and

"(ii) in an amount not exceeding $100,000, for any subsequent violation.

"(2) In a civil action under this section, the court may allow the prevailing party (other than the United States) a reasonable attorney's fee as part of the cost. The United States shall be liable for costs the same as private person.

"(f) INTERVENTION IN CIVIL ACTIONS.—Upon timely application, any person may intervene in a civil action commenced by the Attorney General under subsection (a) or (c) which involves an alleged discriminatory housing practice with respect to which such person is an aggrieved person or a conciliation agreement to which such person is a party. The court may grant such appropriate relief to any such intervening party as is authorized to be granted to a plaintiff in a civil action under section 813.

RULES TO IMPLEMENT TITLE

"SEC. 815. The Secretary may make rules (including rules for the collection, maintenance, and analysis of appropriate data) to carry out this title. The Secretary shall give public notice and opportunity for comment with respect to all rules made under this section.".

SEC. 9. TECHNICAL AMENDMENT TO SECTION 817.

Section 817 is amended by striking out the last sentence thereof.

SEC. 10. CONFORMING AMENDMENT TO TITLE IX.

Section 901 is amended by inserting ", handicap (as such term is defined in section 802 of this Act), familial status (as such

term is defined in section 802 of this Act)," after "sex" each place it appears.

SEC. 11. CONFORMING AMENDMENTS TO TITLE 28 OF THE UNITED STATES CODE.

(a) JURISDICTION.—Section 2342 of title 28, United States Code, is amended—

(1) by striking out "and" and the end of paragraph (4);

(2) by striking out the period at the end of paragraph (5) and inserting "; and" in lieu thereof; and

(3) by inserting after paragraph (5) but before the matter beginning "Jurisdiction is invoked" the following:

"(6) all final orders of an administrative law judge under section 812 of the Fair Housing Act.".

(b) DEFINITION.—Section 2341(3) of title 28, United States Code, is amended—

(1) by striking out "and" at the end of subparagraph (B);

(2) by striking out the period at the end of subparagraph (C) and inserting "; and" in lieu thereof; and

(3) by adding at the end the following:

"(D) the administrative law judge, when the order is under section 812 of the Fair Housing Act.".

SEC. 11. DISCLAIMER OF PREEMPTIVE EFFECT ON OTHER ACTS.

Nothing in the Fair Housing Act as amended by this Act limits any right, procedure, or remedy available under the Constitution or any other Act of Congress not so amended.

SEC. 12. EFFECTIVE DATE AND INITIAL RULEMAKING.

(a) EFFECTIVE DATE.—This Act and the amendments made by this Act shall take effect on the 180th day beginning after the date of the enactment of this Act.

(b) INITIAL RULEMAKING.—In consultation with other appropriate Federal agencies, the Secretary shall, not later than the 180th day after the date of the enactment of this Act, issue rules to implement title VIII as amended by this Act. The Secretary shall give public notice and opportunity for comment with respect to such rules.

PRINCIPAL PROVISIONS OF THE FAIR HOUSING ACT OF 1986

PURPOSE

The bill provides an additional means (as an alternative to court suit) to redress housing discrimination complaints. It does this by means of a speedy, fair, and inexpensive decision process for all parties in cases where persons allege that they have been denied housing because of their race, color, religion, sex, national origin, handicap, or familial status.

It broadens the classes of persons protected from discrimination housing practices to include handicapped persons and families with children. And it codifies a number of court decisions interpreting and clarifying Congressional intent in the Fair Housing Act of 1986.

It does this by amending the Fair Housing law (Title VIII of the Civil Rights Act of 1968.

FILING A COMPLAINT

When a person believes he or she has been treated unfairly in the housing market because of race, color, religion, sex, national origin, handicap, or familial status, he or she may file a complaint with the local HUD office.

The complaint is investigated by an agency representative to determine if it is valid. During this time, the agency attempts to conciliate between the parties. If the agency has no reasonable cause to believe the complaint is true, it must dismiss it without further proceedings.

If the agency has reasonable cause to believe the complaint is true and conciliation has not been successful, the agency files a charge on behalf of the complainant before an administrative law judge.

However, zoning or land-use cases shall be referred by HUD to the Justice Department for further investigation and court action, if warranted.

REFERRAL OF COMPLAINT TO STATE OR LOCAL AGENCY

HUD shall certify a State or local agency as "substantially equivalent" if the rights, remedies, availability of judicial review, and procedures of that state or locality are substantially equivalent to those created in this bill. Such agencies shall be recertified every five years.

HUD currently has certified 90 state and local agencies. The certification of such agencies shall continue for four years, when they will be reviewed by HUD for continued certification. They would continue to receive, investigate, hear, and decide HUD-referred cases under the bill, except for cases involving classes not protected by their controlling statute. Such cases would be processed by HUD until such time as the state or locality's statute was amended to include such persons (i.e. handicapped persons and families with children).

CONCILIATION

The first method to attempt to resolve housing discrimination complaints is by informal means. HUD, acting in the public interest, investigates the complaint, interviews witnesses, reviews records, and takes statements. Based on this evidence, HUD makes a determination either to resolve the issue or not to resolve the issue. A Final Investigation Report (F.I.R.) is then prepared. The parties are brought together by HUD (or the "substantially equivalent" state agency) to resolve the issues. This process, currently used by HUD and some "substantially equivalent" state and local agencies, encourages the two parties to resolve their differences in private in their own best interests through a signed agreement. This agreement may provide for binding arbitration.

ADMINISTRATIVE ENFORCEMENT

Should the parties fail to reach a conciliation agreement, this bill provides for an administrative hearing process.

Independent administrative law judges (ALJs) hear the case, decide the facts, and render a decision. HUD represents the aggrieved person before the ALJ. Each party may call, question, and cross examine witnesses. The proceeding is a public one on the record and subject to the Administrative Procedures Act.

The complainant has the right to intervene in this hearing. The decision of the administrative law judge may be appealed to the federal court of appeals for the credit in which to discriminatory practice is alleged to have occurred.

The final order of the ALJ, whether a finding against a respondent or a dismissal of a charge, shall be made public. Aggrieved persons retain their right to pursue a private lawsuit up until the time an administrative hearing commences.

Similar types of administrative enforcement procedures are used by 28 other federal agencies and departments.

RELIEF

If, after an initial investigation, HUD believes prompt action is necessary, such as to keep the housing unit available until the charge is resolved, then the Secretary of HUD may ask the Attorney General to seek a temporary restraining order (TRO) or a preliminary injunction from the court. The effect of a TRO is to hold the unit in dispute off the market until a conciliation agreement is reached or until an ALJ renders a final decision.

If discrimination is found by the administrative law judge, equitable and declaratory relief (including cease and desist orders) as well as compensatory and punitive damages may be awarded.

If the aggrieved person chooses to go to court, the relief a court may award includes injunctive relief, compensatory, and punitive damages. In addition, the court may assess a civil penalty against a respondent of up to $50,000 for the first offense and up to $100,000 for a second offense. Such penalties have a deterrent effect, discouraging the respondent from discriminating again and violating the law.

This authority to grant all necessary relief provides the real enforcement power for Title VIII and ensures that the victim is made 'whole' by the process.

Reasonable attorney fees and expert witness fees may also be granted to the prevailing party.

AGGRIEVED PERSONS

"Aggrieved person" repeats current law and is defined as those both directly and indirectly affected by a discriminatory housing practice.

ADDITIONAL PROTECTED CLASSES

Two additional groups of persons are added to Title VIII of the Civil Rights Act to protect them from housing discrimination:

1. "Handicapped persons", as defined in Sec. 504 of the Rehabilitation Act.

This provision permits reasonable modifications to a rental apartment or house by a handicapped person, at his or her expense, in order to make access to the unit by that person or persons substantially equal.

Modifications to the apartment or house shall not be at the expense of the owner. At the landlord's request, the handicapped person must return the unit to its original condition when he or she vacates.

2. Familial Status" is also added as a protected class.

This means families with children are protected from housing discrimination. However, the bill does not bar exclusion of families with children from publicly-assisted housing for the elderly or from bona fide retirement communities. Furthermore, reasonable local occupancy and other codes limiting the number of persons per unit would continue to apply.

OTHER PARTICIPANTS IN THE REAL ESTATE CHAIN

The bill codifies existing case law with respect to a number of other participants in the real estate chain who are subject to the Fair Housing law.

Mortgage lenders are prohibited from refusing to lend ("redlining") and from charging additional fees, or requiring different terms and conditions in a loan in certain city neighborhoods because of the race of the neighborhood residents. Likewise, property insurers, real estate appraisers, and mortgage purchasers are explicitly cited as subject to the Fair Housing Act's coverage.

IMPLEMENTING RULES AND REGULATIONS

HUD is requird to issue rules and regulations to implement this act, to submit an

annual report to Congress on progress in eliminating discrimination in housing, and to provide advice and assistance to persons of low and moderate income in need of housing assistance.

LEADERSHIP CONFERENCE
ON CIVIL RIGHTS,
Washington, DC, November 15, 1985.

Hon. CHARLES MATHIAS,
U.S. Senate, Russell Senate Office Building, Washington, DC.

DEAR SENATOR MATHIAS: The Leadership Conference on Civil Rights (LCCR), composed of 185 national organizations representing Black, Hispanic and Asian Americans, labor, major religious groups, women, the handicapped, minority businesses and professions and the aged strongly supports and urges the enactment of the Fair Housing Amendments Act of 1985.

Housing discrimination persists as evidenced by HUD's estimate that at least two million incidences of unlawful victimization occur annually. This figure does not reflect the increasing number of overt and even violent acts directed against minority families who move into all or predominantly white neighborhoods. Where one lives is key to access to employment opportunities and educational facilities. Yet housing choice is the most elusive civil rights objective and, consequently, constitutes a major obstacle to securing other civil rights assured under law.

Clearly, the weaknesses in the existing fair housing law—Title VIII of the Civil Rights Act of 1968—account for much of the failure to eliminate the policies and practices that deny minorities and women choice and perpetuate segregated residential patterns. The proposed amendments would correct the law's deficiencies by providing an effective administrative remedy for individual victims of discrimination. Further, it would extend protection to disabled persons and families with children who find it increasingly difficult to find accessible and suitable affordable housing.

This effort to strengthen Title VIII has had bipartisan support since 1977 and in 1980 passed in the House by a wide margin and failed in the Senate only because of time constraints.

We cannot let more time elapse in securing legislation that will cure the deficiencies in the existing law, deficiencies that with passage of time reinforce the wrongs the law was enacted to remedy.

We are gratified that you are again taking the lead in seeking these essential legislative changes. We look forward to working with you.

Sincerely,

BENJAMIN L. HOOKS,
Chairperson.
RALPH G. NEAS,
Executive Director.

NATIONAL COMMITTEE AGAINST
DISCRIMINATION IN HOUSING,
Washington, DC, February 3, 1986.

Senator CHARLES MCC. MATHIAS,
U.S. Senate, Russell Senate Office Building, Washington, DC.

DEAR SENATOR MATHIAS: This is to express the full endorsement and support of NCDH and its 75 affiliated Fair Housing Centers for the Fair Housing Amendments Legislation that you and other key members of the Congress are introducing.

This legislation is the product of nine years of Congressional effort to provide needed changes to strengthen the Federal Fair Housing Law. The Bill represents a long process of honing and refining these changes to reflect the current realities of housing discrimination and to deal with housing discrimination problems forcefully and effectively.

Despite the fact that Fair Housing has been the law of the land since 1968, housing discrimination in various forms remains rampant. HUD has estimated that some two million incidents of illegal racial discrimination occur annually. HUD, with no enforcement authority, receives only some 4,000 complaints annually. NCDH documented the fact last October that racial discrimination in housing is a "very severe" problem throughout the United States.

Discrimination against handicapped persons is acknowledged by HUD and everyone else as a major problem. Housing discrimination against families with children has been documented—by NCDH and others—as a widespread problem of nationwide dimensions.

These facts strongly suggest at least two needed major amendments:

1. A speedy, effective mechanism to secure fair housing rights without the necessity of resort to lengthy, expensive litigation.

2. Protection for handicapped persons and families with children, neither of whom are now protected under the Federal Fair Housing Law.

Further, there is a need to clarify ambiguities in the law by incorporating the body of judicial decisions interpreting those ambiguous provisions into the Fair Housing Act.

The Fair Housing Amendments Bill would meet those needs effectively.

First, it would provide for a simple, expeditious, and inexpensive means of housing discrimination victims to secure their federally protected fair housing rights—administrative enforcement—not as a substitute, but as an alternative, to litigation.

Second, it would add fair housing protection to handicapped persons and families with children—people who now are unprotected by Federal Law.

Third, it would resolve ambiguities of coverage in the way the courts have resolved them.

Similar legislation was first introduced in the Congress in 1977—some nine years ago. It consistently has received strong bipartisan support and, indeed, almost was enacted in 1980.

Recent events—in Philadelphia and elsewhere—highlight the prevalence and pervasive nature of housing discrimination nearly 18 years after enactment of the Federal Fair Housing Law. These events, as well as factual studies and investigations, demonstrate the urgent need for speedy enactment of this important legislation.

We congratulate you and the able Congressional staff that have crafted this superb Bill. NCDH and its affiliates fully support it and will do all we can to help secure enactment in this—the Fifth Congress to consider this needed legislation.

Sincerely,

MARTIN E. SLOANE,
Executive Vice President.

AMERICAN COUNCIL OF THE BLIND,
Washington, DC, January 2, 1986.

Senator CHARLES MCC. MATHIAS, Jr.,
Russell Senate Office Building, Washington, DC.

DEAR SENATOR MATHIAS. The American Council of the Blind (ACB) is the nation's largest advocacy organization of blind and visually impaired persons. The Council's national office in Washington, D.C. serves as a hub for the activities and programs of its fifty-three state affiliates and seventeen special interest and professional organizations. As a membership organization, comprised primarily of blind and visually impaired persons, ACB and its members strongly support the Fair Housing Amendments Act of 1985.

Title VIII of the Civil Rights Act of 1968, also known as the "Fair Housing Act", prohibits discrimination in the sale, rental, financing or marketing of housing against any person because of race, color, religion, sex, or national origin. Unfortunatley, persons with disabilities are not a protected class under the current Fair Housing Act. Recent estimates indicate that one out of every six people in the United States has a disability, and as many as one out of every twenty-two persons may be classified as "severely handicapped". ACB urges the enactment of the proposed amendments, which would extend the protection of the Fair Housing laws to handicapped persons.

The American Council of the Blind is hopeful that Congress will recognize that the Fair Housing Amendments Act of 1985 is an important piece of legislation to and for disabled persons. It is necessary to protect all classes of individuals against the evils of discrimination. Thank you for taking the lead in re-introducing this bill.

Yours sincerely,

ORAL O. MILLER,
National Representative.

WASHINGTON, DC, *December 27, 1985.*

Hon. CHARLES MCC. MATHIAS, Jr.,
Russell Senate Office Building, Washington, DC.

DEAR SENATOR MATHIAS: As former Assistant Secretary for Fair Housing and Equal Opportunity, I strongly endorse your bill, The Fair Housing Amendments Act.

I had the privilege of serving in the Department of Housing and Urban Development with Moon Landrieu and the late Patricia Roberts Harris, both of whom made this legislation one of the Department's principal legislative priorities.

You may recall Secretary Harris' testimony before the Subcommittee on the Constitution in March of 1979:

There is no mechanism today existing to insure access to housing by discriminated against members of this society. In the absence of an administrative procedure that makes it possible for an agency of the Federal Government, or through States agencies with similar powers, to enforce the end of housing discrimination—in the absence of that—the present policy of excluding people by a variety of methods will continue. . . .

What has happened in this society is that a small part of the society has been denied opportunity for access to housing based usually upon race or obvious national origin.

It is the special condition and opportunity, it seems to me, that this body and the society at large ought to be opposed to—that an individual can say to me that because of my particular ethnic background I may not purchase housing which almost everybody else similarly situated might purchase, which has nothing to do with my ability to purchase or occupy that house. That goes contrary not only to the protections of the Constitution but to some basic common-law attitudes toward restrictions on the alienation of property.

Senator, fair housing has been the last civil rights issue to gain national attention. Yet, it is literally a question of where people live and how they live. Our society can ill

afford to squander its time and energy maintaining segregated housing.

Since the Department's testimony in 1979, this bill has been passed by more than a two-thirds bipartisan vote in the House of Representatives. It was stalemated, as I need not remind you, in the lame duck session of the Senate in 1980.

The time has come for the Congress and the Senate, in particular, to confront the national problem of discrimination in housing and provide a remedy.

Sincerely,

STERLING TUCKER.

NATIONAL ASSOCIATION FOR THE ADVANCEMENT OF COLORED PEOPLE,
Brooklin Heights, NY, January 6, 1986.

Hon. CHARLES McC. MATHIAS, Jr.,
Russell Senate Office Building,
Washington, DC.

DEAR SENATOR MATHIAS: The National Association for the Advancement of Colored People again joins in endorsing the Fair Housing Amendments Act. This bill is an important part of the unfinished civil rights agenda facing this nation.

The NAACP has enjoyed a good relationship with you during the past years in drafting this bill and working for its enactment. We are determined to redouble our efforts to make fair housing a priority of this second session of the 99th Congress.

Access to housing is still limited to minorities and thousands of Americans encounter discrimination in the housing market daily. Your bill assures that persons encountering such discrimination are guaranteed a hearing and a resolution of their dispute in a timely and economical way.

The Fair Housing Amendments Act would fulfill that long-overdue civil rights commitment to our fellow Americans and ensure the promise of the Civil Rights Act of 1968.

Sincerely,

BENJAMIN L. HOOKS,
Executive Director.

THE FEDERAL ADMINISTRATIVE LAW JUDGES CONFERENCE,
Washington, DC, January 17, 1986.

Re: Fair Housing Act of 1985.

Hon. CHARLES McC. MATHIAS, Jr.,
Russell Senate Office Building,
Washington, DC.

DEAR SENATOR MATHIAS: I am pleased to inform you that, on November 22, 1985, the Executive Committee of the Federal Administrative Law Judges Conference unanimously adopted a resolution of endorsement and support of the Fair Housing bill then encompassed in the September 18, 1985 discussion draft.

A copy of that resolution is enclosed.

We trust our action will assist you, Senator Kennedy and others of your colleagues interested in enacting this Fair Housing amendment to the 1968 Civil Rights Act, to achieve your goal. If we may assist in any other way please do not hesitate to call upon us.

Very sincerely,

NORMAN ZANKEL,
Administrative Law Judge,
Chairman, Legislative Committee.

Adopted: By unanimous vote, November 22, 1985.

Be it *Resolved*, That:

The Federal Administrative Law Judges Conference endorses and supports the Fair Housing Act of 1985, in principle, with the understanding that the administrative enforcement hearings provided by Section 812 of said Act are conducted by Administrative Law Judges appointed under 5 U.S.C. 3105 who will enjoy the safeguards of the status and decisional autonomy of Administrative Law Judges under the federal Administrative Procedure Act; and that such administrative hearings will be conducted pursuant to the requirements of the federal Administrative Procedure Act to insure that constitutional requirements of procedural due process and fundamental fairness will be observed by all authorities engaged in enforcement of this statute.

ADDITIONAL COSPONSORS

S. 276

At the request of Mr. LAUTENBERG, the name of the Senator from Missouri [Mr. EAGLETON] was added as a cosponsor of S. 276, a bill to amend the Freedom of Information Act to provide for the protection from disclosure of records related to terrorism and foreign counterintelligence.

S. 558

At the request of Mr. MOYNIHAN, the name of the Senator from South Carolina [Mr. THURMOND] was added as a cosponsor of S. 558, a bill to amend the Internal Revenue Code of 1954 to permanently exclude educational assistance programs from gross income, and for other purposes.

S. 951

At the request of Mr. GORTON, the name of the Senator from Washington [Mr. EVANS] was added as a cosponsor of S. 951, a bill to amend the Fair Debt Collection Practices Act to provide that any attorney who collects debts on behalf of a client shall be subject to the provisions of such Act.

S. 1203

At the request of Mr. THURMOND, the name of the Senator from Alabama [Mr. DENTON] was added as a cosponsor of S. 1203, a bill to amend section 534 of title 28, United States Code, to allow railroad police and private university or college police access to Federal Government criminal identification records.

S. 1406

At the request of Mr. DECONCINI, the name of the Senator from Idaho [Mr. SYMMS] was added as a cosponsor of S. 1406, a bill to make permanent the formula for determining fees for the grazing of livestock on public rangelands.

S. 1544

At the request of Mr. ROTH, the name of the Senator from Maryland [Mr. SARBANES] was added as a cosponsor of S. 1544, a bill to extend the Trade Adjustment Assistance Program to place such program on a sound financial basis and to reform such program to emphasize the retraining of workers.

S. 1648

At the request of Mr. HEINZ, the name of the Senator from Florida [Mrs. HAWKINS] was added as a cosponsor of S. 1648, a bill to amend title XVIII of the Social Security Act to make a permanent the hospice benefit, to increase the payment amount for hospice care, and to make hospice care an optional service under the Medicaid program.

S. 1766

At the request of Mr. MATHIAS, the names of the Senator from South Carolina [Mr. HOLLINGS] and the Senator from Michigan [Mr. LEVIN] were added as cosponsors of S. 1766, a bill to designate the Cumberland terminus of the Chesapeake and Ohio Canal National Historical Park in honor of J. Glenn Beall, Sr.

S. 1804

At the request of Mr. HATCH, the name of the Senator from Rhode Island [Mr. PELL] was added as a cosponsor of S. 1804, a bill to provide for Federal incentive grants to encourage State health care professional liability reform.

S. 1817

At the request of Mr. TRIBLE, the name of the Senator from Idaho [Mr. MCCLURE] was added as a cosponsor of S. 1817, a bill to suspend temporarily most-favored-nation treatment to Romania.

S. 1822

At the request of Mr. THURMOND, the name of the Senator from Wisconsin [Mr. PROXMIRE] was added as a cosponsor of S. 1822, a bill to amend the Copyright Act in section 601 of title 17, United States Code, to provide for the manufacturing and public distribution of certain copyrighted material.

S. 1999

At the request of Mr. DANFORTH, the name of the Senator from Kansas [Mrs. KASSEBAUM] was added as a cosponsor of S. 1999, a bill to regulate interstate commerce by providing for a uniform product liability law, and for other purposes.

S. 2020

At the request of Mr. TRIBLE, the name of the Senator from Rhode Island [Mr. PELL] was added as a cosponsor of S. 2020, a bill to amend title 5, United States Code, to expand the class of individuals eligible for refunds or other returns of contributions from contingency reserves in the Employees Health Benefits Fund; to make miscellaneous amendments relating to the Civil Service Retirement System and the Federal Employees Health Benefits Program; and for other purposes.

S. 2026

At the request of Mr. ROTH, the name of the Senator from Maryland [Mr. SARBANES] was added as a cosponsor of S. 2026, a bill to extend the trade adjustment assistance programs.

SENATE JOINT RESOLUTION 249

At the request of Mr. DENTON, the name of the Senator from Arkansas [Mr. BUMPERS] was added as a cospon-

sor of Senate Joint Resolution 249, a joint resolution to proclaim October 23, 1986, as "A Time of Remembrance" for all victims of terrorism throughout the world.

SENATE JOINT RESOLUTION 256

At the request of Mr. TRIBLE, the name of the Senator from Nebraska [Mr. ZORINSKY] was added as a cosponsor of Senate Joint Resolution 256, a bill designating August 12, 1986, as "National Neighborhood Crime Watch Day."

SENATE JOINT RESOLUTION 257

At the request of Mr. CHILES, the names of the Senator from Alaska [Mr. STEVENS] and the Senator from Indiana [Mr. QUAYLE] were added as cosponsors of Senate Joint Resolution 257, a joint resolution to designate the first Friday of May each year as "National Teacher Appreciation Day."

SENATE CONCURRENT RESOLUTION 24

At the request of Mr. MATTINGLY, the name of the Senator from Virginia [Mr. TRIBLE] was added as a cosponsor of Senate Concurrent Resolution 24, a concurrent resolution to direct the Commissioner of Social Security and the Secretary of Health and Human Services to develop a plan outlining the steps which might be taken to correct the Social Security benefit disparity known as the notch problem.

SENATE RESOLUTION 28

At the request of Mr. MATHIAS, his name, and the names of the Senator from Colorado [Mr. ARMSTRONG], the Senator from Arizona [Mr. DECONCINI], the Senator from New York [Mr. MOYNIHAN], the Senator from Idaho [Mr. MCCLURE], the Senator from North Dakota [Mr. ANDREWS], the Senator from Mississippi [Mr. COCHRAN], the Senator from Oregon [Mr. PACKWOOD], the Senator from South Dakota [Mr. PRESSLER], and the Senator from Wisconsin [Mr. KASTEN] were added as cosponsors of Senate Resolution 28, a resolution to improve Senate procedures.

SENATE RESOLUTION 276

At the request of Mr. LAUTENBERG, the name of the Senator from Missouri [Mr. EAGLETON] was added as a cosponsor of Senate Resolution 276, a resolution expressing the sense of the Senate regarding the Federal Air Traffic Control System.

SENATE RESOLUTION 298

At the request of Mr. WEICKER, the name of the Senator from Arizona [Mr. GOLDWATER] was added as a cosponsor of Senate Resolution 298, a resolution expressing support and encouragement of the Senate for the U.S. Disabled Ski Team at the 1986 World Disabled Ski Championships to be held in Salem, Sweden, on April 6 through April 17, 1986.

SENATE RESOLUTION 303

At the request of Mr. MOYNIHAN, the name of the Senator from Wisconsin [Mr. PROXMIRE] was added as a cosponsor of Senate Resolution 303, a resolution to express the sense of the Senate with respect to proposals currently before the Congress to tax certain employer-paid benefits and other life-support benefits.

At the request of Mr. HEINZ, the names of the Senator from Michigan [Mr. RIEGLE], and the Senator from Montana [Mr. MELCHER] were added as cosponsors of Senate Resolution 303, supra.

SENATE RESOLUTION 312

At the request of Mr. JOHNSTON, his name, and the name of the Senator from Vermont [Mr. LEAHY] were added as cosponsors of Senate Resolution 312, a resolution affirming, in part, and disaffirming, in part, the order issued by the President under section 252 of the Balanced Budget and Emergency Deficit Control Act of 1985 for fiscal year 1986, and instructing the appropriate committees of the Senate to report certain changes in the laws within their jurisdiction.

SENATE RESOLUTION 320

At the request of Mr. JOHNSTON, the names of the Senator from Connecticut [Mr. DODD], the Senator from Illinois [Mr. SIMON], the Senator from Michigan [Mr. LEVIN], the Senator from Wisconsin [Mr. PROXMIRE], the Senator from Nebraska [Mr. ZORINSKY], the Senator from North Dakota [Mr. BURDICK], and the Senator from Massachusetts [Mr. KERRY] were added as cosponsors of Senate Resolution 320, a resolution affirming, in part, and disaffirming, in part, the order issued by the President under section 252 of the Balanced Budget and Emergency Deficit Control Act of 1985 for fiscal year 1986, and instructing the appropriate committees of the Senate to report certain changes in the laws within their jurisdiction.

SENATE RESOLUTION 327—ORIGINAL RESOLUTION AUTHORIZING EXPENDITURES BY THE COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

Mr. GARN, from the Committee on Banking, Housing, and Urban Affairs, reported the following original resolution; which was referred to the Committee on Rules and Administration.

S. RES. 327

Resolved, That, in carrying out its powers, duties, and functions under the Standing Rules of the Senate, in accordance with its jurisdiction under rule XXV of such rules, including holding hearings, reporting such hearings, and making investigations as authorized by paragraphs 1 and 8 of rule XXVI of the Standing Rules of the Senate, the Committee on Banking, Housing, and Urban Affairs is authorized from March 1, 1986, through February 28, 1987, in its discretion (1) to make expenditures from the contingent fund of the Senate, (2) to employ personnel, and (3) with the prior consent of the Government department or agency concerned and the Committee on Rules and Administration, to use on a reimbursable basis the services of personnel of any such department or agency.

SEC. 2. The expenses of the committee under this resolution shall not exceed $1,660,768, of which amount (1) not to exceed $1,000 may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946, as amended), and (2) not to exceed $1,000 may be expended for the training of the professional staff of such committee (under procedures specified by section 202(j) of such act.)

SEC. 3. The committee shall report its findings, together with such recommendations for legislation as it deems advisable, to the Senate at the earliest practicable date, but not later than February 28, 1987.

SEC. 4. Expenses of the committee under this resolution shall be paid from the contingent fund of the Senate upon vouchers approved by the chairman of the committee, except that vouchers shall not be required for the disbursement of salaries of employees paid at an annual rate.

SEC. 5. There are authorized such sums as may be necessary for agency contributions related to the compensation of employees of the committee from March 1, 1986, through February 28, 1987, to be paid from the Appropriations account for "Expenses of Inquirers and Investigations."

SENATE RESOLUTION 328—EXPRESSING THE SENSE OF THE SENATE ON THE IMPORTANCE OF INTERNATIONAL OBSERVERS AND NAMFREL DURING PHILIPPINE ELECTIONS

Mr. DECONCINI (for himself and Mr. LAUTENBERG) submitted the following resolution; which was considered and agreed to.

S. RES. 328

Whereas, on February 7, 1986, the Republic of the Philippines will hold an election for President and Vice President;

Whereas, the government and people of the United States have a longstanding friendship with the Philippines based on democratic principles and institutions;

Whereas, the United States seeks to perpetuate that relationship and has a strategic interest in the preservation of access to two military bases in the Philippines for the security of the Pacific region;

Whereas, restoration of democratic institutions in the Philippines is one essential element necessary to restore the confidence of the Filipino people in their government and to stem the growth of the communist insurgency;

Whereas, President Marcos, other officials of the Government of the Philippines, the opposition party UNIDO, and the National Citizen Movement for a Free Election (NAMFREL) have indicated their willingness to cooperate with a delegation of international observers;

Whereas, President Reagan has appointed an official United States delegation of Members of Congress and distinguished Americans from the private sector to observe the February 7 election.

Whereas, a decision to limit access to polling places by international observers would seriously impair observation and would de-

tract from the credibility of the election result;

Whereas, it has been the experience that international observers to the elections of 1982 and 1984 in El Salvador and more recently, Guatemala, were not limited access to polling places and greatly increased the fairness and credibility of those elections;

Whereas, NAMFREL is experiencing difficulty in organizing its citizens monitoring activities, particularly with regard to the "quick count" which is essential to a credible election: Now, therefore, be it

Resolved, That the Senate hereby—

(1) reaffirms its support for genuine, free, and fair elections in the Philippines scheduled for February 7, 1986;

(2) stresses the critical importance of NAMFREL in permitting the Filipino people to monitor the conduct of the election and of NAMFREL's "quick count" in monitoring the tabulation of the results;

(3) stresses the importance of the presence of international observers at such elections;

(4) urges the Governments of the Philippines to permit direct access to the polling places for such international observers;

(5) expresses its support for the official United States delegation sent by the President to observe the February 7 election; and

(6) reaffirms its commitment to the principles spelled out in House Concurrent Resolution 232, as passed unanimously by the Congerss on November 14, 1985.

SENATE RESOLUTION 329—AUTHORIZING TESTIMONY OF A SENATE EMPLOYEE

Mr. DOLE (for himself and Mr. BYRD) submitted the following resolution; which was considered and agreed to:

S. RES. 329

Whereas, in the case of *United States* v. *Joseph V. Herrera*, Cirminal No. 85-223, pending in the United States District Court for the District of New Mexico, the defendant has obtained a subpoena for the testimony of Sal Ceballos under the name of Sal Fresquez, an employee in Senator Bingaman's Las Cruces office;

Whereas, by the privileges of the Senate of the United States and Rule XI of the Standing Rules of the Senate, no evidence under the control or in the possession of the Senate can, by the judicial process, be taken from such control or possession but by permission of the Senate;

Whereas, when it appears that the testimony of an employee of the Senate is needful for use in any court for the promotion of justice, the Senate will take such action thereon as will promote the ends of justice consistent with the privileges and rights of the Senate: Now, therefore be it

Resolved, That Sal Ceballos is authorized to appear and to testify in the case of *United States* v. *Joseph V. Herrera*, except concerning matters which may be privileged.

SENATE RESOLUTION 330—ESTABLISHING A SPECIAL COMMITTEE ON FAMILIES, YOUTH, AND CHILDREN

Mr. DENTON (for himself, Mr. MOYNIHAN, Mr. MATHIAS, Mr. BENTSEN, Mr. DURENBERGER, Mr. GRASSLEY, Mr. HATCH, Mr. HEFLIN, Mr. HOLLINGS, Mr. INOUYE, and Mr. SPECTER) submitted the following resolution; which was referred to the Committee on Rules and Administration:

S. RES. 330

Whereas the family is the fundamental social unit and family formation and the successful rearing of youth and children may be more difficult than ever before in our nation's history;

Whereas the weakening of the traditional family unit constitutes a sensitive and complex social problem involving intense unhappiness of men, woman and children;

Whereas family instability and deteriorating family relationship are destructive of the physical and mental health and economic well-being, especially of youth and children, but also of many other members of unstable or broken families;

Whereas family instability is substantially associated with the impoverishment of children and increasing rates of teenage alcohol and drug abuse, adolescent pregnancy, teenage suicide and juvenile delinquency;

Whereas nearly one-quarter of the children in the United States today live in poverty as measured by the Census Bureau;

Whereas the poverty rate for children, particularly young children under age 6, is far higher than that for any other age group;

Whereas one-third of all children now being born in the United States may expect to be on public assistance before reaching age eighteen;

Whereas the generation long trend toward increasing child dependency on public assistance, child abandonment, child abuse, and child exploitation is to be resisted and reversed;

Whereas it is essential to address the nation's alarming rate of family disintegration and raise the public and governmental levels of understanding of the problems of families, youth and children;

Whereas it is imperative that government and private policies strenthen famiies and foster responsibility by addressing the causes of family disintegration, and assisting and encouraging preventive measures;

Whereas commencing with the establishment of the Children's Bureau of 1912, the executive branch has maintained a continuous if not always vigorous concern for the welfare of families, youth and children;

Whereas policies affecting families, youth and children are considered and acted upon by several, different standing committees; and

Whereas it is necessary to enhance the Senate's ability to conduct comprehensive oversight of Government and congressional activities affecting families, youth and children: Now, therefore, be it

Resolved, That (a)(1) there is established a special committee of the Senate to be known as the Special Committee on Families, Youth, and Children (hereafter in this resolution referred to as the "special committee"). The special committee shall be composed of 11 members appointed by the President pro tempore from the recommendations of the Minority Leader and the Majority Leader. Six members shall be appointed from the majority party and five members shall be appointed from the minority party.

(2) The President pro tempore shall designate a member of the special committee recommended by the Majority Leader to serve as chairman.

(b)(1) A majority of the members of the special committee shall constitute a quorum for the transaction of business, except that the special committee may fix a lesser number as a quorum for the purpose of taking testimony.

(2) Vacancies in the membership of the special committee shall not affect the authority of the remaining members to execute the functions of the committee, and shall be filled in the same manner as original appointments are made.

(3) The special committee shall adopt rules of procedure not inconsistent with the rules of the Senate governing standing committees of the Senate.

(c) The chairman may establish such subcommittees of the special committee as he considers appropriate, but each such subcommittee shall be composed of not less than four members.

SEC. 2. (a) It shall be the duty of the special committee to—

(1) make a full and complete study of the impact of government policies on families, children and adolescents, including the matter of health, income maintenance, welfare, education, employment, care of dependents of all ages, nutrition, adoption, foster care, and other concerns of children, adolescents, and families generally; and

(2) study the use of practicable means of encouraging the development of public and private programs and policies which will assist families, youth, or children.

(b) The special committee shall submit an annual report, and such other reports as the special committee considers necessary, to the Senate on the results of any investigation and review conducted under subsection (a).

(c) No proposed legislation shall be referred to the special committee, and such committee shall not have the power to report by bill or otherwise have any legislative jurisdiction.

SEC. 3. (a) For the purposes of this resolution, the special committee is authorized to—

(1) make expenditures from the contingent fund of the Senate;

(2) employ personnel;

(3) hold hearings;

(4) sit and act at any time or place during the sessions, recesses, and adjourned periods of the Senate;

(5) require, by subpoena or otherwise, the attendance of witnesses and the production of correspondence, books, papers, and documents;

(6) take depositions and other testimony;

(7) procure the services of individual consultants or organizations thereof, in accordance with the provisions of section 202(i) of the Legislative Reorganization Act of 1946; and

(8) with the prior consent of the department or agency of the Federal Government concerned and the Committee on Rules and Administration, use on a reimbursable basis the services of personnel of any such department or agency.

(b) With the consent of the chairman of any other committee of the Senate, the special committee may utilize the facilities and the services of the staff of such other committee of the Senate, or any subcommittee thereof, whenever the chairman of the special committee determines that such action is necessary and appropriate.

(c) The chairman of the special committee or any member thereof may administer oaths to witesses.

(d) Subpoenas authorized by the special committee may be issued over the signature of the chairman or any member of the spe-

cial committee designated by the chairman, and may be served by any peron designated by the member signing the subpoena.

SEC. 4. Expenses of the special committee under this resolution shall be paid from the contingent fund of the Senate upon vouchers approved by the chairman of the special committee, except that vouchers shall not be required for the disbursement of salaries of employees paid an annual rate.

SEC. 5. The committee list of paragraph (3)(c) of rule XXV of the Standing Rules of the Senate is amended by inserting at the end thereof the following:

"Special Committee on Families, Youth, and Children..... 11".

Mr. DENTON. Mr. President, I rise today along with my distinguished colleagues from New York, Mr. MOYNIHAN, and from Maryland, Mr. MATHIAS, to submit a resolution to establish a Senate Special Committee on Families, Youth and Children. The measure is cosponsored by the Senator from Pennsylvania, Mr. SPECTER, my distinguished colleague, and senior Senator from Alabama, Mr. HEFLIN, the Senator from South Carolina, Mr. HOLLINGS, the Senator from Utah, Mr. HATCH, the Senator from Hawaii, Mr. INOUYE, the Senator from Iowa, Mr. GRASSLEY, the Senator from Minnesota, Mr. DURENBERGER, and the Senator from Texas, Mr. BENTSEN.

The proposal focuses on one particularly critical issue: The pressing need to provide a comprehensive approach to governmental policy affecting families, youth, and children.

The American family is undergoing a siege of immense proportions. A number of recent reports, news articles, and television specials have called attention to what columnist William Raspberry has described as the plight of the growing underclass—teenage mothers, jobless and disconnected young fathers—on eroded values and deteriorated families. In a column that reviewed the excellent book "Family and Nation" by my distinguished colleague from New York, Mr. MOYNIHAN, William Raspberry underscores an important point: Family stability is so important to the health of the Nation that we had better start looking at our national policies in terms of their effect on the family.

Mr. Raspberry goes on to observe:

If the special attention lately given the plight of the black family is expanded to include the white family, which is also far less stable than it once was, it might help us to understand, right across political lines, the crucial importance of strengthening the American family.

Mr. Raspberry concludes that it is now time to talk about the direction of reform and time to start searching for different directions. I agree, and so do the other cosponsors of this legislation.

The present state of family crisis, involving the need for social and welfare reform, together with my experience in conducting hearings on the issue of the broken family while I was chairman of the Senate Subcommittee on Family and Human Services, convinces me that something must be done immediately to provide both a comprehensive approach and innovative solutions. This is a bipartisan issue. As Senator MOYNIHAN has stated:

The prospect that the needs of the families might be the means for bringing liberals and conservatives together on matters of policy is intriguing and real.

In my work in Congress, I have witnessed concern for the family expressed by conservative as well as by liberal legislators, by Democrats as well as Republicans. This issue cuts across the political spectrum. I believe that our concern for the well-being of the institution of the family, and about the problems facing families, youth, and children, is universally shared by all Americans.

As I am sure that many of my colleagues are keenly aware, for too many years now the Senate has lacked a vehicle for a comprehensive examination of policies, legislation, and national trends as they affect the well-being of our Nation's families and children. At best, our attention to the needs of families has been fragmented among an assortment of different legislative committees and subcommittees. At worst, we have essentially ignored those needs.

Yet, one way or another, the policies that our Federal Government establishes by law or by regulation can play a major role in promoting either family unity or family disintegration, and can provide either a positive environment for children growing into adulthood, or a negative one.

Major reforms are needed in social and welfare programs. Current budgetary constraints require the development of innovative and multidisciplinary solutions to the problems facing families, youth, and children. We must develop new ways to involve participation and partnerships between both the public and private sector in funding and providing necessary services.

Budgetary consideration precipitated by recent legislation, notably the Gramm-Rudman-Hollings amendment, require that budget cuts be made in many programs. That should be done in an intelligent fashion, taking a comprehensive approach in viewing governmental policy affecting families, youth, and children. In addition, creative approaches must be developed to encourage more participation by the private sector in those areas. The reforms and cuts in budgets or programs should be the product of a rational, coordinated national policy that supports family strengths and encourages individual responsibility, while retaining a compassionate response for those people in need. In relation to the budgetary initiatives spurred by Gramm-Rudman-Hollings, I note that Senator HOLLINGS is a cosponsor of this proposal to create a special committee.

Mr. President, the special committee being proposed today would be a permanent committee composed of 11 members appointed by the President pro tempore of the Senate on the recommendations of the minority and majority leaders. The committee would have no legislative jurisdiction.

The special committee would have the mandate to make a comprehensive study of matters affecting families, children, and adolescents, including, but not restricted to, health, income maintenance, welfare, education, employment, care of dependents of all ages, nutrition, adoption, foster care, and other concerns of children, adolescents, and families generally. It would be asked to encourage and promote public and private policies and programs that assist families, youth, and children.

The committee would act as an educational clearinghouse and a forum for the exchange of ideas on proposals. Designed to act as a coordinating body that would address a wider range of issues than any one committee or subcommittee is currently able to consider, it would not conflict, duplicate, or take away power or jurisdiction from any existing committee or subcommittee that presently deals with family issues.

The addition of the special committee will strengthen policy formation. The Senate has recently modified the committee process by deleting certain subcommittees. Nonetheless, the existing Senate system needs to be further streamlined by providing for a concise approach to the formation of family policy. The current system does not consolidate policy formation, but instead divides responsiblity among several Senate committees and subcommittees, according to narrow jurisdictional limitations.

It should be emphasized that, by adding a special committee to study, evaluate, and provide a concise overview of the condition of the Nation's family and youth, the legislation supports the effort to streamline the committee process by providing an official focal point for the proper consideration of policy formation for the entire range of problems and governmental policies that affect families and children.

There is no doubt in my mind about the absolute necessity for the special committee. Legislators who authorize programs and pass laws that may have an adverse impact on the family are often uninformed about the potential negative effect of their actions, and may be unaware of the existence and relationship of certain legislation and other bureacratic action because of the organizational mismatch and fail-

ure of coordination that exists under the present system.

The U.S. House of Representatives already has a Select Committee on Children, Youth, and Families that provides a comprehensive overview of programs, policies, and trends that affect families and our Nation's youth.

One of the problems facing the Senate is the fact that the current committee structure diffuses accountability for these areas. It is time that we in the Senate recognize that the seriousness of existing problems mandates that we approach the issues in as comprehensive a fashion as does the House of Representatives.

There must be an intelligible overview of how social and welfare programs interrelate and operate. The existing system is a mass of confusion. Budget cuts and reforms require that there be some overview of the entire range of current social and welfare programs. Responsibility for the multitude of programs is divided among various committees, subcommittees, and departments, each limited by its specific grant of jurisdiction. The jurisdictional limitation defines in a narrow fashion both the programs that will be administered or reviewed as well as the constituency to be served by the reviewing process.

The need for an overview special committee is recognized by its cosponsors, who include leaders of existing major Senate committees and subcommittees having jurisdiction over issues related to family and children, or who head Senate caucuses on the subject. Senator HATCH is chairman of the Senate Committee on Labor and Human Resources. Senator SPECTER is chairman of the Senate Subcommittee on Juvenile Justice, and is cochairman of the bipartisan Senate Children's Caucus. The measure is also cosponsored by Senator MATHIAS, who is chairman of the Senate Rules Committee. In a letter to Senator MOYNIHAN, Senator MATHIAS stated that the "time is ripe" for such a committee, and said the Rules Committee would hold hearings on the proposal.

No social or welfare reforms can be made without the cooperation and consensus of liberals and conservatives, both Democrat and Republican. The bill has been initiated and is supported by Senators representing a broad political spectrum. It has not been imposed upon them, but is the product of their jointly shared belief that immediate efforts must be taken from a unified viewpoint if we are to understand the problems of family dissolution, childhood poverty, the growth of single parent families, and the things that contribute to and enable family formation and strength. Again, they are bipartisan issues, and their proper disposition is critical to our national health. As Senator MOYNIHAN has said, liberals and conservatives must find common ground in seeking solutions to the problems. Because of the importance of coming to terms with the issue, both liberals and conservatives have joined together to cosponsor the measure.

I have had much opportunity to study the effect of various Government policies on the family, in my capacities as a member of the Senate Committee on the Judiciary, as a member of the Judiciary Subcommittee on Juvenile Justice, as the former chairman of the Labor and Human Resources Subcommittee on Family and Human Services, as a member of the Special Committee on Aging, and as the chairman of the bipartisan Senate Family Caucus.

I have heard testimony from many citizens who believe that the disintegration of the family unit, and the failure to form cohesive, binding relationships, results in tragic consequences for individual men, women, and children, as well as for society as a whole.

Family stability faces many problems. Increases in the rate of divorce, the rate of juvenile delinquency and crime, child abuse, missing children, runaway youth, teen suicide, and the incidence of alcohol and drug abuse reflect a society that is disintegrating.

There is no question that the family is the fundamental social unit of any civilization. No society has found an adequate substitute for the family to assume the all-important responsibility of rearing children.

History demonstrates that there has never been a nation that became great or survived without healthy attitudes and policies toward the institution of the family. The mandate in our Constitution "to promote the general welfare" includes a governmental responsibility to ensure that the integrity of the institution of the family is not eroded by national policy, or by a total lack of national policy.

A simple review of statistics indicates that the family is now in a worse period of crisis than ever before in our Nation's history. The United States has the highest divorce rate in the world. The annual rate of divorce has increased 700 percent since 1900. Roughly one out of every two marriages now ends in divorce. Divorce shatters families and the individuals composing them, and creates untold misery and unhappiness for innumerable husbands, wives, children, grandparents, and other distressed family members.

In spite of the high levels of marital dissolution, researchers have discovered that, according to social indicator studies, most people, regardless of social, demographic, or economic status, want to be married, and rank a happy, stable family situation, including marriage, among their highest aspirations.

Yet family instability continues to increase. According to one estimate, single-parent families are forming at 20 times the rate of two-parent families. One result of that unfortunate trend is that more and more children go without attention from a parent during the day, as growing numbers of single mothers are forced into the work force to provide for children without help from a husband.

According to information provided by the Census Bureau, the number of families headed by women increased by 84 percent between 1970 and 1985. During that same period, the increase in married couple families has only been 13 percent. That represents an enormously disproportionate increase in families headed by women. Of that number two-thirds of the female-headed families involve single-parent situations. Most of that increase is because of separation or divorce.

The number of children living with only one parent has more than doubled since 1960. In 1977, Census Bureau experts estimated that 45 percent of all children born then would live in a single-parent home at some time before reaching age 18. Today, that figure has risen so that, according to one estimate, 60 percent of all children born in 1985 will spend a meaningful portion of their lives in a single-parent situation before they reach the age of 18. Experts predict that approximately 40 percent of the young women who are currently in their late twenties today will be a single parent at some time in their lives.

The formation of families and the successful rearing of children have become more difficult than ever before. As healthy parental influence has diminished, we have seen the results in rising rates of juvenile problems. We see great confusion among our young people about the direction and purpose in their lives, which is reflected in alarming statistics, provided by the October 1985 report from the Business Advisory Commission of the Education Commission of the States:

Teenage pregnancy and childbirth rates have grown for all teens, regardless of ethnicity and socioeconomic status. More than 1 million teens become pregnant each year. Most of those teenagers do not marry.

Arrests of people under age 18 for drug abuse increased sixty-fold between 1960 and 1980. Arrests for drunkenness among high school seniors rose by 300 percent between 1960 and 1980.

The homicide rate for nonwhite teens increased 16 percent between 1950 and 1978, while the rate for white teens increased an astounding 232 percent.

Young people under age 21 account for more than half of all arrests for serious crimes. In 1960, 18 to 24 year

olds accounted for only 18 percent of all arrests; by 1980, they accounted for 34 percent.

On April 23, 1985, the Subcommittee on Juvenile Justice held a hearing on the serious problem of juvenile arson. According to statistics provided by the Federal Bureau of Investigation, the number of arrests for arson for 1983 was estimated at 19,800 for 84,700 offenses. Thirty-eight percent of those arrested were under 18 years of age, and 62 percent were under 25. The statistics may actually underestimate the problem of juvenile arson, since it is believed that only a small percentage of the fires set by juveniles are actually reported.

Statistics indicate the existence of other areas of concern. The problem of runaway children is reaching epidemic proportions. Current estimates place the number of homeless youths at 1.3 to 2 million each year, but it may be as high as 4 million. There are many parents and families who do not take their responsibilities and rights seriously.

Members of the Senate Caucus on the Family were privileged to hear Father Bruce Ritter, a Franciscan priest and executive director of Covenant House in New York, speak about the problem of broken families and homeless children. Father Ritter has made his life's ministry of aiding children who come from troubled homes and troubling situations to become victims of the sex industry around the Times Square area of New York. The majority of the children are not runaways. They are throwaway children with literally no place else to go.

Those children are a dramatic reminder of what can come when materialism and hedonism win out over the fundamental values of love and respect for others. We cannot downgrade the responsibility of adults, both mothers and fathers, for the caring for and raising of their children. We need leadership from many segments of society, from both the public and private sectors, to see that families are competent and that they remain willing to fulfill their responsibilities for nurturing our Nation's children.

The lack of nurturing can have tragic consequences. According to reports, a teenager commits suicide every 90 minutes. In my capacity as a member of the Judiciary Subcommittee on Juvenile Justice, I participated in hearings on youth suicide during the 98th and 99th Congresses. According to the American Psychiatric Association, the incidence of suicide among young people aged 15 to 24 has risen by 300 percent during the last 30 years. Specifically, the rate climbed from 4.1 per 100,000 in the 1950's to 12.5 per 100,000 in 1980. A National Conference on Youth Suicide was held in June 1985 with the stated objectives of increasing national awareness and encouraging expanded, community-based strategies for addressing the problem. The Youth Suicide National Center and the Office of Human Development Services of the Department of Health and Human Services, through an excellent example of a private/public partnership, produced an outstanding conference report. Yet, we have only begun to scratch the surface of the problem.

Family instability has economic as well as social implications. It is substantially associated with the impoverishment of children. Nearly one-quarter of the children in the United States today live in poverty as measured by the Census Bureau. The poverty rate for children, particularly for young children under age 6, is far higher than that for any other age group. According to estimates, one-third of all children now being born in the United States may expect to be on public assistance before reaching age 18.

The problem is a sensitive and complex one. Through a combination of factors, which include lack of parental involvement and negative role models irresponsibly promoted by television, movies, popular songs, magazines, media personalities, and other influential sources, our society is failing to encourage the responsible restraint and self-discipline among our young people that alone will enable them to assume the responsibilities for parenthood and the formation of lasting family bonds. Far too many young people are not making a successful transition to productive adult lives. That is a matter of concern, particularly because, as one report on the subject so aptly concluded, youth are the key to our country's economic prosperity and social development.

Mr. President, the family is the key to our country's future, just as it was to our development in the past. We must carefully evaluate the myriad of Federal policies and programs that apply to everything from social and welfare issues to economic policy and that may directly or indirectly erode the foundation of the traditional family.

We must see to it that Federal policy appropriately supports and promotes the stability and health of the traditional family unit and does not weaken it or attempt to replace it. We must see to it that our national leaders do not ignore the inherent strengths of the family, but rather, act to enhance them.

Mr. President, I hope that my colleagues will join in supporting the proposal to form a permanent Special Committee on Families, Youth, and Children. Through careful planning and good stewardship, the overall cost of the special committee could be relatively low. The price of doing nothing is very high.

This could become the Congress that pays more than lipservice to the needs and aspirations of America's families. The special committee could provide the impelling force toward a more coherent and cohesive set of Federal family policies.

The breakdown of the traditional family unit is one of the Nation's most serious crisis, for family instability and deteriorating family relationships are destructive to the physical and mental health and economic well-being of men, women, and children. Curing that epidemic would be profitable to the people involved and to the Nation as a whole. As one commentator concluded: "Short of a world war, it is hard to imagine anything more wasteful of people and money than the current destruction of so many of our families."

The long-term nature of the problems involved, and the critical importance of maintaining and strengthening family structure over the long term, mandates that a permanent vehicle be established in the Senate to accomplish these essential tasks.

Mr. MOYNIHAN. Mr. President, I rise today to join with my colleagues, Senators DENTON and MATHIAS, in introducing legislations to establish a Senate Special Committee on Families, Youth, and Children. This proposal is cosponsored by several of my colleagues, Senators HATCH, BENTSEN, GRASSLEY, HOLLINGS, DURENBERGER, INOUYE, SPECTER, and HEFLIN.

The idea to create such a special committee is not new to the Congress. A similar committee has been operating, quite effectively so, in the House for 3 years now, providing that body and its Members with valuable research and analysis of all matters pertaining to American families and children. Like the House committee, the Senate special committee which we propose would have no legislative jurisdiction. It would function more as an oversight committee, studying and evaluating the entire range of problems and Government policies that affect families and children.

In April of last year, I had the honor of delivering the Harvard University Godkin Lectures. The subject I chose: family policy. Nearly 20 years ago, in an introduction to a paperback edition of Alva Myrdal, "Nation and Family," I wrote:

> In the nature of modern industrial society no government, however firm might be its wish, can avoid having policies that profoundly influence family relationships. This is not to be avoided. The only option is whether these will be purposeful, intended policies or whether they will be residual, derivative in a sense, concealed ones.

This proposition was clear then as now.

The Senate needs an official focal point for these important matters. Family policy is no one's business at

present. The assertion that it ought not be anyone's business is easily enough defeated in a fair-minded argument. That is, by noting that the policy is at present implicit and that the only question is whether it is to be avowed. As my able colleague, Senator CHARLES MCC. MATHIAS, Jr., has aptly pointed out, "Just about every social, economic and ideological unit in the country has a lobby and a respondent government policy—except our most basic unit, the family."

In the Senate, responsibility for the legislative issues pertaining to American families and children has long been splintered among several different standing committees and subcommittees. Only the separate caucus on children and the caucus on families, led so ably by Senators DODD, SPECTER, DENTON, and DECONCINI, have proved forums to air and consider these matters. But the time has come for the Senate to give these critical issues the visibility, attention, and resources which only official committee status can provide. The Senate has found it proper and necessary to create a Special Committee on Aging, established in 1961, and for this year has granted it an annual operating budget of $1.2 million. Surely, children deserve no less.

President Theodore Roosevelt created one of the first official forums expressly to explore the problems of children in 1909, when he assembled a special White House Conference on the Care of Dependent Children. Three years later, the Federal Government acting on the recommendation of that conference, established the Children's Bureau in the Department of the Interior. The Bureau was given the charge to "report upon all matters pertaining to the welfare of children and child life," which in those early days included:

> The questions of infant mortality, the birth rate, physical degeneracy, orphanage, juvenile delinquency and juvenile courts, desertion and illegitimacy, dangerous occupations, accidents and diseases of children of the working classes, employment * * * and such other facts as have a bearing upon the health, efficiency, character, and training of children.

Real progress has been achieved in addressing many of these problems over the past 74 years, but many of them—particularly those related to proverty and family disintegration—have actually intensified. It is chilling to note that over 21 percent of our Nation's children, some 13.3 million, now live below the poverty line—a poverty rate higher today than in 1965. Earlier in this decade, with the help of a range of institutions, I was able to show that fully one-third of all American children born in 1980 would likely be on welfare (AFDC) before reaching age 18.

In contrast—and perhaps owing to the early work of the Senate Special Committee on Aging—poverty among elderly Americans has virtually disappeared. Unhappily, children have taken their place as the poorest age group in our society. Poverty among the very young in 1984 was seven times greater than that for the old. Taking into account the value of noncash benefits, elderly poverty in 1984 was about 2.6 percent, compared to 17.5 percent for children under age 6. The United States today is probably the first society in history in which children are distinctly worse off than adults.

There are large numbers of poor persons in the United States, and they are disproportionately young: nearly 40 percent of our Nation's poor are children. The age bias of our poverty problem is illustrated by the following poverty rates for 1984: 24 percent among children under age 6; 20.3 percent among children aged 6–17; 12.4 percent among persons aged 65 and over; and 11.7 percent among adults under age 65.

The elevated poverty rates among children are directly related to astonishing changes that have taken place in the American family structure. In his 1984 Presidential address to the Population Association of America, University of Pennsylvania professor Samuel H. Preston spoke of "the earthquake that shuddered through the American family in the past 20 years." Put simply, poverty has become inextricably associated with family structure. Year-to-year increases in poverty rates of children have been linked to a range of economic factors, including the rapid inflation of 1979–80 and the serious recessions of 1980 and 1981–82. But over the last two decades, rising poverty among children has been principally associated with one particular change in family structure, the rise in female-headed households. Last year, for the first time, there were more female-headed families (3.5 million) than married-couple families in poverty. More than half (54 percent) of all children living in female-headed families are poor; two-thirds of black children in female-headed families are poor and three-fourths of children of Spanish-origin in such families are poor. The link between poverty and the rise in female-headed homes is documented by estimates from the Congressional Research Service. If the proportion of children in female-headed households had not increased over the past 25 years, there could have been 3 million fewer children in poverty in 1983.

A Census Bureau report released last summer indicates that single-parent families with children now account for more than one-quarter of all family groups, almost double the 1970 proportion of 13 percent. Careful work done by demographers Arthur Norton and Paul Glick has enabled them to forcast that 60 percent of all children born in 1984 can expect to live in a one-parent family before reaching age 18. Even more disturbing, analysis by Mary Jo Bane and David Ellwood in "The Dynamics of Children's Living Arrangements" indicates that by 1994, 87 percent of all black youth and 46 percent of all white youth under age 18 will have spent some part of their childhoods in a single-parent family.

Mr. President, I do not claim that a Special Committee on Families, Youth, and Children will solve these problems, but it will help us better understand them. We arrange ourselves here in the Senate with respect to subjects; only in the rarest of circumstances do we define objects, in this case children and families, as the pertinent unit. Our experience in the Senate gives perhaps the best example of how the traditional way of looking at children and families as a subject conceals important trends we ought to have discerned much earlier. Establishment of a Special Committee on Families, Youth, and Children will undoubtedly help us in this process. Let's try.

NOTICES OF HEARINGS

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. MCCLURE. Mr. President, I would like to announce for the information of the Senate and the public that the hearing previously scheduled before the Committee on Energy and Natural Resources on Tuesday, February 18, at 10 a.m. in room SD-366 of the Senate Dirksen Office Building in Washington, DC, has been postponed. The purpose of the hearing was to consider the nomination of Jed Dean Christensen, of Virginia, to be Director of the Office of Surface Mining Reclamation and Enforcement. The hearing will be rescheduled at a later date.

For further information, please contact Jim Beirne or Becky Barbour at 202-224-2564.

Mr. President, I would like to announce for the information of the Senate and the public that the 2 days of oversight hearings previously scheduled before the Committee on Energy and Natural Resources for February 5 and 6 have been rescheduled. The hearings now will be held in room SD-366 in the Dirksen Senate Office Building in Washington DC, as follows:

Tuesday, February 18, beginning at 9:30 a.m. to consider the President's proposed budget for fiscal year 1987 with witnesses from the Department of Energy.

Tuesday, February 18, beginning at 2 p.m. to consider the President's proposed budget for fiscal year 1987 with

71-059 O-87-47 (Pt. 1)

witnesses from the Department of the Interior.

Wednesday, February 19, beginning at 9:30 a.m. to consider the President's proposed budget for fiscal year 1987 with witnesses from the Federal Energy Regulatory Commission.

Wednesday, February 19, beginning at 2:30 p.m. to consider the President's proposed budget for fiscal year 1987 with witnesses from the Department of Agriculture (Forest Service).

Those wishing to submit written statements for the hearing record should write to the Committee on Energy and Natural Resources, U.S. Senate, Washington, DC 20510. For further information regarding these hearings, you may wish to contact Mr. Richard Grundy at 224-2564.

COMMITTEE ON THE BUDGET

Mr. DOMENICI. Mr. President, the Senate Committee on the Budget will hold a hearing on the President's fiscal year 1987 budget submission on Wednesday, February 5, 1986 at 2 p.m. The hearing will be held in room 608 of the Dirksen Senate Office Building.

The Honorable James C. Miller, Director, Office of Management and Budget, will testify.

Mr. President, the Senate Committee on the Budget will hold a hearing on the President's fiscal year 1987 budget submission on Thursday, February 6, 1986 at 1:30 p.m. The hearing will be held in room 608 of the Dirksen Senate Office Building.

The Honorable Caspar W. Weinberger, Secretary of Defense, will testify.

Mr. President, the Senate Committee on the Budget will hold a hearing on the President's fiscal year 1987 budget submission on Friday, February 7, 1986 at 9:30 a.m. The hearing will be held in room 608 of the Dirksen Senate Office Building.

The Honorable James A. Baker III, Secretary of Treasury, will testify.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON RULES AND ADMINISTRATION

Mr. MATHIAS. Mr. President, I ask unanimous consent that the Committee on Rules and Administration be authorized to meet during the session of the Senate on Monday, February 3, 1986, in order to receive testimony on Foreign Relations Committee funding for fiscal year 1986.

The PRESIDING OFFICER. Without objection, it is so ordered

COMMITTEE ON FOREIGN RELATIONS

Mr. MATHIAS. Mr. President, I ask unanimous consent that the Committee on Foreign Relations, be authorized to meet during the session of the Senate on Monday, February 3, at 2 p.m., to hold a hearing to consider the nomination of Paul Wolfowitz to be Ambassador to Indonesia.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

RIGHT TO COUNSEL

● Mr. KERRY. Mr. President, I have been deeply concerned by this administration's efforts to undermine the right of all citizens to the effective assistance of counsel, which is guaranteed by the sixth amendment to the Constitution. This is a problem of concern not only to the legal community, but to all Americans who value our constitutional protections.

I recently delivered the keynote address at a national conference held at Harvard Law School, focusing on this important issue. I ask permission that the text of my remarks be printed in the RECORD.

The text follows:

SENATOR JOHN KERRY: KEYNOTE ADDRESS, CONFERENCE ON DEFENDING THE RIGHT TO COUNSEL

I am delighted to be here today. As a former prosecutor and former criminal defense lawyer, it is a pleasure to be able to participate in this forum with a group of such distinguished colleagues.

The topic of this conference, defending the right to counsel, is both timely and important. I am reminded of William Shakespeare's play, Henry VI, Part II, in which he has one of the villains boast that when the rebellion succeeds, "The first thing we do, let's kill all the lawyers." Some people think that is what the Reagan administration is trying to do today. Perhaps it would be worth remembering that in the Shakespeare play, the idea of killing the lawyers was suggested as a means of producing anarchy, not as a way of solving society's problems.

However, to paraphrase another quote from Shakespeare, I come here to praise lawyers, not to bury them. I come to praise all of you for the efforts that you are making to defend the right to counsel, and to pledge my support and solidarity with those efforts.

Unfortunately, not everyone in the current administration agrees with this point of view. Today, the right to "effective assistance of counsel", guaranteed by the sixth amendment to the Constitution, is under attack as never before. Examples of these attacks are all around us, and all of you are familiar with them. The weapons used in these assaults on the right to counsel include subpoenas issued to lawyers which order them to provide testimony and documents containing incriminating evidence against their clients to the grand jury. They include search warrants permitting Government officials to raid attorney files in the search for incriminating evidence against their clients. We have seen the use of spies and electronic surveillance to discover the contents of attorney-client meetings and conversations. The Justice Department has used the recently enacted criminal forfeiture statute to seize attorney's fees. And, most dangerous of all, this administration has begun to prosecute attorneys for nothing more than the vigorous defense of their clients.

These pernicious tactics serve several objectives of this administration. One of the principal objectives is the destruction of the attorney-client privilege, which is the oldest privilege at common law. They have attempted to undermine the confidentiality of attorney-client conversations and correspondence. These tactics had the effect of creating a "chilling effect" on client disclosures to lawyers, and of turning lawyer and client against each other by creating conflicts within the attorney-client relationship; and directly threatening attorneys with the deprivation of their livelihood, or even with jail.

If there are those who believe that these are only idle threats, consider the case of a courageous Boston attorney, Barry Wilson. Mr. Wilson, a member in good standing of the Massachusetts and Boston Bar Associations, spent approximately 4 months of last year in the Federal Correctional Institution in Danbury, CT. His crime? Vigorous defense of his client, and of his client's sixth amendment right to counsel.

Actually, Mr. Wilson was never convicted of any crime. He was sent to jail for refusing to answer the questions of a Federal grand jury in Rhode Island that was investigating his client's alleged role in a drug-smuggling operation. The U.S. attorney for Rhode Island claimed that the communications between Mr. Wilson and his client came under the so-called crime-fraud exception and therefore were not privileged. Mr. Wilson argued that to disclose confidential attorney-client communications would violate his client's constitutional rights, and the attorney-client privilege. It would also have had the not-so-incidental effect of destroying Mr. Wilson's ability to earn a living as a criminal defense lawyer. It seems that the Justice Department has systematically singled out the most effective criminal defense attorneys for special attention in this regard.

Barry Wilson had the courage of his convictions, and was willing to go to jail for them. But his example serves as a chilling reminder to the legal community of what can happen when the power of the Justice Department is not held in check.

These assaults on the criminal defense bar are just part of the broader background of this Justice Department under the Reagan administration. They are part of a larger disrespect for the very process of law contained in the Constitution, and dating back to the English common law. This administration has attacked the very foundations of the attorney-client privilege. Three hundred years of law have developed the importance of this privilege. Countless law review articles have been written about it, and the Supreme Court has affirmed its importance many times. But under "Reagan justice", this privilege has begun to erode.

In the name of fighting crime, this administration has placed the Constitution in a secondary position. The short-term rewards of this strategy are tempting, but the long-term implications are enormously destructive.

The basic dilemma inherent in this debate was stated succinctly by senior circuit judge David L. Bazelon in a law review article in 1981, entitled: "The Morality of the Criminal Law". Judge Bazelon, focusing on the Reagan Administration's efforts to combat crime by eroding the protections of the fourth, fifth, and sixth amendments, posed the question: "Must we compromise the most basic values of our democratic society in our desperation to fight crime?" His answer, and mine, is no.

As Judge Elbert Tuttle has written: "The only way the law has progressed from the days of the rack, the screw, and the wheel is the development of moral concepts." These

moral concepts include the right to effective assistance of counsel, and the protection of the attorney-client privilege.

Under our judicial system, accused persons are guaranteed the right to have counsel, because this is a right upon which all other rights in the Bill or Rights depend. It would be fundamentally inconsistent with the sixth amendment if the Government could convert this basic right into a legal minefield which, instead of protecting the client, would become the source of his destruction. Surely this was not the intent of the framers of the Constitution.

In the past 5 years, since President Reagan took office, there have been an enormous number of cases reported around the country where prosecutors were seeking information from lawyers about their clients. Attorneys who have researched this issue have found that 10 years ago, there were very few of these type of cases reported; 15 years ago, they could be counted on the fingers of one hand. But today, they are becoming commonplace.

There is a movement by the Government today to go to attorneys as one of the first sources of information about their clients, instead of the last. After all, attorneys are an easy mark. They are bound by ethical standards, compelled to tell the truth, and they know a lot.

The Reagan Justice Department quickly realized that attorneys were a valuable source of information about their clients. And the administration has been very clever in starting their erosion of the attorney-client privilege by trying to get information on client fees. Fees, after all, are a discrete corner of the privilege. Some may ask, "What is the harm in requiring an attorney to report information about fees paid by clients? Couldn't this information be useful to law enforcement officials in detecting criminal activity?" But the answer is not so simple. Perhaps there are times when it is appropriate to require reporting of information about fees. But where do you draw the line? As all of you know, it is not so easy to draw a "bright line" between protected and unprotected information.

In some cases, information about clients' fees may tend to incriminate the client. But the client has a right to believe that his interests and the attorney's are one and the same for the purposes of representation. That client should not be forced to choose between his rights under the fifth amendment, or his right to counsel under the sixth amendment. He should not have to choose between giving up his attorney, or his right against self-incrimination.

And once we start down this slippery slope, where do we stop? When we start allowing our constitutional protections and common-law traditions to erode, it is difficult to see where that process will end.

I fear that what we have seen so far is only the tip of the iceberg. As many of you know, the U.S. Attorney for Massachusetts has recently filed suit to enjoin a rule promulgated by the Supreme Judicial Court of Massachusetts which would protect attorneys against arbitrary subpoenas to a grand jury without prior judicial approval. In the course of that proceeding, the U.S. attorney filed an affidavit indicating that, last year, he filed 50 subpoenas to attorneys. Of these, only three were challenged by motions to quash, and only these three received judicial attention. What this may indicate is that many attorneys are succumbing to this form of intimidation, and are not vigorously protecting their clients' confidences.

In fact, these subpoenas and other forms of intimidation have a profound effect on how attorneys must think when they represent a client. An attorney must ask himself or herself, "Am I protecting myself?" instead of focusing on the interests of the client. The time, energy, attention, and resources of the attorney are diverted from the representation of the client to self-protection by the attorney, to the detriment of both attorney and client.

Some of the courts have also contributed to this process or erosion. In a recent case here in the first circuit, *United States* v. *King*, a Government agent working for the FBI was planted in the courtroom with a hidden microphone, which he actually placed between the defense attorney and his client. He also took a bugging device into the courthouse lockup to record conversations between the attorney and his client.

The court ruled that the attorney had not shown any concrete evidence of prejudice to his case as a result of these actions, and said that the law would not provide a remedy unless such a showing was made. This ruling in effect gives the green light to prosecutors to engage in wiretapping and bugging of opposing counsel. For the U.S. Government to employ these kind of tactics brings to mind an earlier chapter in our history, one that many of us hoped had been permanently closed—the era of Richard Nixon, John Mitchell, and Watergate.

At present, these tactics have been employed primarily against attorneys in cases involving drugs, organized crime, or politically unpopular defendants. But it appears that prosecutors are now coming to view buggings, informants, subpoenas, free seizures, and jail sentences as weapons in their arsenal to be used against any attorney who has the temerity to represent a defendant in a ciminal case. These tactics are more reminiscent of those used against defense lawyers in certain totalitarian countries, than anything in the American tradition.

More than 170 years after the adoption of the sixth amendment, the Supreme Court's landmark decision in Gideon v. Wainwright breathed life into the right to counsel by assuring representation for indigents in State trials. The Gideon decision in 1963 was a great step forward toward the goal of equal justice for all in America. But today, under "Reagan Justice", we are seeing steps in the other direction.

Criminal defense attorney John Wall, a former Federal prosecutor, has commented that "for 200 years in this country we have made some judgments. You get 'em fair. You don't use the rack to get confessions, you don't call a priest to testify against a penitent, and you don't call lawyers to testify against their clients."

But the Reagan administration is trying to change the rules. They have demonstrated in many ways their disregard for the traditions of an independent judiciary, a strong private bar, and for the role of Government in assuring equal rights for all Americans. They have even tried redefine the meaning of the Constitution of the United States.

Recently, Attorney General Edwin Meese called for a jurisprudence of "original intention". What Mr. Meese meant by this, apparently, was the judges and Supreme Court Justices should decide constitutional questions on the basis of the "original intention" of the Founding Fathers, rather than on the basis of their own view and opinions. On the face of it, this is a proposition to which no one could object. But like so many of the pronouncements emanating from this administration, this one contains more that a small element of "doublespeak".

The truth is, as historian Henry Steele Commager has pointed out, that the Founding Fathers were wise enough to realize that they could not foresee every eventuality, and were farsighted enough to couch their intentions in terms which would be open to future interpretation. The Founding Fathers understood that it would be impossible to foresee all of the possible contingencies that might arise in the future, and, in their wisdom, they wrote in general terms which would give guidance to future generations of lawmakers without shackling them to the 18th century.

For an Attorney General today to presume that he understands the "original intention" of the Founding Fathers better than the generations of lawmakers, Justices, and constitutional scholars who have come before him is indeed, as Justice William Brennan put it, "Arrogance cloaked as humility".

It does not require a great constitutional scholar, though, to discern the "original intention" behind such phrases as "equal justice under law", "effective assistance of counsel", or "liberty and justice for all". Surely these eloquent phrases speak for themselves. If they mean anything, they must mean that all of our citizens must have equal access to our system of justice.

This administration has repeatedly tried to deny that access by denying the right to counsel to those who are weak or politically unpopular. One means by which they have tried to achieve this objective is by attempting to eliminate the Legal Services Corporation. They have repeatedly proposed to eliminate all funding for that organization. Failing that, they have appointed members to the Board of LSC who have advocated crippling cuts and major changes in the services provided, which would seriously damage the ability of LSC to provide legal services to the poor.

They have also adopted a new tactic—conducting raids on legal aid offices around the country. These raids have included wholesale rifling of confidential files, resulting in violations of the attorney-client privilege. They are very similar, in fact, to some of the raids which have been conducted against criminal defense attorneys.

The purpose of the raids on legal aid offices is ostensibly to conduct "audits" and "monitoring" of legal aid lawyers. But the real purpose of these raids is the same as the purpose behind the harassment tactics directed at the criminal defense bar. That purpose is intimidation, and destruction of the attorney-client relationship.

This administration has attempted to stack the deck in their favor in many ways. Perhaps the most insidious are their attempts to hand-pick a Federal judiciary which will guarantee, in advance, the results which Mr. Meese and company wish to achieve.

I have been deeply concerned by this administration's approach to judicial nominations. President Reagan seems to be determined to leave as his legacy a judiciary composed of Federal judges who share his conservative views. But what kind of legacy will it be? In his first 5 years, President Reagan made 224 appointments to the Federal Judiciary. Of these, only 13 were members of minority groups, and only 19 were women. By contrast, President Carter appointed 40 women, and 55 minority judges, during his 4 years in office, out of a total of 258 appointments. The fact is, President Reagan's

record on judicial appointments is a disgrace.

Throughout two centuries, our Federal judiciary has been a model institution, one which has insisted on the highest standards of conduct by our public servants and officials, and which has survived with undiminished respect.

Today, I fear that this institution is threatened in a way that we have not seen before. The threat endangers the fundamental integrity of our judiciary, and thus the quality of our entire system of justice. It risks undermining the respect that we have always maintained for our judiciary, and even the balance of powers as set forth in our Constitution.

This threat is that of the appointment of a judiciary which is not independent, but narrowly ideological, through the systematic targeting of any judicial nominee who does not meet the rigid requirements of litmus tests imposed by the far right.

We are seeing attempts to prejudice justice itself through the exclusion of any candidate for a judgeship in the Federal courts who does not commit himself or herself to the narrow political beliefs of the right wing of one of our Nation's two political parties. I am sorry to note that there are some of my colleagues in the U.S. Senate who have been at the forefront of this effort to mold the judiciary. I am even sorrier to note that their efforts are supported by the Attorney General, and the President of the United States.

Our judiciary is too important to permit anyone to compromise its independence or integrity, yet that could well be the result of these current efforts. In my view, the advice-and-consent role of the U.S. Senate is too important to be abdicated. We need to pay closer attention to judicial nominees from here on. If it takes more time, it takes more time. But it will be time well spent. This Nation cannot afford to give a blank check to the extremists of one party, to hand over to them the ability to shape the nature of our judiciary well into the next century.

Fortunately for all of us, there are still some voices of reason and restraint to give us guidance on these difficult issues. And, as usual, the State of Massachusetts is leading the rest of the Nation in progressive thought. As I mentioned earlier, the Supreme Judicial Court of Massachusetts has recently promulgated a rule which requires prior judicial approval before a prosecutor can issue a subpoena against a lawyer for information about a client. This rule is a direct response to the abuses of the Reagan-Meese Justice Department. And needless to say, the Justice Department has filed suit to try to enjoin the Massachusetts rule, and prevent it from becoming a model for other jurisdictions.

But other States would do well to emulate the example of Massachusetts. The American Bar Association has now recommended the adoption on a national basis of a rule like the one first adopted by the Massachusetts bar.

Under the new rule in Massachusetts, all prosecutors would be required to obtain a ruling from a judge indicating that the information they seek is not privileged and is necessary to the investigation. In Massachusetts, issuing a subpoena to a lawyer without prior judicial approval is now officially what it is in fact—an unethical practice.

Let me emphasize that this rule is not an impediment to aggressive, effective prosecution. But it does prevent the abuse of subpoena power by the prosecution.

It might be appropriate at this point for me to mention that I was once a prosecutor in Massachusetts myself. For several years, I was the first assistant district attorney of Middlesex County, the largest county in Massachusetts. I was in charge of the administration of the district attorney's office, and I am very proud of what we were able to achieve. I led an investigation and successful prosecution of organized crime in Massachusetts. We also started a rape counseling program, a victim-witness assistance program, an organized crime unit, and a white-collar crime unit. And we were able to dramatically cut down on the backlog of criminal cases.

As a prosecutor, I won my share of cases, and I put my share of criminals behind bars. But I did it fairly. I played by the rules. I didn't find it necessary to wiretap the defense counsel, to subpoena opposing counsel and try to turn them into government informants against their clients, or to seize their hard-earned legal fees. I didn't find it necessary to throw an opposing lawyer in jail in order to win a case against his client. We never even considered those kind of underhanded tactics. And let me add that we were able to fight crime effectively without using those kind of tactics.

I've also seen it from the other side, as a criminal defense lawyer. When I was in private practice, I once represented a man who had been wrongly charged with murder, and was able to get him freed. I know from first-hand experience what Attorney General Meese does not—that not all those accused of crimes are in fact guilty of committing those crimes. When I was a criminal defense lawyer, I fought just as hard for my clients as I fought to get convictions when I was a prosecutor. That's what our adversary system of justice is all about—each side vigorously represents their client to the best of their abilities.

Because I've seen it from both sides, I think I understand the nature of our adversary system. And I know, as you do, that the greatest danger to our system of justice is to change the rules, as this administration is trying to do—to stack the deck in favor of one side and against the other. That's not justice, and that's not the American way.

At the same time, let me make it clear that I am in no way defending those lawyers who do cross over the line and knowingly become involved in criminal activities. I am not naive enough to think that there are not some lawyers who will turn a blind eye to their clients' involvement in drug deals, or organized crime. Some may even be actively involved in criminal conspiracies. I am not an apologist for those lawyers, nor should you be. Perhaps there are times when we should require lawyers to disclose the sources of their fees, when there is strong indication that criminal activity is involved. I am an advocate of strong and effective action against crime. And I think we need to recognize that the American public feels the same way.

Part of the reason why the public supports President Reagan is that they perceive him as being tough on crime. There is a feeling that courts have been more concerned with the rights of criminals than with the rights of victims. We need to change that. We need to take tough action against street crime, organized crime, and white-collar crime. But we also need to preserve our constitutional protections against those who would do away with them in the name of fighting crime. The American people elected Ronald Reagan, but they did not give him a mandate to make Clint Eastwood the Attorney General, or to appoint Rambo to the Supreme Court.

There is no doubt that, under this administration, the right to effective assistance of counsel is endangered in a way that we have not seen before. And with it, our adversary system of justice is in jeopardy. It may be that this is a problem which needs to be addressed by Federal legislation. The House Judiciary Committee has already held hearings on fee forfeitures and related issues, and the Senate Judiciary Committee will follow in the near future. While I am not a member of the Senate Judiciary Committee, I will follow those hearings with great personal interest. As a former prosecutor and criminal defense lawyer, I will ask the chairman of the committee for permission to testify personally before the Judiciary Committee about the threat to the right to counsel, and to the adversary system itself, which is being created by this administration's efforts. And if those hearings show a need for legislation on the Federal level, let me assure you that I will be the first to introduce it, and to fight for it.

As a U.S. Senator, I intend to continue to stand up for the individual civil liberties, for the right to counsel and for the constitutional rights of all Americans. I will continue to fight for an independent judiciary, and for a strong and independent private bar. I am going to fight for these things because I care deeply about these issues. I have been out there in the trenches with all of you. I have seen the criminal justice system from both sides, and I know how it's supposed to work. And that's the way I want to see it work—with full, fair, and vigorous adovcacy, on both sides.

Ultimately, it comes down to all of use. Men and women of conscience, like yourselves, have an obligation to fight for the things that we believe in. If we want the system to work, we have to make it work. Each and every one of us has a role to play in that struggle. And if at times we get discouraged, and feel that we are fighting against the odds, we would do well to recall the words of a great American jurist, Judge Learned Hand:

"Liberty lies in the hearts of men and women. When it dies there, no constitution, no law, no court can save it."

Thank you.●

SENATOR D'AMATO ATTACKS PIRATING OF INTELLECTUAL PROPERTY

● Mr. WILSON. Mr. President, last year, the International Trade Commission reported that the international theft of certain U.S. property rights cost U.S. companies and individuals approximately $8 billion. As shocking as this is, it is all the more reprehensible that most of this piracy takes place in countries that have tremendous trade surpluses with the United States—both on account of a surge in their exports to our shores and their efforts to keep their markets artificially closed to U.S. goods.

The property rights at issue are called intellectual property rights—specifically, copyrights. Books, records, tapes, and computer programs expropriating without fear of punishment by their own governments.

Indeed, it was revealed recently that even the Africa famine relief record "We Are the World" had been illegally reproduced in the Far East and sold—depriving starving people in Africa the fruits of the charitable efforts of American musicians.

Mr. President, the Senator from New York [Mr. D'AMATO] has been a leader in the fight to bring attention to the theft of U.S. copyrighted materials, as well as other forms of intellectual property such as trademarks and patents. Recently, the New York Times printed an article by the Senator that highlights but a few of the negative effects caused by this piracy, and I believe that it would be of great benefit for our colleagues to review his comments. I therefore ask that a copy of the article by the Senator from New York be printed in the RECORD.

The article follows:

ENOUGH PIRATING OF U.S. GOODS

(By Alfonse M. D'Amato)

WASHINGTON.—Pirates are seizing the United States' intellectual property. They are undermining our capacity to market our creativity. If they are not stopped, America's dwindling edge in the realm of intellectual property will be wholly lost. This would spell the nation's demise as a global economic power.

The nation's hard-won technological lead in some fields is threatened by European, Japanese and advanced third world companies whose practices weaken our patent, copyright and trademark laws. These laws provide the legal framework for protection of intellectual property—inventions such as recorded music and biotechnology.

Copyright constitute an especially significant aspect of intellectual property. More than 5 percent of our gross national product derives from the production and distribution of copyrighted works domestically and internationally. In 1985, these activities contributed an estimated $170 billion to the G.N.P.

According to the United States International Trade Commission, our trading partners have illegally reproduced and are marketing about $8 billion worth of copyrighted works. This unauthorized duplication of someone else's creative work includes books, musical recordings, video cassettes and computer programs.

If that's not bad enough, pirates undersell American competitors, because they bear no creative costs and pay no royalties. They simply appropriate proceeds that rightfully belong to creators of products.

In one of the most egregious examples of pirating, Japan exports to this country optical wave guide fibers that were made from our own technology! This directly results from unauthorized use of a patented process developed by an American company.

Every year, our phonograph record industry suffers huge losses of revenue as a result of counterfeit tapes and records illegally manufactured and sold here and abroad. In northern and western Europe, such practices account for about $55 million in lost sales each year.

Every year, pirates sell abroad nearly $1 billion in English language books, the vast majority of which are published here. This represents a substantial sales loss to publishers.

A number of advanced developing countries—notably South Korea, Taiwan, Argentina and Yugoslavia—do not provide adequate patent protection for the products of American pharmaceutical companies. The result: Producers in these countries flood the home and international markets with low priced, pirated drugs at the expense of firms that have invested billions of dollars in developing and marketing them.

These obvious infringements of copyright laws represent only the tip of the iceberg. There are numerous less-visible infringements—computer software, for example. Inadequate international copyright-protection laws enable foreign copyright violators to steal America's market share in this vital economic sector.

Even when such unsavory practices are absent, arbitrary and time-consuming application procedures in a number of countries make it difficult, if not impossible, for United States producers to market their inventions overseas.

Take the recent case of Standard Oil of Ohio which, after nearly 10 years of trying, only recently received permission from the Japanese to market its structural ceramic products in their country. Even this small, long-delayed victory was due only to revelations about Japanese attempts to frustrate the application that came out at a Congressional hearing in Binghamton, N.Y., and a later meeting with a high-ranking Federal trade negotiator.

America's negotiators at the trade talks in Geneva in September (for which preparations begin next week) must put the intellectual-property issue at the top of the agenda. We must make it clear we expect all countries to respect our intellectual-property laws and that they should convey the message to all companies pirating our products. What is needed is a new code against counterfeiting that would require international controls. Failing that, America should seriously re-examine trade relations with countries, especially in Southeast Asia, that enjoy preferential access to our marketplace.●

RULES OF THE COMMITTEE ON THE BUDGET

● Mr. DOMENICI. Mr. President, I submit for the RECORD the rules of the Committee on the Budget for the 99th Congress.

The rules follow:

RULES OF THE COMMITTEE ON THE BUDGET
99TH CONGRESS

I. MEETINGS

(1) The committee shall hold its regular meeting on the first Thursday of each month. Additional meetings may be called by the chairman as he deems necessary to expedite committee business.

(2) Each meeting of the Committee on the Budget of the Senate, including meetings to conduct hearings, shall be open to the public, except that a portion or portions of any such meeting may be closed to the public if the committee determines by record vote in open session of a majority of the members of the committee present that the matters to be discussed or the testimony to be taken at such portion or portions—

(a) will disclose matters necessary to be kept secret in the interests of national defense or the confidential conduct of the foreign relations of the United States;

(b) will relate solely to matters of the committee staff personnel or internal staff management or procedure;

(c) will tend to charge an individual with crime or misconduct, to disgrace or injure the professional standing of an individual, or otherwise to expose an individual to public contempt or obloquy, or will represent a clearly unwarranted invasion of the privacy of an individual;

(d) will disclose the identity of any informer or law enforcement agent or will disclose any information relating to the investigation or prosecution of a criminal offense that is required to be kept secret in the interests of effective law enforcement; or

(e) will disclose information relating to the trade secrets or financial or commercial information pertaining specifically to a given person if—

(1) an act of Congress requires the information to be kept confidential by Government officers and employees; or

(2) the information has been obtained by the Government on a confidential basis, other than through an application by such person for a specific Governmental financial or other benefit, and is required to be kept secret in order to prevent undue injury to the competitive position of such person.

II. QUORUMS

(1) Except as provided in paragraphs (2) and (3) of this section, a quorum for the transaction of committee business shall consist of not less than one-third of the membership of the entire committee: *Provided*, that proxies shall not be counted in making a quorum.

(2) A majority of the committee shall constitute a quorum for reporting budget resolutions, legislative measures or recommendations: *Provided*, that proxies shall not be counted in making a quorum.

(3) For the purpose of taking sworn or unsworn testimony, a quorum of the committee shall consist of one Senator.

III. PROXIES

When a record vote is taken in the committee on any bill, resolution, amendment, or any other question, a quorum being present, a member who is unable to attend the meeting may vote by proxy if the absent member has been informed of the matter on which the vote is being recorded and has affirmatively requested to be so recorded; except that no member may vote by proxy during the deliberations on Budget Resolutions.

IV. HEARINGS AND HEARING PROCEDURES

(1) The committee shall make public announcement of the date, place, time, and subject matter of any hearing to be conducted on any measure or matter at least 1 week in advance of such hearing, unless the chairman and ranking minority member determine that there is good cause to begin such hearing at an earlier date.

(2) A witness appearing before the committee shall file a written statement of his proposed testimony at least 1 day prior to his appearance, unless the requirement is waived by the chairman and the ranking minority member, following their determination that there is good cause for the failure of compliance.

V. COMMITTEE REPORTS

(1) When the committee has ordered a measure or recommendation reported, following final action, the report thereon shall be filed in the Senate at the earliest practicable time.

(2) A member of the committee who gives notice of his attention to file supplemental, minority, or additional views at the time of final committee approval of a measure or matter, shall be entitled to not less than 3 calendar days in which to file such views, in writing, with the chief clerk of the committee. Such views shall then be included in the committee report and printed in the same volume, as a part thereof, and their inclusions shall be noted on the cover of the report. In the absence of timely notice, the committee report may be filed and printed immediately without such views.●

RULES OF THE COMMITTEE ON ENERGY AND NATURAL RESOURCES

● Mr. McCLURE. Mr. President, in accordance with the requirement of Senate rule XXVI to publish the rules of each Senate committee in the CONGRESSIONAL RECORD, I hereby submit the rules of the Committee on Energy and Natural Resources for the RECORD:

RULES OF THE SENATE COMMITTEE ON ENERGY AND NATURAL RESOURCES

GENERAL RULES

Rule 1. The Standing Rules of the Senate as supplemented by these rules, are adopted as the rules of the Committee and its Subcommittees.

MEETINGS OF THE COMMITTEE

Rule 2. (a) The Committee shall meet on the third Wednesday of each month while the Congress is in session for the purpose of conducting business, unless, for the convenience of Members, the Chairman shall set some other day for a meeting. Additional meetings may be called by the Chairman as he may deem necessary.

(b) Business meetings of any Subcommittee may be called by the Chairman of such Subcommittee, Provided, That no Subcommittee meeting or hearing other than a field hearing, shall be scheduled or held concurrently with a full Committee or hearing, unless a majority of the Committee concurs in such concurrent meeting of hearing.

OPEN HEARINGS AND MEETINGS

Rule 3. (a) Hearings and business meetings of the Committee or any Subcommittee shall be open to the public except when the Committee or such Subcommittee by majority vote orders a closed hearing or meeting.

(b) A transcript shall be kept of each hearing of the Committee or any Subcommittee.

(c) A transcript shall be kept of each business meeting of the Committee or any Subcommittee unless a majority of the Committee or the Subcommittee involved agrees that some other form of permanent record is preferable.

HEARING PROCEDURE

Rule 4. (a) Public notice shall be given of the date, place, and subject matter of any hearing to be held by the Committee or any Subcommittee at least one week in advance of such hearing unless the Chairman of the full Committee or the Subcommittee involved determines that the hearing is noncontroversial or that special circumstances require expedited procedures and a majority of the Committee or Subcommittee involved concurs. In no case shall a hearing be conducted with less than twenty-four hours notice.

(b) Each witness who is to appear before the Committee or any Subcommittee shall file with the Committee or Subcommittee, at least 24 hours in advance of the hearing, a written statement of his or her testimony in as many copies as the Chairman of the Committee or Subcommittee prescribes.

(c) Each member shall be limited to five minutes in the questioning of any witness until such time as all Members who so desire have had an opportunity to question the witness.

(d) The Chairman and ranking Minority Member or the ranking Majority and Minority Members present at the hearing may each appoint one Committee staff member to question each witness. Such staff member may question the witness only after all Members present have completed their questioning of the witness or at such other time as the Chairman and the ranking Majority and Minority Members present may agree.

BUSINESS MEETING AGENDA

Rule 5. (a) A legislative measure or subject shall be included on the agenda of the next following business meeting of the full Committee or any Subcommittee if a written request for such inclusion has been filed with the Chairman of the Committee or Subcommittee at least one week prior to such meeting. Nothing in this rule shall be construed to limit the authority of the Chairman of the Committee or Subcommittee to include legislative measures or subjects on the Committee or Subcommittee agenda in the absence of such request.

(b) The agenda for any business meeting of the Committee or any Subcommittee shall be provided to each Member and made available to the public at least three days prior to such meeting, and no new items may be added after the agenda is so published except by the approval of a majority of the Members of the Committee or Subcommittee. The Staff Director shall promptly notify absent Members of any action taken by the Committee or any Subcommittee on matters not included on the published agenda.

QUORUMS

Rule 6. (a) Except as provided in subsections (b), (c), and (d), six Members shall constitute a quorum for the conduct of business of the Committee.

(b) No measure or matter shall be ordered reported from the Committee unless ten Members of the Committee are actually present at the time such action is taken.

(c) Except as provided in subsection (d), one-third of the Subcommittee Members shall constitute a quorum for the conduct of business of any Subcommittee.

(d) One Member shall constitute a quorum for the purpose of conducting a hearing or taking testimony on any measure or matter before the Committee or any Subcommittee.

VOTING

Rule 7. (a) A roll call of the Members shall be taken upon the request of any Member. Any member who does not vote on any roll call at the time the roll is called, may vote (in person or by proxy) on that roll call at any later time during the same business meeting.

(b) Proxy voting shall be permitted on all matters, except that proxies many not be counted for the purpose of determining the presence of a quorum. Unless further limited, a proxy shall be exercised only upon the date for which it is given and upon the items published in the agenda for that date.

(c) Each Committee report shall set forth the vote on the motion to report the measure or matter involved. Unless the Committee directs otherwise, the report will not set out any votes on amendments offered during Committee consideration. Any member who did not vote on any roll call shall have the opportunity to have his position recorded in the appropriate Committee record or Committee report.

(d) The Committee vote to report a measure to the Senate shall also authorize the staff of the Committee to make necessary technical and clerical corrections in the measure.

SUBCOMMITTEES

Rule 8. (a) The number of Members assigned to each Subcommittee and the division between Majority and Minority Members shall be fixed by the Chairman in consultation with the ranking Minority Member.

(b) Assignment of Members of Subcommittee shall, insofar as possible, reflect the preferences of the Members. No Member will receive assignment to a second Subcommittee until, in order of seniority, all Members of the Committee have chosen assignments to one Subcommittee, and no Member shall receive assignment to a third Subcommittee until, in order of seniority, all Members have chosen assignments to two Subcommittees.

(c) Any Member of the Committee may sit with any Subcommittee during its hearings and business meetings but shall not have the authority to vote on any matters before the Subcommittee unless he is a Member of such Subcommittee.

SWORN TESTIMONY AND FINANCIAL STATEMENTS

Rule 9. Witnesses in Committee or Subcommittee hearings may be required to give testimony under oath whenever the Chairman or ranking Minority Member of the Committee or Subcommittee deems such to be necessary. At any hearing to confirm a Presidential nomination, the testimony of the nominee and, at the request of any Member, any other witness shall be under oath. Every nominee shall submit a statement of his financial interests, including those of his spouse, his minor children, and other members of his immediate household, on a form approved by the Committee, which shall be sworn to by the nominee as to its completeness and accuracy. A statement of every nominee's financial interest shall be made public on a form approved by the Committee, unless the Committee in executive session determines that special circumstances require a fill or partial exception to this rule. Members of the Committee are urged to make public a statement of their financial interests in the form required in the case of Presidential nominees under this rule.

CONFIDENTIAL TESTIMONY

Rule 10. No confidential testimony taken by or confidential material presented to the Committee or any Subcommittee, or any report of the proceedings of a closed Committee or Subcommittee hearing or business meeting, shall be made public, in whole or in part or by way of summary, unless authorized by a majority of the Members of the Committee at a business meeting called for the purpose of making such a determination.

DEFAMATORY STATEMENTS

Rule 11. Any person whose name is mentioned or who is specifically identified in, or who believes that testimony or other evidence presented at, an open Committee or Subcommittee hearing tends to defame him

or otherwise adversely affect his reputation may file with the Committee for its consideration and action a sworn statement of facts relevant to such testimony or evidence.

BROADCASTING OF HEARINGS OR MEETINGS

Rule 12. Any meeting or hearing by the Committee or any Subcommittee which is open to the public may be covered in whole or in part by television broadcast, radio broadcast, or still photography. Photographers and reporters using mechanical recording, filming, or broadcasting devices shall position their equipment so as not to interfere with the seating, vision, and hearing of Members and staff on the dais or with the orderly process of the meeting or hearing.

AMENDING THE RULES

Rule 13. These rules may be amended only by vote of a majority of all the Members of the Committee in a business meeting of the Committee: *Provided*, That no vote may be taken on any proposed amendment unless such amendment is reproduced in full in the Committee agenda for such meeting at least three days in advance of such meeting.●

APPROPRIATIONS STATUS REPORT

● Mr. DOMENICI. Mr. President, just prior to the adjournment of the first session of the 99th Congress, the Congress completed action on the fiscal year 1986 continuing appropriations resolution. I placed in the RECORD at that time the preliminary scoring of the continuing resolution and its relationship to the congressional budget, the President's budget request, and the House- and Senate-passed bills. Today, I ask that a table showing the final scoring of the fiscal year 1986 continuing resolution (H.J. Res. 465 Public Law 99-190), and summary tables of Senate appropriations and congressional action to date, be placed in the RECORD at the conclusion of my remarks.

Mr. President, the conference agreement on House Joint Resolution 465, further continuing appropriations for fiscal year 1986, provides $365 billion in budget authority and $214.9 billion in outlays for various Federal agencies. When outlays from prior-year budget authority and other actions completed, possible later requirements, and other adjustments are taken into account, the Senate Appropriations Committee is $11.2 billion in budget authority under and $1.1 billion in outlays over its overall 302(a) "crosswalk" allocation under the fiscal year 1986 budget resolution (S. Con. Res. 32). The summary table of fiscal year 1986 appropriations action to date displays the relationship of the 13 subcommittees to the Appropriations Committee's own 302(b) allocations.

Mr. President, a final summary table shows the current status of congressional actions for fiscal year 1986, including the final continuing resolution and possible later requirements, and the relationship of congressional action to date to the fiscal year 1986 budget resolution totals.

I hope that this status report will be of interest to my colleagues as the Senate proceeds with the business of the 99th Congress.

The table referred to follows:

FURTHER CONTINUING APPROPRIATIONS FOR FISCAL YEAR 1986 SPENDING TOTALS—CONFERENCE AGREEMENT

[In billions of dollars]

	Fiscal year 1986	
	Budget authority	Outlays
Outlays from prior-year budget authority, bills enacted this session, and other actions completed	202.1	340.5
House Joint Resolution 465, conference agreement	365.0	214.9
Possible later requirements: (see attached table for details)	2.6	2.3
Adjustment to conform mandatory programs to budget resolution assumptions and other adjustments	−13.8	−2.5
Appropriations Committee total	555.9	555.2
Appropriations Committee 302(a) allocation	567.1	554.1
House-passed level	547.0	556.3
Senate-passed level	562.3	555.3
President's request	565.7	562.3
Appropriations Committee total compared to:		
302 (a) allocation	−11.2	+1.1
House-passed level	+8.9	−1.1
Senate-passed level	−6.4	−0.1
President's request	−9.7	−7.1

Note: Details may not add to totals due to rounding.

FURTHER CONTINUING APPROPRIATIONS FOR FISCAL YEAR 1986

Possible later requirements

[In billions of dollars]

	Fiscal year 1986	
	Budget authority	Outlays
Agriculture:		
Salaries and expenses	0.1	(1)
ACIF/net realized losses	.4	
RHIF/net realized losses	.3	
RDIF/net realized losses	.1	
Extension service/OIG transfer	.1	0.1
Standard level user charges	(1)	(1)
Defense: Military pay raises		.7
HUD-Independent Agencies:		
Veterans compensation COLA	.3	.2
Readjustment benefits	.2	.1
Interior: Forest firefighting	.1	.1
Labor-HHS:		
Federal unemployment benefits	.1	.1
Advance to unemployment trust funds	(1)	(1)

FURTHER CONTINUING APPROPRIATIONS FOR FISCAL YEAR 1986—Continued

Possible later requirements

[In billions of dollars]

	Fiscal year 1986	
	Budget authority	Outlays
Black lung	(1)	(1)
Payment to health care trust fund	.9	.9
Legislative branch: Official mail costs	(1)	(1)
Total—possible later requirements	2.6	2.3

1 Less than $50 million.

Note: Details may not add to totals due to rounding.

CONGRESSIONAL ACTION TO DATE: FURTHER CONTINUING APPROPRIATIONS FOR FISCAL YEAR 1986—HOUSE JOINT RESOLUTION 465

[Conference agreement: In billions of dollars]

	Fiscal year 1986	
	Budget authority	Outlays
Congressional action to date	712.2	775.1
House Joint Resolution 465	364.6	214.9
Offsetting receipts	−4.4	−4.4
Possible later requirements[1]: (see attached table for details)	0.7	1.3
Total	1,073.0	986.8
Budget resolution	1,069.7	967.6
Over (+)/under (−) budget resolution	+3.3	+19.2

1 CBO estimates that entitlements and other mandatory programs will need the additional funding shown here based on the assumptions contained in the budget resolution (S. Con. Res. 32).

Note: Details may not add to totals due to rounding.

CONGRESSIONAL ACTION TO DATE: FURTHER CONTINUING APPROPRIATIONS FOR FISCAL YEAR 1986—HOUSE JOINT RESOLUTION 465

[Conference agreement—possible later requirements: In billions of dollars]

	Fiscal year 1986	
	Budget authority	Outlays
Possible later requirements: [1]		
Payment to air carriers, DOT	(2)	(2)
Maritime operating-differential subsidies		(2)
Retirement pay for PHS officers	(2)	
Medical facilities loan guarantee	(2)	
Payment to health care trust fund [3]	(0.9)	(0.9)
Advances to unemployment trust fund [3]	(.1)	(.1)
Federal unemployment benefits and allowances	.1	.1
Black lung disability trust fund	(2)	(2)
Veterans compensation	.3	.2
Veterans readjustment benefits	.2	.1
Veterans pensions	(2)	
DOD military pay raise		.7
Compact of free association	.1	.1
Total—possible later requirements	.7	1.3

1 CBO estimates that entitlements and other mandatory programs will need the additional funding shown here based on the assumptions contained in the budget resolution (S. Res. 32).

2 Less than $50 million.

3 This is an interfund transaction that does not add to budget totals.

Note: Details may not add to totals due to rounding.

HOUSE JOINT RESOLUTION 465, THIRD CONTINUING RESOLUTION FOR FISCAL YEAR 1986 AS OF JAN. 28, 1986—DETAIL OF CURRENT STATUS

[In millions of dollars]

Appropriations Subcommittee	Enacted to date		H.J. Res. 465 Continuing Resolution		Possible later requirements		Mandatory and other adjustments		Total current status	
	Budget authority	Outlay	Budget authority	Outlay	Budget authority	Outlay	Budget authority	Outlay	Budget authority	Outlay
Agriculture	381	2,179	40,500	22,995	892	99	(13,510)	(37)	28,263	25,236
Commerce-Justice	11,946	12,308	43	19	0	0	(30)	(305)	11,959	12,022
Defense	579	92,957	281,162	158,371	0	675	0	0	281,740	252,003

HOUSE JOINT RESOLUTION 465, THIRD CONTINUING RESOLUTION FOR FISCAL YEAR 1986 AS OF JAN. 28, 1986—DETAIL OF CURRENT STATUS—Continued

[In millions of dollars]

Appropriations Subcommittee	Enacted to date		H.J. Res. 465 Continuing Resolution		Possible later requirements		Mandatory and other adjustments		Total current status	
	Budget authority	Outlay	Budget authority	Outlay	Budget authority	Outlay	Budget authority	Outlay	Budget authority	Outlay
District of Columbia	0	0	547	547	0	0	0	0	547	547
Energy-Water	15,253	15,653	0	0	0	0	14	(71)	15,267	15,582
Foreign Assistance	0	8,794	15,045	6,016	0	0	0	(230)	15,045	14,580
HUD-Independent	57,291	62,146	2,400	6	466	372	(266)	(1,316)	59,891	61,208
Interior	15	3,905	1,197	5,367	100	100	10	(168)	1,322	9,204
Labor-HHS	106,528	114,408	616	442	1,060	1,059	(219)	(600)	107,985	115,310
Legislative Branch	1,646	1,705	0	0	44	29	(5)	(11)	1,685	1,723
Military Construction	8,498	7,539	0	0	0	0	0	0	8,498	7,539
Transportation	0	17,984	10,441	9,052	0	0	26	6	10,467	27,042
Treasury-Postal	0	892	13,046	12,127	0	0	214	208	13,260	13,228
Subtotal	202,135	340,471	364,998	214,942	2,562	2,334	(13,766)	(2,524)	555,929	555,223
Unassigned to subcommittees	0	0	0	0	0	0	0	0	0	0
Total	202,135	340,471	364,998	214,942	2,562	2,334	(13,766)	(2,524)	555,929	555,223

Note: Negative numbers appear in parenthesis.●

SUMMARY OF FISCAL YEAR APPROPRIATIONS ACTION AS OF JAN. 28, 1986

[In millions of dollars]

Appropriations Subcommittee	President's request		302(b) allocation		Current status		Current status over/under ( ) President's request		Current status over/under ( ) 302(b) allocation	
	Budget authority	Outlay	Budget authority	Outlay	Budget authority	Outlay	Budget authority	Outlay	Budget authority	Outlay
Agriculture	27,641	24,098	28,200	25,200	28,263	25,236	622	1,138	63	36
Commerce-Justice	11,391	11,575	12,000	11,900	11,959	12,022	568	447	(41)	122
Defense	304,533	263,403	285,500	252,200	281,740	252,003	(22,792)	(11,400)	(3,760)	(197)
District of Columbia	532	532	500	500	547	547	15	15	47	47
Energy-Water	15,345	15,581	15,300	15,600	15,267	15,582	(78)	2	(33)	(18)
Foreign Assistance	15,032	14,875	15,200	14,700	15,045	14,580	13	(295)	(155)	(120)
HUD-Independent	50,145	62,875	58,700	61,200	59,891	61,208	9,746	(1,668)	(1,191)	8
Interior	7,380	8,942	8,200	8,900	1,322	9,204	(6,058)	261	(6,878)	304
Labor-HHS	101,411	112,455	108,000	115,300	107,985	115,310	6,575	2,855	(15)	10
Legislative Branch	1,830	1,848	1,700	1,700	1,685	1,723	(145)	(125)	(15)	23
Military Construction	10,340	7,884	9,000	7,600	8,498	7,539	(1,842)	(345)	(502)	(61)
Transportation	7,860	25,996	10,500	26,600	10,467	27,042	2,607	1,046	(33)	442
Treasury-Postal	12,211	12,222	13,100	13,100	13,260	13,288	1,049	1,006	160	128
Subtotal	565,651	562,288	565,900	554,500	555,929	555,223	(9,722)	(7,065)	(9,971)	723
Unassigned to subcommittees	0	0	1,200	(400)	0	0	0	0	(1,200)	400
Total	565,651	562,288	567,100	554,100	555,929	555,223	(9,722)	(7,065)	(11,171)	1,123

Note: Negative numbers appear in parentheses.

OSMA SPURLOCK, NOTED HOOSIER, RETIRES

● Mr. LUGAR. Mr. President, I bring to the Senate's attention the retirement of a dedicated public official and noted Hoosier leader, Osma Spurlock, who since 1970 has provided outstanding direction and leadership as the only director that the Indianapolis district office of the U.S. Equal Employment Opportunity Commission has had since it opened.

Osma Spurlock, widely known and respected in the State of Indiana as a staunch advocate and promoter of civil liberties, joined the Equal Employment Opportunity Commission as director of the newly created Indianapolis area office in 1970. The opening of the Indiana office resulted from the passage of the Civil Rights Act of 1964. As the newly created office caseload increased so did the scope of Ms. Spurlock's responsibilities and in 1973 her office was redesignated a district office.

Before coming to the EEOC, Spurlock served as deputy director of the Indiana Civil Rights Commission and as director of social services at the board of fundamental education in Indianapolis. She also was an associate professor of sociology at Indiana University-Purdue University at Indianapolis.

The recipient of a B.A. degree from Hunter College in New York City, and an M.A. degree in sociology from Atlanta University, Spurlock serves on a number of boards of community service organizations and has received several awards for her career work and civic involvement. For the past 3 consecutive years, she was commended by EEOC for outstanding performance in the Senior Executive Service. In 1984 she was honored as one of the "outstanding black women in Indiana" by the National Council of Negro Women.

It is indeed a great pleasure to recognize Osma Spurlock for her commitment to equal employment throughout her tenure as director of the Indianapolis district office of the Equal Employment Opportunity Commission and to acknowledge her service to the community of Indianapolis, the State of Indiana, and our Nation.●

THE PRODUCT LIABILITY VOLUNTARY CLAIMS AND UNIFORM STANDARDS ACT

● Mrs. KASSEBAUM. Mr. President, I am pleased today to emphasize my support for fundamental reform of product liability law by cosponsoring S. 1999, the Product Liability Voluntary Claims and Uniform Standards Act. This bill was introduced by Senator DANFORTH on December 20 with the expectation that it would encourage further discussion about our product liability crisis.

I have long felt that our system of tort law, especially in the area of product liability, needed attention. We have become a truly interstate economy, with goods moving between and among the 50 States. In such an environment, traditional product liability law has become unduly burdensome for manufacturers and increasingly inefficient in compensating injured parties. The problem has aggravated the cyclical fluctuations in the property and casualty insurance industry, has deterred technological advancements in many fields, and has raised signifi-

cantly the costs to consumers, businesses, and employees.

Mr. President, I share Senator DANFORTH's sentiments about S. 1999. This legislation is not the final word in product liability reform. It is open to amendment and modification. Discussions should and must continue among manufacturers, consumers, labor, and the legal profession. However, S. 1999 offers a realistic chance to legislate some sanity in our tort system.

I have watched the product liability debate closely over the past several years. I have seen the various proposals develop. We now have the opportunity to act on a proposal which I believe can be fair to all and which is a substantial improvement over existing laws. As a member of the Senate Committee on Commerce, Science, and Transportation, I intend to do what I can to ensure that we do not miss this opportunity.●

RETIREMENT OF ALEX NAIMON

● Mr. MATHIAS. Mr. President, I invite the attention of Senators to the retirement from Federal service on January 3, 1986, of Alex Naimon, one of my constituents, who has rendered distinguished service to four agencies of the Government over a period of more than 36 years, including 2 years of military service as an electronic technician in World War II. Mr. Naimon represents a remnant of a once grand tradition started by professor, later Supreme Court Justice, Felix Frankfurter at Harvard Law School [HLS], who turned down President Roosevelt's offer to be Solicitor General so that he could remain in a position to recommend many of his promising law students—nicknamed "happy hot dogs"—for positions in the New Deal administration. One such referral was of Paul Freund, who joined the Department of Justice, who when he returned to HLS as professor of law—now university professor—continued in Frankfurter's role. It was Professor Freund who referred and recommended Mr. Naimon for appointment in the Antitrust Division and in the Office of Price Stabilization [OPS], whose prompt offer was as promptly accepted.

Mr. Naimon's Government service started with 2 years as an electronic technician in the Navy in World War II. Helped greatly by the GI bill, which enabled him to consider postgraduate studies, he first got a master's degree in economics at Columbia University, and there inspired by his labor law professor, went on to get his J.D. degree from Harvard Law School.

At OPS, Mr. Naimon served as an attorney in the Rubber, Chemical, and Drugs Division.

When OPS was abolished in 1953 toward the end of the Korean war, Mr. Naimon accepted an appointment in the Office of the Surgeon General [OTSG], Army, where he worked for the next 17 years, and rose to be its highest ranking civilian attorney. Here, by giving legal assistance on personal legal problems to OTSG's more than 100 military officers as Legal Assistance Officer, he was able to develop relationships of trust with them, which in turn led to working out important OTSG matters on an interdisciplinary informal basis, particularly legislative positions. Among his proudest accomplishments, he conceptualized the Army's need for a high level body, in effect a little FDA; that is, the Army Investigational Drug Review Board [AIDRB], which could flexibly respond to the military's need for expedited but scientifically warranted time-limited approval to use an investigational drug worldwide.

In 1970, Mr. Naimon transferred to DHEW, where he served as both the Legislative Liaison Officer and the Regulations Officer for the National Center for Health Services Research.

From 1977 until his recent retirement, Mr. Naimon worked for the VA's Office of General Counsel, where his work, both legislative and legal, was largely in the medico-legal field.

Throughout his Government career, Mr. Naimon nurtured the ideal that Government service should equate with working in the public interest both in interpreting the law and in proposing changes to the law. He believed and asserted that lawyers in Government should be active in preserving the rule of law and our democratic form of government, as by emphasizing the public's right to know and participate in government actions in a democracy. He steadfastly adhered to a value system based on the sanctity of human life, respect for the rights of all individuals, including a qualified right of privacy, the right of all persons to be treated fairly by the Government, a concern that the Government receive fair value for its tax dollars, especially for its health expenditures, and a desire to help human beings seeking help.

Alex Naimon and his wife, Judith Sandberg Naimon, are proud of their three sons, Jon, David, and Jeffrey, who have respectively graduated from MIT, Princeton, and Yale, achievements made possible by Government educational loan programs, sympathetic financial aid programs of the mentioned schools, the students' own work efforts, together with Mr. Naimon's own contributions, made possible by his GI bill benefits.●

BUDGET SCOREKEEPING REPORT

● Mr. DOMENICI. Mr. President, I hereby submit to the Senate the budget scorekeeping report for the week of January 27, 1986, prepared by the Congressional Budget Office in response to section 5 of the first budget resolution for fiscal year 1986. This report also serves as the scorekeeping report for the purposes of section 311 of the Congressional Budget Act, as amended:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, February 3, 1986.

Hon. PETE V. DOMENICI,
Chairman, Committee on the Budget,
U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: The attached report shows the effects of Congressional action on the budget for fiscal year 1986. The estimated totals of budget authority, outlays, and revenues are compared to the appropriate or recommended levels contained in the most recent budget resolution, S. Con. Res. 32. This report meets the requirements for Senate scorekeeping of Section 5 of S. Con. Res. 32 and is current through Janauary 31, 1986. The report is submitted under Section 308(b) and in aid of Section 311 of the Congressional Budget Act, as amended.

Since my last report no changes have occurred in budget authority, outlay, and revenue estimates.

With best wishes,
Sincerely,

RUDOLPH G. PENNER.

CBO WEEKLY SCOREKEEPING REPORT FOR THE U.S. SENATE, 99TH CONGRESS, 2D SESSION, AS OF JAN. 31, 1986

[Fiscal Year 1986—in billions of dollars]

	Budget authority	Outlays	Revenues	Debt subject to limit
Current level[1]	1,073.0	986.8	793.6	1,948.5
Budget resolution, Senate Concurrent Resolution 32	1,069.7	967.6	795.7	[2] 2,078.7
Current level is:				
Over resolution by	3.3	19.2		
Under resolution by			2.1	130.2

[1] The current level represents the estimated revenue and direct spending effects (budget authority and outlays) of all legislation that Congress has enacted in this or previous sessions or sent to the President for his approval. In addition, estimates are included of the direct spending effects for all entitlement or other programs requiring annual appropriations under current law even though the appropriations have not been made. The current levels excludes the revenue and direct spending effects of legislation that is in earlier stages of completion, such as reported from a Senate Committee or passed by the Senate. Thus, savings from reconciliation action assumed in Senate Concurrent Resolution 32 will not be included until Congress sends the legislation to the President for his approval. The current level of debt subject to limit reflects the latest U.S. Treasury information on public debt transactions.

[2] The current statutory debt limit is $2,078.7 billion.

FISCAL YEAR 1986, SUPPORTING DETAIL FOR CBO WEEKLY SCOREKEEPING REPORT, U.S. SENATE, 99TH CONGRESS, 2D SESSION, AS OF JAN. 31, 1986

[In millions of dollars]

	Budget authority	Outlays	Revenues
I. Enacted in previous sessions:			
Revenues			793,551
Permanent appropriations and trust funds	708,634	632,166	
Other appropriations	554,277	543,994	
Offsetting receipts	−190,586	−190,586	
Total enacted in previous sessions	1,072,325	985,573	793,551
II. Enacted this session			
III. Continuing resolution authority			
IV. Conference agreements ratified by both Houses			

FISCAL YEAR 1986, SUPPORTING DETAIL FOR CBO WEEKLY SCOREKEEPING REPORT, U.S. SENATE, 99TH CONGRESS, 2D SESSION, AS OF JAN. 31, 1986—Continued

[In millions of dollars]

	Budget authority	Outlays	Revenues
V. Entitlement authority and other mandatory items requiring further appropriation action:			
Payment to air carriers, DOT.	26	24	.....
Maritime, operating-differential subsidies.	.....	3	.....
Retirement pay for PHS officers.	3	.....	.....
Medical facilities loan guarantee.	2	.....	.....
Payment to health care trust funds.[1]	(907)	(907)	.....
Advances to unemployment trust fund.[1]	(51)	(51)	.....
Federal unemployment benefits and allowances.	65	64	.....
Black lung disability trust fund.	46	46	.....
Veterans compensation.	286	235	.....
Veterans readjustment benefits.	180	137	.....
Veterans pensions	10	.....	.....
Defense pay raise—military.	.....	675	.....
Compact of free association.	92	92	.....
Total entitlements	710	1,276	.....
Total current level as of January 31, 1986.	1,073,035	986,849	793,551
1986 budget resolution (S. Con. Res. 32).	1,069,700	967,600	795,700
Amount remaining:			
Over budget resolution.	3,335	19,249	.....
Under budget resolution.	.....	.....	2,149

[1] Interfund transactions do not add to budget totals.

Note: Numbers may not add due to rounding.●

COSPONSORSHIP OF S. 1920

● Mr. D'AMATO. Mr. President, I rise today in support of S. 1920, which would temporarily extend the Superfund taxing authority. This legislation is urgently needed to avoid a potentially disastrous slew of layoffs and canceled contracts which could set the Superfund Program back many months, or even years.

The Senate passed a $7.5 billion, 5-year reauthorization in September. The House of Representatives postponed approval of a package until mid-December, causing the delay of cleanups at 12 sites throughout New York State.

New York has the unenviable distinction of having the fourth highest number of Superfund sites in the Nation. My State can ill afford to wait any longer for the cleanup of these toxic sites. But, final approval of the House-Senate conference could take several months. In the meantime, each of the following sites is in jeopardy because sufficient funds have not yet been made available to continue cleanup efforts:

Sinclair Refinery: Wellsville, Allegheny County, $500,000.—This is a site just south of Wellsville, where waste materials were put in landfills by the Genessee River. EPA wants to take one of the landfills, dig it out, put it on top of the other, and cap them both. This would take about 1 year to design and 1 year to carry out. EPA, also wants to do an initial relocation of the water supply intake by moving it upstream to avoid contamination. This would take 6 to 8 months.

Wide Beach: Brant, Erie County, $500,000.—At one time, the dirt roads in the town of Brant were sprayed with PCB contaminated oil to make them less dusty. EPA wants to pick up the soil and use a chemical process to remove the PCB's. This probably would take about a year to design and 2 years to execute.

EPA wants to investigate the following sites. This process usually take from 15 to 18 months.

American Thermometer: South Cairo, Greene County, $800,000—This is a problem in South Cairo where trichloroethylene has contaminated the groundwater.

Hertel landfill: Plattekill, Ulster County, $800,000—This site covers 80 acres situated in the valley of a tributary to Black Creek and is surrounded by wetlands. This was a private landfill which accepted an "unkown quantity" of waste from 1963 to 1976. The Ulster County Department of Health revoked its permit for a variety of reasons. The State has found chromium in the groundwater in the area.

Johnstown city landfill: Johnstown, Fulton County, $800,000—This site accepted industrial waste from local tanneries until mid-1977. From 1973 to 1979, 20,000 cubic yards of sludge from the local sewage treatment plant were deposited. This sludge contained chromium, lead, and iron. Wells in the immediate area are contaiminated with heavy metals and the city of Johnstown well field can be used only on an auxiliary basis. The State is currently negotiating the closing of the landfill.

Port Washington landfill: Port Washington, Nassau County $1,300,000—This is located on the east coast of Port Washington. A landfill with an assortment of chemicals has been affecting the groundwater in the area.

Syosset landfill: Oyster Bay, Nassau County. $700,000,—This is a landfill which has affected the ground water in Oyster Bay on Long Island.

EPA wants to continue studies on the following:

Marathon Battery Corp.: Cold Springs, Putnam County, $200,000.—This is on the Hudson River in Cold Springs. Cadmium and nickle is affecting the wetlands and contaminating waterfowl.

North Sea Municipal landfill: North Sea, Suffolk County, $600,000.—This site is on the south fork of Long Island. The landfill presents a ground water problem.

York Oil Co.: Miora, Franklin County, $400,000.—This is north of Miora, which is 30 miles east of Massena. It is an old storage area for PCB contaminated oil and, over the years, the surface contamination has spread into Lawrence Brook and the nearby wetlands. Wildlife may be contaminated, and it could get into food chains.

Finally, EPA needs additional money to begin construction work on the following projects:

Love Canal: Niagara Falls, Niagara County, $1 million or more.—EPA gave the State $2 million for sewer and creek cleanup. However, the bids that came back indicated that this was at least $1 million under what it will actually cost. EPA is requesting the additional money.

Pollution abatement services: Oswego, Oswego County, $1 million or more.—EPA gave the State $2 million to put a wall around this site and to cap it, but the bids that came back indicated that this will need about $1 million more. EPA has requested the additional money.

Mr. President, this is a listing EPA has provided showing those projects and studies which can—and should—get underway immediately. Obviously there are other sites in my State in need of cleanup that cannot proceed if EPA is delayed in working on those sites it is ready to handle now.

I know that there has been concern that a temporary extension such as S. 1920 will take the pressure off the 5-year reauthorization. There is no question that most of us would prefer to have a 5-year bill right away. But let us be realistic. We are already seeing damage to the program due to the imminent threat of layoffs and canceled cleanups and studies, and we have already lost valuable time on the projects I mentioned earlier.

I urge my colleagues to join in cosponsoring S. 1920. Let us keep EPA and the Superfund Program at work.

Mr. President, I ask unanimous consent that at its next printing, I be added as, a cosponsor to S. 1920, a bill introduced by Senator LAUTENBERG.

Thank you, Mr. President.●

JOINT MEETING OF THE TWO HOUSES TO RECEIVE A MESSAGE FROM THE PRESIDENT OF THE UNITED STATES

Mr. DOLE. Mr. President, I ask unanimous consent that the President of the Senate be authorized to appoint a committee on the part of the Senate to join with a like committee on the part of the House of Representatives to escort the President of the United States into the House Chamber for the joint session to be held Tuesday, February 4, 1986.

The PRESIDING OFFICER. Without objection, it is so ordered.

ELECTION IN THE PHILIPPINES

Mr. DECONCINI. Mr. President, on behalf of myself and Mr. LAUTENBERG, I send a resolution to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will state the resolution by title.

The assistant legislative clerk read as follows:

A resolution (S. Res. 328) expressing the sense of the Senate on the importance of international observer delegations and NAMFREL during the February 7, 1986 election in the Republic of the Philippines.

Mr. DECONCINI. Mr. President, I ask unanimous consent that the resolution be immediately considered.

The PRESIDING OFFICER. Is there objection?

There being no objection, the Senate proceeded to consider the resolution.

Mr. DECONCINI. Mr. President, I ask unanimous consent that the clerk read just commencing at the "Now, therefore" on the second page of the resolution starting at line 30.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report.

The assistant legislative clerk read as follows:

Now, therefore, be it resolved That the Senate hereby

(1) reaffirms its support for genuine, free, and fair elections in the Philippines scheduled for February 7, 1986;

(2) stresses the critical importance of NAMFREL in permitting the Filipino people to monitor the conduct of the election and of NAMFREL's "quick count" in monitoring the tabulation of the results;

(3) stresses the importance of the presence of international observers at such elections;

(4) urges the Government of the Philippines to permit direct access to the polling places for such international observers;

(5) expresses its support for the official U.S. delegation sent by the President to observe the February 7 election; and

(6) reaffirms its commitment to the principles spelled out in H. CON. Res. 232, as passed unanimously by the Congress on November 14, 1985.

Mr. DECONCINI. Mr. President, I want to express my appreciation to the majority leader and the minority leader as well as the chairman of the Foreign Relations Committee, Senator LUGAR, and the ranking member, Senator PELL, for agreeing that this matter can be taken care of today.

I reluctantly bother the Senate tonight with something that has been on my mind for sometime. Having just recently returned form the Philippines and though only there for a matter of hours, I have, over a period of time, tried my best to understand what has happened to that nation, even to the extent of offering some restrictive amendments in the Foreign Operations Subcommittee of the Appropriations Committee regarding what I believe to be the violation of certain human rights. I am now more convinced than ever that free and fair elections on February 7, 1986, are crucial to the preservation of democracy in that nation and to the long-term strategic interests of the United States and its allies. The recently announced decision to restrict foreign observers from the polling places impairs the prospects for honest elections. This resolution expresses the Senate's belief, based upon the latest electoral accomplishments in El Salvador, Honduras, Panama, and Guatemala, that observers with direct access to polling places are a positive influence in assuring free and fair democratic elections.

Until the late 1960's, the Philippines had a working democratic system. Unfortunately, this growth of democracy in the Philippines has deteriorated in recent years—not by a lack of interest in its continued growth by a majority of Filipinos, but by the increasingly arbitrary actions of President Marcos and the present administration of that country.

While it is not and should not be the intent of this government to interfere in or to influence the outcome of the elections in the Philippines, it is in our best interest to make every attempt to insure that they are conducted in a free and open manner and that the results truly represent the choice of the Filipino people. And, of greatest concern to me and, I am certain, a majority of Americans, is the restoration of democratic institutions in the Republic of the Philippines. We must make it clear to both President Marcos and the opposition candidates that the restoration of democratic institutions is crucial for continued good relations with the United States.

To that end, I am reiterating the need for international observers to support NAMFREL in its efforts to monitor the fairness and impartiality of the presidential elections as well as the need for these observers to have direct access to polling places.

President Reagan has appointed an official U.S. delegation of Members of Congress and distinguished Americans from the private sector to observe the February 7 elections.

If I am not mistaken, Mr. President, the distinguished chairman of the Foreign Relations Committee is the chairman of that special delegation. I wish to point to the RECORD, which indicates that on January 24, 1986, the distinguished Senator from Indiana [Mr. LUGAR] put out an editorial report which was very provocative, I thought, and comprehensive in its approach toward this election coming up and the long-term effects this will have on the relationship between the United States and the Philippines.

Senator LUGAR points out that there are numerous concerns. They are very similar to what appears in the resolution. I should like to take a moment to read them to my colleagues.

His concerns are, first, failure to appoint independent members to two vacancies on the commission on elections. I think it is important to note that those have been filled most recently.

Two, imbalance in media opportunity and attention afforded to the opposition;

Three, continuance in office of certain generals, including General Ver, which cast doubts regarding the military pledge of noninterference;

Four, disturbing reports of violence and intimidation against opposition figures;

Five, lingering problems with regard to a quick count, which would enhance an accurate vote tabulation;

Six, access to polling places for international observers, permitting adequate verification;

Seven, an effective means of observing the vote tabulation to 191-some regional centers.

Based on the positive experiences of this Nation with similar observer teams being sent to monitor the general elections in El Salvador in 1982 and 1984, and recently in Guatemala and Honduras, it is my belief that these observers can only help to further the interests of the people of the Philippines and the growth of democracy. We can best accomplish this by demonstrating our support for the National Citizen Movement for a Free Election [NAMFREL]. The very presence of U.S. observers should underscore the importance of NAMFREL in verifying the absence of coercion, intimidation, and illegal balloting procedures as well as encourage a full discussion of the issues by the candidates. Not only will this reflect positively on the nation as a whole, it will ensure that the winner of the election has the popular support needed to govern and a mandate to implement the necessary democratic, economic, and military reforms for the enhancement of the Filipino people.

It is essential that the Filipino people know that the United States is dedicated to their economic recovery and committed to their political freedom.

I have faith in the good judgment of the Filipino people and their respect for democratic institutions. If these elections are fair, they can help stem the tide of the Communist insurgency, revitalize the democratic processes within that nation, and strengthen the positive relationship between our two nations. Whatever the outcome of the elections, it is in the best interests of this Nation to pursue a new pluralism and dialogue within the Philippines and improve the prospects for democracy. If these elections are conducted

fairly and the results are reflective of the Filipino electorate, I believe we can live with either Mr. Marcos or Mrs. Aquino as President of the Philippines. Our Nation and Congress should pledge themselves, through this resolution, to continue to work with the people of the Philippines on issues of mutual interest and shared democratic ideals.

Mr. President, I ask unanimous consent that the Senator from New Jersey [Mr. LAUTENBERG] be added as a cosponsor.

The PRESIDING OFFICER. Without objection, it is so ordered.

The question is on agreeing to the resolution.

The resolution (S. Res. 328) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 328

Whereas on February 7, 1986, the Republic of the Philippines will hold an election for President and Vice President;

Whereas the government and people of the United States have a longstanding friendship with the Philippines based on democratic principles and institutions;

Whereas the United States seeks to perpetuate that relationship and has a strategic interest in the preservation of access to two military bases in the Philippines for the security of the Pacific region;

Whereas restoration of democratic institutions in the Philippines is one essential element necessary to restore the confidence of the Filipino people in their government and to stem the growth of the communist insurgency;

Whereas President Marcos, other officials of the Government of the Philippines, the opposition party UNIDO, and the National Citizen Movement for a Free Election (NAMFREL) have indicated their willingness to cooperate with a delegation of international observers;

Whereas President Reagan has appointed an official United States delegation of Members of Congress and distinguished Americans from the private sector to observe the February 7 election.

Whereas a decision to limit access to polling places by international observers would seriously impair observation and would detract from the credibility of the election result;

Whereas it has been the experience that international observers to the elections of 1982 and 1984 in El Salvador and more recently, Guatemala, were not limited access to polling places and greatly increased the fairness and credibility of those elections; and

Whereas NAMFREL is experiencing difficulty in organizing its citizens monitoring activities, particularly with regard to the "quick count" which is essential to a credible election: Now, therefore, be it

Resolved, That the Senate hereby—

(1) reaffirms its support for genuine, free, and fair elections in the Philippines scheduled for February 7, 1986;

(2) stresses the critical importance of NAMFREL in permitting the Filipino people to monitor the conduct of the election and of ANAMFREL's "quick count" in monitoring the tabulation of the results;

(3) stresses the importance of the presence of international observers at such elections;

(4) urges the Government of the Philippines to permit direct access to the polling places for such international observers;

(5) expresses its support for the official United States delegation sent by the President to observe the February 7 election; and

(6) reaffirms its commitment to the principles spelled out in House Concurrent Resolution 232, as passed unanimously by the Congress on November 14, 1985.

Mr. DOLE. Mr. President, I move to reconsider the vote by which the resolution was agreed to.

Mr. DECONCINI. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

TESTIMONY OF SENATE EMPLOYEE

Mr. DOLE. Mr. President, I send a resolution to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The resolution will be stated by title.

The assistant legislative clerk read as follows:

A resolution (S. Res. 329) to authorize testimony of a Senate employee.

The PRESIDING OFFICER. Is there objection to the present consideration of the resolution?

There being no objection, the Senate proceeded to consider the resolution.

Mr. DOLE. Mr. President, the defendant in the case of *United States* v. *Joseph V. Herrera*, Criminal No. 85-223, pending in the U.S. District Court for the District of New Mexico, has obtained a subpoena for the testimony of Sal Ceballos, an employee in Senator JEFF BINGAMAN'S Las Cruces office, at a trial scheduled to begin today. The defendant is charged with a violation of criminal statutes prohibiting the theft of U.S. mail. Ms. Ceballos has performed some casework on behalf of Senator BINGAMAN in response to communications from the defendant relating to the postal service.

This resolution would authorize Ms. Ceballos to testify at this trial. This is in keeping with our practice of facilitating justice consistent with the privileges and rights of the Senate.

Mr. President, I move adoption of the resolution.

The PRESIDING OFFICER. The question is on agreeing to the resolution.

The resolution (S. Res. 329) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 329

Whereas, in the case of *United States v. Joseph V. Herrera*, Criminal No. 85-223, pending in the United States District Court for the District of New Mexico, the defendant has obtained a subpoena for the testimony of Sal Ceballos under the name of Sal Fresquez, an employee in Senator Bingaman's Las Cruces office;

Whereas, by the privileges of the Senate of the United States and Rule XI of the Standing Rules of the Senate, no evidence under the control or in the possession of the Senate can, by the judicial process, be taken from such control or possession but by permission of the Senate;

Whereas, when it appears that the testimony of an employee of the Senate is needful for use in any court for the promotion of justice, the Senate will take such action thereon as will promote the ends of justice consistent with the privileges and rights of the Senate: Now, therefore be it

Resolved, That Sal Ceballos is authorized to appear and to testify in the case of *United States v. Joseph V. Herrera*, except concerning matters which may be privileged.

Mr. DOLE. Mr. President, I move to reconsider the vote by which the resolution was agreed to.

Mr. DECONCINI. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

ORDERS FOR TOMORROW

RECESS UNTIL 10 A.M.

Mr. DOLE. Mr. President, I ask unanimous consent that once the Senate completes its business today, it stand in recess until 10 a.m. Tuesday, February 4, 1986.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECOGNITION OF CERTAIN SENATORS

Mr. DOLE. Mr. President, I ask unanimous consent that following the recognition of the two leaders under the standing order, there be special orders for not to exceed 15 minutes each in favor of the following Senators: HUMPHREY, PROXMIRE, and BAUCUS.

The PRESIDING OFFICER. Without objection, it is so ordered.

ROUTINE MORNING BUSINESS

Mr. DOLE. I also ask unanimous consent that following the special orders just identified, there be a period for the transaction of routine morning business not to extend beyond 11 a.m., with Senators permitted to speak therein for not more than 5 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECESS BETWEEN 12 NOON AND 2 P.M.

Mr. DOLE. Mr. President, I also ask unanimous consent the Senate stand in recess between 12 noon and 2 p.m. tomorrow for the weekly party caucuses to meet.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. DOLE. Mr. President, following morning business, at 11 a.m. the Senate will resume consideration of S. 638, the Conrail bill.

When we return at 2 p.m., we will be back on Conrail. It is the intention of the majority leader to complete action on S. 638 on Tuesday prior to the President's State of the Union Address scheduled for 8 p.m. tomorrow evening.

I again indicate Senators should assemble here, in the event we complete action on Conrail at 6:30 or 7, at 7:30 p.m. to proceed to the House side.

RECESS UNTIL 10 A.M. TOMORROW

Mr. DOLE. Mr. President, I move the Senate stand in recess until Tuesday, February 4, at 10 a.m.

The motion was agreed to and, at 6:27 p.m., the Senate recessed until tomorrow, Tuesday, February 4, 1986, at 10 a.m.

NOMINATIONS

Executive nominations received by the Senate February 3, 1986:

THE JUDICIARY

David R. Hansen, of Iowa, to be U.S. district judge for the northern district of Iowa, vice Edward J. McManus, retired.

Miriam G. Cedarbaum, of New York, to be U.S. district judge for the southern district of New York, vice Charles E. Stewart, Jr., retired.

Robert J. Bryan, of Washington, to be U.S. district judge for the western district of Washington, vice a new position created by Public Law 98-353, approved July 10, 1984.

Raymond J. Dearie, of New York, to be U.S. district judge for the eastern district of New York, vice a new position created by Public Law 98-353, approved July 10, 1984.

DEPARTMENT OF JUSTICE

Harry Connolly, of Oklahoma, to be U.S. marshal for the northern district of Oklahoma for the term of 4 years, reappointment.

IN THE MARINE CORPS

The following-named brigadier generals of the Marine Corps for promotion to the permanent grade of major general, under title 10, United States Code, section 624:

John R. Dailey
James E. Cassity
Carl E. Mundy, Jr.
Ernest T. Cook, Jr.
John P. Monahan
Richard A. Gustafson

IN THE ARMY

The following-named Army National Guard of the United States officers for promotion in the Reserve of the Army of the United States, under the provisions of title 10, United States Code, section 3385:

ARMY PROMOTION LIST

To be colonel

Argo, Ulon C., xxx-xx-xxxx
Blank, Gerald L., xxx-xx-xxxx
Carmona, James, xxx-xx-xxxx
Coon, Albert C., xxx-xx-xxxx
Cunningham, Alexander R., xxx-xx-xxxx
Deccio, Lawrence P., xxx-xx-xxxx
Dibella, James J., xxx-xx-xxxx
Fry, Thomas E., xxx-xx-xxxx
Johnson, Eldon E., xxx-xx-xxxx
Kludt, Ronald A., xxx-xx-xxxx
Lucas, John R., xxx-xx-xxxx
MacVay, James W., xxx-xx-xxxx
Miller, James E., xxx-xx-xxxx
Moore, Thomas J., xxx-xx-xxxx
Petrik, Stanley W., xxx-xx-xxxx
Pierce, Allan W., xxx-xx-xxxx
Rosenthal, Dennis E., xxx-xx-xxxx
Rounsaville, Bill B., xxx-xx-xxxx
Valente, Richard J., xxx-xx-xxxx
VanPelt, Albert E., xxx-xx-xxxx
Wilmoth, Guy E., xxx-xx-xxxx

MEDICAL CORPS

To be colonel

Bryan, Albert R., xxx-xx-xxxx
Buttars, Jack A., xxx-xx-xxxx

MEDICAL SERVICE CORPS

To be colonel

Adams, John A., xxx-xx-xxxx

ARMY PROMOTION LIST

To be lieutenant colonel

Abair, John E., xxx-xx-xxxx
Biddle, John E., Jr., xxx-xx-xxxx
Bostwick, David C., xxx-xx-xxxx
Broyles, Leslie J., xxx-xx-xxxx
Buty, Frank M., xxx-xx-xxxx
Cantrell, Raymond A., xxx-xx-xxxx
Carper, James T., xxx-xx-xxxx
Cochran, Thomas R., Jr., xxx-xx-xxxx
Cortez, Daniel F., xxx-xx-xxxx
Costilow, Bobby W., xxx-xx-xxxx
Crocker, William R., xxx-xx-xxxx
Dahl, Alan R., xxx-xx-xxxx
Diviney, Jon J., xxx-xx-xxxx
Doyle, Spencer B., xxx-xx-xxxx
Faust, Jerome O., xxx-xx-xxxx
Fridlington, David C., xxx-xx-xxxx
Gayler, William H., Jr., xxx-xx-xxxx
Gillespie, Robert E., xxx-xx-xxxx
Gingrich, Larry H., xxx-xx-xxxx
Gottschalk, Dempsey D., xxx-xx-xxxx
Greenwell, Kenneth C., xxx-xx-xxxx
Hafner, John F., xxx-xx-xxxx
Holstein, John C., xxx-xx-xxxx
Hughes, Robert C., Jr., xxx-xx-xxxx
Kosolapoff, Michael G., xxx-xx-xxxx
Krejci, Phillip L., xxx-xx-xxxx
Lafrenz, Lawrence F., xxx-xx-xxxx
Montgomery, John M., xxx-xx-xxxx
Moore, Richard A., xxx-xx-xxxx
Morton, John A., xxx-xx-xxxx
Neely, Herbert C., xxx-xx-xxxx
Nolin, Carl L., xxx-xx-xxxx
Obiajulu, Attah-Jundwe, xxx-xx-xxxx
Oran, Gary C., xxx-xx-xxxx
Petty, Dennis E., xxx-xx-xxxx
Reres, Matt, xxx-xx-xxxx
Romney, Jean A., xxx-xx-xxxx
Sandbothe, Arnold A., xxx-xx-xxxx
Saulter, Terry W., xxx-xx-xxxx
Serie, William A., xxx-xx-xxxx
Sheaves, Gilbert C., xxx-xx-xxxx
Slipka, Kenneth J., xxx-xx-xxxx
Spencer, John C., xxx-xx-xxxx
Suhre, William R., xxx-xx-xxxx
Symonaitis, Dennis J., xxx-xx-xxxx
Taylor, Charles L., xxx-xx-xxxx
Tsiosdia, Robert S., xxx-xx-xxxx
Valentino, Francis W., Jr., xxx-xx-xxxx
Vonderschmidt, William W., xxx-xx-xxxx
Young, Ronald G., xxx-xx-xxxx

ARMY NURSE CORPS

To be lieutenant colonel

Coate, Robert A., xxx-xx-xxxx
Fitzgerald, Marilyn L., xxx-xx-xxxx

MEDICAL CORPS

To be lieutenant colonel

Coy, Jimmie D., xxx-xx-xxxx
Dobner, Joseph J., xxx-xx-xxxx
Huguley, John W., III, xxx-xx-xxxx
Torres, Jorge F., xxx-xx-xxxx

MEDICAL SERVICE CORPS

To be lieutenant colonel

Hixson, Ryan V., xxx-xx-xxxx

The following-named Army National Guard of the United States officers for appointment in the Reserve of the Army of the United States, under the provisions of title 10 United States Code, section 593 and 3353:

MEDICAL CORPS

To be lieutenant colonel

Harned, Lewis B., xxx-xx-xxxx
Perry, William C., xxx-xx-xxxx
Rodriguez, Jose L., xxx-xx-xxxx

IN THE MARINE CORPS

The following-named Naval Reserve Officers Training Corps graduates for permanent appointment to the grade of second lieutenant in the U.S. Marine Corps, pursuant to title 10 United States Code, section 531 and 2107:

Stuart W. Bracken, xxx-...
Mark A. Phillips, xxx-...
Mary J. MacGregor, xxx-...
Jacqueline R. French, xxx-...
Michael R. Ramos, xxx-...

EXTENSIONS OF REMARKS

HOW TO DECIDE ABOUT STRATEGIC DEFENSE

HON. DUNCAN HUNTER
OF CALIFORNIA
IN THE HOUSE OF REPRESENTATIVES

Monday, February 3, 1986

Mr. HUNTER. Mr. Speaker, I would like to recommend to my colleagues this excellent article by Lewis Lehrman, chairman of Citizens for America, and Gregory A. Fossedal, a fellow at the Hoover Institution. These gentlemen provide a commonsense approach toward understanding the need for strategic defense and offer clear explanations of many of the questions surrounding this issue. With the pending decision on SDI funding approaching this spring, I am sure this article will be helpful to my colleagues.

[From the National Review, Jan. 31, 1986]

HOW TO DECIDE ABOUT STRATEGIC DEFENSE

The idea of a "space shield," a largely space-based defense against nuclear attack, was unknown to most Americans before President Reagan tentatively endorsed it in a speech in March 1983. Yet the debate over the space shield, quickened by the fires of presidential politics in 1984, has been so fierce that the argument has already gone through several generations. In the first round, going back several years before the Reagan speech, strategic-defense advocates mostly concerned themselves with selling the basic strategic concept: that defense could enhance deterrence while holding out the hope of making nuclear missiles obsolete, whereas mutual assured destruction (MAD) obliged us constantly to expand our nuclear arsenal merely to maintain the balance of terror. Some advocates, notably Lieutenant General Daniel O. Graham—head of the High Frontier project, which launched SDI's public career—did make specific suggestions about the outlines of a feasible strategic defense. And the Defense Department had been engaged for some years in research aimed at producing usable strategic-defense weapons. But, for the most part, in the eyes of SDI advocates SDI was a strategic concept, not a system.

Nevertheless, as the concept was publicized, it was subjected to an intimidating storm of highly specific, if also scattershot, criticisms by a number of scientists. Some of these scientists were clearly politically motivated, some sincere. But they had a common approach, which was to find concrete weaknesses (laser satellites wouldn't be powerful enough, ICBMs could be protected, computers smart enough to aim space weapons couldn't be built, etc.) in defense systems that did not yet exist even on a drawing board, unless on the drawing boards of the critics.

SDI advocates counterattacked—Robert Jastrow was a standout here—showing many of the criticisms to be ill-considered or irrelevant. And the technology itself has advanced, outrunning some of the criticisms. But as potential SDI technologies have matured and as a consensus on the probable shape of a first-generation defense has begun to emerge, there have been more specifics for the critics to criticize, and it has become even more difficult for the layman to assess whether SDI is a sound idea or a hopeless boondoggle. The SDI debate has threatened to deteriorate into a blinding blizzard of technical criticisms and countercharges that exclude the lay citizen from one of the most pressing pubic decisions of the century. Yet the decision whether to go beyond mere research must be made soon, probably this year. If SDI is feasible and we do not go forward soon, the Soviets could deploy a defense before we do, achieving world domination with their unanswered system. This, then, is the time to ask what the several years of debate have taught us about the feasibility, and advisability of strategic defense.

The first and most important issue is: Is the need to switch to a defensive strategy pressing enough to justify the potential risks? The present system of offensive deterrence—MAD—has forestalled nuclear conflict for forty years. Indeed, it could be argued that MAD has averted the conventional superpower conflict that would probably have erupted without its balance of terror. Perhaps, but those who make this argument ignore the hidden corollary: The balance of terror "balanced" the Soviet Union, a regional power with no genuine allies, and few allies of any sort beyond Eurasia, into superpower status. It is precisely the possibility of mutual destruction, combined with the Soviets' reputation for indifference to the suffering of their own people, that has made the USSR the strategic equal of the numerically, geographically, economically, and technologically superior West. It was MAD, largely, that froze the West into inaction as the Russians expanded into Cuba, Central America, Africa, and the Middle East.

MAD, moreover, has been deteriorating since the advent of the high-accuracy ICBM capable of destroying enemy missiles in their silos. In the days of bombers and low-accuracy, low-payload missiles, there was little doubt that in the event of a first strike, a substantial portion of the defender's nuclear arsenal would survive well after the attack was confirmed, assuring a counterattack. MAD had some credibility because mutual destruction was assured. Neither side had a true first-strike capability, the capability to destroy the other's offensive arsenal on the ground.

With the advent of the high-accuracy, high-payload ICBM, the first strike became a theoretical attainable goal, against which the only defense was to multiply targets, i.e., more ICBMs. In one sense the freezeniks are right. The arms race is fiercer, more frightening, and potentially more destabilizing than it was twenty years ago. When multiplying targets is the only way to sustain deterrence, the arms-race treadmill accelerates. In the current environment, two terms under a negligent President could give the Soviets enough of a lead to tempt them into a first strike. Indeed, the current situation is dangerously tempting. The Soviets admit to having six thousand ICBM-borne warheads. In addition, by cheating on the SALT treaties they seem to have amassed from 2,500 to five thousand additional ICBM-launchable warheads. Add 2,500 submarine-based warheads and 1,500 on top of intermediate-range missiles aimed at Europe, and the Soviet attack force numbers between 12,000 and 15,000 warheads, according to a 1985 National Intelligence Estimate. The Soviets are adding to the total every year.

SINKING SUBMARINES

The U.S. has ten thousand warheads of its own, but this does not mean the Soviets would have to hit ten thousand targets. The warheads are packed into a much smaller number of missiles, bombers, and submarines, so that the entire deterrent arsenal of the United States and Europe—air bases, missile silos, submarines, and command and control centers—is contained in about four thousand targets. The Soviets need only two or three warheads to attack a target with confidence. The arithmetic is not reassuring.

The standard response to this arithmetic is that no matter how many accurate ICBMs the Soviets acquire, two legs of our deterrent triad, our missile submarines and our bombers remain invulnerable. The subs are hidden at sea, and some of the bombers are on alert at all times. In reality, however, both subs and bombers look like losers in an accelerating race of technologies.

A submarine isn't invisible. It leaves a number of signatures as it travels through the water. Disturbances in the ocean's internal waves, manifested on the surface, are the most apparent, and can be read by synthetic aperture radar already tested by the Soviets. Subs create a warm-water plume and also churn cold water from the ocean floor; both disturbances are detectable from space. Other potential signals are radiation and effects on plankton and other marine life.

The oceans are vast. Continuously tracking such signals is something neither side can yet do. But with better computer processing to fit scraps of satellite pictures into a coherent picture of the oceans, and with some honing of the techniques used to recognize signatures, the Soviets may achieve constant monitoring of our subs. Presidential science advisor George Keyworth warns that the explosion of a modern nuclear warhead in the water within a hundred miles of a submarine will destroy it.

As for our bombers, only about one-fourth to one-third are likely to be on alert before an attack; the rest would be vulnerable to a quick strike. Those that survive would run into the best air-defense system in the world: The Soviets have nationwide radar coverage, more than 2,500 supersonic interceptor planes, and more than ten thousand surface-to-air missiles, financed by an annual budget of perhaps $10 billion. Military reformers such as Gary Hart have pointed out the inability of our B-1 bomber forces reliably to penetrate this Soviet defense.

Nor will cruise missiles or "Stealth" bombers necessarily solve the problem. Cruise

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.
Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

missiles fly low in an attempt to skim under Soviet tracking radar. But the Soviets, according to Soviet Military Power, already have at least two fighter planes equipped with "look-down, shoot-down" radar for targeting the cruises. And because the cruise missile flies so slowly—taking hours to reach its target—it gives the Soviets time to activate their massive civil-defense program.

"Stealth" uses coatings and electronics to fool radar. But the Stealth bomber, if we continue development at the current rate and begin to deploy it some time in the 1990s, may come too late. Even if it is not too late, it may be inadequate. For Stealth can fool radars from only one direction. Both the U.S. and the USSR, according to Aviation Week, have already been testing various ways to detect Stealth systems, including bouncing radar signals off the top of the atmosphere, and using "passive infrared" sensors from space. Stealth is a promising idea, but we cannot bet our security on it. However reliable offensive deterrence was twenty or even ten years ago, it is fast becoming obsolete. There is no alternative to defense.

The key problem with purely offensive deterrence in an age of accurate "missile-busting" ICBMs should be clear from the above: One Soviet missile carrying, say, ten warheads can knock out three American strategic targets. It does not matter if we keep up in total warheads or megatonnage if the Soviets can wipe out all our weapons in a preemptive attack. To keep up with the Soviets in an offense-only race—especially since we do not plan a pre-emptive strike of our own—we must build several targets, i.e., missiles, to absorb each one the Soviets build. The strategic argument for defense then is decisive. It is the only way off the offense-only treadmill.

We must come up with some sort of defense, even if only as a buttress to our offensive deterrent, something to return us to the stability of the days before missile-busting ICBMs. The remaining questions are two: Is an active, party space-borne defense—a space shield, of whatever technology—a practical way of buttressing deterrence? And, Do advanced space-shield weapons, such as laser beams, offer some substantial hope of eventually making ICBMs, and thus global nuclear war, obsolete?

There is no doubt any more that the space shield, in itself, disregarding countermeasures and engineering complexities, is inherently workable. There is no doubt because for once in this mire of speculation about what could be done, the thing has been done.

Most plans for a first-generation space shield look pretty much alike. They include three or four layers of defensive installations: The first, booster defense, a group of space-borne satellites, is assigned to destroy enemy boosters on the rise at that tempting moment when each is still carrying several warheads. The mid-course defense attempts to shoot down either the ICBM "buses" that carry the warheads, or the warheads themselves. This might be done from space, or by ABM missiles launched from the ground or from atmospheric aircraft, or by a combination of methods. The final phase, point defense, attempts to destroy individual warheads within a few miles of their targets. This is done from the ground.

BULL'S EYE

In the first generation scenarios, the devices actually used to destroy the enemy missiles are simple, nonnuclear projectiles that destroy their targets on impact. No lasers. No nuclear exchanges in space. We destroy enemy missiles by throwing "rocks" at them, in most phases so-called "smart rocks" that guide themselves to final impact. If that sounds unlikely, just remember that the enemy missiles are traveling at thousands of miles per hour. Think of what a brick dropped in the path of your automobile traveling at sixty miles per hour would do to it. An ICBM moving at thousands of miles an hour is a lot more vulnerable than your car going sixty. Of course the projectiles don't really look like rocks; they look more like spears. But they are pretty simple all the same.

Space-shield supporters have all along been confident that this sort of primitive defense could be built because every task involved, is a familiar one: detecting enemy rocket launches, firing an "air-to-air" missile at a high-speed target and making target adjustments from a distance, building a missile smart enough to handle the terminal approach on its own. Admittedly the distances, numbers, and velocities involved in shooting down nuclear missiles are greater than those with which the military is accustomed to dealing, but a year and a half ago the U.S. proved its rocks were smart enough. In June 1984 the Army fired a mock Soviet missile into space and then shot a smart rock, the "homing overlay vehicle," after it. The vehicle zeroed in on its target at four thousand miles an hour, unfolded its thin steel arms into a cosmic catcher's mitt, and caught the missile in space, pulverizing it without a nuclear explosion. The warhead didn't explode because, contrary to popular belief, it is hard to set them off. The explosion depends upon a delicate timing mechanism that brings together the deadly explosives at just the right instant. Any impact great enough to destroy the missile would certainly destroy the bomb mechanism. Missiles can be equipped with salvage fuses that can order a detonation the instant the missiles senses it is under attack, but an explosion above fifty thousand feet would cause no significant damage or fallout on the ground.

So smart-rock technology is in itself workable. That does not prove that, on net, a smart-rock defensive system would be superior to attacks upon it or that it could overcome countermeasures, but it does show that the concept is realistic and not, as some suggest, an absurd fantasy.

The more exotic weapons mentioned in the debate—lasers, particle beams, etc.—offer greater potential but present more significant technological problems than smart rocks. Energy weapons are the ultimate space-shield weapons because they travel at or near the speed of light and, in the vaccum of space, with undeviating precision. Over the relatively short distances in question, the beams would travel almost instantaneously, nearly eliminating the need to lead the target. A space-borne station equipped with such weapons could fire on the target, learn the results, and fire again repeatedly in less than a second, allowing one station to attack hundreds of targets within a few minutes. Because of their speed and accuracy, mature energy weapons would do the ballistic missile almost precisely what the machine gun did to the cavalry charge, and would make maintaining a missile force as pointless as retaining regiments of horse soldiers.

Unfortunately there are many obstacles still to be overcome in developing these weapons, and usable versions may still be decades away. Progress, however, has been more rapid than many SDI advocates expected. A few years ago, a group of scientists critical of strategic defense published a paper, under the sponsorship of the Union of Concerned Scientists, contending that a laser weapon would have to achieve a power output of 25 megawatts (25 million watts) to shoot down a Soviet missile. Last spring, scientists at the Lawrence Livermore National Laboratory tested a free-electron laser with a peak power of one billion watts. The Livermore scientists expect the free-electron laser to achieve a peak many times higher, maybe even a trillion watts, many times a second. Average power is as important as peak power, since the laser must be able to fire nearly continuously, but the goal at Livermore is an average output of one hundred megawatts, not the 25 that the UCS saw as such a discouraging obstacle. A laser producing such levels of power could destroy several enemy missiles per second.

A multitude of well-publicized objections other than insufficient power has been raised, but many were demonstrably irresponsible when they were first made and many others have already been overtaken by the progress of research. One repeated objection has been that energy weapons could not be fired through the atmosphere. This is still true of some such weapons, such as the neutral-particle beam. But under the Reagan SDI program, a promising new twist has been developed that would in fact enable laser weapons to penetrate the air. Using the space shuttle as a target, the scientists first fired up a low-energy beam to probe for any turbulence in the atmosphere. The first beam helped them, using high-speed computers, to adapt the second beam so as to minimize any interference. Using the first beam, then, as a kind of railroad track, they were able to fire the second beam (also low-power, since the shuttle is on our side) straight off at the shuttle.

Contrivances like this make several advanced ideas for Star Wars defense—such as ground-based lasers firing off mirrors, or actual laser battle stations in space—appear much more feasible. The ground-based lasers would be able to hit the mirrors without being disrupted by the atmosphere. The space-based lasers would be able to reach down to intercept cruise missiles and bombers. In recent congressional testimony, Lieutenant General James A. Abrahamson, head of the SDI program, said that test results so far have shown that we might be able to chop five to ten years off the time experts once thought would be necessary to develop a shield. This would make even laser weapons ready for deployment within the next five to ten years.

H.R. 3436

HON. JOSEPH J. DioGUARDI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, February 3, 1986

Mr. DIOGUARDI. Mr. Speaker, I rise today to commend the courageous firefighters of Westchester County, NY, and indeed all firefighters in our great land, and to pledge my support for H.R. 3436, a bill calling for the creation of a national monument dedicated to the firefighters across America who have given their lives in the name of our safety.

I am proud to support such well-deserved recognition for these men and women, who

have given so much including, in all too many cases, their very lives. I strongly believe that it is time for America to honor their sacrifice.

I would also like to reaffirm my support for the recognition of America's firefighters through a day of National Commemoration. I have co-sponsored House Joint Resolution 479, a bill that would make October 8, 1986, "National Firefighters' Day."

In closing, I would like to thank all firefighters, especially those of Westchester, for their tireless service to our Nation. It is an honor to be a part of efforts to express publicly our appreciation for their courage, diligence, and heroism.

LET'S DELAY THE EFFECTIVE DATE OF THE TAX BILL

HON. LES AuCOIN

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

Monday, February 3, 1986

Mr. AuCOIN. Mr. Speaker, now that the Tax Reform Act of 1985 has passed the House of Representatives, it's time to address an issue of extreme importance to millions of taxpayers.

That issue is: "When will the proposed tax changes go into effect?"

The tax bill will make hundreds of changes to our tax system—some technical in nature, some dramatic. These changes will affect millions of individuals and thousands of businesses. And it's only now that our constituents are starting to comprehend the importance and the ramifications of this bill.

Complicating matters for the taxpayers of this country is the fact that the changes to the Tax Code proposed in the House-passed bill are by no means final. The U.S. Senate will start crafting its own bill, more changes will be made by the conference committee, and then its fate will eventually be in the hands of the President.

Amidst all this confusion and speculation over the substance of the tax bill is the fact that the effective date of the vast majority of the changes in the bill is January 1, 1986.

Taxpayers—be they individuals, businesses and governments—start several months—if not years—in advance planning their tax investments. In other words, people and businesses have already made their plans for the 1986 tax year.

I don't think it is fair to enact changes to the Tax Code that will be applied retroactively. Taxpayers have a right to some certainty. Ours is the greatest voluntary tax system in the world—and it's only fair to allow those taxpayers to make financial plans with a stable source of information. They have a right not to have to speculate on changes contemplated by the U.S. Congress.

I spent most of January in my State of Oregon and I heard about the problems we've created by not addressing the effective date of the tax bill virtually everywhere I went. From main street retailers, high tech companies, the wood products industry, bankers, and most of all—from constituents all over my districts who came to small meetings and townhalls that I held.

Today I am introducing legislation that will put an end to all the questions and uncertainty. My bill expresses the sense of the House that all changes to the Tax Code made by the eventual passage of the Tax Reform Act should be effective on January 1, 1987.

This resolution will send a vitally necessary message of clarification to financial markets, accountants, cities and towns, small businesses, and millions of individual American taxpayers that, if a massive change in the Tax Code is eventually enacted, they will at least have some time to plan and make adjustments.

Mr. Speaker, we have really thrown a boomerang at American taxpayers who are wondering: Will the deduction for IRA plan contributions be curtailed? Will the tax deduction for charitable contributions be available to nonitemizers? Will a cap be imposed on the use of tax-exempt bonds by States?

These are all questions posed to the contestants in the newest version of "tax roulette" being played by the taxpayers of this Nation—with Members of Congress as the croupier.

It is time to resolve this problem. It is time to add some certainty to the Tax Code. Let us pass this resolution delaying the effective date of the tax bill until January 1, 1987.

PROTECTING THE YOUNG STAR WARRIORS

HON. EDWARD J. MARKEY

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Monday, February 3, 1986

Mr. MARKEY. Mr. Speaker, I would like to call my colleagues' attention to an article by Ms. Ellen Goodman which appeared in the Boston Globe on Thursday, January 30. Her article provides a commentary on the Reagan administration's efforts to shield star wars from Gramm-Rudman budget cuts. What they are really shielding is a technological free for all in which young star warriors get a blank check to pursue what ever interesting physics problems excite their curiosity.

It is a fine thing to fund scientific research, but there are far more worthy scientific projects than the fantasies of our star warriors. In a time of raging deficits and fiscal austerity, star wars should face the same budget cuts that other related programs are taking.

Ms. Goodman's article provides a skeptical, sensible assessment of star wars, and I wholeheartedly agree with her.

The article follows:

PROTECTING THE YOUNG STAR WARRIORS WHO CAN'T PROMISE PROTECTION

(By Ellen Goodman)

In case you have been up nights worrying, there is at least one defensive shield already in place on this planet. It's the shield the White House is using to protect the funding for the strategic defense iniative—"star wars." From all reports, it's impenetrable.

In theory, the sword of Gramm-Rudman was supposed to cut budgets for every weapons program by 4.9 percent, including SDI. But the administration raised its shield to make sure that the president's pet celestial project won't be nicked.

As of this moment, the "star wars" program is perhaps the only sheltered workshop for scientists in the federal budget. Whether or not we can afford it, we are financing the highest-tech defense research in human history.

The "star wars" money is going to be spent to further and produce the ideas of an elite cadre of scientists who, unlike Gramm, Rudman or Reagan, are unknown to the average citizen.

Now there is a glimpse or two into the world of the young scientists working on space-age weaponry. William Broad, a science reporter, visited a critical mass of them in Livermore, Calif., the home of the Lawrence Livermore Lab, one of the two nuclear research labs in the country. Here he found the men of O-Group, whom he dubbed "Star Warriors" in his new book by the same name.

These warriors wear no green berets. They wear no uniforms at all, unless you consider jeans, checked shirts and running shoes a dress code. Nor do they eat regulation meals, unless a diet of fast food and ice cream is required.

Broad's sketches make a composite picture of a group described by an inside critic as "bright young hotshots who are socially maladjusted." An intellectual cadre high on Coca-Cola and competition.

He retraces the way the best and the brightest graduates of MIT and Cal Tech were collected by the group leader, Lowell Wood, to work on nuclear weaponry. They were lured by a combination of money, high camaraderie and, perhaps most of all, the freedom to pursue happiness in the form of "interesting problems."

As Peter Hagelstein, one of the more complicated personalities at Livermore and creator of the X-Ray Laser Beam, explained: "My view of weapons has changed. Until 1980 or so I didn't want to have anything to do with nuclear anything. Back in those days I thought there was something fundamentally evil about weapons. Now I see it as an interesting physics problem."

The motives of a computer star-whiz, Rod Hyde—an MIT graduate at 19—are somewhat less earthbound: "What I want more than anything is essentially to get the human race into space. It's the future. If you stay down here some disaster is going to strike and you're going to get wiped. If you get into space and spread out, there's no chance of the human race disappearing."

These snippets make the young Star Warriors sound spacy. This is only part of the story. The atmosphere of the all-male O-Group, reads like a science-house fraternity, complete with boyish pranks and competitions. The brains who are the hired guns in the national-defense scheme don't seem to know how to take care of themselves. There is no Wendy to make them get their proper sleep and food. But they are undeniably, scientifically brilliant.

And (this is the kicker) they don't think a missile defense will work.

As Peter Hagenstein said, "It would be very nice if we could develop a defensive network that would blow away all Soviet ICBMs. But I don't think we can do that. We could take out some. But it wouldn't keep cities from being obliterated."

So it appears that the Star Warriors, the men with both the background and the security clearance to know best, the men paid to imagine, don't believe in the crayon-colored dream of safety from nuclear weapons.

Here we are, investing incalculable amounts of money in the work of top-secret

scientists who want to solve "interesting problems," but not the one that we're promised: security. Maybe a Washington Monthly writer was right when he described "star wars" as The Revenge of the Nerds: "They're back. They're angry. And they're building SDI."

THE TRICKLE-UP PROGRAM

HON. TED WEISS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, February 3, 1986

Mr. WEISS. Mr. Speaker, economic development can sometimes be promoted as effectively—or more effectively—by individuals working with limited resources as by governments or large enterprises. Acting on this principle, the Trickle-Up Program has assisted people to establish small-scale, labor-intensive enterprises in countries around the world.

I urge all Members of the House who are interested in development issues to review the attached excerpts from a Trickle-Up Program factsheet.

The Trickle-Up Program is an independent, non-profit organization, launched in 1979, which is dedicated to creating new opportunities for employment and economic and social well-being among the low income populations of the world, with grants assigned in 80 countries:

Africa—30: Benin, Botswana, Burundi, Cameroon, Chad, Egypt, Equatorial Guinea, Ethiopia, The Gambia, Ghana, Ivory Coast, Kenya, Lesotho, Liberia, Malawi, Mali, Mauritius, Morocco, Nigeria, Senegal, Sierra Leone, Somalia, Sudan, Swaziland, Tanzania, Togo, Uganda, Zaire, Zambia, Zimbabwe.

Asia—15: Bangladesh, Burma, Fiji, India, Indonesia, Lebanon, Malaysia, Micronesia, Nepal, Pakistan, Papua New Guinea, Philippines, Solomon Islands, Sri Lanka, Thailand.

Caribbean—14: Anguilla, Antigua-Barbuda, Barbados, Dominica, Dominican Republic, Grenada, Guadeloupe, Haiti, Jamaica, Montserrat, St. Kitts-Nevis, St. Lucia, St. Vincent, Turks & Caicos.

Central America—8: Belize, Costa Rica, El Salvador, Guatemala, Honduras, Mexico, Nicaragua, Panama.

Europe—2: Ireland, Portugal.

North America—1: United States.

South America—10: Argentina, Bolivia, Brazil, Chile, Colombia, Ecuador, Guyana, Paraguay, Peru, Suriname.

If groups of five or more people wish to invest 1,000 or more hours of their unemployed time, they may apply for a Trickle-Up Program grant of US $100, to be paid in two $50 installments, for a profit-making enterprise:

(1) That they have planned themselves;

(2) For which they have or can secure any necessary approvals or resources;

(3) Where the 1,000 hours of self-employment can be completed within 3 months;

(4) Where a profit is anticipated;

(5) Where not less than 20% of the profit will be reinvested;

(6) Where continuing and expanding levels of self-employment are anticipated; and

(7) For which they will send reports on their enterprise and results to TUP.

Participation is open to both women and men. TUP seeks to involve such groups as young people who have never had a job; women, many of whom have never earned money for the work they do; and people in the informal sector who are generally overlooked when development plans are made. The majority of those who plan and work on TUP enterprises are women.

Trickle-Up Enterprises are those that people can start with existing skills, locally available materials and equipment, which are labor-intensive, and for which there are local markets. Many of them yield a quick profit that is reinvested to build up capital; and many of the products become substitutes for imports.

The greatest number of enterprises are those producing, processing, and marketing food; the second largest number involve clothing; and the third largest are those producing and marketing household goods. There are over 100 types of TUP enterprises in the various countries.

Trickle-Up Programs are initiated by Coordinators who find that TUP is a means of advancing the work of their own organizations. They now include over 500 individuals and professional personnel of local and international voluntary organizations, governmental agencies, the United Nations Development Programme, UNICEF, UN Volunteers, and the Peace Corps.

At the beginning of 1986, nearly seven years after the Trickle-Up Program began, over 2,300 project grants of US$100 each have been assigned to more than 500 Coordinators in 80 countries.

TUP reaches underemployed and unemployed people in urban and rural areas who, when motivated, can move toward economic independence. TUP is not only a means of getting a small amount of capital to people, but is also a means of encouraging people to build their own capital. The TUP Grant is not an inducement to get people to accept plans that others make for them. Rather, it is a means of giving people more confidence in plans they make for themselves.

TUP demonstrates how, in a unique, cost-effective way, involuntary unemployment can be substantially reduced and productivity increased. With the Trickle-Up Program, $20,000 can help more than 1,000 people become entrepreneurs and start their own income-producing enterprises, with exponential growth possible. TUP businesses add to the goods and services that constitute the real Gross National Product, and add to the independence and self-reliance of the women and men who participate.

The recipient of the Paul G. Hoffman Award, TUP was honored for its "innovative concept and dedicated work in the field of development."

Trickle-Up Program council: Bolanle Awe, Harlan Cleveland, Wilbur J. Cohen, Hon. Bertram Harnett, Rev. Theodore M. Hesburgh, Aziza Husein, Mary Keane, Henry Labouisse, Mary Burke Nicholas, Richard Pough, Aileen Robbins, Leticia R. Shahani, Helvi Sipila, and Carmen Delgado Votaw.

THE FEDERAL BUDGET AND GROUNDHOG DAY

HON. WILLIAM F. CLINGER, JR.

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Monday, February 3, 1986

Mr. CLINGER. Mr. Speaker, it's tough to be in the prediction business. Ask President Reagan. In 1984, he predicted that the Federal budget could be balanced without new taxes, through a combination of spending cuts and economic growth. He had a dwindling number of believers in Congress, and the deficit reduction bill became law late last year. The fact is that the President may be right. It's just that his timing was off because new projections by the Congressional Budget Office show that Federal deficits will be nearly cut in half by 1991, without slicing 1 cent from future budgets. Now that's good news. And there is more good news. Punxsutawney Phil, the world's most accurate weather forecasting groundhog, failed to see his shadow this past weekend, and he declared that spring is on the way. And Mr. Speaker, Punxsutawney Phil has never been wrong in his predictions. I would like to insert into the CONGRESSIONAL RECORD the official proclamation on this the 99th appearance by my district's most famous resident.

Here ye, here ye, to all faithful followers here on Gobbler's Knob, and to all believers around the world. I, James H. Means, President of the Punxsutawney Groundhog Club, proclaim that his majesty, King Phillip, has come out of his royal burrow at 7:32 a.m. In the cold light of dawn, he stood tall and proud, and looking around, he failed to see a shadow behind him. Punxsutawney Phil declares that Spring is on the way. The famous groundhog joins Governor Dick Thornburgh in reminding everyone "you have a friend in Pennsylvania." Having made his forecast for the 99th year in a row, Phil has returned to his burrow to await next year's big celebration. That's the official word today, February 2, from Punxsutawney, Pennsylvania, the weather capitol of the world.

SCIENCE BUDGET ISSUES FOR THE SECOND SESSION OF THE 99TH CONGRESS

HON. GEORGE E. BROWN, JR.

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, February 3, 1986

Mr. BROWN of California. Mr. Speaker, as the second session of the 99th Congress convenes, this is a good time to review the state of science budget policy in the face of many hard choices that will be forced on the Federal Government by the Gramm-Rudman Deficit Control Act.

in 1985, the U.S. Government and private sector spent a total of about $110 billion for research and development, about 2.7 percent of gross national product. This sum is greater than France, Japan, West Germany, and the United Kingdom combined spend on R&D. According to the National Science Foundation, the United States spends about the same percentage of its GNP on R&D as West Germany and Japan. However, this is less than the U.S.S.R., which spent close to 3.6 percent of its GNP on R&D in 1983. Despite seemingly favorable comparisons between the United States and Japan, that country trained more engineers (74,000) than the United States (67,000) to carry out this work, and Japan spends a greater percentage of its GNP for

nonmilitary R&D (2.6 percent) than the United States (1.8 percent).

The U.S. trend toward spending a greater proportion of the R&D budget for military rather than civilian R&D has been greatly accelerated by this administration. In 1972, total R&D was $17.1 billion (constant 1972 dollars) with defense taking 53.8 percent of those funds. In 1981, total R&D was $17.76 billion (constant 1972 dollars) with 50.1 percent spent on defense. In the President's budget for 1986, he proposed spending $22.8 billion (constant 1972 dollars) with 70.6 percent for defense-related R&D (all figures from NSF).

Percentage changes from 1981 to 1986 in military and nonmilitary spending indicate this trend more sharply. Since 1981, overall military R&D increased 78 percent while civilian R&D decreased 23 percent. During the same time, with the exception of health (up 8%) and general science, a tiny portion of the budget (up 27.8%), funding for all other R&D areas is down in constant dollars: Space R&D, −49.6 percent; energy, −56 percent; transportation, −7 percent; natural resources and the environment, −34 percent, and agriculture, −30 percent. Often, where there have been increases in civilian R&D, however, the administration should not receive all the credit, for Congress has worked hard to restore some of the administration's initially proposed cuts. For example, although R&D in the health areas has increased by 8 percent during the 1981–86 period, this is due more to Congress and the health sciences constituencies than to the administration.

The allocation of such a high percentage of our R&D dollars for defense-related purposes, compared with historical amounts, raises several concerns:

Federal resources spent on defense cannot be invested in other worthy programs.

Defense contractors may divert the best manpower resources away from nonmilitary firms and from small high technology companies.

The Department of Defense, a mission-oriented agency, tends to focus on short-term (versus longer-term) projects partly as a consequence of a cut in long-term basic research and partly as a consequence of the Mansfield amendment (an amendment to insure that DOD-supported research was relevant to the DOD mission).

The technology resulting from defense R&D is less likely than civilian R&D to result in a transfer of technology from the Federal Government to the civilian sector. The DOD has always been restrictive regarding transfer of its technology.

When we look at Federal funding for the Nation's "technology base," the combination of basic research (approximately similar to DOD's 6.1 category) and applied research (approximately similar to DOD's 6.2 category), we see support for the technology base of the country has been eroding. From 1965 to 1985, there was a 25 percent decline (in constant dollars) in Federal funding for applied and basic research combined, as contrasted with funds for development, testing, and evaluation [R&DTE]. During the same period, funding for basic research declined from 5.5 percent of total R&DTE in 1965 to 2.5 percent of total R&DTE in 1985.

When broken down, the technology base funding picture is somewhat more complicated. While there has been a reasonable increase in basic research during the 1981–86 period, there was an actual decrease in basic research during the first 2 years of this administration. Despite an overall increase in basic research from 1981–86, much of the research considered "basic" tends to be mission oriented, for example, finding a cure for cancer, compared with non-mission-oriented research, for example, understanding basic cellular and biochemical structure. While mission-oriented basic research is important, we should not forget that many of the most important advances come from non-mission-oriented inquiries. In addition to basic research funding trends, there has been a considerable decrease in civilian applied research (−16.5%) and development (−59%) in constant dollars. This is a surprising trend from an administration interested in U.S. global competitiveness, since nondefense applied research and development is crucial to the commercialization of scientific discoveries. During this same period, defense applied research has increased by 3.9 percent and defense development has increased by 101 percent.

Against this background of trends in basic research and in civilian applied research and development, we are now confronted by the specter of the Gramm-Rudman Deficit Reduction Act and an administration committed to "privatizing" many Federal functions. Preliminary budget cuts for fiscal year 1986 include across-the-board reductions in scientific research. If the automatic provisions of Gramm-Rudman are triggered for 1987, one-half of the noncontrollable cuts would come from nonexempt civilian programs, no doubt including many of the science funding categories that have already sustained severe cuts the past 5 years. In addition, since the administration has recently been quoted as trying to "privatize" Federal functions, there may be further cuts in nondefense applied research and development. Such developments would further damage our attempts to transfer technology to the civilian sector and to improve our civilian competitiveness vis-a-vis other countries. Five years ago, Congress enacted the Stevenson-Wydler Act, designed to increase the flow of technology from the Federal Government to the private sector. Although the administration has chosen not to carry out many provisions of that Act, the Science and Technology Committee has been considering amendments to that act to make it more effective. Given problems of U.S. global competitiveness, Congress should consider such a course very seriously and remember the importance of nondefense applied research and development.

The present administration often gives philosophical homage to Adam Smith, intellectual father of the free-market economy, but it is not clear they have fully heeded his words. Smith argued that the proper function of government was to protect the nation from external threats, to protect each citizen from injustice and oppression by others in the community, and to erect and maintain public works and institutions that private investment would not provide for. Long-term civilian, non-mission-oriented basic research is not something the private sector is good at providing, thus it is an important function of the Government, even under an Adam Smith free-market philosophy.

Recent history, as exhibited in the decline of U.S. global competitiveness and in the decline of U.S. productivity, has shown the private sector has not properly funded nondefense applied research and development. At the same time, the present administration has cut both nondefense applied research and development funds undercutting civilian technology transfer. When Congress and the administration grapple in the coming days with the huge Federal deficits, we would do well to heed Adam Smith's admonition for the Government to "erect and maintain the public works and institutions" of civilian, non-mission-oriented basic research and civilian applied research and development, for both are crucial to our welfare as a Nation.

OSTEOPOROSIS—BONING UP FOR LIFE

HON. OLYMPIA J. SNOWE

OF MAINE

IN THE HOUSE OF REPRESENTATIVES

Monday, February 3, 1986

Ms. SNOWE. Mr. Speaker, I am pleased to introduce legislation today, on behalf of myself and more than 60 of my colleagues, which would designate the week of May 11–17, 1986, as "National Osteoporosis Awareness Week."

Last year the resolution designating "National Osteoporosis Awareness Week" was passed with overwhelming support by my colleagues and was signed into law by the President on May 20, 1985. Again this year, I am sponsoring this resolution because I believe we continue to have a responsibility to inform our citizens about this essentially preventable disease. I hope to bring attention to a bone condition which strikes 15 to 20 million of our older Americans.

Osteoporosis is a thinning of the bones. This debilitating bone degeneration is associated with aging, low calcium levels, and loss of estrogen. Although older men may be afflicted by a form of this disease, osteoporosis is a disorder which mainly affects older women, posing a threat to one-fourth of all women after menopause. Thin, caucasian women are particularly prone to losing bone mass and do so at a rate twice that of men. According to some estimates, the postmenopausal women can lose as much as 38 milligrams of calcium a day, which results in approximately 1 percent overall calcium loss each year. The deprivation of this important element weakens the bones, causing fractures—in fact, an estimated 1 million fractures a year.

Older women are the fastest growing segment of our population, making osteoporosis a rapidly increasing problem. It is estimated that osteoporosis costs the Nation over $6 billion annually in health care expenditures including long-term care and lost earnings by afflicted older workers.

Mr. Speaker, allow me to expand on this important point by providing a breakdown of the

cost of osteoporosis as estimated by Columbia University:

Direct costs:	
Hospital inpatient services	$2,259,750,000
Outpatient and emergency room Institutional services	38,150,000
Outpatient diagnostic and therapeutic services	4,130,000
Physician inpatient services	345,690,000
Physician office, outpatient and emergency room services	153,980,000
Other practitioner services	54,960,000
Drugs	2,030,000
Nursing home services	2,312,605,000
Prepayments and administration	128,640,000
Nonhealth sector goods and services	428,800,000
Total direct costs	5,728,735,000
Indirect costs:	
Lost earning—wage earners	362,140,000
Lost earning—homemakers	53,300,000
Total costs	6,144,175,000

Every year 200,000 osteoporotic women over the age of 45 fracture one or more of their bones. Among those who live to age 90, approximately one-third of women and 17 percent of men will suffer a hip fracture that will prevent them from fully regaining normal activity and may result in institutionalization. Severe cases of osteoporosis can, therefore, often mean the end of independent living and the beginning of dependency in the older individual.

In addition to bone fractures, osteoporosis can also cause the body to collapse on itself; the dowager's hump is an example of the progressive shortening of the spine and is one of the few visible signs of osteoporosis. On the average, people lose an inch in height as they age. A woman suffering from vertebrae collapse can eventually lose a total of 8 inches or more from her adult height. These fractures and the resultant deformity and disability is accompanied by a great deal of physical and emotional pain.

The physical and emotional pain, however, are not the full story. Osteoporosis is a killer—it has been estimated that more than 50,000 elderly American women die every year of complications of hip fractures which is 10,000 more than those who die annually from breast cancer.

The cause of osteoporosis is not yet clearly understood. It has been suggested that along with a lowering estrogen level, a sedentary life style and a low calcium intake can also allow this bone condition to develop. Those individuals with a family history of osteoporosis are at increased risk as well.

The best treatment of the disorder is prevention. Studies have shown that 80 percent of bone fractures resulting from thinning of the bones can be avoided with increased intake of calcium and estrogen—50 percent of all fractures could be avoided with the use of calcium alone. Younger women in their thirties and forties need to be especially aware of the importance of daily exercise and calcium intake. For years doctors believed that calcium was not that essential in the diet of adults. This view, however, is now changing. The evidence is growing that an adequate daily intake of calcium may be the best weapon in the prevention of osteoporosis.

Most Americans do not realize they are calcium deficient with an average daily intake of 450 to 550 milligrams. It is now recommended that individuals should first, take calcium supplements of 1,000 milligrams a day in their thirties and 1,300 milligrams a day after age 40; second, exercise daily by such weight-bearing exercises such as walking or jogging; third, reduce caffeine intake and stop smoking.

By designating a week beginning with Mother's Day, May 11, as "National Osteoporosis Awareness Week," I hope to encourage mothers, daughters and grandmothers to pay special attention to this serious problem by stressing the intergenerational aspects of osteoporosis. Men and women of all ages must become aware of this condition and learn what they can do to increase bone density in the younger years and diminish bone loss with age.

The resolution follows:

H.J. RES. 510

Joint resolution to designate the week of May 11, 1986, through May 17, 1986, as National Osteoporosis Awareness Week

Whereas 15 to 20 million persons in the United States are afflicted with osteoporosis, a degenerative bone condition;

Whereas approximately 25 percent of postmenopausal women in the United States develop osteoporosis;

Whereas 32 percent of women and 17 percent of men who live to the age of 90 will likely suffer a hip fracture due primarily to osteoporosis;

Whereas more than 50,000 older women and many older men die each year in the United States as a result of hip fracture complications;

Whereas hip fracture complications often result in loss of independence for older persons;

Whereas approximately $6,000,000,000 is expended annually in the United States for health care costs relating to osteoporosis;

Whereas osteoporosis is associated with the loss of bone tissue due to lack of estrogen and low calcium intake;

Whereas the majority of persons are unaware of the condition of osteoporosis; and

Whereas the best treatment for osteoporosis is prevention through education: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the week of May 11, 1986, through May 17, 1986, is designated National Osteoporosis Awareness Week. The President is authorized and requested to issue a proclamation calling upon the people of the United States to observe this week with appropriate programs and activities.

TOM EARLEY OF LEVITTOWN

HON. PETER H. KOSTMAYER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Monday, February 3, 1986

Mr. KOSTMAYER. Mr. Speaker, Levittown, PA, is a special place in my congressional district—a wonderfully diverse neighborhood comprised of parts of Bristol, Falls, and Middletown Townships.

The "Voice of Levittown" that ties the disparate parts of Levittown together is Tom Earley, the popular talk show host on WBCB–AM. For 1 hour, 6 days a week, Tom talks "over the back fence" with the community. His special style and repartee is enjoyed by all.

The Philadephia Inquirer recently profiled Tom Earley, Mr. Speaker, and at this point in the RECORD, I would like to share this piece with my colleagues.

[From the Philadelphia Inquirer, Jan. 25, 1986.]

HE URGES LEVITTOWN TO SPEAK ITS PIECE

(By Lacy McCrary)

In the early days, Tom Earley and his Levittown neighbors talked about why they couldn't build fences and why they couldn't hang their wash out to dry on Sundays.

The reasons, Earley would tell them, were that William Levitt, who built Levittown in the early 1950s, didn't like fences and that he discouraged his homebuyers from doing their washing on Sundays because he believed it cheapened churchgoing days.

In the 34 years since Levittown was begun, the community has matured, and the courtly and genial Tom Earley has turned a white-haired 62. But he is still talking to his neighbors about local concerns and issues, some of which are a bit more complicated. Today, the subjects are likely to be taxes, local governments, Social Security, drugs, crime and garbage problems.

Since 1957, Earley has hosted a 50-minute talk show six days a week on Levittown's radio station WBCB–AM, giving him what the station says is the longest run of any call-in show host in the Philadelphia area. Station general manager Bob Burton calls the show an "electronic back fence over which people can air their views and opinions."

It is called *Speak Your Piece,* and that is what Earley lets people do.

He reaches 50,000 to 75,000 listeners a day, the station estimated, and is regarded by many as the "voice of Levittown" and the closest thing to an institution the community has. Thousands of families who moved to Levittown as young parents have listened to his show as their children have grown up and moved out on their own, and as they have gone through their working lives to retirement.

"People used to air their gripes about their neighbors, noise, barking dogs and street conditions," Earley said in an interview recently. "I would advise them to talk to their neighbors and see if they could come to an agreement."

In 1959, Earley played a role in helping to resolve a contract dispute between U.S. Steel's Fairless Works in Falls Township and Local 4889 of the United Steelworkers of America. Earley invited the union's officers to appear on his show and discuss their grievances. He also invited members of U.S. Steel management, but they sent a tape recording to be aired. But he served the purpose of examining the issues for the community, which was then largely made up of steelworkers.

In the early 1970s, a racial incident created tensions at a high school in Bristol Township. Earley turned his show over to the students to air their concerns, and by day's end the tension had dissipated.

In one of Bucks County's biggest controversies in recent years, the fight about the proposed plan to divert water from the Delaware River to the Philadelphia Electric Co. nuclear power station at Limerick, Earley has supported the so-called pump project but has frequently had opponents on the show.

Last year, Earley was instrumental in persuading Bristol Township residents to approve a change in their form of government, from a ward-commissioner system to an all at-large commissioner form headed by a township executive.

"I very much promoted the change, he said. "I kept pushing it because I knew we had a bunch of bums in there. We had had the same lousy management for the last several years, so I really pushed for a change."

To help with problems he cannot solve, Earley has the county commissioners, U.S. Rep. Peter Kostmayer (D., Pa.) and Peggy Adams, Bucks County director of consumer protection, each on the show once a month.

There are only a handful of daily talk shows on suburban radio stations in the Philadelphia area.

But the trend in suburbs throughout the county is for small AM stations such as WBCB to increase the number of talk shows, according to radio experts.

"There are more talk shows today than there were 10 years ago, and they are not unusual in small towns," said Wayne Cornils, executive vice president of the Radio Advertising Bureau in New York City.

"Smaller radio stations get almost all their revenues locally, and they have to be local, and a talk show is a marvelous way to do it," Cornils said. "A small town talk-show host can be a very important part of the community, particularly on AM stations."

Cornils and spokesmen for the National Association of Broadcasters and the Pennsylvania Association of Broadcasters said FM stations had largely taken over the music end of radio because their stereo sounded better. They said the trend for AM stations, which have only about 30 percent of the listening audience, was to go to nonmusic formats, which included talk shows, news and sports.

"AMs are still the community-oriented stations that talk to their listeners and impart what is happening in their communities," said Ron Irions, vice president, radio administration, National Association of Broadcasters in Washington.

"A lot of smaller AM stations are having trouble maintaining an audience and they have to do something," said Don Kimes, general manager of station WCOJ-AM in Coatesville, which has had a talk show called *Phone Forum* since the 1960s. "They are becoming more local with more talk shows, more news and more sports."

Earley said his 12:10 p.m. show was a "noontime release for people. They store all these feelings up and who do they tell? They get on the phone and tell everybody how they feel about everthing, including township government and elected officials."

Except for three years in the mid-1960s, when he had an insurance business, Earley has been the show's only host.

The other day, he appeared at the small, 1,000-watt station in the Magnolia Hill section of Levittown an hour before his show went on the air, as he nearly always does. He had watched morning TV shows and spent the time before his show reading newspapers.

Always stylishly dressed, either in suit and tie or a more leisurely sweater and slacks, Earley handles the telephone in the cramped studio in Levittown's Magnolia Hill section as if he were at home talking to a friend.

Although he tries to avoid controversy, Earley, a deeply religious man, never hesitates to let people know what his philosophy and beliefs are.

"It's maybe old-fashioned stuff," he said. "God, church, anti-lotteries and prayer in the schools and at home.

"I feel we can achieve something worthwhile in 50 minutes. And if something good comes out of it, it's worthwhile."

During the years, he said, listeners have gotten to know him as a person instead of just a talk-show host.

"They know I have sickness in my family and bills and a kid in school just like they have," he said. His wife, Joanne, has Alzheimer's disease and is in a nursing home in Doylestown. Last spring, he suffered a heart attack on his 62d birthday, and callers still ask about his health and his wife.

"I'm just an average guy who happens to do a talk show. I like to talk about my family and other things to people like we were doing it in somebody's kitchen. . . . I just think you should talk to people like you would talk to your neighbor."

TRIBUTE TO LUCY FLORENCE CODELLA

HON. JOSEPH J. DioGUARDI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, February 3, 1986

Mr. DioGUARDI. Mr. Speaker, I rise today, to pay tribute to Lucy Florence Codella, who is being honored by the Sons of Italy of America on February 22. The Sons of Italy of America is the oldest and largest fraternal Italian-American organization in the country. The Sons of Italy has enriched and broadened American patterns of life. It encourages and upholds the prestige of Italian-Americans while promoting national education and actively participating in cultural, social, and civic life in our communities.

Lucy has been and still remains a catalyst in the Sons of Italy. She was one of the founders of the Per Sempre Ladies Lodge 2344a in Rosedale, NY. She served as president of her own lodge, Aquileia Lodge 935 in White Plains, NY for 9 years. Presently she is the first women to hold the position of State principal trustee of the Sons of Italy. The Sons of Italy would like to recognize her for "All her untiring efforts, doing and sharing." I too, would like to take the time to commend Lucy for all her hard work and for being such an outstanding citizen.

RULES ENABLING ACT REPORT

HON. ROBERT W. KASTENMEIER

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Monday, February 3, 1986

Mr. KASTENMEIER. Mr. Speaker, on December 6, 1985 the Committee on the Judiciary filed a report, House Report 99-422, on the Rules Enabling Act of 1985. Unfortunately the report contains a large number of typographical and other editorial errors. Rather than subjecting the taxpayers to the expense of seeking a star print for this report, I am submitting a list of corrections to that report. Hopefully these clarifications will be useful:

a. Page 4 the last full paragraph, fourth line the number "1973" should be "1972".

b. Page 8 first full paragraph line five the word "time" should be "them".

c. Page 11 the last full paragraph, fourth line "promlugated" should be "promulgated".

d. Page 13 second full paragraph, fifteenth line "decision" should be "decisions".

e. Page 13 last paragraph, first line "of" should be "on".

f. Page 14 the paragraph starting "*See also* . . .", should be placed in footnote 47.

g. Page 15 item (2) should read "local rules provide that".

h. Page 16 the fourth full paragraph, the first sentence should end with "1934 70".

i. Page 16 fifth full paragraph, second line "1984" should be "1948".

j. Page 19 third full paragraph, second line "assume" should read "assure".

k. Page 19 fourth full paragraph, first line should read "under this approach if Congress. . . ."

l. Page 19 fifth full paragraph, fifth line should read "rules" instead of "rule" and "bills" instead of "bid".

m. Page 21 third full paragraph the last sentence should conclude with, "the determination whether in a particular case state law applies or there is pertinent and valid federal law (i.e. federal common law) depends upon other sources of federal lawmaking authority." This part of the sentence was inadvertently omitted during printing.

n. Page 21 footnote 8 the parenthetical should end with "federal lawmaking power".

o. Page 21 footnote the first parenthetical in footnote 10 should read (constitutional limitations on federal law making.)

p. Page 25 third full paragraph, fifth line should read "such as recommending".

q. Page 26 third full paragraph, fourth line the word "and" should appear before the words "a written report".

r. Page 26 sixth full paragraph, eighth line the word "Congress" should be deleted.

s. Page 26 sixth full paragraph, last line on the page "rule" should be "rules".

t. Page 27 footnote 36 should list "*supra, note* 34"

A TRIBUTE TO FRED AND EDITH BARTEL

HON. LES AuCOIN

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

Monday, February 3, 1986

Mr. AuCOIN. Mr. Speaker, with the Christmas season just passed, we have time now to sit back and think about the year ahead. Holidays, like Christmas, are times for sharing with family and friends, and for taking time out from our daily demands and pressures.

With all the hustle and bustle of the Christmas season, however, we tend to forget that there are people who work all year round to make the holiday a special time for the rest of us.

In my home State of Oregon, Fred and Edith Bartel are two of those very special people. They recently won the Columbia County Tree Farmer of the Year Award—an honor that is given for community involvement and for the promotion of tree farming.

Fred and Edith are Christmas tree farmers. Both were surprised at winning the award, but people who have had a chance to visit the farm and who are familiar with the Bartels were not the least bit surprised. A trip to the Bartel farm is a family outing, complete with hot coffee in the winter, trails, picnic areas, and fishing in the summer.

But there is more to this award than pomp and circumstance. The Bartels are people who spend their lives giving back to their community, whether through community organizations, donating Christmas trees to needy families, or by passing on their knowledge and experience to high school students interested in tree farming.

When the Bartels look at their award or at the newspaper articles written about them, they will certainly feel a sense of pride and accomplishment. Yet, award or no award, they are able to get up each morning and look out across their piece of Dutch Canyon; to look back on the changes that have taken place in the 15 years since they first started their farm. This award is simply a marker of the many great accomplishments these two have achieved together, while the forests full of Douglas, Noble, and Grand Fir trees will continue for generations to bring the spirit of Christmas to all those who visit the Bartel farm.

STAR WARS PSYCHOLOGY

HON. EDWARD J. MARKEY

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Monday, February 3, 1986

Mr. MARKEY. Mr. Speaker, the Reagan administration continues to cling to star wars despite the high cost and obvious short-comings of the program. They vow to build star wars no matter what the cost might be.

I would like to call my colleagues' attention to an editorial which appeared in the Boston Globe on Thursday, January 30. It provides an excellent analysis of the flimsy reasoning behind star wars.

The article follows:

STAR WARS PSYCHOLOGY

Last fall, on the eve of the Geneva summit, Defense Secretary Caspar Weinberger testified that he favored deploying a "star wars" strategic-defense system, no matter how much it cost and even if it did not work.

"Any degree of strategic defense is worth it," Weinberger told the Senate Foreign Relations Committee. He insisted that the system would be worth building, even if the Soviets responded by building enough offensive missiles to overwhelm it by saturation, even if such Soviet countermeasures were less costly than the defense.

"Protecting people's lives would be worth anything it would cost," he said, declining to estimate that cost because the system has not been invented. He would not want to give up the system "under any circumstances."

In the world of profit and loss, a comparable disregard for reality would send a business executive into early retirement. In the Reagan administration, it makes no difference. This week, it was disclosed that Weinberger has elevated "star wars" to the "highest priority" among Pentagon programs.

In the annually revised defense guidance, the document on which Pentagon officials are supposed to base long-range budget plans, space-defense programs are to be insulated from cuts. Far more urgent, realistic programs will be cut, so that $2.75 billion worth of momentum can be pumped into "star wars" this year alone.

Why does Weinberger—who is bright and has been successful in various endeavors—cling to a fanatical position that others would find embarrassing? Why is "star wars" so important to him and those who think like him?

The answer may lie in the intolerance for the idea of coexisting with communism that characterizes the US right wing.

The right wing has always hated the idea of nuclear deterrence because it rests on the assumption that the United States and the Soviet Union are vulnerable to each other and must learn to get along. Interdependency leads to moderation, restraint, cooperation and arms control.

The right wing especially despises Weinberger's predecessor Robert McNamara because he crafted policies based on such assumptions when the US government might have been able to destroy the Soviet Union. Because of the margin of superiority, which no longer exists, the US might have gotten away with it.

"Star wars" is a totem for the right wing because these ideologies do not want to face the fact of mutual vulnerability and cannot abide the notion that their future is intertwined with that of a nation they so viscerally dislike. The drive that underlies their intensely chauvinistic, go-it-alone politics is psychological. So is their need for "star wars."

DIMINISHING ACCESS TO HIGHER EDUCATION FOR LOW-INCOME STUDENTS

HON. WILLIAM D. FORD

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Monday, February 3, 1986

Mr. FORD of Michigan. Mr. Speaker, a recent study conducted by the American Council on Education and the University of California at Los Angeles, "The American Freshman: National Norms for Fall 1985," uncovered a huge jump in parental income levels since 1984, with 26 percent of the freshmen reporting their parents' income is from $50,000 to $99,999 annually, double the number of parents who earned that much in 1984. At the same time, the percentage of students from families with incomes below $15,000 dropped from 20.7 percent in 1984 to 15.9 percent in 1985.

While some would attribute this increase to inflation and would contend that it is because American families are doing better than ever, the truth is there has been little inflation during the past year and what the statistics really emphasize is that the poorest students in America are finding it more and more difficult to attend college. Significantly, this trend began in the 1982–83 school year, the first academic year affected by the mandated cuts in the Gramm-Latta Reconciliation Act of 1981, which froze growth in the majority of Federal student assistance programs at the same time when college tuitions and fees were increasing by 13 to 16 percent per year.

Recent statistics also indicate that more than half of all of today's college students work full time. Twenty-five years ago less than one-third of America's students had to hold full-time jobs. Similarly, the ability of families to fully support their children's college educations has dropped to a new low. Today only 27 percent of American families can fully support their children's attendance at publicly supported colleges and universities and fewer than 13 percent can manage the costs of private postsecondary education institutions.

The result is that we are headed toward a less educated populace with the dream of education being denied to those who need it most desperately to better themselves and all of society. This trend is a reversal of the 20-year history of the Federal role in providing student financial assistance. When the Higher Education Act was first recommended to Congress by the President in 1965 its purpose was stated as follows:

To extend the opportunity for higher Education more broadly among lower and middle income families. . . . Nothing matters more to the future of our country: not our military preparedness—for armed might is worthless if we lack the brain power to build a world of peace; not our productive economy—for we cannot sustain growth without trained manpower; not our democratic system of government—for freedom is fragile if citizens are ignorant.

In the past the higher education programs have worked well. Between 1965 and 1980, when these programs were in full effect, the education level of the population went up but so did the country's economic growth and the percentage of those in poverty decreased. Since 1981 when reductions in these programs first became effective, the poverty level has increased, and the rate of economic growth decreased. The correlations are clear. If we continue to cut education programs in order to gain short-term goals, more and more students will be denied educational opportunities and the country will suffer not only today but also in the future.

ETHIOPIAN RESETTLEMENT

HON. MARGE ROUKEMA

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Monday, February 3, 1986

Mrs. ROUKEMA. Mr. Speaker, for the past year, much of the world's attention has been focused on the famine crisis in Africa. The United States has donated a significant amount of food aid and emergency humanitarian assistance to the starving in Africa. We have done this, in cooperation with other Western donors and the United Nations, in the

hope that we can relieve the suffering of so many unfortunate people.

The situation in Ethiopia has been particularly severe. Civil war, drought and a stagnant economy have combined to make the day-to-day survival of millions dependent on the donor community. It is disturbing then to hear allegations that the Ethiopian Government is diverting vitally needed resources from the famine relief effort to the program of resettlement. The New York Times editorial of January 31, 1986 clearly states the need for a halt to this program, so that more resources can be devoted to the No. 1 priority of feeding the hungry. I commend this editorial to the attention of all Members.

The editorial follows:

ETHIOPIA'S TRAIL OF TEARS

Ethiopia is uprooting about 1.5 million people in what its Marxist regime calls a "voluntary" resettlement program. But a reputable French-based relief agency, Doctors Without Borders, insists otherwise. It says villagers in the northern highlands are being trucked to infested southern wetlands in a forced migration and estimates that 100,000 lives have been lost. Ethiopia says the charges are "without foundation" and asserts that United Nations observers dispute the casualty estimates.

Not quite. The U.N.'s experts say the toll may be overstated but they claim to have no independent figures. The observers of American relief agencies deplore the resettlements but refuse to debate it, lest they be expelled, like Doctors Without Borders.

All those engaged in relief thus juggle the old dilemma of trying to feed the starving in a nation that resents their presence.

Unfortunately, there are good reasons to heed the medical group's warnings. The authorities in Ethiopia contend they have only reactivated an old plan for moving villagers from the parched north to the more fertile south. But they stand to gain strategically from depopulating an area where a guerrilla insurgency flourishes. And their methods, by all reports, are horrendous.

Villagers are being herded into "regroupment centers," then crammed into trucks and buses and dumped into makeshift resettlement camps. The entire effort appears to be a frantic improvisation, showing little regard, the doctors say, for the health of already weakened highlanders, who lack immune defenses against lowland diseases. As one of the doctors said in recounting work in an inadequate clinic, "We are an orphan factory."

The cruelty of the operation is not in dispute. Observers willing to talk at all argue only about the number of fatalities.

The humane response is to continue sending food and relief workers to Ethiopia, taking care not to assist the resettlement campaign in any direct way. That is the policy of the United States and should also be the U.N.'s. Americans have already distributed more than 450,000 tons of food through private agencies. Current U.S. shipments will again provide about a third of Ethiopia's need. As the amount of aid grows, so should the demand for a moratorium on resettlement. Ethiopians are suffering enough.

COMMENDING THE CAPITOL CITY JAYCEES FOR THEIR PARTICIPATION IN DEBTBUSTERS

HON. BILL RICHARDSON

OF NEW MEXICO

IN THE HOUSE OF REPRESENTATIVES

Monday, February 3, 1986

Mr. RICHARDSON. Mr. Speaker, I rise today to commend the Capitol City Jaycees of Santa Fe, NM, for their participation in the Debtbusters game.

Debtbusters is a game created by the Roosevelt Center to educate the public on budgetary decisions made by local, State, and Federal officials. During their participation in the game, the Jaycees developed a greater sense of appreciation for the difficult choices we legislators must make daily regarding our skyrocketing deficit. The cuts recommended by the group were fairly even-handed, suggesting that sacrifices must be made by all if this problem is to be solved. Closing tax loopholes was also supported as a means of funding Federal programs.

Once again, the Capitol City Jaycees deserve recognition for their interest and initiative in trying to remedy a problem of great concern to our Nation.

MR. RAY O'CONNOR LEAVES THE FEDERAL ENERGY REGULATORY COMMISSION

HON. JOHN D. DINGELL

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Monday, February 3, 1986

Mr. DINGELL. Mr. Speaker, just a few weeks ago Ray O'Connor, who has served as Chairman of the Federal Energy Regulatory Commission for the past several years, announced his decision to leave the Commission prior to the expiration of his term in order to return to private life and to his home city of New York.

I was very sorry to learn of that decision, although I do understand it. Chairman O'Connor's service in Washington has involved considerable personal sacrifice, the more so because his family has remained in New York.

While we have not always agreed, I have appreciated Ray O'Connor's willingness to discuss the issues and to work with the Congress on resolving them. He has served the public and the Commission well, and he has chaired with fairness and distinction.

Recently, his leadership at the Commission, particularly on the issue of nondiscriminatory transportation of natural gas, has been extremely important. Indeed, I believe the policy he espouses will, over the years to come, ensure lower cost natural gas to consumers while providing new and competitive markets for producers.

I also note that since September 1984, Chairman O'Connor and the Commission charted a new course toward the conduct of hydroelectric activities and their impact on the environment, particularly fish and wildlife.

Of particular importance is the Commission's efforts, starting last April, to initiate a procedure for assessing the environmental effects of multiple hydro licenses for projects clustered together in limited geographic areas. This procedure, known as the cluster impact assessment procedure, was extended last November to the Ohio River Basin. This is a very important effort, and the Committee on Energy and Commerce will be closely monitoring the Commission's continued implementation after Chairman O'Connor returns to private life.

Ray O'Connor has served the Commission and the Nation with integrity and skill, and I wish him well in his future endeavors.

A TRIBUTE TO DR. JOSEPH STERNSTEIN

HON. ROBERT J. MRAZEK

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, February 3, 1986

Mr. MRAZEK. Mr. Speaker, I rise today to extend warm and deserving congratulations to Dr. Joseph Sternstein for his recent election to the presidency of the Jewish National Fund of America, the organization responsible for afforestation and land reclamation in Israel.

It is befitting that a man who exemplifies the essence of the Zionist ideal should be chosen for this prestigious position. Dr. Sternstein's life reflects an unremitting commitment to Israel.

Many of my colleagues are, of course, already aware of Dr. Sternstein's contributions to national Rabbinic, Zionist, and Jewish causes. I am particularly proud to note that Dr. Sternstein is the rabbi of Temple Beth Sholom of Roslyn Heights in Long Island, NY. In this capacity, Rabbi Sternstein has been a leader in Long Island community affairs, and has served as a model for both young and elderly Jews to become involved in the Zionist ideal.

Mr. Speaker, Rabbi Sternstein has worked with unrelenting enthusiasm and dedication for the cause of Zionism. Dr. Sternstein is past president of the American Zionist Federation—the umbrella organization of the entire American Zionist movement—and is past president of the Zionist Organization of America. He was a member of the World Executive of the World Zionist Organization and the Jewish Agency Board. Currently, Rabbi, Sternstein also serves as treasurer of the New York Board of Rabbis and as vice chairman of the National Conference on Soviet Jewry.

Rabbi Sternstein has also actively promoted Jewish and Israeli causes in the world arena. He has traveled widely and met with the top statesman of the world. He has stepped behind the Iron Curtain and before the assassination of President Anwar Sadat, Dr. Sternstein met with the Egyptian leader for a private meeting as an American Zionist leader, beyond his duties as a rabbi.

Rabbi Sternstein has consistently gone beyond the call of duty and through his work embodies the ideal of the truly concerned citizen. I call on my colleagues in the U.S. House of Representatives to join me in congratulating Rabbi Sternstein.

A TRIBUTE TO ALDEN AAROE

HON. THOMAS J. BLILEY, JR.

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Monday, February 3, 1986

Mr. BLILEY. Mr. Speaker, January 31, 1986 marked an important milestone for my friend Alden Aaroe of Richmond, VA. For 40 years, Richmonders have been waking up to Alden's special brand of humor and information as the announcer of WRVA radio's morning program. More than once, Alden's wit and wisdom have gotten me off to a fresh start in the morning. I miss hearing him when I'm in Washington, and I look forward to the mornings I'm in Richmond where I can be sure of an entertaining and informative start on the day.

On January 31, Alden celebrated his 40th year with Richmond and WRVA radio. On behalf of his loyal fans, friends, and coworkers, I would like to say, "Thank you, Alden, and may you be a part of our mornings for another 40 years."

THE TAX REFORM ACT

HON. LES AuCOIN

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

Monday, February 3, 1986

Mr. AuCOIN. Mr. Speaker, as the 99th Congress begins its 2d session, it's imperative that we address a piece of unfinished business.

On December 31, 1985, the 25-percent Federal tax credit for research and development activities expired. It did not, however, go down without a fight. In the hectic days before the rush to adjourn, a bill extending this and several other tax credits for several months did pass the House of Representatives—but it did not become law. Thus, as I speak today there is no R&D tax credit.

The action taken by the House on the short extender bill and the passage of the omnibus "Tax Reform Act of 1985"—which entended the credit for the 3 more years at a reduced level of 20 percent—demonstrated that there is substantial support for extending this tax credit in some fashion. But, the legislative clock ran out before that support could be translated into concrete action.

Today I am introducting legislation that would fill the void created by the Congress' inaction. My bill would extend the R&D tax credit until December 31, 1986—thus giving the Congress a full year to determine its ultimate fate. The bill also makes the credit retroactive to January 1, 1986. Furthermore, my bill would extend the credit at the current 25-percent level.

American companies working desperately to compete with overseas markets have a right to expect some consistency from the Federal Government when making important financial planning decisions. Because there is substantial support for extending the R&D tax credit, it is unfair to let the credit fall through the cracks. Research and development activities cannot be shut on and off like a water spigot. The planning process takes several months, if not years, alone.

The R&D tax credit, first adopted as part of the Economic Recovery Tax Act of 1981, has already helped stimulate private spending for research activities, and the benefits from commercial research have quickly spread through the economy, improving the quality of life, worker productivity, and the real GNP.

Meanwhile, the United States has become increasingly reliant on exports by high-technology companies, which use the credit extensively. For example, in 1983 high-technology products accounted for about 44 percent of all exports of manufactured goods, compared to 35 percent in 1970.

At a time when the United States is running a $145-billion trade deficit, is this the time to pull the rug out from under our exporters? Is this the time to discourage innovation—innovation that enhances our competitive position throughout the world?

I think not.

Let's restore the tax credit for research and development activities—retroactively. It's too important to our continued economic growth and job production to let lapse.

NATIONAL FIRE FIGHTERS DAY

HON. LES ASPIN

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Monday, February 3, 1986

Mr. ASPIN. Mr. Speaker, I have introduced legislation to honor our Nation's 2 million firefighters. House Joint Resolution 479 declares October 8, 1986 "National Firefighters Day." This day occurs during National Fire Prevention Week, and will focus attention on the brave men and women who make this vital and dangerous job a part of their everyday lives.

Firefighters are engaged in one of the most hazardous occupations possible. They respond to 11 million emergency calls each year, including millions of working fires. Since 1977, well over 1,000 firefighters have given their lives, and many more have suffered injury, to save the lives of countless others.

Fire fighters are also an important part of every community. Fire departments participate in education, recreation, and charity activities in our small towns and big cities.

We've never had a day before to honor all the fine people who make up our fire fighting force. I think one day to show our appreciation is well deserved, and I call upon my colleagues to join me in expressing their appreciation by cosponsoring House Joint Resolution 479 and making October 8 this year's "National Fire Fighters Day."

THE 1986 TRADE EXPANSION ACT

HON. DAN MICA

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Monday, February 3, 1986

Mr. MICA. Mr. Speaker, today I am introducing legislation designed to increase our international trade competitiveness.

To many Americans, the trade deficit is an abstraction. But there is nothing abstract about the $148.5 billion deficit recorded by the United States in 1985.

There is nothing abstract about 2 million lost jobs, a lower standard of living, and American firms losing billions of dollars in sales at home and abroad.

We are witnessing the death of a nation as a salesman. We are faced with irreversible economic decline, and we have a choice. We can ignore the problem and hope it goes away, or we can fight it by forcing open overseas markets and fostering domestic policies that put U.S. exporters on an equal footing with their foreign competitors.

The year 1985 saw unprecedented congressional focus on our domestic budget deficit. The year 1986 is destined to be a year in which we finally attack the twin deficits of trade and the domestic budget. Neither can be treated independently.

Through 8 years in the Congress, I have fostered a reputation as a free trader. I will continue to do so, but we no longer can extoll the virtues of free trade at home and watch our competitors play by different rules.

As ranking majority member on the Foreign Affairs Subcommittee for International Economic Policy and Trade, I have been assured that this legislation will be referred to our panel.

THE 735TH ANNIVERSARY OF LITHUANIAN INDEPENDENCE

HON. TOM LEWIS

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Monday, February 3, 1986

Mr. LEWIS of Florida. Mr. Speaker, this year Lithuanian-Americans will celebrate the 68th anniversary since the restoration of their independence; 1986 also marks the 735th anniversary of Lithuania's statehood.

On February 16, Americans of Lithuanian ancestry across the United States will recognize this important event. In my own congressional district, 150 members of the Palm Beach County Chapter of the Lithuanian-American Community of the USA will join together to commemorate the anniversary.

Residents of the 12th District have also participated in other events honoring this cause. In 1984, the Palm Beach County Chapter dedicated a monument to the United States for granting freedom to Lithuanians living under Soviet domination. This red granite memorial was unveiled in Royal Palm Beach Memorial Gardens on October 8, Columbus Day.

Mr. Speaker, we must continue to uphold our Nation's policy which does not recognize the illegal 1940 incorporation of Lithuania, Estonia, and Latvia into the Soviet Union. Moreover, the United States must continue to work for the freedom of these Baltic citizens by realizing that this is an issue which is a vital component of future United States-Soviet relations.

I believe it is important that we remember both the fate and the hope of Lithuanians and other citizens who are living under Soviet rule. I hope that all Members of Congress and their

families will take time to remember our recognition of the Baltic Republics and their people.

SALUTE TO ST. ELIZABETH ANN SETON SCHOOL

HON. GUS YATRON

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Monday, February 3, 1986

Mr. YATRON. Mr. Speaker, today it gives me great honor to recognize the St. Elizabeth Ann Seton School in Minersville, PA. During the week of February 2 to 8, 1986, the students at the school will be celebrating National Catholic Schools Week.

National Catholic Schools Week has been celebrated throughout the Nation since 1973. I believe that this is an excellent occasion to recognize the important contribution which Catholic schools have made to America. For years, they have provided an important alternative to public education, and today, more than 2½ million children attend Catholic schools. This education has helped prepare students for meeting life's challenges with both wisdom and compassion.

The theme for this year's observance of Catholic Schools Week is "Rainbow of Excellence." The celebration will emphasize the goals of Catholic education for Catholic children from all walks of life. This effort can only strengthen the already proud traditions of Catholic educators and help point the way for further advances.

Celebration of Catholic Schools Week is a popular occasion at St. Elizabeth Ann Seton School and the students are looking forward to a number of special events. I think it is fitting to recognize St. Elizabeth Ann Seton during Catholic Schools Week. I know that my colleagues will join me in honoring both the students and faculty on this important occasion and in wishing them continued success in the years to come.

SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee—of the time, place, and purpose of the meetings, when scheduled, and any cancellations or changes in the meetings as they occur.

As an additional procedure along with the computerization of this information, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Any changes in committee scheduling will be indicated by placement of an asterisk to the left of the name of the unit conducting such meetings.

Meetings scheduled for Tuesday, February 4, 1986, may be found in the Daily Digest of today's RECORD.

MEETINGS SCHEDULED

FEBRUARY 5

9:30 a.m.
Banking, Housing, and Urban Affairs
To continue oversight hearings on the implications of the proposed Tax Reform Act on those programs which fall within the jurisdiction of the committee.
SD-538

Finance
To continue hearings on H.R. 3838, proposed Tax Reform Act of 1986.
SD-215

Rules and Administration
To continue hearings on Senate committee resolutions requesting funds for operating expenses for 1986.
SR-301

Select on Intelligence
To hold closed hearings on intelligence matters.
SH-219

10:00 a.m.
Appropriations
Agriculture, Rural Development and Related Agencies Subcommittee
To hold hearings on the impact of the recent outbreak of Avian Influenza on the poultry industry.
SD-138

Armed Services
To hold hearings on U.S. military posture in review of the fiscal year 1987 Department of Defense military authorization request.
SR-253

Judiciary
Immigration and Refugee Policy Subcommittee
To hold hearings to review issues surrounding the attempted defection of Miroslav Medvid and the Administration's procedures regarding East bloc defectors.
SD-226

Labor and Human Resources
Aging Subcommittee
To hold hearings on the 3% set aside for older workers in the Job Training Partnership Act.
SD-430

2:00 p.m.
Armed Services
Closed business meeting, to mark up a staff proposal on Defense reorganization, and to consider routine military nominations.
SR-222

Budget
To hold hearings in preparation for reporting the first concurrent resolution on the fiscal year 1987 budget.
SD-608

Judiciary
To hold hearings on pending nominations.
SD-226

3:30 p.m.
*Conferees
On H.R. 7, to extend and improve the National School Lunch Act and the Child Nutrition Act of 1966.
2175 Rayburn Building

FEBRUARY 6

9:00 a.m.
Armed Services
Closed business meeting, to mark up a staff proposal on Defense reorganization.
SR-222

Banking, Housing, and Urban Affairs
To continue oversight hearings on the implications of the proposed Tax Reform Act on those programs which fall within the jurisdiction of the committee.
SD-538

9:30 a.m.
Commerce, Science, and Transportation
Aviation Subcommittee
To hold hearings on S. 1966, to provide for efficient and equitable use of operating rights at certain congested airports.
SR-253

Finance
To continue hearings on H.R. 3838, proposed Tax Reform Act of 1986.
SD-215

Small Business
To hold hearings on the impact of tax reform and simplification proposals on small business.
SR-428A

10:00 a.m.
Energy and Natural Resources
Business meeting, on pending calendar business.
SD-366

Judiciary
Business meeting, on pending calendar business.
SD-226

Labor and Human Resources
Children, Family, Drugs, and Alcoholism Subcommittee
To hold hearings on proposed legislation authorizing funds for ACTION.
SD-430

1:30 p.m.
Budget
To continue hearings in preparation for reporting the first concurrent resolution on the fiscal year 1987 budget.
SD-608

2:00 p.m.
Armed Services
Closed business meeting, to mark up a staff proposal on Defense reorganization.
SR-222

4:00 p.m.
Select on Intelligence
To hold a closed briefing on intelligence matters.
SH-219

Conferees
On S. 124, authorizing funds for fiscal years 1986-1990 for programs of the Safe Drinking Water Act, including public water systems and protection of underground sources of drinking water.
2123 Rayburn Building

FEBRUARY 7

9:00 a.m.
Joint Economic
To hold hearings on the employment/unemployment situation for January.
SD-562

9:30 a.m.
Banking, Housing, and Urban Affairs
International Finance and Monetary Policy Subcommittee
To hold hearings on proposed legislation providing for the renewal of the Charter of the Export-Import Bank.
SD-538

Budget
To continue hearings in preparation for reporting the first concurrent resolution on the fiscal year 1987 budget.
SD-608

FEBRUARY 18

9:30 a.m.
*Energy and Natural Resources
To hold oversight hearings to review those programs which fall within the jurisdiction of the committee as contained in the President's proposed budget for fiscal year 1987, focusing on the Department of Energy.
SD-366

10:00 a.m.
Appropriations
HUD-Independent Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1987 for the American Battle Monuments Commission, Army cemeterial expenses, Office of Consumer Affairs (Department of Commerce), Consumer Information Center, and the Consumer Product Safety Commission.
SD-124

Select on Indian Affairs
To hold hearings on those programs which fall within the jurisdiction of the committee as contained in the President's budget requests for fiscal year 1987.
SD-628

11:00 a.m.
Foreign Relations
Business meeting, to consider pending calendar business.
SD-419

2:00 p.m.
Commerce, Science, and Transportation
Science, Technology, and Space Subcommittee
To hold oversight hearings on the accident of the space shuttle flight 51L.
SR-253

*Energy and Natural Resources
To continue oversight hearings to review those programs which fall within the jurisdiction of the committee as contained in the President's proposed budget for fiscal year 1987, focusing on the Department of the Interior.
SD-366

FEBRUARY 19

9:30 a.m.
Commerce, Science, and Transportation
To hold hearings on liability insurance, focusing on the availability and affordability of insurance in various property and casualty lines.
SR-253

*Energy and Natural Resources
To continue oversight hearings to review those programs which fall within the jurisdiction of the committee as contained in the President's proposed budget for fiscal year 1987, focusing on the Federal Energy Regulatory Commisson.
SD-366

Select on Intelligence
To hold closed hearings on proposed legislation authorizing funds for fiscal year 1987 for the intelligence community.
SH-219

10:00 a.m.
Appropriations
Transportation and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1987 for the Department of Transportation.
SD-138

Labor and Human Resources
Employment and Productivity Subcommittee
To hold hearings on S. 1990, to establish an Education and Training Partnership to administer the Job Training Partnership Act, the Wagner-Peyser Act, and the Carl D. Perkins Vocational Education Act.
SD-430

10:30 a.m.
Appropriations
Interior and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1987 for the Advisory Council on Historic Preservation, Woodrow Wilson International Center for Scholars, and National Capital Planning Commission.
SD-124

1:30 p.m.
Appropriations
To hold hearings to review the President's proposed budget for fiscal year 1987.
SD-192

2:30 p.m.
*Energy and Natural Resources
To continue oversight hearings to review those programs which fall within the jurisdiction of the committee as contained in the President's proposed budget for fiscal year 1987, focusing on Forest Service programs of the Department of Agriculture.
SD-366

FEBRUARY 20

9:30 a.m.
Small Business
To hold hearings on the cost and availability of liability insurance for small business.
SR-428A

Veterans' Affairs
To hold hearings on proposed budget estimates for fiscal year 1987 for the Veterans Administration.
SR-418

10:00 a.m.
Appropriations
HUD-Independent Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1987 for the Council on Environmental Quality, Selective Service System, Federal Home Loan Bank Board, Neighborhood Reinvestment Corporation, and the National Institute of Building Sciences.
SD-124

Environment and Public Works
To hold hearings on proposed legislation authorizing funds for fiscal year 1987 for the Environmental Protection Agency.
SD-406

Labor and Human Resources
Children, Family, Drugs, and Alcoholism Subcommittee
To hold hearings on proposed legislation authorizing funds for the National Institute on Drug Abuse and the National Institute on Alcohol Abuse and Alcoholism.
SD-430

2:00 p.m.
Commerce, Science, and Transportation
Science, Technology, and Space Subcommittee
To hold hearings on proposed legislation authorizing funds for the Fire Prevention and Control Act.
SR-253

4:00 p.m.
Select on Intelligence
To continue closed hearings on proposed legislation authorizing funds for fiscal year 1987 for the intelligence community.
SH-219

FEBRUARY 21

9:30 a.m.
Commerce, Science, and Transportation
Surface Transportation Subcommittee
To hold hearings on S. 477, to revise the standards of railroad revenue-adequacy, railroad market dominance, railroad rate reasonableness, and the Interstate Commerce Commission review of State ruling on intrastate rail rates.
SR-253

Finance
Health Subcommittee
To hold hearings to review hospital income under the Medicare prospective payment system.
SD-215

Labor and Human Resources
Handicapped Subcommittee
To resume hearings on proposed legislation authorizing funds for education of the handicapped, focusing on discretionary programs.
SD-430

Small Business
To continue hearings on the cost and availability of liability insurance for small business.
SR-428A

10:00 a.m.
Environment and Public Works
To hold hearings on proposed legislation authorizing funds for fiscal year 1987 for the Fish and Wildlife Service.
SD-406

FEBRUARY 24

10:00 a.m.
Energy and Natural Resources
Energy Research and Development Subcommittee
To hold hearings on S. 1686, to implement a research program regarding specified aspects of fuel cell technology, and S. 1687, to develop a national policy for the utilization of fuel cell technology.
SD-366

2:00 p.m.
Appropriations
Interior and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1987 for the Bureau of Land Management, Department of the Interior.
SD-138

FEBRUARY 25

9:00 a.m.
Labor and Human Resources
Employment and Productivity Subcommittee
To resume hearings on S. 1990, to establish an Education and Training Partnership to administer the Job Training Partnership Act, the Wagner-Peyser Act, and the Carl D. Perkins Vocational Education Act.
SD-430

9:30 a.m.
Veterans' Affairs
To hold joint hearings with the House Committee on Veterans' Affairs to review the legislative priorities of the Disabled American Veterans.
SD-106

10:00 a.m.
Appropriations
HUD-Independent Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1987 for the National Credit Union Administration, Office of Revenue Sharing (Department of the Treasury), and the Office of Science and Technology Policy.
SD-124

Appropriations
Labor, Health and Human Services, Education, and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1987 for the Office of the Secretary of Labor and the Employment and Training Administration, Department of Labor.
SD-116

Energy and Natural Resources
Business meeting, to consider pending calendar business.
SD-366

2:00 p.m.
Appropriations
Interior and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1987 for the Strategic Petroleum Reserve, Naval Petroleum Reserve, and Office of Emergency Preparedness.
SD-138

Armed Services
Military Construction Subcommittee
To hold hearings on the strategic homeporting initiative.
SR-222

Veterans' Affairs
Business meeting, to mark up proposed legislation authorizing funds for the Veterans' Administration.
SR-418

FEBRUARY 26

9:00 a.m.
Veterans' Affairs
To hold joint hearings with the House Committee on Veterans' Affairs to review the legislative priorities of the Paralyzed Veterans of America, Blinded Veterans of America, and the Military Order of the Purple Heart.
SD-106

9:30 a.m.
Appropriations
Labor, Health and Human Services, Education, and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1987 for the Labor-Management Services Administration, Employment Standards Administration, and Bureau of Labor Statistics, all of the Department of Labor, and the Pension Benefit Guaranty Corporation.
SD-116

Commerce, Science, and Transportation
Consumer Subcommittee
To hold hearings on S. 1999, to provide for a uniform product liability law.
SR-253

Select on Intelligence
To resume closed hearings on proposed legislation authorizing funds for fiscal year 1987 for the intelligence community.
SH-219

10:00 a.m.
Appropriations
Transportation and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1987 for the Research and Special Programs Administration and the Office of Inspector General, Department of Transportation.
SD-138

Energy and Natural Resources
Business meeting, to consider pending calendar business.
SD-366

1:30 p.m.
Appropriations
To hold hearings to review the President's proposed budget for fiscal year 1987.
SD-192

FEBRUARY 27

9:00 a.m.
Finance
Energy and Agricultural Taxation Subcommittee
To hold hearings on S. 1997, to impose a tax on the importation of crude oil and refined petroleum products, and S. 1507, to increase the tariff on imported crude oil and refined petroleum products.
SD-215

9:30 a.m.
Appropriations
Labor, Health and Human Services, Education, and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1987 for Departmental Management, Occupational Safety and Health Administration, and the Mine Safety and Health Administration, all of the Department of Labor.
SD-116

Commerce, Science, and Transportation
Consumer Subcommittee
To continue hearings on S. 1999, to provide for a uniform product liability law.
SR-253

10:00 a.m.
Commerce, Science, and Transportation
Merchant Marine Subcommittee
To hold hearings on S. 1885, to establish a Military Auxiliary Revolving Fund within the Treasury of the United States.
SD-562

Energy and Natural Resources
To hold closed hearings on the status of Micronesia.
SH-219

Governmental Affairs
Oversight of Government Management Subcommittee
To hold hearings to review alleged Department of Defense subcontractor kickbacks.
SD-342

Labor and Human Resources
Children, Family, Drugs, and Alcoholism Subcommittee
To hold hearings on proposed legislation authorizing funds for Head Start.
SD-430

2:00 p.m.
Commerce, Science, and Transportation
Science, Technology, and Space Subcommittee
To hold hearings on proposed legislation authorizing funds for fiscal year 1987 for NASA.
SR-253

4:00 p.m.
Select on Intelligence
To continue closed hearings on proposed legislation authorizing funds for fiscal year 1987 for the intelligence community.
SH-219

FEBRUARY 28

9:00 a.m.
Finance
Energy and Agricultural Taxation Subcommittee
To continue hearings on S. 1997, to impose a tax on the importation of crude oil and refined petroleum products, and S. 1507, to increase the tariff of imported crude oil and refined petroleum products.
SD-215

MARCH 4

9:30 a.m.
Appropriations
Labor, Health and Human Services, Education, and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1987 for the Office of the Secretary of Health and Human Services.
SD-116

Commerce, Science, and Transportation
To resume hearings on liability insurance, focusing on the availability and affordability of insurance in various property and casualty lines.
SR-253

Veterans' Affairs
To hold joint hearings with the House Committee on Veterans' Affairs to review the legislative priorities of the Veterans of Foreign Wars.
SD-106

2:00 p.m.
Appropriations
Interior and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1987 for the Pennsylvania Avenue Development Corporation, Commission on Fine Arts, and the National Gallery of Art.
SD-138

MARCH 5

9:30 a.m.
Appropriations
Labor, Health and Human Services, Education, and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1987 for the National Institutes of Health, Department of Health and Human Services.
SD-116
Select on Intelligence
To resume closed hearings on proposed legislation authorizing funds for fiscal year 1987 for the intelligence community.
SH-219

10:00 a.m.
Appropriations
HUD-Independent Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1987 for the National Science Foundation, and the Federal Emergency Management Agency.
SD-124
Appropriations
Transportation and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1987 for the Federal Highway Administration and the National Highway Traffic Safety Administration, Department of Transportation.
SD-138
Governmental Affairs
Governmental Efficiency and the District of Columbia Subcommittee
To hold oversight hearings on the District of Columbia courts.
SD-342

MARCH 6

9:30 a.m.
Appropriations
Labor, Health and Human Services, Education, and Related Agencies Subcommittee
To continue hearings on proposed budget estimates for fiscal year 1987 for the National Institutes of Health, Department of Health and Human Services.
SD-116

2:00 p.m.
Appropriations
Interior and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1987 for the Minerals Management Service, Department of the Interior.
SD-138

4:00 p.m.
Select on Intelligence
To continue closed hearings on proposed legislation authorizing funds for fiscal year 1987 for the intelligence community.
SH-219

MARCH 11

9:00 a.m.
Labor and Human Resources
Employment and Productivity Subcommittee
To hold hearings on proposed legislation authorizing funds for job training programs.
SD-430

9:30 a.m.
Appropriations
Labor, Health and Human Services, Education, and Related Agencies Subcommittee
To resume hearings on proposed budget estimates for fiscal year 1987 for the National Institutes of Health, Department of Health and Human Services.
SD-116

2:00 p.m.
Appropriations
Interior and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1987 for the National Park Service, Department of the Interior.
SD-138

MARCH 12

9:30 a.m.
Appropriations
Labor, Health and Human Services, Education, and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1987 for the Health Resources and Services Administration and the Office of the Assistant Secretary for Health, both of the Department of Health and Human Services.
SD-116
Select on Intelligence
To resume closed hearings on proposed legislation authorizing funds for fiscal year 1987 for the intelligence community.
SH-219

10:00 a.m.
Appropriations
HUD-Independent Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1987 for the Environmental Protection Agency.
SD-124
Appropriations
Transportation and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1987 for the St. Lawrence Seaway Development Corporation, Department of Transportation, and the Panama Canal Commission.
SD-138

2:00 p.m.
Appropriations
Foreign Operations Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1987 for the Department of the Treasury, focusing on multilateral development banks.
SD-124

MARCH 13

9:00 a.m.
Labor and Human Resources
Employment and Productivity Subcommittee
To resume hearings on proposed legislation authorizing funds for job training programs.
SD-430

9:30 a.m.
Appropriations
Labor, Health and Human Services, Education, and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1987 for the Centers for Disease Control, Alcohol, Drug Abuse and Mental Health Administration, Office of Inspector General, and Office of Civil Rights, all of the Department of Health and Human Services.
SD-116

10:30 a.m.
Appropriations
Foreign Operations Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1987 for foreign assistance programs of the Department of State.
SD-124

2:00 p.m.
Appropriations
Interior and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1987 for the Department of the Interior.
SD-138

4:00 p.m.
Select on Intelligence
To continue closed hearings on proposed legislation authorizing funds for fiscal year 1987 for the intelligence community.
SH-219

MARCH 18

9:30 a.m.
Appropriations
Labor, Health and Human Services, Education, and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1987 for the Health Care Financing Administration, Social Security Administration, Office of Child Support Enforcement, and refugee programs, all of the Department of Health and Human Services.
SD-116
Labor and Human Resources
Labor Subcommittee
To hold oversight hearings on the retirement policy for public safety officials under the Age Discrimination in Employment Act.
SD-430

2:00 p.m.
Appropriations
Foreign Operations Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1987 for international security assistance programs of the Department of State.
S-126, Capitol
Appropriations
Interior and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1987 for the United States Geological Survey, Department of the Interior.
SD-138

MARCH 19

9:30 a.m.
Appropriations
Labor, Health and Human Services, Education, and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1987 for Human Development Services, Office of Community Services, Departmental Management (salaries and expenses), and Policy Research, all of the Department of Health and Human Services.
SD-116

Select on Intelligence
To resume closed hearings on proposed legislation authorizing funds for fiscal year 1987 for the intelligence community.
SH-219

10:00 a.m.
Appropriations
HUD-Independent Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1987 for the Veterans' Administration.
SD-124

Appropriations
Transportation and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1987 for the National Transportation Safety Board, Department of Transportation, and the Architectural and Transportation Barriers Compliance Board.
SD-138

2:00 p.m.
Appropriations
Foreign Operations Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1987 for the Export-Import Bank.
S-126, Capitol

MARCH 20

9:30 a.m.
Labor and Human Resources
Handicapped Subcommittee
To hold hearings on proposed legislation authorizing funds for rehabilitation programs.
SD-430

2:00 p.m.
Appropriations
Interior and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1987 for the Office of Indian Education, Department of Education, and the Institute of Museum Services.
SD-138

4:00 p.m.
Select on Intelligence
To continue closed hearings on proposed legislation authorizing funds for fiscal year 1987 for the intelligence community.
SH-219

MARCH 25

9:30 a.m.
Labor and Human Resources
Handicapped Subcommittee
To resume hearings on proposed legislation authorizing funds for rehabilitation programs.
SD-430

2:00 p.m.
Appropriations
Interior and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1987 for the U.S. Holocaust Memorial, and the Bureau of Mines, Department of the Interior.
SD-138

MARCH 26

10:00 a.m.
Appropriations
Transportation and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1987 for Interstate Commerce Commission and the Office of the Secretary of Transportation.
SD-138

MARCH 27

2:00 p.m.
Appropriations
Interior and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1987 for the Forest Service, Department of Agriculture.
SD-138

APRIL 8

2:00 p.m.
Appropriations
Interior and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1987 for energy conservation programs.
SD-138

APRIL 9

9:30 a.m.
Appropriations
Labor, Health and Human Services, Education, and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1987 for the Office of the Secretary of Education, Departmental Management (salaries and expenses) Office for Civil Rights, and Office of Inspector General, all of the Department of Education.
SD-116

10:00
Appropriations
HUD-Independent Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1986 for the Department of Housing and Urban Development.
SD-124

Appropriations
Transportation and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1987 for the Federal Railroad Administration, Department of Transportation, and the National Railroad Passenger Corporation (AMTRAK).
SD-138

APRIL 10

9:30 a.m.
Appropriations
Labor, Health and Human Services, Education, and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1987 for the Department of Education, including elementary and secondary education, education block grants, and impact aid.
SD-116

2:00 p.m.
Appropriations
Foreign Operations Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1987 for the Office of Inspector General, Agency for International Development, Peace Corps, Inter-American Foundation, and the African Development Foundation.
S-126, Capitol

APRIL 15

9:30 a.m.
Appropriations
Labor, Health and Human Services, Education, and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1987 for the Department of Education, including education for the handicapped, rehabilitation services and handicapped research, and special institutions (including Howard University).
SD-116

10:00 a.m.
Appropriations
Foreign Operations Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1987 for the Agency for International Development.
S-126, Capitol

2:00 p.m.
Appropriations
Foreign Operations Subcommittee
To continue hearings on proposed budget estimates for fiscal year 1987 for the Agency for International Development.
S-126, Capitol

Appropriations
Interior and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1987 for the National Endowment for the Arts and National Endowment for the Humanities.
SD-138

APRIL 16

9:00 a.m.
Veterans' Affairs
To hold joint hearings with the House Committee on Veterans' Affairs to review the legislative priorities of AMVETS, Vietnam Veterans of America, World War I Veterans, Jewish War Veterans of the U.S.A., and Atomic Veterans.
SD-106

9:30 a.m.
Appropriations
Labor, Health and Human Services, Education, and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1987 for the Department of Education, including student financial assistance, guaranteed student loans, higher and continuing education, higher education facilities loans and insurance, college housing loans, and educational research and training.
SD-116

10:00 a.m.
Appropriations
HUD-Independent Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1987 for the National Aeronautics and Space Administration.
SD-124

Appropriations
Transportation and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1987 for the U.S. Coast Guard, Department of Transportation.
SD-138

APRIL 17

9:30 a.m.
Appropriations
Labor, Health and Human Services, Education, and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1987 for the Department of Education, including bilingual education, vocational and adult education, education statistics, libraries, and the National Institute of Education.
SD-116

2:00 p.m.
Appropriations
Foreign Operations Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1987 for foreign assistance programs.
S-126, Capitol
Appropriations
Interior and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1987 for the U.S. Fish and Wildlife Service, Department of the Interior.
SD-192

APRIL 22

9:30 a.m.
Appropriations
Labor, Health and Human Services, Education, and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1987 for the Soldiers' and Airmen's Home, Prospective Payment Commission, Railroad Retirement Board, National Labor Relations Board, National Mediation Board, Occupational Safety and Health Review Commission, Federal Mediation and Conciliation Service, and the United States Institute of Peace.
SD-116

2:00 p.m.
Appropriations
Foreign Operations Subcommitte
To hold hearings on proposed budget estimates for fiscal year 1987 for the Department of State, focusing on international narcotics control, migration and refugee assistance, and anti-terrorism programs.
S-126, Capitol
Appropriations
Interior and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1987 for the Navajo-Hopi Indian Relocation Commission, and the Office of Surface Mining, Reclamation and Enforcement, Department of the Interior.
SD-192

APRIL 23

9:30 a.m.
Appropriations
Labor, Health and Human Services, Education, and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1987 for ACTION (domestic programs), Corporation for Public Broadcasting, National Council on the Handicapped, Mine Safety and Health Review Commission, National Commission on Libraries and Information Science, and National Center for the Study of Afro-American History and Culture.
SD-116

10:00 a.m.
Appropriations
Transportation and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1987 for the United States Railway Association and Conrail.
SD-138

APRIL 24

9:30 a.m.
Appropriations
Labor, Health and Human Services, Education, and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1987 for the Departments of Labor, Health and Human Services, and Education, and certain related agencies.
SD-116
Labor and Human Resources
Labor Subcommittee
To hold hearings on S. 1018, to clarify the meaning of the term "guard" for the purpose of permitting certain labor organizations to be certified by the National Labor Relations Board as representatives of employees other than plant guards.
SD-430

10:00 a.m.
Appropriations
Foreign Operations Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1987 for the Department of State, focusing on voluntary contributions to international organizations programs, and for the Office of the U.S. Representative to the United Nations.
SD-138

2:00 p.m.
Appropriations
Interior and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1987 for the Energy Information Administration and the Economic Regulatory Administration, Department of Energy.
SD-192

APRIL 29

9:30 a.m.
Appropriations
Labor, Health and Human Services, Education, and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1987 for Departments of Labor, Health and Human Services, and Education, and certain related agencies.
SD-116

10:00 a.m.
Appropriations
HUD-Independent Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1987 for the Department of Housing and Urban Development and certain independent agencies.
SD-124

2:00 p.m.
Appropriations
Interior and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1987 for the Bureau of Indian Affairs, Department of the Interior.
SD-192

APRIL 30

10:00 a.m.
Appropriations
HUD-Independent Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1987 for the Department of Housing and Urban Development and certain independent agencies.
SD-124
Appropriations
Transportation and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1987 for the Federal Aviation Administration, Department of Transportation.
SD-138

MAY 1

9:30 a.m.
Appropriations
Labor, Health and Human Services, Education, and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1987 for the Departments of Labor, Health and Human Services, and Education, and certain related agencies.
SD-116

2:00 p.m.
Appropriations
Interior and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1987 for territorial affairs, Department of the Interior.
SD-192

MAY 6

9:30 a.m.
Appropriations
Labor, Health and Human Services, Education, and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1987 for the Departments of Labor, Health and Human Services, and Education, and certain related agencies.
SD-116

MAY 7

10:00 a.m.
Appropriations
Transportation and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1987 for the Urban Mass Transportation Administration, Department of Transportation, and the Washington Metropolitan Area Transit Authority.
SD-138

MAY 8

9:30 a.m.
Appropriations
Labor, Health and Human Services, Education, and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1987 for the Departments of Labor, Health and Human Services, and Education, and certain related agencies.
SD-116

2:00 p.m.
Appropriations
Interior and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1987 for the Smithsonian Institution.
SD-192

MAY 13

9:30 a.m.
Appropriations
Labor, Health and Human Services, Education, and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1987 for the Departments of Labor, Health and Human Services, and Education, and certain related agencies.
SD-116

10:00 a.m.
Appropriations
Transportation and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1987 for the Department of Transportation and certain related agencies.
SD-138

MAY 15

9:30 a.m.
Appropriations
Labor, Health and Human Services, Education, and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1987 for the Department of Labor, Health and Human Services, and Education, and certain related agencies.
SD-116

2:00 p.m.
Appropriations
Interior and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1987 for fossil energy and clean coal technology.
SD-192

MAY 20

2:00 p.m.
Appropriations
Interior and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1987 for the Indian Health Service, Department of Health and Human Services.
SD-192

MAY 29

2:00 p.m.
Appropriations
Interior and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1987 for the Office of the Secretary and Office of the Solicitor, Department of the Interior.
SD-192

CANCELLATIONS

FEBRUARY 4

10:00 a.m.
Conferees
On H.R. 7, to extend and improve the National School Lunch Act and the Child Nutrition Act of 1966.
2175 Rayburn Building

FEBRUARY 5

10:00 a.m.
Joint Economic
To resume hearings in preparation of its forthcoming annual report, focusing on the economic outlook for 1986.
Room to be announced

FEBRUARY 18

10:00 a.m.
Energy and Natural Resources
To hold hearings on the nomination of Jed Dean Christensen, of Virginia, to be Director of the Office of Surface Mining Reclamation and Enforcement.
SD-366